GOVERNMENT CODE
TITLE 1. GENERAL PROVISIONS
CHAPTER 1. GENERAL PROVISIONS

Sec. 1.001. PURPOSE OF CODE. (a) This code is enacted as a part of the state's continuing statutory revision program, begun by the Texas Legislative Council in 1963 as directed by the legislature in the law codified as Chapter 323 of this code. The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this code is to make the law encompassed by this code more accessible and understandable, by:

(1) rearranging the statutes into a more logical order;

(2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;

(3) eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions; and

(4) restating the law in modern American English to the greatest extent possible.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 1.002. CONSTRUCTION OF CODE. The Code Construction Act (Chapter 311 of this code) applies to the construction of each provision in this code, except as otherwise expressly provided by this code.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 1.003. INTERNAL REFERENCES. In this code:

(1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of this code; and

(2) a reference to a subtitle, subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit without further identification is a reference to a unit of the next larger unit of this code in which the reference appears.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

CHAPTER 2. FIREARM SUPPRESSOR REGULATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2.001. DEFINITIONS. In this chapter:

(1) "Firearm" has the meaning assigned by Section 46.01, Penal Code.

(2) "Firearm suppressor" means any device designed, made, or adapted to muffle the report of a firearm.

(3) "Generic and insignificant part" means an item that has manufacturing or consumer product applications other than inclusion in a firearm suppressor. The term includes a spring, screw, nut, and pin.

(4) "Manufacture" includes forging, casting, machining, or another process for working a material.

Added by Acts 2021, 87th Leg., R.S., Ch. 642 (H.B. 957), Sec. 1, eff. September 1, 2021.

SUBCHAPTER B. INTRASTATE MANUFACTURE OF FIREARM SUPPRESSOR

Sec. 2.051. MEANING OF "MANUFACTURED IN THIS STATE." (a) For the purposes of this subchapter, a firearm suppressor is manufactured in this state if the item is manufactured:

(1) in this state from basic materials; and

(2) without the inclusion of any part imported from another state other than a generic and insignificant part.

(b) For the purposes of this subchapter, a firearm suppressor is manufactured in this state if it is manufactured as described by Subsection (a) without regard to whether a firearm imported into this state from another state is attached to or used in conjunction with the suppressor.

Added by Acts 2021, 87th Leg., R.S., Ch. 642 (H.B. 957), Sec. 1, eff. September 1, 2021.

Sec. 2.052. NOT SUBJECT TO FEDERAL REGULATION. (a) A firearm suppressor that is manufactured in this state and remains in this state is not subject to federal law or federal regulation, including

registration, under the authority of the United States Congress to regulate interstate commerce.

(b) A basic material from which a firearm suppressor is manufactured in this state, including unmachined steel, is not a firearm suppressor and is not subject to federal regulation under the authority of the United States Congress to regulate interstate commerce as if it actually were a firearm suppressor.

Added by Acts 2021, 87th Leg., R.S., Ch. 642 (H.B. 957), Sec. 1, eff. September 1, 2021.

Sec. 2.053. MARKETING OF FIREARM SUPPRESSOR. A firearm suppressor manufactured and sold in this state must have the words "Made in Texas" clearly stamped on it.

Added by Acts 2021, 87th Leg., R.S., Ch. 642 (H.B. 957), Sec. 1, eff. September 1, 2021.

Sec. 2.054. ATTORNEY GENERAL. On written notification to the attorney general by a United States citizen who resides in this state of the citizen's intent to manufacture a firearm suppressor to which Section 2.052 applies, the attorney general shall seek a declaratory judgment from a federal district court in this state that Section 2.052 is consistent with the United States Constitution.

Added by Acts 2021, 87th Leg., R.S., Ch. 642 (H.B. 957), Sec. 1, eff. September 1, 2021.

SUBCHAPTER C. ENFORCEMENT OF CERTAIN FEDERAL FIREARMS LAWS PROHIBITED

Sec. 2.101. APPLICABILITY. This subchapter applies to:

(1) the State of Texas, including an agency, department, commission, bureau, board, office, council, court, or other entity that is in any branch of state government and that is created by the constitution or a statute of this state, including a university system or a system of higher education;

(2) the governing body of a municipality, county, or special district or authority;

(3) an officer, employee, or other body that is part of a

municipality, county, or special district or authority, including a sheriff, municipal police department, municipal attorney, or county attorney; and

(4) a district attorney or criminal district attorney.

Added by Acts 2021, 87th Leg., R.S., Ch. 642 (H.B. 957), Sec. 1, eff. September 1, 2021.

Sec. 2.102. STATE AND LOCAL GOVERNMENT POLICY REGARDING ENFORCEMENT OF FEDERAL FIREARM LAWS. (a) An entity described by Section 2.101 may not adopt a rule, order, ordinance, or policy under which the entity enforces, or by consistent action allows the enforcement of, a federal statute, order, rule, or regulation that purports to regulate a firearm suppressor if the statute, order, rule, or regulation imposes a prohibition, restriction, or other regulation that does not exist under the laws of this state.

(b) No entity described by Section 2.101 and no person employed by or otherwise under the direction or control of the entity may enforce or attempt to enforce any federal statute, order, rule, or regulation described by Subsection (a).

Added by Acts 2021, 87th Leg., R.S., Ch. 642 (H.B. 957), Sec. 1, eff. September 1, 2021.

Sec. 2.103. STATE GRANT FUNDS. (a) An entity described by Section 2.101 may not receive state grant funds if the entity adopts a rule, order, ordinance, or policy under which the entity enforces a federal law described by Section 2.102(a) or, by consistent action, allows the enforcement of a federal law described by Section 2.102(a).

(b) State grant funds for the entity shall be denied for the fiscal year following the year in which a final judicial determination in an action brought under this subchapter is made that the entity has violated Section 2.102(a).

Added by Acts 2021, 87th Leg., R.S., Ch. 642 (H.B. 957), Sec. 1, eff. September 1, 2021.

Sec. 2.104. ENFORCEMENT. (a) Any citizen residing in the jurisdiction of an entity described by Section 2.101 may file a complaint with the attorney general if the citizen offers evidence to support an allegation that the entity has adopted a rule, order, ordinance, or policy under which the entity enforces a federal law described by Section 2.102(a) or that the entity, by consistent action, allows the enforcement of a federal law described by Section 2.102(a). The citizen must include with the complaint any evidence the citizen has in support of the complaint.

(b) If the attorney general determines that a complaint filed under Subsection (a) against an entity described by Section 2.101 is valid, to compel the entity's compliance with this subchapter the attorney general may file a petition for a writ of mandamus or apply for other appropriate equitable relief in a district court in Travis County or in a county in which the principal office of the entity is located. The attorney general may recover reasonable expenses incurred obtaining relief under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

(c) An appeal of a suit brought under Subsection (b) is governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure. The appellate court shall render its final order or judgment with the least possible delay.

Added by Acts 2021, 87th Leg., R.S., Ch. 642 (H.B. 957), Sec. 1, eff. September 1, 2021.

TITLE 2. JUDICIAL BRANCH
SUBTITLE A. COURTS
CHAPTER 21. GENERAL PROVISIONS

Sec. 21.001. INHERENT POWER AND DUTY OF COURTS. (a) A court has all powers necessary for the exercise of its jurisdiction and the enforcement of its lawful orders, including authority to issue the writs and orders necessary or proper in aid of its jurisdiction.

(b) A court shall require that proceedings be conducted with dignity and in an orderly and expeditious manner and control the proceedings so that justice is done.

(c) During a court proceeding a judge may not request that a

person remove an item of religious apparel unless:

(1) a party in the proceeding objects to the wearing of the apparel; and

(2) the judge concludes that the wearing of the apparel will interfere with:

(A) the objecting party's right to a fair hearing; or

(B) the proper administration of justice; and

(3) no reasonable alternative exists under which the judge may:

(A) assure a fair hearing; and

(B) protect the fair administration of justice.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 54, Sec. 1, eff. Sept. 1, 1997.

Sec. 21.002. CONTEMPT OF COURT. (a) Except as provided by Subsection (g), a court may punish for contempt.

(b) The punishment for contempt of a court other than a justice court or municipal court is a fine of not more than $500 or confinement in the county jail for not more than six months, or both such a fine and confinement in jail.

(c) The punishment for contempt of a justice court or municipal court is a fine of not more than $100 or confinement in the county or city jail for not more than three days, or both such a fine and confinement in jail.

(d) An officer of a court who is held in contempt by a trial court shall, on proper motion filed in the offended court, be released on his own personal recognizance pending a determination of his guilt or innocence. The presiding judge of the administrative judicial region in which the alleged contempt occurred shall assign a judge who is subject to assignment by the presiding judge other than the judge of the offended court to determine the guilt or innocence of the officer of the court.

(e) Except as provided by Subsection (h), this section does not affect a court's power to confine a contemner to compel the contemner to obey a court order.

(f) Article 42.033, Code of Criminal Procedure, and Chapter 157, Family Code, apply when a person is punished by confinement for contempt of court for disobedience of a court order to make periodic

payments for the support of a child. Subsection (h) does not apply to that person.

(g) A court may not punish by contempt an employee or an agency or institution of this state for failure to initiate any program or to perform a statutory duty related to that program:

(1) if the legislature has not specifically and adequately funded the program; or

(2) until a reasonable time has passed to allow implementation of a program specifically and adequately funded by the legislature.

(h) Notwithstanding any other law, a person may not be confined for contempt of court longer than:

(1) 18 months, including three or more periods of confinement for contempt arising out of the same matter that equal a cumulative total of 18 months, if the confinement is for criminal contempt; or

(2) the lesser of 18 months or the period from the date of confinement to the date the person complies with the court order that was the basis of the finding of contempt, if the confinement is for civil contempt.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.44(1), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 560, Sec. 1, eff. June 14, 1989; Acts 1989, 71st Leg., ch. 646, Sec. 1, eff. Aug. 28, 1989; Acts 1989, 71st Leg., 1st C.S., ch. 25, Sec. 34, eff. Nov. 1, 1989; Acts 1995, 74th Leg., ch. 262, Sec. 87, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 165, Sec. 7.24, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1297, Sec. 71(4), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 425 Sec. 1, eff. June 20, 2003.

Sec. 21.004. STATE OF JUDICIARY MESSAGE. (a) At a convenient time at the commencement of each regular session of the legislature, the chief justice of the supreme court shall deliver a written or oral state of the judiciary message evaluating the accessibility of the courts to the citizens of the state and the future directions and needs of the courts of the state.

(b) It is the intent of the legislature that the state of the judiciary message promote better understanding between the

legislative and judicial branches of government and promote more efficient administration of justice in Texas.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 129, Sec. 1, eff. Sept. 1, 1993.

Sec. 21.005. DISQUALIFICATION. A judge or a justice of the peace may not sit in a case if either of the parties is related to him by affinity or consanguinity within the third degree, as determined under Chapter 573.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.01(a), eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 561, Sec. 21, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(28), eff. Sept. 1, 1995.

Sec. 21.006. JUDICIAL FUND. The judicial fund is created in a separate fund in the state treasury to be administered by the comptroller. The fund shall be used only for court-related purposes for the support of the judicial branch of this state.

Added by Acts 1986, 69th Leg., 2nd C.S., ch. 11, Sec. 1, eff. Sept. 22, 1986.

Sec. 21.008. DISTRICT COURT SUPPORT ACCOUNT. (a) The district court support account of the judicial fund is created to be administered by the office of court administration as directed by the supreme court.

(b) The comptroller shall allocate to the district court support account such amounts from the judicial fund as may be designated in the General Appropriations Act.

(c) The district court support account may be used only for court-related purposes for the support of the district courts of this state to defray the salaries of support personnel and other expenses incurred in the operations of the courts, the necessary expenses of the administrative judicial regions, and for the administration of this section.

(d) The State Board of Regional Judges is created to administer

the funds appropriated to this account. The board shall be composed of the nine regional administrative judges of the state, who shall have the authority to organize, elect officers, and make such rules as may be necessary for the proper administration of these accounts.

(e) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1312, Sec. 99(12), eff. September 1, 2013.

(f) Funds allocated for personnel may be used to pay in full or in part the salary of an employee, to supplement the salary of an existing employee, or to hire additional personnel.

(g) It is the purpose of this section to increase the funds available for the administration of justice in each county in this state and to provide funding to be used for court-related purposes for the support of the judicial branch of this state. Funds available from the judicial fund and its special account may be supplemented by local or federal funds and private or public grants. A county commissioners court may not reduce the amount of funds provided for these purposes because of the availability of funds from the judicial fund or the special account.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 3.01, eff. Aug. 31, 1987. Amended by Acts 1989, 71st Leg., ch. 646, Sec. 2, eff. Aug. 28, 1989.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 99(12), eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.07, eff. January 1, 2020.

Sec. 21.009. DEFINITIONS. In this title:

(1) "County court" means the court created in each county by Article V, Section 15, of the Texas Constitution.

(2) "Statutory county court" means a county court created by the legislature under Article V, Section 1, of the Texas Constitution, including county courts at law, county criminal courts, county criminal courts of appeals, and county civil courts at law, but does not include statutory probate courts as defined by Chapter 22, Estates Code.

(3) "County judge" means the judge of the county court.

(4) "Statutory probate court" has the meaning assigned by

Chapter 22, Estates Code.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.02, eff. Sept. 1, 1987. Renumbered from Sec. 21.008 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(18), eff. Aug. 28,1989. Amended by Acts 1991, 72nd Leg., ch. 394, Sec. 1, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 1, eff. Oct. 1, 1991; Acts 1999, 76th Leg., ch. 431, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.021, eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 21.010. FINANCIAL INTEREST IN PRIVATE CORRECTIONAL AND REHABILITATION FACILITIES PROHIBITED. (a) A justice or judge, as applicable, of the supreme court, the court of criminal appeals, a court of appeals, a district court, a county court, a county court at law, or a statutory probate court may not, on the date the person takes office as a justice or judge or while serving as a justice or judge, have a significant interest in a business entity that owns, manages, or operates:

(1) a community residential facility described by Section 508.119;

(2) a correctional or rehabilitation facility subject to Chapter 244, Local Government Code; or

(3) any other facility intended to accomplish a purpose or provide a service described by Section 508.119(a) to a person convicted of a misdemeanor or felony or found to have engaged in delinquent conduct who is housed in the facility:

(A) while serving a sentence of confinement following conviction of an offense or an adjudication of delinquent conduct; or

(B) as a condition of community supervision, probation, parole, or mandatory supervision.

(b) A justice or judge is considered to have a significant interest in a business entity described by Subsection (a) for purposes of this section if:

(1) the justice or judge owns any voting stock or share or

has a direct investment in the business entity; or

(2) the justice or judge receives money from the business entity.

(c) A violation of this section by a justice or judge is considered a violation of Canon 4D(1), Code of Judicial Conduct. A justice or judge who has an interest in a business entity that is prohibited by this section must report the interest to the State Commission on Judicial Conduct.

Added by Acts 2013, 83rd Leg., R.S., Ch. 221 (H.B. 62), Sec. 1, eff. January 1, 2015.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 678 (H.B. 257), Sec. 1, eff. January 1, 2017.

Sec. 21.011. ELECTRONIC OR DIGITAL SIGNATURE. A judge or justice presiding over a court in this state may sign an electronic or digital court document, including an order, judgment, ruling, notice, commission, or precept, electronically, digitally, or through another secure method. The document signed in that manner is the official document issued by the court.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1290 (H.B. 2302), Sec. 1, eff. September 1, 2013.

Sec. 21.012. PRESENCE OF QUALIFIED FACILITY DOG OR QUALIFIED THERAPY DOG IN COURT PROCEEDING. (a) In this section:

(1) "Qualified facility dog" means a dog that:

(A) is a graduate of a program operated by an assistance dog organization that is a member of a nationally recognized assistance dog association; or

(B) before January 1, 2021, on the approval of the court, served in a court proceeding by accompanying a witness who was testifying.

(2) "Qualified therapy dog" means a dog that successfully completes a program operated by an organization that registers, insures, or certifies a therapy dog and the dog's handler as meeting or exceeding the standards of practice in animal-assisted interventions.

(b) Any party to an action filed in a court in this state in which a proceeding related to the action will be held may petition the court for an order authorizing a qualified facility dog or qualified therapy dog to be present with a witness who is testifying before the court through:

(1) in-person testimony; or

(2) closed-circuit video teleconferencing testimony.

(c) The court may enter an order authorizing a qualified facility dog or qualified therapy dog to accompany a witness testifying at the court proceeding if:

(1) the presence of the dog will assist the witness in providing testimony; and

(2) the party petitioning for the order provides proof of liability insurance coverage in effect for the dog.

(d) A handler who is trained to manage the qualified facility dog or qualified therapy dog must accompany the dog provided for a witness at a court proceeding.

(e) A party to the action must petition the court for an order under Subsection (b) not later than the 14th day before the date of the court proceeding.

(f) A court may:

(1) impose restrictions on the presence of the qualified facility dog or qualified therapy dog during the court proceeding; and

(2) issue instructions to the jury, as applicable, regarding the presence of the dog.

Added by Acts 2021, 87th Leg., R.S., Ch. 204 (H.B. 1071), Sec. 1, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1020, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 21.013. CONFIDENTIALITY OF JUDICIAL WORK PRODUCT; CRIMINAL OFFENSE. (a) In this section:

(1) "Judicial work product" means written, electronic, or oral material prepared or communications made in the course of an adjudicatory proceeding before a court determining legal rights, powers, duties, or privileges. The term includes all drafts of

opinions or orders and memoranda of law.

(2) "Non-public judicial work product" means:

(A) any written or electronic judicial work product other than documents filed with the clerk of a court for release to the public; or

(B) any oral statement relating to judicial work product made in a closed session of a court or in judicial chambers.

(b) This section applies to:

(1) a court established under Section 1, Article V, Texas Constitution, other than a commissioners court; and

(2) a court subject to this subtitle.

(c) A justice or judge of a court shall comply with supreme court rules governing the confidentiality of non-public judicial work product.

(d) A person, other than a justice or judge, who is involved in crafting an opinion or decision for an adjudicatory proceeding, including a court staff attorney, court clerk, or law clerk, shall maintain the confidentiality of all non-public judicial work product in accordance with supreme court rules.

(e) A person, other than a justice or judge, with access to non-public judicial work product commits an offense if the person knowingly discloses, wholly or partly, the contents of any non-public judicial work product to a person who is not a justice, judge, court staff attorney, court clerk, law clerk, employee of an agency established under Chapter 71 or 72, or other court staff routinely involved in crafting an opinion or decision for an adjudicatory proceeding.

(f) An offense under this section is a Class A misdemeanor.

(g) It is a defense to prosecution under this section that the disclosure of the non-public judicial work product is authorized:

(1) in writing by the justice or judge for whom the work product is prepared; or

(2) under supreme court rules.

Added by Acts 2023, 88th Leg., R.S., Ch. 1054 (S.B. 372), Sec. 1, eff. September 1, 2023.

CHAPTER 22. APPELLATE COURTS
SUBCHAPTER A. SUPREME COURT

Sec. 22.001. JURISDICTION. (a) The supreme court has appellate jurisdiction, except in criminal law matters, of an appealable order or judgment of the trial courts if the court determines that the appeal presents a question of law that is important to the jurisprudence of the state. The supreme court's jurisdiction does not include cases in which the jurisdiction of the court of appeals is made final by statute.

(b) A case over which the court has jurisdiction under Subsection (a) may be carried to the supreme court by petition for review.

(c) Except as provided by this subsection or other law, an appeal may be taken to the supreme court only if the appeal was first brought to the court of appeals. An appeal may be taken directly to the supreme court from an order of a trial court granting or denying an interlocutory or permanent injunction on the ground of the constitutionality of a statute of this state.

(d) The supreme court has the power, on affidavit or otherwise, as the court may determine, to ascertain the matters of fact that are necessary to the proper exercise of its jurisdiction.

(e) Repealed by Acts 2017, 85th Leg., R.S., Ch. 150 (H.B. 1761), Sec. 4(1), eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1106, Sec. 1, eff. June 20, 1987; Acts 2003, 78th Leg., ch. 204, Sec. 1.04, eff. Sept. 1, 2003.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 150 (H.B. 1761), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 150 (H.B. 1761), Sec. 4(1), eff. September 1, 2017.

Sec. 22.002. WRIT POWER. (a) The supreme court or a justice of the supreme court may issue writs of procedendo and certiorari and all writs of quo warranto and mandamus agreeable to the principles of law regulating those writs, against a statutory county court judge, a statutory probate court judge, a district judge, a court of appeals or a justice of a court of appeals, or any officer of state government except the governor, the court of criminal appeals, or a judge of the court of criminal appeals.

(b) The supreme court or, in vacation, a justice of the supreme court may issue a writ of mandamus to compel a statutory county court judge, a statutory probate court judge, or a district judge to proceed to trial and judgment in a case.

(c) Only the supreme court has the authority to issue a writ of mandamus or injunction, or any other mandatory or compulsory writ or process, against any of the officers of the executive departments of the government of this state to order or compel the performance of a judicial, ministerial, or discretionary act or duty that, by state law, the officer or officers are authorized to perform.

(d) Repealed by Acts 1987, 70th Leg., ch. 148, Sec. 2.03, eff. Sept. 1, 1987.

(e) The supreme court or a justice of the supreme court, either in termtime or vacation, may issue a writ of habeas corpus when a person is restrained in his liberty by virtue of an order, process, or commitment issued by a court or judge on account of the violation of an order, judgment, or decree previously made, rendered, or entered by the court or judge in a civil case. Pending the hearing of an application for a writ of habeas corpus, the supreme court or a justice of the supreme court may admit to bail a person to whom the writ of habeas corpus may be so granted.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.03, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 355, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 2.01, eff. January 1, 2012.

Sec. 22.003. PROCEDURE OF THE COURT. (a) The supreme court from time to time shall promulgate suitable rules, forms, and regulations for carrying into effect the provisions of this chapter relating to the jurisdiction and practice of the supreme court.

(b) The supreme court may make and enforce all necessary rules of practice and procedure, not inconsistent with the law, for the government of the supreme court and all other courts of the state to expedite the dispatch of business in those courts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 22.0035. MODIFICATION OR SUSPENSION OF CERTAIN PROVISIONS RELATING TO COURT PROCEEDINGS AFFECTED BY DISASTER. (a) In this section, "disaster" has the meaning assigned by Section 418.004.

(b) Notwithstanding any other statute, the supreme court may modify or suspend procedures for the conduct of any court proceeding affected by a disaster during the pendency of a disaster declared by the governor. An order under this section may not extend for more than 90 days from the date the order was signed unless renewed by the chief justice of the supreme court.

(c) If a disaster prevents the supreme court from acting under Subsection (b), the chief justice of the supreme court may act on behalf of the supreme court under that subsection.

(d) If a disaster prevents the chief justice from acting under Subsection (c), the court of criminal appeals may act on behalf of the supreme court under Subsection (b).

(e) If a disaster prevents the court of criminal appeals from acting under Subsection (d), the presiding judge of the court of criminal appeals may act on behalf of the supreme court under Subsection (b).

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 5.01, eff. June 19, 2009.
Added by Acts 2009, 81st Leg., R.S., Ch. 1281 (H.B. 1861), Sec. 1, eff. June 19, 2009.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 1, eff. June 7, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 22.004. RULES OF CIVIL PROCEDURE. (a) The supreme court has the full rulemaking power in the practice and procedure in civil actions, except that its rules may not abridge, enlarge, or modify the substantive rights of a litigant.

(b) The supreme court from time to time may promulgate a specific rule or rules of civil procedure, or an amendment or amendments to a specific rule or rules, to be effective at the time the supreme court deems expedient in the interest of a proper

administration of justice. The rules and amendments to rules remain in effect unless and until disapproved by the legislature. The clerk of the supreme court shall file with the secretary of state the rules or amendments to rules promulgated by the supreme court under this subsection and shall mail a copy of those rules or amendments to rules to each registered member of the State Bar of Texas not later than the 60th day before the date on which they become effective. On receiving a written request from a member of the legislature, the secretary of state shall provide the member with electronic notifications when the supreme court has promulgated rules or amendments to rules under this section.

(c) So that the supreme court has full rulemaking power in civil actions, a rule adopted by the supreme court repeals all conflicting laws and parts of laws governing practice and procedure in civil actions, but substantive law is not repealed. At the time the supreme court files a rule, the court shall file with the secretary of state a list of each article or section of general law or each part of an article or section of general law that is repealed or modified in any way. The list has the same weight and effect as a decision of the court.

(d) The rules of practice and procedure in civil actions shall be published in the official reports of the supreme court. The supreme court may adopt the method it deems expedient for the printing and distribution of the rules.

(e) This section does not affect the repeal of statutes repealed by Chapter 25, page 201, General Laws, Acts of the 46th Legislature, Regular Session, 1939, on September 1, 1941.

(f) The supreme court shall adopt rules governing the electronic filing of documents in civil cases in justice of the peace courts.

(g) The supreme court shall adopt rules to provide for the dismissal of causes of action that have no basis in law or fact on motion and without evidence. The rules shall provide that the motion to dismiss shall be granted or denied within 45 days of the filing of the motion to dismiss. The rules shall not apply to actions under the Family Code.

(h) The supreme court shall adopt rules to promote the prompt, efficient, and cost-effective resolution of civil actions. The rules shall apply to civil actions in district courts, county courts at law, and statutory probate courts in which the amount in controversy,

inclusive of all claims for damages of any kind, whether actual or exemplary, a penalty, attorney's fees, expenses, costs, interest, or any other type of damage of any kind, does not exceed $100,000. The rules shall address the need for lowering discovery costs in these actions and the procedure for ensuring that these actions will be expedited in the civil justice system. The supreme court may not adopt rules under this subsection that conflict with other statutory law.

(h-1) In addition to the rules adopted under Subsection (h), the supreme court shall adopt rules to promote the prompt, efficient, and cost-effective resolution of civil actions filed in county courts at law in which the amount in controversy does not exceed $250,000. The rules shall balance the need for lowering discovery costs in these actions against the complexity of and discovery needs in these actions. The supreme court may not adopt rules under this subsection that conflict with other statutory law.

(i) The supreme court shall adopt rules to provide that the right of an appellant under Section 6.001(b)(1), (2), or (3), Civil Practice and Remedies Code, to supersede a judgment or order on appeal is not subject to being counter-superseded under Rule 24.2(a)(3), Texas Rules of Appellate Procedure, or any other rule. Counter-supersedeas shall remain available to parties in a lawsuit concerning a matter that was the basis of a contested case in an administrative enforcement action.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 297, Sec. 1, eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 644, Sec. 1, eff. June 13, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 63 (S.B. 237), Sec. 1, eff. May 11, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 203 (H.B. 274), Sec. 1.01, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 203 (H.B. 274), Sec. 2.01, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 906 (S.B. 791), Sec. 1, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 868 (H.B. 2776), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 1, eff.

September 1, 2020.

Sec. 22.0041. RULES REGARDING FOREIGN LAW AND FOREIGN JUDGMENTS IN CERTAIN FAMILY LAW ACTIONS. (a) In this section:

(1) "Comity" means the recognition by a court of one jurisdiction of the laws and judicial decisions of a court of another jurisdiction.

(2) "Foreign judgment" means a judgment of a court, tribunal, or administrative adjudicator of a jurisdiction outside of the states and territories of the United States.

(3) "Foreign law" means a law, rule, or code of a jurisdiction outside of the states and territories of the United States.

(b) The supreme court shall adopt rules of evidence and procedure to implement the limitations on the granting of comity to a foreign judgment or an arbitration award involving a marriage relationship or a parent-child relationship under the Family Code to protect against violations of constitutional rights and public policy.

(c) The rules adopted under Subsection (b) must:

(1) require that any party who intends to seek enforcement of a judgment or an arbitration award based on foreign law that involves a marriage relationship or a parent-child relationship shall provide timely notice to the court and to each other party, including by providing information required by Rule 203, Texas Rules of Evidence, and by describing the court's authority to enforce or decide to enforce the judgment or award;

(2) require that any party who intends to oppose the enforcement of a judgment or an arbitration award based on foreign law that involves a marriage relationship or a parent-child relationship shall provide timely notice to the court and to each other party and include with the notice an explanation of the party's basis for opposition, including by stating whether the party asserts that the judgment or award violates constitutional rights or public policy;

(3) require a hearing on the record, after notice to the parties, to determine whether the proposed enforcement of a judgment or an arbitration award based on foreign law that involves a marriage relationship or a parent-child relationship violates constitutional

rights or public policy;

(4) to facilitate appellate review, require that a court state its findings of fact and conclusions of law in a written order determining whether to enforce a foreign judgment or an arbitration award based on foreign law that involves a marriage relationship or a parent-child relationship;

(5) require that a court's determination under Subdivision (3) or (4) be made promptly so that the action may proceed expeditiously; and

(6) provide that a court may issue any orders the court considers necessary to preserve principles of comity or the freedom to contract for arbitration while protecting against violations of constitutional rights and public policy in the application of foreign law and the recognition and enforcement of foreign judgments and arbitration awards.

(d) In addition to the rules required under Subsection (b), the supreme court shall adopt any other rules the supreme court considers necessary or advisable to accomplish the purposes of this section.

(e) A rule adopted under this section does not apply to an action brought under the International Child Abduction Remedies Act (22 U.S.C. Section 9001 et seq.).

(f) In the event of a conflict between a rule adopted under this section and a federal or state law, the federal or state law prevails.

Added by Acts 2017, 85th Leg., R.S., Ch. 771 (H.B. 45), Sec. 2, eff. September 1, 2017.

Sec. 22.0042. RULES REGARDING EXEMPTIONS FROM SEIZURE OF PROPERTY; FORM. (a) The supreme court shall adopt rules that:

(1) establish a simple and expedited procedure for a judgment debtor to assert an exemption to the seizure of personal property by a judgment creditor or a receiver appointed under Section 31.002, Civil Practice and Remedies Code;

(2) require a court to stay a proceeding, for a reasonable period, to allow for the assertion of an exemption under Subdivision (1); and

(3) require a court to promptly set a hearing and stay proceedings until a hearing is held, if a judgment debtor timely

asserts an exemption under Subdivision (1).

(b) Rules adopted under this section shall require the provision of a notice in plain language to a judgment debtor regarding the right of the judgment debtor to assert one or more exemptions under Subsection (a)(1). The notice must:

(1) be in English with an integrated Spanish translation that can be readily understood by the public and the court;

(2) include the form promulgated under Subsection (c);

(3) list all exemptions under state and federal law to the seizure of personal property; and

(4) provide information for accessing free or low-cost legal assistance.

(c) Rules adopted under this section shall include the promulgation of a form in plain language for asserting an exemption under Subsection (a)(1). A form promulgated under this subsection must:

(1) be in English with an integrated Spanish translation that can be readily understood by the public and the court; and

(2) include instructions for the use of the form.

(d) A court shall accept a form promulgated under Subsection (c) unless the form has been completed in a manner that causes a substantive defect that cannot be cured.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 15.01, eff. September 1, 2021.

Sec. 22.005. DISQUALIFICATION OF JUSTICES. (a) The chief justice may certify to the governor when one or more justices of the supreme court have recused themselves under the Texas Rules of Appellate Procedure or are disqualified under the constitution and laws of this state to hear and determine a case in the court.

(b) The governor immediately shall commission the requisite number of persons who are active appellate or district court justices or judges and who possess the qualifications prescribed for justices of the supreme court to try and determine the case.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 428, Sec. 1, eff. June 9, 1995.

Sec. 22.006. ADJOURNMENT. (a) The supreme court may adjourn from day to day or for the periods that it deems necessary to the ends of justice and the determination of the business before the court.

(b) A suit, process, or matter returned to or pending in the supreme court may not be discontinued because a quorum of the court is not present at the commencement or on any other day of the term. If a quorum of the court is not present on any day of the term, a justice of the court or the bailiff attending the court may adjourn the court from time to time.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 22.007. PETITION FOR REVIEW. (a) The supreme court may act on petitions for review when the court deems it expedient.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 150 (H.B. 1761), Sec. 4(2), eff. September 1, 2017.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 150 (H.B. 1761), Sec. 4(2), eff. September 1, 2017.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 150 (H.B. 1761), Sec. 4(2), eff. September 1, 2017.

(e) The granting of a petition for review admits the case into the supreme court, and the supreme court shall proceed with the case as provided by law. The denial or dismissal of a petition for review has the effect of denying the admission of the case into the supreme court, except that a motion for rehearing may be made in the same manner that a motion for rehearing to the supreme court is made in a case in which the court granted review. The denial or dismissal of a petition for review may not be regarded as a precedent or authority.

(f) Repealed by Acts 2017, 85th Leg., R.S., Ch. 150 (H.B. 1761), Sec. 4(2), eff. September 1, 2017.

(g) Repealed by Acts 2017, 85th Leg., R.S., Ch. 150 (H.B. 1761), Sec. 4(2), eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 150 (H.B. 1761), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 150 (H.B. 1761), Sec. 3, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 150 (H.B. 1761), Sec. 4(2), eff. September 1, 2017.

Sec. 22.008. PUBLICATION OF DECISIONS. (a) The supreme court shall appoint one or more licensed attorneys to serve at the will of the court and to report the decisions of the supreme court.

(b) The supreme court shall designate the cases to be reported and the reporter may report and publish only the designated cases. As soon as the cases are finally disposed of and the opinions are recorded, the reporter shall obtain from the proper clerk the records of the cases to be reported, with the briefs and opinions.

(c) Under the direction of the supreme court, the reporter shall promptly prepare the decisions for publication with appropriate syllabuses and statements, proper index, and table of cited cases and reported cases. Each report shall incorporate only the main propositions made in the briefs and considered by the court in the opinion, with the authorities cited in support of the propositions.

(d) The reporter shall return the record, with briefs and opinions, to the clerk when the report is completed and from time to time shall deliver the reports to the comptroller for publication. Each volume shall be copyrighted in the name of the reporter, who immediately on delivery of the edition shall transfer and assign it to the state. The edition shall be electrotyped. The state owns the plates, and the comptroller shall preserve them.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.43, eff. September 1, 2007.

Sec. 22.009. STENOGRAPHERS; BAILIFF. The supreme court may appoint not more than three stenographers and may appoint a bailiff to attend the court when it is sitting.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 22.010. SEALING OF COURT RECORDS. The supreme court shall adopt rules establishing guidelines for the courts of this state to

use in determining whether in the interest of justice the records in a civil case, including settlements, should be sealed.

Added by Acts 1989, 71st Leg., ch. 426, Sec. 1, eff. Sept. 1, 1989.

Sec. 22.011. JUDICIAL INSTRUCTION RELATED TO FAMILY VIOLENCE, SEXUAL ASSAULT, TRAFFICKING OF PERSONS, AND CHILD ABUSE. (a) The supreme court shall provide judicial training related to the problems of family violence, sexual assault, trafficking of persons, and child abuse and to issues concerning sex offender characteristics.

(d) The instruction must include information about:

(1) statutory and case law relating to videotaping a child's testimony and relating to competency of children to testify;

(2) methods for eliminating the trauma to the child caused by the court process;

(3) case law, statutory law, and procedural rules relating to family violence, sexual assault, trafficking of persons, and child abuse;

(4) methods for providing protection for victims of family violence, sexual assault, trafficking of persons, or child abuse;

(5) available community and state resources for counseling and other aid to victims and to offenders;

(6) gender bias in the judicial process;

(7) dynamics and effects of being a victim of family violence, sexual assault, trafficking of persons, or child abuse; and

(8) issues concerning sex offender characteristics.

Added by Acts 1991, 72nd Leg., ch. 795, Sec. 27, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 282, Sec. 1, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 254, Sec. 1, eff. May 29, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 332 (H.B. 10), Sec. 7, eff. September 1, 2015.

Sec. 22.012. TRAINING RELATED TO DIVERSIONS. (a) Each attorney representing the state in the prosecution of felonies and each district court judge shall, as an official duty, each year complete a course of instruction related to the diversion of offenders from confinement in the Texas Department of Criminal

Justice.

(b) The supreme court shall adopt rules to provide for the training required by Subsection (a). In adopting the rules, the court shall consult with the Texas Department of Criminal Justice to obtain the department's recommendations for instruction content.

(c) The instruction must include information relating to:

(1) case law, statutory law, and procedural rules relating to felony diversions; and

(2) available community and state resources for diversions.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 11.09(a), eff. Aug. 29, 1991.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.063, eff. September 1, 2009.

Sec. 22.013. JUDICIAL INSTRUCTION RELATED TO GUARDIANSHIP ISSUES. (a) The supreme court shall provide a course of instruction that relates to issues that arise in guardianship cases for judges involved in those cases.

(b) The supreme court shall adopt the rules necessary to accomplish the purposes of this section.

(c) The instruction must include information about:

(1) statutory and case law relating to guardianships;

(2) the aging process and the nature of disabilities;

(3) the requirements of the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.) and related case and statutory law, rules, and compliance methods;

(4) the principles of equal access and accommodation;

(5) the use of community resources for the disabled; and

(6) avoidance of stereotypes through a focus on people's individual abilities, support needs, and inherent individual value.

(d) The instruction may include information about:

(1) substantive areas of law concerning the needs of elderly persons and persons with disabilities;

(2) barriers to physical access and methods to overcome those barriers;

(3) communication needs of elderly persons and persons with disabilities and the technology available to provide access to

communication;

(4) duties and responsibilities of guardians, guardians ad litem, attorneys, and court personnel in guardianship proceedings;

(5) standard definitions and procedures for determining incapacity;

(6) standards for surrogate decision making;

(7) the doctrine of the least-restrictive alternative;

(8) the dispute resolution process, especially its application to elderly persons and persons with disabilities; and

(9) successful programs and funding efforts for addressing the court-related needs of elderly persons and persons with disabilities.

Added by Acts 1993, 73rd Leg., ch. 905, Sec. 1, eff. Sept. 1, 1993.

Sec. 22.0133. JUDICIAL, COURT INVESTIGATOR, AND COURT VISITOR TRAINING RELATED TO GUARDIANSHIPS. The supreme court, in consultation with the Judicial Branch Certification Commission, shall ensure that at least one hour of training related to alternatives to guardianships and supports and services that are available to a proposed ward is provided to each judge with jurisdiction to hear a guardianship proceeding, each court investigator appointed under Section 1054.156, Estates Code, and each court visitor appointed under Section 1054.103, Estates Code, at least once every two years.

Added by Acts 2023, 88th Leg., R.S., Ch. 939 (S.B. 1624), Sec. 17, eff. September 1, 2023.

Sec. 22.0135. JUDICIAL GUIDANCE RELATED TO CHILD PROTECTIVE SERVICES CASES AND JUVENILE CASES. (a) The supreme court, in conjunction with the Supreme Court of Texas Permanent Judicial Commission for Children, Youth and Families, annually shall provide guidance to judges who preside over child protective services cases or juvenile cases to establish greater uniformity across the state for:

(1) in child protective services cases, issues related to:

(A) placement of children with severe mental health issues;

(B) changes in placement; and

(C) final termination of parental rights; and

(2) in juvenile cases, issues related to:

(A) placement of children with severe mental health issues;

(B) the release of children detained in juvenile detention facilities;

(C) certification of juveniles to stand trial as adults;

(D) a child's appearance before a court in a judicial proceeding, including the use of a restraint on the child and the clothing worn by the child during the proceeding; and

(E) commitment of children to the Texas Juvenile Justice Department.

(b) The supreme court shall adopt the rules necessary to accomplish the purposes of this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 844 (H.B. 2737), Sec. 1, eff. September 1, 2019.

Sec. 22.014. SENIOR JUSTICE ACTING FOR CHIEF JUSTICE. In the chief justice's absence, the justice with the most seniority on the supreme court may sign a court document for the chief justice if the chief justice has given that justice written authorization.

Added by Acts 1995, 74th Leg., ch. 356, Sec. 1, eff. Aug. 28, 1995.

Sec. 22.015. PERMANENT PLACE DESIGNATIONS. (a) The supreme court is composed of a chief justice and of eight justices holding places numbered consecutively beginning with Place 2.

(b) The designation of offices and places under this section identifies the offices and places for all purposes, including identification on official ballots for primary and general elections.

Added by Acts 2003, 78th Leg., ch. 693, Sec. 1, eff. Sept. 1, 2003.

Sec. 22.017. GRANTS BY COMMISSIONS ESTABLISHED BY SUPREME COURT. (a) In this section:

(1) "Children's commission" means the Permanent Judicial

Commission for Children, Youth and Families established by the supreme court.

(2) "Mental health commission" means the Texas Judicial Commission on Mental Health established by the supreme court.

(b) The children's commission shall develop and administer a program to provide grants from available funds for initiatives that will:

(1) improve well-being, safety, and permanency outcomes in child protection cases; or

(2) enhance due process for the parties or the timeliness of resolution in cases involving the welfare of a child.

(c) The children's commission may develop and administer a program to provide grants from available funds for:

(1) initiatives designed to prevent or minimize the involvement of children in the juvenile justice system or promote the rehabilitation of children involved in the juvenile justice system; and

(2) any other initiatives identified by the children's commission or the supreme court to improve the administration of justice for children.

(d) To be eligible for a grant administered by the children's commission under this section, a prospective recipient must:

(1) use the grant money to:

(A) improve well-being, safety, or permanency outcomes in child protection cases;

(B) enhance due process for the parties or the timeliness of resolution in cases involving the welfare of a child;

(C) prevent or minimize the involvement of children in the juvenile justice system or promote the rehabilitation of children involved in the juvenile justice system; or

(D) accomplish any other initiatives identified by the children's commission or the supreme court to improve the administration of justice for children; and

(2) apply for the grant in accordance with procedures developed by the children's commission and comply with any other requirements of the supreme court.

(e) The mental health commission may develop and administer a program to provide grants from available funds for initiatives that will improve the administration of justice for individuals with mental health needs or an intellectual or developmental disability.

(f) To be eligible for a grant administered by the mental health commission under this section, a prospective recipient must:

(1) use the grant money to improve the administration of justice for individuals with mental health needs or an intellectual or developmental disability; and

(2) apply for the grant in accordance with procedures developed by the mental health commission and comply with any other requirements of the supreme court.

(g) If the children's commission or the mental health commission awards a grant under this section, the commission administering the grant shall:

(1) direct the comptroller to distribute the grant money; and

(2) monitor the use of the grant money.

(h) The children's commission and the mental health commission may accept gifts, grants, and donations for purposes of this section.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 8.02, eff. January 1, 2012.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 12.01, eff. September 1, 2019.

Sec. 22.018. PROMULGATION OF FORMS FOR CERTAIN EXPEDITED FORECLOSURE PROCEEDINGS. The supreme court shall promulgate the following forms for use in expedited foreclosure proceedings described by Section 50(r), Article XVI, Texas Constitution:

(1) a form for application for an expedited foreclosure proceeding;

(2) a form for a supporting affidavit; and

(3) a form for any court-required citation.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1044 (H.B. 2978), Sec. 3, eff. June 14, 2013.

Sec. 22.019. PROMULGATION OF CERTAIN LANDLORD-TENANT FORMS. (a) The supreme court shall, as the court finds appropriate, promulgate forms for use by individuals representing themselves in residential landlord-tenant matters and instructions for the proper

use of each form or set of forms.

(b) The forms and instructions must:

(1) be written in plain language that is easy to understand by the general public;

(2) clearly and conspicuously state that the form is not a substitute for the advice of an attorney;

(3) be made readily available to the general public in the manner prescribed by the supreme court; and

(4) be translated into the Spanish language, and the Spanish language translation of the form must either:

(A) state that the Spanish language-translated form is to be used solely for the purpose of assisting in understanding the form and may not be submitted to the court, and that the English version of the form must be submitted to the court; or

(B) be incorporated into the English language form in a manner that is understandable to both the court and members of the public.

(c) The clerk of a court shall inform members of the public of the availability of the form as appropriate and make the form available free of charge.

(d) A court shall accept a form promulgated by the supreme court under this section unless the form has been completed in a manner that causes a substantive defect that cannot be cured.

Added by Acts 2015, 84th Leg., R.S., Ch. 600 (S.B. 478), Sec. 1, eff. September 1, 2015.

Sec. 22.020. PROMULGATION OF CERTAIN PROBATE FORMS. (a) In this section:

(1) "Probate court" has the meaning assigned by Section 22.007, Estates Code.

(2) "Probate matter" has the meaning assigned by Section 22.029, Estates Code.

(3) "Transfer on death deed" has the meaning assigned by Section 114.002, Estates Code.

(b) The supreme court shall, as the court considers appropriate, promulgate:

(1) forms for use by individuals representing themselves in certain probate matters, including forms for use in:

(A) a small estate affidavit proceeding under Chapter 205, Estates Code; and

(B) the probate of a will as a muniment of title under Chapter 257, Estates Code;

(2) a simple will form for:

(A) a married individual with an adult child;

(B) a married individual with a minor child;

(C) a married individual with no children;

(D) an unmarried individual with an adult child;

(E) an unmarried individual with a minor child; and

(F) an unmarried individual with no children;

(2-a) a form for use to create a transfer on death deed and a form for use to create an instrument of revocation of a transfer on death deed under Chapter 114, Estates Code; and

(3) instructions for the proper use of each form or set of forms.

(c) The forms and instructions:

(1) must be written in plain language that is easy to understand by the general public;

(2) shall be made readily available to the general public in the manner prescribed by the supreme court; and

(3) must be translated into the Spanish language as provided by Subsection (d).

(d) The Spanish language translation of a form must:

(1) state:

(A) that the Spanish language translated form is to be used solely for the purpose of assisting in understanding the form and may not be submitted to the probate court; and

(B) that the English language version of the form must be submitted to the probate court; or

(2) be incorporated into the English language version of the form in a manner that is understandable to both the probate court and members of the general public.

(e) Each form and its instructions must clearly and conspicuously state that the form is not a substitute for the advice of an attorney.

(f) The clerk of a probate court shall inform members of the general public of the availability of a form promulgated by the supreme court under this section as appropriate and make the form available free of charge.

(g) A probate court shall accept a form promulgated by the supreme court under this section unless the form has been completed in a manner that causes a substantive defect that cannot be cured.

Added by Acts 2015, 84th Leg., R.S., Ch. 602 (S.B. 512), Sec. 1, eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 337 (S.B. 874), Sec. 1, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 337 (S.B. 874), Sec. 2, eff. September 1, 2019.

Sec. 22.022. JUDICIAL INSTRUCTION RELATED TO FOREIGN LAW AND FOREIGN JUDGMENTS. (a) The supreme court shall provide for a course of instruction that relates to issues regarding foreign law, foreign judgments, and arbitration awards in relation to foreign law that arise in actions under the Family Code involving the marriage relationship and the parent-child relationship for judges involved in those actions.

(b) The course of instruction must include information about:

(1) the limits on comity and the freedom to contract for arbitration that protect against violations of constitutional rights and public policy in the application of foreign law and the recognition and enforcement of foreign judgments and arbitration awards in actions brought under the Family Code; and

(2) the rules of evidence and procedure adopted under Section 22.0041.

(c) The supreme court shall adopt rules necessary to accomplish the purposes of this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 771 (H.B. 45), Sec. 2, eff. September 1, 2017.

SUBCHAPTER B. COURT OF CRIMINAL APPEALS

Sec. 22.101. SEAL. (a) The court of criminal appeals shall use a seal on which there is engraved a star with five points and the words "Court of Criminal Appeals of Texas."

(b) The writs and processes issued from the court of criminal appeals shall bear the name of the presiding judge and the seal of

the court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 22.102. MANDATE. When the court from which an appeal is taken is deprived of jurisdiction over the case pending the appeal and the case is determined by a court of appeals or the court of criminal appeals, the mandate of the appellate court that determined the case shall be directed to the court that had jurisdiction over the case, as also provided by Section 22.226.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 22.103. ASCERTAINMENT OF FACTS. The court of criminal appeals may ascertain, on affidavit or otherwise, the matters of fact that are necessary to the exercise of its jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 22.105. DISQUALIFICATION. (a) The fact that a judge of the court of criminal appeals is disqualified under the constitution and laws of this state to hear and determine a case shall be certified to the governor.

(b) The governor immediately shall commission a person who is learned in the law to act in the place of the disqualified judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 22.106. COMMISSIONERS OF COURT OF CRIMINAL APPEALS. (a) The presiding judge of the court of criminal appeals, with the concurrence of a majority of the judges of the court of criminal appeals, may designate and appoint a retired appellate judge or district judge who has consented to be subject to appointment, or an active appellate judge or district judge, to sit as a commissioner of the court of criminal appeals. A designated judge must consent to the designation and appointment. The presiding judge may designate and appoint as many commissioners as he deems necessary to aid the

court in disposing of its business.

(b) A commissioner shall discharge the duties that are assigned him by the court and may be appointed to serve either for a certain period of time or for a particular case or cases.

(c) The opinions of a commissioner shall be submitted to the court of criminal appeals for approval. When approved by a majority of the court, an opinion of a commissioner has the same weight and legal effect as an opinion originally prepared by the court of criminal appeals.

(d) The compensation of a judge while sitting as a commissioner of the court of criminal appeals shall be paid out of money appropriated from the general revenue fund for that purpose in an amount equal to the salary of the judges of the court of criminal appeals and shall be in lieu of the retirement allowance that the judge receives or in lieu of the compensation he receives as an active judge of another court. In addition to the compensation, a judge sitting as a commissioner of the court is entitled to receive his actual travel expenses to and from Austin and a $25 per diem while he is assigned to the court of criminal appeals in Austin.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 22.107. COMMISSION IN AID OF COURT OF CRIMINAL APPEALS. (a) In addition to the authority granted by Section 22.106 of this code, the court of criminal appeals may appoint a commission for the aid of the court in disposing of the business before the court. The commission in aid of the court shall discharge the duties that are assigned it by the court of criminal appeals.

(b) The commission shall be composed of two attorneys having the qualifications fixed by the constitution and laws of this state for a judge of the court of criminal appeals. Commissioners serve two-year terms that expire September 1 of each odd-numbered year.

(c) The opinions of the commissioners in aid of the court shall be submitted to the court of criminal appeals for approval. When approved by a majority of the court and handed down as an opinion of the court, an opinion of a commissioner in aid of the court has the same weight and legal effect as an opinion originally prepared and handed down by the court of criminal appeals.

(d) Each member of the commission is entitled to receive for

his services the salary that is provided by law.

(e) The court of criminal appeals by appointment may fill a vacancy on the commission in aid of the court that is created by the death, resignation, or removal of a member of the commission. A person appointed to fill a vacancy continues in office for the unexpired portion of the term for which the commissioner vacating the office was appointed.

(f) The court of criminal appeals shall appoint two stenographers for the commission.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 22.108. RULES OF APPELLATE PROCEDURE IN CRIMINAL CASES. (a) The court of criminal appeals is granted rulemaking power to promulgate rules of posttrial, appellate, and review procedure in criminal cases except that its rules may not abridge, enlarge, or modify the substantive rights of a litigant.

(b) The court of criminal appeals may promulgate a comprehensive body of rules of posttrial, appellate, and review procedure in criminal cases and from time to time may promulgate a specific rule or rules of posttrial, appellate, or review procedure in criminal cases or an amendment or amendments to a specific rule or rules. Rules and amendments adopted under this subsection are effective at the time the court of criminal appeals considers expedient in the interest of a proper administration of justice. The rules and amendments to rules remain in effect unless and until disapproved, modified, or changed by the legislature. The clerk of the court of criminal appeals shall file with the secretary of state the rules or amendments to rules promulgated by the court of criminal appeals under this subsection.

(c) The rules of posttrial, appellate, and review procedure in criminal cases shall be published in the Texas Register and in the Texas Bar Journal. The court of criminal appeals may adopt the method it considers expedient for the printing and distribution of the rules.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.04(a), eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 297, Sec. 2, eff. Aug. 28, 1989.

Sec. 22.109. RULES OF EVIDENCE IN CRIMINAL CASES. (a) The court of criminal appeals has the full rulemaking power in the promulgation of rules of evidence in the trials of criminal cases, except that its rules may not abridge, enlarge, or modify the substantive rights of a litigant.

(b) The court of criminal appeals may promulgate a comprehensive body of rules of evidence in the trials of criminal cases and from time to time may promulgate a specific rule or rules of evidence or an amendment or amendments to a specific rule or rules. Rules and amendments adopted under this subsection are effective at the time the court of criminal appeals considers expedient in the interest of a proper administration of justice. The rules and amendments to rules remain in effect unless and until disapproved by the legislature. The secretary of state shall report the rules or amendments to rules to the next regular session of the legislature by mailing a copy of the rules or amendments to rules to each elected member of the legislature on or before December 1 immediately preceding the session.

(c) The rules of evidence in the trials of criminal cases shall be published in the Texas Register and in the Texas Bar Journal. The court of criminal appeals may adopt the method it considers expedient for the printing and distribution of the rules.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.04(a), eff. Sept. 1, 1987.

Sec. 22.1095. RULES ON ELECTRONIC FILING OF DOCUMENTS FOR CAPITAL CASES IN COURT OF CRIMINAL APPEALS. (a) Notwithstanding Subchapter I, Chapter 51, or any other law, the court of criminal appeals may adopt rules and procedures providing for and governing the electronic filing of briefs, pleadings, and other documents for capital cases in that court.

(b) In the adoption of rules and procedures under Subsection (a), the court of criminal appeals shall coordinate with the supreme court and the rules and procedures adopted by that court.

Added by Acts 2009, 81st Leg., R.S., Ch. 199 (H.B. 4314), Sec. 1, eff. September 1, 2009.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 22.110. JUDICIAL INSTRUCTION RELATED TO FAMILY VIOLENCE, SEXUAL ASSAULT, TRAFFICKING OF PERSONS, AND CHILD ABUSE AND NEGLECT. (a) The court of criminal appeals shall assure that judicial training related to the problems of family violence, sexual assault, trafficking of persons, and child abuse and neglect is provided.

(b) The court of criminal appeals shall adopt the rules necessary to accomplish the purposes of this section. The rules must require:

(1) each district judge, judge of a statutory county court, associate judge appointed under Chapter 54A of this code or Chapter 201, Family Code, master, referee, and magistrate within the judge's first term of office or the judicial officer's first four years of service to complete and provide certification of completion of 12 hours of training that include at least:

(A) four hours dedicated to issues related to trafficking of persons and child abuse and neglect that cover at least two of the topics described in Subsections (d)(8)-(12);

(B) six hours dedicated to the training described by Subsections (d)(5), (6), and (7); and

(C) one hour dedicated to the training described by Subsection (d)(13);

(2) each judge and judicial officer during each additional term in office or four years of service to complete and provide certification of completion of an additional five hours of training that include at least:

(A) two hours dedicated to the training described by Subsections (d)(11) and (12); and

(B) one hour dedicated to the training described by Subsection (d)(13); and

(3) each judge of a court with primary responsibility for family law or family violence matters to complete and provide certification of completion of an additional hour of training described by Subsection (d)(13) every two years.

(c) In adopting the rules, the court of criminal appeals may consult with the supreme court and with professional groups and associations in the state that have expertise in the subject matter to obtain the recommendations of those groups or associations for

instruction content.

(d) The instruction must include information about:

(1) statutory and case law relating to videotaping a child's testimony and relating to competency of children to testify;

(2) methods for eliminating the trauma to the child caused by the court process;

(3) case law, statutory law, and procedural rules relating to family violence, sexual assault, trafficking of persons, and child abuse and neglect;

(4) methods for providing protection for victims of family violence, sexual assault, trafficking of persons, and child abuse and neglect;

(5) available community and state resources for counseling and other aid to victims and to offenders;

(6) gender bias in the judicial process;

(7) dynamics and effects of being a victim of sexual assault, trafficking of persons, or child abuse and neglect;

(8) dynamics of sexual abuse of children, including child abuse accommodation syndrome and grooming;

(9) impact of substance abuse on an unborn child and on a person's ability to care for a child;

(10) issues of attachment and bonding between children and caregivers;

(11) issues of child development that pertain to trafficking of persons and child abuse and neglect;

(12) medical findings regarding physical abuse, sexual abuse, trafficking of persons, and child abuse and neglect; and

(13) dynamics of family violence.

(d-1) The sponsoring organization for any training on issues related to child abuse and neglect must have at least three years' experience in training professionals on child abuse and neglect issues or have personnel or planning committee members who have at least five years' experience in working directly in the field of child abuse and neglect prevention and treatment.

(d-2) The training described by Subsection (d)(13) must be developed in consultation with a statewide family violence advocacy organization.

(e) The court of criminal appeals or the court's designee shall report the name of a judge or judicial officer who does not comply with the requirements of this section to the State Commission on

Judicial Conduct.

Added by Acts 1995, 74th Leg., ch. 507, Sec. 1, eff. Aug. 31, 1995.
Amended by Acts 1999, 76th Leg., ch. 390, Sec. 1, eff. Aug. 31, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 765 (H.B. 3505), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.04, eff. January 1, 2012.

Acts 2015, 84th Leg., R.S., Ch. 332 (H.B. 10), Sec. 8, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 332 (H.B. 10), Sec. 9, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 275 (S.B. 855), Sec. 1, eff. September 1, 2023.

Sec. 22.1105. JUDICIAL INSTRUCTION RELATED TO CERTAIN ALLEGED CHILD OFFENDERS. (a) Each judge of a court with jurisdiction to hear a complaint against a child alleging a violation of a misdemeanor offense punishable by fine only, other than a traffic offense or public intoxication or a violation of a penal ordinance of a political subdivision other than a traffic offense, shall complete a course of instruction related to youth diversion and understanding relevant issues of child welfare, including issues related to mental health and children with disabilities, every judicial academic year that ends in a 0 or a 5.

(b) The court of criminal appeals shall adopt the rules necessary to provide for the training required under Subsection (a). The rules must require a judge described by Subsection (a) to complete two hours of the required training every judicial academic year that ends in a 0 or a 5 as part of the training the judge is required to complete under rules adopted by the court of criminal appeals or other law.

(c) In adopting the rules, the court of criminal appeals may consult with the supreme court and with professional groups and associations in this state that have expertise in the subject matter to obtain the recommendations of those groups or associations for instructional content.

Added by Acts 2009, 81st Leg., R.S., Ch. 250 (H.B. 1793), Sec. 1, eff.

September 1, 2009.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 525 (H.B. 3186), Sec. 13, eff. January 1, 2024.

Sec. 22.1106. JUDICIAL INSTRUCTION RELATED TO COURT-ORDERED OUTPATIENT MENTAL HEALTH SERVICES. The court of criminal appeals shall ensure that judicial training related to court-ordered outpatient mental health services is provided at least once every year. The instruction may be provided at the annual Judicial Education Conference.

Added by Acts 2019, 86th Leg., R.S., Ch. 582 (S.B. 362), Sec. 6, eff. September 1, 2019.

Sec. 22.111. TRAINING FOR PROSECUTING ATTORNEYS RELATED TO PUNISHMENT ENHANCEMENT BECAUSE OF BIAS OR PREJUDICE. The court of criminal appeals shall provide to prosecuting attorneys training related to the use of Section 12.47, Penal Code, and Article 42.014, Code of Criminal Procedure, for enhancing punishment on a finding that an offense was committed because of the defendant's bias or prejudice as defined in Article 42.014, Code of Criminal Procedure.

Added by Acts 2001, 77th Leg., ch. 85, Sec. 7.01, eff. Sept. 1, 2001.

Sec. 22.112. PERMANENT PLACE DESIGNATIONS. (a) The court of criminal appeals is composed of a presiding judge and of eight judges holding places numbered consecutively beginning with Place 2.
(b) The designation of offices and places under this section identifies the offices and places for all purposes, including identification on official ballots for primary and general elections.

Added by Acts 2003, 78th Leg., ch. 693, Sec. 2, eff. Sept. 1, 2003.

SUBCHAPTER C. COURTS OF APPEALS

Sec. 22.201. COURTS OF APPEALS DISTRICTS. (a) The state is organized into 15 courts of appeals districts with a court of appeals

in each district.

(b) The First Court of Appeals District is composed of the counties of Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Grimes, Harris, Waller, and Washington.

(c) The Second Court of Appeals District is composed of the counties of Archer, Clay, Cooke, Denton, Hood, Jack, Montague, Parker, Tarrant, Wichita, Wise, and Young.

(d) The Third Court of Appeals District is composed of the counties of Bastrop, Bell, Blanco, Burnet, Caldwell, Coke, Comal, Concho, Fayette, Hays, Irion, Lampasas, Lee, Llano, McCulloch, Milam, Mills, Runnels, San Saba, Schleicher, Sterling, Tom Green, Travis, and Williamson.

(e) The Fourth Court of Appeals District is composed of the counties of Atascosa, Bandera, Bexar, Brooks, Dimmit, Duval, Edwards, Frio, Gillespie, Guadalupe, Jim Hogg, Jim Wells, Karnes, Kendall, Kerr, Kimble, Kinney, LaSalle, McMullen, Mason, Maverick, Medina, Menard, Real, Starr, Sutton, Uvalde, Val Verde, Webb, Wilson, Zapata, and Zavala.

(f) The Fifth Court of Appeals District is composed of the counties of Collin, Dallas, Grayson, Hunt, Kaufman, and Rockwall.

(g) The Sixth Court of Appeals District is composed of the counties of Bowie, Camp, Cass, Delta, Fannin, Franklin, Gregg, Harrison, Hopkins, Hunt, Lamar, Marion, Morris, Panola, Red River, Rusk, Titus, Upshur, and Wood.

(h) The Seventh Court of Appeals District is composed of the counties of Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Floyd, Foard, Garza, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Kent, King, Lamb, Lipscomb, Lubbock, Lynn, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Terry, Wilbarger, Wheeler, and Yoakum.

(i) The Eighth Court of Appeals District is composed of the counties of Andrews, Brewster, Crane, Crockett, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reagan, Reeves, Terrell, Upton, Ward, and Winkler.

(j) The Ninth Court of Appeals District is composed of the counties of Hardin, Jasper, Jefferson, Liberty, Montgomery, Newton, Orange, Polk, San Jacinto, and Tyler.

(k) The Tenth Court of Appeals District is composed of the

counties of Bosque, Burleson, Brazos, Coryell, Ellis, Falls, Freestone, Hamilton, Hill, Johnson, Leon, Limestone, Madison, McLennan, Navarro, Robertson, Somervell, and Walker.

(l) The Eleventh Court of Appeals District is composed of the counties of Baylor, Borden, Brown, Callahan, Coleman, Comanche, Dawson, Eastland, Ector, Erath, Fisher, Gaines, Glasscock, Haskell, Howard, Jones, Knox, Martin, Midland, Mitchell, Nolan, Palo Pinto, Scurry, Shackelford, Stephens, Stonewall, Taylor, and Throckmorton.

(m) The Twelfth Court of Appeals District is composed of the counties of Anderson, Angelina, Cherokee, Gregg, Henderson, Houston, Nacogdoches, Rains, Rusk, Sabine, San Augustine, Shelby, Smith, Trinity, Upshur, Van Zandt, and Wood.

(n) The Thirteenth Court of Appeals District is composed of the counties of Aransas, Bee, Calhoun, Cameron, DeWitt, Goliad, Gonzales, Hidalgo, Jackson, Kenedy, Kleberg, Lavaca, Live Oak, Matagorda, Nueces, Refugio, San Patricio, Victoria, Wharton, and Willacy.

(o) The Fourteenth Court of Appeals District is composed of the counties of Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Grimes, Harris, Waller, and Washington.

(p) The Fifteenth Court of Appeals District is composed of all counties in this state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.02, eff. Sept. 1, 1987; Acts 2003, 78th Leg., ch. 44, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 315, Sec. 4, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 662, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 542 (H.B. 1077), Sec. 1, eff. September 1, 2005.

Acts 2023, 88th Leg., R.S., Ch. 459 (S.B. 1045), Sec. 1.01, eff. September 1, 2023.

Sec. 22.202. FIRST COURT OF APPEALS. (a) The Court of Appeals for the First Court of Appeals District shall be held in the City of Houston.

(b) Harris County shall furnish and equip suitable rooms in Houston for the court and the justices without expense to the state.

(c) The counties other than Harris County composing the First

and Fourteenth Courts of Appeals Districts shall annually reimburse Harris County for the costs incurred by Harris County during its previous fiscal year for:

(1) supplemental salaries and fringe benefits for the justices for those courts; and

(2) furnishings, equipment, supplies, and utility expenses for those courts.

(d) Each county shall pay a share based on the proportion its population bears to the total population of all the counties in those districts. A county shall pay its share not later than the 60th day after the beginning of the county's fiscal year.

(e) The Commissioners Court of Harris County shall provide each county liable for the expenses with a statement of that county's share. The statement must be approved by the chief justices of the courts of appeals of the First and Fourteenth Courts of Appeals Districts.

(f) The First and Fourteenth Courts of Appeals shall establish a central clerk's office and offices for justices and other support personnel in Houston. The courts may establish offices for the clerks, justices, and other support personnel in other counties in the courts' district as each court determines necessary and convenient.

(g) The First Court of Appeals may transact its business in any county in the First Court of Appeals District as the court determines necessary and convenient.

(h) All civil and criminal cases directed to the First or Fourteenth Court of Appeals shall be filed in either the First or Fourteenth Court of Appeals as provided by this section. The trial clerk shall write the numbers of the two courts of appeals on identical slips of paper and place the slips in a container. When a notice of appeal or appeal bond is filed, the trial court clerk shall draw a number from the container at random, in a public place, and shall assign the case and any companion cases to the court of appeals for the corresponding number drawn.

(i) Subject to Subchapter A, Chapter 73, the clerks of the First and the Fourteenth Courts of Appeals Districts may from time to time equalize the dockets of the two courts by transferring cases from one court to the other. The court to which the case is transferred has jurisdiction over the matter.

(j) Each of the justices on the court of appeals shall

designate the county of his permanent residence on the records of the court in which the justice serves. The county of a justice's permanent residence is the justice's permanent post of duty.

(j-1) Expired.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.03 to 1.07, eff. Sept. 1, 1987.

Sec. 22.203. SECOND COURT OF APPEALS. (a) The Court of Appeals for the Second Court of Appeals District shall be held in the City of Fort Worth.

(b) The court may transact its business in any county in the district as the court determines is necessary or convenient.

(c) Repealed by Acts 2003, 78th Leg., ch. 693, Sec. 4.

(d) Repealed by Acts 2003, 78th Leg., ch. 693, Sec. 4.

(e) Repealed by Acts 2003, 78th Leg., ch. 693, Sec. 4.

(f) Repealed by Acts 2003, 78th Leg., ch. 693, Sec. 4.

(g) If any additional offices of justices of the court are created, the designation for those offices shall be in consecutive numerical order beginning with Place 8. If two or more offices of justice are created to take effect the same date, and the legislature does not specify places for those offices, the court shall by rule determine places for each office. If the court does not determine places before a person is appointed or elected to fill the initial vacancy, the places are determined by the seniority system established as provided by Subsection (f).

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.08, 2.05(a), eff. Sept. 1, 1987; Acts 2003, 78th Leg., ch. 693, Sec. 4, eff. Sept. 1, 2003.

Sec. 22.204. THIRD COURT OF APPEALS. (a) The Court of Appeals for the Third Court of Appeals District shall be held in the City of Austin.

(b) The court may transact its business at the county seat of any of the counties within its district as the court determines is necessary and convenient, except that all cases originating in Travis County shall be heard and transacted in that county.

(c) The counties other than Travis County composing the Third Court of Appeals District shall annually reimburse Travis County for the costs incurred by Travis County during its previous fiscal year for supplemental salaries and fringe benefits for the justices of that court of appeals.

(d) Each county, including Travis County, shall pay a share based on the proportion its population bears to the total population of all the counties in the district according to the most recent federal census.

(e) A county shall pay its share not later than the 60th day after the beginning of the county's fiscal year.

(f) The Commissioners Court of Travis County shall provide each county liable for the reimbursement with a statement of that county's share. The statement must be approved by the chief justice of the Court of Appeals for the Third Court of Appeals District.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.09, 2.06(a), eff. Sept. 1, 1987.

Sec. 22.205. FOURTH COURT OF APPEALS. (a) The Court of Appeals for the Fourth Court of Appeals District shall be held in the City of San Antonio.

(b) The court may transact its business at the county seat of any of the counties within its district, as the court determines is necessary and convenient, except that all cases originating in Bexar County that the court hears shall be heard and transacted in that county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.07(a), eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 99, Sec. 1, eff. May 15, 1991.

Sec. 22.206. FIFTH COURT OF APPEALS. (a) The Court of Appeals for the Fifth Court of Appeals District shall be primarily held in the City of Dallas.

(b) The court may transact its business in any county in the district as the court determines is necessary and convenient.

(c) The court may establish offices for the clerk, justices,

and other support personnel in any county in the district and in more than one location in any county in the district as the court determines is necessary and convenient.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.10, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 210, Sec. 1, eff. Sept. 1, 1989.

Sec. 22.207. SIXTH COURT OF APPEALS. (a) The Court of Appeals for the Sixth Court of Appeals District shall be held in the City of Texarkana.

(b) The court may transact its business in the City of Texarkana or the county seat of any county in the district as the court determines is necessary or convenient, except that all cases originating in Bowie County shall be heard and transacted in the City of Texarkana.

(c) Repealed by Acts 2005, 79th Leg., Ch. 542, Sec. 2, eff. September 1, 2005.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.11, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 647, Sec. 1, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 153, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 542 (H.B. 1077), Sec. 2, eff. September 1, 2005.

Sec. 22.208. SEVENTH COURT OF APPEALS. The Court of Appeals for the Seventh Court of Appeals District shall be held in the City of Amarillo.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.12, eff. Sept. 1, 1987.

Sec. 22.209. EIGHTH COURT OF APPEALS. (a) The Court of Appeals for the Eighth Court of Appeals District shall be held in the City of El Paso.

(b) The court may transact its business at the county seat of

any county in the district as the court determines is necessary and convenient, except all cases originating in El Paso County shall be heard and transacted in that county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.13, eff. Sept. 1, 1987.

Sec. 22.210. NINTH COURT OF APPEALS. (a) The Court of Appeals for the Ninth Court of Appeals District shall be held in the City of Beaumont.

(b) The City of Beaumont shall furnish and equip suitable rooms for the court and the justices without expense to the state.

(c) The court may transact its business in the City of Beaumont or the county seat of any county in the district as the court determines is necessary or convenient.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.14, eff. Sept. 1, 1987; Acts 2003, 78th Leg., ch. 22, Sec. 1, eff. May 12, 2003.

Sec. 22.211. TENTH COURT OF APPEALS. (a) The Court of Appeals for the Tenth Court of Appeals District shall be held in the City of Waco or in the county seat of any county located within the Tenth Court of Appeals District.

(b) The City of Waco shall furnish and equip suitable rooms for the court and the justices without expense to the state.

(c) Each of the justices on the court of appeals shall designate the county of his permanent residence on the records of the court in which the justice serves. The county of a justice's permanent residence is the justice's permanent post of duty.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.15, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 729, Sec. 1, eff. Sept. 1, 1991.

Sec. 22.212. ELEVENTH COURT OF APPEALS. (a) The Court of Appeals for the Eleventh Court of Appeals District shall be held in the City of Eastland.

(b) Eastland County shall furnish and equip suitable rooms for the court and the justices without expense to the state.

(c) The court may transact its business in the City of Eastland or in any county in the district as the court determines is necessary or convenient.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.16, eff. Sept. 1, 1987.
Amended by:

Acts 2005, 79th Leg., Ch. 1366 (H.B. 1586), Sec. 1, eff. September 1, 2005.

Sec. 22.213. TWELFTH COURT OF APPEALS. (a) The Court of Appeals for the Twelfth Court of Appeals District shall be held in the City of Tyler.

(b) The City of Tyler and Smith County shall furnish and equip suitable rooms and a library for the court and the justices without expense to the state.

(c) The court may transact its business in the City of Tyler or at the county seat of any county in the district as the court determines is necessary or convenient, except that all cases originating in Smith County shall be heard and transacted in the City of Tyler.

(d) Repealed by Acts 2005, 79th Leg., Ch. 542, Sec. 2, eff. September 1, 2005.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.17, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 604, Sec. 1, eff. Aug. 31, 1987; Acts 1991, 72nd Leg., ch. 647, Sec. 2, eff. Sept. 1, 1991.
Amended by:

Acts 2005, 79th Leg., Ch. 542 (H.B. 1077), Sec. 2, eff. September 1, 2005.

Sec. 22.214. THIRTEENTH COURT OF APPEALS. (a) The Court of Appeals for the Thirteenth Court of Appeals District shall be held in the City of Corpus Christi and the City of Edinburg.

(b) Nueces County shall furnish and equip suitable rooms in the City of Corpus Christi and Hidalgo County shall furnish and equip

suitable rooms in the City of Edinburg for the court and the justices without expense to the state.

(c) The court may transact its business at the county seat of any county in the district as the court determines is necessary and convenient, except that:

(1) all cases originating in Nueces County shall be heard and transacted in Nueces County; and

(2) all cases originating in Cameron, Hidalgo, or Willacy County shall be heard and transacted in Cameron, Hidalgo, or Willacy County.

(d) The commissioners courts of the counties in the district by adopting concurrent orders may authorize the payment of an automobile allowance in an amount not to exceed $15,000 annually to each of the justices of the court for automobile expenses incurred in performing official duties.

(e) The automobile allowance authorized by Subsection (d) is not subject to:

(1) the limitations on additional compensation paid to a justice of a court of appeals district imposed by Section 31.003; or

(2) the salary differentials provided by Subchapter B, Chapter 659.

(f) Nueces County shall each fiscal year pay the total amount of the supplemental salaries, car allowances, and fringe benefits to the justices of the court. Each county composing the district, except Nueces County, shall annually reimburse Nueces County for that county's portion of the total amount paid under this subsection by Nueces County during the preceding fiscal year. Each county in the district, including Nueces County, is liable for a share of the total amount paid, based on the proportion that county's population bears to the total population of all the counties in the district.

(g) The Commissioners Court of Nueces County shall provide to each county liable for the reimbursement under Subsection (f) a statement of that county's share. The statement must be approved by the chief justice of the Court of Appeals for the Thirteenth Court of Appeals District. A county shall pay its share of the reimbursement not later than the 60th day after the beginning of the county's fiscal year.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.18, eff. Sept. 1, 1987;

Acts 1989, 71st Leg., ch. 1037, Sec. 1, eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1177, Sec. 1, eff. Sept. 1, 2001.

Sec. 22.215. FOURTEENTH COURT OF APPEALS. (a) The Court of Appeals for the Fourteenth Court of Appeals District shall be held in the City of Houston.

(b) Harris County shall furnish and equip suitable rooms in Houston for the court and the justices without expense to the state.

(c) The Fourteenth Court of Appeals may transact its business in any county in the First Court of Appeals District as the court determines necessary and convenient.

(d) Each of the justices on the court of appeals shall designate the county of his permanent residence on the records of the court in which the justice serves. The county of a justice's permanent residence is the justice's permanent post of duty.

(e) Section 22.202, relating to the First Court of Appeals, contains provisions applicable to both that court and the Fourteenth Court of Appeals.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.19, 1.20, eff. Sept. 1, 1987.

Sec. 22.2151. FIFTEENTH COURT OF APPEALS. (a) The Court of Appeals for the Fifteenth Court of Appeals District shall be held in the City of Austin.

(b) The Fifteenth Court of Appeals may transact its business in any county in the district as the court determines is necessary and convenient.

Added by Acts 2023, 88th Leg., R.S., Ch. 459 (S.B. 1045), Sec. 1.02, eff. September 1, 2023.

Sec. 22.2152. REPORT ON FIFTEENTH COURT OF APPEALS. Not later than December 1 of each year, the Office of Court Administration of the Texas Judicial System shall submit to the legislature a report on the number and types of cases heard by the Court of Appeals for the Fifteenth Court of Appeals District in the preceding state fiscal

year.

Added by Acts 2023, 88th Leg., R.S., Ch. 459 (S.B. 1045), Sec. 1.03, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 22.216. MEMBERSHIP; PERMANENT PLACE DESIGNATIONS. (a) The Court of Appeals for the First Court of Appeals District consists of a chief justice and of eight justices holding places numbered consecutively beginning with Place 2.

(b) The Court of Appeals for the Second Court of Appeals District consists of a chief justice and of six justices holding places numbered consecutively beginning with Place 2.

(c) The Court of Appeals for the Third Court of Appeals District consists of a chief justice and of five justices holding places numbered consecutively beginning with Place 2.

(d) The Court of Appeals for the Fourth Court of Appeals District consists of a chief justice and of six justices holding places numbered consecutively beginning with Place 2.

(e) The Court of Appeals for the Fifth Court of Appeals District consists of a chief justice and of 12 justices holding places numbered consecutively beginning with Place 2.

(f) The Court of Appeals for the Sixth Court of Appeals District consists of a chief justice and of two justices holding places numbered consecutively beginning with Place 2.

(g) The Court of Appeals for the Seventh Court of Appeals District consists of a chief justice and of three justices holding places numbered consecutively beginning with Place 2.

(h) The Court of Appeals for the Eighth Court of Appeals District consists of a chief justice and of two justices holding places numbered consecutively beginning with Place 2.

(i) The Court of Appeals for the Ninth Court of Appeals District consists of a chief justice and of three justices holding places numbered consecutively beginning with Place 2.

(j) The Court of Appeals for the Tenth Court of Appeals District consists of a chief justice and of two justices holding places numbered consecutively beginning with Place 2.

(k) The Court of Appeals for the Eleventh Court of Appeals District consists of a chief justice and of two justices holding places numbered consecutively beginning with Place 2.

(l) The Court of Appeals for the Twelfth Court of Appeals District consists of a chief justice and of two justices holding places numbered consecutively beginning with Place 2.

(m) The Court of Appeals for the Thirteenth Court of Appeals District consists of a chief justice and of five justices holding places numbered consecutively beginning with Place 2.

(n) The Court of Appeals for the Fourteenth Court of Appeals District consists of a chief justice and of eight justices holding places numbered consecutively beginning with Place 2.

(n-1) The Court of Appeals for the Fifteenth Court of Appeals District consists of a chief justice and of four justices holding places numbered consecutively beginning with Place 2.

(n-2) Notwithstanding Subsection (n-1), the Court of Appeals for the Fifteenth Court of Appeals District consists of a chief justice and of two justices holding places numbered consecutively beginning with Place 2 for the first three years following the court's creation. This subsection expires September 1, 2027.

(o) The designation of offices and places under this section identifies the offices and places for all purposes, including identification on official ballots for primary and general elections.

(p) If any additional offices of justice of a court of appeals are created, the designation for those offices shall be in consecutive numerical order beginning with the next available place number. If two or more offices of justice are created to take effect the same date, and the legislature does not specify places for those offices, the applicable court of appeals shall by rule determine places for each office. If the court does not determine places before a person is appointed or elected to fill the initial vacancy, the places are determined by seniority. The chief justice of the applicable court shall file the names and place numbers of the justices with the secretary of state and the clerk of the court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.21 to 1.34, eff. Sept. 1, 1987; Acts 2003, 78th Leg., ch. 315, Sec. 5, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 315, Sec. 6, eff. Jan. 1, 2005; Acts 2003, 78th Leg., ch. 662, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th

Leg., ch. 662, Sec. 3, eff. Jan. 1, 2005; Acts 2003, 78th Leg., ch. 693, Sec. 3, eff. Sept. 1, 2003.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 459 (S.B. 1045), Sec. 1.04, eff. September 1, 2023.

Sec. 22.217. DISQUALIFICATION. (a) The fact that at least two members of a court of appeals are disqualified to determine a case in the court shall be certified to the governor.
(b) The governor immediately shall commission the requisite number of persons who are learned in the law to try and determine the case.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 22.218. TERM OF COURT. The term of each court of appeals begins and ends with each calendar year.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 22.219. ADJOURNMENT. (a) A court of appeals may adjourn from day to day or for the periods that it considers proper.
(b) If a quorum of a court is not present on any day of the term, a justice of the court or the bailiff attending the court may adjourn the court from time to time until a quorum is present, but the court may not be finally adjourned for the term.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878 and H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 22.220. CIVIL JURISDICTION. (a) Except as provided by Subsection (d), each court of appeals has appellate jurisdiction of all civil cases within its district of which the district courts or county courts have jurisdiction when the amount in controversy or the

judgment rendered exceeds $250, exclusive of interest and costs.

(b) If a court of appeals having jurisdiction in a case, matter, or controversy that requires immediate action is unable to take immediate action because the illness, absence, or unavailability of the justices causes fewer than three members of the court to be present, the nearest available court of appeals, under rules prescribed by the supreme court, may take the action required in the case, matter, or controversy.

(c) Each court of appeals may, on affidavit or otherwise, as the court may determine, ascertain the matters of fact that are necessary to the proper exercise of its jurisdiction.

(d) The Court of Appeals for the Fifteenth Court of Appeals District has exclusive intermediate appellate jurisdiction over the following matters arising out of or related to a civil case:

(1) matters brought by or against the state or a board, commission, department, office, or other agency in the executive branch of the state government, including a university system or institution of higher education as defined by Section 61.003, Education Code, or by or against an officer or employee of the state or a board, commission, department, office, or other agency in the executive branch of the state government arising out of that officer's or employee's official conduct, other than:

(A) a proceeding brought under the Family Code and any related motion or proceeding;

(B) a proceeding brought under Chapter 7B or Article 17.292, Code of Criminal Procedure;

(C) a proceeding brought against a district attorney, a criminal district attorney, or a county attorney with criminal jurisdiction;

(D) a proceeding relating to a mental health commitment;

(E) a proceeding relating to civil asset forfeiture;

(F) a condemnation proceeding for the acquisition of land or a proceeding related to eminent domain;

(G) a proceeding brought under Chapter 101, Civil Practice and Remedies Code;

(H) a claim of personal injury or wrongful death;

(I) a proceeding brought under Chapter 125, Civil Practice and Remedies Code, to enjoin a common nuisance;

(J) a proceeding brought under Chapter 55, Code of

Criminal Procedure;

(K) a proceeding under Chapter 22A, Government Code;

(L) a proceeding brought under Subchapter E-1, Chapter 411, Government Code;

(M) a proceeding brought under Chapter 21, Labor Code;

(N) a removal action under Chapter 87, Local Government Code; or

(O) a proceeding brought under Chapter 841, Health and Safety Code;

(2) matters in which a party to the proceeding files a petition, motion, or other pleading challenging the constitutionality or validity of a state statute or rule and the attorney general is a party to the case; and

(3) any other matter as provided by law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1351 (S.B. 408), Sec. 3, eff. September 1, 2009.

Acts 2023, 88th Leg., R.S., Ch. 459 (S.B. 1045), Sec. 1.05, eff. September 1, 2023.

Sec. 22.221. WRIT POWER. (a) Each court of appeals or a justice of a court of appeals may issue a writ of mandamus and all other writs necessary to enforce the jurisdiction of the court.

(b) Subject to Subsection (c-1), each court of appeals for a court of appeals district may issue all writs of mandamus, agreeable to the principles of law regulating those writs, against a judge of a district, statutory county, statutory probate county, or county court in the court of appeals district.

(c) Each court of appeals for a court of appeals district, other than the Court of Appeals for the Fifteenth Court of Appeals District, may issue all writs of mandamus, agreeable to the principles of law regulating those writs, against:

(1) a judge of a district court who is acting as a magistrate at a court of inquiry under Chapter 52, Code of Criminal Procedure, in the court of appeals district; or

(2) an associate judge of a district or county court appointed by a judge under Chapter 201, Family Code, in the court of

appeals district for the judge who appointed the associate judge.

(c-1) The original jurisdiction of the Court of Appeals for the Fifteenth Court of Appeals District to issue writs is limited to writs arising out of matters over which the court has exclusive intermediate appellate jurisdiction under Section 22.220(d).

(d) Concurrently with the supreme court, the court of appeals of a court of appeals district in which a person is restrained in his liberty, or a justice of the court of appeals, may issue a writ of habeas corpus when it appears that the restraint of liberty is by virtue of an order, process, or commitment issued by a court or judge because of the violation of an order, judgment, or decree previously made, rendered, or entered by the court or judge in a civil case. Pending the hearing of an application for a writ of habeas corpus, the court of appeals or a justice of the court of appeals may admit to bail a person to whom the writ of habeas corpus may be granted.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 69, Sec. 1, eff. May 6, 1987; Acts 1987, 70th Leg., ch. 148, Sec. 1.35, 2.03, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 58, Sec. 1, eff. May 2, 1991; Acts 1995, 74th Leg., ch. 839, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 740 (S.B. 1233), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1013 (H.B. 1480), Sec. 1, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 459 (S.B. 1045), Sec. 1.06, eff. September 1, 2023.

Sec. 22.222. COURT SITTING IN PANELS. (a) Each court of appeals may sit in panels of not fewer than three justices for the purpose of hearing cases.

(b) If more than one panel is used, the court of appeals shall establish rules to periodically rotate the justices among the panels. Permanent civil panels and criminal panels without rotation may not be established.

(c) A majority of a panel constitutes a quorum for the transaction of business, and the concurrence of a majority of a panel is necessary for a decision.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 22.223. COURT SITTING EN BANC. (a) The chief justice of each court of appeals, under rules established by the court, shall convene the court en banc for the transaction of all business other than the hearing of cases and may convene the court en banc for the purpose of hearing cases.

(b) When convened en banc, a majority of the membership of the court constitutes a quorum and the concurrence of a majority of the court sitting en banc is necessary for a decision.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 22.224. SEAL. The clerk of each court of appeals shall obtain a seal for the court. The seal shall have a star with five points and the words "Court of Appeals of the State of Texas" engraved on it.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 22.225. EFFECT OF JUDGMENT IN CIVIL CASES. (a) A judgment of a court of appeals is conclusive on the facts of the case in all civil cases.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 150 (H.B. 1761), Sec. 4(3), eff. September 1, 2017.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 150 (H.B. 1761), Sec. 4(3), eff. September 1, 2017.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 150 (H.B. 1761), Sec. 4(3), eff. September 1, 2017.

(e) Repealed by Acts 2017, 85th Leg., R.S., Ch. 150 (H.B. 1761), Sec. 4(3), eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1106, Sec. 2, eff. June 20, 1987; Acts 1993, 73rd Leg., ch. 855, Sec. 2, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 204, Sec. 1.02, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 97 (S.B. 15), Sec. 6, eff. September 1,

2005.

Acts 2011, 82nd Leg., R.S., Ch. 203 (H.B. 274), Sec. 3.02, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 150 (H.B. 1761), Sec. 4(3), eff. September 1, 2017.

Sec. 22.226. MANDATE. When the court from which an appeal is taken is deprived of jurisdiction over the case pending the appeal and the case is determined by a court of appeals or the court of criminal appeals, the mandate of the appellate court that determines the case shall be directed to the court that had jurisdiction over the case, as also provided by Section 22.102.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 22.228. SPECIAL COMMISSIONER. (a) The other justices of a court of appeals shall certify to the governor the following facts when they occur:

(1) a justice of the court of appeals is totally disabled to discharge any of the duties of his office because of physical or mental illness that probably is permanent, has remained in that condition continuously for at least one year, and probably will continue to be incapacitated by the illness for the balance of his term of office; or

(2) a justice of the court of appeals has been called or ordered into the active military service of the United States.

(b) On receipt of a certificate that a justice is disabled or on active military service, the governor shall investigate and verify the facts contained in the certificate. If the governor determines that the appointment of a special commissioner is necessary, he promptly shall appoint a special commissioner who has the qualifications of a member of a court of appeals to assist the court.

(c) A special commissioner may sit with the court, hear arguments on submitted cases, and write opinions on the cases if directed to do so by the court. When the opinion of a special commissioner is adopted by the court of appeals, it becomes the opinion of the court.

(d) A special commissioner appointed by the governor shall

receive the same compensation as a regular justice of the courts of appeals.

(e) A special commissioner who is appointed because of the disability of a justice serves on the court until the recovery from the disability, the death, or the expiration of the term of the disabled justice, except that a special commissioner may not serve for more than two years under the same appointment. In the event of a recovery from the disability, a majority of the justices of the court of appeals shall certify to the governor that the disabled justice is recovered. The certificate of a majority of the justices is conclusive evidence of the recovery of the disabled justice.

(f) A special commissioner who is appointed because a justice is on active military service serves on the court until the discharge of the justice from the military service or the expiration of the term of the justice who is on military service, except that a special commissioner may not serve more than two years under the same appointment. When the active military service of a justice of a court of appeals is terminated, the other justices of the court shall certify the termination to the governor. The certificate of the other justices is conclusive evidence of the termination of the active military service.

(g) This section does not give the members of a court of appeals or the governor the power to remove or suspend from office a justice of a court of appeals or to interfere with a justice in his constitutional rights and powers.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 22.229. APPELLATE JUDICIAL SYSTEM FUND. (a) An appellate judicial system fund is established for each court of appeals, other than the Court of Appeals of the Fifteenth Court of Appeals District, to:

(1) assist the court of appeals in the processing of appeals filed with the court of appeals from the county courts, statutory county courts, statutory probate courts, and district courts in the counties the court of appeals serves; and

(2) defray costs and expenses incurred in the operation of the court of appeals.

(b) To fund the appellate judicial system each county treasurer

shall allocate to the fund the percentage of the local consolidated filing fee provided by Section 135.101(b)(1) or 135.102(b)(1), Local Government Code.

(c) The fee required under Subsection (b)(2) shall be taxed, collected, and paid as other court costs in a suit. The clerk of the court shall collect the fee and pay it to the county treasurer.

(d) The county treasurer shall monthly forward the money collected under this section to the clerk of the court of appeals serving the county for deposit in the appellate judicial system fund. The court of appeals may spend money in the fund for the purposes described by Subsection (a). Money in the fund may not be used for any other purpose.

(e) The chief justice of each court of appeals is responsible for the management of all money deposited in the appellate judicial system fund for the chief justice's court of appeals and has sole discretion on use of the money in the fund, except that the money must be used for purposes consistent with the purposes described by Subsection (a) for which the fund was established.

Added by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 2.01, eff. January 1, 2022.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 459 (S.B. 1045), Sec. 1.07, eff. September 1, 2023.

SUBCHAPTER D. GENERAL PROVISIONS

Sec. 22.301. SALARIES OF OFFICERS AND PERSONNEL OF APPELLATE COURTS. The salaries of the state prosecuting attorney and the clerks, other officers, and employees of the supreme court, court of criminal appeals, and courts of appeals shall be determined by the legislature in its appropriation acts for the support of the judiciary.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 22.3015. EXPENSES OF APPELLATE COURT JUDGE OR JUSTICE. (a) A justice of the supreme court, a judge of the court of criminal appeals, or a justice of a court of appeals engaged in the discharge of official duties in a county other than the justice's or judge's

county of residence is entitled to traveling and other necessary expenses, as provided by Chapter 660.

(b) A justice of the supreme court, a judge of the court of criminal appeals, or a justice of a court of appeals is entitled to receive from the state the actual and necessary postage, telegraph, and telephone expenses incurred in the discharge of official duties.

(c) The expenses shall be paid by the state on a sworn itemized account showing the expenses.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.001, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 22.302. USE OF TELECONFERENCING TECHNOLOGY. (a) At the discretion of its chief justice or presiding judge, the supreme court, the court of criminal appeals, or a court of appeals may order that oral argument be presented through the use of teleconferencing technology. The court and the parties or their attorneys may participate in oral argument from any location through the use of teleconferencing technology.

(b) In this section, "teleconferencing technology" means technology that provides for a conference of individuals in different locations, connected by electronic means, through both audio and video.

Added by Acts 1997, 75th Leg., ch. 732, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1085, Sec. 2, eff. Sept. 1, 1999.

Sec. 22.303. RECORDING OF CERTAIN COURT PROCEEDINGS. If appropriated funds or donations are available in the amount necessary to cover the cost, the supreme court and the court of criminal appeals shall make a video recording or other electronic visual and audio recording of each oral argument and public meeting of the court and post the recording on the court's Internet website.

Added by Acts 2017, 85th Leg., R.S., Ch. 1134 (H.B. 214), Sec. 1,

eff. September 1, 2017.

Sec. 22.304. COURT SITTING IN PANELS FOR CERTAIN ELECTION PROCEEDINGS; CRIMINAL OFFENSE. (a) In this section, "public official" means any person elected, selected, appointed, employed, or otherwise designated as an officer, employee, or agent of this state, a government agency, a political subdivision, or any other public body established by state law.

(b) Notwithstanding any other law or rule, a court proceeding entitled to priority under Section 22.305 and filed in a court of appeals shall be docketed by the clerk of the court and assigned to a panel of three justices determined using an automated assignment system.

(c) A person, including a public official, commits an offense if the person communicates with a court clerk with the intention of influencing or attempting to influence the composition of a three-justice panel assigned a specific proceeding under this section.

(d) An offense under this section is a Class A misdemeanor.

Added by Acts 2021, 87th Leg., 2nd C.S., Ch. 1 (S.B. 1), Sec. 8.05, eff. December 2, 2021.

Sec. 22.305. PRIORITY OF CERTAIN ELECTION PROCEEDINGS. (a) The supreme court or a court of appeals shall prioritize over any other proceeding pending or filed in the court a proceeding for injunctive relief or for a writ of mandamus under Chapter 273, Election Code, pending or filed in the court on or after the 70th day before a general or special election.

(b) If granted, oral argument for a proceeding described by Subsection (a) may be given in person or through electronic means.

Added by Acts 2021, 87th Leg., 2nd C.S., Ch. 1 (S.B. 1), Sec. 8.05, eff. December 2, 2021.

CHAPTER 22A. SPECIAL THREE-JUDGE DISTRICT COURT

Sec. 22A.001. ELIGIBLE PROCEEDINGS. (a) The attorney general may petition the chief justice of the supreme court to convene a special three-judge district court in any suit filed in a district

court in this state in which this state or a state officer or agency is a defendant in a claim that:

(1) challenges the finances or operations of this state's public school system; or

(2) involves the apportionment of districts for the house of representatives, the senate, the State Board of Education, or the United States Congress, or state judicial districts.

(b) A petition filed by the attorney general under this section stays all proceedings in the district court in which the original case was filed until the chief justice of the supreme court acts on the petition.

(c) Within a reasonable time after receipt of a petition from the attorney general under Subsection (a), the chief justice of the supreme court shall grant the petition and issue an order transferring the case to a special three-judge district court convened as provided by Section 22A.002.

Added by Acts 2015, 84th Leg., R.S., Ch. 186 (S.B. 455), Sec. 1, eff. September 1, 2015.

Sec. 22A.002. SPECIAL THREE-JUDGE DISTRICT COURT. (a) On receipt of a petition under Section 22A.001, the chief justice shall order a special three-judge district court to convene and shall appoint three persons to serve on the court as follows:

(1) the district judge of the judicial district to which the original case was assigned;

(2) one district judge of a judicial district other than a judicial district in the same county as the judicial district to which the original case was assigned; and

(3) one justice of a court of appeals other than:

(A) the court of appeals in the court of appeals district in which the original case was assigned; or

(B) a court of appeals district in which the district judge appointed under Subdivision (2) sits.

(b) A judge or justice appointed under Subsection (a)(2) or (3) must have been elected to that office and may not be serving an appointed term of office.

(c) A special three-judge district court convened under this section shall conduct all hearings in the district court to which the

original case was assigned and may use the courtroom, other facilities, and administrative support of the district court.

(d) The comptroller shall pay from funds appropriated to the comptroller's judiciary section the travel expenses and other incidental costs related to convening a special three-judge district court under this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 186 (S.B. 455), Sec. 1, eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 9.01(a), eff. September 1, 2019.

Sec. 22A.003. CONSOLIDATION OF RELATED ACTIONS. (a) In this section, "related case" means any case in which this state or a state officer or agency is a defendant that arises from the same nucleus of operative facts as the claim before a special three-judge district court under this chapter, regardless of the legal claims or causes of action asserted in the related case.

(b) On the motion of any party to a case assigned to a special three-judge district court under Section 22A.002, the court by order shall consolidate with the cause of action before the court any related case pending in any district court or other court in this state.

(c) A case consolidated under Subsection (b) must be transferred to the special three-judge district court if the court finds that transfer is necessary. The transfer may occur without the consent of the parties to the related case or of the court in which the related case is pending.

Added by Acts 2015, 84th Leg., R.S., Ch. 186 (S.B. 455), Sec. 1, eff. September 1, 2015.

Sec. 22A.004. APPLICATION OF TEXAS RULES OF CIVIL PROCEDURE. (a) Except as provided by this section, the Texas Rules of Civil Procedure and all other statutes and rules applicable to civil litigation in a district court in this state apply to proceedings before a special three-judge district court.

(b) The supreme court may adopt rules for the operation of a

special three-judge district court convened under this chapter and for the procedures of the court.

Added by Acts 2015, 84th Leg., R.S., Ch. 186 (S.B. 455), Sec. 1, eff. September 1, 2015.

Sec. 22A.005. ACTIONS BY JUDGE OR JUSTICE. (a) With the unanimous consent of the three judges sitting on a special three-judge district court, a judge or justice of the court may:

(1) independently conduct pretrial proceedings; and

(2) enter interlocutory orders before trial.

(b) A judge or justice of a special three-judge district court may not independently enter a temporary restraining order, temporary injunction, or any order that finally disposes of a claim before the court.

(c) Any independent action taken by one judge or justice of a special three-judge district court related to a claim before the court may be reviewed by the entire court at any time before final judgment.

Added by Acts 2015, 84th Leg., R.S., Ch. 186 (S.B. 455), Sec. 1, eff. September 1, 2015.

Sec. 22A.006. APPEAL. (a) An appeal from an appealable interlocutory order or final judgment of a special three-judge district court is to the supreme court.

(b) The supreme court may adopt rules for appeals from a special three-judge district court.

Added by Acts 2015, 84th Leg., R.S., Ch. 186 (S.B. 455), Sec. 1, eff. September 1, 2015.

CHAPTER 23. GENERAL PROVISIONS FOR TRIAL COURTS

SUBCHAPTER A. JURISDICTION

Sec. 23.001. JUVENILE JURISDICTION. Each district court, county court, and statutory county court exercising any of the constitutional jurisdiction of either a county court or a district court has jurisdiction over juvenile matters and may be designated a

juvenile court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 168, Sec. 5, eff. Aug. 30, 1993.

SUBCHAPTER B. PRIORITY IN SETTING HEARINGS AND TRIALS

Sec. 23.101. PRIMARY PRIORITIES. (a) Except as provided by Subsection (b-1), the trial courts of this state shall regularly and frequently set hearings and trials of pending matters, giving preference to hearings and trials of the following:

(1) temporary injunctions;

(2) criminal actions, with the following actions given preference over other criminal actions:

(A) criminal actions against defendants who are detained in jail pending trial;

(B) criminal actions involving a charge that a person committed an act of family violence, as defined by Section 71.004, Family Code;

(C) an offense under:

(i) Section 19.02, 19.03, 21.02, or 21.11, Penal Code;

(ii) Chapter 22, Penal Code, if the victim of the alleged offense is younger than 17 years of age;

(iii) Section 25.02, Penal Code, if the victim of the alleged offense is younger than 17 years of age;

(iv) Section 25.06, Penal Code;

(v) Section 43.25, Penal Code; or

(vi) Section 20A.02(a)(7), 20A.02(a)(8), or 20A.03, Penal Code;

(D) an offense described by Article 62.001(6)(C) or (D), Code of Criminal Procedure; and

(E) criminal actions against persons who are detained as provided by Section 51.12, Family Code, after transfer for prosecution in criminal court under Section 54.02, Family Code;

(3) election contests and suits under the Election Code;

(4) orders for the protection of the family under Subtitle B, Title 4, Family Code;

(5) appeals of final rulings and decisions of the division of workers' compensation of the Texas Department of Insurance

regarding workers' compensation claims and claims under the Federal Employers' Liability Act and the Jones Act;

(6) appeals of final orders of the commissioner of the General Land Office under Section 51.3021, Natural Resources Code;

(7) actions in which the claimant has been diagnosed with malignant mesothelioma, other malignant asbestos-related cancer, malignant silica-related cancer, or acute silicosis; and

(8) appeals brought under Section 42.01 or 42.015, Tax Code, of orders of appraisal review boards of appraisal districts established for counties with a population of less than 175,000.

(b) Insofar as practicable, the trial courts shall observe the preference provided by Subsection (a) in ruling on, hearing, and trying the matters pending before the courts.

(b-1) Except for a criminal case in which the death penalty has been or may be assessed or when it would otherwise interfere with a constitutional right, the trial courts of this state shall prioritize over any other proceeding pending or filed in the court a proceeding for injunctive relief under Chapter 273, Election Code, pending or filed in the court on or after the 70th day before a general or special election.

(b-2) A hearing in a proceeding described by Subsection (b-1) may be held in person or through electronic means, as determined by the court.

(c) A district judge who presides over multidistrict litigation involving claims for asbestos-related or silica-related injuries shall confer with a trial court regarding trial settings or other matters regarding remand. The trial court shall cooperate with the multidistrict litigation court and shall not continue or postpone a trial setting without the concurrence of the multidistrict litigation court.

(d) A district court judge who presides over multidistrict litigation involving claims for asbestos-related or silica-related injuries is a party in interest for the limited purpose of requesting mandamus enforcement of the priority in setting hearings and trials under Subsection (a)(7).

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1037, Sec. 1, eff. Aug. 31, 1987; Acts 1989, 71st Leg., ch. 614, Sec. 22, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 739, Sec. 32, eff. Sept. 1, 1989; Acts 1989, 71st

Leg., ch. 755, Sec. 3, eff. Sept. 1, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.01, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 465, Sec. 4, eff. June 11, 1991; Acts 1995, 74th Leg., ch. 67, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1279, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1276, Sec. 9.001(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 97 (S.B. 15), Sec. 7, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 6.001, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 61 (S.B. 57), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 393 (S.B. 749), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 2.01, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 122 (H.B. 3000), Sec. 6, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1087 (S.B. 1209), Sec. 6, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1299 (H.B. 2862), Sec. 34, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 25, eff. September 1, 2017.

Acts 2021, 87th Leg., 2nd C.S., Ch. 1 (S.B. 1), Sec. 8.06, eff. December 2, 2021.

Acts 2023, 88th Leg., R.S., Ch. 1058 (S.B. 402), Sec. 1, eff. September 1, 2023.

Sec. 23.102. SECONDARY PRIORITIES. A matter not included in Section 23.101 shall be set at the discretion of the trial court in which the matter is pending, observing the following priorities:

(1) precedence should be given to matters where delay will cause physical or economic injury to either the parties or the public;

(2) matters involving substantial substantive or constitutional rights should take precedence over matters involving permits, licenses, or privileges;

(3) precedence should be given matters involving important issues that greatly concern the public or materially affect the public welfare; and

(4) precedence should be given matters involving complete restoration of a ward's capacity or modification of a ward's guardianship.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 829, Sec. 1, eff. Sept. 1, 1999.

Sec. 23.103. EFFECT ON OTHER LAWS. Sections 23.101 and 23.102 do not affect a statute directing a specific court to give preference to cases involving that court's criminal jurisdiction, family law jurisdiction, or other specified jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER C. UNIFORM JURY HANDBOOK

Sec. 23.201. DEFINITION. In this subchapter, "state bar" means the State Bar of Texas.

Added by Acts 1993, 73rd Leg., ch. 833, Sec. 1, eff. Jan. 1, 1994.

Sec. 23.202. UNIFORM JURY HANDBOOK; CONTENTS. (a) The state bar shall publish a uniform jury handbook that:

(1) informs jurors in lay terminology of the duties and responsibilities of a juror;

(2) explains basic trial procedures and legal terminology; and

(3) provides other practical information relating to jury service.

(b) The state bar shall review and update the uniform jury handbook annually. A Spanish language version of the handbook shall be published and made available.

Added by Acts 1993, 73rd Leg., ch. 833, Sec. 1, eff. Jan. 1, 1994.

Sec. 23.203. DISTRIBUTION OF HANDBOOK. (a) The state bar shall distribute copies of the uniform jury handbook to each trial court of this state in sufficient numbers to meet the requirements of this subchapter.

(b) The clerk of a trial court shall provide each juror in a civil or criminal case with a copy of the uniform jury handbook. The juror shall read the handbook before the juror begins jury service.

(c) The handbook is a public document. The state bar or a trial court may distribute the handbook to promote the public's understanding of jury service.

Added by Acts 1993, 73rd Leg., ch. 833, Sec. 1, eff. Jan. 1, 1994.

Sec. 23.204. CONFLICT WITH INSTRUCTION OR CHARGE. If a provision of the uniform jury handbook is in conflict with an instruction or charge of a trial judge in a case, the instruction or charge supersedes the provision of the handbook.

Added by Acts 1993, 73rd Leg., ch. 833, Sec. 1, eff. Jan. 1, 1994.

SUBCHAPTER D. GENERAL PROVISIONS

Sec. 23.301. ASSIGNMENT OF CERTAIN ELECTION PROCEEDINGS; CRIMINAL OFFENSE. (a) Notwithstanding any other law or rule, the clerk of a district court in which a proceeding entitled to priority under Section 23.101(b-1) is filed shall docket the proceeding and, if more than one district court in the county has jurisdiction over the proceeding, randomly assign the proceeding to a district court using an automated assignment system.

(b) Notwithstanding any other law or rule, the clerk of a county court or statutory county court in which a proceeding entitled to priority under Section 23.101(b-1) is filed shall docket the proceeding and, if more than one court in the county has jurisdiction over the proceeding, randomly assign the proceeding to a court using an automated assignment system.

(c) A person, including a public official, commits an offense if the person communicates with a county or district clerk with the intention of influencing or attempting to influence the court or judge assigned to a proceeding under this section.

(d) An offense under this section is a Class A misdemeanor,

except that the offense is a state jail felony if it is shown on the trial of the offense that the person committed the offense while acting in the person's official capacity as an election official.

(e) If a district or county clerk does not comply with this section, a person may seek from the supreme court or a court of appeals a writ of mandamus as provided by Section 273.061, Election Code, to compel compliance with this section.

Added by Acts 2021, 87th Leg., 2nd C.S., Ch. 1 (S.B. 1), Sec. 8.07, eff. December 2, 2021.

Sec. 23.302. DEADLINES IN CERTAIN ELECTION PROCEEDINGS. (a) Not later than 24 hours after the proceeding is filed, a judge to whom a case is assigned under Section 23.301(b) who wishes to be recused from the proceeding must, before recusal:

(1) hear an application for any emergency temporary relief sought;

(2) grant or deny any emergency temporary relief sought; and

(3) set a scheduling order that provides:

(A) a date for a hearing on any injunction sought not later than five days after the date on which the proceeding was filed; and

(B) discovery and deposition deadlines before the expiration of any emergency relief order entered.

(b) The presiding judge of an administrative region shall assign a new judge to a proceeding assigned under Section 23.301(b) not later than 12 hours after the original judge assigned to the proceeding is recused under Subsection (a).

(c) A final order in a proceeding filed under Section 273.081, Election Code, shall be submitted in writing to the parties not later than 24 hours after the judge makes a final determination in the proceeding.

(d) If a district judge does not comply with this section, a person may seek from the supreme court, the court of criminal appeals, or a court of appeals a writ of mandamus as provided by Section 273.061, Election Code, to compel compliance with this section.

(e) Notwithstanding Section 23.101(b-1), a proceeding relating

to a permanent injunction being sought in connection to a challenge under Section 141.034, Election Code, may be heard after the primary election has been canvassed.

Added by Acts 2021, 87th Leg., 2nd C.S., Ch. 1 (S.B. 1), Sec. 8.07, eff. December 2, 2021.

CHAPTER 24. DISTRICT COURTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 24.001. AGE QUALIFICATION OF JUDGES. A district judge must be at least 25 years old.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.002. ASSIGNMENT OF JUDGE OR TRANSFER OF CASE ON RECUSAL. If a district judge determines on the judge's own motion that the judge should not sit in a case pending in the judge's court because the judge is disqualified or otherwise should recuse himself or herself, the judge shall enter a recusal order, request the presiding judge of that administrative judicial region to assign another judge to sit, and take no further action in the case except for good cause stated in the order in which the action is taken. A change of venue is not necessary because of the disqualification of a district judge in a case or proceeding pending in the judge's court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.01, eff. January 1, 2012.

Sec. 24.003. TRANSFER OF CASES; EXCHANGE OF BENCHES. (a) This section applies only to counties with two or more district courts.

(b) Unless provided otherwise by the local rules of administration, a district judge in the county may:

(1) except as provided by Subsection (b-1), transfer any civil or criminal case or proceeding on the court's docket, other than a case governed by Chapter 155, Family Code, to the docket of another district court in the county;

(2) hear and determine any case or proceeding pending in another district court in the county without having the case transferred;

(3) sit for another district court in the county and hear and determine any case or proceeding pending in that court;

(4) temporarily exchange benches with the judge of another district court in the county;

(5) try different cases in the same court at the same time; and

(6) occupy the judge's own courtroom or the courtroom of another district court in the county.

(b-1) Notwithstanding the local rules of administration, a district judge may not transfer any civil or criminal case or proceeding to the docket of another district court without the consent of the judge of the court to which it is transferred.

(c) If a district judge in the county is sick or otherwise absent, another district judge in the county may hold court for the judge.

(d) A district judge in the county may hear and determine any part or question of any case or proceeding pending in any of the district courts, and any other district judge may complete the hearing and render judgment in the case or proceeding. A district judge may hear and determine motions, including motions for new trial, petitions for injunction, applications for the appointment of a receiver, interventions, pleas in abatement, dilatory pleas, and all preliminary matters, questions, and proceedings, and may enter judgment or order on them in the court in which the case or proceeding is pending without transferring the case or proceeding. The district judge in whose court the matter is pending may proceed to hear, complete, and determine the matter, or all or any part of another matter, and render a final judgment. A district judge may issue a restraining order or injunction that is returnable to any other district court.

(e) A judgment or order shall be entered in the minutes of the court in which the case is pending.

(f) This section does not limit the powers of a district judge when acting for another judge by exchange of benches or otherwise.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 90, Sec. 1, eff. Aug. 30, 1993.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.02, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 962 (H.B. 1875), Sec. 1, eff. September 1, 2013.

Sec. 24.004. SPECIAL JUDGE BY AGREEMENT OF PARTIES. If the parties agree on a special judge for the trial of a particular case, the clerk shall enter in the minutes of the court, as a part of the proceedings in the case, a record showing:

(1) that the judge of the court is disqualified to try the case;

(2) the name of the special judge and that the parties agreed on the selection of that judge for the trial of the case; and

(3) that the oath prescribed by law was administered to the special judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.006. SALARY OF SPECIAL JUDGE. (a) This section applies to payment of salary to:

(1) a special judge commissioned by the governor as provided by Article V, Section 11, of the Texas Constitution; and

(2) a special judge agreed on by the parties as provided by Section 24.004.

(b) Each special judge is entitled to receive for each day served as a special judge the same daily salary that a district judge receives.

(c) A special judge commissioned by the governor is also entitled to receive the same daily salary that a district judge receives for each day necessary for the special judge to travel to and from the court.

(d) The daily salary is determined by dividing the annual salary of a district judge by 365.

(e) In order to obtain his salary, a special judge commissioned by the governor must present his sworn account to the comptroller showing the number of travel days that were necessary. The judge must also give the comptroller evidence that the judge was duly

commissioned. The account must be certified as correct by the judge of the district or by the court clerk of the court in which he served.

(f) A special judge agreed on by the parties or elected by the practicing lawyers shall be paid on presenting to the comptroller the certificate of the clerk of the court in which he served and the judge's sworn account. The clerk's certificate must show the record of the judge's election or appointment and must show that the judge performed services in the court. The judge's sworn account must show the number of days that he served as the special judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 90, Sec. 4, eff. Aug. 30, 1993.

Sec. 24.007. JURISDICTION. (a) The district court has the jurisdiction provided by Article V, Section 8, of the Texas Constitution.

(b) A district court has original jurisdiction of a civil matter in which the amount in controversy is more than $500, exclusive of interest.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.36, eff. Sept. 1, 1987. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.02, eff. January 1, 2012.

Sec. 24.008. OTHER JURISDICTION. The district court may hear and determine any cause that is cognizable by courts of law or equity and may grant any relief that could be granted by either courts of law or equity.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.009. JURISDICTIONAL AMOUNT IF PARTIES PROPERLY JOIN IN ONE SUIT. If two or more persons originally and properly join in one suit, the suit for jurisdictional purposes is treated as if one party is suing for the aggregate amount of all their claims added together,

excluding interest and costs. This section does not prevent jurisdiction from attaching on any other ground.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.010. JURISDICTION OF FAILURE TO PAY OVER CERTAIN MONEY. The district court may hear and determine:

(1) motions against sheriffs and other officers of the court for failure to pay over money collected under the process of the court or other defalcation of duty in connection with the process; and

(2) motions against attorneys for money collected by them and not paid over.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.011. WRIT POWER. A judge of a district court may, either in termtime or vacation, grant writs of mandamus, injunction, sequestration, attachment, garnishment, certiorari, and supersedeas and all other writs necessary to the enforcement of the court's jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.012. TERMS AND SESSIONS OF COURT. (a) Except as provided by Subsections (a-1) and (a-2) and Section 24.0125, notwithstanding any other law, each district court holds in each county in the judicial district terms that commence on the first Mondays in January and July of each year. To the extent of a conflict between this subsection and a specific provision relating to a particular judicial district, this section controls.

(a-1) The term of the 47th District Court in Armstrong County begins on the first Monday in January.

(a-2) In Harris County each district court holds terms that commence on the first Mondays in February, May, August, and November of each year.

(b) Except as otherwise provided by this chapter, the terms of each district, family district, and criminal district court are

continuous. Each term begins on a day fixed by law and continues until the day fixed by law for the beginning of the next succeeding term.

(c) The commencement of a term of court is not affected by the fact that the first day of the term falls on a legal holiday or the judge is absent from the county on the first day of the term.

(d) A district judge may hold as many sessions of court in a county as he considers proper and expedient for the dispatch of business and may adopt rules for that purpose as authorized by the statutes of this state and the Texas Rules of Civil Procedure.

(e) A district judge may hear a nonjury matter relating to a civil or criminal case at a correctional facility in the county in which the case is filed or prosecuted if a party to the case or the criminal defendant is confined in the correctional facility. For purposes of this subsection, "correctional facility" has the meaning assigned by Section 1.07, Penal Code.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 1494, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.03, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1081 (H.B. 3378), Sec. 1, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 2, eff. June 7, 2019.

Sec. 24.0125. TERMS AND SESSIONS OF COURT FOLLOWING CERTAIN DISASTERS. Notwithstanding any other law, if a disaster, as defined by Section 418.004, precludes a district court from holding its judicial district terms in accordance with Section 24.012, the presiding judge of the administrative judicial region, with the approval of the judge of the affected district court, may designate the terms and sessions of court.

Added by Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 3, eff. June 7, 2019.

Sec. 24.014. SPECIAL TERMS. (a) A district judge may set a time for and hold a special term in any county in his district.

(b) The judge may impanel grand and petit jurors as provided by law. The jurors may be summoned to appear before the court at the time designated by the judge.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 929 , Sec. 21(2), eff. September 1, 2015.

(d) A new civil case may not be brought to a special term of the court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 929 (H.B. 2150), Sec. 12, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 929 (H.B. 2150), Sec. 21(2), eff. September 1, 2015.

Sec. 24.015. PROCEDURE AT SPECIAL TERM. (a) Juries for special terms authorized by Section 24.014 shall be summoned in the manner provided by law for regular terms.

(b) Any proceeding in a case that may be held at a regular term may also be held at a special term.

(c) The following procedures in any civil or criminal case are the same and have the same force and effect when done at a special term as though done at a regular term:

(1) the issuance of process, whether to a regular term or a special term;

(2) the conduct of proceedings;

(3) the issuance of an order, judgment, or decree; and

(4) an appeal.

(d) A proceeding held at a special term may be appealed as if it were held at a regular term.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.016. APPOINTED COUNSEL. A district judge may appoint counsel to attend to the cause of a party who makes an affidavit that he is too poor to employ counsel to attend to the cause.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.017. PROCEEDINGS IN MULTICOUNTY DISTRICTS. (a) This section applies in judicial districts that are composed of more than one county.

(b) Except as provided by this section, the judge of a district court may, in any county in his judicial district:

(1) hear and determine all preliminary and interlocutory matters in which a jury may not be demanded;

(2) hear and determine uncontested or agreed cases and contests of elections pending in his district, unless a party to the suit objects; and

(3) sign all necessary orders and judgments in those matters.

(c) The judge may sign an order or decree in any case pending for trial or on trial before him in any county in his district at a place that is convenient to the judge and forward the order or decree to the clerk for filing and entry.

(d) A district judge who is assigned to preside in a court of another judicial district or is presiding in exchange or at the request of the regular judge of the court may, in the manner provided by this section for the regular judge, hear, determine, and enter the orders, judgments, and decrees in a case that is pending for trial or has been tried before the visiting judge.

(e) All contested divorce cases, all default judgments, and all cases in which any of the parties are cited by publication must be tried in the county in which the case is filed unless other law authorizes the case to be tried in another county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.018. CERTAIN EFFECT OF DISTRICT REORGANIZATION. If the counties that compose a judicial district or the time or place for holding terms of a district court are changed by law:

(1) the process and writs issued from the district court and made returnable to a term of court fixed by the law at the time of the issuance are returnable to the next term of the court as fixed by the amended law and are as legal and valid as if they were made

returnable to the term of the court as fixed by the amended law;

(2) the grand and petit jurors selected or drawn under the prior law in any county in the judicial district are lawfully selected or drawn for the next term of the district court of the county as fixed by the amended law; and

(3) the obligees in all appearance bonds and recognizances taken in and for the district court and the witnesses summoned to appear before the district court under the prior law are required to appear at the next term of the court as fixed by the amended law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.019. EXPENSES OF DISTRICT JUDGE. (a) A district judge engaged in the discharge of official duties in a county other than the judge's county of residence is entitled to traveling and other necessary expenses, as provided by Chapter 660.

(b) A district judge is entitled to receive from the state the actual and necessary postage, telegraph, and telephone expenses incurred in the discharge of official duties.

(c) The expenses shall be paid by the state on a sworn itemized account showing the expenses.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(105), eff. Sept. 1, 1995.

Sec. 24.020. JURISDICTION OVER COMMISSIONERS COURT. The district court has appellate jurisdiction and general supervisory control over the commissioners court, with the exceptions and regulations prescribed by law.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 1.37, eff. Sept. 1, 1987.

Sec. 24.021. INCOMPETENCY. For purposes of Article XV, Section 6, of the Texas Constitution, "incompetency" means:

(1) gross ignorance of official duties;

(2) gross carelessness in the discharge of official duties; or

(3) inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the judge's election.

Added by Acts 1987, 70th Leg., ch. 149, Sec. 18, eff. Sept. 1, 1987.

Sec. 24.022. EFFECT OF TRANSFER OF CERTAIN CASES FOLLOWING CREATION OF ADDITIONAL COURT. (a) On the creation of an additional district court in a county, an existing district court in the county may transfer to the new court a case regarding a child who is subject to the continuing exclusive jurisdiction of the existing court under Title 5, Family Code, regardless of whether the case is pending in the existing court or the existing court rendered a final order in the case.

(b) The district court to which the case is transferred under this section acquires continuing exclusive jurisdiction under Title 5, Family Code, over the child.

Added by Acts 2001, 77th Leg., ch. 1148, Sec. 1, eff. June 15, 2001.

Sec. 24.023. OBLIGATIONS; BONDS. (a) When a case is transferred from one court to another, all processes, writs, bonds, recognizances, and other obligations issued by the transferring court are returnable to the court to which the case is transferred as if originally issued by that court.

(b) The obligees in all bonds and recognizances taken in and for a court from which a case is transferred, and all witnesses summoned to appear in a district court from which a case is transferred, are required to appear before the court to which the case is transferred as if the bond, recognizance, or summons was taken in or for that court.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.04, eff. January 1, 2012.

Sec. 24.024. FILING AND DOCKETING CASES. In a county with two or more district courts, the district judges may adopt rules governing the filing and numbering of cases, the assignment of cases

for trial, and the distribution of the work of the courts as in their discretion they consider necessary or desirable for the orderly dispatch of the business of the courts.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.04, eff. January 1, 2012.

Sec. 24.025. SUPPLEMENTAL COMPENSATION. (a) Unless otherwise provided by this subchapter, all district judges in a county are entitled to equal amounts of supplemental compensation from the county.

(b) A district judge is entitled to an amount of supplemental compensation for serving on the juvenile board of a county that is equal to the amount other judges serving on the juvenile board receive.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.04, eff. January 1, 2012.

Sec. 24.026. APPOINTMENT OF INITIAL JUDGE. On the creation of a new judicial district, the initial vacancy in the office of district judge is filled in accordance with Section 28, Article V, Texas Constitution.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.04, eff. January 1, 2012.

Sec. 24.027. GRAND AND PETIT JURORS. All grand and petit jurors selected in a county before a new district court is created or the composition of an existing district court is modified by an amendment to this chapter are considered to be selected for the new or modified district court, as applicable.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.04, eff. January 1, 2012.

Sec. 24.028. CASES TRANSFERRED. If by an amendment to this

chapter a county is removed from the composition of an existing judicial district and added to another existing or new judicial district, all cases and proceedings from that county that are pending in the district court of the judicial district from which the county was removed are transferred to the district court of the judicial district to which the county is added. The judge of each affected district court shall sign the proper orders in connection with the transfer.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.04, eff. January 1, 2012.

Sec. 24.029. PROCESSES, WRITS, AND OTHER OBLIGATIONS REMAIN VALID. (a) If by an amendment to this chapter a county is removed from the composition of an existing judicial district and added to another existing or new judicial district, or if an amendment to this chapter changes the time or place at which the terms of court are held, all processes, writs, bonds, recognizances, and other obligations issued from and made returnable to that court before the effective date of the transfer or other change are returnable as provided by this subsection. An obligation issued from the affected court is returnable to another district court in the county on the date that court directs, but may not be made returnable on a date that is earlier than the date on which the obligation was originally returnable. The obligations are legal and valid as if the obligations had been made returnable to the issuing court.

(b) The obligees in all appearance bonds and recognizances taken in and for a district court of a county before the effective date of an amendment to this chapter, and all witnesses summoned to appear before that district court under laws existing before the effective date of an amendment to this chapter, are required to appear at another district court in the county on the date that court directs, but may not be required to appear on a date that is earlier than the date on which the obligees or witnesses were originally required to appear.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.04, eff. January 1, 2012.

Sec. 24.030. LOCATION OF COURT. (a) A district court shall sit in the county seat for a jury trial in a civil case. The commissioners court of the county may authorize a district court to sit in any municipality within the county to hear and determine nonjury trials in civil cases and to hear and determine motions, arguments, and other matters not heard before a jury in a civil case that is within the court's jurisdiction.

(b) The district clerk or the clerk's deputy serves as clerk of the court when a court sits in a municipality other than the municipality that is the county seat and may transfer:

(1) all necessary books, minutes, records, and papers to that municipality while the court is in session there; and

(2) the books, minutes, records, and papers back to the clerk's office in the county seat at the end of each session.

(c) If the commissioners court authorizes a district court to sit in a municipality other than the municipality that is the county seat, the commissioners court shall provide suitable facilities for the court in that municipality.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.04, eff. January 1, 2012.

Sec. 24.031. COURT OFFICERS. The prosecuting attorney, the sheriff, the district clerk, the bailiffs, and the other officers serving the other district courts of the county shall serve in their respective capacities for the courts listed in this chapter.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.04, eff. January 1, 2012.

Sec. 24.033. LOCATION OF PROCEEDINGS FOLLOWING CERTAIN DISASTERS. (a) Repealed by Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 17, eff. June 7, 2019.

(b) Notwithstanding any other law, if a disaster, as defined by Section 418.004, precludes a district court from conducting its proceedings at the county seat of that county, the presiding judge of the administrative judicial region, with the approval of the judge of the affected district court, may designate for the proceedings an alternate location:

(1) in the judicial district of the affected court; or

(2) outside the judicial district at the location the presiding judge determines is closest in proximity to the county seat that allows the court to safely and practicably conduct its proceedings, provided the presiding judge of the administrative judicial region for the designated location approves if that presiding judge is not the presiding judge making the designation.

Added by Acts 2007, 80th Leg., R.S., Ch. 1076 (H.B. 2766), Sec. 1, eff. June 15, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 4, eff. June 7, 2019.
Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 17, eff. June 7, 2019.

Sec. 24.034. ASSIGNMENT OF CASES IN DISTRICT COURTS IN HIDALGO COUNTY. (a) All civil and criminal cases in the district courts in Hidalgo County shall be assigned and docketed at random by the district clerk using an automated system.

(b) In assigning a case to a district court, the district clerk shall take into consideration any requirement in Subchapter B that a district court in Hidalgo County give preference to specific matters.

Added by Acts 2009, 81st Leg., R.S., Ch. 541 (S.B. 1575), Sec. 1, eff. September 1, 2009.

SUBCHAPTER B. CERTAIN JUDICIAL DISTRICTS

Sec. 24.101. 1ST JUDICIAL DISTRICT (JASPER, NEWTON, SABINE, AND SAN AUGUSTINE COUNTIES). (a) The 1st Judicial District is composed of Jasper, Newton, Sabine, and San Augustine counties.

(b) In addition to other jurisdiction provided by law, the 1st District Court in Sabine and San Augustine counties has the civil jurisdiction of a county court.

(c) The terms of the 1st District Court begin:

(1) in Jasper County on the first Monday in January and the 22nd Monday after the first Monday in January;

(2) in Newton County on the 5th and 34th Mondays after the first Monday in January;

(3) in San Augustine County on the 11th and 40th Mondays after the first Monday in January; and

(4) in Sabine County on the 17th and 45th Mondays after the first Monday in January.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.102. 2ND JUDICIAL DISTRICT (CHEROKEE COUNTY). (a) The 2nd Judicial District is composed of Cherokee County.

(b) The terms of the 2nd District Court begin on the first Mondays in March and September.

(c) The judge may take a vacation and not attend court for four weeks in each year.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.103. 3RD JUDICIAL DISTRICT (ANDERSON, HENDERSON, AND HOUSTON COUNTIES). (a) The 3rd Judicial District is composed of Anderson, Henderson, and Houston counties.

(b) The terms of the 3rd District Court begin:

(1) in Anderson County on the first Mondays in April, July, and December;

(2) in Henderson County on the first Mondays in February, June, and September; and

(3) in Houston County on the first Mondays in March, August, and October.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.104. 4TH JUDICIAL DISTRICT (RUSK COUNTY). (a) The 4th Judicial District is composed of Rusk County.

(b) The terms of the 4th District Court begin on the first Mondays in January and July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 1.01, eff. September 1, 2019.

Sec. 24.105. 5TH JUDICIAL DISTRICT (BOWIE AND CASS COUNTIES). (a) The 5th Judicial District is composed of Bowie and Cass counties.

(b) In addition to other jurisdiction provided by law, each district court in Bowie and Cass counties has the civil and criminal jurisdiction of a county court.

(c) In Bowie County, the 5th Judicial District has concurrent jurisdiction with the 102nd Judicial District. Either court, in term or in vacation, may transfer a pending civil or criminal case to the other court by an order entered on the minutes of the transferring court.

(d) The terms of the 5th District Court begin:

(1) in Bowie County on the first Mondays in January and July; and

(2) in Cass County on the first Mondays in February, May, August, and November.

(e) The 5th and 102nd district courts may sit in Bowie County in Texarkana, in addition to Boston, to try, hear, and determine nonjury civil or criminal cases, motions, arguments, and other nonjury matters.

(f) When the courts sit in Texarkana, the Bowie County district clerk or the clerk's deputy shall serve as clerk of the courts and may transfer all necessary books, minutes, and records to Texarkana or Boston when necessary. The Bowie County sheriff or the sheriff's deputy shall attend the courts in Texarkana and perform all duties required by law or by the court.

(g) The Commissioners Court of Bowie County may provide suitable quarters for the 5th and 102nd district courts in Texarkana or may make an agreement with the City of Texarkana to provide quarters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1012, Sec. 1, eff. Sept. 1, 1997.

Sec. 24.106. 6TH JUDICIAL DISTRICT (LAMAR AND RED RIVER COUNTIES). (a) The 6th Judicial District is composed of Lamar and Red River counties.

(b) In addition to other jurisdiction provided by law, each district court in Red River County has the civil and criminal jurisdiction of a county court.

(c) In Red River County, the 6th Judicial District has concurrent jurisdiction with the 102nd Judicial District. In Lamar County, the 6th Judicial District has concurrent jurisdiction with the 62nd Judicial District.

(d) In any county in the district in which there are two or more district courts, the judges of those courts may, in their discretion, either in termtime or in vacation, on motion of any party, on agreement of the parties, or on their own motion, transfer any civil or criminal case or proceeding on their dockets to the docket of one of the other district courts. In Lamar County, the judges may transfer a case by an order entered in the minutes of the transferring court. The judges of the courts may, in their discretion, exchange benches or districts from time to time. Any of the judges may in his own courtroom try and determine any case or proceeding pending in any of the other courts without having the case transferred or may sit in any of the other courts and hear and determine any case or proceeding pending in one of those courts. Two or more judges may try different cases in the same court at the same time and each may occupy his own courtroom or the room of any other court. In case of absence, sickness, or disqualification of any of the judges, any other of the judges may hold court for him. Any of the judges may hear and determine any part or question of any case or proceeding pending in any of the courts, and any other of the judges may complete the hearing and render judgment in the proceeding. Any of the judges may hear and determine motions, petitions for injunction, applications for appointment of receivers, interventions, motions to transfer venue, pleas in abatement and all dilatory pleas, motions for new trials, and all preliminary matters, questions, and proceedings, and may enter judgment or order on them in the court in which the case or proceeding is pending without having the matter transferred to the court of the acting judge. The judge in whose court the matter is pending may proceed to hear, complete, and determine the matter or all or any part of any other matter and may render final judgment on it. Any of the judges of the courts may issue restraining orders and injunctions returnable to any of the other courts. This subsection does not limit the powers of the judges when acting for any other judge by exchange of benches or

otherwise.

(e) The terms of the 6th District Court in each county in the district begin on the first Mondays in January and July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 1(c), eff. January 1, 2010.

Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 1(d), eff. January 1, 2010.

Sec. 24.107. 7TH JUDICIAL DISTRICT (SMITH COUNTY). (a) The 7th Judicial District is composed of Smith County.

(b) The terms of the 7th District Court begin on the first Mondays in January and July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.108. 8TH JUDICIAL DISTRICT (DELTA, FRANKLIN, HOPKINS, AND RAINS COUNTIES). (a) The 8th Judicial District is composed of Delta, Franklin, Hopkins, and Rains counties.

(b) In any county in the district in which there are two or more district courts, those district courts have concurrent jurisdiction in that county.

(c) In any county in the district in which there are two or more district courts, the judges of those courts may, in their discretion, either in termtime or in vacation, on motion of any party, on agreement of the parties, or on their own motion, transfer any civil or criminal case or proceeding on their dockets to the docket of one of the other district courts. The judges in Delta and Franklin counties may transfer a case by an order entered on the minutes of the transferring court. The judges of the courts may, in their discretion, exchange benches or districts from time to time. If a judge of one of the courts is disqualified, he may transfer the case or proceeding from his court to one of the other courts. Any of the judges may in his own courtroom try and determine any case or proceeding pending in any of the other courts without having the case transferred or may sit in any of the other courts and hear and determine any case or proceeding pending in one of those courts. Two

or more judges may try different cases in the same court at the same time and each may occupy his own courtroom or the room of any other court. In case of absence, sickness, or disqualification of any of the judges, any other of the judges may hold court for him. Any of the judges may hear and determine any part or question of any case or proceeding pending in any of the courts, and any other of the judges may complete the hearing and render judgment in the proceeding. Any of the judges may hear and determine motions, petitions for injunction, applications for appointment of receivers, interventions, motions to transfer venue, pleas in abatement and all dilatory pleas, motions for new trials, and all preliminary matters, questions, and proceedings, and may enter judgment or order on them in the court in which the case or proceeding is pending without having the matter transferred to the court of the acting judge. The judge in whose court the matter is pending may proceed to hear, complete, and determine the matter or all or any part of any other matter and may render final judgment on it. Any of the judges of the courts may issue restraining orders and injunctions returnable to any of the other courts. This subsection does not limit the powers of the judges when acting for any other judge by exchange of benches or otherwise.

(d) The terms of the 8th District Court begin on the first Mondays in January and July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.109. 9TH JUDICIAL DISTRICT (MONTGOMERY COUNTY). (a) The 9th Judicial District is composed of Montgomery County.

(b) The terms of the 9th District Court begin on the first Monday in January and the first Monday in July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 704, Sec. 1, eff. Jan. 1, 1997; Acts 2003, 78th Leg., ch. 1308, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 9(b), eff. September 1, 2007.

Sec. 24.110. 410TH JUDICIAL DISTRICT (MONTGOMERY COUNTY). (a)

The 410th Judicial District is composed of Montgomery County.

(b) The terms of the 410th District Court begin on the first Monday in January and the first Monday in July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 704, Sec. 2, eff. Jan. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 657 (H.B. 3199), Sec. 1, eff. September 1, 2005.

Sec. 24.111. 10TH JUDICIAL DISTRICT (GALVESTON COUNTY). (a) The 10th Judicial District is composed of Galveston County.

(b) The terms of the 10th and 56th district courts begin on the first Mondays in January and July.

(c) In all suits, actions, or proceedings in the district courts in Galveston County, it is sufficient for the address or designation to be the "District Court of Galveston County."

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.112. 11TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 11th Judicial District is composed of Harris County.

(b) Except as provided by Subsection (g), the provisions of this section apply to the 11th, 55th, 61st, 80th, 113th, 125th, 127th, 129th, 133rd, 151st, 152nd, 157th, 164th, and 165th judicial districts.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

(d) In all suits, actions, or proceedings in the district courts, it is sufficient for the address or designation to be "District Court of Harris County."

(e) The judge of each district court shall sign the minutes of each court term not later than the 30th day after the end of the term and shall also sign the minutes at the end of each volume of the minutes. Each judge sitting in the court shall sign the minutes of the proceedings that were held before him.

(f) The judge of each district court may take the same vacation as the other district court judges of Harris County at any time during the year. During the judge's vacation, the court term remains

open, and the judge of any other district court may hold court during the judge's vacation. The judges of the district courts shall, by agreement among themselves, take their vacations alternately so that there are at all times at least six district court judges in the county.

(g) Subsection (h) applies to the 11th, 55th, 61st, 80th, 113th, 125th, 127th, 129th, 133rd, 151st, 152nd, 157th, 164th, 165th, 189th, 190th, 215th, 234th, 269th, 270th, 280th, 281st, 295th, 333rd, and 334th judicial districts.

(h) The judges of the district courts listed in Subsection (g) by agreement shall designate one of the listed district courts as the domestic violence district court for Harris County. In designating the domestic violence district court, the judges shall give preference to a district court:

(1) that has a judicial vacancy at the time of the agreement; or

(2) for which the sitting judge of the district court has not at the time of the agreement announced a candidacy or become a candidate in the upcoming election for that judicial office.

(i) Subject to any jurisdictional limitations, the district court designated under Subsection (h) as the domestic violence district court shall give preference to domestic violence cases, including cases involving:

(1) dating violence, as defined by Section 71.0021, Family Code; and

(2) family violence, as defined by Section 71.004, Family Code.

(j) For the purposes of determining the preference the designated domestic violence district court is required to give cases under Subsection (i):

(1) a domestic violence case means:

(A) an original application for a protective order under Title 4, Family Code;

(B) an original application for a protective order under Title 4, Family Code, that involves both parties and is filed concurrently with an original petition under the Family Code; and

(C) any matter involving custody of a minor child if one parent is alleged to have caused the death of another parent and there is a history of domestic violence in the parents' relationship; and

(2) subject to judicial discretion and resources, the designated domestic violence district court may also hear divorce and custody cases in which:

(A) a court has made an affirmative finding of family violence involving both parties; or

(B) a protective order has been issued under Title 4, Family Code, involving both parties.

(k) The designated domestic violence district court shall:

(1) provide timely and efficient access to emergency protective orders and other court remedies for persons the court determines are victims of domestic violence;

(2) integrate victims' services for persons the court determines are victims of domestic violence who have a case before the court; and

(3) promote an informed and consistent court response to domestic violence cases to lessen the number of misdemeanors, felonies, and fatalities related to domestic violence in Harris County.

(l) The Harris County district clerk shall create a form and establish procedures to transfer a domestic violence case that qualifies for preference under this section to the domestic violence district court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 90, Sec. 5, eff. Aug. 30, 1993.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 572 (S.B. 2217), Sec. 1, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.113. 12TH JUDICIAL DISTRICT (GRIMES, MADISON, AND WALKER COUNTIES). The 12th Judicial District is composed of Grimes, Madison, and Walker counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 1.01(a), eff. September 1, 2013.

Sec. 24.114. 13TH JUDICIAL DISTRICT (NAVARRO COUNTY). (a) The 13th Judicial District is composed of Navarro County.

(b) In addition to other jurisdiction provided by law, each district court in Navarro County has the civil jurisdiction of a county court.

(c) The terms of the 13th District Court begin on the first Mondays in January, April, July, and October.

(d) The judge of the 13th District Court shall impanel grand juries at the April and October terms and at any other terms as ordered by the judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.115. 14TH JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 14th Judicial District is composed of Dallas County.

(b) The terms of the 14th District Court begin on the second Mondays in January, April, July, and October.

(c) Except for Subsection (b), which applies only to the 14th District Court, this section applies to the 14th, 44th, 68th, 95th, 101st, 116th, 134th, 160th, and 162nd district courts, the Criminal Judicial District of Dallas County, and the Criminal Judicial Districts Nos. 2, 3, 4, 5, 6, and 7 of Dallas County.

(d) The district courts and criminal district courts having jurisdiction in Dallas County have concurrent jurisdiction.

(e) The judges of the district and criminal district courts of Dallas County shall, by agreement among themselves, take vacations so that there are at all times at least three judges of those courts in the county.

(f) Repealed by Acts 1993, 73rd Leg., ch. 90, Sec. 3, eff. Aug. 30, 1993.

(g) The Dallas County sheriff or the sheriff's deputy shall attend the courts when required by law or by the judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.44(2), eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 90, Sec. 3, eff. Aug. 30, 1993.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 13(a), eff. September 1, 2005.

Sec. 24.116. 15TH JUDICIAL DISTRICT (GRAYSON COUNTY). (a) The 15th Judicial District is composed of Grayson County.

(b) The 15th and 59th judicial districts have concurrent jurisdiction in Grayson County.

(c) The terms of the 15th District Court begin on the first Mondays in January and July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 610 (H.B. 2174), Sec. 1, eff. September 1, 2005.

Sec. 24.117. 16TH JUDICIAL DISTRICT (DENTON COUNTY). (a) The 16th Judicial District is composed of Denton County.

(b) The terms of the 16th District Court begin on the first Mondays in January and July of each year.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 649, Sec. 1, eff. June 14, 1989.

Sec. 24.118. 17TH JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 17th Judicial District is composed of Tarrant County.

(b) The 17th, 48th, 67th, 96th, and 153rd district courts have concurrent jurisdiction in Tarrant County.

(c) The terms of the 17th and 96th district courts begin on the first Mondays in January, April, July, and October.

(d) The 17th District Court shall give preference to civil matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 580 (S.B. 2454), Sec. 1, eff. June 19, 2009.

Sec. 24.119. 18TH JUDICIAL DISTRICT (JOHNSON AND SOMERVELL COUNTIES). (a) The 18th Judicial District is composed of Johnson and Somervell counties.

(b) The terms of the 18th District Court in each county in the

district begin on the first Mondays in January and July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.27(a), eff. Sept. 1, 1987.

Sec. 24.120. 19TH JUDICIAL DISTRICT (MCLENNAN COUNTY). (a) The 19th Judicial District is composed of McLennan County.

(b) The 19th, 54th, 74th, 170th, 414th, and 474th district courts have concurrent jurisdiction in McLennan County.

(b-1) The 19th District Court has concurrent jurisdiction with the county court and the statutory county courts of McLennan County in misdemeanor cases as well as the jurisdiction prescribed by general law for district courts.

(c) The terms of the 19th District Court begin on the first Mondays in January, March, May, July, September, and November.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 848 (S.B. 2230), Sec. 1, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 1.08(a), eff. October 1, 2022.

Sec. 24.121. 20TH JUDICIAL DISTRICT (MILAM COUNTY). (a) The 20th Judicial District is composed of Milam County.

(b) The terms of the 20th District Court begin on the third Mondays in January, May, and September.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.122. 21ST JUDICIAL DISTRICT (BASTROP, BURLESON, LEE, AND WASHINGTON COUNTIES). (a) The 21st Judicial District is composed of Bastrop, Burleson, Lee, and Washington counties.

(b) The terms of the 21st District Court begin:

(1) in Bastrop County on the second Tuesday in January and the 15th Tuesday after the first Tuesday in March;

(2) in Burleson County on the 10th Tuesdays after the first Tuesdays in March and September;

(3) in Lee County on the sixth Tuesdays after the first Tuesdays in March and September; and

(4) in Washington County on the first Tuesdays in March and September.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.123. 22ND JUDICIAL DISTRICT (CALDWELL, COMAL, AND HAYS COUNTIES). (a) The 22nd Judicial District is composed of Caldwell, Comal, and Hays counties.

(b) In addition to other jurisdiction provided by law, each district court in Comal County has the civil and criminal jurisdiction of a county court.

(c) The terms of the 22nd District Court begin:

(1) in Caldwell County on the first Mondays in March, June, September, and December;

(2) in Comal County on the first Mondays in April, July, October, and January; and

(3) in Hays County on the first Mondays in February, May, August, and November.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.124. 23RD JUDICIAL DISTRICT (MATAGORDA AND WHARTON COUNTIES). (a) The 23rd Judicial District is composed of Matagorda and Wharton counties.

(b) The terms of the 23rd District Court begin:

(1) in Matagorda County on the first Mondays in June and December, and the terms are designated the June-November and December-May terms; and

(2) in Wharton County on the first Mondays in July and January, and the terms are designated the July-December and January-June terms.

(c) There is one general docket for the 23rd and 130th district courts in Matagorda County. All suits and proceedings within the jurisdiction of the courts in Matagorda County shall be addressed to the district court of Matagorda County. All citations, notices, restraining orders, and other process issued in Matagorda County by the clerk or judges of the courts are returnable to the district

court of Matagorda County without reference to the court number. On return of the process the judge of either court may preside over the hearing or trial. The judges of the 23rd and 130th district courts in Matagorda County may hear and dispose of any matter on the courts' general docket without transferring the matter.

(d) The Matagorda County district clerk shall keep one set of minutes in which the clerk shall record all judgments and orders of the 23rd and 130th district courts in Matagorda County. Each of the judges of the 23rd and 130th district courts in Matagorda County shall sign the minutes of each term of those courts not later than the 30th day after the end of each term, shall sign the minutes at the end of each column of the minutes, and shall sign the minutes of the proceedings that were held before him.

(e) Each of the judges of the 23rd and 130th district courts may take a vacation and not attend court for six weeks in each year. The judges by agreement between themselves shall take their vacations alternately so that there are at all times at least one judge in his judicial district.

(f) There is one general docket for the 23rd and 329th district courts in Wharton County. All suits and proceedings within the jurisdiction of the courts in Wharton County shall be addressed to the district court of Wharton County. All citations, notices, restraining orders, and other process issued in Wharton County by the clerk or judges of the courts are returnable to the district court of Wharton County without reference to the court number. On return of the process the judge of either court may preside over the hearing or trial. The judges of the 23rd and 329th district courts in Wharton County may hear and dispose of any matter on the courts' general docket, both civil and criminal, without transferring the matter.

(g) The Wharton County district clerk shall keep one set of minutes in which the clerk shall record all judgments and orders of the 23rd and 329th district courts in Wharton County. Each of the judges of the 23rd and 329th district courts in Wharton County shall sign the minutes of each term of those courts not later than the 30th day after the end of each term, shall sign the minutes at the end of each column of the minutes, and shall sign the minutes of the proceedings that were held before him.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 196, Sec. 1, eff. Sept. 1, 1991.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 1.02(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 1.02(b), eff. September 1, 2019.

Sec. 24.125. 24TH JUDICIAL DISTRICT (CALHOUN, DEWITT, GOLIAD, JACKSON, REFUGIO, AND VICTORIA COUNTIES). (a) The 24th Judicial District is composed of Calhoun, DeWitt, Goliad, Jackson, Refugio, and Victoria counties.

(b) The terms of the 24th District Court begin:

(1) in Calhoun County on the fourth Mondays in April and October;

(2) in DeWitt County on the second Mondays in January and July;

(3) in Goliad County on the first Mondays in February and August;

(4) in Jackson County on the fourth Mondays in January and July;

(5) in Refugio County on the third Mondays in April and October; and

(6) in Victoria County on the second Mondays in March and September.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 24.126. 25TH JUDICIAL DISTRICT (COLORADO, GONZALES, GUADALUPE, AND LAVACA COUNTIES). (a) The 25th Judicial District is composed of Colorado, Gonzales, Guadalupe, and Lavaca counties.

(b) The 25th District Court has concurrent jurisdiction with the Second 25th District Court.

(c) The terms of the 25th District Court begin:

(1) in Colorado County on the first Mondays in February and September;

(2) in Gonzales County on the first Mondays in January and

June;

(3) in Guadalupe County on the first Mondays in March and October; and

(4) in Lavaca County on the first Mondays in April and November.

(d) The judges of the 25th and Second 25th judicial districts may hear and dispose of any suit or proceeding on either court's docket without transferring the suit or proceeding. The judges may transfer cases from one court to the other by an order entered on the docket of the court from which the matter was transferred. A case may not be transferred without the permission of the judge of the court to which the case is to be transferred.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 24.127. SECOND 25TH JUDICIAL DISTRICT (COLORADO, GONZALES, GUADALUPE, AND LAVACA COUNTIES). (a) The Second 25th Judicial District is composed of Colorado, Gonzales, Guadalupe, and Lavaca counties.

(b) The terms of the Second 25th District Court begin:

(1) in Colorado County on the first Mondays in April and November;

(2) in Gonzales County on the first Mondays in May and December;

(3) in Guadalupe County on the first Mondays in February and September; and

(4) in Lavaca County on the first Mondays in January and June.

(c) Section 24.126, relating to the 25th District Court, contains provisions applicable to both that court and the Second 25th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.128. 26TH JUDICIAL DISTRICT (WILLIAMSON COUNTY). (a)

The 26th Judicial District is composed of Williamson County.

(b) The terms of the 26th District Court begin on the first Mondays in January and July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 530, Sec. 1, eff. June 15, 1991; Acts 1995, 74th Leg., ch. 363, Sec. 1, eff. Aug. 28, 1995.

Sec. 24.129. 27TH JUDICIAL DISTRICT (BELL AND LAMPASAS COUNTIES). (a) The 27th Judicial District is composed of Bell and Lampasas counties.

(b) The 27th, 146th, 169th, 264th, 426th, and 478th judicial districts have concurrent jurisdiction in Bell County.

(c) The terms of the 27th District Court begin:

(1) in Bell County on the first Mondays in January, April, July, and October; and

(2) in Lampasas County on the first Mondays in March and September and may continue in session until the Saturday night before the Monday on which the next session convenes.

(d) A grand jury may not be impaneled in the district courts in Bell County except by special order of the presiding judge.

(e) By order entered on the minutes of the court, the presiding judge of the district courts in Bell County may in his discretion, either in termtime or vacation, transfer any civil or criminal case to any of the other district courts. The order of transfer and all other orders made in the case shall be copied and certified by the clerk and the certified copies of the orders shall be filed with the papers of the transferred case. The additional fees caused by the transfer shall be taxed as part of the costs of the suit. When a cause is transferred, the clerk shall enter the cause on the docket of the court to which the transfer is made and the judge of that court shall try and dispose of the cause as if the cause had been filed in his court. Any of the judges may in his own courtroom try and determine any case or proceeding pending in any of the other courts without having the case transferred or may sit in any of the other courts and hear and determine any pending case. The judge hearing a transferred case shall indicate on the docket sheet and orders that he is sitting for that district. Two or more judges may try different cases in the same court at the same time, and each may

occupy his own courtroom or the room of any other court. In case of absence, sickness, or disqualification, any of the other judges may hold court for him. All bail bonds, recognizances, or other obligations taken for the appearance of the defendants, parties, or witnesses in any of the district courts or in any inferior court in Bell County shall be binding on all the defendants, parties, and witnesses, and their sureties, in any of the courts in which the case is pending or to which the case is transferred. If a case is transferred, all process, bonds, recognizances, and obligations extant at the time of transfer shall be returned to and filed in the court to which the case is transferred and shall be valid and binding as if originally issued out of that court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 8(b), eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 8(c), eff. January 1, 2007.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 1.01(a), eff. January 1, 2022.

Sec. 24.130. 28TH JUDICIAL DISTRICT (NUECES COUNTY). (a) The 28th Judicial District is composed of Nueces County.

(b) The 28th District Court has concurrent jurisdiction with the 94th and 117th district courts in Nueces County.

(c) The terms of the 28th District Court begin on the first Mondays in January and July. The terms are designated the January-July and July-January terms.

(d) In addition to other jurisdiction provided by law, the 28th District Court has concurrent jurisdiction with the county courts at law in Nueces County to receive a guilty plea in a misdemeanor case pending in a county court at law in Nueces County and dispose of the case, regardless of whether the case is transferred to the district court. The judgment, order, or action of the district court is valid and binding as if the case were pending in the district court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1985, 69th Leg., ch. 480, Sec. 24.
Amended by:

Acts 2005, 79th Leg., Ch. 72 (H.B. 2913), Sec. 1, eff. May 17, 2005.

Sec. 24.131. 29TH JUDICIAL DISTRICT (PALO PINTO COUNTY). (a) The 29th Judicial District is composed of Palo Pinto County.

(b) The terms of the 29th District Court begin on the first Monday in March, the first Monday after the third Saturday in June, and the first Monday after the fourth Saturday in October.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.132. 30TH JUDICIAL DISTRICT (WICHITA COUNTY). (a) The 30th Judicial District is composed of Wichita County.

(b) In addition to other jurisdiction prescribed by law, each district court in Wichita County has the civil jurisdiction of a county court.

(c) The terms of the 30th District Court begin on the first Mondays in January and July.

(d) The 30th, 78th, and 89th district courts in Wichita County have concurrent jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.133. 31ST JUDICIAL DISTRICT (GRAY, HEMPHILL, LIPSCOMB, ROBERTS, AND WHEELER COUNTIES). (a) The 31st Judicial District is composed of Gray, Hemphill, Lipscomb, Roberts, and Wheeler counties.

(b) The terms of the 31st District Court begin:

(1) in Gray County on the first Mondays in January and July;

(2) in Hemphill County on the second Monday in April and the first Monday in November;

(3) in Lipscomb County on the fourth Monday in March and the second Monday in September;

(4) in Roberts County on the second Monday in March and the fourth Monday in August; and

(5) in Wheeler County on the fourth Mondays in April and November.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.134. 32ND JUDICIAL DISTRICT (FISHER, MITCHELL, AND NOLAN COUNTIES). (a) The 32nd Judicial District is composed of Fisher, Mitchell, and Nolan counties.

(b) The terms of the 32nd District Court in each county in the district begin on the first Mondays in January, May, and September.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 34, Sec. 1, eff. Jan. 1, 2002.

Sec. 24.135. 33RD JUDICIAL DISTRICT (BLANCO, BURNET, LLANO, AND SAN SABA COUNTIES). (a) The 33rd Judicial District is composed of Blanco, Burnet, Llano, and San Saba counties.

(b) The terms of the 33rd District Court begin:

(1) in Blanco County on the first Mondays in February and September;

(2) in Burnet County on the fourth Mondays in April and November;

(3) in Llano County on the first Mondays in April and November; and

(4) in San Saba County on the second Mondays in March and October.

(c) The judge of the 33rd District Court may impanel grand juries in each county. The judge of the 33rd District Court may alternate the drawing of grand juries with the judge of any other district court in each county within the 33rd Judicial District and may order grand and petit juries to be drawn for any term of the court as the judge determines is necessary, by an order entered in the minutes of the court. Indictments within each county may be returned to either court within that county.

(d) The 33rd District Court may hear and determine, in any county in the district convenient for the court, all preliminary or interlocutory matters in which a jury may not be demanded, in any case pending in any county in the district regardless of whether the case was filed in the county in which the hearing is held. Unless an objection is filed by a party to the suit, the 33rd District Court may hear, in any county in the district convenient for the court, any

nonjury case pending in any county in the district, including divorces, adoptions, default judgments, and matters in which citation was by publication, regardless of whether the case was filed in the county in which the hearing is held.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.08(a), eff. Sept. 1, 1987; Acts 1999, 76th Leg., ch. 623, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 14, eff. September 1, 2005.
Acts 2015, 84th Leg., R.S., Ch. 929 (H.B. 2150), Sec. 13, eff. September 1, 2015.

Sec. 24.136. 34TH JUDICIAL DISTRICT (EL PASO COUNTY). (a) The 34th Judicial District is composed of El Paso County.
(b) In El Paso County, the 34th, 41st, 65th, 120th, and 171st district courts have concurrent jurisdiction.
(c) The terms of the 34th District Court begin on the third Mondays in April and September and the first Mondays in January, July, and November.
(d) A grand jury may not be impaneled in any district court in El Paso County except the 34th District Court unless the judge of another district court in the county calls for a grand jury by special order.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 704, Sec. 17, eff. Sept. 1, 1995.

Sec. 24.137. 35TH JUDICIAL DISTRICT (BROWN AND MILLS COUNTIES). (a) The 35th Judicial District is composed of Brown and Mills counties.
(b) In addition to other jurisdiction provided by law, each district court in Mills County has the civil jurisdiction of a county court.
(c) The terms of the 35th District Court begin:
(1) in Brown County on the first Mondays in February, June, and November; and
(2) in Mills County on the first Mondays in January, May,

and October.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.09(a), eff. Sept. 1, 1987.

Sec. 24.138. 36TH JUDICIAL DISTRICT (ARANSAS, BEE, LIVE OAK, MCMULLEN, AND SAN PATRICIO COUNTIES). (a) The 36th Judicial District is composed of Aransas, Bee, Live Oak, McMullen, and San Patricio counties.

(b) The terms of the 36th District Court begin:

(1) in Aransas County on the fourth Mondays in April and October;

(2) in Bee County on the first Mondays in April and October;

(3) in Live Oak County on the third Mondays in April and October;

(4) in McMullen County on the second Mondays in January and July; and

(5) in San Patricio County on the second Mondays in April and October.

(c) Each of the judges of the district courts in Aransas, Bee, Live Oak, McMullen, and San Patricio counties shall sign the minutes of each term of his court in each of the counties not later than the 30th day after the end of the term and shall also sign the minutes of the other courts covering the proceedings that were held before him.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 196, Sec. 1, eff. Sept. 1, 1993.

Sec. 24.139. 37TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 37th Judicial District is composed of Bexar County.

(b) This section applies to the 37th, 45th, 57th, 73rd, 131st, 144th, 150th, 166th, 175th, 186th, 187th, 224th, 225th, 226th, 227th, 285th, 288th, 289th, 290th, 379th, 386th, 399th, 407th, 408th, 436th, 437th, and 438th district courts in Bexar County.

(c) The district courts in Bexar County have concurrent jurisdiction.

(d) The 144th, 175th, 186th, 187th, 226th, 227th, 289th, 290th, 379th, 399th, and 437th district courts shall give preference to

criminal cases. The terms of those courts begin on the first Mondays in January and July. Each term continues until the court has disposed of the business for that term.

(e) The terms of the 37th, 45th, 57th, 73rd, 131st, 150th, 166th, 224th, 225th, 285th, 288th, 407th, 408th, and 438th district courts begin on the first Mondays in January and July.

(e-1) The 386th and 436th district courts shall give preference to juvenile matters under Title 3, Family Code. The terms of those courts begin on the first Mondays in July and January. Each term continues until the court has disposed of the business for that term.

(f) The district clerk shall docket successively on the dockets of the courts that do not give preference to criminal cases all civil cases and proceedings so that the civil cases and proceedings are docketed in rotation and equally distributed among the courts.

(g) The district clerk may consolidate the minutes of the district courts. If the clerk decides not to consolidate the minutes, the judge of each district court shall sign the minutes of each court term not later than the 30th day after the end of the term and shall also sign at the end of each volume of the minutes. Each judge sitting in a court shall sign the minutes of the proceedings held before him. If the clerk decides to consolidate the minutes, each judge may accept responsibility for the proceedings held before him by signing at the end of the minutes or at the end of the volume.

(h) All bonds taken for the appearance of defendants, parties, or witnesses in any district court or in any inferior court in Bexar County are binding on all defendants, parties, or witnesses, and their sureties, in any of the courts in which the case is pending or to which the case may be transferred. If a case is transferred, all process, bonds, recognizances, and obligations extant at the time of transfer shall be returned and filed in the court to which the case is transferred and are valid and binding as if originally issued out of that court.

(i) The judge of each district court may take a vacation at any time during the year. During a judge's vacation, the court term remains open, and the judge of any other district court may hold court during the judge's vacation. The judges of the district courts shall, by agreement among themselves, take their vacations so that there are district court judges in the county at all times.

(j) The Bexar County sheriff or the sheriff's deputy shall attend each court as required by law or by the judge.

(k) The judges of the courts that give preference to criminal cases may impanel special and general grand juries as needed or by agreement between the judges.

(l) By a majority vote, the judges of the courts that give preference to criminal cases may jointly appoint not more than four grand jury bailiffs. The bailiffs serve at the will of the judges and may be removed by a majority vote of the judges.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 90, Sec. 6, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 497, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 165 (H.B. 2936), Sec. 1, eff. September 1, 2011.

Sec. 24.140. 38TH JUDICIAL DISTRICT (REAL AND UVALDE COUNTIES). The 38th Judicial District is composed of Real and Uvalde counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 1.03(a), eff. September 1, 2019.

Sec. 24.141. 39TH JUDICIAL DISTRICT (HASKELL, KENT, STONEWALL, AND THROCKMORTON COUNTIES). (a) The 39th Judicial District is composed of Haskell, Kent, Stonewall, and Throckmorton counties.

(b) The terms of the 39th District Court begin:

(1) in Haskell County on the first Monday in January, the 15th Monday after the first Monday in January, and the third Monday after the first Monday in September;

(2) in Kent County on the ninth Monday after the first Monday in January and the first Monday in September;

(3) in Stonewall County on the 6th and 20th Mondays after the first Monday in January and the ninth Monday after the first Monday in September; and

(4) in Throckmorton County on the 12th and 23rd Mondays after the first Monday in January and the 12th Monday after the first Monday in September.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.142. 40TH JUDICIAL DISTRICT (ELLIS COUNTY). (a) The 40th Judicial District is composed of Ellis County.

(b) The terms of the 40th District Court begin on the first Mondays in March, June, September, and December.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.143. 41ST JUDICIAL DISTRICT (EL PASO COUNTY). (a) The 41st Judicial District is composed of El Paso County.

(b) The terms of the 41st District Court begin on the first Mondays in January, March, May, September, and November.

(c) Section 24.136, relating to the 34th District Court, contains provisions applicable to both that court and the 41st District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.144. 42ND JUDICIAL DISTRICT (CALLAHAN, COLEMAN, AND TAYLOR COUNTIES). (a) The 42nd Judicial District is composed of Callahan, Coleman, and Taylor counties.

(b) The 42nd District Court has concurrent jurisdiction with the 104th District Court in Taylor County.

(c) The terms of the 42nd District Court begin:

(1) in Callahan County on the first Mondays in January and July;

(2) in Coleman County on the first Mondays in January and July; and

(3) in Taylor County on the first Monday in January, on the 15th Monday after the first Monday in January, and on the first Monday in September.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1385, Sec. 1, eff. Sept. 1, 1997.

Sec. 24.145. 43RD JUDICIAL DISTRICT (PARKER COUNTY). (a) The

43rd Judicial District is composed of Parker County.

(b) The terms of the 43rd District Court begin on the first Mondays in January and July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.146. 44TH JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 44th Judicial District is composed of Dallas County.

(b) The terms of the 44th District Court begin on the first Mondays in January, April, June, and October.

(c) Section 24.115, relating to the 14th District Court, contains provisions applicable to both that court and the 44th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.147. 45TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 45th Judicial District is composed of Bexar County.

(b) Section 24.139, relating to the 37th District Court, contains provisions applicable to both that court and the 45th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.148. 46TH JUDICIAL DISTRICT (FOARD, HARDEMAN, AND WILBARGER COUNTIES). (a) The 46th Judicial District is composed of Foard, Hardeman, and Wilbarger counties.

(b) The terms of the 46th District Court begin:

(1) in Foard County on the 6th, 17th, and 36th Mondays after the first Monday in January;

(2) in Hardeman County on the 8th, 19th, 38th, and 47th Mondays after the first Monday in January; and

(3) in Wilbarger County on the first Monday in January and the 11th, 22nd, and 41st Mondays after the first Monday in January.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.149. 47TH JUDICIAL DISTRICT (ARMSTRONG, POTTER, AND RANDALL COUNTIES). (a) The 47th Judicial District is composed of Armstrong, Potter, and Randall counties.

(b) The 47th District Court has concurrent jurisdiction with the 181st District Court in Randall and Potter counties. The 47th District Court has concurrent jurisdiction with the 108th District Court in Potter County.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1081, Sec. 2, eff. September 1, 2013.

(d) The judge may, in any county in the 47th Judicial District:

(1) hear and determine all preliminary and interlocutory matters in which a jury may not be demanded, regardless of whether the case is filed in the county in which the hearing is held; and

(2) unless objection is filed by a party to the suit, hear any nonjury case, including divorces, adoptions, default judgments, and matters where citation was by publication, regardless of whether the case is filed in the county in which the hearing is held.

(e) The judge of the 47th District Court may transfer a case to the docket of any district court that has jurisdiction over the case with the approval of the judge of the court to which the case is transferred. If a case is transferred, all process and writs issued out of the transferring court are returnable to the court to which the case is transferred. All bonds executed and recognizances entered into in a transferring court shall bind the parties for their appearance or to fulfill the obligations of the bonds and recognizances at the terms of the court to which the transfer is made.

(f) Each sheriff of the counties in the district shall perform the duties prescribed by law in connection with the cases from that sheriff's county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 50 (H.B. 593), Sec. 1, eff. January 1, 2006.

Acts 2013, 83rd Leg., R.S., Ch. 1081 (H.B. 3378), Sec. 2, eff. September 1, 2013.

Sec. 24.150. 48TH JUDICIAL DISTRICT (TARRANT COUNTY). (a) The

48th Judicial District is composed of Tarrant County.

(b) The terms of the 48th District Court begin on the first Mondays in February, May, August, and November.

(c) Section 24.118, relating to the 17th District Court, contains provisions applicable to both that court and the 48th District Court.

(d) The 48th District Court shall give preference to civil matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 580 (S.B. 2454), Sec. 2, eff. June 19, 2009.

Sec. 24.151. 49TH JUDICIAL DISTRICT (WEBB AND ZAPATA COUNTIES). (a) The 49th Judicial District is composed of Webb and Zapata counties.

(b) In addition to other jurisdiction provided by law, the 49th District Court has the civil and criminal jurisdiction of a county court.

(c) The 49th District Court has concurrent jurisdiction with the other district courts in Webb County.

(d) A criminal complaint may be presented to the grand jury of any district court in Webb County, and a resulting indictment may be returned to any other district court in Webb County with the appropriate criminal jurisdiction.

(e) The terms of the 49th District Court and the 341st District Court begin:

(1) in Webb County on the first Mondays in January, April, July, and October; and

(2) in Zapata County on the first Mondays in February and August.

(f) In Webb County, the clerk of the district courts shall file all civil cases on the Clerk's Civil File Docket and shall number the cases consecutively. All civil cases not assigned and docketed in a district court based on the types of cases the court gives preference to under applicable law shall be assigned and docketed at random by the district clerk. The clerk shall keep a separate file docket, known as the Clerk's Criminal File Docket, for criminal cases. The

clerk shall number the cases on the Clerk's Criminal File Docket consecutively with a separate series of numbers.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 34, Sec. 1, eff. Aug. 1, 1991; Acts 1993, 73rd Leg., ch. 121, Sec. 1, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 205, Sec. 1, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 1337, Sec. 17, eff. Jan. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 1(a), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 954 (H.B. 4037), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 750 (H.B. 1314), Sec. 1, eff. June 17, 2011.

Sec. 24.152. 50TH JUDICIAL DISTRICT (BAYLOR, COTTLE, KING, AND KNOX COUNTIES). (a) The 50th Judicial District is composed of Baylor, Cottle, King, and Knox counties.

(b) In addition to other jurisdiction provided by law, the district court in Baylor, Cottle, King, and Knox Counties has the civil and criminal jurisdiction of a county court.

(c) The terms of the 50th District Court in each county begin on the first Mondays in January and September.

(d) In matters of concurrent jurisdiction, the judge of the county court in Baylor, Cottle, King, or Knox County may transfer a case to the judge of the 50th District Court with the approval of the district judge. When a case is transferred, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees in all bonds and recognizances taken in and for a court from which a case is transferred, and all witnesses summoned to appear in a court from which a case is transferred, are required to appear before the court to which a case is transferred as if originally required to appear before the court to which the transfer is made.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 342, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1146, Sec. 1, eff. Sept. 1, 1999; Acts 1999,

76th Leg., ch. 1147, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1148, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1495, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 515 (H.B. 788), Sec. 1, eff. September 1, 2005.

Sec. 24.153. 51ST JUDICIAL DISTRICT (COKE, IRION, SCHLEICHER, STERLING, AND TOM GREEN COUNTIES). (a) The 51st Judicial District is composed of Coke, Irion, Schleicher, Sterling, and Tom Green counties.

(b) The terms of the 51st District Court begin:

(1) in Coke County on the first Mondays in February and August;

(2) in Irion County on the first Mondays in March and September;

(3) in Schleicher County on the first Mondays in April and October;

(4) in Sterling County on the first Mondays in May and November; and

(5) in Tom Green County on the first Mondays in January and June.

(c) The judges of the 51st, 119th, 340th, and 391st district courts may, in their discretion, exchange benches and sit for each other without formal order in each county in those districts, including counties in which the districts do not overlap. Any of the judges may, in his own courtroom, try and determine any case or proceeding pending in any of the other courts without having the case transferred, or may sit in any of the other courts and hear and determine any case pending in one of those courts. The judges may try different cases filed in the same court at the same time, and each may occupy his own courtroom or the room of any other court. In case of absence, sickness, or disqualification of any of the judges, any of the other judges may hold court for him. Any of the judges may hear and determine any part or question of a case or proceeding pending in any of the courts, and any of the other judges may complete the hearing and render judgment in the case. Any of the judges may hear and determine motions, petitions for injunction, applications for appointment of receivers, interventions, motions to

transfer venue, pleas in abatement, all dilatory pleas, motions for new trials, and all preliminary matters, questions, and proceedings, and may enter judgment or order thereon in the court in which the case is pending without having the case transferred to the court of the acting judge. The judge in whose court the case is pending may proceed to hear, complete, and determine any part or all of the case or other matter and render final judgment. Any of the judges may issue restraining orders and injunctions returnable to any of the other judges or courts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1337, Sec. 6, eff. Oct. 1, 1999.

Sec. 24.154. 52ND JUDICIAL DISTRICT (CORYELL COUNTY). (a) The 52nd Judicial District is composed of Coryell County.

(b) The terms of the 52nd District Court begin on the first Mondays in January and July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 2.01, eff. September 1, 2015.

Sec. 24.155. 53RD JUDICIAL DISTRICT (TRAVIS COUNTY). (a) The 53rd Judicial District is composed of Travis County.

(b) The 53rd, 98th, and 126th district courts have concurrent jurisdiction.

(c) The terms of the 53rd District Court begin on the first Mondays in January, March, May, and October.

(d) The judges of the district courts in Travis County do not have a duty to impanel grand juries but may impanel grand juries when they consider it necessary.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 85 (S.B. 355), Sec. 1, eff. May 14, 2007.

Sec. 24.156. 54TH JUDICIAL DISTRICT (MCLENNAN COUNTY). (a) The 54th Judicial District is composed of McLennan County.

(a-1) The 54th District Court has concurrent jurisdiction with the county court and the statutory county courts of McLennan County in misdemeanor cases as well as the jurisdiction prescribed by general law for district courts.

(b) The terms of the 54th District Court begin on the first Mondays in January, March, May, July, September, and November.

(c) Section 24.120, relating to the 19th District Court, contains provisions applicable to both that court and the 54th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 848 (S.B. 2230), Sec. 2, eff. September 1, 2009.

Sec. 24.157. 55TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 55th Judicial District is composed of Harris County.

(b) Section 24.112, relating to the 11th District Court, contains provisions applicable to both that court and the 55th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.158. 56TH JUDICIAL DISTRICT (GALVESTON COUNTY). (a) The 56th Judicial District is composed of Galveston County.

(b) Section 24.111, relating to the 10th District Court, contains provisions applicable to both that court and the 56th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.159. 57TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 57th Judicial District is composed of Bexar County.

(b) Section 24.139, relating to the 37th District Court, contains provisions applicable to both that court and the 57th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.160. 58TH JUDICIAL DISTRICT (JEFFERSON COUNTY). (a) The 58th Judicial District is composed of Jefferson County.

(b) The 58th, 60th, and 136th district courts have concurrent jurisdiction.

(c) The terms of the 58th and 60th district courts begin on the first Mondays in January and July. The first term is designated the January-June term, and the second term is designated the July-December term.

(d) In all suits, actions, and proceedings, it is sufficient for the address or designation to be "District Court of Jefferson County."

(e) The 58th, 60th, and 136th district courts may sit at the City of Port Arthur, in addition to Beaumont, to try, hear, and determine nonjury cases and to hear and determine motions, arguments, and the other nonjury matters that are within the jurisdiction of the courts. The district clerk or his deputy serves as clerk of a court when it sits in Port Arthur and may transfer all necessary books, minutes, records, and papers to Port Arthur while the court is in session there and transfer them from Port Arthur to Beaumont at the end of each session in Port Arthur. The Commissioners Court of Jefferson County may provide suitable quarters in the subcourthouse in Port Arthur for a court while it sits in Port Arthur. The Jefferson County sheriff or the sheriff's deputy shall attend the courts in Port Arthur and perform all duties required by law or court order.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.161. 59TH JUDICIAL DISTRICT (GRAYSON COUNTY). (a) The 59th Judicial District is composed of Grayson County.

(b) The terms of the 59th District Court begin on the first Mondays in January and July.

(c) The judge of the 59th District Court may impanel the grand jury in Grayson County as provided by law for any terms of his court that he considers proper.

(d) Section 24.116, relating to the 15th District Court,

contains provisions applicable to both that court and the 59th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2005, 79th Leg., Ch. 610 (H.B. 2174), Sec. 2, eff. September 1, 2005.

Sec. 24.162. 60TH JUDICIAL DISTRICT (JEFFERSON COUNTY). (a) The 60th Judicial District is composed of Jefferson County.
(b) Section 24.160, relating to the 58th District Court, contains provisions applicable to both that court and the 60th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.163. 61ST JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 61st Judicial District is composed of Harris County.
(b) Section 24.112, relating to the 11th District Court, contains provisions applicable to both that court and the 61st District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.164. 62ND JUDICIAL DISTRICT (DELTA, FRANKLIN, HOPKINS, AND LAMAR COUNTIES). (a) The 62nd Judicial District is composed of Delta, Franklin, Hopkins, and Lamar counties.
(b) In any county in the district in which there are two or more district courts, those district courts have concurrent jurisdiction in that county.
(c) The terms of the 62nd District Court in each county begin on the first Mondays in January and July.
(d) The judge of the 62nd District Court is not required to impanel a grand jury in that court in any county of the district unless the judge considers it necessary.
(e) Section 24.108, relating to the 8th District Court, contains provisions applicable to both that court and the 62nd District Court in Delta, Franklin, and Hopkins counties.

(f) Section 24.106, relating to the 6th District Court, contains provisions applicable to both that court and the 62nd District Court in Lamar County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.165. 63RD JUDICIAL DISTRICT (KINNEY, TERRELL, AND VAL VERDE COUNTIES). (a) The 63rd Judicial District is composed of Kinney, Terrell, and Val Verde counties.

(b) The terms of the 63rd District Court begin:

(1) in Kinney County on the first Mondays in April and October;

(2) in Terrell County on the first Monday in February and the third Monday in August; and

(3) in Val Verde County on the first Mondays in January and June.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 852 (H.B. 3796), Sec. 1, eff. September 1, 2011.

Sec. 24.166. 64TH JUDICIAL DISTRICT (CASTRO, HALE, AND SWISHER COUNTIES). (a) The 64th Judicial District is composed of Castro, Hale, and Swisher counties.

(b) The terms of the 64th District Court in each county of the district begin on the first Mondays in January and July and are designated the January and July terms.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.167. 327TH JUDICIAL DISTRICT (EL PASO COUNTY). (a) The 327th Judicial District is composed of El Paso County.

(b) The terms of the 327th District Court begin on the first Mondays in February, April, June, September, October, and December.

(c) Section 24.136, relating to the 34th District Court, contains provisions applicable to both that court and the 327th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 317, Sec. 3, eff. Sept. 1, 1996.

Sec. 24.168. 66TH JUDICIAL DISTRICT (HILL COUNTY). (a) The 66th Judicial District is composed of Hill County.

(b) In addition to other jurisdiction provided by law, the 66th District Court has concurrent jurisdiction with the County Court of Hill County and the statutory county courts in Hill County in all civil and criminal matters over which the county court and the statutory county courts would have original or appellate jurisdiction. The district court has control over the assignment of cases as prescribed by Sections 25.1112 and 26.209.

(c) The terms of the 66th District Court begin on the first Mondays in January, March, May, July, September, and November.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 959 (H.B. 1622), Sec. 2, eff. September 1, 2005.

Sec. 24.169. 67TH JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 67th Judicial District is composed of Tarrant County.

(b) The terms of the 67th District Court begin on the first Mondays in March, June, September, and December.

(c) Section 24.118, relating to the 17th District Court, contains provisions applicable to both that court and the 67th District Court.

(d) The 67th District Court shall give preference to civil matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 580 (S.B. 2454), Sec. 3, eff. June 19, 2009.

Sec. 24.170. 68TH JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 68th Judicial District is composed of Dallas County.

(b) The terms of the 68th District Court begin on the first

Mondays in February, May, September, and December.

(c) Section 24.115, relating to the 14th District Court, contains provisions applicable to both that court and the 68th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.171. 69TH JUDICIAL DISTRICT (DALLAM, HARTLEY, MOORE, AND SHERMAN COUNTIES). (a) The 69th Judicial District is composed of Dallam, Hartley, Moore, and Sherman counties.

(b) The terms of the 69th District Court begin:

(1) in Dallam County on the 16th Monday after the second Mondays in January and July;

(2) in Hartley County on the 12th Monday after the second Mondays in January and July;

(3) in Moore County on the 10th Monday after the second Mondays in January and July; and

(4) in Sherman County on the 14th Monday after the second Mondays in January and July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.172. 70TH JUDICIAL DISTRICT (ECTOR COUNTY). (a) The 70th Judicial District is composed of Ector County.

(b) The terms of the 70th District Court begin on the first Mondays in January and July.

(c) The judges of the 70th and 118th district courts may take a vacation and not attend court for six weeks in each year. The judges, by agreement, shall take their vacations alternately so that a judge is present in one of the courts at all times.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 880, Sec. 1, eff. Aug. 31, 1987.

Sec. 24.173. 71ST JUDICIAL DISTRICT (HARRISON COUNTY). (a) The 71st Judicial District is composed of Harrison County.

(b) The terms of the 71st District Court begin on the first Mondays in January, March, May, July, September, and November and

continue until the Saturday before the next succeeding term begins or until the court has disposed of the business for that term.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.174. 72ND JUDICIAL DISTRICT (CROSBY AND LUBBOCK COUNTIES). (a) The 72nd Judicial District is composed of Crosby and Lubbock counties.

(b) The terms of the 72nd District Court begin:

(1) in Crosby County on the second Mondays in May and November; and

(2) in Lubbock County on the second Mondays in February and August.

(c) The 72nd, 99th, 137th, and 140th district courts have concurrent jurisdiction in Lubbock County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.175. 73RD JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 73rd Judicial District is composed of Bexar County.

(b) Section 24.139, relating to the 37th District Court, contains provisions applicable to both that court and the 73rd District Court.

(c) The 73rd District Court shall give preference to civil cases and to cases and proceedings under Title 3, Family Code.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 67, Sec. 1, eff. Sept. 1, 1993.

Sec. 24.176. 74TH JUDICIAL DISTRICT (MCLENNAN COUNTY). (a) The 74th Judicial District is composed of McLennan County.

(a-1) The 74th District Court has concurrent jurisdiction with the county court and the statutory county courts of McLennan County in misdemeanor cases as well as the jurisdiction prescribed by general law for district courts.

(b) The terms of the 74th District Court begin on the second Mondays in February, April, June, August, October, and December.

(c) Section 24.120, relating to the 19th District Court,

contains provisions applicable to both that court and the 74th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 848 (S.B. 2230), Sec. 3, eff. September 1, 2009.

Sec. 24.177. 75TH JUDICIAL DISTRICT (LIBERTY COUNTY). (a) The 75th Judicial District is composed of Liberty County.

(b) The terms of the 75th District Court begin on the first Mondays in April and October.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.178. 76TH JUDICIAL DISTRICT (CAMP, MORRIS, AND TITUS COUNTIES). (a) The 76th Judicial District is composed of Camp, Morris, and Titus counties.

(b) In addition to other jurisdiction provided by law, each district court in Morris County has the civil jurisdiction of a county court.

(c) In Camp and Morris counties, the 76th District Court and the county court have concurrent jurisdiction over all original and appellate criminal matters over which the county court has jurisdiction under the constitution and laws of this state. In each county, matters and proceedings in the concurrent jurisdiction of the courts may be filed in or transferred between the 76th District Court and the county court. All writs and processes issued and bonds and recognizances made in transferred cases are returnable to the court to which the case is transferred as if originally issued in that court.

(d) In Camp, Morris, and Titus counties, the 76th District Court has concurrent jurisdiction with the 276th District Court. The judges of the courts may transfer any case to be tried in Camp County, Morris County, or Titus County with the consent of the court to which the case is to be transferred. Each judge may sit in the other court without transferring the case.

(e) The terms of the 76th District Court begin:

(1) in Camp County on the first Mondays in March and April;

(2) in Morris County on the first Mondays in January, May, July, and November and the third Monday in September; and

(3) in Titus County on the first Mondays in February, August, September, October, and December.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.179. 77TH JUDICIAL DISTRICT (FREESTONE AND LIMESTONE COUNTIES). (a) The 77th Judicial District is composed of Freestone and Limestone counties.

(b) The 77th District Court has concurrent jurisdiction with the 87th District Court in Freestone and Limestone counties.

(c) The terms of the 77th District Court begin:

(1) in Freestone County on the first Mondays in February, May, August, and November; and

(2) in Limestone County on the first Mondays in December, March, June, and September.

(d) The judge of the 77th District Court shall impanel grand juries in Limestone County at the March and September terms and in Freestone County at the May and November terms and at any other terms of the court in each county as ordered by the judge.

(e) The clerk of the district courts in each of the counties of Limestone and Freestone shall prepare civil, criminal, divorce, and tax dockets for each district court and shall file each new case in the court in which the party filing the case directed the clerk to file it. Each criminal case shall be originally filed in the court to which the indictment or information is returned. The district clerk in each county shall place letters on the envelope containing the file papers in each case after the number of the case, designating by the letter "A" cases pending in the 77th District Court and by the letter "B" cases pending in the 87th District Court.

(f) The judges of the 77th and 87th judicial districts may, in their discretion, either in termtime or in vacation, on motion of any party, on agreement of the parties, or on their own motion to facilitate the administration of justice or to equalize the case load, transfer any civil or criminal cause on their dockets to the docket of the other court. The transfer shall be entered on the minutes of the court and the cause shall be tried and disposed of as if it had been originally filed in that court. The transferring

court need not hold a formal proceeding to transfer a cause. The receiving court need not receive the transcript of the transferred cause to have jurisdiction over the cause.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.180. 78TH JUDICIAL DISTRICT (WICHITA COUNTY). (a) The 78th Judicial District is composed of Wichita County.

(b) The terms of the 78th District Court begin on the first Mondays in March, June, September, and December.

(c) Section 24.132, relating to the 30th District Court, contains provisions applicable to both that court and the 78th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.181. 79TH JUDICIAL DISTRICT (BROOKS AND JIM WELLS COUNTIES). (a) The 79th Judicial District is composed of Brooks and Jim Wells counties.

(b) The terms of the 79th District Court begin:

(1) in Brooks County at 10 a.m. on the first Mondays in February and September; and

(2) in Jim Wells County at 10 a.m. on the first Mondays in March and October.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.182. 80TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 80th Judicial District is composed of Harris County.

(b) Section 24.112, relating to the 11th District Court, contains provisions applicable to both that court and the 80th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.183. 81ST JUDICIAL DISTRICT (ATASCOSA, FRIO, KARNES, LASALLE, AND WILSON COUNTIES). (a) The 81st Judicial District is

composed of Atascosa, Frio, Karnes, LaSalle, and Wilson counties.

(b) The terms of the 81st District Court begin:

(1) in Atascosa County on the third Mondays in March and September;

(2) in Frio County on the fourth Mondays in May and November;

(3) in Karnes County on the first Mondays in May and November;

(4) in LaSalle County on the first Mondays in March and September; and

(5) in Wilson County on the second Mondays in April and October.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.184. 82ND JUDICIAL DISTRICT (FALLS AND ROBERTSON COUNTIES). (a) The 82nd Judicial District is composed of Falls and Robertson counties.

(b) The terms of the 82nd District Court begin on the first Mondays in January and July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.10(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 141, Sec. 1, eff. May 25, 1989.

Sec. 24.185. 83RD JUDICIAL DISTRICT (PECOS, TERRELL, AND VAL VERDE COUNTIES). (a) The 83rd Judicial District is composed of Pecos, Terrell, and Val Verde counties.

(b) The 83rd and 112th district courts have concurrent jurisdiction in Pecos County.

(c) The 83rd and 63rd district courts have concurrent jurisdiction in Terrell and Val Verde counties.

(d) The terms of the 83rd District Court begin on the second Monday in January and July.

(e) In each of the counties of Pecos, Terrell, and Val Verde, a petition or other pleading filed in the district courts is sufficient if addressed "To The District Court of Pecos County, Texas,", "To The District Court of Terrell County, Texas,", or "To The District Court of Val Verde County, Texas," respectively, without giving the number

of the district court in the address.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 509, Sec. 1, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 704, Sec. 18, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1337, Sec. 18, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 797, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 24, Sec. 1, eff. Sept. 1, 2003.

Sec. 24.186. 84TH JUDICIAL DISTRICT (HANSFORD, HUTCHINSON, AND OCHILTREE COUNTIES). (a) The 84th Judicial District is composed of Hansford, Hutchinson, and Ochiltree counties.

(b) The terms of the 84th District Court begin:

(1) in Hansford County on the third Monday in March and the second Monday in September;

(2) in Hutchinson County on the first Monday in June and the fourth Monday in November; and

(3) in Ochiltree County on the fourth Monday in April and the second Monday in October.

(c) Each term provided by Subsection (b) begins at 10 a.m. on the first day of the term.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.187. 85TH JUDICIAL DISTRICT (BRAZOS COUNTY). (a) The 85th Judicial District is composed of Brazos County.

(b) The 85th District Court has concurrent jurisdiction with the statutory county courts of Brazos County in misdemeanor cases as well as the jurisdiction prescribed by general law for district courts.

(c) The terms of the 85th District Court begin on the first Mondays in April and October.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 280, Sec. 1, eff. Sept. 1, 2001.

Sec. 24.188. 86TH JUDICIAL DISTRICT (KAUFMAN COUNTY). (a) The 86th Judicial District is composed of Kaufman County.

(b) The terms of the 86th District Court begin on the first Mondays in February and July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1124, Sec. 3, eff. June 20, 1987.

Sec. 24.189. 87TH JUDICIAL DISTRICT (ANDERSON, FREESTONE, LEON, AND LIMESTONE COUNTIES). (a) The 87th Judicial District is composed of Anderson, Freestone, Leon, and Limestone counties.

(b) The terms of the 87th District Court begin:

(1) in Anderson County on the first Mondays in February and August;

(2) in Freestone County on the first Mondays in January, April, July, and October;

(3) in Leon County on the fifth Monday after the first Mondays in May and November; and

(4) in Limestone County on the first Mondays in May and November.

(c) The judge of the 87th District Court shall impanel grand juries in Limestone County at the May and November terms and in Freestone County at the January and July terms and at any other terms of the court as ordered by the judge.

(d) Section 24.179, relating to the 77th District Court, contains provisions applicable to both that court and the 87th District Court in Freestone and Limestone counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.190. 88TH JUDICIAL DISTRICT (HARDIN AND TYLER COUNTIES). (a) The 88th Judicial District is composed of Hardin and Tyler counties.

(b) The terms of the 88th District Court begin:

(1) in Hardin County on the first Mondays in April and October; and

(2) in Tyler County on the first Mondays in June and December.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.191. 89TH JUDICIAL DISTRICT (WICHITA COUNTY). (a) The 89th Judicial District is composed of Wichita County.

(b) The terms of the 89th District Court begin on the first Mondays in January, April, July, and October.

(c) A grand jury may not be impaneled in the 89th District Court unless the judge of that court calls for a grand jury by special order on the minutes of the court.

(d) Section 24.132, relating to the 30th District Court, contains provisions applicable to both that court and the 89th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.192. 90TH JUDICIAL DISTRICT (STEPHENS AND YOUNG COUNTIES). (a) The 90th Judicial District is composed of Stephens and Young counties.

(b) In addition to other jurisdiction provided by law, each district court in Stephens County has the civil and criminal jurisdiction of a county court.

(c) The terms of the 90th District Court begin on the first Mondays in January and July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 230, Sec. 1, eff. Jan. 1, 1998.

Sec. 24.193. 91ST JUDICIAL DISTRICT (EASTLAND COUNTY). (a) The 91st Judicial District is composed of Eastland County.

(b) In addition to other jurisdiction provided by law, each district court in Eastland County has the civil jurisdiction of a county court. The district court has concurrent with the county court the criminal jurisdiction of a county court.

(c) The terms of the 91st District Court begin on the first Mondays in February, April, June, August, October, and December.

(d) The 91st District Court may not impanel a grand jury except by special order of the judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 15, Sec. 1, eff. April 14, 1987.

Sec. 24.194. 92ND JUDICIAL DISTRICT (HIDALGO COUNTY). (a) The 92nd Judicial District is composed of Hidalgo County.

(b) The 92nd, 93rd, and 139th district courts have concurrent jurisdiction.

(c) The terms of the 92nd District Court begin on the first Mondays in January and July.

(d) A party in a criminal case before the court may electronically file any required court document. The court shall implement the statewide electronic court filing system to assist a party in electronic filing.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 2(a), eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 541 (S.B. 1575), Sec. 2(1), eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 855 (H.B. 349), Sec. 1, eff. September 1, 2015.

Sec. 24.195. 93RD JUDICIAL DISTRICT (HIDALGO COUNTY). (a) The 93rd Judicial District is composed of Hidalgo County.

(b) The terms of the 93rd District Court begin on the first Mondays in January and July.

(c) Section 24.194, relating to the 92nd District Court, contains provisions applicable to both that court and the 93rd District Court.

(d) A party in a criminal case before the court may electronically file any required court document. The court shall implement the statewide electronic court filing system to assist a party in electronic filing.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 2(b), eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 541 (S.B. 1575), Sec. 2(2), eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 855 (H.B. 349), Sec. 2, eff. September 1, 2015.

Sec. 24.196. 94TH JUDICIAL DISTRICT (NUECES COUNTY). (a) The 94th Judicial District is composed of Nueces County.

(b) The terms of the 94th District Court begin on the first Mondays in January and July. The terms are designated the January-July and July-January terms.

(c) Section 24.130, relating to the 28th District Court, contains provisions applicable to both that court and the 94th District Court.

(d) In addition to other jurisdiction provided by law, the 94th District Court has concurrent jurisdiction with the county courts at law in Nueces County to receive a guilty plea in a misdemeanor case pending in a county court at law in Nueces County and dispose of the case, regardless of whether the case is transferred to the district court. The judgment, order, or action of the district court is valid and binding as if the case were pending in the district court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 72 (H.B. 2913), Sec. 2, eff. May 17, 2005.

Sec. 24.197. 95TH JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 95th Judicial District is composed of Dallas County.

(b) The terms of the 95th District Court begin on the first Mondays in March, June, September, and December.

(c) Section 24.115, relating to the 14th District Court, contains provisions applicable to both that court and the 95th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.198. 96TH JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 96th Judicial District is composed of Tarrant County.

(b) Section 24.118, relating to the 17th District Court, contains provisions applicable to both that court and the 96th Judicial District.

(c) The 96th District Court shall give preference to civil

matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 580 (S.B. 2454), Sec. 4, eff. June 19, 2009.

Sec. 24.199. 97TH JUDICIAL DISTRICT (ARCHER, CLAY, AND MONTAGUE COUNTIES). (a) The 97th Judicial District is composed of Archer, Clay, and Montague counties.
(b) The terms of the 97th District Court begin on the first Mondays in January and July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.11(a), eff. Sept. 1, 1987.

Sec. 24.200. 98TH JUDICIAL DISTRICT (TRAVIS COUNTY). (a) The 98th Judicial District is composed of Travis County.
(b) The terms of the 98th District Court begin on the first Mondays in February, April, June, October, and December.
(c) Section 24.155, relating to the 53rd District Court, contains provisions applicable to both that court and the 98th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.201. 99TH JUDICIAL DISTRICT (LUBBOCK COUNTY). (a) The 99th Judicial District is composed of Lubbock County.
(b) The terms of the 99th District Court begin on the first Mondays in January and July.
(c) Section 24.174, relating to the 72nd District Court, contains provisions applicable to both that court and the 99th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.202. 100TH JUDICIAL DISTRICT (CARSON, CHILDRESS,

COLLINGSWORTH, DONLEY, AND HALL COUNTIES). (a) The 100th Judicial District is composed of Carson, Childress, Collingsworth, Donley, and Hall counties.

(b) The terms of the 100th District Court begin:

(1) in Carson County on the first Mondays in January and August;

(2) in Childress County on the first Mondays in May and December;

(3) in Collingsworth County on the first Mondays in April and November;

(4) in Donley County on the first Mondays in March and October; and

(5) in Hall County on the first Mondays in February and September.

(c) Each term provided by Subsection (b) begins at 10 a.m. on the first day of the term.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.203. 101ST JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 101st Judicial District is composed of Dallas County.

(b) The terms of the 101st District Court begin on the first Mondays in March, June, September, and December.

(c) Section 24.115, relating to the 14th District Court, contains provisions applicable to both that court and the 101st District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.204. 102ND JUDICIAL DISTRICT (BOWIE AND RED RIVER COUNTIES). (a) The 102nd Judicial District is composed of Bowie and Red River counties.

(b) The terms of the 102nd District Court begin in each county on the first Mondays in January and July.

(c) Section 24.105, relating to the 5th District Court, contains provisions applicable to both that court and the 102nd District Court in Bowie County.

(d) Section 24.106, relating to the 6th District Court, contains provisions applicable to both that court and the 102nd

District Court in Red River County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1012, Sec. 2, eff. Sept. 1, 1997.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 733 (H.B. 1048), Sec. 1, eff. September 1, 2011.

Sec. 24.205. 103RD JUDICIAL DISTRICT (CAMERON COUNTY). (a) The 103rd Judicial District is composed of Cameron County. The court shall give preference to civil cases.

(b) The 103rd, 107th, and 138th district courts have concurrent jurisdiction.

(c) The terms of the 103rd District Court begin on the first Mondays in February and July.

(d) The judges of the 103rd and 107th district courts need not impanel grand juries except in cases of emergency.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 5(a), eff. September 1, 2005.

Sec. 24.206. 104TH JUDICIAL DISTRICT (TAYLOR COUNTY). (a) The 104th Judicial District is composed of Taylor County.

(b) The terms of the 104th District Court begin on the 11th and 24th Mondays after the first Monday in January and the ninth Monday after the first Monday in September.

(c) The commissioners court shall provide suitable quarters in the county courthouse for the court and the officers of the court.

(d) Section 24.144, relating to the 42nd District Court, contains provisions applicable to both that court and the 104th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.207. 105TH JUDICIAL DISTRICT (KENEDY, KLEBERG, AND NUECES COUNTIES). (a) The 105th Judicial District is composed of

Kenedy, Kleberg, and Nueces counties. The court shall give preference to criminal cases.

(b) The terms of the 105th District Court begin:

(1) in Kenedy County on the first Mondays in June and December;

(2) in Kleberg County on the first Mondays in April and October; and

(3) in Nueces County on the first Mondays in February and August.

(c) The judge, with the approval of the commissioners court, may appoint an official interpreter of the court in Nueces County who serves at the will of the judge. The official interpreter shall take both the constitutional oath of office and an oath that he will faithfully interpret all testimony in the district court as official interpreter. The oath is sufficient for his service as official interpreter in all cases in the court in Nueces County during the interpreter's term of office. The judge may also assign the official interpreter to assist the court's probation officer in the discharge of the probation officer's duties.

(d) In addition to other jurisdiction provided by law, the 105th District Court has concurrent jurisdiction with the county courts at law in Nueces County to receive a guilty plea in a misdemeanor case pending in a county court at law in Nueces County and dispose of the case, regardless of whether the case is transferred to the district court. The judgment, order, or action of the district court is valid and binding as if the case were pending in the district court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 72 (H.B. 2913), Sec. 3, eff. May 17, 2005.

Sec. 24.208. 106TH JUDICIAL DISTRICT (DAWSON, GAINES, GARZA, AND LYNN COUNTIES). (a) The 106th Judicial District is composed of Dawson, Gaines, Garza, and Lynn counties.

(b) The terms of the 106th District Court begin:

(1) in Dawson County on the third Monday in February and the second Monday in September;

(2) in Gaines County on the first Mondays in April and October;

(3) in Garza County on the first Monday in March and the fourth Monday in September; and

(4) in Lynn County on the first Monday in February and the third Monday in September.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.209. 107TH JUDICIAL DISTRICT (CAMERON COUNTY). (a) The 107th Judicial District is composed of Cameron County. The court shall give preference to criminal cases.

(b) The terms of the 107th District Court begin on the first Mondays in January and July.

(c) Section 24.205, relating to the 103rd District Court, contains provisions applicable to both that court and the 107th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 5(b), eff. September 1, 2005.

Sec. 24.210. 108TH JUDICIAL DISTRICT (POTTER COUNTY). (a) The 108th Judicial District is composed of Potter County.

(b) The terms of the 108th District Court begin on the first Mondays in January, May, and September.

(c) Section 24.149, relating to the 47th District Court, contains provisions applicable to both that court and the 108th District Court in Potter County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.211. 109TH JUDICIAL DISTRICT (ANDREWS, CRANE, AND WINKLER COUNTIES). (a) The 109th Judicial District is composed of Andrews, Crane, and Winkler counties.

(b) The terms of the 109th District Court begin:

(1) in Andrews County on the second Monday in January and

the first Monday in July;

(2) in Crane County on the first Mondays in February and August; and

(3) in Winkler County on the first Monday in March and the second Monday in September.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.212. 110TH JUDICIAL DISTRICT (BRISCOE, DICKENS, FLOYD, AND MOTLEY COUNTIES). (a) The 110th Judicial District is composed of Briscoe, Dickens, Floyd, and Motley counties.

(b) The terms of the 110th District Court begin in each county on the first Mondays in January and July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 1, eff. September 1, 2009.

Sec. 24.213. 111TH JUDICIAL DISTRICT (WEBB COUNTY). (a) The 111th Judicial District is composed of Webb County.

(b) The terms of the 111th District Court begin on the first Mondays in January, April, July, and October. Each term continues until the court disposes of its business.

(c) The 111th District Court has concurrent jurisdiction with the other district courts in Webb County.

(d) Section 24.151, relating to the 49th District Court, contains provisions applicable to both that court and the 111th District Court in Webb County.

(e) A criminal complaint may be presented to the grand jury of any district court in Webb County, and a resulting indictment may be returned to any other district court in Webb County with the appropriate criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 750 (H.B. 1314), Sec. 2, eff. June 17, 2011.

Sec. 24.214. 112TH JUDICIAL DISTRICT (CROCKETT, PECOS, REAGAN, SUTTON, AND UPTON COUNTIES). (a) The 112th Judicial District is composed of Crockett, Pecos, Reagan, Sutton, and Upton counties.

(b) The terms of the 112th District Court begin:

(1) in Crockett County on the first Monday in April and the third Monday in September;

(2) in Pecos County on the first Mondays in May and November;

(3) in Reagan County on the first Mondays in March and October;

(4) in Sutton County on the third Monday in March and the first Monday in September; and

(5) in Upton County on the first Monday in February and the second Monday in June.

(c) Section 24.185, relating to the 83rd District Court, contains provisions applicable to both that court and the 112th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 220 (H.B. 2256), Sec. 1, eff. September 1, 2005.

Sec. 24.215. 113TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 113th Judicial District is composed of Harris County.

(b) Section 24.112, relating to the 11th District Court, contains provisions applicable to both that court and the 113th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.216. 114TH JUDICIAL DISTRICT (SMITH COUNTY). (a) The 114th Judicial District is composed of Smith County.

(b) The terms of the 114th District Court begin on the first Mondays in January and July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1337, Sec. 12, eff. Sept. 1, 1999.

Sec. 24.217. 115TH JUDICIAL DISTRICT (MARION AND UPSHUR COUNTIES). (a) The 115th Judicial District is composed of Marion and Upshur counties.

(b) In addition to other jurisdiction provided by law, the 115th District Court has the civil and criminal jurisdiction of a county court in Marion County. The County Court of Marion County has concurrent jurisdiction to receive guilty pleas in misdemeanor cases. Matters within the courts' concurrent jurisdiction may be filed in either court and may be transferred between the district court and county court.

(c) The 115th District Court has concurrent jurisdiction with the 276th District Court in Marion County. The judges of the courts may transfer any case on their dockets in Marion County with the consent of the judge to which the case is transferred. Each judge may sit in the other court to hear a case without transferring the case.

(d) All writs and processes issued and bonds and recognizances made in transferred cases are returnable to the court to which transferred, as if originally issued there.

(e) The terms of the 115th District Court begin:

(1) in Marion County on the first Mondays in March and September; and

(2) in Upshur County on the first Mondays in January and June.

(f) The court terms continue until and including the Saturday immediately before the Monday on which the next term will convene.

(g) The officers serving the 276th District Court in Marion County shall also serve the 115th District Court in Marion County.

(h) In addition to other jurisdiction provided by law, the district court having jurisdiction in Upshur County has the civil and criminal jurisdiction, other than probate jurisdiction, of a county court. All civil and criminal matters within the concurrent jurisdiction of the county and district courts must be filed with the county clerk in the county court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.12(a), eff. Sept. 1, 1987.

Sec. 24.218. 116TH JUDICIAL DISTRICT (DALLAS COUNTY). (a) The

116th Judicial District is composed of Dallas County.

(b) The terms of the 116th District Court begin on the first Mondays in January, April, July, and October.

(c) Section 24.115, relating to the 14th District Court, contains provisions applicable to both that court and the 116th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.219. 117TH JUDICIAL DISTRICT (NUECES COUNTY). (a) The 117th Judicial District is composed of Nueces County.

(b) The terms of the 117th District Court begin on the first Mondays in January and July. The terms are designated the January-July and July-January terms.

(c) Section 24.130, relating to the 28th District Court, contains provisions applicable to both that court and the 117th District Court.

(d) In addition to other jurisdiction provided by law, the 117th District Court has concurrent jurisdiction with the county courts at law in Nueces County to receive a guilty plea in a misdemeanor case pending in a county court at law in Nueces County and dispose of the case, regardless of whether the case is transferred to the district court. The judgment, order, or action of the district court is valid and binding as if the case were pending in the district court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 72 (H.B. 2913), Sec. 4, eff. May 17, 2005.

Sec. 24.220. 118TH JUDICIAL DISTRICT (GLASSCOCK, HOWARD, AND MARTIN COUNTIES). (a) The 118th Judicial District is composed of Glasscock, Howard, and Martin counties.

(b) In addition to other jurisdiction provided by law, each district court in Glasscock County has the civil jurisdiction of a county court.

(c) The terms of the 118th District Court begin:

(1) in Glasscock County on the first Mondays in February

and September;

(2) in Howard County on the fourth Mondays in January, June, August, and October; and

(3) in Martin County on the first Mondays in January, June, and October.

(d) The judges of the 70th and 118th district courts may take a vacation and not attend court for six weeks in each year. The judges, by agreement, shall take their vacations alternately so that a judge is present in one of the courts at all times.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.221. 119TH JUDICIAL DISTRICT (CONCHO, RUNNELS, AND TOM GREEN COUNTIES). (a) The 119th Judicial District is composed of Concho, Runnels, and Tom Green counties.

(b) The terms of the 119th District Court begin:

(1) in Concho County on the first Mondays in February and July;

(2) in Runnels County on the first Mondays in March and October; and

(3) in Tom Green County on the first Mondays in April and November.

(c) Section 24.153, relating to the 51st District Court, contains provisions applicable to both that court and the 119th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.222. 120TH JUDICIAL DISTRICT (EL PASO COUNTY). (a) The 120th Judicial District is composed of El Paso County.

(b) The terms of the 120th District Court begin on the first Mondays in January and July.

(c) The El Paso County sheriff or the sheriff's deputy shall attend the court when required by law or by the judge.

(d) Section 24.136, relating to the 34th District Court, contains provisions applicable to both that court and the 120th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.223. 121ST JUDICIAL DISTRICT (TERRY AND YOAKUM COUNTIES). (a) The 121st Judicial District is composed of Terry and Yoakum counties.

(b) The terms of the 121st District Court begin:

(1) in Terry County on the second Mondays in May and November; and

(2) in Yoakum County on the second Mondays in June and December.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.224. 122ND JUDICIAL DISTRICT (GALVESTON COUNTY). (a) The 122nd Judicial District is composed of Galveston County.

(b) The 122nd District Court has concurrent jurisdiction with the 10th and 56th district courts.

(c) The terms of the 122nd District Court begin on the first Mondays in January and July.

(d) Section 24.111, relating to the 10th District Court, contains provisions applicable to both that court and the 122nd District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.225. 123RD JUDICIAL DISTRICT (PANOLA AND SHELBY COUNTIES). (a) The 123rd Judicial District is composed of Panola and Shelby counties.

(b) The terms of the 123rd District Court begin:

(1) in Panola County on the first Mondays in January, May, and September; and

(2) in Shelby County on the first Mondays in March, July, and November.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.226. 124TH JUDICIAL DISTRICT (GREGG COUNTY). (a) The 124th Judicial District is composed of Gregg County.

(b) The terms of the 124th District Court begin on the first Mondays in January, March, May, July, September, and November.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.227. 125TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 125th Judicial District is composed of Harris County.

(b) Section 24.112, relating to the 11th District Court, contains provisions applicable to both that court and the 125th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.228. 126TH JUDICIAL DISTRICT (TRAVIS COUNTY). (a) The 126th Judicial District is composed of Travis County.

(b) The terms of the 126th District Court begin on the first Mondays in September and November and the third Mondays in January, March, and June.

(c) Section 24.155, relating to the 53rd District Court, contains provisions applicable to both that court and the 126th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.229. 127TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 127th Judicial District is composed of Harris County.

(b) Section 24.112, relating to the 11th District Court, contains provisions applicable to both that court and the 127th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.230. 128TH JUDICIAL DISTRICT (ORANGE COUNTY). (a) The 128th Judicial District is composed of Orange County.

(b) The 128th and 163rd district courts have concurrent jurisdiction in Orange County.

(c) The terms of the 128th District Court begin on the first

Mondays in January, May, and September.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.231. 129TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 129th Judicial District is composed of Harris County.

(b) Section 24.112, relating to the 11th District Court, contains provisions applicable to both that court and the 129th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.232. 130TH JUDICIAL DISTRICT (MATAGORDA COUNTY). (a) The 130th Judicial District is composed of Matagorda County.

(b) The terms of the 130th District Court begin on the first Mondays in March and September and are designated as the March-August and September-February terms.

(c) Section 24.124, relating to the 23rd District Court, contains provisions applicable to both that court and the 130th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.233. 131ST JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 131st Judicial District is composed of Bexar County.

(b) Section 24.139, relating to the 37th District Court, contains provisions applicable to both that court and the 131st District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.234. 132ND JUDICIAL DISTRICT (BORDEN AND SCURRY COUNTIES). (a) The 132nd Judicial District is composed of Borden and Scurry counties.

(b) The terms of the 132nd District Court begin:

(1) in Borden County on the first Mondays in January, March, May, July, September, and November; and

(2) in Scurry County on the first Mondays in February, April, June, August, October, and December.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.235. 133RD JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 133rd Judicial District is composed of Harris County.

(b) Section 24.112, relating to the 11th District Court, contains provisions applicable to both that court and the 133rd District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.236. 134TH JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 134th Judicial District is composed of Dallas County.

(b) The terms of the 134th District Court begin on the first Mondays in January and July.

(c) Section 24.115, relating to the 14th District Court, contains provisions applicable to both that court and the 134th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.237. 135TH JUDICIAL DISTRICT (CALHOUN, DEWITT, GOLIAD, JACKSON, REFUGIO, AND VICTORIA COUNTIES). (a) The 135th Judicial District is composed of Calhoun, DeWitt, Goliad, Jackson, Refugio, and Victoria counties.

(b) The terms of the 135th District Court in each county of the district begin on the first Mondays in January and July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.238. 136TH JUDICIAL DISTRICT (JEFFERSON COUNTY). (a) The 136th Judicial District is composed of Jefferson County.

(b) The terms of the 136th District Court begin on the first Mondays in January and July. The terms are designated the January-June and July-December terms.

(c) The Jefferson County sheriff or the sheriff's deputy shall attend the court as required by law or by the judge.

(d) Section 24.160, relating to the 58th District Court, contains provisions applicable to both that court and the 136th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.239. 137TH JUDICIAL DISTRICT (LUBBOCK COUNTY). (a) The 137th Judicial District is composed of Lubbock County.

(b) The terms of the 137th District Court begin on the first Mondays in January and July.

(c) Section 24.174, relating to the 72nd District Court, contains provisions applicable to both that court and the 137th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.240. 138TH JUDICIAL DISTRICT (CAMERON COUNTY). (a) The 138th Judicial District is composed of Cameron County. The court shall give preference to criminal cases.

(b) The terms of the 138th District Court begin on the first Mondays in March, July, and November.

(c) The judge of the 138th District Court shall impanel grand juries at all times required by law.

(d) Section 24.205, relating to the 103rd District Court, contains provisions applicable to both that court and the 138th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 5(c), eff. September 1, 2005.

Sec. 24.241. 139TH JUDICIAL DISTRICT (HIDALGO COUNTY). (a) The 139th Judicial District is composed of Hidalgo County.

(b) The terms of the 139th District Court begin on the first Mondays in January and July.

(c) Section 24.194, relating to the 92nd District Court, contains provisions applicable to both that court and the 139th District Court.

(d) A party in a criminal case before the court may electronically file any required court document. The court shall implement the statewide electronic court filing system to assist a party in electronic filing.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 2(c), eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 541 (S.B. 1575), Sec. 2(3), eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 855 (H.B. 349), Sec. 3, eff. September 1, 2015.

Sec. 24.242. 140TH JUDICIAL DISTRICT (LUBBOCK COUNTY). (a) The 140th Judicial District is composed of Lubbock County.

(b) The terms of the 140th District Court begin on the first Mondays in January and July.

(c) Section 24.174, relating to the 72nd District Court, contains provisions applicable to both that court and the 140th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.243. 142ND JUDICIAL DISTRICT (MIDLAND COUNTY). (a) The 142nd Judicial District is composed of Midland County.

(b) The terms of the 142nd District Court begin on the first Mondays in January and July of each year.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 93, Sec. 1, eff. Jan. 1, 1996.

Sec. 24.244. 143RD JUDICIAL DISTRICT (LOVING, REEVES, AND WARD COUNTIES). (a) The 143rd Judicial District is composed of Loving, Reeves, and Ward counties.

(b) The terms of the 143rd District Court begin:

(1) in Loving County on the first Mondays in April and August and the third Monday in December;

(2) in Reeves County on the first Monday in January and the third Mondays in May, August, and October; and

(3) in Ward County on the third Monday in February, the first Monday in June, the third Monday in September, and the first Monday in December.

(c) The terms provided by Subsection (b) begin at 10 a.m. on the first day of the term.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.245. 144TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 144th Judicial District is composed of Bexar County.

(b) Section 24.139, relating to the 37th District Court, contains provisions applicable to both that court and the 144th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.246. 145TH JUDICIAL DISTRICT (NACOGDOCHES COUNTY). (a) The 145th Judicial District is composed of Nacogdoches County.

(b) The terms of the 145th District Court begin on the first Mondays in March and September.

(c) The judge may take a vacation and not attend court for four weeks in each year.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.247. 146TH JUDICIAL DISTRICT (BELL COUNTY). (a) The 146th Judicial District is composed of Bell County.

(b) The terms of the 146th District Court begin on the first Mondays in January, April, July, and October.

(c) Section 24.129, relating to the 27th District Court, contains provisions applicable to both that court and the 146th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.248. 147TH JUDICIAL DISTRICT (TRAVIS COUNTY). (a) The 147th Judicial District is composed of Travis County. The court shall give preference to criminal cases.

(b) The terms of the 147th District Court begin on the first Mondays in January and July.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 85, Sec. 4, eff. May 14, 2007.

(d) Section 24.155, relating to the 53rd District Court, contains provisions applicable to both that court and the 147th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 85 (S.B. 355), Sec. 2, eff. May 14, 2007.

Acts 2007, 80th Leg., R.S., Ch. 85 (S.B. 355), Sec. 4, eff. May 14, 2007.

Sec. 24.249. 150TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 150th Judicial District is composed of Bexar County.

(b) Section 24.139, relating to the 37th District Court, contains provisions applicable to both that court and the 150th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.250. 151ST JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 151st Judicial District is composed of Harris County.

(b) Section 24.112, relating to the 11th District Court, contains provisions applicable to both that court and the 151st District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.251. 152ND JUDICIAL DISTRICT (HARRIS COUNTY). (a) The

152nd Judicial District is composed of Harris County.

(b) Section 24.112, relating to the 11th District Court, contains provisions applicable to both that court and the 152nd District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.252. 153RD JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 153rd Judicial District is composed of Tarrant County.

(b) The terms of the 153rd District Court begin on the first Mondays in February, May, August, and November.

(c) The Tarrant County sheriff or the sheriff's deputy shall attend the court as required by law or by the judge.

(d) Section 24.118, relating to the 17th District Court, contains provisions applicable to both that court and the 153rd District Court.

(e) The 153rd District Court shall give preference to civil matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 580 (S.B. 2454), Sec. 5, eff. June 19, 2009.

Sec. 24.253. 154TH JUDICIAL DISTRICT (LAMB COUNTY). (a) The 154th Judicial District is composed of Lamb County.

(b) The terms of the 154th District Court begin on the first Mondays in January and July and are designated as the January and July terms.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.254. 155TH JUDICIAL DISTRICT (AUSTIN AND FAYETTE COUNTIES). (a) The 155th Judicial District is composed of Austin and Fayette counties.

(b) The sheriff of each county or the sheriff's deputy shall attend the court as required by law or by the judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 9(l), eff. September 1, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 1.02(a), eff. January 1, 2014.

Sec. 24.255. 156TH JUDICIAL DISTRICT (ARANSAS, BEE, LIVE OAK, MCMULLEN, AND SAN PATRICIO COUNTIES). (a) The 156th Judicial District is composed of Aransas, Bee, Live Oak, McMullen, and San Patricio counties.
(b) The terms of the 156th District Court in each county begin on the first Mondays in January and July.
(c) Section 24.138, relating to the 36th District Court, contains provisions applicable to both that court and the 156th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.256. 157TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 157th Judicial District is composed of Harris County.
(b) Section 24.112, relating to the 11th District Court, contains provisions applicable to both that court and the 157th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.257. 160TH JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 160th Judicial District is composed of Dallas County.
(b) The terms of the 160th District Court begin on the first Mondays in January and July.
(c) Section 24.115, relating to the 14th District Court, contains provisions applicable to both that court and the 160th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.258. 161ST JUDICIAL DISTRICT (ECTOR COUNTY). (a) The 161st Judicial District is composed of Ector County.

(b) The 161st District Court has concurrent jurisdiction with the other district courts in Ector County.

(c) The terms of the 161st District Court begin on the first Mondays in January and July.

(d) The Ector County sheriff or the sheriff's deputy shall attend the court as required by law or by the judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 880, Sec. 2, eff. Aug. 31, 1987.

Sec. 24.259. 162ND JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 162nd Judicial District is composed of Dallas County.

(b) The terms of the 162nd District Court begin on the first Mondays in January and July.

(c) Section 24.115, relating to the 14th District Court, contains provisions applicable to both that court and the 162nd District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.260. 163RD JUDICIAL DISTRICT (ORANGE COUNTY). (a) The 163rd Judicial District is composed of Orange County.

(b) The terms of the 163rd District Court begin on the first Mondays in January, May, and September.

(c) The Orange County sheriff or the sheriff's deputy shall attend the court as required by law or by the judge.

(d) Section 24.230, relating to the 128th District Court, contains provisions applicable to both that court and the 163rd District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.261. 164TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 164th Judicial District is composed of Harris County.

(b) Section 24.112, relating to the 11th District Court, contains provisions applicable to both that court and the 164th

District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.262. 165TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 165th Judicial District is composed of Harris County.

(b) Section 24.112, relating to the 11th District Court, contains provisions applicable to both that court and the 165th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.263. 166TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 166th Judicial District is composed of Bexar County.

(b) Section 24.139, relating to the 37th District Court, contains provisions applicable to both that court and the 166th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.264. 167TH JUDICIAL DISTRICT (TRAVIS COUNTY). (a) The 167th Judicial District is composed of Travis County.

(b) The terms of the 167th District Court begin on the first Mondays in January and July.

(c) Section 24.155, relating to the 53rd District Court, contains provisions applicable to both that court and the 167th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 85 (S.B. 355), Sec. 3, eff. May 14, 2007.

Sec. 24.265. 170TH JUDICIAL DISTRICT (MCLENNAN COUNTY). (a) The 170th Judicial District is composed of McLennan County.

(a-1) The 170th District Court has concurrent jurisdiction with the county court and the statutory county courts of McLennan County

in misdemeanor cases as well as the jurisdiction prescribed by general law for district courts.

(b) The terms of the 170th District Court begin on the second Mondays in February, April, June, August, October, and December.

(c) Section 24.120, relating to the 19th District Court, contains provisions applicable to both that court and the 170th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 848 (S.B. 2230), Sec. 4, eff. September 1, 2009.

Sec. 24.266. 171ST JUDICIAL DISTRICT (EL PASO COUNTY). (a) The 171st Judicial District is composed of El Paso County.

(b) The terms of the 171st District Court begin on the first Mondays in January and July.

(c) Section 24.136, relating to the 34th District Court, contains provisions applicable to both that court and the 171st District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.267. 174TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 174th Judicial District is composed of Harris County.

(b) Subsections (c), (e), and (f) apply to the 174th, 176th, 177th, 178th, and 179th district courts.

(c) Each of the district courts has concurrent jurisdiction with the other district courts in Harris County.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

(e) The judges of the district courts shall, by agreement among themselves, take their vacations alternately so that there are at all times at least six district court judges in the county.

(f) The Harris County sheriff or the sheriff's deputy shall attend the courts as required by law or by the judges.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.268. 175TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 175th Judicial District is composed of Bexar County.

(b) Section 24.139, relating to the 37th District Court, contains provisions applicable to both that court and the 175th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.269. 176TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 176th Judicial District is composed of Harris County.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

(c) Section 24.267, relating to the 174th District Court, contains provisions applicable to both that court and the 176th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.270. 177TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 177th Judicial District is composed of Harris County.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

(c) Section 24.267, relating to the 174th District Court, contains provisions applicable to both that court and the 177th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.271. 178TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 178th Judicial District is composed of Harris County.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

(c) Section 24.267, relating to the 174th District Court, contains provisions applicable to both that court and the 178th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.272. 179TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 179th Judicial District is composed of Harris County.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

(c) Section 24.267, relating to the 174th District Court, contains provisions applicable to both that court and the 179th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.273. 180TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 180th Judicial District is composed of Harris County.

(b) The 180th District Court has concurrent jurisdiction with the other district courts in Harris County.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.274. 186TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 186th Judicial District is composed of Bexar County.

(b) Section 24.139, relating to the 37th District Court, contains provisions applicable to both that court and the 186th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.275. 216TH JUDICIAL DISTRICT (GILLESPIE AND KERR COUNTIES). The 216th Judicial District is composed of Gillespie and Kerr counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 1.03(a), eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 2.02(a), eff. January 1, 2017.

Sec. 24.276. 229TH JUDICIAL DISTRICT (DUVAL, JIM HOGG, AND STARR COUNTIES). (a) The 229th Judicial District is composed of Duval, Jim Hogg, and Starr counties.

(b) The terms of the 229th District Court begin:

(1) in Duval County on the first Mondays in February and August;

(2) in Jim Hogg County on the first Mondays in June and December; and

(3) in Starr County on the first Mondays in April and October.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER C. JUDICIAL DISTRICTS ACT OF 1969

Sec. 24.301. APPLICATION OF SUBCHAPTER. Except as otherwise indicated by the context, this subchapter applies only to judicial districts listed in this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.306. JUVENILE BOARDS. The district judge of any district listed in this subchapter is a member of the juvenile board in each county within his district in which a juvenile board exists.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.310. SPECIAL DISTRICT COURTS. Each court listed in this subchapter that is directed to give preference to specific matters or types of cases shall participate in all matters relating to juries, grand juries, indictments, and docketing of cases in the same manner as the existing district courts that are similarly directed within that county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.351. JUDICIAL DISTRICT 1-A (JASPER, NEWTON, AND TYLER COUNTIES). (a) Judicial District 1-A is composed of Jasper, Newton, and Tyler counties.

(b) The jurisdiction of the court of Judicial District 1-A is concurrent with the jurisdiction of the other district courts in Jasper, Newton, and Tyler counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.352. 141ST JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 141st Judicial District is composed of Tarrant County.

(b) The 141st District Court shall give preference to civil matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 580 (S.B. 2454), Sec. 6, eff. June 19, 2009.

Sec. 24.353. 148TH JUDICIAL DISTRICT (NUECES COUNTY). (a) The

148th Judicial District is composed of Nueces County.

(b) The 148th District Court shall give first preference to family law matters and second preference to criminal cases.

(c) In addition to other jurisdiction provided by law, the 148th District Court has concurrent jurisdiction with the county courts at law in Nueces County to receive a guilty plea in a misdemeanor case pending in a county court at law in Nueces County and dispose of the case, regardless of whether the case is transferred to the district court. The judgment, order, or action of the district court is valid and binding as if the case were pending in the district court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 72 (H.B. 2913), Sec. 5, eff. May 17, 2005.

Sec. 24.354. 149TH JUDICIAL DISTRICT (BRAZORIA COUNTY). The 149th Judicial District is composed of Brazoria County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.355. 158TH JUDICIAL DISTRICT (DENTON COUNTY). The 158th Judicial District is composed of Denton County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.356. 159TH JUDICIAL DISTRICT (ANGELINA COUNTY). The 159th Judicial District is composed of Angelina County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.357. 168TH JUDICIAL DISTRICT (EL PASO COUNTY). (a) The 168th Judicial District is composed of El Paso County.

(b) Section 24.136, relating to the 34th District Court, contains provisions applicable to both that court and the 168th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.358. 169TH JUDICIAL DISTRICT (BELL COUNTY). (a) The 169th Judicial District is composed of Bell County.

(b) The terms of the 169th District Court begin on the first Mondays in January, April, July, and October.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.359. 172ND JUDICIAL DISTRICT (JEFFERSON COUNTY). The 172nd Judicial District is composed of Jefferson County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 24.360. 173RD JUDICIAL DISTRICT (HENDERSON COUNTY). The 173rd Judicial District is composed of Henderson County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.361. 181ST JUDICIAL DISTRICT (POTTER AND RANDALL COUNTIES). (a) The 181st Judicial District is composed of Potter and Randall counties.

(b) The 181st District Court may hear and determine, in any county in the district convenient for the court, all preliminary or interlocutory matters in which a jury may not be demanded, in any case pending in any county in the district regardless of whether the case was filed in the county in which the hearing is held. Unless there is an objection filed by a party to the suit, the 181st District Court may hear, in any county in the district convenient for the court, any nonjury case pending in any county in the district, including divorces, adoptions, default judgments, and matters in which citation was by publication, regardless of whether the case was filed in the county in which the hearing is held.

(c) Section 24.149, relating to the 47th District Court,

contains provisions applicable to both that court and the 181st District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.362. 182ND JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 182nd Judicial District is composed of Harris County.

(b) The 182nd District Court shall give preference to criminal cases.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.363. 183RD JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 183rd Judicial District is composed of Harris County.

(b) The 183rd District Court shall give preference to criminal cases.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.364. 184TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 184th Judicial District is composed of Harris County.

(b) The 184th District Court shall give preference to criminal cases.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.365. 185TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 185th Judicial District is composed of Harris County.

(b) The 185th District Court shall give preference to criminal cases.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.366. 187TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 187th Judicial District is composed of Bexar County.

(b) The 187th District Court shall give preference to criminal cases.

(c) Repealed by Acts 1997, 74th Leg., ch. 497, Sec. 3, eff. Sept. 1, 1997.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 497, Sec. 3, eff. Sept. 1, 1997.

Sec. 24.367. 188TH JUDICIAL DISTRICT (GREGG COUNTY). The 188th Judicial District is composed of Gregg County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.368. 189TH JUDICIAL DISTRICT (HARRIS COUNTY). The 189th Judicial District is composed of Harris County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.369. 190TH JUDICIAL DISTRICT (HARRIS COUNTY). The

190th Judicial District is composed of Harris County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.370. 191ST JUDICIAL DISTRICT (DALLAS COUNTY). The 191st Judicial District is composed of Dallas County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.371. 192ND JUDICIAL DISTRICT (DALLAS COUNTY). The 192nd Judicial District is composed of Dallas County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.372. 193RD JUDICIAL DISTRICT (DALLAS COUNTY). The 193rd Judicial District is composed of Dallas County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.373. 194TH JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 194th Judicial District is composed of Dallas County.

(b) The 194th District Court shall give preference to criminal cases.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.374. 195TH JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 195th Judicial District is composed of Dallas County.

(b) The 195th District Court shall give preference to criminal cases.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.375. 196TH JUDICIAL DISTRICT (HUNT COUNTY). The 196th Judicial District is composed of Hunt County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.376. 197TH JUDICIAL DISTRICT (CAMERON AND WILLACY COUNTIES). (a) The 197th Judicial District is composed of Cameron and Willacy counties.

(b) The 197th District Court shall give preference to criminal cases.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.377. 198TH JUDICIAL DISTRICT (BANDERA AND KERR COUNTIES). (a) The 198th Judicial District is composed of Bandera and Kerr Counties.

(b) The judge of the 198th District Court may impanel grand juries in each county. The judge of the 198th District Court may alternate the drawing of grand juries with the judge of any other district court in each county within the judge's district and may order grand and petit juries to be drawn for any term of the judge's court as in the judge's judgment is necessary, by an order entered in the minutes of the court. Indictments within each county may be returned to either court within that county.

(c) In addition to the requirements under Article 59.06, Code of Criminal Procedure, the district attorney for the 198th Judicial District may use proceeds from the sale of forfeited property, after the deduction of amounts described by Article 59.06(a), Code of Criminal Procedure, for the official purposes of the office of the district attorney only on the approval of:

(1) the commissioners court of each county in the judicial district; or

(2) a regional review committee composed of three members who are a county judge, a county attorney, a county commissioner or a county sheriff, each appointed by the member of the house of representatives of this state who represents the counties in the judicial district.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 623, Sec. 2, eff. Sept. 1, 1999. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 852 (H.B. 3796), Sec. 2, eff.

September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 852 (H.B. 3796), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1321 (S.B. 316), Sec. 4, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 1.03(b), eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 929 (H.B. 2150), Sec. 14, eff. September 1, 2015.

Sec. 24.378. 199TH JUDICIAL DISTRICT (COLLIN COUNTY). The 199th Judicial District is composed of Collin County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.379. 200TH JUDICIAL DISTRICT (TRAVIS COUNTY). The 200th Judicial District is composed of Travis County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.380. 201ST JUDICIAL DISTRICT (TRAVIS COUNTY). The 201st Judicial District is composed of Travis County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.381. 202ND JUDICIAL DISTRICT (BOWIE COUNTY). (a) The 202nd Judicial District is composed of Bowie County.

(b) The 202nd District Court shall give preference to criminal cases.

(c) The jurisdiction of the 202nd District Court in Bowie County is concurrent and coextensive with the 5th and 102nd district courts.

(d) The terms of the 202nd District Court begin on the first Mondays in January and July. During each term of court in Bowie County, the court may sit in Texarkana to try, hear, and determine any civil nonjury case, may hear and determine motions, agreements, and other nonjury civil matters that come before the court, and may

hear and determine any criminal nonjury matters, including pleas of guilty, both felony and misdemeanor, when a jury has been waived. This subsection does not limit the court's power to hear those matters in Boston.

(e) The clerk of the district court of Bowie County serves as the clerk of the 202nd District Court. The district clerk of Bowie County or his deputy shall serve the court when it is sitting in Texarkana and may transfer all necessary books, minutes, and records to Texarkana while the court is in session there, and may transfer all necessary books, minutes, records, and papers from Texarkana to Boston at the end of each session in Texarkana.

(f) The sheriff of Bowie County or his deputy shall attend the court while it is sitting in Texarkana and shall perform the duties required by law or under the order of the court.

(g) Section 24.105, relating to the 5th District Court, contains provisions applicable to both that court and the 202nd District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1012, Sec. 3, eff. Sept. 1, 1997.

Sec. 24.382. 203RD JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 203rd Judicial District is composed of Dallas County.

(b) The 203rd District Court shall give preference to criminal cases.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.383. 204TH JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 204th Judicial District is composed of Dallas County.

(b) The 204th District Court shall give preference to criminal cases.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.384. 205TH JUDICIAL DISTRICT (CULBERSON, EL PASO, AND HUDSPETH COUNTIES). (a) The 205th Judicial District is composed of Culberson, El Paso, and Hudspeth counties.

(b) The 205th District Court shall give preference to criminal cases.

(c) Section 24.136, relating to the 34th District Court, contains provisions applicable to both that court and the 205th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.385. 206TH JUDICIAL DISTRICT (HIDALGO COUNTY). (a) The 206th Judicial District is composed of Hidalgo County.

(b) A party in a criminal case before the court may electronically file any required court document. The court shall implement the statewide electronic court filing system to assist a party in electronic filing.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 2(d), eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 541 (S.B. 1575), Sec. 2(4), eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 855 (H.B. 349), Sec. 4, eff. September 1, 2015.

Sec. 24.386. 207TH JUDICIAL DISTRICT (CALDWELL, COMAL, AND HAYS COUNTIES). (a) The 207th Judicial District is composed of Caldwell, Comal, and Hays counties.

(b) The 207th District Court has the same jurisdiction in Comal County as the 22nd District Court has in Comal County and shall give preference to criminal cases in Caldwell, Comal, and Hays counties.

(c) Repealed by Acts 2003, 78th Leg., ch. 26, Sec. 2, eff. Sept. 1, 2003.

(d) The terms of the 207th District Court begin:

(1) in Hays County on the first Mondays in February and August;

(2) in Caldwell County on the first Mondays in March and September; and

(3) in Comal County on the first Mondays in January and July.

(e) Section 24.123, relating to the 22nd District Court, contains provisions applicable to both that court and the 207th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., ch. 26, Sec. 2, eff. Sept. 1, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 3(a), eff. September 1, 2005.

Sec. 24.387. 208TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 208th Judicial District is composed of Harris County.
(b) The 208th District Court shall give preference to criminal cases.
(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.388. 209TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 209th Judicial District is composed of Harris County.
(b) The 209th District Court shall give preference to criminal cases.
(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.389. 210TH JUDICIAL DISTRICT (EL PASO COUNTY). (a) The 210th Judicial District is composed of El Paso County.
(b) Section 24.136, relating to the 34th District Court, contains provisions applicable to both that court and the 210th

District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 704, Sec. 19, eff. Sept. 1, 1995.

Sec. 24.390. 211TH JUDICIAL DISTRICT (DENTON COUNTY). The 211th Judicial District is composed of Denton County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.391. 212TH JUDICIAL DISTRICT (GALVESTON COUNTY). (a) The 212th Judicial District is composed of Galveston County.

(b) Section 24.111, relating to the 10th District Court, contains provisions applicable to both that court and the 212th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.392. 213TH JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 213th Judicial District is composed of Tarrant County.

(b) The 213th District Court shall give preference to criminal cases.

(c) The terms of the 213th District Court begin on the first Mondays in January, April, July, and October.

(d) In addition to other jurisdiction provided by law, the 213th District Court has concurrent original jurisdiction with the county criminal courts in Tarrant County over misdemeanor cases.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., ch. 21, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.002, eff. September 1, 2023.

Sec. 24.393. 214TH JUDICIAL DISTRICT (NUECES COUNTY). (a) The 214th Judicial District is composed of Nueces County.

(b) The 214th District Court shall give preference to criminal

cases.

(c) In addition to other jurisdiction provided by law, the 214th District Court has concurrent jurisdiction with the county courts at law in Nueces County to receive a guilty plea in a misdemeanor case pending in a county court at law in Nueces County and dispose of the case, regardless of whether the case is transferred to the district court. The judgment, order, or action of the district court is valid and binding as if the case were pending in the district court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 72 (H.B. 2913), Sec. 6, eff. May 17, 2005.

Sec. 24.394. 215TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 215th Judicial District is composed of Harris County.

(b) The 215th District Court shall give preference to civil matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.395. 217TH JUDICIAL DISTRICT (ANGELINA COUNTY). The 217th Judicial District is composed of Angelina County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.396. 218TH JUDICIAL DISTRICT (ATASCOSA, FRIO, KARNES, LASALLE, AND WILSON COUNTIES). (a) The 218th Judicial District is composed of Atascosa, Frio, Karnes, LaSalle, and Wilson counties.

(b) The judge of the 218th District Court may impanel grand juries in each county in the district but is not required to impanel a grand jury in any county except when the judge considers it necessary. The judge may alternate the impaneling of grand juries in each county with the judge of any other district court in that county, or the judges may by agreement determine which one of the courts will impanel the grand juries. Indictments within each county may be returned to any district court within that county. All grand

and petit juries drawn for one district court in each county are interchangeable with any other district court in that county as if the jury had been drawn for the court in which it is used.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 929 (H.B. 2150), Sec. 15, eff. September 1, 2015.

Sec. 24.397. 219TH JUDICIAL DISTRICT (COLLIN COUNTY). The 219th Judicial District is composed of Collin County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.398. 220TH JUDICIAL DISTRICT (BOSQUE, COMANCHE, AND HAMILTON COUNTIES). The 220th Judicial District is composed of Bosque, Comanche, and Hamilton counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.399. 221ST JUDICIAL DISTRICT (MONTGOMERY COUNTY). The 221st Judicial District is composed of Montgomery County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.400. 222ND JUDICIAL DISTRICT (DEAF SMITH AND OLDHAM COUNTIES). The 222nd Judicial District is composed of Deaf Smith and Oldham counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.401. 223RD JUDICIAL DISTRICT (GRAY COUNTY). The 223rd Judicial District is composed of Gray County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.402. 224TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 224th Judicial District is composed of Bexar County.

(b) The 224th District Court shall give preference to civil cases.

(c) Section 24.139, relating to the 37th District Court, contains provisions applicable to all the district courts in Bexar County. To the extent that this subchapter is inconsistent with those provisions, Section 24.139 prevails.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.403. 225TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 225th Judicial District is composed of Bexar County.

(b) The 225th District Court shall give preference to civil cases and to cases and proceedings under Title 2 or 5, Family Code.

(c) Section 24.139, relating to the 37th District Court, contains provisions applicable to all the district courts in Bexar County. To the extent that this subchapter is inconsistent with those provisions, Section 24.139 prevails.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 507, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 7.25, eff. Sept. 1, 1997.

Sec. 24.404. 226TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 226th Judicial District is composed of Bexar County.

(b) The 226th District Court shall give preference to criminal cases.

(c) Repealed by Acts 1997, 74th Leg., ch. 497, Sec. 3, eff. Sept. 1, 1997.

(d) Section 24.139, relating to the 37th District Court, contains provisions applicable to all the district courts in Bexar County. To the extent that this subchapter is inconsistent with those provisions, Section 24.139 prevails.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 497, Sec. 3, eff. Sept. 1, 1997.

Sec. 24.405. 227TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 227th Judicial District is composed of Bexar County.

(b) The 227th District Court shall give preference to criminal cases.

(c) Repealed by Acts 1997, 74th Leg., ch. 497, Sec. 3, eff. Sept. 1, 1997.

(d) Section 24.139, relating to the 37th District Court, contains provisions applicable to all the district courts in Bexar County. To the extent that this subchapter is inconsistent with those provisions, Section 24.139 prevails.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 497, Sec. 3, eff. Sept. 1, 1997.

Sec. 24.406. 228TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 228th Judicial District is composed of Harris County.

(b) The 228th District Court shall give preference to criminal cases.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.407. 230TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 230th Judicial District is composed of Harris County.

(b) The 230th District Court shall give preference to criminal cases.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.408. 231ST JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 231st Judicial District is composed of Tarrant County.

(b) The 231st District Court shall give preference to family law matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.409. 232ND JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 232nd Judicial District is composed of Harris County.

(b) The 232nd District Court shall give preference to criminal cases.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.410. 233RD JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 233rd Judicial District is composed of Tarrant County.

(b) The 233rd District Court shall give preference to family law matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.411. 234TH JUDICIAL DISTRICT (HARRIS COUNTY). The 234th Judicial District is composed of Harris County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.412. 235TH JUDICIAL DISTRICT (COOKE COUNTY). The 235th Judicial District is composed of Cooke County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.413. 236TH JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 236th Judicial District is composed of Tarrant County.

(b) The 236th District Court shall give preference to civil matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 580 (S.B. 2454), Sec. 7, eff. June 19, 2009.

Sec. 24.414. 237TH JUDICIAL DISTRICT (LUBBOCK COUNTY). The 237th Judicial District is composed of Lubbock County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.415. 238TH JUDICIAL DISTRICT (MIDLAND COUNTY). The 238th Judicial District is composed of Midland County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.416. 239TH JUDICIAL DISTRICT (BRAZORIA COUNTY). The 239th Judicial District is composed of Brazoria County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.417. 240TH JUDICIAL DISTRICT (FORT BEND COUNTY). The 240th Judicial District is composed of Fort Bend County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.418. 241ST JUDICIAL DISTRICT (SMITH COUNTY). The 241st Judicial District is composed of Smith County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.419. 242ND JUDICIAL DISTRICT (CASTRO, HALE, AND SWISHER

COUNTIES). The 242nd Judicial District is composed of Castro, Hale, and Swisher counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.420. 243RD JUDICIAL DISTRICT (EL PASO COUNTY). (a) The 243rd Judicial District is composed of El Paso County.

(b) Section 24.136, relating to the 34th District Court, contains provisions applicable to both that court and the 243rd District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.421. 244TH JUDICIAL DISTRICT (ECTOR COUNTY). The 244th Judicial District is composed of Ector County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.422. 245TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 245th Judicial District is composed of Harris County.

(b) The 245th District Court shall give preference to family law matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.423. 246TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 246th Judicial District is composed of Harris County.

(b) The 246th District Court shall give preference to family law matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.424. 247TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 247th Judicial District is composed of Harris County.

(b) The 247th District Court shall give preference to family law matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.425. 248TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 248th Judicial District is composed of Harris County.

(b) The 248th District Court shall give preference to criminal cases.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.426. 249TH JUDICIAL DISTRICT (JOHNSON AND SOMERVELL COUNTIES). The 249th Judicial District is composed of Johnson and Somervell counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.427. 250TH JUDICIAL DISTRICT (TRAVIS COUNTY). The 250th Judicial District is composed of Travis County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.428. 251ST JUDICIAL DISTRICT (POTTER AND RANDALL COUNTIES). (a) The 251st Judicial District is composed of Potter and Randall counties.

(b) The 251st District Court may hear and determine, in any county in the district convenient for the court, all preliminary or interlocutory matters in which a jury may not be demanded, in any case pending in any county in the district regardless of whether the case was filed in the county in which the hearing is held. Unless there is an objection filed by a party to the suit, the 251st District Court may hear, in any county in the district convenient for the court, any nonjury case pending in any county in the district, including divorces, adoptions, default judgments, and matters in

which citation was by publication, regardless of whether the case was filed in the county in which the hearing is held.

(c) Section 24.149, relating to the 47th District Court, contains provisions applicable to both that court and the 251st District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.429. 252ND JUDICIAL DISTRICT (JEFFERSON COUNTY). (a) The 252nd Judicial District is composed of Jefferson County.

(b) The 252nd District Court shall give preference to criminal cases.

(c) The terms of the 252nd District Court begin on the first Mondays in January, April, July, and October. Each term continues until the term ends by operation of law or the court has disposed of the business for that term.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.430. 253RD JUDICIAL DISTRICT (CHAMBERS AND LIBERTY COUNTIES). (a) The 253rd Judicial District is composed of Chambers and Liberty counties.

(b) The terms of the 253rd District Court begin in Liberty County on the first Mondays in April and October and in Chambers County on the first Mondays in June and December.

(c) Section 24.490, relating to the 344th District Court, contains provisions applicable to both that court and the 253rd District Court in Chambers County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 607 (S.B. 643), Sec. 1, eff. June 16, 2015.

Sec. 24.431. 254TH JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 254th Judicial District is composed of Dallas County.

(b) The 254th District Court shall give preference to family law matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.432. 255TH JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 255th Judicial District is composed of Dallas County.

(b) The 255th District Court shall give preference to family law matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.433. 256TH JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 256th Judicial District is composed of Dallas County.

(b) The 256th District Court shall give preference to family law matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.434. 257TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 257th Judicial District is composed of Harris County.

(b) The 257th District Court shall give preference to family law matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.435. 258TH JUDICIAL DISTRICT (POLK, SAN JACINTO, AND TRINITY COUNTIES). (a) The 258th Judicial District is composed of Polk, San Jacinto, and Trinity counties.

(b) The 258th District Court has concurrent jurisdiction in Polk County with the county court over all misdemeanor cases over which the county court has jurisdiction under the constitution and laws of this state. Cases in the concurrent misdemeanor jurisdiction may be filed in either court, and all cases of concurrent misdemeanor jurisdiction may be transferred between the 258th District Court and the county court. A case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred, and a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.436. 259TH JUDICIAL DISTRICT (JONES AND SHACKELFORD COUNTIES). (a) The 259th Judicial District is composed of Jones and Shackelford counties.

(b) In addition to the jurisdiction prescribed by the constitution and general laws of the state for district courts, the 259th District Court in Jones and Shackelford counties has all original and appellate civil and criminal jurisdiction normally exercised by county courts under the constitution and general laws of this state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.437. 260TH JUDICIAL DISTRICT (ORANGE COUNTY). The 260th Judicial District is composed of Orange County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.438. 261ST JUDICIAL DISTRICT (TRAVIS COUNTY). The 261st Judicial District is composed of Travis County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.439. 262ND JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 262nd Judicial District is composed of Harris County.

(b) The 262nd District Court shall give preference to criminal cases.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.440. 263RD JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 263rd Judicial District is composed of Harris County.

(b) The 263rd District Court shall give preference to criminal cases.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.441. 264TH JUDICIAL DISTRICT (BELL COUNTY). The 264th Judicial District is composed of Bell County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.442. 265TH JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 265th Judicial District is composed of Dallas County.

(b) The 265th District Court shall give preference to criminal cases.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.443. 266TH JUDICIAL DISTRICT (ERATH COUNTY). The 266th Judicial District is composed of Erath County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.444. 267TH JUDICIAL DISTRICT (CALHOUN, DEWITT, GOLIAD, JACKSON, REFUGIO, AND VICTORIA COUNTIES). The 267th Judicial District is composed of Calhoun, DeWitt, Goliad, Jackson, Refugio, and Victoria counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.445. 268TH JUDICIAL DISTRICT (FORT BEND COUNTY). The 268th Judicial District is composed of Fort Bend County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.446. 269TH JUDICIAL DISTRICT (HARRIS COUNTY). The 269th Judicial District is composed of Harris County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.447. 270TH JUDICIAL DISTRICT (HARRIS COUNTY). The 270th Judicial District is composed of Harris County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.448. 271ST JUDICIAL DISTRICT (JACK AND WISE COUNTIES). The 271st Judicial District is composed of Jack and Wise counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.449. 272ND JUDICIAL DISTRICT (BRAZOS COUNTY). (a) The 272nd Judicial District is composed of Brazos County.

(b) The 272nd District Court has concurrent jurisdiction with the statutory county courts of Brazos County in misdemeanor cases as well as the jurisdiction prescribed by general law for district courts.

(c) The terms of the 272nd District Court begin on the first Mondays in April and October.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 280, Sec. 2, eff. Sept. 1, 2001.

Sec. 24.450. 273RD JUDICIAL DISTRICT (SABINE, SAN AUGUSTINE, AND SHELBY COUNTIES). (a) The 273rd Judicial District is composed of Sabine, San Augustine, and Shelby counties.

(b) The jurisdiction of the 273rd District Court is concurrent

with the jurisdiction of the other district courts in Sabine, San Augustine, and Shelby counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 24.451. 274TH JUDICIAL DISTRICT (COMAL, GUADALUPE, AND HAYS COUNTIES). (a) The 274th Judicial District is composed of Comal, Guadalupe, and Hays counties.

(b) The terms of the 274th District Court begin on the second Tuesdays in February and August in Comal County, on the second Tuesdays in May and November in Guadalupe County, and on the second Tuesdays in June and December in Hays County.

(c) The 274th District Court has the same jurisdiction as the 22nd and the 207th district courts in Comal and Hays counties and concurrent jurisdiction with the 25th and Second 25th district courts in Guadalupe County.

(d) Section 24.123, relating to the 22nd District Court, contains provisions applicable to both that court and the 274th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., ch. 26, Sec. 1, eff. Sept. 1, 2003.

Sec. 24.452. 275TH JUDICIAL DISTRICT (HIDALGO COUNTY). (a) The 275th Judicial District is composed of Hidalgo County.

(b) A party in a criminal case before the court may electronically file any required court document. The court shall implement the statewide electronic court filing system to assist a party in electronic filing.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 2(e), eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 541 (S.B. 1575), Sec. 2(5), eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 855 (H.B. 349), Sec. 5, eff. September 1, 2015.

Sec. 24.453. 276TH JUDICIAL DISTRICT (CAMP, MARION, MORRIS, AND TITUS COUNTIES). (a) The 276th Judicial District is composed of Camp, Marion, Morris, and Titus counties.

(b) The terms of the 276th District Court begin:

(1) in Marion County on the first Mondays in January, May, and July;

(2) in Morris County on the first Mondays in February, March, and September;

(3) in Titus County on the first Mondays in April, June, and November; and

(4) in Camp County on the first Mondays in October and December.

(c) The jurisdiction of the 276th District Court is concurrent with the jurisdiction of the 115th District Court in Marion County and with the 76th District Court in Camp, Morris, and Titus counties.

(d) The 276th District Court has concurrent jurisdiction with the county courts in Camp, Marion, and Morris counties over all matters of criminal jurisdiction, original and appellate, in cases over which the particular county court has jurisdiction under the constitution and laws of this state. In each of the counties, matters and proceedings in the concurrent jurisdiction may be transferred between the 276th District Court and the county court.

(e) Section 24.178, relating to the 76th District Court, has provisions applicable to both that court and the 276th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.454. 277TH JUDICIAL DISTRICT (WILLIAMSON COUNTY). (a) The 277th Judicial District is composed of Williamson County.

(b) The terms of the 277th District Court begin on the first Mondays in January and July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 530, Sec. 2, eff. June 15, 1991; Acts 1995, 74th Leg., ch. 363, Sec. 1, eff. Aug. 28, 1995.

Sec. 24.455. 278TH JUDICIAL DISTRICT (LEON, MADISON, AND WALKER COUNTIES). The 278th Judicial District is composed of Leon, Madison, and Walker counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 9(f), eff. September 1, 2008.

Sec. 24.456. 279TH JUDICIAL DISTRICT (JEFFERSON COUNTY). (a) The 279th Judicial District is composed of Jefferson County.
(b) The 279th District Court shall give preference to family law matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.457. 280TH JUDICIAL DISTRICT (HARRIS COUNTY). The 280th Judicial District is composed of Harris County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.458. 281ST JUDICIAL DISTRICT (HARRIS COUNTY). The 281st Judicial District is composed of Harris County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.459. 282ND JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 282nd Judicial District is composed of Dallas County.
(b) The 282nd District Court shall give preference to criminal cases.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.460. 283RD JUDICIAL DISTRICT (DALLAS COUNTY). (a) The

283rd Judicial District is composed of Dallas County.

(b) The 283rd District Court shall give preference to criminal cases.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.461. 284TH JUDICIAL DISTRICT (MONTGOMERY COUNTY). The 284th Judicial District is composed of Montgomery County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.462. 285TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 285th Judicial District is composed of Bexar County.

(b) The 285th District Court shall give preference to civil cases.

(c) Section 24.139, relating to the 37th District Court, contains provisions applicable to all the district courts in Bexar County. To the extent that this subchapter is inconsistent with those provisions, Section 24.139 prevails.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.463. 286TH JUDICIAL DISTRICT (COCHRAN AND HOCKLEY COUNTIES). The 286th Judicial District is composed of Cochran and Hockley counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.464. 287TH JUDICIAL DISTRICT (BAILEY AND PARMER COUNTIES). (a) The 287th Judicial District is composed of Bailey and Parmer counties.

(b) The terms of the 287th District Court begin in Bailey County on the first Mondays in February and August and in Parmer County on the first Mondays in March and September.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.465. 288TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 288th Judicial District is composed of Bexar County.

(b) The 288th District Court shall give preference to civil cases.

(c) Section 24.139, relating to the 37th District Court, contains provisions applicable to all the district courts in Bexar County. To the extent that this subchapter is inconsistent with those provisions, Section 24.139 prevails.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.466. 289TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 289th Judicial District is composed of Bexar County.

(b) The 289th District Court shall give primary preference to juvenile matters under Title 3, Family Code, and secondary preference to criminal cases.

(c) The terms of the 289th District Court begin on the first Mondays in January and July. Each term continues until the court has disposed of the business for that term.

(d) Section 24.139, relating to the 37th District Court, contains provisions applicable to all the district courts in Bexar County. To the extent that this subchapter is inconsistent with those provisions, Section 24.139 prevails.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.13(a), eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 165, Sec. 7.26, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 497, Sec. 2, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 165 (H.B. 2936), Sec. 2, eff. September 1, 2011.

Sec. 24.467. 290TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 290th Judicial District is composed of Bexar County.

(b) The 290th District Court shall give preference to criminal cases.

(c) Repealed by Acts 1997, 74th Leg., ch. 497, Sec. 3, eff. Sept. 1, 1997.

(d) Section 24.139, relating to the 37th District Court,

contains provisions applicable to all the district courts in Bexar County. To the extent that this subchapter is inconsistent with those provisions, Section 24.139 prevails.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 497, Sec. 3, eff. Sept. 1, 1997.

Sec. 24.468. 291ST JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 291st Judicial District is composed of Dallas County.

(b) The 291st District Court shall give preference to criminal cases.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.469. 292ND JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 292nd Judicial District is composed of Dallas County.

(b) The 292nd District Court shall give preference to criminal cases.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.470. 293RD JUDICIAL DISTRICT (DIMMIT, MAVERICK, AND ZAVALA COUNTIES). The 293rd Judicial District is composed of Dimmit, Maverick, and Zavala counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.471. 294TH JUDICIAL DISTRICT (VAN ZANDT COUNTY). (a) The 294th Judicial District is composed of Van Zandt County.

(b) The 294th District Court has concurrent jurisdiction with the county court in Van Zandt County over all matters of civil and criminal jurisdiction, original and appellate, in cases over which the county court has jurisdiction under the constitution and laws of this state. Matters and proceedings in the concurrent jurisdiction of the 294th District Court and the county court may be filed in either court and all cases of concurrent jurisdiction may be transferred between the 294th District Court and the county court.

However, a case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred, and a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1337, Sec. 13, eff. Sept. 1, 1999.

Sec. 24.472. 295TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 295th Judicial District is composed of Harris County.

(b) The 295th District Court shall give preference to civil matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.473. 296TH JUDICIAL DISTRICT (COLLIN COUNTY). The 296th Judicial District is composed of Collin County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.474. 297TH JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 297th Judicial District is composed of Tarrant County.

(b) The 297th District Court shall give preference to criminal cases.

(c) The terms of the 297th District Court begin on the first Mondays in January, April, July, and October.

(d) In addition to other jurisdiction provided by law, the 297th District Court has concurrent original jurisdiction with the county criminal courts in Tarrant County over misdemeanor cases.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., ch. 21, Sec. 2, eff. Sept. 1, 2003.

Sec. 24.475. 298TH JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 298th Judicial District is composed of Dallas County.

(b) The 298th District Court shall give preference to civil matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.476. 299TH JUDICIAL DISTRICT (TRAVIS COUNTY). The 299th Judicial District is composed of Travis County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.477. 331ST JUDICIAL DISTRICT (TRAVIS COUNTY). The 331st Judicial District is composed of Travis County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.478. 332ND JUDICIAL DISTRICT (HIDALGO COUNTY). (a) The 332nd Judicial District is composed of Hidalgo County.

(b) A party in a criminal case before the court may electronically file any required court document. The court shall implement the statewide electronic court filing system to assist a party in electronic filing.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 2(f), eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 541 (S.B. 1575), Sec. 2(6), eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 855 (H.B. 349), Sec. 6, eff. September 1, 2015.

Sec. 24.479. 333RD JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 333rd Judicial District is composed of Harris County.

(b) The 333rd District Court shall give preference to civil matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.480. 334TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The

334th Judicial District is composed of Harris County.

(b) The 334th District Court shall give preference to civil matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.481. 335TH JUDICIAL DISTRICT (BASTROP, BURLESON, LEE, AND WASHINGTON COUNTIES). The 335th Judicial District is composed of Bastrop, Burleson, Lee, and Washington counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.482. 336TH JUDICIAL DISTRICT (FANNIN COUNTY). The 336th Judicial District is composed of Fannin County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.14(a), eff. Sept. 1, 1987.
Amended by:

Acts 2005, 79th Leg., Ch. 610 (H.B. 2174), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 1(e), eff. January 1, 2010.

Sec. 24.483. 337TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 337th Judicial District is composed of Harris County.

(b) The 337th District Court shall give preference to criminal cases.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.484. 338TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 338th Judicial District is composed of Harris County.

(b) The 338th District Court shall give preference to criminal cases.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.485. 339TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 339th Judicial District is composed of Harris County.

(b) The 339th District Court shall give preference to criminal cases.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.486. 340TH JUDICIAL DISTRICT (TOM GREEN COUNTY). (a) The 340th Judicial District is composed of Tom Green County.

(b) The terms of the 340th District Court begin on the first Mondays in March and September.

(c) Indictments within Tom Green County issued by any district court in the county may be returned to the 340th District Court.

(d) Section 24.153, relating to the 51st District Court, contains provisions applicable to both that court and the 340th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.487. 341ST JUDICIAL DISTRICT (WEBB COUNTY). (a) The 341st Judicial District is composed of Webb County.

(b) The judge of the 341st District Court may impanel grand juries in Webb County. The judge of the 341st District Court may

alternate the drawing of grand juries with the judge of any other district court in the county. By order entered on the minutes, for any term that the judge considers it necessary, the judge may order grand and petit juries to be drawn.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 954, Sec. 2, eff. September 1, 2007.

(d) A criminal complaint may be presented to the grand jury of any district court in Webb County, and a resulting indictment may be returned to any other district court in Webb County with the appropriate criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 1(b), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 954 (H.B. 4037), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 750 (H.B. 1314), Sec. 3, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 929 (H.B. 2150), Sec. 16, eff. September 1, 2015.

Sec. 24.488. 342ND JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 342nd Judicial District is composed of Tarrant County.

(b) The 342nd District Court shall give preference to civil matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.489. 343RD JUDICIAL DISTRICT (ARANSAS, BEE, LIVE OAK, MCMULLEN, AND SAN PATRICIO COUNTIES). (a) The 343rd Judicial District is composed of Aransas, Bee, Live Oak, McMullen, and San Patricio counties.

(b) Section 24.138, relating to the 36th District Court, contains provisions applicable to both that court and the 343rd District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.490. 344TH JUDICIAL DISTRICT (CHAMBERS COUNTY). (a) The 344th Judicial District is composed of Chambers County.

(b) The terms of court of the 344th District Court begin on the first Mondays in June and December of each year.

(c) The 344th District Court has concurrent jurisdiction over all matters of civil and criminal jurisdiction, original and appellate, in cases over which the county court has jurisdiction under the constitution and laws of this state. Matters and proceedings in the concurrent jurisdiction of the 344th District Court and the county court shall be filed in the county court, and all cases of concurrent jurisdiction may be transferred between the 344th District Court and the county court. A case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred, and a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(d) Notwithstanding Section 24.030, a district court in Chambers County may sit in a suitable facility outside the county seat if the facility is designated by the commissioners court as an auxiliary county seat, as provided by Section 292.031, Local Government Code.

(e) A district court in Chambers County sitting in an auxiliary court facility designated by the commissioners court as an auxiliary county seat may hear, in all case types, the motions, arguments, nonjury trials and jury trials, and any other matters before the court within the court's jurisdiction.

(f) The district clerk or the clerk's deputy serves as clerk of the court when a district court sits in a facility designated as an auxiliary county seat and may keep all necessary books, minutes, records, and papers at the facility.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.15(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 148, Sec. 1, eff. May 25, 1989.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 607 (S.B. 643), Sec. 2, eff. June 16, 2015.

Sec. 24.491. 345TH JUDICIAL DISTRICT (TRAVIS COUNTY). (a) The

345th Judicial District is composed of Travis County.

(b) The 345th District Court shall give preference to civil matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.492. 346TH JUDICIAL DISTRICT (EL PASO COUNTY). (a) The 346th Judicial District is composed of El Paso County.

(b) Section 24.136, relating to the 34th District Court, contains provisions applicable to both that court and the 346th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.493. 347TH JUDICIAL DISTRICT (NUECES COUNTY). (a) The 347th Judicial District is composed of Nueces County.

(b) In addition to other jurisdiction provided by law, the 347th District Court has concurrent jurisdiction with the county courts at law in Nueces County to receive a guilty plea in a misdemeanor case pending in a county court at law in Nueces County and dispose of the case, regardless of whether the case is transferred to the district court. The judgment, order, or action of the district court is valid and binding as if the case were pending in the district court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 72 (H.B. 2913), Sec. 7, eff. May 17, 2005.

Sec. 24.494. 348TH JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 348th Judicial District is composed of Tarrant County.

(b) The 348th District Court shall give preference to civil matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.495. 349TH JUDICIAL DISTRICT (ANDERSON AND HOUSTON COUNTIES). The 349th Judicial District is composed of Anderson and Houston counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.496. 350TH JUDICIAL DISTRICT (TAYLOR COUNTY). The 350th Judicial District is composed of Taylor County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.497. 351ST JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 351st Judicial District is composed of Harris County.

(b) The 351st District Court shall give preference to criminal cases.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 3, eff. September 1, 2017.

Sec. 24.498. 352ND JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 352nd Judicial District is composed of Tarrant County.

(b) The 352nd District Court shall give preference to civil matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.499. 353RD JUDICIAL DISTRICT (TRAVIS COUNTY). The 353rd Judicial District is composed of Travis County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.500. 354TH JUDICIAL DISTRICT (HUNT AND RAINS COUNTIES).

(a) The 354th Judicial District is composed of Hunt and Rains counties.

(b) Section 24.108, relating to the 8th District Court, contains provisions applicable to both that court and the 354th District Court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1124, Sec. 4, eff. June 20, 1987; Acts 1995, 74th Leg., ch. 704, Sec. 14, eff. Sept. 1, 1995.

Sec. 24.501. 355TH JUDICIAL DISTRICT (HOOD COUNTY). The 355th Judicial District is composed of Hood County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.502. 356TH JUDICIAL DISTRICT (HARDIN COUNTY). (a) The 356th Judicial District is composed of Hardin County.

(b) The 356th District Court has concurrent jurisdiction over all matters of civil and criminal jurisdiction, original and appellate, in cases over which the county court has jurisdiction under the constitution and laws of this state. Matters and proceedings in the concurrent jurisdiction of the 356th District Court and the county court may be filed in either court, and all cases of concurrent jurisdiction may be transferred between the 356th District Court and the county court. A case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred, and a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) The terms of the 356th District Court begin on the first Mondays in April and October.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.503. 357TH JUDICIAL DISTRICT (CAMERON COUNTY). The 357th Judicial District is composed of Cameron County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Amended by:
Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 5(d), eff. September 1, 2005.

Sec. 24.504. 358TH JUDICIAL DISTRICT (ECTOR COUNTY). The 358th Judicial District is composed of Ector County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.505. 359TH JUDICIAL DISTRICT (MONTGOMERY COUNTY). The 359th Judicial District is composed of Montgomery County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.506. 361ST JUDICIAL DISTRICT (BRAZOS COUNTY). (a) The 361st Judicial District is composed of Brazos County.
(b) The 361st District Court has concurrent jurisdiction with the statutory county courts of Brazos County in misdemeanor cases as well as the jurisdiction prescribed by general law for district courts.
(c) The terms of the 361st District Court begin on the first Mondays in April and October.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.16, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 1124, Sec. 1, eff. June 20, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(19), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 280, Sec. 3, eff. Sept. 1, 2001.

Sec. 24.507. 362ND JUDICIAL DISTRICT (DENTON COUNTY). The 362nd Judicial District is composed of Denton County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.17, eff. Sept. 1, 1987.

Sec. 24.508. 363RD JUDICIAL DISTRICT (DALLAS COUNTY). (a) The 363rd Judicial District is composed of Dallas County.

(b) The 363rd District Court shall give preference to criminal cases.

Added by Acts 1989, 71st Leg., ch. 632, Sec. 1, eff. Aug. 28, 1989.

Sec. 24.509. 364TH JUDICIAL DISTRICT (LUBBOCK COUNTY). The 364th Judicial District is composed of Lubbock County.

Added by Acts 1989, 71st Leg., ch. 632, Sec. 1, eff. Aug. 28, 1989.

Sec. 24.510. 365TH JUDICIAL DISTRICT (DIMMIT, MAVERICK, AND ZAVALA COUNTIES). The 365th Judicial District is composed of Dimmit, Maverick, and Zavala counties.

Added by Acts 1989, 71st Leg., ch. 632, Sec. 1, eff. Aug. 28, 1989.

Sec. 24.511. 366TH JUDICIAL DISTRICT (COLLIN COUNTY). The 366th Judicial District is composed of Collin County.

Added by Acts 1989, 71st Leg., ch. 632, Sec. 1, eff. Aug. 28, 1989.

Sec. 24.512. 367TH JUDICIAL DISTRICT (DENTON COUNTY). The 367th Judicial District is composed of Denton County.

Added by Acts 1989, 71st Leg., ch. 632, Sec. 1, eff. Aug. 28, 1989.

Sec. 24.513. 368TH JUDICIAL DISTRICT (WILLIAMSON COUNTY). (a) The 368th Judicial District is composed of Williamson County.

(b) The terms of the 368th District Court begin on the first Mondays in January and July.

Added by Acts 1989, 71st Leg., ch. 632, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 530, Sec. 3, eff. June 15, 1991; Acts 1995, 74th Leg., ch. 363, Sec. 1, eff. Aug. 28, 1995.

Sec. 24.514. 369TH JUDICIAL DISTRICT (ANDERSON, CHEROKEE, AND

LEON COUNTIES). The 369th Judicial District is composed of Anderson, Cherokee, and Leon counties.

Added by Acts 1989, 71st Leg., ch. 632, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 1.01(b), eff. September 1, 2013.

Sec. 24.515. 370TH JUDICIAL DISTRICT (HIDALGO COUNTY). (a) The 370th Judicial District is composed of Hidalgo County.

(b) A party in a criminal case before the court may electronically file any required court document. The court shall implement the statewide electronic court filing system to assist a party in electronic filing.

Added by Acts 1989, 71st Leg., ch. 632, Sec. 1, eff. Aug. 28, 1989.
Amended by:
Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 2(g), eff. September 1, 2005.
Acts 2009, 81st Leg., R.S., Ch. 541 (S.B. 1575), Sec. 2(7), eff. September 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 855 (H.B. 349), Sec. 7, eff. September 1, 2015.

Sec. 24.516. 371ST JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 371st Judicial District is composed of Tarrant County.

(b) The 371st District Court shall give preference to criminal cases.

(c) The terms of the 371st District Court begin on the first Mondays in January, April, July, and October.

(d) In addition to other jurisdiction provided by law, the 371st District Court has concurrent original jurisdiction with the county criminal courts in Tarrant County over misdemeanor cases.

Added by Acts 1989, 71st Leg., ch. 632, Sec. 2, eff. Sept. 1, 1990.
Amended by Acts 2003, 78th Leg., ch. 21, Sec. 3, eff. Sept. 1, 2003.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.003, eff. September 1, 2023.

Sec. 24.517. 372ND JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 372nd Judicial District is composed of Tarrant County.

(b) The 372nd District Court shall give preference to criminal cases.

(c) The terms of the 372nd District Court begin on the first Mondays in January, April, July, and October.

(d) In addition to other jurisdiction provided by law, the 372nd District Court has concurrent original jurisdiction with the county criminal courts in Tarrant County over misdemeanor cases.

Added by Acts 1989, 71st Leg., ch. 632, Sec. 2, eff. Sept. 1, 1990.
Amended by Acts 2003, 78th Leg., ch. 21, Sec. 4, eff. Sept. 1, 2003.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.004, eff. September 1, 2023.

Sec. 24.522. 377TH JUDICIAL DISTRICT (VICTORIA COUNTY). (a) The 377th Judicial District is composed of Victoria County.

(b) The 377th Judicial District shall give preference to criminal cases.

Added by Acts 1989, 71st Leg., ch. 632, Sec. 4(a), eff. Aug. 28, 1989.

Sec. 24.523. 378TH JUDICIAL DISTRICT (ELLIS COUNTY). The 378th Judicial District is composed of Ellis County.

Added by Acts 1995, 74th Leg., ch. 704, Sec. 11, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 457, Sec. 1, eff. Sept. 1, 2001.

Sec. 24.524. 379TH JUDICIAL DISTRICT (BEXAR COUNTY). The 379th Judicial District is composed of Bexar County.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 1, eff. Sept. 1, 1999.

Sec. 24.525. 380TH JUDICIAL DISTRICT (COLLIN COUNTY). (a) The 380th Judicial District is composed of Collin County.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 3.13(13), eff. January 1, 2012.

Added by Acts 1995, 74th Leg., ch. 704, Sec. 12, eff. Sept. 1, 1996.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.13(13), eff. January 1, 2012.

Sec. 24.526. 381ST JUDICIAL DISTRICT (STARR COUNTY). (a) The 381st Judicial District is composed of Starr County.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 3.13(14), eff. January 1, 2012.

Added by Acts 1995, 74th Leg., ch. 704, Sec. 13, eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.13(14), eff. January 1, 2012.

Sec. 24.527. 382ND JUDICIAL DISTRICT (ROCKWALL COUNTY). (a) The 382nd Judicial District is composed of Rockwall County.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 3.13(15), eff. January 1, 2012.

Added by Acts 1995, 74th Leg., ch. 704, Sec. 15, eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.13(15), eff. January 1, 2012.

Sec. 24.528. 383RD JUDICIAL DISTRICT (EL PASO COUNTY). (a) The 383rd Judicial District is composed of El Paso County.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 3.13(16), eff. January 1, 2012.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 3.13(16), eff. January 1, 2012.

Added by Acts 1995, 74th Leg., ch. 704, Sec. 16, eff. Sept. 1, 1995.

Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.13(16), eff. January 1, 2012.

Sec. 24.529. 384TH JUDICIAL DISTRICT (EL PASO COUNTY). (a) The 384th Judicial District is composed of El Paso County.
(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 3.13(17), eff. January 1, 2012.
(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 3.13(17), eff. January 1, 2012.

Added by Acts 1995, 74th Leg., ch. 704, Sec. 16, eff. Sept. 1, 1995.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.13(17), eff. January 1, 2012.

Sec. 24.530. 385TH JUDICIAL DISTRICT (MIDLAND COUNTY). The 385th Judicial District is composed of Midland County.

Added by Acts 1993, 73rd Leg., ch. 1032, Sec. 1, eff. Jan. 1, 1995.

Sec. 24.531. 386TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 386th Judicial District is composed of Bexar County.
(b) The 386th District Court shall give preference to juvenile matters under Title 3, Family Code.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 165 (H.B. 2936), Sec. 3, eff. September 1, 2011.

Sec. 24.532. 387TH JUDICIAL DISTRICT (FORT BEND COUNTY). (a) The 387th Judicial District is composed of Fort Bend County.
(b) The 387th District Court shall give preference to family law matters.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 2(a), eff. Sept. 1,

1999.

Sec. 24.533. 388TH JUDICIAL DISTRICT (EL PASO COUNTY). (a) The 388th Judicial District is composed of El Paso County.

(b) The 388th District Court shall give preference to family law matters.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 1, eff. Sept. 1, 1999.

Sec. 24.534. 389TH JUDICIAL DISTRICT (HIDALGO COUNTY). (a) The 389th Judicial District is composed of Hidalgo County.

(b) A party in a criminal case before the court may electronically file any required court document. The court shall implement the statewide electronic court filing system to assist a party in electronic filing.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 541, Sec. 2(8), eff. September 1, 2009.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 3, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 2(h), eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 4(b), eff. January 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 541 (S.B. 1575), Sec. 2(8), eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 855 (H.B. 349), Sec. 8, eff. September 1, 2015.

Sec. 24.535. 390TH JUDICIAL DISTRICT (TRAVIS COUNTY). (a) The 390th Judicial District is composed of Travis County.

(b) The 390th District Court shall give preference to criminal matters.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 5, eff. Oct. 1, 1999.

Sec. 24.536. 391ST JUDICIAL DISTRICT (TOM GREEN COUNTY). (a)

The 391st Judicial District is composed of Tom Green County.

(b) The terms of the 391st District Court begin on the first Mondays in March and September.

(c) Indictments within Tom Green County issued by any district court in the county may be returned to the 391st District Court.

(d) Section 24.153, relating to the 51st District Court, contains provisions applicable to both that court and the 391st District Court.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 5, eff. Oct. 1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 24.537. 392ND JUDICIAL DISTRICT (HENDERSON COUNTY). (a) The 392nd Judicial District is composed of Henderson County.

(b) A judge of the 392nd Judicial District may not be assigned under Chapter 74 to serve as a visiting judge in Bexar, Dallas, Ector, Fort Bend, Harris, Jefferson, Lubbock, Midland, Tarrant, or Travis County.

Added by Acts 1995, 74th Leg., ch. 704, Sec. 3, eff. Jan. 1, 1997.

Sec. 24.538. 393RD JUDICIAL DISTRICT (DENTON COUNTY). (a) The 393rd Judicial District is composed of Denton County.

(b) The 393rd District Court shall give preference to family law matters.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 7, eff. Jan. 1, 2000.

Sec. 24.539. 394TH JUDICIAL DISTRICT (BREWSTER, CULBERSON, HUDSPETH, JEFF DAVIS, AND PRESIDIO COUNTIES). (a) The 394th Judicial District is composed of Brewster, Culberson, Hudspeth, Jeff Davis, and Presidio counties.

(b) The terms of the 394th District Court begin:

(1) in Brewster County on the first Monday in March and the third Monday in September;

(2) in Culberson County on the third Monday in October and

the first Monday in April;

(3) in Hudspeth County on the third Monday in March and the first Monday in September;

(4) in Jeff Davis County on the second Mondays in January and July; and

(5) in Presidio County on the third Monday after the first Mondays in January and July.

(c) Repealed by Acts 2001, 77th Leg., ch. 780, Sec. 1, eff. Sept. 1, 2001.

Added by Acts 1995, 74th Leg., ch. 704, Sec. 20, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 780, Sec. 1, eff. Sept. 1, 2001.

Sec. 24.540. 395TH JUDICIAL DISTRICT (WILLIAMSON COUNTY). The 395th Judicial District is composed of Williamson County.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 7, eff. Jan. 1, 2000.

Sec. 24.541. 396TH JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 396th Judicial District is composed of Tarrant County.

(b) The 396th District Court shall give preference to criminal matters.

(c) The terms of the 396th District Court begin on the first Mondays in January, April, July, and October.

(d) In addition to other jurisdiction provided by law, the 396th District Court has concurrent original jurisdiction with the county criminal courts and the justice courts in Tarrant County over misdemeanor cases.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 7, eff. Jan. 1, 2000.
Amended by Acts 2003, 78th Leg., ch. 21, Sec. 5, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 75 (S.B. 321), Sec. 1, eff. September 1, 2005.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.005, eff. September 1, 2023.

Sec. 24.542. 397TH JUDICIAL DISTRICT (GRAYSON COUNTY). The

397th Judicial District is composed of Grayson County.

Added by Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 1, eff. September 15, 2008.

Sec. 24.543. 398TH JUDICIAL DISTRICT (HIDALGO COUNTY). (a) The 398th Judicial District is composed of Hidalgo County.

(b) A party in a criminal case before the court may electronically file any required court document. The court shall implement the statewide electronic court filing system to assist a party in electronic filing.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 541, Sec. 2(9), eff. September 1, 2009.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 4(a), eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 2(i), eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 4(b), eff. January 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 541 (S.B. 1575), Sec. 2(9), eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 855 (H.B. 349), Sec. 9, eff. September 1, 2015.

Sec. 24.544. 399TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 399th Judicial District is composed of Bexar County.

(b) The 399th District Court shall give preference to criminal matters.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 9, eff. Sept. 1, 2000.

Sec. 24.545. 400TH JUDICIAL DISTRICT (FORT BEND COUNTY). The 400th Judicial District is composed of Fort Bend County.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 11(a), eff. Sept. 1, 2000.

Sec. 24.546. 401ST JUDICIAL DISTRICT (COLLIN COUNTY). The 401st Judicial District is composed of Collin County.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 9, eff. Sept. 1, 2000.

Sec. 24.547. 402ND JUDICIAL DISTRICT (WOOD COUNTY). (a) The 402nd Judicial District is composed of Wood County.

(b) The 402nd District Court has concurrent jurisdiction with the county court in Wood County over all matters of civil and criminal jurisdiction, original and appellate, in cases over which the county court has jurisdiction under the constitution and laws of this state. Matters and proceedings in the concurrent jurisdiction of the 402nd District Court and the county court may be filed in either court and all cases of concurrent jurisdiction may be transferred between the 402nd District Court and the county court. However, a case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred, and a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 10, eff. Sept. 1, 1999.

Sec. 24.548. 403RD JUDICIAL DISTRICT (TRAVIS COUNTY). (a) The 403rd Judicial District is composed of Travis County.

(b) The 403rd District Court shall give preference to criminal matters.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 14, eff. Dec. 1, 2000.

Sec. 24.549. 404TH JUDICIAL DISTRICT (CAMERON COUNTY). The 404th Judicial District is composed of Cameron County.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 15, eff. Jan. 1, 2001.
Amended by Acts 2001, 77th Leg., ch. 810, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 5(e), eff.

September 1, 2005.

Sec. 24.550. 405TH JUDICIAL DISTRICT (GALVESTON COUNTY). The 405th Judicial District is composed of Galveston County.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 15, eff. Jan. 1, 2001.

Sec. 24.551. 406TH JUDICIAL DISTRICT (WEBB COUNTY). (a) The 406th Judicial District is composed of Webb County.

(b) The 406th District Court shall give preference to cases involving family violence, cases under the Family Code, and cases under the Health and Safety Code.

(c) The 406th District Court has concurrent jurisdiction with the other district courts in Webb County.

(d) In addition to other jurisdiction provided by law, the 406th District Court has the:

(1) criminal jurisdiction of a county court; and

(2) civil jurisdiction of a county court in all cases under the Family Code or the Health and Safety Code.

(e) The terms of the 406th District Court begin on the first Mondays in January, April, July, and October. Each term continues until the court disposes of its business.

(f) A criminal complaint may be presented to the grand jury of any district court in Webb County, and a resulting indictment may be returned to any other district court in Webb County with the appropriate criminal jurisdiction.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 15, eff. Jan. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 1(c), eff. September 1, 2005.

Sec. 24.552. 407TH JUDICIAL DISTRICT (BEXAR COUNTY). The 407th Judicial District is composed of Bexar County.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 16, eff. Sept. 1, 2000.

Sec. 24.553. 411TH JUDICIAL DISTRICT (POLK, SAN JACINTO, AND TRINITY COUNTIES). (a) The 411th Judicial District is composed of Polk, San Jacinto, and Trinity counties.

(b) A judge of the 411th Judicial District may not be assigned under Chapter 74 to serve as a visiting judge in Bexar, Dallas, Ector, Fort Bend, Harris, Jefferson, Lubbock, Midland, Tarrant, or Travis County.

(c) The 411th District Court has concurrent jurisdiction in Polk County with the county court over all misdemeanor cases over which the county court has jurisdiction under the constitution and laws of this state. Cases in the concurrent misdemeanor jurisdiction may be filed in either court, and all cases of concurrent misdemeanor jurisdiction may be transferred between the 411th District Court and the county court. A case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred, and a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

Added by Acts 1995, 74th Leg., ch. 704, Sec. 4, eff. Jan. 1, 1997.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.006(a), eff. September 1, 2023.

Sec. 24.554. 408TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 408th Judicial District is composed of Bexar County.

(b) The 408th District Court shall give preference to civil matters.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 8, eff. Jan. 1, 2000.

Sec. 24.555. 409TH JUDICIAL DISTRICT (EL PASO COUNTY). The 409th Judicial District is composed of El Paso County.

Added by Acts 1999, 76th Leg., ch. 1337, Sec. 9, eff. Sept. 1, 2000.

Sec. 24.556. 412TH JUDICIAL DISTRICT (BRAZORIA COUNTY). The 412th Judicial District is composed of Brazoria County.

Added by Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 6(a), eff. September 1, 2005.

Sec. 24.557. 413TH JUDICIAL DISTRICT (JOHNSON COUNTY). The 413th Judicial District is composed of Johnson County.

Added by Acts 2003, 78th Leg., ch. 1306, Sec. 1, eff. Sept. 1, 2003.

Sec. 24.558. 414TH JUDICIAL DISTRICT (MCLENNAN COUNTY). (a) The 414th Judicial District is composed of McLennan County.

(b) The 414th District Court has concurrent jurisdiction with the county court and the statutory county courts of McLennan County in misdemeanor cases as well as the jurisdiction prescribed by general law for district courts.

(c) The terms of the 414th District Court begin on the first Mondays in January, March, May, July, September, and November.

(d) Section 24.120, relating to the 19th District Court, contains provisions applicable to both that court and the 414th District Court.

Added by Acts 2003, 78th Leg., ch. 1306, Sec. 2, eff. Sept. 1, 2005.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 848 (S.B. 2230), Sec. 5, eff. September 1, 2009.

Sec. 24.559. 415TH JUDICIAL DISTRICT (PARKER COUNTY). The 415th Judicial District is composed of Parker County.

Added by Acts 2003, 78th Leg., ch. 1306, Sec. 3(a), eff. Jan. 15, 2004.

Sec. 24.560. 416TH JUDICIAL DISTRICT (COLLIN COUNTY). The 416th Judicial District is composed of Collin County.

Added by Acts 2003, 78th Leg., ch. 1306, Sec. 4, eff. Sept. 1, 2003.

Sec. 24.561. 417TH JUDICIAL DISTRICT (COLLIN COUNTY). (a) The 417th Judicial District is composed of Collin County.

(b) The 417th District Court shall give preference to juvenile matters.

Added by Acts 2003, 78th Leg., ch. 1306, Sec. 5, eff. Sept. 15, 2004.

Sec. 24.562. 418TH JUDICIAL DISTRICT (MONTGOMERY COUNTY). (a) The 418th Judicial District is composed of Montgomery County.

(b) The 418th District Court shall give preference to family law matters.

Added by Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 2(a), eff. September 1, 2007.

Sec. 24.563. 419TH JUDICIAL DISTRICT (TRAVIS COUNTY).

The 419th Judicial District is composed of Travis County.

Added by Acts 2003, 78th Leg., ch. 1306, Sec. 6, eff. Sept. 1, 2005.

Sec. 24.564. 420TH JUDICIAL DISTRICT (NACOGDOCHES COUNTY). The 420th Judicial District is composed of Nacogdoches County.

Added by Acts 2003, 78th Leg., ch. 1306, Sec. 7, eff. Jan. 15, 2004.

Sec. 24.565. 421ST JUDICIAL DISTRICT (CALDWELL COUNTY). The 421st Judicial District is composed of Caldwell County.

Added by Acts 2003, 78th Leg., ch. 1306, Sec. 8, eff. Jan. 15, 2004.

Sec. 24.566. 422ND JUDICIAL DISTRICT (KAUFMAN COUNTY). The 422nd Judicial District is composed of Kaufman County.

Added by Acts 2003, 78th Leg., ch. 1306, Sec. 9, eff. Jan. 15, 2004.

Sec. 24.567. 423RD JUDICIAL DISTRICT (BASTROP COUNTY). The 423rd Judicial District is composed of Bastrop County.

Added by Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 3(a), eff. October 1, 2007.

Sec. 24.568. 424TH JUDICIAL DISTRICT (BLANCO, BURNET, LLANO, AND SAN SABA COUNTIES). (a) The 424th Judicial District is composed of Blanco, Burnet, Llano, and San Saba Counties.

(b) The jurisdiction of the 424th District Court is concurrent with the jurisdiction of the 33rd District Court.

(c) The 424th District Court has the same terms of court as the 33rd District Court.

(d) The judge of the 424th District Court may impanel grand juries in each county. The judge of the 424th District Court may alternate the drawing of grand juries with the judge of any other district court in each county within the 424th Judicial District and may order grand and petit juries to be drawn for any term of the court as the judge determines is necessary, by an order entered in the minutes of the court. Indictments within each county may be returned to either court within that county.

(e) The 424th District Court may hear and determine, in any county in the district convenient for the court, all preliminary or interlocutory matters in which a jury may not be demanded, in any case pending in any county in the district regardless of whether the case was filed in the county in which the hearing is held. Unless an objection is filed by a party to the suit, the 424th District Court may hear, in any county in the district convenient for the court, any nonjury case pending in any county in the district, including divorces, adoptions, default judgments, and matters in which citation was by publication, regardless of whether the case was filed in the county in which the hearing is held.

Added by Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 15(a), eff. September 1, 2005.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 929 (H.B. 2150), Sec. 17, eff. September 1, 2015.

Sec. 24.569. 425TH JUDICIAL DISTRICT (WILLIAMSON COUNTY). The 425th Judicial District is composed of Williamson County.

Added by Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 7(a), eff. January 1, 2007.

Sec. 24.570. 426TH JUDICIAL DISTRICT (BELL COUNTY). (a) The 426th Judicial District is composed of Bell County.

(b) The terms of the 426th District Court begin on the first Mondays in January, April, July, and October.

(c) Section 24.129, relating to the 27th District Court, contains provisions applicable to both that court and the 426th District Court.

Added by Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 8(a), eff. January 1, 2007.

Sec. 24.571. 427TH JUDICIAL DISTRICT (TRAVIS COUNTY). (a) The 427th Judicial District is composed of Travis County.

(b) The 427th Judicial District shall give preference to criminal matters.

Added by Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 9(a), eff. January 1, 2007.

Sec. 24.572. 428TH JUDICIAL DISTRICT (HAYS COUNTY). The 428th Judicial District is composed of Hays County.

Added by Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 10(a), eff. September 1, 2005.

Sec. 24.573. 429TH JUDICIAL DISTRICT (COLLIN COUNTY). The 429th Judicial District is composed of Collin County.

Added by Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 4(a), eff. January 1, 2009.

Sec. 24.574. 430TH JUDICIAL DISTRICT (HIDALGO COUNTY). (a) The 430th Judicial District is composed of Hidalgo County.

(b) The 430th District Court shall give preference to family violence and criminal matters.

(c) A party in a criminal case before the court may electronically file any required court document. The court shall implement the statewide electronic court filing system to assist a party in electronic filing.

Added by Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 4(a), eff. January 1, 2007.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 541 (S.B. 1575), Sec. 2(10), eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 855 (H.B. 349), Sec. 10, eff. September 1, 2015.

Sec. 24.575. 431ST JUDICIAL DISTRICT (DENTON COUNTY). The 431st Judicial District is composed of Denton County.

Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 2(a), eff. January 1, 2011.

Sec. 24.576. 432ND JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 432nd Judicial District is composed of Tarrant County.

(b) The 432nd District Court shall give preference to criminal matters.

(c) The terms of the 432nd District Court begin on the first Mondays in January, April, July, and October.

(d) In addition to other jurisdiction provided by law, the 432nd District Court has concurrent original jurisdiction with the county criminal courts in Tarrant County over misdemeanor cases.

Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 3(a), eff. September 1, 2009.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.007, eff. September 1, 2023.

Sec. 24.577. 433RD JUDICIAL DISTRICT (COMAL COUNTY). The 433rd Judicial District is composed of Comal County.

Added by Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 11(a), eff. January 1, 2007.

Sec. 24.578. 434TH JUDICIAL DISTRICT (FORT BEND COUNTY). The 434th Judicial District is composed of Fort Bend County.

Added by Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 12(a), eff. January 1, 2007.

Sec. 24.579. 435TH JUDICIAL DISTRICT (MONTGOMERY COUNTY). (a) The 435th Judicial District is composed of Montgomery County.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 845 , Sec. 39(1), eff. June 17, 2015.

(c) Notwithstanding any other law and only to the extent that the duties of those individuals relate to civil commitment proceedings under Chapter 841, Health and Safety Code, or to criminal cases involving offenses under Section 841.085, Health and Safety Code, and Article 62.203, Code of Criminal Procedure, the state shall pay the salaries of and other expenses related to the court reporter appointed for the 435th District Court under Section 52.041 and the court coordinator appointed for the court under Section 74.101. The salaries of the court reporter and court coordinator shall be set in amounts commensurate with the salaries paid by other district courts for those positions.

Added by Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 5(a), eff. September 1, 2007.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 845 (S.B. 746), Sec. 33, eff. June 17, 2015.

Acts 2015, 84th Leg., R.S., Ch. 845 (S.B. 746), Sec. 39(1), eff. June 17, 2015.

Sec. 24.580. 436TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 436th Judicial District is composed of Bexar County.

(b) The 436th District Court shall give preference to juvenile matters under Title 3, Family Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 4(a), eff. October 1, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 165 (H.B. 2936), Sec. 4, eff. September 1, 2011.

Sec. 24.581. 437TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 437th Judicial District is composed of Bexar County.
(b) The 437th District Court shall give preference to criminal matters.

Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 5(a), eff. December 15, 2009.

Sec. 24.582. 438TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 438th Judicial District is composed of Bexar County.
(b) The 438th District Court shall give preference to civil matters.

Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 6(a), eff. September 1, 2010.

Sec. 24.583. 439TH JUDICIAL DISTRICT (ROCKWALL COUNTY). The 439th Judicial District is composed of Rockwall County.

Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 7(a), eff. November 1, 2010.

Sec. 24.584. 440TH JUDICIAL DISTRICT (CORYELL COUNTY). The 440th Judicial District is composed of Coryell County.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 2.03(a), eff. January 1, 2017.

Sec. 24.585. 441ST JUDICIAL DISTRICT (MIDLAND COUNTY). The 441st Judicial District is composed of Midland County.

Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 8(a), eff. September 1, 2009.

Sec. 24.586. 442ND JUDICIAL DISTRICT (DENTON COUNTY). The 442nd Judicial District is composed of Denton County.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 1.04(a), eff. January 1, 2015.

Sec. 24.587. 443RD JUDICIAL DISTRICT (ELLIS COUNTY). The 443rd Judicial District is composed of Ellis County.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 1.05(a), eff. September 1, 2014.

Sec. 24.589. 445TH JUDICIAL DISTRICT (CAMERON COUNTY). (a) The 445th Judicial District is composed of Cameron County.

(b) The 445th District Court shall give preference to criminal law cases.

Added by Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 6(a), eff. September 1, 2007.

Sec. 24.590. 446TH JUDICIAL DISTRICT (ECTOR COUNTY). The 446th Judicial District is composed of Ector County.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 2.04(a), eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 24.591. 451ST JUDICIAL DISTRICT (KENDALL COUNTY). (a)

The 451st Judicial District is composed of Kendall County.

(b) In addition to the other jurisdiction provided by law, the 451st District Court has concurrent jurisdiction with the County Court of Kendall County in all civil and criminal matters over which the county court would have original or appellate jurisdiction, including probate matters and proceedings under Subtitle C, Title 7, Health and Safety Code.

(c) All civil and criminal matters within the concurrent jurisdiction of the county and district courts must be filed with the county clerk in the county court. The county clerk serves as the clerk of the district court for those matters.

(d) Notwithstanding Section 24.030, a district court in Kendall County may sit outside the county seat in a suitable facility designated by the Kendall County Commissioners Court as an auxiliary court facility, as provided by Section 292.031, Local Government Code.

(e) A district court in Kendall County sitting in an auxiliary court facility designated by the Kendall County Commissioners Court may hear motions, arguments, nonjury trials, and jury trials for all actions and any other matter before the court and within the court's jurisdiction.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 2.02(b), eff. January 1, 2017.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.008, eff. September 1, 2023.

Sec. 24.592. 448TH JUDICIAL DISTRICT (EL PASO COUNTY). The 448th Judicial District is composed of El Paso County.

Added by Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 7(a), eff. September 1, 2007.

Sec. 24.593. 449TH JUDICIAL DISTRICT (HIDALGO COUNTY). (a) The 449th Judicial District is composed of Hidalgo County.

(b) The 449th District Court shall give preference to juvenile matters.

(c) A party in a criminal case before the court may

electronically file any required court document. The court shall implement the statewide electronic court filing system to assist a party in electronic filing.

Added by Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 8(a), eff. September 1, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 855 (H.B. 349), Sec. 11, eff. September 1, 2015.

Sec. 24.594. 450TH JUDICIAL DISTRICT (TRAVIS COUNTY). (a) The 450th Judicial District is composed of Travis County.
(b) The 450th District Court shall give preference to criminal matters.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 1.06(a), eff. September 1, 2015.

Sec. 24.596. 452ND JUDICIAL DISTRICT (EDWARDS, KIMBLE, MCCULLOCH, MASON, AND MENARD COUNTIES). (a) The 452nd Judicial District is composed of Edwards, Kimble, McCulloch, Mason, and Menard Counties.
(b) The judge of the 452nd District Court may impanel grand juries in each county. The judge of the 452nd District Court may order grand and petit juries to be drawn for any term of the judge's court as in the judge's judgment is necessary, by an order entered in the minutes of the court.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 1.03(c), eff. September 1, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 929 (H.B. 2150), Sec. 18, eff. September 1, 2015.

Sec. 24.597. 453RD JUDICIAL DISTRICT (HAYS COUNTY). The 453rd Judicial District is composed of Hays County.

Added by Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec.

2.01(a), eff. September 1, 2018.

Sec. 24.598. 454TH JUDICIAL DISTRICT (MEDINA COUNTY). The 454th Judicial District is composed of Medina County.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 1.03(b), eff. September 1, 2019.

Sec. 24.599. 455TH JUDICIAL DISTRICT (TRAVIS COUNTY). (a) The 455th Judicial District is composed of Travis County.

(b) The 455th District Court shall give preference to civil and family law matters.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 1.04(a), eff. October 1, 2020.

Sec. 24.5995. 506TH JUDICIAL DISTRICT (GRIMES AND WALLER COUNTIES). The 506th Judicial District is composed of Grimes and Waller Counties.

Added by Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 9(a), eff. September 1, 2007.

Sec. 24.600. 456TH JUDICIAL DISTRICT (GUADALUPE COUNTY). (a) The 456th Judicial District is composed of Guadalupe County.

(b) The 456th District Court shall give preference to civil cases.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 1.05(a), eff. January 1, 2021.

Sec. 24.6001. 457TH JUDICIAL DISTRICT (MONTGOMERY COUNTY). The 457th Judicial District is composed of Montgomery County.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 1.06(a), eff. September 1, 2019.

Sec. 24.6002. 458TH JUDICIAL DISTRICT (FORT BEND COUNTY). The 458th Judicial District is composed of Fort Bend County.

Added by Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 2.02(a), eff. September 1, 2017.

Sec. 24.600201. 477TH JUDICIAL DISTRICT (DENTON COUNTY). The 477th Judicial District is composed of Denton County.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.009(a), eff. January 1, 2025.

Sec. 24.60022. 478TH JUDICIAL DISTRICT (BELL COUNTY). (a) The 478th Judicial District is composed of Bell County.

(b) The terms of the 478th District Court begin on the first Mondays in January, April, July, and October.

(c) Section 24.129, relating to the 27th District Court, contains provisions applicable to both that court and the 478th District Court.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 1.01(b), eff. January 1, 2022.

Sec. 24.60025. 480TH JUDICIAL DISTRICT (WILLIAMSON COUNTY). The 480th Judicial District is composed of Williamson County.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 1.04(a), eff. October 1, 2022.

Sec. 24.60026. 481ST JUDICIAL DISTRICT (DENTON COUNTY). The 481st Judicial District is composed of Denton County.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 1.05(a), eff. January 1, 2022.

Sec. 24.60027. 482ND JUDICIAL DISTRICT (HARRIS COUNTY). The 482nd Judicial District is composed of Harris County.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 1.02(a), eff. September 1, 2021.

Sec. 24.60028. 483RD JUDICIAL DISTRICT (HAYS COUNTY). The 483rd Judicial District is composed of Hays County.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 1.06(a), eff. September 1, 2022.

Sec. 24.60029. 484TH JUDICIAL DISTRICT (CAMERON COUNTY). (a) The 484th Judicial District is composed of Cameron County.

(b) The 484th District Court shall give preference to juvenile matters under Title 3, Family Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 1.07(a), eff. September 1, 2021.

Sec. 24.6003. 459TH JUDICIAL DISTRICT (TRAVIS COUNTY). (a) The 459th Judicial District is composed of Travis County.

(b) The 459th District Court shall give preference to civil matters.

Added by Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 2.03(a), eff. October 1, 2017.

Sec. 24.60030. 485TH JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 485th Judicial District is composed of Tarrant County.

(b) The 485th District Court shall give preference to criminal matters.

(c) The terms of the 485th District Court begin on the first Mondays in January, April, July, and October.

(d) In addition to other jurisdiction provided by law, the 485th District Court has concurrent original jurisdiction with the county criminal courts in Tarrant County over misdemeanor cases.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 1.03(a), eff. January 1, 2022.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.010, eff. September 1, 2023.

Sec. 24.60031. 486TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 486th Judicial District is composed of Harris County.
(b) The 486th District Court shall give preference to criminal cases.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.011(a), eff. October 1, 2023.

Sec. 24.60032. 487TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 487th Judicial District is composed of Harris County.
(b) The 487th District Court shall give preference to criminal cases.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.011(a), eff. October 1, 2023.

Sec. 24.60033. 488TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 488th Judicial District is composed of Harris County.
(b) The 488th District Court shall give preference to criminal cases.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.011(a), eff. October 1, 2023.

Sec. 24.60034. 489TH JUDICIAL DISTRICT (KAUFMAN COUNTY). The 489th Judicial District is composed of Kaufman County.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.012(a), eff. September 1, 2023.

Sec. 24.60038. 493RD JUDICIAL DISTRICT (COLLIN COUNTY). (a) The 493rd Judicial District is composed of Collin County.

(b) The 493rd District Court shall give preference to civil cases.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.013(a), eff. September 1, 2023.

Sec. 24.60039. 494TH JUDICIAL DISTRICT (COLLIN COUNTY). (a) The 494th Judicial District is composed of Collin County.

(b) The 494th District Court shall give preference to family law matters.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.014(a), eff. September 1, 2024.

Sec. 24.6004. 460TH JUDICIAL DISTRICT (TRAVIS COUNTY). (a) The 460th Judicial District is composed of Travis County.

(b) The 460th District Court shall give preference to criminal matters.

Added by Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 2.04(a), eff. October 1, 2019.

Sec. 24.60040. 495TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 495th Judicial District is composed of Harris County.

(b) The 495th District Court shall give preference to criminal cases.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.015(a), eff. October 1, 2024.

Sec. 24.60041. 496TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 496th Judicial District is composed of Harris County.

(b) The 496th District Court shall give preference to criminal cases.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.015(a), eff. October 1, 2024.

Sec. 24.60042. 497TH JUDICIAL DISTRICT (HARRIS COUNTY). (a) The 497th Judicial District is composed of Harris County.

(b) The 497th District Court shall give preference to criminal cases.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.015(a), eff. October 1, 2024.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Text of section effective on October 1, 2025

Sec. 24.60043. 498TH JUDICIAL DISTRICT (KENDALL COUNTY). (a) The 498th Judicial District is composed of Kendall County.

(b) This section applies to all district courts in Kendall County.

(c) In addition to the other jurisdiction provided by law, the 498th District Court has concurrent jurisdiction with the other district courts in Kendall County and with the County Court of Kendall County in all civil and criminal matters over which the county court has original or appellate jurisdiction, including probate matters and proceedings under Subtitle C, Title 7, Health and Safety Code.

(d) All civil and criminal matters within the concurrent jurisdiction of the county and district courts must be filed with the county clerk in the county court. The county clerk serves as the clerk of the district court for those matters.

(e) Notwithstanding Section 24.030, a district court in Kendall County may sit outside the county seat in a suitable facility designated by the Kendall County Commissioners Court as an auxiliary court facility, as provided by Section 292.031, Local Government Code.

(f) A district court in Kendall County sitting in an auxiliary court facility designated by the Kendall County Commissioners Court may hear motions, arguments, nonjury trials, and jury trials for all

actions and any other matter before the court and within the court's jurisdiction.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.016(a), eff. October 1, 2025.

Sec. 24.6005. 461ST JUDICIAL DISTRICT (BRAZORIA COUNTY). (a) The 461st Judicial District is composed of Brazoria County.

(b) The 461st District Court shall give preference to family law matters.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 1.02(c), eff. September 1, 2019.

Sec. 24.6006. 462ND JUDICIAL DISTRICT (DENTON COUNTY). The 462nd Judicial District is composed of Denton County.

Added by Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 2.05(a), eff. January 1, 2019.

Sec. 24.6008. 464TH JUDICIAL DISTRICT (HIDALGO COUNTY). The 464th Judicial District is composed of Hidalgo County.

Added by Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 2.06(a), eff. January 1, 2019.

Sec. 24.6009. 465TH JUDICIAL DISTRICT (BASTROP COUNTY). The 465th Judicial District is composed of Bastrop County.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.017(a), eff. September 1, 2023.

Sec. 24.60091. 466TH JUDICIAL DISTRICT (COMAL COUNTY). The 466th Judicial District is composed of Comal County.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 1.07(a), eff. January 1, 2021.

Sec. 24.60092. 467TH JUDICIAL DISTRICT (DENTON COUNTY). The 467th Judicial District is composed of Denton County.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 1.08(a), eff. January 1, 2021.

Sec. 24.60093. 468TH JUDICIAL DISTRICT (COLLIN COUNTY). (a) The 468th Judicial District is composed of Collin County.

(b) The 468th District Court shall give preference to family law matters.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 1.09(a), eff. September 1, 2019.

Sec. 24.60094. 471ST JUDICIAL DISTRICT (COLLIN COUNTY). (a) The 471st Judicial District is composed of Collin County.

(b) The 471st District Court shall give preference to civil matters.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 1.09(a), eff. September 1, 2019.

Sec. 24.60095. 472ND JUDICIAL DISTRICT (BRAZOS COUNTY). (a) The 472nd Judicial District is composed of Brazos County.

(b) The 472nd District Court has primary responsibility for cases involving civil matters, family law matters, and juvenile matters.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.018(a), eff. September 1, 2023.

Sec. 24.60097. 474TH JUDICIAL DISTRICT (MCLENNAN COUNTY). The 474th Judicial District is composed of McLennan County.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec.

1.08(b), eff. October 1, 2022.

Sec. 24.60098. 475TH JUDICIAL DISTRICT (SMITH COUNTY). The 475th Judicial District is composed of Smith County.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 1.09(a), eff. January 1, 2023.

Sec. 24.60099. 476TH JUDICIAL DISTRICT (HIDALGO COUNTY). The 476th Judicial District is composed of Hidalgo County.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 1.10(a), eff. September 1, 2022.

SUBCHAPTER D. FAMILY DISTRICT COURTS

Sec. 24.601. JURISDICTION. (a) A family district court has the jurisdiction and power provided for district courts by the constitution and laws of this state. Its jurisdiction is concurrent with that of other district courts in the county in which it is located.

(b) A family district court has primary responsibility for cases involving family law matters. These matters include:

(1) adoptions;

(2) birth records;

(3) divorce and marriage annulment;

(4) child welfare, custody, support and reciprocal support, dependency, neglect, and delinquency;

(5) parent and child; and

(6) husband and wife.

(c) This subchapter does not limit the jurisdiction of other district courts nor relieve them of responsibility for handling cases involving family law matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.602. TERMS. Except as provided by Section 24.012, the terms of a family district court begin on the first Monday in January

and the first Monday in July.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1082 (H.B. 3481), Sec. 2, eff. September 1, 2017.

Sec. 24.603. JUDGE. (a) A family district court judge's qualifications and term of office are the same as those prescribed by the constitution and laws of this state for district judges. A family district court judge is elected in the same manner as a district judge.

(b) A family district court judge is entitled to the same compensation and allowances provided by the state and county for the other district judges in his county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.604. APPOINTMENT OF RETIRED JUDGE TO SIT FOR REGULAR JUDGE. (a) If the regular judge of a family district court is absent or is for any cause disabled or disqualified from presiding, a retired judge of a special juvenile court or a domestic relations court may be appointed by the presiding judge of the administrative judicial region in which the appointed judge resides to sit for the absent, disabled, or disqualified judge of a family district court within the geographic limits of the respective administrative judicial region. To be eligible for the appointment, the retired judge must have voluntarily retired from office and must certify his willingness to serve.

(b) When the docket of a family district court becomes so excessive that the presiding judge of the administrative judicial region in which that court is located considers it an emergency, a retired judge of a special juvenile court or a domestic relations court residing within the geographic limits of the respective administrative judicial region, who meets the qualifications set out in Subsection (a), may be appointed by the presiding judge to sit for the regular judge as long as the emergency exists.

(c) A presiding judge may, with the consent of a retired judge of a special juvenile court or a domestic relations court within his

district, make an assignment outside his judicial district with the specific authorization of the presiding judge of the district in which that assignment is made.

(d) A retired judge appointed to sit for a regular judge under this section shall execute the bond and take the oath of office that is required by law for the regular judge for whom he is sitting.

(e) A retired judge appointed under this section has all the power and jurisdiction of the court and the regular judge for whom he is sitting and may sign orders, judgments, decrees, or other process of any kind as presiding judge when acting for the regular judge.

(f) A retired judge appointed to sit for the regular judge under this section shall receive for the services actually performed the same salary that the regular judge is entitled to receive for those services. The amount to be paid for the services shall be paid in the same manner as the regular judge is paid on certification by the presiding judge of the administrative judicial region that the retired judge has rendered the services and is entitled to receive the salary. The payment shall be made from the item in the judiciary section, comptroller's department, of the appropriations act providing for payment of salaries of district judges and criminal district judges. This section does not entitle the retired judge of a special juvenile court or a domestic relations court to participate in the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two. None of the salary paid to a retired judge sitting for the regular judge may be deducted or paid out of the salary of the regular judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.18(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 8.44(3), eff. Aug. 28, 1989.

Sec. 24.605. COURT OFFICIALS, PERSONNEL, AND FACILITIES. (a) The prosecuting attorney, the sheriff, and the district clerk shall serve each family district court in their county in the same manner they serve the district courts of their county.

(b) The commissioners court of the county in which a family district court is located shall provide the physical facilities and the deputy clerks, bailiffs, and other personnel necessary to operate the family district court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.606. COUNTY JUVENILE BOARD. When a family district court is created in a county, the county's juvenile board composition and the additional compensation of the board members is as provided by Article 5139.2, Revised Statutes.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.607. COURT STYLE. A district court for a judicial district listed in this chapter is a family district court and may be called the "Family District Court for the (number of district) Judicial District."

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.608. 300TH JUDICIAL DISTRICT (BRAZORIA COUNTY). The 300th Judicial District is composed of Brazoria County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.609. 301ST JUDICIAL DISTRICT (DALLAS COUNTY). The 301st Judicial District is composed of Dallas County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.610. 302ND JUDICIAL DISTRICT (DALLAS COUNTY). The 302nd Judicial District is composed of Dallas County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.611. 303RD JUDICIAL DISTRICT (DALLAS COUNTY). The 303rd Judicial District is composed of Dallas County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.612. 304TH JUDICIAL DISTRICT (DALLAS COUNTY). The 304th Judicial District is composed of Dallas County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.613. 305TH JUDICIAL DISTRICT (DALLAS COUNTY). The 305th Judicial District is composed of Dallas County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.614. 306TH JUDICIAL DISTRICT (GALVESTON COUNTY). (a) The 306th Judicial District is composed of Galveston County.

(b) All juvenile matters and proceedings in Galveston County shall be filed originally with the district clerk on the docket of the 306th District Court.

(c), (d) Repealed by Acts 2001, 77th Leg., ch. 635, Sec. 3(2), eff. Sept. 1, 2001.

(d) Repealed by Acts 2001, 77th Leg., ch. 635, Sec. 3(2), eff. Sept. 1, 2001.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.615. 307TH JUDICIAL DISTRICT (GREGG COUNTY). The 307th Judicial District is composed of Gregg County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.616. 308TH JUDICIAL DISTRICT (HARRIS COUNTY). The 308th Judicial District is composed of Harris County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.617. 309TH JUDICIAL DISTRICT (HARRIS COUNTY). The 309th Judicial District is composed of Harris County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.618. 310TH JUDICIAL DISTRICT (HARRIS COUNTY). The 310th Judicial District is composed of Harris County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.619. 311TH JUDICIAL DISTRICT (HARRIS COUNTY). The 311th Judicial District is composed of Harris County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.620. 312TH JUDICIAL DISTRICT (HARRIS COUNTY). The 312th Judicial District is composed of Harris County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.621. 313TH JUDICIAL DISTRICT (HARRIS COUNTY). The 313th Judicial District is composed of Harris County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.622. 314TH JUDICIAL DISTRICT (HARRIS COUNTY). The 314th Judicial District is composed of Harris County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.623. 315TH JUDICIAL DISTRICT (HARRIS COUNTY). The 315th Judicial District is composed of Harris County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.624. 316TH JUDICIAL DISTRICT (HUTCHINSON COUNTY). The 316th Judicial District is composed of Hutchinson County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.625. 317TH JUDICIAL DISTRICT (JEFFERSON COUNTY). The 317th Judicial District is composed of Jefferson County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.626. 318TH JUDICIAL DISTRICT (MIDLAND COUNTY). The 318th Judicial District is composed of Midland County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.627. 319TH JUDICIAL DISTRICT (NUECES COUNTY). (a) The 319th Judicial District is composed of Nueces County.

(b) The terms of the 319th District Court begin on the first Mondays in April and in October.

(c) In addition to other jurisdiction provided by law, the 319th District Court has concurrent jurisdiction with the county courts at law in Nueces County to receive a guilty plea in a misdemeanor case pending in a county court at law in Nueces County and dispose of the case, regardless of whether the case is transferred to the district court. The judgment, order, or action of the district court is valid and binding as if the case were pending in the district court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 286, Sec. 1, eff. Aug. 28, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 72 (H.B. 2913), Sec. 8, eff. May 17, 2005.

Sec. 24.628. 320TH JUDICIAL DISTRICT (POTTER COUNTY). The 320th Judicial District is composed of Potter County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.629. 321ST JUDICIAL DISTRICT (SMITH COUNTY). The 321st Judicial District is composed of Smith County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.630. 322ND JUDICIAL DISTRICT (TARRANT COUNTY). The 322nd Judicial District is composed of Tarrant County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.631. 323RD JUDICIAL DISTRICT (TARRANT COUNTY). The 323rd Judicial District is composed of Tarrant County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.632. 324TH JUDICIAL DISTRICT (TARRANT COUNTY). The 324th Judicial District is composed of Tarrant County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.633. 325TH JUDICIAL DISTRICT (TARRANT COUNTY). The 325th Judicial District is composed of Tarrant County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.634. 326TH JUDICIAL DISTRICT (TAYLOR COUNTY). The 326th Judicial District is composed of Taylor County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.635. 65TH JUDICIAL DISTRICT (EL PASO COUNTY). The 65th Judicial District is composed of El Paso County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 317, Sec. 3, eff. Sept. 1, 1996.

Sec. 24.636. 328TH JUDICIAL DISTRICT (FORT BEND COUNTY). The 328th Judicial District is composed of Fort Bend County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.637. 329TH JUDICIAL DISTRICT (WHARTON COUNTY). (a) The 329th Judicial District is composed of Wharton County.

(b) Section 24.124, relating to the 23rd District Court, contains provisions applicable to both that court and the Family District Court for the 329th Judicial District.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 196, Sec. 2, eff. Sept. 1, 1991.

Sec. 24.638. 330TH JUDICIAL DISTRICT (DALLAS COUNTY). The 330th Judicial District is composed of Dallas County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.639. 360TH JUDICIAL DISTRICT (TARRANT COUNTY). The 360th Judicial District is composed of Tarrant County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.640. 444TH JUDICIAL DISTRICT (CAMERON COUNTY). The 444th Judicial District is composed of Cameron County.

Added by Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 10(a), eff. September 1, 2007.

Sec. 24.641. 507TH JUDICIAL DISTRICT (HARRIS COUNTY). The 507th Judicial District is composed of Harris County.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 2.05(a), eff. January 1, 2016.

Sec. 24.642. 469TH JUDICIAL DISTRICT (COLLIN COUNTY). The 469th Judicial District is composed of Collin County. The 469th

District Court shall hear family law matters.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 2.06(a), eff. September 1, 2015.

Sec. 24.643. 470TH JUDICIAL DISTRICT (COLLIN COUNTY). The 470th Judicial District is composed of Collin County. The 470th District Court shall hear family law matters.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 2.06(a), eff. September 1, 2015.

Sec. 24.644. 505TH JUDICIAL DISTRICT (FORT BEND COUNTY). The 505th Judicial District is composed of Fort Bend County.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 2.07(a), eff. September 1, 2015.

SUBCHAPTER E. CRIMINAL DISTRICT COURTS

Sec. 24.901. CRIMINAL JUDICIAL DISTRICT OF DALLAS COUNTY. (a) The Criminal Judicial District of Dallas County is composed of Dallas County.

(b) The terms of the criminal district court begin on the first Mondays in January, April, July, and October.

(c) The criminal district courts in Dallas County have concurrent original misdemeanor jurisdiction with the county courts in Dallas County that have criminal jurisdiction.

(d) Section 24.115, relating to the 14th District Court, contains provisions applicable to both that court and the Criminal District Court of Dallas County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.902. DALLAS COUNTY CRIMINAL JUDICIAL DISTRICT NO. 2. (a) The Dallas County Criminal Judicial District No. 2 is composed of Dallas County.

(b) The terms of the criminal district court no. 2 begin on the

first Mondays in January, April, July, and October.

(c) Section 24.901, relating to the Criminal District Court of Dallas County, contains provisions applicable to both that court and the Dallas County Criminal District Court No. 2.

(d) Section 24.115, relating to the 14th District Court, contains provisions applicable to both that court and the Dallas County Criminal District Court No. 2.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.903. DALLAS COUNTY CRIMINAL JUDICIAL DISTRICT NO. 3. (a) The Dallas County Criminal Judicial District No. 3 is composed of Dallas County.

(b) The terms of the criminal district court no. 3 begin on the first Mondays in January, April, July, and October.

(c) Section 24.901, relating to the Criminal District Court of Dallas County, contains provisions applicable to both that court and the Dallas County Criminal District Court No. 3.

(d) Section 24.115, relating to the 14th District Court, contains provisions applicable to both that court and the Dallas County Criminal District Court No. 3.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.904. DALLAS COUNTY CRIMINAL JUDICIAL DISTRICT NO. 4. (a) The Dallas County Criminal Judicial District No. 4 is composed of Dallas County.

(b) The terms of the criminal district court no. 4 begin on the first Mondays in January, April, July, and October.

(c) Section 24.901, relating to the Criminal District Court of Dallas County, contains provisions applicable to both that court and the Dallas County Criminal District Court No. 4.

(d) Section 24.115, relating to the 14th District Court, contains provisions applicable to both that court and the Dallas County Criminal District Court No. 4.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.905. DALLAS COUNTY CRIMINAL JUDICIAL DISTRICT NO. 5. (a) The Dallas County Criminal Judicial District No. 5 is composed of Dallas County.

(b) The terms of the criminal district court no. 5 begin on the first Mondays in January, April, July, and October.

(c) Section 24.901, relating to the Criminal District Court of Dallas County, contains provisions applicable to both that court and the Dallas County Criminal District Court No. 5.

(d) Section 24.115, relating to the 14th District Court, contains provisions applicable to both that court and the Dallas County Criminal District Court No. 5.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 24.906. DALLAS COUNTY CRIMINAL JUDICIAL DISTRICT NO. 6. (a) The Dallas County Criminal Judicial District No. 6 is composed of Dallas County.

(b) The terms of the criminal district court no. 6 begin on the first Mondays in January, April, July, and October.

(c) Section 24.901, relating to the Criminal District Court of Dallas County, contains provisions applicable to both that court and the Dallas County Criminal District Court No. 6.

(d) Section 24.115, relating to the 14th District Court, contains provisions applicable to both that court and the Dallas County Criminal District Court No. 6.

Added by Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 13(b), eff. September 1, 2005.

Sec. 24.907. DALLAS COUNTY CRIMINAL JUDICIAL DISTRICT NO. 7. (a) The Dallas County Criminal Judicial District No. 7 is composed of Dallas County.

(b) The terms of the criminal district court no. 7 begin on the first Mondays in January, April, July, and October.

(c) Section 24.901, relating to the Criminal District Court of Dallas County, contains provisions applicable to both that court and the Dallas County Criminal District Court No. 7.

(d) Section 24.115, relating to the 14th District Court, contains provisions applicable to both that court and the Dallas

County Criminal District Court No. 7.

Added by Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 13(b), eff. September 1, 2005.

Sec. 24.908. EL PASO COUNTY CRIMINAL JUDICIAL DISTRICT NO. 1. (a) The El Paso County Criminal Judicial District No. 1 is composed of El Paso County.

(b) The El Paso County Criminal District Court No. 1 shall give primary preference to felony drug cases and associated civil cases emanating from those felony drug cases. The criminal district court shall give secondary preference to other criminal cases and associated civil cases emanating from those criminal cases.

(c) The terms of the El Paso County Criminal District Court No. 1 begin on the third Mondays in April and September and the first Mondays in January, July, and November.

(d) The El Paso County Criminal District Court No. 1 shall have a seal similar to the seal of a district court with "El Paso County Criminal District Court No. 1" engraved on the seal.

Added by Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 11(a), eff. September 1, 2007.

Sec. 24.910. TARRANT COUNTY CRIMINAL JUDICIAL DISTRICT NO. 1. (a) The Tarrant County Criminal Judicial District No. 1 is composed of Tarrant County.

(a-1) Subchapter C applies to the Tarrant County Criminal District Court No. 1.

(b) This section applies to the Tarrant County Criminal District Courts Nos. 1, 2, 3, and 4.

(c) The criminal district courts have jurisdiction of criminal cases within the jurisdiction of a district court. The criminal district courts also have concurrent original jurisdiction with the county criminal courts in Tarrant County over misdemeanor cases. The criminal district courts do not have appellate misdemeanor jurisdiction.

(d) The terms of the criminal district courts begin on the first Mondays in January, April, July, and October.

(e) The judge of each criminal district court or county

criminal court may, on motion of the judge or the criminal district attorney, transfer misdemeanor cases between the courts by an order entered in the minutes of the transferor court. The clerk of the transferor court shall certify the style and number of the case to the clerk of the transferee court and include the papers of the case with the certification. The clerk of the transferee court shall promptly docket the transferred case. The transferee court shall dispose of the case as if it had been originally instituted in that court.

(f) Repealed by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.019(b), eff. September 1, 2023.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.019(a), eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.019(b), eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 24.911. TARRANT COUNTY CRIMINAL JUDICIAL DISTRICT NO. 2. (a) The Tarrant County Criminal Judicial District No. 2 is composed of Tarrant County.

(a-1) Subchapter C applies to the Tarrant County Criminal District Court No. 2.

(b) Section 24.910, relating to the Tarrant County Criminal District Court No. 1, contains provisions applicable to both that court and the Tarrant County Criminal District Court No. 2.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.020, eff. September 1, 2023.

Sec. 24.912. TARRANT COUNTY CRIMINAL JUDICIAL DISTRICT NO. 3. (a) The Tarrant County Criminal Judicial District No. 3 is composed

of Tarrant County.

(a-1) Subchapter C applies to the Tarrant County Criminal District Court No. 3.

(b) Section 24.910, relating to the Tarrant County Criminal District Court No. 1, contains provisions applicable to both that court and the Tarrant County Criminal District Court No. 3.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.021, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 24.913. TARRANT COUNTY CRIMINAL JUDICIAL DISTRICT NO. 4. (a) The Tarrant County Criminal Judicial District No. 4 is composed of Tarrant County.

(b) Repealed by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.022(c), eff. September 1, 2023.

(c) Repealed by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.022(c), eff. September 1, 2023.

(d) Subchapter C applies to the Tarrant County Criminal District Court No. 4.

(d-1) Section 24.910, relating to the Tarrant County Criminal District Court No. 1, contains provisions applicable to both that court and the Tarrant County Criminal District Court No. 4.

(e) Repealed by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.022(c), eff. September 1, 2023.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., ch. 21, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.022(a), eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.022(b), eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.022(c), eff. September 1, 2023.

Sec. 24.920. CRIMINAL JUDICIAL DISTRICT OF JEFFERSON COUNTY. (a) The Criminal Judicial District of Jefferson County is composed of Jefferson County.

(b) The terms of the criminal district court begin on the first Mondays in April, July, October, and January.

(c) The criminal district court has:

(1) original jurisdiction of criminal cases within the jurisdiction of a district court;

(2) concurrent original and appellate jurisdiction with the county courts at law of misdemeanor cases normally within the exclusive jurisdiction of the county courts at law; and

(3) civil jurisdiction in cases of:

(A) divorce, as provided by Chapter 3, Family Code;

(B) dependent and delinquent children, as provided by Section 23.001, by the Family Code, and by Title 43, Revised Statutes;

(C) adoption, as provided by the Family Code; and

(D) habeas corpus proceedings.

(d) The judge of the criminal district court or of a county court at law may, on motion of the judge or the criminal district attorney, transfer misdemeanor cases between the courts by an order entered in the minutes of the transferring court. The clerk of the transferring court shall certify the style and number of the case to the clerk of the receiving court and include the papers of the case with the certification. The receiving clerk shall promptly docket the transferred case. The receiving court shall dispose of the case as if it had been originally instituted in that court.

(e) The court shall have a seal similar to the seal of a district court with "Criminal District Court of Jefferson County" engraved on the seal.

(f) The court may sit at the City of Port Arthur in addition to Beaumont to try, hear, and determine nonjury civil cases and to hear and determine motions, arguments, and the other nonjury civil matters that are within the court's jurisdiction. The district clerk or the clerk's deputy serves as clerk of the court when it sits in Port Arthur and may transfer all necessary books, minutes, records, and papers to Port Arthur while the court is in session there, and transfer them from Port Arthur to Beaumont at the end of each session

in Port Arthur. The Commissioners Court of Jefferson County may provide suitable quarters for the court in the subcourthouse while it sits in Port Arthur. The Jefferson County sheriff or the sheriff's deputy shall attend the court in Port Arthur and perform all required duties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER F. REAPPORTIONMENT OF JUDICIAL DISTRICTS

Sec. 24.941. DECLARATION OF POLICY. It is the policy of the state that the administration of justice shall be prompt and efficient and that, for this purpose, the judicial districts of the state shall be reapportioned as provided by this subchapter so that the district courts of various judicial districts have judicial burdens that are as nearly equal as possible.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.19(a), eff. Sept. 1, 1987.

Sec. 24.942. DEFINITIONS. In this subchapter:

(1) "Board" means the Judicial Districts Board established by Article V, Section 7a, of the Texas Constitution.

(2) "Reapportionment" means the redistribution of the judicial districts of the state by designating the county or counties to be included in each judicial district and may affect any or all of the judicial districts and counties of the state under either the original reapportionment made under this subchapter or a reapportionment at a time subsequent to an original reapportionment.

(3) "Reapportionment order" means an order adopted by the board that reapportions the judicial districts of the state.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.19(a), eff. Sept. 1, 1987.

Sec. 24.943. OFFICIAL DUTY. Service on the board is an official duty of each of the officers named in Article V, Section 7a, of the Texas Constitution.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.19(a), eff. Sept. 1, 1987.

Sec. 24.944. DUTIES. The board shall reapportion the judicial districts authorized by Article V, Section 7, of the Texas Constitution by statewide reapportionment of the districts and, as the necessity for additional reapportionment appears, by redesignating, in one or more reapportionment orders, the county or counties that comprise the specific judicial districts affected by those reapportionment orders. The board shall investigate from time to time the necessity of and appropriate locations for new judicial districts and shall advise the legislature of its findings. The board shall inform itself on all matters bearing on its duties.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.19(a), eff. Sept. 1, 1987.

Sec. 24.945. RULES AND CONDITIONS FOR REAPPORTIONMENT. (a) The reapportionment of the judicial districts of the state by the board is subject to the rules and conditions provided by Subsections (b)-(d).

(b) Reapportionment of the judicial districts shall be made on a determination of fact by the board that the reapportionment will best promote the efficiency and promptness of the administration of justice in the state by equalizing as nearly as possible the judicial burdens of the district courts of the various judicial districts. In determining the reapportionment that best promotes the efficiency and promptness of the administration of justice, the board shall consider:

(1) the numbers and types of cases filed in the district courts of the counties to be affected by the reapportionment;

(2) the numbers and types of cases disposed of by dismissal or judgment in the district courts of those counties;

(3) the numbers and types of cases pending in the district courts of those counties;

(4) the number of district courts in those counties;

(5) the population of the counties;

(6) the area to be covered by a judicial district; and

(7) the actual growth or decline of population and district court case load in the counties to be affected.

(c) Each judicial district affected by a reapportionment must contain one or more complete counties except as provided by this section. More than one judicial district may contain the same county or counties. If more than one county is contained in a judicial district, the territory of the judicial district must be contiguous.

(d) Subject to the other rules and conditions in this section, a judicial district in a reapportionment under this subchapter may:

(1) be enlarged in territory by including an additional county or counties in the district, but a county having a population as large or larger than the population of the judicial district being reapportioned may not be added to the judicial district;

(2) be decreased in territory by removing a county or counties from the district;

(3) have both a county or counties added to the district and a county or counties removed from it; or

(4) be removed to another location in the state so that the district contains an entirely different county or counties.

(e) The legislature, the Judicial Districts Board, or the Legislative Redistricting Board may not redistrict the judicial districts to provide for any judicial district smaller in size than an entire county except as provided by this subsection. Judicial districts smaller in size than the entire county may be created subsequent to a general election in which a majority of the persons voting on the proposition adopt the proposition "to allow the division of _____ County into judicial districts composed of parts of _____ County." A redistricting plan may not be proposed or adopted by the legislature, the Judicial Districts Board, or the Legislative Redistricting Board in anticipation of a future action by the voters of any county.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.19(a), eff. Sept. 1, 1987.

Sec. 24.946. PROCEDURE. (a) The board shall meet in accordance with its own rules. The board shall meet at least once in each interim between regular sessions of the legislature and shall exercise its reapportionment powers only in the interims between

regular legislative sessions. Meetings of the board shall be subject to the provisions of Chapter 551, except as otherwise provided by this subchapter. A reapportionment may not be ordered in the interim immediately following a regular session of the legislature in which a valid and subsisting statewide reapportionment of judicial districts is enacted by the legislature. Unless the legislature enacts a statewide reapportionment of the judicial districts following each federal decennial census, the board shall convene not later than the first Monday of June of the third year following the year in which the federal decennial census is taken to make a statewide reapportionment of the districts. The board shall complete its work on the reapportionment and file its order with the secretary of state not later than August 31 of the same year. If the Judicial Districts Board fails to make a statewide apportionment by that date, the Legislative Redistricting Board established by Article III, Section 28, of the Texas Constitution shall make a statewide reapportionment of the judicial districts not later than the 150th day after the final day for the Judicial Districts Board to make the reapportionment, and that apportionment takes effect as provided by Sections 24.948 and 24.949.

(b) The board shall adopt its own rules of procedure and has the power to make investigations, hold hearings, compel by subpoena the attendance and testimony of witnesses and the production of records, administer oaths, and do all things necessary in its judgment to carry out its duties.

(c) On the request of the chairman, a peace officer shall serve a subpoena issued by the board. The officer shall serve the subpoena in the same manner as a subpoena issued by a district court is served. If the person to whom a subpoena is directed fails to comply, the board may bring suit in the district court to enforce the subpoena. If the court determines that good cause exists for the issuance of the subpoena, the court shall order compliance. The court may modify the requirements of a subpoena that the court determines are unreasonable. Failure to comply with the order of the district court is punishable as contempt.

(d) The board may provide for the compensation of subpoenaed witnesses. The amount of compensation may not exceed the amount paid to a witness subpoenaed by a district court in a civil proceeding.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.19(a), eff. Sept. 1,

1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(83), eff. Sept. 1, 1995.

Sec. 24.947. REAPPORTIONMENT ORDERS. Any judicial reapportionment order adopted by the board must be approved by a record vote of the majority of the membership of both the senate and house of representatives before the order can become effective and binding.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.19(a), eff. Sept. 1, 1987.

Sec. 24.948. EFFECT OF REAPPORTIONMENT. (a) After the effective date of a reapportionment order, the judicial districts affected by the order contain only the counties designated for the judicial districts in the reapportionment order, and the district courts shall have and exercise jurisdiction coextensive with the newly defined limits of the judicial districts in all actions, proceedings, matters, and causes of which district courts have jurisdiction under the constitution and laws of the state.

(b) If a county in which any part of the jurisdiction vested by general law in the county court has been transferred or made concurrent in a district court is removed by reapportionment under this subchapter from the judicial districts of all district courts having the county court jurisdiction, the board shall specify whether, after the effective date of the reapportionment order, the transferred county court jurisdiction is vested in the district court of the judicial districts in which the county is included under the reapportionment order or whether the transferred county court jurisdiction is revested in the county court.

(c) If the office of district attorney is authorized by law in or for a judicial district, a reapportionment under this subchapter does not change the county or counties included in the district for purposes of election, functions, duties, and authority of the district attorney, his assistants, and their successors in office.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.19(a), eff. Sept. 1, 1987.

Sec. 24.949. PENDING CASES AND PROCEEDINGS. (a) If a county is removed from a judicial district and placed or left in another judicial district by reapportionment under this subchapter, the district clerk of that county shall, on the effective date of the reapportionment order, transfer and properly docket to the court of a judicial district in which the county is located the cases and proceedings in that county on the docket of the court of the judicial district from which the county is removed, with all records, documents, and instruments on file in connection with the cases and proceedings. If a county is removed from a judicial district and placed or left in more than one judicial district, the clerk shall transfer the cases and proceedings to the district court of the judicial district for that county having the lowest numerical designation.

(b) If cases or other proceedings are transferred from a district court to another district court in accordance with this subchapter, all writs, processes, bonds, bail bonds, recognizances, complaints, informations and indictments, and any other matters returnable to the court from which the cases or proceedings were transferred are returnable to the court to which the cases or proceedings are transferred and are as valid as if they had been made returnable originally to that court.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.19(a), eff. Sept. 1, 1987.

Sec. 24.950. EQUALIZATION OF DOCKETS. The judges of the district courts may equalize their dockets in all counties in which there are two or more district courts. The judge of a district court, on motion of a party, on agreement of the parties, or on the judge's own motion, may transfer a cause or proceeding on the judge's docket to the docket of one of the other district courts.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.19(a), eff. Sept. 1, 1987.

Sec. 24.951. CONCURRENT JURISDICTION. If a county is located in two or more judicial districts by reapportionment under this subchapter, all the district courts in the county have concurrent

civil and criminal jurisdiction within the territorial limits of the county.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.19(a), eff. Sept. 1, 1987.

Sec. 24.952. TERMS OF COURTS. The terms of the district court of a judicial district affected by reapportionment under this subchapter shall be the terms provided by the board in the reapportionment order affecting the judicial district. In the absence of a provision by the board, the terms of the district court, until otherwise prescribed by law, begin on the first Mondays in January and July of each year and continue until the time for convening the next regular term of the court. Each district court may hold as many sessions of court in each county each year as the judge considers expedient.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.19(a), eff. Sept. 1, 1987.

Sec. 24.953. OFFICERS OF COURT. In a county placed in a different or additional judicial district by reapportionment under this subchapter, the district clerk, sheriff, constables, county attorney, and district attorney or criminal district attorney of the county, and their assistants and successors in office, shall be the respective officers of all district courts of the county, including the courts of the different or additional judicial districts. Each officer shall perform all the duties and functions of his office relative to all the district courts of the county.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.19(a), eff. Sept. 1, 1987.

Sec. 24.954. QUARTERS FOR COURTS. The commissioners court of a county that is newly included in a judicial district by reapportionment under this subchapter shall provide suitable quarters, facilities, and personnel for the district court of the judicial district.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.19(a), eff. Sept. 1, 1987.

CHAPTER 25. STATUTORY COUNTY COURTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 25.0001. APPLICATION OF SUBCHAPTER. (a) This subchapter applies to each statutory county court in this state. If a provision of this subchapter conflicts with a specific provision for a particular court or county, the specific provision controls.

(b) A statement in Subchapter C that a general provision of this subchapter does not apply to a specific statutory court or the statutory courts of a specific county does not affect the application of other laws on the same subject that may affect the court or courts.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.0002. DEFINITIONS. In this chapter:

(1) "Criminal law cases and proceedings" includes cases and proceedings for allegations of conduct punishable in part by confinement in the county jail not to exceed one year.

(2) "Family law cases and proceedings" includes cases and proceedings under Titles 1, 2, 4, and 5, Family Code.

(3) "Juvenile law cases and proceedings" includes all cases and proceedings brought under Title 3, Family Code.

(4) "Mental health cases and proceedings" includes all cases and proceedings brought under Chapter 462, Health and Safety Code, or Subtitle C or D, Title 7, Health and Safety Code.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.01, eff. January 1, 2012.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25.0003. JURISDICTION. (a) A statutory county court has jurisdiction over all causes and proceedings, civil and criminal, original and appellate, prescribed by law for county courts.

(b) A statutory county court does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways and the general administration of county business that is within the jurisdiction of the commissioners court of each county.

(c) In addition to other jurisdiction provided by law, a statutory county court exercising civil jurisdiction concurrent with the constitutional jurisdiction of the county court has concurrent jurisdiction with the district court in:

(1) civil cases in which the matter in controversy exceeds $500 but does not exceed $250,000, excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs, as alleged on the face of the petition; and

(2) appeals of final rulings and decisions of the division of workers' compensation of the Texas Department of Insurance regarding workers' compensation claims, regardless of the amount in controversy.

(d) Except as provided by Subsection (e), a statutory county court has, concurrent with the county court, the probate jurisdiction provided by general law for county courts.

(e) In a county that has a statutory probate court, a statutory probate court is the only county court created by statute with probate jurisdiction.

(f) A statutory county court does not have the jurisdiction of a statutory probate court granted statutory probate courts by the Estates Code.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 2, 3, eff. Oct. 1, 1991; Acts 1999, 76th Leg., ch. 431, Sec. 2, eff. Sept. 1, 1999. Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 6.002, eff. September 1, 2005.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.02, eff. January 1, 2012.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.022,

eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 2, eff. September 1, 2020.

Sec. 25.0004. POWERS AND DUTIES. (a) A statutory county court or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or any court of inferior jurisdiction in the county.

(b) A statutory county court or its judge may punish for contempt as prescribed by general law.

(c) The judge of a statutory county court has all other powers, duties, immunities, and privileges provided by law for county court judges.

(d) Except as provided by Subsection (e), the judge of a statutory county court has no authority over the county's administrative business that is performed by the county judge.

(e) The judge of a statutory county court may be delegated authority to hear an application under Section 25.052, 26.07, or 61.312, Alcoholic Beverage Code.

(f) The judge of a statutory county court does not have general supervisory control or appellate review of the commissioners court.

(g) A judge of a statutory county court has the judicial immunity of a district judge.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 417, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.03, eff. January 1, 2012.

Sec. 25.0005. JUDGE'S SALARY. (a) A statutory county court judge, other than a statutory county court judge who engages in the private practice of law, shall be paid a total annual salary set by the commissioners court at an amount that is not less than $1,000

less than the sum of the annual salary as set by the General Appropriations Act in accordance with Section 659.012 paid to a district judge with comparable years of service as the statutory county court judge and any state or county contributions and supplements paid to a district judge in the county, other than contributions received as compensation under Section 74.051. A statutory county court judge's total annual salary includes any state or county contributions and supplements paid to the judge. For purposes of this subsection, the years of service of a statutory county court judge include any years of service as:

(1) an appellate court, district court, multicounty statutory county court, or statutory probate court justice or judge; or

(2) a district attorney, criminal district attorney, or county attorney.

(a-1) The minimum salary prescribed by Subsection (a) that is to be based on the annual salary of a district judge under Section 659.012(b) becomes effective on the first day of the county's fiscal year following the date the statutory county court judge accrues the years of service required for an increase in salary under Subsection (a).

(a-2) Notwithstanding Subsection (a), the maximum annual salary of a statutory county court judge is $1,000 less than the sum of the maximum combined annual salary from all state and county sources paid to a district judge entitled to a salary under Section 659.012(b)(2) and any longevity pay received by a district judge in accordance with Section 659.0445(d).

(b) Subject to any salary requirements otherwise imposed by this chapter for a particular court or county, the commissioners court sets the salary of each statutory county court judge who engages in the private practice of law.

(c) The salary shall be paid in:

(1) equal monthly installments; or

(2) equal biweekly installments if authorized by the commissioners court.

(d) Notwithstanding Section 25.0001(a), this section prevails over any other law that limits a particular statutory county court judge to an annual salary of less than the amount provided by Subsection (a), but does not affect a salary minimum set by other law that equals or exceeds the amount provided by Subsection (a).

(e) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1301, Sec. 13(1), eff. October 1, 2007.

(f) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1301, Sec. 13(1), eff. October 1, 2007.

(g) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1301, Sec. 13(1), eff. October 1, 2007.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 4, eff. Oct. 1, 1991; Acts 1993, 73rd Leg., ch. 144, Sec. 1, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 80, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1119, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1572, Sec. 1, eff. Oct. 1, 1999; Acts 2003, 78th Leg., ch. 616, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1301 (S.B. 600), Sec. 1, eff. October 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1301 (S.B. 600), Sec. 13(1), eff. October 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 194 (S.B. 560), Sec. 1, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 3, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.001, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 387, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25.0006. BOND; REMOVAL. (a) Notwithstanding any other law except Subsection (a-4), Subsections (a-1), (a-2), (a-3), and (a-5) control over a specific provision for a particular court or county that attempts to create a requirement for a bond or insurance that conflicts with those subsections.

(a-1) Before beginning the duties of the office, the judge of a statutory county court must execute a bond that:

(1) is payable to the treasurer of the county;

(2) is in the amount set by the commissioners court of:

(A) subject to Paragraph (B), not less than $1,000 nor

more than $10,000; or

(B) for a judge presiding in the court over guardianship proceedings, as defined by Section 1002.015, Estates Code, or over probate proceedings, as defined by Section 22.029, Estates Code, not less than:

(i) $100,000 for a court in a county with a population of 125,000 or less; or

(ii) $250,000 for a court in a county with a population of more than 125,000; and

(3) is conditioned that the judge will:

(A) faithfully perform all duties of office; and

(B) for a judge presiding in the court over guardianship or probate proceedings, perform the duties required by the Estates Code.

(a-2) The bond executed as required by Subsection (a-1) must be approved by the commissioners court.

(a-3) In lieu of the bond required by Subsection (a-1)(2)(B), a county may elect to obtain insurance against losses caused by the gross negligence of a judge of a statutory county court in performing the duties of office. The commissioners court of a county shall pay the premium for the insurance out of the general funds of the county.

(a-4) This section does not apply to:

(1) a judge of a statutory county court who does not preside over guardianship proceedings, as defined by Section 1002.015, Estates Code;

(2) a judge of a statutory probate court who executes a bond, obtains insurance, or self-insures pursuant to Section 25.00231; or

(3) a judge who presides over a county criminal court.

(a-5) A bond executed under Subsection (a-1) by the judge elected or appointed to a statutory county court or an insurance policy obtained under Subsection (a-3) shall provide the same coverage to a visiting judge assigned to the court or associate judge appointed to serve the court as the bond or insurance policy provides to the judge elected or appointed to the court.

(b) The judge of a statutory county court may be removed from office in the same manner and for the same reasons as a county judge.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Amended by:
Acts 2017, 85th Leg., R.S., Ch. 515 (S.B. 40), Sec. 1, eff. September 1, 2017.
Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 66, eff. September 1, 2021.
Acts 2021, 87th Leg., R.S., Ch. 576 (S.B. 615), Sec. 26, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25.0007. JURIES; PRACTICE AND PROCEDURE.
(a) Repealed by Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 34(1), eff. September 1, 2020.
(b) Practice in a statutory county court is that prescribed by law for county courts, except that practice, procedure, rules of evidence, issuance of process and writs, the drawing of jury panels, the selection of jurors, and all other matters pertaining to the conduct of trials and hearings in the statutory county courts that involve those matters of concurrent jurisdiction with district courts are governed by the laws and rules pertaining to the district courts in the county in which the statutory county court is located. This section does not affect local rules of administration adopted under Section 74.093.
(c) In a civil case pending in a statutory county court in which the matter in controversy exceeds $250,000, the jury shall be composed of 12 members unless all of the parties agree to a jury composed of a lesser number of jurors.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 5, eff. Oct. 1, 1991.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.04, eff. January 1, 2012.
Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 3, eff. September 1, 2020.
Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 34(1), eff.

September 1, 2020.

Sec. 25.0008. FEES. A judge of a statutory county court shall assess the same fees as are prescribed by law relating to county judges' fees. The clerk of the court shall collect the fees and pay them into the county treasury on collection. A fee may not be paid to the judge.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.0009. VACANCY. (a) The commissioners court of each county shall appoint a person to fill a vacancy in the office of judge of a statutory county court.

(b) The appointee holds office until the next general election and until the successor is elected and has qualified.

(c) This section applies to a vacancy existing on creation of the office of judge.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.0010. FACILITIES; PERSONNEL. (a) The commissioners court of each county shall provide the physical facilities necessary to operate the statutory county court in each county.

(b) The county attorney or criminal district attorney shall serve each statutory county court as required by law.

(c) A county sheriff shall in person or by deputy attend a statutory county court as required by the court.

(d) The county clerk shall serve as clerk of each statutory county court. The court officials shall perform the duties and responsibilities of their offices and are entitled to the compensation, fees, and allowances prescribed by law for those offices.

(e) The judge of a statutory county court may appoint the personnel necessary for the operation of the court, including a court coordinator or administrative assistant, if the commissioners court has approved the creation of the position.

(f) The commissioners court may authorize the employment of as many additional assistant district attorneys, assistant county attorneys, deputy sheriffs, and clerks as are necessary for a statutory county court.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.05, eff. January 1, 2012.

Sec. 25.0011. SEAL. The seal of each statutory county court is the same as that provided by law for a county court except that the seal must contain the name of the statutory county court as it appears in this chapter.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.0012. EXCHANGE OF JUDGES IN CERTAIN COUNTY COURTS AT LAW AND COUNTY CRIMINAL COURTS. In any county with a population of more than 300,000, the judge of a county criminal court and the judge of a county court at law may hold court for or with one another. The county criminal court has the necessary civil jurisdiction to hold court for the county court at law.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.0014. QUALIFICATIONS OF JUDGE. The judge of a statutory county court must:

(1) be at least 25 years of age;

(2) be a United States citizen and have resided in the county for at least two years before election or appointment; and

(3) be a licensed attorney in this state who has practiced law or served as a judge of a court in this state, or both combined, for the four years preceding election or appointment, unless otherwise provided for by law.

Added by Acts 1991, 72nd Leg., ch. 746, Sec. 6, eff. Oct. 1, 1991.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.06(a), eff. January 1, 2012.

Sec. 25.0015. STATE CONTRIBUTION. Beginning on the first day of the state fiscal year, the state shall annually compensate each county in an amount equal to 60 percent of the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a) for each statutory county court judge in the county who:

(1) does not engage in the private practice of law; and

(2) presides over a court with at least the jurisdiction provided by Section 25.0003.

Added by Acts 1991, 72nd Leg., ch. 746, Sec. 6, eff. Oct. 1, 1991.
Amended by Acts 1997, 75th Leg., ch. 1119, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1572, Sec. 3, eff. Oct. 1, 1999; Acts 2003, 78th Leg., ch. 616, Sec. 2, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1301 (S.B. 600), Sec. 2, eff. October 1, 2007.
Acts 2007, 80th Leg., R.S., Ch. 1301 (S.B. 600), Sec. 13(2), eff. October 1, 2007.
Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 4, eff. September 1, 2019.

Sec. 25.0016. TERMS OF COURT; TERMS AND SESSIONS OF COURT FOLLOWING CERTAIN DISASTERS. (a) The commissioners court, by order, shall set at least two terms a year for the statutory county court.

(b) Notwithstanding any other law, if a disaster, as defined by Section 418.004, precludes a statutory county court from holding its terms in accordance with the order of the commissioners court, the presiding judge of the administrative judicial region, with the approval of the judge of the affected statutory county court, may designate the terms and sessions of court.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.07(a), eff. January 1, 2012.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 5, eff. June 7, 2019.

Sec. 25.00161. PRIVATE PRACTICE OF LAW. The regular judge of a statutory county court shall diligently discharge the duties of the office on a full-time basis and may not engage in the private practice of law.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.07(a), eff. January 1, 2012.

Sec. 25.0017. VISITING JUDGE TO TAKE OATH. (a) A person who is a retired or former judge shall, before accepting an assignment as a visiting judge of a statutory county court, take the oath of office required by the constitution and file the oath with the regional presiding judge.

(b) A regional presiding judge shall maintain a file containing the oaths of office filed with the judge under Subsection (a).

(c) A retired or former judge may be assigned as a visiting judge of a statutory county court only if the judge has filed with the regional presiding judge an oath of office as required by this section.

Added by Acts 1995, 74th Leg., ch. 456, Sec. 3, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 782, Sec. 4, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 960, Sec. 1, eff. Sept. 1, 1999.

Sec. 25.0018. RECORD. (a) When a retired or former judge is appointed as a visiting judge, the clerk shall enter in the administrative file as a part of the proceedings in the cause a record that gives the visiting judge's name and shows that:

(1) the judge of the court was disqualified, absent, or disabled to try the cause;

(2) the visiting judge was appointed; and

(3) the oath of office prescribed by law for a retired or former judge who is appointed as a visiting judge was duly administered to the visiting judge and filed with the regional

presiding judge.

(b) "Administrative file" means a file kept by the court clerk for the court's administrative orders and assigned a cause number.

Added by Acts 1995, 74th Leg., ch. 456, Sec. 3, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 782, Sec. 4, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 960, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 469, Sec. 1, eff. Sept. 1, 2001.

Sec. 25.0019. LOCATION OF PROCEEDINGS FOLLOWING CERTAIN DISASTERS. (a) Repealed by Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 17, eff. June 7, 2019.

(b) Notwithstanding any other law, including a specific provision in this chapter for a particular court or county that requires a statutory county court to conduct its proceedings at the county seat, if a disaster, as defined by Section 418.004, precludes a statutory county court in that county from conducting its proceedings at the county seat, the presiding judge of the administrative judicial region, with the approval of the judge of the affected statutory county court, may designate for the proceedings an alternate location:

(1) in the county; or

(2) outside the county at the location the presiding judge determines is closest in proximity to the county seat that allows the court to safely and practicably conduct its proceedings, provided the presiding judge of the administrative judicial region for the designated location approves if that presiding judge is not the presiding judge making the designation.

Added by Acts 2007, 80th Leg., R.S., Ch. 1076 (H.B. 2766), Sec. 2, eff. June 15, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 6, eff. June 7, 2019.

Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 17, eff. June 7, 2019.

Sec. 25.0020. APPOINTMENT OF COUNSEL IN CERTAIN APPEALS. (a) On a written application of any party to an eviction suit, the county

court or county court at law in which an appeal of the suit is filed may appoint any qualified attorney who is willing to provide pro bono services in the matter or counsel from a list provided by a pro bono legal services program of counsel willing to be appointed to handle appeals under this section to attend to the cause of a party who:

(1) was in possession of the residence at the time the eviction suit was filed in the justice court; and

(2) has perfected the appeal on a pauper's affidavit approved in accordance with Rule 749a, Texas Rules of Civil Procedure.

(b) The appointed counsel shall represent the individual in the proceedings of the suit in the county court or county court at law. At the conclusion of those proceedings, the appointment terminates.

(c) The court may terminate representation appointed under this section for cause.

(d) Appointed counsel may not receive attorney's fees unless the recovery of attorney's fees is provided for by contract, statute, common law, court rules, or other regulations. The county is not responsible for payment of attorney's fees to appointed counsel.

(e) The court shall provide for a method of service of written notice on the parties to an eviction suit of the right to request an appointment of counsel on perfection of appeal on approval of a pauper's affidavit.

Added by Acts 2009, 81st Leg., R.S., Ch. 1183 (H.B. 3637), Sec. 6, eff. September 1, 2009.
Added by Acts 2009, 81st Leg., R.S., Ch. 1351 (S.B. 408), Sec. 4, eff. September 1, 2009.

SUBCHAPTER B. GENERAL PROVISIONS RELATING TO STATUTORY PROBATE COURTS

Sec. 25.0021. JURISDICTION. (a) If this section conflicts with a specific provision for a particular statutory probate court or county, the specific provision controls, except that this section controls over a specific provision for a particular court or county if the specific provision attempts to create jurisdiction in a statutory probate court other than jurisdiction over probate, guardianship, mental health, or eminent domain proceedings.

(b) A statutory probate court as that term is defined in Section 22.007(c), Estates Code, has:

(1) the general jurisdiction of a probate court as provided by the Estates Code; and

(2) the jurisdiction provided by law for a county court to hear and determine actions, cases, matters, or proceedings instituted under:

(A) Section 166.046, 192.027, 193.007, 552.015, 552.019, 711.004, or 714.003, Health and Safety Code;

(B) Chapter 462, Health and Safety Code; or

(C) Subtitle C or D, Title 7, Health and Safety Code.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 635, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.023, eff. September 1, 2017.

Sec. 25.00211. STATE CONTRIBUTION. (a) Beginning on the first day of the state fiscal year, the state shall annually compensate each county in an amount equal to 60 percent of the annual base salary the state pays to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a) for each statutory probate court judge in the county.

(b) The amount shall be paid to the county treasury for deposit in the contributions fund created under Section 25.00213 in equal monthly installments from funds appropriated from the judicial fund.

Added by Acts 1999, 76th Leg., ch. 1572, Sec. 2, eff. Oct. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1443, Sec. 1, eff. June 17, 2001.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 2.02, eff. January 1, 2022.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 2.01, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature,

Regular Session, for amendments affecting the following section.

Sec. 25.00212. EXCESS CONTRIBUTIONS. (a) At the end of each state fiscal year, the comptroller shall determine the amounts deposited in the judicial fund by statutory probate courts and the sum of the amount paid under Section 25.0022(e) and the total amounts paid to the counties under Section 25.00211. If the total amount deposited in the judicial fund by statutory probate courts in all counties exceeds that sum, the state shall remit the excess proportionately to each county that deposited a greater amount in the judicial fund by statutory probate court than the amount the county was paid under Section 25.00211, as adjusted in an equitable manner to reflect the differences in the total amounts paid to the counties under Section 25.00211.

(b) The amounts remitted under Subsection (a) shall be paid to the county treasury for deposit in the contributions fund created under Section 25.00213.

Added by Acts 1999, 76th Leg., ch. 1572, Sec. 2, eff. Oct. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 7, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1443, Sec. 2, eff. June 17, 2001. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 718 (H.B. 2359), Sec. 1, eff. September 1, 2007.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 2.03, eff. January 1, 2022.

Sec. 25.00213. CONTRIBUTIONS FUND. (a) A contributions fund is created in the county treasury of each county that receives funds under Section 25.00212.

(b) Money in a contributions fund created under this section may be used only for court-related purposes for the support of the statutory probate courts in the county, including for the payment of the compensation of a statutory probate court associate judge in accordance with Section 54.605.

(c) A county may not reduce the amount of funds provided for the support of the statutory probate courts in the county because of the availability of funds from the county's contributions fund.

Added by Acts 2001, 77th Leg., ch. 1443, Sec. 3, eff. June 17, 2001. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 400 (S.B. 821), Sec. 1, eff. June 15, 2007.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 2.04, eff. January 1, 2022.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25.0022. ADMINISTRATION OF STATUTORY PROBATE COURTS. (a) "Statutory probate court" has the meaning assigned by Chapter 22, Estates Code.

(b) The judges of the statutory probate courts shall elect from their number a presiding judge of the statutory probate courts. The presiding judge serves a four-year term from the date of qualification as the presiding judge.

(c) The presiding judge may perform the acts necessary to carry out this section and to improve the management of the statutory probate courts and the administration of justice.

(d) The presiding judge shall:

(1) ensure the promulgation of local rules of administration in accordance with policies and guidelines set by the supreme court;

(2) advise local statutory probate court judges on case flow management practices and auxiliary court services;

(3) perform a duty of a local administrative statutory probate court judge if the local administrative judge does not perform that duty;

(4) appoint an assistant presiding judge of the statutory probate courts;

(5) call and preside over annual meetings of the judges of the statutory probate courts at a time and place in the state as designated by the presiding judge;

(6) call and convene other meetings of the judges of the statutory probate courts as considered necessary by the presiding judge to promote the orderly and efficient administration of justice in the statutory probate courts;

(7) study available statistics reflecting the condition of the dockets of the probate courts in the state to determine the need for the assignment of judges under this section;

(8) compare local rules of court to achieve uniformity of rules to the extent practical and consistent with local conditions;

(9) assign or order the clerk who serves the statutory probate courts to randomly assign a judge or former or retired judge of a statutory probate court to hear a case under Section 25.002201(a) or 25.00255, as applicable; and

(10) require the local administrative judge for statutory probate courts in a county to ensure that all statutory probate courts in the county comply with Chapter 37.

(e) In addition to all other compensation, expenses, and perquisites authorized by law, the presiding judge shall be paid for performing the duties of a presiding judge an annual salary equal to the maximum salary authorized by Section 74.051(b) for a presiding judge of an administrative judicial region. The presiding judge is entitled to receive reasonable expenses incurred in administering those duties. The state shall pay $5,000 of the salary in equal monthly installments from amounts deposited in the judicial fund and appropriated for that purpose, and the remainder of the salary and expenses is paid by the counties that have statutory probate courts, apportioned according to the number of statutory probate courts in the county.

(f) Each county pays annually to the presiding judge, from fees collected pursuant to Section 118.052(2)(A)(vi), Local Government Code, the amount of the salary apportioned to it as provided by this section and the other expenses authorized by this section. The presiding judge shall place each county's payment of salary and other expenses in an administrative fund, from which the salary and other expenses are paid. The salary shall be paid in equal monthly installments.

(g) The assistant presiding judge may assign probate judges as provided by this section and perform the office of presiding judge:

(1) on the death or resignation of the presiding judge and until a successor presiding judge is elected; or

(2) when the presiding judge is unable to perform the duties of the office because of absence, disqualification, disabling illness, or other incapacity.

(h) Subject to Section 25.002201, a judge or a former or retired judge of a statutory probate court may be assigned by the presiding judge of the statutory probate courts to hold court in a statutory probate court, a county court, or any statutory court

exercising probate jurisdiction when:

(1) a statutory probate judge requests assignment of another judge to the judge's court;

(2) a statutory probate judge is absent, disabled, or disqualified for any reason;

(3) a statutory probate judge is present or is trying cases as authorized by the constitution and laws of this state and the condition of the court's docket makes it necessary to appoint an additional judge;

(4) the office of a statutory probate judge is vacant;

(5) the presiding judge of an administrative judicial district requests the assignment of a statutory probate judge to hear a probate matter in a county court or statutory county court;

(6) the statutory probate judge is recused or disqualified as described by Section 25.002201(a);

(7) a county court judge requests the assignment of a statutory probate judge to hear a probate matter in the county court; or

(8) a local administrative statutory probate court judge requests the assignment of a statutory probate judge to hear a matter in a statutory probate court.

(i) A judge assigned under this section has the jurisdiction, powers, and duties given by Sections 32.001, 32.002, 32.003, 32.005, 32.006, 32.007, 34.001, 1022.001, 1022.002, 1022.003, 1022.005, 1022.006, and 1022.007, Estates Code, to statutory probate court judges by general law.

(j) Except as otherwise provided by this section, the salary, compensation, and expenses of a judge assigned under this section are paid in accordance with state law.

(k) The daily compensation of a former or retired judge for purposes of this section is set at an amount equal to the daily compensation of a judge of a statutory probate court in the county in which the former or retired judge is assigned. A former or retired judge assigned to a county that does not have a statutory probate court shall be paid an amount equal to the daily compensation of a judge of a statutory probate court in the county where the assigned judge was last elected.

(l) An assigned judge is entitled to receive reasonable and necessary expenses for travel, lodging, and food. The assigned judge shall furnish the presiding judge, for certification, an accounting

of those expenses with a statement of the number of days the judge served.

(m) The presiding judge shall certify to the county judge in the county in which the assigned judge served:

(1) the expenses approved under Subsection (l); and

(2) a determination of the assigned judge's salary.

(n) A judge who has jurisdiction over a suit pending in one county may, unless a party objects, conduct any of the judicial proceedings except the trial on the merits in a different county.

(o) The county in which the assigned judge served shall pay out of the general fund of the county:

(1) expenses certified under Subsection (m) to the assigned judge; and

(2) the salary certified under Subsection (m) to the county in which the assigned judge serves, or, if the assigned judge is a former or retired judge, to the assigned judge.

(p) In addition to all compensation and expenses authorized by this section and other law, a judge who is assigned to a court outside the county of the judge's residence is entitled to receive $25 for each day or fraction of a day served. The county in which the judge served shall pay the additional compensation from the county's general fund on certification by the presiding judge.

(q) When required to attend an annual or special meeting prescribed by this section, a judge is entitled to receive, in addition to all other compensation allowed by law, actual and necessary travel expenses incurred going to and returning from the place of the meeting and actual and necessary expenses while attending the meeting. On certification by the presiding judge, the judge's county of residence shall pay the expenses from the county's general fund.

(r) Chapter 74 and Subchapter I, Chapter 75, do not apply to the assignment under this section of statutory probate court judges.

(s) The presiding judge may appoint any special or standing committees of statutory probate court judges necessary or desirable for court management and administration.

(t) To be eligible for assignment under this section, a former or retired judge of a statutory probate court must:

(1) not have been removed from office;

(2) certify under oath to the presiding judge, on a form prescribed by the state board of regional judges, that:

(A) the judge has not been publicly reprimanded or censured by the State Commission on Judicial Conduct; and

(B) the judge:

(i) did not resign or retire from office after the State Commission on Judicial Conduct notified the judge of the commencement of a full investigation into an allegation or appearance of misconduct or disability of the judge as provided in Section 33.022 and before the final disposition of that investigation; or

(ii) if the judge did resign from office under circumstances described by Subparagraph (i), was not publicly reprimanded or censured as a result of the investigation;

(3) annually demonstrate that the judge has completed in the past state fiscal year the educational requirements for an active statutory probate court judge;

(4) have served as an active judge for at least 72 months in a district, statutory probate, statutory county, or appellate court; and

(5) have developed substantial experience in the judge's area of specialty.

(t-1) Repealed by Acts 2023, 88th Leg., R.S., Ch. 383 (H.B. 103), Sec. 5, eff. September 1, 2023.

(u) In addition to the eligibility requirements under Subsection (t), to be eligible for assignment under this section in the judge's county of residence, a former or retired judge of a statutory probate court must certify to the presiding judge a willingness not to:

(1) appear and plead as an attorney in any court in the judge's county of residence for a period of two years; and

(2) accept appointment as a guardian ad litem, guardian of the estate of an incapacitated person, or guardian of the person of an incapacitated person in any court in the judge's county of residence for a period of two years.

(v) A judge who is assigned under this section to a court in a county other than the county in which the judge serves is not an employee of the other county.

(w) A former or retired judge who is assigned under this section is not an employee of the county in which the assigned court is located.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1,

1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.03(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1101, Sec. 1, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 691, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 298, Sec. 1, 7, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1064, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1435, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 65, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 440, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 468, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 820, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 9.002, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 718 (H.B. 2359), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1206 (S.B. 683), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1263 (H.B. 764), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1351 (S.B. 408), Sec. 12(d), eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1085 (S.B. 1196), Sec. 40, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 1.41, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.08, eff. January 1, 2012.

Acts 2015, 84th Leg., R.S., Ch. 1031 (H.B. 1438), Sec. 32, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1223 (S.B. 1876), Sec. 2, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.024, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 14.01, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 2.05, eff. January 1, 2022.

Acts 2023, 88th Leg., R.S., Ch. 383 (H.B. 103), Sec. 5, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25.002201. ASSIGNMENT OF JUDGE ON RECUSAL OR DISQUALIFICATION. (a) Except as provided by Subsection (b), not later than the 15th day after the date an order of recusal or disqualification of a statutory probate court judge is issued in a case, the presiding judge shall assign a statutory probate court judge or a former or retired judge of a statutory probate court to hear the case if:

(1) the judge of the statutory probate court recused himself or herself under Section 25.00255(g)(1)(A);

(2) the judge of the statutory probate court disqualified himself or herself under Section 25.00255(g-1);

(3) the order was issued under Section 25.00255(i-3)(1); or

(4) the presiding judge receives notice and a request for assignment from the clerk of the statutory probate court under Section 25.00255(l).

(b) If the judge who is the subject of an order of recusal or disqualification is the presiding judge of the statutory probate courts, the chief justice of the supreme court shall assign a statutory probate judge or a former or retired judge of a statutory probate court to hear the case.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1031 , Sec. 37(3), eff. September 1, 2015.

Added by Acts 2009, 81st Leg., R.S., Ch. 1206 (S.B. 683), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1031 (H.B. 1438), Sec. 33, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1031 (H.B. 1438), Sec. 37(3), eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 45, eff. September 1, 2019.

Sec. 25.00221. VISITING JUDGE TO TAKE OATH; RECORD. (a) This section applies to the assignment of a retired or former judge as a visiting judge of a statutory probate court under Section 25.0022.

(b) A person who is a retired or former judge shall, before accepting an assignment as a visiting judge of a statutory probate court, take the oath of office required by the constitution and file the oath with the presiding judge of the statutory probate courts.

(c) The presiding judge shall maintain a file containing the oaths of office filed with the judge under Subsection (b).

(d) A retired or former judge may be assigned as a visiting judge of a statutory probate court only if the judge has filed with the presiding judge an oath of office as required by this section.

(e) When a retired or former judge is appointed as a visiting judge, the clerk shall enter in the administrative file as a part of the proceedings in the cause a record that gives the visiting judge's name and shows that:

(1) the judge of the court was disqualified, absent, or disabled to try the cause;

(2) the visiting judge was appointed; and

(3) the oath of office prescribed by law for a retired or former judge who is appointed as a visiting judge was duly administered to the visiting judge and filed with the presiding judge.

(f) "Administrative file" means a file kept by the court clerk for the court's administrative orders and assigned a cause number.

Added by Acts 1999, 76th Leg., ch. 960, Sec. 3, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 469, Sec. 2, 3, eff. Sept. 1, 2001.

Sec. 25.00222. TRANSFER OF CASES. (a) The judge of a statutory probate court may transfer a cause of action pending in that court to another statutory probate court in the same county that has jurisdiction over the cause of action that is transferred.

(b) If the judge of a statutory probate court that has jurisdiction over a cause of action appertaining to or incident to an estate pending in the statutory probate court determines that the court no longer has jurisdiction over the cause of action, the judge may transfer that cause of action to:

(1) a district court, county court, statutory county court, or justice court located in the same county that has jurisdiction over the cause of action that is transferred; or

(2) the court from which the cause of action was transferred to the statutory probate court under Section 34.001 or 1022.007, Estates Code.

(c) When a cause of action is transferred from a statutory probate court to another court as provided by Subsection (a) or (b), all processes, writs, bonds, recognizances, or other obligations issued from the statutory probate court are returnable to the court to which the cause of action is transferred as if originally issued by that court. The obligees in all bonds and recognizances taken in and for the statutory probate court, and all witnesses summoned to appear in the statutory probate court, are required to appear before the court to which the cause of action is transferred as if originally required to appear before the court to which the transfer is made.

Added by Acts 1999, 76th Leg., ch. 71, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 64, Sec. 1, eff. Sept. 1, 2001.
Renumbered from Government Code Sec. 25.00221 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(55), eff. Sept. 1, 2003.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.025, eff. September 1, 2017.

Sec. 25.0023. COMPENSATION OF PROBATE COURT JUDGES. (a) The commissioners court shall set the total annual salary of each judge of a statutory probate court at an amount that is at least equal to the sum of the annual salary as set by the General Appropriations Act in accordance with Section 659.012 paid to a district judge with comparable years of service as the statutory probate court judge and any state or county contributions and supplements paid to a district judge in the county, other than contributions received as compensation under Section 74.051. A statutory probate court judge's total annual salary includes any state or county contributions and supplements paid to the judge, other than contributions paid under Section 25.0022(e). For purposes of this subsection, the years of service of a statutory probate court judge include any years of service as:

(1) an appellate court, district court, multicounty statutory county court, or statutory county court justice or judge;

or

(2) a district attorney, criminal district attorney, or county attorney.

(a-1) The minimum salary prescribed by Subsection (a) that is to be based on the annual salary of a district judge under Section 659.012(b) becomes effective on the first day of the county's fiscal year following the date the judge accrues the years of service required for an increase in salary under Subsection (a).

(a-2) Notwithstanding Subsection (a), the maximum annual salary of a statutory probate court judge is $1,000 less than the sum of the maximum combined annual salary from all state and county sources paid to a district judge entitled to a salary under Section 659.012(b)(2) and any longevity pay received by a district judge in accordance with Section 659.0445(d).

(b) Notwithstanding any other law and in addition to the judge's annual salary, the commissioners court annually shall pay a judge of a statutory probate court who has continuously served as a judge of a statutory probate court or a statutory county court since August 31, 1995, an additional amount equal to the amount of benefit replacement pay a district judge is entitled to receive from the state under Subchapter H, Chapter 659, for equivalent continuous service.

(c) The commissioners court monthly shall pay a statutory probate court judge who has served as a judge of a statutory probate court or a statutory county court for at least 16 years longevity pay in an amount equal to the amount of longevity pay a district judge is entitled to receive from the state for equivalent years of service. The longevity pay is in addition to the judge's monthly salary.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 426, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 9.0025, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 609 (H.B. 765), Sec. 1, eff. June 19, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 5, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.002, eff. September 1, 2023.

Sec. 25.00231. BOND; INSURANCE. (a) This section controls over a specific provision for a particular court or county that attempts to create a requirement for a bond or insurance that conflicts with this section.

(b) Before beginning the duties of office, a judge of a statutory probate court must execute a bond that is:

(1) payable to the county treasurer or other person performing the duties of county treasurer;

(2) in the amount of $500,000;

(3) conditioned on the faithful performance of the duties of the office; and

(4) approved by the commissioners court.

(c) In lieu of the bond required by Subsection (b), a county may elect to obtain insurance or to self-insure in the amount required by Subsection (b) against losses caused by the statutory probate court judge's gross negligence in performing the duties of office.

(d) The commissioners court of a county shall pay the premium for the bond or insurance required by this section out of the general funds of the county.

(e) This section does not apply to an assigned or visiting judge sitting by assignment in a statutory probate court.

(f) Notwithstanding Subsection (e), a bond executed under Subsection (b) by the judge elected or appointed to a statutory probate court or an insurance policy obtained under Subsection (c) shall provide the same coverage to a visiting judge assigned to the court or to an associate judge appointed by the court as the bond or insurance policy provides to the judge elected or appointed to the court.

Added by Acts 2007, 80th Leg., R.S., Ch. 331 (H.B. 2967), Sec. 1, eff. October 1, 2007.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.09, eff. January 1, 2012.

Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 67, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 576 (S.B. 615), Sec. 27, eff.

September 1, 2021.

Sec. 25.0024. COURT COORDINATORS, ADMINISTRATIVE ASSISTANTS, AND AUDITORS FOR STATUTORY PROBATE COURTS. (a) A judge of a statutory probate court shall hire with the approval of the commissioners court through the county budget process a court coordinator, an administrative assistant, and an auditor for the court.

(b) Court personnel employed under this section are entitled to receive a salary set by the commissioners court. The county shall pay the salary in the same manner that other county employees are paid.

(c) Court personnel employed under this section are entitled to receive the same employment benefits, in addition to salary, that other county employees receive.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 68, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 410, Sec. 1, eff. Sept. 1, 1999.

Sec. 25.0025. COURT INVESTIGATORS. (a) The judge of a statutory probate court shall appoint a court investigator. One person shall serve as the court investigator for all statutory probate courts in the county unless the commissioners court has authorized additional investigators. The commissioners court may authorize additional court investigators if necessary.

(b) The commissioners court shall set the salary of a court investigator.

(c) to (e). Repealed by Acts 1995, 74th Leg., ch. 1039, Sec. 72, eff. Sept. 1, 1995.

Added by Acts 1993, 73rd Leg., ch. 905, Sec. 2, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1039, Sec. 72, eff. Sept. 1, 1995.

Sec. 25.00251. PUBLIC PROBATE ADMINISTRATOR. (a) A statutory probate court judge, with the concurrence of the commissioners court, may appoint a public probate administrator for the county in which

the statutory probate court is located. One person shall serve as the public probate administrator for all statutory probate courts in the county unless the commissioners court has authorized additional public probate administrators.

(b) If a county has more than one statutory probate court, the presiding judges of all of the statutory probate courts located in the county shall designate, by a majority vote, a specific statutory probate court judge to appoint and administer the office of the public probate administrator in that county. If the statutory probate court judges cannot, by a majority vote, determine which statutory probate court judge shall appoint and administer the office of the public probate administrator in that county, the chief presiding statutory probate court judge shall cast the tiebreaking vote to decide which statutory probate court judge shall appoint and administer the office of the public probate administrator in that county.

(c) The public probate administrator may be a person, a charitable organization, or any other suitable entity.

(d) The commissioners court shall set the compensation of the public probate administrator.

(e) The public probate administrator, with the consent of and at salaries set by the commissioners court, may employ assistants, deputies, clerks, and any other employees as necessary to carry out Chapter 455, Estates Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 671 (H.B. 1755), Sec. 1, eff. January 1, 2014.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25.00255. RECUSAL OR DISQUALIFICATION OF JUDGE. (a) Notwithstanding any conflicting provision in the Texas Rules of Civil Procedure, Rules 18a and 18b, Texas Rules of Civil Procedure, apply to the recusal and disqualification of a statutory probate court judge except as otherwise provided by this section or another provision of this subchapter. The presiding judge:

(1) has the authority and shall perform the functions and duties of the presiding judge of the administrative judicial region

under the rules, including the duty to hear or rule on a referred motion of recusal or disqualification or, subject to Subdivisions (2) and (3), assign a judge to hear and rule on a referred motion of recusal or disqualification;

(2) may assign a presiding judge of the administrative judicial region to hear and rule on a referred motion of recusal or disqualification only with the consent of the presiding judge of the administrative judicial region;

(3) may not assign a judge of a statutory probate court located in the same county as the statutory probate court served by the judge who is the subject of the motion of recusal or disqualification; and

(4) if the presiding judge is the subject of the motion of recusal or disqualification, shall sign and file with the clerk an order referring the motion to the chief justice of the supreme court for assignment of a presiding judge of an administrative judicial region, a statutory probate court judge, or a former or retired judge of a statutory probate court to hear and rule on the motion, subject to Subdivisions (2) and (3).

(a-1) Notwithstanding Rule 18a(h), Texas Rules of Civil Procedure, or any other conflicting provision of the rules, the judge who hears a motion of recusal or disqualification, after notice and hearing, may:

(1) order the party or attorney who filed the motion, or both, to pay the reasonable attorney's fees and expenses incurred by another party if the judge determines that the motion was:

(A) groundless and filed in bad faith or for the purpose of harassment; or

(B) clearly brought for unnecessary delay and without sufficient cause; and

(2) enjoin the movant from filing other recusal motions in the case without the prior written consent of the presiding judge of the statutory probate courts.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1031 , Sec. 37(2), eff. September 1, 2015.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1031 , Sec. 37(2), eff. September 1, 2015.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1031 , Sec. 37(2), eff. September 1, 2015.

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1031 , Sec.

37(2), eff. September 1, 2015.

(f) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1031 , Sec. 37(2), eff. September 1, 2015.

(g) A judge who recuses himself or herself:

(1) shall enter an order of recusal and:

(A) if the judge serves a statutory probate court located in a county with only one statutory probate court, request that the presiding judge assign a judge under Section 25.002201 to hear the case; or

(B) subject to Subsection (l), if the judge serves a statutory probate court located in a county with more than one statutory probate court, request that the presiding judge order the clerk who serves the statutory probate courts in that county to randomly reassign the case to a judge of one of the other statutory probate courts located in the county; and

(2) may not take other action in the case except for good cause stated in the order in which the action is taken.

(g-1) A judge who disqualifies himself or herself:

(1) shall enter an order of disqualification and:

(A) if the judge serves a statutory probate court located in a county with only one statutory probate court, request that the presiding judge assign a judge under Section 25.002201 to hear the case; or

(B) subject to Subsection (l), if the judge serves a statutory probate court located in a county with more than one statutory probate court, request that the presiding judge order the clerk who serves the statutory probate courts in that county to randomly reassign the case to a judge of one of the other statutory probate courts; and

(2) may not take other action in the case.

(h) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1031 , Sec. 37(2), eff. September 1, 2015.

(i) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1031 , Sec. 37(2), eff. September 1, 2015.

(i-1) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1031 , Sec. 37(2), eff. September 1, 2015.

(i-2) A judge who hears a motion for recusal or disqualification may also hear any amended or supplemented motion for recusal or disqualification filed in the case.

(i-3) If a motion for recusal or disqualification is granted,

the presiding judge shall transfer the case to another court or assign another judge to the case and:

(1) if the judge subject to recusal or disqualification serves a statutory probate court located in a county with only one statutory probate court, the presiding judge or judge assigned to decide the motion shall enter an order of recusal or disqualification, as appropriate, and request that the presiding judge assign a judge under Section 25.002201 to hear the case; or

(2) subject to Subsection (l), if the judge subject to recusal or disqualification serves a statutory probate court located in a county with more than one statutory probate court, the presiding judge or judge assigned to decide the motion shall enter an order of recusal or disqualification, as appropriate, and request that the clerk who serves the statutory probate courts in that county randomly reassign the case to a judge of one of the other statutory probate courts located in the county.

(i-4) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1031 , Sec. 37(2), eff. September 1, 2015.

(i-5) A judge assigned to hear a motion for recusal or disqualification is entitled to receive the same salary, compensation, and expenses, and to be paid in the same manner and from the same fund, as a judge otherwise assigned under Section 25.0022.

(j) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1031 , Sec. 37(2), eff. September 1, 2015.

(k) A party may file a motion for sanctions alleging that another party in the case filed a motion for the recusal or disqualification of a judge solely to delay the case and without sufficient cause. The presiding judge of the administrative judicial district or the judge assigned to hear the motion for recusal may approve a motion for sanctions authorized by Rule 215.2(b), Texas Rules of Civil Procedure.

(l) If a clerk of a statutory probate court is unable to reassign a case as requested under Subsection (g)(1)(B), (g-1)(1)(B), or (i-3)(2) because the other statutory probate court judges in the county have been recused or disqualified or are otherwise unavailable to hear the case, the clerk shall immediately notify the presiding judge and request that the presiding judge assign a judge under Section 25.002201 to hear the case.

(m) The clerk of a statutory probate court shall immediately

notify and provide to the presiding judge of the statutory probate courts a copy of an order of recusal or disqualification issued with respect to the judge of the statutory probate court.

Added by Acts 1997, 75th Leg., ch. 1435, Sec. 2, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 9.0011, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1297 (S.B. 406), Sec. 1, eff. September 1, 2007.
Acts 2009, 81st Leg., R.S., Ch. 1206 (S.B. 683), Sec. 3, eff. September 1, 2009.
Acts 2015, 84th Leg., R.S., Ch. 1031 (H.B. 1438), Sec. 34, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1031 (H.B. 1438), Sec. 37(2), eff. September 1, 2015.
Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 46, eff. September 1, 2019.

Sec. 25.00256. TERTIARY RECUSAL MOTION AGAINST JUDGE. (a) In this section, "tertiary recusal motion" means a third or subsequent motion for recusal or disqualification filed in a case against any statutory probate court judge by the same party. The term includes any third or subsequent motion filed in the case by the same party, regardless of whether that motion is filed against a different judge than the judge or judges against whom the previous motions for recusal or disqualification were filed.

(b) A judge who declines recusal after a tertiary recusal motion is filed shall comply with applicable rules of procedure for recusal and disqualification except that the judge shall continue to:

(1) preside over the case;

(2) sign orders in the case; and

(3) move the case to final disposition as though a tertiary recusal motion had not been filed.

(c) A judge hearing a tertiary recusal motion against another judge who denies the motion shall award reasonable and necessary attorney's fees and costs to the party opposing the motion. The party making the motion and the attorney for the party are jointly and severally liable for the award of fees and costs. The fees and

costs must be paid before the 31st day after the date the order denying the tertiary recusal motion is rendered unless the order is properly superseded.

(d) The denial of a tertiary recusal motion is only reviewable on appeal from final judgment.

(e) If a tertiary recusal motion is finally sustained, the new judge for the case shall vacate all orders signed by the sitting judge during the pendency of the tertiary recusal motion.

Added by Acts 2007, 80th Leg., R.S., Ch. 1297 (S.B. 406), Sec. 2, eff. September 1, 2007.

Sec. 25.0026. POWERS AND DUTIES. (a) A statutory probate court or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court or any court of inferior jurisdiction in the county.

(b) A statutory probate court or its judge may punish for contempt as prescribed by general law.

(c) The judge of a statutory probate court has all other powers, duties, immunities, and privileges provided by law for county court judges.

(d) The judge of a statutory probate court has no authority over the county's administrative business that is performed by the county judge.

Added by Acts 1991, 72nd Leg., ch. 394, Sec. 2, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 7, eff. Oct. 1, 1991.

Sec. 25.0027. JURIES; PRACTICE AND PROCEDURE. The drawing of jury panels, selection of jurors, and practice in the statutory probate courts must conform to that prescribed by law for county courts, except that practice, procedure, rules of evidence, issuance of process and writs, juries, including the number of jurors provided the parties to a proceeding may agree to try a particular case with fewer than 12 jurors, and all other matters pertaining to the conduct of trials and hearings in the statutory probate courts involving

those matters of concurrent jurisdiction with district courts are governed by the laws and rules pertaining to district courts.

Added by Acts 1991, 72nd Leg., ch. 391, Sec. 2, eff. Aug. 26, 1991.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 68, eff. September 1, 2021.
Acts 2021, 87th Leg., R.S., Ch. 576 (S.B. 615), Sec. 28, eff. September 1, 2021.

Sec. 25.0029. FEES. A judge of a statutory probate court shall assess the same fees as are prescribed by law relating to county judges' fees. The clerk of the court shall collect the fees and pay them into the county treasury on collection. A fee may not be paid to the judge.

Added by Acts 1991, 72nd Leg., ch. 394, Sec. 2, eff. Aug. 26, 1991.

Sec. 25.0030. FACILITIES; PERSONNEL. (a) The commissioners court of each county shall provide the physical facilities necessary to operate the statutory probate court in each county.
(b) The county attorney or criminal district attorney and sheriff shall serve each statutory probate court. The county clerk shall serve as clerk of each statutory probate court. The court officials shall perform the duties and responsibilities of their offices and are entitled to the compensation, fees, and allowances prescribed by law for those offices.

Added by Acts 1991, 72nd Leg., ch. 394, Sec. 2, eff. Aug. 26, 1991.

Sec. 25.0031. SEAL. The seal of each statutory probate court is the same as that provided by law for a county court except that the seal must contain the name of the statutory probate court as it appears in this chapter.

Added by Acts 1991, 72nd Leg., ch. 394, Sec. 2, eff. Aug. 26, 1991.

Sec. 25.0032. LOCATION OF PROCEEDINGS FOLLOWING CERTAIN DISASTERS. (a) Repealed by Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 17, eff. June 7, 2019.

(b) Notwithstanding any other law, including a specific provision in this chapter for a particular court or county that requires a statutory probate court to conduct its proceedings at the county seat, if a disaster, as defined by Section 418.004, precludes a statutory probate court in that county from conducting its proceedings at the county seat, the presiding judge of the statutory probate courts, with the approval of the judge of the affected statutory probate court, may designate for the proceedings an alternate location:

(1) in the county; or

(2) outside the county at the location the presiding judge of the statutory probate courts determines is closest in proximity to the county seat that allows the court to safely and practicably conduct its proceedings, provided the presiding judge of the administrative judicial region for the designated location approves.

Added by Acts 2007, 80th Leg., R.S., Ch. 1076 (H.B. 2766), Sec. 3, eff. June 15, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 7, eff. June 7, 2019.

Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 17, eff. June 7, 2019.

Sec. 25.0033. QUALIFICATIONS OF JUDGE. The judge of a statutory probate court must:

(1) be at least 25 years of age;

(2) be a United States citizen and have resided in the county for at least two years before election or appointment; and

(3) be a licensed attorney in this state who has practiced law or served as a judge of a court in this state, or both combined, for the five years preceding election or appointment, unless otherwise provided for by law.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.10(a), eff. January 1, 2012.

Sec. 25.0034. PRIVATE PRACTICE OF LAW. The regular judge of a statutory probate court shall diligently discharge the duties of the office on a full-time basis and may not engage in the private practice of law.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.10(a), eff. January 1, 2012.

Sec. 25.0035. TERMS OF COURT; TERMS AND SESSIONS OF COURT FOLLOWING CERTAIN DISASTERS. (a) The commissioners court, by order, shall set at least two terms a year for the statutory probate court.

(b) Notwithstanding any other law, if a disaster, as defined by Section 418.004, precludes a statutory probate court from holding its terms in accordance with the order of the commissioners court, the presiding judge of the statutory probate courts, with the approval of the judge of the affected statutory probate court, may designate the terms and sessions of court.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.10(a), eff. January 1, 2012.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 8, eff. June 7, 2019.

SUBCHAPTER C. PROVISIONS RELATING TO PARTICULAR COUNTIES

Sec. 25.0041. ANDERSON COUNTY. (a) Anderson County has one statutory county court, the County Court at Law of Anderson County.

(b) The County Court at Law of Anderson County sits in Palestine.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Renumbered from Sec. 25.0031 by Acts 2001, 77th Leg., ch. 1420, Sec. 9.001(c), eff. Sept. 1, 2001.

Sec. 25.0042. ANDERSON COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Anderson County has:

(1) concurrent jurisdiction with the district court in:

(A) probate matters and proceedings, including will contests;

(B) family law cases and proceedings;

(C) criminal cases; and

(D) actions and proceedings under Subtitle B, Title 9, Property Code; and

(2) concurrent jurisdiction with the county and district courts over all suits arising under the Family Code.

(a-1) A county court at law also has concurrent jurisdiction with the district court in felony cases to conduct arraignments, conduct pretrial hearings, and accept guilty pleas.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(1), eff. January 1, 2012.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(1), eff. January 1, 2012.

(e) The salary of the judge of a county court at law shall be paid out of the county treasury by the commissioners court. The judge is entitled to travel expenses and necessary office expenses, including administrative and clerical assistance, in the same manner as the county judge.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(1), eff. January 1, 2012.

(g) The district clerk serves as clerk of a county court at law in all cases arising under the Family Code and Section 23.001 and shall establish a separate docket for a county court at law; the county clerk serves as clerk of the court in all other cases.

(h) The judge of a county court at law may appoint an official court reporter or the judge may contract for the services of a court reporter under guidelines established by the commissioners court.

(i) If a case under the Family Code or Section 23.001 is tried before a jury, the jury shall be composed of 12 members.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(1), eff. January 1, 2012.

(k) Appeals in all civil cases from judgments and orders of a county court at law are to the court of appeals as provided for appeals from district and county courts. Appeals in all criminal cases are to the court of appeals as provided for appeals from county courts. All cases appealed from the justice courts and other

inferior courts in Anderson County must be made directly to a county court at law, unless otherwise provided by law.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S. ch. 38, Sec. 3, eff. Oct. 20, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 8.04(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.02, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 9, eff. Oct. 1, 1991; Acts 1997, 75th Leg., ch. 525, Sec. 1, eff. May 31, 1997. Renumbered from Acts 2001, 77th Leg., ch. 1420, Sec. 9.001(c). Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.11, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(1), eff. January 1, 2012.

Sec. 25.0051. ANGELINA COUNTY. Angelina County has the following statutory county courts:

(1) the County Court at Law No. 1 of Angelina County; and

(2) the County Court at Law No. 2 of Angelina County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 614, Sec. 1, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 10(a), eff. Oct. 1, 1991; Acts 1993, 73rd Leg., ch. 745, Sec. 1, eff. Aug. 30, 1993.

Sec. 25.0052. ANGELINA COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Angelina County has:

(1) concurrent with the county court, the probate jurisdiction provided by general law for county courts; and

(2) concurrent jurisdiction with the district court in family law cases and proceedings.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(2), eff. January 1, 2012.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) The judge of a county court at law shall be paid an annual salary of at least $14,000. The salary shall be paid out of the

county treasury on order of the commissioners court.

(e) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(2), eff. January 1, 2012.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(2), eff. January 1, 2012.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(2), eff. January 1, 2012.

(i) Sections 25.0007 and 25.0011 do not apply to a county court at law in Angelina County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 614, Sec. 2, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 10(b), eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(2), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 4, eff. September 1, 2020.

Sec. 25.0061. ARANSAS COUNTY. Aransas County has one statutory county court, the County Court at Law of Aransas County.

Added by Acts 2001, 77th Leg., ch. 688, Sec. 1, eff. June 13, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25.0062. ARANSAS COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law of Aransas County has concurrent jurisdiction with the district court in:

(1) family law cases and proceedings;

(2) felony cases to conduct arraignments, conduct pretrial hearings, and accept guilty pleas; and

(3) civil cases in which the matter in controversy exceeds

the maximum amount provided by Section 25.0003.

(b) The district clerk serves as clerk of a county court at law in felony cases, in family law cases and proceedings, and in civil cases in which the matter in controversy exceeds $250,000. The county clerk serves as clerk of a county court at law in all other cases. The district clerk shall establish a separate docket for a county court at law. The commissioners court shall provide the deputy clerks, bailiffs, and other personnel necessary to operate a county court at law.

(c) The jury is composed of six members unless the constitution or other law requires a 12-member jury.

Added by Acts 2001, 77th Leg., ch. 688, Sec. 1, eff. June 13, 2001. Amended by Acts 2003, 78th Leg., ch. 998, Sec. 1, eff. Sept. 1, 2003. Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.003(a), eff. September 1, 2023.

Sec. 25.0091. ATASCOSA COUNTY. Atascosa County has one statutory county court, the County Court at Law of Atascosa County.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 2.01(a), eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25.0092. ATASCOSA COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (b), a county court at law in Atascosa County has concurrent jurisdiction with the district court in:

(1) Class A and Class B misdemeanor cases;

(2) family law matters;

(3) juvenile matters;

(4) probate matters; and

(5) appeals from the justice and municipal courts.

(b) A county court at law does not have general supervisory

control or appellate review of the commissioners court or jurisdiction of:

(1) suits on behalf of this state to recover penalties or escheated property;

(2) misdemeanors involving official misconduct; or

(3) contested elections.

(c) The judge of a county court at law must have the same qualifications as those required by law for a district judge.

(d) The judge of a county court at law shall be paid a total annual salary set by the commissioners court at an amount that is not less than $1,000 less than the total annual salary received by a district judge in the county. A district judge's or statutory county court judge's total annual salary does not include contributions and supplements paid by a county.

(e) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court, except that the county clerk serves as clerk of the court in Class A and Class B misdemeanor cases and probate matters. The county clerk shall serve as clerk of a county court at law in all other matters. Each clerk shall establish a separate docket for a county court at law.

(f) The official court reporter of a county court at law is entitled to receive a salary set by the judge of the county court at law with the approval of the commissioners court.

(g) Jurors summoned for a county court at law or a district court in the county may by order of the judge of the court to which they are summoned be transferred to another court for service and may be used as if summoned for the court to which they are transferred.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 2.01(a), eff. September 1, 2013.

Sec. 25.0101. AUSTIN COUNTY. Austin County has one statutory county court, the County Court at Law of Austin County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.0102. AUSTIN COUNTY COURT AT LAW PROVISIONS. (a) In

addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Austin County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(3), eff. January 1, 2012.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(3), eff. January 1, 2012.

(e) The judge of a county court at law shall be paid an annual salary that is at least equal to 75 percent of the annual salary paid by the state to a district judge in the county. The salary shall be paid by the county treasurer on order of the commissioners court. The judge is entitled to travel expenses and necessary office expenses including administrative and clerical personnel, in the same manner as is allowed the county judge.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(3), eff. January 1, 2012.

(g) The district clerk serves as clerk of a county court at law in family law cases and proceedings, and the county clerk serves as clerk of the court in all other cases. The district clerk shall establish a separate docket for a county court at law. The commissioners court may employ the assistant district attorneys, deputy sheriffs, and bailiffs necessary to serve a county court at law.

(h) If a family law case or proceeding is tried before a jury, the jury shall be composed of 12 members; in all other cases the jury shall be composed of six members except as provided by the constitution, Section 25.0007(c), or other law.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(3), eff. January 1, 2012.

(j) Repealed by Acts 1989, 71st Leg., ch. 861, Sec. 1, eff. June 14, 1989.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 861, Sec. 1, eff. June 14, 1989; Acts 1991, 72nd Leg., ch. 746, Sec. 11, eff. Oct. 1, 1991. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.12, eff.

January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(3), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 5, eff. September 1, 2020.

Sec. 25.0131. BASTROP COUNTY. Bastrop County has one statutory county court, the County Court at Law of Bastrop County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.0132. BASTROP COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Bastrop County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(c) The judge of a county court at law shall be paid an annual salary paid out of the county treasury that does not exceed 90 percent of the salary paid by the state to a district judge in the county. The judge is entitled to travel expenses and necessary office expenses, including administrative and clerical help, in the same manner as the county judge.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(4), eff. January 1, 2012.

(e) The district clerk serves as clerk of a county court at law in family law cases and proceedings, and the county clerk serves as clerk of the court in all other cases. The district clerk shall establish a separate docket for a county court at law.

(f) If a family law case or proceeding is tried before a jury, the jury shall be composed of 12 members.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(4), eff. January 1, 2012.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(4), eff. January 1, 2012.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1,

1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 12, 70, eff. Oct. 1, 1991.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.13, eff. January 1, 2012.
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(4), eff. January 1, 2012.

Sec. 25.0151. BEE COUNTY. Bee County has one statutory county court, the County Court at Law of Bee County.

Added by Acts 1995, 74th Leg., ch. 702, Sec. 1, eff. Aug. 28, 1995.

Sec. 25.0152. BEE COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Bee County has:
(1) concurrent jurisdiction with the district court in family law cases and proceedings; and
(2) notwithstanding any law granting exclusive jurisdiction to the district court, concurrent jurisdiction with the district court in criminal cases.
(b) A county court at law has concurrent jurisdiction with the justice court in all criminal matters prescribed by law for justice courts. This subsection does not affect the right of appeal to a county court at law from a justice court where the right of appeal to the county court exists by law.
(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(5), eff. January 1, 2012.
(d) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court, and the county clerk shall serve as clerk of a county court at law in all other cases. The commissioners court shall provide the deputy clerks, bailiffs, and other personnel necessary to operate a county court at law.
(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(5), eff. January 1, 2012.
(f) A judge of a county court at law in Bee County may not be assigned under Chapter 74 to serve as a visiting judge in Bexar,

Dallas, Ector, Fort Bend, Harris, Jefferson, Lubbock, Midland, Tarrant, or Travis County.

Added by Acts 1995, 74th Leg., ch. 702, Sec. 1, eff. Aug. 28, 1995.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(5), eff. January 1, 2012.

Sec. 25.0161. BELL COUNTY. Bell County has the following statutory county courts:

(1) County Court at Law No. 1 of Bell County;
(2) County Court at Law No. 2 of Bell County; and
(3) County Court at Law No. 3 of Bell County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 366, Sec. 1, eff. Aug. 28, 1995.

Sec. 25.0162. BELL COUNTY COURT AT LAW PROVISIONS. (a) The judge of County Court at Law No. 3 of Bell County is prohibited from being assigned under Chapter 74 as a visiting judge in Bexar, Dallas, Ector, Fort Bend, Harris, Jefferson, Lubbock, Midland, Tarrant, or Travis County.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(6), eff. January 1, 2012.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(e) The judge of a county court at law shall be paid an annual salary in an amount not to exceed the salary set by the commissioners court for the county judge. The salary shall be paid out of the county treasury on order of the commissioners court.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(6), eff. January 1, 2012.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(6), eff. January 1, 2012.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(6), eff. January 1, 2012.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(6), eff. January 1, 2012.

(j) Section 25.0011 does not apply to a county court at law in Bell County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991; Acts 1995, 74th Leg., ch. 366, Sec. 2, eff. Aug. 28, 1995. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(6), eff. January 1, 2012.

Sec. 25.0171. BEXAR COUNTY. (a) Repealed by Acts 1999, 76th Leg., ch. 42, Sec. 4, eff. Sept. 1, 1999.

(b) Bexar County has the following county courts at law:

(1) County Court at Law No. 1 of Bexar County, Texas;
(2) County Court at Law No. 2 of Bexar County, Texas;
(3) County Court at Law No. 3 of Bexar County, Texas;
(4) County Court at Law No. 4 of Bexar County, Texas;
(5) County Court at Law No. 5 of Bexar County, Texas;
(6) County Court at Law No. 6 of Bexar County, Texas;
(7) County Court at Law No. 7 of Bexar County, Texas;
(8) County Court at Law No. 8 of Bexar County, Texas;
(9) County Court at Law No. 9 of Bexar County, Texas;
(10) County Court at Law No. 10 of Bexar County, Texas;
(11) County Court at Law No. 11 of Bexar County, Texas;
(12) County Court at Law No. 12 of Bexar County, Texas;
(13) County Court at Law No. 13 of Bexar County, Texas;
(14) County Court at Law No. 14 of Bexar County, Texas; and
(15) County Court at Law No. 15 of Bexar County, Texas.

(c) Bexar County also has the following statutory probate courts:

(1) Probate Court No. 1 of Bexar County, Texas;
(2) Probate Court No. 2 of Bexar County, Texas; and
(3) Probate Court No. 3 of Bexar County, Texas.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 410, Sec. 1, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 42, Sec. 1, 4, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1072 (H.B. 4741), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 9(a), eff. September 1, 2009.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.004(a), eff. September 1, 2023.

Sec. 25.0172. BEXAR COUNTY COURT AT LAW PROVISIONS. (a) Repealed by Acts 2015, 84th Leg., R.S., Ch. 201 , Sec. 2, eff. September 1, 2015.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 201 , Sec. 2, eff. September 1, 2015.

(c) Any of the county courts at law may hear criminal cases and appeals de novo from the municipal and justice courts.

(c-1) The County Courts at Law Nos. 7 and 13 of Bexar County, Texas, shall give preference to cases prosecuted under:

(1) Section 22.01, Penal Code, in which the victim is a person whose relationship to or association with the defendant is described by Chapter 71, Family Code; and

(2) Section 25.07 or 25.072, Penal Code.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(7), eff. January 1, 2012.

(e) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(f) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(g) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(h) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(i) Repealed by Acts 2015, 84th Leg., R.S., Ch. 201 , Sec. 2, eff. September 1, 2015.

(j) The judge of a county court at law shall be paid as provided by Section 25.0005. The compensation shall be paid out of the county's general fund or officers' salary fund. Before raising a salary the commissioners court must publish notice containing information of the salaries affected and the amount of the proposed raise in a newspaper of general circulation in the county. The

commissioners court may raise the salaries of the county court at law judges only after 10 days' notice and only at a regular meeting of the commissioners court.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(7), eff. January 1, 2012.

(l) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(7), eff. January 1, 2012.

(m) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(7), eff. January 1, 2012.

(n) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(7), eff. January 1, 2012.

(o) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(7), eff. January 1, 2012.

(p) The county clerk shall keep a separate docket for each county court at law. The county clerk shall appoint a deputy clerk for each county court at law. A deputy clerk must take the constitutional oath of office and may be required to furnish bond in an amount, conditioned and payable, as required by the county clerk. A deputy clerk must attend all sessions of the court to which the deputy clerk is assigned. A deputy clerk acts in the name of the county clerk and may perform any official act or service required of the county clerk and shall perform any other service required by the judge of a county court at law. The deputy clerks may act for one another in performing services for the county courts at law, but a deputy is not entitled to receive additional compensation for acting for another deputy. If a vacancy occurs, the county clerk shall immediately appoint another deputy clerk as provided by this subsection.

(q) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(7), eff. January 1, 2012.

(r) The assistant prosecuting attorneys of the County Courts at Law Nos. 2, 3, and 5 are entitled to receive equal amounts of compensation to be paid in equal monthly installments by warrants drawn against the county's general fund on order of the commissioners court.

(s) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(7), eff. January 1, 2012.

(t) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(7), eff. January 1, 2012.

(u) The official court reporter of a county court at law is

entitled to receive an annual salary set by the judge and approved by the commissioners court at an amount not less than $35,256.

(v) Section 25.0006 does not apply to a county court at law in Bexar County.

(w) This section does not apply to the statutory probate courts.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.05(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 410, Sec. 2, 3, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1066, Sec. 1, eff. June 14, 1989; Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991; Acts 1999, 76th Leg., ch. 42, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1072 (H.B. 4741), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 9(b), eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(7), eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 96 (S.B. 743), Sec. 4, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 201 (S.B. 909), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 201 (S.B. 909), Sec. 2, eff. September 1, 2015.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 2.06, eff. January 1, 2022.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 2.02, eff. September 1, 2021.

Sec. 25.0173. BEXAR COUNTY PROBATE COURTS. (a) A statutory probate court in Bexar County has the general jurisdiction of a probate court as provided by Section 25.0021. Probate Courts Nos. 1, 2, and 3 have eminent domain jurisdiction and jurisdiction to decide the issue of title to real or personal property. Notwithstanding the local rules adopted under Section 74.093, the county clerk shall docket all eminent domain cases equally among Probate Courts Nos. 1, 2, and 3.

(b) Repealed by Acts 1999, 76th Leg., ch. 42, Sec. 4, eff. Sept. 1, 1999.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(8), eff. January 1, 2012.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(8), eff. January 1, 2012.

(e) Repealed by Acts 2007, 80th Leg., R.S., Ch. 331, Sec. 2, eff. October 1, 2007.

(f) The judge of a statutory probate court shall be paid an annual salary in an amount not less than the total annual salary, including supplements, received by the judge of a district court in the county.

(g) The county clerk shall appoint a deputy clerk for each statutory probate court. A deputy clerk serves at the pleasure of the judge of the court to which the deputy clerk is assigned. A deputy clerk must take the constitutional oath of office, and the county clerk may require the deputy clerk to furnish a bond in an amount, conditioned and payable, as required by law. A deputy clerk acts in the name of the county clerk and may perform any official act or service required of the county clerk and shall perform any other service required by the judge of a statutory probate court. A deputy clerk must attend all sessions of the court to which the deputy clerk is assigned.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(8), eff. January 1, 2012.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(8), eff. January 1, 2012.

(j) Repealed by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.005(b), eff. September 1, 2023.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(8), eff. January 1, 2012.

(l) The official court reporter of a statutory probate court is entitled to receive an annual salary set by the judge and approved by the commissioners court at an amount not less than $35,256.

(m) Repealed by Acts 1991, 72nd Leg., ch. 394, Sec. 4, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(n) Probate Court No. 1 has primary responsibility for mental illness proceedings.

(o) Notwithstanding the local rules adopted under Section

74.093, the county clerk shall:

(1) docket all mental health matters in Probate Court No. 1; and

(2) assign equally among the statutory probate courts in Bexar County and docket at random all other matters and proceedings filed in the statutory probate courts in Bexar County.

(p) Notwithstanding Section 25.0022(h), in the absence, disqualification, or incapacity of a statutory probate judge in Bexar County or on the judge's request, the statutory probate judges in Bexar County may sit and act for each other in any probate matter or proceeding. A statutory probate judge in Bexar County may:

(1) hear and determine any matter or proceeding pending in another statutory probate court in Bexar County; or

(2) enter any order in the matter or proceeding that the judge of the other statutory probate court in Bexar County may enter.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 410, Sec. 4, 5, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 394, Sec. 4, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991; Acts 1999, 76th Leg., ch. 42, Sec. 3, 4, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 331 (H.B. 2967), Sec. 2, eff. October 1, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(8), eff. January 1, 2012.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 2.03, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.005(a), eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.005(b), eff. September 1, 2023.

Sec. 25.0201. BOSQUE COUNTY. Bosque County has one statutory county court, the County Court at Law of Bosque County.

Added by Acts 2009, 81st Leg., R.S., Ch. 239 (S.B. 2229), Sec. 1, eff. October 1, 2009.
Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 10(a), eff. October 1, 2009.

Sec. 25.0202. BOSQUE COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Bosque County has concurrent jurisdiction with the district court in:

(1) family law cases and proceedings;

(2) contested probate matters under Section 32.003, Estates Code; and

(3) felony cases transferred from the district court to conduct arraignments, pretrial hearings, and motions to adjudicate or revoke and to accept guilty pleas.

(b) The County Court at Law of Bosque County has primary jurisdiction over juvenile matters.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(9), eff. January 1, 2012.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(9), eff. January 1, 2012.

(e) The judge of a county court at law shall be paid as provided by Section 25.0005. The judge's salary shall be paid out of the county treasury on order of the commissioners court. Notwithstanding any other law, the judge is entitled to necessary office and operational expenses, including administrative and clerical personnel, on the approval of the commissioners court. Administrative and clerical personnel to which a judge is entitled on approval under this subsection includes a court coordinator, court reporter, and bailiff.

(f) If a family law case or proceeding is tried before a jury, the jury shall be composed of 12 members. In all other cases, except as otherwise required by law, the jury shall be composed of six members.

(g) In matters of concurrent jurisdiction, including transferred felony proceedings, the judge of a county court at law and the district judge may exchange benches, transfer cases, assign each other to hear cases in accordance with orders signed and approved by the judges, and otherwise manage their respective dockets under local administrative rules.

Added by Acts 2009, 81st Leg., R.S., Ch. 239 (S.B. 2229), Sec. 1, eff. October 1, 2009.

Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 10(a), eff. October 1, 2009.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.14, eff. January 1, 2012.
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(9), eff. January 1, 2012.
Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.026, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 2.01(a), eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 6, eff. September 1, 2020.
Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.001, eff. September 1, 2021.

Sec. 25.0211. BOWIE COUNTY. Bowie County has one statutory county court, the County Court at Law of Bowie County.

Added by Acts 1999, 76th Leg., ch. 1144, Sec. 1, eff. Jan. 1, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25.0212. BOWIE COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law and except as limited by Subsection (b), a county court at law in Bowie County has, concurrent with the district court, the jurisdiction provided by the constitution and by general law for district courts.

(b) A county court at law does not have jurisdiction of:

(1) felony criminal matters;

(2) suits on behalf of the state to recover penalties or escheated property;

(3) misdemeanors involving official misconduct;

(4) contested elections; or

(5) civil cases in which the matter in controversy exceeds $200,000, excluding interest, statutory or punitive damages and

penalties, and attorney's fees and costs, as alleged on the face of the petition.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(10), eff. January 1, 2012.

(d) The judge of a county court at law shall be paid an annual salary that is at least equal to 60 percent, but does not exceed 80 percent, of the annual salary that is paid to a district judge in Bowie County, including any supplements or contributions payable by the state or Bowie County. The salary shall be paid from the same fund and in the same manner as other county officials in Bowie County are paid.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(10), eff. January 1, 2012.

(f) The commissioners court may authorize the judge of a county court at law to set the official court reporter's salary.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(10), eff. January 1, 2012.

(h) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district courts, and the county clerk serves as clerk of a county court at law in all other matters. Each clerk shall establish a separate docket for a county court at law.

Added by Acts 1999, 76th Leg., ch. 1144, Sec. 1, eff. Jan. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.15, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(10), eff. January 1, 2012.

Sec. 25.0221. BRAZORIA COUNTY. Brazoria County has the following statutory county courts:

(1) County Court at Law No. 1 and Probate Court of Brazoria County;

(2) County Court at Law No. 2 and Probate Court of Brazoria County;

(3) County Court at Law No. 3 and Probate Court of Brazoria County; and

(4) County Court at Law No. 4 and Probate Court of Brazoria

County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.
Amended by:
Acts 2005, 79th Leg., Ch. 229 (H.B. 3489), Sec. 1, eff. September 1, 2005.

Sec. 25.0222. BRAZORIA STATUTORY COUNTY COURT PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a statutory county court in Brazoria County has concurrent jurisdiction with the district court in:

(1) civil cases in which the matter in controversy exceeds $500 but does not exceed $200,000, excluding interest, statutory damages and penalties, and attorney's fees and costs, as alleged on the face of the petition;

(2) appeals of final rulings and decisions of the division of workers' compensation of the Texas Department of Insurance regarding workers' compensation claims, regardless of the amount in controversy; and

(3) family law cases and proceedings and juvenile jurisdiction under Section 23.001.

(b) A statutory county court may enforce an order of the family district court for the 300th Judicial District relating to a family law matter.

(c) A statutory county court shall be primarily responsible for and give preference to:

(1) cases in which its jurisdiction is concurrent with the county court;

(2) eminent domain proceedings and cases;

(3) proceedings under Title 3 of the Family Code; and

(4) civil cases in which the amount in controversy does not exceed $20,000, excluding interest.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(11), eff. January 1, 2012.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(11), eff. January 1, 2012.

(f) A judge of a statutory county court shall be paid annual compensation in an amount that is not less than the amount that is

$1,000 less than the annual salary paid to the district judges of the county from all sources. The salary shall be paid out of the county treasury on order of the commissioners court.

(g) In addition to the fees assessed under Section 25.0008, a statutory county court judge shall assess the fees prescribed by law for district judges according to the nature of the matter.

(h) A judge may be removed from office in the same manner and for the same reasons as a district judge.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(11), eff. January 1, 2012.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(11), eff. January 1, 2012.

(k) The district clerk serves as clerk of the statutory county courts in cases instituted in the district courts in which the district courts and statutory county courts have concurrent jurisdiction, and the county clerk serves as clerk for all other cases.

(l) The official court reporter of a statutory county court is entitled to the same compensation as the reporters of the district courts of Brazoria County, to be paid by the county treasurer out of the general fund of the county.

(m) When a jury trial is requested in a case of concurrent jurisdiction between the district courts and statutory county courts, and the case was instituted in district court, the jury shall be composed of 12 members. In all other cases in which a jury trial is requested in the statutory county courts the jury shall be composed of six jurors except as provided by the constitution, Section 25.0007(c), or other law.

(n) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(11), eff. January 1, 2012.

(o) Repealed by Acts 1991, 72nd Leg., ch. 394, Sec. 4, eff. Aug. 26, 1991.

(p) In addition to other assignments provided by law, a judge of a statutory county court in Brazoria County is subject to assignment under Subchapter C, Chapter 74, to any county in the Second Administrative Judicial Region other than Harris County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.03, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 394, Sec. 4, eff. Aug.

26, 1991; Acts 1991, 72nd Leg., ch. 726, Sec. 1, 2, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 13, eff. Oct. 1, 1991.
Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 6.003, eff. September 1, 2005.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.16, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(11), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 7, eff. September 1, 2020.

Sec. 25.0231. BRAZOS COUNTY. Brazos County has the following statutory county courts:

(1) County Court at Law No. 1 of Brazos County; and

(2) County Court at Law No. 2 of Brazos County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.06(a), eff. Aug. 28, 1989.

Sec. 25.0232. BRAZOS COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Brazos County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(12), eff. January 1, 2012.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(12), eff. January 1, 2012.

(e) The judge of a county court at law shall be paid an annual salary that is at least equal to the amount paid the county judge. The salary shall be paid from the same fund and in the same manner as other county officials are paid. The judge is entitled to travel and necessary office expenses, including administrative and clerical assistance, in the same manner as the county judge.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(12), eff. January 1, 2012.

(g) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court, and the county clerk serves as clerk of a county court at law in all other cases.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(12), eff. January 1, 2012.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(12), eff. January 1, 2012.

(j) Section 25.0008 does not apply to a county court at law in Brazos County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 14, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(12), eff. January 1, 2012.

Sec. 25.0271. BROWN COUNTY. Brown County has one statutory county court, the County Court at Law of Brown County.

Added by Acts 2001, 77th Leg., ch. 513, Sec. 1, eff. Aug. 27, 2001.

Sec. 25.0272. BROWN COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law of Brown County has concurrent jurisdiction with the district court in:

(1) family law cases and proceedings; and

(2) felony criminal cases.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(13), eff. January 1, 2012.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(13), eff. January 1, 2012.

(d) The salary of a judge of a county court at law shall be set by the commissioners court in accordance with law and shall be paid out of the county treasury on orders from the commissioners court.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec.

4.50(a)(13), eff. January 1, 2012.

(f) The district clerk serves as the clerk of a county court at law in matters in which the county court at law has concurrent jurisdiction with the district court. The county clerk serves as the clerk of a county court at law in all other matters.

Added by Acts 2001, 77th Leg., ch. 513, Sec. 1, eff. Aug. 27, 2001.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(13), eff. January 1, 2012.

Sec. 25.0291. BURNET COUNTY. Burnet County has one statutory county court, the County Court at Law of Burnet County.

Added by Acts 1997, 75th Leg., ch. 1003, Sec. 1, eff. Sept. 1, 1997.

Sec. 25.0292. BURNET COUNTY COURT AT LAW PROVISIONS. (a) Except as provided by Subsection (k), in addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Burnet County has concurrent jurisdiction with the district court in family law cases and proceedings, including juvenile cases.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(14), eff. January 1, 2012.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(14), eff. January 1, 2012.

(d) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court. The county clerk serves as clerk of a county court at law in all other cases. The district clerk shall establish a separate docket for each county court at law.

(e) Except as provided by Subsection (f), a judge of a county court at law shall be paid an annual salary set by the commissioners court in an amount that is at least equal to the amount that is $1,000 less than the total annual salary, including contributions and supplements, received by a district judge in the county. The salary of the judge shall be paid in equal monthly installments out of the county treasury by the commissioners court.

(f) The Commissioners Court of Burnet County shall set the salary of each judge of a county court at law who engages in the

private practice of law.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(14), eff. January 1, 2012.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(14), eff. January 1, 2012.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(14), eff. January 1, 2012.

(j) The official court reporter of a county court at law is a sworn officer of the court who holds office at the pleasure of the court. The official court reporter of a county court at law is entitled to receive compensation in an amount that is at least equal to the compensation received by the lowest-paid official court reporter in the district court in the county. The compensation shall be paid in the same manner as compensation for a district court reporter is paid.

(k) Section 25.0003(c)(2) does not apply to a county court at law in Burnet County.

Added by Acts 1997, 75th Leg., ch. 1003, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 582, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 616, Sec. 3, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1301 (S.B. 600), Sec. 5, eff. October 1, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(14), eff. January 1, 2012.

Sec. 25.0301. CALDWELL COUNTY. Caldwell County has one statutory county court, the County Court at Law of Caldwell County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.0302. CALDWELL COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Caldwell County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec.

4.50(a)(15), eff. January 1, 2012.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(15), eff. January 1, 2012.

(e) The district clerk serves as clerk of a county court at law in family law cases and proceedings, and the county clerk serves as clerk of the court in all other cases and proceedings. The district clerk shall establish a separate docket for a county court at law.

(f) If a family law case or proceeding is tried before a jury, the jury shall be composed of 12 members.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(15), eff. January 1, 2012.

(h) Section 25.0005(b) does not apply to a county court at law in Caldwell County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 15, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.17, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(15), eff. January 1, 2012.

Sec. 25.0311. CALHOUN COUNTY. Calhoun County has one statutory county court, the County Court at Law No. 1 of Calhoun County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.0312. CALHOUN COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (b), a county court at law in Calhoun County has the jurisdiction provided by the constitution and by general law for district courts.

(b) A county court at law does not have jurisdiction of:

(1) felony cases other than writs of habeas corpus;

(2) misdemeanors involving official misconduct;

(3) contested elections; or

(4) appeals from county court.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(16), eff. January 1, 2012.

(d) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(16), eff. January 1, 2012.

(f) The salary of the judge of a county court at law shall be paid semimonthly in equal installments by the county treasurer on order of the commissioners court. The judge is entitled to travel expenses and necessary office expenses, including administrative and clerical assistance, as authorized by the commissioners court.

(g) The official court reporter of a county court at law is entitled to receive a salary set by the commissioners court. The salary shall be paid semimonthly by the commissioners court out of funds available for that purpose.

(h), (i) Repealed by Acts 1989, 71st Leg., ch. 1134, Sec. 8, eff. Sept. 1, 1989.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(16), eff. January 1, 2012.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.07(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1134, Sec. 1 to 8, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.18, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(16), eff. January 1, 2012.

Sec. 25.0331. CAMERON COUNTY. (a) Cameron County has the following statutory county courts:

(1) County Court at Law No. 1 of Cameron County;

(2) County Court at Law No. 2 of Cameron County;

(3) County Court at Law No. 3 of Cameron County; and

(4) County Court at Law No. 5 of Cameron County.

(a-1) Cameron County has one statutory probate court, the Probate Court No. 1 of Cameron County.

(b) The county courts at law of Cameron County sit in Brownsville.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1444, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 3.01(a), eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.006(a), eff. September 1, 2023.

Sec. 25.0332. CAMERON COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Cameron County has concurrent jurisdiction with the district court in civil cases in which the amount in controversy exceeds $500 but does not exceed $1 million, excluding interest.

(b) Repealed by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.007(c), eff. September 1, 2023.

(c) An appeal or writ of error may not be taken to a court of appeals from a final judgment of a county court at law if:

(1) the court had original or appellate jurisdiction with the justice court; and

(2) the judgment or amount in controversy does not exceed $100, excluding interest and costs.

(d) Appeals from the justice court and other inferior courts in Cameron County must be made directly to a county court at law.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(17), eff. January 1, 2012.

(f) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(17), eff. January 1, 2012.

(h) The judge of a county court at law shall be paid an annual salary that does not exceed 90 percent of the amount paid district judges in the county. The salary shall be paid out of the county

treasury on orders of the commissioners court.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(17), eff. January 1, 2012.

(j) The county clerk may appoint a deputy to attend the county courts at law.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(17), eff. January 1, 2012.

(l) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(17), eff. January 1, 2012.

(m) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(17), eff. January 1, 2012.

(n) Section 25.0006(a) does not apply to County Court at Law No. 1 of Cameron County. Section 25.0008 does not apply to County Court at Law No. 2 of Cameron County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 688, Sec. 1, eff. June 16, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991; Acts 1997, 75th Leg., ch. 1444, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 777, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(17), eff. January 1, 2012.

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 3.01(b), eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.007(a), eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.007(c), eff. September 1, 2023.

Sec. 25.0333. CAMERON COUNTY PROBATE COURT PROVISIONS. (a) A statutory probate court in Cameron County has the jurisdiction of a probate court as provided by Section 25.0021.

(b) A statutory probate court in Cameron County has jurisdiction over mental health cases diverted from the criminal justice system in the county.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.007(b), eff. September 1, 2023.

Sec. 25.0361. CASS COUNTY. Cass County has one statutory county court, the County Court at Law of Cass County.

Added by Acts 2005, 79th Leg., Ch. 16 (S.B. 524), Sec. 1, eff. May 3, 2005.

Sec. 25.0362. CASS COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law and except as limited by Subsection (b), a county court at law in Cass County has the jurisdiction provided by the constitution and by general law for district courts, including concurrent jurisdiction in:

(1) misdemeanor cases;

(2) arraignments, pleas, and pre-trial motions for felony cases;

(3) trials for felony cases transferred from a district court in Cass County to the county court at law on agreement of the county court at law judge;

(4) family law cases and proceedings, including juvenile matters; and

(5) appeals from justice courts and from the county court in misdemeanor cases.

(b) A county court at law does not have jurisdiction of:

(1) misdemeanors involving official misconduct;

(2) suits on behalf of the state to recover penalties or escheated property;

(3) contested elections;

(4) suits in which the county is a party; or

(5) felony cases involving capital murder.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(18), eff. January 1, 2012.

(d) The district clerk serves as clerk of a county court at law except that the county clerk serves as clerk of a county court at law in probate matters.

(e) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1301, Sec. 13(4), eff. October 1, 2007.

(f) Except as otherwise provided by this subsection, a jury in a county court at law shall be composed of six members except as provided by the constitution, Section 25.0007(c), or other law.

Failure to object before a six-member jury is seated and sworn constitutes a waiver of a 12-member jury. In matters in which the constitution or other law does not require a 12-member jury and the county court at law has concurrent jurisdiction with the district court, the jury may be composed of 12 members if a party to the suit requests a 12-member jury. In a civil case tried in a county court at law, the parties may, by mutual agreement, agree to try the case with any number of jurors and have a verdict rendered and returned by the vote of any number of those jurors that is less than the total number of jurors.

(g) In matters of concurrent jurisdiction, a judge of a county court at law and a judge of a district court in Cass County may transfer cases between the courts in the same manner that judges of district courts may transfer cases under Section 24.003.

(h) The judge of a county court at law in Cass County is entitled to a budget for travel and continuing education in an amount that is at least equal to the amount budgeted to the county judge for travel and continuing education.

Added by Acts 2005, 79th Leg., Ch. 16 (S.B. 524), Sec. 1, eff. May 3, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1301 (S.B. 600), Sec. 13(4), eff. October 1, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.05, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.19, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(18), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 8, eff. September 1, 2020.

Sec. 25.0381. CHAMBERS COUNTY. Chambers County has one statutory county court, the County Court at Law of Chambers County.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 2.02(a), eff. January 1, 2021.

Sec. 25.0382. CHAMBERS COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Chambers County has concurrent jurisdiction with the district court in:

(1) arraignments, pleas, and pretrial motions for felony cases; and

(2) family law cases and proceedings.

(b) In matters of concurrent jurisdiction, a judge of a county court at law and a judge of a district court in Chambers County may transfer cases between the courts in the same manner that judges of district courts may transfer cases under Section 24.003.

(c) The judge of a county court at law shall be paid an annual salary in an amount at least equal to the amount that is $1,000 less than the total annual salary, including supplements, received by a district judge in the county. The salary shall be paid out of the county treasury on order of the commissioners court.

(d) The judge of a county court at law is entitled to travel expenses and necessary office expenses, including administrative and clerical help, in the same manner as a district judge in the county.

(e) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court other than misdemeanor cases and probate matters and proceedings. The county clerk serves as clerk for all other cases. Each clerk shall establish a separate docket for a county court at law. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(f) If a case or proceeding in which a county court at law has concurrent jurisdiction with a district court is tried before a jury, the jury shall be composed of 12 members. In all other cases, the jury shall be composed of six members.

(g) The judge of a county court at law may, instead of appointing an official court reporter, contract for the services of a court reporter under guidelines established by the commissioners court.

(h) The laws governing the drawing, selection, service, and pay of jurors for county courts apply to a county court at law. Jurors regularly impaneled for a week by the district court may, on a request of a judge of the county court at law, be made available and shall serve for the week in a county court at law.

(i) A county court at law has the same terms of court as a

district court in Chambers County.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 2.02(a), eff. January 1, 2021.

Sec. 25.0391. CHEROKEE COUNTY. (a) Cherokee County has one statutory county court, the County Court at Law of Cherokee County.

(b) A county court at law of Cherokee County sits in Rusk.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.0392. CHEROKEE COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Cherokee County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(19), eff. January 1, 2012.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(19), eff. January 1, 2012.

(e) The salary of the judge of a county court at law shall be paid out of the county treasury by the commissioners court. The judge is entitled to travel expenses and necessary office expenses, including administrative and clerical assistance, in the same manner as is allowed the county judge.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(19), eff. January 1, 2012.

(g) The district clerk serves as clerk of the court in family law cases and proceedings and the county clerk serves as clerk for all other cases. The district clerk shall establish a separate docket for a county court at law. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(h) The judge of a county court at law may appoint an official court reporter or the judge may contract for the services of a court reporter under guidelines established by the commissioners court.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(19), eff. January 1, 2012.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(19), eff. January 1, 2012.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(19), eff. January 1, 2012.

(l) An appeal from a justice court or other court of inferior jurisdiction must be made directly to a county court at law or the county court unless otherwise provided by law.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 16, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(19), eff. January 1, 2012.

Sec. 25.0451. COLLIN COUNTY. (a) Collin County has the following statutory county courts:

(1) County Court at Law No. 1 of Collin County;

(2) County Court at Law No. 2 of Collin County;

(3) County Court at Law No. 3 of Collin County;

(4) County Court at Law No. 4 of Collin County;

(5) County Court at Law No. 5 of Collin County;

(6) County Court at Law No. 6 of Collin County; and

(7) County Court at Law No. 7 of Collin County.

(b) Collin County has one statutory probate court, the Probate Court No. 1 of Collin County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 504, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 45, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 692, Sec. 1, eff. Jan. 1, 2003; Acts 2003, 78th Leg., ch. 377, Sec. 1(a), eff. Jan. 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 3.02(a), eff. September 1, 2015.

Sec. 25.0452. COLLIN COUNTY COURT AT LAW PROVISIONS. (a) The

salary of a judge of a county court at law shall be paid out of the county treasury on orders of the commissioners court.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(20), eff. January 1, 2012.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(20), eff. January 1, 2012.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(20), eff. January 1, 2012.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991; Acts 1995, 74th Leg., ch. 504, Sec. 2, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 692, Sec. 2, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(20), eff. January 1, 2012.

Sec. 25.0453. COLLIN COUNTY STATUTORY PROBATE COURT PROVISIONS. (a) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(21), eff. January 1, 2012.

(b) The salary of a judge of a statutory probate court shall be paid out of the county treasury on orders of the commissioners court.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(21), eff. January 1, 2012.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(21), eff. January 1, 2012.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(21), eff. January 1, 2012.

(f) A statutory probate court has the general jurisdiction of a probate court as provided by Section 25.0021.

(g) The judge of a statutory probate court may, unless a party objects, provide that a proceeding be recorded by a good quality electronic recording device instead of by a court reporter. A stenographic record of an electronically recorded proceeding is not required except on order of the judge. If a recording device is used, the court reporter is not required to be present to certify the record. The judge may designate one or more persons to act as the court recorder and shall assign to a court recorder the duties and responsibilities necessary to act in that capacity.

Added by Acts 2001, 77th Leg., ch. 692, Sec. 3, eff. Sept. 1, 2001.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(21), eff. January 1, 2012.
Acts 2013, 83rd Leg., R.S., Ch. 559 (S.B. 677), Sec. 1, eff. September 1, 2013.

Sec. 25.0481. COMAL COUNTY. Comal County has the following statutory county courts:

(1) County Court at Law No. 1 of Comal County;
(2) County Court at Law No. 2 of Comal County; and
(3) County Court at Law No. 3 of Comal County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 377, Sec. 2(a), eff. Sept. 1, 2003.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 2.03(a), eff. September 1, 2019.

Sec. 25.0482. COMAL COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Comal County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(22), eff. January 1, 2012.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(22), eff. January 1, 2012.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(22), eff. January 1, 2012.

(f) The district clerk serves as clerk of a county court at law for family law cases and proceedings, and the county clerk serves as clerk for all other cases and proceedings.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(22), eff. January 1, 2012.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(22), eff. January 1, 2012.

(i) Section 25.0005(b) does not apply to a county court at law in Comal County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 17, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.20, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(22), eff. January 1, 2012.

Sec. 25.0511. COOKE COUNTY. Cooke County has one statutory county court, the County Court at Law of Cooke County.

Added by Acts 2001, 77th Leg., ch. 535, Sec. 1, eff. Dec. 1, 2001.

Sec. 25.0512. COOKE COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Cooke County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) The district clerk serves as clerk of a county court at law in family law cases and proceedings, and the county clerk serves as clerk of the court in all other cases and proceedings.

(c) The judge of a county court at law shall be paid annual compensation equal to the annual compensation, including all supplements, paid from any public source to a district judge in the county. The salary of the judge of a county court at law shall be paid in equal installments at least monthly.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(23), eff. January 1, 2012.

(e) A court officer appointed by the judge of a county court at law shall be sworn by the judge by an oath in the general form provided by law for appointed officials. The judge shall modify the oath to apply to the particular officer and duties or to conform to any statutory oath required for the particular position.

(f) An official court reporter of a county court at law may be paid:

(1) annual compensation equal to the annual compensation paid the official court reporters serving each district court in Cooke County; and

(2) any longevity pay to which the reporter is entitled under a county compensation program.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(23), eff. January 1, 2012.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(23), eff. January 1, 2012.

(i) The judges of each district court and county court at law in Cooke County may enter joint local administrative orders providing for the exchange of benches in cases in which a district court and county court at law have concurrent jurisdiction.

Added by Acts 2001, 77th Leg., ch. 535, Sec. 1, eff. Dec. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(23), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 2.04, eff. September 1, 2019.

Sec. 25.0521. CORYELL COUNTY. Coryell County has one statutory county court, the County Court at Law of Coryell County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.0522. CORYELL COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Coryell County has:

(1) concurrent with the county court, the probate jurisdiction provided by general law for county courts; and

(2) concurrent jurisdiction with the district court in family law cases and proceedings.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(24), eff. January 1, 2012.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff.

Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(24), eff. January 1, 2012.

(e) The salary of a judge of a county court at law shall be paid out of the county treasury on orders of the commissioners court.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(24), eff. January 1, 2012.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(24), eff. January 1, 2012.

(h) Sections 25.0007 and 25.0011 do not apply to a county court at law in Coryell County.

(i) Notwithstanding Section 25.0521, the County Court at Law of Coryell County is created October 1, 1992, or on an earlier date determined by the commissioners court by an order entered in its minutes.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 18, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(24), eff. January 1, 2012.

Sec. 25.0591. DALLAS COUNTY. (a) Dallas County has the following county courts at law:

(1) County Court of Dallas County at Law No. 1;

(2) County Court of Dallas County at Law No. 2;

(3) County Court of Dallas County at Law Number 3;

(4) County Court of Dallas County at Law Number 4; and

(5) County Court of Dallas County at Law No. 5.

(b) Dallas County has the following county criminal courts:

(1) County Criminal Court of Dallas County, Texas;

(2) County Criminal Court No. 2 of Dallas County, Texas;

(3) County Criminal Court No. 3 of Dallas County, Texas;

(4) County Criminal Court Number Four of Dallas County, Texas;

(5) County Criminal Court Number Five of Dallas County, Texas;

(6) County Criminal Court Number 6 of Dallas County, Texas;

(7) County Criminal Court Number 7 of Dallas County, Texas;
(8) County Criminal Court No. 8 of Dallas County, Texas;
(9) County Criminal Court No. 9 of Dallas County, Texas;
(10) County Criminal Court No. 10 of Dallas County, Texas; and
(11) County Criminal Court No. 11 of Dallas County, Texas.

(c) Dallas County has the following county criminal courts of appeals:
(1) County Criminal Court of Appeals of Dallas County, Texas; and
(2) County Criminal Court of Appeals No. 2 of Dallas County, Texas.

(d) Dallas County has the following statutory probate courts:
(1) Probate Court of Dallas County;
(2) Probate Court Number 2 of Dallas County; and
(3) Probate Court Number 3 of Dallas County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1315, Sec. 1, eff. Sept. 1, 1999.

Sec. 25.0592. DALLAS COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Dallas County has concurrent jurisdiction with the district court in civil cases regardless of the amount in controversy.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(25), eff. January 1, 2012.

(c) If a civil cause or proceeding that could have been filed in a civil district court of Dallas County is filed in a county court at law in Dallas County and the county court at law does not have subject matter jurisdiction over the cause or proceeding, the filing, docketing, or assignment of the cause or proceeding in or to a county court at law is considered a clerical error, and that clerical error shall be corrected by a judgment or order nunc pro tunc. The cause or proceeding is considered filed, docketed, or assigned to the district court of the local administrative judge in the first instance rather than to a county court at law in Dallas County. The judge of a county court at law in Dallas County who acts in the cause

or proceeding is considered assigned to the district court of the local administrative judge for that purpose and has all the powers of the judge of that district court under the assignment.

(d) Notwithstanding Section 31.004, Civil Practice and Remedies Code, a judgment or determination of fact or law in a proceeding in a county court at law in Dallas County is res judicata and constitutes a basis for collateral estoppel in a proceeding in any other court, except for appeals from other tribunals.

(e) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(f) A bond is not required of a judge of a county court at law.

(g) A judge of a county court at law shall be paid an annual salary that is not less than $1,000 less than the total annual salary, including supplements, received by a district judge in the county. The salary shall be paid out of the county treasury by the commissioners court.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(25), eff. January 1, 2012.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(25), eff. January 1, 2012.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(25), eff. January 1, 2012.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(25), eff. January 1, 2012.

(l) Sections 25.0006 and 25.0007(b) do not apply to a county court at law in Dallas County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.04, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991; Acts 1997, 75th Leg., ch. 237, Sec. 1, eff. May 23, 1997. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(25), eff. January 1, 2012.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.008(a), eff. September 1, 2023.

Sec. 25.0593. DALLAS COUNTY CRIMINAL COURT PROVISIONS. (a) A county criminal court in Dallas County has the criminal jurisdiction,

original and appellate, provided by the constitution and law for county courts and concurrent jurisdiction with county courts at law for Dallas County to hear appeals of the suspension of driver's licenses and original proceedings regarding occupational driver's licenses.

(b) The County Criminal Court No. 11 of Dallas County, Texas, shall give preference to cases designated by an order signed by a majority of the judges of the county criminal courts of Dallas County.

(c) A judge of a county criminal court shall be paid an annual salary that is not less than $1,000 less than the total annual salary, including supplements, received by a district judge in the county. The salary shall be paid out of the county treasury by the commissioners court.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(26), eff. January 1, 2012.

(e) A county criminal court or its judge may issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws in cases in which the offense charged is within the jurisdiction of the court or any court or tribunal of inferior jurisdiction. A county criminal court or its judge may punish for contempt as prescribed by general law.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(26), eff. January 1, 2012.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(26), eff. January 1, 2012.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(26), eff. January 1, 2012.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(26), eff. January 1, 2012.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(26), eff. January 1, 2012.

(k) The official court reporter of a county criminal court is not required to take testimony in a case unless the judge or a party demands that testimony be taken.

(l) The official court reporter of County Criminal Court No. 4, 5, 6, 7, 8, 9, or 10 of Dallas County, Texas, is entitled to receive the same fees and salary as a district court reporter.

(m) Sections 25.0003(a) and (c) do not apply to a county criminal court in Dallas County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 5, Sec. 2(a), eff. March 22, 1989; Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991; Acts 1997, 75th Leg., ch. 186, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1315, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(26), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.08, eff. January 1, 2020.

Sec. 25.0594. DALLAS COUNTY CRIMINAL COURT OF APPEALS PROVISIONS. (a) A county criminal court of appeals in Dallas County has:

(1) sole jurisdiction in the county of all appeals from criminal convictions for violation of state law or municipal ordinances of municipalities located in the county in justice courts, municipal courts, or municipal courts of record in the county; and

(2) concurrent criminal original and appellate jurisdiction in the county as provided by the constitution and by law for county courts.

(b) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(c) A judge of a county criminal court of appeals shall be paid an annual salary that is not less than $1,000 less than the total annual salary, including supplements, received by a district judge in the county. The salary shall be paid out of the county treasury by the commissioners court.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(27), eff. January 1, 2012.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(27), eff. January 1, 2012.

(f) A county criminal court of appeals or its judge may issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws in cases in which the offense charged is within the jurisdiction of the court or any court or tribunal of inferior jurisdiction. The court or its judge may punish for contempt as prescribed by general law.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec.

4.50(a)(27), eff. January 1, 2012.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(27), eff. January 1, 2012.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(27), eff. January 1, 2012.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(27), eff. January 1, 2012.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(27), eff. January 1, 2012.

(l) The official court reporter of a county criminal court of appeals is not required to take testimony in a case in which neither party nor the judge demands it.

(m) The official court reporter of a county criminal court of appeals is entitled to receive the same fees and salary as a district court reporter.

(n) Sections 25.0003(a) and (c) do not apply to a county criminal court of appeals in Dallas County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 5, Sec. 2(b), eff. March 22, 1989; Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(27), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.09, eff. January 1, 2020.

Sec. 25.0595. DALLAS COUNTY PROBATE COURTS. (a) Repealed by Acts 2001, 77th Leg., ch. 635, Sec. 3(2), eff. Sept. 1, 2001.

(b) The Probate Court No. 3 of Dallas County has primary responsibility for mental illness proceedings.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(28), eff. January 1, 2012.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(28), eff. January 1, 2012.

(e) Repealed by Acts 1995, 74th Leg., ch. 95, Sec. 2, eff. May 16, 1995.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(28), eff. January 1, 2012.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(28), eff. January 1, 2012.

(h) A judge of a statutory probate court shall be paid an annual salary not less than the total annual salary, including supplements, received by a district judge in the county. Each statutory probate court judge is entitled to receive the same amount of compensation. The commissioners court shall pay the salary out of the county treasury.

(i) Section 25.0027 does not apply to a statutory probate court in Dallas County.

(j) In addition to the uses authorized by Section 135.159, Local Government Code, fees collected under Section 135.102, Local Government Code, and deposited into the judicial education and support fund may be used by Dallas County for providing staff for the statutory probate courts and for court-related purposes for the support of the statutory probate courts.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 394, Sec. 3 eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 8, eff. Oct. 1, 1991; Acts 1993, 73rd Leg., ch. 389, Sec. 1, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 95, Sec. 2, eff. May 16, 1995; Acts 2001, 77th Leg., ch. 426, Sec. 3, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 635, Sec. 3(2), eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 9.001(d), eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(28), eff. January 1, 2012.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 2.07, eff. January 1, 2022.

Sec. 25.0631. DENTON COUNTY. (a) Denton County has the following statutory county courts:

(1) County Court at Law No. 1 of Denton County;

(2) County Court at Law No. 2 of Denton County;

(3) County Criminal Court No. 1 of Denton County;

(4) County Criminal Court No. 2 of Denton County;

(5) County Criminal Court No. 3 of Denton County;

(6) County Criminal Court No. 4 of Denton County; and

(7) County Criminal Court No. 5 of Denton County.

(b) Denton County has the following statutory probate courts:

(1) Probate Court of Denton County; and

(2) Probate Court Number 2 of Denton County.

(c) The statutory county courts of Denton County sit in the county seat or at another location in the county as assigned by the local administrative statutory county court judge. The statutory probate courts of Denton County sit in the county seat and may conduct docket matters at other locations in the county as the statutory probate court judges consider necessary for the protection of wards or mental health respondents or as otherwise provided by law.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 328, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 1109, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 557, Sec. 1, eff. Oct. 1, 2000; Acts 2001, 77th Leg., ch. 267, Sec. 1, eff. May 22, 2001; Acts 2001, 77th Leg., ch. 536, Sec. 1, eff. May 1, 2002.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 2.04(a), eff. January 1, 2022.

Sec. 25.0632. DENTON COUNTY STATUTORY COURT AND STATUTORY PROBATE COURT PROVISIONS. (a) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(30), eff. January 1, 2012.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(30), eff. January 1, 2012.

(c) The judge of each statutory county court and statutory probate court shall be paid annual compensation equal to the annual compensation, including all supplements, paid from any public source to a district judge in the county. For purposes of Sections 25.0005 and 25.0015, a statutory county court or a statutory probate court in Denton County has jurisdiction at least equivalent to the jurisdiction provided by Section 25.0003 for statutory county courts. The salary of a statutory county court judge or a statutory probate court judge shall be paid in equal installments at least monthly.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(30), eff. January 1, 2012.

(e) A court officer appointed by the judge of a statutory county court or statutory probate court shall be sworn by the judge by an oath in the general form provided by law for appointed officials. The judge shall modify the oath to apply to the particular officer and duties or to conform to any statutory oath required for the particular position.

(f) An official court reporter of a statutory county court or a statutory probate court may be paid:

(1) annual compensation equal to the annual compensation paid the official court reporters serving the district courts in Denton County; and

(2) any longevity pay to which the reporter is entitled under county compensation programs.

(g) The jury in a statutory county court or statutory probate court in all civil or criminal matters is composed of 12 members, except that in misdemeanor criminal cases and any other case in which the court has jurisdiction that under general law would be concurrent with the county court, the jury is composed of six members.

(h) The judges of the statutory county courts may exchange benches and serve for each other in the manner provided by Section 74.121 and are subject to assignment as provided by Section 74.092, except that it is not necessary that a judge's own court have jurisdiction of the type of cases handled by the court to which the judge is assigned or for which the judge is serving.

(i) A judge of a statutory probate court is subject to assignment as provided by Section 25.0022. On request by the judge of a Denton County statutory county court, a judge of a statutory probate court may be assigned by the regional presiding judge to the requesting judge's court pursuant to Chapter 74. A statutory probate court judge assigned to a statutory county court by the regional presiding judge may hear any matter pending in the requesting judge's court.

(j) Section 25.0006 does not apply to a statutory county court in Denton County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 19, 70, eff. Oct. 1, 1991; Acts 1993, 73rd Leg., ch. 962, Sec. 1, 2, eff. June 19, 1993; Acts 1995, 74th Leg., ch. 328, Sec. 2, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 557, Sec. 2, eff. Oct. 1, 2000.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.21, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(30), eff. January 1, 2012.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 2.04(b), eff. September 1, 2021.

Sec. 25.0633. DENTON COUNTY COURT AT LAW PROVISIONS. (a) The County Court at Law No. 1 of Denton County shall give preference to juvenile matters under Chapter 25 and Title 3, Family Code, and the ancillary and pendent jurisdiction necessary to enforce orders of the court in juvenile matters.

(b) Repealed by Acts 2001, 77th Leg., ch. 267, Sec. 2, eff. May 22, 2001.

(c) Notwithstanding Section 25.0003, the County Court at Law No. 1 of Denton County does not have jurisdiction over civil, civil appellate, probate, or mental health matters or over family law cases and proceedings other than juvenile proceedings.

(d) If the juvenile board designates the County Court at Law No. 1 of Denton County as the juvenile court of the county, the court shall give first preference to juvenile matters and second preference to criminal appeals from convictions in justice or municipal courts. Notwithstanding Chapter 53, Family Code, the criminal district attorney of Denton County is the designated official to receive all felony grade referrals regarding juveniles. If the court is not designated as the juvenile court, the court shall give first preference to criminal appeals cases and second preference to misdemeanor criminal matters.

(e) The County Court at Law No. 2 of Denton County has jurisdiction:

(1) over all civil causes and proceedings, original and appellate, prescribed by law for county courts; and

(2) regardless of the amount in controversy sought, over:

(A) eminent domain cases as provided by Section 21.001, Property Code, for statutory county courts; and

(B) direct and inverse condemnation cases.

(f) The County Court at Law No. 2 of Denton County does not have jurisdiction over:

(1) causes and proceedings concerning roads, bridges, and public highways;

(2) the general administration of county business that is within the jurisdiction of the commissioners court of each county; or

(3) criminal causes and proceedings.

(g) The County Court at Law No. 2 of Denton County has the jurisdiction provided by general law for county courts, statutory county courts, or district courts over civil penalties and forfeitures, including bail bond forfeitures and escheats, regardless of the amount in controversy or remedy sought.

(h) Appeals in all cases from judgments and orders of the County Court at Law No. 2 of Denton County are to the court of appeals as provided for an appeal from a district or county court.

Added by Acts 1995, 74th Leg., ch. 328, Sec. 3, eff. Aug. 28, 1995.
Amended by Acts 2001, 77th Leg., ch. 267, Sec. 2, eff. May 22, 2001; Acts 2001, 77th Leg., ch. 536, Sec. 2, eff. May 1, 2002.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 2.04(c), eff. September 1, 2021.

Sec. 25.0634. DENTON COUNTY CRIMINAL COURT PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, the county criminal courts of Denton County have felony jurisdiction concurrent with the district court over matters involving intoxication arising by a true bill of indictment by a grand jury charging one or more offenses under Chapter 49, Penal Code. The jurisdiction provided by this subsection shall be exercised on assignment by a district judge, by the local administrative district judge, or the regional presiding judge after the return of the true bill of indictment.

(b) A county criminal court has no jurisdiction over civil, civil appellate, probate, or mental health matters.

(c), (d) Repealed by Acts 2001, 77th Leg., ch. 267, Sec. 2, eff. May 22, 2001.

Added by Acts 1995, 74th Leg., ch. 328, Sec. 3, eff. Aug. 28, 1995.
Amended by Acts 2001, 77th Leg., ch. 267, Sec. 2, eff. May 22, 2001.

Sec. 25.0635. DENTON COUNTY STATUTORY PROBATE COURT PROVISIONS. (a) A statutory probate court in Denton County has the jurisdiction provided by Section 25.0021.

(b), (c) Repealed by Acts 2001, 77th Leg., ch. 635, Sec. 2(b), eff. May 1, 2002.

(d) A statutory probate court has jurisdiction, regardless of the amount in controversy or remedy sought, over eminent domain cases as provided by Section 21.001, Property Code, for statutory county courts; direct and inverse condemnation cases; adjudication and determination of land titles, whether or not ancillary to eminent domain proceedings; partition cases; suits to quiet title; trespass to try title; lien foreclosures; and adjudication of all freehold and leasehold interests, easements, licenses, and boundaries of real property; with all ancillary or pendent jurisdiction necessary for adjudication of an eminent domain case as provided by Sections 21.002 and 21.003, Property Code.

Added by Acts 1995, 74th Leg., ch. 328, Sec. 3, eff. Aug. 28, 1995. Amended by Acts 2001, 77th Leg., ch. 635, Sec. 2, eff. May 1, 2002.

Sec. 25.0701. ECTOR COUNTY. (a) Ector County has the following statutory county courts:

(1) County Court at Law of Ector County; and

(2) County Court at Law No. 2 of Ector County.

(b) A county court at law sits in Odessa.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.0702. ECTOR COUNTY COURT AT LAW. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Ector County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(31), eff. January 1, 2012.

(c) The fees assessed in a case in which a county court at law has concurrent civil jurisdiction with the district court are the same as the fees that would be assessed in the district court for that case.

(d) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(e) The judge of a county court at law shall be paid an annual salary that is not more than $1,000 less than the salary paid by the state to a district judge. The salary shall be paid out of the county treasury, on the order of the commissioners court.

(f) The judge of the County Court at Law No. 2 of Ector County is entitled to travel expenses and necessary office expenses, including administrative and clerical assistance, in the same manner as is allowed the county judge.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(31), eff. January 1, 2012.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(31), eff. January 1, 2012.

(i) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court, and the county clerk serves as clerk of the court in all other cases.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(31), eff. January 1, 2012.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(31), eff. January 1, 2012.

(l) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(31), eff. January 1, 2012.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.08(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.05, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 20, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1334 (H.B. 4718), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(31), eff. January 1, 2012.

Sec. 25.0721. ELLIS COUNTY. Ellis County has the following statutory county courts:

(1) the County Court at Law No. 1 of Ellis County;

(2) the County Court at Law No. 2 of Ellis County; and

(3) the County Court at Law No. 3 of Ellis County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 461, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 2.05(a), eff. January 1, 2021.

Sec. 25.0722. ELLIS COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Ellis County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(32), eff. January 1, 2012.

(c) The county courts at law of Ellis County have concurrent jurisdiction with the district court in civil cases regardless of the amount in controversy.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(32), eff. January 1, 2012.

(e) The judge of a county court at law shall be paid an annual salary that is not less than 90 percent of the annual salary of a district judge in the county. The salary shall be paid from the county treasury on order of the commissioners court. The judge is entitled to travel expenses and necessary office expenses, including administrative and clerical personnel, in the same manner as the county judge.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(32), eff. January 1, 2012.

(g) The district clerk serves as clerk of a county court at law for family law cases and proceedings, and the county clerk serves as clerk for all other cases. The district clerk shall establish a separate docket for a county court at law. The commissioners court may employ as many assistant district attorneys, deputy sheriffs, and bailiffs as are necessary to serve the court.

(h) The official court reporter of a county court at law is entitled to compensation set by the commissioners court at an amount at least equal to the compensation paid to the court reporter of a

district court in Ellis County.

(i) If a family law case or proceeding is tried before a jury, the jury shall be composed of 12 members. In all other cases the jury shall be composed of six members except as provided by the constitution, Section 25.0007(c), or other law.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(32), eff. January 1, 2012.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(32), eff. January 1, 2012.

(l) Section 25.0008 does not apply to a county court at law in Ellis County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 21, 70, eff. Oct. 1, 1991; Acts 2001, 77th Leg., ch. 461, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(32), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 9, eff. September 1, 2020.

Sec. 25.0731. EL PASO COUNTY. (a) El Paso County has the following statutory county courts:

(1) County Court at Law No. 1 of El Paso County, Texas;

(2) County Court at Law No. 2 of El Paso County, Texas;

(3) County Court at Law No. 3 of El Paso County, Texas;

(4) County Court at Law No. 4 of El Paso County, Texas;

(5) County Court at Law No. 5 of El Paso County, Texas;

(6) County Court at Law No. 6 of El Paso County, Texas;

(7) County Court at Law No. 7 of El Paso County, Texas;

(8) County Criminal Court at Law No. 1 of El Paso County, Texas;

(9) County Criminal Court at Law No. 2 of El Paso County, Texas;

(10) County Criminal Court at Law No. 3 of El Paso County, Texas; and

(11) County Criminal Court at Law No. 4 of El Paso County, Texas.

(b) El Paso County has the following statutory probate courts:
(1) the Probate Court No. 1 of El Paso County, Texas; and
(2) the Probate Court No. 2 of El Paso County, Texas.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1074, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 512, Sec. 1, eff. June 13, 1991; Acts 1997, 75th Leg., ch. 20, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 139, Sec. 1, eff. Jan. 1, 2002.
Amended by:
Acts 2005, 79th Leg., Ch. 662 (H.B. 3475), Sec. 1, eff. September 1, 2005.
Acts 2007, 80th Leg., R.S., Ch. 1122 (H.B. 4008), Sec. 1, eff. September 1, 2007.

Sec. 25.0732. EL PASO COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (b), a county court at law in El Paso County has the jurisdiction provided by the constitution and by general law for district courts.
(b) A county court at law does not have jurisdiction of:
(1) felony cases, except as otherwise provided by law;
(2) misdemeanors involving official misconduct; or
(3) contested elections.
(c) The County Criminal Court at Law No. 2 of El Paso County, Texas, is designated to conduct the DWI Drug Court Intervention and Treatment Program of El Paso County as a drug court program under Chapter 123 for persons arrested for, charged with, or convicted of an offense involving the operation of a motor vehicle while intoxicated.
(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(33), eff. January 1, 2012.
(e) A county court at law may not issue writs of habeas corpus in felony cases.
(f) The district clerk serves as clerk of a county court at law in cases in the concurrent jurisdiction of the county courts at law and the district courts, and the county clerk serves as the clerk in all other cases. The district clerk shall establish a separate docket for each county court at law.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(33), eff. January 1, 2012.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(33), eff. January 1, 2012.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(33), eff. January 1, 2012.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(33), eff. January 1, 2012.

(k) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(l) The judge of a county court at law shall be paid an annual salary that is at least equal to the amount that is $1,000 less than the total annual salary, including supplements, received by a district judge in the county.

(m) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(33), eff. January 1, 2012.

(n) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(33), eff. January 1, 2012.

(o) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(33), eff. January 1, 2012.

(p) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(33), eff. January 1, 2012.

(q) The official court reporter of a county court at law must be well skilled in his profession. The official court reporter of a county court at law is a sworn officer of the court who holds office at the pleasure of the court. The official court reporter of a county court at law is entitled to receive at least the same amount as compensation as the official court reporters in the district courts in the county. The compensation shall be paid in the same manner that the district court reporters are paid.

(r) Section 25.0006(b) does not apply to County Court at Law No. 2, 3, 4, 5, 6, or 7 of El Paso County, Texas.

(s) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(33), eff. January 1, 2012.

(t) If any cause or proceeding is lodged with the district clerk and the district clerk files, dockets, or assigns the cause or proceeding in or to a county court at law and the county court at law does not have subject matter jurisdiction over the cause or proceeding, then the filing, docketing, or assignment of the cause or proceeding in or to a county court at law is considered a clerical

error and that clerical error shall be corrected by a judgment or order nunc pro tunc. The cause or proceeding is considered filed, docketed, or assigned to the district court of the local administrative judge in the first instance rather than to a county court at law of El Paso County. The judge of a county court at law of El Paso County who acts in the cause or proceeding is considered assigned to the district court of the local administrative judge for that purpose and has all the powers of the judge of that district court under the assignment.

(u) A county court at law judge of El Paso County has jurisdiction to grant an order permitting a marriage ceremony to take place during a 72-hour period immediately following the issuance of a marriage license in El Paso County.

(v) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(33), eff. January 1, 2012.

(w) In matters of concurrent jurisdiction, a judge of a statutory county court in El Paso County and a judge of a district court or another statutory county court in El Paso County may transfer cases between the courts in the same manner judges of district courts transfer cases under Section 24.003.

(x) A judge of a statutory county court in El Paso County and a judge of a district court in El Paso County may exchange benches and may sit and act for each other in any matter pending before the court.

(y) The El Paso Council of Judges shall order the transfer of criminal misdemeanor cases to the county criminal courts at law from time to time to equalize the criminal misdemeanor dockets of the statutory county courts for the efficient operation of the court system and the effective administration of justice. In determining the court to which a case is transferred, the council shall give preference to a county criminal court at law that is required to give preference to certain cases under Subsection (z).

(z) The County Criminal Courts No. 1, No. 2, No. 3, and No. 4 have the criminal jurisdiction provided by this section and other law for statutory county courts in El Paso County and appellate jurisdiction in appeals of criminal cases from justice courts and municipal courts in the county as provided by Article 45A.202, Code of Criminal Procedure. The County Criminal Court No. 4 shall give preference to cases prosecuted under:

(1) Section 22.01, Penal Code, in which the victim is a

person whose relationship to or association with the defendant is described under Chapter 71, Family Code; and

(2) Section 25.07, Penal Code.

(aa) The County Criminal Court No. 1 has exclusive jurisdiction over environmental offenses.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(c), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1074, Sec. 2 to 4, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991; Acts 1997, 75th Leg., ch. 20, Sec. 3, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 139, Sec. 2, eff. Jan. 1, 2002; Acts 2003, 78th Leg., ch. 770, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1122 (H.B. 4008), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.06, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.22, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(33), eff. January 1, 2012.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.054, eff. January 1, 2025.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.009, eff. September 1, 2023.

Sec. 25.0733. EL PASO COUNTY PROBATE COURT PROVISIONS. (a) Sections 25.0732(q) and (r), relating to county courts at law in El Paso County, apply to a statutory probate court in El Paso County.

(b) The Probate Court No. 2 of El Paso County has primary responsibility for mental illness proceedings and for all administration related to mental illness proceedings, including budget preparation, staff management, and the adoption of administrative policy. The Probate Court No. 1 of El Paso County has secondary responsibility for mental illness proceedings.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(34), eff. January 1, 2012.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec.

4.50(a)(34), eff. January 1, 2012.

(e) Repealed by Acts 2001, 77th Leg., ch. 635, Sec. 3(2), eff. Sept. 1, 2001.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(34), eff. January 1, 2012.

Added by Acts 1991, 72nd Leg., ch. 512, Sec. 2, eff. June 13, 1991. Amended by Acts 2001, 77th Leg., ch. 426, Sec. 4, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 635, Sec. 3(2), eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 662 (H.B. 3475), Sec. 2, eff. September 1, 2005.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.23, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(34), eff. January 1, 2012.

Sec. 25.0741. ERATH COUNTY. Erath County has one statutory county court, the County Court at Law of Erath County.

Added by Acts 1991, 72nd Leg., ch. 746, Sec. 22(a), eff. Oct. 1, 1991.

Sec. 25.0742. ERATH COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Erath County has concurrent jurisdiction with the district court in proceedings under Chapter 262, Family Code, in which the Department of Protective and Regulatory Services has assumed the care, custody, and control of a child.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(35), eff. January 1, 2012.

Added by Acts 1991, 72nd Leg., ch. 746, Sec. 22(a), eff. Oct. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 902, Sec. 1, eff. June 14, 2001.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(35), eff. January 1, 2012.

Sec. 25.0761. FANNIN COUNTY. Fannin County has one statutory county court, the County Court at Law of Fannin County.

Added by Acts 2009, 81st Leg., R.S., Ch. 663 (H.B. 2232), Sec. 1, eff. September 1, 2009.
Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 11(a), eff. September 1, 2009.

Sec. 25.0762. FANNIN COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law and except as provided by Subsection (b), a county court at law in Fannin County has concurrent jurisdiction with the district court in:

(1) family law cases and proceedings, including proceedings under Chapter 262, Family Code; and

(2) proceedings under Title 3, Family Code.

(b) A county court at law does not have jurisdiction of proceedings under:

(1) Section 262.201, Family Code; or

(2) Section 54.03 or 54.04, Family Code.

(c) A county court at law shall transfer a family law case or proceeding instituted under Chapter 262, Family Code, from that court to the district court before a hearing governed by Section 262.201, Family Code, is commenced. A case or proceeding transferred as required by this subsection shall be completed under the same cause number and in the same manner as if the case or proceeding were originally filed in the district court. The district court may not transfer the case or proceeding back to the county court at law, except as provided by Section 262.203(a), Family Code.

(d) A county court at law shall transfer a juvenile case or proceeding instituted under Title 3, Family Code, from that court to another court designated as a juvenile court under Section 51.04, Family Code, before a hearing governed by Section 54.03, Family Code, is commenced. A case or proceeding transferred as required by this subsection shall be completed under the same cause number and in the same manner as if the case or proceeding were originally filed in the juvenile court. The juvenile court may not transfer the case or

proceeding back to the county court at law.

Added by Acts 2009, 81st Leg., R.S., Ch. 663 (H.B. 2232), Sec. 1, eff. September 1, 2009.
Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 11(a), eff. September 1, 2009.

Sec. 25.0811. FORT BEND COUNTY. Fort Bend County has the following statutory county courts:

(1) County Court at Law No. 1 of Fort Bend County;
(2) County Court at Law No. 2 of Fort Bend County;
(3) County Court at Law No. 3 of Fort Bend County;
(4) County Court at Law No. 4 of Fort Bend County;
(5) County Court at Law No. 5 of Fort Bend County; and
(6) County Court at Law No. 6 of Fort Bend County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 653, Sec. 1, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 278, Sec. 1, eff. Jan. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 3.03(a), eff. September 1, 2015.
Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 3.01(a), eff. January 1, 2018.

Sec. 25.0812. FORT BEND COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Fort Bend County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) A county court at law is primarily responsible for and shall give preference to:

(1) cases in which the court's jurisdiction is concurrent with the county court;
(2) eminent domain proceedings and cases;
(3) proceedings under Title 3, Family Code; and
(4) civil cases in which the amount in controversy does not exceed $20,000, excluding interest.

(c) A county court at law may enforce an order of the Family

District Court for the 328th Judicial District relating to a family law matter.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(36), eff. January 1, 2012.

(e) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(36), eff. January 1, 2012.

(g) The salary of a judge of a county court at law shall be paid from the county treasury on order of the commissioners court in the same manner that county employees are paid.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(36), eff. January 1, 2012.

(i) The district clerk serves as clerk of the county courts at law in cases in which the district courts and county courts at law have concurrent jurisdiction, and which have been instituted in the district courts, and the county clerk serves as clerk of the county courts at law in all other cases.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(36), eff. January 1, 2012.

(k) If a jury trial is requested in a case of concurrent jurisdiction between the district courts and the county courts at law, and the case was instituted in the district court, the jury shall be composed of 12 members. In all other cases in which a jury trial is requested in the county courts at law, the jury shall be composed of six members except as provided by the constitution, Section 25.0007(c), or other law.

(l) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(36), eff. January 1, 2012.

(m) Sections 25.0005(b) and 25.0011 do not apply to a county court at law in Fort Bend County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 23, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(36), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 10, eff. September 1, 2020.

Sec. 25.0861. GALVESTON COUNTY. (a) Galveston County has the following statutory county courts:

(1) County Court No. 1 of Galveston County;

(2) County Court No. 2 of Galveston County; and

(3) County Court No. 3 of Galveston County.

(b) Galveston County has one statutory probate court, the Probate Court of Galveston County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 24, eff. Oct. 1, 1991; Acts 1997, 75th Leg., ch. 818, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 904, Sec. 1, eff. Sept. 1, 2001.

Sec. 25.0862. GALVESTON COUNTY STATUTORY COURT PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (b), a statutory county court in Galveston County has:

(1) the jurisdiction provided by the constitution and by general law for district courts; and

(2) appellate jurisdiction in all appeals in criminal cases from justice courts and municipal courts in Galveston County.

(b) A statutory county court does not have jurisdiction of:

(1) felony cases, except as otherwise provided by law; or

(2) election contests.

(c) Repealed by Acts 2003, 78th Leg., ch. 1276, Sec. 9.003.

(d) Repealed by Acts 2003, 78th Leg., ch. 1276, Sec. 9.003.

(e) Repealed by Acts 2003, 78th Leg., ch. 1276, Sec. 9.003.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(37), eff. January 1, 2012.

(g) The judge of a statutory county court shall be paid an annual salary that is not less than the total annual salary, including supplements and contributions, paid a district judge in the county. The salary shall be paid out of the general fund of the county by warrants drawn on the county treasury on order of the commissioners court.

(h) A bond is not required of the judge of the County Court No. 1, 2, or 3 of Galveston County.

(i) Repealed by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 5.01(c)(2), eff. January 1, 2022.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(37), eff. January 1, 2012.

(k) The official court reporter of each statutory county court and each statutory probate court is entitled to the same compensation, paid in the same manner, as the official court reporters of the district courts in Galveston County. Each reporter is primarily responsible for cases in the reporter's court.

(l) Each reporter may be made available when not engaged in proceedings in their court to report proceedings in all other courts. Appeals and writs of error may be taken from judgments and orders of the County Courts Nos. 1, 2, and 3 of Galveston County and the judges, in civil and criminal cases, in the manner prescribed by law for appeals and writs of error. Appeals from interlocutory orders of the County Courts Nos. 1, 2, and 3 appointing a receiver or overruling a motion to vacate or appoint a receiver may be taken and are governed by the laws relating to appeals from similar orders of district courts.

(m) Section 25.0006(b) does not apply to County Court No. 1, 2, or 3 of Galveston County.

(n) If a jury trial is requested in a case that is in a county court at law's jurisdiction as provided by Subsection (a), the jury shall be composed of six members unless the constitution, Section 25.0007(c), or other law requires a 12-member jury. Failure to object before a six-member jury is seated and sworn constitutes a waiver of a 12-member jury.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 5.02(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.06, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 25, 70, eff. Oct. 1, 1991; Acts 1997, 75th Leg., ch. 818, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 635, Sec. 3(2), eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 904, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 9.003, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 6.004, eff. September 1, 2005.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.24, eff.

January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(37), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 11, eff. September 1, 2020.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 5.01(c)(2), eff. January 1, 2022.

Sec. 25.0881. GILLESPIE COUNTY. Gillespie County has one statutory county court, the County Court at Law of Gillespie County.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 2.06(a), eff. October 1, 2019.

Sec. 25.0882. GILLESPIE COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Gillespie County has concurrent jurisdiction with the district court in:

(1) family law cases and proceedings; and

(2) juvenile law cases and proceedings.

(b) The district clerk serves as clerk of a county court at law for family law cases and proceedings and the county clerk serves as clerk for all other cases. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(c) If a case or proceeding in which a county court at law has concurrent jurisdiction with a district court is tried before a jury, the jury shall be composed of 12 members. In all other cases, the jury shall be composed of six members.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 2.06(a), eff. October 1, 2019.

Sec. 25.0931. GRAYSON COUNTY. (a) Grayson County has the following statutory county courts:

(1) County Court at Law of Grayson County; and

(2) County Court at Law No. 2 of Grayson County.

(b) The county courts at law of Grayson County hold court in

the Grayson County Courthouse in Sherman.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.0932. GRAYSON COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Grayson County has:

(1) original concurrent jurisdiction with the justice court in all civil and criminal matters over which the justice court has jurisdiction; and

(2) concurrent jurisdiction with the district court in family law cases and proceedings.

(b) The district clerk serves as clerk of a county court at law in family law cases and proceedings, and the county clerk serves as clerk of the court in all other cases.

(c) An appeal or writ of error may not be taken to a court of appeals from a final judgment of a county court at law if:

(1) the judgment or amount in controversy does not exceed $100, excluding interest and costs; and

(2) the case is a civil case over which the court at law has appellate or original concurrent jurisdiction with the justice court.

(d) Appeals from the justice court and other inferior courts in the county must be made directly to a county court at law.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(38), eff. January 1, 2012.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(38), eff. January 1, 2012.

(g) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(h) The judge of a county court at law shall be paid an annual salary that does not exceed the total annual salary received by the county attorney. The salary shall be paid out of the county treasury on order of the commissioners court.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(38), eff. January 1, 2012.

(j) If the judge of a county court at law is disqualified or recused in a pending case, the county judge or the judge of another

court at law may sit in the case.

(k) The official court reporter of the County Court at Law No. 2 of Grayson County is entitled to receive, in addition to transcript fees, fees for statements of facts, and other fees, a salary set by the commissioners court at an amount that does not exceed the salary paid to the official court reporters of the district courts in the county. The salary shall be paid monthly in the same manner as other county employees' salaries are paid.

(l) Section 25.0006(a) does not apply to a county court at law in Grayson County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.09(a), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(38), eff. January 1, 2012.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.010, eff. September 1, 2023.

Sec. 25.0941. GREGG COUNTY. (a) Gregg County has the statutory county courts provided by this section.

(b) Gregg County has a statutory county court, the County Court at Law No. 1 of Gregg County.

(c) Gregg County has an additional statutory county court, the County Court at Law No. 2 of Gregg County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1210, Sec. 1, eff. June 15, 2001.

Sec. 25.0942. GREGG COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court of law in Gregg County has, concurrent with the district court, the jurisdiction provided by the constitution and general law for district courts, except that the county court at law does not have jurisdiction in capital felony cases.

(b) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff.

Oct. 1, 1991.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(39), eff. January 1, 2012.

(d) The judge of a county court at law shall be paid an annual salary that is not less than $1,000 less than the total annual salary received by a district judge in the county. The salary may not be more than the total annual salary received by a district judge in the county. The salary may be paid in equal monthly installments.

(e) The judge of a county court at law is entitled to travel expenses and necessary office expenses, including administrative and clerical assistance, in the same manner as the county judge.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(39), eff. January 1, 2012.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(39), eff. January 1, 2012.

(h) The district clerk serves as clerk of a county court at law in cases enumerated in Subsection (a)(2), and the county clerk serves as clerk of a county court at law in all other cases.

(i) The judge of a county court at law, with the commissioners court's consent, may employ a secretary. The commissioners court shall set the secretary's salary.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(39), eff. January 1, 2012.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(39), eff. January 1, 2012.

(l) Except as otherwise provided by this subsection, a jury in a county court at law shall be composed of six members, unless the constitution, Section 25.0007(c), or other law requires a 12-member jury. Failure to object before a six-member jury is seated and sworn constitutes a waiver of a 12-member jury. In matters in which the constitution or other law does not require a 12-member jury and the county court at law has concurrent jurisdiction with the district court, the jury shall be composed of 12 members if a party to the suit requests a 12-member jury. In a civil case tried in a county court at law, the parties may, by mutual agreement, agree to try the case with any number of jurors and have a verdict rendered and returned by the vote of any number of those jurors that is less than the total number of jurors.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1,

1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991; Acts 1997, 75th Leg., ch. 423, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 689, Sec. 1, eff. Jan. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1348 (S.B. 2016), Sec. 1, eff. October 1, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(39), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 12, eff. September 1, 2020.

Sec. 25.0951. GRIMES COUNTY. Grimes County has one statutory county court, the County Court at Law of Grimes County.

Added by Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 3.02(a), eff. October 1, 2017.

Sec. 25.0952. GRIMES COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Grimes County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) The judge of the county court at law shall be paid an annual salary set by the commissioners court in an amount that is at least equal to the amount that is $1,000 less than the total annual salary, including contributions and supplements, received by a district judge in the county. The salary shall be paid by the county treasurer by order of the commissioners court.

(c) The judge of the county court at law is entitled to travel expenses and necessary office expenses, including administrative and clerical assistance, in the same manner as the district judge.

(d) The judge of a county court at law may not engage in the private practice of law.

(e) The district clerk serves as clerk of a county court at law for family cases and proceedings, and the county clerk serves as clerk for all other cases. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(f) If a case or proceeding in which a county court at law has concurrent jurisdiction with a district court is tried before a jury, the jury shall be composed of 12 members. In all other cases, the jury shall be composed of six members.

(g) The judge of a county court at law may, instead of appointing an official court reporter, contract for the services of a court reporter under guidelines established by the commissioners court.

(h) The laws governing the drawing, selection, service, and pay of jurors for county courts apply to a county court at law. Jurors regularly impaneled for a week by the district court may, on a request of a judge of the county court at law, be made available and shall serve for the week in a county court at law.

(i) A county court at law has the same terms of court as a district court in Grimes County.

Added by Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 3.02(a), eff. October 1, 2017.

Sec. 25.0961. GUADALUPE COUNTY. (a) Guadalupe County has the following statutory county courts:

(1) the County Court at Law of Guadalupe County; and

(2) the County Court at Law No. 2 of Guadalupe County.

(b) A county court at law in Guadalupe County sits in Seguin.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 44, Sec. 1, eff. May 3, 2001.

Sec. 25.0962. GUADALUPE COUNTY COURT AT LAW PROVISIONS. (a) A county court at law in Guadalupe County has the same terms of court as the County Court of Guadalupe County.

(b) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Guadalupe County has concurrent jurisdiction with the district court in family law cases and proceedings including juvenile matters.

(c) A person appointed to fill a vacancy in the office of judge is entitled to the same compensation as the previous judge.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec.

4.50(a)(40), eff. January 1, 2012.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(40), eff. January 1, 2012.

(f) If a case in the court's concurrent jurisdiction with the district court is tried before a jury, the jury shall be composed of 12 members.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(40), eff. January 1, 2012.

(h) Sections 25.0005(b) and 25.0008 do not apply to a county court at law in Guadalupe County.

(i) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court, and the county clerk shall serve as clerk of a county court at law in all other cases.

Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991; Acts 1997, 75th Leg., ch. 867, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.25, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(40), eff. January 1, 2012.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25.1031. HARRIS COUNTY. (a) Harris County has the following county civil courts at law:

(1) County Civil Court at Law No. 1 of Harris County, Texas;

(2) County Civil Court at Law No. 2 of Harris County, Texas;

(3) County Civil Court at Law No. 3 of Harris County, Texas; and

(4) County Civil Court at Law No. 4 of Harris County, Texas.

(b) Harris County has the following county criminal courts:

(1) County Criminal Court at Law No. 1 of Harris County, Texas;

(2) County Criminal Court at Law No. 2 of Harris County, Texas;
(3) County Criminal Court at Law No. 3 of Harris County, Texas;
(4) County Criminal Court at Law No. 4 of Harris County, Texas;
(5) County Criminal Court at Law No. 5 of Harris County, Texas;
(6) County Criminal Court at Law No. 6 of Harris County, Texas;
(7) County Criminal Court at Law No. 7 of Harris County, Texas;
(8) County Criminal Court at Law No. 8 of Harris County, Texas;
(9) County Criminal Court at Law No. 9 of Harris County, Texas;
(10) County Criminal Court at Law No. 10 of Harris County, Texas;
(11) County Criminal Court at Law No. 11 of Harris County, Texas;
(12) County Criminal Court at Law No. 12 of Harris County, Texas;
(13) County Criminal Court at Law No. 13 of Harris County, Texas;
(14) County Criminal Court at Law No. 14 of Harris County, Texas;
(15) County Criminal Court at Law No. 15 of Harris County, Texas; and
(16) County Criminal Court at Law No. 16 of Harris County, Texas.

(c) Harris County has the following statutory probate courts:
(1) Probate Court No. 1 of Harris County, Texas;
(2) Probate Court No. 2 of Harris County, Texas;
(3) Probate Court No. 3 of Harris County, Texas;
(4) Probate Court No. 4 of Harris County, Texas; and
(5) Probate Court No. 5 of Harris County, Texas.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 318, Sec. 1, eff. Aug. 30, 1993.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 3.04(a), eff. January 1, 2016.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.011(a), eff. September 1, 2023.

Sec. 25.1032. HARRIS COUNTY CIVIL COURT AT LAW PROVISIONS. (a) A county civil court at law in Harris County has jurisdiction over all civil matters and causes, original and appellate, prescribed by law for county courts, but does not have the jurisdiction of a probate court. A county civil court at law has jurisdiction in appeals of civil cases from justice courts in Harris County.

(b) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(c) A county civil court at law has exclusive jurisdiction in Harris County of eminent domain proceedings, both statutory and inverse, if the amount in controversy in a statutory proceeding does not exceed the amount provided by Section 25.0003(c) in civil cases. Notwithstanding Section 21.013, Property Code, a party initiating a condemnation proceeding in Harris County may file a petition with the district clerk when the amount in controversy exceeds the amount provided by Section 25.0003(c). The amount in controversy is the amount of the bona fide offer made by the entity with eminent domain authority to acquire the property from the property owner voluntarily.

(d) In addition to other jurisdiction provided by law, a county civil court at law has jurisdiction to:

(1) decide the issue of title to real or personal property;

(2) hear a suit to recover damages for slander or defamation of character;

(3) hear a suit for the enforcement of a lien on real property;

(4) hear a suit for the forfeiture of a corporate charter;

(5) hear a suit for the trial of the right to property valued at $200 or more that has been levied on under a writ of execution, sequestration, or attachment; and

(6) hear a suit for the recovery of real property.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(41), eff. January 1, 2012.

(f) The judge of a county civil court at law shall be paid an annual salary that is not less than the total annual salary received by a judge of a probate court in the county.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(41), eff. January 1, 2012.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(41), eff. January 1, 2012.

(i) The official court reporter of a county civil court at law is entitled to receive the same salary as a reporter of a district court in the county.

(j) The county clerk shall keep separate dockets for each of the county civil courts at law. The county clerk shall tax the official court reporter's fee as costs in civil actions in a county civil court at law in the same manner as the fee is taxed in civil cases in the district courts.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(41), eff. January 1, 2012.

(l) Sections 25.0006(b) and 25.0008 do not apply to a county civil court at law in Harris County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.10(a), (b), 8.11(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 445, Sec. 1, eff. June 14, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.07, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(41), eff. January 1, 2012.

Acts 2015, 84th Leg., R.S., Ch. 462 (H.B. 2536), Sec. 1, eff. September 1, 2015.

Sec. 25.1033. HARRIS COUNTY CRIMINAL COURT AT LAW PROVISIONS. (a) A county criminal court at law in Harris County has the criminal jurisdiction provided by law for county courts, concurrent jurisdiction with civil statutory county courts for Harris County to hear appeals of the suspension of a driver's license and original proceedings regarding occupational driver's licenses, and appellate jurisdiction in appeals of criminal cases from justice courts and

municipal courts in the county.

(b) The judge of a county criminal court at law has the same powers, rights, and privileges as to criminal matters as a county judge having criminal jurisdiction.

(c) A county criminal court at law or its judge may issue writs of habeas corpus in criminal misdemeanor cases and all writs necessary for the enforcement of its jurisdiction.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(42), eff. January 1, 2012.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(42), eff. January 1, 2012.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(42), eff. January 1, 2012.

(g) The judge of a county criminal court at law shall be paid an annual salary that is not less than $1,000 less than the total annual salary, including supplements, of a district judge in the county.

(h) An appointee to the office of judge of a county criminal court at law serves until the next general election at which the office appears on the ballot as provided by Article XVI, Section 65, of the Texas Constitution.

(i) A special county criminal court at law judge may be appointed or elected as provided by law for special county judges. A special judge may also be appointed to serve in a county criminal court at law as provided by Section 75.403.

(j) The county criminal courts may establish a court manager and coordinator system as provided by Section 75.402.

(k) The Harris County district attorney serves as prosecutor for the county criminal courts at law as provided by Section 43.180.

(l) The district clerk serves as clerk of a county criminal court at law.

(m) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(42), eff. January 1, 2012.

(n) The official court reporter of a county criminal court at law is entitled to the same amount of compensation as the official court reporters of the district courts in the county. The salary shall be paid in the same manner as the district court reporters are paid.

(o) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(42), eff. January 1, 2012.

(p) Sections 25.0006, 74.091, and 74.092 do not apply to a county criminal court at law in Harris County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 635, Sec. 1, eff. June 14, 1989; Acts 2001, 77th Leg., ch. 1205, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.26, eff. January 1, 2012.
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(42), eff. January 1, 2012.

Sec. 25.1034. HARRIS COUNTY PROBATE COURT PROVISIONS. (a) Repealed by Acts 2001, 77th Leg., ch. 635, Sec. 3(2), eff. Sept. 1, 2001.
(b) The Probate Court No. 3 of Harris County has primary responsibility for mental illness proceedings and for all administration related to mental illness proceedings, including budget preparation, staff management, and the adoption of administrative policy. The Probate Court No. 4 of Harris County has secondary responsibility for mental illness proceedings.
(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(43), eff. January 1, 2012.
(d), (e) Repealed by Acts 1989, 71st Leg., ch. 1078, Sec. 2, eff. Aug. 28, 1989.
(f) Repealed by Acts 2007, 80th Leg., R.S., Ch. 331, Sec. 2, eff. October 1, 2007.
(g) The judge of a statutory probate court shall be paid an annual salary that is at least equal to the total annual salary, including supplements, received by a district judge in the county.
(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(43), eff. January 1, 2012.
(i) With the approval of the commissioners court, a judge of a statutory probate court may appoint an administrative assistant, a court coordinator, an auditor, and other staff necessary for the operation of the courts. The commissioners court, with the advice and counsel of the judges, sets the salaries of the staff.
(j) Repealed by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474

), Sec. 2.011(b), eff. September 1, 2023.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(43), eff. January 1, 2012.

(l) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(43), eff. January 1, 2012.

(m) Repealed by Acts 1991, 72nd Leg., ch. 394, Sec. 4, eff. Aug. 26, 1991 and Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., ch. 466, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 1078, Sec. 1, 2, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 394, Sec. 4, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991; Acts 1999, 76th Leg., ch. 1153, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 635, Sec. 3(2), eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 331 (H.B. 2967), Sec. 2, eff. October 1, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(43), eff. January 1, 2012.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.011(b), eff. September 1, 2023.

Sec. 25.1041. HARRISON COUNTY. (a) Harrison County has one statutory county court, the County Court at Law of Harrison County.

(b) The County Court at Law of Harrison County sits in Marshall.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.1042. HARRISON COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Harrison County has concurrent jurisdiction with the district court, on assignment of a district judge presiding in Harrison County, in:

(1) family law cases and proceedings;

(2) felony cases other than capital murder cases; and

(3) civil cases.

(b) Assignment and transfer of cases under Subsection (a) is at the discretion of the judge of the district court making the assignment. Assignment or transfer from a county court at law to a district court is governed by Section 74.121(b)(1).

(c) The district clerk serves as clerk of a county court at law in cases assigned under Subsection (a), and the county clerk serves as clerk of the court in all other cases.

(d) A party to a case assigned under Subsection (a) may request a jury of 12 persons if the party makes the request not later than the 30th day before the trial date. Except as provided by Subsection (h), a party who does not make a timely request under this subsection waives the right to request a 12-person jury and the case will proceed with a six-person jury.

(e) The judge of a county court at law shall be paid a salary that is equal to the amount paid the criminal district attorney of Harrison County. The salary shall be paid out of the county treasury on orders of the commissioners court.

(f) In matters of concurrent jurisdiction, a district judge presiding in Harrison County may transfer cases from the district court to a county court at law in Harrison County in the same manner judges of district courts transfer cases under Section 24.003.

(g) The criminal district attorney is entitled to the same fees prescribed by law for prosecutions in the county court, except that in cases assigned under Subsection (a), the criminal district attorney is entitled to the same fees prescribed by law for prosecutions in a district court.

(h) A jury must be composed of 12 members in any felony case.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(44), eff. January 1, 2012.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.27, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(44), eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 2.02(a),

eff. January 1, 2015.

Acts 2013, 83rd Leg., R.S., Ch. 1237 (S.B. 1806), Sec. 1, eff. January 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 832 (H.B. 4199), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 13, eff. September 1, 2020.

Sec. 25.1071. HAYS COUNTY. Hays County has the following statutory county courts:

(1) the County Court at Law No. 1 of Hays County;

(2) the County Court at Law No. 2 of Hays County; and

(3) the County Court at Law No. 3 of Hays County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.12(a), eff. Aug. 28, 1989.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 3.03(a), eff. October 1, 2018.

Sec. 25.1072. HAYS COUNTY AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Hays County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(45), eff. January 1, 2012.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(45), eff. January 1, 2012.

(e) The county clerk serves as clerk of a county court at law, except that the district clerk serves as clerk of the court in family law cases and proceedings. The district clerk shall establish a separate docket for a county court at law.

(f) If a family law case or proceeding is tried before a jury, the jury shall be composed of 12 members.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec.

4.50(a)(45), eff. January 1, 2012.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(45), eff. January 1, 2012.

(i) Section 25.0005(b) does not apply to a county court at law in Hays County.

(j) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.12(b), (c), eff. Aug. 28, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.08, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 26, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.28, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(45), eff. January 1, 2012.

Sec. 25.1091. HENDERSON COUNTY. Henderson County has the following statutory county courts:

(1) the County Court at Law of Henderson County; and

(2) the County Court at Law No. 2 of Henderson County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 377, Sec. 3(a), eff. Sept. 1, 2003.

Sec. 25.1092. HENDERSON COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Henderson County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(c) The judge of a county court at law may set and approve sequestration bonds and replevy bonds in excess of the $50,000 jurisdictional amount in cases in which the amount of the suit is less than that amount.

(d) The judge of a county court at law shall be paid an annual salary that is at least $40,000.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(46), eff. January 1, 2012.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(46), eff. January 1, 2012.

(g) A special judge of a county court at law must take the oath of office required of the regular judge and has the power and jurisdiction of the court and of the regular judge for whom he is sitting. A special judge may sign orders, judgments, decrees, or other process as "Judge Presiding" when acting for the regular judge.

(h) Repealed by Acts 1995, 74th Leg., ch. 242, Sec. 1, eff. Aug. 28, 1995.

(i) If the regular judge is absent, disabled, or disqualified from presiding, the presiding judge of the administrative judicial region may appoint a retired judge of a district court or county court at law or a regular judge of a district court or county court at law to preside over the county court at law. The presiding judge of the judicial region with the consent of a retired judge of a district court or county court at law, or a regular judge of a district court within the presiding judge's region, may make an assignment outside the judicial region over which the judge presides with the specific authorization of the presiding judge of the judicial region in which the assignment is made.

(j) A retired judge of a district court or county court at law may elect to be a judicial officer by filing the written election with the presiding judge of the judicial district in which the retired judge resides. A judge may not be appointed special judge or visiting judge if the judge:

(1) appears and pleads as an attorney at law in any court of this state;

(2) has been defeated in an election for judge of the court over which the judge formerly presided;

(3) has been removed from office by impeachment, by the supreme court, or by the governor on address to the legislature;

(4) has been discharged from the practice of law, whether or not reinstated; or

(5) has resigned as judge of a court while under investigation by the State Commission on Judicial Conduct.

(k) A visiting judge has the same authority and powers and is

entitled to the same amount of compensation as provided for a special judge by this section.

(l) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(46), eff. January 1, 2012.

(m) The official court reporter of a county court at law is entitled to receive the same amount of compensation, fees, and allowances as the reporter of a district court.

(n) The county clerk serves as clerk of a county court at law, except the district judge and the judge of the county court at law, by rule, may provide that the district clerk serve as clerk of a county court at law in matters of concurrent jurisdiction with the district court.

(o) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(46), eff. January 1, 2012.

(p) Repealed by Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 34(2), eff. September 1, 2020.

(q) Sections 25.0006 and 25.0008 do not apply to a county court at law in Henderson County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.44(4), eff. Aug. 28, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.09, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 27, 70, eff. Oct. 1, 1991; Acts 1995, 74th Leg., ch. 242, Sec. 1, eff. Aug. 28, 1995.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(46), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 34(2), eff. September 1, 2020.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25.1101. HIDALGO COUNTY. (a) Hidalgo County has the following statutory county courts:

(1) County Court at Law No. 1 of Hidalgo County;

(2) County Court at Law No. 2 of Hidalgo County;

(3) County Court at Law No. 4 of Hidalgo County;

(4) County Court at Law No. 5 of Hidalgo County;
(5) County Court at Law No. 6 of Hidalgo County;
(6) County Court at Law No. 7 of Hidalgo County;
(7) County Court at Law No. 8 of Hidalgo County;
(8) County Court at Law No. 9 of Hidalgo County; and
(9) County Court at Law No. 10 of Hidalgo County.

(b) Hidalgo County has one statutory probate court, the Probate Court of Hidalgo County.

(c) The county courts at law of Hidalgo County sit in the county seat.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1135, Sec. 1, eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1211, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 278 (S.B. 1875), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1335 (H.B. 3570), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 860 (S.B. 2469), Sec. 1, eff. September 1, 2011.

Acts 2009, 81st Leg., R.S., Ch. 1090 (H.B. 4793), Sec. 1, eff. September 1, 2011.

Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 12(a), eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 2.07(a), eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25.1102. HIDALGO COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Hidalgo County has concurrent jurisdiction with the district court in:

(1) family law cases and proceedings; and

(2) civil cases in which the matter in controversy does not exceed $750,000, excluding interest, statutory or punitive damages

and penalties, and attorney's fees and costs, as alleged on the page of the petition.

(b) The County Court at Law No. 6 of Hidalgo County shall give preference to family law cases and proceedings.

(c) The judge of a county court at law shall be paid an annual salary that is not less than $1,000 less than the total annual salary, including supplements, received by a district judge in the county. The salary of a county court at law judge shall be paid in the same manner and from the same fund as prescribed by law for the county judge of Hidalgo County.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(47), eff. January 1, 2012.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(47), eff. January 1, 2012.

(f) The official court reporter of a county court at law is entitled to receive a salary set by the judge of the county court at law as provided by law for district court reporters. The salary shall be paid monthly by the commissioners court out of funds available for that purpose.

(g) The official interpreter of the district courts of Hidalgo County serves as official interpreter of each county court at law. If the official interpreter is not available, the judge of a county court at law may appoint a temporary interpreter. The temporary interpreter shall be compensated at an amount not to exceed $5 a day paid out of the county's general fund on certificate of the judge. Subject to the commissioners court approval, the judge of a county court at law may appoint an official interpreter for the court as provided by law.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(47), eff. January 1, 2012.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(47), eff. January 1, 2012.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(47), eff. January 1, 2012.

(k) Expired.

(l) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(47), eff. January 1, 2012.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1135, Sec. 2 to 4, eff.

Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 746, Sec. 28, 70, eff. Oct. 1, 1991; Acts 1997, 75th Leg., ch. 1446, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1211, Sec. 2, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 278 (S.B. 1875), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1335 (H.B. 3570), Sec. 2, eff. September 1, 2005.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(47), eff. January 1, 2012.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 2.08, eff. January 1, 2022.

Sec. 25.1111. HILL COUNTY. Hill County has one statutory county court, the County Court at Law of Hill County.

Added by Acts 2005, 79th Leg., Ch. 959 (H.B. 1622), Sec. 1, eff. September 1, 2005.

Sec. 25.1112. HILL COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Hill County has concurrent jurisdiction with the district court in felony cases and family law cases and proceedings. A county court at law does not have jurisdiction of felony cases involving capital murder.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(49), eff. January 1, 2012.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(49), eff. January 1, 2012.

(d) The judge of a county court at law shall be paid as provided by Section 25.0005. The judge's salary shall be paid out of the county treasury on order of the commissioners court. The judge is entitled to necessary office and operational expenses, including administrative and clerical personnel, in the same manner as the county judge.

(e) The district clerk serves as the clerk of a county court at law for all criminal and civil matters except that the county clerk serves as the clerk of the county court at law in probate and

guardianship matters.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(49), eff. January 1, 2012.

(g) Notwithstanding Section 74.0911, the judge of the 66th District Court shall act as presiding judge between the district and county court at law and may assign to the county court at law original or appellate cases that are within the jurisdiction of the county court at law. The assignment shall be made by docket notation.

(h) In matters of concurrent jurisdiction, the judge of a county court at law and the judge of the 66th District Court may exchange benches, transfer cases, assign each other to hear cases in accordance with orders signed and approved by the judges involved, and otherwise manage their respective dockets under local administrative rules.

(i) The official court reporter of a county court at law is entitled to the compensation set by the commissioners court on order of the judge of the court in an amount not to exceed 90 percent of the compensation paid to the court reporter of a district court in Hill County.

(j) If a family law case or proceeding is tried before a jury, the jury shall be composed of 12 members. In all other cases, except as otherwise required by law, the jury shall be composed of six members.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(49), eff. January 1, 2012.

Added by Acts 2005, 79th Leg., Ch. 959 (H.B. 1622), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(49), eff. January 1, 2012.

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 3.05, eff. September 1, 2015.

Sec. 25.1131. HOOD COUNTY. Hood County has one statutory county court, the County Court at Law No. 1 of Hood County.

Added by Acts 2001, 77th Leg., ch. 629, Sec. 1, eff. Sept. 1, 2001.

Sec. 25.1132. HOOD COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Hood County has the jurisdiction provided by this section.

(b) A county court at law in Hood County has concurrent jurisdiction with the county court in mental health cases.

(c) A county court at law in Hood County has concurrent jurisdiction with the district court in:

(1) family law cases and related proceedings;

(2) contested probate matters under Section 32.003(a), Estates Code; and

(3) contested matters in guardianship proceedings under Section 1022.003(a), Estates Code.

(d) The county court and each county court at law and district court in Hood County has jurisdiction over juvenile matters and may be designated a juvenile court. The county court has primary jurisdiction over juvenile matters.

(e) Except as provided by Subsection (c)(3) or (4), a county court at law does not have probate jurisdiction.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(50), eff. January 1, 2012.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(50), eff. January 1, 2012.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(50), eff. January 1, 2012.

(i) The judge of a county court at law shall be paid an annual salary that is not less than 90 percent of the annual salary of a district judge in the county. The salary shall be paid from the county treasury on order of the commissioners court. The judge is entitled to travel expenses and necessary office expenses, including administrative and clerical personnel, in the same manner as the county judge.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(50), eff. January 1, 2012.

(k) A special judge must take the oath of office required by law for the regular judge and has the same authority as the regular judge. A special judge may sign orders, judgments, decrees, and other processes of the court as "Judge Presiding" when acting for the regular judge. The appointment of a special judge to a county court at law does not affect the jurisdiction of the court.

(l) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(50), eff. January 1, 2012.

(m) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(50), eff. January 1, 2012.

(n) The official court reporter of a county court at law is entitled to compensation set by the commissioners court in an amount at least equal to the compensation paid to the court reporter of a district court in Hood County.

(o) If a family law case or proceeding is tried before a jury in a county court at law, the jury shall be composed of 12 members. In all other cases, the jury shall be composed of six members except as provided by the constitution, Section 25.0007(c), or other law.

(p) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(50), eff. January 1, 2012.

Added by Acts 2001, 77th Leg., ch. 629, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 774, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1351 (S.B. 408), Sec. 12(e), eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1085 (S.B. 1196), Sec. 41, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(50), eff. January 1, 2012.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.027, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 14, eff. September 1, 2020.

Sec. 25.1141. HOPKINS COUNTY. Hopkins County has one statutory county court, the County Court at Law of Hopkins County.

Added by Acts 1991, 72nd Leg., ch. 441, Sec. 1, eff. Jan. 1, 1992; Acts 1991, 72nd Leg., ch. 746, Sec. 29(a), eff. Jan. 1, 1992.
Amended by Acts 1995, 74th Leg., ch. 731, Sec. 1, eff. Jan. 1, 1996.

Sec. 25.1142. HOPKINS COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Hopkins County has except as limited by

Subsection (b), concurrent with the district court, the jurisdiction provided by the constitution and by general law for district courts.

(b) A county court at law does not have jurisdiction of:

(1) felony jury trials;

(2) suits on behalf of the state to recover penalties or escheated property;

(3) misdemeanors involving official misconduct; or

(4) contested elections.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(51), eff. January 1, 2012.

(d) The judge of a county court at law shall be paid an annual salary that does not exceed 80 percent of the annual salary that is paid by the state to a district judge in the county. The salary shall be paid from the same fund and in the same manner as other county officials are paid.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(51), eff. January 1, 2012.

(f) The commissioners court may authorize the judge of a county court at law to set the official court reporter's salary.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(51), eff. January 1, 2012.

(h) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court, and the county clerk serves as clerk of a county court at law in all other matters. Each clerk shall establish a separate docket for a county court at law.

Added by Acts 1991, 72nd Leg., ch. 441, Sec. 1, eff. Jan. 1, 1992; Acts 1991, 72nd Leg., ch. 746, Sec. 29(a), eff. Jan. 1, 1992.
Amended by Acts 1995, 74th Leg., ch. 731, Sec. 2, eff. Jan. 1, 1996.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.29, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(51), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 15, eff. September 1, 2020.

Sec. 25.1151. HOUSTON COUNTY. Houston County has one statutory

county court, the County Court at Law of Houston County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.1152. HOUSTON COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Houston County has concurrent jurisdiction with the district court in family law cases and proceedings including juvenile matters.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(52), eff. January 1, 2012.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) The salary of the judge of a county court at law shall be paid out of the county treasury on orders of the commissioners court. The judge is entitled to reasonable travel expenses and necessary office expenses, including administrative and clerical assistance.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(52), eff. January 1, 2012.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(52), eff. January 1, 2012.

(g) The judge of a county court at law shall set the official court reporter's salary at an amount that does not exceed the salary of the court reporter for the district court. The salary shall be paid from the county treasury on order of the commissioners court.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(52), eff. January 1, 2012.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(52), eff. January 1, 2012.

(j) The district clerk serves as clerk of the court in family law cases and proceedings, and the county clerk serves as clerk for all other cases. The district clerk shall establish a separate docket for a county court at law. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 30(a), (b), 70, eff. Oct. 1, 1991.

Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(52), eff. January 1, 2012.

Sec. 25.1181. HUNT COUNTY. Hunt County has two statutory county courts:
(1) the County Court at Law Number One of Hunt County; and
(2) the County Court at Law Number Two of Hunt County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 197 (S.B. 2018), Sec. 1, eff. September 1, 2007.

Sec. 25.1182. HUNT COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (b), a county court at law in Hunt County has concurrent jurisdiction with the district court in:
(1) felony cases to:
(A) conduct arraignments;
(B) conduct pretrial hearings;
(C) accept guilty pleas; and
(D) conduct jury trials on assignment of a district judge presiding in Hunt County and acceptance of the assignment by the judge of the county court at law;
(2) Class A and Class B misdemeanor cases;
(3) family law matters;
(4) juvenile matters;
(5) probate matters; and
(6) appeals from the justice and municipal courts.
(b) A county court at law's civil jurisdiction concurrent with the district court in civil cases is limited to cases in which the matter in controversy does not exceed $200,000. A county court at law does not have jurisdiction of:
(1) suits on behalf of this state to recover penalties or escheated property;

(2) felony cases involving capital murder;
(3) misdemeanors involving official misconduct; or
(4) contested elections.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(53), eff. January 1, 2012.

(d) The judge of a county court at law shall be paid a total annual salary set by the commissioners court at an amount that is not less than $1,000 less than the total annual salary received by a district judge in the county. A district judge's or statutory county court judge's total annual salary does not include contributions and supplements paid by a county.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(53), eff. January 1, 2012.

(f) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court, and the county clerk shall serve as clerk of a county court at law in all other matters. Each clerk shall establish a separate docket for a county court at law.

(g) The official court reporter of a county court at law is entitled to receive a salary set by the judge of the county court at law with the approval of the commissioners court.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(53), eff. January 1, 2012.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.10, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 13(a), eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.30, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(53), eff. January 1, 2012.

Sec. 25.1251. JEFFERSON COUNTY. (a) Jefferson County has the following statutory county courts:

(1) County Court of Jefferson County at Law No. 1;

(2) County Court of Jefferson County at Law No. 2; and
(3) County Court of Jefferson County at Law No. 3.

(b) The county courts at law of Jefferson County sit in Beaumont.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.1252. JEFFERSON COUNTY COURT AT LAW PROVISIONS. (a) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(b) The County Court of Jefferson County at Law No. 3 shall give preference to criminal cases.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(54), eff. January 1, 2012.

(d) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(e) The judge of a county court at law shall be paid an annual salary that is at least equal to the amount that is $1,000 less than the total annual salary, including supplements, received by a district judge in the county. The salary shall be paid out of the county treasury on order of the commissioners court.

(f) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(54), eff. January 1, 2012.

(h) In addition to the lawful fees for transcribing testimony and preparing statements of facts, the official shorthand reporter of the County Court of Jefferson County at Law No. 3 receives the same salary as the official shorthand reporter of the County Court of Jefferson County at Law No. 1. The salary shall be paid monthly out of the county treasury on order of the commissioners court.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(54), eff. January 1, 2012.

(j) If a family law case or proceeding is tried before a jury in a county court at law, the jury shall be composed of 12 members. In all other cases, the jury shall be composed of six members except as provided by the constitution, Section 25.0007(c), or other law.

(k) For each court, the county clerk shall appoint a deputy

acceptable to the judge to attend the sessions of court and attend to all matters pertaining to the court. The deputy assigned to the County Court of Jefferson County at Law No. 1 is entitled to receive a salary not to exceed the maximum salary paid other deputies in the county clerk's office with the rating of a head of a department. The salary shall be paid out of the county's general fund on order of the commissioners court.

(l) An appeal from the justice courts or municipal courts in Jefferson County must be made directly to any of the county courts at law in Jefferson County.

(m) Section 25.0006 does not apply to the county courts at law of Jefferson County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(54), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 16, eff. September 1, 2020.

Sec. 25.1271. JIM WELLS COUNTY. Jim Wells County has one statutory county court, the County Court at Law of Jim Wells County.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 2.03(a), eff. January 1, 2015.

Sec. 25.1272. JIM WELLS COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Jim Wells County has the jurisdiction provided by this section.

(b) A county court at law in Jim Wells County has concurrent jurisdiction with the district court in:

(1) family law cases and proceedings;

(2) Class A and Class B misdemeanors;

(3) juvenile cases; and

(4) appeals from justice and municipal courts.

(c) A county court at law does not have jurisdiction of:

(1) suits on behalf of this state to recover penalties or escheated property;

(2) felony cases;

(3) misdemeanors involving official misconduct; or

(4) contested elections.

(d) The judge of a county court at law must have the same qualifications as those required by law for a district judge.

(e) The judge of a county court at law shall be paid a total annual salary set by the commissioners court at an amount that is not less than $1,000 less than the total annual salary received by a district judge in the county. A district judge's or statutory county court judge's total annual salary does not include contributions and supplements paid by a county.

(f) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court, except that the county clerk serves as clerk of the court in Class A and Class B misdemeanor cases. The county clerk shall serve as clerk of a county court at law in all other matters. Each clerk shall establish a separate docket for a county court at law.

(g) Jurors summoned for a county court at law or a district court in the county may by order of the judge of the court to which they are summoned be transferred to another court for service and may be used as if summoned for the court to which they are transferred.

(h) If a jury trial is requested in a case that is in a county court at law's jurisdiction, the jury shall be composed of six members unless the constitution, Section 25.0007(c), or other law requires a 12-member jury. Failure to object before a six-member jury is seated and sworn constitutes a waiver of a 12-member jury.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 2.03(a), eff. January 1, 2015.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 17, eff. September 1, 2020.

Sec. 25.1281. JOHNSON COUNTY. Johnson County has the following statutory county courts:

(1) the County Court at Law No. 1 of Johnson County; and

(2) the County Court at Law No. 2 of Johnson County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 529, Sec. 1, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 31(a), eff. Oct. 1, 1991.

Sec. 25.1282. JOHNSON COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Johnson County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(55), eff. January 1, 2012.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(55), eff. January 1, 2012.

(e) The judge of a county court at law shall be paid an annual salary that is equal to 90 percent of the annual salary paid by the state to a district judge in the county. The salary shall be paid in the same manner and from the same fund as the salary of the county judge.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(55), eff. January 1, 2012.

(g) The county attorney or district attorney serves as prosecuting attorney for a county court at law.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(55), eff. January 1, 2012.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(55), eff. January 1, 2012.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1076, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 746, Sec. 32, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(55), eff. January 1, 2012.

Sec. 25.1311. KAUFMAN COUNTY. Kaufman County has the following statutory county courts:

(1) the County Court at Law of Kaufman County; and

(2) the County Court at Law No. 2 of Kaufman County.

Added by Acts 1993, 73rd Leg., ch. 197, Sec. 1, eff. Jan. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 776 (H.B. 3547), Sec. 1, eff. September 1, 2005.

Sec. 25.1312. KAUFMAN COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a statutory county court in Kaufman County has, except as limited by Subsection (b), the jurisdiction provided by the constitution and general law for district courts.

(b) A statutory county court in Kaufman County does not have jurisdiction of:

(1) felony cases involving capital murder;

(2) suits on behalf of the state to recover penalties or escheated property;

(3) misdemeanors involving official misconduct; or

(4) contested elections.

(b-1) Repealed by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 15.03(1), eff. September 1, 2019.

(c) The district clerk serves as clerk of a statutory county court except that the county clerk serves as clerk of the statutory county court in matters of mental health, probate, juvenile and criminal misdemeanor docket, and all civil matters in which the statutory county court does not have concurrent jurisdiction with the district court.

(d) A jury must be composed of 12 members in:

(1) civil cases in which the amount in controversy is $200,000 or more;

(2) family law cases and proceedings; and

(3) felony cases.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(56), eff. January 1, 2012.

(f) Notwithstanding Sections 74.091 and 74.0911, a district judge serves as the local administrative judge for the district and

statutory county courts in Kaufman County. The judges of district courts shall elect a district judge as local administrative judge for a term of not more than two years. The local administrative judge may not be elected on the basis of rotation or seniority.

(g) When administering a case for the statutory county court, the district clerk shall charge civil fees and court costs as if the case had been filed in the district court. In a case of concurrent jurisdiction, the case shall be assigned to either the district court or statutory county court in accordance with local administrative rules established by the local administrative judge.

(h) The judge of the statutory county court shall appoint an official court reporter for the court and shall set the official court reporter's annual salary, subject to approval by the county commissioners court. The official court reporter of the statutory county court shall take an oath or affirmation as an officer of the court, holds office at the pleasure of the judge of the court, and shall be provided a private office in close proximity to the court. The official court reporter is entitled to all rights and benefits afforded all other county employees.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(56), eff. January 1, 2012.

(j) Not later than one year after the date of appointment, the bailiff of a statutory county court must have received a peace officer license under Chapter 1701, Occupations Code, from the Texas Commission on Law Enforcement. The sheriff of Kaufman County shall deputize the bailiff of a statutory county court. The bailiff of a statutory county court is subject to the training and continuing education requirements of a sheriff's deputy of the county. The sheriff shall remove from office a bailiff who does not receive a peace officer license within one year of appointment as required by this subsection.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(56), eff. January 1, 2012.

(l) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(56), eff. January 1, 2012.

(m) In matters of concurrent jurisdiction, the judge of a statutory county court and the district judge may exchange benches, transfer cases, subject to acceptance, assign each other to hear cases, and otherwise manage their respective dockets under local administrative rules.

(n) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(56), eff. January 1, 2012.

Added by Acts 1993, 73rd Leg., ch. 197, Sec. 1, eff. Jan. 1, 1995.
Amended by:
Acts 2005, 79th Leg., Ch. 776 (H.B. 3547), Sec. 2, eff. September 1, 2005.
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.31, eff. January 1, 2012.
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(56), eff. January 1, 2012.
Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.18, eff. May 18, 2013.
Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 2.08(a), eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 15.03(1), eff. September 1, 2019.

Sec. 25.1351. KERR COUNTY. Kerr County has one statutory county court, the County Court at Law of Kerr County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.1352. KERR COUNTY COURT AT LAW PROVISIONS. (a) Repealed by Acts 1993, 73rd Leg., ch. 72, Sec. 2, eff. Sept. 1, 1993.
(b) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Kerr County has:
(1) concurrent jurisdiction with the district court in proceedings under the Family Code; and
(2) concurrent with the county court, the jurisdiction of a probate court in proceedings under Chapter 462, Health and Safety Code, and Subtitle C, Title 7, Health and Safety Code.
(c) Repealed by Acts 1993, 73rd Leg., ch. 72, Sec. 2, eff. Sept. 1, 1993.
(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(58), eff. January 1, 2012.
(e) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(f), (g) Repealed by Acts 1993, 73rd Leg., ch. 72, Sec. 2, eff. Sept. 1, 1993.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(58), eff. January 1, 2012.

(i) to (j) Repealed by Acts 1993, 73rd Leg., ch. 72, Sec. 2, eff. Sept. 1, 1993.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 76, Sec. 11, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 33, 70, eff. Oct. 1, 1991; Acts 1993, 73rd Leg., ch. 72, Sec. 1, 2, eff. Sept. 1, 1993. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(58), eff. January 1, 2012.

Sec. 25.1391. KLEBERG COUNTY. (a) Kleberg County has one statutory county court, the County Court at Law of Kleberg County.

(b) The county court at law sits in the county seat of Kleberg County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.1392. KLEBERG COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Kleberg County has concurrent jurisdiction with the district court in:

(1) family law cases and proceedings; and

(2) felony cases to conduct arraignments, conduct pretrial hearings, and accept guilty pleas.

(b) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(c) A bond is not required of a judge of a county court at law.

(d) A judge of a county court at law shall be paid an annual salary that is at least $32,000 but not more than $1,000 less than the salary paid by the state to a district judge. A county court at law judge is entitled to travel expenses and necessary office expenses, including administrative and clerical assistance, in the same manner as the county judge.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(59), eff. January 1, 2012.

(f) The district clerk serves as clerk of each county court at law in cases enumerated in Subsection (a)(2), and the county clerk serves as clerk of a county court at law in all other cases. The district clerk shall establish a separate docket for a county court at law.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(59), eff. January 1, 2012.

(h) The jury in all civil or criminal matters is composed of 12 members, except that in misdemeanor criminal cases and any other case in which the court has concurrent jurisdiction with the county court the jury is composed of six members.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(59), eff. January 1, 2012.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.13(a), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 746, Sec. 34, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(59), eff. January 1, 2012.

Sec. 25.1411. LAMAR COUNTY. Lamar County has one statutory county court, the County Court at Law of Lamar County.

Added by Acts 1997, 75th Leg., ch. 100, Sec. 1, eff. Sept. 1, 1997.

Sec. 25.1412. LAMAR COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Lamar County has:

(1) concurrent jurisdiction with the district court in:

(A) probate matters and proceedings, including will contests;

(B) family law cases and proceedings, including juvenile cases; and

(C) felony cases to conduct arraignments and pretrial hearings and to accept guilty pleas; and

(2) concurrent jurisdiction with the county and district courts over all suits arising under the Family Code.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(60), eff. January 1, 2012.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(60), eff. January 1, 2012.

(d) The judge is entitled to travel expenses and necessary office expenses, including administrative and clerical assistance, in the same manner as the county judge. The judge of a county court at law shall be paid an annual salary of at least $50,000. The salary shall be paid from the county treasury on order of the commissioners court.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(60), eff. January 1, 2012.

(f) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court, other than probate matters and proceedings. The county clerk serves as clerk of the court in all other matters. Each clerk shall establish a separate docket for a county court at law.

(g) The judge of a county court at law may appoint an official court reporter or the judge may contract for the services of a court reporter.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(60), eff. January 1, 2012.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(60), eff. January 1, 2012.

(j) An appeal in a civil case from a judgment or order of a county court at law is to the court of appeals as provided for an appeal from a district or county court. An appeal in a criminal case is to the court of appeals as provided for an appeal from a county court. A case appealed from a justice court or other inferior court in Lamar County must be made directly to a county court at law, unless otherwise provided by law.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(60), eff. January 1, 2012.

(l) The fees assessed in a case in which a county court at law has concurrent civil jurisdiction with the district court are the same as the fees that would be assessed in the district court for that case.

(m) In matters of concurrent jurisdiction, a judge of the

county court at law and a judge of a district court may transfer cases between the courts in the same manner judges of district courts transfer cases under Section 24.003.

(n) The judge of a county court at law and a judge of a district court may exchange benches and may sit and act for each other in any matter pending before either court.

(o) The laws governing the drawing, selection, service, and pay of jurors for county courts apply to a county court at law. Jurors regularly impaneled for a week by the district court may, on request of the judge of a county court at law, be made available and shall serve for the week in a county court at law.

(p) Except as otherwise provided by this subsection, a jury in a county court at law shall be composed of six members unless the constitution, Section 25.0007(c), or other law requires a 12-member jury. Failure to object before a six-member jury is seated and sworn constitutes a waiver of a 12-member jury. In matters in which the constitution or other law does not require a 12-member jury and the county court at law has concurrent jurisdiction with the district court, the jury may be composed of 12 members if a party to the suit requests a 12-member jury and the judge of the court consents. In a civil case tried in a county court at law, the parties may, by mutual agreement, agree to try the case with any number of jurors and have a verdict rendered and returned by the vote of any number of those jurors that is less than the total number of jurors.

Added by Acts 1997, 75th Leg., ch. 100, Sec. 2, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(60), eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 2.04(a), eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 18, eff. September 1, 2020.

Sec. 25.1481. LIBERTY COUNTY. (a) Liberty County has the following statutory county courts:

(1) the County Court at Law of Liberty County; and

(2) the County Court at Law No. 2 of Liberty County.

(b) The county courts at law of Liberty County sit in Liberty.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 2.09(a), eff. September 1, 2019.

Sec. 25.1482. LIBERTY COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Liberty County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) This section does not affect the right of appeal to a county court at law from a justice court in cases in which the right of appeal to the county court exists by law.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(61), eff. January 1, 2012.

(e) A bond is not required of a judge of a county court at law.

(f) The official court reporter of a county court at law is entitled to receive the same compensation, fees, and allowances as the reporters of the district courts in Liberty County.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(61), eff. January 1, 2012.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(61), eff. January 1, 2012.

(i) If the regular judge of the county court at law is absent, disabled, or disqualified from presiding, the presiding judge of the administrative judicial region in which the county is located may appoint a retired district judge or a person licensed to practice law in this state to sit as a special judge.

(j) A special judge must have the same qualifications as the regular judge, except that the only residency requirement for a person who is a retired judge is that the retired judge must reside in the administrative judicial region. A retired judge must have voluntarily retired from office and have certified his willingness to serve.

(k) A special judge must take the oath of office required by law for the regular judge and has all the power and jurisdiction of

the court and of the regular judge for whom he is sitting. A special judge may sign orders, judgments, decrees, or other process of any kind as "Judge Presiding" when acting for the regular judge.

(l) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(61), eff. January 1, 2012.

(m) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(61), eff. January 1, 2012.

(n) Sections 25.0006(b) and 25.0008 do not apply to a county court at law in Liberty County.

(o) A judge of a county court at law may provide that any criminal proceeding in the county court at law be recorded by a good quality electronic recording device instead of by a court reporter, unless the defendant requests that a court reporter be present upon written motion filed with the court not later than 10 days prior to trial. If a recording device is used, the court reporter need not be present at the proceeding to certify the statement of facts.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.44(5), eff. Aug. 28, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.11, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 35, 70, eff. Oct. 1, 1991; Acts 1995, 74th Leg., ch. 1059, Sec. 1, eff. Aug. 28, 1995.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(61), eff. January 1, 2012.

Sec. 25.1541. LUBBOCK COUNTY. (a) Lubbock County has the following statutory county courts:

(1) County Court at Law No. 1 of Lubbock County;

(2) County Court at Law No. 2 of Lubbock County; and

(3) County Court at Law No. 3 of Lubbock County.

(b) County Court at Law No. 1 of Lubbock County and County Court at Law No. 2 of Lubbock County sit in Lubbock.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.14(a), eff. Aug. 28, 1989.

Sec. 25.1542. LUBBOCK COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Lubbock County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) A county court at law has original concurrent jurisdiction with the justice courts in all matters prescribed by law for justice courts.

(c) An appeal or writ of error may not be taken to a court of appeals from a final judgment of a county court at law if:

(1) the court had appellate or original concurrent jurisdiction with the justice court; and

(2) the judgment or amount in controversy does not exceed $100, excluding interest and costs.

(d) This section does not deny the return of an appeal to a county court at law where the return of appeals to the county court exists by law.

(e) Appeals from the justice court and other inferior courts in the county must be made directly to a county court at law under provisions governing appeals to county courts.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(62), eff. January 1, 2012.

(g) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(h) The judge of a county court at law shall be paid an annual salary that is at least 90 percent of the total annual salary, including supplements other than the juvenile board supplement, paid to the judge of the 99th District Court. The salary shall be paid out of the county general fund on order of the commissioners court.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(62), eff. January 1, 2012.

(j) The district clerk serves as clerk of a county court at law in family law cases and proceedings, and the county clerk serves as clerk of the court in all other matters.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(62), eff. January 1, 2012.

(l) The official court reporter of a county court at law is entitled to the same amount of fees and salary and shall perform the same duties as a district court reporter in the county. The salary shall be paid in the same manner as the salary of a district court

reporter.

(m) In family law cases, juries shall be composed of 12 members.

(n) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(62), eff. January 1, 2012.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.14(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.12, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 36, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.32, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(62), eff. January 1, 2012.

Sec. 25.1571. MCLENNAN COUNTY. McLennan County has the following statutory county courts:

(1) County Court at Law of McLennan County;

(2) County Court at Law No. 2 of McLennan County; and

(3) County Court at Law No. 3 of McLennan County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 2.06(a), eff. September 1, 2021.

Sec. 25.1572. MCLENNAN COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law and except as limited by Subsection (b), a county court at law in McLennan County has:

(1) concurrent jurisdiction with the district courts in state jail, third degree, and second degree felony cases and family law cases on assignment from a district judge presiding in McLennan County and acceptance of the assignment by the judge of the county court at law to:

(A) conduct arraignments;

(B) conduct pretrial hearings;
(C) accept guilty pleas and conduct sentencing;
(D) conduct jury trials and nonjury trials;
(E) conduct probation revocation hearings;
(F) conduct post-trial proceedings; and
(G) conduct family law cases and proceedings; and
(2) jurisdiction in:
(A) Class A and Class B misdemeanor cases;
(B) probate proceedings;
(C) eminent domain;
(D) appeals from the justice and municipal courts; and
(E) disputes ancillary to probate, eminent domain, condemnation, or landlord and tenant matters relating to the adjudication and determination of land titles and trusts, whether testamentary, inter vivos, constructive, resulting, or any other class or type of trust, regardless of the amount in controversy or the remedy sought.

(b) On request of a district judge presiding in McLennan County, the regional presiding judge may assign a judge of a county court at law in McLennan County to the requesting judge's court under Chapter 74. A county court at law judge assigned to a district court may hear any matter pending in the requesting judge's court.

(c) A county court at law does not have jurisdiction in:
(1) suits on behalf of the state to recover penalties or escheated property;
(2) misdemeanors involving official misconduct; or
(3) contested elections.

(d) A judge of a county court at law shall be paid a total annual salary set by the commissioners court in an amount not less than $1,000 less than the annual salary received by a district judge with equivalent years of service as a judge, as provided under Section 25.0005, to be paid out of the county treasury by the commissioners court.

(e) The district clerk serves as clerk of a county court at law in cases instituted in the district courts in which the county courts at law have concurrent jurisdiction with the district court. The county clerk serves as the clerk of a county court at law in all other matters. Each clerk shall establish a separate docket for a county court at law.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec.

4.50(a)(63), eff. January 1, 2012.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(63), eff. January 1, 2012.

(h) An official court reporter is not required to take testimony in a case unless the judge or a party demands that testimony be taken. The court reporter shall be available for matters being considered in the county court if the parties before the court request a court reporter and the request is approved by the judge of a county court at law.

(i) The official court reporter of a county court at law is entitled to receive a salary set by the judge of a county court at law with the approval of the commissioners court.

(j) Sections 25.0006(b) and 25.0007 do not apply to a county court at law in McLennan County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.15(a), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 746, Sec. 37, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(63), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.10, eff. January 1, 2020.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 2.09, eff. January 1, 2022.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 2.06(b), eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.013, eff. September 1, 2023.

Sec. 25.1651. MEDINA COUNTY. Medina County has one statutory county court, the County Court at Law of Medina County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.1652. MEDINA COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other

law, a county court at law in Medina County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(c) The judge of a county court at law shall be paid an annual salary that does not exceed 90 percent of the amount paid a district judge in the county. The salary shall be paid out of the county treasury by the commissioners court. The judge is entitled to travel expenses and necessary office expenses, including administrative and clerical assistance, in the same manner as is allowed the county judge.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(64), eff. January 1, 2012.

(e) The district clerk serves as clerk of a county court at law in family law cases and proceedings and shall establish a separate docket for a county court at law. The county clerk serves as clerk of the court in all other cases.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(64), eff. January 1, 2012.

(g) If a family law case is tried before a jury, the jury shall be composed of 12 members.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(64), eff. January 1, 2012.

(i) The fees assessed in cases in which the court has concurrent civil jurisdiction with the district court shall be the same as in the district court.

(j) A judge of a county court at law may provide that any criminal proceeding in the county court at law be recorded by a good quality electronic recording device instead of by a court reporter unless, on written motion filed with the court not later than the 10th day before the trial, the defendant requests that a court reporter be present. If a recording device is used, the court reporter need not be present at the proceeding to certify the statement of facts.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 130, Sec. 1, 2, eff. May 17, 1989; Acts 1991, 72nd Leg., ch. 746, Sec. 38, 70, eff. Oct. 1, 1991; Acts 1997, 75th Leg., ch. 545, Sec. 1, eff. May 31, 1997.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.33, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(64), eff. January 1, 2012.

Sec. 25.1671. MIDLAND COUNTY. Midland County has the following statutory county courts:

(1) County Court at Law of Midland County; and

(2) County Court at Law No. 2 of Midland County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.1672. MIDLAND COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Midland County has concurrent jurisdiction with the district court in:

(1) family law cases and proceedings; and

(2) civil cases in which the matter in controversy exceeds $500 but does not exceed $500,000, excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs, as alleged on the face of the petition.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(65), eff. January 1, 2012.

(c) In matters of concurrent jurisdiction, judges of the county courts at law and district courts in the county may exchange benches and courtrooms and may transfer cases between their dockets in the same manner that district court judges exchange benches and transfer cases under Section 24.003.

(d) The judge of a county court at law shall be paid an annual salary that is at least equal to the amount that is $1,000 less than the total annual salary, including supplements, of a district judge in the county and is entitled to receive travel, educational, and necessary office expenses, including administrative and clerical assistance, in at least the same manner and amount as the county judge. The bailiffs and official court reporters of the county courts at law shall receive the same compensation, paid in the same

manner, as the bailiffs and official court reporters of the district courts in the county.

(e) The fees assessed in a case in which a county court at law has concurrent civil jurisdiction with the district court are the same as the fees that would be assessed in the district court for that case.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(65), eff. January 1, 2012.

(g) The district clerk serves as clerk of the county courts at law in cases enumerated in Subsection (a) and Section 25.0003(c), and the county clerk serves as clerk of the county courts at law in all other cases.

(h) to (j) Repealed by Acts 1995, 74th Leg., ch. 466, Sec. 5, eff. Sept. 1, 1995.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.13, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 39, 70, eff. Oct. 1, 1991; Acts 1995, 74th Leg., ch. 466, Sec. 1 to 5, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1136 (H.B. 4094), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.07, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(65), eff. January 1, 2012.

Sec. 25.1721. MONTGOMERY COUNTY. (a) Montgomery County has the following statutory county courts:

(1) County Court at Law No. 1 of Montgomery County;

(2) County Court at Law No. 3 of Montgomery County;

(3) County Court at Law No. 4 of Montgomery County;

(4) County Court at Law No. 5 of Montgomery County; and

(5) County Court at Law No. 6 of Montgomery County.

(b) Montgomery County has one statutory probate court, the Probate Court No. 1 of Montgomery County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 686, Sec. 1, eff. Jan. 1,

2002.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 284 (H.B. 682), Sec. 1, eff. September 1, 2007.
Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 2.07(a), eff. September 1, 2021.
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.014(a), eff. October 1, 2023.

Sec. 25.1722. MONTGOMERY COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Montgomery County has concurrent jurisdiction with the district court in:

(1) family law cases and proceedings;

(2) cases and proceedings involving justiciable controversies and differences between spouses, or between parents, or between parent and child, or between any of these and third persons, corporations, trustees, or other legal entities; and

(3) matters involving an inter vivos trust.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(66), eff. January 1, 2012.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(66), eff. January 1, 2012.

(d) The judge of a county court at law shall be paid an annual salary that is not less than $1,000 less than the total annual salary, including supplements, of any district judge in the county. The salary shall be paid by the county treasurer on order of the commissioners court. The judge of a county court at law is entitled to receive travel expenses and necessary office expenses, including administrative and clerical assistance, in the same manner as the county judge.

(e) The district clerk of Montgomery County serves as clerk of the county courts at law in cases of concurrent jurisdiction between the district courts and the county courts at law and shall establish separate dockets for the county courts at law. The county clerk serves as clerk of the county courts at law in all other cases. The commissioners court may employ as many assistant county attorneys, deputy sheriffs, and clerks as are necessary to serve the county courts at law.

(f) Except as otherwise provided by this subsection, the constitution, Section 25.0007(c), or other law, juries in a county court at law shall be composed of six members. Juries in family law cases and proceedings shall be composed of 12 members, unless the parties agree to a six-member jury.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(66), eff. January 1, 2012.

(h) Appeals in all cases from judgments and orders of a county court at law are to the court of appeals as provided for appeals from district and county courts.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 419, Sec. 1 to 3, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 746, Sec. 40, 70, eff. Oct. 1, 1991; Acts 1997, 75th Leg., ch. 165, Sec. 7.27, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 686, Sec. 2, eff. Jan. 1, 2002. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(66), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 19, eff. September 1, 2020.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25.1723. MONTGOMERY COUNTY PROBATE COURT PROVISIONS. (a) In this section, "remote proceeding" means a proceeding before a court in which one or more of the participants, including a judge, party, attorney, witness, or other individual, attends the proceeding remotely through the use of technology.

(b) A statutory probate court of Montgomery County has concurrent jurisdiction with the district court, regardless of the amount in controversy or the relief sought, in:

(1) disputes relating to the creation of a constructive trust;

(2) declaratory judgment actions;

(3) actions in which the only relief sought is a writ of injunction; and

(4) actions to appoint a receiver under any law, including

Section 11.402, Business Organizations Code.

(c) A statutory probate court of Montgomery County has eminent domain jurisdiction, including the jurisdiction provided to a district court under Sections 21.002 and 21.003, Property Code, regardless of the amount in controversy or the remedy sought. All eminent domain actions, cases, matters, or proceedings arising under Chapter 21, Property Code, or under Section 251.101, Transportation Code, shall be filed and docketed in a statutory probate court.

(d) A statutory probate court of Montgomery County may conduct docket matters at any location in the county as the statutory probate court judge considers necessary for the protection of wards or mental health respondents or as otherwise provided by law.

(e) A judge of a statutory probate court in Montgomery County and a judge of a district court or statutory county court in Montgomery County may exchange benches and may sit and act for each other in any matter pending before the court.

(f) The county clerk of Montgomery County serves as clerk of a statutory probate court.

(g) A statutory probate court of Montgomery County may appoint as a court investigator an employee of the court or another department in the county to comply with Section 25.0025.

(h) In addition to the uses authorized by Section 135.159, Local Government Code, Montgomery County may use the fees collected under Section 135.102, Local Government Code, and deposited into the judicial education and support fund to provide staff for the statutory probate courts and for court-related purposes for the support of the statutory probate courts.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.015(a), eff. October 1, 2023.

Sec. 25.1731. MOORE COUNTY. (a) Moore County has one statutory county court, the County Court at Law of Moore County.

(b) The County Court at Law of Moore County sits in Dumas.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.1732. MOORE COUNTY COURT AT LAW PROVISIONS. (a) In

addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Moore County has concurrent civil jurisdiction with the district court in family law cases and proceedings.

(b) This section does not affect the right of appeal to a county court at law from the justice courts in cases in which the right of appeal to the county court exists by law.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(67), eff. January 1, 2012.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(67), eff. January 1, 2012.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(67), eff. January 1, 2012.

(g) A special judge has all the power and jurisdiction of the court and of the regular judge for whom he is sitting. A special judge may sign orders, judgments, decrees, or other processes of any kind as "Judge Presiding" when acting for the regular judge.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(67), eff. January 1, 2012.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(67), eff. January 1, 2012.

(j) The county attorney, criminal district attorney, and district attorney of Moore County serve as county attorney, criminal district attorney, and district attorney for a county court at law in Moore County. The district clerk serves as clerk of a county court at law in the cases enumerated in Subsection (a)(2) and shall establish a separate docket for the county court at law. The commissioners court shall provide the deputy clerks, bailiffs, and other personnel necessary to operate a county court at law.

(k) Section 25.0008 does not apply to a county court at law in Moore County.

(l) A jury in a county court at law is composed of six persons unless the constitution, Section 25.0007(c), or other law requires a 12-member jury.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.16(a), 8.44(6), eff. Aug. 28, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec.

15.14, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 41, 70, eff. Oct. 1, 1991.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(67), eff. January 1, 2012.
Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 20, eff. September 1, 2020.

Sec. 25.1761. NACOGDOCHES COUNTY. Nacogdoches County has one statutory county court, the County Court at Law of Nacogdoches County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.1762. NACOGDOCHES COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Nacogdoches County has concurrent jurisdiction with the district court in family law cases and proceedings.
(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(68), eff. January 1, 2012.
(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.
(d) A judge of a county court at law shall be paid an annual salary that is at least $15,000 but not more than 90 percent of the total annual salary paid to the judge of the 145th Judicial District. The salary shall be paid out of the county treasury on orders from the commissioners court. A county court at law judge is entitled to reasonable travel expenses and necessary office expenses, including administrative and clerical assistance.
(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(68), eff. January 1, 2012.
(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(68), eff. January 1, 2012.
(f-1) The district clerk serves as clerk of a county court at law in cases enumerated in Subsections (a)(2)(B) and (C), and the county clerk serves as clerk of a county court at law in all other

cases.

(g) The official reporter of a county court at law is entitled to receive a salary that does not exceed the salary of the official reporter of the district court. The judge of the county court at law sets the salary. The salary shall be paid out of the county treasury on order of the commissioners court.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(68), eff. January 1, 2012.

(i) In matters of concurrent jurisdiction with the district court, if a party to a suit files a written request for a 12-member jury with the clerk of the county court at law at a reasonable time that is not later than 30 days before the date the suit is set for trial, the jury shall be composed of 12 members.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1990, 71st Leg., 6th C.S., ch. 11, Sec. 1 to 5, eff. Sept. 1, 1990; Acts 1991, 72nd Leg., ch. 746, Sec. 42, 70, eff. Oct. 1, 1991.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.34, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(68), eff. January 1, 2012.

Sec. 25.1771. NAVARRO COUNTY. Navarro County has one statutory county court, the County Court at Law of Navarro County.

Added by Acts 2009, 81st Leg., R.S., Ch. 391 (H.B. 1682), Sec. 1, eff. September 1, 2009.
Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 14(a), eff. September 1, 2009.

Sec. 25.1772. NAVARRO COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (b), a county court at law in Navarro County has concurrent jurisdiction with the district court in:

(1) felony cases to:

(A) conduct arraignments;

(B) conduct pretrial hearings;

(C) accept guilty pleas; and

(D) conduct jury trials on assignment of a district judge presiding in Navarro County and acceptance of the assignment by the judge of the county court at law;

(2) Class A and Class B misdemeanor cases;

(3) family law matters;

(4) juvenile matters;

(5) probate matters;

(6) disputes ancillary to probate, eminent domain, condemnation, or landlord and tenant matters relating to the adjudication and determination of land titles and trusts, whether testamentary, inter vivos, constructive, resulting, or any other class or type of trust, regardless of the amount in controversy or the remedy sought; and

(7) appeals from the justice and municipal courts.

(b) A county court at law does not have jurisdiction of:

(1) suits on behalf of this state to recover penalties or escheated property;

(2) felony cases involving capital murder;

(3) misdemeanors involving official misconduct; or

(4) contested elections.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(69), eff. January 1, 2012.

(d) The judge of a county court at law shall be paid a total annual salary set by the commissioners court at an amount that is not less than $1,000 less than the total annual salary received by a district judge in the county. A district judge's or statutory county court judge's total annual salary does not include contributions and supplements paid by a county.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(69), eff. January 1, 2012.

(f) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court, and the county clerk shall serve as clerk of a county court at law in all other matters. Each clerk shall establish a separate docket for a county court at law.

(g) The official court reporter of a county court at law is entitled to receive a salary set by the judge of the county court at law with the approval of the commissioners court.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(69), eff. January 1, 2012.

Added by Acts 2009, 81st Leg., R.S., Ch. 391 (H.B. 1682), Sec. 1, eff. September 1, 2009.
Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 14(a), eff. September 1, 2009.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.35, eff. January 1, 2012.
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(69), eff. January 1, 2012.
Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 2.05, eff. September 1, 2013.

Sec. 25.1801. NUECES COUNTY. (a) Nueces County has the following statutory county courts:
(1) County Court at Law No. 1 of Nueces County;
(2) County Court at Law No. 2 of Nueces County;
(3) County Court at Law No. 3 of Nueces County;
(4) County Court at Law No. 4 of Nueces County; and
(5) County Court at Law No. 5 of Nueces County.
(b) The County Court at Law No. 1 of Nueces County and the County Court at Law No. 2 of Nueces County sit in Corpus Christi.
(c) The County Court at Law No. 5 of Nueces County shall give preference to:
(1) any proceeding involving an order relating to a child in the possession or custody of the Department of Protective and Regulatory Services or for whom the court has appointed a temporary or permanent managing conservator;
(2) proceedings under Title 3, Family Code; and
(3) mental health matters over which the court has jurisdiction under Section 25.1802(a)(4).

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1134, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 679, Sec. 1, eff. June 20, 2003.

Sec. 25.1802. NUECES COUNTY COURT AT LAW PROVISIONS. (a) In

addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (d), a county court at law in Nueces County has:

(1) the jurisdiction provided by the constitution and by general law for district courts;

(2) concurrent jurisdiction with the district court in disputes ancillary to probate, eminent domain, condemnation, or landlord and tenant matters relating to the adjudication and determination of land titles and trusts, whether testamentary, inter vivos, constructive, resulting, or any other class or type of trust, regardless of the amount in controversy or the remedy sought;

(3) concurrent jurisdiction with the district court over civil forfeitures, including surety bond forfeitures without minimum or maximum limitation as to the amount in controversy or remedy sought;

(4) jurisdiction in mental health matters, original or appellate, provided by law for constitutional county courts, statutory county courts, or district courts with mental health jurisdiction, including proceedings under:

(A) Subtitle C, Title 7, Health and Safety Code;

(B) Chapter 462, Health and Safety Code; and

(C) Subtitle D, Title 7, Health and Safety Code;

(5) jurisdiction over the collection and management of estates of minors, mentally disabled persons, and deceased persons;

(6) concurrent jurisdiction with the district court in all actions by or against a personal representative, in all actions involving an inter vivos trust, in all actions involving a charitable trust, and in all actions involving a testamentary trust, whether the matter is appertaining to or incident to an estate; and

(7) jurisdiction in all cases assigned, transferred, or heard under Sections 74.054, 74.059, and 74.094, Government Code.

(b) A county court at law has original concurrent jurisdiction with the justice courts in all civil and criminal matters prescribed by law for justice courts. Appeals from justice courts and other courts of inferior jurisdiction in Nueces County must be made directly to a county court at law.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(71), eff. January 1, 2012.

(d) A county court at law does not have jurisdiction of:

(1) felony cases, except as otherwise provided by law;

(2) misdemeanors involving official misconduct unless assigned under Sections 74.054 and 74.059, Government Code;

(3) contested elections; or

(4) except as provided by Subsection (r), family law cases.

(e) The judges of the county courts at law in Nueces County shall each be paid an annual salary equal to the amount that is $1,000 less than the salary paid by the state to a district judge in the county. The salaries shall be paid in the same manner and from the same fund as prescribed by law for the county judge.

(f) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1121, Sec. 2, eff. June 15, 2007.

(g) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1121, Sec. 2, eff. June 15, 2007.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(71), eff. January 1, 2012.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(71), eff. January 1, 2012.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(71), eff. January 1, 2012.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(71), eff. January 1, 2012.

(l) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(71), eff. January 1, 2012.

(m) A county court at law may not issue writs of habeas corpus in felony cases.

(n) The district clerk serves as clerk of a county court at law in cases enumerated in Subsection (a). The district clerk shall establish a separate docket for each county court at law. In matters of concurrent jurisdiction with the district court, the district clerk shall charge the same fees as are allowed in district court cases, except that in cases enumerated in Subsections (a)(2) and (a)(4) and in misdemeanor cases other than those involving official misconduct, the clerk may not charge higher fees than the fees charged by county clerks for similar cases.

(o) If a jury trial is requested in a case that is in a county court at law's jurisdiction, the jury shall be composed of six members unless the constitution, Section 25.0007(c), or other law requires a 12-member jury. Failure to object before a six-member jury is seated and sworn constitutes a waiver of a 12-member jury.

(p) If any cause or proceeding is lodged with the district

clerk and the district clerk files, dockets, or assigns the cause or proceeding in or to a county court at law and the county court at law does not have subject matter jurisdiction over the cause or proceeding, then the filing, docketing, or assignment of the cause or proceeding in or to a county court at law is considered a clerical error and that clerical error shall be corrected by a judgment or order nunc pro tunc. The cause or proceeding is considered filed, docketed, or assigned to the district court of the local administrative judge in the first instance rather than to a county court at law of Nueces County. The judge of a county court at law of Nueces County who acts in the cause or proceeding is considered assigned to the district court of the local administrative judge for that purpose and has all the powers of the judge of that district court under the assignment.

(q) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(71), eff. January 1, 2012.

(r) In addition to the jurisdiction provided by this section for statutory county courts of Nueces County, the County Court at Law No. 5 of Nueces County has jurisdiction of:

(1) proceedings under Title 3, Family Code; and

(2) any proceeding involving an order relating to a child in the possession or custody of the Department of Protective and Regulatory Services or for whom the court has appointed a temporary or permanent managing conservator.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991; Acts 1995, 74th Leg., ch. 796, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 549, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 431, Sec. 3, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1134, Sec. 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 679, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1121 (H.B. 4007), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1121 (H.B. 4007), Sec. 2, eff. June 15, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(71), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 21, eff.

September 1, 2020.

Sec. 25.1831. ORANGE COUNTY. (a) Orange County has the following statutory county courts:

(1) the County Court at Law of Orange County; and

(2) the County Court at Law No. 2 of Orange County.

(b) A county court at law in Orange County sits at the county seat.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 377, Sec. 4(a), eff. Sept. 1, 2003.

Sec. 25.1832. ORANGE COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Orange County has concurrent jurisdiction with the district court in:

(1) family law cases and proceedings; and

(2) cases and proceedings involving justiciable controversies and differences between spouses, between parents, between parent and child, or between any of these and third persons.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(72), eff. January 1, 2012.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(72), eff. January 1, 2012.

(e) The judge of a county court at law shall be paid an annual salary in an amount that is at least the amount the judge of the County Court at Law of Orange County was paid June 15, 1971, but not more than the amount paid a district judge by the state. The salary shall be paid out of the county treasury on order of the commissioners court.

(f) If the judge of a county court at law is disqualified, ill, or for any reason unable to hold court on any matters pending in the county court at law, the fact shall be brought to the attention of a district judge in the county by any attorney, and the district judge shall dispose of the matters requiring attention in the district

courts of the county. If a special judge is necessary, he may be selected in the manner provided by law for the selection of a special district court judge.

(g) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court; the county clerk serves as clerk of the court in all other matters. The commissioners court may employ as many additional assistant county attorneys, deputy sheriffs, and clerks as are necessary to serve a county court at law.

(h) The probation department, welfare agencies, sheriff, constables, and other law enforcement agencies of the state, county, and city shall furnish a county court at law with services in the line of their respective duties as are required by a county court at law. All sheriffs and constables within the state shall render the same services with reference to process and writs from the district court, county court, and probate court.

(i) Except as otherwise required by law, a jury in a county court at law is composed of six members.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(72), eff. January 1, 2012.

(k) Appeals in all cases from judgments and orders of the court shall be to the court of appeals as provided by law for appeals from district and county courts.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 44, 70, eff. Oct. 1, 1991; Acts 2003, 78th Leg., ch. 377, Sec. 4(b), eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(72), eff. January 1, 2012.

Sec. 25.1851. PANOLA COUNTY. Panola County has one statutory county court, the County Court at Law of Panola County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.1852. PANOLA COUNTY COURT AT LAW PROVISIONS. (a) In

addition to the jurisdiction provided by Section 25.0003 and other law, and notwithstanding any law granting exclusive jurisdiction to the district court, a county court at law in Panola County has concurrent jurisdiction with the district court.

(b) A county court at law has concurrent jurisdiction with the justice court in all criminal matters prescribed by law for justice courts. This section does not affect the right of appeal to a county court at law from a justice court where the right of appeal to the county court exists by law.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) The judge of a county court at law shall be paid an annual salary that is at least equal to the amount that is $1,000 less than the total annual salary, including supplements, received by a district judge in the county.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(73), eff. January 1, 2012.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(73), eff. January 1, 2012.

(g) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court and the county clerk shall serve as clerk of the county courts at law in all other cases. The commissioners court shall provide the deputy clerks, bailiffs, and other personnel necessary to operate a county court at law.

(h) The criminal district attorney or county attorney and the county sheriff shall attend a county court at law as required by the judge.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(73), eff. January 1, 2012.

(j) Section 21.002, Property Code, does not affect the jurisdiction of a county court at law in Panola County.

(k) Sections 25.0006 and 25.0008 do not apply to a county court at law in Panola County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.44(8), eff. Aug. 28, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.16, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 564, Sec. 1, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 45, 70, eff. Oct. 1,

1991; Acts 1993, 73rd Leg., ch. 601, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(73), eff. January 1, 2012.

Sec. 25.1861. PARKER COUNTY. (a) Parker County has the following statutory county courts:
(1) the County Court at Law No. 1 of Parker County; and
(2) the County Court at Law No. 2 of Parker County.
(b) The statutory county courts in Parker County sit in Weatherford.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 377, Sec. 6(a), eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 947 (H.B. 3992), Sec. 1, eff. October 1, 2007.

Sec. 25.1862. PARKER COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (b), a county court at law in Parker County has the jurisdiction provided by the constitution and by general law for district courts.
(b) A county court at law does not have jurisdiction of felony cases, except as otherwise provided by law.
(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(74), eff. January 1, 2012.
(d) A county court at law may not issue writs of habeas corpus in felony cases.
(e) Repealed by Acts 2007, 80th Leg., R.S., Ch. 947, Sec. 3, eff. October 1, 2007.
(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(74), eff. January 1, 2012.
(g) A special judge must take the oath of office required by law for the regular judge and has all the power and jurisdiction of the court and of the regular judge. A special judge may sign orders, judgments, decrees, or other process as "Judge Presiding" when acting

for the regular judge.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(74), eff. January 1, 2012.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(74), eff. January 1, 2012.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(74), eff. January 1, 2012.

(k) If a jury trial is requested in a case that is in a county court at law's jurisdiction as provided by Subsection (a), the jury shall be composed of six members unless the constitution, Section 25.0007(c), or other law requires a 12-member jury. Failure to object before a six-member jury is seated and sworn constitutes a waiver of a 12-member jury.

(l) Repealed by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 5.01(c)(3), eff. January 1, 2022.

(m) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(74), eff. January 1, 2012.

(n) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(74), eff. January 1, 2012.

(o) The judge of a county court at law shall be paid an annual salary that is at least equal to the amount that is $1,000 less than the total annual salary, including supplements, received by a district judge in the county.

(p) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(74), eff. January 1, 2012.

(q) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(74), eff. January 1, 2012.

(r) The official court reporter of a county court at law must be well skilled in the court reporter's profession. The official court reporter of a county court at law is a sworn officer of the court who holds office at the pleasure of the court. The official court reporter of a county court at law is entitled to receive at least the same amount as compensation as the official court reporters in the district courts in the county. The compensation shall be paid in the same manner that the district court reporters are paid.

(s) If any cause or proceeding is lodged with the district clerk and the district clerk files, dockets, or assigns the cause or proceeding in or to a county court at law and the county court at law does not have subject matter jurisdiction over the cause or proceeding, then the filing, docketing, or assignment of the cause or

proceeding in or to a county court at law is considered a clerical error and that clerical error shall be corrected by a judgment or order nunc pro tunc. The cause or proceeding is considered filed, docketed, or assigned to the district court of the local administrative judge in the first instance rather than to a county court at law. The judge of a county court at law who acts in the cause or proceeding is considered assigned to the district court of the local administrative judge for that purpose and has all the powers of the judge of that district court under the assignment.

(t) A county court at law judge has jurisdiction to grant an order permitting a marriage ceremony to take place during a 72-hour period immediately following the issuance of a marriage license in Parker County.

(u) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(74), eff. January 1, 2012.

(v) In matters of concurrent jurisdiction, a judge of a county court at law and a judge of a district court or another county court at law may transfer cases between the courts in the same manner judges of district courts transfer cases under Section 24.003.

(w) A judge of a county court at law and a judge of a district court may exchange benches and may sit and act for each other in any matter pending before the court.

(x) The judges of the county courts at law may from time to time transfer criminal misdemeanor cases to other county courts at law to equalize the criminal misdemeanor dockets of the county courts at law for the efficient operation of the court system and the effective administration of justice.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.17, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 46, 70, eff. Oct. 1, 1991; Acts 1999, 76th Leg., ch. 1056, Sec. 1, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 377, Sec. 6(b), eff. Sept. 1, 2003. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 947 (H.B. 3992), Sec. 3, eff. October 1, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.08, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(74), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 22, eff. September 1, 2020.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 5.01(c)(3), eff. January 1, 2022.

Sec. 25.1863. PROBATE JURISDICTION: CONTESTED CASES. (a) Except as provided by Subsection (b), a county court at law in Parker County does not have the jurisdiction of a probate court.

(b) A county court at law has concurrent jurisdiction with the district court over contested probate matters. Notwithstanding the requirement in Section 32.003(a), Estates Code, that the judge of the constitutional county court transfer a contested probate proceeding to the district court, the judge of the constitutional county court shall transfer the proceeding under that section to either a county court at law in Parker County or a district court in Parker County. A county court at law has the jurisdiction, powers, and duties that a district court has under Section 32.003(a), Estates Code, for the transferred proceeding, and the county clerk acts as clerk for the proceeding. The contested proceeding may be transferred between a county court at law in Parker County and a district court in Parker County as provided by local rules of administration.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.17(a), eff. Aug. 28, 1989. Amended by Acts 2003, 78th Leg., ch. 377, Sec. 6(c), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 947 (H.B. 3992), Sec. 2, eff. October 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1351 (S.B. 408), Sec. 12(f), eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.028, eff. September 1, 2017.

Sec. 25.1891. POLK COUNTY. Polk County has one statutory county court, the County Court at Law of Polk County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.1892. POLK COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Polk County has concurrent jurisdiction with the district court in:

(1) cases and proceedings involving the collection of delinquent taxes, penalties, interest, and costs and the foreclosure of tax liens;

(2) family law cases and proceedings; and

(3) felony cases to conduct arraignments and pre-trial hearings and to accept guilty pleas.

(b) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(c) The judge of a county court at law shall be paid an annual salary in an amount that is at least equal to 80 percent of the annual salary, including supplements, paid the district judges in the county. The salary shall be paid by the county treasurer on order of the commissioners court.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(75), eff. January 1, 2012.

(e) The district clerk serves as clerk of a county court at law in cases of concurrent jurisdiction with the district court, and the county clerk serves as clerk in all other cases.

(f) The jury in all civil or criminal matters shall be composed of 12 members, except that in misdemeanor criminal cases and any other cases in which the court has concurrent jurisdiction with the county court the jury shall be composed of six members.

(g) Appeals in all cases from judgments and orders of the county court at law are to the court of appeals as provided for appeals from district and county courts.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.18, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 47, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.36, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(75), eff. January 1, 2012.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.016(a),

eff. September 1, 2023.

Sec. 25.1901. POTTER COUNTY. (a) Potter County has the following statutory county courts:

(1) County Court at Law No. 1 of Potter County; and

(2) County Court at Law No. 2 of Potter County.

(b) The county courts at law of Potter County sit in Amarillo.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.18(a), eff. Aug. 28, 1989.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25.1902. POTTER COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Potter County has concurrent jurisdiction with the justice courts in civil matters prescribed by law for justice courts. A county court at law or its judge does not have jurisdiction to act as coroner or to preside at inquests in Potter County. A county court at law does not have jurisdiction over claims within the jurisdiction of the small claims court.

(b) A county court at law in Potter County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b-1) In addition to the jurisdiction provided by Subsections (a) and (b), the County Court at Law No. 1 of Potter County has concurrent jurisdiction with the district court in felony cases to conduct arraignments, conduct pretrial hearings, and accept pleas in uncontested matters.

(c) An appeal or writ of error may not be taken to the court of appeals from a final judgment of a county court at law if:

(1) the judgment or amount in controversy does not exceed $100, exclusive of interest and costs; and

(2) the case is a civil case over which the court has appellate or original concurrent jurisdiction with the justice court.

(d) This section does not affect the right of appeal to a

county court at law from a justice court in cases in which the right of appeal to the county court exists.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(76), eff. January 1, 2012.

(f) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(76), eff. January 1, 2012.

(h) Repealed by Acts 1995, 74th Leg., ch. 242, Sec. 1, eff. Aug. 28, 1995.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(76), eff. January 1, 2012.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(76), eff. January 1, 2012.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(76), eff. January 1, 2012.

(l) Sections 25.0005(b) and 25.0007 do not apply to a county court at law in Potter County.

(m) The district clerk serves as clerk of a county court at law in matters enumerated in Subsections (b)(1), (b)(2), and (b)(3); the county clerk serves as clerk of the court in all other matters.

(n) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.18(b) to (g), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1100, Sec. 4.02(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.19, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 16, Sec. 8.01, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 48, 70, eff. Oct. 1, 1991; Acts 1995, 74th Leg., ch. 242, Sec. 1, eff. Aug. 28, 1995.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(76), eff. January 1, 2012.

Acts 2017, 85th Leg., R.S., Ch. 382 (H.B. 4284), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 2.10, eff. September 1, 2019.

Sec. 25.1931. RANDALL COUNTY. (a) Randall County has two statutory county courts:

(1) the County Court at Law No. 1 of Randall County; and

(2) the County Court at Law No. 2 of Randall County.

(b) A county court at law of Randall County sits in the county seat or at another location in the county as assigned by the local administrative statutory county court judge.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.19(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., 1st C.S., ch. 29, Sec. 1, eff. Oct. 18, 1989; Acts 2003, 78th Leg., ch. 1298, Sec. 1, eff. Sept. 1, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 51 (H.B. 597), Sec. 1, eff. September 1, 2005.

Sec. 25.1932. RANDALL COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Randall County has concurrent jurisdiction with the district court in:

(1) family law cases and proceedings;

(2) cases and proceedings involving justiciable controversies and differences between spouses, or between parents, or between parent and child, or between any of these and third persons;

(3) civil cases in which the amount in controversy is within the limits prescribed by Section 25.0003(c)(1); and

(4) felony cases to conduct arraignments, conduct pretrial hearings, and accept pleas in uncontested matters.

(a-1) to (a-3) Repealed by Acts 1989, 71st Leg., 1st C.S., ch. 29, Sec. 4, eff. Oct. 18, 1989.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(77), eff. January 1, 2012.

(b-1) Repealed by Acts 1989, 71st Leg., 1st C.S., ch. 29, Sec. 4, eff. Oct. 18, 1989.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(77), eff. January 1, 2012.

(d) The salary paid the judge of a county court at law shall be paid out of the county treasury by the commissioners court, except as otherwise provided by law.

(e) The judge of a county court at law is entitled to travel expenses and necessary office expenses, including administrative and clerical assistance, in the same manner as the county judge.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(77), eff. January 1, 2012.

(g) The district clerk serves as clerk of a county court at law in cases of concurrent jurisdiction with the district court, and the county clerk serves as clerk of the court in all other cases.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(77), eff. January 1, 2012.

(i) If a case in the court's concurrent jurisdiction with the district court is tried before a jury, the jury shall be composed of 12 members.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(77), eff. January 1, 2012.

(k) Notwithstanding Section 74.121(b)(1), in matters of concurrent jurisdiction, the judge of a county court at law and the judges of the district courts in the county may exchange benches and courtrooms and may transfer cases between their dockets in the same manner that judges of district courts exchange benches and transfer cases under Section 24.003.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.19(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., 1st C.S., ch. 29, Sec. 2 to 4, eff. Oct. 18, 1989; Acts 1991, 72nd Leg., ch. 746, Sec. 49, 70, eff. Oct. 1, 1991; Acts 2003, 78th Leg., ch. 1298, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 181 (H.B. 595), Sec. 1, eff. May 27, 2005.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.10, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.37, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(77), eff. January 1, 2012.

Sec. 25.1971. REEVES COUNTY. (a) Reeves County has one

statutory county court, the County Court at Law of Reeves County.

(b) The County Court at Law of Reeves County sits in Pecos.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.1972. REEVES COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (b), a county court at law in Reeves County has:

(1) concurrent jurisdiction with the district court:

(A) in disputes ancillary to probate, eminent domain, condemnation, or landlord and tenant matters relating to the adjudication and determination of land titles and trusts, whether testamentary, inter vivos, constructive, resulting, or any other class or type of trust, regardless of the amount in controversy or the remedy sought;

(B) over civil forfeitures, including surety bond forfeitures without minimum or maximum limitation as to the amount in controversy or remedy sought;

(C) in all actions by or against a personal representative, in all actions involving an inter vivos trust, in all actions involving a charitable trust, and in all actions involving a testamentary trust, whether the matter is appertaining to or incident to an estate;

(D) in proceedings under Title 3, Family Code; and

(E) in family law cases and proceedings;

(2) jurisdiction in mental health matters, original or appellate, provided by law for constitutional county courts, statutory county courts, or district courts with mental health jurisdiction, including proceedings under:

(A) Chapter 462, Health and Safety Code; and

(B) Subtitles C and D, Title 7, Health and Safety Code;

(3) jurisdiction over the collection and management of estates of minors, persons with a mental illness or intellectual disability, and deceased persons; and

(4) jurisdiction in all cases assigned, transferred, or heard under Sections 74.054, 74.059, and 74.094.

(b) A county court at law does not have jurisdiction of:

(1) felony cases, except as otherwise provided by law;

(2) misdemeanors involving official misconduct unless assigned under Sections 74.054 and 74.059; or

(3) contested elections.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(78), eff. January 1, 2012.

(e) A judge of a county court at law in Reeves County shall be paid an annual salary equal to the amount that is $1,000 less than the salary paid by the state to a district judge in the county. The salary shall be paid in the same manner and from the same fund as prescribed by law for the county judge.

(f) A county court at law may not issue writs of habeas corpus in felony cases.

(g) The district clerk serves as clerk of a county court at law in the cases described by Subsection (a), and the county clerk serves as clerk of the court in all other matters.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(78), eff. January 1, 2012.

(i) Practice in a county court at law is that prescribed by law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings involving family law cases and proceedings are governed by this section and the laws and rules pertaining to district courts. If a family law case is tried before a jury, the jury shall be composed of 12 members.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(78), eff. January 1, 2012.

(k) All cases appealed from the justice courts and other courts of inferior jurisdiction in the county shall be appealed to a county court at law under the provisions governing appeals to county courts.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 50, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(78), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 2.11, eff.

September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 2.08, eff. September 1, 2021.

Sec. 25.2011. ROCKWALL COUNTY. Rockwall County has the following statutory county courts:

(1) the County Court at Law No. 1 of Rockwall County; and

(2) the County Court at Law No. 2 of Rockwall County.

Added by Acts 2003, 78th Leg., ch. 377, Sec. 5(a), eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 2.12(a), eff. September 1, 2019.

Sec. 25.2012. ROCKWALL COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (b), a county court at law in Rockwall County has, concurrent with the district court, the jurisdiction provided by the constitution and general law for district courts.

(b) A county court at law does not have jurisdiction of:

(1) felony cases involving capital murder;

(2) suits on behalf of the state to recover penalties or escheated property;

(3) misdemeanors involving official misconduct; or

(4) contested elections.

(c) The district clerk serves as clerk of a county court at law except that the county clerk serves as clerk of a county court at law in matters of mental health, the probate and criminal misdemeanor docket, and all civil matters in which a county court at law does not have concurrent jurisdiction with a district court.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(79), eff. January 1, 2012.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(79), eff. January 1, 2012.

(f) Notwithstanding Sections 74.091 and 74.0911, a district judge serves as the local administrative judge for the district and

statutory county courts in Rockwall County. The judges of district courts shall elect a district judge as local administrative judge for a term of not more than two years. The local administrative judge may not be elected on the basis of rotation or seniority.

(g) When administering a case for a county court at law, the district clerk shall charge civil fees and court costs as if the case had been filed in a district court. In a case of concurrent jurisdiction, the case shall be assigned to either a district court or a county court at law in accordance with local administrative rules established by the local administrative judge.

(h) The judge of a county court at law shall appoint an official court reporter for the judge's court and shall set the official court reporter's annual salary, subject to approval by the county commissioners court. The official court reporter of a county court at law shall take an oath or affirmation as an officer of the court. The official court reporter holds office at the pleasure of the judge and shall be provided a private office in close proximity to the court. The official court reporter is entitled to all rights and benefits afforded all other county employees.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(79), eff. January 1, 2012.

(j) Not later than one year after the date of appointment, the bailiff of a county court at law must obtain a peace officer license under Chapter 1701, Occupations Code, from the Texas Commission on Law Enforcement. The sheriff of Rockwall County shall deputize the bailiff of a county court at law. The bailiff of a county court at law is subject to the training and continuing education requirements of a sheriff's deputy of the county. The sheriff shall remove from office a bailiff who does not receive a peace officer license within one year of appointment as required by this subsection.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(79), eff. January 1, 2012.

(l) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(79), eff. January 1, 2012.

(m) In matters of concurrent jurisdiction, the judge of a county court at law and the district judge may exchange benches, transfer cases subject to acceptance, assign each other to hear cases, and otherwise manage their respective dockets under local administrative rules.

(n) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec.

4.50(a)(79), eff. January 1, 2012.

Added by Acts 2003, 78th Leg., ch. 377, Sec. 5(a), eff. Sept. 1, 2003.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.38, eff. January 1, 2012.
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(79), eff. January 1, 2012.
Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.19, eff. May 18, 2013.
Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 2.12(b), eff. September 1, 2019.

Sec. 25.2031. RUSK COUNTY. Rusk County has one statutory county court, the County Court at Law of Rusk County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.2032. RUSK COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Rusk County has concurrent jurisdiction with the district court in:
(1) family law cases and proceedings; and
(2) civil cases.
(b) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.
(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(80), eff. January 1, 2012.
(d) The judge of a county court at law shall be paid an annual salary that is at least equal to the amount that is 90 percent of the total annual salary, including supplements, received by a district judge in the county. The commissioners court may provide travel expenses and office expenses, including administrative and clerical assistance, in addition to the judge's salary, as it considers necessary.
(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(80), eff. January 1, 2012.

(f) The district clerk serves as clerk of the county courts at law in matters of concurrent jurisdiction with the district court and the county clerk serves as clerk of the county courts at law in all other cases. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve a court.

(g) The judge of a county court at law, with the consent of the commissioners court, may employ a secretary. The secretary is entitled to a salary as determined by the commissioners court.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(80), eff. January 1, 2012.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 540, Sec. 1, eff. June 14, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.20, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 51, 70, eff. Oct. 1, 1991; Acts 1993, 73rd Leg., ch. 582, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1143, Sec. 1, eff. June 19, 1997.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(80), eff. January 1, 2012.

Sec. 25.2071. SAN PATRICIO COUNTY. (a) San Patricio County has the following statutory county courts:

(1) the County Court at Law of San Patricio County; and

(2) the County Court at Law No. 2 of San Patricio County.

(b) A county court at law sits in Sinton.

Added by Acts 1989, 71st Leg., ch. 659, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 2.09(a), eff. January 1, 2023.

Sec. 25.2072. SAN PATRICIO COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in San Patricio County has concurrent jurisdiction with the district court except that a county court at law does not have jurisdiction of:

(1) felony criminal matters; and

(2) civil cases in which the matter in controversy exceeds

the maximum amount provided by Section 25.0003.

(b) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(81), eff. January 1, 2012.

(d) The judge of a county court at law is entitled to receive travel and necessary office expenses, including administrative and clerical assistance.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(81), eff. January 1, 2012.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(81), eff. January 1, 2012.

(g) The judge of a county court at law shall appoint an official shorthand reporter for the court. The reporter must have the qualifications required by law for official shorthand reporters. The reporter shall be a sworn officer of the court and shall hold office at the pleasure of the court. The reporter must take the oath required of official court reporters. The official court reporter of a county court at law is entitled to a salary set by the commissioners court. The salary shall be paid out of the county treasury in equal monthly installments.

(g-1) The county clerk serves as clerk of a county court at law except in family law cases. In family law cases, including juvenile and child welfare cases, the district clerk serves as clerk of a county court at law. The district clerk shall establish a separate family law docket for each county court at law.

(g-2) The commissioners court shall provide the deputy clerks, bailiffs, and other personnel necessary to operate the county courts at law.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(81), eff. January 1, 2012.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(81), eff. January 1, 2012.

(j) The judge of a county court and the judge of a county court at law may transfer cases to and from the dockets of their respective courts in matters within their jurisdiction in order that the business may be distributed between them. However, a case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred, unless it is within the jurisdiction of the court to which it is transferred.

(k) In all cases transferred to a county court at law and in all cases transferred to the county court by order of the judge of the other court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations on the bonds or recognizances at the terms of court to which the cases are transferred as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances taken in the case are valid and binding as though originally issued out of the court to which the transfer is made.

(l) The county judge and the judge of a county court at law may freely exchange benches and the courtroom with each other in matters within their jurisdiction, so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. However, the judge of one court may not assume the bench of the other court without the consent of the judge of the other court set forth by order recorded in the minutes of the other court. Either judge may hear all or any part of a case pending in the county court or a county court at law, but only in matters within his jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. Each judgment and order shall be entered in the minutes of the court in which the case is pending. The provisions for the exchange of benches by and between the judges are in addition to the provisions in this section for the selection and appointment of a special judge of a court at law.

(m) The judge of the county court and the judges of the county courts at law may agree on a plan governing the filing, numbering, and docketing of cases within the concurrent jurisdiction of their courts and the assignment of those cases for trial. The plan may provide for the centralized institution and filing of all such cases with one court, clerk, or coordinator designated by the plan and for the systemized assignment of those cases to the courts participating in the plan, and the provisions of the plan for the centralized filing and assignment of cases shall control notwithstanding any other provisions of this section. If the judges of the county court and the county courts at law are unable to agree on a filing,

docketing, and assignment of cases plan, a board of judges composed of the district judges and the county court at law judges for San Patricio County shall design a plan for the courts.

(n) The county clerk shall establish a separate docket for the court created by this section from among pending matters filed originally in the County Court of San Patricio County and shall transfer those matters to the docket of the court created by this section.

Added by Acts 1989, 71st Leg., ch. 659, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 52, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(81), eff. January 1, 2012.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 2.09(b), eff. January 1, 2023.

Sec. 25.2141. SMITH COUNTY. (a) Smith County has the following statutory courts:

(1) County Court at Law of Smith County;

(2) County Court at Law No. 2 of Smith County; and

(3) County Court at Law No. 3 of Smith County.

(b) The county courts at law of Smith County sit in Tyler.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 102, Sec. 1, eff. May 15, 1997.

Sec. 25.2142. SMITH COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (a-1), a county court at law in Smith County has the jurisdiction provided by the constitution and by general law for district courts.

(a-1) A county court at law does not have jurisdiction of:

(1) capital felony cases or felonies of the first or second degree;

(2) suits on behalf of the state to recover penalties, forfeiture, or escheat;

(3) misdemeanors involving official misconduct; or

(4) contested elections.

(b) A county court at law has concurrent jurisdiction with the county court in mental illness matters and proceedings under Subtitle C, Title 7, Health and Safety Code.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(82), eff. January 1, 2012.

(d) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(82), eff. January 1, 2012.

(f) The commissioners court may, by an issued and signed order, require the judge of a county court at law to execute a bond in an amount set by the commissioners court. The commissioners court may require a bond of any special judge or visiting judge assigned to a county court at law. If the commissioners court requires a bond, the commissioners court must pay the appropriate fee for the bond from county funds.

(g) The judge of a county court at law may be paid an annual salary that is equal to the amount that is $1,000 less than the total annual salary, including supplements, paid a district judge in the county. The salary shall be paid to the judge in equal installments at the established county pay periods. The salary shall be paid out of the general fund of the county by warrants drawn on the county treasury on order of the commissioners court. The judge of a county court at law shall assess the fees prescribed by law relating to county judges and district judges according to the nature of the matter brought before the judge.

(h) If the office of judge of a county court at law is vacant, if the regular judge is absent, disabled, or disqualified from presiding, or if the regular judge of a county court at law certifies that the orderly administration of justice in the court requires the temporary assistance of a special judge or visiting judge, the presiding judge of the administrative judicial region in which the county is located may appoint a person to sit as a special or visiting judge.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(82), eff. January 1, 2012.

(j) A special judge of a county court at law must take the constitutional oath of office.

(k) A visiting judge of a county court at law must:

(1) be a former judge of a district court or statutory county court, or an active judge of a district court or county court at law;

(2) not appear and plead as an attorney at law in any court of this state while serving as a visiting judge;

(3) have been a successful candidate for election in at least two general elections for judge of a district court or statutory county court;

(4) not have been removed from office by impeachment, the supreme court, the governor on address of the legislature, or by the State Commission on Judicial Conduct; and

(5) not have resigned as judge of a court while under investigation by the State Commission on Judicial Conduct.

(l) A special judge or visiting judge of a county court at law may sign orders, judgments, decrees, or any other process authorized by law as "Judge Presiding" when acting for the regular judge.

(m) In appointing a visiting judge, preference shall be given to the appointment of a former judge of a statutory county court. If a judge of a statutory county court is not available, the presiding judge of the judicial district may appoint a former judge of a district court or an active judge of a district court or county court at law.

(n) A former judge sitting as a visiting judge of a county court at law is entitled to receive for services performed the same amount of compensation that the regular judge receives, less an amount equal to the pro rata annuity received from any state, district, or county retirement fund. An active judge sitting as a visiting judge of a county court at law is entitled to receive for services performed the same amount of compensation that the regular judge receives, less an amount equal to the pro rata compensation received from state or county funds as salary, including supplements.

(o) A visiting judge of a county court at law is entitled to receive reimbursement for food and lodging expenses incurred, in an amount not to exceed the sum paid visiting judges of district courts in the state, and for actual travel expenses between the residence of the visiting judge and the county court at law.

(p) The compensation, including authorized expenses, for a county court at law judge, special judge, or visiting judge shall be paid by the commissioners court. Payment to a special judge or

visiting judge shall be made on certification by the presiding judge of the administrative judicial region that the special judge or visiting judge has rendered the service and is entitled to receive the compensation. The amount paid to a special judge or visiting judge may not be deducted from the salary or allowable expenses of the regular judge.

(q) A special or visiting judge of a county court at law has all the powers, jurisdiction, authority, duties, immunities, and privilege provided by law for the county court at law or its judge, except those powers and that authority associated with the appointment or assignment of court personnel.

(r) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(82), eff. January 1, 2012.

(s) The official court reporter of a county is entitled to receive a salary set by the commissioners court. If possible, the commissioners court shall set the salary at an amount equal to the amount of compensation, fees, and allowances received by the court reporters of the district courts in Smith County. The official court reporter shall perform any reasonable court-related duties required by the judge of the court.

(t) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(82), eff. January 1, 2012.

(u) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(82), eff. January 1, 2012.

(v) Except as otherwise provided by this section, the constitution, Section 25.0007(c), or other law, juries in a county court at law shall be composed of six members. In matters of concurrent jurisdiction with the district court to which Section 25.0007(c) does not apply, if a party to the suit requests a 12-member jury, the jury shall be composed of 12 members. In a civil case tried in a county court at law, the parties may, by mutual agreement, agree to try the case with any number of jurors and agree to have a verdict rendered and returned by the vote of any number of jurors less than all those hearing the case.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 21, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 8.44(9), eff. Aug. 28, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.21, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 76, Sec. 12, eff. Sept.

1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 53, 70, eff. Oct. 1, 1991; Acts 1997, 75th Leg., ch. 449, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.39, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(82), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 23, eff. September 1, 2020.

Sec. 25.2161. STARR COUNTY. Starr County has one statutory county court, the County Court at Law of Starr County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.2162. STARR COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Starr County has concurrent jurisdiction with the district court in:

(1) family law cases and proceedings; and

(2) controversies involving title to real property.

(b) This section does not affect the right of appeal to a county court at law from the justice court in cases in which the right of appeal to the county courts exists by law.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(83), eff. January 1, 2012.

(e) The judge of a county court at law shall be paid an annual salary that is at least equal to the salary paid the county judge but not more than $1,000 less than the total annual salary, including supplements, paid a district judge in the county.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(83), eff. January 1, 2012.

(g) A special judge must take the oath of office required by law for the regular judge and has all the power and jurisdiction of the court and the regular judge. A special judge may sign orders,

judgments, decrees, or any other process as "Judge Presiding" when acting for the regular judge.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(83), eff. January 1, 2012.

(i) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court and shall establish a separate docket for the county court at law. The county clerk serves as clerk of the court in all other matters.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(83), eff. January 1, 2012.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(83), eff. January 1, 2012.

(l) Section 25.0008 does not apply to a county court at law in Starr County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.44(10), eff. Aug. 28, 1989; Acts 1989, 71st Leg., 1st C.S., ch. 30, Sec. 1, eff. Aug. 2, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.22, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 31, Sec. 1, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 54, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(83), eff. January 1, 2012.

Sec. 25.2221. TARRANT COUNTY. (a) Tarrant County has the following county courts at law:

(1) County Court at Law No. 1 of Tarrant County;

(2) County Court at Law No. 2 of Tarrant County; and

(3) County Court at Law No. 3 of Tarrant County.

(b) Tarrant County has the following county criminal courts:

(1) County Criminal Court No. 1 of Tarrant County;

(2) County Criminal Court No. 2 of Tarrant County;

(3) County Criminal Court No. 3 of Tarrant County;

(4) County Criminal Court No. 4 of Tarrant County;

(5) County Criminal Court No. 5 of Tarrant County;

(6) County Criminal Court No. 6 of Tarrant County;

(7) County Criminal Court No. 7 of Tarrant County;

(8) County Criminal Court No. 8 of Tarrant County;

(9) County Criminal Court No. 9 of Tarrant County; and

(10) County Criminal Court No. 10 of Tarrant County.

(c) Tarrant County has the following statutory probate courts:

(1) Probate Court No. 1 of Tarrant County; and

(2) Probate Court No. 2 of Tarrant County.

(d) Repealed by Acts 1997, 75th Leg., ch. 317, Sec. 3, eff. Sept. 1, 1997.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 38, Sec. 1, eff. Oct. 20, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 8.20(a), eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 354, Sec. 1, 2, eff. Jan. 1, 1995; Acts 1997, 75th Leg., ch. 317, Sec. 1, 3, eff. Sept. 1, 1997.

Sec. 25.2222. TARRANT COUNTY COURT AT LAW PROVISIONS. (a) A county court at law in Tarrant County has jurisdiction over all causes and proceedings, civil and criminal, original and appellate, prescribed by law for county courts. Notwithstanding any other provision, a county court at law in Tarrant County has jurisdiction on any appeal from a municipal court of record in Tarrant County that is not an appeal of a criminal law case or proceeding.

(b) A county court at law has concurrent jurisdiction with the district court in:

(1) civil cases in which the matter in controversy exceeds $500 and does not exceed $200,000, excluding mandatory damages and penalties, attorney's fees, interest, and costs;

(2) nonjury family law cases and proceedings;

(3) final rulings and decisions of the division of workers' compensation of the Texas Department of Insurance regarding workers' compensation claims, regardless of the amount in controversy;

(4) eminent domain proceedings, both statutory and inverse, regardless of the amount in controversy;

(5) suits to decide the issue of title to real or personal property;

(6) suits to recover damages for slander or defamation of character;

(7) suits for the enforcement of a lien on real property;

(8) suits for the forfeiture of a corporate charter;

(9) suits for the trial of the right to property valued at $200 or more that has been levied on under a writ of execution, sequestration, or attachment; and

(10) suits for the recovery of real property.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(84), eff. January 1, 2012.

(d) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(e) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(f) The judge of a county court at law shall be paid an annual salary in an amount that is not less than $1,000 less than the total annual salary, including supplements and salary increases, paid any district judge in the county.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(84), eff. January 1, 2012.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(84), eff. January 1, 2012.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(84), eff. January 1, 2012.

(j) The county clerk serves as clerk of a county court at law except that the district clerk serves as clerk of the court for family law cases and proceedings. The district clerk may establish a separate docket for family law cases and proceedings filed originally in the district courts of Tarrant County.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(84), eff. January 1, 2012.

(l) The official court reporter for the County Court at Law No. 2 of Tarrant County and the official court reporter for the County Court at Law No. 3 of Tarrant County are each entitled to the same fees and salaries and shall perform the duties and take the oath of office as provided by law for district court reporters.

(m) Practice and procedure, appeals, and writs of error in a county court at law are as prescribed by law for county courts, except that:

(1) practice and procedure, rules of evidence, and all other matters pertaining to the conduct of trials and hearings in a county court at law involving family law cases and proceedings are governed by the laws and rules pertaining to district courts; and

(2) practice and procedure, rules of evidence, and all other matters pertaining to the conduct of trials and hearings in the County Court at Law No. 3 of Tarrant County involving eminent domain cases and cases enumerated in Section 25.2222(b) are governed by the laws and rules pertaining to district courts.

(n) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(84), eff. January 1, 2012.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.20(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 934, Sec. 1, eff. June 14, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.23, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 22, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 55, 70, eff. Oct. 1, 1991; Acts 2003, 78th Leg., ch. 62, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 6.005, eff. September 1, 2005.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.40(a), eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.40(b), eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(84), eff. January 1, 2012.

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 3.06, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1183 (H.B. 3642), Sec. 1, eff. September 1, 2019.

Sec. 25.2223. TARRANT COUNTY CRIMINAL COURT PROVISIONS. (a) A county criminal court in Tarrant County has jurisdiction over all criminal matters and causes, original and appellate, prescribed by law for county courts, but does not have civil jurisdiction. In addition to the jurisdiction provided by Section 25.0003 and other law, a county criminal court in Tarrant County has concurrent original jurisdiction of criminal cases with a district court other than felony cases involving capital murder. The County Criminal Courts Nos. 9 and 10 of Tarrant County also have concurrent jurisdiction within the county of all appeals from criminal

convictions under the laws of this state and the municipal ordinances of the municipalities located in Tarrant County that are appealed from the justice courts and municipal courts in the county.

(b) Repealed by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.017(b), eff. September 1, 2023.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(85), eff. January 1, 2012.

(d) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(85), eff. January 1, 2012.

(f) The judge of a county criminal court shall be paid an annual salary in an amount that is not less than $1,000 less than the total annual salary, including supplements and salary increases, paid any district judge in the county.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(85), eff. January 1, 2012.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(85), eff. January 1, 2012.

(i) The official court reporter of a county criminal court is entitled to the same fees and salary as a district court reporter and shall perform the same duties and take the oath of office as provided by law for district court reporters.

(j) At least two bailiffs shall be assigned regularly to each county criminal court in Tarrant County. Except as provided by Subsection (j-2), each judge of a county criminal court shall appoint one officer to act as bailiff of the judge's court, and the sheriff of Tarrant County shall appoint a bailiff for each court as prescribed by law. The bailiffs serve at the pleasure of the court and shall perform the duties required by the judge of the court to which the bailiffs are assigned.

(j-1) Repealed by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.017(b), eff. September 1, 2023.

(j-2) The judge of a county criminal court may authorize the sheriff to appoint all bailiffs in the judge's court. If the sheriff is authorized by a judge to make the judge's appointment under this subsection, the sheriff shall appoint at least two officers to act as bailiffs for the judge's court. A bailiff appointed under this subsection serves at the pleasure of the court and shall perform the duties required by the judge of the court to which the bailiff is

assigned.

(k) Section 25.0007 does not apply to a county criminal court in Tarrant County.

(l) The County Criminal Courts Nos. 5 and 6 of Tarrant County shall give preference to cases brought under Title 5, Penal Code, involving family violence as defined by Section 71.004, Family Code, and cases brought under Sections 25.07, 25.072, and 42.07(a)(2), Penal Code.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 38, Sec. 2, eff. Oct. 20, 1987; Acts 1989, 71st Leg., ch. 5, Sec. 2(c), eff. March 22, 1989; Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991; Acts 1997, 75th Leg., ch. 317, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 131, Sec. 1, eff. May 16, 2001; Acts 2003, 78th Leg., ch. 62, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 7.002(n), 9.001(b), eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 934 (S.B. 1887), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(85), eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 96 (S.B. 743), Sec. 5, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.11, eff. January 1, 2020.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 2.10, eff. January 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.017(a), eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.017(b), eff. September 1, 2023.

Sec. 25.2224. TARRANT COUNTY PROBATE COURT PROVISIONS. (a) Repealed by Acts 2001, 77th Leg., ch. 635, Sec. 3(2), eff. Sept. 1, 2001.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(86), eff. January 1, 2012.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec.

4.50(a)(86), eff. January 1, 2012.

(d) The salaries of the statutory probate court judges shall be paid out of the county treasury by the commissioners court and shall be set at equal amounts.

(e) In case of the absence, disqualification, or incapacity of the county judge or the judge of the Probate Court No. 1 of Tarrant County, or for any other reason, the judges may sit and act for each other in any probate matter or proceeding. The judge may hear and determine, in either courtroom, any matter or proceeding pending in either court. The judge may enter any orders in the matters or proceedings that the judge of the other court may enter.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(86), eff. January 1, 2012.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(86), eff. January 1, 2012.

(h) The commissioners court shall provide a secretary and chief clerk for each judge of a statutory probate court. The secretary and chief clerk serve at the pleasure of the judge of a statutory probate court. The commissioners court may also provide additional clerical assistance necessary to operate a statutory probate court.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(86), eff. January 1, 2012.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(86), eff. January 1, 2012.

(k) Repealed by Acts 1991, 72nd Leg., ch. 394, Sec. 4, eff. Aug. 26, 1991, and Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 394, Sec. 4, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(86), eff. January 1, 2012.

Sec. 25.2231. TAYLOR COUNTY. Taylor County has the following statutory county courts:

(1) County Court at Law of Taylor County; and

(2) County Court at Law No. 2 of Taylor County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.2232. TAYLOR COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Taylor County has concurrent jurisdiction with the county court in the trial of cases involving insanity and approval of applications for admission to state hospitals and special schools if admission is by application.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(87), eff. January 1, 2012.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) The judge of a county court at law shall be paid an annual salary that is not less than the salary paid the county judge. The salary shall be paid out of the county treasury.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(87), eff. January 1, 2012.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(87), eff. January 1, 2012.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(87), eff. January 1, 2012.

(h) On authorization by the commissioners court, the judge of a county court at law may appoint a secretary for the court. The secretary is entitled to receive the same compensation allowed the secretary of the county judge, to be paid out of the county treasury in equal monthly installments as other county officials are paid. The secretary serves at the pleasure of the judge.

(i) Section 25.0006(b) does not apply to a county court at law in Taylor County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991; Acts 1991, 72nd Leg., ch. 760, Sec. 1, eff. Aug. 26, 1991. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.41, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(87), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 24, eff. September 1, 2020.

Sec. 25.2281. TOM GREEN COUNTY. Tom Green County has the following statutory county courts:

(1) County Court at Law of Tom Green County; and

(2) County Court at Law No. 2 of Tom Green County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 703, Sec. 1, eff. Aug. 28, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25.2282. TOM GREEN COUNTY COURT AT LAW PROVISIONS. (a) A judge of County Court at Law No. 2 of Tom Green County may not be assigned under Chapter 74 to serve as a visiting judge in Bexar, Dallas, Ector, Fort Bend, Harris, Jefferson, Lubbock, Midland, Tarrant, or Travis County.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(88), eff. January 1, 2012.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(88), eff. January 1, 2012.

(e) The salary of a judge of a county court at law shall be paid out of the county treasury by the commissioners court. The judge of a county court at law is entitled to travel expenses and necessary office expenses, including administrative and clerical assistance, in the same manner as the county judge.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(88), eff. January 1, 2012.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(88), eff. January 1, 2012.

(h) With the approval of the judge of a county court at law, the official court reporter of a county court at law shall be available for matters being considered in the county court and the

district courts in the county.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(88), eff. January 1, 2012.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(88), eff. January 1, 2012.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991; Acts 1995, 74th Leg., ch. 703, Sec. 2, eff. Aug. 28, 1995.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(88), eff. January 1, 2012.

Sec. 25.2291. TRAVIS COUNTY. (a) Travis County has the following statutory county courts:

(1) County Court at Law No. 1 of Travis County, Texas;
(2) County Court at Law No. 2 of Travis County, Texas;
(3) County Court at Law No. 3 of Travis County, Texas;
(4) County Court at Law Number 4 of Travis County;
(5) County Court at Law Number 5 of Travis County;
(6) The County Court at Law Number 6 of Travis County;
(7) The County Court at Law Number 7 of Travis County;
(8) The County Court at Law Number 8 of Travis County; and
(9) The County Court at Law Number 9 of Travis County.

(b) The county courts at law of Travis County sit in Austin.

(c) Travis County has the following statutory probate courts:

(1) Probate Court No. 1 of Travis County; and
(2) Probate Court No. 2 of Travis County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.21(a), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 578, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 514 (S.B. 660), Sec. 1, eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 2.06(a), eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.018(a), eff. October 1, 2023.

Sec. 25.2292. TRAVIS COUNTY COURT AT LAW PROVISIONS.

(a) Repealed by Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 34(3), eff. September 1, 2020.

(b) The County Court at Law Number 9 of Travis County shall give preference to criminal cases.

(c) In addition to the jurisdiction provided by Section 25.0003 and other law, the County Court at Law Number 4 of Travis County has concurrent jurisdiction with the district court in state jail felony and third degree felony cases involving family violence, as defined by Section 71.004, Family Code. The court shall give preference to cases in which family violence is alleged, including cases under Title 4, Family Code.

(d) In civil cases, the jury is composed of six members except as otherwise provided by the constitution, Section 25.0007(c), or other law. Failure to object before a six-member jury is seated and sworn constitutes a waiver of a 12-member jury.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(89), eff. January 1, 2012.

(f) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 34(1), eff. September 1, 2019.

(g) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 34(1), eff. September 1, 2019.

(h) Repealed by Acts 1989, 71st Leg., ch. 1131, Sec. 3, eff. Sept. 1, 1989.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(89), eff. January 1, 2012.

(j) All cases from justice courts or other inferior courts must be appealed directly to a county court at law.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(89), eff. January 1, 2012.

(l) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(89), eff. January 1, 2012.

(m) Repealed by Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 34(3), eff. September 1, 2020.

(n) The County Court at Law Number 8 of Travis County shall give preference to criminal cases.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1,

1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.21(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1131, Sec. 1, 3, eff. Sept. 1, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.24, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991; Acts 1997, 75th Leg., ch. 578, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1079, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1203, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 514 (S.B. 660), Sec. 2, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 959 (H.B. 3468), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(89), eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 2.06(b), eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 25, eff. September 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 34(3), eff. September 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 34(1), eff. September 1, 2019.

Sec. 25.2293. TRAVIS COUNTY PROBATE COURT PROVISIONS. (a) Repealed by Acts 2001, 77th Leg., ch. 635, Sec. 3(2), eff. Sept. 1, 2001.

(b) Repealed by Acts 2003, 78th Leg., ch. 1276, Sec. 9.003.

(c) A statutory probate court has eminent domain jurisdiction. All actions, cases, matters, or proceedings of eminent domain arising under Chapter 21, Property Code, or under Section 251.101, Transportation Code , shall be filed and docketed in Probate Court No. 1 of Travis County. A statutory probate court may transfer an eminent domain proceeding to a county court at law in the county.

(d) Probate Court No. 2 of Travis County has primary responsibility for mental health matters.

(e) The county clerk shall docket:

(1) all mental health matters in Probate Court No. 2, notwithstanding the local rules adopted under Section 74.093;

(2) all odd-numbered probate, guardianship, and trust

cases, and related cases, as defined by the local rules, in Probate Court No. 1; and

(3) all even-numbered probate, guardianship, and trust cases, and related cases, as defined by the local rules, in Probate Court No. 2.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(90), eff. January 1, 2012.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(90), eff. January 1, 2012.

(h) The county clerk shall appoint a deputy clerk for each statutory probate court. A deputy clerk serves at the pleasure of the judge of the court to which the deputy clerk is assigned. A deputy clerk must take the constitutional oath of office, and the county clerk may require the deputy clerk to furnish a bond in an amount, conditioned and payable, as required by law. A deputy clerk acts in the name of the county clerk and may perform any other service required by the judge of a statutory probate court. A deputy clerk shall attend all sessions of the court to which the deputy clerk is assigned.

(i) The official court reporter of a statutory probate court is entitled to the same amount of compensation paid to the official court reporters in the district courts in the county. The reporter's salary shall be paid in the same manner as the compensation of the official court reporters of the district courts.

(j) The judge of a statutory probate court may appoint an administrative assistant and an auditor to aid the judge in the performance of his duties. The judge sets the salary of the administrative assistant and the salary of the auditor by an order entered in the minutes of the court. The appointments and the salaries may be changed only by order of the judge. The salaries of the auditor and the administrative assistant shall be paid monthly out of the county's general fund or any other fund available for that purpose.

(k) In case of the absence, disqualification, or incapacity of a judge of a statutory probate court of Travis County, or for any other reason, the judges of the statutory probate courts of Travis County may sit and act for each other in any matter or proceeding pending in either court.

(l) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(90), eff. January 1, 2012.

(m) Repealed by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.019(b), eff. October 1, 2023.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.21(c), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 1131, Sec. 2, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 76, Sec. 13, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 394, Sec. 4, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1991; Acts 1997, 75th Leg., ch. 165, Sec. 30.185, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 426, Sec. 7, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 635, Sec. 3(2), eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 677, Sec. 1, 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 9.003, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 959 (H.B. 3468), Sec. 2, eff. September 1, 2009.
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(90), eff. January 1, 2012.
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.019(a), eff. October 1, 2023.
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.019(b), eff. October 1, 2023.

Sec. 25.2351. VAL VERDE COUNTY. (a) Val Verde County has one statutory county court, the County Court at Law of Val Verde County.
(b) The County Court at Law of Val Verde County sits in Del Rio.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.2352. VAL VERDE COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Val Verde County has concurrent jurisdiction with the district court in family law cases and proceedings.
(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(91), eff. January 1, 2012.
(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff.

Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(91), eff. January 1, 2012.

(e) The judge of a county court at law shall be paid an annual salary that is at least $20,000 but not more than 90 percent of the total compensation paid the district judge. The salary shall be paid by the county treasurer on order of the commissioners court. The judge is entitled to travel expenses and necessary office expenses, including administrative and clerical assistance.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(91), eff. January 1, 2012.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(91), eff. January 1, 2012.

(h) The district clerk serves as clerk of a county court at law in family law cases and proceedings and the county clerk serves as clerk of the court in all other matters.

(i) If a family law case is tried before a jury, the jury shall be composed of 12 members.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(91), eff. January 1, 2012.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 56, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.42, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(91), eff. January 1, 2012.

Sec. 25.2361. VAN ZANDT COUNTY. Van Zandt County has one statutory county court, the County Court at Law of Van Zandt County.

Added by Acts 2007, 80th Leg., R.S., Ch. 969 (H.B. 4139), Sec. 1, eff. January 1, 2011.

Sec. 25.2362. VAN ZANDT COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (b), a county court at law

in Van Zandt County has concurrent jurisdiction with the district court in:

(1) felony cases to:

(A) conduct arraignments;

(B) conduct pretrial hearings;

(C) accept guilty pleas; and

(D) conduct jury trials on assignment of a district judge presiding in Van Zandt County and acceptance of the assignment by the judge of the county court at law;

(2) Class A and Class B misdemeanor cases;

(3) family law matters;

(4) juvenile matters;

(5) probate matters;

(6) guardianship matters; and

(7) appeals from the justice and municipal courts.

(b) A county court at law's civil jurisdiction concurrent with the district court in civil cases is limited to cases in which the matter in controversy does not exceed $200,000. A county court at law does not have general supervisory control or appellate review of the commissioners court or jurisdiction of:

(1) suits on behalf of this state to recover penalties or escheated property;

(2) felony cases involving capital murder;

(3) misdemeanors involving official misconduct; or

(4) contested elections.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(92), eff. January 1, 2012.

(d) The judge of a county court at law shall be paid a total annual salary set by the commissioners court at an amount that is not less than $1,000 less than the total annual salary received by a district judge in the county. A district judge's or statutory county court judge's total annual salary does not include contributions and supplements paid by a county.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(92), eff. January 1, 2012.

(f) The district clerk serves as clerk of a county court at law in family court matters and proceedings, and the county clerk shall serve as clerk of a county court at law in all other matters. Each clerk shall establish a separate docket for a county court at law.

(g) The official court reporter of a county court at law is

entitled to receive a salary set by the judge of the county court at law with the approval of the commissioners court.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(92), eff. January 1, 2012.

(i) If a jury trial is requested in a case that is in a county court at law's jurisdiction, the jury shall be composed of six members unless the constitution or other law requires a 12-member jury.

Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 15(a), eff. January 1, 2011.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 773 (H.B. 1897), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(92), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 26, eff. September 1, 2020.

Sec. 25.2371. VICTORIA COUNTY. Victoria County has the following statutory county courts:

(1) County Court at Law No. 1 of Victoria County; and

(2) County Court at Law No. 2 of Victoria County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.22(a), eff. Aug. 28, 1989.

Sec. 25.2372. VICTORIA COUNTY COURT AT LAW PROVISIONS. (a) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(b) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(93), eff. January 1, 2012.

(d) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(e) The judge of the County Court at Law No. 1 of Victoria County shall be paid the same amount in salary, from the same fund

and in the same manner, as the county judge. The judge of the County Court at Law No. 2 of Victoria County shall be paid a salary that does not exceed 90 percent of the amount paid a district court judge in the county. The commissioners court may provide travel expenses and necessary office expenses, including clerical and administrative assistance, for the county courts at law.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(93), eff. January 1, 2012.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(93), eff. January 1, 2012.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(93), eff. January 1, 2012.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(93), eff. January 1, 2012.

(j) Section 25.0008 does not apply to the county courts at law in Victoria County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.22(b), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(93), eff. January 1, 2012.

Sec. 25.2381. WALKER COUNTY. (a) Walker County has one statutory county court, the County Court at Law of Walker County.

(b) The County Court at Law of Walker County sits in Huntsville.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Sec. 25.2382. WALKER COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Walker County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec.

4.50(a)(94), eff. January 1, 2012.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(94), eff. January 1, 2012.

(e) Repealed by Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 3.05, eff. September 1, 2017.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(94), eff. January 1, 2012.

(g) The district clerk serves as clerk of a county court at law in family law cases and proceedings, and the county clerk serves as clerk of the court in all other matters. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve a county court at law.

(h) The judge of a county court at law shall set the official court reporter's salary at an amount that does not exceed the salary of an official court reporter for a district court.

(i) If a family law case is tried before a jury, the jury shall be composed of 12 members.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(94), eff. January 1, 2012.

(k) All cases appealed from the justice courts and other courts of inferior jurisdiction in the county shall be made directly to a county court at law, unless otherwise provided by law.

(l) Appeals in all cases from judgments and orders of the county court at law shall be to the court of appeals as provided by law for county and district courts.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 57, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.43, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(94), eff. January 1, 2012.

Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 3.04, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 3.05, eff. September 1, 2017.

Sec. 25.2391. WALLER COUNTY. (a) Waller County has the following statutory county courts:

(1) County Court at Law No. 1 of Waller County; and

(2) County Court at Law No. 2 of Waller County.

(b) The county courts at law of Waller County sit in Hempstead.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.020(a), eff. September 1, 2023.

Sec. 25.2392. WALLER COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Waller County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) County Court at Law No. 2 has the jurisdiction provided by the constitution and by general law for district courts, including jurisdiction in felony criminal cases.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(95), eff. January 1, 2012.

(e) The judge of a county court at law shall be paid an annual salary that is at least equal to 85 percent of the amount paid by the state to a district judge. The salary shall be paid by the county treasurer on order of the commissioners court. The judge of a county court at law is entitled to travel expenses and necessary office expenses, including administrative and clerical assistance, in the same manner as the county judge.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(95), eff. January 1, 2012.

(g) The district clerk serves as clerk of a county court at law in family law cases and proceedings and as clerk of County Court at Law No. 2 in cases and proceedings in which the court has concurrent jurisdiction with the district courts as provided by the constitution

and general law, including jurisdiction in felony criminal cases. The county clerk serves as clerk of a county court at law in all other cases and proceedings. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(h) The judge of a county court at law may appoint an official court reporter or the judge may contract for the service of a court reporter under guidelines established by the commissioners court.

(i) Repealed by Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 34(4), eff. September 1, 2020.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(95), eff. January 1, 2012.

(k) Appeals in civil and criminal cases from judgments and orders of the county court at law are to the court of appeals as provided for appeals from district and county courts. All cases appealed from the justice courts and other inferior courts in the county are to a county court at law, unless otherwise provided by law.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 58, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(95), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 34(4), eff. September 1, 2020.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.021, eff. September 1, 2023.

Sec. 25.2411. WASHINGTON COUNTY. Washington County has one statutory county court, the County Court at Law of Washington County.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.23(a), eff. Aug. 28, 1989.

Sec. 25.2412. WASHINGTON COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Washington County has concurrent

jurisdiction with the district court in family law cases and proceedings.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(96), eff. January 1, 2012.

(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(96), eff. January 1, 2012.

(e) The judge of a county court at law shall be paid an annual salary that is not less than 65 percent of the amount appropriated by the state for the annual salary of each district judge. The salary shall be paid from the county treasury on order of the commissioners court. The judge is entitled to travel expenses and necessary office expenses, including administrative and clerical personnel, in the same manner as the county judge.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(96), eff. January 1, 2012.

(g) The district clerk serves as clerk of a county court at law for family law cases and proceedings, and the county clerk serves as clerk for all other cases. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.

(h) The judge of a county court at law may, in lieu of appointing an official court reporter, contract for the services of a court reporter under guidelines established by the commissioners court.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(96), eff. January 1, 2012.

(j) If a case or proceeding in which a county court at law has concurrent jurisdiction with a district court is tried before a jury, the jury shall be composed of 12 members, except as provided by Section 25.0007(c). In all other cases, the jury shall be composed of six members except as provided by the constitution or other law.

(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(96), eff. January 1, 2012.

(l) Appeals in all cases from judgments and orders of the county court at law are to the court of appeals as provided for appeals from district and county courts. All cases appealed from the justice courts and other inferior courts in the county are to a county court at law, unless otherwise provided by law.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.23(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.25, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 59, 70, eff. Oct. 1, 1991.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(96), eff. January 1, 2012.
Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 27, eff. September 1, 2020.

Sec. 25.2421. WEBB COUNTY. (a) Webb County has the following statutory county courts:
(1) the County Court at Law No. 1 of Webb County;
(2) the County Court at Law No. 2 of Webb County; and
(3) the County Court at Law No. 3 of Webb County.
(b) The county courts at law of Webb County sit in Laredo.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 23, Sec. 1, eff. Aug. 26, 1991.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.44(a), eff. January 1, 2012.

Sec. 25.2422. WEBB COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Webb County has concurrent jurisdiction with the district court in:
(1) family law cases and proceedings;
(2) cases and proceedings involving justiciable controversies and differences between spouses, or between parents, or between parent and child, or between any of these and third persons; and
(3) proceedings to expunge a criminal arrest record under Chapter 55A, Code of Criminal Procedure.
(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(97), eff. January 1, 2012.
(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff.

Oct. 1, 1991.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(97), eff. January 1, 2012.

(e) A judge of a county court at law shall be paid an annual salary that is at least $20,000, but not more than the salary, including any supplements, paid to a district judge in the county. The salary shall be paid out of the county treasury by order of the commissioners court. A judge of a county court at law is entitled to receive travel and necessary office expenses, including administrative and clerical assistance, in the same manner as the county judge.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(97), eff. January 1, 2012.

(g) The district attorney of the 49th Judicial District serves as district attorney of a county court at law, except that the county attorney of Webb County prosecutes all juvenile, child welfare, mental health, and other civil cases in which the state is a party. The district clerk serves as clerk of a county court at law in the cases enumerated in Subsection (a)(2), and the county clerk serves as clerk of a county court at law in all other cases.

(h) If a family law case is tried before a jury, the jury shall be composed of 12 members.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(97), eff. January 1, 2012.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(97), eff. January 1, 2012.

(k) A meeting of district judges in Webb County held under Section 62.016(a) to determine the number of prospective jurors that are necessary for each week of the year may include the county court at law judges. The judges may designate a county court at law judge to be the judge to whom the general jury panels report for jury service under Section 62.016(c).

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.11(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 944, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.26, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 60, 70, eff. Oct. 1, 1991; Acts 1995, 74th Leg., ch. 105, Sec. 1, eff. Aug. 28, 1995. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.45, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(97), eff. January 1, 2012.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.055, eff. January 1, 2025.

Sec. 25.2451. WICHITA COUNTY. Wichita County has the following statutory county courts:

(1) County Court at Law No. 1 of Wichita County; and

(2) County Court at Law No. 2 of Wichita County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.24(a), eff. Aug. 28, 1989.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25.2452. WICHITA COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, including the general jurisdiction provided for a county court at law by the Estates Code, a county court at law in Wichita County has concurrent jurisdiction with the county court in:

(1) appeals from municipal courts of record in Wichita County as provided by Subchapter H, Chapter 30;

(2) misdemeanor cases; and

(3) probate and mental health matters.

(b) All misdemeanor cases, probate and mental health matters, and appeals from municipal courts of record shall be filed in the county court at law. A county court at law may transfer a case or an appeal described by this subsection to the county court with the consent of the county judge.

(c) Except as provided by Section 25.0003 and Subsection (d), a county court at law has concurrent jurisdiction with the district court in:

(1) family law cases and proceedings under the Family Code; and

(2) civil cases.

(d) A county court at law does not have jurisdiction of:

(1) a case under:

(A) the Alcoholic Beverage Code;

(B) the Election Code; or

(C) the Tax Code;

(2) a matter over which the district court has exclusive jurisdiction; or

(3) a civil case, other than a case under the Family Code or the Estates Code, in which the amount in controversy is:

(A) less than the maximum amount in controversy allowed the justice court in Wichita County; or

(B) more than $200,000, exclusive of punitive or exemplary damages, penalties, interest, costs, and attorney's fees.

(e) On the motion of any party, a county court at law may transfer a civil case originally filed in a county court at law that exceeds the maximum amount in controversy described by Subsection (d)(3)(B) to the district court in Wichita County, except that an announcement of ready for trial by all parties before a motion to transfer the case to the district court is filed confers original jurisdiction on the county court at law. A case that is transferred to the district court shall be completed under the same cause number and in the same manner as if the case were originally filed in the district court.

(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(98), eff. January 1, 2012.

(g) The judge of a county court at law shall be paid an annual salary that is $1,000 less than the total annual salary received by a district judge in the county. The salary shall be paid out of the county treasury by the commissioners court. The judge shall be paid in installments in the same manner as other county employees. The judge is also entitled to receive travel expenses and necessary office expenses, including administrative and clerical assistance, in the same manner as the county judge.

(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(98), eff. January 1, 2012.

(i) The district clerk of Wichita County serves as the clerk of the county courts at law in Wichita County in all civil cases except probate and mental health matters. The county clerk serves as clerk in cases involving criminal, probate, or mental health matters.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(98), eff. January 1, 2012.

(k) Except as otherwise required by law, if a case is tried before a jury, the jury shall be composed of six members and may render verdicts by a five to one margin in civil cases and a unanimous verdict in criminal cases.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.24(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.27, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 61, 70, eff. Oct. 1, 1991; Acts 1997, 75th Leg., ch. 165, Sec. 7.28, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 687, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.46, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(98), eff. January 1, 2012.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.029, eff. September 1, 2017.

Sec. 25.2461. WILBARGER COUNTY. Wilbarger County has one statutory county court, the County Court at Law of Wilbarger County.

Added by Acts 1993, 73rd Leg., ch. 681, Sec. 1, eff. Aug. 30, 1993.

Sec. 25.2462. WILBARGER COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Wilbarger County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) A county court at law has concurrent jurisdiction with the justice court in all criminal matters prescribed by law for justice courts. This subsection does not deny the right of appeal to a county court at law from a justice court in cases in which the right of appeal to the county court exists.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(99), eff. January 1, 2012.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec.

4.50(a)(99), eff. January 1, 2012.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(99), eff. January 1, 2012.

(f) A special judge must take the oath of office required by law of the regular judge. A special judge has all the powers and jurisdiction of the court and of the regular judge. A special judge may sign orders, decrees, judgments, or other process as "Judge Presiding" when acting for the regular judge.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(99), eff. January 1, 2012.

(h) The district clerk serves as clerk of a county court at law in family law cases and proceedings, and the county clerk serves as clerk of the court in all other cases and proceedings.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(99), eff. January 1, 2012.

(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(99), eff. January 1, 2012.

(k) A jury in a county court at law shall be composed of six members except as provided by the constitution, Section 25.0007(c), or other law.

Added by Acts 1993, 73rd Leg., ch. 681, Sec. 2, eff. Aug. 30, 1993. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.47, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(99), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 28, eff. September 1, 2020.

Sec. 25.2481. WILLIAMSON COUNTY. Williamson County has the following statutory county courts:

(1) County Court at Law No. 1 of Williamson County;
(2) County Court at Law No. 2 of Williamson County;
(3) County Court at Law No. 3 of Williamson County;
(4) County Court at Law No. 4 of Williamson County; and
(5) County Court at Law No. 5 of Williamson County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.25(a), eff.

Aug. 28, 1989; Acts 1999, 76th Leg., ch. 55, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 100 (H.B. 564), Sec. 1, eff. September 1, 2005.
Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 2.11(a), eff. October 1, 2022.

Sec. 25.2482. WILLIAMSON COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Williamson County has concurrent jurisdiction with the district court in family law cases and proceedings.
(b) A county court at law has concurrent jurisdiction with the justice court in all criminal matters prescribed by law for justice courts. This subsection does not deny the right of appeal to a county court at law from a justice court in cases in which the right of appeal to the county court exists.
(c) Repealed by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.
(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(100), eff. January 1, 2012.
(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(100), eff. January 1, 2012.
(f) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(100), eff. January 1, 2012.
(g) A special judge must take the oath of office required by law of the regular judge. A special judge has all the powers and jurisdiction of the court and of the regular judge. A special judge may sign orders, decrees, judgments, or other process as "Judge Presiding" when acting for the regular judge.
(h) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(100), eff. January 1, 2012.
(i) The district clerk serves as clerk of a county court at law in family law cases and proceedings, and the county clerk serves as clerk of the court in all other cases and proceedings.
(j) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(100), eff. January 1, 2012.
(k) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec.

4.50(a)(100), eff. January 1, 2012.

(l) A jury in a county court at law shall be composed of six members except as provided by the constitution, Section 25.0007(c), or other law.

(m) Sections 25.0006 and 25.0008 do not apply to a county court at law in Williamson County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 27, Sec. 2, eff. Oct. 20, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 8.25(b), 8.44(11), eff. Aug. 28, 1989; Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 15.28, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 62, 70, eff. Oct. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.48, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(100), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 29, eff. September 1, 2020.

Sec. 25.2491. WILSON COUNTY. Wilson County has one statutory county court, the County Court at Law of Wilson County.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.022(a), eff. September 1, 2023.

Sec. 25.2511. WISE COUNTY. (a) Wise County has the following statutory county courts:

(1) County Court at Law No. 1 of Wise County; and

(2) County Court at Law No. 2 of Wise County.

(b) County Court at Law No. 1 of Wise County sits in Decatur or at another location in the county determined by the judge of County Court at Law No. 1 of Wise County and approved by the commissioners court.

(c) County Court at Law No. 2 of Wise County sits in Decatur or at another location in the county determined by the judge of County Court at Law No. 2 of Wise County and approved by the commissioners court.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 802 (H.B. 2330), Sec. 1, eff. September 1, 2011.

Sec. 25.2512. WISE COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Wise County has:

(1) concurrent with the county court, the probate jurisdiction provided by general law for county courts; and

(2) concurrent jurisdiction with the district court in:

(A) eminent domain cases; and

(B) family law cases and proceedings.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(101), eff. January 1, 2012.

(c) Repealed as subsec. (d) by Acts 1991, 72nd Leg., ch. 746, Sec. 70, eff. Oct. 1, 1991.

(d) The judge of a county court at law shall be paid an annual salary in an amount that is not more than 90 percent of the salary paid by the state out of the general revenue fund to a district judge in the county. The salary shall be paid out of the county treasury on orders from the commissioners court. The judge is also entitled to reasonable travel expenses and necessary office expenses, including administrative and clerical assistance.

(e) In addition to the qualifications required by Section 25.0014, a regular judge of a county court at law must have the qualifications of a district judge as required by Section 7, Article V, Texas Constitution.

(f) The official court reporter of a county court at law is entitled to receive a salary set by the judge of the county court at law and paid out of the county treasury on order of the commissioners court. The salary may not exceed the amount paid the official court reporter of a district court in Wise County.

(g) The district clerk serves as clerk of a county court at law for family law cases and proceedings, and the county clerk serves as clerk for all other cases.

(h) The laws governing the drawing, selection, service, and pay of jurors for county courts apply to a county court at law. Jurors

regularly impaneled for a week by the district court may, on request of the judge of a county court at law, be made available and shall serve for the week in a county court at law.

(i) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 3, Sec. 4.50(a)(101), eff. January 1, 2012.

(j) The jury in all matters shall be composed of 12 members, except that in misdemeanor criminal cases and in any other cases in which the amount in controversy is not more than $100,000, excluding interest and attorney's fees, the jury shall be composed of six members unless the constitution or other law requires a 12-member jury.

(k) A judge of a county court at law and a judge of a district court or another county court at law with concurrent jurisdiction may transfer cases between the courts in the same manner judges of district courts transfer cases under Section 24.003.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 27, Sec. 1, eff. Oct. 20, 1987; Acts 1991, 72nd Leg., ch. 518, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 746, Sec. 63, 70, eff. Oct. 1, 1991; Acts 2001, 77th Leg., ch. 1420, Sec. 9.001, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 802 (H.B. 2330), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 802 (H.B. 2330), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.09, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.49, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 4.50(a)(101), eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 30, eff. September 1, 2020.

SUBCHAPTER D. MULTICOUNTY STATUTORY COUNTY COURTS

Sec. 25.2601. APPLICATION OF SUBCHAPTER. (a) This subchapter applies only to statutory county courts composed of more than one

county.

(b) Except for Sections 25.0009, 25.0010(b), and 25.0011, Subchapter A applies to a statutory county court composed of more than one county.

Added by Acts 1991, 72nd Leg., ch. 746, Sec. 64, eff. Oct. 1, 1991.

Sec. 25.2602. JUDGE. (a) The judge is elected by the qualified voters of the counties at the election at which other statutory county court judges are elected.

(b) The judge must be:

(1) at least 25 years of age;

(2) a resident of one of the counties; and

(3) a licensed attorney in this state who has practiced law or served as a judge of a court in this state, or both combined, for the four years preceding election or appointment.

(c) The judge is entitled to be paid an annual salary set by a vote of a majority of the total number of county judges and commissioners of the commissioners courts of the counties. The salary shall be apportioned among the counties according to the ratio a county's population bears to the total population of the counties comprising the court.

Added by Acts 1991, 72nd Leg., ch. 746, Sec. 64, eff. Oct. 1, 1991.

Sec. 25.2603. VACANCY. (a) A vacancy in the office of judge is filled by a joint appointment by the commissioners courts of the counties composing the court. An appointment must be approved by a vote of a majority of the total number of county judges and commissioners of the commissioners courts of the counties.

(b) An appointee holds office until the next general election and until the successor is elected and has qualified.

(c) This section applies to a vacancy existing on creation of the office of judge.

Added by Acts 1991, 72nd Leg., ch. 746, Sec. 64, eff. Oct. 1, 1991.

Sec. 25.2604. PERSONNEL. (a) The county clerk of a particular

county serves as clerk in that county.

(b) The prosecuting attorney representing the state in county court in a particular county serves as prosecutor in that county.

(c) The sheriff and the other court officials in a county shall serve in the manner required by law for their offices and are entitled to the compensation, fees, and allowances prescribed by law for their offices.

Added by Acts 1991, 72nd Leg., ch. 746, Sec. 64, eff. Oct. 1, 1991.

Sec. 25.2605. SEAL. The seal is the same as that provided by law for a county court except that the seal must contain the name of the court as designated by statute.

Added by Acts 1991, 72nd Leg., ch. 746, Sec. 64, eff. Oct. 1, 1991.

Sec. 25.2606. GENERAL LAW. Unless this subchapter contains a conflicting provision, the general law relating to county courts and statutory county courts applies.

Added by Acts 1991, 72nd Leg., ch. 746, Sec. 64, eff. Oct. 1, 1991.

Sec. 25.2607. DESIGNATION OF ADMINISTRATIVE COUNTY FOR MULTICOUNTY STATUTORY COUNTY COURTS. (a) If a statute that establishes a multicounty statutory county court does not designate one of the counties that compose the multicounty statutory county court as the administrative county for that court, the county with the greatest population of the counties composing the court at the time the court is established is the administrative county for that court.

(b) The commissioners courts of the counties that compose a multicounty statutory county court may enter into an agreement to provide support for the court. The administrative county for the court may receive contributions from the other counties composing the court to pay the operating expenses of the court.

(c) Except for money provided by state appropriations or under an agreement under Subsection (b), the administrative county shall pay out of the county's general fund the salaries, compensation, and

expenses incurred in operating the multicounty statutory county court.

(d) Notwithstanding Section 25.0015, the state shall annually compensate the administrative county of a multicounty statutory county court for the salary of the judge of the multicounty statutory county court in an amount equal to 100 percent of the state salary paid to a district judge with comparable years of service as the multicounty statutory county court judge, as set by the General Appropriations Act in accordance with Section 659.012. For purposes of this subsection, the years of service of a multicounty statutory county court judge include any years of service as:

(1) an appellate court, district court, statutory county court, or statutory probate court justice or judge; or

(2) a district attorney, criminal district attorney, or county attorney.

(e) The court fees and costs collected by the clerk of a multicounty statutory county court shall be deposited in the appropriate county fund as provided by law.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 3.07(a), eff. September 1, 2015.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 6, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.023, eff. September 1, 2023.

SUBCHAPTER E. MULTICOUNTY STATUTORY PROBATE COURTS

Sec. 25.2651. APPLICATION OF SUBCHAPTER. (a) This subchapter applies only to statutory probate courts composed of more than one county.

(b) Except for Sections 25.0009, 25.0010(b), 25.0011, 25.0030(b), and 25.0031, Subchapters A and B apply to a statutory probate court composed of more than one county.

Added by Acts 1999, 76th Leg., ch. 409, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 426, Sec. 5, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 9.001(f), eff. Sept. 1, 2001.

Sec. 25.2652. JUDGE. (a) The judge is elected by the qualified voters of the counties at the election at which other statutory probate court judges are elected.

(b) The judge must be:

(1) at least 25 years of age;

(2) a resident of one of the counties; and

(3) a licensed attorney in this state who has practiced law or served as a judge of a court in this state, or both combined, for the four years preceding election or appointment.

(c) The judge is entitled to be paid an annual salary set by a vote of a majority of the total number of the county judges and commissioners of the commissioners courts of the counties. The salary shall be apportioned among the counties according to the ratio a county's population bears to the total population of the counties composing the court.

Added by Acts 1999, 76th Leg., ch. 409, Sec. 1, eff. Sept. 1, 1999.

Sec. 25.2653. VACANCY. (a) A vacancy in the office of judge is filled by a joint appointment by the commissioners courts of the counties composing the court. An appointment must be approved by a vote of a majority of the total number of the county judges and commissioners of the commissioners courts of the counties.

(b) An appointee holds office until the next general election and until the successor is elected and has qualified.

(c) This section applies to a vacancy existing on creation of the office of judge.

Added by Acts 1999, 76th Leg., ch. 409, Sec. 1, eff. Sept. 1, 1999.

Sec. 25.2654. PERSONNEL. (a) The county clerk of a particular county serves as clerk in that county.

(b) The prosecuting attorney representing the state in a statutory probate court in a particular county serves as prosecutor in that county.

(c) The sheriff and the other court officials in a county shall serve in the manner required by law for their offices and are entitled to the compensation, fees, and allowances prescribed by law for their offices.

Added by Acts 1999, 76th Leg., ch. 409, Sec. 1, eff. Sept. 1, 1999.

Sec. 25.2655. SEAL. The seal is the same as that provided by law for a statutory probate court except that the seal must contain the name of the court as designated by statute.

Added by Acts 1999, 76th Leg., ch. 409, Sec. 1, eff. Sept. 1, 1999.

Sec. 25.2656. GENERAL LAW. Unless this subchapter contains a conflicting provision, the general law relating to statutory probate courts applies.

Added by Acts 1999, 76th Leg., ch. 409, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER F. MULTICOUNTY STATUTORY COUNTY COURTS IN PARTICULAR COUNTIES

Sec. 25.2701. 1ST MULTICOUNTY COURT AT LAW (FISHER, MITCHELL, AND NOLAN COUNTIES). Fisher, Mitchell, and Nolan Counties have a multicounty statutory county court composed of those counties, the 1st Multicounty Court at Law.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 2.07(a), eff. September 1, 2013.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1114 (H.B. 4281), Sec. 2, eff. September 1, 2017.

Sec. 25.2702. 1ST MULTICOUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, the 1st Multicounty Court at Law has concurrent jurisdiction with the district court in:

(1) family law cases and proceedings; and

(2) felony criminal cases.

(b) The county court at law has concurrent jurisdiction with the justice court in criminal matters prescribed by law for justice courts. This section does not affect the right of appeal to a county court at law from a justice court where the right of appeal to the

county court exists by law.

(c) The judge may not engage in the private practice of law.

(c-1) Nolan County is the administrative county for the 1st Multicounty Court at Law.

(d) The judge of the county court at law shall appoint an official court reporter. The judge may appoint a court administrator to aid the judge in the performance of the judge's duties. The official court reporter and the court administrator of the county court at law are entitled to receive a salary set by the commissioners courts in the counties the reporter or administrator serves to be paid out of the county treasuries, either by salary or by contract as set by the commissioners courts.

(d-1) Fisher, Mitchell, and Nolan Counties shall enter into an interlocal agreement allocating the financial obligations of each county in relation to the county court at law and the budget, powers, and duties of the court and salaries of court personnel.

(d-2) If the counties served by the county court at law are unable to reach an agreement under Subsection (d-1) before the first day of the fiscal year for a county served by the court, each county shall pay to the court's administrative county a share of the court's administrative and operational costs for the fiscal year based on the proportion of the court's caseload originating in the county during the preceding year. A county is entitled to compensation from the state under Section 25.0015 in proportion to the amount paid under this subsection.

(e) The district clerk serves as clerk of the county court at law in matters of concurrent jurisdiction with the district court, and the county clerk serves as clerk of the county court at law in all other cases.

(f) Sections 25.0006, 25.0008, and 74.054(b) do not apply to the county court at law.

(g) The judge of the county court at law is entitled to travel expenses and necessary office expenses as authorized by the commissioners court of the administrative county.

(h) Notwithstanding Section 74.121(b)(1), in matters of concurrent jurisdiction, the judge of the 1st Multicounty Court at Law and the judges of the district courts in Fisher, Mitchell, and Nolan Counties may exchange benches and courtrooms and may transfer cases between their dockets in the same manner that judges of district courts exchange benches and transfer cases under Section

24.003.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 2.07(a), eff. September 1, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 3.07(c), eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 3.07(d), eff. September 1, 2015.
Acts 2017, 85th Leg., R.S., Ch. 1114 (H.B. 4281), Sec. 1, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 686 (S.B. 2215), Sec. 1, eff. June 10, 2019.
Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.12, eff. January 1, 2020.
Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 2.10, eff. January 1, 2022.

Sec. 25.2703. 2ND MULTICOUNTY COURT AT LAW (BEE, LIVE OAK, AND MCMULLEN COUNTIES). Bee, Live Oak, and McMullen Counties have a multicounty statutory county court composed of those counties, the 2nd Multicounty Court at Law.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.024(a), eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25.2704. 2ND MULTICOUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, the 2nd Multicounty Court at Law has concurrent jurisdiction with the district courts, except in civil cases in which the matter in controversy exceeds the amount provided by Section 25.0003(c)(1).

(b) Bee County is the administrative county for the 2nd Multicounty Court at Law.

(c) Bee, Live Oak, and McMullen Counties shall enter into an interlocal agreement allocating the financial obligations of each

county in relation to the county court at law and the budget, powers, and duties of the court and salaries of court personnel.

(d) If the counties served by the county court at law are unable to reach an agreement under Subsection (c) before the first day of the fiscal year for a county served by the court, each county shall pay to the court's administrative county a share of the court's administrative and operational costs for the fiscal year based on the proportion of the court's caseload originating in the county during the preceding year. A county is entitled to compensation from the state under Section 25.0015 in proportion to the amount paid under this subsection.

(e) The district clerk serves as clerk of the county court at law in matters of concurrent jurisdiction with the district court, and the county clerk serves as clerk of the county court at law in all other cases.

(f) Sections 25.0006, 25.0008, and 74.054(b) do not apply to the county court at law.

(g) Notwithstanding Section 74.121(b)(1), in matters of concurrent jurisdiction, the judge of the 2nd Multicounty Court at Law and the judges of the district courts in Bee, Live Oak, and McMullen Counties may exchange benches and courtrooms and may transfer cases between their dockets in the same manner that judges of district courts exchange benches and courtrooms and transfer cases under Section 24.003.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 2.024(a), eff. September 1, 2023.

CHAPTER 25A. BUSINESS COURT

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25A.001. DEFINITIONS. In this chapter:

(1) "Controlling person" means a person who directly or indirectly controls a governing person, officer, or organization.

(2) "Derivative proceeding" means a civil action brought in the right of a domestic or foreign corporation, a domestic or foreign limited liability company, or a domestic or foreign limited partnership, to the extent provided by the Business Organizations

Code.

(3) "Governing documents" means the instruments, documents, or agreements adopted under an organization's governing law to govern the organization's formation and internal affairs. The term includes:

(A) a certificate of formation, articles of incorporation, and articles of organization;

(B) bylaws;

(C) a partnership agreement;

(D) a company agreement or operating agreement;

(E) a shareholder agreement;

(F) a voting agreement or voting trust agreement; and

(G) an agreement among owners restricting the transfer of ownership interests.

(4) "Governing law" means the law governing the formation and internal affairs of an organization.

(5) "Governing person" means a person who is entitled, alone or as part of a group, to manage and direct an organization's affairs under the organization's governing documents and governing law. The term includes:

(A) a member of the board of directors of a corporation or other organization;

(B) a general partner of a general or limited partnership;

(C) a manager of a limited liability company that is managed by its managers;

(D) a member of a limited liability company that is managed by its members;

(E) a trust manager of a real estate investment trust; and

(F) a trustee of a business trust.

(6) "Governmental entity" means:

(A) this state; or

(B) a political subdivision of this state, including a municipality, a county, or any kind of district.

(7) "Internal affairs" means:

(A) the rights, powers, and duties of an organization's governing persons, officers, owners, and members; and

(B) matters relating to the organization's membership or ownership interests.

(8) "Managerial official" means a governing person or officer.

(9) "Officer" means a person elected, appointed, or designated as an officer of an organization by the organization's governing persons or governing documents.

(10) "Organization" means a foreign or domestic entity or association, regardless of whether the organization is for profit or nonprofit. The term includes:

(A) a corporation;

(B) a limited partnership;

(C) a general partnership;

(D) a limited liability partnership;

(E) a limited liability company;

(F) a business trust;

(G) a real estate investment trust;

(H) a joint venture;

(I) a joint stock company;

(J) a cooperative;

(K) a bank;

(L) a credit union;

(M) a savings and loan association;

(N) an insurance company; and

(O) a series of a limited liability company or of another entity.

(11) "Owner" means an owner of an organization. The term includes:

(A) a shareholder or stockholder of a corporation or other organization;

(B) a general or limited partner of a partnership or an assignee of a partnership interest in a partnership;

(C) a member of, or an assignee of a membership interest in, a limited liability company; and

(D) a member of a nonprofit organization.

(12) "Ownership interest" means an owner's interest in an organization, including an owner's economic, voting, and management rights.

(13) "Publicly traded company" means an entity whose voting equity securities are listed on a national securities exchange registered with the United States Securities and Exchange Commission under Section 6, Securities Exchange Act of 1934 (15 U.S.C. Section

78f) and any entity that is majority owned or controlled by such an entity.

(14) "Qualified transaction" means a transaction, other than a transaction involving a loan or an advance of money or credit by a bank, credit union, or savings and loan institution, under which a party:

(A) pays or receives, or is obligated to pay or is entitled to receive, consideration with an aggregate value of at least $10 million; or

(B) lends, advances, borrows, receives, is obligated to lend or advance, or is entitled to borrow or receive money or credit with an aggregate value of at least $10 million.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

Sec. 25A.002. CREATION. The business court is a statutory court created under Section 1, Article V, Texas Constitution.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

For expiration of Subsections (d), (g), (h), (i), (k), (l), and (n), see Subsection (n).

Sec. 25A.003. BUSINESS COURT JUDICIAL DISTRICT; DIVISIONS. (a) The judicial district of the business court is composed of all counties in this state.

(b) The business court is composed of divisions as provided by this section.

(c) The First Business Court Division is composed of the counties composing the First Administrative Judicial Region under Section 74.042(b).

(d) The Second Business Court Division is composed of the counties composing the Second Administrative Judicial Region under Section 74.042(c), subject to funding through legislative

appropriations. The division is abolished September 1, 2026, unless reauthorized by the legislature and funded through additional legislative appropriations.

(e) The Third Business Court Division is composed of the counties composing the Third Administrative Judicial Region under Section 74.042(d).

(f) The Fourth Business Court Division is composed of the counties composing the Fourth Administrative Judicial Region under Section 74.042(e).

(g) The Fifth Business Court Division is composed of the counties composing the Fifth Administrative Judicial Region under Section 74.042(f), subject to funding through legislative appropriations. The division is abolished on September 1, 2026, unless reauthorized by the legislature and funded through additional legislative appropriations.

(h) The Sixth Business Court Division is composed of the counties composing the Sixth Administrative Judicial Region under Section 74.042(g), subject to funding through legislative appropriations. The division is abolished on September 1, 2026, unless reauthorized by the legislature and funded through additional legislative appropriations.

(i) The Seventh Business Court Division is composed of the counties composing the Seventh Administrative Judicial Region under Section 74.042(h), subject to funding through legislative appropriations. The division is abolished on September 1, 2026, unless reauthorized by the legislature and funded through additional legislative appropriations.

(j) The Eighth Business Court Division is composed of the counties composing the Eighth Administrative Judicial Region under Section 74.042(i).

(k) The Ninth Business Court Division is composed of the counties composing the Ninth Administrative Judicial Region under Section 74.042(j), subject to funding through legislative appropriations. The division is abolished on September 1, 2026, unless reauthorized by the legislature and funded through additional legislative appropriations.

(l) The Tenth Business Court Division is composed of the counties composing the Tenth Administrative Judicial Region under Section 74.042(k), subject to funding through legislative appropriations. The division is abolished on September 1, 2026,

unless reauthorized by the legislature and funded through additional legislative appropriations.

(m) The Eleventh Business Court Division is composed of the counties composing the Eleventh Administrative Judicial Region under Section 74.042(l).

(n) This subsection and Subsections (d), (g), (h), (i), (k), and (l) expire September 1, 2026.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25A.004. JURISDICTION AND POWERS. (a) Subject to Subsections (b), (c), (d), (e), and (f), the business court has the powers provided to district courts by Chapter 24, including the power to:

(1) issue writs of injunction, mandamus, sequestration, attachment, garnishment, and supersedeas; and

(2) grant any relief that may be granted by a district court.

(b) Subject to Subsection (c), the business court has civil jurisdiction concurrent with district courts in the following actions in which the amount in controversy exceeds $5 million, excluding interest, statutory damages, exemplary damages, penalties, attorney's fees, and court costs:

(1) a derivative proceeding;

(2) an action regarding the governance, governing documents, or internal affairs of an organization;

(3) an action in which a claim under a state or federal securities or trade regulation law is asserted against:

(A) an organization;

(B) a controlling person or managerial official of an organization for an act or omission by the organization or by the person in the person's capacity as a controlling person or managerial official;

(C) an underwriter of securities issued by the organization; or

(D) the auditor of an organization;

(4) an action by an organization, or an owner of an organization, if the action:

(A) is brought against an owner, controlling person, or managerial official of the organization; and

(B) alleges an act or omission by the person in the person's capacity as an owner, controlling person, or managerial official of the organization;

(5) an action alleging that an owner, controlling person, or managerial official breached a duty owed to an organization or an owner of an organization by reason of the person's status as an owner, controlling person, or managerial official, including the breach of a duty of loyalty or good faith;

(6) an action seeking to hold an owner or governing person of an organization liable for an obligation of the organization, other than on account of a written contract signed by the person to be held liable in a capacity other than as an owner or governing person; and

(7) an action arising out of the Business Organizations Code.

(c) The business court has civil jurisdiction concurrent with district courts in an action described by Subsection (b) regardless of the amount in controversy if a party to the action is a publicly traded company.

(d) The business court has civil jurisdiction concurrent with district courts in the following actions in which the amount in controversy exceeds $10 million, excluding interest, statutory damages, exemplary damages, penalties, attorney's fees, and court costs:

(1) an action arising out of a qualified transaction;

(2) an action that arises out of a contract or commercial transaction in which the parties to the contract or transaction agreed in the contract or a subsequent agreement that the business court has jurisdiction of the action, except an action that arises out of an insurance contract; and

(3) subject to Subsection (g), an action that arises out of a violation of the Finance Code or Business & Commerce Code by an organization or an officer or governing person acting on behalf of an organization other than a bank, credit union, or savings and loan association.

(e) The business court has civil jurisdiction concurrent with district courts in an action seeking injunctive relief or a declaratory judgment under Chapter 37, Civil Practice and Remedies Code, involving a dispute based on a claim within the court's jurisdiction under Subsection (b), (c), or (d).

(f) Except as provided by Subsection (h), the business court has supplemental jurisdiction over any other claim related to a case or controversy within the court's jurisdiction that forms part of the same case or controversy. A claim within the business court's supplemental jurisdiction may proceed in the business court only on the agreement of all parties to the claim and a judge of the division of the court before which the action is pending. If the parties involved in a claim within the business court's supplemental jurisdiction do not agree on the claim proceeding in the business court, the claim may proceed in a court of original jurisdiction concurrently with any related claims proceeding in the business court.

(g) Unless the claim falls within the business court's supplemental jurisdiction, the business court does not have jurisdiction of:

(1) a civil action:

(A) brought by or against a governmental entity; or

(B) to foreclose on a lien on real or personal property;

(2) a claim arising out of:

(A) Subchapter E, Chapter 15, and Chapter 17, Business & Commerce Code;

(B) the Estates Code;

(C) the Family Code;

(D) the Insurance Code; or

(E) Chapter 53 and Title 9, Property Code;

(3) a claim arising out of the production or sale of a farm product, as that term is defined by Section 9.102, Business & Commerce Code;

(4) a claim related to a consumer transaction, as that term is defined by Section 601.001, Business & Commerce Code, to which a consumer in this state is a party, arising out of a violation of federal or state law; or

(5) a claim related to the duties and obligations under an insurance policy.

(h) The business court does not have jurisdiction of the following claims regardless of whether the claim is otherwise within the court's supplemental jurisdiction under Subsection (f):

(1) a claim arising under Chapter 74, Civil Practice and Remedies Code;

(2) a claim in which a party seeks recovery of monetary damages for bodily injury or death; or

(3) a claim of legal malpractice.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

Sec. 25A.005. JUDICIAL AUTHORITY. A business court judge has all powers, duties, immunities, and privileges of a district judge.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25A.006. INITIAL FILING; REMOVAL AND REMAND. (a) An action within the jurisdiction of the business court may be filed in the business court. The party filing the action must plead facts to establish venue in a county in a division of the business court, and the business court shall assign the action to that division. Venue may be established as provided by law or, if a written contract specifies a county as venue for the action, as provided by the contract.

(b) If the business court does not have jurisdiction of the action, the court shall, at the option of the party filing the action:

(1) transfer the action to a district court or county court at law in a county of proper venue; or

(2) dismiss the action without prejudice to the party's rights.

(c) If, after an action is assigned to a division of the business court, the court determines that the division's geographic

territory does not include a county of proper venue for the action, the court shall:

(1) if an operating division of the court includes a county of proper venue, transfer the action to that division; or

(2) if there is not an operating division of the court that includes a county of proper venue, at the option of the party filing the action, transfer the action to a district court or county court at law in a county of proper venue.

(d) A party to an action filed in a district court or county court at law that is within the jurisdiction of the business court may remove the action to the business court. If the business court does not have jurisdiction of the action, the business court shall remand the action to the court in which the action was originally filed.

(e) A party to an action filed in a district court or county court at law in a county of proper venue that is not within an operating division of the business court or the judge of the court in which the action is filed may not remove or transfer the action to the business court.

(f) A party may file an agreed notice of removal at any time during the pendency of the action. If all parties to the action have not agreed to remove the action, the notice of removal must be filed:

(1) not later than the 30th day after the date the party requesting removal of the action discovered, or reasonably should have discovered, facts establishing the business court's jurisdiction over the action; or

(2) if an application for temporary injunction is pending on the date the party requesting removal of the action discovered, or reasonably should have discovered, facts establishing the business court's jurisdiction over the action, not later than the 30th day after the date the application is granted, denied, or denied as a matter of law.

(g) The notice of removal must be filed with the business court and the court in which the action was originally filed. On receipt of the notice, the clerk of the court in which the action was originally filed shall immediately transfer the action to the business court in accordance with rules adopted by the supreme court, and the business court clerk shall assign the action to the appropriate division of the business court.

(h) The filing of an action or a notice of removal in the

business court is subject to Section 10.001, Civil Practice and Remedies Code.

(i) Removal of a case to the business court is not subject to the statutes or rules governing the due order of pleading.

(j) Removal of a case does not waive a defect in venue or constitute an appearance to determine personal jurisdiction.

(k) The judge of a court in which an action is filed may request the presiding judge for the court's administrative region to transfer the action to the business court if the action is within the business court's jurisdiction. The judge shall notify all parties of the transfer request and request a hearing on the transfer request. After a hearing on the request, the presiding judge may transfer the action to the business court if the presiding judge finds the transfer will facilitate the fair and efficient administration of justice. The business court clerk shall assign an action transferred under this subsection to the appropriate division of the business court.

(l) The business court judge on establishment of jurisdiction and venue over an action shall by order declare the county in which any jury trial for the action will be held as determined under Section 25A.015.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25A.007. APPEALS. (a) Notwithstanding any other law and except as provided by Subsection (b) and in instances when the supreme court has concurrent or exclusive jurisdiction, the Fifteenth Court of Appeals has exclusive jurisdiction over an appeal from an order or judgment of the business court or an original proceeding related to an action or order of the business court.

(b) If the Fifteenth Court of Appeals is not created, an appeal from an order or judgment of the business court or an original proceeding related to an action or order of the business court shall be filed in the court of appeals with appellate jurisdiction of civil cases for the county declared in an order under Section 25A.006(l).

(c) The procedure governing an appeal or original proceeding from the business court is the same as the procedure for an appeal or original proceeding from a district court.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

Sec. 25A.008. QUALIFICATIONS OF JUDGE. (a) A business court judge must:

(1) be at least 35 years of age;

(2) be a United States citizen;

(3) have been a resident of a county within the division of the business court to which the judge is appointed for at least five years before appointment; and

(4) be a licensed attorney in this state who has 10 or more years of experience in:

(A) practicing complex civil business litigation;

(B) practicing business transaction law;

(C) serving as a judge of a court in this state with civil jurisdiction; or

(D) any combination of experience described by Paragraphs (A)-(C).

(b) A business court judge may not have had the judge's license to practice law revoked, suspended, or subject to a probated suspension.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25A.009. APPOINTMENT OF JUDGES; TERM; PRESIDING JUDGE; EXCHANGE OF BENCHES. (a) The governor, with the advice and consent of the senate, shall appoint:

(1) two judges to each of the First, Third, Fourth, Eighth, and Eleventh Divisions of the business court; and

(2) one judge to each of the Second, Fifth, Sixth, Seventh,

Ninth, and Tenth Divisions of the business court.

(b) A business court judge shall serve for a term of two years, beginning on September 1 of every even-numbered year.

(c) A business court judge may be reappointed.

(d) Not later than the seventh day after the first day of a term, the business court judges by majority vote shall select a judge of the court to serve as administrative presiding judge for the duration of the term. If a vacancy occurs in the position of administrative presiding judge, the remaining business court judges shall select a judge of the court to serve as administrative presiding judge for the remainder of the unexpired term as soon as practicable.

(e) A business court judge shall take the constitutional oath of office required of appointed officers of this state and file the oath with the secretary of state.

(f) To promote the orderly and efficient administration of justice, the business court judges may exchange benches and sit and act for each other in any matter pending before the court.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

Sec. 25A.010. VACANCY. If a vacancy occurs in an office of a business court judge, the governor, with the advice and consent of the senate, shall appoint, in the same manner as the original appointment, another person to serve for the remainder of the unexpired term.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

Sec. 25A.011. JUDGE'S SALARY. The salary of a business court judge is the amount provided by Section 659.012 and shall be paid in equal monthly installments.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25A.012. REMOVAL; DISQUALIFICATION AND RECUSAL. (a) A business court judge may be removed from office in the same manner and for the same reasons as a district judge.

(b) A business court judge is disqualified and subject to mandatory recusal for the same reasons a district judge is subject to disqualification or recusal in a pending case. Disqualification or recusal of a business court judge shall be governed by the same procedure as disqualification or recusal of a district judge.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

Sec. 25A.013. PRIVATE PRACTICE OF LAW. A business court judge shall diligently discharge the duties of the office on a full-time basis and may not engage in the private practice of law.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25A.014. VISITING JUDGE. (a) A retired or former judge or justice who has the qualifications prescribed by Section 25A.008 may be assigned as a visiting judge of a division of the business court by the chief justice of the supreme court. A visiting judge of a division of the business court is subject to objection, disqualification, or recusal in the same manner as a retired or former judge or justice is subject to objection, disqualification, or recusal if appointed as a visiting district judge.

(b) Before accepting an assignment as a visiting judge of a division of the business court, a retired or former judge or justice shall take the constitutional oath of office required of appointed officers of this state and file the oath with the secretary of state.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff.

September 1, 2023.

Sec. 25A.015. JURY PRACTICE AND PROCEDURE; VENUE FOR JURY TRIAL. (a) A party in an action pending in the business court has the right to a trial by jury when required by the constitution.

(b) Subject to Subsection (d), a jury trial in a case filed initially in the business court shall be held in any county in which the case could have been filed under Section 15.002, Civil Practice and Remedies Code, as chosen by the plaintiff.

(c) Subject to Subsections (b) and (d), a jury trial in a case removed to the business court shall be held in the county in which the action was originally filed.

(d) A jury trial for a case in which a written contract specifies a county as venue for suits shall be held in that county.

(e) The parties and the business court judge may agree to hold the jury trial in any other county. A party may not be required to agree to hold the jury trial in a different county.

(f) The drawing of jury panels, selection of jurors, and other jury-related practice and procedure in the business court shall be the same as for the district court in the county in which the trial is held.

(g) Practice, procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials, hearings, and other business in the business court are governed by the laws and rules prescribed for district courts, unless otherwise provided by this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

Sec. 25A.016. WRITTEN OPINIONS. The supreme court shall adopt rules for the issuance of written opinions by the business court.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25A.017. COURT LOCATION; STAFFING. (a) In this section, "remote proceeding" means a proceeding before the business court in which one or more of the participants, including a judge, party, attorney, witness, court reporter, or other individual attends the proceeding remotely through the use of technology.

(b) The administrative presiding judge of the business court shall manage administrative and personnel matters on behalf of the court. The administrative presiding judge of the business court shall appoint a clerk, whose office shall be located in Travis County in facilities provided by this state. The clerk shall:

(1) accept all filings in the business court; and

(2) fulfill the legal and administrative functions of a district clerk.

(c) Each business court judge shall maintain chambers in the county the judge selects within the geographic boundaries of the division to which the judge is appointed in facilities provided by this state. For purposes of this section, the Office of Court Administration of the Texas Judicial System may contract for the use of facilities with a county.

(d) Subject to Section 25A.015, a business court judge may hold court at any courtroom within the geographic boundaries of the division to which the judge is appointed as the court determines necessary or convenient for a particular civil action. To the extent practicable, a county using existing courtrooms and facilities shall accommodate the business court in the conduct of the court's hearings and other proceedings.

(e) The business court may conduct a proceeding other than a jury trial as a remote proceeding to facilitate the resolution of a matter before the court. The business court may not require a party or attorney to remotely attend a court proceeding in which oral testimony is heard, absent the agreement of the parties.

(f) The business court shall conduct a remote proceeding from a courtroom or the facilities provided to a business court judge by this state.

(g) The business court shall provide reasonable notice to the public that a proceeding will be conducted remotely and an opportunity for the public to observe the remote proceeding.

(h) In a county in which a division of the business court sits,

the sheriff shall in person or by deputy attend the business court as required by the court. The sheriff or deputy is entitled to reimbursement from this state for the cost of attending the business court.

(i) The business court may appoint personnel necessary for the operation of the court, including:

(1) personnel to assist the clerk of the court;

(2) staff attorneys for the court;

(3) staff attorneys for each judge of the business court;

(4) court coordinators; and

(5) administrative assistants.

(j) Subject to Subsection (k), the court officials shall perform the duties and responsibilities of their offices and are entitled to the compensation, fees, and allowances prescribed by law for the offices.

(k) All personnel, including the business court clerk, appointed under this section are employees of the Office of Court Administration of the Texas Judicial System and are state employees for all purposes, including accrual of leave time, insurance benefits, retirement benefits, and travel regulations.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 25A.0171. ADMINISTRATIVE ATTACHMENT TO OFFICE OF COURT ADMINISTRATION; REPORT. (a) The business court is administratively attached to the Office of Court Administration of the Texas Judicial System.

(b) The Office of Court Administration of the Texas Judicial System shall provide administrative support to the business court as necessary to enable the business court to carry out its duties under this chapter.

(c) The Office of Court Administration of the Texas Judicial System may employ personnel necessary to provide administrative support to the business court under this chapter.

(d) Only the business court may exercise the duties of the

business court under this chapter. Except as otherwise provided by this chapter, the Office of Court Administration of the Texas Judicial System does not have any authority or responsibility related to the duties of the business court under this chapter.

(e) Not later than December 1 of each year, the Office of Court Administration of the Texas Judicial System shall submit to the legislature a report on the number and types of cases heard by the business court in the preceding year.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

Sec. 25A.018. FEES. The supreme court shall set fees for filings and actions in the business court in amounts sufficient to cover the costs of administering this chapter, taking into account fee waivers necessary for the interest of justice.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

Sec. 25A.019. SEAL. The seal of the business court is the same as that provided by law for a district court except that the seal must contain the name "The Business Court of Texas."

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

Sec. 25A.020. RULES. (a) The supreme court shall adopt rules of civil procedure as the court determines necessary, including rules providing for:

(1) the timely and efficient removal and remand of cases to and from the business court; and

(2) the assignment of cases to judges of the business court.

(b) The business court may adopt rules of practice and procedure consistent with the Texas Rules of Civil Procedure and the Texas Rules of Evidence.

Added by Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 1, eff. September 1, 2023.

CHAPTER 26. CONSTITUTIONAL COUNTY COURTS
SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 387, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 26.001. BOND. (a) Before beginning the duties of the office, the county judge must execute a bond that:

(1) is payable to the treasurer of the county;

(2) is in the amount set by the commissioners court of:

(A) subject to Paragraph (B), not less than $1,000 nor more than $10,000; or

(B) for a county judge presiding in the county court over guardianship proceedings, as defined by Section 1002.015, Estates Code, or over probate proceedings, as defined by Section 22.029, Estates Code, not less than:

(i) $100,000 for a court in a county with a population of 125,000 or less; or

(ii) $250,000 for a court in a county with a population of more than 125,000; and

(3) is conditioned that the judge will:

(A) faithfully perform all duties of office; and

(B) for a county judge presiding in the county court over guardianship or probate proceedings, perform the duties required by the Estates Code.

(b) The bond executed as required by Subsection (a) must be approved by the commissioners court.

(c) In lieu of the bond required by Subsection (a)(2)(B), a county may elect to obtain insurance against losses caused by the gross negligence of a county judge in performing the duties of office. The commissioners court of a county shall pay the premium for the insurance out of the general funds of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 515 (S.B. 40), Sec. 2, eff. September 1, 2017.

Sec. 26.002. TERMS; TERMS AND SESSIONS OF COURT FOLLOWING CERTAIN DISASTERS. (a) By order entered on its records, the commissioners court subject to Subsection (b-1) may fix the number of court terms, may set the times at which the terms shall be held, including the four terms required by the constitution, and may set the length of each term.

(b) Notwithstanding Subsection (a), the court must be open at all times for the transaction of probate business.

(b-1) Notwithstanding any other law, if a disaster, as defined by Section 418.004, precludes a county court from holding its terms in accordance with the order of the commissioners court, the presiding judge of the administrative judicial region, with the approval of the county judge, may designate the terms and sessions of court.

(c) All terms of court must be held at the county seat.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 149, Sec. 20, eff. Sept. 1, 1987. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 9, eff. June 7, 2019.

Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 10, eff. June 7, 2019.

Sec. 26.003. ADJOURNMENT OF COURT BY SHERIFF OR CONSTABLE. If the county judge fails to appear at the time appointed for holding court and a visiting judge is not appointed, the sheriff shall adjourn the court from day to day for three days. If the sheriff fails to adjourn the court, a constable shall do so. If the judge does not appear on the fourth day and no visiting judge is appointed, the sheriff or constable shall adjourn the court until the next regular term.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1388, Sec. 1, eff. Sept. 1, 1999.

Sec. 26.004. MINUTES OF COURT. (a) Each morning, the minutes

of the proceedings of the preceding day shall be read in open court. On the last day of the session, the minutes shall be read, corrected if necessary, and signed in open court by the county judge.

(b) A visiting judge shall sign the minutes of the proceedings before the visiting judge.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 602, Sec. 19(1), eff. June 19, 2009.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1388, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 602 (H.B. 585), Sec. 19(1), eff. June 19, 2009.

Sec. 26.005. SEAL. (a) Each county court shall be provided with a seal that has a star with five points engraved in the center. The seal must also have "County Court of _____ County, Texas" engraved on it.

(b) The seal shall be impressed on all process other than subpoenas issued out of the court and shall be used to authenticate the official acts of the county clerk and county judge. The seal may be created using electronic means, including by using an optical disk or another electronic reproduction technique, if the means by which the seal is impressed on an original document created using the same type of electronic means does not allow for changes, additions, or deletions to be made to the document.

(c) The signature of the county clerk may be affixed on an original document using electronic means, provided those means meet the requirements described by Subsection (b).

(d) A seal impressed or a signature affixed by electronic means may be delivered or transmitted electronically.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 946 (H.B. 1728), Sec. 3, eff. June 14, 2013.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see H.B. 2529, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 26.006. SALARY SUPPLEMENT FROM STATE FOR CERTAIN COUNTY JUDGES. (a) A county judge is entitled to an annual salary supplement from the state in an amount equal to 18 percent of the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a) if at least 18 percent of the:

(1) functions that the judge performs are judicial functions; or

(2) total hours that the judge works are in the performance of judicial functions.

(b) To receive a supplement under Subsection (a), a county judge must file with the comptroller's judiciary section an affidavit stating that at least 18 percent of the:

(1) functions that the judge performs are judicial functions; or

(2) total hours that the judge works are in the performance of judicial functions.

(c) The commissioners court in a county with a county judge who is entitled to receive a salary supplement under this section may not reduce the county funds provided for the salary or office of the county judge as a result of the salary supplement required by this section.

Added by Acts 1997, 75th Leg., ch. 1166, Sec. 3, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 1.08, eff. June 19, 1999; Acts 1999, 76th Leg., ch. 1572, Sec. 4, eff. Oct. 1, 1999. Amended by:

Acts 2005, 79th Leg., 2nd C.S., Ch. 3 (H.B. 11), Sec. 2, eff. December 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1353 (S.B. 497), Sec. 1, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 850 (S.B. 1025), Sec. 1, eff. June 17, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 7, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 2.12(a), eff. September 1, 2021.

Sec. 26.009. LOCATION OF PROCEEDINGS FOLLOWING CERTAIN DISASTERS. (a) Repealed by Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 17, eff. June 7, 2019.

(b) Notwithstanding any other law, including Section 26.002(c), if a disaster, as defined by Section 418.004, precludes the county court from conducting its proceedings at the county seat, the presiding judge of the administrative judicial region, with the approval of the judge of the affected county court, may designate for the proceedings an alternate location:

(1) in the county; or

(2) outside the county at the location the presiding judge determines is closest in proximity to the county seat that allows the court to safely and practicably conduct its proceedings, provided the presiding judge of the administrative judicial region for the designated location approves if that presiding judge is not the presiding judge making the designation.

Added by Acts 2007, 80th Leg., R.S., Ch. 1076 (H.B. 2766), Sec. 4, eff. June 15, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 11, eff. June 7, 2019.

Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 17, eff. June 7, 2019.

Sec. 26.010. APPOINTMENT OF COUNSEL IN CERTAIN APPEALS. (a) On a written application of any party to an eviction suit, the county court or county court at law in which an appeal of the suit is filed may appoint any qualified attorney who is willing to provide pro bono services in the matter or counsel from a list provided by a pro bono legal services program of counsel willing to be appointed to handle appeals under this section to attend to the cause of a party who:

(1) was in possession of the residence at the time the eviction suit was filed in the justice court; and

(2) has perfected the appeal on a pauper's affidavit approved in accordance with Rule 749a, Texas Rules of Civil Procedure.

(b) The appointed counsel shall represent the individual in the proceedings of the suit in the county court or county court at law.

At the conclusion of those proceedings, the appointment terminates.

(c) The court may terminate representation appointed under this section for cause.

(d) Appointed counsel may not receive attorney's fees unless the recovery of attorney's fees is provided for by contract, statute, common law, court rules, or other regulations. The county is not responsible for payment of attorney's fees to appointed counsel.

(e) The court shall provide for a method of service of written notice on the parties to an eviction suit of the right to request an appointment of counsel on perfection of appeal on approval of a pauper's affidavit.

Added by Acts 2009, 81st Leg., R.S., Ch. 1183 (H.B. 3637), Sec. 7, eff. September 1, 2009.
Added by Acts 2009, 81st Leg., R.S., Ch. 1351 (S.B. 408), Sec. 5, eff. September 1, 2009.

SUBCHAPTER B. APPOINTMENT OF VISITING JUDGE

Sec. 26.011. ASSIGNMENT OF VISITING JUDGE. If a county judge is absent, incapacitated, or disqualified in a civil or criminal case, the presiding judge shall appoint a visiting judge to hear the case in accordance with Subchapter C, Chapter 74.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1388, Sec. 4, eff. Sept. 1, 1999.

Sec. 26.012. ASSIGNMENT OF VISITING JUDGE FOR PROBATE, GUARDIANSHIP, AND MENTAL HEALTH MATTERS. (a) If the county judge is absent, incapacitated, recused, or disqualified to act in a probate, guardianship, or mental health matter, a visiting judge shall be assigned in accordance with Section 25.0022(h).

(b) Notwithstanding Section 25.0022(t)(4), a visiting judge may be assigned under this section if the judge has served as an active judge for at least 48 months in a statutory probate court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1388, Sec. 5, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 820, Sec. 2, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1031 (H.B. 1438), Sec. 35, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 383 (H.B. 103), Sec. 1, eff. September 1, 2023.

Sec. 26.015. VISITING JUDGE TO TAKE OATH. In addition to any oath previously taken, a person appointed as a visiting judge of a constitutional county court, including a person who is a retired, former, or active judge, shall take the oath of office required by the constitution.

Added by Acts 1995, 74th Leg., ch. 456, Sec. 4, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 782, Sec. 6, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1388, Sec. 6, eff. Sept. 1, 1999.

Sec. 26.016. RECORD. When a visiting judge is appointed, the clerk shall enter in the minutes as a part of the proceedings in the cause a record that gives the visiting judge's name and shows that:

(1) the judge of the court was disqualified, absent, or disabled to try the cause;

(2) the visiting judge was appointed; and

(3) in addition to any oath previously taken, the oath of office prescribed by law for the visiting judge, including a person who is a retired, former, or active judge, was duly administered to the visiting judge.

Added by Acts 1995, 74th Leg., ch. 456, Sec. 4, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 782, Sec. 6, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1388, Sec. 7, eff. Sept. 1, 1999.

Sec. 26.017. APPOINTMENT OF ACTING COUNTY JUDGE. (a) Upon the suspension of a constitutional county judge by the State Commission on Judicial Conduct under Section 1-a, Article V, Texas Constitution, the commissioners court may appoint a resident of the county to fill the office until the next term of that office or until the suspension ends, whichever event occurs first.

(b) The commissioners court shall compensate the acting judge by the day, week, or month in an amount equal to the compensation of

the regular judge. For budget amendment purposes under Chapter 111, Local Government Code, this requirement shall constitute an emergency.

Added by Acts 1995, 74th Leg., ch. 336, Sec. 1, eff. June 8, 1995. Renumbered from Government Code Sec. 26.015 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(31), eff. Sept. 1, 1997.

SUBCHAPTER C. APPOINTMENT OF VISITING JUDGES IN CERTAIN COUNTIES

Sec. 26.020. DEFINITION. In this subchapter, "former constitutional county judge" means a person who:

(1) served as a judge for at least 96 months in a constitutional county court; or

(2) served as a judge for at least 48 months in a constitutional county court and who is a licensed attorney in this state.

Added by Acts 2023, 88th Leg., R.S., Ch. 383 (H.B. 103), Sec. 2, eff. September 1, 2023.

Sec. 26.021. APPLICATION OF SUBCHAPTER. This subchapter applies only to a county in which:

(1) there is no statutory county court at law or statutory probate court; and

(2) all duties of the county court devolve on the county judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.022. APPOINTMENT FOR PARTICULAR MATTERS. (a) The county judge for good cause may at any time appoint a visiting judge with respect to any pending civil or criminal matter.

(b) The visiting judge may be appointed on motion of the court or on motion of any counsel of record in the matter. Each counsel of record is entitled to notice and hearing on the matter.

(c) To be appointed a visiting judge, a person must be agreed on by the counsels of record, if the counsels are able to agree.

(d) The motion for appointment and the order appointing the

visiting judge shall be noted on the docket. A written motion or order may be filed among the papers of the case.

(e) The visiting judge has the powers of the county judge in relation to the matter involved.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 782, Sec. 7, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1388, Sec. 9, eff. Sept. 1, 1999.

Sec. 26.023. APPOINTMENT FOR ABSENCE OF JUDGE. (a) The county judge may appoint a retired judge, former constitutional county judge, or a constitutional county judge from another county as a visiting judge when the county judge is absent from the county or absent because of physical incapacity.

(b) The visiting judge shall sit in all matters that are docketed on any of the county court's dockets and has the powers of the county judge in relation to the matter involved.

(c) Without the consent of the commissioners court, visiting judges appointed under this section may not sit for more than 15 working days during a calendar year.

(d) The order appointing the visiting judge shall be noted in the docket of the court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 811, Sec. 1, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 782, Sec. 8, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1388, Sec. 10, eff. Sept. 1, 1999.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 383 (H.B. 103), Sec. 3, eff. September 1, 2023.

Sec. 26.024. APPOINTMENT TO SHARE BENCH. (a) The county judge may appoint a retired judge, former constitutional county judge, or a constitutional county judge from another county as a visiting judge to share the bench if the county judge finds that the dockets of the county court reflect a case load that the county judge considers to be in excess of that which can be disposed of properly in a manner consistent with the efficient administration of justice.

(b) The visiting judge may share the bench for periods

authorized by the commissioners court.

(c) The visiting judge shall sit in those matters authorized by the county judge and has the powers of the county judge in relation to those matters.

(d) The order appointing the visiting judge shall be noted on the docket of the court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 811, Sec. 2, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 782, Sec. 9, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1388, Sec. 11, eff. Sept. 1, 1999.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 383 (H.B. 103), Sec. 4, eff. September 1, 2023.

Sec. 26.026. COMPENSATION OF VISITING JUDGE. A visiting judge appointed under this subchapter is entitled to compensation from the commissioners court for each day the judge sits as visiting judge at the rate according to law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1388, Sec. 12, eff. Sept. 1, 1999.

Sec. 26.027. NO ADMINISTRATIVE POWERS. A visiting judge appointed under this subchapter does not have the powers of the county judge as a member and presiding officer of the commissioners court or the powers of the county judge relating to the general administration of county business.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1388, Sec. 13, eff. Sept. 1, 1999.

Sec. 26.028. ATTORNEY RECOMMENDATIONS. The county judge shall consider the recommendations of attorneys of the court as to the implementation of this subchapter and the accomplishment of its purposes.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER D. JURISDICTION AND POWERS

Sec. 26.041. GENERAL JURISDICTION; CHANGES. A county court has the jurisdiction conferred by this subchapter and other law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.38, eff. Sept. 1, 1987.

Sec. 26.042. CIVIL JURISDICTION; JUVENILE JURISDICTION. (a) A county court has concurrent jurisdiction with the justice courts in civil cases in which the matter in controversy exceeds $200 in value but does not exceed $20,000, exclusive of interest.

(b) A county court has juvenile jurisdiction as provided by Section 23.001.

(c) If under Subchapter E a county court has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction, an appeal or writ of error may not be taken to the court of appeals from a final judgment of the county court in a civil case in which:

(1) the county court has appellate or original concurrent jurisdiction with the justice courts; and

(2) the judgment or amount in controversy does not exceed $250, exclusive of interest and costs.

(d) A county court has concurrent jurisdiction with the district court in civil cases in which the matter in controversy exceeds $500 but does not exceed $5,000, exclusive of interest.

(e) A county court has appellate jurisdiction in civil cases over which the justice courts have original jurisdiction in cases in which the judgment appealed from or the amount in controversy exceeds $250, exclusive of costs.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.39, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 745, Sec. 1, eff. June 20, 1987; Acts 1991, 72nd Leg., ch. 776, Sec. 1, eff. Sept. 1, 1991.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 383 (S.B. 618), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 553 (S.B. 1413), Sec. 1, eff.

September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1351 (S.B. 408), Sec. 6, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 31, eff. September 1, 2020.

Sec. 26.043. CIVIL MATTERS IN WHICH COUNTY COURT IS WITHOUT JURISDICTION. A county court does not have jurisdiction in:

(1) a suit to recover damages for slander or defamation of character;

(2) a suit for the enforcement of a lien on land;

(3) a suit in behalf of the state for escheat;

(4) a suit for divorce;

(5) a suit for the forfeiture of a corporate charter;

(6) a suit for the trial of the right to property valued at $500 or more and levied on under a writ of execution, sequestration, or attachment;

(7) an eminent domain case; or

(8) a suit for the recovery of land.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.40, eff. Sept. 1, 1987.

Sec. 26.044. CERTIORARI JURISDICTION. A county court has jurisdiction in cases brought from justice court by certiorari.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.045. ORIGINAL CRIMINAL JURISDICTION. (a) Except as provided by Subsection (c), a county court has exclusive original jurisdiction of misdemeanors other than misdemeanors involving official misconduct and cases in which the highest fine that may be imposed is $500 or less.

(b) Except as provided by Subsection (c), a county court has jurisdiction in the forfeiture and final judgment of bonds and recognizances taken in criminal cases within the court's jurisdiction.

(c) Except as provided by Subsections (d) and (f), a county

court that is in a county with a criminal district court does not have any criminal jurisdiction.

(d) A county court in a county with a population of 2.1 million or more has original jurisdiction over cases alleging a violation of Section 25.093, Education Code, or alleging truant conduct under Section 65.003(a), Family Code.

(e) Subsections (c) and (d) do not affect the jurisdiction of a statutory county court.

(f) A county court has concurrent jurisdiction with a municipal court in cases that arise in the municipality's extraterritorial jurisdiction and that arise under an ordinance of the municipality applicable to the extraterritorial jurisdiction under Section 216.902, Local Government Code.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.41, eff. Sept. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 45, Sec. 1, eff. Oct. 20, 1987; Acts 1991, 72nd Leg., ch. 108, Sec. 6, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 137, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 612 (H.B. 413), Sec. 11, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 148 (H.B. 734), Sec. 4, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 935 (H.B. 2398), Sec. 29, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 34, eff. September 1, 2023.

Sec. 26.046. APPELLATE CRIMINAL JURISDICTION. A county court has appellate jurisdiction in criminal cases of which justice courts and other inferior courts have original jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.047. HABEAS CORPUS. (a) A county court may issue a writ of habeas corpus in any case in which the constitution has not conferred the power on the district courts.

(b) On return of a writ of habeas corpus, the court may remand

to custody, admit to bail, or discharge the person imprisoned or detained, as the law and nature of the case require.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.048. MOTIONS AGAINST COURT OFFICERS. A county court may hear and determine any motion against the sheriff or another officer of the court for failure to pay money collected under process of the court or for other defalcation of duty in connection with a process of the court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.049. APPOINTMENT OF COUNSEL. The county judge may appoint counsel to represent a party who makes an affidavit that he is too poor to employ counsel.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.050. POWERS OF LAW AND EQUITY. Subject to the limitations stated in this chapter and in the constitution, a county court may hear and determine any cause in law or equity that a court of law or equity recognizes and may grant any relief that may be granted by a court of law or equity.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.051. WRIT POWER. A county judge, in either term time or vacation, may grant writs of mandamus, injunction, sequestration, attachment, garnishment, certiorari, and supersedeas and all other writs necessary to the enforcement of the court's jurisdiction.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 1.42, eff. Sept. 1, 1987.

Sec. 26.052. PROBATE AND MENTAL HEALTH CODE CASES. (a) In a

county in which the county court and any county court created by statute have jurisdiction in both probate matters and proceedings under Subtitle C, Title 7, Health and Safety Code, during each year for which a statement has been filed as provided by Subsection (b), those cases and proceedings must be filed in a county court created by statute with jurisdiction of those cases and proceedings.

(b) A county judge may file, not later than January 15 of each year, a statement with the county clerk electing not to hear probate matters and proceedings under Subtitle C, Title 7, Health and Safety Code.

Added by Acts 1991, 72nd Leg., ch. 746, Sec. 65, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 4.01, eff. Aug. 30, 1993.

SUBCHAPTER E. PROVISIONS RELATING TO PARTICULAR COUNTIES

Sec. 26.103. ANGELINA COUNTY. (a) The terms of the County Court of Angelina County begin on the second Mondays in January, April, July, and October and may continue for three weeks.

(b) The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.104. ARANSAS COUNTY. The County Court of Aransas County has no probate, juvenile, civil, or criminal jurisdiction.

Added by Acts 2001, 77th Leg., ch. 688, Sec. 2, eff. June 13, 2001.

Sec. 26.106. ARMSTRONG COUNTY. In addition to other jurisdiction provided by law, the County Court of Armstrong County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.107. ATASCOSA COUNTY. In addition to other jurisdiction provided by law, the County Court of Atascosa County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.109. BAILEY COUNTY. In addition to other jurisdiction provided by law, the County Court of Bailey County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.111. BASTROP COUNTY. (a) If the county judge is licensed to practice law in this state, the County Court of Bastrop County has jurisdiction concurrent with the County Court at Law of Bastrop County over all causes and proceedings, civil and criminal, juvenile and probate, original and appellate, over which by the constitution and general laws of this state county courts have jurisdiction.

(b) If the county judge is not licensed to practice law in this state, the County Court of Bastrop County has concurrent jurisdiction with the county court at law only in probate proceedings, administrations of estates, guardianship proceedings, mental illness proceedings, and juvenile jurisdiction as provided by Section 26.042(b).

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.22(a), eff. Sept. 1, 1987.

Sec. 26.112. BAYLOR COUNTY. The County Court of Baylor County has the general jurisdiction of a probate court, the general criminal jurisdiction of a county court, and jurisdiction over cases and proceedings involving protective orders but has no other civil jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1146, Sec. 2, eff. Sept. 1, 1999.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1075 (H.B. 3321), Sec. 1, eff. September 1, 2017.

Sec. 26.113. BEE COUNTY. In addition to other jurisdiction provided by law, the County Court of Bee County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.115. BEXAR COUNTY. The County Court of Bexar County has the general jurisdiction of a probate court and of a juvenile court as provided by Section 26.042(b) but has no other civil or criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.116. BLANCO COUNTY. (a) In addition to other jurisdiction provided by law, the County Court of Blanco County has original concurrent jurisdiction with the justice courts in all civil and criminal matters in which the justice courts have jurisdiction under general law.
(b) The terms of the county court begin on the first Mondays in January, May, August, and November and continue for six weeks or until the court has disposed of its business. The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Without reference to the 1985 repeal of V.T.C.S. Art. 1970-306, from which this section was derived, that article was also amended by Sec. 42, Ch. 159, Acts 69th Leg., 1985.
Sec. 26.119. BOWIE COUNTY. The County Court of Bowie County has the general jurisdiction of a probate court and juvenile

jurisdiction as provided by Section 26.042(b) but has no other civil or criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.122. BREWSTER COUNTY. (a) The terms of the County Court of Brewster County begin on the third Mondays in February, May, August, and November and continue until the court has disposed of its business.

(b) The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.126. BURLESON COUNTY. In addition to other jurisdiction provided by law, the County Court of Burleson County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.131. CAMERON COUNTY. The County Court of Cameron County has the general jurisdiction of a probate court but has no other civil or criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.134. CASS COUNTY. The County Court of Cass County has the general jurisdiction of a probate court but has no other civil or criminal jurisdiction except juvenile jurisdiction as provided by Section 26.042(b) and criminal jurisdiction to receive and enter guilty pleas in misdemeanor cases.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.135. CASTRO COUNTY. (a) The terms of the County Court of Castro County begin on the fourth Mondays in February, May, August, and November and continue until the court has disposed of its business.

(b) The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.140. COCHRAN COUNTY. In addition to other jurisdiction provided by law, the County Court of Cochran County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.143. COLLIN COUNTY. The County Court of Collin County has the general jurisdiction of a probate court but has no other civil or criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.144. COLLINGSWORTH COUNTY. In addition to other jurisdiction provided by law, the County Court of Collingsworth County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.145. COLORADO COUNTY. In addition to other jurisdiction provided by law, the County Court of Colorado County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.146. COMAL COUNTY. The County Court of Comal County has the general jurisdiction of a probate court and juvenile jurisdiction as provided by Section 26.042(b) but has no other civil or criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.149. COOKE COUNTY. (a) The County Court of Cooke County does not have probate, guardianship, mental health, juvenile, civil, criminal, or appellate jurisdiction.

(b) The judge of the County Court of Cooke County is exempt from the judicial training and instruction required under Chapter 22.

Added by Acts 2001, 77th Leg., ch. 535, Sec. 2, eff. Dec. 1, 2001.

Sec. 26.151. COTTLE COUNTY. The County Court of Cottle County has the general jurisdiction of a probate court, the general criminal jurisdiction of a county court, and jurisdiction over cases and proceedings involving protective orders but has no other civil jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1147, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1075 (H.B. 3321), Sec. 2, eff. September 1, 2017.

Sec. 26.154. CROSBY COUNTY. In addition to other jurisdiction provided by law, the County Court of Crosby County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.157. DALLAS COUNTY. The County Court of Dallas County

has no appellate criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.158. DAWSON COUNTY. In addition to other jurisdiction provided by law, the County Court of Dawson County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.159. DEAF SMITH COUNTY. In addition to other jurisdiction provided by law, the County Court of Deaf Smith County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.161. DENTON COUNTY. The County Court of Denton County has no probate, juvenile, civil, or criminal jurisdiction.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.23(a), eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, Sec. 66(a), eff. Oct. 1, 1991.

Sec. 26.163. DICKENS COUNTY. In addition to other jurisdiction provided by law, the County Court of Dickens County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.164. DIMMIT COUNTY. (a) The terms of the County Court of Dimmit County begin on the second Mondays in January, April, July, and October and may continue for three weeks.

(b) The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.167. EASTLAND COUNTY. The County Court of Eastland County has the general jurisdiction of a probate court but has no other civil jurisdiction except juvenile jurisdiction as provided by Section 26.042(b) and concurrent with the district court the criminal jurisdiction of a county court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 15, Sec. 2, eff. April 14, 1987.

Sec. 26.169. EDWARDS COUNTY. (a) In addition to other jurisdiction provided by law, the County Court of Edwards County has original concurrent jurisdiction with the justice courts in all civil and criminal matters in which the justice courts have jurisdiction under general law.

(b) The terms of the county court begin on the first Mondays in January, May, August, and November and continue until the Saturday before the Monday on which the next term begins. The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.171. EL PASO COUNTY. The County Court of El Paso County has the general jurisdiction of a probate court and juvenile jurisdiction as provided by Section 26.042(b) but has no other civil or criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.173. FALLS COUNTY. The County Court of Falls County has:

(1) the general jurisdiction of a probate court;

(2) juvenile jurisdiction as provided by Section 26.042(b);

and

(3) original and appellate jurisdiction in all matters over which county courts have jurisdiction under the constitution and laws of this state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.24(a), eff. Sept. 1, 1987.

Sec. 26.175. FAYETTE COUNTY. In addition to other jurisdiction provided by law, the County Court of Fayette County has the following jurisdiction concurrent with the district court if the county judge is licensed to practice law in this state and practiced law for at least two years before his appointment or election:

(1) jurisdiction over cases and proceedings under the Family Code;

(2) eminent domain jurisdiction; and

(3) civil jurisdiction in cases in which the matter in controversy exceeds $500 and does not exceed $20,000.

Added by Acts 1987, 70th Leg., ch. 523, Sec. 1, eff. June 17, 1987.

Sec. 26.176. FISHER COUNTY. In addition to other jurisdiction provided by law, the County Court of Fisher County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.180. FRANKLIN COUNTY. (a) The terms of the County Court of Franklin County begin on the second Mondays in January, April, July, and October and continue until the court has disposed of its business.

(b) The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.183. GAINES COUNTY. In addition to other jurisdiction provided by law, the County Court of Gaines County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.185. GARZA COUNTY. In addition to other jurisdiction provided by law, the County Court of Garza County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.186. GILLESPIE COUNTY. (a) In addition to other jurisdiction provided by law, the County Court of Gillespie County has original concurrent jurisdiction with the justice courts in all civil and criminal matters in which the justice courts have jurisdiction under general law.

(b) The terms of the county court begin on the first Mondays in January, May, August, and November and continue for six weeks or until the court has disposed of its business. The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.188. GOLIAD COUNTY. In addition to other jurisdiction provided by law, the County Court of Goliad County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.189. GONZALES COUNTY. In addition to other jurisdiction provided by law, the County Court of Gonzales County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general

law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.191. GRAYSON COUNTY. The County Court of Grayson County has the general jurisdiction of a probate court and juvenile jurisdiction as provided by Section 26.042(b) but has no other civil or criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.192. GREGG COUNTY. (a) The terms of the County Court of Gregg County begin on the second Mondays in January, April, July, and October and continue until the court has disposed of its business.

(b) The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.200. HARDIN COUNTY. (a) The terms of the County Court of Hardin County continue until the court has disposed of its business.

(b) The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.204. HASKELL COUNTY. In addition to other jurisdiction provided by law, the County Court of Haskell County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.206. HEMPHILL COUNTY. In addition to other

jurisdiction provided by law, the County Court of Hemphill County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.208. HIDALGO COUNTY. The County Court of Hidalgo County has the general jurisdiction of a probate court but has no other civil or criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.209. HILL COUNTY. (a) The County Court of Hill County has the general jurisdiction of a probate court and has concurrent original and appellate jurisdiction with the 66th District Court over civil and criminal matters within the jurisdiction of the county court.

(b) All civil and criminal matters within the jurisdiction of the county court must be filed with the district clerk in the district court.

(c) The judge of the 66th District Court shall act as presiding judge between the district and county courts and may assign to the county court original or appellate cases that are within the county court's jurisdiction and assign to a county court at law cases that are within the jurisdiction of the county court at law. The assignment shall be made by docket notation.

(d) The district clerk of Hill County shall perform all clerical functions of the county court as to matters within the concurrent jurisdiction of the county and district courts. The district clerk shall charge the fees set by law for county courts in any case within the courts' concurrent jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 959 (H.B. 1622), Sec. 3, eff. September 1, 2005.

Sec. 26.210. HOCKLEY COUNTY. In addition to other jurisdiction provided by law, the County Court of Hockley County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.218. IRION COUNTY. (a) In addition to other jurisdiction provided by law, the County Court of Irion County has original concurrent jurisdiction with the justice courts in all civil and criminal matters in which the justice courts have jurisdiction under general law.

(b) The terms of the county court begin on the first Mondays in January, May, August, and November and continue for six weeks or until the court has disposed of its business. The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.223. JEFFERSON COUNTY. (a) If the county judge is licensed to practice law in this state, the County Court of Jefferson County has jurisdiction concurrent with the County Court at Law of Jefferson County over all causes and proceedings, civil and criminal, juvenile and probate, original and appellate, over which by the constitution and general laws of this state county courts have jurisdiction.

(a-1) If the county judge is not licensed to practice law in this state, the County Court of Jefferson County has concurrent jurisdiction with the county courts at law in Jefferson County only in probate proceedings, administrations of estates, guardianship proceedings, mental illness proceedings, and juvenile matters as provided by Section 26.042(b).

(b) The terms of the county court continue until the court has disposed of its business. The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 3.08, eff.

September 1, 2015.

Sec. 26.226. JOHNSON COUNTY. The County Court of Johnson County has:

(1) the general jurisdiction of a probate court;

(2) juvenile jurisdiction as provided by Section 26.042(b); and

(3) original and appellate jurisdiction over all matters over which county courts have jurisdiction under the constitution and laws of this state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.26(a), eff. Sept. 1, 1987.

Sec. 26.227. JONES COUNTY. The County Court of Jones County has the general jurisdiction of a probate court and juvenile jurisdiction as provided by Section 26.042(b) but has no other civil or criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.228. KARNES COUNTY. In addition to other jurisdiction provided by law, the County Court of Karnes County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.232. KENT COUNTY. In addition to other jurisdiction provided by law, the County Court of Kent County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.233. KERR COUNTY. (a) The terms of the County Court

of Kerr County continue for three weeks or until the court has disposed of its business.

(b) The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.234. KIMBLE COUNTY. In addition to other jurisdiction provided by law, the County Court of Kimble County has original concurrent jurisdiction with the justice courts in all civil and criminal matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.235. KING COUNTY. The County Court of King County has the general jurisdiction of a probate court, the general criminal jurisdiction of a county court, and jurisdiction over cases and proceedings involving protective orders but has no other civil jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1495, Sec. 2, eff. Sept. 1, 1999. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1075 (H.B. 3321), Sec. 3, eff. September 1, 2017.

Sec. 26.238. KNOX COUNTY. The County Court of Knox County has the general jurisdiction of a probate court, the general criminal jurisdiction of a county court, and jurisdiction over cases and proceedings involving protective orders but has no other civil jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1148, Sec. 2, eff. Sept. 1, 1999. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1075 (H.B. 3321), Sec. 4, eff. September 1, 2017.

Sec. 26.240. LAMB COUNTY. In addition to other jurisdiction provided by law, the County Court of Lamb County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.241. LAMPASAS COUNTY. (a) The terms of the County Court of Lampasas County begin on the second Mondays in January, April, July, and October and continue until the business is completed.

(b) The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.244. LEE COUNTY. In addition to other jurisdiction provided by law, the County Court of Lee County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.252. LUBBOCK COUNTY. The County Court of Lubbock County has the general jurisdiction of a probate court and juvenile jurisdiction as provided by Section 26.042(b) but has no other civil or criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.253. LYNN COUNTY. In addition to other jurisdiction provided by law, the County Court of Lynn County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.256. MCMULLEN COUNTY. In addition to other jurisdiction provided by law, the County Court of McMullen County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.258. MARION COUNTY. The County Court of Marion County has the general jurisdiction of a probate court, general criminal jurisdiction, and juvenile jurisdiction as provided by Section 26.042(b) but has no other civil jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., ch. 187, Sec. 1, eff. Sept. 1, 2003.

Sec. 26.260. MASON COUNTY. The County Court of Mason County has:

(1) the general jurisdiction of a probate court;

(2) juvenile jurisdiction as provided by Section 26.042(b); and

(3) original and appellate jurisdiction in all matters over which county courts have jurisdiction under the constitution and general laws of this state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.28(a), eff. Sept. 1, 1987.

Sec. 26.261. MATAGORDA COUNTY. (a) The terms of the County Court of Matagorda County begin on the third Mondays in February, May, August, and November and continue until the court has disposed of its business.

(b) The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.264. MENARD COUNTY. (a) In addition to other jurisdiction provided by law, the County Court of Menard County has original concurrent jurisdiction with the justice courts in all civil and criminal matters in which the justice courts have jurisdiction under general law.

(b) The terms of the county court begin on the first Mondays in January, May, August, and November and continue for six weeks or until the business is completed. The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.267. MILLS COUNTY. The County Court of Mills County has the general jurisdiction of a probate court, general criminal jurisdiction, and juvenile jurisdiction as provided by Section 26.042(b), but has no other civil jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.268. MITCHELL COUNTY. In addition to other jurisdiction provided by law, the County Court of Mitchell County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.272. MORRIS COUNTY. The County Court of Morris County has the general jurisdiction of a probate court, general criminal jurisdiction, and juvenile jurisdiction as provided by Section 26.042(b) but has no other civil jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.274. NACOGDOCHES COUNTY. The County Court of Nacogdoches County has no probate, criminal, or civil jurisdiction except juvenile jurisdiction as provided by Section 26.042(b).

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.275. NAVARRO COUNTY. The County Court of Navarro County has the general jurisdiction of a probate court, general criminal jurisdiction, and juvenile jurisdiction as provided by Section 26.042(b) but has no other civil jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.278. NUECES COUNTY. The County Court of Nueces County has the general jurisdiction of a probate court but has no other civil or criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.280. OLDHAM COUNTY. (a) The terms of the County Court of Oldham County begin on the fourth Mondays in February, May, August, and November and continue until the court has disposed of its business.

(b) The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.285. PARMER COUNTY. In addition to other jurisdiction provided by law, the County Court of Parmer County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.291. RANDALL COUNTY. In addition to other jurisdiction

provided by law, the County Court of Randall County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.292. REAGAN COUNTY. In addition to other jurisdiction provided by law, the County Court of Reagan County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.294. RED RIVER COUNTY. (a) The County Court of Red River County has:

(1) the general jurisdiction of a probate court;

(2) jurisdiction to enter orders providing for the support of deserted wives or children, pendente lite, and to punish violations of those orders;

(3) juvenile jurisdiction as provided by Section 26.042(b); and

(4) original criminal jurisdiction.

(b) The county court has no other civil jurisdiction or appellate criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.295. REEVES COUNTY. The County Court of Reeves County has juvenile jurisdiction as provided by Section 26.042(b) but has no other probate, criminal, or civil jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.298. ROBERTSON COUNTY. The County Court of Robertson County has:

(1) the general jurisdiction of a probate court;

(2) juvenile jurisdiction as provided by Section 26.042(b);

and

(3) original and appellate jurisdiction in all matters over which county courts have jurisdiction under the constitution and general laws of this state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.29(a), eff. Sept. 1, 1987.

Sec. 26.302. SABINE COUNTY. (a) The County Court of Sabine County has the general jurisdiction of a probate court, general criminal jurisdiction, and juvenile jurisdiction as provided by Section 26.042(b) but has no other civil jurisdiction.

(b) The terms of the County Court of Sabine County begin on the second Mondays in January, April, July, and October and may continue for three weeks. The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.303. SAN AUGUSTINE COUNTY. The County Court of San Augustine County has the general jurisdiction of a probate court, general criminal jurisdiction, and juvenile jurisdiction as provided by Section 26.042(b) but has no other civil jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.307. SCHLEICHER COUNTY. In addition to other jurisdiction provided by law, the County Court of Schleicher County has original concurrent jurisdiction with the justice courts in all civil and criminal matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.308. SCURRY COUNTY. In addition to other jurisdiction provided by law, the County Court of Scurry County has original concurrent jurisdiction with the justice courts in all civil matters

in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.309. SHACKELFORD COUNTY. The County Court of Shackelford County has the general jurisdiction of a probate court and juvenile jurisdiction as provided by Section 26.042(b) but has no other civil or criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.314. STARR COUNTY. In addition to other jurisdiction provided by law, the County Court of Starr County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.315. STEPHENS COUNTY. (a) In addition to other jurisdiction provided by law, the County Court of Stephens County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

(b) The district clerk shall maintain the records of the County Court of Stephens County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 3.002, eff. September 1, 2023.

Sec. 26.316. STERLING COUNTY. In addition to other jurisdiction provided by law, the County Court of Sterling County has original concurrent jurisdiction with the justice courts in all civil and criminal matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.317. STONEWALL COUNTY. (a) In addition to other jurisdiction provided by law, the County Court of Stonewall County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

(b) The terms of the county court continue until the court has disposed of its business. The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.320. TARRANT COUNTY. The County Court of Tarrant County has the general jurisdiction of a probate court and juvenile jurisdiction as provided by Section 26.042(b) but has no other criminal or civil jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.321. TAYLOR COUNTY. The County Court of Taylor County has the general jurisdiction of a probate court and juvenile jurisdiction as provided by Section 26.042(b) but has no other criminal or civil jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 71, Sec. 1, eff. May 2, 1993.

Sec. 26.323. TERRY COUNTY. In addition to other jurisdiction provided by law, the County Court of Terry County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.327. TRAVIS COUNTY. The County Court of Travis County

has the general jurisdiction of a probate court but has no other civil or criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.328. TRINITY COUNTY. (a) The terms of the County Court of Trinity County begin on the first Mondays in January, April, July, and October and may continue for three weeks.

(b) The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.330. UPSHUR COUNTY. (a) The County Court of Upshur County has the general jurisdiction of a probate court and has concurrent jurisdiction with the district court in all other matters over which county courts are given jurisdiction by the constitution and general laws of this state.

(b) All civil and criminal matters within the concurrent jurisdiction of the county and district courts must be filed with the county clerk in the county court.

(c) The county judge shall act as presiding judge between the county and district courts and may assign to the district court original or appellate cases that are within the concurrent jurisdiction of the courts. The assignment shall be made by docket notation.

(d) The county clerk shall perform all clerical functions of the county court as to matters within the concurrent jurisdiction of the county and district courts. The county clerk shall charge the fees set by law for county courts in any case within the courts' concurrent jurisdiction.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.30(a), eff. Sept. 1, 1987.

Sec. 26.336. WALKER COUNTY. The County Court of Walker County has the general jurisdiction of a probate court and juvenile jurisdiction as provided by Section 26.042(b) but has no other civil

or criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.337. WALLER COUNTY. The County Court of Waller County has the general jurisdiction of a probate court but has no other civil or criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.339. WASHINGTON COUNTY. The County Court of Washington County has the general jurisdiction of a probate court but has no other civil or criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 943, Sec. 10, eff. Aug. 31, 1987.

Sec. 26.340. WEBB COUNTY. The County Court of Webb County has the general jurisdiction of a probate court and juvenile jurisdiction as provided by Section 26.042(b) but has no other civil or criminal jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.342. WHEELER COUNTY. In addition to other jurisdiction provided by law, the County Court of Wheeler County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.343. WICHITA COUNTY. (a) The County Court of Wichita County has general criminal jurisdiction, the general jurisdiction of a probate court, and juvenile jurisdiction as provided by Section 26.042(b) but has no other civil jurisdiction except as prescribed by Subsection (b).

(b) The county court has jurisdiction over cases involving child neglect or dependency proceedings and may punish contempt growing out of or ancillary to those cases if the county judge:

(1) has the qualifications required of a district judge; and

(2) is designated by the Wichita County Juvenile Board as judge of the juvenile court.

(c) With the county judge's approval a district court in Wichita County may transfer to the county court a case involving juvenile delinquency, child neglect, or dependency proceedings.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.351. YOAKUM COUNTY. In addition to other jurisdiction provided by law, the County Court of Yoakum County has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction under general law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 26.353. ZAPATA COUNTY. (a) The terms of the County Court of Zapata County begin on the third Mondays in February, May, September, and November and continue for three weeks or until the court has disposed of its business.

(b) The commissioners court may change the court terms under Section 26.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

CHAPTER 27. JUSTICE COURTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 27.001. BOND. Each justice of the peace must give a bond payable to the county judge, in an amount of not more than $5,000, and conditioned that the justice will:

(1) faithfully and impartially discharge the duties required by law; and

(2) promptly pay to the entitled party all money that comes into the justice's hands during the term of office.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 27.002. COMMISSION; NOTARY. Each justice of the peace shall be commissioned as justice of the peace of the applicable precinct and ex officio notary public of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 27.003. EFFECT OF PRECINCT BOUNDARY CHANGES. A person who has served as justice of the peace of a precinct for 10 or more consecutive years preceding a change in boundaries of the precinct is not ineligible for reelection in the precinct because of residence outside the precinct as long as the justice's residence is within the boundaries of the precinct as they existed before the change.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 27.004. RECORDS AND OTHER PROPERTY. (a) Each justice shall arrange and safely keep all dockets, books, and papers transmitted to the justice by the justice's predecessors in office, and all papers filed in a case in justice court, subject to the public access requirements prescribed by Rule 12, Rules of Judicial Administration.

(a-1) If a person vacates the office of justice of the peace, the person shall transfer all court records, documents, property, and unfinished business to the person's successor on the date the successor takes office. After the transfer, the business of the office must be completed as if the successor had begun the business.

(b) A person who has possession of dockets, books, or papers belonging to the office of any justice of the peace shall deliver them to the justice on demand. If the person refuses to deliver them, on a motion supported by an affidavit, the person may be attached and imprisoned by the order of the county judge until the person makes delivery. The county judge may issue the order in termtime or vacation. The person against whom the motion is made must be given three days' notice of the motion before the person may be attached.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2005, 79th Leg., Ch. 711 (S.B. 436), Sec. 1, eff. September 1, 2005.

Sec. 27.005. EDUCATIONAL REQUIREMENTS. (a) For purposes of removal under Chapter 87, Local Government Code, "incompetency" in the case of a justice of the peace includes the failure of the justice to successfully complete:

(1) within one year after the date the justice is first elected:

(A) an 80-hour course in the performance of the justice's duties; and

(B) the course described by Article 17.024(a)(1), Code of Criminal Procedure;

(2) each following year, a 20-hour course in the performance of the justice's duties, including not less than 10 hours of instruction regarding substantive, procedural, and evidentiary law in civil matters; and

(3) each following state fiscal biennium, the course described by Article 17.024(a)(2), Code of Criminal Procedure.

(b) The courses may be completed in an accredited state-supported school of higher education.

(c) A course described by Subsection (a)(1)(A) may include a course described by Subsection (a)(1)(B).

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 802, Sec. 1, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 147, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 5.01(a), eff. January 1, 2012.
Acts 2021, 87th Leg., 2nd C.S., Ch. 11 (S.B. 6), Sec. 15, eff. January 1, 2022.

Sec. 27.006. COLLECTING DEBT FOR ANOTHER; OFFENSE. (a) A justice commits an offense if the justice:

(1) accepts for collection or undertakes the collection of

a claim for a debt for another, unless the justice acts under a law that prescribes the duties of the justice; or

(2) accepts compensation not prescribed by law for accepting for collection or undertaking the collection of a claim for debt for another.

(b) An offense under Subsection (a) is a misdemeanor punishable by a fine of not less than $200 or more than $500.

(c) In addition to the fine, the justice may be removed from office.

(d) This section does not prohibit a justice who is authorized by law to act for others in the collection of debts from undertaking to collect a debt for another if the amount of the debt is beyond the jurisdiction of the justice court.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 9, eff. Sept. 1, 1993.

SUBCHAPTER B. JURISDICTION AND POWERS

Sec. 27.031. JURISDICTION.

(a) In addition to the jurisdiction and powers provided by the constitution and other law, the justice court has original jurisdiction of:

(1) civil matters in which exclusive jurisdiction is not in the district or county court and in which the amount in controversy is not more than $20,000, exclusive of interest;

(2) cases of forcible entry and detainer; and

(3) foreclosure of mortgages and enforcement of liens on personal property in cases in which the amount in controversy is otherwise within the justice court's jurisdiction.

(b) A justice court does not have jurisdiction of:

(1) a suit in behalf of the state to recover a penalty, forfeiture, or escheat;

(2) a suit for divorce;

(3) a suit to recover damages for slander or defamation of character;

(4) a suit for trial of title to land; or

(5) a suit for the enforcement of a lien on land.

(c) A justice court has concurrent jurisdiction with a municipal court in cases that arise in the municipality's extraterritorial jurisdiction and that arise under an ordinance of

the municipality applicable to the extraterritorial jurisdiction under Section 216.902, Local Government Code.

(d) A corporation need not be represented by an attorney in justice court.

(e) A justice court has concurrent jurisdiction with a district court and a municipal court of record over expunction proceedings relating to the arrest of a person for an offense punishable by fine only.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 745, Sec. 2, eff. June 20, 1987; Acts 1991, 72nd Leg., ch. 776, Sec. 2, eff. Sept. 1, 1991.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 383 (S.B. 618), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 612 (H.B. 413), Sec. 12, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. 1119), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(18), eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 1149 (H.B. 557), Sec. 6, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 372 (H.B. 1631), Sec. 3, eff. June 2, 2019.

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 32, eff. September 1, 2020.

Sec. 27.032. EXTRAORDINARY REMEDIES. A justice of the peace may issue writs of attachment, garnishment, and sequestration within the justice's jurisdiction in the same manner as judges and clerks of the district and county courts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 27.033. OTHER POWERS. A justice of the peace may:

(1) exercise jurisdiction over other matters cognizable before a justice of the peace under any law of this state; and

(2) proceed with all unfinished business of the office as

if the business had been originally begun before that justice.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 27.034. DEED RESTRICTION JURISDICTION. (a) A justice court has jurisdiction of suits relating to enforcement of a deed restriction of a residential subdivision that does not concern a structural change to a dwelling.

(b) The petitioner in a dispute concerning a deed restriction shall present as evidence at the first hearing in the dispute:

(1) a certified copy of the deed or other document that establishes the restriction on the property; and

(2) other documents necessary to demonstrate that the restriction applies to the property in dispute.

(c) In a dispute concerning a deed restriction, a justice of the peace may order any alternative method of dispute resolution provided by Title 7, Civil Practice and Remedies Code.

(d) The jurisdiction provided by this section is concurrent with the jurisdiction of the district court.

(e) A justice court has jurisdiction of suits under this section regardless of the amount in controversy.

(f) In a dispute concerning a deed restriction, a justice of the peace may consolidate disputes relating to the same issues and parties.

(g) An appeal under this section is by trial de novo.

(h) In this section, "deed restriction" means one or more restrictive covenants contained or incorporated by reference in a properly recorded deed, map, plat, replat, declaration, or other instrument filed in the real property records, map records, or deed records of the county in which the property is located.

(i) In this section, a "dwelling" does not include an external structure such as a carport, fence, storage building, or unattached garage.

(j) Nothing in this section authorizes a justice of the peace to grant a writ of injunction.

Added by Acts 1995, 74th Leg., ch. 1022, Sec. 1, eff. June 17, 1995. Amended by Acts 1997, 75th Leg., ch. 136, Sec. 1, eff. May 19, 1997; Acts 1999, 76th Leg., ch. 672, Sec. 1, eff. June 18, 1999.

SUBCHAPTER C. CONDUCTING COURT AND INQUESTS

Sec. 27.051. TERMS OF COURT; PLACE FOR HOLDING COURT. (a) Each justice shall hold a term of court for civil business once each month and may transact such business out of termtime as is authorized by law.

(b) Each justice shall hold the regular term of court at the justice's office at times prescribed by the commissioners court. The commissioners court shall set the time and place for holding justice court.

(c) A justice may hold court from day to day until all business is disposed of or may adjourn the court or trial of a case to a particular day.

(d) If the regular term does not begin on the day set by law, the court is considered adjourned until its next regular term.

(e) If the justice precinct in which the courthouse is located has more than 75,000 inhabitants, the commissioners court shall provide and furnish a suitable place in the courthouse for the justice of that precinct to hold court.

(f) A justice of the peace of a precinct in a county with a population of less than 30,000 may hold court in the county courthouse or another facility provided under Section 292.002(a), Local Government Code, for that purpose. If requested by the justice, the commissioners court of the county may provide and furnish a suitable place in the courthouse or another facility provided under Section 292.002(a), Local Government Code, for the justice to hold court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 1223, Sec. 1, eff. June 16, 1989; Acts 1993, 73rd Leg., ch. 825, Sec. 2, eff. Sept. 1, 1993.

Sec. 27.0515. LOCATION FOR COURT PROCEEDINGS AND TERMS AND SESSIONS OF COURT FOLLOWING CERTAIN DISASTERS. (a) Notwithstanding any other law, if a disaster, as defined by Section 418.004, precludes a justice court from conducting its proceedings at a location in the court's precinct or in the county seat of that county, the presiding judge of the administrative judicial region in which the county is located, with the approval of the justice of the affected justice court, may designate for the proceedings an

alternate location:

(1) in the county; or

(2) outside the county at the location the presiding judge determines is closest in proximity to the court's precinct that allows the court to safely and practicably conduct its proceedings, provided the presiding judge of the administrative judicial region for the designated location approves if that presiding judge is not the presiding judge making the designation.

(b) Notwithstanding any other law, if a disaster, as defined by Section 418.004, precludes a justice court from holding its terms in accordance with the times prescribed by the commissioners court, the presiding judge of the administrative judicial region, with the approval of the justice of the affected justice court, may designate the terms and sessions of court.

Added by Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 12, eff. June 7, 2019.

Sec. 27.052. VACANCY OR ABSENCE. If the office of justice of the peace is vacant in a precinct or if the justice is absent or unable or unwilling to perform his duties, the nearest justice in the county may temporarily perform the duties of the office.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 27.054. EXCHANGE OF BENCHES. (a) A justice of the peace may hold court for any other justice in any county at the request of that justice.

(b) The justices of any county may exchange benches for a period not to exceed five days if they consider it expedient.

(c) A justice who exchanges benches with another justice is not entitled to receive compensation from the commissioners court of the county in which the regular justice serves.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 1164 (H.B. 3441), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1610, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 27.0545. EXCHANGE OF BENCHES: INQUESTS. (a) If a justice of the peace or the county judge of a county to which Subchapter A, Chapter 49, Code of Criminal Procedure, applies is not available to conduct an inquest into a person's death occurring in the county, the justice of the peace of the precinct in which the death occurred or the county judge may request a justice of the peace of another county to which that subchapter applies to conduct the inquest.

(b) A justice of the peace who on request conducts an inquest under this section shall, not later than the fifth day after the date the inquest is initiated, transfer all information related to the inquest to the justice of the peace of the precinct in which the death occurred for final disposition of the matter.

(c) A justice of the peace who conducts an inquest under this section is not entitled to receive from the commissioners court of the county in which the death occurred any compensation, other than mileage, for conducting the inquest.

Added by Acts 2017, 85th Leg., R.S., Ch. 84 (H.B. 799), Sec. 2, eff. September 1, 2017.

Sec. 27.055. SPECIAL AND TEMPORARY JUSTICES. (a) If a justice of the peace is disqualified from a civil case, is sick, or is absent from the precinct, the parties may agree on a person to try the case. If the parties fail to agree at the first term of the court after service is perfected, the county judge shall, on application of the justice or either party, appoint a qualified person to try the case. The disqualification, absence, or illness of the justice and the selection by agreement or appointment of another person to try the case shall be noted on the docket of the justice.

(b) If a justice is temporarily unable to perform official duties because of absence, recusal, illness, injury, or other disability, the county judge, on the judge's own motion or at the request of the justice of the peace, may appoint a qualified person to serve as temporary justice for the duration of the absence of the justice of the peace from the bench. The commissioners court shall compensate the temporary justice by the day, week, or month in an

amount equal to the compensation of the regular justice. If the temporary justice is also serving as a justice of the peace in another justice precinct in the county, the commissioners court may authorize reimbursement for the mileage expenses incurred in performing the official duties of the temporary justice's appointment, notwithstanding Chapter 152, Local Government Code. A temporary justice has all the rights and powers of the justice of the peace while serving in that capacity but may not make personnel decisions about, or significant changes in, the justice of the peace's office.

(c) In this section, "qualified person" means a person who has served as a justice of the peace, county judge, or the judge of a county court at law for not less than four years and who has not been convicted of a criminal offense that involves moral turpitude.

(d) A person appointed under Subsection (b) or (f) may reside in a county other than the county in which the person is appointed as a temporary justice of the peace.

(e) The county judge may appoint any qualified voter under Section 11.002, Election Code, who has experience and knowledge relevant to judicial or justice court processes and procedures and is approved by the county judge and a justice of the peace in the county, to serve as a temporary justice of the peace if the judge cannot find a qualified person who agrees to serve under this section.

(f) In a county that has a population of more than 800,000 and that has not more than five justices of the peace, the county judge may appoint a qualified person to serve as a temporary justice of the peace to hold court when necessary to dispose of accumulated business in the precinct. The county judge may designate the local administrative statutory county court judge to act on behalf of the county judge in making the appointment under this subsection.

(g) This subsection applies to a county with a population of at least 135,000 but not more than 145,000, with territory less than 940 square miles that includes a state park, and with not more than two justice precincts provided that at least one of the precincts contains all or part of a municipality with a population of at least 195,000 but not more than 205,000. The county judge of a county to which this subsection applies may appoint a qualified person to serve as a temporary justice of the peace for the precinct within which a municipality or part of a municipality is located to hold court and

perform the duties of the justice when necessary to dispose of accumulated business in the precinct.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 716, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2005, 79th Leg., Ch. 1326 (H.B. 3519), Sec. 1, eff. September 1, 2005.
Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 7.01, eff. September 1, 2015.
Acts 2017, 85th Leg., R.S., Ch. 236 (H.B. 431), Sec. 1, eff. May 29, 2017.
Acts 2019, 86th Leg., R.S., Ch. 1151 (H.B. 3081), Sec. 1, eff. September 1, 2019.
Acts 2021, 87th Leg., R.S., Ch. 343 (H.B. 2430), Sec. 1, eff. September 1, 2021.
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 35, eff. September 1, 2023.

Sec. 27.056. CLERK. (a) Each justice of the peace may designate one or more persons to serve as clerk of the justice court.
(b) The clerk may administer oaths and affidavits and make certificates and affix the court's seal to those certificates.
(c) The clerk shall:
(1) maintain central docket records for all cases filed in the justice court;
(2) maintain an index of all court judgments for cases arising in the justice court; and
(3) perform the other duties required by law and assist the judge in handling matters before the court.

Added by Acts 1989, 71st Leg., ch. 802, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 96, Sec. 1, eff. Sept. 1, 1995.

Sec. 27.057. CITATION. A clerk of a justice court may issue citation in the manner provided for justices of the peace by the Texas Rules of Civil Procedure.

Added by Acts 1989, 71st Leg., ch. 802, Sec. 3, eff. Sept. 1, 1989.

Sec. 27.058. CIVIL DOCKET. Information in the civil docket of a justice of the peace may be processed and stored by the use of electronic data processing equipment, at the discretion of the justice.

Added by Acts 1991, 72nd Leg., ch. 776, Sec. 3, eff. Sept. 1, 1991.

Sec. 27.059. JUSTICE OF THE PEACE SEAL. (a) The commissioners court shall furnish to each justice of the peace a seal that has a star with five points in the center. The seal must also have "Justice Court, _____ County, Texas" and any applicable precinct number on it.

(b) The seal may be attached to all process other than subpoenas issued out of the justice court and may be used to authenticate the official acts of the justice clerk and the justice of the peace.

(c) The seal may be affixed by a seal press or stamp that embosses or prints the seal.

Added by Acts 1991, 72nd Leg., ch. 747, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 27.058 by Acts 1991, 72nd Leg., 1st C.S., ch. 14, Sec. 8.01(12), eff. Nov. 12, 1991.

Sec. 27.060. SMALL CLAIMS. (a) A justice court shall conduct proceedings in a small claims case, as that term is defined by the supreme court, in accordance with rules of civil procedure promulgated by the supreme court to ensure the fair, expeditious, and inexpensive resolution of small claims cases.

(b) Except as provided by Subsection (c), rules of the supreme court must provide that:

(1) if both parties appear, the judge shall proceed to hear the case;

(2) formal pleadings other than the statement are not required;

(3) the judge shall hear the testimony of the parties and the witnesses that the parties produce and shall consider the other evidence offered;

(4) the hearing is informal, with the sole objective being to dispense speedy justice between the parties;

(5) discovery is limited to that considered appropriate and permitted by the judge; and

(6) the judge shall develop the facts of the case, and for that purpose may question a witness or party and may summon any party to appear as a witness as the judge considers necessary to a correct judgment and speedy disposition of the case.

(c) The rules of the supreme court must provide specific procedures for an action by:

(1) an assignee of a claim or other person seeking to bring an action on an assigned claim;

(2) a person primarily engaged in the business of lending money at interest; or

(3) a collection agency or collection agent.

(d) The rules adopted by the supreme court may not:

(1) require that a party in a case be represented by an attorney;

(2) be so complex that a reasonable person without legal training would have difficulty understanding or applying the rules; or

(3) require that discovery rules adopted under the Texas Rules of Civil Procedure or the Texas Rules of Evidence be applied except to the extent the justice of the peace hearing the case determines that the rules must be followed to ensure that the proceeding is fair to all parties.

(e) A committee established by the supreme court to recommend rules to be adopted under this section must include justices of the peace.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 5.02, eff. August 31, 2013.

Sec. 27.061. RULES OF ADMINISTRATION. The justices of the peace in each county shall, by majority vote, adopt local rules of administration.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 5.03, eff. January 1, 2012.

CHAPTER 29. MUNICIPAL COURTS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 29.001. DEFINITION. In this chapter, "municipality" means an incorporated city, town, or village.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 29.002. CREATION. A municipal court is created in each municipality. A reference in state law to a "corporation court" means a "municipal court."

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 304, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 29.003. JURISDICTION. (a) A municipal court, including a municipal court of record, shall have exclusive original jurisdiction within the municipality's territorial limits and property owned by the municipality located in the municipality's extraterritorial jurisdiction in all criminal cases that:

(1) arise under:

(A) the ordinances of the municipality; or

(B) a resolution, rule, or order of a joint board operating an airport under Section 22.074, Transportation Code; and

(2) are punishable by a fine not to exceed:

(A) $2,000 in all cases arising under municipal ordinances or resolutions, rules, or orders of a joint board that govern fire safety, zoning, or public health and sanitation, other than the dumping of refuse;

(B) $4,000 in cases arising under municipal ordinances that govern the dumping of refuse; or

(C) $500 in all other cases arising under a municipal ordinance or a resolution, rule, or order of a joint board.

(b) The municipal court has concurrent jurisdiction with the justice court of a precinct in which the municipality is located in all criminal cases arising under state law that arise within the municipality's territorial limits or property owned by the

municipality located in the municipality's extraterritorial jurisdiction and that:

(1) are punishable only by a fine, as defined in Subsection (c); or

(2) arise under Chapter 106, Alcoholic Beverage Code, and do not include confinement as an authorized sanction.

(c) In this section, an offense which is punishable by "fine only" is defined as an offense that is punishable by fine and such sanctions, if any, as authorized by statute not consisting of confinement in jail or imprisonment.

(d) The fact that a conviction in a municipal court has as a consequence the imposition of a penalty or sanction by an agency or entity other than the court, such as a denial, suspension, or revocation of a privilege, does not affect the original jurisdiction of the municipal court.

(e) The municipal court has jurisdiction in the forfeiture and final judgment of all bail bonds and personal bonds taken in criminal cases of which the court has jurisdiction.

(f) This section does not affect the powers given exclusively to a joint board operating an airport under Section 22.074(d), Transportation Code.

(g) Repealed by Acts 2019, 86th Leg., R.S., Ch. 372 (H.B. 1631), Sec. 6(1), eff. June 2, 2019.

(h) A municipality with a population of 1.19 million or more and another municipality contiguous to that municipality may enter into an agreement providing concurrent jurisdiction for the municipal courts of either jurisdiction for all criminal cases arising from offenses under state law that are:

(1) committed on the boundary of those municipalities or in one or both of the following areas:

(A) within 200 yards of that boundary; or

(B) within 2.25 miles of that boundary on a segment of highway in the state highway system that traverses a major water supply reservoir; and

(2) punishable by fine only.

(i) A municipality may enter into an agreement with a contiguous municipality or a municipality with boundaries that are within one-half mile of the municipality seeking to enter into the agreement to establish concurrent jurisdiction of the municipal courts in the municipalities and provide original jurisdiction to a

municipal court in which a case is brought as if the municipal court were located in the municipality in which the case arose, for:

(1) all cases in which either municipality has jurisdiction under Subsection (a) or (b); and

(2) cases that arise under Section 821.022, Health and Safety Code, or Section 65.003(a), Family Code.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.32(a), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 641, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 680, Sec. 3, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 108, Sec. 7, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 449, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 533, Sec. 3, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1013, Sec. 40, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 611, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 660, Sec. 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 1122, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. 1119), Sec. 3, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 230 (S.B. 1504), Sec. 3, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 76 (H.B. 984), Sec. 1, eff. May 19, 2011.

Acts 2015, 84th Leg., R.S., Ch. 680 (H.B. 274), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 935 (H.B. 2398), Sec. 30, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1154 (S.B. 631), Sec. 2, eff. June 19, 2015.

Acts 2017, 85th Leg., R.S., Ch. 1004 (H.B. 1264), Sec. 3, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 372 (H.B. 1631), Sec. 6(1), eff. June 2, 2019.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 3.05, eff. September 1, 2021.

Sec. 29.004. JUDGE. (a) The judge and alternate judges of the

municipal court in a home-rule city are selected under the municipality's charter provisions relating to the election or appointment of judges. The judge shall be known as the "judge of the municipal court" unless the municipality by charter provides for another title.

(b) In a general-law city, the mayor is ex officio judge of the municipal court unless the municipality by ordinance authorizes the election of the judge or provides for the appointment and qualifications of the judge. If the municipality authorizes an election, the judge shall be elected in the manner and for the same term as the mayor. If the municipality authorizes the appointment, the mayor ceases to be judge on the enactment of the ordinance. The first elected or appointed judge serves until the expiration of the mayor's term.

(c) If a general-law municipality changes the method of judicial selection from election to appointment, the first appointee takes office on the expiration of the term of the previously elected judge.

(d) A reference in the laws of this state to a "recorder" means a "judge of the municipal court."

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 29.005. TERM OF OFFICE. The judge of a municipal court serves for a term of office of two years unless the municipality provides for a longer term pursuant to Article XI, Section 11, of the Texas Constitution. A municipal court judge who is not reappointed by the 91st day following the expiration of a term of office shall, absent action by the appointing authority, continue to serve for another term of office beginning on the date the previous term of office expired.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 764, Sec. 1, eff. Jan. 1, 1994.

Sec. 29.006. TEMPORARY REPLACEMENT IN GENERAL-LAW MUNICIPALITIES. If a municipal judge of a municipality incorporated under the general laws of this state is temporarily unable to act, the governing body may appoint one or more persons meeting the

qualifications for the position to sit for the regular municipal judge. The appointee has all powers and duties of the office and is entitled to compensation as set by the governing body.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 29.007. MUNICIPAL COURT PANELS OR DIVISIONS; TEMPORARY JUDGES. (a) A home-rule city by charter or by ordinance may divide the municipal court into two or more panels or divisions, one of which shall be presided over by a presiding judge. Each additional panel or division shall be presided over by an associate judge, who is a magistrate with the same powers as the presiding judge.

(b) The panels or divisions may hold concurrent or continuous sessions either day or night.

(c) Each panel or division may exercise municipal court jurisdiction and has concurrent jurisdiction with the other panels or divisions.

(d) Except as otherwise provided by the charter, the municipality by ordinance may establish:

(1) the qualifications for appointment as a judge;

(2) the ability of a judge to transfer cases, exchange benches, and preside over any of the panels or divisions;

(3) the office of the municipal court clerk, who shall serve as clerk of all the panels or divisions with the assistance of deputy clerks as needed; and

(4) a system for the filing of complaints with the municipal court clerk so that the case load is equally distributed among the panels or divisions.

(e) Except as modified by this section, procedure before a panel or division and appeal from the decision of a panel or division is governed by general law applicable to municipal courts.

(f) If the municipality has established the office of municipal court clerk, the clerk shall keep minutes of the proceedings of the municipal court and its panels or divisions, administer oaths, issue process, and generally perform the duties for the municipal court that a county clerk performs for a county court.

(g) The municipality may provide by charter or by ordinance for the appointment of one or more temporary judges to serve if the regular judge, the presiding judge, or an associate judge is

temporarily unable to act. A temporary judge must have the same qualifications as the judge he replaces and has the same powers and duties as that judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 29.010. CLERK. (a) In a municipality that provides for the election of a municipal judge, the municipal court clerk is elected in the same manner unless by ordinance the city secretary serves as clerk. A city secretary who serves as clerk may be authorized to appoint a deputy clerk.

(b) The clerk serves a two-year term of office unless the municipality provides for a longer term pursuant to Article XI, Section 11, of the Texas Constitution. If the city secretary serves as clerk, that person serves as clerk during the term as city secretary.

(c) The clerk shall keep minutes of the proceedings of the court, issue process, and generally perform the duties for the municipal court that a county clerk performs for a county court.

(d) Subsection (a) does not apply to a home-rule municipality that provides by charter for the appointment of the clerk.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 774, Sec. 1, eff. Sept. 1, 1991.

Sec. 29.011. VACANCY. The governing body of the municipality shall by appointment fill a vacancy in the office of municipal judge or clerk for the remainder of the unexpired term of office only.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 29.013. REPORT TO TEXAS JUDICIAL COUNCIL. (a) The secretary of the municipality in a municipality with a municipal court, including a municipal court of record, or the employee responsible for maintaining the records of the municipality's governing body shall notify the Texas Judicial Council of the name of:

(1) each person who is elected or appointed as mayor,

municipal court judge, or clerk of a municipal court; and

(2) each person who vacates an office described by Subdivision (1).

(b) The secretary or employee shall notify the judicial council not later than the 30th day after the date of the person's election or appointment to office or vacancy from office.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1184 (H.B. 3475), Sec. 2, eff. September 1, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1324 (S.B. 480), Sec. 3, eff. June 17, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 29.014. COURT SECURITY COMMITTEE. (a) The presiding or municipal judge, as applicable, shall establish a court security committee composed of:

(1) the presiding or municipal judge, or the judge's designee;

(2) a representative of the law enforcement agency or other entity that provides the primary security for the court;

(3) a representative of the municipality; and

(4) any other person the committee determines necessary to assist the committee.

(b) The person described by Subsection (a)(1) serves as presiding officer of the committee.

(c) The committee shall establish the policies and procedures necessary to provide adequate security to the municipal courts served by the presiding or municipal judge, as applicable.

(d) A committee may recommend to the municipality the uses of resources and expenditures of money for courthouse security, but may not direct the assignment of those resources or the expenditure of those funds.

Added by Acts 2017, 85th Leg., R.S., Ch. 190 (S.B. 42), Sec. 3, eff. September 1, 2017.

Sec. 29.015. LOCATION FOR COURT PROCEEDINGS AND TERMS AND SESSIONS OF COURT FOLLOWING CERTAIN DISASTERS. (a) Notwithstanding any other law, if a disaster, as defined by Section 418.004, precludes a municipal court from conducting its proceedings at the location assigned for the proceedings, the presiding judge of the administrative judicial region, with the approval of the judge of the affected municipal court, may designate for the proceedings an alternate location:

(1) in the corporate limits of the municipality; or

(2) outside the corporate limits of the municipality at the location the presiding judge determines is closest in proximity to the municipality that allows the court to safely and practicably conduct its proceedings, provided the presiding judge of the administrative judicial region for the designated location approves if that presiding judge is not the presiding judge making the designation.

(b) Notwithstanding any other law, if a disaster, as defined by Section 418.004, precludes a municipal court from holding its terms, the presiding judge of the administrative judicial region, with the approval of the judge of the affected municipal court, may designate the terms and sessions of court.

Added by Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 13, eff. June 7, 2019.

SUBCHAPTER A-1. RECUSAL OR DISQUALIFICATION OF MUNICIPAL JUDGES

Sec. 29.051. DEFINITIONS. In this chapter:

(1) "Active judge" means a person who holds office as a district court judge or statutory county court judge.

(2) "Presiding judge" means the presiding judge of a municipal court, including a municipal court of record.

(3) "Regional presiding judge" means the presiding judge of the administrative judicial region appointed under Section 74.005.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1184 (H.B. 3475), Sec. 1, eff. September 1, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1324 (S.B. 480), Sec. 2, eff. June 17, 2011.

Sec. 29.052. MOTION FOR RECUSAL OR DISQUALIFICATION. (a) A party in a hearing or trial in a municipal court, including a municipal court of record, may file with the clerk of the court a motion stating grounds for the recusal or disqualification of the municipal judge. The grounds may include any disability of the judge to preside over the case.

(b) A motion for the recusal or disqualification of a municipal judge must:

(1) be filed at least 10 days before the date of the hearing or trial, except as provided by Subsection (c);

(2) be verified; and

(3) state with particularity the alleged grounds for recusal or disqualification of the judge based on:

(A) personal knowledge that is supported by admissible evidence; or

(B) specifically stated grounds for belief of the allegations.

(c) A motion for recusal or disqualification must be filed at the earliest practicable time before the beginning of the trial or other hearing if a judge is assigned to a case 10 or fewer days before the date set for a trial or hearing.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1184 (H.B. 3475), Sec. 1, eff. September 1, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1324 (S.B. 480), Sec. 2, eff. June 17, 2011.

Sec. 29.053. NOTICE. A party filing a motion for recusal or disqualification under this subchapter shall serve on all other parties or their counsel:

(1) copies of the motion; and

(2) notice that the movant expects the motion to be presented to the judge three days after the filing of the motion unless the judge orders otherwise.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1184 (H.B. 3475), Sec. 1, eff. September 1, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1324 (S.B. 480), Sec. 2, eff. June 17, 2011.

Sec. 29.054. STATEMENT OPPOSING OR CONCURRING WITH MOTION. A party may file with the clerk of the court a statement opposing or concurring with a motion for recusal or disqualification at any time before the motion is heard.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1184 (H.B. 3475), Sec. 1, eff. September 1, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1324 (S.B. 480), Sec. 2, eff. June 17, 2011.

Sec. 29.055. PROCEDURE FOLLOWING FILING OF MOTION; RECUSAL OR DISQUALIFICATION WITHOUT MOTION. (a) Before further proceedings in a case in which a motion for the recusal or disqualification of a municipal judge has been filed, the judge shall:

(1) recuse or disqualify himself or herself; or

(2) request the regional presiding judge to assign a judge to hear the motion.

(b) A municipal judge who with or without a motion recuses or disqualifies himself or herself:

(1) shall enter an order of recusal or disqualification and:

(A) if the municipal judge is not the presiding judge, request the presiding judge to assign any other judge of the municipal court, including the presiding judge, to hear the case;

(B) if the municipal judge is the presiding judge, request the regional presiding judge to assign another judge of the municipal court to hear the case; or

(C) if the municipal judge serves in a municipality with only one municipal judge, request the regional presiding judge to assign a judge of another municipal court in the county to hear the case; and

(2) may not take other action in the case, except that a judge who recuses himself or herself for good cause may take other action as stated in the order in which the action is taken.

(c) A municipal judge who does not recuse or disqualify himself or herself:

(1) shall forward, in original form or certified copy, an order of referral, the motion, and all opposing and concurring statements to the regional presiding judge; and

(2) may not take other action in the case during the time after the filing of the motion for recusal or disqualification and before a hearing on the motion, except for good cause stated in the order in which the action is taken.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1184 (H.B. 3475), Sec. 1, eff. September 1, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1324 (S.B. 480), Sec. 2, eff. June 17, 2011.

Sec. 29.056. HEARING ON MOTION. (a) A regional presiding judge who receives a request for the assignment of a judge to hear a motion to recuse or disqualify shall:

(1) immediately set a hearing before the regional presiding judge, an active judge, or a judge on the list of judges who are eligible to serve on assignment under Section 74.055;

(2) cause notice of the hearing to be given to all parties or their counsel; and

(3) make any other orders, including orders on interim or ancillary relief in the pending cause as justice may require.

(b) A judge who hears a motion for recusal or disqualification under Subsection (a) may also hear any amended or supplemented motion for recusal or disqualification filed in the case.

(c) If none of the parties to an action object, a hearing under Subsection (a) or (b) may be conducted by telephone.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1184 (H.B. 3475), Sec. 1, eff. September 1, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1324 (S.B. 480), Sec. 2, eff. June 17, 2011.

Sec. 29.057. PROCEDURE FOLLOWING GRANTING OF MOTION. (a) If a motion for recusal or disqualification is granted after a hearing is conducted as provided by Section 29.056, the judge who heard the motion shall enter an order of recusal or disqualification, and:

(1) if the judge who was the subject of the motion is not the presiding judge, request that the presiding judge assign any other judge of the municipality, including the presiding judge, to hear the case;

(2) if the judge who was the subject of the motion is the presiding judge, request the regional presiding judge to assign another judge of the municipality to hear the case; or

(3) if the judge subject to recusal or disqualification is located in a municipality with only one municipal judge, request the regional presiding judge to assign a judge of another municipal court in the county to hear the case.

(b) If the presiding judge is unable to assign a judge of the municipality to hear a case when a municipal judge is recused or disqualified under Section 29.055 or 29.056 because there are not any other municipal judges in the municipality or because all the municipal judges have been recused or disqualified or are otherwise unavailable to hear the case, the presiding judge shall request the regional presiding judge to first assign a municipal judge from another municipality in the county or, if necessary, assign a municipal judge from a municipality in an adjacent county to hear the case.

(c) If the regional presiding judge is unable to assign a judge to hear a case when a municipal judge is recused or disqualified under Section 29.055 or 29.056 because there are not any other municipal judges in the county or because all the municipal judges have been recused or disqualified or are otherwise unavailable to hear the case, the regional presiding judge may assign a municipal judge from a municipality in an adjacent county to hear the case.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1184 (H.B. 3475), Sec. 1, eff. September 1, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1324 (S.B. 480), Sec. 2, eff. June 17, 2011.

Sec. 29.058. APPEAL. (a) After a municipal court of record has rendered a final judgment in a case, a party may appeal an order that denies a motion for recusal or disqualification as an abuse of the court's discretion.

(b) A party may not appeal an order that grants a motion for recusal or disqualification.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1184 (H.B. 3475), Sec. 1, eff. September 1, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1324 (S.B. 480), Sec. 2,

eff. June 17, 2011.

Sec. 29.059. CONTEMPT. If a party files a motion to recuse or disqualify under this subchapter and it is determined by the judge hearing the motion, at the hearing and on motion of the opposing party, that the motion to recuse or disqualify is brought solely for the purpose of delay and without sufficient cause, the judge may in the interest of justice find the party filing the motion in contempt under Section 21.002(c).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1184 (H.B. 3475), Sec. 1, eff. September 1, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1324 (S.B. 480), Sec. 2, eff. June 17, 2011.

Sec. 29.060. COMPENSATION. (a) An active judge who is assigned to hear a motion to recuse or disqualify a municipal judge under this subchapter is not entitled to additional compensation other than travel expenses. A judge assigned to hear a motion to recuse or disqualify who is not an active judge is entitled to:

(1) compensation of $450 per day of service, prorated for any day for which the judge provides less than a full day of service; and

(2) travel expenses.

(b) A municipal judge assigned under this subchapter to hear a case in a court other than the one in which the judge resides or serves is entitled to compensation provided by law for judges in similar cases and travel expenses.

(c) The municipality in which a case subject to this subchapter is pending shall pay the compensation and travel expenses due or incurred under this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1184 (H.B. 3475), Sec. 1, eff. September 1, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1324 (S.B. 480), Sec. 2, eff. June 17, 2011.

SUBCHAPTER B. MUNICIPAL COURTS IN CERTAIN CITIES

Sec. 29.101. MUNICIPALITY OF MORE THAN 250,000. (a) A municipality with a population of more than 250,000 may by ordinance establish two municipal courts. With the confirmation of the governing body of the municipality, the mayor may appoint two or more judges for the courts and may designate the seniority of the judges.

(b) Either or both of the courts may hold concurrent or continuous sessions either day or night.

(c) Each court may exercise municipal court jurisdiction and has concurrent jurisdiction with the other municipal courts.

(d) The municipality by ordinance may establish:

(1) the qualifications for appointment as a municipal judge;

(2) the ability of a judge to transfer cases, exchange benches, and preside over any of the municipal courts;

(3) the office of the municipal court clerk, who shall serve as clerk of all the municipal courts with the assistance of deputy clerks as needed; and

(4) a system for the filing of complaints with the municipal court clerk so that the case load is equally distributed among the courts.

(e) Except as modified by this section, procedure before each of the courts and appeal from a decision of either of the courts are governed by general law applicable to municipal courts.

(f) This section supersedes any municipal charter provision that conflicts with this section.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 29.102. MUNICIPALITY OF 130,001 TO 285,000. (a) An incorporated municipality with a population of 130,001 to 285,000 by ordinance may establish up to four additional municipal courts. The judge of each additional court must meet the same qualifications and be selected in the same manner as provided in the city charter for the judges of the existing municipal courts. If the charter provides for the election of municipal judges, the governing body of the municipality may appoint a person to serve as judge in each newly created court until the next regular city election.

(b) The courts may hold concurrent or continuous sessions either day or night.

(c) Each court may exercise municipal court jurisdiction and has concurrent jurisdiction with the other municipal courts.

(d) Except as otherwise provided by the charter, the governing body by ordinance may establish:

(1) the qualifications for appointment as a municipal judge;

(2) the ability of a judge to transfer cases, exchange benches, and preside over any of the municipal courts;

(3) the office of the municipal court clerk, who shall serve as clerk of all the municipal courts with the assistance of deputy clerks as needed; and

(4) a system for the filing of complaints with the municipal court clerk so that the case load is equally distributed among the courts.

(e) Except as modified by this section, procedure before each of the courts and appeal from a decision of any of the courts are governed by general law applicable to municipal courts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 29.103. MUNICIPAL COURTS IN EL PASO. (a) The City of El Paso by ordinance may establish additional municipal courts as needed. The judge of each additional court must meet the same qualifications and be selected in the same manner as provided in the city charter for the judges of the existing municipal courts. If the charter provides for the election of municipal judges, the governing body of the municipality may appoint a person to serve as judge in each newly created court until the next regular city election.

(b) The courts may hold concurrent or continuous sessions either day or night.

(c) Each court may exercise municipal court jurisdiction and has concurrent jurisdiction with the other municipal courts.

(d) Except as otherwise provided by the charter, the governing body may by ordinance establish:

(1) the qualifications for appointment as a municipal judge;

(2) the ability of a judge to transfer cases, exchange benches, and preside over any of the municipal courts;

(3) the office of the municipal court clerk, who shall

serve as clerk of all the municipal courts with the assistance of deputy clerks as needed; and

(4) a system for the filing of complaints with the municipal court clerk so that the case load is equally distributed among the courts.

(e) Except as modified by this section, procedure before each of the courts and appeal from a decision of any of the courts are governed by general law applicable to municipal courts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 29.104. MUNICIPAL COURT PROCEEDINGS OUTSIDE CORPORATE LIMITS. The municipal court of a municipality with a population of 3,500 or less may conduct its proceedings within the corporate limits of a contiguous incorporated municipality.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 380 (H.B. 3561), Sec. 1, eff. June 14, 2013.

Sec. 29.105. MUNICIPAL COURT PROCEEDINGS IN MUNICIPALITY PARTICIPATING IN POLICE DEPARTMENT CONTRACT. A municipality that contracts with one or more municipalities for the operation of a joint police department may conduct its municipal court proceedings within the municipal limits of any municipality that is a party to the contract.

Added by Acts 1995, 74th Leg., ch. 741, Sec. 1, eff. June 15, 1995.

CHAPTER 30. MUNICIPAL COURTS OF RECORD

SUBCHAPTER A. GENERAL LAW FOR MUNICIPAL COURTS OF RECORD

Sec. 30.00001. SHORT TITLE; APPLICATION. (a) This chapter may be cited as the Uniform Municipal Courts of Record Act.

(b) This subchapter applies to:

(1) each municipality listed in this chapter; and

(2) each other municipality in which the governing body of the municipality has created a municipal court of record as

authorized by Section 30.00003.

(c) If a provision of this subchapter conflicts with a specific provision for a particular municipality, the specific provision controls.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.481 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1127, Sec. 1, eff. Sept. 1, 2003.

Sec. 30.00002. DEFINITIONS. In this subchapter:

(1) "Appellate court" means:

(A) the county criminal court, the county criminal court of appeals, or the municipal court of appeals; or

(B) the county court at law if there is no county criminal court, county criminal court of appeals, or municipal court of appeals.

(2) "Governing body" means the legislative body of a municipality, without regard to the name or title given to any particular body.

(3) "Municipality" means an incorporated city, town, or village.

(4) "Presiding judge" means the presiding municipal judge, chief judge, or administrative judge.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.482 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Sec. 30.00003. CREATION OF MUNICIPAL COURTS OF RECORD. (a) The governing body may by ordinance create a municipal court of record if the governing body determines that the creation of the court is necessary to provide a more efficient disposition of the cases arising in the municipality.

(b) The ordinance may establish as many municipal courts of record as needed as determined by the governing body.

(c) Except as provided by Subsection (d), the ordinance shall

give each court a numerical designation, beginning with "Municipal Court of Record No. 1."

(d) If a municipality has a unified court of record, that court shall be the "Municipal Court of Record in the City of (name of municipality)" and the municipality may establish by ordinance divisions, beginning with "Division No. 1."

(e) A municipal court of record may not exist concurrently with a municipal court that is not a municipal court of record in the municipality.

(f) A municipal court of record has no terms and may sit for any time for the transaction of business of the court.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.483 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Sec. 30.00004. ABOLITION OF COURT. If the governing body of the city finds that a municipal court of record is unnecessary, the governing body shall by ordinance declare the office of the municipal judge vacant at the end of the term for which the judge was last selected. Any cases then pending shall be transferred to a court with proper jurisdiction of the offense.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.484 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Sec. 30.00005. JURISDICTION. (a) A municipal court of record has the jurisdiction provided by general law for municipal courts.

(b) The court has jurisdiction over criminal cases arising under ordinances authorized by Sections 215.072, 217.042, 341.903, and 551.002, Local Government Code.

(c) The governing body may by ordinance provide that the court has concurrent jurisdiction with a justice court in any precinct in which the municipality is located in criminal cases that arise within the territorial limits of the municipality and are punishable only by fine.

(d) The governing body of a municipality by ordinance may provide that the court has:

(1) civil jurisdiction for the purpose of enforcing municipal ordinances enacted under Subchapter A, Chapter 214, Local Government Code, or Subchapter E, Chapter 683, Transportation Code;

(2) concurrent jurisdiction with a district court or a county court at law under Subchapter B, Chapter 54, Local Government Code, within the municipality's territorial limits and property owned by the municipality located in the municipality's extraterritorial jurisdiction for the purpose of enforcing health and safety and nuisance abatement ordinances; and

(3) authority to issue:

(A) search warrants for the purpose of investigating a health and safety or nuisance abatement ordinance violation; and

(B) seizure warrants for the purpose of securing, removing, or demolishing the offending property and removing the debris from the premises.

(e) The court has concurrent jurisdiction with a district court and a justice court over expunction proceedings relating to the arrest of a person for an offense punishable by fine only.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.485 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1093, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(1), eff. April 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 1149 (H.B. 557), Sec. 7, eff. September 1, 2017.

Sec. 30.00006. JUDGE. (a) A municipal court of record is presided over by one or more municipal judges.

(b) The governing body shall by ordinance appoint its municipal judges.

(c) A municipal judge must:

(1) be a resident of this state;

(2) be a citizen of the United States;

(3) be a licensed attorney in good standing; and

(4) have two or more years of experience in the practice of law in this state.

(d) The governing body shall provide by ordinance for the term of office of its municipal judges. The term must be for a definite term of two or four years.

(e) The municipal judge shall take judicial notice of state law and the ordinances and corporate limits of the municipality. The judge may grant writs of mandamus, attachment, and other writs necessary to the enforcement of the jurisdiction of the court and may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court. A municipal judge is a magistrate and may issue administrative search warrants.

(f) The municipal judges within a municipality may exchange benches and act for each other in any proceeding pending in the courts. An act performed by any of the judges is binding on all parties to the proceeding.

(g) A person may not serve as a municipal judge if the person is employed by the same municipality. A municipal judge who accepts employment with the municipality vacates the judicial office.

(h) The governing body shall determine the salary of a municipal judge. The amount of a judge's salary may not be diminished during the judge's term of office. The salary may not be based directly or indirectly on fines, fees, or costs collected by the court.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.486 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 30.00007. PRESIDING JUDGE. (a) If there is more than one municipal judge in the municipality, the governing body of the municipality shall appoint one of the judges as the presiding judge.

(b) The presiding judge shall:

(1) maintain a central docket for cases filed within the

territorial limits of the municipality over which the municipal courts of record have jurisdiction;

(2) provide for the distribution of cases from the central docket to the individual municipal judges to equalize the distribution of business in the courts;

(3) request the jurors needed for cases that are set for trial by jury;

(4) temporarily assign judges or substitute judges to exchange benches and to act for each other in a proceeding pending in a court if necessary for the expeditious disposition of business in the courts;

(5) supervise and control the operation and clerical functions of the administrative department of each court, including the court's personnel, during the proceedings of the court; and

(6) establish a court security committee to adopt security policies and procedures for the courts served by the presiding judge that is composed of:

(A) the presiding judge, or the presiding judge's designee, who serves as presiding officer of the committee;

(B) a representative of the law enforcement agency or other entity that provides the primary security for the court;

(C) a representative of the municipality; and

(D) any other person the committee determines necessary to assist the committee.

(c) A court security committee may recommend to the governing body the uses of resources and expenditures of money for courthouse security, but may not direct the assignment of those resources or the expenditure of those funds.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.486 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Redesignated from Sec. 30.00006(d), (e) by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 190 (S.B. 42), Sec. 4, eff. September 1, 2017.

Sec. 30.00008. VACANCIES: TEMPORARY REPLACEMENT. (a) If a

vacancy occurs in the office of municipal judge of a court of record, the governing body shall by ordinance or charter provide for the appointment of a qualified person to fill the office for the remainder of the unexpired term.

(b) The governing body may appoint one or more qualified persons to be available to serve for a municipal judge who is temporarily absent due to illness, family death, continuing legal or judicial education programs, or any other reason. The presiding judge, or the municipal judge if there is no presiding judge, shall select one of the qualified persons appointed by the governing body to serve during the absence of a municipal judge. The substitute judge, while serving as a municipal judge, has all the powers and shall discharge all the duties of a municipal judge. A substitute judge must meet the qualifications prescribed for the municipal judge.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 34, eff. Sept. 1, 1989. Renumbered from Government Code Sec. 30.487 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Renumbered from Sec. 30.00007 and amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Sec. 30.000085. REMOVAL OF JUDGE. A municipal judge of a general law municipality may be removed from office at any time for the reasons stated and by the procedure provided for the removal of members of a municipal governing body in Subchapter B, Chapter 21, Local Government Code. A municipal judge of a home-rule municipality may be removed from office by the governing body for the reasons stated and by the procedures provided for the removal of judges in the charter of the municipality or, if the charter does not provide for the removal of judges, as provided by Section 1-a, Article V, Texas Constitution, or by the procedure provided for the removal of members of a municipal governing body in Subchapter B, Chapter 21, Local Government Code.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 402, Sec. 19, eff. Sept. 1, 2001.

Sec. 30.00009. CLERK; OTHER PERSONNEL. (a) The governing body shall by ordinance provide for the appointment of a clerk of the municipal courts of record. The municipal clerk shall keep the records of the municipal courts of record, issue process, and generally perform the duties that a clerk of a county court at law exercising criminal jurisdiction performs for that court. In addition, the clerk shall maintain an index of all court judgments in the same manner as county clerks are required by law to prepare for criminal cases arising in county courts.

(b) The governing body may provide deputy clerks, warrant officers, and other personnel as needed for the proper operation of the courts.

(c) The clerk and other court personnel perform their duties under the direction and control of the presiding judge.

(d) The governing body shall by ordinance provide for the hiring, direction, supervision, and removal of the personnel authorized in the annual budget for the clerk's office.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.488 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Renumbered from Sec. 30.00008 and amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Sec. 30.00010. COURT REPORTER. (a) The municipality shall provide a court reporter to preserve a record in cases tried before a municipal court of record. The court reporter must meet the qualifications provided by law for official court reporters. The reporter shall be compensated by the municipality in the manner determined by the governing body.

(b) The court reporter may use written notes, transcribing equipment, video or audio recording equipment, or a combination of those methods to record the proceedings of the court. The reporter shall keep the record for the 20-day period beginning the day after the last day of the proceeding, trial, or denial of motion for new trial, or until any appeal is final, whichever occurs last.

(c) The court reporter is not required to record testimony in a case unless the judge or one of the parties requests a record.

(d) Instead of providing a court reporter, the governing body

may provide that the proceedings may be recorded by a good quality electronic recording device. If the governing body authorizes the electronic recording, the court reporter is not required to be present to certify the reporter's record. The recording shall be kept for the 20-day period beginning the day after the last day of the court proceeding, trial, or denial of motion for new trial, whichever occurs last. If a case is appealed, the proceedings shall be transcribed from the recording by an official court reporter.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.489 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Renumbered from Sec. 30.00009 and amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 37 (S.B. 1014), Sec. 1, eff. May 9, 2005.

Sec. 30.00011. PROSECUTIONS. All prosecutions in municipal courts of record shall be conducted as provided by Article 45A.005, Code of Criminal Procedure.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.490 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Renumbered from Sec. 30.00010 and amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.056, eff. January 1, 2025.

Sec. 30.00012. COURT FACILITIES. The governing body shall provide courtrooms, jury rooms, offices, office furniture, libraries, law books, and other facilities and supplies that the governing body determines are necessary for the proper operation of the municipal courts of record.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Sec. 30.000123. LOCATION OF COURT PROCEEDINGS AND TERMS AND SESSIONS OF COURT FOLLOWING CERTAIN DISASTERS. (a) Notwithstanding any other law, if a disaster, as defined by Section 418.004, precludes a municipal court of record from conducting its proceedings at the location assigned for the proceedings, the presiding judge of the administrative judicial region, with the approval of the judge of the affected municipal court of record, may designate for the proceedings an alternate location:

(1) in the corporate limits of the municipality; or

(2) outside the corporate limits of the municipality at the location the presiding judge determines is closest in proximity to the municipality that allows the court to safely and practicably conduct its proceedings, provided the presiding judge of the administrative judicial region for the designated location approves if that presiding judge is not the presiding judge making the designation.

(b) Notwithstanding any other law, if a disaster, as defined by Section 418.004, precludes a municipal court of record from holding its terms, the presiding judge of the administrative judicial region, with the approval of the judge of the affected municipal court of record, may designate the terms and sessions of court.

Added by Acts 2019, 86th Leg., R.S., Ch. 507 (S.B. 40), Sec. 14, eff. June 7, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 30.000125. SEAL. (a) The governing body shall provide each municipal court of record with a seal.

(b) The seal's appearance and use must substantially conform to Article 45.02, Code of Criminal Procedure, but must include the phrase "Municipal Court of/in _____, Texas."

Added by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature,

Regular Session, for amendments affecting the following section.

Sec. 30.000126. COMPLAINT; PLEADING. Complaints and pleadings must substantially conform to the relevant provisions of Chapters 27 and 45, Code of Criminal Procedure.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Sec. 30.00013. JURY. (a) Ordinances, rules, and procedures concerning a trial by a jury, including the summoning of jurors, must substantially conform to Chapter 45A, Code of Criminal Procedure.

(b) The presiding judge, the municipal court clerk, or the court administrator, as determined by ordinance, shall supervise the selection of persons for jury service.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.492 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Renumbered from Sec. 30.00012 and amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.057, eff. January 1, 2025.

Sec. 30.00014. APPEAL. (a) A defendant has the right of appeal from a judgment or conviction in a municipal court of record. The state has the right to appeal as provided by Article 44.01, Code of Criminal Procedure. The county criminal courts or county criminal courts of appeal in the county in which the municipality is located or the municipal courts of appeal have jurisdiction of appeals from a municipal court of record. If there is no county criminal court, county criminal court of appeal, or municipal court of appeal, the county courts at law have jurisdiction of an appeal. If a county does not have a county court at law under Chapter 25, the county court has jurisdiction of any appeal.

(b) The appellate court shall determine each appeal from a municipal court of record conviction and each appeal from the state on the basis of the errors that are set forth in the appellant's motion for new trial and that are presented in the clerk's record and reporter's record prepared from the proceedings leading to the

conviction or appeal. An appeal from the municipal court of record may not be by trial de novo.

(c) To perfect an appeal, the appellant must file a written motion for new trial with the municipal clerk not later than the 10th day after the date on which judgment is rendered. The motion must set forth the points of error of which the appellant complains. The motion or an amended motion may be amended by leave of court at any time before action on the motion is taken, but not later than the 20th day after the date on which the original or amended motion is filed. The court may for good cause extend the time for filing or amending, but the extension may not exceed 90 days from the original filing deadline. If the court does not act on the motion before the expiration of the 30 days allowed for determination of the motion, the original or amended motion is overruled by operation of law.

(d) To perfect an appeal, the appellant must also give notice of the appeal. If the appellant requests a hearing on the motion for new trial, the appellant may give the notice of appeal orally in open court on the overruling of the motion. If there is no hearing, the appellant must give a written notice of appeal and must file the notice with the court not later than the 10th day after the date on which the motion is overruled. The court may for good cause extend that time period, but the extension may not exceed 90 days from the original filing deadline.

(e) If the defendant is in custody, the appeal is perfected when the notice of appeal is given as provided by Article 44.13, Code of Criminal Procedure.

(f) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.40(5), eff. January 1, 2020.

(g) The defendant shall pay the fee for an actual transcription of the proceedings.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.493 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Renumbered from Sec. 30.00013 and amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 37 (S.B. 1014), Sec. 2, eff. May 9, 2005.

Acts 2017, 85th Leg., R.S., Ch. 380 (H.B. 4147), Sec. 1, eff.

September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.15, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.40(5), eff. January 1, 2020.

Sec. 30.00015. APPEAL BOND. (a) If the defendant is not in custody, the defendant may not take an appeal until the defendant files an appeal bond with the municipal court of record. The bond must be approved by the court and must be filed not later than the 10th day after the date on which the motion for new trial is overruled. If the defendant is in custody, the defendant shall be committed to jail unless the defendant posts the appeal bond.

(b) The appeal bond must be in the amount of $100 or double the amount of the fines and costs adjudged against the defendant, whichever is greater.

(c) The bond must:

(1) state that the defendant was convicted in the case and has appealed; and

(2) be conditioned on the defendant's immediate and daily personal appearance in the court to which the appeal is taken.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.494 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Renumbered from Sec. 30.00014 and amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Sec. 30.00016. RECORD ON APPEAL. The record on appeal must substantially conform to the provisions relating to the preparation of a record on appeal in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.495 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Renumbered from Sec. 30.00015 and amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Sec. 30.00017. CLERK'S RECORD. The clerk's record must substantially conform to the provisions relating to the preparation of a clerk's record in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.496 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Renumbered from Sec. 30.00016 and amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 37 (S.B. 1014), Sec. 3, eff. May 9, 2005.

Sec. 30.00018. BILLS OF EXCEPTION. Bills of exception must substantially conform to the provisions relating to the preparation of bills of exception in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.497 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Renumbered from Sec. 30.00017 and amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Sec. 30.00019. REPORTER'S RECORD. (a) A reporter's record included in the record on appeal must substantially conform to the provisions relating to the preparation of a reporter's record in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.
(b) The appellant shall pay for the reporter's record.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.498 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Renumbered from Sec. 30.00018 and amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 37 (S.B. 1014), Sec. 4, eff. May 9,

2005.

Sec. 30.00020. TRANSFER OF RECORD. (a) Not later than the 60th day after the date on which the notice of appeal is given or filed, the parties must file with the municipal clerk:

(1) the reporter's record;

(2) a written description of material to be included in the clerk's record in addition to the required material; and

(3) any material to be included in the clerk's record that is not in the custody of the clerk.

(b) On completion of the record, the municipal judge shall approve the record in the manner provided for record completion, approval, and notification in the court of appeals.

(c) After the court approves the record, the clerk shall promptly send the record to the appellate court clerk for filing. The appellate court clerk shall notify the defendant and the prosecuting attorney that the record has been filed.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.499 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Renumbered from Sec. 30.00019 and amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 37 (S.B. 1014), Sec. 5, eff. May 9, 2005.

Sec. 30.00021. BRIEF ON APPEAL. (a) An appellant's brief on appeal from a municipal court of record must present points of error in the manner required by law for a brief on appeal to the court of appeals.

(b) The appellant must file the brief with the appellate court clerk not later than the 15th day after the date on which the clerk's record and reporter's record are filed with that clerk. The appellant or the appellant's attorney must certify that the brief has been properly mailed to the appellee.

(c) The appellee must file the appellee's brief with the appellate court clerk not later than the 15th day after the date on

which the appellant's brief is filed.

(d) Each party, on filing the party's brief with the appellate court clerk, shall deliver a copy of the brief to the opposing party and to the municipal judge.

(e) The record and the briefs on appeal shall be limited as far as possible to the questions relied on for reversal.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.500 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Renumbered from Sec. 30.00020 and amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 37 (S.B. 1014), Sec. 6, eff. May 9, 2005.

Sec. 30.00022. NEW TRIAL. The trial court shall decide from the briefs of the parties whether the appellant should be permitted to withdraw the notice of appeal and be granted a new trial by the court. The court may grant a new trial at any time before the record is filed with the appellate court.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Sec. 30.00023. COURT RULES. (a) Except as modified by this subchapter, the Code of Criminal Procedure and the Texas Rules of Appellate Procedure govern the trial of cases before the municipal courts of record. The courts may make and enforce all rules of practice and procedure necessary to expedite the trial of cases before the courts that are not inconsistent with law.

(b) The appellate courts may make and enforce all rules of practice and procedure that are not inconsistent with law and that are necessary to expedite the dispatch of appeals from the municipal courts of record.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.501 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Renumbered from Sec. 30.00021 and amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff.

Sept. 1, 1999.

Sec. 30.00024. DISPOSITION ON APPEAL. (a) According to the law and the nature of the case, the appellate court may:

(1) affirm the judgment of the municipal court of record;

(2) reverse and remand for a new trial;

(3) reverse and dismiss the case; or

(4) reform and correct the judgment.

(b) Unless the matter was made an issue in the trial court or it affirmatively appears to the contrary from the clerk's record or reporter's record, the appellate court shall presume that:

(1) venue was proven in the trial court;

(2) the jury, if any, was properly impaneled and sworn;

(3) the defendant was arraigned and pleaded to the complaint; and

(4) the municipal judge certified the charge before it was read to the jury.

(c) In each case decided by the appellate court, the court shall deliver a written opinion or order either sustaining or overruling each assignment of error presented. The court shall set forth the reasons for its decision. The appellate court clerk shall mail copies of the decision to the parties and to the municipal judge as soon as the decision is rendered.

(d) The appellate court may determine the rules for oral argument. The parties may submit the case on the record and briefs without oral argument.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.502 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Renumbered from Sec. 30.00022 and amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 37 (S.B. 1014), Sec. 7, eff. May 9, 2005.

Sec. 30.00025. CERTIFICATE OF APPELLATE PROCEEDINGS. (a) When the judgment of the appellate court becomes final, the clerk of that

court shall certify the proceedings and the judgment and shall mail the certificate to the municipal clerk. The municipal clerk shall file the certificate with the papers in the case and note the certificate on the case docket.

(b) If the municipal court of record judgment is affirmed, to enforce the judgment the court may:

(1) forfeit the bond of the defendant;

(2) issue a writ of capias for the defendant;

(3) issue an execution against the defendant's property;

(4) order a refund for the defendant's costs; or

(5) conduct an indigency hearing at the court's discretion.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.503 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Renumbered from Sec. 30.00023 and amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Sec. 30.00026. EFFECT OF ORDER OF NEW TRIAL. If the appellate court awards a new trial to the appellant, the case stands as if a new trial had been granted by the municipal court of record.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.504 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Renumbered from Sec. 30.00024 and amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.

Sec. 30.00027. APPEALS TO COURT OF APPEALS. (a) The appellant has the right to appeal to the court of appeals if:

(1) the fine assessed against the defendant exceeds $100 and the judgment is affirmed by the appellate court; or

(2) the sole issue is the constitutionality of the statute or ordinance on which a conviction is based.

(b) The provisions of the Code of Criminal Procedure relating to direct appeals from a county or a district court to the court of appeals apply to the appeal, except that:

(1) the record and briefs on appeal in the appellate court constitute the record and briefs on appeal to the court of appeals

unless the rules of the court of criminal appeals provide otherwise; and

(2) the record and briefs shall be filed directly with the court of appeals.

Added by Acts 1987, 70th Leg., ch. 811, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code Sec. 30.505 by Acts 1997, 75th Leg., ch. 165, Sec. 8.02, eff. Sept. 1, 1997. Renumbered from Sec. 30.00025 and amended by Acts 1999, 76th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1324 (S.B. 480), Sec. 4, eff. June 17, 2011.

SUBCHAPTER B. LUBBOCK

Sec. 30.00041. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Lubbock.

(b) In this subchapter, "appellate courts" means the county courts at law of Lubbock County that have criminal appellate jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code Sec. 30.001 by Acts 1997, 75th Leg., ch. 165, Sec. 8.03, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 2, eff. Sept. 1, 1999.

Sec. 30.00044. JUDGE. (a) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(1), eff. Sept. 1, 1999.

(b) A municipal judge is elected by the qualified voters of the city for a term of four years.

(c) A municipal judge must be a licensed attorney in good standing, must have practiced law in this state for five years, and must be a citizen of the United States and of this state. The judge must satisfy the residency requirements pertaining to a member of the city council. A person may not serve as a municipal judge while the person holds other office or employment with the city government. A municipal judge who takes such an office or employment vacates the judicial office.

(d) to (i) Repealed by Acts 1999, 76th Leg., ch. 691, Sec.

139(1), eff. Sept. 1, 1999.

(j) A municipal judge shall comply with the financial statement requirements under Chapter 572.

(k) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(1), eff. Sept. 1, 1999.

(l) Sections 30.00007(b)(5) and 30.00009(c) and (d) do not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 27, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(40), eff. Sept. 1, 1995.
Renumbered from Government Code Sec. 30.004 by Acts 1997, 75th Leg., ch. 165, Sec. 8.03, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 3, 139(1), eff. Sept. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 3.01(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 872 (H.B. 3014), Sec. 1, eff. September 1, 2019.

Sec. 30.00046. COURT REPORTER. (a) , (b) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(1), eff. Sept. 1, 1999.

(c) Section 30.00010(d) does not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Renumbered from Government Code Sec. 30.006 by Acts 1997, 75th Leg., ch. 165, Sec. 8.03, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 4, 139(1), eff. Sept. 1, 1999.

Sec. 30.00049. COMPLAINT; PROSECUTION; PLEADING. (a) A proceeding in a municipal court of record commences with a complaint. The complaint must begin "In the name and by the authority of the State of Texas" and must conclude "Against the peace and dignity of the State." If the offense is only covered by an ordinance, it may also conclude "Contrary to the said ordinance."

(b) A complaint before the court may be sworn to before an officer authorized to administer oaths or before the municipal judge, clerk, city secretary, or city attorney, or the assistant or deputy of the judge, clerk, city secretary, or city attorney, each of whom

may administer oaths for that purpose.

(c) A complaint must be in writing and must state:

(1) the name of the accused, if known;

(2) an accurate description of the accused, if the name is unknown;

(3) in plain and intelligible words, the offense with which the accused is charged;

(4) the place where the offense was committed, which must appear to be within the jurisdiction of the court; and

(5) the date on which the offense was committed, which must show that the offense is not barred by limitations.

(d) A prosecution in a court shall be conducted by the city attorney or an assistant or deputy city attorney.

(e) All pleadings must be in writing and must be filed with the clerk.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code Sec. 30.009 by Acts 1997, 75th Leg., ch. 165, Sec. 8.03, eff. Sept. 1, 1997.

SUBCHAPTER C. IRVING

Sec. 30.00081. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Irving.

(b) In this subchapter, "appellate courts" means the county criminal courts of Dallas County that have criminal appellate jurisdiction.

Added by Acts 1995, 74th Leg., ch. 477, Sec. 1, eff. June 12, 1995. Renumbered from Government Code, Sec. 30.0241 by Acts 1997, 75th Leg., ch. 165, Sec. 8.05, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 5, eff. Sept. 1, 1999.

Sec. 30.00084. JUDGE. (a) to (g) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(2), eff. Sept. 1, 1999.

(h) In addition to exercising powers under Section 30.00006, a municipal judge, with the approval of all parties, may order a defendant and the victim or complainant in a case before the municipal court to engage in mediation or alternative dispute resolution. The city shall provide mediation services and pay all

costs of those services.

(i) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(2), eff. Sept. 1, 1999.

(j) Sections 30.00007(b)(1), (2), (3), and (5) do not apply to this subchapter.

Added by Acts 1995, 74th Leg., ch. 477, Sec. 1, eff. June 12, 1995. Renumbered from Government Code, Sec. 30.0244 by Acts 1997, 75th Leg., ch. 165, Sec. 8.05, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 6, 139(2), eff. Sept. 1, 1999.

Sec. 30.00085. CLERK; OTHER PERSONNEL. (a) The city manager of the city may appoint a clerk of the municipal court of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

(b) Sections 30.00009(c) and (d) do not apply to this subchapter.

Added by Acts 1995, 74th Leg., ch. 477, Sec. 1, eff. June 12, 1995. Renumbered from Government Code, Sec. 30.0245 by Acts 1997, 75th Leg., ch. 165, Sec. 8.05, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 7, eff. Sept. 1, 1999.

Sec. 30.00086. COURT REPORTER. (a) The clerk of the court shall appoint the court reporter under Section 30.00010.

(b) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(2), eff. Sept. 1, 1999.

Added by Acts 1995, 74th Leg., ch. 477, Sec. 1, eff. June 12, 1995. Renumbered from Government Code, Sec. 30.0246 by Acts 1997, 75th Leg., ch. 165, Sec. 8.05, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 8, 139(2), eff. Sept. 1, 1999.

SUBCHAPTER D. EL PASO

Sec. 30.00121. SHORT TITLE; APPLICATION. (a) This subchapter may be cited as the El Paso Courts Act.

(b) This subchapter applies to the City of El Paso.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Renumbered from Government Code, Sec. 30.031 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997.

Sec. 30.00122. DEFINITION. In this subchapter, "appellate court" means the El Paso Municipal Court of Appeals.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Renumbered from Government Code, Sec. 30.032 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997.

Sec. 30.00123. MARRIAGE CEREMONIES. The judge of the appellate court and each municipal judge may conduct marriage ceremonies in the city.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Renumbered from Government Code, Sec. 30.033 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997.

Sec. 30.00128. JUDGE. (a) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(3), eff. Sept. 1, 1999.

(b) A municipal judge is elected by the qualified voters of the city for a term of two years unless the city by charter amendment provides for a four-year term as provided by Article XI, Section 11, of the Texas Constitution.

(c), (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(3), eff. Sept. 1, 1999.

(e) The municipal judges shall select by a majority vote of those judges a presiding judge of the municipal courts of record.

(f) The presiding municipal judge may, when necessary for the expeditious disposition of the business of the courts and with the approval of the governing body of the city, divide a municipal court of record into one or more divisions. A division is presided over by an associate municipal judge. A division has concurrent jurisdiction with the other divisions and municipal courts of record. Divisions of the courts may be in concurrent and continuous session, either day

or night, at the discretion of the presiding judge. The presiding judge may assign and transfer any case pending in any of the courts or divisions to any other of the courts or divisions. The presiding judge may direct the manner in which cases are filed and docketed. He may assign a case or proceeding pending in any of the courts to the judge of another court or division. He may assign the judge of any of the courts or divisions to try a case or hear a proceeding pending in another court or division.

(g) In addition to complying with Section 30.00006(h), the salary of the presiding judge must be set at an amount that is at least 20 percent more than the salary of the regular municipal judges.

(h) to (k) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(3), eff. Sept. 1, 1999.

(l) Section 30.00007(b) does not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.038 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 9, 139(3), eff. Sept. 1, 1999.

Sec. 30.00129. COURT CLERK; OTHER PERSONNEL. In addition to satisfying the requirements of Section 30.00009, the governing body of the city shall provide a clerk of the municipal courts of record, deputy clerks, and other municipal court personnel, including at least one bailiff for each court, as necessary for the proper operation of the municipal courts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.039 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 10, eff. Sept. 1, 1999.

Sec. 30.00130. COURT REPORTER; USE OF CLERK'S RECORDS. (a) To preserve a record in cases tried before the municipal courts of record, the city shall provide a court reporter. The governing body of the city shall determine the qualifications and compensation of the court reporter.

(b) The court reporter may preserve the record of proceedings

by written notes, transcribing equipment, recording equipment, or any combination of those methods. The court reporter is not required to take or record testimony in a case in which neither the defendant, the prosecutor, nor the judge demands it.

(c) Testimony, exhibits, and evidence given by a witness in a proceeding in a municipal court of record are solely for the purposes of that proceeding or an appeal from that proceeding, and in any civil proceeding, evidence relating to the testimony, exhibits, evidence, or reproductions of testimony, exhibits, or evidence is privileged and not admissible except for impeachment purposes.

(d) Repealed by Acts 2003, 78th Leg., ch. 1263, Sec. 1.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Renumbered from Government Code, Sec. 30.040 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 11, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1263, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 37 (S.B. 1014), Sec. 8, eff. May 9, 2005.

Sec. 30.00136. CONTINUATION OF MUNICIPAL COURT OF APPEALS. (a) The El Paso Municipal Court of Appeals continues in existence as long as a municipal court of record exists in the city.

(b) If the municipal court of record ordinance is repealed, the appellate court continues in existence as long as there are appeals before it. A reversal and remand for new trial or other order returning a case to the trial court shall be to the municipal court that replaces the municipal courts of record.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Renumbered from Government Code, Sec. 30.046 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997.

Sec. 30.00137. APPELLATE COURT JURISDICTION. (a) The appellate court has exclusive jurisdiction over all appeals from the municipal courts of record of the city. The county courts at law of El Paso County have no jurisdiction over appeals from municipal courts.

(b) The appellate court and the judge of that court have the power in criminal law matters to issue to the municipal courts and judges of those courts the writs of mandamus, procedendo, prohibition, injunction, and other writs necessary to protect the appellate court's jurisdiction or enforce its judgments.

(c) The appellate court has the power on affidavit or otherwise to ascertain matters of fact necessary to the exercise of its jurisdiction.

(d) The judge of the appellate court is a magistrate within the meaning of the Code of Criminal Procedure, 1965.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Renumbered from Government Code, Sec. 30.047 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997.

Sec. 30.00138. TERM OF COURT. The appellate court may sit for the transaction of business at any time during the year, and each term begins and ends with the calendar year. The appellate court may use the city council chambers or other appropriate location as its courtroom for argument of cases and other court matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Renumbered from Government Code, Sec. 30.048 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997.

Sec. 30.00139. APPELLATE COURT CLERK. In addition to other duties, the city clerk serves as the appellate court clerk.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Renumbered from Government Code, Sec. 30.049 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997.

Sec. 30.00140. APPELLATE COURT JUDGE. (a) The appellate judge shall be elected by the qualified voters of the city for a term of two years, unless the city by charter amendment provides for a four-year term as provided by Article XI, Section 11, of the Texas Constitution. The appellate judge must be a citizen of the United States and of this state and must have been a practicing attorney of

this state for at least five years immediately preceding his election or appointment.

(b) A vacancy in the appellate court shall be filled by appointment by the governing body of the city. The appointee serves until the next regular municipal election, and at that election the vacancy for the unexpired or full term shall be filled by election by the qualified voters of the city.

(c) The appellate judge shall take the oath of office required for a municipal judge.

(d) An appointed or elected appellate judge may not be removed from office except in the same manner and for the same causes as provided by law for county judges and as provided by Article V, Section 1-a, of the Texas Constitution.

(e) The appellate judge is entitled to compensation from the city as set by the governing body of the city. The judge's compensation may not be diminished but may be increased during his term of office.

(f) The city shall provide the appellate court with necessary clerical help. The appellate judge and the city may agree that the judge will provide for his own clerical help, and in that event the judge is entitled to additional reasonable compensation by agreement with the city.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Renumbered from Government Code, Sec. 30.050 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997.

Sec. 30.00141. APPELLATE COURT SEAL. The seal of the appellate court is the same as that provided by law for municipal courts of record, except that the seal must contain the words "Municipal Court of Appeals of the City of El Paso," and the seal shall be judicially noticed.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Renumbered from Government Code, Sec. 30.051 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997.

Sec. 30.00142. SPECIAL APPELLATE JUDGE. (a) If the appellate judge is unable to act, the governing body of the city may appoint a

person, or the appellant and the city attorney in a particular case may agree on a person, to serve as the special appellate judge. The special appellate judge has the powers and duties of the office and is entitled to receive the same compensation as the regular appellate judge for serving as a special appellate judge.

(b) A municipal judge or associate municipal judge may not be appointed or selected as a special appellate judge.

(c) Except as provided by Subsection (d), an appointment of a special appellate judge automatically terminates when the regular appellate judge returns to duty.

(d) If an appellate judge is disqualified from hearing a particular case, the governing body of the city may appoint a person, or the appellant and the city attorney may agree on a person, to serve as the special appellate judge. A special appellate judge appointed or selected under this subsection is entitled to receive the same daily compensation as the regular appellate judge for each day he works on the case he was appointed or selected to hear. An appointment automatically terminates at the time the mandate or mandates issue in the case he was appointed to hear.

(e) A special appellate judge must have the qualifications required of the regular appellate judge and shall, before he begins serving as a special appellate judge, take the oath of office required for a municipal judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Renumbered from Government Code, Sec. 30.052 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997.

Sec. 30.00143. RULES. The appellate judge may make and publish rules of appellate criminal procedure not inconsistent with this subchapter or other law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Renumbered from Government Code, Sec. 30.053 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997.

Sec. 30.00144. NEW TRIAL. (a) A motion for new trial is not necessary to authorize an appeal.

(b) If a motion for new trial is made, it must be filed not

later than the 10th day after the date of the rendition of the judgment of conviction.

(c) One or more amended motions for new trial may be filed without leave of court before any preceding motion for new trial filed by the movant is overruled if the motion is filed not later than 15 days after the date of the rendition of the judgment of conviction.

(d) If an original or amended motion for new trial is not determined by written order signed not later than 30 days after the date of the rendition of the judgment of conviction, the motion is overruled by operation of law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.054 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 12, eff. Sept. 1, 1999.

Sec. 30.00145. RIGHT OF APPEAL. (a) A defendant has the right of appeal from a judgment of conviction in the municipal court of record under the rules prescribed by this subchapter. The state has the right of appeal as provided by Article 44.01, Code of Criminal Procedure. The El Paso Municipal Court of Appeals has jurisdiction over appeals from the municipal courts of record, and all appeals from convictions in the municipal court of record must be prosecuted in the appellate court, the court of appeals, or the court of criminal appeals by the city attorney or an assistant city attorney.

(b) Section 30.00014 does not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.055 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 13, eff. Sept. 1, 1999.

Sec. 30.00146. NO DE NOVO APPEALS. An appeal from the municipal court of record may not be taken to a trial de novo in the appellate court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.056 by Acts 1997, 75th Leg.,

ch. 165, Sec. 8.06, eff. Sept. 1, 1997.

Sec. 30.00147. PERFECTING APPEAL. (a) A defendant, as a condition of perfecting an appeal to the appellate court, must file an appeal bond, unless the defendant is in custody. An appeal may be perfected by timely filing with the municipal court clerk an appeal bond that meets the requirements of Subchapter A. It is not necessary to file a notice of appeal. If the defendant is in custody, the appeal is perfected when notice of appeal is given as provided by Article 44.13, Code of Criminal Procedure.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.40(6), eff. January 1, 2020.

(c) The appeal bond must be filed not later than the 10th day after overruling of the motion or amended motion for new trial, or if there is no motion or amended motion for new trial, not later than the 10th day after the rendition of the judgment of conviction.

(d) For good cause shown, not later than the 100th day after the date of rendition of the judgment of conviction, the appellate court or the court of appeals may permit the filing of an appeal bond or the giving of notice of appeal in the municipal court of record even though the time limits set under this section have expired.

(e) Except for the limitation contained in Subsection (d), the appellate court may, for good cause shown, extend any time limits set in this subchapter for the appellate process.

(f) In a case in which an appellant or the prosecutor files a motion in the appellate court, the opposite party shall be given an opportunity to answer the motion under time limits and conditions set by the appellate court rules.

(g) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.40(6), eff. January 1, 2020.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Renumbered from Government Code, Sec. 30.057 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 14, eff. Sept. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.40(6), eff. January 1, 2020.

Sec. 30.00162. DISPOSITION ON APPEAL; PRESUMPTIONS; DECISION. (a) The appellate court may:

(1) affirm the judgment of the municipal court of record;

(2) reverse and remand for a new trial;

(3) reverse and dismiss the case;

(4) reform and correct the judgment;

(5) abate the appeal or dismiss the appeal; or

(6) enter any other appropriate order, as the law and the nature of the case require.

(b) Unless the following matters were made an issue in the trial court or it affirmatively appears to the contrary from the clerk's record or reporter's record, the appellate court shall presume that:

(1) venue was proven in the court below;

(2) the jury was properly impaneled and sworn;

(3) the defendant was arraigned;

(4) the defendant pleaded to the complaint; and

(5) the court's charge was certified by the municipal court judge before it was read to the jury.

(c) In each case decided by the appellate court, the court shall deliver a written opinion or order either sustaining or overruling each assignment of error presented and a judgment shall be entered on the opinion or order. If an assignment of error is overruled, no reason need be given by the appellate court, but cases relied on by the court may be cited. If an assignment of error is sustained, the appellate court shall set forth the reasons for the decision and precedent if it exists. The appellate court clerk shall mail copies of the decision and judgment of the appellate court to the parties and to the municipal court clerk as soon as the decision is rendered by the appellate court.

(d) After the decision of the appellate court is delivered, a party desiring a rehearing must present, not later than the 10th day after the date the decision is delivered, to the court a motion for rehearing. The motion must distinctly specify the grounds relied on for rehearing and must be accompanied by written argument in behalf of the motion. Oral argument in support of the motion is not permitted. A reply to a motion for rehearing need not be filed unless requested by the court. If a motion for rehearing is granted, the court may make final disposition of the case without reargument, may order the case resubmitted, with or without oral argument, or may

issue other orders appropriate under the circumstances of the particular case. A second motion for rehearing may not be filed by the losing party unless permitted by appellate court rules.

(e) Immediately after a decision of the appellate court becomes final, the clerk of that court shall issue a mandate and a bill of costs in the case to the trial court unless directed to withhold the mandate by the appellate court.

(f) If a decision of the appellate court is appealed to a court of appeals, the appellate court on receipt of the mandate or other order from the court of appeals shall immediately comply with the order or mandate by issuing its own order or mandate and bill of costs, as the case may be. When a decision of a court of appeals becomes final, the clerk of that court shall issue a mandate in the case to the appellate court. A decision of a court of appeals is final as provided by Article 42.045, Code of Criminal Procedure, 1965.

(g) Original papers transmitted as the record on appeal to the court of appeals, on final disposition of the case in the court of appeals or the court of criminal appeals, shall be returned to the court clerk from which they were received. The clerk of each court shall preserve copies of briefs and papers originally filed in that court.

(h) The municipal court clerk and the appellate court clerk shall keep a copy of each decision of the appellate court in a volume or volumes with an index so that the public can inspect the decisions of the appellate court without the necessity of inspecting individual records of each case.

(i) When the mandate of the appellate court is received by the municipal court clerk, the clerk shall file it with the papers in the case and note it on the docket. If the judgment has been affirmed or the appeal is dismissed, a proceeding is not necessary after filing the appellate court mandate in the municipal court of record to enforce the judgment of the court, except to forfeit the bond of the defendant, to issue a capias for the defendant, or to issue an execution against the defendant's property.

(j) If the appellate court awards a new trial to the defendant, the cause stands as if a new trial had been granted by the municipal court of record, and the defendant shall continue on his appeal bond and shall appear for trial on notification mailed to his address on the appeal bond.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 5.02(3), eff. Sept. 1, 1987. Renumbered from Government Code, Sec. 30.072 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997.
Amended by:
Acts 2005, 79th Leg., Ch. 37 (S.B. 1014), Sec. 9, eff. May 9, 2005.

Sec. 30.00164. ALTERNATE APPELLATE PROCEDURE. (a) If the El Paso Municipal Court of Appeals created by this subchapter is held unconstitutional or invalid, all appeals under this subchapter shall be considered as taken to the county courts at law of El Paso County. Those appeals shall be docketed as provided by county court at law rules. The county courts at law of El Paso County have jurisdiction over those appeals and this subchapter applies to those appeals. One county court at law of El Paso County shall act as the appellate court. That court shall be designated from time to time as the appellate court by the majority vote of the judges of the county courts at law of El Paso County. All appeals pending in the appellate court on the date that any decision becomes final holding the municipal court of appeals unconstitutional or invalid shall be transferred by the appellate court to the county courts at law of El Paso County, and all decisions of the appellate court that have become final on or before that date are valid.

(b) If appeals are taken to the county courts at law of El Paso County under Subsection (a), a reference to "appellate court" in this subchapter means the county court at law of El Paso County that is designated as the appellate court under this section, except that a provision of this subchapter that is inconsistent with the laws, statutes, and rules applicable to creation and organization of the county courts at law of El Paso County will not apply, and an appeal is not tried de novo in the county court at law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.074 by Acts 1997, 75th Leg., ch. 165, Sec. 8.06, eff. Sept. 1, 1997.

SUBCHAPTER E. KENNEDALE

Sec. 30.00181. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Kennedale.

(b) In this subchapter, "appellate courts" means the county criminal courts of Tarrant County that have criminal appellate jurisdiction.

Added by Acts 1995, 74th Leg., ch. 180, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.0761 by Acts 1997, 75th Leg., ch. 165, Sec. 8.07, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 15, eff. Sept. 1, 1999.

Sec. 30.00184. JUDGE. (a) to (j) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(4), eff. Sept. 1, 1999.

(k) Sections 30.00007(b)(1), (2), (3), and (5) do not apply to this subchapter.

Added by Acts 1995, 74th Leg., ch. 180, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.0764 by Acts 1997, 75th Leg., ch. 165, Sec. 8.07, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 16, 139(4), eff. Sept. 1, 1999.

Sec. 30.001845. MAGISTRATES. (a) The governing body may appoint one or more magistrates in addition to magistrates provided under Article 2A.151, Code of Criminal Procedure.

(b) A magistrate does not have to possess all the qualifications necessary to be a municipal court of record judge.

(c) A magistrate may not preside over the court or hear contested cases.

(d) A magistrate may:

(1) conduct an arraignment;

(2) hold an indigency hearing;

(3) accept a plea;

(4) sign a judgment;

(5) set the amount of a bond; and

(6) perform other functions under Article 15.17, Code of Criminal Procedure.

Added by Acts 2005, 79th Leg., Ch. 569 (H.B. 1394), Sec. 1, eff. June 17, 2005.

Amended by:
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.058, eff. January 1, 2025.

Sec. 30.00185. CLERK; OTHER PERSONNEL. (a) The city manager or city administrator of the city shall appoint a clerk of the municipal court of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.
(b) Sections 30.00009(c) and (d) do not apply to this subchapter.

Added by Acts 1995, 74th Leg., ch. 180, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.0765 by Acts 1997, 75th Leg., ch. 165, Sec. 8.07, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 17, eff. Sept. 1, 1999.

Sec. 30.00186. COURT REPORTER. (a) The clerk of the court shall appoint the court reporter under Section 30.00010.
(b) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(4), eff. Sept. 1, 1999.

Added by Acts 1995, 74th Leg., ch. 180, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.0766 by Acts 1997, 75th Leg., ch. 165, Sec. 8.07, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 18, 139(4), eff. Sept. 1, 1999.

SUBCHAPTER F. SAN ANTONIO

Sec. 30.00221. APPLICATION; DEFINITION. (a) This subchapter applies to the City of San Antonio.
(b) In this subchapter, "appellate courts" means the county courts at law of Bexar County that have criminal appellate jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.081 by Acts 1997, 75th Leg., ch. 165, Sec. 8.08, eff. Sept. 1, 1997. Amended by Acts 1999, 76th

Leg., ch. 691, Sec. 19, eff. Sept. 1, 1999.

Sec. 30.00224. JUDGE. (a) , (b) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(5), eff. Sept. 1, 1999.

(c) In addition to satisfying the requirements of Section 30.00006(c), a municipal judge must have been a resident of the city for at least three years immediately preceding the judge's appointment.

(d) to (j) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(5), eff. Sept. 1, 1999.

(k) Section 30.00007(b)(5) does not apply to this subchapter.

(l) In addition to the duties imposed under Sections 30.00007(b)(1)-(4), the presiding judge shall promulgate work rules for the administration of the municipal courts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.37(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 1248, Sec. 28, eff. Sept. 1, 1989. Renumbered from Government Code, Sec. 30.084 by Acts 1997, 75th Leg., ch. 165, Sec. 8.08, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 691, Sec. 20, 139(5), eff. Sept. 1, 1999.

Sec. 30.00225. CLERK; OTHER PERSONNEL. (a) , (b) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(5), eff. Sept. 1, 1999.

(c) Sections 30.00009(c) and (d) do not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.38(a), eff. Sept. 1, 1987. Renumbered from Government Code, Sec. 30.085 by Acts 1997, 75th Leg., ch. 165, Sec. 8.08, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 21, eff. Sept. 1, 1999.

Sec. 30.00226. COURT REPORTER. (a) The city shall provide a court reporter for the purpose of preserving a record in cases tried before the municipal court of record. The person selected as court reporter must meet the qualifications provided by law for official court reporters. The chief administrative officer of the city shall

set the compensation of the court reporter on the recommendation of the presiding municipal judge.

(b) The court reporter may preserve the record through written notes, transcribing equipment, recording equipment, or any combination of those methods. The reporter is not required to record testimony in a case in which neither the defendant, the prosecutor, nor the judge demands it.

(c) Instead of using a court reporter to preserve a record in a case, the governing body may authorize the use of a good quality electronic recording device to report court proceedings. If the governing body authorizes an electronic recording, the court reporter is not required to be present to certify the reporter's record. The recording shall be kept for the 20-day period beginning the day after the last day of the court proceeding, trial, or denial of motion for new trial, whichever occurs last. If a case is appealed, the proceedings shall be transcribed from the recording by an official court reporter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Renumbered from Government Code, Sec. 30.086 by Acts 1997, 75th Leg., ch. 165, Sec. 8.08, eff. Sept. 1, 1997.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 888 (H.B. 4714), Sec. 1, eff. September 1, 2023.

Sec. 30.00229. COMPLAINT; PROSECUTION; PLEADING. (a) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(5), eff. Sept. 1, 1999.

(e) All pleadings in a municipal court of record must be in writing and must be filed with the clerk.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Renumbered from Government Code, Sec. 30.089 by Acts 1997, 75th Leg., ch. 165, Sec. 8.08, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 139(5), eff. Sept. 1, 1999.

SUBCHAPTER G. MANSFIELD

Sec. 30.00261. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Mansfield.

(b) In this subchapter, "appellate courts" means the county criminal courts of Tarrant County that have criminal appellate jurisdiction.

Added by Acts 1995, 74th Leg., ch. 182, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.1041 by Acts 1997, 75th Leg., ch. 165, Sec. 8.09, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 22, eff. Sept. 1, 1999.

Sec. 30.00264. JUDGE. (a) to (j) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(6), eff. Sept. 1, 1999.

(k) Sections 30.00007(b)(1), (2), (3), and (5) do not apply to this subchapter.

Added by Acts 1995, 74th Leg., ch. 182, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.1044 by Acts 1997, 75th Leg., ch. 165, Sec. 8.09, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 23, 139(6), eff. Sept. 1, 1999.

Sec. 30.00265. MAGISTRATES. (a) The governing body may appoint one or more magistrates.

(b) A magistrate does not have to possess all the qualifications necessary to be a municipal court of record judge.

(c) A magistrate may not preside over the court or hear contested cases.

(d) A magistrate may:

(1) conduct an arraignment;

(2) hold an indigency hearing;

(3) accept a plea;

(4) sign a judgment;

(5) set the amount of a bond; and

(6) perform other functions under Article 15.17, Code of Criminal Procedure.

Added by Acts 1995, 74th Leg., ch. 182, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.1045 by Acts 1997, 75th Leg., ch. 165, Sec. 8.09, eff. Sept. 1, 1997.

Sec. 30.00266. CLERK; OTHER PERSONNEL. (a) The city manager of the city shall appoint a clerk of the municipal court of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

(b) Sections 30.00009(c) and (d) do not apply to this subchapter.

Added by Acts 1995, 74th Leg., ch. 182, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.1046 by Acts 1997, 75th Leg., ch. 165, Sec. 8.09, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 24, eff. Sept. 1, 1999.

Sec. 30.00267. COURT REPORTER. (a) The clerk of the court shall appoint the court reporter under Section 30.00010.

(b) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(6), eff. Sept. 1, 1999.

Added by Acts 1995, 74th Leg., ch. 182, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.1047 by Acts 1997, 75th Leg., ch. 165, Sec. 8.09, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 25, 139(6), eff. Sept. 1, 1999.

SUBCHAPTER H. WICHITA FALLS

Sec. 30.00301. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Wichita Falls.

(b) In this subchapter, "appellate courts" means the county courts at law of Wichita County that have criminal appellate jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.111 by Acts 1997, 75th Leg., ch. 165, Sec. 8.10, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 26, eff. Sept. 1, 1999.

Sec. 30.00304. JUDGE. (a) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(7), eff. Sept. 1, 1999.

(b) In addition to satisfying the requirements of Section 30.00006(c), a municipal judge must maintain residence in the city during the tenure of office but need not be a resident of the city at the time of the appointment. The judge may not engage in the private practice of law while in office. The judge must execute a bond and take the oath of office required of a county judge.

(c) to (h) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(7), eff. Sept. 1, 1999.

(i) Sections 30.00007(a) and (b)(5) do not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.114 by Acts 1997, 75th Leg., ch. 165, Sec. 8.10, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 27, 139(7), eff. Sept. 1, 1999.

Sec. 30.00305. CLERK. (a) The city manager shall appoint a clerk of the municipal courts of record. The clerk holds office at the pleasure of the city manager and is subject to all city charter provisions, ordinances, and personnel policies relating to non-civil service city employees.

(b) Section 30.00009(c) does not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 83, Sec. 1, eff. Aug. 31, 1987. Renumbered from Government Code, Sec. 30.115 by Acts 1997, 75th Leg., ch. 165, Sec. 8.10, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 691, Sec. 28, eff. Sept. 1, 1999.

Sec. 30.00306. COURT REPORTER. (a) The city manager shall appoint an official court reporter under Section 30.00010 for the purpose of preserving a record in cases tried before the municipal courts of record. The reporter holds office at the pleasure of the city manager. The city manager may appoint more than one reporter for each court if necessary to dispose of the business of the court without delay. If a reporter is not demanded, a reporter's record may be prepared from mechanical, audio, or video recordings of the proceedings.

(b) Section 30.00010(d) does not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 83, Sec. 2, eff. Aug. 31, 1987. Renumbered from Government Code, Sec. 30.116 by Acts 1997, 75th Leg., ch. 165, Sec. 8.10, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 691, Sec. 29, eff. Sept. 1, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 37 (S.B. 1014), Sec. 10, eff. May 9, 2005.

Sec. 30.00308. CIVIL SERVICE ORDINANCE; VACATION OF COURT. (a) The judges, clerk and deputy clerks, and court reporters of the municipal courts are not classified employees under the city civil service ordinance. The governing body of the city may provide by ordinance that all other employees of the courts may be hired and paid as classified employees under the city civil service ordinance. The judges, clerk and deputy clerks, and court reporters are entitled to receive the same vacation, sick leave, and other benefits that are provided for other nonclassified employees under regulations provided by the governing body by ordinance and may be authorized or required by the governing body to participate in the city retirement program.

(b) If after the establishment of a municipal court of record the governing body finds by ordinance that the condition of the dockets of the other courts of the county does not require the existence of the court to dispose properly of the cases arising in the city, the governing body shall declare the offices of the municipal judge, clerk, court reporter, and other employees of the court to be vacated at the end of the term for which the judge was last appointed. Any case then pending shall be transferred to a court with proper jurisdiction of the offense.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.118 by Acts 1997, 75th Leg., ch. 165, Sec. 8.10, eff. Sept. 1, 1997.

Sec. 30.00310. FILING OF ORIGINAL PAPERS.

Text of section as amended by Acts 1989, 71st Leg., ch. 1020, Sec. 3

The clerk of the municipal courts of record shall file the

original papers and proceedings in each case under the direction of the presiding judge. Instead of filing the original papers, papers may be preserved by microfilm or other process that correctly and legibly reproduces or that forms a medium for copying or reproducing. The filed or preserved papers constitute the records of the courts and a separate record book is not required. Preserved records are admissible in evidence in civil cases as provided by the Texas Rules of Evidence relating to the admissibility of contents of writing, recordings, and photographs. Records, however maintained, shall be destroyed by the court clerk after five years after final disposition of the case. Records, however maintained, relating to parking offenses shall be destroyed by the court clerk after two years after final disposition of the case.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 1020, Sec. 3, eff. Sept. 1, 1989; renumbered from Government Code, Sec. 30.120 by Acts 1997, 75th Leg., ch. 165, Sec. 8.10, eff. Sept. 1, 1997.

Text of section as amended by Acts 1989, 71st Leg., ch. 1248, Sec. 29

Sec. 30.00310. FILING OF ORIGINAL PAPERS.

(a) The clerk of the municipal courts of record shall file the original complaint and the original of other papers and proceedings in each case under the direction of the presiding judge. The filed original papers constitute the records of the courts and a separate record book is not required.

(b) The clerk shall keep a separate folder for each case, and shall note on the outside of the folder:

(1) the style of the case;

(2) the nature of the charged offense;

(3) the dates that the warrant was issued and returned;

(4) the date the examination or trial was held;

(5) whether trial was held by jury or before a judge;

(6) trial settings;

(7) any verdict of the jury;

(8) any judgment of the court;

(9) any motion for a new trial and the decision on the motion;

(10) whether an appeal was taken; and

(11) the date and the manner in which the judgment and sentence were enforced.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 29, eff. Sept. 1, 1989. Renumbered from Government Code, Sec. 30.120 by Acts 1997, 75th Leg., ch. 165, Sec. 8.10, eff. Sept. 1, 1997.

SUBCHAPTER I. BURLESON

Sec. 30.00341. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Burleson.

(b) In this subchapter, "appellate courts" means the county courts at law of Johnson County that have criminal appellate jurisdiction.

Added by Acts 1995, 74th Leg., ch. 181, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.1341 by Acts 1997, 75th Leg., ch. 165, Sec. 8.11, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 30, eff. Sept. 1, 1999.

Sec. 30.00344. JUDGE. (a) to (j) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(8), eff. Sept. 1, 1999.

(k) Sections 30.00007(b)(1), (2), (3), and (5) do not apply to this subchapter.

Added by Acts 1995, 74th Leg., ch. 181, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.1344 by Acts 1997, 75th Leg., ch. 165, Sec. 8.11, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 31, 139(8), eff. Sept. 1, 1999.

Sec. 30.00345. CLERK; OTHER PERSONNEL. (a) The city manager of the city shall appoint a clerk of the municipal court of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

(b) Sections 30.00009(c) and (d) do not apply to this

subchapter.

Added by Acts 1995, 74th Leg., ch. 181, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.1345 by Acts 1997, 75th Leg., ch. 165, Sec. 8.11, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 32, eff. Sept. 1, 1999.

Sec. 30.00346. COURT REPORTER. (a) The clerk of the court shall appoint the court reporter under Section 30.00010.

(b) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(8), eff. Sept. 1, 1999.

Added by Acts 1995, 74th Leg., ch. 181, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.1346 by Acts 1997, 75th Leg., ch. 165, Sec. 8.11, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 33, 139(8), eff. Sept. 1, 1999.

SUBCHAPTER J. FORT WORTH

Sec. 30.00381. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Fort Worth.

(b) In this subchapter, "appellate courts" means the county criminal courts of Tarrant County that have criminal appellate jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.141 by Acts 1997, 75th Leg., ch. 165, Sec. 8.12, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 34, eff. Sept. 1, 1999.

Sec. 30.00384. JUDGE. (a) , (b) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(9), eff. Sept. 1, 1999.

(c) The judge must maintain residence in the city during the tenure of office.

(d) to (j) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(9), eff. Sept. 1, 1999.

(k) Sections 30.00007(b)(1), (2), (3), and (5) do not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.40(a), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 599, Sec. 1, eff. June 18, 1987; Acts 1991, 72nd Leg., ch. 290, Sec. 1, eff. Aug. 26, 1991. Renumbered from Government Code, Sec. 30.144 by Acts 1997, 75th Leg., ch. 165, Sec. 8.12, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 691, Sec. 35, 139(9), eff. Sept. 1, 1999.

Sec. 30.00385. CLERK. (a) The city manager with the consent of the governing body of the city shall appoint a clerk of the municipal courts of record. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

(b) Section 30.00009(c) does not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.145 by Acts 1997, 75th Leg., ch. 165, Sec. 8.12, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 36, eff. Sept. 1, 1999.

Sec. 30.00388. CIVIL SERVICE ORDINANCE; VACATION OF COURT. (a) The judges, clerk and deputy clerks, and court reporters of the municipal courts of record are not classified employees under civil service, charter, or ordinance provisions. The governing body of the city may provide by ordinance that all other employees of the courts may be hired and paid as classified employees under civil service, charter, or ordinance provisions. Judges, clerks, deputy clerks, and court reporters are entitled to receive the same vacation, sick leave, and other benefits that are provided for other nonclassified employees under regulations provided by the governing body by ordinance and may be authorized or required by the governing body to participate in the city retirement program.

(b) If after the establishment of a municipal court of record the governing body finds by ordinance that the condition of the dockets of the other courts of the county does not require the existence of the court to properly dispose of the cases arising in the city, the governing body shall declare the offices of the municipal judge, clerk, court reporter, and other employees of the court to be vacated at the end of the term for which the judge was

last appointed. Any case then pending shall be transferred to a court with proper jurisdiction of the offense.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.148 by Acts 1997, 75th Leg., ch. 165, Sec. 8.12, eff. Sept. 1, 1997.

SUBCHAPTER K. GRAND PRAIRIE

Sec. 30.00421. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Grand Prairie.

(b) In this subchapter, "appellate courts" means the county criminal courts of Dallas County that have criminal appellate jurisdiction.

Added by Acts 1995, 74th Leg., ch. 163, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.1641 by Acts 1997, 75th Leg., ch. 165, Sec. 8.13, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 37, eff. Sept. 1, 1999.

Sec. 30.00426. JUDGE. (a) to (j) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(10), eff. Sept. 1, 1999.

(k) Sections 30.00007(b)(1), (2), (3), and (5) do not apply to this subchapter.

Added by Acts 1995, 74th Leg., ch. 163, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.1646 by Acts 1997, 75th Leg., ch. 165, Sec. 8.13, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 38, 139(10), eff. Sept. 1, 1999.

Sec. 30.00427. CLERK; OTHER PERSONNEL. (a) The city manager shall appoint a clerk of a municipal court of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

(b) Sections 30.00009(c) and (d) do not apply to this subchapter.

Added by Acts 1995, 74th Leg., ch. 163, Sec. 1, eff. May 23, 1995.

Renumbered from Government Code, Sec. 30.1647 by Acts 1997, 75th Leg., ch. 165, Sec. 8.13, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 39, eff. Sept. 1, 1999.

Sec. 30.00428. COURT REPORTER. (a) The clerk of the court shall appoint the court reporter under Section 30.00010. The reporter shall be compensated by the city in the manner determined by the city manager.

(b) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(10), eff. Sept. 1, 1999.

Added by Acts 1995, 74th Leg., ch. 163, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.1648 by Acts 1997, 75th Leg., ch. 165, Sec. 8.13, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 40, 139(10), eff. Sept. 1, 1999.

SUBCHAPTER L. SWEETWATER

Sec. 30.00461. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Sweetwater.

(b) In this subchapter, "appellate courts" means the County Court of Nolan County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.171 by Acts 1997, 75th Leg., ch. 165, Sec. 8.14, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 41, eff. Sept. 1, 1999.

Sec. 30.00464. JUDGE. (a) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(11), eff. Sept. 1, 1999.

(b) A municipal judge must be a licensed attorney in good standing in this state. The judge must be a citizen of the United States and of this state. The judge must maintain residence in the city during the tenure of office but need not be a resident of the city at the time of the appointment.

(c) to (e) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(11), eff. Sept. 1, 1999.

(f) Section 30.00007(b)(5) does not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.174 by Acts 1997, 75th Leg., ch. 165, Sec. 8.14, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 42, 139(11), eff. Sept. 1, 1999.

Sec. 30.00465. CLERK; OTHER PERSONNEL. (a) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(11), eff. Sept. 1, 1999.

(b) The governing body of the city shall provide deputy clerks, warrant officers, and other personnel, including at least one bailiff for each court, as needed for the proper operation of the courts.

(c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(11), eff. Sept. 1, 1999.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.175 by Acts 1997, 75th Leg., ch. 165, Sec. 8.14, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 139(11), eff. Sept. 1, 1999.

Sec. 30.00466. COURT REPORTER. (a) The municipal judge shall appoint a court reporter under Section 30.00010, whose qualifications shall be determined by the judge or, if there is more than one municipal judge, by the presiding municipal judge.

(b) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(11), eff. Sept. 1, 1999.

(c) Section 30.00010(d) does not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.176 by Acts 1997, 75th Leg., ch. 165, Sec. 8.14, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 43 and 139(11), eff. Sept. 1, 1999

SUBCHAPTER M. CROWLEY

Sec. 30.00491. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Crowley.

(b) In this subchapter, "appellate courts" means the county criminal courts of Tarrant County that have criminal appellate jurisdiction.

Added by Acts 1995, 74th Leg., ch. 193, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.1881 by Acts 1997, 75th Leg., ch. 165, Sec. 8.15, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 44, eff. Sept. 1, 1999.

Sec. 30.00494. JUDGE. (a) to (j) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(12), eff. Sept. 1, 1999.

(k) Sections 30.00007(b)(1), (2), (3), and (5) do not apply to this subchapter.

Added by Acts 1995, 74th Leg., ch. 193, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.1884 by Acts 1997, 75th Leg., ch. 165, Sec. 8.15, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 45, 139(12), eff. Sept. 1, 1999.

Sec. 30.004945. MAGISTRATES. (a) The governing body may appoint one or more magistrates in addition to magistrates provided under Article 2A.151, Code of Criminal Procedure.

(b) A magistrate does not have to possess all the qualifications necessary to be a municipal court of record judge.

(c) A magistrate may not preside over the court or hear contested cases.

(d) A magistrate may:

(1) conduct an arraignment;

(2) hold an indigency hearing;

(3) accept a plea;

(4) sign a judgment;

(5) set the amount of a bond; or

(6) perform other functions under Article 15.17, Code of Criminal Procedure.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 46, eff. Sept. 1, 1999. Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.059, eff. January 1, 2025.

Sec. 30.00495. CLERK; OTHER PERSONNEL. (a) The city manager or city administrator of the city shall appoint a clerk of the

municipal court of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

(b) Sections 30.00009(c) and (d) do not apply to this subchapter.

Added by Acts 1995, 74th Leg., ch. 193, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.1885 by Acts 1997, 75th Leg., ch. 165, Sec. 8.15, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 47, eff. Sept. 1, 1999.

Sec. 30.00496. COURT REPORTER. (a) The clerk of the court shall appoint the court reporter under Section 30.00010.

(b) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(12), eff. Sept. 1, 1999.

Added by Acts 1995, 74th Leg., ch. 193, Sec. 1, eff. May 23, 1995. Renumbered from Government Code, Sec. 30.1886 by Acts 1997, 75th Leg., ch. 165, Sec. 8.15, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 48, 139(12), eff. Sept. 1, 1999.

SUBCHAPTER N. LONGVIEW

Sec. 30.00531. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Longview.

(b) In this subchapter, "appellate courts" means the County Court of Gregg County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.201 by Acts 1997, 75th Leg., ch. 165, Sec. 8.16, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 49, eff. Sept. 1, 1999.

Sec. 30.00534. JUDGE. (a) to (e) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(13), eff. Sept. 1, 1999.

(f) Section 30.00007(b)(5) does not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Renumbered from Government Code, Sec. 30.204 by Acts 1997, 75th Leg., ch. 165, Sec. 8.16, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 50, 139(13), eff. Sept. 1, 1999.

Sec. 30.00536. COURT REPORTER. The municipal judge shall appoint the court reporter under Section 30.00010.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.206 by Acts 1997, 75th Leg., ch. 165, Sec. 8.16, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 51, 139(13), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1260, Sec. 1, eff. June 20, 2003.

SUBCHAPTER O. PANTEGO

Sec. 30.00561. APPLICATION; DEFINITION. (a) This subchapter applies to the town of Pantego.

(b) In this subchapter, "appellate courts" means the county criminal courts of Tarrant County that have criminal appellate jurisdiction.

Added by Acts 1995, 74th Leg., ch. 274, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.2191 by Acts 1997, 75th Leg., ch. 165, Sec. 8.17, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 52, eff. Sept. 1, 1999.

Sec. 30.00564. JUDGE. (a) to (j) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(14), eff. Sept. 1, 1999.

(k) Sections 30.00007(b)(1), (2), (3), and (5) do not apply to this subchapter.

Added by Acts 1995, 74th Leg., ch. 274, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.2194 by Acts 1997, 75th Leg., ch. 165, Sec. 8.17, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 53, 139(14), eff. Sept. 1, 1999.

Sec. 30.00565. CLERK; OTHER PERSONNEL. (a) The city manager of the town shall appoint a clerk of the municipal court of record

who may hire, direct, and remove the personnel authorized in the town's annual budget for the clerk's office. The clerk shall perform the duties in accordance with statutes, the town charter, and town ordinances.

(b) Sections 30.00009(c) and (d) do not apply to this subchapter.

Added by Acts 1995, 74th Leg., ch. 274, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.2195 by Acts 1997, 75th Leg., ch. 165, Sec. 8.17, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 54, eff. Sept. 1, 1999.

Sec. 30.00566. COURT REPORTER. (a) The clerk of the court shall appoint the court reporter under Section 30.00010.

(b) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(14), eff. Sept. 1, 1999.

Added by Acts 1995, 74th Leg., ch. 274, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.2196 by Acts 1997, 75th Leg., ch. 165, Sec. 8.17, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 55, 139(14), eff. Sept. 1, 1999.

SUBCHAPTER P. MIDLAND

Sec. 30.00601. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Midland.

(b) In this subchapter, "appellate courts" means the County Court of Midland County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.231 by Acts 1997, 75th Leg., ch. 165, Sec. 8.18, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 56, eff. Sept. 1, 1999.

Sec. 30.00604. JUDGE. (a) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(15), eff. Sept. 1, 1999.

(b) In addition to satisfying the requirements of Section 30.00006(c), a municipal judge must maintain residence in the city during the tenure of office but need not be a resident of the city at

the time of the appointment. The judge shall serve full time and may not engage in the private practice of law while in office.

(c) to (e) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(15), eff. Sept. 1, 1999.

(f) Section 30.00007(b)(5) does not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.234 by Acts 1997, 75th Leg., ch. 165, Sec. 8.18, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 5, 139(15), eff. Sept. 1, 1999.

Sec. 30.00605. CLERK; OTHER PERSONNEL. (a) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(15), eff. Sept. 1, 1999.

(b) The governing body of the city shall provide deputy clerks, warrant officers, and other personnel, including at least one bailiff for each court, as needed for the proper operation of the municipal courts of record.

(c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(15), eff. Sept. 1, 1999.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.235 by Acts 1997, 75th Leg., ch. 165, Sec. 8.18, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 139(15), eff. Sept. 1, 1999.

Sec. 30.00606. COURT REPORTER. (a) The municipal judge shall appoint the court reporter under Section 30.00010, who must meet qualifications determined by the judge or, if there is more than one judge, by the presiding municipal judge. The governing body of the city shall set the compensation of the court reporter on the recommendation of the presiding judge.

(b) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(15), eff. Sept. 1, 1999.

(c) Section 30.00010(d) does not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.236 by Acts 1997, 75th Leg., ch. 165, Sec. 8.18, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 58, 139(15), eff. Sept. 1, 1999.

SUBCHAPTER Q. RIVER OAKS

Sec. 30.00631. APPLICATION; DEFINITION. (a) This subchapter applies to the City of River Oaks.

(b) In this subchapter, "appellate courts" means the county criminal courts of Tarrant County that have criminal appellate jurisdiction.

Added by Acts 1995, 74th Leg., ch. 653, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.2481 by Acts 1997, 75th Leg., ch. 165, Sec. 8.19, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 59, eff. Sept. 1, 1999.

Sec. 30.00634. JUDGE. (a) to (c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(16), eff. Sept. 1, 1999.

(d) In addition to exercising powers under Section 30.00006(e), a municipal judge shall devote as much time to the office as it requires.

(e) to (j) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(16), eff. Sept. 1, 1999.

(k) Sections 30.00007(b)(1), (2), (3), and (5) do not apply to this subchapter.

Added by Acts 1995, 74th Leg., ch. 653, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.2484 by Acts 1997, 75th Leg., ch. 165, Sec. 8.19, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 60, 139(16), eff. Sept. 1, 1999.

Sec. 30.00635. MAGISTRATES. (a) The governing body may appoint one or more magistrates in addition to magistrates provided under Article 2A.151, Code of Criminal Procedure.

(b) A magistrate does not have to possess all the qualifications necessary to be a municipal court of record judge.

(c) A magistrate may not preside over the court or hear contested cases.

(d) A magistrate may:

(1) conduct an arraignment;

(2) hold an indigency hearing;

(3) accept a plea;
(4) sign a judgment;
(5) set the amount of a bond; and
(6) perform other functions under Article 15.17, Code of Criminal Procedure.

Added by Acts 1995, 74th Leg., ch. 653, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.2485 by Acts 1997, 75th Leg., ch. 165, Sec. 8.19, eff. Sept. 1, 1997.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.060, eff. January 1, 2025.

Sec. 30.00636. CLERK; OTHER PERSONNEL. (a) The city administrator of the city shall appoint a clerk of the municipal court of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.
(b) Sections 30.00009(c) and (d) do not apply to this subchapter.

Added by Acts 1995, 74th Leg., ch. 653, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.2486 by Acts 1997, 75th Leg., ch. 165, Sec. 8.19, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 61, eff. Sept. 1, 1999.

Sec. 30.00637. COURT REPORTER. (a) The clerk of the court shall appoint the court reporter under Section 30.00010.
(b) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(16), eff. Sept. 1, 1999.

Added by Acts 1995, 74th Leg., ch. 653, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.2487 by Acts 1997, 75th Leg., ch. 165, Sec. 8.19, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 62, 139(16), eff. Sept. 1, 1999.

Sec. 30.00653. JOINT COURTS: CREATION. (a) The governing

body of the city may contract with one or more municipalities that have municipal courts of record to establish a joint municipal court of record to serve the contracting municipalities.

(b) A joint municipal court of record created under this section replaces each municipality's individual municipal court of record.

Added by Acts 1995, 74th Leg., ch. 653, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.2503 by Acts 1997, 75th Leg., ch. 165, Sec. 8.19, eff. Sept. 1, 1997.

Sec. 30.00654. JOINT COURT: JUDGES. (a) Notwithstanding any other law, a joint municipal court of record created under Section 30.2503 is presided over by a municipal judge or alternate municipal judge who is appointed by the governing bodies of the contracting municipalities for a two-year term.

(b) The judge of a joint municipal court of record may be removed from office by the governing bodies of the contracting municipalities at any time for incompetency, misconduct, malfeasance, or inability to perform the tasks of the office.

Added by Acts 1995, 74th Leg., ch. 653, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.2504 by Acts 1997, 75th Leg., ch. 165, Sec. 8.19, eff. Sept. 1, 1997.

Sec. 30.00655. JOINT COURTS: JURISDICTION. (a) The jurisdiction of a joint municipal court of record created under Section 30.2503 is the combined jurisdiction of the municipal courts of the contracting municipalities.

(b) An appeal from a joint municipal court of record created under Section 30.2503 is to the county criminal court of the county in which the offense occurred. If that county does not have a county criminal court, appeal is to the county court of law of the county.

Added by Acts 1995, 74th Leg., ch. 653, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.2505 by Acts 1997, 75th Leg., ch. 165, Sec. 8.19, eff. Sept. 1, 1997.

Sec. 30.00656. JOINT COURT: PROSECUTING ATTORNEY. A municipality that contracts under Section 30.2503 may provide its own prosecuting attorney or the contracting municipalities may agree on the selection of one or more prosecuting attorneys.

Added by Acts 1995, 74th Leg., ch. 653, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.2506 by Acts 1997, 75th Leg., ch. 165, Sec. 8.19, eff. Sept. 1, 1997.

Sec. 30.00657. JOINT COURT: APPLICABLE LAW. (a) The municipalities by contract shall select one of the contracting municipality's enabling statutes as the source of applicable procedural requirements for the operation of the joint municipal court of record established under Section 30.2503.

(b) All of the provisions of the statute selected under Subsection (a) apply to the operation of the joint municipal court of record. If there is a conflict with any of the provisions in Sections 30.2503-30.2506, those sections control.

(c) Any matter that is not governed by the contracting municipalities' enabling legislation or other law shall be resolved by the contract entered into under Section 30.2503.

Added by Acts 1995, 74th Leg., ch. 653, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.2507 by Acts 1997, 75th Leg., ch. 165, Sec. 8.19, eff. Sept. 1, 1997.

SUBCHAPTER R. HOUSTON

Sec. 30.00671. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Houston.

(b) In this subchapter, "appellate courts" means the county criminal courts of Harris County that have criminal appellate jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.261 by Acts 1997, 75th Leg., ch. 165, Sec. 8.20, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 63, eff. Sept. 1, 1999.

Sec. 30.00674. JUDGE. (a) to (f) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(17), eff. Sept. 1, 1999.

(g) A municipal judge may only be removed under Article V, Section 1-a, of the Texas Constitution.

(h) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(17), eff. Sept. 1, 1999.

(i) Sections 30.00007(b)(5) and 30.000085 do not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 30, eff. Sept. 1, 1989. Renumbered from Government Code, Sec. 30.264 by Acts 1997, 75th Leg., ch. 165, Sec. 8.20, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 691, Sec. 64, 139(17), eff. Sept. 1, 1999.

Sec. 30.00675. CLERK; OTHER PERSONNEL. (a) , (b) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(17), eff. Sept. 1, 1999.

(c) Section 30.00009(c) does not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.265 by Acts 1997, 75th Leg., ch. 165, Sec. 8.20, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 65, 139(17), eff. Sept. 1, 1999.

Sec. 30.00676. COURT REPORTER. (a) Each municipal judge may appoint an official court reporter under Section 30.00010 to transcribe the trial proceedings, including testimony, voir dire examinations, objections, and final arguments.

(b) Section 30.00010(d) does not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.266 by Acts 1997, 75th Leg., ch. 165, Sec. 8.20, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 66, eff. Sept. 1, 1999.

SUBCHAPTER S. MARSHALL

Sec. 30.00701. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Marshall.

(b) In this subchapter, "appellate courts" means the County Court of Harrison County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.291 by Acts 1997, 75th Leg., ch. 165, Sec. 8.21, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 67, eff. Sept. 1, 1999.

Sec. 30.00704. JUDGE. (a) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(18), eff. Sept. 1, 1999.

(b) In addition to exercising powers under Section 30.00006(e), a municipal judge shall devote as much time to the office as it requires.

(c) to (e) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(18), eff. Sept. 1, 1999.

(f) Section 30.00007(b)(5) does not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.294 by Acts 1997, 75th Leg., ch. 165, Sec. 8.21, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 68, 139(18), eff. Sept. 1, 1999.

Sec. 30.00706. COURT REPORTER. (a) The municipal judge shall appoint the court reporter under Section 30.00010.

(b) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(18), eff. Sept. 1, 1999.

(c) Section 30.00010(d) does not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.296 by Acts 1997, 75th Leg., ch. 165, Sec. 8.21, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 69, 139(18), eff. Sept. 1, 1999.

SUBCHAPTER T. AUSTIN

Sec. 30.00731. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Austin.

(b) In this subchapter, "appellate courts" means the county courts at law of Travis County that have criminal appellate

jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.321 by Acts 1997, 75th Leg., ch. 165, Sec. 8.22, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 70, eff. Sept. 1, 1999.

Sec. 30.00734. JUDGE. (a) to (f) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(19), eff. Sept. 1, 1999.

(g) In addition to satisfying the requirements of Section 30.00006(c), a municipal judge must have been a resident of the city for the two-year period immediately preceding appointment.

(h) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(19), eff. Sept. 1, 1999.

(i) Section 30.00007(b)(5) does not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.324 by Acts 1997, 75th Leg., ch. 165, Sec. 8.22, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 71, 139(19), eff. Sept. 1, 1999.

Sec. 30.00736. CLERK; OTHER PERSONNEL. (a) The governing body of the city shall appoint a clerk of the municipal courts of record, who shall be known as the municipal clerk. The municipal clerk serves at the pleasure of the governing body. The clerk shall perform, as applicable, the duties prescribed by law for the county clerk of a county court at law and any other duty necessary to issue process and conduct business of the court. The clerk may administer oaths and affidavits and make certificates and affix the court's seal to those certificates. In addition, the clerk shall:

(1) maintain central docket records for all cases filed in the municipal courts of record; and

(2) maintain an index of all court judgments in the same manner as county clerks are required by law to prepare for criminal cases arising in county courts.

(b) With the consent of the governing body of the city, the clerk may appoint one or more deputy clerks to act for and on behalf of the clerk.

(c) The governing body of the city shall provide the courts

with other municipal court personnel that the governing body determines necessary for the proper operation of the courts. Those persons shall perform their duties under the direction and control of the clerk of the municipal court or the municipal judge to whom assigned. The governing body shall determine the salaries of the court personnel.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 31, eff. Sept. 1, 1989. Renumbered from Government Code, Sec. 30.326 by Acts 1997, 75th Leg., ch. 165, Sec. 8.22, eff. Sept. 1, 1997.

SUBCHAPTER U. ODESSA

Sec. 30.00771. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Odessa.

(b) In this subchapter, "appellate courts" means the county courts at law of Ector County that have criminal appellate jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.351 by Acts 1997, 75th Leg., ch. 165, Sec. 8.23, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 73, eff. Sept. 1, 1999.

Sec. 30.00774. JUDGE. (a) to (e) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(20), eff. Sept. 1, 1999.

(f) Section 30.00007(b)(5) does not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 235, Sec. 3, eff. Sept. 1, 1997. Renumbered from Government Code, Sec. 30.354 by Acts 1997, 75th Leg., ch. 165, Sec. 8.23, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 691, Sec. 74, 139(20), eff. Sept. 1, 1999.

Sec. 30.00778. CLERK; OTHER PERSONNEL. (a) The city manager shall provide for the appointment of a clerk of the municipal courts of record, who shall be known as the municipal clerk. The municipal clerk shall perform, as applicable, the duties prescribed by law for

the county clerk of a county court at law. In addition, the clerk shall:

(1) maintain central docket records for all cases filed in the municipal courts of record; and

(2) maintain an index of all municipal court of record judgments in the same manner as county clerks are required by law to prepare for criminal cases arising in county courts.

(b) The governing body of the city shall provide the courts with other municipal court personnel that the governing body determines necessary for the proper operation of the courts. Those persons shall perform their duties under the direction and control of the clerk or the municipal judge to whom assigned. The governing body shall determine the salaries of the court personnel.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 32, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 235, Sec. 6, eff. Sept. 1, 1997. Renumbered from Government Code, Sec. 30.358 by Acts 1997, 75th Leg., ch. 165, Sec. 8.23, eff. Sept. 1, 1997.

Sec. 30.00779. RECORDING OF PROCEEDINGS; COURT REPORTER. (a) to (e) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(20), eff. Sept. 1, 1999.

(f) Section 30.00010(d) does not apply to this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 235, Sec. 7, eff. Sept. 1, 1997. Renumbered from Government Code, Sec. 30.359 by Acts 1997, 75th Leg., ch. 165, Sec. 8.23, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 691, Sec. 75, 139(20), eff. Sept. 1, 1999.

Sec. 30.007801. PROSECUTION BY CITY ATTORNEY. All prosecutions in a municipal court of record must be conducted by the city attorney or an assistant or deputy city attorney.

Added by Acts 1997, 75th Leg., ch. 235, Sec. 8, eff. Sept. 1, 1997. Transferred from Government Code, Section 30.3601 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(19), eff. September 1, 2009.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 30.007802. COMPLAINT; PLEADING. (a) A complaint filed in a municipal court of record must begin "In the name and by authority of the State of Texas" and must conclude "Against the peace and dignity of the State."

(b) Complaints must comply with Article 45.17, Code of Criminal Procedure.

(c) Pleadings must be in writing and must be filed with the municipal court clerk.

Added by Acts 1997, 75th Leg., ch. 235, Sec. 8, eff. Sept. 1, 1997. Transferred from Government Code, Section 30.3602 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(19), eff. September 1, 2009.

Sec. 30.007803. JURY. (a) A person brought before a municipal court of record and charged with an offense is entitled to be tried by a jury of six persons, unless that right is waived according to law.

(b) A juror for the court must have the qualifications required of jurors by law and must be a resident of the city.

(c) A juror is entitled to receive the compensation for each day and each fraction of a day in attendance on a municipal court of record jury as provided by Chapter 61.

(d) The clerk of the court shall establish a fair, impartial, and objective juror selection process.

Added by Acts 1997, 75th Leg., ch. 235, Sec. 8, eff. Sept. 1, 1997. Transferred from Government Code, Section 30.3603 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(19), eff. September 1, 2009.

Sec. 30.007804. COURT RULES. (a) Except as modified by this subchapter, the Code of Criminal Procedure as applied to county

courts at law governs the trial of cases before municipal courts of record.

(b) Bonds must be payable to the state for the use and benefit of the city. The court may not assess court costs other than warrant fees, capias fees, and other fees authorized for municipal courts of record.

(c) A peace officer may serve a process issued by a municipal court of record.

(d) A conviction, judgment, and sentence are in the name of the state, and the state recovers from the defendant the fine and fees for the use and benefit of the city.

(e) Fines, fees, costs, and bonds shall be paid to the clerk of the court, who shall deposit them in the city general fund.

Added by Acts 1997, 75th Leg., ch. 235, Sec. 8, eff. Sept. 1, 1997. Transferred from Government Code, Section 30.3604 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(19), eff. September 1, 2009.

SUBCHAPTER V. DALLAS

Sec. 30.00811. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Dallas.

(b) In this subchapter, "appellate courts" means the county criminal courts of Dallas County that have criminal appellate jurisdiction.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Renumbered from Government Code, Sec. 30.381 by Acts 1997, 75th Leg., ch. 165, Sec. 8.24, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 76, eff. Sept. 1, 1999.

Sec. 30.00814. JUDGE. (a) to (c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(21), eff. Sept. 1, 1999.

(d) In addition to performing duties under Sections 30.00007(b)(1) and (4), the administrative municipal judge shall promulgate work rules for the administration of the municipal courts.

(e), (f) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(21), eff. Sept. 1, 1999.

(g) Sections 30.00007(b)(2), (3), and (5) do not apply to this

subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 157, Sec. 2, 3, eff. Aug. 31, 1987. Renumbered from Government Code, Sec. 30.384 by Acts 1997, 75th Leg., ch. 165, Sec. 8.24, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 691, Sec. 77, 139(21), eff. Sept. 1, 1999.

Sec. 30.00818. CLERK; OTHER PERSONNEL. (a) The governing body shall provide for the appointment of a clerk of the municipal courts of record, who shall be known as the municipal clerk. The municipal clerk shall perform for the municipal courts of record, as applicable, the duties prescribed by law for the county clerk of a county court at law. In addition, the clerk shall maintain central docket records for all cases filed in the municipal courts of record.

(b) The governing body of the city shall provide the courts with other municipal court personnel that the governing body determines necessary for the proper operation of the courts. Those persons shall perform their duties under the direction and control of the clerk of the municipal court or the municipal judge to whom assigned. The governing body shall determine the salaries of the court personnel.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 157, Sec. 4, eff. Aug. 31, 1987; Acts 1989, 71st Leg., ch. 1248, Sec. 33, eff. Sept. 1, 1989. Renumbered from Government Code, Sec. 30.388 by Acts 1997, 75th Leg., ch. 165, Sec. 8.24, eff. Sept. 1, 1997.

SUBCHAPTER W. ARLINGTON

Sec. 30.00851. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Arlington.

(b) In this subchapter, "appellate courts" means the county criminal courts of Tarrant County that have criminal appellate jurisdiction.

Added by Acts 1993, 73rd Leg., ch. 575, Sec. 1, eff. Aug. 30, 1993. Renumbered from Government Code, Sec. 30.421 by Acts 1997, 75th Leg., ch. 165, Sec. 8.25, eff. Sept. 1, 1997. Amended by Acts 1999, 76th

Leg., ch. 691, Sec. 78, eff. Sept. 1, 1999.

Sec. 30.00854. JUDGE. (a) to (c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(22), eff. Sept. 1, 1999.

(d) In addition to satisfying the requirements of Section 30.00006(c), a municipal judge shall devote as much time to the office as it requires.

(e) to (j) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(22), eff. Sept. 1, 1999.

(k) Sections 30.00007(b)(1), (2), (3), and (5) do not apply to this subchapter.

Added by Acts 1993, 73rd Leg., ch. 575, Sec. 1, eff. Aug. 30, 1993. Renumbered from Government Code, Sec. 30.424 by Acts 1997, 75th Leg., ch. 165, Sec. 8.25, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 79, 139(22), eff. Sept. 1, 1999.

Sec. 30.00855. CLERK; OTHER PERSONNEL. (a) The city manager of the city shall appoint a clerk of the municipal court of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

(b) Sections 30.00009(c) and (d) do not apply to this subchapter.

Added by Acts 1993, 73rd Leg., ch. 575, Sec. 1, eff. Aug. 30, 1993. Renumbered from Government Code, Sec. 30.425 by Acts 1997, 75th Leg., ch. 165, Sec. 8.25, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 80, eff. Sept. 1, 1999.

Sec. 30.00856. COURT REPORTER. (a) The clerk of the court shall appoint the court reporter under Section 30.00010.

(b) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(22), eff. Sept. 1, 1999.

Added by Acts 1993, 73rd Leg., ch. 575, Sec. 1, eff. Aug. 30, 1993. Renumbered from Government Code, Sec. 30.426 by Acts 1997, 75th Leg.,

ch. 165, Sec. 8.25, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 81, 139(22), eff. Sept. 1, 1999.

SUBCHAPTER X. GARLAND

Sec. 30.00891. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Garland.

(b) In this subchapter, "appellate courts" means the county criminal courts of Dallas County that have criminal appellate jurisdiction.

Added by Acts 1987, 70th Leg., ch. 161, Sec. 1, eff. May 25, 1987. Renumbered from Government Code, Sec. 30.451 by Acts 1997, 75th Leg., ch. 165, Sec. 8.26, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 82, eff. Sept. 1, 1999.

Sec. 30.00894. JUDGE. (a) to (f) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(23), eff. Sept. 1, 1999.

(g) Sections 30.00007(b)(5) and 30.00008(b) do not apply to this subchapter.

Added by Acts 1987, 70th Leg., ch. 161, Sec. 1, eff. May 25, 1987. Amended by Acts 1997, 75th Leg., ch. 1342, Sec. 2, eff. Sept. 1, 1997. Renumbered from Government Code, Sec. 30.454 by Acts 1997, 75th Leg., ch. 165, Sec. 8.26, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 691, Sec. 83, 139(23), eff. Sept. 1, 1999.

Sec. 30.00895. CLERK. (a) The city manager shall appoint a clerk of the municipal courts of record. The clerk or the clerk's deputies shall keep the records of the municipal courts of record, issue process, and generally perform the duties for the courts that a clerk of a county court exercising criminal jurisdiction is required by law to perform for that court. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

(b) Sections 30.00009(a), (c), and (d) do not apply to this subchapter.

Added by Acts 1987, 70th Leg., ch. 161, Sec. 1, eff. May 25, 1987. Renumbered from Government Code, Sec. 30.455 by Acts 1997, 75th Leg.,

ch. 165, Sec. 8.26, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 84, eff. Sept. 1, 1999.

Sec. 30.00896. COURT REPORTER. (a) The official court reporter shall be appointed by the chief judge under Section 30.00010.

(b) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(23), eff. Sept. 1, 1999.

Added by Acts 1987, 70th Leg., ch. 161, Sec. 1, eff. May 25, 1987. Amended by Acts 1997, 75th Leg., ch. 1342, Sec. 3, eff. Sept. 1, 1997. Renumbered from Government Code, Sec. 30.456 by Acts 1997, 75th Leg., ch. 165, Sec. 8.26, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 691, Sec. 85, 139(23), eff. Sept. 1, 1999.

SUBCHAPTER Y. AMARILLO

Sec. 30.00931. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Amarillo.

(b) In this subchapter, "appellate courts" means the county courts at law in Potter and Randall counties.

Added by Acts 1987, 70th Leg., ch. 694, Sec. 1, eff. Sept. 1, 1987. Renumbered from Government Code, Sec. 30.521 by Acts 1997, 75th Leg., ch. 165, Sec. 8.27, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 86, eff. Sept. 1, 1999.

Sec. 30.00934. JUDGE. (a) A municipal judge need not be a resident of the city at the time of appointment but must, in addition to satisfying the requirements of Section 30.00006(c), maintain residence in the city during the term of office. The judge shall devote full time to the duties of that office and may not engage in the private practice of law while in office. The restrictions on the residency of and private practice by a municipal judge do not apply to a judge employed to work less than 40 hours per week.

(b) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(24), eff. Sept. 1, 1999.

(e) The governing body of the city shall appoint a judge to be the presiding municipal judge who shall, in addition to performing

duties under Sections 30.00007(b)(1), (3), and (4), assign cases among the judges.

(f) Sections 30.00007(b)(2) and (5) do not apply to this subchapter.

Added by Acts 1987, 70th Leg., ch. 694, Sec. 1, eff. Sept. 1, 1987. Renumbered from Government Code, Sec. 30.524 by Acts 1997, 75th Leg., ch. 165, Sec. 8.27, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 87, 139(24), eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 182 (H.B. 596), Sec. 1, eff. May 27, 2005.

Sec. 30.00937. CLERK; OTHER PERSONNEL. The city manager of the city shall provide for the appointment of a municipal court clerk to serve as clerk of the municipal courts of record. The municipal court clerk shall perform the duties prescribed by ordinance and by applicable law and may hire, direct, and remove the personnel authorized in the annual budget for the clerk's office.

Added by Acts 1987, 70th Leg., ch. 694, Sec. 1, eff. Sept. 1, 1987. Renumbered from Government Code, Sec. 30.527 by Acts 1997, 75th Leg., ch. 165, Sec. 8.27, eff. Sept. 1, 1997.

Sec. 30.00939. COURT REPORTER. (a) For the purpose of preserving a record in cases tried before the municipal court, the city manager shall provide an official court reporter who has the qualifications provided by law for official court reporters.

(b), (c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(24), eff. Sept. 1, 1999.

(d) Section 30.00010(d) does not apply to this subchapter.

Added by Acts 1987, 70th Leg., ch. 694, Sec. 1, eff. Sept. 1, 1987. Renumbered from Government Code, Sec. 30.529 by Acts 1997, 75th Leg., ch. 165, Sec. 8.27, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 88, 139(24), eff. Sept. 1, 1999.

SUBCHAPTER Z. ADDISON

Sec. 30.00971. APPLICATION; DEFINITION. (a) This subchapter applies to the town of Addison.

(b) In this subchapter, "appellate courts" means the county criminal courts of Dallas County that have criminal appellate jurisdiction.

Added by Acts 1987, 70th Leg., ch. 1003, Sec. 1, eff. June 19, 1987. Renumbered from Government Code, Sec. 30.651 by Acts 1997, 75th Leg., ch. 165, Sec. 8.28, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 89, eff. Sept. 1, 1999.

Sec. 30.00976. JUDGE. (a) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(25), eff. Sept. 1, 1999.

(e) Section 30.00007(b)(5) does not apply to this subchapter.

Added by Acts 1987, 70th Leg., ch. 1003, Sec. 1, eff. June 19, 1987. Renumbered from Government Code, Sec. 30.656 by Acts 1997, 75th Leg., ch. 165, Sec. 8.28, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 90, 139(25), eff. Sept. 1, 1999.

Sec. 30.00977. CLERK. The city manager, with the consent of the governing body of the city, shall appoint a clerk of the municipal courts of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

Added by Acts 1987, 70th Leg., ch. 1003, Sec. 1, eff. June 19, 1987. Renumbered from Government Code, Sec. 30.657 by Acts 1997, 75th Leg., ch. 165, Sec. 8.28, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 91, eff. Sept. 1, 1999.

Sec. 30.00978. COURT REPORTER. (a) The clerk of the court shall appoint the court reporter under Section 30.00010.

(b) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(25), eff. Sept. 1, 1999.

(c) The court reporter is not required to record testimony in a case unless the judge or one of the parties requests a record. A

party's request for a record must be in writing and filed with the court before trial.

(d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(25), eff. Sept. 1, 1999.

Added by Acts 1987, 70th Leg., ch. 1003, Sec. 1, eff. June 19, 1987. Amended by Acts 1993, 73rd Leg., ch. 877, Sec. 1, eff. Aug. 30, 1993. Renumbered from Government Code, Sec. 30.658 by Acts 1997, 75th Leg., ch. 165, Sec. 8.28, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 691, Sec. 92, 139(25), eff. Sept. 1, 1999.

SUBCHAPTER AA. GRAPEVINE

Sec. 30.01011. APPLICATION; DEFINITION. (a) This subchapter applies to the city of Grapevine.

(b) In this subchapter, "appellate courts" means the county criminal courts of Tarrant County that have criminal appellate jurisdiction.

Added by Acts 1991, 72nd Leg., ch. 50, Sec. 1, eff. Aug. 26, 1991. Renumbered from Government Code, Sec. 30.691 by Acts 1997, 75th Leg., ch. 165, Sec. 8.29, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 93, eff. Sept. 1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 30.01014. JUDGE. (a) to (c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(26), eff. Sept. 1, 1999.

(d) In addition to satisfying the requirements of Section 30.00006(c), a municipal judge must maintain residence in the city during the tenure of office and must be a resident of the city at the time of appointment or election. The judge shall devote as much time to the office as it requires.

(e) to (i) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(26), eff. Sept. 1, 1999.

(j) An alternate judge must have the same qualifications as a municipal judge, except that an alternate judge may, but need not be, a resident of the city.

(k) Sections 30.00007(b)(1), (2), (3), and (5) do not apply to this subchapter.

Added by Acts 1991, 72nd Leg., ch. 50, Sec. 1, eff. Aug. 26, 1991. Renumbered from Government Code, Sec. 30.694 by Acts 1997, 75th Leg., ch. 165, Sec. 8.29, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 94, 139(26), eff. Sept. 1, 1999.

Sec. 30.01015. CLERK; OTHER PERSONNEL. (a) The city manager of the city shall appoint a clerk of the municipal courts of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

(b) Sections 30.00009(c) and (d) do not apply to this subchapter.

Added by Acts 1991, 72nd Leg., ch. 50, Sec. 1, eff. Aug. 26, 1991. Renumbered from Government Code, Sec. 30.695 by Acts 1997, 75th Leg., ch. 165, Sec. 8.29, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 95, eff. Sept. 1, 1999.

Sec. 30.01016. COURT REPORTER. (a) The clerk of the court shall appoint the court reporter under Section 30.00010.

(b) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(26), eff. Sept. 1, 1999.

Added by Acts 1991, 72nd Leg., ch. 50, Sec. 1, eff. Aug. 26, 1991. Renumbered from Government Code, Sec. 30.696 by Acts 1997, 75th Leg., ch. 165, Sec. 8.29, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 96, 139(26), eff. Sept. 1, 1999.

SUBCHAPTER BB. HURST

Sec. 30.01051. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Hurst.

(b) In this subchapter, "appellate courts" means the county criminal courts of Tarrant County that have criminal appellate jurisdiction.

Added by Acts 1993, 73rd Leg., ch. 340, Sec. 1, eff. Aug. 30, 1993. Renumbered from Government Code, Sec. 30.721 by Acts 1997, 75th Leg., ch. 165, Sec. 8.30, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 97, eff. Sept. 1, 1999.

Sec. 30.01054. JUDGE. (a) to (c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(27), eff. Sept. 1, 1999.

(d) In addition to exercising powers under Section 30.00006(e), a municipal judge shall devote as much time to the office as it requires.

(e) to (j) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(27), eff. Sept. 1, 1999.

(k) Sections 30.00007(b)(1), (2), (3), and (5) do not apply to this subchapter.

Added by Acts 1993, 73rd Leg., ch. 340, Sec. 1, eff. Aug. 30, 1993. Renumbered from Government Code, Sec. 30.724 by Acts 1997, 75th Leg., ch. 165, Sec. 8.30, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 98, 139(27), eff. Sept. 1, 1999.

Sec. 30.01055. CLERK; OTHER PERSONNEL. (a) The city manager of the city shall appoint a clerk of the municipal court of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

(b) Sections 30.00009(c) and (d) do not apply to this subchapter.

Added by Acts 1993, 73rd Leg., ch. 340, Sec. 1, eff. Aug. 30, 1993. Renumbered from Government Code, Sec. 30.725 by Acts 1997, 75th Leg., ch. 165, Sec. 8.30, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 99, eff. Sept. 1, 1999.

Sec. 30.01056. COURT REPORTER. (a) The presiding judge shall appoint the court reporter under Section 30.00010.

(b) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(27), eff. Sept. 1, 1999.

Added by Acts 1993, 73rd Leg., ch. 340, Sec. 1, eff. Aug. 30, 1993. Renumbered from Government Code, Sec. 30.726 by Acts 1997, 75th Leg., ch. 165, Sec. 8.30, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 100, 139(27), eff. Sept. 1, 1999.

SUBCHAPTER CC. CARROLLTON

Sec. 30.01091. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Carrollton.

(b) In this subchapter, "appellate courts" means the county criminal courts of Dallas County that have criminal appellate jurisdiction.

Added by Acts 1993, 73rd Leg., ch. 324, Sec. 1, eff. May 29, 1993. Renumbered from Government Code, Sec. 30.851 by Acts 1997, 75th Leg., ch. 165, Sec. 8.31, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 101, eff. Sept. 1, 1999.

Sec. 30.01096. JUDGE. (a) In addition to satisfying the requirements of Section 30.00006(c), a presiding municipal judge must maintain residence in the city during the tenure of office. The municipal judge shall devote full time to the duties of the office as necessary.

(b), (c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(28), eff. Sept. 1, 1999.

(d) Section 30.00007(b)(5) does not apply to this subchapter.

(e) A municipal court of record may be presided over by an assistant municipal judge.

Added by Acts 1993, 73rd Leg., ch. 324, Sec. 1, eff. May 29, 1993. Renumbered from Government Code, Sec. 30.856 by Acts 1997, 75th Leg., ch. 165, Sec. 8.31, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 102, 139(28), eff. Sept. 1, 1999.

Sec. 30.010975. AUTOMATIC RESIGNATION. If the municipal judge or an assistant municipal judge announces a candidacy or becomes a candidate in a general, special, or primary election, for any office of profit or trust under the laws of the state or the United States, the announcement or the candidacy constitutes an automatic

resignation of the appointment, effective the date of the announcement or candidacy.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 103, eff. Sept. 1, 1999.

Sec. 30.01098. CLERK; OTHER PERSONNEL. (a) The city manager shall appoint a clerk of the municipal court of record who shall be known as the municipal court clerk. The clerk may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office.

(b), (c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(28), eff. Sept. 1, 1999.

(d) Sections 30.00009(c) and (d) do not apply to this subchapter.

Added by Acts 1993, 73rd Leg., ch. 324, Sec. 1, eff. May 29, 1993. Renumbered from Government Code, Sec. 30.858 by Acts 1997, 75th Leg., ch. 165, Sec. 8.31, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 104, 139(28), eff. Sept. 1, 1999.

Sec. 30.01099. COURT REPORTER. (a) The city shall provide a court reporter for the purpose of preserving a record in cases tried before the municipal court of record. The clerk of the court shall appoint the court reporter, who must meet the qualifications provided by law for official court reporters.

(b) to (e) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(28), eff. Sept. 1, 1999.

Added by Acts 1993, 73rd Leg., ch. 324, Sec. 1, eff. May 29, 1993. Renumbered from Government Code, Sec. 30.859 by Acts 1997, 75th Leg., ch. 165, Sec. 8.31, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 139(28), eff. Sept. 1, 1999.

SUBCHAPTER DD. WHITE SETTLEMENT

Sec. 30.01131. APPLICATION; DEFINITION. (a) This subchapter applies to the City of White Settlement.

(b) In this subchapter, "appellate courts" means the county criminal courts of Tarrant County that have criminal appellate

jurisdiction.

Added by Acts 1995, 74th Leg., ch. 630, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.881 by Acts 1997, 75th Leg., ch. 165, Sec. 8.32, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 105, eff. Sept. 1, 1999.

Sec. 30.01134. JUDGE. (a) to (c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(29), eff. Sept. 1, 1999.

(d) In addition to exercising powers under Section 30.00006(e), a municipal judge shall devote as much time to the office as it requires.

(e) to (j) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(29), eff. Sept. 1, 1999.

(k) Sections 30.00007(b)(1), (2), (3), and (5) do not apply to this subchapter.

Added by Acts 1995, 74th Leg., ch. 630, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.884 by Acts 1997, 75th Leg., ch. 165, Sec. 8.32, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 106, 139(29), eff. Sept. 1, 1999.

Sec. 30.01135. CLERK; OTHER PERSONNEL. (a) The city manager of the city shall appoint a clerk of the municipal court of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

(b) Sections 30.00009(c) and (d) do not apply to this subchapter.

Added by Acts 1995, 74th Leg., ch. 630, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.885 by Acts 1997, 75th Leg., ch. 165, Sec. 8.32, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 107, eff. Sept. 1, 1999.

Sec. 30.01136. COURT REPORTER. (a) The presiding judge shall appoint the court reporter under Section 30.00010.

(b) to (e) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(29), eff. Sept. 1, 1999.

Added by Acts 1995, 74th Leg., ch. 630, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.886 by Acts 1997, 75th Leg., ch. 165, Sec. 8.32, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 108, 139(29), eff. Sept. 1, 1999.

Sec. 30.01137. MAGISTRATES. (a) The governing body may appoint one or more magistrates to act on behalf of a municipal court of record or a municipal court in the city of White Settlement.

(b) A magistrate is not required to possess all the qualifications necessary to be a municipal court of record judge.

(c) A magistrate may not preside over the court or hear contested cases.

(d) A magistrate may:

(1) conduct an arraignment;

(2) hold an indigency hearing;

(3) accept a plea;

(4) sign a judgment;

(5) set the amount of a bond; and

(6) perform other functions under Article 15.17, Code of Criminal Procedure.

Added by Acts 2009, 81st Leg., R.S., Ch. 1076 (H.B. 4750), Sec. 1, eff. June 19, 2009.

Sec. 30.01148. DISPOSITION ON APPEAL. (a) to (c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(29), eff. Sept. 1, 1999.

(d) Section 30.00009(c) does not apply to this subchapter.

Added by Acts 1995, 74th Leg., ch. 630, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code, Sec. 30.898 by Acts 1997, 75th Leg., ch. 165, Sec. 8.32, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 109, 139(29), eff. Sept. 1, 1999.

SUBCHAPTER EE. EULESS

Sec. 30.01171. APPLICATION; DEFINITION. (a) This subchapter

applies to the City of Euless.

(b) In this subchapter, "appellate courts" means the county criminal courts of Tarrant County that have criminal appellate jurisdiction.

Added by Acts 1993, 73rd Leg., ch. 325, Sec. 1, eff. Aug. 30, 1993. Renumbered from Government Code, Sec. 30.916 by Acts 1997, 75th Leg., ch. 165, Sec. 8.33, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 110, eff. Sept. 1, 1999.

Sec. 30.01174. JUDGE. (a) to (c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(30), eff. Sept. 1, 1999.

(d) In addition to exercising powers under Section 30.00006(e), a municipal judge shall devote as much time to the office as it requires.

(e) to (j) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(30), eff. Sept. 1, 1999.

(k) Sections 30.00007(b)(1), (2), (3), and (5) do not apply to this subchapter.

Added by Acts 1993, 73rd Leg., ch. 325, Sec. 1, eff. Aug. 30, 1993. Renumbered from Government Code, Sec. 30.919 by Acts 1997, 75th Leg., ch. 165, Sec. 8.33, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 111, 139(30), eff. Sept. 1, 1999.

Sec. 30.01175. CLERK; OTHER PERSONNEL. (a) The city manager of the city shall appoint a clerk of the municipal court of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

(b) Sections 30.00009(c) and (d) do not apply to this subchapter.

Added by Acts 1993, 73rd Leg., ch. 325, Sec. 1, eff. Aug. 30, 1993. Renumbered from Government Code, Sec. 30.920 by Acts 1997, 75th Leg., ch. 165, Sec. 8.33, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 112, eff. Sept. 1, 1999.

Sec. 30.01176. COURT REPORTER. (a) The presiding judge shall appoint the court reporter under Section 30.00010.

(b) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(30), eff. Sept. 1, 1999.

Added by Acts 1993, 73rd Leg., ch. 325, Sec. 1, eff. Aug. 30, 1993. Renumbered from Government Code, Sec. 30.921 by Acts 1997, 75th Leg., ch. 165, Sec. 8.33, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 113, 139(30), eff. Sept. 1, 1999.

SUBCHAPTER FF. DENTON

Sec. 30.01211. APPLICATION; DEFINITION. (a) This subchapter applies to the city of Denton.

(b) In this subchapter, "appellate courts" means the county courts at law of Denton County that have criminal appellate jurisdiction.

Added by Acts 1993, 73rd Leg., ch. 884, Sec. 1, eff. Aug. 30, 1993. Renumbered from Government Code, Sec. 30.981 by Acts 1997, 75th Leg., ch. 165, Sec. 8.34, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 114, eff. Sept. 1, 1999.

Sec. 30.01216. JUDGE. (a) The municipal judge shall devote as much time as necessary to perform the duties of the office.

(b), (c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(31), eff. Sept. 1, 1999.

Added by Acts 1993, 73rd Leg., ch. 884, Sec. 1, eff. Aug. 30, 1993. Renumbered from Government Code, Sec. 30.986 by Acts 1997, 75th Leg., ch. 165, Sec. 8.34, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 115, 139(31), eff. Sept. 1, 1999.

Sec. 30.01218. CLERK; OTHER PERSONNEL. (a) The city manager shall appoint a clerk of the municipal court of record who shall be known as the "municipal court clerk."

(b) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(31), eff. Sept. 1, 1999.

(c) The clerk may hire, direct, and remove the personnel

authorized in the city's annual budget for the clerk's office.

Added by Acts 1993, 73rd Leg., ch. 884, Sec. 1, eff. Aug. 30, 1993. Renumbered from Government Code, Sec. 30.988 by Acts 1997, 75th Leg., ch. 165, Sec. 8.34, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 139(31), eff. Sept. 1, 1999.

Sec. 30.01219. COURT REPORTER. (a) The presiding judge shall appoint the court reporter under Section 30.00010.

(b) to (e) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(31), eff. Sept. 1, 1999.

Added by Acts 1993, 73rd Leg., ch. 884, Sec. 1, eff. Aug. 30, 1993. Renumbered from Government Code, Sec. 30.989 by Acts 1997, 75th Leg., ch. 165, Sec. 8.34, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 116, 139(31), eff. Sept. 1, 1999.

SUBCHAPTER GG. LAKE WORTH

Sec. 30.01251. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Lake Worth.

(b) In this subchapter, "appellate courts" means the county criminal courts of Tarrant County that have criminal appellate jurisdiction.

Added by Acts 1997, 75th Leg., ch. 182, Sec. 1, eff. May 21, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 117, eff. Sept. 1, 1999.

Sec. 30.01254. JUDGE. (a) to (c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(32), eff. Sept. 1, 1999.

(d) In addition to exercising powers under Section 30.00006(e), a municipal judge shall devote as much time to the office as it requires.

(e) to (j) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(32), eff. Sept. 1, 1999.

(k) Sections 30.00007(b)(1), (2), (3), and (5) do not apply to this subchapter.

Added by Acts 1997, 75th Leg., ch. 182, Sec. 1, eff. May 21, 1997.
Amended by Acts 1999, 76th Leg., ch. 691, Sec. 118, 139(32), eff. Sept. 1, 1999.

Sec. 30.01255. MAGISTRATES. (a) The governing body may appoint one or more magistrates in addition to magistrates provided under Article 2A.151, Code of Criminal Procedure.

(b) A magistrate does not have to possess all the qualifications necessary to be a municipal court of record judge.

(c) A magistrate may not preside over the court or hear contested cases.

(d) A magistrate may:

(1) conduct an arraignment;

(2) hold an indigency hearing;

(3) accept a plea;

(4) sign a judgment;

(5) set the amount of a bond; and

(6) perform other functions under Article 15.17, Code of Criminal Procedure.

Added by Acts 1997, 75th Leg., ch. 182, Sec. 1, eff. May 21, 1997.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.061, eff. January 1, 2025.

Sec. 30.01256. CLERK; OTHER PERSONNEL. (a) The city administrator of the city shall appoint a clerk of the municipal court of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

(b) Sections 30.00009(c) and (d) do not apply to this subchapter.

Added by Acts 1997, 75th Leg., ch. 182, Sec. 1, eff. May 21, 1997.
Amended by Acts 1999, 76th Leg., ch. 691, Sec. 119, eff. Sept. 1, 1999.

Sec. 30.01257. COURT REPORTER. (a) The presiding judge shall appoint the court reporter under Section 30.00010.

(b) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(32), eff. Sept. 1, 1999.

Added by Acts 1997, 75th Leg., ch. 182, Sec. 1, eff. May 21, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 120, 139(32), eff. Sept. 1, 1999.

Sec. 30.01273. JOINT COURTS: CREATION. (a) The governing body of the city may contract with one or more municipalities that have municipal courts of record to establish a joint municipal court of record to serve the contracting municipalities.

(b) A joint municipal court of record created under this section replaces each municipality's individual municipal court of record.

Added by Acts 1997, 75th Leg., ch. 182, Sec. 1, eff. May 21, 1997.

Sec. 30.01274. JOINT COURT: JUDGES. (a) Notwithstanding any other law, a joint municipal court of record created under Section 30.01273 is presided over by a municipal judge or alternate municipal judge who is appointed by a majority vote of each of the governing bodies of the contracting municipalities for a two-year term.

(b) The judge of a joint municipal court of record may be removed from office by the governing bodies of the contracting municipalities at any time for incompetency, misconduct, malfeasance, or inability to perform the tasks of the office.

Added by Acts 1997, 75th Leg., ch. 182, Sec. 1, eff. May 21, 1997.

Sec. 30.01275. JOINT COURTS: JURISDICTION. (a) The jurisdiction of a joint municipal court of record created under Section 30.01273 is the combined jurisdiction of the municipal courts of the contracting municipalities.

(b) An appeal from a joint municipal court of record created under Section 30.01273 is to the county criminal court of the county in which the offense occurred. If that county does not have a county

criminal court, appeal is to the county court of law of the county.

Added by Acts 1997, 75th Leg., ch. 182, Sec. 1, eff. May 21, 1997.

Sec. 30.01276. JOINT COURT: PROSECUTING ATTORNEY. A municipality that contracts under Section 30.01273 may provide its own prosecuting attorney or the contracting municipalities may agree on the selection of one or more prosecuting attorneys.

Added by Acts 1997, 75th Leg., ch. 182, Sec. 1, eff. May 21, 1997.

Sec. 30.01277. JOINT COURT: APPLICABLE LAW. (a) The municipalities by contract shall select one of the contracting municipality's enabling statutes as the source of applicable procedural requirements for the operation of the joint municipal court of record established under Section 30.01273.

(b) All of the provisions of the statute selected under Subsection (a) apply to the operation of the joint municipal court of record. If there is a conflict with any of the provisions in Sections 30.01273-30.01276, those sections control.

(c) Any matter that is not governed by the contracting municipalities' enabling legislation or other law shall be resolved by the contract entered into under Section 30.01273.

Added by Acts 1997, 75th Leg., ch. 182, Sec. 1, eff. May 21, 1997.

SUBCHAPTER II. LEWISVILLE

Sec. 30.01321. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Lewisville.

(b) In this subchapter, "appellate courts" means the county courts at law of Denton County that have criminal appellate jurisdiction.

Added by Acts 1997, 75th Leg., ch. 87, Sec. 1, eff. May 15, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 125, eff. Sept. 1, 1999.

Sec. 30.01326. JUDGE. (a) to (c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(34), eff. Sept. 1, 1999.

(d) In addition to exercising powers under Section 30.00006(e), a municipal judge shall devote as much time to the office as it requires.

(e), (f) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(34), eff. Sept. 1, 1999.

(g) Section 30.00007(b)(5) does not apply to this subchapter.

Added by Acts 1997, 75th Leg., ch. 87, Sec. 1, eff. May 15, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 126, 139(34), eff. Sept. 1, 1999.

Sec. 30.01328. CLERK; OTHER PERSONNEL. (a) The city manager of the city shall appoint a clerk of the municipal court of record who shall be known as the "Lewisville Municipal Court Clerk."

(b) The clerk may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office.

(c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(34), eff. Sept. 1, 1999.

Added by Acts 1997, 75th Leg., ch. 87, Sec. 1, eff. May 15, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 139(34), eff. Sept. 1, 1999.

Sec. 30.01329. COURT REPORTER. (a) The clerk of the court shall appoint the court reporter under Section 30.00010.

(b) to (e) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(34), eff. Sept. 1, 1999.

Added by Acts 1997, 75th Leg., ch. 87, Sec. 1, eff. May 15, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 127, 139(34), eff. Sept. 1, 1999.

SUBCHAPTER JJ. DALWORTHINGTON GARDENS

Sec. 30.01371. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Dalworthington Gardens.

(b) In this subchapter, "appellate courts" means the county

criminal courts of Tarrant County that have criminal appellate jurisdiction.

Added by Acts 1997, 75th Leg., ch. 935, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 128, eff. Sept. 1, 1999.

Sec. 30.01374. JUDGE. (a) to (c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(35), eff. Sept. 1, 1999.

(d) In addition to exercising powers under Section 30.00006(e), a municipal judge shall devote as much time to the office as it requires.

(e) to (j) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(35), eff. Sept. 1, 1999.

(k) Sections 30.00007(b)(1), (2), (3), and (5) do not apply to this subchapter.

Added by Acts 1997, 75th Leg., ch. 935, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 129, 139(35), eff. Sept. 1, 1999.

Sec. 30.01375. CLERK; OTHER PERSONNEL. The city secretary shall be, ex officio, the clerk of the municipal court of record and may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. The clerk or the clerk's deputies shall keep the records of the municipal courts of record, issue process, and generally perform the duties for the courts that a clerk of the county court exercising criminal jurisdiction is required by law to perform for that court. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

Added by Acts 1997, 75th Leg., ch. 935, Sec. 1, eff. Sept. 1, 1997.

Sec. 30.01376. COURT REPORTER. (a) The clerk of the court shall appoint the court reporter under Section 30.00010.

(b) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(35), eff. Sept. 1, 1999.

Added by Acts 1997, 75th Leg., ch. 935, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 130, 139(35), eff. Sept. 1, 1999.

SUBCHAPTER KK. RICHARDSON

Sec. 30.01401. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Richardson.

(b) In this subchapter, "appellate courts" means the county criminal courts of Dallas County that have criminal appellate jurisdiction.

Added by Acts 1997, 75th Leg., ch. 1044, Sec. 1, eff. June 19, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 131, eff. Sept. 1, 1999.

Sec. 30.01406. JUDGE. (a) , (b) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(36), eff. Sept. 1, 1999.

(c) A municipal judge is entitled to receive compensation or a salary and other benefits set by the governing body of the city. The judge's compensation or salary may not be diminished during the term of office. The compensation or salary may not be based directly or indirectly on fines, fees, or other costs that the municipal judge is required by law to collect during a term of office.

(d) Section 30.00007 does not apply to this subchapter.

Added by Acts 1997, 75th Leg., ch. 1044, Sec. 1, eff. June 19, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 132, 139(36), eff. Sept. 1, 1999.

Sec. 30.01408. CLERK; OTHER PERSONNEL. (a) The city manager shall appoint a clerk of the municipal court of record who shall be known as the municipal court clerk.

(b) The clerk or the clerk's deputies shall keep the records of the municipal courts of record, issue process, and generally perform the duties for the court that a clerk of the county court exercising criminal jurisdiction is required by law to perform for that court. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

(c) The clerk, the city manager, or the person designated as court administrator by the city manager may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office.

(d) Section 30.00009(c) does not apply to this subchapter.

Added by Acts 1997, 75th Leg., ch. 1044, Sec. 1, eff. June 19, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 133, eff. Sept. 1, 1999.

SUBCHAPTER LL. COPPELL

Sec. 30.01441. APPLICATION; DEFINITION. (a) This subchapter applies to the City of Coppell.

(b) In this subchapter, "appellate courts" means the county criminal courts of Dallas County that have criminal appellate jurisdiction.

Added by Acts 1997, 75th Leg., ch. 366, Sec. 1, eff. May 27, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 134, eff. Sept. 1, 1999.

Sec. 30.01446. JUDGE. (a) to (d) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(37), eff. Sept. 1, 1999.

(e) A municipal judge is entitled to compensation or a salary and other benefits set by the governing body of the city. The governing body may not base the compensation or salary directly or indirectly on fines, fees, or costs collected by the court.

(f) Section 30.00007 does not apply to this subchapter.

Added by Acts 1997, 75th Leg., ch. 366, Sec. 1, eff. May 27, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 135, 139(37), eff. Sept. 1, 1999.

Sec. 30.01448. CLERK; OTHER PERSONNEL. (a) The city manager shall appoint a clerk of the municipal court of record.

(b) The clerk may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office, including deputies and bailiffs as may be necessary or appropriate.

(c) Repealed by Acts 1999, 76th Leg., ch. 691, Sec. 139(37), eff. Sept. 1, 1999.

Added by Acts 1997, 75th Leg., ch. 366, Sec. 1, eff. May 27, 1997. Amended by Acts 1999, 76th Leg., ch. 691, Sec. 139(37), eff. Sept. 1, 1999.

SUBCHAPTER MM. BULLARD

Sec. 30.01481. APPLICATION. This subchapter applies to the City of Bullard.

Added by Acts 2001, 77th Leg., ch. 499, Sec. 1, eff. June 11, 2001.

Sec. 30.01482. QUALIFICATIONS OF JUDGE. (a) A municipal judge must be:

(1) a resident of this state; and

(2) a citizen of the United States.

(b) Section 30.00006(c) does not apply to this subchapter.

Added by Acts 2001, 77th Leg., ch. 499, Sec. 1, eff. June 11, 2001.

SUBCHAPTER NN. TYLER

Sec. 30.01511. APPLICATION. This subchapter applies to the City of Tyler.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01512. JUDGE. (a) A municipal court of record is presided over by a municipal judge appointed to office by the city manager in the manner provided by the city charter.

(b) If the city manager appoints more than one municipal judge under Subsection (a), the city manager shall appoint one of the municipal judges as the presiding municipal judge.

(c) A municipal judge is entitled to a salary from the city the amount of which is determined by the city manager. A municipal judge's salary may not be diminished during the judge's term of office. A municipal judge's salary may not be based directly or

indirectly on fines, fees, or costs collected by the court.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01513. CLERK; OTHER PERSONNEL. The city manager shall provide a clerk of the municipal courts of record. The city manager shall provide deputy clerks, warrant officers, and other personnel as needed for the proper operation of the municipal courts of record. The clerk and other court personnel shall perform their duties under the direction and control of the city manager.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01514. COURT REPORTER. The municipal court clerk shall appoint the court reporter.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01515. APPEAL. The County Court of Smith County has jurisdiction over an appeal.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

SUBCHAPTER OO. SANSOM PARK

Sec. 30.01541. APPLICATION. This subchapter applies to the City of Sansom Park.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01542. MAGISTRATES. (a) The governing body may appoint one or more magistrates in addition to magistrates provided under Article 2A.151, Code of Criminal Procedure.

(b) A magistrate does not have to possess all the qualifications necessary to be a municipal court of record judge.

(c) A magistrate may not preside over the court or hear contested cases.

(d) A magistrate may:

(1) conduct an arraignment;

(2) hold an indigency hearing;

(3) accept a plea;

(4) sign a judgment;

(5) set the amount of a bond; and

(6) perform other functions under Article 15.17, Code of Criminal Procedure.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.062, eff. January 1, 2025.

Sec. 30.01543. CLERK; OTHER PERSONNEL. The city administrator of the city shall appoint a clerk of the municipal court of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01544. COURT REPORTER. The clerk of the court shall appoint the court reporter.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01545. APPEAL. The county criminal courts of Tarrant County have jurisdiction over an appeal.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01546. JOINT COURTS: CREATION. (a) The governing body of the city may contract with one or more municipalities that have municipal courts of record to establish a joint municipal court of record to serve the contracting municipalities.

(b) A joint municipal court of record created under this section replaces each municipality's individual municipal court of

record.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01547. JOINT COURT: JUDGES. (a) Notwithstanding any other law, a joint municipal court of record created under Section 30.01546 is presided over by a municipal judge or alternate municipal judge who is appointed by a majority vote of each of the governing bodies of the contracting municipalities for a two-year term.

(b) The judge of a joint municipal court of record may be removed from office as provided by Section 30.000085 by the governing bodies of the contracting municipalities at any time for incompetency, misconduct, malfeasance, or inability to perform the tasks of the office.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01548. JOINT COURTS: JURISDICTION. (a) The jurisdiction of a joint municipal court of record created under Section 30.01546 is the combined jurisdiction of the municipal courts of the contracting municipalities.

(b) An appeal from a joint municipal court of record created under Section 30.01546 is to the county criminal court of the county in which the offense occurred. If that county does not have a county criminal court, appeal is to the county court of law of the county.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01549. JOINT COURT: PROSECUTING ATTORNEY. A municipality that contracts under Section 30.01546 may provide its own prosecuting attorney or the contracting municipalities may agree on the selection of one or more prosecuting attorneys.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01550. JOINT COURT: APPLICABLE LAW. (a) The municipalities by contract shall select one of the contracting

municipality's enabling statutes as the source of applicable procedural requirements for the operation of the joint municipal court of record established under Section 30.01546.

(b) All of the provisions of the statute selected under Subsection (a) apply to the operation of the joint municipal court of record. If there is a conflict with any of the provisions in Sections 30.01546-30.01549, those sections control.

(c) Any matter that is not governed by the contracting municipalities' enabling legislation or other law shall be resolved by the contract entered into under Section 30.01546.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

SUBCHAPTER PP. FARMERS BRANCH

Sec. 30.01591. APPLICATION. This subchapter applies to the City of Farmers Branch.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01592. CREATION. On creation of the initial municipal court of record, the governing body of the city shall determine the method of selecting the judge of a municipal court of record by:

(1) adopting an ordinance that provides for the appointment of a municipal judge by the governing body of the city;

(2) adopting an ordinance that provides for the election of a municipal judge by the qualified voters of the city; or

(3) ordering an election in which the qualified voters of the city determine whether a municipal judge is appointed by the governing body of the city or elected.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01593. CLERK; OTHER PERSONNEL. (a) The city manager shall appoint a clerk of the municipal court of record, who shall be known as the municipal court clerk.

(b) The clerk may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01594. COURT REPORTER. The clerk of the court shall appoint the court reporter.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01595. APPEAL. The county criminal courts of appeal of Dallas County have jurisdiction of appeals from the municipal courts of record.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

SUBCHAPTER QQ. HILL COUNTRY VILLAGE

Sec. 30.01631. APPLICATION. This subchapter applies to the City of Hill Country Village.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01632. CLERK; OTHER PERSONNEL. The city secretary shall be, ex officio, the clerk of the municipal court of record and may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01633. COURT REPORTER. The clerk of the court shall appoint the court reporter.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01634. APPEAL. The county courts at law of Bexar County have jurisdiction over an appeal.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

SUBCHAPTER RR. RIO BRAVO

Sec. 30.01691. APPLICATION. This subchapter applies to the City of Rio Bravo.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01692. CLERK; OTHER PERSONNEL. The city manager or city administrator of the city shall appoint a clerk of the municipal court of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01693. COURT REPORTER. The clerk of the court shall appoint the court reporter.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

Sec. 30.01694. APPEAL. The county courts at law of Webb County have jurisdiction over an appeal.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 136, eff. Sept. 1, 1999.

SUBCHAPTER SS. LIVE OAK

Sec. 30.01721. APPLICATION. This subchapter applies to the City of Live Oak.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 137, eff. Sept. 1, 1999.

Sec. 30.01722. CLERK; OTHER PERSONNEL. The city secretary shall be, ex officio, the clerk of the municipal court of record and may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 137, eff. Sept. 1, 1999.

Sec. 30.01723. COURT REPORTER. The clerk of the court shall appoint the court reporter.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 137, eff. Sept. 1, 1999.

Sec. 30.01724. APPEAL. The county courts at law of Bexar County have jurisdiction over an appeal.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 137, eff. Sept. 1, 1999.

SUBCHAPTER TT. FLOWER MOUND

Sec. 30.01751. APPLICATION. This subchapter applies to the Town of Flower Mound.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 138, eff. Sept. 1, 1999.

Sec. 30.017515. JUDGE. (a) A municipal court of record is presided over by a municipal judge.

(b) A municipal judge is appointed by the mayor with the concurrence of the governing body of the municipality and serves at the pleasure of the governing body.

(c) A municipal judge shall:

(1) devote as much time to the office as necessary; and

(2) take judicial notice of state law, municipal ordinances, and the corporate limits of the municipality.

(d) If there is more than one municipal judge appointed under Subsection (b), the mayor shall appoint one of the judges as the presiding municipal judge.

(e) A municipal judge is entitled to a salary from the municipality, the amount of which is determined by the governing body of the municipality. The amount of a municipal judge's salary may not be based directly or indirectly on fines, fees, or costs collected by the court.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 138, eff. Sept. 1, 1999.

Sec. 30.01752. COURT REPORTER. The municipal court clerk shall

appoint the court reporter. The town manager shall set the compensation of the court reporter.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 138, eff. Sept. 1, 1999.

Sec. 30.01753. APPEAL. The appropriate county court of Denton County having jurisdiction over appeals from municipal courts shall have jurisdiction over any appeal.

Added by Acts 1999, 76th Leg., ch. 691, Sec. 138, eff. Sept. 1, 1999.

SUBCHAPTER UU. WESTLAKE

Sec. 30.01781. APPLICATION; DEFINITION. (a) This subchapter applies to the Town of Westlake located in Tarrant and Denton counties.

(b) In this subchapter, "appellate courts" means the county courts at law of Tarrant County that have criminal appellate jurisdiction.

Added by Acts 2001, 77th Leg., ch. 602, Sec. 1, eff. June 11, 2001.

SUBCHAPTER VV. TROPHY CLUB

Sec. 30.01811. APPLICATION; DEFINITION. (a) This subchapter applies to the Town of Trophy Club located in Tarrant and Denton counties.

(b) In this subchapter, "appellate courts" means the county courts at law of Denton County that have criminal appellate jurisdiction.

Added by Acts 2001, 77th Leg., ch. 903, Sec. 1, eff. June 14, 2001.

SUBCHAPTER WW. LAREDO

Sec. 30.01821. APPLICATION. This subchapter applies to the city of Laredo.

Added by Acts 2007, 80th Leg., R.S., Ch. 897 (H.B. 2617), Sec. 1, eff. June 15, 2007.

Sec. 30.01822. JUDGE. (a) A municipal court of record is presided over by a municipal judge.

(b) A municipal judge is elected at large by the qualified voters of the city of Laredo for a term of four years. Except as provided by Subsection (d), a municipal judge may not serve more than two terms.

(c) A municipal judge must:

(1) be a licensed attorney in this state; and

(2) be a resident of the city of Laredo.

(d) A municipal judge may serve the remainder of an unexpired term to which the judge was elected or appointed and serve two additional terms.

(e) A municipal judge is entitled to the salary provided by ordinance of the governing body of the city.

Added by Acts 2007, 80th Leg., R.S., Ch. 897 (H.B. 2617), Sec. 1, eff. June 15, 2007.

Sec. 30.01823. CLERK; OTHER PERSONNEL. (a) The governing body of the city by majority vote shall appoint a clerk of a municipal court of record. The clerk must be nominated by the city manager.

(b) The clerk serves at the pleasure of the governing body of the city, and the employment status of the clerk is equivalent to a department director.

(c) In addition to the powers and duties provided by Section 30.00009, the clerk may:

(1) administer oaths and affidavits;

(2) make certificates and affix the seal of the municipal court of record to the certificates; and

(3) perform any act necessary to issue process and conduct the business of the court.

(d) The governing body may provide other personnel, including associate municipal judges.

(e) The governing body may authorize the appointment of deputy clerks, who may act for and on behalf of the clerk, as necessary for the proper operation of a municipal court of record.

(f) The clerk shall hire, direct, and remove the personnel

authorized for the clerk's office in the city's annual budget.

Added by Acts 2007, 80th Leg., R.S., Ch. 897 (H.B. 2617), Sec. 1, eff. June 15, 2007.

SUBCHAPTER XX. BEDFORD

Sec. 30.01881. APPLICATION. This subchapter applies to the City of Bedford.

Added by Acts 2003, 78th Leg., ch. 773, Sec. 1, eff. June 20, 2003.

Sec. 30.01882. JUDGE. The governing body of the city may determine by ordinance whether a municipal judge is appointed by the governing body or elected by the qualified voters of the city by a majority vote. A municipal judge serves for a term of three years.

Added by Acts 2003, 78th Leg., ch. 773, Sec. 1, eff. June 20, 2003.

SUBCHAPTER YY. MESQUITE

Sec. 30.01891. APPLICATION; DEFINITIONS. (a) This subchapter applies to the city of Mesquite.

(b) In this subchapter:

(1) "Appellate courts" means the county courts at law of Dallas County that have criminal appellate jurisdiction.

(2) "Municipal court administrator" means the clerk of the municipal courts of record.

Added by Acts 2011, 82nd Leg., R.S., Ch. 155 (H.B. 1889), Sec. 1, eff. January 1, 2012.

Sec. 30.01892. JUDGE. Sections 30.00007(b)(1), (2), (3), and (5) do not apply to this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 155 (H.B. 1889), Sec. 1, eff. January 1, 2012.

Sec. 30.01893. COURT RULES. The presiding judge shall adopt rules not inconsistent with this subchapter or other law for the municipal courts of record to provide efficiency, uniformity, and fairness in the conduct of the business of the courts. The rules may:

(1) address courtroom decorum and attire;

(2) address court protocol;

(3) govern the hearing of pleas, motions for continuance, motions to withdraw and for substitution, and pretrial motions;

(4) establish procedures related to a defendant's failure to appear;

(5) establish procedures related to a defendant's indigency or inability to pay fines; and

(6) address warrant procedures.

Added by Acts 2011, 82nd Leg., R.S., Ch. 155 (H.B. 1889), Sec. 1, eff. January 1, 2012.

Sec. 30.01894. MUNICIPAL COURT ADMINISTRATOR; OTHER PERSONNEL. (a) The city manager shall appoint a municipal court administrator to serve as the clerk of the municipal courts of record.

(b) The municipal court administrator shall:

(1) perform, as applicable, the duties prescribed by law for the county clerk of a county court at law;

(2) maintain central docket records for all cases filed in the municipal courts of record;

(3) maintain an index of all municipal courts of record judgments in the same manner as county clerks are required by law to prepare for criminal cases arising in county courts; and

(4) request the jurors needed for cases that are set for trial by jury.

(c) The municipal court administrator may hire, direct, supervise, and remove personnel authorized in the city's annual budget for the clerk's office in accordance with the city's general government policies and procedures manual and subject to approval by the city manager.

(d) Sections 30.00009(c) and (d) do not apply to this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 155 (H.B. 1889), Sec. 1, eff.

January 1, 2012.

Sec. 30.01895. COURT REPORTER. The municipal court administrator shall appoint the court reporter under Section 30.00010.

Added by Acts 2011, 82nd Leg., R.S., Ch. 155 (H.B. 1889), Sec. 1, eff. January 1, 2012.

SUBCHAPTER ZZ. CORPUS CHRISTI

Sec. 30.01901. APPLICATION; DEFINITIONS. (a) This subchapter applies to the city of Corpus Christi.

(b) In this subchapter:

(1) "Appellate courts" means the county courts at law of Nueces County that have criminal appellate jurisdiction.

(2) "Municipal court director" means the clerk of the municipal courts of record.

Added by Acts 2007, 80th Leg., R.S., Ch. 441 (S.B. 2009), Sec. 1, eff. June 15, 2007.

Sec. 30.01902. JUDGE. Sections 30.00007(b)(1), (2), (3), and (5) do not apply to this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 441 (S.B. 2009), Sec. 1, eff. June 15, 2007.

Sec. 30.01903. MUNICIPAL COURT DIRECTOR; OTHER PERSONNEL. (a) The city manager shall appoint a municipal court director to serve as the clerk of the municipal courts of record.

(b) The municipal court director shall perform, as applicable, the duties prescribed by law for the county clerk of a county court at law. In addition, the municipal court director shall:

(1) maintain central docket records for all cases filed in the municipal courts of record;

(2) maintain an index of all municipal court of record judgments in the same manner as county clerks are required by law to

prepare for criminal cases arising in county courts; and

(3) request the jurors needed for cases that are set for trial by jury.

(c) The municipal court director may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office.

(d) Sections 30.00009(c) and (d) do not apply to this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 441 (S.B. 2009), Sec. 1, eff. June 15, 2007.

Sec. 30.01904. COURT REPORTER. The municipal court director shall appoint the court reporter under Section 30.00010.

Added by Acts 2007, 80th Leg., R.S., Ch. 441 (S.B. 2009), Sec. 1, eff. June 15, 2007.

SUBTITLE B. JUDGES

CHAPTER 31. ADDITIONAL COMPENSATION OF JUSTICES OF COURTS OF APPEAL

Sec. 31.001. AUTHORITY FOR COUNTY PAYMENT OF COMPENSATION. The commissioners courts in the counties of each of the 15 courts of appeals districts may pay additional compensation in an amount that does not exceed the limitations of Section 659.012 to each of the justices of the courts of appeals, other than a justice of the Court of Appeals of the Fifteenth Court of Appeals District, residing within the court of appeals district that includes those counties. The compensation is for all extrajudicial services performed by the justices.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.44, eff. Sept. 1, 1987. Amended by:

Acts 2005, 79th Leg., 2nd C.S., Ch. 3 (H.B. 11), Sec. 3, eff. December 1, 2005.

Acts 2023, 88th Leg., R.S., Ch. 459 (S.B. 1045), Sec. 2.04, eff. September 1, 2023.

Sec. 31.002. COMPENSATION ADDITIONAL. The compensation authorized by Section 31.001 is in addition to the compensation provided by law and paid by the state to the justices of the courts of appeals.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 31.003. LIMITATIONS. (a) The total of additional compensation authorized by this chapter to be paid to the individual justices of a court of appeals district may not exceed the total additional compensation authorized to be paid to any district judge residing within the same court of appeals district.

(b) The combined salary of each associate justice and chief justice of the courts of appeals is subject to the salary differentials provided by Subchapter B, Chapter 659.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.45, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(104), eff. Sept. 1, 1995.

Sec. 31.004. EQUAL INSTALLMENTS. The compensation authorized by this chapter shall be paid in:

(1) equal monthly installments; or

(2) equal biweekly installments if authorized by the commissioners courts in the counties of the court of appeals district.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 194 (S.B. 560), Sec. 2, eff. September 1, 2013.

CHAPTER 32. ADDITIONAL COMPENSATION OF DISTRICT JUDGES

SUBCHAPTER A. ADDITIONAL COMPENSATION PAID BY COUNTY FOR EXTRAJUDICIAL SERVICES

Sec. 32.001. AUTHORITY FOR ADDITIONAL COMPENSATION. (a) The commissioners court of a county may pay the judges of the district courts having jurisdiction in the county additional compensation in

an amount that does not exceed the limitations of Section 659.012 for extrajudicial services performed by the district judges.

(b) The compensation shall be paid from the county general fund or other available funds of the county in:

(1) monthly installments; or

(2) biweekly installments if authorized by the commissioners court.

(c) The compensation is in addition to the salary paid by the state and any other compensation authorized by law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., 2nd C.S., Ch. 3 (H.B. 11), Sec. 6, eff. December 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 194 (S.B. 560), Sec. 3, eff. September 1, 2013.

SUBCHAPTER B. MISCELLANEOUS PROVISIONS

Sec. 32.302. SALARY OF SPECIAL JUDGES. (a) The salary of a special judge commissioned by the governor under Article V, Section 11, of the Texas Constitution or elected by practicing lawyers or agreed on by parties as provided by law is determined and paid in accordance with this section.

(b) The special judge is entitled to the same salary as a district judge for every day the special judge performs the duties of judge. In addition, a special judge commissioned by the governor is entitled to the same pay as a district judge for each day the special judge is necessarily occupied going to and returning from the place the judge is required to hold court.

(c) The amount of the special judge's daily salary is determined by dividing the salary of a district judge by 365.

(d) A special judge commissioned by the governor must present a sworn account to the comptroller of public accounts. The account must show the number of days necessarily occupied in going to and coming from the place the special judge was required to hold court and must be accompanied by evidence that the special judge was properly commissioned. The account must be certified to be correct by the judge or clerk of the judicial district in which the special judge performed services.

(e) A special judge elected by practicing lawyers or agreed to by parties must present to the comptroller of public accounts a certificate of the clerk of the judicial district in which the special judge performed services showing the record of the election or appointment and the services rendered. The certificate must be accompanied by the sworn account of the special judge showing the number of days actually served as judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 32.303. AUTOMOBILE ALLOWANCE. A commissioners court may pay the judges of the district courts in the county an automobile allowance in an amount set by the commissioners court for automobile expenses incurred in performing official duties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 431, Sec. 1, eff. June 14, 1989; Acts 1989, 71st Leg., ch. 605, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 8.02, eff. Aug. 26, 1991.

CHAPTER 33. STATE COMMISSION ON JUDICIAL CONDUCT
SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 33.001. DEFINITIONS. (a) In this chapter:

(1) "Censure" means an order of denunciation issued by the commission under Section 1-a(8), Article V, Texas Constitution, or an order issued by a review tribunal under Section 1-a(9), Article V, Texas Constitution.

(2) "Chairperson" means the member of the commission selected by the members of the commission to serve as its presiding officer.

(3) "Clerk" means the individual designated by the commission to assist in:

(A) formal proceedings before the commission or a special master; or

(B) proceedings before a special court of review.

(4) "Commission" means the State Commission on Judicial Conduct.

(5) "Examiner" means an individual, including an employee or special counsel of the commission, appointed by the commission to gather and present evidence before a special master, the commission, a special court of review, or a review tribunal.

(6) "Formal hearing" means the public evidentiary phase of formal proceedings conducted before the commission or a special master.

(7) "Formal proceedings" means the proceedings ordered by the commission concerning the public sanction, public censure, removal, or retirement of a judge.

(8) "Judge" means a justice, judge, master, magistrate, or retired or former judge as described by Section 1-a, Article V, Texas Constitution, or other person who performs the functions of the justice, judge, master, magistrate, or retired or former judge.

(9) "Review tribunal" means a panel of seven justices of the courts of appeal selected by lot by the chief justice of the supreme court to review a recommendation of the commission for the removal or retirement of a judge under Section 1-a(9), Article V, Texas Constitution.

(10) "Sanction" means an order issued by the commission under Section 1-a(8), Article V, Texas Constitution, providing for a private or public admonition, warning, or reprimand or requiring that a person obtain additional training or education.

(11) "Special court of review" means a panel of three justices of the courts of appeal selected by lot by the chief justice of the supreme court on petition to review a censure or sanction issued by the commission under Section 1-a(8), Article V, Texas Constitution.

(12) "Special master" means a master appointed by the supreme court under Section 1-a, Article V, Texas Constitution.

(b) For purposes of Section 1-a, Article V, Texas Constitution, "wilful or persistent conduct that is clearly inconsistent with the proper performance of a judge's duties" includes:

(1) wilful, persistent, and unjustifiable failure to timely execute the business of the court, considering the quantity and complexity of the business;

(2) wilful violation of a provision of the Texas penal statutes or the Code of Judicial Conduct;

(3) persistent or wilful violation of the rules promulgated by the supreme court;

(4) incompetence in the performance of the duties of the office;

(5) failure to cooperate with the commission; or

(6) violation of any provision of a voluntary agreement to resign from judicial office in lieu of disciplinary action by the commission.

(c) The definitions provided by Subsections (b) and (d) are not exclusive.

(d) For purposes of Subdivision (6), Section 1-a, Article V, Texas Constitution, a misdemeanor involving official misconduct includes a misdemeanor involving an act relating to a judicial office or a misdemeanor involving an act involving moral turpitude.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 462, Sec. 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 917, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 805 (S.B. 1436), Sec. 1, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 513 (S.B. 209), Sec. 1, eff. November 5, 2013.

Sec. 33.002. COMMISSION. (a) The State Commission on Judicial Conduct is established under Section 1-a, Article V, Texas Constitution, and has the powers provided by that section.

(a-1) The commission is an agency of the judicial branch of state government and administers judicial discipline. The commission does not have the power or authority of a court in this state.

(b) A constitutional or statutory reference to the State Judicial Qualifications Commission means the State Commission on Judicial Conduct.

(c) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 462, Sec. 2, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 917, Sec. 2, eff. Sept. 1, 2001.

Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 513 (S.B. 209), Sec. 2, eff. September 1, 2013.

Sec. 33.003. SUNSET PROVISION. The State Commission on Judicial Conduct is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The commission shall be reviewed during the period in which state agencies abolished in 2029, and every 12th year after that year, are reviewed.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1985, 69th Leg., ch. 480, Sec. 21, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 148, Sec. 2.47(a), eff. Sept. 1, 1987; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 5.13, eff. Nov. 12, 1991.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 513 (S.B. 209), Sec. 3, eff. September 1, 2013.
Acts 2015, 84th Leg., R.S., Ch. 938 (H.B. 3123), Sec. 2.02, eff. June 18, 2015.
Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 3.01, eff. June 10, 2019.
Acts 2023, 88th Leg., R.S., Ch. 941 (S.B. 1659), Sec. 1.04, eff. June 18, 2023.

Sec. 33.0032. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.
(b) A person may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:
(1) the person is an officer, employee, or paid consultant of a Texas trade association the members of which are subject to regulation by the commission; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association the members of which are subject to regulation by the commission.

(c) A person may not act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

Added by Acts 2001, 77th Leg., ch. 917, Sec. 3, eff. Sept. 1, 2001.

Sec. 33.004. COMPENSATION AND EXPENSES OF COMMISSION MEMBERS, SPECIAL MASTERS, AND OTHER EMPLOYEES. (a) A member of the commission serves without compensation for services, but is entitled to reimbursement for expenses as provided by this section.

(b) A special master who is an active district judge or justice of the court of appeals is entitled to a per diem of $25 for each day or part of a day that the person spends in the performance of the duties of special master. The per diem is in addition to other compensation and expenses authorized by law.

(c) A special master who is a retired judge of a district court or the court of criminal appeals or a retired justice of a court of appeals or the supreme court is entitled to compensation in the same manner as provided by Section 74.061. For purposes of this subsection, the term "court" in Section 74.061(c) means the district court in the county in which formal proceedings are heard by the special master.

(d) A member or employee of the commission, special counsel, or any other person appointed by the commission to assist the commission in performing the duties of the commission, or a special master is entitled to necessary expenses for travel, board, and lodging incurred in the performance of official duties.

(e) Payment shall be made under this section on certificates of approval by the commission.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 917, Sec. 4, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 807 (S.B. 1439), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 807 (S.B. 1439), Sec. 2, eff.

September 1, 2009.

Sec. 33.0041. REMOVAL OF COMMISSION MEMBER; NOTIFICATION PROCEDURES. If the executive director has knowledge that a potential ground for removal of a commission member exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor, the supreme court, the state bar, and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor, the supreme court, the state bar, and the attorney general that a potential ground for removal exists.

Added by Acts 2001, 77th Leg., ch. 917, Sec. 5, eff. Sept. 1, 2001.

Sec. 33.0042. REQUIREMENTS FOR OFFICE OR EMPLOYMENT: INFORMATION. The executive director or the executive director's designee shall provide to members of the commission and to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter and Section 1-a, Article V, Texas Constitution, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2001, 77th Leg., ch. 917, Sec. 5, eff. Sept. 1, 2001.

Sec. 33.0043. COMMISSION MEMBER TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission shall complete a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the commission;

(2) the programs operated by the commission;

(3) the role and functions of the commission;

(4) the rules of the commission with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the commission;

(6) the results of the most recent formal audit of the commission;

(7) the requirements of laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2001, 77th Leg., ch. 917, Sec. 5, eff. Sept. 1, 2001.

Sec. 33.0044. DIVISION OF RESPONSIBILITY. The commission shall develop and implement policies that clearly separate the policy-making responsibilities of the commission and the management responsibilities of the executive director and staff of the commission.

Added by Acts 2001, 77th Leg., ch. 917, Sec. 5, eff. Sept. 1, 2001.

Sec. 33.0045. EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the commission to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the commission's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

(3) be filed with the governor's office.

Added by Acts 2001, 77th Leg., ch. 917, Sec. 5, eff. Sept. 1, 2001.

Sec. 33.005. ANNUAL REPORT. (a) Not later than December 1 of each year, the commission shall submit to the legislature a report for the preceding fiscal year ending August 31. The report is required to be made in an electronic format only.

(b) The report must include:

(1) an explanation of the role of the commission;

(2) annual statistical information for the preceding fiscal year, including:

(A) the number of complaints received by the commission alleging judicial misconduct or disability;

(B) the number of complaints dismissed without commission action other than investigation because the evidence did not support the allegation or appearance of judicial misconduct or disability;

(C) the number of complaints dismissed without commission action other than investigation because the facts alleged did not constitute judicial misconduct or disability;

(D) the number of complaints dismissed without commission action other than investigation because the allegation or appearance of judicial misconduct or disability was determined to be unfounded or frivolous;

(E) the number of each type of judicial misconduct or disability that resulted in sanction or censure of a judge; and

(F) examples of improper judicial conduct;

(3) an explanation of the commission's processes; and

(4) changes the commission considers necessary in its rules or the applicable statutes or constitutional provisions.

(c) The commission shall distribute the report to the governor, lieutenant governor, speaker of the house of representatives, and editor of the Texas Bar Journal.

(d) The legislature shall appropriate funds for the preparation and distribution of the report.

(e) The Texas Bar Journal shall periodically publish public statements, sanctions, and orders of additional education issued by the commission.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 646, Sec. 3, eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 462, Sec. 3, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 917, Sec. 6, eff. Sept. 1, 2001.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 513 (S.B. 209), Sec. 4, eff. September 1, 2013.
Acts 2015, 84th Leg., R.S., Ch. 371 (S.B. 306), Sec. 1, eff. September 1, 2015.

Sec. 33.0055. PUBLIC MEETING. (a) The commission shall in each even-numbered year hold a public hearing to consider comment from the public regarding the commission's mission and operations. Such comments shall be considered in a manner which does not compromise the confidentiality of matters considered by the commission.
(b) The commission shall provide notice of a public hearing under this section to the secretary of state. The secretary of state shall post the notice on the Internet for at least seven days before the day of the hearing and provide members of the public access to view the notice in the manner specified by Section 551.044 for notice of an open meeting.

Added by Acts 2013, 83rd Leg., R.S., Ch. 513 (S.B. 209), Sec. 5, eff. September 1, 2013.

Sec. 33.006. IMMUNITY FROM LIABILITY. (a) This section applies to:
(1) the commission;
(2) a member of the commission;
(3) the executive director of the commission;
(4) an employee of the commission;
(5) a special master appointed under Section 1-a(8), Article V, Texas Constitution;
(6) special counsel for the commission and any person

employed by the special counsel; and

(7) any other person appointed by the commission to assist the commission in performing its duties.

(b) A person to which this section applies is not liable for an act or omission committed by the person within the scope of the person's official duties.

(c) The immunity from liability provided by this section is absolute and unqualified and extends to any action at law or in equity.

Added by Acts 1999, 76th Leg., ch. 462, Sec. 4, eff. June 18, 1999.
Amended by Acts 2001, 77th Leg., ch. 917, Sec. 7, eff. Sept. 1, 2001.

Sec. 33.007. DISTRIBUTION OF MATERIALS TO JUDGES AND THE PUBLIC. (a) The commission shall develop and distribute plain-language materials as described by this section to judges and the public.

(b) The materials must include a description of:

(1) the commission's responsibilities;

(2) the types of conduct that constitute judicial misconduct;

(3) the types of sanctions issued by the commission, including orders of additional education; and

(4) the commission's policies and procedures relating to complaint investigation and resolution.

(c) The materials shall be provided in English and Spanish.

(d) The commission shall provide to each person filing a complaint with the commission the materials described by this section.

(e) The commission shall adopt a policy to effectively distribute materials as required by this section.

Added by Acts 2001, 77th Leg., ch. 917, Sec. 8, eff. Sept. 1, 2001.

Sec. 33.008. JUDICIAL MISCONDUCT INFORMATION. The commission shall routinely provide to entities that provide education to judges information relating to judicial misconduct resulting in sanctions or orders of additional education issued by the commission. The commission shall categorize the information by level of judge and

type of misconduct.

Added by Acts 2001, 77th Leg., ch. 917, Sec. 8, eff. Sept. 1, 2001.

SUBCHAPTER B. POWERS AND DUTIES

Sec. 33.021. GENERAL POWERS OF COMMISSION. The commission may:

(1) design and use a seal;

(2) employ persons that it considers necessary to carry out the duties and powers of the commission;

(3) employ special counsel as it considers necessary;

(4) arrange for attendance of witnesses;

(5) arrange for and compensate expert witnesses and reporters; and

(6) pay from its available funds the reasonably necessary expenses of carrying out its duties under the constitution, including providing compensation to special masters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 462, Sec. 5, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 917, Sec. 10, eff. Sept. 1, 2001.

Sec. 33.02105. CANDIDATE FOR JUDICIAL OFFICE. The commission may accept complaints, conduct investigations, and take any other action authorized by this chapter or Section 1-a, Article V, Texas Constitution, with respect to a candidate for judicial office who is subject to Subchapter F, Chapter 253, Election Code, in the same manner the commission is authorized to take those actions with respect to a judge.

Added by Acts 2023, 88th Leg., R.S., Ch. 222 (H.B. 367), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 33.0211. COMPLAINTS. (a) The commission shall maintain a file on each written complaint filed with the commission. The file must include:

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

(b) The commission, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

(c) For each complaint filed with the commission under this chapter, each member of the commission must be:
(1) notified of the complaint; and
(2) briefed and provided detailed information about the complaint.

Added by Acts 2001, 77th Leg., ch. 917, Sec. 11, eff. Sept. 1, 2001.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 737 (H.B. 4344), Sec. 1, eff. September 1, 2022.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 33.0212. REPORT AND RECOMMENDATIONS ON FILED COMPLAINTS. (a) Not later than the 120th day after the date a complaint is filed with the commission, commission staff shall prepare and file with each member of the commission a report detailing the investigation of the complaint and recommendations for commission action regarding the complaint.

(b) Not later than the 90th day following the date commission staff files with the commission the report required by Subsection (a), the commission shall determine any action to be taken regarding the complaint, including:
(1) a public sanction;

(2) a private sanction;
(3) a suspension;
(4) an order of education;
(5) an acceptance of resignation in lieu of discipline;
(6) a dismissal; or
(7) an initiation of formal proceedings.

(c) If, because of extenuating circumstances, commission staff is unable to provide an investigation report and recommendation to the commission before the 120th day following the date the complaint was filed with the commission, the staff shall notify the commission and propose the number of days required for the commission and commission staff to complete the investigation report and recommendations and finalize the complaint. The staff may request an extension of not more than 270 days from the date the complaint was filed with the commission. The commission shall finalize the complaint not later than the 270th day following the date the complaint was filed with the commission.

(d) The executive director may request that the chairperson grant an additional 120 days to the time provided under Subsection (c) for the commission and commission staff to complete the investigation report and recommendations and finalize the complaint.

(e) If the chairperson grants additional time under Subsection (d), the commission must timely inform the legislature of the extension. The commission may not disclose to the legislature any confidential information regarding the complaint.

Added by Acts 2021, 87th Leg., R.S., Ch. 737 (H.B. 4344), Sec. 2, eff. September 1, 2022.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 33.0213. NOTIFICATION OF LAW ENFORCEMENT AGENCY INVESTIGATION. On notice by any law enforcement agency investigating an action for which a complaint has been filed with the commission, the commission may place the commission's complaint file on hold and decline any further investigation that would jeopardize the law enforcement agency's investigation. The commission may continue an investigation that would not jeopardize a law enforcement

investigation.

Added by Acts 2021, 87th Leg., R.S., Ch. 737 (H.B. 4344), Sec. 2, eff. September 1, 2022.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 33.022. INVESTIGATIONS AND FORMAL PROCEEDINGS. (a) The commission may conduct a preliminary investigation of the circumstances surrounding an allegation or appearance of misconduct or disability of a judge to determine if the allegation or appearance is unfounded or frivolous.

(b) If, after conducting a preliminary investigation under this section, the commission determines that an allegation or appearance of misconduct or disability is unfounded or frivolous, the commission shall terminate the investigation.

(c) If, after conducting a preliminary investigation under this section, the commission does not determine that an allegation or appearance of misconduct or disability is unfounded or frivolous, the commission:

(1) shall:

(A) conduct a full investigation of the circumstances surrounding the allegation or appearance of misconduct or disability; and

(B) notify the judge in writing of:

(i) the commencement of the investigation; and

(ii) the nature of the allegation or appearance of misconduct or disability being investigated; and

(2) may:

(A) order the judge to:

(i) submit a written response to the allegation or appearance of misconduct or disability; or

(ii) appear informally before the commission;

(B) order the deposition of any person; or

(C) request the complainant to appear informally before the commission.

(d) The commission shall serve an order issued by the commission under Subsection (c)(2)(B) on the person who is the

subject of the deposition and the judge who is the subject of the investigation. The order must be served within a reasonable time before the date of the deposition.

(e) The commission may file an application in a district court to enforce an order issued by the commission under Subsection (c)(2)(B).

(f) The commission shall notify the judge in writing of the disposition of a full investigation conducted by the commission under this section.

(g) If after the investigation has been completed the commission concludes that formal proceedings will be instituted, the matter shall be entered in a docket to be kept for that purpose and written notice of the institution of formal proceedings shall be served on the judge without delay. The proceedings shall be entitled:

"Before the State Commission on Judicial Conduct Inquiry Concerning a Judge, No. ___"

(h) The notice shall specify in ordinary and concise language the charges against the judge and the alleged facts on which the charges are based and the specific standards contended to have been violated. The judge is entitled to file a written answer to the charges against the judge not later than the 15th day after the notice is served on the judge, and the notice shall so advise the judge.

(i) The notice shall be served on the judge or the judge's attorney of record by personal service of a copy of the notice by a person designated by the chairperson. The person serving the notice shall promptly notify the clerk in writing of the date on which the notice was served. If it appears to the chairperson on affidavit that, after reasonable effort during a period of 10 days, personal service could not be had, service may be made by mailing by registered or certified mail copies of the notice addressed to the judge at the judge's chambers or at the judge's last known residence in an envelope marked "personal and confidential." The date of mailing shall be entered in the docket.

(j) A judge at the judge's request may elect to have any hearing open to the public or to persons designated by the judge. The right of a judge to an open hearing does not preclude placing witnesses under the rule as provided by the Texas Rules of Civil Procedure.

(k) A judge is not entitled to a jury trial in formal proceedings before a special master or the commission.

(l) The commission shall adopt procedures for hearing from judges and complainants appearing before the commission. The procedures shall ensure the confidentiality of a complainant's identity as provided under Section 33.0321.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 486, Sec. 1, eff. Aug. 31, 1987; Acts 1993, 73rd Leg., ch. 596, Sec. 1, 2, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 462, Sec. 6, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 917, Sec. 12, eff. Sept. 1, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 33.023. PHYSICAL OR MENTAL INCAPACITY OF JUDGE. (a) In any investigation or proceeding that involves the physical or mental incapacity of a judge, the commission may order the judge to submit to a physical or mental examination by one or more qualified physicians or a mental examination by one or more qualified psychologists selected and paid for by the commission.

(b) The commission shall give the judge written notice of the examination not later than 10 days before the date of the examination. The notice must include the physician's name and the date, time, and place of the examination.

(c) Each examining physician shall file a written report of the examination with the commission and the report shall be received as evidence without further formality. On request of the judge or the judge's attorney, the commission shall give the judge a copy of the report. The physician's oral or deposition testimony concerning the report may be required by the commission or by written demand of the judge.

(d) If a judge refuses to submit to a physical or mental examination ordered by the commission under this section, the commission may petition a district court for an order compelling the judge to submit to the physical or mental examination.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended

by Acts 1999, 76th Leg., ch. 462, Sec. 7, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 917, Sec. 13, eff. Sept. 1, 2001.

Sec. 33.024. OATHS AND SUBPOENAS. In conducting an investigation, formal proceedings, or proceedings before a special court of review, a commission member, special master, or member of a special court of review may:

(1) administer oaths;

(2) order and provide for inspection of books and records; and

(3) issue a subpoena for attendance of a witness or production of papers, books, accounts, documents, and testimony relevant to the investigation or proceeding.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 462, Sec. 8, eff. June 18, 1999.

Sec. 33.025. ENFORCEMENT OF SUBPOENA. (a) The commission may file an application in a district court or, if appropriate, with a special master or special court of review, to enforce a subpoena issued by the commission under this chapter.

(b) A special master or special court of review may enforce by contempt a subpoena issued by the commission, the special master, or the special court of review.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 462, Sec. 9, eff. June 18, 1999.

Sec. 33.026. WITNESS IMMUNITY. (a) In a proceeding or deposition related to a proceeding before the commission, a special master, or a special court of review, the commission, special master, or special court of review may compel a person other than the judge to testify or produce evidence over the person's claim of privilege against self-incrimination.

(b) A person compelled to testify over a proper claim of privilege against self-incrimination is not subject to indictment or prosecution for a matter or transaction about which the person truthfully testifies or produces evidence.

(c) A special master has the same powers as a district judge in matters of contempt and granting immunity.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 462, Sec. 10, eff. June 18, 1999.

Sec. 33.027. DISCOVERY. (a) In formal proceedings or in a proceeding before a special court of review, discovery shall be conducted, to the extent practicable, in the manner provided by the rules applicable to civil cases generally.

(b) On request, a special master, the commission, or a special court of review shall expedite the discovery in formal proceedings or in a proceeding before a special court of review.

(c) The following may not be the subject of a discovery request in formal proceedings or in a proceeding before a special court of review:

(1) the discussions, thought processes, or individual votes of members of the commission;

(2) the discussions or thought processes of employees of the commission, including special counsel for the commission; or

(3) the identity of a complainant or informant if the person requests that the person's identity be kept confidential.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 462, Sec. 11, eff. June 18, 1999.

Sec. 33.028. PROCESS AND ORDERS. (a) Process issued under this chapter is valid anywhere in the state.

(b) A peace officer, an employee of the commission, or any other person whom the commission, a special master, or a special court of review designates may serve process or execute a lawful order of the commission, the special master, or the special court of review.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 462, Sec. 12, eff. June 18, 1999.

Sec. 33.029. WITNESSES' EXPENSES. A witness called to testify

by the commission other than an officer or employee of the state or a political subdivision or court of the state is entitled to the same mileage expenses and per diem as a witness before a state grand jury. The commission shall pay these amounts from its appropriated funds.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 462, Sec. 13, eff. June 18, 1999.

Sec. 33.030. ASSISTANCE TO COMMISSION, SPECIAL MASTER, OR SPECIAL COURT OF REVIEW. (a) On request of the commission, the attorney general shall act as its counsel generally or in a particular investigation or proceeding.

(b) A state or local government body or department, an officer or employee of a state or local government body, or an official or agent of a state court shall cooperate with and give reasonable assistance and information to the commission, an authorized representative of the commission, a special master, or a special court of review concerning an investigation or proceeding before the commission, special master, or special court of review.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 462, Sec. 14, eff. June 18, 1999.

Sec. 33.031. NO AWARD OF COSTS. Court costs or attorney's fees may not be awarded in a proceeding under this chapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 462, Sec. 15, eff. June 18, 1999.

Sec. 33.032. CONFIDENTIALITY OF PAPERS, RECORDS, AND PROCEEDINGS. (a) Except as otherwise provided by this section and Section 33.034, the papers filed with and proceedings before the commission are confidential prior to the filing of formal charges.

(b) The formal hearing and any evidence introduced during the formal hearing, including papers, records, documents, and pleadings filed with the clerk, shall be public.

(c) On issuance of a public admonition, warning, reprimand, or public requirement that a person obtain additional training or

education by the commission, the record of the informal appearance and the documents presented to the commission during the informal appearance that are not protected by attorney-client or work product privilege shall be public.

(d) The disciplinary record of a judge, including any private sanctions, is admissible in a subsequent proceeding before the commission, a special master, a special court of review, or a review tribunal.

(e) On the filing of a written request by a judge, the commission may release to the person designated in the request, including the judge, the number, nature, and disposition of a complaint filed against the judge with the commission, except that the commission may refuse to release the identity of a complainant.

(f) The commission may release to the Office of the Chief Disciplinary Counsel of the State Bar of Texas information indicating that an attorney, including a judge who is acting in the judge's capacity as an attorney, has violated the Texas Disciplinary Rules of Professional Conduct.

(g) If the commission issues an order suspending a judge who has been indicted for a criminal offense, the order, any withdrawal of the order, and all records and proceedings related to the suspension shall be public.

(h) A voluntary agreement to resign from judicial office in lieu of disciplinary action by the commission shall be public on the commission's acceptance of the agreement. The agreement and any agreed statement of facts relating to the agreement are admissible in a subsequent proceeding before the commission. An agreed statement of facts may be released to the public only if the judge violates a term of the agreement.

(i) Any sanction the commission issues against a judge for knowingly making a false declaration on an application for a place on the ballot as a candidate for a judicial office described by Section 141.0311, Election Code, any withdrawal of such sanction, and all records and proceedings related to the sanction are a matter of public record.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 486, Sec. 2, eff. Aug. 31, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 47, Sec. 1, eff. Oct. 20, 1987; Acts 1999, 76th Leg., ch. 462, Sec. 16, eff. June 18, 1999; Acts 2001,

77th Leg., ch. 917, Sec. 14, eff. Sept. 1, 2001.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 716 (H.B. 2384), Sec. 2, eff. September 1, 2023.

Sec. 33.0321. CONFIDENTIALITY OF COMPLAINANT'S IDENTITY. On the request of a complainant, the commission may keep the complainant's identity confidential.

Added by Acts 2001, 77th Leg., ch. 917, Sec. 15, eff. Sept. 1, 2001.

Sec. 33.0322. CONFIDENTIAL INFORMATION PROVIDED TO SUNSET ADVISORY COMMISSION. (a) Notwithstanding Section 33.032 or other law, including Section 1-a(10), Article V, Texas Constitution, the commission shall provide to the Sunset Advisory Commission staff conducting a review under Chapter 325 (Texas Sunset Act) access to the commission's confidential documents, records, meetings, and proceedings, including proceedings in which testimony is given, as the Sunset Advisory Commission staff determines necessary to conduct a complete and thorough evaluation of the commission's activities.

(b) The confidentiality provisions of this chapter and other law do not authorize the commission to withhold from the Sunset Advisory Commission staff access to any confidential document, record, meeting, or proceeding to which the Sunset Advisory Commission staff determines access is necessary for a review under Chapter 325 (Texas Sunset Act).

(c) The Sunset Advisory Commission staff shall maintain the confidentiality the commission is required to maintain under this chapter and other law for each document, record, meeting, or proceeding that the staff accesses or receives as part of a review under Chapter 325 (Texas Sunset Act).

(d) The commission does not violate the attorney-client privilege, or any other privilege or confidentiality requirement protected or required by the Texas Constitution, common law, statutory law, or rules of evidence, procedure, or professional conduct, by providing to the Sunset Advisory Commission staff for purposes of a review under Chapter 325 (Texas Sunset Act) a confidential communication, including a document or record or any

testimony or other information presented in a closed meeting or proceeding of the commission, that is made between the commission and its attorneys or other employees assisting the commission in its decision-making process.

Added by Acts 2013, 83rd Leg., R.S., Ch. 513 (S.B. 209), Sec. 6, eff. September 1, 2013.

Sec. 33.033. NOTIFICATION TO COMPLAINANT. (a) The commission shall promptly notify a complainant of the disposition of the case.

(b) The communication shall inform the complainant that:

(1) the case has been dismissed;

(2) a private sanction or order of additional education has been issued by the commission;

(3) a public sanction has been issued by the commission;

(4) formal proceedings have been instituted; or

(5) a judge has resigned from judicial office in lieu of disciplinary action by the commission.

(c) The communication may not contain the name of a judge unless a public sanction has been issued by the commission or formal proceedings have been instituted.

(d) If a public sanction has been issued by the commission, the communication must include a copy of the public sanction.

(e) If the complaint is dismissed by the commission, the commission shall include in the notification under Subsection (a):

(1) an explanation of each reason for the dismissal, including, as applicable, in plain, easily understandable language, each reason the conduct alleged in the complaint did not constitute judicial misconduct; and

(2) information relating to requesting reconsideration of the dismissed complaint as provided by Sections 33.035(a) and (f).

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 486, Sec. 3, eff. Aug. 31, 1987; Acts 1999, 76th Leg., ch. 462, Sec. 17, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 917, Sec. 16, eff. Sept. 1, 2001.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 513 (S.B. 209), Sec. 7, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 33.034. REVIEW OF COMMISSION DECISION. (a) A judge who receives from the commission a sanction or censure issued by the commission under Section 1-a(8), Article V, Texas Constitution, or any other type of sanction is entitled to a review of the commission's decision as provided by this section. This section does not apply to a decision by the commission to institute formal proceedings.

(b) Not later than the 30th day after the date on which the commission issues its decision, the judge must file with the chief justice of the supreme court a written request for appointment of a special court of review.

(c) Not later than the 10th day after the chief justice receives the written request, the chief justice shall select by lot the court of review. The court of review is composed of three court of appeals justices, other than a justice serving in a court of appeals district in which the judge petitioning for review of the commission's order serves and other than a justice serving on the commission. The chief justice shall notify the petitioner and the commission of the identities of the justices appointed to the court and of the date of their appointment. Service on the court shall be considered a part of the official duties of a justice, and no additional compensation may be paid for the service.

(d) Within 15 days after the appointment of the court of review, the commission shall file with the clerk a charging document that includes, as applicable, a copy of the censure or sanction issued and any additional charges to be considered by the court of review. The charging document is public on its filing with the clerk. On receipt of the filing of the charging document, the clerk shall send the charging document to the judge who is the subject of the document and to each justice on the court of review.

(e) The review by the court under this section:

(1) of a sanction or censure issued in a formal proceeding is a review of the record of the proceedings that resulted in the sanction or censure and is based on the law and facts that were presented in the proceedings and any additional evidence that the court in its discretion may, for good cause shown, permit; and

(2) of a sanction issued in an informal proceeding is by

trial de novo as that term is used in the appeal of cases from justice to county court.

(e-1) Any hearings of the court shall be public and shall be held at the location determined by the court. Any evidence introduced during a hearing, including papers, records, documents, and pleadings filed with the clerk in the proceedings, is public.

(f) Except as otherwise provided by this section, the procedure for the review of a sanction issued in an informal proceeding is governed to the extent practicable by the rules of law, evidence, and procedure that apply to the trial of civil actions generally.

(g) A judge is not entitled to a trial by jury in a review under this section of a sanction issued in an informal proceeding.

(h) Within 30 days after the date on which the charging document is filed with the clerk, the court shall conduct a hearing on the charging document. The court may, if good cause is shown, grant one or more continuances not to exceed a total of 60 days. Within 60 days after the hearing, the court shall issue a decision as to the proper disposition of the appeal.

(i) The court's decision under this section is not appealable.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 47, Sec. 2, eff. Oct. 20, 1987. Amended by Acts 1999, 76th Leg., ch. 462, Sec. 18, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 917, Sec. 17, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 805 (S.B. 1436), Sec. 2, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 513 (S.B. 209), Sec. 8, eff. November 5, 2013.

Sec. 33.035. RECONSIDERATION OF COMPLAINT. (a) A complainant may request reconsideration of a dismissed complaint if, not later than the 30th day after the date of the communication informing the complainant of the dismissal, the complainant provides additional evidence of misconduct committed by the judge.

(b) The commission shall deny a request for reconsideration if the complainant does not meet the requirements under Subsection (a). The commission shall notify the complainant of the denial in writing.

(c) The commission shall grant a request for reconsideration if

the complainant meets the requirements under Subsection (a). After granting a request, the commission shall vote to:

(1) affirm the original decision to dismiss the complaint; or

(2) reopen the complaint.

(d) The commission shall notify the complainant of the results of the commission's vote under Subsection (c) in writing.

(e) The commission shall conduct an appropriate investigation of a complaint reopened under Subsection (c)(2). The investigation shall be conducted by commission staff who were not involved in the original investigation.

(f) A complainant may request reconsideration of a dismissed complaint under this section only once.

Added by Acts 2001, 77th Leg., ch. 917, Sec. 18, eff. Sept. 1, 2001.

Sec. 33.036. CERTAIN DISCLOSURE OF INFORMATION. (a) To protect the public interest, the commission may disclose information relating to an investigation or proceeding under this chapter to:

(1) a law enforcement agency;

(2) a public official who is authorized or required by law to appoint a person to serve as a judge;

(3) the supreme court; or

(4) an entity that provides commission-ordered education to judges.

(b) Information may be disclosed under this section only to the extent necessary for the recipient of the information to perform an additional duty or function.

Added by Acts 2001, 77th Leg., ch. 917, Sec. 18, eff. Sept. 1, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 33.037. SUSPENSION PENDING APPEAL. If a judge who is convicted of a felony or a misdemeanor involving official misconduct appeals the conviction, the commission shall suspend the judge from office without pay pending final disposition of the appeal.

Added by Acts 2001, 77th Leg., ch. 917, Sec. 18, eff. Sept. 1, 2001.

Sec. 33.038. AUTOMATIC REMOVAL. A judge is automatically removed from the judge's office if the judge is convicted of or is granted deferred adjudication for:

(1) a felony; or

(2) a misdemeanor involving official misconduct.

Added by Acts 2001, 77th Leg., ch. 917, Sec. 18, eff. Sept. 1, 2001.

Sec. 33.039. REVIEW OF COMMISSION OPERATIONS AND PROCEDURAL RULES. The commission periodically as the commission determines appropriate shall:

(1) assess the operations of the commission and implement any improvements needed to increase efficiency; and

(2) review the commission's procedural rules adopted by the supreme court to determine whether rule amendments are necessary to reflect changes in law, including changes made through court opinions and statutory and constitutional amendments, and report to the supreme court the needed rule revisions and suggested language for those revisions.

Added by Acts 2013, 83rd Leg., R.S., Ch. 513 (S.B. 209), Sec. 9, eff. September 1, 2013.

Sec. 33.040. ANNUAL REPORT. Not later than September 1 of each year, the commission shall prepare and submit to the legislature a report of:

(1) the total number of complaints the commission failed to finalize not later than the 270th day following the date the complaint was filed with the commission; and

(2) the total number of complaints included in Subdivision (1) that the commission declined to further investigate because of a law enforcement agency investigation.

Added by Acts 2021, 87th Leg., R.S., Ch. 737 (H.B. 4344), Sec. 2, eff. September 1, 2022.

SUBCHAPTER C. JUDICIAL CONDUCT

Sec. 33.051. SOLICITATION OR ACCEPTANCE OF REFERRAL FEES OR GIFTS BY JUDGE; CRIMINAL PENALTY. (a) A judge commits an offense if the judge solicits or accepts a gift or a referral fee in exchange for referring any kind of legal business to an attorney or law firm. This subsection does not prohibit a judge from:

(1) soliciting funds for appropriate campaign or officeholder expenses as permitted by Canon 4D, Code of Judicial Conduct, and state law; or

(2) accepting a gift in accordance with the provisions of Canon 4D, Code of Judicial Conduct.

(b) It is an affirmative defense to prosecution under Subsection (a) that:

(1) the judge solicited the gift or referral fee before taking the oath of office but accepted the gift or fee after taking the oath of office; or

(2) the judge solicited or accepted the gift or referral fee after taking the oath of office in exchange for referring to an attorney or law firm legal business that the judge was engaged in but was unable to complete before taking the oath of office.

(c) An offense under this section is a Class B misdemeanor.

(d) If, after an investigation, the commission determines that a judge engaged in conduct described by Subsection (a) to which Subsection (b) does not apply, the commission may issue a sanction against the judge or institute formal proceedings, regardless of whether the judge is being prosecuted or has been convicted of an offense under this section.

(e) An attorney or judge who has information that a judge engaged in conduct described by Subsection (a) to which Subsection (b) does not apply shall file a complaint with the commission not later than the 30th day after the date the attorney or judge obtained the information. A judge who fails to comply with this subsection is subject to sanctions by the commission. An attorney who fails to comply with this subsection is subject to discipline by the Commission for Lawyer Discipline under Subchapter E, Chapter 81.

(f) For purposes of this section:

(1) "Judge" does not include a constitutional county court judge, a statutory county court judge who is authorized by law to engage in the private practice of law, a justice of the peace, or a municipal court judge, if that judge or justice of the peace solicits

or accepts a gift or a referral fee in exchange for referring legal business that involves a matter over which that judge or justice of the peace will not preside in the court of that judge or justice of the peace.

(2) "Referral fee" includes forwarding fees, acknowledgment fees, and any form of payment, benefit, or compensation related to the referral or placement of a potential client for legal services.

Added by Acts 2003, 78th Leg., ch. 850, Sec. 1, eff. Sept. 1, 2003.

CHAPTER 34. CODE OF JUDICIAL CONDUCT; CANDIDATES FOR JUDICIAL OFFICE

Sec. 34.001. CANDIDATE SUBJECT TO CODE. (a) A person who has filed an application for a place on the ballot as provided by the Election Code for a judicial office listed in Subsection (b) is subject to Canon 7, Code of Judicial Conduct, and is subject to sanctions as provided by this chapter.

(b) This chapter applies to candidates for the following offices:

(1) chief justice or justice of the supreme court;

(2) presiding judge or judge of the court of criminal appeals;

(3) chief justice or justice of a court of appeals;

(4) district judge, including a criminal district judge;

(5) judge of a statutory county court;

(6) county judge who performs judicial functions;

(7) justice of the peace; and

(8) municipal court judge.

Added by Acts 1987, 70th Leg., ch. 425, Sec. 1, eff. June 17, 1987.
Amended by Acts 1989, 71st Leg., ch. 646, Sec. 4, eff. Aug. 28, 1989.

Sec. 34.002. JUDGE. A candidate who is a judge subject to the authority of the State Commission on Judicial Conduct who violates the Code of Judicial Conduct is subject to sanctions by the commission.

Added by Acts 1987, 70th Leg., ch. 425, Sec. 1, eff. June 17, 1987.

Sec. 34.003. ATTORNEY. A candidate who is an attorney and who violates Canon 7, Code of Judicial Conduct, or any other relevant provision of that code is subject to sanctions by the state bar.

Added by Acts 1987, 70th Leg., ch. 425, Sec. 1, eff. June 17, 1987.

Sec. 34.004. OTHER CANDIDATE. A candidate other than a judge under Section 34.002 or an attorney under Section 34.003 who violates Canon 7, Code of Judicial Conduct, or any other relevant provision of that code is subject to review by the attorney general or the local district attorney for appropriate disciplinary action.

Added by Acts 1987, 70th Leg., ch. 425, Sec. 1, eff. June 17, 1987.

CHAPTER 35. JUDICIAL COMPENSATION COMMISSION

SUBCHAPTER A. ORGANIZATION

Sec. 35.001. DEFINITION. In this chapter, "commission" means the Judicial Compensation Commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 1090 (H.B. 3199), Sec. 1, eff. September 1, 2007.

Sec. 35.002. MEMBERSHIP; TERMS. (a) The commission consists of nine members appointed by the governor with the advice and consent of the senate.

(b) No more than three members serving on the commission may be licensed to practice law in this state.

(c) Members serve for staggered terms of six years with the terms of three members expiring February 1 of each odd-numbered year.

Added by Acts 2007, 80th Leg., R.S., Ch. 1090 (H.B. 3199), Sec. 1, eff. September 1, 2007.

Sec. 35.003. VACANCY. In the event of a vacancy, the governor shall appoint a replacement to fill the unexpired portion of the term.

Added by Acts 2007, 80th Leg., R.S., Ch. 1090 (H.B. 3199), Sec. 1, eff. September 1, 2007.

Sec. 35.004. PRESIDING OFFICER. The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the will of the governor. The presiding officer may vote on all matters before the commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 1090 (H.B. 3199), Sec. 1, eff. September 1, 2007.

Sec. 35.005. QUALIFICATIONS. (a) Each member must be a registered voter of the state.

(b) A member of the commission may not hold any other public office or be an employee of any state department, agency, board, or commission during the member's tenure on the commission.

(c) A person may not be a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

(d) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Added by Acts 2007, 80th Leg., R.S., Ch. 1090 (H.B. 3199), Sec. 1, eff. September 1, 2007.

Sec. 35.006. REMOVAL. (a) It is a ground for removal from the commission that a member:

(1) does not have at the time of appointment the qualification required by Section 35.005(a);

(2) does not maintain during service on the commission the qualification required by Section 35.005(a);

(3) violates the prohibition established by Section 35.005(b);

(4) is ineligible for membership under Section 35.005(c);

(5) cannot, because of illness or disability, discharge the

member's duties for a substantial part of the member's term; or

(6) is absent from more than half of the regularly scheduled meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the commission.

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

Added by Acts 2007, 80th Leg., R.S., Ch. 1090 (H.B. 3199), Sec. 1, eff. September 1, 2007.

Sec. 35.007. ADMINISTRATIVE SUPPORT. (a) The Office of Court Administration of the Texas Judicial System shall provide administrative support for the commission. The commission is entitled to receive staff support, meeting facilities, temporary work facilities, including computer, telephone, reproduction, and facsimile equipment, available data, and other resources from the office as necessary to carry out the commission's powers and duties.

(b) The Office of Court Administration of the Texas Judicial System shall grant all reasonable requests for staff support and resources under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1090 (H.B. 3199), Sec. 1, eff. September 1, 2007.

Sec. 35.008. COMPENSATION AND REIMBURSEMENT. (a) A member of the commission may not receive compensation for the member's service on the commission.

(b) The Office of Court Administration of the Texas Judicial System shall reimburse a member for all actual and reasonable expenses incurred in the exercise of powers and performance of duties under this chapter.

(c) A member shall follow the reimbursement procedures of the Office of Court Administration of the Texas Judicial System.

Added by Acts 2007, 80th Leg., R.S., Ch. 1090 (H.B. 3199), Sec. 1, eff. September 1, 2007.

SUBCHAPTER B. POWERS AND DUTIES

Sec. 35.101. MEETINGS. The commission shall meet at the call of the presiding officer or at the request of a majority of the members.

Added by Acts 2007, 80th Leg., R.S., Ch. 1090 (H.B. 3199), Sec. 1, eff. September 1, 2007.

Sec. 35.102. BIENNIAL REPORTS. (a) Not later than December 1 of each even-numbered year, the commission shall make a biennial report to the legislature. In the report, the commission shall recommend the proper salaries to be paid by the state for all justices and judges of the supreme court, the court of criminal appeals, the courts of appeals, and the district courts.

(b) In recommending the proper salaries for all justices and judges of the supreme court, the court of criminal appeals, the courts of appeals, and the district courts, the commission shall consider the following factors:

(1) the skill and experience required of the particular judgeship at issue;

(2) the value of compensable service performed by justices and judges, as determined by reference to judicial compensation in other states and the federal government;

(3) the value of comparable service performed in the private sector, including private judging, arbitration, and mediation;

(4) the compensation of attorneys in the private sector;

(5) the cost of living and changes in the cost of living;

(6) the compensation from the state presently received by other public officials in the state, including:

(A) state constitutional officeholders;

(B) deans, presidents, and chancellors of the public university systems; and

(C) city attorneys in major metropolitan areas for which that information is readily available;

(7) other factors that are normally or traditionally taken into consideration in the determination of judicial compensation; and

(8) most importantly, the level of overall compensation adequate to attract the most highly qualified individuals in the

state, from a diversity of life and professional experiences, to serve in the judiciary without unreasonable economic hardship and with judicial independence unaffected by financial concerns.

Added by Acts 2007, 80th Leg., R.S., Ch. 1090 (H.B. 3199), Sec. 1, eff. September 1, 2007.

CHAPTER 36. JUDICIAL REPORTS

Sec. 36.001. DEFINITIONS. In this chapter:

(1) "Competency evaluator" means a physician or psychologist who is licensed or certified in this state and who performs examinations to determine whether an individual is incapacitated or has an intellectual disability for purposes of appointing a guardian for the individual. The term includes physicians and psychologists conducting examinations under Sections 1101.103 and 1101.104, Estates Code.

(2) "Guardian" has the meaning assigned by Section 1002.012, Estates Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 1199 (S.B. 1369), Sec. 1, eff. September 1, 2015.

Sec. 36.002. APPLICABILITY; CONFLICT OF LAW. (a) This chapter applies to a court in this state created by the Texas Constitution, by statute, or as authorized by statute.

(b) To the extent of a conflict between this chapter and a specific provision relating to a court, this chapter controls.

Added by Acts 2015, 84th Leg., R.S., Ch. 1199 (S.B. 1369), Sec. 1, eff. September 1, 2015.

Sec. 36.003. EXEMPTION. The reporting requirements of Section 36.004 do not apply to:

(1) a mediation conducted by an alternative dispute resolution system established under Chapter 152, Civil Practice and Remedies Code;

(2) information made confidential under state or federal law, including applicable rules;

(3) a guardian ad litem or other person appointed under a program authorized by Section 107.031, Family Code;

(4) an attorney ad litem, guardian ad litem, amicus attorney, or mediator appointed under a domestic relations office established under Chapter 203, Family Code;

(5) an attorney ad litem, guardian ad litem, amicus attorney, or mediator providing services without expectation or receipt of compensation; or

(6) an attorney ad litem, guardian ad litem, amicus attorney, or mediator providing services as a volunteer of a nonprofit organization that provides pro bono legal services to the indigent.

Added by Acts 2015, 84th Leg., R.S., Ch. 1199 (S.B. 1369), Sec. 1, eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 569 (S.B. 41), Sec. 1, eff. September 1, 2019.

Sec. 36.004. REPORT ON APPOINTMENTS. (a) In addition to a report required by other state law or rule, the clerk of each court in this state shall prepare a report on court appointments for an attorney ad litem, guardian ad litem, guardian, mediator, or competency evaluator for a case before the court in the preceding month. For a court that does not make an appointment in the preceding month, the clerk of the court must file a report indicating that no appointment was made by the court in that month. The report on court appointments must include:

(1) the name of each person appointed by the court as an attorney ad litem, guardian ad litem, guardian, mediator, or competency evaluator for a case in that month;

(2) the name of the judge and the date of the order approving compensation to be paid to a person appointed as an attorney ad litem, guardian ad litem, guardian, mediator, or competency evaluator for a case in that month;

(3) the number and style of each case in which a person was appointed as an attorney ad litem, guardian ad litem, guardian, mediator, or competency evaluator for that month;

(4) the number of cases each person was appointed by the

court to serve as an attorney ad litem, guardian ad litem, guardian, mediator, or competency evaluator in that month;

(5) the total amount of compensation paid to each attorney ad litem, guardian ad litem, guardian, mediator, or competency evaluator appointed by the court in that month and the source of the compensation; and

(6) if the total amount of compensation paid to a person appointed to serve as an attorney ad litem, guardian ad litem, guardian, mediator, or competency evaluator for one appointed case in that month exceeds $1,000, any information related to the case that is available to the court on the number of hours billed to the court for the work performed by the person or the person's employees, including paralegals, and the billed expenses.

(b) Not later than the 15th day of each month, the clerk of a court shall:

(1) submit a copy of the report to the Office of Court Administration of the Texas Judicial System; and

(2) post the report at the courthouse of the county in which the court is located and on any Internet website of the court.

(c) The Office of Court Administration of the Texas Judicial System shall prescribe the format that courts and the clerks of the courts must use to report the information required by this section and shall post the information collected under Subsection (b) on the office's Internet website.

Added by Acts 2015, 84th Leg., R.S., Ch. 1199 (S.B. 1369), Sec. 1, eff. September 1, 2015.

Sec. 36.005. FAILURE TO REPORT. If a court in this state fails to provide to the clerk of the court the information required for the report submitted under Section 36.004, the court is ineligible for any grant money awarded by this state or a state agency for the next state fiscal biennium.

Added by Acts 2015, 84th Leg., R.S., Ch. 1199 (S.B. 1369), Sec. 1, eff. September 1, 2015.

Sec. 36.006. TEXAS JUDICIAL COUNCIL RULES. The Texas Judicial Council shall, as the council considers appropriate, adopt rules to

implement this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1199 (S.B. 1369), Sec. 1, eff. September 1, 2015.

CHAPTER 37. APPOINTMENTS OF ATTORNEYS AD LITEM, GUARDIANS AD LITEM, MEDIATORS, AND GUARDIANS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.001. APPLICABILITY; CONFLICT OF LAW. (a) This chapter applies to a court in this state created by the Texas Constitution, by statute, or as authorized by statute that is located in a county with a population of 25,000 or more.

(b) To the extent of a conflict between this chapter and a specific provision relating to a court, this chapter controls.

Added by Acts 2015, 84th Leg., R.S., Ch. 1223 (S.B. 1876), Sec. 1, eff. September 1, 2015.

Sec. 37.002. EXEMPTION. The appointment requirements of Section 37.004 do not apply to:

(1) a mediation conducted by an alternative dispute resolution system established under Chapter 152, Civil Practice and Remedies Code;

(2) a guardian ad litem or other person appointed under a program authorized by Section 107.031, Family Code;

(3) an attorney ad litem, guardian ad litem, amicus attorney, or mediator appointed under a domestic relations office established under Chapter 203, Family Code;

(4) a person other than an attorney or a private professional guardian appointed to serve as a guardian as defined by Section 1002.012, Estates Code;

(5) an attorney ad litem, guardian ad litem, amicus attorney, or mediator providing services without expectation or receipt of compensation; or

(6) an attorney ad litem, guardian ad litem, amicus attorney, or mediator providing services as a volunteer of a

nonprofit organization that provides pro bono legal services to the indigent.

Added by Acts 2015, 84th Leg., R.S., Ch. 1223 (S.B. 1876), Sec. 1, eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 569 (S.B. 41), Sec. 2, eff. September 1, 2019.

Sec. 37.003. LISTS OF ATTORNEYS AD LITEM, GUARDIANS AD LITEM, MEDIATORS, AND GUARDIANS. (a) In addition to a list required by other state law or rule, each court in this state shall establish and maintain the following lists:

(1) a list of all attorneys who are qualified to serve as an attorney ad litem and are registered with the court;

(2) a list of all attorneys and other persons who are qualified to serve as a guardian ad litem and are registered with the court;

(3) a list of all persons who are registered with the court to serve as a mediator; and

(4) a list of all attorneys and private professional guardians who are qualified to serve as a guardian as defined by Section 1002.012, Estates Code, and are registered with the court.

(b) A court may establish and maintain more than one of a list required under Subsection (a) that is categorized by the type of case and the person's qualifications.

(c) A local administrative judge, at the request of one or more of the courts the judge serves, shall establish and maintain the lists required under Subsection (a) for those courts. The local administrative judge may establish and maintain one set of lists for all of the requesting courts and may maintain for the courts more than one of a list as provided in Subsection (b).

Added by Acts 2015, 84th Leg., R.S., Ch. 1223 (S.B. 1876), Sec. 1, eff. September 1, 2015.

Sec. 37.004. APPOINTMENT OF ATTORNEYS AD LITEM, GUARDIANS AD LITEM, MEDIATORS, AND GUARDIANS; MAINTENANCE OF LISTS. (a) Except as provided by Subsections (c), (d), and (d-1), in each case in which

the appointment of an attorney ad litem, guardian ad litem, or guardian is necessary, a court using a rotation system shall appoint the person whose name appears first on the applicable list maintained by the court as required by Section 37.003.

(b) In each case in which the appointment of a mediator is necessary because the parties to the case are unable to agree on a mediator, a court using a rotation system shall appoint the person whose name appears first on the mediator list maintained by the court as required under Section 37.003.

(c) The court may appoint a person included on the applicable list whose name does not appear first on the list, or a person who meets statutory or other requirements to serve and who is not included on the list, if the appointment of that person as attorney ad litem, guardian ad litem, or guardian is agreed on by the parties and approved by the court.

(d) On finding good cause, the court may appoint a person included on the applicable list whose name does not appear first on the list, or a person who meets statutory or other requirements to serve on the case and who is not included on the list, if the appointment of that person as attorney ad litem, guardian ad litem, mediator, or guardian is required on a complex matter because the person:

(1) possesses relevant specialized education, training, certification, skill, language proficiency, or knowledge of the subject matter of the case;

(2) has relevant prior involvement with the parties or case; or

(3) is in a relevant geographic location.

(d-1) The court may appoint a person included on the applicable list whose name does not appear first on the list or a person who meets statutory or other requirements to serve and who is not included on the list if, within 30 days preceding the date of appointment, an initial declaration of a state of disaster is made for the area served by the court.

(e) A person who is not appointed in the order in which the person's name appears on the applicable list shall remain next in order on the list.

(f) After a person has been appointed as an attorney ad litem, guardian ad litem, mediator, or guardian from the applicable list, the court shall place that person's name at the end of the list.

(g) In this section, "declaration of a state of disaster" means a declaration made by:

(1) the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.);

(2) the governor under Section 418.014; or

(3) the presiding officer of the governing body of a political subdivision under Section 418.108.

Added by Acts 2015, 84th Leg., R.S., Ch. 1223 (S.B. 1876), Sec. 1, eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 569 (S.B. 41), Sec. 3, eff. September 1, 2019.

Sec. 37.005. POSTING OF LISTS. A court annually shall post each list established under Section 37.003 at the courthouse of the county in which the court is located and on any Internet website of the court.

Added by Acts 2015, 84th Leg., R.S., Ch. 1223 (S.B. 1876), Sec. 1, eff. September 1, 2015.

CHAPTER 38. JUDICIAL DONATION TRUST FUNDS

Sec. 38.001. ESTABLISHMENT OF TRUST FUNDS. (a) The governing body of a municipality or the commissioners court of a county may establish a judicial donation trust fund as a separate account held outside the municipal or county treasury to be used in accordance with this chapter.

(b) The governing body of a municipality or the commissioners court of a county may accept a gift, grant, donation, or other consideration from a public or private source that is designated for the judicial donation trust fund.

(c) Money received under Subsection (b) shall be deposited in the judicial donation trust fund and may only be disbursed in accordance with this chapter.

(d) Interest and income from the assets of the judicial donation trust fund shall be credited to and deposited in the trust fund.

Added by Acts 2015, 84th Leg., R.S., Ch. 935 (H.B. 2398), Sec. 31, eff. September 1, 2015.
Redesignated from Government Code, Section 36.001 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(10), eff. September 1, 2017.

Sec. 38.002. PROCEDURES AND ELIGIBILITY. The governing body of a municipality or the commissioners court of a county shall:

(1) adopt the procedures necessary to receive and disburse money from the judicial donation trust fund under this chapter; and

(2) establish eligibility requirements for disbursement of money under this chapter to assist needy children or families who appear before a county, justice, or municipal court for a criminal offense or truant conduct, as applicable, by providing money for resources and services that eliminate barriers to school attendance or that seek to prevent criminal behavior.

Added by Acts 2015, 84th Leg., R.S., Ch. 935 (H.B. 2398), Sec. 31, eff. September 1, 2015.
Redesignated from Government Code, Section 36.002 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(10), eff. September 1, 2017.

Sec. 38.003. USE OF FUNDS IN ACCOUNT. (a) The judge of a county, justice, or municipal court, in accordance with Section 38.002, may award money from a judicial donation trust fund established under Section 38.001 to eligible children or families who appear before the court for a truancy violation or in another misdemeanor offense proceeding before the court.

(b) A judge of a county, justice, or municipal court may order the municipal or county treasurer to issue payment from the judicial donation trust fund for money awarded under this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 935 (H.B. 2398), Sec. 31, eff. September 1, 2015.
Redesignated from Government Code, Section 36.003 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(10), eff. September 1, 2017.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.002(8), eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 425 (H.B. 1819), Sec. 4, eff. September 1, 2023.

CHAPTER 39. JUDICIAL EDUCATION REQUIREMENTS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 39.001. APPLICABILITY. This chapter applies to a person elected to or holding any of the following judicial offices:

(1) chief justice or justice of the supreme court;

(2) presiding judge or judge of the court of criminal appeals;

(3) chief justice or justice of a court of appeals;

(4) district judge, including a criminal district judge; and

(5) judge of a statutory county court.

Added by Acts 2023, 88th Leg., R.S., Ch. 716 (H.B. 2384), Sec. 3, eff. September 1, 2023.

Sec. 39.002. JUDICIAL INSTRUCTION REQUIREMENTS. (a) The supreme court, in consultation with the court of criminal appeals, shall adopt rules on the judicial training a person must complete not later than the first anniversary of the date the person assumes a judicial office, subject to Subsection (b). The rules must require the person to complete at least 30 hours of instruction.

(b) Subsection (a) does not apply to a person who has been absent from judicial office for less than one year before assuming a judicial office and who has previously completed the requirements of Subsection (a).

(c) A judge must annually complete at least 16 hours of instruction described by Subsection (a) after the first year of the judge's term.

(d) The rules adopted under this section may provide for a deferral or exemption for a person who is unable to timely complete the training or instruction due to a medical or physical disability.

(e) This section does not affect any funds appropriated to or grants administered by the court of criminal appeals under Chapter 56.

Added by Acts 2023, 88th Leg., R.S., Ch. 716 (H.B. 2384), Sec. 3, eff. September 1, 2023.

Sec. 39.003. SUSPENSION. The State Commission on Judicial Conduct shall issue an order suspending any judge who fails to meet the education requirements under Section 39.002 until the judge demonstrates compliance with the requirements.

Added by Acts 2023, 88th Leg., R.S., Ch. 716 (H.B. 2384), Sec. 3, eff. September 1, 2023.

Sec. 39.004. REMOVAL FROM OFFICE. (a) For purposes of Section 1-a, Article V, Texas Constitution, a judge who is noncompliant with the education requirements under Section 39.002 for more than one year has engaged in wilful or persistent conduct that is clearly inconsistent with the proper performance of a judge's duties sufficient to subject the judge to removal from office.

(b) The attorney general shall file a petition under Section 66.002, Civil Practice and Remedies Code, against a judge who is subject to removal as provided by Subsection (a) if presented with evidence by the State Commission on Judicial Conduct establishing probable grounds that the judge engaged in conduct described by Subsection (a).

Added by Acts 2023, 88th Leg., R.S., Ch. 716 (H.B. 2384), Sec. 3, eff. September 1, 2023.

SUBTITLE C. PROSECUTING ATTORNEYS

CHAPTER 41. GENERAL PROVISIONS

SUBCHAPTER A. OFFICE OF PROSECUTING ATTORNEY

Sec. 41.001. QUALIFICATIONS. A district or county attorney must be a licensed attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 41.002. NOTIFICATION OF ADDRESS. Each district and county attorney shall notify the comptroller of his post office address as soon as practicable after his election and qualification.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 990 (H.B. 1781), Sec. 3, eff. June 17, 2011.

Sec. 41.003. ADMISSION BY PROSECUTOR. An admission made by a district or county attorney in a suit or action to which the state is a party does not prejudice the rights of the state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 41.004. ACCEPTANCE OF REWARD. (a) A district or county attorney, either before or after the case is tried and finally determined, may not take from any person a fee, article of value, compensation, reward, or gift, or a promise of any of these, to prosecute a case that he is required by law to prosecute or as consideration or a testimonial for his services in a case that he is required by law to prosecute.
(b) Section 41.004(a) does not apply to funds provided by the government of the United States through the Texas Department of Human Services to local prosecutorial offices for the purpose of assisting to defray the costs of prosecutions.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1066, Sec. 1, eff. June 18, 1999.

Sec. 41.005. COLLECTION OF MONEY. (a) Not later than the 30th day after the date on which a district or county attorney receives any money collected for the state or a county, the district or county attorney shall, after deducting the commissions provided by this section, pay the money into the treasury of the state or of the county to which it belongs.

(b) The district or county attorney may retain a commission from money collected for the state or a county. The amount of the commission in any one case is 10 percent of the first $1,000 collected, and five percent of the amount collected over $1,000.

(c) Subsections (a) and (b) of this section also apply to money realized for the state under the laws governing escheat.

(d) Not later than the last day of August of each year, each district and county attorney shall file in the office of the comptroller or of the county treasurer, as the case may be, a sworn account of all money received by him by virtue of his office during the preceding year and payable into the state or county treasury.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 41.006. REPORT TO ATTORNEY GENERAL. At the times and in the form that the attorney general directs, the district and county attorneys shall report to the attorney general the information from their districts and counties that the attorney general desires relating to criminal matters and the interests of the state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 41.007. OPINIONS TO COUNTY AND PRECINCT OFFICIALS. A district or county attorney, on request, shall give to a county or precinct official of his district or county a written opinion or written advice relating to the official duties of that official.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 41.008. RECORD. (a) Each district or county attorney shall keep a record of all actions or demands prosecuted or defended by the person as district or county attorney, and all proceedings held in relation to the attorney's official acts.

(b) The record required by Subsection (a) may be in a paper format, an electronic format, or both. A computer record of actions, demands, and proceedings satisfies the requirements of Subsection (a).

(c) The record shall be available at all times for inspection

by any person appointed to examine it by the governor or by the commissioners court of a county.

(d) Each district and county attorney shall deliver any portion of the record under the attorney's control to the attorney's successor in office.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., ch. 301, Sec. 1, eff. Sept. 1, 2003.

Sec. 41.009. PROSECUTION OF OFFICERS ENTRUSTED WITH PUBLIC FUNDS. If a district or county attorney learns that an officer in his district or county who is entrusted with the collection or safekeeping of public funds is neglecting or abusing the trust confided in him or is failing to discharge his duties under the law, the district or county attorney shall institute the proceedings that are necessary to compel the performance of the officer's duties and to preserve and protect the public interest.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 41.010. APPOINTMENT OF INITIAL DISTRICT OR CRIMINAL DISTRICT ATTORNEY. If a new office of district attorney or criminal district attorney is created, the governor shall appoint a person to fill the office until the next general election.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 41.011. PRIVATE PRACTICE IN COUNTY OR DISTRICT OFFICE. A district or county attorney who is not prohibited by law from engaging in the private practice of law may, at the discretion of the commissioners court of a particular county, conduct a private practice of law using the district or county office provided by that county for conducting his official duties.

Added by Acts 1987, 70th Leg., ch. 213, Sec. 1, eff. Aug. 31, 1987.

Sec. 41.012. LIABILITY INSURANCE. A county or district

attorney may purchase, for himself and for his staff members, liability insurance, or similar coverage from a governmental pool operating under Chapter 119, Local Government Code, or a self-insurance fund or risk retention group operating under Chapter 2259, to insure against claims arising from the performance of his official duties from state or county funds appropriated or allocated for the expenses of his office or from accounts maintained by the county or district attorney, including but not limited to the fund created by charges assessed by the county or district attorney in connection with the collection of "insufficient fund" negotiable instruments.

Added by Acts 1987, 70th Leg., ch. 296, Sec. 1, eff. Aug. 31, 1987. Renumbered from Sec. 41.011 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(21), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 561, Sec. 1, eff. Aug. 30, 1993; Acts 2001, 77th Leg., ch. 1420, Sec. 8.229, eff. Sept. 1, 2001.

Sec. 41.013. COMPENSATION OF CERTAIN PROSECUTORS. (a) Except as otherwise provided by law, a district attorney or criminal district attorney is entitled to receive from the state:

(1) annual compensation in an amount equal to at least 80 percent of the state annual salary as set by the General Appropriations Act in accordance with Section 659.012 paid to a district judge with comparable years of service as the district attorney or criminal district attorney; and

(2) a monthly amount of longevity pay based on the district attorney's or criminal district attorney's years of service that would be paid to the district attorney or criminal district attorney under Section 659.0445 if the district attorney or criminal district attorney were a judge or justice described by Section 659.0445(a).

(b) For purposes of this section, the years of service of a district attorney or criminal district attorney include any years of service as:

(1) a district attorney, criminal district attorney, or county attorney; or

(2) an appellate court justice, district judge, judge of a statutory county court, judge of a multicounty statutory county court, or judge or justice of a statutory probate court.

Added by Acts 1989, 71st Leg., ch. 1254, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 8, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 6.001, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 971 (S.B. 2310), Sec. 1, eff. September 1, 2023.

Sec. 41.014. PRO BONO LEGAL SERVICES. (a) In this section:

(1) "Pro bono legal services to the indigent" includes civil legal services rendered without expectation of compensation either directly to the indigent or to a charitable public interest organization regarding matters primarily addressing the needs of the indigent.

(2) "Prosecutor" means a county attorney, district attorney, criminal district attorney, assistant county attorney, assistant district attorney, or assistant criminal district attorney.

(b) A prosecutor may provide pro bono legal services to the indigent if providing the services does not interfere with the prosecutor's official duties or regularly compensated hours of employment.

(c) Providing pro bono legal services to the indigent as authorized by this section is not within the scope of employment of the prosecutor, and the state or a political subdivision of the state is not liable for damages that result from providing the services.

(d) Providing pro bono legal services to the indigent under this section does not constitute the private practice of law.

Added by Acts 1993, 73rd Leg., ch. 540, Sec. 1, eff. Sept. 1, 1993.

Sec. 41.015. CALL TO ACTIVE DUTY NOT VACANCY OR ABSENCE. (a) In this section, "active duty state attorney" means a district attorney, criminal district attorney, or county attorney who is on active duty or being mobilized or deployed for active duty as a member of:

(1) the National Guard;

(2) the armed forces of the United States;

(3) a reserve component of the armed forces of the United

States or the National Guard; or

(4) any part of state military forces.

(b) A court shall excuse from appearance or attendance during the term of the court an active duty state attorney who has:

(1) delegated the attorney's responsibilities to:

(A) the attorney's first assistant; or

(B) another state attorney in the attorney's jurisdiction or in a jurisdiction overlapping the attorney's jurisdiction who agrees to accept the delegation of responsibilities; and

(2) notified the presiding judge of the court's administrative judicial region of:

(A) the attorney's military duty, mobilization, or deployment; and

(B) the identity of the attorney to whom responsibilities were delegated under Subdivision (1).

(c) An active duty state attorney who complies with Subsection (b) is not absent from office and has not vacated office.

Added by Acts 2011, 82nd Leg., R.S., Ch. 425 (S.B. 910), Sec. 1, eff. June 17, 2011.

SUBCHAPTER B. STAFF OF PROSECUTING ATTORNEY

Sec. 41.101. DEFINITION. In this subchapter, "prosecuting attorney" means a county attorney, district attorney, or criminal district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 41.102. EMPLOYMENT OF ASSISTANTS AND PERSONNEL. (a) A prosecuting attorney may employ the assistant prosecuting attorneys, investigators, secretaries, and other office personnel that in the prosecuting attorney's judgment are required for the proper and efficient operation and administration of the office. The commissioners court may authorize a prosecuting attorney to appoint reserve investigators. The commissioners court may limit the number of reserve investigators that a prosecuting attorney may appoint. A reserve investigator may accept other employment or compensation that does not impair the reserve investigator's independence in the

performance of the reserve investigator's duties for the prosecuting attorney.

(b) A prosecuting attorney may request the assistance of the attorney general, and the attorney general may offer to the prosecuting attorney the assistance of his office, in the prosecution of all manner of criminal cases or in performing any duty imposed by law on the prosecuting attorney. In requesting or accepting such assistance, a prosecuting attorney may appoint any assistant attorney general as an assistant prosecuting attorney.

(c) The attorney general may offer to assist a prosecuting attorney in the prosecution of criminal offenses concerning the Texas Juvenile Justice Department.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 785, Sec. 3, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 13, eff. June 8, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1158 (S.B. 2037), Sec. 1, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 685 (H.B. 480), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 87, eff. September 1, 2015.

Sec. 41.103. ASSISTANT PROSECUTING ATTORNEYS. (a) An assistant prosecuting attorney must be licensed to practice law in this state and shall take the constitutional oath of office.

(b) An assistant prosecuting attorney may perform all duties imposed by law on the prosecuting attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 41.104. BOND. A prosecuting attorney may require his assistant prosecuting attorneys, investigators, and secretaries to have a bond in the amount that the prosecuting attorney sets.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 41.105. REMOVAL. All personnel of a prosecuting attorney's office are subject to removal at the will of the prosecuting attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 41.106. COMPENSATION. (a) A prosecuting attorney shall fix the salaries of his assistant prosecuting attorneys, investigators, secretaries, and other office personnel, subject to the approval of the commissioners court of the county or counties composing the district.

(b) In addition to their salaries, assistant prosecuting attorneys and investigators may be allowed actual and necessary travel expenses incurred in the discharge of their duties, not to exceed the amount fixed by the prosecuting attorney and approved by the commissioners court of the county or counties composing the district. The county may pay claims for travel expenses from the general fund, the officers' salary fund, or any other available funds of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 41.107. EQUIPMENT AND SUPPLIES. (a) The commissioners court of the county or counties composing a district may furnish telephone service, typewriters, office furniture, office space, supplies, and the other items and equipment that are necessary to carry out the official duties of the prosecuting attorney's office and may pay the expenses incident to the operation of the office.

(b) The commissioners court of the county or counties composing a district may furnish automobiles for the use of the prosecuting attorney's office in conducting the official duties of the office and may provide for the maintenance of the automobiles.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 41.108. GIFTS AND GRANTS. The commissioners court of the county or counties composing a district may accept gifts and grants from any foundation or association for the purpose of financing

adequate and effective prosecution programs in the county or district.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 41.109. AUTHORITY OF INVESTIGATOR. (a) An investigator appointed by a prosecuting attorney has the same authority as the sheriff of the county to make arrests anywhere in the county and to serve anywhere in the state warrants, capiases, subpoenas in criminal cases, and all other processes in civil or criminal cases issued by a district court, county court, or justice court of this state.

(b) An investigator is under the exclusive authority and direction of the prosecuting attorney and is not under the authority and direction of the sheriff. The prosecuting attorney is responsible for the official acts of his investigators and has the same remedies against his investigators and their sureties as any person has against a prosecuting attorney and his sureties.

(c) An investigator may not draw a fee of any character for performing a duty prescribed by this section.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 419 (S.B. 1244), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 925 (H.B. 3210), Sec. 1, eff. June 15, 2007.

Sec. 41.110. TRAINING RELATED TO FAMILY VIOLENCE. The court of criminal appeals shall adopt rules regarding the training of prosecuting attorneys relating to cases involving a charge that a person committed an act of family violence as defined by Section 71.004, Family Code.

Added by Acts 1995, 74th Leg., ch. 67, Sec. 4, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 9.001(c), eff. Sept. 1, 2003.

Sec. 41.111. TRAINING RELATED TO PROSECUTING ATTORNEY'S DUTY TO

DISCLOSE EXCULPATORY AND MITIGATING EVIDENCE. (a) Each attorney representing the state in the prosecution of felony and misdemeanor criminal offenses other than Class C misdemeanors shall complete a course of study relating to the duty of a prosecuting attorney to disclose exculpatory and mitigating evidence in a criminal case.

(b) The court of criminal appeals shall adopt rules relating to the training required by Subsection (a). In adopting the rules, the court shall consult with a statewide association of prosecuting attorneys in the development, provision, and documentation of the required training.

(c) The rules must:

(1) require that each attorney, within 180 days of assuming duties as an attorney representing the state described in Subsection (a), shall receive one hour of instruction relating to the duty of a prosecuting attorney to disclose exculpatory and mitigating evidence in a criminal matter;

(2) require additional training on a schedule or at a time as determined by the court;

(3) provide that the required training be specific with respect to a prosecuting attorney's duties regarding the disclosure of exculpatory and mitigating evidence in a criminal case, and must be consistent with case law and the Texas Disciplinary Rules of Professional Conduct; and

(4) provide for a method of certifying the completion of the training described in Subdivisions (1) and (2).

Added by Acts 2013, 83rd Leg., R.S., Ch. 1280 (H.B. 1847), Sec. 1, eff. January 1, 2014.

SUBCHAPTER C. APPORTIONMENT OF STATE FUNDS FOR PROSECUTION IN CERTAIN COUNTIES

Sec. 41.201. ELIGIBLE COUNTIES. This subchapter applies only to:

(1) Harris County; and

(2) any other county in which:

(A) the county officials are compensated on a salary basis; and

(B) there is a criminal district attorney or a county attorney performing the duties of a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 41.202. TRANSFER BY COMPTROLLER. (a) On the first day of September, January, and May of each fiscal year, the comptroller shall deposit the amount provided by this subchapter in the officers' salary fund of each county to which this subchapter applies from the available appropriations made by the legislature for that purpose.

(b) A county in which the commissioners court is entitled to determine whether county officers are paid on a salary basis may not receive funds under this subchapter until the commissioners court notifies the comptroller of its order providing that the county officers in the county are to be compensated on a salary basis.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 41.203. AMOUNT OF TRANSFER. (a) In making the deposits provided by Section 41.202, the comptroller shall apportion the amount appropriated for that purpose among the eligible counties on the basis of the population of each county as provided by this section.

(b) The annual apportionment for a county may not exceed:

(1) 10 cents per capita for a county with a population of less than 8,500;

(2) 7-1/2 cents per capita for a county with a population of 8,500 or more and not more than 19,000;

(3) 5 cents per capita for a county with a population of more than 19,000 and not more than 75,000;

(4) 4 cents per capita for a county with a population of more than 75,000; and

(5) 4 cents per capita for Harris County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 41.204. APPORTIONMENT BY COMMISSIONERS COURT. The commissioners court of a county receiving money from the state under this subchapter shall apportion the money to the proper officers' salary fund of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER D. LONGEVITY PAY FOR ASSISTANT PROSECUTORS

Sec. 41.251. DEFINITIONS. In this subchapter:

(1) "Assistant prosecutor" means an assistant district attorney, an assistant criminal district attorney, or an assistant county attorney.

(2) "Full-time employee" means an assistant prosecutor who is normally scheduled to work at least 40 hours a week as an assistant prosecutor.

(3) "Part-time employee" means an assistant prosecutor who is not a full-time employee.

Added by Acts 2001, 77th Leg., ch. 378, Sec. 1, eff. Jan. 1, 2002.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 36 (S.B. 844), Sec. 1, eff. September 1, 2007.

Sec. 41.252. LONGEVITY PAY. (a) An assistant prosecutor is entitled to longevity pay if the assistant prosecutor:

(1) is a full-time employee on the last day of a state fiscal quarter;

(2) is not on leave without pay on the last day of a state fiscal quarter; and

(3) has accrued at least four years of lifetime service credit not later than the last day of the month preceding the last month of a state fiscal quarter.

(b) The district attorney, criminal district attorney, or county attorney in the county in which the assistant prosecutor is employed shall certify the eligibility of the assistant prosecutor to receive a longevity pay supplement under this subchapter.

Added by Acts 2001, 77th Leg., ch. 378, Sec. 1, eff. Jan. 1, 2002.
Amended by Acts 2003, 78th Leg., ch. 1083, Sec. 1, eff. Dec. 1, 2003.

Sec. 41.253. AMOUNT. (a) Except as provided by Section 41.255(f), the amount of longevity pay is $20 per month for each year of lifetime service credit.

(b) The increase is effective beginning with the month following the month in which the fourth year of lifetime service credit is accrued.

(c) An assistant prosecutor may not receive as longevity pay from the county under this subchapter:

(1) more than $20 for each year of lifetime service credit, regardless of the number of positions the assistant prosecutor holds or the number of hours the assistant prosecutor works each week; or

(2) more than $5,000 annually.

Added by Acts 2001, 77th Leg., ch. 378, Sec. 1, eff. Jan. 1, 2002.
Amended by Acts 2003, 78th Leg., ch. 1083, Sec. 2, eff. Dec. 1, 2003.

Sec. 41.254. LIMITATIONS ON LAW PRACTICE. (a) An assistant prosecutor who receives longevity pay under this subchapter may not engage in the private practice of law if, from all funds received, the assistant prosecutor receives a salary that is equal to or more than 80 percent of the salary paid by the state to a district judge.

(b) An assistant prosecutor who becomes subject to this section may complete all civil cases that are not in conflict with the interest of any of the counties of the district in which the assistant prosecutor serves and that are pending in court before the assistant prosecutor exceeds the salary cap.

Added by Acts 2001, 77th Leg., ch. 378, Sec. 1, eff. Jan. 1, 2002.

Sec. 41.255. FUNDING. (a) The county shall pay a longevity pay supplement under this subchapter to the extent the county receives funds from the comptroller as provided by Subsection (d).

(b) The county may not reduce the salary of the assistant prosecutor to offset the longevity pay supplement.

(c) If an assistant prosecutor performs services for more than one county, the counties shall apportion the longevity pay supplement according to the ratio a county's population bears to the total population of the counties in which the assistant prosecutor performs services.

(d) Not later than the 15th day after the start of each state fiscal quarter, the county shall certify to the comptroller the total amount of longevity pay supplement due to all assistant prosecutors

in the county for the preceding state fiscal quarter. The comptroller shall issue a warrant to the county for the amount certified. The comptroller shall issue warrants to the counties not later than the 60th day after the first date of each state fiscal quarter.

(e) On the receipt of funds from the comptroller as provided by Subsection (d), the county shall pay longevity supplements to eligible assistant prosecutors in the next regularly scheduled salary payment or in a separate payment.

(f) A county is not required to pay longevity supplements if the county does not receive funds from the comptroller as provided by Subsection (d). If sufficient funds are not available to meet the requests made by counties for funds for payment of assistant prosecutors qualified for longevity supplements:

(1) the comptroller shall apportion the available funds to the eligible counties by reducing the amount payable to each county on an equal percentage basis;

(2) a county is not entitled to receive the balance of the funds at a later date; and

(3) the longevity pay program under this chapter is suspended to the extent of the insufficiency.

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 4, Sec. 38.02, eff. September 28, 2011.

Added by Acts 2001, 77th Leg., ch. 378, Sec. 1, eff. Jan. 1, 2002.
Amended by Acts 2003, 78th Leg., ch. 1083, Sec. 3, eff. Dec. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 38.01, eff. September 28, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 38.02, eff. September 28, 2011.

Sec. 41.256. CHANGE IN STATUS. If an assistant prosecutor ceases being a full-time employee after the first workday of a month but otherwise qualifies for longevity pay, the assistant prosecutor's compensation for that month includes full longevity pay.

Added by Acts 2001, 77th Leg., ch. 378, Sec. 1, eff. Jan. 1, 2002.

Sec. 41.257. ACCRUAL OF LIFETIME SERVICE CREDIT. (a) An assistant prosecutor accrues lifetime service credit for the period in which the assistant prosecutor serves as a full-time, part-time, or temporary assistant prosecutor.

(b) An assistant prosecutor who is on leave without pay for an entire calendar month does not accrue lifetime service credit for the month.

(c) An assistant prosecutor who simultaneously holds two or more positions that each accrue lifetime service credit accrues credit for only one of the positions.

(d) An assistant prosecutor who begins working on the first workday of a month in a position that accrues lifetime service credit is considered to have begun working on the first day of the month.

Added by Acts 2001, 77th Leg., ch. 378, Sec. 1, eff. Jan. 1, 2002.

Sec. 41.258. ASSISTANT PROSECUTOR SUPPLEMENT FUND AND FAIR DEFENSE ACCOUNT. (a) The assistant prosecutor supplement fund is created in the state treasury.

(b) A court, judge, magistrate, peace officer, or other officer taking a bail bond for an offense other than a misdemeanor punishable by fine only under Chapter 17, Code of Criminal Procedure, shall require the payment of a $15 reimbursement fee by each surety posting the bail bond, provided the fee does not exceed $30 for all bail bonds posted at that time for an individual and the fee is not required on the posting of a personal or cash bond.

(c) An officer collecting a reimbursement fee under this section shall deposit the fee in the county treasury in accordance with Article 103.004, Code of Criminal Procedure.

(d) An officer who collects a reimbursement fee due under this section shall:

(1) keep separate records of the funds collected; and

(2) file the reports required by Article 103.005, Code of Criminal Procedure.

(e) The custodian of the county treasury shall:

(1) keep records of the amount of funds on deposit that are collected under this section; and

(2) send to the comptroller not later than the last day of the month following each calendar quarter the funds collected under

this section during the preceding quarter.

(f) A surety paying a reimbursement fee under Subsection (b) may apply for and is entitled to a refund of the fee not later than the 181st day after the date the state declines to prosecute an individual or the grand jury declines to indict an individual.

(g) A county may retain 10 percent of the funds collected under this section and may also retain all interest accrued on the funds if the custodian of the treasury:

(1) keeps records of the amount of funds on deposit; and

(2) remits the funds to the comptroller as prescribed by Subsection (e).

(h) Funds collected are subject to audit by the comptroller, and funds expended are subject to audit by the state auditor.

(i) The comptroller shall deposit two-thirds of the funds received under this section in the assistant prosecutor supplement fund and one-third of the funds received under this section to the fair defense account. A county may not reduce the amount of funds provided for indigent defense services in the county because of funds provided under this subsection.

(j) The comptroller shall pay supplements from the assistant prosecutor supplement fund as provided by this subchapter. At the end of each fiscal year, any unexpended balance in the fund in excess of $1.5 million may be transferred to the general revenue fund.

Added by Acts 2003, 78th Leg., ch. 1083, Sec. 4, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 36 (S.B. 844), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 36 (S.B. 844), Sec. 3, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 2.43, eff. January 1, 2020.

SUBCHAPTER E. SPECIAL PROSECUTION UNIT

Sec. 41.301. DEFINITIONS. In this subchapter:

(1) "Board of directors" means the board of directors of the unit.

(2) Repealed by Acts 2015, 84th Leg., R.S., Ch. 734 , Sec. 149, eff. September 1, 2015.

(3) "Department" means the Texas Department of Criminal Justice.

(4) "Executive board" means the executive board governing the board of directors of the unit.

(5) "Prosecuting attorney" means a district attorney, a criminal district attorney, or a county attorney representing the state in criminal matters before the district or inferior courts of the county.

(6) "Unit" means the special prosecution unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 14, eff. June 8, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 149, eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1610, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 41.302. GENERAL FUNCTION OF SPECIAL PROSECUTION UNIT. The special prosecution unit is an independent unit that cooperates with and supports prosecuting attorneys in prosecuting offenses and delinquent conduct described by Article 104.003(a), Code of Criminal Procedure.

Added by Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 14, eff. June 8, 2007.

Sec. 41.303. BOARD OF DIRECTORS. (a) The unit is governed by a board of directors composed of each prosecuting attorney who:

(1) represents the state in criminal matters before a court in a county in which one or more facilities owned or operated by or under contract with the department or the Texas Juvenile Justice Department are located; and

(2) has entered into a memorandum of understanding with the unit for the prosecution of offenses and delinquent conduct described by Article 104.003(a), Code of Criminal Procedure.

(b) A prosecuting attorney described by Subsection (a) shall

serve on the board of directors in addition to the other duties of the prosecuting attorney assigned by law.

(c) The board of directors shall meet annually for the purpose of electing the executive board and approving or amending bylaws governing the unit.

(d) A majority of the members of the board of directors constitutes a quorum for the transaction of business. The board of directors must approve any action by a majority vote of the members present.

Added by Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 14, eff. June 8, 2007.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1348 (S.B. 1285), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 88, eff. September 1, 2015.

Sec. 41.304. EXECUTIVE BOARD. (a) The board of directors is governed by an executive board composed of 11 members elected by the membership of the board of directors on a majority vote from among that membership, as follows:

(1) one member of the executive board who represents the state in criminal matters before a court in a county in which one or more facilities owned or operated by or under contract with the Texas Juvenile Justice Department are located shall be elected on a majority vote of the members of the board of directors to serve a term expiring in an even-numbered year;

(2) an additional four members of the executive board shall be elected on a majority vote of the members of the board of directors to serve terms expiring in even-numbered years;

(3) one member of the executive board who represents the state in criminal matters before a court in a county in which one or more facilities owned or operated by or under contract with the Texas Juvenile Justice Department are located shall be elected on a majority vote of the members of the board of directors to serve a term expiring in an odd-numbered year; and

(4) an additional five members of the executive board shall be elected on a majority vote of the members of the board of

directors to serve terms expiring in odd-numbered years.

(b) If a vacancy on the executive board occurs before the end of the vacating member's term, the executive board shall elect a person to serve the remainder of the term. To be eligible for election under this subsection, a person must meet any qualifications required of the vacating member for service on the executive board.

(c) The executive board shall conduct the business of the unit.

(d) A majority of the members of the executive board constitutes a quorum for the transaction of business. The executive board must approve any action by a majority vote of the members present.

Added by Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 14, eff. June 8, 2007.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1348 (S.B. 1285), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 89, eff. September 1, 2015.

Sec. 41.305. OFFICERS. (a) The members of the board of directors, on a majority vote, shall elect from among the membership of the executive board a presiding officer and an assistant presiding officer. The presiding officer serves as the presiding officer of the board of directors and the executive board, and the assistant presiding officer serves as the assistant presiding officer of the board of directors and the executive board.

(b) The presiding officer and the assistant presiding officer serve terms of one year.

(c) The assistant presiding officer serves as presiding officer of the board of directors and the executive board in the presiding officer's absence or if a vacancy occurs in that office until a new presiding officer is elected as provided by Subsection (d).

(d) If a vacancy occurs in the office of presiding officer or assistant presiding officer before the end of the vacating officer's term, the executive board shall elect a person to serve the remainder of the term.

Added by Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 14, eff. June 8, 2007.

Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1348 (S.B. 1285), Sec. 3, eff. September 1, 2013.

Sec. 41.306. MEMBERSHIP ON BOARD OF DIRECTORS OR EXECUTIVE BOARD NOT A CIVIL OFFICE OF EMOLUMENT. A position on the board of directors or the executive board may not be construed to be a civil office of emolument for any purpose, including those purposes described in Section 40, Article XVI, Texas Constitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 14, eff. June 8, 2007.

Sec. 41.307. REIMBURSEMENT FOR EXPENSES. A member of the board of directors or executive board is not entitled to compensation for service on the board of directors or executive board, if applicable, but is entitled to be reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a member of the board of directors and the executive board, if applicable, as provided by the General Appropriations Act.

Added by Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 14, eff. June 8, 2007.

Sec. 41.308. CHIEF OF SPECIAL PROSECUTION UNIT; ADDITIONAL EMPLOYEES. The executive board, on a majority vote, shall employ a person to serve as chief of the unit and additional persons to accomplish the unit's purposes. The board of directors may determine the compensation of the unit's employees.

Added by Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 14, eff. June 8, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1348 (S.B. 1285), Sec. 4, eff. September 1, 2013.

Sec. 41.309. ELECTION OF COUNSELLOR. (a) The executive board,

on a majority vote, shall elect a counsellor.

(b) To be eligible to serve as a counsellor, a person must:

(1) be certified in criminal law by the Texas Board of Legal Specialization;

(2) have at least five years of experience as a lawyer assisting prosecuting attorneys in prosecuting offenses or delinquent conduct committed on state property used for the custody of persons charged with or convicted of offenses or used for the custody of children charged with or adjudicated as having engaged in delinquent conduct or conduct indicating a need for supervision; or

(3) have served for at least five years as a prosecuting attorney or as a judge of a district court, a court of appeals, or the court of criminal appeals.

Added by Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 14, eff. June 8, 2007.

Sec. 41.310. DUTIES OF COUNSELLOR. (a) The counsellor elected in accordance with Section 41.309:

(1) shall coordinate prosecution issues in and monitor each case involving an offense or delinquent conduct described by Article 104.003(a), Code of Criminal Procedure, that concerns the Texas Juvenile Justice Department;

(2) shall work with criminal justice analysts employed by the Legislative Budget Board and other persons who monitor cases involving offenses or delinquent conduct described by Article 104.003(a), Code of Criminal Procedure; and

(3) may conduct an investigation of any alleged illegal or improper conduct by Texas Juvenile Justice Department officers, employees, or contractors that the counsellor reasonably believes:

(A) jeopardizes the health, safety, and welfare of children in the custody of the Texas Juvenile Justice Department; and

(B) could constitute an offense described by Article 104.003(a), Code of Criminal Procedure.

(b) In addition to the duties prescribed by Subsection (a), the counsellor shall on a quarterly basis provide the board of directors and the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities with a report concerning offenses or

delinquent conduct prosecuted by the unit on receiving a request for assistance under Section 241.007, Human Resources Code, or a request for assistance otherwise from a prosecuting attorney. A report under this subsection is public information under Chapter 552, Government Code, and the board of directors shall request that the Texas Juvenile Justice Department publish the report on that department's Internet website. A report must be both aggregated and disaggregated by individual facility and include information relating to:

(1) the number of requests for assistance received under Section 241.007, Human Resources Code, and requests for assistance otherwise received from prosecuting attorneys;

(2) the number of cases investigated and the number of cases prosecuted;

(3) the types and outcomes of cases prosecuted, such as whether the case concerned narcotics or an alleged incident of sexual abuse; and

(4) the relationship of a victim to a perpetrator, if applicable.

(c) The counsellor, in consultation with the board of directors, shall notify the foreperson of the appropriate grand jury, in the manner provided by Article 20A.051, Code of Criminal Procedure, if:

(1) the counsellor receives credible evidence of illegal or improper conduct by Texas Juvenile Justice Department officers, employees, or contractors that the counsellor reasonably believes jeopardizes the health, safety, and welfare of children in the custody of that department;

(2) the counsellor reasonably believes the conduct:

(A) could constitute an offense described by Article 104.003(a), Code of Criminal Procedure; and

(B) involves the alleged physical or sexual abuse of a child in the custody of a Texas Juvenile Justice Department facility or an investigation related to the alleged abuse; and

(3) the counsellor has reason to believe that information concerning the conduct has not previously been presented to the appropriate grand jury.

Added by Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 14, eff. June 8, 2007.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 3.010, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 90, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.38, eff. January 1, 2021.

SUBCHAPTER F. PAYMENTS FOR PUBLIC INTEGRITY PROSECUTIONS

Sec. 41.351. DEFINITIONS. In this subchapter:

(1) "Offense against public administration" means an offense described by Section 411.0252.

(2) "Prosecuting attorney" means a county attorney, district attorney, or criminal district attorney.

Added by Acts 2015, 84th Leg., R.S., Ch. 927 (H.B. 1690), Sec. 2, eff. September 1, 2015.

Sec. 41.352. PAYMENT FOR EXTRAORDINARY COSTS OF PROSECUTION. The comptroller shall pay from funds appropriated to the comptroller's judiciary section, from appropriations made specifically for enforcement of this section, reasonable amounts incurred by a prosecuting attorney for extraordinary costs of prosecution of an offense against public administration.

Added by Acts 2015, 84th Leg., R.S., Ch. 927 (H.B. 1690), Sec. 2, eff. September 1, 2015.

CHAPTER 42. STATE PROSECUTING ATTORNEY

Sec. 42.001. OFFICE; QUALIFICATIONS. (a) The court of criminal appeals shall appoint a state prosecuting attorney to represent the state in all proceedings before the court. The state prosecuting attorney may also represent the state in any stage of a criminal case before a state court of appeals if he considers it necessary for the interest of the state.

(b) A person appointed to the office of state prosecuting attorney must have at least five years' experience as an attorney in the practice of criminal law in this state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 42.002. OATH; TERM. (a) The state prosecuting attorney must take the oath required of state officials.

(b) The state prosecuting attorney serves a two-year term and continues to serve until a successor is appointed and has qualified.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 42.003. ASSISTANT STATE PROSECUTING ATTORNEYS. The state prosecuting attorney may appoint one or more assistant state prosecuting attorneys. An assistant state prosecuting attorney has the same duties and serves the same term of office as the state prosecuting attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 42.004. REMOVAL. The court of criminal appeals may remove state prosecuting attorneys from office for good cause.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 42.005. COOPERATION WITH OTHER PROSECUTING ATTORNEYS. (a) The state prosecuting attorney may assist a district or a county attorney in representing the state before a court of appeals if requested to do so by the district or county attorney.

(b) A district or county attorney may assist the state prosecuting attorney in representing the state before the court of criminal appeals.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

CHAPTER 43. DISTRICT ATTORNEYS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 43.002. BOND; COUNTY RISK MANAGEMENT POOL. (a) Before assuming the duties of the office and except as provided by

Subsection (c) or (d), a district attorney must give a bond that:

(1) is payable to the governor;

(2) is in the sum of $5,000;

(3) has two or more good and sufficient sureties;

(4) is approved by the district judge; and

(5) is conditioned that the district attorney will, in the manner prescribed by law, faithfully pay over all money that he collects or that comes into his hands for the state or a county.

(b) Except as provided by Subsection (c), each district attorney's bond shall be deposited in the office of the comptroller of public accounts.

(c) Instead of the bond required under Subsection (a), a district attorney may obtain coverage from a county government risk management pool created under Chapter 119, Local Government Code. Coverage obtained under the pool must be in the same amount and satisfy the same bond conditions otherwise required by this section.

(d) A district attorney is not required to execute the bond required under Subsection (a) and may perform the duties of office if the commissioners court of each county in the district by order authorizes the county to self-insure against losses that would have been covered by the bond. An order adopted by a commissioners court under this subsection shall be kept and recorded by the county clerk.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 439 (S.B. 1243), Sec. 3, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 69 (S.B. 265), Sec. 1, eff. May 18, 2013.

Sec. 43.003. FAILURE TO ATTEND COURT. (a) If a district attorney fails to attend any term of the district court of a county in the district, the district clerk shall certify that failure to the comptroller of public accounts. Unless a satisfactory reason for the failure is shown to the comptroller, the district attorney may not receive salary for the time the district attorney failed to attend.

(b) Subsection (a) does not apply to a district attorney who complies with Section 41.015.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 425 (S.B. 910), Sec. 2, eff. June 17, 2011.

Sec. 43.004. EXPENSES. (a) A district attorney engaged in the discharge of official duties in a county other than the district attorney's county of residence is entitled to traveling and other necessary expenses, as provided by Chapter 660.

(b) A district attorney is entitled to receive from the state the actual and necessary postage, telegraph, and telephone expenses incurred in the discharge of official duties.

(c) The expenses shall be paid by the state on a sworn itemized account showing the expenses.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(105), eff. Sept. 1, 1995.

SUBCHAPTER B. PROVISIONS APPLICABLE TO SPECIFIC DISTRICTS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 43.101. 1ST JUDICIAL DISTRICT. The voters of Sabine and San Augustine counties elect a district attorney for the 1st Judicial District who represents the state in that district court only in those counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 739, Sec. 1, eff. Sept. 1, 1997.

Sec. 43.102. 2ND JUDICIAL DISTRICT. The voters of the 2nd Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.104. 8TH JUDICIAL DISTRICT. The voters of Delta, Franklin, and Hopkins counties elect a district attorney for the 8th Judicial District who represents the state in that district only in

those counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 11(b), eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 917, Sec. 1, eff. Sept. 1, 1999.

Sec. 43.105. 9TH JUDICIAL DISTRICT. (a) The voters of Montgomery County elect a district attorney for the 9th Judicial District who represents the state in that district court only in that county. The district attorney also acts as district attorney for the 410th and 457th Judicial Districts.

(b) The district attorney shall represent the state in misdemeanor criminal cases pending in the district and inferior courts of the county.

(c) The district attorney, with the approval of the Commissioners Court of Montgomery County, may appoint the assistant district attorneys, investigators, secretaries, and other employees necessary to carry out the duties of the office of district attorney.

(d) An investigator appointed by the district attorney is not required to be a licensed attorney.

(e) The salary of each employee of the district attorney is fixed by the Commissioners Court of Montgomery County. The district attorney, assistant district attorneys, and investigators employed by the district attorney may be allowed the actual and necessary travel expenses incident to carrying out the duties of the district attorney, subject to the approval of the district attorney. This subsection does not apply to the portion of compensation or travel expenses paid by the state to the district attorney or his employees.

(f) The salary and expenses of the employees of the district attorney must be paid by the county at the regular pay period of the county from the officers' salary fund of the county, the general fund of the county, or both, at the discretion of the commissioners court.

(g) The compensation paid by the county to an employee of the district attorney or set for a position on the staff of the district attorney may not be less than the compensation paid by the county to the person or set for the position on June 14, 1973.

(h) The commissioners court may accept gifts and grants from an individual, partnership, corporation, trust, foundation, association, or political subdivision to finance adequate and effective

prosecution, crime prevention, or rehabilitation programs in the county or district approved and administered by the district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 60, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 655, Sec. 2.01, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 565, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 704, Sec. 5, eff. Jan. 1, 1997; Acts 1999, 76th Leg., ch. 911, Sec. 1, eff. Jan. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 6.01, eff. September 1, 2019.

Sec. 43.107. 18TH JUDICIAL DISTRICT. The voters of the 18th Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.108. 21ST JUDICIAL DISTRICT. (a) The voters of Washington County elect a district attorney for the 21st Judicial District who represents the state in that district court only in that county.
(b) The district attorney also represents the state and performs the duties of district attorney before the 335th District Court in Washington County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.50(a), eff. Sept. 1, 1987; Acts 2003, 78th Leg., ch. 665, Sec. 1, eff. June 20, 2003.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 6.02, eff. September 1, 2019.

Sec. 43.110. 23RD JUDICIAL DISTRICT. (a) The voters of Matagorda County elect a district attorney for the 23rd Judicial District who represents the state in that district court only in that county.

(b) The district attorney also represents the state and performs the duties of district attorney before all the district courts in Matagorda County.

(c) The commissioners courts of the counties comprising the district may supplement the salary of the district attorney so that the total annual salary of the district attorney is not less than $12,000. The supplemental salary must be paid by each county proportionately according to the population of each county. The supplemental salary must be paid from the officers' salary funds of the counties, if those funds are adequate. If the officers' salary fund of a county is inadequate, the commissioners court shall transfer the necessary amount from the general fund of the county to the officers' salary fund.

(d) The district attorney also handles all:

(1) felony and misdemeanor criminal matters in all of the courts in Matagorda County; and

(2) juvenile matters under Title 3, Family Code, in all of the courts in Matagorda County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 457, Sec. 1, eff. Sept. 1, 1995.

Sec. 43.111. 24TH JUDICIAL DISTRICT. (a) The voters of DeWitt, Goliad, and Refugio counties elect a district attorney for the 24th Judicial District who represents the state in that district court only in those counties.

(b) The district attorney also represents the state in all cases before the 135th Judicial District Court in DeWitt, Goliad, and Refugio counties.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 15.03(2), eff. September 1, 2019.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 15.03(2), eff. September 1, 2019.

Sec. 43.113. 26TH JUDICIAL DISTRICT. The voters of the 26th Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.114. 27TH JUDICIAL DISTRICT. (a) The voters of Bell County elect a district attorney for the 27th Judicial District who represents the state in the district courts having jurisdiction in that county.

(b) An investigator appointed by the district attorney is not required to be a licensed attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 4, eff. Sept. 1, 1991.

Sec. 43.115. 29TH JUDICIAL DISTRICT. (a) The voters of the 29th Judicial District elect a district attorney.

(b) The commissioners court of a county in the 29th Judicial District may accept gifts and grants from any political subdivision to finance adequate and effective prosecution programs within the county or district. A municipality in the county or district may allocate or grant money, in amounts approved by the governing body of the municipality, for the support and maintenance of an effective prosecution program.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.117. 31ST JUDICIAL DISTRICT. The voters of the 31st Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 91, Sec. 1, eff. Aug. 30, 1993.

Sec. 43.118. 32ND JUDICIAL DISTRICT. The voters of the 32nd Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.119. 33RD JUDICIAL DISTRICT. The voters of Blanco,

Burnet, Llano, and San Saba Counties elect a district attorney for the 33rd and 424th Judicial Districts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 12, eff. September 1, 2007.

Sec. 43.120. 34TH JUDICIAL DISTRICT. (a) The voters of Culberson, Hudspeth, and El Paso counties elect a district attorney for the 34th Judicial District.

(b) The district attorney for the 34th Judicial District also acts as district attorney for the 41st, 65th, 120th, and 171st judicial districts, the 394th Judicial District in Culberson and Hudspeth counties, and represents the state in all criminal cases before every district court having jurisdiction in El Paso County.

(c) The district attorney represents the state in all criminal cases pending in the inferior courts having jurisdiction in El Paso County.

(d) The commissioners courts of Culberson and Hudspeth Counties shall each pay to El Paso County the budgeted prosecution costs, which may not exceed a total of $90,000 for Culberson and Hudspeth Counties per fiscal year, for the preparation and conduct of criminal affairs of the district attorney's office, including compensation for assistants and other employees of the district attorney, applicable to their respective county. Each year the district attorney's office shall:

(1) prepare a budget and financial statement for the upcoming fiscal year; and

(2) file the budget and financial statement with the commissioners courts of Hudspeth and Culberson Counties.

(d-1) The budget and financial statement required by Subsection (d) must contain:

(1) the budgeted prosecution costs for Culberson and Hudspeth Counties, with the costs for each county listed separately; and

(2) any additional information considered appropriate by the district attorney or required by the commissioners court of Culberson or Hudspeth County.

(d-2) Hudspeth and Culberson Counties shall remit one-fourth of the budgeted prosecution costs applicable to the respective county to El Paso County not later than the last day of each fiscal quarter.

(e) For the purpose of conducting his office, the district attorney may appoint two first assistant district attorneys, or one first assistant district attorney and one first assistant administrative district attorney, and the other assistant district attorneys that are necessary to the proper performance of the district attorney's duties.

(f) El Paso County is responsible for managing the funds expended by the district attorney for the preparation and conduct of criminal affairs of the district attorney's office, including funds to compensate assistants and other employees of the district attorney. Hudspeth and Culberson Counties shall remit one-fourth of the budgeted funds to El Paso County not later than the last day of each fiscal quarter. The Commissioners Court of El Paso County must approve the number of assistants and other employees appointed by the district attorney and the amount of compensation of those employees.

(g) Nothing in this section prevents El Paso County from entering into an interlocal agreement with Culberson or Hudspeth County in lieu of budgeting costs as provided by this section or Section 140.003, Local Government Code. An interlocal agreement under this subsection may not exceed $90,000 per fiscal year.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 493, Sec. 1, eff. Oct. 1, 1993; Acts 1995, 74th Leg., ch. 704, Sec. 21, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 13(a), eff. October 1, 2007.

Sec. 43.121. 35TH JUDICIAL DISTRICT. (a) The voters of the 35th Judicial District elect a district attorney.

(b) Repealed by Acts 1999, 76th Leg., ch. 1027, Sec. 1, eff. Sept. 1, 1999.

(c) Repealed by Acts 1993, 73rd Leg., ch. 819, Sec. 4, eff. Sept. 1, 1993.

(d) The district attorney also performs the duties of the county attorney of Brown County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.52(a), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 892, Sec. 1, eff. Jan. 1, 1989; Acts 1989, 71st Leg., ch. 2, Sec. 16.01(22), eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 819, Sec. 4, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1027, Sec. 1, eff. Sept. 1, 1999.

Sec. 43.122. 36TH JUDICIAL DISTRICT. The voters of San Patricio County elect a district attorney for the 36th Judicial District who represents the state in that district court only in that county. In addition to exercising the duties and authority conferred on district attorneys by general law, the district attorney represents the state in all criminal cases in the district courts in that county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 3.09(a), eff. September 1, 2015.

Sec. 43.123. 38TH JUDICIAL DISTRICT. (a) The voters of the 38th Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 6.03(a), eff. September 1, 2019.

Sec. 43.124. 39TH JUDICIAL DISTRICT. The voters of the 39th Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.1243. 42ND JUDICIAL DISTRICT. (a) The voters of Coleman County elect a district attorney for the 42nd Judicial District who represents the state in that district court only in Coleman County.

(b) The Coleman County district attorney shall perform all of the duties in Coleman County required by district attorneys by general law and shall represent the state in criminal cases pending in the district court of the county. The district attorney has control of any case heard on habeas corpus before any civil district or criminal court of the county.

(c) The district attorney has all of the powers, duties, and privileges in Coleman County relating to criminal matters for and on behalf of the state that are conferred on district attorneys in other counties and districts.

(d) The comptroller of public accounts shall pay directly to the district attorney of Coleman County a salary equal to the salary authorized by the General Appropriations Act for a district attorney. The salary shall be paid in equal monthly installments on the first day of each month.

(e) The Commissioners Court of Coleman County may supplement the district attorney's salary in an amount to be set by the commissioners court.

(f) The district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by district or county attorneys.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 5, eff. Sept. 1, 1991.

Sec. 43.125. 43RD JUDICIAL DISTRICT. The voters of the 43rd Judicial District elect a district attorney who represents the state in all cases before the 43rd and 415th district courts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., ch. 1306, Sec. 3(c), eff. Sept. 1, 2005.

Sec. 43.126. 46TH JUDICIAL DISTRICT. The voters of the 46th Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.127. 47TH JUDICIAL DISTRICT. (a) The voters of

Armstrong and Potter counties elect a district attorney for the 47th Judicial District who represents the state in that district court only in those counties.

(b) The district attorney of the 47th Judicial District also acts as the district attorney for the 108th Judicial District.

(c) The district attorney also represents the state in all criminal cases before the district courts of Potter and Armstrong counties.

(d) The number of assistants and other office personnel employed by the district attorney and the compensation of the personnel are subject to the approval of the Commissioners Court of Potter County.

(e) The Commissioners Court of Potter County may pay the salaries of the office personnel of the district attorney from the officers' salary fund, the general fund, any other available fund, or any combination of those funds.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.128. 49TH JUDICIAL DISTRICT. (a) The voters of the 49th Judicial District elect a district attorney.

(b) The district attorney represents the state in all criminal cases in Webb County.

(c) The district attorney also represents the state in the 111th District Court in all criminal cases and in all other matters in which the state is a party.

(d) Repealed by Acts 1987, 70th Leg., ch. 1045, Sec. 3, eff. Sept. 1, 1987.

(e) The commissioners court of any county in the district may provide the salary of any member of the district attorney's staff and may prescribe as a qualification for retaining a job that a member of the staff reside in the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1045, Sec. 3, eff. Sept. 1, 1987.

Sec. 43.129. 50TH JUDICIAL DISTRICT. The voters of the 50th Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.130. 51ST JUDICIAL DISTRICT. (a) The voters of the 51st Judicial District elect a district attorney who represents the state in all criminal and habeas corpus cases in that district court.

(b) The district attorney of the 51st Judicial District may request the district attorney of the 119th Judicial District to assist in the trial of a criminal or habeas corpus case in Tom Green County. The district attorney of the 51st Judicial District has absolute control and management of those cases.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.131. 52ND JUDICIAL DISTRICT. The voters of the 52nd Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.132. 53RD JUDICIAL DISTRICT. (a) The voters of the 53rd Judicial District elect a district attorney. In addition to performing the other duties provided by law for district attorneys, the district attorney represents the state in all criminal cases before all the district courts of Travis County.

(b) The Commissioners Court of Travis County may supplement the salaries paid by the state to the assistant district attorneys and to the district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.53, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 819, Sec. 3, eff. Sept. 1, 1993.

Sec. 43.133. 63RD JUDICIAL DISTRICT. (a) The voters of the 63rd Judicial District elect a district attorney.

(b) The district attorney for the 63rd Judicial District also acts as district attorney for the 83rd Judicial District in Terrell and Val Verde counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1337, Sec. 18, eff. Sept. 1, 1999.

Sec. 43.134. 64TH JUDICIAL DISTRICT. (a) The voters of Hale County elect a district attorney for the 64th Judicial District who represents the state in that district court only in Hale County.

(b) The district attorney also represents the state in all criminal cases before the county court and the justice courts in Hale County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 198, Sec. 1, eff. May 27, 1987.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 787 (S.B. 1166), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 16(a), eff. September 1, 2009.

Sec. 43.135. 66TH JUDICIAL DISTRICT. The voters of the 66th Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.136. 69TH JUDICIAL DISTRICT. (a) The voters of the 69th Judicial District elect a district attorney.

(b) Any commissioners court in the district may supplement the state salary of the district attorney in an amount set by the commissioners court. In addition, a commissioners court may compensate the district attorney for the prosecution of misdemeanors in the manner and amount determined by the commissioners court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.54(a), eff. Sept. 1, 1987.

Sec. 43.137. 70TH JUDICIAL DISTRICT. (a) The voters of the 70th Judicial District elect a district attorney.

(b) The district attorney of the 70th Judicial District shall

also act as district attorney for the 161st Judicial District.

(c) In addition to exercising the duties and authority conferred on district attorneys by general law, the district attorney represents the state in the district and inferior courts in Ector County in all criminal cases, juvenile matters under Title 3, Family Code, and matters involving children's protective services.

(d) The district attorney has no power, duty, or privilege in any civil matter, other than civil asset forfeiture and civil bond forfeiture matters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 14.01, eff. September 1, 2021.

Sec. 43.138. 76TH JUDICIAL DISTRICT. The voters of Titus and Camp counties elect a district attorney for the 76th Judicial District who represents the state in all matters pending before the district court in those counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.139. 79TH JUDICIAL DISTRICT. (a) The voters of the 79th Judicial District elect a district attorney.

(b) The commissioners courts of the counties comprising the district may supplement the state salary of the district attorney in the amount of $2,500 a year. The commissioners court of each county in the district shall pay a proportionate share of the supplemental salary according to the population of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.140. 81ST JUDICIAL DISTRICT. The voters of the 81st Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.141. 83RD JUDICIAL DISTRICT. (a) The voters of Brewster, Jeff Davis, Pecos, and Presidio counties elect a district attorney for the 83rd Judicial District.

(b) The district attorney for the 83rd district also acts as district attorney for the 394th Judicial District in Brewster, Jeff Davis, and Presidio counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 704, Sec. 22, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 797, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 24, Sec. 2, eff. Sept. 1, 2003.

Sec. 43.142. 84TH JUDICIAL DISTRICT. (a) The voters of Hansford and Hutchinson counties elect a district attorney for the 84th Judicial District who represents the state in that district court only in those counties.

(b) The district attorney may appoint an assistant district attorney with the approval of the commissioners courts of the counties comprising the district.

(c) The salary and expenses of the assistant district attorney shall be paid by the counties comprising the district in proportion to the population of the counties. The salary shall be paid in equal monthly installments. Expense claims shall be paid at the end of each month on the approval of the district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.143. 85TH JUDICIAL DISTRICT. (a) The voters of the 85th Judicial District elect a district attorney.

(b) The district attorney, with the approval of the Commissioners Court of Brazos County, may appoint the assistant district attorneys, investigators, stenographers, secretaries, clerks, and other personnel that he considers necessary to carry out the duties of the office.

(c) An investigator appointed by the district attorney must take the constitutional oath of office when appointed.

(d) The Commissioners Court of Brazos County may accept gifts and grants from any individual, partnership, corporation, trust, foundation, association, or political subdivision for the purpose of

financing adequate and effective prosecution, crime prevention, or rehabilitation programs within the county or district that are approved by the district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.144. 88TH JUDICIAL DISTRICT. The voters of Hardin County elect a district attorney for the 88th Judicial District. The district attorney acts as district attorney in Hardin County only.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1352, Sec. 2, eff. Sept. 1, 1997.

Sec. 43.145. 90TH JUDICIAL DISTRICT. The voters of the 90th Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.146. 97TH JUDICIAL DISTRICT. (a) The voters of the 97th Judicial District elect a district attorney.

(b) The district attorney, with the approval of the commissioners courts of the counties comprising the district, may appoint assistants, investigators, and office personnel as he considers necessary.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.147. 100TH JUDICIAL DISTRICT. The voters of the 100th Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.148. 105TH JUDICIAL DISTRICT. (a) The voters of Nueces County elect a district attorney for the 105th Judicial District who has the same powers and duties as other district attorneys and serves all the district, county, and justice courts of

Nueces County.

(b) The district attorney shall attend each term and session of the district, county, and justice courts of Nueces County and shall represent the state in criminal cases pending in those courts. The district attorney has control of any case heard on petition of writ of habeas corpus before any district or inferior court in the district.

(c) The commissioners court of Nueces County may supplement the state salary of the district attorney. The amount of the supplement may not exceed $12,000 a year. The supplemental salary may be paid from the officers' salary fund of the county. If that fund is inadequate, the commissioners court may transfer the necessary funds from the general fund of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 387, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 14, eff. September 1, 2007.

Sec. 43.149. 106TH JUDICIAL DISTRICT. The voters of the 106th Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.150. 109TH JUDICIAL DISTRICT. The voters of Crane and Winkler counties elect a district attorney for the 109th Judicial District who represents the state in that district court only in those counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 318 (H.B. 2288), Sec. 3, eff. September 1, 2007.

Sec. 43.151. 110TH JUDICIAL DISTRICT. (a) The voters of the 110th Judicial District elect a district attorney.

(b) The commissioners court of Briscoe or Dickens County may

supplement the state salary of the district attorney in an amount set by the commissioners court. The commissioners court may pay the supplemental salary from the officers' salary fund, the general fund, any other available fund, or any combination of those funds.

(c) If there is no county attorney in Briscoe, Dickens, Floyd, or Motley County, the district attorney may perform the duties of county attorney for the county. The commissioners court of the county in which the district attorney is performing the duties of county attorney may compensate the district attorney for the prosecution of misdemeanors in the county. The commissioners court shall determine the amount of the compensation and the manner of its payment.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 936, Sec. 1, eff. June 20, 1987; Acts 1990, 71st Leg., 6th C.S., ch. 18, Sec. 1, eff. June 18, 1990.

Sec. 43.152. 112TH JUDICIAL DISTRICT. The voters of the 112th Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 80 (S.B. 441), Sec. 2, eff. September 1, 2005.

Sec. 43.153. 118TH JUDICIAL DISTRICT. (a) The voters of the 118th Judicial District elect a district attorney.

(b) The district attorney also represents the state in all criminal cases before the County Court of Glasscock County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.154. 119TH JUDICIAL DISTRICT. (a) The voters of the 119th Judicial District elect a district attorney who represents the state in all criminal and habeas corpus cases in that district court.

(b) The district attorney of the 119th Judicial District may request the district attorney of the 51st Judicial District to assist in the trial of a criminal or habeas corpus case before the 119th

District Court. The district attorney of the 119th Judicial District has absolute control and management of those cases.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.155. 123RD JUDICIAL DISTRICT. The voters of Shelby County elect a district attorney for the 123rd Judicial District who represents the state in that district only in that county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 6, eff. Jan. 1, 1993.

Sec. 43.156. 132ND JUDICIAL DISTRICT. (a) The voters of the 132nd Judicial District elect a district attorney.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1182 , Sec. 2.08(b), eff. September 1, 2015.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 2.08(b), eff. September 1, 2015.

Sec. 43.157. 142ND JUDICIAL DISTRICT. (a) The voters of the 142nd Judicial District elect a district attorney.

(b) The district attorney represents the state in criminal cases in all district and inferior courts other than municipal courts having jurisdiction in Midland County.

(c) The district attorney has all of the powers, duties, and privileges conferred by law on district and prosecuting attorneys relating to:

(1) the prosecution of felony and misdemeanor criminal cases;

(2) matters directly relating to criminal cases, including asset and bond forfeitures; and

(3) delinquent children, children in need of supervision, and protective orders under Chapter 71, Family Code.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended

by Acts 1989, 71st Leg., ch. 811, Sec. 2, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 465, Sec. 1, eff. Sept. 1, 1997.

Sec. 43.158. 143RD JUDICIAL DISTRICT. The voters of the 143rd Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.159. 145TH JUDICIAL DISTRICT. (a) The voters of the 145th Judicial District elect a district attorney.

(b) The district attorney, with the approval of the Commissioners Court of Nacogdoches County, may appoint the assistant district attorneys, investigators, and stenographers that are necessary to carry out the duties of the office.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.161. 156TH JUDICIAL DISTRICT. The voters of Bee, Live Oak, and McMullen counties elect a district attorney for the 156th Judicial District who represents the state in that district court only in those counties. In addition to exercising the duties and authority conferred on district attorneys by general law, the district attorney shall also represent the state in all criminal cases in the district courts in those counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 16, Sec. 1, eff. April 25, 1997; Acts 2003, 78th Leg., ch. 751, Sec. 1, eff. Sept. 1, 2003.

Sec. 43.162. 159TH JUDICIAL DISTRICT. (a) The voters of the 159th Judicial District elect a district attorney.

(b) Subject to the approval of the Commissioners Court of Angelina County, the district attorney may appoint investigators, court reporters, stenographers, secretaries, and other employees as he considers adequate and necessary to conduct the affairs of the office.

(c) An investigator appointed by the district attorney must

take the constitutional oath of office when appointed.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.163. 173RD JUDICIAL DISTRICT. (a) The voters of Henderson County elect a district attorney for the 173rd Judicial District who represents the state in all cases in the district courts having jurisdiction in that county.

(b) The district attorney, with the approval of the Commissioners Court of Henderson County, may appoint assistants, investigators, and office personnel as he considers necessary.

(c) An investigator appointed by the district attorney must take the constitutional oath of office when appointed.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.164. 196TH JUDICIAL DISTRICT. The voters of the 196th Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.165. 198TH JUDICIAL DISTRICT. (a) The voters of the 198th Judicial District elect a district attorney who represents the state in all matters before that district court.

(b) The district attorney of the 198th Judicial District and the district attorneys of the other judicial districts within that district shall assist each other in the conduct of their duties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.166. 216TH JUDICIAL DISTRICT. The voters of the 216th Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.167. 220TH JUDICIAL DISTRICT. The voters of the 220th

Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.168. 229TH JUDICIAL DISTRICT. The voters of the 229th Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.169. 235TH JUDICIAL DISTRICT. The voters of the 235th Judicial District elect a district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.170. 253RD JUDICIAL DISTRICT. (a) The voters of Liberty County elect a district attorney for the 253rd Judicial District who represents the state in that district only in that county and in all cases before the 75th District Court.

(b) The Commissioners Court of Liberty County may supplement the state salary of the district attorney. The supplemental compensation may not exceed $5,000 a year. The supplemental compensation must be paid from the officers' salary fund of the county. If the officers' salary fund of a county is not adequate, the commissioners court may transfer the necessary amount from the general fund of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 734 (H.B. 2569), Sec. 1, eff. January 1, 2009.

Sec. 43.171. 258TH JUDICIAL DISTRICT. (a) The voters of Trinity County elect a district attorney for the 258th Judicial District who represents the state in that district court only in that county.

(b) The district attorney of the 258th Judicial District also acts as district attorney for the 411th Judicial District in Trinity

County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 60, Sec. 2, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 655, Sec. 1.02, 2.02, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 122, Sec. 1, eff. Jan. 1, 1990; Acts 1995, 74th Leg., ch. 704, Sec. 6, eff. Jan. 1, 1997; Acts 2003, 78th Leg., ch. 1257, Sec. 1, eff. June 20, 2003.

Sec. 43.172. 259TH JUDICIAL DISTRICT. The voters of the 259th Judicial District elect a district attorney. In addition to exercising the duties and authority provided by general law for district attorneys, the district attorney represents the state in all felony cases before the 259th District Court in Jones and Shackelford counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.173. 266TH JUDICIAL DISTRICT. The voters of the 266th Judicial District elect a district attorney who represents the state in all cases before that district court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.174. 271ST JUDICIAL DISTRICT. The voters of the 271st Judicial District elect a district attorney who represents the state in all cases before that district court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.175. 286TH JUDICIAL DISTRICT. The voters of the 286th Judicial District elect a district attorney who represents the state in all cases before that district court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.176. 287TH JUDICIAL DISTRICT. The voters of the 287th Judicial District elect a district attorney who represents the state in all cases before that district court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 43.177. 293RD JUDICIAL DISTRICT. (a) The voters of the 293rd Judicial District elect a district attorney who represents the state in all cases before that district court.

(b) The commissioners court of one or more of the counties comprising the district may supplement the state salary of the district attorney. The commissioners court of each county may set the amount of supplemental compensation paid by that county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 286, Sec. 1, eff. June 14, 1989.

Sec. 43.1775. 329TH JUDICIAL DISTRICT. (a) The voters of the 329th Judicial District elect a district attorney.

(b) The district attorney represents the state and performs the duties of prosecutor in all criminal matters before the district and county courts in Wharton County.

(c) At the request of the county attorney, the district attorney may assist the county attorney in the prosecution of juvenile cases under Title 3, Family Code.

Added by Acts 1995, 74th Leg., ch. 457, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 477, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 51, Sec. 1, eff. Sept. 1, 2003.

Sec. 43.1777. 344TH JUDICIAL DISTRICT. (a) The voters of the 344th Judicial District elect a district attorney who represents the state in cases before the district courts of Chambers County.

(b) The Commissioners Court of Chambers County may supplement the state salary of the district attorney. The supplemental

compensation may not exceed $5,000 a year.

Added by Acts 2005, 79th Leg., Ch. 734 (H.B. 2569), Sec. 2, eff. January 1, 2009.

Sec. 43.178. 349TH JUDICIAL DISTRICT. (a) The voters of Houston County elect a district attorney for the 349th Judicial District who represents the state in all cases before that district court only in that county.

(b) The district attorney, with the approval of the Commissioners Court of Houston County, may appoint the necessary assistants, investigators, and personnel for the office.

(c) The salaries of the staff of the district attorney and the operating expenses of the office of the district attorney must be paid from the general fund of the county.

(d) An investigator appointed by the district attorney must take the constitutional oath of office.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 43.179. 355TH JUDICIAL DISTRICT. The voters of the 355th Judicial District elect a district attorney who represents the state in all cases before that district court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.56, eff. Sept. 1, 1987.

Sec. 43.180. HARRIS COUNTY DISTRICT ATTORNEY. (a) The voters of Harris County elect a district attorney.

(b) The district attorney shall attend each term and session of the district courts of Harris County. The district attorney shall represent the state in criminal cases pending in the district and inferior courts of the county. The district attorney has control of any case heard on habeas corpus before any civil district court or criminal court of the county.

(c) The district attorney has all the powers, duties, and privileges in Harris County relating to criminal matters for and in behalf of the state that are conferred on district attorneys in the

various counties and districts.

(d) The allocation formerly made under Section 6(a), Chapter 465, Acts of the 44th Legislature, 2nd Called Session, 1935 (Article 3912e, Vernon's Texas Civil Statutes), now codified as Section 154.008, Local Government Code, to the criminal district attorney of Harris County shall be made and allocated on the same basis to the district attorney in the General Appropriations Act.

(e) The Commissioners Court of Harris County shall pay the district attorney a salary of not less than $35,000 a year. The county salary shall be paid in equal biweekly installments.

(f) At the option of the district attorney, the comptroller of public accounts shall pay directly to the district attorney a salary equal to the salary authorized by the General Appropriations Act for a district attorney. The salary shall be paid in equal monthly installments on the first day of each month. If the district attorney receives a salary from the state under this subsection, the amount of the salary shall be deducted from the amount to be paid to Harris County under Subchapter C, Chapter 41. The total compensation of the district attorney from all sources may not be less than the salary of the district attorney paid by the county in effect on August 29, 1977.

(g) The district attorney may not engage in the private practice of law whether or not he is compensated for his services.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 149, Sec. 37, eff. Sept. 1, 1987.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 194 (S.B. 560), Sec. 4, eff. September 1, 2013.

Sec. 43.181. 268TH JUDICIAL DISTRICT. (a) The voters of the 268th Judicial District elect a district attorney.

(b) The district attorney shall attend each term and session of the district courts in Fort Bend County and, unless otherwise provided by law, shall represent the state in all felony and misdemeanor criminal cases and matters directly relating to criminal cases in all the courts of the county, including any asset forfeitures related to criminal activities, and bond forfeiture proceedings through judgment other than collection of a final

judgment on a bond forfeiture.

(c) The district attorney has the powers, duties, and privileges in Fort Bend County relating to family law and juvenile matters, except as provided by Subsection (f-1), protective orders under Title 4, Family Code, orders under Chapter 159, Family Code, and proceedings under Title 3, Family Code.

(d) The district attorney has no power, duty, or privilege in Fort Bend County relating to a quo warranto or removal from office proceeding, except that if the county attorney fails or refuses to act in a removal case, the district attorney has the power, duty, and privilege to bring a removal from office action or a quo warranto proceeding.

(e) Except as provided by Subsections (c) and (g), the district attorney has no power, duty, or privilege to represent this state, Fort Bend County, or the officials of Fort Bend County in any civil matter pending before any court.

(f) Except as provided by the Code of Criminal Procedure, the district attorney has no power, duty, or privilege in Fort Bend County relating to a civil commitment matter under Subtitle C, Title 7, Health and Safety Code, for and on behalf of the state.

(f-1) The district attorney has no power, duty, or privilege in Fort Bend County relating to a matter involving children's protective services.

(g) At the request of the county attorney, the district attorney may assist the county attorney in civil matters in Fort Bend County.

(h) The district attorney shall, with the approval of the commissioners court, appoint the assistant district attorneys and other assistants necessary to the proper performance of the district attorney's duties. The commissioners court shall set the salary of an assistant to the district attorney.

Added by Acts 1989, 71st Leg., ch. 1099, Sec. 1, eff. Jan. 1, 1991.
Amended by Acts 1991, 72nd Leg., ch. 76, Sec. 14, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 165, Sec. 7.30, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 659 (H.B. 3263), Sec. 1, eff. September 1, 2005.

Sec. 43.1815. 369TH JUDICIAL DISTRICT. (a) The voters of Leon County elect a district attorney for the 369th Judicial District who represents the state in that district court only in Leon County.

(b) The district attorney of the 369th Judicial District also represents the state in all criminal and civil actions in which the state is interested that arise in the 87th Judicial District in Leon County.

(c) The district attorney may, with the consent of the Commissioners Court of Leon County, appoint a deputy district attorney.

(d) The Commissioners Court of Leon County shall pay the salary and traveling expenses of the deputy district attorney from the officers' salary fund. The salary shall be paid in equal monthly installments and expense claims shall be paid at the end of each month. The salary is subject to participation fully in the Texas County and District Retirement System.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 704, Sec. 24, eff. Jan. 1, 1997; Acts 1997, 75th Leg., ch. 226, Sec. 1, eff. Sept. 1, 1997.
Redesignated and amended from Government Code, Section 43.106 by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 1.01(c), eff. September 1, 2013.

Sec. 43.182. DISTRICT ATTORNEY FOR KLEBERG AND KENEDY COUNTIES. (a) The voters of Kleberg and Kenedy Counties elect a district attorney. The district attorney has the same powers and duties as other district attorneys and serves the district courts of Kleberg and Kenedy Counties.

(b) The district attorney shall attend each term and session of the district courts of Kleberg and Kenedy Counties and shall represent the state in criminal cases pending in those courts. The district attorney has control of any case heard on petition of writ of habeas corpus before any district or inferior court in the district.

(c) The commissioners courts of the counties comprising the district may supplement the state salary of the district attorney. The amount of the supplement may not exceed $12,000 a year. The supplemental salary must be paid proportionately by the commissioners

court of each county according to the population of the county. The supplemental salary may be paid from the officers' salary fund of a county. If that fund is inadequate, the commissioners court may transfer the necessary funds from the general fund of the county.

Added by Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 15, eff. September 1, 2007.

Sec. 43.183. 506TH JUDICIAL DISTRICT. (a) The voters of Grimes County elect a district attorney for the 506th Judicial District who represents the state only in that county.

(b) The district attorney shall attend each term and session of the district courts and all other courts, except municipal courts, in Grimes County and, unless otherwise provided by law, shall exclusively represent the state in all criminal matters in those courts.

(c) The district attorney has no power, duty, or privilege relating to family law and juvenile matters, including matters involving children's protective services, protective orders under Chapter 71, Family Code, orders under Chapter 159, Family Code, proceedings under Title 3, Family Code, civil commitment matters under Subtitle C, Title 7, Health and Safety Code, or a quo warranto or removal case, except, that if the county attorney fails or refuses to act in a quo warranto or removal case, the district attorney has the power, duty, and privilege to bring a removal of quo warranto action.

(d) The district attorney has no power, duty, or privilege in any civil matter pending before any court.

(e) The district attorney must be at least 30 years of age, must have been a practicing attorney in this state for at least five years, and must have been a resident of Grimes County for at least the time required under Section 141.001, Election Code.

(f) The district attorney may not engage in the private practice of law.

(g) The district attorney may, for the purpose of conducting the affairs of the office, appoint assistant district attorneys, investigators, and other necessary staff. The salaries of the members of the staff of the district attorney's office shall be paid from the officer's salary fund of the county with the approval of the

commissioners court.

Added by Acts 1995, 74th Leg., ch. 704, Sec. 25, eff. Jan. 1, 1997.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.29, eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 9(i), eff. September 1, 2007.
Redesignated from Government Code, Section 43.1745 and amended by Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 9(j), eff. September 1, 2008.

Sec. 43.184. 452ND JUDICIAL DISTRICT. The voters of the 452nd Judicial District elect a district attorney who represents the state in all matters before that district court.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 1.03(d), eff. September 1, 2013.

CHAPTER 44. CRIMINAL DISTRICT ATTORNEYS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 44.001. ELECTION. The voters of each of the following counties elect a criminal district attorney: Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Comal, Dallas, Deaf Smith, Denton, Eastland, Fannin, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo, Jackson, Jasper, Jefferson, Kaufman, Kendall, Lubbock, McLennan, Madison, Medina, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 60, Sec. 3, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 148, Sec. 2.57(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 122, eff. Jan. 1, 1990; Acts 1989, 71st Leg., ch. 216, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1099, Sec. 3, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 7, eff. Jan. 1, 1993; Acts 1993, 73rd Leg., ch. 565, Sec. 2, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 226, Sec. 2, eff.

Sept. 1, 1997; Acts 1997, 75th Leg., ch. 412, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 739, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 716, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 277 (H.B. 421), Sec. 1, eff. January 1, 2008.

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 2.02(c), eff. January 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 6.03(b), eff. January 1, 2021.

Sec. 44.002. QUALIFICATIONS; BOND; COUNTY RISK MANAGEMENT POOL. (a) Except as provided by Subsection (b) or (c), a criminal district attorney must meet the qualifications and give the bond required of a district attorney by the constitution and general law.

(b) Instead of the bond required under Subsection (a), a criminal district attorney may obtain coverage from a county government risk management pool created under Chapter 119, Local Government Code. Coverage obtained under the pool must be in the same amount and satisfy the same bond conditions otherwise required by this section.

(c) A criminal district attorney is not required to execute the bond required under Subsection (a) and may perform the duties of office if the commissioners court of the county the attorney serves by order authorizes the county to self-insure against losses that would have been covered by the bond. An order adopted by a commissioners court under this subsection shall be kept and recorded by the county clerk.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 439 (S.B. 1243), Sec. 4, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 69 (S.B. 265), Sec. 2, eff. May 18, 2013.

SUBCHAPTER B. PROVISIONS APPLICABLE TO PARTICULAR COUNTIES

Sec. 44.101. ANDERSON COUNTY. (a) The criminal district

attorney of Anderson County must be at least 30 years of age.

(b) The criminal district attorney shall represent the state in all matters in the district and inferior courts in the county. The criminal district attorney shall perform the other duties that are conferred by general law on district and county attorneys.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(d) In addition to the salary paid by the state, the criminal district attorney is entitled to supplemental compensation from the county set by the commissioners court. The supplemental compensation must be in an amount necessary for the total compensation of the criminal district attorney to equal at least 90 percent of the total salary, including supplements, paid to the judge of the 3rd Judicial District by the state and Anderson, Henderson, and Houston counties. The county supplement shall be paid in equal installments, twice monthly, from the officers' salary fund of the county.

(e) The criminal district attorney may appoint a staff composed of at least three assistant criminal district attorneys, and investigators, stenographers, clerks, and any other personnel that the commissioners court authorizes.

(f) Except as limited by this section, the criminal district attorney, with the approval of the commissioners court, shall set the salary of the assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel. The commissioners court shall pay staff salaries in equal installments twice a month from the county officers' salary fund.

(g) In addition to staff salaries, the commissioners court may allow the criminal district attorney, his assistants, and investigators necessary expenses that the commissioners court considers reasonable. The expenses shall be paid as provided by law for other claims of expenses by county employees.

(h) The commissioners court may accept gifts and grants from any foundation, association, or political subdivision for the purpose of financing adequate and effective prosecution programs in the county. Municipalities in the county or district may allocate and grant the sums of money that their respective governing bodies approve to their county government for the support and maintenance of an effective prosecution program.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.58(a), eff. Sept. 1, 1987.

Sec. 44.108. AUSTIN COUNTY. (a) The criminal district attorney of Austin County must meet the following qualifications:

(1) be at least 30 years old;

(2) have been a practicing attorney in this state for at least five years; and

(3) have been a resident of Austin County for at least two years before his election or appointment.

(b) The criminal district attorney shall represent the state in all matters in the district and inferior courts in the county. The criminal district attorney shall perform the other duties that are conferred by general law on district and county attorneys. This subsection does not prevent the county from retaining other legal counsel as it considers appropriate. The criminal district attorney may represent any county official or employee of Austin County in any civil matter in a court in the county if the matter arises out of the performance of official duties by the official or employee.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(d) The criminal district attorney does not represent the state in criminal cases before the municipal courts in Austin County.

(e) The criminal district attorney shall receive salary and compensation from the state in the amount provided by the General Appropriations Act for district attorneys. The Commissioners Court of Austin County may supplement the salary of the criminal district attorney paid by the state.

Added by Acts 1989, 71st Leg., ch. 216, Sec. 2, eff. Sept. 1, 1989.

Sec. 44.111. BASTROP COUNTY. (a) The criminal district attorney of Bastrop County shall attend each term and session of the district courts in Bastrop County and each term and session of the inferior courts of the county held for the transaction of criminal business. He shall exclusively represent the state in all criminal matters before those courts and any other court in which Bastrop

County has pending business.

(b) The criminal district attorney has all the powers, duties, and privileges in Bastrop County that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(d) The supplemental compensation paid to the criminal district attorney by the county and the salaries of the staff of the criminal district attorney shall be paid from the officers' salary fund if that fund is adequate. If that fund is not adequate, the commissioners court shall transfer the necessary funds from the general fund of the county to the officers' salary fund.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 3(c), eff. September 1, 2007.

Sec. 44.115. BEXAR COUNTY. (a) The criminal district attorney of Bexar County shall attend each term and session of the district, county, and justice courts in Bexar County held for the transaction of criminal business and shall exclusively represent the state in all matters before those courts. He shall represent Bexar County in any court in which the county has pending business. He serves as the district attorney for each district court in the county.

(b) The criminal district attorney has all the powers, duties, and privileges in Bexar County that are conferred by law on district and county attorneys.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney and shall deposit them in the proper county funds as provided by law.

(d) The criminal district attorney does not represent the state in criminal cases before the municipal courts in Bexar County.

(e) The Commissioners Court of Bexar County, acting in conjunction with and on the approval of the criminal district attorney, may employ special counsel, learned in the law, to represent the county in a condemnation or eminent domain proceeding,

particularly in a case involving the acquisition of rights-of-way. The employment shall be for the time and on the terms that the commissioners court and the criminal district attorney consider necessary and proper. The employment may be terminated in the manner provided by law for the removal of an assistant, investigator, or other employee of the criminal district attorney.

(f) The Commissioners Court of Bexar County may accept gifts and grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting effective prosecution, crime prevention or suppression, rehabilitation of offenders, or crime victim's assistance in Bexar County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.59(a), eff. Sept. 1, 1987.

Sec. 44.119. BOWIE COUNTY. (a) The criminal district attorney of Bowie County shall represent the state in all cases in the district and inferior courts of Bowie County and shall perform all other duties required of district and county attorneys under general law.

(b) All general laws relating to county or district attorneys apply to the criminal district attorney.

(c) Repealed by Acts 1987, 70th Leg., ch. 1045, Sec. 3, eff. Sept. 1, 1987.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1045, Sec. 3, eff. Sept. 1, 1987.

Sec. 44.120. BRAZORIA COUNTY. (a) The criminal district attorney of Brazoria County shall attend each term and session of the district courts of Brazoria County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts. He shall represent Brazoria County in any court in which the county has pending business.

(b) The criminal district attorney has all the powers, duties, and privileges in Brazoria County that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.128. CALDWELL COUNTY. (a) The criminal district attorney of Caldwell County must be at least 25 years old and must have been a practicing attorney in this state for at least five years.

(b) The criminal district attorney shall attend each term and session of the district courts in Caldwell County and each session and term of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(c) The criminal district attorney shall perform the duties conferred by law on the county and district attorneys in the various counties and districts.

(d) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(e) The Commissioners Court of Caldwell County may supplement the salary of the criminal district attorney paid by the state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.129. CALHOUN COUNTY. (a) The criminal district attorney of Calhoun County shall attend each term and session of the district and inferior courts of Calhoun County, except municipal courts, held for the transaction of criminal business, and shall exclusively represent the state in all criminal matters before those courts.

(b) The criminal district attorney shall represent Calhoun County in any court in which the county has pending business. This subsection does not prevent the county from retaining other legal counsel in a civil matter as it considers appropriate.

(c) The criminal district attorney has all the powers, duties, and privileges in Calhoun County that are conferred by law on county and district attorneys in the various counties and districts.

(d) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(e) The criminal district attorney is entitled to receive a salary from the state in the amount provided by general law for the compensation of district attorneys. The Commissioners Court of Calhoun County may supplement the compensation paid by the state.

(f) The criminal district attorney, for the purpose of conducting the affairs of the office, may appoint the assistant criminal district attorneys that the Commissioners Court of Calhoun County may authorize. The salary of an assistant criminal district attorney must be at least $4,800 a year.

(g) The criminal district attorney may employ as many stenographers as the Commissioners Court of Calhoun County may authorize. The salary of a stenographer employed by the criminal district attorney must be at least $3,000 a year.

(h) The supplemental compensation paid to the criminal district attorney by the county and the salaries of the assistant criminal district attorneys and stenographers employed by the criminal district attorney shall be paid from the officers' salary fund if that fund is adequate. If the officers' salary fund is not adequate, the commissioners court shall transfer the necessary funds from the general fund of the county to the officers' salary fund.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.134. CASS COUNTY. (a) The criminal district attorney of Cass County shall attend each term and session of the district courts in Cass County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts. He shall represent Cass County in any court in which the county has pending business.

(b) The criminal district attorney has all the powers, duties, and privileges in Cass County that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.143. COLLIN COUNTY. (a) The criminal district attorney of Collin County shall attend each term and session of the district courts in Collin County held for the transaction of criminal business. He shall represent the state in all criminal and civil cases in the courts in the county unless otherwise provided by law.

(b) The criminal district attorney has all the powers, duties, and privileges in Collin County relating to criminal or civil matters involving the county or state that are conferred by law on county and district attorneys in the various counties and districts.

(c) A vacancy in the office of criminal district attorney is filled by appointment by the Commissioners Court of Collin County. The appointee holds office until the next general election.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 521, Sec. 1, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1081, Sec. 2, eff. Sept. 1, 1997.

Sec. 44.146. COMAL COUNTY. (a) The criminal district attorney of Comal County must meet the following qualifications:

(1) be at least 30 years old;

(2) have been a practicing attorney in this state for at least five years; and

(3) be a resident of Comal County.

(b) The criminal district attorney has all the powers, duties, and privileges in Comal County that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(d) The criminal district attorney shall, with the approval of the commissioners court, appoint an assistant district attorney and other personnel necessary to the proper performance of the district attorney's duties. The commissioners court shall pay the salaries of the staff and necessary operating expenses of the office from county funds.

(e) The criminal district attorney shall, with the advice and

consent of the commissioners court, designate one or more individuals to act as assistant criminal district attorney with exclusive responsibility for assisting the commissioners court.

Added by Acts 1997, 75th Leg., ch. 412, Sec. 2, eff. Sept. 1, 1997.

Sec. 44.157. DALLAS COUNTY. (a) The criminal district attorney of Dallas County shall attend every term of the Criminal Court of Dallas County and of the Criminal District Court No. 2 of Dallas County and shall represent the state in all matters before those courts. The criminal district attorney has exclusive control of criminal cases and all cases heard on habeas corpus in the courts of Dallas County and serves as the district attorney of all the district courts in Dallas County.

(b) The criminal district attorney has all the powers, duties, and privileges in Dallas County that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall collect the fees and commissions that are provided by law for similar services rendered by a district or county attorney. Not earlier than December 1 and not later than December 31 of each year, the criminal district attorney shall make a complete report to the county judge of Dallas County of the fees collected by the criminal district attorney.

(d) No other person may perform a duty of the criminal district attorney as provided by this section unless the criminal district attorney and his assistants are absent from the county or refuse or are unable to perform the duty.

(e) to (g) Repealed by Acts 1999, 76th Leg., ch. 1463, Sec. 2, eff. Sept. 1, 1999.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1463, Sec. 2, eff. Sept. 1, 1999.

Sec. 44.159. DEAF SMITH COUNTY. (a) The criminal district attorney of Deaf Smith County shall attend each term and session of the district courts in Deaf Smith County and shall represent the state in all criminal and civil cases in the courts in the county.

(b) The criminal district attorney has all the powers, duties, and privileges in Deaf Smith County relating to criminal or civil

matters involving the county or state that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall assist the county attorney in Oldham County on his request or, in the event of his inability to act, on appointment by the judge of the district court in Oldham County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 8, eff. Sept. 1, 1991.

Sec. 44.161. DENTON COUNTY. (a) The criminal district attorney of Denton County must be at least 28 years old, must have been a practicing attorney in this state for at least five years, and must have been a resident of Denton County for at least three years before his election or appointment.

(b) The criminal district attorney shall attend each term and session of the district and inferior courts of Denton County, except municipal courts, held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(c) The criminal district attorney shall represent Denton County in any court in which the county has pending business. This subsection does not prevent the county from retaining other legal counsel in a civil matter as it considers appropriate.

(d) The criminal district attorney has all the powers, duties, and privileges in Denton County relating to criminal or civil matters involving the county or state that are conferred by law on county and district attorneys in the various counties and districts.

(e) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(f) The Commissioners Court of Denton County may, in its discretion, supplement the compensation paid by the state to the criminal district attorney. The supplemental compensation paid by the county shall be paid from the officers' salary fund of the county if that fund is adequate. If that fund is not adequate, the commissioners court shall transfer the necessary funds from the general funds of the county to the officers' salary fund.

(g) The criminal district attorney may not engage in the

private practice of law, whether or not he receives compensation for that practice.

(h) The criminal district attorney, for the purpose of conducting the affairs of the office, may appoint the assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel that the Commissioners Court of Denton County may authorize. The salaries of the members of the staff of the criminal district attorney shall be paid in equal monthly or bimonthly installments from the officers' salary fund of the county.

(i) The legislature may provide the supplemental funds to the criminal district attorney it considers necessary for supplementation of his staff.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.167. EASTLAND COUNTY. (a) The criminal district attorney of Eastland County shall attend each term and session of the district courts in Eastland County and shall represent the state in all criminal and civil cases in the courts of the county.

(b) The criminal district attorney has all the powers, duties, and privileges in Eastland County relating to criminal or civil matters involving the county or state that are conferred by law on county and district attorneys in the various counties and districts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.174. FANNIN COUNTY. (a) The criminal district attorney shall attend each term and session of the district courts in Fannin County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(b) The criminal district attorney shall perform the duties conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(d) The criminal district attorney is entitled to receive in

equal monthly installments compensation from the state equal to the amount paid by the state to district attorneys. The state compensation shall be paid by the comptroller as appropriated by the legislature.

Added by Acts 2007, 80th Leg., R.S., Ch. 277 (H.B. 421), Sec. 2, eff. January 1, 2008.

Sec. 44.184. GALVESTON COUNTY. (a) The criminal district attorney of Galveston County shall attend each term and session of the district courts of Galveston County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts. He shall represent Galveston County in any court in which the county has pending business.

(b) The criminal district attorney has all the powers, duties, and privileges in Galveston County that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(d) The criminal district attorney may represent any county official or employee of Galveston County other than a member of the commissioners court in any civil matter in a court in the county if the matter arises out of the performance of official duties by the officer or employee.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.191. GRAYSON COUNTY. (a) The criminal district attorney shall attend each term and session of the district courts in Grayson County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(b) The criminal district attorney shall perform the duties conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall collect the fees,

commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(d) The criminal district attorney is entitled to receive in equal monthly installments compensation from the state equal to the amount paid by the state to district attorneys. The state compensation shall be paid by the comptroller as appropriated by the legislature.

(e) A vacancy in the office of criminal district attorney is filled by appointment by the Commissioners Court of Grayson County. The appointee holds office until the next general election.

Added by Acts 2003, 78th Leg., ch. 716, Sec. 2, eff. Jan. 1, 2004.

Sec. 44.192. GREGG COUNTY. (a) The criminal district attorney of Gregg County shall represent the state in all criminal cases in the district, county, and justice courts of Gregg County, and in the municipal courts of the county if the defendant is charged with violating a state law, and shall represent the state in all cases in Gregg County in which it is the duty of a county or district attorney to represent the state.

(b) The criminal district attorney has all the powers, duties, and privileges that are conferred by law on county and district attorneys.

(c) The criminal district attorney shall collect the same fees that are provided by law for county and district attorneys.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.202. HARRISON COUNTY. (a) The criminal district attorney of Harrison County shall attend each term and session of the district courts of Harrison County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts. He shall represent Harrison County in any court in which the county has pending business.

(b) The criminal district attorney has all the powers, duties, and privileges in Harrison County that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall collect the fees,

commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(d) The criminal district attorney, if paid at least $16,000 a year, and the assistants to the criminal district attorney, if paid at least $10,000 a year, may not refer legal business to any person engaged in the private practice of law. This subsection does not prohibit an act required in the performance of an official duty as criminal district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.205. HAYS COUNTY. (a) The criminal district attorney of Hays County must be at least 25 years old and have been a practicing attorney in this state for at least five years.

(b) The criminal district attorney shall attend each term and session of the district courts in Hays County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters pending before those courts.

(c) The criminal district attorney shall perform the other duties that are conferred by law on county and district attorneys in the various counties and districts.

(d) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.208. HIDALGO COUNTY. (a) The criminal district attorney of Hidalgo County shall perform the duties of district attorney in all the judicial districts in Hidalgo County and the duties of county attorney in all the county courts of the county.

(b) The criminal district attorney has all the powers, duties, and privileges in Hidalgo County that are conferred by law on county and district attorneys.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.220. JACKSON COUNTY. (a) The criminal district attorney of Jackson County shall attend each term and session of the district courts in Jackson County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(b) The criminal district attorney shall perform the duties conferred by law on the county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(d) The Commissioners Court of Jackson County may supplement the salary paid by the state to the criminal district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.221. JASPER COUNTY. (a) The criminal district attorney of Jasper County must be at least 25 years old and have been a practicing attorney in this state for five years.

(b) The criminal district attorney shall attend each term and session of the district courts in Jasper County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(c) The criminal district attorney shall perform the duties conferred by law on county and district attorneys in the various counties and districts.

(d) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(e) The criminal district attorney is entitled to receive in equal monthly installments compensation from the state equal to the amount paid by the state to district attorneys. The state compensation shall be paid by the comptroller of public accounts as appropriated by the legislature. The Commissioners Court of Jasper County shall pay the criminal district attorney an additional amount so that the total compensation of the criminal district attorney equals at least 90 percent of the total salary paid to each of the

judges of the district courts in Jasper County. The compensation paid by the county shall be paid in monthly or bimonthly installments, as determined by the commissioners court.

(f) The criminal district attorney, for the purpose of conducting the affairs of the office, may appoint a staff composed of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel that the commissioners court may authorize. The salary of a staff member is in an amount recommended by the criminal district attorney and approved by the commissioners court. The commissioners court shall pay the salaries of the staff in equal monthly or bimonthly installments from county funds.

(g) The legislature may provide for additional staff members to be paid from state funds if it considers supplementation of the criminal district attorney's staff necessary.

(h) The criminal district attorney may not engage in the private practice of law or receive a fee for the referral of a case.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.223. JEFFERSON COUNTY. (a) The criminal district attorney of Jefferson County shall attend each term and session of the district courts in Jefferson County and each term and session of the inferior courts of the county, except municipal courts, held for the transaction of criminal business, and shall exclusively represent the state in all matters before those courts. He shall represent Jefferson County in any court in which the county has pending business.

(b) The criminal district attorney has all the powers, duties, and privileges in Jefferson County that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(d) Jefferson County is entitled to receive annually from the state an amount equal to the compensation paid by the state to prosecutors subject to Chapter 46. The compensation from the state shall be paid into the salary fund of the county in equal monthly installments. The criminal district attorney is entitled to receive as compensation an amount at least equal to the amount paid to the

county by the state under this subsection. The criminal district attorney is not entitled to receive a salary under Section 46.003(a), but is entitled to supplemental compensation under Section 46.003(b) and expenses under Section 46.004.

(e) Jefferson County is not entitled to the benefits of Subchapter C, Chapter 41, in addition to the state compensation provided by Subsection (d).

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 733, Sec. 1, eff. Sept. 1, 1991.

Sec. 44.229. KAUFMAN COUNTY. (a) The criminal district attorney of Kaufman County must be at least 25 years old and have been a practicing attorney in this state for five years.

(b) The criminal district attorney shall attend each term and session of the district courts in Kaufman County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(c) The criminal district attorney shall perform the duties conferred by law on county and district attorneys in the various counties and districts.

(d) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.230. KENDALL COUNTY. (a) The criminal district attorney of Kendall County must meet the following qualifications:

(1) be at least 30 years old;

(2) have been a practicing attorney in this state for at least five years; and

(3) have been a resident of Kendall County for at least one year before election or appointment.

(b) The criminal district attorney has all the powers, duties, and privileges in Kendall County that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall attend each term and

session of the district and inferior courts of Kendall County, except municipal courts, held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(d) The criminal district attorney shall represent Kendall County in any court in which the county has pending business. This subsection does not require the criminal district attorney to represent the county in a delinquent tax suit or condemnation proceeding and does not prevent the county from retaining other legal counsel in a civil matter at any time it considers appropriate to do so.

(e) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(f) The criminal district attorney is entitled to receive in equal monthly installments compensation from the state equal to the amount paid by the state to district attorneys. The state compensation shall be paid by the comptroller as appropriated by the legislature. The Commissioners Court of Kendall County shall pay the criminal district attorney an additional amount so that the total compensation of the criminal district attorney equals at least 90 percent of the total salary paid to the judge of the 451st District Court in Kendall County. The compensation paid by the county shall be paid in semiweekly or bimonthly installments, as determined by the commissioners court.

(g) The criminal district attorney or the Commissioners Court of Kendall County may accept gifts and grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting effective prosecution, crime prevention or suppression, rehabilitation of offenders, substance abuse education, treatment and prevention, or crime victim assistance programs in Kendall County. The criminal district attorney shall account for and report to the commissioners court all gifts or grants accepted under this subsection.

(h) The criminal district attorney, for the purpose of conducting affairs of the office, may appoint a staff composed of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel that the commissioners court may authorize. The salary of a staff member is an amount recommended by

the criminal district attorney and approved by the commissioners court. The commissioners court shall pay the salaries of the staff in equal semiweekly or bimonthly installments from county funds.

(i) The criminal district attorney shall, with the advice and consent of the commissioners court, designate one or more individuals to act as an assistant criminal district attorney with exclusive responsibility for assisting the commissioners court. An individual designated as an assistant criminal district attorney under this subsection must have extensive experience in representing public entities and knowledge of the laws affecting counties, including the open meetings and open records laws under Chapters 551 and 552.

(j) Kendall County is entitled to receive from the state an amount equal to the amount provided in the General Appropriations Act to district attorneys for the payment of staff salaries and office expenses.

(k) The legislature may provide for additional staff members to be paid from state funds if it considers supplementation of the criminal district attorney's staff to be necessary.

(l) The criminal district attorney and assistant criminal district attorney may not engage in the private practice of law or receive a fee for the referral of a case.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 2.02(d), eff. January 1, 2017.

Sec. 44.252. LUBBOCK COUNTY. (a) The criminal district attorney of Lubbock County must be at least 25 years old and have been a practicing attorney in this state for four years.

(b) The criminal district attorney shall attend each term and session of the district courts in Lubbock County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(c) The criminal district attorney shall perform the duties conferred by law on county and district attorneys in the various counties and districts.

(d) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.255. MCLENNAN COUNTY. (a) The criminal district attorney of McLennan County has all the powers, duties, and privileges in McLennan County that are conferred by law on county and district attorneys.

(b) The criminal district attorney shall collect the fees provided by law for similar services rendered by a district or county attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.257. MADISON COUNTY. (a) The criminal district attorney of Madison County has all the powers, duties, and privileges in Madison County that are conferred by law on district and county attorneys.

(b) The criminal district attorney shall collect the fees, commissions, and perquisites provided by law for similar services rendered by a district or county attorney.

Added by Acts 1997, 75th Leg., ch. 226, Sec. 3, eff. Sept. 1, 1997.

Sec. 44.263. MEDINA COUNTY. (a) The criminal district attorney of Medina County must meet the following qualifications:

(1) be at least 30 years old;

(2) have been a practicing attorney in this state for at least five years; and

(3) have been a resident of Medina County for at least one year before election or appointment.

(b) The criminal district attorney has all the powers, duties, and privileges in Medina County that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall attend each term and session of the district and inferior courts of Medina County, except municipal courts, held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(d) The criminal district attorney shall represent Medina

County in any court in which the county has pending business. This subsection does not require the criminal district attorney to represent the county in a delinquent tax suit or condemnation proceeding and does not prevent the county from retaining other legal counsel in a civil matter at any time it considers appropriate.

(e) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(f) The criminal district attorney is entitled to receive in equal monthly installments compensation from the state equal to the amount paid by the state to district attorneys. The state compensation shall be paid by the comptroller as appropriated by the legislature. The Commissioners Court of Medina County shall pay the criminal district attorney an additional amount so that the total compensation of the criminal district attorney equals at least 90 percent of the total salary paid to the judge of the 454th District Court in Medina County. The compensation paid by the county shall be paid in semiweekly or bimonthly installments, as determined by the commissioners court.

(g) The criminal district attorney or the Commissioners Court of Medina County may accept gifts and grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting effective prosecution, crime prevention or suppression, rehabilitation of offenders, substance abuse education, treatment and prevention, or crime victim assistance programs in Medina County. The criminal district attorney shall account for and report to the commissioners court all gifts or grants accepted under this subsection.

(h) The criminal district attorney, for the purpose of conducting affairs of the office, may appoint a staff composed of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel that the commissioners court may authorize. The salary of a staff member is an amount recommended by the criminal district attorney and approved by the commissioners court. The commissioners court shall pay the salaries of the staff in equal semiweekly or bimonthly installments from county funds.

(i) The criminal district attorney shall, with the advice and consent of the commissioners court, designate one or more individuals to act as an assistant criminal district attorney with exclusive

responsibility for assisting the commissioners court. An individual designated as an assistant criminal district attorney under this subsection must have extensive experience in representing public entities and knowledge of the laws affecting counties, including the open meetings and open records laws under Chapters 551 and 552.

(j) Medina County is entitled to receive from the state an amount equal to the amount provided in the General Appropriations Act to district attorneys for the payment of staff salaries and office expenses.

(k) The legislature may provide for additional staff members to be paid from state funds if it considers supplementation of the criminal district attorney's staff to be necessary.

(l) The criminal district attorney and assistant criminal district attorney may not engage in the private practice of law or receive a fee for the referral of a case.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 6.03(c), eff. January 1, 2021.

Sec. 44.275. NAVARRO COUNTY. (a) The criminal district attorney of Navarro County shall attend each term and session of the district courts in Navarro County and shall represent the state in all criminal and civil cases in the district and inferior courts of the county.

(b) The criminal district attorney has all the powers, duties, and privileges in Navarro County relating to criminal or civil matters involving the county or state that are conferred on county and district attorneys in the various counties and districts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.276. NEWTON COUNTY. (a) The criminal district attorney of Newton County must be at least 25 years old and have been a practicing attorney in this state for five years.

(b) The criminal district attorney shall attend each term and session of the district courts in Newton County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(c) The criminal district attorney shall perform the duties conferred by law on county and district attorneys in the various counties and districts.

(d) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(e) The criminal district attorney is entitled to receive in equal monthly installments compensation from the state equal to the amount paid by the state to district attorneys. The state compensation shall be paid by the comptroller as appropriated by the legislature.

Added by Acts 1997, 75th Leg., ch. 739, Sec. 3, eff. Sept. 1, 1997.

Sec. 44.283. PANOLA COUNTY. (a) The criminal district attorney of Panola County shall represent the state in all matters in the district and inferior courts in the county. The criminal district attorney shall perform the other duties that are conferred by general law on district and county attorneys. The criminal district attorney may represent any county official or employee of Panola County in any civil matter in a court in the county if the matter arises out of the performance of official duties by the official or employee.

(b) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(c) The criminal district attorney does not represent the state in criminal cases before the municipal courts in Panola County.

(d) The criminal district attorney is entitled to receive a salary from the state in the amount provided by general law for district attorneys.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 9, eff. Jan. 1, 1993.

Sec. 44.287. POLK COUNTY. (a) The criminal district attorney shall attend each term and session of the 258th and 411th district courts of Polk County and each term and session of the inferior courts held for the transaction of criminal business and shall

exclusively represent the state in all criminal matters before those courts.

(b) The criminal district attorney shall perform the duties conferred by general law on district and county attorneys in this state.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney in this state.

(d) Repealed by Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 11(a), eff. Sept. 1, 1991.

(e) Repealed by Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 11(a), eff. Sept. 1, 1991.

(f) Repealed by Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 11(a), eff. Sept. 1, 1991.

Added by Acts 1987, 70th Leg., ch. 60, Sec. 4, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 11(a), eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 704, Sec. 7, eff. Jan. 1, 1997.

Sec. 44.291. RANDALL COUNTY. (a) The criminal district attorney of Randall County shall attend each term and session of the district courts of Randall County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts. He shall represent Randall County in any court in which the county has pending business.

(b) The criminal district attorney has all the powers, duties, and privileges in Randall County that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.299. ROCKWALL COUNTY. (a) The criminal district attorney of Rockwall County must be a practicing attorney in this state.

(b) The criminal district attorney shall attend each term and session of the district courts in Rockwall County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(c) The criminal district attorney shall perform the duties conferred by law on county and district attorneys in the various counties and districts.

(d) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(e) The Commissioners Court of Rockwall County shall pay the salaries of the members of the staff of the criminal district attorney in equal bimonthly installments from the officers' salary fund of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.304. SAN JACINTO COUNTY. (a) The criminal district attorney shall attend each term and session of the 258th and 411th district courts of San Jacinto County and each term and session of the inferior courts held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(b) The criminal district attorney shall perform the duties conferred by general law on district and county attorneys in this state.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney in this state.

(d) Repealed by Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 11(a), eff. Sept. 1, 1991.

(e) Repealed by Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 11(a), eff. Sept. 1, 1991.

Added by Acts 1989, 71st Leg., ch. 122, Sec. 3, eff. Jan. 1, 1990. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 11(a), eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 704, Sec. 8, eff. Jan. 1, 1997.

Sec. 44.312. SMITH COUNTY. (a) The criminal district attorney of Smith County shall attend each term and session of the district courts of Smith County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts. He shall represent Smith County in any court in which the county has pending business.

(b) The criminal district attorney has all the powers, duties, and privileges in Smith County that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.320. TARRANT COUNTY. (a) The criminal district attorney of Tarrant County shall attend each term and session of the criminal district courts of Tarrant County and each term and session of the County Court of Tarrant County held for the transaction of criminal business and shall represent the state in all matters before those courts. He shall represent Tarrant County in any court in which the county has pending business.

(b) The criminal district attorney has all the powers, duties, and privileges in Tarrant County that are conferred by law on county and district attorneys in the various counties and districts, except in a condemnation case in which the commissioners court hires special counsel to represent the county as provided by Subsection (d).

(c) The criminal district attorney shall collect the fees of office that are provided by law for similar services rendered by a district or county attorney.

(d) The Commissioners Court of Tarrant County may employ special counsel of its own choice, learned in the law, to represent the county in condemnation or eminent domain proceedings, to assist the commissioners court, the county engineer, or other county employees in preparing documents necessary in the acquisition of rights-of-way for the county or in the event that the county is required to obtain rights-of-way for state highways, or to assist the county in the acquisition of those rights-of-way. The commissioners

court shall set the terms of the employment of special counsel as it considers proper. The commissioners court shall pay the compensation of the special counsel from the road and bridge fund of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.321. TAYLOR COUNTY. (a) The criminal district attorney of Taylor County shall perform all the duties in Taylor County required of district attorneys by general law and shall perform the duties of county attorney in Taylor County.

(b) The criminal district attorney shall assist the county attorney of Callahan County or Coleman County on the request of the county attorney or if appointed to do so by the judge of a district court in that county when the county attorney is unable to act.

(c) The Commissioners Court of Taylor County shall supplement the state salary of the criminal district attorney in an amount not less than $4,000 a year.

(d) The criminal district attorney is entitled to the expenses and allowances provided by the General Appropriations Act for district attorneys who serve more than one county.

(e) The Commissioners Court of Taylor County shall provide suitable office space for the criminal district attorney in the county courthouse.

(f) The Commissioners Court of Taylor County shall determine the salaries of the employees of the criminal district attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.52(b), eff. Sept. 1, 1987.

Sec. 44.329. TYLER COUNTY. (a) The criminal district attorney of Tyler County shall represent the state in all matters in the district and inferior courts in Tyler County.

(b) The criminal district attorney shall perform the duties conferred by law on county and district attorneys in this state.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(d) With the approval of the Commissioners Court of Tyler County, the criminal district attorney may appoint the staff required

for the proper and efficient operation and administration of the office.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.330. UPSHUR COUNTY. (a) The criminal district attorney of Upshur County shall attend each term and session of the district courts in Upshur County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts. He shall represent Upshur County in any court in which the county has pending business.

(b) The criminal district attorney has all the powers, duties, and privileges in Upshur County that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.334. VAN ZANDT COUNTY. (a) The criminal district attorney of Van Zandt County must be at least 25 years old and must have been a practicing attorney in this state for two years. However, if no person meeting those qualifications files as a candidate for the office on or before the 30th day before the last day on which a person may file as a candidate in an election to that office, the qualifications imposed by this subsection do not apply to that election.

(b) The criminal district attorney shall attend each term and session of the district courts in Van Zandt County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(c) The criminal district attorney shall perform the duties conferred by law on county and district attorneys in the various counties and districts.

(d) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar

services rendered by a district or county attorney.

(e) The criminal district attorney, for the purpose of conducting the affairs of his office, may appoint a staff composed of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel as the Commissioners Court of Van Zandt County may authorize. The commissioners court shall pay the salaries of the staff in equal monthly or bimonthly installments from the officers' salary fund of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.335. VICTORIA COUNTY. (a) The criminal district attorney of Victoria County shall attend each term and session of the district courts of Victoria County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts. He shall represent Victoria County in any court in which the county has pending business.

(b) The criminal district attorney has all the powers, duties, and privileges in Victoria County that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.336. WALKER COUNTY. (a) The criminal district attorney of Walker County must be at least 25 years old, must have been a practicing attorney in this state for three years, and must have been a resident of Walker County for at least two years before election or appointment.

(b) The criminal district attorney shall attend each term and session of the district and inferior courts of Walker County, except municipal courts, held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(c) The criminal district attorney shall represent Walker County in any court in which the county has pending business. This

subsection does not require the criminal district attorney to represent the county in a delinquent tax suit or condemnation proceeding and does not prevent the county from retaining other legal counsel in a civil matter at any time it considers appropriate to do so.

(d) The criminal district attorney has all the powers, duties, and privileges in Walker County relating to criminal or civil matters involving the county or state that are conferred by law on county and district attorneys in the various counties and districts.

(e) The criminal district attorney, for the purpose of conducting the affairs of the office, may appoint a staff composed of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel as the Commissioners Court of Walker County may authorize. The commissioners court shall pay the salaries of the staff in equal monthly installments from the general fund of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.337. WALLER COUNTY. (a) The criminal district attorney of Waller County must have been a practicing attorney in this state for at least three years.

(b) The criminal district attorney has all the powers, duties, and privileges in Waller County that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(d) The criminal district attorney shall, with the approval of the commissioners court, appoint an assistant district attorney or attorneys and other personnel necessary to the proper performance of the district attorney's duties. The commissioners court shall pay the salaries of the staff and necessary operating expenses of the office from county funds.

(e) The criminal district attorney or the Commissioners Court of Waller County may accept gifts and grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting effective prosecution, crime prevention or suppression,

rehabilitation of offenders, substance abuse education, treatment and prevention, or crime victim's assistance programs in Waller County. The criminal district attorney shall account for and report to the commissioners court all gifts or grants accepted under this subsection.

Added by Acts 1993, 73rd Leg., ch. 565, Sec. 3, eff. Sept. 1, 1993.

Sec. 44.343. WICHITA COUNTY. (a) The criminal district attorney shall represent the state in all matters in the district and inferior courts in the county. The criminal district attorney shall perform the other duties that are conferred by general law on district and county attorneys.

(b) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.60(a), eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 221, Sec. 1, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1252, Sec. 2, eff. Sept. 1, 2001.

Sec. 44.350. WOOD COUNTY. (a) The criminal district attorney of Wood County must be at least 25 years old and must have been a practicing attorney in this state for five years. However, if no person meeting those qualifications files as a candidate for the office on or before the 30th day before the last day on which a person may file as a candidate in an election to that office, the qualifications imposed by this subsection do not apply to that election.

(b) The criminal district attorney shall attend each term and session of the district courts in Wood County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(c) The criminal district attorney shall perform the duties conferred by law on county and district attorneys in the various counties and districts.

(d) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar

services rendered by a district or county attorney.

(e) The criminal district attorney, for the purpose of conducting the affairs of the office, may appoint a staff composed of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel as the Commissioners Court of Wood County may authorize. The commissioners court shall pay the salaries of the staff in equal monthly or bimonthly installments from the officers' salary fund of the county.

(f) The legislature may provide for additional staff members to be paid from state funds if it considers supplementation of the criminal district attorney's staff to be necessary.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 44.351. YOAKUM COUNTY. (a) The criminal district attorney represents the state in all matters in the district and inferior courts in the county. The criminal district attorney shall perform the other duties that are conferred by general law on district and county attorneys.

(b) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(c) Repealed by Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 11(a), eff. Sept. 1, 1991.

(d) Repealed by Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 11(a), eff. Sept. 1, 1991.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.61(a), eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 11(a), eff. Sept. 1, 1991.

CHAPTER 45. COUNTY ATTORNEYS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 45.001. BOND. (a) Each county attorney shall execute a bond payable to the governor in the amount of $2,500, with at least two good and sufficient sureties to be approved by the commissioners court of the county.

(b) The bond must be conditioned on the county attorney faithfully paying over in the manner prescribed by law all money that

he collects or receives for any county or the state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.002. APPOINTMENT AND OATH OF ASSISTANT. (a) The qualifications for an assistant county attorney are the same as for the county attorney who appoints him.

(b) Before beginning any duties, an assistant county attorney must take the official oath of office, which must be endorsed on his written appointment.

(c) The appointment and oath of an assistant county attorney shall be recorded and deposited in the county clerk's office.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER B. PROVISIONS APPLICABLE TO SPECIFIC COUNTIES

Sec. 45.104. ARANSAS COUNTY. (a) In Aransas County, the county attorney of Aransas County shall perform the duties imposed on and have the powers conferred on district attorneys by general law.

(b) The county attorney of Aransas County or the Commissioners Court of Aransas County may accept gifts or grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting the operation of the office of county attorney in Aransas County. The county attorney shall account for and report to the commissioners court all gifts or grants accepted under this subsection.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 3.09(b), eff. September 1, 2015.

Sec. 45.112. BAYLOR COUNTY. The county attorney shall represent the state in all misdemeanor cases before the district court in Baylor County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.126. BURLESON COUNTY. In Burleson County, the county

attorney of Burleson County shall perform the duties imposed on and have the powers conferred on district attorneys by general law and is entitled to be compensated by the state in the manner and amount set by general law relating to the salary paid to district attorneys by the state.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 6.04, eff. September 1, 2019.

Sec. 45.130. CALLAHAN COUNTY. If there is no county attorney in Callahan County, the criminal district attorney in Taylor County shall represent the state in all matters pending before the 42nd District Court in Callahan County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.52(c), eff. Sept. 1, 1987; Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 10, eff. Sept. 1, 1991.

Sec. 45.142. COLEMAN COUNTY. (a) The county attorney of Coleman County may perform all duties required of district and county attorneys by general law in all matters pending before the district court in Coleman County.

(b) If the county attorney of Coleman County performs the duties of district attorney before the district courts in Coleman County as provided by Subsection (a), the county attorney is entitled to receive from the state a salary of $5,000 a year. The county attorney may not receive that salary for a period of time during which the county attorney does not perform those duties. The county attorney may not receive that salary unless he certifies to the comptroller of public accounts that he is performing the duties of district attorney as required and must notify the comptroller immediately if he ceases to perform those duties. The county attorney is also entitled to receive funds from the state for the payment of staff salaries and other office expenses at the same rate as provided in the General Appropriations Act for a district attorney in a single-county district for a period during which the county attorney performs the duties of district attorney.

(c) If there is no county attorney in Coleman County, the criminal district attorney in Taylor County shall represent the state

in all matters pending before the 42nd District Court in Coleman County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.52(d), eff. Sept. 1, 1987.

Sec. 45.145. COLORADO COUNTY. (a) In Colorado County, the county attorney of Colorado County shall perform the duties imposed on and have the powers conferred on district attorneys by general law.

(b) The county attorney of Colorado County or the Commissioners Court of Colorado County may accept gifts or grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting the operation of the office of county attorney in Colorado County. The county attorney shall account for and report to the commissioners court all gifts or grants accepted under this subsection.

Added by Acts 1997, 75th Leg., ch. 1448, Sec. 2, eff. Sept. 1, 1997.

Sec. 45.151. COTTLE COUNTY. The county attorney shall represent the state in all misdemeanor cases before the district court in Cottle County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.154. CROSBY COUNTY. The county attorney of Crosby County, who performs the duties of a district attorney, is entitled to be compensated by the state in the manner and amount fixed by general law relating to the salary paid to district attorneys by the state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 378, Sec. 2, eff. Sept. 1, 1997.

Sec. 45.168. ECTOR COUNTY. (a) It is the primary duty of the county attorney in Ector County to represent the state, Ector County,

and the officials of the county in all civil matters, other than asset forfeiture and bond forfeiture matters for which the district attorney is responsible, pending before the courts of Ector County and any other court in which the state, Ector County, or the county officials have matters pending.

(b) The county attorney has no power, duty, or privilege in Ector County relating to criminal matters, juvenile matters under Title 3, Family Code, or matters involving children's protective services.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 14.02, eff. September 1, 2021.

Sec. 45.171. EL PASO COUNTY. (a) It is the primary duty of the county attorney in El Paso County or his assistants to represent the state, El Paso County, and the officials of El Paso County in all civil matters pending before the courts of El Paso County and any other courts in which the state, the county, or the officials of the county have matters pending.

(b) The county attorney has the powers, duties, and privileges relating to the prosecution of misdemeanors that relate to health and environmental matters and that relate to the prosecution of misdemeanors under Section 32.42, Penal Code.

(c) At the request of the district attorney, the county attorney may assist the district attorney in criminal cases in El Paso County.

(d) The county attorney in El Paso County performs the duty of collecting and processing checks and similar sight orders as provided under Article 102.007, Code of Criminal Procedure, and prosecutes misdemeanors where a check or sight order is the instrument by which the misdemeanor is committed.

Added by Acts 1993, 73rd Leg., ch. 493, Sec. 2, eff. Oct. 1, 1993.

Sec. 45.175. FAYETTE COUNTY. In Fayette County the county attorney of Fayette County shall perform the duties imposed on and have the powers conferred on district attorneys by general law and is entitled to be compensated by the state in the manner and amount set by general law relating to the salary paid to district attorneys by

the state.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.62(a), eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 2, Sec. 1, eff. Feb. 28, 1991.

Sec. 45.179. FORT BEND COUNTY. (a) It is the primary duty of the county attorney in Fort Bend County to represent the state, Fort Bend County, and the officials of the county in all civil matters pending before the courts of Fort Bend County and any other courts in which the state, Fort Bend County, or the county officials have matters pending.

(b) The county attorney shall represent the Fort Bend County Drainage District and any other county entity created by law.

(c) The county attorney has the powers, duties, and privileges in Fort Bend County relating to civil commitment matters under Subtitle C, Title 7, Health and Safety Code, for and on behalf of the state.

(c-1) The county attorney has the powers, duties, and privileges in Fort Bend County relating to matters involving children's protective services.

(d) The county attorney has no power, duty, or privilege in Fort Bend County relating to family law and juvenile matters, except as provided by Subsection (c-1), protective orders under Title 4, Family Code, orders under Chapter 159, Family Code, and proceedings under Title 3, Family Code.

(e) The county attorney has no power, duty, or privilege in Fort Bend County relating to criminal matters or matters directly relating to criminal matters, including any asset forfeiture relating to a criminal activity, and bond forfeiture proceedings through judgment other than collection of a final judgment on a bond forfeiture.

(f) Except as provided by Section 43.181(d), the county attorney has all the powers, duties, and privileges in Fort Bend County relating to quo warranto and removal from office proceedings.

(g) At the request of the district attorney, the county attorney may assist the district attorney in criminal cases in Fort Bend County.

(h) The county attorney shall, with the approval of the

commissioners court, appoint the assistant county attorneys and other assistants necessary to the proper performance of the county attorney's duties. The commissioners court shall set the salary of an assistant to the county attorney.

Added by Acts 1989, 71st Leg., ch. 1099, Sec. 2, eff. Jan. 1, 1991. Amended by Acts 1991, 72nd Leg. ch. 76, Sec. 15, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 165, Sec. 7.31, eff. Sept. 1, 1997.
Amended by:
Acts 2005, 79th Leg., Ch. 659 (H.B. 3263), Sec. 2, eff. September 1, 2005.

Sec. 45.189. GONZALES COUNTY. (a) In Gonzales County, the county attorney of Gonzales County shall perform the duties imposed on and have the powers conferred on district attorneys by general law.

(b) The county attorney of Gonzales County or the Commissioners Court of Gonzales County may accept gifts or grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting the operation of the office of county attorney in Gonzales County. The county attorney shall account for and report to the commissioners court all gifts or grants accepted under this subsection.

Added by Acts 2013, 83rd Leg., R.S., Ch. 872 (H.B. 696), Sec. 2, eff. September 1, 2013.

Sec. 45.193. GRIMES COUNTY. (a) The county attorney of Grimes County shall represent the state, Grimes County, and the officials of the county in all civil matters pending before the courts of Grimes County and any other court.

(b) The county attorney has the powers, duties, and privileges in Grimes County relating to civil commitment matters under Subtitle C, Title 7, Health and Safety Code, family law and juvenile matters, including children's protective services matters, protective orders under Chapter 71, Family Code, orders under Chapter 159, Family Code, and proceedings under Title 3, Family Code.

(c) Except as provided by Section 43.1745, the county attorney has all the powers, duties, and privileges in Grimes County relating

to quo warranto and proceedings for removal from office.

(d) The county attorney has no power, duty, or privilege in Grimes County relating to criminal matters, including asset forfeitures under Chapter 59, Code of Criminal Procedure, appearance bond forfeitures under Chapter 17, Code of Criminal Procedure, and habeas corpus related to criminal matters.

Added by Acts 1995, 74th Leg., ch. 704, Sec. 26, eff. Jan. 1, 1997. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.32, eff. Sept. 1, 1997.

Sec. 45.194. GUADALUPE COUNTY. (a) In Guadalupe County the county attorney of Guadalupe County shall perform the duties imposed on and have the powers conferred on district attorneys by general law and is entitled to be compensated by the state in the manner and amount set by general law relating to the salary paid to district attorneys by the state.

(b) The county attorney of Guadalupe County or the Commissioners Court of Guadalupe County may accept gifts or grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting the operation of the office of county attorney in Guadalupe County. The county attorney shall account for and report to the commissioners court all gifts or grants accepted under this subsection.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 3.10(a), eff. January 1, 2017.

Sec. 45.201. HARRIS COUNTY. It is the primary duty of the county attorney in Harris County or his assistants to represent the state, Harris County, and the officials of Harris County in all civil matters pending before the courts of Harris County and any other courts in which the state, the county, or the officials of the county have matters pending. The county attorney shall represent the Harris County Flood Control District and perform the other duties imposed by this section without any additional fee, compensation, or perquisite other than that paid by Harris County out of its officers' salary fund.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.227. JONES COUNTY. The county attorney shall represent the state in all misdemeanor cases before the district court in Jones County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.235. KING COUNTY. The county attorney shall represent the state in all misdemeanor cases before the district court in King County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.238. KNOX COUNTY. The county attorney shall represent the state in all misdemeanor cases before the district court in Knox County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.243. LAVACA COUNTY. (a) In Lavaca County, the county attorney of Lavaca County shall perform the duties imposed on and have the powers conferred on district attorneys by general law.

(b) The county attorney of Lavaca County or the Commissioners Court of Lavaca County may accept gifts or grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting the operation of the office of county attorney in Lavaca County. The county attorney shall account for and report to the commissioners court all gifts or grants accepted under this subsection.

Added by Acts 2013, 83rd Leg., R.S., Ch. 644 (H.B. 717), Sec. 2, eff. September 1, 2013.

Sec. 45.244. LEE COUNTY. The county attorney of Lee County represents the state in all matters pending before the district

courts in Lee County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.63(a), eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 762, Sec. 2, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 819, Sec. 1, eff. Sept. 1, 1993.

Sec. 45.261. MATAGORDA COUNTY. (a) It is the primary duty of the county attorney in Matagorda County to represent the state, Matagorda County, and the officials of the county in civil matters pending before any court in which the state, Matagorda County, or the officials have matters pending.

(b) The county attorney shall handle children's protective services, protective orders under the Family Code, and proceedings under Title 2 or 5, Family Code.

(c) At the request of the district attorney, the county attorney may assist the district attorney in criminal cases in Matagorda County.

Added by Acts 1995, 74th Leg., ch. 457, Sec. 3, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.33, eff. Sept. 1, 1997.

Sec. 45.270. MONTGOMERY COUNTY. (a) The county attorney of Montgomery County, or the county attorney's assistants, shall represent the state, Montgomery County, and the officials of the county in all civil matters pending before a court of Montgomery County or any other court.

(b) The county attorney has the powers, duties, and privileges in Montgomery County relating to:

(1) civil commitment matters under Subtitle C, Title 7, Health and Safety Code;

(2) juvenile matters, including proceedings under Title 3, Family Code;

(3) child protective services; and

(4) protective orders under Title 4, Family Code.

(c) Notwithstanding Subsection (a), the commissioners court in Montgomery County may retain independent counsel in any civil matter.

Added by Acts 2005, 79th Leg., Ch. 821 (S.B. 792), Sec. 1, eff. June

17, 2005.

Sec. 45.280. OLDHAM COUNTY. (a) The county attorney in Oldham County shall represent the state in all matters pending before the district court in Oldham County.

(b) The county attorney in Oldham County is entitled to be compensated by the state in the manner and amount provided by general law relating to the salary paid to district attorneys by the state. Oldham County shall pay $28,500 of the county attorney's total salary, and the state shall pay the remainder of the salary.

(c) The county attorney in Oldham County is entitled to receive from the state the amount provided in the General Appropriations Act for the payment of staff salaries and office expenses in single-county districts.

(d) If there is no county attorney in Oldham County, the criminal district attorney of Deaf Smith County shall represent the state in all matters pending before the district court in Oldham County on appointment by the judge of the district court in Oldham County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1570, Sec. 2, eff. Sept. 1, 1999.

Sec. 45.290. RAINS COUNTY. (a) In Rains County, the county attorney of Rains County shall perform the duties imposed on and have the powers conferred on district attorneys by general law.

(b) The county attorney of Rains County is entitled to be compensated by the state in the manner and amount fixed by general law relating to the salary paid to district attorneys by the state. Rains County is also entitled to receive from the state an amount equal to the amount provided in the General Appropriations Act to district attorneys for the payment of staff salaries and expenses of the office.

Added by Acts 1999, 76th Leg., ch. 917, Sec. 2, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 174, Sec. 1, eff. Sept. 1, 2001.

Sec. 45.309. SHACKELFORD COUNTY. The county attorney shall

represent the state in all misdemeanor cases before the district court in Shackelford County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.315. STEPHENS COUNTY. (a) The county attorney shall represent the state in all criminal cases before the County Court of Stephens County.

(b) The county attorney of Stephens County shall represent the state in all misdemeanor cases before the district court of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 6.002, eff. September 1, 2023.

Sec. 45.319. SWISHER COUNTY. The county attorney in Swisher County shall represent the state in all matters pending before the district court in Swisher County.

Added by Acts 2009, 81st Leg., R.S., Ch. 787 (S.B. 1166), Sec. 2, eff. September 1, 2009.
Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 16(b), eff. September 1, 2009.

Sec. 45.340. WEBB COUNTY. The county attorney handles or prosecutes all juvenile, child welfare, and mental health cases in Webb County, the other civil cases in Webb County where the state is a party, and the other duties imposed by law on the office of county attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.341. WHARTON COUNTY. (a) The primary duty of the county attorney in Wharton County is to represent the state, Wharton County, and county officials in civil matters.

(b) The county attorney has the powers and duties relating to cases involving protective orders under Chapter 71, Family Code, and cases under Title 5, Family Code, including cases brought for the protection of children.

(c) At the request of the district attorney, the county attorney may assist the district attorney in the prosecution of criminal cases in Wharton County.

(d) The county attorney represents the state in proceedings under Title 3, Family Code.

(e) The county attorney represents the Wharton County Drainage District.

Added by Acts 1997, 75th Leg., ch. 477, Sec. 2, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 51, Sec. 2, eff. Sept. 1, 2003.

CHAPTER 46. PROFESSIONAL PROSECUTORS

Sec. 46.001. DEFINITIONS. In this chapter:

(1) "County prosecutor" means a constitutional county attorney who does not have general felony jurisdiction and who is not a state prosecutor.

(2) "Benchmark salary" means the state annual salary as set by the General Appropriations Act in accordance with Section 659.012 paid to a district judge with comparable years of service as the county prosecutor.

(3) "State prosecutor" means a district attorney, criminal district attorney, or county attorney performing the duties of district attorney who serves in a district or county listed in Section 46.002.

(4) "State prosecuting attorney" means the state prosecuting attorney appointed under Chapter 42.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1570, Sec. 1, eff. Sept. 1, 1999. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 150 (S.B. 497), Sec. 1, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 9, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. This chapter applies to the state prosecuting attorney, all county prosecutors, and the following state prosecutors:

(1) the district attorneys for Kenedy and Kleberg Counties and for the 1st, 2nd, 8th, 9th, 18th, 21st, 23rd, 24th, 26th, 27th, 29th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 42nd, 43rd, 46th, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 66th, 69th, 70th, 76th, 79th, 81st, 83rd, 84th, 85th, 88th, 90th, 97th, 100th, 105th, 106th, 109th, 110th, 112th, 118th, 119th, 123rd, 132nd, 142nd, 143rd, 145th, 156th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 235th, 253rd, 258th, 259th, 266th, 268th, 271st, 286th, 287th, 329th, 344th, 349th, 355th, 369th, 452nd, and 506th judicial districts;

(2) the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Comal, Dallas, Deaf Smith, Denton, Eastland, Fannin, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Kendall, Lubbock, McLennan, Madison, Medina, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum; and

(3) the county attorneys performing the duties of district attorneys in the counties of Andrews, Aransas, Burleson, Callahan, Cameron, Castro, Colorado, Crosby, Ellis, Falls, Freestone, Gonzales, Guadalupe, Lamar, Lamb, Lampasas, Lavaca, Lee, Limestone, Marion, Milam, Morris, Ochiltree, Oldham, Orange, Rains, Red River, Robertson, Rusk, Swisher, Terry, Webb, and Willacy.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.64(a), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 1045, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 1045, Sec. 2, eff. Jan. 1, 1989; Acts 1989, 71st Leg., ch. 216, Sec. 3, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 373, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 811, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1099, Sec. 4, eff. Jan. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 8. Sec. 2, eff. Jan. 1, 1993; Acts 1991, 72nd Leg., 1st C.S., ch. 8,

Sec. 3, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 42, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 565, Sec. 4, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 762, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 819, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 100, Sec. 1, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 202, Sec. 1, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 457, Sec. 4, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 704, Sec. 27, eff. Jan. 1, 1995; Acts 1997, 75th Leg., ch. 378, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 412, Sec. 3, eff. Sept 1, 1997; Acts 1997, 75th Leg., ch. 720, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 727, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 739, Sec. 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 853, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1081, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1290, Sec. 1, eff. June 20, 1997; Acts 1997, 75th Leg., ch. 1352, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1448, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 674, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 989, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1463, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1570, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 174, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 482, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 989, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 716, Sec. 3, eff. Jan. 1, 2004; Acts 2003, 78th Leg., ch. 792, Sec. 1, eff. Jan. 1, 2005; Acts 2003, 78th Leg., ch. 1256, Sec. 1, eff. Jan. 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 80 (S.B. 441), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 734 (H.B. 2569), Sec. 3, eff. January 1, 2009.

Acts 2007, 80th Leg., R.S., Ch. 77 (H.B. 622), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 77 (H.B. 622), Sec. 2, eff. January 1, 2009.

Acts 2007, 80th Leg., R.S., Ch. 150 (S.B. 497), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 150 (S.B. 497), Sec. 3, eff. January 1, 2009.

Acts 2007, 80th Leg., R.S., Ch. 277 (H.B. 421), Sec. 3, eff.

January 1, 2009.

Acts 2007, 80th Leg., R.S., Ch. 318 (H.B. 2288), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 318 (H.B. 2288), Sec. 2, eff. January 1, 2009.

Acts 2007, 80th Leg., R.S., Ch. 554 (S.B. 1414), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 554 (S.B. 1414), Sec. 2, eff. January 1, 2009.

Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 16, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 17, eff. September 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 18, eff. January 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 787 (S.B. 1166), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 16(c), eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 425 (S.B. 479), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 644 (H.B. 717), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 872 (H.B. 696), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 1.07, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1317 (S.B. 268), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 2.02(e), eff. January 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 2.08(a), eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 6.05, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 6.06, eff. January 1, 2021.

Sec. 46.003. COMPENSATION OF STATE PROSECUTORS. (a) The state

prosecuting attorney and each state prosecutor is entitled to receive from the state:

(1) a salary in an amount equal to the state annual salary as set by the General Appropriations Act in accordance with Section 659.012 paid to a district judge with comparable years of service as the state prosecuting attorney or state prosecutor; and

(2) a monthly amount of longevity pay based on the state prosecuting attorney's or state prosecutor's years of service that would be paid to the state prosecuting attorney or state prosecutor under Section 659.0445 if the state prosecuting attorney or state prosecutor were a judge or justice described by Section 659.0445(a).

(a-1) For purposes of this section, the years of service of the state prosecuting attorney or a state prosecutor include any years of service as:

(1) a county attorney; or

(2) an appellate court justice, district judge, judge of a statutory county court, judge of a multicounty statutory county court, or judge or justice of a statutory probate court.

(b) A commissioners court may supplement the state prosecutor's state salary but may not pay the state prosecutor an amount less than the compensation it pays its highest paid district judge.

(c) Notwithstanding Subsection (a), if the amount of a state prosecutor's total annual salary from state and county sources exceeds the amount of the maximum combined base salary from all state and county sources provided by Section 659.012 for a district judge with comparable years of service as the state prosecutor, the comptroller shall reduce the state prosecutor's state annual salary by the amount equal to the excess amount, except that the comptroller may not reduce the state prosecutor's state annual salary to an amount that is less than the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a).

(d) The comptroller shall calculate the amount of the state annual salary to be paid to a state prosecutor under this section for a state fiscal year based on sworn statements the state prosecutor files annually with the comptroller at the time and in the manner the comptroller requires that specify the amount of county compensation to be paid to the state prosecutor for that year.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended

by Acts 1989, 71st Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 1570, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 150 (S.B. 497), Sec. 4, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 10, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 6.003, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 971 (S.B. 2310), Sec. 2, eff. September 1, 2023.

Sec. 46.0031. COMPENSATION OF COUNTY PROSECUTORS. (a) Except as provided by Subsection (b), each county that has a county prosecutor is entitled to receive from the state supplemental salary compensation to be paid by the county to the county prosecutor in an amount equal to the amount that is one-half of the benchmark salary divided by the total number of counties served by the state prosecutor, unless that formula would result in an amount less than one-sixth of the benchmark salary, in which case the county prosecutor is entitled to receive one-sixth of the benchmark salary. A county with no county prosecutor is not entitled to receive the salary supplement funds provided by this section.

(b) For a county with more than one state prosecutor who serves that county, the supplemental salary compensation for the county prosecutor is computed by:

(1) determining the amount of compensation as provided by Subsection (a) in relation to each state prosecutor as if that state prosecutor is the only state prosecutor who serves the county;

(2) adding the amounts of compensation determined under Subdivision (1); and

(3) setting the amount of compensation at the lesser of:

(A) the sum of those amounts; or

(B) one-half of the benchmark rate.

(c) If the receipt of compensation under this section causes the gross salary of a county prosecutor to exceed the benchmark salary, or if any amount of the compensation is waived by the prosecutor, the excess or waived amount shall be used for expenses of the county prosecutor's office.

(d) At least annually the comptroller shall pay to the salary fund of each county that is entitled to receive funds under this section an amount authorized under this section to supplement the salary of the county prosecutor. For purposes of calculating that amount, the comptroller shall use the benchmark salary applicable to the county prosecutor on September 1 of the state fiscal year in which the payment is made.

(e) A county attorney who does not have criminal prosecution duties or who has criminal prosecution duties only upon request of the district attorney is entitled to receive from the state supplemental salary compensation that is equal to one-half the amount the county attorney would be eligible for under Subsection (a) or (b). The remainder of the supplement shall be used for expenses of the county attorney's office. This subsection does not apply to a county attorney who is responsible for the prosecution of juvenile justice cases under Title 3, Family Code.

Added by Acts 1999, 76th Leg., ch. 1570, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 11, eff. September 1, 2019.

Sec. 46.004. EXPENSES. (a) The state prosecuting attorney and each state prosecutor is entitled to receive not less than $22,500 a year from the state to be used by the attorney or prosecutor to help defray the salaries and expenses of the office. That money may not be used to supplement the attorney's or prosecutor's salary.

(b) The state prosecuting attorney and each state prosecutor shall submit annually to the comptroller of public accounts a sworn account showing how this money was spent during the year.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1570, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 150 (S.B. 497), Sec. 5, eff. September 1, 2007.

Sec. 46.005. LIMITATIONS ON LAW PRACTICE. (a) The state prosecuting attorney or a state prosecutor may not engage in the

private practice of law but may complete all civil cases that are not in conflict with the interest of any of the counties of the district in which the attorney or prosecutor serves and that are pending in court before the attorney or prosecutor takes office.

(b) The state prosecuting attorney or a state prosecutor may not accept a fee from an attorney to whom the state prosecuting attorney or state prosecutor has referred a case.

(c) This section applies to a county prosecutor and any assistant of a prosecutor if, from all state and county funds received, the county prosecutor or assistant receives a salary that is equal to or more than 80 percent of the benchmark salary.

(d) This section does not apply to a county prosecutor who files with the county auditor an annual written waiver of the amount of compensation that is equal to or exceeds 80 percent of the benchmark salary. An amount waived under this subsection shall be used for expenses of the county prosecutor's office.

(e) This section does not apply to a county prosecutor who, before September 1, 1999, was paid in excess of the benchmark salary by the county in which the prosecutor serves.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1570, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 150 (S.B. 497), Sec. 6, eff. September 1, 2007.

Sec. 46.006. PURPOSE; DUTY OF COUNTY. (a) It is the purpose of this chapter to increase the effectiveness of law enforcement in this state and to increase the funds available for use in prosecution at both the felony and misdemeanor levels.

(b) The commissioners court in each county that has a prosecutor subject to this chapter may not reduce the county funds provided for the salary or office of the prosecutor as a result of the funds provided by this chapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1570, Sec. 1, eff. Sept. 1, 1999.

Sec. 46.007. INELIGIBILITY FOR CERTAIN OTHER STATE FUNDS.

Subchapter C, Chapter 41, does not apply to a county if the county is served by a state prosecutor who serves in a district or county listed in Section 46.002.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1570, Sec. 1, eff. Sept. 1, 1999.

SUBTITLE D. JUDICIAL PERSONNEL AND OFFICIALS
CHAPTER 51. CLERKS
SUBCHAPTER A. CLERK OF SUPREME COURT

Sec. 51.001. APPOINTMENT; RESIDENCE; BOND; SEAL. (a) The order appointing the clerk of the supreme court must be recorded in the minutes of the court.

(b) The clerk must reside at Austin.

(c) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(6).

(d) The clerk shall provide a seal for the use of the supreme court. The seal must have a five-pointed star and must be engraved with the words "Supreme Court of the State of Texas."

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985; Amended by Acts 2003, 78th Leg., ch. 285, Sec. 31(6), eff. Sept. 1, 2003.

Sec. 51.002. CLERK PRO TEMPORE; DEPUTY CLERK. (a) The supreme court, when necessary, may appoint a clerk pro tempore.

(b) The supreme court, by an order recorded in the minutes of the court, may authorize the clerk to appoint three deputy clerks who may discharge the duties required by law of the clerk. Each deputy clerk must give a bond that is approved by the supreme court and is in the same amount and subject to the same conditions as required for the bond of the clerk of the court. A deputy clerk serves at the will of the court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.003. REMOVAL OF CLERK. (a) The supreme court by motion may remove the clerk for neglect of duty or misconduct in office. The motion must specify the particular charges.

(b) Before the court may act on the motion, it must give the

clerk at least 10 days' notice of the motion, including the particular charges.

(c) In acting on the motion, the court determines the law and facts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.004. DUTIES. The clerk of the supreme court shall:

(1) file and carefully preserve the transcripts of records certified to the supreme court and papers relative to the record;

(2) docket causes in the order in which the supreme court directs;

(3) faithfully record the proceedings and decisions of the supreme court; and

(4) certify the judgments of the supreme court to the courts from which the cases were brought.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.0045. ELECTRONIC OR MICROFILM STORAGE. (a) In the performance of the duties imposed by Section 51.004, the clerk of the supreme court may maintain records and documents in an electronic storage format or on microfilm. A record or document stored electronically or on microfilm in accordance with this section is considered an original record or document. If the clerk stores records or documents electronically or on microfilm, the clerk may destroy the originals or copies of the records or documents according to the retention policy described by Subsection (b).

(b) The clerk of the supreme court shall establish a records retention policy. The retention policy shall provide a plan for the storage and retention of records and documents and shall include a retention period to preserve the records and documents in accordance with applicable state law and rules of the supreme court.

(c) For purposes of this section, "electronic storage" has the meaning assigned by Section 51.105(c).

Added by Acts 2009, 81st Leg., R.S., Ch. 795 (S.B. 1259), Sec. 2(a), eff. June 19, 2009.

Sec. 51.0046. PRIVACY OF CERTAIN RECORDS AND DOCUMENTS; LIABILITY. (a) The supreme court shall adopt rules establishing procedures for protecting personal information contained in records and documents stored by the clerk of an appellate court in an electronic storage format and for accessing those records and documents. The supreme court by rule shall define "personal information" for purposes of this section.

(b) A person who complies with the rules adopted by the supreme court under this section is not liable for damages arising from the disclosure of personal information that is included in records or documents stored in an electronic storage format.

(c) For purposes of this section, "electronic storage" has the meaning assigned by Section 51.105(c).

Added by Acts 2009, 81st Leg., R.S., Ch. 795 (S.B. 1259), Sec. 2(a), eff. June 19, 2009.

Sec. 51.005. FEES AND COSTS. (a) The clerk shall collect the fees described in Subsection (b) in a civil case before the court for the following services:

(1) filing records, applications, motions, briefs, and other necessary and proper papers;

(2) docketing and making docket and minute book entries;

(3) issuing notices, citations, processes, and mandates; and

(4) performing other necessary clerical duties.

(b) The fees are:

(1) application for petition for review $ 50

(2) additional fee if application for petition for review is granted $ 75

(3) motion for leave to file petition for writ of mandamus, prohibition, injunction, and other similar proceedings originating in the supreme court $ 50

(4) additional fee if a motion under Subdivision (3) is granted $ 75

(5) certified question from a federal court of appeals to the supreme court $ 75

(6) case appealed to the supreme court from the district court by direct appeal $100

(7) any other proceeding filed in the supreme court $75.

(c) In addition, the clerk of the supreme court shall collect:

(1) a fee of $5 for administering an oath and giving a sealed certificate of the oath;

(2) a minimum fee of $5, or 50 cents per page if more than 10 pages, for making copies of any papers of record in offices, including certificate and seal; and

(3) a reasonable fee fixed by the order or rule of the supreme court for any official service performed by the clerk for which a fee is not otherwise provided by this section.

(d) The clerk shall collect and pay into the state treasury the fees and costs received under this section by the clerk under rules prescribed by the comptroller of public accounts, approved by the justices of the supreme court, and recorded in the minutes of the court. The comptroller shall deposit the fees and costs in the judicial fund.

(e) The supreme court shall provide by order or rule for the making of deposits to cover the costs provided by this section in cases before the court. A deposit may not be required in a case in which the petitioner, relator, or appellant in the supreme court is exempt from the bond requirement.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1986, 69th Leg., 2nd C.S., ch. 11, Sec. 3, eff. Sept. 22, 1986.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 14.01, eff. January 1, 2012.

Sec. 51.0051. ADDITIONAL FEES. (a) In addition to other fees authorized or required by law, the clerk of the supreme court shall collect an additional fee on the filing of any application or proceeding otherwise requiring a filing fee, including an appeal. The additional fee is set by order or rule of the supreme court in an amount necessary to defray costs and expenses incurred in the operation of the court, not to exceed $50.

(b) The clerk shall collect fees imposed under this section in the same manner as other fees, fines, or costs are collected in the proceeding and shall send the fees imposed under this section to the

comptroller not later than the last day of the month following each calendar quarter. The comptroller shall deposit the fees received to the credit of the judicial fund.

(c) The comptroller shall establish a supreme court support account in the judicial fund. Fees received under this section may be appropriated only to the supreme court support account, and the comptroller shall allocate to the account amounts as designated in the General Appropriations Act from the judicial fund that were deposited under this section.

(d) The supreme court shall administer the funds deposited under this section and appropriated to the supreme court support account. The chief justice may make disbursements from the account for court-related purposes to defray costs and expenses incurred in the operation of the supreme court.

(e) The supreme court shall file an accounting with the Legislative Budget Board not later than November 1 following each state fiscal year showing disbursements made from the supreme court support account during the previous state fiscal year and the purpose of each disbursement. The expenditures are subject to audit by the comptroller and the state auditor.

Added by Acts 2007, 80th Leg., R.S., Ch. 1408 (S.B. 1182), Sec. 1, eff. September 1, 2007.

Sec. 51.006. FEE FOR ATTORNEY'S LICENSE OR CERTIFICATE. The clerk shall collect a fee of $25 for the issuance of an attorney's license or certificate affixed with a seal. The fee shall be held by the clerk and expended by the supreme court or under the direction of the court for the preparation and issuance, including mailing, of the license or certificate.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 5.01, eff. September 1, 2017.

Sec. 51.007. VACANCY DURING VACATION. If the office of clerk becomes vacant during vacation, the chief justice and one justice shall appoint an individual to serve as clerk until a regular

appointment is made. The individual appointed must give the bond and oath prescribed for the regular clerk. The bond must be approved by a justice of the court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER B. CLERK OF COURT OF CRIMINAL APPEALS

Sec. 51.101. OATH; BOND. The clerk of the court of criminal appeals must sign the oath prescribed for officers of this state and must give a bond in the amount of $5,000. The bond must be approved by the court of criminal appeals and is subject to the same conditions as the bond required of the clerk of the supreme court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.102. DEPUTY CLERK. (a) The court of criminal appeals, or the clerk of the court of criminal appeals with the court's approval, may appoint a stenographer employed by the court to act as a deputy clerk to perform the clerk's duties during the absence, illness, or other disability of the clerk.

(b) The stenographer appointed deputy clerk shall perform the duties of the clerk in the name of the clerk and shall sign his own name as deputy clerk after signing the clerk's name.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.103. REMOVAL OF CLERK. The court of criminal appeals may remove the clerk for good cause, entered in the minutes of the court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.104. DUTIES AND LIABILITIES. (a) The clerk of the court of criminal appeals shall perform the like duties for the court of criminal appeals that the clerk of the supreme court performs for the supreme court.

(b) The clerk of the court of criminal appeals is subject to

the liabilities prescribed for the clerk of the supreme court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.1045. ELECTRONIC DOCUMENTS AND DIGITAL MULTIMEDIA EVIDENCE. (a) In this section, "digital multimedia evidence" has the meaning assigned by Article 2A.153, Code of Criminal Procedure.

(b) The clerk of the court of criminal appeals may accept electronic documents and digital multimedia evidence received from a defendant, an applicant for a writ of habeas corpus, the clerk of the convicting court, a court reporter, or an attorney representing the state.

Added by Acts 2009, 81st Leg., R.S., Ch. 795 (S.B. 1259), Sec. 3, eff. June 19, 2009.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.063, eff. January 1, 2025.

Sec. 51.105. ELECTRONIC STORAGE. (a) In the performance of the duties imposed by Section 51.104, the clerk of the court of criminal appeals may maintain writs and other records and documents in an electronic storage format or on microfilm. A record or document stored electronically or on microfilm in accordance with this section is considered an original record or document. If the clerk stores writs, records, or documents electronically or on microfilm, the clerk may destroy the originals or copies of the writs, records, or documents according to the retention policy described by Subsection (b).

(b) The clerk of the court of criminal appeals shall establish a records retention policy. The retention policy shall provide a plan for the storage and retention of writs and other documents and shall include a retention period to preserve the writs and other records in accordance with state law and applicable rules of the court of criminal appeals.

(c) For purposes of this section, "electronic storage" means the maintenance of data in the form of digital electronic signals on a computer hard disk, magnetic tape, optical disk, or similar machine-readable medium.

Added by Acts 2001, 77th Leg., ch. 718, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 795 (S.B. 1259), Sec. 4, eff. June 19, 2009.

SUBCHAPTER C. CLERKS OF COURTS OF APPEALS

Sec. 51.201. APPOINTMENT; RESIDENCE; BOND; SEAL. (a) An order appointing a clerk of a court of appeals must be recorded in the minutes of the court.

(b) The clerk must reside within a county that is part of the court of appeals district of the court of appeals making the appointment.

(c) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(7).

(d) Each clerk shall provide a seal for the use of the court. The seal must have a five-pointed star and must be engraved with the words "Court of Appeals of the State of Texas."

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.61, eff. Sept. 1, 1987; Acts 2003, 78th Leg., ch. 285, Sec. 31(7), eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 7.001, eff. September 1, 2007.

Sec. 51.202. CLERK PRO TEMPORE; DEPUTY CLERK. (a) A court of appeals, when necessary, may appoint a clerk pro tempore.

(b) With the approval of the court, the clerk may appoint deputy clerks as provided by legislative appropriation. A deputy clerk must give a bond to the clerk, conditioned on the faithful performance of the duties of office.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.203. REMOVAL OF CLERK. (a) After motion and a hearing, a court of appeals may remove its clerk for neglect of duty or malfeasance in office. The motion must specify the particular charges.

(b) The court must give the clerk at least 10 days' notice of

the hearing.

(c) At the hearing, the court determines the law and facts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.204. RECORDS OF COURT. (a) The clerk of a court of appeals shall:

(1) file and carefully preserve records certified to the court and papers relative to the record;

(2) docket causes in the order in which they are filed;

(3) record the proceedings of the court except opinions and orders on motions; and

(4) certify the judgments of the court to the proper courts.

(b) On the issuance of the mandate in each case, the clerk shall notify the attorneys of record in the case that:

(1) exhibits submitted to the court by a party may be withdrawn by that party or the party's attorney of record; and

(2) exhibits on file with the court will be destroyed three years after final disposition of the case or at an earlier date if ordered by the court.

(c) Not sooner than the 60th day and not later than the 90th day after the date of final disposition of a criminal case, the clerk shall remove and destroy all duplicate papers in the file on record of that case.

(d) Six years after the final disposition of a civil case in the court, the clerk shall, not sooner than the 90th day after the date the clerk provides notice to the district or county clerk, destroy all records filed in the court related to the case except:

(1) records that the clerk of the trial court requests be returned to the trial court for preservation in accordance with records retention schedules for records of district and county clerks issued under Section 441.158 and applicable rules of the supreme court;

(2) records that, in the opinion of the clerk or other person designated by the court, contain highly concentrated, unique, and valuable information unlikely to be found in any other source available to researchers;

(3) indexes, original opinions, minutes, and general court

dockets unless the documents are microfilmed in accordance with this section for permanent retention, in which case the original document shall be destroyed; and

(4) other records of the court determined to be archival state records under Section 441.186.

(e) Twenty-five years after the final disposition of a criminal case to which this subsection applies, the clerk shall destroy all records relating to the case, other than a record described by Subsection (d)(2), (3), or (4). This subsection applies to a criminal case in which the sentence, suspended sentence, term of community supervision, combined sentence and term of community supervision, cumulative sentences or terms of community supervision, or the longest sentence or term of community supervision of two or more sentences or terms of community supervision to be served concurrently is 20 years or less.

(f) The clerk shall retain other records of the court, such as financial records, administrative correspondence, and other materials not related to particular cases in accordance with Section 441.185.

(g) Before microfilming records, the clerk must submit a plan in writing to the justices of a court of appeals for that purpose. If a majority of the justices of a court of appeals determines that the plan meets the requirements of Section 441.188, rules adopted under that section, and any additional standards and procedures the justices may require, the justices shall inform the clerk in writing and the clerk may adopt the plan. The decision of the justices must be entered in the minutes of the court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 873, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 408, Sec. 1, eff. Sept. 1, 1999.

Sec. 51.205. ELECTRONIC OR MICROFILM STORAGE. (a) In the performance of the duties imposed by Section 51.204, the clerk of a court of appeals may maintain records and documents in an electronic storage format or on microfilm. A record or document stored electronically or on microfilm in accordance with this section is considered an original record or document. If a clerk stores records or documents electronically or on microfilm, the clerk may destroy the originals or copies of the records or documents according to the

retention policy described by Subsection (b).

(b) The clerk of a court of appeals shall establish a records retention policy. The retention policy shall provide a plan for the storage and retention of records and documents and shall include a retention period to preserve the records and documents in accordance with Section 51.204 and other applicable state law and rules of the court of appeals, the supreme court, or the court of criminal appeals.

(c) For purposes of this section, "electronic storage" has the meaning assigned by Section 51.105(c).

Added by Acts 2009, 81st Leg., R.S., Ch. 795 (S.B. 1259), Sec. 5, eff. June 19, 2009.

Sec. 51.206. LAW LIBRARY. (a) Each clerk of a court of appeals is the librarian of the court and shall keep the books in the court's library in good order and catalogue them.

(b) The clerk may purchase additional law books for the use of the court from the fees collected by the court. Those expenditures may not exceed annually the specific amounts additionally authorized for the purchase of law books in the General Appropriations Act.

(c) All fees collected for the purchase of law books shall be deposited in the state treasury to the credit of the appropriate court. Book expenditures shall be made on a warrant drawn on the state treasury by the state comptroller as provided by the judiciary section of the General Appropriations Act.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.207. FEES AND COSTS. (a) The clerk of a court of appeals shall collect the fees described in Subsection (b) in a civil case before the court for the following services:

(1) filing records, applications, motions, briefs, and other necessary and proper papers;

(2) docketing and making docket and minute book entries;

(3) issuing notices, citations, processes, and mandates;

(4) preparing transcripts on application for petition for review to the supreme court; and

(5) performing other necessary clerical duties.

(b) The fees are:

(1) for cases appealed to and filed in the court of appeals from the district and county courts within its court of appeals district $100

(2) motion for leave to file petition for writ of mandamus, prohibition, injunction, and other similar proceedings originating in the court of appeals $ 50

(3) additional fee if the motion under Subdivision (2) is granted $ 75

(4) motion to file or to extend time to file record on appeal from district or county court $ 10

(c) In addition, the clerk of a court of appeals shall collect:

(1) a fee of $5 for administering an oath and giving a sealed certificate of the oath;

(2) a fee of $5, or $1 per page if more than five pages, for a certified copy of any papers of record in the court offices, including certificate and seal;

(3) a fee of $5, or $1 per page if more than five pages, for comparing any document with the original filed in the offices of the court for purposes of certification; and

(4) a reasonable fee fixed by the order or rule of the supreme court for any official service performed by the clerk for which a fee is not otherwise provided by this section.

(d) The supreme court shall provide by order or rule for the making of deposits to cover the costs provided by this section in cases before a court of appeals. A deposit may not be required in a case in which the petitioner, relator, appellant, or movant in the court of appeals is exempt from the bond requirement.

(e) The clerk of a court of appeals shall pay into the state treasury the fees and costs under rules prescribed by the comptroller of public accounts and approved by the justices of the clerk's court. The clerk shall make a sworn report to the court not later than January 10 and July 10 of each year regarding the amount of costs collected in the previous six months, the cases in which the costs were collected, and the disposition of the costs. This report shall be filed with the financial records of the court.

(f) Repealed by Acts 1987, 70th Leg., ch. 148, Sec. 2.66, eff. Sept. 1, 1987.

(g) One-half of the fees collected under this section shall be deposited to the credit of the judicial fund.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1986, 69th Leg., 2nd C.S., ch. 11, Sec. 4, eff. Sept. 22, 1986; Acts 1987, 70th Leg., ch. 148, Sec. 1.62, 2.66, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1080, Sec. 1, eff. Sept. 1, 1997. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 14.02, eff. January 1, 2012.

Sec. 51.208. ADDITIONAL FEES. (a) The clerk of a court of appeals shall collect an additional fee on the filing of any case appealed to and filed in the court of appeals that otherwise requires a filing fee. The additional fee is in an amount equal to the amount of the additional fee set by order or rule of the supreme court and imposed under Section 51.0051.

(b) The clerk shall collect fees imposed under this section in the same manner as other fees, fines, or costs are collected in the proceeding and shall send the fees imposed under this section to the comptroller not later than the last day of the month following each calendar quarter. The comptroller shall deposit the fees received to the credit of the judicial fund.

(c) Fees received under this section may be appropriated only to the supreme court support account established under Section 51.0051. The comptroller shall allocate to the account amounts as designated in the General Appropriations Act from the judicial fund that were deposited under this section.

(d) The supreme court shall administer the funds deposited under this section and appropriated to the supreme court support account in the manner provided by Section 51.0051.

Added by Acts 2007, 80th Leg., R.S., Ch. 1408 (S.B. 1182), Sec. 2, eff. September 1, 2007.

SUBCHAPTER D. DISTRICT CLERKS

Sec. 51.301. VACANCY; BOND; SEAL; SIGNATURE OF CLERK. (a) If a vacancy occurs in the office of district clerk, the vacancy shall be filled by the district judge of the county.

(b) If a vacancy in the office of district clerk occurs in a county that has two or more district courts, the vacancy shall be

filled by agreement of the judges of the courts. If the judges cannot agree on an appointee, they shall certify that fact to the governor, who shall order a special election to fill the vacancy.

(c) An appointee to fill a vacancy in the office of district clerk must qualify and give a bond.

(d) Each district clerk shall be provided with a seal for the district court. The seal must have a five-pointed star and must be engraved with the words "District Court of _____ County, Texas." The seal shall be impressed on all process issued by the court except subpoenas and shall be kept and used by the clerk to authenticate official acts. The seal may be created using an electronic means, including by using an optical disk or another electronic reproduction technique, if the means by which the seal is impressed on an original document created using the same type of electronic means does not allow for changes, additions, or deletions to be made to the document.

(e) The signature of the district clerk may be affixed on an original document using electronic means, provided that the means by which the signature is affixed meets the requirements of Subsection (d) with respect to creating a seal by electronic means.

(f) A seal impressed or a signature affixed by electronic means may be delivered or transmitted electronically.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 25 (S.B. 229), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 25 (S.B. 229), Sec. 2, eff. September 1, 2007.

Sec. 51.302. BOND; OATH; INSURANCE. (a) Except as provided by Subsection (g), before beginning the duties of office, each district clerk must give a bond with two or more sufficient sureties or with a surety company authorized to do business in this state as a surety. The bond must:

(1) be payable to the governor;

(2) be conditioned on the faithful performance of the duties of the office;

(3) be approved by the commissioners court; and

(4) be in an amount equal to not less than 20 percent of the maximum amount of fees collected in any year during the term of office immediately preceding the term of office for which the bond is given, except that the bond may not be in an amount less than $5,000 nor more than $100,000.

(b) The district clerk must take and sign the oath prescribed for officers of this state, which must be endorsed on the bond, if a bond is required, and the bond and oath, or oath, must be filed and recorded in the office of the county clerk.

(c) Each district clerk shall obtain an insurance policy or similar coverage from a governmental pool operating under Chapter 119, Local Government Code, or from a self-insurance fund or risk retention group created by one or more governmental units under Chapter 1084, Acts of the 70th Legislature, Regular Session, 1987 (Article 715c, Vernon's Texas Civil Statutes), to cover the district clerk and any deputy clerk against liabilities incurred through errors or omissions in the performance of official duties. The amount of the policy or other coverage document must be equal to the maximum amount of fees collected in any year during the term of office immediately preceding the term for which the insurance is obtained, except that the amount of the policy or other coverage document must be at least $20,000 but not more than $700,000. If the policy or other coverage document provides coverage for other county officials, the amount of the policy must be at least $1 million.

(d) Each district clerk shall obtain an insurance policy or similar coverage from a governmental pool operating under Chapter 119, Local Government Code, or from a self-insurance fund or risk retention group created by one or more governmental units under Chapter 1084, Acts of the 70th Legislature, Regular Session, 1987 (Article 715c, Vernon's Texas Civil Statutes), to cover losses from burglary, theft, robbery, counterfeit currency, or destruction. The amount of the policy or other coverage document must be at least $20,000 but not more than $700,000.

(e) The commissioners court may establish a contingency fund to provide the coverage required by Subsection (c) or (d) if it is determined by the district clerk that insurance coverage is unavailable at a reasonable cost.

(f) The commissioners court shall pay the premiums on the bonds and insurance policies or other similar coverage required under this section from the county general fund.

(g) In lieu of the bond required by Subsection (a), the county may self-insure against losses that would have been covered by the bond.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 71, Sec. 3, 4, eff. May 7, 1987; Acts 1993, 73rd Leg., ch. 561, Sec. 2, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 1062, Sec. 1, eff. June 18, 1999.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 2.11, eff. January 1, 2022.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 51.303. DUTIES AND POWERS. (a) The clerk of a district court has custody of and shall carefully maintain and arrange the records relating to or lawfully deposited in the clerk's office.

(b) The clerk of a district court shall:

(1) record the acts and proceedings of the court;

(2) enter all judgments of the court under the direction of the judge; and

(3) record all executions issued and the returns on the executions.

(c) The district clerk shall keep an index of the parties to all suits filed in the court. The index must list the parties alphabetically using their full names and must be cross-referenced to the other parties to the suit. In addition, a reference must be made opposite each name to the minutes on which is entered the judgment in the case.

(d) Repealed by Acts 1995, 74th Leg., ch. 641, Sec. 1.05, eff. Sept. 1, 1995.

(e) The clerk of a district court may:

(1) take the depositions of witnesses; and

(2) perform other duties imposed on the clerk by law.

(f) In addition to the other powers and duties of this section, a district clerk shall accept applications for protective orders under Chapter 71, Family Code.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 354, Sec. 1, eff. Aug. 31, 1987; Acts 1989, 71st Leg., ch. 1248, Sec. 35, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 641, Sec. 1.05, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1024, Sec. 20, eff. Sept. 1, 1995.

Sec. 51.3031. ISSUANCE OF UNITED STATES PASSPORTS. (a) A district clerk may perform all duties necessary to process an application for a United States passport, including taking passport photographs and selling money orders to applicants for payment purposes.

(b) To recover the costs of taking passport photographs and selling money orders, a district clerk may collect reasonable fees for the provided services in amounts set by the commissioners court of the county in which the district clerk's office is located.

(c) A district clerk, after collecting a fee under Subsection (b), shall pay the fee to the county treasurer, or to an official who discharges the duties of the county treasurer, for deposit in the general fund of the county.

Added by Acts 1999, 76th Leg., ch. 179, Sec. 1, eff. May 21, 1999. Amended by:

Acts 2023, 88th Leg., R.S., Ch. 37 (S.B. 1730), Sec. 1, eff. September 1, 2023.

Sec. 51.3032. ELECTRONIC DISPLAY OF OFFICIAL AND LEGAL NOTICES BY DISTRICT CLERK. A district clerk may post an official and legal notice by electronic display, instead of posting a physical document, in the manner provided for a county clerk by Section 82.051, Local Government Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 10.11, eff. September 1, 2019.

Sec. 51.304. PRESERVATION OF RECORDS. (a) The district clerk may, pursuant to the clerk's duty to record the acts and proceedings of the court, provide a plan for the storage of records, acts, proceedings, minutes of the court, and registers, records, and

instruments for which the clerk is responsible by law, by microfilm, image processing technology, or other process that correctly and legibly reproduces or that forms a medium for copying or reproducing or by optical data storage. The plan must be in writing and provide for the maintenance, retention, security, retrieval, and reproduction of stored records.

(b) The plan must:

(1) require the recording and filing of original instruments, records, and minutes within a specified time after presentation to the district clerk;

(2) permit the use of original paper records in a proceeding before the court;

(3) provide standards for the organizing, identifying, coding, and indexing of records so a record can be retrieved rapidly and the reproduced record can be certified as a true and correct copy;

(4) provide for the use of materials to reproduce records and, if appropriate to the method by which records are stored, provide for the use of processes relating to the development, fixation, and washing of the photographic duplicates, that are of a quality approved for permanent photographic records by the American National Standards Institute, or another nationally recognized entity that establishes archival standards for mediums used to store data and records; and

(5) provide for the permanent retention of records, including security provisions to guard against physical loss, alteration, and deterioration.

(c) Repealed by Acts 1989, 71st Leg., ch. 1248, Sec. 85(3), eff. Sept. 1, 1989.

(d) A reproduction of a record stored in accordance with the provisions of a plan adopted under this section is an original record and shall be accepted as an original record by the courts and administrative agencies of this state.

(e) A transcript, exemplification, copy, or reproduction on paper or film of a record stored in accordance with the provisions of a plan adopted under this section is a certified copy of the original record.

(f), (g) Repealed by Acts 1989, 71st Leg., ch. 1248, Sec. 85(3), eff. Sept. 1, 1989.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 978, Sec. 1, eff. Aug. 28, 1989.

Sec. 51.306. RECORDING PROCEEDINGS OF MORE THAN ONE COURT. (a) A district clerk who has duties in more than one district court may combine the minutes of the civil business of the courts into one record. The clerk may also combine the minutes of the criminal business of the courts into a separate record.

(b) The clerk shall enter the minutes into the appropriate record sequentially, regardless of the district court from which the business originates.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.307. TRANSFERRED JUDGMENTS. If a district clerk receives a certified copy of a judgment rendered in a county court in which jurisdiction has been transferred to the district court, the district clerk shall immediately record the judgment in the minutes of the district court. The district court shall enforce the judgment in the same manner as judgments rendered in the district court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.3071. TRANSFER OF CASES. (a) If a case is transferred from a district court to a constitutional or statutory county court or another district court, the clerk of the transferring court shall send to the clerk of the court to which the case is transferred, using the electronic filing system established under Section 72.031:

(1) a transfer certificate and index of transferred documents;

(2) a copy of the original papers filed in the transferring court;

(3) a copy of the order of transfer signed by the transferring court;

(4) a copy of each final order;

(5) a copy of the transfer certificate and index of transferred documents from each previous transfer; and

(6) a bill of any costs that have accrued in the

transferring court.

(b) The clerk of the transferring court shall use the standardized transfer certificate and index of transferred documents form created by the Office of Court Administration of the Texas Judicial System under Section 72.037 when transferring a case under this section.

(c) The clerk of the transferee court shall accept documents transferred under Subsection (a) and docket the case.

(d) The clerk of the transferee court shall physically or electronically mark or stamp the transfer certificate and index of transferred documents to evidence the date and time of acceptance under Subsection (c), but may not physically or electronically mark or stamp any other document transferred under Subsection (a).

(e) Sections 80.001 and 80.002 do not apply to the transfer of documents under this section.

(f) The clerks of both the transferee and transferring courts may each produce, under this chapter, certified or uncertified copies of documents transferred under Subsection (a) and must include a copy of the transfer certificate and index of transferred documents with each document produced.

(g) This section applies regardless of whether the transferee court and the transferring court are in the same or different counties.

Added by Acts 2015, 84th Leg., R.S., Ch. 629 (S.B. 1341), Sec. 1, eff. June 16, 2015.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 7.02, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. 1612), Sec. 12, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 11.008, eff. September 1, 2023.

Sec. 51.308. CLERK PRO TEMPORE. If a district clerk is a party to an action in a court he serves, the district judge, on the application of any interested person or on the judge's own motion, may appoint a clerk pro tempore for the purposes of the action. The clerk pro tempore must take an oath to faithfully and impartially

perform the duties of the appointment and must give a bond, payable to the State of Texas, conditioned on the faithful performance of those duties, in an amount fixed and approved by the judge. The clerk pro tempore shall perform the duties of the district clerk relating to the action during the period of the appointment.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.309. DEPUTY CLERKS AND OTHER EMPLOYEES. (a) The district clerk may appoint deputy clerks. Each appointment must be in writing under the hand and seal of the district court and must be recorded in the office of the county clerk. A deputy clerk must take the oath prescribed for officers of this state. A deputy clerk may perform in the name of the district clerk all official acts of the office of district clerk.

(b) Except as provided by Subsection (c), the district clerk shall obtain one or more surety bonds in accordance with this section to cover each deputy clerk or other employee. The district clerk shall obtain:

(1) an individual bond for each deputy clerk and other employee in an amount for each bond that is equal to the district clerk's bond; or

(2) a schedule surety bond or a blanket surety bond to cover all deputy clerks and all other employees in a total amount that is equal to the district clerk's bond.

(b-1) A deputy clerk and an employee must be covered by a surety bond on the same conditions as the district clerk. A bond covering a deputy clerk or other employee shall be made payable to the governor for the use and benefit of the district clerk.

(c) In lieu of the bond required by Subsection (b), the county may self-insure against losses that would have been covered by the bond.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 71, Sec. 5, 6, eff. May 7, 1987; Acts 1993, 73rd Leg., ch. 199, Sec. 2, eff. May 19, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 179 (H.B. 1494), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 179 (H.B. 1494), Sec. 2, eff.

September 1, 2019.

Sec. 51.310. DEPUTY DISTRICT CLERKS OF BEXAR COUNTY. (a) The district clerk of Bexar County shall appoint one or more deputy clerks to serve each district court in Bexar County. Persons appointed deputy clerk must be acceptable to the judges. An appointment of a clerk to serve a particular court must be confirmed in writing by the judge of that court. Before assuming the duties of office, a deputy clerk must take the oath prescribed for officers of this state.

(b) The district clerk may require a deputy clerk to give a bond. The district clerk may prescribe the conditions and amount of the bond, or those terms may be set as otherwise provided by law.

(c) The deputy clerk shall perform the official duties of the district clerk and shall attend each session of the court to which the deputy is appointed. The deputy clerk shall also perform services requested by a judge.

(d) The deputy clerks may act for each other in any matter pertaining to the clerical business of the courts or when requested to do so by a judge or the district clerk. A deputy clerk acting for another deputy clerk may not receive additional compensation.

(e) A deputy clerk serves at the pleasure of the judge of the court the deputy serves. If the office of a deputy clerk becomes vacant, the district clerk shall appoint another deputy clerk in the manner provided for initial appointments.

(f) The district clerk shall fix the annual salary of the deputy clerk of each court. The salary must be approved by the commissioners court and shall be paid in equal installments twice monthly from the county fund established for the purpose.

(g) This section does not prevent the district clerk from appointing additional deputy clerks to any of the courts if necessary or if requested by the judge of one of the courts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.311. SPECIAL DEPUTY DISTRICT CLERK IN LUBBOCK AND NUECES COUNTIES. (a) In Lubbock and Nueces counties, the district clerk shall appoint, at the request of a district judge, a special

deputy district clerk to serve that judge's court.

(b) The salary of a special deputy clerk appointed under this section shall be paid out of the general fund of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.312. SPECIAL DEPUTY DISTRICT CLERK IN DALLAS, EL PASO, HARRIS, TARRANT, AND TRAVIS COUNTIES. (a) In Dallas, El Paso, Harris, Tarrant, and Travis counties, the district clerk may appoint, at the request of a district judge, a special deputy district clerk to serve that judge's court.

(b) The salary of a special deputy clerk appointed under this section shall be paid out of the general fund of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.313. SPECIAL DEPUTY DISTRICT CLERK IN COLLIN AND DENTON COUNTIES. (a) In Collin and Denton counties, the district clerk may appoint, at the request of a district judge, a special deputy district clerk to serve that judge's court.

(b) The salary of a special deputy clerk appointed under this section shall be paid out of the general fund of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.314. SPECIAL DEPUTY DISTRICT CLERK IN GALVESTON COUNTY. The Commissioners Court of Galveston County may pay for the services of a special deputy district clerk if the commissioners court considers a deputy clerk necessary. The clerk of the court in which the deputy clerk serves shall appoint the deputy clerk.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.315. SPECIAL DEPUTY DISTRICT CLERKS FOR CERTAIN COURTS IN HARRIS COUNTY. (a) The Commissioners Court of Harris County may pay the salary of the special deputy district clerks that it considers necessary for the 177th, 178th, 179th, and 180th district

courts.

(b) The clerk of the court shall appoint a deputy district clerk under this section.

(c) A deputy district clerk serves at the will of the appointing clerk.

(d) A deputy district clerk is entitled to a salary from the county paid monthly from the general funds of the county. The salary may not exceed the compensation allowed by law to other deputy district clerks.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.316. DEPUTY CLERK AND ASSISTANT IN HIDALGO, JEFFERSON, AND NUECES COUNTIES. (a) In Hidalgo, Jefferson, and Nueces counties, the district clerk may apply in writing to the district judges in the county to appoint a deputy district clerk or an assistant. The application must state the number of deputies or assistants to be appointed and the probable receipts and disbursements of the office. If a majority of the judges approve the appointment, they shall certify the list to the commissioners court. The application and the order approving the application must be recorded in the minutes of the district court.

(b) A deputy clerk or assistant appointed under this section shall perform the duties required by the district clerk and serves at the pleasure of the district clerk. A deputy clerk or assistant may not be employed except as provided by this section.

(c) An assistant appointed under this section must take the oath prescribed for officers of this state.

(d) The salary of an assistant appointed under this section shall be paid out of the general fund or the officers' salary fund of the county. The salary of a court clerk, index clerk, or clerk handling the jury shall be paid out of the general fund or the jury fund.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.318. FEES DUE WHEN SERVICE PERFORMED OR REQUESTED. (a) The district clerk shall collect at the time the service is performed or at the time the service is requested the fees provided by

Subsection (b) for services performed by the clerk.

(b) The fees are:

(1) for issuing a subpoena, including one copy $8;

(2) for issuing a citation, commission for deposition, writ of execution, order of sale, writ of execution and order of sale, writ of injunction, writ of garnishment, writ of attachment, or writ of sequestration, or any other writ or process not otherwise provided for, including one copy if required by law $8;

(3) for searching files or records to locate a cause when the docket number is not provided or to ascertain the existence of an instrument or record in the district clerk's office $5;

(4) for abstracting a judgment $8;

(5) for preparation of the clerk's record on appeal, for each page or part of a page $1;

(6) for approving a bond $5;

(7) for a certified copy of a record, judgment, order, pleading, or paper on file or of record in the district clerk's office:

(A) including certificate and seal $5; and

(B) for each page or part of a page:

(i) printed on paper $1;

(ii) that is a paper document converted to electronic format $1; or

(iii) that is an electronic copy of an electronic document:

(a) for a document up to 10 pages in length $1; and

(b) for each page or part of a page over 10 pages $0.10;

(8) for a noncertified copy:

(A) printed on paper, for each page or part of a page $1;

(B) that is a paper document converted to electronic format, for each page or part of a page $1; or

(C) that is an electronic copy of an electronic document:

(i) for each document up to 10 pages in length $1; and

(ii) for each page or part of a page over 10 pages $0.10;

(9) for preparation of the clerk's record of transfer under Sections 33.105 and 1023.006, Estates Code, Section 155.207, Family Code, and Sections 51.3071 and 51.403 of this code:

(A) for the clerk's transfer certificate and index $5;

(B) for each page or part of a page of a case record up to 10 pages in length $1.00; and

(C) for each page or part of a page of a case record over 10 pages $0.10.

(c) The fee is the obligation of the party to the suit or action initiating the request.

(d) The district clerk may accept a bond as security for a fee imposed under this section.

(e) The district clerk may not charge a fee for a copy of any document on file or of record in the clerk's office relating to an individual's criminal history, regardless of whether the document is certified, to:

(1) United States Immigration and Customs Enforcement;

(2) United States Citizenship and Immigration Services; or

(3) a criminal justice agency that requests the document for a criminal justice purpose, including a request to determine an individual's eligibility to purchase a firearm.

(f) In this section, "criminal justice agency" and "criminal justice purpose" have the meanings assigned by Section 411.082.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 186, Sec. 2, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 465, Sec. 1, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 641, Sec. 1.02, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 976, Sec. 2, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 237 (H.B. 627), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 11, eff. June 17, 2011.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 2.12, eff. January 1, 2022.

Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. 1612), Sec. 13, eff. January 1, 2024.

Acts 2023, 88th Leg., R.S., Ch. 323 (H.B. 1989), Sec. 1, eff. September 1, 2023.

Sec. 51.319. OTHER FEES. The district clerk shall collect the following fees for services performed by the clerk:

(1) for performing services related to the matter of the estate of a deceased person or a minor transacted in the district court, the same fees allowed the county clerk for those services;

(2) for serving process by certified or registered mail, the same fee that sheriffs and constables are authorized to charge for the service under Section 118.131, Local Government Code;

(3) for performing any other service prescribed or authorized by law for which no fee is set by law, a reasonable fee; and

(4) for performing services related to a matter filed in a statutory county court, the same fees allowed the district clerk for those services in the district court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 641, Sec. 1.03, eff. Sept. 1, 1995. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 654 (H.B. 2182), Sec. 4, eff. September 1, 2015.

Sec. 51.3195. COPIES OF COURT RECORDS PRESERVED ONLY ON MICROFILM OR BY ELECTRONIC METHOD. (a) On the written request of a party in an action, the district clerk shall provide the court with a copy of a motion, order, or other pleading in the action that is preserved only on microfilm or by other electronic means. The request must specify the document sought and the approximate date that the document was filed.

(b) The district clerk may not charge a fee for a copy made under this section.

Added by Acts 1999, 76th Leg., ch. 1356, Sec. 2, eff. Sept. 1, 1999.

Sec. 51.320. BILL FOR SERVICES. A fee under this subchapter is not payable until the district clerk produces, or is ready to produce, a bill for services that contains the particulars of the fee charged before payment of the fee is required. The bill must be

signed by the clerk or the clerk's successor in office or legal representative who charges the fee or to whom the fee is due.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.322. REMOVAL. A court rendering a judgment removing a district clerk under Article V, Section 9, of the Texas Constitution shall include in the judgment an order removing the clerk.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.28(a), eff. Aug. 28, 1989.

SUBCHAPTER E. COUNTY CLERKS

Sec. 51.401. CLERK PRO TEMPORE. If a county clerk is a party to an action in the court he serves, the county judge, on the application of any interested person or on the judge's own motion, shall appoint a clerk pro tempore for the purposes of the action. The clerk pro tempore must take an oath to faithfully and impartially perform the duties of the appointment and must give a bond conditioned on the faithful performance of those duties in an amount fixed and approved by the judge. The bond must be payable to the State of Texas. A clerk pro tempore shall perform the duties of the clerk during the period of the appointment.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.402. DUTIES AND POWERS. (a) The clerk of a county court may:

(1) issue marriage licenses; and

(2) take affidavits and depositions.

(b) On the last day of each term of the court, the clerk shall make a written statement of fines and jury fees received since the last statement. The statement must include the name of the party from whom a fine or jury fee was received, the name of each juror who served during the term, the number of days served, and the amount due the juror for the services. The statement shall be recorded in the minutes of the court after it is approved and signed by the presiding judge.

(c) The clerk shall deposit fines and jury fees received by the clerk in the county treasury for the use of the county.

(d) In addition to the other powers and duties of this section, a county clerk that serves as the clerk for a court having jurisdiction of applications for protective orders under Chapter 71, Family Code, shall accept those applications.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 1024, Sec. 21, eff. Sept. 1, 1995.

Sec. 51.403. TRANSFER OF CASES. (a) If a case is transferred from a county court to a district court or a statutory county court or a county court of another county, the clerk of the transferring court shall send to the clerk of the court to which the case is transferred, using the electronic filing system established under Section 72.031:

(1) a transfer certificate and index of transferred documents;

(2) a copy of the original papers filed in the transferring court;

(3) a copy of the order of transfer signed by the transferring court;

(4) a copy of each final order;

(5) a copy of the transfer certificate and index of transferred documents from each previous transfer; and

(6) a bill of any costs that have accrued in the transferring court.

(a-1) The clerk of the transferring court shall use the standardized transfer certificate and index of transferred documents form created by the Office of Court Administration of the Texas Judicial System under Section 72.037 when transferring a case under this section.

(a-2) The clerk of the transferee court shall accept documents transferred under Subsection (a) and docket the case.

(a-3) The clerk of the transferee court shall physically or electronically mark or stamp the transfer certificate and index of transferred documents to evidence the date and time of acceptance under Subsection (a-2), but may not physically or electronically mark or stamp any other document transferred under Subsection (a).

(b) If civil or criminal jurisdiction of a county court is transferred to a district court, the clerk of the county court shall send using the electronic filing system established under Section 72.031 a certified copy of the judgments rendered in the county court that remain unsatisfied to the district clerks of the appropriate counties.

(c) Sections 80.001 and 80.002 do not apply to the transfer of documents under this section.

(d) The clerks of both the transferee and transferring courts may each produce, under this chapter, certified or uncertified copies of documents transferred under Subsection (a) and must include a copy of the transfer certificate and index of transferred documents with each document produced.

(e) This section applies regardless of whether the transferee court and the transferring court are in the same or different counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 629 (S.B. 1341), Sec. 2, eff. June 16, 2015.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 7.03, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. 1612), Sec. 14, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 11.009, eff. September 1, 2023.

Sec. 51.404. SPECIAL DEPUTY COUNTY CLERK IN GALVESTON COUNTY. The Commissioners Court of Galveston County may pay for the services of a special deputy district county clerk if the commissioners court considers a deputy clerk necessary. The clerk of the court in which the deputy clerk serves shall appoint the deputy clerk.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER F. JOINT CLERKS

Sec. 51.501. JOINT CLERKS. (a) Except as otherwise provided by this section, a county with a population of less than 8,000 shall

elect a single clerk to perform the duties of the district clerk and the county clerk.

(b) The offices of county clerk and district clerk may remain separate if a majority of the qualified voters in the county vote to keep the offices separate at an election held for that purpose. The commissioners court of the county may hold a special election for that purpose on a uniform election date authorized by law that occurs not later than the 30th day before the date of the regular primary election that precedes the expiration of the constitutional term of office for the clerk. Notice of the special election shall be published in a newspaper of general circulation in the county not later than the 20th day before the date scheduled for the election. The question may be presented to the voters again immediately before the expiration of each subsequent constitutional term of office of the separate clerk. The special election may not prevent a county clerk, district clerk, or joint clerk from serving the full term of office to which the clerk was elected.

(c) The commissioners court of a county that has a population of 5,415 to 5,515 shall determine whether the county shall have a joint clerk but may not take action to prevent a district clerk, county clerk, or joint clerk from serving the full term of office to which the clerk was elected.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 69, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 17, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 18, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 36, eff. September 1, 2023.

Sec. 51.502. SEAL. A joint clerk performing the duties of the district clerk and the county clerk shall use the district court seal to authenticate official acts for the district court and the county court seal to authenticate official acts for the county court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER G. MISCELLANEOUS PROVISIONS

Sec. 51.601. COURT REPORTER SERVICE FUND. (a) The commissioners court of the county shall administer the court reporter service fund to assist in the payment of court-reporter-related services, that may include maintaining an adequate number of court reporters to provide services to the courts, obtaining court reporter transcription services, closed-caption transcription machines, Braille transcription services, or other transcription services, including a court reporter's preparation of an appellate record under the Texas Rules of Appellate Procedure and Rule 145, Texas Rules of Civil Procedure, to comply with state or federal laws, or providing any other service related to the functions of a court reporter.

(b) The commissioners court shall, in administering the court reporter service fund, assist any court in which a case is filed that requires the payment of the court reporter service fee.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 1080, Sec. 6, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 144, Sec. 2, eff. Aug. 28, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1047 (H.B. 4529), Sec. 1, eff. June 19, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1175 (H.B. 3361), Sec. 1, eff. June 14, 2019.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 5.01(c)(7), eff. January 1, 2022.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 10.004, eff. September 1, 2023.

Sec. 51.602. COMPENSATION OF CERTAIN CLERKS. The salaries of the clerks of the supreme court, the court of criminal appeals, and the courts of appeals are determined by the legislature in the acts appropriating funds for the support of the judiciary. The legislature shall also fix the amount of supplemental salaries paid to those clerks from court fees and receipts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 51.605. CONTINUING EDUCATION. (a) In this section, the

word "clerk" includes a county clerk, district clerk, or county and district clerk.

(b) A clerk shall complete 20 hours of instruction regarding the performance of the clerk's duties of office before the first anniversary of the date the clerk assumes those duties.

(c) After the first anniversary of the date a clerk assumes the duties of office, the clerk must each calendar year complete 20 hours of continuing education courses.

(d) A clerk may carry over from the current calendar year to the following calendar year not more than 10 hours of completed continuing education courses that exceed the number of hours of completed continuing education courses required under Subsection (c).

(e) As part of the 20 hours of initial instruction and of continuing education courses prescribed under this section, a district clerk must complete one hour of instruction on impaneling petit and grand juries.

Added by Acts 1987, 70th Leg., ch. 345, Sec. 1, eff. Jan. 1, 1988. Renumbered from Sec. 51.604 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(23), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 189, Sec. 13, eff. May 21, 1997; Acts 1997, 75th Leg., ch. 505, Sec. 23, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 976, Sec. 4, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 154, Sec. 1, eff. Jan. 1, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1022 (H.B. 2717), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 710 (H.B. 3314), Sec. 1, eff. June 14, 2013.

Acts 2021, 87th Leg., R.S., Ch. 25 (H.B. 1831), Sec. 1, eff. May 15, 2021.

Acts 2023, 88th Leg., R.S., Ch. 476 (H.B. 616), Sec. 1, eff. September 1, 2023.

Sec. 51.606. PROHIBITED FEES. A clerk is not entitled to a fee for:

(1) the examination of a paper or record in the clerk's office;

(2) filing any process or document the clerk issues that is

returned to court;

(3) a motion or judgment on a motion for security for costs; or

(4) taking or approving a bond for costs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 10, eff. Sept. 1, 1993.

Sec. 51.607. IMPLEMENTATION OF NEW OR AMENDED COURT COSTS AND FEES. (a) Following each regular session of the legislature, the Office of Court Administration of the Texas Judicial System shall identify each law enacted by that legislature, other than a law disapproved by the governor, that imposes or changes the amount of a court cost or fee collected by the clerk of a district, county, statutory county, municipal, or justice court from a party to a civil case or a defendant in a criminal case, including a filing or docketing fee, jury fee, cost on conviction, or fee or charge for services or to cover the expenses of a public official or agency. This subsection does not apply to attorney's fees, civil or criminal fines or penalties, or amounts charged, paid, or collected on behalf of another party to a proceeding other than the state in a criminal case, including restitution or damages.

(b) The Office of Court Administration of the Texas Judicial System shall prepare a list of each court cost or fee covered by Subsection (a) to be imposed or changed and shall publish the list in the Texas Register not later than August 1 after the end of the regular session of the legislature at which the law imposing or changing the amount of the cost or fee was enacted. The office shall include with the list a statement describing the operation of this section and stating the date the imposition or change in the amount of the court cost or fee will take effect under Subsection (c).

(c) Except as provided by Subsection (d) and notwithstanding the effective date of the law imposing or changing the amount of a court cost or fee included on the list, the imposition or change in the amount of the court cost or fee does not take effect until the next January 1 after the law takes effect.

(d) Subsection (c) does not apply to a court cost or fee if the law imposing or changing the amount of the cost or fee takes effect on or after the January 1 following the regular session of the legislature at which the law was enacted.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 81(a), eff. Sept. 1, 2003 and Acts 2003, 78th Leg., ch. 823, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 417 (S.B. 390), Sec. 1, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 9.02(a), eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 2.14, eff. January 1, 2022.

Acts 2021, 87th Leg., R.S., Ch. 919 (S.B. 1923), Sec. 6, eff. September 1, 2021.

Sec. 51.608. IMPOSITION OF COURT COSTS IN CRIMINAL PROCEEDINGS. Notwithstanding any other law that establishes the amount of a court cost collected by the clerk of a district, county, or statutory county court from a defendant in a criminal proceeding based on the law in effect on the date the offense was committed, the amount of a court cost imposed on the defendant in a criminal proceeding must be the amount established under the law in effect on the date the defendant is convicted of the offense.

Added by Acts 2013, 83rd Leg., R.S., Ch. 744 (S.B. 389), Sec. 1, eff. June 14, 2013.

Sec. 51.609. IMMUNITY FROM LIABILITY FOR DISCLOSURE OR RELEASE OF COURT DOCUMENTS. (a) In this section:

(1) "Court clerk" means the clerk of the supreme court or the court of criminal appeals or the clerk of a court of appeals district court, county court, statutory county court, statutory probate court, justice court, or municipal court.

(2) "State court document database" means a database accessible by the public and established or authorized by the supreme court for storing documents filed with a court in this state.

(b) A court clerk is not responsible for the management or removal of a document from a state court document database and is not liable for damages resulting from the release of a document in the database if the clerk in good faith performs the duties as clerk as provided by law and the Texas Rules of Civil Procedure.

(c) If a court clerk in good faith performs the duties as a clerk as provided by law and the Texas Rules of Civil Procedure, the clerk, the county in which the court is located, and the commissioners court of the county in which the court is located are immune from suit and from liability for the release or disclosure of information that is confidential or otherwise prohibited from disclosure by law, rule, or court order and that is accessed from a state court document database.

(d) A court clerk is not liable for the release of a sealed or confidential document in the clerk's custody unless the clerk acted intentionally, or with malice, reckless disregard, or gross negligence in the release of the document.

Added by Acts 2019, 86th Leg., R.S., Ch. 1040 (H.B. 685), Sec. 1, eff. June 14, 2019.

Sec. 51.610. UNCOLLECTIBLE FEES. (a) The clerk may request the court in which a court cost or fee was imposed on a party in a civil case to make a finding that the cost or fee is uncollectible if the cost or fee has been unpaid for at least 15 years.

(b) On a finding by a court that a court cost or fee imposed on a party in a civil case is uncollectible, the court may order the clerk to designate the cost or fee as uncollectible in the fee record. The clerk shall attach a copy of the court's order to the fee record.

(c) This section does not apply to a court cost or fee imposed by the supreme court, the court of criminal appeals, or a court of appeals.

Added by Acts 2019, 86th Leg., R.S., Ch. 121 (H.B. 435), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 51.609 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(11), eff. September 1, 2021.

SUBCHAPTER I. ELECTRONIC FILING OF CERTAIN DOCUMENTS

Sec. 51.801. DEFINITION. In this subchapter, "electronic filing of documents" means the filing of data transmitted to a district or county clerk or a clerk of a court of appeals by the

communication of information, displayed originally in written form, in the form of digital electronic signals transformed by computer and stored on microfilm, magnetic tape, optical disks, or any other medium.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.67(a), eff. Sept. 1, 1987.

Sec. 51.802. PLACE OF FILING. The place of filing is the receiving station designated by the district or county clerk or the clerk of the court of appeals to which electronic information is transmitted.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.67(a), eff. Sept. 1, 1987.

Sec. 51.803. SUPREME COURT REGULATION AND APPROVAL. (a) The supreme court shall adopt rules and procedures to regulate the use of electronic copying devices for filing in the courts.

(b) An instrument may only be filed as provided by this subchapter if the district, county, or court of appeals has established a system for receiving electronically transmitted information from an electronic copying device, and the system has been approved by the supreme court. A district or county clerk or clerk of a court of appeals who believes there is justification for use of an electronic filing system in the clerk's office must request approval of the system from the supreme court. The supreme court shall approve or disapprove the system and may withdraw approval any time the system does not meet its requirements.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.67(a), eff. Sept. 1, 1987.

Sec. 51.804. COMPLETION OF ELECTRONIC FILING. To complete an electronic filing:

(1) the person filing an instrument with the district or county clerk or the clerk of a court of appeals must transmit the instrument electronically;

(2) the receiving station must transmit acknowledgment to the sending party by encoding electronic receipt of the transmission;

(3) the sending station must encode validation of the encoded receipt as correct; and

(4) the receiving station must respond by encoded transcription into the computer system that validation has occurred and that the electronic transmission has been completed.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.67(a), eff. Sept. 1, 1987.

Sec. 51.805. TRANSMISSION OR DISTRIBUTION OF DATA. (a) A receiving station, on completion of an electronic filing, shall:

(1) transmit data to the appropriate court as required; and

(2) distribute data as required by statute or rule.

(b) Data must be distributed or transmitted from or through the medium of direct computer transmission, microfilm, magnetic tape, or optical disks, or any other medium approved by the supreme court.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.67(a), eff. Sept. 1, 1987.

Sec. 51.806. SIGNATURE ON ORIGINAL. (a) If the supreme court determines that each document filed by electronic transmission must be signed in the original, that requirement is satisfied if the sending station at the point of origin maintains a hard copy with the original signature affixed that, on order of the court, shall be filed in original hard copy medium. The electronic transmission of the data to be filed must bear a facsimile or printing of the required signature. The signature may be represented in numerical form. The electronically reproduced document must bear a copy of the signature or its representation in numerical form.

(b) The electronically reproduced document shall be accepted as the signature document for all court-related purposes unless the hard copy with the original signature affixed is requested by one or more parties to a suit or other agent required by statute, law, or other legal requirement. A request under this subsection must be made in the form of a motion to the court. If the court grants the motion,

the court shall order that the original be filed with the court.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.67(a), eff. Sept. 1, 1987.

Sec. 51.807. LOCAL RULES. (a) The courts of a county may adopt local rules that govern the transmission and receipt of documents or reports stored or created in digital electronic or facsimile form and that provide for recognition of those documents as the original record for file or for evidentiary purposes.

(b) The rules shall be submitted to the supreme court for review and adoption as a part of the overall plan or procedure for the electronic filing of documents.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.67(a), eff. Sept. 1, 1987.

Sec. 51.808. NOTICE OF SELF-HELP RESOURCES. (a) The clerk of each court in this state shall:

(1) post on the court's Internet website, if any, a link to:

(A) the self-help resources Internet website designated by the Office of Court Administration of the Texas Judicial System, in consultation with the Texas Access to Justice Commission, that includes information on:

(i) lawyer referral services certified under Chapter 952, Occupations Code;

(ii) the name, location, and any Internet website of any local legal aid office; and

(iii) any court-affiliated self-help center serving the county in which the court is located; and

(B) the State Law Library's Internet website; and

(2) conspicuously display in the clerk's office in a location frequently accessed by the public a sign with the information described in Subdivision (1).

(b) The Office of Court Administration of the Texas Judicial System shall prescribe the format for the information required under Subsection (a).

Added by Acts 2017, 85th Leg., R.S., Ch. 760 (S.B. 1911), Sec. 1, eff. September 1, 2017.

SUBCHAPTER I-1. ELECTRONIC FILING FEE

Sec. 51.851. ELECTRONIC FILING FEE.

(a) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Section 1.19(11), eff. January 1, 2020.

(b) In addition to other fees authorized or required by law, the clerk of the supreme court or a court of appeals shall collect a $30 fee on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee to be used as provided by Section 51.852.

(c) Repealed by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 5.01(c)(12), eff. January 1, 2022.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Section 1.19(11), eff. January 1, 2020.

(e) A court may waive payment of a fee due under this section for an individual the court determines is indigent.

(f) Fees due under this section shall be collected in the same manner as other fees, fines, or costs in the case.

(g) Repealed by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 5.01(c)(12), eff. January 1, 2022.

(h) The clerk of the supreme court or of a court of appeals shall remit the fees collected under this section to the comptroller.

(i) The comptroller shall deposit the fees received under this section to the credit of the statewide electronic filing system fund established under Section 51.852.

(j) Repealed by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 5.01(c)(12), eff. January 1, 2022.

(k) Money spent from fees collected under this section is subject to audit by the state auditor.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1290 (H.B. 2302), Sec. 2, eff. September 1, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 4.01, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.15, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.19(11), eff. January 1, 2020.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 2.15, eff. January 1, 2022.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 5.01(c)(12), eff. January 1, 2022.

Sec. 51.852. STATEWIDE ELECTRONIC FILING SYSTEM FUND. (a) The statewide electronic filing system fund is an account in the general revenue fund.

(b) Money in the statewide electronic filing system fund may only be appropriated to the Office of Court Administration of the Texas Judicial System and used to:

(1) support a statewide electronic filing technology project for courts in this state;

(2) provide grants to counties to implement components of the project; or

(3) support court technology projects that have a statewide impact as determined by the office of court administration.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1290 (H.B. 2302), Sec. 2, eff. September 1, 2013.

SUBCHAPTER J. CERTAIN FRAUDULENT RECORDS OR DOCUMENTS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 647 and S.B. 1734, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 51.901. FRAUDULENT DOCUMENT OR INSTRUMENT. (a) If a clerk of the supreme court, clerk of the court of criminal appeals, clerk of a court of appeals, district clerk, county clerk, district and county clerk, or municipal clerk has a reasonable basis to believe in good faith that a document or instrument previously filed or recorded or offered or submitted for filing or for filing and recording is fraudulent, the clerk shall:

(1) if the document is a purported judgment or other

document purporting to memorialize or evidence an act, an order, a directive, or process of a purported court, provide written notice of the filing, recording, or submission for filing or for filing and recording to the stated or last known address of the person against whom the purported judgment, act, order, directive, or process is rendered; or

(2) if the document or instrument purports to create a lien or assert a claim on real or personal property or an interest in real or personal property, provide written notice of the filing, recording, or submission for filing or for filing and recording to the stated or last known address of the person named in the document or instrument as the obligor or debtor and to any person named as owning any interest in the real or personal property described in the document or instrument.

(b) A clerk shall provide written notice under Subsection (a):

(1) not later than the second business day after the date that the document or instrument is offered or submitted for filing or for filing and recording; or

(2) if the document or instrument has been previously filed or recorded, not later than the second business day after the date that the clerk becomes aware that the document or instrument may be fraudulent.

(c) For purposes of this section, a document or instrument is presumed to be fraudulent if:

(1) the document is a purported judgment or other document purporting to memorialize or evidence an act, an order, a directive, or process of:

(A) a purported court or a purported judicial entity not expressly created or established under the constitution or the laws of this state or of the United States; or

(B) a purported judicial officer of a purported court or purported judicial entity described by Paragraph (A);

(2) the document or instrument purports to create a lien or assert a claim against real or personal property or an interest in real or personal property and:

(A) is not a document or instrument provided for by the constitution or laws of this state or of the United States;

(B) is not created by implied or express consent or agreement of the obligor, debtor, or the owner of the real or personal property or an interest in the real or personal property, if

required under the laws of this state, or by implied or express consent or agreement of an agent, fiduciary, or other representative of that person; or

(C) is not an equitable, constructive, or other lien imposed by a court with jurisdiction created or established under the constitution or laws of this state or of the United States; or

(3) the document or instrument purports to create a lien or assert a claim against real or personal property or an interest in real or personal property and the document or instrument is filed by an inmate or on behalf of an inmate.

(d) If a county clerk believes in good faith that a document filed with the county clerk to create a lien is fraudulent, the clerk shall:

(1) request the assistance of the county or district attorney to determine whether the document is fraudulent before filing or recording the document;

(2) request that the prospective filer provide to the county clerk additional documentation supporting the existence of the lien, such as a contract or other document that contains the alleged debtor or obligor's signature; and

(3) forward any additional documentation received to the county or district attorney.

(e) A presumption under Subsection (c)(3) may be rebutted by providing the filing officer in the filing office in which the document is filed or recorded the original or a copy of a sworn and notarized document signed by the obligor, debtor, or owner of the property designated as collateral stating that the person entered into a security agreement with the inmate and authorized the filing of the financing statement as provided by Section 9.509, Business & Commerce Code.

(f) In this section:

(1) "Inmate" means a person housed in a secure correctional facility.

(2) "Secure correctional facility" has the meaning assigned by Section 1.07, Penal Code.

Added by Acts 1997, 75th Leg., ch. 189, Sec. 14, eff. May 21, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 407 (S.B. 1589), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 895 (H.B. 2566), Sec. 3, eff. September 1, 2007.

Sec. 51.902. ACTION ON FRAUDULENT JUDGMENT LIEN. (a) A person against whom a purported judgment was rendered who has reason to believe that a document previously filed or recorded or submitted for filing or for filing and recording is fraudulent may complete and file with the district clerk a motion, verified by affidavit by a completed form for ordinary certificate of acknowledgment, of the same type described by Section 121.007, Civil Practice and Remedies Code, that contains, at a minimum, the information in the following suggested form:

	MISC. DOCKET NO. _____
In Re: A Purported	In the _____ Judicial District
Judgment Lien Against	In and For _____
(Name of Purported Debtor)	County, Texas

Motion for Judicial Review of a Documentation Purporting to Create a Judgment Lien

Now Comes (name) and files this motion requesting a judicial determination of the status of a court, judicial entity, or judicial officer purporting to have taken an action that is the basis of a judgment lien filed in the office of said clerk, and in support of the motion would show the court as follows:

I.

(Name), movant herein, is the person against whom the purported judgment was rendered.

II.

On (date), in the exercise of the county clerk's official duties as County Clerk of (county name) County, Texas, the county clerk received and filed or filed and recorded the documentation attached hereto and containing (number) pages. Said documentation purports to have been rendered on the basis of a judgment, act, order, directive, or process of a court, judicial entity, or judicial officer called therein "(name of purported court, judicial entity, or judicial officer)" against one (name of purported debtor).

III.

Movant alleges that the purported court, judicial entity, or judicial officer referred to in the attached documentation is one described in Section 51.901(c)(1), Government Code, as not legally created or established under the constitution or laws of this state or of the United States, and that the documentation should therefore not be accorded lien status.

IV.

Movant further attests that the assertions contained herein are true and correct.

PRAYER

Movant requests the court to review the attached documentation and enter an order determining whether it should be accorded lien status, together with such other orders as the court deems appropriate.

Respectfully submitted,

_____

(Signature and typed name and address)

(b) The completed form for ordinary certificate of acknowledgment, of the same type described by Section 121.007, Civil Practice and Remedies Code, must be as follows:

AFFIDAVIT

THE STATE OF TEXAS
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who, being by me duly sworn, deposed as follows:

"My name is _____. I am over 21 years of age, of sound mind, with personal knowledge of the following facts, and fully competent to testify.

I further attest that the assertions contained in the accompanying motion are true and correct."

Further affiant sayeth not.

_____

SUBSCRIBED and SWORN TO before me, this _____ day of _____, _____.

_____

NOTARY PUBLIC, State of Texas
Notary's printed name:

_____

My commission expires:

_____

(c) A motion filed under this section may be ruled on by a district judge having jurisdiction over real property matters in the county where the subject documentation was filed. The court's finding may be made solely on a review of the documentation attached to the movant's motion and without hearing any testimonial evidence. The court's review may be made ex parte without delay or notice of any kind. The court's ruling on the motion, in the nature of a finding of fact and a conclusion of law, is unappealable if it is substantially similar to the form suggested in Subsection (g).

(d) The district clerk may not collect a filing fee for filing a motion under this section.

(e) After reviewing the documentation attached to a motion under this section, the district judge shall enter an appropriate finding of fact and conclusion of law, which must be filed and indexed in the same class of records in which the subject documentation or instrument was originally filed.

(f) The county clerk may not collect a filing fee for filing a district judge's finding of fact and conclusion of law under this section.

(g) A suggested form order appropriate to comply with this section is as follows:

	MISC. DOCKET NO. _____
In Re: A Purported	In the _____ Judicial District
Judgment Lien Against	In and For _____
(Name of Purported Debtor)	County, Texas

Judicial Finding of Fact and Conclusion of Law Regarding a Documentation Purporting to Create a Judgment Lien

On the (number) day of (month), (year), in the above entitled and numbered cause, this court reviewed a motion verified by affidavit of (name) and the documentation attached thereto. No testimony was taken from any party, nor was there any notice of the court's review, the court having made the determination that a decision could be made solely on review of the documentation under the authority vested in the court under Subchapter J, Chapter 51, Government Code.

The court finds as follows (only an item checked and initialed

is a valid court ruling):

_____ The documentation attached to the motion herein refers to a legally constituted court, judicial entity, or judicial officer created by or established under the constitution or laws of this state or of the United States. This judicial finding and conclusion of law does not constitute a finding as to any underlying claims of the parties.

_____ The documentation attached to the motion herein DOES NOT refer to a legally constituted court, judicial entity, or judicial officer created by or established under the constitution or laws of this state or of the United States. There is no valid judgment lien created by the documentation.

This court makes no finding as to any underlying claims of the parties involved and expressly limits its finding of fact and conclusion of law to a ministerial act. The county clerk shall file this finding of fact and conclusion of law in the same class of records as the subject documentation was originally filed, and the court directs the county clerk to index it using the same names that were used in indexing the subject document.

SIGNED ON THIS THE _____ DAY OF _____.

_____

DISTRICT JUDGE
_____ JUDICIAL DISTRICT
_____ COUNTY, TEXAS

Added by Acts 1997, 75th Leg., ch. 189, Sec. 14, eff. May 21, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 51.903. ACTION ON FRAUDULENT LIEN ON PROPERTY. (a) A person who is the purported debtor or obligor or who owns real or personal property or an interest in real or personal property and who has reason to believe that the document purporting to create a lien or a claim against the real or personal property or an interest in the real or personal property previously filed or submitted for filing and recording is fraudulent may complete and file with the district clerk a motion, verified by affidavit by a completed form for ordinary certificate of acknowledgment, of the same type

described by Section 121.007, Civil Practice and Remedies Code, that contains, at a minimum, the information in the following suggested form:

	MISC. DOCKET NO. _____
In Re: A Purported	In the _____ Judicial District
Lien or Claim Against	In and For _____
(Name of Purported Debtor)	County, Texas

Motion for Judicial Review of Documentation or Instrument Purporting to Create a Lien or Claim

Now Comes (name) and files this motion requesting a judicial determination of the status of documentation or an instrument purporting to create an interest in real or personal property or a lien or claim on real or personal property or an interest in real or personal property filed in the office of the Clerk of (county name) County, Texas, and in support of the motion would show the court as follows:

I.

(Name), movant herein, is the purported obligor or debtor or person who owns the real or personal property or the interest in real or personal property described in the documentation or instrument.

II.

On (date), in the exercise of the county clerk's official duties as County Clerk of (county name) County, Texas, the county clerk received and filed and recorded the documentation or instrument attached hereto and containing (number) pages. Said documentation or instrument purports to have created a lien on real or personal property or an interest in real or personal property against one (name of purported debtor).

III.

Movant alleges that the documentation or instrument attached hereto is fraudulent, as defined by Section 51.901(c)(2), Government Code, and that the documentation or instrument should therefore not be accorded lien status.

IV.

Movant attests that assertions herein are true and correct.

V.

Movant does not request the court to make a finding as to any

underlying claim of the parties involved and acknowledges that this motion does not seek to invalidate a legitimate lien. Movant further acknowledges that movant may be subject to sanctions, as provided by Chapter 10, Civil Practice and Remedies Code, if this motion is determined to be frivolous.

PRAYER

Movant requests the court to review the attached documentation or instrument and enter an order determining whether it should be accorded lien status, together with such other orders as the court deems appropriate.

Respectfully submitted,

_____

(Signature and typed name and address)

(b) The completed form for ordinary certificate of acknowledgment, of the same type described by Section 121.007, Civil Practice and Remedies Code, must be as follows:

AFFIDAVIT

THE STATE OF TEXAS
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who, being by me duly sworn, deposed as follows:

"My name is _____. I am over 21 years of age, of sound mind, with personal knowledge of the following facts, and fully competent to testify.

I further attest that the assertions contained in the accompanying motion are true and correct."

Further affiant sayeth not.

_____

SUBSCRIBED and SWORN TO before me, this _____ day of _____, _____.

_____

NOTARY PUBLIC, State of Texas
Notary's printed name:

_____

My commission expires:

_____

(c) A motion under this section may be ruled on by a district judge having jurisdiction over real property matters in the county where the subject document was filed. The court's finding may be

made solely on a review of the documentation or instrument attached to the motion and without hearing any testimonial evidence. The court's review may be made ex parte without delay or notice of any kind. An appellate court shall expedite review of a court's finding under this section.

(d) The district clerk may not collect a filing fee for filing a motion under this section.

(e) After reviewing the documentation or instrument attached to a motion under this section, the district judge shall enter an appropriate finding of fact and conclusion of law, which must be filed and indexed in the same class of records in which the subject documentation or instrument was originally filed. A copy of the finding of fact and conclusion of law shall be sent, by first class mail, to the movant and to the person who filed the fraudulent lien or claim at the last known address of each person within seven days of the date that the finding of fact and conclusion of law is issued by the judge.

(f) The county clerk may not collect a fee for filing a district judge's finding of fact and conclusion of law under this section.

(g) A suggested form order appropriate to comply with this section is as follows:

	MISC. DOCKET NO. _____
In Re: A Purported	In the _____ Judicial District
Lien or Claim Against	In and For _____
(Name of Purported Debtor)	County, Texas

Judicial Finding of Fact and Conclusion of Law Regarding a Documentation or Instrument Purporting to Create a Lien or Claim

On the (number) day of (month), (year), in the above entitled and numbered cause, this court reviewed a motion, verified by affidavit, of (name) and the documentation or instrument attached thereto. No testimony was taken from any party, nor was there any notice of the court's review, the court having made the determination that a decision could be made solely on review of the documentation or instrument under the authority vested in the court under Subchapter J, Chapter 51, Government Code.

The court finds as follows (only an item checked and initialed

is a valid court ruling):

_____ The documentation or instrument attached to the motion herein IS asserted against real or personal property or an interest in real or personal property and:

(1) IS provided for by specific state or federal statutes or constitutional provisions;

(2) IS created by implied or express consent or agreement of the obligor, debtor, or the owner of the real or personal property or an interest in the real or personal property, if required under the laws of this state, or by consent of an agent, fiduciary, or other representative of that person; or

(3) IS an equitable, constructive, or other lien imposed by a court of competent jurisdiction created or established under the constitution or laws of this state or of the United States.

_____ The documentation or instrument attached to the motion herein:

(1) IS NOT provided for by specific state or federal statutes or constitutional provisions;

(2) IS NOT created by implied or express consent or agreement of the obligor, debtor, or the owner of the real or personal property or an interest in the real or personal property, if required under the law of this state or by implied or express consent or agreement of an agent, fiduciary, or other representative of that person;

(3) IS NOT an equitable, constructive, or other lien imposed by a court of competent jurisdiction created by or established under the constitution or laws of this state or the United States; or

(4) IS NOT asserted against real or personal property or an interest in real or personal property. There is no valid lien or claim created by this documentation or instrument.

This court makes no finding as to any underlying claims of the parties involved, and expressly limits its finding of fact and conclusion of law to the review of a ministerial act. The county clerk shall file this finding of fact and conclusion of law in the same class of records as the subject documentation or instrument was originally filed, and the court directs the county clerk to index it using the same names that were used in indexing the subject documentation or instrument.

SIGNED ON THIS THE _____ DAY OF _____.

_____
DISTRICT JUDGE
_____ JUDICIAL DISTRICT
_____ COUNTY, TEXAS

Added by Acts 1997, 75th Leg., ch. 189, Sec. 14, eff. May 21, 1997.

Sec. 51.904. WARNING SIGN. A clerk described by Section 51.901(a) shall post a sign, in letters at least one inch in height, that is clearly visible to the general public in or near the clerk's office stating that it is a crime to intentionally or knowingly file a fraudulent court record or a fraudulent instrument with the clerk.

Added by Acts 1997, 75th Leg., ch. 189, Sec. 14, eff. May 21, 1997.

Sec. 51.905. DOCUMENTS FILED WITH SECRETARY OF STATE. (a) If the lien or other claim that is the subject of a judicial finding of fact and conclusion of law authorized by this subchapter is one that is authorized by law to be filed with the secretary of state, any person may file a certified copy of the judicial finding of fact and conclusion of law in the records of the secretary of state, who shall file the certified copy of the finding in the same class of records as the subject document or instrument was originally filed and index it using the same names that were used in indexing the subject document or instrument.

(b) The secretary of state may charge a filing fee of $15 for filing a certified copy of a judicial finding of fact and conclusion of law under this section.

Added by Acts 1997, 75th Leg., ch. 189, Sec. 14, eff. May 21, 1997.

SUBCHAPTER L. ADDITIONAL FILING FEE FOR BASIC CIVIL LEGAL SERVICES FOR INDIGENTS

Sec. 51.941. ADDITIONAL FILING FEE IN APPELLATE COURTS FOR BASIC CIVIL LEGAL SERVICES FOR INDIGENTS. (a) In addition to other fees authorized or required by law, the clerk of the supreme court and courts of appeals shall collect a $25 fee on the filing of any civil action or proceeding requiring a filing fee, including an

appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee.

(b) Court fees under this section shall be collected in the same manner as other fees, fines, or costs in the case.

(c) The clerk shall send the fees collected under this section to the comptroller not later than the last day of the month following each calendar quarter.

(d) The comptroller shall deposit the fees received under this section to the credit of the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to the indigent.

(e) In this section, "indigent" means an individual who earns not more than 125 percent of the income standard established by applicable federal poverty guidelines.

Added by Acts 1997, 75th Leg., ch. 699, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 51.901 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(28), eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 209, Sec. 73(a), eff. Jan. 1, 2004.

Sec. 51.942. RULES. (a) The supreme court shall adopt:

(1) rules and procedures for the distribution of funds under this subchapter; and

(2) rules and procedures for imposing sanctions, including the reduction or cancellation of funding.

(b) Funds may be distributed only to nonprofit organizations that provide basic civil legal services to persons meeting the income eligibility requirements established by the supreme court.

Added by Acts 1997, 75th Leg., ch. 699, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 51.902 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(28), eff. Sept. 1, 1999.

Sec. 51.943. BASIC CIVIL LEGAL SERVICES ACCOUNT. (a) The basic civil legal services account is an account in the judicial fund administered by the supreme court.

(b) Funds in the basic civil legal services account may be used only for the support of programs approved by the supreme court that

provide basic civil legal services to the indigent. The comptroller may pay money from the account only on vouchers approved by the supreme court.

(c) Except as provided by this subsection, funds from the basic civil legal services account may not be used to directly or indirectly support a class action lawsuit, abortion-related litigation, or a lawsuit against a governmental entity, political party, candidate, or officeholder for an action taken in the individual's official capacity or for lobbying for or against a candidate or issue. Notwithstanding any provision of law to the contrary, funds from the basic civil legal services account may not be used for the representation of an individual who is confined to a local, state, or federal jail or prison. Funds from the basic civil legal services account may not be used to provide legal services to an individual who is not legally in this country, unless necessary to protect the physical safety of the individual. Funds from the basic civil legal services account may be used to support a lawsuit brought by an individual, solely on behalf of the individual or the individual's dependent or ward, to compel a governmental entity to provide benefits that the individual or the individual's dependent or ward is expressly eligible to receive, by statute or regulation, including social security benefits, aid to families with dependent children, financial assistance under Chapter 31, Human Resources Code, food stamps, special education for the handicapped, Medicare, Medicaid, subsidized or public housing, and other economic, shelter, or medical benefits provided by a government directly to an indigent individual, but not to support a claim for actual or punitive damages.

(d) Except as provided by this subsection, funds from the basic civil legal services account may not be used for a lawsuit or other legal matter that if undertaken on behalf of an indigent individual by an attorney in private practice might reasonably be expected to result in payment of a fee for legal services from an award to the individual client from public funds or from an opposing party. Funds from the basic civil legal services account may be used to support a lawsuit if the indigent individual seeking legal assistance made a reasonable effort to obtain legal services from an attorney in private practice for the particular legal matter, including contacting attorneys who practice law in the judicial district that is the residence of the indigent individual and who normally accept

cases of a similar nature, and the indigent individual has been unable to obtain legal services.

(e) The supreme court shall file a report with the Legislative Budget Board at the end of each fiscal year showing disbursements from the account and the purpose for each disbursement and the sanctions imposed, if any. All funds expended are subject to audit by the supreme court, the comptroller, and the state auditor.

(f) The purpose of this subchapter is to increase the funds available for basic civil legal services to the indigent. Funds available from the basic civil legal services account may be supplemented by local or federal funds and private or public grants.

(g) A legal aid society or legal services program that is awarded attorney's fees in a case shall send the attorney's fees to the comptroller if any attorney representing any party involved in the case was paid in that case directly from funds from a grant made under this subchapter. The comptroller shall deposit the fees to the credit of the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to the indigent.

Added by Acts 1997, 75th Leg., ch. 699, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 51.903 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(28), eff. Sept. 1, 1999.

CHAPTER 52. COURT REPORTERS AND SHORTHAND REPORTING FIRMS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 52.001. DEFINITIONS. (a) In this chapter:

(1) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 42, Sec. 3.01(1), eff. September 1, 2014.

(2) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 42, Sec. 3.01(1), eff. September 1, 2014.

(2-a) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 42, Sec. 3.01(1), eff. September 1, 2014.

(3) "Official court reporter" means the shorthand reporter appointed by a judge as the official court reporter.

(4) "Shorthand reporter" and "court reporter" mean a person who is certified as a court reporter, apprentice court reporter, or provisional court reporter under Chapter 154 to engage in shorthand reporting.

(5) "Shorthand reporting" and "court reporting" mean the practice of shorthand reporting for use in litigation in the courts of this state by making a verbatim record of an oral court proceeding, deposition, or proceeding before a grand jury, referee, or court commissioner using written symbols in shorthand, machine shorthand, or oral stenography.

(6) "Shorthand reporting firm," "court reporting firm," and "affiliate office" mean an entity wholly or partly in the business of providing court reporting or other related services in this state.

(7) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 42, Sec. 3.01(1), eff. September 1, 2014.

(b) For purposes of Subsection (a)(6), a court reporting firm, shorthand reporting firm, or affiliate office is considered to be providing court reporting or other related services in this state if:

(1) any act that constitutes a court reporting service or shorthand reporting service occurs wholly or partly in this state;

(2) the firm or office recruits a resident of this state through an intermediary located inside or outside of this state to provide court reporting services, shorthand reporting services, or other related services in this state; or

(3) the firm or office contracts with a resident of this state by mail or otherwise and either party is to perform court reporting services, shorthand reporting services, or other related services wholly or partly in this state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 1037, Sec. 1, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 29, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 813, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 21 (H.B. 1518), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 3.01(1), eff. September 1, 2014.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 17.02, eff. September 1, 2021.

SUBCHAPTER B. DUTIES OF SHORTHAND REPORTING FIRMS

Sec. 52.011. PROVISION OF SIGNED DEPOSITION CERTIFICATE;

CERTIFICATE REQUIREMENTS. (a) A court reporting firm representative or a court reporter who reported a deposition for a case shall complete and sign a deposition certificate, known as the further certification.

(b) On request of a court reporter who reported a deposition for a case, a court reporting firm shall provide the reporter with a copy of the deposition certificate that the reporter has signed or to which the reporter's signature has been applied.

(c) The deposition certificate must include:

(1) a statement that the deposition transcript was submitted to the deponent or the deponent's attorney for examination and signature;

(2) the date the transcript was submitted to the deponent or the deponent's attorney;

(3) the date the deponent returned the transcript, if returned, or a statement that the deponent did not return the transcript;

(4) a statement that any changes the deponent made to the transcript are reflected in a separate document attached to the transcript;

(5) a statement that the transcript was delivered in accordance with Rule 203.3, Texas Rules of Civil Procedure;

(6) the amount charged for preparing the original deposition transcript;

(7) a statement that a copy of the certificate was served on all parties to the case; and

(8) the date the copy of the certificate was served on the parties to the case.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 7.03, eff. September 1, 2019.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 17.03, eff. September 1, 2021.

SUBCHAPTER D. APPOINTMENT AND POWERS AND DUTIES OF OFFICIAL COURT REPORTERS

Sec. 52.041. APPOINTMENT OF OFFICIAL COURT REPORTER. (a) Each judge of a court of record shall appoint an official court reporter.

An official court reporter is a sworn officer of the court and holds office at the pleasure of the court.

(b) The judges of two or more courts of record that are not located in the same judicial district on agreement may jointly appoint an official court reporter to serve the courts, provided each court is located in a county with a population of 125,000 or less according to the 2020 federal decennial census.

(c) Notwithstanding any other law, two or more judges of courts of record may appoint a certified shorthand reporter to serve each court as an official court reporter of the court, provided each court is located in a county with a population of 125,000 or less according to the 2020 federal decennial census. A certified shorthand reporter appointed under this subsection may serve as an official court reporter for more than one county and be an employee of more than one county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 9.001, eff. September 1, 2023.

Sec. 52.042. DEPUTY COURT REPORTER. (a) If an official court reporter is unable to perform his duties in reporting proceedings in court due to illness, other official work, or unavoidable disability, the judge of the court may appoint a deputy court reporter to perform the court reporting services during the absence of the official court reporter.

(b) A deputy court reporter is entitled to receive the same salary and fees for the services performed during the absence of the official court reporter as the official court reporter receives. The deputy court reporter shall be paid in the same manner as the official court reporter.

(c) The official court reporter is entitled to receive his regular salary while temporarily unable to perform his duties due to other official work. The official court reporter may not receive salary under this subsection for more than 30 days each year.

(d) The salary of the official court reporter for absences due to illness or unavoidable disability shall be determined in accordance with the compensation and leave policies of the county or

counties responsible for payment of the official court reporter's salary and Chapter 504, Labor Code.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 453, Sec. 1, eff. Sept. 1, 1997.

Sec. 52.043. DEPUTY COURT REPORTER FOR THE 70TH JUDICIAL DISTRICT. (a) The official court reporter for the 70th Judicial District may appoint a deputy court reporter for the district.

(b) The deputy court reporter shall have the same authority and duties as the official court reporter and shall provide court reporting services under the direction and in the name of the official court reporter.

(c) Notwithstanding Section 52.042, neither the counties comprising the 70th Judicial District nor this state may pay the salary or other expenses of the deputy court reporter appointed under this section.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 52.044. ADDITIONAL DISTRICT COURT REPORTERS IN BEXAR COUNTY. (a) The judges of the district courts in Bexar County may employ additional official court reporters to serve the district courts in Bexar County if a majority of the district court judges believe more official court reporters are necessary.

(b) The district court judges shall, by majority vote, determine the method of hiring the additional official court reporters.

(c) The additional official court reporters receive the same compensation for services performed as the regular official court reporter receives.

(d) The presiding civil judge shall determine the assignments of the additional official court reporters.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 52.0441. COURT REPORTERS FOR CRIMINAL LAW MAGISTRATES IN BEXAR COUNTY. Each full-time Bexar County criminal law magistrate,

with the consent and approval of the Commissioners Court of Bexar County, may appoint an official court reporter to serve that magistrate. The reporter is a sworn officer of the court who holds office at the pleasure of the magistrate.

Added by Acts 2011, 82nd Leg., R.S., Ch. 556 (H.B. 2935), Sec. 1, eff. October 1, 2011.

Sec. 52.045. OATH. (a) An official court reporter must take the official oath required of officers of this state.

(b) In addition to the official oath, each official court reporter must sign an oath administered by the district clerk stating that in each reported case the court reporter will keep a correct, impartial record of:

(1) the evidence offered in the case;

(2) the objections and exceptions made by the parties to the case; and

(3) the rulings and remarks made by the court in determining the admissibility of testimony presented in the case.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 52.046. GENERAL POWERS AND DUTIES. (a) On request, an official court reporter shall:

(1) attend all sessions of the court;

(2) take full shorthand notes of oral testimony offered before the court, including objections made to the admissibility of evidence, court rulings and remarks on the objections, and exceptions to the rulings;

(3) take full shorthand notes of closing arguments if requested to do so by the attorney of a party to the case, including objections to the arguments, court rulings and remarks on the objections, and exceptions to the rulings;

(4) preserve the notes for future reference for three years from the date on which they were taken; and

(5) furnish a transcript of the reported evidence or other proceedings, in whole or in part, as provided by this chapter.

(b) An official court reporter of a district court may conduct the deposition of witnesses, receive, execute, and return

commissions, and make a certificate of the proceedings in any county that is included in the judicial district of that court.

(c) The supreme court may adopt rules consistent with the relevant statutes to provide for the duties and fees of official court reporters in all civil judicial proceedings.

(d) A judge of a county court or county court at law shall appoint a shorthand reporter to report the oral testimony given in any contested probate matter in that judge's court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 17.04, eff. September 1, 2021.

Sec. 52.047. TRANSCRIPTS. (a) A person may apply for a transcript of the evidence in a case reported by an official court reporter. The person must apply for the transcript in writing to the official court reporter. The official court reporter shall furnish the transcript to the person not later than the 120th day after the date the:

(1) application for the transcript is received by the reporter; and

(2) transcript fee is paid or the person establishes indigency as provided by Rule 20, Texas Rules of Appellate Procedure.

(b) If an objection is made to the amount of the transcript fee, the judge shall determine a reasonable fee, taking into consideration the difficulty and technicality of the material to be transcribed and any time constraints imposed by the person requesting the transcript.

(c) On payment of the fee or as provided by the Texas Rules of Appellate Procedure, the person requesting the transcript is entitled to the original and one copy of the transcript. The person may purchase additional copies for a fee per page that does not exceed one-third of the original cost per page.

(d) An official court reporter may charge an additional fee for:

(1) postage or express charges;

(2) photostating, blueprinting, or other reproduction of exhibits;

(3) indexing; and

(4) preparation for filing and special binding of original exhibits.

(e) If an objection is made to the amount of these additional fees, the judge shall set a reasonable fee. If the person applying for the transcript is entitled to a transcript without charge under the Texas Rules of Appellate Procedure, the court reporter may not charge any additional fees under Subsection (d).

(f) If the official court reporter charges an amount that exceeds a fee set by the judge, the reporter shall refund the excess to the person to whom it is due on demand filed with the court.

(g) Notwithstanding the Texas Rules of Appellate Procedure, an official court reporter who is required to prepare a transcript in a criminal case without charging a fee is not entitled to payment for the transcript from the state or county if the county paid a substitute court reporter to perform the official court reporter's regular duties while the transcript was being prepared. To the extent that this subsection conflicts with the Texas Rules of Appellate Procedure, this subsection controls. Notwithstanding Sections 22.004 and 22.108(b), the supreme court or the court of criminal appeals may not amend or adopt rules in conflict with this subsection.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 455, Sec. 1, eff. Sept. 1, 1991. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 827 (H.B. 335), Sec. 1, eff. September 1, 2007.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 10.005, eff. September 1, 2023.

Sec. 52.048. COURT REPORTERS FOR FAMILY LAW MASTERS IN EL PASO. Each El Paso family law master shall appoint an official shorthand reporter to serve that master. The official shorthand reporter must be well skilled in his profession. The reporter is a sworn officer of the court who holds office at the pleasure of the court.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(b), eff. Aug. 28, 1989.

Sec. 52.049. ADDITIONAL DISTRICT COURT REPORTERS IN NUECES COUNTY. (a) The judges of the district courts in Nueces County may employ additional official court reporters to serve the district courts in Nueces County if a majority of the district court judges believe more official court reporters are necessary.

(b) The district court judges shall, by majority vote, determine the method of hiring the additional official court reporters.

(c) The presiding judge of the district courts of Nueces County shall determine the assignments of the additional official court reporters.

(d) The total number of official court reporters serving the district courts of Nueces County may not exceed the amount that equals one and one-half full-time employees multiplied by the number of district courts in Nueces County.

Added by Acts 2009, 81st Leg., R.S., Ch. 637 (H.B. 1551), Sec. 1, eff. September 1, 2009.

SUBCHAPTER E. COMPENSATION AND EXPENSES

Sec. 52.051. COMPENSATION OF DISTRICT COURT REPORTERS. (a) An official district court reporter shall be paid a salary set by the order of the judge of the court. This salary is in addition to transcript fees, fees for a statement of facts, and other necessary expenses authorized by law.

(b) The salary set by the judge may not be lower than the salary that official court reporter received on January 1, 1972.

(c) An order increasing the salary of an official district court reporter must be submitted to the commissioners court of each county in the judicial district not later than September 1 immediately before the adoption of the county budget for the next year. A commissioners court may allow an extension of this time limit.

(d) The official district court reporter may not receive:

(1) a salary that is more than 10 percent greater than the salary received during the preceding budget year without the approval of the commissioners court of each county in the judicial district if the court reporter serves in a county with a population of less than 1 million; or

(2) a percentage increase in salary in a fiscal year that is greater than the average percentage increase in compensation in that fiscal year to all other employees of the county in which the reporter serves if the court reporter serves in a county with a population of 1 million or more.

(e) A person appointed to succeed an official district court reporter may not receive a salary greater than the salary received by the person's predecessor in office.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 188, Sec. 1, eff. Sept. 1, 1993.

Sec. 52.052. COMPENSATION IN THE 222ND JUDICIAL DISTRICT. Notwithstanding Section 52.051, the district judge of the 222nd Judicial District shall set the salary of the official court reporter at not less than $15,000.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 517, Sec. 1, eff. Aug. 31, 1987.

Sec. 52.053. COMPENSATION OF HILL COUNTY OFFICIAL COURT REPORTER. (a) The salary of the official court reporter for the County Court of Hill County shall be set by the commissioners court in an amount not to exceed the salary received by the official court reporter of the district court in Hill County.

(b) This salary is in addition to transcript fees, fees for statement of facts, and all other fees.

(c) The salary shall be paid from the county general fund, jury fund, or any other fund available for the purpose, as determined by the commissioners court.

(d) The salary shall be paid in the same manner as salaries for other county officers are paid.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 52.054. APPORTIONMENT OF SALARY. (a) Except as provided by Subsections (b) and (c), the salary of an official court reporter of a judicial district that is composed of more than one county shall

be apportioned among the counties of the district. Each county shall pay a portion of the salary equal to the proportion that its population bears to the total population of the judicial district.

(b) The judge of the 31st Judicial District shall determine the proportionate amount of the salary of the official court reporter to be paid by each county in the district based on the annual case load in each county.

(c) Nueces County shall pay 50 percent of the salary of the official court reporter for the 105th Judicial District. Kleberg and Kenedy counties shall pay the remaining 50 percent. Kleberg and Kenedy counties' shares shall be equal to the proportion that each county's population bears to the total population of the two counties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 52.055. EXPENSES OF DISTRICT COURT REPORTERS. (a) Each official or deputy court reporter of a district court in a district composed of more than one county is entitled to reimbursement in the amount prescribed by Subsections (b) and (d) for actual and necessary expenses incurred while engaged in official duties in any county of the state other than the county of the reporter's residence. This reimbursement is in addition to the reporter's regular salary.

(b) Travel expenses reimbursed under this section may not exceed the reasonable mileage rate set by the commissioners court of the respective county of the judicial district for which the expenses were incurred for the use of private conveyances, traveling the shortest practical route.

(c) The expenses shall be reimbursed after the completion of each court term by the respective counties of the judicial district for which the expenses were incurred, each county paying the expenses incidental to its own regular or special term. The commissioners court of each county shall pay the expenses for which the county is responsible from the county general fund.

(d) The expenses reimbursed under this section are subject to annual limitations based on the size of the judicial district. Except as provided by Subsection (d-1), a court reporter may not receive more than the maximum reimbursement amount set for the reporter's judicial district in any one year. The maximum

reimbursement amount is as follows:

(1) if the judicial district contains two counties, the maximum reimbursement amount is $400 or a greater amount set by the commissioners court of the county for which the expenses were incurred;

(2) if the judicial district contains three counties, the maximum reimbursement amount is $800 or a greater amount set by the commissioners court of the county for which the expenses were incurred;

(3) if the judicial district contains four counties, the maximum reimbursement amount is $1,400 or a greater amount set by the commissioners court of the county for which the expenses were incurred; and

(4) if the judicial district contains five or more counties, the maximum reimbursement amount is $2,000 or a greater amount set by the commissioners court of the county for which the expenses were incurred.

(d-1) For expenses that exceed the annual maximum reimbursement amount set for a court reporter's judicial district under Subsection (d), the reporter may receive reimbursement from the county for which the expenses were incurred on approval of the commissioners court of the county.

(e) To receive reimbursement under this section, a court reporter must prepare in duplicate a sworn statement of expenses that is approved by the district judge. The reporter must file a copy of the statement with the clerk of the district court of the county in which the district judge resides.

(f) This section applies to any additional official or deputy court reporter whose services are required when a district court convenes in a special term. The county in which the special term is convened shall pay the expenses. These expenses are in addition to the expenses provided for the official or deputy court reporter of the district.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 367, Sec. 2, eff. Aug. 28, 1989. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1025 (H.B. 1306), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 286 (H.B. 4032), Sec. 1, eff.

September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 9.002, eff. September 1, 2023.

Sec. 52.056. EXPENSES OF VISITING COURT REPORTERS. (a) An official or deputy court reporter of a judicial district who is required to leave the county of the reporter's residence to report proceedings as a substitute for the official court reporter of another county is entitled to reimbursement for actual and necessary travel expenses and a per diem allowance of $30 or the amount provided by the travel per diem policy of the county for which the expenses were incurred, whichever is greater, for each day or part of a day spent outside the reporter's county of residence in the performance of duties as a substitute. These fees are in addition to the visiting reporter's regular salary.

(b) The commissioners court of the county in which the visiting reporter provides services shall pay the reimbursement and per diem allowance from the county general fund on receipt of a sworn statement by the court reporter that has been approved by the district judge presiding in the court in which the proceedings were reported.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 9.003, eff. September 1, 2023.

Sec. 52.057. EXPENSES OF COURT REPORTERS IN CERTAIN ENUMERATED DISTRICTS. (a) Notwithstanding Section 52.055, the expenses of the official court reporters for the 31st, 46th, 104th, 112th, and 155th judicial districts shall be reimbursed as prescribed by this section.

(b) The official court reporters for the 31st and 112th judicial districts are entitled to receive travel expense allowances in the same amounts as a state employee. The allowances shall be paid as prescribed by Sections 52.055(c) and (e).

(c) In lieu of the expenses provided by Section 52.055, the official court reporter for the 46th Judicial District may receive, instead of reimbursement for actual expenses, an annual allowance of

$3,000 for travel and other expenses incurred in performing official duties. The allowance shall be paid in equal monthly installments by the counties in the judicial district. The amount each county pays shall be determined by the proportion that each county's population bears to the total population of the district.

(d) The annual allowance for actual and necessary expenses received by the official court reporter for the 104th Judicial District may not exceed $400.

(e) In lieu of the expenses provided by Section 52.055, the official court reporter for the 155th Judicial District may receive an annual allowance of $3,000 for travel and other expenses incurred in performing official duties. The counties in the district, other than the county in which the reporter resides, shall pay the allowance in equal shares.

(f) In lieu of the reimbursements authorized by Section 52.055, the official court reporters for the 506th Judicial District shall receive reimbursement for actual and necessary expenses, including travel expenses, in an amount equal to the amount of reimbursement that would be provided to a public servant of the county in which the court is sitting at the time the court reporter incurs the expenses if the public servant had incurred the expenses. Each county in the district shall pay a portion of the reimbursement authorized by this subsection in the proportion that the county's population bears to the total population of the district. For purposes of this subsection, "public servant" includes an officer, employee, or agent of a county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 73, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 497 (S.B. 812), Sec. 1, eff. September 1, 2009.

Sec. 52.058. EXPENSES OF DISTRICT COURT REPORTERS IN CHANGE OF VENUE CASES. (a) Each official or deputy court reporter of a district court is entitled to reimbursement in the amount prescribed by Subsection (b) for reasonable and necessary expenses incurred while engaged in official duties during a trial being held under a change of venue order in any county of the state other than the

county of the reporter's residence. This reimbursement is in addition to the reporter's regular salary.

(b) Travel expenses reimbursed under this section may not exceed the mileage reimbursement rate established by the county for the use of private conveyances, traveling the shortest practical route.

(c) The expenses shall be reimbursed as provided by Sections 52.055(c) and (e).

Added by Acts 1989, 71st Leg., ch. 367, Sec. 3, eff. Aug. 28, 1989.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 9.004, eff. September 1, 2023.

Sec. 52.059. CHARGES FOR DEPOSITIONS. (a) Except as provided by Subsection (c), an attorney who takes a deposition and the attorney's firm are jointly and severally liable for a shorthand reporter's charges for:

(1) the shorthand reporting of the deposition;

(2) transcribing the deposition; and

(3) each copy of the deposition transcript requested by the attorney.

(b) Except as provided by Subsection (c), an attorney who appears at a deposition and the attorney's firm are jointly and severally liable for a shorthand reporter's charges for each copy of the deposition transcript requested by the attorney.

(c) Prior to the taking of any deposition, a determination of the person who will pay for the deposition costs will be made on the record, if an attorney is unwilling to be bound by the provisions of Subsection (a) or (b).

(d) In this section:

(1) "Firm" means:

(A) a partnership organized for the practice of law in which an attorney is a partner or with which an attorney is associated; or

(B) a professional corporation organized for the practice of law of which an attorney is a shareholder or employee.

(2) An attorney "takes" a deposition if the attorney:

(A) obtains the deponent's appearance through an

informal request;

(B) obtains the deponent's appearance through formal means, including a notice of deposition or subpoena; or

(C) asks the first question in the deposition.

Added by Acts 1991, 72nd Leg., ch. 454, Sec. 1, eff. Sept. 1, 1991.

CHAPTER 53. BAILIFFS

SUBCHAPTER A. BAILIFFS FOR CERTAIN COURTS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3104 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 53.001. MANDATORY APPOINTMENTS. (a) The judges of the 30th, 70th, 71st, 78th, 89th, 161st, and 341st district courts, the judges of the district courts having jurisdiction in Taylor County, the judges of the county courts at law of Taylor County, and the judge of the County Court of Harrison County shall each appoint a bailiff.

(b) A district or statutory county court judge in Nueces County shall appoint a bailiff.

(c) Each criminal district court in Tarrant County must have at least three bailiffs assigned regularly to the court. Each judge of a criminal district court in Tarrant County shall appoint two officers of the court to serve as bailiffs for his court.

(d) The judge of the 97th District Court shall appoint a bailiff for each county in the district. At the discretion of the judge, a bailiff may serve the court in more than one county of the district.

(e) The county sheriff shall appoint one bailiff for each district court in Tarrant County that gives preference to criminal cases and one bailiff for each criminal district court in Tarrant County in the same manner as authorized by law.

(f) The appointment of a bailiff under this chapter does not affect the requirement under general law that the county sheriff furnish a bailiff for each court.

(g) The judges of the district courts having jurisdiction in Potter and Randall counties and the judges of the county courts at law in Potter and Randall counties shall each appoint a bailiff.

(h) The judges of the district courts having jurisdiction in Angelina County and the judges of the county courts at law of Angelina County shall each appoint a bailiff.

(i) The judge of the 406th District Court shall appoint a bailiff.

(j) The judge of the 115th District Court shall appoint a bailiff to serve the court only in Upshur County.

(k) The judges of the 244th, 358th, and 446th district courts shall each appoint a bailiff.

(l) The judge of the 271st District Court and the judges of the county courts at law in Wise County shall each appoint a bailiff.

(m) The judges of the 5th, 102nd, and 202nd district courts and the judges of the county courts at law of Bowie County shall appoint one or more bailiffs to serve the courts in Bowie County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.71(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 8.29(a), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 8.03(a), eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 401, Sec. 1, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 546, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 868, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 853, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 932, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1136, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 575, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 1(d), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 5 (S.B. 272), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 781 (H.B. 3972), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 20(a), eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 800 (H.B. 2310), Sec. 1, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 6.01, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 972 (S.B. 2174), Sec. 1, eff.

September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(20), eff. September 1, 2019.

Sec. 53.002. PERMISSIVE APPOINTMENTS. (a) The judges of the 34th, 86th, 130th, 142nd, 238th, 318th, 355th, and 385th district courts may each appoint a bailiff.

(b) The judge of the 43rd District Court and the judge of the 415th District Court may each appoint one or more bailiffs that the judge believes are necessary for the efficient administration of the judge's court.

(c) The judges of the district courts, including family district courts, having jurisdiction in El Paso County and the judges of the county courts at law in El Paso County may each appoint a person to serve the court as bailiff. A bailiff for a district court that is composed of more than one county serves the court in each county of the district.

(d) The judges of the 15th, 59th, and 397th district courts and the judges of the statutory county courts in Grayson County may each appoint a bailiff.

(e) The judges of the district courts in Tom Green County may each appoint a bailiff. A bailiff for a district court that is composed of more than one county may, at the discretion of the judge, serve the court in each county of the district.

(f) The judges of the 12th, 106th, 229th, 258th, 278th, 381st, and 411th district courts may each appoint a bailiff. At the discretion of the judge, a bailiff may serve the court in each county of the district.

(g) The judge of each district court in Tarrant County that gives preference to criminal cases and the judge of each criminal district court in Tarrant County may appoint two persons to serve as bailiffs. Notwithstanding Section 53.071 or Article 19A.301, Code of Criminal Procedure, the district judges of the courts in Tarrant County that give preference to criminal cases and the criminal district courts in Tarrant County may appoint one bailiff for each grand jury.

(h) The judge of the 84th District Court may appoint a bailiff to serve the court in Hansford and Hutchinson counties.

(i) The local administrative judge of the district courts in

Comal County may appoint two or more bailiffs to serve the district courts in Comal County as the judge determines necessary for the efficient operation of the district courts, subject to the approval of a majority of the district judges of those courts. A majority of the district judges of those courts may remove a bailiff appointed under this subsection. The local administrative judge may not appoint more than two bailiffs under this subsection unless the funding for the additional bailiffs is approved by the commissioners court of Comal County before the appointment. A bailiff appointed under this subsection is entitled to the salary recommended by the local administrative judge, subject to the approval of the commissioners court.

(j) The local administrative judge of the district courts in Hays County may appoint two or more bailiffs to serve the district courts in Hays County as the judge determines necessary for the efficient operation of the district courts, subject to the approval of a majority of the district judges of those courts. A majority of the district judges of those courts may remove a bailiff appointed under this subsection. The local administrative judge may not appoint more than two bailiffs under this subsection unless the funding for the additional bailiffs is approved by the commissioners court of Hays County before the appointment. A bailiff appointed under this subsection is entitled to the salary recommended by the local administrative judge, subject to the approval of the commissioners court.

(k) The local administrative judge of the district courts in Caldwell County may appoint two or more bailiffs to serve the district courts in Caldwell County as the judge determines necessary for the efficient operation of the district courts, subject to the approval of a majority of the district judges of those courts. A majority of the district judges of those courts may remove a bailiff appointed under this subsection. The local administrative judge may not appoint more than two bailiffs under this subsection unless the funding for the additional bailiffs is approved by the commissioners court of Caldwell County before the appointment. A bailiff appointed under this subsection is entitled to the salary recommended by the local administrative judge, subject to the approval of the commissioners court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended

by Acts 1987, 70th Leg., ch. 148, Sec. 2.71(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 759, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 919, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 819, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 430, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 648, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 868, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1436, Sec. 1, eff. June 20, 1997; Acts 1999, 76th Leg., ch. 853, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 867, Sec. 1, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 121, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 928, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 4 (S.B. 234), Sec. 1, eff. April 27, 2005.

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 3(b), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 211 (H.B. 632), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 890 (S.B. 2554), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 800 (H.B. 2310), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 905 (H.B. 1193), Sec. 1, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.39, eff. January 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 7.04, eff. September 1, 2019.

Sec. 53.003. EVIDENCE OF APPOINTMENT; NOTIFICATION. (a) An order signed by the appointing judge entered in the minutes of the court is evidence of the appointment of a bailiff or grand jury bailiff under Section 53.001(a), (d), or (g) or 53.002(a), (c), (d), (e), or (f).

(b) The judge of each court listed in Sections 53.001(d) and 53.002(a), (c), (e), and (f), the judge of the 341st District Court, the judge of each district court in Tarrant County that gives preference to criminal cases, and the judge of each criminal district court in Tarrant County shall give each commissioners court in the

judicial district written notification of the bailiff's or grand jury bailiff's appointment and date of employment. The judge of each court listed in Section 53.002(c), the judge of each district court in Tarrant County that gives preference to criminal cases, and the judge of each criminal district court in Tarrant County shall also give each commissioners court written notification of the compensation to be paid by the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.71(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 8.29(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 759, Sec. 2, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 919, Sec. 2, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 8.03(b), eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 401, Sec. 2, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 648, Sec. 2, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 868, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 853, Sec. 3, eff. Sept. 1, 1999.

Sec. 53.004. QUALIFICATIONS. (a) A bailiff in the 34th or 71st district court must be a resident of the county in which the bailiff serves the court and must be at least 18 years old.

(b) To be eligible to be appointed bailiff in the 30th, 78th, 86th, 89th, 130th, or 341st district court, the County Court of Harrison County, a court described in Section 53.002(c), a district court in Taylor County, or a county court at law of Taylor County, a person must be a resident of the county in which the person serves the court and must be at least 21 years old.

(c) A bailiff in the 15th, 59th, or 397th district court or a statutory county court in Grayson County must be a citizen of the United States.

(d) To be eligible to be appointed a bailiff in a district court in Tom Green County, a person must be a resident of the judicial district and must be at least 18 years of age.

(e) To be eligible to be appointed bailiff in a district court in Midland County, for the 355th District Court, or under Section 53.001(g), a person must be at least 21 years old and hold a peace officer license under Chapter 1701, Occupations Code, from the Texas Commission on Law Enforcement. This subsection does not apply to a

person serving as bailiff of a court described by Section 53.001(g) on September 1, 1991.

(f) To be eligible to be appointed bailiff in the 406th District Court, a person must be:

(1) at least 21 years of age; and

(2) a citizen of the United States.

(g) A bailiff appointed by the judge of the 115th District Court to serve the court in Upshur County must be:

(1) a resident of that county; and

(2) at least 18 years of age.

(h) A bailiff in the 70th, 161st, 244th, or 358th district court must be:

(1) a resident of the county in which the bailiff serves the court;

(2) at least 18 years of age; and

(3) a citizen of the United States.

(i) A bailiff in the 271st District Court or a county court at law in Wise County must be:

(1) at least 21 years of age; and

(2) a citizen of the United States.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.71(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 8.29(c), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 759, Sec. 3, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 919, Sec. 3, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 8.03(c), eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 401, Sec. 3, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 819, Sec. 2, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 385, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 430, Sec. 2, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 868, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 853, Sec. 4, eff. Sept. 1, 1999. Amended by:

Acts 2005, 79th Leg., Ch. 10 (S.B. 235), Sec. 1, eff. May 3, 2005.

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 1(e), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 5 (S.B. 272), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 781 (H.B. 3972), Sec. 2, eff.

September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 20(b), eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 890 (S.B. 2554), Sec. 2, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 800 (H.B. 2310), Sec. 3, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.20, eff. May 18, 2013.

Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 6.02, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 7.05, eff. September 1, 2019.

Sec. 53.005. TERM OF OFFICE. A bailiff or grand jury bailiff appointed under this subchapter holds office at the will of the judge of the court that the bailiff or grand jury bailiff serves.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.71(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 8.29(d), eff. Aug. 28, 1989.

Sec. 53.006. DUTIES. (a) A bailiff or grand jury bailiff appointed under Section 53.001 or 53.002(a), (c), (d), (e), or (f) is an officer of the court.

(b) The bailiff or grand jury bailiff shall perform in the court to which the bailiff or grand jury bailiff is appointed all duties imposed on bailiffs under general law and shall perform other duties required by the judge of the court that the bailiff or grand jury bailiff serves.

(c) A bailiff or grand jury bailiff appointed under Section 53.001(d) or 53.002(a), (c), (e), (f), or (g) by the judge of the 341st District Court, by a judge of a district court in Tarrant County that gives preference to criminal cases, or by a judge of a criminal district court in Tarrant County has only the duties assigned by the judge of the court that the bailiff or grand jury bailiff serves.

(d) A bailiff appointed under Section 53.001(b) shall serve as

part of the security force for the district and statutory county courts in the county and shall perform other duties as required by the judge of the court the bailiff serves.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.71(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 8.29(e), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 759, Sec. 4, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 919, Sec. 4, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 8.03(d), eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 546, Sec. 2, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 648, Sec. 3, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 868, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 853, Sec. 5, eff. Sept. 1, 1999.

Sec. 53.007. BAILIFF DEPUTIZED. (a) This section applies to:

(1) the 34th, 70th, 71st, 86th, 97th, 130th, 142nd, 161st, 238th, 244th, 318th, 341st, 355th, 358th, 385th, and 446th district courts;

(2) the County Court of Harrison County;

(3) the criminal district courts of Tarrant County;

(4) the district courts in Taylor County;

(5) the courts described in Section 53.002(c), (d), (e), or (f);

(6) the county courts at law of Taylor County;

(7) the district courts in Tarrant County that give preference to criminal cases;

(8) the 115th District Court in Upshur County; and

(9) the 5th, 102nd, and 202nd district courts and the county courts at law of Bowie County.

(b) On the request of the judge of a court to which this section applies other than the 115th District Court, the sheriff of each county in which the court sits shall deputize the bailiff or grand jury bailiff appointed under this subchapter of that court, in addition to other deputies authorized by law. On the request of the judge of the 115th District Court, the sheriff of Upshur County shall deputize the bailiff appointed by that judge under Section 53.001(j), in addition to other deputies authorized by law.

(c) A request under this section by a judge of a court listed

in Section 53.001(d), 53.002(a), 53.002(c), or 53.002(e), by the judge of the 341st District Court, by a judge of a district court in Tarrant County that gives preference to criminal cases, by a judge of a criminal district court in Tarrant County, by the judge of a district court in Taylor County, or by the judge of a county court at law of Taylor County must be in writing.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.71(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 8.29(f), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 759, Sec. 5, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 919, Sec. 5, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 8.03(e), eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 819, Sec. 3, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 430, Sec. 3, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 648, Sec. 4, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 868, Sec. 6, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1436, Sec. 2, eff. June 20, 1997; Acts 1999, 76th Leg., ch. 853, Sec. 6, eff. Sept. 1, 1999. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 781 (H.B. 3972), Sec. 3, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1342 (S.B. 1951), Sec. 20(c), eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 890 (S.B. 2554), Sec. 3, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 800 (H.B. 2310), Sec. 4, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 6.03, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 972 (S.B. 2174), Sec. 2, eff. September 1, 2017.

Sec. 53.0071. BAILIFF AS PEACE OFFICER. Unless the appointing judge provides otherwise in the order of appointment, a bailiff appointed under Section 53.001(b), (g), (k), or (m) or 53.002(c), (e), or (f) is a "peace officer" for purposes of Article 2A.001, Code of Criminal Procedure.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.71(a), eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 919, Sec. 6, eff. Sept.

1, 1989; Acts 1991, 72nd Leg., ch. 401, Sec. 4, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 546, Sec. 3, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 648, Sec. 5, eff. Aug. 28, 1995.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 6.04, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 972 (S.B. 2174), Sec. 3, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.002(9), eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.064, eff. January 1, 2025.

Sec. 53.008. OATH. The bailiffs of the 34th, 70th, 86th, 97th, 130th, 142nd, 161st, 238th, 244th, 271st, 318th, 341st, 355th, 358th, 385th, and 446th district courts, the bailiffs of the courts described in Section 53.002(c), (d), (e), or (f), the bailiffs and the grand jury bailiffs of the district courts in Tarrant County that give preference to criminal cases, the bailiffs and grand jury bailiffs of the criminal district courts in Tarrant County, the bailiffs of the district courts in Taylor County, the bailiffs of the county courts at law of Taylor County, and the bailiffs of the county courts at law of Wise County shall each swear to the following oath, to be administered by the judge: "I solemnly swear that I will faithfully and impartially perform all duties as may be required of me by law, so help me God."

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.71(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 8.29(g), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 759, Sec. 6, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 919, Sec. 7, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 8.03(f), eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 819, Sec. 4, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 430, Sec. 4, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 648, Sec. 6, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 868, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1436, Sec. 3, eff. June 20, 1997; Acts 1999, 76th Leg., ch. 853, Sec. 7, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 890 (S.B. 2554), Sec. 4, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 800 (H.B. 2310), Sec. 5, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 6.05, eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3104 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 53.009. COMPENSATION. (a) Each bailiff appointed by a judge of the 30th, 78th, 89th, or 355th district court, by a district judge in Potter, Randall, or Taylor County, or by a judge of a county court at law of Potter, Randall, or Taylor County is entitled to receive a salary set by the judge and approved by the commissioners court. The salary is paid out of the general fund of the county, except in Potter and Randall counties, where the salary shall be set by the commissioners court of each respective county.

(b) Each bailiff appointed by a judge of the 142nd, 238th, 318th, or 385th district court is entitled to receive from each county in which the court sits the amount of compensation set by the judge in an amount that does not exceed the salary of the chief deputy sheriff of the county. The judge shall give each commissioners court in the district written notification of the amount of compensation to be paid by the county.

(c) The bailiff appointed by the judge of the County Court of Harrison County is entitled to receive a salary set by the judge in an amount that does not exceed the salary of a deputy sheriff of the county. The salary is paid out of the general fund of the county.

(d) The bailiff appointed by the judge of the 341st District Court is entitled to receive a salary set by the judge in an amount that is commensurate with the salary paid the bailiffs of other courts with similar duties. The salary is paid out of the general fund of the county.

(e) A bailiff is entitled to receive from the county in which he serves a salary set by the judge in an amount that does not exceed the salary of the chief deputy sheriff of the county. The judge shall give each commissioners court in the district written

notification of the amount of compensation to be paid by the county. The salary is paid out of the general fund of the county.

(f) The bailiffs and grand jury bailiffs appointed by the judges of the district courts in Tarrant County that give preference to criminal cases and the bailiffs and grand jury bailiffs appointed by the judges of the criminal district courts in Tarrant County are entitled to receive from the county general fund a salary set in writing by the judge that is in the same pay grade as the salary of certified and noncertified peace officers who are appointed as bailiffs by the sheriff. The county shall administer the bailiff salary under salary administration guidelines.

(g) Each bailiff appointed by a judge of the 15th, 59th, or 397th district court or appointed by a statutory county court judge in Grayson County is entitled to receive from the county a salary set by the judge within the budget guidelines established by the Commissioners Court of Grayson County.

(h) The bailiffs of the courts described in Section 53.002(e) are entitled to receive a salary set by the judge in an amount that does not exceed the salary of the highest paid officer assigned to patrol any of the counties in which the bailiff is designated to serve. The salary shall be apportioned by the judge between the counties in which the bailiff is designated to serve. The judge shall give each commissioners court in the district written notification of the amount of compensation to be paid by its county. The salary is paid out of the general fund of each county.

(i) Each bailiff appointed under Section 53.001(b) is entitled to receive a salary set by the commissioners court of the county in which the bailiff serves.

(j) The bailiff appointed by the judge of the 86th District Court is entitled to receive a salary set by the judge. The salary is paid out of the general fund of the county.

(k) The bailiffs of the 12th, 84th, 106th, 258th, 278th, and 411th district courts are entitled to receive a salary set by the judge and approved by the commissioners court of each of the counties in which the bailiff is designated to serve, except that the amount of the salary paid the bailiff of the 84th District Court must be commensurate with the salary paid the bailiffs of other courts with similar duties. The salary shall be apportioned by the judge among the counties in which the bailiff is designated to serve. The judge shall give each commissioners court in the district written

notification of the amount of compensation to be paid by the county. The salary is paid out of the general fund of each county, except that the salary paid to the bailiff of the 106th District Court may be paid out of either the general fund or the courthouse security fund of each county.

(l) Each bailiff appointed by a judge of a district court having jurisdiction in Angelina County or a county court at law judge in Angelina County is entitled to receive a salary set by the commissioners court of that county in an amount that is not less than the salary of a deputy sheriff regularly assigned to patrol duty in the county.

(m) A bailiff of the 97th District Court that serves the court in more than one county is entitled to receive a salary set by the judge and approved by the commissioners court of each of the counties in which the bailiff is designated to serve. The salary shall be apportioned by the judge among the counties in which the bailiff is designated to serve. The judge shall give each commissioners court in the district written notification of the amount of compensation to be paid by the county.

(n) A bailiff appointed by the judge of the 130th District Court is entitled to receive a salary set by the Commissioners Court of Matagorda County in an amount that is not less than the salary of a deputy sheriff regularly assigned to patrol duty in that county.

(o) Each bailiff appointed by the judge of the 271st District Court or appointed by a county court at law judge in Wise County is entitled to receive a salary that does not exceed the salary of a lieutenant in the sheriff's department of the county. The salary is paid out of the general fund of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.71(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 8.29(h), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 759, Sec. 7, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 919, Sec. 8, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 8.03(g), eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 401, Sec. 5, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 546, Sec. 4, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 819, Sec. 5, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 107, Sec. 10.01(6), eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 154, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 430, Sec. 5, eff. Sept. 1,

1993; Acts 1995, 74th Leg., ch. 648, Sec. 7, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 868, Sec. 8, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1436, Sec. 4, eff. June 20, 1997; Acts 1999, 76th Leg., ch. 853, Sec. 8, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 867, Sec. 2, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 1136, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 575, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 121, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 928, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 83 (S.B. 550), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 5 (S.B. 272), Sec. 3, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 890 (S.B. 2554), Sec. 5, eff. June 19, 2009.

Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 6.06, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 7.06, eff. September 1, 2019.

Sec. 53.0091. COMPENSATION IN EL PASO COUNTY. (a) Each bailiff appointed under Section 53.002(c) shall be paid an annual salary out of the general fund of El Paso County, unless another source of funding is approved by the commissioners court. The council of judges shall set the salary in writing consistent with pay scales adopted by the commissioners court that are comparable to other positions within El Paso County.

(b) Bailiffs appointed under Section 53.002(c) who held office as bailiffs under that section on June 30, 2017, are entitled to receive at least the same annual salary or compensation under this section as they received on that date.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 52 (S.B. 1246), Sec. 2, eff. September 1, 2017.

(d) A person appointed to succeed a bailiff who held office as bailiff under Section 53.002(c) is not entitled to be paid the same annual salary paid to the bailiff the person succeeds, but is entitled to receive an annual salary as provided by Subsection (a).

(e) Repealed by Acts 2017, 85th Leg., R.S., Ch. 52 (S.B. 1246

), Sec. 2, eff. September 1, 2017.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.71(a), eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1074, Sec. 6, eff. Sept. 1, 1989.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 52 (S.B. 1246), Sec. 1, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 52 (S.B. 1246), Sec. 2, eff. September 1, 2017.

SUBCHAPTER B. BAILIFF TO ACT AS INTERPRETER

Sec. 53.021. SPECIAL PROVISION: BAILIFF TO ACT AS INTERPRETER. (a) The judges of the 24th, 135th, and 267th district courts may each appoint, with the approval of the commissioners court, an officer of the court to serve as bailiff.

(b) The primary duty of a bailiff appointed under this section is to act as an interpreter.

(c) A bailiff appointed under this section is entitled to receive a reasonable salary not to exceed the highest salary paid to a deputy, clerk, or assistant employed by the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER C. BAILIFFS IN BEXAR COUNTY

Sec. 53.031. APPOINTMENTS. (a) The Bexar County sheriff shall appoint one deputy to serve as bailiff for each of the district courts in Bexar County not designated as giving preference to criminal cases.

(b) The Bexar County sheriff shall appoint two deputies to serve as bailiffs for each of the district courts in Bexar County designated as giving preference to criminal cases.

(c) A person appointed as bailiff must be acceptable to the judge of the court to which he is appointed.

(d) An appointment under this section is not effective until the judge approves and confirms it in writing.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 53.032. OATH. Before assuming the duties of office, each bailiff must take the oath prescribed for officers of this state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 53.033. BOND. The sheriff may require a bailiff to give a bond. The sheriff may prescribe the conditions and amount of the bond, or those terms may be set as otherwise provided by law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 53.034. POWERS. A bailiff appointed under this subchapter has the same powers that sheriffs and deputy sheriffs have in this state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 53.035. DUTIES. (a) A bailiff acts in the name of his principal and may perform all official acts that the county sheriff may perform.

(b) A bailiff shall attend each session of the court to which he is appointed and perform the official duties performed by sheriffs and deputies in the district courts of this state, including serving process, subpoenas, warrants, and writs. A bailiff shall also perform services requested by the judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 53.036. TERM OF OFFICE; VACANCY. (a) A bailiff serves at the pleasure of the judge of the court the bailiff serves.

(b) If the office of a bailiff becomes vacant, the sheriff shall appoint another bailiff in the manner provided for initial appointments.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 53.037. ACTING FOR ANOTHER BAILIFF. The bailiffs may act for each other and shall act for each other when requested to by a judge or the sheriff. A bailiff acting for another bailiff may not receive additional compensation.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 53.038. SALARY. The sheriff shall fix the annual salary of the bailiffs of each court. The salary must be approved by the commissioners court and shall be paid by warrant or check in equal installments twice monthly from the county fund established for the purpose.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 53.039. ADDITIONAL DEPUTIES. This subchapter does not prevent the sheriff from assigning additional deputies to any of the district courts when circumstances require or when a district judge requests the assignment.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER D. BAILIFFS FOR FAMILY DISTRICT COURTS IN HARRIS COUNTY

Sec. 53.051. OFFICE OF BAILIFF. The judges of the 245th, 246th, 247th, 257th, 308th, 309th, 310th, 311th, and 312th family district courts shall appoint a person to serve their respective courts as bailiff. A bailiff is an officer of the court and performs the duties of the office under the direction and supervision of the judge of the court.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.72(a), eff. Sept. 1, 1987.

Sec. 53.052. APPOINTMENT. An order signed by the appointing judge and entered on the minutes of the court is evidence of appointment of a bailiff. The judge shall give written notice to the commissioners court and each constable of Harris County of the

appointment and date employed.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.72(a), eff. Sept. 1, 1987.

Sec. 53.053. QUALIFICATIONS. A bailiff must be a citizen of the United States and must be 19 years of age.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.72(a), eff. Sept. 1, 1987.

Sec. 53.054. BAILIFF AS DEPUTY. On written notice of the appointment from the judge, a constable of said county may deputize the bailiff in addition to other deputies authorized by law.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.72(a), eff. Sept. 1, 1987.

Sec. 53.055. OATH. The following oath must be administered by the appointing judge to the bailiff appointed under this subchapter: "I solemnly swear that I will perform faithfully and impartially all duties required of me and required by law so help me God."

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.72(a), eff. Sept. 1, 1987.

Sec. 53.056. TERM OF OFFICE. The bailiff holds office at the will of the judge of the court served by the bailiff.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.72(a), eff. Sept. 1, 1987.

Sec. 53.057. DUTIES. A bailiff shall perform the duties imposed on bailiffs under the general laws of this state and the other duties required by the judge of the court served.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.72(a), eff. Sept. 1,

1987.

Sec. 53.058. COMPENSATION. The bailiff shall be compensated out of the general fund of the county in an amount to be set by the Commissioners Court of Harris County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.72(a), eff. Sept. 1, 1987.

SUBCHAPTER E. GRAND JURY BAILIFFS IN CERTAIN COUNTIES

Sec. 53.071. GRAND JURY BAILIFFS IN COUNTIES OF 250,000 OR MORE. (a) In any county with a population of 250,000 or more, the judges of the district courts to whom the grand jury reports may, with the commissioners court's approval, appoint not more than seven grand jury bailiffs.

(b) A bailiff appointed under this section is subject to removal without cause at the will of the appointing judge or judges.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.73, eff. Sept. 1, 1987.

Sec. 53.072. GRAND JURY BAILIFFS IN GALVESTON COUNTY. The judge of a district court in Galveston County impaneling a grand jury shall appoint not more than six grand jury bailiffs.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.73, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.30, eff. Aug. 28, 1989.

SUBCHAPTER F. APPELLATE COURT PEACE OFFICERS

Sec. 53.091. EMPLOYMENT. (a) The supreme court, the court of criminal appeals, and each of the courts of appeals may employ and commission a peace officer to protect the court.

(b) A peace officer commissioned under this section holds office at the will of the court served by the officer.

(c) A person may not be commissioned as a peace officer under this section unless the person meets all standards for licensing as a

peace officer by the Texas Commission on Law Enforcement.

Added by Acts 1993, 73rd Leg., ch. 695, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.21, eff. May 18, 2013.

Sec. 53.092. POWERS AND DUTIES. Any peace officer commissioned under this section shall be vested with all the rights, privileges, obligations, and duties of any other peace officer in this state while on the property under the control of the court or acting in the actual course and scope of employment.

Added by Acts 1993, 73rd Leg., ch. 695, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER G. BAILIFFS FOR COUNTY COURTS AT LAW IN TARRANT COUNTY

Sec. 53.101. ASSIGNMENT OF BAILIFF. At least one bailiff shall be assigned regularly to each county court at law of Tarrant County.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 5.01, eff. September 1, 2015.

Sec. 53.102. OFFICE OF BAILIFF; APPOINTMENT. (a) The judge of each county court at law of Tarrant County may appoint one person to serve as bailiff of that court.
(b) The bailiff is an officer of the court and performs the duties of the office under the direction and supervision of the judge of the court.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 5.01, eff. September 1, 2015.

Sec. 53.103. TERM OF OFFICE. The bailiff holds office at the will of the judge of the court served by the bailiff.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 5.01,

eff. September 1, 2015.

Sec. 53.104. DUTIES. A bailiff shall perform the duties imposed on bailiffs under the general laws of this state and the other duties required by the judge of the court served.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 5.01, eff. September 1, 2015.

Sec. 53.105. ASSIGNMENT OF BAILIFF BY SHERIFF. (a) If the judge of a county court at law of Tarrant County does not appoint a person to serve as bailiff under Section 53.102, the sheriff of Tarrant County shall assign a bailiff for the court on written request of the judge.

(b) A bailiff assigned by the sheriff serves at the pleasure of the court to which the bailiff is assigned and shall perform the duties required by the judge of the court.

(c) On request of the judge of a county court at law, the sheriff shall immediately assign a bailiff to the court served by the judge to fill a temporary absence of the appointed or assigned bailiff.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 5.01, eff. September 1, 2015.

Sec. 53.106. COMPENSATION. A bailiff appointed by the judge of a county court at law of Tarrant County shall be compensated out of the general fund of the county in an amount to be set by the Commissioners Court of Tarrant County.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 5.01, eff. September 1, 2015.

SUBCHAPTER H. BAILIFFS FOR FAMILY DISTRICT COURTS IN TARRANT COUNTY

Sec. 53.121. OFFICE OF BAILIFF. The judges of the 231st, 233rd, 322nd, 323rd, 324th, 325th, and 360th district courts may appoint one person to serve as bailiff of that court and one person

to serve as bailiff for the district court served by an associate judge of that district court. A bailiff is an officer of the court and performs the duties of the office under the direction and supervision of the judge of the court.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 5.02, eff. September 1, 2015.

Sec. 53.122. APPOINTMENT. An order signed by the appointing judge and entered on the minutes of the court is evidence of appointment of a bailiff. The judge shall give written notice to the commissioners court and each constable of Tarrant County of the appointment and date employed.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 5.02, eff. September 1, 2015.

Sec. 53.123. QUALIFICATIONS. A bailiff must be a citizen of the United States and must be 18 years of age or older.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 5.02, eff. September 1, 2015.

Sec. 53.124. BAILIFF AS DEPUTY. On written notice of the appointment from the judge, a constable of the county may deputize the bailiff in addition to other deputies authorized by law.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 5.02, eff. September 1, 2015.

Sec. 53.125. OATH. The following oath must be administered by the appointing judge to the bailiff appointed under this subchapter: "I solemnly swear that I will perform faithfully and impartially all duties required of me and required by law so help me God."

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 5.02, eff. September 1, 2015.

Sec. 53.126. TERM OF OFFICE. The bailiff holds office at the will of the judge of the court served by the bailiff.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 5.02, eff. September 1, 2015.

Sec. 53.127. DUTIES. A bailiff shall perform the duties imposed on bailiffs under the general laws of this state and the other duties required by the judge of the court served.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 5.02, eff. September 1, 2015.

Sec. 53.128. COMPENSATION. The bailiff shall be compensated out of the general fund of the county in an amount to be set by the Commissioners Court of Tarrant County.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 5.02, eff. September 1, 2015.

CHAPTER 54. MASTERS; MAGISTRATES; REFEREES; ASSOCIATE JUDGES

SUBCHAPTER B. BELL COUNTY TRUANCY MASTERS

Sec. 54.101. APPOINTMENT. (a) The Commissioners Court of Bell County may select masters to serve the justice courts of Bell County having jurisdiction in truancy matters.

(b) The commissioners court shall establish the minimum qualifications, salary, benefits, and other compensation of each master position and shall determine whether the position is full-time or part-time.

(c) A master appointed under this section serves at the pleasure of the commissioners court.

Added by Acts 2019, 86th Leg., R.S., Ch. 355 (H.B. 452), Sec. 1, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.03, eff. September 1, 2019.

Amended by:
Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.002, eff. September 1, 2021.

Sec. 54.102. JURISDICTION. A master appointed under this subchapter has concurrent jurisdiction with the judges of the justice of the peace courts of Bell County over cases involving truant conduct in accordance with Section 65.004, Family Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 355 (H.B. 452), Sec. 1, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.03, eff. September 1, 2019.

Sec. 54.103. POWERS AND DUTIES. (a) The Commissioners Court of Bell County shall establish the powers and duties of a master appointed under this subchapter.
(b) An order of referral may limit the use or power of a master.
(c) Unless limited by published local rule, by written order, or by an order of referral, a master may perform all acts and take all measures necessary and proper to perform the tasks assigned in a referral.
(d) A master may administer oaths.

Added by Acts 2019, 86th Leg., R.S., Ch. 355 (H.B. 452), Sec. 1, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.03, eff. September 1, 2019.

Sec. 54.104. JUDICIAL IMMUNITY. A master has the same judicial immunity as a district judge.

Added by Acts 2019, 86th Leg., R.S., Ch. 355 (H.B. 452), Sec. 1, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.03, eff. September 1, 2019.

Sec. 54.105. TRAINING. A master appointed under this subchapter must successfully complete all training a justice of the peace is required to complete under state law.

Added by Acts 2019, 86th Leg., R.S., Ch. 355 (H.B. 452), Sec. 1, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.03, eff. September 1, 2019.

Sec. 54.106. FAILURE TO COMPLY WITH SUMMONS OR ORDER. If an attorney, party, witness, or any other person fails to comply with a summons or order, the master may certify that failure in writing to the referring court for appropriate action.

Added by Acts 2019, 86th Leg., R.S., Ch. 355 (H.B. 452), Sec. 1, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.03, eff. September 1, 2019.

Sec. 54.107. WITNESSES. (a) A witness appearing before a master is subject to the penalties of perjury as provided by Chapter 37, Penal Code.

(b) A witness referred to the court under Section 54.106 is subject to the same penalties and orders that may be imposed on a witness appearing in a hearing before the court.

Added by Acts 2019, 86th Leg., R.S., Ch. 355 (H.B. 452), Sec. 1, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.03, eff. September 1, 2019.

SUBCHAPTER D. CRIMINAL LAW MAGISTRATES IN DALLAS COUNTY

Sec. 54.301. APPOINTMENT. (a) Each judge of a district court of Dallas County that gives preference to criminal cases, each judge of a criminal district court of Dallas County, and each judge of a county criminal court of Dallas County, with the consent and approval of the Commissioners Court of Dallas County, may appoint a magistrate to perform the duties authorized by this subchapter.

(b) Judges may authorize one or more magistrates to share service with more than one court.

(c) If a magistrate serves more than one court, the magistrate's appointment must be made with the unanimous approval of all the judges under whom the magistrate serves.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 215, Sec. 1, eff. May 23, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.302. QUALIFICATIONS. To be eligible for appointment as a magistrate, a person must:

(1) be a resident of this state; and

(2) have been licensed to practice law in this state for at least four years.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.303. COMPENSATION. (a) A magistrate is entitled to the salary determined by the Commissioners Court of Dallas County.

(b) The salary may not be less than the salary authorized to be paid to a master for family law cases appointed under Subchapter A.

(c) The magistrate's salary is paid from the county fund available for payment of officers' salaries.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.304. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.305. TERMINATION OF SERVICES. (a) A magistrate who serves a single court serves at the will of the judge.

(b) The services of a magistrate who serves more than one court may be terminated by a majority vote of all the judges whom the magistrate serves.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.306. PROCEEDING THAT MAY BE REFERRED. (a) A judge may refer to a magistrate any matter arising out of a criminal case involving:

(1) a negotiated plea of guilty or nolo contendere before the court;

(2) a bond forfeiture;

(3) a pretrial motion;

(4) a postconviction writ of habeas corpus;

(5) an examining trial;

(6) an occupational driver's license;

(7) an appeal of an administrative driver's license revocation hearing; and

(8) any other matter the judge considers necessary and proper.

(b) The magistrate may not preside over a trial on the merits, whether or not the trial is before a jury.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 215, Sec. 2, eff. May 23, 1997; Acts 1999, 76th Leg., ch. 811, Sec. 1, eff. Sept. 1, 1999.

Sec. 54.307. ORDER OF REFERRAL. (a) To refer one or more cases to a magistrate, a judge must issue an order of referral specifying the magistrate's duties.

(b) An order of referral may:

(1) limit the powers of the magistrate and direct the magistrate to report only on specific issues, do particular acts, or receive and report on evidence only;

(2) set the time and place for the hearing;

(3) prescribe a closing date for the hearing;

(4) provide a date for filing the magistrate's findings;

(5) designate proceedings for more than one case over which the magistrate shall preside;

(6) direct the magistrate to call the court's docket; and

(7) set forth general powers and limitations of authority of the magistrate applicable to any case referred.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.308. POWERS. (a) Except as limited by an order of referral, a magistrate to whom a case is referred may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on admissibility of evidence;

(5) issue summons for the appearance of witnesses;

(6) examine witnesses;

(7) swear witnesses for hearings;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) rule on a pretrial motion;

(11) recommend the rulings, orders, or judgment to be made in a case;

(12) regulate proceedings in a hearing; and

(13) do any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(b) A magistrate may not enter a ruling on any issue of law or fact if that ruling could result in dismissal or require dismissal of a pending criminal prosecution, but the magistrate may make findings, conclusions, and recommendations on those issues.

(c) Except as limited by an order of referral, a magistrate who is appointed by a district court judge and to whom a case is referred may accept a plea of guilty or nolo contendere in a misdemeanor case for a county criminal court. The magistrate shall forward any fee or fine collected for the misdemeanor offense to the county clerk.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 522, Sec. 1, eff. June 17, 1987; Acts 1997, 75th Leg., ch. 215, Sec. 3, eff. May 23, 1997.

Sec. 54.309. COURT REPORTER. At the request of a party in a

felony case, the court shall provide a court reporter to record the proceedings before the magistrate.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 215, Sec. 4, eff. May 23, 1997.

Sec. 54.310. WITNESS. (a) A witness who appears before a magistrate and is sworn is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.311. PAPERS TRANSMITTED TO JUDGE. At the conclusion of the proceedings, a magistrate shall transmit to the referring court any papers relating to the case, including the magistrate's findings, conclusions, orders, recommendations, or other action taken.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 54.312. JUDICIAL ACTION. (a) A referring court may modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate.

(b) If the court does not modify, correct, reject, reverse, or recommit an action of the magistrate, the action becomes the decree of the court.

(c) At the conclusion of each term during which the services of a magistrate are used, the referring court shall enter a decree on the minutes adopting the actions of the magistrate of which the court approves.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER H. CRIMINAL LAW MAGISTRATES IN TARRANT COUNTY

Sec. 54.651. APPOINTMENT. (a) The judges of the district

courts of Tarrant County that give preference to criminal cases, the judges of the criminal district courts of Tarrant County, and the judges of the county criminal courts of Tarrant County, with the consent and approval of the Commissioners Court of Tarrant County, shall jointly appoint the number of magistrates set by the commissioners court to perform the duties authorized by this subchapter.

(b) Each magistrate's appointment must be made with the approval of at least two-thirds of all the judges described in Subsection (a).

(c) If the number of magistrates is less than the number of judges described in Subsection (a), each magistrate shall serve equally in the courts of those judges.

(d) A magistrate appointed under this subchapter may not engage in the private practice of law, as defined by Section 81.101, in Tarrant County.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987. Amended by Acts 1997, 75th Leg., ch. 1147, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 910, Sec. 1, eff. Sept. 1, 2003. Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.007, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.652. QUALIFICATIONS. To be eligible for appointment as a magistrate, a person must:

(1) be a resident of this state; and

(2) have been licensed to practice law in this state for at least four years.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.653. COMPENSATION. (a) A full-time magistrate is entitled to the salary determined by the Commissioners Court of

Tarrant County.

(b) Repealed by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.05, eff. September 1, 2021.

(c) The salary of a part-time magistrate is equal to the per-hour salary of a full-time magistrate. The per-hour salary is determined by dividing the annual salary by a 2,080 work-hour year. The judges of the courts trying criminal cases in Tarrant County shall approve the number of hours for which a part-time magistrate is to be paid.

(d) A magistrate's salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1045 (H.B. 1904), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 12, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.05, eff. September 1, 2021.

Sec. 54.654. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.655. TERMINATION OF SERVICES. (a) A magistrate who serves a single court serves at the will of the judge.

(b) The services of a magistrate who serves more than one court may be terminated by a majority vote of all the judges whom the magistrate serves.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.656. PROCEEDING THAT MAY BE REFERRED. (a) A judge may refer to a magistrate any criminal case or matter relating to a criminal case for proceedings involving:

(1) a negotiated plea of guilty or nolo contendere and

sentencing before the court;

(2) a bond forfeiture, remittitur, and related proceedings;

(3) a pretrial motion;

(4) a writ of habeas corpus;

(5) an examining trial;

(6) an occupational driver's license;

(7) a petition for an order of expunction under Chapter 55A, Code of Criminal Procedure;

(8) an asset forfeiture hearing as provided by Chapter 59, Code of Criminal Procedure;

(9) a petition for an order of nondisclosure of criminal history record information or an order of nondisclosure of criminal history record information that does not require a petition provided by Subchapter E-1, Chapter 411;

(10) a motion to modify or revoke community supervision or to proceed with an adjudication of guilt;

(11) setting conditions, modifying, revoking, and surrendering of bonds, including surety bonds;

(12) specialty court proceedings;

(13) a waiver of extradition; and

(14) any other matter the referring judge considers necessary and proper.

(b) A judge may refer to a magistrate a civil case arising out of Chapter 59, Code of Criminal Procedure, for any purpose authorized by that chapter, including issuing orders, accepting agreed judgments, enforcing judgments, and presiding over a case on the merits if a party has not requested a jury trial.

(c) A magistrate may accept a plea of guilty from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses.

(d) A magistrate may select a jury. A magistrate may not preside over a criminal trial on the merits, whether or not the trial is before a jury.

(e) A magistrate may not hear a jury trial on the merits of a bond forfeiture.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987. Amended by Acts 1997, 75th Leg., ch. 1147, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 910, Sec. 2, eff. Sept. 1, 2003. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 66 (S.B. 483), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 17, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 1045 (H.B. 1904), Sec. 2, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.070, eff. January 1, 2025.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.008, eff. September 1, 2023.

Sec. 54.657. ORDER OF REFERRAL. (a) To refer one or more cases to a magistrate, a judge must issue an order of referral specifying the magistrate's duties.

(b) An order of referral may:

(1) limit the powers of the magistrate and direct the magistrate to report only on specific issues, do particular acts, or receive and report on evidence only;

(2) set the time and place for the hearing;

(3) prescribe a closing date for the hearing;

(4) provide a date for filing the magistrate's findings;

(5) designate proceedings for more than one case over which the magistrate shall preside;

(6) direct the magistrate to call the court's docket; and

(7) set forth general powers and limitations of authority of the magistrate applicable to any case referred.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.658. POWERS. (a) Except as limited by an order of referral, a magistrate to whom a case is referred may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on admissibility of evidence;

(5) issue summons for the appearance of witnesses;

(6) examine witnesses;

(7) swear witnesses for hearings;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) rule on a pretrial motion;

(11) recommend the rulings, orders, or judgment to be made in a case;

(12) regulate proceedings in a hearing;

(13) accept a plea of guilty from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses;

(14) select a jury;

(15) accept a negotiated plea on a probation revocation;

(16) conduct a contested probation revocation hearing;

(17) sign a dismissal in a misdemeanor case;

(18) in any case referred under Section 54.656(a)(1), accept a negotiated plea of guilty or no contest and:

(A) enter a finding of guilt and impose or suspend the sentence; or

(B) defer adjudication of guilt; and

(19) do any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(b) A magistrate may sign a motion to dismiss submitted by an attorney representing the state on cases referred to the magistrate, or on dockets called by the magistrate, and may consider unadjudicated cases at sentencing under Section 12.45, Penal Code.

(c) A magistrate has all of the powers of a magistrate under the laws of this state and may administer an oath for any purpose.

(d) A magistrate does not have authority under Article 18.01(c), Code of Criminal Procedure, to issue a subsequent search warrant under Article 18.02(a)(10), Code of Criminal Procedure.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.
Amended by Acts 2003, 78th Leg., ch. 910, Sec. 3, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 66 (S.B. 483), Sec. 2, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 1045 (H.B. 1904), Sec. 3, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 8.001, eff. September 1, 2019.

Sec. 54.6585. CLERK. (a) The district clerk serves as clerk of the cases referred to a magistrate under this subchapter, except:

(1) the county clerk serves as clerk for a Class A or Class B misdemeanor case filed in a county criminal court and referred to a magistrate; and

(2) the originating justice court clerk serves as clerk for a Class C misdemeanor case filed in a justice court and referred to a magistrate.

(b) The district clerk shall establish a docket and keep the minutes for the cases referred to a magistrate under this subchapter. To facilitate the duties associated with serving as the clerk for the cases referred to a magistrate, the district clerk and deputy district clerks may serve as deputy county clerks and deputy justice clerks at the discretion of the district clerk.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.009, eff. September 1, 2023.

Sec. 54.659. COURT REPORTER. At the request of a party in a felony case, the court shall provide a court reporter to record the proceedings before the magistrate.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987. Amended by Acts 1997, 75th Leg., ch. 1147, Sec. 3, eff. Sept. 1, 1997.

Sec. 54.660. WITNESS. (a) A witness who appears before a magistrate and is sworn is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.661. PAPERS TRANSMITTED TO JUDGE. At the conclusion of the proceedings, a magistrate shall transmit to the referring court any papers relating to the case, including the magistrate's findings,

conclusions, orders, recommendations, or other action taken.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.

Sec. 54.662. JUDICIAL ACTION. (a) A referring court may modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate.

(b) If the court does not modify, correct, reject, reverse, or recommit an action of the magistrate, the action becomes the decree of the court.

(c) At the conclusion of each term during which the services of a magistrate are used, the referring court shall enter a decree on the minutes adopting the actions of the magistrate of which the court approves.

Added by Acts 1987, 70th Leg., ch. 81, Sec. 1, eff. Aug. 31, 1987.

SUBCHAPTER J. EL PASO CRIMINAL LAW MAGISTRATE COURT

Sec. 54.731. SHORT TITLE. This subchapter may be cited as the El Paso Criminal Law Magistrates Act.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.732. CREATION. The El Paso Criminal Law Magistrate Court is a court having the jurisdiction provided by this subchapter over offenses allegedly committed in El Paso County.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.01(a), eff. September 1, 2015.

Sec. 54.733. JURISDICTION. (a) Except as provided by Subsection (b), the criminal law magistrate court has the criminal jurisdiction provided by the constitution and laws of this state for

county courts.

(b) The criminal law magistrate court does not have jurisdiction to:

(1) hear a trial of a misdemeanor offense, other than a Class C misdemeanor, on the merits if a jury trial is demanded; or

(2) hear a trial of a misdemeanor, other than a Class C misdemeanor, on the merits if a defendant pleads not guilty.

(c) The criminal law magistrate court has the jurisdiction provided by the constitution and laws of this state for magistrates. A judge of the criminal law magistrate court is a magistrate as defined by Article 2A.151, Code of Criminal Procedure.

(d) Except as provided by Subsection (e), the criminal law magistrate court has the criminal jurisdiction provided by the constitution and laws of the state for a district court.

(e) The criminal law magistrate court does not have jurisdiction to:

(1) hear a trial of a felony offense on the merits if a jury trial is demanded;

(2) hear a trial of a felony offense on the merits if a defendant pleads not guilty;

(3) sentence in a felony case unless the judge in whose court the case is pending assigned the case to the criminal law magistrate court for a guilty plea and sentence; or

(4) hear any part of a capital murder case after indictment.

(f) A criminal law magistrate court may not issue writs of habeas corpus in felony cases but may hear and grant relief on a writ of habeas corpus that is issued by a district court and that is assigned by the district court to the criminal law magistrate court.

(g) A felony or misdemeanor indictment may not be filed in or transferred to the criminal law magistrate court.

(h) A felony or misdemeanor information may not be filed in or transferred to the criminal law magistrate court.

(i) A judge of the criminal law magistrate court shall exercise jurisdiction granted by this subchapter over felony and misdemeanor indictments and informations only as judge presiding for the court in which the indictment or information is pending and under the limitations set out in the assignment order by the assigning court or as provided by local administrative rules.

(j) The criminal law magistrate court has concurrent criminal

jurisdiction with the justice courts located in El Paso County.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.01(b), eff. September 1, 2015.
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.071, eff. January 1, 2025.

Sec. 54.734. TERM OF COURT. The criminal law magistrate court has two terms of court beginning on the first Mondays in January and July.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.735. POWERS AND DUTIES. (a) The criminal law magistrate court or a judge of the criminal law magistrate court may issue writs of injunction and all other writs necessary for the enforcement of the jurisdiction of the court and may issue misdemeanor writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and the judge may punish for contempt as provided by law for district courts. A judge of the criminal law magistrate court has all other powers, duties, immunities, and privileges provided by law for:

(1) justices of the peace when acting in a Class C misdemeanor case;

(2) county court judges when acting in a Class A or Class B misdemeanor case; and

(3) district court judges when acting in a felony case.

(b) A judge of the criminal law magistrate court may hold an indigency hearing and a capias pro fine hearing. When acting as the judge who issued the capias pro fine, a judge of the criminal law magistrate court may make all findings of fact and conclusions of law required of the judge who issued the capias pro fine. In conducting a hearing under this subsection, the judge of the criminal law magistrate court is empowered to make all findings of fact and

conclusions of law and to issue all orders necessary to properly dispose of the capias pro fine or indigency hearing in accordance with the provisions of the Code of Criminal Procedure applicable to a misdemeanor or felony case of the same type and level.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.01(c), eff. September 1, 2015.

Sec. 54.736. COUNCIL OF JUDGES. (a) The El Paso Council of Judges is composed of the judges of the district courts of El Paso County and the judges of the county courts at law of El Paso County.

(b) The council of judges shall ensure that the criminal law magistrate court gives preference to magistrate duties, as those duties apply to the county jail inmate population first and then to newly detained individuals, until the commissioners court provides funds for more than one judge to sit on the criminal law magistrate court.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.01(d), eff. September 1, 2015.

Sec. 54.737. ADMINISTRATIVE RULES. (a) The El Paso Council of Judges by majority vote shall include in the local rules of administration adopted as provided by Subchapter D, Chapter 74, rules for the administration of the criminal law magistrate court.

(b) The rules may provide for:

(1) assignment and hearing of all criminal cases subject to the jurisdictional limitations of the criminal law magistrate court;

(2) designation of a particular judge of the criminal law magistrate court to be responsible for certain matters;

(3) fair and equitable division of caseloads of criminal cases of the judges of the council of judges and the criminal law magistrate court;

(4) limitations on the assignment of cases to the criminal law magistrate court;

(5) limitations on the powers of a judge of the criminal law magistrate court in regard to the exercise of jurisdiction when presiding for an assigning court;

(6) setting hours, days, and places for holding court by a judge of the criminal law magistrate court; and

(7) any other matter necessary to carry out this subchapter or to improve the administration and management of the court system and its auxiliary services.

(c) The rules must provide that a criminal law magistrate judge may only release a defendant under Article 17.031, Code of Criminal Procedure, under guidelines established by the council of judges.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.01(e), eff. September 1, 2015.

Sec. 54.738. TRANSFER AND ASSIGNMENT OF CASES. (a) Except as provided by Subsection (b) or local administrative rules, the local administrative judge or a judge of the criminal law magistrate court may transfer between courts a case that is pending in the court of any magistrate in the criminal law magistrate court's jurisdiction if the case is:

(1) an unindicted felony case;

(2) a Class A or Class B misdemeanor case if an information has not been filed; or

(3) a Class C misdemeanor case.

(b) A case may not be transferred from or to the magistrate docket of a judge on the El Paso Council of Judges without the consent of the judge of the court to which it is transferred.

(c) Except as provided by Subsection (d) or local administrative rules, the local administrative judge may assign a judge on the council of judges, a judge of the criminal law magistrate court, a retired judge, or any other magistrate to act as presiding judge in a case that is pending in the court of any magistrate in the criminal law magistrate court's jurisdiction if the

case is:

(1) an unindicted felony case;

(2) a Class A or Class B misdemeanor case if an information has not been filed; or

(3) a Class C misdemeanor case.

(d) A case may not be assigned to a judge on the council of judges without the assigned judge's consent.

(e) This section applies only to the district courts, county courts at law, justice courts, and municipal courts in the county.

(f) The local administrative judge may delegate or the local administrative rules may provide for the delegation of the power to transfer or assign cases to any other judge on the council of judges.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.01(f), eff. September 1, 2015.

Sec. 54.739. ORDER OF ASSIGNMENT. (a) Cases may be assigned by local administrative rules, by a blanket written order, or on a case-by-case basis. Each district court and county court at law may use any of the methods to assign cases to the criminal law magistrate court.

(b) The local administrative rules, a blanket order of assignment, or a specific order of assignment may limit the powers of a criminal law magistrate court or a judge of that court.

(c) Unless limited as provided by Subsection (b), the criminal law magistrate court and a judge of that court may perform all acts and take all measures necessary and proper to exercise the jurisdiction granted in this subchapter in relation to a case assigned under this subchapter.

(d) A case assigned under this subchapter to the criminal law magistrate court from a district court, a county court at law, or a justice court remains on the docket of the assigning court and in the assigning court's jurisdiction.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.01(g), eff. September 1, 2015.

Sec. 54.740. EFFECT OF TRANSFER. When a case is transferred from one court to another as provided by this subchapter, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees in all bonds and recognizances taken in a case that is transferred and all witnesses summoned to appear in a court from which a case is transferred are required to appear before the court to which the case is transferred as if the processes or obligations were originally issued by the court to which the transfer is made.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.741. FORFEITURES. Bail bonds and personal bonds may be forfeited by the criminal law magistrate court in the manner provided by Chapter 22, Code of Criminal Procedure, and those forfeitures shall be filed with:

(1) the district clerk if associated with a felony case;

(2) the county clerk if associated with a Class A or Class B misdemeanor case; or

(3) the same justice court clerk associated with the Class C misdemeanor case in which the bond was originally filed.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.01(h), eff. September 1, 2015.

Sec. 54.742. COSTS. (a) When the district clerk is the clerk under this subchapter, the district clerk shall charge the same court costs for cases filed, transferred to, or assigned to the criminal law magistrate court that are charged in the district courts.

(b) When the county clerk is the clerk under this subchapter,

the county clerk shall charge the same court costs for cases filed in, transferred to, or assigned to the criminal law magistrate court that are charged in the county courts.

(c) When a justice clerk is the clerk under this subchapter, the justice clerk shall charge the same court costs for cases filed in, transferred to, or assigned to the criminal law magistrate court that are charged in the justice courts.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.01(i), eff. September 1, 2015.

Sec. 54.743. OBJECTION TO JUDGE. (a) If after indictment, the defendant or the state files a timely objection to the assignment of a first-degree felony to the criminal law magistrate court, the judge is disqualified to hear the case.

(b) If after indictment the defendant or the state files a timely objection to a particular judge on the criminal law magistrate court hearing a first-degree felony assigned to that court, that judge is disqualified to hear the case.

(c) An objection under this section must be filed before the first hearing or trial, including pretrial hearings, in which the assigned judge is to preside.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.744. JUDGES ON EL PASO COUNCIL OF JUDGES. Unless the local rules of administration provide otherwise, the judges on the El Paso Council of Judges and the judges on the criminal law magistrate court may sit and act for any magistrate in El Paso County on any unindicted felony or Class A or B misdemeanor case if an information has not been filed or any Class C misdemeanor case filed in a justice court.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.01(j), eff. September 1, 2015.

Sec. 54.745. PRETRIAL DIVERSION. (a) As a condition for a defendant to enter any pretrial diversion program, including a behavioral modification program, a health care program, a specialty court program, or the functional equivalent that may be operated in El Paso County by El Paso County, Emergence Health Network, the City of El Paso, the West Texas Regional Adult Probation Department, a community partner approved by the council of judges, or a county or district attorney of El Paso County, a defendant must file in the court in which the charges are pending a sworn waiver of speedy trial motion requesting the court to approve without a hearing defendant's waiver of his speedy trial rights under the constitution and other law. If the court approves the waiver, the defendant is eligible for consideration for acceptance into a pretrial diversion program or equivalent program.

(b) Repealed by Acts 2019, 86th Leg., Ch. 1352 (S.B. 346), Sec. 4.40(9), eff. January 1, 2020.

(c) Repealed by Acts 2019, 86th Leg., Ch. 1352 (S.B. 346), Sec. 4.40(9), eff. January 1, 2020.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.01(k), eff. September 1, 2015.
Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.40(9), eff. January 1, 2020.

Sec. 54.746. JURISDICTION OF JUDGES ON EL PASO COUNCIL OF JUDGES. (a) In addition to jurisdiction conferred by other law, each district court and county court at law in El Paso County has the same jurisdiction given to the criminal law magistrate court by this subchapter.

(b) A misdemeanor information may not be filed in a district court under the grant of jurisdiction in Subsection (a).

(c) A felony indictment or information may not be filed in a county court at law under the grant of jurisdiction in Subsection (a).

(d) A judge of a county court at law in El Paso County shall exercise jurisdiction granted by Subsection (a) over felony indictments and felony informations and justice court cases only as a judge presiding for the court in which the felony or Class C misdemeanor is pending and only if the El Paso Council of Judges has so provided in the local administrative rules by a unanimous vote. The exercise of this jurisdiction outside El Paso County is as provided by Chapter 74 and other law.

(e) A judge of a district court in El Paso County shall exercise jurisdiction granted by Subsection (a) over misdemeanor information and justice court cases only as a judge presiding for the court in which the misdemeanor is pending and only if the council of judges has so provided in the local administrative rules by a unanimous vote. The exercise of this jurisdiction outside El Paso County is as provided by the Court Administration Act (Chapter 74) and other law.

(f) This subchapter does not grant jurisdiction over misdemeanors involving official misconduct to any court, and all those cases remain in the original jurisdiction of the district courts as provided by law.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.01(l), eff. September 1, 2015.

Sec. 54.747. JUDGE. (a) The criminal law magistrate court is presided over by one or more judges appointed by a two-thirds vote of all the district court and county court at law judges. A criminal law magistrate court judge serves for a one-year term beginning on the date of appointment.

(b) To be eligible for appointment as a judge of the criminal law magistrate court, a person must meet all the requirements and qualifications to serve as a district court judge.

(c) If there is more than one criminal law magistrate court

judge, the council of judges may appoint one of the judges to be the presiding criminal law magistrate court judge.

(d) The order appointing a judge of the criminal law magistrate court must be signed by two-thirds of the judges on the El Paso Council of Judges and shall be entered in the minutes of each district court and county court at law. The order must state the judge's name, state bar identification number, and the date the appointment takes effect.

(e) The council of judges may withdraw a judge's appointment to the criminal law magistrate court by a majority vote of all the judges on the council of judges. The order must be signed by the local administrative judge and shall be entered in the minutes of each district court and county court at law. The order must state the judge's name, state bar identification number, and the date the order of withdrawal takes effect.

(f) Any judge on the council of judges may withdraw that judge's consent for a judge or judges of the criminal law magistrate court to act for that judge under this subchapter. The order withdrawing consent to act must state the name of the judge who may not act, the judge's state bar identification number, and the date the withdrawal of consent takes effect.

(g) A judge of the criminal law magistrate court is entitled to the salary determined by the commissioners court. The salary may not be less than the salary authorized to be paid to a family law master appointed for El Paso County.

(h) Except as provided for in Subsection (i), the council of judges may only appoint the number of judges for which the commissioners court by order provides compensation in the county budget.

(i) The council of judges may appoint any number of judges who agree to serve on the criminal law magistrate court as part-time or as full-time judges without compensation.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.748. OATH OF OFFICE. The judges of the criminal law magistrate court must take the constitutional oath of office prescribed for appointed officers.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.749. JUDICIAL IMMUNITY. The judges of the criminal law magistrate court and the judges of the county courts at law have the same judicial immunity as a district judge.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.750. EXCHANGE OF BENCHES. (a) The judges of the criminal law magistrate court may exchange benches and may sit and act for each other in any proceeding pending in the criminal law magistrate court.

(b) Except as provided by Subsection (c), the judges of the criminal law magistrate court may exchange benches and may sit and act for each other in any proceeding assigned to them under this subchapter if a felony or misdemeanor indictment has been filed or a felony or misdemeanor information has been filed.

(c) Any court that assigns an indicted case or a case in which an information has been filed under this subchapter to the criminal law magistrate court may provide in the assignment order or the local administrative rules may provide that only the judge who is named in the assignment order may act on the case and that another judge of the criminal law magistrate court may not exchange benches with or sit for the judge named in the assignment order or local administrative rules.

(d) When conducting a capias pro fine hearing for any court, the criminal law magistrate court acts in the same capacity and with the same authority as the judge who issued the capias pro fine.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.01(m), eff. September 1, 2015.

Sec. 54.751. SPECIAL JUDGE. (a) If a full-time compensated

judge of the criminal law magistrate court is absent or is from any cause disabled or disqualified from presiding, a special judge may be appointed in the manner provided by this subchapter for the appointment of a judge of the criminal law magistrate court.

(b) A special judge shall take the oath of office that is required by law for the regular judge and has all the power and jurisdiction of the court and of the regular judge for whom he is sitting. A special judge may sign orders, judgments, decrees, or other process of any kind as "Judge Presiding" when acting for the regular judge.

(c) A special judge is entitled to receive for the services actually performed the same amount of compensation that the regular judge is entitled to receive for the services. The compensation shall be paid out of county funds. None of the amount paid to a special judge for sitting for the regular judge may be deducted or paid out of the salary of the regular judge.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.753. CLERK. (a) The district clerk serves as clerk of the criminal law magistrate court, except that:

(1) after a Class A or Class B misdemeanor information is filed in the county court at law and assigned to the criminal law magistrate court, the county clerk serves as clerk for that misdemeanor case; and

(2) after a Class C misdemeanor is filed in a justice court and assigned to the criminal law magistrate court, the originating justice court clerk serves as clerk for that misdemeanor case.

(b) The district clerk shall establish a docket and keep the minutes for the cases filed in or transferred to the criminal law magistrate court. The district clerk shall perform any other duties that local administrative rules require in connection with the implementation of this subchapter. The local administrative judge shall ensure that the duties required under this subsection are performed. To facilitate the duties associated with serving as the clerk of the criminal law magistrate court, the district clerk and the deputies of the district clerk may serve as deputy justice clerks and deputy county clerks at the discretion of the district clerk.

(c) The clerk of the case shall include as part of the record on appeal a copy of the order and local administrative rule under which a criminal law magistrate court acted.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.01(n), eff. September 1, 2015.

Sec. 54.754. SHERIFF. (a) The county sheriff, either in person or by deputy, shall attend the criminal law magistrate court as required by a judge of that court.
(b) Unless the local administrative rules provide otherwise, the county sheriff, either in person or by deputy, shall attend court proceedings heard by El Paso family law masters as required by a family law master.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.755. COURT REPORTER. Each judge of the criminal law magistrate court shall appoint an official shorthand reporter to serve that judge. Those official shorthand reporters must be well skilled in their profession. Such a reporter is a sworn officer of the court who holds office at the pleasure of the court.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.756. FAMILY LAW MASTER. (a) An El Paso family law master may be appointed as a judge of the criminal law magistrate court and continue as a family law master.
(b) A family law master may not be appointed as a judge of the criminal law magistrate court unless the family law master agrees to the appointment.
(c) A family law master appointed to serve as a judge of the criminal law magistrate court is not entitled to receive additional

compensation for serving as a judge of that court unless the commissioners court provides additional compensation.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.757. JUDGE OF CRIMINAL LAW MAGISTRATE COURT. (a) A judge of the criminal law magistrate court may be appointed as a family law master and continue as a judge of the criminal law magistrate court.

(b) A judge of the criminal law magistrate court may not be appointed as a family law master unless the judge agrees to the appointment.

(c) A judge of the criminal law magistrate court appointed to serve as a family law master is not entitled to receive additional compensation for serving as a family law master unless the commissioners court provides additional compensation.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.758. MAGISTRATES MAY BE APPOINTED. (a) Any magistrate in El Paso County may be appointed as a judge of the criminal law magistrate court or as a family law master, or both, and continue as a judge or justice of another court.

(b) A magistrate may not be appointed under Subsection (a) unless the magistrate agrees to the appointment.

(c) A magistrate appointed under Subsection (a) is not entitled to receive additional compensation unless the commissioners court provides additional compensation.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.759. LOCATION OF COURT. (a) The criminal law magistrate court may be held at one or more locations provided by the local administrative rules or ordered by the local administrative judge.

(b) A defendant may be brought before the court in person or by means of an electronic broadcast system through which an image of the defendant is presented to the court. For purposes of this subsection, "electronic broadcast system" means a two-way electronic communication of image and sound between the defendant and the court.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.01(o), eff. September 1, 2015.

Sec. 54.760. COURT SEAL. The seal of the criminal law magistrate court shall be the same as that provided by law for county courts, except that the seal must contain the words "El Paso Criminal Law Magistrate Court." The seal shall be judicially noticed.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.761. INACTIVE COURT. (a) If in the opinion of a majority of the judges of the El Paso Council of Judges the criminal law magistrate court should not continue in active operation after it is created, then by an order or orders signed by the local administrative judge all pending cases on the active docket of the criminal law magistrate court shall be transferred to the court or courts of other magistrates that have potential jurisdiction over the cases transferred.
(b) The local administrative judge shall select the courts to which the cases are transferred under Subsection (a).

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.762. JURISDICTION NOT DIMINISHED. This subchapter does not diminish the jurisdiction granted by the constitution and laws of this state to any court named in this subchapter.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

Sec. 54.763. TRANSFER UNDER CODE OF CRIMINAL PROCEDURE. This subchapter does not prevent a district court from transferring misdemeanor indictments to an inferior court as provided by Chapter 21, Code of Criminal Procedure, notwithstanding the grant of misdemeanor jurisdiction to the district courts by this subchapter.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.32(a), eff. Aug. 28, 1989.

SUBCHAPTER K. JUVENILE COURT MASTERS IN HARRIS COUNTY

Sec. 54.801. APPOINTMENT. (a) A majority of the judges of the courts that are designated as juvenile courts in Harris County may determine that one or more full-time or part-time masters are needed to serve those courts.

(b) The judges shall issue an order reflecting that determination and specifying the number of masters needed.

(c) Subject to the determination of need and the approval of the commissioners court of Harris County, each judge may appoint one or more masters to serve the judge's court.

(d) Judges may act together to appoint a master to serve their courts.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.802. QUALIFICATIONS. A master must:

(1) be a citizen and resident of this state; and

(2) have been licensed to practice law in this state for at least four years.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28,

1989.

Sec. 54.803. ORDER OF APPOINTMENT. The order appointing a master must be entered in the minutes of each court making the order and state:

(1) the master's name and state bar identification number;
(2) the name of each court the master will serve; and
(3) the date the master's service is to begin.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.804. COMPENSATION. The commissioners court shall set the compensation for masters and determine the total amount the county will pay as compensation for masters.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.805. JUDICIAL IMMUNITY. A master appointed under this subchapter has the same judicial immunity as a district judge.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.806. TERMINATION OF EMPLOYMENT. (a) A master who serves a single court serves at the will of the judge of that court.

(b) The employment of a master who serves two courts may be terminated by either of the judges of those courts.

(c) The employment of a master who serves more than two courts may be terminated by a majority of the judges of those courts.

(d) To terminate a master's employment, the appropriate judges must sign a written order of termination. The order must state:

(1) the master's name and state bar identification number;
(2) each court ordering termination; and
(3) the date the master's employment ends.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.807. WITHDRAWAL OF APPOINTMENT FOR A PARTICULAR COURT. The judge of a court for which a master has been appointed may withdraw the master's appointment to that court by written order. The order must state:

(1) the master's name and state bar identification number;

(2) the name of the court ordering the withdrawal; and

(3) the date the master's services end as to that court.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.808. CASES THAT MAY BE REFERRED. A judge may refer to a master any civil case or portion of a civil case brought:

(1) under Title 1, 2, 3, 4, or 5, Family Code; or

(2) in connection with Rule 308a, Texas Rules of Civil Procedure.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.35, eff. Sept. 1, 1997.

Sec. 54.809. METHOD OF REFERRAL. A case may be referred as prescribed by published local rules or by written orders.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.810. POWERS. (a) An order of referral may limit the use or power of a master.

(b) Unless limited by published local rule, by written order, or by an order of referral, a master may perform all acts and take all measures necessary and proper to perform the tasks assigned in a referral.

(c) A master may administer oaths.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.811. EFFECT ON TEMPORARY RESTRAINING ORDER. (a) The referral of a case or a portion of a case to a master does not affect a party's right to have a court grant or extend a temporary restraining order and does not prevent the expiration of a temporary restraining order.

(b) Until a judge signs an order concerning the findings and recommendations of a master, the findings and recommendations do not affect an existing temporary restraining order or the expiration or extension of that order.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.812. JURY. (a) Except as provided by Subsection (b), if a jury trial is demanded in a case referred to a master, the master shall refer the case back to the referring court for a full hearing according to the usual rules applicable to the case.

(b) A jury demand does not affect the authority of a master to handle pretrial matters referred to the master.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.813. COURT REPORTER. (a) A court reporter must be provided during a hearing conducted by a master.

(b) Notwithstanding Subsection (a), a referring judge may require a reporter at any hearing.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.814. FAILURE TO COMPLY WITH SUMMONS OR ORDER. If an attorney, party, witness, or any other person fails to comply with a summons or order, the master may certify that failure in writing to

the referring court for appropriate action.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.815. WITNESSES. (a) A witness appearing before a master is subject to the penalties of perjury as provided by Chapter 37, Penal Code.

(b) A witness referred to the court under Section 54.814 is subject to the same penalties and orders that may be imposed on a witness appearing in a hearing before the court.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.816. RETURN TO REFERRING COURT; FINDINGS. After a hearing is concluded, the master shall send to the referring judge all papers relating to the case and the written findings of the master.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.817. COURT ACTION ON REPORT. (a) After the court receives the master's report, the court may adopt, modify, correct, reject, or reverse the master's report or may recommit it for further information, as the court determines to be proper and necessary in each case.

(b) If a judgment has been recommended, the court may approve the recommendation and hear more evidence before making its judgment.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.818. DECREE OR JUDGMENT. The finding and recommendations become the decree or judgment of the court when adopted and approved by an order of the judge.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.819. MASTERS IN CHANCERY. This subchapter does not prohibit a court from appointing a master in chancery as provided by Rule 171, Texas Rules of Civil Procedure.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

Sec. 54.820. REFEREES. (a) A master appointed under this subchapter may serve as a referee as provided by Subsection (g) of Section 51.04 and Section 54.10, Family Code.

(b) A referee appointed under Subsection (g) of Section 51.04, Family Code, may be appointed to serve as a master under this subchapter.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.33(a), eff. Aug. 28, 1989.

SUBCHAPTER L. CRIMINAL LAW HEARING OFFICERS IN CERTAIN COUNTIES

Sec. 54.851. APPLICATION. This subchapter applies only to counties with a population of 3.3 million or more.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 18, eff. Sept. 1, 2001.

Sec. 54.852. APPOINTMENT. (a) A board composed of three judges of the district courts of Harris County trying criminal cases, three judges of the county criminal courts at law, and three justices of the peace in Harris County may appoint criminal law hearing officers, with the consent and approval of the commissioners court, to perform the duties authorized by this subchapter. A quorum is two-thirds of the members of the board.

(b) The board shall ensure that the criminal law hearing officers appointed under this subchapter are representative of the

race, sex, national origin, and ethnicity of the population of Harris County.

(c) A criminal law hearing officer serves a one-year term and continues to serve until a successor is appointed.

(d) A criminal law hearing officer appointed under this subchapter may be terminated at any time in the same manner as appointed.

(e) A criminal law hearing officer may not engage in the private practice of law or serve as a mediator or arbitrator or otherwise participate as a neutral party in any alternate dispute resolution proceeding, with or without compensation.

(f) A criminal law hearing officer is subject to proceedings under Article V, Section 1-a, of the Texas Constitution.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.853. QUALIFICATIONS. To be eligible for appointment as a criminal law hearing officer under this subchapter, a person must:

(1) be a resident of this state and the county;

(2) have been licensed to practice law in this state for at least four years;

(3) not have been defeated for reelection to a judicial office;

(4) not have been removed from office by impeachment, by the supreme court, by the governor on address to the legislature, by a tribunal reviewing a recommendation of the State Commission on Judicial Conduct, or by the legislature's abolition of the judge's court; and

(5) not have resigned from office after having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted as provided in Section 33.022 and before the final disposition of the proceedings.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.854. COMPENSATION. (a) Each criminal law hearing officer is entitled to a salary in the amount set by the commissioners court.

(b) The salary may not be less than the salary authorized to be paid to a master for family law cases appointed under Subchapter A.

(c) The salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.855. OATH. A criminal law hearing officer must take the constitutional oath of office required of appointed officers of this state.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.856. CRIMINAL JURISDICTION. (a) A criminal law hearing officer appointed under this subchapter has limited concurrent jurisdiction over criminal cases filed in the district courts and county criminal courts at law of the county and concurrent jurisdiction over criminal cases filed in the justice courts of the county. In criminal cases filed in the district courts and county criminal courts at law, the jurisdiction of the criminal law hearing officer is limited to:

(1) determining probable cause for further detention of any person detained on a criminal complaint, information, or indictment filed in the district courts or county criminal courts at law;

(2) committing the defendant to jail, discharging the defendant from custody, or admitting the defendant to bail, as the law and facts of the case require;

(3) issuing search warrants and arrest warrants as provided by law for magistrates; and

(4) enforcing judgments and orders of the county criminal courts at law in criminal cases.

(b) This section does not limit or impair the jurisdiction of the court in which the complaint, information, or indictment is filed to review or alter the decision of the criminal law hearing officer.

(c) In a felony or misdemeanor case punishable by incarceration in the county jail, a criminal law hearing officer may not dismiss

the case, enter a judgment of acquittal or guilt, or pronounce sentence.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.
Amended by Acts 2001, 77th Leg., ch. 1206, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 811 (S.B. 1404), Sec. 1, eff. September 1, 2007.

Sec. 54.857. MENTAL HEALTH JURISDICTION. The judges appointing a criminal law hearing officer may authorize the criminal law hearing officer to serve the statutory probate courts of Harris County as necessary to hear emergency mental health matters under Chapter 573, Health and Safety Code. A criminal law hearing officer has concurrent limited jurisdiction with the statutory probate courts of the county to hear emergency mental health matters under Chapter 573, Health and Safety Code. This section does not impair the jurisdiction of the statutory probate courts to review or alter the decision of the criminal law hearing officer.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.858. DUTIES AND POWERS. (a) A criminal law hearing officer shall inform the person arrested, in clear language, of the accusation against the person and of any affidavit filed with the accusation. A criminal law hearing officer shall inform the person arrested of the person's right to retain counsel, to remain silent, to have an attorney present during any interview with a peace officer or an attorney representing the state, to terminate the interview at any time, and to request the appointment of counsel if the person is indigent and cannot afford counsel. The criminal law hearing officer shall also inform the person arrested that the person is not required to make a statement and that any statement made by the person may be used against the person. The criminal law hearing officer must allow the person arrested reasonable time and opportunity to consult counsel and shall admit the person arrested to bail if allowed by law. In addition to the powers and duties specified by this section, a criminal law hearing officer has all other powers and duties of a

magistrate specified by the Code of Criminal Procedure and other laws of this state.

(b) A criminal law hearing officer may determine the amount of bail and grant bail pursuant to Chapter 17, Code of Criminal Procedure, and as otherwise provided by law.

(c) A criminal law hearing officer may issue a magistrate's order for emergency apprehension and detention under Chapter 573, Health and Safety Code, if the criminal law hearing officer makes each finding required by Section 573.012(b), Health and Safety Code.

(d) The criminal law hearing officer shall be available, within 24 hours of a defendant's arrest, to determine probable cause for further detention, administer warnings, inform the accused of the pending charges, and determine all matters pertaining to bail. Criminal law hearing officers shall be available to review and issue search warrants and arrest warrants as provided by law.

(e) A criminal law hearing officer may dispose of criminal cases filed in the justice court as provided by law and collect fines and enforce the judgments and orders of the justice courts in criminal cases.

(f) A criminal law hearing officer may enforce judgments and orders of the county criminal courts at law in criminal cases.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.
Amended by Acts 2001, 77th Leg., ch. 1206, Sec. 2, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 811 (S.B. 1404), Sec. 2, eff. September 1, 2007.

Sec. 54.859. JUDICIAL IMMUNITY. A criminal law hearing officer has the same judicial immunity as a district judge, statutory county court judge, and justice of the peace.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.860. SHERIFF. On request of a criminal law hearing officer appointed under this subchapter, the sheriff, in person or by deputy, shall assist the criminal law hearing officer.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.861. CLERK. The district clerk shall perform the statutory duties necessary for the criminal law hearing officers appointed under this subchapter in cases filed in a district court or county criminal court. A person designated to serve as clerk of a justice court shall perform the statutory duties necessary for cases filed in a justice court.

Added by Acts 1993, 73rd Leg., ch. 224, Sec. 1, eff. Aug. 30, 1993.

SUBCHAPTER M. MAGISTRATES IN LUBBOCK COUNTY

Sec. 54.871. APPOINTMENT. (a) The judges of the district courts of Lubbock County, with the consent and approval of the Commissioners Court of Lubbock County, shall jointly appoint the number of magistrates set by the commissioners court to perform the duties authorized by this subchapter.

(b) Each magistrate's appointment must be made with the unanimous approval of all the judges described in Subsection (a).

(c) If the number of magistrates is less than the number of district judges, each magistrate shall serve equally in the courts of those judges.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.872. QUALIFICATIONS. To be eligible for appointment as a magistrate, a person must:

(1) be a resident of this state; and

(2) have been licensed to practice law in this state for at least four years.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.873. COMPENSATION. (a) A magistrate is entitled to the salary determined by the Commissioners Court of Lubbock County.

(b) The salary may not be less than the salary authorized to be paid to an associate judge for Title IV-D cases appointed under Subchapter B, Chapter 201, Family Code.

(c) The magistrate's salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1999, 76th Leg., ch. 602, Sec. 2, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 1258, Sec. 26, eff. Sept. 1, 2003.

Sec. 54.874. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.875. TERMINATION OF SERVICES. (a) A magistrate who serves a single court serves at the will of the judge.

(b) The services of a magistrate who serves more than one court may be terminated by a majority vote of all the judges whom the magistrate serves.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.876. PROCEEDING THAT MAY BE REFERRED. (a) A district judge or a county court at law judge may refer to a magistrate any criminal case for proceedings involving:

(1) a negotiated plea of guilty before the court;

(2) a bond forfeiture;

(3) a pretrial motion;

(4) a postconviction writ of habeas corpus;

(5) an examining trial; and

(6) any other matter the judge considers necessary and proper.

(b) A magistrate may accept a plea of guilty for a misdemeanor or felony.

(c) A magistrate may not preside over a trial on the merits,

whether or not the trial is before a jury.

(d) A judge of a court designated a juvenile court may refer to a magistrate any proceeding over which a juvenile court has exclusive original jurisdiction under Title 3, Family Code, including any matter ancillary to the proceeding.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.
Amended by Acts 1999, 76th Leg., ch. 602, Sec. 3, eff. June 18, 1999.

Sec. 54.877. ORDER OF REFERRAL. (a) To refer one or more cases to a magistrate, a judge must issue an order of referral specifying the magistrate's duties.

(b) An order of referral may:

(1) limit the powers of the magistrate and direct the magistrate to report only on specific issues, do particular acts, or receive and report on evidence only;

(2) set the time and place for the hearing;

(3) prescribe a closing date for the hearing;

(4) provide a date for filing the magistrate's findings;

(5) designate proceedings for more than one case over which the magistrate shall preside;

(6) direct the magistrate to call the court's docket; and

(7) set forth general powers and limitations of authority of the magistrate applicable to any case referred.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.878. POWERS. (a) Except as limited by an order of referral, a magistrate to whom a case is referred may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on admissibility of evidence;

(5) issue summons for the appearance of witnesses;

(6) examine witnesses;

(7) swear witnesses for hearings;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) rule on a pretrial motion;

(11) recommend the rulings, orders, or judgment to be made in a case;

(12) regulate proceedings in a hearing;

(13) accept a plea of guilty for a misdemeanor or felony or a plea of true from a defendant or juvenile, regardless of the classification of the offense charged or the conduct alleged; and

(14) do any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(b) A magistrate may not enter a ruling on any issue of law or fact if that ruling could result in dismissal or require dismissal of a pending criminal prosecution, but the magistrate may make findings, conclusions, and recommendations on those issues.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.
Amended by Acts 1999, 76th Leg., ch. 602, Sec. 4, eff. June 18, 1999.

Sec. 54.879. COURT REPORTER. At the request of a party, the court shall provide a court reporter to record the proceedings before the magistrate.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.880. WITNESS. (a) A witness who appears before a magistrate and is sworn is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.881. PAPERS TRANSMITTED TO JUDGE. At the conclusion of the proceedings, a magistrate shall transmit to the referring court any papers relating to the case, including the magistrate's findings, conclusions, orders, recommendations, or other action taken.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.882. JUDICIAL ACTION. (a) A referring court may modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate.

(b) If the court does not modify, correct, reject, reverse, or recommit an action of the magistrate, the action becomes the decree of the court.

(c) At the conclusion of each term during which the services of a magistrate are used, the referring court shall enter a decree on the minutes adopting the actions of the magistrate of which the court approves.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.884. MAGISTRATES. (a) If a magistrate appointed under this subchapter is absent or unable to serve, the judge referring the case may appoint another magistrate to serve for the absent magistrate.

(b) A magistrate serving for another magistrate under this section has the powers and shall perform the duties of the magistrate for whom he is serving.

Added by Acts 1989, 71st Leg., ch. 25, Sec. 1, eff. Aug. 28, 1989.
Amended by Acts 1999, 76th Leg., ch. 602, Sec. 5, eff. June 18, 1999.

Sec. 54.885. CLERK. The clerk of a district court or county court at law that refers a proceeding to a magistrate under this subchapter shall perform the statutory duties necessary for the magistrate to perform the duties authorized by this subchapter.

Added by Acts 1999, 76th Leg., ch. 602, Sec. 6, eff. June 18, 1999.

SUBCHAPTER N. CRIMINAL LAW MAGISTRATES IN BEXAR COUNTY

Sec. 54.901. APPOINTMENT. (a) The judges of the district courts of Bexar County that give preference to criminal cases, with the consent and approval of the Commissioners Court of Bexar County, shall jointly appoint the number of magistrates set by the

commissioners court to perform the duties authorized by this subchapter.

(b) Each magistrate's appointment must be made with the approval of a majority of the judges described in Subsection (a).

(c) If the number of magistrates is less than the number of the appointing judges, each magistrate shall serve equally in the courts of those judges.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.902. QUALIFICATIONS. To be eligible for appointment as a magistrate, a person must:

(1) be a resident of this state; and

(2) have been licensed to practice law in this state for at least four years.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.903. COMPENSATION. (a) A magistrate is entitled to the salary determined by the Commissioners Court of Bexar County.

(b) The magistrate's salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.904. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.905. TERMINATION OF SERVICES. (a) A magistrate who serves a single court serves at the will of the judge.

(b) The services of a magistrate who serves more than one court

may be terminated by a majority vote of the appointing judges.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.906. PROCEEDING THAT MAY BE REFERRED. (a) A judge may refer to a magistrate any criminal case for proceedings involving:

(1) a bond forfeiture;

(2) a pretrial motion;

(3) a postconviction writ of habeas corpus;

(4) an examining trial;

(5) the issuance of search warrants, including a search warrant under Article 18.02(a)(10), Code of Criminal Procedure, notwithstanding Article 18.01(c), Code of Criminal Procedure;

(6) the setting of bonds;

(7) the arraignment of defendants; and

(8) any other matter the judge considers necessary and proper, including a plea of guilty or nolo contendere from a defendant charged with:

(A) a felony offense;

(B) a misdemeanor offense when charged with both a misdemeanor offense and a felony offense; or

(C) a misdemeanor offense.

(b) A magistrate may not preside over a trial on the merits, whether or not the trial is before a jury.

(c) Subsection (a)(5) does not apply to the issuance of a subsequent search warrant under Article 18.02(a)(10), Code of Criminal Procedure.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 909 (H.B. 1722), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 126 (H.B. 994), Sec. 1, eff. May 27, 2011.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 8.002, eff. September 1, 2019.

Sec. 54.907. ORDER OF REFERRAL. (a) To refer one or more cases to a magistrate, a judge must issue an order of referral

specifying the magistrate's duties. The judge may issue a written order of referral or may read the order of referral into the minutes of the court.

(b) An order of referral may:

(1) limit the powers of the magistrate and direct the magistrate to report only on specific issues, do particular acts, or receive and report on evidence only;

(2) set the time and place for the hearing;

(3) prescribe a closing date for the hearing;

(4) provide a date for filing the magistrate's findings;

(5) designate proceedings for more than one case over which the magistrate shall preside;

(6) direct the magistrate to call the court's docket; and

(7) set forth general powers and limitations of authority of the magistrate applicable to any case referred.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.
Amended by Acts 1999, 76th Leg., ch. 59, Sec. 1, eff. May 10, 1999.

Sec. 54.908. POWERS. (a) Except as limited by an order of referral, a magistrate to whom a case is referred may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on admissibility of evidence;

(5) issue summons for the appearance of witnesses;

(6) examine witnesses;

(7) swear witnesses for hearings;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) rule on a pretrial motion;

(11) recommend the rulings, orders, or judgment to be made in a case;

(12) regulate proceedings in a hearing;

(13) accept a plea of guilty or nolo contendere from a defendant charged with:

(A) a felony offense;

(B) a misdemeanor offense when charged with both a misdemeanor offense and a felony offense; or

(C) a misdemeanor offense;

(14) notwithstanding Article 18.01(c), Code of Criminal Procedure, issue a search warrant under Article 18.02(a)(10), Code of Criminal Procedure; and

(15) do any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(b) A magistrate does not have authority under Subsection (a)(14) to issue a subsequent search warrant under Article 18.02(a)(10), Code of Criminal Procedure.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.
Amended by Acts 2001, 77th Leg., ch. 680, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 909 (H.B. 1722), Sec. 2, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 126 (H.B. 994), Sec. 2, eff. May 27, 2011.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 8.003, eff. September 1, 2019.

Sec. 54.909. COURT REPORTER. At the request of a party, the court shall provide a court reporter to record the proceedings before the magistrate.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.910. WITNESS. (a) A witness who appears before a magistrate and is sworn is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.911. PAPERS TRANSMITTED TO JUDGE. At the conclusion of the proceedings, a magistrate shall transmit to the referring court

any papers relating to the case, including the magistrate's findings, conclusions, orders, recommendations, or other action taken.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.912. JUDICIAL ACTION. (a) A referring court may modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate.

(b) If the court does not modify, correct, reject, reverse, or recommit an action of the magistrate, the action becomes the decree of the court.

(c) At the conclusion of each term during which the services of a magistrate are used, the referring court shall enter a decree on the minutes adopting the actions of the magistrate of which the court approves.

Added by Acts 1989, 71st Leg., ch. 1068, Sec. 1, eff. Aug. 28, 1989.

SUBCHAPTER Q. CRIMINAL LAW MAGISTRATES IN TRAVIS COUNTY

Sec. 54.970. APPLICATION. This subchapter applies to the district courts and the county courts at law that give preference to criminal cases in Travis County.

Added by Acts 2003, 78th Leg., ch. 979, Sec. 2, eff. Sept. 1, 2003.

Sec. 54.971. APPOINTMENT. (a) The Commissioners Court of Travis County shall set the number of magistrates needed to perform the duties authorized by this subchapter.

(b) The judges of the district courts subject to this subchapter shall, with the consent and approval of the Commissioners Court of Travis County, jointly appoint the magistrates that will assist the district courts. Each magistrate's appointment under this subsection must be made with the unanimous approval of the judges of the district courts subject to this subchapter.

(c) Except as provided by Subsection (e), if the number of magistrates is less than the number of the appointing judges, each magistrate shall serve equally in the courts of those judges.

(d) The judges of the county courts at law subject to this

subchapter shall, with the consent and approval of the Commissioners Court of Travis County, jointly appoint the magistrates that will assist the county courts at law. Each magistrate's appointment under this subsection must be made with the unanimous approval of the judges of the county courts at law subject to this subchapter.

(e) In addition to the requirements of Subsection (b) or (d), a magistrate appointed to assist only one court must be approved by the judge of that court.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.
Amended by Acts 2003, 78th Leg., ch. 979, Sec. 3, eff. Sept. 1, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.972. QUALIFICATIONS. A magistrate must:

(1) be a resident of this state and of Travis County; and

(2) have been licensed to practice law in this state for at least four years.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.

Sec. 54.973. COMPENSATION. (a) A magistrate is entitled to the salary determined by the Commissioners Court of Travis County.

(b) The salary may not be less than the salary authorized to be paid to a master for family law cases appointed under Subchapter A, Chapter 201, Family Code, unless a lesser salary is recommended by the judges described by Section 54.971 and approved by the commissioners court.

(c) The magistrate's salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.
Amended by Acts 1999, 76th Leg., ch. 861, Sec. 1, eff. Sept. 1, 1999.

Sec. 54.974. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge or a judge of a county court at

law, as applicable.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.
Amended by Acts 2003, 78th Leg., ch. 979, Sec. 3, eff. Sept. 1, 2003.

Sec. 54.975. TERMINATION OF SERVICES. (a) A magistrate who serves a single court serves at the will of the judge.

(b) The services of a magistrate who serves more than one court may be terminated by a majority vote of the appointing judges.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.

Sec. 54.976. PROCEEDINGS THAT MAY BE REFERRED. (a) A judge may refer to a magistrate any criminal case or matter relating to a criminal case for proceedings involving:

(1) a negotiated plea of guilty or no contest and sentencing;

(2) a pretrial motion;

(3) an examining trial;

(4) a writ of habeas corpus;

(5) a bond forfeiture suit;

(6) issuance of search warrants;

(7) setting, setting conditions, modifying, revoking, and surrendering of bonds, including surety bonds;

(8) arraignment of defendants;

(9) a motion to increase or decrease a bond;

(10) a motion to revoke community supervision or to proceed to an adjudication;

(11) an issue of competency or a civil commitment under Chapter 46, 46B, or 46C, Code of Criminal Procedure, with or without a jury;

(12) a motion to modify community supervision;

(13) specialty court proceedings, including drug court proceedings, veterans treatment court proceedings, and driving while intoxicated court proceedings;

(14) an expunction or a petition for nondisclosure;

(15) an occupational driver's license;

(16) a waiver of extradition;

(17) the issuance of subpoenas and orders requiring the

production of medical records, including records relating to mental health or substance abuse treatment; and

(18) any other matter the judge considers necessary and proper.

(b) A magistrate may select a jury. A magistrate may not preside over a contested criminal trial on the merits, regardless of whether the trial is before a jury.

(c) A judge may refer to a magistrate any proceeding involving an application for a protective order under Title 4, Family Code, or Section 17.292, Code of Criminal Procedure.

(d) A judge may refer to a magistrate proceedings involving a grand jury, including issuance of grand jury subpoenas, receipt of grand jury reports on behalf of a district judge, the granting of a grand jury request to recess, motions to compel testimony, and discharge of a grand jury at the end of a term. A magistrate may not impanel a grand jury.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.
Amended by Acts 1993, 73rd Leg., ch. 413, Sec. 3, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 979, Sec. 3, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 864 (H.B. 3856), Sec. 1, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1205 (S.B. 1474), Sec. 9, eff. September 1, 2015.

Sec. 54.977. ORDER OF REFERRAL. (a) To refer one or more cases or matters to a magistrate, a judge must issue an order of referral specifying the magistrate's duties.

(b) An order of referral may:

(1) limit the powers of the magistrate and direct the magistrate to report only specific issues, do particular acts, or receive and report on evidence only;

(2) set the time and place for the hearing;

(3) prescribe a closing date for the hearing;

(4) provide a date for filing the magistrate's findings;

(5) designate proceedings for more than one case over which the magistrate shall preside;

(6) direct the magistrate to call the court's docket; and

(7) set forth general powers and limitations of authority of the magistrate applicable to any case referred.

(c) A judge may issue a general order of referral authorizing the magistrate to act on certain types of matters without requiring an order for each referral. Items that may be in the general order of referral include:

(1) waivers of extradition;

(2) search warrants;

(3) bench warrants;

(4) grand jury subpoenas;

(5) subpoenas and orders requiring the production of medical records, including records relating to mental health and substance abuse treatment; and

(6) records and other matters relating to the grand jury.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 864 (H.B. 3856), Sec. 2, eff. June 17, 2011.

Sec. 54.978. POWERS. (a) Except as limited by an order of referral, a magistrate to whom a case or matter related to a criminal case is referred may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on admissibility of evidence;

(5) issue summons for the appearance of witnesses;

(6) examine witnesses;

(7) swear witnesses for hearings;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) rule on pretrial motions;

(11) recommend the rulings, orders, or judgment to be made in a case;

(12) regulate proceedings in a hearing;

(13) in any case referred under Section 54.976(a)(1):

(A) accept a negotiated plea of guilty;

(B) enter a finding of guilt and impose or suspend

sentence; or

(C) defer adjudication of guilty;

(14) notwithstanding Article 18.01(c), Code of Criminal Procedure, issue a search warrant under Article 18.02(a)(10), Code of Criminal Procedure;

(15) notwithstanding Article 18.01(h), Code of Criminal Procedure, issue a search warrant under Article 18.02(a)(12), Code of Criminal Procedure; and

(16) do any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(b) A magistrate may not enter a ruling on any issue of law or fact if that ruling could result in dismissal or require dismissal of a pending criminal prosecution, but the magistrate may make findings, conclusions, and recommendations on those issues. A magistrate may sign a motion to dismiss submitted by an attorney representing the state on cases referred to the magistrate or on dockets called by the magistrate, and may consider unadjudicated cases at sentencing under Section 12.45, Penal Code.

(c) A magistrate has all of the powers of a magistrate under the laws of this state and may administer an oath for any purpose.

(d) A magistrate does not have authority under Subsection (a)(14) to issue a subsequent search warrant under Article 18.02(a)(10), Code of Criminal Procedure.

(e) In this subsection, "ESN reader," "pen register," and "trap and trace device" have the meanings assigned by Article 18B.001, Code of Criminal Procedure, and "mobile tracking device" has the meaning assigned by Article 18B.201, Code of Criminal Procedure. A magistrate may:

(1) notwithstanding Article 18B.051 or 18B.052, Code of Criminal Procedure, issue an order under Subchapter C, Chapter 18B, Code of Criminal Procedure, for the installation and use of:

(A) a pen register;

(B) an ESN reader;

(C) a trap and trace device; or

(D) equipment that combines the function of a pen register and a trap and trace device;

(2) issue an order to obtain access to stored communications under Article 18B.352, Code of Criminal Procedure; and

(3) notwithstanding Article 18B.203(a), Code of Criminal

Procedure, issue an order for the installation and use of a mobile tracking device under Subchapter E, Chapter 18B, Code of Criminal Procedure.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 864 (H.B. 3856), Sec. 3, eff. June 17, 2011.
Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 3.08, eff. January 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 8.004, eff. September 1, 2019.

Sec. 54.979. RECORD OF PROCEEDINGS. At the request of a party the court shall provide that the proceedings before the magistrate be recorded.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.

Sec. 54.980. WITNESS. (a) A witness who appears before a magistrate and is sworn is subject to the penalties for perjury provided by law.
(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.

Sec. 54.981. PAPERS TRANSMITTED TO THE JUDGE. (a) At the conclusion of the proceedings, a magistrate shall transmit to the referring court any papers relating to the case, including the magistrate's findings, conclusions, orders, recommendations, or other action taken.
(b) A party has seven days after the date of the magistrate's ruling to tender to the referring court any objections to the magistrate's ruling on pretrial matters. The referring court shall consider any objections before taking final action.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.

Sec. 54.982. JUDICIAL ACTION. (a) A referring court may modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate.

(b) If the court does not modify, correct, reject, reverse, or recommit an action of the magistrate, the action becomes the decree of the court.

(c) At the conclusion of each term during which the services of a magistrate are used, the referring court shall enter a decree on the minutes adopting the actions of the magistrate of which the court approves.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.

Sec. 54.984. CRIMINAL LAW MAGISTRATES. (a) If a criminal law magistrate appointed under this subchapter is absent or unable to serve, the judge referring the case may appoint another criminal law magistrate to serve for the absent magistrate.

(b) A criminal law magistrate serving for another magistrate under this section has the powers and shall perform the duties of the magistrate for whom he is serving.

Added by Acts 1991, 72nd Leg., ch. 849, Sec. 1, eff. Aug. 26, 1991.

SUBCHAPTER R. CRIMINAL LAW MAGISTRATES IN WEBB COUNTY

Sec. 54.991. APPOINTMENT. (a) The judges of the district courts in Webb County shall jointly appoint the number of criminal law magistrates set by the commissioners court.

(b) Each magistrate's appointment must be unanimously approved by the judges.

Added by Acts 1993, 73rd Leg., ch. 577, Sec. 1, eff. Aug. 30, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.992. QUALIFICATIONS. A magistrate must be a resident of this state and Webb County.

Added by Acts 1993, 73rd Leg., ch. 577, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.993. COMPENSATION. A magistrate is entitled to the salary determined by the commissioners court.

Added by Acts 1993, 73rd Leg., ch. 577, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.994. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 1993, 73rd Leg., ch. 577, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.995. ORDER OF REFERRAL. (a) To refer one or more criminal cases to a magistrate, a judge must issue an order specifying the magistrate's duties.

(b) An order of referral may set forth general powers and limitations of authority of the magistrate that apply to any case referred.

Added by Acts 1993, 73rd Leg., ch. 577, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.996. POWERS. (a) A judge may refer to a magistrate any criminal case for proceedings involving:

(1) issuance of search warrants;

(2) setting of bonds;

(3) arraignment of defendants; and

(4) any other matter that is subject to the review of the judge.

(b) A magistrate may not preside over a contested trial on the merits, regardless of whether the trial is before a jury.

Added by Acts 1993, 73rd Leg., ch. 577, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.997. RETURN TO REFERRING COURT; FINDINGS. After a hearing is concluded, the magistrate shall send to the referring court any papers related to the case, including the magistrate's findings, conclusions, orders, recommendations, or other action taken.

Added by Acts 1993, 73rd Leg., ch. 577, Sec. 1, eff. Aug. 30, 1993.

Sec. 54.998. JUDICIAL ACTION. (a) A referring court may modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate.

(b) If the court does not modify, correct, reject, reverse, or recommit an action of the magistrate, the action becomes the decree of the court.

(c) At the conclusion of each term during which the services of a magistrate are used, the referring court shall enter a decree on the minutes adopting the actions of the magistrate of which the court approves.

Added by Acts 1993, 73rd Leg., ch. 577, Sec. 1, eff. Aug. 30, 1993.

SUBCHAPTER W. MAGISTRATES IN CERTAIN COUNTY COURTS

Sec. 54.1171. APPLICATION OF SUBCHAPTER. This subchapter applies to a constitutional county court in a county with a population of 2.1 million or more.

Added by Acts 2003, 78th Leg., ch. 137, Sec. 2, eff. Sept. 1, 2003. Renumbered from Government Code, Section 54.1151 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(27), eff. September 1, 2005. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 148 (H.B. 734), Sec. 5, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 37, eff. September 1, 2023.

Sec. 54.1172. APPOINTMENT. (a) The county judge may appoint one or more part-time or full-time magistrates to hear a matter alleging a violation of Section 25.093, Education Code, or alleging

truant conduct under Section 65.003(a), Family Code.

(b) An appointment under Subsection (a) is subject to the approval of the commissioners court.

(c) A magistrate serves at the pleasure of the county judge.

(d) A magistrate appointed under Subsection (a) must complete every two years at least eight hours of continuing education conducted by the Texas Association of Counties, the State Bar of Texas, or the Texas Justice Court Training Center.

Added by Acts 2003, 78th Leg., ch. 137, Sec. 2, eff. Sept. 1, 2003. Renumbered from Government Code, Section 54.1152 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(27), eff. September 1, 2005. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 667 (H.B. 1346), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 272 (S.B. 407), Sec. 1, eff. May 30, 2009.

Acts 2015, 84th Leg., R.S., Ch. 935 (H.B. 2398), Sec. 32, eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.1173. QUALIFICATIONS. A magistrate must:

(1) be a citizen of this state;

(2) be at least 25 years of age; and

(3) have been licensed to practice law in this state for at least four years preceding the date of appointment.

Added by Acts 2003, 78th Leg., ch. 137, Sec. 2, eff. Sept. 1, 2003. Renumbered from Government Code, Section 54.1153 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(27), eff. September 1, 2005.

Sec. 54.1174. COMPENSATION. A magistrate is entitled to the compensation set by the commissioners court. The compensation shall be paid from the general fund of the county.

Added by Acts 2003, 78th Leg., ch. 137, Sec. 2, eff. Sept. 1, 2003.

Renumbered from Government Code, Section 54.1154 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(27), eff. September 1, 2005.

Sec. 54.1175. POWERS. Except as limited by an order of the county judge, a magistrate appointed under this subchapter may:

(1) conduct hearings and trials, including jury trials;

(2) hear evidence;

(3) compel production of relevant evidence, including books, papers, vouchers, documents, and other writings;

(4) rule on admissibility of evidence;

(5) issue summons and attachments for the appearance of witnesses;

(6) examine witnesses;

(7) swear witnesses for hearings and trials; and

(8) perform any act and take any measure necessary and proper for the efficient performance of the duties assigned by the county judge.

Added by Acts 2003, 78th Leg., ch. 137, Sec. 2, eff. Sept. 1, 2003.
Renumbered from Government Code, Section 54.1155 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(27), eff. September 1, 2005.

Sec. 54.1176. PAPERS TRANSMITTED TO JUDGE. (a) At the conclusion of a hearing, the magistrate shall transmit to the judge any papers relating to the case, including:

(1) the magistrate's findings and recommendations; and

(2) a statement that notice of the findings and recommendations and of the right to a hearing before the judge has been given to all parties.

(b) The judge shall adopt, modify, or reject the magistrate's recommendations not later than the third working day after the date the judge receives the recommendations. If the judge does not take action in the time provided by this subsection, the recommendations of the magistrate are adopted by the judge.

(c) The judge shall send written notice of any modification or rejection of the magistrate's recommendations to each party to the case.

Added by Acts 2003, 78th Leg., ch. 137, Sec. 2, eff. Sept. 1, 2003.

Renumbered from Government Code, Section 54.1156 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(27), eff. September 1, 2005.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 187 (S.B. 1242), Sec. 1, eff. September 1, 2011.

Sec. 54.1177. JUDICIAL IMMUNITY. A magistrate appointed under this subchapter has the same judicial immunity as a district judge.

Added by Acts 2011, 82nd Leg., R.S., Ch. 187 (S.B. 1242), Sec. 2, eff. September 1, 2011.

SUBCHAPTER Y. MAGISTRATES IN COMAL COUNTY

Sec. 54.1231. AUTHORIZATION; APPOINTMENT; ELIMINATION. (a) The Commissioners Court of Comal County may authorize the judges of the district and statutory county courts in Comal County to appoint one or more part-time or full-time magistrates to perform the duties authorized by this subchapter.

(b) The judges of the district and statutory county courts in Comal County by a unanimous vote may appoint magistrates as authorized by the Commissioners Court of Comal County.

(c) An order appointing a magistrate must be signed by the local presiding judge of the district courts serving Comal County, and the order must state:

(1) the magistrate's name; and

(2) the date the magistrate's employment is to begin.

(d) An authorized magistrate's position may be eliminated on a majority vote of the Commissioners Court of Comal County.

Added by Acts 2003, 78th Leg., ch. 42, Sec. 1, eff. May 15, 2003.
Renumbered from Government Code, Section 54.1151 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(28), eff. September 1, 2005.

Sec. 54.1232. QUALIFICATIONS; OATH OF OFFICE. (a) To be eligible for appointment as a magistrate, a person must:

(1) be a citizen of the United States;

(2) have resided in Comal County for at least the two years preceding the person's appointment; and

(3) be at least 30 years of age.

(b) A magistrate appointed under Section 54.1231 must take the constitutional oath of office required of appointed officers of this state.

Added by Acts 2003, 78th Leg., ch. 42, Sec. 1, eff. May 15, 2003. Renumbered from Government Code, Section 54.1152 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(28), eff. September 1, 2005. Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.002(5), eff. September 1, 2005.

Sec. 54.1233. COMPENSATION. (a) A magistrate is entitled to the salary determined by the Commissioners Court of Comal County.

(b) A full-time magistrate's salary may not be less than that of a justice of the peace of Comal County as established by the annual budget of Comal County.

(c) A part-time magistrate's salary is equal to the per-hour salary of a justice of the peace. The per-hour salary is determined by dividing the annual salary by a 2000 work-hour year. The local administrative judge of the district courts serving Comal County shall approve the number of hours to be paid a part-time magistrate.

(d) The magistrate's salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 2003, 78th Leg., ch. 42, Sec. 1, eff. May 15, 2003. Renumbered from Government Code, Section 54.1153 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(28), eff. September 1, 2005.

Sec. 54.1234. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 2003, 78th Leg., ch. 42, Sec. 1, eff. May 15, 2003. Renumbered from Government Code, Section 54.1154 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(28), eff. September 1, 2005.

Sec. 54.1235. TERMINATION OF EMPLOYMENT. (a) A magistrate may be terminated by a majority vote of all the judges of the district

and statutory county courts of Comal County.

(b) To terminate a magistrate's employment, the local administrative judge of the district courts serving Comal County must sign a written order of termination. The order must state:

(1) the magistrate's name; and

(2) the final date of the magistrate's employment.

Added by Acts 2003, 78th Leg., ch. 42, Sec. 1, eff. May 15, 2003. Renumbered from Government Code, Section 54.1155 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(28), eff. September 1, 2005.

Sec. 54.1236. JURISDICTION; RESPONSIBILITY; POWERS. (a) The judges of the district or statutory county courts shall establish standing orders to be followed by a magistrate or parties appearing before a magistrate, as applicable.

(b) To the extent authorized by this subchapter and the standing orders, a magistrate has jurisdiction to exercise the authority granted by the judges of the district or statutory county courts.

(c) A magistrate has all of the powers of a magistrate under the laws of this state and may administer an oath for any purpose.

(d) A magistrate shall give preference to performing the duties of a magistrate under Article 15.17, Code of Criminal Procedure.

(e) A magistrate is authorized to:

(1) set, adjust, and revoke bonds before the filing of an information or the return of an indictment;

(2) conduct examining trials;

(3) determine whether a defendant is indigent and appoint counsel for an indigent defendant;

(4) issue search and arrest warrants;

(5) issue emergency protective orders;

(6) order emergency mental commitments; and

(7) conduct initial juvenile detention hearings if approved by the Juvenile Board of Comal County.

(f) With the express authorization of a justice of the peace, a magistrate may exercise concurrent criminal jurisdiction with the justice of the peace to dispose as provided by law of cases filed in the precinct of the authorizing justice of the peace, except for a trial on the merits following a plea of not guilty.

(g) A magistrate may:

(1) issue notices of the setting of a case for a hearing;

(2) conduct hearings;

(3) compel production of evidence;

(4) hear evidence;

(5) issue summons for the appearance of witnesses;

(6) swear witnesses for hearings;

(7) regulate proceedings in a hearing; and

(8) perform any act and take any measure necessary and proper for the efficient performance of the duties required by the magistrate's jurisdiction and authority.

Added by Acts 2003, 78th Leg., ch. 42, Sec. 1, eff. May 15, 2003. Renumbered from Government Code, Section 54.1156 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(28), eff. September 1, 2005.

Sec. 54.1237. PERSONNEL, EQUIPMENT, AND OFFICE SPACE. The Commissioners Court of Comal County shall provide:

(1) personnel for the legal or clerical functions necessary to perform the magistrate's duties authorized by this chapter; and

(2) sufficient equipment and office space for the magistrate and personnel to perform the magistrate's essential functions.

Added by Acts 2003, 78th Leg., ch. 42, Sec. 1, eff. May 15, 2003. Renumbered from Government Code, Section 54.1157 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(28), eff. September 1, 2005.

SUBCHAPTER BB. CRIMINAL LAW HEARING OFFICERS IN CAMERON COUNTY

Sec. 54.1351. APPLICATION OF SUBCHAPTER. This subchapter applies to Cameron County.

Added by Acts 2005, 79th Leg., Ch. 767 (H.B. 3485), Sec. 1, eff. September 1, 2005.

Sec. 54.1352. APPOINTMENT. (a) A majority of the members of a board composed of the judges of the district courts and statutory county courts of Cameron County may appoint not more than two

criminal law hearing officers to perform the duties authorized by this subchapter.

(b) A criminal law hearing officer appointed under this subchapter serves at the pleasure of the board and may be terminated at any time in the same manner as appointed.

(c) A criminal law hearing officer is subject to proceedings under Section 1-a, Article V, Texas Constitution.

Added by Acts 2005, 79th Leg., Ch. 767 (H.B. 3485), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.1353. QUALIFICATIONS. To be eligible for appointment as a criminal law hearing officer under this subchapter, a person must:

(1) be a resident of Cameron County;

(2) be eligible to vote in this state and in Cameron County;

(3) be at least 30 years of age;

(4) be a licensed attorney with at least four years' experience; and

(5) have the other qualifications required by the board.

Added by Acts 2005, 79th Leg., Ch. 767 (H.B. 3485), Sec. 1, eff. September 1, 2005.

Sec. 54.1354. COMPENSATION. (a) A criminal law hearing officer is entitled to a salary in the amount set by the commissioners court.

(b) The salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 2005, 79th Leg., Ch. 767 (H.B. 3485), Sec. 1, eff. September 1, 2005.

Sec. 54.1355. OATH. A criminal law hearing officer must take the constitutional oath of office required of appointed officers of this state.

Added by Acts 2005, 79th Leg., Ch. 767 (H.B. 3485), Sec. 1, eff. September 1, 2005.

Sec. 54.1356. CRIMINAL JURISDICTION. (a) A criminal law hearing officer appointed under this subchapter has limited concurrent jurisdiction over criminal cases filed in the district courts, statutory county courts, and justice courts of the county. The jurisdiction of the criminal law hearing officer is limited to:

(1) determining probable cause for further detention of any person detained on a criminal complaint, information, or indictment filed in the district courts, statutory county courts, or justice courts of the county;

(2) committing the defendant to jail, discharging the defendant from custody, or admitting the defendant to bail, as the law and facts of the case require;

(3) issuing search warrants and arrest warrants as provided by law for magistrates;

(4) as to criminal cases filed in justice courts, disposing of cases as provided by law, other than by trial, and collecting fines and enforcing judgments and orders of the justice courts in criminal cases;

(5) hearing, considering, and ruling on writs of habeas corpus filed under Article 17.151, Code of Criminal Procedure;

(6) on motion of the district attorney:

(A) dismissing a criminal case when the arresting agency has not timely filed the offense report with the district attorney; and

(B) reducing the amount of bond on prisoners held at the county jail whose cases have not been filed in a district court or a statutory county court; and

(7) presiding over an extradition proceeding under Article 51.13, Code of Criminal Procedure.

(b) This section does not limit or impair the jurisdiction of the court in which the complaint, information, or indictment is filed to review or alter the decision of the criminal law hearing officer.

(c) In a felony or misdemeanor case punishable by incarceration in the county jail, a criminal law hearing officer may not dismiss the case, enter a judgment of acquittal or guilt, or pronounce sentence.

Added by Acts 2005, 79th Leg., Ch. 767 (H.B. 3485), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 953 (H.B. 3417), Sec. 1, eff. September 1, 2009.
Acts 2015, 84th Leg., R.S., Ch. 743 (H.B. 1774), Sec. 1, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.02(a), eff. September 1, 2015.

Sec. 54.1357. MENTAL HEALTH JURISDICTION. The judges of the statutory county courts of Cameron County may authorize a criminal law hearing officer to serve the probate courts of Cameron County as necessary to hear emergency mental health matters under Chapter 573, Health and Safety Code. A criminal law hearing officer has concurrent limited jurisdiction with the probate courts of the county to hear emergency mental health matters under Chapter 573, Health and Safety Code. This section does not impair the jurisdiction of the probate courts to review or alter the decision of the criminal law hearing officer.

Added by Acts 2005, 79th Leg., Ch. 767 (H.B. 3485), Sec. 1, eff. September 1, 2005.

Sec. 54.1358. DUTIES AND POWERS. (a) A criminal law hearing officer shall inform a person arrested of the warnings described by Article 15.17, Code of Criminal Procedure.
(b) A criminal law hearing officer may determine the amount of bail and grant bail under Chapter 17, Code of Criminal Procedure, and as otherwise provided by law.
(c) A criminal law hearing officer may issue a magistrate's order for emergency apprehension and detention under Chapter 573, Health and Safety Code, if authorized by the judges of the statutory county courts of Cameron County and if the criminal law hearing

officer makes each finding required by Section 573.012(b), Health and Safety Code.

(d) The criminal law hearing officer shall be available, within the time provided by law following a defendant's arrest, to determine probable cause for further detention, administer warnings, inform the accused of the pending charges, and determine all matters pertaining to bail. Criminal law hearing officers shall be available to review and issue search warrants and arrest warrants as provided by law.

(e) A criminal law hearing officer may dispose of criminal cases filed in the justice courts as provided by law, other than by trial, and collect fines and enforce the judgments and orders of the justice courts in criminal cases.

(f) In accordance with Article 26.13, Code of Criminal Procedure, a criminal law hearing officer may accept a plea of guilty or nolo contendere.

(g) A criminal law hearing officer may determine whether a defendant is indigent and appoint counsel for an indigent defendant.

Added by Acts 2005, 79th Leg., Ch. 767 (H.B. 3485), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 743 (H.B. 1774), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.02(b), eff. September 1, 2015.

Sec. 54.1359. JUDICIAL IMMUNITY. A criminal law hearing officer has the same judicial immunity as a district judge, statutory county court judge, and justice of the peace.

Added by Acts 2005, 79th Leg., Ch. 767 (H.B. 3485), Sec. 1, eff. September 1, 2005.

Sec. 54.1360. SHERIFF. On request of a criminal law hearing officer appointed under this subchapter, the sheriff, in person or by deputy, shall assist the criminal law hearing officer.

Added by Acts 2005, 79th Leg., Ch. 767 (H.B. 3485), Sec. 1, eff. September 1, 2005.

Sec. 54.1361. CLERK. The district clerk shall perform the statutory duties necessary for the criminal law hearing officers appointed under this subchapter in cases filed in a district court or a statutory county court. A person designated to serve as a clerk of a justice court shall perform the statutory duties necessary for cases filed in a justice court.

Added by Acts 2005, 79th Leg., Ch. 767 (H.B. 3485), Sec. 1, eff. September 1, 2005.

Sec. 54.1362. PROCEEDINGS THAT MAY BE REFERRED. A district judge or a county court at law judge may refer to a criminal law hearing officer any criminal case for proceedings involving:

(1) a bond forfeiture;

(2) the arraignment of defendants;

(3) the determination of whether a defendant is indigent and the appointment of counsel for an indigent defendant; and

(4) a negotiated plea of guilty or nolo contendere before the court, in accordance with Article 26.13, Code of Criminal Procedure.

Added by Acts 2015, 84th Leg., R.S., Ch. 743 (H.B. 1774), Sec. 3, eff. September 1, 2015.
Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 6.02(c), eff. September 1, 2015.

SUBCHAPTER DD. BURNET COUNTY CRIMINAL MAGISTRATES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.1501. APPOINTMENT. (a) The Commissioners Court of Burnet County may select magistrates to serve the courts of Burnet County having jurisdiction in criminal matters.

(b) The commissioners court shall establish the minimum qualifications, salary, benefits, and other compensation of each

magistrate position and shall determine whether the position is full-time or part-time. The qualifications must require the magistrate to:

(1) have served as a justice of the peace or municipal court judge; or

(2) be an attorney licensed in this state.

(c) A magistrate appointed under this section serves at the pleasure of the commissioners court.

Added by Acts 2011, 82nd Leg., R.S., Ch. 863 (H.B. 3844), Sec. 1, eff. June 17, 2011.
Redesignated from Government Code, Section 54.1951 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(19), eff. September 1, 2013.

Sec. 54.1502. JURISDICTION. A magistrate has concurrent criminal jurisdiction with:

(1) the judges of the justice of the peace courts of Burnet County; and

(2) a municipal court in Burnet County, if approved by a memorandum of understanding between the municipality and Burnet County.

Added by Acts 2011, 82nd Leg., R.S., Ch. 863 (H.B. 3844), Sec. 1, eff. June 17, 2011.
Redesignated from Government Code, Section 54.1952 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(19), eff. September 1, 2013.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.02, eff. September 1, 2021.

Sec. 54.1503. POWERS AND DUTIES. (a) The Commissioners Court of Burnet County shall establish the powers and duties of a magistrate appointed under this subchapter. Except as otherwise provided by the commissioners court, a magistrate has the powers of a magistrate under the Code of Criminal Procedure and other laws of this state and may administer an oath for any purpose.

(b) A magistrate shall give preference to performing the duties

of a magistrate under Article 15.17, Code of Criminal Procedure.

(c) The commissioners court may designate one or more magistrates to hold regular hearings to:

(1) give admonishments;

(2) set and review bail and conditions of release;

(3) appoint legal counsel; and

(4) determine other routine matters relating to preindictment or pending cases within those courts' jurisdiction.

(d) In the hearings provided under Subsection (c), a magistrate shall give preference to the case of an individual held in county jail.

(e) A magistrate may inquire into a defendant's intended plea to the charge and set the case for an appropriate hearing before a judge or master.

Added by Acts 2011, 82nd Leg., R.S., Ch. 863 (H.B. 3844), Sec. 1, eff. June 17, 2011.
Redesignated from Government Code, Section 54.1953 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(19), eff. September 1, 2013.

Sec. 54.1504. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 2011, 82nd Leg., R.S., Ch. 863 (H.B. 3844), Sec. 1, eff. June 17, 2011.
Redesignated from Government Code, Section 54.1954 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(19), eff. September 1, 2013.

Sec. 54.1505. WITNESSES. (a) A witness who is sworn and who appears before a magistrate is subject to the penalties for perjury and aggravated perjury provided by law.

(b) A referring court may fine or imprison a witness or other court participant for failure to appear after being summoned, refusal to answer questions, or other acts of direct contempt before a magistrate.

Added by Acts 2011, 82nd Leg., R.S., Ch. 863 (H.B. 3844), Sec. 1, eff.

June 17, 2011.
Redesignated from Government Code, Section 54.1955 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(19), eff. September 1, 2013.

SUBCHAPTER GG. MAGISTRATES FOR DRUG COURT PROGRAMS

Sec. 54.1801. DEFINITION. In this subchapter, "drug court" or "drug court program" has the meaning assigned by Section 123.001.

Added by Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 9, eff. June 15, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 2.05, eff. September 1, 2013.

Sec. 54.1802. APPLICABILITY OF SUBCHAPTER. This subchapter applies to each district court and statutory county court with criminal jurisdiction in this state. If a provision of this subchapter conflicts with a specific provision for a particular district court or statutory county court, the specific provision controls.

Added by Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 9, eff. June 15, 2007.

Sec. 54.1803. APPOINTMENT. (a) The judges of the district courts of a county hearing criminal cases and the judges of the statutory county courts with criminal jurisdiction in a county, with the consent and approval of the commissioners court of the county, may appoint the number of magistrates set by the commissioners court to perform the duties associated with the administration of drug courts as authorized by this subchapter.

(b) Each magistrate's appointment must be made with the approval of the majority of the district court or statutory county court judges described in Subsection (a), as applicable.

(c) A magistrate appointed under this section serves at the will of a majority of the appointing judges.

Added by Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 9, eff. June 15, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.1804. QUALIFICATIONS. A magistrate must:

(1) be a resident of this state and of the county in which the magistrate is appointed to serve under this subchapter; and

(2) have been licensed to practice law in this state for at least four years.

Added by Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 9, eff. June 15, 2007.

Sec. 54.1805. COMPENSATION. A magistrate is entitled to the salary determined by the county commissioners court.

Added by Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 9, eff. June 15, 2007.

Sec. 54.1806. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a judge of a district court or statutory county court appointing the magistrate.

Added by Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 9, eff. June 15, 2007.

Sec. 54.1807. PROCEEDINGS THAT MAY BE REFERRED. (a) A district judge or judge of a statutory county court with criminal jurisdiction may refer to a magistrate a criminal case for drug court proceedings.

(b) A magistrate may not preside over a contested trial on the merits, regardless of whether the trial is before a jury.

Added by Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 9, eff.

June 15, 2007.

Sec. 54.1808. ORDER OF REFERRAL. (a) To refer one or more cases to a drug court magistrate, a district judge or judge of a statutory county court with criminal jurisdiction must issue an order of referral specifying the magistrate's duties.

(b) An order of referral may:

(1) limit the powers of the magistrate and direct the magistrate to report on specific issues and perform particular acts;

(2) set the time and place for the hearing;

(3) provide a date for filing the magistrate's findings;

(4) designate proceedings for more than one case over which the magistrate shall preside; and

(5) set forth general powers and limitations of authority of the magistrate applicable to any case referred.

Added by Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 9, eff. June 15, 2007.

Sec. 54.1809. POWERS. Except as limited by an order of referral, a magistrate to whom a drug court case is referred may perform any act and take any measure necessary and proper for the efficient performance of the duties assigned by the district or statutory county court judge.

Added by Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 9, eff. June 15, 2007.

SUBCHAPTER HH. BRAZORIA COUNTY CRIMINAL MAGISTRATES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.1851. APPOINTMENT. (a) The Commissioners Court of Brazoria County may select magistrates to serve the courts of Brazoria County having jurisdiction in criminal matters.

(b) The commissioners court shall establish the minimum

qualifications, salary, benefits, and other compensation of each magistrate position and shall determine whether the position is full-time or part-time. The qualifications must require the magistrate to have served as a justice of the peace or be an attorney licensed in this state.

(c) A magistrate appointed under this section serves at the pleasure of the commissioners court.

Added by Acts 2009, 81st Leg., R.S., Ch. 646 (H.B. 1750), Sec. 1, eff. June 19, 2009.

Sec. 54.1852. JURISDICTION. A magistrate has concurrent criminal jurisdiction with the judges of the justice of the peace courts of Brazoria County.

Added by Acts 2009, 81st Leg., R.S., Ch. 646 (H.B. 1750), Sec. 1, eff. June 19, 2009.

Sec. 54.1853. POWERS AND DUTIES. (a) The Commissioners Court of Brazoria County shall establish the powers and duties of a magistrate appointed under this subchapter. Except as otherwise provided by the commissioners court, a magistrate has the powers of a magistrate under the Code of Criminal Procedure and other laws of this state and may administer an oath for any purpose.

(b) A magistrate shall give preference to performing the duties of a magistrate under Article 15.17, Code of Criminal Procedure.

(c) The commissioners court may designate one or more magistrates to hold regular hearings to:

(1) give admonishments;

(2) set and review bail and conditions of release;

(3) appoint legal counsel; and

(4) determine other routine matters relating to preindictment or pending cases within those courts' jurisdiction.

(d) In the hearings provided under Subsection (c), a magistrate shall give preference to the case of an individual held in county jail.

(e) A magistrate may inquire into a defendant's intended plea to the charge and set the case for an appropriate hearing before a judge or master.

Added by Acts 2009, 81st Leg., R.S., Ch. 646 (H.B. 1750), Sec. 1, eff. June 19, 2009.

Sec. 54.1854. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 2009, 81st Leg., R.S., Ch. 646 (H.B. 1750), Sec. 1, eff. June 19, 2009.

Sec. 54.1855. WITNESSES. (a) A witness who is sworn and who appears before a magistrate is subject to the penalties for perjury and aggravated perjury provided by law.

(b) A referring court may fine or imprison a witness or other court participant for failure to appear after being summoned, refusal to answer questions, or other acts of direct contempt before a magistrate.

Added by Acts 2009, 81st Leg., R.S., Ch. 646 (H.B. 1750), Sec. 1, eff. June 19, 2009.

SUBCHAPTER JJ. MAGISTRATES IN CERTAIN COUNTIES

Sec. 54.1951. APPLICATION OF SUBCHAPTER. This subchapter applies to a constitutional county court in a county that:

(1) has a population of more than 820,000; and

(2) is contiguous to a county with a population of at least four million.

Added by Acts 2011, 82nd Leg., R.S., Ch. 995 (H.B. 2132), Sec. 1, eff. June 17, 2011.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 38, eff. September 1, 2023.

Sec. 54.1952. APPOINTMENT. (a) The county judge may appoint one or more part-time or full-time magistrates to hear a matter alleging a violation of Section 25.093, Education Code, or alleging truant conduct under Section 65.003(a), Family Code, referred to the

magistrate by a court having jurisdiction over the matter.

(b) An appointment under Subsection (a) is subject to the approval of the commissioners court.

(c) A magistrate serves at the pleasure of the county judge.

Added by Acts 2011, 82nd Leg., R.S., Ch. 995 (H.B. 2132), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 935 (H.B. 2398), Sec. 33, eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.1953. QUALIFICATIONS. A magistrate must:

(1) be a citizen of this state;

(2) have resided in the county for at least six months before the date of the appointment; and

(3) have:

(A) served as a justice of the peace for at least four years before the date of appointment; or

(B) been licensed to practice law in this state for at least four years before the date of appointment.

Added by Acts 2011, 82nd Leg., R.S., Ch. 995 (H.B. 2132), Sec. 1, eff. June 17, 2011.

Sec. 54.1954. COMPENSATION. A magistrate is entitled to the compensation set by the commissioners court. The compensation shall be paid from the general fund of the county.

Added by Acts 2011, 82nd Leg., R.S., Ch. 995 (H.B. 2132), Sec. 1, eff. June 17, 2011.

Sec. 54.1955. POWERS. (a) Except as limited by an order of the county judge, a magistrate appointed under this subchapter may:

(1) conduct hearings;

(2) hear evidence;

(3) issue summons for the appearance of witnesses;

(4) examine witnesses;

(5) swear witnesses for hearings;

(6) recommend rulings or orders or a judgment in a case;

(7) regulate proceedings in a hearing;

(8) accept a plea of guilty or nolo contendere in a case alleging a violation of Section 25.093, Education Code, and assess a fine or court costs or order community service in satisfaction of a fine or costs in accordance with Article 45A.254, Code of Criminal Procedure;

(9) for a violation of Section 25.093, Education Code, enter an order suspending a sentence or deferring a final disposition that includes at least one of the requirements listed in Subchapter G, Chapter 45A, Code of Criminal Procedure;

(10) for an uncontested adjudication of truant conduct under Section 65.003, Family Code, accept a plea to the petition or a stipulation of evidence, and take any other action authorized under Chapter 65, Family Code; and

(11) perform any act and take any measure necessary and proper for the efficient performance of the duties required by the referral order, including the entry of an order that includes at least one of the remedial options in Section 65.103, Family Code.

(b) With respect to an issue of law or fact the ruling on which could result in the dismissal of a prosecution under Section 25.093, Education Code, or a case of truant conduct under Section 65.003, Family Code, a magistrate may not rule on the issue but may make findings, conclusions, and recommendations on the issue.

Added by Acts 2011, 82nd Leg., R.S., Ch. 995 (H.B. 2132), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 935 (H.B. 2398), Sec. 34, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.065, eff. January 1, 2025.

Sec. 54.1956. NOT GUILTY PLEA ENTERED OR DENIAL OF ALLEGED CONDUCT. (a) On entry of a not guilty plea for a violation of

Section 25.093, Education Code, the magistrate shall refer the case back to the referring court for all further pretrial proceedings and a full trial on the merits before the court or a jury.

(b) On denial by a child of truant conduct, as defined by Section 65.003(a), Family Code, the magistrate shall refer the case to the appropriate truancy court for adjudication.

Added by Acts 2011, 82nd Leg., R.S., Ch. 995 (H.B. 2132), Sec. 1, eff. June 17, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 935 (H.B. 2398), Sec. 35, eff. September 1, 2015.

Sec. 54.1957. PAPERS TRANSMITTED TO JUDGE. (a) At the conclusion of a hearing, the magistrate shall transmit to the judge any papers relating to the case, including:

(1) the magistrate's findings and recommendations;

(2) a statement that notice of the findings and recommendations and of the right to a hearing before the judge has been given to all parties; and

(3) all other documents requested by the referring judge.

(b) Unless the judge adopts, modifies, or rejects the magistrate's findings or recommendations not later than the fifth working day after the date the judge receives the findings or recommendations, a magistrate's finding or recommendation is final for appeal purposes.

(c) The judge shall send written notice of any modification or rejection of the magistrate's findings or recommendations to each party to the case and the attorney representing the state not later than the fifth day after the date of the modification or rejection.

Added by Acts 2011, 82nd Leg., R.S., Ch. 995 (H.B. 2132), Sec. 1, eff. June 17, 2011.

SUBCHAPTER KK. MAGISTRATES IN GUADALUPE COUNTY

Sec. 54.2001. AUTHORIZATION; APPOINTMENT; ELIMINATION. (a) The Commissioners Court of Guadalupe County may authorize the judges of the district and statutory county courts in Guadalupe County to appoint one or more part-time or full-time magistrates to perform the

duties authorized by this subchapter.

(b) The judges of the district and statutory county courts in Guadalupe County by majority vote may appoint magistrates as authorized by the Commissioners Court of Guadalupe County.

(c) An order appointing a magistrate must be signed by the local presiding judge of the district courts serving Guadalupe County, and the order must state:

(1) the magistrate's name; and

(2) the date the magistrate's employment is to begin.

(d) An authorized magistrate's position may be eliminated on a majority vote of the Commissioners Court of Guadalupe County.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 3.01, eff. September 1, 2013.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.003, eff. September 1, 2023.

Sec. 54.2002. QUALIFICATIONS; OATH OF OFFICE. (a) To be eligible for appointment as a magistrate, a person must:

(1) be a citizen of the United States;

(2) have resided in Guadalupe County for at least the two years preceding the person's appointment; and

(3) be at least 30 years of age.

(b) A magistrate appointed under Section 54.2001 must take the constitutional oath of office required of appointed officers of this state.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 3.01, eff. September 1, 2013.

Sec. 54.2003. COMPENSATION. (a) A magistrate is entitled to the salary determined by the Commissioners Court of Guadalupe County.

(b) A full-time magistrate's salary may not be less than that of a justice of the peace of Guadalupe County as established by the annual budget of Guadalupe County.

(c) A part-time magistrate's salary is equal to the per-hour salary of a justice of the peace. The per-hour salary is determined by dividing the annual salary by a 2,000 work-hour year. The local

administrative judge of the district courts serving Guadalupe County shall approve the number of hours for which a part-time magistrate is to be paid.

(d) The magistrate's salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 3.01, eff. September 1, 2013.

Sec. 54.2004. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 3.01, eff. September 1, 2013.

Sec. 54.2005. TERMINATION OF EMPLOYMENT. (a) A magistrate may be terminated by a majority vote of all the judges of the district and statutory county courts of Guadalupe County.

(b) To terminate a magistrate's employment, the local administrative judge of the district courts serving Guadalupe County must sign a written order of termination. The order must state:

(1) the magistrate's name; and

(2) the final date of the magistrate's employment.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 3.01, eff. September 1, 2013.

Sec. 54.2006. JURISDICTION; RESPONSIBILITY; POWERS. (a) The judges of the district or statutory county courts shall establish standing orders to be followed by a magistrate or parties appearing before a magistrate, as applicable.

(b) To the extent authorized by this subchapter and the standing orders, a magistrate has jurisdiction to exercise the authority granted by the judges of the district or statutory county courts.

(c) A magistrate has all of the powers of a magistrate under the laws of this state and may administer an oath for any purpose.

(d) A magistrate shall give preference to performing the duties

of a magistrate under Article 15.17, Code of Criminal Procedure.

(e) A magistrate is authorized to:

(1) set, adjust, and revoke bonds before the filing of an information or the return of an indictment;

(2) conduct examining trials;

(3) determine whether a defendant is indigent and appoint counsel for an indigent defendant;

(4) issue search and arrest warrants;

(5) issue emergency protective orders;

(6) order emergency mental commitments; and

(7) conduct initial juvenile detention hearings if approved by the Guadalupe County Juvenile Board.

(f) With the express authorization of a justice of the peace, a magistrate may exercise concurrent criminal jurisdiction with the justice of the peace to dispose as provided by law of cases filed in the precinct of the authorizing justice of the peace, except for a trial on the merits following a plea of not guilty.

(g) A magistrate may:

(1) issue notices of the setting of a case for a hearing;

(2) conduct hearings;

(3) compel production of evidence;

(4) hear evidence;

(5) issue summons for the appearance of witnesses;

(6) swear witnesses for hearings;

(7) regulate proceedings in a hearing; and

(8) perform any act and take any measure necessary and proper for the efficient performance of the duties required by the magistrate's jurisdiction and authority.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 3.01, eff. September 1, 2013.

Sec. 54.2007. PERSONNEL, EQUIPMENT, AND OFFICE SPACE. The Commissioners Court of Guadalupe County shall provide:

(1) personnel for the legal or clerical functions necessary to perform the magistrate's duties authorized by this chapter; and

(2) sufficient equipment and office space for the magistrate and personnel to perform the magistrate's essential functions.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 3.01, eff. September 1, 2013.

SUBCHAPTER MM. MAGISTRATES IN COLLIN COUNTY

Sec. 54.2201. AUTHORIZATION; APPOINTMENT; TERMINATION; ELIMINATION. (a) The Commissioners Court of Collin County by majority vote may appoint one or more part-time or full-time magistrates to perform the duties authorized by this subchapter.

(b) An order appointing a magistrate must be signed by the county judge of Collin County, and the order must state:

(1) the magistrate's name; and

(2) the date the magistrate's employment begins.

(c) A magistrate may be terminated by a majority vote of the Commissioners Court of Collin County.

(d) An authorized magistrate's position may be eliminated on a majority vote of the Commissioners Court of Collin County.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.04, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.2202. QUALIFICATIONS; OATH OF OFFICE. (a) To be eligible for appointment as a magistrate, a person must:

(1) be a citizen of the United States;

(2) have resided in Collin County for at least the four years preceding the person's appointment; and

(3) have been licensed to practice law in this state for at least four years.

(b) A magistrate appointed under Section 54.2201 must take the constitutional oath of office required of appointed officers of this state.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.04, eff. September 1, 2019.

Sec. 54.2203. COMPENSATION. A magistrate is entitled to the compensation set by the Commissioners Court of Collin County. The compensation shall be paid from the general fund of the county.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.04, eff. September 1, 2019.

Sec. 54.2204. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.04, eff. September 1, 2019.

Sec. 54.2205. PROCEEDING THAT MAY BE REFERRED. (a) The judge of a district court or county court at law or a justice of the peace may refer to a magistrate any case or matter relating to a case for proceedings involving:

(1) a negotiated plea of guilty or no contest and sentencing before the court;

(2) a bond forfeiture, remittitur, and related proceedings;

(3) a pretrial motion;

(4) a writ of habeas corpus;

(5) an examining trial;

(6) an occupational driver's license;

(7) a petition for an order of expunction under Chapter 55A, Code of Criminal Procedure;

(8) an asset forfeiture hearing as provided by Chapter 59, Code of Criminal Procedure;

(9) a petition for an order of nondisclosure of criminal history record information or an order of nondisclosure of criminal history record information that does not require a petition provided by Subchapter E-1, Chapter 411;

(10) a motion to modify or revoke community supervision or to proceed with an adjudication of guilt;

(11) setting conditions, modifying, revoking, and surrendering of bonds, including surety bonds;

(12) specialty court proceedings;

(13) a waiver of extradition;

(14) selection of a jury; and

(15) any other matter the judge or justice of the peace considers necessary and proper.

(b) A judge may refer to a magistrate a civil case arising out of Chapter 59, Code of Criminal Procedure, for any purpose authorized by that chapter, including issuing orders, accepting agreed judgments, enforcing judgments, and presiding over a case on the merits if a party has not requested a jury trial.

(c) A magistrate may accept a plea of guilty from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses.

(d) If the magistrate is acting as an associate judge under Section 54.2216, the magistrate may hear any case referred under Section 54A.106.

(e) A magistrate may not preside over a criminal trial on the merits, regardless of whether the trial is before a jury.

(f) A magistrate may not hear any jury trial on the merits.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.04, eff. September 1, 2019.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.066, eff. January 1, 2025.

Sec. 54.2206. ORDER OF REFERRAL. (a) To refer one or more cases to a magistrate, a judge or justice of the peace must issue an order of referral specifying the magistrate's duties.

(b) An order of referral may:

(1) limit the powers of the magistrate and direct the magistrate to report only on specific issues, perform particular acts, or receive and report on evidence only;

(2) set the time and place for the hearing;

(3) prescribe a closing date for the hearing;

(4) provide a date for filing the magistrate's findings;

(5) designate proceedings for more than one case over which the magistrate shall preside;

(6) direct the magistrate to call the court's docket; and

(7) set forth general powers and limitations of authority of the magistrate applicable to any case referred.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.04,

eff. September 1, 2019.

Sec. 54.2207. POWERS. (a) Except as limited by an order of referral, a magistrate to whom a case is referred may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence in civil or criminal matters;

(4) rule on disputes regarding civil discovery;

(5) rule on admissibility of evidence;

(6) issue summons for the appearance of witnesses;

(7) examine witnesses;

(8) swear witnesses for hearings;

(9) make findings of fact on evidence;

(10) formulate conclusions of law;

(11) rule on a pretrial motion;

(12) recommend the rulings, orders, or judgment to be made in a case;

(13) regulate proceedings in a hearing;

(14) accept a plea of guilty from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses;

(15) select a jury;

(16) accept a negotiated plea on a probation revocation;

(17) conduct a contested probation revocation hearing;

(18) sign a dismissal in a misdemeanor case;

(19) enter an order of dismissal or non-suit on agreement of the parties in a civil case;

(20) in any case referred under Section 54.2205(a)(1), accept a negotiated plea of guilty or no contest and:

(A) enter a finding of guilt and impose or suspend the sentence; or

(B) defer adjudication of guilt;

(21) conduct initial juvenile detention hearings if approved by the juvenile board of Collin County; and

(22) perform any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(b) A magistrate may sign a motion to dismiss submitted by an attorney representing the state on cases referred to the magistrate,

or on dockets called by the magistrate, and may consider unadjudicated cases at sentencing under Section 12.45, Penal Code.

(c) Except as provided by Sections 54.2205(e) and (f), a magistrate has all of the powers of a magistrate under the laws of this state and may administer an oath for any purpose.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.04, eff. September 1, 2019.

Sec. 54.2208. FORFEITURES. Bail bonds and personal bonds may be forfeited by the magistrate court in the manner provided by Chapter 22, Code of Criminal Procedure, and those forfeitures shall be filed with:

(1) the district clerk if associated with a felony case;

(2) the county clerk if associated with a Class A or Class B misdemeanor case; or

(3) the same justice court clerk associated with the Class C misdemeanor case in which the bond was originally filed.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.04, eff. September 1, 2019.

Sec. 54.2209. COSTS. (a) When the district clerk is the clerk under this subchapter, the district clerk shall charge the same court costs for cases filed in, transferred to, or assigned to the magistrate court that are charged in the district courts.

(b) When the county clerk is the clerk under this subchapter, the county clerk shall charge the same court costs for cases filed in, transferred to, or assigned to the magistrate court that are charged in the county courts.

(c) When a justice clerk is the clerk under this subchapter, the justice clerk shall charge the same court costs for cases filed in, transferred to, or assigned to the magistrate court that are charged in the justice courts.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.04, eff. September 1, 2019.

Sec. 54.2210. CLERK. (a) The district clerk serves as clerk of the magistrate court, except that:

(1) after a Class A or Class B misdemeanor is filed in the county court at law and assigned to the magistrate court, the county clerk serves as clerk for that misdemeanor case; and

(2) after a Class C misdemeanor is filed in a justice court and assigned to the magistrate court, the originating justice court clerk serves as clerk for that misdemeanor case.

(b) The district clerk shall establish a docket and keep the minutes for the cases filed in or transferred to the magistrate court. The district clerk shall perform any other duties that local administrative rules require in connection with the implementation of this subchapter. The local administrative judge shall ensure that the duties required under this subsection are performed. To facilitate the duties associated with serving as the clerk of the magistrate court, the district clerk and the deputies of the district clerk may serve as deputy justice clerks and deputy county clerks at the discretion of the district clerk.

(c) The clerk of the case shall include as part of the record on appeal a copy of the order and local administrative rule under which a magistrate court acted.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.04, eff. September 1, 2019.

Sec. 54.2211. COURT REPORTER. At the request of a party, the court shall provide a court reporter to record the proceedings before the magistrate.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.04, eff. September 1, 2019.

Sec. 54.2212. WITNESS. (a) A witness who appears before a magistrate and is sworn is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.04, eff. September 1, 2019.

Sec. 54.2213. PAPERS TRANSMITTED TO JUDGE. At the conclusion of the proceedings, a magistrate shall transmit to the referring court any papers relating to the case, including the magistrate's findings, conclusions, orders, recommendations, or other action taken.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.04, eff. September 1, 2019.

Sec. 54.2214. COSTS OF MAGISTRATE. The court shall determine if the nonprevailing party is able to defray the costs of the magistrate. If the court determines the nonprevailing party is able to pay those costs, the court shall assess the magistrate's costs against the nonprevailing party.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.04, eff. September 1, 2019.

Sec. 54.2215. JUDICIAL ACTION. (a) A referring court may modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate.

(b) If the court does not modify, correct, reject, reverse, or recommit an action of the magistrate, the action becomes the decree of the court.

(c) At the conclusion of each term during which the services of a magistrate are used, the referring court shall enter a decree on the minutes adopting the actions of the magistrate of which the court approves.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.04, eff. September 1, 2019.

Sec. 54.2216. MAGISTRATE AS ASSOCIATE JUDGE. A magistrate appointed under this subchapter may act as a civil associate judge

under Subchapter B, Chapter 54A. To the extent of any conflict with this subchapter, a magistrate acting as an associate judge shall comply with provisions regarding the appointment, termination, referral of cases, powers, duties, and immunities of associate judges under Subchapter B, Chapter 54A.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.04, eff. September 1, 2019.

SUBCHAPTER NN. MAGISTRATES IN KERR COUNTY

Sec. 54.2301. AUTHORIZATION; APPOINTMENT; ELIMINATION. (a) The Commissioners Court of Kerr County may authorize the judges of the district and statutory county courts in Kerr County to appoint one or more part-time or full-time magistrates to perform the duties authorized by this subchapter.

(b) The judges of the district and statutory county courts in Kerr County by a unanimous vote may appoint magistrates as authorized by the Commissioners Court of Kerr County.

(c) An order appointing a magistrate must be signed by the local presiding judge of the district courts serving Kerr County, and the order must state:

(1) the magistrate's name; and

(2) the date the magistrate's employment is to begin.

(d) An authorized magistrate's position may be eliminated on a majority vote of the Commissioners Court of Kerr County.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.05, eff. September 1, 2019.

Sec. 54.2302. QUALIFICATIONS; OATH OF OFFICE. (a) To be eligible for appointment as a magistrate, a person must:

(1) be a citizen of the United States;

(2) have resided in Kerr County for at least the two years preceding the person's appointment; and

(3) be at least 30 years of age.

(b) A magistrate appointed under Section 54.2301 must take the constitutional oath of office required of appointed officers of this state.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.05, eff. September 1, 2019.

Sec. 54.2303. COMPENSATION. (a) A magistrate is entitled to the salary determined by the Commissioners Court of Kerr County.

(b) A full-time magistrate's salary may not be less than that of a justice of the peace of Kerr County as established by the annual budget of Kerr County.

(c) A part-time magistrate's salary is equal to the per-hour salary of a justice of the peace. The per-hour salary is determined by dividing the annual salary by a 2,000 work-hour year. The local administrative judge of the district courts serving Kerr County shall approve the number of hours for which a part-time magistrate is to be paid.

(d) The magistrate's salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.05, eff. September 1, 2019.

Sec. 54.2304. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.05, eff. September 1, 2019.

Sec. 54.2305. TERMINATION OF EMPLOYMENT. (a) A magistrate may be terminated by a majority vote of all the judges of the district and statutory county courts of Kerr County.

(b) To terminate a magistrate's employment, the local administrative judge of the district courts serving Kerr County must sign a written order of termination. The order must state:

(1) the magistrate's name; and

(2) the final date of the magistrate's employment.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.05, eff. September 1, 2019.

Sec. 54.2306. JURISDICTION; RESPONSIBILITY; POWERS. (a) The judges of the district or statutory county courts shall establish standing orders to be followed by a magistrate or parties appearing before a magistrate, as applicable.

(b) To the extent authorized by this subchapter and the standing orders, a magistrate has jurisdiction to exercise the authority granted by the judges of the district or statutory county courts.

(c) A magistrate has all of the powers of a magistrate under the laws of this state and may administer an oath for any purpose.

(d) A magistrate shall give preference to performing the duties of a magistrate under Article 15.17, Code of Criminal Procedure.

(e) A magistrate is authorized to:

(1) set, adjust, and revoke bonds before the filing of an information or the return of an indictment;

(2) conduct examining trials;

(3) determine whether a defendant is indigent and appoint counsel for an indigent defendant;

(4) issue search and arrest warrants;

(5) issue emergency protective orders;

(6) order emergency mental commitments; and

(7) conduct initial juvenile detention hearings if approved by the Kerr County Juvenile Board.

(f) With the express authorization of a justice of the peace, a magistrate may exercise concurrent criminal jurisdiction with the justice of the peace to dispose as provided by law of cases filed in the precinct of the authorizing justice of the peace, except for a trial on the merits following a plea of not guilty.

(g) A magistrate may:

(1) issue notices of the setting of a case for a hearing;

(2) conduct hearings;

(3) compel production of evidence;

(4) hear evidence;

(5) issue summons for the appearance of witnesses;

(6) swear witnesses for hearings;

(7) regulate proceedings in a hearing; and

(8) perform any act and take any measure necessary and proper for the efficient performance of the duties required by the magistrate's jurisdiction and authority.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.05, eff. September 1, 2019.

Sec. 54.2307. PERSONNEL, EQUIPMENT, AND OFFICE SPACE. The Commissioners Court of Kerr County shall provide:

(1) personnel for the legal or clerical functions necessary to perform the magistrate's duties authorized by this chapter; and

(2) sufficient equipment and office space for the magistrate and personnel to perform the magistrate's essential functions.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.05, eff. September 1, 2019.

SUBCHAPTER OO. MAGISTRATES IN FORT BEND COUNTY

Sec. 54.2401. AUTHORIZATION; APPOINTMENT; ELIMINATION. (a) The Commissioners Court of Fort Bend County may authorize the judges of the district and statutory county courts in Fort Bend County to appoint one or more part-time or full-time magistrates to perform the duties authorized by this subchapter.

(b) The judges of the district and statutory county courts in Fort Bend County by a unanimous vote may appoint magistrates as authorized by the Commissioners Court of Fort Bend County.

(c) An order appointing a magistrate must be signed by the local administrative judge and must state:

(1) the magistrate's name; and

(2) the date the magistrate's employment is to begin.

(d) An authorized magistrate's position may be eliminated on a majority vote of the Commissioners Court of Fort Bend County.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.06, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.2402. QUALIFICATIONS; OATH OF OFFICE. (a) To be eligible for appointment as a magistrate, a person must:

(1) be a citizen of the United States;

(2) have resided in Fort Bend County for at least the four years preceding the person's appointment; and

(3) have been licensed to practice law in this state for at least four years.

(b) A magistrate appointed under Section 54.2401 must take the constitutional oath of office required of appointed officers of this state.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.06, eff. September 1, 2019.

Sec. 54.2403. COMPENSATION. A magistrate is entitled to the compensation set by the Commissioners Court of Fort Bend County. The compensation shall be paid from the general fund of the county.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.06, eff. September 1, 2019.

Sec. 54.2404. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.06, eff. September 1, 2019.

Sec. 54.2405. PROCEEDING THAT MAY BE REFERRED. (a) The judge of a district court or county court at law or a justice of the peace may refer to a magistrate any case or matter relating to a case for proceedings involving:

(1) a negotiated plea of guilty or no contest and sentencing before the court;

(2) a bond forfeiture, remittitur, and related proceedings;

(3) a pretrial motion;

(4) a writ of habeas corpus;

(5) an examining trial;

(6) an occupational driver's license;

(7) a petition for an order of expunction under Chapter 55A, Code of Criminal Procedure;

(8) an asset forfeiture hearing as provided by Chapter 59, Code of Criminal Procedure;

(9) a petition for an order of nondisclosure of criminal history record information or an order of nondisclosure of criminal history record information that does not require a petition provided by Subchapter E-1, Chapter 411;

(10) a motion to modify or revoke community supervision or to proceed with an adjudication of guilt;

(11) setting conditions, modifying, revoking, and surrendering of bonds, including surety bonds;

(12) specialty court proceedings;

(13) a waiver of extradition;

(14) selection of a jury; and

(15) any other matter the judge or justice of the peace considers necessary and proper.

(b) A judge may refer to a magistrate a civil case arising out of Chapter 59, Code of Criminal Procedure, for any purpose authorized by that chapter, including issuing orders, accepting agreed judgments, enforcing judgments, and presiding over a case on the merits if a party has not requested a jury trial.

(c) A magistrate may accept a plea of guilty from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses.

(d) If the magistrate is acting as an associate judge under Section 54.2416, the magistrate may hear any case referred under Section 54A.106.

(e) A magistrate may not preside over a criminal trial on the merits, regardless of whether the trial is before a jury.

(f) A magistrate may not hear any jury trial on the merits.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.06, eff. September 1, 2019.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.067, eff. January 1, 2025.

Sec. 54.2406. ORDER OF REFERRAL. (a) To refer one or more

cases to a magistrate, a judge or justice of the peace must issue an order of referral specifying the magistrate's duties.

(b) An order of referral may:

(1) limit the powers of the magistrate and direct the magistrate to report only on specific issues, perform particular acts, or receive and report on evidence only;

(2) set the time and place for the hearing;

(3) prescribe a closing date for the hearing;

(4) provide a date for filing the magistrate's findings;

(5) designate proceedings for more than one case over which the magistrate shall preside;

(6) direct the magistrate to call the court's docket; and

(7) set forth general powers and limitations of authority of the magistrate applicable to any case referred.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.06, eff. September 1, 2019.

Sec. 54.2407. POWERS. (a) Except as limited by an order of referral, a magistrate to whom a case is referred may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence in civil or criminal matters;

(4) rule on disputes regarding civil discovery;

(5) rule on admissibility of evidence;

(6) issue summons for the appearance of witnesses;

(7) examine witnesses;

(8) swear witnesses for hearings;

(9) make findings of fact on evidence;

(10) formulate conclusions of law;

(11) rule on a pretrial motion;

(12) recommend the rulings, orders, or judgment to be made in a case;

(13) regulate proceedings in a hearing;

(14) accept a plea of guilty from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses;

(15) select a jury;

(16) accept a negotiated plea on a probation revocation;

(17) conduct a contested probation revocation hearing;

(18) sign a dismissal in a misdemeanor case;

(19) enter an order of dismissal or nonsuit on agreement of the parties in a civil case;

(20) in any case referred under Section 54.2405(a)(1), accept a negotiated plea of guilty or no contest and:

(A) enter a finding of guilt and impose or suspend the sentence; or

(B) defer adjudication of guilt;

(21) conduct initial juvenile detention hearings if approved by the juvenile board of Fort Bend County; and

(22) perform any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(b) A magistrate may sign a motion to dismiss submitted by an attorney representing the state on cases referred to the magistrate, or on dockets called by the magistrate, and may consider unadjudicated cases at sentencing under Section 12.45, Penal Code.

(c) Except as provided by Sections 54.2405(e) and (f), a magistrate has all of the powers of a magistrate under the laws of this state and may administer an oath for any purpose.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.06, eff. September 1, 2019.

Sec. 54.2408. FORFEITURES. Bail bonds and personal bonds may be forfeited by the magistrate court in the manner provided by Chapter 22, Code of Criminal Procedure, and those forfeitures shall be filed with:

(1) the district clerk if associated with a felony case;

(2) the county clerk if associated with a Class A or Class B misdemeanor case; or

(3) the same justice court clerk associated with the Class C misdemeanor case in which the bond was originally filed.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.06, eff. September 1, 2019.

Sec. 54.2409. COSTS. (a) When the district clerk is the clerk

under this subchapter, the district clerk shall charge the same court costs for cases filed in, transferred to, or assigned to the magistrate court that are charged in the district courts.

(b) When the county clerk is the clerk under this subchapter, the county clerk shall charge the same court costs for cases filed in, transferred to, or assigned to the magistrate court that are charged in the county courts.

(c) When a justice clerk is the clerk under this subchapter, the justice clerk shall charge the same court costs for cases filed in, transferred to, or assigned to the magistrate court that are charged in the justice courts.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.06, eff. September 1, 2019.

Sec. 54.2410. CLERK. (a) The district clerk serves as clerk of the magistrate court, except that:

(1) after a Class A or Class B misdemeanor is filed in the county court at law and assigned to the magistrate court, the county clerk serves as clerk for that misdemeanor case; and

(2) after a Class C misdemeanor is filed in a justice court and assigned to the magistrate court, the originating justice court clerk serves as clerk for that misdemeanor case.

(b) The district clerk shall establish a docket and keep the minutes for the cases filed in or transferred to the magistrate court. The district clerk shall perform any other duties that local administrative rules require in connection with the implementation of this subchapter. The local administrative judge shall ensure that the duties required under this subsection are performed. To facilitate the duties associated with serving as the clerk of the magistrate court, the district clerk and the deputies of the district clerk may serve as deputy justice clerks and deputy county clerks at the discretion of the district clerk.

(c) The clerk of the case shall include as part of the record on appeal a copy of the order and local administrative rule under which a magistrate court acted.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.06, eff. September 1, 2019.

Sec. 54.2411. COURT REPORTER. At the request of a party, the court shall provide a court reporter to record the proceedings before the magistrate.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.06, eff. September 1, 2019.

Sec. 54.2412. WITNESS. (a) A witness who appears before a magistrate and is sworn is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.06, eff. September 1, 2019.

Sec. 54.2413. PAPERS TRANSMITTED TO JUDGE. At the conclusion of the proceedings, a magistrate shall transmit to the referring court any papers relating to the case, including the magistrate's findings, conclusions, orders, recommendations, or other action taken.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.06, eff. September 1, 2019.

Sec. 54.2414. COSTS OF MAGISTRATE. The court shall determine if the nonprevailing party is able to defray the costs of the magistrate. If the court determines the nonprevailing party is able to pay those costs, the court shall assess the magistrate's costs against the nonprevailing party.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.06, eff. September 1, 2019.

Sec. 54.2415. JUDICIAL ACTION. (a) A referring court may modify, correct, reject, reverse, or recommit for further information

any action taken by the magistrate.

(b) If the court does not modify, correct, reject, reverse, or recommit an action of the magistrate, the action becomes the decree of the court.

(c) At the conclusion of each term during which the services of a magistrate are used, the referring court shall enter a decree on the minutes adopting the actions of the magistrate of which the court approves.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.06, eff. September 1, 2019.

Sec. 54.2416. MAGISTRATE AS ASSOCIATE JUDGE. A magistrate appointed under this subchapter may act as a civil associate judge under Subchapter B, Chapter 54A. To the extent of any conflict with this subchapter, a magistrate acting as an associate judge shall comply with provisions regarding the appointment, termination, referral of cases, powers, duties, and immunities of associate judges under Subchapter B, Chapter 54A.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 5.06, eff. September 1, 2019.

SUBCHAPTER PP. BRAZORIA COUNTY CRIMINAL LAW MAGISTRATE COURT

Sec. 54.2501. CREATION. The Brazoria County Criminal Law Magistrate Court is a court with the jurisdiction provided by this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.03, eff. September 1, 2021.

Sec. 54.2502. APPOINTMENT. (a) On recommendation from the local administrative judge, the commissioners court of Brazoria County may appoint one or more full- or part-time judges to preside over the criminal law magistrate court for the term determined by the commissioners court. The local administrative judge shall appoint one or more full- or part-time judges to preside over the criminal law magistrate court if the commissioners court is prohibited by law

from appointing a judge.

(b) To be eligible for appointment as a judge of the criminal law magistrate court, a person must meet all the requirements and qualifications to serve as a district court judge.

(c) A judge of the criminal law magistrate court is entitled to the salary set by the commissioners court. The salary may not be less than the annual base salary paid to a district judge under Section 659.012(a)(1) and must include compensation for services performed on behalf of Brazoria County.

(d) A judge appointed under this section serves at the pleasure of the commissioners court or the local administrative judge, as applicable.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.03, eff. September 1, 2021.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.004, eff. September 1, 2023.

Sec. 54.2503. JURISDICTION. (a) Except as provided by this subsection, the criminal law magistrate court has the criminal jurisdiction provided by the constitution and laws of this state for county courts at law. The criminal law magistrate court does not have jurisdiction to:

(1) hear a trial of a misdemeanor offense, other than a Class C misdemeanor, on the merits if a jury trial is demanded; or

(2) hear a trial of a misdemeanor, other than a Class C misdemeanor, on the merits if a defendant pleads not guilty.

(b) The criminal law magistrate court has the jurisdiction provided by the constitution and laws of this state for magistrates. A judge of the criminal law magistrate court is a magistrate as defined by Article 2A.151, Code of Criminal Procedure.

(c) Except as provided by this subsection, the criminal law magistrate court has the criminal jurisdiction provided by the constitution and laws of this state for a district court. The criminal law magistrate court does not have jurisdiction to:

(1) hear a trial of a felony offense on the merits if a jury trial is demanded;

(2) hear a trial of a felony offense on the merits if a

defendant pleads not guilty;

(3) sentence in a felony case unless the judge in whose court the case is pending assigned the case to the criminal law magistrate court for a guilty plea and sentence; or

(4) hear any part of a capital murder case after indictment.

(d) A criminal law magistrate court may not issue writs of habeas corpus in felony cases but may hear and grant relief on a writ of habeas corpus issued by a district court and assigned by the district court to the criminal law magistrate court.

(e) A felony or misdemeanor indictment or information may not be filed in or transferred to the criminal law magistrate court.

(f) A judge of the criminal law magistrate court shall exercise jurisdiction granted by this subchapter over felony and misdemeanor indictments and informations only as judge presiding for the court in which the indictment or information is pending and under the limitations set out in the assignment order by the assigning court or as provided by local administrative rules.

(g) The criminal law magistrate court has concurrent criminal jurisdiction with the justice courts located in Brazoria County.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.03, eff. September 1, 2021.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.068, eff. January 1, 2025.

Sec. 54.2504. POWERS AND DUTIES. (a) The criminal law magistrate court or a judge of the criminal law magistrate court may issue writs of injunction and all other writs necessary for the enforcement of the jurisdiction of the court and may issue misdemeanor writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and the judge may punish for contempt as provided by law for district courts. A judge of the criminal law magistrate court has all other powers, duties, immunities, and privileges provided by law for:

(1) justices of the peace when acting in a Class C misdemeanor case;

(2) county court at law judges when acting in a Class A or Class B misdemeanor case; and

(3) district court judges when acting in a felony case.

(b) A judge of the criminal law magistrate court may hold an indigency hearing and a capias pro fine hearing. When acting as the judge who issued the capias pro fine, a judge of the criminal law magistrate court may make all findings of fact and conclusions of law required of the judge who issued the capias pro fine. In conducting a hearing under this subsection, the judge of the criminal law magistrate court is empowered to make all findings of fact and conclusions of law and to issue all orders necessary to properly dispose of the capias pro fine or indigency hearing in accordance with the provisions of the Code of Criminal Procedure applicable to a misdemeanor or felony case of the same type and level.

(c) A judge of the magistrate court may accept a plea of guilty or nolo contendere from a defendant charged with a misdemeanor or felony offense.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.03, eff. September 1, 2021.

Sec. 54.2505. TRANSFER AND ASSIGNMENT OF CASES. (a) Except as provided by Subsection (b) or local administrative rules, the local administrative judge or a judge of the criminal law magistrate court may transfer between courts a case that is pending in the court of any magistrate in the criminal law magistrate court's jurisdiction if the case is:

(1) an unindicted felony case;

(2) a Class A or Class B misdemeanor case if an information has not been filed; or

(3) a Class C misdemeanor case.

(b) A case may not be transferred from or to the magistrate docket of a district court judge, county court at law judge, or justice of the peace without the consent of the judge of the court to which it is transferred.

(c) Except as provided by Subsection (d) or local administrative rules, the local administrative judge may assign a judge of the criminal law magistrate court to act as presiding judge in a case that is pending in the court of any magistrate in the

criminal law magistrate court's jurisdiction if the case is:

(1) an unindicted felony case;

(2) a Class A or Class B misdemeanor case if an information has not been filed; or

(3) a Class C misdemeanor case.

(d) A case may not be assigned to a district court judge, county court at law judge, or justice of the peace without the assigned judge's consent.

(e) This section applies only to the district courts, county courts at law, and justice courts in the county.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.03, eff. September 1, 2021.

Sec. 54.2506. PROCEEDING THAT MAY BE REFERRED. A district judge, county court at law judge, or justice of the peace may refer to a judge of the criminal law magistrate court any criminal case or matter relating to a criminal case for any proceeding other than presiding over a criminal trial on the merits, whether or not the trial is before a jury.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.03, eff. September 1, 2021.

Sec. 54.2507. OATH OF OFFICE. A judge of the criminal law magistrate court must take the constitutional oath of office prescribed for appointed officers.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.03, eff. September 1, 2021.

Sec. 54.2508. JUDICIAL IMMUNITY. A judge of the criminal law magistrate court has the same judicial immunity as a district judge.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.03, eff. September 1, 2021.

Sec. 54.2509. CLERK. The clerk of a district court or county court at law that refers a proceeding to a magistrate under this subchapter shall perform the statutory duties necessary for the magistrate to perform the duties authorized by this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.03, eff. September 1, 2021.

Sec. 54.2510. SHERIFF. The county sheriff, either in person or by deputy, shall attend the criminal law magistrate court as required by the judge of that court.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.03, eff. September 1, 2021.

Sec. 54.2511. WITNESSES. (a) A witness who is sworn and who appears before a magistrate is subject to the penalties for perjury and aggravated perjury provided by law.

(b) A referring court may fine or imprison a witness or other court participant for failure to appear after being summoned, refusal to answer questions, or other acts of direct contempt before a magistrate.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.03, eff. September 1, 2021.

SUBCHAPTER QQ. CRIMINAL LAW MAGISTRATES IN TOM GREEN COUNTY

Sec. 54.2601. APPOINTMENT. (a) The judges of the district courts of Tom Green County, with the consent and approval of the commissioners court of Tom Green County, shall jointly appoint the number of magistrates set by the commissioners court to perform the duties authorized by this subchapter.

(b) Each magistrate's appointment must be made with the approval of at least two-thirds of all the judges described in Subsection (a).

(c) If the number of magistrates is less than the number of district judges, each magistrate shall serve equally in the courts of those judges.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.04, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.2602. QUALIFICATIONS. To be eligible for appointment as a magistrate, a person must:

(1) be a resident of this state; and

(2) have been licensed to practice law in this state for at least four years.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.04, eff. September 1, 2021.

Sec. 54.2603. COMPENSATION. (a) A full-time magistrate is entitled to the salary determined by the commissioners court of Tom Green County. The salary may not be less than an amount equal to the salary, supplements, and allowances paid to a justice of the peace of Tom Green County as set by the annual budget of Tom Green County.

(b) A magistrate's salary is paid from the county fund available for payment of officers' salaries.

(c) The salary of a part-time magistrate is equal to the per-hour salary of a full-time magistrate. The per-hour salary is determined by dividing the annual salary by a 2,080 work-hour year. The judges of the courts trying criminal cases in Tom Green County shall approve the number of hours for which a part-time magistrate is to be paid.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.04, eff. September 1, 2021.

Sec. 54.2604. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.04, eff. September 1, 2021.

Sec. 54.2605. TERMINATION OF SERVICES. (a) A magistrate who serves a single court serves at the will of the judge.

(b) The services of a magistrate who serves more than one court may be terminated by a majority vote of all the judges whom the magistrate serves.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.04, eff. September 1, 2021.

Sec. 54.2606. PROCEEDING THAT MAY BE REFERRED. (a) A judge may refer to a magistrate any criminal case or matter relating to a criminal case for proceedings involving:

(1) a negotiated plea of guilty or no contest and sentencing before the court;

(2) a bond forfeiture, remittitur, and related proceedings;

(3) a pretrial motion;

(4) a writ of habeas corpus;

(5) an examining trial;

(6) an occupational driver's license;

(7) a petition for an order of expunction under Chapter 55A, Code of Criminal Procedure;

(8) an asset forfeiture hearing as provided by Chapter 59, Code of Criminal Procedure;

(9) a petition for an order of nondisclosure of criminal history record information or an order of nondisclosure of criminal history record information that does not require a petition provided by Subchapter E-1, Chapter 411;

(10) a motion to modify or revoke community supervision or to proceed with an adjudication of guilty;

(11) setting conditions, modifying, revoking, and surrendering of bonds, including surety bonds;

(12) specialty court proceedings;

(13) a waiver of extradition; and

(14) any other matter the judge considers necessary and proper.

(b) A judge may refer to a magistrate a civil case arising out of Chapter 59, Code of Criminal Procedure, for any purpose authorized

by that chapter, including issuing orders, accepting agreed judgments, enforcing judgments, and presiding over a case on the merits if a party has not requested a jury trial.

(c) A magistrate may accept a plea of guilty from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses.

(d) A magistrate may select a jury. A magistrate may not preside over a criminal trial on the merits, whether or not the trial is before a jury.

(e) A magistrate may not hear a jury trial on the merits of a bond forfeiture.

(f) A judge of a designated juvenile court may refer to a magistrate any proceeding over which a juvenile court has exclusive original jurisdiction under Title 3, Family Code, including any matter ancillary to the proceeding.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.04, eff. September 1, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.069, eff. January 1, 2025.

Sec. 54.2607. ORDER OF REFERRAL. (a) To refer one or more cases to a magistrate, a judge must issue an order of referral specifying the magistrate's duties.

(b) An order of referral may:

(1) limit the powers of the magistrate and direct the magistrate to report only on specific issues, perform particular acts, or only receive and report on evidence;

(2) set the time and place for the hearing;

(3) prescribe a closing date for the hearing;

(4) provide a date for filing the magistrate's findings;

(5) designate proceedings for more than one case over which the magistrate shall preside;

(6) direct the magistrate to call the court's docket; and

(7) provide the general powers and limitations of authority of the magistrate applicable to any case referred.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.04, eff. September 1, 2021.

Sec. 54.2608. POWERS. (a) Except as limited by an order of referral, a magistrate to whom a case is referred may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on admissibility of evidence;

(5) issue summons for the appearance of witnesses;

(6) examine witnesses;

(7) swear witnesses for hearings;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) rule on a pretrial motion;

(11) recommend the rulings, orders, or judgment to be made in a case;

(12) regulate proceedings in a hearing;

(13) accept a plea of guilty from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses;

(14) select a jury;

(15) accept a negotiated plea on probation revocation;

(16) conduct a contested probation revocation hearing;

(17) sign a dismissal in a misdemeanor case;

(18) in any case referred under Section 54.656(a)(1), accept a negotiated plea of guilty or no contest and:

(A) enter a finding of guilty and impose or suspend the sentence; or

(B) defer adjudication of guilty; and

(19) perform any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(b) A magistrate may sign a motion to dismiss submitted by an attorney representing the state on cases referred to the magistrate, or on dockets called by the magistrate, and may consider adjudicated cases at sentencing under Section 12.45, Penal Code.

(c) A magistrate has all the powers of a magistrate under the laws of this state and may administer an oath for any purpose.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.04, eff. September 1, 2021.

Sec. 54.2609. COURT REPORTER. At the request of a party in a felony case, the court shall provide a court reporter to record the proceedings before the magistrate.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.04, eff. September 1, 2021.

Sec. 54.2610. WITNESS. (a) A witness who appears before a magistrate and is sworn is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.04, eff. September 1, 2021.

Sec. 54.2611. PAPERS TRANSMITTED TO JUDGE. At the conclusion of the proceedings, a magistrate shall transmit to the referring court any papers relating to the case, including the magistrate's findings, conclusions, orders, recommendations, or other action taken.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.04, eff. September 1, 2021.

Sec. 54.2612. JUDICIAL ACTION. (a) A referring court may modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate.

(b) If the court does not modify, correct, reject, reverse, or recommit an action of the magistrate, the action becomes the decree of the court.

(c) At the conclusion of each term during which the services of a magistrate are used, the referring court shall enter a decree on the minutes adopting the actions of the magistrate of which the court approves.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.04, eff. September 1, 2021.

Sec. 54.2613. MAGISTRATE. (a) If a magistrate appointed under this subchapter is absent or unable to serve, the judge referring the case may appoint another magistrate to serve for the absent magistrate.

(b) A magistrate serving for another magistrate under this section has the powers and shall perform the duties of the magistrate for whom the magistrate is serving.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.04, eff. September 1, 2021.

Sec. 54.2614. CLERK. The clerk of a district court that refers a proceeding to a magistrate under this subchapter shall perform the statutory duties necessary for the magistrate to perform the duties authorized by this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 5.04, eff. September 1, 2021.

SUBCHAPTER RR. GRAYSON COUNTY CRIMINAL MAGISTRATES

Sec. 54.2701. AUTHORIZATION; APPOINTMENT; ELIMINATION. (a) The Commissioners Court of Grayson County may authorize the judges of the district and statutory county courts in Grayson County to appoint one or more part-time or full-time magistrates to perform the duties authorized by this subchapter.

(b) The judges of the district and statutory county courts in Grayson County by a unanimous vote may appoint magistrates as authorized by the Commissioners Court of Grayson County.

(c) An order appointing a magistrate must be signed by the local presiding judge of the district courts serving Grayson County, and the order must state:

(1) the magistrate's name; and

(2) the date the magistrate's employment is to begin.

(d) An authorized magistrate's position may be eliminated on a majority vote of the Commissioners Court of Grayson County.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.005, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.2702. QUALIFICATIONS; OATH OF OFFICE. (a) To be eligible for appointment as a magistrate, a person must be a resident of this state and:

(1) have served as a justice of the peace or municipal court judge for at least four years before the date of appointment; or

(2) have been licensed to practice law in this state for at least four years before the date of appointment.

(b) A magistrate appointed under Section 54.2701 must take the constitutional oath of office required of appointed officers of this state.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.005, eff. September 1, 2023.

Sec. 54.2703. COMPENSATION. A magistrate is entitled to the salary determined by the Commissioners Court of Grayson County.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.005, eff. September 1, 2023.

Sec. 54.2704. JURISDICTION. A magistrate has concurrent criminal jurisdiction with the judges of the justice of the peace courts of Grayson County.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.005, eff. September 1, 2023.

Sec. 54.2705. POWERS AND DUTIES. (a) The Commissioners Court of Grayson County shall establish the powers and duties of a

magistrate appointed under this subchapter. Except as otherwise provided by the commissioners court, a magistrate has the powers of a magistrate under the Code of Criminal Procedure and other laws of this state and may administer an oath for any purpose.

(b) A magistrate shall give preference to performing the duties of a magistrate under Article 15.17, Code of Criminal Procedure.

(c) The commissioners court may designate one or more magistrates to hold regular hearings to:

(1) give admonishments;

(2) set and review bail and conditions of release;

(3) appoint legal counsel; and

(4) determine other routine matters relating to preindictment or pending cases within those courts' jurisdiction.

(d) In the hearings described by Subsection (c), a magistrate shall give preference to the case of an individual held in county jail.

(e) A magistrate may inquire into a defendant's intended plea to the charge and set the case for an appropriate hearing before a judge or master.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.005, eff. September 1, 2023.

Sec. 54.2706. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.005, eff. September 1, 2023.

Sec. 54.2707. WITNESSES. (a) A witness who is sworn and who appears before a magistrate is subject to the penalties for perjury and aggravated perjury provided by law.

(b) A referring court may fine or imprison a witness or other court participant for failure to appear after being summoned, refusal to answer questions, or other acts of direct contempt before a magistrate.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.005, eff. September 1, 2023.

SUBCHAPTER SS. DENTON COUNTY CRIMINAL LAW MAGISTRATE COURT

Sec. 54.2801. CREATION. The Denton County Criminal Law Magistrate Court is a court with the jurisdiction provided by this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.2802. APPOINTMENT; OVERSIGHT. (a) The district court judges with jurisdiction in Denton County and the judges of the criminal statutory county courts of Denton County shall appoint one or more judges to preside over the criminal law magistrate court. An appointed judge must:

(1) serve Denton County as a district court judge, a criminal statutory county court judge, an associate judge of a court with criminal jurisdiction, a magistrate, including a jail magistrate, a judge of a municipal court of record, or a justice of the peace;

(2) be a licensed attorney in good standing with the State Bar of Texas;

(3) be authorized to access criminal history records under state and federal law;

(4) have completed training necessary to serve as a magistrate in Denton County, as determined by the district court judges with jurisdiction in Denton County and the judges of the criminal statutory county courts of Denton County; and

(5) meet the qualifications under Section 54.2807.

(b) The district court judges with jurisdiction in Denton County and the judges of the criminal statutory county courts of Denton County shall:

(1) designate to oversee the criminal law magistrate court either:

(A) one district court judge and one criminal statutory

county court judge; or

(B) a criminal law magistrate court associate judge appointed under Section 54.2805; and

(2) supervise the magistrate court to ensure the magistrates appointed give preference to duties under Chapters 14, 15, 16, 17, and 18, Code of Criminal Procedure.

(c) The magistrates of the criminal law magistrate court shall comply with the standing orders and directives regarding criminal cases of the district court judges with jurisdiction in Denton County and the judges of the criminal statutory county courts of Denton County, including a presiding criminal judge of Denton County.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

Sec. 54.2803. JURISDICTION. (a) Except as provided by Subsection (b), the criminal law magistrate court has the criminal jurisdiction provided for magistrates by the constitution and laws of this state in all criminal cases:

(1) alleging an offense other than an offense punishable only as a Class C misdemeanor;

(2) for which a magistrate or judge has determined there is probable cause to believe the defendant committed the crime alleged;

(3) in which the defendant has been released or is confined in the Denton County jail; and

(4) in which either:

(A) the defendant has not yet been charged by information or indictment; or

(B) the judge presiding over the case has specifically authorized the criminal law magistrate to take certain actions.

(b) The criminal law magistrate court and the criminal law magistrate court associate judge do not have jurisdiction to:

(1) hear a trial on the merits of an offense, except as provided by Section 54.2811(c); or

(2) take any action not specifically authorized by an order of referral from the judge presiding in a criminal case in which the defendant has been charged by information or indictment.

(c) The magisterial duties in a criminal case shall be transferred to the criminal law magistrate court:

(1) on request of a presiding judge in a criminal case for which the defendant has been charged by information or indictment; or

(2) after a defendant has been transferred to the custody of the Denton County jail or released from custody on bond in Denton County.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

Sec. 54.2804. POWERS AND DUTIES. The criminal law magistrate court may:

(1) determine probable cause for purposes of an arrest or search;

(2) issue an order of commitment, a warrant of arrest, or an order of protection;

(3) perform the duty of a magistrate under Chapters 14, 15, 16, 17, and 18, Code of Criminal Procedure;

(4) reduce or modify a bond, find a bond ordered by another judge or magistrate to be insufficient, or require conditions of a bond;

(5) hear any motion filed in a case over which the court has jurisdiction;

(6) administer oaths; and

(7) perform an action on a proceeding referred to the magistrate under Section 54.2811.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

Sec. 54.2805. CRIMINAL LAW MAGISTRATE COURT ASSOCIATE JUDGE. The district court judges with jurisdiction in Denton County and the judges of the criminal statutory county courts of Denton County may, with the approval of the Commissioners Court of Denton County and two-thirds of the district court and criminal statutory county court judges, appoint a district or criminal statutory county court judge qualified under Section 54.2807 as the criminal law magistrate court associate judge to:

(1) serve the district and criminal county courts of Denton County;

(2) oversee the criminal law magistrate court; and

(3) recommend for appointment full-time and part-time jail magistrates.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

Sec. 54.2806. JAIL MAGISTRATE. (a) The district court judges with jurisdiction in Denton County and the judges of the criminal statutory county courts of Denton County may, with the approval of the Commissioners Court of Denton County, appoint by joint standing order one or more full-time jail magistrates qualified to serve under Section 54.2807.

(b) A jail magistrate has the jurisdiction provided by the constitution and laws of this state for magistrates for criminal cases in which the defendant is in the custody of Denton County jail and has not yet been charged with a criminal offense by complaint, information, or indictment.

(c) A jail magistrate shall ensure timely compliance with Article 15.17, Code of Criminal Procedure, in all cases within the magistrate's jurisdiction, give preference to performing the duties of a magistrate under that article, and perform the following duties:

(1) consider sworn complaints or affidavits establishing probable cause and entering orders of release or commitment;

(2) conduct hearings under Article 15.17, Code of Criminal Procedure, provide warnings, and advise a defendant of the defendant's right to counsel;

(3) determine if a defendant is indigent and in need of appointed counsel;

(4) set, adjust, or revoke a bond;

(5) set the conditions of bond;

(6) conduct an examining trial;

(7) issue search and arrest warrants;

(8) issue magistrate's orders of emergency protection; and

(9) with the express authorization of a justice of the peace, exercise concurrent criminal jurisdiction with the justice of the peace to dispose as provided by law of cases filed in the precinct of the authorizing justice of the peace, except for a trial on the merits following a plea of not guilty.

(d) A jail magistrate may be assigned additional duties by the criminal law magistrate court associate judge appointed under Section 54.2805.

(e) A jail magistrate has the express authority and duty to:

(1) order the release of defendant due to an extraordinary medical condition;

(2) consider information and make inquiries regarding a defendant's mental health;

(3) issue orders or writs as necessary for the evaluation, treatment, and accommodation of a defendant's mental health issue; and

(4) communicate with the Denton County local mental health authority or another qualified mental health professional to provide continuing care to a defendant.

(f) In addition to the full-time jail magistrates appointed under Subsection (a), the district court judges with jurisdiction in Denton County and the judges of the criminal statutory county courts of Denton County may appoint or engage by joint standing order one or more part-time jail magistrates to serve as a jail magistrate as assigned. A part-time jail magistrate must be qualified to serve as a magistrate in the county under Section 54.2807 and be a sitting district, statutory county, or municipal court judge or a justice of the peace in Denton County.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.2807. QUALIFICATIONS. To be eligible for appointment as the criminal law magistrate court associate judge, a jail magistrate, or another magistrate in the criminal law magistrate court, a person must:

(1) have been a resident of Denton County for at least two years preceding the person's appointment; and

(2) have been licensed to practice law in this state for at least four years.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

Sec. 54.2808. COMPENSATION. A criminal law magistrate court associate judge, a jail magistrate, and each other magistrate in the criminal law magistrate court shall be paid a total annual salary set by the Commissioners Court of Denton County. The salary shall be paid in a manner and from a fund determined by the commissioners court.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

Sec. 54.2809. JUDICIAL IMMUNITY. A criminal law magistrate court associate judge, a jail magistrate, and each other magistrate in the criminal law magistrate court has the same judicial immunity as a district judge.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

Sec. 54.2810. TERMINATION OF SERVICES. (a) Except as provided by Subsection (b), a criminal law magistrate court associate judge, a jail magistrate, and each other magistrate in the criminal law magistrate court may be terminated by a two-thirds vote of the district court judges with jurisdiction in Denton County and the judges of the criminal statutory county courts of Denton County.

(b) A part-time jail magistrate serves solely at the discretion of a criminal law magistrate court associate judge appointed under Section 54.2805 or of the district court judge and criminal statutory county court judge designated to oversee the criminal law magistrate court under Section 54.2802(b).

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54.2811. PROCEEDING THAT MAY BE REFERRED. (a) A district court judge with jurisdiction in Denton County, the judge of a criminal statutory county court of Denton County, or the judge of the juvenile court of Denton County may refer to the criminal law magistrate court the following matters in a criminal case:

(1) a negotiated plea of guilty or no contest before the court;

(2) a bond forfeiture, remittitur, and related proceedings;

(3) a pretrial motion;

(4) a writ of habeas corpus;

(5) an examining trial;

(6) jury selection;

(7) an occupational driver's license;

(8) a waiver of extradition or a related matter under Chapter 51, Code of Criminal Procedure;

(9) the issuance of search warrants, including a search warrant under Article 18.02(a)(10), Code of Criminal Procedure, notwithstanding Article 18.01(c), Code of Criminal Procedure;

(10) a petition for an order of expunction under Chapter 55, Code of Criminal Procedure;

(11) an asset forfeiture hearing as provided by Chapter 59, Code of Criminal Procedure;

(12) a civil commitment matter under Subtitle C, Title 7, Health and Safety Code;

(13) setting, adjusting, or revoking bond;

(14) the conduct of initial juvenile detention hearings or any other matter in a juvenile case if referred by the judge of the juvenile court of the county and approved by the Denton County Juvenile Board; and

(15) any other matter the judge considers necessary and proper.

(b) Except as limited by an order of referral, the criminal law magistrate court associate judge may:

(1) conduct a hearing;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on the admissibility of evidence;

(5) issue a summons for the appearance of witnesses;

(6) examine a witness;

(7) swear a witness for a hearing;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) rule on pretrial motions;

(11) recommend the rulings, orders, or judgment to be made in a case;

(12) regulate proceedings in a hearing before the associate judge;

(13) accept a negotiated plea of guilty or no contest made before the court and:

(A) enter a finding of guilty and impose or suspend the sentence; or

(B) defer adjudication of guilt;

(14) select a jury;

(15) accept a negotiated plea in a probation revocation;

(16) conduct a contested probation revocation hearing;

(17) sign a dismissal in a misdemeanor case; and

(18) perform any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(c) Notwithstanding Section 54.2803(b), the judge of the juvenile court of Denton County may refer to the criminal law magistrate court associate judge any proceeding over which the juvenile court has exclusive original jurisdiction under Title 3, Family Code, including any matter ancillary to that proceeding. The criminal law magistrate court associate judge may accept a plea of guilty for a misdemeanor or felony or a plea of true from a defendant or juvenile, regardless of the classification of the offense charged or the conduct alleged.

(d) The criminal law magistrate court associate judge may sign a motion to dismiss submitted by an attorney representing the state on cases referred to the judge, or on dockets called by the judge, and may consider unadjudicated cases at sentencing under Section 12.45, Penal Code.

(e) A criminal law magistrate, including the criminal law magistrate court associate judge, has all of the powers of a magistrate under the laws of this state and may administer an oath for any purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

Sec. 54.2812. ORDER OF REFERRAL. (a) To refer one or more cases to the criminal law magistrate court or the criminal law magistrate court associate judge, a judge must issue a written order of referral that specifies the magistrate court's duties.

(b) An order of referral may:

(1) limit the powers of the magistrate court and direct the magistrate to report only on specific issues, perform particular acts, or receive and report on evidence only;

(2) set the time and place for the hearing;

(3) prescribe a closing date for the hearing;

(4) provide a date for filing the magistrate's findings;

(5) designate proceedings for more than one case over which the magistrate shall preside;

(6) direct the magistrate to call the court's docket; and

(7) set forth general powers and limitations or authority of the magistrate applicable to any case referred.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

Sec. 54.2813. FORFEITURES. Bail bonds and personal bonds may be forfeited by the criminal law magistrate court or the criminal law magistrate court associate judge in the manner provided by Chapter 22, Code of Criminal Procedure, and those forfeitures shall be filed with:

(1) the district clerk if associated with a felony case;

(2) the county clerk if associated with a Class A or Class B misdemeanor case; or

(3) the justice court clerk associated with the Class C misdemeanor case in which the bond was originally filed.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

Sec. 54.2814. PAPERS TRANSMITTED TO JUDGE. At the conclusion

of the proceedings, a magistrate or the criminal law magistrate court associate judge shall transmit to the referring court any papers relating to the case, including the magistrate's findings, conclusions, orders, recommendations, or other action taken.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

Sec. 54.2815. JUDICIAL ACTION. (a) A referring court may modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate or the criminal law magistrate court associate judge.

(b) If the referring court does not modify, correct, reject, reverse, or recommit an action of the magistrate or the criminal law magistrate court associate judge, the action becomes the decree of the referring court.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

Sec. 54.2816. EXCHANGE OF BENCHES. (a) The judges of the criminal law magistrate court may exchange benches and may sit and act for each other in any proceeding pending in the criminal law magistrate court.

(b) When conducting a capias pro fine hearing for any court, the criminal law magistrate court acts in the same capacity and with the same authority as the judge who issued the capias pro fine.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

Sec. 54.2817. COURT REPORTER. At the request of a party in a criminal case, the criminal law magistrate court shall provide a court reporter to record the proceedings before the magistrate.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

Sec. 54.2818. WITNESS. (a) A witness who appears before the criminal law magistrate court and is sworn is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the referring court.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

Sec. 54.2819. CLERK. (a) The district clerk serves as clerk of the criminal law magistrate court, except that after a Class A or Class B misdemeanor is filed in the county court at law and assigned to the magistrate court, the county clerk serves as clerk for that misdemeanor case.

(b) The district clerk shall establish a docket and keep the minutes for the cases filed in or transferred to the magistrate court. The district clerk shall perform any other duties that local administrative rules require in connection with the implementation of this subchapter. The local administrative judge shall ensure that the duties required under this subsection are performed. To facilitate the duties associated with serving as the clerk of the magistrate court, the district clerk and the deputies of the district clerk may serve as deputy county clerks at the discretion of the district clerk.

(c) The clerk of the case shall include as part of the record on appeal a copy of the order and local administrative rule under which a magistrate court acted.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

Sec. 54.2820. COSTS. (a) When the district clerk is the clerk under this subchapter, the district clerk shall charge the same court costs for cases filed in, transferred to, or assigned to the criminal law magistrate court that are charged in the district courts.

(b) When the county clerk is the clerk under this subchapter, the county clerk shall charge the same court costs for cases filed

in, transferred to, or assigned to the magistrate court that are charged in the county courts.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 4.006, eff. September 1, 2023.

CHAPTER 54A. ASSOCIATE JUDGES

SUBCHAPTER A. CRIMINAL ASSOCIATE JUDGES

Sec. 54A.001. APPLICABILITY. This subchapter applies to a district court or a statutory county court that hears criminal cases.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.002. APPOINTMENT. (a) A judge of a court subject to this subchapter may appoint a full-time or part-time associate judge to perform the duties authorized by this subchapter if the commissioners court of the county in which the court has jurisdiction has authorized the creation of an associate judge position.

(b) If a court has jurisdiction in more than one county, an associate judge appointed by that court may serve only in a county in which the commissioners court has authorized the appointment.

(c) If more than one court in a county is subject to this subchapter, the commissioners court may authorize the appointment of an associate judge for each court or may authorize one or more associate judges to share service with two or more courts.

(d) If an associate judge serves more than one court, the associate judge's appointment must be made as established by local rule, but in no event by less than a vote of two-thirds of the judges under whom the associate judge serves.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54A.003. QUALIFICATIONS. To qualify for appointment as an associate judge under this subchapter, a person must:

(1) be a resident of this state and one of the counties the person will serve;

(2) have been licensed to practice law in this state for at least four years;

(3) not have been removed from office by impeachment, by the supreme court, by the governor on address to the legislature, by a tribunal reviewing a recommendation of the State Commission on Judicial Conduct, or by the legislature's abolition of the judge's court; and

(4) not have resigned from office after having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted as provided by Section 33.022 and before final disposition of the proceedings.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.004. COMPENSATION. (a) An associate judge shall be paid a salary determined by the commissioners court of the county in which the associate judge serves.

(b) If an associate judge serves in more than one county, the associate judge shall be paid a salary as determined by agreement of the commissioners courts of the counties in which the associate judge serves.

(c) The associate judge's salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.005. TERMINATION. (a) An associate judge who serves a single court serves at the will of the judge of that court.

(b) The employment of an associate judge who serves more than two courts may only be terminated by a majority vote of all the judges of the courts the associate judge serves.

(c) The employment of an associate judge who serves two courts may be terminated by either of the judges of the courts the associate

judge serves.

(d) To terminate an associate judge's employment, the appropriate judges must sign a written order of termination. The order must state:

(1) the associate judge's name and state bar identification number;

(2) each court ordering termination; and

(3) the date the associate judge's employment ends.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.006. PROCEEDINGS THAT MAY BE REFERRED. (a) A judge may refer to an associate judge any matter arising out of a criminal case involving:

(1) a negotiated plea of guilty or no contest before the court;

(2) a bond forfeiture;

(3) a pretrial motion;

(4) a writ of habeas corpus;

(5) an examining trial;

(6) an occupational driver's license;

(7) an appeal of an administrative driver's license revocation hearing;

(8) a civil commitment matter under Subtitle C, Title 7, Health and Safety Code;

(9) setting, adjusting, or revoking bond;

(10) the issuance of search warrants, including a search warrant under Article 18.02(a)(10), Code of Criminal Procedure, notwithstanding Article 18.01(c), Code of Criminal Procedure; and

(11) any other matter the judge considers necessary and proper.

(b) An associate judge may accept an agreed plea of guilty or no contest from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses and may assess punishment if a plea agreement is announced on the record between the defendant and the state.

(c) An associate judge has all of the powers of a magistrate under the laws of this state and may administer an oath for any

purpose.

(d) An associate judge may select a jury. Except as provided in Subsection (b), an associate judge may not preside over a trial on the merits, whether or not the trial is before a jury.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 8.005, eff. September 1, 2019.

Sec. 54A.007. ORDER OF REFERRAL. (a) To refer one or more cases to an associate judge, a judge must issue a written order of referral that specifies the associate judge's duties.

(b) An order of referral may:

(1) limit the powers of the associate judge and direct the associate judge to report only on specific issues, do particular acts, or receive and report on evidence only;

(2) set the time and place for the hearing;

(3) prescribe a closing date for the hearing;

(4) provide a date for filing the associate judge's findings;

(5) designate proceedings for more than one case over which the associate judge shall preside;

(6) direct the associate judge to call the court's docket; and

(7) set forth general powers and limitations or authority of the associate judge applicable to any case referred.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.008. POWERS. (a) Except as limited by an order of referral, an associate judge to whom a case is referred may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on the admissibility of evidence;

(5) issue summons for the appearance of witnesses;

(6) examine a witness;

(7) swear a witness for a hearing;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) rule on pretrial motions;

(11) recommend the rulings, orders, or judgment to be made in a case;

(12) regulate proceedings in a hearing;

(13) order the attachment of a witness or party who fails to obey a subpoena;

(14) accept a plea of guilty from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses;

(15) select a jury;

(16) notwithstanding Article 18.01(c), Code of Criminal Procedure, issue a search warrant, including a search warrant under Article 18.02(a)(10), Code of Criminal Procedure; and

(17) take action as necessary and proper for the efficient performance of the duties required by the order of referral.

(b) An associate judge may not enter a ruling on any issue of law or fact if that ruling could result in dismissal or require dismissal of a pending criminal prosecution, but the associate judge may make findings, conclusions, and recommendations on those issues.

(c) Except as limited by an order of referral, an associate judge who is appointed by a district or statutory county court judge and to whom a case is referred may accept a plea of guilty or nolo contendere in a misdemeanor case for a county criminal court. The associate judge shall forward any fee or fine collected for the misdemeanor offense to the county clerk.

(d) An associate judge may, in the interest of justice, refer a case back to the referring court regardless of whether a timely objection to the associate judge hearing the trial on the merits or presiding at a jury trial has been made by any party.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 8.006, eff. September 1, 2019.

Sec. 54A.009. ATTENDANCE OF BAILIFF. A bailiff shall attend a hearing by an associate judge if directed by the referring court.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.010. COURT REPORTER. At the request of a party, the court shall provide a court reporter to record the proceedings before the associate judge.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.011. WITNESS. (a) A witness appearing before an associate judge is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.012. PAPERS TRANSMITTED TO JUDGE. At the conclusion of the proceedings, an associate judge shall transmit to the referring court any papers relating to the case, including the associate judge's findings, conclusions, orders, recommendations, or other action taken.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.013. JUDICIAL ACTION. (a) Not later than the 30th day after the date an action is taken by an associate judge, a referring court may modify, correct, reject, reverse, or recommit for further information the action taken by the associate judge.

(b) If the court does not modify, correct, reject, reverse, or

recommit an action to the associate judge, the action becomes the decree of the court.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.014. JUDICIAL IMMUNITY. An associate judge has the same judicial immunity as a district judge.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

SUBCHAPTER B. CIVIL ASSOCIATE JUDGES

Sec. 54A.101. APPLICABILITY. This subchapter applies to a district court or a statutory county court that is assigned civil cases.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.102. APPOINTMENT. (a) A judge of a court subject to this subchapter may appoint a full-time or part-time associate judge to perform the duties authorized by this subchapter if the commissioners court of the county in which the court has jurisdiction has authorized the creation of an associate judge position.

(b) If a district court has jurisdiction in more than one county, an associate judge appointed by that court may serve only in a county in which the commissioners court has authorized the appointment.

(c) If more than one court in a county is subject to this subchapter, the commissioners court may authorize the appointment of an associate judge for each court or may authorize one or more associate judges to share service with two or more courts.

(d) If an associate judge serves more than one court, the associate judge's appointment must be made as established by local rule, but in no event by less than a vote of two-thirds of the judges under whom the associate judge serves.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54A.103. QUALIFICATIONS. To qualify for appointment as an associate judge under this subchapter, a person must:

(1) be a resident of this state and one of the counties the person will serve;

(2) have been licensed to practice law in this state for at least four years;

(3) not have been removed from office by impeachment, by the supreme court, by the governor on address to the legislature, by a tribunal reviewing a recommendation of the State Commission on Judicial Conduct, or by the legislature's abolition of the judge's court; and

(4) not have resigned from office after having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted as provided in Section 33.022 and before final disposition of the proceedings.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.104. COMPENSATION. (a) An associate judge shall be paid a salary determined by the commissioners court of the county in which the associate judge serves.

(b) If an associate judge serves in more than one county, the associate judge shall be paid a salary as determined by agreement of the commissioners courts of the counties in which the associate judge serves.

(c) The associate judge's salary is paid from the county fund available for payment of officers' salaries.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.105. TERMINATION. (a) An associate judge who serves a single court serves at the will of the judge of that court.

(b) The employment of an associate judge who serves more than two courts may only be terminated by a majority vote of all the judges of the courts the associate judge serves.

(c) The employment of an associate judge who serves two courts may be terminated by either of the judges of the courts the associate judge serves.

(d) To terminate an associate judge's employment, the appropriate judges must sign a written order of termination. The order must state:

(1) the associate judge's name and state bar identification number;

(2) each court ordering termination; and

(3) the date the associate judge's employment ends.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.106. CASES THAT MAY BE REFERRED. (a) Except as provided by this section, a judge of a court may refer any civil case or portion of a civil case to an associate judge for resolution.

(b) Unless a party files a written objection to the associate judge hearing a trial on the merits, the judge may refer the trial to the associate judge. A trial on the merits is any final adjudication from which an appeal may be taken to a court of appeals.

(c) A party must file an objection to an associate judge hearing a trial on the merits or presiding at a jury trial not later than the 10th day after the date the party receives notice that the associate judge will hear the trial. If an objection is filed, the referring court shall hear the trial on the merits or preside at a jury trial.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.107. METHODS OF REFERRAL. (a) A case may be referred

to an associate judge by an order of referral in a specific case or by an omnibus order.

(b) The order of referral may limit the powers or duties of an associate judge.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.108. POWERS. (a) Except as limited by an order of referral, an associate judge may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on the admissibility of evidence;

(5) issue summons for the appearance of witnesses;

(6) examine a witness;

(7) swear a witness for a hearing;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) rule on pretrial motions;

(11) recommend the rulings, orders, or judgment to be made in a case;

(12) regulate proceedings in a hearing;

(13) order the attachment of a witness or party who fails to obey a subpoena; and

(14) take action as necessary and proper for the efficient performance of the duties required by the order of referral.

(b) An associate judge may, in the interest of justice, refer a case back to the referring court regardless of whether a timely objection to the associate judge hearing the trial on the merits or presiding at a jury trial has been made by any party.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.109. WITNESS. (a) A witness appearing before an associate judge is subject to the penalties for perjury provided by law.

(b) A referring court may fine or imprison a witness who:

(1) failed to appear before an associate judge after being summoned; or

(2) improperly refused to answer questions if the refusal has been certified to the court by the associate judge.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.110. COURT REPORTER; RECORD. (a) A court reporter may be provided during a hearing held by an associate judge appointed under this subchapter. A court reporter is required to be provided when the associate judge presides over a jury trial.

(b) A party, the associate judge, or the referring court may provide for a reporter during the hearing if one is not otherwise provided.

(c) Except as provided by Subsection (a), in the absence of a court reporter or on agreement of the parties, the record may be preserved by any means approved by the associate judge.

(d) Repealed by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 5.01(c)(15), eff. January 1, 2022.

(e) On appeal of the associate judge's report or proposed order, the referring court may consider testimony or other evidence in the record if the record is taken by a court reporter.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 5.01(c)(15), eff. January 1, 2022.

Sec. 54A.111. NOTICE OF DECISION; APPEAL. (a) After hearing a matter, an associate judge shall notify each attorney participating in the hearing of the associate judge's decision. An associate judge's decision has the same force and effect as an order of the referring court unless a party appeals the decision as provided by Subsection (b).

(b) To appeal an associate judge's decision, other than the issuance of a temporary restraining order or temporary injunction, a party must file an appeal in the referring court not later than the

seventh day after the date the party receives notice of the decision under Subsection (a).

(c) A temporary restraining order issued by an associate judge is effective immediately and expires on the 15th day after the date of issuance unless, after a hearing, the order is modified or extended by the associate judge or referring judge.

(d) A temporary injunction issued by an associate judge is effective immediately and continues during the pendency of a trial unless, after a hearing, the order is modified by a referring judge.

(e) A matter appealed to the referring court shall be tried de novo and is limited to only those matters specified in the appeal. Except on leave of court, a party may not submit on appeal any additional evidence or pleadings.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.112. NOTICE OF RIGHT TO DE NOVO HEARING; WAIVER. (a) Notice of the right to a de novo hearing before the referring court shall be given to all parties.

(b) The notice may be given:

(1) by oral statement in open court;

(2) by posting inside or outside the courtroom of the referring court; or

(3) as otherwise directed by the referring court.

(c) Before the start of a hearing by an associate judge, a party may waive the right of a de novo hearing before the referring court in writing or on the record.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.113. ORDER OF COURT. (a) Pending a de novo hearing before the referring court, a proposed order or judgment of the associate judge is in full force and effect and is enforceable as an order or judgment of the referring court, except for an order providing for the appointment of a receiver.

(b) If a request for a de novo hearing before the referring court is not timely filed or the right to a de novo hearing before

the referring court is waived, the proposed order or judgment of the associate judge becomes the order or judgment of the referring court only on the referring court's signing the proposed order or judgment.

(c) An order by an associate judge for the temporary detention or incarceration of a witness or party shall be presented to the referring court on the day the witness or party is detained or incarcerated. The referring court, without prejudice to the right to a de novo hearing provided by Section 54A.115, may approve the temporary detention or incarceration or may order the release of the party or witness, with or without bond, pending a de novo hearing. If the referring court is not immediately available, the associate judge may order the release of the party or witness, with or without bond, pending a de novo hearing or may continue the person's detention or incarceration for not more than 72 hours.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.114. JUDICIAL ACTION ON ASSOCIATE JUDGE'S PROPOSED ORDER OR JUDGMENT. Unless a party files a written request for a de novo hearing before the referring court, the referring court may:

(1) adopt, modify, or reject the associate judge's proposed order or judgment;

(2) hear additional evidence; or

(3) recommit the matter to the associate judge for further proceedings.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.115. DE NOVO HEARING. (a) A party may request a de novo hearing before the referring court by filing with the clerk of the referring court a written request not later than the seventh working day after the date the party receives notice of the substance of the associate judge's decision as provided by Section 54A.111.

(b) A request for a de novo hearing under this section must specify the issues that will be presented to the referring court. The de novo hearing is limited to the specified issues.

(c) Notice of a request for a de novo hearing before the

referring court shall be given to the opposing attorney in the manner provided by Rule 21a, Texas Rules of Civil Procedure.

(d) If a request for a de novo hearing before the referring court is filed by a party, any other party may file a request for a de novo hearing before the referring court not later than the seventh working day after the date the initial request was filed.

(e) The referring court, after notice to the parties, shall hold a de novo hearing not later than the 30th day after the date the initial request for a de novo hearing was filed with the clerk of the referring court.

(f) In the de novo hearing before the referring court, the parties may present witnesses on the issues specified in the request for hearing. The referring court may also consider the record from the hearing before the associate judge, including the charge to and verdict returned by a jury, if the record was taken by a court reporter.

(g) The denial of relief to a party after a de novo hearing under this section or a party's waiver of the right to a de novo hearing before the referring court does not affect the right of a party to file a motion for new trial, a motion for judgment notwithstanding the verdict, or other posttrial motions.

(h) A party may not demand a second jury in a de novo hearing before the referring court if the associate judge's proposed order or judgment resulted from a jury trial.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.116. APPELLATE REVIEW. (a) A party's failure to request a de novo hearing before the referring court or a party's waiver of the right to request a de novo hearing before the referring court does not deprive the party of the right to appeal to or request other relief from a court of appeals or the supreme court.

(b) Except as provided by Subsection (c), the date an order or judgment by the referring court is signed is the controlling date for the purposes of appeal to or request for other relief from a court of appeals or the supreme court.

(c) The date an agreed order or a default order is signed by an associate judge is the controlling date for the purpose of an appeal

to, or a request for other relief relating to the order from, a court of appeals or the supreme court.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.117. JUDICIAL ACTION. (a) Not later than the 30th day after the date an action is taken by an associate judge, a referring court may modify, correct, reject, reverse, or recommit for further information the action taken by the associate judge.

(b) If the court does not modify, correct, reject, reverse, or recommit an action to the associate judge, the action becomes the decree of the court.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

Sec. 54A.118. JUDICIAL IMMUNITY. An associate judge appointed under this subchapter has the judicial immunity of a district judge.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.01, eff. January 1, 2012.

SUBCHAPTER C. STATUTORY PROBATE COURT ASSOCIATE JUDGES

Sec. 54A.201. DEFINITION. In this subchapter, "statutory probate court" has the meaning assigned by Chapter 22, Estates Code.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.030, eff. September 1, 2017.

Sec. 54A.202. APPLICABILITY. This subchapter applies to a statutory probate court.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.

Sec. 54A.203. APPOINTMENT. (a) After obtaining the approval of the commissioners court to create an associate judge position, the judge of a statutory probate court by order may appoint one or more full-time or part-time associate judges to perform the duties authorized by this subchapter.

(b) If a statutory probate court has jurisdiction in more than one county, an associate judge appointed by that court may serve only in a county in which the commissioners court has authorized the appointment.

(c) The commissioners court may authorize the appointment of an associate judge for each court or may authorize one or more associate judges to share service with two or more courts, if more than one statutory probate court exists in a county.

(d) If an associate judge serves more than one court, the associate judge's appointment must be made with the unanimous approval of all the judges under whom the associate judge serves.

(e) An associate judge appointed under this subchapter may serve as an associate judge appointed under Section 574.0085, Health and Safety Code.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.

Sec. 54A.204. QUALIFICATIONS. To qualify for appointment as an associate judge under this subchapter, a person must:

(1) be a resident of this state and one of the counties the person will serve;

(2) have been licensed to practice law in this state for at least five years;

(3) not have been removed from office by impeachment, by the supreme court, by the governor on address to the legislature, by a tribunal reviewing a recommendation of the State Commission on Judicial Conduct, or by the legislature's abolition of the judge's

court; and

(4) not have resigned from office after having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted as provided in Section 33.022 and before final disposition of the proceedings.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.

Sec. 54A.205. COMPENSATION. (a) An associate judge is entitled to the compensation set by the appointing judge and approved by the commissioners court or commissioners courts of the counties in which the associate judge serves.

(b) If an associate judge serves in more than one county, the associate judge shall be paid a salary as determined by agreement of the commissioners courts of the counties in which the associate judge serves.

(c) Except as provided by Subsection (d), the compensation of the associate judge shall be paid by the county from the county general fund. The compensation must be paid in the same manner that the appointing judge's salary is paid.

(d) On the recommendation of the statutory probate court judges in the county and subject to the approval of the county commissioners court, the county may pay all or part of the compensation of the associate judge from the excess contributions remitted to the county under Section 25.00212 and deposited in the contributions fund created under Section 25.00213.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.

Sec. 54A.206. TERMINATION OF ASSOCIATE JUDGE. (a) An associate judge who serves a single court serves at the will of the judge of that court.

(b) The employment of an associate judge who serves more than two courts may only be terminated by a majority vote of all the judges of the courts that the associate judge serves.

(c) The employment of an associate judge who serves two courts may be terminated by either of the judges of the courts that the associate judge serves.

(d) The appointment of the associate judge terminates if:

(1) the associate judge becomes a candidate for election to public office; or

(2) the commissioners court does not appropriate funds in the county's budget to pay the salary of the associate judge.

(e) If an associate judge serves a single court and the appointing judge vacates the judge's office, the associate judge's employment continues, subject to Subsections (d) and (h), unless the successor appointed or elected judge terminates that employment.

(f) If an associate judge serves two courts and one of the appointing judges vacates the judge's office, the associate judge's employment continues, subject to Subsections (d) and (h), unless the successor appointed or elected judge terminates that employment or the judge of the other court served by the associate judge terminates that employment as provided by Subsection (c).

(g) If an associate judge serves more than two courts and an appointing judge vacates the judge's office, the associate judge's employment continues, subject to Subsections (d) and (h), unless:

(1) if no successor judge has been elected or appointed, the majority of the judges of the other courts the associate judge serves vote to terminate that employment; or

(2) if a successor judge has been elected or appointed, the majority of the judges of the courts the associate judge serves, including the successor judge, vote to terminate that employment as provided by Subsection (b).

(h) Notwithstanding the powers of an associate judge provided by Section 54A.209, an associate judge whose employment continues as provided by Subsection (e), (f), or (g) after the judge of a court served by the associate judge vacates the judge's office may perform administrative functions with respect to that court, but may not perform any judicial function, including any power prescribed by Section 54A.209, with respect to that court until a successor judge is appointed or elected.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.

Sec. 54A.207. CASES THAT MAY BE REFERRED. (a) Except as provided by this section, a judge of a court may refer to an associate judge any aspect of a suit over which the probate court has jurisdiction, including any matter ancillary to the suit.

(b) Unless a party files a written objection to the associate judge hearing a trial on the merits, the judge may refer the trial to the associate judge. A trial on the merits is any final adjudication from which an appeal may be taken to a court of appeals.

(c) A party must file an objection to an associate judge hearing a trial on the merits or presiding at a jury trial not later than the 10th day after the date the party receives notice that the associate judge will hear the trial. If an objection is filed, the referring court shall hear the trial on the merits or preside at a jury trial.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.

Sec. 54A.2071. OATH. An associate judge must take the constitutional oath of office required of appointed officers of this state.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.

Sec. 54A.208. METHODS OF REFERRAL. (a) A case may be referred to an associate judge by an order of referral in a specific case or by an omnibus order specifying the class and type of cases to be referred.

(b) The order of referral may limit the power or duties of an associate judge.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.

Sec. 54A.209. POWERS OF ASSOCIATE JUDGE. (a) Except as limited by an order of referral, an associate judge may:

(1) conduct a hearing;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on the admissibility of evidence;

(5) issue a summons for the appearance of witnesses;

(6) examine a witness;

(7) swear a witness for a hearing;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) rule on pretrial motions;

(11) recommend the rulings, orders, or judgment to be made in a case;

(12) regulate all proceedings in a hearing before the associate judge;

(13) take action as necessary and proper for the efficient performance of the duties required by the order of referral;

(14) order the attachment of a witness or party who fails to obey a subpoena;

(15) order the detention of a witness or party found guilty of contempt, pending approval by the referring court as provided by Section 54A.214;

(16) without prejudice to the right to a de novo hearing under Section 54A.216, render and sign:

(A) a final order agreed to in writing as to both form and substance by all parties;

(B) a final default order;

(C) a temporary order;

(D) a final order in a case in which a party files an unrevoked waiver made in accordance with Rule 119, Texas Rules of Civil Procedure, that waives notice to the party of the final hearing or waives the party's appearance at the final hearing;

(E) an order specifying that the court clerk shall issue:

(i) letters testamentary or of administration; or

(ii) letters of guardianship; or

(F) an order for inpatient or outpatient mental health,

intellectual disability, or chemical dependency services or an order authorizing psychoactive medications; and

(17) sign a final order that includes a waiver of the right to a de novo hearing in accordance with Section 54A.216.

(b) An associate judge may, in the interest of justice, refer a case back to the referring court regardless of whether a timely objection to the associate judge hearing the trial on the merits or presiding at a jury trial has been made by any party.

(c) An order described by Subsection (a)(16) that is rendered and signed by an associate judge constitutes an order of the referring court. The judge of the referring court shall sign the order not later than the 30th day after the date the associate judge signs the order.

(d) An answer filed by or on behalf of a party who previously filed a waiver described in Subsection (a)(16)(D) revokes that waiver.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.01, eff. September 1, 2023.

Sec. 54A.2091. ATTENDANCE OF BAILIFF. A bailiff shall attend a hearing conducted by an associate judge if directed to attend by the referring court.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.

Sec. 54A.210. WITNESS. (a) A witness appearing before an associate judge is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear after being summoned or whose refusal to answer questions has been certified to the court.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.

Sec. 54A.211. COURT REPORTER; RECORD. (a) A court reporter may be provided during a hearing held by an associate judge appointed under this subchapter. A court reporter is required to be provided when the associate judge presides over a jury trial.

(b) A party, the associate judge, or the referring court may provide for a reporter during the hearing if one is not otherwise provided.

(c) Except as provided by Subsection (a), in the absence of a court reporter or on agreement of the parties, the record may be preserved by any means approved by the associate judge.

(d) The referring court or associate judge may assess the expense of preserving the record as court costs.

(e) On appeal of the associate judge's report or proposed order, the referring court may consider testimony or other evidence in the record if the record is taken by a court reporter.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.

Sec. 54A.212. REPORT. (a) The associate judge's report may contain the associate judge's findings, conclusions, or recommendations and may be in the form of a proposed order.

(b) The associate judge shall prepare a report in the form directed by the referring court, including in the form of:

(1) a notation on the referring court's docket sheet or in the court's jacket; or

(2) a proposed order.

(c) After a hearing, the associate judge shall provide the parties participating in the hearing notice of the substance of the associate judge's report, including any proposed order.

(d) Notice may be given to the parties:

(1) in open court, by an oral statement, or by providing a copy of the associate judge's written report, including any proposed

order;

(2) by certified mail, return receipt requested;

(3) by facsimile transmission; or

(4) by electronic mail.

(e) There is a rebuttable presumption that notice is received on the date stated on:

(1) the signed return receipt, if notice was provided by certified mail;

(2) the confirmation page produced by the facsimile machine, if notice was provided by facsimile transmission; or

(3) a printout evidencing submission of the electronic mail message, if notice was provided by electronic mail.

(f) After a hearing conducted by an associate judge, the associate judge shall send the associate judge's signed and dated report, including any proposed order, and all other papers relating to the case to the referring court.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.

Sec. 54A.213. NOTICE OF RIGHT TO DE NOVO HEARING BEFORE REFERRING COURT. (a) An associate judge shall give all parties notice of the right to a de novo hearing before the referring court.

(b) The notice may be given:

(1) by oral statement in open court;

(2) by posting inside or outside the courtroom of the referring court; or

(3) as otherwise directed by the referring court.

(c) Before the start of a hearing by an associate judge, a party may waive the right to a de novo hearing before the referring court in writing or on the record.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.

Sec. 54A.214. ORDER OF COURT. (a) Pending a de novo hearing before the referring court, the decisions and recommendations of the

associate judge or a proposed order or judgment of the associate judge has the full force and effect, and is enforceable as, an order or judgment of the referring court, except for an order providing for the appointment of a receiver.

(b) Except as provided by Section 54A.209(c), if a request for a de novo hearing before the referring court is not timely filed or the right to a de novo hearing before the referring court is waived, the decisions and recommendations of the associate judge or the proposed order or judgment of the associate judge becomes the order or judgment of the referring court at the time the judge of the referring court signs the proposed order or judgment.

(c) An order by an associate judge for the temporary detention or incarceration of a witness or party shall be presented to the referring court on the day the witness or party is detained or incarcerated. The referring court, without prejudice to the right to a de novo hearing provided by Section 54A.216, may approve the temporary detention or incarceration or may order the release of the party or witness, with or without bond, pending a de novo hearing. If the referring court is not immediately available, the associate judge may order the release of the party or witness, with or without bond, pending a de novo hearing or may continue the person's detention or incarceration for not more than 72 hours.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.

Sec. 54A.215. JUDICIAL ACTION ON ASSOCIATE JUDGE'S PROPOSED ORDER OR JUDGMENT. (a) Unless a party files a written request for a de novo hearing before the referring court, the referring court may:

(1) adopt, modify, or reject the associate judge's proposed order or judgment;

(2) hear further evidence; or

(3) recommit the matter to the associate judge for further proceedings.

(b) The judge of the referring court shall sign a proposed order or judgment the court adopts as provided by Subsection (a)(1) not later than the 30th day after the date the associate judge signed the order or judgment.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.

Sec. 54A.216. DE NOVO HEARING BEFORE REFERRING COURT. (a) A party may request a de novo hearing before the referring court by filing with the clerk of the referring court a written request not later than the seventh working day after the date the party receives notice of the substance of the associate judge's report as provided by Section 54A.212.

(b) A request for a de novo hearing under this section must specify the issues that will be presented to the referring court. The de novo hearing is limited to the specified issues.

(c) In the de novo hearing before the referring court, the parties may present witnesses on the issues specified in the request for hearing. The referring court may also consider the record from the hearing before the associate judge, including the charge to and verdict returned by a jury, if the record was taken by a court reporter.

(d) Notice of a request for a de novo hearing before the referring court must be given to the opposing attorney in the manner provided by Rule 21a, Texas Rules of Civil Procedure.

(e) If a request for a de novo hearing before the referring court is filed by a party, any other party may file a request for a de novo hearing before the referring court not later than the seventh working day after the date of filing of the initial request.

(f) The referring court, after notice to the parties, shall hold a de novo hearing not later than the 30th day after the date on which the initial request for a de novo hearing was filed with the clerk of the referring court.

(g) Before the start of a hearing conducted by an associate judge, the parties may waive the right of a de novo hearing before the referring court. The waiver may be in writing or on the record.

(h) The denial of relief to a party after a de novo hearing under this section or a party's waiver of the right to a de novo hearing before the referring court does not affect the right of a party to file a motion for new trial, motion for judgment notwithstanding the verdict, or other post-trial motion.

(i) A party may not demand a second jury in a de novo hearing

before the referring court if the associate judge's proposed order or judgment resulted from a jury trial.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.

Sec. 54A.217. APPELLATE REVIEW. (a) A party's failure to request a de novo hearing before the referring court or a party's waiver of the right to request a de novo hearing before the referring court does not deprive the party of the right to appeal to or request other relief from a court of appeals or the supreme court.

(b) Except as provided by Subsection (c), the date the judge of a referring court signs an order or judgment is the controlling date for the purposes of appeal to or request for other relief from a court of appeals or the supreme court.

(c) The date an order described by Section 54A.209(a)(16) is signed by an associate judge is the controlling date for the purpose of an appeal to, or a request for other relief relating to the order from, a court of appeals or the supreme court.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.

Sec. 54A.218. IMMUNITY. An associate judge appointed under this subchapter has the judicial immunity of a probate judge. All existing immunity granted an associate judge by law, express or implied, continues in full force and effect.

Transferred, redesignated and amended from Government Code, Subchapter G, Chapter 54 by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.02, eff. January 1, 2012.

Sec. 54A.219. VISITING ASSOCIATE JUDGES. (a) This section does not limit the authority of the presiding judge of the statutory probate courts to assign a judge under Section 25.0022 to assist with processing cases in a reasonable time.

(b) The local administrative probate judge or, for a county without a local administrative probate judge, a statutory probate court judge of the county in which an associate judge appointed under this subchapter serves may assign a visiting associate judge to perform the duties of an associate judge appointed under this subchapter only if:

(1) the associate judge is temporarily unable to perform the associate judge's official duties because of absence resulting from:

(A) illness;

(B) injury;

(C) disability;

(D) personal emergency;

(E) military service;

(F) vacation; or

(G) attendance at a continuing legal education program;

(2) the associate judge requests assistance due to a heavy workload or a pandemic-related emergency; or

(3) a vacancy occurs in the position of associate judge.

(c) A visiting associate judge assigned under this section may be assigned to serve during the period an associate judge is unable to perform the associate judge's duties, during the period the associate judge needs assistance in managing the judge's workload, or until another associate judge is appointed to fill a vacancy in the position of associate judge.

(d) A person is not eligible for assignment under this section unless the person has served as an associate judge under this subchapter for at least two years before the date of assignment.

(e) A visiting associate judge assigned under this section is subject to each provision of this subchapter that applies to an associate judge appointed under this subchapter. An assigned visiting associate judge is entitled to compensation equal to the salary of the associate judge, prorated for time served. A visiting associate judge is not considered a county employee for any purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.006, eff. September 1, 2023.

SUBCHAPTER D. ASSOCIATE JUDGE FOR GUARDIANSHIP PROCEEDINGS AND

PROTECTIVE SERVICES PROCEEDINGS IN CERTAIN COURTS

Sec. 54A.301. DEFINITIONS. In this subchapter:

(1) "Guardianship proceeding" has the meaning assigned by Section 1002.015, Estates Code.

(2) "Office of court administration" means the Office of Court Administration of the Texas Judicial System.

(3) "Protective services proceeding" means a proceeding commenced under Chapter 48, Human Resources Code.

(4) "Ward" has the meaning assigned by Section 1002.030, Estates Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 627 (H.B. 79), Sec. 1, eff. September 1, 2021.

Sec. 54A.302. APPLICABILITY. This subchapter applies only with respect to:

(1) a county court with jurisdiction over guardianship proceedings or protective services proceedings; and

(2) a statutory county court with jurisdiction over:

(A) guardianship proceedings, other than a court created by statute and designated as a statutory probate court under Chapter 25; or

(B) protective services proceedings.

Added by Acts 2021, 87th Leg., R.S., Ch. 627 (H.B. 79), Sec. 1, eff. September 1, 2021.

Sec. 54A.303. APPLICABILITY OF OTHER LAW; CONSTRUCTION OF SUBCHAPTER. (a) Subchapter C applies to an associate judge appointed under this subchapter except to the extent of a conflict with this subchapter.

(b) Nothing in this subchapter limits the authority of a court to which this subchapter applies to issue an order under Title 3, Estates Code, or Chapter 48, Human Resources Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 627 (H.B. 79), Sec. 1, eff. September 1, 2021.

Sec. 54A.304. APPOINTMENT. (a) The presiding judge of each administrative judicial region, after conferring with the judges of courts to which this subchapter applies in the region, shall determine whether those courts require the appointment of a full-time or part-time associate judge to assist the courts with conducting:

(1) guardianship proceedings, including with conducting annual reviews of guardianships; or

(2) protective services proceedings.

(b) If the presiding judge of an administrative judicial region determines the courts described by Subsection (a) require the appointment of an associate judge, the presiding judge shall appoint an associate judge from a list of applicants who submit an application to the office of court administration and meet the qualifications prescribed by Section 54A.305. Before making the appointment, the presiding judge must provide the list to each judge of a court from which guardianship proceedings or protective services proceedings will be referred to the associate judge. Each of those judges and the presiding judge of the statutory probate courts may recommend to the presiding judge of the administrative judicial region one or more of the listed applicants for appointment.

(c) Before reappointing an associate judge appointed under Subsection (b), a presiding judge of an administrative judicial region must notify each judge of a court from which guardianship proceedings or protective services proceedings will be referred to the associate judge of the presiding judge's intent to reappoint the associate judge for another term. Each of those judges and the presiding judge of the statutory probate courts may submit to the presiding judge of the administrative judicial region a recommendation on whether the associate judge should be reappointed.

(d) An associate judge appointed under this subchapter serves the courts to which this subchapter applies in the administrative judicial region that are specified by the appointing presiding judge. Two or more presiding judges of administrative judicial regions may jointly appoint one or more associate judges under this subchapter to serve specified courts to which this subchapter applies in the presiding judges' regions.

Added by Acts 2021, 87th Leg., R.S., Ch. 627 (H.B. 79), Sec. 1, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 664 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 54A.305. QUALIFICATIONS. (a) To be eligible for appointment as an associate judge under this subchapter, a person must:

(1) be a citizen of the United States;

(2) be a resident of this state for the two years preceding the date of appointment; and

(3) be:

(A) eligible for assignment under Section 74.054 because the person is named on the list of retired and former judges maintained by the presiding judge of the administrative judicial region under Section 74.055;

(B) eligible for assignment under Section 25.0022 by the presiding judge of the statutory probate courts; or

(C) licensed to practice law in this state and have at least four years of experience in guardianship proceedings or protective services proceedings before the date of appointment as a practicing attorney in this state or a judge of a court in this state.

(b) An associate judge appointed under this subchapter to serve in one administrative judicial region shall, during the term of appointment, reside in that region or in a county adjacent to that region. An associate judge appointed to serve in two or more administrative judicial regions may reside anywhere in the regions.

Added by Acts 2021, 87th Leg., R.S., Ch. 627 (H.B. 79), Sec. 1, eff. September 1, 2021.

Sec. 54A.306. TERM OF APPOINTMENT; TERMINATION. (a) An associate judge appointed under this subchapter serves for a term of four years from the date the associate judge is appointed and qualifies for office.

(b) The appointment of an associate judge for a term does not affect the at-will employment status of the associate judge. An appointing presiding judge of an administrative judicial region or the successor presiding judge of the region may terminate the

associate judge's appointment at any time.

Added by Acts 2021, 87th Leg., R.S., Ch. 627 (H.B. 79), Sec. 1, eff. September 1, 2021.

Sec. 54A.307. COMPENSATION OF ASSOCIATE JUDGE. (a) An associate judge appointed under this subchapter is entitled to a salary in an amount equal to 90 percent of the salary paid to a district judge as set by the General Appropriations Act.

(b) The associate judge's salary shall be paid from:

(1) money available from the federal government;

(2) county money available for payment of officers' salaries, subject to the approval of the commissioners courts of the counties in which the associate judge serves; or

(3) a combination of money specified by Subdivisions (1) and (2).

Added by Acts 2021, 87th Leg., R.S., Ch. 627 (H.B. 79), Sec. 1, eff. September 1, 2021.

Sec. 54A.308. DESIGNATION AND RESPONSIBILITIES OF HOST COUNTY. (a) Subject to the approval of the commissioners court of the proposed host county:

(1) the appointing presiding judge of the administrative judicial region shall determine the host county of an associate judge appointed to serve in one administrative judicial region; and

(2) the appointing presiding judges of the administrative judicial regions shall by majority vote determine the host county of an associate judge appointed to serve in more than one administrative judicial region.

(b) The host county shall provide an adequate courtroom and quarters, including furniture, necessary utilities, and telephone equipment and service, for the associate judge and other personnel assisting the associate judge.

(c) Except as provided by Section 54A.305(b), an associate judge is not required to reside in the host county.

Added by Acts 2021, 87th Leg., R.S., Ch. 627 (H.B. 79), Sec. 1, eff. September 1, 2021.

Sec. 54A.309. METHODS OF REFERRAL. (a) Guardianship proceedings or protective services proceedings shall be referred to an associate judge appointed under this subchapter by a general order issued by the judge of each court the associate judge is appointed to serve.

(b) A general order issued under this section may be amended or withdrawn at any time by the judge of the court issuing the order.

(c) In lieu of a general order, the judge of a court the associate judge is appointed to serve by order may refer a specific guardianship proceeding or a specific protective services proceeding to the associate judge.

Added by Acts 2021, 87th Leg., R.S., Ch. 627 (H.B. 79), Sec. 1, eff. September 1, 2021.

Sec. 54A.310. GENERAL POWERS OF ASSOCIATE JUDGE. (a) On the motion of a party or the associate judge, an associate judge may return a complex guardianship proceeding to the referring court for final disposition after recommending temporary orders for the protection of a ward.

(b) An associate judge may:

(1) render and sign any pretrial order; and

(2) recommend to the referring court any order after a trial on the merits.

Added by Acts 2021, 87th Leg., R.S., Ch. 627 (H.B. 79), Sec. 1, eff. September 1, 2021.

Sec. 54A.311. JUDICIAL ACTION ON ASSOCIATE JUDGE'S PROPOSED ORDER OR JUDGMENT. If a request for a de novo hearing before the referring court is not timely filed or the right to a de novo hearing before the referring court is waived, the proposed order or judgment of the associate judge for the guardianship proceeding or protective services proceeding becomes the order or judgment of the referring court by operation of law without ratification by the referring court.

Added by Acts 2021, 87th Leg., R.S., Ch. 627 (H.B. 79), Sec. 1, eff. September 1, 2021.

Sec. 54A.312. PERSONNEL. (a) The appointing presiding judge of an administrative judicial region or appointing presiding judges of the administrative judicial regions, by majority vote, as applicable, may appoint the personnel needed to assist an associate judge in implementing and administering this subchapter.

(b) The salaries of the personnel shall be paid from:

(1) money available from the federal government;

(2) county money available for payment of officers' salaries, subject to the approval of the commissioners courts of the counties in which the associate judge serves; or

(3) a combination of money specified by Subdivisions (1) and (2).

Added by Acts 2021, 87th Leg., R.S., Ch. 627 (H.B. 79), Sec. 1, eff. September 1, 2021.

Sec. 54A.313. SUPERVISION, TRAINING, AND EVALUATION OF ASSOCIATE JUDGES. (a) The office of court administration shall assist the presiding judges of the administrative judicial regions in:

(1) monitoring associate judges' compliance with job performance standards, uniform practices adopted by the presiding judges, and federal and state laws and policies;

(2) addressing the training needs and resource requirements of associate judges;

(3) conducting annual performance evaluations for associate judges and other personnel appointed under this subchapter based on written personnel performance standards adopted by the presiding judges and performance information solicited from the referring courts and other relevant persons; and

(4) receiving, investigating, and resolving complaints about an individual associate judge or the associate judge program under this subchapter based on a uniform process adopted by the presiding judges.

(b) The office of court administration shall develop procedures

and a written evaluation form to be used by the presiding judges in conducting the annual performance evaluations under Subsection (a)(3).

(c) The office of court administration shall develop caseload standards for associate judges to ensure adequate staffing.

(d) Each judge of a court that refers guardianship proceedings or protective services proceedings to an associate judge under this subchapter may submit to the appropriate presiding judges or the office of court administration information on the associate judge's performance during the preceding year based on a uniform process adopted by the presiding judges.

Added by Acts 2021, 87th Leg., R.S., Ch. 627 (H.B. 79), Sec. 1, eff. September 1, 2021.

Sec. 54A.314. FUNDING AND PERSONNEL. (a) The office of court administration may:

(1) contract for available county and federal money from any available source; and

(2) employ personnel, including investigators, auditors, court coordinators, and other judicial staff, necessary to implement and administer this subchapter.

(b) The presiding judges of the administrative judicial regions and counties may contract for federal money available from any source to reimburse the costs and salaries of the associate judges and personnel appointed under this subchapter and may also use public or private grants.

(c) The presiding judges of the administrative judicial regions and the office of court administration in cooperation with other agencies shall take action necessary to maximize the amount of federal money available to fund the use of associate judges under this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 627 (H.B. 79), Sec. 1, eff. September 1, 2021.

Sec. 54A.315. ASSIGNMENT OF JUDGES AND APPOINTMENT OF VISITING ASSOCIATE JUDGES. (a) This subchapter does not limit the authority of a presiding judge of an administrative judicial region to assign a

judge eligible for assignment under Chapter 74 to assist in processing guardianship proceedings or protective services proceedings in a reasonable time.

(b) If an associate judge appointed under this subchapter is temporarily unable to perform the associate judge's official duties because of absence resulting from family circumstances, illness, injury, disability, or military service, or if a vacancy occurs in the position of associate judge, the presiding judge of the administrative judicial region, or the presiding judges of the administrative judicial regions by majority vote, as applicable, in which the associate judge serves or the vacancy occurs may appoint a visiting associate judge to perform the duties of the associate judge during the period the associate judge is unable to perform the associate judge's duties or until another associate judge is appointed to fill the vacancy.

(c) A person is not eligible for appointment under this section unless the person has served for at least two years before the date of appointment as an associate judge under this subchapter, a district judge, a statutory county court judge, or a statutory probate judge.

(d) A visiting associate judge appointed under this section:

(1) is subject to each provision of this subchapter that applies to an associate judge appointed under this subchapter;

(2) is entitled to compensation in the amount determined by a majority vote of the presiding judges of the administrative judicial regions using money available under this subchapter; and

(3) is not considered a state employee for any purpose.

(e) Section 2252.901 does not apply to the appointment of a visiting associate judge under this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 627 (H.B. 79), Sec. 1, eff. September 1, 2021.

Sec. 54A.316. LIMITATION ON LAW PRACTICE. An associate judge appointed under this subchapter may not engage in the private practice of law.

Added by Acts 2021, 87th Leg., R.S., Ch. 627 (H.B. 79), Sec. 1, eff. September 1, 2021.

Sec. 54A.317. IMMUNITY. An associate judge appointed under this subchapter has the judicial immunity of a district judge. All existing immunity granted an associate judge by law, express or implied, continues in full force and effect.

Added by Acts 2021, 87th Leg., R.S., Ch. 627 (H.B. 79), Sec. 1, eff. September 1, 2021.

CHAPTER 54B. ASSOCIATE JUDGES IN CERTAIN COUNTIES

SUBCHAPTER A. ASSOCIATE JUDGES IN DUVAL COUNTY

Sec. 54B.001. APPOINTMENT. The judge of the 229th District Court, with the approval of the Commissioners Court of Duval County, may appoint a full-time or a part-time associate judge to perform the duties authorized by this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.002. QUALIFICATIONS. To be eligible for appointment as an associate judge, a person must:

(1) be a resident of this state and Duval County; and

(2) meet the requirements and qualifications to serve as a judge of the court to which the person is appointed.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.003. COMPENSATION. (a) An associate judge is entitled to the compensation set by the Commissioners Court of Duval County.

(b) The salary shall be paid from the county fund available for payments of officers' salaries.

(c) This section does not apply to an associate judge appointed under Chapter 54A of this code or Section 201.001, Family Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.004. PRIVATE PRACTICE. A part-time associate judge may engage in the private practice of law, unless restricted on a finding that it is not in the public interest by the appointing judge.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.005. TERMINATION OF SERVICES. (a) An associate judge serves at the will of the judge of the 229th District Court.

(b) This section does not apply to an associate judge appointed under Chapter 54A of this code or Section 201.001, Family Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.006. REFERRAL OF CASE. (a) The appointing judge may refer to an associate judge any aspect of a civil or criminal case involving a matter over which the referring court has jurisdiction in Duval County.

(b) After notice to all parties of the time and place of hearing, an associate judge may preside over any hearing, including:

(1) for a civil case, proceedings involving:

(A) a temporary order in an action or suit for support by one spouse against another;

(B) a motion or suit to modify a temporary or final order;

(C) temporary orders in a suit affecting the parent-child relationship;

(D) an application for a temporary injunction related to temporary possession or use of property;

(E) habeas corpus, including any hearing authorized by the Family Code;

(F) a motion to transfer;

(G) a motion of contempt for failure or refusal to obey a temporary or final order;

(H) an action brought under Chapter 159, Family Code;

(I) an action for the protection of the family;

(J) a matter on which the parties agree;

(K) a matter in which a party is entitled to a default judgment;

(L) a divorce action in which a waiver of citation is on file;

(M) a friendly suit; and

(N) any other matter in the jurisdiction of the court, including a pretrial motion, discovery, a summary judgment, and other matters governed by the Texas Rules of Civil Procedure; and

(2) for a criminal case, proceedings involving:

(A) a negotiated plea of guilty or nolo contendere;

(B) a bond forfeiture;

(C) a pretrial motion;

(D) a postconviction writ of habeas corpus;

(E) an examining trial; and

(F) any other matter that the judge considers proper.

(c) A judge may not refer to an associate judge any criminal case for trial on the merits in which a jury trial has been requested.

(d) Unless a party files a written objection to the associate judge hearing the trial, the appointing judge may refer to an associate judge a trial on the merits. If an objection is filed, the trial on the merits shall be heard by the referring court.

(e) A trial on the merits is a final adjudication from which an appeal may be taken to a court of appeals.

(f) An associate judge may not conduct a contested trial on the merits to terminate parental rights unless the affected parties give written consent to the contested trial by the associate judge. Unless written consent is given by the affected parties to a contested trial on the merits, any order terminating parental rights issued pursuant to an associate judge's report resulting from the contested trial is void.

(g) On appointment of an associate judge, any pending or future cases may be referred to the associate judge.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.007. ORDER OF REFERRAL. (a) To refer cases to an associate judge, the referring court must issue an order of referral.

(b) The order of referral may limit the power or duties of an associate judge.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.008. POWERS. Except as limited by an order of referral, an associate judge may:

(1) conduct a hearing;
(2) hear evidence;
(3) compel production of relevant evidence;
(4) rule on admissibility of evidence;
(5) issue summons for the appearance of witnesses;
(6) examine witnesses;
(7) swear witnesses for hearings;
(8) make findings of fact on evidence;
(9) formulate conclusions of law;
(10) recommend the judgment to be made in a case;
(11) regulate all proceedings in a hearing before the associate judge;
(12) rule on all criminal pretrial motions; and
(13) perform any act and take any measure necessary and proper for the efficient performance of the associate judge's duties.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.009. ATTENDANCE OF BAILIFF. A bailiff shall attend a hearing held by an associate judge if directed by the referring court.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.010. WITNESS. (a) A witness appearing before an associate judge is subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine

or imprison a witness whose failure to appear before an associate judge after being summoned or whose refusal to answer questions has been certified to the court.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.011. REPORT TRANSMITTED TO COURT; NOTICE. (a) At the conclusion of any hearing conducted by an associate judge and on the preparation of an associate judge's report, the associate judge shall transmit to the referring court:

(1) all papers relating to the case; and

(2) the associate judge's signed and dated report.

(b) After the associate judge's report has been signed, the associate judge shall give notice of the substance of the report to the parties participating in the hearing.

(c) The associate judge's report may contain the associate judge's findings, conclusions, or recommendations. The associate judge's report must be in writing in a form as the referring court may direct. The form may be a notation on the referring court's docket sheet.

(d) The notice required under Subsection (b) may be given in open court or may be given by certified mail, return receipt requested. If the notice is given by certified mail, the associate judge shall certify the date of mailing and the notice is considered to have been given on the third day after the date of mailing.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.012. NOTICE OF RIGHT TO APPEAL. An associate judge shall give all parties notice of the right of appeal to the judge of the referring court. The notice may be given:

(1) at the hearing;

(2) by posting the notice inside or outside the courtroom of the referring court; or

(3) as otherwise directed by the referring court.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007,

eff. September 1, 2023.

Sec. 54B.013. EFFECT OF ASSOCIATE JUDGE'S REPORT PENDING APPEAL. Pending appeal of the associate judge's report to the referring court, the associate judge's findings, conclusions, and recommendations are in full force and effect and are enforceable as an order of the referring court, except for the orders providing for incarceration or for the appointment of a receiver.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.014. JUDICIAL ACTION ON ASSOCIATE JUDGE'S REPORT. After the associate judge's report is filed, and unless the parties have filed a written notice of appeal to the referring court, the referring court may:

(1) adopt, approve, or reject the associate judge's report;

(2) hear further evidence; or

(3) recommit the matter for further proceedings as the referring court considers proper and necessary in the particular circumstances of the case.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.015. DECREE OR ORDER OF COURT. If an appeal to the referring court is not filed or the right to an appeal to the referring court is waived, the associate judge's findings, conclusions, and recommendations become the decree or order of the referring court only on the referring court's signing a decree or order conforming to the associate judge's report.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.016. APPEAL TO REFERRING COURT. (a) Any party is entitled to a hearing by the judge of the referring court if, not

later than three days, computed in the manner provided by Rule 4, Texas Rules of Civil Procedure, after the date the associate judge gives the notice required by Section 54B.011, an appeal of the associate judge's report is filed with the referring court.

(b) The first day of the appeal time to the referring courts begins on the day after the day on which the associate judge gives the notice required by Section 54B.011.

(c) An appeal to the referring court shall be in writing and must specify the associate judge's findings, conclusions, and recommendations to which the party objects. The appeal is limited to the findings, conclusions, and recommendations specified in the written appeal.

(d) On appeal to the referring court, the parties may present witnesses as in a hearing de novo on the issues raised in the appeal.

(e) Notice of any appeal to the referring court shall be given to opposing counsel in the manner provided by Rule 21a, Texas Rules of Civil Procedure.

(f) If an appeal to the referring court is filed by a party, any other party may file an appeal to the referring court not later than the seventh day after the date the initial appeal was filed.

(g) The referring court, after notice to the parties, shall hold a hearing on all appeals not later than the 30th day after the date on which the initial appeal was filed with the referring court.

(h) Before a hearing before an associate judge, the parties may waive the right of appeal to the referring court. The waiver may be in writing or on the record.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.017. APPELLATE REVIEW. (a) Failure to appeal to the referring court, by waiver or otherwise, on the approval by the referring court of an associate judge's report does not deprive any party of the right to appeal to or request other relief from a court of appeals or the supreme court.

(b) The date of the signing of an order or judgment by the referring court is the controlling date for the purposes of an appeal to or a request for other relief from a court of appeals or the supreme court.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.018. JURY TRIAL DEMANDED. If a jury trial is demanded and a jury fee paid in a trial on the merits, the associate judge shall refer any matters requiring a jury back to the referring court for a full trial before the court and jury.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.019. INAPPLICABILITY OF SUBCHAPTER TO MASTERS APPOINTED UNDER RULE 171. Masters appointed by the referring court under Rule 171, Texas Rules of Civil Procedure, have all the duties and powers set forth in the order of appointment and are not governed by this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.020. IMMUNITY. An associate judge appointed under this subchapter has the judicial immunity of a district judge.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

Sec. 54B.021. COURT REPORTER. (a) A court reporter is not required during a hearing held by an associate judge appointed under this subchapter.

(b) A party, the associate judge, or the referring court may provide for a court reporter during the hearing. The record may be preserved by any other means approved by the associate judge.

(c) The referring court or associate judge may impose on a party as costs the expense of preserving the record.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.007, eff. September 1, 2023.

CHAPTER 55. OTHER COURT PERSONNEL

SUBCHAPTER A. SECRETARIES OR STENOGRAPHERS FOR COUNTY JUDGES

Sec. 55.001. EMPLOYMENT OF SECRETARY OR STENOGRAPHER. (a) If the commissioners court on request of the county judge determines that a secretary or stenographer for the county judge is necessary, the court shall enter an order authorizing the county judge to employ a secretary or stenographer.

(b) The secretary or stenographer may be removed by the county judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 55.002. EMPLOYMENT IN JIM HOGG COUNTY. The county judge of Jim Hogg County may employ one person for stenographic and secretarial duties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

CHAPTER 56. JUDICIAL AND COURT PERSONNEL TRAINING FUND

Sec. 56.001. JUDICIAL AND COURT PERSONNEL TRAINING FUND. (a) The judicial and court personnel training fund is an account in the general revenue fund. Money in the judicial and court personnel training fund may be appropriated only to the court of criminal appeals for the uses authorized in Section 56.003.

(b) On requisition of the court of criminal appeals, the comptroller shall draw a warrant on the fund for the amount specified in the requisition for a use authorized in Section 56.003. A warrant may not exceed the amount appropriated for any one fiscal year.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.78(a), eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 347, Sec. 5, eff. Oct. 1, 1989; Acts 1993, 73rd Leg., ch. 896, Sec. 1, 2, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 30.187, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 390, Sec. 2, eff. Aug. 31, 1999; Acts 2003, 78th Leg., ch. 209, Sec. 85(a)(10), eff. Jan. 1, 2004.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 6.01, eff.

September 28, 2011.

Sec. 56.002. FEES COLLECTED BY CLERKS OF COURTS OF APPEALS. Fifty percent of the fees collected by the clerks of the courts of appeals under Section 51.207 shall be deposited in the state treasury in the judicial and court personnel training fund for the continuing legal education of judges and of court personnel.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.78(a), eff. Sept. 1, 1987.

Sec. 56.003. USE OF FUNDS. (a) Unless the legislature specifically appropriates or provides additional money for purposes of this subsection, the court of criminal appeals may not use more than three percent of the money appropriated in any one fiscal year to hire staff and provide for the proper administration of this chapter.

(b) No more than one-third of the funds appropriated for any fiscal year shall be used for the continuing legal education of judges of appellate courts, district courts, county courts at law, county courts performing judicial functions, full-time associate judges and masters appointed pursuant to Chapter 201, Family Code, and full-time and part-time masters, magistrates, referees, and associate judges appointed pursuant to Chapter 54 or 54A as required by the court of criminal appeals under Section 74.025 and of their court personnel.

(c) No more than one-third of the funds appropriated for any fiscal year shall be used for the continuing legal education of judges of justice courts as required by the court of criminal appeals under Section 74.025 and of their court personnel.

(d) No more than one-third of the funds appropriated for any fiscal year shall be used for the continuing legal education of judges of municipal courts as required by the court of criminal appeals under Section 74.025 and of their court personnel.

(e) The court of criminal appeals shall grant legal funds to statewide professional associations of judges and other entities whose purposes include providing continuing legal education courses, programs, and projects for judges and court personnel. The grantees

of those funds must ensure that sufficient funds are available for each judge to meet the minimum educational requirements set by the court of criminal appeals under Section 74.025 before any funds are awarded to a judge for education that exceeds those requirements.

(f) The court of criminal appeals shall grant legal funds to statewide professional associations of prosecuting attorneys, criminal defense attorneys who regularly represent indigent defendants in criminal matters, and justices of the peace, and other entities. The association's or entity's purposes must include providing continuing legal education, technical assistance, and other support programs.

(g) The court of criminal appeals shall grant legal funds to statewide professional associations and other entities that provide innocence training programs related to defendants' claims of factual innocence following conviction to law enforcement officers, law students, and other participants.

(h) The court of criminal appeals shall grant legal funds to statewide professional associations and other entities that provide training to individuals responsible for providing court security.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.78(a), eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 896, Sec. 3, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 390, Sec. 3, eff. Aug. 31, 1999; Acts 2003, 78th Leg., ch. 654, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 149 (S.B. 496), Sec. 1, eff. September 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 190 (S.B. 42), Sec. 6, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 162 (H.B. 598), Sec. 1, eff. September 1, 2019.

Sec. 56.004. ALLOCATION OF FUNDS. (a) The legislature shall appropriate funds from the judicial and court personnel training fund to the court of criminal appeals to provide for the continuing legal education of judges and court personnel in this state.

(b) The legislature shall appropriate funds from the judicial and court personnel training fund to the court of criminal appeals to provide for:

(1) continuing legal education, technical assistance, and other support programs for prosecuting attorneys and their personnel, criminal defense attorneys who regularly represent indigent defendants in criminal matters and their personnel, and justices of the peace and their court personnel;

(2) innocence training programs for law enforcement officers, law students, and other participants; and

(3) court security training programs for individuals responsible for providing court security.

(c) An allocation of funds to provide for continuing legal education, technical assistance, and other support programs for the personnel of criminal defense attorneys who regularly represent indigent defendants in criminal matters as described by Subsection (b)(1) must come from the grant of legal funds made by the court of criminal appeals under Section 56.003(f).

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.34(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 896, Sec. 4, eff. Sept. 1, 1993.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 149 (S.B. 496), Sec. 2, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 662 (H.B. 1245), Sec. 1, eff. September 1, 2014.

Acts 2017, 85th Leg., R.S., Ch. 190 (S.B. 42), Sec. 7, eff. September 1, 2017.

Sec. 56.005. JUDICIAL EDUCATION COMMITTEES. (a) The court of criminal appeals shall appoint the court of criminal appeals education committee to recommend educational requirements and course content, credit, and standards for judges and court personnel of appellate courts, district courts, statutory county courts, and county courts performing judicial functions. The court of criminal appeals shall appoint at least two appellate judges, four district court judges, two statutory county court judges, and one judge of a county court performing judicial functions. The court of criminal appeals may appoint not more than six additional members. Members serve at the will of the court of criminal appeals.

(b) An entity receiving a grant of funds from the court of

criminal appeals for the education of justices of the peace and their court personnel shall designate a committee to recommend educational requirements and course content, credit, and standards for the purposes of the grant awarded.

(c) An entity receiving a grant of funds from the court of criminal appeals under this chapter for the education of municipal court judges and their personnel shall designate a committee to recommend educational requirements and course content, credit, and standards for the purposes of the grant awarded.

(d) The court of criminal appeals education committee and any committee established as provided by Subsection (b) or (c) shall meet at least twice a year to:

(1) review and recommend course content, credit, and standards for initial and continuing judicial education for judges and court personnel; and

(2) make recommendations and take other action necessary to carry out the purposes of this chapter.

(e) The court of criminal appeals education committee and any committee established as provided by Subsection (b) or (c) shall:

(1) recommend to the court of criminal appeals the minimum educational requirements for judges and court personnel; and

(2) issue an annual report to the court of criminal appeals that lists the courses, credits, and standards for the judges and court personnel.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.34(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 896, Sec. 5, eff. Sept. 1, 1993.

Sec. 56.006. RULES; OVERSIGHT. (a) The court of criminal appeals may adopt rules for programs relating to education and training for attorneys, judges, justices of the peace, district clerks, county clerks, law enforcement officers, law students, other participants, and court personnel, including court coordinators, as provided by Section 56.003 and for the administration of those programs, including rules that:

(1) require entities receiving a grant of funds to provide legislatively required training; and

(2) base the awarding of grant funds to an entity on

qualitative information about the entity's programs or services and the entity's ability to meet financial performance standards.

(b) The court of criminal appeals, for the proper administration of this chapter and as part of its oversight of training programs for attorneys, judges, justices of the peace, district clerks, county clerks, law enforcement officers, law students, other participants, and court personnel, including court coordinators, as provided by Section 56.003, shall monitor both the financial performance and the program performance of entities receiving a grant of funds under this chapter.

Added by Acts 1993, 73rd Leg., ch. 896, Sec. 6, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 718, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 45, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 149 (S.B. 496), Sec. 3, eff. September 1, 2007.

Sec. 56.007. ADMINISTRATIVE EXPENSES. An entity receiving a grant of funds from the court of criminal appeals under this chapter for continuing legal education, technical assistance, and other support programs may not use grant funds to pay any costs of the entity not related to approved grant activities.

Added by Acts 1993, 73rd Leg., ch. 896, Sec. 6, eff. Sept. 1, 1993.

CHAPTER 57. COURT INTERPRETERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 57.001. DEFINITIONS. In this subchapter and for purposes of Subchapter B:

(1) "Certified court interpreter" means an individual who is a qualified interpreter as defined in Article 38.31, Code of Criminal Procedure, or Section 21.003, Civil Practice and Remedies Code, or is qualified in accordance with the communication access realtime translation services eligibility requirements established by the Office of Deaf and Hard of Hearing Services of the Health and Human Services Commission, to interpret court proceedings for a hearing-impaired individual.

(2) "Department" means the Department of Assistive and

Rehabilitative Services.

(3) "Commissioner" means the commissioner of the Department of Assistive and Rehabilitative Services.

(4) "Hearing-impaired individual" means an individual who has a hearing impairment, regardless of whether the individual also has a speech impairment, that inhibits the individual's comprehension of proceedings or communication with others.

(5) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 42, Sec. 3.01(4), eff. September 1, 2014.

(6) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1223, Sec. 4, eff. June 14, 2013.

(7) "Court proceeding" includes an arraignment, deposition, mediation, court-ordered arbitration, or other form of alternative dispute resolution.

(8) "Communication access realtime translation" or "CART" means the immediate verbatim translation of the spoken word into English text by a certified CART provider.

(9) "Certified CART provider" means an individual who holds a certification to provide communication access realtime translation services at an advanced or master level, including:

(A) a level I through level V certificate of competency issued by the Texas Court Reporters Association;

(B) a certified realtime reporter, certified realtime captioner, or other equivalent certified CART provider certificate of competency issued by the National Court Reporters Association; or

(C) a certificate of competency issued by another certification association selected by the department.

Added by Acts 2001, 77th Leg., ch. 1139, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 614 (H.B. 2200), Sec. 1, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 3.01(4), eff. September 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 1223 (S.B. 1620), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1223 (S.B. 1620), Sec. 4, eff. June 14, 2013.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 9.005, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 57.002. APPOINTMENT OF INTERPRETER OR CART PROVIDER; CART PROVIDER LIST; PAYMENT OF INTERPRETER COSTS. (a) A court shall appoint a certified court interpreter or a certified CART provider for an individual who has a hearing impairment or a licensed court interpreter for an individual who can hear but does not comprehend or communicate in English if a motion for the appointment of an interpreter or provider is filed by a party or requested by a witness in a civil or criminal proceeding in the court.

(b) A court may, on its own motion, appoint a certified court interpreter or a certified CART provider for an individual who has a hearing impairment or a licensed court interpreter for an individual who can hear but does not comprehend or communicate in English.

(b-1) A licensed court interpreter appointed by a court under Subsection (a) or (b) must hold a license that includes the appropriate designation under Section 157.101(d) that indicates the interpreter is permitted to interpret in that court.

(c) Subject to Subsection (e), in a county with a population of less than 50,000, a court may appoint a spoken language interpreter who is not a licensed court interpreter.

(d) Subject to Subsection (e), in a county with a population of 50,000 or more, a court may appoint a spoken language interpreter who is not a certified or licensed court interpreter if:

(1) the language necessary in the proceeding is a language other than Spanish; and

(2) the court makes a finding that there is no licensed court interpreter within 75 miles who can interpret in the language that is necessary in a proceeding.

(d-1) Subject to Subsection (e), a court in a county to which Section 21.021, Civil Practice and Remedies Code, applies may appoint a spoken language interpreter who is not a licensed court interpreter.

(e) A person appointed under Subsection (c) or (d):

(1) must be qualified by the court as an expert under the Texas Rules of Evidence;

(2) must be at least 18 years of age; and

(3) may not be a party to the proceeding.

(f) The department shall maintain a list of certified CART providers and, on request, may send the list to a person or court.

(g) A party to a proceeding in a court who files a statement of inability to afford payment of court costs under Rule 145, Texas Rules of Civil Procedure, is not required to provide an interpreter at the party's expense or pay the costs associated with the services of an interpreter appointed under this section that are incurred during the course of the action, unless the statement has been contested and the court has ordered the party to pay costs pursuant to Rule 145. Nothing in this subsection is intended to apply to interpreter services or other auxiliary aids for individuals who are deaf, hard of hearing, or have communication disabilities, which shall be provided to those individuals free of charge pursuant to federal and state laws.

(h) Each county auditor, or other individual designated by the commissioners court of a county, in consultation with the district and county clerks shall submit to the Office of Court Administration of the Texas Judicial System, in the manner prescribed by the office, information on the money the county spent during the preceding fiscal year to provide court-ordered interpretation services in civil and criminal proceedings. The information must include:

(1) the number of interpreters appointed;

(2) the number of interpreters appointed for parties or witnesses who are indigent;

(3) the amount of money the county spent to provide court-ordered interpretation services; and

(4) for civil proceedings, whether a party to the proceeding filed a statement of inability to afford payment of court costs under Rule 145, Texas Rules of Civil Procedure, applicable to the appointment of an interpreter.

(i) Not later than December 1 of each year, the Office of Court Administration of the Texas Judicial System shall:

(1) submit to the legislature a report that aggregates by county the information submitted under Subsection (h) for the preceding fiscal year; and

(2) publish the report on the office's Internet website.

Added by Acts 2001, 77th Leg., ch. 1139, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 584 (H.B. 1642), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 614 (H.B. 2200), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 7.002, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1198 (H.B. 4445), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 12, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1223 (S.B. 1620), Sec. 3, eff. June 14, 2013.

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 1, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 144 (S.B. 380), Sec. 1, eff. May 23, 2023.

Acts 2023, 88th Leg., R.S., Ch. 144 (S.B. 380), Sec. 2, eff. May 23, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 10.006, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 10.007, eff. September 1, 2023.

SUBCHAPTER B. INTERPRETERS FOR HEARING-IMPAIRED INDIVIDUALS

Sec. 57.021. COURT INTERPRETER CERTIFICATION PROGRAM. (a) The department shall certify court interpreters to interpret court proceedings for a hearing-impaired individual.

(b) The department may contract with public or private educational institutions to administer a training program and by rule may provide for suspension of training offered by an institution if the training fails to meet requirements established by the department.

(c) The department shall maintain a list of certified court interpreters and other persons the department has determined are qualified to act as court interpreters and shall send the list to each state court and, on request, to other interested persons.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1223, Sec. 4, eff. June 14, 2013.

(e) The department may accept gifts, grants, or donations from

private individuals, foundations, or other entities to assist in administering the court interpreter certification program under this section.

Added by Acts 2001, 77th Leg., ch. 1139, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 614 (H.B. 2200), Sec. 3, eff. September 1, 2005.
Acts 2013, 83rd Leg., R.S., Ch. 1223 (S.B. 1620), Sec. 4, eff. June 14, 2013.

Sec. 57.022. CERTIFICATION; RULES. (a) The department shall certify an applicant who passes the appropriate examination prescribed by the department and who possesses the other qualifications required by rules adopted under this subchapter.

(b) The executive commissioner of the Health and Human Services Commission by rule shall provide for:

(1) the qualifications of certified court interpreters;

(2) training programs for certified court interpreters each of which is managed by the department or by a public or private educational institution;

(3) the administration of examinations;

(4) the form for each certificate and procedures for renewal of a certificate;

(5) the fees for training, examinations, initial certification, and certification renewal;

(6) continuing education programs under this subchapter;

(7) instructions for the compensation of a certified court interpreter and the designation of the party or entity responsible for payment of compensation; and

(8) administrative sanctions enforceable by the department.

Added by Acts 2001, 77th Leg., ch. 1139, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 614 (H.B. 2200), Sec. 4, eff. September 1, 2005.

Sec. 57.023. EXAMINATIONS. (a) The department shall prepare examinations under this subchapter that test an applicant's

knowledge, skill, and efficiency in the field in which the applicant seeks certification.

(b) A person who fails an examination may apply for reexamination at the next examination scheduled after the date the person failed the original examination.

(c) Examinations shall be offered in the state at least twice a year at times and places designated by the department.

Added by Acts 2001, 77th Leg., ch. 1139, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 614 (H.B. 2200), Sec. 5, eff. September 1, 2005.

Sec. 57.024. DUTIES OF THE COMMISSIONER. (a) The commissioner shall enforce this subchapter.

(b) The commissioner shall investigate allegations of violations of this subchapter.

Added by Acts 2001, 77th Leg., ch. 1139, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 614 (H.B. 2200), Sec. 6, eff. September 1, 2005.

Sec. 57.025. DENIAL, SUSPENSION, OR REVOCATION OF CERTIFICATE. (a) The executive commissioner of the Health and Human Services Commission shall adopt rules establishing the grounds for denial, suspension, revocation, and reinstatement of a certificate issued under this subchapter. The department may revoke or suspend certification under this subchapter only after a hearing.

(b) The department may reissue a certificate to a person whose certificate has been revoked if the person applies in writing to the department and shows good cause to justify reissuance of the certificate.

Added by Acts 2001, 77th Leg., ch. 1139, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 614 (H.B. 2200), Sec. 7, eff. September 1, 2005.

Sec. 57.026. PROHIBITED ACTS. A person may not interpret for a hearing-impaired individual at a court proceeding or advertise or represent that the person is a certified court interpreter unless the person holds an appropriate certificate under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1139, Sec. 1, eff. Jan. 1, 2002.
Amended by:
Acts 2005, 79th Leg., Ch. 614 (H.B. 2200), Sec. 8, eff. September 1, 2005.

Sec. 57.027. CRIMINAL OFFENSE; ADMINISTRATIVE PENALTY. (a) A person commits an offense if the person violates this subchapter or a rule adopted under this subchapter. An offense under this subsection is a Class A misdemeanor.

(b) A person who violates this subchapter or a rule adopted under this subchapter is subject to an administrative penalty assessed by the department.

Added by Acts 2001, 77th Leg., ch. 1139, Sec. 1, eff. Jan. 1, 2002.
Amended by:
Acts 2005, 79th Leg., Ch. 614 (H.B. 2200), Sec. 9, eff. September 1, 2005.

SUBTITLE E. JURIES

CHAPTER 61. GENERAL PROVISIONS

Sec. 61.001. REIMBURSEMENT OF EXPENSES OF JURORS AND PROSPECTIVE JURORS. (a) Except as provided by Subsection (c), a person who reports for jury service in response to the process of a court is entitled to receive as reimbursement for travel and other expenses an amount:

(1) not less than $20 for the first day or fraction of the first day the person is in attendance in court in response to the process and discharges the person's duty for that day; and

(2) not less than $58 for each day or fraction of each day the person is in attendance in court in response to the process after the first day and discharges the person's duty for that day.

(b) In preparing and approving the annual budget for a county, the commissioners court of the county shall determine the daily amount of reimbursement for expenses for a person who reports for

jury service and discharges the person's duty. The amount of reimbursement for each day must be within the minimum and maximum amounts prescribed by this section and paid out of the jury fund of the county. The commissioners court may set different daily amounts of reimbursement for:

(1) grand and petit jurors; or

(2) different petit jurors based on:

(A) whether a juror serves in a small claims court, justice court, constitutional county court, county court at law, or district court; or

(B) any other reasonable criteria determined by the commissioners court.

(c) A person who reports for jury service in a municipal court is not entitled to reimbursement under this chapter, but the municipality may provide reimbursement for expenses to the person in an amount to be determined by the municipality.

(d) In a specific case, the presiding judge, with the agreement of the parties involved or their attorneys, may increase the daily amount of reimbursement for a person who reports for jury service in that case. The difference between the usual daily amount of reimbursement and the daily amount of reimbursement for a person who reports for jury service in a specific case shall be paid, in equal amounts, by the parties involved in the case.

(e) A check drawn on the jury fund by the district clerk of the county may be transferred by endorsement and delivery and is receivable at par from the holder for all county taxes.

(f) A reimbursement for expenses under this section is not a property right of a person who reports for jury service for purposes of Chapters 72 and 74, Property Code. If a check, instrument, or other method of payment authorized under Section 113.048, Local Government Code, representing a reimbursement under this section is not presented for payment or redeemed before the 90th day after it is issued:

(1) the instrument or other method of payment is considered forfeited and is void; and

(2) the money represented by the instrument or other method of payment may be placed or retained in the county's jury fund, the county's general fund, or any other fund in which county funds can be legally placed, at the discretion of the commissioners court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.79(a), eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 64, Sec. 1, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 758, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1119, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1136, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1360 (S.B. 1704), Sec. 1, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 1378 (S.B. 560), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 734 (S.B. 397), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 40.01, eff. September 28, 2011.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.001, eff. September 1, 2023.

Sec. 61.0011. DEFINITION OF PERSON WHO REPORTS FOR JURY SERVICE. In this chapter, the term "person who reports for jury service" means a person who reports in person for duty on a grand jury or a petit jury, regardless of whether the person is selected to serve on the jury.

Added by Acts 2007, 80th Leg., R.S., Ch. 1378 (S.B. 560), Sec. 2, eff. September 1, 2007.

Sec. 61.0015. REIMBURSEMENT TO COUNTY. (a) The state shall reimburse a county:

(1) $14 a day for the reimbursement paid under Section 61.001(a)(1) to a person who reports for jury service in response to the process of a court for the first day or fraction of the first day in attendance in court in response to the process; and

(2) $52 a day for the reimbursement paid under Section 61.001(a)(2) to a person who reports for jury service in response to the process of a court for each day or fraction of each day after the first day in attendance in court in response to the process.

(b) The commissioners court of a county entitled to

reimbursement under this section may file a claim for reimbursement with the comptroller.

(c) The comptroller shall pay claims for reimbursement under this section quarterly to the county treasury of each county that filed a claim from money collected under Subchapter B, Chapter 133, Local Government Code, and deposited in the jury service fund.

(d) If sufficient money described by Subsection (c) is not available to satisfy the claims for reimbursement filed by the counties under this section, the comptroller shall apportion the available money among the counties by reducing the amount payable to each county on an equal percentage basis.

(e) If a payment on a county's claim for reimbursement is reduced under Subsection (d), or if a county fails to file the claim for reimbursement in a timely manner, the comptroller shall:

(1) pay the balance owed to the county when sufficient money described by Subsection (c) is available; or

(2) carry forward the balance owed to the county and pay the balance to the county when the next payment is required.

Added by Acts 2005, 79th Leg., Ch. 1360 (S.B. 1704), Sec. 2, eff. January 1, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1378 (S.B. 560), Sec. 3, eff. September 1, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 40.02, eff. September 28, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.16, eff. January 1, 2020.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.002, eff. September 1, 2023.

Sec. 61.002. LIABILITY OF COUNTIES FOR PAYMENT OF JURY SERVICE. (a) If a civil case is moved by change of venue and tried in another county by a jury, the county in which the case was originally filed is liable for the payment of persons who report for jury service for the case.

(b) The commissioners court shall determine at each regular meeting if a civil case was tried by a jury in the county on a change of venue from another county since its last regular meeting.

(c) The commissioners court shall prepare an account against another county that is liable for the payment of persons who report for jury service in a case transferred on a change of venue. The account must show the number of days that each person who reported for jury service was in attendance in court in response to the process and discharged the person's duty and the amount paid as reimbursement under this chapter in the case.

(d) The county judge of the county in which the case was tried shall certify the correctness of the account and forward it for payment from the jury fund of the county in which the case was originally filed.

(e) This section does not apply to a civil case transferred by an order of the court based on a motion objecting to improper venue in the case under Rule 86, Texas Rules of Civil Procedure.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1378 (S.B. 560), Sec. 4, eff. September 1, 2007.

Sec. 61.003. DONATION OF REIMBURSEMENT. (a) Each person who reports for jury service shall be provided the opportunity, either through a written form or electronically, to direct the county treasurer or a designated county employee to donate all, a specific amount designated by the person, or the entire amount divided among the funds, programs, and county entities listed in this subsection of the person's daily reimbursement under this chapter to:

(1) the compensation to victims of crime fund established under Subchapter J, Chapter 56B, Code of Criminal Procedure;

(2) the child welfare, child protective services, or child services board of the county appointed under Section 264.005, Family Code, that serves abused and neglected children;

(3) any program selected by the commissioners court that is operated by a public or private nonprofit organization and that provides shelter and services to victims of family violence;

(4) any other program approved by the commissioners court of the county, including a program established under Article 56A.205, Code of Criminal Procedure, that offers psychological counseling in criminal cases involving graphic evidence or testimony;

(5) a veterans treatment court program established by the commissioners court as provided by Chapter 124; or

(6) a veterans county service office established by the commissioners court as provided by Subchapter B, Chapter 434.

(a-1) The form letter provided under Subsection (a) must include a blank in which a person may enter the amount of the daily reimbursement the person wishes to donate.

(a-2) The form letter provided under Subsection (a) must contain a brief description of the programs designated for donation under that subsection.

(b) The county treasurer or a designated county employee shall collect any information provided under Subsection (a) directing the county treasurer to donate the reimbursement of a person who reports for jury service.

(c) The county treasurer shall:

(1) send all donations made under Subsection (a)(1) to the comptroller, at the time and in the manner prescribed by the attorney general, for deposit to the credit of the compensation to victims of crime fund;

(2) deposit donations made to the county child welfare board under Subsection (a)(2) in a fund established by the county to be used by the child welfare board in a manner authorized by the commissioners court of the county; and

(3) send all donations made under Subsection (a)(3), (a)(4), or (a)(6) directly to the program or office, as applicable, specified on the form letter signed by the person who reported for jury service.

(d) Notwithstanding this section, a juror reimbursement donation program established before January 1, 1995, may solicit juror donations and provide all funds collected in the name of that program to the charities served by that program on January 1, 1995.

(e) Notwithstanding Subsection (a), a county that has adopted a system or method of payment authorized by Section 113.048, Local Government Code, may provide a person who reported for jury service in the county an opportunity to donate all, or a specific part designated by the juror, of the juror's daily reimbursement by completing a self-executing application on a form prescribed by the commissioners court that is provided after jury service is concluded.

Added by Acts 1995, 74th Leg., ch. 329, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 875, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1313, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.01, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 661 (H.B. 1204), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1378 (S.B. 560), Sec. 5, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 11.001, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 235 (S.B. 1675), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 235 (S.B. 1675), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 734 (S.B. 397), Sec. 3, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1266 (H.B. 3996), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 1160 (S.B. 1264), Sec. 2, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.40, eff. January 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 565 (S.B. 456), Sec. 1, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 874 (S.B. 1179), Sec. 1, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 11.01, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.003, eff. September 1, 2023.

CHAPTER 62. PETIT JURIES
SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4749, H.B. 2637 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 62.001. JURY SOURCE; RECONSTITUTION OF JURY WHEEL. (a)

The jury wheel must be reconstituted by using, as the source:

(1) the names of all persons on the current voter registration lists from all the precincts in the county; and

(2) all names on a current list to be furnished by the Department of Public Safety, showing the citizens of the county who:

(A) hold a valid Texas driver's license or a valid personal identification card or certificate issued by the department; and

(B) are not disqualified from jury service under Section 62.102(1), (2), or (8).

(b) Notwithstanding Subsection (a), the names of persons listed on a register of persons exempt from jury service may not be placed in the jury wheel, as provided by Sections 62.108, 62.109, 62.113, 62.114, and 62.115.

(c) Each year not later than the third Tuesday in November or the date provided by Section 16.032, Election Code, for the cancellation of voter registrations, whichever is earlier, the voter registrar of each county shall furnish to the secretary of state a current voter registration list from all the precincts in the county that, except as provided by Subsection (d), includes:

(1) the complete name, mailing address, date of birth, voter registration number, and precinct number for each voter;

(2) if available, the Texas driver's license number or personal identification card or certificate number and social security number for each voter; and

(3) any other information included on the voter registration list of the county.

(d) The list required by Subsection (a)(1) must exclude the names of persons on the suspense list maintained under Section 15.081, Election Code.

(e) The voter registrar shall send a list of the names of persons excluded to the secretary of state with the list required by Subsection (c).

(f) The Department of Public Safety shall furnish a list to the secretary of state that shows the names required under Subsection (a)(2) and that contains any of the information enumerated in Subsection (c) that is available to the department, including citizenship status and county of residence. The list shall exclude the names of convicted felons, persons who are not citizens of the United States, persons residing outside the county, and the duplicate

name of any registrant. The department shall furnish the list to the secretary of state on or before the first Monday in October of each year.

(g) The secretary of state shall accept the lists furnished as provided by Subsections (c) through (f). The secretary of state shall combine the lists, eliminate duplicate names, and send the combined list to each county on or before December 31 of each year or as may be required under a plan developed in accordance with Section 62.011. The district clerk or bailiff designated as the officer in charge of the jury selection process for a county that has adopted a plan under Section 62.011 shall give the secretary of state notice not later than the 90th day before the date the list is required. The list furnished the county must be in a format, electronic or printed copy, as requested by the county and must be certified by the secretary of state stating that the list contains the names required by Subsections (c) through (f), eliminating duplications. The secretary of state shall furnish the list free of charge.

(h) If the secretary of state is unable to furnish the list as provided in this section because of the failure of the voter registrar to furnish the county voter registration list to the secretary of state, the county tax assessor-collector, sheriff, county clerk, and district clerk in the county shall meet at the county courthouse between January 1 and January 15 of the following year and shall reconstitute the jury wheel for the county, except as provided under a plan adopted under Section 62.011. The deadlines included in the plan control for preparing the list and reconstituting the wheel. The secretary of state shall send the list furnished by the Department of Public Safety as provided by Subsection (f) to the voter registrar, who shall combine the lists as described in this section for use as the juror source and certify the combined list as required of the secretary of state under Subsection (g).

(i) The commissioners court may, instead of using the method provided by Subsections (c) through (h), contract with another governmental unit or a private person to combine the voter registration list with the list furnished by the Department of Public Safety. Subsections (c) through (h) do not apply to a county in which the commissioners court has contracted with another governmental unit or a private person under this subsection. The Department of Public Safety may not charge a fee for furnishing a

list under this subsection. Each list must contain the name, date of birth, address, county of residence, and citizenship status of each person listed. If practical, each list must contain any other information useful in determining if the person is qualified to serve as a juror.

(j) Notwithstanding Subsection (a), in a county with a population of 250,000 or more, the names of persons who are summoned for jury service in the county and who appear for service must be removed from the jury wheel and may not be maintained in the jury wheel until the third anniversary of the date the person appeared for service or until the next date the jury wheel is reconstituted, whichever date occurs earlier. This subsection applies regardless of whether the person served on a jury as a result of the summons.

(k) In reconstituting the jury wheel, the county or district clerk shall update jury wheel cards to reflect addresses that have been changed as provided by Section 62.0146.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 132, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 789, Sec. 1, eff. June 15, 1989; Acts 1991, 72nd Leg., ch. 442, Sec. 1, eff. Jan. 1, 1992; Acts 1997, 75th Leg., ch. 425, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 640, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 571, Sec. 1, eff. June 11, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 609 (S.B. 681), Sec. 1, eff. June 16, 2015.

Acts 2017, 85th Leg., R.S., Ch. 250 (H.B. 1103), Sec. 1, eff. May 29, 2017.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.004, eff. September 1, 2023.

Sec. 62.002. JURY WHEEL CARDS. (a) The officials or their deputies who reconstitute the jury wheel shall write on a separate jury wheel card of uniform size and color the name and, if possible, the post office address of each prospective juror that resides in the county and whose name appears on the current lists used under Section 62.001. The name of each prospective juror may appear on only one card.

(b) In a county with a population of 140,000 or more, the commissioners court shall employ typists who shall type the names and addresses of qualified prospective jurors on separate jury wheel cards of uniform size and color under the direction and control of the district clerk. The expenses incurred in typing the names and addresses must be authorized, reported, and paid and accounted for under the laws and rules that govern the payment of other expenses of the office of district clerk. The compensation of the typists and the expenses are paid from the jury fund.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 132, Sec. 2, eff. Sept. 1, 1989.

Sec. 62.003. CONSTRUCTION AND SECURITY OF JURY WHEEL. (a) The commissioners court shall provide a jury wheel in which to deposit the jury wheel cards.

(b) The jury wheel must revolve freely on its axle and be constructed of a durable material. The jury wheel may be equipped with a motor capable of revolving the wheel in a manner that thoroughly mixes the jury wheel cards.

(c) At all times that it is not in use as provided by this subchapter, the jury wheel shall be locked by using two separate locks. The key to one lock may not open the other lock. The clasps attached to the jury wheel onto which the two locks are fitted must be arranged so that the jury wheel may be opened only if the two locks are unlocked at the same time. The sheriff shall keep the key to one lock. The district clerk shall keep the key to the other lock.

(d) The sheriff and the district clerk may not open the jury wheel or permit it to be opened except at a time and in a manner authorized by this subchapter, or permit another person to open the wheel if the person is not authorized by this subchapter to open the wheel.

(e) The sheriff and the district clerk shall keep the jury wheel, when not in use, in a safe place with security that prevents anyone from tampering with the jury wheel.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 62.004. DRAWING NAMES FOR JURY LISTS. (a) The county clerk and the sheriff of the county shall draw the names of the prospective jurors for a county court from the jury wheel in the presence and under the direction of the county judge. The district clerk and the sheriff or any constable of the county shall draw the names of the prospective jurors for a justice court, county court at law, or district court from the jury wheel in the presence and under the direction of the district judge.

(b) The county or district clerk and the sheriff or constable shall draw the names of prospective jurors from the jury wheel after the wheel has been turned to thoroughly mix the jury wheel cards and shall draw the names one by one if so directed by the judge in whose presence the names are drawn. The names of prospective jurors shall be drawn at least 10 days before the first day of the term of court.

(c) The county or district clerk and the sheriff or constable shall draw as many jury lists as are required for the term of court. They shall record the names that are drawn on as many lists as the judge in whose presence the names are drawn considers necessary to ensure an adequate number of jurors for the term.

(d) A deputy may represent the county or district clerk or the sheriff or constable at the drawing. Other persons may be present only as provided by this subchapter.

(e) An official attending the drawing may not divulge to anyone the name of a person that is drawn as a prospective juror.

(f) The names of additional prospective jurors may be drawn as needed in the manner provided by this section if it appears at any time during the term of court that the jury lists already drawn will be exhausted before the term expires.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 7, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 36, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 1114 (H.B. 2414), Sec. 1, eff. June 18, 2005.

Sec. 62.005. OBSERVATION OF DRAWING OF NAMES. (a) On written application of a party in a case that is pending on the docket of a justice, county, or district court for which a jury is required, the

party or his authorized representative may be present and observe the drawing of the names of prospective jurors from the jury wheel and the placement of the names on the jury lists for the time period in which the party's case is set for trial.

(b) The identity of the persons whose names are drawn from the jury wheel and placed on the jury lists may not be revealed to the observer.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 7, Sec. 2, eff. Sept. 1, 1991.

Sec. 62.006. CERTIFICATION OF JURY LISTS. (a) The county or district clerk or the clerk's deputy who draws the names of prospective jurors and the judge in whose presence the names were drawn for placement on jury lists shall certify the jury lists to be the lists drawn for that term.

(b) Each certified jury list must be sealed in a separate envelope that is endorsed, "List No. _____ of the petit jurors drawn on the _____ day of _____, 19____, for the _____ Court of _____ County." The blanks in the endorsement on an envelope must be properly filled. The envelopes shall be consecutively numbered starting with the number one.

(c) The county or district clerk or the clerk's deputy who draws the names shall write his name across the seal of each envelope and deliver the envelopes to the judge in whose presence the names were drawn.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 62.007. ENVELOPES CONTAINING JURY LISTS; OATH. (a) The justice of the peace or the county or district judge receiving an envelope containing a jury list shall inspect the envelope for proper endorsement.

(b) The judge shall return the envelope to the county or district clerk or clerk's deputy on completion of his inspection and may instruct the clerk or deputy to endorse on the envelope that the jury for that week is to be summoned for a day other than Monday of that week.

(c) At the time that the judge returns the envelope to the

clerk or deputy, the judge shall administer to the clerk and each of the clerk's deputies an oath that in substance provides:

"You do solemnly swear that you will not open an envelope containing a jury list now delivered to you nor permit an envelope to be opened until the time prescribed by law; and that you will not communicate to any person the names appearing on a jury list nor directly or indirectly converse or communicate with a person selected as a juror about a case pending for trial in this court at its next term, so help you God."

(d) Immediately after the judge returns an envelope containing a jury list to the clerk or deputy, the clerk shall file the envelope in a secure place in his office.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 7, Sec. 3, eff. Sept. 1, 1991.

Sec. 62.008. ENVELOPES CONTAINING JURY WHEEL CARDS. (a) At the time that names are drawn for jury service and placed on a jury list, the jury wheel cards containing the names on the jury list shall be sealed in a separate envelope that is endorsed, "Cards containing the names of jurors on List No. _____ of the petit jurors drawn on the _____ day of _____, 19____, for the _____ Court of _____ County." The blanks in the endorsement on an envelope shall be properly filled.

(b) The county or district clerk, as the case may be, shall retain unopened a sealed envelope containing jury wheel cards in a secure manner until the jurors selected from the jury list with names corresponding to those on the jury wheel cards in the envelope are impaneled for jury service.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 62.009. REUSE OF JURY WHEEL CARDS. (a) After jurors are impaneled and serve at least four days, the clerk or his deputy shall open the envelope containing the jury wheel cards with names that correspond to those on a jury list from which the impaneled jurors were selected for jury service.

(b) On opening the envelope, the clerk or his deputy shall immediately return to the jury wheel each card in the envelope with

the name of a person who was not impaneled or who did not serve at least four days and shall place in a box, for use by the next officials selecting names of persons for the jury wheel, each jury wheel card in the envelope with the name of a person who served at least four days. However, the clerk or deputy opening the envelope may withhold from the jury wheel all cards selected for that jury list unless the judge orders him to return the cards to the jury wheel.

(c) If any of the jury lists drawn for a term of court are not used, the clerk or his deputy, immediately after the expiration of the term, shall open the envelopes containing the jury wheel cards with the names that appear on the unused lists and return the jury wheel cards to the jury wheel.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 62.010. REFILLING OR REPLACEMENT OF JURY WHEEL. (a) If all the jury wheel cards have been drawn from the jury wheel, jury wheel cards shall immediately be returned to the jury wheel.

(b) If the jury wheel and its contents are lost or destroyed, the jury wheel shall immediately be replaced and jury wheel cards shall immediately be placed in the jury wheel as provided by this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 62.011. ELECTRONIC OR MECHANICAL METHOD OF SELECTION. (a) On the recommendation of a majority of the district and criminal district judges of a county, the commissioners court, by order entered in its minutes, may adopt a plan for the selection of names of persons for jury service with the aid of electronic or mechanical equipment instead of drawing the names from a jury wheel.

(b) A plan authorized by this section for the selection of names of prospective jurors must:

(1) be proposed in writing to the commissioners court by a majority of the district and criminal district judges of the county at a meeting of the judges called for that purpose;

(2) specify that the source of names of persons for jury service is the same as that provided by Section 62.001 and that the

names of persons listed in a register of persons exempt from jury service may not be used in preparing the record of names from which a jury list is selected, as provided by Sections 62.108 and 62.109;

(3) provide a fair, impartial, and objective method of selecting names of persons for jury service with the aid of electronic or mechanical equipment;

(4) designate the district clerk, or in a county with a population of at least 1.7 million and in which more than 70 percent of the population resides in a single municipality, a bailiff appointed as provided under Section 62.019, as the officer in charge of the selection process and define the officer's duties; and

(5) provide that the method of selection either will use the same record of names for the selection of persons for jury service until that record is exhausted or will use the same record of names for a period of time specified by the plan.

(c) The provisions of this subchapter relating to the selection of names of persons for jury service by the use of a jury wheel do not apply in a county that adopts a plan authorized by this section for the selection of names of prospective jurors by the use of electronic or mechanical equipment.

(d) A state agency or the secretary of state may not charge a fee for furnishing a list of names required by Section 62.001.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 132, Sec. 3, 4, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 442, Sec. 2, eff. Jan. 1, 1992; Acts 1995, 74th Leg., ch. 677, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 609 (S.B. 681), Sec. 2, eff. June 16, 2015.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 39, eff. September 1, 2023.

Sec. 62.0111. COMPUTER OR TELEPHONE RESPONSE TO SUMMONS. (a) A plan authorized under Section 62.011 for the selection of names of prospective jurors may allow for a prospective juror to appear in response to a summons by:

(1) contacting the county officer responsible for summoning jurors by computer;

(2) calling an automated telephone system; or

(3) appearing before the court in person.

(b) A plan adopted under Subsection (a) may allow for a prospective juror to provide information to the county officer responsible for summoning jurors or for the county officer to provide information to the prospective juror by computer or automated telephone system, including:

(1) information that permits the court to determine whether the prospective juror is qualified for jury service under Section 62.102;

(2) information that permits the court to determine whether the prospective juror is exempt from jury service under Section 62.106;

(3) submission of a request by the prospective juror for a postponement of or excuse from jury service under Section 62.110;

(4) information for jury assignment under Section 62.016, including:

(A) the prospective juror's postponement status;

(B) if the prospective juror could potentially serve on a jury in a justice court, the residency of the prospective juror; and

(C) if the prospective juror could potentially serve on a jury in a criminal matter, whether the prospective juror has been convicted of misdemeanor theft;

(5) completion and submission by the prospective juror of the written juror questionnaire under Section 62.0132;

(6) the prospective juror's electronic mail address; and

(7) notification to the prospective juror by electronic mail of:

(A) whether the prospective juror is qualified for jury service;

(B) the status of the exemption, postponement, or judicial excuse request of the prospective juror; or

(C) whether the prospective juror has been assigned to a jury panel.

(c) Repealed by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.027, eff. September 1, 2023.

Added by Acts 2003, 78th Leg., ch. 276, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.005, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.027, eff. September 1, 2023.

Sec. 62.012. USE OF JURY LISTS. (a) When a justice of the peace or a county or district judge requires a jury for a particular week, the judge, within a reasonable time before the prospective jurors are summoned, shall notify the county clerk, for a county court jury, or the district clerk, for a justice or district court jury, to open the next consecutively numbered envelope containing a jury list that is in the clerk's possession and has not been opened. The judge shall also notify the clerk of the date that the prospective jurors are to be summoned to appear for jury service.

(b) On receiving the notice from the judge, the clerk shall immediately write on the jury list the date that the prospective jurors are to be summoned to appear and shall either:

(1) summon the prospective jurors directly in the same manner a sheriff or constable would summon a juror under Section 62.013; or

(2) deliver the jury list to:

(A) the sheriff, for a county or district court jury; or

(B) the sheriff or constable, for a justice court jury.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 7, Sec. 4, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 424, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.006, eff. September 1, 2023.

Sec. 62.0125. SUMMONS FOR JURY SERVICE ON GENERAL ELECTION DAY PROHIBITED. Prospective jurors may not be summoned to appear for jury service on the date of the general election for state and county officers.

Added by Acts 2003, 78th Leg., ch. 398, Sec. 1, eff. Sept. 1, 2003.

Sec. 62.013. SUMMONS FOR JURY SERVICE BY CLERK, SHERIFF, OR CONSTABLE. (a) Except as provided by Section 62.014, the clerk, sheriff, or constable, on receipt of a jury list from a county or district clerk, shall immediately notify the persons whose names are on the list to appear for jury service on the date designated by the judge.

(b) The clerk, sheriff, or constable shall notify each prospective juror to appear for jury service:

(1) by an oral summons; or

(2) if the judge ordering the summons so directs, by a written summons sent by registered mail or certified mail, return receipt requested, or by first class mail to the address on the jury wheel card or the address on the current voter registration list of the county.

(c) Delivery of a written summons is sufficient if the mail containing the summons is received by a person authorized by the United States Postal Service to receive it.

(d) The content of an oral or written summons to appear for jury service is sufficient if it includes the time and place for the appearance of the prospective juror for jury service, the purpose for which he is to appear, and the penalty for his failure to appear as required.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 424, Sec. 2, eff. Sept. 1, 1993.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.007, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.008, eff. September 1, 2023.

Sec. 62.0131. FORM OF WRITTEN JURY SUMMONS. (a) The Office of Court Administration of the Texas Judicial System shall develop and maintain a model for a uniform written jury summons in this state.

(b) The model must include:

(1) the option to provide:

(A) the exemptions and restrictions governing jury service under Subchapter B; or

(B) the electronic address of the court's Internet

website on which is posted the exemptions and restrictions governing jury service under Subchapter B;

(2) the information under Chapter 122, Civil Practice and Remedies Code, relating to the duties of an employer with regard to an employee who is summoned for jury service;

(3) notice of the contempt action to which the person summoned for jury service is subject under Section 62.0141 for failure to comply with the jury summons; and

(4) the option to:

(A) include in the jury summons the juror questionnaire required by Section 62.0132;

(B) provide the electronic address of the court's Internet website from which the juror questionnaire may be easily printed; or

(C) in counties in which the district and criminal district judges adopted a plan for an electronic jury selection method under Section 62.011, provide the electronic address of the court's Internet website for the prospective juror to access and complete the juror questionnaire.

(c) A written jury summons must conform with the model established under this section and must be 3-1/2 by 5 inches or larger in size.

(d) In developing and maintaining the model required by this section, the Office of Court Administration of the Texas Judicial System shall solicit and consider the opinions of the members of the judiciary, district clerks, and attorneys.

Added by Acts 1999, 76th Leg., ch. 539, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.009, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2637, H.B. 4749 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 62.0132. JUROR QUESTIONNAIRE. (a) The Office of Court Administration of the Texas Judicial System shall develop and maintain a questionnaire to accompany a written jury summons.

(b) Repealed by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.027, eff. September 1, 2023.

(c) The questionnaire must require a person to provide biographical and demographic information that is relevant to service as a jury member, including the person's:

(1) name, sex, race, and age;

(2) residence address and mailing address;

(3) education level, occupation, and place of employment;

(4) marital status and the name, occupation, and place of employment of the person's spouse;

(5) citizenship status and county of residence; and

(6) any electronic address.

(d) Except as provided by this subsection, a person who has received a jury summons shall complete and submit a juror questionnaire when the person reports for jury duty. If the district and criminal district judges of a county adopt a plan for an electronic jury selection method under Section 62.011, the county may allow a person to complete and submit a juror questionnaire on the court's Internet website as authorized under Section 62.0111(b)(5).

(e) In developing and maintaining the questionnaire required by this section, the Office of Court Administration of the Texas Judicial System shall solicit and consider the opinions of the members of the judiciary, district clerks, and attorneys.

(f) Except as provided by Subsection (g), information contained in a completed questionnaire is confidential and is not subject to Chapter 552.

(g) The information contained in a completed questionnaire may be disclosed to:

(1) a judge assigned to hear a cause of action in which the respondent to the questionnaire is a potential juror;

(2) court personnel;

(3) a litigant and a litigant's attorney in a cause of action in which the respondent to the questionnaire is a potential juror; and

(4) other than information provided that is related to Section 62.102(8) or (9), the voter registrar of a county in connection with any matter of voter registration or the administration of elections.

(h) The questionnaire must notify a person that if the person states that the person is not a citizen, the person will no longer be

eligible to vote if the person fails to provide proof of citizenship.

Added by Acts 1999, 76th Leg., ch. 539, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 683 (H.B. 174), Sec. 5, eff. September 1, 2011.
Acts 2017, 85th Leg., R.S., Ch. 22 (S.B. 259), Sec. 1, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 713 (H.B. 4034), Sec. 8, eff. June 12, 2017.
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.010, eff. September 1, 2023.
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.011, eff. September 1, 2023.
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.027, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4749, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 62.014. SUMMONS FOR JURY SERVICE BY CLERKS, SHERIFFS, OR BAILIFFS. (a) In a county with at least nine district courts, the district judges may direct that prospective jurors be summoned for jury service by the clerk, the sheriff, or a bailiff, or an assistant or deputy bailiff, in charge of the central jury room and the general panel of the county.

(b) A summons under this section to appear for jury service may be made verbally in person, by registered mail, by ordinary mail, or by any other method as determined by the district judges of the county.

(c) Prospective jurors summoned under this section for service on the general jury panel serve as jurors in civil and criminal cases, and additional summons for service in criminal cases is not required.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.012, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.013, eff. September 1, 2023.

Sec. 62.0141. FAILURE TO ANSWER JURY SUMMONS. In addition to any criminal penalty prescribed by law, a person summoned for jury service who does not comply with the summons as required by law or who knowingly provides false information in a request for an exemption or to be excused from jury service is subject to a contempt action punishable by a fine of not less than $100 nor more than $1,000.

Added by Acts 1991, 72nd Leg., ch. 442, Sec. 3, eff. Jan. 1, 1992.
Amended by:
Acts 2005, 79th Leg., Ch. 1360 (S.B. 1704), Sec. 3, eff. September 1, 2005.

Sec. 62.0142. NOTICE ON WRITTEN SUMMONS. If a written summons for jury duty allows a person to claim a disqualification or exemption by signing a statement and returning it to the clerk of the court, the form must notify the person that by claiming a disqualification or exemption based on:

(1) the lack of citizenship, the person will no longer be eligible to vote if the person fails to provide proof of citizenship; or

(2) lack of residence in the county, the person might no longer be eligible to vote in the county.

Added by Acts 2005, 79th Leg., Ch. 559 (H.B. 1271), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 683 (H.B. 174), Sec. 6, eff. September 1, 2011.

Sec. 62.0143. POSTPONEMENT OF JURY SERVICE. (a) A person summoned for jury service may request a postponement of the person's initial appearance for jury service. The person may request the postponement by contacting the clerk of the court in person, in writing, or by telephone before the date on which the person is

summoned to appear.

(b) On receipt of a request under Subsection (a), the clerk of the court shall grant the person a postponement if:

(1) the person has not been granted a postponement in that county during the one-year period preceding the date on which the person is summoned to appear; and

(2) the person and the clerk determine a substitute date on which the person will appear for jury service that is not later than six months after the date on which the person was originally summoned to appear.

(c) A person who receives a postponement under Subsection (b) may request a subsequent postponement in the manner described by Subsection (a). The clerk of the court may approve the subsequent postponement only because of an extreme emergency that could not have been anticipated, such as a death in the person's family, sudden serious illness suffered by the person, or a natural disaster or national emergency in which the person is personally involved. Before the clerk may grant the subsequent postponement, the person and the clerk must determine a substitute date on which the person will appear for jury service that is not later than six months after the date on which the person was to appear after the postponement under Subsection (b).

Added by Acts 2005, 79th Leg., Ch. 1360 (S.B. 1704), Sec. 4, eff. September 1, 2005.
Renumbered from Government Code, Section 62.0142 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(26), eff. September 1, 2007.

Sec. 62.0144. POSTPONEMENT OF JURY SERVICE IN CERTAIN COUNTIES. (a) This section applies only to a county:

(1) with a population of 1.4 million or more; and

(2) that has within its boundaries at least two municipalities that each have a population of 300,000 or more.

(b) A person summoned for jury service may request a postponement of the person's initial appearance for jury service. The person may request the postponement by contacting the clerk of the court, or the court's designee, in person, in writing, or by telephone before the date on which the person is summoned to appear.

(c) On receipt of a request under Subsection (b), the clerk of the court or the court's designee shall grant the person a postponement if:

(1) the person has not been granted a postponement in that county since the date on which the jury wheel from which the person was selected to appear was most recently reconstituted; and

(2) the person and the clerk or the court's designee determine a substitute date on which the person will appear for jury service that is not later than six months after the date on which the person was originally summoned to appear.

(d) A person who receives a postponement under Subsection (c) may request subsequent postponements in the manner described by Subsection (b). The clerk of the court or the court's designee may approve a subsequent postponement if the clerk or the court's designee determines that the person has a legitimate reason for requesting the postponement. Before the clerk or the court's designee may grant the subsequent postponement, the person and the clerk or the court's designee must determine a substitute date on which the person will appear for jury service that is not later than six months after the date on which the person was to appear after the later of:

(1) the postponement under Subsection (c); or

(2) the most recent postponement granted under this subsection.

Added by Acts 2007, 80th Leg., R.S., Ch. 140 (S.B. 399), Sec. 1, eff. September 1, 2007.

Sec. 62.0145. REMOVAL OF CERTAIN PERSONS FROM POOL OF PROSPECTIVE JURORS. Except as provided by Section 62.0146, if a written summons for jury service sent by a clerk, sheriff, constable, or bailiff is undeliverable, the county or district clerk may remove from the jury wheel the jury wheel card for the person summoned or the district clerk, or in a county with a population of at least 1.7 million and in which more than 70 percent of the population resides in a single municipality, a bailiff appointed as provided under Section 62.019, may remove the person's name from the record of names for selection of persons for jury service under Section 62.011.

Added by Acts 1997, 75th Leg., ch. 777, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 2001, 77th Leg., ch. 571, Sec. 2, eff. June 11, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 609 (S.B. 681), Sec. 3, eff. June 16, 2015.
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 40, eff. September 1, 2023.
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.014, eff. September 1, 2023.

Sec. 62.0146. UPDATING ADDRESSES OF CERTAIN PERSONS IN POOL OF PROSPECTIVE JURORS. If a written summons for jury service sent by a clerk, sheriff, constable, or bailiff is returned with a notation from the United States Postal Service of a change of address for the person summoned, the county or district clerk may update the jury wheel card to reflect the person's new address.

Added by Acts 2001, 77th Leg., ch. 571, Sec. 3, eff. June 11, 2001.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.015, eff. September 1, 2023.

Sec. 62.0147. MEANS OF POSTPONEMENT OF JURY SERVICE IN CERTAIN COUNTIES. (a) This section applies only to a county that has:

(1) a council of judges composed of the judges of the district courts and county courts at law; and

(2) a designated jury duty court that addresses administrative matters related to jury service paid for by the county.

(b) A person summoned for jury service may request a postponement of the person's initial appearance for jury service. The person may request the postponement by contacting the council of judges' designee, in person, in writing, or by telephone before the date on which the person is summoned to appear.

(c) On receipt of a request under Subsection (b), the council of judges' designee shall grant the person a postponement if:

(1) the person has not been granted a postponement in that county since the date on which the jury wheel from which the person was selected to appear was most recently reconstituted; and

(2) the designee and the person determine a substitute date on which the person will appear for jury service that is not later than six months after the date on which the person was originally summoned to appear.

(d) A person who is granted a postponement under Subsection (c) may request additional postponements in the manner described by Subsection (b). The council of judges' designee may grant an additional postponement if the designee and the person determine that the person has a legitimate reason for the postponement. Before the designee may grant the additional postponement, the designee and the person must determine a date on which the person will appear for jury service that is not later than six months after the date on which the person was to appear after the later of the date of:

(1) a postponement under Subsection (c); or

(2) the last postponement granted under this subsection.

Added by Acts 2011, 82nd Leg., R.S., Ch. 89 (S.B. 1195), Sec. 1, eff. September 1, 2011.

Sec. 62.015. SELECTION OF JURY PANEL. (a) On the day that jurors appear for jury service in a justice, county, or district court, the judge, if jury trials have been set, shall select from the names on the jury lists a sufficient number of qualified jurors to serve on the jury panel.

(b) If the court at any time does not have a sufficient number of prospective jurors present whose names are on the jury lists and who are not excused by the judge from jury service, the judge shall order the clerk, sheriff, or constable to summon additional prospective jurors to provide the requisite number of jurors for the panel. The names of additional jurors to be summoned by the clerk, sheriff, or constable to fill a jury panel shall be drawn from the jury wheel under orders of the judge. Additional jurors summoned to fill a jury panel shall be discharged when their services are no longer required.

(c) The judge may order all or part of a panel of jurors to stand adjourned from jury service until a subsequent date in the term, but a juror may not be paid for the time that he stands adjourned from jury service.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended

by Acts 1991, 72nd Leg., ch. 7, Sec. 5, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 36, Sec. 2, eff. Sept. 1, 1997.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.016, eff. September 1, 2023.

Sec. 62.016. INTERCHANGEABLE JURIES IN CERTAIN COUNTIES. (a) In each county with at least three district or criminal district courts, the district judges shall meet and determine the approximate number of prospective jurors that are reasonably necessary for each week of the year for a general panel of jurors for service in the county court, the justice courts, and all district and statutory county courts of the county. A majority of the district judges may act to carry out the provisions of this section.

(b) The district judges shall order that the number of names of prospective jurors that they determine are reasonably necessary for each week's general panel be drawn from the jury wheel. They shall order the drawing of names of prospective jurors for as many weeks in advance as they consider proper and may increase or decrease the number of names drawn for any week.

(c) The district judges shall designate from time to time a judge to whom the general panels report for jury service. The judge for the designated period shall organize, control, and supervise the members of the general jury panel.

(d) The clerk or sheriff shall notify the persons whose names are drawn from the jury wheel to appear before the designated judge for jury service. The judge shall hear the excuses of the prospective jurors and swear them in for jury service for the week for which they are to serve as jurors.

(e) When impaneled, the prospective jurors constitute a general jury panel for service as jurors in all justice, county, and district courts in the county and shall be used interchangeably in all of those courts. A county may summon jurors chosen for service under this section to the justice court in the manner prescribed by Section 62.412.

(f) In the event of a deficiency of jurors to satisfy the jury requirements of the justice, county, and district courts, the judge having control of the general jury panel shall order a sufficient number of additional names drawn to meet the emergency. The names of

additional jurors for the general panel must be drawn from the jury wheel except as provided by Section 62.011. The additional jurors act only as special jurors and shall be discharged as soon as their services are no longer required.

(g) If it becomes necessary to reduce the number of persons on the general panel for the week of its selection because of a lack of work in a court or for other cause, the judge having control of the general jury panel shall cause the clerk to draw from the general panel the number of names that the judge determines is required for the week. The prospective jurors whose names are drawn shall continue to serve on the general panel for the remainder of the week, and the others are excused.

(h) In a county with a population of more than 1.5 million, the district judges, by a majority vote, may authorize the drawing of two general jury panels for the week, with one to be used in the courts that have a criminal docket and the other to be used in the courts that have a civil docket.

(i) Except as modified by this section and Section 62.011, the law governing jury wheels applies in the counties that use general jury panels interchangeably in their county and district courts.

(j) This section does not apply to a selection of jurors in a capital case or a mental health proceeding.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.80(a), eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 7, Sec. 6, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 838, Sec. 1, eff. June 18, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 19, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.017, eff. September 1, 2023.

Sec. 62.017. INTERCHANGEABLE JURORS IN CERTAIN OTHER COUNTIES. (a) In a county with two district courts, the judges of the two courts may meet at a time fixed by them and determine the approximate number of prospective jurors that are reasonably necessary for each week of the year for a general panel of jurors for service in both district courts. The judges shall act together to carry out the

provisions of this section.

(b) The district judges may order that the number of names of prospective jurors that they determine is reasonably necessary for each week's general panel be drawn from the jury wheel. They may order the drawing of names of prospective jurors for as many weeks in advance as they consider proper and may increase or decrease the number of names drawn for any week.

(c) The district judges shall designate from time to time the judge to whom the general panels report for jury service. The judge for the designated period shall organize, control, and supervise the members of the general jury panel.

(d) The clerk or sheriff shall notify the persons whose names are drawn from the jury wheel to appear before the designated judge for jury service. The judge shall hear the excuses of the prospective jurors and swear them in for jury service for the week for which they are to serve as jurors.

(e) When impaneled, the prospective jurors constitute a general jury panel for service as jurors in both district courts in the county and shall be used interchangeably in those courts. With the approval of both district judges, prospective jurors impaneled under this section may constitute a general jury panel for service as jurors in the justice courts, the county court, and all statutory county courts in the county, in addition to service as jurors in both district courts, and in that event, shall be used interchangeably in all district, justice, and county courts.

(f) In the event of a deficiency of jurors to satisfy the jury requirements of any of the courts, the judge having control of the general jury panel shall order sufficient additional names drawn to meet the emergency. The names of additional jurors for the general panel must be drawn from the jury wheel except as provided by Section 62.011. The additional jurors act only as special jurors and shall be discharged as soon as their services are no longer required.

(g) If it becomes necessary to reduce the number of persons on the general panel for the week of its selection because of a lack of work in a court or for other cause, the judge having control of the general jury panel shall cause the clerk to draw from the general panel the number of names that the judge determines is required for the week. The prospective jurors whose names are drawn shall continue to serve on the general panel for the remainder of the week, and the others are excused.

(h) Except as modified by this section and Section 62.011, the law governing jury wheels applies in the counties that use general jury panels interchangeably in their courts.

(i) This section does not apply to a selection of jurors in a capital case or a mental health commitment.

(j) The method for interchangeable jury panels authorized by this section is in addition to the other methods authorized by this subchapter. The adoption of the method provided by this section is in the discretion of the district judges of the counties with two district courts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 7, Sec. 7, eff. Sept. 1, 1991.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.018, eff. September 1, 2023.

Sec. 62.0175. INTERCHANGEABLE JURORS IN COUNTIES WITH A SINGLE DISTRICT COURT AND A SINGLE COUNTY COURT AT LAW WITH CONCURRENT JURISDICTION. (a) In a county with only one district court and only one county court at law that has concurrent jurisdiction with the district court in any matter, the judges of the two courts may meet at a time set by them and determine the approximate number of prospective jurors that are reasonably necessary for each week of the year for a general panel of jurors for service in both courts. The judges shall act together to carry out the provisions of this section.

(b) The judges may order that the number of names of prospective jurors that they determine is reasonably necessary for each week's general panel be drawn from the jury wheel. They may order the drawing of names of prospective jurors for as many weeks in advance as they consider proper and may increase or decrease the number of names drawn for any week.

(c) A general panel shall report to the district judge for jury service, and the district judge shall organize, control, and supervise the members of the general panel.

(d) The clerk or sheriff shall notify the persons whose names are drawn from the jury wheel to appear before the district judge for jury service. The judge shall hear the excuses of the prospective

jurors and swear them in for jury service for the week for which they are to serve as jurors.

(e) When impaneled, the prospective jurors constitute a general panel for service as jurors in both courts and shall be used interchangeably in those courts. With the approval of both judges, prospective jurors impaneled under this section may constitute a general panel for service as jurors in the justice courts, the county court, and all other county courts at law in the county, in addition to service as jurors in the district court and the county court at law that has concurrent jurisdiction. In that event, the general panel shall be used interchangeably in the district court, county court, county courts at law, and justice courts.

(f) In the event of a deficiency of jurors to satisfy the jury requirements of any of the courts, the district judge shall order sufficient additional names drawn to meet the emergency. The names of additional jurors for the general panel must be drawn from the jury wheel except as provided by Section 62.011. The additional jurors act only as special jurors and shall be discharged as soon as their services are no longer required.

(g) If it becomes necessary to reduce the number of persons on the general panel for the week of its selection because of a lack of work in a court or for other cause, the district judge shall cause the clerk to draw from the general panel the number of names that the judge determines is required for the week. The prospective jurors whose names are drawn shall continue to serve on the general panel for the remainder of the week, and the others are excused.

(h) Except as modified by this section and Section 62.011, the law governing jury wheels applies in the counties that use general panels interchangeably in their courts.

(i) This section does not apply to a selection of jurors in a capital case or a mental health commitment.

Added by Acts 2005, 79th Leg., Ch. 1114 (H.B. 2414), Sec. 2, eff. June 18, 2005.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.019, eff. September 1, 2023.

Sec. 62.018. QUARTERS FOR GENERAL PANELS. (a) The

commissioners court of a county that uses an interchangeable general jury panel shall provide a comfortable place in or near the county courthouse for the use and convenience of the persons on the panel.

(b) The persons on the panel shall stay in or conveniently near the place provided for them when not in service so that they are at all times subject to service in a court as provided by this subchapter without delaying the proceedings of the court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 62.019. BAILIFFS FOR GENERAL PANELS. (a) Except as provided by this section, the sheriff of a county that uses an interchangeable general jury panel shall assign one of his deputies to take care of the persons on the panel, provide for their wants, and call them as their services are required by the judges of the courts using the interchangeable jury panel. The assigned deputy has general control of the persons on the panel when they are not in actual service as jurors.

(b) In a county with at least nine district courts, a majority of the district judges, with the approval of the commissioners court, may appoint a bailiff, and the assistant or deputy bailiffs that the judges consider necessary, to be in charge of the central jury room and the general panel. If the district judges in such a county appoint a bailiff and the necessary assistant or deputy bailiffs, the sheriff may not assign a deputy to the central jury room and the general panel. If the district judges do not appoint a bailiff to be in charge of the central jury room and the general panel, the sheriff shall perform the duties in connection with the jury room and general panel as provided by law.

(c) A bailiff or assistant or deputy bailiff appointed by the district judges serves a two-year term beginning January 1 of each odd-numbered year. The salary of each is set by the commissioners court on the recommendation of the district judges.

(d) The bailiffs and assistant and deputy bailiffs appointed by the district judges shall take care of the general panel and perform the duties in connection with the supervision of the central jury room and the general panel that are required by the district judges. They may notify prospective jurors whose names are drawn from the jury wheel or selected by other means provided by law to appear for

jury service and may serve notices on absent jurors as directed by the district judge having control of the general jury panel.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 62.020. ALTERNATE JURORS. (a) In district court, the judge may direct that not more than four jurors in addition to the regular jury be called and impaneled to sit as alternate jurors.

(b) In county court, the judge may direct that not more than two jurors in addition to the regular jury be called and impaneled to sit as alternate jurors.

(c) Alternate jurors shall be drawn and selected in the same manner as regular jurors. An alternate juror must meet the same qualifications, is subject to the same examination and challenges, shall take the same oath, has the same functions, powers, and privileges, and shall be accorded the same facilities and security as a regular juror.

(d) In the order in which they are called, alternate jurors shall replace jurors who, prior to the time the jury retires to consider its verdict, become or are found to be unable or disqualified to perform their duties. An alternate juror who does not replace a regular juror shall be discharged after the jury retires to consider its verdict.

(e) Each side is entitled to one peremptory challenge in addition to those otherwise allowed by law or by rule if one or two alternate jurors are to be impaneled. Each side is entitled to two peremptory challenges in addition to those otherwise allowed by law or by rule if three or four alternate jurors are to be impaneled. The additional peremptory challenges may be used against an alternate juror only, and the other peremptory challenges allowed by law or by rule may not be used against an alternate juror.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 62.021. DISMISSAL OF JUROR REMOVED FROM PANEL. In a county with a population of 2.5 million or more, a prospective juror removed from a jury panel for cause, by peremptory challenge or for any other reason, must be dismissed from jury service. After dismissal, the person may not be placed on another jury panel until

the person's name is returned to the jury wheel and drawn again for jury service.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 70, eff. Sept. 1, 1991. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 20, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 41, eff. September 1, 2023.

SUBCHAPTER B. JUROR QUALIFICATIONS

Sec. 62.101. JURY SERVICE. All individuals are competent petit jurors unless disqualified under this subchapter and are liable for jury service except as otherwise provided by this subchapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2637, H.B. 4749 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 62.102. GENERAL QUALIFICATIONS FOR JURY SERVICE. A person is disqualified to serve as a petit juror unless the person:

(1) is at least 18 years of age;

(2) is a citizen of the United States;

(3) is a resident of this state and of the county in which the person is to serve as a juror;

(4) is qualified under the constitution and laws to vote in the county in which the person is to serve as a juror;

(5) is of sound mind and good moral character;

(6) is able to read and write;

(7) has not served as a petit juror for six days during the preceding three months in the county court or during the preceding six months in the district court;

(8) has not been convicted of misdemeanor theft or a felony; and

(9) is not under indictment or other legal accusation for

misdemeanor theft or a felony.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2005, 79th Leg., Ch. 801 (S.B. 451), Sec. 4, eff. September 1, 2005.
Acts 2015, 84th Leg., R.S., Ch. 568 (H.B. 2747), Sec. 1, eff. September 1, 2015.

Sec. 62.103. SUSPENSION OF GENERAL QUALIFICATIONS. (a) A court may suspend the qualification for jury service that requires a person to be able to read and write if it appears to the court that the requisite number of jurors able to read and write cannot be found in the county.

(b) A court may suspend the qualification for jury service that requires a person to have less than six days of service as a petit juror during the preceding three months in the county court or during the preceding six months in the district court if it appears to the court that the county's sparse population makes its enforcement seriously inconvenient.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 62.1031. FAILURE TO REGISTER TO VOTE. Failure to register to vote does not disqualify a person from jury service.

Added by Acts 1989, 71st Leg., ch. 132, Sec. 5, eff. Sept. 1, 1989.

Sec. 62.104. DISQUALIFICATION FOR LEGAL BLINDNESS. (a) A person who is legally blind is not disqualified to serve as a juror in a civil case solely because of his legal blindness except as provided by this section.

(b) A legally blind person is disqualified to serve as a juror in a civil case if, in the opinion of the court, his blindness renders him unfit to serve as a juror in that particular case.

(c) In this section, "legally blind" means having:

(1) no more than 20/200 of visual acuity in the better eye with correcting lenses; or

(2) visual acuity greater than 20/200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 62.1041. DEAF OR HARD OF HEARING JUROR. (a) A deaf or hard of hearing person is not disqualified to serve as a juror solely because of hearing loss except as provided by this section.

(b) A deaf or hard of hearing person is disqualified to serve as a juror if, in the opinion of the court, his hearing loss renders him unfit to serve as a juror in that particular case.

(c) A deaf or hard of hearing person serving as a juror shall be reasonably accommodated in accordance with the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.). An interpreter who is assisting a deaf or hard of hearing person serving as a juror may accompany the juror during all proceedings and deliberations in the case.

(d) If an interpreter is provided to a deaf or hard of hearing person serving as a juror in a district, county, or justice court, the county shall pay the cost of obtaining those services.

(e) A deaf or hard of hearing juror may request an auxiliary aid or service for a municipal court proceeding. The city shall honor the request unless the city can demonstrate that another effective means of communication exists. The city shall pay the cost unless the auxiliary aid or service will result in a fundamental alteration of the municipal court proceeding or in undue financial or administrative burdens.

(f) In this section, "deaf or hard of hearing" means having a hearing impairment, regardless of the existence of a speech impairment, that inhibits comprehension of an examination or proceeding or communication with others.

Added by Acts 1987, 70th Leg., ch. 550, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1995, 74th Leg., ch. 271, Sec. 1, eff. Sept. 1, 1995.

Sec. 62.105. DISQUALIFICATION FOR PARTICULAR JURY. A person is disqualified to serve as a petit juror in a particular case if he:

(1) is a witness in the case;

(2) is interested, directly or indirectly, in the subject matter of the case;

(3) is related by consanguinity or affinity within the third degree, as determined under Chapter 573, to a party in the case;

(4) has a bias or prejudice in favor of or against a party in the case; or

(5) has served as a petit juror in a former trial of the same case or in another case involving the same questions of fact.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.81, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 561, Sec. 23, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(28), eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2637 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 62.106. EXEMPTION FROM JURY SERVICE. (a) A person qualified to serve as a petit juror may establish an exemption from jury service if the person:

(1) is over 75 years of age;

(2) has legal custody of a child younger than 12 years of age and the person's service on the jury requires leaving the child without adequate supervision;

(3) is a student of a public or private secondary school;

(4) is a person enrolled and in actual attendance at an institution of higher education;

(5) is an officer or an employee of the senate, the house of representatives, or any department, commission, board, office, or other agency in the legislative branch of state government;

(6) is summoned for service in a county with a population of at least 200,000, unless that county uses a jury plan under Section 62.011 and the period authorized under Section 62.011(b)(5) exceeds two years, and the person has served as a petit juror in the county during the 24-month period preceding the date the person is to appear for jury service;

(7) is the primary caretaker of a person who is unable to

care for himself or herself;

(8) except as provided by Subsection (b), is summoned for service in a county with a population of at least 250,000 and the person has served as a petit juror in the county during the three-year period preceding the date the person is to appear for jury service; or

(9) is a member of the United States military forces serving on active duty and deployed to a location away from the person's home station and out of the person's county of residence.

(b) Subsection (a)(8) does not apply if the jury wheel in the county has been reconstituted after the date the person served as a petit juror.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 733, Sec. 1, eff. Aug. 31, 1987; Acts 1987, 70th Leg., ch. 798, Sec. 1, eff. Aug. 31, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 8.35, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 442, Sec. 4, eff. Jan. 1, 1992; Acts 1997, 75th Leg., ch. 165, Sec. 9.01, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 686, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 640, Sec. 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 153, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 599 (H.B. 319), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1022 (H.B. 2717), Sec. 2, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1010 (H.B. 866), Sec. 1, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 185 (H.B. 2015), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.020, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2637 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 62.107. PROCEDURES FOR ESTABLISHING EXEMPTIONS. (a) A

person who is notified to appear for jury service may establish an exemption from the service under Section 62.106 without appearing in person by filing a signed statement of the ground of his exemption with the clerk of the court before the date on which he is summoned to appear.

(b) A person may also claim an exemption from jury service under Section 62.106 by filing with the sheriff, voter registrar, or district or county clerk of the county of the person's residence a sworn statement that sets forth the ground of and claims the exemption. The name of a person who claims an exemption by filing the sworn statement may not be placed in the jury wheel for the ensuing year.

(c) A person who files a statement with a clerk of the court, as provided by Subsection (a), claiming an exemption because the person is over 75 years of age, may also claim the permanent exemption on that ground authorized by Section 62.108 by including in the statement filed with the clerk a declaration that the person desires the permanent exemption. Promptly after a statement claiming a permanent exemption on the basis of age is filed, the clerk of the court with whom it is filed shall have a copy delivered to the voter registrar of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 686, Sec. 2, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 24 (S.B. 85), Sec. 1, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 185 (H.B. 2015), Sec. 2, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.021, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2637 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 62.108. PERMANENT EXEMPTION FOR ELDERLY. (a) A person who is entitled to exemption from jury service because the person is over 75 years of age may establish a permanent exemption on that

ground as provided by this section or Section 62.107.

(b) A person may claim a permanent exemption:

(1) by filing with the voter registrar of the county, by mail or personal delivery, a signed statement affirming that the person is over 75 years of age and desires a permanent exemption on that ground; or

(2) in the manner provided by Section 62.107(c).

(c) The voter registrar of the county shall maintain a current register indicating the name of each person who has claimed and is entitled to a permanent exemption from jury service because the person is over 75 years of age.

(d) The name of a person on the register of persons permanently exempt from jury service may not be placed in the jury wheel or otherwise used in preparing the record of names from which a jury is selected.

(e) A person who has claimed a permanent exemption from jury service because the person is over 75 years of age may rescind the exemption at any time by filing a signed request for the rescission with the voter registrar of the county. Rescission of a permanent exemption does not affect the right of a person who is over 75 years of age to claim permanent exemption at a later time.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 686, Sec. 3, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 24 (S.B. 85), Sec. 2, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 185 (H.B. 2015), Sec. 3, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.022, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2637 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 62.109. EXEMPTION FOR PHYSICAL OR MENTAL IMPAIRMENT OR INABILITY TO COMPREHEND ENGLISH. (a) The judge of a district court by order may permanently or for a specified period exempt from

service as a juror in all the county and district courts in the county a person with a physical or mental impairment or with an inability to comprehend or communicate in the English language that makes it impossible or very difficult for the person to serve on a jury.

(b) A person requesting an exemption under this section must submit to the court an affidavit stating the person's name and address and the reason for and the duration of the requested exemption. A person requesting an exemption due to a physical or mental impairment must attach to the affidavit a statement from a physician. The affidavit and physician's statement may be submitted to the court at the time the person is summoned for jury service or at any other time.

(c) The clerk of the district court shall promptly notify the voter registrar of the county of the name and address of each person permanently exempted. The voter registrar shall maintain a current register showing the name and address of each person permanently exempt from jury service under this section.

(d) A person listed on the register may not be summoned for jury service during the period for which the person is exempt. The name of a person listed on the register may not be placed in the jury wheel or otherwise used in preparing the record of names from which a jury list is selected during the period for which the person is exempt.

(e) A person exempt from jury service under this section may rescind the exemption at any time by filing a signed request for the rescission with the voter registrar of the county.

(f) An affidavit accompanying a request for an exemption from jury service because of a physical or mental impairment may be presented by the affiant or by a friend or relative of the affiant. The affidavit must state:

(1) the name and address of the physician whose statement accompanies the affidavit;

(2) whether the request is for a permanent or temporary exemption;

(3) the period of time for which a temporary exemption is requested; and

(4) that as a direct result of the physical or mental impairment it is impossible or very difficult for the affiant to serve on a jury.

(g) An affidavit accompanying a request for an exemption from jury service because of an inability to comprehend or communicate in the English language must be presented by the affiant in person. The affidavit must:

(1) be sworn to by the affiant in person before the district clerk or a deputy district clerk; and

(2) be subscribed with a statement by a third party that the affidavit was read to the affiant before signing and that the affiant stated that it was his request to be permanently exempted from jury service in the county.

(h) The name and address of a person exempted from jury service under this section shall be added to or deleted from the list or register at any time permitted by law and when the names and addresses of eligible jurors are regularly deleted or added to the list or register.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 24 (S.B. 85), Sec. 3, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.023, eff. September 1, 2023.

Sec. 62.110. JUDICIAL EXCUSE OF JUROR. (a) Except as provided by this section, a court may hear any reasonable sworn excuse of a prospective juror, including any claim of an exemption or a lack of qualification, and if the excuse is considered sufficient shall release him from jury service entirely or until another day of the term, as appropriate.

(b) Pursuant to a plan approved by the commissioners court of the county in the same manner as a plan is approved for jury selection under Section 62.011, the court's designee may:

(1) hear any reasonable excuse of a prospective juror, including any claim of an exemption or a lack of qualification; and

(2) discharge the juror or release him from jury service until a specified day of the term, as appropriate, if:

(A) the excuse is considered sufficient; and

(B) the juror submits to the court's designee a statement of the ground of the exemption or lack of qualification or

other excuse.

(c) The court or the court's designee as provided by this section may not excuse a prospective juror for an economic reason unless each party of record is present and approves the release of the juror for that reason.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 589, Sec. 3, eff. Aug. 31, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 43, Sec. 4, eff. Oct. 20, 1987.
Amended by:

Acts 2005, 79th Leg., Ch. 905 (H.B. 75), Sec. 2, eff. September 1, 2005.

Sec. 62.111. PENALTY FOR DEFAULTING JURORS. A juror lawfully notified shall be fined not less than $100 nor more than $500 if the juror:

(1) fails to attend court in obedience to the notice without reasonable excuse; or

(2) files a false claim of exemption from jury service.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 640 (H.B. 1665), Sec. 1, eff. September 1, 2009.

Sec. 62.112. EXCUSE OF JUROR FOR RELIGIOUS HOLY DAY. (a) In this section:

(1) "Religious organization" means an organization that meets the standards for qualification as a religious organization under Section 11.20, Tax Code.

(2) "Religious holy day" means a day on which the tenets of a religious organization prohibit its members from participating in secular activities, such as court proceedings.

(b) If a prospective juror is required to appear at a court proceeding on a religious holy day observed by the prospective juror, the court or the court's designee shall release the prospective juror from jury service entirely or until another day of the term. If the court determines that a term of a court proceeding may extend to cover a day on which a religious holy day is observed by the

prospective juror, the court or the court's designee shall release the prospective juror from jury service entirely or until another day of the term.

(c) A prospective juror who seeks to be released from jury service may be required to file with the court an affidavit stating:

(1) the grounds for the release; and

(2) that the juror holds religious beliefs that prohibit him from taking part in a court proceeding on the day for which the release from jury duty is sought.

Added by Acts 1987, 70th Leg., ch. 589, Sec. 4, eff. Aug. 31, 1987; Acts 1987, 70th Leg., ch. 825, Sec. 3, eff. Sept. 1, 1987.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2637 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 62.113. COMPILATION OF LIST OF NONCITIZENS. (a) The clerk of the court shall maintain a list of the name and address of each person who is excused or disqualified under this subchapter from jury service because the person is not a citizen of the United States.

(b) On the third business day of each month, the clerk shall send a copy of the list of persons excused or disqualified because of citizenship in the previous month to:

(1) the voter registrar of the county;

(2) the secretary of state; and

(3) the county or district attorney for an investigation of whether the person committed an offense under Section 13.007, Election Code, or other law.

(c) A list compiled under this section may not be used for a purpose other than a purpose described by Subsection (b) or Section 16.0332 or 18.068, Election Code.

(d) A person commits an offense if the person violates Subsection (c). An offense under this section is a Class C misdemeanor.

(e) The information required to be filed with the secretary of state under this section must be filed electronically. The secretary of state may waive this requirement on application for a waiver

submitted by the clerk.

Added by Acts 1997, 75th Leg., ch. 640, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 683 (H.B. 174), Sec. 7, eff. September 1, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 22, eff. September 1, 2013.
Acts 2021, 87th Leg., 2nd C.S., Ch. 1 (S.B. 1), Sec. 2.10, eff. December 2, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2637 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 62.114. COMPILATION OF LIST OF NONRESIDENTS. (a) The clerk of the court shall maintain a list containing the name and address of each person who is excused or disqualified under this subchapter from jury service because the person is not a resident of the county.

(b) On the third business day of each month, the clerk shall send a copy of the list of persons excused or disqualified in the previous month because the persons do not reside in the county to:

(1) the voter registrar of the county; and

(2) the secretary of state.

(c) A list compiled under this section may not be used for a purpose other than a purpose described by Subsection (b) or Section 15.081 or 18.068, Election Code.

(d) The voter registrar shall notify each person contained on a list sent to the registrar under Subsection (b) at the address shown on the person's jury summons that the person is being placed on the county's suspense list of registered voters because of the person's excuse or disqualification from jury service based on nonresidence in the county. The notice must include information describing how the person may be removed from the suspense list and restored to regular voter registration in the county.

Added by Acts 2005, 79th Leg., Ch. 559 (H.B. 1271), Sec. 2, eff. September 1, 2005.

Amended by:

Acts 2021, 87th Leg., 2nd C.S., Ch. 1 (S.B. 1), Sec. 2.11, eff. December 2, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2637 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 62.115. COMPILATION OF LIST OF CONVICTED PERSONS. (a) The clerk of the court shall maintain a list of the name and address of each person who is disqualified under this subchapter from jury service because the person was convicted of misdemeanor theft or a felony.

(b) A person who was convicted of misdemeanor theft or a felony shall be permanently disqualified from serving as a juror. A person is exempt from this section if the person:

(1) was placed on deferred adjudication and received a dismissal and discharge in accordance with Article 42A.111, Code of Criminal Procedure;

(2) was placed on community supervision and the period of community supervision was terminated early under Article 42A.701, Code of Criminal Procedure; or

(3) was pardoned or has had the person's civil rights restored.

(c) The district clerk may remove from the jury wheel the jury wheel card for the person whose name appears on the list.

(d) On the third business day of each month, the clerk shall send to the secretary of state a copy of the list of persons disqualified because of a conviction of misdemeanor theft or a felony in the preceding month.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.024, eff. September 1, 2023.

SUBCHAPTER C. DISTRICT COURT JURIES

Sec. 62.201. NUMBER OF JURORS. The jury in a district court is composed of 12 persons, except that the parties may agree to try a particular case with fewer than 12 jurors.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 62.202. MEALS DURING JURY DELIBERATION. (a) In a county in which the commissioners court has approved payment by the county for meals for jurors who are serving on a jury in a civil case, a district judge may keep the jurors together for deliberation to expedite the final disposition of a civil case in the district court instead of dismissing the jurors for meals.

(b) The district judge may draw a warrant on the jury fund or other appropriate fund of the county in which the civil case is tried to cover the cost of buying and transporting the meals to the jury room. The judge may spend a reasonable amount per meal for a juror serving on a jury in a civil case.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 11.02, eff. September 1, 2021.

SUBCHAPTER D. COUNTY COURT AND JUSTICE COURT JURIES

Sec. 62.301. NUMBER OF JURORS. The jury in the county courts and in the justice courts is composed of six persons except as provided by the constitution or other law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 424, Sec. 4, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 696 (S.B. 2342), Sec. 33, eff. September 1, 2020.

Sec. 62.302. DRAWING NAMES FOR JURY SERVICE IN CERTAIN COUNTY COURTS. (a) The county judge or a judge of a county court at law may order the drawing of names from the jury wheel if the judge considers the number of prospective jurors already drawn to be insufficient or if an interchangeable general jury panel is not drawn as provided by Section 62.016, 62.017, or 62.0175.

(b) The prospective jurors whose names are drawn as provided by this section are available for service in the county court or county

courts at law, as applicable, and for the period of time reasonably required for the trials in the applicable kind of court.

(c) The county judge and a judge of a county court at law concurrently have the same power to determine and remedy a deficiency in the number of prospective jurors as the district judge designated to control a general jury panel as provided by Section 62.016, 62.017, or 62.0175. Except as otherwise provided by this section, the applicable general provisions in Subchapter A that govern the drawing of names of prospective jurors by the district judge govern the drawing of names under this section.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 1114 (H.B. 2414), Sec. 3, eff. June 18, 2005.

SUBCHAPTER E. JUSTICE COURT JURIES

Sec. 62.411. JUSTICE COURT RULES. (a) In addition to other methods of jury selection provided by this chapter, a justice of the peace may issue a writ commanding the clerk, sheriff, or constable to immediately summon a venire from which six qualified persons may be selected for jury service if:

(1) a jury case is pending for trial at a term of justice court; or

(2) the court does not have a sufficient number of prospective jurors present whose names are on the jury list and who are not excused from jury service.

(b) Jurors who are empaneled shall remain in attendance in the court and, until discharged by the court, may serve as jurors in any case before the court.

(c) This section applies only in a county with a population of more than 2.8 million.

Added by Acts 1995, 74th Leg., ch. 819, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.025, eff. September 1, 2023.

Sec. 62.412. SUMMONING PROSPECTIVE JURORS DIRECTLY TO JUSTICE

COURT. (a) A county that uses interchangeable juries under Section 62.016 may summon a prospective juror to report directly to a justice court in the precinct in which that person resides.

(a-1) A county described by Subsection (a) with a population of 3.3 million or more may also summon a prospective juror to report directly to a justice court in the precinct adjacent to the precinct in which that person resides.

(b) The justice of the peace of the justice court to which prospective jurors are summoned for jury service under this section shall hear the excuses of the prospective jurors and swear them in for jury service.

(c) A justice of the peace may command the clerk, sheriff, or constable to immediately summon additional persons for jury service in the justice court if the number of qualified jurors, including persons summoned under Section 62.016, is less than the number necessary for the justice court to conduct its proceedings.

Added by Acts 1999, 76th Leg., ch. 838, Sec. 2, eff. June 18, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 141 (S.B. 1274), Sec. 1, eff. May 23, 2009.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 8.026, eff. September 1, 2023.

SUBCHAPTER F. MUNICIPAL COURT JURIES

Sec. 62.501. QUALIFICATION. To be eligible to serve on a jury of a municipal court, including a municipal court of record, a person must be resident of the municipality for which the court is established.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

SUBTITLE F. COURT ADMINISTRATION

CHAPTER 71. TEXAS JUDICIAL COUNCIL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 71.001. DEFINITIONS. In this chapter:

(1) "Chair" means the chair of the council.

(2) "Council" means the Texas Judicial Council.

(3) "Defendant" means a person accused of a crime or

juvenile offense, as those terms are defined by Section 79.001.

(4) "Public defender's office" has the meaning assigned by Article 26.044(a), Code of Criminal Procedure.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1408, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 906, Sec. 12, eff. Jan. 1, 2002.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 855 (H.B. 1265), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 2, eff. September 1, 2011.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 71.011. NUMBER AND CLASSES OF MEMBERS. The Texas Judicial Council is an agency of the state composed of 16 ex officio and six appointive members.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1408, Sec. 2, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 71.012. EX OFFICIO MEMBERS. The ex officio members are:

(1) the chief justice of the supreme court;

(2) the presiding judge of the court of criminal appeals;

(3) two members of the senate, appointed by the lieutenant governor;

(4) the chair of the House Judicial Affairs Committee;

(5) one member of the house of representatives, appointed by the speaker of the house;

(6) two justices of the courts of appeals designated by the chief justice of the supreme court;

(7) two district judges designated by the chief justice of

the supreme court;

(8) two judges of county courts, statutory county, or statutory probate courts designated by the chief justice of the supreme court;

(9) two justices of the peace designated by the chief justice of the supreme court; and

(10) two municipal court judges designated by the chief justice of the supreme court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.44(13), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 1408, Sec. 3, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1328, Sec. 2, eff. June 21, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 71.013. TERMS OF EX OFFICIO MEMBERS; DELEGATION OF FUNCTIONS. (a) The chief justice of the supreme court and the presiding judge of the court of criminal appeals are members of the council as long as they hold those offices.

(b) Except as provided by Subsection (a), all members of the judiciary appointed to the council serve staggered terms of four years with the term of one member from each judicial group expiring on February 1 of each odd-numbered year.

(c) A legislative member whose membership in the legislature ceases continues as a member of the council at the pleasure of the appointing authority.

(d) A vacancy in a judicial membership must be filled for the unexpired term in the same manner as the original appointment.

(e) A judicial or legislative member of the council serves until his successor is chosen and has qualified.

(f) The chief justice of the supreme court and the presiding judge of the court of criminal appeals may each designate a member of his court to act in his stead under this chapter. The designated person serves at the will of the official who chose him for service.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.44(14), eff. Aug. 28, 1989;

Acts 1997, 75th Leg., ch. 1408, Sec. 4, eff. Sept. 1, 1997.

Sec. 71.014. CITIZEN MEMBERS. (a) The governor shall appoint the six citizen members on the council.

(b) A citizen member must be a resident citizen of the state. Three of the six citizen members must be members of the State Bar of Texas and two must be persons who are not licensed to practice law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1408, Sec. 5, eff. Sept. 1, 1997.

Sec. 71.015. TERMS OF CITIZEN MEMBERS. (a) Citizen members serve for staggered terms of six years with two members' terms expiring on June 30 of each odd-numbered year.

(b) A vacancy in citizen membership is filled for the unexpired term by appointment by the governor.

(c) A citizen member serves on the council until his successor is appointed and has qualified.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1408, Sec. 6, eff. Sept. 1, 1997.

Sec. 71.016. MEETINGS. (a) The council shall meet at least once in each calendar year and may meet at other times as ordered by the council or under its authority.

(b) The council may meet at a place and time designated by it or under its authority.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 71.017. QUORUM. Eleven members of the council constitute a quorum.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1408, Sec. 7, eff. Sept. 1, 1997.

Sec. 71.018. OFFICERS; COMMITTEES. (a) The chief justice of the supreme court shall serve as chair and the presiding judge of the court of criminal appeals shall serve as vice chair of the council. Other officers of the council shall be elected by the council.

(b) The council may prescribe the duties of an officer of the council.

(c) The council may appoint committees from its membership. It may prescribe the duties of and delegate powers under this chapter to a committee except as otherwise limited by this chapter.

(d) The chair may appoint committees for two-year terms that he considers necessary for the organization of the council.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1408, Sec. 8, eff. Sept. 1, 1997.

Sec. 71.019. RULES. The council may adopt rules expedient for the administration of its functions.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 71.020. EXPENSES. (a) A member of the council may not receive compensation for service on the council.

(b) A member is entitled to reimbursement for actual and necessary expenses incurred in performing the duties of the council and approved for payment as provided by this section.

(c) The council, its officers, and its committees are entitled to reimbursement for the actual and necessary clerical expenses incurred in performing functions under this chapter and approved for payment as provided by this section.

(d) Before any expenses incurred by the council, its members or officers, or its committees may be paid, the chair of the council or the vice chair, if authorized by the chair in writing to do so, must approve a verified and itemized account of the expenses.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1408, Sec. 9, eff. Sept. 1, 1997.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 71.031. CONTINUOUS STUDY. The council continuously shall study the organization, rules, procedures and practice, work accomplished, results, and uniformity of the discretionary powers of the state courts and methods for their improvement.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 71.032. RECEIPT OF ADVICE ON REMEDIES. The council shall receive and consider advice from judges, public officials, members of the bar, and citizens concerning remedies for faults in the administration of justice.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 71.033. METHODS FOR IMPROVEMENT. The council shall design methods for simplifying judicial procedure, expediting the transaction of judicial business, and correcting faults in or improving the administration of justice.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 71.034. REPORTS; INVESTIGATIONS. (a) The council shall file a complete detailed report with the governor and the supreme court before December 2 of each year on council activities, information from the council's study, and council recommendations.

(b) The council may file a supplemental report on council activities, findings, or recommendations at a time it considers advisable.

(c) The council shall investigate and report on a matter concerning the administration of justice that the supreme court or the legislature refers to the council.

(d) The yearly or supplemental reports of the council are public information and may be given to the press when filed.

(e) In addition to the information described by Subsection (a), the council shall include in the report a summary of information provided to the council during the preceding year under Articles 2A.211 and 2A.212, Code of Criminal Procedure.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 85, Sec. 4.02, eff. Sept. 1, 2001. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 292 (S.B. 291), Sec. 8, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.072, eff. January 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 71.035. STATISTICS; ENFORCEMENT BY MANDAMUS.

Text of subsection as amended by Acts 2023, 88th Leg., R.S., Ch. 486 (H.B. 841), Sec. 1

(a) The council shall gather judicial statistics and other pertinent information, including case-level information on the amount and character of the business transacted by courts, from the several state judges and other court officials of this state. In addition, the council shall implement a monthly tracking system to ensure accountability for counties and courts which participate in the statewide integrated system for child support, medical support, and dental support enforcement established under Section 231.0011, Family Code. As a duty of office, the district clerks and county clerks serving the affected courts shall report monthly such information as may be required by the council, including, at a minimum, the time required to enforce cases from date of delinquency, from date of filing, and from date of service until date of disposition. Such information as is necessary to complete the report and not directly within the control of the district or county clerk, such as date of delinquency, shall be provided to the clerk by the child support registry or by the enforcement agency providing Title IV-D enforcement services in the court. The monthly report shall be transmitted to the Office of Court Administration of the Texas Judicial System no later than the 20th day of the month following the month reported, in such form as may be prescribed by the Office of Court Administration, which may include electronic data transfer. Copies of such reports shall be maintained in the office of the appropriate district or county clerk for a period of at least two

years and shall be available to the public for inspection and reproduction.

Text of subsection as amended by Acts 2023, 88th Leg., R.S., Ch. 677 (H.B. 1182), Sec. 1

(a) The council shall gather judicial statistics and other pertinent information, including for each trial court in this state monthly court activity statistics and case-level information on the amount and character of the business transacted by the court, from the several state judges and other court officials of this state. The monthly information gathered by the council for each trial court in a county with a population of at least one million must include, but is not limited to:

(1) the number of cases assigned to the court;

(2) the case clearance rate for the court;

(3) the number of cases disposed by the court;

(4) the number of jury panels empaneled for the court;

(5) the number of orders of continuance for an attorney before the court or by the court;

(6) the number of pleas accepted by the court;

(7) the number of cases tried by the judge of the court or before a jury; and

(8) the number of cases tried before a visiting or associate judge of the court.

(a-1) The council shall implement a monthly tracking system to ensure accountability for counties and courts which participate in the statewide integrated system for child support, medical support, and dental support enforcement established under Section 231.0011, Family Code. As a duty of office, the district clerks and county clerks serving the affected courts shall report monthly such information as may be required by the council, including, at a minimum, the time required to enforce cases from date of delinquency, from date of filing, and from date of service until date of disposition. Such information as is necessary to complete the report and not directly within the control of the district or county clerk, such as date of delinquency, shall be provided to the clerk by the child support registry or by the enforcement agency providing Title IV-D enforcement services in the court.

(a-2) A monthly report required by Subsection (a) or (a-1) must be transmitted to the Office of Court Administration of the Texas Judicial System no later than the 20th day of the month following the

month reported, in the form and manner prescribed by the office, which may include electronic data transfer. The office shall publish the information for each court on the office's public Internet website in a searchable format.

(a-3) In a county with a population greater than one million, a court official for each court in the county shall submit to the appropriate county official for publication on the county's public Internet website a copy of each monthly report required under Subsections (a) and (a-1) within the time required by Subsection (a-2). The county shall publish the information for each court on the county's Internet website in a searchable format.

(b) The council may require a state justice, judge, clerk, or other court official, as an official duty, to comply with reasonable requirements for supplying statistics pertaining to the amount and character of the civil and criminal business transacted by the court or other information on the conduct, operation, or business of his court or the office of the clerk of his court that is within the scope of the functions of the council. If the official does not supply the information within a reasonable time after the request, he is presumed to have wilfully refused the request. The council shall prescribe procedures, definitions of terms, and forms for supplying the statistics and other information.

(c) The duty provided by this section to supply information may be enforced by writ of mandamus in:

(1) the district court of the county of residence of the respondent if the petition for mandamus is filed against a district clerk or a clerk, judge, or other official of a trial court other than a district court;

(2) the court of appeals for the court of appeals district in which the respondent resides if the petition for mandamus is filed against a district judge or a clerk of a court of appeals; or

(3) the supreme court in any other case.

(d) Except as provided by this subsection, the attorney general shall file and prosecute an action for mandamus on behalf of the council if requested to do so in writing by the council. To be valid, the written request must be signed by the chair or by at least 11 members of the council. The attorney general may refuse to file an action if he certifies in writing that the action is without merit.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 1.63, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 341, Sec. 2.05, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 79, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1408, Sec. 10, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1150 (S.B. 550), Sec. 54, eff. September 1, 2018.

Acts 2023, 88th Leg., R.S., Ch. 486 (H.B. 841), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 677 (H.B. 1182), Sec. 1, eff. September 1, 2023.

Sec. 71.0351. BAIL AND PRETRIAL RELEASE INFORMATION. (a) As a component of the official monthly report submitted to the Office of Court Administration of the Texas Judicial System under Section 71.035, the clerk of each court setting bail in criminal cases shall report:

(1) the number of defendants for whom bail was set after arrest, including:

(A) the number for each category of offense;

(B) the number of personal bonds; and

(C) the number of surety or cash bonds;

(2) the number of defendants released on bail who subsequently failed to appear;

(3) the number of defendants released on bail who subsequently violated a condition of release; and

(4) the number of defendants who committed an offense while released on bail or community supervision.

(b) The office shall post the information in a publicly accessible place on the agency's Internet website without disclosing any personal information of any defendant, judge, or magistrate.

(c) Not later than December 1 of each year, the office shall submit a report containing the data collected under this section during the preceding state fiscal year to the governor, lieutenant governor, speaker of the house of representatives, and presiding officers of the standing committees of each house of the legislature with primary jurisdiction over the judiciary.

Added by Acts 2021, 87th Leg., 2nd C.S., Ch. 11 (S.B. 6), Sec. 16, eff. January 1, 2022.

Sec. 71.0352. JUVENILE DATA: JUSTICE, MUNICIPAL, AND TRUANCY COURTS. As a component of the official monthly report submitted to the Office of Court Administration of the Texas Judicial System:

(1) a justice court, municipal court, or truancy court shall report the number of cases filed for:

(A) truant conduct under Section 65.003(a), Family Code; and

(B) the offense of parent contributing to nonattendance under Section 25.093, Education Code; and

(2) in cases in which a child fails to obey an order of a justice court, municipal court, or truancy court under circumstances that would constitute contempt of court, the justice court, municipal court, or truancy court shall report the number of incidents in which the child is:

(A) referred to the appropriate juvenile court for delinquent conduct as provided by Article 45A.461(c)(1), Code of Criminal Procedure, or Section 65.251, Family Code; or

(B) held in contempt, fined, or denied driving privileges as provided by Article 45A.461(c)(2), Code of Criminal Procedure, or Section 65.251, Family Code.

Added by Acts 2003, 78th Leg., ch. 283, Sec. 43, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 935 (H.B. 2398), Sec. 36, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 425 (H.B. 1819), Sec. 5, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.073, eff. January 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1778, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 71.0353. TRAFFICKING OF PERSONS INFORMATION. (a) As a component of the official monthly report submitted to the Office of

Court Administration of the Texas Judicial System, a district court or county court at law shall report the number of cases filed for the following offenses:

(1) trafficking of persons under Section 20A.02, Penal Code;

(2) prostitution under Section 43.02, Penal Code;

(3) solicitation of prostitution under Section 43.021, Penal Code; and

(4) compelling prostitution under Section 43.05, Penal Code.

(b) A district or county court at law shall provide a copy of the report required under Subsection (a) to the attorney general.

Added by Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. 2014), Sec. 3.01, eff. September 1, 2011.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 40, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 856 (S.B. 800), Sec. 2, eff. September 1, 2021.

Sec. 71.036. PUBLIC HEARINGS. (a) The council may appoint a committee of at least three members to hold a public hearing.

(b) The committee may:

(1) order the production of books or other documents;

(2) require a report from a state court, including a court that is not a court of record;

(3) administer oaths; or

(4) take testimony.

(c) An officer of the council, either prior to or while sitting at a hearing, or a member of the council sitting at a hearing may issue a subpoena or similar order to a prospective witness under his official signature.

(d) The subpoena or similar order may be served by registered or certified mail or by an adult person.

(e) If a witness fails to comply with a subpoena or similar order issued as provided by this section, the council or its committee holding the hearing may request in writing that a district judge of the county of residence of the witness enforce its subpoena

or similar order. When requested to enforce a subpoena or order as provided by this section, the district judge shall order compliance with the council's order by the same means that the judge may compel the appearance and testimony of witnesses in a trial in his own court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 71.037. SPECIALTY COURT BEST PRACTICES. The council shall review and as appropriate approve recommendations made by the Specialty Courts Advisory Council under Section 772.0061(b)(2).

Added by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 2.06, eff. September 1, 2013.

Sec. 71.038. REGIONAL INFORMATION. The council shall collect judicial statistics and other pertinent information from the presiding judges of each administrative judicial region in this state regarding the amount and character of any business transacted by the presiding judges. As a duty of office, the presiding judges shall report monthly any information required by the council under this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 954 (S.B. 1893), Sec. 1, eff. June 15, 2017.

Sec. 71.039. PROCEDURES FOR ISSUANCE OF MARRIAGE LICENSE THROUGH REMOTE TECHNOLOGY. The council, in consultation with the Department of State Health Services, by rule shall develop and implement a voluntary certification process under which a county clerk may be certified to issue a marriage license to applicants through the use of remote technology in accordance with procedures adopted by the council. The procedures adopted by the council must ensure sufficient verification of each applicant's age and identity to prevent fraud.

Added by Acts 2021, 87th Leg., R.S., Ch. 857 (S.B. 907), Sec. 2, eff. September 1, 2021.

CHAPTER 72. OFFICE OF COURT ADMINISTRATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 72.001. DEFINITIONS. In this chapter:

(1) "Court" means any tribunal forming a part of the judiciary.

(2) "Director" means the administrative director of the courts appointed as provided by this chapter.

(3) "Office" means the Office of Court Administration of the Texas Judicial System.

(4) "Trial court" means any tribunal forming a part of the judiciary, except the supreme court, the court of criminal appeals, and the courts of appeals, but does not include the commissioners court of a county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.83(a), eff. Sept. 1, 1987.

Sec. 72.002. EFFECT ON JUDICIAL DISCRETION. This chapter or a rule adopted by the supreme court under Section 74.024 does not authorize an infringement of the judicial discretion of a judge in the trying of a case properly before his court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.84(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 646, Sec. 5, eff. Aug. 28, 1989.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 72.011. OFFICE OF COURT ADMINISTRATION. (a) The office of court administration is an agency of the state and operates under the direction and supervision of the supreme court and the chief justice of the supreme court.

(b) The office shall exercise the powers and perform the duties or functions imposed on the office by this chapter or the supreme court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.85(a), eff. Sept. 1, 1987.

Sec. 72.012. DIRECTOR. (a) The director shall:

(1) implement this chapter and direct the operations of the office of court administration; and

(2) as an additional duty of his office, serve as the executive director of the Texas Judicial Council.

(b) The director shall devote full time to his official duties.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.86(a), eff. Sept. 1, 1987.

Sec. 72.014. CERTIFICATION DIVISION. The office shall establish a certification division to oversee the regulatory programs assigned to the office by law or by the supreme court. Fees collected under Section 51.008 may be appropriated to the office to support the certification division.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 39.01, eff. September 28, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 72.015. JUDICIAL SECURITY DIVISION. (a) The office shall establish a judicial security division to provide guidance to state court personnel on improving security for each court.

(b) The office shall appoint a director of security and emergency preparedness to oversee the judicial security division.

(c) The judicial security division shall:

(1) serve as a central resource for information on local and national best practices for court security and the safety of court personnel;

(2) provide an expert opinion on the technical aspects of court security; and

(3) keep abreast of and provide training on recent court security improvements.

(d) The director of security and emergency preparedness shall

annually submit to the legislature:

(1) a report on court security activities throughout the state supported by the judicial security division, including:

(A) the technical aspects of providing court security;

(B) court security training provided or required by the judicial security division;

(C) sufficiency of judicial security division resources to evaluate and monitor court security; and

(D) the adequacy of funding to maintain court security; and

(2) recommendations for:

(A) monitoring the use of state resources in providing court security;

(B) improving court security; and

(C) increasing the amount of state funds and other resources made available for court security.

Added by Acts 2017, 85th Leg., R.S., Ch. 190 (S.B. 42), Sec. 8, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 518 (S.B. 489), Sec. 2, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 72.016. NOTIFICATION PROCEDURE FOR JUDICIAL PRIVACY. The director shall develop a procedure to regularly notify county registrars, the Department of Public Safety, the Texas Ethics Commission, and any other state agency the office determines should be notified of the judges, judges' spouses, and related family members whose personal information must be kept from public records, as provided under Sections 552.117 and 572.035 of this code, Sections 13.0021 and 15.0215, Election Code, and Section 521.121, Transportation Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 190 (S.B. 42), Sec. 8, eff. September 1, 2017.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 72.021. BUDGET; EXPENDITURES. (a) The director shall prepare and submit an estimated budget for the appropriation of funds necessary for the maintenance and operation of the judicial system.

(b) The director shall study and recommend expenditures and savings of funds appropriated for the maintenance and operation of the judicial system.

(c) The office may award a grant of money to a local or state governmental entity in the judicial branch of local or state government to fund programs that:

(1) are approved by the Judicial Committee on Information Technology under Chapter 77; and

(2) provide technological support for the judiciary.

(d) At the end of each fiscal year, the office shall file with the Legislative Budget Board a report on the amount, recipient, and purpose for each grant awarded under Subsection (c). All money expended under a grant awarded under Subsection (c) is subject to audit by the comptroller and the state auditor.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.87(a), eff. Sept. 1, 1987. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 73 (H.B. 368), Sec. 1, eff. September 1, 2007.

Sec. 72.022. PERSONNEL. (a) The director, with the approval of the chief justice of the supreme court, shall employ the personnel needed to administer the office, including personnel needed for the Texas Judicial Council.

(b) The office shall provide staff functions necessary for the efficient operation of the Texas Judicial Council.

(c) This chapter does not limit the authority of a court to appoint clerical personnel.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 72.023. CONSULTATION AND ASSISTANCE. (a) The director shall assist the justices and judges in discharging their administrative duties.

(b) The director shall consult with the regional presiding judges and local administrative judges and assist them in discharging duties imposed by law or by a rule adopted by the supreme court.

(c) The director, to provide for the efficient administration of justice, shall consult with and assist:

(1) court clerks;

(2) other court officers or employees; and

(3) clerks or other officers or employees of offices related to and serving a court.

(d) The director, to provide for uniform administration of the courts and efficient administration of justice, shall consult with and make recommendations to administrators and coordinators of the courts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.88(a), eff. Sept. 1, 1987.

Sec. 72.024. METHODS; RECOMMENDATIONS. (a) The director shall examine the judicial dockets, practices, and procedures of the courts and the administrative and business methods or systems used in the office of a clerk of a court or in an office related to and serving a court.

(b) The director shall recommend:

(1) a necessary improvement to a method or system;

(2) a form or other document used to record judicial business; or

(3) any other change that will promote the efficient administration of justice.

(b-1) The director shall develop standards for identifying courts that need additional assistance to promote the efficient administration of justice.

(c) The director shall recommend to the supreme court appropriate means to implement this chapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.89(a), eff. Sept. 1, 1987. Amended by:

Acts 2023, 88th Leg., R.S., Ch. 716 (H.B. 2384), Sec. 4, eff. September 1, 2023.

Sec. 72.025. ANNUAL REPORT. (a) The director shall prepare an annual report of the activities of the office.

(b) The report must be published in the annual report of the Texas Judicial Council.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 72.026. RULES. The director, under the supervision of the chief justice, shall implement a rule of administration or other rules adopted by the supreme court for the efficient administration of justice.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.90(a), eff. Sept. 1, 1987.

Sec. 72.027. ADDITIONAL DUTIES. The supreme court or the chief justice of the supreme court may assign the director duties in addition to those imposed by this chapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.91(a), eff. Sept. 1, 1987.

Sec. 72.028. GIFTS, GRANTS, AND DONATIONS. (a) Except as provided by Subsection (b), the office may request, accept, and administer gifts, grants, and donations from any source to carry out the purposes of this chapter.

(b) The office may not request, accept, or administer a gift, grant, or donation from a law firm, an attorney, an employee of a law firm or attorney, or the spouse of an attorney or of an employee of a law firm or an attorney.

(c) In this section, "law firm" means a partnership, limited liability partnership, or professional corporation organized for the private practice of law.

Added by Acts 1997, 75th Leg., ch. 183, Sec. 1, eff. Sept. 1, 1997.

Sec. 72.029. GRANTS FOR COURT SYSTEM ENHANCEMENTS. (a) The

office shall develop and administer, except as provided by Subsection (c), a program to provide grants from available funds to counties for initiatives that will enhance their court systems or otherwise carry out the purposes of this chapter.

(b) To be eligible for a grant under this section, a county must:

(1) use the grant money to implement initiatives that will enhance the county's court system, including initiatives to develop programs to more efficiently manage cases that require special judicial attention, or otherwise carry out the purposes of this chapter; and

(2) apply for the grant in accordance with procedures developed by the office and comply with any other requirements of the office.

(c) The judicial committee for additional resources shall determine whether to award a grant to a county that meets the eligibility requirements prescribed by Subsection (b).

(d) If the judicial committee for additional resources awards a grant to a county, the office shall:

(1) direct the comptroller to distribute the grant money to the county; and

(2) monitor the county's use of the grant money.

(e) The office may accept gifts, grants, and donations for purposes of this section. The office may not use state funds to provide a grant under this section or to administer the grant program.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 8.01, eff. January 1, 2012.

Sec. 72.030. COLLECTION OF DATA RELATING TO JUDICIAL TURNOVER. (a) The office biennially shall collect data relating to:

(1) the rate at which state judges resign from office or do not seek reelection; and

(2) the reason for action under Subdivision (1).

(b) Not later than December 1 of each even-numbered year, the office shall file a report containing the data collected under Subsection (a) for the preceding state fiscal biennium with the governor, the lieutenant governor, the speaker of the house of

representatives, and the presiding officers of the standing committees of each house of the legislature with jurisdiction over the judiciary or appropriations.

(c) The report filed under Subsection (b) must include the following findings:

(1) whether the compensation of state judges exceeds, is equal to, or is less than the compensation of judges at corresponding levels in the five states closest in population to this state; and

(2) whether the compensation of state judges exceeds, is equal to, or is less than the average salary of lawyers engaged in the private practice of law.

(d) The purpose of filing the report with the legislature is to provide the legislature with information to facilitate legislation that ensures that the compensation of state judges is adequate and appropriate.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 3 (H.B. 11), Sec. 8, eff. December 1, 2005.

Sec. 72.031. ELECTRONIC FILING SYSTEM. (a) In this section:

(1) "Appellate court" means the supreme court, the court of criminal appeals, or a court of appeals.

(2) "Electronic filing system" means the filing system established by supreme court rule or order for the electronic filing of documents in courts of this state.

(3) "Electronic filing transaction" means the simultaneous electronic filing of one or more documents related to a proceeding before a court in this state.

(4) "Local government" means a county or municipality.

(5) "State court document database" means a database accessible by the public and established or authorized by the supreme court for storing documents filed with a court in this state.

(b) The office as authorized by supreme court rule or order may:

(1) implement an electronic filing system for use in the courts of this state;

(2) allow public access to view information or documents in the state court document database; and

(3) charge a reasonable fee for additional optional

features in the state court document database.

(d) A local government or appellate court that uses the electronic filing system may accept electronic payment methods, including payments made with credit and debit cards.

(e) A governmental entity not otherwise required to pay a filing fee under any other law may not be required to pay a fee established under this section.

(f) A court shall waive payment of any fee due under this section for an individual the court determines is indigent.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1290 (H.B. 2302), Sec. 3, eff. September 1, 2013.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 6.01, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 6.02, eff. September 1, 2021.

Sec. 72.032. BEST PRACTICES EDUCATION. The director shall make available to courts information concerning best practices for addressing the needs of persons with mental illness in the court system, including the use of the preferred terms and phrases provided by Section 392.002.

Added by Acts 2017, 85th Leg., R.S., Ch. 748 (S.B. 1326), Sec. 31, eff. September 1, 2017.

Sec. 72.033. LIST OF NEW OR AMENDED COURT COSTS AND FEES. The office biennially shall prepare and publish a list of new or amended court costs and fees as required by Section 51.607.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 9.03, eff. September 1, 2019.

Sec. 72.034. PUBLIC INFORMATION INTERNET WEBSITE. (a) In this section:

(1) "Public information" means citation, other related public or legal notice that a person, including a party to a cause of

action, is required to publish under a statute or rule, and any other information that the person submits for publication on the public information Internet website to effectuate service of citation by publication.

(2) "Public information Internet website" means the official statewide Internet website developed and maintained by the office under this section for the purpose of providing citation by publication.

(b) The office shall develop and maintain a public information Internet website that allows a person to easily publish public information on the Internet website or the office to post public information on the Internet website on receipt from the person.

(c) The public information Internet website shall allow the public to easily access, search, and sort the public information.

(d) The supreme court by rule shall establish procedures for the submission of public information to the public information Internet website by a person who is required to publish the information.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 9.03, eff. September 1, 2019.

Sec. 72.035. SETTLEMENT AGREEMENT DATABASE. (a) The office shall establish and maintain an electronic database that contains personal injury or wrongful death settlement agreements for which a minor or incapacitated person is the beneficiary. A party to the agreement or a guardian, next friend, or guardian ad litem may record the agreement in the database. Only one copy of an agreement may be filed by the parties or the guardian, next friend, or guardian ad litem in each settlement agreement.

(b) A settlement agreement recorded in the database is confidential, and the office shall ensure that a settlement agreement may be accessed only by:

(1) the parties to the settlement agreement;

(2) each attorney representing a party to the settlement agreement; or

(3) the guardian, next friend, or guardian ad litem of a party to the settlement agreement.

(c) The office may set and collect a fee to record a settlement

agreement in the database in an amount sufficient to cover the costs of maintaining the agreement in the database, not to exceed $50 for each agreement.

(d) Any fee to record a settlement agreement in the database established by the office as provided by Subsection (c) is a court cost to be included for payment in the settlement agreement.

Added by Acts 2019, 86th Leg., R.S., Ch. 743 (H.B. 770), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 72.034 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(12), eff. September 1, 2021.

Sec. 72.036. TRAINING ON EDUCATIONAL AND VOCATIONAL TRAINING PILOT PROGRAM. The office shall develop and annually provide a training program to educate and inform judges on the components of the pilot program established under Section 493.034.

Added by Acts 2021, 87th Leg., R.S., Ch. 1014 (H.B. 2352), Sec. 2, eff. September 1, 2021.

Sec. 72.037. TRANSFER CERTIFICATE AND INDEX OF TRANSFERRED DOCUMENTS FORM. (a) The office shall develop and make available a standardized transfer certificate and an index of transferred documents form to be used for the transfer of cases and proceedings under Sections 33.105 and 1023.006, Estates Code, Section 155.207, Family Code, and Sections 51.3071 and 51.403 of this code.

(b) In developing a form under this section, the office shall consult with representatives of county and district clerks.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 7.04, eff. September 1, 2021.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 256 (S.B. 1612), Sec. 15, eff. January 1, 2024.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 11.010, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 9, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 72.038. BAIL FORM. (a) The office shall promulgate a form to be completed by a magistrate, judge, sheriff, peace officer, or jailer who sets bail under Chapter 17, Code of Criminal Procedure, for a defendant charged with an offense punishable as a Class B misdemeanor or any higher category of offense. The office shall incorporate the completed forms into the public safety report system developed under Article 17.021, Code of Criminal Procedure.

(b) The form must:

(1) state the cause number of the case, if available, the defendant's name and date of birth, and the offense for which the defendant was arrested;

(2) state the name and the office or position of the person setting bail;

(3) require the person setting bail to:

(A) identify the bail type, the amount of the bail, and any conditions of bail;

(B) certify that the person considered each factor provided by Article 17.15(a), Code of Criminal Procedure; and

(C) certify that the person considered the information provided by the public safety report system; and

(4) be electronically signed by the person setting the bail.

(c) The person setting bail, an employee of the court that set the defendant's bail, or an employee of the county in which the defendant's bail was set must, on completion of the form required under this section, promptly but not later than 72 hours after the time the defendant's bail is set provide the form electronically to the office through the public safety report system.

(d) The office shall publish the information from each form submitted under this section in a database that is publicly accessible on the office's Internet website. Any identifying information or sensitive data, as defined by Rule 21c, Texas Rules of Civil Procedure, regarding the victim of an offense and any person's address or contact information shall be redacted and may not be published under this subsection.

Added by Acts 2021, 87th Leg., 2nd C.S., Ch. 11 (S.B. 6), Sec. 17,

eff. December 2, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Text of section as added by Acts 2023, 88th Leg., R.S., Ch. 1037 (S.B. 48), Sec. 8

For text of section as added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.023, see other Sec. 72.039.

Sec. 72.039. PROTECTIVE ORDER APPLICATIONS, FORMS, AND MATERIALS. (a) The office shall develop and make available on the office's Internet website standardized forms and other materials necessary to apply for, issue, deny, revise, rescind, serve, and enforce any of the following:

(1) a protective order under Title 4, Family Code, or Subchapter A, Chapter 7B, Code of Criminal Procedure;

(2) a magistrate's order for emergency protection under Article 17.292, Code of Criminal Procedure; or

(3) a temporary ex parte order under Chapter 83, Family Code, or Article 7B.002, Code of Criminal Procedure.

(b) Each standardized form developed under Subsection (a) to be used by a magistrate or court issuing an order must include:

(1) the prohibitions and requirements imposed on the respondent;

(2) the duration of the order;

(3) the potential consequences of violating the order; and

(4) any other admonishments or warnings required by law.

(c) The materials developed under Subsection (a) must include a procedure to ensure that a copy of the order is transmitted to all required parties and all relevant information required by Section 411.042(b)(6) is entered into the statewide law enforcement information system maintained by the Department of Public Safety under Section 411.042 and any other applicable databases.

(d) In developing the required applications, forms, and materials, the office shall:

(1) consult with individuals, organizations, and state agencies that have knowledge and experience in the issues of protective orders, including:

(A) the Texas Council on Family Violence;

(B) the Department of Public Safety;

(C) nonprofit organizations that advocate for the survivors of sexual assault or family violence;

(D) individuals, organizations, and state agencies that provide training to judges, prosecutors, and law enforcement officers;

(E) the judges or justices of courts of varying jurisdictions;

(F) law enforcement agencies;

(G) prosecutors; and

(H) an organization that receives federal funding under the legal assistance for victims grant program and that has expertise in issues related to family violence, sexual assault, or stalking; and

(2) give consideration to promoting uniformity of law among the states that enact the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

Added by Acts 2023, 88th Leg., R.S., Ch. 1037 (S.B. 48), Sec. 8, eff. June 18, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Text of section as added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.023

For text of section as added by Acts 2023, 88th Leg., R.S., Ch. 1037 (S.B. 48), Sec. 8, see other Sec. 72.039.

Sec. 72.039. DISTRICT COURT CASELOAD ANALYSIS. (a) In this section:

(1) "Clearance rate" has the meaning assigned by Section 72.083.

(2) "Judicial officer" means a district judge or an associate judge, master, magistrate, or referee who conducts proceedings for district courts.

(b) The office at least once every two years shall conduct a district court caseload analysis. The analysis must concentrate on

the weighted caseload of the district courts in the 30 most populous counties in this state, considering the nature and complexity of cases heard by each court, and include the following information, disaggregated by county:

(1) the number of cases filed in each district court with jurisdiction in the county in each of the preceding five state fiscal years;

(2) the clearance rate for each district court with jurisdiction in the county in each of the preceding five state fiscal years;

(3) the number of estimated full-time equivalent judicial officers serving district courts in the county in the preceding state fiscal year;

(4) the number of full-time equivalent judicial officers needed to serve the district courts in the county based on the most recent weighted caseload analysis;

(5) the calendar year for creation of the most recently created district court in the county; and

(6) any other relevant information identified by the director.

(c) Not later than October 1 of each even-numbered year, the office shall report the results of the analysis conducted under Subsection (b) to the governor, the lieutenant governor, and each member of the legislature.

Added by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.023, eff. September 1, 2023.

SUBCHAPTER D. JUDICIAL LAW CLERK AND STAFF ATTORNEY RECRUITMENT

Sec. 72.041. DIVERSITY. The judges of the supreme court, court of criminal appeals, and courts of appeals shall encourage the recruitment of judicial law clerks and staff attorneys that reflect the gender, racial, and ethnic diversity of this state.

Added by Acts 1997, 75th Leg., ch. 1327, Sec. 2, eff. Sept. 1, 1997.

Sec. 72.042. DEMOGRAPHIC CENSUS. (a) The office shall annually publish a report regarding the demographic profile of the judicial law clerks and attorneys employed by the courts of this

state.

(b) The office may request that a court provide demographic information to the office.

Added by Acts 1997, 75th Leg., ch. 1327, Sec. 2, eff. Sept. 1, 1997.

SUBCHAPTER E. COURT PERFORMANCE STANDARDS

Sec. 72.081. RULES. The office shall adopt rules and forms for administering this subchapter and for obtaining information under this subchapter.

Added by Acts 1997, 75th Leg., ch. 1327, Sec. 3, eff. Sept. 1, 1997.

Sec. 72.082. PERFORMANCE REPORT. The office shall annually collect and publish a performance report of information regarding the efficiency of the courts of this state. The report must include disaggregated performance measures for each appellate court, district court, statutory county court, statutory probate court, and county court.

Added by Acts 1997, 75th Leg., ch. 1327, Sec. 3, eff. Sept. 1, 1997.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 716 (H.B. 2384), Sec. 5, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 72.083. TRIAL COURTS. (a) In this section, "clearance rate" means the number of cases disposed of by a court divided by the number of cases added to the docket of the court.

(b) The office shall annually report the following performance measures for each district court, statutory county court, statutory probate court, and county court:

(1) the court's clearance rate;

(2) the average time a case is before the court from filing to disposition; and

(3) the age of the court's active pending caseload.

Added by Acts 1997, 75th Leg., ch. 1327, Sec. 3, eff. Sept. 1, 1997.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 716 (H.B. 2384), Sec. 6, eff. September 1, 2023.

Sec. 72.084. COURT OF APPEALS. Each month, a court of appeals shall report to the office:

(1) the number of cases filed with the court during the reporting month;

(2) the number of cases disposed of by the court during the reporting month;

(3) for active cases on the docket of the court on the reporting date, the average number of days from the date of submission of the case to the court until the reporting date; and

(4) for each case disposed of during the reporting month by the court, the number of days from the date of submission of the case to the court until the date of disposition of the case by the court.

Added by Acts 1997, 75th Leg., ch. 1327, Sec. 3, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1203 (S.B. 1455), Sec. 6, eff. September 1, 2015.

Sec. 72.085. COURT OF CRIMINAL APPEALS. The court of criminal appeals shall annually report to the office:

(1) the number of cases filed with the court during the reporting year involving:

(A) capital punishment;

(B) an application for writ of habeas corpus; or

(C) a petition for discretionary review;

(2) the number of cases disposed of by the court during the reporting year involving:

(A) capital punishment;

(B) an application for writ of habeas corpus; or

(C) a petition for discretionary review;

(3) the average number of days from the date a case was filed with the court until the reporting date, for each active case on the docket of the court on the reporting date involving:

(A) capital punishment;
(B) an application for writ of habeas corpus; or
(C) a petition for discretionary review; and
(4) the average number of days from the date a case was filed with the court until the date the case was disposed of by the court, for each case disposed of during the reporting year by the court involving:
(A) capital punishment;
(B) an application for writ of habeas corpus; or
(C) a petition for discretionary review.

Added by Acts 1997, 75th Leg., ch. 1327, Sec. 3, eff. Sept. 1, 1997.

Sec. 72.086. SUPREME COURT. (a) The supreme court shall annually report to the office:
(1) the number of cases filed with the court during the reporting year;
(2) the number of cases disposed of by the court during the reporting year;
(3) for the active cases on the docket of the court on the reporting date, the average number of days from the date a case was filed with the court until the reporting date; and
(4) for the cases disposed of during the reporting year by the court, the average number of days from the date a case was filed with the court until the date of release of the court's opinion for the case or the date the case was otherwise disposed of by the court.
(b) For cases on the docket of the court during the reporting year, the supreme court shall annually report to the office:
(1) the average number of days from the date a case is filed with the court until the date the court releases an order announcing its decision granting, overruling, denying, or dismissing an application, petition, or motion;
(2) the average number of days from the date of the granting of an application, petition, or motion until the date of oral argument of the case;
(3) the average number of days from the date of the oral argument of the case until the date the court issues a signed opinion and judgment for the case; and
(4) the average number of days from the date of filing of a

case with the court until the date of the release of a per curiam opinion.

Added by Acts 1997, 75th Leg., ch. 1327, Sec. 3, eff. Sept. 1, 1997.

Sec. 72.087. CAPITAL TRIALS. (a) The office shall annually collect and publish a report of information regarding cases involving the trial of a capital offense.

(b) The report must include:

(1) the contents of the trial court's charge to the jury; and

(2) the sentence issued in each case.

(c) Not later than the 30th day after the date the judgment of conviction or acquittal is entered in a case involving the trial of a capital offense, the judge or clerk of the court shall submit to the office a written record of the case containing the information required by Subsection (b).

Added by Acts 2007, 80th Leg., R.S., Ch. 390 (S.B. 705), Sec. 1, eff. September 1, 2007.

SUBCHAPTER F. PROTECTIVE ORDER REGISTRY

Sec. 72.151. DEFINITIONS. In this subchapter:

(1) "Authorized user" means a person to whom the office has given permission and the means to submit records to or modify or remove records in the registry. The term does not include members of the public who may only access through the registry's Internet website certain information regarding protective orders entered into the registry.

(2) "Peace officer" has the meaning assigned by Article 2A.001, Code of Criminal Procedure.

(3) "Protective order" means:

(A) an order issued by a court in this state under Chapter 83 or 85, Family Code, to prevent family violence, as defined by Section 71.004, Family Code;

(B) an order issued by a court in this state under Subchapter A, Chapter 7B, Code of Criminal Procedure, to prevent sexual assault or abuse, stalking, trafficking, or other harm to the applicant; or

(C) a magistrate's order for emergency protection issued under Article 17.292, Code of Criminal Procedure, with respect to a person who is arrested for an offense involving family violence.

(4) "Protective order registry" or "registry" means the protective order registry established under Section 72.153.

(5) "Race or ethnicity" means a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

Added by Acts 2019, 86th Leg., R.S., Ch. 16 (S.B. 325), Sec. 1, eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 13.01, eff. September 1, 2021.
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.074, eff. January 1, 2025.

Sec. 72.152. APPLICABILITY. This subchapter applies only to:

(1) an application for a protective order filed under:

(A) Chapter 82, Family Code;

(B) Subchapter A, Chapter 7B, Code of Criminal Procedure; or

(C) Article 17.292, Code of Criminal Procedure, with respect to a person who is arrested for an offense involving family violence; and

(2) a protective order issued under:

(A) Chapter 83 or 85, Family Code;

(B) Subchapter A, Chapter 7B, Code of Criminal Procedure; or

(C) Article 17.292, Code of Criminal Procedure, with respect to a person who is arrested for an offense involving family violence.

Added by Acts 2019, 86th Leg., R.S., Ch. 16 (S.B. 325), Sec. 1, eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 13.02, eff. September 1, 2021.

Sec. 72.153. PROTECTIVE ORDER REGISTRY. (a) In consultation with the Department of Public Safety and the courts of this state, the office shall establish and maintain a centralized Internet-based registry for applications for protective orders filed in this state and protective orders issued in this state.

(b) The office shall establish and maintain the registry in a manner that allows municipal and county case management systems to easily interface with the registry.

Added by Acts 2019, 86th Leg., R.S., Ch. 16 (S.B. 325), Sec. 1, eff. September 1, 2019.

Sec. 72.154. PUBLIC ACCESS TO PROTECTIVE ORDER REGISTRY. (a) Subject to Subsections (c) and (d) and Section 72.158, the office shall establish and maintain the registry in a manner that allows a member of the public, free of charge, to electronically search for and receive publicly accessible information contained in the registry regarding each protective order issued in this state. The registry must be searchable by:

(1) the county of issuance;

(2) the name of a person who is the subject of the protective order;

(3) any known common misspellings of the name of a person who is the subject of the protective order;

(4) any known aliases of a person who is the subject of the protective order; and

(5) the birth year of a person who is the subject of the protective order.

(b) Publicly accessible information regarding each protective order must consist of the following:

(1) the court that issued the protective order;

(2) the case number;

(3) the full name, county of residence, birth year, and race or ethnicity of the person who is the subject of the protective order;

(4) the dates the protective order was issued and served; and

(5) the date the protective order expired or will expire, as applicable.

(c) A member of the public may only access the information in the registry described by Subsection (b).

(d) The office may not allow a member of the public to access through the registry any information related to:

(1) a protective order issued under Article 7B.002 or 17.292, Code of Criminal Procedure, or Chapter 83, Family Code; or

(2) a protective order that was vacated.

Added by Acts 2019, 86th Leg., R.S., Ch. 16 (S.B. 325), Sec. 1, eff. September 1, 2019.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 13.03, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 612 (H.B. 3698), Sec. 1, eff. September 1, 2023.

Sec. 72.155. RESTRICTED ACCESS TO PROTECTIVE ORDER REGISTRY. (a) The registry must include a copy of each application for a protective order filed in this state and a copy of each protective order issued in this state, including an expired order, or a vacated order other than an order that was vacated as the result of an appeal or bill of review from a district or county court. Only an authorized user, the attorney general, a district attorney, a criminal district attorney, a county attorney, a municipal attorney, a magistrate, or a peace officer may access that information under the registry.

(b) The office shall ensure that an authorized user, the attorney general, a district attorney, a criminal district attorney, a county attorney, a municipal attorney, a magistrate, or a peace officer is able to search for and receive a copy of a filed application for a protective order or a copy of an issued protective order through the registry's Internet website.

Added by Acts 2019, 86th Leg., R.S., Ch. 16 (S.B. 325), Sec. 1, eff. September 1, 2019.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 13.04, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 612 (H.B. 3698), Sec. 2, eff. September 1, 2023.

Sec. 72.156. ENTRY OF APPLICATIONS. (a) Except as provided by Subsection (b), as soon as possible but not later than 24 hours after the time an application for a protective order is filed, the clerk of the court shall enter a copy of the application into the registry.

(b) A clerk may delay entering information under Subsection (a) into the registry only to the extent that the clerk lacks the specific information required to be entered.

(c) The office shall ensure that a member of the public is not able to access through the registry's Internet website the application or any information related to the application entered into the registry under Subsection (a).

Added by Acts 2019, 86th Leg., R.S., Ch. 16 (S.B. 325), Sec. 1, eff. September 1, 2019.

Sec. 72.157. ENTRY OF ORDERS. (a) Except as provided by Subsection (c), as soon as possible but not later than 24 hours after the time a court issues an original or modified protective order or extends the duration of a protective order, the clerk of the court shall enter into the registry:

(1) a copy of the order and, if applicable, a notation regarding any modification or extension of the order; and

(2) the information required under Section 72.154(b).

(b) Except as provided by Subsection (b-1), for a protective order that is vacated or that has expired, the clerk of the applicable court shall modify the record of the order in the registry to reflect the order's status as vacated or expired. The clerk shall ensure that a record of a vacated order is not accessible by the public.

(b-1) For a protective order that is vacated as the result of an appeal or bill of review from a district or county court, the clerk of the applicable court shall notify the office not later than the end of the next business day after the date the protective order was vacated. The office shall remove the record of the order from the registry not later than the third business day after the date the notice from the clerk was received.

(c) A clerk may delay entering information under Subsection (a)

into the registry only to the extent that the clerk lacks the specific information required to be entered.

Added by Acts 2019, 86th Leg., R.S., Ch. 16 (S.B. 325), Sec. 1, eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 13.05, eff. September 1, 2021.

Sec. 72.158. REQUEST FOR GRANT OR REMOVAL OF PUBLIC ACCESS. (a) The office shall ensure that the public may access information about protective orders, other than information about vacated orders or orders under Article 7B.002 or 17.292, Code of Criminal Procedure, or Chapter 83, Family Code, through the registry, only if:

(1) a protected person requests that the office grant the public the ability to access the information described by Section 72.154(b) for the order protecting the person; and

(2) the office approves the request.

(b) A person whose request under Subsection (a) was approved by the office may request that the office remove the ability of the public to access the information that was the subject of the person's earlier approved request. Not later than the third business day after the office receives a request under this subsection, the office shall remove the ability of the public to access the information.

(c) The Supreme Court of Texas:

(1) shall prescribe a form for use by a person requesting a grant or removal of public access as described by Subsections (a) and (b); and

(2) by rule may prescribe procedures for requesting a grant or removal of public access as described by Subsections (a) and (b).

Added by Acts 2019, 86th Leg., R.S., Ch. 16 (S.B. 325), Sec. 1, eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 13.06, eff. September 1, 2021.

SUBCHAPTER G. GUARDIANSHIP ABUSE, FRAUD, AND EXPLOITATION DETERRENCE PROGRAM

Sec. 72.121. DEFINITIONS. In this subchapter:

(1) "Estate" has the meaning assigned by Section 1002.010, Estates Code.

(1-a) "Financial institution" has the meaning assigned by Section 201.101, Finance Code.

(1-b) "Guardianship proceeding" has the meaning assigned by Section 1002.015, Estates Code.

(2) "Program" means the guardianship abuse, fraud, and exploitation deterrence program established by this subchapter.

(3) "Ward" has the meaning assigned by Section 1002.030, Estates Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1226 (S.B. 31), Sec. 1, eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 181 (S.B. 692), Sec. 1, eff. May 30, 2021.

Sec. 72.122. ESTABLISHMENT OF PROGRAM. (a) The office shall establish and maintain a guardianship abuse, fraud, and exploitation deterrence program designed to provide additional resources and assistance to courts that have jurisdiction over guardianship proceedings by:

(1) engaging guardianship compliance specialists who shall:

(A) review the guardianships of wards and identify reporting deficiencies by guardians;

(B) audit annual accounts required to be filed by guardians under Chapter 1163, Estates Code, or other law and report their findings to the appropriate courts;

(C) work with courts to develop best practices in managing guardianship cases; and

(D) report to the appropriate courts any concerns of potential abuse, fraud, or exploitation, including financial exploitation, committed against a ward and discovered as a result of the specialists' work under this section; and

(2) maintaining an electronic database to monitor filings of:

(A) inventories, appraisements, and lists of claims required under Chapter 1154, Estates Code, or Section 1203.203,

Estates Code;

(B) annual reports required under Section 1163.101, Estates Code; and

(C) any other reports and accounts required of guardians under Chapter 1163, Estates Code, or other law.

(b) A court is required to participate in the program, including allowing guardianship compliance specialists to conduct reviews and audits under the program, if the court is selected by the office to participate in the program.

(c) A court may apply to the office in the manner and form prescribed by the office for participation in the program.

Added by Acts 2019, 86th Leg., R.S., Ch. 1226 (S.B. 31), Sec. 1, eff. September 1, 2019.

Sec. 72.1221. PROGRAM ACCESS TO FINANCIAL RECORDS. (a) To the extent allowed and in the manner required by federal law, a financial institution or other person, as applicable, shall on request provide the program with access to financial institution records, accounting records, and other financial records concerning a ward or the ward's estate, including receipts, records of deposits and withdrawals, invoices, bills, and any other records of transactions involving the money or assets of a ward or the ward's estate, for purposes of conducting reviews and audits under the program.

(b) The program may request the court in which the guardianship is pending to order a financial institution or other person who possesses the records described by Subsection (a) to provide the records to the program.

(c) After notice and a hearing, the court may issue an order requiring the financial institution or other person to provide the records to the program under the conditions the court prescribes.

Added by Acts 2021, 87th Leg., R.S., Ch. 181 (S.B. 692), Sec. 2, eff. May 30, 2021.

Sec. 72.123. NOTIFICATION OF STATE COMMISSION ON JUDICIAL CONDUCT. The director may notify the State Commission on Judicial Conduct in writing if the office has reason to believe that a judge's actions or failure to act with respect to a report received from a

guardianship compliance specialist indicating a concern described by Section 72.122(a)(1)(D) constitutes judicial misconduct.

Added by Acts 2019, 86th Leg., R.S., Ch. 1226 (S.B. 31), Sec. 1, eff. September 1, 2019.

Sec. 72.124. ANNUAL REPORT. Not later than January 1 of each year, the office shall submit a report to the legislature regarding the performance of the program. The report must include:

(1) the number of courts involved in the program;

(2) the number of guardianships reviewed by guardianship compliance specialists;

(3) the number of reviewed guardianship cases found to be out of compliance with statutory reporting requirements;

(4) the number of cases reported to a court concerning potential abuse, fraud, or exploitation, including financial exploitation, committed against a ward; and

(5) the status of any technology developed to monitor guardianship cases for purposes of the program.

Added by Acts 2019, 86th Leg., R.S., Ch. 1226 (S.B. 31), Sec. 1, eff. September 1, 2019.

CHAPTER 73. ADMINISTRATION OF COURTS OF APPEALS

SUBCHAPTER A. TRANSFER OF CASES

Sec. 73.001. AUTHORITY TO TRANSFER. (a) Except as provided by Subsection (b), the supreme court may order cases transferred from one court of appeals to another at any time that, in the opinion of the supreme court, there is good cause for the transfer.

(b) The supreme court may not transfer any case or proceeding properly filed in the Court of Appeals for the Fifteenth Court of Appeals District to another court of appeals for the purpose of equalizing the dockets of the courts of appeals.

(c) The supreme court shall adopt rules for:

(1) transferring an appeal inappropriately filed in the Fifteenth Court of Appeals to a court of appeals with jurisdiction over the appeal; and

(2) transferring to the Fifteenth Court of Appeals from another court of appeals the appeals over which the Fifteenth Court

of Appeals has exclusive intermediate appellate jurisdiction under Section 22.220(d).

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 459 (S.B. 1045), Sec. 1.08, eff. September 1, 2023.

Sec. 73.002. JURISDICTION WHEN TRANSFERRED. (a) The court of appeals to which a case is transferred has jurisdiction of the case without regard to the district in which the case originally was tried and to which it is returnable on appeal.

(b) The court to which a case is transferred shall deliver, enter, and render the opinions, orders, and decisions in a transferred case at the place where the court to which the case is transferred regularly sits as provided by law.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 73.003. ORAL ARGUMENT. (a) Except as provided by Subsections (b) and (e), the justices of the court of appeals to which a case is transferred shall hear oral argument, after due notice to the parties or their attorneys, at the place from which the case is originally transferred.

(b) If requested by all parties or their attorneys, the oral argument in a transferred case may be heard in the regular place of the court to which the case is transferred.

(c) If a case is transferred to a court that regularly sits not more than 35 miles from the place the court from which the case was transferred regularly sits, the court, at the discretion of its chief justice and after notice to the parties or their counsel, may hear oral arguments at the place it regularly sits. For purposes of this subsection, the place where a court of appeals regularly sits is that specified in Subchapter C, Chapter 22, and the mileage between the places is that determined by the comptroller under Chapter 660.

(d) The actual and necessary traveling and living expenses of the justices in hearing an oral argument at the place from which the case is transferred shall be paid by the state from funds appropriated for that purpose.

(e) At the discretion of its chief justice, a court to which a case is transferred may hear oral argument through the use of teleconferencing technology as provided by Section 22.302. The court and the parties or their attorneys may participate in oral argument from any location through the use of teleconferencing technology. The actual and necessary expenses of the court in hearing an oral argument through the use of teleconferencing technology shall be paid by the state from funds appropriated for the transfer of case, as specified in Subsection (d).

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.92(a), eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(106), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 732, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1085, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 74. COURT ADMINISTRATION ACT

SUBCHAPTER A. CHIEF JUSTICE

Sec. 74.001. MEETINGS. (a) The chief justice shall call and preside over an annual meeting of the presiding judges of the administrative judicial regions on a date and at a time and place in the state designated by the chief justice.

(b) The chief justice may call and convene additional meetings of the regional presiding judges or local administrative judges that he considers necessary for the promotion of the orderly and efficient administration of justice.

(c) At the meetings, the judges shall:

(1) study the statistics reflecting the condition of the dockets of the courts of the state to determine the need for the assignment of judges under Subchapter C;

(2) compare the regional and local rules of court to achieve the uniformity of rules that is practicable and consistent with local conditions;

(3) consider uniformity in the administration of this chapter in the various administrative regions; and

(4) promote more effective administration of justice through the use of this chapter.

(d) The expenses of the judges attending these meetings shall be paid as provided by Sections 74.043 and 74.061.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, S.B. 2127 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 74.003. ASSIGNMENT OF JUSTICES AND JUDGES FOR APPELLATE COURTS. (a) The chief justice of the supreme court may temporarily assign a justice of a court of appeals to another court of appeals regardless of whether a vacancy exists in the court of appeals to which the justice is assigned.

(b) The chief justice of the supreme court may assign a qualified former or retired justice or judge of the supreme court, of the court of criminal appeals, or of a court of appeals to a court of appeals for active service regardless of whether a vacancy exists in the court to which the justice or judge is assigned. To be eligible for assignment under this subsection, a former or retired justice or judge must:

(1) have served as an active justice or judge for at least 96 months in a district, statutory probate, statutory county, or appellate court, with at least 48 of those months in an appellate court;

(2) not have been removed from office;

(3) certify under oath to the chief justice of the supreme court, on a form prescribed by the chief justice, that:

(A) the justice or judge has never been publicly reprimanded or censured by the State Commission on Judicial Conduct; and

(B) the justice or judge:

(i) did not resign or retire from office after the State Commission on Judicial Conduct notified the justice or judge of the commencement of a full investigation into an allegation or appearance of misconduct or disability of the justice or judge as

provided in Section 33.022 and before the final disposition of that investigation; or

(ii) if the justice or judge did resign from office under circumstances described by Subparagraph (i), the justice or judge was not publicly reprimanded or censured as a result of the investigation;

(4) annually demonstrate that the justice or judge has completed in the past state fiscal year the educational requirements for active appellate court justices or judges; and

(5) certify to the chief justice of the supreme court a willingness not to appear and plead as an attorney in any court in this state for a period of two years.

(c) An active, former, or retired justice or judge assigned as provided by this section out of the county of the justice's or judge's residence is entitled to receive the same expenses and per diem as those allowed a district judge assigned as provided by Subchapter C. The state shall pay the expenses and per diem on certificates of approval by the chief justice of the supreme court or the chief justice of the court of appeals to which the justice or judge is assigned. The compensation authorized by this subsection is in addition to all other compensation authorized by law.

(d) An active justice assigned out of the county of his residence as provided by this section is entitled to receive, pro rata for the time serving on assignment, supplemental compensation from the county or counties paying supplemental compensation under Chapter 31 to an associate justice of the court of appeals to which the justice is assigned.

(e) A retired justice or judge assigned as provided by this section is entitled to receive, pro rata for the time serving on assignment, from money appropriated from the general revenue fund for that purpose, an amount equal to the compensation received from state and county sources by a justice of the court of appeals to which assigned. A former justice or judge assigned as provided by this section is entitled to receive, pro rata for the time serving on assignment, from money appropriated from the general revenue fund for that purpose, an amount equal to the compensation from the state received by a justice of the court of appeals to which assigned, and from county sources, an amount equal to the compensation received from county sources by a justice of the court of appeals to which assigned. For purposes of determining the amount to be paid to a

former or retired justice or judge under this subsection, the compensation received from the state by a justice of the court of appeals to which the retired justice or judge is assigned is the amount equal to the state base salary paid to a justice of that court of appeals as set by the General Appropriations Act in accordance with Section 659.012(a).

(f) For the purposes of Subsection (b)(1), a month of service is calculated as a calendar month or a portion of a calendar month in which a justice or judge was authorized by election or appointment to preside.

(g) Subsection (b)(1) does not apply to a retired justice of the supreme court.

(h) Notwithstanding any other provision of law, an active district court judge may be assigned to hear a matter pending in an appellate court.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 785, Sec. 1, 7, eff. June 16, 1991; Acts 2003, 78th Leg., ch. 315, Sec. 7, 8, eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 13, eff. September 1, 2019.

Sec. 74.004. SUPERVISION OF OFFICE OF COURT ADMINISTRATION. The chief justice shall direct and supervise the office of court administration.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

Sec. 74.005. APPOINTMENT OF PRESIDING JUDGES OF ADMINISTRATIVE JUDICIAL REGIONS. (a) The governor, with the advice and consent of the senate, shall appoint one judge in each administrative judicial region as presiding judge of the region.

(b) On the death, resignation, removal, or expiration of the term of office of a presiding judge, the governor immediately shall appoint or reappoint a presiding judge.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 7.01, eff. January 1, 2012.

Sec. 74.006. SUPREME COURT DUTIES. The chief justice shall ensure that the supreme court executes and implements the court's administrative duties and responsibilities under this chapter.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

Sec. 74.007. COMMITTEES. The chief justice, subject to the approval of the supreme court, shall name and appoint members to committees necessary or desirable for the efficient administration of justice or to carry out the provisions of this chapter.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

SUBCHAPTER B. SUPREME COURT

Sec. 74.021. SUPERVISORY AND ADMINISTRATIVE CONTROL. The supreme court has supervisory and administrative control over the judicial branch and is responsible for the orderly and efficient administration of justice.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

Sec. 74.022. CHANGES IN NUMBER OF COURTS. (a) The supreme court shall assess the need for adding, consolidating, eliminating, or reallocating existing appellate courts.

(b) The supreme court shall promulgate rules, regulations, and criteria to be used in assessing those needs.

(c) The supreme court shall recommend to the regular session of the legislature convening in the third year following the year in

which the federal decennial census is taken any needed changes in the number or allocation of those courts.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 639, Sec. 1, eff. Sept. 1, 1995.

Sec. 74.023. DIRECTOR OF OFFICE OF COURT ADMINISTRATION. (a) The supreme court shall appoint the administrative director of the courts for the office of court administration.

(b) The director serves at the pleasure of the supreme court and shall be subordinate to, and act by the authority and under the direction of, the chief justice.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 74.024. RULES. (a) The supreme court may adopt rules of administration setting policies and guidelines necessary or desirable for the operation and management of the court system and for the efficient administration of justice.

(b) The supreme court shall request the advice of the court of criminal appeals before adopting rules affecting the administration of criminal justice.

(c) The supreme court may consider the adoption of rules relating to:

(1) nonbinding time standards for pleading, discovery, motions, and dispositions;

(2) nonbinding dismissal of inactive cases from dockets, if the dismissal is warranted;

(3) attorney's accountability for and incentives to avoid delay and to meet time standards;

(4) penalties for filing frivolous motions;

(5) firm trial dates;

(6) restrictive devices on discovery;

(7) a uniform dockets policy;

(8) formalization of settlement conferences or settlement programs;

(9) standards for selection and management of nonjudicial personnel;

(10) transfer of related cases for consolidated or coordinated pretrial proceedings; and

(11) the conducting of proceedings under Rule 11, Rules of Judicial Administration, by a district court outside the county in which the case is pending.

(d) Any rules adopted under this section remain in effect unless and until disapproved by the legislature. The clerk of the supreme court shall file with the secretary of state the rules or any amendments to the rules adopted by the supreme court under this section and shall mail a copy of the rules and any amendments to each registered member of the State Bar not later than the 120th day before the date on which they become effective. The supreme court shall allow a period of 60 days for review and comment on the rules and any amendments. The clerk of the supreme court shall report the rules or amendments to the rules to the next regular session of the legislature by mailing a copy of the rules or amendments to the rules to each elected member of the legislature on or before December 1 immediately preceding the session.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 2.01, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 204, Sec. 3.01, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 747, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 8.001, eff. September 1, 2005.

Sec. 74.025. EDUCATION PROGRAMS. The court of criminal appeals shall, if adequate funding is available for education programs for judges and court personnel, ensure that adequate education programs are available on an equitable basis for judges and court personnel of courts created under the constitution and laws of this state.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 2.10, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 896, Sec. 7, eff. Sept.

1, 1993.

SUBCHAPTER C. ADMINISTRATIVE JUDICIAL REGIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40 and S.B. 2127, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 74.041. DEFINITIONS. In this chapter:

(1) "Administrative region" means an administrative judicial region created by Section 74.042.

(2) "Presiding judge" means the presiding judge of an administrative region.

(3) "Retiree" means a person who has retired under the Judicial Retirement System of Texas, the Judicial Retirement System of Texas Plan One, or the Judicial Retirement System of Texas Plan Two.

(4) "Active judge" means a person who is a current judicial officeholder.

(5) "Former judge" means a person who has served as an active judge in a district, statutory probate, statutory county, or appellate court, but who is not a retired judge.

(6) "Retired judge" means:

(A) a retiree; or

(B) a person who served as an active judge for at least 96 months in a statutory probate or statutory county court and has retired under the Texas County and District Retirement System.

(7) "Senior judge" means a retiree who has elected to be a judicial officer under Section 75.001.

Renumbered from Sec. 74.001 and amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 646, Sec. 6, eff. Aug. 28, 1989; Acts 2003, 78th Leg., ch. 315, Sec. 9, eff. Sept. 1, 2003.

Sec. 74.042. ADMINISTRATIVE REGIONS. (a) The state is divided into 11 administrative judicial regions.

(b) The First Administrative Judicial Region is composed of the counties of Collin, Dallas, Ellis, Fannin, Grayson, Kaufman, and

Rockwall.

(c) The Second Administrative Judicial Region is composed of the counties of Angelina, Bastrop, Brazos, Burleson, Chambers, Grimes, Hardin, Jasper, Jefferson, Lee, Liberty, Madison, Montgomery, Newton, Orange, Polk, San Jacinto, Trinity, Tyler, Walker, Waller, and Washington.

(d) The Third Administrative Judicial Region is composed of the counties of Austin, Bell, Blanco, Bosque, Burnet, Caldwell, Colorado, Comal, Comanche, Coryell, Falls, Fayette, Gonzales, Guadalupe, Hamilton, Hays, Hill, Lampasas, Lavaca, Llano, McLennan, Milam, Navarro, Robertson, San Saba, Travis, and Williamson.

(e) The Fourth Administrative Judicial Region is composed of the counties of Aransas, Atascosa, Bee, Bexar, Calhoun, DeWitt, Dimmit, Frio, Goliad, Jackson, Karnes, LaSalle, Live Oak, Maverick, McMullen, Refugio, San Patricio, Victoria, Webb, Wilson, Zapata, and Zavala.

(f) The Fifth Administrative Judicial Region is composed of the counties of Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, Nueces, Starr, and Willacy.

(g) The Sixth Administrative Judicial Region is composed of the counties of Bandera, Brewster, Crockett, Culberson, Edwards, El Paso, Gillespie, Hudspeth, Jeff Davis, Kendall, Kerr, Kimble, Kinney, Mason, McCulloch, Medina, Menard, Pecos, Presidio, Reagan, Real, Sutton, Terrell, Upton, Uvalde, and Val Verde.

(h) The Seventh Administrative Judicial Region is composed of the counties of Andrews, Borden, Brown, Callahan, Coke, Coleman, Concho, Crane, Dawson, Ector, Fisher, Gaines, Garza, Glasscock, Haskell, Howard, Irion, Jones, Kent, Loving, Lynn, Martin, Midland, Mills, Mitchell, Nolan, Reeves, Runnels, Schleicher, Scurry, Shackelford, Sterling, Stonewall, Taylor, Throckmorton, Tom Green, Ward, and Winkler.

(i) The Eighth Administrative Judicial Region is composed of the counties of Archer, Clay, Cooke, Denton, Eastland, Erath, Hood, Jack, Johnson, Montague, Palo Pinto, Parker, Somervell, Stephens, Tarrant, Wichita, Wise, and Young.

(j) The Ninth Administrative Judicial Region is composed of the counties of Armstrong, Bailey, Baylor, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, King, Knox, Lamb,

Lipscomb, Lubbock, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Terry, Wheeler, Wilbarger, and Yoakum.

(k) The Tenth Administrative Judicial Region is composed of the counties of Anderson, Bowie, Camp, Cass, Cherokee, Delta, Franklin, Freestone, Gregg, Harrison, Henderson, Hopkins, Houston, Hunt, Lamar, Leon, Limestone, Marion, Morris, Nacogdoches, Panola, Rains, Red River, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt, and Wood.

(l) The Eleventh Administrative Judicial Region is composed of the counties of Brazoria, Fort Bend, Galveston, Harris, Matagorda, and Wharton.

Renumbered from Sec. 74.002 and amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 623, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 43, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1059 (H.B. 3153), Sec. 1.03(e), eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 954 (S.B. 1893), Sec. 2, eff. September 1, 2017.

Sec. 74.043. FACILITIES; FUNDING. (a) Adequate quarters for the operation of each administrative region and the preservation of its records shall be provided in the courthouse of the county in which the presiding judge resides.

(b) Except for the salaries, compensation, and expenses provided by state appropriations, the counties composing the administrative region shall pay, out of the general funds of the counties, the salaries, compensation, and expenses authorized and incurred to administer this chapter, including expenses for the purchase of professional liability insurance policies for regional presiding judges.

(c) Except as provided by Section 74.051, the salaries, compensation, and expenses shall be paid through the county budget process of each county in the region in proportion to the population of the counties comprising the region and on certificates of approval of the presiding judge.

Renumbered from Sec. 74.003 and amended by Acts 1987, 70th Leg., ch. 674, Sec. 2.02, eff. Aug. 31, 1987.

Sec. 74.044. TERM OF PRESIDING JUDGE. A presiding judge serves for a term of office of four years from the date of qualification as the presiding judge.

Renumbered from Sec. 74.012 and amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 74.045. QUALIFICATIONS OF PRESIDING JUDGE. (a) A presiding judge must be at the time of appointment:

(1) a regularly elected or retired district judge;

(2) a former judge with at least 12 years of service as a district judge; or

(3) a retired appellate judge with judicial experience on a district court.

(b) If the judge is retired, he must have voluntarily retired from office, must reside within the administrative region, and must have certified his willingness to serve.

Renumbered from Sec. 74.013 and amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 656, Sec. 1, eff. Aug. 26, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 74.046. DUTIES OF PRESIDING JUDGE. (a) A presiding judge shall:

(1) ensure the promulgation of regional rules of administration within policies and guidelines set by the supreme court;

(2) advise local judges on case flow management and

auxiliary court services;

(3) recommend to the chief justice of the supreme court any needs for judicial assignments from outside the region;

(4) recommend to the supreme court any changes in the organization, jurisdiction, operation, or procedures of the region necessary or desirable for the improvement of the administration of justice;

(5) act for a local administrative judge when the local administrative judge does not perform the duties required by Subchapter D;

(6) implement and execute any rules adopted by the supreme court under this chapter;

(7) provide the supreme court or the office of court administration statistical information requested; and

(8) perform the duties assigned by the chief justice of the supreme court.

(b) A presiding judge may appoint a judicial mentor or arrange for additional administrative personnel to be assigned to a court identified by the Office of Court Administration of the Texas Judicial System as needing additional assistance under Section 72.024(b-1).

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 716 (H.B. 2384), Sec. 7, eff. September 1, 2023.

Sec. 74.047. AUTHORITY OF PRESIDING JUDGE. A presiding judge may perform the acts necessary to carry out the provisions of this chapter and to improve the management of the court system and the administration of justice.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

Sec. 74.048. COUNCIL OF JUDGES. (a) Once each year, the presiding judge shall call a regular meeting of the district and statutory county court judges in the administrative region at a time

and place designated by the presiding judge. In addition, the presiding judge may call a special meeting of the judges at any time he considers necessary.

(b) The purposes of the meetings or council of judges are consultation and counseling concerning the state of the civil and criminal business in the courts of the administrative region and arranging for the disposition of the business pending on the court dockets.

(c) The council of judges shall adopt:

(1) regional rules of administration within policies and guidelines set by the supreme court;

(2) rules to regulate and facilitate the order of trials and the recordkeeping in the counties in the region in which judges are sent from one region to another to aid the disposition of cases; and

(3) other rules necessary to the practical operation of this chapter.

(d) Repealed by Acts 1987, 70th Leg., ch. 674, Sec. 2.12, eff. Sept. 1, 1987.

Renumbered from Sec. 74.015 and amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 674, Sec. 2.12, eff. Sept. 1, 1987.

Sec. 74.049. PERFORMANCE OF DUTIES BY CHIEF JUSTICE. The chief justice may make assignments within an administrative region and perform the other duties of a presiding judge in the following situations:

(1) on the death or resignation of the presiding judge and until a successor presiding judge is appointed;

(2) on notification to the chief justice by the presiding judge or other appropriate source that an absence, disabling illness, or other incapacity of the presiding judge prevents the judge from performing his official duties for a period of time and until the presiding judge is again able to perform the duties; and

(3) in a particular matter in which the presiding judge disqualifies himself from performing the duties of presiding judge in that matter.

Renumbered from Sec. 74.016 and amended by Acts 1987, 70th Leg., ch.

148, Sec. 2.93(a), eff. Sept. 1, 1987.

Sec. 74.050. SUPPORT STAFF. (a) The presiding judge may employ, directly or through a contract with another governmental entity, a full-time or part-time administrative assistant.

(b) An administrative assistant shall aid the presiding judge in carrying out the judge's duties under this chapter. The administrative assistant shall:

(1) perform the duties that are required by the presiding judge and by the rules of administration;

(2) conduct correspondence for the presiding judge;

(3) under the direction of the presiding judge, make an annual report of the activities of the administrative region and special reports as provided by the rules of administration to the supreme court, which shall be made in the manner directed by the supreme court; and

(4) attend to other matters that are prescribed by the council of judges.

(c) An administrative assistant, with the approval of the presiding judge, may purchase the necessary office equipment, stamps, stationery, and supplies and employ additional personnel as authorized by the presiding judge.

(d) An administrative assistant is entitled to receive the compensation from the state provided by the General Appropriations Act, from county funds, or from any public or private grant.

Renumbered from Sec. 74.017 and amended by Acts 1987, 70th Leg., ch. 674, Sec. 2.03, eff. Sept. 1, 1987.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 7.02, eff. January 1, 2012.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 74.051. COMPENSATION. (a) In addition to all other compensation, expenses, and perquisites authorized by law, including this chapter, a presiding judge shall receive compensation as

provided by this section for performing the duties of a presiding judge.

(b) Except as provided by Subsection (c), a presiding judge shall receive a salary in an amount not to exceed 30 percent of the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a). The Texas Judicial Council shall set the salary biennially and, in arriving at the amount of the salary, shall consider whether the presiding judge is active in administrative duties, performs part time, or is a retired judge. The salary set by the Texas Judicial Council shall be apportioned to each county in the region according to the population of the counties in the region and shall be paid through the county budget process.

(c) A presiding judge who is a retired or former district judge or a retired appellate judge and who presides over an administrative region with 30 or more district courts, statutory county courts, and retired and former judges named on the list maintained under Section 74.055 for the administrative region is entitled to an annual salary for each fiscal year in an amount equal to:

Number of Courts and Judges	Salary
30 to 49	30 percent of the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a)
50 to 69	35 percent of the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a)
70 to 89	40 percent of the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a)
90 or more	45 percent of the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a)

(d) The salary shall be apportioned to each county in the region according to the population of the counties comprising the region.

(e) Each county comprising the administrative region shall pay annually to the presiding judge, out of the officers' salary fund or the general fund of the county, the amount of the salary apportioned to it as provided by this section and the other expenses authorized by this chapter that are not paid by state appropriations. The presiding judge shall place each county's payment of salary and other expenses in an administrative fund, from which the salary and other expenses shall be paid. The salary shall be paid from the administrative fund in 12 equal monthly payments.

Renumbered from Sec. 74.018 and amended by Acts 1987, 70th Leg., ch. 674, Sec. 2.04, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 656, Sec. 2, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 294, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 258 (H.B. 1686), Sec. 1, eff. September 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 14, eff. September 1, 2019.

Sec. 74.052. ASSIGNMENT OF JUDGES. (a) Judges may be assigned in the manner provided by this chapter to hold court when necessary to dispose of accumulated business in the region.

(b) Repealed by Acts 1987, 70th Leg., ch. 674, Sec. 2.13, eff. Sept. 1, 1987.

Renumbered from Sec. 74.031 and amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., ch. 674, Sec. 2.13, eff. Sept. 1, 1987.

Sec. 74.053. OBJECTION TO JUDGE ASSIGNED TO A TRIAL COURT. (a) When a judge is assigned to a trial court under this chapter:

(1) the order of assignment must state whether the judge is an active, former, retired, or senior judge; and

(2) the presiding judge shall, if it is reasonable and practicable and if time permits, give notice of the assignment to

each attorney representing a party to the case that is to be heard in whole or part by the assigned judge.

(b) If a party to a civil case files a timely objection to the assignment, the judge shall not hear the case. Except as provided by Subsection (d), each party to the case is only entitled to one objection under this section for that case.

(c) An objection under this section must be filed not later than the seventh day after the date the party receives actual notice of the assignment or before the date the first hearing or trial, including pretrial hearings, commences, whichever date occurs earlier. The presiding judge may extend the time to file an objection under this section on written motion by a party who demonstrates good cause.

(d) An assigned judge or justice who was defeated in the last primary or general election for which the judge or justice was a candidate for the judicial office held by the judge or justice may not sit in a case if either party objects to the judge or justice.

(e) An active judge assigned under this chapter is not subject to an objection.

(f) For purposes of this section, notice of an assignment may be given and an objection to an assignment may be filed by electronic mail.

(g) In this section, "party" includes multiple parties aligned in a case as determined by the presiding judge.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.37(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 270, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 785, Sec. 2, eff. June 16, 1991; Acts 2003, 78th Leg., ch. 315, Sec. 10, eff. Sept. 1, 2003.

Sec. 74.054. JUDGES SUBJECT TO ASSIGNMENT. (a) Except as provided by Subsections (b) and (c), the following judges may be assigned as provided by this chapter by the presiding judge of the administrative region in which the assigned judge resides:

(1) an active district, constitutional county, or statutory county court judge in this state;

(2) a senior judge who has consented to be subject to assignment and who is on the list maintained by the presiding judge

under this chapter;

(3) a former district or appellate judge, retired or former statutory probate court judge, or retired or former statutory county court judge who certifies to the presiding judge a willingness to serve and who is on the list maintained by the presiding judge as required by this chapter;

(4) a retiree or a former judge whose last judicial office before retirement was justice or judge of the supreme court, the court of criminal appeals, or a court of appeals and who has been assigned by the chief justice to the administrative judicial region in which the retiree or former judge resides for reassignment by the presiding judge of that region to a district or statutory county court in the region; and

(5) an active judge or justice of the supreme court, the court of criminal appeals, or a court of appeals who has had trial court experience.

(b) An active statutory county court judge may not be assigned to hear a matter pending in a district court outside the county of the judge's residence.

(c) A constitutional county court judge may only be assigned to sit for another constitutional county court judge and must be a licensed attorney in this state.

(d) A retired judge of a statutory probate court may also qualify for assignment under Section 25.0022.

Renumbered from Sec. 74.032 and amended by Acts 1987, 70th Leg., ch. 674, Sec. 2.05, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 82, Sec. 1, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 179, Sec. 2(d)(1), eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 646, Sec. 7, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 726, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 8.04, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 298, Sec. 2, 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1305, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 315, Sec. 11, eff. Sept. 1, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, S.B. 293 and S.B. 2127, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 74.055. LIST OF RETIRED AND FORMER JUDGES SUBJECT TO ASSIGNMENT. (a) Each presiding judge shall maintain a list of retired and former judges who meet the requirements of this section.

(b) The presiding judge shall divide the list into area specialties of criminal, civil, or domestic relations cases. A retired or former judge may only be assigned to a case in the judge's area of specialty. A judge may qualify for assignment in more than one area of specialty.

(c) To be eligible to be named on the list, a retired or former judge must:

(1) have served as an active judge for at least 96 months in a district, statutory probate, statutory county, or appellate court;

(2) have developed substantial experience in the judge's area of specialty;

(3) not have been removed from office;

(4) certify under oath to the presiding judge, on a form prescribed by the state board of regional judges, that:

(A) the judge has never been publicly reprimanded or censured by the State Commission on Judicial Conduct; and

(B) the judge:

(i) did not resign or retire from office after the State Commission on Judicial Conduct notified the judge of the commencement of a full investigation into an allegation or appearance of misconduct or disability of the judge as provided in Section 33.022 and before the final disposition of that investigation; or

(ii) if the judge did resign from office under circumstances described by Subparagraph (i), was not publicly reprimanded or censured as a result of the investigation;

(5) annually demonstrate that the judge has completed in the past state fiscal year the educational requirements for active district, statutory probate, and statutory county court judges; and

(6) certify to the presiding judge a willingness not to appear and plead as an attorney in any court in this state for a period of two years.

(d) Repealed by Acts 2003, 78th Leg., ch. 315, Sec. 15.

(e) For purposes of Subsection (c)(1), a month of service is calculated as a calendar month or a portion of a calendar month in which a judge was authorized by election or appointment to preside.

(f) A former or retired judge is ineligible to be named on the

list if the former or retired judge is identified in a public statement issued by the State Commission on Judicial Conduct as having resigned or retired from office in lieu of discipline.

(g) A former or retired judge named on the list shall immediately notify the presiding judge of a full investigation by the State Commission on Judicial Conduct into an allegation or appearance of misconduct or disability by the judge. A judge who does not notify the presiding judge of an investigation as required by this subsection is ineligible to remain on the list.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 2.10, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.38, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 82, Sec. 2, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 646, Sec. 8, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 8.05, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 785, Sec. 3 to 5, eff. June 16, 1991; Acts 1995, 74th Leg., ch. 298, Sec. 4, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 315, Sec. 12, 15, eff. Sept. 1, 2003.

Sec. 74.0551. CERTIFICATION OF WILLINGNESS NOT TO APPEAR AND PLEAD AS AN ATTORNEY. (a) The two-year period provided for in Section 74.055(c)(6) is from January 1 of one year through December 31 of the next year.

(b) An initial certification of willingness not to appear and plead made before the judge leaves active service extends through December 31 of the year following the year in which the judge leaves active service. An initial certification made after the judge leaves active service extends through December 31 of the year following the year in which the certification is made.

(c) The person's second and subsequent certifications begin on the January 1 following the year in which the initial certification ends and each second January 1 thereafter, unless a written revocation is filed with the presiding judge not later than the 30th day before the date the revocation takes effect. A revocation may not take effect until the completion of the initial certification period under Subsection (b).

(d) If a revocation is not filed, recertification for subsequent two-year periods takes effect by operation of law.

(e) A revocation may be rescinded and a certification of

willingness not to appear and plead reinstated only on written request to the presiding judge and with the consent of the presiding judge.

Added by Acts 1989, 71st Leg., ch. 646, Sec. 9, eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 10, Sec. 1, eff. April 12, 1995.

Sec. 74.056. ASSIGNMENT BY PRESIDING JUDGE. (a) A presiding judge from time to time shall assign the judges of the administrative region to hold special or regular terms of court in any county of the administrative region to try cases and dispose of accumulated business.

(b) The presiding judge of one administrative region may request the presiding judge of another administrative region to furnish judges to aid in the disposition of litigation pending in a county in the administrative region of the presiding judge who makes the request.

(c) The presiding judge of an administrative region may appoint a judge in the region to serve as acting presiding judge in the absence of the presiding judge. An acting presiding judge has all the rights, duties, and powers of the presiding judge.

(d) In addition to an assignment under Sections 74.003, 75.002, and 75.003, the chief justice of the supreme court may assign a retiree or a former judge whose last judicial office before retirement was justice or judge of the supreme court, the court of criminal appeals, or a court of appeals to the administrative judicial region in which the retiree or former judge resides for reassignment by the presiding judge of that region to a district or statutory county court in the region. The reassignment by a presiding judge is subject to the requirements of Section 74.055. The assignment of a retiree or former judge by the chief justice to the administrative region continues only during the period for which the retiree or former judge has certified a willingness to serve under Section 74.0551.

Renumbered from Sec. 74.033 and amended by Acts 1987, 70th Leg., ch. 674, Sec. 2.06, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 646, Sec. 10, eff. Aug. 28, 1989.

Sec. 74.057. ASSIGNMENT BY CHIEF JUSTICE. (a) In addition to the assignment of judges by the presiding judges as authorized by this chapter, the chief justice may assign judges of one or more administrative regions for service in other administrative regions when he considers the assignment necessary to the prompt and efficient administration of justice.

(b) A judge assigned by the chief justice shall perform the same duties and functions authorized by this chapter that the judge would perform if he were assigned by the presiding judge.

Renumbered from Sec. 74.034 and amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

Sec. 74.058. DUTY TO SERVE WHEN ASSIGNED. (a) Except as provided by this chapter, a judge assigned by the presiding judge to a court in the same administrative region, or to a court in another administrative region at the request of the presiding judge of the other administrative region, shall serve in the court or administrative region to which he is assigned.

(b) The presiding judge of a judge's administrative region may relieve the judge of an assignment on presentation of good cause in writing by the assigned judge to the presiding judge.

(c) If the presiding judge refuses to relieve a judge from assignment after receiving from the judge a written statement declining the assignment for good cause, the judge may, not later than the fifth day after refusal by the presiding judge, petition the chief justice for relief from the assignment for good cause. The chief justice may grant or refuse a petition for relief from assignment at his discretion.

Renumbered from Sec. 74.035 and amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 74.059. POWERS AND DUTIES. (a) A judge assigned under the provisions of this chapter has all the powers of the judge of the

court to which he is assigned.

(b) A judge shall extend the regular terms of the court, or call the special terms, that are necessary to carry out the purposes of this chapter and to dispose of pending litigation. If a term is extended, the other terms of the court may be opened and held as usual, and a term of court in that district does not fail because of the extension. By entering an order on the minutes of the court, the judge of a district court or statutory county court or a judge assigned by the presiding judge may convene a special term of the court for the trial of cases, the entry of orders, and the disposition of the business before the court.

(c) A district, statutory probate, or statutory county court judge shall:

(1) diligently discharge the administrative responsibilities of the office;

(2) rule on a case within 90 days after the case is taken under advisement;

(3) request the presiding judge to assign another judge to hear a motion relating to the recusal of the judge from a case pending in his court; and

(4) if an election contest or a suit for the removal of a local official is filed in his court, request the presiding judge to assign another judge who is not a resident of the county to hold a regular or special term of court in that county to dispose of the suit.

Renumbered from Sec. 74.036 and amended by Acts 1987, 70th Leg., ch. 674, Sec. 2.07, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 298, Sec. 5, eff. Sept. 1, 1995.

Sec. 74.060. LIMITATION ON ASSIGNMENT. (a) An active judge may not, without the judge's consent, be assigned out of the judge's district or county for more than 10 calendar days in a year.

(b) An active judge or justice of the supreme court, the court of criminal appeals, or a court of appeals may not be assigned if the judge or justice has served 14 or more days as a visiting judge under this chapter in the year in which the assignment is to be made. This subsection applies only to an initial assignment to a case and does not affect a judge's or justice's continuing to sit in a particular

case.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 726, Sec. 2, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1305, Sec. 2, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 74.061. COMPENSATION WHILE ASSIGNED. (a) The salary, compensation, and expenses of a judge or justice while assigned under this chapter shall be paid in accordance with this chapter and other law of this state.

(b) While serving in a county outside the judge's judicial district or county, an assigned judge is entitled to receive, in addition to the assigned judge's necessary expenses, additional compensation from the county to which the assigned judge is assigned in an amount not to exceed the difference between the compensation of the assigned judge from all sources, exclusive of the per diem provided by Subsection (f), and the compensation received from all sources by the judge of the court to which the assigned judge is assigned. If the judge of the court to which the assigned judge is assigned is paid an annual salary from the state in accordance with Section 659.012(b), the amount by which that annual salary exceeds the amount of the state base salary as set by the General Appropriations Act for the judge's position in accordance with Section 659.012(a) is not included in the compensation of the judge for purposes of determining the compensation of the assigned judge under this subsection. The county shall pay the compensation provided by this subsection on approval of the presiding judge of the administrative region in which the court to which the assigned judge is assigned is located.

(c) The salary of a retired judge or justice while assigned under this chapter shall be paid out of money appropriated from the general revenue fund for that purpose in an amount equal to the compensation received from state and county sources of the judge of the court to which he is assigned. The salary of a retired judge or justice while assigned shall be determined pro rata for the period of time that the judge or justice actually sits as the assigned judge.

The salary of a retired statutory county court judge assigned under this chapter to serve in a district court shall be paid by the state in the same manner as the salary of a retired district judge assigned under this chapter to serve in a district court is paid by the state.

(d) For services actually performed while assigned under this chapter, a retired or former judge or justice shall receive from county funds and money appropriated by the legislature the same amount of salary, compensation, and expenses that the regular judge is entitled to receive from the county and from the state for those services. The presiding judge of the administrative region shall certify to the county and the state the services rendered under this chapter by a retired or former judge or justice and the share to be paid by the state. The amount certified by the presiding judge as the state's share shall be paid from an item in the Judicial Section--Comptroller's Department of the General Appropriations Act for the payment of salaries of district and criminal district judges.

(e) When a district, statutory probate, constitutional county, or statutory county court judge is assigned under this chapter to a court outside his own district or county, the judge, in addition to all other compensation authorized by law, is entitled to receive his actual expenses in going to and returning from his assignment and his actual living expenses while in the performance of his duties under the assignment. The county in which the duties are performed shall pay the expenses out of the general fund of the county on accounts certified and approved by the presiding judge of the administrative region for that county.

(f) When a district, statutory probate, constitutional county, or statutory county court judge is assigned under this chapter to a court outside his own district or county, the judge, in addition to all other compensation and expenses authorized by law, is entitled to receive a per diem of $25 for each day or fraction of a day that the judge spends outside his district or county in the performance of his duties under the assignment. The state shall pay the per diem in the same manner that it pays the judge's salary on certificates of approval by the chief justice or the presiding judge of the administrative region in which the judge resides.

(g) An active judge or justice of the supreme court, the court of criminal appeals, or a court of appeals assigned under this subchapter is not entitled to receive any additional compensation for serving as a visiting judge. A court of appeals justice assigned to

a court outside his own court of appeals district, a justice of the supreme court, or a judge of the court of criminal appeals is entitled to receive actual expenses in going to and returning from assignment and actual living expenses while in the performance of duties under the assignment. The county in which the duties are performed shall pay the expenses out of the county's general fund on accounts certified and approved by the presiding judge of the administrative region for that county.

(h) Notwithstanding Subsection (c), the salary from the state of a retired judge or justice assigned to a district court is determined pro rata based on the sum of the regular judge's salary from the county plus the amount of the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a).

(i) Notwithstanding Subsection (d), the salary from the state of a former judge or justice assigned to a district court is determined pro rata based on the amount of the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a).

(j) A judge or justice who sits as an assigned judge for half a day or less shall be compensated in an amount that is equal to one-half of the amount to which a judge or justice is entitled for sitting as an assigned judge for a full day under this section.

(k) Notwithstanding any other provision of law, a former, retired, or active judge is not entitled to compensation paid by the state when the judge sits as an assigned judge for a statutory county court.

(l) A judge of a district, statutory probate, constitutional county, or statutory county court who is assigned under this chapter to a court in a county other than the county in which the judge serves is not an employee of the other county.

(m) A former or retired judge or an active judge or justice of the supreme court, the court of criminal appeals, or a court of appeals who is assigned under this chapter is not an employee of the county in which the assigned court is located.

Renumbered from Sec. 74.037 and amended by Acts 1987, 70th Leg., ch. 674, Sec. 2.08, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 82, Sec. 3, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 646, Sec. 11, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 726, Sec. 3,

eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 785, Sec. 6, eff. June 16, 1991; Acts 1995, 74th Leg., ch. 298, Sec. 6, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1166, Sec. 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1305, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 299, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1184, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 315, Sec. 13, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1364 (H.B. 3135), Sec. 1, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 14.02, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 15, eff. September 1, 2019.

Sec. 74.062. EXPENSES AT MEETINGS. A judge who is required to attend an annual or special meeting prescribed by this chapter, or an educational course required by law, in addition to all other compensation allowed by law, is entitled to receive his actual travel expenses going to and returning from the place of the meeting or course and his actual expenses while attending the meeting or course.

Renumbered from Sec. 74.038 and amended by Acts 1987, 70th Leg., ch. 674, Sec. 2.09, eff. Sept. 1, 1987.

SUBCHAPTER D. ADMINISTRATION BY COUNTY

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 74.091. LOCAL ADMINISTRATIVE DISTRICT JUDGE. (a) There is a local administrative district judge in each county.

(b) In a county with two or more district courts the judges of those courts shall elect a district judge as local administrative district judge for a term of not more than two years. The local administrative district judge may not be elected on the basis of rotation or seniority.

(c) In a county with only one district judge, the district judge serves as the local administrative district judge.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 646, Sec. 12, eff. Aug. 28, 1989.

Sec. 74.0911. LOCAL ADMINISTRATIVE STATUTORY COUNTY COURT JUDGE. (a) There is a local administrative statutory county court judge in each county that has a statutory county court.

(b) In a county with two or more statutory county courts, the judges of those courts shall elect a statutory county court judge as local administrative statutory county court judge for a term of not more than two years. A local administrative statutory county court judge may not be elected on the basis of rotation or seniority.

(c) In a county with only one statutory county court, the statutory county court judge serves as the local administrative statutory county court judge.

Added by Acts 1989, 71st Leg., ch. 646, Sec. 13, eff. Aug. 28, 1989.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878 and S.B. 664, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 74.092. DUTIES OF LOCAL ADMINISTRATIVE JUDGE. (a) A local administrative judge, for the courts for which the judge serves as local administrative judge, shall:

(1) implement and execute the local rules of administration, including the assignment, docketing, transfer, and hearing of cases;

(2) appoint any special or standing committees necessary or desirable for court management and administration;

(3) promulgate local rules of administration if the other judges do not act by a majority vote;

(4) recommend to the regional presiding judge any needs for assignment from outside the county to dispose of court caseloads;

(5) supervise the expeditious movement of court caseloads, subject to local, regional, and state rules of administration;

(6) provide the supreme court and the office of court administration requested statistical and management information;

(7) set the hours and places for holding court in the county;

(8) supervise the employment and performance of nonjudicial personnel;

(9) supervise the budget and fiscal matters of the local courts, subject to local rules of administration;

(10) coordinate and cooperate with any other local administrative judge in the district in the assignment of cases in the courts' concurrent jurisdiction for the efficient operation of the court system and the effective administration of justice;

(11) if requested by the courts the judge serves, establish and maintain the lists required by Section 37.003 and ensure appointments are made from the lists in accordance with Section 37.004;

(12) perform other duties as may be directed by the chief justice or a regional presiding judge; and

(13) establish a court security committee to adopt security policies and procedures for the courts served by the local administrative district judge that is composed of:

(A) the local administrative district judge, or the judge's designee, who serves as presiding officer of the committee;

(B) a representative of the sheriff's office;

(C) a representative of the county commissioners court;

(D) one judge of each type of court in the county other than a municipal court or a municipal court of record;

(E) a representative of any county attorney's office, district attorney's office, or criminal district attorney's office that serves in the applicable courts; and

(F) any other person the committee determines necessary to assist the committee.

(b) A court security committee may recommend to the county commissioners court the uses of resources and expenditures of money for courthouse security, but may not direct the assignment of those resources or the expenditure of those funds.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 646, Sec. 14, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 746, Sec. 68, eff. Oct. 1, 1991. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1224 (S.B. 1369), Sec. 1, eff.

September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1223 (S.B. 1876), Sec. 3, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 190 (S.B. 42), Sec. 9, eff. September 1, 2017.

Sec. 74.093. RULES OF ADMINISTRATION. (a) The district and statutory county court judges in each county shall, by majority vote, adopt local rules of administration.

(b) The rules must provide for:

(1) assignment, docketing, transfer, and hearing of all cases, subject to jurisdictional limitations of the district courts and statutory county courts;

(2) designation of court divisions or branches responsible for certain matters;

(3) holding court at least once a week in the county unless in the opinion of the local administrative judge sessions at other intervals will result in more efficient court administration;

(4) fair and equitable division of caseloads; and

(5) plans for judicial vacation, sick leave, attendance at educational programs, and similar matters.

(c) The rules may provide for:

(1) the selection and authority of a presiding judge of the courts giving preference to a specified class of cases, such as civil, criminal, juvenile, or family law cases;

(2) other strategies for managing cases that require special judicial attention;

(3) a coordinated response for the transaction of essential judicial functions in the event of a disaster; and

(4) any other matter necessary to carry out this chapter or to improve the administration and management of the court system and its auxiliary services.

(c-1) The rules may provide for the establishment and maintenance of the lists required by Section 37.003, including the establishment and maintenance of more than one of a list required by that section that is categorized by the type of case, such as family law or probate law, and the person's qualifications.

(d) Rules relating to the transfer of cases or proceedings shall not allow the transfer of cases from one court to another

unless the cases are within the jurisdiction of the court to which it is transferred. When a case is transferred from one court to another as provided under this section, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 646, Sec. 15, eff. Aug. 28, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 5.02, eff. June 19, 2009.
Acts 2009, 81st Leg., R.S., Ch. 1281 (H.B. 1861), Sec. 2, eff. June 19, 2009.
Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 7.03, eff. January 1, 2012.
Acts 2015, 84th Leg., R.S., Ch. 1223 (S.B. 1876), Sec. 4, eff. September 1, 2015.

Sec. 74.094. HEARING CASES. (a) A district or statutory county court judge may hear and determine a matter pending in any district or statutory county court in the county regardless of whether the matter is preliminary or final or whether there is a judgment in the matter. The judge may sign a judgment or order in any of the courts regardless of whether the case is transferred. The judgment, order, or action is valid and binding as if the case were pending in the court of the judge who acts in the matter. The authority of this subsection applies to an active, former, or retired judge assigned to a court having jurisdiction as provided by Subchapter C.

(b) The judges shall try any case and hear any proceeding as assigned by the local administrative judge.

(c) The clerk shall file, docket, transfer, and assign the cases as directed by the local administrative judge in accordance with the local rules.

(d) Judges of district courts and statutory county courts may serve as masters and magistrates of courts, other than their own, subject to other provisions of law and court rules.

(e) A judge who has jurisdiction over a suit pending in one county may, unless objected to by any party, conduct any of the judicial proceedings except the trial on the merits in a different county.

(f) A pretrial judge assigned to hear pretrial matters in related cases under Rule 11, Texas Rules of Judicial Administration, may hold pretrial proceedings and hearings on pretrial matters for a case to which the judge has been assigned in:

(1) the county in which the case is pending; or

(2) a county in which there is pending a related case to which the pretrial judge has been assigned.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 2.10, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.40(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 179, Sec. 2(d)(2), eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 1551, Sec. 1, eff. Sept. 1, 1999.

Sec. 74.096. TERMS OF COURT. The terms of all courts covered by this subchapter begin on the first Monday in January and the first Monday in July of each year, except as may otherwise be provided by law. Each term of court continues until the next succeeding term begins.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

Sec. 74.097. LOCAL ADMINISTRATIVE DISTRICT JUDGE FOR BLANCO, BURNET, LLANO, AND SAN SABA COUNTIES. Notwithstanding Section 74.091(b), the local administrative district judge for Blanco, Burnet, Llano, and San Saba Counties is selected on the basis of seniority from the district judges of the 33rd Judicial District and the 424th Judicial District.

Added by Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 16, eff. September 1, 2005.

Sec. 74.0971. LOCAL ADMINISTRATIVE DISTRICT JUDGE FOR CORYELL

COUNTY. Notwithstanding Section 74.091(b), the local administrative district judge for Coryell County is selected on the basis of seniority from the district judges of the 52nd Judicial District and the 440th Judicial District.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 2.03(c), eff. September 1, 2015.

SUBCHAPTER E. COURT COORDINATORS

Sec. 74.101. COURT COORDINATORS. (a) The local administrative judge and each district or statutory county court judge may establish a court coordinator system and appoint a court coordinator for his court to improve justice and expedite the processing of cases through the courts.

(b) Each court coordinator serves at the pleasure of the judge who appointed him.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

Sec. 74.102. DUTIES. (a) The courts by local administrative rule shall designate the duties of the court coordinators.

(b) To promote uniform and efficient administration of justice in this state, the court coordinators shall cooperate with regional presiding and local administrative judges and state agencies having duties in the area of the operation of the courts.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

Sec. 74.103. STAFF. The courts may appoint appropriate staff and support personnel according to the needs in each county.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

Sec. 74.104. COMPENSATION. (a) The judges shall determine

reasonable compensation for the court coordinators, subject to approval of the commissioners court.

(b) Upon approval by the commissioners court of the position and compensation, the commissioners court of the county shall provide the necessary funding through the county's budget process. County funds may be supplemented in whole or part through public or private grants.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

Sec. 74.105. OTHER LAW. This subchapter does not affect other provisions of law relating to the pay and duties of court administrators, court managers, and court coordinators.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

Sec. 74.106. CONTINUING EDUCATION. (a) Except as provided by Subsection (b), a court coordinator of a district court or statutory county court shall annually complete 16 hours of continuing education as provided by rules adopted by the court of criminal appeals under Chapter 56.

(b) The court of criminal appeals may not require a court coordinator to complete continuing education instruction during a year in which the judge or commissioners court of the county employing the court coordinator certifies to the court of criminal appeals that state and local funds are not available for the court coordinator's continuing education.

Added by Acts 1997, 75th Leg., ch. 45, Sec. 2, eff. Sept. 1, 1997.

SUBCHAPTER F. TRANSFER OF CASES AND EXCHANGE OF BENCHES BETWEEN CERTAIN COURTS

Sec. 74.121. TRANSFER OF CASES; EXCHANGE OF BENCHES. (a) The judges of constitutional county courts, statutory county courts, justice courts, and small claims courts in a county may transfer cases to and from the dockets of their respective courts, except that

a case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred and may not be transferred unless it is within the jurisdiction of the court to which it is transferred. The judges of those courts within a county may exchange benches and courtrooms with each other so that if one is absent, disabled, or disqualified, the other may hold court for him without the necessity of transferring the case. Either judge may hear all or any part of a case pending in court and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. A judge may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

(b)(1) The judge of a statutory county court may transfer a case to the docket of the district court, except that a case may not be transferred without the consent of the judge of the court to which it is being transferred and may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(2) Notwithstanding Subdivision (1), in matters of concurrent jurisdiction, a judge of a statutory county court in Midland County and a judge of a district court in Midland County may exchange benches and courtrooms with each other and may transfer cases between their dockets in the same manner that judges of district courts exchange benches and transfer cases under Section 24.003.

(c) When a case is transferred from one court to another as provided by this section, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees in all bonds and recognizances taken in and for a court from which a case is transferred, and all witnesses summoned to appear in a court from which a case is transferred, are required to appear before the court to which the case is transferred as if originally required to appear before the court to which the transfer is made.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 646, Sec. 16, eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 654, Sec. 1, eff. Sept. 1, 1995. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.11, eff. January 1, 2012.

SUBCHAPTER G. DEFENSE OF JUDGES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 74.141. DEFENSE OF JUDGES. The attorney general shall defend a state district judge, a presiding judge of an administrative region, the presiding judge of the statutory probate courts, a visiting judge assigned to hear a guardianship or probate matter by the presiding judge of the statutory probate courts, or an active, retired, or former judge assigned under this chapter in any action or suit in any court in which the judge is a defendant because of the judge's office or capacity as judge if the judge requests the attorney general's assistance in the defense of the suit.

Added by Acts 1987, 70th Leg., ch. 674, Sec. 2.11, eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 1.41A, eff. September 1, 2011.
Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 69, eff. September 1, 2021.
Acts 2021, 87th Leg., R.S., Ch. 576 (S.B. 615), Sec. 29, eff. September 1, 2021.

SUBCHAPTER H. JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

Sec. 74.161. JUDICIAL PANEL ON MULTIDISTRICT LITIGATION. (a) The judicial panel on multidistrict litigation consists of five members designated from time to time by the supreme court. The members of the panel must be active, former, or retired court of appeals justices or active administrative judges.

(b) The concurrence of three panel members is necessary to any action by the panel.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 3.02, eff. Sept. 1, 2003.

Amended by:
Acts 2021, 87th Leg., R.S., Ch. 832 (H.B. 2950), Sec. 1, eff. June 16, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 74.162. TRANSFER OF CASES BY PANEL. Subject to Section 74.1625 and notwithstanding any other law, the judicial panel on multidistrict litigation may transfer civil actions involving one or more common questions of fact pending in the same or different constitutional courts, county courts at law, probate courts, or district courts to any district court for consolidated or coordinated pretrial proceedings, including summary judgment or other dispositive motions, but not for trial on the merits. A transfer may be made by the judicial panel on multidistrict litigation on its determination that the transfer will:

(1) be for the convenience of the parties and witnesses; and

(2) promote the just and efficient conduct of the actions.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 3.02, eff. Sept. 1, 2003.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 397 (S.B. 827), Sec. 1, eff. September 1, 2019.

Sec. 74.1625. PROHIBITED TRANSFER OF CASES. (a) Notwithstanding any other law, the judicial panel on multidistrict litigation may not transfer:

(1) an action brought by the consumer protection division of the attorney general's office under Subchapter E, Chapter 17, Business & Commerce Code; or

(2) an action brought under Chapter 36, Human Resources Code.

(b) Notwithstanding Section 22.004, the supreme court may not amend or adopt rules in conflict with this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 397 (S.B. 827), Sec. 2, eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 832 (H.B. 2950), Sec. 2, eff. June 16, 2021.

Sec. 74.163. OPERATION; RULES. (a) The judicial panel on multidistrict litigation must operate according to rules of practice and procedure adopted by the supreme court under Section 74.024. The rules adopted by the supreme court must:

(1) allow the panel to transfer related civil actions for consolidated or coordinated pretrial proceedings;

(2) allow transfer of civil actions only on the panel's written finding that transfer is for the convenience of the parties and witnesses and will promote the just and efficient conduct of the actions;

(3) require the remand of transferred actions to the transferor court for trial on the merits; and

(4) provide for appellate review of certain or all panel orders by extraordinary writ.

(b) The panel may prescribe additional rules for the conduct of its business not inconsistent with the law or rules adopted by the supreme court.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 3.02, eff. Sept. 1, 2003.

Sec. 74.164. AUTHORITY TO PRESIDE. Notwithstanding any other law to the contrary, a judge who is qualified and authorized by law to preside in the court to which an action is transferred under this subchapter may preside over the transferred action as if the transferred action were originally filed in the transferor court.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 3.02, eff. Sept. 1, 2003.

SUBCHAPTER I. JUDGE PRESIDING OVER MULTIDISTRICT LITIGATION

Sec. 74.201. STAFF. A district judge who presides over

multidistrict litigation involving claims for asbestos-related or silica-related injuries may appoint one briefing attorney and not more than three clerks to assist the judge.

Added by Acts 2007, 80th Leg., R.S., Ch. 393 (S.B. 749), Sec. 2, eff. June 15, 2007.

SUBCHAPTER J. ADDITIONAL RESOURCES FOR CERTAIN CASES

Sec. 74.251. APPLICABILITY OF SUBCHAPTER. This subchapter does not apply to:

(1) a criminal matter;

(2) a case in which judicial review is sought under Subchapter G, Chapter 2001; or

(3) a case that has been transferred by the judicial panel on multidistrict litigation to a district court for consolidated or coordinated pretrial proceedings under Subchapter H.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 7.04, eff. January 1, 2012.

Sec. 74.252. RULES TO GUIDE DETERMINATION OF WHETHER CASE REQUIRES ADDITIONAL RESOURCES. (a) The supreme court shall adopt rules under which courts, presiding judges of the administrative judicial regions, and the judicial committee for additional resources may determine whether a case requires additional resources to ensure efficient judicial management of the case.

(b) In developing the rules, the supreme court shall include considerations regarding whether a case involves or is likely to involve:

(1) a large number of parties who are separately represented by counsel;

(2) coordination with related actions pending in one or more courts in other counties of this state or in one or more United States district courts;

(3) numerous pretrial motions that present difficult or novel legal issues that will be time-consuming to resolve;

(4) a large number of witnesses or substantial documentary evidence;

(5) substantial postjudgment supervision;

(6) a trial that will last more than four weeks; and

(7) a substantial additional burden on the trial court's docket and the resources available to the trial court to hear the case.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 7.04, eff. January 1, 2012.

Sec. 74.253. JUDICIAL DETERMINATION. (a) On the motion of a party in a case, or on the court's own motion, the judge of the court in which the case is pending shall review the case and determine whether, under rules adopted by the supreme court under Section 74.252, the case will require additional resources to ensure efficient judicial management. The judge is not required to conduct an evidentiary hearing for purposes of making the determination but may, in the judge's discretion, direct the attorneys for the parties to the case and the parties to appear before the judge for a conference to provide information to assist the judge in making the determination.

(b) On determining that a case will require additional resources as provided by Subsection (a), the judge shall:

(1) notify the presiding judge of the administrative judicial region in which the court is located about the case; and

(2) request any specific additional resources that are needed, including the assignment of a judge under this chapter.

(c) If the presiding judge of the administrative judicial region agrees that, in accordance with the rules adopted by the supreme court under Section 74.252, the case will require additional resources to ensure efficient judicial management, the presiding judge shall:

(1) use resources previously allotted to the presiding judge; or

(2) submit a request for specific additional resources to the judicial committee for additional resources.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 7.04, eff. January 1, 2012.

Sec. 74.254. JUDICIAL COMMITTEE FOR ADDITIONAL RESOURCES. (a)

The judicial committee for additional resources is composed of:

(1) the chief justice of the supreme court; and

(2) the presiding judges of the administrative judicial regions.

(b) The chief justice of the supreme court serves as presiding officer. The office of court administration shall provide staff support to the committee.

(c) On receipt of a request for additional resources from a presiding judge of an administrative judicial region under Section 74.253, the committee shall determine whether the case that is the subject of the request requires additional resources in accordance with the rules adopted under Section 74.252. If the committee determines that the case does require additional resources, the committee shall make available the resources requested by the trial judge to the extent funds are available for those resources under the General Appropriations Act and to the extent the committee determines the requested resources are appropriate to the circumstances of the case.

(d) Subject to Subsections (c) and (f), additional resources the committee may make available under this section include:

(1) the assignment of an active or retired judge under this chapter, subject to the consent of the judge of the court in which the case for which the resources are provided is pending;

(2) additional legal, administrative, or clerical personnel;

(3) information and communication technology, including case management software, video teleconferencing, and specially designed courtroom presentation hardware or software to facilitate presentation of the evidence to the trier of fact;

(4) specialized continuing legal education;

(5) an associate judge;

(6) special accommodations or furnishings for the parties;

(7) other services or items determined necessary to try the case; and

(8) any other resources the committee considers appropriate.

(e) Notwithstanding any provision of Subchapter C, a justice or judge to whom Section 74.053(d) applies may not be assigned under Subsection (d).

(f) The judicial committee for additional resources may not

provide additional resources under this subchapter in an amount that is more than the amount appropriated for this purpose.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 7.04, eff. January 1, 2012.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 954 (S.B. 1893), Sec. 3, eff. June 15, 2017.

Sec. 74.255. COST OF ADDITIONAL RESOURCES. The cost of additional resources provided for a case under this subchapter shall be paid by the state and may not be taxed against any party in the case for which the resources are provided or against the county in which the case is pending.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 7.04, eff. January 1, 2012.

Sec. 74.256. NO STAY OR CONTINUANCE PENDING DETERMINATION. The filing of a motion under Section 74.253 in a case is not grounds for a stay or continuance of the proceedings in the case in the court in which the case is pending during the period the motion or request is being considered by:

(1) the judge of that court;

(2) the presiding judge of the administrative judicial region; or

(3) the judicial committee for additional resources.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 7.04, eff. January 1, 2012.

Sec. 74.257. APPELLATE REVIEW. A determination made by a trial court judge, the presiding judge of an administrative judicial region, or the judicial committee for additional resources under this subchapter is not appealable or subject to review by mandamus.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 7.04, eff. January 1, 2012.

CHAPTER 75. OTHER COURT ADMINISTRATION
SUBCHAPTER A. ASSIGNMENT OF FORMER JUDGES AND RETIRED JUDGES WHO ELECT TO BE JUDICIAL OFFICERS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 75.001. JUDICIAL RETIREE ELECTION TO BE JUDICIAL OFFICER. (a) A retiree under Subtitle D or E of Title 8 may elect to be a judicial officer.

(b) An election under this section may be made:

(1) not later than the 90th day after the date of the person's retirement in a document addressed to the chief justice of the supreme court; or

(2) after the 90th day after the date of the person's retirement in a petition addressed to the supreme court.

(c) An election under Subsection (b)(2) takes effect only on approval of the petition by the supreme court.

(d) A retiree who makes an election under this section shall be designated a senior judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.41(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 179, Sec. 2(e), eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 646, Sec. 18, eff. Aug. 28, 1989.

Sec. 75.002. ASSIGNMENT OF RETIREE AS JUDICIAL OFFICER. (a) A retiree who makes an election under Section 75.001 is, with the retiree's consent to each assignment, subject to assignment:

(1) by the chief justice of the supreme court to sit on any court of the state of the same or lesser dignity as that on which the person sat before retirement;

(2) by the presiding judge of the court of criminal appeals to sit as a commissioner of that court; and

(3) if the retiree's last judicial office before retirement was judge of a district or statutory county court, by the presiding judge of an administrative judicial region to sit on a district or statutory county court in that administrative region or, on request

of the presiding judge of another administrative judicial region, to that administrative region.

(b) In addition to an assignment under Section 74.003 and Subsection (a)(1), the chief justice of the supreme court may assign a retiree whose last judicial office before retirement was justice or judge of the supreme court, the court of criminal appeals, or a court of appeals to the administrative judicial region in which the retiree resides for reassignment by the presiding judge of that region to a district or statutory county court in the region. The reassignment by a presiding judge is subject to the requirements of Section 74.055. The assignment by the chief justice of a retiree to the administrative region of the retiree's residence continues only during the period for which the retiree has certified a willingness to serve under Section 74.0551.

(c) A retiree assigned under this subchapter has all the powers of a judge of the court to which the retiree has been assigned.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 8.44(15), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 646, Sec. 18, eff. Aug. 28, 1989.

Sec. 75.003. ASSIGNMENT OF FORMER APPELLATE JUDGE. (a) A former judge whose last judicial office before leaving active service was justice or judge of the supreme court, the court of criminal appeals, or a court of appeals is, with the former judge's consent to each assignment, subject to assignment by the chief justice of the supreme court:

(1) to sit on an appellate, district, or statutory county court; and

(2) to the administrative judicial region in which the former judge resides for reassignment by the presiding judge of that region to a district or statutory county court within the region.

(b) A reassignment by a presiding judge under Subsection (a)(2) is subject to the requirements of Section 74.055. The assignment of a former judge by the chief justice to the administrative region of the former judge's residence continues only during the period for which the former judge has certified a willingness to serve under Section 74.0551.

Added by Acts 1989, 71st Leg., ch. 646, Sec. 19, eff. Aug. 28, 1989.

Sec. 75.004. EMPLOYEE STATUS. A former or retired judge or justice who is assigned under this subchapter is not an employee of the county in which the assigned court is located.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 14.03, eff. September 1, 2019.

SUBCHAPTER B. ADMINISTRATION BY JUDGES IN COUNTY

Sec. 75.012. PRESIDING CIVIL JUDGE OF BEXAR COUNTY. (a) The district judges of Bexar County, not later than January 1 and July 1 of each year, or at any other time as determined by a majority of the district judges, shall elect one of the district judges as the presiding civil judge to serve at the will of the judges.

(b) The presiding civil judge, as necessary, shall adjust the business and dockets of the courts and transfer or cause to be transferred causes from any of the courts to any other of the courts to equalize the business of the courts so that each judge has cases or proceedings to try or consider.

(c) The presiding civil judge shall ensure that the trial of a case will not be delayed because of the disqualification of the judge in whose court it is pending.

(d) When a case is transferred, proper orders shall be entered on the minutes of the court as evidence of the transfer.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 75.013. PRESIDING CRIMINAL JUDGE OF BEXAR COUNTY. (a) A majority of the judges of the district courts giving preference to criminal cases in Bexar County shall select a presiding criminal judge to serve at the will of the judges.

(b) The presiding criminal judge shall be the judge receiving bills of indictment for that term. All indictments shall be returned to a district court in Bexar County giving preference to criminal cases. The presiding criminal judge, in rotation in the order in which indictments are returned or as agreed to by a majority of judges trying criminal cases, shall assign indictments to the judicial districts for trial. The presiding criminal judge shall

adjust the case flow so that each of those courts receives approximately an equal share of the indictments for trial.

(c) The presiding criminal judge shall handle all preindictment bond problems and preindictment appointment of counsel.

(d) Any other judge may preside in the absence of the presiding criminal judge or at his request.

(e) The presiding criminal judge, as necessary, shall adjust the business and dockets of the criminal courts and transfer or cause to be transferred causes from any of the courts to any other of the courts to equalize the business of the courts so that each judge has cases or proceedings to try or consider.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 75.014. EL PASO COUNCIL OF JUDGES. (a) The El Paso Council of Judges is composed of the judges of the district courts of El Paso County, the judges of the county courts at law of El Paso County, and the judge of the probate court of El Paso County.

(b) The council of judges may require the district clerk to maintain, arrange, and preserve copies of or record all or any part of the acts, proceedings, and minutes of the council of judges. The district clerk shall maintain, arrange, and preserve those acts, proceedings, and minutes in the same manner that acts, proceedings, and minutes of the district court are maintained, arranged, and preserved.

(c) Unless the council of judges by majority vote provides otherwise, the judges on the council of judges may sit and act for any magistrate in the county on any unindicted felony case or on any misdemeanor case for which an indictment has not been issued or an information has not been filed.

(d) The offices, courtrooms, physical facilities, equipment, furniture, and books provided by the El Paso Commissioners Court for the court system and its auxiliary services, judges, and court personnel, except for the Court of Appeals for the Eighth Court of Appeals District, shall be allocated and utilized as provided by a majority vote of the council of judges.

(e) The County Courts at Law No. 6 and No. 7 of El Paso County, Texas, are designated as criminal misdemeanor courts. Courts designated as criminal misdemeanor courts shall give preference to

and have primary responsibility for:

(1) criminal misdemeanor cases;

(2) appeals or petitions under Section 501.052, 521.2421, 521.302, or 524.041, Transportation Code;

(3) misdemeanor bail bond and personal bond forfeiture cases; and

(4) appeals de novo from the municipal and justice courts.

(f) The council of judges may by majority vote periodically change the criminal misdemeanor designations provided by Subsection (e) so that different county courts at law are designated as criminal misdemeanor courts. At least four county courts at law must be designated as criminal misdemeanor courts, except that, for any period for which the commissioners court has provided funding for more than one criminal law magistrate judge:

(1) the council of judges may by majority vote designate a county court at law as a family court; and

(2) there may be fewer than four designated criminal misdemeanor courts, if the criminal misdemeanor docket permits, as determined by a majority vote of the council of judges.

(g) For the effective operation of the El Paso County court system and the effective administration of justice, the council of judges shall order the assignment, docketing, and transfer of a specified number or percentage and type of family law cases and proceedings, as defined by Section 25.0002, to the county court at law designated as a family court under Subsection (f). If, after a county court at law is designated a family court, funding for more than one criminal law magistrate judge is not continued, the council of judges may order that:

(1) the designation of the county court at law as a family law court be retracted; and

(2) a specified number or percentage and type of family law cases and proceedings in that court be transferred to other courts for the effective operation of the court system and the effective administration of justice.

(h) A district judge in El Paso County or a judge of a statutory county court in El Paso County may serve as the local administrative judge for the council of judges. The council of judges shall elect a judge as local administrative judge for a term of not more than two years. The local administrative judge may not be elected on the basis of rotation or seniority.

Added by Acts 1989, 71st Leg., ch. 1074, Sec. 7, eff. Sept. 1, 1989.
Amended by Acts 1997, 75th Leg., ch. 20, Sec. 2, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 1352 (S.B. 1189), Sec. 17, eff. September 1, 2005.

Acts 2023, 88th Leg., R.S., Ch. 386 (H.B. 291), Sec. 11, eff. September 1, 2023.

Sec. 75.015. EL PASO COUNTY JUDGE ASSIGNMENTS. (a) Judges may be assigned in the manner provided by this section to hold district court, county court at law, or statutory probate court in El Paso County when necessary to dispose of accumulated business in the county.

(b) The following judges may be assigned as provided by this section by any judge of a district court, county court at law, or statutory probate court in El Paso County or by the El Paso Council of Judges:

(1) a regular judge of a district court, county court at law, or statutory probate court of El Paso County, who has consented to be subject to assignment under this section and who has filed the judge's written consent to assignment with the local administrative judge under this section; and

(2) any judge on the criminal law magistrate court of El Paso County, who has consented to be subject to assignment under this section and who has filed the judge's written consent to assignment with the local administrative judge under this section.

(c) The local administrative judge shall establish and maintain a list of judges who have filed a written consent to be subject to assignment under this section.

(d) The written consent of a judge to be subject to assignment under this section by a district, county court at law, or statutory probate judge in El Paso County or by the El Paso Council of Judges may be limited to one or more district courts, county courts at law, or statutory probate courts.

(e) An El Paso County district, county court at law, or statutory probate judge may only assign a judge under this section to hold court for that judge.

(f) A judge may revoke or amend the judge's written consent to assignment under this section by filing a revocation or amendment to

the consent with the local administrative judge not later than the 10th day before the effective date of the revocation or amendment.

(g) A judge on the criminal law magistrate court of El Paso County may be assigned to hold district court under this section without the judge's consent by a two-thirds vote of all the district court and county court at law judges of El Paso County.

(h) A judge assigned under this section has all the powers, emoluments of office, and jurisdiction of the judge of the court to which the assignment is made.

(i) If any court holds any part of this section, Section 25.0732, or Subchapter J, Chapter 54, as added by Senate Bill No. 221, Acts of the 71st Legislature, Regular Session, 1989, unconstitutional, all acts performed by any judge under the authority of any of these laws before and on the date that the court's judgment becomes final are valid and binding.

(j) A retired or former judge of a county court at law or statutory probate court of El Paso County who is assigned to a district court in El Paso County under Subchapter A, under Chapter 74, or by other law of this state has the jurisdiction conferred by Subsection (h) of this section. A retired or former judge of a county court at law or statutory probate court of El Paso County who has served 12 years as a county court at law judge is a senior judge. The district courts, county courts at law, and statutory probate courts of El Paso County are of the same dignity.

(k) Except as provided by this subsection or by the council of judges, the local administrative judge may assign a judge on the council of judges or any other magistrate in the county to hold court for any magistrate in the county in any unindicted felony case or any Class A misdemeanor case, or Class B misdemeanor case for which an indictment has not been issued or an information has not been filed. A judge on the council of judges, other than the magistrate judge, may not be assigned under this subsection without the judge's consent. The local administrative judge may delegate or the council of judges may provide for delegation of the power to assign under this subsection to any other judge on the council of judges. A judge assigned under this subsection has all the powers and jurisdiction of the judge of the court to which assigned.

Added by Acts 1989, 71st Leg., ch. 1074, Sec. 7, eff. Sept. 1, 1989.
Amended by Acts 1991, 72nd Leg., ch. 512, Sec. 3, eff. June 13, 1991.

Sec. 75.016. PRESIDING CRIMINAL JUDGE OF TRAVIS COUNTY. (a) The judges of the Travis County district courts that give preference to criminal cases shall elect from among those judges a presiding criminal judge for the county for a two-year term expiring September 30 of each odd-numbered year.

(b) The presiding criminal judge, with respect to the Travis County district courts that give preference to criminal cases, shall:

(1) preside at all meetings of the criminal judges, except when absent, in which case any other of those judges may preside;

(2) implement and execute the local district court rules of administration for those courts, including assigning all capital murder cases to the proper court on a rotating basis;

(3) appoint any special or standing committees necessary or desirable for the administration of those courts;

(4) address administrative issues on an emergency basis for the criminal courts, provided that the presiding criminal judge's decisions regarding those issues may be reviewed at the next meeting of the judges of those courts;

(5) supervise the budget and fiscal matters of the criminal courts;

(6) monitor and serve as liaison regarding any legislation amending the Penal Code or Code of Criminal Procedure and any other legislation affecting the business of those courts; and

(7) serve as a liaison to the commissioners court of the county and appear before the commissioners court as necessary.

(c) The Commissioners Court of Travis County may set additional compensation to be paid to the presiding criminal judge by the county in any amount that does not exceed the amount the local administrative district judge of Travis County receives from this state. Notwithstanding any other law, compensation paid the presiding criminal judge under this subsection is not included as part of the judge's combined base salary from all state and county sources for purposes of the salary limitations provided by Section 659.012.

Added by Acts 2009, 81st Leg., R.S., Ch. 959 (H.B. 3468), Sec. 3, eff. September 1, 2009.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 16, eff. September 1, 2019.

SUBCHAPTER D. ASSIGNMENT CLERKS

Sec. 75.201. ASSIGNMENT CLERKS IN DALLAS AND TARRANT COUNTIES. (a) In Dallas County and Tarrant County, a majority of the district judges with civil jurisdiction may appoint an assignment clerk to serve under the judges of the district courts of each county in the setting and disposing of cases on the general jury docket.

(b) The commissioners court of each county shall set the salary of the assignment clerk on recommendation of the district judges. The salary shall be paid in monthly installments on vouchers approved by the presiding judge of the district courts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 75.202. ASSIGNMENT CLERKS IN NUECES COUNTY. (a) A majority of the district judges in Nueces County may appoint an assignment clerk to serve under the presiding judge of the district courts in the setting and disposing of cases on the general docket. The assignment clerk shall perform the duties that are assigned to him by the district judges in connection with the setting and disposing of cases.

(b) The commissioners court shall set the salary of the assignment clerk and provide for the payment of the salary out of the general fund or the jury fund of the county. The salary shall be paid in monthly installments on vouchers approved by the presiding judge of the district courts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 75.203. ASSIGNMENT CLERKS IN BEXAR COUNTY. (a) A majority of the judges of district courts having jurisdiction in Bexar County may appoint an assignment clerk to serve under the presiding judge of the district courts in the coordination, setting, and disposing of cases on the general docket. The assignment clerk shall perform the duties that are assigned to him by the district judges in connection with the coordination, setting, and disposing of

cases.

(b) The district judges shall determine reasonable compensation for the assignment clerk, which may not exceed an amount equal to 70 percent of the salary paid by the state to each district judge. The commissioners court shall provide for the payment of the salary of the assignment clerk out of the general fund or the jury fund of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 75.204. TERM. An assignment clerk authorized by this subchapter is appointed for a term of two years but is subject to dismissal by a majority of the district judges for inefficiency or misconduct.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER F. ADMINISTRATION OF CERTAIN COURTS

Sec. 75.401. COURT ADMINISTRATOR SYSTEM FOR DISTRICT AND STATUTORY COUNTY COURTS IN CERTAIN COUNTIES. (a) In a county that has more than one district court or statutory county court, those courts may establish and maintain, if approved by the commissioners court, a court administrator system.

(b) The judges of the district courts or the statutory county courts may by local rule designate local court divisions and the duties of the court administrator for each division, if applicable. The court administrator shall cooperate with regional, presiding, and local administrative judges and state agencies having duties relating to the operation of the courts to promote uniform and efficient administration of justice.

(c) If the commissioners court includes in the county budget money for the position of court administrator, the court administrator is appointed by the judges of the district courts or the statutory county courts served by the court administrator. The court administrator serves at the pleasure of those judges.

(d) A court administrator is entitled to reasonable compensation, as determined by the judges served and in the salary range for the position, as set by the commissioners court in the annual budget.

(e) The judges of the courts served by the court administrator, if the positions are included in the county budget adopted by the commissioners court, shall appoint appropriate staff and support personnel according to the needs of the local jurisdiction.

(f) If money to fund the court administrator system is included in the county budget, the commissioners court shall fund the court administrator system from fines collected by the courts served by the court administrator. If the fines collected are insufficient to provide the total funding for the program, the county shall provide the additional funds needed.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 653 (H.B. 1925), Sec. 1, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 966 (S.B. 1913), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 966 (S.B. 1913), Sec. 2, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 1110 (H.B. 4104), Sec. 2, eff. September 1, 2017.

Sec. 75.402. COURT MANAGER AND COORDINATOR SYSTEM FOR CERTAIN HARRIS COUNTY COURTS. (a) The courts in Harris County that have the same criminal jurisdiction as county courts with criminal jurisdiction may establish and maintain a court manager and coordinator system.

(b) The judges of the courts to which this section applies may appoint a court manager, one or more court coordinators, and other staff as appropriate to the needs of the local jurisdiction. The judges shall by rule designate the qualifications and duties of the court manager and the coordinators to improve criminal justice and expedite the processing of criminal cases through the county courts. The court manager and the coordinators shall cooperate with state agencies having duties relating to the operation of the courts to promote uniform and efficient justice.

(c) The court manager and the coordinators serve at the pleasure of the judges.

(d) A court manager and coordinators are entitled to reasonable

compensation as set by the judges of the courts served. The amount paid the court manager may not exceed 60 percent of the salary paid the judges unless the commissioners court by order sets the court manager's compensation at a greater amount. The amount paid the coordinators may not exceed 50 percent of the salary paid the judges.

(e) On the judges' orders, the commissioners court shall fund the court manager and coordinator system from fines collected by the courts served by the court manager and coordinators. If the fines collected are insufficient to provide the total funding for the program, the county shall provide the additional funds needed.

(f) This section does not diminish the statutory duties and powers of the sheriff, district attorney, clerk of the court, or any court officer.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 75.403. PRESIDING JUDGE FOR CERTAIN HARRIS COUNTY COURTS. (a) The judges of the courts in Harris County that have the same criminal jurisdiction as county courts with criminal jurisdiction may select from among themselves a presiding judge.

(b) The presiding judge shall be selected during the month preceding the term the judge is to serve by a vote of two-thirds of the judges. The presiding judge serves a term of six months unless by a vote of two-thirds of the judges the selection is canceled and another judge is selected to serve the unexpired term. Each judge shall enter on the minutes of the court an order reciting the selection of the presiding judge.

(c) A co-presiding judge may be selected in the same manner as the presiding judge. The co-presiding judge serves when the presiding judge is absent or disabled for any reason and has the same duties as the presiding judge.

(d) The presiding judge shall:

(1) preside at any session of the judges;

(2) hold ex officio membership on all committees created by the judges in session that pertain to the goal of achieving more equal and efficient justice and the orderly dispatch of business; and

(3) serve as chief administrator of the offices of county court manager and county court coordinators, and of pretrial release

services and all other court-related ministerial services in misdemeanor cases as required by the judges having jurisdiction over those cases.

(e) If a judge is absent or for any reason unable to preside, the presiding judge may appoint a special judge to serve as presiding judge. The qualifications, duties, and powers of a special judge are the same as for the regular judge. The provisions of Articles 30.04, 30.05, and 30.06, Code of Criminal Procedure, 1965, relating to the oath, compensation, and record of appointment of certain special judges apply to the appointment of a special judge under this subsection.

(f) The judges may adopt rules consistent with the Code of Criminal Procedure, 1965, and the Texas Rules of Civil Procedure for practice and procedure in the courts. A rule may be adopted by a two-thirds vote of the judges, and on adoption shall be entered verbatim in the minutes of each court. The clerk of the court shall supply copies of the rules to any interested person.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 163, Sec. 2, eff. Aug. 31, 1987.

Sec. 75.404. PRESIDING JUDGE FOR HARRIS COUNTY JUSTICE COURTS. (a) The justices of the peace in Harris County may select from among themselves a presiding judge.

(b) The presiding judge shall be selected during the month preceding the term the judge is to serve by a two-thirds vote of the judges. The presiding judge serves a term of one year unless by a vote of two-thirds of the judges the selection is canceled and another judge is selected to serve the unexpired term. Each judge shall enter on the minutes of the court an order reciting the selection of the presiding judge.

(c) A copresiding judge may be selected in the same manner as the presiding judge. The copresiding judge serves when the presiding judge is absent or disabled for any reason and has the same duties as the presiding judge.

(d) The presiding judge shall:

(1) preside at any session of the judges;

(2) keep a record of the decisions of the judges;

(3) appoint special or standing committees necessary for

court management and administration;

(4) implement local rules, including assignment, docketing, transfer, and hearings of cases; and

(5) provide statistical and management information requested by the supreme court or the Office of Court Administration of the Texas Judicial System.

(e) If a justice of the peace in Harris County is absent or for any reason unable to preside, the presiding judge may appoint, in addition to a qualified person authorized by law, a former justice of the peace or a former county court, statutory county court, or district court judge who served as a judge in this state and who consents to the appointment as a special judge to preside for the justice of the peace. The presiding judge may designate the duration of the appointment, not to exceed 60 days, and may revoke an appointment at any time. The duties and powers of a special judge are the same as for the regular justice of the peace.

(f) The commissioners court may compensate the special judge.

(g) The justices of the peace in Harris County may adopt local rules:

(1) that are consistent with Chapter 45A, Code of Criminal Procedure, and Part V, Texas Rules of Civil Procedure, for practice and procedure in the justice courts of Harris County; and

(2) for practice and procedure in the small claims courts of Harris County.

(h) A local rule may be adopted by two-thirds vote of the justices of the peace.

(i) A local rule may provide for assigning, docketing, transferring, or hearing of a case.

(j) Notwithstanding other provisions of law regarding venue:

(1) a misdemeanor case to be tried in a justice court of Harris County may be prosecuted, according to a local rule, in any precinct in the county designated by the local rule; and

(2) a civil case, except a suit for forcible entry and detainer or involving real property, may be brought, according to local rule, in any precinct in the county designated by the local rule.

(k) Each justice of the peace shall enter the local rules on the minutes of the court. On request, a justice of the peace shall provide a copy of the local rules to any interested person.

Added by Acts 1987, 70th Leg., ch. 163, Sec. 3, eff. Aug. 31, 1987.
Amended by Acts 1995, 74th Leg., ch. 216, Sec. 1, eff. May 23, 1995; Acts 1997, 75th Leg., ch. 661, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 583, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.075, eff. January 1, 2025.

SUBCHAPTER G. COURT ADMINISTRATOR IN JEFFERSON COUNTY

Sec. 75.501. APPLICATION. This Act applies to the district courts and to the county courts at law that give preference to criminal cases in Jefferson County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 75.502. ESTABLISHMENT OF SYSTEM. The courts may establish a court administrator system to improve criminal justice and to expedite the processing of criminal cases.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 75.503. APPOINTMENT AND DUTIES OF COURT ADMINISTRATOR. (a) The court administrator is appointed by and serves at the pleasure of the judges of the courts subject to this subchapter.

(b) The courts shall designate by rule the duties of the court administrator.

(c) To promote uniform and efficient administration of justice, the court administrator shall cooperate with administrative judges and state agencies with duties relating to the operation of the courts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 75.504. STAFF. (a) The courts may appoint the necessary staff and support personnel for the administrator.

(b) As part of the staff, the courts may appoint witness coordinators who, in addition to other duties designated by the court

administrator, shall execute criminal process.

(c) On appointment, the courts shall commission each witness coordinator as a peace officer.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 75.505. COMPENSATION AND FACILITIES. The court administrator and the staff are entitled to reasonable compensation, facilities, and equipment as determined by the commissioners court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER H. COURT ADMINISTRATOR IN FORT BEND COUNTY

Sec. 75.521. APPLICATION. This subchapter applies to the district courts and county courts at law in Fort Bend County.

Added by Acts 1993, 73rd Leg., ch. 654, Sec. 1, eff. June 12, 1993.

Sec. 75.522. ESTABLISHMENT OF SYSTEM. The courts may establish a court administrator system to improve the administration of justice and to expedite the processing of civil and criminal cases.

Added by Acts 1993, 73rd Leg., ch. 654, Sec. 1, eff. June 12, 1993.

Sec. 75.523. APPOINTMENT AND DUTIES OF COURT ADMINISTRATOR. (a) The court administrator is appointed by and serves at the pleasure of the judges of the courts subject to this subchapter.

(b) The courts shall designate by rule the duties of the court administrator.

(c) To promote uniform and efficient administration of justice, the court administrator shall cooperate with administrative judges and state agencies with duties relating to the operation of the courts.

Added by Acts 1993, 73rd Leg., ch. 654, Sec. 1, eff. June 12, 1993.

Sec. 75.524. COMPENSATION AND FACILITIES. A court administrator is entitled to reasonable compensation, facilities, and equipment as determined by the judges of the courts served, with the approval of the commissioners court. The commissioners court shall fund the court administrator system from general funds of the county.

Added by Acts 1993, 73rd Leg., ch. 654, Sec. 1, eff. June 12, 1993.

Sec. 75.525. STAFF. The judges of the courts served by the court administrator may appoint the necessary staff and support personnel for the court administrator.

Added by Acts 1993, 73rd Leg., ch. 654, Sec. 1, eff. June 12, 1993.

SUBCHAPTER I. GENERAL PROVISIONS

Sec. 75.551. OBJECTION TO JUDGE OR JUSTICE ASSIGNED TO AN APPELLATE COURT. (a) When a judge or justice is assigned to an appellate court under this chapter or Chapter 74:

(1) the order of assignment must state whether the judge or justice is an active, former, retired, or senior judge or justice; and

(2) the person who assigns the judge or justice shall, if it is reasonable and practicable and if time permits, give notice of the assignment to each attorney representing a party to the case that is to be heard in whole or part by the assigned judge or justice.

(b) A judge or justice assigned to an appellate court may not hear a civil case if a party to the case files a timely objection to the assignment of the judge or justice. Except as provided by Subsection (d), each party to the case is entitled to only one objection under this section for that case in the appellate court.

(c) An objection under this section must be filed not later than the seventh day after the date the party receives actual notice of the assignment or before the date the case is submitted to the court, whichever date occurs earlier. The court may extend the time to file an objection under this section on a showing of good cause.

(d) A judge or justice who was defeated in the last primary or general election for which the judge or justice was a candidate for the judicial office held by the judge or justice may not sit in an appellate case if either party objects to the judge or justice.

(e) An active judge or justice assigned under this chapter is not subject to an objection.

(f) For purposes of this section, notice of an assignment may be given and an objection to an assignment may be filed by electronic mail.

(g) In this section, "party" includes multiple parties aligned in a case as determined by the appellate court.

Added by Acts 1997, 75th Leg., ch. 1064, Sec. 2, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 315, Sec. 14, eff. Sept. 1, 2003.

SUBCHAPTER J. COURT REMINDER PROGRAM

Sec. 75.601. ESTABLISHMENT OF STATE PROGRAM FOR PARTICIPATING COUNTIES. (a) The Office of Court Administration of the Texas Judicial System shall develop and make available to each county a court reminder program that allows the county to send a text message to notify criminal defendants of scheduled court appearances. The purposes of the program must include:

(1) reducing costs associated with defendants who fail to appear for a scheduled court appearance;

(2) improving the efficiency of courts in this state;

(3) reminding criminal defendants to appear at each scheduled court appearance; and

(4) reducing the number of criminal defendants who are confined in a county jail due solely to the defendant's failure to appear for a scheduled court appearance.

(b) The program must:

(1) be available to each county at no cost;

(2) comply with applicable state and federal laws requiring the consent of an individual before sending a reminder by text message;

(3) provide text message reminders for each court appearance of a defendant who has access to a device with the technological capability of receiving text messages and provides the court administrator with an operational phone number for the device;

(4) document each occurrence of a criminal defendant receiving a text message reminder;

(5) identify criminal defendants with scheduled court

appearances who lack access to devices with the technological capability of receiving text messages;

(6) document the number of criminal defendants who fail to appear at scheduled court appearances after being sent one or more text message reminders;

(7) include the technological capability, at the discretion of the local administrative judge, to provide additional information to criminal defendants concerning scheduled court appearances, such as the location of the court appearance, available transportation options, and procedures for defendants who are unable to attend court appearances;

(8) support partnerships with local law enforcement agencies, local governments, and local public defenders in accordance with the purposes described by Subsection (a); and

(9) provide one or more publicly available Internet websites through which criminal defendants may request text reminders.

Added by Acts 2021, 87th Leg., R.S., Ch. 736 (H.B. 4293), Sec. 1, eff. September 1, 2021.

Sec. 75.602. ESTABLISHMENT OF COUNTY PROGRAMS. (a) The justices of the justice courts and judges of the county courts, statutory county courts, and district courts with jurisdiction over criminal cases in each county may establish a court reminder program that allows the county to send a text message to notify criminal defendants of scheduled court appearances.

(b) In developing the court reminder program, the justices and judges may join the state program developed under Section 75.601 or develop a county program that allows the county to send text message notifications to criminal defendants and that complies with the requirements of Section 75.601(b).

Added by Acts 2021, 87th Leg., R.S., Ch. 736 (H.B. 4293), Sec. 1, eff. September 1, 2021.

Sec. 75.603. MUNICIPAL PROGRAM. (a) The Office of Court Administration of the Texas Judicial System, or the justices of the justice courts and judges of the county courts, statutory county

courts, and district courts with jurisdiction over criminal cases in each county, may partner with municipalities and local law enforcement agencies to allow:

(1) individuals to whom a peace officer issues a citation and releases to receive text message reminders of scheduled court appearances; and

(2) criminal defendants in municipal court to receive text message reminders of scheduled court appearances.

(b) Any municipality that partners with the Office of Court Administration of the Texas Judicial System shall pay all costs of sending reminders to municipal criminal defendants, including the costs of linking the municipal court database with the state court administrator database.

Added by Acts 2021, 87th Leg., R.S., Ch. 736 (H.B. 4293), Sec. 1, eff. September 1, 2021.

CHAPTER 76. COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENTS

Sec. 76.001. DEFINITIONS. In this chapter:

(1) "Board" means the Texas Board of Criminal Justice.

(2) "Community supervision" has the meaning assigned by Article 42A.001, Code of Criminal Procedure.

(3) "Council" means a community justice council.

(4) "Department" means a community supervision and corrections department established under this chapter.

(5) "Division" means the community justice assistance division of the Texas Department of Criminal Justice.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.11, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.35, eff. January 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 663, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 76.002. ESTABLISHMENT OF DEPARTMENTS. (a) The district judge or district judges trying criminal cases in each judicial

district and the statutory county court judges trying criminal cases in the county or counties served by the judicial district shall:

(1) establish a community supervision and corrections department; and

(2) approve the department's budget and strategic plan.

(b) Repealed by Acts 2005, 79th Leg., Ch. 255, Sec. 12, eff. May 30, 2005.

(c) Except as provided by Subsection (d), one department serves all courts and counties in a judicial district if:

(1) two or more judicial districts serve a county; or

(2) a district includes more than one county.

(d) The board may adopt rules to allow more than one department to serve a judicial district that includes more than one county if providing more than one department will promote administrative convenience or economy or improve services.

(e) The board shall adopt rules allowing departments to contract with one another for services or facilities or to contract as provided by Subsection (f).

(f) In lieu of establishing a department as required by Subsection (a), programs and services may be provided under this chapter in a judicial district through a contract with a department established for another judicial district.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.11, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 255 (H.B. 1326), Sec. 1, eff. May 30, 2005.

Acts 2005, 79th Leg., Ch. 255 (H.B. 1326), Sec. 12, eff. May 30, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1045 (H.B. 3691), Sec. 1, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1051 (H.B. 1930), Sec. 1, eff. September 1, 2015.

Sec. 76.003. COMMUNITY JUSTICE COUNCIL. (a) A community justice council may be established by the commissioners court of a county, unless a board or council that was in existence on September 1, 1991, is performing duties substantially similar to those imposed on a community justice council under this section. The council shall

provide continuing policy guidance and direction for criminal justice planning, programs, and initiatives.

(b) A council may consist of the following persons or their designees:

(1) a sheriff of a county served by the department, chosen by the sheriffs of the counties to be served by the department;

(2) a county commissioner or a county judge from a county served by the department, chosen by the county commissioners and county judges of the counties served by the department;

(3) a city council member of the most populous municipality in a county served by the department, chosen by the members of the city councils of cities served by the department;

(4) not more than two state legislators elected from a county served by the department, or in a county with a population of one million or more to be served by the department, not more than one state senator and one state representative elected from the county, chosen by the state legislators elected from the county or counties served by the department;

(5) the presiding judge from a judicial district served by the department, chosen by the district judges from the judicial districts served by the department;

(6) a judge of a statutory county court exercising criminal jurisdiction in a county served by the department, chosen by the judges of statutory county courts with criminal jurisdiction in the counties served by the department;

(7) a county attorney with criminal jurisdiction from a county served by the department, chosen by the county attorneys with criminal jurisdiction from the counties served by the department;

(8) a district attorney or criminal district attorney from a judicial district served by the department, chosen by the district attorneys or criminal district attorneys from the judicial districts served by the department;

(9) an elected member of the board of trustees of an independent school district in a county served by the department, chosen by the members of the boards of trustees of independent school districts located in counties served by the department; and

(10) the department director.

(c) The community justice council shall appoint a community justice task force to provide support staff for the development of a community justice plan. The task force may consist of any number of

members, but must include:

(1) the county or regional director of the Health and Human Services Commission, or the division of the commission performing the functions previously performed by the Texas Department of Human Services, with responsibility for the area served by the department;

(2) the chief of police of the most populous municipality served by the department;

(3) the chief juvenile probation officer of the juvenile probation office serving the most populous area served by the department;

(4) the superintendent of the most populous school district served by the department;

(5) the supervisor of the Department of Public Safety region closest to the department, or the supervisor's designee;

(6) the county or regional director of the Health and Human Services Commission, or the division of the commission performing the functions previously performed by the Texas Department of Mental Health and Mental Retardation, with responsibility for the area served by the department;

(7) a substance abuse treatment professional appointed by the Council of Governments serving the area served by the department;

(8) the department director;

(9) the local or regional representative of the parole division of the Texas Department of Criminal Justice with responsibility for the area served by the department;

(10) the representative of the Texas Workforce Commission with responsibility for the area served by the department;

(11) the representative of the Health and Human Services Commission, or the division of the commission performing the functions previously performed by the Department of Assistive and Rehabilitative Services, with responsibility for the area served by the department;

(12) a licensed attorney who practices in the area served by the department and whose practice consists primarily of criminal law;

(13) a court administrator, if one serves the area served by the department;

(14) a representative of a community service organization that provides adult treatment, educational, or vocational services to the area served by the department;

(15) a representative of an organization in the area served by the department that is actively involved in issues relating to defendants' rights, chosen by the county commissioners and county judges of the counties served by the department; and

(16) an advocate for rights of victims of crime and awareness of issues affecting victims.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.11, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 9.02(a), 9.03(a), eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 255 (H.B. 1326), Sec. 2, eff. May 30, 2005.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.064, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1045 (H.B. 3691), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1074 (S.B. 1055), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1051 (H.B. 1930), Sec. 2, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.02, eff. September 1, 2023.

Sec. 76.004. DEPARTMENT DIRECTOR; FISCAL OFFICER. (a) After complying with the requirements of Subsection (h), the judges described by Section 76.002 shall appoint a department director who must meet, at a minimum, the eligibility requirements for officers established under Section 76.005.

(a-1) The department director shall perform or delegate the responsibility for performing the following duties:

(1) overseeing the daily operations of the department;

(2) preparing annually or biennially a budget for the department;

(3) negotiating and entering into contracts on behalf of the department;

(4) establishing policies and procedures for all functions of the department;

(5) developing personnel policies and procedures, including

disciplinary proceedings; and

(6) establishing procedures and practices through which the department will address an employment-related grievance.

(b) The department director shall employ a sufficient number of officers and other employees to conduct presentence investigations, supervise and rehabilitate defendants placed on community supervision, enforce the conditions of community supervision, and staff community corrections facilities. A person employed under this subsection is an employee of the department and not of the judges or judicial districts.

(c) The judges described by Section 76.002 may appoint for the department a fiscal officer, other than the county auditor. The fiscal officer is responsible for:

(1) managing and protecting funds, fees, state aid, and receipts to the same extent that a county auditor manages county funds and funds of other local entities;

(2) ensuring that financial transactions of the department are lawful and allowable; and

(3) prescribing accounting procedures for the department.

(d) The judges described by Section 76.002 may appoint a person as fiscal officer only after investigating the person and determining that the person is:

(1) a person of unquestionably good moral character and intelligence; and

(2) a financial officer with at least two years' experience in auditing and accounting.

(e) A fiscal officer appointed under this section, before beginning employment and not later than the 20th day after the date of appointment, shall:

(1) take an oath stating that the person meets the qualifications required by this section and will not have a personal interest in any contract entered into by the department; and

(2) execute a good and sufficient surety bond that:

(A) is in the amount of $5,000 or more;

(B) is approved by and payable to the judges described by Section 76.002; and

(C) is conditioned on the faithful performance by the fiscal officer of the officer's duties.

(f) The judges described by Section 76.002 shall set the annual compensation of a fiscal officer appointed under this section, and

the department shall pay all costs related to the functions of the fiscal officer.

(g) Subsections (c)-(f) do not diminish the rights of the following officers or entities to examine and audit accounts, records, receipts, and expenditures of a department:

(1) the county auditor of a county served by the department;

(2) the comptroller;

(3) the state auditor; and

(4) the division.

(h) When there is a vacancy in the position of department director, the judges described by Section 76.002 shall:

(1) publicly advertise the position;

(2) post a job description, the qualifications for the position, and the application requirements;

(3) conduct a competitive hiring process and adhere to state and federal equal employment opportunity laws; and

(4) review applicants who meet the posted qualifications and comply with the application requirements.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.11, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 207, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 255 (H.B. 1326), Sec. 3, eff. May 30, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 11, eff. June 15, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 663, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 76.0045. JUDICIAL RESPONSIBILITIES; IMMUNITY. (a) The responsibility of a judge described by Section 76.002 for personnel decisions is limited to the appointment of a department director and a fiscal officer.

(b) The responsibility of a judge described by Section 76.002 for budgetary decisions is limited to:

(1) appointment of a fiscal officer; and

(2) approval of the department's budget.

(c) A judge described by Section 76.002 has judicial immunity in a suit arising from:

(1) the performance of a duty described by Section 76.002(a); or

(2) the appointment of a department director or a fiscal officer or an act or failure to act by a department employee or by a department director or fiscal officer.

Added by Acts 2005, 79th Leg., Ch. 255 (H.B. 1326), Sec. 4, eff. May 30, 2005.

Sec. 76.005. STANDARDS FOR OFFICERS. (a) An officer appointed by the department director must comply with a code of ethics developed by the division.

(b) To be eligible for appointment as an officer who supervises defendants placed on community supervision a person must have acquired a bachelor's degree conferred by an institution of higher education accredited by an accrediting organization recognized by the Texas Higher Education Coordinating Board.

(c) A person employed as a peace officer is not eligible for appointment as an officer under this section.

(d) The division may establish a waiver procedure for departments unable to hire persons meeting the requirements under Subsection (b)(2).

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.11, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 108, Sec. 1, eff. May 15, 1997.

Sec. 76.0051. AUTHORIZATION TO CARRY WEAPON. An officer is authorized to carry a weapon while engaged in the actual discharge of the officer's duties only if:

(1) the officer possesses a certificate of firearms proficiency issued by the Texas Commission on Law Enforcement under Section 1701.257, Occupations Code; and

(2) the director of the department agrees to the authorization.

Added by Acts 1997, 75th Leg., ch. 1261, Sec. 29, eff. Sept. 1, 1997. Amended by:

Acts 2005, 79th Leg., Ch. 255 (H.B. 1326), Sec. 5, eff. May 30, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.22, eff. May 18, 2013.

Sec. 76.006. EMPLOYEE STATUS AND BENEFITS. (a) Except as provided by Subsection (c), department employees are not state employees. The department shall contract for all employee benefits with one county served by the department and designated for that purpose by the judges described by Section 76.002. To the extent that employee benefits are provided by a county under this subsection, the employees are governed by personnel policies and benefits equal to personnel policies for and benefits of other employees of that county. This subsection does not apply to employee benefits for group insurance and related coverages provided to employees of a department through the group benefits program for state employees under Chapter 1551, Insurance Code.

(b) The judicial districts served by a department shall pay the salaries of department employees.

(c) Department employees are state employees for the purposes of Chapter 104, Civil Practice and Remedies Code, and Chapter 501, Labor Code. Notwithstanding Subsection (a), a department employee is eligible to participate in the group benefits program established under Chapter 1551, Insurance Code, as provided by Section 1551.114, Insurance Code.

(d) The attorney general has the duty to defend a department for suits for injunctive, declaratory, or monetary relief brought against it for any action not covered by an indemnification policy, except any action brought by the state or another political subdivision.

(d-1) If a person under the supervision of a department challenges the fact or duration of the supervision, the attorney general or the district or county attorney with jurisdiction over the offense for which the person is under supervision shall defend the department or its employees. The attorney general must defend the department or its employees in a case described by this subsection if the district or county attorney is unable to defend the department or its employees, as applicable. At the request of a district or county attorney, the attorney general may provide assistance to the district

or county attorney in defending a department or its employees in cases described by this subsection.

(e) The department shall provide information requested by the attorney general that the attorney general considers necessary for the defense or prosecution of any case brought under this section.

(f) The department shall provide transportation or automobile allowances for officers who supervise defendants placed on community supervision.

(g) A document evaluating the performance of an officer of the department who supervises defendants placed on community supervision is confidential.

(h) If under Subsection (a) the judges described by Section 76.002 change the designation of the county providing employee benefits, the judges may not subsequently change that designation before the 10th anniversary of the date on which the previous designation was made.

(i) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 618, Sec. 26(a)(1), eff. September 1, 2013.

(j) The attorney general shall defend a statutory county court judge in an action in state or federal court if:

(1) the cause of action is the result of the judge performing a duty described by Section 76.002 or 76.004; and

(2) the judge requests the attorney general's assistance in the defense.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.11, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 987, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1240, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 19.01(29), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 875, Sec. 1, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 1030, Sec. 2.01, eff. Sept. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 255 (H.B. 1326), Sec. 6, eff. May 30, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 26(a)(1), eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1051 (H.B. 1930), Sec. 3, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 126 (H.B. 1088), Sec. 1, eff. September 1, 2023.

Sec. 76.007. PUBLIC FUNDS, GRANTS, AND GIFTS. A department may accept public funds and grants and gifts from any source for the purpose of financing programs and facilities. A municipality, county, or other political subdivision may make grants to a department for those purposes.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.11, eff. Sept. 1, 1995.

Sec. 76.008. FINANCIAL RESPONSIBILITIES OF COUNTIES. (a) The county or counties served by a department shall provide physical facilities, equipment, and utilities for a department. The division shall monitor the support a county provides under this section and determine whether a county provides support that meets the standards for minimum support established by the division. If the division determines that a county's support is insufficient, the division may impose on the department a sanction authorized by Section 509.012.

(b) If a department serves two or more counties, those counties may enter into an agreement for the distribution of the expenses of facilities, equipment, and utilities.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.11, eff. Sept. 1, 1995.

Sec. 76.009. FINANCIAL RESPONSIBILITIES OF DISTRICTS. (a) The department may expend district funds in order to provide expanded facilities, equipment, and utilities if:

(1) the department needs to increase its personnel in order to provide more effective services or to meet workload requirements established under Chapter 509;

(2) the county or counties certify to the department director that they have neither adequate space in county-owned buildings nor adequate funds to lease additional physical facilities, purchase additional equipment, or pay for additional utilities required by the department; and

(3) the county or counties provide facilities, equipment, and utilities at or above the levels required by the division.

(b) The division shall set as the level of contribution a county or counties must meet or exceed to receive district funds

under Subsection (a) a level not lower than the average level provided by the county or counties during the fiscal year in which the funds are to be received and the four fiscal years immediately preceding that year.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.11, eff. Sept. 1, 1995.
Amended by:
Acts 2005, 79th Leg., Ch. 255 (H.B. 1326), Sec. 7, eff. May 30, 2005.

Sec. 76.010. STATE FUNDS OR GUARANTEES FOR CORRECTIONS FACILITIES. (a) In this section:

(1) "Community corrections facility" has the meaning assigned by Section 509.001.

(2) "State jail felony facility" means a facility operated or contracted for by the Texas Department of Criminal Justice under Subchapter A, Chapter 507, for the confinement of individuals convicted of state jail felonies.

(b) A department, county, municipality, or a combination involving more than one of those entities may establish a community corrections facility and are specifically encouraged to purchase or enter into a contract for the use of abandoned or underutilized public facilities, such as former military bases and rural hospitals, for the purpose of providing community corrections facilities.

(c) The department may authorize expenditures of funds provided by the division to the department for the purposes of providing facilities, equipment, and utilities for community corrections facilities or state jail felony facilities if:

(1) the judges described by Section 76.002 recommend the expenditures; and

(2) the division, or the correctional institutions division of the Texas Department of Criminal Justice in the case of a state jail felony facility, provides funds for the purpose of assisting in the establishment or improvement of the facilities.

(d) A department may acquire, hold title to, and own real property for the purpose of establishing a community corrections facility or a state jail felony facility.

(e) A department, county, municipality, or a combination involving more than one of those entities may not use a facility or

real property purchased, acquired, or improved with state funds unless the division, or the correctional institutions division of the Texas Department of Criminal Justice in the case of a state jail felony facility, first approves the use.

(f) The division or the correctional institutions division of the Texas Department of Criminal Justice, in the case of a state jail felony facility, is entitled to reimbursement from an entity described by Subsection (e) of all state funds used by the entity without the approval required by Subsection (e).

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.11, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 255 (H.B. 1326), Sec. 8, eff. May 30, 2005.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.065, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.066, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1051 (H.B. 1930), Sec. 4, eff. September 1, 2015.

Sec. 76.011. OPERATION OF CERTAIN SERVICES AND PROGRAMS. (a) The department may operate programs for:

(1) the supervision and rehabilitation of persons in pretrial intervention programs;

(2) the supervision of persons released on bail under:

(A) Chapter 11, Code of Criminal Procedure;

(B) Chapter 17, Code of Criminal Procedure;

(C) Article 44.04, Code of Criminal Procedure; or

(D) any other law;

(3) the supervision of a person subject to, or the verification of compliance with, a court order issued under:

(A) Article 17.441, Code of Criminal Procedure, requiring a person to install a deep-lung breath analysis mechanism on each vehicle owned or operated by the person;

(B) Chapter 123 of this code or former law, issuing an occupational driver's license;

(C) Section 49.09(h), Penal Code, requiring a person to install a deep-lung breath analysis mechanism on each vehicle owned

or operated by the person; or

(D) Subchapter L, Chapter 521, Transportation Code, granting a person an occupational driver's license; and

(4) the supervision of a person not otherwise described by Subdivision (1), (2), or (3), if a court orders the person to submit to the supervision of, or to receive services from, the department.

(b) Except as otherwise provided by this subsection, programs operated by the department under Subsection (a) may include reasonable conditions related to the purpose of the program, including testing for controlled substances. If this subsection conflicts with a more specific provision of another law, the other law prevails.

(c) A person in a pretrial intervention program operated by the department under Subsection (a) may be supervised for a period not to exceed two years.

(d) The department may use money deposited in the special fund of the county treasury for the department under Article 103.004(d), Code of Criminal Procedure, only for the same purposes for which state aid may be used under this chapter.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.11, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 91 (S.B. 1006), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.001, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 419 (S.B. 880), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.03, eff. September 1, 2013.

Sec. 76.012. REPORTING AND MANAGEMENT SERVICES. A department may enter into a contract with a public or private vendor to provide telephone reporting, automated caseload management, and collection services for fines, fees, restitution, and other costs ordered to be paid by a court or fees imposed by a department.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.11, eff. Sept. 1, 1995.

Sec. 76.013. RESTITUTION. (a) If a judge requires a defendant to make restitution to a victim of the defendant's offense, and a restitution payment is received by a department from the defendant for transmittal to a victim of the offense, the department shall immediately deposit the payment in an interest-bearing account in the county treasury as required by Section 140.003(f), Local Government Code.

(b) If a department receives an initial restitution payment, the department shall immediately notify the victim by certified mail, mailed to the last known address of the victim, that the restitution payment has been received and shall inform the victim of how a claim for payment of restitution can be made.

(b-1) If a victim makes a claim for payment of restitution with the department, the department shall promptly remit to the victim all restitution payments received by the department from the defendant for transmittal to the victim.

(b-2) If a victim who is entitled to restitution does not make a claim for payment before the fifth anniversary of the date the department receives the initial restitution payment or if, after the victim makes a claim for payment, the department is unable to locate the victim for a period of five years after the date the department last made a payment to the victim, any unclaimed restitution payments being held by the department for payment to the victim are presumed abandoned. The department shall report and deliver to the comptroller all unclaimed restitution payments presumed abandoned under this section, less a collection fee of one and one-half percent, in the manner provided by Chapter 77, Property Code.

(b-3) If on March 1 a department is not holding unclaimed restitution payments that are presumed abandoned under this section, the department shall file a property report under Section 77.051, Property Code, that certifies that the department is not holding any unclaimed restitution payments that are presumed abandoned under this section.

(c) The collection fee under Subsection (b-2) and the accrued interest under Subsection (a) shall be deposited in the special fund of the county treasury provided by Section 509.011 to be used for the same purposes for which state aid may be used under that section.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 351 (H.B. 1866), Sec. 5(2), eff. September 1, 2017.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.11, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 9.04(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 796, Sec. 1, eff. Sept. 1, 1997. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 351 (H.B. 1866), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 351 (H.B. 1866), Sec. 5(2), eff. September 1, 2017.

Sec. 76.014. ASSESSMENT AND ENHANCEMENT OF DEFENDANT'S EDUCATIONAL SKILLS. (a) A department, with the assistance of the Texas Workforce Commission, the Texas Workforce Investment Council, local workforce development boards, and other appropriate public and private entities, may establish a developmental program for a defendant under the supervision of the department on the basis of information obtained in the presentence investigation report prepared for the defendant.

(b) The developmental program may provide the defendant with the educational and vocational training necessary to:

(1) meet the average skill level of students who have completed the sixth grade in public schools in this state; and

(2) maintain employment while under the supervision of the department, to lessen the likelihood that the defendant will commit additional offenses.

(c) To decrease expenditures by departments for the educational and vocational skills assessment and enhancement program established under this section, the Texas Department of Economic Development shall provide information to departments, the Texas Workforce Commission, the Texas Workforce Investment Council, local workforce development boards, and other appropriate public and private entities for obtaining financial assistance through programs under Chapter 301, Labor Code, and other applicable programs of public or private entities.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.11, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 9.05(a), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 818, Sec. 6.05, eff. Sept. 1, 2003.

Sec. 76.015. REIMBURSEMENT FEE. (a) A department may collect money from an individual as ordered by a court served by the department regardless of whether the individual is under the department's supervision.

(a-1) This section does not apply to an individual ordered to pay an administrative fee to a personal bond office under Section 521.2462(a-3), Transportation Code.

(b) A department that collects money under this section shall promptly transfer the money collected to the appropriate county or state officer.

(c) A department may assess a reasonable reimbursement fee of not less than $25 and not more than $60 per month on an individual who participates in a program operated by the department or receives services from the department and who is not paying a monthly reimbursement fee under Article 42A.652, Code of Criminal Procedure.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 9.07(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 983, Sec. 1(a), eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 419 (S.B. 880), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 426 (S.B. 953), Sec. 3, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.36, eff. January 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 212 (H.B. 156), Sec. 3, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 2.44, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 2.45, eff. January 1, 2020.

Sec. 76.016. VICTIM NOTIFICATION. (a) A department, using the name and address provided by the attorney representing the state under Article 56A.454(b), Code of Criminal Procedure, shall immediately notify a victim of the defendant's crime or, if the victim has a guardian or is deceased, notify the guardian of the victim or close relative of the deceased victim of:

(1) the fact that the defendant has been placed on

community supervision;

(2) the conditions of community supervision imposed on the defendant by the court; and

(3) the date, time, and location of any hearing or proceeding at which the conditions of the defendant's community supervision may be modified or the defendant's placement on community supervision may be revoked or terminated.

(b) In this section, "close relative of a deceased victim," "guardian of a victim," and "victim" have the meanings assigned by Article 56A.001, Code of Criminal Procedure.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 9.08(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1034, Sec. 9, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.41, eff. January 1, 2021.

Sec. 76.017. TREATMENT ALTERNATIVE TO INCARCERATION PROGRAM. (a) A department may establish a treatment alternative to incarceration program in each county served by the department according to standards adopted by the division. A department may enter into an interlocal cooperation agreement with one or more other departments in order to establish this program on a regional basis.

(b) The program must:

(1) include automatic screening and evaluation of a person arrested for an offense, other than a Class C misdemeanor, in which an element of the offense is the use or possession of alcohol or the use, possession, or sale of a controlled substance or marihuana;

(2) include automatic screening and evaluation of a person arrested for an offense, other than a Class C misdemeanor, in which the use of alcohol or drugs is suspected to have significantly contributed to the offense for which the individual has been arrested;

(3) coordinate the evaluation and referral to treatment services; and

(4) make referrals for the appropriate treatment of a person determined to be in need of treatment, including referrals to a community corrections facility as defined by Section 509.001.

(c) A program administered under this section must use a screening and evaluation procedure developed or approved by the division.

(d) After a person is screened and evaluated, a representative of the department shall meet with the participating criminal justice and treatment agencies to review the person's case and to determine if the person should be referred for treatment. If a person is considered appropriate for referral, the person may be referred to community-based treatment in accordance with applicable law or any other treatment program deemed appropriate. A magistrate may order a person to participate in a treatment program recommended under this section, including treatment in a drug court program established under Chapter 123 or former law, as a condition of bond or condition of pretrial release.

(e) A department may contract for the provision of treatment services. The department may pay for services only if other adequate public or private sources of payment are not available. A person is responsible for the payment of any treatment program recommended under this section if it is determined that a person referred for treatment is able to pay for the costs of treatment or if the person has insurance that will pay for the treatment. If a person is able to pay for treatment or if the person has insurance that will pay for the treatment, the payment may be made a condition for receiving treatment.

(f) An employee of a department or treatment provider either administering this program or providing services under this section may exchange or otherwise disclose information regarding the assessment, evaluation, or treatment of a person participating in this program to:

(1) another employee of the department;

(2) an officer in the court that has jurisdiction over the person's case;

(3) a county sheriff or jail administrator;

(4) an employee of the Texas Department of Criminal Justice; or

(5) any employee in a facility, institution, or halfway house in which a person may be confined in accordance with a disposition of the criminal charges in the case.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 9.09(a), eff. Sept. 1,

1997; Acts 1997, 75th Leg., ch. 1269, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 1139 (H.B. 2791), Sec. 1, eff. June 18, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 2.07, eff. September 1, 2013.

Sec. 76.018. APPLICATION OF LAW RELATING TO FREE EXERCISE OF RELIGION. For purposes of Chapter 110, Civil Practice and Remedies Code, an ordinance, rule, order, decision, or practice that applies to a person in the custody of a correctional facility operated by or under a contract with a community supervision and corrections department is presumed to be in furtherance of a compelling governmental interest and the least restrictive means of furthering that interest. The presumption may be rebutted.

Added by Acts 1999, 76th Leg., ch. 399, Sec. 3, eff. Aug. 30, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1020, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 76.019. SUPERVISION OFFICER MEETINGS AND VISITS. (a) A department shall adopt a policy regarding the scheduling of meetings or visits with a defendant placed on community supervision and supervised by the department. The policy must require the officer supervising the defendant to take into consideration the defendant's work, treatment, or community service schedule, as applicable, when scheduling any required meetings or visits.

(b) A department may permit a defendant to report to the officer supervising the defendant by use of videoconference technology if the department determines that an in-person meeting or visit is unnecessary.

Added by Acts 2019, 86th Leg., R.S., Ch. 156 (H.B. 374), Sec. 1, eff. September 1, 2019.

CHAPTER 77. JUDICIAL COMMITTEE ON INFORMATION TECHNOLOGY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 77.001. DEFINITIONS. In this chapter:

(1) "Committee" means the Judicial Committee on Information Technology.

(2) "Court" means any tribunal forming a part of the judiciary.

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

Added by Acts 1997, 75th Leg., ch. 1327, Sec. 4, eff. Sept. 1, 1997.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 77.011. JUDICIAL COMMITTEE ON INFORMATION TECHNOLOGY. (a) The committee operates under the direction and supervision of the chief justice of the supreme court.

(b) The committee shall exercise the powers and perform the duties or functions imposed on the committee by this chapter or the supreme court.

Added by Acts 1997, 75th Leg., ch. 1327, Sec. 4, eff. Sept. 1, 1997.

Sec. 77.012. MEMBERS. (a) The committee is composed of 15 members appointed by the chief justice of the supreme court.

(b) The chief justice of the supreme court, in making appointments to the committee, shall attempt to select members who are representative of, but not limited to, appellate court judges, appellate court clerks, district court judges, county court judges, statutory probate judges, justices of the peace, municipal court judges, district attorneys, court reporters, court administrators, district or county clerks, members of the legislature, attorneys, and the general public. The members shall be selected based on their experience, expertise, or special interest in the use of technology in court. A representative from the Office of Court Administration of the Texas Judicial System shall serve as a nonvoting member of the committee.

(c) The chief justice of the supreme court shall designate the presiding officer of the committee. The presiding officer may form subcommittees as needed to accomplish the business of the committee.

(d) A person may not serve on the committee if the person is

required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the business of the committee.

Added by Acts 1997, 75th Leg., ch. 1327, Sec. 4, eff. Sept. 1, 1997.

Sec. 77.013. COMPENSATION. A member of the committee is not entitled to compensation but is entitled to reimbursement of travel expenses incurred by the member while conducting the business of the committee, as provided in the General Appropriations Act.

Added by Acts 1997, 75th Leg., ch. 1327, Sec. 4, eff. Sept. 1, 1997.

Sec. 77.014. STAFF. The Office of Court Administration of the Texas Judicial System shall provide staff for the committee.

Added by Acts 1997, 75th Leg., ch. 1327, Sec. 4, eff. Sept. 1, 1997.

SUBCHAPTER C. POWERS AND DUTIES; FUNDING

Sec. 77.031. GENERAL POWERS AND DUTIES. The committee shall:

(1) develop programs to implement the recommendations of the Information Technology Task Force of the Texas Commission on Judicial Efficiency;

(2) develop minimum standards for voice storage and retrieval services, including voice messaging and electronic mail services, local area networks, Internet access, electronic data interchange, data dictionaries, and other technological needs of the judicial system;

(3) develop a coordinated statewide computer and communication network that is capable of linking all courts in this state;

(4) encourage efficiency and planning coordination by researching the possible uses of existing computer and communication networks developed by other state agencies;

(5) develop minimum standards for an electronically based document system to provide for the flow of information within the judicial system in electronic form and recommend rules relating to the electronic filing of documents with courts;

(6) develop security guidelines for controlling access to and protecting the integrity and confidentiality of information available in electronic form;

(7) develop a state judicial system web page for use on the Internet accessible to the public for a reasonable access fee set by the supreme court after consultation with the committee;

(8) develop minimum standards for an internal computer and communication network available only to court staff;

(9) recommend pilot programs relating to the testing and demonstration of new technologies as applied to the judicial system;

(10) recommend programs to provide training and technical assistance to users of the coordinated statewide computer and communication network;

(11) develop funding priorities regarding the various technological needs of the judicial system; and

(12) recommend distributions to courts from the judicial technology account in the judicial fund.

Added by Acts 1997, 75th Leg., ch. 1327, Sec. 4, eff. Sept. 1, 1997.

CHAPTER 78. CAPITAL AND FORENSIC WRITS COMMITTEE AND OFFICE OF CAPITAL AND FORENSIC WRITS

SUBCHAPTER A. CAPITAL AND FORENSIC WRITS COMMITTEE

Sec. 78.001. DEFINITIONS. In this subchapter:

(1) "Committee" means the capital and forensic writs committee established under this subchapter.

(2) "Office of capital and forensic writs" means the office of capital and forensic writs established under Subchapter B.

Added by Acts 2009, 81st Leg., R.S., Ch. 781 (S.B. 1091), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1215 (S.B. 1743), Sec. 12, eff. September 1, 2015.

Sec. 78.002. ESTABLISHMENT OF COMMITTEE; DUTIES. (a) The capital and forensic writs committee is established.

(b) The committee shall provide oversight and strategic guidance to the office of capital and forensic writs, including:

(1) recommending to the court of criminal appeals as provided by Section 78.004 a director for the office of capital and forensic writs when a vacancy exists for the position of director;

(2) setting policy for the office of capital and forensic writs; and

(3) developing a budget proposal for the office of capital and forensic writs.

(c) The committee may not access privileged or confidential information.

Added by Acts 2009, 81st Leg., R.S., Ch. 781 (S.B. 1091), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1215 (S.B. 1743), Sec. 13, eff. September 1, 2015.
Acts 2021, 87th Leg., R.S., Ch. 293 (S.B. 280), Sec. 1, eff. September 1, 2021.

Sec. 78.003. APPOINTMENT AND COMPOSITION OF COMMITTEE. (a) The committee is composed of the following five members who are appointed as follows:

(1) three attorneys who are appointed by the executive director of the Texas Indigent Defense Commission; and

(2) two attorneys who are appointed by the president of the State Bar of Texas, with ratification by the executive committee of the State Bar of Texas.

(a-1) Each member of the committee must be a licensed attorney and must have significant experience in capital defense or indigent criminal defense policy or practice. A member of the committee may not be a prosecutor, a law enforcement official, a judge of a court that presides over criminal offenses, or an employee of the office of capital and forensic writs.

(a-2) Members of the committee serve four-year terms and may be reappointed.

(a-3) If a vacancy occurs, the appropriate appointing authority shall appoint a person to serve for the remainder of the unexpired term in the same manner as the original appointment.

(b) The committee shall elect one member of the committee to serve as the presiding officer of the committee.

(c) The committee shall meet at the call of the presiding officer of the committee.

Added by Acts 2009, 81st Leg., R.S., Ch. 781 (S.B. 1091), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 293 (S.B. 280), Sec. 2, eff. September 1, 2021.

Sec. 78.004. RECOMMENDATION AND APPOINTMENT OF DIRECTOR OF OFFICE OF CAPITAL AND FORENSIC WRITS. (a) The committee shall submit to the court of criminal appeals, in order of the committee's preference, a list of the names of not more than five persons the committee recommends that the court consider in appointing the director of the office of capital and forensic writs when a vacancy exists for the position of director. If the committee finds that three or more persons under the committee's consideration are qualified to serve as the director of the office of capital and forensic writs, the committee must include at least three names in the list submitted under this subsection.

(b) Each person recommended to the court of criminal appeals by the committee under Subsection (a):

(1) must exhibit proficiency and commitment to providing quality representation to defendants in death penalty cases, as described by the Guidelines and Standards for Texas Capital Counsel, as published by the State Bar of Texas; and

(2) may not have been found by a state or federal court to have rendered ineffective assistance of counsel during the trial or appeal of a criminal case.

(c) When a vacancy for the position exists, the court of criminal appeals shall appoint from the list of persons submitted to the court under Subsection (a) the director of the office of capital and forensic writs.

Added by Acts 2009, 81st Leg., R.S., Ch. 781 (S.B. 1091), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1215 (S.B. 1743), Sec. 14, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1215 (S.B. 1743), Sec. 15, eff.

September 1, 2015.

SUBCHAPTER B. OFFICE OF CAPITAL AND FORENSIC WRITS

Sec. 78.051. DEFINITIONS. In this subchapter:

(1) "Committee" means the capital and forensic writs committee established under Subchapter A.

(2) "Office" means the office of capital and forensic writs established under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 781 (S.B. 1091), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1215 (S.B. 1743), Sec. 17, eff. September 1, 2015.

Sec. 78.052. ESTABLISHMENT; FUNDING. (a) The office of capital and forensic writs is established and operates under the direction and supervision of the director of the office.

(b) The office shall receive funds for personnel costs and expenses:

(1) as specified in the General Appropriations Act; and

(2) from the fair defense account under Section 79.031, in an amount sufficient to cover personnel costs and expenses not covered by appropriations described by Subdivision (1).

Added by Acts 2009, 81st Leg., R.S., Ch. 781 (S.B. 1091), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 3, eff. September 1, 2011.
Acts 2015, 84th Leg., R.S., Ch. 1215 (S.B. 1743), Sec. 18, eff. September 1, 2015.

Sec. 78.053. DIRECTOR; STAFF. (a) The court of criminal appeals shall appoint a director to direct and supervise the operation of the office. The director serves a four-year term and continues to serve until a successor has been appointed and qualified. The court of criminal appeals may remove the director

only for good cause. The director may be reappointed for a second or subsequent term.

(b) The director shall employ attorneys and employ or retain licensed investigators, experts, and other personnel necessary to perform the duties of the office. To be employed by the director, an attorney may not have been found by a state or federal court to have rendered ineffective assistance of counsel during the trial or appeal of a criminal case.

(c) The director and any attorney employed by the office may not:

(1) engage in the private practice of criminal law; or

(2) accept anything of value not authorized by law for services rendered under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 781 (S.B. 1091), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1215 (S.B. 1743), Sec. 19, eff. September 1, 2015.

Sec. 78.054. POWERS AND DUTIES. (a) The office may not accept an appointment under Article 11.071, Code of Criminal Procedure, if:

(1) a conflict of interest exists;

(2) the office has insufficient resources to provide adequate representation for the defendant;

(3) the office is incapable of providing representation for the defendant in accordance with the rules of professional conduct; or

(4) other good cause is shown for not accepting the appointment.

(b) The office may not represent a defendant in a federal habeas review. The office may not represent a defendant in an action or proceeding in state court other than an action or proceeding that:

(1) is conducted under Article 11.071, Code of Criminal Procedure;

(2) is collateral to the preparation of an application under Article 11.071, Code of Criminal Procedure;

(3) concerns any other post-conviction matter in a death penalty case other than a direct appeal, including an action or

proceeding under Article 46.05 or Chapter 64, Code of Criminal Procedure; or

(4) is conducted under Article 11.073, Code of Criminal Procedure, or is collateral to the preparation of an application under Article 11.073, Code of Criminal Procedure, if the case was referred in writing to the office by the Texas Forensic Science Commission under Section 4(h), Article 38.01, Code of Criminal Procedure.

(c) Notwithstanding Article 26.04(p), Code of Criminal Procedure, the office may independently investigate the financial condition of any person the office is appointed to represent. The office shall report the results of the investigation to the appointing judge. The judge may hold a hearing to determine if the person is indigent and entitled to representation under this section.

(d) The office may consult with law school clinics with applicable knowledge and experience and with other experts as necessary to investigate the facts of a particular case.

Added by Acts 2009, 81st Leg., R.S., Ch. 781 (S.B. 1091), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1215 (S.B. 1743), Sec. 20, eff. September 1, 2015.

Sec. 78.055. COMPENSATION OF OTHER APPOINTED ATTORNEYS. If it is necessary that an attorney other than an attorney employed by the office be appointed, that attorney shall be compensated as provided by Articles 11.071 and 26.05, Code of Criminal Procedure.

Added by Acts 2009, 81st Leg., R.S., Ch. 781 (S.B. 1091), Sec. 1, eff. September 1, 2009.

Sec. 78.056. APPOINTMENT LIST. (a) The presiding judges of the administrative judicial regions shall maintain a statewide list of competent counsel available for appointment under Section 2(f), Article 11.071, Code of Criminal Procedure, if the office does not accept or is prohibited from accepting an appointment under Section 78.054. Each attorney on the list:

(1) must exhibit proficiency and commitment to providing

quality representation to defendants in death penalty cases; and

(2) may not have been found by a state or federal court to have rendered ineffective assistance of counsel during the trial or appeal of a death penalty case.

(b) The Office of Court Administration of the Texas Judicial System and the Texas Indigent Defense Commission shall provide administrative support necessary under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 781 (S.B. 1091), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 4, eff. September 1, 2011.

CHAPTER 79. TEXAS INDIGENT DEFENSE COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 79.001. DEFINITIONS. In this chapter:

(1) "Assigned counsel program" means a system under which private attorneys, acting as independent contractors and compensated with public funds, are individually appointed to:

(A) provide legal representation and services to a particular indigent defendant accused of a crime or juvenile offense; or

(B) serve as an attorney ad litem.

(1-a) "Attorney ad litem" means an attorney appointed by a court to represent and advocate on behalf of an indigent parent or child in a suit filed by the department against a parent.

(2) "Board" means the governing board of the Texas Indigent Defense Commission.

(3) "Commission" means the permanent standing committee of the council known as the Texas Indigent Defense Commission.

(4) "Contract defender program" means a system under which private attorneys, acting as independent contractors and compensated with public funds, are engaged to provide legal representation and services to:

(A) a group of unspecified indigent defendants who appear before a particular court or group of courts; or

(B) indigent parents or children named in a suit filed by the department against a parent.

(5) "Council" means the Texas Judicial Council.

(6) "Crime" means:

(A) a misdemeanor punishable by confinement; or

(B) a felony.

(7) "Defendant" means a person accused of a crime or a juvenile offense.

(7-a) "Department" means the Department of Family and Protective Services.

(8) "Executive director" means the executive director of the Texas Indigent Defense Commission.

(8-a) "Family protection services" means services provided under this chapter by an attorney, attorney ad litem, licensed investigator, social worker, forensic expert, mental health expert, or other similar expert or specialist to an indigent parent or child in:

(A) a suit filed by the department against the parent; or

(B) a department investigation of the parent.

(9) "Indigent defense support services" means criminal defense services that:

(A) are provided by licensed investigators, experts, or other similar specialists, including forensic experts and mental health experts; and

(B) are reasonable and necessary for appointed counsel to provide adequate representation to indigent defendants.

(10) "Juvenile offense" means conduct committed by a person while younger than 17 years of age that constitutes:

(A) a misdemeanor punishable by confinement; or

(B) a felony.

(11) "Managed assigned counsel program" has the meaning assigned by Article 26.047, Code of Criminal Procedure.

(12) "Office of capital and forensic writs" means the office of capital and forensic writs established under Subchapter B, Chapter 78.

(12-a) "Office of child representation" has the meaning assigned by Section 107.254, Family Code.

(12-b) "Office of parent representation" has the meaning assigned by Section 107.255, Family Code.

(13) "Public defender's office" has the meaning assigned by Article 26.044(a), Code of Criminal Procedure.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1215 (S.B. 1743), Sec. 21, eff. September 1, 2015.
Acts 2023, 88th Leg., R.S., Ch. 965 (S.B. 2120), Sec. 1, eff. September 1, 2023.

Sec. 79.002. ESTABLISHMENT OF COMMISSION. (a) The Texas Indigent Defense Commission is established as a permanent standing committee of the council.
(b) The commission operates under the direction and supervision of a governing board.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 79.011. ESTABLISHMENT OF BOARD; COMPOSITION. (a) The commission is governed by a board consisting of eight ex officio members and five appointive members.
(b) Except as provided by Section 79.033(b), the board shall exercise the powers and perform the duties under this chapter independently of the council.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.012. EXECUTIVE DIRECTOR. (a) The executive director is appointed by the board.
(b) The executive director:
(1) must demonstrate an interest in the standards for and provision of criminal defense services and family protection services to indigent individuals;
(2) may not engage in the private practice of law; and
(3) may not accept money, property, or any other thing of value not authorized by law for services rendered under this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 15.001, eff. June 13, 2023.
Acts 2023, 88th Leg., R.S., Ch. 965 (S.B. 2120), Sec. 2, eff. September 1, 2023.

Sec. 79.013. EX OFFICIO MEMBERS. The ex officio members of the board are:

(1) the following six members of the council:

(A) the chief justice of the supreme court;

(B) the presiding judge of the court of criminal appeals;

(C) one of the members of the senate serving on the council who is designated by the lieutenant governor;

(D) the member of the house of representatives appointed by the speaker of the house;

(E) one of the courts of appeals justices serving on the council who is designated by the governor; and

(F) one of the county court or statutory county court judges serving on the council who is designated by the governor or, if a county court or statutory county court judge is not serving on the council, one of the statutory probate court judges serving on the council who is designated by the governor;

(2) one other member of the senate appointed by the lieutenant governor; and

(3) the chair of the House Criminal Jurisprudence Committee.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 79.014. APPOINTMENTS. (a) The governor shall appoint with the advice and consent of the senate seven members of the board

as follows:

(1) one member who is a district judge serving as a presiding judge of an administrative judicial region;

(2) one member who is a judge of a constitutional county court or who is a county commissioner;

(3) one member who is a practicing criminal defense attorney;

(4) one member who is a chief public defender in this state;

(5) one member who is a judge of a constitutional county court or who is a county commissioner of a county with a population of 250,000 or more;

(6) one member who is either:

(A) a director of a managed assigned counsel program in this state; or

(B) a person who has a demonstrated expertise in indigent defense issues; and

(7) one member who is a justice of the peace, municipal court judge, or appointed magistrate under Article 2.09, Code of Criminal Procedure, whose regular duties include presiding over hearings under Article 15.17, Code of Criminal Procedure.

(b) The board members serve staggered terms of two years, with three members' terms expiring February 1 of each odd-numbered year and four members' terms expiring February 1 of each even-numbered year.

(c) In making appointments to the board, the governor shall attempt to reflect the geographic and demographic diversity of the state.

(d) A person may not be appointed to the board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission or the council.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 800 (H.B. 409), Sec. 1, eff. September 1, 2023.

Sec. 79.015. PRESIDING OFFICER. The board shall select a chair from among its members.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.016. DISCLOSURE REQUIRED. (a) A board member who is a chief public defender or a director of a managed assigned counsel program for an entity that applies for funds under Section 79.037 shall disclose that fact before a vote by the board regarding an award of funds to that entity and may not participate in that vote.

(b) A board member's disclosure under Subsection (a) must be entered into the minutes of the board meeting at which the disclosure is made or reported, as applicable.

(c) The commission may not award funds under Section 79.037 to an entity served by a chief public defender or a director of a managed assigned counsel program who fails to make a disclosure to the board as required by Subsection (a).

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 476 (S.B. 1057), Sec. 1, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 800 (H.B. 409), Sec. 2, eff. September 1, 2023.

Sec. 79.017. VACANCIES. A vacancy on the board must be filled for the unexpired term in the same manner as the original appointment.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.018. MEETINGS; QUORUM; VOTING. (a) The board shall meet at least four times each year and at such other times as it considers necessary or convenient to perform its duties.

(b) Six members of the board constitute a quorum for purposes

of transacting the business of the board. The board may act only on the concurrence of five board members or a majority of the board members present, whichever number is greater. The board may adopt policies and standards under Section 79.034 only on the concurrence of seven board members.

(c) Except as provided by Section 79.016, a board member is entitled to vote on any matter before the board, except as otherwise provided by rules adopted by the board.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.019. COMPENSATION. A board member may not receive compensation for services on the board but is entitled to be reimbursed for actual and necessary expenses incurred in discharging board duties. The expenses are paid from funds appropriated to the board.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.020. IMMUNITY FROM LIABILITY. A member of the board performing duties on behalf of the board is not liable for damages arising from an act or omission within the scope of those duties.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.021. RULES. The board shall adopt rules as necessary to implement this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

SUBCHAPTER C. GENERAL POWERS AND DUTIES OF COMMISSION

Sec. 79.031. FAIR DEFENSE ACCOUNT. The fair defense account is an account in the general revenue fund that may be appropriated only

to:

(1) the commission for the purpose of implementing this chapter; and

(2) the office of capital and forensic writs for the purpose of implementing Subchapter B, Chapter 78.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1215 (S.B. 1743), Sec. 22, eff. September 1, 2015.

Sec. 79.032. ACCEPTANCE OF GIFTS, GRANTS, AND OTHER FUNDS; STATE GRANTS TEAM. (a) The commission may accept gifts, grants, and other funds from any public or private source to pay expenses incurred in performing its duties under this chapter.

(b) The State Grants Team of the Governor's Office of Budget, Planning, and Policy may assist the commission in identifying grants and other resources available for use by the commission in performing its duties under this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.033. ADMINISTRATIVE ATTACHMENT; SUPPORT; BUDGET. (a) The commission is administratively attached to the Office of Court Administration of the Texas Judicial System.

(b) The office of court administration shall provide administrative support services, including human resources, budgetary, accounting, purchasing, payroll, information technology, and legal support services, to the commission as necessary to carry out the purposes of this chapter.

(c) The commission, in accordance with the rules and procedures of the Legislative Budget Board, shall prepare, approve, and submit a legislative appropriations request that is separate from the legislative appropriations request for the Office of Court Administration of the Texas Judicial System and is used to develop the commission's budget structure. The commission shall maintain the legislative appropriations request and budget structure separately

from those of the office of court administration.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.034. POLICIES AND STANDARDS. (a) The commission shall develop policies and standards for providing:

(1) legal representation and other defense services to indigent defendants at trial, on appeal, and in postconviction proceedings; and

(2) family protection services to indigent parents and children.

(a-1) The policies and standards may include:

(1) performance standards for counsel appointed to represent indigent individuals;

(2) qualification standards under which attorneys may qualify for appointment to represent:

(A) indigent defendants, including:

(i) qualifications commensurate with the seriousness of the nature of the proceeding;

(ii) qualifications appropriate for representation of mentally ill defendants and noncitizen defendants;

(iii) successful completion of relevant continuing legal education programs approved by the council; and

(iv) testing and certification standards; or

(B) indigent parents and children in suits filed by the department, including:

(i) qualifications appropriate for representing an indigent parent;

(ii) qualifications appropriate for representing a child;

(iii) successful completion of relevant continuing legal education programs required by law or the State Bar of Texas and approved by the council; and

(iv) testing and certification standards;

(3) standards for ensuring appropriate appointed caseloads for counsel appointed to represent indigent individuals;

(4) standards for determining whether a person accused of a crime or juvenile offense or named in a suit filed by the department

is indigent;

(5) policies and standards governing the organization and operation of an assigned counsel program;

(6) policies and standards governing the organization and operation of a public defender's office consistent with recognized national policies and standards;

(7) policies and standards governing the organization and operation of an office of child representation or office of parent representation consistent with recognized national policies and standards;

(8) standards for providing indigent defense services or family protection services under a contract defender program consistent with recognized national policies and standards;

(9) standards governing the reasonable compensation of counsel appointed to represent indigent individuals;

(10) standards governing the availability and reasonable compensation of providers of indigent defense support services or family protection services for counsel appointed to represent indigent individuals;

(11) standards governing the operation of a legal clinic or program that provides legal services to indigent individuals and is sponsored by a law school approved by the supreme court;

(12) policies and standards governing the appointment of attorneys to represent children in proceedings under Title 3, Family Code;

(13) policies and standards governing the appointment of attorneys to represent indigent parents and children in proceedings with the department under Title 5, Family Code;

(14) policies and standards governing the organization and operation of a managed assigned counsel program consistent with nationally recognized policies and standards; and

(15) other policies and standards for providing indigent defense services and family protection services as determined by the commission to be appropriate.

(b) The commission shall submit its proposed policies and standards developed under Subsection (a) to the board for adoption. The board shall adopt the proposed policies and standards as appropriate.

(c) Any qualification standards adopted by the board under Subsection (b) that relate to the appointment of counsel in a death

penalty case must be consistent with the standards specified under Article 26.052(d), Code of Criminal Procedure. An attorney who is identified by the commission as not satisfying performance or qualification standards adopted by the board under Subsection (b) may not accept an appointment in a capital case.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 965 (S.B. 2120), Sec. 3, eff. September 1, 2023.

Sec. 79.035. COUNTY REPORTING PLAN; COMMISSION REPORTS. (a) The commission shall develop a plan that establishes statewide requirements for counties relating to reporting indigent defense information and family protection services information. The plan must include provisions designed to reduce redundant reporting by counties and provisions that take into consideration the costs to counties of implementing the plan statewide. The commission shall use the information reported by a county to monitor the effectiveness of the county's indigent defense and family protection services policies, standards, and procedures and to ensure compliance by the county with the requirements of state law relating to indigent defense and family protection services. The commission may revise the plan as necessary to improve monitoring of indigent defense and family protection services policies, standards, and procedures in this state.

(b) The commission shall annually submit to the governor, lieutenant governor, speaker of the house of representatives, and council and shall publish in written and electronic form a report:

(1) containing any information submitted to the commission by a county under Section 79.036; and

(2) regarding:

(A) the quality of legal representation provided by counsel appointed to represent indigent individuals;

(B) current indigent defense practices and family protection services practices in the state as compared to state and national standards;

(C) efforts made by the commission to improve indigent

defense practices and family protection services practices in the state;

(D) recommendations made by the commission for improving indigent defense practices and family protection services practices in the state; and

(E) the findings of a report submitted to the commission under Section 79.039.

(c) The commission shall annually submit to the Legislative Budget Board and council and shall publish in written and electronic form a detailed report of all expenditures made under this subchapter, including distributions under Section 79.037.

(d) The commission may issue other reports relating to indigent defense and family protection services as determined to be appropriate by the commission.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 965 (S.B. 2120), Sec. 4, eff. September 1, 2023.

Sec. 79.036. INDIGENT DEFENSE INFORMATION. (a) Not later than November 1 of each odd-numbered year and in the form and manner prescribed by the commission, each county shall prepare and provide to the commission:

(1) a copy of all formal and informal rules and forms that describe the procedures used in the county to provide indigent defendants with counsel in accordance with the Code of Criminal Procedure, including the schedule of fees required under Article 26.05 of that code;

(2) any plan or proposal submitted to the commissioners court under Article 26.044, Code of Criminal Procedure;

(3) any plan of operation submitted to the commissioners court under Article 26.047, Code of Criminal Procedure;

(4) any contract for indigent defense services required under rules adopted by the commission relating to a contract defender program;

(5) any revisions to rules, forms, plans, proposals, or contracts previously submitted under this section; or

(6) verification that rules, forms, plans, proposals, or contracts previously submitted under this section still remain in effect.

(a-1) Not later than November 1 of each year and in the form and manner prescribed by the commission, each county shall prepare and provide to the commission information that describes for the preceding fiscal year the number of appointments under Article 26.04, Code of Criminal Procedure, and Title 3, Family Code, made to each attorney accepting appointments in the county, and information provided to the county by those attorneys under Article 26.04(j)(4), Code of Criminal Procedure.

(b) Except as provided by Subsection (c):

(1) the local administrative district judge in each county, or the person designated by the judge, shall perform the action required by Subsection (a) with respect to all rules and forms adopted by the judges of the district courts trying felony cases in the county; and

(2) the local administrative statutory county court judge in each county, or the person designated by the judge, shall perform the action required by Subsection (a) with respect to all rules and forms adopted by the judges of the county courts and statutory county courts trying misdemeanor cases in the county.

(c) If the judges of two or more levels of courts described by Subsection (b) adopt the same formal and informal rules and forms, the local administrative judge serving the courts having jurisdiction over offenses with the highest classification of punishment, or the person designated by the judge, shall perform the action required by Subsection (a).

(d) The chair of the juvenile board in each county, or the person designated by the chair, shall perform the action required by Subsection (a) with respect to all rules and forms adopted by the juvenile board.

(e) In each county, the county auditor, or the person designated by the commissioners court if the county does not have a county auditor, shall prepare and send to the commission in the form and manner prescribed by the commission and on a monthly, quarterly, or annual basis, with respect to legal services provided in the county to indigent defendants during each fiscal year, information showing the total amount expended by the county to provide indigent defense services and an analysis of the amount expended by the

county:

(1) in each district, county, statutory county, and appellate court;

(2) in cases for which a private attorney is appointed for an indigent defendant;

(3) in cases for which a public defender is appointed for an indigent defendant;

(4) in cases for which counsel is appointed for an indigent juvenile under Section 51.10(f), Family Code; and

(5) for investigation expenses, expert witness expenses, or other litigation expenses.

(f) As a duty of office, each district and county clerk shall cooperate with the county auditor or the person designated by the commissioners court and the commissioners court in retrieving information required to be sent to the commission under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 912 (H.B. 1318), Sec. 5, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 912 (H.B. 1318), Sec. 6, eff. September 1, 2014.

Sec. 79.0365. FAMILY PROTECTION SERVICES INFORMATION. (a) Not later than November 1 of each odd-numbered year and in the form and manner prescribed by the commission, each county shall prepare and provide to the commission:

(1) a copy of all formal and informal rules and forms governing the procedures the county uses to provide indigent parents and children with counsel in accordance with Title 5, Family Code;

(2) any fee schedule the court uses for family protection services representation; and

(3) information on the court's compliance with Chapter 37, including the lists and rotation system required under that chapter.

(b) Not later than November 1 of each year and in the form and manner prescribed by the commission, each county shall prepare and provide to the commission for the preceding state fiscal year:

(1) information on the number of appointments made to each

attorney accepting appointments in the county for proceedings filed by the department under Title 5, Family Code; and

(2) information provided to the county by those attorneys under Section 107.0042, Family Code, if the attorneys do not report the information directly to the commission.

(c) The local administrative district judge in each county, or the person designated by the judge, shall perform the action required by Subsection (a) with respect to all rules and forms adopted by the judges of the county.

(d) In each county, the county auditor, or the person designated by the commissioners court if the county does not have a county auditor, shall prepare and send to the commission in the form and manner prescribed by the commission and on a monthly, quarterly, or annual basis, with respect to legal services provided in the county to indigent parents and children during each state fiscal year, information showing the total amount expended by the county to provide family protection services and an analysis of the amount expended by the county:

(1) in each district, county, statutory county, and appellate court;

(2) in cases for which a private attorney is appointed for an indigent parent or child; and

(3) for investigation expenses, expert witness expenses, or other litigation expenses.

(e) As a duty of office, each district and county clerk shall cooperate with the county auditor or the person designated by the commissioners court and the commissioners court in retrieving information required to be sent to the commission under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 965 (S.B. 2120), Sec. 5, eff. September 1, 2023.

Sec. 79.037. TECHNICAL SUPPORT; GRANTS. (a) The commission shall:

(1) provide technical support to:

(A) assist counties in improving their systems for providing indigent defense services, including indigent defense support services;

(B) assist counties in improving their systems for

providing family protection services; and

(C) promote compliance by counties with the requirements of state law relating to indigent defense and family protection services;

(2) to assist a county in providing or improving the provision of indigent defense services and family protection services in the county, distribute in the form of grants any funds appropriated for the purposes of this section to one or more of the following entities:

(A) the county;

(B) a law school's legal clinic or program that provides indigent defense services in the county;

(C) a regional public defender that meets the requirements of Subsection (e) and provides indigent defense services in the county;

(D) an entity described by Section 791.013 that provides to a county administrative services under an interlocal contract entered into for the purpose of providing or improving the provision of indigent defense services or family protection services in the county;

(E) a nonprofit corporation that provides indigent defense services, indigent defense support services, or family protection services in the county; and

(F) an office of child representation or office of parent representation created under Subchapter G, Chapter 107, Family Code; and

(3) monitor each entity that receives a grant under Subdivision (2) and enforce compliance with the conditions of the grant, including enforcement by:

(A) withdrawing grant funds; or

(B) requiring reimbursement of grant funds by the entity.

(b) The commission shall determine for each county the entity or entities that are eligible to receive funds for the provision of or improvement in the provision of indigent defense services or family protection services under Subsection (a)(2). The determination must be made based on the entity's:

(1) compliance with standards adopted by the board; and

(2) demonstrated commitment to compliance with the requirements of state law relating to indigent defense or family

protection services.

(c) The board shall adopt policies to ensure that funds under Subsection (a)(2) are allocated and distributed in a fair manner.

(d) A county may not reduce the amount of funds provided for indigent defense services or family protection services in the county because of funds provided by the commission under this section.

(e) The commission may distribute funds under Subsection (a)(2) to a regional public defender's office formed under Article 26.044, Code of Criminal Procedure, if:

(1) the regional public defender's office serves two or more counties;

(2) each county that enters an agreement to create or designate and to jointly fund the regional public defender's office satisfies the commission that the county will timely provide funds to the office for the duration of the grant for at least half of the office's operational costs;

(3) each participating county by local rule adopts and submits to the commission guidelines under Article 26.04(f), Code of Criminal Procedure, detailing the types of cases to be assigned to the office; and

(4) each participating county and the regional public defender's office agree in writing to a method that the commission determines to be appropriate under Subsection (f) to pay all costs associated with the defense of cases assigned to the office that remain pending in the county after the termination of the agreement or the county's participation in the agreement.

(f) The commission shall select, by rule or under a contract with a regional public defender's office, a method for the payment of costs under Subsection (e)(4), which may include any combination of the following:

(1) allowing an office to establish and maintain a reserve of funds sufficient to cover anticipated costs, in an amount determined appropriate by the commission;

(2) guaranteeing all or part of the costs to be paid; or

(3) establishing a schedule of fees for the payment of costs in the manner provided by Article 26.05, Code of Criminal Procedure.

(g) Any change to a schedule of fees established under Subsection (f)(3) must first be approved by the commission.

(h) A regional public defender's office shall collect each

participating county's portion of the operational costs as that portion is provided by the county to the office.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 56 (S.B. 1353), Sec. 1, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 476 (S.B. 1057), Sec. 2, eff. September 1, 2015.
Acts 2021, 87th Leg., R.S., Ch. 477 (H.B. 295), Sec. 1, eff. September 1, 2021.
Acts 2021, 87th Leg., R.S., Ch. 477 (H.B. 295), Sec. 2, eff. September 1, 2021.
Acts 2021, 87th Leg., R.S., Ch. 477 (H.B. 295), Sec. 3, eff. September 1, 2021.
Acts 2021, 87th Leg., R.S., Ch. 477 (H.B. 295), Sec. 5, eff. September 1, 2021.
Acts 2023, 88th Leg., R.S., Ch. 965 (S.B. 2120), Sec. 6, eff. September 1, 2023.

Sec. 79.039. EXONERATION REPORT. (a) Each legal clinic or program in this state that is operated by a law school and that receives financial support from the commission shall submit to the commission an annual report regarding criminal cases:

(1) in which the clinic or program has provided legal services to an indigent defendant during the preceding calendar year; and

(2) in which:

(A) based on a finding of actual innocence, the court of criminal appeals overturns a conviction; or

(B) the governor issues a pardon based on actual innocence.

(b) The report required under Subsection (a) must:

(1) identify each likely cause of a wrongful conviction listed in the report; and

(2) recommend to the judiciary and the legislature best practices, policies, and statutory changes to address or mitigate those likely causes with respect to future criminal cases.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.040. INDIGENT DEFENSE INFORMATION SYSTEM. (a) By entering into an interlocal contract with one or more counties under Chapter 791, the commission may participate and assist counties in the creation, implementation, operation, and maintenance of a computerized system to be used to assist those counties in the provision and administration of indigent defense services and to be used to collect data from those counties regarding representation of indigent defendants in this state.

(b) The commission may use appropriated funds to pay costs incurred under an interlocal contract described by Subsection (a), including license fees, implementation costs, maintenance and operations costs, administrative costs, and any other costs specified in the interlocal contract.

(c) The commission may provide training services to counties on the use and operation of a system created, implemented, operated, or maintained by one or more counties under Subsection (a).

(d) Subchapter L, Chapter 2054, does not apply to an indigent defense information system created under this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 56 (S.B. 1353), Sec. 2, eff. September 1, 2015.

Sec. 79.041. FAMILY PROTECTION SERVICES INFORMATION SYSTEM. (a) By entering into an interlocal contract with one or more counties under Chapter 791, the commission may participate and assist counties in the creation, implementation, operation, and maintenance of a computerized system to be used to assist those counties in the provision and administration of family protection services and to be used to collect data from those counties regarding representation of indigent individuals in this state.

(b) The commission may use appropriated funds to pay costs incurred under an interlocal contract described by Subsection (a), including license fees, implementation costs, maintenance and operations costs, administrative costs, and any other costs specified in the interlocal contract.

(c) The commission may provide training services to counties on the use and operation of a system created, implemented, operated, or maintained by one or more counties under Subsection (a).

(d) Subchapter L, Chapter 2054, does not apply to an indigent defense information system created under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 965 (S.B. 2120), Sec. 7, eff. September 1, 2023.

Sec. 79.042. SUCCESSION PLAN FOR CERTAIN PUBLIC DEFENDERS' OFFICES. (a) In this section, "governmental entity" has the meaning assigned by Article 26.044, Code of Criminal Procedure.

(b) As a condition of a grant awarded by the commission to a regional public defender's office that primarily handles capital cases, the commission may establish for the public defender's office a succession plan to take effect only if the commissioners court of the county in which the central administrative office of the public defender's office is located ceases for any reason to be a party to the agreement creating or designating the public defender's office.

(c) A succession plan established under Subsection (b) may:

(1) authorize the commission to designate a governmental entity to administer the regional public defender's office;

(2) require the governmental entity designated under Subdivision (1) to establish an oversight board for the regional public defender's office under Article 26.045, Code of Criminal Procedure; and

(3) require the regional public defender's office to comply with any rules adopted by the commission for the administration of the public defender's office.

Added by Acts 2017, 85th Leg., R.S., Ch. 738 (S.B. 1214), Sec. 1, eff. June 12, 2017.

CHAPTER 80. DELIVERY OF NOTICE, ORDERS, AND DOCUMENTS

Sec. 80.001. DELIVERY OF NOTICE OR DOCUMENT. A court, justice, judge, magistrate, or clerk may send any notice or document by a method authorized by Section 80.002(a).

Added by Acts 2015, 84th Leg., R.S., Ch. 257 (S.B. 1116), Sec. 1, eff.

September 1, 2015.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 18.002, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3421 and S.B. 1448, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 80.002. DELIVERY OF NOTICE, ORDER, OR DOCUMENT. (a) A court, justice, judge, magistrate, or clerk may send any notice or document using mail or electronic mail. This subsection applies to all civil and criminal statutes requiring delivery of a notice or document.

(b) In addition to any other delivery method required or authorized by law or supreme court rule, a statutory county court, district court, or appellate court shall deliver through the electronic filing system established under Section 72.031 to all parties in each case in which the use of the electronic filing system is required or authorized all court orders the court enters for the case.

Added by Acts 2015, 84th Leg., R.S., Ch. 257 (S.B. 1116), Sec. 1, eff. September 1, 2015.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 18.003, eff. September 1, 2023.

Sec. 80.003. ELECTRONIC MAIL ADDRESS. (a) If electronic mail is used to send a notice or document and the person who will receive the notice or document is registered with the electronic filing system established under Section 72.031, as added by Chapter 1290 (H.B. 2302), Acts of the 83rd Legislature, Regular Session, 2013, the court, justice, judge, magistrate, or clerk sending the notice or document must use the electronic mail address on file with the electronic filing system, if the court uses the electronic filing system.

(b) If electronic mail is used to send a notice or document and

the person who will receive the notice or document is not registered with the electronic filing system established under Section 72.031, as added by Chapter 1290 (H.B. 2302), Acts of the 83rd Legislature, Regular Session, 2013, or the court does not use the electronic filing system, the court, justice, judge, magistrate, or clerk must use the electronic mail address provided by the person.

Added by Acts 2015, 84th Leg., R.S., Ch. 257 (S.B. 1116), Sec. 1, eff. September 1, 2015.

Sec. 80.004. MAIL. (a) The definition of mail in this chapter includes:

(1) first-class mail;

(2) first-class United States mail;

(3) ordinary or regular mail; and

(4) international first-class mail.

(b) The definition of mail in this chapter does not include:

(1) any form of mail that requires proof of delivery;

(2) certified mail;

(3) certified mail or a comparable mailing method that provides proof of delivery;

(4) certified mail, restricted delivery;

(5) certified mail, return receipt requested;

(6) delivery by the United States Postal Service using a signature confirmation service;

(7) documents delivered by common or contract carriers, including Federal Express or United Parcel Service;

(8) express mail offered by the United States Postal Service;

(9) first-class mail, return receipt requested;

(10) freight mail;

(11) interagency mail;

(12) international registered mail, return receipt requested;

(13) mail, return receipt requested;

(14) personal service or hand delivery;

(15) prepaid registered mail;

(16) registered mail;

(17) registered mail, return receipt requested; and

(18) certified or registered mail, restricted delivery, return receipt requested.

Added by Acts 2015, 84th Leg., R.S., Ch. 257 (S.B. 1116), Sec. 1, eff. September 1, 2015.

Sec. 80.005. ELECTRONIC MAIL. (a) Authorized methods of delivering a notice or document by electronic mail include:

(1) electronic notice sent through the electronic filing system under Section 72.031, as added by Chapter 1290 (H.B. 2302), Acts of the 83rd Legislature, Regular Session, 2013;

(2) electronic notice;

(3) electronic mail messages;

(4) e-mail; and

(5) secure electronic mail.

(b) Authorized methods of delivering a notice or document by electronic mail do not include:

(1) facsimiles;

(2) instant messaging;

(3) messages on a social network website, including Facebook and Twitter;

(4) telegraphs;

(5) telephone messages;

(6) text messages;

(7) videoconferencing;

(8) voice messages; or

(9) webcams.

Added by Acts 2015, 84th Leg., R.S., Ch. 257 (S.B. 1116), Sec. 1, eff. September 1, 2015.

SUBTITLE G. ATTORNEYS

CHAPTER 81. STATE BAR

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 81.001. SHORT TITLE. This chapter may be cited as the State Bar Act.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.002. DEFINITIONS. In this chapter:

(1) "State bar" means the State Bar of Texas.

(2) "Executive director" means the executive director of the state bar.

(3) "General counsel" means the general counsel of the state bar.

(4) "Board of directors" means the board of directors of the state bar.

(5) "Commission" means the Commission for Lawyer Discipline described by Section 81.076 and as provided in the Texas Rules of Disciplinary Procedure adopted by the Supreme Court of Texas.

(6) "Chief disciplinary counsel" means the attorney selected under Section 81.076 who performs disciplinary functions for the state bar under the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure.

(7) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1130 (S.B. 416), Sec. 2, eff. June 15, 2017.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 1, eff. Sept. 1, 1991.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1130 (S.B. 416), Sec. 2, eff. June 15, 2017.

Sec. 81.003. SUNSET PROVISION. The state bar is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, this chapter expires September 1, 2029.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 2, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 6.11, eff. Nov. 12, 1991; Acts 2003, 78th Leg., ch. 227, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 3.04, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 1, eff.

September 1, 2017.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 81.011. GENERAL POWERS. (a) The state bar is a public corporation and an administrative agency of the judicial department of government.

(b) This chapter is in aid of the judicial department's powers under the constitution to regulate the practice of law, and not to the exclusion of those powers.

(c) The Supreme Court of Texas, on behalf of the judicial department, shall exercise administrative control over the state bar under this chapter.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.012. PURPOSES. In order that the public responsibilities of the legal profession may be more effectively discharged, the state bar has the following purposes:

(1) to aid the courts in carrying on and improving the administration of justice;

(2) to advance the quality of legal services to the public and to foster the role of the legal profession in serving the public;

(3) to foster and maintain on the part of those engaged in the practice of law high ideals and integrity, learning, competence in public service, and high standards of conduct;

(4) to provide proper professional services to the members of the state bar;

(5) to encourage the formation of and activities of local bar associations;

(6) to provide forums for the discussion of subjects pertaining to the practice of law, the science of jurisprudence and law reform, and the relationship of the state bar to the public; and

(7) to publish information relating to the subjects listed in Subdivision (6).

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 3, eff. Sept. 1, 1991.

Sec. 81.013. SEAL. The state bar has an official seal, which may not be used for private purposes.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.014. SUITS. The state bar may sue and be sued in its own name.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.015. CONTRACTS. To carry out and promote the objectives of this chapter, the state bar may enter into contracts and do all other acts incidental to those contracts that are necessary or expedient for the administration of its affairs and for the attainment of its purposes.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.0151. PURCHASING. The board of directors shall adopt guidelines and procedures for purchasing that are consistent with the guidelines and procedures in Chapters 2155-2158. Purchases are subject to the ultimate review of the supreme court. The state bar shall maintain reports on state bar purchases and shall make those reports available for review by the state auditor.

Added by Acts 1991, 72nd Leg., ch. 795, Sec. 4, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19, eff. Sept. 1, 1997.

Sec. 81.016. PROPERTY. (a) The state bar may acquire by gift, bequest, devise, or other manner any interest in real or personal property.

(b) The state bar may acquire, hold, lease, encumber, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter.

(c) The property of the state bar is held by the state bar for the purposes set out in Section 81.012. If the state bar ceases to exist as a legal entity for any reason, all property of the state bar shall be held in trust by the supreme court for the attorneys of this state.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 5, eff. Sept. 1, 1991.

Sec. 81.017. INDEBTEDNESS, LIABILITY, OR OBLIGATION. (a) An indebtedness, liability, or obligation of the state bar does not:

(1) create a debt or other liability of the state or of any entity other than the state bar or any successor public corporation; or

(2) create any personal liability on the part of the members of the state bar or the members of the board of directors or any authorized person issuing, executing, or delivering any evidence of the indebtedness, liability, or obligation.

(b) The state bar may not create an indebtedness, liability, or obligation that cannot be paid from the receipts for the current year unless approved by referendum of all members of the state bar as provided by Section 81.024.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.018. CONTRACTUAL OBLIGATIONS. Any bond, note, debenture, evidence of indebtedness, mortgage, deed of trust, assignment, pledge, contract, lease, agreement, or other contractual obligation owed to or by the state bar on June 11, 1979, remains in force and effect according to the terms of the obligation.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.019. OFFICERS OF STATE BAR. (a) The officers of the state bar are the president, president-elect, and immediate past president.

(b) Except as provided by Subsection (c), the officers shall be elected in accordance with rules for the election of officers and directors prepared and proposed by the supreme court as provided by Section 81.024.

(c) The election rules must permit any member's name to be printed on the ballot as a candidate for president-elect if a written petition requesting that action and signed by at least five percent of the membership of the state bar is filed with the executive director at least 30 days before the election ballots are to be distributed to the membership.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 6, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 227, Sec. 2, eff. Sept. 1, 2003.

Sec. 81.020. BOARD OF DIRECTORS. (a) The governing body of the state bar is the board of directors.

(b) The board is composed of:

(1) the officers of the state bar;

(2) the president, president-elect, and immediate past president of the Texas Young Lawyers Association;

(3) not more than 30 members of the state bar elected by the membership from their district as determined by the board;

(4) six persons appointed by the supreme court and confirmed by the senate who are not attorneys and who do not have, other than as consumers, a financial interest in the practice of law; and

(5) four at-large directors appointed by the president as provided by Subsections (d) and (e).

(c) Elected members serve three-year terms. Nonattorney members serve staggered terms of the same length as terms of elected board members. The supreme court shall annually appoint two nonattorney members, with at least one of the two from a list of at least five names submitted by the governor. Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees. A person

who has served more than half of a full term is not eligible for reappointment to the board.

(d) The president of the state bar appoints the at-large directors, subject to confirmation by the board of directors. In making appointments under this subsection, the president shall appoint directors who demonstrate knowledge gained from experience in the legal profession and community necessary to ensure the board represents the interests of attorneys from the varied backgrounds that compose the membership of the state bar.

(e) At-large directors serve three-year terms. To be eligible for appointment as an at-large director, at the time of appointment a person may not be serving as:

(1) an elected director; or

(2) an at-large director.

(f) The board of directors shall develop and implement policies that clearly separate the responsibilities of the board and the management responsibilities of the executive director and the staff of the state bar.

(g) The board of directors shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability can be provided reasonable access to the state bar's programs.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 7, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 227, Sec. 3, 22, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1130 (S.B. 416), Sec. 1, eff. June 15, 2017.

Sec. 81.0201. TRAINING PROGRAM FOR BOARD MEMBERS. (a) A person who is elected or appointed to and qualifies for office as a member of the board of directors may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing state bar operations;

(2) the programs operated by the state bar;

(3) the role and functions of the state bar;

(4) the rules of the state bar, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(4-a) the scope of and limitations on the rulemaking authority of the state bar;

(5) the current budget for the state bar;

(6) the results of the most recent formal audit of the state bar;

(7) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and the disclosure of conflicts of interest; and

(B) other laws applicable to members of a state policymaking body in performing their duties; and

(8) any applicable ethics policies adopted by the state bar or the Texas Ethics Commission.

(c) The executive director shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each member of the board of directors. On receipt of the training manual, each member of the board shall sign and submit to the executive director a statement acknowledging receipt of the training manual.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 4, eff. Sept. 1, 2003.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 2, eff. September 1, 2017.

Sec. 81.021. OPEN MEETINGS; PUBLIC PARTICIPATION. (a) Meetings of the board of directors of the state bar are subject to Chapter 551.

(b) The board of directors shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 8, eff. Sept.

1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(83), eff. Sept. 1, 1995.

Sec. 81.0215. STRATEGIC PLAN. (a) The state bar shall develop a comprehensive, long-range strategic plan for its operations. Each even-numbered year, the state bar shall issue a plan covering five fiscal years beginning with the next odd-numbered fiscal year.

(b) The strategic plan must include measurable goals and a system of performance measures that:

(1) relates directly to the identified goals; and

(2) focuses on the results and outcomes of state bar operations and services.

(c) Each year, the state bar shall report the performance measures included in the strategic plan under this section to the supreme court and the editor of the Texas Bar Journal for publication.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 4, eff. Sept. 1, 2003.

Sec. 81.022. ANNUAL BUDGET; PUBLIC BUDGET HEARING. (a) The executive director of the state bar shall confer with the clerk of the supreme court and shall supervise the administrative staff of the state bar in preparation of the annual budget.

(a-1) In developing and approving the annual budget, the state bar and supreme court shall:

(1) consider the goals and performance measures identified in the strategic plan developed under Section 81.0215; and

(2) identify additional goals and performance measures as necessary.

(a-2) Any change in a membership fee or other fee for state bar members must be:

(1) clearly described and included in the proposed budget; and

(2) considered by the supreme court in the state bar budget deliberations.

(a-3) Except as provided by Subsection (a-4), an increase in a membership fee or other fee for state bar members may not take effect until the supreme court:

(1) distributes the proposed fee change in ballot form to each member of the state bar and orders a vote;

(2) counts the returned ballots following the 30th day after the date the ballots are distributed; and

(3) promulgates the proposed fee, effective immediately, only on approval of the fee increase by a majority of the state bar members who voted on the increase.

(a-4) An increase in the fee for membership in the state bar may be made by the board of directors, without a vote of the members of the state bar, provided that not more than one increase may be made by the board of directors in a six-year period and such increase shall not exceed 10 percent.

(b) The proposed budget shall be presented annually at a public hearing. Not later than the 30th day before the day the hearing is held, the proposed budget and notice of the time and place of the budget hearing shall be disseminated to the membership of the state bar and to the public.

(c) The executive director shall preside at the budget hearing or, if the executive director is unable to preside, may authorize any employee of the administrative staff or any officer or director of the state bar to preside. Any member of the public may participate in the discussion of any item proposed to be included in the budget.

(d) After the public hearing, the proposed budget shall be submitted to the board of directors for its consideration. The budget adopted by the board of directors shall be submitted to the supreme court for final review and approval. The board of directors, at a regular or special meeting, may amend the budget subject to approval by the supreme court.

(e) After implementing a budget approved by the supreme court, the state bar shall report to the court regarding the state bar's performance on the goals and performance measures identified in the strategic plan developed under Section 81.0215. The state bar shall:

(1) revise the goals and performance measures as necessary; and

(2) notify the supreme court of the revisions.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 227, Sec. 5, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 3, eff. September 1, 2017.

Sec. 81.0221. ALCOHOLIC BEVERAGES. None of the funds of the state bar collected from mandatory dues may be used for the purchase of alcoholic beverages.

Added by Acts 1991, 72nd Leg., ch. 795, Sec. 10, eff. Sept. 1, 1991.

Sec. 81.023. AUDIT; FINANCIAL REPORT. (a) The financial transactions of the state bar are subject to audit by the state auditor in accordance with Chapter 321, Government Code. The state bar shall pay the expense of the audit. The auditor's report shall be published in the Bar Journal.

(b) The state bar shall file annually with the supreme court, the governor, and the presiding officer of each house of the legislature a copy of the annual financial report prepared by the state bar under Section 2101.011.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 3, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 795, Sec. 9, eff. Sept. 1, 1991. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 22, eff. September 1, 2013.

Sec. 81.024. RULES. (a) The supreme court shall promulgate the rules governing the state bar.

(b) The supreme court may:

(1) as it considers necessary, pursuant to a resolution of the board of directors of the state bar, or pursuant to a petition signed by at least 10 percent of the registered members of the state bar, prepare, propose, and adopt rules or amendments to rules for the operation, maintenance, and administration of the state bar; and

(2) in accordance with Subchapter E-1, adopt rules, including the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure, for the discipline of state bar members.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 14, eff. September 1, 2017.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 14, eff. September 1, 2017.

(e) Repealed by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 14, eff. September 1, 2017.

(f) Repealed by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 14, eff. September 1, 2017.

(g) Repealed by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 14, eff. September 1, 2017.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 227, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 4, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 14, eff. September 1, 2017.

Sec. 81.0241. ELECTRONIC TRANSMISSION OF ELECTION MATERIALS. (a) The state bar may, with the approval of the supreme court, distribute by electronic transmission ballots and related materials and receive by electronic transmission completed ballots in an election under this chapter.

(b) Before approving the distribution or receipt of ballots and related materials by electronic transmission under this section, the supreme court must be satisfied that the state bar has implemented procedures that ensure each member of the state bar will have secure access to election ballots and information.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 7, eff. Sept. 1, 2003.

Sec. 81.0242. PARTICIPATION IN ELECTIONS. The state bar, in the manner provided by the supreme court, shall:

(1) promote and monitor participation of members of the state bar in elections under this chapter; and

(2) report statistics regarding that participation to the supreme court and the editor of the Texas Bar Journal for

publication.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 7, eff. Sept. 1, 2003.

Sec. 81.025. BAR DISTRICTS. (a) The board of directors shall from time to time reapportion the state into bar districts for electing directors from those districts or to perform any other duty imposed on the state bar by this chapter or the rules of the state bar.

(b) In determining the districts, the board must consider the purposes of the state bar as set out in Section 81.012.

(c) Any reapportionment is subject to the supreme court's approval.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.026. COMMITTEES AND SECTIONS. (a) The board may create committees, subject to the executive committee's approval under Subchapter I, and sections as it considers advisable and necessary to carry out the purposes of this chapter.

(b) This chapter does not prohibit the appointment of nonattorneys to a committee of the state bar.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 227, Sec. 8, eff. Sept. 1, 2003.

Sec. 81.027. REMOVAL OF DIRECTOR. (a) The board of directors may remove a director from the board at any regular meeting by resolution declaring the director's position vacant. It is a ground for removal from the board that a director:

(1) does not have at the time of taking office the applicable qualifications for office, if any;

(2) does not maintain during service on the board the applicable qualifications for office, if any;

(3) is ineligible for membership under Section 81.028 or 81.031;

(4) cannot, because of illness or disability, discharge the director's duties for a substantial part of the director's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the director is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

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

(c) If the executive director has knowledge that a potential ground for removal of a director exists, the executive director shall notify the president of the state bar and the director of the ground.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 11, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 227, Sec. 9, eff. Sept. 1, 2003.

Sec. 81.028. RELATIONSHIP WITH TRADE ASSOCIATION. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board of directors and may not be a state bar employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of board interest; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of board interest.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 227, Sec. 10, eff. Sept. 1, 2003.

Sec. 81.029. EXECUTIVE DIRECTOR. (a) The board of directors, by a majority vote, elects the executive director. The executive director serves at the pleasure of the board.

(b) The executive director shall execute the policies and directives of the board in all state bar activities except the activities for which the general counsel is given responsibility either by this chapter or by the board.

(c) The executive director shall perform the duties usually required of a corporate secretary and other duties as assigned by the board.

(d) The executive director shall act as the treasurer of the state bar and shall receive from the clerk of the supreme court state bar funds as provided by this chapter. The funds are subject to audit as provided by Section 81.023.

(e) The executive director shall maintain the membership files and shall confer with the clerk of the supreme court as to the maintenance of those files.

(f) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(8).

(g) The executive director has no vote on matters before the board of directors.

(h) The executive director or the executive director's designee shall develop an intra-agency career ladder program. The program shall require intra-agency postings of all nonentry level positions concurrently with any public posting.

(i) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for state bar employees must be based on the system established under this subsection.

(j) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the state bar to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of

the state bar's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(k) The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (j)(1); and

(3) be filed with the supreme court and the governor's office.

(l) Repealed by Acts 2003, 78th Leg., ch. 227, Sec. 22.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 12, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 227, Sec. 11, 22, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 285, Sec. 31(8), eff. Sept. 1, 2003.

Sec. 81.030. GENERAL COUNSEL. (a) The board of directors, by a majority vote, elects the general counsel of the state bar. The general counsel holds office at the pleasure of the board.

(b) The general counsel must be a member of the state bar.

(c) The general counsel shall perform the duties usually expected of and performed by a general counsel.

(d) The general counsel shall perform those duties delegated by the board of directors.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 13, eff. Sept. 1, 1991.

Sec. 81.031. CONFLICT OF INTEREST. (a) The executive director and the general counsel of the state bar are subject to Chapter 572.

(b) A person may not serve as a member of the board of directors or as the general counsel to the state bar if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the state bar.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 304, Sec. 3.12, eff. Jan.

1, 1992; Acts 1991, 72nd Leg., ch. 795, Sec. 14, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(41), eff. Sept. 1, 1995.

Sec. 81.032. DEPUTY CLERK. (a) The clerk of the supreme court, with the permission of the court, may employ a deputy to assist the clerk in discharging the duties imposed on the clerk by this chapter or by rules promulgated under this chapter.

(b) The board of directors of the state bar shall set the deputy's salary. The salary shall be paid from state bar funds.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.033. OPEN RECORDS. (a) All records of the state bar, except for records pertaining to grievances that are confidential under the Texas Rules of Disciplinary Procedure, and records pertaining to the Texas Board of Legal Specialization, are subject to Chapter 552.

(b) The use of confidential records and information for purposes of the client security fund does not waive confidentiality or privilege.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 15, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(93), eff. Sept. 1, 1995.

Sec. 81.034. RESTRICTION ON USE OF FUNDS. Fees collected under this chapter and other funds received by the state bar may not be used for influencing the passage or defeat of any legislative measure unless the measure relates to the regulation of the legal profession, improving the quality of legal services, or the administration of justice and the amount of the expenditure is reasonable and necessary. This subsection does not prohibit a member of the board of directors or an officer or employee of the state bar from furnishing information in the person's possession that is not confidential information to a member or committee of the legislature on request of the member or committee.

Added by Acts 1991, 72nd Leg., ch. 795, Sec. 16, eff. Sept. 1, 1991.

Sec. 81.035. INFORMATION REGARDING REQUIREMENTS FOR OFFICE OR EMPLOYMENT. The executive director or the executive director's designee shall provide to members of the board of directors and to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 12, eff. Sept. 1, 2003.

Sec. 81.036. INFORMATION ON CERTAIN COMPLAINTS. (a) The state bar shall maintain a file on each written complaint, other than a grievance against an attorney, filed with the state bar. The file must include:

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

(2) the date the complaint is received by the state bar;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

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

(6) an explanation of the reason the file was closed, if the state bar closed the file without taking action other than to investigate the complaint.

(b) The state bar shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the state bar's policies and procedures relating to complaint investigation and resolution.

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

Added by Acts 2003, 78th Leg., ch. 227, Sec. 12, eff. Sept. 1, 2003.

Sec. 81.038. USE OF TECHNOLOGY. The board of directors shall develop and implement a policy requiring the executive director and state bar employees to research and propose appropriate technological solutions to improve the state bar's ability to perform its functions. The technological solutions must:

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

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

(A) interact with the state bar through the Internet; and

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

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

Added by Acts 2003, 78th Leg., ch. 227, Sec. 12, eff. Sept. 1, 2003.

SUBCHAPTER C. MEMBERSHIP

Sec. 81.051. BAR MEMBERSHIP REQUIRED. (a) The state bar is composed of those persons licensed to practice law in this state. Bar members are subject to this chapter and to the rules adopted by the supreme court.

(b) Each person licensed to practice law in this state shall, not later than the 10th day after the person's admission to practice, enroll in the state bar by registering with the clerk of the supreme court.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.052. MEMBERSHIP CLASSES. (a) A bar membership is one of four classes: active, inactive, emeritus, or associate.

(b) Each licensed member of the state bar is an active member until the person requests to be enrolled as an inactive member.

(c) An inactive member is a person who:

(1) is eligible for active membership but not engaged in the practice of law in this state; and

(2) has filed with the executive director and the clerk of

the supreme court written notice requesting enrollment as an inactive member.

(d) An inactive member at his request may become an active member on application and payment of required fees.

(e) An emeritus member is a person who:

(1) is either an active or inactive member in good standing who is at least 70 years old; and

(2) has filed a written notice requesting enrollment as an emeritus member.

(f) A person enrolled in law school in this state may be enrolled as an associate member.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.053. STATUS OF CERTAIN MEMBERSHIP CLASSES. (a) An inactive member may not practice law in this state, except as provided by rule promulgated by the supreme court for volunteer practice, and may not hold an office in the state bar or vote in any election conducted by the state bar.

(b) An emeritus member has all the privileges of membership in the state bar.

(c) An associate member may not practice law, except as provided by rule promulgated by the supreme court, and may not hold office in the state bar or vote in any election conducted by the state bar.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 17, eff. Sept. 1, 1991.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 87 (H.B. 1020), Sec. 1, eff. September 1, 2017.

Sec. 81.054. MEMBERSHIP FEES AND ADDITIONAL FEES. (a) The supreme court shall set membership fees and other fees for members of the state bar during the court's annual budget process under Section 81.022. The fees, except as provided by Subsection (j) and those set for associate members, must be set in accordance with this section

and Section 81.022.

(b) An emeritus member is not required to pay a membership fee for the year in which the member reaches the age of 70 or any year following that year.

(c) Fees shall be paid to the clerk of the supreme court. The clerk shall retain the fees, other than fees collected under Subsection (j), until distributed to the state bar for expenditure under the direction of the supreme court to administer this chapter. The clerk shall retain the fees collected under Subsection (j) until distribution is approved by an order of the supreme court. In ordering that distribution, the supreme court shall order that the fees collected under Subsection (j) be remitted to the comptroller at least as frequently as quarterly. The comptroller shall credit 50 percent of the remitted fees to the credit of the judicial fund for programs approved by the supreme court that provide basic civil legal services to the indigent and shall credit the remaining 50 percent of the remitted fees to the fair defense account in the general revenue fund which is established under Section 79.031, to be used, subject to all requirements of Section 79.037, for demonstration or pilot projects that develop and promote best practices for the efficient delivery of quality representation to indigent defendants in criminal cases at trial, on appeal, and in postconviction proceedings.

(d) Fees collected under Subsection (j) may be used only to provide basic civil legal services to the indigent and legal representation and other defense services to indigent defendants in criminal cases as provided by Subsection (c). Other fees collected under this chapter may be used only for administering the public purposes provided by this chapter.

(e) The state bar by rule may adopt a system under which membership fees are due on various dates during the year. For the year in which a due date is changed, the annual fee shall be prorated on a monthly basis so that the member pays only that portion of the fee that is allocable to the number of months remaining before the new expiration date. An increase in fees applies only to fees that are payable on or after the effective date of the increase.

(f) A person who is otherwise eligible to renew the person's membership may renew the membership by paying the required membership fees to the state bar on or before the due date.

(g) A person whose membership has been expired for 90 days or less may renew the membership by paying to the state bar membership

fees equal to 1-1/2 times the normally required membership fees.

(h) A person whose membership has been expired for more than 90 days but less than one year may renew the membership by paying to the state bar membership fees equal to two times the normally required membership fees.

(i) Not later than the 30th day before the date a person's membership is scheduled to expire, the state bar shall send written notice of the impending expiration to the person at the person's last known address according to the records of the state bar.

(j) The supreme court shall set an additional legal services fee in an amount of $65 to be paid annually by each active member of the state bar except as provided by Subsection (k). Section 81.024 does not apply to a fee set under this subsection.

(k) The legal services fee shall not be assessed on any Texas attorney who:

(1) is 70 years of age or older;

(2) has assumed inactive status under the rules governing the State Bar of Texas;

(3) is a sitting judge;

(4) is an employee of the state or federal government;

(5) is employed by a city, county, or district attorney's office and who does not have a private practice that accounts for more than 50 percent of the attorney's time;

(6) is employed by a 501(c)(3) nonprofit corporation and is prohibited from the outside practice of law;

(7) is exempt from MCLE requirements because of nonpracticing status; or

(8) resides out of state and does not practice law in Texas.

(l) In this section, "indigent" has the meaning assigned by Section 51.941.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 18, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 227, Sec. 13, 14, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 161 (S.B. 168), Sec. 1, eff. May 22, 2007.

Acts 2007, 80th Leg., R.S., Ch. 855 (H.B. 1265), Sec. 4, eff.

September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 5, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 5, eff. September 1, 2017.

SUBCHAPTER D. ADMISSION TO PRACTICE

Sec. 81.061. SUPREME COURT JURISDICTION EXCLUSIVE. Rules governing the admission to the practice of law are within the exclusive jurisdiction of the supreme court. The officers and directors of the state bar do not have authority to approve or disapprove of any rule governing admissions to the practice of law or to regulate or administer those admissions standards.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.062. STATE BAR ADMISSION AND RELIGIOUS BELIEF. In establishing the rules governing the admission to the practice of law under Section 81.061, the supreme court shall ensure that no rule violates Chapter 110, Civil Practice and Remedies Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 6, eff. September 1, 2017.

SUBCHAPTER E. DISCIPLINE

Sec. 81.071. DISCIPLINARY JURISDICTION. Each attorney admitted to practice in this state and each attorney specially admitted by a court of this state for a particular proceeding is subject to the disciplinary and disability jurisdiction of the supreme court and the Commission for Lawyer Discipline, a committee of the state bar.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 19, eff. Sept. 1, 1991.

Sec. 81.072. GENERAL DISCIPLINARY AND DISABILITY PROCEDURES.

(a) In furtherance of the supreme court's powers to supervise the conduct of attorneys, the court shall establish disciplinary and disability procedures in addition to the procedures provided by this subchapter.

(b) The supreme court shall establish minimum standards and procedures for the attorney disciplinary and disability system. The standards and procedures for processing grievances against attorneys must provide for:

(1) classification of all grievances and investigation of all complaints;

(2) a full explanation to each complainant on dismissal of an inquiry or a complaint;

(3) periodic preparation of abstracts of inquiries and complaints filed that, even if true, do or do not constitute misconduct;

(4) an information file for each grievance filed;

(5) a grievance tracking system to monitor processing of grievances by category, method of resolution, and length of time required for resolution;

(6) notice by the state bar to the parties of a written grievance filed with the state bar that the state bar has the authority to resolve of the status of the grievance, at least quarterly and until final disposition, unless the notice would jeopardize an undercover investigation;

(7) an option for a trial in a district court on a complaint and an administrative system for attorney disciplinary and disability findings in lieu of trials in district court, including an appeal procedure to the Board of Disciplinary Appeals and the supreme court under the substantial evidence rule;

(8) an administrative system for reciprocal and compulsory discipline;

(9) interim suspension of an attorney posing a threat of immediate irreparable harm to a client;

(10) authorizing all parties to an attorney disciplinary hearing, including the complainant, to be present at all hearings at which testimony is taken and requiring notice of those hearings to be given to the complainant not later than the seventh day before the date of the hearing;

(11) the commission adopting rules that govern the use of private reprimands by grievance committees and that prohibit a

committee:

(A) giving an attorney more than one private reprimand within a five-year period for a violation of the same disciplinary rule; or

(B) giving a private reprimand for a violation:

(i) that involves a failure to return an unearned fee, a theft, or a misapplication of fiduciary property; or

(ii) of a disciplinary rule that requires a prosecutor to disclose to the defense all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, including Rule 3.09(d), Texas Disciplinary Rules of Professional Conduct; and

(12) distribution of a voluntary survey to all complainants urging views on grievance system experiences.

(b-1) In establishing minimum standards and procedures for the attorney disciplinary and disability system under Subsection (b), the supreme court must ensure that the statute of limitations applicable to a grievance filed against a prosecutor that alleges a violation of the disclosure rule does not begin to run until the date on which a wrongfully imprisoned person is released from a penal institution.

(b-2) For purposes of Subsection (b-1):

(1) "Disclosure rule" means the disciplinary rule that requires a prosecutor to disclose to the defense all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, including Rule 3.09(d), Texas Disciplinary Rules of Professional Conduct.

(2) "Penal institution" has the meaning assigned by Article 62.001, Code of Criminal Procedure.

(3) "Wrongfully imprisoned person" has the meaning assigned by Section 501.101.

(b-3) In establishing minimum standards and procedures for the attorney disciplinary and disability system under Subsection (b), the supreme court must ensure that an attorney has an opportunity to respond to all allegations of alleged misconduct.

(c) In addition to the minimum standards and procedures provided by this chapter, the supreme court, under Section 81.024 shall prepare, propose, and adopt rules it considers necessary for disciplining, suspending, disbarring, and accepting resignations of attorneys.

(d) Each attorney is subject to the Texas Rules of Disciplinary

Procedure and the Texas Disciplinary Rules of Professional Conduct.

(e) The state bar shall establish a voluntary mediation and dispute resolution procedure to:

(1) attempt to resolve each minor grievance referred to the voluntary mediation and dispute resolution procedure by the chief disciplinary counsel; and

(2) facilitate coordination with other programs administered by the state bar to address and attempt to resolve inquiries and complaints referred to the voluntary mediation and dispute resolution procedure.

(e-1) All types of information, proceedings, hearing transcripts, and statements presented during the voluntary mediation and dispute resolution procedure established under Subsection (e) are confidential to the same extent the information, proceedings, transcripts, or statements would be confidential if presented to a panel of a district grievance committee.

(f) Responses to the survey provided for in Subsection (b)(12) may not identify either the complainant or attorney and shall be open to the public. The topics must include:

(1) treatment by the grievance system staff and volunteers;

(2) the fairness of grievance procedures;

(3) the length of time for grievance processing;

(4) disposition of the grievance; and

(5) suggestions for improvement of the grievance system.

(g) A person may not maintain an action against a complainant or witness in a disciplinary proceeding based on a communication made by the complainant or witness to the commission, a grievance committee, or the chief disciplinary counsel. The immunity granted by this subsection is absolute and unqualified.

(h) The state bar or a court may not require an attorney against whom a disciplinary action has been brought to disclose information protected by the attorney-client privilege if the client did not initiate the grievance that is the subject of the action.

(i) A panel of a district grievance committee of the state bar that votes on a grievance matter shall disclose to the complainant and the respondent in the matter the number of members of the panel:

(1) voting for a finding of just cause;

(2) voting against a finding of just cause; and

(3) abstaining from voting on the matter.

(j) A quorum of a panel of a district grievance committee of

the state bar must include one public member for each two attorney members.

(k) A member of a panel of a district grievance committee of the state bar may vote on a grievance matter to which the panel was assigned only if the member is present at the hearing at which the vote takes place.

(l) A person may be appointed to serve on a panel of a district grievance committee of the state bar only if the person is a member of the district grievance committee from which the panel was assigned and the person was appointed to serve on the committee in strict accordance with the Texas Rules of Disciplinary Procedure.

(m) A panel of a district grievance committee of the state bar may not be changed in size for the purpose of obtaining a quorum on the panel without the approval of the complainant and the respondent in the grievance matter to which the panel was assigned.

(n) A member of a panel of a district grievance committee of the state bar may not be substituted with another member of the district grievance committee on the day of the hearing for which the panel was assigned without the approval of the complainant and the respondent in the grievance matter.

(o) Whenever a grievance is either dismissed as an inquiry or dismissed as a complaint in accordance with the Texas Rules of Disciplinary Procedure and that dismissal has become final, the respondent attorney may thereafter deny that a grievance was pursued and may file a motion with the tribunal seeking expunction of all records on the matter, other than statistical or identifying information maintained by the chief disciplinary counsel pertaining to the grievance.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 20, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 1436, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 227, Sec. 15, 16, eff. Sept. 1, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 450 (S.B. 825), Sec. 1, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 7, eff. September 1, 2017.

Sec. 81.073. CLASSIFICATION OF GRIEVANCES. (a) The chief disciplinary counsel's office shall classify each grievance on receipt as:

(1) a complaint, if the grievance:

(A) alleges conduct that, if true, constitutes professional misconduct or disability cognizable under the Texas Disciplinary Rules of Professional Conduct; and

(B) is submitted by:

(i) a family member of a ward in a guardianship proceeding that is the subject of the grievance;

(ii) a family member of a decedent in a probate matter that is the subject of the grievance;

(iii) a trustee of a trust or an executor of an estate if the matter that is the subject of the grievance relates to the trust or estate;

(iv) the judge, prosecuting attorney, defense attorney, court staff member, or juror in the legal matter that is the subject of the grievance;

(v) a trustee in a bankruptcy that is the subject of the grievance; or

(vi) any other person who has a cognizable individual interest in or connection to the legal matter or facts alleged in the grievance; or

(2) an inquiry, if:

(A) the grievance alleges conduct that, even if true, does not constitute professional misconduct or disability cognizable under the Texas Disciplinary Rules of Professional Conduct;

(B) the grievance is submitted by a person other than a person described by Subdivision (1)(B); or

(C) the respondent attorney is deceased, has relinquished the attorney's license to practice law in this state to avoid disciplinary action, or is not licensed to practice law in this state.

(b) A complainant or an attorney against whom a grievance is filed may appeal the classification of a grievance to the Board of Disciplinary Appeals, or the complainant may amend and resubmit the grievance.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 17, eff. Sept. 1, 2003.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1020 (H.B. 5010), Sec. 1, eff. September 1, 2023.

Sec. 81.074. DISPOSITION OF INQUIRIES. The chief disciplinary counsel shall:

(1) dismiss a grievance classified as an inquiry; and

(2) refer each inquiry classified under Section 81.073(a)(2)(A) or (B) and dismissed under this section to the voluntary mediation and dispute resolution procedure established under Section 81.072(e).

Added by Acts 2003, 78th Leg., ch. 227, Sec. 17, eff. Sept. 1, 2003.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1020 (H.B. 5010), Sec. 2, eff. September 1, 2023.

Sec. 81.075. DISPOSITION OF COMPLAINTS. (a) The chief disciplinary counsel shall review and investigate each grievance classified as a complaint to determine whether there is just cause, as defined by the Texas Rules of Disciplinary Procedure.

(b) After the chief disciplinary counsel reviews and investigates a complaint:

(1) if the counsel finds there is no just cause, the counsel shall place the complaint on a dismissal docket; or

(2) if the counsel finds just cause:

(A) the respondent attorney may request a trial in a district court on the complaint in accordance with the procedures adopted by the supreme court; or

(B) the counsel shall place the complaint on a hearing docket if the respondent attorney does not request a trial in a district court.

(c) A panel of a district grievance committee shall consider each complaint placed on the dismissal docket at a closed hearing without the complainant or the respondent attorney present. The panel may:

(1) approve the dismissal of the complaint and refer the complaint to the voluntary mediation and dispute resolution procedure established under Section 81.072(e); or

(2) deny the dismissal of the complaint and place the complaint on a hearing docket.

(d) A panel of a district grievance committee shall conduct a hearing on each complaint placed on the hearing docket. The commission and the respondent attorney are parties to the hearing, and the chief disciplinary counsel presents the complainant's case at the hearing. Each party may seek and the panel may issue a subpoena to compel attendance and production of records before the panel. Each party may conduct limited discovery in general accordance with the Texas Rules of Civil Procedure as prescribed by rules of the supreme court.

(e) After conducting a hearing under Subsection (d), the panel of the district grievance committee may:

(1) dismiss the complaint and refer it to the voluntary mediation and dispute resolution procedure established under Section 81.072(e);

(2) find that the respondent attorney suffers from a disability and forward that finding to the Board of Disciplinary Appeals for referral to a district disability committee; or

(3) find that professional misconduct occurred and impose sanctions.

(f) If the panel of a district grievance committee finds an attorney knowingly made a false declaration on an application for a place on the ballot as a candidate for judicial office under Section 141.0311, Election Code, the committee shall impose a public sanction against the respondent attorney.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 17, eff. Sept. 1, 2003.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 716 (H.B. 2384), Sec. 8, eff. September 1, 2023.

Sec. 81.0751. APPEALS. (a) The commission or a respondent attorney may appeal:

(1) a finding of a panel of a district grievance committee under Section 81.075(e) only to the Board of Disciplinary Appeals;

(2) a finding of the Board of Disciplinary Appeals to the supreme court; and

(3) a judgment of a district court as in civil cases

generally.

(b) In an appeal of a finding of a panel of a district grievance committee made to the Board of Disciplinary Appeals, the board may:

(1) affirm in whole or part the panel's finding;

(2) modify the panel's finding and affirm the finding as modified;

(3) reverse in whole or part the panel's finding and enter a finding the board determines the panel should have entered; or

(4) reverse the panel's finding and remand the complaint for a rehearing to be conducted by:

(A) the panel that entered the finding; or

(B) a statewide grievance committee panel composed of members selected from the state bar districts other than the district from which the appeal was taken.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 17, eff. Sept. 1, 2003.

Sec. 81.0752. CONFIDENTIALITY. (a) All types of information, proceedings, hearing transcripts, and statements presented to a panel of a district grievance committee are confidential and may not be disclosed to any person other than the chief disciplinary counsel unless:

(1) disclosure is ordered by a court; or

(2) the panel finds that professional misconduct occurred and a sanction other than a private reprimand is imposed against the respondent attorney.

(b) If the requirements of Subsection (a)(2) are met, the panel of the district grievance committee shall, on request, make the information, proceedings, hearing transcripts, or statements available to the public.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 17, eff. Sept. 1, 2003.

Sec. 81.0753. RULES REGARDING GRIEVANCES. The supreme court shall promulgate rules regarding the classification and disposition of grievances, including rules specifying time limits for each stage of the grievance resolution process.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 17, eff. Sept. 1, 2003.

Sec. 81.076. COMMISSION FOR LAWYER DISCIPLINE. (a) The Commission for Lawyer Discipline shall review the structure, function, and effectiveness of the disciplinary and disability procedures implemented pursuant to this chapter and supreme court rules.

(b) The commission is a standing committee of the state bar. The commission is composed of 12 persons. Six members must be attorneys, and six members must not be attorneys. The president of the state bar appoints the attorney members. The supreme court appoints the public members. The public members may not have, other than as consumers, an interest, direct or indirect, in the practice of law or the profession of law. The supreme court may remove any member for good cause.

(c) Members serve staggered three-year terms with one-third of the members' terms expiring each year.

(d) The president of the state bar shall designate an attorney member as chairperson of the commission who serves for one year.

(e) The commission shall report its findings annually to the supreme court and the board of directors and include any recommendations concerning needed changes in disciplinary or disability procedures or structures.

(f) All necessary and actual expenses of the commission shall be provided for and paid out of the budget of the state bar.

(g) The commission, with the advice and consent of the board of directors, shall select a chief disciplinary counsel to serve as administrator of the state bar's grievance procedure as provided by the Texas Rules of Disciplinary Procedure. On request of an unauthorized practice of law committee or a grievance committee, the chief disciplinary counsel may investigate and prosecute suits to enjoin members, nonlicensees, and nonmembers of the state bar from the practice of law.

(h) The commission shall report to the board of directors, the supreme court, and the legislature, at least annually, concerning the state of the attorney discipline system and make recommendations concerning the refinement and improvement of the system. The commission's report must provide data by race and gender and include:

(1) the number and final disposition of grievances filed,

dismissed, and investigated under and the disciplinary decisions issued under the Texas Disciplinary Rules of Professional Conduct relating to barratry, including the improper solicitation of clients;

(2) the chief disciplinary counsel's cooperation with local, state, or federal agencies in the investigation or prosecution of civil actions or criminal offenses related to barratry, including the number of grievances the chief disciplinary counsel referred to or received from a law enforcement agency;

(3) barriers to the investigation and prosecution of barratry-related criminal offenses or civil actions under existing criminal and civil laws or to enforcement under the Texas Disciplinary Rules of Professional Conduct; and

(4) recommendations for improving the attorney discipline system, the Texas Disciplinary Rules of Professional Conduct, or other state laws relating to barratry or improper solicitation of clients.

(i) The commission shall prepare a summary of the information included in the report under Subsection (h) and make information available to the public regarding barratry-related grievances, including the final disposition of the grievances, to the extent allowable under, and consistent with, confidentiality laws and rules.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 21, eff. Sept. 1, 1991.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 8, eff. September 1, 2017.

Sec. 81.077. DISBARMENT PROCEEDINGS. (a) The supreme court may not adopt or promulgate any rule abrogating the right of trial by jury of an accused attorney in a disbarment action in the county of the residence of the accused attorney.

(b) A disbarment proceeding against a resident attorney shall be instituted in a district court in the county of the attorney's residence, but the accused attorney may apply for change of venue under Rule 257, Texas Rules of Civil Procedure.

(c) This chapter does not prohibit a grievance committee from investigating a complaint of professional misconduct alleged to have

occurred in the geographical area served by the committee, but any action must be filed in the county of the attorney's residence.

(d) Venue in a disbarment proceeding against a nonresident member of the state bar is in a district court either in Travis County or in any county where the alleged misconduct occurred.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 22, eff. Sept. 1, 1991.

Sec. 81.078. DISCIPLINARY PROCEEDINGS. (a) Except as provided by Subsection (b), until an attorney has been convicted of the charges for disbarment pending against the attorney in a court of competent jurisdiction, the attorney may be suspended from the practice of law only if the attorney concurs in an order of suspension entered by the grievance committee.

(b) On proof of an attorney's conviction in a trial court of competent jurisdiction of any felony involving moral turpitude or of any misdemeanor involving the theft, embezzlement, or fraudulent misappropriation of money or other property, the district court of the county of the residence of the convicted attorney shall enter an order suspending the attorney from the practice of law during the pendency of any appeals from the conviction. An attorney who has been given probation after the conviction, whether adjudicated or unadjudicated, shall be suspended from the practice of law during the probation.

(c) On proof of final conviction of any felony involving moral turpitude or any misdemeanor involving theft, embezzlement, or fraudulent misappropriation of money or other property, the district court of the county of the residence of the convicted attorney shall enter an order disbarring the attorney.

(d) In an action to disbar any attorney for acts made the basis of a conviction for a felony involving moral turpitude or a misdemeanor involving theft, embezzlement, or fraudulent misappropriation of money or other property, the record of conviction is conclusive evidence of the guilt of the attorney for the crime of which he was convicted.

(e) Either the grievance committee for the bar district or the general counsel may seek enforcement of this section.

(f) This chapter does not prevent prosecution of an attorney in a disciplinary action after conviction for a criminal act based either on the weight of the conviction or on conduct by the attorney that led to the attorney's conviction.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.079. PUBLIC NOTIFICATION AND INFORMATION. (a) To provide information to the public relating to the attorney grievance process, the state bar shall:

(1) develop a brochure written in Spanish and English describing the bar's grievance process;

(2) establish a toll-free "800" telephone number for public access to the chief disciplinary counsel's office in Austin and list the number in telephone directories statewide;

(3) describe the bar's grievance process in the bar's telephone directory listings statewide; and

(4) make grievance forms written in Spanish and English available in each county courthouse.

(b) Each attorney practicing law in this state shall provide notice to each of the attorney's clients of the existence of a grievance process by:

(1) making grievance brochures prepared by the state bar available at the attorney's place of business;

(2) posting a sign prominently displayed in the attorney's place of business describing the process;

(3) including the information on a written contract for services with the client; or

(4) providing the information in a bill for services to the client.

Added by Acts 1991, 72nd Leg., ch. 795, Sec. 23, eff. Sept. 1, 1991. Amended by Acts 2003, 78th Leg., ch. 227, Sec. 18, eff. Sept. 1, 2003.

Sec. 81.080. ISSUANCE OF SUBPOENA; OBJECTION. (a) On approval of the presiding officer of the appropriate district grievance committee, the chief disciplinary counsel may, during an

investigation of a grievance, issue a subpoena that relates directly to a specific allegation of attorney misconduct.

(b) The chief disciplinary counsel shall provide a process for a respondent to object to a subpoena issued under this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 9, eff. September 1, 2017.

Sec. 81.081. ATTORNEY SELF-REPORTING. The chief disciplinary counsel shall develop guidelines and a procedure for an attorney to self-report:

(1) any criminal offense committed by the attorney; and

(2) any disciplinary action taken by another state's bar against the attorney.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 9, eff. September 1, 2017.

Sec. 81.082. PROCESS TO IDENTIFY COMPLAINTS SUITABLE FOR SETTLEMENT OR INVESTIGATORY HEARING. (a) The chief disciplinary counsel shall develop a process to identify a complaint that is appropriate for a settlement attempt or an investigatory hearing before a trial is requested or the complaint is placed on a hearing docket.

(b) The chief disciplinary counsel may authorize a settlement at any time during the disciplinary process.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 9, eff. September 1, 2017.

Sec. 81.083. SANCTION GUIDELINES. (a) The chief disciplinary counsel shall propose and the supreme court shall adopt by rule sanction guidelines to:

(1) associate a specific rule violation or ethical misconduct with a range of appropriate sanctions;

(2) provide aggravating and mitigating factors that justify deviating from the established sanctions; and

(3) provide consistency between complaints heard by a

district grievance committee and complaints heard by a district court.

(b) The chief disciplinary counsel shall ensure that interested parties are provided an opportunity to comment on the proposed sanction guidelines.

(c) The sanction guidelines adopted under this section do not limit the authority of a district grievance committee or of a district judge to make a finding or issue a decision.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 9, eff. September 1, 2017.

Sec. 81.084. GRIEVANCE TRACKING SYSTEM. (a) The chief disciplinary counsel shall create and maintain a grievance tracking system for grievances filed and disciplinary decisions issued under this subchapter.

(b) The grievance tracking system must:

(1) associate each rule violation or instance of ethical misconduct with the sanction imposed or final action taken for the violation or misconduct in a diversionary procedure adopted under state bar rules;

(2) address whether a sanction decision aligns with the sanction guidelines adopted under Section 81.083;

(3) specify the district grievance committee or district judge that imposed the sanction to evaluate sanction patterns within the disciplinary districts and facilitate training for district grievance committee members; and

(4) include sufficient information to evaluate and track disciplinary trends over time.

(c) The chief disciplinary counsel shall:

(1) periodically evaluate and report information gathered in the grievance tracking system to the commission and district grievance committee members; and

(2) post the information reported under Subdivision (1) on the state bar's Internet website.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 9, eff. September 1, 2017.

Sec. 81.085. REGULAR SEARCH OF NATIONAL LAWYER REGULATORY DATA BANK. The chief disciplinary counsel shall establish a process to regularly search the National Lawyer Regulatory Data Bank maintained by the American Bar Association to identify a member of the state bar who is disciplined in another state.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 9, eff. September 1, 2017.

Sec. 81.086. TELECONFERENCE. The chief disciplinary counsel may hold investigatory and disciplinary hearings by teleconference.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 9, eff. September 1, 2017.

SUBCHAPTER E-1. COMMITTEE ON DISCIPLINARY RULES AND REFERENDA; DISCIPLINARY RULE PROPOSAL PROCESS

Sec. 81.0871. DEFINITION. In this subchapter, "committee" means the Committee on Disciplinary Rules and Referenda.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 10, eff. September 1, 2017.

Sec. 81.0872. ESTABLISHMENT OF COMMITTEE. (a) The committee consists of nine members, including:

(1) three attorneys appointed by the president of the state bar;

(2) one nonattorney public member appointed by the president of the state bar;

(3) four attorneys appointed by the supreme court; and

(4) one nonattorney public member appointed by the supreme court.

(b) The president of the state bar and the chief justice of the supreme court shall alternate designating an attorney member of the committee to serve as the presiding officer of the committee for a term of one year.

(c) Committee members serve staggered three-year terms, with one-third of the members' terms expiring each year.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 10, eff. September 1, 2017.

Sec. 81.0873. COMMITTEE DUTIES. The committee shall:

(1) regularly review the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure;

(2) at least annually issue to the supreme court and the board of directors a report on the adequacy of the rules reviewed under Subdivision (1); and

(3) oversee the initial process for proposing a disciplinary rule under Section 81.0875.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 10, eff. September 1, 2017.

Sec. 81.0874. STAFF ATTORNEY. The state bar may hire a staff attorney to assist the committee.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 10, eff. September 1, 2017.

Sec. 81.0875. INITIATION OF RULE PROPOSAL PROCESS. (a) The committee may initiate the process for proposing a disciplinary rule for the state bar as the committee considers necessary or in conjunction with the review of the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure under Section 81.0873(1).

(b) Not later than the 60th day after the date the committee receives a request to initiate the process for proposing a disciplinary rule, the committee shall:

(1) initiate the process; or

(2) issue a written decision declining to initiate the process and the reasons for declining.

(c) A request to initiate the process for proposing a disciplinary rule under Subsection (b) may be made by:

(1) a resolution of the board of directors;

(2) a request of the supreme court;

(3) a request of the commission;

(4) a petition signed by at least 10 percent of the registered members of the state bar;

(5) a concurrent resolution of the legislature; or

(6) a petition signed by at least 20,000 people, of which at least 51 percent, or 10,200 or more, must be residents of this state.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 10, eff. September 1, 2017.

Sec. 81.0876. RULE PROPOSAL. (a) On initiation of the process for proposing a disciplinary rule, the committee shall:

(1) study the issue to be addressed by the proposed rule;

(2) hold a public hearing on the issue;

(3) draft the proposed rule, which may not address more than one subject; and

(4) make all reasonable efforts to solicit comments from different geographic regions in this state, nonattorney members of the public, and members of the state bar.

(b) A proposed disciplinary rule is withdrawn six months after the date the rule proposal process is initiated under Section 81.0875(b)(1) if the proposed disciplinary rule is not published on or before that date in:

(1) the Texas Register; and

(2) the Texas Bar Journal.

(c) The committee shall give interested parties at least 30 days from the date the proposed disciplinary rule is published as required under Subsection (b) to submit comments on the rule to the committee.

(d) The committee shall hold a public hearing on the proposed disciplinary rule if, during the comment period described by Subsection (c), the hearing is requested by:

(1) at least 25 people;

(2) a state agency or political subdivision of this state; or

(3) an association with at least 25 members.

(e) On conclusion of the comment period described by Subsection (c), the committee may amend the proposed disciplinary rule in response to the comments.

(f) The committee shall vote on whether to recommend a proposed disciplinary rule to the board of directors not later than the 60th day after the final day of the comment period described by Subsection (c). The committee may not recommend a proposed disciplinary rule unless at least five members of the committee favor recommendation.

(g) The committee shall submit a proposed disciplinary rule that is recommended by the committee to the board of directors for review and consideration.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 10, eff. September 1, 2017.

Sec. 81.0877. APPROVAL OF PROPOSED DISCIPLINARY RULE BY BOARD OF DIRECTORS. (a) The board of directors shall vote on each proposed disciplinary rule recommended by the committee not later than the 120th day after the date the rule is received from the committee. The board shall vote for or against the rule or return the rule to the committee for additional consideration.

(b) If a proposed disciplinary rule is approved by a majority of the directors, the board of directors shall petition the supreme court to order a referendum as provided by Section 81.0878 on the rule by the members of the state bar.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 10, eff. September 1, 2017.

Sec. 81.0878. REFERENDUM VOTE BY STATE BAR MEMBERS. (a) On receipt of a petition filed by the board of directors under Section 81.0877(b), the supreme court shall:

(1) distribute a copy of the rule in ballot form to each member of the state bar and order a vote on the rule; and

(2) publish the rule in:

(A) the Texas Register; and

(B) the Texas Bar Journal.

(b) The supreme court shall give state bar members:

(1) at least 30 days to consider a proposed disciplinary rule before voting begins; and

(2) 30 days to vote on the proposed disciplinary rule following the period for considering the proposed rule under

Subdivision (1).

(c) The state bar shall provide proponents and opponents of a proposed disciplinary rule an equal opportunity to present their views at any bar-sponsored forum at which the rule referendum is discussed.

(d) One or more proposed disciplinary rules may appear on a single referendum ballot. State bar members shall vote for or against each rule. If a majority of the members who vote on the proposed rule vote in favor of the rule, the rule is approved by the members of the state bar.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 10, eff. September 1, 2017.

Sec. 81.0879. SUPREME COURT APPROVAL OR REJECTION. The supreme court by majority vote may approve or reject a proposed disciplinary rule in its entirety, but may not approve or reject only part of the rule. If the supreme court does not vote on the rule on or before the 120th day after the date the rule is approved by bar members under Section 81.0878, the rule is considered approved by the supreme court.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 10, eff. September 1, 2017.

Sec. 81.08791. RULE DELIBERATIONS. (a) The committee, the board of directors, or the supreme court shall provide notice of any deliberation on a proposed disciplinary rule, and the deliberation must be open to the public.

(b) The board of directors and the supreme court shall record and make public each vote for or against a proposed disciplinary rule.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 10, eff. September 1, 2017.

Sec. 81.08792. PROPOSED DISCIPLINARY RULE APPROVAL REQUIRED BEFORE ADOPTION. A proposed disciplinary rule may not be adopted by

the supreme court unless the rule is approved by:

(1) the committee;

(2) the board of directors;

(3) the members of the state bar; and

(4) the supreme court.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 10, eff. September 1, 2017.

Sec. 81.08793. USE OF TECHNOLOGY. The supreme court, the committee, and the state bar shall use technological solutions throughout the disciplinary rule proposal process to promote:

(1) financial efficiency; and

(2) comments from interested persons.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 10, eff. September 1, 2017.

Sec. 81.08794. EXPIRED TIME AND DEFEATED RULE PROPOSAL. (a) If a time limit provided by this subchapter expires or a disciplinary rule proposal is otherwise defeated, the process for initiating the proposed disciplinary rule may again be initiated in accordance with this subchapter.

(b) For good cause shown, the supreme court may grant a petition to extend any time limit provided by this subchapter until a date that is not later than the 90th day after the original deadline.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 10, eff. September 1, 2017.

SUBCHAPTER E-2. OMBUDSMAN FOR ATTORNEY DISCIPLINE SYSTEM

Sec. 81.0881. DEFINITIONS. In this subchapter:

(1) "Ombudsman" means the ombudsman for the attorney discipline system of the state bar.

(2) "System" means the attorney discipline system of the state bar.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 10, eff.

September 1, 2017.

Sec. 81.0882. OMBUDSMAN FOR ATTORNEY DISCIPLINE SYSTEM. (a) The state bar shall fund one full-time equivalent position of ombudsman for the attorney discipline system.

(b) The ombudsman is selected by the members of the supreme court and is independent of the state bar, the board of directors, the commission, and the chief disciplinary counsel.

(c) The ombudsman shall report directly to the supreme court.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 10, eff. September 1, 2017.

Sec. 81.0883. POWERS AND DUTIES OF OMBUDSMAN. (a) The ombudsman shall:

(1) review grievances to determine whether the state bar followed the proper grievance procedures;

(2) receive complaints about the system;

(3) receive and investigate complaints on violations of the system's procedural rules;

(4) answer questions from the public on the system's operation, accessing the system, and the availability of other state bar programs;

(5) assist members of the public wishing to submit a lawyer grievance by explaining the information required and the methods for submitting the information; and

(6) at least annually, make recommendations to the board of directors and the supreme court for improvements to the system, including ways to improve access to the system and changes to the grievance form.

(b) The ombudsman may not:

(1) draft a complaint for a member of the public;

(2) act as an advocate for a member of the public;

(3) reverse or modify a finding or judgment in any disciplinary proceeding; or

(4) intervene in any disciplinary matter.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 10, eff. September 1, 2017.

Sec. 81.0884. ACCESS TO INFORMATION. The chief disciplinary counsel, a district grievance committee, the board of directors, the commission, and state bar members shall share with the ombudsman requested information that is necessary to:

(1) determine whether the state bar followed procedural rules related to a particular grievance; or

(2) evaluate the system's efficacy and adequacy.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 10, eff. September 1, 2017.

Sec. 81.0885. CONFIDENTIAL INFORMATION; PRIVILEGED COMMUNICATIONS. (a) All types of information, proceedings, hearing transcripts, and statements presented to the ombudsman are confidential and may not be disclosed to any person other than the chief disciplinary counsel unless disclosure is ordered by a court.

(b) The ombudsman may not access privileged communications and information shared between the chief disciplinary counsel and the commission.

Added by Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 10, eff. September 1, 2017.

SUBCHAPTER F. COMMITTEE ON PROFESSIONAL ETHICS

Sec. 81.091. COMMITTEE ON PROFESSIONAL ETHICS. (a) The professional ethics committee consists of nine members of the state bar appointed by the supreme court.

(b) Members serve three-year terms with the terms of three members expiring each year.

(c) The supreme court shall designate a chairperson of the committee who serves for one year.

(d) This chapter does not prohibit the supreme court from appointing members of the judicial department to the committee.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.092. COMMITTEE OPINIONS. (a) The committee shall, either on its own initiative or when requested to do so by a member of the state bar, express its opinion on the propriety of professional conduct other than on a question pending before a court of this state.

(b) Except as provided by Section 81.093, an opinion requires the concurrence of a quorum of the committee members.

(c) Committee opinions are not binding on the supreme court.

(d) As far as possible, the committee must disclose the rationale for its opinion and shall indicate whether it is based on ethical consideration or on disciplinary rules.

(e) The committee shall adopt rules it considers appropriate relating to the procedures to be used in expressing opinions. Rules adopted under this subsection take effect when approved by the supreme court.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.093. PANELS. The committee may meet in three-member panels to express its opinion on behalf of the whole committee, but an inquirer who is dissatisfied with the panel's opinion may appeal it to the full committee for review.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.094. CERTAIN COMMITTEE DUTIES. The committee shall:

(1) periodically publish its issued opinions to the legal profession in summary or complete form;

(2) on request provide copies of its issued opinions to members of the state bar or the public;

(3) on request advise or otherwise assist state bar committees or local bar associations relating to the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure; and

(4) recommend appropriate amendments or clarifications of the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure that it considers advisable.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 24, eff. Sept. 1, 1991.

Sec. 81.095. EXPENSES. The state bar shall pay all necessary and actual expenses of the committee out of the state bar budget.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

SUBCHAPTER G. UNAUTHORIZED PRACTICE OF LAW

Sec. 81.101. DEFINITION. (a) In this chapter the "practice of law" means the preparation of a pleading or other document incident to an action or special proceeding or the management of the action or proceeding on behalf of a client before a judge in court as well as a service rendered out of court, including the giving of advice or the rendering of any service requiring the use of legal skill or knowledge, such as preparing a will, contract, or other instrument, the legal effect of which under the facts and conclusions involved must be carefully determined.

(b) The definition in this section is not exclusive and does not deprive the judicial branch of the power and authority under both this chapter and the adjudicated cases to determine whether other services and acts not enumerated may constitute the practice of law.

(c) In this chapter, the "practice of law" does not include the design, creation, publication, distribution, display, or sale, including publication, distribution, display, or sale by means of an Internet web site, of written materials, books, forms, computer software, or similar products if the products clearly and conspicuously state that the products are not a substitute for the advice of an attorney. This subsection does not authorize the use of the products or similar media in violation of Chapter 83 and does not affect the applicability or enforceability of that chapter.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 799, Sec. 1, eff. June 18, 1999.

Sec. 81.1011. EXCEPTION FOR CERTAIN LEGAL ASSISTANCE. (a) Notwithstanding Section 81.101(a), the "practice of law" does not include technical advice, consultation, and document completion assistance provided by an employee or volunteer of an area agency on aging affiliated with the Health and Human Services Commission who meets the requirements of Subsection (b) if that advice, consultation, and assistance relates to:

(1) a medical power of attorney or other advance directive under Chapter 166, Health and Safety Code; or

(2) a designation of guardian before need arises under Section 1104.202, Estates Code.

(b) An employee or volunteer described by Subsection (a) must:

(1) provide benefits counseling through an area agency on aging system of access and assistance to agency clients;

(2) comply with rules adopted by the Texas Department on Aging regarding qualifications, training requirements, and other requirements for providing benefits counseling services, including legal assistance and legal awareness services;

(3) have received specific training in providing the technical advice, consultation, and assistance described by Subsection (a); and

(4) be certified by the Texas Department on Aging as having met the requirements of this subsection.

(c) The Texas Department on Aging by rule shall develop certification procedures by which the department certifies that an employee or volunteer described by Subsection (a) has met the requirements of Subsections (b)(1), (2), and (3).

Added by Acts 2001, 77th Leg., ch. 845, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 846 (H.B. 2780), Sec. 6, eff. September 1, 2019.

Sec. 81.102. STATE BAR MEMBERSHIP REQUIRED. (a) Except as provided by Subsection (b), a person may not practice law in this state unless the person is a member of the state bar.

(b) The supreme court may promulgate rules prescribing the procedure for limited practice of law by:

(1) attorneys licensed in another jurisdiction;

(2) bona fide law students; and

(3) unlicensed graduate students who are attending or have attended a law school approved by the supreme court.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.103. UNAUTHORIZED PRACTICE OF LAW COMMITTEE. (a) The unauthorized practice of law committee is composed of nine persons appointed by the supreme court.

(b) At least three of the committee members must be nonattorneys.

(c) Committee members serve for staggered terms of three years with three members' terms expiring each year.

(d) A committee member may be reappointed.

(e) Each year the supreme court shall designate a committee member to serve as chairperson.

(f) All necessary and actual expenses of the committee should be provided for and paid out of the budget of the state bar.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 795, Sec. 25, eff. Sept. 1, 1991.

Sec. 81.104. DUTIES OF UNAUTHORIZED PRACTICE OF LAW COMMITTEE. The unauthorized practice of law committee shall:

(1) keep the supreme court and the state bar informed with respect to:

(A) the unauthorized practice of law by lay persons and lay agencies and the participation of attorneys in that unauthorized practice of law; and

(B) methods for the prevention of the unauthorized practice of law; and

(2) seek the elimination of the unauthorized practice of law by appropriate actions and methods, including the filing of suits in the name of the committee.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.105. LOCAL COMMITTEES. This chapter does not prohibit the establishment of local unauthorized practice of law committees to assist the unauthorized practice of law committee in carrying out its purposes.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 81.106. IMMUNITY. (a) The unauthorized practice of law committee, any member of the committee, or any person to whom the committee has delegated authority and who is assisting the committee is not liable for any damages for an act or omission in the course of the official duties of the committee.

(b) A complainant or a witness in a proceeding before the committee or before a person to whom the committee has delegated authority and who is assisting the committee has the same immunity that a complainant or witness has in a judicial proceeding.

Added by Acts 1991, 72nd Leg., ch. 795, Sec. 26, eff. Sept. 1, 1991.

SUBCHAPTER H. MISCELLANEOUS PROVISIONS

Sec. 81.112. FEE DISPUTE RESOLUTION PROCEDURE. The state bar shall establish a standard fee dispute resolution procedure that may be used by a bar committee or other organization as a model for a fee dispute resolution program.

Added by Acts 1991, 72nd Leg., ch. 795, Sec. 28, eff. Sept. 1, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 81.113. CONTINUING LEGAL EDUCATION. (a) Except as provided by Subsection (b), the state bar shall credit an attorney licensed in this state with meeting the minimum continuing legal education requirements of the state bar for a reporting year if during the reporting year the attorney is employed full-time as an

attorney by:

(1) the senate;

(2) the house of representatives;

(3) a committee, division, department, or office of the senate or house;

(4) the Texas Legislative Council;

(5) the Legislative Budget Board;

(6) the Legislative Reference Library;

(7) the office of the state auditor; or

(8) the Sunset Advisory Commission.

(b) An attorney credited for continuing legal education under Subsection (a) must meet the continuing legal education requirements of the state bar in legal ethics or professional responsibility.

(c) The state bar shall recognize, prepare, or administer continuing education programs for members of the state bar. A member of the state bar must participate in the programs to the extent required by the supreme court to maintain the person's state bar membership.

Added by Acts 1991, 72nd Leg., ch. 795, Sec. 29, eff. Sept. 1, 1991.
Amended by Acts 2003, 78th Leg., ch. 227, Sec. 19, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 24.01, eff. September 28, 2011.

Sec. 81.114. ATTORNEY INSTRUCTION RELATED TO GUARDIANSHIP ISSUES. (a) The state bar shall provide a course of instruction for attorneys who represent any person's interests in guardianship cases or who serve as court-appointed guardians.

(b) The state bar shall adopt the rules necessary to accomplish the purposes of this section.

(c) The instruction must include information about:

(1) statutory and case law relating to guardianships;

(2) the aging process and the nature of disabilities;

(3) the requirements of the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.) and related case and statutory law, rules, and compliance methods;

(4) the principles of equal access and accommodation;

(5) the use of community resources for the disabled; and

(6) avoidance of stereotypes through a focus on people's individual abilities, support needs, and inherent individual value.

(d) The instruction may include information about:

(1) substantive areas of law concerning the needs of elderly persons and persons with disabilities;

(2) barriers to physical access and methods to overcome those barriers;

(3) communication needs of elderly persons and persons with disabilities and the technology available to provide access to communication;

(4) duties and responsibilities of guardians, guardians ad litem, attorneys, and court personnel in guardianship proceedings;

(5) standard definitions and procedures for determining incapacity;

(6) standards for surrogate decision making;

(7) the doctrine of the least-restrictive alternative;

(8) the dispute resolution process, especially its application to elderly persons and persons with disabilities; and

(9) successful programs and funding efforts for addressing the court-related needs of elderly persons and persons with disabilities.

(e) The course of instruction described by this section must be low-cost and available to persons throughout this state, including on the Internet provided through the state bar.

Added by Acts 1993, 73rd Leg., ch. 905, Sec. 3, eff. Sept. 1, 1993.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 70, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 576 (S.B. 615), Sec. 30, eff. September 1, 2021.

Sec. 81.115. ONLINE ATTORNEY PROFILES. (a) The state bar shall create a profile of each attorney licensed by the state bar. The profile must:

(1) include the information required by Subsection (b);

(2) include the information described by Subsection (c) if that information is provided by the attorney to the state bar; and

(3) be compiled in a format that permits the state bar to make the information contained in the profile available online to the public.

(b) A profile must contain the following information on each attorney:

(1) the name of each law school attended and the date the attorney graduated;

(2) the date the attorney became licensed to practice law in this state;

(3) any specialty certification recognized by the state bar and held by the attorney;

(4) the attorney's primary practice location;

(5) any public disciplinary sanctions issued by the state bar against the attorney, including a link on the attorney's online profile to the full text of the disciplinary judgment entered by a district grievance committee or district judge; and

(6) any public disciplinary sanctions issued by an entity in another state responsible for attorney discipline in that state against the attorney.

(c) The profile must contain the following information on an attorney if the attorney provides the information to the state bar:

(1) other states in which the attorney is licensed to practice law;

(2) the courts before which the attorney has been admitted to practice law;

(3) whether the attorney provides any language translating services, including translating services for a person with impairment of hearing, at the attorney's primary practice location; and

(4) whether the attorney's client service areas are accessible to persons with disabilities, as defined by federal law.

(d) Information included under Subsection (b) or (c) that is not maintained by the state bar in the ordinary course of the state bar's duties shall be requested from an attorney annually. In requesting information from the attorney, the state bar shall:

(1) inform the attorney that compliance with the request for information under Subsection (b) is mandatory;

(2) inform the attorney that compliance with the request for information under Subsection (c) is voluntary;

(3) inform the attorney of the date the information will be made available to the public; and

(4) instruct the attorney concerning the requirements under Subsection (f) for the attorney to obtain a copy of the attorney's profile to make corrections.

(e) This section does not require the state bar to disclose confidential information.

(f) The state bar shall:

(1) annually provide to each attorney licensed by the state bar a copy of the attorney's profile; or

(2) provide to an individual attorney a copy of the attorney's profile on request. The state bar shall provide an attorney one month from the date a copy of the attorney's profile is provided to the attorney to correct factual errors in the attorney's profile.

(g) The state bar shall annually update the information contained in an attorney's profile. The state bar shall adopt a form that allows an attorney to update information contained in the attorney's profile. The form shall be made available on the Internet and in other formats as prescribed by rules adopted by the state bar. The state bar may adopt rules relating to the type and content of additional information that may be included in an attorney's profile.

(h) For purposes of administering this section, the state bar may collect from each member of the state bar an annual fee of not more than $10.

(i) The state bar shall adopt rules as necessary to implement this section.

Added by Acts 2001, 77th Leg., ch. 862, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 11, eff. September 1, 2017.

SUBCHAPTER I. EXECUTIVE COMMITTEE

Sec. 81.121. EXECUTIVE COMMITTEE. (a) The executive committee consists of:

(1) the president, the president-elect, and the immediate past president of the state bar;

(2) the chair of the board of directors;

(3) the president of the Texas Young Lawyers Association; and

(4) additional members appointed by the president of the state bar.

(b) The general counsel and executive director serve as ex officio members of the committee.

(c) The president of the state bar serves as chair of the committee. The chair of the board of directors serves as vice chair of the committee and presides over committee meetings in the committee chair's absence.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 20, eff. Sept. 1, 2003.

Sec. 81.122. DUTIES OF EXECUTIVE COMMITTEE. The executive committee shall:

(1) on the recommendation of the president of the state bar, approve the creation of additional standing and special committees of the state bar in accordance with Section 81.123;

(2) conduct a comprehensive review of standing and special committees of the state bar at least biennially and more frequently as the executive committee determines necessary to assess whether there is:

(A) a continued need for each committee; and

(B) unnecessary overlap of the committees' activities; and

(3) perform other duties as delegated by the board of directors.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 20, eff. Sept. 1, 2003.

Sec. 81.123. APPROVAL OF COMMITTEES. Before the executive committee may approve the creation of an additional standing or special committee of the state bar, the committee must:

(1) study and determine the fiscal impact creating the committee would have on the state bar budget; and

(2) poll the chair of each existing committee and conduct a review to determine whether the matter to be addressed by the proposed committee could be addressed by an existing committee.

Added by Acts 2003, 78th Leg., ch. 227, Sec. 20, eff. Sept. 1, 2003.

SUBCHAPTER J. DECEPTIVE ADVERTISING PRACTICES

Sec. 81.151. APPLICABILITY. (a) This subchapter applies only to a television advertisement that promotes a person's provision of legal services or solicits clients to receive legal services.

(b) This subchapter does not apply to an advertisement by a federal, state, or local government entity.

Added by Acts 2019, 86th Leg., R.S., Ch. 528 (S.B. 1189), Sec. 1, eff. September 1, 2019.

Sec. 81.152. PROHIBITED ADVERTISING. An advertisement for legal services may not:

(1) present the advertisement as a "medical alert," "health alert," "drug alert," "public service announcement," or substantially similar phrase that suggests to a reasonable viewer the advertisement is offering professional, medical, or government agency advice about medications or medical devices rather than legal services;

(2) display the logo of a federal or state government agency in a manner that suggests to a reasonable viewer the advertisement is presented by a federal or state government agency or by an entity approved by or affiliated with a federal or state government agency; or

(3) use the term "recall" when referring to a product that has not been recalled by a government agency or through an agreement between a manufacturer and government agency.

Added by Acts 2019, 86th Leg., R.S., Ch. 528 (S.B. 1189), Sec. 1, eff. September 1, 2019.

Sec. 81.153. REQUIRED WARNINGS AND DISCLOSURES. (a) An advertisement for legal services must state, both verbally and visually:

(1) at the beginning of the advertisement, "This is a paid advertisement for legal services.";

(2) the identity of the sponsor of the advertisement; and

(3) either:

(A) the identity of the attorney or law firm primarily responsible for providing solicited legal services to a person who engages the attorney or law firm in response to the advertisement; or

(B) the manner in which a responding person's case is referred to an attorney or law firm if the sponsor of the advertisement is not legally authorized to provide legal services to clients.

(b) An advertisement for legal services soliciting clients who may allege an injury from a prescription drug approved by the United States Food and Drug Administration must include a verbal and visual statement: "Do not stop taking a prescribed medication without first consulting a physician."

Added by Acts 2019, 86th Leg., R.S., Ch. 528 (S.B. 1189), Sec. 1, eff. September 1, 2019.

Sec. 81.154. FORM OF REQUIRED WARNINGS AND DISCLOSURES; COURT FINDINGS. (a) A visual statement required by this subchapter to appear in an advertisement must be presented clearly, conspicuously, and for a sufficient length of time for a viewer to see and read the statement.

(b) A court may not find that a visual statement in an advertisement is noncompliant with Subsection (a) if the statement is presented in the same size and style of font and for the same duration as a visual reference to the telephone number or Internet website of the entity a responding person contacts for the legal services offered or discussed in the advertisement.

(c) A verbal statement required by this subchapter to appear in an advertisement must be audible, intelligible, and presented with equal prominence as the other parts of the advertisement.

(d) A court may not find that a verbal statement in an advertisement is noncompliant with Subsection (c) if the statement is made at approximately the same volume and uses approximately the same number of words per minute as the voice-over of longest duration in the advertisement other than information required by this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 528 (S.B. 1189), Sec. 1, eff. September 1, 2019.

Sec. 81.155. ENFORCEMENT; PRIVATE CAUSE OF ACTION NOT CREATED. (a) A violation of this subchapter is a deceptive act or practice actionable under Subchapter E, Chapter 17, Business & Commerce Code,

solely as an enforcement action by the consumer protection division of the attorney general's office or by a district or county attorney as provided by that subchapter. All remedies available under that subchapter are available for a violation of this subchapter.

(b) This subchapter does not create a private cause of action.

(c) Notwithstanding Subsection (a), if the advertising review committee of the State Bar of Texas reviews, in accordance with the committee's procedures, an advertisement for compliance with this subchapter before the first dissemination of the advertisement and the committee informs the sponsor of the advertisement that the advertisement is in compliance with this subchapter and the applicable advertising standards in the Texas Disciplinary Rules of Professional Conduct, the consumer protection division of the attorney general's office or a district or county attorney may not pursue an action under Subsection (a) unless:

(1) the consumer protection division or the district or county attorney demanded that the sponsor of the advertisement cease further dissemination of the advertisement;

(2) the sponsor of the advertisement is given a reasonable amount of time to ensure the advertisement is withdrawn from dissemination to the public; and

(3) the sponsor of the advertisement fails to ensure the advertisement is withdrawn from dissemination to the public within the time provided.

Added by Acts 2019, 86th Leg., R.S., Ch. 528 (S.B. 1189), Sec. 1, eff. September 1, 2019.

Sec. 81.156. CONSTRUCTION OF SUBCHAPTER. This subchapter may not be construed to limit or otherwise affect the authority of the Supreme Court of Texas to regulate the practice of law, enforce the Texas Disciplinary Rules of Professional Conduct, or discipline persons admitted to the state bar.

Added by Acts 2019, 86th Leg., R.S., Ch. 528 (S.B. 1189), Sec. 1, eff. September 1, 2019.

CHAPTER 82. LICENSING OF ATTORNEYS

SUBCHAPTER A. BOARD OF LAW EXAMINERS

Sec. 82.001. BOARD OF LAW EXAMINERS. (a) The Board of Law Examiners is composed of nine attorneys who have the qualifications required of members of the supreme court.

(b) The supreme court shall appoint the members of the board for staggered six-year terms, with the terms of one-third of the members expiring May 31 of each odd-numbered year. A member is subject to removal by the supreme court as provided by Section 82.0021.

(c) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 576, Sec. 1, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 116, Sec. 1, eff. May 18, 1999; Acts 2003, 78th Leg., ch. 212, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 532 (S.B. 303), Sec. 1, eff. September 1, 2017.

Sec. 82.002. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the Board of Law Examiners and may not be a board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of board interest; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of board interest.

(c) A person may not be a member of the board or act as the general counsel to the board if the person is required to register as

a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the board.

(d) A member of the board who has a financial interest, other than a remote financial interest, in a decision pending before the board is disqualified from participating in the decision.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 212, Sec. 2, eff. Sept. 1, 2003.

Sec. 82.0021. REMOVAL OF BOARD MEMBERS. (a) It is a ground for removal from the Board of Law Examiners that a member:

(1) does not have, at the time of taking office, the qualifications required by Section 82.001;

(2) does not maintain during service on the board the qualifications required by Section 82.001;

(3) is ineligible for membership under Section 82.002;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term;

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board;

(6) is incompetent; or

(7) is inattentive to the member's duties.

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

(c) If the executive director of the board has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the supreme court that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the board, who shall then notify the supreme court that a potential ground for removal exists.

Added by Acts 1991, 72nd Leg., ch. 576, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 2003, 78th Leg., ch. 212, Sec. 3, eff. Sept. 1, 2003.

Sec. 82.003. OPEN RECORDS AND OPEN MEETINGS. (a) Except as provided by this section, the Board of Law Examiners is subject to Chapter 552 and Chapter 551.

(b) Examination questions that may be used in the future and examinations other than the one taken by the person requesting it are exempt from disclosure.

(c) Board deliberations, hearings, and determinations relating to moral character and fitness of an applicant shall be closed to the public, and records relating to these subjects are confidential. On the written request of an applicant, however, the applicant is entitled to:

(1) have the applicant's character and fitness hearing open to persons designated by the applicant; or

(2) have disclosed to the applicant records relating to the applicant's own moral character and fitness unless the person who supplied the information has requested that it not be disclosed.

(d) The board shall not inquire of a person who supplies information relating to an applicant's moral character and fitness whether the person objects to disclosure nor inform the person of the right to object.

(e) Board deliberations, hearings, and determinations relating to a request by an applicant who has a disability for testing accommodations under Section 82.0272 on the bar examination shall be closed to the public, and records relating to that subject are confidential.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(83), (94), eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 212, Sec. 4, eff. Sept. 1, 2003.

Sec. 82.004. BOARD DUTIES. (a) The Board of Law Examiners, acting under instructions of the supreme court as provided by this chapter, shall determine the eligibility of candidates for examination for a license to practice law in this state.

(b) The board shall examine each eligible candidate as to the candidate's qualifications to practice law.

(c) The board may not recommend any person for a license to practice law unless the person has shown to the board, in the manner prescribed by the supreme court, that the person is of the moral character and of the capacity and attainment proper for that person to be licensed.

(d) On written request of an applicant who fails an examination administered by the board, the board shall give the applicant an oral or written analysis of the applicant's performance on the examination. The applicant may record an oral analysis.

(e) In each city in which an examination is administered, the board shall provide facilities that enable persons having physical, mental, or developmental disabilities to take the examination.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 576, Sec. 3, eff. Sept. 1, 1991.

Sec. 82.005. BOARD COMPENSATION. (a) The supreme court shall set the compensation of each member of the Board of Law Examiners, excluding reasonable and necessary actual expenses, at an amount that does not exceed $30,000 a year.

(b) Subchapter B, Chapter 659, does not apply to the compensation set under this section.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(104), eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 338 (S.B. 1122), Sec. 1, eff. September 1, 2005.

Sec. 82.006. SUNSET PROVISION. The Board of Law Examiners is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished September 1, 2029.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 576, Sec. 4, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 6.19, eff.

Nov. 12, 1991; Acts 2003, 78th Leg., ch. 212, Sec. 5, eff. Sept. 1, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 3.05, eff. June 17, 2011.
Acts 2017, 85th Leg., R.S., Ch. 532 (S.B. 303), Sec. 2, eff. September 1, 2017.

Sec. 82.007. CAREER LADDER; ANNUAL PERFORMANCE EVALUATIONS. (a) The executive director of the Board of Law Examiners or the executive director's designee shall develop an intraagency career ladder program. The program shall require intraagency postings of all nonentry level positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for board employees must be based on the system established under this subsection.

Added by Acts 1991, 72nd Leg., ch. 576, Sec. 5, eff. Sept. 1, 1991.
Amended by Acts 2003, 78th Leg., ch. 212, Sec. 6, eff. Sept. 1, 2003.

Sec. 82.0071. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The executive director of the Board of Law Examiners or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the board to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the board's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must be:

(1) updated annually;

(2) reviewed by the Commission on Human Rights for compliance with Subsection (b)(1); and

(3) filed with the governor's office and the supreme court.

Added by Acts 2003, 78th Leg., ch. 212, Sec. 6, eff. Sept. 1, 2003.

Sec. 82.0072. STANDARDS OF CONDUCT. The executive director of the Board of Law Examiners or the executive director's designee shall provide to members of the board and to board employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2003, 78th Leg., ch. 212, Sec. 6, eff. Sept. 1, 2003.

Sec. 82.0073. SEPARATION OF RESPONSIBILITIES; DELEGATION. (a) The Board of Law Examiners shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of the board.

(b) Subject to supreme court rules, the Board of Law Examiners may delegate routine decisions to the executive director of the board, including waiver requests.

Added by Acts 2003, 78th Leg., ch. 212, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 532 (S.B. 303), Sec. 3, eff. September 1, 2017.

Sec. 82.008. PUBLIC INFORMATION. (a) The Board of Law Examiners shall prepare information of public interest describing the functions of the board. The board shall make the information available to the public and appropriate agencies.

(b) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board. However, the board may prohibit public testimony that would reveal

the examination questions described by Section 82.003(b) or would relate to the moral character or fitness of an applicant for a license.

Added by Acts 1991, 72nd Leg., ch. 576, Sec. 5, eff. Sept. 1, 1991.

Sec. 82.009. PROGRAM ACCESSIBILITY. The Board of Law Examiners shall prepare and maintain a written plan that describes how a person who has a physical, mental, or developmental disability can be provided reasonable access to the board's programs.

Added by Acts 1991, 72nd Leg., ch. 576, Sec. 5, eff. Sept. 1, 1991.

Sec. 82.010. TRAINING PROGRAM REQUIRED. (a) A person who is appointed to and qualifies for office as a member of the Board of Law Examiners may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing board operations;

(2) the programs, functions, rules, and budget of the board;

(3) the results of the most recent formal audit of the board;

(4) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of a state policymaking body in performing their duties; and

(5) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) The executive director of the Board of Law Examiners shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each member of the board. On receipt of the training manual, each member of the board shall sign and submit to the executive director a statement acknowledging receipt of the training manual.

Added by Acts 2003, 78th Leg., ch. 212, Sec. 7, eff. Sept. 1, 2003.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 532 (S.B. 303), Sec. 4, eff. September 1, 2017.

Sec. 82.011. WRITTEN COMPLAINTS. (a) The Board of Law Examiners shall maintain a file on each written complaint filed with the board. The file must include:

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

(2) the date the complaint was received by the board;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

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

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

(b) The board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the board's policies and procedures relating to complaint investigation and resolution.

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

Added by Acts 2003, 78th Leg., ch. 212, Sec. 7, eff. Sept. 1, 2003.

Sec. 82.013. EFFECTIVE USE OF TECHNOLOGY. The Board of Law Examiners shall develop and implement a policy requiring the executive director and board employees to research and propose appropriate technological solutions to improve the board's ability to perform its functions. The technological solutions must:

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

(2) ensure that persons who want to use the board's

services are able to:

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

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

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

Added by Acts 2003, 78th Leg., ch. 212, Sec. 7, eff. Sept. 1, 2003.

SUBCHAPTER B. LICENSING OF ATTORNEYS

Sec. 82.021. SUPREME COURT AUTHORITY. Only the supreme court may issue licenses to practice law in this state as provided by this chapter. The power may not be delegated.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 82.022. SUPREME COURT RULEMAKING. (a) The supreme court may adopt rules on eligibility for examination for a license to practice law and on the manner in which the examination is conducted. The rules may include:

(1) provisions to ensure:

(A) good moral character of each candidate for a license;

(B) adequate prelegal study and attainment; and

(C) adequate study of the law for at least two years, covering the course of study prescribed by the supreme court or the equivalent of that course;

(2) the legal topics to be covered by the course of study and by the examination;

(3) the times and places for holding the examination;

(4) the manner of conducting the examination;

(5) the grades necessary for licensing; and

(6) any other matter consistent with this chapter desirable to make the issuance of a license to practice law evidence of good character and fair capacity and attainment and proficiency in the knowledge of law.

(a-1) In adopting rules on eligibility for examination for a license to practice law, the supreme court shall ensure that no rule

violates Chapter 110, Civil Practice and Remedies Code.

(b) The supreme court shall adopt rules necessary to administer its functions and to govern the administration of the Board of Law Examiners' functions relating to the licensing of lawyers.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 506 (S.B. 37), Sec. 7(2), eff. June 7, 2019.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 985, Sec. 20, eff. Sept. 1, 1989.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 532 (S.B. 303), Sec. 5, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 506 (S.B. 37), Sec. 7(2), eff. June 7, 2019.

Sec. 82.023. DECLARATION OF INTENTION TO STUDY LAW. (a) Each person intending to apply for admission to the bar must file with the Board of Law Examiners, on a form provided by the board, a declaration of intention to study law.

(b) The form for the declaration must clearly identify those conditions of character and fitness that may be investigated by the board and that may result in the denial of the declarant's application to take the examination.

(c) The board shall notify each first-year law student who files the declaration not later than the date established by supreme court rule of the board's decision as to the student's acceptable character and fitness. The board shall notify all other declarants not later than the date established by supreme court rule whether or not it has determined that the declarant has acceptable character and fitness.

(d) If the board determines that an applicant does not have acceptable character and fitness, the notice of the decision must be accompanied by an analysis of the character investigation that specifies in detail the results of the investigation. The analysis must include an objective list of actions the applicant may take to become qualified for a license to practice law.

(e) If the board determines that an applicant may suffer from chemical dependency, the board shall require the applicant to meet

with representatives of the Lawyers' Assistance Program of the State Bar of Texas or a similar program of the state bar and may require the applicant to submit to evaluation by a licensed mental health professional designated by this board. The board may seek advice and consultation from the Lawyers' Assistance Program of the State Bar of Texas or a similar program of the state bar in designating mental health professionals qualified to conduct evaluations of declarants who may suffer from chemical dependency.

(f) If the board determines that an applicant suffers from chemical dependency, the board shall assist the applicant in working with the Lawyers' Assistance Program of the State Bar of Texas or a similar program of the state bar.

(g) Repealed by Acts 2017, 85th Leg., R.S., Ch. 532 (S.B. 303), Sec. 11, eff. September 1, 2017.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 576, Sec. 6, eff. Sept. 1, 1991.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 532 (S.B. 303), Sec. 6, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 532 (S.B. 303), Sec. 11, eff. September 1, 2017.

Sec. 82.024. LAW STUDY REQUIREMENTS; ELIGIBILITY FOR EXAMINATION. A person who has completed the prescribed study in an approved law school has satisfied the law study requirements for taking the examination for a license to practice law and is eligible to take the bar examination. An approved law school is one that is approved by the supreme court for the time period designated by the court as maintaining the additional standards to retain approval.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 576, Sec. 7, eff. Sept. 1, 1991.

Sec. 82.0241. UNACCREDITED SCHOOLS OF LAW. All matters relating to licensing of persons who were enrolled at unaccredited schools of law in this state are within the exclusive jurisdiction of

the Supreme Court of the State of Texas.

Added by Acts 1991, 72nd Leg., ch. 485, Sec. 2, eff. June 1, 1993.

Sec. 82.027. APPLICATION FOR EXAMINATION. (a) Each applicant to take a bar examination must file an application with the Board of Law Examiners not later than the date established by supreme court rule and pay the fee established by supreme court rule.

(b) The application must include a statement certifying that since the filing of the applicant's original declaration of intention to study law, the applicant:

(1) has not been formally charged with any violation of law, excluding:

(A) cases that have been dismissed for reasons other than technical defects in the charging instrument;

(B) cases in which the applicant has been found not guilty;

(C) minor traffic violations;

(D) cases in which the record of arrest or conviction was expunged by court order;

(E) pardoned offenses; and

(F) Class C misdemeanors;

(2) has not been charged with fraud in any legal proceeding; and

(3) has not been involved in civil litigation or bankruptcy proceedings that reasonably bear on the applicant's fitness to practice law.

(c) On a showing of good cause or to prevent hardship, the board may permit an applicant to file an application with the board not later than the date established by supreme court rule on payment of applicable late fees established by supreme court rule.

(d) The filing deadlines and late fees do not apply to an applicant who failed the preceding bar examination. Any such applicant may take the next examination administered on filing an application with the board and paying the required examination fees not later than the date established by supreme court rule.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 212, Sec. 9, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 532 (S.B. 303), Sec. 7, eff. September 1, 2017.

Sec. 82.0271. RESIDENCY OR CITIZENSHIP STATUS OF APPLICANT. A person who has applied to take the bar examination may not be denied admission to the bar examination based on the applicant's lack of:

(1) permanent residency in the United States; or

(2) United States citizenship.

Added by Acts 1991, 72nd Leg., ch. 576, Sec. 8, eff. Sept. 1, 1991.

Sec. 82.0272. TESTING ACCOMMODATIONS FOR APPLICANTS WITH DISABILITIES. An applicant who has a physical, mental, or developmental disability may request that the Board of Law Examiners provide testing accommodations on the bar examination. An applicant whose request is denied may appeal the decision to a committee appointed by, and composed of three or more members of, the board.

Added by Acts 2003, 78th Leg., ch. 212, Sec. 10, eff. Sept. 1, 2003.

Sec. 82.028. MORAL CHARACTER AND FITNESS OF APPLICANT. (a) The Board of Law Examiners may conduct an investigation of the moral character and fitness of each applicant for a license.

(b) The board may contract with public or private entities for investigative services relating to the moral character and fitness of applicants.

(c) The board may not recommend denial of a license and the supreme court may not deny a license to an applicant because of a deficiency in the applicant's moral character or fitness unless:

(1) the board finds a clear and rational connection between a character trait of the applicant and the likelihood that the applicant would injure a client or obstruct the administration of justice if the applicant were licensed to practice law; or

(2) the board finds a clear and rational connection between the applicant's present mental or emotional condition and the likelihood that the applicant will not discharge properly the applicant's responsibilities to a client, a court, or the legal

profession if the applicant is licensed to practice law.

(d) The board shall limit its investigation under this section to those areas clearly related to the applicant's moral character and present fitness to practice law.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 82.029. RELEASE OF BAR EXAMINATION RESULTS. (a) On request of a law school that is conducting research on the achievement of the law school's students or graduates on the Texas bar examination, the Board of Law Examiners shall provide the law school with information concerning the results of a bar examination and the achievement of particular applicants on the examination, including examination results disaggregated by section or portion of the examination and any relevant statistics related to the results of the examination.

(b) An applicant may request that the board not release the applicant's identity to a law school that requests information under Subsection (a). The board shall grant the applicant's request if the applicant:

(1) sends the request to the board by certified mail or a comparable mailing method that provides proof of delivery; and

(2) makes the request before the applicant takes the bar examination.

(c) A law school that receives information from the board under Subsection (a) is subject to any restriction on the release of the information under federal or state law.

(d) Notwithstanding any other law, information that the board provides to a law school under Subsection (a) is confidential and may not be disclosed under any law related to open records or public information.

Added by Acts 2003, 78th Leg., ch. 212, Sec. 10, eff. Sept. 1, 2003.

Sec. 82.030. BOARD ASSESSMENT OF MORAL CHARACTER AND FITNESS. (a) The Board of Law Examiners shall assess each applicant's moral character and fitness based on:

(1) the investigation of character and fitness performed

after the filing of the declaration of intention to study law; and

(2) the filing of the application required by Section 82.027 and the board's investigation into the accuracy and completeness of the application.

(b) If the board determines that the applicant does not have the requisite good moral character and fitness, the board, not later than the 150th day after the day on which the application is filed, shall furnish the applicant an analysis of the character investigation that specifies in detail the results of the investigation. The analysis must include an objective list of actions the applicant may take to become qualified for a license to practice law.

(c) If the board determines that an applicant may suffer from chemical dependency, the board shall require the applicant to submit to evaluation by a licensed mental health professional designated by the board. The board may seek advice and consultation from the Lawyers' Assistance Program of the State Bar of Texas or a similar program of the state bar in designating mental health professionals qualified to conduct evaluations of applicants who may suffer from chemical dependency.

(d) If the board determines that an applicant suffers from chemical dependency, the board shall assist the applicant in working with the Lawyers' Assistance Program of the State Bar of Texas or a similar program of the state bar.

(e) The board may not deny an applicant the opportunity to take the bar examination solely because the applicant:

(1) suffers or appears to suffer from chemical dependency; or

(2) has been convicted of or is on community supervision for a first offense of operating a motor vehicle while intoxicated under Section 49.04, Penal Code, or intoxication assault committed while operating a motor vehicle under Section 49.07, Penal Code.

(f) Repealed by Acts 2017, 85th Leg., R.S., Ch. 532 (S.B. 303), Sec. 11, eff. September 1, 2017.

(g) Subject to supreme court adoption by rule, the board shall define "chemical dependency."

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 576, Sec. 9, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 14.33, eff. Sept. 1,

1995; Acts 2003, 78th Leg., ch. 212, Sec. 11, eff. Sept. 1, 2003.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 532 (S.B. 303), Sec. 8, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 532 (S.B. 303), Sec. 11, eff. September 1, 2017.

Sec. 82.033. FEES. (a) The supreme court shall set the fee for the investigation of the moral character and fitness of each candidate at an amount that does not exceed $150. The candidate must pay the investigation fee to the Board of Law Examiners at the time it is requested by the board.

(b) The supreme court shall set the fee for any examination given by the board at an amount that does not exceed $150. The candidate must pay the fee to the board at the time the candidate applies for examination.

(c) The supreme court may set an application fee for foreign attorneys at an amount that does not exceed $700.

(d) The supreme court may set reasonable fees for additional services provided by the board, but the fee for any single additional service, other than the late fee for an examination application, may not exceed $150.

(e) The fees set by the supreme court must be sufficient to pay all costs of the board, including staff salaries, compensation to members of the board, and costs of investigation and administering the examinations, so that state general revenue funds are not necessary to operate the board.

(f) The board may adopt rules that provide for waiving or lowering for indigent persons a fee required by this section.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 532 (S.B. 303), Sec. 9, eff. September 1, 2017.

Sec. 82.034. USE OF FUNDS. Fees received by the Board of Law Examiners shall be deposited in a fund established by the supreme

court. The fund may be used only to administer the functions of the supreme court and the board relating to the licensing of lawyers. The fund shall be used as directed by the supreme court and under supreme court rules.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 82.035. AUDIT; FINANCIAL REPORT. (a) The financial transactions of the Board of Law Examiners are subject to audit by the state auditor in accordance with Chapter 321.

(b) The board shall file annually with the supreme court, the governor, and the presiding officer of each house of the legislature a copy of the annual financial report prepared by the board under Section 2101.011.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 4, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 576, Sec. 11, eff. Sept. 1, 1991. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 23, eff. September 1, 2013.

Sec. 82.036. FOREIGN ATTORNEYS. The supreme court shall make such rules and regulations as to admitting attorneys from other jurisdictions to practice law in this state as it shall deem proper and just. All such attorneys shall be required to furnish satisfactory proof as to good moral character.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 576, Sec. 12, eff. Sept. 1, 1991.

Sec. 82.0361. NONRESIDENT ATTORNEY FEE. (a) In this section, "nonresident attorney" means a person who resides in and is licensed to practice law in another state but who is not a member of the State Bar of Texas.

(b) Except as provided by Subsection (e), a nonresident

attorney requesting permission to participate in proceedings in a court in this state shall pay a fee of $250 for each case in which the attorney is requesting to participate. The attorney shall pay the fee to the Board of Law Examiners before filing with the applicable court a motion requesting permission to participate in proceedings in that court as provided by rules adopted by the supreme court.

(c) Fees under this section shall be collected in the same manner as other fees collected by the Board of Law Examiners. The board shall remit the fees collected under this section to the comptroller not later than the 10th day after the end of each calendar quarter.

(d) The comptroller shall deposit the fees received under this section to the credit of the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to the indigent.

(e) The supreme court may adopt rules to waive or reduce the fee required by this section for a nonresident attorney who seeks to represent an indigent person in proceedings in a court in this state.

(f) A nonresident attorney who files a motion requesting permission to participate in proceedings in a court in this state shall provide to that court proof of payment of the fee required by this section. The supreme court by rule shall prescribe the method of proof.

Added by Acts 2003, 78th Leg., ch. 221, Sec. 1, eff. Sept. 1, 2003.

Sec. 82.037. OATH OF ATTORNEY. (a) Each person admitted to practice law shall, before receiving a license, take an oath that the person will:

(1) support the constitutions of the United States and this state;

(2) honestly demean oneself in the practice of law;

(3) discharge the attorney's duty to the attorney's client to the best of the attorney's ability; and

(4) conduct oneself with integrity and civility in dealing and communicating with the court and all parties.

(b) The oath shall be endorsed on the license, subscribed by the person taking the oath, and attested by the officer administering

the oath.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 17 (S.B. 534), Sec. 1, eff. May 15, 2015.

Sec. 82.038. PROBATIONARY LICENSE FOR APPLICANT SUFFERING FROM CHEMICAL DEPENDENCY. (a) If, after a moral character and fitness assessment, the Board of Law Examiners determines that the applicant suffers from chemical dependency, the board shall notify the applicant of its determination and of the applicant's rights under this section.

(b) To obtain judicial review of the board's determination that the applicant suffers from chemical dependency, an applicant must file a petition in the district court of Travis County before the 60th day after the date that the board delivers notice of its determination. The petition must name the board as a defendant and be served on the executive director of the board. Before the date on which the applicant may obtain a default judgment against the board, the board shall file with the district court a certified record of the proceedings before the board.

(c) A party is not entitled to a jury in a judicial review of the board's determination that an applicant suffers from chemical dependency. The court may not substitute its judgment for that of the board as to the weight of the evidence on questions submitted to the board's discretion but shall affirm the board's decision if the decision is reasonably supported by substantial evidence in view of the reliable and probative evidence in the record as a whole.

(d) The board may not deny a person who successfully takes the bar examination a probationary license to practice law solely because the person:

(1) suffers from chemical dependency; or

(2) has been convicted of or is on community supervision for a first offense of operating a motor vehicle while intoxicated under Section 49.04, Penal Code, or intoxication assault committed while operating a motor vehicle under Section 49.07, Penal Code.

(e) The board shall specify the conditions of a probationary

license to practice law, which must be designed to protect the public from the potential harm the person might cause. Conditions of a probationary license may include one or more of the following:

(1) prohibiting the person from using alcohol or controlled substances;

(2) treatment for chemical dependency;

(3) supervision of the person's work by a licensed attorney;

(4) submission to periodic drug testing;

(5) periodic reporting by the person to the board; or

(6) suspension, for a portion of the probationary period, of an activity for which a license to practice law is required.

(f) A probationary license issued under this section expires on the second anniversary of the date on which the license is issued. A person who holds a probationary license may apply for a renewal of the probationary license or for a regular license to practice law. The board, after redetermination of the character and fitness of a person who holds a probationary license, may recommend to the supreme court that it grant the person a regular license to practice law. The redetermination must include an evaluation of the person by a treatment facility. The board may not recommend to the supreme court that the person be granted a regular license to practice law unless the board finds that the person has successfully completed treatment and has been free from chemical dependency for the preceding two years.

(g) The supreme court shall adopt rules under which the board and the State Bar of Texas jointly develop and fund a program for evaluation and referral to treatment for persons who have been issued a probationary license under this section.

(h) A probationary license may be immediately revoked if the person violates a condition of probation imposed by the board.

(i) On request, the board in coordination with the State Bar of Texas shall inform a member of the public whether a particular person holds a probationary license. Any information that forms the basis for the issuance of the probationary license is confidential.

(j) In this section:

(1) "Chemical dependency" has the meaning provided by supreme court rule adopted under Section 82.030.

(2) "Controlled substance," "treatment facility," and "treatment" have the meanings assigned by Section 462.001, Health and

Safety Code.

Added by Acts 1991, 72nd Leg., ch. 576, Sec. 13, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.34, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 212, Sec. 12, eff. Sept. 1, 2003.

Sec. 82.039. LICENSING GUIDELINES. (a) To assist the Board of Law Examiners in making consistent and fair determinations related to the licensing of attorneys in this state, the board shall develop specific guidelines for:

(1) determining the moral character and fitness of license applicants;

(2) overseeing probationary license holders; and

(3) granting waiver requests.

(b) The Board of Law Examiners shall develop the guidelines required under Subsection (a) based on the board's past decisions and on any other criteria the board considers necessary. The board is not required to take any specific action provided in the guidelines.

Added by Acts 2017, 85th Leg., R.S., Ch. 532 (S.B. 303), Sec. 10, eff. September 1, 2017.

SUBCHAPTER C. ATTORNEY CONDUCT

Sec. 82.061. MISBEHAVIOR OR CONTEMPT. (a) An attorney at law may be fined or imprisoned by any court for misbehavior or for contempt of the court.

(b) An attorney may not be suspended or stricken from the rolls for contempt unless the contempt involves fraudulent or dishonorable conduct or malpractice.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 82.062. DISBARMENT. Any attorney who is guilty of barratry, any fraudulent or dishonorable conduct, or malpractice may be suspended from practice, or the attorney's license may be revoked, by a district court of the county in which the attorney resides or in which the act complained of occurred. An attorney may be suspended

from practice or the attorney's license may be revoked under this section regardless of the fact that the act complained of may be an offense under the Penal Code and regardless of whether the attorney is being prosecuted for or has been convicted of the offense.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 82.063. RETENTION OF CLIENT'S MONEY. (a) A person may bring an action against the person's attorney if the attorney receives or collects money for the person and refuses to pay the money to the person on demand.

(b) To recover under this section the person must file a motion with a district court in either the county in which the attorney usually resides or the county in which the attorney resided when the attorney collected or received the money.

(c) Notice of the motion and a copy of the motion shall be served on the attorney not later than the fifth day before the trial.

(d) If the motion is sustained, judgment shall be rendered against the defendant for the amount collected or received and at least 10 percent but not more than 20 percent damages on the principal sum.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987.

Sec. 82.064. OFFICERS NOT TO APPEAR. (a) A judge or clerk of the supreme court, the court of criminal appeals, a court of appeals, or a district court, or a sheriff may not appear and plead as an attorney at law in any court of record in this state.

(b) A county judge or county clerk who is licensed to practice law may not appear and practice as an attorney at law in any county or justice court except in cases over which the court in which the judge or clerk serves has neither original nor appellate jurisdiction.

(c) A county clerk who is licensed to practice law may not appear and practice as an attorney at law in the supreme court, the court of criminal appeals, a court of appeals, or a district court unless the court in which the clerk serves has neither original nor

appellate jurisdiction.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 3.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 829, Sec. 1, eff. Sept. 1, 1991.

Sec. 82.065. CONTRACT FOR LEGAL SERVICES. (a) A contingent fee contract for legal services must be in writing and signed by the attorney and client.

(b) Any contract for legal services is voidable by the client if it is procured as a result of conduct violating Section 38.12(a) or (b), Penal Code, or Rule 7.03 of the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, regarding barratry by attorneys or other persons.

(c) An attorney who was paid or owed fees or expenses under a contract that is voided under this section may recover fees and expenses based on a quantum meruit theory if the client does not prove that the attorney committed barratry or had actual knowledge, before undertaking the representation, that the contract was procured as a result of barratry by another person. To recover fees or expenses under this subsection, the attorney must have reported the misconduct as required by the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, unless:

(1) another person has already reported the misconduct; or

(2) the attorney reasonably believed that reporting the misconduct would substantially prejudice the client's interests.

Added by Acts 1989, 71st Leg., ch. 866, Sec. 3, eff. Sept. 1, 1989. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 94 (S.B. 1716), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 315 (H.B. 1711), Sec. 1, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4325, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 82.0651. CIVIL LIABILITY FOR PROHIBITED BARRATRY. (a) A

client may bring an action to void a contract for legal services that was procured as a result of conduct violating Section 38.12(a) or (b), Penal Code, or Rule 7.03 of the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, regarding barratry by attorneys or other persons, and to recover any amount that may be awarded under Subsection (b). A client who enters into a contract described by this subsection may bring an action to recover any amount that may be awarded under Subsection (b) even if the contract is voided voluntarily.

(b) A client who prevails in an action under Subsection (a) shall recover from any person who committed barratry:

(1) all fees and expenses paid to that person under the contract;

(2) the balance of any fees and expenses paid to any other person under the contract, after deducting fees and expenses awarded based on a quantum meruit theory as provided by Section 82.065(c);

(3) actual damages caused by the prohibited conduct;

(4) a penalty in the amount of $10,000; and

(5) reasonable and necessary attorney's fees.

(c) A person who was solicited by conduct violating Section 38.12(a) or (b), Penal Code, or Rule 7.03 of the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, regarding barratry by attorneys or other persons, but who did not enter into a contract as a result of that conduct, may file a civil action against any person who committed barratry.

(d) A person who prevails in an action under Subsection (c) shall recover from each person who engaged in barratry:

(1) a penalty in the amount of $10,000;

(2) actual damages caused by the prohibited conduct; and

(3) reasonable and necessary attorney's fees.

(e) This section shall be liberally construed and applied to promote its underlying purposes, which are to protect those in need of legal services against unethical, unlawful solicitation and to provide efficient and economical procedures to secure that protection.

(f) The provisions of this subchapter are not exclusive. The remedies provided in this subchapter are in addition to any other procedures or remedies provided by any other law, except that a person may not recover damages and penalties under both this subchapter and another law for the same act or practice.

(g) The expedited actions process created by Rule 169, Texas Rules of Civil Procedure, does not apply to an action under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 94 (S.B. 1716), Sec. 2, eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 315 (H.B. 1711), Sec. 2, eff. September 1, 2013.

Sec. 82.066. ATTORNEY MAY NOT APPEAR. An attorney may not appear before a judge or justice in a civil case if the attorney is related to the judge or justice by affinity or consanguinity within the first degree, as determined under Chapter 573.

Added by Acts 1989, 71st Leg., ch. 866, Sec. 4, eff. Sept. 1, 1989.
Amended by Acts 1991, 72nd Leg., ch. 561, Sec. 24, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(28), eff. Sept. 1, 1995.

SUBCHAPTER D. SPECIALTY CERTIFICATIONS FOR ATTORNEYS

Sec. 82.101. SPECIALTY CERTIFICATION IN JUDICIAL ADMINISTRATION. (a) The supreme court shall adopt rules establishing a specialty certification for attorneys in the practice area of judicial administration.

(b) For purposes of establishing a specialty certification for attorneys in the practice area of judicial administration, the Texas Board of Legal Specialization shall make recommendations to the supreme court for the specialty certification and a proposed examination for obtaining the specialty certification.

(c) The Texas Board of Legal Specialization shall make the specialty certification for attorneys in judicial administration available to each judge of an appellate court, district court, statutory county court, statutory probate court, or county court performing judicial functions who is a licensed attorney and who meets the eligibility requirements established by the board.

(d) The supreme court by rule shall require an attorney who holds a specialty certification in judicial administration to annually complete 21 hours of continuing legal education to maintain

the certification.

(e) A justice or judge who holds a specialty certification in judicial administration or another specialty certification may be entitled to additional compensation if the legislature makes a specific appropriation for that purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 716 (H.B. 2384), Sec. 9, eff. September 1, 2023.

CHAPTER 83. CERTAIN UNAUTHORIZED PRACTICE OF LAW

Sec. 83.001. PROHIBITED ACTS. (a) A person, other than a person described in Subsection (b), may not charge or receive, either directly or indirectly, any compensation for all or any part of the preparation of a legal instrument affecting title to real property, including a deed, deed of trust, note, mortgage, and transfer or release of lien.

(b) This section does not apply to:

(1) an attorney licensed in this state;

(2) a licensed real estate broker or salesperson performing the acts of a real estate broker pursuant to Chapter 1101, Occupations Code; or

(3) a person performing acts relating to a transaction for the lease, sale, or transfer of any mineral or mining interest in real property.

(c) This section does not prevent a person from seeking reimbursement for costs incurred by the person to retain a licensed attorney to prepare an instrument.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.43(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 115, Sec. 1, eff. Aug. 28, 1989; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.776, eff. Sept. 1, 2003.

Sec. 83.002. EXPENSES. This chapter does not prevent an attorney from paying secretarial, paralegal, or other ordinary and reasonable expenses necessarily and actually incurred by the attorney for the preparation of legal instruments.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.43(a), eff. Aug. 28,

1989.

Sec. 83.003. FORMS. This chapter does not prevent a person from completing lease or rental forms that:

(1) have been prepared by an attorney licensed in this state and approved by the attorney for the particular kind of transaction involved; or

(2) have been prepared by the property owner or prepared by an attorney and required by the property owner.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.43(a), eff. Aug. 28, 1989.

Sec. 83.004. CUMULATIVE REMEDIES. This chapter is not exclusive and does not limit or restrict the definition of the practice of law in the State Bar Act (Chapter 81). This chapter does not limit or restrict any remedy provided in the State Bar Act or any other law designed to eliminate the unauthorized practice of law by lay persons and lay agencies.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.43(a), eff. Aug. 28, 1989.

Sec. 83.005. RECOVERY. A person who pays a fee prohibited by this chapter may bring suit for and is entitled to:

(1) recovery of the fee paid;

(2) damages equal to three times the fee paid; and

(3) court costs and reasonable and necessary attorney's fees.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.43(a), eff. Aug. 28, 1989.

Sec. 83.006. UNAUTHORIZED PRACTICE OF LAW. A violation of this chapter constitutes the unauthorized practice of law and may be enjoined by a court of competent jurisdiction.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 8.43(a), eff. Aug. 28, 1989.

CHAPTER 84. UNAUTHORIZED ATTORNEY COMPENSATION

Sec. 84.001. PROHIBITED ACTS. Before the conclusion of all aspects of a criminal matter that gives rise to an attorney's employment, an attorney may not make or negotiate an agreement with a client, a prospective client, or former client that provides the attorney literary or media rights to a portrayal or account based in substantial part on information relating to the representation.

Added by Acts 1997, 75th Leg., ch. 982, Sec. 1, eff. Sept. 1, 1997.

Sec. 84.002. CRIMINAL OFFENSE. (a) A person commits an offense if, while acting as an attorney, the person agrees to accept as compensation for legal advice provided by the person in a criminal matter the right to publish, in print, film, or otherwise, the account of a crime or the events associated with a crime.

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

Added by Acts 1997, 75th Leg., ch. 982, Sec. 1, eff. Sept. 1, 1997.

Sec. 84.003. CIVIL LIABILITY. (a) A person, including the victim of a crime or the estate of a victim of a crime, may bring suit against an attorney whose violation of Section 84.001 results in damages incurred by the person bringing the suit.

(b) A person who brings suit under this section is entitled to recover:

(1) actual damages caused to the person bringing the suit by the publication of the account of the crime;

(2) exemplary damages in an amount determined by the court;

(3) reasonable attorney's fees; and

(4) court costs.

Added by Acts 1997, 75th Leg., ch. 982, Sec. 1, eff. Sept. 1, 1997.

Sec. 84.004. CUMULATIVE REMEDIES. This chapter is cumulative

of other law under which a person may obtain judicial relief. An administrative, civil, or criminal action brought against an attorney based on a violation of this chapter does not limit or restrict another action against the attorney by the same or another person.

Added by Acts 1997, 75th Leg., ch. 982, Sec. 1, eff. Sept. 1, 1997.

SUBTITLE H. INFORMATION RESOURCES

CHAPTER 91. STATE LAW LIBRARY

Sec. 91.001. DEFINITIONS. In this chapter:

(1) "Board" means the State Law Library Board.

(2) "Director" means the director of the State Law Library.

(3) "Library" means the State Law Library.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 91.002. LIBRARY OPERATIONS. (a) The library shall maintain a legal reference facility that includes the statutes and case reports from the several states and legal periodicals and journals.

(b) The facility may be used by the members and staff of the supreme court, court of criminal appeals, the office of the attorney general, and other state entities and by citizens of the state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 91.003. BOARD; ADMINISTRATION. (a) The library is administered by the board.

(b) The board is composed of the chief justice of the supreme court, the presiding judge of the court of criminal appeals, and the attorney general.

(c) A member of the board may designate a personal representative to serve for him.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 91.004. COMPENSATION. A member of the board or his

personal representative may not receive compensation for his service on the board. A member or his representative is entitled to reimbursement for actual and necessary expenses incurred in attending meetings or performing other official duties, to be paid out of funds appropriated to the board.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 91.005. PERSONNEL. (a) The board shall employ a director of the library and shall set his salary. The director serves at the will of the board and is accountable only to the board.

(b) The director may employ professional and clerical personnel with the approval of the board. The board shall set their salaries.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 91.006. TRANSFER OF LIBRARY MATERIALS. (a) The board by unanimous vote may transfer library books, papers, or publications to the library of the Law School of The University of Texas at Austin.

(b) The transferred materials may be recalled by a majority vote of the board.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 91.007. RULES. The board shall adopt rules necessary to ensure the efficient operation of the library.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 91.009. DONATIONS. The library may accept on behalf of the state donations of money and other property as the library considers appropriate. Money donated to the library shall be deposited in the state treasury.

Added by Acts 1989, 71st Leg., ch. 321, Sec. 1, eff. Sept. 1, 1989.

Sec. 91.011. LIBRARY SERVICE FEES. The director of the state law library may set and charge a fee for services provided by state law library staff.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 9.12, eff. Sept. 1, 1991.
Amended by:
Acts 2005, 79th Leg., Ch. 398 (S.B. 1491), Sec. 1, eff. June 17, 2005.

SUBTITLE J. GUARDIANSHIPS
SUBTITLE K. SPECIALTY COURTS
CHAPTER 121. GENERAL PROVISIONS

Sec. 121.001. DEFINITION. In this subtitle, "specialty court" means a court established under this subtitle or former law.

Added by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.01, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 121.002. OVERSIGHT. (a) The lieutenant governor and the speaker of the house of representatives may assign to appropriate legislative committees duties relating to the oversight of specialty court programs.

(b) For the purpose of determining the eligibility of a specialty court program to receive state or federal grant funds administered by a state agency, the governor or a legislative committee to which duties are assigned under Subsection (a) may request the state auditor to perform a management, operations, or financial or accounting audit of the program.

(c) Notwithstanding any other law, a specialty court program may not operate until the judge, magistrate, or coordinator:

(1) provides to the Office of Court Administration of the Texas Judicial System:

(A) written notice of the program;

(B) any resolution or other official declaration under

which the program was established; and

(C) a copy of the applicable strategic plan that incorporates duties related to supervision that will be required under the program; and

(2) receives from the office written verification of the program's compliance with Subdivision (1).

(d) A specialty court program shall:

(1) comply with all programmatic best practices recommended by the Specialty Courts Advisory Council under Section 772.0061(b)(2) and approved by the Texas Judicial Council; and

(2) report to the criminal justice division of the governor's office and the Texas Judicial Council any information required by the division or council regarding the performance of the program.

(e) A specialty court program that fails to comply with Subsections (c) and (d) is not eligible to receive any state or federal grant funds administered by any state agency.

(f) The Office of Court Administration of the Texas Judicial System shall:

(1) on request provide technical assistance to the specialty court programs;

(2) coordinate with an entity funded by the criminal justice division of the governor's office that provides services to specialty court programs;

(3) monitor the specialty court programs for compliance with programmatic best practices as required by Subsection (d)(1); and

(4) notify the criminal justice division of the governor's office if a specialty court program fails to comply with programmatic best practices as required by Subsection (d)(1).

(g) The Office of Court Administration of the Texas Judicial System shall coordinate with and provide information to the criminal justice division of the governor's office on request of the division.

Added by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.01, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1051 (H.B. 1930), Sec. 5, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 9.05, eff.

September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 865 (H.B. 2955), Sec. 1, eff. September 1, 2019.

Sec. 121.003. APPOINTMENT OF PRESIDING JUDGE OR MAGISTRATE FOR REGIONAL SPECIALTY COURT PROGRAM. A judge or magistrate of a district court or statutory county court who is authorized by law to hear criminal cases may be appointed to preside over a regional specialty court program recognized under this subtitle only if:

(1) the local administrative district and statutory county court judges of each county participating in the program approve the appointment by majority vote or another approval method selected by the judges; and

(2) the presiding judges of each of the administrative judicial regions in which the participating counties are located sign an order granting the appointment.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 12.01, eff. September 1, 2021.

Sec. 121.004. JURISDICTION AND AUTHORITY OF JUDGE OR MAGISTRATE IN REGIONAL SPECIALTY COURT PROGRAM. (a) A judge or magistrate appointed to preside over a regional specialty court program may hear any misdemeanor or felony case properly transferred to the program by an originating trial court participating in the program, regardless of whether the originating trial court and specialty court program are in the same county. The appointed judge or magistrate may exercise only the authority granted under this subtitle.

(b) The judge or magistrate of a regional specialty court program may for a case properly transferred to the program:

(1) enter orders, judgments, and decrees for the case;

(2) sign orders of detention, order community service, or impose other reasonable and necessary sanctions;

(3) send recommendations for dismissal and expunction to the originating trial court for a defendant who successfully completes the program; and

(4) return the case and documentation required by this subtitle to the originating trial court for final disposition on a

defendant's successful completion of or removal from the program.

(c) A visiting judge assigned to preside over a regional specialty court program has the same authority as the judge or magistrate appointed to preside over the program.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 12.01, eff. September 1, 2021.

CHAPTER 122. FAMILY DRUG COURT PROGRAM

Sec. 122.001. FAMILY DRUG COURT PROGRAM DEFINED. In this chapter, "family drug court program" means a program that has the following essential characteristics:

(1) the integration of substance abuse treatment services in the processing of civil cases in the child welfare system with the goal of family reunification;

(2) the use of a comprehensive case management approach involving Department of Family and Protective Services caseworkers, court-appointed case managers, and court-appointed special advocates to rehabilitate a parent who has had a child removed from the parent's care by the department because of suspected child abuse or neglect and who is suspected of substance abuse;

(3) early identification and prompt placement of eligible parents who volunteer to participate in the program;

(4) comprehensive substance abuse needs assessment and referral to an appropriate substance abuse treatment agency;

(5) a progressive treatment approach with specific requirements that a parent must meet to advance to the next phase of the program;

(6) monitoring of abstinence through periodic alcohol or other drug testing;

(7) ongoing judicial interaction with program participants;

(8) monitoring and evaluation of program goals and effectiveness;

(9) continuing interdisciplinary education to promote effective program planning, implementation, and operations; and

(10) development of partnerships with public agencies and community organizations.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.63, eff. September 1, 2005.

Transferred, redesignated and amended from Family Code, Subchapter J, Chapter 264 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.02, eff. September 1, 2013.

Sec. 122.002. AUTHORITY TO ESTABLISH PROGRAM. The commissioners court of a county may establish a family drug court program for persons who:

(1) have had a child removed from their care by the Department of Family and Protective Services; and

(2) are suspected by the Department of Family and Protective Services or a court of having a substance abuse problem.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.63, eff. September 1, 2005.
Transferred, redesignated and amended from Family Code, Subchapter J, Chapter 264 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.02, eff. September 1, 2013.

Sec. 122.003. PARTICIPANT PAYMENT FOR TREATMENT AND SERVICES. A family drug court program may require a participant to pay the cost of all treatment and services received while participating in the program, based on the participant's ability to pay.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.63, eff. September 1, 2005.
Transferred, redesignated and amended from Family Code, Subchapter J, Chapter 264 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.02, eff. September 1, 2013.

Sec. 122.004. FUNDING. A county creating a family drug court under this chapter shall explore the possibility of using court improvement project funds to finance the family drug court in the county. The county shall also explore the availability of federal and state matching funds to finance the court.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.63, eff. September 1, 2005.
Transferred, redesignated and amended from Family Code, Subchapter J,

Chapter 264 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.02, eff. September 1, 2013.

CHAPTER 123. DRUG COURT PROGRAMS

Sec. 123.001. DRUG COURT PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "drug court program" means a program that has the following essential characteristics:

(1) the integration of alcohol and other drug treatment services in the processing of cases in the judicial system;

(2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants;

(3) early identification and prompt placement of eligible participants in the program;

(4) access to a continuum of alcohol, drug, and other related treatment and rehabilitative services;

(5) monitoring of abstinence through weekly alcohol and other drug testing;

(6) a coordinated strategy to govern program responses to participants' compliance;

(7) ongoing judicial interaction with program participants;

(8) monitoring and evaluation of program goals and effectiveness;

(9) continuing interdisciplinary education to promote effective program planning, implementation, and operations; and

(10) development of partnerships with public agencies and community organizations.

(b) If a defendant successfully completes a drug court program, regardless of whether the defendant was convicted of the offense for which the defendant entered the program or whether the court deferred further proceedings without entering an adjudication of guilt, after notice to the state and a hearing on whether the defendant is otherwise entitled to the petition and whether issuance of the order is in the best interest of justice, the court shall enter an order of nondisclosure of criminal history record information under Subchapter E-1, Chapter 411, as if the defendant had received a discharge and dismissal under Article 42A.111, Code of Criminal Procedure, with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the program if the

defendant:

(1) has not been previously convicted of an offense listed in Article 42A.054, Code of Criminal Procedure, or a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure; and

(2) is not convicted for any felony offense between the date on which the defendant successfully completed the program and the second anniversary of that date.

(c) Notwithstanding Subsection (b), a defendant is not entitled to petition the court for an order of nondisclosure following successful completion of a drug court program if the defendant's entry into the program arose as the result of a conviction for an offense involving the operation of a motor vehicle while intoxicated.

Added by Acts 2001, 77th Leg., ch. 1510, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 1, eff. June 15, 2007.

Transferred, redesignated and amended from Health and Safety Code, Chapter 469 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.04, eff. September 1, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.38, eff. January 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 19, eff. September 1, 2015.

Sec. 123.002. AUTHORITY TO ESTABLISH PROGRAM. The commissioners court of a county or governing body of a municipality may establish the following types of drug court programs:

(1) drug courts for persons arrested for, charged with, or convicted of:

(A) an offense in which an element of the offense is the use or possession of alcohol or the use, possession, or sale of a controlled substance, a controlled substance analogue, or marihuana; or

(B) an offense in which the use of alcohol or a controlled substance is suspected to have significantly contributed to the commission of the offense and the offense did not involve:

(i) carrying, possessing, or using a firearm or other dangerous weapon;

(ii) the use of force against the person of another; or

(iii) the death of or serious bodily injury to another;

(2) drug courts for juveniles detained for, taken into custody for, or adjudicated as having engaged in:

(A) delinquent conduct, including habitual felony conduct, or conduct indicating a need for supervision in which an element of the conduct is the use or possession of alcohol or the use, possession, or sale of a controlled substance, a controlled substance analogue, or marihuana; or

(B) delinquent conduct, including habitual felony conduct, or conduct indicating a need for supervision in which the use of alcohol or a controlled substance is suspected to have significantly contributed to the commission of the conduct and the conduct did not involve:

(i) carrying, possessing, or using a firearm or other dangerous weapon;

(ii) the use of force against the person of another; or

(iii) the death of or serious bodily injury to another;

(3) reentry drug courts for persons with a demonstrated history of using alcohol or a controlled substance who may benefit from a program designed to facilitate the person's transition and reintegration into the community on release from a state or local correctional facility;

(4) family dependency drug treatment courts for family members involved in a suit affecting the parent-child relationship in which a parent's use of alcohol or a controlled substance is a primary consideration in the outcome of the suit; or

(5) programs for other persons not precisely described by Subdivisions (1)-(4) who may benefit from a program that has the essential characteristics described by Section 123.001.

Added by Acts 2001, 77th Leg., ch. 1510, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 2, eff. June

15, 2007.
Transferred, redesignated and amended from Health and Safety Code, Chapter 469 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.04, eff. September 1, 2013.

Sec. 123.003. ESTABLISHMENT OF REGIONAL PROGRAM. (a) The commissioners courts of two or more counties, or the governing bodies of two or more municipalities, may elect to establish a regional drug court program under this chapter for the participating counties or municipalities.

(b) Repealed by Acts 2019, 86th Leg., Ch. 1352 (S.B. 346), Sec. 4.40(29), eff. January 1, 2020.

Added by Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 7, eff. June 15, 2007.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1359 (S.B. 633), Sec. 1, eff. June 19, 2009.
Transferred, redesignated and amended from Health and Safety Code, Chapter 469 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.04, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.40(29), eff. January 1, 2020.

Sec. 123.004. REIMBURSEMENT FEES. (a) A drug court program established under this chapter may collect from a participant in the program:

(1) a reasonable reimbursement fee for the program not to exceed $1,000; and

(2) an alcohol or controlled substance testing, counseling, and treatment reimbursement fee in an amount necessary to cover the costs of the testing, counseling, and treatment.

(b) Reimbursement fees collected under this section may be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or coordinator. The fees must be:

(1) based on the participant's ability to pay; and

(2) used only for purposes specific to the program.

Added by Acts 2001, 77th Leg., ch. 1510, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 4, eff. June 15, 2007.
Transferred, redesignated and amended from Health and Safety Code, Chapter 469 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.04, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 2.46, eff. January 1, 2020.

Sec. 123.005. DRUG COURT PROGRAMS EXCLUSIVELY FOR CERTAIN INTOXICATION OFFENSES. (a) The commissioners court of a county may establish under this chapter a drug court program exclusively for persons arrested for, charged with, or convicted of an offense involving the operation of a motor vehicle while intoxicated.

(b) A county that establishes a drug court program under this chapter but does not establish a separate program under this section must employ procedures designed to ensure that a person arrested for, charged with, or convicted of a second or subsequent offense involving the operation of a motor vehicle while intoxicated participates in the county's existing drug court program.

Added by Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 7, eff. June 15, 2007.
Transferred, redesignated and amended from Health and Safety Code, Chapter 469 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.04, eff. September 1, 2013.

Sec. 123.006. PROGRAM IN CERTAIN COUNTIES MANDATORY. (a) The commissioners court of a county with a population of more than 200,000 shall:

(1) establish a drug court program under Section 123.002(1); and

(2) direct the judge, magistrate, or coordinator to comply with Section 121.002(c)(1).

(b) A county required under this section to establish a drug

court program shall apply for federal and state funds available to pay the costs of the program. The criminal justice division of the governor's office may assist a county in applying for federal funds as required by this subsection.

(c) Notwithstanding Subsection (a), a county is required to establish a drug court program under this section only if:

(1) the county receives federal or state funding specifically for that purpose; and

(2) the judge, magistrate, or coordinator receives the verification described by Section 121.002(c)(2).

(d) A county that does not establish a drug court program as required by this section and maintain the program is ineligible to receive from the state:

(1) funds for a community supervision and corrections department; and

(2) grants for substance abuse treatment programs administered by the criminal justice division of the governor's office.

Added by Acts 2001, 77th Leg., ch. 1510, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 5, eff. June 15, 2007.

Transferred, redesignated and amended from Health and Safety Code, Chapter 469 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.04, eff. September 1, 2013.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.31, eff. January 1, 2020.

Sec. 123.007. USE OF OTHER DRUG AND ALCOHOL AWARENESS PROGRAMS. In addition to using a drug court program established under this chapter, the commissioners court of a county or a court may use other drug awareness programs to treat persons convicted of drug or alcohol related offenses.

Added by Acts 2001, 77th Leg., ch. 1510, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 6, eff. June 15, 2007.

Transferred, redesignated and amended from Health and Safety Code, Chapter 469 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.04, eff. September 1, 2013.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 663 (H.B. 1560), Sec. 5.62, eff. September 1, 2021.

Sec. 123.008. SUSPENSION OR DISMISSAL OF COMMUNITY SERVICE REQUIREMENT. (a) Notwithstanding Article 42A.304, Code of Criminal Procedure, to encourage participation in a drug court program established under this chapter, the judge or magistrate administering the program may suspend any requirement that, as a condition of community supervision, a participant in the program work a specified number of hours at a community service project or projects.

(b) On a participant's successful completion of a drug court program, a judge or magistrate may excuse the participant from any condition of community supervision previously suspended under Subsection (a).

Added by Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 7, eff. June 15, 2007.
Transferred, redesignated and amended from Health and Safety Code, Chapter 469 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.04, eff. September 1, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.39, eff. January 1, 2017.

Sec. 123.009. OCCUPATIONAL DRIVER'S LICENSE. Notwithstanding Section 521.2421, Transportation Code, if a participant's driver's license has been suspended as a result of an alcohol-related or drug-related enforcement contact, as defined by Section 524.001, Transportation Code, or as a result of a conviction under Section 49.04, 49.07, or 49.08, Penal Code, the judge or magistrate administering a drug court program under this chapter may order that an occupational driver's license be issued to the participant. An order issued under this section is subject to Sections 521.248, 521.249, 521.250, 521.252, and 521.253, Transportation Code, except

that any reference to a petition under Section 521.2421 of that code does not apply.

Added by Acts 2007, 80th Leg., R.S., Ch. 625 (H.B. 530), Sec. 7, eff. June 15, 2007.
Transferred, redesignated and amended from Health and Safety Code, Chapter 469 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.04, eff. September 1, 2013.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 386 (H.B. 291), Sec. 12, eff. September 1, 2023.

CHAPTER 124. VETERANS TREATMENT COURT PROGRAM

Sec. 124.001. VETERANS TREATMENT COURT PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "veterans treatment court program" means a program that has the following essential characteristics:

(1) the integration of services in the processing of cases in the judicial system;

(2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants;

(3) early identification and prompt placement of eligible participants in the program;

(4) access to a continuum of alcohol, controlled substance, mental health, and other related treatment and rehabilitative services;

(5) careful monitoring of treatment and services provided to program participants;

(6) a coordinated strategy to govern program responses to participants' compliance;

(7) ongoing judicial interaction with program participants;

(8) monitoring and evaluation of program goals and effectiveness;

(9) continuing interdisciplinary education to promote effective program planning, implementation, and operations;

(10) development of partnerships with public agencies and community organizations, including the United States Department of Veterans Affairs; and

(11) inclusion of a participant's family members who agree to be involved in the treatment and services provided to the participant under the program.

(b) If a defendant who was arrested for or charged with, but not convicted of or placed on deferred adjudication community supervision for, an offense successfully completes a veterans treatment court program, after notice to the attorney representing the state and a hearing in the veterans treatment court at which that court determines that a dismissal is in the best interest of justice, the veterans treatment court shall provide to the court in which the criminal case is pending information about the dismissal and shall include all of the information required about the defendant for a petition for expunction under Article 55A.253, Code of Criminal Procedure. The court in which the criminal case is pending shall dismiss the case against the defendant and:

(1) if that trial court is a district court, the court may, with the consent of the attorney representing the state, enter an order of expunction on behalf of the defendant under Article 55A.203(a), Code of Criminal Procedure; or

(2) if that trial court is not a district court, the court may, with the consent of the attorney representing the state, forward the appropriate dismissal and expunction information to enable a district court with jurisdiction to enter an order of expunction on behalf of the defendant under Article 55A.203(a), Code of Criminal Procedure.

Added by Acts 2009, 81st Leg., R.S., Ch. 840 (S.B. 1940), Sec. 4, eff. June 19, 2009.
Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 17(a), eff. September 1, 2009.
Transferred, redesignated and amended from Health and Safety Code, Chapter 617 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.05, eff. September 1, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 585 (H.B. 3729), Sec. 1, eff. June 16, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1205 (S.B. 1474), Sec. 2, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 693 (H.B. 322), Sec. 4, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 889 (H.B. 3069), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 8.007, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.076, eff. January 1, 2025.

Sec. 124.002. AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY. (a) The commissioners court of a county may establish a veterans treatment court program for persons arrested for, charged with, convicted of, or placed on deferred adjudication community supervision for any misdemeanor or felony offense. A defendant is eligible to participate in a veterans treatment court program established under this chapter only if the attorney representing the state consents to the defendant's participation in the program and if the court in which the criminal case is pending or in which the defendant was convicted or placed on deferred adjudication community supervision, as applicable, finds that the defendant is a veteran or current member of the United States armed forces, including a member of the reserves, national guard, or state guard, who:

(1) suffers from a brain injury, mental illness, or mental disorder, including post-traumatic stress disorder, or was a victim of military sexual trauma if the injury, illness, disorder, or trauma:

(A) occurred during or resulted from the defendant's military service; and

(B) affected the defendant's criminal conduct at issue in the case; or

(2) is a defendant whose participation in a veterans treatment court program, considering the circumstances of the defendant's conduct, personal and social background, and criminal history, is likely to achieve the objective of ensuring public safety through rehabilitation of the veteran in the manner provided by Section 1.02(1), Penal Code.

(b) The court in which the criminal case is pending shall allow an eligible defendant to choose whether to proceed through the veterans treatment court program or otherwise through the criminal justice system.

(c) Proof of matters described by Subsection (a) may be

submitted to the applicable criminal court in any form the court determines to be appropriate, including military service and medical records, previous determinations of a disability by a veteran's organization or by the United States Department of Veterans Affairs, testimony or affidavits of other veterans or service members, and prior determinations of eligibility for benefits by any state or county veterans office. The court's findings must accompany any docketed case.

(d) In this section, "military sexual trauma" means any sexual assault or sexual harassment that occurs while the victim is a member of the United States armed forces performing the person's regular duties.

Added by Acts 2009, 81st Leg., R.S., Ch. 840 (S.B. 1940), Sec. 4, eff. June 19, 2009.
Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 17(a), eff. September 1, 2009.
Transferred, redesignated and amended from Health and Safety Code, Chapter 617 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.05, eff. September 1, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1205 (S.B. 1474), Sec. 3, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 889 (H.B. 3069), Sec. 2, eff. September 1, 2017.

Sec. 124.003. DUTIES OF VETERANS TREATMENT COURT PROGRAM. (a) A veterans treatment court program established under this chapter must:

(1) if there has not yet been a disposition in the criminal case, ensure that a defendant eligible for participation in the program is provided legal counsel before volunteering to proceed through the program and while participating in the program;

(2) allow a participant arrested for or charged with an offense to withdraw from the program at any time before a trial on the merits has been initiated;

(3) provide a participant with a court-ordered individualized treatment plan indicating the services that will be provided to the participant; and

(4) ensure that the jurisdiction of the veterans treatment court continues for a period of not less than six months but does not continue beyond the period of community supervision for the offense charged.

(b) A veterans treatment court program established under this chapter shall make, establish, and publish local procedures to ensure maximum participation of eligible defendants in the program.

(b-1) A veterans treatment court program may allow a participant to comply with the participant's court-ordered individualized treatment plan or to fulfill certain other court obligations through the use of videoconferencing software or other Internet-based communications.

(c) This chapter does not prevent the initiation of procedures under Chapter 46B, Code of Criminal Procedure.

Added by Acts 2009, 81st Leg., R.S., Ch. 840 (S.B. 1940), Sec. 4, eff. June 19, 2009.
Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 17(a), eff. September 1, 2009.
Transferred, redesignated and amended from Health and Safety Code, Chapter 617 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.05, eff. September 1, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1205 (S.B. 1474), Sec. 4, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1205 (S.B. 1474), Sec. 5, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 889 (H.B. 3069), Sec. 3, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 160 (S.B. 1093), Sec. 1, eff. May 28, 2021.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 12.02, eff. September 1, 2021.

Sec. 124.004. ESTABLISHMENT OF REGIONAL PROGRAM. (a) The commissioners courts of two or more counties may elect to establish a regional veterans treatment court program under this chapter for the participating counties.

(b) Repealed by Acts 2019, 86th Leg., Ch. 1352 (S.B. 346), Sec.

4.40(30), eff. January 1, 2020.

Added by Acts 2009, 81st Leg., R.S., Ch. 840 (S.B. 1940), Sec. 4, eff. June 19, 2009.
Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 17(a), eff. September 1, 2009.
Transferred, redesignated and amended from Health and Safety Code, Chapter 617 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.05, eff. September 1, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1205 (S.B. 1474), Sec. 6, eff. September 1, 2015.
Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.40(30), eff. January 1, 2020.

Sec. 124.005. REIMBURSEMENT FEES. (a) A veterans treatment court program established under this chapter may collect from a participant in the program:

(1) a reasonable reimbursement fee for the program not to exceed $1,000; and

(2) a testing, counseling, and treatment reimbursement fee in an amount necessary to cover the costs of any testing, counseling, or treatment performed or provided under the program.

(b) Reimbursement fees collected under this section may be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or coordinator. The fees must be:

(1) based on the participant's ability to pay; and

(2) used only for purposes specific to the program.

Added by Acts 2009, 81st Leg., R.S., Ch. 840 (S.B. 1940), Sec. 4, eff. June 19, 2009.
Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. 4833), Sec. 17(a), eff. September 1, 2009.
Transferred, redesignated and amended from Health and Safety Code, Chapter 617 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.05, eff. September 1, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1205 (S.B. 1474), Sec. 7, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 2.47, eff. January 1, 2020.

Sec. 124.006. COURTESY SUPERVISION. (a) A veterans treatment court program that accepts placement of a defendant may transfer responsibility for supervising the defendant's participation in the program to another veterans treatment court program that is located in the county where the defendant works or resides or in a county adjacent to the county where the defendant works or resides. The defendant's supervision may be transferred under this section only with the consent of both veterans treatment court programs and the defendant.

(b) A defendant who consents to the transfer of the defendant's supervision must agree to abide by all rules, requirements, and instructions of the veterans treatment court program that accepts the transfer.

(c) If a defendant whose supervision is transferred under this section does not successfully complete the program, the veterans treatment court program supervising the defendant shall return the responsibility for the defendant's supervision to the veterans treatment court program that initiated the transfer.

(d) If a defendant is charged with an offense in a county that does not operate a veterans treatment court program, the court in which the criminal case is pending may place the defendant in a veterans treatment court program located in the county where the defendant works or resides or in a county adjacent to the county where the defendant works or resides, provided that a program is operated in that county and the defendant agrees to the placement. A defendant placed in a veterans treatment court program in accordance with this subsection must agree to abide by all rules, requirements, and instructions of the program.

Added by Acts 2015, 84th Leg., R.S., Ch. 1205 (S.B. 1474), Sec. 8, eff. September 1, 2015.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 160 (S.B. 1093), Sec. 2, eff. May 28, 2021.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 12.03, eff. September 1, 2021.

Sec. 124.007. REPORT. Not later than December 1 of each year, the Texas Veterans Commission shall report the following information for the preceding state fiscal year to the governor, the lieutenant governor, the speaker of the house of representatives, and each member of the legislature:

(1) the number of defendants who:

(A) participated in each veterans treatment court program;

(B) successfully completed each program; and

(C) did not successfully complete each program; and

(2) the amount of grant funding received by each program.

Added by Acts 2019, 86th Leg., R.S., Ch. 526 (S.B. 1180), Sec. 1, eff. September 1, 2019.

CHAPTER 125. MENTAL HEALTH COURT PROGRAMS

Sec. 125.001. MENTAL HEALTH COURT PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "mental health court program" means a program that has the following essential characteristics:

(1) the integration of mental illness treatment services and intellectual disability services in the processing of cases in the judicial system;

(2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants;

(3) early identification and prompt placement of eligible participants in the program;

(4) access to mental illness treatment services and intellectual disability services;

(5) ongoing judicial interaction with program participants;

(6) diversion of defendants who potentially have a mental illness or an intellectual disability to needed services as an alternative to subjecting those defendants to the criminal justice system;

(7) monitoring and evaluation of program goals and effectiveness;

(8) continuing interdisciplinary education to promote effective program planning, implementation, and operations; and

(9) development of partnerships with public agencies and community organizations, including local intellectual and developmental disability authorities.

(b) If a defendant successfully completes a mental health court program, after notice to the attorney representing the state and a hearing in the mental health court at which that court determines that a dismissal is in the best interest of justice, the mental health court shall provide to the court in which the criminal case is pending information about the dismissal and shall include all of the information required about the defendant for a petition for expunction under Article 55A.253, Code of Criminal Procedure. The court in which the criminal case is pending shall dismiss the case against the defendant and:

(1) if that trial court is a district court, the court may, with the consent of the attorney representing the state, enter an order of expunction on behalf of the defendant under Article 55A.203(b), Code of Criminal Procedure; or

(2) if that trial court is not a district court, the court may, with the consent of the attorney representing the state, forward the appropriate dismissal and expunction information to enable a district court with jurisdiction to enter an order of expunction on behalf of the defendant under Article 55A.203(b), Code of Criminal Procedure.

Added by Acts 2003, 78th Leg., ch. 1120, Sec. 1, eff. Sept. 1, 2003.
Transferred, redesignated and amended from Health and Safety Code, Chapter 616 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.06, eff. September 1, 2013.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1212 (S.B. 562), Sec. 24, eff. June 14, 2019.

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.03, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.077, eff. January 1, 2025.

Sec. 125.002. AUTHORITY TO ESTABLISH PROGRAM. The

commissioners court of a county may establish a mental health court program for persons who:

(1) have been arrested for or charged with a misdemeanor or felony; and

(2) are suspected by a law enforcement agency or a court of having a mental illness or an intellectual disability.

Added by Acts 2003, 78th Leg., ch. 1120, Sec. 1, eff. Sept. 1, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 1130 (H.B. 2518), Sec. 1, eff. June 18, 2005.
Transferred, redesignated and amended from Health and Safety Code, Chapter 616 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.06, eff. September 1, 2013.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.04, eff. September 1, 2023.

Sec. 125.0025. ESTABLISHMENT OF REGIONAL PROGRAM. The commissioners courts of two or more counties may elect to establish a regional mental health court program under this chapter for the participating counties.

Added by Acts 2019, 86th Leg., R.S., Ch. 1212 (S.B. 562), Sec. 25, eff. June 14, 2019.

Sec. 125.003. PROGRAM. (a) A mental health court program established under Section 125.002:

(1) may handle all issues arising under Articles 16.22 and 17.032, Code of Criminal Procedure, and Chapter 46B, Code of Criminal Procedure; and

(2) must:

(A) ensure a person eligible for the program is provided legal counsel before volunteering to proceed through the mental health court program and while participating in the program;

(B) allow a person, if eligible for the program, to choose whether to proceed through the mental health court program or proceed through the regular criminal justice system;

(C) allow a participant to withdraw from the mental

health court program at any time before a trial on the merits has been initiated;

(D) provide a participant with a court-ordered individualized treatment plan indicating the services that will be provided to the participant; and

(E) ensure that the jurisdiction of the mental health court extends at least six months but does not extend beyond the probationary period for the offense charged if the probationary period is longer than six months.

(b) The issues shall be handled by a magistrate, as designated by Article 2A.151, Code of Criminal Procedure, who is part of a mental health court program established under Section 125.002.

Added by Acts 2003, 78th Leg., ch. 1120, Sec. 1, eff. Sept. 1, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 1130 (H.B. 2518), Sec. 2, eff. June 18, 2005.
Transferred, redesignated and amended from Health and Safety Code, Chapter 616 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.06, eff. September 1, 2013.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.078, eff. January 1, 2025.

Sec. 125.004. PARTICIPANT PAYMENT FOR TREATMENT AND SERVICES. A mental health court program may require a participant to pay the cost of all treatment and services received while participating in the program, based on the participant's ability to pay.

Added by Acts 2003, 78th Leg., ch. 1120, Sec. 1, eff. Sept. 1, 2003.
Transferred, redesignated and amended from Health and Safety Code, Chapter 616 by Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.06, eff. September 1, 2013.

Sec. 125.005. PROGRAM IN CERTAIN COUNTIES MANDATORY. (a) The commissioners court of a county with a population of more than 200,000 shall:

(1) establish a mental health court program under Section 125.002; and

(2) direct the judge, magistrate, or coordinator to comply with Section 121.002(c)(1).

(b) A county required under this section to establish a mental health court program shall apply for federal and state funds available to pay the costs of the program. The criminal justice division of the governor's office may assist a county in applying for federal funds as required by this subsection.

(c) Notwithstanding Subsection (a), a county is required to establish a mental health court program under this section only if:

(1) the county receives federal or state funding specifically for that purpose in an amount sufficient to pay the fund costs of the mental health court program; and

(2) the judge, magistrate, or coordinator receives the verification described by Section 121.002(c)(2).

(d) A county that is required under this section to establish a mental health court program and fails to establish or to maintain that program is ineligible to receive grant funding from this state or any state agency.

Added by Acts 2019, 86th Leg., R.S., Ch. 1212 (S.B. 562), Sec. 25, eff. June 14, 2019.

CHAPTER 126. COMMERCIALLY SEXUALLY EXPLOITED PERSONS COURT PROGRAM

Sec. 126.001. COMMERCIALLY SEXUALLY EXPLOITED PERSONS COURT PROGRAM; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "commercially sexually exploited persons court program" means a program that has the following essential characteristics:

(1) the integration of services in the processing of cases in the judicial system;

(2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety, to reduce the demand for the commercial sex trade and trafficking of persons by educating offenders, and to protect the due process rights of program participants;

(3) early identification and prompt placement of eligible participants in the program;

(4) access to information, counseling, and services relating to sex addiction, sexually transmitted diseases, mental health, and substance abuse;

(5) a coordinated strategy to govern program responses to participant compliance;

(6) monitoring and evaluation of program goals and effectiveness;

(7) continuing interdisciplinary education to promote effective program planning, implementation, and operations; and

(8) development of partnerships with public agencies and community organizations.

(b) If a defendant successfully completes a commercially sexually exploited persons court program, regardless of whether the defendant was convicted of the offense for which the defendant entered the program or whether the court deferred further proceedings without entering an adjudication of guilt, after notice to the state and a hearing on whether the defendant is otherwise entitled to the petition, including whether the required time has elapsed, and whether issuance of the order is in the best interest of justice, the court shall enter an order of nondisclosure of criminal history record information under Subchapter E-1, Chapter 411, as if the defendant had received a discharge and dismissal under Article 42A.111, Code of Criminal Procedure, with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the program.

Transferred, redesignated and amended by Acts 2015, 84th Leg., R.S., Ch. 604 (S.B. 536), Sec. 1, eff. June 16, 2015.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.67, eff. January 1, 2017.
Transferred and redesignated by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(31), eff. September 1, 2015.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 30, eff. September 1, 2015.
Reenacted and amended by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 8.001, eff. September 1, 2017.

Sec. 126.002. AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY. (a) The commissioners court of a county or governing body of a municipality may establish a commercially sexually exploited persons

court program for defendants charged with an offense under Section 43.02(a), Penal Code.

(b) A defendant is eligible to participate in a commercially sexually exploited persons court program established under this chapter only if the attorney representing the state consents to the defendant's participation in the program.

(c) The court in which the criminal case is pending shall allow an eligible defendant to choose whether to participate in the commercially sexually exploited persons court program or otherwise proceed through the criminal justice system.

Transferred, redesignated and amended by Acts 2015, 84th Leg., R.S., Ch. 604 (S.B. 536), Sec. 1, eff. June 16, 2015.
Transferred and redesignated by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(31), eff. September 1, 2015.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1273 (S.B. 825), Sec. 6, eff. September 1, 2015.
Reenacted by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 8.002, eff. September 1, 2017.
Reenacted by Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 26, eff. September 1, 2017.

Sec. 126.003. ESTABLISHMENT OF REGIONAL PROGRAM. The commissioners courts of two or more counties, or the governing bodies of two or more municipalities, may elect to establish a regional commercially sexually exploited persons court program under this chapter for the participating counties or municipalities.

Transferred, redesignated and amended by Acts 2015, 84th Leg., R.S., Ch. 604 (S.B. 536), Sec. 1, eff. June 16, 2015.
Transferred and redesignated by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(31), eff. September 1, 2015.

Sec. 126.004. PROGRAM POWERS AND DUTIES. (a) A commercially sexually exploited persons court program established under this chapter must:

(1) ensure that a person eligible for the program is provided legal counsel before volunteering to proceed through the

program and while participating in the program;

(2) allow any participant to withdraw from the program at any time before a trial on the merits has been initiated;

(3) provide each participant with information, counseling, and services relating to sex addiction, sexually transmitted diseases, mental health, and substance abuse; and

(4) provide each participant with instruction related to the prevention of prostitution.

(b) To provide each program participant with information, counseling, and services described by Subsection (a)(3), a program established under this chapter may employ a person or solicit a volunteer who is:

(1) a health care professional;

(2) a psychologist;

(3) a licensed social worker or counselor;

(4) a former prostitute;

(5) a family member of a person arrested for soliciting prostitution;

(6) a member of a neighborhood association or community that is adversely affected by the commercial sex trade or trafficking of persons; or

(7) an employee of a nongovernmental organization specializing in advocacy or laws related to sex trafficking or human trafficking or in providing services to victims of those offenses.

(c) A program established under this chapter shall establish and publish local procedures to promote maximum participation of eligible defendants in programs established in the county or municipality in which the defendants reside.

(d) A program established under this chapter shall provide each program participant with information related to the right to petition for an order of nondisclosure of criminal history record information under Section 411.0728.

Transferred, redesignated and amended by Acts 2015, 84th Leg., R.S., Ch. 604 (S.B. 536), Sec. 1, eff. June 16, 2015.
Transferred and redesignated by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(31), eff. September 1, 2015.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 4.03, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 529 (S.B. 1801), Sec. 3, eff. September 1, 2019.

Sec. 126.005. DOCUMENTATION REGARDING INSUFFICIENT FUNDING. A legislative committee may require a county that does not establish a commercially sexually exploited persons court program under this chapter due to a lack of sufficient funding, as provided by Section 126.007(c), to provide the committee with any documentation in the county's possession that concerns federal or state funding received by the county.

Transferred, redesignated and amended by Acts 2015, 84th Leg., R.S., Ch. 604 (S.B. 536), Sec. 1, eff. June 16, 2015.
Transferred and redesignated by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(31), eff. September 1, 2015.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.002(8), eff. September 1, 2015.

Sec. 126.006. REIMBURSEMENT FEES. (a) A commercially sexually exploited persons court program established under this chapter may collect from a participant in the program a nonrefundable reimbursement fee for the program in a reasonable amount not to exceed $1,000, from which the following must be paid:

(1) a counseling and services reimbursement fee in an amount necessary to cover the costs of the counseling and services provided by the program; and

(2) a law enforcement training reimbursement fee, in an amount equal to five percent of the total amount paid under Subdivision (1), to be deposited to the credit of the treasury of the county or municipality that established the program to cover costs associated with the provision of training to law enforcement personnel on domestic violence, prostitution, and the trafficking of persons.

(b) Reimbursement fees collected under this section may be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or coordinator. The fees must be based on the participant's ability to pay.

Transferred, redesignated and amended by Acts 2015, 84th Leg., R.S., Ch. 604 (S.B. 536), Sec. 1, eff. June 16, 2015.
Transferred and redesignated by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(31), eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 2.48, eff. January 1, 2020.

Sec. 126.007. PROGRAM IN CERTAIN COUNTIES MANDATORY. (a) If a municipality in the county has not established a commercially sexually exploited persons court program, the commissioners court of a county with a population of more than 200,000 shall:

(1) establish a commercially sexually exploited persons court program under this chapter; and

(2) direct the judge, magistrate, or coordinator to comply with Section 121.002(c)(1).

(b) A county required under this section to establish a commercially sexually exploited persons court program shall apply for federal and state funds available to pay the costs of the program. The criminal justice division of the governor's office may assist a county in applying for federal funds as required by this subsection.

(b-1) A county may apply to the criminal justice division of the governor's office for a grant for the establishment or operation of a commercially sexually exploited persons court program.

(c) Notwithstanding Subsection (a), a county is required to establish a commercially sexually exploited persons court program under this section only if:

(1) the county receives sufficient federal or state funding specifically for that purpose; and

(2) the judge, magistrate, or coordinator receives the verification described by Section 121.002(c)(2).

(d) A county that does not establish a commercially sexually exploited persons court program as required by this section and maintain the program is ineligible to receive funds for a community supervision and corrections department from the state.

Transferred, redesignated and amended by Acts 2015, 84th Leg., R.S., Ch. 604 (S.B. 536), Sec. 1, eff. June 16, 2015.
Transferred and redesignated by Acts 2015, 84th Leg., R.S., Ch. 1236

(S.B. 1296), Sec. 21.001(31), eff. September 1, 2015.

Sec. 126.008. SUSPENSION OR DISMISSAL OF COMMUNITY SERVICE REQUIREMENT. (a) To encourage participation in a commercially sexually exploited persons court program established under this chapter, the judge or magistrate administering the program may suspend any requirement that, as a condition of community supervision, a participant in the program work a specified number of hours at a community service project.

(b) On a participant's successful completion of a commercially sexually exploited persons court program, a judge or magistrate may excuse the participant from any condition of community supervision previously suspended under Subsection (a).

Transferred, redesignated and amended by Acts 2015, 84th Leg., R.S., Ch. 604 (S.B. 536), Sec. 1, eff. June 16, 2015.
Transferred and redesignated by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(31), eff. September 1, 2015.

CHAPTER 129. PUBLIC SAFETY EMPLOYEES TREATMENT COURT PROGRAM

Sec. 129.001. DEFINITION. In this chapter, "public safety employee" means a peace officer, firefighter, detention officer, county jailer, emergency medical services employee, or emergency service dispatcher of this state or a political subdivision of this state.

Added by Acts 2017, 85th Leg., R.S., Ch. 369 (H.B. 3391), Sec. 1, eff. September 1, 2017.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 127 (H.B. 788), Sec. 1, eff. September 1, 2021.

Sec. 129.002. PUBLIC SAFETY EMPLOYEES TREATMENT COURT PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "public safety employees treatment court program" means a program that has the following essential characteristics:

(1) the integration of services in the processing of cases in the judicial system;

(2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants;

(3) early identification and prompt placement of eligible participants in the program;

(4) access to a continuum of alcohol, controlled substance, mental health, and other related treatment and rehabilitative services;

(5) careful monitoring of treatment and services provided to program participants;

(6) a coordinated strategy to govern program responses to participants' compliance;

(7) ongoing judicial interaction with program participants;

(8) monitoring and evaluation of program goals and effectiveness;

(9) continuing interdisciplinary education to promote effective program planning, implementation, and operations;

(10) development of partnerships with public agencies and community organizations; and

(11) inclusion of a participant's family members who agree to be involved in the treatment and services provided to the participant under the program.

(b) If a defendant successfully completes a public safety employees treatment court program, after notice to the attorney representing the state and a hearing in the public safety employees treatment court at which that court determines that a dismissal is in the best interest of justice, the court in which the criminal case is pending shall dismiss the case against the defendant.

Added by Acts 2017, 85th Leg., R.S., Ch. 369 (H.B. 3391), Sec. 1, eff. September 1, 2017.

Sec. 129.003. AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY. (a) The commissioners court of a county may establish a public safety employees treatment court program for persons arrested for or charged with any misdemeanor or felony offense. A defendant is eligible to participate in a public safety employees treatment court program established under this chapter only if the attorney representing the state consents to the defendant's participation in the program and if

the court in which the criminal case is pending finds that the defendant is a current or former public safety employee who:

(1) suffers from a brain injury, mental illness, or mental disorder, including post-traumatic stress disorder, that:

(A) occurred during or resulted from the defendant's duties as a public safety employee; and

(B) affected the defendant's criminal conduct at issue in the case; or

(2) is a defendant whose participation in a public safety employees treatment court program, considering the circumstances of the defendant's conduct, personal and social background, and criminal history, is likely to achieve the objective of ensuring public safety through rehabilitation of the public safety employee in the manner provided by Section 1.02(1), Penal Code.

(b) The court in which the criminal case is pending shall allow an eligible defendant to choose whether to proceed through the public safety employees treatment court program or otherwise through the criminal justice system.

(c) Proof of matters described by Subsection (a) may be submitted to the court in which the criminal case is pending in any form the court determines to be appropriate, including medical records or testimony or affidavits of other public safety employees. The court's findings must accompany any docketed case.

Added by Acts 2017, 85th Leg., R.S., Ch. 369 (H.B. 3391), Sec. 1, eff. September 1, 2017.

Sec. 129.004. DUTIES OF PUBLIC SAFETY EMPLOYEES TREATMENT COURT PROGRAM. (a) A public safety employees treatment court program established under this chapter must:

(1) ensure that a defendant eligible for participation in the program is provided legal counsel before volunteering to proceed through the program and while participating in the program;

(2) allow a participant to withdraw from the program at any time before a trial on the merits has been initiated;

(3) provide a participant with a court-ordered individualized treatment plan indicating the services that will be provided to the participant; and

(4) ensure that the jurisdiction of the public safety

employees treatment court continues for a period of not less than six months but does not continue beyond the period of community supervision for the offense charged.

(b) A public safety employees treatment court program established under this chapter shall make, establish, and publish local procedures to ensure maximum participation of eligible defendants in the county or counties in which those defendants reside.

(c) A public safety employees treatment court program may allow a participant to comply with the participant's court-ordered individualized treatment plan or to fulfill certain other court obligations through the use of videoconferencing software or other Internet-based communications.

(d) This chapter does not prevent the initiation of procedures under Chapter 46B, Code of Criminal Procedure.

Added by Acts 2017, 85th Leg., R.S., Ch. 369 (H.B. 3391), Sec. 1, eff. September 1, 2017.

Sec. 129.005. ESTABLISHMENT OF REGIONAL PROGRAM. (a) The commissioners courts of two or more counties may elect to establish a regional public safety employees treatment court program under this chapter for the participating counties.

(b) Repealed by Acts 2019, 86th Leg., Ch. 1352 (S.B. 346), Sec. 4.40(31), eff. January 1, 2020.

Added by Acts 2017, 85th Leg., R.S., Ch. 369 (H.B. 3391), Sec. 1, eff. September 1, 2017.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.40(31), eff. January 1, 2020.

Sec. 129.006. REIMBURSEMENT FEES. (a) A public safety employees treatment court program established under this chapter may collect from a participant in the program:

(1) a reasonable reimbursement fee for the program not to exceed $1,000; and

(2) a testing, counseling, and treatment reimbursement fee in an amount necessary to cover the costs of any testing, counseling,

or treatment performed or provided under the program.

(b) Reimbursement fees collected under this section may be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or coordinator. The fees must be:

(1) based on the participant's ability to pay; and

(2) used only for purposes specific to the program.

Added by Acts 2017, 85th Leg., R.S., Ch. 369 (H.B. 3391), Sec. 1, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 2.49, eff. January 1, 2020.

Sec. 129.007. COURTESY SUPERVISION. (a) A public safety employees treatment court program that accepts placement of a defendant may transfer responsibility for supervising the defendant's participation in the program to another public safety employees treatment court program that is located in the county where the defendant works or resides. The defendant's supervision may be transferred under this section only with the consent of both public safety employees treatment court programs and the defendant.

(b) A defendant who consents to the transfer of the defendant's supervision must agree to abide by all rules, requirements, and instructions of the public safety employees treatment court program that accepts the transfer.

(c) If a defendant whose supervision is transferred under this section does not successfully complete the program, the public safety employees treatment court program supervising the defendant shall return the responsibility for the defendant's supervision to the public safety employees treatment court program that initiated the transfer.

(d) If a defendant is charged with an offense in a county that does not operate a public safety employees treatment court program, the court in which the criminal case is pending may place the defendant in a public safety employees treatment court program located in the county where the defendant works or resides, provided that a program is operated in that county and the defendant agrees to the placement. A defendant placed in a public safety employees

treatment court program in accordance with this subsection must agree to abide by all rules, requirements, and instructions of the program.

Added by Acts 2017, 85th Leg., R.S., Ch. 369 (H.B. 3391), Sec. 1, eff. September 1, 2017.

CHAPTER 130. JUVENILE FAMILY DRUG COURT PROGRAM

Sec. 130.001. JUVENILE FAMILY DRUG COURT PROGRAM DEFINED. In this chapter, "juvenile family drug court program" means a program that has the following essential characteristics:

(1) the integration of substance abuse treatment services in the processing of cases and proceedings under Title 3, Family Code;

(2) the use of a comprehensive case management approach involving court-appointed case managers and court-appointed special advocates to rehabilitate an individual who is suspected of substance abuse and who resides with a child who is the subject of a case filed under Title 3, Family Code;

(3) early identification and prompt placement of eligible individuals who volunteer to participate in the program;

(4) comprehensive substance abuse needs assessment and referrals to appropriate substance abuse treatment agencies for participants;

(5) a progressive treatment approach with specific requirements for participants to meet for successful completion of the program;

(6) monitoring of abstinence through periodic screening for alcohol or screening for controlled substances;

(7) ongoing judicial interaction with program participants;

(8) monitoring and evaluation of program goals and effectiveness;

(9) continuing interdisciplinary education for the promotion of effective program planning, implementation, and operation; and

(10) development of partnerships with public agencies and community organizations.

Added by Acts 2021, 87th Leg., R.S., Ch. 135 (H.B. 454), Sec. 1, eff. September 1, 2021.

Sec. 130.002. AUTHORITY TO ESTABLISH PROGRAM. The commissioners court of a county may establish a juvenile family drug court program for individuals who:

(1) are suspected by the Department of Family and Protective Services or the court of having a substance abuse problem; and

(2) reside in the home of a child who is the subject of a case filed under Title 3, Family Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 135 (H.B. 454), Sec. 1, eff. September 1, 2021.

Sec. 130.003. PARTICIPANT PAYMENT FOR TREATMENT AND SERVICES. A juvenile family drug court program may require a participant to pay the cost of all treatment and services received while participating in the program, based on the participant's ability to pay.

Added by Acts 2021, 87th Leg., R.S., Ch. 135 (H.B. 454), Sec. 1, eff. September 1, 2021.

Sec. 130.004. FUNDING. A county that creates a juvenile family drug court under this chapter shall explore the possibility of using court improvement project money to finance the juvenile family drug court in the county. The county also shall explore the availability of federal and state matching money to finance the court.

Added by Acts 2021, 87th Leg., R.S., Ch. 135 (H.B. 454), Sec. 1, eff. September 1, 2021.

SUBTITLE K-1. SPECIALTY COURTS FOR VICTIM SERVICES

CHAPTER 141. SEXUAL ASSAULT VICTIM SERVICES COURT PROGRAM

Sec. 141.001. SEXUAL ASSAULT VICTIM SERVICES COURT PROGRAM DEFINED. In this chapter, "sexual assault victim services court program" means a program that has the following essential characteristics:

(1) the integration of services provided by public agencies and community organizations for victims in sexual assault cases who voluntarily agree to participate in the program;

(2) the use of prosecutors with experience in prosecuting sexual assault cases and judges with experience in hearing sexual assault cases;

(3) early identification and prompt assignment of eligible cases to the court designated under Section 141.002(b);

(4) access for victims participating in the program to counseling and other related services provided by public agencies and community organizations;

(5) development of partnerships with public agencies and community organizations;

(6) monitoring and evaluation of program goals and effectiveness;

(7) continuing interdisciplinary education to promote effective program planning, implementation, and operations;

(8) inclusion of a participant's family members who voluntarily agree to be involved in the services provided to the participant under the program;

(9) prosecution of sexual assault offenses;

(10) issuance of protective orders for victims on the victim's consent and as authorized by state law; and

(11) continued monitoring of sexual assault defendants through prosecution and adjudication and for the duration of convicted offenders' sentences.

Added by Acts 2021, 87th Leg., R.S., Ch. 669 (H.B. 1706), Sec. 1, eff. September 1, 2021.

Sec. 141.002. AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY. (a) The commissioners court of a county may establish a sexual assault victim services court program for participants who:

(1) are victims of an alleged sexual assault in which a person is arrested for or charged with an offense under Chapter 21 or 22, Penal Code, committed against the victim; and

(2) voluntarily agree to participate in the program.

(b) The local administrative district and statutory county court judges of the county may designate a court in the county for assignment of cases described by Subsection (a). The judge of the designated court must have experience hearing sexual assault cases under Chapter 21 or 22, Penal Code. The prosecuting attorney for the

court must have experience in prosecuting sexual assault offenses under Chapter 21 or 22, Penal Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 669 (H.B. 1706), Sec. 1, eff. September 1, 2021.

Sec. 141.003. DUTIES OF SEXUAL ASSAULT VICTIM SERVICES COURT PROGRAM. (a) A sexual assault victim services court program established under this chapter must:

(1) ensure that a victim eligible for participation in the program voluntarily agrees to participate in the program; and

(2) allow a participant to withdraw from the program at any time.

(b) A sexual assault victim services court program established under this chapter shall make, establish, and publish local procedures to ensure maximum participation of eligible victims in the county.

Added by Acts 2021, 87th Leg., R.S., Ch. 669 (H.B. 1706), Sec. 1, eff. September 1, 2021.

Sec. 141.004. GIFTS, GRANTS, AND DONATIONS. A county may accept a gift, grant, donation, or bequest of money, services, equipment, goods, or other tangible or intangible property from any source for the sexual assault victim services court program.

Added by Acts 2021, 87th Leg., R.S., Ch. 669 (H.B. 1706), Sec. 1, eff. September 1, 2021.

SUBTITLE L. COURT PROFESSIONS REGULATION

CHAPTER 151. GENERAL PROVISIONS

Sec. 151.001. DEFINITIONS. In this subtitle:

(1) "Certification" means a certification issued by the commission.

(2) "Commission" means the Judicial Branch Certification Commission.

(3) "Director" means the administrative director of the office.

(4) "License" means a license issued by the commission.

(5) "Office" means the Office of Court Administration of the Texas Judicial System.

(6) "Registration" means a registration issued by the commission.

(7) "Regulated person" means a person, firm, or other business entity, who holds a certification, registration, or license issued by the commission.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 2, eff. September 1, 2017.

CHAPTER 152. JUDICIAL BRANCH CERTIFICATION COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 152.001. SUNSET PROVISION. The Judicial Branch Certification Commission is subject to Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The commission shall be reviewed during the period in which state agencies abolished in 2029, and every 12th year after that year, are reviewed.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 938 (H.B. 3123), Sec. 2.03, eff. June 18, 2015.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 3.02, eff. June 10, 2019.
Acts 2023, 88th Leg., R.S., Ch. 941 (S.B. 1659), Sec. 1.05, eff. June 18, 2023.

SUBCHAPTER B. COMMISSION

Sec. 152.051. ESTABLISHMENT OF COMMISSION. The Judicial Branch Certification Commission is established to oversee the regulatory programs assigned to it by state law or by the supreme court.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 152.052. APPOINTMENT OF COMMISSION. (a) The commission consists of nine members appointed by the supreme court as follows:

(1) five judges, at least three of whom must be active judges who preside over a court that employs an official court reporter; and

(2) four public members.

(b) Subject to Subsection (d), public members of the commission are appointed as follows:

(1) one member selected by the supreme court from a list of nominees submitted by the Court Reporters Certification Advisory Board established under Section 154.051 to represent that advisory board;

(2) one member selected by the supreme court from a list of nominees submitted by the Guardianship Certification Advisory Board established under Section 155.051 to represent that advisory board;

(3) one member selected by the supreme court from a list of nominees submitted by the Process Server Certification Advisory Board established under Section 156.051 to represent that advisory board; and

(4) one member selected by the supreme court from a list of nominees submitted by the licensed court interpreter advisory board established under Section 157.051 to represent that advisory board.

(c) In making an appointment under Subsection (b), the supreme court may reject one or more of the nominees included on a list submitted by an advisory board and request a new list of nominees that does not include any nominees in the previous list.

(d) The supreme court may appoint to the commission a public member selected by the supreme court if:

(1) an advisory board fails to provide the list of nominees in the time required by the supreme court; or

(2) a selected nominee does not otherwise meet the qualifications required by this chapter.

(e) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(f) A member appointed to the commission must be knowledgeable about the professions certified by the commission.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 152.053. CONFLICT PROVISIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person is not eligible for appointment as a member of the commission, or as a member of an advisory board or committee that serves the commission, if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the commission;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the commission; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

(c) A person may not serve as a member of the commission, or as a member of an advisory board or committee that serves the commission, or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305

because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

(d) A person may not be a member of the commission, a member of an advisory board or committee that serves the commission, or a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the legal profession; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the legal profession.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 3, eff. September 1, 2017.

Sec. 152.054. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this subtitle and the rules of the commission, with an emphasis on the rules that relate to the commission's disciplinary and investigatory authority;

(2) rules of ethics, codes of conduct, and other rules adopted by the supreme court that are applicable to each profession regulated or subject to oversight by the commission;

(3) the role and functions of the commission;

(4) the current budget for the commission;

(5) the results of the most recent formal audit of the

commission; and

(6) any ethics policies applicable to the commission and adopted by the commission or supreme court.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 152.055. TERMS; VACANCY; REMOVAL. (a) Members of the commission serve staggered six-year terms. The terms of three members expire on February 1 of each odd-numbered year.

(b) If a vacancy occurs during a member's term, the supreme court shall appoint a similarly qualified person to fill the unexpired term.

(c) The supreme court may remove a member of the commission for inefficiency or neglect of duty in office.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 152.056. PRESIDING OFFICER. The supreme court shall designate a member of the commission as presiding officer of the commission to serve in that capacity at the pleasure of the supreme court. The presiding officer may designate a member of the commission to preside over a meeting of the commission in the absence of the presiding officer.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.

Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 4, eff. September 1, 2017.

Sec. 152.057. COMPENSATION; REIMBURSEMENT. (a) A commission member may not receive compensation for service on the commission.

(b) A commission member is entitled to reimbursement for travel expenses and other actual and necessary expenses incurred in performing functions as a commission member, subject to any applicable limitation on reimbursement provided by the General Appropriations Act.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 152.058. MEETINGS. (a) The commission shall meet at least once in each quarter of the fiscal year.

(b) The commission may meet at other times at the call of the presiding officer or as provided by commission rules.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 152.059. PUBLIC TESTIMONY. The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01,

eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

SUBCHAPTER C. ADMINISTRATION

Sec. 152.101. RULES. The supreme court may adopt rules consistent with this subtitle, including rules governing the certification, registration, licensing, and conduct of persons regulated under this subtitle. The supreme court may authorize the commission to adopt rules as the supreme court considers appropriate or as otherwise specified under this subtitle.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 152.102. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING. (a) Subject to any rules related to ethics or professional conduct promulgated by the supreme court, the supreme court may not adopt rules restricting advertising or competitive bidding by a holder of a certification, registration, or license except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the supreme court may not include a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the use of a regulated person's personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the regulated person; or

(4) restricts the regulated person's advertisement under a trade name.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September

1, 2015.

Sec. 152.103. ADMINISTRATIVE ATTACHMENT. (a) The commission is administratively attached to the office.

(b) Notwithstanding any other law, the office shall:

(1) provide administrative assistance, services, and materials to the commission, including budget planning and purchasing;

(2) accept, deposit, and disburse money made available to the commission;

(3) reimburse the travel expenses and other actual and necessary expenses of commission members incurred in the performance of official commission duties, as provided by the General Appropriations Act; and

(4) provide the commission with adequate computer equipment and support.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 152.104. DIRECTOR. The director shall:

(1) perform any duty assigned by the commission and other duties specified by law; and

(2) administer and enforce the commission's programs.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 152.105. DIVISION OF RESPONSIBILITIES. The commission shall develop and implement policies that clearly separate the policy-making responsibilities of the commission and the management responsibilities of the director and the staff of the office.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 152.106. USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 152.107. INFORMATION ON STANDARDS OF CONDUCT. The director or the director's designee shall provide to members of the commission and to office employees, as often as necessary, information regarding the requirements for service or employment under this subtitle, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 152.108. PUBLIC INTEREST INFORMATION. (a) The commission shall prepare information of public interest describing the functions of the commission under this subtitle and the procedure by which complaints are filed and resolved under this subtitle.

(b) The commission shall make the information available to the public and appropriate state agencies.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 152.109. NOTICE OF COMPLAINT PROCESS. (a) The commission shall establish methods by which consumers are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints about persons regulated under this subtitle to the commission.

(b) The commission shall list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a person regulated under this subtitle.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 5, eff. September 1, 2017.

Sec. 152.110. RECORDS OF COMPLAINTS. (a) The commission shall maintain a file on each written complaint filed with the commission under this subtitle. The file must include:

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

(2) the date the complaint is received by the commission;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

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

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

(b) The commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution. A person who reports a complaint by telephone shall be given information on how to file a written complaint.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 152.111. COMPLAINT DISMISSAL. (a) The commission may adopt a policy allowing office employees to dismiss a complaint that:

(1) clearly does not allege misconduct;

(2) is not within the commission's jurisdiction; or

(3) alleges misconduct that took place more than five years before the date the complaint was filed.

(b) Office employees shall inform the commission of all dismissals made under this section.

(c) A person who files a complaint that is dismissed under this section may, not later than the 30th day after the date of notice of the dismissal, request in writing that the commission reconsider the complaint.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 6, eff. September 1, 2017.

Sec. 152.112. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of appropriate alternative dispute resolution procedures to assist in the resolution of internal and external disputes under the commission's jurisdiction.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 152.151. GENERAL POWERS AND DUTIES. (a) The commission shall:

(1) administer and enforce this subtitle;

(2) in consultation with appropriate advisory boards, develop and recommend rules to the supreme court;

(3) in consultation with appropriate advisory boards, develop and recommend to the supreme court a code of ethics for each profession regulated under this subtitle;

(4) set fees in amounts reasonable and necessary to cover the costs of administering the programs or activities administered by the commission, including examinations and issuance and renewal of certifications, registrations, and licenses; and

(5) in consultation with appropriate advisory boards, establish qualifications for certification, registration, and licensing under this subtitle.

(b) The commission may:

(1) require applicants for certification, registration, or licensing under this subtitle to pass an examination that is developed and administered by the commission, or by the commission in conjunction with a person with whom the commission contracts to develop and administer the examination, and charge fees for the examination;

(2) require regulated persons to obtain continuing education; and

(3) appoint necessary committees.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 152.152. ADVISORY BOARDS. (a) In addition to the advisory boards specifically established under this subtitle, the commission may establish other advisory boards to advise the commission on policy and persons regulated under this subtitle.

(b) An advisory board established under this subtitle, including under this section, shall meet at least once each year and at the call of the presiding officer.

(c) An advisory board established under this subtitle, including under this section, shall assist the commission by developing and recommending rules to the commission. The advisory board may establish subcommittees to fulfill the duties imposed under this subsection.

(d) An advisory board member serves without compensation but is entitled to reimbursement for travel expenses and other actual and necessary expenses incurred in performing functions as an advisory board member, subject to any applicable limitation on reimbursement provided by the General Appropriations Act.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

SUBCHAPTER E. CERTIFICATION, REGISTRATION, AND LICENSING REQUIREMENTS

Sec. 152.201. EXAMINATIONS. (a) Not later than the 30th day after the date a person takes an examination, the commission shall notify the person of the results of the examination.

(b) If the examination is graded or reviewed by a testing service:

(1) the commission shall notify the person of the results of the examination not later than the 30th day after the date the commission receives the results from the testing service; and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the commission shall notify the person of the reason for the delay before the 90th day.

(c) The commission may require a testing service to:

(1) notify a person of the results of the person's examination; or

(2) collect a fee for administering an examination from a person taking the examination.

(c-1) A passing score on an applicable examination is valid for purposes of certification, registration, or licensing for a period of two years after the date of the examination. A person who does not apply to become certified, licensed, or registered before the expiration of the two-year period must repeat and pass the examination.

(d) If requested in writing by a person who fails an examination, the commission shall furnish the person with an analysis of the person's performance on the examination. A person may not view a copy of the examination.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 7, eff. September 1, 2017.

Sec. 152.2015. CERTIFICATION, REGISTRATION, AND LICENSING FEE AND RENEWAL. (a) A person, firm, or business entity must pay the commission an initial fee and any other required fee to receive a certification, registration, or license from the commission.

(b) A regulated person who is otherwise eligible to renew a

certification, registration, or license may renew an unexpired certification, registration, or license by paying the required renewal fee to the commission before the expiration date. A regulated person whose certification, registration, or license has expired may not engage in any applicable regulated activity until the certification, registration, or license has been renewed.

(c) A regulated person whose certification, registration, or license has been expired for 90 days or fewer may renew the certification, registration, or license by paying to the commission a renewal fee that is equal to one and one-half times the normally required renewal fee.

(d) A regulated person whose certification, registration, or license has been expired for more than 90 days but less than one year may renew the certification, registration, or license by paying to the commission a renewal fee that is equal to twice the normally required renewal fee.

(e) Except as provided by Subsection (f), a person, firm, or business entity may not renew an expired certification, registration, or license one year or more after expiration. The person, firm, or business entity may obtain a new certification, registration, or license by complying with the requirements and procedures, including the examination requirements, for obtaining an original certification, registration, or license.

(f) A person may, without examination, renew a certification, registration, or license which has been expired for one year or longer, if:

(1) before applying for renewal, the person had moved to another state or jurisdiction;

(2) at the time of applying for renewal, the person is certified, registered, or licensed in good standing in the other state or jurisdiction to practice the profession for which the expired certification, registration, or license is required;

(3) the person has been in practice in that profession in that state for one year or more preceding the date the person applies for renewal; and

(4) the person pays to the commission a fee that is equal to twice the normally required renewal fee for the certification, registration, or license.

(g) Not later than the 30th day before the date a regulated person's certification, registration, or license is scheduled to

expire, the commission shall send written notice of the impending expiration to the regulated person at the person's last known address according to the records of the commission.

Added by Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 8, eff. September 1, 2017.

Sec. 152.202. ENDORSEMENT; RECIPROCITY. (a) The commission may waive any prerequisite to obtaining a certification, registration, or license for an applicant after reviewing the applicant's credentials and determining that the applicant holds a certification, registration, or license issued by another jurisdiction that has certification, registration, or licensing requirements substantially equivalent to those of this state.

(b) The commission may waive any prerequisite to obtaining a certification, registration, or license for an applicant who holds a certification, registration, or license issued by another jurisdiction with which this state has a reciprocity agreement. The commission may make an agreement, subject to the approval of the supreme court, with another state to allow for certification, registration, or licensing by reciprocity.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 152.203. RULES ON INELIGIBILITY. The supreme court shall by order adopt rules on an applicant's ineligibility for certification, registration, or licensing or renewal of certification, registration, or licensing under this subtitle based on the applicant's criminal history or other information, including failure to comply with comission orders or timely pay fees or administration penalties, that indicates the applicant lacks the honesty, trustworthiness, or integrity to hold the certification, registration, or license. The commission shall, in accordance with this section and rules adopted by order of the United States Supreme Court, obtain criminal history record information that is maintained

by the Department of Public Safety or the Federal Bureau of Investigation identification division on each applicant for certification, registration, or licensing under this subtitle to be used only for the determination of each applicant's ineligibility under rules adopted by United States Supreme Court order under this section. The commission may not use criminal history record information obtained from the Federal Bureau of Investigation identification division under this section for any other purpose. The commission may not transfer criminal history record information obtained from the Federal Bureau of Investigation identification division under this section to any other state agency, entity, or person. The commission shall destroy criminal history record information immediately after each determination of ineligibility is made.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 8, eff. June 13, 2023.
Acts 2023, 88th Leg., R.S., Ch. 1111 (S.B. 2106), Sec. 1, eff. September 1, 2023.

Sec. 152.204. CONTINUING EDUCATION. (a) The supreme court may authorize and the commission by rule may require continuing professional education for persons regulated under this subtitle.

(b) The rules for continuing professional education adopted by the commission may include standards relating to:

(1) reporting by regulated persons or by providers of continuing professional education;

(2) continuing professional education course content; and

(3) the minimum number of continuing professional education hours required.

(c) The commission by rule may exempt certain persons, including retired persons and persons with disabilities, from all or a portion of the continuing education requirements.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015,

84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 152.205. CODE OF ETHICS. (a) The commission shall develop and recommend to the supreme court for adoption by rule a code of ethics for persons regulated under this subtitle. In developing the code of ethics, the commission may use the codes of ethics adopted by state or national associations as models.

(b) The commission shall publish the code of ethics after adoption by the supreme court.

(c) After publishing the code of ethics, the commission shall propose to the supreme court a rule stating that a person who violates the code of ethics is subject to commission enforcement under Chapter 153.

(d) The commission shall update the code of ethics as necessary to reflect changes in technology or other factors affecting a profession regulated under this subtitle.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 9, eff. September 1, 2017.

CHAPTER 153. COMMISSION ENFORCEMENT

SUBCHAPTER A. GENERAL ENFORCEMENT PROVISIONS

Sec. 153.0001. FILING COMPLAINT. (a) To file a complaint with the commission against a regulated person or another person alleged to have unlawfully engaged in conduct regulated under this subchapter, a person must:

(1) have personal knowledge of the alleged violation;

(2) complete a complaint form provided by the commission;

(3) sign the completed complaint form; and

(4) attach any pertinent documentary evidence to the complaint form.

(b) On receipt of a properly executed complaint, the commission shall furnish a copy of the complaint and any attachments to the person who is the subject of the complaint.

(c) This section does not preclude the commission, an advisory board of the commission, or a court of this state from filing a complaint.

Added by Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 10, eff. September 1, 2017.

Sec. 153.001. INVESTIGATIONS. The commission may conduct investigations as necessary to enforce the laws administered by the commission.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 153.002. SUBPOENAS. (a) The commission may issue a subpoena as provided by this section.

(b) The commission may request and, if necessary, compel by subpoena:

(1) the production for inspection and copying of records, documents, and other evidence relevant to the investigation of an alleged violation of this subtitle, a law establishing a regulatory program administered by the commission, a rule adopted under this subtitle, or an order issued by the commission or director; and

(2) the attendance of a witness for examination under oath.

(c) A subpoena under this section may be issued throughout this state and may be served by any person designated by the commission or the director.

(d) The commission, acting through the attorney general, may bring an action to enforce a subpoena issued under this section against a person who fails to comply with the subpoena.

(e) Venue for an action brought under this section is in a district court in:

(1) Travis County; or

(2) any county in which the commission may hold a hearing.

(f) The court shall order compliance with the subpoena if the court finds that good cause exists to issue the subpoena.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 153.003. CEASE AND DESIST ORDER. (a) The director may issue a temporary cease and desist order for the duration of an investigation and disciplinary action by the commission if the director determines that the action is necessary to prevent a violation of:

(1) this subtitle;

(2) a law establishing a regulatory program administered by the commission; or

(3) a rule adopted under this subtitle or order issued by the commission or the director.

(b) A cease and desist order may require a person to cease and desist from committing a violation listed under Subsection (a) or from engaging in any practice regulated by the commission as necessary to prevent the violation.

(c) A person to whom a cease and desist order is issued may file a written request for a hearing before the commission. The person must file the hearing request not later than the 10th day after the date of receipt of the order. The commission must conduct the hearing not later than the 30th day after the date of the hearing request.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 11, eff. September 1, 2017.

Sec. 153.004. DENIAL, REVOCATION, SUSPENSION, OR REFUSAL TO RENEW; REPRIMAND; PROBATION. (a) The commission may deny, revoke, suspend, or refuse to renew a certification, registration, or license or may reprimand a regulated person for a violation of this subtitle, a law establishing a regulatory program administered by the commission, a rule adopted under this subtitle, or an order issued by the commission or director.

(b) The commission shall determine the severity of an administrative sanction, including the length of the period of time a revocation, suspension, refusal to renew a certification, registration, or license, based upon:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the threat to health or safety caused by the violation;

(3) any previous violations;

(4) the administrative sanction necessary to deter a future violation;

(5) whether the violator demonstrated good faith, including when applicable whether the violator made good faith efforts to correct the violation; and

(6) any other matter that justice may require.

(c) The commission may place on probation a person whose certification, registration, or license is suspended. If a certification, registration, or license suspension is probated, the commission may require the person to:

(1) report regularly to the commission on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the commission; or

(3) continue or review professional education until the person attains a degree of skill satisfactory to the commission in those areas that are the basis for the probation.

(d) On the commission's motion, or on the recommendation of commission staff, the commission may conduct a hearing to inquire into a suspension. If the commission determines that a person has not corrected the deficiencies that were the grounds of the suspension or has not complied with the conditions imposed by the commission, the commission may revoke or take other disciplinary action against the person's certification, registration, or license.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 12, eff. September 1, 2017.
Acts 2023, 88th Leg., R.S., Ch. 1111 (S.B. 2106), Sec. 2, eff. September 1, 2023.

Sec. 153.005. INJUNCTION. (a) The commission may apply to a district court in any county for an injunction to restrain a violation of this subtitle or a rule adopted under this subtitle by a person.

(b) At the request of the commission, the attorney general shall initiate and conduct an action in a district court in the state's name to obtain an injunction under this section.

(c) If the state prevails in a suit under this section, the attorney general may recover on behalf of the state reasonable attorney's fees, court costs, and reasonable investigative costs incurred in relation to the proceeding.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

SUBCHAPTER B. ADMINISTRATIVE PENALTY; ADMINISTRATIVE SANCTION

Sec. 153.051. IMPOSITION OF PENALTY. (a) The commission may impose an administrative penalty on a person who violates:

(1) this subtitle;

(2) a statute establishing a regulatory program administered by the commission;

(3) a rule or standard adopted under this subtitle; or

(4) an order issued by the commission or director under this subtitle.

(b) A proceeding under this subchapter imposing an administrative penalty may be combined with a proceeding to impose an administrative sanction otherwise imposed under this subtitle.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 13, eff. September 1, 2017.

Sec. 153.052. AMOUNT OF PENALTY. (a) The amount of an administrative penalty may not exceed $500 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(b) The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the threat to health or safety caused by the violation;

(3) any previous violations;

(4) the amount necessary to deter a future violation;

(5) whether the violator demonstrated good faith, including when applicable whether the violator made good faith efforts to correct the violation; and

(6) any other matter that justice may require.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 153.053. REPORT AND NOTICE OF VIOLATION, PENALTY, AND SANCTION. (a) The commission shall appoint a committee of advisory board members to review a complaint, make the initial written determination on whether a violation occurred, and impose a penalty, a sanction, or both for violations. The committee shall state the

committee's written determination as proposed findings of fact and conclusions of law, separately stated.

(b) The committee shall give to the person who is the subject of the complaint reviewed under Subsection (a) written notice by certified mail of the committee's determination on whether a violation occurred and each penalty or sanction, if any.

(c) The notice required under Subsection (b) must:

(1) include a brief summary of the alleged violation;

(2) state the amount of any penalty;

(3) state any sanction; and

(4) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, the imposition of the sanction, or any combination.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 13, eff. September 1, 2017.

Sec. 153.054. PENALTY PAID, SANCTION ACCEPTED, OR HEARING REQUESTED. (a) Not later than the 20th day after the date the person receives the notice sent under Section 153.053, the person in writing may:

(1) accept the determination of the committee appointed under Section 153.053 and the imposition of the penalty or sanction as an agreed order to be presented to the commission; or

(2) request a hearing before the commission on the occurrence of the violation, the imposition or amount of the penalty, the imposition of the sanction, or any combination.

(b) If the person accepts the determination and penalty or sanction as an agreed order, the commission shall review the proposed agreed order and accept, revise, or reject it or remand the matter to the committee for further review. The commission shall give to the person written notice of the commission's determination under this subsection. If the commission revises or rejects the proposed agreed

order, the person may:

(1) accept the commission's determination, penalty, or sanction; or

(2) request a hearing not later than the 20th day after the date of receiving notice of the commission's determination.

(c) If the person fails to respond to the notice sent under Section 153.053, the commission may issue a default order to approve the determination of the committee and impose or revise the committee's proposed penalty, sanction, or both.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 13, eff. September 1, 2017.

Sec. 153.055. NOTICE; HEARING. (a) If the person requests a hearing, the commission shall give to the person written notice of the hearing that includes the time, place, legal authority, and jurisdiction under which the hearing is held and the laws and rules related to the violation.

(b) The person may appear, present evidence, and respond to questions from the commission at the hearing.

(c) The commission shall adopt, revise, or reject the committee's findings of fact and conclusions of law and promptly issue an order on the occurrence of the violation, the amount of any penalty imposed, and the imposition of any sanction. The commission shall give the person notice of the order.

(d) On approval of the supreme court, the commission may adopt rules governing the hearing, including rules on appearance by telephone. To the extent not inconsistent with this subchapter or commission rules, the Texas Rules of Civil Procedure, including discovery rules, apply to the hearing, except that the commission may deviate from those rules as necessary for a full and fair adjudication and determination of fact or law.

(e) The presiding officer of the commission may hold prehearing

conferences. The presiding officer may issue orders, including scheduling orders, and may designate the discovery control plan or otherwise limit or modify discovery before a hearing.

(f) The notice of the commission's order under Subsection (c) must include a statement of the right of the person to appeal the order under Section 153.058.

(g) On request of the commission, at least one member of the applicable advisory board committee shall attend the hearing to consult with the commission on the reasons for the advisory board committee's determination and proposed penalty or sanction under Section 153.053(a).

(h) At the hearing, the commission shall apply the general rules of evidence applicable in a district court, except that the commission may admit and consider any information the commission determines is relevant, trustworthy, and necessary for a full and fair adjudication and determination of fact or law.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 14, eff. September 1, 2017.

Sec. 153.056. OPTIONS FOLLOWING DECISION: PAY, ACCEPT, OR APPEAL. Not later than the 30th day after the date the order of the commission imposing an administrative penalty or sanction under Section 153.055 becomes final, the person shall:

(1) accept the obligation to pay the penalty or accept the sanction; or

(2) file an appeal of the commission's order contesting the findings of fact, the conclusions of law, the occurrence of the violation, the imposition or amount of the penalty, the imposition of the sanction, or any combination.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015,

84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 15, eff. September 1, 2017.

Sec. 153.057. COLLECTION OF PENALTY. (a) If the person does not pay the penalty and the enforcement of the penalty is not stayed in accordance with supreme court rules, the penalty may be collected.

(b) The attorney general may sue to collect the penalty and may recover reasonable expenses, including attorney's fees, incurred in recovering the penalty.

(c) A penalty collected under this subchapter shall be deposited in the state treasury in the general revenue fund.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 153.058. APPEAL OF DECISION. (a) The supreme court shall adopt rules governing appeals under this subchapter.

(b) The rules must require the appeal to be made to a special committee consisting of three regional presiding judges. If the alleged violation involves a certified guardian, the committee must consist of two regional presiding judges and the presiding judge of the statutory probate courts.

(c) An appeal must be filed not later than the 30th day after the date the commission's order is issued.

(d) The special committee shall consider the appeal under an abuse of discretion standard of review for all issues except issues involving questions of law. The standard of review for issues involving questions of law is de novo.

(e) The special committee may confer in writing with a certification, registration, or license holder who is in the same profession as the person appealing the commission's order if the special committee provides to the person:

(1) notice of the special committee's request for information; and

(2) a copy of the certification, registration, or license holder's response.

(f) If the special committee sustains the finding that a violation occurred, the special committee may:

(1) uphold or reduce the amount of any penalty and order the person to pay the full or reduced amount of the penalty; and

(2) uphold or reduce any other sanction and order the imposition of the sanction.

(g) If the special committee does not sustain the finding that a violation occurred, the special committee shall order that a penalty is not owed and that a sanction may not be imposed.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 16, eff. September 1, 2017.

Sec. 153.059. REMITTANCE OF PENALTY AND INTEREST. (a) If the person paid the penalty and if the amount of the penalty is reduced or the penalty is not upheld by the special committee, the special committee shall order that the appropriate amount plus accrued interest be remitted to the person not later than the 30th day after the date the judgment of the special committee becomes final.

(b) The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank.

(c) The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 153.060. REISSUANCE OF CERTIFICATE, REGISTRATION, OR LICENSE. (a) The commission may reissue a certificate, registration, or license that has been revoked or that the commissioner has refused to renew as a disciplinary sanction if the individual who was subject to the revocation or nonrenewal applies in writing to the commission and establishes good cause to justify reissuance of the certificate, registration, or license. The applicant has the burden of proving:

(1) the correction of the grounds for the revocation or the commission's refusal to renew the certificate, registration, or license;

(2) good faith efforts to correct, resolve, or otherwise cure the damages arising from the grounds for the revocation or the refusal to renew the certificate, registration, or license;

(3) that reissuance would not pose a threat to public health, safety, and welfare; and

(4) any other rehabilitative efforts.

(b) The commission may impose conditions on the revocation or refusal to renew a certificate, registration, or license that may include:

(1) prohibiting a person from applying for reissuance for a specified period; and

(2) imposing some or all prerequisites for initial certification, registration, or licensure as a prerequisite for reissuance.

(c) The commission may impose appropriate probationary conditions for a specified period on the practice of a person whose certificate, registration, or license is reissued.

Added by Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 17, eff. September 1, 2017.

CHAPTER 154. COURT REPORTERS CERTIFICATION AND SHORTHAND REPORTING FIRMS REGISTRATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 154.001. DEFINITIONS. (a) In this chapter:

(1) "Advisory board" means the Court Reporters

Certification Advisory Board.

(1-a) "Apprentice court reporter" means a person to whom an apprentice court reporter certification is issued as authorized by Section 154.1011.

(2) "Certification" means, notwithstanding Section 151.001, a certification issued by the supreme court on the commission's recommendation.

(3) "Official court reporter" means the shorthand reporter appointed by a judge as the official court reporter.

(3-a) "Provisional court reporter" means a court reporter to whom a provisional certification is issued as authorized by Section 154.1011.

(4) "Shorthand reporter" and "court reporter" mean a person who is certified as a court reporter, apprentice court reporter, or provisional court reporter under this chapter to engage in shorthand reporting.

(5) "Shorthand reporting" and "court reporting" mean the practice of shorthand reporting for use in litigation in the courts of this state by making a verbatim record of an oral court proceeding, deposition, or proceeding before a grand jury, referee, or court commissioner using written symbols in shorthand, machine shorthand, or oral stenography.

(6) "Shorthand reporting firm," "court reporting firm," and "affiliate office" mean an entity wholly or partly in the business of providing court reporting or other related services in this state.

(b) For purposes of Subsection (a)(6), a court reporting firm, shorthand reporting firm, or affiliate office is considered to be providing court reporting or other related services in this state if:

(1) any act that constitutes a court reporting service or shorthand reporting service occurs wholly or partly in this state;

(2) the firm or affiliate office recruits a resident of this state through an intermediary located inside or outside of this state to provide court reporting services, shorthand reporting services, or other related services in this state; or

(3) the firm or affiliate office contracts with a resident of this state by mail or otherwise and either party is to perform court reporting services, shorthand reporting services, or other related services wholly or partly in this state.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01,

eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 7.07, eff. September 1, 2019.
Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 17.05, eff. September 1, 2021.

Sec. 154.002. RULES. The supreme court may adopt rules consistent with this subtitle, including rules governing:
(1) the certification and conduct of official and deputy court reporters and shorthand reporters; and
(2) the registration and conduct of court reporting and shorthand reporting firms.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.01, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

SUBCHAPTER B. COURT REPORTERS CERTIFICATION ADVISORY BOARD

Sec. 154.051. ORGANIZATION. (a) The Court Reporters Certification Advisory Board is established as an advisory board to the commission. The advisory board is composed of at least nine members appointed by the supreme court as follows:
(1) one active district judge presiding over a court that employs an official court reporter;
(2) one active attorney licensed in this state who has been a practicing member of the State Bar for more than the five years immediately preceding the attorney's appointment to the advisory board;
(3) two certified shorthand reporters actively engaged in the practice of official court reporting in this state for more than the five years immediately preceding their appointment to the advisory board;

(4) two certified shorthand reporters actively engaged in the practice of shorthand reporting on a freelance basis for more than the five years immediately preceding their appointment to the advisory board;

(5) one certified shorthand reporter actively engaged in practice as a captioner in this state for more than the five years immediately preceding the captioner's appointment to the advisory board; and

(6) two certified shorthand reporters who:

(A) own a shorthand reporting firm in this state; and

(B) have owned and operated a shorthand reporting firm in this state for more than the five years immediately preceding their appointment to the advisory board.

(b) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(c) The advisory board member appointed under Subsection (a)(1) serves as presiding officer of the advisory board.

(d) A majority of the advisory board constitutes a quorum.

(e) Advisory board members serve staggered six-year terms of office as ordered by the supreme court.

(f) If a vacancy occurs on the advisory board, the supreme court shall appoint a similarly qualified person to serve the remainder of the term.

(f-1) Not later than the 90th day before the expiration of an advisory board member's term, the commission:

(1) shall post on the commission's Internet website notice of the availability of the membership position;

(2) shall accept resumes from and conduct interviews of any qualified individuals interested in appointment to the position; and

(3) may recommend to the supreme court one or more of the qualified individuals for appointment to the advisory board.

(g) Advisory board members serve without compensation but are entitled to reimbursement for travel expenses and other actual and necessary expenses incurred in the performance of official advisory board duties, as provided by the General Appropriations Act.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.68(a), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 167, Sec. 2.19(15), eff. Sept. 1, 1987;

Acts 1991, 72nd Leg., ch. 561, Sec. 22, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(28), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 29, Sec. 4, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 813, Sec. 4, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 808 (S.B. 1441), Sec. 1, eff. June 19, 2009.
Transferred, redesignated and amended from Government Code, Section 52.011 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.03, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 9.006(a), eff. September 1, 2023.

Sec. 154.052. ADVISORY BOARD MEMBER TRAINING. (a) A person who is appointed to and qualifies for office as a member of the advisory board may not vote, deliberate, or be counted as a member in attendance at a meeting of the advisory board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter;

(2) the role and functions of the advisory board;

(3) the rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority; and

(4) any applicable ethics policies adopted by the commission.

(c) A person appointed to the advisory board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2003, 78th Leg., ch. 813, Sec. 6, eff. Sept. 1, 2003.
Transferred, redesignated and amended from Government Code, Section 52.0111 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.03,

eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

SUBCHAPTER C. CERTIFICATION AND REGISTRATION

Sec. 154.101. CERTIFICATION OF REPORTERS. (a) A person may not be appointed an official court reporter or a deputy court reporter unless the person is certified as a shorthand reporter by the supreme court.

(b) A person may not engage in shorthand reporting in this state unless the person is certified as:

(1) a shorthand reporter by the supreme court under this section; or

(2) an apprentice court reporter or provisional court reporter certified as authorized by Section 154.1011, subject to the terms of the person's certification.

(c) A certification issued under this section must be for one or more of the following methods of shorthand reporting:

(1) written shorthand;

(2) machine shorthand;

(3) oral stenography; or

(4) any other method of shorthand reporting authorized by the supreme court.

(d) A person certified under state law as a court reporter before September 1, 1983, may retain a general certification authorizing the person to use any authorized method of shorthand reporting. The person must keep the certification in continuous effect.

(e) A person may not assume or use the title or designation "court recorder," "court reporter," or "shorthand reporter," or any abbreviation, title, designation, words, letters, sign, card, or device tending to indicate that the person is a court reporter or shorthand reporter, unless the person is certified as a shorthand reporter or provisional court reporter by the supreme court. Nothing in this subsection shall be construed to either sanction or prohibit the use of electronic court recording equipment operated according to rules adopted or approved by the supreme court.

(f) Except as provided by Section 154.112 and by Section

20.001, Civil Practice and Remedies Code, all depositions conducted in this state must be reported by a certified shorthand reporter.

(g) The commission may enforce this section by seeking an injunction or by filing a complaint against a person who is not certified by the supreme court. The commission may seek the injunction in the district court of the county in which that person resides or in Travis County. Said action for an injunction shall be in addition to any other action, proceeding, or remedy authorized by law. The commission shall be represented by the attorney general, the county or district attorney of this state, or counsel designated and empowered by the commission.

(h) A court reporting firm shall register with the commission by completing an application in a form adopted by the commission.

(i) Rules applicable to a court reporter are also applicable to a court reporting firm. The commission may enforce this subsection by assessing a reasonable fee against a court reporting firm. This subsection does not apply to court reporting services performed outside of this state by a foreign shorthand reporter who is not certified in this state for use in a court proceeding in this state, provided that the work resulting from those services is produced and billed wholly outside of this state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 367, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 799, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 1037, Sec. 2, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 122, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 29, Sec. 8, 9, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 813, Sec. 10, eff. Sept. 1, 2003.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 52 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.04, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 18, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 7.08, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 17.06, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 10.008, eff. September 1, 2023.

Sec. 154.1011. APPRENTICE COURT REPORTER AND PROVISIONAL COURT REPORTER CERTIFICATIONS. (a) Subject to Section 152.101, the commission by rule may provide for:

(1) the certification of an apprentice court reporter who may engage in court reporting only:

(A) under the direct supervision of a certified court reporter; and

(B) for the types of legal proceedings authorized by commission rule; and

(2) the provisional certification of a court reporter, including a court reporter described by Section 154.1012(f), that allows a person to engage in court reporting only in accordance with the terms and for the period expressly authorized by commission rule.

(b) Rules adopted under Subsection (a) may allow for the issuance of a certification under Section 154.101 to:

(1) a certified apprentice court reporter who satisfactorily completes the apprenticeship and passes Part A of the examination required by Section 154.103; or

(2) a court reporter who holds a provisional certification on the reporter's completion of the terms of the commission's conditional approval.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 7.09(a), eff. September 1, 2019.

Sec. 154.1012. RECIPROCITY. (a) The commission may waive any prerequisite to obtaining a court reporter certification for an applicant after reviewing the applicant's credentials and determining the applicant holds a certification or license issued by another jurisdiction that has certification or licensing requirements substantially equivalent to those of this state.

(b) The commission shall develop and periodically update on a schedule established by the commission a list of states that have

certification or licensing requirements for court reporters substantially equivalent to those of this state.

(c) The commission shall certify to the supreme court the name of each qualified applicant who:

(1) holds a certification or license to engage in court reporting issued by another state that, as determined by the commission:

(A) has certification or licensing requirements to engage in court reporting that are substantially equivalent to the requirements of this state for a court reporter governed by this chapter and Chapter 52; or

(B) is included on the list developed by the commission under Subsection (b); and

(2) before certification in this state:

(A) passes Part B of the examination required by Section 154.103; and

(B) provides proof acceptable to the commission that the applicant has been actively performing court reporting in another jurisdiction for at least three of the preceding five years.

(d) A reciprocity agreement approved by the supreme court under Section 152.202(b) must require an applicant who holds a certification or license to engage in court reporting issued by another state and who applies for certification as a court reporter in this state to:

(1) pass Part B of the examination required by Section 154.103;

(2) provide proof acceptable to the commission that the applicant has been actively performing court reporting in another jurisdiction for at least three of the preceding five years; and

(3) hold a certification or license that the commission determines is at least equivalent to the registered professional reporter designation or similar designation.

(e) A person who applies for certification as a court reporter in this state and meets the requirements under Subsection (c) is not required to meet the requirement under Subsection (d)(3).

(f) Subject to Section 152.101, the commission may adopt rules requiring the issuance of a provisional certification under Section 154.1011 to an applicant described by Subsection (c) or (d) that authorizes the applicant to serve as a court reporter in this state for a limited time and under conditions the commission considers

reasonably necessary to protect the public interest.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 7.09(a), eff. September 1, 2019.

Sec. 154.102. APPLICATION FOR EXAMINATION. If applicable, a person seeking certification must file an application for examination with the commission not later than the 30th day before the date fixed for the examination. The application must be accompanied by the required fee.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 52 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.04, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 7.10, eff. September 1, 2019.

Sec. 154.103. EXAMINATION. (a) The examination for certification in one or more of the authorized methods of shorthand reporting consists of two parts, designated Part A and Part B.

(b) Part A consists of five minutes of two-voice dictation of questions and answers given at 225 words per minute, five minutes of dictation of jury charges given at 200 words per minute, and five minutes of dictation of selected literary material given at 180 words per minute. Each applicant must personally take down the test material, either in writing or in voice, and must prepare a transcript of the material taken down. The minimum passing grade for each section of Part A is 95 percent. A dictionary may be used during Part A. Each applicant has three hours to complete the transcription of Part A. If an applicant finishes before the three hours have elapsed, the applicant may review the transcript but may use only the test material taken down by that applicant to review the transcript. An error is charged for:

(1) each wrong word;

(2) each omitted word;
(3) each word added by the applicant that was not dictated;
(4) each contraction interpreted by the applicant as two words;
(5) two words interpreted by the applicant as a contraction;
(6) each misplaced word;
(7) each misplaced period that materially alters the sense of a group of words or a sentence;
(8) each misspelled word;
(9) the use of the plural or singular if the opposite was dictated; and
(10) each wrong number.

(c) Part B consists of objective questions relating to elementary aspects of shorthand reporting, spelling, and grammar. The minimum passing grade for Part B is 75 percent. A dictionary may not be used during Part B.

(d) An applicant who cheats on the examination is disqualified and may not take the examination again until two years have elapsed from the date of the examination at which the applicant was disqualified.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.70, eff. Sept. 1, 1987; Acts 1999, 76th Leg., ch. 562, Sec. 1, eff. June 18, 1999. Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 52 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.04, eff. September 1, 2014. Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 154.104. CERTIFICATION TO SUPREME COURT. (a) The commission shall certify to the supreme court the name of each qualified applicant for certification under Section 154.101 who has passed the examination.

(b) The commission shall certify to the supreme court the name of each applicant who meets the qualifications for certification as:
(1) an apprentice court reporter; or

(2) a provisional court reporter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., ch. 813, Sec. 21, eff. Sept. 1, 2003.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 52 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.04, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 7.11, eff. September 1, 2019.

Sec. 154.105. TITLE; OATHS. (a) On certification under Section 154.101 or as a provisional court reporter, a shorthand reporter may use the title "Certified Shorthand Reporter" or the abbreviation "CSR."

(b) A certified shorthand reporter may administer oaths to witnesses without being at the same location as the witness.

(c) The identity of a witness who is not in the physical presence of a certified shorthand reporter may be proven by:

(1) a statement under oath on the record by a party to the case stating that the party has actual knowledge of the witness's identity;

(2) a statement on the record by an attorney for a party to the case, or an attorney for the witness, verifying the witness's identity;

(3) a statement on the record by a notary who is in the presence of the witness verifying the witness's identity; or

(4) the witness's presentation for inspection by the court reporter of an official document issued by this state, another state, a federal agency, or another jurisdiction that verifies the witness's identity.

(e) Repealed by Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 9.010, eff. September 1, 2023.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 52 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B.

966), Sec. 1.04, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 7.12, eff. September 1, 2019.
Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 17.07, eff. September 1, 2021.
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 9.007, eff. September 1, 2023.
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 9.010, eff. September 1, 2023.

Sec. 154.106. FIRM REGISTRATION. (a) A shorthand reporting firm or an affiliate office may not assume or use the title or designation "court recording firm," "court reporting firm," or "shorthand reporting firm" or any abbreviation, title, designation, words, letters, sign, card, or device tending to indicate that the firm is a court reporting firm or shorthand reporting firm, or offer services as a court reporting firm or shorthand reporting firm, unless the firm and its affiliate offices are registered with the commission on a form prescribed by the commission as required by this subchapter.
(b) The commission may enforce this section against a firm, its affiliate office, or both, if the firm or affiliate office is not registered with the commission, by seeking an injunction or by filing a complaint in the district court of the county in which the firm or affiliate office is located or in Travis County. An action for an injunction is in addition to any other action, proceeding, or remedy authorized by law. The attorney general, a county or district attorney of this state, or counsel designated and empowered by the commission shall represent the commission.

Added by Acts 2001, 77th Leg., ch. 29, Sec. 10, eff. Sept. 1, 2001.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 52 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.04, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015,

84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 19, eff. September 1, 2017.

Sec. 154.107. CERTIFICATION AND REGISTRATION FEE AND RENEWAL. (a) A person who receives certification as a shorthand reporter or a shorthand reporting firm or affiliate office that registers with the commission must pay the initial fee and any other required fee before receiving the certification or registration.

(b) A certification or registration expires on the last day of the month in which the second anniversary of the date on which it was issued occurs unless the certification or registration is renewed on or before that day.

(c) On each renewal of the certification or registration, a fee is charged in accordance with Section 152.2015. A firm or the affiliate office of a firm that may not renew an expired registration as described by Section 152.2015(e) must pay all unpaid renewal and late fees charged for the expired registration, in addition to complying with all registration requirements and procedures, in order to obtain a new registration under Section 152.2015(e).

(d) Notwithstanding Section 152.2015 and Subsection (c) of this section, a shorthand reporting firm shall pay a registration or renewal fee in an amount equal to the fee for court reporter certification under Section 154.101 in lieu of the fee required for a shorthand reporting firm registration if a certified court reporter of the firm:

(1) has an ownership interest in the firm of more than 50 percent; and

(2) maintains actual control of the firm.

(e) Repealed by Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 35(1), eff. September 1, 2017.

(f) Repealed by Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 35(1), eff. September 1, 2017.

(g) Repealed by Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 35(1), eff. September 1, 2017.

(h) Repealed by Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 35(1), eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 29, Sec. 11, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 813, Sec. 12, eff. Sept. 1, 2003.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 52 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.04, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 20, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 35(1), eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 7.13, eff. September 1, 2019.

Sec. 154.108. CONTINUING EDUCATION. Subject to Section 152.101, the commission by rule shall require each court reporter who holds a certification issued by the commission and at least one person who has management responsibility for a shorthand reporting firm registered in this state to complete continuing professional education.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 7.14, eff. September 1, 2019.

Sec. 154.110. DISCIPLINARY ACTIONS AGAINST COURT REPORTERS. (a) After receiving a complaint and giving the certified shorthand reporter notice and an opportunity for a hearing as prescribed by Subchapter B, Chapter 153, the commission shall revoke, suspend, or refuse to renew the shorthand reporter's certification or issue a reprimand to the reporter for:

(1) fraud or corruption;
(2) dishonesty;
(3) wilful or negligent violation or failure of duty;
(4) incompetence;
(5) fraud or misrepresentation in obtaining certification;

(6) a final conviction of a felony or misdemeanor that directly relates to the duties and responsibilities of a certified shorthand reporter, as determined by supreme court rules;

(7) engaging in the practice of shorthand reporting using a method for which the reporter is not certified;

(8) engaging in the practice of shorthand reporting while certification is suspended;

(9) unprofessional conduct, including giving directly or indirectly, benefiting from, or being employed as a result of any gift, incentive, reward, or anything of value to attorneys, clients, or their representatives or agents, except for nominal items that do not exceed $100 in the aggregate for each recipient each year;

(10) entering into or providing services under a prohibited contract described by Section 154.115; or

(11) committing any other act that violates this chapter or a rule or provision of the code of ethics adopted under this subtitle.

(b) The commission may suspend the certification:

(1) for a designated period of time not to exceed 12 months;

(2) until the person corrects the deficiencies that were the grounds for the suspension; or

(3) until the person complies with any conditions imposed by the commission to ensure the person's future performance as a shorthand reporter.

(c) A suspended shorthand reporter may apply for reinstatement by presenting proof that:

(1) the designated time has expired;

(2) the person has corrected the deficiencies; or

(3) the person has complied with the conditions imposed by the commission.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 35(3), eff. September 1, 2017.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 506 (S.B. 37), Sec. 7(3), eff. June 7, 2019.

(f) The commission may place on probation a person whose certification is suspended. If a certification suspension is probated, the commission may require the person to:

(1) report regularly to the commission on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the commission; or

(3) continue or review professional education until the person attains a degree of skill satisfactory to the commission in those areas that are the basis of the probation.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 91, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 729, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 29, Sec. 13, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 813, Sec. 17, eff. Sept. 1, 2003.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 52 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.04, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 21, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 35(3), eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 506 (S.B. 37), Sec. 7(3), eff. June 7, 2019.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 7.15, eff. September 1, 2019.

Sec. 154.111. DISCIPLINARY ACTIONS AGAINST FIRMS. (a) After receiving a complaint and giving the shorthand reporting firm or affiliate office notice and an opportunity for a hearing as prescribed by Subchapter B, Chapter 153, the commission shall reprimand, assess a reasonable fine against, or suspend, revoke, or refuse to renew the registration of a shorthand reporting firm or affiliate office for:

(1) fraud or corruption;

(2) dishonesty;

(3) conduct on the part of an officer, director, or managerial employee of the shorthand reporting firm or affiliate office if the officer, director, or managerial employee orders,

encourages, or permits conduct that the officer, director, or managerial employee knows or should have known violates this subtitle;

(4) conduct on the part of an officer, director, or managerial employee or agent of the shorthand reporting firm or affiliate office who has direct supervisory authority over a person for whom the officer, director, employee, or agent knows or should have known violated this subtitle and knowingly fails to take reasonable remedial action to avoid or mitigate the consequences of the person's actions;

(5) fraud or misrepresentation in obtaining registration;

(6) a final conviction of an officer, director, or managerial employee of a shorthand reporting firm or affiliate office for a felony or misdemeanor that is directly related to the provision of court reporting services, as determined by supreme court rules;

(7) engaging the services of a reporter that the shorthand reporting firm or affiliate office knew or should have known was using a method for which the reporter is not certified;

(8) knowingly providing court reporting services while the shorthand reporting firm's or affiliate office's registration is suspended or engaging the services of a shorthand reporter whose certification the shorthand reporting firm or affiliate office knew or should have known was suspended;

(9) unprofessional conduct, including:

(A) giving directly or indirectly or benefiting from or being employed as a result of giving any gift, incentive, reward, or anything of value to attorneys, clients, or their representatives or agents, except for nominal items that do not exceed $100 in the aggregate for each recipient each year; or

(B) repeatedly committing to provide at a specific time and location court reporting services for an attorney in connection with a legal proceeding and unreasonably failing to fulfill the commitment under the terms of that commitment;

(10) entering into or providing services under a prohibited contract described by Section 154.115; or

(11) committing any other act that violates this chapter or a rule or provision of the code of ethics adopted under this subtitle.

(b) Nothing in Subsection (a)(9)(A) shall be construed to define providing value-added business services, including long-term

volume discounts, such as the pricing of products and services, as prohibited gifts, incentives, or rewards.

(c) The commission may suspend the registration of a shorthand reporting firm or affiliate office:

(1) for a designated period of time in accordance with Section 154.110(b);

(2) until the shorthand reporting firm or affiliate office corrects the deficiencies that were the grounds for the suspension; or

(3) until the shorthand reporting firm or affiliate office complies with any conditions imposed by the commission to ensure the shorthand reporting firm's or affiliate office's future performance.

(d) A shorthand reporting firm or affiliate office whose registration is suspended may apply for reinstatement by presenting proof that:

(1) the designated time has expired;

(2) the shorthand reporting firm or affiliate office has corrected the deficiencies; or

(3) the shorthand reporting firm or affiliate office has complied with the conditions imposed by the commission.

(e) Repealed by Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 35(4), eff. September 1, 2017.

(f) The commission may place on probation a shorthand reporting firm or affiliate office whose registration is suspended. If a registration suspension is probated, the commission may require the firm or office to:

(1) report regularly to the commission on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the commission; or

(3) through its officers, directors, managerial employees, or agents, continue or review professional education until those persons attain a degree of skill satisfactory to the commission in those areas that are the basis of the probation.

(g) The commission by rule shall define the conditions under which a shorthand reporting firm's or affiliate office's repeated failure to fulfill a commitment to provide court reporting services as described by Subsection (a)(9)(B) is considered unprofessional conduct and grounds for disciplinary action.

Added by Acts 2001, 77th Leg., ch. 29, Sec. 14, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 813, Sec. 18, eff. Sept. 1, 2003.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 52 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.04, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 22, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 35(4), eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 7.16(a), eff. September 1, 2019.

Sec. 154.112. EMPLOYMENT OF NONCERTIFIED PERSON FOR SHORTHAND REPORTING; CIVIL PENALTY. (a) A person who is not certified as a court reporter may be employed to engage in shorthand reporting until a certified shorthand reporter is available.

(b) A person who is not certified as a court reporter may engage in shorthand reporting to report an oral deposition only if:

(1) the uncertified person delivers an affidavit to the parties or to their counsel before the deposition begins stating that a certified shorthand reporter is not available; or

(2) the parties or their counsel stipulate on the record at the beginning of the deposition that a certified shorthand reporter is not available.

(c) This section does not apply to a deposition taken outside this state for use in this state.

(d) The person shall file the affidavit described by Subsection (b)(1) with the court as part of the certification required by Rule 203.2, Texas Rules of Civil Procedure.

(e) In addition to any other remedy authorized by law, the commission may:

(1) collect a civil penalty in an amount not to exceed $1,000 from a person who fails to comply with Subsection (b)(1) or (d); and

(2) seek injunctive relief for a second or subsequent violation of Subsection (b)(1) or (d) to prohibit the person from engaging in shorthand reporting unless the person is certified as a court reporter under this chapter.

(f) The commission shall collect a civil penalty assessed under Subsection (e)(1) following the same procedures the commission uses in taking disciplinary action against a certified court reporter for violating the laws and rules applicable to the reporter.

(g) The attorney general, a county or district attorney whose jurisdiction includes the location at which a deposition is taken, or legal counsel the commission designates may represent the commission for purposes of collecting the civil penalty or obtaining the injunctive relief.

(h) In an action authorized by this section, the commission may obtain reasonable attorney's fees, expenses, and costs incurred in obtaining the civil penalty or injunctive relief.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 52 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.04, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 17.08, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 9.008, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 9.009, eff. September 1, 2023.

Sec. 154.113. CRIMINAL PENALTY. (a) Except as provided by Section 154.112, a person commits an offense if the person engages in shorthand reporting in violation of Section 154.101. Each day of violation constitutes a separate offense.

(a-1) A person commits an offense if the person provides shorthand reporting firm services in this state in violation of Section 154.106. Each day of violation constitutes a separate

offense.

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

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 1037, Sec. 3, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 813, Sec. 19, eff. Sept. 1, 2003.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 52 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.04, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 7.17, eff. September 1, 2019.

Sec. 154.114. EXEMPTIONS. This chapter does not apply to:

(1) a party to the litigation involved;

(2) the attorney of the party; or

(3) a full-time employee of a party or a party's attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 52 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.04, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 154.115. PROHIBITED CONTRACTS. (a) A court reporter or shorthand reporting firm may not enter into or provide services under any contractual agreement, written or oral, exclusive or nonexclusive, that:

(1) undermines the impartiality of the court reporter;

(2) requires a court reporter to relinquish control of an original deposition transcript and copies of the transcript before it is certified and delivered to the custodial attorney;

(3) requires a court reporter to provide any service not made available to all parties to an action;

(4) gives or appears to give an exclusive advantage to any party; or

(5) restricts an attorney's choice in the selection of a court reporter or shorthand reporting firm.

(b) Subsections (a)(2) and (3) do not apply to a contract for court reporting services for a court, agency, or instrumentality of the United States or this state.

Added by Acts 1997, 75th Leg., ch. 729, Sec. 2, eff. Sept. 1, 1997.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 52 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.04, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 7.18, eff. September 1, 2019.

CHAPTER 155. DUTIES RESPECTING GUARDIANSHIP

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 155.001. DEFINITIONS. In this chapter:

(1) "Advisory board" means the Guardianship Certification Advisory Board.

(2) "Corporate fiduciary" has the meaning assigned by Section 1002.007, Estates Code.

(3) "Guardian" has the meaning assigned by Section 1002.012, Estates Code.

(4) "Guardianship program" means a local, county, or regional program that provides guardianship and related services to an incapacitated person or other person who needs assistance in making decisions concerning the person's own welfare or financial affairs.

(5) "Incapacitated person" has the meaning assigned by Section 1002.017, Estates Code.

(6) "Private professional guardian" means a person, other than an attorney or a corporate fiduciary, who is engaged in the business of providing guardianship services.

(6-a) Notwithstanding Section 151.001, "registration" means

registration of a guardianship under this chapter.

(7) "Ward" has the meaning assigned by Section 22.033, Estates Code.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.24, eff. September 1, 2005.
Transferred, redesignated and amended from Government Code, Chapter 111 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.05, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 9, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 23, eff. September 1, 2017.

Sec. 155.002. RULES. The supreme court may adopt rules consistent with this chapter, including rules governing the certification of individuals providing guardianship services.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.24, eff. September 1, 2005.
Transferred, redesignated and amended from Government Code, Chapter 111 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.05, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 155.051. ADVISORY BOARD. (a) The Guardianship Certification Advisory Board is established as an advisory board to the commission. The advisory board is composed of at least five members appointed by the supreme court.

(b) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(c) The supreme court shall appoint a presiding officer of the advisory board from among the advisory board members to serve for two years.

(d) A majority of the advisory board constitutes a quorum.

(e) Advisory board members serve for staggered six-year terms as ordered by the supreme court. Advisory board members serve without compensation but are entitled to reimbursement for travel expenses and other actual and necessary expenses incurred in the performance of official advisory board duties, as provided by the General Appropriations Act.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.24, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 32 (S.B. 507), Sec. 1, eff. September 1, 2007.
Transferred, redesignated and amended from Government Code, Chapter 111 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.05, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 155.052. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the advisory board may not vote, deliberate, or be counted as a member in attendance at a meeting of the advisory board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter;

(2) the role and functions of the advisory board; and

(3) any applicable ethics policies adopted by the commission.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.24, eff. September 1, 2005.
Transferred, redesignated and amended from Government Code, Chapter 111 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.05, eff. September 1, 2014.

Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

SUBCHAPTER C. STANDARDS FOR AND CERTIFICATION OF CERTAIN GUARDIANS

Sec. 155.101. STANDARDS FOR CERTAIN GUARDIANSHIPS AND ALTERNATIVES TO GUARDIANSHIP. (a) The commission shall adopt minimum standards for:

(1) the provision of guardianship services or other similar but less restrictive types of assistance or services by:

(A) individuals employed by or contracting with guardianship programs to provide the assistance or services on behalf of the programs; and

(B) private professional guardians; and

(2) the provision of guardianship services by the Department of Aging and Disability Services or its successor agency.

(b) The commission shall design the standards to protect the interests of an incapacitated person or other person needing assistance making decisions concerning the person's own welfare or financial affairs.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.24, eff. September 1, 2005.
Transferred, redesignated and amended from Government Code, Chapter 111 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.05, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 715 (S.B. 36), Sec. 2, eff. September 1, 2017.

Sec. 155.102. CERTIFICATION REQUIRED FOR CERTAIN GUARDIANS. (a) To provide guardianship services in this state, the following individuals must hold a certificate issued under this section:

(1) an individual who is a private professional guardian;

(2) an individual who will provide those services to a ward

of a private professional guardian on the guardian's behalf; and

(3) an individual, other than a volunteer, who will provide those services or other services under Section 161.114, Human Resources Code, to a ward of a guardianship program or the Department of Aging and Disability Services on the program's or department's behalf.

(a-1) An individual who directly supervises an individual who will provide guardianship services in this state to a ward of a guardianship program must hold a certificate issued under this section.

(b) An applicant for a certificate under this section must:

(1) apply to the commission on a form prescribed by the commission; and

(2) submit with the application a nonrefundable application fee in an amount determined by the commission, subject to the approval of the supreme court.

(c) The supreme court may adopt rules and procedures for issuing a certificate and for renewing, suspending, or revoking a certificate issued under this section. Any rules adopted by the supreme court under this section must:

(1) ensure compliance with the standards adopted under Section 155.101;

(2) provide that the commission establish qualifications for obtaining and maintaining certification;

(3) provide that the commission issue certificates under this section;

(4) provide that a certificate expires on the last day of the month in which the second anniversary of the date the certificate was issued occurs unless renewed on or before that day;

(5) prescribe procedures for accepting complaints and conducting investigations of alleged violations of the minimum standards adopted under Section 155.101 or other terms of the certification by certificate holders; and

(6) prescribe procedures by which the commission, after notice and hearing, may suspend or revoke the certificate of a holder who fails to substantially comply with appropriate standards or other terms of the certification.

(d) If the requirements for issuing a certificate under this section or reissuing a certificate under Section 153.060 include passage of an examination covering guardianship education

requirements:

(1) the commission shall develop and the director shall administer the examination; or

(2) the commission shall direct the director to contract with another person or entity the commission determines has the expertise and resources to develop and administer the examination.

(e) In lieu of the certification requirements imposed under this section, the commission may issue a certificate to an individual to engage in business as a guardian or to provide guardianship services in this state if the individual:

(1) submits an application to the commission in the form prescribed by the commission;

(2) pays a fee in a reasonable amount determined by the commission, subject to the approval of the supreme court;

(3) is certified, registered, or licensed as a guardian by a national organization or association the commission determines has requirements at least as stringent as those prescribed by the commission under this subchapter; and

(4) is in good standing with the organization or association with whom the person is licensed, certified, or registered.

(f) An employee of the Department of Aging and Disability Services who is applying for a certificate under this section to provide guardianship services to a ward of the department is exempt from payment of an application fee required by this section.

(g) An application fee or other fee collected under this section shall be deposited to the credit of the guardianship certification account in the general revenue fund and may be appropriated only to the office for the administration and enforcement of this chapter.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.24, eff. September 1, 2005.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 599 (S.B. 220), Sec. 1, eff. September 1, 2011.
Transferred, redesignated and amended from Government Code, Chapter 111 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.05, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015,

84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 24, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 715 (S.B. 36), Sec. 3, eff. September 1, 2017.

Sec. 155.103. PROVISIONAL CERTIFICATE. (a) Notwithstanding Section 155.102(a), the commission may issue a provisional certificate to an individual who:

(1) does not meet the qualifications for obtaining certification under Section 155.102; and

(2) possesses the qualifications for provisional certification required by rules adopted by the supreme court.

(b) An individual who holds a provisional certificate may provide guardianship services in this state only under the supervision of an individual certified under Section 155.102.

(c) The supreme court may adopt rules and procedures for issuing a provisional certificate under this section that, at a minimum, must:

(1) ensure compliance with the standards adopted under Section 155.101; and

(2) provide that the commission establishes qualifications for obtaining and maintaining the certification.

Added by Acts 2007, 80th Leg., R.S., Ch. 16 (S.B. 506), Sec. 2, eff. April 25, 2007.
Transferred, redesignated and amended from Government Code, Chapter 111 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.05, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 155.104. INFORMATION FROM PRIVATE PROFESSIONAL GUARDIANS. In addition to the information submitted under Section 1104.306, Estates Code, the director may require a private professional

guardian or a person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian to submit information considered necessary to monitor the person's compliance with the applicable standards adopted under Section 155.101 or with the certification requirements of Section 155.102.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.24, eff. September 1, 2005.
Transferred, redesignated and amended from Government Code, Chapter 111 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.05, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.032, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 25, eff. September 1, 2017.

Sec. 155.105. ANNUAL DISCLOSURE. (a) Not later than January 31 of each year, each guardianship program shall provide to the commission a report containing for the preceding year:

(1) the number of wards served by the guardianship program reported by county in which the application to create a guardianship for the ward is filed and the total number of wards served by the guardianship program;

(2) the name, business address, and business telephone number of each individual employed by or volunteering or contracting with the guardianship program to provide guardianship services to a ward or proposed ward of the program;

(3) the name of each county in which an individual described by Subdivision (2) provides or is authorized to provide guardianship services;

(4) the total amount of money received from this state for the provision of guardianship services; and

(5) the amount of money received from any other public source, including a county or the federal government, for the

provision of guardianship services, reported by source, and the total amount of money received from those public sources.

(b) Not later than January 31 of each year, each private professional guardian shall provide to the commission a report containing for the preceding year:

(1) the number of wards served by the private professional guardian reported by county in which the application to create a guardianship for the ward is filed and the total number of wards served by the private professional guardian;

(2) the name, business address, and business telephone number of each individual who provides guardianship services to a ward of the private professional guardian on behalf of the private professional guardian;

(3) the total amount of money received from this state for the provision of guardianship services; and

(4) the amount of money received from any other public source, including a county or the federal government, for the provision of guardianship services, reported by source, and the total amount of money received from those public sources.

(c) A private professional guardian shall submit with the report required under Subsection (b) a copy of the guardian's application for a certificate of registration required by Section 1104.302, Estates Code.

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 3.24, eff. September 1, 2005.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 510 (S.B. 1055), Sec. 1, eff. September 1, 2009.
Transferred, redesignated and amended from Government Code, Chapter 111 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.05, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.033, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 26, eff. September 1, 2017.

Sec. 155.106. PROHIBITED EMPLOYMENT. A guardianship program may not employ an individual to provide, or directly supervise the provision of, guardianship and related services on the program's behalf:

(1) if a certificate issued to the individual under this subchapter is expired or refused renewal, or has been revoked and not been reissued; or

(2) during the time a certificate issued to the individual under this subchapter is suspended.

Added by Acts 2017, 85th Leg., R.S., Ch. 715 (S.B. 36), Sec. 4, eff. September 1, 2017.

SUBCHAPTER D. GUARDIANSHIP REGISTRATION AND DATABASE

Sec. 155.151. REGISTRATION OF GUARDIANSHIPS. (a) The supreme court, after consulting with the office and the commission, shall by rule establish a mandatory registration program for guardianships under which all guardianships in this state shall be required to register with the commission.

(b) In establishing rules under this section, the supreme court shall ensure courts with jurisdiction over a guardianship immediately notify the commission of the removal of a guardian.

Added by Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 11, eff. September 1, 2017.

Sec. 155.152. GUARDIANSHIP DATABASE. In cooperation with the commission and courts with jurisdiction over guardianship proceedings and by using the information obtained by the commission under this subchapter, the office shall establish and maintain a central database of all guardianships subject to the jurisdiction of this state.

Added by Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 11, eff. September 1, 2017.

Sec. 155.153. ACCESS TO DATABASE. (a) The office shall ensure the database is accessible to the Department of Public Safety for law enforcement purposes.

(b) Subject to Subsection (c), the Department of Public Safety shall make information from the database available to law enforcement personnel through the Texas Law Enforcement Telecommunications System or a successor system of telecommunication used by law enforcement agencies and operated by the department.

(c) The only information that may be disclosed from the database to a law enforcement official inquiring into a guardianship is:

(1) the name, sex, and date of birth of a ward;

(2) the name, telephone number, and address of the guardian of a ward; and

(3) the name of the court with jurisdiction over the guardianship.

(d) The office shall limit access to the database to properly trained staff.

Added by Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 11, eff. September 1, 2017.

Sec. 155.154. DATABASE DISCLAIMER. To the extent feasible, the following disclaimer shall be displayed when the database is accessed: "This database is for the limited purpose of determining whether an individual has a guardian and obtaining a guardian's contact information. The scope of a guardian's authority is determined by court order, and a guardian should not be presumed to have the authority to act for or on behalf of a ward until the extent of the guardian's authority is verified by the court with jurisdiction over the guardianship."

Added by Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 11, eff. September 1, 2017.

Sec. 155.155. CONFIDENTIALITY OF INFORMATION IN DATABASE. (a) Information that is contained in the database required under Section 155.152, including personally identifying information of a guardian or a ward, is confidential and not subject to disclosure under

Chapter 552 or any other law.

(b) A law enforcement agency or officer that receives the information must maintain the confidentiality of the information, may not disclose the information under Chapter 552 or any other law, and may not use the information for a purpose that does not directly relate to the purpose for which it was obtained.

Added by Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 11, eff. September 1, 2017.

SUBCHAPTER E. DUTY TO ASSIST IN QUALIFYING CERTAIN GUARDIANS

Sec. 155.201. DEFINITION. In this subchapter, "probate court" has the meaning assigned by Section 1002.008, Estates Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 11, eff. September 1, 2017.

Sec. 155.202. APPLICABILITY. This subchapter does not apply with respect to the following persons who are or will be providing guardianship services to a proposed ward:

(1) an attorney or corporate fiduciary; or

(2) an individual subject to certification under Subchapter C.

Added by Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 11, eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3376, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 155.203. DUTY TO PROVIDE ASSISTANCE IN QUALIFYING GUARDIANS; SUPREME COURT RULEMAKING. (a) The supreme court, after consulting with the commission, shall by rule establish a process by which the commission performs training and criminal history background checks for individuals seeking appointment as guardian.

(b) In adopting rules under this section, the supreme court shall ensure that the commission is required to provide confirmation of a person's completion of training and a copy of the person's

criminal history background check to the probate court not later than the 10th day before the date of the hearing to appoint a guardian.

Added by Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 11, eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3376, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 155.204. TRAINING REQUIRED. (a) In adopting rules under Section 155.203, the supreme court shall:

(1) subject to Subdivision (2), ensure that before a person is appointed guardian, the person completes a training course:

(A) designed by the commission to educate proposed guardians about their responsibilities as guardians, alternatives to guardianships, supports and services available to the proposed ward, and a ward's bill of rights under Section 1151.351, Estates Code; and

(B) made available for free to proposed guardians by the commission online via the commission's Internet website and, on request, in a written format; and

(2) identify the circumstances under which a court may waive the training required under this section.

(b) Notwithstanding Section 155.203(b) or Section 1251.052, Estates Code, the training required under Subsection (a):

(1) does not apply to the initial appointment of a temporary guardian under Chapter 1251, Estates Code; and

(2) applies only if there is a motion to extend the term of a temporary guardian.

(c) The commission may make the training required under this section available to court investigators and guardians ad litem. A court investigator or guardian ad litem is not required to receive training unless required to do so by a court.

Added by Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 11, eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2587, 89th Legislature,

Regular Session, for amendments affecting the following section.

Sec. 155.205. DUTY TO OBTAIN CRIMINAL HISTORY RECORD INFORMATION. (a) In accordance with Subsection (c) and the rules adopted by the supreme court under Section 155.203, the commission shall obtain criminal history record information that is maintained by the Department of Public Safety. The clerk shall obtain in accordance with Subsection (b) criminal history record information from the Federal Bureau of Investigation identification division relating to an individual seeking appointment as a guardian or temporary guardian.

(b) The clerk shall obtain fingerprint-based criminal history record information of a proposed guardian if:

(1) the liquid assets of the estate of a ward exceed $50,000; or

(2) the proposed guardian is not a resident of this state.

(c) The commission shall obtain name-based criminal history record information of a proposed guardian, including any criminal history record information under the current name and all former names of the proposed guardian, if:

(1) the liquid assets of the estate of a ward are $50,000 or less; and

(2) the proposed guardian is a resident of this state.

(d) Each proposed guardian described by Subsection (b) shall file with the commission proof of having submitted to a fingerprint-based criminal history search.

Added by Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 11, eff. September 1, 2017.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 71, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 576 (S.B. 615), Sec. 31, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 9, eff. June 13, 2023.

Sec. 155.206. INFORMATION FOR EXCLUSIVE USE OF COMMISSION AND COURT. (a) Criminal history record information obtained under this subchapter is privileged and confidential and is for the exclusive

use of the commission and the court with jurisdiction over the guardianship. The criminal history record information may not be released or otherwise disclosed to any person or agency except on court order or consent of the individual being investigated.

(b) The commission may destroy the criminal history record information after the information is used for the purposes authorized by this subchapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 11, eff. September 1, 2017.

Sec. 155.207. USE OF CRIMINAL HISTORY RECORD INFORMATION. (a) The commission shall use the criminal history record information obtained under this subchapter only for a purpose authorized by this subchapter.

(b) A court may use the criminal history record information obtained under this subchapter only in the same manner and only to the same extent a court is authorized to use the information under Section 1104.409, Estates Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 11, eff. September 1, 2017.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 10, eff. June 13, 2023.

Sec. 155.208. CLARIFICATION OF AUTHORITY GRANTED. (a) This subchapter does not grant to the commission the authority to:

(1) establish additional qualifications or a code of ethics for individuals subject to training or a background check under this subchapter, require those individuals to pass examinations or take continuing education courses, or otherwise regulate those individuals; or

(2) interfere with a court's authority to ensure a guardian is performing all of the duties required of the guardian respecting a ward.

(b) Individuals subject to training or a background check under this subchapter are not subject to enforcement action under Chapter 153.

Added by Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 11, eff. September 1, 2017.

Sec. 155.209. FEE FOR OBTAINING CRIMINAL HISTORY RECORD INFORMATION. (a) Except as provided by Subsection (b), the commission may charge a fee to obtain criminal history record information under this subchapter, in an amount approved by the supreme court.

(b) The supreme court may adopt rules excluding individuals who are indigent from having to pay the fee authorized by this section.

(c) A guardian is entitled to reimbursement from the guardianship estate as provided by Subchapter C, Chapter 1155, Estates Code, for the fee authorized by this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 11, eff. September 1, 2017.

SUBCHAPTER F. REGULATION OF GUARDIANSHIP PROGRAMS

Sec. 155.251. APPLICATION OF SUBCHAPTER. This subchapter does not apply to guardianship and related services provided by a guardianship program under a contract with the Health and Human Services Commission.

Added by Acts 2017, 85th Leg., R.S., Ch. 715 (S.B. 36), Sec. 5, eff. September 1, 2017.
Redesignated from Government Code, Section 155.151 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(21), eff. September 1, 2019.

Sec. 155.252. STANDARDS FOR OPERATION OF GUARDIANSHIP PROGRAMS. (a) The commission, in consultation with the Health and Human Services Commission and other interested parties, shall adopt minimum standards for the operation of guardianship programs.

(b) The commission shall design the standards to monitor and ensure the quality of guardianship and related services provided by guardianship programs.

(c) Standards adopted under this section must be designed to ensure continued compliance by a guardianship program with this

chapter and other applicable state law.

Added by Acts 2017, 85th Leg., R.S., Ch. 715 (S.B. 36), Sec. 5, eff. September 1, 2017.
Redesignated from Government Code, Section 155.152 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(21), eff. September 1, 2019.

Sec. 155.253. REGISTRATION REQUIRED FOR GUARDIANSHIP PROGRAMS. (a) A guardianship program may not provide guardianship and related services to an incapacitated person or other person described by Section 155.001(4) unless the program is registered with and holds a certificate of registration issued by the commission under this subchapter.

(b) The supreme court shall adopt rules and procedures for issuing, renewing, suspending, or revoking a registration certificate under this section. Rules adopted by the supreme court under this section must:

(1) ensure compliance with the standards adopted under Section 155.252;

(2) provide that the commission establish qualifications for obtaining and maintaining a registration certificate;

(3) provide that a registration certificate expires on the second anniversary of the date the certificate is issued;

(4) prescribe procedures for accepting complaints and conducting investigations of alleged violations by guardianship programs of the standards adopted under Section 155.252 or other violations of this chapter or other applicable state law;

(5) prescribe procedures by which the commission, after notice and hearing, may suspend or revoke the registration certificate of a guardianship program that does not substantially comply with the standards adopted under Section 155.252 or other provisions of this chapter or other applicable state law; and

(6) prescribe procedures for addressing a guardianship for which a guardianship program is the appointed guardian if the guardianship program's registration certificate is expired or refused renewal, or has been revoked and not been reissued.

Added by Acts 2017, 85th Leg., R.S., Ch. 715 (S.B. 36), Sec. 5, eff. September 1, 2017.

Redesignated from Government Code, Section 155.153 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(21), eff. September 1, 2019.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.002(10), eff. September 1, 2019.

Sec. 155.254. REGISTRATION DATABASE. (a) The commission shall make available on the commission's Internet website a publicly accessible list of all registered guardianship programs. The list must contain the following for each guardianship program:

(1) the information provided under Section 155.105(a); and

(2) whether the guardianship program holds in good standing a registration certificate under this subchapter.

(b) The commission shall update the list described by Subsection (a) at least quarterly.

Added by Acts 2017, 85th Leg., R.S., Ch. 715 (S.B. 36), Sec. 5, eff. September 1, 2017.
Redesignated from Government Code, Section 155.154 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(21), eff. September 1, 2019.

SUBCHAPTER G. GUARDIANSHIP MEDIATION TRAINING

Sec. 155.301. TRAINING. (a) The office by rule shall establish a training course with at least 24 hours of training for persons facilitating mediations under Title 3, Estates Code, that may be provided by a mediation training provider approved by the office. A mediation training provider shall adhere to the established curriculum in providing the training course.

(b) This section does not require a mediator facilitating a mediation under Title 3, Estates Code, to attend or be certified under a training course established under Subsection (a).

Added by Acts 2021, 87th Leg., R.S., Ch. 382 (S.B. 1129), Sec. 5, eff. September 1, 2021.

CHAPTER 156. PROCESS SERVER CERTIFICATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 156.001. DEFINITIONS. In this chapter:

(1) "Advisory board" means the Process Server Certification Advisory Board.

(2) "Certified process server" or "process server" means a person who is certified by the commission under order of the supreme court to serve process.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.06, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 27, eff. September 1, 2017.

SUBCHAPTER B. PROCESS SERVER CERTIFICATION ADVISORY BOARD

Sec. 156.051. ORGANIZATION. (a) The Process Server Certification Advisory Board is established as an advisory board to the commission. The advisory board is composed of at least five members appointed by the supreme court.

(b) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(c) The supreme court shall appoint a presiding officer of the advisory board from among the advisory board members to serve for two years.

(d) A majority of the advisory board constitutes a quorum.

(e) Advisory board members serve staggered six-year terms as ordered by the supreme court.

(f) If a vacancy occurs on the advisory board, the supreme court shall appoint a person to serve the remainder of the term.

(g) Advisory board members serve without compensation but are entitled to reimbursement for travel expenses and other actual and necessary expenses incurred in the performance of official advisory board duties, as provided by the General Appropriations Act.

Added by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.06, eff. September 1, 2014.

Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 156.052. FEES FOR PROCESS SERVER CERTIFICATION. (a) The commission may recommend to the supreme court the fees to be charged for process server certification and renewal of certification. The supreme court must approve the fees recommended by the commission before the fees may be collected.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 35(5), eff. September 1, 2017.

(c) The office may collect the fees recommended by the commission and approved by the supreme court. Fees collected under this section shall be sent to the comptroller for deposit to the credit of the general revenue fund.

(d) Fees collected under this section may be appropriated to the office for the support of regulatory programs for process servers, guardians, and court reporters.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1138 (H.B. 1614), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 7.01, eff. September 28, 2011.
Transferred, redesignated and amended from Government Code, Section 51.008 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.07, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 35(5), eff. September 1, 2017.

Sec. 156.053. PROCESS SERVER CERTIFICATION RENEWAL; FEES. Certification of a process server expires on the last day of the month in which the second anniversary of the date on which the certification was issued occurs unless it is renewed on or before

that date. On renewal of certification, each process server must pay a fee to the commission in accordance with Section 152.2015.

Added by Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 28, eff. September 1, 2017.

CHAPTER 157. COURT INTERPRETERS LICENSING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 157.001. DEFINITIONS. In this chapter:

(1) "Advisory board" means the licensed court interpreter advisory board.

(2) "Licensed court interpreter" means an individual licensed under this chapter by the commission to interpret court proceedings for an individual who can hear but who has no or limited English proficiency.

Added by Acts 2001, 77th Leg., ch. 1139, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 816, Sec. 8.001, 8.005, eff. Sept. 1, 2003.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 57 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.08, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 29, eff. September 1, 2017.

SUBCHAPTER B. LICENSED COURT INTERPRETER ADVISORY BOARD

Sec. 157.051. LICENSED COURT INTERPRETER ADVISORY BOARD. (a) The licensed court interpreter advisory board is established as an advisory board to the commission. The advisory board is composed of at least five members appointed by the supreme court. Members of the advisory board serve staggered six-year terms as ordered by the supreme court.

(b) The supreme court shall select from the advisory board members a presiding officer of the advisory board to serve for two years.

(c) Members shall be appointed without regard to race, color, disability, sex, religion, age, or national origin. The membership of the advisory board must reflect the geographical and cultural diversity of the state.

(d) The supreme court may remove a member of the advisory board for inefficiency or neglect of duty in office.

(e) A majority of the advisory board constitutes a quorum.

(f) The advisory board shall advise the commission regarding the adoption of rules and the design of a licensing examination.

(g) An advisory board member is entitled to reimbursement for travel expenses and other actual and necessary expenses incurred in attending meetings of the advisory board in the amount of the per diem set by the General Appropriations Act. A member may not receive compensation for the member's services as an advisory board member.

Added by Acts 2001, 77th Leg., ch. 1139, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 816, Sec. 8.002, eff. Sept. 1, 2003.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 57 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.08, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

SUBCHAPTER C. LICENSE ISSUANCE

Sec. 157.101. ISSUANCE OF LICENSE; TERM. (a) The director shall issue a court interpreter license to an applicant who:

(1) can interpret for an individual who can hear but who has no or limited English proficiency;

(2) passes the appropriate examination prescribed by the commission within the period specified in Section 152.201(c-1); and

(3) possesses the other qualifications for the license required by this chapter or by rules adopted under this chapter.

(b) The commission shall adopt rules relating to licensing under this chapter. The rules must be approved by the supreme court. The director shall prescribe all forms required under this chapter.

(c) A license issued under this chapter expires on the last day of the month in which the second anniversary of the date on which the

license was issued occurs unless it is renewed on or before that date.

(d) A license issued under this chapter must include at least one of the following designations:

(1) a basic designation that permits the interpreter to interpret court proceedings in justice courts and municipal courts that are not municipal courts of record, but the designation does not permit the interpreter to interpret a proceeding before the court in which the judge is acting as a magistrate; or

(2) a master designation that permits the interpreter to interpret court proceedings in all courts in this state, including justice courts and municipal courts described by Subdivision (1).

(e) In adopting rules relating to licensing under this subchapter, the commission shall, after consulting with the advisory board, prescribe the minimum score an individual must achieve on an examination to receive a license that includes a basic designation under Subsection (d) and the minimum score an individual must achieve to receive a license that includes a master designation under that subsection.

Added by Acts 2001, 77th Leg., ch. 1139, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 816, Sec. 8.003, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1198 (H.B. 4445), Sec. 2, eff. September 1, 2011.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 57 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.08, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 30, eff. September 1, 2017.

Sec. 157.102. COURT INTERPRETER LICENSE. To qualify for a court interpreter license under this chapter, an individual must apply on a form prescribed by the commission and demonstrate, in the

manner required by the director, reasonable proficiency in interpreting English and court proceedings for individuals who can hear but who have no or limited English proficiency.

Added by Acts 2001, 77th Leg., ch. 1139, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 816, Sec. 26.001, eff. Sept. 1, 2003.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 57 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.08, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 31, eff. September 1, 2017.

Sec. 157.103. EXAMINATIONS. (a) The director shall prepare examinations under this chapter that test an applicant's knowledge, skill, and efficiency in interpreting under this chapter. The same examinations must be used for issuing a license that includes a basic designation or master designation as described by Section 157.101(d).

(b) An individual who fails an examination may apply for reexamination at a scheduled examination held at least six months after the date the individual failed the original examination.

(c) Examinations shall be offered in the state at least twice a year at times and places designated by the director.

Added by Acts 2001, 77th Leg., ch. 1139, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 816, Sec. 26.002, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1198 (H.B. 4445), Sec. 3, eff. September 1, 2011.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 57 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.08, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 157.104. COMMISSION DUTIES. (a) The commission shall enforce this chapter.

(b) The commission shall investigate allegations of violations of this chapter.

Added by Acts 2001, 77th Leg., ch. 1139, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 816, Sec. 26.003, 26.004, eff. Sept. 1, 2003.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 57 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.08, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 32, eff. September 1, 2017.

Sec. 157.105. SUSPENSION, REFUSAL OF RENEWAL, AND REVOCATION OF LICENSES; REISSUANCE. (a) After providing the opportunity for a hearing in accordance with Section 153.055, the commission shall suspend, revoke, or refuse to renew a court interpreter license on a finding that the individual:

(1) made a material misstatement in an application for a license;

(2) disregarded or violated this chapter or a rule adopted under this chapter; or

(3) engaged in dishonorable or unethical conduct likely to deceive, defraud, or harm the public or a person for whom the interpreter interprets.

(b) In accordance with Section 153.060, the commission may reissue a license to an individual whose license has been revoked or refused renewal if the individual applies in writing to the department and shows good cause to justify reissuance of the license.

Added by Acts 2001, 77th Leg., ch. 1139, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 816, Sec. 8.004, eff. Sept. 1, 2003.

Transferred, redesignated and amended from Government Code, Section 51.008 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.07, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 33, eff. September 1, 2017.

Sec. 157.106. PROHIBITED ACTS. A person may not advertise, represent to be, or act as a licensed court interpreter unless the person holds an appropriate license under this chapter.

Added by Acts 2001, 77th Leg., ch. 1139, Sec. 1, eff. Jan. 1, 2002.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 57 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.08, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.

Sec. 157.107. OFFENSE; ADMINISTRATIVE PENALTY. (a) A person commits an offense if the person violates this chapter or a rule adopted under this chapter. An offense under this subsection is a Class A misdemeanor.
(b) A person who violates this chapter or a rule adopted under this chapter is subject to an administrative penalty assessed by the commission as provided by Chapter 153, in addition to administrative sanctions that may be imposed under Section 157.105.

Added by Acts 2001, 77th Leg., ch. 1139, Sec. 1, eff. Jan. 1, 2002.
Transferred, redesignated and amended from Government Code, Subchapter C, Chapter 57 by Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 1.08, eff. September 1, 2014.
Redesignated from Government Code, Subtitle K, Title 2 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(21), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 516 (S.B. 43), Sec. 34, eff. September 1, 2017.

CHAPTER 158. COURT SECURITY OFFICERS

Sec. 158.001. DEFINITION. In this chapter, "court security officer" means a constable, sheriff, sheriff's deputy, municipal peace officer, or any other person assigned to provide security for an appellate, district, statutory county, county, municipal, or justice court in this state.

Added by Acts 2017, 85th Leg., R.S., Ch. 190 (S.B. 42), Sec. 15, eff. September 1, 2017.

Sec. 158.002. COURT SECURITY CERTIFICATION. (a) Except as provided by Subsection (b), a person may not serve as a court security officer for an appellate, district, statutory county, county, municipal, or justice court in this state unless the person holds a court security certification issued by a training program approved by the Texas Commission on Law Enforcement.

(b) A court security officer is not required to hold a court security certification to provide security to a court described by Subsection (a) before the first anniversary of the date the officer begins providing security for the court.

Added by Acts 2017, 85th Leg., R.S., Ch. 190 (S.B. 42), Sec. 15, eff. September 1, 2017.

Sec. 158.003. VERIFICATION. The sheriff, constable, law enforcement agency, or other entity that provides security for a court shall verify that each court security officer holds the court security certification as required by this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 190 (S.B. 42), Sec. 15, eff. September 1, 2017.

SUBTITLE M. COURT PROGRAMS REGULATION

CHAPTER 171. EDUCATIONAL PROGRAMS REGULATED BY TEXAS DEPARTMENT OF LICENSING AND REGULATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 171.0001. DEFINITIONS. In this chapter:

(1) "Alcohol educational program for minors" means an alcohol awareness program described by Section 106.115, Alcoholic Beverage Code.

(2) "Certificate of program completion" means a uniform, serially numbered certificate that is given by a program provider to a participant who successfully completes a court-ordered program.

(3) "Commission" means the Texas Commission of Licensing and Regulation.

(4) "Court-ordered program" means any of the following programs:

(A) the alcohol educational program for minors;

(B) the drug offense educational program;

(C) the intervention program for intoxication offenses; or

(D) the educational program for intoxication offenses.

(5) "Department" means the Texas Department of Licensing and Regulation.

(6) "Drug offense educational program" means an educational program described by Section 521.374(a)(1), Transportation Code.

(7) "Educational program for intoxication offenses" means an educational program described by Article 42A.403, Code of Criminal Procedure.

(8) "Executive director" means the executive director of the department.

(9) "Instructor" means a person licensed by the department to instruct a court-ordered program.

(10) "Intervention program for intoxication offenses" means an educational program described by Article 42A.404, Code of Criminal Procedure.

(11) "Participant" means a person who attends, takes, or completes a court-ordered program.

(12) "Program provider" means a person licensed by the department to offer or provide a court-ordered program.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0002. APPLICABILITY. This chapter does not affect a court's jurisdiction or authority to require court-ordered programs. A court may specify the type and format of the court-ordered program that must be completed by the individual.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION, DEPARTMENT, AND EXECUTIVE DIRECTOR

Sec. 171.0051. GENERAL POWERS AND DUTIES. The commission, department, or executive director, as appropriate, shall administer and enforce this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0052. POWERS AND DUTIES OF DEPARTMENT. The department shall:

(1) prescribe the application form for a license under this chapter;

(2) evaluate the qualifications of applicants; and

(3) enforce minimum standards applicable to program providers, instructors, and court-ordered programs.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0053. RULES. (a) The commission shall adopt rules necessary to administer and enforce this chapter. The rules regulating court-ordered programs under this chapter must include:

(1) the criteria for program administration;

(2) the structure, length, content, and manner of program delivery;

(3) the criteria for a participant to successfully complete the program;

(4) maintenance of program and participant records;

(5) reports to be filed with the department; and

(6) the use of supplemental educational materials.

(b) The commission may adopt rules for court-ordered programs related to:

(1) program security and attendance verification;

(2) participant privacy;

(3) the conduct of instructors;

(4) teaching requirements for instructors; and

(5) participant evaluations, screenings, and exit interviews.

(c) The commission may require different information to be reported for each type of court-ordered program.

(d) The commission may consult with other state agencies in the development of rules under this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0054. FEES. (a) The commission by rule shall set fees in amounts that are reasonable and necessary to cover the costs of administering and enforcing this chapter, which may include fees for:

(1) the issuance or renewal of a license;

(2) instructor training courses, materials, and any applicable examinations or end-of-course assessments;

(3) instructor continuing education courses;

(4) the issuance of a certificate of program completion or a certificate number; and

(5) the curricula and materials used for a court-ordered program.

(b) A fee imposed by the department under this chapter is not refundable.

(c) The department or the department's authorized representative may collect a fee imposed under this chapter. An authorized representative of the department may charge a fee only in accordance with the terms of a contract with the department.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0055. FORMAT OF COURT-ORDERED PROGRAM. A provider may offer a court-ordered program under this chapter in-person or online.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0056. CODE OF ETHICS. The commission shall adopt and publish a code of ethics for license holders.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0057. ELECTRONIC TRANSMISSION OF PROGRAM INFORMATION. The department may develop and implement procedures to electronically transmit information regarding court-ordered programs to municipal and justice courts.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0058. MEMORANDUM OF UNDERSTANDING. The department may enter into a memorandum of understanding with the Department of Public Safety, the Texas Department of Transportation, the Texas Department of Criminal Justice, the Health and Human Services Commission, the Department of State Health Services, the Office of Court Administration of the Texas Judicial System, or any other appropriate state agency regarding the development of rules, curricula, certificates of program completion, or certificate numbers for court-ordered programs.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

SUBCHAPTER C. PROGRAM PROVIDER LICENSE REQUIREMENTS

Sec. 171.0101. PROGRAM PROVIDER LICENSE REQUIRED. A person may not provide or offer to provide a court-ordered program unless the person holds a program provider license issued under this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0102. ELIGIBILITY REQUIREMENTS FOR PROGRAM PROVIDER LICENSE. (a) The commission by rule shall establish eligibility requirements and criteria for the issuance of a program provider license under this chapter.

(b) The commission by rule may establish eligibility requirements based on:

(1) the type of court-ordered program the applicant seeks to provide;

(2) whether the program is offered in-person or online; and

(3) if the program is offered in-person, the location where the program will be provided.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0103. PROGRAM PROVIDER LICENSE ENDORSEMENTS. (a) A license for a program provider must be endorsed with one or more of the following classifications:

(1) the alcohol educational program for minors;

(2) the drug offense educational program;

(3) the educational program for intoxication offenses; or

(4) the intervention program for intoxication offenses.

(b) A license holder may not provide a court-ordered program for which the person's license is not endorsed.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0104. ISSUANCE OF PROGRAM PROVIDER LICENSE. The department shall issue a program provider license to an applicant who:

(1) meets the eligibility requirements and criteria established by commission rule;

(2) submits a completed application to the department on the form prescribed by the department; and

(3) pays the nonrefundable license application fee set by the commission.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

SUBCHAPTER D. INSTRUCTOR LICENSE REQUIREMENTS AND ISSUANCE

Sec. 171.0151. INSTRUCTOR LICENSE REQUIRED. A person may not instruct or represent that the person is an instructor of a court-ordered program to which this chapter applies unless the person holds an instructor license issued under this subchapter with the appropriate endorsement for that program.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0152. ISSUANCE OF INSTRUCTOR LICENSE. (a) The department shall issue an instructor license for a particular court-ordered program to an applicant who:

(1) meets the eligibility requirements and criteria established by commission rule;

(2) submits a completed application to the department on the form prescribed by the department;

(3) successfully completes the instructor training course and any applicable examinations or end-of-course assessments under Section 171.0155; and

(4) pays the license application fee.

(b) An instructor shall carry the instructor license at all times while providing instruction at a court-ordered program.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0153. INSTRUCTOR LICENSE ENDORSEMENTS. (a) An instructor license must be endorsed with one or more of the following classifications:

(1) the alcohol educational program for minors;

(2) the drug offense educational program;

(3) the educational program for intoxication offenses; or

(4) the intervention program for intoxication offenses.

(b) A license holder may not instruct a court-ordered program for which the person's license is not endorsed.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0154. ELIGIBILITY REQUIREMENTS FOR INSTRUCTOR LICENSE. The commission by rule shall establish requirements for the issuance of an instructor license under this chapter. The commission by rule may establish eligibility criteria for instructors based on the type of court-ordered program for which the applicant seeks an endorsement, including education and experience requirements.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0155. INSTRUCTOR TRAINING COURSE; EXAMINATION OR ASSESSMENT. (a) The commission by rule shall establish the requirements for the instructor training course and any applicable examinations or end-of-course assessments.

(b) The department or the department's authorized representative shall provide the training course and administer examinations for applicants for an instructor license.

(c) The applicant must pay all fees associated with the instructor training course and any applicable examinations or end-of-course assessments.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

SUBCHAPTER E. RESTRICTIONS ON LICENSE

Sec. 171.0201. LICENSE NOT TRANSFERABLE. A license issued under this chapter is not transferable or assignable.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0202. PROGRAM PROVIDER CHANGE OF OWNERSHIP. Not less than 30 days before the date of a change in ownership of a program provider, the proposed new owner must apply for a new program provider license with an endorsement for each type of court-ordered program to be offered by the new owner.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

SUBCHAPTER F. LICENSE TERM AND RENEWAL

Sec. 171.0251. LICENSE TERM. A license issued under this chapter is valid for one or two years from the date of issuance as prescribed by commission rule.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0252. LICENSE RENEWAL. The commission by rule shall establish the requirements for renewing a license issued under this chapter, including the payment of applicable fees.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0253. CONTINUING EDUCATION FOR RENEWAL OF INSTRUCTOR LICENSE. The commission by rule shall establish the minimum number of hours of continuing education that a license holder must complete to renew an instructor license issued under Subchapter D. The commission may require a different number of hours of continuing education for each type of court-ordered program for which the license holder holds an endorsement.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

SUBCHAPTER G. REQUIREMENTS FOR COURT-ORDERED PROGRAMS

Sec. 171.0301. GENERAL REQUIREMENTS FOR COURT-ORDERED PROGRAMS. (a) The department or the department's authorized representative shall develop the curriculum and educational materials to be used for each court-ordered program.

(b) A court-ordered program must be:

(1) provided by a program provider licensed for the type of program;

(2) taught by an instructor with the appropriate endorsement for the program using curriculum approved by the department; and

(3) delivered in the program format or at the location approved by the department.

(c) A program provider may only employ or contract with an instructor who holds a license with an endorsement for the program being provided.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0302. DISCRIMINATION PROHIBITED. A program provider or instructor may not discriminate against participants based on sex, race, religion, age, national or ethnic origin, or disability.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0303. CERTIFICATE OF PROGRAM COMPLETION. (a) The department shall issue or provide for the issuance of a certificate of program completion or certificate number showing completion of a court-ordered program.

(b) The commission by rule shall provide for the form, design, content, and distribution of certificates of program completion and certificate numbers.

(c) The commission by rule shall adopt a system for program providers to provide for the appropriate care, custody, and control of certificates of program completion and certificate numbers.

(d) The commission by rule shall establish requirements regarding the submission of a copy of a certificate of program

completion or certificate number to the appropriate court, state agency, or community supervision and corrections department.

(e) A program provider shall submit to the department information regarding programs, instructors, and participants. The commission may require different information to be reported for each type of court-ordered program.

(f) A program provider shall submit to the department required information relating to certificates of program completion issued by the program provider in a manner prescribed by the department.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0304. DISPLAY OF LICENSE AND DEPARTMENT CONTACT INFORMATION. The commission by rule shall establish:

(1) requirements for providers and instructors regarding the displaying or posting of a license or providing notice of a license number to a participant of a court-ordered program; and

(2) notification methods for providers and instructors to provide a participant with the name of the department, mailing address, telephone number, and Internet website address for the purpose of submitting a complaint regarding the court-ordered program.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0305. INFORMATION REQUIRED. A program provider shall maintain and make available to participants information regarding course fees, schedules, methods of course delivery, and locations, as applicable, for all court-ordered programs provided by the program provider.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

SUBCHAPTER H. PROHIBITED PRACTICES AND ENFORCEMENT

Sec. 171.0351. PROHIBITED PRACTICES BY ALL LICENSE HOLDERS. A

license holder may not:

(1) use advertising that is false, misleading, or deceptive; or

(2) issue, sell, trade, or transfer a certificate of program completion or a certificate number to a person who has not successfully completed the applicable court-ordered program or who is not otherwise authorized to possess the certificate or number.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0352. GROUNDS FOR DISCIPLINARY ACTIONS. The commission or executive director may deny an application for an initial or renewal license, revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder who:

(1) violates this chapter, a rule adopted under this chapter, or an order of the commission or executive director;

(2) permits or engages in misrepresentation, fraud, or deceit regarding a court-ordered program provided or instructed by the license holder;

(3) engages in conduct that harms, endangers, or is likely to harm or endanger the health, welfare, or safety of a participant or the public as defined by commission rule;

(4) violates the code of ethics adopted and published by the commission; or

(5) violates a standard of practice or conduct as adopted by commission rule.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0353. DISCIPLINARY ACTION; ADMINISTRATIVE PENALTY. If a person violates this chapter or an order issued or a rule adopted under this chapter, the person is subject to any action or penalty under Subchapter F or G, Chapter 51, Occupations Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0354. AUDITS OF PROVIDERS AND PROGRAMS. (a) The department may conduct audits of the program providers and the court-ordered programs to verify compliance with this chapter. These audits may be conducted onsite, remotely, or through other means, and may include audits of records and courses.

(b) A program provider, instructor, or any person associated with a court-ordered program shall:

(1) cooperate with the department during an audit under this section;

(2) provide or make available to the department any documents or records related to the audit, unless otherwise prohibited by law; and

(3) provide the department with access to courses and facilities related to the audit.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0355. INVESTIGATIONS. (a) A program provider, instructor, or any person associated with a court-ordered program shall:

(1) cooperate with the department during an investigation of a complaint under this chapter; and

(2) provide or make available to the department on request any documents or records related to the investigation, including all instructor records, unless otherwise prohibited by law.

(b) The department may contract with the Department of Public Safety to provide investigative assistance in the enforcement of this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0356. UNLAWFUL TRANSFER OF CERTIFICATE OF PROGRAM COMPLETION OR CERTIFICATE NUMBER; OFFENSE. (a) A person commits an offense if the person knowingly sells, trades, issues, or otherwise transfers, or possesses with intent to sell, trade, issue, or

otherwise transfer, a certificate of program completion or a certificate number to a person not authorized to possess the certificate or number.

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

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

Sec. 171.0357. UNLAWFUL POSSESSION OF CERTIFICATE OF PROGRAM COMPLETION OR CERTIFICATE NUMBER; OFFENSE. (a) A person commits an offense if the person knowingly possesses a certificate of program completion or a certificate number that the person is not authorized to possess under this chapter.

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

Added by Acts 2021, 87th Leg., R.S., Ch. 948 (S.B. 1480), Sec. 1, eff. September 1, 2021.

TITLE 3. LEGISLATIVE BRANCH
SUBTITLE A. LEGISLATURE
CHAPTER 301. LEGISLATIVE ORGANIZATION
SUBCHAPTER A. INITIAL MEETING AND ORGANIZATION

Sec. 301.001. TIME AND PLACE OF MEETING. The legislature shall convene at the seat of government in regular session at 12 noon on the second Tuesday in January of each odd-numbered year.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 1, eff. June 14, 2019.

Sec. 301.002. WHO MAY ORGANIZE. (a) The following individuals only may organize the senate:

(1) senators who have not completed their terms of office; and

(2) individuals who have received certification of election to the senate.

(b) Only the individuals who have received certification of

election to the house of representatives may organize the house of representatives.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 1, eff. June 14, 2019.

Sec. 301.003. PRESIDING OFFICERS. (a) The secretary of state shall attend and preside at the organization of the house of representatives.

(b) If there is no secretary of state or if the secretary of state is absent or unable to attend, the attorney general shall attend and preside at the organization of the house of representatives.

(c) The lieutenant governor shall attend and preside at the organization of the senate. If the lieutenant governor is absent or unable to attend, the lieutenant governor may designate a member of the senate who is entitled to organize the senate under Section 301.002(a)(1) to preside.

(d) If there is no lieutenant governor, the senator with the greatest number of years of cumulative service as a member of the senate who is entitled to organize the senate under Section 301.002(a)(1) shall preside.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 1, eff. June 14, 2019.

Sec. 301.004. TEMPORARY OFFICERS; DUTIES. (a) If the secretary of the senate for the previous session is present, that individual shall act as temporary secretary of the senate. If the chief clerk of the house of representatives for the previous session is present, the secretary of state shall appoint that individual to act as temporary chief clerk. The presiding officer of each house of the legislature shall appoint any temporary officers necessary to ensure the organization of the legislature.

(b) Under the direction of the presiding officer, the secretary

of the senate or chief clerk shall call the districts of the appropriate house in numerical order regardless of whether the secretary of state has received the election returns for each district.

(c) If an individual appears at the call and presents proper evidence of the individual's election, the individual shall be admitted or qualified as if the individual's election returns had been made to the secretary of state.

(d) After the secretary of the senate has called the districts and the senators-elect have appeared and presented their credentials, the official oath shall be administered to each senator-elect by an officer authorized by law to administer oaths.

(e) After the chief clerk has called the districts and the members-elect of the house of representatives have appeared and presented their credentials, the chief clerk shall administer the official oath to each member-elect.

(f) The presiding officer of each house shall ensure that a journal of the proceedings of that house is kept.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 1, eff. June 14, 2019.

Sec. 301.005. LACK OF QUORUM. If a quorum is not present in a house of the legislature on the day the legislature is to convene, the presiding officer of that house and the secretary of the senate or chief clerk, as appropriate, shall attend each day until a quorum appears and is qualified.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 1, eff. June 14, 2019.

Sec. 301.006. SELECTION OF OFFICERS. (a) Immediately after election of the speaker of the house of representatives under Section 302.001, the speaker shall take the chair.

(b) After the speaker takes the chair, the house of

representatives shall choose necessary officers and the speaker shall administer the official oath to them.

(c) After the senators-elect have taken the official oath, the senate shall choose necessary officers, and the lieutenant governor or an officer authorized by law to administer oaths shall administer the official oath to those officers.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 2, eff. June 14, 2019.

SUBCHAPTER B. COMMITTEES AND COMMITTEE PROCEDURE

Sec. 301.011. SHORT TITLE. This subchapter may be cited as the Legislative Reorganization Act of 1961.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 301.012. PURPOSE. The legislature believes that it must conduct its activities on a full-time and continuing basis in order to achieve efficiency and continuity in performing its duties. It is the purpose of this subchapter to authorize legislative committees and other legislative instrumentalities to work and meet their responsibilities regardless of whether the legislature is in session.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 301.013. SELECTION OF COMMITTEES. (a) In its rules of procedure or in a simple resolution, each house may determine the number, composition, function, membership, and authority of its committees.

(b) By concurrent resolution, the two houses may determine the number, composition, function, membership, and authority of joint committees.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 301.014. POWERS AND DUTIES OF STANDING COMMITTEES. (a) Each standing committee shall:

(1) conduct a continuing study of any matter within its jurisdiction and of the instrumentalities of government administering or executing the matter;

(2) examine the administration and execution of all laws relating to matters within its jurisdiction;

(3) conduct investigations to collect adequate information and materials necessary to perform its duties; and

(4) recommend to the appropriate house any legislation the committee believes is necessary and desirable.

(b) Each committee may inspect the records, documents, and files of each state department, agency, or office as necessary to perform the committee's duties.

(c) A standing committee is not limited in its legislative endeavors to considering bills, resolutions, or other proposals submitted by individual legislators. Each committee shall search for problems within its jurisdiction and develop, formulate, and recommend passage of any legislative solution the committee believes is desirable.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 4, eff. June 14, 2019.

Sec. 301.015. MEETINGS OF STANDING COMMITTEES. (a) When the legislature is in session, each standing committee shall, if practicable, meet regularly according to applicable legislative requirements and rules of procedure. A committee shall meet at other times determined by the committee.

(b) When the legislature is not in session, each standing committee shall meet as necessary to transact the committee's business. Each committee shall meet in Austin, except that if authorized by rule or resolution of the house creating the committee, the committee may meet in any location in this state that the committee determines necessary. To the extent authorized by rule or resolution, each committee may determine its meeting times.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 5, eff. June 14, 2019.

Sec. 301.016. SPECIAL COMMITTEES. (a) By rule or resolution, each house acting individually or the two houses acting jointly may create special committees.

(b) A special committee shall perform the duties and functions and exercise the powers prescribed by the rule or resolution creating the committee.

(c) Except as limited by the rule or resolution creating the special committee, a special committee shall have and exercise the powers granted under this subchapter to a standing committee. A special committee also has any other powers delegated to it by the rule or resolution creating the committee, subject to the limitations of law.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 6, eff. June 14, 2019.

Sec. 301.017. GENERAL INVESTIGATING COMMITTEES. (a) By rule or resolution, each house may create a general investigating committee.

(b) The senate general investigating committee must consist of five senators appointed by the president of the senate. The president of the senate shall designate one committee member as chairman and one committee member as vice chairman.

(c) The house general investigating committee must consist of not fewer than five house members appointed by the speaker. The speaker shall designate one committee member as chairman and one committee member as vice chairman.

(d) Each member serves a term beginning on the date of the member's appointment and ending with the convening of the next regular session following the date of appointment.

(e) If a vacancy occurs on a general investigating committee, the appropriate appointing authority shall appoint a person to fill

the vacancy in the same manner as the original appointment.

(f) Members of a general investigating committee are entitled to reimbursement for actual and necessary expenses incurred in attending committee meetings and engaging in committee work.

(g) All expenses of a general investigating committee, including compensation of the committee's employees and expenses incurred by members, shall be paid out of any appropriation to the legislature under Section 301.029.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 1005, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 6, eff. June 14, 2019.

Sec. 301.018. GENERAL INVESTIGATING COMMITTEE MEETINGS. (a) Each general investigating committee may begin work as soon as it desires after its members are appointed. Each general investigating committee created under this subchapter shall meet, organize, and adopt rules of evidence and procedure and any other necessary rules. The committee rules may not conflict with Section 301.025.

(b) Whether or not the legislature is in session, each general investigating committee may meet at any time or place in the state determined necessary by the committee.

(c) Each general investigating committee shall keep a record of its proceedings.

(d) A majority of the members of a general investigating committee constitutes a quorum to transact business.

(e) If the general investigating committees decide not to conduct joint hearings as provided by Section 301.019, the committees shall establish a liaison to fully inform each other of the nature and progress of committee inquiries.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 1005, Sec. 2, eff. Sept. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 7, eff. June 14, 2019.

Sec. 301.019. JOINT GENERAL INVESTIGATING COMMITTEE HEARINGS. (a) On a majority vote of each general investigating committee, the committees may conduct joint hearings and investigations. The committees may adopt joint rules to govern the hearings.

(b) If the general investigating committees conduct joint inquiries or investigations, the chairman of the senate committee shall be the chairman and the chairman of the house committee shall be the vice-chairman.

(c) A majority of the members from each house's committee constitutes a quorum of a joint general investigating committee.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 8, eff. June 14, 2019.

Sec. 301.020. POWERS AND DUTIES OF GENERAL INVESTIGATING COMMITTEES. (a) Each general investigating committee may initiate or continue inquiries and hearings concerning:

(1) state government;

(2) any agency or subdivision of government within the state;

(3) the expenditure of public funds at any level of government within the state; and

(4) any other matter the committee considers necessary for the information of the legislature or for the welfare and protection of state citizens.

(b) Each general investigating committee may inspect the records, documents, and files and may examine the duties, responsibilities, and activities of each state department, agency, and officer and of each municipality, county, or other political subdivision of the state.

(c) If a person disobeys a subpoena or other process that a general investigating committee lawfully issues, the committee may cite the person for contempt and cause the person to be prosecuted for contempt according to the procedure prescribed by this chapter or by other law.

(d) Each general investigating committee shall make reports to members of the legislature that the committee determines are

necessary and appropriate.

(e) Information held by a general investigating committee is confidential and not subject to public disclosure except as provided by the rules of the house establishing the committee.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2001, 77th Leg., ch. 1005, Sec. 3, eff. Sept. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 9, eff. June 14, 2019.

Sec. 301.021. GENERAL INVESTIGATING COMMITTEE EMPLOYEES. (a) If for any reason it is necessary to obtain assistance in addition to the services provided by the State Auditor, attorney general, Texas Legislative Council, or Department of Public Safety, each general investigating committee may employ and compensate assistants to assist in any investigation, audit, or legal matter.

(b) Each general investigating committee may employ and compensate clerks, stenographers, and other employees to conduct committee investigations and hearings and keep proper records.

(c) Before a general investigating committee may employ or compensate an employee, the committee must submit the proposed employment to the president of the senate or speaker of the house, as appropriate, for authorization. If the president of the senate or speaker agrees to the proposed employment, he must authorize the employment in writing.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 301.022. TESTIMONY UNDER OATH. (a) All legislative committees shall require witnesses to give testimony under oath, subject to the penalties of perjury.

(b) The oath required by this section may be waived by any committee except a general investigating committee.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 301.0221. USE OF PSEUDONYM BY VICTIMS OF HUMAN

TRAFFICKING. (a) Each legislative committee shall allow a witness who is the victim of an offense under Section 20A.02 or 20A.03, Penal Code, to give testimony to the committee relating to the witness's experience as a victim of trafficking of persons using a pseudonym instead of the witness's name.

(b) The name of a witness who uses a pseudonym authorized by Subsection (a) is confidential and may not be included in any public records of the committee.

Added by Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 15, eff. September 1, 2021.

Sec. 301.023. ADMINISTERING OATHS. (a) The following individuals may administer oaths to testifying witnesses:

(1) the president of the senate;

(2) the speaker of the house;

(3) the chairman or acting chairman of a standing or special committee; and

(4) the chairman or acting chairman of a joint committee.

(b) If circumstances require, a member of either house may administer an oath to a witness testifying on a matter pending in the member's house or in a committee of that house.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 301.024. PROCESS. (a) A general investigating committee may issue process to compel the attendance of witnesses and the production of books, records, documents, and instruments required by the committee. Any other committee may issue process if authorized by the resolution creating the committee or the rules of procedure of the creating house. A committee may issue process to a witness at any place in this state.

(b) A committee chairman shall issue in the name of the committee all subpoenas and other process as directed by the committee.

(c) If necessary to obtain compliance with a subpoena or other process, a committee may issue writs of attachment.

(d) All process may be addressed to and served by any peace officer of this state or by the sergeant at arms appointed by the

committee.

(e) A witness who attends a committee proceeding or a proceeding of either house under process is entitled to the same mileage and per diem as a witness who appears before a grand jury in this state. Mileage and per diem are paid from that house's contingent expense fund or from the contingent expense fund of the committee conducting the proceeding.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 301.025. REFUSAL TO TESTIFY. (a) A witness called by either house or by a legislative committee does not have a privilege to refuse to testify to a fact or produce a document on the ground that the testimony or document may tend to disgrace the person or otherwise make the person infamous.

(b) The legislature may require a person to testify or produce a document concerning a matter under inquiry before either house or a legislative committee even if the person claims that the testimony or document may incriminate him.

(c) If a person testifies or produces a document while claiming that the testimony or document may incriminate him, the person may not be indicted or prosecuted for any transaction, matter, or thing about which the person truthfully testified or produced evidence.

(d) A witness has a right to counsel when testifying before the legislature or a legislative committee.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 301.026. CONTEMPT OF LEGISLATURE. (a) A person commits an offense if the person:

(1) has been summoned as a witness to testify or produce papers by either house or any legislative committee; and

(2) refuses to appear, refuses to answer relevant questions, or refuses to produce required books, papers, records, or documents.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $100 nor more than $1,000 and by imprisonment for not less than 30 days nor more than 12 months.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 301.027. PROSECUTION FOR CONTEMPT OF LEGISLATURE. (a) If a person is summoned by either house or any legislative committee as prescribed by Section 301.024 and fails to appear, refuses to answer relevant questions, or fails to produce required books, papers, records, or documents while the legislature is in session, the fact of the failure may be reported to either house. If the legislature is not in session, a statement of facts concerning the failure may be reported to and filed with the president of the senate or speaker of the house.

(b) If the president of the senate or speaker receives a report or statement of facts as provided by Subsection (a), the president of the senate or speaker shall certify the statement of facts to the appropriate prosecuting attorney as provided under Section 411.0253(d) under the seal of the senate or house of representatives, as appropriate.

(c) The prosecuting attorney to whom a statement of facts is certified under Subsection (a) or the prosecutor selected under Section 411.0255, if applicable, shall bring the matter before the grand jury for action. If the grand jury returns an indictment, the prosecuting attorney shall prosecute the indictment.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 927 (H.B. 1690), Sec. 3, eff. September 1, 2015.

Sec. 301.028. COOPERATION OF OTHER AGENCIES. (a) Each standing committee, including a general investigating committee, may request necessary assistance from all state agencies, departments, and offices, including:

(1) the State Auditor;

(2) the Texas Legislative Council;

(3) the Department of Public Safety; and

(4) the attorney general.

(b) Each state agency, department, and office shall assist any legislative committee that requests assistance.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 301.029. APPROPRIATIONS FOR SALARIES, PER DIEM, AND EXPENDITURES. (a) Each house may pay contingent expenses for the entire term of each member of that house.

(b) Each house may appropriate money to pay all salaries, per diem, and other expenditures authorized by law.

(c) The appropriations to the legislature shall specify separate appropriations for the house of representatives and for the senate.

(d) The comptroller of public accounts shall keep each house's accounts separate and distinct. Unless authorized by law, money in one account may not be transferred to the other account.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 301.031. COMMITTEE STAFF. From its contingent expense fund, each house may provide for necessary clerks, clerical assistance, and staff to each committee created by that house.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 301.032. GIFTS AND GRANTS. (a) Either house of the legislature may accept gifts, grants, and donations from any organization described in Section 501(c)(3) of the Internal Revenue Code for the purpose of funding any legislative activity.

(b) Subject to Subsection (c), a committee created by rule or resolution may accept gifts, grants, and donations for purposes of funding the committee's activities unless the rule or resolution prohibits the acceptance.

(c) The acceptance of a gift, grant, or donation under Subsection (b) is not effective until the committee on administration for the appropriate house, or the committees on administration for both houses in the case of acceptance by a joint committee, approves the acceptance.

(d) All gifts, grants, and donations must be accepted in an open meeting by a majority of the voting members of the appropriate body and reported in the public record of the accepting body with the

name of the donor and purpose of the gift, grant, or donation.

Added by Acts 1987, 70th Leg., ch. 617, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 10, eff. June 14, 2019.

Sec. 301.033. ALLOCATION OF SPACE IN LEGISLATIVE SERVICES BUILDING. (a) The space in the legislative services office building and parking facilities authorized by Chapter 168, Acts of the 74th Legislature, Regular Session, 1995, is allocated to the legislature and legislative agencies for their use. The presiding officers of each house of the legislature shall jointly decide the allocation of the space in the building and facilities.

(b) The building shall be known as the Robert E. Johnson Building.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 2, eff. Sept. 1, 1999.

Sec. 301.034. TERMINATION OF MEMBERSHIP ON INTERIM COMMITTEE. (a) A duly appointed senator's or representative's membership on the Legislative Budget Board, Legislative Library Board, Legislative Audit Committee, Texas Legislative Council, or any other interim committee terminates if the member:

(1) resigns the membership;

(2) ceases membership in the legislature for any reason; or

(3) fails to be nominated or elected to the legislature for the next term.

(b) A vacancy created under this section shall be immediately filled by appointment for the unexpired term in the same manner as the original appointment.

(c) If a member serves on the Legislative Budget Board, Legislative Library Board, or Legislative Audit Committee because of the member's position as chairman of a standing committee, this section does not affect the member's position as chairman of that standing committee.

(d) In filling a vacancy created under this section, the lieutenant governor or the speaker may appoint a senator or representative, as appropriate, other than a committee chairman

designated by law to serve as a member of the Legislative Budget Board, Legislative Library Board, Legislative Audit Committee, Texas Legislative Council, or any other interim committee. An appointment made under this subsection does not constitute an appointment to any position other than that of a member of a board, council, or committee covered by this section.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 2, eff. Sept. 1, 1999. Redesignated from Government Code, Section 301.033 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(13), eff. September 1, 2021.

Sec. 301.035. JOINT INTERIM COMMITTEE PER DIEM AND TRAVEL EXPENSES. Unless a statute expressly provides otherwise, per diem and travel expenses paid to a member of a joint committee established by statute shall be paid by the house to which the member belongs. The per diem and travel expenses paid to a public member of the committee shall be paid by the office of the appointing entity.

Added by Acts 2021, 87th Leg., R.S., Ch. 1042 (H.B. 4294), Sec. 1, eff. June 18, 2021.

SUBCHAPTER C. LEGISLATIVE OFFICERS AND EMPLOYEES

Sec. 301.041. COMMUNICATIONS WITH PARLIAMENTARIANS. (a) Communications, including conversations, correspondence, and electronic communications, between a member, officer, or employee of the legislative branch and a parliamentarian appointed by the presiding officer of either house that relate to a request by the member, officer, or employee for information, advice, or opinions from a parliamentarian are confidential and subject to legislative privilege. Information, advice, and opinions given privately by a parliamentarian to a member, officer, or employee of the legislative branch, acting in the member's, officer's, or employee's official capacity, are confidential and subject to legislative privilege. However, the member, officer, or employee of the legislative branch may choose to disclose all or a part of the communications, information, advice, or opinions to which this section applies, and such disclosure does not violate the law of this state.

(b) Records relating to requests made of a parliamentarian

appointed under Subsection (a) for assistance, information, advice, or opinion are not public information and are not subject to Chapter 552.

(c) In this section:

(1) "Member, officer, or employee of the legislative branch" includes:

(A) a member, member-elect, or officer of either house of the legislature or of a legislative committee;

(B) an employee of the legislature, including an employee of a legislative agency, office, or committee; and

(C) the lieutenant governor.

(2) "Parliamentarian" includes an employee of a parliamentarian.

Added by Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 13, eff. June 14, 2019.

Sec. 301.042. COMMUNICATIONS WITH ENGROSSING AND ENROLLING DEPARTMENT. (a) In this section, "department" means an engrossing and enrolling department maintained by either house of the legislature.

(b) Communications, including conversations, correspondence, and electronic communications, between a member of the legislature or the lieutenant governor, an officer of the house or senate, a legislative agency, office, or committee, or a member of the staff of any of those officers or entities and an assistant or employee of a department that relate to a request by the officer or entity for information, advice, or opinions from an assistant or employee of the department are confidential and subject to legislative privilege.

(c) A communication described by Subsection (b) is subject to attorney-client privilege if:

(1) the assistant or employee of the department who is a party to the communication is a department attorney or is working at the direction of a department attorney;

(2) the communication is given privately; and

(3) the communication is made in connection with the department attorney's provision of legal advice or other legal services.

(d) Information, advice, and opinions given privately by an

assistant or employee of a department to a member of the legislature or the lieutenant governor, an officer of the house or senate, a legislative agency, office, or committee, or a member of the staff of any of those officers or entities, when acting in the person's official capacity, are confidential and subject to legislative privilege.

(e) The member of the legislature, lieutenant governor, house or senate officer, or legislative agency, office, or committee may choose to disclose all or a part of the communications, information, advice, or opinions to which this section applies and to which the individual or entity was a party.

(f) This section does not affect the authority of a court to analyze and apply attorney-client privilege under the applicable rules of evidence governing a judicial proceeding.

Added by Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 13, eff. June 14, 2019.

Sec. 301.043. ENGROSSING AND ENROLLING DEPARTMENT RECORDS OF DRAFTING AND OTHER REQUESTS. (a) In this section, "department" has the meaning assigned by Section 301.042(a).

(b) Records relating to requests of department staff for the drafting of proposed legislation or for assistance, information, advice, or opinion are:

(1) subject to legislative privilege; and

(2) not public information and not subject to Chapter 552.

Added by Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 13, eff. June 14, 2019.

SUBCHAPTER D. LEGISLATIVE PUBLICATIONS

Sec. 301.051. ISSUANCE OF PUBLICATIONS. Either house of the legislature or a legislative agency may produce and sell or distribute publications that the house or agency determines to be of interest to the legislature or the general public. The sales price of a publication shall be designed to recover costs incurred in preparing and issuing the publication.

Added by Acts 1987, 70th Leg., ch. 769, Sec. 1, eff. Aug. 31, 1987.

Sec. 301.052. DISTRIBUTION OF JOURNALS. (a) The lieutenant governor and speaker shall each appoint an employee to distribute the journal of the respective houses.

(b) The employee shall distribute a copy of the journal to:

(1) the governor;

(2) each member of the legislature; and

(3) heads of departments, if requested.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Transferred and redesignated from Government Code, Section 301.007 by Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 14, eff. June 14, 2019.

SUBCHAPTER E. LEGAL REPRESENTATION OF LEGISLATURE

Sec. 301.061. LEGAL REPRESENTATION OF LEGISLATURE. (a) Subject to the requirements of Subsection (b) and to the exception provided in Subsection (c), the legislature, after notifying and consulting the attorney general, may employ counsel, or authorize the counsel of a legislative agency, to file suits on behalf of the legislature, to intervene in pending litigation on behalf of the legislature, or to otherwise represent the legislature in the courts of this state or in the courts of the United States.

(b) Representation of the legislature under this section is authorized only if:

(1) the speaker and the president of the senate approve the representation in writing; or

(2) both houses by concurrent resolution approve the representation.

(c) Subsection (a) does not apply to the representation of the interests of the legislature before the Supreme Court of Texas in violation of Article IV, Section 22, of the Texas Constitution.

(d) A member of the legislature is immune from civil liability resulting from the legislature's participation in litigation under this section, including liability for attorney fees, costs, and sanctions that may be awarded in the litigation. This subsection is cumulative of the common law immunity applicable to the conduct of members of the legislature.

Added by Acts 1993, 73rd Leg., ch. 753, Sec. 1, eff. June 17, 1993.

SUBCHAPTER F. MISCELLANEOUS PROVISIONS

Sec. 301.071. SALE OF TEXAS FLAGS AND SIMILAR ITEMS. Either house of the legislature may acquire and provide for the sale of Texas flags and other items carrying symbols of the State of Texas.

Added by Acts 1999, 76th Leg., ch. 377, Sec. 1, eff. May 29, 1999.
Renumbered from Sec. 301.033 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(35), eff. Sept. 1, 2001.
Transferred and redesignated from Government Code, Section 301.034 by Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 16, eff. June 14, 2019.

Sec. 301.072. STATE BUILDINGS OCCUPIED BY LEGISLATIVE OFFICES AND AGENCIES. (a) This section applies to a state building that is:

(1) occupied by a legislative office or agency;

(2) located in the Capitol complex, as defined by Section 443.0071; and

(3) not described by Section 2165.007(b)(6).

(b) The presiding officers of each house of the legislature, in consultation with the legislative offices or agencies occupying a state building, shall jointly decide the following with respect to a state building to which this section applies, the building's facilities, and the grounds used by occupants of the building:

(1) the use of space by and allocation of space to a legislative office or agency;

(2) security and building access for a legislative office or agency;

(3) the manner in which a legislative office or agency contracts for a construction or remodeling project involving space allocated to the office or agency; and

(4) the timing and logistics of a maintenance or construction activity involving the building, facilities, or grounds that affects a legislative office or agency.

Added by Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 17, eff. June 14, 2019.

Sec. 301.073. FACILITIES MANAGEMENT SERVICES FOR SPACE OCCUPIED BY LEGISLATURE. (a) In this section, "facilities management services" has the meaning assigned by Section 2165.007, except that the term does not include utility services or utility expenses.

(b) Notwithstanding Section 2165.007 or 2165.057(a) or other law and except as otherwise provided by this section, the State Preservation Board is responsible for providing:

(1) for the Sam Houston Building, the facilities management services designated by the administrative head of the senate;

(2) for the John H. Reagan Building, the facilities management services designated by the administrative head of the house;

(3) for an interior portion of the Robert E. Johnson Building occupied by a single legislative agency, the facilities management services designated by the administrative head of that legislative agency; and

(4) for any portion of the Robert E. Johnson Building not covered by Subdivision (3) and for the attached parking facility known as state parking garage P, the facilities management services designated by the administrative head of the Texas Legislative Council in consultation with the other affected legislative agencies occupying space in the building.

(c) The Texas Facilities Commission shall:

(1) provide any facilities management service for a facility listed in Subsection (b) that has not been designated to be performed by the State Preservation Board;

(2) operate and maintain the central utility plant in the Sam Houston Building;

(3) subject to Subdivision (4), operate and maintain the chiller utility plant attached to the Robert E. Johnson Building; and

(4) as part of phase 2 construction of the Capitol Complex master plan developed under Section 2166.105:

(A) connect the Robert E. Johnson Building to the centralized chilled water distribution system described by that plan; and

(B) subsequently decommission the chiller utility plant attached to the Robert E. Johnson Building, except for portions of the plant needed to provide backup chilled water for the building's data center or other critical infrastructure identified by the administrative head of the Texas Legislative Council.

(d) The Texas Facilities Commission shall transfer to the State Preservation Board an amount of money sufficient to reimburse the board for the costs incurred by the board to perform the services described by Subsection (b), including any deferred maintenance project performed by the board.

(e) This section does not, and may not be construed to, specifically commit the control of any public buildings or grounds to the State Preservation Board for purposes of Section 2165.002 or any other law.

(f) The administrative head of the appropriate legislative agency may select an entity to provide construction management and oversight of a project undertaken to repair or rehabilitate a facility described by Subsection (b) that is funded by money appropriated to the State Preservation Board. The entity selected is exclusively responsible for providing construction management and oversight of the project, notwithstanding Section 2165.001, Chapter 2166, or other law. On the request of the administrative head of the legislative agency, from the money appropriated to the State Preservation Board to fund the project, the board shall transfer to the legislative agency the amount of money necessary for the legislative agency to pay the costs the agency incurs in connection with the project.

(g) For the chamber and committee rooms occupied by the house and senate in the Capitol, Capitol Extension, and any legislative office building, the administrative head of agency for the appropriate house shall specify the scope, manner, and performance of all work related to audiovisual systems, including sound systems.

Added by Acts 2023, 88th Leg., R.S., Ch. 1081 (S.B. 640), Sec. 1, eff. September 1, 2023.

CHAPTER 302. SPEAKER OF THE HOUSE OF REPRESENTATIVES

SUBCHAPTER A. ELECTION OF SPEAKER

Sec. 302.001. ELECTION. When the house of representatives first convenes in regular session and a quorum is present and has been qualified, the house shall elect a speaker unless a majority of the members present decides to defer the election.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER B. CANDIDATE FOR SPEAKER: CAMPAIGN FINANCE

Sec. 302.011. DEFINITIONS. In this subchapter:

(1) "Speaker candidate" means a member of or candidate for the house of representatives who has announced his candidacy for or who by his actions, words, or deeds seeks election to the office of speaker of the house of representatives.

(2) "Campaign expenditure" means the expenditure of money or the use of services or any other thing of value to aid or defeat the election of a speaker candidate.

(3) "Campaign funds" means the speaker candidate's personal funds that are devoted to the campaign for speaker and any money, services, or other things of value that are contributed or loaned to the speaker candidate for use in the candidate's campaign for speaker.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 302.012. RECORDS. (a) Each speaker candidate shall keep records of all information required to be filed under this subchapter.

(b) The records must be kept separate from the records required under the Texas Election Code for the speaker candidate's campaign for any other public office.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 302.0121. DECLARATION OF SPEAKER CANDIDACY. (a) Each speaker candidate shall file a declaration of candidacy with the Texas Ethics Commission as provided by this section.

(b) A declaration of speaker candidacy must:

(1) be in writing;

(2) identify the legislative session as to which the candidacy relates; and

(3) include:

(A) the speaker candidate's name;

(B) the speaker candidate's residence or business street address; and

(C) the speaker candidate's telephone number.

(c) Except as provided by Subsection (e), a speaker candidate

may not knowingly accept a contribution, loan, or promise of a contribution or loan in connection with the speaker candidacy or make or authorize a campaign expenditure at a time when a declaration of candidacy for the candidate is not in effect.

(d) A declaration of speaker candidacy terminates on the earlier of:

(1) the date the speaker candidate files a written statement with the Texas Ethics Commission stating that the candidate has terminated the candidacy; or

(2) the date a speaker is elected for the legislative session as to which the speaker candidate filed the statement.

(e) A former speaker candidate whose declaration of speaker candidacy is terminated under Subsection (d) may make a campaign expenditure in connection with a debt incurred during the period the former speaker candidate's declaration of candidacy was in effect.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 3.01, eff. Sept. 1, 2003.

Sec. 302.013. FILING OF STATEMENT OF CONTRIBUTIONS, LOANS, AND EXPENDITURES. (a) Each speaker candidate shall file a sworn statement with the Texas Ethics Commission listing the information required by Section 302.014.

(b) Each speaker candidate shall file the statement on:

(1) the first filing date after the date on which the speaker candidate files the declaration of candidacy required by Section 302.0121;

(2) each filing date during the candidacy; and

(3) each filing date until all campaign loans have been repaid.

(c) The filing dates are the first day of January, March, May, July, September, and November and the day before each regular or called session of the legislature convenes.

(d) Each speaker candidate shall file the statement by computer diskette, modem, or other means of electronic transfer, using computer software provided by the Texas Ethics Commission or computer software that meets commission specifications for a standard file format.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended

by Acts 1993, 73rd Leg., ch. 107, Sec. 3.21, eff. Aug. 30, 1993; Acts 2003, 78th Leg., ch. 249, Sec. 3.02, eff. Sept. 1, 2003.

Sec. 302.014. CONTENTS OF STATEMENT. Each statement must list the following information for the period since the last filing date:

(1) each contribution of money the speaker candidate or the speaker candidate's agent, servant, staff member, or employee received for the campaign, the complete name and address of the contributor, and the date and amount of the contribution;

(2) each contribution of services and other things of value other than money that the speaker candidate or the speaker candidate's agent, servant, staff member, or employee received for the campaign, the nature of the contribution, the complete name and address of the contributor, and the date and value of the contribution;

(3) each loan made to the speaker candidate or to the speaker candidate's agent, servant, staff member, or employee for the campaign, including all loans listed in previous filings that are as yet unpaid or that were paid during the period covered by the present filing, the complete name and address of the lender and each person other than the speaker candidate who is responsible on the note, the date and amount of the note, the intended source of funds to repay the note, and any payments already made on the note and the source of the payments; and

(4) each expenditure of campaign funds that the speaker candidate or the speaker candidate's agent, servant, staff member, or employee made for the campaign, the complete name and address of each person to whom a payment of more than $10 was made, and the purpose of each expenditure.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 302.015. REQUISITES OF FILING. (a) Except as provided by Subsection (b), a statement is considered to be filed in compliance with this subchapter if the postmark shows that it was sent to the Texas Ethics Commission at its official post office address by registered or certified mail from any point in this state before the filing deadline.

(b) A statement required to be filed on the day before a regular or called session convenes must actually be delivered and in the possession of the Texas Ethics Commission not later than midnight of that day.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 3.22, eff. Aug. 30, 1993; Acts 2003, 78th Leg., ch. 249, Sec. 3.03, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 472 (H.B. 2195), Sec. 3, eff. September 1, 2007.

Sec. 302.016. PUBLIC RECORDS. (a) Each statement filed under this subchapter is public information and shall be preserved for two years after the election for which it was filed.
(b) Unless a court of competent jurisdiction orders further preservation, a statement may be destroyed after the two-year period prescribed by Subsection (a).

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 302.018. CONTRIBUTIONS FROM EXECUTIVE OR JUDICIAL OFFICERS OR EMPLOYEES. An elected officer or employee of the executive or judicial branch of state government may not contribute personal services, money, or goods of value to a speaker candidate's campaign.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 302.0191. CONTRIBUTIONS AND EXPENDITURES FROM POLITICAL CONTRIBUTIONS. A person, including a speaker candidate, may not make a contribution to a speaker candidate's campaign or an expenditure to aid or defeat a speaker candidate from:
(1) political contributions accepted under Title 15, Election Code;
(2) interest earned on political contributions accepted under Title 15, Election Code; or
(3) an asset purchased with political contributions accepted under Title 15, Election Code.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 3.04, eff. Sept. 1, 2003.

Sec. 302.020. PERMITTED EXPENDITURES. A speaker candidate may expend campaign funds for:

(1) travel for the speaker candidate and the speaker candidate's immediate family and campaign staff;

(2) the employment of clerks and stenographers;

(3) clerical and stenographic supplies;

(4) printing and stationery;

(5) office rent;

(6) telephone, telegraph, postage, freight, and express expenses;

(7) advertising and publicity;

(8) the expenses of holding political and other meetings designed to promote the candidacy;

(9) the employment of legal counsel; and

(10) the retirement of campaign loans.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 302.0201. DISPOSITION OF UNEXPENDED FUNDS; REPORT. (a) A former speaker candidate may:

(1) use unexpended campaign funds to retire debt incurred in connection with the speaker candidacy; or

(2) remit unexpended campaign funds to one or more of the following:

(A) one or more persons from whom campaign funds were received, in accordance with Subsection (c); or

(B) a recognized charitable organization formed for educational, religious, or scientific purposes that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986, and its subsequent amendments.

(b) A former speaker candidate may not retain contributions covered by this subchapter, assets purchased with the contributions, or interest and other income earned on the contributions for more than six years after the date the person ceases to be a speaker candidate or hold the office of speaker.

(c) The amount of campaign funds disposed of under Subsection (a)(2)(A) to one person may not exceed the aggregate amount accepted from that person in connection with the former speaker candidate's most recent campaign for election to the office of speaker.

(d) Not later than January 15 of each year, a former speaker candidate who retains unexpended campaign funds shall file a sworn report with the Texas Ethics Commission that includes:

(1) the full name and address of each person to whom a payment from unexpended campaign funds is made;

(2) the date and amount of each payment reported under Subdivision (1); and

(3) the information required by Section 302.014 as to any contribution, loan, or expenditure not previously reported on a statement filed under Section 302.013.

(e) A report filed under this section covers, as applicable:

(1) the period:

(A) beginning on the date after the last day of the period covered by the most recent statement filed by the former speaker candidate under Section 302.013; and

(B) ending on December 31 of the preceding year; or

(2) the preceding calendar year.

(f) A former speaker candidate shall file the report on an official form designed by the Texas Ethics Commission. Sections 302.015 and 302.016 apply to a report filed under this section.

(g) For purposes of this section, a speaker candidate elected as speaker of the house of representatives is considered to be a former speaker candidate.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 3.04, eff. Sept. 1, 2003.

Sec. 302.021. OFFENSES AND PENALTIES. (a) A speaker candidate or former speaker candidate commits an offense if the person:

(1) knowingly fails to file the declaration of candidacy required by Section 302.0121;

(2) knowingly fails to file the statement required by Section 302.013;

(3) knowingly accepts a contribution, loan, or promise of a contribution or loan in violation of Section 302.0121(c);

(4) knowingly accepts a contribution from a person who uses political contributions, interest earned on political contributions, or an asset purchased with political contributions to make the contribution in violation of Section 302.0191;

(5) expends campaign funds for any purpose other than those enumerated in Section 302.020;

(6) knowingly retains contributions, assets purchased with contributions, or interest or other income earned on contributions in violation of Section 302.0201(b); or

(7) knowingly fails to file the report of unexpended campaign funds as required by Section 302.0201(d).

(b) An agent, officer, or director of a corporation, partnership, association, firm, union, foundation, committee, club, or other organization or group of persons commits an offense if the agent, officer, or director consents to a contribution, loan, or promise of a contribution or loan prohibited by this subchapter.

(c) A person commits an offense if the person conspires with another person to circumvent any provision of this subchapter.

(d) An individual other than the speaker candidate commits an offense if the individual, either acting alone or with another individual, expends or authorizes the expenditure of more than $100 for correspondence to aid or defeat the election of a speaker candidate or expends funds for any purpose other than for personal services and traveling expenses to aid or defeat the election of a speaker candidate.

(e) A person commits an offense if the person contributes personal services, money, or goods in violation of Section 302.018.

(e-1) A person commits an offense if the person knowingly makes a contribution to a speaker candidate's campaign or an expenditure to aid or defeat a speaker candidate from political contributions, interest earned on political contributions, or an asset purchased with political contributions in violation of Section 302.0191.

(f) An offense under this section is a Class A misdemeanor.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 3.05, eff. Sept. 1, 2003. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 209 (H.B. 3580), Sec. 2, eff. September 1, 2019.

Sec. 302.022. PROSECUTION BY INDICTMENT. Each prosecution under this subchapter must be brought by indictment rather than by complaint and information.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER C. LEGISLATIVE BRIBERY

Sec. 302.031. DEFINITION. In this subchapter, "economic benefit" means anything reasonably regarded as economic gain or advantage, including a campaign contribution.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 302.032. LEGISLATIVE BRIBERY: PROMISES OR THREATS. A person commits an offense if, with the intent to influence a member of or candidate for the house of representatives in casting a vote for speaker of the house of representatives, the person:

(1) promises or agrees to cause:

(A) the appointment of a person to a chairmanship or vice-chairmanship of a house committee or subcommittee;

(B) the appointment of a person to a particular house committee or subcommittee, the Legislative Budget Board, the Texas Legislative Council, the Legislative Library Board, the Legislative Audit Committee, or any other position the speaker appoints;

(C) preferential treatment on any legislation or appropriation;

(D) the employment of a person; or

(E) economic benefit to a person; or

(2) threatens to cause:

(A) the failure to appoint a person to a chairmanship or vice-chairmanship of a house committee or subcommittee;

(B) the failure to appoint a person to a particular house committee or subcommittee, the Legislative Budget Board, the Texas Legislative Council, the Legislative Library Board, the Legislative Audit Committee, or any other position the speaker appoints;

(C) unfavorable treatment on any legislation or appropriation;

(D) the refusal of or removal from employment of a

person; or

(E) the withholding of economic benefit from a person.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 302.033. LEGISLATIVE BRIBERY: ACCEPTING BENEFITS. A member of or candidate for the house of representatives commits an offense if, on the representation or understanding that the member or candidate will cast a vote for a particular person for speaker of the house of representatives, the member or candidate solicits, accepts, or agrees to accept:

(1) the appointment of or refusal to appoint a person to a chairmanship or vice-chairmanship of a house committee or subcommittee;

(2) the appointment of or refusal to appoint a person to a particular house committee or subcommittee, the Legislative Budget Board, the Texas Legislative Council, the Legislative Library Board, the Legislative Audit Committee, or any other position the speaker appoints;

(3) preferential or unfavorable treatment on any legislation or appropriation;

(4) the employment of, refusal of employment of, or removal from employment of a person; or

(5) economic benefit to or withholding of economic benefit from a person.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 302.034. PENALTY. An offense under this subchapter is a felony punishable by imprisonment for not less than two years nor more than five years.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 302.035. PERMITTED COMMUNICATIONS, DISCUSSIONS, AND ADVOCACY. This subchapter does not prohibit:

(1) a person from contacting or communicating with a member of or candidate for the house of representatives about a legislative

matter; or

(2) a member of or candidate for the house from discussing, taking a position on, or advocating any action on a substantive issue in a speaker's race or any other legislative matter.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

CHAPTER 303. GOVERNOR FOR A DAY AND SPEAKER'S DAY

Sec. 303.001. DEFINITIONS. In this chapter:

(1) "Governor for a day ceremony" means a ceremony held during a state senator's tenure as president pro tempore to honor the senator for the senator's service to the state.

(2) "Speaker's reunion day ceremony" means a ceremony held to honor former members of the house of representatives for their service to the state.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 21, Sec. 1, eff. April 20, 1995.

Sec. 303.002. CHAIRMAN. (a) Before any contributions are accepted or any expenditures are made for a governor for a day or speaker's reunion day ceremony, the president pro tempore or the speaker, as appropriate, shall designate a chairman to be responsible for conducting the ceremony.

(b) The chairman is responsible for filing each report required by this chapter.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 21, Sec. 2, eff. April 20, 1995.

Sec. 303.003. CONTRIBUTIONS. (a) An individual, association, corporation, or other legal entity may contribute funds, services, or other things of value to defray the expenses of the governor for a day or speaker's reunion day ceremony. A contribution under this subsection is not a political contribution for purposes of state law regulating political contributions or prohibiting political contributions by corporations or labor organizations.

(b) The chairman shall keep a record of each contribution

received to defray the expenses of the governor for a day or speaker's reunion day ceremony.

(c) Contributions from a contributor to the speaker's reunion day ceremony may not exceed an aggregate of $1,000 cash or an aggregate value of more than $1,000.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 21, Sec. 3, eff. April 20, 1995; Acts 2001, 77th Leg., ch. 420, Sec. 1, eff. May 28, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 18, eff. June 14, 2019.

Sec. 303.004. EXPENDITURES. (a) The chairman may authorize the expenditure of funds for:

(1) printing;

(2) employment of staff;

(3) professional and consultant fees;

(4) postage, telephone, and telegraph expenses; and

(5) any other purpose reasonably related to conducting the governor for a day or speaker's reunion day ceremony, including fund raising.

(b) The chairman shall keep a record of each expenditure related to the governor for a day or speaker's reunion day ceremony.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 21, Sec. 4, eff. April 20, 1995.

Sec. 303.005. FINAL REPORT. (a) Not later than the 60th day after the date on which the governor for a day or speaker's reunion day ceremony occurs, the chairman shall file with the Texas Ethics Commission a final report indicating:

(1) the name and address of each contributor of more than $50;

(2) the amount of each contribution of more than $50;

(3) whether a contribution of more than $50 was in cash or in kind;

(4) the total of all contributions of $50 or less;

(5) the total of all contributions received;

(6) the name and address of each entity to which an expenditure of more than $50 was made;

(7) the amount of each expenditure of more than $50;

(8) the purpose of each expenditure of more than $50;

(9) the total of all expenditures of $50 or less; and

(10) the total of all expenditures.

(b) If there is an outstanding debt when the final report is filed, the chairman shall file a supplemental report not later than the 30th day after the date on which the debt is retired indicating the information required by Subsection (a) from the time of the final report to the filing of the supplemental report.

(c) If each obligation has been paid at the end of the 60-day period and there is an outstanding balance, the chairman shall:

(1) distribute the balance to one or more charities designated by the president pro tempore or speaker; or

(2) retain the balance in an account established for that purpose in the name of the office of the president pro tempore or speaker, as appropriate.

(d) If the outstanding balance is retained under Subsection (c)(2), the account balance shall be combined with contributions received for the succeeding governor for a day or speaker's reunion day ceremony, as appropriate, and may be spent only for the purposes provided by Section 303.004.

(e) The reports required by this chapter are public information.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 21, Sec. 5, eff. April 20, 1995; Acts 1997, 75th Leg., ch. 507, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 420, Sec. 2, eff. May 28, 2001.

CHAPTER 304. EMERGENCY INTERIM LEGISLATIVE SUCCESSION

Sec. 304.001. SHORT TITLE. This chapter may be cited as the Emergency Interim Legislative Succession Act.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 304.002. DEFINITIONS. In this chapter:

(1) "Attack" means any action or series of actions taken by

an enemy of the United States resulting in substantial damage or injury to persons or property in this state whether by sabotage, bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means or by other weapons or methods.

(2) "Unavailable" means dead or unable for physical, mental, or legal reasons to exercise the powers and discharge the duties of a legislator, whether or not the absence or inability would give rise to a vacancy under existing constitutional or statutory provisions.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 304.004. DESIGNATION OF EMERGENCY INTERIM SUCCESSORS. (a) Each legislator shall designate not less than three nor more than seven individuals to serve as emergency interim successors if the legislator is certified to be unavailable to serve as provided by this chapter. Each individual designated must meet age and residence requirements for a senator or representative, as applicable, and must submit a written acceptance to the legislator.

(b) To be effective, a designation must include the name and address of the designee.

(c) As soon as practicable after a legislator takes the oath of office for the legislator's term, the legislator shall file a list of the legislator's designees who have accepted the designation, ranked in order of succession, together with the written acceptance of each designee, with the secretary of the senate or the chief clerk of the house of representatives, as applicable. That officer shall promptly deliver a certified copy of the list and of each acceptance to the secretary of state.

(d) At least annually, each legislator shall review the most recent list of emergency interim successors to the position held by the legislator to ensure that there are at least three qualified emergency interim successors on the list. Each legislator shall make revisions to the list as necessary and may make other revisions the legislator considers appropriate. A revision designating a new emergency interim successor must be accompanied by the written acceptance of the designee. The secretary of the senate or chief clerk of the house, as applicable, shall promptly deliver a certified copy of each revision and of any accompanying acceptance to the

secretary of state.

(e) If at any time a legislator has not designated emergency interim successors as required by this section, the lieutenant governor or speaker of the house, as appropriate, may designate in order of succession not more than seven individuals to serve as emergency interim successors if that legislator becomes unavailable. Each individual designated must meet the applicable age and residence requirements and submit a written acceptance of the designation. The lieutenant governor or speaker shall file the list and the written acceptances of the designees with the secretary of the senate or the chief clerk of the house, as applicable, who shall deliver a certified copy of the list and of each acceptance to the secretary of state. At any time, the legislator in the manner provided by this section may make revisions to the list filed under this subsection or file a superseding list of designees.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 297 (S.B. 308), Sec. 1, eff. September 1, 2005.

Sec. 304.005. WHEN DESIGNATION OR REVISION TAKES EFFECT. (a) Each designation of an emergency interim successor becomes effective when the individual making the designation files the designation and the designee's written acceptance with the appropriate senate or house officer under Section 304.004.

(b) The removal of an emergency interim successor from the list or a change in the order of succession becomes effective when an individual authorized to make the change files that information with the appropriate senate or house officer under Section 304.004.

(c) Information filed under this chapter is public information, except that the home address and home telephone number of a designee may be disclosed only if the designee, in a signed writing filed with the secretary of the senate or chief clerk of the house of representatives, as applicable, specifically states that the information may be disclosed.

(d) A certified copy of a list of designated emergency interim successors or of a revision of a list delivered to the secretary of state under this chapter is for informational purposes only unless

the lieutenant governor or speaker of the house certifies to the secretary of state that the applicable records of the senate or house have been lost or destroyed or have become unavailable in another manner, in which event the certified records delivered to the secretary of state are treated as if they are the original records.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2005, 79th Leg., Ch. 297 (S.B. 308), Sec. 2, eff. September 1, 2005.

Sec. 304.006. STATUS AND QUALIFICATIONS OF EMERGENCY INTERIM SUCCESSORS. (a) An emergency interim successor is an individual who is designated for possible temporary succession to the powers and duties, but not the office, of a legislator.

(b) An individual may not be designated or serve as an emergency interim successor unless that individual is legally qualified to hold the office of the legislator to whose powers and duties the individual is designated to succeed.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 304.007. OATH. When the designation of an emergency interim successor becomes effective, the successor shall take the oath required for the legislator to whose powers and duties the successor is designated to succeed, and no other oath is required.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 304.008. ASSUMPTION OF POWERS AND DUTIES. (a) If the governor has declared an emergency due to enemy attack or the immediate threat of enemy attack under Section 62, Article III, Texas Constitution, and the lieutenant governor or speaker of the house, as applicable, determines that a legislator is unavailable to serve when the legislature has convened or will convene, the lieutenant governor or speaker, as applicable, shall certify to the secretary of state that the legislator is unavailable. If the governor has declared an emergency due to enemy attack or the immediate threat of enemy attack

under Section 62, Article III, Texas Constitution, and at the time and place the legislature is scheduled to convene the lieutenant governor or speaker is absent from the applicable house, a majority of the members of that house who are present may determine that a member of that house who is not present is unavailable and certify that determination to the secretary of state.

(b) If a legislator is certified to be unavailable under Subsection (a), the secretary of state shall notify the legislator's emergency interim successor highest in order of succession who is available that the emergency interim successor is entitled to exercise the powers and duties of the legislator who is unavailable. The secretary of state shall inform the emergency interim successor of the date, time, and place at which the legislature is meeting or will meet, as soon as that is known. If the emergency interim successor declines to serve or does not appear and begin to serve within a reasonable time as determined by the lieutenant governor or speaker of the house, as applicable, the secretary of state at the request of the lieutenant governor or speaker shall notify the emergency interim successor next in order of succession who is available that the emergency interim successor is entitled to exercise the powers and duties of the legislator who is unavailable.

(c) The emergency interim successor shall exercise the powers and assume the duties of the legislator whom the individual succeeds, except that the successor may not designate emergency interim successors or make revisions to a designation.

(d) The emergency interim successor exercises those powers and assumes those duties until the secretary of state notifies the successor that the incumbent legislator, an emergency interim successor higher in order of succession for the same position, or a legislator elected to the same position and legally qualified can act.

(e) Any dispute as to the qualification of an individual to exercise the powers and assume the duties of a legislator under this chapter shall be determined by the applicable house of the legislature as provided by Section 8, Article III, Texas Constitution.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2005, 79th Leg., Ch. 297 (S.B. 308), Sec. 3, eff. September

1, 2005.

Sec. 304.009. PRIVILEGES, IMMUNITIES, AND COMPENSATION. (a) An emergency interim successor who exercises the powers and assumes the duties of an unavailable legislator is entitled to the privileges, immunities, compensation, and other allowances to which a legislator is entitled.

(b) This section does not affect the privileges, immunities, compensation, or other allowances to which an incumbent legislator is entitled.

(c) An emergency interim successor's performance of the powers and duties of an unavailable legislator does not affect the successor's entitlement to other compensation or benefits to which the successor might otherwise be entitled. Section 812.203(a) does not apply to an individual serving as an emergency interim successor under this chapter.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 179, Sec. 2(h), eff. Sept. 1, 1989. Amended by:

Acts 2005, 79th Leg., Ch. 297 (S.B. 308), Sec. 4, eff. September 1, 2005.

Sec. 304.010. DUTY TO REMAIN INFORMED. Each emergency interim successor shall keep himself generally informed as to the duties, procedures, practices, and current business of the legislature, and each legislator shall assist his emergency interim successors to keep themselves informed.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 304.011. QUORUM; VOTES. In the event of an attack, the quorum requirements imposed on the legislature are suspended. If the affirmative vote of a specified proportion of members is required to approve a bill or resolution, the same proportion of those present and voting on the bill or resolution is sufficient for its passage.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

CHAPTER 305. REGISTRATION OF LOBBYISTS

SUBCHAPTER A. GENERAL PROVISIONS; REGISTRATION

Sec. 305.001. POLICY. The operation of responsible democratic government requires that the people be afforded the fullest opportunity to petition their government for the redress of grievances and to express freely their opinions on legislation, pending executive actions, and current issues to individual members of the legislature, legislative committees, state agencies, and members of the executive branch. To preserve and maintain the integrity of the legislative and administrative processes, it is necessary to disclose publicly and regularly the identity, expenditures, and activities of certain persons who, by direct communication with government officers, engage in efforts to persuade members of the legislative or executive branch to take specific actions.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 305.002. DEFINITIONS. In this chapter:

(1) "Administrative action" means rulemaking, licensing, or any other matter that may be the subject of action by a state agency or executive branch office, including a matter relating to the purchase of products or services by the agency or office. The term includes the proposal, consideration, or approval of the matter or negotiations concerning the matter.

(2) "Communicates directly with" or any variation of the phrase means contact in person or by telephone, telegraph, letter, facsimile, electronic mail, or other electronic means of communication.

(2-a) "Communicates directly with a member of the legislative or executive branch to influence legislation or administrative action" or any variation of the phrase includes establishing goodwill with the member for the purpose of later communicating with the member to influence legislation or administrative action.

(3) "Compensation" means money, service, facility, or other thing of value or financial benefit that is received or is to be

received in return for or in connection with services rendered or to be rendered.

(4) "Member of the executive branch" means an officer, officer-elect, candidate for, or employee of any state agency, department, or office in the executive branch of state government.

(5) "Expenditure" means a payment, distribution, loan, advance, reimbursement, deposit, or gift of money or any thing of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.

(6) "Legislation" means:

(A) a bill, resolution, amendment, nomination, or other matter pending in either house of the legislature;

(B) any matter that is or may be the subject of action by either house or by a legislative committee, including the introduction, consideration, passage, defeat, approval, or veto of the matter; or

(C) any matter pending in a constitutional convention or that may be the subject of action by a constitutional convention.

(7) "Member of the legislative branch" means a member, member-elect, candidate for, or officer of the legislature or of a legislative committee, or an employee of the legislature.

(8) "Person" means an individual, corporation, association, firm, partnership, committee, club, organization, or group of persons who are voluntarily acting in concert.

(9) "Registrant" means a person required to register under Section 305.003.

(10) "Commission" means the Texas Ethics Commission.

(11) "Immediate family" means a spouse or dependent child.

(12) "Client" means a person or entity for which the registrant is registered or is required to be registered.

(13) "Matter" means the subject matters for which a registrant has been reimbursed, retained, or employed by a client to communicate directly with a member of the legislative or executive branch.

(14) "Person associated with the registrant" or "other associated person" means a partner or other person professionally associated with the registrant through a common business entity, other than a client, that reimburses, retains, or employs the registrant.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 304, Sec. 2.02, eff. Jan. 1, 1992; Acts 1997, 75th Leg., ch. 1058, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 249, Sec. 4.02, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1174 (H.B. 3445), Sec. 2, eff. September 1, 2009.
Acts 2015, 84th Leg., R.S., Ch. 1262 (H.B. 3512), Sec. 1, eff. September 1, 2015.

Sec. 305.0021. DETERMINATION OF AMOUNT OF JOINT EXPENDITURE. (a) If a registrant, or a person on the registrant's behalf and with the registrant's consent or ratification, joins with another person to make an expenditure described by this chapter, the amount of the expenditure made by or on behalf of the registrant for purposes of this chapter includes only:

(1) the amount of the portion of the joint expenditure contributed by the registrant; and

(2) the amount of any portion of the joint expenditure that:

(A) is made on behalf of the registrant by a person who is not a registrant; and

(B) is not otherwise reported under this chapter.

(b) For purposes of Section 36.02 or 36.10, Penal Code, a person described by Subsection (a)(2)(A) is not considered to have made an expenditure in accordance with this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1253 (H.B. 2735), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1231 (H.B. 2984), Sec. 1, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 119, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 305.003. PERSONS REQUIRED TO REGISTER. (a) A person must register with the commission under this chapter if the person:

(1) makes a total expenditure of an amount determined by commission rule but not less than $200 in a calendar quarter, not including the person's own travel, food, or lodging expenses or the person's own membership dues, on activities described in Section 305.006(b) to communicate directly with one or more members of the legislative or executive branch to influence legislation or administrative action; or

(2) receives, or is entitled to receive under an agreement under which the person is retained or employed, compensation or reimbursement, not including reimbursement for the person's own travel, food, or lodging expenses or the person's own membership dues, of more than an amount determined by commission rule but not less than $200 in a calendar quarter from another person to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.

(b) Subsection (a)(2) requires a person to register if the person, as part of his regular employment, has communicated directly with a member of the legislative or executive branch to influence legislation or administrative action on behalf of the person by whom he is compensated or reimbursed, whether or not the person receives any compensation for the communication in addition to the salary for that regular employment.

(b-1) Subsection (a)(2) does not require a member of the judicial, legislative, or executive branch of state government or an officer or employee of a political subdivision of the state to register. This subsection does not apply to an officer or employee of a quasi-governmental agency. For purposes of this subsection, "quasi-governmental agency" means a governmental agency, other than an institution of higher education as defined by Section 61.003, Education Code, that has as one of its primary purposes engaging in an activity that is normally engaged in by a nongovernmental agency, including:

(1) acting as a trade association; or

(2) competing in the public utility business with private entities.

(b-2) Subsection (a)(2) does not require an officer or an employee of a state agency that provides utility services under Section 35.102, Utilities Code, and Sections 31.401 and 52.133, Natural Resources Code, to register.

(b-3) Subsection (a)(2) does not require a person to register

if the person spends not more than 26 hours, or another amount of time determined by the commission, for which the person is compensated or reimbursed during the calendar quarter engaging in activity, including preparatory activity as defined by the commission, to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.

(b-4) If a person spends more than eight hours in a single day engaging in activity to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action, the person is considered to have engaged in the activity for only eight hours during that day for purposes of Subsection (b-3).

(c) A person who communicates directly with a member of the executive branch to influence administrative action is not required to register under Subsection (a)(2) if the person is an attorney of record or pro se, the person enters his appearance in a public record through pleadings or other written documents in a docketed case pending before a state agency, and that communication is the only activity that would otherwise require the person to register.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 304, Sec. 2.03, eff. Jan. 1, 1992; Acts 2003, 78th Leg., ch. 249, Sec. 4.03, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 725 (H.B. 2489), Sec. 1, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1262 (H.B. 3512), Sec. 2, eff. September 1, 2015.

Sec. 305.004. EXCEPTIONS. The following persons are not required to register under this chapter:

(1) a person who owns, publishes, or is employed by a newspaper, any other regularly published periodical, a radio station, a television station, a wire service, or any other bona fide news medium that in the ordinary course of business disseminates news, letters to the editors, editorial or other comment, or paid advertisements that directly or indirectly oppose or promote legislation or administrative action, if the person does not engage

in further or other activities that require registration under this chapter and does not represent another person in connection with influencing legislation or administrative action;

(2) a person whose only direct communication with a member of the legislative or executive branch to influence legislation or administrative action is an appearance before or testimony to one or more members of the legislative or executive branch in a hearing conducted by or on behalf of either the legislative or the executive branch and who does not receive special or extra compensation for the appearance other than actual expenses incurred in attending the hearing;

(3) a person whose only activity is to encourage or solicit members, employees, or stockholders of an entity by whom the person is reimbursed, employed, or retained to communicate directly with members of the legislative or executive branch to influence legislation or administrative action;

(4) a person whose only activity to influence legislation or administrative action is to compensate or reimburse an individual registrant to act in the person's behalf to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action;

(5) a person whose only activity to influence legislation or administrative action is attendance at a meeting or entertainment event attended by a member of the legislative or executive branch if the total cost of the meeting or entertainment event is paid by a business entity, union, or association;

(6) a person whose only compensation subject to Section 305.003(a)(2) consists of reimbursement for any wages not earned due to attendance at a meeting or entertainment event, travel to and from the meeting or entertainment event, admission to the meeting or entertainment event, and any food and beverage consumed at the meeting or entertainment event if the meeting or entertainment event is attended by a member of the legislative or executive branch and if the total cost of the meeting or entertainment event is paid by a business entity, union, or association; and

(7) a person who communicates directly with a member of the legislative or executive branch on behalf of a political party concerning legislation or administrative action, and whose expenditures and compensation, as described in Section 305.003, combined do not exceed $5,000 a calendar year.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 304, Sec. 2.04, eff. Jan. 1, 1992.

Sec. 305.0041. EXCEPTIONS FOR CERTAIN ACTIVITIES FOR WHICH COMPENSATION OR REIMBURSEMENT IS RECEIVED. (a) A person is not required to register under this chapter in accordance with Section 305.003(a)(2) solely because the person receives or is entitled to receive compensation or reimbursement to:

(1) communicate as an employee of a vendor of a product or service to a member of the executive branch concerning state agency purchasing decisions that do not exceed 10 million dollars involving a product, service, or service provider or negotiations regarding such decisions;

(2) communicate as an employee of a vendor of a product or service to a member of the executive branch concerning state agency purchasing decisions that exceed 10 million dollars involving a product, service, or service provider or negotiations regarding such decisions if the compensation for the communication is not totally or partially contingent on the outcome of any administrative action;

(3) communicate as a member of an advisory committee or task force if the person is appointed to serve in that capacity by a member of the legislative or executive branch; or

(4) communicate as a member of a board, task force, or advisory committee on which a member of the legislative or executive branch also serves.

(b) A registrant who performs an activity described by Subsection (a) is not required to:

(1) provide information concerning that activity in the registrant's registration statement under Section 305.005(f)(4) or (5)(B);

(2) provide information concerning the person who reimburses, retains, or employs the registrant to perform that activity under Section 305.005(f)(3) or (6) unless the registrant performs, on behalf of that person, other activities that require registration under this chapter; or

(3) provide information concerning a person employed or retained by the registrant for the purpose of assisting in that activity under Section 305.005(f)(5)(A) unless the person is also employed or retained by the registrant to assist with other

activities that require registration under this chapter. For the purposes of this chapter, a registrant is not required to list as an assistant another person who is also registered for the same client as the registrant.

Added by Acts 2009, 81st Leg., R.S., Ch. 1174 (H.B. 3445), Sec. 3, eff. September 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 815 (H.B. 3517), Sec. 1, eff. September 1, 2015.

Sec. 305.005. REGISTRATION. (a) Each person required to register under this chapter shall file a written registration with the commission and shall submit a registration fee.

(b) A registration filed under this chapter expires at midnight, December 31, of each year unless the registrant submits a registration renewal form to the commission on a form prescribed by the commission and submits the registration renewal fee. The registrant may file the registration renewal form and the fee anytime in December of the year in which the registration expires.

(c) The registration fee and registration renewal fee are:

(1) $150 for a registrant employed by an organization exempt from federal income tax under Section 501(c)(3), 501(c)(4), or 501(c)(6), Internal Revenue Code of 1986;

(2) $75 for any person required to register solely because the person is required to register under Section 305.0041; or

(3) $750 for any other registrant.

(d) Repealed by Acts 1999, 76th Leg., ch. 62, Sec. 8.01, eff. Sept. 1, 1999.

(e) A person required to register under this chapter who has not registered or whose registration has expired shall file the registration form and submit the registration fee not later than the fifth day after the date on which the person or the person's employee makes the first direct communication with a member of the legislative or executive branch that requires the person's registration.

(f) The registration must be written and verified and must contain:

(1) the registrant's full name and address;

(2) the registrant's normal business, business phone

number, and business address;

(3) the full name and address of each person:

(A) who reimburses, retains, or employs the registrant to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action; and

(B) on whose behalf the registrant has communicated directly with a member of the legislative or executive branch to influence legislation or administrative action;

(4) the subject matter of the legislation or of the administrative action that is the subject of the registrant's direct communication with a member of the legislative or executive branch and, if applicable, the docket number or other administrative designation of the administrative action;

(5) for each person employed or retained by the registrant for the purpose of assisting in direct communication with a member of the legislative or executive branch to influence legislation or administrative action:

(A) the full name, business address, and occupation of the person; and

(B) the subject matter of the legislation or of the administrative action to which the person's activities reportable under this section were related and, if applicable, the docket number or other administrative designation of the administrative action; and

(6) the amount of compensation or reimbursement paid by each person who reimburses, retains, or employs the registrant for the purpose of communicating directly with a member of the legislative or executive branch or on whose behalf the registrant communicates directly with a member of the legislative or executive branch.

(g) Compensation or reimbursement required to be reported under Subsection (f)(6) shall be reported in the following categories unless reported as an exact amount:

(1) $0 if no compensation or reimbursement is received;

(2) less than $10,000;

(3) at least $10,000 but less than $25,000;

(4) at least $25,000 but less than $50,000;

(5) at least $50,000 but less than $100,000;

(6) at least $100,000 but less than $150,000;

(7) at least $150,000 but less than $200,000;

(8) at least $200,000 but less than $250,000;
(9) at least $250,000 but less than $300,000;
(10) at least $300,000 but less than $350,000;
(11) at least $350,000 but less than $400,000;
(12) at least $400,000 but less than $450,000;
(13) at least $450,000 but less than $500,000; and
(14) $500,000 or more.

(g-1) Notwithstanding any other provision of this section, compensation or reimbursement required to be reported under Subsection (f)(6) shall be reported as an exact amount if the compensation or reimbursement received exceeds $500,000.

(h) If a registrant's activities are done on behalf of the members of a group or organization, including a business, trade, or consumer interest association but excluding a corporation, the registration form must include:

(1) a statement of the number of members in the group;

(2) the name of each person in the group or organization who determines the policy of the group or organization relating to influencing legislative or administrative action;

(3) a full description of the methods by which the registrant develops and makes decisions about positions on policy; and

(4) a list of those persons making a grant or contribution, in addition to or instead of dues or fees, that exceeds $250 per year.

(i) If a registrant's activities are done on behalf of a corporation the shares of which are not publicly traded, the registration form must include:

(1) the number of shareholders in the corporation;

(2) the name and address of each officer or member of the board of directors; and

(3) the name of each person owning 10 percent or more shares of the corporation.

(j) If the person described by Subsection (f)(3) is a business entity engaged in the representation of clients for the purpose of influencing legislation or administrative action, the registrant shall give the information required by that subdivision for each client on whose behalf the registrant communicated directly with a member of the legislative or executive branch.

(k) If there is a change in the information required to be

reported by a registrant under this section, other than Subsection (h) or (i), and that changed information is not timely reported on a report due under Section 305.007, the registrant shall file an amended registration reflecting the change with the commission not later than the date on which an amended registration is due under Section 305.0065 or the next report is due under Section 305.007, as applicable.

(l) The registration form must include a statement of whether the registrant is or is required to be registered as a foreign agent under the Foreign Agents Registration Act of 1938 (22 U.S.C. Section 611 et seq.).

(m) The registration form must include the full name and address of each person who compensates or reimburses the registrant or person acting as an agent for the registrant for services, including political consulting services, rendered by the registrant from:

(1) a political contribution as defined by Title 15, Election Code;

(2) interest received from a political contribution as defined by Title 15, Election Code; or

(3) an asset purchased with a political contribution as defined by Title 15, Election Code.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 432, Sec. 1, eff. Jan. 1, 1988; Acts 1991, 72nd Leg., ch. 304, Sec. 2.05, eff. Jan. 1, 1992; Acts 1995, 74th Leg., ch. 996, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1134, Sec. 11, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.01, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 249, Sec. 4.04, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 1.01, eff. December 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 725 (H.B. 2489), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1174 (H.B. 3445), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 836 (H.B. 3409), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 25.01, eff.

September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 147 (H.B. 1422), Sec. 1, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 132 (H.B. 1785), Sec. 1, eff. September 1, 2019.

Sec. 305.0051. LISTING OF PUBLIC OFFICERS AND EMPLOYEES. (a) Except as provided by Subsection (b), the commission by rule may require an officer or employee of a political subdivision or other governmental entity created under the Texas Constitution or laws of this state who communicates directly with a member of the legislative or executive branch concerning legislation or administrative action, other than routine matters, to file with the commission the officer's or employee's name, the name of the entity represented, the subject matter of the communication, and other information the commission considers relevant.

(b) The commission may not require a member of the legislative branch to file with the commission under this section.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 2.05, eff. Jan. 1, 1992.

Sec. 305.006. ACTIVITIES REPORT. (a) Each registrant shall file with the commission a written, verified report concerning the activities described by this section.

(b) The report must contain the total expenditures under a category listed in this subsection that the registrant made to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action and that are directly attributable, as that term is used in Section 305.0062(b), to a member of the legislative or executive branch or the immediate family of a member of the legislative or executive branch. The report must also include expenditures for the direct communications under a category listed in this subsection that other people made on the registrant's behalf if the expenditures were made with the registrant's consent or were ratified by the registrant. The expenditures must be reported in the following categories:

(1) transportation and lodging;

(2) food and beverages;

(3) entertainment;

(4) gifts, other than awards and mementos;

(5) awards and mementos; and

(6) expenditures made for the attendance of members of the legislative or executive branch at political fund-raisers or charity events.

(c) The report must also list the total expenditures made by the registrant or by others on the registrant's behalf and with the registrant's consent or ratification for broadcast or print advertisements, direct mailings, and other mass media communications if:

(1) the communications are made to a person other than a member, employee, or stockholder of an entity that reimburses, retains, or employs the registrant; and

(2) the communications support or oppose or encourage another to support or oppose pending legislation or administrative action.

(d) The report must also contain a list of the specific categories of subject matters about which the registrant, any person the registrant retains or employs to appear on the registrant's behalf, or any other person appearing on the registrant's behalf communicated directly with a member of the legislative or executive branch and that has not been reported under Section 305.005. The list must include the number or other designation assigned to the administrative action, if known.

(e) A registrant who reports an expenditure under one category provided by Subsection (b) may not report the same expenditure under another category of Subsection (b).

(f) An expenditure described by Subsection (b)(1), (2), (3), or (6) may not be made or accepted unless the registrant is present at the event. This subsection does not apply to a gift of food or beverages required to be reported under Subsection (b)(4) in accordance with Section 305.0061(e-1).

(g) For expenditures required to be reported under this section, the authorized expenditures described by Sections 305.025(3) and (4) include expenditures for an individual described by Sections 305.0062(a)(1)-(6).

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 2.02, 2.03, eff. Sept. 1,

1987; Acts 1987, 70th Leg., ch. 432, Sec. 2, eff. Jan. 1, 1988; Acts 1991, 72nd Leg., ch. 304, Sec. 2.06, eff. Jan. 1, 1992; Acts 1995, 74th Leg., ch. 996, Sec. 2, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 249, Sec. 4.05, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 206 (H.B. 1508), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 836 (H.B. 3409), Sec. 3, eff. June 17, 2011.

Sec. 305.0061. DETAILED REPORTS. (a) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification makes expenditures that exceed 60 percent of the amount of the legislative per diem in a day for transportation or lodging for a member of the legislative or executive branch, the registrant shall also state the following on the report filed under Section 305.006:

(1) the name of the member of the legislative or executive branch in whose behalf the expenditure is made;

(2) the place and date of the transportation or lodging; and

(3) the purpose of the transportation or lodging.

(b) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification makes expenditures that exceed 60 percent of the amount of the legislative per diem in a day for food and beverages for a member of the legislative or executive branch or makes expenditures that exceed 60 percent of the amount of the legislative per diem in a day for entertainment for a member of the legislative or executive branch or for the immediate family of a member of the legislative or executive branch, the registrant shall also state the following on the report filed under Section 305.006:

(1) the name of the member of the legislative or executive branch in whose behalf the expenditure is made;

(2) the place and date of the expenditure; and

(3) the amount of the expenditure by the appropriate category of the amount, as determined by the commission.

(c) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification gives to a member of the legislative or executive branch a gift or an award or memento,

the value of which exceeds $50 per gift, award, or memento, the registrant shall also state the following on the report filed under Section 305.006:

(1) the name of the member of the legislative or executive branch in whose behalf the expenditure is made;

(2) a general description of the gift, award, or memento; and

(3) the amount of the expenditure by the appropriate category of the amount, as determined by the commission.

(d) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification makes expenditures for the attendance of a member of the legislative or executive branch at a political fund-raiser or charity event, the registrant shall also state the following on the report filed under Section 305.006:

(1) the name of the member of the legislative or executive branch in whose behalf the expenditure is made;

(2) the name of the charity or the name of the candidate or officeholder for whom the political fund-raiser was held, as applicable; and

(3) the date of the fund-raiser or event.

(e) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification makes an expenditure for a gift, award, or memento for a member of the legislative or executive branch in conjunction with an expenditure for the attendance of that member at a political fund-raiser or charity event, the registrant shall report the expenditure for the gift, award, or memento under Subsection (c), if required, and not under Subsection (d).

(e-1) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification makes an expenditure for food or beverages with a value of $50 or less intended as a gift for a member of the legislative or executive branch and delivered by first-class United States mail or by common or contract carrier outside the Capitol Complex, the expenditure is considered to be a gift and should be reported under Section 305.006(b)(4).

(f) If a registrant or a person on the registrant's behalf with the registrant's consent or ratification makes an expenditure described by Section 305.006(b)(1), (2), or (3) to communicate directly with more than one member of the legislative or executive

branch to influence legislation or administrative action and if the registrant cannot reasonably determine the amount that is directly attributable to a member, the registrant shall apportion the expenditure made by that registrant according to the number of persons in attendance. The registrant shall report as required by Subsection (a), (b), or (c) if the expenditure for each person exceeds the amount provided under Subsection (a), (b), or (c).

(g) In this section, "legislative per diem" means the per diem set by the commission for members of the legislature as provided by Section 24(a), Article III, Texas Constitution.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 2.07, eff. Jan. 1, 1992.
Amended by Acts 2003, 78th Leg., ch. 249, Sec. 4.06, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 206 (H.B. 1508), Sec. 2, eff. September 1, 2005.

Sec. 305.0062. EXPENDITURES ATTRIBUTABLE TO GROUPS. (a) The report filed under Section 305.006 must also contain the total expenditures described by Section 305.006(b) that are directly attributable to members of the legislative or executive branch. The expenditures must be stated in only one of the following categories:

(1) state senators;

(2) state representatives;

(3) elected or appointed state officers, other than those described by Subdivision (1) or (2);

(4) legislative agency employees;

(5) executive agency employees;

(6) the immediate family of a member of the legislative or executive branch;

(7) guests, when invited by an individual described by Subdivision (1), (2), (3), (4), or (5); and

(8) events to which all legislators are invited.

(b) For purposes of Subsection (a), an expenditure is directly attributable to the person who consumed the food or beverage, to the person for whom admission, transportation, or lodging expenses were paid, or to the person to whom the gift, award, or memento was given.

(c) All expenditures made by a registrant or a person on the

registrant's behalf and with the registrant's consent or ratification that benefit members of the immediate family of members of the legislative or executive branch shall be aggregated and reported under Subsection (a)(6).

(d) If a registrant cannot reasonably determine the amount of an expenditure under Section 305.006(b) that is directly attributable to a member of the legislative or executive branch as required by Subsection (a), the registrant shall apportion the expenditure made by that registrant or by others on the registrant's behalf and with the registrant's consent or ratification according to the total number of persons in attendance. However, if an expenditure is for an event to which all legislators are invited, the registrant shall report the expenditure under Subsection (a)(8) and not under any other subdivision of that subsection or any other provision of this chapter.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 2.08, eff. Jan. 1, 1992.
Amended by Acts 1995, 74th Leg., ch. 996, Sec. 3, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 92 (S.B. 1011), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 7.003, eff. September 1, 2007.

Sec. 305.0063. MODIFIED REPORTING. (a) A person required to register under this chapter may, when filing the registration form or registration renewal form, elect to file an activities report under this section instead of Section 305.006 if the person does not intend to make expenditures reportable under Section 305.006(b) of more than $1,000 during a calendar year, not including the person's own travel, food, or lodging expenses or the person's own membership dues.

(b) To be entitled to file reports under this section, the registrant must file with the registration form or registration renewal form a written declaration of intent not to exceed $1,000 in expenditures during each calendar year in which that registration or registration renewal is effective.

(c) A registrant filing under this section shall annually file the report required by Section 305.006. The report must be filed not later than January 10 and must cover the activities occurring during

the previous calendar year.

(d) A registrant who exceeds $1,000 in expenditures shall file monthly reports as required by Section 305.007. The first report filed after exceeding $1,000 covers the period beginning January 1 through the date on which the next reporting period ends.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 2.09, eff. Jan. 1, 1992.

Sec. 305.0064. ELECTRONIC FILING OF REGISTRATIONS AND ACTIVITY REPORTS. (a) Except as provided by Subsection (b), each registration filed under Section 305.005 and each report filed under Section 305.006 must be filed by computer diskette, modem, or other means of electronic transfer, using computer software provided by the commission or computer software that meets commission specifications for a standard file format.

(b) The commission shall adopt rules under which a registrant may file paper registrations or reports on forms prescribed by the commission. The rules must be designed to ensure that:

(1) use of the electronic filing system under Subsection (a) is maximized; and

(2) registrants may file paper registrations or reports for good cause only.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 4.07, eff. Sept. 1, 2003.

Sec. 305.0065. AMENDED REGISTRATION DURING LEGISLATIVE SESSION. (a) This section applies only during the period beginning on the date a regular legislative session convenes and continuing through the date of final adjournment.

(b) A registrant shall file with the commission an amended registration if there is a change in:

(1) the person who reimburses, retains, or employs the registrant and on whose behalf the registrant has communicated directly with a member of the legislative or executive branch to influence legislation or administrative action; or

(2) the subject matter about which the registrant has communicated directly with a member of the legislative or executive branch.

(c) The amended registration must be written and verified and must contain the information required in Section 305.005.

(d) The registrant must file the amended registration not later than the fifth day after the date on which the registrant, any person the registrant retains or employs to appear on the registrant's behalf, or any other person appearing on the registrant's behalf makes the first direct communication with a member of the legislative or executive branch:

(1) on behalf of a person not included in the registrant's registration, the registrant's last activity report, or any other registration and who reimburses, retains, or employs the registrant to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action; or

(2) about any subject matter not included in the registrant's registration, the registrant's last activity report, or any other registration.

Added by Acts 2011, 82nd Leg., R.S., Ch. 836 (H.B. 3409), Sec. 2, eff. June 17, 2011.

Sec. 305.007. FILING DATES FOR SUPPLEMENTAL REPORTS. (a) The registrant must file the report required by Section 305.006 between the 1st and 10th day of each month. Subject to Section 305.0071, the report must cover the activities occurring during the previous month.

(b) A person who made expenditures on the registrant's behalf that are required to be reported under Section 305.006 or a person who has other information that is required to be reported by the registrant under this chapter shall provide a full, verified account of the expenditures to the registrant not later than the seventh day before the date on which the registrant's report is due.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 304, Sec. 2.10, eff. Jan. 1, 1992. Amended by:

Acts 2005, 79th Leg., Ch. 206 (H.B. 1508), Sec. 3, eff. September 1, 2005.

Sec. 305.0071. INCLUSION OF EXPENDITURE IN REPORT. (a) Except as provided by this section:

(1) an expenditure is not required to be included in a report under Section 305.006 for a month before the month in which the amount is readily determinable by the person making the expenditure; and

(2) an expenditure is not required to be included in a report under Section 305.0063 for a calendar year before the year in which the amount is readily determinable by the person making the expenditure.

(b) An expenditure that is of a character for which, under normal business practice, the amount is not disclosed until receipt of a periodic bill must be included in the report for the reporting period in which the bill is received.

(c) The amount of an expenditure made by credit card must be included in the report for the reporting period in which:

(1) the expenditure is made; or

(2) the person receives the credit card statement that includes the expenditure.

Added by Acts 2005, 79th Leg., Ch. 206 (H.B. 1508), Sec. 4, eff. September 1, 2005.

Sec. 305.008. TERMINATION NOTICE. (a) A person who ceases to engage in activities requiring registration under this chapter shall file a written, verified statement with the commission acknowledging the termination of activities. The notice is effective immediately.

(b) A person who files a notice of termination under this section must file the reports required by Section 305.006 for any reporting period during which the person was registered.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 3.23, eff. Aug. 30, 1993.

Sec. 305.009. MAINTENANCE OF REPORTS. (a) All reports filed under this chapter are public records and shall be made available for public inspection during regular business hours.

(b) The commission shall:

(1) design and provide appropriate forms, covering only the items required to be disclosed under this chapter, to be used for the registration and reporting of required information;

(2) maintain registrations and reports in a separate, alphabetical file;

(3) remove registrations and reports from the files after five years from the date of filing; and

(4) maintain a deputy available to receive registrations and reports and make the registrations and reports available to the public for inspection.

(c) The commission shall retain a report filed under this chapter for at least four years after the date the report is filed.

(d) A registrant shall keep any records necessary to the reports required under this chapter for at least four years after the date the report is filed.

(e) The commission shall make available on its website an amended registration filed under Section 305.0065 not later than the next business day after the date the amended registration is filed.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 304, Sec. 2.11, eff. Jan. 1, 1992; Acts 1993, 73rd Leg., ch. 107, Sec. 3.24, eff. Aug. 30, 1993.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 836 (H.B. 3409), Sec. 4, eff. June 17, 2011.

Sec. 305.010. TIMELINESS OF FILING REGISTRATIONS AND REPORTS. (a) A registration or report filed by first-class United States mail or by common or contract carrier is timely if:

(1) it is properly addressed with postage or handling charges prepaid; and

(2) it bears a post office cancellation mark or a receipt mark from a common or contract carrier indicating a time within the applicable filing period or before the applicable filing deadline or if the person required to file furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within that period or before that deadline.

(b) A registration or report filed by means of electronic transfer is timely if it is received by the commission not later than midnight on the last day permitted under this chapter for filing the report or registration.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.04(a), eff. Sept. 1,

1987.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 472 (H.B. 2195), Sec. 4, eff. September 1, 2007.

Sec. 305.011. LIST OF REGISTRANTS AND EMPLOYERS. (a) Not later than February 1 of each odd-numbered year, the commission shall prepare a list of the names of registrants and shall indicate by each registrant's name each employer or concern employing the registrant.

(b) In addition to the list required under Subsection (a), the commission shall prepare a list of the names of any employer or concern employing a registrant and shall indicate each registrant compensated by the employer or concern.

(c) The commission shall send the lists prepared under this section to each member of the legislature. During a regular legislative session, the commission shall send a monthly update of the lists to each member of the legislature and to any person required to file under Chapter 572, who requests one.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 2.12, eff. Jan. 1, 1992.
Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 3.25, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(40), eff. Sept. 1, 1995.

SUBCHAPTER B. PROHIBITED ACTIVITIES

Sec. 305.021. FALSE COMMUNICATIONS. A person, for the purpose of influencing legislation or administrative action, may not:

(1) knowingly or wilfully make a false statement or misrepresentation of the facts to a member of the legislative or executive branch; or

(2) cause a copy of a document the person knows to contain a false statement to be received by a member of the legislative or executive branch without notifying the member in writing of the truth.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 305.022. CONTINGENT FEES. (a) A person may not retain or

employ another person to influence legislation or administrative action for compensation that is totally or partially contingent on the passage or defeat of any legislation, the governor's approval or veto of any legislation, or the outcome of any administrative action.

(b) A person may not accept any employment or render any service to influence legislation or administrative action for compensation contingent on the passage or defeat of any legislation, the governor's approval or veto of any legislation, or the outcome of any administrative action.

(c) For purposes of this chapter:

(1) A sales commission payable to an employee of a vendor of a product or service is not considered compensation contingent on the outcome of administrative action if the amount of the state agency purchasing decision does not exceed 10 million dollars.

(2) A quarterly or annual compensation performance bonus payable to an employee of a vendor of a product or service is not considered compensation contingent on the outcome of administrative action.

(c-1) Repealed by Acts 2015, 84th Leg., R.S., Ch. 815 , Sec. 2, eff. September 1, 2015.

(c-2) For purposes of this chapter, a commission or fee paid to a person by a state agency is not considered compensation contingent on the outcome of an administrative action if the person paid a commission or a fee by a state agency:

(1) is a registrant who reports the state agency as a client under this chapter; and

(2) reports the full amount of the commission or fee in the manner required by commission rule.

(c-3) Repealed by Acts 2015, 84th Leg., R.S., Ch. 815 , Sec. 2, eff. September 1, 2015.

(d) This section does not prohibit the payment or acceptance of contingent fees:

(1) expressly authorized by other law; or

(2) for legal representation before state administrative agencies in contested hearings or similar adversarial proceedings prescribed by law or administrative rules.

(e) For purposes of this section, the term "employee" means a person employed full-time by an employer to perform services for compensation. The term does not include an independent contractor or consultant.

(f) The provisions of this chapter shall not be applicable to a transaction for the sale, lease, or services provided in connection with the sale or lease of any real properties or real properties interest owned or managed by the permanent school fund or General Land Office.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 304, Sec. 2.13, eff. Jan. 1, 1992. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1174 (H.B. 3445), Sec. 4, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 815 (H.B. 3517), Sec. 2, eff. September 1, 2015.

Sec. 305.023. ADMISSION TO FLOORS. A person who is registered or required to be registered under this chapter may not go on the floor of either house of the legislature while that house is in session unless invited by that house.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 305.024. RESTRICTIONS ON EXPENDITURES.

Text of subsection as amended by Acts 2005, 79th Leg., R.S., Ch. 92 (S.B. 1011), Sec. 2

(a) Except as provided by Section 305.025, a person registered under Section 305.005 or a person on the registrant's behalf and with the registrant's consent or ratification may not offer, confer, or agree to confer:

(1) to an individual described by Section 305.0062(a)(1), (2), (3), (4), or (5):

(A) a loan, including the guarantee or endorsement of a loan; or

(B) a gift of cash or a negotiable instrument as described by Section 3.104, Business & Commerce Code; or

(2) to an individual described by Section 305.0062(a)(1), (2), (3), (4), (5), (6), or (7):

(A) an expenditure for transportation and lodging;

(B) an expenditure or series of expenditures for entertainment that in the aggregate exceed $500 in a calendar year;

(C) an expenditure or series of expenditures for gifts that in the aggregate exceed $500 in a calendar year;

(D) an expenditure for an award or memento that exceeds $500; or

(E) an expenditure described by Section 305.006(b)(1), (2), (3), or (6) unless the registrant is present at the event.

Text of subsection as amended by Acts 2005, 79th Leg., R.S., Ch. 206 (H.B. 1508), Sec. 5

(a) Except as provided by Section 305.025, a person registered under Section 305.005 or a person on the registrant's behalf and with the registrant's consent or ratification may not offer, confer, or agree to confer to a member of the legislative or executive branch:

(1) a loan, including the guarantee or endorsement of a loan;

(2) a gift of cash or a negotiable instrument as described by Section 3.104, Business & Commerce Code;

(3) an expenditure for transportation and lodging;

(4) an expenditure or series of expenditures for entertainment that in the aggregate exceed $500 in a calendar year;

(5) an expenditure or series of expenditures for gifts that in the aggregate exceed $500 in a calendar year;

(6) an expenditure for an award or memento that exceeds $500; or

(7) an expenditure described by Section 305.006(b)(1), (2), (3), or (6) unless:

(A) the registrant is present at the event; or

(B) the expenditure is for a gift of food or beverages required to be reported under Section 305.006(b)(4) in accordance with Section 305.0061(e-1).

(b) Except as provided by Section 305.025, a member of the legislative or executive branch may not solicit, accept, or agree to accept from a person registered under Section 305.005 or from a person on the registrant's behalf and with the registrant's consent or ratification an item listed in Subsection (a).

(c) Notwithstanding Subsection (a), the total value of a joint expenditure under Subsection (a)(2)(B), (C), or (D) may exceed $500 if each portion of the expenditure:

(1) is made by a registrant; and

(2) does not exceed $500.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 2.14(a), eff. Jan. 1, 1992.
Amended by:
Acts 2005, 79th Leg., Ch. 92 (S.B. 1011), Sec. 2, eff. September 1, 2005.
Acts 2005, 79th Leg., Ch. 206 (H.B. 1508), Sec. 5, eff. September 1, 2005.
Acts 2007, 80th Leg., R.S., Ch. 1253 (H.B. 2735), Sec. 2, eff. September 1, 2007.

Sec. 305.025. EXCEPTIONS. Section 305.024 does not prohibit:

(1) a loan in the due course of business from a corporation or other business entity that is legally engaged in the business of lending money and that has conducted that business continuously for more than one year before the loan is made;

(2) a loan or guarantee of a loan or a gift made or given by a person related within the second degree by affinity or consanguinity to the member of the legislative or executive branch;

(3) necessary expenditures for transportation and lodging when the purpose of the travel is to explore matters directly related to the duties of a member of the legislative or executive branch, such as fact-finding trips, including attendance at informational conferences or an event described by Subdivision (4), but not including attendance at merely ceremonial events or pleasure trips;

(4) necessary expenditures for transportation, lodging, food and beverages, and entertainment provided in connection with a conference, seminar, educational program, or similar event in which the member renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory;

(5) an incidental expenditure for transportation as determined by commission rule; or

(6) a political contribution as defined by Section 251.001, Election Code.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 2.14(a), eff. Jan. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 996, Sec. 4, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 92 (S.B. 1011), Sec. 3, eff. September 1, 2005.

Sec. 305.026. PROHIBITION ON USE OF CERTAIN PUBLIC FUNDS. (a) Public funds available to a political subdivision may not be used to compensate or reimburse the expenses over $50 of any person for the purpose of communicating directly with a member of the legislative branch to influence legislation, unless the person being compensated or reimbursed resides in the district of the member with whom the person communicates or files a written statement with the commission that includes the person's name, the amount of compensation or reimbursement, and the name of the affected political subdivision.

(b) In this section, "political subdivision" includes:

(1) a municipality;

(2) a county; and

(3) a special district created under the constitution or laws of this state, including:

(A) a school district;

(B) a junior college district;

(C) a water district;

(D) a hospital district;

(E) a municipal utility district;

(F) a metropolitan transit authority; and

(G) any other governmental entity that embraces a geographic area within a definite boundary and exists for the purpose of discharging functions of government and possesses authority for subordinate self-government through officers selected by it.

(c) This section does not apply to a person who is registered under this chapter, to a person who holds an elective or appointive public office, or to a full-time employee of the affected political subdivision.

(d) This section does not prohibit a political subdivision from making an expenditure of public funds to a statewide association with a minimum membership of at least 25 percent of eligible political subdivisions that contract with or employ a registrant for the purpose of communicating directly with a member of the legislative branch to influence legislation.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 2.14(a), eff. Jan. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 3.26, eff. Aug. 30, 1993.

Sec. 305.027. REQUIRED DISCLOSURE ON LEGISLATIVE ADVERTISING. (a) A person commits an offense if the person knowingly enters into a contract or other agreement to print, publish, or broadcast legislative advertising that does not indicate in the advertising:

(1) that it is legislative advertising;

(2) the full name of the individual who personally entered into the contract or agreement with the printer, publisher, or broadcaster and the name of the person, if any, that the individual represents; and

(3) in the case of advertising that is printed or published, the address of the individual who personally entered into the agreement with the printer or publisher and the address of the person, if any, that the individual represents.

(b) It is an exception to the application of Subsection (a) to a broadcaster, printer, or publisher of legislative advertising or to an agent or employee of the broadcaster, printer, or publisher that:

(1) the person entering into the contract or agreement with the broadcaster, printer, or publisher is not the actual sponsor of the advertising but is the sponsor's professional advertising agent conducting business in this state; or

(2) the advertising is procured by the actual sponsor of the legislative advertising and, before the performance of the contract or agreement, the sponsor is given written notice as provided by Subsection (d).

(c) A professional advertising agent conducting business in this state who seeks to procure the broadcasting, printing, or publication of legislative advertising on behalf of the sponsor of the advertising commits an offense if the agent enters into a contract or agreement for the broadcasting, printing, or publication of legislative advertising and does not, before the performance of the contract or agreement, give the sponsor written notice as provided by Subsection (d).

(d) The notice required by Subsections (b) and (c) must be substantially as follows:

Section 305.027, Government Code, requires legislative

advertising to disclose certain information. A person who knowingly enters into a contract or other agreement to print, publish, or broadcast legislative advertising that does not contain the information required under that section commits an offense that is a Class A misdemeanor.

(e) In this section, "legislative advertising" means a communication that supports, opposes, or proposes legislation and that:

(1) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or

(2) appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, button, or similar form of written communication.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 2.14(a), eff. Jan. 1, 1992.

Sec. 305.028. PROHIBITED CONFLICTS OF INTEREST. (a) In this section:

(1) "Client" means a person or entity for which the registrant is registered or is required to be registered.

(2) "Matter" means the subject matters for which a registrant has been reimbursed, retained, or employed by a client to communicate directly with a member of the legislative or executive branch.

(3) "Person associated with the registrant" or "other associated person" means a partner or other person professionally associated with the registrant through a common business entity, other than a client, that reimburses, retains, or employs the registrant.

(b) Except as permitted by Subsection (c) or (c-1), a registrant may not represent a client in communicating directly with a member of the legislative or executive branch to influence legislative subject matter or administrative action if the representation of that client:

(1) involves a substantially related matter in which that client's interests are materially and directly adverse to the interests of:

(A) another client of the registrant;

(B) an employer or concern employing the registrant; or

(C) another client of a person associated with the registrant; or

(2) reasonably appears to be adversely limited by:

(A) the registrant's, the employer's or concern's, or the other associated person's responsibilities to another client; or

(B) the registrant's, employer's or concern's own interest, or other associated person's own business interests.

(c) A registrant may represent a client in the circumstances described in Subsection (b) if:

(1) the registrant reasonably believes the representation of each client will not be materially affected;

(2) not later than the second business day after the date the registrant becomes aware of a conflict described by Subsection (b), the registrant provides written notice, in the manner required by the commission, to each affected client; and

(3) not later than the 10th day after the date the registrant becomes aware of a conflict described by Subsection (b), the registrant files with the commission a statement that:

(A) indicates that there is a conflict;

(B) states that the registrant has notified each affected client as required by Subdivision (2); and

(C) states the name and address of each affected client.

(c-1) A registrant may represent a client in the circumstances described in Subsection (b) without regard to whether the registrant reasonably believes the representation of each client will be materially affected if:

(1) the registrant provides the written notice to each affected client as described by Subsection (c)(2) and files the statement described by Subsection (c)(3); and

(2) after the registrant has provided the written notice described by Subsection (c)(2), each affected client of the registrant consents to the conflict and grants the registrant permission to continue the representation.

(d) If a registrant has accepted representation in conflict with the restrictions of this section, or if multiple representation properly accepted becomes improper under this section, the registrant shall promptly withdraw from one or more representations to the

extent necessary for any remaining representation not to be in conflict with this section.

(e) If a registrant would be prohibited by this section from engaging in particular conduct, an employer or concern employing the registrant or a partner or other person associated with the registrant may not engage in that conduct.

(f) In each report filed with the commission, a registrant shall, under oath, affirm that the registrant has, to the best of the registrant's knowledge, complied with this section.

(g) The commission may receive complaints regarding a violation of this section. If the commission determines a violation of this section has occurred, the commission, after notice and hearing:

(1) shall impose a civil penalty in an amount not to exceed $2,000; and

(2) may rescind the person's registration and may prohibit the person from registering with the commission for a period not to exceed two years from the date of the rescission of the person's registration.

(h) A penalty under this section is in addition to any other enforcement, criminal, or civil action that the commission or another person may take under this chapter or other law.

(i) Repealed by Acts 2005, 79th Leg., Ch. 218, Sec. 3, eff. September 1, 2005.

(j) A statement filed under Subsection (c) is not public information.

(k) The commission may adopt rules to implement this section consistent with this chapter, the Texas Disciplinary Rules of Professional Conduct, and the common law of agency.

Added by Acts 2001, 77th Leg., ch. 1013, Sec. 1, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 4.08, 4.12, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1322, Sec. 1, eff. Sept. 1, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 218 (H.B. 2202), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 218 (H.B. 2202), Sec. 3, eff. September 1, 2005.

Sec. 305.029. EXPENDITURES FROM POLITICAL CONTRIBUTIONS

RESTRICTED. (a) In this section, "candidate," "political contribution," "political committee," "political expenditure," and "specific-purpose committee" have the meanings assigned by Section 251.001, Election Code.

(b) A registrant, or a person on the registrant's behalf and with the registrant's consent or ratification, may not knowingly make or authorize an expenditure required to be reported under this chapter from a political contribution that was accepted by:

(1) the registrant as a candidate or officeholder;

(2) a specific-purpose committee for the purpose of supporting the registrant as a candidate or assisting the registrant as an officeholder; or

(3) a political committee that accepted a political contribution described by Subdivision (1) or (2) during the two-year period immediately before the date the expenditure was made or authorized by the registrant.

(c) This section does not prohibit a person from making a political contribution or political expenditure in support of the person's own candidacy.

Added by Acts 2017, 85th Leg., R.S., Ch. 330 (H.B. 505), Sec. 1, eff. January 8, 2019.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 839 (H.B. 2677), Sec. 2, eff. September 27, 2019.

SUBCHAPTER C. SANCTIONS

Sec. 305.031. CRIMINAL PENALTIES. (a) A person commits an offense if the person intentionally or knowingly violates a provision of this chapter other than Section 305.022 or 305.028. An offense under this subsection is a Class A misdemeanor.

(b) A person commits an offense if the person intentionally or knowingly violates Section 305.022. An offense under this subsection is a felony of the third degree.

(c) Repealed by Acts 2003, 78th Leg., ch. 249, Sec. 4.12 and Acts 2003, 78th Leg., ch. 1322, Sec. 2.

(d) This chapter does not affect the criminal responsibility of a person under the state laws relating to perjury.

(e) This section does not prohibit the commission from imposing

a civil penalty for a violation.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 304, Sec. 2.15, eff. Jan. 1, 1992; Acts 1995, 74th Leg., ch. 996, Sec. 5, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1013, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 249, Sec. 4.09, 4.12, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1322, Sec. 2, eff. Sept. 1, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 218 (H.B. 2202), Sec. 2, eff. September 1, 2005.

Sec. 305.032. CIVIL PENALTY FOR FAILURE TO REGISTER. In addition to the criminal penalties prescribed by Section 305.031, a person who receives compensation or reimbursement or makes an expenditure for engaging in direct communication to influence legislation or administrative action and who fails to file a registration form or activities report required to be filed under this chapter shall pay a civil penalty in an amount determined by commission rule, but not to exceed an amount equal to three times the compensation, reimbursement, or expenditure.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 304, Sec. 2.16, eff. Jan. 1, 1992.

Sec. 305.033. CIVIL PENALTY FOR LATE FILING. (a) The commission shall determine from any available evidence whether a registration or report required to be filed with the commission under this chapter is late. A registration filed without the fee required by Section 305.005 is considered to be late. On making a determination that a required registration or report is late, the commission shall immediately mail a notice of the determination to the person responsible for the filing, to the commission, and to the appropriate attorney for the state.

(b) If a registration or report is determined to be late, the person responsible for the filing is liable to the state for payment of a civil penalty of $500.

(c) If a registration or report is more than 30 days late, the commission shall issue a warning of liability by registered mail to

the person responsible for the filing. If the penalty is not paid before the 10th day after the date on which the warning is received, the person is liable for a penalty in an amount determined by commission rule, but not to exceed $10,000.

(d) A penalty paid voluntarily under this section shall be deposited in the state treasury to the credit of the General Revenue Fund.

(e) This section is in addition to any other available sanctions for late filings of registrations or reports.

(f) A registration or report other than an activities report filed by a registrant is not considered to be late for purposes of this section if the registrant files a corrected or amended registration or report not later than the 14th business day after the date the registrant becomes aware of the error or omission in the registration or report originally filed.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 432, Sec. 3, eff. Jan. 1, 1988; Acts 1991, 72nd Leg., ch. 304, Sec. 2.17, eff. Jan. 1, 1992; Acts 1993, 73rd Leg., ch. 107, Sec. 3.27, eff. Aug. 30, 1993; Acts 2003, 78th Leg., ch. 249, Sec. 4.10, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1250 (H.B. 1800), Sec. 1, eff. September 1, 2005.

Sec. 305.034. FAILURE TO FILE ALL REQUIRED FORMS. (a) The commission shall determine whether all persons registered under this chapter have filed all required forms, statements, and reports.

(b) Whenever the commission determines that a person has failed to file any required form, statement, or report as required by this chapter, the commission shall send a written statement of this finding to the person involved. Notice to the person involved must be sent by certified mail.

(c) If the person fails to file the form, statement, or report as required by this chapter before the 21st day after the date on which the notice was sent, the commission shall file a sworn complaint of the violation with the appropriate prosecuting attorney.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 3.28, eff. Aug. 30, 1993.

Sec. 305.035. ENFORCEMENT. (a) The commission, the attorney general, or any county or district attorney may enforce this chapter.

(b) On the application of any citizen of this state, a district court in Travis County may issue an injunction to enforce this chapter.

(c) A person may file with the appropriate prosecuting attorney or with the commission a written, sworn statement alleging a violation of this chapter.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 304, Sec. 2.18, eff. Jan. 1, 1992.

Sec. 305.036. VENUE. An offense under this chapter, including perjury, may be prosecuted in Travis County or in any other county in which it may be prosecuted under the Code of Criminal Procedure, 1965.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

CHAPTER 306. LEGISLATIVE INFORMATION

Sec. 306.001. DEFINITION. In this chapter, "communication" includes conversation, correspondence, and electronic communication.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.05(a), eff. Sept. 1, 1987.

Sec. 306.002. APPLICATION. This chapter applies to records and communications collected and maintained by members of the legislature and the lieutenant governor on June 12, 1985, as well as to records made and communications received by those officials on or after that date.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.05(a), eff. Sept. 1, 1987.

Sec. 306.003. CONFIDENTIAL RECORDS. (a) Records of a member of the legislature or the lieutenant governor that are composed exclusively of memoranda of communications with residents of this state and of personal information concerning the person communicating with the member or lieutenant governor are confidential. However, the member or the lieutenant governor may disclose all or a part of a record to which this subsection applies, and that disclosure does not violate the law of this state.

(b) The method used to store or maintain a record covered by Subsection (a) does not affect the confidentiality of the record.

(c) If a member of the legislature or the lieutenant governor discloses to the Department of Family and Protective Services or a governmental unit that is a "covered entity" under Section 181.001(b), Health and Safety Code, all or part of a record to which Subsection (a) applies or communicates to the department or governmental unit a description of the information contained in the record that identifies or would tend to identify the resident of this state who communicated with the member or lieutenant governor, the record or the described information, as applicable, in the possession of the department or governmental unit is subject to and confidential under Subsection (a) and may be disclosed to any other person only to the extent that the member of the legislature or lieutenant governor elects to disclose the record or the described information.

(d) If the department or governmental unit that is a "covered entity" under Section 181.001(b), Health and Safety Code, receives a request for public information under Chapter 552, and information subject to the request is information described by Subsection (c), the department or governmental unit shall promptly notify, in writing or by electronic means, the member of the legislature or the lieutenant governor, as applicable, that the department or governmental entity received the request. The notification must specify the type of information that is requested and include a copy of the request.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.05(a), eff. Sept. 1, 1987.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 633 (H.B. 367), Sec. 1, eff. June 14, 2013.

Sec. 306.004. PUBLIC DISCLOSURE PROHIBITED. (a) To ensure the right of the citizens of this state to petition state government, as guaranteed by Article I, Section 27, of the Texas Constitution, by protecting the confidentiality of communications of citizens with a member of the legislature or the lieutenant governor, the public disclosure of all or part of a written or otherwise recorded communication from a citizen of this state received by a member or the lieutenant governor in his official capacity is prohibited unless:

(1) the citizen expressly or by clear implication authorizes the disclosure;

(2) the communication is of a type that is expressly authorized by statute to be disclosed; or

(3) the official determines that the disclosure does not constitute an unwarranted invasion of personal privacy of the communicator or another person.

(b) This section does not apply to a communication to a member of the legislature or the lieutenant governor from a public official or public employee acting in an official capacity.

(c) A member or the lieutenant governor may elect to disclose all or part of a communication to which this section applies, and that disclosure does not violate the law of this state.

(d) If a member of the legislature or the lieutenant governor discloses to the Department of Family and Protective Services or a governmental unit that is a "covered entity" under Section 181.001(b), Health and Safety Code, a communication to which this section applies or communicates to the department or governmental unit a description of the information contained in the communication that identifies or would tend to identify the citizen of this state who communicated with the member or lieutenant governor, the communication or the described information, as applicable, in the possession of the department or governmental unit is subject to and confidential under this section and may be disclosed to another person only to the extent that the member of the legislature or lieutenant governor elects to disclose the communication or the described information.

(e) If the department or governmental unit that is a "covered entity" under Section 181.001(b), Health and Safety Code, receives a request for public information under Chapter 552, and information subject to the request is information described by Subsection (d),

the department or governmental unit shall promptly notify, in writing or by electronic means, the member of the legislature or the lieutenant governor, as applicable, that the department or governmental entity received the request. The notification must specify the type of information that is requested and include a copy of the request.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.05(a), eff. Sept. 1, 1987.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 633 (H.B. 367), Sec. 2, eff. June 14, 2013.

Sec. 306.0055. LEGISLATIVELY PRODUCED PHOTOGRAPHS. A house, committee, or agency of the legislature may charge for a photograph produced by or under the direction of the entity the fair market value of the photograph.

Added by Acts 2013, 83rd Leg., R.S., Ch. 47 (H.B. 2377), Sec. 2, eff. September 1, 2013.

Sec. 306.006. COMMERCIAL USE OF LEGISLATIVELY PRODUCED AUDIO OR VISUAL MATERIALS. (a) A person may not use audio or visual materials produced by or under the direction of the legislature or of a house, committee, or agency of the legislature for a commercial purpose unless the legislative entity that produced the audio or visual materials or under whose direction the audio or visual materials were produced gives its permission for the person's commercial use and:

(1) the person uses the audio or visual materials only for educational or public affairs programming, including news programming; or

(2) the person transmits an unedited feed of the audio or visual materials:

(A) to paid subscribers; or

(B) on an Internet website that is accessible to the public.

(b) A person who violates Subsection (a) commits an offense. An offense under this subsection is a Class C misdemeanor.

(c) The legislative entity that produced the audio or visual materials or under whose direction the audio or visual materials were produced shall give its permission to a person to use the materials for a commercial purpose described by Subsection (a)(1) if the person or the person's representative submits to the legislative entity a signed, written request for the use that:

(1) states the purpose for which the audio or visual materials will be used and the stated purpose is allowed under Subsection (a)(1); and

(2) contains an agreement by the person that the audio or visual materials will not be used for a commercial purpose other than the stated purpose.

(d) Subsection (a)(2) does not apply to visual materials consisting of photographs or other still images. A legislative entity is not required to give its permission to any person to use materials for a purpose described by Subsection (a)(2) and may limit the number of persons to whom it gives its permission to use materials for a purpose described by Subsection (a)(2).

(e) Subsection (a) and an agreement under Subsection (c)(2) do not prohibit compiling, describing, quoting from, analyzing, or researching the verbal content of the audio or visual materials for a commercial purpose.

(f) In addition to the criminal penalty that may be imposed under Subsection (b), the attorney general shall enforce this section at the request of the legislative entity by bringing a civil action to enjoin a violation of Subsection (a) or of an agreement under Subsection (c)(2).

(g) In this section:

(1) "Commercial purpose" means a purpose that is intended to result in a profit or other tangible benefit.

(2) "Visual materials" means photographic, video, or other material containing a still or moving recorded image or images.

Added by Acts 1995, 74th Leg., ch. 877, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 47 (H.B. 2377), Sec. 3, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 209 (H.B. 3580), Sec. 3, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 209 (H.B. 3580), Sec. 4, eff.

September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 721 (H.B. 368), Sec. 2, eff. June 10, 2019.

Sec. 306.007. MINUTES AND REPORTS ELECTRONICALLY AVAILABLE TO LEGISLATURE. A state officer or board, commission, or other agency in the executive branch of state government, and an agency in the judicial branch of state government other than a court, shall make reports required by law and minutes of meetings of the agency's governing body available to members of the legislature and to agencies in the legislative branch of state government in an electronic format determined by the Texas Legislative Council.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.03, eff. Sept. 1, 1999.

Sec. 306.008. LEGISLATIVE PRIVILEGE. (a) To protect the public's interest in the proper performance of the deliberative and policymaking responsibilities of the legislature and to preserve the legislative branch's independence under the fundamental principle of separation of powers, as guaranteed by Article II and Section 21, Article III, Texas Constitution, a communication is confidential and subject to legislative privilege if the communication:

(1) is given privately;

(2) concerns a legislative activity or function; and

(3) is among or between any of the following:

(A) a member of the house or senate;

(B) the lieutenant governor;

(C) an officer of the house or senate;

(D) a member of the governing body of a legislative agency; or

(E) a legislative employee.

(b) A communication described by Subsection (a) is subject to attorney-client privilege if:

(1) one of the parties to the communication is a legislative attorney or a legislative employee working at the direction of a legislative attorney; and

(2) the communication is made in connection with the

legislative attorney's provision of legal advice or other legal services.

(c) A member of the house or senate, the lieutenant governor, or an officer of the house or senate may choose to disclose all or part of a communication to which Subsection (a) or (b) applies and to which the individual or a legislative employee acting on behalf of the individual was a party.

(d) This section does not affect the authority of a court to analyze and apply legislative or attorney-client privileges under the applicable rules of evidence governing a judicial proceeding.

(e) In this section:

(1) "Legislative agency" means a board, commission, committee, council, department, office, or any other agency in the legislative branch of state government. The term does not include the Texas Ethics Commission.

(2) "Legislative attorney" means an attorney employed or engaged by the house, the senate, a member of the house or senate, the lieutenant governor, an officer of the house or senate, a house or senate committee, a joint committee, or a legislative agency.

(3) "Legislative employee" means:

(A) an employee of, assistant to, or credentialed intern for any part of the legislative branch of state government, including the house, the senate, a member of the house or senate, the lieutenant governor, an officer of the house or senate, a house or senate committee, a joint committee, or a legislative agency; or

(B) a person performing services under a contract entered into with the house, the senate, a house or senate committee, or a legislative agency.

Added by Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 19, eff. June 14, 2019.

Sec. 306.009. CUSTODIAN OF CERTAIN LEGISLATIVE RECORDS. (a) A member of the legislature, the lieutenant governor, an officer of the house or senate, or a legislative agency, office, or committee that stores records with or transfers records to the Legislative Reference Library or the Texas State Library and Archives Commission:

(1) possesses, maintains, or controls the records for purposes of litigation; and

(2) is the custodian of the records for purposes of Chapter 552.

(b) Subsection (a) does not apply to a member of the legislature or the lieutenant governor after the individual's service as a member or lieutenant governor ends.

Added by Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 19, eff. June 14, 2019.

SUBTITLE B. LEGISLATION
CHAPTER 311. CODE CONSTRUCTION ACT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 311.001. SHORT TITLE. This chapter may be cited as the Code Construction Act.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 311.002. APPLICATION. This chapter applies to:

(1) each code enacted by the 60th or a subsequent legislature as part of the state's continuing statutory revision program;

(2) each amendment, repeal, revision, and reenactment of a code or code provision by the 60th or a subsequent legislature;

(3) each repeal of a statute by a code; and

(4) each rule adopted under a code.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 311.003. RULES NOT EXCLUSIVE. The rules provided in this chapter are not exclusive but are meant to describe and clarify common situations in order to guide the preparation and construction of codes.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 311.004. CITATION OF CODES. A code may be cited by its name preceded by the specific part concerned. Examples of citations

are:

(1) Title 1, Business & Commerce Code;

(2) Chapter 5, Business & Commerce Code;

(3) Section 9.304, Business & Commerce Code;

(4) Section 15.06(a), Business & Commerce Code; and

(5) Section 17.18(b)(1)(B)(ii), Business & Commerce Code.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1985, 69th Leg., ch. 117, Sec. 13(b), eff. Sept. 1, 1985.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 229, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 311.005. GENERAL DEFINITIONS. The following definitions apply unless the statute or context in which the word or phrase is used requires a different definition:

(1) "Oath" includes affirmation.

(2) "Person" includes corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.

(3) "Population" means the population shown by the most recent federal decennial census.

(4) "Property" means real and personal property.

(5) "Rule" includes regulation.

(6) "Signed" includes any symbol executed or adopted by a person with present intention to authenticate a writing.

(7) "State," when referring to a part of the United States, includes any state, district, commonwealth, territory, and insular possession of the United States and any area subject to the legislative authority of the United States of America.

(8) "Swear" includes affirm.

(9) "United States" includes a department, bureau, or other agency of the United States of America.

(10) "Week" means seven consecutive days.

(11) "Written" includes any representation of words, letters, symbols, or figures.

(12) "Year" means 12 consecutive months.

(13) "Includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms

does not create a presumption that components not expressed are excluded.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 340, Sec. 1, eff. Aug. 28, 1989.

Sec. 311.006. INTERNAL REFERENCES. In a code:

(1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of the code; and

(2) a reference to a subtitle, subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit without further identification is a reference to a unit of the next larger unit of the code in which the reference appears.

Added by Acts 1993, 73rd Leg., ch. 131, Sec. 1, eff. May 11, 1993.

SUBCHAPTER B. CONSTRUCTION OF WORDS AND PHRASES

Sec. 311.011. COMMON AND TECHNICAL USAGE OF WORDS. (a) Words and phrases shall be read in context and construed according to the rules of grammar and common usage.

(b) Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 311.012. TENSE, NUMBER, AND GENDER. (a) Words in the present tense include the future tense.

(b) The singular includes the plural and the plural includes the singular.

(c) Words of one gender include the other genders.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 311.013. AUTHORITY AND QUORUM OF PUBLIC BODY. (a) A grant of authority to three or more persons as a public body confers

the authority on a majority of the number of members fixed by statute.

(b) A quorum of a public body is a majority of the number of members fixed by statute.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 311.014. COMPUTATION OF TIME. (a) In computing a period of days, the first day is excluded and the last day is included.

(b) If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

(c) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 311.015. REFERENCE TO A SERIES. If a statute refers to a series of numbers or letters, the first and last numbers or letters are included.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 311.016. "MAY," "SHALL," "MUST," ETC. The following constructions apply unless the context in which the word or phrase appears necessarily requires a different construction or unless a different construction is expressly provided by statute:

(1) "May" creates discretionary authority or grants permission or a power.

(2) "Shall" imposes a duty.

(3) "Must" creates or recognizes a condition precedent.

(4) "Is entitled to" creates or recognizes a right.

(5) "May not" imposes a prohibition and is synonymous with "shall not."

(6) "Is not entitled to" negates a right.

(7) "Is not required to" negates a duty or condition precedent.

Added by Acts 1997, 75th Leg., ch. 220, Sec. 1, eff. May 23, 1997.

SUBCHAPTER C. CONSTRUCTION OF STATUTES

Sec. 311.021. INTENTION IN ENACTMENT OF STATUTES. In enacting a statute, it is presumed that:

(1) compliance with the constitutions of this state and the United States is intended;

(2) the entire statute is intended to be effective;

(3) a just and reasonable result is intended;

(4) a result feasible of execution is intended; and

(5) public interest is favored over any private interest.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 311.022. PROSPECTIVE OPERATION OF STATUTES. A statute is presumed to be prospective in its operation unless expressly made retrospective.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 311.023. STATUTE CONSTRUCTION AIDS. In construing a statute, whether or not the statute is considered ambiguous on its face, a court may consider among other matters the:

(1) object sought to be attained;

(2) circumstances under which the statute was enacted;

(3) legislative history;

(4) common law or former statutory provisions, including laws on the same or similar subjects;

(5) consequences of a particular construction;

(6) administrative construction of the statute; and

(7) title (caption), preamble, and emergency provision.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 311.024. HEADINGS. The heading of a title, subtitle, chapter, subchapter, or section does not limit or expand the meaning of a statute.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 311.025. IRRECONCILABLE STATUTES AND AMENDMENTS. (a) Except as provided by Section 311.031(d), if statutes enacted at the same or different sessions of the legislature are irreconcilable, the statute latest in date of enactment prevails.

(b) Except as provided by Section 311.031(d), if amendments to the same statute are enacted at the same session of the legislature, one amendment without reference to another, the amendments shall be harmonized, if possible, so that effect may be given to each. If the amendments are irreconcilable, the latest in date of enactment prevails.

(c) In determining whether amendments are irreconcilable, text that is reenacted because of the requirement of Article III, Section 36, of the Texas Constitution is not considered to be irreconcilable with additions or omissions in the same text made by another amendment. Unless clearly indicated to the contrary, an amendment that reenacts text in compliance with that constitutional requirement does not indicate legislative intent that the reenacted text prevail over changes in the same text made by another amendment, regardless of the relative dates of enactment.

(d) In this section, the date of enactment is the date on which the last legislative vote is taken on the bill enacting the statute.

(e) If the journals or other legislative records fail to disclose which of two or more bills in conflict is latest in date of enactment, the date of enactment of the respective bills is considered to be, in order of priority:

(1) the date on which the last presiding officer signed the bill;

(2) the date on which the governor signed the bill; or

(3) the date on which the bill became law by operation of law.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 340, Sec. 2, eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 220, Sec. 2, eff. May 23, 1997.

Sec. 311.026. SPECIAL OR LOCAL PROVISION PREVAILS OVER GENERAL. (a) If a general provision conflicts with a special or local provision, the provisions shall be construed, if possible, so that effect is given to both.

(b) If the conflict between the general provision and the special or local provision is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later enactment and the manifest intent is that the general provision prevail.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 311.027. STATUTORY REFERENCES. Unless expressly provided otherwise, a reference to any portion of a statute or rule applies to all reenactments, revisions, or amendments of the statute or rule.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 131, Sec. 2, eff. May 11, 1993.

Sec. 311.028. UNIFORM CONSTRUCTION OF UNIFORM ACTS. A uniform act included in a code shall be construed to effect its general purpose to make uniform the law of those states that enact it.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 311.029. ENROLLED BILL CONTROLS. If the language of the enrolled bill version of a statute conflicts with the language of any subsequent printing or reprinting of the statute, the language of the enrolled bill version controls.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 311.030. REPEAL OF REPEALING STATUTE. The repeal of a repealing statute does not revive the statute originally repealed nor impair the effect of any saving provision in it.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 311.031. SAVING PROVISIONS. (a) Except as provided by Subsection (b), the reenactment, revision, amendment, or repeal of a statute does not affect:

(1) the prior operation of the statute or any prior action taken under it;

(2) any validation, cure, right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred under it;

(3) any violation of the statute or any penalty, forfeiture, or punishment incurred under the statute before its amendment or repeal; or

(4) any investigation, proceeding, or remedy concerning any privilege, obligation, liability, penalty, forfeiture, or punishment; and the investigation, proceeding, or remedy may be instituted, continued, or enforced, and the penalty, forfeiture, or punishment imposed, as if the statute had not been repealed or amended.

(b) If the penalty, forfeiture, or punishment for any offense is reduced by a reenactment, revision, or amendment of a statute, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to the statute as amended.

(c) The repeal of a statute by a code does not affect an amendment, revision, or reenactment of the statute by the same legislature that enacted the code. The amendment, revision, or reenactment is preserved and given effect as part of the code provision that revised the statute so amended, revised, or reenacted.

(d) If any provision of a code conflicts with a statute enacted by the same legislature that enacted the code, the statute controls.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 311.032. SEVERABILITY OF STATUTES. (a) If any statute contains a provision for severability, that provision prevails in interpreting that statute.

(b) If any statute contains a provision for nonseverability, that provision prevails in interpreting that statute.

(c) In a statute that does not contain a provision for

severability or nonseverability, if any provision of the statute or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the statute that can be given effect without the invalid provision or application, and to this end the provisions of the statute are severable.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 311.034. WAIVER OF SOVEREIGN IMMUNITY. In order to preserve the legislature's interest in managing state fiscal matters through the appropriations process, a statute shall not be construed as a waiver of sovereign immunity unless the waiver is effected by clear and unambiguous language. In a statute, the use of "person," as defined by Section 311.005 to include governmental entities, does not indicate legislative intent to waive sovereign immunity unless the context of the statute indicates no other reasonable construction. Statutory prerequisites to a suit, including the provision of notice, are jurisdictional requirements in all suits against a governmental entity.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 8, eff. June 15, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 1150 (H.B. 2988), Sec. 1, eff. September 1, 2005.

Sec. 311.035. CONSTRUCTION OF STATUTE OR RULE INVOLVING CRIMINAL OFFENSE OR PENALTY. (a) In this section, "actor" and "element of offense" have the meanings assigned by Section 1.07, Penal Code.

(b) Except as provided by Subsection (c), a statute or rule that creates or defines a criminal offense or penalty shall be construed in favor of the actor if any part of the statute or rule is ambiguous on its face or as applied to the case, including:

(1) an element of offense; or

(2) the penalty to be imposed.

(c) Subsection (b) does not apply to a criminal offense or penalty under the Penal Code or under the Texas Controlled Substances Act.

(d) The ambiguity of a part of a statute or rule to which this section applies is a matter of law to be resolved by the judge.

Added by Acts 2015, 84th Leg., R.S., Ch. 1251 (H.B. 1396), Sec. 4, eff. September 1, 2015.

Sec. 311.036. CONSTRUCTION OF ABORTION STATUTES. (a) A statute that regulates or prohibits abortion may not be construed to repeal any other statute that regulates or prohibits abortion, either wholly or partly, unless the repealing statute explicitly states that it is repealing the other statute.

(b) A statute may not be construed to restrict a political subdivision from regulating or prohibiting abortion in a manner that is at least as stringent as the laws of this state unless the statute explicitly states that political subdivisions are prohibited from regulating or prohibiting abortion in the manner described by the statute.

(c) Every statute that regulates or prohibits abortion is severable in each of its applications to every person and circumstance. If any statute that regulates or prohibits abortion is found by any court to be unconstitutional, either on its face or as applied, then all applications of that statute that do not violate the United States Constitution and Texas Constitution shall be severed from the unconstitutional applications and shall remain enforceable, notwithstanding any other law, and the statute shall be interpreted as if containing language limiting the statute's application to the persons, group of persons, or circumstances for which the statute's application will not violate the United States Constitution and Texas Constitution.

Added by Acts 2021, 87th Leg., R.S., Ch. 62 (S.B. 8), Sec. 5, eff. September 1, 2021.

CHAPTER 312. CONSTRUCTION OF LAWS

SUBCHAPTER A. CONSTRUCTION RULES FOR CIVIL STATUTES

Sec. 312.001. APPLICATION. This subchapter applies to the construction of all civil statutes.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 312.002. MEANING OF WORDS. (a) Except as provided by Subsection (b), words shall be given their ordinary meaning.

(b) If a word is connected with and used with reference to a particular trade or subject matter or is used as a word of art, the word shall have the meaning given by experts in the particular trade, subject matter, or art.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 312.003. TENSE, NUMBER, AND GENDER. (a) Words in the present or past tense include the future tense.

(b) The singular includes the plural and the plural includes the singular unless expressly provided otherwise.

(c) The masculine gender includes the feminine and neuter genders.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 312.004. GRANTS OF AUTHORITY. A joint authority given to any number of officers or other persons may be executed by a majority of them unless expressly provided otherwise.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 312.005. LEGISLATIVE INTENT. In interpreting a statute, a court shall diligently attempt to ascertain legislative intent and shall consider at all times the old law, the evil, and the remedy.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 312.006. LIBERAL CONSTRUCTION. (a) The Revised Statutes are the law of this state and shall be liberally construed to achieve their purpose and to promote justice.

(b) The common law rule requiring strict construction of statutes in derogation of the common law does not apply to the

Revised Statutes.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 312.007. REPEAL OF REPEALING STATUTE. The repeal of a repealing statute does not revive the statute originally repealed.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 312.008. STATUTORY REFERENCES. Unless expressly provided otherwise, a reference to any portion of a statute, rule, or regulation applies to all reenactments, revisions, or amendments of the statute, rule, or regulation.

Added by Acts 1993, 73rd Leg., ch. 131, Sec. 3, eff. May 11, 1993.

SUBCHAPTER B. MISCELLANEOUS PROVISIONS

Sec. 312.011. DEFINITIONS. The following definitions apply unless a different meaning is apparent from the context of the statute in which the word appears:

(1) "Affidavit" means a statement in writing of a fact or facts signed by the party making it, sworn to before an officer authorized to administer oaths, and officially certified to by the officer under his seal of office.

(2) "Comptroller" means the state comptroller of public accounts.

(3) "Effects" includes all personal property and all interest in that property.

(4) "Governing body," if used with reference to a municipality, means the legislative body of a city, town, or village, without regard to the name or title given to any particular body.

(5) "Justice," when applied to a magistrate, means justice of the peace.

(6) "Land commissioner" means the Commissioner of the General Land Office.

(7) "Month" means a calendar month.

(8) "Oath" includes affirmation.

(9) "Official oath" means the oath required by Article XVI,

Section 1, of the Texas Constitution.

(10) "Person" includes a corporation.

(11) "Preceding," when referring to a title, chapter, or article, means that which came immediately before.

(12) "Preceding federal census" or "most recent federal census" means the United States decennial census immediately preceding the action in question.

(13) "Property" includes real property, personal property, life insurance policies, and the effects of life insurance policies.

(14) "Signature" includes the mark of a person unable to write, and "subscribe" includes the making of such a mark.

(15) "Succeeding" means immediately following.

(16) "Swear" or "sworn" includes affirm or affirmed.

(17) "Written" or "in writing" includes any representation of words, letters, or figures, whether by writing, printing, or other means.

(18) "Year" means a calendar year.

(19) "Includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded.

(20) "Population" means the population shown by the most recent federal decennial census.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 340, Sec. 3, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 131, Sec. 4, eff. May 11, 1993.

Sec. 312.012. GRAMMAR AND PUNCTUATION. (a) A grammatical error does not vitiate a law. If the sentence or clause is meaningless because of the grammatical error, words and clauses may be transposed to give the law meaning.

(b) Punctuation of a law does not control or affect legislative intent in enacting the law.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 312.013. SEVERABILITY OF STATUTES. (a) Unless expressly provided otherwise, if any provision of a statute or its application

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

(b) This section does not affect the power or duty of a court to ascertain and give effect to legislative intent concerning severability of a statute.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 312.014. IRRECONCILABLE AMENDMENTS. (a) If statutes enacted at the same or different sessions of the legislature are irreconcilable, the statute latest in date of enactment prevails.

(b) If amendments to the same statute are enacted at the same session of the legislature, one amendment without reference to another, the amendments shall be harmonized, if possible, so that effect may be given to each. If the amendments are irreconcilable, the latest in date of enactment prevails.

(c) In determining whether amendments to the same statute enacted at the same session of the legislature are irreconcilable, text that is reenacted because of the requirement of Article III, Section 36, of the Texas Constitution is not considered to be irreconcilable with additions or omissions in the same text made by another amendment. Unless clearly indicated to the contrary, an amendment that reenacts text in compliance with that constitutional requirement does not indicate legislative intent that the reenacted text prevail over changes in the same text made by another amendment, regardless of the relative dates of enactment.

(d) In this section, the date of enactment is the date on which the last legislative vote is taken on the bill enacting the statute.

(e) If the journals or other legislative records fail to disclose which of two or more bills in conflict is latest in date of enactment, the date of enactment of the respective bills is considered to be, in order of priority:

(1) the date on which the last presiding officer signed the bill;

(2) the date on which the governor signed the bill; or

(3) the date on which the bill became law by operation of law.

Added by Acts 1989, 71st Leg., ch. 340, Sec. 4, eff. Aug. 28, 1989.
Amended by Acts 1997, 75th Leg., ch. 220, Sec. 3, eff. May 23, 1997.

Sec. 312.015. QUORUM. A majority of a board or commission established under law is a quorum unless otherwise specifically provided.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 11, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1393, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 312.016. STANDARD TIME. (a) The standard time in this state is the time at the 90th meridian longitude west from Greenwich, commonly known as "central standard time."

(b) The standard time in a region of this state that used mountain standard time before June 12, 1947, is the time at the 105th meridian longitude west from Greenwich, commonly known as "mountain standard time."

(c) Unless otherwise expressly provided, a reference in a statute, order, or rule to the time in which an act shall be performed means the appropriate standard time as provided by this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 12, eff. Sept. 1, 1993.

CHAPTER 313. NOTICE FOR LOCAL AND SPECIAL LAWS

Sec. 313.001. NOTICE. A person who intends to apply for the passage of a local or special law must give notice of that intention as prescribed by this chapter.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 313.002. PUBLICATION OR POSTING OF NOTICE FOR LAWS AFFECTING LOCALITIES. (a) A person who intends to apply for the passage of a local or special law must publish notice of that intention in a newspaper published in the county embracing the

locality the law will affect.

(b) The notice must be published once not later than the 30th day before the date on which the intended law is introduced in the legislature.

(c) The notice is sufficient if it contains a statement of the general purpose and substance of the intended law and the name of the person paying for the publication. Publication of the particular form of the intended law or the terms used in the intended law is not required.

(d) If the intended law will affect more than one county, the person applying for passage of the law must publish notice in each county the law will affect.

(e) If a newspaper is not published in the county, the person applying for passage of the law must post the notice at the courthouse door and at five other public places in the immediate locality in the county the law will affect.

(f) The posted notice must accurately define the locality the law will affect.

(g) The notice must be posted for at least 30 days.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 815 (H.B. 2365), Sec. 1, eff. September 1, 2019.

Sec. 313.003. PUBLICATION OF NOTICE FOR LAWS PRIMARILY AFFECTING PERSONS. (a) If a resident of this state intends to apply for passage of a law that will primarily affect persons and will not directly affect a particular locality more than it will affect another, the person applying for passage must publish notice in a newspaper published in the county in which the person resides in the same manner as if the law will affect the locality.

(b) If the applicant is not a resident of this state, publication of notice in a newspaper published in Austin is sufficient.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 313.004. PROOF OF PUBLICATION OR POSTING. (a) If

publication of notice in a newspaper is required by law, proof of publication shall be made by the affidavit of the publisher accompanied by a printed copy of the notice as published.

(b) Proof of posting may be made by the return of the sheriff or constable or by the affidavit of a credible person made on a copy of the posted notice showing the fact of the posting.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 313.005. INTRODUCTION OF LAW. When a local or special law is introduced in the legislature, the law must be accompanied by competent proof that notice was given.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 313.006. NOTICE FOR LAWS ESTABLISHING OR ADDING TERRITORY TO MUNICIPAL MANAGEMENT DISTRICTS. (a) In addition to the other requirements of this chapter, a person, other than a member of the legislature, who intends to apply for the passage of a law establishing or adding territory to a special district that incorporates a power from Chapter 375, Local Government Code, must provide notice as provided by this section.

(b) The person shall notify by mail each person who owns real property proposed to be included in a new district or to be added to an existing district, according to the most recent certified tax appraisal roll for the county in which the real property is owned. The notice, properly addressed with postage paid, must be deposited with the United States Postal Service not later than the 30th day before the date on which the intended law is introduced in the legislature.

(c) The notice is sufficient if it contains a statement of the general purpose and substance of the intended law and the name of the person paying for the publication. Notice of the particular form of the intended law or the terms used in the intended law is not required.

(d) The person is not required to mail notice under Subsection (b) or (e) to a person who owns real property in the proposed district or in the area proposed to be added to a district if the property cannot be subject to an assessment by the district.

(e) After the introduction of a law in the legislature establishing or adding territory to a special district that incorporates a power from Chapter 375, Local Government Code, the person shall mail to each person who owns real property proposed to be included in a new district or to be added to an existing district a notice that the legislation has been introduced, including the applicable bill number. The notice, properly addressed with postage paid, must be deposited with the United States Postal Service not later than the 30th day after the date on which the intended law is introduced in the legislature. If the person has not mailed the notice required under this subsection on the 31st day after the date on which the intended law is introduced in the legislature, the person may cure the deficiency by immediately mailing the notice, but the person shall in no event mail the notice later than the date on which the intended law is reported out of committee in the chamber other than the chamber in which the intended law was introduced. If similar bills are filed in both chambers of the legislature, a person is only required to provide a single notice under this subsection not later than the 30th day after the date the first of the bills is filed.

(f) A landowner may waive any notice required under this section at any time.

Added by Acts 2005, 79th Leg., Ch. 981 (H.B. 1830), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 761 (S.B. 1987), Sec. 1, eff. June 12, 2017.

Acts 2017, 85th Leg., R.S., Ch. 761 (S.B. 1987), Sec. 2, eff. June 12, 2017.

Acts 2019, 86th Leg., R.S., Ch. 815 (H.B. 2365), Sec. 2, eff. September 1, 2019.

CHAPTER 314. FISCAL NOTES AND COST PROJECTIONS

Sec. 314.001. SYSTEM OF FISCAL NOTES. The Legislative Budget Board shall establish a system of fiscal notes identifying the probable costs of each bill or resolution that authorizes or requires the expenditure or diversion of state funds for a purpose other than one provided for in the general appropriations bill.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 314.002. COST ESTIMATES. In preparing a fiscal note, the board shall project cost estimates for a five-year period that begins on the effective date of the bill or resolution and shall state whether or not costs or diversions will be involved after that period.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 314.003. ATTACHMENT TO BILL OR RESOLUTION. (a) If a fiscal note is required on a bill or resolution, it must be attached to the bill or resolution as provided by the rules of the appropriate house of the legislature.

(b) The fiscal note must be printed as part of the committee report of the bill or resolution and as part of all subsequent printings, as provided by the rules of the appropriate house of the legislature.

(c) The fiscal note must remain with the bill or resolution throughout the legislative process, including submission to the governor.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 20, eff. June 14, 2019.

Sec. 314.004. EQUALIZED EDUCATION FUNDING IMPACT STATEMENT. (a) The board shall prepare for each bill or resolution that affects public education an equalized education funding impact statement.

(b) The impact statement must evaluate the effect of the bill or resolution on all state equalized funding requirements and policies.

(c) The impact statement must be attached to the bill or resolution immediately following:

(1) the fiscal note attached under Section 314.003; or

(2) if a dynamic fiscal impact statement is prepared under Section 314.005, the dynamic fiscal impact statement.

Added by Acts 1990, 71st Leg., 6th C.S., ch. 1, Sec. 1.18, eff. Sept. 1, 1990.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1108 (H.B. 464), Sec. 2, eff. September 1, 2009.

Sec. 314.005. DYNAMIC FISCAL IMPACT STATEMENT ON TAX OR FEE MEASURE. (a) The board shall prepare a dynamic fiscal impact statement for each bill or joint resolution:

(1) that raises or lowers the rate or amount of a tax or fee or proposes an amendment to the Texas Constitution that would raise or lower the rate or amount of a tax or fee; and

(2) for which a fiscal note is prepared indicating a positive or negative impact on revenue of at least $75 million annually.

(b) The dynamic fiscal impact statement must, based on dynamic scoring principles, project for the five-year period beginning on the proposed effective date of the change in the rate or amount of the tax or fee the estimated fiscal and economic impacts of raising or lowering the rate or amount of the tax or fee as proposed, including the impact on:

(1) tax or fee receipts; and

(2) the costs of the specific program, if any, that the tax or fee is designed to directly support.

(c) In this section, "dynamic scoring principles" means a method of estimating the pace of economic growth or the change in the aggregate level of economic output and incomes, in response to a change in the rate or amount of a tax or fee, that takes into consideration factors including:

(1) the direct impact on tax or fee receipts and, if the tax or fee is designed to directly support a specific program, on program costs;

(2) the effects on incentives to work, save, invest, and conduct economic affairs;

(3) the resulting change in the overall level of economic activity;

(4) the impact of the resulting higher or lower level of economic activity on tax or fee receipts and, if the tax or fee is designed to directly support a specific program, on program costs;

and

(5) a calculation of the net impact of the legislation proposing the change on the unified budget.

(d) The dynamic fiscal impact statement must be attached to the bill or resolution immediately following the fiscal note attached under Section 314.003.

(e) On the fifth anniversary of the effective date of a bill that becomes law for which a dynamic fiscal impact statement was prepared under this section, the comptroller shall prepare and submit to the presiding officer of each house of the legislature a report that assesses the accuracy of the relevant fiscal note prepared for the bill and the accuracy of the relevant dynamic fiscal impact statement prepared for the bill.

Added by Acts 2009, 81st Leg., R.S., Ch. 1108 (H.B. 464), Sec. 1, eff. September 1, 2009.

CHAPTER 315. ECONOMIC IMPACT STATEMENT

Sec. 315.001. SHORT TITLE. This chapter may be cited as the Economic Impact Statement Act.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 315.002. DEFINITION. In this chapter, "state agency" means:

(1) any department, commission, board, office, or other agency that:

(A) is in the executive branch of state government;

(B) has authority that is not limited to a geographical portion of the state; and

(C) was created by the constitution or a statute of this state; or

(2) an institution of higher education as defined by Section 61.003, Education Code, other than a public junior college or community college.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 315.003. STATE POLICY. Recognizing the impact of the laws and rules of this state on the economy, employment, and enterprise of its people, the legislature declares that the continuing policy of this state is to maintain and create conditions that will sustain and promote the economy, employment, and economic opportunities of the people of Texas.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 315.004. ECONOMIC IMPACT STATEMENT. (a) At the request of the lieutenant governor or speaker of the house of representatives, a state agency shall prepare an economic impact statement for any pending bill or joint resolution that directly affects that agency. Preparation of the statement shall be coordinated through the Legislative Budget Board director.

(b) The economic impact statement must include:

(1) a brief description of the nature and effect of the proposal; and

(2) a statement of the manner and extent to which the proposal, if implemented, will directly or indirectly during each of the two years following its effective date:

(A) affect employment in the state, including the number of people affected, the geographic area or areas affected, and the existing level of employment and unemployment in those areas;

(B) affect the construction, modification, alteration, or utilization of any structure, equipment, facility, process, or other asset in the state, including the estimated dollar measure of the action and the geographic area or areas affected;

(C) result in changes in costs of goods and services in the state;

(D) result in changes in revenue and expenditures of state and local governments; and

(E) have economic impacts within the state other than those specifically described by this subsection.

(c) An economic impact statement that omits any information required by this chapter must specifically note the omission, state the reason for the omission, and estimate the additional time and effort required to obtain the information.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

CHAPTER 316. APPROPRIATIONS

SUBCHAPTER A. LIMIT ON GROWTH OF APPROPRIATIONS

Sec. 316.001. LIMIT. (a) For purposes of this subchapter, "consolidated general revenue appropriations" means appropriations from:

(1) the general revenue fund in the state treasury;

(2) a dedicated account in the general revenue fund in the state treasury; or

(3) a general revenue-related fund in the state treasury as identified in the biennial statement required of the comptroller under Section 49a, Article III, Texas Constitution.

(b) The rate of growth of appropriations in a state fiscal biennium from state tax revenues not dedicated by the constitution may not exceed the estimated rate of growth of the state's economy.

(c) The rate of growth of consolidated general revenue appropriations in a state fiscal biennium may not exceed the estimated average biennial rate of growth of this state's population during the state fiscal biennium preceding the biennium for which appropriations are made and during the state fiscal biennium for which appropriations are made, adjusted by the estimated average biennial rate of monetary inflation in this state during the same period, as determined under Section 316.002.

(d) For purposes of this subchapter, the following appropriations must be excluded from computations used to determine whether appropriations exceed the amount authorized by Subsection (c):

(1) an appropriation for a purpose that provides tax relief; or

(2) an appropriation to pay costs associated with recovery from a disaster declared by the governor under Section 418.014.

(e) The Legislative Budget Board shall determine the rates described by Subsection (c) using the most recent information available from sources the board considers reliable, including the United States Bureau of Labor Statistics Consumer Price Index and the Texas Demographic Center.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 437 (S.B. 1336), Sec. 1, eff. September 1, 2021.

Sec. 316.002. DUTIES OF LEGISLATIVE BUDGET BOARD. (a) Before the Legislative Budget Board transmits the budget for the next state fiscal biennium as prescribed by Section 322.008(c), the board shall establish:

(1) the limit on the rate of growth of appropriations from state tax revenues not dedicated by the constitution for that state fiscal biennium, as compared to the previous state fiscal biennium, based on the estimated rate of growth of the state's economy from the current state fiscal biennium to the next state fiscal biennium; and

(2) the limit on the rate of growth of consolidated general revenue appropriations for that state fiscal biennium, as compared to the previous state fiscal biennium, by subtracting one from the product of:

(A) the sum of one and the estimated average biennial rate of growth of this state's population during the state fiscal biennium preceding the biennium for which appropriations are made and during the state fiscal biennium for which appropriations are made; and

(B) the sum of one and the estimated average biennial rate of monetary inflation during the state fiscal biennium preceding the biennium for which appropriations are made and during the state fiscal biennium for which appropriations are made.

(b) Except as provided by Subsection (c), the board shall determine the estimated rate of growth of the state's economy for purposes of Subsection (a)(1) by dividing the estimated Texas total personal income for the next state fiscal biennium by the estimated Texas total personal income for the current state fiscal biennium. Using standard statistical methods, the board shall make the estimate by projecting through the biennium the estimated Texas total personal income reported by the United States Department of Commerce or its successor in function.

(c) If a more comprehensive definition of the rate of growth of the state's economy is developed and is approved by the committee established by Section 316.005, the board may use that definition in calculating the limit on the rate of growth of appropriations from state tax revenues not dedicated by the constitution under Subsection

(a)(1).

(d) Except as provided by Subsection (e), the board shall determine for the next state fiscal biennium a limit on the amount of:

(1) appropriations from state tax revenues not dedicated by the constitution by multiplying the amount of appropriations from state tax revenues not dedicated by the constitution for the current state fiscal biennium by the sum of one and the limit on the rate of growth of appropriations from state tax revenues not dedicated by the constitution established by the board under Subsection (a)(1); and

(2) consolidated general revenue appropriations by multiplying the amount of consolidated general revenue appropriations for the current state fiscal biennium by the sum of one and the limit on the rate of growth of consolidated general revenue appropriations established by the board under Subsection (a)(2).

(e) If the rate determined under Subsection (a)(2) is a negative number, the amount of consolidated general revenue appropriations for the next state fiscal biennium may not exceed the amount of consolidated general revenue appropriations in the current state fiscal biennium.

(f) To ensure compliance with this subchapter and Section 22, Article VIII, Texas Constitution, the Legislative Budget Board may not transmit in any form to the governor or the legislature the budget as prescribed by Section 322.008(c) or the general appropriations bill as prescribed by Section 322.008(d) until the board adopts:

(1) the limit on the rate of growth of appropriations from state tax revenues not dedicated by the constitution under Section 316.001(b); and

(2) the limit on the rate of growth of consolidated general revenue appropriations under Section 316.001(c).

(g) In the absence of an action by the Legislative Budget Board to adopt the limits as provided by this section:

(1) for purposes of Section 316.001(b):

(A) the estimated rate of growth of the state's economy from the current state fiscal biennium to the next state fiscal biennium shall be treated as if it were zero; and

(B) the amount of state tax revenues not dedicated by the constitution that could be appropriated within the limit established by the estimated rate of growth of the state's economy

shall be the same as the amount of those appropriations for the current state fiscal biennium; and

(2) for purposes of Section 316.001(c):

(A) the estimated average biennial rates of growth of this state's population and of monetary inflation shall be treated as if they were zero; and

(B) the amount of consolidated general revenue appropriations that could be appropriated within the limit established by that subsection shall be the same as the amount of those appropriations for the current state fiscal biennium.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 19.01, eff. Aug. 22, 1991.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.002, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 437 (S.B. 1336), Sec. 1, eff. September 1, 2021.

Sec. 316.003. PUBLICATION. Before the Legislative Budget Board approves the items of information required by Section 316.002, the board shall publish in the Texas Register the proposed items of information and a description of the methodology and sources used in the calculations.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 316.004. PUBLIC HEARING. Not later than December 1 of each even-numbered year, the Legislative Budget Board shall hold a public hearing to solicit testimony regarding the proposed items of information and the methodology used in making the calculations required by Section 316.002.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 316.005. ADOPTION BY COMMITTEE. (a) After the Legislative Budget Board approves the items of information required

by Section 316.002, the board shall submit the information to a committee composed of the governor, lieutenant governor, speaker of the house of representatives, and comptroller of public accounts.

(b) Not later than the 10th day after the date on which the board submits the items, the committee shall meet and finally adopt the items, either as submitted by the board or as amended by the committee.

(c) If the committee fails to act within the 10-day period prescribed by Subsection (b), the items of information submitted by the board are treated as if the committee had adopted them as submitted.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 316.006. LIMIT ON BUDGET RECOMMENDATIONS. Unless authorized by majority vote of the members of the board from each house, the Legislative Budget Board budget recommendations:

(1) relating to the proposed appropriations from state tax revenues not dedicated by the constitution may not exceed the limit on appropriations from those sources adopted by the committee under Section 316.005; and

(2) relating to the proposed consolidated general revenue appropriations may not exceed the limit on appropriations from those sources adopted by the committee under Section 316.005.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 437 (S.B. 1336), Sec. 1, eff. September 1, 2021.

Sec. 316.007. TRANSMISSION OF RECOMMENDATIONS. (a) The Legislative Budget Board shall include in its budget recommendations:

(1) the proposed limit of appropriations from state tax revenues not dedicated by the constitution; and

(2) the proposed limit of consolidated general revenue appropriations.

(b) The board shall transmit the recommendations to the governor and to each member of the legislature.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 437 (S.B. 1336), Sec. 2, eff. September 1, 2021.

Sec. 316.008. EFFECT OF LIMIT; ENFORCEMENT. (a) Unless the legislature adopts a resolution under Section 22, Article VIII, Texas Constitution, raising the proposed limit on appropriations from state tax revenues not dedicated by the constitution, the proposed limit is binding on the legislature with respect to all appropriations for the next state fiscal biennium made from those revenues. The proposed limit on consolidated general revenue appropriations is binding on the legislature with respect to all appropriations for the next state fiscal biennium made from those sources unless the legislature adopts a resolution raising the proposed limit that is approved by a record vote of three-fifths of the members of each house of the legislature. The resolution must find that an emergency exists, identify the nature of the emergency, and specify the amount authorized. The excess amount authorized under this subsection may not exceed the amount specified in the resolution.

(b) The rules of the house of representatives and senate shall provide for enforcement of Subsection (a).

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 437 (S.B. 1336), Sec. 3, eff. September 1, 2021.

Sec. 316.009. SUBMISSION OF BILL BY GOVERNOR. The governor may prepare a general appropriation bill and submit printed copies of it to the lieutenant governor, speaker of the house of representatives, and each member of the legislature. The bill must be submitted not later than the 30th day of the legislature's regular session, except that if a person is inaugurated as governor who was not governor preceding the inauguration, the bill must be submitted not later than the 20th day after the date of that inauguration.

Added by Acts 1987, 70th Leg., ch. 147, Sec. 2, eff. Sept. 1, 1987.

SUBCHAPTER B. REFERENCES TO GENERAL APPROPRIATIONS ACT

Sec. 316.011. LEGISLATIVE INTENT. It is the intent of the legislature that references in law to a specific article of the General Appropriations Act be by article title only.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 316.012. CONSTRUCTION OF REFERENCE. If a statute enacted or last amended before 1982 refers by number to an article of the General Appropriations Act, the reference means the article of the current General Appropriations Act, regardless of numerical designation, that corresponds in substance to the numerically cited article as it existed on the date of the enactment or most recent amendment of the statute.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER C. APPROPRIATIONS BILLS

Sec. 316.021. INTRODUCTION OF APPROPRIATIONS BILLS. The lieutenant governor or the speaker of the house may cause the general appropriations bills prepared by the governor and by the director of the Legislative Budget Board to be introduced in the senate and house, or any member of the legislature may introduce the bills in the appropriate branch of the legislature.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 316.022. COMMITTEE HEARINGS. (a) Hearings on the appropriations bills prepared by the director of the Legislative Budget Board and by the governor shall be conducted by the House Appropriations Committee and the Senate Finance Committee.

(b) The committees may begin preliminary hearings on the budget after receiving the bill prepared by the director without waiting for submission of the bill prepared by the governor.

(c) Each head of a government department, institution, or other agency requesting an appropriation is entitled to appear before either committee in behalf of the requested appropriation. A state taxpayer is entitled to appear and to be heard at any hearing on a

proposed appropriation.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 316.023. AUTHORIZATION TO FIND FACT. The governor may find any fact specified by the legislature in an appropriation Act as a contingency for the expenditure of a designated item of appropriation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 13, eff. Sept. 1, 1993.

Sec. 316.024. PROCEDURE FOR FINDING FACT. (a) The governor shall make a finding of fact under Section 316.023 from the evidence as it exists at the time of the determination.

(b) The governor shall make a finding of fact under Section 316.023 only after a public hearing, if such a hearing is required in an appropriation Act.

(c) The governor shall file a decision, together with a finding of fact made under Section 316.023, with the Legislative Budget Board and the comptroller.

(d) The governor's certificate, under the seal of office, stating the decision or finding is evidence of the decision or finding.

(e) A decision or finding under Section 316.023 is final, subject to judicial review by appropriate legal remedies.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 13, eff. Sept. 1, 1993.

SUBCHAPTER D. APPROPRIATION OF UNOBLIGATED FUND BALANCES TO GENERAL REVENUE FUND

Sec. 316.031. LEGISLATIVE FINDING AND INTENT. (a) The legislature finds that, to ensure the efficient operation of state agencies and to provide for the necessary costs of state government operation, it is in the public interest to provide a means for periodic legislative review and control of unobligated cash balances and income held by state agencies in funds other than the general revenue fund.

(b) It is the intent of the legislature that:

(1) funds with an unobligated balance at the end of a fiscal year in excess of that amount necessary to fulfill an agency's statutory duties shall be identified within the General Appropriations Act by fund; and

(2) the amounts of unobligated actual or projected balances held in those funds in excess of the amounts determined by the legislature to be sufficient to fulfill statutory requirements shall be appropriated to the general revenue fund.

(c) Any appropriation of fund balances made under this subchapter is for the purpose of providing for the cost of operation of state government. The amount of an unobligated fund balance to be appropriated to the general revenue fund may be designated in the General Appropriations Act as a sum certain or designated through use of a formula or percentage.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.06(a), eff. Sept. 1, 1987.

Sec. 316.032. CONFLICTING LAWS SUSPENDED. (a) Any law that provides specific purposes for which a fund or revenue source may be used and expended and that restricts the use of revenues and balances is suspended to the extent that it conflicts with the provisions and intent of appropriations made under this subchapter in the General Appropriations Act.

(b) If the General Appropriations Act does not provide for the appropriation of unobligated fund balances to the general revenue fund, any transfer or appropriation of fund balances shall occur as specified by law.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.06(a), eff. Sept. 1, 1987.

Sec. 316.033. FUNDS EXCLUDED. This subchapter applies to funds established by state law, but does not apply to any portion of a fund derived from constitutionally dedicated revenues or to funds or fund balances that are:

(1) dedicated by the Texas Constitution;

(2) held in trust or escrow for the benefit of any person or entity other than a state agency;

(3) pledged to the payment of bonds, notes, or other debts;

(4) derived from gifts, donations, or endowments made to state agencies or institutions of higher education;

(5) pledged to the capital trust fund to be used for construction; or

(6) maintained by institutions of higher education, including the Texas State Technical College System.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.06(a), eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1104, Sec. 5, eff. June 16, 1989; Acts 1991, 72nd Leg., ch. 287, Sec. 30, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 165, Sec. 30.188, eff. Sept. 1, 1997.

SUBCHAPTER E. ADJUSTMENT OF STATE FEES IN GENERAL APPROPRIATIONS ACT

Sec. 316.041. LEGISLATIVE FINDING AND INTENT. (a) The legislature finds that, to ensure the efficient operation of state agencies and institutions of higher education and to allow for the assessment of fees adequate to reimburse the state for the costs of state services and regulatory functions, it is in the public interest to provide for the adjustment of state fees by the legislature in the General Appropriations Act. It is the intent of the legislature that fees be adjusted biennially in the General Appropriations Act in a manner that provides for the recovery of any increased costs to the state resulting from the performance of services and functions for which a fee is levied. It is the intent of the legislature that, to the extent that senate and house rules allow, each substantive committee shall retain jurisdiction over any adjustment in fees as part of the appropriations process.

(b) Any increase in the amount of a fee made under this subchapter is for the purpose of recovering, on an annual basis, the costs to the state agency or institution of higher education increasing the fee. Where fee amounts are increased on a percentage basis, fee amounts may be rounded to the nearest whole dollar.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.07(a), eff. Sept. 1, 1987.

Sec. 316.042. APPLICATION OF SUBCHAPTER. (a) This subchapter

applies to all fees not set by the Texas Constitution, but does not apply to fees that are dedicated to pay bonded indebtedness.

(b) The General Appropriations Act may not specify the amount of a fee unless imposition of that fee is authorized by general law.

(c) This subchapter does not apply to tuition charged by institutions of higher education.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.07(a), eff. Sept. 1, 1987.

Sec. 316.043. AMOUNT OF FEE. (a) The amount of a fee covered by this subchapter is the amount specified for that fee in the General Appropriations Act. Fee adjustments authorized through the General Appropriations Act are only for the purpose of offsetting inflation.

(b) A law that specifies the amount of a fee subject to this subchapter is suspended to the extent that it conflicts with the amount of the fee specified in the General Appropriations Act.

(c) If the General Appropriations Act does not specify the amount of the fee, the fee is the amount specified by law.

(d) If a board of regents has the authority to establish a fee that falls within a statutory range, the amounts set under this subchapter constitute only the maximum amount for those fees.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.07(a), eff. Sept. 1, 1987.

Sec. 316.044. HEARINGS ON FEE INCREASES AT INSTITUTIONS OF HIGHER EDUCATION. Fees at institutions of higher education may not be increased unless a public hearing is held on the increase.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.07(a), eff. Sept. 1, 1987.

Sec. 316.045. REDUCTION IN CERTAIN AGENCY FEES. (a) Each state agency that sets the fees charged by that agency in amounts that are reasonable and necessary to cover the administrative costs of the agency shall review the amounts charged as fees on a biennial

basis. The agency shall review the fees before the beginning of each state fiscal biennium and incorporate its recommendations based on that review in its budget request submitted to the Legislative Budget Board and the budget division of the governor's office.

(b) If the agency determines that the fees are set at a level that exceeds the administrative costs of the agency as of the date of the review, the agency shall reduce the amount of the affected fees to the appropriate level and shall charge the reduced fees during the subsequent biennium. Each agency shall give specific recognition to reductions in salary expenses resulting from statutorily directed employee attrition.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.07(a), eff. Sept. 1, 1987.

SUBCHAPTER G. FISCAL YEAR

Sec. 316.071. FISCAL YEAR; APPROPRIATIONS. (a) The state fiscal year ends on August 31 of each year.

(b) Appropriations of state government shall conform to this fiscal year.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 14, eff. Sept. 1, 1993.

Sec. 316.072. REPORTS; CLOSURE OF ACCOUNTS. (a) All officers required by law to report annually or biennially to the legislature or governor shall close their accounts at the end of the fiscal year.

(b) As soon as practicable after the end of the fiscal year, the officers shall prepare and compile their respective reports.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 14, eff. Sept. 1, 1993.

SUBCHAPTER H. ALLOCATION OF TRANSFERS TO ECONOMIC STABILIZATION FUND AND STATE HIGHWAY FUND

Sec. 316.091. DEFINITION. In this subchapter, "fund" means the economic stabilization fund.

Added by Acts 2013, 83rd Leg., 3rd C.S., Ch. 1 (H.B. 1), Sec. 3, eff. November 22, 2013.

For expiration of this section, see Subsection (b).

Sec. 316.092. DETERMINATION OF THRESHOLD FOR CONSTITUTIONAL TRANSFER TO STATE HIGHWAY FUND. (a) For the purposes of adjusting the allocations of transfers in accordance with Section 49-g(c-2), Article III, Texas Constitution, and Section 316.093 for a state fiscal biennium, the comptroller shall determine and adopt for the state fiscal biennium an amount equal to seven percent of the certified general revenue-related appropriations made for that state fiscal biennium.

(b) This section expires December 31, 2042.

Added by Acts 2013, 83rd Leg., 3rd C.S., Ch. 1 (H.B. 1), Sec. 3, eff. November 22, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1336 (S.B. 69), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1372 (S.B. 962), Sec. 1, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 448 (H.B. 2230), Sec. 1, eff. September 1, 2023.

For expiration of Subsections (a), (b), and (d), see Subsection (d).

Sec. 316.093. ADJUSTMENT OF CONSTITUTIONAL ALLOCATIONS TO FUND AND STATE HIGHWAY FUND. (a) Before the comptroller makes transfers for a state fiscal year in accordance with Section 49-g(c), Article III, Texas Constitution, the comptroller shall determine whether the sum of the balance of the fund on the preceding August 31, any projected transfer to the fund under Section 49-g(b) of that article, and any projected transfer to the fund under Section 49-g(c) of that article in accordance with the allocations for the transfer as provided by Section 49-g(c-1) of that article is less than the amount determined under Section 316.092 for that state fiscal biennium.

(b) If the sum described by Subsection (a) is less than the amount determined under Section 316.092 for that state fiscal biennium, the comptroller shall reduce the allocation to the state highway fund provided by Section 49-g(c), Article III, Texas Constitution, and increase the allocation to the economic

stabilization fund, in an equal amount, until the amount determined under Section 316.092 for that state fiscal biennium would be achieved by the transfer to the fund or the total amount of the sum described by Section 49-g(c), Article III, Texas Constitution, is allocated to the fund, whichever occurs first.

(c) For the purposes of Section 49-g(c-2), Article III, Texas Constitution, the comptroller shall adjust the allocation provided by Section 49-g(c-1) of that article of amounts to be transferred to the fund and to the state highway fund under Section 49-g(c) of that article in a state fiscal year beginning on or after September 1, 2043, so that the total of those amounts is transferred to the economic stabilization fund, except that the comptroller shall reduce a transfer made under this subsection as necessary to prevent the amount in the fund from exceeding the limit in effect for that biennium under Section 49-g(g) of that article.

(d) Subsections (a) and (b) and this subsection expire December 31, 2042.

Added by Acts 2013, 83rd Leg., 3rd C.S., Ch. 1 (H.B. 1), Sec. 3, eff. November 22, 2013.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1336 (S.B. 69), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1372 (S.B. 962), Sec. 2, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 448 (H.B. 2230), Sec. 2, eff. September 1, 2023.

Sec. 316.094. ALLOCATION OF CERTAIN AMOUNTS TRANSFERRED TO STATE HIGHWAY FUND. Amounts transferred to the state highway fund under Section 49-g(c), Article III, Texas Constitution, when appropriated, must be used and allocated throughout the state by the Texas Department of Transportation consistent with existing formulas adopted by the Texas Transportation Commission.

Added by Acts 2013, 83rd Leg., 3rd C.S., Ch. 1 (H.B. 1), Sec. 3, eff. November 22, 2013.

CHAPTER 317. STATE BUDGET EXECUTION

SUBCHAPTER A. REGULAR APPROPRIATIONS

Sec. 317.001. DEFINITIONS. In this subchapter:

(1) "Appropriation" means a grant of money made by the legislature for a purpose other than the payment of a judgment or a preexisting debt incurred by the state.

(2) "State agency" means a public entity in the executive, judicial, or legislative branch of state government eligible under law to receive an appropriation.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1. Amended by Acts 1989, 71st Leg., ch. 786, Sec. 3, eff. Sept. 1, 1989.

Sec. 317.002. TYPES OF PROPOSALS TO AFFECT APPROPRIATIONS. (a) The governor or Legislative Budget Board may propose that a state agency be prohibited from spending, obligating the expenditure of, or distributing part or all of an appropriation made to the agency unless the amount is reappropriated by the legislature or is released, or expenditures are approved, as provided in the proposal.

(b) After finding that an emergency exists, the governor or Legislative Budget Board may propose that the authority to spend, obligate the expenditure of, or distribute part or all of an appropriation made to a state agency:

(1) be transferred to another state agency to be used for a specified purpose; or

(2) be retained by the agency to which the appropriation was made but used for a purpose different from or additional to the purpose for which the appropriation was made.

(c) The governor or Legislative Budget Board may propose a change in the time that an appropriation is distributed or otherwise made available to a state agency, whether the time of distribution or availability is set by appropriations act or general law.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 18.01, eff. Aug. 22, 1991.

Sec. 317.003. TIME AND SCOPE OF PROPOSAL. (a) The governor or Legislative Budget Board may make a proposal at any time except during a regular or special session of the legislature. A proposal

may apply to an appropriation that has been made for any specified fiscal year that has not ended at the time the proposal is made.

(b) Except as provided by Section 317.005(f), a proposal may provide for the withholding of appropriations made from funds dedicated by statute to a specific state agency or for a specific purpose and may provide for the transfer of appropriations made from statutorily dedicated funds to an agency or for a purpose not authorized by the statute. Funds dedicated by the Texas Constitution are subject to being withheld under this chapter but are not subject to transfer except to another state agency entitled to receive appropriations from the funds under the terms of the constitution. Federal funds appropriated by the legislature are subject to being withheld under this chapter but may not be transferred except as permitted by federal law.

(c) The governor's authority to make proposals is independent of any authority to control expenditures of state agencies that is granted the governor under other law.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 18.02, 18.03, eff. Aug. 22, 1991.

Sec. 317.004. PUBLICATION OF PROPOSAL. The entity making a proposal shall specify the details of the proposal, including, for a proposal made under Section 317.002(b), a statement describing the emergency. The entity making a proposal shall direct the secretary of state to publish each proposal, including any accompanying statements, in the Texas Register.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 18.04, eff. Aug. 22, 1991.

Sec. 317.005. ACTION ON PROPOSAL. (a) After a governor's proposal under this chapter is published in the Texas Register, the Legislative Budget Board may conduct a public hearing on the proposal. The board shall give notice of a hearing under this section in the manner provided by law for notice of regular meetings of the board. The board also shall provide notice by mail of its

meetings to each member of the Legislature. The notice of the meeting must include a description of the nature of the proposal or order to be considered. If the agenda includes a public hearing on a proposal, the notice must so state.

After a hearing and at a meeting held not less than 10 days after the date notice of the meeting was given in the manner provided for regular board meetings, in response to a governor's proposal the board, subject to the restrictions provided by Subsection (e), may:

(1) ratify the proposal by adopting an order changing the relevant appropriation in the manner specified in the proposal;

(2) reject the proposal; or

(3) recommend changes in the proposal.

(b) In response to a proposal by the board, the governor may take any action specified by Subsection (a) for board action on a governor's proposal.

(c) A recommended change in a proposal may include recommendations for a change in:

(1) the proposed amount of money withheld or transferred;

(2) the proposed purpose for which the appropriation may be used;

(3) the proposed period for which an appropriation may not be expended, obligated, or distributed;

(4) the source or recipient of a proposed transfer; or

(5) a proposed time of distribution or availability of the appropriation that is the subject of the proposal.

(d) If the governor or the board recommends a change in a proposal by the other entity, the recommending entity may adopt a contingent order changing the relevant appropriation in the manner specified in the recommendations.

(e) Neither the governor nor the board may adopt an order under this section:

(1) expressly postponing the time, whether set by appropriations act or general law, that an appropriation is distributed or otherwise made available to a state agency, for a period that exceeds 180 days;

(2) reducing or eliminating an appropriation for the salary of an elected state official or a member of a board or commission appointed by the governor; or

(3) reducing or eliminating an appropriation to a state agency that receives appropriations under the article of the General

Appropriations Act that makes appropriations to the legislative branch.

(f) The governor or board may adopt an order under this section withholding or transferring any portion of the total amount appropriated to finance the foundation school program for a fiscal year. The governor or board may not adopt such an order if it would result in an allocation of money between particular programs or statutory allotments under the foundation school program contrary to the statutory proration formula provided by Section 48.266(f), Education Code. The governor or board may transfer an amount to the total amount appropriated to finance the foundation school program for a fiscal year and may increase the basic allotment. The governor or board may adjust allocations of amounts between particular programs or statutory allotments under the foundation school program only for the purpose of conforming the allocations to actual pupil enrollments or attendance.

(g) The affirmative vote of a majority of the members of the board from each house is necessary for the adoption of an order by the board under this section.

(h) If either the governor or the board adopts an order under this section, the entity adopting the order shall notify the proposing entity, the comptroller, and the affected state agencies. Unless the order is a contingent order, the entity adopting the order shall file a copy of the order with the secretary of state for publication in the Texas Register.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1. Amended by Acts 1989, 71st Leg., ch. 785, Sec. 2.01, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 18.04, eff. Aug. 22, 1991; Acts 1993, 73rd Leg., ch. 347, Sec. 4.03, eff. May 31, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 6.11, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.02, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.02, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.072, eff. September 1, 2019.

Sec. 317.006. ACTION ON CONTINGENT ORDER. The governor or board shall approve or reject each contingent order adopted under

Section 317.005(d) by the other entity. The governor or board shall notify the other entity, the comptroller, and the affected state agencies of the approval or rejection and shall direct the secretary of state to publish notice of the action in the Texas Register.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 18.04, eff. Aug. 22, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 8.03, eff. Sept. 1, 1997.

Sec. 317.007. EXPIRATION OF PROPOSAL OR CONTINGENT ORDER. A proposal made by the governor or board under this chapter expires if the other entity does not adopt an order ratifying or changing the proposal before the 31st day after the date the proposal is published in the Texas Register. A contingent order adopted by the governor or board under this chapter expires if the other entity does not approve the order before the 31st day after the date the proposal on which the order is based is published in the Texas Register. A proposal or contingent order of either entity also expires if a regular or special session of the legislature begins before, respectively, the other entity has ratified the proposal or has approved the contingent order.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 18.04, eff. Aug. 22, 1991.

Sec. 317.008. EFFECTIVE AND EXPIRATION DATES OF ORDER. (a) An order adopted by the governor or the Legislative Budget Board under this chapter, other than a contingent order adopted under Section 317.005(d), takes effect on the date of adoption, unless the order specifies a later date. A contingent order adopted under Section 317.005(d) and approved under this chapter takes effect on the date of approval, unless the order specifies a later date.

(b) An order adopted under this chapter expires at the end of the fiscal year to which by its terms it applies, except that an order may specify an earlier expiration date or a later date that does not extend beyond the end of the biennium containing each fiscal year to which the order applies.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 18.05, eff. Aug. 22, 1991.

Sec. 317.009. ENFORCEMENT OF ORDER. During the period for which an order adopted under this chapter is effective, in regard to affected appropriations the comptroller may approve vouchers and may issue warrants only in accordance with the terms of the order.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.04, eff. Sept. 1, 1997.

Sec. 317.010. EFFECT ON UNEXPENDED BALANCES. Appropriations withheld under an order adopted and in effect under this chapter are not available for expenditure by a state agency in the second year of a biennium as unexpended balances from the preceding year's appropriation, unless the money is released as provided in the order, the order expires, or the money is reappropriated by the legislature.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1.

Sec. 317.011. SUPERSESSION OF ORDER. An unexpired order adopted under this chapter may be superseded by subsequent action of the governor and the Legislative Budget Board taken as provided by this chapter, by enactment of a law to the contrary by the legislature, or by adoption of a constitutional amendment having contradictory effect.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 26, Sec. 1.

SUBCHAPTER B. CONTINGENT APPROPRIATIONS FOR COMPUTER EQUIPMENT

Sec. 317.050. DEFINITIONS. In this subchapter:

(1) "Computer equipment" includes computers, telecommunications devices and systems, automated information systems, and the peripheral devices and hardware, software, and services that are necessary to the efficient installation and operation of that equipment.

(2) "Board" means the Legislative Budget Board.

Added by Acts 1989, 71st Leg., ch. 786, Sec. 4, eff. Sept. 1, 1989.

Sec. 317.051. AUTHORITY TO MAKE CONTINGENT APPROPRIATIONS. The legislature may appropriate money to a state agency on a contingency basis for the purpose of purchasing computer equipment. The only money that the legislature may appropriate under this subchapter consists of the proceeds from the issuance of obligations by the Texas Public Finance Authority.

Added by Acts 1989, 71st Leg., ch. 786, Sec. 4, eff. Sept. 1, 1989.

Sec. 317.052. EFFECTIVENESS OF A CONTINGENT APPROPRIATION. (a) Before a contingent appropriation for computer equipment may become effective, a state agency must submit an application to the board for review and approval. A state agency shall send a copy of the application to the governor and the comptroller. The board may determine the format and timing of and the method for submitting the application.

(b) After receiving an application, the board may hold a public hearing on the application.

(c) After the hearing, if any, the board shall determine whether the application shows to the satisfaction of the board that:

(1) the necessity of the computer equipment was reasonably unforeseen when the current General Appropriations Act was being considered and passed, or that sufficient appropriations to purchase the equipment were inadvertently or erroneously omitted from that Act;

(2) the applicant's current appropriations are inadequate or unavailable to purchase the equipment;

(3) the applicant has obtained the approvals required by law; and

(4) the applicant will not be required to make any payments during the current biennium on the interest and principal of the obligations issued by the Texas Public Finance Authority.

Added by Acts 1989, 71st Leg., ch. 786, Sec. 4, eff. Sept. 1, 1989.

Sec. 317.053. NOTIFICATION OF LEGISLATIVE BUDGET BOARD'S DECISION. (a) The board shall notify the comptroller, the governor, and the applying state agency in writing of the board's decision about an application.

(b) If the board approves the application, then the contingent appropriation becomes effective on the date that the comptroller receives the notification.

Added by Acts 1989, 71st Leg., ch. 786, Sec. 4, eff. Sept. 1, 1989.

CHAPTER 318. REVIEW OF REGULATORY PROGRAMS

Sec. 318.001. FINDINGS. The legislature finds that:

(1) the interests of the residents of the state are served by the regulation of certain professions and other occupations;

(2) state government actions have produced a substantial increase in the number of regulatory programs;

(3) the legislature should review proposed regulatory programs to better evaluate the need for the programs; and

(4) regulation should not be imposed on any profession or other occupation unless required for the protection of the health, safety, or welfare of the residents of the state.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 9.01(a), eff. Aug. 28, 1989.

Sec. 318.002. CONSIDERATIONS. In evaluating whether a profession or other occupation should be regulated, the following factors should be considered:

(1) whether the unregulated practice of a profession or other occupation may significantly harm or endanger the public health, safety, or welfare and whether the potential for harm is easily recognizable and not remote or dependent on tenuous argument;

(2) whether the practice of a profession or other occupation requires specialized skill or training and whether the public clearly needs and will benefit by assurances of initial and continuing competence of practitioners of the profession or occupation;

(3) whether the regulation would have the effect of directly or indirectly increasing the cost of any goods or services

and, if so, whether the increase would be more harmful to the public than the harm that might result from the absence of regulation;

(4) whether the regulatory process would significantly reduce competition in the field and, if so, whether the reduction would be more harmful to the public than the harm that might result from the absence of regulation; and

(5) whether the residents of the state are or may be effectively protected by other means.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 9.01(a), eff. Aug. 28, 1989.

Sec. 318.003. FORMS OF REGULATION. (a) If the legislature finds that it is necessary to impose regulation on a profession or other occupation not regulated before August 26, 1985, regulation should be implemented in the least restrictive manner available in the following order:

(1) implementation of a system of registration by which practitioners of the profession or occupation register with a designated state agency, but without the imposition of prequalifications or requirements for issuance of the registration other than payment of a fee, and grounds may be established for suspension or revocation of the registration or other discipline of the registrant;

(2) implementation of a system of licensure by which a practitioner receives recognition by the state that the practitioner has met predetermined qualifications, and persons not so licensed are prohibited from practicing the licensed profession or occupation, and grounds may be established for suspension or revocation of the license or other discipline of the licensee.

(b) Alternative methods of regulation should be implemented when necessary and appropriate in specific cases.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 9.01(a), eff. Aug. 28, 1989.

CHAPTER 319. LEGISLATION REGARDING JUDICIAL SYSTEM

Sec. 319.021. IMPACT STATEMENT ON LEGISLATION IMPOSING COURT COSTS ON CRIMINAL DEFENDANTS. (a) This section applies only to a

new court cost or fee that is remitted to the comptroller.

(b) The Legislative Budget Board shall prepare an impact statement for each resolution proposing a constitutional amendment or bill that proposes imposing a new court cost or fee on a person charged with a criminal offense or increasing the amount of an existing court cost or fee imposed on a person charged with a criminal offense, including a court cost or fee imposed on conviction or other disposition or postponed disposition of the criminal charge.

(c) The impact statement must show the total amount of court costs and fees that persons will be required to pay under the bill or resolution when considered together with all other applicable laws.

(d) The state auditor shall provide the Legislative Budget Board with the initial data needed to develop a mechanism that will be used to produce the impact statements.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 84, eff. Oct. 1, 2003.

CHAPTER 320. UNFUNDED MANDATES ON POLITICAL SUBDIVISIONS

Sec. 320.001. DEFINITION. In this chapter, "mandate" means a requirement made by a statute enacted by the legislature on or after January 1, 1997, that requires a political subdivision to establish, expand, or modify an activity in a way that requires the expenditure of revenue by the political subdivision that would not have been required in the absence of the statutory provision.

Added by Acts 1997, 75th Leg., ch. 673, Sec. 1, eff. June 16, 1997. Amended by Acts 1999, 76th Leg., ch. 864, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 785, Sec. 1, eff. Sept. 1, 2003.

SUBTITLE C. LEGISLATIVE AGENCIES AND OVERSIGHT COMMITTEES

CHAPTER 321. STATE AUDITOR

Sec. 321.001. DEFINITIONS. In this chapter:

(1) "Audit plan" means the outline of work approved by the committee for the State Auditor's Office in a year for the performance of audits and related services, including technical assistance, data analysis, consulting and oversight functions, investigations, and the preparation of audit reports and other types of communications.

(2) "Audit working paper" means all documentary and other

information prepared or maintained in conducting an audit or investigation, including all intra-agency and interagency communications relating to an audit or investigation and all draft reports or portions thereof.

(3) "Committee" means the legislative audit committee.

(4) "Department" includes every state department, agency, board, bureau, institution, or commission.

(5) "Risk assessment" means the process by which the State Auditor analyzes risks to the state on the basis of, at a minimum, the following:

(A) the identification of problems that can occur in operational or program areas of departments, including institutions of higher education, that are subject to audit by the State Auditor;

(B) a determination of the potential adverse effects from the problems; and

(C) a ranking of the risks associated with the problems.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1122, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 785, Sec. 2, eff. Sept. 1, 2003.

Sec. 321.002. LEGISLATIVE AUDIT COMMITTEE. (a) The legislative audit committee consists of:

(1) the lieutenant governor;

(2) the speaker of the house of representatives;

(3) the chairman of the senate finance committee;

(4) one member of the senate appointed by the lieutenant governor;

(5) the chairman of the house appropriations committee; and

(6) the chairman of the house ways and means committee.

(b) In the absence of the chairman of a house or senate committee, the vice-chairman of the respective committee shall act.

(c) Members of the committee serve without compensation but are entitled to actual and necessary expenses incurred in performing official duties.

(d) The committee shall employ necessary clerical assistants as allowed by legislative appropriation.

(e) The lieutenant governor and the speaker are joint chairs of the committee. The committee shall elect one member to serve as secretary.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., ch. 1328, Sec. 4, eff. June 21, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 6.01, eff. Jan. 11, 2004.

Sec. 321.004. PROCEDURE FOR TIE VOTE. (a) If the full committee is present and is not able to resolve a tie vote within a reasonable time on a matter this chapter requires the committee to decide, the committee shall select a member of the house or senate to meet with the committee and to cast the tie-breaking vote.

(b) The seventh member's duty to the committee ends when the member casts the tie-breaking vote and the matter is resolved.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 321.005. APPOINTMENT OF STATE AUDITOR. (a) The committee shall appoint a State Auditor to investigate all custodians of state funds, disbursing agents, and department personnel.

(b) The committee shall execute a written declaration of the person appointed State Auditor and file the declaration with the secretary of state.

(c) The State Auditor serves at the will of the committee.

(d) The committee shall fill any vacancy in the office of State Auditor.

(e) A majority vote of the committee members is sufficient to exercise any action authorized by this section.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 2.08(a), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 862, Sec. 1, eff. Aug. 31, 1987.

Sec. 321.006. REQUIREMENTS FOR APPOINTMENT. To be eligible for appointment as State Auditor, a person must have unquestioned integrity and moral character and must have had at least five years' experience:

(1) as a certified public accountant in this or another state; and

(2) in a professional or administrative position a major duty of which involved fiscal management, the review of fiscal management, or the auditing or review of operational efficiency or program performance.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 2.08(a), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 862, Sec. 2, eff. Aug. 31, 1987.

Sec. 321.007. CONFLICT OF INTEREST. (a) The State Auditor may not serve as an ex officio member on any administrative board or commission.

(b) The State Auditor may not have a financial interest in the transactions of any department.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 321.008. QUALIFYING FOR OFFICE. (a) To qualify for office, the State Auditor must take the constitutional oath of office.

(b) The State Auditor must file the oath with the secretary of state not later than the 10th day after the date on which the committee appointed the State Auditor, or the committee or a majority of the committee members shall appoint another qualified person as State Auditor.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 2.08(b), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 862, Sec. 3, eff. Aug. 31, 1987; Acts 1997, 75th Leg., ch. 1122, Sec. 3, eff. Sept. 1, 1997.

Sec. 321.010. FIRST ASSISTANT STATE AUDITOR. (a) The State Auditor may appoint a first assistant state auditor.

(b) The first assistant state auditor shall:

(1) perform the duties and assignments prescribed by the State Auditor; and

(2) act as the State Auditor when the State Auditor is absent.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 321.011. PERSONNEL. (a) The State Auditor may employ a professional staff, including assistant auditors and stenographic and clerical personnel.

(b) The State Auditor may conduct professional examinations to determine the qualifications of prospective staff members.

(c) The State Auditor may discharge any assistant auditors or stenographic or clerical personnel at any time for any reason satisfactory to the State Auditor and without a hearing.

(d) The State Auditor and staff are to be free from partisan politics, and the State Auditor is free to select the most efficient personnel available for each position in his office so that the State Auditor may render to the legislature the service the legislature has a right to expect. It is against public policy and illegal for a member of the legislature, an officer or employee of the state, or an officer or employee of a state department to recommend or suggest that the State Auditor appoint a person to a position on the state auditor's staff.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 862, Sec. 4, eff. Aug. 31, 1987.

Sec. 321.012. EXPENDITURES AND SALARIES. (a) The committee directs and controls the expenditure of any money appropriated to the office of the State Auditor and must approve the State Auditor's appropriation requests and audit plan.

(b) Before payment may be made on a voucher issued for payment of the salaries and expenses of the office, the State Auditor must approve the voucher.

(c) The salaries of the assistant auditors and stenographic and clerical personnel may not exceed the amounts paid by other departments for similar services.

(d) Salaries shall be paid monthly.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended

by Acts 1991, 72nd Leg., ch. 641, Sec. 2, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 785, Sec. 3, eff. Sept. 1, 2003.

Sec. 321.013. POWERS AND DUTIES OF STATE AUDITOR. (a) The State Auditor shall conduct audits of all departments, including institutions of higher education, as specified in the audit plan. At the direction of the committee, the State Auditor shall conduct an audit or investigation of any entity receiving funds from the state.

(b) The State Auditor shall conduct the audits in accordance with generally accepted auditing standards as prescribed by the American Institute of Certified Public Accountants, the Governmental Accounting Standards Board, the United States General Accounting Office, or other professionally recognized entities that prescribe auditing standards.

(c) The State Auditor shall recommend the audit plan for the state for each year to the committee. In devising the plan, the State Auditor shall consider recommendations concerning coordination of agency functions made jointly by representatives of the Legislative Budget Board, Sunset Advisory Commission, and State Auditor's Office. The State Auditor shall also consider the extent to which a department has received a significant increase in appropriations, including a significant increase in federal or other money passed through to the department, and shall review procurement activities for compliance with Section 2161.123. The plan shall provide for auditing of federal programs at least as often as required under federal law and shall ensure that audit requirements of all bond covenants and other credit or financial agreements are satisfied. The committee shall review and approve the plan.

(d) At any time during an audit or investigation, the State Auditor may require the assistance of the administrative head, official, auditor, accountant, or other employees of the entity being audited or investigated.

(e) The State Auditor is entitled to access to all of the books, accounts, confidential or unconfidential reports, vouchers, or other records of information in any department or entity subject to audit, including access to all electronic data. However, the State Auditor has access to information and data the release of which is restricted under federal law only with the approval of the appropriate federal administrative agency, and the State Auditor

shall have access to copyrighted or restricted information obtained by the Office of the Comptroller of Public Accounts under subscription agreements and utilized in the preparation of economic estimates only for audit purposes.

(f) The State Auditor may conduct financial audits, compliance audits and investigations, and, with specific authority from the committee, economy and efficiency audits, effectiveness audits, and special audits as defined by this chapter and specified in the audit plan.

(g) To the extent that the performance of the powers and duties of the State Auditor under law is not impeded or otherwise hindered, the State Auditor shall make reasonable efforts to coordinate requests for employee assistance under Subsection (d) or requests for access to books, accounts, vouchers, records, or data under Subsection (e) so as not to hinder the daily operations of the audited entity.

(h) The State Auditor may not conduct audits of private entities concerning collection or remittance of taxes or fees to the state if the entity is subject to audit by another state agency for the taxes or fees.

(i) If the State Auditor decides a change in an accounting system is necessary, the State Auditor shall consider the present system of books, records, accounts, and reports to ensure that the transition will be gradual and that the past and present records will be coordinated into the new system.

(j) In devising the audit plan under Subsection (c), the State Auditor shall perform risk assessments as required by law. The process of assessing risks to the state is the first stage of auditing, and all records of risk assessment are part of the working papers of the State Auditor. Accordingly, all documentation of risk assessments by the State Auditor is exempt from disclosure under Section 552.116.

(k) In devising the audit plan under Subsection (c), the State Auditor shall consider the performance of audits on contracts entered into by the Health and Human Services Commission that exceed $100 million in annual value, including a contract between the commission and a managed care organization. The State Auditor shall collaborate with the financial managers in the Medicaid/CHIP Division of the commission in performing an audit described by this subsection. An audit described by this subsection:

(1) may be limited in scope to target an area of the contract that the State Auditor determines poses the highest financial risk to this state; and

(2) must determine whether the entity contracting with the commission has spent state money in accordance with the purposes authorized in the contract.

(l) The State Auditor may contract with a private auditor to audit a contract under Subsection (k).

(m) In devising the audit plan under Subsection (c), the State Auditor shall consider the performance of audits of programs operated by health and human services agencies that:

(1) have not recently received audit coverage; and

(2) have expenditures of less than $100 million per year.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 862, Sec. 5, eff. Aug. 31, 1987; Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 9.03, eff. Aug. 22, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(37), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1122, Sec. 18, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1499, Sec. 1.04, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 785, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 909 (S.B. 894), Sec. 1, eff. September 1, 2017.

Sec. 321.0131. FINANCIAL AUDIT. A financial audit is an audit to determine:

(1) in the case of the state or a department, whether the records, books, and accounts of the audited entity accurately reflect its financial and fiscal operations;

(2) whether the audited entity is maintaining effective accounting control over revenues, obligations, expenditures, assets, and liabilities;

(3) whether the accounting and record-keeping of collections of state revenues and receipts by the audited entity are fair, accurate, and in accordance with law;

(4) whether the accounting and record-keeping of money or

negotiable securities or similar assets handled by the audited entity on behalf of the state or received from the state and held in trust by the audited entity are proper, accurate, and in accordance with law; and

(5) whether financial, program, and statistical reports of the audited entity are fairly presented.

Added by Acts 1987, 70th Leg., ch. 862, Sec. 6, eff. Aug. 31, 1987.

Sec. 321.0132. COMPLIANCE AUDIT. A compliance audit is an audit to determine:

(1) whether the audited entity has obligated, expended, received, and used state funds in accordance with the purpose for which those funds have been appropriated or otherwise authorized by law;

(2) whether the audited entity has obligated, expended, received, and used state funds in accordance with any limitations, restrictions, conditions, or mandatory directions imposed by law on those obligations, expenditures, receipts, or uses;

(3) in the case of a local or private entity or agency, whether the records, books, and accounts of the audited entity fairly and accurately reflect its financial and fiscal operations relating to the obligation, receipt, expenditure, and use of state funds or funds represented as being collected for a state purpose;

(4) whether the collections of state revenues and receipts by the audited entity are in accordance with applicable laws and regulations; and

(5) whether money or negotiable securities or similar assets handled by the audited entity on behalf of the state or received from the state and held in trust by the audited entity have been properly and legally administered.

Added by Acts 1987, 70th Leg., ch. 862, Sec. 6, eff. Aug. 31, 1987.

Sec. 321.0133. ECONOMY AND EFFICIENCY AUDIT. An economy and efficiency audit is an audit to determine:

(1) whether the audited entity is managing or utilizing its resources, including state funds, personnel, property, equipment, and space, in an economical and efficient manner;

(2) causes of inefficiencies or uneconomical practices, including inadequacies in management information systems, internal and administrative procedures, organizational structure, use of resources, allocation of personnel, purchasing, policies, and equipment; and

(3) whether financial, program, and statistical reports of the audited entity contain useful data and are fairly presented.

Added by Acts 1987, 70th Leg., ch. 862, Sec. 6, eff. Aug. 31, 1987.

Sec. 321.0134. EFFECTIVENESS AUDIT. (a) An effectiveness audit is an audit to determine, according to established or designated program objectives, responsibilities or duties, statutes and regulations, program performance criteria, or program evaluation standards:

(1) whether the objectives and intended benefits are being achieved efficiently and effectively; and

(2) whether the program duplicates, overlaps, or conflicts with another state program.

(b) An effectiveness audit may be scheduled only when the audited entity is not scheduled for review under the Texas Sunset Act (Chapter 325).

Added by Acts 1987, 70th Leg., ch. 862, Sec. 6, eff. Aug. 31, 1987.

Sec. 321.0135. SPECIAL AUDIT. A special audit is a financial audit of limited scope.

Added by Acts 1987, 70th Leg., ch. 862, Sec. 6, eff. Aug. 31, 1987.

Sec. 321.0136. INVESTIGATION. An investigation is an inquiry into specified acts or allegations of impropriety, malfeasance, or nonfeasance in the obligation, expenditure, receipt, or use of state funds, or into specified financial transactions or practices that may involve such impropriety, malfeasance, or nonfeasance.

Added by Acts 1987, 70th Leg., ch. 862, Sec. 6, eff. Aug. 31, 1987.

Sec. 321.0137. INDEPENDENT AUDIT OF JUNIOR COLLEGE DISTRICT. (a) At a reasonable time in advance of an independent audit of a junior college district, the state auditor shall provide the presiding officer of the district's governing body and the chief executive officer of the district with written information relating to the procedures for and scope of the audit. The state auditor shall include in the materials information describing:

(1) how the appropriate representatives of the district may participate in the audit planning process; and

(2) how the district may request information or assistance in preparing for the audit from the state auditor.

(b) The state auditor shall seek the recommendations of the Texas Higher Education Coordinating Board in preparing materials to be provided under Subsection (a).

Added by Acts 1997, 75th Leg., ch. 978, Sec. 2, eff. Sept. 1, 1997.

Sec. 321.0138. REVIEW OF STATE TAX SETTLEMENTS AND OTHER DECISIONS. (a) This section applies to:

(1) a settlement of a claim for a tax, refund, or credit of a tax, penalty, or interest imposed by Title 2, Tax Code;

(2) a settlement of a taxpayer suit under Chapter 112, Tax Code; or

(3) any circumstance in which a taxpayer received a warrant, offset, check, payment, or credit from the comptroller or comptroller's office arising from the filing of a tax return with the state.

(b) The state auditor and the committee shall review the comptroller's records of all tax refunds, credits, payments, warrants, offsets, checks, and settlements for the preceding six years from the effective date of this section. The state auditor and the committee may review the comptroller's records of all tax refunds, credits, payments, warrants, offsets, checks, and settlements that occur following the effective date of this section. Notwithstanding any other law, in reviewing these tax refunds, credits, payments, warrants, offsets, checks, and settlements, the state auditor and the committee are entitled to access to related information to the same extent they would be entitled under Section 321.013 if the information were in a department or entity that is

subject to audit. In accordance with Section 321.013(h), neither the state auditor nor the committee may conduct audits of private entities concerning the collection or remittance of taxes or fees to this state.

(c) Within six months following the effective date of this section, the comptroller shall provide to the state auditor information designated by the state auditor, after consultation with the comptroller, relating to tax refunds, credits, payments, warrants, offsets, checks, and settlements made in the past six years as requested by the state auditor. Commencing February 1, 2004, on a monthly basis, the comptroller shall provide to the state auditor information designated by the state auditor relating to tax refunds, credits, payments, warrants, offsets, checks, and settlements to which this section applies.

(d) A review by the state auditor under this section is considered an audit for purposes of the application of Section 552.116, relating to confidentiality of audit working papers. Information obtained or possessed by the state auditor or the committee that is confidential under law when in the possession of the comptroller remains confidential while in the possession of the state auditor or committee, except as provided by Subsection (e).

(e) The committee shall determine the manner in which the state auditor shall report information obtained pursuant to Subsection (b). The report may include any information obtained during the review, except that the report may not be formatted in a manner or include any information that discloses or effectively discloses the specific identity of an individual or taxpayer. The report must state the information by category or by numeric pseudonym and may include other information maintained by the Texas Ethics Commission.

(f) Except as provided by Subsection (e), this section does not affect any other law relating to confidentiality of information relating to tax information, including Sections 111.006, 151.027, and 171.206, Tax Code.

(g) This section does not affect any other law relating to release of information for legislative purposes, including Section 552.008, Government Code.

Added by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 23.01, eff. Feb. 1, 2004.

Sec. 321.014. AUDIT REPORTS. (a) The State Auditor shall prepare a written report for each audit conducted by the State Auditor.

(b) The written report must include comments about internal controls, compliance with state or federal laws, and recommendations for improving financial operations or program effectiveness, as applicable. The report must also include an opinion on fair presentation of financial statements if the State Auditor considers an opinion to be necessary.

(c) The State Auditor shall submit each report to the committee prior to publication. The State Auditor shall file a copy of each report prepared under this section with:

(1) the governor;

(2) the lieutenant governor;

(3) the speaker of the house of representatives;

(4) the secretary of state;

(5) the Legislative Reference Library;

(6) each member of the governing body and the administrative head of each entity that is the subject of the report; and

(7) members of the legislature on a committee with oversight responsibility for the entity or program that is the subject of the report.

(d) The State Auditor shall maintain a complete file containing:

(1) copies of each audit report; and

(2) audit work papers and other evidence relating to the work of the State Auditor.

(e) The State Auditor shall maintain the files required by Subsection (d) for at least eight years after the date on which the information is filed.

(f) Each audited department or entity shall report on the manner in which the department or entity has addressed the findings and recommendations that are included in a report prepared by the state auditor under this section. The state auditor shall prescribe the form and schedule for a report by the department or entity under this subsection.

(g) If a department or entity does not agree with a recommendation contained in the state auditor's report, the department or entity shall file a report with the State Auditor and

the persons specified by Subsection (c). The report must:

(1) identify the recommendation with which the department or entity did not agree;

(2) state the reason the department or entity did not agree with the recommendation; and

(3) state whether the department or entity intends to implement the recommendation.

(h) Repealed by Acts 1989, 71st Leg., ch. 2, Sec. 9.02, eff. Aug. 28, 1989.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 2.09(a), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 862, Sec. 7, eff. Aug. 31, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 9.02, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 599, Sec. 30, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1122, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1499, Sec. 1.05, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 785, Sec. 5, eff. Sept. 1, 2003.

Sec. 321.016. IMPROPER PRACTICES AND ILLEGAL TRANSACTIONS. (a) If in the course of an audit the State Auditor finds evidence of improper practices of financial administration, inadequate fiscal records, uneconomical use of resources, or ineffective program performance, the State Auditor, after consulting with the head of the agency, shall immediately report the evidence to the governor, the committee, and the administrative head and the chairman of the governing body of the affected department.

(b) If in the course of an audit the State Auditor finds evidence of an illegal transaction, the State Auditor, after consulting with the head of the agency, shall immediately report the transaction to the governor, the committee, and the appropriate legal authority.

(c) Immediately after the committee receives a report from the State Auditor alleging improper practices of financial administration, uneconomical use of resources, or ineffective program performance, the committee shall review the report and shall consult with and may hold hearings with the administrative head and the chairman of the governing body of the affected department regarding the report.

(d) If the administrative head or the governing body of the affected department refuses to make the changes recommended by the committee at the hearing or provide any additional information or reports requested, the committee shall report the refusal to the legislature.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 862, Sec. 9, eff. Aug. 31, 1987.

Sec. 321.0161. GROSS MISMANAGEMENT; EXPANDING SCOPE OF AUDIT. If in the course of an audit of a state agency or institution the State Auditor finds evidence of gross mismanagement or grossly improper management oversight practices, the State Auditor, after consulting with the head of the agency or institution, shall as soon as is practicable expand the scope of the audit into other aspects of the operations of the agency or institution to determine whether similar problems exist elsewhere.

Added by Acts 2007, 80th Leg., R.S., Ch. 758 (H.B. 3290), Sec. 1, eff. September 1, 2007.

Sec. 321.017. REVIEW AND OVERSIGHT OF FUNDS AND ACCOUNTS RECEIVING COURT COSTS. (a) The state auditor may review each fund and account into which money collected as a court cost is directed by law to be deposited to determine whether:

(1) the money is being used for the purpose or purposes for which the money is collected; and

(2) the amount of the court cost is appropriate, considering the purpose or purposes for which the cost is collected.

(b) The state auditor may perform reviews under this section as specified in the audit plan developed under Section 321.013.

(c) The state auditor shall make the findings of a review performed under this section available to the public and shall report the findings to the governor, the chief justice of the supreme court, the presiding judge of the court of criminal appeals, and the committee. The report may include the state auditor's recommendations for legislation or policy changes.

Added by Acts 2001, 77th Leg., ch. 952, Sec. 1, eff. Sept. 1, 2001.

Sec. 321.018. SUBPOENAS. (a) At the request of the State Auditor or on its own motion, the committee may subpoena witnesses or any books, records, or other documents reasonably necessary to conduct an examination under this chapter.

(b) Each subpoena must be signed by either of the joint chairs of the committee or the secretary of the committee.

(c) On the request of either of the joint chairs of the committee or the secretary of the committee, the sergeant at arms or an assistant sergeant at arms of either house of the legislature or any peace officer shall serve the subpoena in the manner prescribed for service of a district court subpoena.

(d) If the person to whom a subpoena is directed fails to comply, the committee may bring suit in district court to enforce the subpoena. If the court determines that good cause exists for the issuance of the subpoena, the court shall order compliance. The court may modify the requirements of a subpoena that the court determines are unreasonable. Failure to comply with the order of the district court is punishable as contempt.

(e) The committee may provide for the compensation of subpoenaed witnesses. The amount of compensation may not exceed the amount paid to a witness subpoenaed by a district court in a civil proceeding.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 6.02, eff. Jan. 11, 2004.

Sec. 321.019. INTERFERENCE WITH AUDIT OR INVESTIGATION. (a) An officer or employee of this state or of an entity subject to audit or investigation by the state auditor commits an offense if the officer or employee:

(1) refuses to immediately permit the State Auditor to examine or have access to the books, accounts, reports, vouchers, papers, documents, or electronic data to which the State Auditor is entitled under Section 321.013(e) or other law, or to the cash drawer, or cash from the officer's or employee's department;

(2) interferes with an examination by the State Auditor;

or

(3) refuses to make a report required by this chapter.

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

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 862, Sec. 10, eff. Aug. 31, 1987; Acts 1997, 75th Leg., ch. 1122, Sec. 5, eff. Sept. 1, 1997.

Sec. 321.020. COORDINATION OF CERTAIN AUDITS. (a) Notwithstanding any other law, a state agency, or a corporation that is dedicated to the benefit of a state agency and that meets the criteria specified by Section B, Article 2.23B, Texas Non-Profit Corporation Act (Article 1396-2.23B, Vernon's Texas Civil Statutes), may employ a private auditor to audit the state agency or corporation only if:

(1) the agency or corporation is authorized to contract with a private auditor through a delegation of authority from the state auditor;

(2) the scope of the proposed audit has been submitted to the state auditor for review and comment; and

(3) the services of the private auditor are procured through a competitive selection process in a manner allowed by law.

(b) At the joint direction of the lieutenant governor and the speaker of the house of representatives, the state auditor shall provide contract management services to the agency or corporation for an audit described by this section.

Added by Acts 1997, 75th Leg., ch. 1122, Sec. 6, eff. Sept. 1, 1997. Amended by:

Acts 2005, 79th Leg., Ch. 1012 (H.B. 905), Sec. 1, eff. June 18, 2005.

Sec. 321.021. GIFTS AND GRANTS. (a) The legislative audit committee may accept gifts, grants, and donations from any organization described in Section 501(c)(3) of the Internal Revenue Code for the purpose of funding any activity under this chapter.

(b) All gifts, grants, and donations must be accepted in an open meeting by a majority of the voting members of the legislative audit committee and reported in the public record of the committee

with the name of the donor and purpose of the gift, grant, or donation.

Added by Acts 1987, 70th Leg., ch. 617, Sec. 2, eff. Sept. 1, 1987.

Sec. 321.022. COORDINATION OF INVESTIGATIONS. (a) If the administrative head of a department or entity that is subject to audit by the state auditor has reasonable cause to believe that money received from the state by the department or entity or by a client or contractor of the department or entity may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the department or entity, the administrative head shall report the reason and basis for the belief to the state auditor. The state auditor may investigate the report or may monitor any investigation conducted by the department or entity.

(b) The state auditor, in consultation with state agencies and institutions, shall prescribe the form, content, and timing of a report required by this section.

(c) All records of a communication by or to the state auditor relating to a report to the state auditor under Subsection (a) are audit working papers of the state auditor.

Added by Acts 1997, 75th Leg., ch. 1122, Sec. 7, eff. Sept. 1, 1997.

Sec. 321.023. SEAL. The state auditor shall obtain a seal with "State Auditor, State of Texas" engraved around the margin and a five-pointed star in the center to be used to authenticate official documents issued by the state auditor.

Added by Acts 1989, 71st Leg., ch. 584, Sec. 122, eff. Sept. 1, 1989.

CHAPTER 322. LEGISLATIVE BUDGET BOARD

Sec. 322.001. MEMBERSHIP. (a) The Legislative Budget Board consists of:

(1) the lieutenant governor;

(2) the speaker of the house of representatives;

(3) the chairman of the senate finance committee;

(4) the chairman of the house appropriations committee;

(5) the chairman of the house ways and means committee;

(6) three members of the senate appointed by the lieutenant governor; and

(7) two other members of the house appointed by the speaker.

(b) The lieutenant governor and the speaker are joint chairs of the board.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., ch. 1328, Sec. 5, eff. June 21, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 6.03, eff. Jan. 11, 2004.

Sec. 322.003. QUORUM; MEETINGS. (a) A majority of the members of the board from each house constitutes a quorum to transact business. If a quorum is present, the board may act on any matter that is within its jurisdiction by a majority vote.

(b) The board shall meet as often as necessary to perform its duties. Meetings may be held at any time at the request of either of the joint chairs of the board or on written petition of a majority of the members of the board from each house.

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

(d) As an exception to Chapter 551 and other law, if a meeting is located in Austin and the joint chairs of the board are physically present at the meeting, then any number of the other members of the board may attend the meeting by use of telephone conference call, video conference call, or other similar telecommunication device. This subsection applies for purposes of constituting a quorum, for purposes of voting, and for any other purpose allowing a member of the board to otherwise fully participate in any meeting of the board. This subsection applies without exception with regard to the subject of the meeting or topics considered by the members.

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

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

(2) must specify in the notice of the meeting the location

in Austin of the meeting at which the joint chairs will be physically present;

(3) must be open to the public and shall be audible to the public at the location in Austin specified in the notice of the meeting as the location of the meeting at which the joint chairs will be physically present; and

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

(f) The board shall hold a public hearing each state fiscal year to receive a report from the comptroller and receive invited testimony regarding the financial condition of this state. The report from the comptroller shall include, to the extent practicable:

(1) information on each revenue source included in determining the estimate of anticipated revenue for purposes of the most recent statement required by Section 49a, Article III, Texas Constitution, and the total net revenue actually collected from that source for the state fiscal year as of the end of the most recent state fiscal quarter;

(2) a comparison for the period described by Subdivision (1) of the total net revenue collected from each revenue source required to be specified under that subdivision with the anticipated revenue from that source that was included for purposes of determining the estimate of anticipated revenue in the statement required by Section 49a, Article III, Texas Constitution;

(3) information on state revenue sources resulting from a law taking effect after the comptroller submitted the most recent statement required by Section 49a, Article III, Texas Constitution, and the estimated total net revenue collected from that source for the state fiscal year as of the end of the most recent state fiscal quarter;

(4) a summary of the indicators of state economic trends experienced since the most recent statement required by Section 49a, Article III, Texas Constitution; and

(5) a summary of anticipated state economic trends and the anticipated effect of the trends on state revenue collections.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended

by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 4.01, 6.04, eff. Jan. 11, 2004.
Amended by:
Acts 2005, 79th Leg., Ch. 741 (H.B. 2753), Sec. 3, eff. June 17, 2005.
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 34.01, eff. September 28, 2011.

Sec. 322.004. DIRECTOR. (a) The board shall appoint a director to serve at the pleasure of the board. The director is accountable only to the board.
(b) The director may make recommendations and, when the board specifically requests, shall make recommendations on a matter before the board relating to a function or duty of any state institution, department, agency, officer, or employee.
(c) The director may not vote on a question or issue before the board.
(d) The board shall set the salary of the director.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 322.005. PERSONNEL. (a) The director may employ personnel as necessary to perform the functions of the board.
(b) The director shall set the salaries of the personnel employed by the director.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2005, 79th Leg., Ch. 741 (H.B. 2753), Sec. 4, eff. June 17, 2005.

Sec. 322.007. ESTIMATES AND REPORTS. (a) Each institution, department, agency, officer, employee, or agent of the state shall submit any estimate or report relating to appropriations requested by the board or under the board's direction.
(b) Each estimate or report shall be submitted at a time set by the board and in the manner and form prescribed by board rules.
(c) An estimate or report required under this section is in

addition to an estimate or report required by other law, including those estimates or reports relating to appropriations required by Chapter 401.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(10), eff. Sept. 1, 1995.

Sec. 322.008. APPROPRIATIONS BILL. (a) The director, under the direction of the board, shall prepare the general appropriations bill for introduction at each regular legislative session.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 4.001(b), eff. September 1, 2019.

(c) Not later than the fifth day after a regular legislative session convenes, the director shall transmit a copy of the budget of estimated appropriations prepared by the director to the governor and each member of the legislature.

(d) Not later than the seventh day after a regular legislative session convenes, the director shall transmit a copy of the general appropriations bill to the governor and each member of the legislature.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1990, 71st Leg., 6th C.S., ch. 1, Sec. 1.19, eff. Sept. 1, 1990; Acts 1997, 75th Leg., ch. 165, Sec. 6.12, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1071, Sec. 26, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 4.001(b), eff. September 1, 2019.

Sec. 322.0081. BUDGET DOCUMENTS ONLINE. (a) The board shall post on the board's Internet website documents prepared by the board that are provided to a committee, subcommittee, or conference committee of either house of the legislature in connection with an appropriations bill.

(b) The board shall post a document to which this section applies as soon as practicable after the document is provided to a committee, subcommittee, or conference committee.

(c) The document must be downloadable and provide data in a format that allows the public to search, extract, organize, and

analyze the information in the document.

(d) The requirement under Subsection (a) does not supersede any exceptions provided under Chapter 552.

(e) The board shall promulgate rules to implement the provisions of this section.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 34.02, eff. September 28, 2011.

Sec. 322.0082. INCLUSION OF CERTAIN EDUCATION FUNDS REQUIRED. (a) The director shall include in the budget of estimated appropriations prepared under Section 322.008(c):

(1) the amount set aside under Section 43.001(d), Education Code, by the State Board of Education from the available school fund for the state instructional materials and technology fund established under Section 31.021, Education Code; and

(2) the amount that is remaining in the state instructional materials and technology fund from the previous fiscal biennium that is available for use by school districts and open-enrollment charter schools.

(b) If the amount estimated to be appropriated for purposes of the state instructional materials and technology fund for a fiscal biennium is less than the amount set aside by the State Board of Education under Section 43.001(d), Education Code, the director shall provide with the budget an explanation of the difference, including the amount of the difference and to what the additional funds have been appropriated.

(c) An explanation provided under Subsection (b) shall be included with the documents provided on the board's Internet website under Section 322.0081.

Added by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 50, eff. September 1, 2023.

Sec. 322.009. INSPECTION COMMITTEES. Either of the joint chairs of the board, with the approval of the board, may appoint a committee to visit, inspect, and report on any state institution, department, agency, officer, or employee.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 6.06, eff. Jan. 11, 2004.

Sec. 322.010. INSPECTIONS AND HEARINGS. (a) The board or an employee under the direction of the board may inspect the property, equipment, and facilities of a state department or agency for which an appropriation is to be made and may inspect all accounts and general and local funds.

(b) An inspection performed under Subsection (a) may be made either before or after an estimate required under Section 322.007 has been submitted.

(c) The board may hold hearings to consider the estimates required under Section 322.007 and any information gathered under Subsection (a).

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 322.011. PERFORMANCE AUDITS AND REPORTS. (a) The board shall establish a system of performance audits and evaluations designed to provide a comprehensive and continuing review of the programs and operations of each state institution, department, agency, or commission.

(b) The board may evaluate the programs and operations of any institution, department, agency, or commission that received an appropriation in the most recent General Appropriations Act or is a state agency. An institution, department, agency, or commission may not be evaluated until after the end of the first full fiscal year of its operation.

(c) As soon as practicable after completion of the audit or evaluation under Subsection (a), the board shall make a performance report to the governor and the legislature.

(d) The report shall analyze the operational efficiency and program performance of each institution, department, agency, and commission evaluated. The report shall explicitly state the statutory function each entity is to perform and how, in terms of unit-cost measurement, work load efficiency data, and program output standards established by the board, these statutory functions are

being accomplished.

(e) The performance report shall be published in the form prescribed by the board.

(f) The director, with the approval of the board, shall appoint an assistant director for program evaluation. The assistant director shall report to and be responsible to the director.

(g) The director shall employ sufficient personnel to carry out the provisions of this section.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 963, Sec. 1, eff. Aug. 30, 1993.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 24, eff. September 1, 2013.

Sec. 322.012. GIFTS AND GRANTS. (a) The board may accept gifts, grants, and donations from any organization described in Section 501(c)(3) of the Internal Revenue Code for the purpose of funding any activity under this chapter.

(b) All gifts, grants, and donations must be accepted in an open meeting by a majority of the voting members of the board and reported in the public record of the board with the name of the donor and purpose of the gift, grant, or donation.

Added by Acts 1987, 70th Leg., ch. 617, Sec. 3, eff. Sept. 1, 1987.

Sec. 322.013. REVIEW OF EDUCATIONAL POLICY IMPLEMENTATION. (a) The standing committees of the senate and house of representatives with primary jurisdiction over the public school system shall oversee and review the implementation of legislative education policy by state agencies that have the statutory duty to implement that policy, including policy relating to:

(1) fiscal matters;

(2) academic expectations; and

(3) evaluation of program cost-effectiveness.

(b) The committees shall periodically review the actions or proposed actions of the State Board of Education for the purpose of ensuring compliance with legislative intent. If a committee determines that any action or proposed action of the State Board of

Education conflicts with legislative educational policy, the committee shall submit its comments on the conflict to the State Board of Education in writing. If a committee determines that a final action of the board conflicts with the intent of legislative educational policy, the committee may:

(1) request additional information from the State Board of Education relating to the intent of the board's action;

(2) request a joint meeting with the State Board of Education to discuss the conflict between the action and legislative educational policy;

(3) request that the State Board of Education reconsider its action; or

(4) notify the governor, lieutenant governor, speaker of the house, and the legislature of the conflict presented.

(c) The board shall assist the committees in administering this section.

(d) For purposes of carrying out its duties, the board may administer oaths and issue subpoenas, signed by either of the joint chairs of the board, to compel the attendance of witnesses and the production of books, records, and documents. A subpoena of the board shall be served by a peace officer in the manner in which district court subpoenas are served. On application of the board, a district court of Travis County shall compel compliance with a subpoena issued by the board in the same manner as for district court subpoenas.

Added by Acts 1993, 73rd Leg., ch. 520, Sec. 24, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 6.07, eff. Jan. 11, 2004.

Sec. 322.014. REPORT ON MAJOR INVESTMENT FUNDS. (a) In this section, "state investment fund" means any investment fund administered by or under a contract with any state governmental entity, including a fund:

(1) established by statute or by the Texas Constitution; or

(2) administered by or under a contract with:

(A) a public retirement system as defined by Section 802.001 that provides service retirement, disability retirement, or death benefits for officers or employees of the state;

(B) an institution of higher education as defined by Section 61.003, Education Code; or

(C) any other entity that is part of state government.

(b) The board shall evaluate and publish an annual report on the risk-adjusted performance of each state investment fund that in the opinion of the board contains a relatively large amount of assets belonging to or administered by the state. The board in its report shall:

(1) compare the risk-adjusted performance of the funds; and

(2) examine the risk-adjusted performance, within and among the funds, of similar asset classes and comparable portfolios within asset classes.

(c) Each state governmental entity that administers a state investment fund and each person that administers a state investment fund under contract shall provide the board with the information the board requests regarding the performance of the fund.

(d) The board shall publish the annual report in a format and using terminology that a person without technical investment expertise can understand.

Added by Acts 2001, 77th Leg., ch. 1410, Sec. 1, eff. June 16, 2001.

Sec. 322.015. REVIEW OF INTERSCHOLASTIC COMPETITION. The board may periodically review and analyze the effectiveness and efficiency of the policies, management, fiscal affairs, and operations of an organization that is a component or part of a state agency or institution and that sanctions or conducts interscholastic competition. The board shall report the findings to the governor and the legislature. The legislature may consider the board's reports in connection with the legislative appropriations process.

Added by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 6.09, eff. Jan. 11, 2004.

Sec. 322.016. PERFORMANCE REVIEW OF SCHOOL DISTRICTS. (a) The board may periodically review the effectiveness and efficiency of the operations of school districts, including the district's expenditures for its officers' and employees' travel services. A review of a

school district may be initiated by the board at its discretion or on the request of the school district. A review may be initiated by a school district only by resolution adopted by a majority of the members of the board of trustees of the district.

(b) If a review is initiated on the request of the school district, the district shall pay 25 percent of the cost incurred in conducting the review.

(c) The board shall:

(1) prepare a report showing the results of each review conducted under this section;

(2) file the report with the school district, the governor, the lieutenant governor, the speaker of the house of representatives, the chairs of the standing committees of the senate and the house of representatives with jurisdiction over public education, and the commissioner of education; and

(3) make the entire report and a summary of the report available to the public on the Internet.

(d) Until the board has completed a review under this section, all information, documentary or otherwise, prepared or maintained in conducting the review or preparing the review report, including intra-agency and interagency communications and drafts of the review report or portions of those drafts, is excepted from required public disclosure as audit working papers under Section 552.116. This subsection does not affect whether information described by this subsection is confidential or excepted from required public disclosure under a law other than Section 552.116.

Added by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 6.09, eff. Jan. 11, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 741 (H.B. 2753), Sec. 5, eff. June 17, 2005.

Sec. 322.0165. PERFORMANCE REVIEW OF INSTITUTIONS OF HIGHER EDUCATION. (a) In this section, "public junior college" and "general academic teaching institution" have the meanings assigned by Section 61.003, Education Code.

(b) The board may periodically review the effectiveness and efficiency of the budgets and operations of:

(1) public junior colleges; and

(2) general academic teaching institutions.

(c) A review under this section may be initiated by the board or at the request of:

(1) the governor; or

(2) the public junior college or general academic teaching institution.

(d) A review may be initiated by a public junior college or general academic teaching institution only at the request of the president of the college or institution or by a resolution adopted by a majority of the governing body of the college or institution.

(e) If a review is initiated by a public junior college or general academic teaching institution, the college or institution shall pay 25 percent of the cost incurred in conducting the review.

(f) The board shall:

(1) prepare a report showing the results of each review conducted under this section;

(2) file the report with:

(A) the chief executive officer of the public junior college or general academic teaching institution that is the subject of the report; and

(B) the governor, the lieutenant governor, the speaker of the house of representatives, the chairs of the standing committees of the senate and of the house of representatives with primary jurisdiction over higher education, and the commissioner of higher education; and

(3) make the entire report and a summary of the report available to the public on the Internet.

(g) Until the board has completed a review under this section, all information, documentary or otherwise, prepared or maintained in conducting the review or preparing the review report, including intra-agency and interagency communications and drafts of the review report or portions of those drafts, is excepted from required public disclosure as audit working papers under Section 552.116. This subsection does not affect whether information described by this subsection is confidential or excepted from required public disclosure under a law other than Section 552.116.

Added by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 6.09, eff. Jan. 11, 2004.

Amended by:
Acts 2005, 79th Leg., Ch. 741 (H.B. 2753), Sec. 6, eff. June 17, 2005.

Sec. 322.017. EFFICIENCY REVIEW OF STATE AGENCIES. (a) In this section, "state agency" has the meaning assigned by Section 2056.001.

(b) The board periodically may review and analyze the effectiveness and efficiency of the policies, management, fiscal affairs, and operations of state agencies.

(c) The board shall report the findings of the review and analysis to the governor and the legislature.

(d) The legislature may consider the board's reports in connection with the legislative appropriations process.

(e) Until the board has completed a review and analysis under this section, all information, documentary or otherwise, prepared or maintained in conducting the review and analysis or preparing the review report, including intra-agency and interagency communications and drafts of the review report or portions of those drafts, is excepted from required public disclosure as audit working papers under Section 552.116. This subsection does not affect whether information described by this subsection is confidential or excepted from required public disclosure under a law other than Section 552.116.

Added by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 6.09, eff. Jan. 11, 2004.
Amended by:
Acts 2005, 79th Leg., Ch. 741 (H.B. 2753), Sec. 7, eff. June 17, 2005.

Sec. 322.0171. EFFICIENCY REVIEW OF RIVER AUTHORITIES. (a) The board periodically may review and analyze the effectiveness and efficiency of the policies, management, fiscal affairs, and operations of a river authority.

(b) The board shall report the findings of a review and analysis to the governor and the legislature.

(c) Until the board has completed a review and analysis under

this section, all information, documentary or otherwise, prepared or maintained in conducting the review and analysis or preparing the review report, including intra-agency and interagency communications and drafts of the review report or portions of those drafts, is excepted from required public disclosure as audit working papers under Section 552.116. This subsection does not affect whether information described by this subsection is confidential or excepted from required public disclosure under a law other than Section 552.116.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1293 (H.B. 2362), Sec. 2, eff. September 1, 2013.

Sec. 322.0175. STRATEGIC FISCAL REVIEW OF STATE AGENCIES AND PROGRAMS. (a) The board shall perform a strategic fiscal review for each state agency currently the subject of Sunset Advisory Commission review under Chapter 325 (Texas Sunset Act). The board shall not perform a review under this section of state agencies listed in Section 325.025(b), Government Code, because these agencies are not subject to the legislative appropriations process.

(b) The board shall prepare and submit a report of the findings of the strategic fiscal review by September 1 of the even-numbered year of the biennium during which the review is conducted to the governor, lieutenant governor, and speaker of the house of representatives and to the members of the senate finance and house appropriations committees.

(c) The strategic fiscal review report must contain:

(1) a description of the discrete activities the state agency is charged with conducting or performing together with:

(A) a justification for each activity by reference to a statute or other legal authority; and

(B) an evaluation of the effectiveness and efficiency of the state agency's policies, management, fiscal affairs, and operations in relation to each activity;

(2) for each activity identified under Subdivision (1):

(A) a quantitative estimate of any adverse effects that reasonably may be expected to result if the activity were discontinued, together with a description of the methods by which the adverse effects were estimated;

(B) an itemized account of expenditures required to maintain the activity at the minimum level of service or performance required by the statute or other legal authority, together with a concise statement of the quantity and quality of service or performance required at that minimum level; and

(C) an itemized account of expenditures required to maintain the activity at the current level of service or performance, together with a concise statement of the quantity and quality of service or performance provided at that current level;

(3) a ranking of activities identified under Subdivision (1) that illustrates the relative importance of each activity to the overall goals and purposes of the state agency at current service or performance levels; and

(4) recommendations to the legislature regarding whether the legislature should continue funding each activity identified under Subdivision (1) and, if so, at what level.

(d) The legislature may consider the strategic fiscal review reports in connection with the legislative appropriations process.

(e) Until the board has completed a strategic fiscal review under this section, all information, documentary or otherwise, prepared or maintained in conducting the strategic fiscal review or preparing the strategic fiscal review report, including intra-agency and interagency communications and drafts of the strategic fiscal review report, or portions of those drafts, is excepted from required public disclosure as audit working papers under Section 552.116. This subsection does not affect whether information described by this subsection is confidential or excepted from required public disclosure under a law other than Section 552.116.

Added by Acts 2019, 86th Leg., R.S., Ch. 510 (S.B. 68), Sec. 1, eff. June 7, 2019.

Sec. 322.018. RECORDS MANAGEMENT REVIEW. (a) In this section, "state agency" has the meaning assigned by Section 2056.001.

(b) The board may periodically review and analyze the effectiveness and efficiency of the policies and management of a state governmental committee or state agency that is involved in:

(1) analyzing and recommending improvements to the state's system of records management; and

(2) preserving the essential records of this state, including records relating to financial management information.

Added by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 6.09, eff. Jan. 11, 2004.

Sec. 322.019. CRIMINAL JUSTICE POLICY ANALYSIS. (a) The board may develop and perform functions to promote a more effective and cohesive state criminal justice system.

(b) The board may serve as the statistical analysis center for the state and as the liaison for the state to the United States Department of Justice on criminal justice issues of interest to the state and federal government relating to data, information systems, and research if an executive branch agency or institution of higher education is not designated by the governor to perform those functions.

(c) The director may consult the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each standing committee of the senate and house of representatives having primary jurisdiction over matters relating to criminal justice and state finance or appropriations from the state treasury.

(d) The Department of Public Safety, the Texas Department of Criminal Justice, and the Texas Juvenile Justice Department shall provide the board with data relating to a criminal justice policy analysis under this section in the manner requested.

Added by Acts 2005, 79th Leg., Ch. 741 (H.B. 2753), Sec. 8, eff. June 17, 2005.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 91, eff. September 1, 2015.

Sec. 322.020. MAJOR CONTRACTS DATABASE. (a) In this section, "major contract" means:

(1) a contract for which notice is required under one of the following sections:

(A) Section 2054.008;

(B) Section 2166.2551;

(C) Section 2254.006; or

(D) Section 2254.0301; or

(2) a contract, including an amendment, modification, renewal, or extension:

(A) for which notice is not required under a section listed in Subdivision (1);

(B) that is not a purchase order, an interagency contract, or a contract paid only with funds not appropriated by the General Appropriations Act; and

(C) with a value that exceeds $50,000.

(b) Each state agency shall provide the Legislative Budget Board copies of the following documents:

(1) each major contract entered into by the agency; and

(2) each request for proposal, invitation to bid, or comparable solicitation related to the major contract.

(c) The Legislative Budget Board shall post on the Internet:

(1) each major contract of a state agency; and

(2) each request for proposal, invitation to bid, or comparable solicitation related to the major contract.

(d) The Legislative Budget Board shall allow public access to the information posted under this section, except for information that is not subject to disclosure under Chapter 552. Information that is not subject to disclosure under Chapter 552 must be referenced in an appendix that generally describes the information without disclosing the specific content of the information.

(e) The Legislative Budget Board shall make the information searchable by contract value, state agency, and vendor. The Legislative Budget Board may make the information searchable by other subjects as appropriate.

(f) In this section, "state agency" has the meaning assigned by Section 2054.003, except that the term does not include a university system or institution of higher education, the Health and Human Services Commission, an agency identified in Section 521.0001(5), or the Texas Department of Transportation.

Added by Acts 2005, 79th Leg., Ch. 469 (H.B. 26), Sec. 3, eff. June 17, 2005.
Redesignated from Government Code, Section 2177.052 and amended by Acts 2007, 80th Leg., R.S., Ch. 1270 (H.B. 3430), Sec. 5, eff. October 1, 2007.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 2.13, eff. April 1, 2025.

Sec. 322.022. PUBLIC HEARING ON INTERIM BUDGET REDUCTION REQUEST. (a) In this section:

(1) "Interim budget reduction request" means a request communicated in any manner for a state agency to make adjustments to the strategies, methods of finance, performance measures, or riders applicable to the agency through the state budget in effect on the date the request is communicated that, if implemented, would reduce the agency's total expenditures for the current state fiscal biennium to an amount less than the total amount that otherwise would be permissible based on the appropriations made to the agency in the budget.

(2) "State agency" means an office, department, board, commission, institution, or other entity to which a legislative appropriation is made.

(b) A state agency shall provide to the board a detailed report of any expenditure reduction plan that:

(1) the agency develops in response to an interim budget reduction request made by the governor, the lieutenant governor, or a member of the legislature, or any combination of those persons; and

(2) if implemented, would reduce the agency's total expenditures for the current state fiscal biennium to an amount less than the total amount that otherwise would be permissible based on the appropriations made to the agency in the state budget for the biennium.

(c) The board shall hold a public hearing to solicit testimony on an expenditure reduction plan a state agency reports to the board as required by Subsection (b) as soon as practicable after receiving the report. The agency may not implement any element of the plan until the conclusion of the hearing.

(d) This section does not apply to an expenditure reduction a state agency desires to make that does not directly or indirectly result from an interim budget reduction request made by the governor, the lieutenant governor, or a member of the legislature, or any combination of those persons.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 34.03,

eff. September 28, 2011.

Sec. 322.024. REDUCTION OF RELIANCE ON AVAILABLE DEDICATED REVENUE FOR BUDGET CERTIFICATION. (a) In this section, "available dedicated revenue" means revenue that Section 403.095 makes available for certification under Section 403.121.

(b) The board shall:

(1) develop and implement a process to review:

(A) new legislative enactments that create dedicated revenue; and

(B) the appropriation and accumulation of dedicated revenue and available dedicated revenue;

(2) develop and implement tools to evaluate the use of available dedicated revenue for state government financing and budgeting; and

(3) develop specific and detailed recommendations on actions the legislature may reasonably take to reduce state government's reliance on available dedicated revenue for the purposes of certification under Section 403.121 as authorized by Section 403.095.

(c) The board shall incorporate into the board's budget recommendations appropriate measures to reduce state government's reliance on available dedicated revenue for the purposes of certification under Section 403.121 as authorized by Section 403.095 and shall include with the budget recommendations plans for further reducing state government's reliance on available dedicated revenue for those purposes for the succeeding six years.

(d) The board shall consult the comptroller as necessary to accomplish the objectives of Subsections (b) and (c).

Added by Acts 2013, 83rd Leg., R.S., Ch. 835 (H.B. 7), Sec. 1, eff. June 14, 2013.

CHAPTER 323. TEXAS LEGISLATIVE COUNCIL

Sec. 323.001. CREATION AND MEMBERSHIP. (a) The Texas Legislative Council is an agency of the legislative branch of state government.

(b) The council consists of:

(1) the lieutenant governor;

(2) the speaker of the house of representatives;

(3) the chairman of the house administration committee;

(4) six senators from various areas of the state appointed by the president of the senate; and

(5) five other members of the house of representatives from various areas of the state appointed by the speaker.

(c) The lieutenant governor and the speaker are joint chairs of the council.

(d) If a vacancy occurs in the appointed membership, the appropriate appointing authority shall appoint a person to serve for the remainder of the unexpired term.

(e) Except for the lieutenant governor and the speaker, each member serves a term beginning on the date of the member's appointment and ending with the convening of the first regular legislative session that occurs after the date of appointment.

(f) The lieutenant governor and the speaker act as the council during a regular legislative session.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., ch. 1328, Sec. 6, eff. June 21, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 6.10, 6.11, eff. Jan. 11, 2004.

Sec. 323.003. MEETINGS. (a) The council shall meet as often as necessary to perform its duties. Meetings may be held at any time at the request of either of the joint chairs of the council.

(b) A majority of the members of the council from each house of the legislature constitutes a quorum. If a quorum is present, the council may act on any matter that is within its jurisdiction by a majority vote.

(c) The council shall keep complete minutes of each meeting.

(d) Each member of the legislature is entitled to attend and present his views in any meeting of the council, except that a legislator who is not a member of the council may not vote.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 6.12, eff. Jan. 11, 2004.

Sec. 323.004. EXPENSES OF MEMBERS. Members of the council are entitled to reimbursement for necessary expenses incurred in performing functions as members of the council.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 323.005. COUNCIL EXPENDITURES; SALARIES. (a) The amount of allowable expenditures for the council is determined by legislative appropriation.

(b) The council shall determine the salaries of its assistants and employees.

(c) The certificate of either of the joint chairs of the council is sufficient evidence of the validity of a claim. On certification, the comptroller shall issue warrants on the treasury to pay each claim for mileage and per diem expenses, salaries of employees, and other authorized expenses.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 6.13, eff. Jan. 11, 2004.

Sec. 323.006. POWERS AND DUTIES. (a) The council shall:

(1) study and investigate the functions and problems of state departments, agencies, and officers;

(2) conduct investigations and studies and make reports that may be considered useful to the legislative branch of state government;

(3) gather and disseminate information for the legislature's use;

(4) meet and perform council functions during the legislative interim;

(5) make periodic reports to all members of the legislature and keep the legislature fully informed of all issues that may come before the council, any action taken on an issue, and the progress made on an issue;

(6) report council recommendations to the legislature and, if appropriate, provide drafts of legislation with the report;

(7) assist the legislature in drafting proposed legislation;

(8) provide legal advice and other legal services to the legislature; and

(9) provide data-processing services to aid members and legislative committees in accomplishing their legislative duties.

(b) By agreement with either house of the legislature or a legislative agency, the council may perform other services or functions for or on behalf of the house or agency.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 21, eff. June 14, 2019.

Sec. 323.007. STATUTORY REVISION PROGRAM. (a) The council shall plan and execute a permanent statutory revision program for the systematic and continuous study of the statutes of this state and for the formal revision of the statutes on a topical or code basis. The purpose of the program is to clarify and simplify the statutes and to make the statutes more accessible, understandable, and usable.

(b) When revising a statute the council may not alter the sense, meaning, or effect of the statute.

(c) As part of the statutory revision program, the council shall:

(1) prepare a statutory record showing the status and disposition within the classification of the revised statutes of all acts enacted by the legislature;

(2) prepare and submit to the legislature in bill form statutory revisions on a topical or code basis;

(3) include a report with each revision that contains revisor's notes explaining in detail the work done; and

(4) formulate and implement a continuous revision program so that statutes that have been revised and enacted may be updated without the need for subsequent major revisions.

(d) Expired.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 685, Sec. 1.15, eff. Sept. 1, 1993.

Sec. 323.008. STATUTORY REVISION ADVISORY COMMITTEE. (a) If

the council determines a need exists, either of the joint chairs of the council may appoint statutory revision advisory committees to advise the council on matters relating to the revision of particular subjects of the law.

(b) Advisory committees consist of seven members appointed by a joint chair of the council. Advisory committee members serve for a period of two years from the date of appointment.

(c) In appointing an advisory committee, a joint chair shall include representatives of the:

(1) State Bar of Texas;

(2) judiciary; and

(3) Texas law schools.

(d) An advisory committee shall meet at the call of either of the joint chairs of the council.

(e) Each advisory committee shall select one of its members as chairman.

(f) Advisory committee members serve without compensation but are entitled to reimbursement for actual expenses incurred in attending official committee meetings. Those expenses are paid from funds appropriated to the council.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 6.14, eff. Jan. 11, 2004.

Sec. 323.009. ORIENTATION FOR MEMBERS-ELECT. (a) The council may reimburse members-elect of the legislature for travel expenses incurred in attending an orientation program conducted by the council between the date of the general election and the convening of the regular legislative session.

(b) Payment of reimbursement shall be in accordance with rules adopted by the council.

(c) An individual may be reimbursed under this section for only one round trip between the individual's home and the City of Austin.

(d) An individual holding office as a member of the legislature when the orientation program occurs is not eligible for reimbursement under this section.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 323.010. INVESTIGATIONS AND SURVEYS. (a) The council or a council committee authorized by the council to hold hearings may hold public or executive hearings to make investigations and surveys.

(b) The hearing shall be held at a time and place in the state determined by the council.

(c) The council may:

(1) inspect and copy any book, record, file, or other instrument or document of a department, institution, county, or political subdivision of the state that is pertinent to a matter under investigation by the council; and

(2) examine and audit the books of a person, firm, or corporation having dealings with a department or institution under investigation by the council.

(d) Any member of the council or of the committee may administer oaths to witnesses appearing at the hearing.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 323.011. SUBPOENAS. (a) The council or a council committee may issue subpoenas to compel the attendance of witnesses and the production of books, records, or other documents in their custody.

(b) A subpoena must be signed by either of the joint chairs of the council.

(c) The council sergeant at arms or any peace officer shall serve the subpoena in the manner prescribed for service of a district court subpoena.

(d) If a person to whom a subpoena is directed refuses to appear, refuses to answer inquiries, or fails or refuses to produce books, records, or other documents that were under the person's control when the demand was made, the council or a council committee shall report the fact to a Travis County district court.

(e) The district court shall enforce a council or committee subpoena by attachment proceedings for contempt in the same manner the court enforces a subpoena issued by that court.

(f) A subpoenaed witness who attends a council hearing or meeting is entitled to the same mileage and per diem as a witness who appears before a grand jury of this state.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended

by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 6.15, eff. Jan. 11, 2004.

Sec. 323.012. ASSISTANCE FROM OTHER AGENCIES. (a) The council may request assistance and advice from all state departments or agencies, including the:

(1) attorney general;

(2) Texas State Library; and

(3) State Auditor.

(b) On the request of either of the joint chairs of the council, the attorney general shall render opinions and give advice and assistance to the council.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 6.16, eff. Jan. 11, 2004.

Sec. 323.014. COMPUTER ACCESS, INFORMATION, AND USE. (a) The council shall consider each application for direct access to a computer under its control in which confidential information is stored or processed or that is connected with another computer in which confidential information is stored or processed and solely shall determine whether or not to permit direct access by the applicant. Direct access to such a computer may not be permitted unless protection of confidential information is ensured.

(b) If public information of the council is stored in a computer-readable form, the council has exclusive authority to determine the form in which the information will be reproduced for the requestor of the information.

(c) Notwithstanding Subchapter F, Chapter 552, the council has exclusive authority to determine the charge for direct access to a computer under its control and the charge for information reproduced for a requestor.

(d) The council may consider the needs of persons with disabilities when making decisions regarding the formats in which information is made available under this chapter.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.11(a), eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(95), eff.

Sept. 1, 1995; Acts 1995, 74th Leg., ch. 877, Sec. 2, eff. Sept. 1, 1995.

Sec. 323.0145. ELECTRONIC AVAILABILITY OF LEGISLATIVE INFORMATION THROUGH THE INTERNET. (a) In this section:

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

(2) "Legislative information" means:

(A) a list of all the members of each house of the legislature;

(B) a list of the committees of the legislature and their members;

(C) the full text of each bill as filed and as subsequently amended, substituted, engrossed, or enrolled in either house of the legislature;

(D) the full text of each amendment or substitute adopted by a legislative committee for each bill filed in either house of the legislature;

(E) the calendar of each house of the legislature, the schedule of legislative committee hearings, and a list of the matters pending on the floor of each house of the legislature;

(F) detailed procedural information about how a bill filed in either house of the legislature becomes law, including detailed timetable information concerning the times under the constitution or the rules of either house when the legislature may take certain actions on a bill;

(G) the district boundaries or other identifying information for the following districts in Texas:

(i) house of representatives;

(ii) senate;

(iii) State Board of Education; and

(iv) United States Congress; and

(H) other information related to the legislative process that in the council's opinion should be made available through the Internet.

(b) The council, to the extent it considers it to be feasible and appropriate, may make legislative information available to the public through the Internet.

(c) The council may make available to the public through the

Internet any documentation that describes the electronic digital formats of legislative information.

(d) The access to legislative information allowed by this section:

(1) is in addition to the public's access to the information through other electronic or print distribution of the information;

(2) does not alter, diminish, or relinquish any copyright or other proprietary interest or entitlement of the State of Texas or a private entity under contract with the state; and

(3) does not affect Section 323.014.

(e) If the text of a document described by Subsection (a)(2)(C) or (D) includes a cross-reference to a section of state statute, the council to the extent feasible shall include in any electronic version of the document made available to the public through the Internet an electronic link or other method by which a person reading the document may automatically access the text of the referenced section.

Added by Acts 1995, 74th Leg., ch. 877, Sec. 3, eff. Sept. 1, 1995.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 145 (H.B. 1271), Sec. 1, eff. November 1, 2014.

Sec. 323.015. COMPUTER SECURITY; PENALTY. (a) A person commits an offense if the person intentionally or knowingly gains access to information stored or maintained by a computer under the control of the council and the person is not authorized by the council to have access to that information.

(b) A person commits an offense if the person intentionally, knowingly, or recklessly damages, destroys, deletes, or alters or impairs access to or use of information stored or maintained by a computer under the control of the council and the person is not authorized by the council to do so.

(c) Subsection (b) does not apply to an interruption of utility service or other service that causes the damage, destruction, deletion, or alteration of or impairment of access to or use of the information unless the interruption was intended to have that result.

(d) An offense under this section is a Class A misdemeanor.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.11(a), eff. Sept. 1, 1987.

Sec. 323.016. GIFTS AND GRANTS. (a) The council may accept gifts, grants, and donations from any organization described in Section 501(c)(3) of the Internal Revenue Code for the purpose of funding any activity under this chapter.

(b) All gifts, grants, and donations must be accepted in an open meeting by a majority of the voting members of the council and reported in the public record of the council with the name of the donor and purpose of the gift, grant, or donation.

Added by Acts 1987, 70th Leg., ch. 617, Sec. 4, eff. Sept. 1, 1987.

Sec. 323.017. CONFIDENTIAL AND PRIVILEGED COMMUNICATIONS. (a) Communications, including conversations, correspondence, and electronic communications, between a member of the legislature or the lieutenant governor, an officer of the house or senate, a legislative agency, office, or committee, or a member of the staff of any of those officers or entities and an assistant or employee of the council that relate to a request by the officer or entity for information, advice, or opinions from an assistant or employee of the council are confidential and subject to legislative privilege.

(b) A communication described by Subsection (a) is subject to attorney-client privilege if:

(1) the assistant or employee of the council who is a party to the communication is a council attorney or is working at the direction of a council attorney;

(2) the communication is given privately; and

(3) the communication is made in connection with the council attorney's provision of legal advice or other legal services.

(c) Information, advice, and opinions given privately by an assistant or employee of the council to a member of the legislature or the lieutenant governor, an officer of the house or senate, a legislative agency, office, or committee, or a member of the staff of any of those officers or entities, when acting in the person's official capacity, are confidential and subject to legislative privilege.

(d) The member of the legislature, lieutenant governor, house or senate officer, or legislative agency, office, or committee may choose to disclose all or a part of the communications, information, advice, or opinions to which this section applies and to which the individual or entity was a party.

(e) This section does not affect the authority of a court to analyze and apply attorney-client privilege under the applicable rules of evidence governing a judicial proceeding.

Added by Acts 1987, 70th Leg., ch. 1053, Sec. 2, eff. June 20, 1987. Renumbered from Sec. 323.016 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(25), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 9.002, eff. Sept. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 22, eff. June 14, 2019.

Sec. 323.018. RECORDS OF DRAFTING AND OTHER REQUESTS. Records relating to requests of council staff for the drafting of proposed legislation or for assistance, information, advice, or opinion are:

(1) subject to legislative privilege; and

(2) not public information and not subject to Chapter 552.

Added by Acts 1995, 74th Leg., ch. 877, Sec. 4, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 22, eff. June 14, 2019.

Sec. 323.019. STATISTICAL AND DEMOGRAPHIC INFORMATION AND STUDIES. (a) The council may gather and analyze information relating to public education and other public services for the purpose of conducting statistical and demographic research and producing reports.

(b) State agencies in each branch of government shall cooperate with the council in the gathering of information and the production of reports under this section and shall provide information as requested by the council to the maximum extent permitted by state or federal law.

(c) In order to develop and evaluate legislative policy, the

council is entitled to collect data from any state agency, including data that is confidential under state or federal law. In addition to other uses consistent with this section, the council may use data collected for the purpose of matching data from various agencies. Confidential data collected by the council does not lose its character as confidential information because of its collection by the council, and the providing of that data to the council does not constitute a release of the information by the state agency. For the limited purpose of collecting and matching data subject to 20 U.S.C. Section 1232g or other federal law governing education records, employees of the council are considered state school officials.

(d) The council is subject to any federal law governing the release of or providing access to any personally identifiable information to the same extent as the agency from which the data is collected. The council may not release or distribute the data to any individual member of the legislature, or to any other person, in a form that contains personally identifiable information.

(e) In collecting personally identifiable information under this section, the council and the state agency from which the data is collected shall cooperate in the confidential handling of the data, such as the encoding, decoding, and reencoding of the information. Personally identifiable information may be used by the council solely for the purpose of statistical and policy analysis, including data matching, and must be destroyed immediately when no longer needed for that analysis.

(f) Using information collected and matched under this section, the council may produce and release statistical data that does not include any personally identifiable information.

Added by Acts 1999, 76th Leg., ch. 1585, Sec. 2, eff. June 20, 1999.

Sec. 323.020. CONTRACTS TO PERFORM STATISTICAL OR DEMOGRAPHIC ANALYSIS; CONFIDENTIALITY. (a) Subsections (c)-(g) do not apply in relation to a statistical or demographic analysis of information related to the redistricting process.

(b) At the request of a state agency, the council may determine whether and the extent to which council resources are available to contract or otherwise agree with the agency to perform a statistical or demographic analysis of information for the agency or to assist

the agency in performing the analysis. A reference in this section to performing an analysis includes assisting an agency to perform the analysis.

(c) Except as provided by this section, information that the council acquires or produces in relation to a statistical or demographic analysis performed under Subsection (b) is confidential and not public information subject to Chapter 552, including:

(1) any information that identifies or tends to identify an individual or other entity that submitted information or that was asked to submit information for the analysis;

(2) working drafts and working papers developed in performing the analysis;

(3) contracts and subcontracts entered into for purposes of performing the analysis;

(4) internal and interagency correspondence sent or received in the course of performing the analysis;

(5) memoranda of understanding entered into in relation to performing the analysis; and

(6) data, data files, databases, computer coding, computer specification programs, data use agreements, and data dictionaries acquired or used in performing the analysis.

(d) Without regard to whether the council collects information for purposes of performing a statistical or demographic analysis of information under Subsection (b) indirectly through the state agency or directly from another governmental or nongovernmental entity, an individual or other entity that voluntarily provides information to the state agency or to the council for purposes of the analysis does not waive any exception from required disclosure or any privilege not to disclose the information, and the character of the information as privileged or excepted from required disclosure is not affected by that action of the individual or other entity.

(e) A final report containing a statistical or demographic analysis of information performed under Subsection (b), a cover letter or cover memorandum for the final report, and an announcement that the final report is available are not confidential and are subject to required public disclosure under Chapter 552 except to the extent that the final report, cover letter or cover memorandum, or announcement contains information that identifies or tends to identify an individual or entity other than information that names a staff member who performed work in relation to performing the

analysis or that names government officials on a letterhead.

(f) Notwithstanding Subsection (c)(3), a contract or other agreement between the council and a state agency under Subsection (b) and the names of the staff members who perform work in relation to performing the analysis under the contract or agreement are not confidential. A contract or agreement between the council and a state agency under Subsection (b) is public information subject to Chapter 552.

(g) Information that an individual or other entity submits for the purpose of a statistical or demographic analysis of information performed by the council under Subsection (b) may not be used against the individual or other entity in a state agency enforcement proceeding. This subsection does not affect the ability of a state agency to obtain the information by other means and to use the information, if obtained by other means, in a state agency enforcement proceeding.

Added by Acts 2003, 78th Leg., ch. 918, Sec. 1, eff. June 20, 2003.

Sec. 323.021. LEGISLATIVE OFFICE RECORDS. A member of the legislature, the lieutenant governor, an officer of the house or senate, or a legislative agency, office, or committee that uses a system made available by the council to transmit, store, or maintain records:

(1) possesses, maintains, or controls the records for purposes of litigation; and

(2) is the custodian of the records for purposes of Chapter 552.

Added by Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 23, eff. June 14, 2019.

CHAPTER 324. LEGISLATIVE REFERENCE LIBRARY

Sec. 324.001. DEFINITIONS. In this chapter:

(1) "Library" means the Legislative Reference Library.

(2) "Board" means the Legislative Library Board.

(3) "Director" means the director of the library.

(4) "Legislative entity" means a member of the legislature, the lieutenant governor, an officer of the house or senate, or a

legislative committee, department, or office, but does not include a legislative agency created by Subtitle C, Title 3.

(5) "Legislative record" means a record, including a state record or archival state record, created by a legislative entity. The term includes records described by Section 324.008(b).

(6) "State record" and "archival state record" have the meanings assigned by Section 441.180.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 24, eff. June 14, 2019.

Sec. 324.002. ESTABLISHMENT. The Legislative Reference Library is an independent agency of the legislature.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 324.004. LEGISLATIVE LIBRARY BOARD. (a) The board controls and administers the library.

(b) The board consists of:

(1) the lieutenant governor;

(2) the speaker of the house of representatives;

(3) the chairman of the house appropriations committee;

(4) two members of the senate appointed by the lieutenant governor; and

(5) one other member of the house appointed by the speaker.

(c) Members of the board serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in attending meetings and performing official functions.

(d) Actual and necessary expenses are paid from funds appropriated to the board.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., ch. 1328, Sec. 7, eff. June 21, 2003.

Sec. 324.005. DIRECTOR. (a) The board shall appoint a director to serve at the pleasure of the board.

(b) The board shall set the salary of the director.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 349, Sec. 1, eff. Sept. 1, 1989.

Sec. 324.006. PERSONNEL. (a) The director, with the approval of the board, may employ professional and clerical personnel.

(b) The board shall set the salaries of the personnel employed by the director.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 324.007. DUTIES. (a) The library shall be maintained for the use and information of members of the legislature, heads of state departments, and citizens of this state.

(b) The library shall contain, as may best be made available for legislative use, the following items:

(1) checklists and catalogues of current legislation in this and other states;

(2) catalogues of bills and resolutions presented in either house of the legislature;

(3) checklists of public documents in each state;

(4) checklists of all reports issued by each department, agency, board, or commission of this state;

(5) digests of public laws of this and other states;

(6) legislative records; and

(7) other items designated by the board or the director.

(c) The director and library employees shall provide any assistance requested by a member of the legislature in researching, analyzing, evaluating, and preparing bills and resolutions.

(d) The board shall adopt rules necessary to ensure the library's efficient operation.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 25, eff. June 14, 2019.

Sec. 324.008. DEPOSIT AND MANAGEMENT OF DOCUMENTS. (a) The library is a depository library as defined by Section 441.101 and shall receive state documents and publications from other states distributed by the Texas State Library.

(b) Each printed daily legislative journal, bill, resolution, or other legislative document shall be delivered daily to the library.

(c) At the close of each legislative session, each daily legislative journal, bill, or resolution possessed by the senate or house sergeant at arms shall be delivered to the library to be managed as a legislative record under Section 324.0085.

(d) The governing body of a state agency, as defined by Sections 2151.002(1) and (3), shall deliver to the library and the Texas State Library and Archives Commission immediately after transcription a certified copy of the minutes of any meeting of the governing body. Any changes or corrections to the minutes shall also be delivered to the library and the Texas State Library and Archives Commission.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 281, Sec. 1, eff. Sept. 1, 1999. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 25, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 26, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 27, eff. June 14, 2019.

Text of section as added by Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 28

For text of section as added by Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 1, see other Sec. 324.0085.

Sec. 324.0085. LEGISLATIVE RECORDS. (a) In this section:

(1) "Commission," "records management officer," and "state records administrator" have the meanings assigned by Section 441.180.

(2) "Director and librarian of the commission" means the chief executive and administrative officer of the Texas State Library and Archives Commission.

(b) The library is the depository for legislative records.

(c) Except as otherwise provided by this chapter, a legislative record must be managed by the director in the same manner that a state record is managed under Subchapter L, Chapter 441. For a legislative record, with regard to the requirements of Subchapter L, Chapter 441:

(1) the board shall perform the functions and duties of the commission; and

(2) the director shall perform the functions and duties of:

(A) the director and librarian of the commission;

(B) the state records administrator; and

(C) the records management officer.

(d) Legislative records shall be transferred to the library or a depository outside the library under Section 324.0086, in accordance with any applicable records retention schedule approved by the director under this section.

(e) A legislative entity may retrieve, for temporary use, records transferred by the legislative entity to the library or a depository outside the library. The director and library employees shall assist the legislative entity with retrieval of the records, and the legislative entity shall return the records to the library following the legislative entity's use.

(f) Under the direction of the legislative entity that created the records transferred to the library, or of the public information officer of the appropriate house of the legislature in the case of a former legislative entity, the director shall protect privileged or confidential legislative records held by the library or a depository outside the library from public disclosure.

(g) Under the direction of the public information officer of the legislative entity that transferred a legislative record to the library or an authorized depository outside the library, or of the public information officer of the appropriate house of the legislature in the case of a former legislative entity, the director shall respond to requests received under Chapter 552 for the legislative record. The director shall notify the public information officer responsible for the legislative record as soon as practicable after receiving a request described by this subsection.

(h) The director may:

(1) transfer legislative records to the Texas State Library and Archives Commission for management under Subchapter L, Chapter

441; and

(2) request the Texas State Library and Archives Commission to return to the library, without charge to the library, legislative records held by the commission.

(i) To the extent of any conflict, this section prevails over Chapter 441 or any other state law relating to the management of legislative records.

Added by Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 28, eff. June 14, 2019.

Text of section as added by Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 1

For text of section as added by Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 28, see other Sec. 324.0085.

Sec. 324.0085. LEGISLATIVE RECORDS. (a) The library is the depository for any record created or received by the office of a member of the legislature or the lieutenant governor during that official's term of office.

(b) The legislative entity that transferred records to the library retains ownership and legal custody of those records, including records placed in a depository outside the library. The legislative entity may retrieve the records for the legislature's use. The director and library employees shall assist the legislative entity with retrieval of the records and shall return the records to the library following the legislature's use.

(c) The director shall protect privileged or confidential legislative records held by the library from public disclosure at the direction of the legislative entity that transferred the records to the library.

(d) The director shall receive requests under Chapter 552 for legislative records held by the library and respond as directed by the officer for public information of the legislative entity that transferred the records to the library. The director shall notify the appropriate officer for public information as soon as practicable after receiving a request described by this subsection.

Added by Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 1, eff. September 1, 2019.

Sec. 324.0086. PLACEMENT IN OTHER DEPOSITORY. (a) A member of the legislature may apply to the board to place records that were created or received by the member's office during the member's term in a depository other than the library.

(b) The board shall:

(1) create a list of preapproved depositories in which members of the legislature may place records of their legislative offices; and

(2) by rule adopt policies and procedures to approve additional depositories.

(c) The director is responsible for the preservation of records described by Subsection (a) placed in a depository other than the library. Ownership and legal custody of the records remain with the legislature as provided by Section 324.0085. The records may not be intermingled with other holdings of the institution that serves as a depository.

Added by Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 1, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 28, eff. June 14, 2019.

Sec. 324.009. GIFTS AND GRANTS. (a) The board may accept gifts, grants, and donations from any organization described in Section 501(c)(3) of the Internal Revenue Code for the purpose of funding any activity under this chapter.

(b) All gifts, grants, and donations must be accepted in an open meeting by a majority of the voting members of the board and reported in the public record of the board with the name of the donor and purpose of the gift, grant, or donation.

Added by Acts 1987, 70th Leg., ch. 617, Sec. 5, eff. Sept. 1, 1987.

Sec. 324.010. COPY COSTS; FORMAT. The library has exclusive authority to determine the charge for copies or reproduction of records in the custody of the library. The library may reproduce records in a format such as CD-ROM, another computer-readable format,

or any other format determined by the library and provide records in that format for a charge determined by the library.

Added by Acts 1993, 73rd Leg., ch. 428, Sec. 6, eff. Aug. 30, 1993.

CHAPTER 325. SUNSET LAW

Sec. 325.001. SHORT TITLE. This chapter may be cited as the Texas Sunset Act.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 12, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 325.002. DEFINITIONS. In this chapter:

(1) "State agency" means an entity expressly made subject to this chapter.

(2) "Advisory committee" means a committee, council, commission, or other entity created under state law whose primary function is to advise a state agency.

(3) "Commission" means the Sunset Advisory Commission.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1008, Sec. 1, 2, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 167, Sec. 2.12(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 196, Sec. 1, eff. Aug. 28, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 7.01, eff. June 10, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1545, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 325.003. SUNSET ADVISORY COMMISSION. (a) The Sunset Advisory Commission is a legislative agency that consists of five members of the senate and one public member appointed by the lieutenant governor and five members of the house of representatives

and one public member appointed by the speaker of the house. The lieutenant governor and the speaker of the house may serve as one of the legislative appointees.

(a-1) A public member acts on behalf of the legislature when participating on the commission in furtherance of the legislature's duty to provide oversight of executive branch agencies' implementation of legislative priorities.

(b) An individual is not eligible for appointment as a public member if the individual or the individual's spouse is:

(1) regulated by a state agency that the commission will review during the term for which the individual would serve;

(2) employed by, participates in the management of, or directly or indirectly has more than a 10 percent interest in a business entity or other organization regulated by a state agency the commission will review during the term for which the individual would serve; or

(3) required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession or entity related to the operation of an agency under review.

(c) It is a ground for removal of a public member from the commission if the member does not have the qualifications required by Subsection (b) for appointment to the commission at the time of appointment or does not maintain the qualifications while serving on the commission. The validity of the commission's action is not affected by the fact that it was taken when a ground for removal of a public member from the commission existed.

(d) Legislative members serve four-year terms, with terms staggered so that the terms of as near to one-half of the legislative members appointed by the lieutenant governor as possible and the terms of as near to one-half of the legislative members appointed by the speaker as possible expire September 1 of each odd-numbered year. If the lieutenant governor or the speaker serves on the commission, service continues until resignation from the commission or until the individual ceases to hold the office. Public members serve two-year terms expiring September 1 of each odd-numbered year.

(e) Members other than the lieutenant governor and the speaker are subject to the following restrictions:

(1) after a legislative member serves two terms on the commission or a public member serves three terms on the commission,

the individual is not eligible for appointment to another term or part of a term;

(2) a legislative member who serves a full term may not be appointed to an immediately succeeding term; and

(3) a public member may not serve more than two consecutive terms, and, for purposes of this prohibition, a member is considered to have served a term only if the member has served more than half of the term.

(e-1) If an individual serves for less than a full term, the term is not counted toward determining the individual's eligibility to serve on the commission under Subsection (e)(1) unless the individual was a member of the commission for each public hearing at which the state agencies being reviewed during the individual's term were discussed.

(f) The lieutenant governor and speaker shall make their appointments before September 1 of each odd-numbered year.

(g) If a legislative member ceases to be a member of the house from which he was appointed, the member vacates his membership on the commission.

(h) If a vacancy occurs, the appropriate appointing authority shall appoint a person to serve for the remainder of the unexpired term in the same manner as the original appointment.

(i) The commission shall have a chairman and vice-chairman as presiding officers. The chairmanship and vice-chairmanship must alternate every two years between the two membership groups appointed by the lieutenant governor and the speaker. The chairman and vice-chairman may not be from the same membership group. The lieutenant governor shall designate a presiding officer from his appointed membership group and the speaker shall designate the other presiding officer from his appointed membership group.

(j) Seven members of the commission constitute a quorum. A final action or recommendation may not be made unless approved by a record vote of a majority of members appointed by the lieutenant governor and the speaker of the house. All other actions by the commission shall be decided by a majority of the members present and voting.

(k) Each member of the commission is entitled to reimbursement for actual and necessary expenses incurred in performing commission duties. Each legislative member is entitled to reimbursement from the appropriate fund of the member's respective house. Each public

member is entitled to reimbursement from funds appropriated to the commission.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1008, Sec. 2, eff. Sept. 1, 1987; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 6.17, eff. Jan. 11, 2004. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 1.01, eff. June 15, 2007.

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 7.02, eff. June 10, 2019.

Sec. 325.004. STAFF. (a) The commission shall employ an executive director to act as the executive head of the commission.

(b) The executive director shall employ persons necessary to carry out this chapter through funds made available by the legislature.

(c) The chairman and vice-chairman of the commission may each employ a staff to work for them on matters related to commission activities.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 325.005. RULES. The commission shall adopt rules necessary to carry out this chapter.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1545, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 325.007. AGENCY REPORT TO COMMISSION. (a) Before September 1 of the odd-numbered year before the year in which a state agency subject to this chapter is abolished, the agency shall report to the commission:

(1) information regarding the application to the agency of the criteria in Section 325.011; and

(2) any other information that the agency considers

appropriate or that is requested by the commission.

(b) The reports under Subsection (a) must be submitted in electronic format only. The commission shall prescribe the electronic format to be used.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1008, Sec. 3, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 1.02, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 668 (S.B. 1618), Sec. 2, eff. September 1, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1545, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 325.0075. REPORTING REQUIREMENTS OF AGENCY BEING REVIEWED. Before September 1 of the odd-numbered year before the year in which a state agency subject to this chapter is abolished, the agency shall submit to the commission, the governor, the lieutenant governor, and each member of the legislature a report that:

(1) lists each report that the agency is required by a statute to prepare; and

(2) evaluates the need for each report listed in Subdivision (1) based on whether factors or conditions have changed since the date the statutory requirement to prepare the report was enacted.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1128 (H.B. 326), Sec. 1, eff. June 17, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 12 and H.B. 1545, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 325.008. COMMISSION DUTIES. (a) Before January 1 of the year in which a state agency subject to this chapter and its advisory committees are abolished, the commission shall:

(1) review and take action necessary to verify the reports submitted by the agency under Section 325.007;

(2) consult the Legislative Budget Board, the Governor's Budget, Policy, and Planning Division, the State Auditor, and the comptroller of public accounts, or their successors, on the application to the agency of the criteria provided in Section 325.011;

(3) conduct a review of the agency based on the criteria provided in Section 325.011 and prepare a written report; and

(4) review the implementation of commission recommendations contained in the reports presented to the legislature during the preceding legislative session and the resulting legislation.

(b) The written report prepared by the commission under Subsection (a)(3) is a public record.

(c) Work performed under this section by the state auditor is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c).

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 6, eff. Sept. 1, 2003. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 1.03, eff. June 15, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1545, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 325.009. PUBLIC HEARINGS. (a) Before February 1 of the year a state agency subject to this chapter and its advisory committees are abolished, the commission shall conduct public hearings concerning but not limited to the application to the agency of the criteria provided in Section 325.011.

(b) The commission may hold the public hearings after the review of the agency required by Section 325.008(a)(3) is complete and available to the public.

(c) Notwithstanding Subsection (a), the commission may not discuss in a public hearing the application to an agency of the criteria provided in Section 325.011(14). The commission staff shall notify the commission of any findings and recommendations regarding

the criteria provided in Section 325.011(14).

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 1.04, eff. June 15, 2007.
Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 7.03, eff. June 10, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 12, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 325.010. COMMISSION REPORT. (a) At each regular legislative session, the commission shall present to the legislature and the governor a report on the agencies and advisory committees reviewed.

(b) In the report the commission shall include:

(1) its findings regarding the criteria prescribed by Section 325.011, except Section 325.011(14);

(2) its recommendations based on the matters prescribed by Section 325.012, except recommendations relating to criteria prescribed by Section 325.011(14); and

(3) other information the commission considers necessary for a complete review of the agency.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 1.05, eff. June 15, 2007.
Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 7.04, eff. June 10, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 149 and H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 325.011. CRITERIA FOR REVIEW. The commission and its staff shall consider the following criteria in determining whether a

public need exists for the continuation of a state agency or its advisory committees or for the performance of the functions of the agency or its advisory committees:

(1) the efficiency and effectiveness with which the agency or the advisory committee operates;

(2)(A) an identification of the mission, goals, and objectives intended for the agency or advisory committee and of the problem or need that the agency or advisory committee was intended to address; and

(B) the extent to which the mission, goals, and objectives have been achieved and the problem or need has been addressed;

(3)(A) an identification of any activities of the agency in addition to those granted by statute and of the authority for those activities; and

(B) the extent to which those activities are needed;

(4) an assessment of authority of the agency relating to fees, inspections, enforcement, and penalties;

(5) whether less restrictive or alternative methods of performing any function that the agency performs could adequately protect or provide service to the public;

(6) the extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies, the extent to which the agency coordinates with those agencies, and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies;

(7) the promptness and effectiveness with which the agency addresses complaints concerning entities or other persons affected by the agency, including an assessment of the agency's administrative hearings process;

(8) an assessment of the agency's rulemaking process and the extent to which the agency has encouraged participation by the public in making its rules and decisions and the extent to which the public participation has resulted in rules that benefit the public;

(9) the extent to which the agency has complied with:

(A) federal and state laws and applicable rules regarding equality of employment opportunity and the rights and privacy of individuals; and

(B) state law and applicable rules of any state agency regarding purchasing guidelines and programs for historically

underutilized businesses;

(10) the extent to which the agency issues and enforces rules relating to potential conflicts of interest of its employees;

(11) the extent to which the agency complies with Chapters 551 and 552 and follows records management practices that enable the agency to respond efficiently to requests for public information;

(12) the effect of federal intervention or loss of federal funds if the agency is abolished;

(13) the extent to which the purpose and effectiveness of reporting requirements imposed on the agency justifies the continuation of the requirement; and

(14) an assessment of the agency's cybersecurity practices using confidential information available from the Department of Information Resources or any other appropriate state agency.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(83), (94), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1319, Sec. 33, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1499, Sec. 1.06, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 1.06, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 668 (S.B. 1618), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 990 (H.B. 1781), Sec. 5, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 683 (H.B. 8), Sec. 2, eff. September 1, 2017.

Sec. 325.0115. CRITERIA FOR REVIEW OF CERTAIN AGENCIES. (a) In this section:

(1) "License" means a license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by an individual to engage in a particular occupation or profession.

(2) "Public interest" means protection from a present and recognizable harm to public health, safety, or welfare. The term does not include speculative threats, or other non-demonstrable menaces to public health, safety, or welfare. For the purposes of

this subdivision, the term "welfare" includes the financial health of the public when the absence of governmental regulation unreasonably increases risk and liability to broad classes of consumers.

(b) In an assessment of an agency that licenses an occupation or profession, the commission and its staff shall consider:

(1) whether the occupational licensing program:

(A) serves a meaningful, defined public interest; and

(B) provides the least restrictive form of regulation that will adequately protect the public interest;

(2) the extent to which the regulatory objective of the occupational licensing program may be achieved through market forces, private or industry certification and accreditation programs, or enforcement of other law;

(3) the extent to which licensing criteria, if applicable, ensure that applicants have occupational skill sets or competencies that correlate with a public interest and the impact that those criteria have on applicants, particularly those with moderate or low incomes, seeking to enter the occupation or profession; and

(4) the impact of the regulation, including the extent to which the program stimulates or restricts competition and affects consumer choice and the cost of services.

(c) As part of the commission's review of an agency that licenses an occupation or profession, the commission and its staff shall determine whether the governing body of the agency being reviewed has made an evaluation regarding the type of personal information of license holders that the agency should make available on the agency's Internet website based on the following factors:

(1) the type of information the public needs to file a complaint with the agency;

(2) the type of information the public needs to locate an existing or potential service provider;

(3) the type of information the public needs to verify a license; and

(4) whether making the information available on the agency's Internet website could subject a license holder to harassment, solicitation, or other nuisance.

(d) If the commission determines that the governing body of an agency has not completed the evaluation described by Subsection (c), the commission shall make a recommendation that the governing body of the agency perform such an evaluation.

Added by Acts 2013, 83rd Leg., R.S., Ch. 222 (H.B. 86), Sec. 1, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 572 (S.B. 237), Sec. 1, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 12, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 325.012. RECOMMENDATIONS. (a) In its report on a state agency, the commission shall:

(1) make recommendations on the abolition, continuation, or reorganization of each affected state agency and its advisory committees and on the need for the performance of the functions of the agency and its advisory committees;

(2) make recommendations on the consolidation, transfer, or reorganization of programs within state agencies not under review when the programs duplicate functions performed in agencies under review;

(3) make recommendations to improve the operations of the agency, its policy body, and its advisory committees, including management recommendations that do not require a change in the agency's enabling statute; and

(4) make recommendations on the continuation or abolition of each reporting requirement imposed on the agency by law.

(b) The commission shall include the estimated fiscal impact of its recommendations and may recommend appropriation levels for certain programs to improve the operations of the state agency, to be forwarded to the Legislative Budget Board.

(c) The commission shall have drafts of legislation prepared to carry out the commission's recommendations under this section.

(d) After the legislature acts on the report under Section 325.010, the commission shall present to the state auditor the commission's recommendations that do not require a statutory change to be put into effect. Based on a risk assessment and subject to the legislative audit committee's approval of including the examination in the audit plan under Section 321.013, the state auditor may examine the recommendations and include as part of the next approved audit of the agency a report on whether the agency has implemented

the recommendations and, if so, in what manner.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1008, Sec. 4, eff. Sept. 1, 1987; Acts 2003, 78th Leg., ch. 785, Sec. 7, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 1.07, eff. June 15, 2007.
Acts 2011, 82nd Leg., R.S., Ch. 668 (S.B. 1618), Sec. 4, eff. September 1, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 990 (H.B. 1781), Sec. 6, eff. June 17, 2011.

Sec. 325.0123. REVIEW OF CERTAIN AGENCIES FOR RESPECTFUL LANGUAGE. (a) As part of its review of a health and human services agency, the commission shall consider and make recommendations regarding the statutory revisions necessary to use the phrase "intellectual disability" instead of "mental retardation" and to use the phrase "person with intellectual disability" instead of "person with mental retardation."
(b) As part of its review of an agency, the commission shall consider and recommend, as appropriate, statutory revisions in accordance with the person first respectful language initiative under Chapter 392.

Added by Acts 2011, 82nd Leg., R.S., Ch. 272 (H.B. 1481), Sec. 2, eff. September 1, 2011.

Sec. 325.0124. REVIEW OF AGENCY'S SALE OF PERSONAL DATA. (a) In this section, "personal data" means any information relating to an identified or identifiable individual that directly or indirectly identifies the individual by reference to:
(1) an identifier for the individual, including a name, an identification number, location information, or an online identifier; or
(2) one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of the individual.
(b) As part of its review of a state agency, the commission

shall determine whether the state agency sells personal data the agency possesses. If the state agency sells personal data, the commission shall determine:

(1) to whom the personal data is sold;

(2) to the extent possible, the purpose for which the personal data is sold;

(3) the amount the state agency receives for the sale of the personal data; and

(4) the law that authorizes the state agency to sell the personal data.

(c) The commission shall recommend prohibiting the sale of personal data by a state agency, unless the commission identifies a compelling state or public interest justifying the state agency's authority to sell the personal data. If the commission recommends continuing the state agency's authority to sell personal data, the commission shall make any recommendations it considers necessary to protect the personal data from improper use and dissemination.

Added by Acts 2023, 88th Leg., R.S., Ch. 346 (S.B. 821), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1545, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 325.0125. REVIEW OF CERTAIN AGENCIES. (a) In the two-year period preceding the date scheduled for the abolition of a state agency under this chapter, the commission may exempt certain agencies from the requirements of this chapter relating to staff reports, hearings, and reviews.

(b) The commission may only exempt agencies that have been inactive for a period of two years preceding the date the agency is scheduled for abolition, that have been rendered inactive by an action of the legislature, or that the commission determines are unable to participate in the review due to a declared disaster.

(c) The commission's action in exempting agencies under this section must be done by an affirmative record vote and must be decided by a majority of all members present and voting.

Added by Acts 1987, 70th Leg., ch. 1008, Sec. 5, eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 1.08, eff. June 15, 2007.

Acts 2021, 87th Leg., R.S., Ch. 850 (S.B. 713), Sec. 8.01, eff. June 16, 2021.

Sec. 325.0126. MONITORING OF RECOMMENDATIONS. During each legislative session, the staff of the commission shall:

(1) monitor legislation affecting agencies that have undergone sunset review immediately before the legislative session;

(2) notify the members of the commission about any amendment to the legislation prepared under Section 325.012(c) that modifies the commission's recommendations for a state agency; and

(3) provide legislative services to support the passage of the legislation prepared under Section 325.012(c).

Added by Acts 1987, 70th Leg., ch. 1008, Sec. 6, eff. Sept. 1, 1987.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 7.05, eff. June 10, 2019.

Sec. 325.0127. COST OF REVIEW. (a) In this section, "self-directed semi-independent agency" means a state agency that has status as a self-directed semi-independent agency under the Self-Directed Semi-Independent Agency Project Act (Article 8930, Revised Statutes), Chapter 16, Finance Code, Chapter 1105, Occupations Code, or any other law. The term does not include the Texas Department of Insurance's actuarial division and financial examinations division as those terms are defined by Section 401.251, Insurance Code.

(b) A self-directed semi-independent agency shall pay the costs incurred by the commission in performing a review of the agency under this chapter. The commission shall determine the costs of the review, and the agency shall pay the amount of those costs promptly on receipt of a statement from the commission regarding those costs.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1279 (H.B. 1675), Sec. 7.01, eff. June 14, 2013.

Sec. 325.013. ABOLITION OF ADVISORY COMMITTEES. An advisory committee, the primary function of which is to advise a particular state agency, is abolished on the date set for abolition of the agency unless the advisory committee is expressly continued by law.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 325.015. CONTINUATION BY LAW. (a) During the regular session immediately before the abolition of a state agency or an advisory committee that is subject to this chapter, the legislature by law may continue the agency or advisory committee for a period not to exceed 12 years.

(b) This chapter does not prohibit the legislature from:

(1) terminating a state agency or advisory committee subject to this chapter at a date earlier than that provided in this chapter; or

(2) considering any other legislation relative to a state agency or advisory committee subject to this chapter.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 325.017. PROCEDURE AFTER TERMINATION. (a) A state agency that is abolished in an odd-numbered year may continue in existence until September 1 of the following year to conclude its business. Unless the law provides otherwise, abolishment does not reduce or otherwise limit the powers and authority of the state agency during the concluding year. A state agency is terminated and shall cease all activities at the expiration of the one-year period. Unless the law provides otherwise, all rules that have been adopted by the state agency expire at the expiration of the one-year period.

(b) Any unobligated and unexpended appropriations of an abolished agency or advisory committee lapse on September 1 of the even-numbered year after abolishment.

(c) Except as provided by Subsection (f) or as otherwise provided by law, all money in a dedicated fund of an abolished state agency or advisory committee on September 1 of the even-numbered year after abolishment is transferred to the General Revenue Fund. The part of the law dedicating the money to a specific fund of an abolished agency becomes void on September 1 of the even-numbered

year after abolishment.

(d) Unless the law or a rider in the General Appropriations Act provides otherwise, an abolished state agency or advisory committee funded in the General Appropriations Act for both years of the biennium may not spend or obligate any of the money appropriated to it for the second year of the biennium.

(e) Unless the governor designates an appropriate state agency as prescribed by Subsection (f), property and records in the custody of an abolished state agency or advisory committee on September 1 of the even-numbered year after abolishment shall be transferred to the comptroller. If the governor designates an appropriate state agency, the property and records shall be transferred to the designated state agency.

(f) The legislature recognizes the state's continuing obligation to pay bonded indebtedness and all other obligations, including lease, contract, and other written obligations, incurred by a state agency abolished under this chapter, and this chapter does not impair or impede the payment of bonded indebtedness and all other obligations, including lease, contract, and other written obligations, in accordance with their terms. If an abolished state agency has outstanding bonded indebtedness or other outstanding obligations, including lease, contract, and other written obligations, the bonds and all other obligations, including lease, contract, and other written obligations, remain valid and enforceable in accordance with their terms and subject to all applicable terms and conditions of the laws and proceedings authorizing the bonds and all other obligations, including lease, contract, and other written obligations. The governor shall designate an appropriate state agency that shall continue to carry out all covenants contained in the bonds and in all other obligations, including lease, contract, and other written obligations, and the proceedings authorizing them, including the issuance of bonds, and the performance of all other obligations, including lease, contract, and other written obligations, to complete the construction of projects or the performance of other obligations, including lease, contract, and other written obligations. The designated state agency shall provide payment from the sources of payment of the bonds in accordance with the terms of the bonds and shall provide payment from the sources of payment of all other obligations, including lease, contract, and other written obligations, in accordance with their terms, whether

from taxes, revenues, or otherwise, until the bonds and interest on the bonds are paid in full and all other obligations, including lease, contract, and other written obligations, are performed and paid in full. If the proceedings so provide, all funds established by laws or proceedings authorizing the bonds or authorizing other obligations, including lease, contract, and other written obligations, shall remain with the comptroller or the previously designated trustees. If the proceedings do not provide that the funds remain with the comptroller or the previously designated trustees, the funds shall be transferred to the designated state agency.

(g) Except as provided by Subsections (a), (e), and (f), all legal interests of a state agency abolished in an odd-numbered year are transferred to the comptroller on the date the state agency is terminated under Subsection (a).

(h) On the date a state agency that is abolished in an odd-numbered year is terminated under Subsection (a), the governor may designate another state agency to administer any law previously administered by the abolished state agency that remains in effect and a reference in any law to the abolished state agency means the designated state agency. The governor is not required to designate the same state agency under this subsection that is designated under Subsection (f).

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 582, Sec. 13, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 8.05, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 639, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 1.10, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.44, eff. September 1, 2007.

Acts 2021, 87th Leg., R.S., Ch. 850 (S.B. 713), Sec. 8.02, eff. June 16, 2021.

Sec. 325.018. SUBPOENA POWER. (a) The commission may issue process to compel the attendance of witnesses and the production of books, records, papers, and other objects necessary or proper for the

purposes of the commission proceedings. The process may be served on a witness at any place in this state.

(b) If a majority of the commission directs the issuance of a subpoena, the chairman shall issue the subpoena in the name of the commission.

(c) If the chairman is absent, the chairman's designee may issue a subpoena or other process in the same manner as the chairman.

(d) If necessary to obtain compliance with a subpoena or other process, the commission may issue attachments. The attachments may be addressed to and served by any peace officer in this state.

(e) Testimony taken under subpoena must be reduced to writing and given under oath subject to the penalties of perjury.

(f) A witness who attends a commission proceeding under process is entitled to the same mileage and per diem as a witness who appears before a grand jury in this state.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 325.019. ASSISTANCE OF AND ACCESS TO STATE AGENCIES. (a) The commission may request the assistance of state agencies and officers. When assistance is requested, a state agency or officer shall assist the commission.

(b) In carrying out its functions under this chapter, the commission or its designated staff member may attend any meetings and proceedings of any state agency, including any meeting or proceeding of the governing body of the agency that is closed to the public, and may inspect the records, documents, and files of any state agency, including any record, document, or file that is:

(1) attorney work product;

(2) an attorney-client communication; or

(3) made privileged or confidential by law.

(c) It is the intent of the legislature to allow the commission and its designated staff members to have access to all meetings or proceedings of a state agency being reviewed by the commission under this chapter and to all records, documents, and files of that agency. To the extent that this section conflicts with other law that purports to limit the commission's access to meetings or proceedings or to records, documents, and files, this section controls. If federal law prohibits a state agency from disclosing information in a

record, document, or file to the commission, including information in a record, document, or file created as a result of or considered during a meeting or proceeding, the state agency may redact the protected information from the record, document, or file.

(d) Communications, including conversations, correspondence, and electronic communications, between the commission or its staff and a state agency that relate to a request by the commission for assistance in conducting a review under this chapter are confidential. A state agency's internal communications related to a request for assistance by the commission are confidential, including any information prepared or maintained by the state agency at the request of the commission or its staff. With respect to a document, file, or other record prepared or maintained by the state agency that was created in the normal course of the agency's business and not at the request of the commission, the confidentiality created by this subsection applies only to information in the possession of the commission.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1279 (H.B. 1675), Sec. 7.02, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 7.06, eff. June 10, 2019.

Sec. 325.0195. RECORDS PROTECTED FROM DISCLOSURE. (a) A working paper, including all documentary or other information, prepared or maintained by the commission staff in performing its duties under this chapter or other law to conduct an evaluation and prepare a report is excepted from the public disclosure requirements of Section 552.021.

(b) A record held by another entity that is considered to be confidential by law and that the commission receives in connection with the performance of the commission's functions under this chapter or another law remains confidential and is excepted from the public disclosure requirements of Section 552.021.

(c) A state agency that provides the commission with access to a privileged or confidential communication, record, document, or file under Section 325.019 for purposes of a review under this chapter

does not waive the attorney-client privilege, or any other privilege or confidentiality requirement protected or required by the Texas Constitution, common law, statutory law, or rules of evidence, procedure, or professional conduct, with respect to the communication, record, document, or file provided to the commission. For purposes of this subsection, a communication includes a discussion that occurs at a meeting or proceeding of the state agency that is closed to the public.

(d) The state agency may require the commission or the members of the commission's staff who view, handle, or are privy to information, or who attend a meeting that is not accessible to the public, to sign a confidentiality agreement that covers the information and requires that:

(1) the information not be disclosed outside the commission for purposes other than the purpose for which it was received;

(2) the information be labeled as confidential;

(3) the information be kept securely; and

(4) the number of copies made of the information or the notes taken from the information that implicate the confidential nature of the information be controlled, with all copies or notes that are not destroyed or returned to the governmental body remaining confidential and subject to the confidentiality agreement.

(e) A person who obtains access to confidential information in connection with the performance of the commission's duties under this chapter or another law commits an offense if the person knowingly:

(1) uses the confidential information for a purpose other than the purpose for which the information was received or for a purpose unrelated to the law that permitted the person to obtain access to the information, including solicitation of political contributions or solicitation of clients;

(2) permits inspection of the confidential information by a person who is not authorized to inspect the information; or

(3) discloses the confidential information to a person who is not authorized to receive the information.

Acts 2003, 78th Leg., ch. 1112, Sec. 7.01, eff. Sept. 1, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1279 (H.B. 1675), Sec. 7.03, eff. June 14, 2013.

Sec. 325.020. RELOCATION OF EMPLOYEES. If an employee is displaced because a state agency or its advisory committee is abolished, reorganized, or continued, the state agency and the Texas Workforce Commission shall make a reasonable effort to relocate the displaced employee.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 1.11, eff. June 15, 2007.

Sec. 325.021. SAVING PROVISION. Except as otherwise expressly provided, abolition of a state agency does not affect rights and duties that matured, penalties that were incurred, civil or criminal liabilities that arose, or proceedings that were begun before the effective date of the abolition.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 325.022. REVIEW OF PROPOSED LEGISLATION CREATING AN AGENCY. (a) Each bill filed in a house of the legislature that would create a new state agency or a new advisory committee to a state agency shall be reviewed by the commission.

(b) The commission shall review the bill to determine if:

(1) the proposed functions of the agency or committee could be administered by one or more existing state agencies or advisory committees;

(2) the form of regulation, if any, proposed by the bill is the least restrictive form of regulation that will adequately protect the public;

(3) the bill provides for adequate public input regarding any regulatory function proposed by the bill; and

(4) the bill provides for adequate protection against conflicts of interest within the agency or committee.

(c) On request, the commission shall forward a written comment on the legislation to the author of the bill and to the presiding officer of the committee to which the bill is referred.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.13(a), eff. Sept. 1,

1987.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 1.12, eff. June 15, 2007.

Sec. 325.023. REVIEW OF PROPOSED LEGISLATION REGULATING AN OCCUPATION. (a) Not later than December 31 of an odd-numbered year, a member of the legislature may submit proposed legislation that would create an occupational licensing program or significantly affect an existing occupational licensing program to the commission for review and analysis. A request under this section may be submitted after December 31 of an odd-numbered year on the approval of the commission's chair based on the recommendation of the executive director. The commission's chair may, on the recommendation of the executive director, deny a request for review under this section.

(b) If the commission reviews and analyzes legislation proposing the regulation of an occupation, the commission shall submit a report to the legislature before the start of the next legislative session regarding the commission's findings on the need for regulating the occupation and the type of regulation recommended, if any.

(c) In analyzing legislation proposing the creation of an occupational licensing program, the commission shall determine whether:

(1) the unregulated practice of the occupation would be inconsistent with the public interest as defined by Section 325.0115;

(2) the public can reasonably be expected to benefit from an assurance of initial and continuing professional skill sets or competencies; and

(3) the public can be more effectively protected by means other than state regulation.

(d) If the commission reviews and analyzes proposed legislation amending an existing occupational licensing program, the commission shall submit a report to the legislature before the start of the next legislative session regarding the commission's findings on the need for the proposed legislation.

Added by Acts 2013, 83rd Leg., R.S., Ch. 222 (H.B. 86), Sec. 2, eff.

September 1, 2013.

Sec. 325.024. GIFTS AND GRANTS. (a) The commission may accept gifts, grants, and donations from any organization described in Section 501(c)(3) of the Internal Revenue Code for the purpose of funding any activity under this chapter.

(b) All gifts, grants, and donations must be accepted in an open meeting by a majority of the voting members of the commission and reported in the public record of the commission with the name of the donor and purpose of the gift, grant, or donation.

Added by Acts 1987, 70th Leg., ch. 617, Sec. 6, eff. Sept. 1, 1987.

Sec. 325.025. RIVER AUTHORITIES SUBJECT TO REVIEW. (a) A river authority listed in Subsection (b) is subject to a limited review under this chapter as if it were a state agency but may not be abolished.

(b) This section applies to the:

(1) Angelina and Neches River Authority;

(2) Brazos River Authority;

(3) Guadalupe-Blanco River Authority;

(4) Lavaca-Navidad River Authority;

(5) Lower Colorado River Authority;

(6) Lower Neches Valley Authority;

(7) Nueces River Authority;

(8) Red River Authority of Texas;

(9) Sabine River Authority of Texas;

(10) San Antonio River Authority;

(11) San Jacinto River Authority;

(12) Sulphur River Basin Authority;

(13) Trinity River Authority of Texas;

(14) Upper Colorado River Authority; and

(15) Upper Guadalupe River Authority.

(c) The limited review under this chapter must assess each river authority's:

(1) governance;

(2) management;

(3) operating structure; and

(4) compliance with legislative requirements.

(d) A river authority shall pay the cost incurred by the commission in performing a review of the authority under this section. The commission shall determine the cost, and the authority shall pay the amount promptly on receipt of a statement from the commission detailing the cost.

(e) A river authority reviewed by the commission under this section may not be required to conduct a management audit under Chapter 292, Title 30, Texas Administrative Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 1148 (S.B. 523), Sec. 1, eff. June 19, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 975 (S.B. 2262), Sec. 4, eff. January 1, 2019.

Acts 2017, 85th Leg., R.S., Ch. 1046 (H.B. 1920), Sec. 10, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 8.008, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 7.07, eff. June 10, 2019.

Acts 2023, 88th Leg., R.S., Ch. 240 (H.B. 3731), Sec. 2, eff. September 1, 2023.

CHAPTER 326. COOPERATION BETWEEN LEGISLATIVE AGENCIES

Sec. 326.001. DEFINITION. In this chapter, "legislative agency":

(1) means:

(A) the senate;

(B) the house of representatives;

(C) a committee, division, department, or office of the senate or house;

(D) the Texas Legislative Council;

(E) the Legislative Budget Board;

(F) the Legislative Reference Library;

(G) the office of the State Auditor; or

(H) any other agency in the legislative branch of state government; and

(2) does not include the Texas Ethics Commission.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 2.15(a), eff. Sept. 1, 1987. Amended by:

Acts 2021, 87th Leg., R.S., Ch. 1042 (H.B. 4294), Sec. 2, eff. June 18, 2021.

Sec. 326.002. PROVISION OF SERVICES. (a) A legislative agency may provide administrative, professional, clerical, data processing, and other services to another legislative agency with or without reimbursement and may transfer equipment, supplies, and materials to the other legislative agency with or without reimbursement.

(b) Reimbursement, if any, must be made under a written contract executed by an officer who is authorized to execute contracts for each agency.

(c) The Texas Legislative Council may transfer money to another legislative agency to cover expenses of the other agency that the executive director of the council determines to be necessary to further a purpose of the council.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 2.15(b), eff. Sept. 1, 1987. Amended by:

Acts 2021, 87th Leg., R.S., Ch. 1042 (H.B. 4294), Sec. 3, eff. June 18, 2021.

Sec. 326.003. COMMITTEE OF STATE AUDITOR'S OFFICE, LEGISLATIVE BUDGET BOARD, AND SUNSET ADVISORY COMMISSION. (a) The State Auditor's Office, Legislative Budget Board, and Sunset Advisory Commission shall form a committee to make recommendations relating to the coordination of the agencies' functions.

(b) The committee shall meet on a regular basis at least quarterly. The State Auditor shall call each meeting.

(c) Each agency shall designate a supervisory level staff member as its representative on the committee.

(d) Not later than one month after the date of a meeting, the committee shall submit its recommendations in writing to the head of each agency and the members of the legislative audit committee.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.16(a), eff. Sept. 1,

1987. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 8, eff. Sept. 1, 2003.

CHAPTER 328. CRIMINAL JUSTICE LEGISLATIVE OVERSIGHT COMMITTEE

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 860, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 328.001. DEFINITION. In this chapter, "committee" means the Criminal Justice Legislative Oversight Committee.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 13, eff. June 15, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 860, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 328.002. ESTABLISHMENT; COMPOSITION. (a) The Criminal Justice Legislative Oversight Committee is established to provide objective research, analysis, and recommendations to help guide state criminal justice policies.

(b) The committee is composed of six members as follows:

(1) the chair of the Senate Committee on Criminal Justice;

(2) the chair of the House Committee on Corrections;

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

(4) two members of the house of representatives appointed by the speaker of the house of representatives.

(c) In making appointments under Subsection (b)(3) or (4), the lieutenant governor or the speaker of the house of representatives, as applicable, shall give first consideration to members of the senate or the house of representatives who are members of the Senate Committee on Finance or the House Appropriations Committee.

(d) An appointed member of the committee serves at the pleasure of the appointing official.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 13, eff. June 15, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 860, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 328.003. PRESIDING OFFICER; TERM. (a) The lieutenant governor and the speaker of the house of representatives shall appoint the presiding officer of the committee on an alternating basis.

(b) The presiding officer of the committee serves a two-year term that expires February 1 of each odd-numbered year.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 13, eff. June 15, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 860, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 328.004. POWERS AND DUTIES. (a) The committee shall:

(1) use statistical analyses and other research methods to conduct an in-depth examination of the criminal justice system in this state that includes:

(A) an assessment of the cost-effectiveness of the use of state and local funds in the criminal justice system;

(B) an identification of critical problems in the criminal justice system; and

(C) a determination of the long-range needs of the criminal justice system;

(2) recommend to the legislature:

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

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

(3) advise and assist the legislature in developing plans, programs, and proposed legislation to improve the effectiveness of the criminal justice system.

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

(1) Subchapter B, Chapter 301;

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

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

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 13, eff. June 15, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 860, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 328.005. MEETINGS. The committee shall meet at the call of the presiding officer.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 13, eff. June 15, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 860, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 328.006. STAFF; AUTHORITY TO CONTRACT. The committee may hire staff or may contract with universities or other suitable entities to assist the committee in carrying out the committee's duties. Funding to support the operation of the committee shall be provided from funds appropriated to the Texas Legislative Council.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 13, eff. June 15, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 860, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 328.007. REPORT. Not later than January 1 of each odd-numbered year, the committee shall submit to the legislature a report that contains the recommendations described by Section 328.004(a)(2).

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 13, eff. June 15, 2007.

CHAPTER 329. COMMISSION ON UNIFORM STATE LAWS

Sec. 329.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Commission on Uniform State Laws.

(2) "National conference" means the National Conference of Commissioners on Uniform State Laws.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept 1, 1991. Transferred, redesignated and amended from Government Code, Chapter 762 by Acts 2021, 87th Leg., R.S., Ch. 1042 (H.B. 4294), Sec. 4, eff. June 18, 2021.

Sec. 329.002. DUTIES OF COMMISSION. (a) The commission shall:

(1) promote the uniform judicial interpretation of all uniform laws; and

(2) before January 1 of each odd-numbered year, submit a biennial report to the legislature that contains an account of the commission's transactions and its advice and recommendations for legislation.

(b) The commission may supplement the report.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991. Transferred, redesignated and amended from Government Code, Chapter 762 by Acts 2021, 87th Leg., R.S., Ch. 1042 (H.B. 4294), Sec. 4, eff. June 18, 2021.

Sec. 329.003. COMPOSITION OF COMMISSION; TERMS. (a) The commission is composed of:

(1) nine members appointed by the governor;

(2) two members appointed by the lieutenant governor, who are members or officers of the senate;

(3) two members appointed by the speaker of the house of representatives, who are members or officers of the house of representatives;

(4) the chair of the standing committee of the senate with primary jurisdiction over uniform state laws;

(5) the chair of the standing committee of the house of representatives with primary jurisdiction over uniform state laws;

(6) the executive director of the Texas Legislative Council

or a person designated by the executive director; and

(7) in addition to the persons described by Subdivisions (1) through (6), residents of this state who have long service in the cause of uniformity in state legislation as shown by:

(A) at least 20 years of service representing the state as an associate member of the national conference;

(B) election as a life member of the national conference; or

(C) at least 15 years of service as a member of the commission and at least five years of combined service as a judge or justice of a trial or appellate court of this state.

(b) Appointments to the commission shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

(c) Members appointed by the governor under Subsection (a)(1) serve staggered six-year terms, with the terms of three members expiring September 30 of each even-numbered year.

(d) Members appointed by the lieutenant governor under Subsection (a)(2) serve at the pleasure of the lieutenant governor.

(e) Members appointed by the speaker of the house of representatives under Subsection (a)(3) serve at the pleasure of the speaker.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1999, 76th Leg., ch. 170 (H.B. 510), Sec. 1, eff. May 21, 1999; Acts 2001, 77th Leg., ch. 30 (H.B. 808), Sec. 1, eff. July 1, 2001.
Transferred, redesignated and amended from Government Code, Chapter 762 by Acts 2021, 87th Leg., R.S., Ch. 1042 (H.B. 4294), Sec. 4, eff. June 18, 2021.

Sec. 329.004. ELIGIBILITY; LOBBYIST RESTRICTION. (a) To be eligible for appointment to or service on the commission, a person must be an attorney licensed to practice law.

(b) At least one of the commissioners, at the time of that commissioner's appointment, must be a state judge.

(c) At least one of the commissioners, at the time of that commissioner's appointment, must be a legal educator.

(d) A person required to register as a lobbyist under Chapter

305 because of the person's activities for compensation in or on behalf of a profession related to the operation of the commission may not serve as a commissioner or act as general counsel to the commission.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991. Transferred, redesignated and amended from Government Code, Chapter 762 by Acts 2021, 87th Leg., R.S., Ch. 1042 (H.B. 4294), Sec. 4, eff. June 18, 2021.

Sec. 329.005. DUTIES OF COMMISSIONERS. Each commissioner shall:

(1) promote uniformity in state laws in subject areas in which uniformity is desirable and practicable; and

(2) attend national conference meetings.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991. Transferred, redesignated and amended from Government Code, Chapter 762 by Acts 2021, 87th Leg., R.S., Ch. 1042 (H.B. 4294), Sec. 4, eff. June 18, 2021.

Sec. 329.006. VACANCY; EXPIRATION OF TERM. (a) This section applies only to a commissioner appointed by the governor.

(b) The office of an appointed commissioner becomes vacant on the death, resignation, failure or refusal to serve, or removal of the commissioner.

(c) The governor shall fill a vacancy by appointing a person to the commission for the unexpired term of the commissioner vacating the office.

(d) On the vacancy or expiration of the term of office of an appointed commissioner, the governor shall appoint a state judge or legal educator if the appointment is required by Section 329.004(b) or (c).

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991. Transferred, redesignated and amended from Government Code, Chapter 762 by Acts 2021, 87th Leg., R.S., Ch. 1042 (H.B. 4294), Sec. 4, eff. June 18, 2021.

Sec. 329.007. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the commission if a member:

(1) did not have, at the time of appointment or election, the qualifications required by Section 329.004;

(2) does not maintain the qualifications required by Section 329.004;

(3) is prohibited from serving as a commissioner under Section 329.004(d); or

(4) is ineligible to participate in activities of the national conference.

(b) The validity of an action of the commission is not affected because it is taken when a member is subject to removal.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991. Transferred, redesignated and amended from Government Code, Chapter 762 by Acts 2021, 87th Leg., R.S., Ch. 1042 (H.B. 4294), Sec. 4, eff. June 18, 2021.

Sec. 329.008. MEETING AND ELECTION OF OFFICERS. (a) The commission shall meet at least once every two years.

(b) The commissioners shall elect a chair and secretary, who shall each hold office for a term of two years.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991. Transferred, redesignated and amended from Government Code, Chapter 762 by Acts 2021, 87th Leg., R.S., Ch. 1042 (H.B. 4294), Sec. 4, eff. June 18, 2021.

Sec. 329.009. COMPENSATION. A commissioner serves without compensation but is entitled to be reimbursed for reasonable expenses incurred in the performance of the commissioner's duties.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991. Transferred, redesignated and amended from Government Code, Chapter 762 by Acts 2021, 87th Leg., R.S., Ch. 1042 (H.B. 4294), Sec. 4, eff. June 18, 2021.

Sec. 329.010. SUPPORT SERVICES. The Texas Legislative Council

shall provide accounting, clerical, and other support services necessary for the commission to carry out its duties.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991. Transferred, redesignated and amended from Government Code, Chapter 762 by Acts 2021, 87th Leg., R.S., Ch. 1042 (H.B. 4294), Sec. 4, eff. June 18, 2021.

SUBTITLE Z. MISCELLANEOUS PROVISIONS

CHAPTER 391. RESOLUTIONS FOR STATE SYMBOLS, PLACE DESIGNATIONS, AND RECOGNITION DAYS, WEEKS, AND MONTHS

Sec. 391.001. EFFECT OF CHAPTER. (a) This chapter governs the designation of state symbols, place designations, and days, weeks, and months for recognition made by the legislature by resolution approved by each house of the legislature.

(b) This chapter does not affect the designation of:

(1) a state symbol or a place designation made by:

(A) resolution before September 1, 2001; or

(B) statute; or

(2) a day, week, or month for recognition made by:

(A) resolution before September 1, 2009; or

(B) statute.

Added by Acts 2001, 77th Leg., ch. 395, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1081 (H.B. 4767), Sec. 2, eff. June 19, 2009.

Sec. 391.002. STATE SYMBOLS. (a) The legislature must specify an item's historical or cultural significance to the state before designating the item as a state symbol.

(b) The legislature may not designate any of the following as a state symbol:

(1) a commercial product or an item that promotes or advocates the use of a commercial product;

(2) an individual;

(3) an event; or

(4) a place.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1081, Sec. 4,

eff. June 19, 2009.

Added by Acts 2001, 77th Leg., ch. 395, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1081 (H.B. 4767), Sec. 4, eff. June 19, 2009.

Sec. 391.003. PLACE DESIGNATIONS. (a) In this section, "place designation" means a special observance by the legislature that recognizes and honors an event or location in this state, including a municipality or county.

(b) The legislature may not assign the same place designation to more than one event or location.

(c) The legislature may not assign more than one place designation to any municipality, county, or other location. This subsection does not prohibit the legislature from assigning more than one place designation within a county.

(d) Before the legislature may assign a place designation to a municipality, county, or other location, the legislature must be presented by persons supporting the designation with:

(1) information related to the historical or cultural significance of the event or location to be designated; and

(2) documentation that a local chamber of commerce or a locally elected governmental body representing the municipality, county, or other location to be designated supports the designation.

(e) A place designation expires on the 10th anniversary of its designation. This subsection does not prevent the legislature from redesignating a place designation during or after the 10-year period.

(f) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1081, Sec. 4, eff. June 19, 2009.

Added by Acts 2001, 77th Leg., ch. 395, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1081 (H.B. 4767), Sec. 4, eff. June 19, 2009.

Sec. 391.004. DESIGNATING DAYS, WEEKS, OR MONTHS FOR RECOGNITION. (a) In this section, "date designation" means the special observance authorized by the legislature that annually

recognizes and honors a culturally or historically significant day, week, or month in the state.

(b) The legislature may assign more than one designation to a day, week, or month.

(c) Before the legislature may designate a day, week, or month for recognition, the legislature must be presented with information related to the historical or cultural significance of the day, week, or month to be recognized by persons supporting the designation.

(d) A designation of a day, week, or month for recognition expires on the 10th anniversary of the date the legislature finally passes the resolution making the designation. This subsection does not prevent the legislature from redesignating a day, week, or month for recognition during or after the 10-year period.

Added by Acts 2009, 81st Leg., R.S., Ch. 1081 (H.B. 4767), Sec. 3, eff. June 19, 2009.

CHAPTER 392. PERSON FIRST RESPECTFUL LANGUAGE INITIATIVE

Sec. 392.001. FINDINGS AND INTENT. The legislature finds that language used in reference to persons with disabilities shapes and reflects society's attitudes toward persons with disabilities. Certain terms and phrases are demeaning and create an invisible barrier to inclusion as equal community members. It is the intent of the legislature to establish preferred terms and phrases for new and revised laws by requiring the use of language that places the person before the disability.

Added by Acts 2011, 82nd Leg., R.S., Ch. 272 (H.B. 1481), Sec. 1, eff. September 1, 2011.

Sec. 392.002. USE OF PERSON FIRST RESPECTFUL LANGUAGE REQUIRED. (a) The legislature and the Texas Legislative Council are directed to avoid using the following terms and phrases in any new statute or resolution and to change those terms and phrases used in any existing statute or resolution as sections including those terms and phrases are otherwise amended by law:

(1) disabled;

(2) developmentally disabled;

(3) mentally disabled;

(4) mentally ill;
(5) mentally retarded;
(6) handicapped;
(7) cripple; and
(8) crippled.

(b) In enacting or revising statutes or resolutions, the legislature and the Texas Legislative Council are directed to replace, as appropriate, terms and phrases listed by Subsection (a) with the following preferred phrases or appropriate variations of those phrases:

(1) "persons with disabilities";
(2) "persons with developmental disabilities";
(3) "persons with mental illness"; and
(4) "persons with intellectual disabilities."

(b-1) In addition to the terms and phrases listed in Subsection (a), the legislature and the Texas Legislative Council are directed to avoid using in any new statute or resolution "hearing impaired," "auditory impairment," and "speech impaired" in reference to a deaf or hard of hearing person, and the legislature and the Texas Legislative Council are directed to replace, when enacting or revising a statute or resolution, those phrases with "deaf" or "hard of hearing," as appropriate.

(c) A statute or resolution is not invalid solely because it does not employ this section's preferred phrases.

Added by Acts 2011, 82nd Leg., R.S., Ch. 272 (H.B. 1481), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 233 (S.B. 281), Sec. 1, eff. September 1, 2019.

CHAPTER 393. DELEGATES TO FEDERAL ARTICLE V CONVENTIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 393.001. DEFINITIONS. In this chapter:

(1) "Alternate delegate" means an individual appointed under Section 393.051 to represent this state as an alternate delegate at an Article V convention.

(2) "Article V convention" means a convention called by the United States Congress under Article V of the United States

Constitution.

(3) "Delegate" means:

(A) an individual appointed under Section 393.051 to represent this state as a delegate at an Article V convention; or

(B) an alternate delegate who fills a vacancy in the office of the alternate delegate's paired delegate.

(4) "Unauthorized vote" means a vote cast by a delegate or alternate delegate at an Article V convention that:

(A) is contrary to the instructions adopted under Section 393.101 in effect at the time the vote is taken;

(B) exceeds the scope or subject matter of the Article V convention as authorized by the legislature in the application to the United States Congress to call the convention if the legislature made an application to call the convention; or

(C) exceeds the scope or subject matter of the Article V convention if the legislature did not make an application to the United States Congress to call the convention.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

Sec. 393.002. RULES AND PROCEDURES. (a) The legislature by concurrent resolution shall provide the rules and procedures necessary to implement this chapter.

(b) A legislative action relating to the appointment or recall of a delegate or alternate delegate, the filling of a vacancy in the office of a delegate or alternate delegate, or the determination of an unauthorized vote may be accomplished through a resolution adopted by the house that takes the action.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

SUBCHAPTER B. DELEGATES AND ALTERNATE DELEGATES

Sec. 393.051. APPOINTMENT. (a) As soon as possible following the calling of an Article V convention, the legislature shall appoint delegates and alternate delegates to the convention as provided by Subsection (b) or (c), as applicable.

(b) Except as provided by Subsection (c), the legislature shall

appoint five delegates and five alternate delegates to the Article V convention as follows:

(1) the house of representatives shall appoint three members of the house as delegates and three members of the house as alternate delegates; and

(2) the senate shall appoint two members of the senate as delegates and two members of the senate as alternate delegates.

(c) If the number of delegates allocated to represent the state at the Article V convention is determined by agreement among the states to be a number other than five, the legislature shall appoint the allocated number of delegates and an equal number of alternate delegates as follows:

(1) if the allocated number of delegates is an odd number:

(A) the house of representatives shall appoint a number of members of the house as delegates that is equal to three-fifths of the allocated number or as close to that proportion as possible and the same number of members of the house as alternate delegates; and

(B) the senate shall appoint a number of members of the senate as delegates that is equal to two-fifths of the allocated number or as close to that proportion as possible and the same number of members of the senate as alternate delegates; and

(2) if the allocated number of delegates is an even number:

(A) the house of representatives shall appoint a number of members of the house as delegates that is equal to one-half of the allocated number and the same number of members of the house as alternate delegates; and

(B) the senate shall appoint a number of members of the senate as delegates that is equal to one-half of the allocated number and the same number of members of the senate as alternate delegates.

(d) Service as a delegate or alternate delegate by a member of the legislature is an additional duty of the member's legislative office.

(e) The appointing house shall pair each alternate delegate with a delegate at the time each appointment is made.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

Sec. 393.052. VACANCY. (a) An alternate delegate

automatically fills a vacancy in the office of the alternate delegate's paired delegate unless the office of the alternate delegate is simultaneously vacated.

(b) Except as provided by Subsection (a), the house that appointed a delegate or alternate delegate shall fill a vacancy in the office of the delegate or alternate delegate as soon as possible after the vacancy occurs.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

Sec. 393.053. RECALL. (a) The house that appointed a delegate or alternate delegate may recall the delegate or alternate delegate.

(b) A vacancy created by the recall of a delegate or alternate delegate shall be filled in the manner provided by Section 393.052.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

Sec. 393.054. COMPENSATION; REIMBURSEMENT OF EXPENSES. (a) A delegate or alternate delegate is not entitled to compensation for service as a delegate or alternate delegate.

(b) A delegate or alternate delegate is entitled to reimbursement for necessary expenses incurred in performance of official duties, subject to any applicable limitation on reimbursement provided by general law or the General Appropriations Act.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

Sec. 393.055. OATH. (a) An individual appointed as a delegate or alternate delegate must take the following oath before voting or taking an action as a delegate or alternate delegate of this state: "I do solemnly swear (or affirm) that to the best of my abilities, I will, as a delegate (or alternate delegate) to the Article V convention, act according to the limits of the authority granted to me as a delegate or alternate delegate by Texas law, will not

consider or vote to approve an amendment to the United States Constitution not authorized by the Texas Legislature in its application to the United States Congress to call this convention or an amendment outside the scope of this convention if the Texas Legislature did not make an application to the United States Congress to call this convention, and will faithfully abide by and execute the instructions to delegates or alternate delegates adopted by the Texas Legislature."

(b) Each delegate and alternate delegate must file the executed oath with the secretary of state.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

Sec. 393.056. PROHIBITION ON ACCEPTANCE OF BENEFIT. A delegate or alternate delegate may not accept a gift, a loan, food or beverages, entertainment, lodging, transportation, or another benefit from a person, including a corporation, nonprofit organization, or individual, if that person is required to register as a lobbyist under Chapter 305 or under other law.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

SUBCHAPTER C. DUTIES OF DELEGATES AND ALTERNATE DELEGATES

Sec. 393.101. INSTRUCTIONS TO DELEGATES AND ALTERNATE DELEGATES. (a) The legislature by joint resolution shall adopt instructions to the delegates and alternate delegates to govern the actions of those officers at the Article V convention.

(b) The legislature may not adopt instructions for an Article V convention called following an application by the legislature to the United States Congress for the convention that authorize a delegate or alternate delegate to consider or vote to approve an amendment to the United States Constitution that is not authorized by the legislature in its application for the convention.

(c) The legislature by joint resolution may amend the instructions at any time.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff.

June 6, 2017.

Sec. 393.102. DUTY OF ALTERNATE DELEGATE. An alternate delegate shall act in the place of the alternate delegate's paired delegate when the delegate is absent from the convention.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

Sec. 393.103. UNAUTHORIZED VOTE. (a) A delegate or alternate delegate may not cast an unauthorized vote.

(b) Except as provided by Section 393.104, the determination that a vote is an unauthorized vote may only be made by the house that appointed the delegate or alternate delegate who cast the vote.

(c) A vote determined to be an unauthorized vote is invalid.

(d) A delegate or alternate delegate who casts a vote determined to be an unauthorized vote is disqualified to continue to serve as a delegate or alternate delegate. A vacancy in the office of a delegate or alternate delegate created by the disqualification of the delegate or alternate delegate shall be filled in the manner provided by Section 393.052.

(e) The presiding officer of the house that determined that a delegate or alternate delegate has cast an unauthorized vote shall promptly notify the head of the state delegation and the presiding officer of the Article V convention that the delegate or alternate delegate has cast an unauthorized vote and is disqualified to serve as a delegate or alternate delegate.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

Sec. 393.104. OVERSIGHT COMMITTEE. (a) The legislature shall appoint an Article V Oversight Committee at the time delegates and alternate delegates are appointed under Section 393.051.

(b) The committee consists of the following 10 members:

(1) the lieutenant governor;

(2) the speaker of the house of representatives;

(3) the chair of the senate state affairs committee;

(4) the chair of the house state affairs committee;

(5) three members of the senate appointed by the lieutenant governor; and

(6) three members of the house of representatives appointed by the speaker of the house of representatives.

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

(d) If the legislature is not convened in regular or special session at any time during which an Article V convention is convened, the members of the committee shall:

(1) meet at the call of either joint chair at the State Capitol; and

(2) determine whether a vote cast by a delegate or alternate delegate is an unauthorized vote for the purposes of Section 393.103.

(e) A vote cast by a delegate or alternate delegate is an unauthorized vote for the purposes of Section 393.103 if seven or more members of the committee determine by committee vote that the vote cast was an unauthorized vote.

(f) The committee is not authorized to take any action when the legislature is convened in regular or special session.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

TITLE 4. EXECUTIVE BRANCH
SUBTITLE A. EXECUTIVE OFFICERS
CHAPTER 401. GOVERNOR AND LIEUTENANT GOVERNOR
SUBCHAPTER A. INAUGURATION

Sec. 401.001. INAUGURAL COMMITTEE. (a) Not later than the 10th day after the date of each election for governor and lieutenant governor, the secretary of state shall issue a proclamation stating who, in the secretary of state's opinion based on the best information then available, are the governor-elect and lieutenant governor-elect. The secretary of state shall promptly deliver certified copies of the proclamation to the individuals named in the proclamation.

(b) As soon as possible after receiving notice of the proclamation, the governor-elect and lieutenant governor-elect shall

each file with the secretary of state a signed instrument. The governor-elect shall designate in that instrument one individual to serve as chairman of the inaugural committee and one individual to serve as a cochairman of the committee. The lieutenant governor-elect shall designate in that instrument one individual to serve as a cochairman of the committee. The governor-elect and lieutenant governor-elect may appoint by written instrument filed with the secretary of state other members to the inaugural committee as they consider necessary. An individual who holds a position of profit under this state or the United States is ineligible for appointment to the committee.

(c) If after issuing a proclamation under this section the secretary of state becomes aware of information that indicates that the previous designation of governor-elect or lieutenant governor-elect was incorrect, the secretary of state shall issue a corrected proclamation and deliver certified copies of it to the previous designee, the new designee, and each member of the inaugural committee appointed by the previous designee. Issuance of a corrected proclamation terminates the membership on the inaugural committee of appointees of the previous designee but does not affect an action taken by the committee before the proclamation was issued. As soon as possible after the new designee receives notice of designation as governor-elect or lieutenant governor-elect, the designee shall make the appropriate appointments under this section.

(d) A vacancy on the committee is filled by appointment by the original appointing authority according to the procedure applicable to original appointments.

(e) Designation of an individual as governor-elect or lieutenant governor-elect under this section has no legal effect except for purposes of this subchapter.

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

Sec. 401.002. ORGANIZATION, POWERS, AND DUTIES OF COMMITTEE. (a) As soon as possible after the members of the committee have been appointed, they shall convene at a time and place designated by the individual appointed chairman, take the constitutional oath of office, and hold an organizational meeting.

(b) The committee may hold subsequent meetings at times it

determines or on the call of the chairman. The chairman presides at meetings. If the chairman is absent, one of the cochairmen presides.

(c) The committee may adopt rules to govern its proceedings.

(d) A member of the committee serves without compensation but may be reimbursed for actual and necessary expenses incurred in the performance of committee duties as provided by legislative appropriation.

(e) The committee shall make arrangements necessary for conducting ceremonies and events to observe the inauguration of the governor and lieutenant governor. The committee may employ staff or engage the services of consultants to assist in its work.

(f) The committee may request the cooperation of an agency or official of state or local government. The agency or official shall cooperate with the committee to the extent possible.

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

Sec. 401.003. INAUGURAL FUND. (a) The inaugural fund is a special fund in the state treasury. Money in the inaugural fund may be appropriated only for expenditures authorized by this chapter.

(b) The comptroller shall credit to the inaugural fund a pro rata share of the interest received from the deposit of state funds as if the inaugural fund were a constitutional fund.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.06, eff. Sept. 1, 1997.

Sec. 401.004. INAUGURAL CONTRIBUTIONS. (a) A person may contribute funds, services, or other things of value to pay the expenses of or otherwise provide for an inauguration. This contribution is not a political contribution for purposes of state law regulating political contributions or prohibiting a contribution by a corporation or labor organization.

(b) A contribution may be made to the inaugural committee or the secretary of state. If the secretary of state receives a contribution while the inaugural committee exists, the secretary of state shall deliver the contribution to the committee. If the secretary of state receives a contribution at any other time, the secretary of state shall transmit the contribution to the

comptroller, who shall deposit it in the state treasury to the credit of the inaugural fund.

(c) On receipt of a contribution, the secretary of state shall execute duplicate copies of a receipt, give one copy to the contributor, and retain the other. The receipt must show:

(1) the name and mailing address of the contributor;

(2) the amount of the contribution;

(3) the date of the contribution; and

(4) that the contribution was received to pay inaugural expenses.

(d) The secretary of state shall keep the receipt on file in the office of the secretary of state for at least four years and shall maintain an index of the receipts, arranged alphabetically by contributor, showing the date of the contribution, the name and mailing address of the contributor, and the amount of each contribution. The index and receipts are public information.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.07, eff. Sept. 1, 1997.

Sec. 401.005. EXPENDITURES. (a) Subject to any conditions attached to a particular appropriation, money appropriated from the inaugural fund may be expended for:

(1) printing;

(2) the employment of staff;

(3) the lease of office space and payment of utility expenses;

(4) professional and consultant fees;

(5) postage, telephone, and telegraph expenses;

(6) payment of expenses incurred by committee members; and

(7) any other public purpose reasonably related to conducting inaugural ceremonies and related events, including expenses of raising funds.

(b) Contributions received by the committee and not deposited in the state treasury may be expended for any purpose the committee considers appropriate.

(c) A voucher for an expenditure from the inaugural fund must be approved in writing by the chairman.

(d) Chapters 2155-2158 do not apply to the committee.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.193, eff. Sept. 1, 1997.

Sec. 401.006. COMPETITIVE BIDDING. The committee may not make a contract covered by the competitive bidding requirements of Article XVI, Section 21, of the Texas Constitution unless before awarding the contract the committee obtains at least three bids. The committee shall award the contract to the lowest bidder who in the opinion of the committee is most responsible and is best able to fulfill the terms of the contract. The committee may reject all bids if none in the opinion of the committee is responsible and able to fulfill the terms of the contract at a reasonable price.

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

Sec. 401.007. RECORDS OF EXPENDITURES. In addition to maintaining records required by law with regard to the expenditure of appropriated funds, the committee shall maintain a record of each expenditure of nonappropriated funds. The record must contain the following information about each expenditure:

(1) the name and address of the entity to whom the expenditure was paid;

(2) the amount of the expenditure;

(3) the date of the expenditure; and

(4) the purpose of the expenditure.

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

Sec. 401.008. FINAL REPORT; DISSOLUTION OF COMMITTEE. (a) As soon after the inauguration as the committee determines that it has completed its work and has satisfied its financial obligations, but not later than June 30 of the year in which the inauguration is held, the committee shall file with the secretary of state a final report verified by a certified public accountant that shows:

(1) the total amount of contributions received by the committee, including contributions paid to the secretary of state during the committee's existence;

(2) the total amount of expenditures made by the committee

from nonappropriated funds; and

(3) the total amount of nonappropriated funds remaining in the committee's possession.

(b) On the date on which the committee files its final report with the secretary of state, the committee shall deliver to the comptroller all unexpended nonappropriated funds it possesses. The comptroller shall deposit the funds in the state treasury to the credit of the inaugural fund.

(c) When the secretary of state determines that the committee has complied with Subsections (a) and (b), the secretary of state shall issue a proclamation to that effect. The committee is dissolved on the day after the date the proclamation is issued.

(d) The final report of the committee is public information.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.08, eff. Sept. 1, 1997.

Sec. 401.009. CLAIMS FILED AFTER DISSOLUTION. (a) If after dissolution of the committee a person files with the secretary of state a verified claim for an amount claimed to be due to the claimant under a contract made under this subchapter by the committee before its dissolution, the secretary of state shall submit a copy of the claim to the governor, lieutenant governor, and attorney general. If each of those officers files with the secretary of state a signed statement finding that the claim is valid, the secretary of state shall forward the original claim and the statements to the comptroller. If funds for the payment of expenses of the type covered by the claim have been appropriated and are available and if a legal reason does not exist for refusing payment, the comptroller shall pay the claim.

(b) Appropriations for the payment of claims under this section must be from the inaugural fund.

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

Sec. 401.010. ADDITIONAL STATE FUNDING. In addition to making appropriations from the inaugural fund as authorized by this subchapter, the legislature may appropriate other funds for any purpose for which money in the inaugural fund may be appropriated.

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

Sec. 401.011. INAUGURAL ENDOWMENT FUND. (a) To the extent that the balance of the inaugural fund exceeds $100,000 plus the amount necessary to cover fund obligations, on the date the inaugural committee appointed for an inauguration is dissolved that balance shall be transferred to an account in the general revenue fund to be known as the inaugural endowment fund. The fund shall be administered and expended in accordance with this section.

(b) The fund may be expended for decorating, furnishing, preserving, or improving the Capitol, the Governor's Mansion, or other state property of historical significance or for grants in support of public schools, public libraries, or other charitable causes at the discretion of the inaugural endowment fund committee.

(c) The inaugural endowment fund committee is composed of the chair of the Texas Historical Commission, a person appointed by the governor, a person appointed by the lieutenant governor, and a person appointed by the speaker of the house of representatives. Notwithstanding other law, the spouse of the governor, of a member of the legislature, or of another state officer may be appointed to the committee. The governor shall designate the chair of the committee from among the members.

(d) Appointed members of the committee serve for terms of two years, expiring on the third Tuesday in January in odd-numbered years. Committee members serve without compensation or reimbursement for travel or personal expenses incurred in carrying out committee duties, except that the service of the chair of the Texas Historical Commission is considered an additional duty of that office and expenses for that person shall be reimbursed by the commission to the same extent as for performance of other commission duties.

(e) Operations of the committee may not be conducted at state expense, and committee functions may not be carried out through the use of state personnel or equipment.

(f) Not later than October 1 of each year, the committee shall file a report with the secretary of state detailing expenditures made during the 12 months ending on the August 31 preceding the report. The secretary of state shall publish the report in the Texas Register.

(g) The committee is a governmental body for purposes of

Chapters 551 and 552 but is not subject to Chapter 2001.

(h) Section 403.095 does not apply to the inaugural endowment fund.

Added by Acts 2001, 77th Leg., ch. 1454, Sec. 1, eff. Feb. 1, 2003.

SUBCHAPTER B. EMERGENCY INTERIM SUCCESSION

Sec. 401.021. SHORT TITLE. This subchapter may be cited as the Emergency Interim Executive Succession Act.

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

Sec. 401.022. DEFINITION. In this chapter, "unavailable" means not able to exercise the powers and discharge the duties of the office of governor for any reason specified in the Texas Constitution.

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

Sec. 401.023. SUCCESSION. (a) If the governor, lieutenant governor, and president pro tempore of the senate are unavailable, the following officers in succeeding order shall exercise the powers and discharge the duties of the office of governor:

(1) the speaker of the house of representatives;

(2) the attorney general; and

(3) the chief justices of the courts of appeals, in the numerical order of the supreme judicial districts the courts serve.

(b) An officer listed in this section acts as governor under this subchapter only if the preceding officers in the order of succession are unavailable.

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

Sec. 401.024. TERM OF SERVICE. A person acts as governor under this subchapter until a new governor is elected and qualified or until a preceding officer in the order of succession becomes available.

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

Sec. 401.025. EXCEPTION. The president pro tempore of the senate or speaker of the house of representatives may act as governor under this subchapter only if the person holds that office when the governor and lieutenant governor first become unavailable.

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

SUBCHAPTER C. GOVERNOR'S BUDGET

Sec. 401.041. CHIEF BUDGET OFFICER. The governor is the chief budget officer of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.042. UNIFORM BUDGET ESTIMATE FORMS. (a) The governor may collaborate with the Legislative Budget Board in designing and preparing uniform budget estimate forms on which all requests for legislative appropriations must be prepared.

(b) The governor shall require that all appropriation requests be submitted to the governor on the forms.

(c) In consultation with public institutions of higher education, the offices of the governor and the Legislative Budget Board shall review the forms for higher education legislative appropriations requests to identify opportunities to improve efficiency, provide better transparency of funding sources, eliminate unnecessary or duplicative requirements, and otherwise reduce the cost or difficulty of providing information related to appropriations requests.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 6.06, eff. June 17, 2011.

Sec. 401.043. BUDGET HEARINGS. (a) After receiving the appropriation requests, the governor shall hold one or more public

hearings concerning the requests. The governor shall preside at each hearing, except that the governor may authorize any employee of the executive branch to preside and represent the governor in the governor's absence.

(b) The head of a state agency that is seeking appropriations is entitled to speak at a hearing under this section at which the appropriation request is considered. The governor may require the head or any employee of a state agency seeking appropriations to appear at the hearing and present information about the appropriations. A taxpayer is entitled to participate in the discussion at a hearing under this section of any item proposed to be included in the budget under consideration.

(c) In this section, "state agency" means a board, commission, department, or other agency in the executive or judicial branch of state government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.044. COOPERATION WITH LEGISLATIVE BUDGET BOARD. (a) The governor and the Legislative Budget Board may cooperate, exchange information, and hold joint public hearings on the biennial appropriation budget.

(b) At a joint hearing under this section, the governor shall preside or, if the governor is unable to preside:

(1) the lieutenant governor shall preside; or

(2) a person appointed by the governor and the lieutenant governor shall preside.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.0445. COMPILATION OF THE BUDGET. (a) The governor shall compile the biennial appropriation budget using information:

(1) submitted to the governor in the uniform budget estimate forms; and

(2) obtained at public hearings, from inspections, and from other sources.

(b) In the budget, the governor shall show:

(1) the list of appropriations for the current year preceding the biennium for which appropriations are sought and

recommended;

(2) expenditures for each of the two full years preceding the current year; and

(3) the amounts requested by the various agencies and the amounts recommended by the governor for each of the years of the biennium.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.89(a), eff. Sept. 1, 1995.

Sec. 401.045. LEGISLATIVE EXPENSES. The governor may not include in the governor's budget or appropriation bill any appropriation for per diem or mileage expenses of members of the legislature or for necessary expenses of the legislature.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.046. DISTRIBUTION OF BUDGET. (a) The governor shall deliver a copy of the governor's budget to each member of the legislature before the governor gives the message to the legislature required by Section 9, Article IV, Texas Constitution, at the commencement of each regular legislative session.

(b) The governor shall have as many copies of the budget printed for public distribution as the governor considers necessary.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 1.01, eff. Jan. 11, 2004.

Sec. 401.048. ANNUAL BUDGETS. A reference in this subchapter or in Chapter 322 to a biennial budget or a regular legislative session means an annual budget or an annual budget session if a constitutional amendment is adopted providing for annual budget sessions of the legislature.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

SUBCHAPTER D. GOVERNOR'S EMERGENCY APPROPRIATIONS

Sec. 401.061. APPROPRIATIONS FOR EMERGENCY. The legislature may appropriate money to the governor to be used only:

(1) in an emergency, including an imperative public necessity;

(2) for the executive branch of state government;

(3) if other money is not available, because previously appropriated money has been spent or obligated; and

(4) for purposes for which specific other appropriations previously have been made.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.062. CERTIFICATION OF EMERGENCY. (a) The governor may determine that an emergency exists requiring the use of appropriations made under Section 401.061.

(b) A governor who makes a determination under this section shall certify to the comptroller the facts constituting the emergency and the reasons why the facts constitute an emergency.

(c) The defense of the nation and this state and the safety and economic prosperity of the people of this state require the governor, in making a determination to use or authorize the use of an appropriation made under Section 401.061, to give preference to impacted regions of significant new naval military facilities, as those terms are defined by Section 4, Article 1, National Defense Impacted Region Assistance Act of 1985 (Article 689a-4d, Vernon's Texas Civil Statutes).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.063. DETERMINATION OF AVAILABILITY OF MONEY. (a) After receiving a certification under Section 401.062, the comptroller shall determine whether money other than emergency appropriations is available for purposes of the emergency. The comptroller may obtain from any other agency whatever assistance the comptroller considers necessary for this purpose.

(b) The comptroller shall endorse on the governor's certification the availability or unavailability of other money, stating the source and amounts of available money, if any.

(c) The comptroller must return the governor's certification to the governor's office not later than the second working day after the date the comptroller receives the certification.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.064. FILING OF CERTIFICATION. The governor shall file with the secretary of state and the Legislative Budget Board a copy of the governor's original certification and the returned certification containing the comptroller's endorsement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.065. EXPENDITURE FOR EMERGENCY. (a) The governor may spend appropriations made under Section 401.061 for the purpose of a certified emergency, but only after:

(1) the certification is endorsed by the comptroller showing that money other than emergency appropriations is not available for purposes of the emergency; and

(2) the governor receives the certification from the comptroller.

(b) The comptroller shall draw and pay the necessary warrants for the emergency.

(c) The governor by interagency contract may authorize an agency of the executive branch of state government to administer emergency appropriations approved under this subchapter. A contract made under this subsection is exempt from Chapter 771.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.09, eff. Sept. 1, 1997.

SUBCHAPTER E. SUCCESSION OF GOVERNOR-ELECT AND LIEUTENANT GOVERNOR-ELECT

Sec. 401.081. SUCCESSION OF GOVERNOR-ELECT AND LIEUTENANT GOVERNOR-ELECT. The speaker of the house of representatives and the president pro tem of the senate shall call a joint session of the house of representatives and the senate for the purpose of electing a

governor and a lieutenant governor if:

(1) the governor-elect and the lieutenant governor-elect die or are permanently incapacitated to take their oaths of office at the time the legislature canvasses the election returns for governor and lieutenant governor; and

(2) the legislature finds that the governor-elect and the lieutenant governor-elect are not able to take the oath of office and to fulfill the duties of office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.082. TERM OF SERVICE AS GOVERNOR. The individual who receives the highest number of votes cast by the members of the legislature for governor shall hold that office until the next general election.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.083. TERM OF SERVICE AS LIEUTENANT GOVERNOR. The individual who receives the highest number of votes cast by members of the legislature for lieutenant governor shall hold that office until the next general election.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

SUBCHAPTER F. OFFICE OF THE GOVERNOR

Sec. 401.101. ACCEPTANCE OF GIFTS, GRANTS, AND DONATIONS BY THE GOVERNOR. The office of the governor may solicit and accept gifts, grants, and donations of money or property on behalf of the state for any lawful public purpose.

Added by Acts 1993, 73rd Leg., ch. 952, Sec. 1, eff. June 19, 1993. Amended by Acts 1997, 75th Leg., ch. 336, Sec. 2, eff. Sept. 1, 1997. Renumbered from Sec. 401.031 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(36), eff. Sept. 1, 2001.

Sec. 401.102. OTHER GIFTS. Unsolicited benefits received by

the governor that are prohibited under Section 36.08, Penal Code, may be donated to a governmental entity that has the authority to accept the gift or to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

Added by Acts 1993, 73rd Leg., ch. 952, Sec. 1, eff. June 19, 1993. Renumbered from Sec. 401.032 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(36), eff. Sept. 1, 2001.

Sec. 401.103. VETERANS HEALTH ISSUES. (a) The governor or the governor's designee may negotiate with the United States Department of Veterans Affairs and any other appropriate federal agency on matters relating to improving the delivery of health care services to veterans in this state, including:

(1) establishing a veterans hospital in the Rio Grande Valley region of the state; and

(2) ensuring the prompt payment of claims submitted by community health care providers to the United States Department of Veterans Affairs for health care services provided to veterans by those providers.

(b) The governor, in consultation with the board of regents of The University of Texas System, may identify shared resources and collaborative opportunities that may be used by the School of Medicine at The University of Texas Rio Grande Valley and the United States Department of Veterans Affairs to provide quality health care services to residents of the Rio Grande Valley.

(c) The governor may request the assistance of the Department of State Health Services, the Health and Human Services Commission, the Texas Veterans Commission, or any other state agency, department, or office in performing an action under this section. The agency, department, or office shall provide the requested assistance.

Added by Acts 2015, 84th Leg., R.S., Ch. 633 (S.B. 1463), Sec. 1, eff. June 16, 2015.

Sec. 401.104. GOVERNOR'S FLAG. (a) The governor may adopt a flag for the governor's official use.

(b) By executive order published in the Texas Register, the governor shall provide a description of a flag adopted under this

section.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.101, eff. Sept. 1, 2001.

Sec. 401.105. FEDERAL FUNDS DESIGNATION. (a) Notwithstanding Section 487.051 or 487.351, on the written request of the commissioner of agriculture or the administrative head of a state agency designated under this subsection, the governor may designate one or more state agencies, under the Omnibus Budget Reconciliation Act of 1981 (Pub. L. No. 97-35) and 24 C.F.R. Part 570, Subpart I, to administer the state's allocation of federal funds provided under the community development block grant nonentitlement program authorized by Title I of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.).

(b) Notwithstanding Subsection (a) or any other law, the governor may designate any agency to administer all federal community development block grant disaster recovery funds and to transfer such federal funds to any agency.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 75.01, eff. September 28, 2011.

CHAPTER 402. ATTORNEY GENERAL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 402.001. ASSISTANTS. (a) If the attorney general is absent or unable to act, the attorney general's first office assistant shall perform the duties of the attorney general that are prescribed by law.

(b) The attorney general shall, at the request of an agency, designate one or more assistants to attend the meetings of the agency if the attorney general served as an ex officio member of the governing board of the agency on August 23, 1963.

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

Sec. 402.002. REGISTER. (a) The attorney general shall keep in a proper book a register of:

(1) the official acts and opinions of the attorney general; and

(2) actions, demands, and related proceedings involving state revenue prosecuted or defended by the attorney general or a district or county attorney.

(b) The attorney general shall deliver the register to the successor to that office.

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

Sec. 402.003. REPORT. The attorney general shall report to the governor on the first Monday of December of each even-numbered year. The report must include the following information for the preceding two years:

(1) a summary of the cases in which the state was a party that were acted on by the supreme court and court of criminal appeals; and

(2) a summary of civil cases in which the state was a party that were prosecuted or defended by the attorney general in other state or federal courts.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 691, Sec. 1, eff. Sept. 1, 2003.

Sec. 402.004. ADMISSION, AGREEMENT, OR WAIVER. An admission, agreement, or waiver made by the attorney general in an action or suit to which the state is a party does not prejudice the rights of the state.

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

Sec. 402.005. ACCEPTANCE OF GIFTS, GRANTS, AND FORFEITED ASSETS; CREATION OF SPECIAL ACCOUNT. (a) The attorney general may not accept or use money offered by an individual, firm, partnership, corporation, or association for investigating or prosecuting a matter.

Text of subsec. (b) as amended by Acts 1993, 73rd Leg., ch. 380, Sec. 1

(b) The attorney general may accept gifts and grants on behalf of the state for purposes related to duties performed by the attorney general or to public educational opportunities, unless the acceptance is prohibited under Subsection (a) or other law. Money received under this subsection shall be deposited in the state treasury to the credit of an account established in the general revenue fund for the receipt of those funds.

Text of subsec. (b) as amended by Acts 1993, 73rd Leg., ch. 761, Sec. 7

(b) The attorney general law enforcement account is created as a dedicated account in the general revenue fund in the state treasury. The account shall consist of law enforcement-related gifts and grants, and forfeited assets, and shall be administered by the attorney general.

(c) The attorney general may accept gifts and grants on behalf of the state for purposes related to law enforcement duties performed by the attorney general, unless the acceptance is prohibited under Subsection (a) or other law. Money received under this subsection shall be deposited in the law enforcement account established pursuant to Subsection (b) and may be appropriated only for the purpose for which the money was given.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 380, Sec. 1, eff. June 2, 1993; Acts 1993, 73rd Leg., ch. 761, Sec. 7, eff. Sept. 1, 1993.

Sec. 402.006. FEES. (a) For an affirmance of judgment in a case to which the state is a party and that involves liability to the state, the attorney general is entitled to a fee in an amount equal to 10 percent of the amount collected up to $1,000 and five percent of the amount collected in excess of $1,000. This fee shall be paid from the amount collected when it is collected.

(b) For a case involving a forfeiture of a charter heard on appeal before the supreme court or court of appeals, the attorney general is entitled to a fee of $500.

(c) In a case in which the state is entitled to recover a penalty or damages the attorney general is entitled, in addition to any other remedy available by law and on behalf of the state, to reasonable attorney's fees and court costs.

(e) The attorney general may charge a reasonable fee for the electronic filing of a document.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 552 (H.B. 2866), Sec. 1, eff. June 17, 2011.
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 21.01, eff. September 28, 2011.
Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 13.02, eff. September 1, 2019.

Sec. 402.007. PAYMENT TO TREASURY; ALLOCATION OF CERTAIN MONEY RECEIVED BY ATTORNEY GENERAL. (a) The attorney general shall immediately pay into the state treasury money received for a debt, a penalty, or restitution.

(b) Subject to Subsection (d), the comptroller shall credit to the judicial fund for programs approved by the supreme court that provide basic civil legal services to the indigent the net amount of:

(1) a civil penalty or payment, excluding attorney's fees or costs, that is recovered in an action by the attorney general in any matter actionable under the Business & Commerce Code, after deducting amounts allocated to or retained by the attorney general as authorized by law, unless:

(A) another law requires that the funds be credited to a different fund or account; or

(B) the judgment awarding the funds requires that the funds be paid to another identifiable recipient; and

(2) civil restitution recovered by the attorney general in an action brought by the attorney general if, on the hearing of an ex parte motion filed by the attorney general after the entry of a judgment awarding civil restitution, the court:

(A) determines that, based on the facts and circumstances of the case:

(i) it is impossible or impracticable to identify injured parties;

(ii) it is impossible or impracticable to determine the degree to which each claimant was injured and entitled to recover;

(iii) the cost of administering a claim procedure will disproportionately reduce the amount of restitution available for the payment of individual claims; or

(iv) the claims of all identifiable persons eligible to receive restitution have been paid without exhausting the funds available for restitution; and

(B) enters a judgment or order that the restitution be credited to the judicial fund for programs approved by the supreme court that provide basic civil legal services to the indigent.

(c) If a court enters a judgment or order that restitution be credited to the judicial fund, the attorney general shall notify the Legislative Budget Board and shall distribute that restitution in accordance with the court judgment or order.

(d) The total amount credited to the judicial fund for programs approved by the supreme court that provide basic civil legal services to the indigent under Subsection (b) may not exceed $50 million per state fiscal year.

(e) The provisions of this section do not limit the common law authority or other statutory authority of the attorney general to seek and obtain cy pres distribution from a court.

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

Acts 2009, 81st Leg., R.S., Ch. 853 (S.B. 2279), Sec. 1, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 208 (H.B. 1445), Sec. 2, eff. May 28, 2013.

Acts 2015, 84th Leg., R.S., Ch. 520 (H.B. 1079), Sec. 1, eff. June 16, 2015.

Acts 2019, 86th Leg., R.S., Ch. 191 (H.B. 2235), Sec. 1, eff. May 24, 2019.

Sec. 402.008. OFFICE. The attorney general shall keep the attorney general's office in Austin.

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

Sec. 402.009. AUTHORITY TO EMPLOY AND COMMISSION PEACE OFFICERS. (a) The attorney general may employ and commission peace

officers as investigators for the limited purpose of assisting the attorney general in carrying out the duties of that office relating to prosecution assistance and crime prevention.

(b) The attorney general shall ensure that a commissioned peace officer employed as authorized under Subsection (a) is compensated according to Schedule C of the position classification salary schedule prescribed by the General Appropriations Act.

Added by Acts 1991, 72nd Leg., ch. 545, Sec. 1, eff. Aug. 26, 1991.
Amended by Acts 1999, 76th Leg., ch. 599, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1055 (H.B. 2037), Sec. 1, eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1433, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 402.010. LEGAL CHALLENGES TO CONSTITUTIONALITY OF STATE STATUTES. (a) In an action in which a party to the litigation files a petition, motion, or other pleading challenging the constitutionality of a statute of this state, the party shall file the form required by Subsection (a-1). The court shall, if the attorney general is not a party to or counsel involved in the litigation, serve notice of the constitutional challenge and a copy of the petition, motion, or other pleading that raises the challenge on the attorney general either by certified or registered mail or electronically to an e-mail address designated by the attorney general for the purposes of this section.

(a-1) The Office of Court Administration of the Texas Judicial System shall adopt the form that a party challenging the constitutionality of a statute of this state must file with the court in which the action is pending indicating which pleading should be served on the attorney general in accordance with this section.

(b) A court may not enter a final judgment holding a statute of this state unconstitutional before the 45th day after the date notice required by Subsection (a) is served on the attorney general.

(c) A party's failure to file as required by Subsection (a) or a court's failure to serve notice as required by Subsection (a) does not deprive the court of jurisdiction or forfeit an otherwise timely

filed claim or defense based on the challenge to the constitutionality of a statute of this state.

(d) This section or the state's intervention in litigation in response to notice under this section does not constitute a waiver of sovereign immunity.

Added by Acts 2011, 82nd Leg., R.S., Ch. 808 (H.B. 2425), Sec. 1, eff. June 17, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1162 (S.B. 392), Sec. 1, eff. September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 1276 (H.B. 1435), Sec. 4, eff. September 1, 2013.

SUBCHAPTER B. DUTIES

Sec. 402.021. REPRESENTATION OF STATE. The attorney general shall prosecute and defend all actions in which the state is interested before the supreme court and courts of appeals.

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

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 992, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 402.0212. PROVISION OF LEGAL SERVICES--OUTSIDE COUNSEL. (a) Except as authorized by other law, a contract for legal services between an attorney, other than a full-time employee of the agency, and a state agency in the executive department, other than an agency established by the Texas Constitution, must be approved by the attorney general to be valid. The attorney general shall provide legal services for a state agency for which the attorney general determines those legal services are appropriate and for which the attorney general denies approval for a contract for those services under this subsection.

(b) An invoice submitted to a state agency under a contract for legal services as described by Subsection (a) must be:

(1) submitted to the attorney general by the agency's office of general counsel not later than the 25th day after the date

the agency receives the invoice except as provided by Subsection (b-2); and

(2) reviewed by the attorney general only to determine whether the legal services for which the agency is billed were performed within the term of the contract and are within the scope of the legal services authorized by the contract and are therefore eligible for payment.

(b-1) A state agency's office of general counsel shall include with an invoice submitted under Subsection (b)(1) a written certification that the legal services for which the agency is billed were performed within the term of the contract, are within the scope of the legal services authorized by the contract, and are reasonably necessary to fulfill the purpose of the contract. To certify an invoice under this subsection, a state agency must, at a minimum, determine that the following items are supported by proper documentation and submitted to the agency under the requirements of the contract:

(1) the amount and types of expenses billed under the invoice;

(2) the rates for legal services under the invoice; and

(3) the number of hours billed for legal services under the invoice.

(b-2) If a state agency that receives an invoice under a contract for legal services as described by Subsection (a) rejects or disputes the invoice as not certifiable under Subsection (b-1), the agency shall, not later than the 21st day after the date the agency receives the invoice, notify the attorney or law firm providing the invoice and request a corrected invoice. The period under Subsection (b)(1) begins on the date the agency receives a corrected invoice that is certifiable under Subsection (b-1).

(b-3) If the attorney general rejects or disputes an invoice and certification submitted by a state agency under this section, the attorney general shall notify the agency that the invoice is not eligible for payment. A state agency may submit a corrected invoice and certification, and the requirements of Subsections (b), (b-1), and (b-2) apply to the corrected invoice and certification.

(c) An attorney or law firm must pay an administrative fee to the attorney general for the review described in Subsection (b) when entering into a contract to provide legal services to a state agency.

(d) For purposes of this section, the functions of a hearing

examiner, administrative law judge, or other quasi-judicial officer are not considered legal services.

(e) This section shall not apply to the Texas Turnpike Authority division of the Texas Department of Transportation.

(f) The attorney general may adopt rules as necessary to implement and administer this section.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 5.01, eff. Aug. 22, 1991. Amended by Acts 1993, 73rd Leg., ch. 753, Sec. 3, eff. June 17, 1993; Acts 2001, 77th Leg., ch. 1420, Sec. 9.003, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1257 (S.B. 367), Sec. 1, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 399 (S.B. 1370), Sec. 1, eff. September 1, 2019.

Sec. 402.0213. APPEARANCE THROUGH VIDEOCONFERENCING TECHNOLOGY. (a) The office of the attorney general may use videoconferencing technology:

(1) as a substitute for personal appearances in civil and criminal proceedings, as approved by the court; and

(2) for any proceeding, conference, or training conducted by an employee of the office of the attorney general whose duties include the implementation of Chapters 56A and 56B and Subchapter B, Chapter 58, Code of Criminal Procedure, and Chapter 57, Family Code.

(b) In this section, "videoconferencing technology" means technology that provides for a conference of individuals in different locations, connected by electronic means, through audio, video, or both.

(c) The attorney general shall obtain the approval of the appropriate authority overseeing a proceeding under Subsection (a)(2) before using videoconferencing technology under this section.

Added by Acts 1997, 75th Leg., ch. 509, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.42, eff. January 1, 2021.

Sec. 402.023. CORPORATE CHARTERS. (a) Unless provided otherwise by law, the attorney general shall seek a judicial forfeiture of a private corporation's charter if sufficient cause exists. If satisfactory evidence is presented to the attorney general that a corporation receiving state aid has forfeited its charter or rights under its charter, the attorney general shall immediately seek a judicial forfeiture of the charter.

(b) The attorney general shall inquire into the charter rights of each private corporation and act in the name of the state as proper and necessary to prevent the corporation from exercising a power or demanding or collecting a tax, toll, freight, or wharfage not authorized by law.

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

Sec. 402.0231. CORPORATE INTEGRITY UNIT. (a) In this section, " corporate fraud" means a violation of state or federal law or rules relating to fraud committed by a corporation, limited liability company, or registered limited liability partnership or an officer, director, or partner of those entities while acting in a representative capacity.

(b) A corporate integrity unit is created within the office of the attorney general to assist in the enforcement of the laws relating to corporate fraud or other similar illegal activities. The unit shall:

(1) assist district attorneys and county attorneys in the investigation and prosecution of corporate fraud or other similar illegal activities allegedly committed by corporations, limited liability companies, and registered limited liability partnerships;

(2) assist state agencies with investigation of complaints and administrative enforcement actions for corporate fraud violations, including the assessment of an administrative penalty or other administrative sanction; and

(3) serve as a clearinghouse for information relating to the investigation and prosecution of corporate fraud and other similar illegal activities in this state.

(c) To the extent allowed by law, a state agency or local law enforcement agency shall cooperate with the corporate integrity unit by providing information requested by the unit as necessary to carry

out the purposes of this section. Information disclosed under this subsection is confidential and not subject to disclosure under Chapter 552.

Added by Acts 2003, 78th Leg., ch. 932, Sec. 1, eff. Sept. 1, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 888, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 402.024. DEFENSE OF DISTRICT ATTORNEY OR GRAND JUROR. (a) The attorney general shall defend a state district attorney in an action in a federal court if:

(1) the district attorney is a defendant because of the district attorney's office;

(2) the cause of action accrued while the person filing the action was confined in the Texas Department of Criminal Justice;

(3) the district attorney requests the attorney general's assistance in the defense; and

(4) there is no action pending against the district attorney in which the attorney general is required to represent the state.

(b) The attorney general shall defend a state grand juror who is a defendant in an action in any court if:

(1) the suit involves an act of the person while in the performance of duties as a grand juror; and

(2) the person requests the attorney general's assistance in the defense.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.01(a), eff. Sept. 1, 1989. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.067, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 929 (H.B. 2150), Sec. 19, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 929 (H.B. 2150), Sec. 20, eff. September 1, 2015.

Sec. 402.0241. DEFENSE OF LOCAL ENTITIES IN SUITS RELATED TO IMMIGRATION DETAINER REQUESTS. (a) In this section, "local entity" has the meaning assigned by Section 752.051.

(b) The attorney general shall defend a local entity in any action in any court if:

(1) the executive head or governing body, as applicable, of the local entity requests the attorney general's assistance in the defense; and

(2) the attorney general determines that the cause of action arises out of a claim involving the local entity's good-faith compliance with an immigration detainer request required by Article 2A.060, Code of Criminal Procedure.

(c) If the attorney general defends a local entity under Subsection (b), the state is liable for the expenses, costs, judgment, or settlement of the claims arising out of the representation. The attorney general may settle or compromise any and all claims described by Subsection (b)(2). The state may not be liable for any expenses, costs, judgments, or settlements of any claims against a local entity not being represented by the attorney general under Subsection (b).

Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. 4), Sec. 3.01, eff. September 1, 2017.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.079, eff. January 1, 2025.

Sec. 402.025. PROPERTY TRANSACTIONS. (a) If property is sold under a deed of trust or because of an execution, order, or sale on a judgment in favor of the state, except an execution on a judgment in a case of scire facias, the agent representing the state, with the advice and consent of the attorney general, shall purchase the property if the purchase is considered proper to protect the interest of the state in the collection of the judgment or debt. The agent's bid may not exceed the amount necessary to satisfy the judgment or debt and related costs. The officer selling the property shall execute and deliver to the state a deed to the property as if the state were an individual.

(b) The agent, with the advice and consent of the attorney

general, may dispose of the property in the manner it was acquired, on the terms and conditions that the agent considers most advantageous to the state. Money received for the property in excess of the amount necessary to satisfy the judgment or debt and related costs shall be deposited in the state treasury to the credit of the general revenue fund. The attorney general, in the name of the state, shall deliver to the purchaser a deed to the property vesting right and title to the property in the purchaser.

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

Sec. 402.026. INSPECTION OF ACCOUNTS. At least monthly the attorney general shall inspect the accounts of the offices of the comptroller and each other person responsible for collection or custody of state funds. The attorney general shall immediately bring or cause to be brought an action to recover state funds in the hands of a person in default or arrears and shall immediately begin criminal proceedings against a person who has illegally applied or retained state funds.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.1, eff. Sept. 1, 1997.

Sec. 402.027. FORMS. On request of the comptroller, the attorney general shall prepare proper forms for contracts, obligations, and other instruments needed for state use.

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

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 402.028. ASSISTANCE TO PROSECUTING ATTORNEYS. (a) At the request of a district attorney, criminal district attorney, or county attorney, the attorney general may provide assistance in the prosecution of all manner of criminal cases, including participation by an assistant attorney general as an assistant prosecutor when so appointed by the district attorney, criminal district attorney, or

county attorney.

(b) A district attorney, criminal district attorney, or county attorney may appoint and deputize an assistant attorney general as assistant prosecutor to provide assistance in the prosecution of criminal cases, including the performance of any duty imposed by law on the district attorney, criminal district attorney, or county attorney.

(c) Nothing in this section shall prohibit an assistant attorney general from appointment as attorney pro tem under the provisions of Article 2A.104, Code of Criminal Procedure.

Added by Acts 1995, 74th Leg., ch. 785, Sec. 2, eff. Sept. 1, 1995.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.080, eff. January 1, 2025.

Sec. 402.0281. INTERNET SERVICE PROVIDER DATABASE. (a) The attorney general shall establish a computerized database containing contact information for all Internet service providers providing service in this state. The contact information must include:

(1) the name and physical address of the person authorized to accept service of process for the Internet service provider; and

(2) the physical address of the Internet service provider's principal place of business in this state.

(b) At the request of a district attorney, criminal district attorney, county attorney, law enforcement agency of this state, or local law enforcement agency, the attorney general shall allow the requestor access to the database to expedite the information-gathering process of a criminal investigation conducted by the requestor concerning an offense under Section 33.021, Penal Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 1291 (S.B. 6), Sec. 4, eff. September 1, 2007.

Sec. 402.029. NOTICE OF ATTORNEY OF RECORD. (a) This section applies to each child support case in which the attorney general provides services.

(b) The attorney general shall provide each party or the party's attorney of record with written notice of the name, address,

telephone number, and facsimile number of the assistant attorney general who is the attorney of record in the case.

(c) Not later than the seventh day after the date of a change, the attorney general shall provide each party or the party's attorney of record with written notice of a change in the name, address, telephone number, or facsimile number of the assistant attorney general who is the attorney of record in the case.

Added by Acts 1999, 76th Leg., ch. 722, Sec. 1, eff. Sept. 1, 1999.

Sec. 402.030. PARTICIPATION BY FATHERS. (a) The attorney general shall periodically examine office policies and procedures to determine if the policies and procedures deter or encourage participation of fathers in functions performed by the attorney general relating to children.

(b) Based on the examination required under Subsection (a), the attorney general shall modify policies and procedures as necessary to permit full participation of fathers in functions performed by the attorney general relating to children in all appropriate circumstances.

Added by Acts 2001, 77th Leg., ch. 256, Sec. 3, eff. Sept. 1, 2001.

Sec. 402.031. PREPARATION OF LANDOWNER'S BILL OF RIGHTS STATEMENT. (a) The attorney general shall prepare a written statement that includes a bill of rights for a property owner whose real property may be acquired by a governmental or private entity through the use of the entity's eminent domain authority under Chapter 21, Property Code.

(b) The landowner's bill of rights must notify each property owner that the property owner has the right to:

(1) notice of the proposed acquisition of the owner's property;

(2) a bona fide good faith effort to negotiate by the entity proposing to acquire the property;

(3) an assessment of damages to the owner that will result from the taking of the property;

(4) a hearing under Chapter 21, Property Code, including a hearing on the assessment of damages;

(5) an appeal of a judgment in a condemnation proceeding, including an appeal of an assessment of damages; and

(6) file a written complaint with the Texas Real Estate Commission under Section 1101.205, Occupations Code, regarding alleged misconduct by a registered easement or right-of-way agent acting on behalf of the entity exercising eminent domain authority.

(c) The statement must include:

(1) the title, "Landowner's Bill of Rights"; and

(2) a description of:

(A) the condemnation procedure provided by Chapter 21, Property Code;

(B) the condemning entity's obligations to the property owner; and

(C) the property owner's options during a condemnation, including the property owner's right to object to and appeal an amount of damages awarded.

(c-1) The statement must also include an addendum of the terms required for an instrument of conveyance under Section 21.0114(c), Property Code, and the terms a property owner may negotiate under Section 21.0114(d), Property Code.

(d) The office of the attorney general shall:

(1) write the statement in plain language designed to be easily understood by the average property owner; and

(2) make the statement available on the attorney general's Internet website.

(e) At least once every two years, the attorney general shall:

(1) evaluate the landowner's bill of rights statement, including the addendum required by Subsection (c-1), for compliance with the requirements of this section, including the requirement under Subsection (d) that the statement be written in plain language designed to be easily understood by the average property owner; and

(2) subject to Subsection (f), make any change to the landowner's bill of rights statement and addendum that the attorney general determines necessary to comply with the requirements of this section, including making a change to the writing style of the statement or addendum necessary to improve compliance with Subsection (d).

(f) Before making any changes to the landowner's bill of rights statement under Subsection (e), the office of the attorney general shall:

(1) publish the proposed changes in the Texas Register; and

(2) accept public comment regarding the proposed statement for a reasonable period after the date the proposed statement is published under Subdivision (1).

Added by Acts 2007, 80th Leg., R.S., Ch. 1201 (H.B. 1495), Sec. 2, eff. February 1, 2008.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 826 (H.B. 2730), Sec. 1, eff. January 1, 2022.

Sec. 402.033. REPORTING FRAUDULENT ACTIVITIES. (a) In this section:

(1) "Authorized governmental agency" means:

(A) the attorney general;

(B) a local or state law enforcement agency of this state or a federal law enforcement agency;

(C) a prosecuting attorney of the United States or of a county or judicial district of this state; or

(D) the Department of Public Safety, the Texas Department of Insurance, the Office of Consumer Credit Commissioner, the Texas Department of Banking, the credit union department, the Department of Savings and Mortgage Lending, the Texas Real Estate Commission, the Texas Appraiser Licensing and Certification Board, or the Texas Department of Housing and Community Affairs.

(2) "Fraudulent activity" means any act that constitutes a violation of a penal law and is part of an attempt or scheme to defraud any person.

(b) If a person determines or reasonably suspects that fraudulent activity has been committed or is about to be committed, the person shall report the information to an authorized governmental agency. If a person reports the information to the attorney general, the attorney general shall notify an appropriate law enforcement agency with jurisdiction to investigate the fraudulent activity. If a financial institution or person voluntarily or pursuant to this section reports fraudulent activity to an authorized governmental agency, the financial institution or person may not notify any person involved in the fraudulent activity that the fraudulent activity has been reported, and the authorized governmental agency who has any

knowledge that such report was made shall not disclose to any person involved in the fraudulent activity that the fraudulent activity has been reported. Any financial institution or person that makes a voluntary report of any possible violation of law or regulation to an authorized governmental agency shall not be liable to any person under any law or regulation of the state or the United States for such report.

(c) This section does not eliminate or diminish any common law or statutory privilege or immunity.

(d) An authorized governmental agency may share confidential information or information to which access is otherwise restricted by law with one or more other authorized governmental agencies. Except as provided by this subsection, confidential information that is shared under this subsection remains confidential and legal restrictions on access to the information apply.

Added by Acts 2007, 80th Leg., R.S., Ch. 285 (H.B. 716), Sec. 2, eff. September 1, 2007.
Renumbered from Government Code, Section 402.031 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(20), eff. September 1, 2009.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 709 (H.B. 2840), Sec. 1, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 553 (S.B. 526), Sec. 1(b), eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1778, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 402.034. HUMAN TRAFFICKING PREVENTION COORDINATING COUNCIL. (a) In this section, "council" means the human trafficking prevention coordinating council.

(b) The office of the attorney general shall establish the human trafficking prevention coordinating council to develop and implement a five-year strategic plan for preventing human trafficking in this state.

(c) The council is composed of the following:

(1) the governor or the governor's designee;

(2) the attorney general or the attorney general's designee;

(3) the commissioner of the Department of Family and Protective Services or the commissioner's designee;

(4) the public safety director of the Department of Public Safety or the director's designee;

(5) one representative from each of the following state agencies, appointed by the chief administrative officer of the respective agency:

(A) the Texas Workforce Commission;

(B) the Texas Alcoholic Beverage Commission;

(C) the Parks and Wildlife Department;

(D) the Texas Department of Licensing and Regulation;

(E) the Texas Education Agency; and

(F) the Texas Department of Transportation; and

(6) one representative of any other state agency appointed by the chief administrative officer of the agency, if the council determines that a representative from the state agency is a necessary member of the council.

(d) The presiding officer of the council is the attorney general or the attorney general's designee.

(e) For each five-year period, the council shall:

(1) develop and implement a strategic plan for preventing human trafficking in this state; and

(2) submit the strategic plan to the legislature.

(f) The strategic plan must include:

(1) an inventory of human trafficking prevention programs and services in this state that are administered by state agencies, including an institution of higher education as defined by Section 61.003, Education Code, or a private college or university that receives state funds;

(2) regarding the programs and services described by Subdivision (1):

(A) a report on the number of persons served by the programs and services; and

(B) a plan to coordinate the programs and services to achieve the following goals:

(i) eliminate redundancy;

(ii) ensure the agencies' use of best practices in preventing human trafficking; and

(iii) identify and collect data regarding the efficacy of the programs and services; and

(3) in relation to the goals for programs and services as described by Subdivision (2)(B), a plan to coordinate the expenditure of state funds allocated to prevent human trafficking in this state, including the expenditure of state funds by the human trafficking prevention task force established under Section 402.035.

(g) Not later than December 1 of each even-numbered year, the council shall submit to the legislature a report detailing the progress of the strategic plan's implementation. The report must include:

(1) a description of the level of participation in the strategic plan by each agency represented on the council and how the implementation of the strategic plan serves to coordinate the programs and services described by Subsection (f)(1) and achieve the goals described by Subsection (f)(2)(B); and

(2) an update of the inventory of programs and services described by Subsection (f)(1) that further the goals of the strategic plan.

(h) The office of the attorney general shall make available on the office's Internet website the strategic plan and the report required under Subsection (g).

Added by Acts 2019, 86th Leg., R.S., Ch. 66 (S.B. 72), Sec. 1, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 856 (S.B. 800), Sec. 3, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 93 (S.B. 1527), Sec. 1.01, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1778, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 402.035. HUMAN TRAFFICKING PREVENTION TASK FORCE. (a) In this section, "task force" means the human trafficking prevention task force.

(b) The office of the attorney general shall establish the human trafficking prevention task force to develop policies and

procedures to assist in the prevention and prosecution of human trafficking crimes.

(b-1) A state or local law enforcement agency, district attorney, or county attorney that assists in the prevention of human trafficking shall, at the request of the task force, cooperate and assist the task force in collecting any statistical data on the nature and extent of human trafficking in the possession of the law enforcement agency or district or county attorney.

(c) The task force is composed of the following:

(1) the governor or the governor's designee;

(2) the attorney general or the attorney general's designee;

(3) the executive commissioner of the Health and Human Services Commission or the executive commissioner's designee;

(4) the commissioner of the Department of Family and Protective Services or the commissioner's designee;

(5) the commissioner of the Department of State Health Services or the commissioner's designee;

(6) the public safety director of the Department of Public Safety or the director's designee;

(7) one representative from each of the following state agencies, appointed by the chief administrative officer of the respective agency:

(A) the Texas Workforce Commission;

(B) the Texas Department of Criminal Justice;

(C) the Texas Juvenile Justice Department;

(D) the Texas Education Agency;

(E) the Texas Alcoholic Beverage Commission;

(F) the Parks and Wildlife Department;

(G) the Supreme Court of Texas Permanent Judicial Commission for Children, Youth and Families;

(H) the Texas Department of Licensing and Regulation;

(I) the Office of Court Administration of the Texas Judicial System;

(J) the office of the secretary of state;

(K) the Texas Commission on Law Enforcement; and

(L) the Texas Department of Transportation; and

(8) as appointed by the attorney general:

(A) a chief public defender employed by a public defender's office, as defined by Article 26.044(a), Code of Criminal

Procedure, or an attorney designated by the chief public defender;

(B) an attorney representing the state;

(C) a representative of:

(i) a hotel and motel association;

(ii) a district and county attorneys association;

(iii) a state police association; and

(iv) a statewide medical association;

(D) a representative of a sheriff's department;

(E) a representative of a local law enforcement agency affected by human trafficking;

(F) a representative of a nongovernmental entity making comprehensive efforts to combat human trafficking by:

(i) identifying human trafficking victims;

(ii) providing legal or other services to human trafficking victims;

(iii) participating in community outreach or public awareness efforts regarding human trafficking;

(iv) providing or developing training regarding the prevention of human trafficking; and

(v) engaging in other activities designed to prevent human trafficking; and

(G) representatives of regional human trafficking task forces or coalitions.

(c-1) The attorney general shall annually evaluate the input and participation of members appointed under Subsection (c)(8) and, if necessary, appoint new members who will collaborate and contribute to the task force.

(d) The task force shall:

(1) collaborate, as needed to fulfill the duties of the task force, with:

(A) United States attorneys' offices for all of the federal districts of Texas; and

(B) special agents or customs and border protection officers and border patrol agents of:

(i) the Federal Bureau of Investigation;

(ii) the United States Drug Enforcement Administration;

(iii) the Bureau of Alcohol, Tobacco, Firearms and Explosives;

(iv) United States Immigration and Customs

Enforcement; or

(v) the United States Department of Homeland Security;

(2) collect, organize, and periodically publish statistical data on the nature and extent of human trafficking in this state, including:

(A) the number of investigations concerning, arrests and prosecutions for, and convictions of:

(i) the offense of trafficking of persons;

(ii) the offense of forgery or an offense under Chapter 43, Penal Code, if the offense was committed as part of a criminal episode involving the trafficking of persons; and

(iii) an offense punishable as a felony of the second degree under Section 43.021, Penal Code, regardless of whether the offense was committed as part of a criminal episode involving the trafficking of persons;

(B) demographic information on persons who are convicted of offenses described by Paragraph (A) and persons who are the victims of those offenses;

(C) geographic routes by which human trafficking victims are trafficked, including routes by which victims are trafficked across this state's international border, and geographic patterns in human trafficking, including the country or state of origin and the country or state of destination;

(D) means of transportation and methods used by persons who engage in trafficking to transport their victims; and

(E) social and economic factors that create a demand for the labor or services that victims of human trafficking are forced to provide;

(3) solicit cooperation and assistance from state and local governmental agencies, political subdivisions of the state, nongovernmental organizations, and other persons, as appropriate, for the purpose of collecting and organizing statistical data under Subdivision (2);

(4) work with the Texas Commission on Law Enforcement to develop and conduct training for law enforcement personnel, victim service providers, and medical service providers to identify victims of human trafficking;

(5) work with the Texas Education Agency, the Department of Family and Protective Services, and the Health and Human Services

Commission to:

(A) develop a list of key indicators that a person is a victim of human trafficking;

(B) develop a standardized curriculum for training doctors, nurses, emergency medical services personnel, teachers, school counselors, school administrators, and personnel from the Department of Family and Protective Services and the Health and Human Services Commission to identify and assist victims of human trafficking;

(C) train doctors, nurses, emergency medical services personnel, teachers, school counselors, school administrators, and personnel from the Department of Family and Protective Services and the Health and Human Services Commission to identify and assist victims of human trafficking;

(D) develop and conduct training for personnel from the Department of Family and Protective Services and the Health and Human Services Commission on methods for identifying children in foster care who may be at risk of becoming victims of human trafficking; and

(E) develop a process for referring identified human trafficking victims and individuals at risk of becoming victims to appropriate entities for services;

(6) on the request of a judge of a county court, county court at law, or district court or a county attorney, district attorney, or criminal district attorney, assist and train the judge or the judge's staff or the attorney or the attorney's staff in the recognition and prevention of human trafficking;

(7) examine training protocols related to human trafficking issues, as developed and implemented by federal, state, and local law enforcement agencies;

(8) collaborate with state and local governmental agencies, political subdivisions of the state, and nongovernmental organizations to implement a media awareness campaign in communities affected by human trafficking;

(9) develop recommendations on how to strengthen state and local efforts to prevent human trafficking, protect and assist human trafficking victims, curb markets and other economic avenues that facilitate human trafficking and investigate and prosecute human trafficking offenders;

(10) examine:

(A) the extent to which human trafficking is associated

with the operation of:

(i) sexually oriented businesses, as defined by Section 243.002, Local Government Code; and

(ii) massage establishments permitting conduct described by Section 455.202(b)(4), Occupations Code; and

(B) the workplace or public health concerns that are created by the association of human trafficking and the operation of sexually oriented businesses and massage establishments described by Paragraph (A);

(11) develop recommendations for addressing the demand for forced labor or services or sexual conduct involving victims of human trafficking, including recommendations for increased penalties for individuals who engage or attempt to engage in solicitation of prostitution with victims younger than 18 years of age; and

(12) identify and report to the governor and legislature on laws, licensure requirements, or other regulations that can be passed at the state and local level to curb trafficking using the Internet and in sexually oriented businesses and massage establishments.

(e) The presiding officer of the task force is the attorney general or the attorney general's designee.

(f) The office of the attorney general shall supervise the administration of the task force. The attorney general shall provide the necessary staff and facilities to assist the task force in performing its duties.

(f-1) The following state agencies shall designate an individual who is authorized to coordinate the agency's resources to strengthen state and local efforts to prevent human trafficking, protect and assist human trafficking victims, and investigate and prosecute human trafficking offenders:

(1) the Texas Alcoholic Beverage Commission;

(2) the Department of Family and Protective Services;

(3) the Department of Public Safety;

(4) the Department of State Health Services;

(5) the Health and Human Services Commission;

(6) the Texas Juvenile Justice Department;

(7) the Texas Education Agency;

(8) the Texas Department of Transportation;

(9) the office of the attorney general; and

(10) the office of the governor.

(f-2) Each state agency shall provide to the task force the

name of the individual designated under Subsection (f-1).

(f-3) The attorney general may enter into a contract with an institution of higher education or private or independent institution of higher education, as those terms are defined by Section 61.003, Education Code, for the institution's assistance in the collection and analysis of information received under this section. The attorney general may adopt rules to administer the submission and collection of information under this section.

(g) Not later than December 1 of each even-numbered year, the task force shall submit a report regarding the task force's activities, findings, and recommendations, including any proposed legislation, to the governor, the lieutenant governor, and the legislature.

(g-1) In this section, "emergency medical services personnel" has the meaning assigned by Section 773.003, Health and Safety Code.

(h) Repealed by Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 1.02, eff. September 1, 2019.

Added by Acts 2009, 81st Leg., R.S., Ch. 1002 (H.B. 4009), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 775 (H.B. 1930), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 6, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 297 (H.B. 1272), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 146 (H.B. 188), Sec. 1, eff. May 28, 2015.

Acts 2015, 84th Leg., R.S., Ch. 332 (H.B. 10), Sec. 10, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 92, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 8.003, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 8.004, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 27, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 28, eff.

September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 44(1), eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 762 (S.B. 2039), Sec. 3, eff. June 12, 2017.

Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 1.02, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 2.04, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 41, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 93 (S.B. 1527), Sec. 1.02, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1778, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 402.0351. REQUIRED POSTING OF HUMAN TRAFFICKING SIGNS BY CERTAIN ENTITIES; CIVIL PENALTY. (a) In this section:

(1) "Cosmetology facility" means a person who holds a license to operate a facility or school under Chapter 1602, Occupations Code.

(2) "Council" means the human trafficking prevention coordinating council established under Section 402.034.

(3) "Hospital" has the meaning assigned by Section 241.003, Health and Safety Code.

(4) "Massage establishment" and "massage school" have the meanings assigned by Section 455.001, Occupations Code.

(5) "Sexually oriented business" has the meaning assigned by Section 243.002, Local Government Code.

(6) "Tattoo studio" has the meaning assigned by Section 146.001, Health and Safety Code.

(7) "Transportation hub" means a bus, bus stop, train, train station, rest area, gas station with adjacent convenience store, or airport.

(a-1) Except as provided by Subsection (a-3), a person who operates any of the following entities shall post at the entity the sign prescribed under Subsection (b), or, if applicable, a similar sign or notice as prescribed by other state law:

(1) an entity permitted or licensed under Chapter 25, 26, 28, 32, 69, or 71, Alcoholic Beverage Code, other than an entity holding a food and beverage certificate;

(2) a cosmetology facility;

(3) a hospital;

(4) a massage establishment;

(5) a massage school;

(6) a sexually oriented business;

(7) a tattoo studio; or

(8) a transportation hub.

(a-2) The Parks and Wildlife Department shall post the sign prescribed under Subsection (b), or a substantially similar sign, in the manner prescribed by Subsection (d) at each state park and other recreational site under the department's jurisdiction.

(a-3) Notwithstanding any other law, a state agency that enforces another state law that requires a person described by Subsection (a-1) to post a sign or notice relating to human trafficking may by rule authorize the person to use the sign prescribed by the attorney general under Subsection (b) in lieu of the sign or notice required by the other law.

(b) The attorney general by rule shall prescribe the design and content of a sign required to be posted under this section. The sign must:

(1) contain information regarding services and assistance available to victims of human trafficking;

(2) be in English, Spanish, and any other language determined appropriate by the attorney general in consultation with the council; and

(3) include:

(A) a toll-free telephone number and Internet website for accessing human trafficking resources;

(B) the contact information for reporting suspicious activity to the Department of Public Safety; and

(C) the key indicators that a person is a victim of human trafficking.

(c) The attorney general shall develop the sign that complies with the requirements of Subsection (b) and make the sign available on the attorney general's Internet website to persons required to post a sign under this section and to the public.

(d) The attorney general by rule shall prescribe the best

practices for the manner in which the sign must be displayed and any exceptions to the sign posting requirement. The rules:

(1) must require that at a minimum the sign be posted in a conspicuous place that is either:

(A) near the public entrance of the entity; or

(B) in clear view of the public and employees and near the location similar notices are customarily posted; and

(2) may require that the sign be a certain size and that the notice be displayed in a certain font and type size.

(e) In adopting the rules under this section, the attorney general shall consult with the council.

(f) If the attorney general becomes aware that a person is in violation or may be in violation of a law enforced by another state agency that requires the posting of a sign or notice relating to human trafficking, the attorney general may notify the appropriate state agency of the violation or potential violation.

(g) The attorney general shall issue a warning to a person described by Subsection (a-1) for a first violation of a rule adopted under this section. After receiving a warning for the first violation, a person who violates a rule adopted under this section is subject to a civil penalty in the amount of $200 for each subsequent violation. Each day a violation continues is a separate violation.

Added by Acts 2019, 86th Leg., R.S., Ch. 985 (S.B. 1219), Sec. 1, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 280 (H.B. 3721), Sec. 4, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 1049 (S.B. 1831), Sec. 4, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 10.002, eff. September 1, 2023.

Sec. 402.036. SUPPORT ADOPTION ACCOUNT. (a) The Support Adoption account is a separate account in the general revenue fund. The account is composed of:

(1) money deposited to the credit of the account under Sections 504.662 and 521.015, Transportation Code; and

(2) gifts, grants, donations, and legislative

appropriations.

(b) The attorney general administers the Support Adoption account. The attorney general may spend money credited to the account only to:

(1) make grants to an eligible organization; and

(2) defray the cost of administering the account, including the cost of advertising authorized by Subsection (b-1).

(b-1) The attorney general may advertise that fees paid for the issuance of a license plate in accordance with Section 504.662, Transportation Code, may be used to fund the grants described by Subsection (b)(1), provided that the money spent under this subsection does not exceed two percent of the amount of gross receipts deposited to the Support Adoption account during the preceding state fiscal year.

(c) The attorney general may not discriminate against an eligible organization because it is a religious or nonreligious organization.

(d) The attorney general may accept gifts, donations, and grants from any source for the benefit of the account.

(e) The attorney general by rule shall establish:

(1) guidelines for the expenditure of money credited to the Support Adoption account; and

(2) reporting and other mechanisms necessary to ensure that the money is spent in accordance with this section.

(f) Money received by an eligible organization under this section may be spent only to provide for the material needs of pregnant women who are considering placing their children for adoption, including the provision of clothing, housing, prenatal care, food, utilities, and transportation, to provide for the needs of children who are awaiting placement with adoptive parents, to provide training and advertising relating to adoption, and to provide pregnancy testing or pre-adoption or postadoption counseling, but may not be used to pay an administrative, legal, or capital expense.

(g) In this section, "eligible organization" means:

(1) an organization in this state that:

(A) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt charitable organization under Section 501(c)(3) of that code;

(B) provides counseling and material assistance to pregnant women who are considering placing their children for

adoption or to prospective adoptive parents;

(C) does not charge for services provided, except for adoption-related costs or fees;

(D) does not provide abortions or abortion-related services or make referrals to abortion providers;

(E) is not affiliated with an organization that provides abortions or abortion-related services or makes referrals to abortion providers; and

(F) does not contract with an organization that provides abortions or abortion-related services or makes referrals to abortion providers;

(2) an adoption agency, as defined by Section 162.402, Family Code; and

(3) an authorized agency, as defined by Section 162.402, Family Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 63 (S.B. 257), Sec. 2, eff. September 1, 2011.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 808 (H.B. 2271), Sec. 1, eff. September 1, 2019.
Acts 2023, 88th Leg., R.S., Ch. 977 (S.B. 2376), Sec. 1, eff. September 1, 2023.
Acts 2023, 88th Leg., R.S., Ch. 977 (S.B. 2376), Sec. 2, eff. September 1, 2023.

Sec. 402.037. SUPPORT ADOPTION ADVISORY COMMITTEE. (a) The attorney general shall appoint a seven-member Support Adoption advisory committee.

(b) The committee shall:

(1) meet at least twice a year or as called by the attorney general;

(2) assist the attorney general in developing rules under Section 402.036(e); and

(3) review and make recommendations to the attorney general on applications submitted to the attorney general for grants funded with money credited to the Support Adoption account.

(c) Members of the committee serve without compensation and are not entitled to reimbursement for expenses. Each member serves a

term of four years, with the terms of three or four members expiring on January 31 of each odd-numbered year.

(d) Chapter 2110, Government Code, does not apply to the committee.

Added by Acts 2011, 82nd Leg., R.S., Ch. 63 (S.B. 257), Sec. 2, eff. September 1, 2011.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 977 (S.B. 2376), Sec. 3, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 977 (S.B. 2376), Sec. 4, eff. September 1, 2023.

Sec. 402.038. TRANSNATIONAL AND ORGANIZED CRIME DIVISION. (a) The office of the attorney general shall establish a transnational and organized crime division.

(b) To address matters related to border security and organized crime, the transnational and organized crime division shall:

(1) establish within the division a prosecution unit to provide critical assistance to local prosecutors;

(2) using existing funds, establish within the division a trafficking of persons unit to:

(A) assist local law enforcement agencies and local prosecutors in investigating and prosecuting trafficking of persons and related crimes; and

(B) work with the appropriate local and state agencies to identify victims of trafficking of persons and to provide the types of assistance available for those victims under Chapters 56A and 56B and Subchapter B, Chapter 58, Code of Criminal Procedure; and

(3) develop initiatives to provide greater state assistance, support, and coordination among state law enforcement agencies, local law enforcement agencies, and local prosecutors.

(c) Prosecution assistance provided by the division under this section shall be in accordance with the assistance authorized under Section 402.028.

Added by Acts 2015, 84th Leg., R.S., Ch. 333 (H.B. 11), Sec. 4, eff. September 1, 2015.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.43, eff.

January 1, 2021.

Sec. 402.039. DOMESTIC VIOLENCE HIGH RISK TEAMS GRANT PROGRAM. (a) A domestic violence high risk team is a multidisciplinary team that coordinates efforts to increase the safety of victims of family violence, as that term is defined by Section 71.004, Family Code, by monitoring and containing perpetrators while providing victim services. The team may be composed of law enforcement officers, prosecutors, community supervision and corrections departments, victim advocates, nonprofit organizations that provide services or shelter to victims of family violence, and medical personnel. The team members work together to share information and communicate to provide the best possible responses to victims at high risk.

(b) Using money appropriated for the purpose, the attorney general may award grants to domestic violence high risk teams in communities in this state.

(c) The attorney general shall request proposals for the award of grants under this section. The attorney general shall evaluate the proposals and award grants based on the need for domestic violence services in the community in which the team is located and the effectiveness or potential effectiveness of the team.

(d) A grant recipient may use grant money received under this section only to fund the activities of a domestic violence high risk team in reducing or preventing incidents of domestic violence and providing domestic violence services to victims.

(e) The attorney general shall establish procedures to administer the grant program, including a procedure for the submission of a proposal and a procedure to be used by the attorney general in evaluating a proposal.

(f) To supplement any appropriations for the grant program, the attorney general shall apply for any available federal grant funds for the prevention of domestic violence.

Added by Acts 2015, 84th Leg., R.S., Ch. 105 (H.B. 3327), Sec. 1, eff. September 1, 2015.
Redesignated from Government Code, Section 402.038 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(11), eff. September 1, 2017.

SUBCHAPTER C. OPINIONS

Sec. 402.041. DEFINITION. In this subchapter "opinion" means advice or a judgment or decision and the legal reasons and principles on which it is based.

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

Sec. 402.042. QUESTIONS OF PUBLIC INTEREST AND OFFICIAL DUTIES. (a) On request of a person listed in Subsection (b), the attorney general shall issue a written opinion on a question affecting the public interest or concerning the official duties of the requesting person.

(b) An opinion may be requested by:

(1) the governor;

(2) the head of a department of state government;

(3) a head or board of a penal institution;

(4) a head or board of an eleemosynary institution;

(5) the head of a state board;

(6) a regent or trustee of a state educational institution;

(7) a committee of a house of the legislature;

(8) a county auditor authorized by law; or

(9) the chairman of the governing board of a river authority.

(c) A request for an opinion must be in writing and sent by certified or registered mail, with return receipt requested, addressed to the office of the attorney general in Austin, or electronically to an electronic mail address designated by the attorney general for the purpose of receiving requests for opinions under this section. The attorney general shall:

(1) acknowledge receipt of the request not later than the 15th day after the date that it is received; and

(2) issue the opinion not later than the 180th day after the date that it is received, unless before that deadline the attorney general notifies the requesting person in writing that the opinion will be delayed or not rendered and states the reasons for the delay or refusal.

(d) The attorney general and the requesting person by written agreement may waive the provisions of Subsections (a) and (c) if the waiver does not substantially prejudice any person's legal rights.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 403 (S.B. 246), Sec. 1, eff. September 1, 2013.

Sec. 402.043. QUESTIONS RELATING TO ACTIONS IN WHICH THE STATE IS INTERESTED. The attorney general shall advise an attorney, on the attorney's request, in the prosecution or defense of an action in which the state is interested before a district or inferior court if:

(1) the requesting attorney has investigated the question involved and submitted a brief to the attorney general; and

(2) the requesting attorney is:

(A) a district or county attorney; or

(B) a county employee who:

(i) serves as the head of the civil legal department of a county located on the international border that has a population of less than 400,000 and contains one or more municipalities with a population of 200,000 or more; and

(ii) has received approval for the submission of the request from the commissioners court of the county.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 69 (S.B. 1339), Sec. 1, eff. May 24, 2021.

Sec. 402.044. QUESTIONS RELATING TO BONDS. The attorney general shall advise the proper legal authorities in regard to the issuance of bonds that by law require the attorney general's approval.

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

Sec. 402.045. LIMITATION. The attorney general may not give legal advice or a written opinion to a person other than a person named in this subchapter.

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

CHAPTER 403. COMPTROLLER OF PUBLIC ACCOUNTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 403.001. DEFINITIONS. (a) In any state statute, "comptroller" means the comptroller of public accounts of the State of Texas.

(b) In this chapter:

(1) "Account" means a subdivision of a fund.

(2) "Dedicated revenue" means revenue set aside by law for a particular purpose or entity.

(3) "Fund" means a fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources.

(4) "Special fund" means a fund, other than the general revenue fund, that is established by law for a particular purpose or entity.

(5) "Cash Management Improvement Act" means the federal Cash Management Improvement Act of 1990 (31 U.S.C. Section 6501 et seq.).

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 11.01, eff. Aug. 22, 1991; Acts 1993, 73rd Leg., ch. 449, Sec. 21, eff. Sept. 1, 1993.

Sec. 403.002. PERFORMANCE OF DUTY. (a) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(9).

(b) If the comptroller intentionally neglects or refuses to perform a duty of the office of comptroller, the comptroller is liable to the state for a penalty of not less than $100 nor more than $1,000 for each day of the neglect or refusal.

(c) The attorney general, by suit in the name of the state, shall recover penalties provided by this chapter. Venue and jurisdiction of the suit are in a court of Travis County.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 285, Sec. 9, 31(9), eff. Sept. 1, 2003.

Sec. 403.003. CHIEF CLERK. (a) The comptroller shall appoint

a chief clerk who shall:

(1) perform the duties of the comptroller when the comptroller is unavoidably absent or is incapable of discharging those duties;

(2) act as comptroller if the office of comptroller becomes vacant until a comptroller is appointed and qualified; and

(3) under the comptroller's direction, supervise the keeping of the books, records, and accounts of the office and perform other duties required by law or the comptroller.

(b) The chief clerk shall take the official oath.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 73, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 7.01, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 285, Sec. 10, eff. Sept. 1, 2003.

Sec. 403.004. CHIEF OF CLAIMS DIVISION. The comptroller shall designate one person as chief of the claims division. The chief of the claims division shall prepare or have prepared all warrants and is accountable to the comptroller for warrants coming into the person's possession.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 641, Sec. 3, eff. Sept. 1, 1991.

Sec. 403.006. INSPECTION OF ACCOUNTS. On request of a house or committee of the legislature, the comptroller shall exhibit for the house's or committee's examination any book, paper, voucher, or other matter relating to the office.

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

Sec. 403.007. DIVISIONS. The comptroller may organize and maintain divisions within the comptroller's office as necessary for the efficient and orderly operation of the office.

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

Sec. 403.008. BONDS AND EMPLOYEES. (a) The comptroller shall give any special bond required by an Act of Congress or a federal department or official to protect federal funds deposited with the comptroller. The state shall pay the expenses necessary and incidental to the execution of the bond.

(b) The comptroller shall appoint other employees that are authorized by law. The comptroller may require an employee to be insured in the manner and sum required by the comptroller.

(c) The state shall pay any expense incident to the execution of a bond authorized under Chapter 653 and any insurance of the chief clerk and other employees.

Added by Acts 1997, 75th Leg., ch. 1035, Sec. 75, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 285, Sec. 11, eff. Sept. 1, 2003.

SUBCHAPTER B. GENERAL POWERS AND DUTIES

Sec. 403.011. GENERAL POWERS. (a) The comptroller shall:

(1) obtain a seal with "Comptroller's Office, State of Texas" engraved around the margin and a five-pointed star in the center, to be used as the seal of the office to authenticate official acts, except warrants drawn on the state treasury;

(2) adopt regulations the comptroller considers essential to the speedy and proper assessment and collection of state revenues;

(3) supervise, as the sole accounting officer of the state, the state's fiscal concerns and manage those concerns as required by law;

(4) require all accounts presented to the comptroller for settlement not otherwise provided for by law to be made on forms that the comptroller prescribes;

(5) prescribe and furnish the form or electronic format to be used in the collection of public revenue;

(6) prescribe the mode and manner of keeping and stating of accounts of persons collecting state revenue;

(7) prescribe forms or electronic formats of the same class, kind, and purpose so that they are uniform in size, arrangement, matter, and form;

(8) require each person receiving money or managing or having disposition of state property of which an account is kept in

the comptroller's office periodically to render statements of the money or property to the comptroller;

(9) require each person who has received and not accounted for state money to settle the person's account;

(10) keep and settle all accounts in which the state is interested;

(11) examine and settle the account of each person indebted to the state, verify the amount or balance, and direct and supervise the collection of the money;

(12) audit claims against the state the payment of which is provided for by law, unless the audit is otherwise specially provided for;

(13) determine the method for auditing claims against the state in a cost-effective manner, including the use of stratified and statistical sampling techniques in conjunction with automated edits;

(14) maintain the necessary records and data for each approved claim against the state so that an adequate audit can be performed and the comptroller can submit a report to each house of the legislature, upon request, stating the name and amount of each approved claim;

(15) keep and state each account between the state and the United States;

(16) keep journals through which all entries are made in the ledger;

(17) draw warrants on the treasury for payment of all money required by law to be paid from the treasury on warrants drawn by the comptroller;

(18) suggest plans for the improvement and management of the general revenue; and

(19) preserve the books, records, papers, and other property of the comptroller's office and deliver them in good condition to the successor to that office.

(b) The comptroller may solicit, accept, or refuse a gift or grant of money, services, or property on behalf of the state for any public purpose related to the office or duties of the comptroller.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 108, Sec. 4, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.03, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 1.12, eff. June 19, 1999.

Sec. 403.0111. DISTRIBUTION OF FEDERAL TAX INFORMATION. (a) In addition to the distribution of state tax and fiscal information, the comptroller's office is authorized to take the lead in promoting awareness of federal earned income tax credits and to encourage other agencies to similarly promote awareness of the federal tax credit for working families and individuals who may qualify.

(b) State agencies that otherwise distribute information to the public may use existing resources to distribute information to persons likely to qualify for federal earned income tax credits and shall cooperate with the comptroller in information distribution efforts.

Added by Acts 1995, 74th Leg., ch. 418, Sec. 1, eff. Sept. 1, 1995.

Sec. 403.0115. REPORTS PUBLISHED ON INTERNET. The comptroller shall promptly publish on the comptroller's Internet site each report that is:

(1) published by the comptroller; and

(2) public information subject to disclosure under the open records law, Chapter 552.

Added by Acts 1999, 76th Leg., ch. 1582, Sec. 1, eff. Sept. 1, 1999.

Sec. 403.0116. MUNICIPAL AND COUNTY BUDGETS ON INTERNET. The comptroller shall provide on its Internet website a link to the website of each municipality and county that provides budget information for the municipality or county, including budgets posted under Sections 102.008, 111.009, 111.040, and 111.069, Local Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 457 (S.B. 1692), Sec. 2, eff. September 1, 2011.

Sec. 403.012. ACCEPTANCE OF FEDERAL MONEY OR PROPERTY. (a) The comptroller may accept federal money for a state agency not otherwise restricted by statute or by rider or special provision in

the General Appropriations Act, if the state agency has certified to the comptroller that the agency will be responsible for compliance with applicable federal and state law.

(b) The comptroller may accept money or property under a federal equitable sharing program. In accepting the money or property, the comptroller shall comply with federal program requirements, including those governing accounting and the permissible use of an award.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 5, eff. September 1, 2011.

Sec. 403.0121. ACCEPTANCE OF FEDERAL MONEY. The comptroller shall execute instruments necessary to accept money, gifts, or assets authorized by federal statute to be paid to the state in lieu of taxes or as a gift by the Secretary of Housing and Urban Development or any federal agency. The comptroller shall deposit funds received under this section in the general revenue fund.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 18, eff. Sept. 1, 1993.

Sec. 403.0122. DEPOSIT OF AMERICAN RECOVERY AND REINVESTMENT ACT MONEY. (a) In this section:

(1) "Fund" means the American Recovery and Reinvestment Act fund.

(2) "Recovery act" means the federal American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5).

(b) The American Recovery and Reinvestment Act fund is created as a special fund in the state treasury outside the general revenue fund.

(c) Notwithstanding any other law of this state and except as otherwise provided by federal law, state agencies that receive money under the recovery act shall deposit the money to the credit of the fund as the comptroller determines is necessary to hold and account for money received under the recovery act.

(d) Other money may be deposited to the credit of the fund as appropriated by the legislature, as required by federal law, or as

necessary to account for money related to the recovery act. Money deposited to the credit of the fund may only be used for the purposes identified in the recovery act to stimulate the economy, including aid for unemployment, welfare, education, health, and infrastructure.

(e) Agencies shall transfer amounts between the fund and other accounts and funds in the treasury as necessary to properly account for money received under the recovery act as directed by the comptroller. This section does not affect the authority of the comptroller to establish and use accounts necessary to manage and account for revenues and expenditures.

(f) Interest earned on money deposited to the credit of the fund is exempt from Section 404.071. Interest earned on money in the fund shall be retained in the fund.

(g) The comptroller may issue guidelines for state agencies regarding the implementation of this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1051 (H.B. 4583), Sec. 20(b), eff. June 19, 2009.

Sec. 403.013. REPORT TO GOVERNOR. (a) In this section, "state agency" means:

(1) any department, commission, board, office, or other agency in the executive or legislative branch of state government created by the constitution or a statute of this state;

(2) the Supreme Court of Texas, the Court of Criminal Appeals of Texas, a court of appeals, the Texas Civil Judicial Council, the Office of Court Administration of the Texas Judicial System, the State Bar of Texas, or another state judicial agency created by the constitution or a statute of this state;

(3) a university system or an institution of higher education as defined by Section 61.003, Education Code; or

(4) another governmental organization that the comptroller determines to be a component unit of state government for purposes of financial reporting under the provisions of this section.

(b) On the first Monday of November of each year, and at other times the governor requires, the comptroller shall exhibit to the governor, in addition to the reports required by the constitution, an exact and complete statement showing:

(1) the funds and revenues of the state; and

(2) public expenditures during the preceding year or during another period required by the governor.

(c) On the last day of February of each year, in addition to the reports required by the constitution and this section, the comptroller shall exhibit to the governor an audited comprehensive annual financial report that includes all state agencies determined to be part of the statewide accounting entity and that is prepared in accordance with generally accepted accounting principles as prescribed or modified in pronouncements of the Governmental Accounting Standards Board.

(d) The report under Subsection (c) shall be compiled from the financial information requested by the comptroller under Subchapter B, Chapter 2101, until it can be prepared from information contained in a fully operational uniform automated statewide accounting and reporting system.

(e) The comptroller is not required to include in the report under Subsection (c) a state agency or other governmental organization that the comptroller finds is not a component unit of state government for purposes of financial reporting under this section.

(f) The Texas growth fund and Texas growth fund II, created as provided by Section 70, Article XVI, Texas Constitution, shall provide the financial information listed in Subchapter B, Chapter 2101, to the comptroller once each year, not later than the date established by the comptroller.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.02(a), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 268, Sec. 16, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 449, Sec. 23, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 1158, Sec. 9, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 10, eff. June 15, 2001.

Sec. 403.0131. APPROPRIATION CERTIFICATION. (a) Not later than the 10th day, excluding Sundays, after the date on which an act making an appropriation is reported enrolled by the house of origin, the comptroller shall complete the evaluation and certification of the appropriation required by Section 49a(b), Article III, Texas Constitution.

(b) As soon as practical after the comptroller certifies the appropriations made by the legislature in a regular or special session, the comptroller shall prepare a summary table that details the basis for the certification of all major funds. The table must be similar in format and detail to the summary tables of the major fund estimates published in the comptroller's biennial revenue estimate and must include the biennial appropriations from all major funds. The comptroller shall deliver a copy of each table prepared under this section to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, and the Legislative Budget Board.

Added by Acts 1999, 76th Leg., ch. 281, Sec. 2, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 24.01, eff. Jan. 11, 2004.

Sec. 403.014. REPORT ON EFFECT OF CERTAIN TAX PROVISIONS. (a) Before each regular session of the legislature, the comptroller shall report to the legislature and the governor on the effect, if it is possible to assess, of exemptions, discounts, exclusions, special valuations, special accounting treatments, special rates, and special methods of reporting relating to:

(1) sales, excise, and use tax under Chapter 151, Tax Code;

(2) franchise tax under Chapter 171, Tax Code;

(3) school district property taxes under Title 1, Tax Code;

(4) motor vehicle tax under Section 152.090; and

(5) any other tax generating more than five percent of state tax revenue in the prior fiscal year.

(a-1) In preparing the report under Subsection (a), if actual data is not available, the comptroller shall use available statistical data to estimate the effect of an exemption, discount, exclusion, special valuation, special accounting treatment, special rate, or special method of reporting relating to a tax. If the report states that the effect of a particular tax preference cannot be determined, the comptroller must include in the report a complete explanation of why the comptroller reached that conclusion.

(b) The report must include:

(1) an analysis of each special provision that reduces the amount of tax payable, to include an estimate of the loss of revenue

for a six-year period including the current fiscal biennium and a citation of the statutory or legal authority for the provision; and

(2) for provisions reducing revenue by more than one percent of total revenue for a tax covered by this section:

(A) the effect of each provision on the distribution of the tax burden by income class and industry or business class, as appropriate; and

(B) the effect of each provision on total income by income class.

(c) The report may include:

(1) an assessment of the intended purpose of the provision and whether the provision is achieving that objective; and

(2) a recommendation for retaining, eliminating, or amending the provision.

(d) The report may be included in any other report made by the comptroller.

(e) At the request of the chair of a committee of the senate or house of representatives to which has been referred a bill or resolution establishing, extending, or restricting an exemption, discount, exclusion, special valuation, special accounting treatment, special rate, or special method of reporting relating to any state tax, the Legislative Budget Board with the assistance, as requested, of the comptroller shall prepare a letter analysis of the effect on the state's tax revenues that would result from the passage of the bill or resolution. The letter analysis shall contain the same information as provided in Subsection (b), as appropriate.

(f) The comptroller and Legislative Budget Board may request from any state officer or agency information necessary to complete the report or letter analysis. Each state officer or agency shall cooperate with the comptroller and Legislative Budget Board in providing information or analysis for the report or letter analysis.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 47, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.02, eff. Oct. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 14, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 393 (H.B. 1261), Sec. 1, eff. September 1, 2015.

Sec. 403.0141. REPORT ON INCIDENCE OF TAX. (a) Before each regular session of the legislature, the comptroller shall report to the legislature and the governor on the overall incidence of the school district property tax and any state tax generating more than 2.5 percent of state tax revenue in the prior fiscal year. The analysis shall report on the distribution of the tax burden for the taxes included in the report.

(b) At the request of the chair of a committee of the senate or house of representatives to which has been referred a bill or resolution to change the tax system that would increase, decrease, or redistribute tax by more than $20 million, the Legislative Budget Board with the assistance, as requested, of the comptroller shall prepare an incidence impact analysis of the bill or resolution. The analysis shall report on the incidence effects that would result if the bill or resolution were enacted.

(c) To the extent data is available, the incidence impact analysis under Subsections (a) and (b):

(1) shall evaluate the tax burden:

(A) on the overall income distribution, using a systemwide incidence measure or other appropriate measures of equality and inequality; and

(B) on income classes, including, at a minimum, quintiles of the income distribution, on renters and homeowners, on industry or business classes, as appropriate, and on various types of business organizations;

(2) may evaluate the tax burden:

(A) by other appropriate taxpayer characteristics, such as whether the taxpayer is a farmer, rancher, retired elderly, or resident or nonresident of the state; and

(B) by distribution of impact on consumers, labor, capital, and out-of-state persons and entities;

(3) shall evaluate the effect of each tax on total income by income group; and

(4) shall:

(A) use the broadest measure of economic income for which reliable data is available; and

(B) include a statement of the incidence assumptions that were used in making the analysis.

Added by Acts 1997, 75th Leg., ch. 1035, Sec. 48, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 2.03, eff. Oct. 1, 1999.

Sec. 403.0142. REPORT ON ORIGIN OF TAX REVENUE. (a) Before each regular session of the legislature, the comptroller shall report to the legislature and the governor on the amount of revenue remitted to the comptroller in each municipality and county for each tax collected by the comptroller if that information is available from tax returns. The report may be included in any other report made by the comptroller.

(b) The comptroller shall report the information under Subsection (a) as an aggregate total for each tax without disclosing individual tax payments or taxpayers.

(c) The comptroller shall publish the report required under Subsection (a) on the comptroller's Internet website not later than the 20th day after the date the report is provided to the legislature and the governor.

Added by Acts 2011, 82nd Leg., R.S., Ch. 713 (H.B. 654), Sec. 1, eff. September 1, 2011.

Sec. 403.0143. REPORT ON USE OF GENERAL REVENUE-DEDICATED ACCOUNTS. After each regular session of the legislature, the comptroller shall issue a report that itemizes each general revenue-dedicated account and the estimated balance and revenue in each account that is considered available for the purposes of certification of appropriations as provided by Section 403.095. The comptroller shall publish the report on the comptroller's Internet website.

Added by Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 12, eff. September 1, 2015.

Sec. 403.0145. PUBLICATION OF FEES SCHEDULE. As soon as practicable after the end of each state fiscal year, the comptroller shall publish online a schedule of all revenue to the state from fees authorized by statute. For each fee, the schedule must specify:

(1) the statutory authority for the fee;

(2) if the fee has been increased during the most recent legislative session, the amount of the increase;

(3) into which fund the fee revenue will be deposited; and

(4) the amount of the fee revenue that will be considered available for general governmental purposes and accordingly considered available for the purpose of certification under Section 403.121.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 34.04, eff. September 28, 2011.

Sec. 403.0147. REPORT ON STATE PROGRAMS NOT FUNDED BY APPROPRIATIONS. (a) In this section, "state agency" means an agency, department, board, commission, or other entity in the executive, legislative, or judicial branch of state government.

(b) Not later than December 31 of each even-numbered year, the comptroller shall submit a report to the legislature that identifies for each state agency:

(1) each program the state agency is statutorily required to implement for which no appropriation was made for the preceding state fiscal year, along with a citation to the law imposing the requirement; and

(2) the amount and source of money the state agency spent, if any, to implement any portion of the program described by Subdivision (1) during the preceding state fiscal year.

(c) A state agency shall provide to the comptroller not later than September 30 of each even-numbered year information necessary for the comptroller to prepare the report required by this section. The comptroller may prescribe the form and content of the information a state agency must provide.

Added by Acts 2017, 85th Leg., R.S., Ch. 947 (S.B. 1831), Sec. 1, eff. June 15, 2017.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 856 (S.B. 800), Sec. 4, eff. September 1, 2021.

Sec. 403.015. ELECTRONIC COMPUTING AND DATA PROCESSING. The

comptroller may:

(1) establish and operate a central electronic computing and data processing center to:

(A) maintain the central accounting records of the state;

(B) prepare payrolls and other warrants;

(C) audit tax reports; and

(D) perform other accounting and data processing activities for which this equipment economically and practically may be used;

(2) prescribe and revise claim forms, registers, warrants, and other documents submitted in support of payroll or other claims or to support tax or other payments to the state, in order to provide for the orderly and economical use of equipment under this section; and

(3) prescribe and revise procedures, techniques, and formats for electronic data transmission, in order to improve the flow of data between state agencies.

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

Sec. 403.016. ELECTRONIC FUNDS TRANSFER. (a) The comptroller shall establish and operate an electronic funds transfer system in accordance with this section. The comptroller may use the services of financial institutions, automated clearinghouses, and the federal government to establish and operate the system.

(b) The comptroller shall use the electronic funds transfer system to pay an employee's net state salary and travel expense reimbursements.

(c) The comptroller shall use the electronic funds transfer system to make:

(1) payments of more than $100 to annuitants by the Employees Retirement System of Texas, the Teacher Retirement System of Texas, or the Texas Emergency Services Retirement System under each system's administrative jurisdiction;

(2) recurring payments to municipalities, counties, political subdivisions, special districts, and other governmental entities of this state; and

(3) payments to vendors who choose to receive payment

through the electronic funds transfer system rather than by warrant.

(d) If the comptroller is not required by this section to use the electronic funds transfer system to pay a person, the comptroller may use the system to pay the person on the person's request.

(e) Repealed by Acts 1997, 75th Leg., ch. 1035, Sec. 90(a), eff. June 19, 1997.

(f) Except as provided by Subsection (f-1) and subject to any limitation in rules adopted by the comptroller, an automated clearinghouse, or the federal government, the comptroller may use the electronic funds transfer system to deposit payments only to one or more accounts of a payee at one or more financial institutions, including credit unions.

(f-1) The comptroller may also use the electronic funds transfer system to deposit the amount of an employee's payroll deduction made as authorized by law.

(f-2) A single electronic funds transfer may contain payments to multiple payees. Individual transfers or warrants are not required for each payee.

(g) When a law requires the comptroller to make a payment by warrant, the comptroller may instead make the payment through the electronic funds transfer system. The comptroller's use of the electronic funds transfer system or any other payment means does not create a right that would not have been created if a warrant had been issued.

(h) Notwithstanding any requirement in this section to make a payment through the electronic funds transfer system, the comptroller shall issue a warrant to pay a person if:

(1) the person properly notifies the comptroller that:

(A) receiving the payment by electronic funds transfer would be impractical to the person;

(B) receiving the payment by electronic funds transfer would be more costly to the person than receiving the payment by warrant;

(C) the person is unable to establish a qualifying account at a financial institution to receive electronic funds transfers; or

(D) the person chooses to receive the payment by warrant; or

(2) the state agency on whose behalf the comptroller makes the payment properly notifies the comptroller that:

(A) making the payment by electronic funds transfer would be impractical to the agency; or

(B) making the payment by electronic funds transfer would be more costly to the agency than making the payment by warrant.

(i) Notwithstanding any requirement in this section to make a payment through the electronic funds transfer system, the comptroller may make a payment by warrant if the comptroller determines that:

(1) using the electronic funds transfer system would be impractical to the state; or

(2) the cost to the state of using the electronic funds transfer system would exceed the cost of issuing a warrant.

(j) The comptroller shall adopt rules to administer this section, including rules relating to the notifications that may be provided to the comptroller under Subsection (h).

(k) Repealed by Acts 1999, 76th Leg., ch. 945, Sec. 2, eff. June 18, 1999.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 641, Sec. 4, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 909, Sec. 2, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 3.01, eff. Jan. 1, 1992; Acts 1993, 73rd Leg., ch. 449, Sec. 24, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 939, Sec. 13, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 634, Sec. 1(a), eff. Sept. 1, 1998; Acts 1997, 75th Leg., ch. 1035, Sec. 49, 90(a), eff. June 19, 1997; Acts 1999, 76th Leg., ch. 945, Sec. 1, 2, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 1310, Sec. 15, eff. June 20, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 392 (S.B. 557), Sec. 1, eff. June 2, 2019.

Sec. 403.0165. PAYROLL DEDUCTION FOR STATE EMPLOYEE ORGANIZATION. (a) An employee of a state agency may authorize a transfer each pay period from the employee's salary or wage payment for a membership fee in an eligible state employee organization. The authorization shall remain in effect until an employee authorizes a change in the authorization. Authorizations and changes in authorizations must be provided in accordance with rules adopted by

the comptroller.

(b) The comptroller shall adopt rules for transfers by employees to a certified eligible state employee organization. The rules may authorize electronic transfers of amounts deducted from employees' salaries and wages under this section.

(c) Participation by employees of state agencies in the payroll deduction program authorized by this section is voluntary.

(d) To be certified by the comptroller, a state employee organization must have a current dues structure for state employees in place and operating in this state for a period of at least 18 months.

(e) Any organization requesting certification shall demonstrate that the fee structure proposed from state employees is equal to an average of not less than one-half of the fees for that organization nationwide.

(f) An organization not previously certified may submit an application for certification as an eligible state employee organization to the comptroller at any time except during the period after June 2 and before September 1.

(g) The comptroller may approve an application under Subsection (f) if a state employee organization demonstrates to the satisfaction of the comptroller that it qualifies as an eligible state employee organization by providing the documentation required by this section and applicable rules adopted by the comptroller.

(h) The comptroller may charge an administrative fee to cover the costs incurred as a result of administering this section. The administrative fees charged by the comptroller shall be paid by each qualifying state employee organization on a pro rata basis to be determined by the comptroller. The comptroller by rule shall determine the most efficient and effective method of collecting the fees.

(i) The comptroller may adopt rules for the administration of this section.

(j) Repealed by Acts 1997, 75th Leg., ch. 1035, Sec. 90(a), eff. June 19, 1997.

(k) Any state employee organization that has a membership of at least 4,000 state employee members on April 1, 1991, shall be certified by the comptroller as an eligible state employee organization. Such an organization may not be required to meet any other eligibility requirements as set out in this section for

certification, including requirements in the definition of eligible state employee organization under Subsection (l).

(l) In this section:

(1) "Eligible state employee organization" means a state employee organization with a membership of at least 4,000 state employees continuously for the 18 months preceding a request for certification from the comptroller that conducts activities on a statewide basis and that the comptroller has certified under this article.

(2) "State agency" means a department, commission, board, office, or any other state entity of state government.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 3.02, eff. Jan. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 449, Sec. 25, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1035, Sec. 32, 90(a), eff. June 19, 1997.

Sec. 403.017. CUSTODY OF SECURITY FOR MONEY AND DEEDS. (a) A bond, note, or other security for money given to the state or an officer for the use of the state shall be deposited in the office of the comptroller.

(b) A deed conveying land or an interest in land to the state for highway purposes shall be deposited in the Austin office of the Texas Department of Transportation.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 641, Sec. 5, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 165, Sec. 22(33), eff. Sept. 1, 1995.

Sec. 403.018. ASSISTANCE IN RECONSTRUCTING DESTROYED RECORDS. The comptroller may assist any taxpayer in reconstructing and recompiling business records that are damaged or destroyed by natural disaster.

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

Sec. 403.019. CONTRACTS TO COLLECT OUT-OF-STATE DEBTS. (a) The comptroller may contract with a person who is qualified in the

business of debt collection to collect on behalf of this state a tax or other amount finally determined to be owed to this state by a person residing outside this state and not known by the agency referring the debt to have sufficient assets in this state to satisfy the debt if the comptroller determines that the collection service to be provided by the collector would be economical and in the best interest of the state. Subject to Subsection (c), a contract may permit or require the person to pursue a judicial action in a court outside this state to collect a tax or other amount owed. A contract may also apply to a tax or other amount owed by a person residing outside this state and not known by the agency referring the debt to have sufficient assets in this state to satisfy the debt to a political subdivision of this state, if the comptroller or another state official is required by law to collect the tax or other amount owed for the political subdivision. No contract authorized under this section may exceed four years in length, except that such contract may provide for an extension for the sole purpose of concluding actions pending at the time of the termination of the contract. This restriction shall not be construed so as to prohibit a contractor from bidding on a subsequent contract.

(b) The comptroller must obtain services authorized by this section in the manner provided for the purchase of services by contract under Chapters 2155-2158. In addition to any other notice required by that Act for inviting bids, the comptroller shall solicit bids for a contract by publishing notice in the Texas Register.

(c) A contract under this section is not valid unless approved by the attorney general. The attorney general shall approve a contract if the attorney general determines that the contract complies with the requirements of this section and is in the best interest of the state. No judicial action by any person on behalf of the state under a contract authorized and approved by this section may be brought unless approved by the attorney general.

(d) A contract authorized by this section may provide for reasonable compensation for services provided under the contract, including compensation determined by the application of a specified percentage of the total amount collected, including penalties, interest, court costs, or attorney's fees. If the debt to be collected consists of unpaid taxes, including any penalties, interest, or costs incurred in connection with the taxes, for which tax enforcement funds are available, the comptroller shall pay the

compensation for services provided under the contract from those funds.

(e) An amount collected under a contract authorized by this section shall be deposited in a suspense account established for that purpose in the state treasury. The comptroller shall pay any compensation provided by the contract that is not paid from other funds under Subsection (d) from the suspense account. After those amounts have been paid, the remainder shall be transferred to the fund or account to which the amount collected is required to be deposited. If the amount collected is not required to be deposited to a specific fund or account, the amount shall be transferred to the general revenue fund.

(f) The comptroller may provide for the imposition of a collection fee not to exceed 15 percent of the amount owed in addition to the other amounts owed to this state to be collected under a contract authorized by this section. The person who owes the other amounts to be collected under the contract is liable for the collection fee. The collection fee may be collected under the contract in addition to the other amounts due. The amount of the collection fee is the amount provided by the contract, whether a specified amount or an amount contingent on the amount collected or other factor, for compensation of the person with whom the contract is made and any court costs or attorney's fees incurred in collecting the amount owed to this state.

(g) The comptroller shall require a person acting on behalf of the state under a contract authorized by this section to post a bond or other security in an amount the comptroller determines is sufficient to cover all revenue or other property of the state that is expected to come into the possession or control of the person in the course of providing the service.

(h) A person acting on behalf of the state under a contract authorized by this section does not exercise any of the sovereign power of this state, except that the person is an agent of this state for purposes of determining the priority of a claim that the person is attempting to collect under the contract with respect to the claims of other creditors.

(i) The comptroller may provide a person acting on behalf of the state under a contract authorized by this section with any confidential information in the custody of the comptroller relating to the debtor that is necessary to the collection of the claim and

that the comptroller is not prohibited from sharing under an agreement with another state or the federal government. A person acting on behalf of the state under a contract authorized by this section, and each employee or agent of the person, is subject to all prohibitions against the disclosure of confidential information obtained from the state in connection with the contract that apply to the comptroller or an employee of the comptroller. A person acting on behalf of the state under a contract authorized by this section or an employee or agent of the person who discloses confidential information in violation of a prohibition made applicable to the person under this subsection is subject to the same sanctions and penalties that would apply to the comptroller or an employee of the comptroller for that disclosure.

(j) The comptroller shall require a person acting on behalf of the state under a contract authorized by this section to obtain and maintain insurance coverage adequate to provide reasonable coverage for damages negligently, recklessly, or intentionally caused by the person or the person's agent in the course of collecting a debt under the contract and to protect the state from any liability for those damages. This state is not liable for and may not indemnify a person acting on behalf of the state under a contract authorized by this section for damages negligently, recklessly, or intentionally caused by the person or the person's agent in the course of collecting a tax or other amount under the contract.

(k) In addition to any other reasons that may be provided in the contract, a contract authorized under this section may be terminated if a person acting on behalf of the state under such contract, or an employee or agent of the person, is found to be in violation of the federal Fair Debt Collection Practices Act, discloses confidential information to a person not authorized to receive it as provided in Subsection (i) of this section, or performs any act resulting in a final judgment for damages against this state.

(l) The execution of a contract under this section does not accelerate the imposition of any penalty imposed or to be imposed on the tax or other amount to be collected under the contract.

Added by Acts 1989, 71st Leg., ch. 752, Sec. 1, eff. Jan. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.191, eff. Sept. 1, 1997.

Sec. 403.0195. CONTRACTS FOR INFORMATION ABOUT PROPERTY RECOVERABLE BY THE STATE. (a) The comptroller may contract with a person for the receipt of information about a possible claim that the state may be entitled to pursue for the recovery of revenue or other property.

(b) In a contract under Subsection (a), the total consideration to be paid by the state:

(1) must be contingent on a recovery by the state;

(2) may not exceed five percent of the amount of the revenue or the value of the other property that the state recovers as a result of the pursuit of the claim about which the contracting person provided information; and

(3) may be limited by agreement not to exceed a specified, absolute dollar amount.

(c) Consideration may not be paid by the state under a contract executed under Subsection (a) if, at the time the contract is executed or within three months after the date of execution and by means other than disclosure under the contract, a state employee has knowledge of the claim disclosed under the contract or has knowledge of a cause of action different from that disclosed under the contract but entitling the state to recover the same revenue or other property. An affidavit by a state employee claiming that knowledge under those circumstances is prima facie evidence of the knowledge and circumstances.

(d) This section does not apply to or affect property that is recoverable by the state under Chapters 71 through 75, Property Code.

(e) If the state recovers property in connection with a contract executed under this section and payment of the contractual consideration is not prohibited by Subsection (c), an amount not to exceed five percent of the amount of revenue or proceeds from the sale of property recovered shall be deposited to the credit of the comptroller's operating fund for payment of the consideration. The balance of the revenue or proceeds from the sale of property recovered shall be deposited to the credit of the general revenue fund or to any special fund as required by law.

Added by Acts 1991, 72nd Leg., ch. 286, Sec. 1, eff. Sept. 1, 1991.

Sec. 403.021. ENCUMBRANCE REPORTS. (a) In this section,

"state agency" has the meaning assigned by Section 403.013.

(b) A state agency that expends appropriated funds shall report into the uniform statewide accounting system all payables and binding encumbrances by appropriation account for the first three quarters of the current appropriation year within 30 days after the close of each quarter. A state agency shall report payables and binding encumbrances for all appropriation years annually to the comptroller and the Legislative Budget Board no later than October 30 of each year.

(c) Payables and binding encumbrances must be reported for all appropriations in the format that the comptroller prescribes.

(d) On November 1 of each fiscal year, the comptroller shall lapse all unencumbered nonconstruction appropriation balances for all prior appropriation years based on the payables and binding encumbrances reported.

(e) If a state agency submits a valid claim against a prior year's appropriation 30 days or more after the reporting due date, the comptroller shall reinstate the agency's appropriations to the extent of the claim.

(f) If a state agency submits a claim that is legally payable against an appropriation for an earlier year and the balance of the appropriation is insufficient to pay the claim, then the comptroller may reopen the appropriation to pay the claim. A claim is legally payable from an appropriation only if the appropriation was encumbered to pay the claim before the expiration of the appropriation.

(g) Each state agency shall reconcile all expenditures, binding encumbrances, payables, and accrued expenditures, as reported in the uniform statewide accounting system, with the state agency's strategic planning and budget structure, as reported in the automated budget and evaluation system. Each state agency shall report in the automated budget and evaluation system a method of financing as provided in the General Appropriations Act. The Legislative Budget Board, after consultation with the comptroller, shall determine a schedule for the reconciliation required by this subsection.

(h) The comptroller may adopt rules to administer this section.

Added by Acts 1991, 72nd Leg., ch. 641, Sec. 6, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 686, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1035, Sec. 69, eff. Sept. 1, 1997; Acts

1997, 75th Leg., ch. 1035, Sec. 90(a), eff. June 19, 1997; Acts 1999, 76th Leg., ch. 281, Sec. 3, eff. Sept. 1, 1999.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 26, eff. September 1, 2013.

Sec. 403.0221. PERFORMANCE AUDIT OF CERTAIN TRANSIT AUTHORITIES. (a) This section applies only to a transit authority that is governed by Chapter 451, Transportation Code, and was confirmed before July 1, 1985, and does not contain a municipality of more than 750,000.

(b) The comptroller may, on the request of an entity listed in Subsection (c), enter into an interlocal contract under Chapter 791 with a transit authority to conduct a performance audit to determine whether the authority is effectively and efficiently providing the services it was created to provide. The comptroller shall report the findings of an audit conducted under this section and make appropriate recommendations on changes in the operations of the authority to the governing body of the authority.

(c) A performance audit under this section may be requested by:

(1) the governing body of the transit authority;

(2) the governing body of the municipality with the largest population in the authority; or

(3) the commissioners court in which the majority of the area of the municipality described in Subdivision (2) is located.

(d) A contract under Subsection (b) shall provide that the authority will reimburse the comptroller for costs incurred in conducting the audit.

(e) The comptroller shall file a report containing the results of an audit performed under this section with the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the committees of the senate and the house of representatives responsible for approving legislation governing the authority.

(f) An audit may not be conducted under this section more often than once every two years.

Added by Acts 1997, 75th Leg., ch. 1252, Sec. 1, eff. June 20, 1997.
Renumbered from Sec. 403.026 by Acts 1999, 76th Leg., ch. 62, Sec.

19.01(30), eff. Sept. 1, 1999.

Sec. 403.023. CREDIT, CHARGE, AND DEBIT CARDS. (a) The comptroller may adopt rules relating to the acceptance of credit, charge, and debit cards for the payment of fees, taxes, and other charges assessed by state agencies. The rules may:

(1) authorize a state agency to accept credit, charge, or debit cards for a payment if the comptroller determines the best interests of the state would be promoted;

(2) authorize or require a person that uses a credit, charge, or debit card to pay a processing fee to the state agency that accepts the card for a payment; and

(3) authorize a particular state agency to accept credit, charge, or debit cards for a payment without providing the same authorization to other state agencies.

(b) The comptroller may adopt rules relating to the use of credit or charge cards by state agencies to pay for purchases. The rules may:

(1) authorize a state agency to use credit or charge cards if the comptroller determines the best interests of the state would be promoted;

(2) authorize a state agency to use credit or charge cards to pay for purchases without providing the same authorization to other state agencies; and

(3) authorize a state agency to use credit or charge cards to pay for purchases that otherwise may be paid out of the agency's petty cash accounts under Subchapter K.

(c) The comptroller may not adopt rules about a particular state agency's acceptance of credit or charge cards for a payment if the rules would affect a contract that the agency has entered into that is in effect on September 1, 1993. The comptroller may not adopt rules about a particular state agency's acceptance of charge or debit cards for a payment if the rules would affect a contract that the agency has entered into that is in effect on September 1, 1999.

(d) The comptroller may not adopt rules about a particular state agency's acceptance or use of credit, charge, or debit cards if another law specifically authorizes, requires, prohibits, or otherwise regulates the acceptance or use.

(e) In this section, "state agency" means:

(1) a board, commission, department, or other agency in the executive branch of state government that is created by the constitution or a statute of this state, including an institution of higher education as defined by Section 61.003, Education Code, other than a public junior college;

(2) the legislature or a legislative agency; or

(3) the supreme court, the court of criminal appeals, a court of appeals, or a state judicial agency.

Added by Acts 1993, 73rd Leg., ch. 449, Sec. 26, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 7.04, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 1.13, eff. Sept. 1, 1999. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 3.02, eff. September 1, 2007.

Sec. 403.0231. CREDIT CARD AGREEMENT BENEFITTING STATE. (a) The comptroller may enter an agreement with a credit card issuer under which:

(1) the issuer is required to pay to the comptroller an amount of money based on the use of the credit card by the holders of the credit card; and

(2) the issuer is permitted to represent to the public that use of the credit card benefits state parks and to design credit cards issued under the agreement to indicate this benefit.

(b) The form of any representation of benefit to state parks and the design of credit cards issued under the agreement must be approved by the comptroller.

(c) The comptroller shall deposit money received under this section to the credit of the state parks account under Section 11.035, Parks and Wildlife Code.

Added by Acts 1997, 75th Leg., ch. 167, Sec. 1, eff. May 21, 1997. Renumbered from Sec. 403.026 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(31), eff. Sept. 1, 1999.

Sec. 403.0232. CREDIT OR DEBIT CARD AGREEMENT BENEFITING PUBLIC SCHOOLS. (a) In this section, "debit card" includes a prepaid debit card.

(b) The comptroller may enter an agreement with a credit or debit card issuer under which:

(1) the issuer is required to pay to the comptroller an amount of money based on the use of the credit or debit card by the cardholders; and

(2) the issuer is permitted to:

(A) represent to the public that use of the credit or debit card benefits public schools; and

(B) design credit or debit cards issued under the agreement to indicate that benefit.

(c) The form of any representation of benefit to public schools and the design of credit or debit cards issued under the agreement must be approved by the comptroller.

(d) In evaluating an issuer's proposal to enter into an agreement under this section, the comptroller shall consider:

(1) the financial stability of the issuer;

(2) whether the proposal offers the best available financial terms for the state and cardholders;

(3) the strength of the marketing effort to be made by the issuer and its marketing partners; and

(4) other issues the comptroller determines are appropriate.

(e) The agreement between the comptroller and the issuer must allow the cardholder to designate a particular school district as the recipient of money generated by the cardholder's credit or debit card use and should to the extent practicable allow the cardholder to designate a particular school. If the cardholder does not designate a particular school district or school, the comptroller shall deposit money received under this section to the credit of the foundation school fund.

Added by Acts 2003, 78th Leg., ch. 351, Sec. 1, eff. June 18, 2003.

Sec. 403.024. SEARCHABLE STATE EXPENDITURE DATABASE. (a) In this section, "state agency" has the meaning assigned by Section 403.013.

(b) The comptroller shall establish and post on the Internet a database of state expenditures, including contracts and grants, that is electronically searchable by the public except as provided by

Subsection (d). The database must include:

(1) the amount, date, payor, and payee of expenditures; and

(2) a listing of state expenditures by:

(A) object of expense with links to the warrant or check register level; and

(B) to the extent maintained by state agency accounting systems in a reportable format, class and item levels.

(c) To the extent possible, the comptroller shall present information in the database established under this section in a manner that is searchable and intuitive to users. The comptroller shall enhance and organize the presentation of the information through the use of graphical representations, such as pie charts, as the comptroller considers appropriate. At a minimum, the database must allow users to:

(1) search and aggregate state funding by any element of the information;

(2) ascertain through a single search the total amount of state funding awarded to a person by a state agency; and

(3) download information yielded by a search of the database.

(d) The comptroller may not allow public access under this section to a payee's address, except that the comptroller may allow public access under this section to information identifying the county in which the payee is located. The comptroller may not allow public access under this section to information that is identified by a state agency as excepted from required disclosure under Chapter 552 or as confidential. It is an exception to the application of Section 552.352(a) that the comptroller or an officer or employee of the comptroller's office posted information under this section in reliance on a determination made by a state agency about the confidentiality of information relating to the agency's expenditures. The comptroller or an officer or employee of the comptroller's office is immune from any civil liability for posting confidential information under this section if the comptroller, officer, or employee posted the information in reliance on a determination made by a state agency about the confidentiality of information relating to the agency's expenditures.

(e) To the extent any information required to be in the database is already being collected or maintained by a state agency, the state agency shall provide that information to the comptroller

for inclusion in the database.

(f) The comptroller may not charge a fee to the public to access the database.

(g) Except as provided by Subsection (h), a state agency is required to cooperate with and provide information to the comptroller as necessary to implement and administer this section.

(h) This section does not require a state agency to record information or expend resources for the purpose of computer programming or other additional actions necessary to make information reportable under this section.

(i) The Department of Information Resources, after consultation with the comptroller, shall prominently include a link to the database established under this section on the public home page of the state electronic Internet portal project described by Section 2054.252.

(j) The comptroller may establish procedures and adopt rules to implement this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1270 (H.B. 3430), Sec. 1, eff. October 1, 2007.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 4, eff. June 17, 2011.

Sec. 403.0241. SPECIAL PURPOSE DISTRICT PUBLIC INFORMATION DATABASE. (a) In this section:

(1) "Special purpose district" means a political subdivision of this state with geographic boundaries that define the subdivision's territorial jurisdiction. The term does not include a municipality, county, junior college district, independent school district, or political subdivision with statewide jurisdiction.

(2) "Tax year" has the meaning assigned by Section 1.04, Tax Code.

(b) The comptroller shall create and make accessible on the Internet a database, to be known as the Special Purpose District Public Information Database, that contains information regarding all special purpose districts of this state that:

(1) are authorized by the state by a general or special law to impose an ad valorem tax or a sales and use tax, to impose an

assessment, or to charge a fee; and

(2) during the most recent fiscal year:

(A) had bonds outstanding;

(B) had gross receipts from operations, loans, taxes, or contributions in excess of $250,000; or

(C) had cash and temporary investments in excess of $250,000.

(c) For each special purpose district described by Subsection (b), the database must include:

(1) the name of the special purpose district;

(2) the name of each board member of the special purpose district;

(3) contact information for the main office of the special purpose district, including the physical address, the mailing address, and the main telephone number;

(4) if the special purpose district employs a person as a general manager or executive director, or in another position to perform duties or functions comparable to those of a general manager or executive director, the name of the employee;

(5) if the special purpose district contracts with a utility operator, contact information for a person representing the utility operator, including a mailing address and a telephone number;

(6) if the special purpose district contracts with a tax assessor-collector, contact information for a person representing the tax assessor-collector, including a mailing address and telephone number;

(7) the special purpose district's Internet website address or, if the district does not maintain an Internet website, the address of any Internet website or websites the district uses to comply with Section 2051.202 of this code and Section 26.18, Tax Code;

(8) the financial information described by Section 140.008(b) or (g), Local Government Code, including any revenue obligations;

(9) the total amount of bonds authorized by the voters of the special purpose district that are payable wholly or partly from ad valorem taxes, excluding refunding bonds if refunding bonds were separately authorized and excluding contract revenue bonds;

(10) the aggregate initial principal amount of all bonds issued by the special purpose district that are payable wholly or

partly from ad valorem taxes, excluding refunding bonds and contract revenue bonds;

(11) the rate of any sales and use tax the special purpose district imposes;

(12) for a special purpose district that imposes an ad valorem tax:

(A) the ad valorem tax rate for the most recent tax year if the district is a district as defined by Section 49.001, Water Code; or

(B) the table of ad valorem tax rates for the most recent tax year described by Section 26.16, Tax Code, in the form required by that section, if the district is not a district as defined by Section 49.001, Water Code; and

(13) a link to the Internet website described by Section 49.062(g), Water Code, with a plain-language description of how a resident may petition to require that board meetings of certain special purpose districts be held not further than 10 miles from the boundary of the district.

(d) The comptroller may consult with the appropriate officer of, or other person representing, each special purpose district to obtain the information necessary to operate and update the database.

(e) To the extent information required in the database is otherwise collected or maintained by a state agency or special purpose district, the comptroller may require the state agency or special purpose district to provide that information and updates to the information as necessary for inclusion in the database in the form and manner prescribed by the comptroller. If the required information is posted separately on an Internet website that the state agency, comptroller, or special purpose district maintains or causes to be maintained, the comptroller may include in the database a direct link to, or a clear statement describing the location of, the separately posted information instead of or in addition to reproducing the information in the database.

(f) The comptroller shall update information in the database annually.

(g) The comptroller may not charge a fee to the public to access the database.

(h) The comptroller may establish procedures and adopt rules to implement this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 564 (S.B. 625), Sec. 1, eff. September 1, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 105 (S.B. 239), Sec. 1, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 868 (H.B. 3001), Sec. 1, eff. September 1, 2019.
Acts 2021, 87th Leg., R.S., Ch. 647 (H.B. 1154), Sec. 1, eff. September 1, 2021.

Sec. 403.0242. SPECIAL PURPOSE DISTRICT NONCOMPLIANCE LIST. The comptroller shall prepare and maintain a noncompliance list of special purpose districts that have not timely complied with a requirement to provide information under Section 203.062, Local Government Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 564 (S.B. 625), Sec. 1, eff. September 1, 2017.

Sec. 403.0245. AVAILABILITY ON INTERNET OF CERTAIN INFORMATION ON STATE GRANTS. (a) In this section, "state agency" has the meaning assigned by Section 403.013.

(b) A state agency that awards a state grant in an amount greater than $25,000 shall make available to the public on the agency's generally accessible Internet website the purposes for which the grant was awarded. The agency shall provide to the comptroller a link to the information in order for the comptroller to maintain the information on the comptroller's Internet website through a central Internet portal.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1131 (H.B. 1487), Sec. 1, eff. September 1, 2013.

Sec. 403.0246. LOCAL DEVELOPMENT AGREEMENT DATABASE. (a) In this section:

(1) "Business day" means a day other than a Saturday, Sunday, or state or national holiday.

(2) "Local development agreement" means:

(A) an agreement entered into by a municipality under Section 380.001 or 380.002, Local Government Code;

(B) an agreement entered into by a county under Section 381.004, Local Government Code;

(C) an agreement entered into by a local government under Chapter 312, Tax Code; or

(D) any other agreement to grant or otherwise commit public money or other resources for economic development purposes by a local government under Chapter 380 or 381, Local Government Code.

(3) "Local government" includes:

(A) a municipality;

(B) a county;

(C) a county industrial commission under Section 381.001, Local Government Code; or

(D) a board of development under Section 381.002, Local Government Code.

(b) The comptroller shall create and make accessible on the Internet a consolidated searchable data tool, to be known as the Local Development Agreement Database, that contains information regarding all local development agreements in this state.

(c) For each local development agreement described by Subsection (b), the database must include:

(1) the name of the local government that entered into the agreement;

(2) a numerical code assigned to the local government by the comptroller;

(3) the address of the local government's administrative offices and public contact information;

(4) the name of the appropriate officer or other person representing the local government and that person's contact information;

(5) the name and contact information of any entity or the entity's agent that entered into the agreement with the local government, including the business address and any assumed names of the entity;

(6) the date on which the agreement went into effect and the date and terms on which the agreement expires;

(7) the focus or scope of the agreement;

(8) an electronic copy of the agreement;

(9) the name and contact information of the individual

reporting the information to the comptroller;

(10) the total monetary value of the agreement; and

(11) the source of the money used or type of tax implicated by the agreement, including a sales and use tax, ad valorem tax, or hotel occupancy tax.

(d) The comptroller may consult with the appropriate officer of, or other person representing, each local government that enters into a local development agreement to obtain the information necessary to operate and update the database.

(e) The comptroller shall enter into the database for access by the public the information described by Subsection (c) not later than the 15th business day after the date the comptroller receives the information from the providing local government. The information, including a copy of the agreement, must remain accessible to the public through the database during the period the agreement is in effect.

(f) The comptroller may not charge a fee to the public to access the database.

(g) The comptroller may establish procedures and adopt rules to implement this section.

(h) The comptroller may prescribe the form and manner in which a local government must submit information under Subsection (c).

Added by Acts 2021, 87th Leg., R.S., Ch. 208 (H.B. 2404), Sec. 1, eff. September 1, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 354 (S.B. 1340), Sec. 1, eff. January 1, 2024.

Acts 2023, 88th Leg., R.S., Ch. 354 (S.B. 1340), Sec. 2, eff. January 1, 2024.

Sec. 403.0247. NONCOMPLIANCE; CIVIL PENALTY. (a) In this section, "local development agreement" has the meaning assigned by Section 403.0246.

(b) If a local government that enters into a local development agreement has not complied with a requirement to provide information under Section 403.0246 of this code or Section 380.004 or 381.005, Local Government Code, the comptroller shall send a notice to the local government. The notice must be in writing, describe the

information that must be submitted to the comptroller, and inform the local government that if the information is not provided on or before the 30th day after the date the notice is provided, the local government will be subject to a civil penalty of $1,000.

(c) If a local government does not report the required information as prescribed by Subsection (b), the local government is liable to the state for a civil penalty of $1,000.

(d) The attorney general may sue to collect a civil penalty imposed under this section.

(e) It is a defense to an action brought under this section that the local government provided the required information or documents to the extent the information or documents are not exempt from disclosure or confidential under Chapter 552.

Added by Acts 2021, 87th Leg., R.S., Ch. 208 (H.B. 2404), Sec. 1, eff. September 1, 2021.

Sec. 403.025. FEDERAL EARNED INCOME TAX CREDIT. (a) The comptroller's office is the lead state agency in promoting awareness of the federal earned income tax credit program for working families.

(b) The comptroller shall recruit other state agencies and the governor's office to participate in a coordinated campaign to increase awareness of the federal tax program.

(c) State agencies that otherwise distribute information to the public may use existing resources to distribute information to persons likely to qualify for federal earned income tax credits and shall cooperate with the comptroller in information distribution efforts.

(d) The comptroller shall produce and make available to employers, by a written notice and a posting on the comptroller's Internet website, a form that includes information:

(1) regarding the federal earned income tax credit for distribution under Chapter 104, Labor Code; and

(2) explaining the availability of and contact information for local volunteer income tax assistance programs.

Added by Acts 1995, 74th Leg., ch. 655, Sec. 6.10, eff. Sept. 1, 1995. Renumbered from Government Code Sec. 403.024 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(33), eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1300 (H.B. 2360), Sec. 3, eff. September 1, 2009.

Sec. 403.026. ELECTRONIC STORAGE AND MAINTENANCE OF RECORDS. (a) The comptroller may store and maintain electronically a state record or an essential record if:

(1) the method used to store and maintain the record allows accurate reproduction of the record;

(2) the method used to store and maintain the record conforms with any standards prescribed by the records preservation officer in conformity with any applicable rules of the National Institute of Standards and Technology, except that those standards do not apply to the extent they conflict with this section; and

(3) the place and manner of safekeeping the medium or equipment on which the record is stored and maintained conforms with the records preservation officer's requirements under Section 441.059(a), except that the officer may not prohibit the comptroller from retaining possession of that medium or equipment.

(b) An accurate reproduction of a state record that is stored and maintained according to this section is a preservation duplicate of the record for purposes of Sections 441.058 and 441.059, without regard to whether the records preservation officer:

(1) made the reproduction; or

(2) designated the reproduction as a preservation duplicate.

(c) An accurate reproduction of an essential record that is stored and maintained according to this section is a photographic reproduction of the record for purposes of Section 441.038(f).

(d) An accurate reproduction of a state record or an essential record may be in tangible or intangible form, including an electronic or optical image of the record.

(e) In this section:

(1) "Essential record" means written or graphical material that is made or received by the comptroller in the conduct of official state business and that is filed or intended to be preserved permanently or for a definite period as a record of that business.

(2) "Records preservation officer" means the director of the records management division of the Texas State Library.

(3) "State record" means a document, book, paper,

photograph, sound recording, or other material, without regard to physical form or characteristic, that is made or received by the comptroller according to law or in connection with the transaction of official state business.

Added by Acts 1997, 75th Leg., ch. 1040, Sec. 61, eff. Sept. 1, 1997.

Sec. 403.027. DIGITAL SIGNATURES. (a) The comptroller may establish a procedure for a person to use a digital signature to authenticate a document, a communication, or data submitted to the comptroller if:

(1) the comptroller determines the procedure will provide a degree of security and authenticity at least equal to that provided by a manual signature; and

(2) the digital signature:

(A) is unique to the person using it;

(B) is capable of independent verification;

(C) is under the sole control of the person using it; and

(D) is transmitted in a manner that makes it infeasible to change the signature, document, communication, or data without invalidating the signature.

(b) A digital signature provided according to a procedure established under Subsection (a) has the same legal force and effect for all purposes as a manual signature.

(c) The electronic approval of a voucher is governed by:

(1) this section and Chapter 2103 if the comptroller has established a procedure for the person approving the voucher to provide a digital signature concerning the voucher; or

(2) Chapter 2103 if the comptroller has not established the procedure.

(d) This section prevails over Chapter 2103 to the extent of conflict if both this section and that chapter apply under Subsection (c)(1).

(e) Except as provided by this subsection, Section 2054.060 applies to a digital signature used to authenticate any document, communication, or data submitted to the comptroller if the comptroller has not established a procedure under Subsection (a) concerning the signature. Section 2054.060 does not apply to the

electronic approval of a voucher under Chapter 2103.

(f) The use of a digital signature under this section is subject to criminal laws pertaining to fraud and computer crimes, including Chapters 32 and 33, Penal Code.

(g) In this section, "digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature.

Added by Acts 1997, 75th Leg., ch. 1035, Sec. 76, eff. June 19, 1997. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 11, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 17, eff. June 20, 2003.

Sec. 403.0271. AUTHORIZATIONS TO DEBIT STATE ACCOUNTS. (a) The comptroller may authorize a person to debit a state account in or outside of the state treasury for the purpose of receiving payment for goods or services provided to a state agency.

(b) The comptroller may:

(1) authorize certain persons to debit an account without authorizing others to do so;

(2) authorize a debit for goods or services provided to certain state agencies without authorizing a debit for goods or services provided to other state agencies;

(3) authorize a debit for certain types of goods or services without authorizing a debit for other types of goods or services; and

(4) otherwise limit the circumstances under which a debit is permitted.

(c) Each state agency whose funds are paid through debits authorized under Subsection (a) shall:

(1) reconcile the debits with the actual amount due for goods or services provided; and

(2) recover any amount debited that exceeds the amount due.

(d) The comptroller by rule shall specify the frequency with which a reconciliation under Subsection (c)(1) must be conducted by a state agency. The comptroller by rule may require the agency to submit the reconciliation to the comptroller for review and approval. The comptroller may audit the agency to ensure the accuracy of the reconciliation.

(e) The comptroller may adopt rules and establish procedures to

administer this section.

(f) In this section, "state agency" means:

(1) a board, commission, department, or other agency in the executive branch of state government that is created by the constitution or a statute of this state, including an institution of higher education as defined by Section 61.003, Education Code, other than a public junior or community college;

(2) the legislature or a legislative agency; or

(3) the supreme court, the court of criminal appeals, a court of appeals, or a state judicial agency.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.14, eff. June 19, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2900, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.028. STRATEGIES TO REDUCE EMISSIONS OF GREENHOUSE GASES. (a) In this section, "greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(b) Not later than December 31, 2010, the comptroller shall prepare and deliver to each member of the legislature a report including a list of strategies for reducing emissions of greenhouse gases in this state that:

(1) shall result in net savings for consumers or businesses in this state;

(2) can be achieved without financial cost to consumers or businesses in this state; or

(3) help businesses in the state maintain global competitiveness.

(c) In preparing the list of emission reduction strategies, the comptroller shall consider the strategies for reducing the emissions of greenhouse gases that have been implemented in other states or nations.

(d) In determining under Subsection (b) whether an emission reduction strategy may result in a financial cost to consumers or businesses in this state, the comptroller shall consider the total net costs that may occur over the life of the strategy.

(e) A report prepared under Subsection (b) shall include the following information for each identified strategy:

(1) initial, short-term capital costs that may result from the implementation of the strategy delineated by the cost to business, and the costs to consumers; and

(2) lifetime costs and savings that may result from the implementation of the strategy delineated by the costs and savings to business and the costs and savings to consumers.

(f) The comptroller shall appoint one or more advisory committees to assist the comptroller in identifying and evaluating greenhouse gas emission reduction strategies. At least one representative from the following agencies shall serve on the advisory committee or committees:

(1) the Railroad Commission of Texas;

(2) the General Land Office;

(3) the Texas Commission on Environmental Quality;

(4) the Department of Agriculture; and

(5) a Texas institution of higher education.

(g) The comptroller may enter into an interagency agreement with the Texas Commission on Environmental Quality or other state agency for technical advice or assistance as necessary to complete the requirements of this section.

Transferred and redesignated from Government Code, Section 2305.201 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(22), eff. September 1, 2011.

Sec. 403.029. TRANSFER OF CERTAIN MONEY TO GENERAL REVENUE FUND. On the expiration of Subchapter N:

(1) the comptroller shall determine the amount sufficient to administer loan guarantees or obligations of the comptroller that remain outstanding under the Texas film industry loan guarantee indemnity program administered by the comptroller under Subchapter N; and

(2) any amount in the Texas film industry administrative fund that exceeds the amount determined under Subdivision (1) may be used only by the Music, Film, Television, and Multimedia Office in the governor's office for the purpose of promoting the film industry in this state.

Added by Acts 1999, 76th Leg., ch. 832, Sec. 2, eff. Sept. 1, 1999.

Sec. 403.0301. INTELLECTUAL PROPERTY. (a) The comptroller may:

(1) apply for, register, secure, hold, and protect under the laws of the United States or any state or nation:

(A) a patent for the invention, discovery, or improvement of any process, machine, manufacture, or composition of matter;

(B) a copyright for an original work of authorship fixed in any tangible medium of expression, known or later developed, from which it can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device;

(C) a trademark, service mark, collective mark, or certification mark for a word, name, symbol, device, or slogan that the comptroller uses to identify and distinguish the comptroller's goods and services from other goods and services; or

(D) other evidence of protection or exclusivity issued for intellectual property;

(2) contract with a person for the sale, lease, marketing, or other distribution of the comptroller's intellectual property;

(3) obtain under a contract described in Subdivision (2) a royalty, license right, or other appropriate means of securing reasonable compensation for the development or purchase of the comptroller's intellectual property; and

(4) waive or reduce the amount of compensation secured by contract under Subdivision (3) if the comptroller determines that the waiver or reduction will:

(A) further a goal or mission of the comptroller; and

(B) result in a net benefit to the state.

(b) Intellectual property is excepted from required disclosure under Chapter 552:

(1) beginning on the date the comptroller decides to seek a patent, trademark, service mark, collective mark, certification mark, or other evidence of protection of exclusivity concerning the property; and

(2) ending on the date the comptroller receives a decision about the comptroller's application for a patent, trademark, service mark, collective mark, certification mark, or other evidence of

protection of exclusivity concerning the property.

(c) Except as provided by Section 2054.115(c), money paid to the comptroller under this section shall be deposited to the credit of the general revenue fund.

(d) Notwithstanding any other law of this state, the comptroller may award to an employee of the comptroller who conceives, creates, discovers, invents, or develops intellectual property an appropriate amount of equity interest or participation in the research, development, licensing, or exploitation of that property.

(e) The comptroller shall establish intellectual property policies for the comptroller's office that include minimum standards for:

(1) the public disclosure or availability of products, technology, and scientific information, including inventions, discoveries, trade secrets, and computer software;

(2) review by the comptroller's office of products, technology, and scientific information, including consideration of ownership and appropriate legal protection;

(3) the licensing of products, technology, and scientific information;

(4) the identification of ownership and licensing responsibilities for each class of intellectual property; and

(5) royalty participation by inventors and the comptroller's office.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 12, eff. June 15, 2001.

Sec. 403.0302. ORGANIZED RETAIL THEFT TASK FORCE. (a) In this section, "organized retail theft" means conduct constituting an offense under Section 31.16, Penal Code.

(b) The comptroller shall appoint a task force to study and make recommendations related to preventing organized retail theft in this state.

(c) The task force must include:

(1) at least one representative from a retailer with a physical retail location;

(2) at least one representative from an online retailer; and

(3) representatives from local, state, and federal law enforcement agencies.

(d) The comptroller shall designate a member of the task force as the presiding officer.

(e) The task force shall meet at least quarterly at the call of the presiding officer. A task force meeting may be conducted virtually through the Internet.

(f) The task force shall conduct an ongoing study of organized retail theft in this state. In conducting the study the task force shall:

(1) review laws and regulations addressing organized retail theft in other jurisdictions, including international political and economic organizations;

(2) analyze:

(A) the impact of organized retail theft on the collection of sales tax;

(B) the long-term economic impacts of organized retail theft; and

(C) the advantages and disadvantages of taking various actions to reduce organized retail theft; and

(3) make recommendations regarding:

(A) organized retail theft outreach and prevention programs, including coordination among stakeholders, including local, state, and federal law enforcement agencies; and

(B) training for law enforcement officers and prosecutors on effective strategies for combating organized retail theft.

(g) In conducting the study under Subsection (f), the members of the task force may:

(1) consult with any organization, governmental entity, or person the task force considers necessary; and

(2) collaborate and share information relating to an active criminal investigation with one another regardless of whether the information would otherwise be confidential and not subject to disclosure under Chapter 552.

(h) Not later than December 1 of each even-numbered year, the task force shall prepare and submit a report of the study conducted under Subsection (f) to the governor, the lieutenant governor, the speaker of the house of representatives, the comptroller, and each standing committee of the legislature with primary jurisdiction over

criminal justice matters.

(i) The report submitted under Subsection (h):

(1) must include legislative and other recommendations to increase transparency, improve security, enhance consumer protections, prevent organized retail theft, and address the long-term economic impact of organized retail theft; and

(2) may be submitted electronically.

(j) Chapter 2110 does not apply to the duration of the task force or to the designation of the task force's presiding officer.

Added by Acts 2023, 88th Leg., R.S., Ch. 426 (H.B. 1826), Sec. 1, eff. September 1, 2023.

Sec. 403.03058. REPORT ON OCCUPATIONAL LICENSING. (a) Not later than December 31 of each even-numbered year, the comptroller shall prepare and submit to the legislature a report regarding all occupational licenses, including permits, certifications, and registrations, required by this state. The report must include:

(1) for each type of license:

(A) a description of the license;

(B) the department with regulatory authority for the license;

(C) the number of active licenses;

(D) the cost of an initial application for the license and for a renewal of the license; and

(E) the amount of state revenue generated from the issuance and renewal of the license; and

(2) a list of all statutory provisions requiring a license that were abolished during the previous legislative session.

(b) The comptroller shall post on its Internet website the report prepared under Subsection (a).

Added by Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. 2065), Sec. 3.001, eff. September 1, 2017.

Sec. 403.03059. COMPENSATION FOR COMMISSIONED PEACE OFFICERS. The comptroller shall ensure that a security officer or investigator commissioned as a peace officer by the comptroller is compensated according to Schedule C of the position classification salary

schedule prescribed by the General Appropriations Act.

Added by Acts 2023, 88th Leg., R.S., Ch. 283 (S.B. 1237), Sec. 1, eff. September 1, 2023.

SUBCHAPTER C. ACCOUNTING

Sec. 403.031. GENERAL ACCOUNTING DUTIES. (a) The comptroller shall maintain accounts and information as necessary to show the sources of state revenues and the purposes for which expenditures are made and shall provide proper accounting controls to protect state finances.

(b) The comptroller shall maintain a double entry system of bookkeeping.

(c) The comptroller, in consultation with the state auditor and the attorney general, may develop standards and criteria to account for or to reclassify receivables determined to be uncollectible. The standards and criteria developed by the comptroller must comply with generally accepted accounting principles as prescribed or modified by the Governmental Accounting Standards Board or its successors and must provide proper accounting controls to protect state finances. The attorney general shall review and approve the standards and criteria for classification of receivables. Receivables may be reclassified as collectible or uncollectible on a case-by-case basis as determined or approved by the attorney general. The classification of receivables as uncollectible under this subsection does not constitute forgiveness of the debt, and any person indebted to the state remains subject to Section 403.055.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1035, Sec. 70, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 785, Sec. 10, eff. Sept. 1, 2003.

Sec. 403.032. LEDGERS. The comptroller shall collect and maintain the information that is necessary to produce:

(1) a state general ledger;

(2) a tax collectors' control ledger;

(3) a tax collectors' ledger for cash accounts;

(4) a tax collectors' ledger for occupation taxes;

(5) a tax collectors' ledger for insolvent taxes;
(6) a tax collectors' ledger for delinquent taxes;
(7) agency suspense ledgers;
(8) a bond ledger for state-owned bonds;
(9) a securities ledger;
(10) an appropriation ledger; and
(11) other ledgers found necessary.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 2, eff. Sept. 1, 1989.

Sec. 403.033. SUPPORTING AND ANALYSIS RECORDS. The comptroller shall collect and maintain the information that is necessary to produce:

(1) a general journal;
(2) registers concerning deposits;
(3) registers concerning warrants;
(4) a warrants canceled register;
(5) a suspense cash record;
(6) a securities register;
(7) a tax collectors' journal;
(8) a tax collectors' report register;
(9) an occupation tax register;
(10) a revenue analysis;
(11) an expense analysis; and
(12) other necessary supporting records or analyses.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 3, eff. Sept. 1, 1989.

Sec. 403.034. STATE GENERAL LEDGER. (a) The comptroller shall maintain information concerning all entries to the state general ledger. The ledger contains controlling and fund accounts, including:

(1) a comptroller cash account;
(2) a comptroller bond account;
(3) a comptroller securities in trust account;
(4) a warrants payable account;
(5) agency suspense accounts;

(6) securities in trust fund accounts showing net balances, with a separate account for each fund;

(7) fund accounts for bonds owned, with a separate account for each fund; and

(8) other accounts found necessary.

(b) The comptroller shall charge the accounts in Subsection (a) with the cash on hand and in depository banks and with all bonds and securities held for state funds or in trust. The comptroller shall charge the state treasury with the totals of all deposits made into the state treasury and credit the state treasury with warrants paid, so that the state treasury balance in the comptroller's hands plus the balance in the state depositories equals the balance shown by the accounts.

(c) The comptroller shall keep accounts to show the amounts of outstanding warrants and shall credit the accounts with warrants issued and charge the accounts for warrants paid, so that the balances of the accounts represent the total amount of outstanding warrants.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 4, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.05, eff. Sept. 1, 1997.

Sec. 403.035. SUSPENSE ACCOUNTS AND LEDGERS. (a) The comptroller may create and use suspense accounts and funds for the collection, allocation, and distribution of revenue, including the allocation of revenue required to be deposited to the credit of the available school fund.

(b) The comptroller shall keep a suspense ledger that states the accounts of the comptroller with respect to money and securities the comptroller holds in suspense, including money and securities deposited with the comptroller pending a determination of whether the deposits are for a state purpose. The comptroller shall acknowledge the receipt of the items held in suspense and post these items to the ledger. The ledger must also include accounts for all money and securities received by heads of agencies and deposited in suspense with the comptroller.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 5, eff. Sept. 1, 1989; Acts

1997, 75th Leg., ch. 1423, Sec. 7.06, eff. Sept. 1, 1997.

Sec. 403.036. APPROPRIATION LEDGERS. (a) The comptroller shall keep an account for each legislative appropriation and shall credit the account with the appropriation and charge the account with all warrants issued under the authority of the appropriation. Each account must show the law authorizing the appropriation.

(b) The comptroller shall credit the total of all appropriations to a control account. The comptroller shall charge the total of warrants issued to this account so that the balance represents the amount of unused appropriations. The comptroller shall balance the individual appropriation accounts against the control account.

(c) The head of each state agency or institution shall keep accounts of the appropriations as they apply to the agency or institution and shall balance the accounts against the similar accounts kept by the comptroller.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 6, eff. Sept. 1, 1989.

Sec. 403.037. ALLOCATION OF CERTAIN SETTLEMENT MONEY AT DIRECTION OF ATTORNEY GENERAL. (a) The attorney general may certify to the comptroller and the Legislative Budget Board that money awarded to the state in settlement of a claim is money to be credited to the account for a particular appropriation under Section 403.036 if it is not clear under applicable law to which account the money should be credited.

(b) Except as provided by Subsection (c), the comptroller shall act in accordance with the certification received under Subsection (a):

(1) on the 31st day after the date the comptroller receives it; or

(2) on the day following the date the comptroller receives the written prior approval of the Legislative Budget Board to act in accordance with the certification.

(c) If, before the 31st day after the date the comptroller receives the certification under Subsection (a), the comptroller

receives from the Legislative Budget Board a certification that the money is to be credited to a different account for a particular appropriation under Section 403.036 or that the money should not be credited to any account for a particular appropriation under Section 403.036, the comptroller shall act in accordance with the board's certification as soon as is practicable.

Added by Acts 2001, 77th Leg., ch. 1396, Sec. 1, eff. Sept. 1, 2001.

Sec. 403.038. REVENUE AND EXPENSE ANALYSIS RECORDS. (a) The comptroller shall maintain sufficient information for a revenue analysis record and shall enter in the record the distribution of revenues derived by the state from all sources and the amounts derived from each source. The comptroller shall post to the record the sources of revenue as represented by deposits.

(b) The comptroller shall maintain sufficient information for an expense analysis record and shall enter in the record the distribution of the disbursements made from state funds, classified by agencies or institutions, objects of expenditure, or other criteria considered advisable.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 8, eff. Sept. 1, 1989.

Sec. 403.039. TEXAS IDENTIFICATION NUMBER SYSTEM. (a) The comptroller shall assign a Texas Identification Number to each person who supplies property or services to the state for compensation or reimbursement.

(b) The Texas Identification Number system shall be used by each state agency as the primary identification system for persons who supply property or services to the agency for compensation or reimbursement. The agency may assign secondary numbers if the secondary numbering system does not unnecessarily create duplication of data bases, efforts, or costs.

(c) All state agencies shall cooperate with the comptroller to convert existing relevant identification systems to the Texas Identification Number system. The comptroller may adopt rules governing the conversion to and the administration of the Texas Identification Number system, including rules on the procedure for

applying for a number under the system.

(d) In this section, "state agency" means any department, commission, board, office, or other agency in the executive, legislative, or judicial branch of state government, including an institution of higher education.

Added by Acts 1993, 73rd Leg., ch. 906, Sec. 1.04, eff. June 19, 1993.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 51 (H.B. 1443), Sec. 1, eff. May 21, 2015.

SUBCHAPTER D. WARRANTS, RECEIPTS, AND REGISTERS

Sec. 403.052. INFORMATION CONCERNING DEPOSITS. (a) The comptroller shall promulgate rules and develop and implement procedures for the efficient deposit of money and securities received and held by the comptroller. The rules and procedures shall be consistent with the requirements of the uniform statewide accounting system.

(b) The comptroller shall record and maintain adequate information concerning deposits into the state treasury. This deposit information shall consist of the records and data that the comptroller deems necessary.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 10, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.07, eff. Sept. 1, 1997.

Sec. 403.054. REPLACEMENT WARRANT. (a) Subject to Subsection (b), the comptroller may issue a replacement warrant in place of an original warrant drawn on the state treasury if the state agency on whose behalf the comptroller issued the original warrant notifies the comptroller that:

(1) the original warrant has been lost, destroyed, or stolen;

(2) the original warrant has not been received; or

(3) the payee's endorsement on the original warrant has been forged.

(b) The comptroller may not issue a replacement warrant if:

(1) the comptroller has paid the original warrant, unless the comptroller:

(A) has received a refund of the payment; or

(B) is satisfied that the state agency on whose behalf the comptroller issued the original warrant has taken reasonable steps to obtain a refund of the payment;

(2) the period during which the comptroller may pay the original warrant has expired under Section 404.046 or other applicable law;

(3) the payee of the replacement warrant is not the same as the payee of the original warrant; or

(4) the comptroller is prohibited by a payment law from issuing a warrant to the payee of the replacement warrant.

(c) A replacement warrant:

(1) must reflect the same fiscal year as the original warrant; and

(2) may not be paid by the comptroller unless presented for payment to the comptroller or a financial institution before the expiration of two years after the close of the fiscal year in which the original warrant was issued.

(d) The comptroller may not pay an original warrant after the comptroller has issued a replacement warrant for the original warrant.

(e) If the comptroller determines that a replacement warrant was improperly issued or that the person to whom the replacement was issued was not its owner, the comptroller shall immediately demand return of the replacement or, if the replacement has been paid, the amount paid by the state. If this demand is not satisfied, the comptroller shall refer the matter to the attorney general for appropriate action.

(f) A person other than a law enforcement official that has possession of a lost or stolen warrant or a warrant on which the payee's endorsement has been forged shall, on request, immediately deliver the warrant to the comptroller or the state agency on whose behalf the comptroller issued the warrant. The agency or comptroller shall issue a receipt for the warrant.

(g) Failure to reimburse the state on demand as required by Subsection (e) constitutes a debt to the state and further payment to the person shall be held as provided by Section 403.055.

(h) The comptroller shall adopt rules and forms regarding the

issuance of replacement warrants.

(i) In this section, "payment law" means:

(1) Section 403.055;

(2) Section 57.48, Education Code;

(3) Section 231.007, Family Code; or

(4) any similar law that prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to a person.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.03, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 449, Sec. 27, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1423, Sec. 7.08, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1310, Sec. 18, eff. June 20, 2003.

Sec. 403.055. PAYMENTS TO DEBTORS OR DELINQUENTS PROHIBITED. (a) Except as provided by this section, the comptroller, as a ministerial duty, may not issue a warrant or initiate an electronic funds transfer to a person who has been reported properly under Subsection (f).

(b) Except as provided by this section, the comptroller may not issue a warrant or initiate an electronic funds transfer to the assignee of a person who has been reported properly under Subsection (f) if the assignment became effective after the person became indebted to the state or incurred a tax delinquency.

(c) If this section prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to a person, the comptroller may issue a warrant or initiate an electronic funds transfer only as provided by this section to:

(1) the person's estate;

(2) the distributees of the person's estate; or

(3) the person's surviving spouse.

(d) This section does not prohibit the comptroller from issuing a warrant or initiating an electronic funds transfer to pay:

(1) the compensation of a state officer or employee; or

(2) the remuneration of an individual if the remuneration is being paid by a private person through a state agency.

(e) This section does not prohibit the comptroller from issuing a warrant or initiating an electronic funds transfer to a person

reported properly under Subsection (f) or to the person's assignee if the state agency responsible for collecting the person's debt or tax delinquency subsequently and properly reports to the comptroller that:

(1) the person is complying with an installment payment agreement or similar agreement to pay or eliminate the debt or delinquency, unless the agency subsequently and properly reports to the comptroller that the person no longer is complying with the agreement;

(2) the person's debt or delinquency has been paid or otherwise eliminated; or

(3) the report of indebtedness or delinquency was prohibited by Subsection (g) or was otherwise erroneous.

(e-1) This section does not prohibit the comptroller from issuing a warrant or initiating an electronic funds transfer to a person reported properly under Subsection (f) or to the person's assignee if, in accordance with Section 403.0551, the comptroller first retains one or more warrants or electronic funds transfers to the person for a total amount that at least equals the amount necessary to fully deduct the amount of the person's indebtedness to the state or tax delinquency from the amount the state owes the person.

(f) Except as provided by Subsection (g), a state agency shall report to the comptroller each person who is indebted to the state or has a tax delinquency. The report must contain the information and be submitted in the manner and with the frequency required by the comptroller.

(g) A state agency may not report a person under Subsection (f) unless the agency first provides the person with an opportunity to exercise any due process or other constitutional or statutory protection that must be accommodated before the agency or the state may begin a collection action or procedure. The comptroller may not investigate or determine whether a state agency has complied with this prohibition.

(g-1) A state agency shall provide notice to a person who is the subject of a report made by the agency under Subsection (f), other than a person reported as indebted to the state as provided by Section 231.007, Family Code, at the time the agency makes the report. The notice must:

(1) be given in a manner reasonably calculated to give

actual notice to the person;

(2) state:

(A) the name of the indebted or delinquent person;

(B) the amount of the person's indebtedness or delinquency;

(C) the agency's contact information; and

(D) any options available to eliminate the indebtedness or delinquency; and

(3) include a statement that the person's indebtedness or delinquency:

(A) has been reported to the comptroller; and

(B) may prohibit the comptroller from issuing a warrant or initiating an electronic funds transfer to the person for any amount owed to the person by the state.

(h) This section does not apply:

(1) to the extent Section 57.48, Education Code, applies; or

(2) to the extent this section conflicts with Section 231.007, Family Code.

(i) This section does not prohibit the comptroller from issuing a warrant or initiating an electronic funds transfer if:

(1) the warrant or transfer would result in a payment being made in whole or in part with money paid to the state by the United States; and

(2) the state agency that administers the money certifies to the comptroller that federal law:

(A) requires the payment to be made; or

(B) conditions the state's receipt of the money on the payment being made.

(j) The comptroller may adopt rules and establish procedures to administer this section.

(k) This section does not prohibit the comptroller from issuing a warrant or initiating an electronic funds transfer to a person, the person's assignee, the person's estate, the distributees of the person's estate, or the person's surviving spouse if each state agency that properly reported the person under Subsection (f) consents to issuance of the warrant or initiation of the transfer.

(l) In this section:

(1) "Compensation" means base salary or wages, longevity pay, hazardous duty pay, benefit replacement pay, or an emolument

provided in lieu of base salary or wages.

(2) "State agency" means a board, commission, council, committee, department, office, agency, or other governmental entity in the executive, legislative, or judicial branch of state government. The term includes an institution of higher education as defined by Section 61.003, Education Code, other than a public junior or community college.

(3) "State officer or employee" means an officer or employee of a state agency.

(4) "Tax delinquency" means a delinquency in payment of:

(A) a tax to the state; or

(B) a tax that the comptroller administers or collects.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 641, Sec. 7, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 12.01, eff. Jan. 1, 1992; Acts 1993, 73rd Leg., ch. 449, Sec. 28, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1035, Sec. 23, 24, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 583, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1467, Sec. 1.15, eff. Jan. 1, 2000; Acts 2001, 77th Leg., ch. 1158, Sec. 13, 94(2), eff. June 15, 2001.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 138 (H.B. 2691), Sec. 1, eff. September 1, 2023.

Sec. 403.0551. DEDUCTIONS FOR REPAYMENT OF CERTAIN DEBTS OR TAX DELINQUENCIES. (a) Except as provided by Subsections (b) and (d), the comptroller may deduct the amount of a person's indebtedness to the state or tax delinquency from any amount the state owes the person or the person's successor. The comptroller shall issue a warrant or initiate an electronic funds transfer to the person or successor for any remaining amount.

(b) Subsection (a) applies to a person or the person's successor only if:

(1) the comptroller has provided notice to the person or successor that complies with Subsection (c);

(2) Section 57.48, Education Code, or Section 403.055 prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to the person or successor; and

(3) the comptroller is responsible under Section 404.046, 404.069, or 2103.003 for paying the amount owed by the state to the person or successor through the issuance of a warrant or initiation of an electronic funds transfer.

(c) The comptroller shall provide notice to a person or the person's successor before deducting the amount of the person's indebtedness to the state or tax delinquency under Subsection (a). The notice must:

(1) be given in a manner reasonably calculated to give actual notice to the person or successor;

(2) state the:

(A) amount of the indebtedness or the amount of the tax, penalties, interest, and costs due, as applicable; and

(B) name of the indebted or delinquent person;

(3) specify the deadline for paying the amount due; and

(4) inform the person or successor that unless the amount due is paid before the deadline, the comptroller will deduct the amount of the indebtedness or delinquency from the amount the state owes the person or successor.

(d) This section does not authorize the comptroller to deduct the amount of a state employee's indebtedness to a state agency from any amount of compensation owed by the agency to the employee, the employee's successor, or the assignee of the employee or successor. In this subsection, "compensation" has the meaning assigned by Section 403.055 and "indebtedness," "state agency," "state employee," and "successor" have the meanings assigned by Section 666.001.

(e) The comptroller shall credit the appropriate fund or account for any amount deducted under this section if the comptroller is the custodian or trustee of that fund or account. The comptroller shall remit any amount deducted under this section to the custodian or trustee of the appropriate fund or account if the comptroller is not its custodian or trustee.

(f) The comptroller may determine the order that a person's multiple types of indebtedness to the state or tax delinquencies are deducted from the amount the state owes the person or the person's successor.

(g) The assignee of a person or the person's successor is considered to be a successor of the person for the purposes of this section, except that a deduction under this section from the amount owed to the assignee of a person or the person's successor may not be

made if the assignment became effective before the person became indebted to the state or incurred the tax delinquency.

(h) The comptroller may adopt rules and establish procedures to administer this section.

(i) Except as provided by Subsection (d), in this section, "successor" means a person's estate and the distributees of that estate.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.16, eff. Jan. 1, 2000.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 16.01, eff. September 28, 2011.

Sec. 403.0552. PREPARATION AND RETENTION OF CERTAIN WARRANTS. (a) The comptroller may prepare and retain a warrant that Section 57.48, Education Code, Section 231.007, Family Code, or Section 403.055 prohibits the comptroller from issuing.

(b) Except as provided by this subsection, the comptroller may prepare a warrant to make a payment that Section 57.48, Education Code, Section 231.007, Family Code, or Section 403.055 prohibits the comptroller from initiating by electronic funds transfer. The comptroller shall prepare the warrant if the payment is overdue under Section 2251.021.

(c) If the comptroller prepares a warrant under Subsection (a) or (b), the comptroller shall:

(1) make the warrant payable to the person to whom the warrant may not be issued or an electronic funds transfer may not be initiated; and

(2) retain the warrant until the earliest of:

(A) the first day the warrant may no longer be paid by the comptroller under Section 404.046 or other applicable law;

(B) the date the comptroller deducts the amount of the person's indebtedness to the state or tax delinquency from the amount of the warrant under Section 403.0551 or other applicable law;

(C) the date the comptroller recovers the amount of the person's indebtedness to the state under Chapter 666; or

(D) the first day the comptroller is no longer prohibited from issuing the warrant or initiating an electronic funds

transfer to that person.

(d) The comptroller may not cancel or destroy a warrant prepared under Subsection (a) or (b) unless the comptroller receives a request for the cancellation or destruction from the state agency that submitted the voucher requesting issuance of the warrant or initiation of the electronic funds transfer and:

(1) the agency informs the comptroller that the voucher was erroneous or was submitted erroneously;

(2) the agency is the only state agency responsible for collecting the indebtedness or tax delinquency of the payee of the warrant; or

(3) all state agencies that are responsible for collecting the indebtedness or tax delinquency of the payee of the warrant consent to the cancellation or destruction.

(e) For purposes of Subsection (d)(1), a voucher is not erroneous and is not submitted erroneously merely because the comptroller is prohibited by Section 57.48, Education Code, Section 231.007, Family Code, or Section 403.055 from issuing a warrant or initiating an electronic funds transfer in accordance with the voucher.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.17, eff. Jan. 1, 2000. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 14(a), eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 14(b), eff. Sept. 1, 2001.

Sec. 403.056. PREPARATION AND DELIVERY OF WARRANTS. (a) When a warrant is prepared, the comptroller shall record and maintain adequate information concerning the warrant. This information shall consist of the records and data that the comptroller deems necessary.

(b) After the warrant has been prepared, it shall be delivered to the comptroller for the comptroller's authorization or signature as provided by law.

(c) The comptroller shall deliver the warrant to the person entitled to receive it. The comptroller may require the person to give a receipt for the warrant. The comptroller may file that receipt in the comptroller's office.

(d) A warrant prepared under this section is considered for all purposes to be issued on the due date of the claim.

(e) Notwithstanding Subsection (c), the comptroller may deliver a warrant for payment of a bill for gas or water service provided to the state or a state agency directly to the utility that provided the service. The comptroller may adopt rules to carry out this subsection, consistent with Chapter 2251.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 12, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 660, Sec. 9, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(6), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.09, eff. Sept. 1, 1997.

Sec. 403.057. SIGNATURE ON WARRANTS AFTER CHANGE IN OFFICE. If the comptroller ceases to hold or perform the duties of office, existing stocks of warrants bearing the person's printed name, signature, or facsimile signature may be used until they are exhausted, and the person succeeding to the office or the duties of the office shall have the warrants issued with:

(1) the obsolete printed name, signature, or facsimile signature struck through;

(2) the successor's printed name substituted for the obsolete printed name, signature, or facsimile signature; and

(3) the inscription "Printed name authorized by law" near the successor's printed name.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 13, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.10, eff. Sept. 1, 1997.

Sec. 403.058. INFORMATION CONCERNING CANCELED WARRANTS. The comptroller shall record and maintain the information concerning canceled warrants that is necessary to enable an adequate audit to be performed.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 14, eff. Sept. 1, 1989.

Sec. 403.060. PRINTING AND ISSUANCE OF WARRANTS. (a) The

comptroller may delegate to a person the authority to print warrants and deliver those warrants to the appropriate person. However, before a person may print and deliver a warrant, the comptroller must approve a voucher related to the warrant in accordance with Section 403.071.

(b) The comptroller:

(1) may print all warrants on a stock that is the same color and design;

(2) may make a warrant payable out of two or more state funds when not prohibited by law;

(3) shall number warrants in accordance with the requirements of the uniform statewide accounting system; and

(4) may combine on a single warrant the payments to a vendor or state employee by two or more state agencies when not prohibited by law.

(c) The comptroller shall promulgate rules for the effective and efficient administration of this section.

Added by Acts 1989, 71st Leg., ch. 207, Sec. 16, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 641, Sec. 8, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 7.11, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 1.18, eff. June 19, 1999.

SUBCHAPTER E. CLAIMS

Sec. 403.071. CLAIMS AND AVAILABLE MONEY; OFFENSE. (a) A warrant may not be prepared unless a properly audited claim, verified as to correctness by the agency submitting the claim, is presented to the warrant clerk.

(b) A claim may not be paid from an appropriation unless the claim is presented to the comptroller for payment not later than two years after the end of the fiscal year for which the appropriation was made. However, a claim may be presented:

(1) not later than four years after the end of the fiscal year for which the appropriation from which the claim is to be paid was made if the appropriation relates to:

(A) new construction contracts;

(B) grants awarded under Chapter 391, Health and Safety Code;

(C) repair and remodeling projects that exceed the

amount of $20,000, including furniture and other equipment and architects' and engineering fees; and

(D) other costs related to the contracts or projects; or

(2) not later than seven years after the end of the fiscal year for which the appropriation from which the claim is to be paid was made if the appropriation relates to grants awarded under Chapter 102, Health and Safety Code.

(c) A claim not presented before the deadline provided by Subsection (b) may be presented to the legislature as other claims for which appropriations are not available.

(d) A warrant may not be drawn against an appropriation from a special fund or account unless the fund or account contains in the state treasury sufficient cash to pay the warrant. The comptroller may not release or deliver a warrant unless the appropriation against which the warrant is drawn has a balance sufficient to pay the warrant.

(e) As a claim is paid it shall be filed according to the method the comptroller finds most advisable. After two years after a claim is filed, it shall be removed from the files and stored as a record.

(f) A person commits an offense if the person knowingly makes a false certificate on a claim against the state for the purpose of authenticating a claim against the state. An offense under this section is punishable by imprisonment in the Texas Department of Criminal Justice for not less than two or more than five years.

(g) Notwithstanding Subsection (a), the comptroller may audit claims presented by the state agency after the comptroller prepares warrants or uses the electronic funds transfer system to pay the claims.

(h) The comptroller may establish requirements and adopt rules concerning the time that a state agency must retain documentation in its files to enable a postpayment audit. If a postpayment audit by the comptroller shows that a claim presented by a state agency was invalid, the comptroller may:

(1) implement procedures to ensure that similar invalid claims from the state agency are not paid in the future;

(2) report to the governor, the lieutenant governor, the speaker of the house of representatives, the state auditor, and the Legislative Budget Board the results of the audit;

(3) require the state agency to obtain a refund of the monies from the payee; and

(4) reduce the state agency's remaining appropriations by the amount of the claim.

(i) The comptroller may access the books, accounts, confidential or nonconfidential reports, vouchers, electronic data, or other records or information of a state agency subject to a postpayment audit. If information may not be released under federal law, the comptroller may not access the information without approval of the appropriate federal agency.

(j) The comptroller shall use reasonable efforts to avoid hindering the daily operations of a state agency subject to a postpayment audit by coordinating requests for access to books, accounts, reports, vouchers, electronic data, or other records or information of the audited agency.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 641, Sec. 9, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 11.02, eff. Aug. 22, 1991; Acts 1993, 73rd Leg., ch. 449, Sec. 29, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1035, Sec. 14, eff. June 19, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.068, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1125 (H.B. 1796), Sec. 10, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 201 (H.B. 2570), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 795 (H.B. 2042), Sec. 1, eff. September 1, 2019.

Sec. 403.072. PAYROLL CLAIMS. (a) A court, school, or other state agency may prepare and present a payroll claim to the comptroller before the end of the payroll period. The claim must be verified as to services performed during the payroll period before the date of the claim but need not be verified as to services to be performed during the payroll period after the date of the claim.

(b) The comptroller shall accept the claim when presented, prepare a warrant in payment of the claim before the date it becomes

due and payable, and hold the warrant for delivery until it becomes due and payable. The warrant must be dated as of the due date of the claim and may not be delivered to the claimant until the due date.

(c) To allow such a warrant to be ready for delivery on the due date, the comptroller may adopt rules necessary to administer this section.

(d) In its rules adopted under this section, the comptroller may not require an institution of higher education, as defined by Section 61.003, Education Code, that processes its own payroll to submit payroll information to the comptroller relating to individual employees of the institution that is not required by the comptroller to make any distribution of state money to the institution to cover the institution's payroll.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 7.12, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1266, Sec. 1.18, eff. June 20, 2003.

Sec. 403.0721. NET COMPENSATION CALCULATION. The comptroller may adopt procedures and rules relating to the method used to calculate the net compensation of a state officer or employee.

Added by Acts 1993, 73rd Leg., ch. 449, Sec. 30, eff. Sept. 1, 1993.

Sec. 403.073. SPECIAL CLAIMS. A person holding a claim against the state for which a warrant has not been issued and for which the appropriation has been exhausted shall present the claim to the comptroller for the comptroller's consideration not later than 30 days before the meeting of each regular session of the legislature. The comptroller may not audit such a claim presented after this deadline until the comptroller has considered and passed on all claims presented before the deadline.

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

Sec. 403.074. MISCELLANEOUS CLAIMS. (a) The comptroller shall pay, from available funds appropriated for that purpose, miscellaneous claims for which an appropriation does not otherwise

exist or for which the appropriation has lapsed. For the purpose of this section, "miscellaneous claims" does not include claims concerning warrants that have expired because they were not presented to the comptroller for payment within the time period specified in Section 210.012, Labor Code.

(b) Except as provided by Subsection (g), the comptroller may not pay a miscellaneous claim unless the claim has been:

(1) verified and substantiated by an authorized employee of the state agency whose special fund or account is to be charged for the claim;

(2) verified by the attorney general as a legally enforceable obligation of the state; and

(3) certified by the claimant as due and unpaid.

(c) The comptroller shall keep a record of each transaction made under this section, showing:

(1) the amount of the claim paid;

(2) the identity of the claimant;

(3) the purpose of the claim; and

(4) the fund or account against which the claim is to be charged.

(d) Except as provided by Subsection (g), the comptroller may not pay under this section a single claim in excess of $50,000, or an aggregate of claims by a single claimant during a biennium in excess of $50,000. For the purposes of this subsection, all claims that were originally held by one person are considered held by a single claimant regardless of whether those claims were later transferred.

(e) Unless another law provides a period within which a particular claim must be made, a claim may not be made under this section after eight years from the date on which the claim arose. A claim arises on the day after the last day that payment was due on the original claim. A person who fails to make a claim within the period provided by law waives any right to a payment of the claim.

(f) This section does not apply to a claim for a refund of a tax or fee.

(g) The comptroller shall pay under this section any claim that satisfies the requirements of Subchapter B, Chapter 103, Civil Practice and Remedies Code, as provided by Section 103.151, Civil Practice and Remedies Code.

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

by Acts 1989, 71st Leg., ch. 232, Sec. 20, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 584, Sec. 5, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 641, Sec. 10, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 9.57, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.13, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1488, Sec. 2, eff. June 15, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1388 (S.B. 1719), Sec. 1, eff. September 1, 2007.

Sec. 403.075. DEFICIENCIES. (a) A person having the power to contract for supplies or pledge the credit of the state for a deficiency that may arise under the person's management or control shall, before the occurrence of a deficiency, make a sworn estimate of the amount necessary to cover a deficiency until the meeting of the next legislature. The person must make the estimate not later than the 30th day before the date the deficiency occurs and shall immediately submit the claim to the governor.

(b) The governor shall:

(1) carefully examine the claim;

(2) approve or disapprove it in whole or part;

(3) endorse the approval on the claim or the part approved;

(4) designate the amount and items approved and the items disapproved; and

(5) file the claim with the comptroller.

(c) The comptroller may draw a deficiency warrant for and may pay only the part of a claim approved and filed as provided by this section. If a sufficient deficiency appropriation exists to meet the claim, the comptroller shall draw a warrant and the claim shall be paid. If such an appropriation does not exist or is not sufficient to pay the claim, the comptroller shall issue a deficiency warrant and the claim may not be paid until the legislature provides for the payment.

(d) If injury or damage occurs to public property from a flood, storm, or unavoidable cause, an estimate may be filed under this section immediately. The estimate must be approved by the governor as provided by this section.

(e) The governor may not approve warrants under this section in an aggregate amount exceeding $200,000. A warrant approved above this

amount is invalid and the comptroller may not redeem it.

(f) This section does not apply to fees and dues for which the state may be liable under general law.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 7.14, eff. Sept. 1, 1997.

Sec. 403.076. TAX REFUNDS. (a) The comptroller shall pay from available funds claims for refunds of state taxes for which a refund may not be claimed under Section 111.104, Tax Code.

(b) The comptroller shall keep records of each transaction made under this section, showing:

(1) the amount of the claim paid;

(2) the identity of the claimant;

(3) the purpose of the claim; and

(4) the fund or account against which the claim is to be charged.

(c) For a tax for which no other law provides a period within which a refund claim must be made, a refund claim may not be made after four years from the latest date on which the tax could be paid without the imposition of a penalty or interest. If the law does not provide for the imposition of a penalty or interest for a tax not paid within a specified period, a claim for a refund of the tax may not be made after four years from the date the return relating to the tax was due or, if applicable, a notice that the tax was due.

(d) A person who fails to make a tax refund claim within the period provided by this section or other law waives any right to a refund of the tax paid.

(e) The refund claim must be filed in writing with the agency that collects the tax for which the refund is claimed. The claim must state the amount of the refund claimed and be accompanied by evidence sufficient to establish the grounds for and the amount of the refund.

(f) If the refund is required by law to be made by an agency other than the agency that collects the tax for which the refund is claimed, the agency that collects the tax shall provide the agency making the refund with a copy of the refund claim and the accompanying evidence to establish the validity and amount of the refund. The agency responsible for making the refund may not make a

refund without receiving that evidence.

(g) Before paying a refund under this section, the comptroller shall credit the amount due to the person claiming the refund against any other amount finally determined to be due to the state from the person according to information in the custody of the comptroller and shall refund the remainder.

(h) This section does not apply to taxes paid under protest.

(i) This section is not a waiver of sovereign immunity for a refund suit. A person claiming a refund may not seek or obtain judicial review of a determination by the agency with which a refund claim is filed or by the agency having the responsibility to make a refund relating to the refund claim unless the legislature by resolution grants permission for a person to seek judicial review of the determination.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 232, Sec. 21, eff. Sept. 1, 1989.

Sec. 403.077. IMPROPER COLLECTIONS. (a) The comptroller may refund the amount of money collected or received by a state agency through mistake of fact or law and deposited in the state treasury, including money not due the state and money collected or received in excess of the amount required to be collected or received. The agency must make written request to the comptroller for the refund, showing the reason for and amount of the refund. At any time the comptroller may require further written evidence for the refund and may withhold payment until the comptroller is satisfied that the refund is justified.

(b) A warrant for the payment of the refund must be signed by the comptroller and shall be drawn against the fund or account into which the money was deposited. The refund shall be made from funds appropriated for that purpose.

(c) This section does not affect Subchapter C, Chapter 111, Tax Code, or any statute requiring payment of unrefundable fees.

(d) Unless another law provides a period within which a particular refund claim must be made, a refund claim may not be made under this section after four years from the latest date on which the amount collected or received by the state was due, if the amount was required to be paid on or before a particular date. If the amount

was not required to be paid on or before a particular date, a refund claim may not be made after four years from the date the amount was collected or received. A person who fails to make a refund claim within the period provided by law waives any right to a refund of the amount paid.

(e) This section does not apply to a refund of a tax.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 232, Sec. 22, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.15, eff. Sept. 1, 1997.

Sec. 403.078. FORM. All claims and accounts against the state shall be submitted on forms or according to the method and format that the comptroller prescribes. The claims and accounts shall be prepared to provide for entering on the claim or account, for use of the comptroller's office, the following:

(1) authorization of the head of the office or other person responsible for the expenditure;

(2) the appropriation against which the disbursement is to be charged;

(3) information required by the comptroller's rules;

(4) proof that the claim or account was presented to the state within the period of limitation provided by Section 16.051, Civil Practice and Remedies Code, or other applicable statute; and

(5) other appropriate matters.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 232, Sec. 23, eff. Sept. 1, 1989.

Sec. 403.079. USING SAMPLING TECHNIQUES TO AUDIT CLAIMS. (a) The comptroller may use generally recognized sampling techniques to audit claims against the state. Those techniques may be used only when the comptroller determines that they would be cost-effective and would promote greater efficiency in paying claims. The comptroller's proper use of sampling techniques satisfies the auditing requirements of Section 403.071.

(b) When the comptroller uses sampling techniques to audit claims from a state agency, the comptroller may project the results from the sample to similar types of unaudited claims from that

agency. The comptroller may use that projection to estimate the amount of unaudited claims that were improperly paid. The comptroller may submit that estimate to the governor, state auditor, and the Legislative Budget Board.

Added by Acts 1989, 71st Leg., ch. 108, Sec. 5, eff. Sept. 1, 1989.

SUBCHAPTER F. MANAGEMENT OF FUNDS IN TREASURY

Sec. 403.0915. DORMANT FUND OR ACCOUNT. At any time the comptroller, with notification to the state auditor, may transfer to the general revenue fund a balance in a dormant fund or account if the source of the fund or account is unknown or the purpose for which it was collected is moot. The legislature at any time after the transfer may appropriate the balance as a refund if the source and purpose of the fund or account become known and active.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Redesignated from Sec. 403.091 by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 11.03, eff. Aug. 22, 1991. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 7.16, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1158, Sec. 15, eff. Sept. 1, 2001.

Sec. 403.092. TEMPORARY TRANSFER OF SURPLUS AND OTHER CASH. (a) To allow efficient management of the cash flow of the general revenue fund and to avoid a temporary cash deficiency in that fund, the comptroller may transfer available cash, except constitutionally dedicated revenues, between funds that are managed by or in the custody of the comptroller. As soon as practicable the comptroller shall return the available cash to the fund from which it was transferred. The comptroller shall preserve the equity of the fund from which the cash was transferred and shall allocate the earned interest as if the transfer had not been made.

(b) If the comptroller submits a statement under Article III, Section 49a, of the Texas Constitution when available cash transferred under Subsection (a) is in the general revenue fund, the comptroller shall indicate in that statement that the transferred available cash is in the general revenue fund, is a liability of that fund, and is not available for appropriation by the legislature except as necessary to return cash to the fund from which it was

transferred as required by Subsection (a).

Text of subsec. (c) as added by Acts 1993, 73rd Leg., ch. 449, Sec. 31

(c) The comptroller may temporarily transfer cash from the general revenue fund to a special fund in the state treasury or to an account in the general revenue fund if:

(1) the transfer contributes toward minimizing the state's interest liability under the Cash Management Improvement Act of 1990 (31 U.S.C. Section 6501 et seq.) by delaying the receipt of federal money;

(2) the amount transferred does not exceed the amount necessary for the comptroller to process a payroll claim that a state agency submits before the end of the payroll period under Section 403.072;

(3) the comptroller determines before the transfer occurs that other money is not available to process the payroll claim;

(4) before the transfer occurs, the comptroller is notified by the state agency whose payroll claim will be processed that the federal government is legally required to provide by payday sufficient money to pay the claim;

(5) the transfer does not occur earlier than the 10th day before payday; and

(6) the amount transferred is returned to the general revenue fund as soon as possible after the federal money is received but not later than payday.

(c)(1) The comptroller may temporarily transfer cash from the general revenue fund to the petroleum storage tank remediation fund during the 1996-1997 biennium for the purpose of paying reimbursement claims against that fund that are filed with the Texas Natural Resource Conservation Commission on or before August 31, 1995, and for paying the necessary expenses associated with the administration of that fund. The amount of cash to be transferred shall not exceed $120 million. The transfer shall be made on September 1, 1995, or as soon as practicable thereafter.

(2) Notwithstanding other law, $80 million of the fees collected under Section 26.3574, Water Code, shall be deposited to the credit of the general revenue fund not later than August 31, 1996, and $40 million of those fees shall be deposited to the credit of that fund not later than May 31, 1997. The remaining fees collected under that section in excess of the amounts required by

this subdivision to be deposited to the credit of the general revenue fund shall be deposited to the credit of the petroleum storage tank remediation fund.

(3) The amount transferred under Subdivision (1) is a receivable of the general revenue fund for the purpose of statements that the comptroller submits under Article III, Section 49a, of the Texas Constitution. The transferred amount is available for appropriation by the legislature.

(4) This subsection expires on the latter of August 31, 1997, or the date of full repayment to the general revenue fund of the amount required under Subdivision (2).

(d) The amount transferred under Subsection (c) is a receivable of the general revenue fund for the purposes of statements that the comptroller submits under Article III, Section 49a, of the Texas Constitution. The transferred amount is available for appropriation by the legislature.

(e) The comptroller may adopt procedures and rules to administer Subsections (c) and (d).

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 449, Sec. 31, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 533, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 315, Sec. 16, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.17, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1310, Sec. 19, eff. June 20, 2003.

Sec. 403.093. ALLOCATIONS FROM GENERAL REVENUE FUND. (a) Each month the comptroller shall withdraw from the general revenue fund authorized withdrawals and transfers.

(b) Repealed by Acts 1989, 71st Leg., ch. 4, Sec. 2.71(b), eff. Sept. 1, 1989.

(c) Each month the comptroller shall transfer from the general revenue fund to the state contribution account of the teacher retirement system trust fund the equal monthly payment provided by Section 825.404. If the appropriation provided by the legislature is different from the amount of state contributions required, the comptroller, after the end of the fiscal year, shall make adjustments in the teacher retirement fund and the general revenue fund so that the total transfers during the year equal the total amount of the

state contribution required.

(d) The comptroller shall transfer from the general revenue fund to the foundation school fund an amount of money necessary to fund the foundation school program as provided by Chapter 48, Education Code. The comptroller shall make the transfers in installments as necessary to comply with Section 48.273, Education Code, and permit the Texas Education Agency, to the extent authorized by the General Appropriations Act, to make temporary transfers from the foundation school fund for payment of the instructional materials and technology allotment under Section 31.0211, Education Code. Unless an earlier date is necessary for purposes of temporary transfers for payment of the instructional materials and technology allotment, an installment must be made not earlier than two days before the date an installment to school districts is required by Section 48.273, Education Code, and must not exceed the amount necessary for that payment and any temporary transfers for payment of the instructional materials and technology allotment.

(e) Except as provided by Subsection (f), when state revenue is allocated in proportional amounts to the available school fund and to the general revenue fund, the comptroller shall deposit all revenue to the credit of the general revenue fund and then, as a ministerial duty on the 10th day of each month and on the last day of the fiscal year, the comptroller shall transfer from the general revenue fund to the available school fund an amount equal to the proper proportional amount required by law to be allocated to the available school fund from revenue received from the tax during the preceding month, or in the case of the last month of the fiscal year, during the last month of the fiscal year.

(f) All net revenue from taxes imposed by Chapter 154, Tax Code, shall be deposited to the credit of the general revenue fund. The comptroller, as a ministerial duty on the 10th day of each month and on the last day of each fiscal year, shall transfer from the general revenue fund to the proper funds and accounts the amounts computed by the comptroller equal to the amounts required by that chapter.

(g) If on the 10th day of a month the amount available for transfer as provided by this section is insufficient, subsequent credits to the general revenue fund shall be accumulated in an amount sufficient to make the required transfer.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.71(b), eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 179, Sec. 2(i), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 27, Sec. 2, eff. April 13, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 6.13, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 731 (H.B. 1474), Sec. 5, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 41, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. 3526), Sec. 23, eff. June 12, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 8.009, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.073, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4488, 89th Legislature, Regular Session, for amendments affecting the following section.

For expiration of this section, see Subsection (f).

Sec. 403.095. USE OF DEDICATED REVENUE. (a) Revenue that has been set aside by law for a particular purpose or entity is available for that purpose or entity to the extent money is appropriated for that purpose or entity. Expenditures made in furtherance of the dedicated purpose or entity shall be made from money received from the dedicated revenue source to the extent those funds are appropriated.

(b) Notwithstanding any law dedicating or setting aside revenue for a particular purpose or entity, dedicated revenues that on August 31, 2025, are estimated to exceed the amount appropriated by the General Appropriations Act or other laws enacted by the 88th Legislature are available for general governmental purposes and are considered available for the purpose of certification under Section 403.121.

(c) The comptroller shall develop accounting and revenue estimating procedures so that each dedicated account maintained in the general revenue fund can be separately identified as to balances

of cash and other assets and the amounts of revenues and expenditures and appropriations for each fiscal year.

(d) Following certification of the General Appropriations Act and other appropriations measures enacted by the 88th Legislature, the comptroller shall reduce each dedicated account as directed by the legislature by an amount that may not exceed the amount by which estimated revenues and unobligated balances exceed appropriations. The reductions may be made in the amounts and at the times necessary for cash flow considerations to allow all the dedicated accounts to maintain adequate cash balances to transact routine business. The legislature may authorize, in the General Appropriations Act, the temporary delay of the excess balance reduction required under this subsection. This subsection does not apply to revenues or balances in:

(1) funds outside the treasury;

(2) trust funds, which for purposes of this section include funds that may or are required to be used in whole or in part for the acquisition, development, construction, or maintenance of state and local government infrastructures, recreational facilities, or natural resource conservation facilities;

(3) funds created by the constitution or a court; or

(4) funds for which separate accounting is required by federal law.

(e) Repealed by Acts 2017, 85th Leg., R.S., Ch. 710 (H.B. 3849), Sec. 15, eff. June 12, 2017.

(f) This section expires September 1, 2025.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 11.04, eff. Aug. 22, 1991. Amended by Acts 1995, 74th Leg., ch. 1058, Sec. 18, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1123, Sec. 13, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 1045, Sec. 14, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1466, Sec. 17, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1296, Sec. 32, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1358 (S.B. 1605), Sec. 13, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1418 (H.B. 3107), Sec. 15, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1051 (H.B. 4583), Sec. 11, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1348 (S.B. 1588), Sec. 17, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 839 (H.B. 6), Sec. 15, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 987 (H.B. 6), Sec. 21, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 710 (H.B. 3849), Sec. 9, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 710 (H.B. 3849), Sec. 15, eff. June 12, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1173 (H.B. 3317), Sec. 14, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 829 (H.B. 2896), Sec. 13, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 858 (H.B. 3461), Sec. 12, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4488 and S.B. 1939, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.0956. REALLOCATION OF INTEREST ACCRUED ON CERTAIN DEDICATED REVENUE. Notwithstanding any other law, all interest or other earnings that accrue on all revenue held in an account in the general revenue fund any part of which Section 403.095 makes available for certification under Section 403.121 are available for any general governmental purpose, and the comptroller shall deposit the interest and earnings to the credit of the general revenue fund. This section does not apply to:

(1) interest or earnings on revenue deposited in accordance with Section 51.008, Education Code;

(2) an account that accrues interest or other earnings on deposits of state or federal money the diversion of which is specifically excluded by federal law;

(3) the lifetime license endowment account;

(4) the game, fish, and water safety account;

(5) the coastal protection account;

(6) the Alamo complex account;

(7) the artificial reef account;

(8) the sexual assault program fund; or
(9) the deferred maintenance fund account.

Added by Acts 2013, 83rd Leg., R.S., Ch. 835 (H.B. 7), Sec. 2, eff. June 14, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 13, eff. September 1, 2015.
Reenacted by Acts 2019, 86th Leg., R.S., Ch. 1173 (H.B. 3317), Sec. 13, eff. September 1, 2019.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 858 (H.B. 3461), Sec. 13, eff. September 1, 2023.

Sec. 403.097. FUNDS EXPENDED IN PROPORTION TO METHOD OF FINANCING. (a) The comptroller may prescribe rules to ensure that, when it is necessary to preserve cash balances in the funds and accounts in the state treasury, appropriations are drawn from the treasury in proportion to the methods of financing specified in the Acts authorizing the appropriations.

(b) The rules may include procedures relating to the deposit of receipts and the issuance of warrants.

(c) This section does not affect other powers of the comptroller under this subchapter, Subchapter H of Chapter 404, or other law.

(d) This section does not apply if the method of financing specified for an agency or an institution of higher education in the Act authorizing appropriations includes interest earned or to be earned on local funds of the agency or institution.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.07, eff. Sept. 1, 1999.

SUBCHAPTER G. FUNDS

Sec. 403.101. FLOOD AREA SCHOOL AND ROAD FUND. (a) The comptroller may receive and give a receipt for money due or payable under 33 U.S.C. Section 701c-3 (1986). The money shall be placed in a separate account called the flood area school and road fund to the credit of the comptroller. The money may not be part of the general

funds of the state.

(b) Each person having the duty to collect school or road taxes for a school district, county, or other political subdivision all or part of which is within a flood control district or flood control area created or designated under law shall prepare and file with the comptroller a sworn report showing:

(1) the total number of acres acquired by the United States for flood control purposes within the boundaries of the school district, county, or other political subdivision; and

(2) the tax rate for each $100 of valuation for school and road purposes levied by the school district, county, or other political subdivision for the year in which the report is made.

(c) On or before September 15 of each year the comptroller shall pay to a school district, county, or other political subdivision the proportionate share of money in the flood area school and road fund that was produced by leases on land acquired by the United States for flood control purposes within the school district, county, or other political subdivision. The school district, county, or other political subdivision is entitled to a proportionate part of the money in the fund based on the ratio that the district's, county's, or subdivision's tax rate bears to the sum of the school tax rate and the road tax rate. The money may be used for the purposes permitted by federal law.

(d) If during a school year money distributable to a school district is in the flood area school and road fund, the comptroller, on application of a school district, may distribute the money on a date other than a date permitted by Subsection (c).

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

Sec. 403.102. FEDERAL REVENUE SHARING TRUST FUND. (a) The federal revenue sharing trust fund exists to receive money authorized under the federal revenue sharing law (31 U.S.C. Section 6701 et seq. (1983)) and money earned by the use of that money. Expenditures from the fund must be authorized by the legislature. The comptroller shall administer the fund and may adopt rules providing for the availability of money for use among the entities funded from the fund. Costs related to salary and wages for employer contributions to the state retirement programs, to the Federal Old Age and

Survivors Insurance Program (42 U.S.C. Section 401 et seq. (1983)), and for the unemployment benefit program computed at the maximum contributor rate shall be applied to salaries and wages paid from the fund and credited to the general revenue fund.

(b) To ensure that the state obtains full benefit of the federal revenue sharing trust fund, the comptroller may invest money in the fund that is determined to exceed cash requirements for current expenditures in:

(1) direct obligations of, or obligations the principal and interest of which are guaranteed by, the United States;

(2) direct obligations of or participation certificates guaranteed by the Federal Intermediate Credit Bank, Federal Land Banks, Federal National Mortgage Association, Federal Home Loan Banks, or Banks for Cooperatives;

(3) savings and loan associations insured by the Federal Savings and Loan Insurance Corporation;

(4) certificates of deposit of a bank or trust company the deposits of which are fully secured by a pledge of securities listed in Subdivisions (1)-(3);

(5) other securities made eligible by law for this investment; or

(6) any combination of those investments.

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

Sec. 403.103. SCHOOL TAXING ABILITY PROTECTION FUND. The school taxing ability protection fund is a special fund in the state treasury. Money in the fund may be appropriated to finance formulas designed to protect school districts against estimated revenue losses resulting from implementation of Article VIII, Sections 1-b(c), 1-b(d), and 1-d-1, of the Texas Constitution and shall be allocated to school districts on the basis of formulas, conditions, and limitations prescribed by law.

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

Sec. 403.104. FEDERAL RESOURCE RECEIPTS DISTRIBUTION FUND. (a) The federal resource receipts distribution fund is a fund in the state treasury. Money received by the state under 30 U.S.C. Section

191 or 355 (1984) shall be deposited to the credit of the fund. The comptroller shall distribute money in the fund to each eligible county in the amount and manner and for the purposes provided by federal law and this section.

(b) A county is eligible to receive funds under this section if federal land for which the state receives a portion of the money from sales, bonuses, royalties, or rentals under 30 U.S.C. Section 191 or 355 (1984) is located in the county. An eligible county is entitled to receive from the fund all of the money paid to the state and deposited in the fund from all sales, bonuses, royalties, and rentals received from federal public land located in the county.

(c) Not later than the 10th day after the date that a county receives a payment from the comptroller under this section the county shall distribute the payment as follows:

(1) 50 percent of the payment is available for distribution to the independent school districts located in whole or part in the county, with each school district receiving a proportionate share according to Subsection (d);

(2) 15 percent of the payment is available for distribution to the incorporated municipalities located in whole or part in the county, with each municipality receiving a proportionate share according to Subsection (e); and

(3) 35 percent of the payment is available for the county to retain.

(d) The proportionate share of an independent school district is determined by multiplying the total amount of the payment available for distribution to school districts by the ratio that the average daily attendance for students who reside in the county and who attend that school district bears to the average daily attendance for all students who reside in the county and who attend any independent school district. However, if there are fewer than 10 independent school districts located in whole or part in the county and if an independent school district would receive under this formula less than 10 percent of the total payment available for distribution to independent school districts, the school district's share shall be increased to 10 percent of the total payment and the shares of the school districts that would receive more than 10 percent under the formula shall be reduced proportionately, but not to an amount less than 10 percent of the total payment. Each independent school district shall develop a reasonable method for

determining the average daily attendance for students who reside in the county and who attend the school district.

(e) The proportionate share of a municipality is determined by multiplying the total payment available for distribution to municipalities by the ratio that the number of residents of that municipality who live in the county bears to the total number of residents of all municipalities who live in the county. The number of residents shall be determined according to the most recent federal census.

(f) Money from the fund may be used only for planning, for constructing and maintaining public facilities, and for providing public service.

(g) The comptroller shall administer this section and distribute money from the fund to eligible counties as provided by this section and rules adopted under this section. The comptroller shall adopt rules establishing:

(1) procedures for determining eligible counties and the amounts of money to be distributed from the fund to each of those counties;

(2) methods for monitoring the uses and expenditures of the money; and

(3) other methods and procedures necessary to carry out this section and federal laws and rules governing the money distributed.

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

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2900, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.1041. TOBACCO SETTLEMENT PERMANENT TRUST ACCOUNT. (a) In this section and Sections 403.1042 and 403.1043:

(1) "Account" means the tobacco settlement permanent trust account established under the agreement.

(2) "Advisory committee" means the tobacco settlement permanent trust account investment advisory committee.

(3) "Agreement" means the Agreement Regarding Disposition of Settlement Proceeds filed on July 24, 1998, in the United States District Court, Eastern District of Texas, in the case styled The

State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91. The term includes the subsequent Clarification of Agreement Regarding Disposition of Settlement Proceeds filed on July 24, 1998, in that litigation.

(4) "Department" means the Texas Department of Health.

(5) "Political subdivision" means:

(A) a hospital district;

(B) another local political subdivision that owns or maintains a public hospital; or

(C) a county of this state responsible for providing indigent health care to the general public.

(b) With the advice of and in consultation with the advisory committee, the comptroller shall administer the account and shall manage the assets of the account.

(c) In managing the assets of the account, the comptroller, with the advice of and in consultation with the advisory committee, may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions the comptroller establishes and in amounts the comptroller considers appropriate, any kind of investment that a person of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances prevailing at that time, would acquire or retain for the person's own account in the management of the person's affairs, not in regard to speculation but in regard to the permanent disposition of the person's money, considering the probable income as well as the probable safety of the capital. Investment and management decisions concerning individual investments must be evaluated not in isolation but in the context of the investment portfolio as a whole and as part of an overall investment strategy consistent with the investment objectives of the account.

(d) The account is a trust account with the comptroller and is composed of money paid to the account in accordance with the agreement, assets purchased with that money, the earnings of the account, and any other contributions made to the account. The corpus of the account shall remain in the account and may not be distributed for any purpose. The money and other assets contained in the account are not a part of the general funds of the state. The comptroller may appoint one or more commercial banks, depository trust companies, or other entities to serve as a custodian of the account's assets. Section 404.071 does not apply to the account.

(e) The comptroller, with the advice of and in consultation with the advisory committee, may use the earnings of the account for any investment expense, including to obtain the advice of appropriate investment consultants for managing the assets in the account.

(f) On certification by the department under Subchapter J, Chapter 12, Health and Safety Code, the comptroller shall make an annual distribution of the net earnings from the account to each eligible political subdivision as provided in the agreement regarding disposition of settlement proceeds.

(g) Before December 1 of each year the comptroller shall prepare a written report regarding the account during the fiscal year ending on the preceding August 31. Not later than January 1 of each year the comptroller shall distribute the report to the advisory committee, the governor, the lieutenant governor, the attorney general, and the Legislative Budget Board. The comptroller shall furnish a copy of the report to any member of the legislature or other interested person on request. The report must include:

(1) statements of assets and a schedule of changes in book value of the investments from the account;

(2) a summary of the gains, losses, and income from investments on August 31;

(3) an itemized list of the securities held for the account on August 31; and

(4) any other information needed to clearly indicate the nature and extent of the investments made of the account and the income realized from the components of the account.

(h) The comptroller shall adopt rules necessary to implement the comptroller's duties under this section, including rules distinguishing the net earnings of the account that may be distributed under Subsection (f) from earnings used for investment expenses under Subsection (e) and from the money and assets that are the corpus of the account. A rule adopted by the comptroller under this subsection must be submitted to the advisory committee and may not become effective before the rule is approved by the advisory committee. If the advisory committee disapproves a proposed rule, the advisory committee shall provide the comptroller the specific reasons that the rule was disapproved.

Added by Acts 1999, 76th Leg., ch. 753, Sec. 1.01, eff. Aug. 30, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 27, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2900, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.1042. TOBACCO SETTLEMENT PERMANENT TRUST ACCOUNT INVESTMENT ADVISORY COMMITTEE. (a) The tobacco settlement permanent trust account investment advisory committee shall advise the comptroller with respect to managing the assets of the tobacco settlement permanent trust account. The committee shall provide the comptroller guidance with respect to the investment philosophy that should be pursued in managing these assets and the extent to which, at any particular time, the assets should be managed to maximize growth of the corpus or to maximize earnings. Except as provided by Section 403.1041(h), the advisory committee serves in an advisory capacity only and is not a fiduciary with respect to the account.

(b) The advisory committee is composed of 11 members appointed as follows:

(1) one member appointed by the comptroller to represent a public hospital or hospital district located in a county with a population of 50,000 or less or a public hospital owned or maintained by a municipality;

(2) one member appointed by the political subdivision that, in the year preceding the appointment, received the largest annual distribution paid from the account;

(3) one member appointed by the political subdivision that, in the year preceding the appointment, received the second largest annual distribution paid from the account;

(4) four members appointed by the Texas Conference of Urban Counties from nominations received from political subdivisions that, in the year preceding the appointment, received the 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, or 12th largest annual distribution paid from the account;

(5) one member appointed by the County Judges and Commissioners Association of Texas;

(6) one member appointed by the North and East Texas County Judges and Commissioners Association;

(7) one member appointed by the South Texas County Judges and Commissioners Association; and

(8) one member appointed by the West Texas County Judges and Commissioners Association.

(c) A commissioners court that sets the tax rate for a hospital district must approve any person appointed by the hospital district to serve on the advisory committee.

(d) The advisory committee shall elect the officers of the committee from among the members of the committee.

(e) Except as provided by this subsection, members of the advisory committee serve staggered six-year terms expiring on August 31 of each odd-numbered year. A member of the advisory committee whose term expires or who attempts to resign from the committee remains a member of the committee until the member's successor is appointed.

(f) An individual or entity authorized to make an appointment to the advisory committee created under this section shall attempt to appoint persons who represent the gender composition, minority populations, and geographic regions of the state.

(g) Members of the advisory committee serve without compensation from the trust fund or the state and may not be reimbursed from the trust fund or the state for travel expenses incurred while conducting the business of the advisory committee.

(h) The comptroller shall provide administrative support and resources to the advisory committee as necessary for the advisory committee to perform the advisory committee's duties under this section and Section 403.1041.

(i) Chapter 2110 does not apply to the advisory committee.

Added by Acts 1999, 76th Leg., ch. 753, Sec. 1.01, eff. Aug. 30, 1999. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 20, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 7, eff. September 1, 2005.

Sec. 403.1043. RESTRICTIONS ON LOBBYING EXPENDITURES. (a) A political subdivision receiving a distribution under Section 403.1041(f) may not use the distribution to pay:

(1) lobbying expenses incurred by the recipient of the distribution;

(2) a person or entity that is required to register with the Texas Ethics Commission under Chapter 305, Government Code;

(3) any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by Subdivision (2); or

(4) a person or entity who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

(b) The persons or entities described by Subsection (a) are not eligible to receive the money or participate either directly or indirectly in the distributions made under Section 403.1041(f).

Added by Acts 1999, 76th Leg., ch. 753, Sec. 1.01, eff. Aug. 30, 1999.

Sec. 403.105. PERMANENT FUND FOR HEALTH AND TOBACCO EDUCATION AND ENFORCEMENT. (a) The permanent fund for health and tobacco education and enforcement is a dedicated account in the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) gifts and grants contributed to the fund; and

(3) the available earnings of the fund determined in accordance with Section 403.1068.

(b) Except as provided by Subsections (b-1), (c), (e), (f), and (h), money in the fund may not be appropriated for any purpose.

(b-1) Notwithstanding the limitations and requirements of Section 403.1068, the legislature may appropriate money in the fund, including the corpus and available earnings of the fund determined under Section 403.1068, to pay the principal of or interest on a bond issued for the purposes of Section 67, Article III, Texas Constitution. This subsection does not authorize the appropriation under this subsection of money subject to a limitation or requirement as described by Subsection (e) that is not consistent with the use of the money in accordance with this subsection.

(c) The available earnings of the fund may be appropriated to

the Texas Department of Health for:

(1) programs to reduce the use of cigarettes and tobacco products in this state, including:

(A) smoking cessation programs;

(B) enforcement of Subchapters H, K, and N, Chapter 161, Health and Safety Code, or other laws relating to distribution of cigarettes or tobacco products to minors or use of cigarettes or tobacco products by minors;

(C) public awareness programs relating to use of cigarettes and tobacco products, including general educational programs and programs directed toward youth; and

(D) specific programs for communities traditionally targeted, by advertising and other means, by companies that sell cigarettes or tobacco products; and

(2) the provision of preventive medical and dental services to children in the medical assistance program under Chapter 32, Human Resources Code.

(d) Subject to any applicable limit in the General Appropriations Act, the Texas Department of Health may contract with another entity to perform all or a part of the functions described by Subsection (c) or may award grants to community organizations, public institutions of higher education, as that term is defined by Section 61.003, Education Code, or political subdivisions to enable the organizations, institutions, or political subdivisions to perform all or a part of those functions. To ensure the most efficient, effective, and rapid delivery of services, the Texas Board of Health shall give high priority and preference to existing, effective state programs that do not otherwise receive money from an endowment program funded by money received under the Comprehensive Settlement Agreement and Release filed in the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas. The board may adopt rules governing any grant program established under this section.

(e) The comptroller may solicit and accept gifts and grants to the fund. A gift or grant to the fund may be appropriated in the same manner as available earnings of the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(f) Money in the fund may also be appropriated to pay any amount of money that the federal government determines that the state

should repay to the federal government or that the federal government should recoup from the state in the event of national legislation regarding the subject matter of the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas.

(g) Sections 403.095 and 404.071 do not apply to the fund.

(h) The department may direct the comptroller to temporarily transfer money appropriated under Subsection (c) to pay an obligation that the department is authorized to incur under and for which money is appropriated under Section 403.1055(c), 403.106(c), or 403.1066(c) if the department determines that the transfer is necessary for cash management purposes. As soon as possible after the transfer but not later than the 90th day after the date of the transfer, the department shall direct the comptroller to transfer back the transferred amount from amounts appropriated under Section 403.1055(c), 403.106(c), or 403.1066(c), as applicable, to the appropriation item for Subsection (c).

Added by Acts 1999, 76th Leg., ch. 1391, Sec. 1, eff. Aug. 31, 1999. Amended by Acts 2001, 77th Leg., ch. 1182, Sec. 1, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 198, Sec. 2.31, 2.32, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 28.01, eff. September 28, 2011.

Sec. 403.1055. PERMANENT FUND FOR CHILDREN AND PUBLIC HEALTH. (a) The permanent fund for children and public health is a dedicated account in the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) gifts and grants contributed to the fund; and

(3) the available earnings of the fund determined in accordance with Section 403.1068.

(b) Except as provided by Subsections (b-1), (c), (e), (f), and (h), money in the fund may not be appropriated for any purpose.

(b-1) Notwithstanding the limitations and requirements of Section 403.1068, the legislature may appropriate money in the fund, including the corpus and available earnings of the fund determined

under Section 403.1068, to pay the principal of or interest on a bond issued for the purposes of Section 67, Article III, Texas Constitution. This subsection does not authorize the appropriation under this subsection of money subject to a limitation or requirement as described by Subsection (e) that is not consistent with the use of the money in accordance with this subsection.

(c) The available earnings of the fund may be appropriated to:

(1) the Texas Department of Health for the purpose of:

(A) developing and demonstrating cost-effective prevention and intervention strategies for improving health outcomes for children and the public;

(B) providing grants to local communities to address specific public health priorities, including sickle cell anemia, diabetes, high blood pressure, cancer, heart attack, stroke, keloid tissue and scarring, and respiratory disease;

(C) providing grants to local communities for essential public health services as defined in the Health and Safety Code; and

(D) providing grants to schools of public health located in Texas; and

(2) the Interagency Council on Early Childhood Intervention to provide intervention services for children with developmental delay or who have a high probability of developing developmental delay and the families of those children.

(d) The Texas Board of Health may adopt rules governing any grant program established under this section.

(e) The comptroller may solicit and accept gifts and grants to the fund. A gift or grant to the fund may be appropriated in the same manner as available earnings of the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(f) Money in the fund may also be appropriated to pay any amount of money that the federal government determines that the state should repay to the federal government or that the federal government should recoup from the state in the event of national legislation regarding the subject matter of the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas.

(g) Sections 403.095 and 404.071 do not apply to the fund.

(h) The department may direct the comptroller to temporarily transfer money appropriated under Subsection (c) to pay an obligation

that the department is authorized to incur under and for which money is appropriated under Section 403.105(c), 403.106(c), or 403.1066(c) if the department determines that the transfer is necessary for cash management purposes. As soon as possible after the transfer but not later than the 90th day after the date of the transfer, the department shall direct the comptroller to transfer back the transferred amount from amounts appropriated under Section 403.105(c), 403.106(c), or 403.1066(c), as applicable, to the appropriation item for Subsection (c).

Added by Acts 1999, 76th Leg., ch. 1391, Sec. 1, eff. Aug. 31, 1999. Amended by Acts 2001, 77th Leg., ch. 1182, Sec. 2, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 198, Sec. 2.33, eff. Sept. 1, 2003. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 28.02, eff. September 28, 2011.

Sec. 403.106. PERMANENT FUND FOR EMERGENCY MEDICAL SERVICES AND TRAUMA CARE. (a) The permanent fund for emergency medical services and trauma care is a dedicated account in the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) gifts and grants contributed to the fund; and

(3) the available earnings of the fund determined in accordance with Section 403.1068.

(b) Except as provided by Subsections (b-1), (c), (e), (f), and (h), money in the fund may not be appropriated for any purpose.

(b-1) Notwithstanding the limitations and requirements of Section 403.1068, the legislature may appropriate money in the fund, including the corpus and available earnings of the fund determined under Section 403.1068, to pay the principal of or interest on a bond issued for the purposes of Section 67, Article III, Texas Constitution. This subsection does not authorize the appropriation under this subsection of money subject to a limitation or requirement as described by Subsection (e) that is not consistent with the use of the money in accordance with this subsection.

(c) The available earnings of the fund may be appropriated to the Texas Department of Health for programs to provide emergency

medical services and trauma care in this state.

(d) Subject to any applicable limit in the General Appropriations Act, the Texas Department of Health may establish programs to provide emergency medical services and trauma care in this state, may contract with another entity to establish those programs, or may award grants to political subdivisions to establish or support those programs. The department may consolidate any grant program established under this section with other grant programs relating to the provision of emergency medical services and trauma care. The Texas Board of Health may adopt rules governing the grant program.

(e) The comptroller may solicit and accept gifts and grants to the fund. A gift or grant to the fund may be appropriated in the same manner as available earnings of the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(f) Money in the fund may also be appropriated to pay any amount of money that the federal government determines that the state should repay to the federal government or that the federal government should recoup from the state in the event of national legislation regarding the subject matter of the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas.

(g) Sections 403.095 and 404.071 do not apply to the fund.

(h) The department may direct the comptroller to temporarily transfer money appropriated under Subsection (c) to pay an obligation that the department is authorized to incur under and for which money is appropriated under Section 403.105(c), 403.1055(c), or 403.1066(c) if the department determines that the transfer is necessary for cash management purposes. As soon as possible after the transfer but not later than the 90th day after the date of the transfer, the department shall direct the comptroller to transfer back the transferred amount from amounts appropriated under Section 403.105(c), 403.1055(c), or 403.1066(c), as applicable, to the appropriation item for Subsection (c).

Added by Acts 1999, 76th Leg., ch. 1391, Sec. 1, eff. Aug. 31, 1999.
Amended by Acts 2001, 77th Leg., ch. 1182, Sec. 3, eff. June 15, 2001.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 28.03, eff. September 28, 2011.

Sec. 403.1065. PERMANENT FUND FOR RURAL HEALTH FACILITY CAPITAL IMPROVEMENT. (a) The permanent fund for rural health facility capital improvement is a dedicated account in the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) payments of interest and principal on loans made under Subchapter G, Chapter 106, Health and Safety Code, and fees collected under that subchapter;

(3) gifts and grants contributed to the fund; and

(4) the available earnings of the fund determined in accordance with Section 403.1068.

(b) Except as provided by Subsections (c), (d), and (e), money in the fund may not be appropriated for any purpose.

(c) The available earnings of the fund may be appropriated to the Texas Department of Rural Affairs for the purposes of Subchapter H, Chapter 487.

(d) The comptroller may solicit and accept gifts and grants to the fund. A gift or grant to the fund may be appropriated in the same manner as the available earnings of the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(e) Money in the fund may also be appropriated to pay any amount of money that the federal government determines that the state should repay to the federal government or that the federal government should recoup from the state in the event of national legislation regarding the subject matter of the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas.

(f) Sections 403.095 and 404.071 do not apply to the fund.

Added by Acts 1999, 76th Leg., ch. 1391, Sec. 1, eff. Aug. 31, 1999.
Amended by Acts 2001, 77th Leg., ch. 1424, Sec. 8, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 6, eff.

September 1, 2009.

Sec. 403.1066. PERMANENT HOSPITAL FUND FOR CAPITAL IMPROVEMENTS AND THE TEXAS CENTER FOR INFECTIOUS DISEASE. (a) The permanent hospital fund for capital improvements and the Texas Center for Infectious Disease is a dedicated account in the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) payments of interest and principal on loans and fees collected under this section;

(3) gifts and grants contributed to the fund; and

(4) the available earnings of the fund determined in accordance with Section 403.1068.

(b) Except as provided by Subsections (c), (d), (e), and (i), the money in the fund may not be appropriated for any purpose.

(c) The available earnings of the fund may be appropriated to the Department of State Health Services for the purpose of providing services at a public health hospital as defined by Section 13.033, Health and Safety Code, and grants, loans, or loan guarantees to public or nonprofit community hospitals with 125 beds or fewer located in an urban area of the state.

(d) The comptroller may solicit and accept gifts and grants to the fund. A gift or grant to the fund may be appropriated in the same manner as available earnings of the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(e) Money in the fund may also be appropriated to pay any amount of money that the federal government determines that the state should repay to the federal government or that the federal government should recoup from the state in the event of national legislation regarding the subject matter of the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas.

(f) The Texas Board of Health may adopt rules governing any grant, loan, or loan guarantee program established under this section.

(g) A hospital eligible to receive a grant, loan, or loan guarantee under Subchapter G, Chapter 106, Health and Safety Code, is

not eligible to receive a grant, loan, or loan guarantee under this section.

(h) Sections 403.095 and 404.071 do not apply to the fund.

(i) The department may direct the comptroller to temporarily transfer money appropriated under Subsection (c) to pay an obligation that the department is authorized to incur under and for which money is appropriated under Section 403.105(c), 403.1055(c), or 403.106(c) if the department determines that the transfer is necessary for cash management purposes. As soon as possible after the transfer but not later than the 90th day after the date of the transfer, the department shall direct the comptroller to transfer back the transferred amount from amounts appropriated under Section 403.105(c), 403.1055(c), or 403.106(c), as applicable, to the appropriation item for Subsection (c).

Added by Acts 1999, 76th Leg., ch. 1391, Sec. 1, eff. Aug. 31, 1999. Amended by Acts 2001, 77th Leg., ch. 1182, Sec. 4, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 198, Sec. 2.205, 2.206, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.001, eff. April 2, 2015.

Sec. 403.1067. RESTRICTIONS ON LOBBYING EXPENDITURES. (a) An organization, program, political subdivision, public institution of higher education, local community organization, or other entity receiving funds or grants from the permanent funds in Section 403.105, 403.1055, 403.106, 403.1065, or 403.1066 may not use the funds or grants to pay:

(1) lobbying expenses incurred by the recipient;

(2) a person or entity that is required to register with the Texas Ethics Commission under Chapter 305, Government Code;

(3) any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by Subdivision (2); or

(4) a person or entity who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

(b) Except as provided by this subsection, the persons or entities described by Subsection (a) are not eligible to receive the money or participate either directly or indirectly in the contracts, funds, or grants awarded in Section 403.105, 403.1055, 403.106, 403.1065, or 403.1066. A registrant under Chapter 305 is not ineligible under this subsection if the person is required to register under that chapter solely because the person communicates directly with a member of the executive branch to influence administrative action concerning a matter relating to the purchase of products or services by a state agency.

(c) Grants or awards made under Section 403.105, 403.1055, 403.106, 403.1065, or 403.1066 may not be conditioned on the enactment of legislation, agency rules, or local ordinances.

Added by Acts 1999, 76th Leg., ch. 1391, Sec. 1, eff. Aug. 31, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1174 (H.B. 3445), Sec. 5, eff. September 1, 2009.

Sec. 403.1068. MANAGEMENT OF CERTAIN FUNDS. (a) This section applies only to management of the permanent funds established under Sections 403.105, 403.1055, 403.106, 403.1065, and 403.1066.

(b) The comptroller shall manage the assets of each permanent fund. In managing the assets of a fund, the comptroller may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions the comptroller considers appropriate, any kind of investment that prudent investors, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(c) The available earnings of each permanent fund consist of distributions made to the fund from the total return on all investment assets of the fund, including net income attributable to the surface of land held by the fund.

(d) The amount of any distributions to each fund under Subsection (c) shall be determined by the comptroller in a manner intended to provide a stable and predictable stream of annual distributions and to maintain over time the purchasing power of fund

investments and annual distributions to the fund. If the purchasing power of fund investments for any 10-year period is not preserved, the comptroller may not increase annual distributions to the available earnings of the fund until the purchasing power of the fund investments is restored.

(e) An annual distribution made by the comptroller to the available earnings of a fund during any fiscal year may not exceed an amount equal to seven percent of the average net fair market value of the investment assets of each fund as determined by the comptroller.

(f) The expenses of managing land and investments of each fund shall be paid from each fund.

(g) On request, the comptroller shall fully disclose all details concerning the investments of each fund.

Added by Acts 1999, 76th Leg., ch. 1391, Sec. 1, eff. Aug. 31, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 395 (S.B. 1480), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1418 (H.B. 3107), Sec. 16(b), eff. June 15, 2007.

Sec. 403.1069. REPORTING REQUIREMENT. The department shall provide a report on the permanent funds established under this subchapter to the Legislative Budget Board no later than November 1 of each year. The report shall include the total amount of money distributed from each fund, the purpose for which the money was used, and any additional information that may be requested by the Legislative Budget Board.

Added by Acts 1999, 76th Leg., ch. 1391, Sec. 1, eff. Aug. 31, 1999.

Sec. 403.107. SINGLE LOCAL USE TAXES COLLECTED BY REMOTE SELLERS. (a) The comptroller shall deposit revenue remitted to the comptroller from taxes computed using the single local use tax rate under Section 151.0595(b)(2), Tax Code, in the state treasury and shall keep records of the amount of money deposited for each reporting period. Money deposited under this subsection shall be held in trust for the benefit of eligible taxing units, as determined under Subsection (b). The comptroller shall distribute money held in

trust under this section to each eligible taxing unit in the amount and manner provided by this section.

(b) A local taxing unit is an eligible taxing unit for purposes of this section if it has adopted a sales and use tax authorized or governed by Title 3, Tax Code.

(c) Subject to Subsection (d), the comptroller shall transmit to each eligible taxing unit's treasurer, or to the officer performing the functions of that office, on a monthly basis, the taxing unit's share of money held in trust under Subsection (a), together with the pro rata share of any penalty or interest on delinquent taxes computed using the single local use tax rate that may be collected. Before transmitting the funds, the comptroller shall deduct two percent of each taxing unit's share as a charge by the state for its services under this section and deposit that amount into the state treasury to the credit of the comptroller's operating fund. Interest earned on all deposits made in the state treasury under this section shall be credited to the general revenue fund.

(d) The comptroller shall retain a portion of each eligible taxing unit's share of money held in trust under Subsection (a), not to exceed five percent of the amount eligible to be transmitted to the taxing unit under Subsection (c). From the amounts retained, the comptroller may make refunds for overpayments of taxes computed using the single local use tax rate, make refunds to purchasers as provided by Section 151.0595(f), Tax Code, and redeem dishonored checks and drafts deposited under Subsection (a).

(e) The comptroller shall compute for each calendar month the percentage of the total sales and use tax allocations made pursuant to Title 3, Tax Code, including any local sales and use taxes governed by any provision of Title 3, Tax Code, to each eligible taxing unit. The comptroller shall determine each eligible taxing unit's share of the money held in trust from deposits under Subsection (a) for that month by applying the percentage computed under this subsection for the eligible taxing unit to the total amount held in trust from deposits for that month.

(f) The comptroller may combine an eligible taxing unit's share of the money held in trust under Subsection (a) with other money held for that taxing unit.

(g) The comptroller may adopt rules to administer this section.

Added by Acts 1989, 71st Leg., ch. 291, Sec. 4.

Reenacted and amended by Acts 2019, 86th Leg., R.S., Ch. 51 (H.B. 2153), Sec. 3, eff. October 1, 2019.

Sec. 403.109. PROPERTY TAX RELIEF FUND. (a) The property tax relief fund is a special fund in the state treasury outside the general revenue fund. The fund is exempt from the application of Sections 403.095 and 404.071. Interest and income from the deposit and investment of money in the fund must be allocated monthly to the fund.

(b) Until the state fiscal year beginning after the first tax year in which the average school district maintenance and operations tax rate is not more than $1.00 per $100 of taxable value, money in the fund may be appropriated only for a purpose that will result in a reduction of school district maintenance and operations tax rates to rates that are less than the rates in effect for the 2005 tax year.

(c) Beginning in the state fiscal year that begins after the first tax year in which the average school district maintenance and operations tax rate is not more than $1.00 per $100 of taxable value, any money remaining in the fund after a sufficient amount of money is appropriated in that state fiscal year to maintain an average school district maintenance and operations tax rate of $1.00 per $100 of taxable value may be appropriated only as follows:

(1) two-thirds of the money appropriated from the fund may be appropriated only for a purpose that will result in a further reduction of the average school district maintenance and operations tax rate; and

(2) one-third of the money appropriated from the fund may be appropriated only for the purpose of increasing the level of equalization of school district enrichment tax effort to the extent that limits reliance by school districts on local property tax effort and decreases the enrichment tax rates of districts.

(d) To the extent to which maintenance and operations tax rates are reduced using money appropriated from the fund, reductions must be carried out so as not to increase the disparity in revenue yield between districts of varying property wealth per weighted student.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 3 (H.B. 2), Sec. 1(a), eff. September 1, 2006.

Sec. 403.110. SUCCESS CONTRACT PAYMENTS TRUST FUND. (a) The success contract payments trust fund is established as a trust fund outside the state treasury with the comptroller as trustee.

(b) The trust fund is established to provide a fund from which the comptroller as trustee may make success contract payments due in accordance with the contract terms without the necessity of an appropriation for the contract payment.

(c) The trust fund consists of money gifted, granted, donated, or appropriated for deposit to the credit of the trust fund and any interest or other earnings attributable to the trust fund. The comptroller shall hold money credited to the trust fund for use only for payments due in accordance with success contract terms and expenses incurred in administering the trust fund or in administering the success contracts for which the trust fund is established. The balance of the trust fund may not exceed $50 million at any time. The comptroller may establish in the trust fund one or more accounts to administer money for a particular success contract for which money has been credited to the trust fund.

(d) Notwithstanding any other law, a state agency and the comptroller jointly may enter into a success contract with any person the terms of which must include:

(1) that a majority of the contract payment is conditioned on the contractor meeting or exceeding certain specified performance measures toward the outcome of the contract's objectives;

(2) a defined objective procedure by which an independent evaluator is to determine whether the specified performance measures have been met or exceeded; and

(3) a schedule of the amounts and timing of payments to be earned by the contractor during each year or other specified period of the contract that indicates the payment amounts conditioned on meeting or exceeding the specified performance measures.

(e) A contract executed under this section is not enforceable until:

(1) the state agency and the Legislative Budget Board certify that the proposed contract is expected to result in significant performance improvements and significant budgetary savings for the state agency or agencies party to the contract if the performance targets are achieved; and

(2) a grantor or donor has gifted, granted, or donated, or the legislature has appropriated for deposit to the credit of the

trust fund, contingent on the execution of the contract, an amount of money necessary to administer the contract and make all payments that may become due under the contract over the effective period of the contract.

(f) The comptroller shall make the contract payments for the success contracts only from the trust fund and only in accordance with the terms of the success contracts. The comptroller shall deposit to the credit of the trust fund any money the comptroller recovers from a contractor for overpayment or for a penalty or other amount recoverable under the terms of a success contract and shall hold the money in the trust fund in the same manner as the money held for payments for the success contract. To the extent that any money credited to the trust fund for a particular success contract remains unpaid at the time the particular contract expires or is terminated, as soon after the contract expiration as is practicable, the comptroller shall return the unpaid amount to the grantor, donor, or state treasury fund or account from which the money was gifted, granted, donated, or appropriated.

(g) Each state agency shall provide to each legislature not later than the first day of the regular legislative session a report that:

(1) provides details about the success in achieving the specified performance measures of each success contract the state agency has entered into under this section that has not expired or been terminated or that expired or was terminated since the date of the preceding report under this subsection; and

(2) provides details about proposed success contracts that the state agency has not executed at the time of the report.

(h) The comptroller may adopt rules as necessary to administer this section or success contracts entered into under this section, including joint rules adopted with other agencies that may be party to success contracts under this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 803 (H.B. 3014), Sec. 1, eff. September 1, 2015.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 95 (H.B. 982), Sec. 1, eff. September 1, 2019.

SUBCHAPTER H. SECURITIES

Sec. 403.111. REGISTRATION. (a) Except as provided by Subsection (f), the comptroller shall obtain suitable books for use as bond registers by the comptroller's office. The volumes of the books shall be separately designated.

(b) In the bond registers the comptroller shall alphabetically register each bond required by law to be registered by the comptroller. For each bond the comptroller shall enter in the register only:

(1) the name of the issuing authority;

(2) the names and official capacities of the officers signing the bond;

(3) the date of issue;

(4) the date of registration;

(5) the principal amount;

(6) the date of maturity;

(7) the number;

(8) the time of option of redemption;

(9) the rate of interest; and

(10) the day of the month of each year when interest becomes due.

(c) On the same line where the entry under Subsection (b) is made, a blank space shall be provided for entry of the date of payment or redemption of the bond.

(d) The bond itself, the opinion of the attorney general, and the record or other papers or documents relating to the bond need not be included in the register.

(e) When a bond is paid or redeemed, the proper officer or authority paying the bond shall notify the comptroller of the occurrence and date of the payment or redemption. All papers and documents relating to the bonds shall be filed and appropriately numbered.

(f) The comptroller may use electronic means, including the central electronic computing and data processing center established under Section 403.015, instead of books to register bonds.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 449, Sec. 32, eff. Sept. 1, 1993.

Sec. 403.112. ACCOUNTS. (a) The comptroller shall keep an appropriate account for each state fund, showing a short description of the essential features of the fund and maintaining sufficient information to account for bonds and securities owned by the fund.

(b) The comptroller shall keep controlling or total accounts of the bonds or other securities, showing the total amount of bonds or other securities belonging to each fund.

(c) A controlling account shall be balanced monthly.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 18, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.19, eff. Sept. 1, 1997.

Sec. 403.113. CANCELLATION OF UNNEEDED BONDS. (a) The comptroller from time to time shall cancel by perforation all unneeded bonds of entities authorized by law to issue bonds to be registered in the comptroller's office and shall return them by express or freight mail to the issuer at the issuer's expense. The comptroller shall make a permanent record in the comptroller's office of the cancellation or return.

(b) Not later than the 30th day before the date that the comptroller cancels bonds under this section, the comptroller shall give notice of the proposed cancellation by registered or certified mail to the entity. The notice must be addressed according to the latest information available in the comptroller's office. If the comptroller becomes aware that the notice is undeliverable, the comptroller shall notify the county judge of the county in which the entity was situated in whole or part of the proposed cancellation. The notice to the county judge must be given not later than 30 days before the date the bonds are canceled and must indicate that the notice to the entity was undeliverable.

(c) Before the date fixed for the cancellation, the entity or county judge, on written notice and execution of a receipt in the form the comptroller prescribes, may repossess the bonds. Any shipping expense involved in the transaction shall be paid by the entity or the county whose county judge repossessed the bonds.

(d) An entity's registered or unregistered bonds that remain in the comptroller's office may be considered unneeded after five years after the date of the bonds.

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

Sec. 403.114. BOND CLERK. (a) The comptroller shall appoint a bond clerk. Before taking office the bond clerk shall take the official oath. The bond clerk serves at the pleasure of the comptroller.

(b) The bond clerk, under the comptroller's supervision, direction, and authority, shall perform all duties relating to the registration of bonds imposed on the comptroller by this chapter. The bond clerk may sign the comptroller's name to a certificate of registration of a bond that the bond clerk registers and that is required by law to be registered by the comptroller. In the absence of the bond clerk the chief clerk may perform the bond clerk's duties.

(c) The comptroller shall designate and appoint, from the employees of the comptroller's office, assistants to the bond clerk. The designation and appointment must be in writing, certified under the seal of the comptroller, and filed with the bond clerk. The assistants, under the direction and authority of the comptroller, shall perform all duties relating to the registration of bonds imposed on the comptroller by this chapter. Each assistant may sign the comptroller's name to a certificate of registration of a bond that the assistant registers and that is required by law to be registered by the comptroller. The duties assigned by the comptroller to the assistants are in addition to other duties that may be assigned to the assistants.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 285, Sec. 12, eff. Sept. 1, 2003.

SUBCHAPTER I. REVENUE ESTIMATES

Sec. 403.121. CONTENTS OF ESTIMATE. (a) In the statement required by Article III, Section 49a, of the Texas Constitution the comptroller shall list outstanding appropriations that may exist after the end of the current fiscal year but may not deduct them from the cash condition of the treasury or the anticipated revenues of the next biennium for the purpose of certification. The comptroller shall base the reports, estimates, and certifications of available

funds on the actual or estimated cash condition of the treasury and shall consider outstanding and undisbursed appropriations at the end of each biennium as probable disbursements of the succeeding biennium in the same manner that earned but uncollected income of a current biennium is considered in probable receipts of the succeeding biennium. The comptroller shall consider as probable disbursements warrants that will be issued by the state before the end of the fiscal year.

(b) The comptroller shall include in the statement the detailed computations and all other pertinent information that the comptroller considered in arriving at the estimates of anticipated revenues.

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

SUBCHAPTER J. SUITS BY PERSONS OWING TAXES OR FEES

Sec. 403.201. SUITS; JURISDICTION. The district courts of Travis County have exclusive, original jurisdiction of a suit brought under this chapter. This section prevails over Chapter 25 to the extent of any conflict.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989.

Sec. 403.202. PROTEST PAYMENT REQUIRED. (a) If a person who is required to pay to any department of the state government an occupation, excise, gross receipts, franchise, license, or privilege tax or fee, or another tax or amount imposed under Subtitle A, Title 4, Labor Code, contends that the tax or fee is unlawful or that the department may not legally demand or collect the tax or fee, the person shall pay the amount claimed by the state, and if the person intends to bring suit under this subchapter, the person must submit with the payment a protest.

(b) The protest must be in writing and must state fully and in detail each reason for recovering the payment.

(c) The protest payment must be made within the period set out in Section 403.076 or 403.077 for the filing of a refund claim.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 486, Sec. 7.09, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 9.58, eff. Sept. 1, 1995.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 331 (H.B. 2080), Sec. 1, eff. September 1, 2021.

Sec. 403.203. PROTEST PAYMENT SUIT AFTER PAYMENT UNDER PROTEST. (a) A person may bring suit against the state to recover an occupation, excise, gross receipts, franchise, license, or privilege tax or fee covered by this subchapter and required to be paid to the state if the person has first paid the tax under protest as required by Section 403.202.

(b) A suit under this section must be brought before the 91st day after the day the protest payment was made, or the suit is barred; provided that with respect to any tax or fee assessed annually but that is required to be paid in installments, the protest required by Section 403.202 may be filed with the final annual return and suit for the recovery for any such installment may be filed within 90 days after the final annual return is due.

(c) The state may bring a counterclaim in a suit brought under this section if the counterclaim relates to taxes or fees imposed under the same statute and during the same period as the taxes or fees that are the subject of the suit and if the counterclaim is filed not later than the 30th day before the date set for trial on the merits of the suit. The state is not required to make an assessment of the taxes or fees subject to the counterclaim under any other statute, and the period of limitation applicable to an assessment of the taxes or fees does not apply to a counterclaim brought under this subsection.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 486, Sec. 7.10, eff. Sept. 1, 1993.

Sec. 403.204. PROTEST PAYMENT SUIT: PARTIES; ISSUES. (a) A suit authorized by this subchapter must be brought against the public official charged with the duty of collecting the tax or fee, the comptroller, and the attorney general.

(b) The issues to be determined in the suit are limited to those arising from the reasons expressed in the written protest as

originally filed.

(c) A copy of the written protest as originally filed must be attached to the original petition filed by the person paying the tax or fee with the court and to the copies of the original petition served on the comptroller, the attorney general, and the public official charged with the duty of collecting the tax or fee.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 7.20, eff. Sept. 1, 1997.

Sec. 403.205. TRIAL DE NOVO. The trial of the issues in a suit under this subchapter is de novo.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989.

Sec. 403.206. CLASS ACTIONS. (a) In this section, a class action includes a suit brought under this subchapter by at least two persons who have paid taxes or fees under protest as required by Section 403.202.

(b) In a class action, all taxpayers who are within the same class as the persons bringing the suit, who are represented in the class action, and who have paid taxes or fees under protest as required by Section 403.202 are not required to file separate suits but are entitled to and are governed by the decision rendered in the class action.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989.

Sec. 403.207. ADDITIONAL PROTEST PAYMENTS BEFORE HEARING. (a) A petitioner shall pay additional taxes or fees when due under protest after the filing of a suit authorized by this subchapter and before the trial. The petitioner may amend the original petition to include all additional taxes or fees paid under protest before five days before the day the suit is set for a hearing or may elect to file a separate suit. The election does not prevent the court from exercising its power to consolidate or sever suits and claims under the Texas Rules of Civil Procedure.

(b) This section applies to additional taxes or fees paid under protest only if a written protest is filed with the additional taxes or fees and the protest states the same reason for contending the payment of taxes or fees that was stated in the original protest.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989.

Sec. 403.208. PROTEST PAYMENTS DURING APPEAL. (a) If the state or the person who brought the suit appeals the judgment of a trial court in a suit authorized by this subchapter, the person who brought the suit shall continue to pay additional taxes or fees under protest as the taxes or fees become due during the appeal.

(b) Additional taxes or fees that are paid under protest during the appeal of the suit are governed by the outcome of the suit without the necessity of the person filing an additional suit for the additional taxes or fees.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989.

Sec. 403.209. SUBMISSION OF PROTEST PAYMENTS TO COMPTROLLER. (a) An officer who receives payments of taxes or fees made under protest as required by Section 403.202 shall each day send to the comptroller the payments, a list of the persons making the payments, and a written statement that the payments were made under protest.

(b) The comptroller shall deposit each payment made under protest in the General Revenue Fund or to the fund or funds to which the tax or fee is allocated by law.

(c) The comptroller or the officer who receives a payment made under protest, if designated by the comptroller, shall maintain detailed records of the payment made under protest.

(d) For purposes of a tax or fee paid under protest under this subchapter, the interest to be credited on the tax or fee is an amount equal to the amount of interest that would have been earned by the tax or fee if the tax or fee had been deposited into the suspense account of the comptroller.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 7.21, eff. Sept. 1, 1997.

Sec. 403.210. DISPOSITION OF PROTEST PAYMENTS BELONGING TO STATE. If a suit authorized by this subchapter is not brought in the manner or within the time required or if the suit is properly filed and results in a final determination that a tax or fee payment or a portion of a tax or fee payment made under protest, including the amount of interest credited on the payment, belongs to the state, the state retains the proper amount of the tax or fee payment and the proportionate share of the interest earned.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989.

Sec. 403.211. CREDIT OR REFUND. (a) If a suit under this subchapter results in a final determination that all or part of the money paid under protest was unlawfully demanded by the public official and belongs to the payer, the comptroller, as soon as practicable on or after September 1 of the first year of the first state biennium that begins after the date of the final determination of the suit, shall credit the proper amount, with the interest credited on that amount, against any other amount finally determined to be due to the state from the payer according to information in the custody of the comptroller and shall refund the remainder to the payer by the issuance of a refund warrant.

(b) A refund warrant shall be written and signed by the comptroller.

(c) The comptroller shall draw a refund warrant against the General Revenue Fund or other funds from which refund appropriations may be made, as the comptroller determines appropriate.

(d) The comptroller shall deliver each refund warrant issued to the person entitled to receive it.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 7.22, eff. Sept. 1, 1997.

Sec. 403.212. REQUIREMENTS BEFORE INJUNCTION. (a) An action for a restraining order or injunction that prohibits the assessment or collection of a state tax; license, registration, or filing fee;

or statutory penalty assessed for the failure to pay the state tax or fee may not be brought against a state official or a representative of an official in this state unless the applicant for the order or injunction has first:

(1) filed with the attorney general not later than the fifth day before the date the action is filed a statement of the grounds on which the order or injunction is sought; and

(2) either:

(A) paid to the state official who collects the tax or fee all taxes, fees, and penalties then due by the applicant to the state; or

(B) filed with the state official who collects the tax or fee a good and sufficient bond to guarantee the payment of the taxes, fees, and penalties in an amount equal to twice the amount of the taxes, fees, and penalties then due and that may reasonably be expected to become due during the period the order or injunction is in effect.

(b) The amount and terms of the bond and the sureties on the bond authorized by Subsection (a)(2)(B) must be approved by and acceptable to the judge of the court granting the order or injunction and the attorney general.

(c) The application for the restraining order or injunction must state under the oath of the applicant or the agent or attorney of the applicant that:

(1) the statement required by Subsection (a)(1) has been filed as provided by that subsection; and

(2) the payment of taxes, fees, and penalties has been made as provided by Subsection (a)(2)(A) or a bond has been approved and filed as provided by Subsection (a)(2)(B) and Subsection (b).

(d) A state official who receives a payment or bond under Subsection (a)(2) shall deliver the payment or bond to the comptroller. The comptroller shall deposit a payment made under Subsection (a)(2)(A) to the credit of each fund to which the tax, fee, or penalty is allocated by law.

(e) Repealed by Acts 2021, 87th Leg., R.S., Ch. 331 (H.B. 2080), Sec. 11(1), eff. September 1, 2021.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 486, Sec. 7.11, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1423, Sec. 7.23, eff. Sept. 1, 1997.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 331 (H.B. 2080), Sec. 11(1), eff. September 1, 2021.

Sec. 403.213. NATURE OF ACTION FOR INJUNCTION. (a) A court may not issue a restraining order or consider the issuance of an injunction that prohibits the assessment or collection of a tax, fee, or other amount covered by Section 403.212 unless the applicant for the order or injunction demonstrates that:

(1) irreparable injury will result to the applicant if the order or injunction is not granted;

(2) no other adequate remedy is available to the applicant; and

(3) the applicant has a reasonable possibility of prevailing on the merits of the claim.

(b) If the court issues a temporary or permanent injunction, the court shall determine whether the amount the assessment or collection of which the applicant seeks to prohibit is due and owing to the state by the applicant.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989.

Sec. 403.214. COUNTERCLAIM. The state may bring a counterclaim in a suit for a temporary or permanent injunction brought under this subchapter if the counterclaim relates to taxes or fees imposed under the same statute and during the same period as the taxes or fees that are the subject of the suit and if the counterclaim is filed not later than the 30th day before the date set for trial on the merits of the application for a temporary or permanent injunction. The state is not required to make an assessment of the taxes or fees subject to the counterclaim under any other statute, and the period of limitation applicable to an assessment of the taxes or fees does not apply to a counterclaim brought under this section.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989.

Sec. 403.215. RECORDS AFTER INJUNCTION. (a) After the granting of a restraining order or injunction under this subchapter,

the applicant shall make and keep records of all taxes and fees accruing during the period that the order or injunction is effective.

(b) The records are open for inspection by the attorney general and the state officer authorized to enforce the collection of the tax or fee to which the order or injunction applies during the period that the order or injunction is effective and for one year after the date that the order or injunction expires.

(c) The records must be adequate to determine the amount of all affected taxes or fees accruing during the period that the order or injunction is effective.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989.

Sec. 403.216. REPORTS AFTER INJUNCTION. (a) On the first Monday of each month during the period that an order or injunction granted under this subchapter is effective, the applicant shall make and file a report with the state officer authorized to enforce the collection of the tax or fee to which the order or injunction applies.

(b) The report must include the following monthly information:

(1) the amount of the tax accruing;

(2) a description of the total purchases, receipts, sales, and dispositions of all commodities, products, materials, articles, items, services, and transactions on which the tax is levied or by which the tax or fee is measured;

(3) the name and address of each person to whom a commodity, product, material, or article is sold or distributed or for whom a service is performed;

(4) if the tax is imposed on or measured by the number or status of employees of the applicant, a complete record of the employees of the applicant and any related information that affects the amount of the tax; and

(5) if payment of the tax or fee is evidenced or measured by the sale or use of stamps or tickets, a complete record of all stamps or tickets used, sold, or handled.

(c) The report shall be made on a form prescribed by the state official with whom the report is required to be filed.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989.

Sec. 403.217. ADDITIONAL PAYMENTS OR BOND. (a) If an applicant for an order or injunction granted under this subchapter has not filed a bond as required by Section 403.212(a)(2)(B), the applicant shall pay all taxes, fees, and penalties to which the order or injunction applies as those taxes, fees, and penalties accrue and before they become delinquent.

(b) If the attorney general determines that the amount of a bond filed under this subchapter is insufficient to cover double the amount of taxes, fees, and penalties accruing after the restraining order or injunction is granted, the attorney general shall demand that the applicant file an additional bond.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989.

Sec. 403.218. DISMISSAL OF INJUNCTION. (a) The attorney general or the state official authorized to enforce the collection of a tax or fee to which an order or injunction under this subchapter applies may file in the court that has granted the order or injunction an affidavit stating that the applicant has failed to comply with or has violated a provision of this subchapter.

(b) On the filing of an affidavit authorized by Subsection (a), the clerk of the court shall give notice to the applicant to appear before the court to show cause why the order or injunction should not be dismissed. The notice shall be served by the sheriff of the county where the applicant resides or by any other peace officer in the state.

(c) The date of the show-cause hearing, which shall be within five days of service of the notice or as soon as the court can hear it, shall be named in the notice.

(d) If the court finds that the applicant failed, at any time before the suit is finally disposed of by the court of last resort, to make and keep a record, file a report, file an additional bond on the demand of the attorney general, or pay additional taxes, fees, and penalties as required by this subchapter, the court shall dismiss the application and dissolve the order or injunction.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989.

Sec. 403.219. FINAL DISMISSAL OR DISSOLUTION OF INJUNCTION.

(a) If a restraining order or injunction is finally dismissed or dissolved and a bond was filed, the comptroller shall make demand on the applicant and the applicant's sureties for the immediate payment of all taxes, fees, and penalties due the state.

(b) Taxes, fees, and penalties that are secured by a bond and remain unpaid after a demand for payment shall be recovered in a suit by the attorney general against the applicant and the applicant's sureties in a court of competent jurisdiction of Travis County or in any other court having jurisdiction of the suit.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 403.220. CREDIT OR REFUND. (a) If the final judgment in a suit under this subchapter maintains the right of the applicant for a temporary or permanent injunction to prevent the collection of the tax or fee, the comptroller shall credit the amount of the tax or fee, with the interest on that amount, against any other amount finally determined to be due to the state from the applicant according to information in the custody of the comptroller and shall refund the remainder to the applicant. The credit or refund shall be made as soon as practicable on or after September 1 of the first year of the first state biennium that begins after the date of the final judgment.

(b) For purposes of this section, the interest to be paid on a refund of a tax or fee is an amount equal to the amount of interest that would have been earned by the tax or fee if the tax or fee had been paid into the suspense account of the comptroller.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 7.25, eff. Sept. 1, 1997.

Sec. 403.221. OTHER ACTIONS PROHIBITED. Except for a restraining order or injunction issued as provided by Section 403.212, a court may not issue a restraining order, injunction, declaratory judgment, writ of mandamus or prohibition, order requiring the payment of taxes or fees into the registry or custody

of the court, or other similar legal or equitable relief against the state or a state agency relating to the applicability, assessment, collection, or constitutionality of a tax or fee covered by Section 403.212 or to the amount of the tax or fee due.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 24, eff. Sept. 1, 1989.

Sec. 403.222. APPLICABILITY. This subchapter does not apply to a suit under Chapter 112, Tax Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 331 (H.B. 2080), Sec. 2, eff. September 1, 2021.

SUBCHAPTER K. PETTY CASH ACCOUNTS

Sec. 403.241. DEFINITIONS. In this subchapter:

(1) Repealed by Acts 2007, 80th Leg., R.S., Ch. 937, Sec. 1.117(1), eff. September 1, 2007.

(2) "Fund" means the fund in the state treasury from which a petty cash account was created under this subchapter.

(3) "Petty cash account" means a set amount of money held outside the state treasury to be used for the purposes specified by this subchapter.

(4) "State agency" includes:

(A) a department, commission, board, office, or other state governmental entity in the executive or legislative branch of state government;

(B) the Supreme Court of Texas, the Court of Criminal Appeals of Texas, a court of appeals, the Texas Judicial Council, the Office of Court Administration of the Texas Judicial System, the State Bar of Texas, or any other state governmental entity in the judicial branch of state government;

(C) a university system or an institution of higher education as defined by Section 61.003, Education Code; and

(D) any other state governmental entity that the comptroller determines to be a component unit of state government for the purpose of financial reporting under Section 403.013.

Added by Acts 1991, 72nd Leg., ch. 744, Sec. 1, eff. Sept. 1, 1991.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.117(1), eff. September 1, 2007.

Sec. 403.242. APPLICABILITY OF SUBCHAPTER. This subchapter is the only authority for the establishment and maintenance of petty cash accounts for state agency funds not exempted by Section 403.252.

Added by Acts 1991, 72nd Leg., ch. 744, Sec. 1, eff. Sept. 1, 1991.

Sec. 403.243. CONFORMANCE OF ACCOUNTS ESTABLISHED UNDER PRIOR LAW. The comptroller shall develop and implement necessary procedures for ensuring that petty cash accounts established under prior law conform to the requirements of this subchapter.

Added by Acts 1991, 72nd Leg., ch. 744, Sec. 1, eff. Sept. 1, 1991.

Sec. 403.244. PURPOSE OF PETTY CASH ACCOUNTS. A petty cash account may be established for:

(1) making change of currency;

(2) advancing travel expense money to state officers and employees;

(3) making small disbursements for which formal expenditure procedures are not cost-effective; or

(4) any similar purpose or combination of purposes a state agency considers prudent for conducting state business.

Added by Acts 1991, 72nd Leg., ch. 744, Sec. 1, eff. Sept. 1, 1991.

Sec. 403.245. ACCOUNTING FOR PETTY CASH ACCOUNT. (a) The creation of a petty cash account is not an expenditure of state money or a reduction of appropriation.

(b) The replenishment of a petty cash account is an expenditure from the corresponding fund and shall be drawn from the appropriation from which the expenditure would otherwise have been made.

Added by Acts 1991, 72nd Leg., ch. 744, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 1.08, eff. Sept. 1,

1999.

Sec. 403.246. AMOUNT OF PETTY CASH ACCOUNT. (a) Unless the comptroller specifically directs otherwise under Section 403.249, the monetary limits in this section apply to petty cash accounts under this subchapter.

(b) A petty cash account established for changing currency may not exceed $500.

(c) A petty cash account established for making minor disbursements by the central office of a state agency may not exceed $1,000.

(d) A petty cash account established for making minor disbursements by offices other than the central office of a state agency may not exceed $500.

(e) A petty cash account established for advancing travel expense money to state officers and employees may not exceed one-twelfth of a state agency's expenditures for travel in the immediately preceding fiscal year.

(f) A petty cash account established for a purpose or a combination of purposes the agency considers prudent for conducting state business may not exceed the amounts determined by the comptroller as necessary for the efficient operation of the agency.

Added by Acts 1991, 72nd Leg., ch. 744, Sec. 1, eff. Sept. 1, 1991.

Sec. 403.247. DUTIES OF STATE AGENCY. (a) A state agency may establish a petty cash account in a federally insured financial institution.

(b) Before a state agency may establish a petty cash account for a fiscal year:

(1) the head of the agency must determine that the account is necessary for the efficient operation of the agency and submit that determination to the comptroller;

(2) the agency must specify to the comptroller the purpose of the petty cash account;

(3) the agency must estimate the probable disbursements from the petty cash account during the fiscal year and submit that estimate to the comptroller;

(4) the agency must obtain a certification from the comptroller stating that the agency has a sufficient appropriation from the fund for the fiscal year to cover all probable disbursements during the fiscal year; and

(5) if the amount requested for the petty cash account would exceed the limits specified in Section 403.246, the agency must obtain the comptroller's approval of the amount.

(c) As soon as possible after the beginning of each fiscal year, a state agency shall provide to the comptroller an estimate of probable disbursements from each petty cash account during that fiscal year.

(d) A state agency may disburse money from a petty cash account only if the disbursement would be a proper expenditure from the corresponding fund if the fund itself, instead of the petty cash account, were being directly used to make the disbursement.

(e) Before a state agency may request the comptroller to replenish a petty cash account, the state agency shall submit the following documentation to the comptroller, in the content, method, and format required by the comptroller:

(1) the name of and a proper identification number for each person who received a disbursement from the petty cash account;

(2) invoices or receipts from each person who received a disbursement from the petty cash account or canceled checks proving that total disbursements from the account equal the amount of the requested replenishment; and

(3) any other documentation that the comptroller considers necessary.

(f) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(11).

(g) A state agency shall ensure that all disbursements from a petty cash account comply with the purchasing laws and rules of the state and are supported by documentation that is sufficient to enable a complete audit.

(h) A state agency may keep currency in its offices for the purpose of making change, spot purchases, or any similar purpose or a combination of purposes as determined by the agency. The amount of currency kept in an office may not exceed $100 at any time unless the comptroller determines additional amounts are necessary for the efficient operation of the agency. The documentation that the agency would maintain if a disbursement were made from the petty cash account itself must be maintained for each disbursement from the

currency kept in the office.

(i) A state agency shall reconcile and request a replenishment of its petty cash account as often as the comptroller requires.

Added by Acts 1991, 72nd Leg., ch. 744, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 2003, 78th Leg., ch. 285, Sec. 31(11), eff. Sept. 1, 2003.

Sec. 403.248. TRAVEL ADVANCES. (a) The comptroller shall adopt rules governing the use of petty cash accounts established under this subchapter for advancing travel expense money to state officers and employees.

(b) The rules must:

(1) prohibit the use of a petty cash account to advance more than projected travel expenses to a state officer or employee;

(2) prohibit a state agency from using a petty cash account to advance travel expense money to a prospective state officer or employee;

(3) require a final accounting after a state officer or employee has incurred travel expenses; and

(4) prohibit a state agency from using a petty cash account for any purpose other than advancing travel expense money to a state officer or employee.

(c) In this section, "final accounting" means a reimbursement from or additional payment to a state officer or employee so that the net amount received by the officer or employee equals the actual travel expenses incurred by the officer or employee.

Added by Acts 1991, 72nd Leg., ch. 744, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 50, eff. Sept. 1, 1997.

Sec. 403.249. DUTIES OF COMPTROLLER. (a) The comptroller shall notify the state auditor when a state agency requests a certification under Section 403.247(b) for a petty cash account.

(b) The comptroller shall use the agency's estimate of probable disbursements from the account during the fiscal year to determine whether the agency has a sufficient appropriation from the fund during the fiscal year to cover those disbursements. The comptroller

shall notify the state agency of the determination.

(c) The comptroller may approve a state agency's written request to increase or decrease the petty cash accounts limitations specified in Section 403.246 if the comptroller determines that the increase or decrease is appropriate. The comptroller shall notify the state auditor of any increase or decrease of a petty cash account.

(d) When a state agency submits documentation to the comptroller as part of the procedure for replenishing a petty cash account, the comptroller shall treat the documentation as a proposed expenditure of appropriated funds.

(e) The comptroller shall follow the regular procedures used for auditing claims against the state.

(f) As soon as possible after the beginning of each fiscal year, the comptroller shall review:

(1) each petty cash account to ensure that the corresponding state agency has a sufficient appropriation from the fund to cover projected disbursements from the account during the following fiscal year; and

(2) each petty cash account for advancing travel expense money to ensure that the current amount of the account complies with the limits specified in Section 403.246.

(g) The comptroller shall send the results of the review required by Subsection (f) to the state auditor.

(h) The comptroller may temporarily lapse a state agency's unencumbered appropriations from the fund in an amount equal to the shortage in its petty cash account if the state auditor certifies the existence of that shortage to the comptroller.

(i) The comptroller shall reinstate the lapsed unencumbered appropriations of a state agency if the state auditor certifies to the comptroller that the agency has adopted procedures to prevent similar shortages from occurring in the future.

(j) The comptroller, after consulting with the state auditor, shall adopt necessary rules for the efficient administration of this section.

Added by Acts 1991, 72nd Leg., ch. 744, Sec. 1, eff. Sept. 1, 1991.

Sec. 403.250. DUTIES OF STATE AUDITOR. The state auditor,

based on a risk assessment and subject to the legislative audit committee's approval of including the audit in the audit plan under Section 321.013, may audit state agencies for the proper use of petty cash accounts and promptly report shortages, abuses, or unwarranted uses of petty cash accounts to the legislature and the comptroller.

Added by Acts 1991, 72nd Leg., ch. 744, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 2003, 78th Leg., ch. 785, Sec. 11, eff. Sept. 1, 2003.

Sec. 403.251. ADDITIONAL DUTIES OF COMPTROLLER. The comptroller shall treat documentation submitted by a state agency as part of the procedure for replenishing a petty cash account as a proposed expenditure of appropriated funds. The comptroller shall follow its usual procedures for reviewing purchases. The comptroller shall give the agency a written approval or disapproval of each disbursement from the petty cash account.

Added by Acts 1991, 72nd Leg., ch. 744, Sec. 1, eff. Sept. 1, 1991.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.45, eff. September 1, 2007.

Sec. 403.252. EXCEPTIONS. This subchapter does not apply to:
(1) state agency funds located completely outside the state treasury;
(2) the petty cash accounts maintained by the Department of State Health Services under Section 533.037(d), Health and Safety Code; or
(3) imprest funds kept by enforcement agencies for the purchase of evidence or other enforcement purposes.

Added by Acts 1991, 72nd Leg., ch. 744, Sec. 1, eff. Sept. 1, 1991.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.05, eff. September 1, 2023.

SUBCHAPTER L. PROPERTY ACCOUNTING

Sec. 403.271. PROPERTY ACCOUNTING SYSTEM. (a) This subchapter applies to:

(1) all personal property belonging to the state; and

(2) real and personal property acquired by or otherwise under the jurisdiction of the state under 40 U.S.C. Section 483c, 484(j), or 484(k), and Subchapter G, Chapter 2175.

(b) The comptroller shall administer the property accounting system and maintain centralized records based on information supplied by state agencies and the uniform statewide accounting system. The comptroller shall adopt necessary rules for the implementation of the property accounting system, including setting the dollar value amount for capital assets and authorizing exemptions from reporting.

(c) The property accounting system shall constitute, to the extent possible, the fixed asset component of the uniform statewide accounting system.

(d) The comptroller may authorize a state agency to keep property accounting records at the agency's principal office if the agency maintains complete, accurate, and detailed records. When the comptroller makes such a finding, it shall keep summary records of the property held by that agency. The agency shall maintain detailed records in the manner prescribed by the comptroller and shall furnish reports at the time and in the form directed by the comptroller.

(e) A state agency shall mark and identify state property in its possession. The agency shall follow the rules issued by the comptroller in marking state property.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 8, Sec. 2.30. Amended by Acts 1993, 73rd Leg., ch. 906, Sec. 2.11; Acts 1997, 75th Leg., ch. 165, Sec. 17.198, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 816, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 9.020(g), eff. Sept. 1, 2003.

Sec. 403.2715. UNIVERSITY SYSTEMS AND INSTITUTIONS OF HIGHER EDUCATION. (a) In this section, "institution of higher education" and "university system" have the meanings assigned by Section 61.003, Education Code.

(b) Except as provided by this section, this subchapter does not apply to a university system or institution of higher education.

(c) A university system or institution of higher education

shall account for all personal property as defined by the comptroller under Section 403.272. At all times, the property records of a university system or institution of higher education must accurately reflect the personal property possessed by the system or institution.

(d) The chief executive officer of each university system or institution of higher education shall designate one or more property managers. The property manager shall maintain the records required and be the custodian of all personal property possessed by the system or institution.

(e) Sections 403.273(h), 403.275, and 403.278 apply to a university system or institution of higher education.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 6.07, eff. June 17, 2011.

Sec. 403.272. RESPONSIBILITY FOR PROPERTY ACCOUNTING. (a) A state agency must comply with this subchapter and maintain the property records required.

(b) All personal property owned by the state shall be accounted for by the agency that possesses the property. The comptroller shall define personal property by rule for the purposes of this subchapter. In adopting rules, the comptroller shall consider the value of the property, its expected useful life, and the cost of recordkeeping.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 8, Sec. 2.30. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 12, eff. Sept. 1, 2003.

Sec. 403.273. PROPERTY MANAGER; PROPERTY INVENTORY. (a) The head of each state agency is responsible for the custody and care of property in the agency's possession.

(b) The head of each state agency shall designate a property manager and inform the comptroller of the designation. Subject to comptroller approval, more than one property manager may be designated.

(c) The property manager of a state agency shall maintain the records required and be the custodian of all property possessed by the agency.

(d) When a state agency's property is entrusted to a person other than the agency's property manager, the person to whom the

property is entrusted shall provide a written receipt to the manager. A state agency may lend its property to another state agency only if the head of the agency lending the property provides written authorization for the lending. The head of the agency to which the property is lent must execute a written receipt.

(e) A state agency shall conduct an annual physical inventory of all property in its possession. The comptroller may specify the date on which the inventory must be conducted.

(f) Not later than the date prescribed by the comptroller, the head of a state agency shall submit to the comptroller:

(1) a signed statement describing the methods used to conduct the agency's annual physical inventory under Subsection (e);

(2) a copy of the results of the inventory; and

(3) any other information concerning the inventory that the comptroller requires.

(g) At all times, the property records of a state agency must accurately reflect the property possessed by the agency. Property may be deleted from the agency's records only in accordance with rules adopted by the comptroller.

(h) The state auditor, based on a risk assessment and subject to the legislative audit committee's approval of including the examination in the audit plan under Section 321.013, may periodically examine property records or inventory as necessary to determine if controls are adequate to safeguard state property.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 8, Sec. 2.30. Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 1.44, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1158, Sec. 16, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 785, Sec. 13, eff. Sept. 1, 2003.

Sec. 403.274. CHANGE OF AGENCY HEAD OR PROPERTY MANAGER. When the head or property manager of a state agency changes, the outgoing head of the agency or property manager shall complete the form required by the comptroller about property in the agency's possession. The outgoing head of the agency or property manager shall deliver the form to the incoming head of the agency or property manager. After verifying the information on and signing the form, the incoming head of the agency or property manager shall submit a copy of the form to the comptroller.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 8, Sec. 2.30. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 17, eff. June 15, 2001.

Sec. 403.275. LIABILITY FOR PROPERTY LOSS. The liability prescribed by this section may attach on a joint and several basis to more than one person in a particular instance. A person is pecuniarily liable for the loss sustained by the state if:

(1) agency property disappears, as a result of the failure of the head of an agency, property manager, or agency employee entrusted with the property to exercise reasonable care for its safekeeping;

(2) agency property deteriorates as a result of the failure of the head of an agency, property manager, or agency employee entrusted with the property to exercise reasonable care to maintain and service the property; or

(3) agency property is damaged or destroyed as a result of an intentional wrongful act or of a negligent act of any state official or employee.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 8, Sec. 2.30.

Sec. 403.276. REPORTING TO COMPTROLLER AND ATTORNEY GENERAL. (a) If the head or property manager of a state agency has reasonable cause to believe that any property in the agency's possession has been lost, destroyed, or damaged through the negligence of any state official or employee, the head of the agency or property manager shall report the loss, destruction, or damage to the comptroller and the attorney general not later than the date established by the comptroller. If the head or property manager of a state agency has reasonable cause to believe that any property in the agency's possession has been stolen, the head of the agency or property manager shall report the theft to the comptroller, the attorney general, and the appropriate law enforcement agency not later than the date established by the comptroller.

(b) The attorney general may investigate a report received under Subsection (a).

(c) If an investigation by the attorney general under Subsection (b) reveals that a property loss has been sustained

through the negligence of a state official or employee, the attorney general shall make written demand on the official or employee for reimbursement of the loss.

(d) If the demand made by the attorney general under Subsection (c) is refused or disregarded, the attorney general may take legal action to recover the value of the property as the attorney general deems necessary.

(e) Venue for all suits instituted under this section against a state official or employee is in a court of appropriate jurisdiction of Travis County.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 8, Sec. 2.30. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 18, eff. June 15, 2001.

Sec. 403.277. FAILURE TO KEEP RECORDS. If a state agency fails to keep the records or fails to take the annual physical inventory required by this subchapter, the comptroller may refuse to draw warrants or initiate electronic funds transfers on behalf of the agency.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 8, Sec. 2.30.

Sec. 403.278. TRANSFER OF PERSONAL PROPERTY. (a) A state agency may transfer any personal property of the state in its possession to another state agency with or without reimbursement between the agencies.

(b) When personal property in the possession of one state agency is transferred to the possession of another state agency, the transfers must be reported immediately to the comptroller by the transferor and the transferee on the forms prescribed.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 8, Sec. 2.30.

SUBCHAPTER M. STUDY OF SCHOOL DISTRICT PROPERTY VALUES

Sec. 403.301. PURPOSE. It is the policy of this state to ensure equity among taxpayers in the burden of school district taxes and among school districts in the distribution of state financial aid for public education. The purpose of this subchapter is to promote

that policy by providing for uniformity in local property appraisal practices and procedures and in the determination of property values for schools in order to distribute state funding equitably.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 26, eff. May 30, 1995. Amended by Acts 2003, 78th Leg., ch. 1183, Sec. 1, eff. June 20, 2003.

Sec. 403.3011. DEFINITIONS. In this subchapter:

(1) "Study" means a study conducted under Section 403.302.

(2) "Eligible school district" means a school district for which the comptroller has determined the following:

(A) in the most recent study, the local value is invalid under Section 403.302(c) and does not exceed the state value for the school district determined in the study;

(B) in the two studies preceding the most recent study, the school district's local value was valid under Section 403.302(c);

(C) in the most recent study, the aggregate local value of all of the categories of property sampled by the comptroller is not less than 90 percent of the lower limit of the margin of error as determined by the comptroller of the aggregate value as determined by the comptroller of all of the categories of property sampled by the comptroller; and

(D) the appraisal district that appraises property for the school district was in compliance with the scoring requirement of the comptroller's most recent review of the appraisal district conducted under Section 5.102, Tax Code.

(3) "Local value" means the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total amounts and values listed in Section 403.302(d) as determined by that appraisal district.

(4) "State value" means the value of property in a school district as determined in a study.

Added by Acts 2003, 78th Leg., ch. 1183, Sec. 2, eff. June 20, 2003. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 288 (H.B. 8), Sec. 1, eff. January 1, 2010.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2508, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.302. DETERMINATION OF SCHOOL DISTRICT PROPERTY VALUES. (a) The comptroller shall conduct a study using comparable sales and generally accepted auditing and sampling techniques to determine the total taxable value of all property in each school district. The study shall determine the taxable value of all property and of each category of property in the district and the productivity value of all land that qualifies for appraisal on the basis of its productive capacity and for which the owner has applied for and received a productivity appraisal. The comptroller shall make appropriate adjustments in the study to account for actions taken under Chapter 49, Education Code.

(a-1) The comptroller shall conduct a study:

(1) at least every two years in each school district for which the most recent study resulted in a determination by the comptroller that the school district's local value was valid; and

(2) each year in a school district for which the most recent study resulted in a determination by the comptroller that the school district's local value was not valid.

(a-2) If in any year the comptroller does not conduct a study, the school district's local value for that year is considered to be valid.

(b) In conducting the study, the comptroller shall determine the taxable value of property in each school district:

(1) using, if appropriate, samples selected through generally accepted sampling techniques;

(2) according to generally accepted standard valuation, statistical compilation, and analysis techniques;

(3) ensuring that different levels of appraisal on sold and unsold property do not adversely affect the accuracy of the study; and

(4) ensuring that different levels of appraisal resulting from protests determined under Section 41.43, Tax Code, are appropriately adjusted in the study.

(c) If after conducting the study the comptroller determines that the local value for a school district is valid, the local value is presumed to represent taxable value for the school district. In the absence of that presumption, taxable value for a school district

is the state value for the school district determined by the comptroller under Subsections (a) and (b) unless the local value exceeds the state value, in which case the taxable value for the school district is the district's local value. In determining whether the local value for a school district is valid, the comptroller shall use a margin of error that does not exceed five percent unless the comptroller determines that the size of the sample of properties necessary to make the determination makes the use of such a margin of error not feasible, in which case the comptroller may use a larger margin of error.

(c-1) This subsection applies only to a school district whose central administrative office is located in a county with a population of 10,000 or less and a total area of more than 6,000 square miles. If after conducting the study for a tax year the comptroller determines that the local value for a school district is not valid, the comptroller shall adjust the taxable value determined under Subsections (a) and (b) as follows:

(1) for each category of property sampled and tested by the comptroller in the school district, the comptroller shall use the weighted mean appraisal ratio determined by the study, unless the ratio is more than four percentage points lower than the weighted mean appraisal ratio determined by the comptroller for that category of property in the immediately preceding study, in which case the comptroller shall use the weighted mean appraisal ratio determined in the immediately preceding study minus four percentage points;

(2) the comptroller shall use the category weighted mean appraisal ratios as adjusted under Subdivision (1) to establish a value estimate for each category of property sampled and tested by the comptroller in the school district; and

(3) the value estimates established under Subdivision (2), together with the local tax roll value for any categories not sampled and tested by the comptroller, less total deductions determined by the comptroller, determine the taxable value for the school district.

Text of subsection effective until January 1, 2027

(d) For the purposes of this section, "taxable value" means the market value of all taxable property less:

(1) the total dollar amount of any residence homestead exemptions lawfully granted under Section 11.13(b) or (c), Tax Code, in the year that is the subject of the study for each school district;

(2) one-half of the total dollar amount of any residence homestead exemptions granted under Section 11.13(n), Tax Code, in the year that is the subject of the study for each school district;

(3) the total dollar amount of any exemptions granted before May 31, 1993, within a reinvestment zone under agreements authorized by Chapter 312, Tax Code;

(4) subject to Subsection (e), the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone created on or before May 31, 1999, or is proposed to be included within the boundaries of a reinvestment zone as the boundaries of the zone and the proposed portion of tax increment paid into the tax increment fund by a school district are described in a written notification provided by the municipality or the board of directors of the zone to the governing bodies of the other taxing units in the manner provided by former Section 311.003(e), Tax Code, before May 31, 1999, and within the boundaries of the zone as those boundaries existed on September 1, 1999, including subsequent improvements to the property regardless of when made;

(B) generates taxes paid into a tax increment fund created under Chapter 311, Tax Code, under a reinvestment zone financing plan approved under Section 311.011(d), Tax Code, on or before September 1, 1999; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(5) the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone:

(i) created on or before December 31, 2008, by a municipality with a population of less than 18,000; and

(ii) the project plan for which includes the alteration, remodeling, repair, or reconstruction of a structure that is included on the National Register of Historic Places and requires that a portion of the tax increment of the zone be used for the improvement or construction of related facilities or for affordable housing;

(B) generates school district taxes that are paid into a tax increment fund created under Chapter 311, Tax Code; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(6) the total dollar amount of any exemptions granted under Section 11.251 or 11.253, Tax Code;

(7) the difference between the comptroller's estimate of the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value estimated by the comptroller may not exceed the fair market value of the land;

(8) the portion of the appraised value of residence homesteads of individuals who receive a tax limitation under Section 11.26, Tax Code, on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(9) a portion of the market value of property not otherwise fully taxable by the district at market value because of action required by statute or the constitution of this state, other than Section 11.311, Tax Code, that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property, if this subsection does not otherwise require that portion to be deducted;

(10) the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income;

(11) the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.06, Tax Code;

(12) the portion of the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.065, Tax Code;

(13) the amount by which the market value of property to which Section 23.23 or 23.231, Tax Code, applies exceeds the appraised value of that property as calculated under Section 23.23 or 23.231, Tax Code, as applicable; and

(14) the total dollar amount of any exemptions granted under Section 11.35, Tax Code.

Text of subsection effective on January 1, 2027

(d) For the purposes of this section, "taxable value" means the market value of all taxable property less:

(1) the total dollar amount of any residence homestead exemptions lawfully granted under Section 11.13(b) or (c), Tax Code, in the year that is the subject of the study for each school district;

(2) one-half of the total dollar amount of any residence homestead exemptions granted under Section 11.13(n), Tax Code, in the year that is the subject of the study for each school district;

(3) the total dollar amount of any exemptions granted before May 31, 1993, within a reinvestment zone under agreements authorized by Chapter 312, Tax Code;

(4) subject to Subsection (e), the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone created on or before May 31, 1999, or is proposed to be included within the boundaries of a reinvestment zone as the boundaries of the zone and the proposed portion of tax increment paid into the tax increment fund by a school district are described in a written notification provided by the municipality or the board of directors of the zone to the governing bodies of the other taxing units in the manner provided by former Section 311.003(e), Tax Code, before May 31, 1999, and within the boundaries of the zone as those boundaries existed on September 1, 1999, including subsequent improvements to the property regardless of when made;

(B) generates taxes paid into a tax increment fund created under Chapter 311, Tax Code, under a reinvestment zone financing plan approved under Section 311.011(d), Tax Code, on or before September 1, 1999; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(5) the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone:

(i) created on or before December 31, 2008, by a municipality with a population of less than 18,000; and

(ii) the project plan for which includes the alteration, remodeling, repair, or reconstruction of a structure that is included on the National Register of Historic Places and requires that a portion of the tax increment of the zone be used for the improvement or construction of related facilities or for affordable housing;

(B) generates school district taxes that are paid into a tax increment fund created under Chapter 311, Tax Code; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(6) the total dollar amount of any exemptions granted under Section 11.251 or 11.253, Tax Code;

(7) the difference between the comptroller's estimate of the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value estimated by the comptroller may not exceed the fair market value of the land;

(8) the portion of the appraised value of residence homesteads of individuals who receive a tax limitation under Section 11.26, Tax Code, on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(9) a portion of the market value of property not otherwise fully taxable by the district at market value because of action required by statute or the constitution of this state, other than Section 11.311, Tax Code, that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property, if this subsection does not otherwise require that portion to be deducted;

(10) the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income;

(11) the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.06, Tax Code;

(12) the portion of the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.065, Tax Code;

(13) the amount by which the market value of a residence homestead to which Section 23.23, Tax Code, applies exceeds the appraised value of that property as calculated under that section; and

(14) the total dollar amount of any exemptions granted

under Section 11.35, Tax Code.

(d-1) For purposes of Subsection (d), a residence homestead that receives an exemption under Section 11.131, 11.133, or 11.134, Tax Code, in the year that is the subject of the study is not considered to be taxable property.

(e) The total dollar amount deducted in each year as required by Subsection (d)(4) in a reinvestment zone created after January 1, 1999, may not exceed the captured appraised value estimated for that year as required by Section 311.011(c)(8), Tax Code, in the reinvestment zone financing plan approved under Section 311.011(d), Tax Code, before September 1, 1999. The number of years for which the total dollar amount may be deducted under Subsection (d)(4) shall for any zone, including those created on or before January 1, 1999, be limited to the duration of the zone as specified as required by Section 311.011(c)(9), Tax Code, in the reinvestment zone financing plan approved under Section 311.011(d), Tax Code, before September 1, 1999. The total dollar amount deducted under Subsection (d)(4) for any zone, including those created on or before January 1, 1999, may not be increased by any reinvestment zone financing plan amendments that occur after August 31, 1999. The total dollar amount deducted under Subsection (d)(4) for any zone, including those created on or before January 1, 1999, may not be increased by a change made after August 31, 1999, in the portion of the tax increment retained by the school district.

(e-1) This subsection applies only to a reinvestment zone created by a municipality that has a population of 83,000 or less and is located in a county in which all or part of a military installation is located. Notwithstanding Subsection (e), if on or after January 1, 2017, the municipality adopts an ordinance designating a termination date for the zone that is later than the termination date designated in the ordinance creating the zone, the number of years for which the total dollar amount may be deducted under Subsection (d)(4) is limited to the duration of the zone as determined under Section 311.017, Tax Code.

(f) The study shall determine the values as of January 1 of each year:

(1) for a school district in which a study was conducted according to the results of the study; and

(2) for a school district in which a study was not conducted according to the market value determined by the appraisal

district that appraises property for the district, less the amounts specified by Subsection (d).

(g) The comptroller shall publish preliminary findings, listing values by district, before February 1 of the year following the year of the study. Preliminary findings shall be delivered to each school district and shall be certified to the commissioner of education.

(h) On request of the commissioner of education or a school district, the comptroller may audit the total taxable value of property in a school district and may revise the study findings. The request for audit is limited to corrections and changes in a school district's appraisal roll that occurred after preliminary certification of the study findings by the comptroller. Except as otherwise provided by this subsection, the request for audit must be filed with the comptroller not later than the third anniversary of the date of the final certification of the study findings. The request for audit may be filed not later than the first anniversary of the date the chief appraiser certifies a change to the appraisal roll if the chief appraiser corrects the appraisal roll under Section 25.25 or 42.41, Tax Code, and the change results in a material reduction in the total taxable value of property in the school district. The comptroller shall certify the findings of the audit to the commissioner of education.

Text of subsection effective until January 1, 2027

(i) If the comptroller determines in the study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(13) subtract from the market value as determined by the appraisal district of properties to which Section 23.23 or 23.231, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23 or 23.231, Tax Code, as applicable. If the comptroller determines in the study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is not valid, the comptroller, in determining the taxable

value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(13) subtract from the market value as estimated by the comptroller of properties to which Section 23.23 or 23.231, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23 or 23.231, Tax Code, as applicable.

Text of subsection effective on January 1, 2027

(i) If the comptroller determines in the study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(13) subtract from the market value as determined by the appraisal district of residence homesteads to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code. If the comptroller determines in the study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is not valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(13) subtract from the market value as estimated by the comptroller of residence homesteads to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code.

(j) The comptroller shall certify the final taxable value for each school district, appropriately adjusted to give effect to certain provisions of the Education Code related to school funding, to the commissioner of education as provided by the terms of a memorandum of understanding entered into between the comptroller, the Legislative Budget Board, and the commissioner of education.

(j-1) In the final certification of the study under Subsection (j), the comptroller shall separately identify the final taxable value for each school district as adjusted to account for the reduction of the amount of the limitation on tax increases provided

by Section 11.26(a-10), Tax Code.

(k) If the comptroller determines in the final certification of the study that the school district's local value as determined by the appraisal district that appraises property for the school district is not valid, the comptroller shall provide notice of the comptroller's determination to the board of directors of the appraisal district. The board of directors of the appraisal district shall hold a public meeting to discuss the receipt of notice under this subsection.

(k-1) If the comptroller determines in the final certification of the study that the school district's local value as determined by the appraisal district that appraises property for the school district is not valid for three consecutive years, the comptroller shall conduct an additional review of the appraisal district under Section 5.102, Tax Code, and provide recommendations to the appraisal district regarding appraisal standards, procedures, and methodologies. The comptroller may contract with a third party to assist the comptroller in conducting the additional review and providing the recommendations required under this subsection. If the appraisal district fails to comply with the recommendations provided under this subsection and the comptroller finds that the board of directors of the appraisal district failed to take remedial action reasonably designed to ensure substantial compliance with each recommendation before the first anniversary of the date the recommendations were made, the comptroller shall notify the Texas Department of Licensing and Regulation, or a successor to the department, which shall take action necessary to ensure that the recommendations are implemented as soon as practicable. Before February 1 of the year following the year in which the Texas Department of Licensing and Regulation, or a successor to the department, takes action under this subsection, the department, with the assistance of the comptroller, shall determine whether the recommendations have been substantially implemented and notify the chief appraiser and the board of directors of the appraisal district of the determination. If the department determines that the recommendations have not been substantially implemented, the board of directors of the appraisal district must, within three months of the determination, consider whether the failure to implement the recommendations was under the current chief appraiser's control and whether the chief appraiser is able to adequately perform the chief appraiser's duties.

(l) If after conducting the study for a year the comptroller determines that a school district is an eligible school district, for that year and the following year the taxable value for the school district is the district's local value.

(m) Repealed by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 4.001(b), eff. September 1, 2019.

(m-1) Repealed by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 91(1), eff. January 1, 2020.

(n) Repealed by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 91(1), eff. January 1, 2020.

(o) The comptroller shall adopt rules governing the conduct of the study after consultation with the comptroller's property tax administration advisory board.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 26, eff. May 30, 1995. Amended by Acts 1997, 75th Leg., ch. 592, Sec. 1.07, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1039, Sec. 44, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1040, Sec. 63, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1071, Sec. 27, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.04, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 396, Sec. 3.01(b), eff. Aug. 31, 1999; Acts 1999, 76th Leg., ch. 396, Sec. 1.36, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 983, Sec. 9, 10, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 1467, Sec. 1.19, eff. June 19, 1999; Acts 1999, 76th Leg., ch. 1525, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 9.005, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1505, Sec. 7, eff. Jan. 1, 2002; Acts 2003, 78th Leg., ch. 411, Sec. 7, eff. Jan. 1, 2004; Acts 2003, 78th Leg., ch. 1183, Sec. 3, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.004, eff. Sept. 1, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 10, Sec. 3.01, 3.02, eff. Oct. 20, 2003.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 1.17, eff. May 31, 2006.

Acts 2007, 80th Leg., R.S., Ch. 19 (H.B. 5), Sec. 4, eff. May 12, 2007.

Acts 2007, 80th Leg., R.S., Ch. 764 (H.B. 3492), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 830 (H.B. 621), Sec. 3, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 288 (H.B. 8), Sec. 2, eff. January 1, 2010.

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 13, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 80, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1405 (H.B. 3613), Sec. 1(e), eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.003, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.004, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(14), eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 350 (H.B. 3465), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 19, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 20, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 138 (S.B. 163), Sec. 7, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 964 (H.B. 1897), Sec. 4, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 408 (H.B. 2293), Sec. 1, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 408 (H.B. 2293), Sec. 2, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. 1), Sec. 24(a), eff. November 3, 2015.

Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. 1), Sec. 24(b), eff. November 3, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.002(9), eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 511 (S.B. 15), Sec. 7, eff. January 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 1.061, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.074, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 4.001(b), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 75, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 91(1), eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1034 (H.B. 492), Sec. 9, eff. January 1, 2020.

Acts 2021, 87th Leg., 2nd C.S., Ch. 14 (S.B. 12), Sec. 5, eff. January 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 42, eff. September 1, 2023.

Acts 2023, 88th Leg., 2nd C.S., Ch. 1 (S.B. 2), Sec. 3.14, eff. November 7, 2023.

Acts 2023, 88th Leg., 2nd C.S., Ch. 1 (S.B. 2), Sec. 4.11, eff. January 1, 2024.

Acts 2023, 88th Leg., 2nd C.S., Ch. 1 (S.B. 2), Sec. 4.12, eff. January 1, 2027.

Sec. 403.3022. FARM AND RANCH SURVEY. (a) The comptroller shall conduct an annual farm and ranch survey for purposes of estimating the productivity value of qualified open-space land as part of a study under Section 403.302.

(b) The comptroller shall prepare and issue an instructional guide that provides information to assist individuals in completing the farm and ranch survey. The instructional guide must include:

(1) definitions of words related to property appraisal in the survey;

(2) instructions and examples regarding how to answer the questions in the survey;

(3) answers to frequently asked questions; and

(4) any other information the comptroller determines is necessary to assist individuals in completing the survey.

(c) At least once each year, the comptroller shall conduct an online or in-person informational session that is open to the public regarding how to complete the farm and ranch survey. The comptroller shall post a recording of the informational session on the

comptroller's Internet website.

(d) At least once each year, the comptroller shall solicit comments from the public and the property tax administration advisory board for the purposes of:

(1) determining the ease and understandability of the farm and ranch survey; and

(2) ensuring that the questions in the survey are designed to generate reliable answers.

(e) The chief appraiser of each appraisal district shall distribute the farm and ranch survey instructional guide to the members of the agricultural advisory board for the appraisal district appointed under Section 6.12, Tax Code, and shall provide information to the board regarding how to access the informational session provided under Subsection (c) of this section. The chief appraiser may distribute the instructional guide electronically under this subsection.

(f) The comptroller shall distribute the farm and ranch survey instructional guide to individuals who receive the farm and ranch survey from the comptroller and shall provide information to those individuals regarding how to access the informational session provided under Subsection (c). The comptroller may distribute the instructional guide electronically under this subsection.

(g) The definitions of words related to property appraisal included in the instructional guide are for informational purposes only and do not apply to this code or the Tax Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 390 (S.B. 1245), Sec. 1, eff. September 1, 2021.

Sec. 403.303. PROTEST. (a) A school district or a property owner whose property is included in the study under Section 403.302 and whose tax liability on the property is $100,000 or more may protest the comptroller's findings under Section 403.302(g) or (h) by filing a petition with the comptroller. The petition must be filed not later than the 40th day after the date on which the comptroller's findings are certified to the commissioner of education and must specify the grounds for objection and the value claimed to be correct by the school district or property owner.

(b) After receipt of a petition, the comptroller shall hold a

hearing. The comptroller has the burden to prove the accuracy of the findings. Until a final decision is made by the comptroller, the taxable value of property in the district is determined, with respect to property subject to the protest, according to the value claimed by the school district or property owner, except that the value to be used while a final decision is pending may not be less than the appraisal roll value for the year of the study. If after a hearing the comptroller concludes that the findings should be changed, the comptroller shall order the appropriate changes and shall certify to the commissioner of education the changes in the values of the school district that brought the protest, the values of the school district named by the property owner who brought the protest, or, if the comptroller by rule allows an appraisal district to bring a protest, the values of the school district named by the appraisal district that brought the protest. The comptroller may not order a change in the values of a school district as a result of a protest brought by another school district, a property owner in the other school district, or an appraisal district that appraises property for the other school district. The comptroller shall complete all protest hearings and certify all changes as necessary to comply with Chapter 48, Education Code. A hearing conducted under this subsection is not a contested case for purposes of Section 2001.003.

(c) The comptroller shall adopt procedural rules governing the conduct of protest hearings. The rules shall provide each protesting school district and property owner with the requirements for submitting a petition initiating a protest and shall provide each protesting school district and property owner with adequate notice of a hearing, an opportunity to present evidence and oral argument, and notice of the comptroller's decision on the hearing.

(d) A protesting school district may appeal a determination of a protest by the comptroller to a district court of Travis County by filing a petition with the court. An appeal must be filed not later than the 30th day after the date the school district receives notification of a final decision on a protest. Review is conducted by the court sitting without a jury. The court shall remand the determination to the comptroller if on the review the court discovers that substantial rights of the school district have been prejudiced, and that:

(1) the comptroller has acted arbitrarily and without regard to the facts; or

(2) the finding of the comptroller is not reasonably supported by substantial evidence introduced before the court.

(e) If, in a hearing under Subsection (b), the comptroller has not heard the case or read the record, the decision may not be made until a proposal for decision is served on each party and an opportunity to file exceptions is afforded to each party adversely affected. If exceptions are filed, an opportunity must be afforded to all other parties to file replies to the exceptions. The proposal for decision must contain a statement of the reasons for the proposed decision, prepared by the person who conducted the hearing or by a person who has read the record. The proposal for decision may be amended pursuant to the exceptions or replies submitted without again being served on the parties. The parties by written stipulation may waive compliance with this subsection. The comptroller may adopt rules to implement this subsection.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 26, eff. May 30, 1995.
Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 64, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 574, Sec. 1, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 983, Sec. 11, eff. June 18, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 412 (S.B. 1652), Sec. 1, eff. September 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.075, eff. September 1, 2019.

Sec. 403.304. COOPERATION WITH COMPTROLLER; CONFIDENTIALITY. (a) A school district, appraisal district, or other governmental entity in this state shall promptly comply with an oral or written request from the comptroller for information to be used in conducting a study, including information that is made confidential by Chapter 552 of this code, Section 22.27, Tax Code, or another law of this state.

(a-1) All information the comptroller obtains from a person, other than a government or governmental subdivision or agency, under an assurance that the information will be kept confidential, in the course of conducting a study is confidential and may not be disclosed except as provided in Subsection (b).

(b) Information made confidential by this section may be

disclosed:

(1) in a judicial or administrative proceeding pursuant to a lawful subpoena;

(2) to the person who gave the information to the comptroller; or

(3) for statistical purposes if in a form that does not identify specific property or a specific property owner.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 26, eff. May 30, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 288 (H.B. 8), Sec. 3, eff. January 1, 2010.

Acts 2009, 81st Leg., R.S., Ch. 288 (H.B. 8), Sec. 4, eff. January 1, 2010.

Text of subchapter effective on September 1, 2009, but only if a specific appropriation is provided as described by Acts 2009, 81st Leg., R.S., Ch. 654, Sec. 4, which states: This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

SUBCHAPTER P. GREEN JOB SKILLS DEVELOPMENT FUND AND TRAINING PROGRAM

Sec. 403.401. PURPOSE. The purpose of this subchapter is to:

(1) promote green industry employment opportunities, including through the establishment of training programs to enhance green job skills and create career opportunities that result in high-wage jobs;

(2) foster regional collaboration for the development of green industry employment opportunities;

(3) assist in the development of a highly skilled, high-wage, and productive workforce in the green industry; and

(4) assist workers with obtaining education, skills training, and labor market information to enhance their employability, earnings, and standard of living.

Added by Acts 2009, 81st Leg., R.S., Ch. 654 (H.B. 1935), Sec. 1, eff. September 1, 2009.

Sec. 403.402. DEFINITIONS. In this subchapter:

(1) "Development fund" means the Texas green job skills development fund.

(2) "Green job" means a job in the field of renewable energy or energy efficiency, including a job relating to:

(A) energy-efficient building, construction, and retrofitting;

(B) renewable energy, including biomass, hydroelectric, geothermal, and ocean energy, and wind and solar power;

(C) research and development or manufacturing of advanced battery or energy storage technologies;

(D) biofuels from non-feed food stocks;

(E) techniques to reduce, reuse, or recycle waste;

(F) techniques to recycle products and convert used materials into new products;

(G) energy efficiency assessments;

(H) manufacturing of sustainable products using sustainable processes and materials; and

(I) water conservation and water efficiency.

(3) "Recycle" means the process of extracting resources or value from waste by recovering or reusing the material, including the collection and reuse of everyday waste materials.

Added by Acts 2009, 81st Leg., R.S., Ch. 654 (H.B. 1935), Sec. 1, eff. September 1, 2009.

Sec. 403.403. TEXAS GREEN JOB SKILLS DEVELOPMENT FUND. (a) The Texas green job skills development fund is an account in the general revenue fund. The account is composed of:

(1) legislative appropriations;

(2) gifts, grants, donations, and matching funds received under Subsection (b); and

(3) other money required by law to be deposited in the account.

(b) The comptroller may solicit and accept gifts, grants, and donations of money from the federal government, local governments, private corporations, or other persons to be used for the purposes of this subchapter.

(c) Income from money in the account shall be credited to the

account.

(d) Money in the development fund may be used only for the purposes of this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 654 (H.B. 1935), Sec. 1, eff. September 1, 2009.

Sec. 403.404. ESTABLISHMENT OF GREEN JOB SKILLS GRANT PROGRAM. The comptroller shall establish a green job skills grant program, funded by the development fund under Section 403.403, through which the comptroller may award grants in cooperation with the Texas Workforce Commission through the State Energy Conservation Office for the implementation, expansion, and operation of green job skills training programs.

Added by Acts 2009, 81st Leg., R.S., Ch. 654 (H.B. 1935), Sec. 1, eff. September 1, 2009.

Sec. 403.405. GRANT PROGRAM REQUIREMENTS. (a) A training program funded through a grant awarded under this subchapter must:

(1) be hosted by a regional partnership that presents a plan to implement training programs that lead trainees to economic self-sufficiency and career pathways and includes at least:

(A) one university, college, technical school, or other nonprofit workforce training provider;

(B) one chamber of commerce, local workforce agency, local employer, or other public or private participating entity;

(C) one economic development authority; and

(D) one community or faith-based nonprofit organization that works with one or more targeted populations;

(2) assist an eligible individual in obtaining education, skills training, and labor market information to enhance the individual's employability in green industries; and

(3) assist in the development of a highly skilled and productive workforce in green industries.

(b) A training program awarded a grant under this subchapter shall target a population of eligible individuals for training that includes:

(1) workers in high-demand green industries who are in or

are preparing for high-wage occupations;

(2) workers in declining industries who may be retrained for high-wage occupations in a high-demand green industry;

(3) agriculture, timber, or energy sector workers who may be retrained for high-wage occupations in a high-demand green industry;

(4) veterans or past or present members of the armed forces of the United States, including the state military forces, or a reserve component of the armed forces or the national guard;

(5) unemployed workers;

(6) low-income workers, unemployed youth and adults, individuals who did not complete high school, or other underserved sectors of the workforce in high poverty areas; or

(7) individuals otherwise determined by the comptroller in cooperation with the Texas Workforce Commission to be disadvantaged and in need of training to obtain employment.

(c) A training program may receive funding under this subchapter for a period not to exceed three years.

(d) A training program may use grant funds for support services, including basic skills, literacy, GED, English as a second language, and job readiness training, career guidance, and referral services.

(e) A percentage of the grant, to be determined by the comptroller, must be devoted to administrative costs, costs related to hiring instructors and purchasing equipment, and tuition assistance.

Added by Acts 2009, 81st Leg., R.S., Ch. 654 (H.B. 1935), Sec. 1, eff. September 1, 2009.

Sec. 403.406. APPLICATION. (a) A regional partnership, as described by Section 403.405, may apply for a grant under this subchapter in the manner prescribed by the comptroller.

(b) The grant application must require the applicant to provide to the comptroller the applicant's plan to continue to operate the training program after the grant expires.

Added by Acts 2009, 81st Leg., R.S., Ch. 654 (H.B. 1935), Sec. 1, eff. September 1, 2009.

Sec. 403.407. ADDITIONAL CONSIDERATIONS IN AWARDING GRANTS. (a) In addition to the factors described by Sections 403.404 and 403.405, in determining whether to award a grant to an applicant under this subchapter, the comptroller shall give preference to a training program that:

(1) provides certification and a career advancement mechanism to a worker who receives green job skills training under the program; and

(2) leverages additional public and private resources to fund the program, including cash or in-kind matches.

(b) Grants shall be awarded in a manner that ensures geographic diversity.

Added by Acts 2009, 81st Leg., R.S., Ch. 654 (H.B. 1935), Sec. 1, eff. September 1, 2009.

Sec. 403.408. RESERVATION FOR CERTAIN PROGRAMS. Twenty percent of the funds available for grant programs under this subchapter must be reserved for job skills training programs that serve the unemployed and individuals whose incomes are at or below 200 percent of the federal poverty level.

Added by Acts 2009, 81st Leg., R.S., Ch. 654 (H.B. 1935), Sec. 1, eff. September 1, 2009.

Sec. 403.409. REPORT. (a) Not later than the 30th day after the date funding for a grant under this subchapter ends, the grant recipient shall submit a report to the comptroller that contains the following information:

(1) the number of participants who entered the program;

(2) the demographics of the participants, including race, gender, age, and significant barriers to education such as limited English proficiency, a criminal record, or a physical or mental disability;

(3) services received by participants, including training, education, and support services;

(4) the amount of program spending per participant;

(5) program completion rates;

(6) factors determined to interfere significantly with

program participation or completion;

(7) the average wage at placement, including benefits, and the rate of average wage increases after one year; and

(8) any post-employment support services provided.

(b) Not later than October 1 of each even-numbered year, the comptroller shall submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives that includes a summary of all information submitted under Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 654 (H.B. 1935), Sec. 1, eff. September 1, 2009.

Sec. 403.410. STANDARDS. The comptroller by rule shall adopt standards for a green job skills training program awarded a grant under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 654 (H.B. 1935), Sec. 1, eff. September 1, 2009.

SUBCHAPTER Q. SUPPORT FOR HABITAT PROTECTION MEASURES

Sec. 403.451. DEFINITIONS. In this subchapter:

(1) "Candidate conservation plan" means a plan to implement such actions as necessary for the conservation of one or more candidate species or species likely to become a candidate species in the near future.

(2) "Candidate species" means a species identified by the United States Department of the Interior as appropriate for listing as threatened or endangered.

(3) "Endangered species," "federal permit," "habitat conservation plan," and "mitigation fee" have the meanings assigned by Section 83.011, Parks and Wildlife Code.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 67.01, eff. September 28, 2011.

Sec. 403.452. COMPTROLLER POWERS AND DUTIES. (a) To promote compliance with federal law protecting endangered species and candidate species in a manner consistent with this state's economic

development and fiscal stability, the comptroller may:

(1) develop or coordinate the development of a habitat conservation plan or candidate conservation plan;

(2) apply for and hold a federal permit issued in connection with a habitat conservation plan or candidate conservation plan developed by the comptroller or the development of which is coordinated by the comptroller;

(3) enter into an agreement for the implementation of a candidate conservation plan with the United States Department of the Interior or assist another entity in entering into such an agreement;

(4) establish the habitat protection fund, to be held by the comptroller outside the treasury, to be used to support the development or coordination of the development of a habitat conservation plan or a candidate conservation plan, or to pay the costs of monitoring or administering the implementation of such a plan;

(5) impose or provide for the imposition of a mitigation fee in connection with a habitat conservation plan or such fees as are necessary or advisable for a candidate conservation plan developed by the comptroller or the development of which is coordinated by the comptroller; and

(6) implement, monitor, or support the implementation of a habitat conservation plan or candidate conservation plan developed by the comptroller or the development of which is coordinated by the comptroller.

(b) The comptroller may solicit and accept appropriations, fees under this subchapter, gifts, or grants from any public or private source, including the federal government, this state, a public agency, or a political subdivision of this state, for deposit to the credit of the fund established under this section.

(c) The legislature finds that expenditures described by Subsection (a)(4) serve public purposes, including economic development in this state.

(d) The comptroller may establish a nonprofit corporation or contract with a third party to perform one or more of the comptroller's functions under this section.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 67.01, eff. September 28, 2011.

Sec. 403.453. STATE AGENCY POWERS AND DUTIES. (a) Upon consideration of the factors identified in Subsection (b), the comptroller may designate one of the following agencies to undertake the functions identified in Section 403.452(a)(1), (2), (3), (5), or (6):

(1) the Department of Agriculture;

(2) the Parks and Wildlife Department;

(3) the Texas Department of Transportation;

(4) the State Soil and Water Conservation Board; or

(5) any agency receiving funds through Article VI (Natural Resources) of the 2012-2013 appropriations bill.

(b) In designating an agency pursuant to Subsection (a), the comptroller shall consider the following factors:

(1) the economic sectors impacted by the species of interest that will be included in the habitat conservation plan or candidate conservation plan;

(2) the identified threats to the species of interest; and

(3) the location of the species of interest.

(c) The comptroller may enter into a memorandum of understanding or an interagency contract with any of the agencies listed in this section to implement this subchapter and to provide for the use of the habitat protection fund.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 67.01, eff. September 28, 2011.

Sec. 403.454. CONFIDENTIAL INFORMATION. Information collected under this subchapter by an agency, or an entity acting on the agency's behalf, from a private landowner or other participant or potential participant in a habitat conservation plan, proposed habitat conservation plan, candidate conservation plan, or proposed candidate conservation plan is not subject to Chapter 552 and may not be disclosed to any person, including a state or federal agency, if the information relates to the specific location, species identification, or quantity of any animal or plant life for which a plan is under consideration or development or has been established under this subchapter. The agency may disclose information described by this section only to the person who provided the information unless the person consents in writing to full or specified partial

disclosure of the information.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 67.01, eff. September 28, 2011.

Sec. 403.455. RULES. The comptroller or agencies identified in Section 403.453 may adopt rules as necessary for the administration of this subchapter.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 67.01, eff. September 28, 2011.

SUBCHAPTER R. STATEWIDE OPIOID SETTLEMENT AGREEMENT

Sec. 403.501. DEFINITIONS. In this subchapter:

(1) "Account" means the opioid abatement account established by Section 403.505.

(2) "Council" means the Texas opioid abatement fund council established by Section 403.503 to manage the distribution of money allocated to the council from the opioid abatement trust fund in accordance with a statewide opioid settlement agreement.

(3) "Fund" means the opioid abatement trust fund established by Section 403.506.

(4) "Released entity" means an entity against which a claim is released under a statewide opioid settlement agreement.

(5) "Statewide opioid settlement agreement" means all settlement agreements and related documents entered into by this state through the attorney general, political subdivisions that have brought a civil action for an opioid-related harm claim against an opioid manufacturer, distributor, or retailer, and opioid manufacturers, distributors, or retailers relating to illegal conduct in the marketing, promotion, sale, distribution, and dispensation of opioids that provide relief for this state and political subdivisions of this state.

(6) "Trust company" means the Texas Treasury Safekeeping Trust Company.

Added by Acts 2021, 87th Leg., R.S., Ch. 781 (S.B. 1827), Sec. 1, eff. June 16, 2021.

Sec. 403.502. SETTLEMENT RECORDS. The attorney general and comptroller shall maintain a copy of a statewide opioid settlement agreement, including any amendments to the agreement, and make the copy available on the attorney general's and comptroller's Internet websites.

Added by Acts 2021, 87th Leg., R.S., Ch. 781 (S.B. 1827), Sec. 1, eff. June 16, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1901, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.503. TEXAS OPIOID ABATEMENT FUND COUNCIL. (a) The Texas opioid abatement fund council is established to ensure that money recovered by this state through a statewide opioid settlement agreement is allocated fairly and spent to remediate the opioid crisis in this state by using efficient and cost-effective methods that are directed to regions of this state experiencing opioid-related harms.

(b) The council is composed of the following 14 members:

(1) six regional members, appointed by the executive commissioner of the Health and Human Services Commission, who are from academia or the medical profession with significant experience in opioid interventions and who each are appointed to represent one of the following groups of regional health care partnership regions:

(A) regions 9 and 10;

(B) region 3;

(C) regions 11, 12, 13, 14, 15, and 19;

(D) regions 6, 7, 8, and 16;

(E) regions 1, 2, 17, and 18; and

(F) regions 4, 5, and 20;

(2) four members who are current or retired health care professionals holding or formerly holding a license under Title 3, Occupations Code, with significant experience in treating opioid-related harms and who are appointed as follows:

(A) one member appointed by the governor;

(B) one member appointed by the lieutenant governor;

(C) one member appointed by the speaker of the house of representatives; and

(D) one member appointed by the attorney general;

(3) one member who is employed by a hospital district and is appointed by the governor;

(4) one member who is employed by a hospital district and is appointed by the attorney general;

(5) one member appointed by the governor and who is a member of a law enforcement agency and has experience with opioid-related harms; and

(6) one nonvoting member who serves as the presiding officer of the council and is the comptroller or the comptroller's designee.

(c) In making appointments under Subsection (b)(1), the executive commissioner of the Health and Human Services Commission shall appoint members from a list of two qualified candidates provided by the governing bodies of counties and municipalities that:

(1) brought a civil action for an opioid-related harm against a released entity;

(2) released an opioid-related harm claim in a statewide opioid settlement agreement; and

(3) are located within the regions for which the member is being appointed.

(d) In making appointments under Subsection (b), the governor, lieutenant governor, speaker of the house of representatives, and attorney general shall coordinate to ensure that the membership of the council reflects, to the extent possible, the ethnic and geographic diversity of this state.

(e) The council is administratively attached to the comptroller. The comptroller shall provide the staff and facilities necessary to assist the council in performing its duties.

Added by Acts 2021, 87th Leg., R.S., Ch. 781 (S.B. 1827), Sec. 1, eff. June 16, 2021.

Sec. 403.504. COUNCIL OPERATION. (a) A council member is not entitled to compensation for council service but is entitled to reimbursement for actual and necessary expenses incurred in performing council duties.

(b) The council may hold public meetings as necessary to fulfill its duties under this subchapter.

(c) The council is subject to Chapters 551 and 552.

Added by Acts 2021, 87th Leg., R.S., Ch. 781 (S.B. 1827), Sec. 1, eff. June 16, 2021.

Sec. 403.505. OPIOID ABATEMENT ACCOUNT. (a) The opioid abatement account is a dedicated account in the general revenue fund administered by the comptroller.

(b) The account is composed of:

(1) money obtained from a statewide opioid settlement agreement and deposited in the account under Section 403.507;

(2) money received by the state from any other source resulting directly or indirectly from an action by the state against an opioid manufacturer, an opioid distributor, or another person in the opioid industry relating to a violation of state or federal law on the manufacture, marketing, distribution, or sale of opioids, other than money distributed to a political subdivision of the state in accordance with the terms of a settlement agreement or judgment;

(3) money appropriated or transferred to the account by the legislature;

(4) gifts and grants contributed to the account; and

(5) earnings on the principal of the account.

(c) Money in the account may be appropriated only to a state agency for the abatement of opioid-related harms.

(d) A state agency may use money appropriated from the account only to:

(1) prevent opioid use disorder through evidence-based education and prevention, such as school-based prevention, early intervention, or health care services or programs intended to reduce the risk of opioid use by school-age children;

(2) support efforts to prevent or reduce deaths from opioid overdoses or other opioid-related harms, including through increasing the availability or distribution of naloxone or other opioid antagonists for use by:

(A) health care providers;

(B) first responders;

(C) persons experiencing an opioid overdose;

(D) families;

(E) schools, including under a policy adopted under

Subchapter E-1, Chapter 38, Education Code, regarding the maintenance, administration, and disposal of opioid antagonists;

(F) community-based service providers;

(G) social workers; or

(H) other members of the public;

(3) create and provide training on the treatment of opioid addiction, including the treatment of opioid dependence with each medication approved for that purpose by the United States Food and Drug Administration, medical detoxification, relapse prevention, patient assessment, individual treatment planning, counseling, recovery supports, diversion control, and other best practices;

(4) provide opioid use disorder treatment for youths and adults, with an emphasis on programs that provide a continuum of care that includes screening and assessment for opioid use disorder and co-occurring behavioral health disorders, early intervention, contingency management, cognitive behavioral therapy, case management, relapse management, counseling services, and medication-assisted treatments;

(5) provide patients suffering from opioid dependence with access to all medications approved by the United States Food and Drug Administration for the treatment of opioid dependence and relapse prevention following opioid detoxification, including opioid agonists, partial agonists, and antagonists;

(6) support efforts to reduce the abuse or misuse of addictive prescription medications, including tools used to give health care providers information needed to protect the public from the harm caused by improper use of those medications;

(7) support treatment alternatives that provide both psychosocial support and medication-assisted treatments in areas with geographical or transportation-related challenges, including providing access to mobile health services and telemedicine, particularly in rural areas;

(8) address:

(A) the needs of persons involved with criminal justice; and

(B) rural county unattended deaths; or

(9) further any other purpose related to opioid abatement authorized by appropriation.

(e) Section 404.071 does not apply to the account.

Added by Acts 2021, 87th Leg., R.S., Ch. 781 (S.B. 1827), Sec. 1, eff. June 16, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1080 (S.B. 629), Sec. 2, eff. June 18, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1901, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.506. OPIOID ABATEMENT TRUST FUND. (a) The opioid abatement trust fund is a trust fund established outside of the state treasury for the purposes of this subchapter that is administered by the trust company. The trust company may authorize money from the fund to be invested with money from the state treasury.

(b) The fund consists of:

(1) money obtained under a statewide opioid settlement agreement and deposited in the fund under Section 403.507; and

(2) interest, dividends, and other income of the fund.

(c) The trust company shall:

(1) distribute to counties and municipalities to address opioid-related harms in those communities an amount equal to 15 percent of the total amount of money obtained under a statewide opioid settlement agreement and distributed to the fund and the account under Section 403.507; and

(2) allocate an amount equal to 70 percent of the total amount of money obtained under a statewide opioid settlement agreement and distributed to the fund and the account under Section 403.507 as follows:

(A) $5 million of the amount distributed to the fund to the Texas Access to Justice Foundation to be expended only on the order of the Supreme Court of Texas for the purpose of providing basic civil legal services to indigent persons directly impacted by opioid-use disorders, including children who need basic civil legal services as a result of opioid-use disorders by a parent, legal guardian or caretaker; and

(B) the remainder of that 70 percent to the council.

(d) The trust company shall distribute money allocated under Subsection (c)(2) at the direction of the council.

(e) The council shall provide to the trust company an annual

forecast of money deposited and withdrawn from the fund and provide updates to the forecast as appropriate to ensure the trust company is able to achieve the council's directives.

(f) In investing money from the fund and subject to the council's direction, the trust company has the same investment authority with respect to the fund as the comptroller has under Sections 404.0241(a) and (c) with respect to the economic stabilization fund.

Added by Acts 2021, 87th Leg., R.S., Ch. 781 (S.B. 1827), Sec. 1, eff. June 16, 2021.

Sec. 403.507. DEPOSIT AND ALLOCATION OF SETTLEMENT MONEY; EFFECT OF BANKRUPTCY. (a) Money obtained under a statewide opioid settlement agreement must be deposited as provided by this section and further allocated in accordance with the settlement agreement.

(b) Of money obtained under a statewide opioid settlement agreement:

(1) 15 percent shall be deposited into the account; and

(2) 85 percent shall be deposited into the fund.

(c) For the purposes of a statewide opioid settlement agreement in relation to a bankruptcy plan for a released entity, money is distributed in accordance with the bankruptcy plan.

Added by Acts 2021, 87th Leg., R.S., Ch. 781 (S.B. 1827), Sec. 1, eff. June 16, 2021.

Sec. 403.508. COUNCIL ALLOCATION OF MONEY. (a) Of the money allocated to the council under Section 403.506(c)(2), the council shall allocate:

(1) one percent to the comptroller for the administration of the council and this subchapter;

(2) 15 percent to hospital districts; and

(3) the remaining money based on the opioid abatement strategy developed by the council under Section 403.509.

(b) The comptroller may spend money from the fund for purposes of Subsection (a)(1). If the comptroller determines that the allocation under that subdivision exceeds the amount that is reasonable and necessary for the comptroller to administer the

council and this subchapter, the comptroller may reallocate the excess money in accordance with Subsection (a)(3).

Added by Acts 2021, 87th Leg., R.S., Ch. 781 (S.B. 1827), Sec. 1, eff. June 16, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1901, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.509. COUNCIL POWERS AND DUTIES AND COUNCIL-APPROVED OPIOID ABATEMENT STRATEGY. (a) The council shall:

(1) determine and approve one or more evidence-based opioid abatement strategies that include:

(A) an annual regional allocation methodology to distribute 75 percent of money distributed under Section 403.508(a)(3) based on population health information and prevalence of opioid incidences as provided by law; and

(B) an annual targeted allocation to distribute 25 percent of money distributed under Section 403.508(a)(3) for targeted interventions as identified by opioid incidence information;

(2) wholly or partly reallocate the targeted money between regions if a region for which targeted money is allocated is unable to use all of the targeted money;

(3) develop an application and award process for funding;

(4) review grant funding applications and provide grant awards and funding allocations;

(5) monitor grant agreements authorized by this subchapter and require each grant recipient to comply with the terms of the grant agreement or reimburse the grant to the council; and

(6) determine the percentage of money that may be used for development of education and outreach programs to provide materials on the consequences of opioid drug use and prevention and intervention, including online resources and toolkits.

(b) The council may reallocate money between regions based on the funding needs of all regions if money allocated to a region lapses or is not used in the year that the money is allocated for use in the region.

(c) To approve any decision or strategy, at least four of the members appointed under Section 403.503(b)(1) and four of the members

appointed under Sections 403.503(b)(2)-(5) must approve the decision or strategy.

Added by Acts 2021, 87th Leg., R.S., Ch. 781 (S.B. 1827), Sec. 1, eff. June 16, 2021.

Sec. 403.510. REPORT. Not later than October 1 of each year, the council shall submit a written report to the legislature detailing all expenditures made by the council during the preceding state fiscal year.

Added by Acts 2021, 87th Leg., R.S., Ch. 781 (S.B. 1827), Sec. 1, eff. June 16, 2021.

Sec. 403.511. RULEMAKING. The council may adopt rules to implement this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 781 (S.B. 1827), Sec. 1, eff. June 16, 2021.

SUBCHAPTER S. INFRASTRUCTURE AND BROADBAND FUNDING

Sec. 403.551. DEFINITIONS. In this subchapter:

(1) "Pole replacement fund" means the broadband pole replacement fund established under Section 403.552.

(2) "Pole replacement program" means the Texas Broadband Pole Replacement Program established under Section 403.553.

Added by Acts 2021, 87th Leg., R.S., Ch. 659 (H.B. 1505), Sec. 1, eff. September 1, 2021.
Redesignated by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(15), eff. September 1, 2023.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.002(6), eff. September 1, 2023.

Sec. 403.552. BROADBAND POLE REPLACEMENT FUND. (a) The broadband pole replacement fund is created as a fund in the state

treasury outside the general revenue fund.

(b) Notwithstanding any other law and except as provided by federal law, the comptroller shall make a one-time transfer from money received by this state from the federal government from the Coronavirus Capital Projects Fund established under Section 9901 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-2) to the credit of the pole replacement fund. The comptroller shall make the transfer described by this subsection as soon as practicable following receipt by this state of money from the Coronavirus Capital Projects Fund.

(b-1) In addition to the money transferred under Subsection (b), the comptroller may transfer to the credit of the pole replacement fund an available amount from the broadband infrastructure fund established under Section 49-d-16, Article III, Texas Constitution.

(c) Money deposited to the credit of the pole replacement fund may be used only for the purpose of supporting the pole replacement program under Section 403.553, including the costs of program administration and operation. Money in the pole replacement fund must be used in a manner consistent with federal law.

(d) Interest earned on money deposited to the credit of the pole replacement fund is exempt from Section 404.071. Interest earned on money in the fund shall be retained in the pole replacement fund.

(e) The comptroller may issue guidelines for state agencies regarding the implementation of this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 659 (H.B. 1505), Sec. 1, eff. September 1, 2021.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 379 (H.B. 9), Sec. 2, eff. January 1, 2024.

Redesignated by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(15), eff. September 1, 2023.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.002(7), eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1405, 89th Legislature,

Regular Session, for amendments affecting the following section.

Sec. 403.553. TEXAS BROADBAND POLE REPLACEMENT PROGRAM. (a) In this section:

(1) "Eligible broadband facility" means a facility used by a retail broadband service provider to provide qualifying broadband service to residences or businesses in an unserved area, including a facility owned by an affiliate of the provider and used in the provision of service. The term does not include a facility used only for the provision of wholesale service and not used by the owner of the facility or the owner's affiliate to provide retail qualifying broadband service directly to residences or businesses.

(2) "Eligible pole replacement cost" means the actual and reasonable costs paid or incurred by a party after August 31, 2021, to remove and replace a pole, including the amount of any expenditures to remove and dispose of the existing pole, purchase and install a replacement pole, and transfer any existing facilities to the new pole. The term includes costs paid or incurred by the party responsible for the costs of a pole replacement to reimburse the party that performs the pole replacement. The term does not include costs that the party incurs initially that have been reimbursed to the party by another party ultimately responsible for the costs.

(3) "Qualifying broadband service" means retail wireline or wireless broadband service capable of providing:

(A) a download speed of 25 megabits per second or faster; and

(B) an upload speed of 3 megabits per second or faster.

(4) "Unserved area" means a location that lacks access to a retail fixed, terrestrial, wireline, or wireless Internet service capable of providing:

(A) a download speed of 25 megabits per second or faster; and

(B) an upload speed of 3 megabits per second or faster.

(5) "Pole" means any pole used, wholly or partly, for any wire communications or electric distribution, irrespective of who owns or operates the pole.

(6) "Pole owner" means a person who owns or controls a pole.

(b) The Texas Broadband Pole Replacement Program is established for the purpose of speeding the deployment of broadband to individuals in rural areas by reimbursing a portion of eligible pole

replacement costs incurred by certain persons.

(c) The comptroller shall administer, prescribe rules for, and provide administrative support for the pole replacement program. The comptroller may take any action necessary or convenient to implement the pole replacement program.

(d) A pole owner or a provider of qualifying broadband service who pays or incurs the costs of removing and replacing an existing pole in an unserved area for the purpose of accommodating the attachment of an eligible broadband facility may apply to the comptroller for a reimbursement award for an amount equal to:

(1) 50 percent of the eligible pole replacement costs paid or incurred by the applicant or $5,000, whichever is less, for the pole replaced; and

(2) the documented and reasonable administrative expenses incurred by the applicant in preparing and submitting the reimbursement application, including expenses charged by a pole owner under Subsection (m).

(e) The amount reimbursed under Subsection (d)(2) may not exceed five percent of the eligible pole replacement costs in the application.

(f) For purposes of Subsection (d), a pole is considered to be located in an unserved area if:

(1) at the time of the request by a retail broadband service provider to attach facilities to the pole, the pole is in a location that, according to the latest broadband availability data made available by the Federal Communications Commission, is in an unserved area; or

(2) the pole is located in an area that is the subject of a federal or state grant to deploy broadband service, the conditions of which limit the availability of a grant to unserved areas.

(g) The comptroller shall require each applicant for reimbursement to provide:

(1) information sufficient to establish the number, cost, and eligibility of pole replacements and the identity of the retail broadband service provider attaching the eligible broadband facilities;

(2) documentation sufficient to establish that the pole replacements have been completed or will be completed not later than the 90th day after the award of program reimbursement;

(3) the amount of reimbursement requested and any grant

funding or accounting information required to justify the amount of the request;

(4) a notarized statement from an officer or agent of the applicant that the contents of the application are true and accurate and that the applicant accepts the requirements of Subsections (j), (k), and (l) as a condition of receiving an award of program reimbursement; and

(5) any other information the comptroller considers necessary for final review, award, and payment of program reimbursements.

(h) Not later than the 60th day after the date that the comptroller receives a completed application for reimbursement, the comptroller shall review the application and, if the pole replacement fund includes enough money to pay the award amount, shall issue a reimbursement award. The award must be paid not later than 30 days after the date of issuance.

(i) The comptroller must provide notice of a reimbursement award to the pole owner and the retail broadband service provider attaching the eligible broadband facility.

(j) As a condition of receiving an award of program reimbursement, an applicant must certify the applicant's compliance with the requirements of this section.

(k) If a pole owner receives a reimbursement award under this section, the owner may not include in any rates or fees charged for the owner's services an eligible pole replacement cost:

(1) reimbursed by the program;

(2) paid for by a qualifying broadband service provider; or

(3) funded by another grant source.

(l) If the comptroller finds on substantial evidence after notice and opportunity to respond that a recipient of funds under this section has materially violated the requirements of this section with respect to reimbursements or portions of reimbursements, the comptroller may direct the recipient to refund the reimbursement or a portion of the reimbursement with interest at the applicable federal funds rate as specified by Section 4A.506(b), Business & Commerce Code, to the pole replacement fund or the state general fund.

(m) If a retail broadband service provider incurs eligible pole replacement costs relating to a pole replacement performed by the pole owner, the owner shall coordinate with the provider to supply all information necessary for the provider to promptly complete and

submit an application under this section. A pole owner may charge the provider the documented and reasonable administrative expenses incurred by the pole owner for assistance, in an amount not to exceed five percent of eligible pole replacement costs. The provider may seek reimbursement of costs in accordance with Subsection (d)(2).

(n) If the pole replacement fund does not have money sufficient to pay an award, the application for the award is considered denied. The application may be refiled if sufficient funds are later made available in the pole replacement fund.

(o) Not later than the 60th day after the date the pole replacement fund receives money for the pole replacement program, the comptroller shall maintain and publish on the comptroller's Internet website:

(1) statistics on the number of applications received, processed, and rejected by the program;

(2) statistics on the size, number, and status of reimbursements awarded by the program, including the retail broadband service providers and pole owners receiving reimbursements; and

(3) the estimated amount of money remaining in the pole replacement fund.

(p) Not later than the first anniversary after the pole replacement fund receives funds for the purpose of providing pole replacement reimbursements, the state auditor shall audit the fund and the administration of the pole replacement program.

(q) Not later than one year after the date that the amount transferred to the pole replacement fund under Section 403.552(b) is exhausted, the comptroller shall identify, examine, and report on the deployment of broadband infrastructure and technology facilitated by the pole reimbursements the comptroller has awarded.

Added by Acts 2021, 87th Leg., R.S., Ch. 659 (H.B. 1505), Sec. 1, eff. September 1, 2021.
Redesignated by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(15), eff. September 1, 2023.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.002(8), eff. September 1, 2023.

Subchapter T, consisting of Secs. 403.601 to 403.623, was added by

Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1

For another Subchapter T, consisting of Secs. 403.601 to 403.605, added by Acts 2023, 88th Leg., R.S., Ch. 379 (H.B. 9), Sec. 1, see Sec. 403.601 et seq., post.

For expiration of this subchapter, see Section 403.603.

SUBCHAPTER T. TEXAS JOBS, ENERGY, TECHNOLOGY, AND INNOVATION ACT

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.601. PURPOSES. The purposes of this subchapter are to:

(1) create new, high-paying permanent jobs and construction jobs in this state;

(2) encourage financially positive economic development in this state;

(3) provide a temporary competitive economic incentive for attracting certain large-scale economic development projects to this state that, in the absence of this subchapter, would likely locate in another state or nation;

(4) encourage energy and water infrastructure development, including new and expanded dispatchable electric generation facilities;

(5) make this state a national and international leader in new and innovative technologies;

(6) encourage the establishment of certain advanced manufacturing industry sectors critical to national defense and health care;

(7) create new wealth, raise personal income, and foster long-term expansion of state and local tax bases;

(8) provide growing and sustainable economic opportunity for the residents of this state; and

(9) incentivize the preceding objectives in a balanced, transparent, and accountable manner.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see H.B. 1620 and S.B. 2900, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.602. DEFINITIONS. In this subchapter:

(1) "Additional job" means a full-time job in connection with an eligible project that is not a required job for the same project.

(2) "Agreement" means an agreement entered into under Section 403.612.

(3) "Applicant" means a person that applies for, or enters into an agreement providing for, a limitation on the taxable value of eligible property used as part of an eligible project, including the person's assignees or successors-in-interest.

(4) "Appraised value," "tax year," and "taxing unit" have the meanings assigned by Section 1.04, Tax Code.

(5) "Construction completion date" means the date on which an eligible project is first capable of being used for the purposes for which it is constructed.

(6) "Construction job" means an otherwise full-time job that is temporary in nature and is performed before the start of the incentive period applicable to an eligible project to perform construction, maintenance, remodeling, or repair work for an applicant in connection with the project.

(7) "Construction period" means the period prescribed by an agreement as the construction period of the eligible project that is the subject of the agreement.

(8) "Eligible project":

(A) means a project:

(i) to construct or expand a new or existing facility that is:

(a) a manufacturing facility;

(b) a facility related to the provision of utility services, including an electric generation facility that is considered to be dispatchable because the facility's output can be controlled primarily by forces under human control;

(c) a facility related to the development of natural resources; or

(d) a facility engaged in the research, development, or manufacture of high-tech equipment or technology; or

(ii) to construct or expand critical

infrastructure; and

(B) does not include a project to construct or expand a new or existing:

(i) nondispatchable electric generation facility; or

(ii) electric energy storage facility.

(9) "Eligible property" means property that is used as part of an eligible project that is wholly owned by an applicant or leased by an applicant under a capitalized lease and consists of:

(A) a new building or expansion of an existing building, including a permanent, nonremovable component of a building, that is:

(i) constructed after the date the agreement pertaining to the project is entered into; and

(ii) located in an area designated as a reinvestment zone under Chapter 311 or 312, Tax Code, or as an enterprise zone under Chapter 2303 of this code, at the time the agreement pertaining to the project is entered into; or

(B) tangible personal property, other than inventory, first located in the zone described by Paragraph (A)(ii) after the date the agreement pertaining to the project is entered into.

(10) "Full-time job" means a permanent full-time job that requires a total of at least 1,600 hours of work a year in connection with an eligible project. The term does not include a construction job.

(11) "Incentive period" for an eligible project means the period prescribed by the agreement pertaining to the project during which the eligible property used as part of the project is subject to a limitation on taxable value.

(12) "Independent contractor" has the meaning assigned by Section 406.121, Labor Code.

(13) "Investment" means the costs incurred by an applicant to acquire or construct eligible property composing an eligible project, other than the cost of land or inventory.

(14) "Oversight committee" means the Jobs, Energy, Technology, and Innovation Act Oversight Committee established under Section 403.618.

(15) "Qualified opportunity zone" means an area designated as such by the secretary of the United States Treasury.

(16) "Required job" means a job that an applicant commits

to create or demonstrate in connection with an eligible project as prescribed by Section 403.604.

(17) "Total jobs" means the sum of required jobs and additional jobs in connection with an eligible project.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.603. EXPIRATION. This subchapter expires December 31, 2033.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.604. REQUIRED JOBS AND INVESTMENT. (a) A jobs requirement prescribed by this section does not apply to an eligible project that is an electric generation facility described by Section 403.602(8)(A)(i)(b).

(b) To be eligible to enter into an agreement, an applicant for a limitation on taxable value of eligible property to be used for a proposed eligible project must agree to:

(1) if the project is to be located in a county with a population of at least 750,000:

(A) create at least 75 required jobs by the end of the first tax year of the incentive period prescribed by the agreement and demonstrate an average of at least that number of jobs during each following tax year until the date the agreement expires; and

(B) make an investment in the project in an amount of at least $200 million by the end of the first tax year of the incentive period prescribed by the agreement;

(2) if the project is to be located in a county with a population of at least 250,000 but less than 750,000:

(A) create at least 50 required jobs by the end of the first tax year of the incentive period prescribed by the agreement and demonstrate an average of at least that number of jobs during each following tax year until the date the agreement expires; and

(B) make an investment in the project in an amount of at least $100 million by the end of the first tax year of the incentive period prescribed by the agreement;

(3) if the project is to be located in a county with a population of at least 100,000 but less than 250,000:

(A) create at least 35 required jobs by the end of the first tax year of the incentive period prescribed by the agreement and demonstrate an average of at least that number of jobs during each following tax year until the date the agreement expires; and

(B) make an investment in the project in an amount of at least $50 million by the end of the first tax year of the incentive period prescribed by the agreement; or

(4) if the project is to be located in a county with a population of less than 100,000:

(A) create at least 10 required jobs by the end of the first tax year of the incentive period prescribed by the agreement and demonstrate an average of at least that number of jobs during each following tax year until the date the agreement expires; and

(B) make an investment in the project in an amount of at least $20 million by the end of the first tax year of the incentive period prescribed by the agreement.

(c) For purposes of Subsection (b), each required job created in connection with an eligible project:

(1) must be a new full-time job in this state:

(A) maintained in the usual course and scope of the applicant's business, which may be performed by an individual who is a trainee under the Texans Work program established under Chapter 308, Labor Code; or

(B) performed by an independent contractor and the independent contractor's employees at the site of the project; and

(2) may not be transferred by the applicant from an existing facility or location in this state or otherwise created to replace an existing job, unless the applicant fills the vacancy caused by the transfer.

(d) For purposes of Subsection (b), an applicant may demonstrate that the applicant has met the applicable minimum

investment requirement by any reasonable means. The applicant is considered to have met the applicable minimum investment requirement if the most recent appraisal roll for the county used to determine the minimum investment requirement under this section indicates that the appraised value of the eligible property composing the project as of January 1 of the second tax year of the incentive period prescribed by the agreement is equal to or greater than the minimum investment requirement applicable to the project.

(e) If an eligible project is located in more than one county, the jobs and investment requirement applicable to the project is determined using the jobs and investment requirement applicable to the county with the smallest population in which any part of the project is located.

(f) The comptroller may adopt rules necessary to interpret and administer this section, including rules regarding:

(1) the manner for determining:

(A) which jobs and investment requirements prescribed by Subsection (b) apply to an eligible project; and

(B) the circumstances under which a trainee under the Texans Work program established under Chapter 308, Labor Code, may be considered a full-time employee for purposes of this section; and

(2) the method by which an applicant must demonstrate an average of at least the number of required jobs for purposes of satisfying the jobs requirement prescribed by Subsection (b).

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.605. TAXABLE VALUE OF ELIGIBLE PROPERTY. (a) The taxable value for school district maintenance and operations ad valorem tax purposes of eligible property subject to an agreement for each tax year of the incentive period prescribed by the agreement is equal to:

(1) 50 percent of the market value of the property for that tax year; or

(2) if the property is located in a qualified opportunity

zone, 25 percent of the market value of the property for that tax year.

(b) The taxable value of eligible property for school district maintenance and operations ad valorem tax purposes is zero for each tax year beginning with the tax year following the year in which the agreement pertaining to the property is entered into and ending December 31 of the tax year that includes the construction completion date for the applicable eligible project.

(c) The chief appraiser for the appraisal district in which eligible property is located shall determine the market value and appraised value of the property and include the market value, appraised value, and taxable value of the property as determined under this section in the appraisal records for the appraisal district.

(d) The chief appraiser for the appraisal district in which eligible property subject to an agreement is located may not use an estimated value included in the application to which the agreement pertains to determine the market value of the property.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.606. CERTAIN PERSONS INELIGIBLE. A person is not eligible to submit an application to the comptroller or enter into an agreement under this subchapter if the person is a company that is listed as ineligible to receive a state contract or investment under Chapter 808, 809, 2270, 2271, or 2274, as added by Chapters 529 (S.B. 13), 530 (S.B. 19), and 975 (S.B. 2116), Acts of the 87th Legislature, Regular Session, 2021.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

Sec. 403.607. APPLICATION. (a) A person who proposes to construct an eligible project in a school district for which the

person seeks a limitation on the taxable value for maintenance and operations ad valorem tax purposes of the district of the eligible property used as part of the proposed project must submit an application to the comptroller.

(b) A person submitting an application under Subsection (a) must use the form prescribed by the comptroller. The form must contain the following information:

(1) the applicant's name, address, and Texas taxpayer identification number and the contact information for the applicant's authorized representative;

(2) the applicant's form of business and, if applicable, the name, address, and Texas taxpayer identification number of the applicant's parent entity;

(3) the applicable school district's name and address and the contact information for the district's authorized representative;

(4) the legal description of the property on which the project is proposed to be located and, if applicable, the address of the proposed project;

(5) each county in which the project is proposed to be located and the population of each of those counties;

(6) the applicable number of required jobs prescribed by Section 403.604 for the proposed project;

(7) a list of each taxing unit in which the project is proposed to be located;

(8) a brief description of the proposed project;

(9) any grant or loan of public money or other tax incentive, if applicable, that the applicant is receiving or expects to receive for the project;

(10) a brief description of the eligible property to be used as part of the proposed project;

(11) a projected timeline for construction and completion of the proposed project, including the projected dates on which construction will begin, construction will be completed, and commercial operations will start;

(12) the proposed incentive period;

(13) the name and location of the existing or proposed reinvestment zone or enterprise zone in which the proposed project will be located;

(14) whether the project is proposed to be located in a qualified opportunity zone;

(15) a statement indicating whether the applicant considered locating the proposed project in a qualified opportunity zone;

(16) a brief summary of the projected economic benefits of the proposed project; and

(17) the applicant's signature and certification of the accuracy of the information included in the application.

(c) The form prescribed by Subsection (b) must allow the applicant to segregate confidential information described by Section 403.621(a) from other information in the application.

(d) An applicant must include with an application the following:

(1) an application fee payable to the comptroller in an amount determined by the comptroller not to exceed an amount sufficient to cover the costs associated with the comptroller's evaluation of the application;

(2) an application fee payable to the school district in an amount determined by the comptroller not to exceed $30,000 to cover the costs associated with the district's evaluation of the application, including the cost of processing the application, retaining professional services, and, if applicable, creating a reinvestment zone or enterprise zone;

(3) a map showing the site of the proposed project;

(4) the economic benefit statement prepared under Section 403.608 in connection with the proposed project; and

(5) a sworn affidavit stating that the applicant is not ineligible under Section 403.606 to submit the application.

(e) The comptroller may request that an applicant provide any additional information the comptroller reasonably determines is necessary to complete the comptroller's evaluation of the application. The comptroller may require an applicant to submit the additional information by a certain date and may extend that deadline on a showing of good cause. The comptroller is not required to take any further action on an application until it is complete.

(f) The comptroller shall notify an applicant and the applicable school district when the applicant's application is administratively complete.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

Sec. 403.608. ECONOMIC BENEFIT STATEMENT. (a) An applicant shall submit an economic benefit statement with the applicant's application.

(b) An economic benefit statement must include the following information for each year of the period that begins on the date the applicant projects construction of the proposed project that is the subject of the application will begin and ends on the 25th anniversary of the date the incentive period ends:

(1) an estimate of the number of total jobs that will be created by the project;

(2) an estimate of the total amount of capital investment that will be created by the project;

(3) an estimate of the increase in appraised value of property that will be attributable to the project;

(4) an estimate of the amount of ad valorem taxes that will be imposed by each taxing unit, including the applicable school district, on the property used as part of the project;

(5) an estimate of the amount of state taxes that will be paid in connection with the project; and

(6) an estimate of the associated economic benefits that may reasonably be attributed to the project, including:

(A) the impact on the gross revenues and employment levels of local businesses that provide goods or services in connection with the project or to the applicant's employees;

(B) the amount of state and local taxes that will be generated as a result of the indirect economic impact of the project, including all ad valorem taxes not otherwise estimated in Subdivision (4) that will be imposed on property placed into service as a result of the project;

(C) the development of complementary businesses or industries that locate in this state as a direct consequence of the project;

(D) the total impact of the project on the gross domestic product of this state;

(E) the total impact of the project on personal income in this state; and

(F) the total impact of the project on state and local taxes.

(c) An applicant may use standard economic estimation techniques, including economic multipliers, to create an economic benefit statement. An applicant must base each estimate required by Subsection (b) on reasonable projections of the economic and labor conditions of this state for the period for which the estimate is made.

(d) The comptroller shall establish criteria for the methodology to be used by an applicant to create an economic benefit statement.

(e) The comptroller may require an applicant to supplement or modify an economic benefit statement to ensure the accuracy of the estimates required to be included in the statement under Subsection (b).

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

Sec. 403.609. COMPTROLLER ACTION ON APPLICATION. (a) The comptroller shall determine whether to recommend or not recommend for approval an application submitted to the comptroller under Section 403.607. The comptroller shall recommend an application for approval if the comptroller makes the findings prescribed by Subsection (b). The comptroller may not recommend an application for approval if the comptroller is unable to make the findings prescribed by that subsection.

(b) The comptroller may not recommend an application for approval unless the comptroller finds that:

(1) the proposed project that is the subject of the application is an eligible project;

(2) the proposed project is reasonably likely to generate, before the 20th anniversary of the first day of the construction period, state or local tax revenue, including ad valorem tax revenue attributable to the effect of the project on the economy of this state, in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement;

(3) the agreement is a compelling factor in a competitive site selection determination and that, in the absence of the agreement, the applicant would not make the proposed investment in

this state; and

(4) if the application indicates that the eligible project is proposed to be located in a qualified opportunity zone, the project is located in the zone.

(c) In making the finding required by Subsection (b)(3), the comptroller shall consider factors related to the selection of the proposed site for the project, including the workforce, the regulatory environment, infrastructure, transportation, market conditions, investment alternatives, and any specific incentive information provided by the applicant related to other potential sites.

(d) Not later than the 60th day after the date the comptroller determines that an application is complete, the comptroller shall take the action required by Subsection (a) regarding the application and provide written notice of the action to the governor, the school district in which the project is proposed to be located, and the applicant.

(e) The comptroller shall send to the governor and the applicable school district with the notice required by Subsection (d) regarding an application recommended by the comptroller under Subsection (a) a copy of the application and each document and item of information the comptroller relied on to recommend the application.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2900, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.610. GOVERNOR ACTION ON APPLICATION. (a) The governor shall, not later than the 30th day after the date the governor receives an application sent to the governor by the comptroller under Section 403.609, consider the application and by official action determine whether the governor is agreeable to entering into the agreement that is the subject of the application.

(b) The governor shall provide written notice of the governor's determination under Subsection (a) to the comptroller, the applicable school district, the oversight committee, and the applicant not later

than the seventh day after the date the governor makes the determination under that subsection.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

Sec. 403.611. SCHOOL DISTRICT ACTION ON APPLICATION. (a) The governing body of a school district shall, not later than the 30th day after the date the district receives an application sent to the district by the comptroller under Section 403.609, consider the application and by official action determine whether the district is agreeable to entering into the agreement that is the subject of the application.

(b) The governing body of the school district shall hold a public hearing on the application during the period described by Subsection (a).

(c) The governing body of the school district must provide notice of the public hearing in the manner required by Chapter 551, except that the district must provide the notice not later than the 15th day before the date of the hearing. The notice must contain:

(1) the name of the applicant;

(2) the name and location of the existing or proposed reinvestment zone or enterprise zone in which the eligible project that is the subject of the application is proposed to be located;

(3) a general description of the proposed eligible project; and

(4) the projected investment the applicant will make in the project.

(d) The governing body of the school district shall provide written notice of the district's determination under Subsection (a) to the comptroller, the governor, and the applicant.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

Sec. 403.612. AGREEMENT. (a) The governor, the governing body of a school district, and an applicant may enter into an agreement to limit the taxable value for maintenance and operations ad valorem tax purposes of the district of the eligible property used as part of an

eligible project that is the subject of an application for which both the governor and the governing body of the district have made a favorable determination under Sections 403.610(a) and 403.611(a), respectively.

(b) An agreement entered into under this section between the governor, a school district, and an applicant pertaining to an eligible project shall:

(1) specify the project to which the agreement applies;

(2) specify the term of the agreement, which must:

(A) begin on the date the agreement is entered into; and

(B) end on December 31 of the third tax year following the end of the incentive period;

(3) specify the construction and incentive periods for the project;

(4) specify the manner for determining the taxable value for school district maintenance and operations ad valorem tax purposes during the incentive period under Section 403.605 for the eligible property subject to the agreement;

(5) specify the applicable jobs and investment requirements prescribed by Section 403.604 and require the applicant to comply with those requirements;

(6) require that the average annual wage paid to all persons employed by the applicant in connection with the project used to calculate total jobs exceed 110 percent of the average annual wage for all jobs in the applicable industry sector during the most recent four quarters for which data is available, as computed by the Texas Workforce Commission, with the applicant's average annual wage being equal to the quotient of:

(A) the applicant's total wages paid, other than wages paid for construction jobs, as reported under Section 403.616(c)(4); and

(B) the applicant's number of total jobs as reported under Section 403.616(c)(3);

(7) require the applicant to pay a penalty prescribed by Section 403.614 if the applicant fails to comply with an applicable jobs or wage requirement;

(8) require the applicant to offer and contribute to a group health benefit plan for each employee of the applicant who is employed in a full-time job;

(9) require the applicant, at the time the applicant executes the agreement, to execute a performance bond in an amount the comptroller determines to be reasonable and necessary to protect the interests of the state and the district and conditioned on the applicant's compliance with the terms of the agreement;

(10) authorize the governor or the district to terminate the agreement as provided by Subsection (d); and

(11) incorporate each relevant provision of this subchapter.

(c) An agreement entered into under this section between the governor, a school district, and an applicant pertaining to an eligible project must include a provision that states that the applicant is prohibited from making a payment to the district related to the agreement.

(d) This subsection applies to a term described by Subsection (b)(10). The agreement must provide that:

(1) the governor or the school district is authorized to terminate the agreement if the applicant fails to comply with an applicable jobs or wage requirement of the agreement;

(2) the governor or the district may not terminate the agreement until the party provides written notice to the applicant of the proposed termination;

(3) the governor or the district must provide the applicant a 180-day period to cure and dispute the alleged failure, including through judicial action; and

(4) in the event the agreement is terminated, the state shall recover from the applicant a penalty in an amount equal to all lost ad valorem tax revenue from the project and interest on that amount calculated as provided by Section 111.060, Tax Code.

(e) An agreement terminated under Subsection (d) is void, and all remaining obligations and benefits under the agreement and this subchapter terminate on the date the agreement is terminated.

(f) The parties to an agreement may modify the terms of the agreement that do not materially modify the jobs or investment requirements prescribed by the agreement.

(g) An agreement must be submitted to the comptroller not later than the seventh day after the date the agreement is entered into. A copy of the economic benefit statement applicable to the project that is the subject of the agreement must be attached to the agreement.

(h) The comptroller shall deposit a penalty collected under

Subsection (d)(4) and any interest on the penalty to the credit of the foundation school fund.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

Sec. 403.613. INCENTIVE PERIOD. (a) An incentive period pertaining to an eligible project is a period of 10 consecutive tax years specified in the agreement pertaining to the project.

(b) An incentive period may not begin:

(1) earlier than January 1 of the first tax year following the construction completion date; or

(2) later than January 1 of the first tax year following the 10th anniversary of the date the agreement is entered into.

(c) Subject to Subsection (b), the beginning date of an incentive period specified in an agreement pertaining to an eligible project may be deferred if the applicant projects that the applicant will not satisfy the minimum investment requirement applicable to the project by the end of the first tax year of the incentive period. The incentive period may be deferred until January 1 of the second tax year following the construction completion date. The deferral of an incentive period under this subsection does not affect the date on which the incentive period ends as prescribed by the agreement. An applicant that is a party to an agreement for which the beginning date of the incentive period is deferred as authorized by this subsection must provide notice of the deferral to the comptroller. The notice must include the reason for the deferral.

(d) Subject to Subsection (b), an applicant may propose to modify the beginning and ending dates of the incentive period as provided by this subsection. The applicant shall provide notice of the proposed modification to the comptroller, the governor, and the school district not later than the 90th day before the first day of the incentive period specified in Section 403.612(b)(3) or as proposed to be modified, whichever is earlier. The applicant shall revise the most recent economic benefit statement as necessary to reflect the proposed change to the incentive period. The applicant must include the revised economic benefit statement with the notice provided to the comptroller, the governor, and the district under this subsection. The comptroller shall make the finding required by

Section 403.609(b)(2) regarding the project as proposed to be modified or determine that the finding cannot be made. The comptroller shall notify the governor, the district, and the applicant of the comptroller's finding or determination not later than the 60th day after the date the comptroller receives notice from the applicant of the proposed modification. The incentive period for the project may not be modified if the comptroller determines that the finding required by Section 403.609(b)(2) regarding the project as proposed to be modified cannot be made or if the governor or the district objects to the proposed modification.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

Sec. 403.614. PENALTY FOR FAILURE TO COMPLY WITH JOBS OR WAGE REQUIREMENT. (a) An applicant is liable to the state for a penalty in the amount computed under this subsection if the applicant fails to maintain at least the number of required jobs prescribed by the agreement to which the applicant is a party during the periods covered by two consecutive reports submitted by the applicant under Section 403.616. The amount of the penalty is equal to two times the product of:

(1) the difference between:

(A) the number of required jobs prescribed by the agreement; and

(B) the number of required jobs actually created as stated in the most recent report submitted by the applicant under Section 403.616; and

(2) the average annual wage prescribed by the agreement during the most recent four quarters for which data is available, as computed by the Texas Workforce Commission.

(b) An applicant is liable to the state for a penalty in the amount computed under this subsection if the applicant fails to meet the average annual wage requirement prescribed by the agreement to which the applicant is a party, if any, during the periods covered by two consecutive reports submitted by the applicant under Section 403.616. The amount of the penalty is equal to two times the difference between:

(1) the product of:

(A) the actual average annual wage paid to all persons employed by the applicant in connection with the project that is the subject of the agreement as computed under Section 403.612(b)(6); and

(B) the number of required jobs prescribed by the agreement; and

(2) the product of:

(A) the average annual wage prescribed by the agreement; and

(B) the number of required jobs prescribed by the agreement.

(c) Notwithstanding Subsections (a) and (b), the amount of a penalty imposed on an applicant under this section may not exceed the amount of the ad valorem tax benefit received by the applicant under the agreement that is the subject of the penalty.

(d) An applicant on request of the comptroller shall provide to the comptroller a schedule of required jobs created as of the date of the request under an agreement to which the applicant is a party.

(e) A determination by the comptroller that an applicant has failed to meet the jobs or wage requirement prescribed by an agreement to which the applicant is a party is a deficiency determination under Section 111.008, Tax Code. A penalty imposed under this section is an amount the comptroller is required to collect, receive, administer, or enforce and is subject to the payment and redetermination requirements of Sections 111.0081 and 111.009, Tax Code. A redetermination under Section 111.009, Tax Code, of a determination under this section is a contested case as defined by Section 2001.003 of this code.

(f) The comptroller shall deposit a penalty collected under this section and any interest on the penalty to the credit of the foundation school fund.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2900, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.615. AUDIT OF AGREEMENTS BY STATE AUDITOR. (a) Each year the state auditor shall select and review at least 10 percent of

the agreements in effect in that year to determine whether:

(1) each agreement accomplishes the purposes of this subchapter as expressed in Section 403.601; and

(2) the terms of each agreement were executed in compliance with the terms of this subchapter.

(b) In determining which agreements to review under Subsection (a), the state auditor may consider any risk of noncompliance identified in the biennial compliance report regarding an agreement submitted to the comptroller under Section 403.616.

(c) As part of the review, the state auditor shall make recommendations relating to increasing the efficiency and effectiveness of the administration of this subchapter. The state auditor shall submit the recommendations to the governor, comptroller, lieutenant governor, speaker of the house of representatives, and oversight committee not later than December 15 of each year.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

Sec. 403.616. BIENNIAL COMPLIANCE REPORT BY APPLICANT. (a) An applicant that is a party to an agreement shall submit a report to the comptroller as required by this section using the form adopted by the comptroller.

(b) An applicant must submit a report required by this section to the comptroller not later than June 1 of each even-numbered year during the term of the agreement that is the subject of the report.

(c) A report required by this section must include the following documents and information applicable to the agreement that is the subject of the report:

(1) a certification by the applicant that is a party to the agreement that the applicant has met the jobs and investment requirements prescribed by the agreement, which must include:

(A) a sworn affidavit stating:

(i) the number of required jobs prescribed by the agreement; and

(ii) the number of required jobs actually created under the agreement as of December 31 of the preceding two years; and

(B) if applicable, payroll records maintained for

purposes of 40 T.A.C. Chapter 815;

(2) the number assigned to the application by the comptroller for the agreement, name of the applicant, name of the school district, and name of and contact information for the applicant's representative;

(3) the number of total jobs created by the project in each of the preceding two years;

(4) the total wages paid for total jobs, not including wages paid for construction jobs, in each of the preceding two years;

(5) the number of construction jobs created by the project;

(6) the total amount of the applicant's investment, including any additional amount invested by the applicant after the incentive period begins;

(7) the appraised value of all property composing the project for each previous tax year of the agreement;

(8) the taxable value of all property composing the project for each previous tax year of the agreement;

(9) the amount of school district maintenance and operations ad valorem taxes imposed on the property composing the project and paid by the applicant for each previous tax year of the agreement;

(10) the amount of school district interest and sinking fund ad valorem taxes imposed on the property composing the project and paid by the applicant for each previous tax year of the agreement;

(11) the amount of school district ad valorem taxes that would have been imposed on the property composing the project and paid by the applicant in the absence of the agreement for each previous tax year of the agreement; and

(12) the amount of ad valorem taxes imposed on the property composing the project by each taxing unit other than the school district and paid by the applicant for each previous tax year of the agreement, stated by taxing unit.

(d) This subsection applies only to a report required to be submitted under this section by an applicant for the period that includes the first year of the incentive period as prescribed by the agreement that is the subject of the report or as deferred. In addition to the documents and information described by Subsection (c), the applicant must include with the certification required by Subsection (c)(1):

(1) a list of the property tax account numbers assigned to the property composing the project;

(2) the current total appraised value of the property composing the project; and

(3) if applicable, a statement that the incentive period was deferred because the applicant did not meet the minimum investment requirement prescribed by the agreement before the date specified in the agreement.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

Sec. 403.617. BIENNIAL REPORT TO LEGISLATURE. (a) The comptroller shall submit to the lieutenant governor, the speaker of the house of representatives, and each other member of the legislature a report on the agreements entered into under this subchapter. The comptroller must submit the report not later than December 1 of each even-numbered year.

(b) The report must include:

(1) an assessment of the following with regard to the agreements entered into under this subchapter, considered in the aggregate:

(A) the total number of jobs created in this state;

(B) the total effect on personal income in this state;

(C) the total amount of investment in this state;

(D) the total taxable value of property on the tax rolls in this state resulting from the agreements, including property subject to an agreement that has expired;

(E) the total value of property subject to agreements that have not expired; and

(F) the total fiscal effect resulting from the agreements on this state and on local governments in this state; and

(2) an assessment of each agreement entered into under this subchapter that states for each agreement:

(A) the number of required jobs prescribed by the agreement;

(B) the number of jobs actually created under the agreement, including:

(i) each job described by Section 403.604(c)(1)(A);

(ii) each job described by Section 403.604(c)(1)(B); and

(iii) any additional jobs created or maintained in connection with the project that is the subject of the agreement, if reported by the applicant;

(C) the number of total jobs created under the agreement, if the term of the agreement has expired;

(D) the amount of the investment specified by the agreement;

(E) the amount of the actual investment made for the applicable project before the expiration of the agreement;

(F) the difference between the amount of ad valorem taxes that would have been imposed on the property composing the applicable project in the absence of the agreement and the amount of ad valorem taxes actually imposed on that property during the term of the agreement; and

(G) the total amount of state and local tax revenue attributable to the applicable project during the term of the agreement.

(c) The comptroller may not include in the report information that is confidential under law.

(d) The comptroller may use standard economic estimation techniques, including economic multipliers, to prepare the portion of the report described by Subsection (b)(1).

(e) The comptroller may require an applicant to submit information required to complete the report on a form prescribed by the comptroller.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2900, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.618. JOBS, ENERGY, TECHNOLOGY, AND INNOVATION ACT OVERSIGHT COMMITTEE; REPORT. (a) The Jobs, Energy, Technology, and Innovation Act Oversight Committee is composed of the following seven members:

(1) three members of the house of representatives appointed

by the speaker of the house of representatives;

(2) three members of the senate appointed by the lieutenant governor; and

(3) one member who serves as the chair of the committee and who:

(A) is a member of the house of representatives appointed by the speaker of the house of representatives who serves only in odd-numbered years; and

(B) is a member of the senate appointed by the lieutenant governor who serves only in even-numbered years.

(b) At least one member appointed by the speaker of the house of representatives and at least one member appointed by the lieutenant governor under Subsection (a) must represent a district that includes a county with a population of 100,000 or less.

(c) If a vacancy occurs in the membership of the oversight committee, the appropriate appointing authority shall appoint a person to fill the vacancy.

(d) A member of the oversight committee serves at the pleasure of the appropriate appointing authority.

(e) The oversight committee may recommend in a written report to the legislature those types of projects that the committee determines by majority vote should be statutorily added to or removed from the definition of "eligible project" provided by Section 403.602.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

Sec. 403.619. CONFLICT OF INTEREST. A person may not, directly or indirectly, represent, advise, or provide a service to both an applicant and a school district in connection with the same application submitted or agreement entered into under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

Sec. 403.620. CERTAIN BENEFITS RELATED TO AGREEMENTS PROHIBITED; ATTORNEY GENERAL ENFORCEMENT. (a) An employee or

representative of a school district, a member of the governing body of the district, or any other person may not intentionally or knowingly solicit, accept, agree to accept, or require any payment of money or transfer of property or other thing of value, directly or indirectly, to the district, an employee or representative of the district, a member of the governing body of the district, or any other person in recognition of, anticipation of, or consideration for approval of an agreement unless authorized by this subchapter.

(b) An applicant, an employee or representative of the applicant, or any other person may not intentionally or knowingly offer, confer, agree to confer, or make a payment of money or transfer of property or other thing of value, directly or indirectly, to the governor or the school district, an employee or representative of the governor or the district, a member of the governing body of the district, or any other person in recognition of, anticipation of, or consideration for approval of an agreement unless authorized by this subchapter.

(c) If the attorney general receives a written complaint from a party to an agreement of a violation of this section, the attorney general may bring an action to enforce this section to restrain or enjoin a person from continuing or repeating the violation. Venue for an action brought under this subsection is in a district court in Travis County.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

Sec. 403.621. CONFIDENTIALITY OF CERTAIN BUSINESS INFORMATION. (a) Information provided to the comptroller, the governor, or a school district by an applicant under this subchapter that is a trade secret, as defined by Section 134A.002, Civil Practice and Remedies Code, is confidential and not subject to disclosure under Chapter 552.

(b) Payroll records reported under Section 403.616(c)(1)(A) or (B) by an applicant to the comptroller are confidential and not subject to disclosure under Chapter 552.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

Sec. 403.622. INTERNET POSTING OF INFORMATION. (a) Subject to Section 403.621, the comptroller shall post on the comptroller's Internet website the following information received by the comptroller:

(1) each application submitted under this subchapter;

(2) each map and economic benefit statement required to be submitted with an application under this subchapter;

(3) each amendment to an application made under this subchapter;

(4) each agreement entered into under this subchapter; and

(5) each biennial compliance report submitted as required under this subchapter.

(b) Except as provided by Subsection (c), the comptroller shall post the information described by Subsection (a) as soon as practicable after the date the comptroller receives the information.

(c) The comptroller shall post the information described by Subsections (a)(1), (2), and (3) not later than the 10th business day after the date the comptroller receives the information.

(d) The comptroller shall continue to post the information required by this section until the date the agreement to which the information relates expires.

(e) The comptroller shall notify the governor and the applicable school district of the comptroller's posting of the information described by Subsection (a)(5) on the comptroller's Internet website.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

Sec. 403.623. RULES AND FORMS. (a) The comptroller shall adopt rules necessary to implement and administer this subchapter, including rules for:

(1) determining whether an applicant meets the jobs and investment requirements prescribed by Section 403.604; and

(2) authorizing an applicant or school district to submit any form or information required by this subchapter electronically.

(b) The comptroller shall adopt forms necessary to implement and administer this subchapter, including the forms to be used by an applicant under Sections 403.607 and 403.616.

(c) The comptroller shall provide without charge one copy of the rules and forms adopted under this section to any person that states that the person intends to submit an application to the comptroller under this subchapter to limit the taxable value of eligible property used as part of an eligible project.

Added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, eff. January 1, 2024.

Subchapter T, consisting of Secs. 403.601 to 403.605, was added by Acts 2023, 88th Leg., R.S., Ch. 379 (H.B. 9), Sec. 1

For another Subchapter T, consisting of Secs. 403.601 to 403.623, added by Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 1, see Sec. 403.601 et seq., post.

SUBCHAPTER T. TEXAS BROADBAND INFRASTRUCTURE FUND

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.601. DEFINITIONS. In this subchapter:

(1) "Broadband Equity, Access, and Deployment Program" means the federal Broadband Equity, Access, and Deployment Program established by the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58).

(2) "Fund" means the broadband infrastructure fund established under Section 49-d-16, Article III, Texas Constitution.

(3) "Next generation 9-1-1 service fund" means the fund established under Section 771.0713, Health and Safety Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 379 (H.B. 9), Sec. 1, eff. January 1, 2024.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620 and S.B. 2900, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.602. LEGISLATIVE FINDINGS; PUBLIC PURPOSE. The legislature finds that:

(1) the creation of the fund will meet an imperative public need and serve the economic, educational, and health care needs of this state; and

(2) the use of the fund is in furtherance of the public purpose of expanding and ensuring access to reliable, high-speed broadband and telecommunications connectivity.

Added by Acts 2023, 88th Leg., R.S., Ch. 379 (H.B. 9), Sec. 1, eff. January 1, 2024.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.603. BROADBAND INFRASTRUCTURE FUND. (a) The broadband infrastructure fund is a special fund in the state treasury outside the general revenue fund. The fund consists of:

(1) money transferred or deposited to the credit of the fund by the constitution, general law, or the General Appropriations Act;

(2) revenue that the legislature by general law dedicates for deposit to the credit of the fund;

(3) investment earnings and interest earned on money in the fund; and

(4) gifts, grants, and donations to the fund.

(b) The fund shall be administered by the comptroller who may use money from the fund for any purpose authorized by Subsection (c).

(c) The fund may be used only for:

(1) a purpose described by Chapter 490I;

(2) providing funding for 9-1-1 and next generation 9-1-1 services under Chapter 771, Health and Safety Code;

(3) supporting the deployment of next generation 9-1-1 service, including its costs of equipment, operations, and administration, as provided by Section 771.0713, Health and Safety Code;

(4) supporting the Texas Broadband Pole Replacement Program established under Section 403.503, as added by Chapter 659 (H.B. 1505), Acts of the 87th Legislature, Regular Session, 2021;

(5) providing matching funds for federal money provided for the Broadband Equity, Access, and Deployment Program;

(6) expanding access to broadband service in economically distressed communities to support increased connectivity needs in those areas; and

(7) administering and enforcing this subchapter.

(d) For the purposes of Subsection (c)(5), the comptroller:

(1) shall consider an applicant's potential contribution toward matching the funds for federal money provided for the Broadband Equity, Access, and Deployment Program; and

(2) may only provide state matching funds if a state contribution is necessary for the economic feasibility of a proposed project.

Added by Acts 2023, 88th Leg., R.S., Ch. 379 (H.B. 9), Sec. 1, eff. January 1, 2024.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.604. MANAGEMENT AND INVESTMENT OF FUND. (a) In this section, "trust company" means the Texas Treasury Safekeeping Trust Company.

(b) The trust company shall hold and invest the fund, and any accounts established in the fund, for the comptroller, taking into account the purposes for which money in the fund may be used. The fund may be invested with the state treasury pool and may be pooled with other state assets for purposes of investment.

(c) The overall objective for the investment of the fund is to maintain sufficient liquidity to meet the needs of the fund while striving to preserve the purchasing power of the fund over a full economic cycle.

(d) In managing the assets of the fund, the trust company may acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(e) The trust company shall recover the costs incurred in managing and investing the fund only from the fund.

(f) The trust company annually shall provide a written report to the comptroller with respect to the investments of the fund.

(g) The trust company shall adopt a written investment policy that is appropriate for the fund. The trust company shall present the investment policy to the investment advisory board established under Section 404.028. The investment advisory board shall submit to the trust company recommendations regarding the policy.

(h) The comptroller annually shall provide to the trust company a forecast of the cash flows into and out of the fund. The comptroller shall provide updates to the forecasts as appropriate to ensure that the trust company is able to achieve the fund's objective specified by Subsection (c).

(i) The trust company shall disburse money from the fund as directed by the comptroller.

Added by Acts 2023, 88th Leg., R.S., Ch. 379 (H.B. 9), Sec. 1, eff. January 1, 2024.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 403.605. RULEMAKING. The comptroller may adopt rules as necessary to administer this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 379 (H.B. 9), Sec. 1, eff. January 1, 2024.

CHAPTER 404. STATE TREASURY OPERATIONS OF COMPTROLLER

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 404.001. DEFINITIONS. In this chapter:

(1) Repealed by Acts 1997, 75th Leg., ch. 891, Sec. 3.22(2), eff. Sept. 1, 1997.

(2) "Demand deposit" means a deposit that is payable on demand.

(3) "Direct security repurchase agreement" means an agreement under which the state buys, holds for a specified time, and then sells back any of the following securities, obligations, or participation certificates:

(A) United States government securities;

(B) direct obligations of or obligations the principal and interest of which are guaranteed by the United States; or

(C) direct obligations of or obligations guaranteed by agencies or instrumentalities of the United States government.

(4) "Market value" means the fair and reasonable prevailing price at which a security is being sold on the open market at the time of the appraisement of the security by the comptroller.

(5) "Reverse security repurchase agreement" means an agreement under which the state sells and after a specified time buys back any of the securities, obligations, or participation certificates listed in Paragraphs (A) through (C), Subdivision (3).

(6) "State depository" means an institution designated as a state depository under Subchapter C.

(7) "Time deposit" means a deposit for which there is in force a contract providing that neither the whole nor a part of the deposit may be withdrawn by check or otherwise before the expiration of the period of notice that must be given in writing in advance of a withdrawal.

(8) "Treasury" means state funds subject to the custody and control of the comptroller and available for appropriation by the legislature.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.05(a), eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 78, Sec. 1, eff. May 11, 1989; Acts 1993, 73rd Leg., ch. 939, Sec. 1, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 891, Sec. 3.22(2), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 7.27, eff. Sept. 1, 1997.

Sec. 404.0011. TRANSFER OF TREASURER'S POWERS AND DUTIES. (a) The powers and duties of the state treasurer under this chapter or other law are transferred to the comptroller.

(b) A reference in law to the state treasurer is a reference to the comptroller.

(c) If the state treasurer and the comptroller or their respective designees are both ex officio members of a committee or governing body under law, the transfer of the powers and duties under this section does not give the comptroller more than one vote or

position on the committee or governing body. If the state treasurer and the comptroller both have the power to appoint members to a committee under law, the transfer of the powers and duties under this section does not allow the comptroller to exercise the power of appointment given to the treasurer under law in addition to the power of appointment given to the comptroller under law. If the state treasurer and the comptroller both have the power to appoint members to a governing body under law, the comptroller may exercise the power of appointment given to the treasurer under law in addition to the power of appointment given to the comptroller under law only if the members of the governing body serve six-year terms and the composition of the governing body is subject to Section 30a, Article XVI, Texas Constitution.

(d) The comptroller may contract with a private entity to perform an activity transferred under this section as long as the activity is not solely a sovereign function of the state.

Added by Acts 1995, 74th Leg., ch. 992, Sec. 1, eff. Sept. 1, 1996.

SUBCHAPTER B. STATE DEPOSITORY BOARD

Sec. 404.013. RULES. The comptroller may adopt and enforce rules governing the establishment and conduct of state depositories and the investment of state funds in the depositories that the public interest requires and that are not inconsistent with the law governing the depositories.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 939, Sec. 2, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 891, Sec. 3.03, eff. Sept. 1, 1997.

SUBCHAPTER C. STATE DEPOSITORIES AND INVESTMENT OF STATE FUNDS

Sec. 404.021. ELIGIBLE INSTITUTIONS. (a) Any state or national bank doing business in the state may be designated by the comptroller as a state depository. Designation of a bank as a depository includes all of the bank's branches within the state.

(b) Any savings and loan association doing business in the state may be designated by the comptroller as a state depository.

(c) Any state or federal credit union doing business in the state may be designated by the comptroller as a state depository.

(d) Deposits of eligible institutions designated as state depositories must be covered by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 78, Sec. 2, eff. May 11, 1989; Acts 1995, 74th Leg., ch. 426, Sec. 1, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 891, Sec. 3.04, eff. Sept. 1, 1997.

Sec. 404.0211. CONFLICT OF INTEREST. A bank is not disqualified from serving as a depository for funds of a state agency if:

(1) an officer or employee of the agency who does not have the duty to select the agency's depository is an officer, director, or shareholder of the bank; or

(2) one or more officers or employees of the agency who have the duty to select the agency's depository are officers or directors of the bank or own or have a beneficial interest, individually or collectively, in 10 percent or less of the outstanding capital stock of the bank, if:

(A) a majority of the members of the board, commission, or other body of the agency vote to select the bank as a depository; and

(B) the interested officer or employee does not vote or take part in the proceedings.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 19, eff. Sept. 1, 1993.

Sec. 404.0212. DEPOSITORY RATING UNDER CERTAIN FEDERAL LAW. (a) In this section, "regulated financial institution" has the meaning assigned by 12 U.S.C. Section 2902.

(b) A regulated financial institution that accepts a deposit from the comptroller shall report to the comptroller the rating assigned to the financial institution under 12 U.S.C. Section 2906.

(c) A regulated financial institution shall make a report required by this section:

(1) annually, not later than August 1 of each year; and

(2) not later than the 30th day after the date the financial institution is notified that the assigned rating has been

changed.

(d) The comptroller may not select as a depository a regulated financial institution for which the entire institution has been assigned a rating below "outstanding record of meeting community credit needs" or "satisfactory record of meeting community credit needs" under 12 U.S.C. Section 2906. However, the comptroller shall establish criteria to determine whether a financial institution doing business in this state and other states has a satisfactory record of meeting community credit needs in this state.

(e) On receipt of notice that the rating of a financial institution is changed to a rating below that required by this section, the comptroller shall take immediate action to transfer all state funds subject to the custody or control of the comptroller that are on deposit with the institution to a qualified financial institution.

(f) The depository contract between a regulated financial institution and the comptroller must authorize the withdrawal without penalty of the state funds subject to the custody or control of the comptroller that are on deposit with the institution if the rating of the institution is changed to a rating below that required by Subsection (d).

Added by Acts 1995, 74th Leg., ch. 426, Sec. 2, eff. June 9, 1995. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.05, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 7.29, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 847, Sec. 1, eff. Sept. 1, 1999.

Sec. 404.022. APPLICATIONS. (a) The comptroller, not later than the first business day in May of each odd-numbered year, shall notify eligible institutions of the conditions with which applicants for designation as a state depository must comply. The comptroller shall keep on file in the comptroller's office and make available for inspection by any person a list of institutions to which notification has been sent.

(b) The application for designation as a state depository must include a statement:

(1) of the amount of the applicant's paid capital stock and permanent surplus, if any;

(2) of the maximum amount of state time deposits the

applicant will accept;

(3) of the applicant's condition according to the most recent financial statement on the date the application is submitted; and

(4) that the books and accounts of the institution, if it is designated as a state depository, will be open at all times for inspection by the comptroller or a representative of the comptroller.

(c) An application shall be mailed or electronically submitted to the comptroller at Austin and must be received before noon on the first business day of August of the year in which the notification is sent. An application received after that time may be considered at the option of the comptroller. The comptroller may charge a processing fee of $25 for each application and shall deposit the fees to the credit of the general revenue fund. The comptroller may specify the format required for electronic submissions and may adopt rules to administer this section.

(d) The comptroller shall prepare a list of the names of the applicants and the amount for which each has applied.

(e) The comptroller may approve those applicants that are acceptable and may reject those whose management or condition, in the opinion of the comptroller, does not warrant the placing of state funds in their possession.

(f) The designation as a state depository is effective for a period of not more than two years.

(g) As soon as practicable after the comptroller has made its designations, the comptroller shall inform applicants whether they have been designated as state depositories.

(h) The comptroller may execute a simplified version of a depository agreement with an eligible institution desiring to hold state deposits that are fully insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 426, Sec. 3, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 891, Sec. 3.06, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 7.30, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 847, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 16.02, eff.

September 28, 2011.

Acts 2023, 88th Leg., R.S., Ch. 578 (H.B. 2674), Sec. 1, eff. June 11, 2023.

Sec. 404.0221. ELIGIBLE COLLATERAL. (a) In this section, "public agency" means a board, authority, agency, department, commission, political subdivision, municipal corporation, district, public corporation, body politic, instrumentality of this state, or any other type of political or governmental entity of this state.

(b) For the purposes of Section 404.022, collateral eligible to be pledged with the comptroller to secure state deposits includes:

(1) direct obligations of or obligations the principal and interest of which are guaranteed by the United States government;

(2) direct obligations of or obligations guaranteed by agencies or instrumentalities of the United States government, including letters of credit; and

(3) a general or special obligation issued by a public agency and approved by the attorney general that is payable from taxes, revenues, or both.

(c) If pledged collateral consists of securities with a declining principal balance, the market value of the collateral pledged may not be less than 125 percent of the amount of the state deposits to be secured.

(d) Eligible collateral includes only:

(1) a security with fixed, stated rates; or

(2) a letter of credit described by Subsection (b)(2) for a stated amount.

(e) A loss sustained by a depository that has secured its deposits by collateral may be enforced against the collateral.

(f) The comptroller may reject at any time collateral tendered by a state depository without assigning a reason for the rejection, and the comptroller's action is final and not subject to review.

(g) Collateral is not required for deposits to the extent that the deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.

Added by Acts 1995, 74th Leg., ch. 426, Sec. 4, eff. June 9, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 7.31, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 159, Sec. 1, eff. Sept. 1, 2003.

Sec. 404.023. DESIGNATION. The comptroller shall designate one or more state depository banks that have main offices or branches in centrally located cities in this state to be used for clearing checks and other obligations due the state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.07, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 344, Sec. 5.003, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 847, Sec. 3, eff. Sept. 1, 1999.

Sec. 404.024. AUTHORIZED INVESTMENTS. (a) The comptroller may determine and designate the amount of state funds to be deposited in time deposits in state depositories. The percentage of state funds to be deposited in state depositories shall be based on the interest rates available in competing investments, the demand for funds from Texas banks, and the state's liquidity requirements.

(b) Subject to Chapter 2270, state funds not deposited in state depositories shall be invested by the comptroller in:

(1) direct security repurchase agreements;

(2) reverse security repurchase agreements;

(3) direct obligations of or obligations the principal and interest of which are guaranteed by the United States;

(4) direct obligations of or obligations guaranteed by agencies or instrumentalities of the United States government;

(5) bankers' acceptances that:

(A) are eligible for purchase by the Federal Reserve System;

(B) do not exceed 270 days to maturity; and

(C) are issued by a bank whose other comparable short-term obligations are rated in the highest short-term rating category, within which there may be subcategories or gradations indicating relative standing, including such subcategories or gradations as "rating category" or "rated," by a nationally recognized statistical rating organization, as defined by 15 U.S.C. Section 78c;

(6) commercial paper that:

(A) does not exceed 365 days to maturity; and

(B) except as provided by Subsection (i), is issued by

an entity whose other comparable short-term obligations are rated in the highest short-term rating category by a nationally recognized statistical rating organization;

(7) contracts written by the treasury in which the treasury grants the purchaser the right to purchase securities in the treasury's marketable securities portfolio at a specified price over a specified period and for which the treasury is paid a fee and specifically prohibits naked-option or uncovered option trading;

(8) direct obligations of or obligations guaranteed by the Inter-American Development Bank, the International Bank for Reconstruction and Development (the World Bank), the African Development Bank, the Asian Development Bank, and the International Finance Corporation that have received the highest long-term rating categories for debt obligations by a nationally recognized statistical rating organization;

(9) bonds issued, assumed, or guaranteed by the State of Israel;

(10) obligations of a state or an agency, county, city, or other political subdivision of a state;

(11) mutual funds secured by obligations that are described by Subdivisions (1) through (6) or by obligations consistent with Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated by the Securities and Exchange Commission, including pooled funds:

(A) established by the Texas Treasury Safekeeping Trust Company;

(B) operated like a mutual fund; and

(C) with portfolios consisting only of dollar-denominated securities;

(12) foreign currency for the sole purpose of facilitating investment by state agencies that have the authority to invest in foreign securities;

(13) asset-backed securities, as defined by the Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Section 270.2a-7), that are rated at least A or its equivalent by a nationally recognized statistical rating organization and that have a weighted-average maturity of five years or less; and

(14) corporate debt obligations that are rated at least A or its equivalent by a nationally recognized statistical rating organization and mature in five years or less from the date on which the obligations were "acquired," as defined by the Securities and

Exchange Commission in Rule 2a-7 (17 C.F.R. Section 270.2a-7).

(c) Investments in direct security repurchase agreements and reverse security repurchase agreements may be:

(1) placed through financial institutions doing business in this state or through primary dealers as approved by the Federal Reserve System; or

(2) made directly with a state agency with the authority to invest in repurchase agreements.

(c-1) For purposes of this section, "agency of the state" or "state agency" means:

(1) an office, department, commission, board, or agency that is part of any branch of state government;

(2) an institution of higher education as defined by Section 61.003, Education Code; or

(3) a nonprofit corporation acting on behalf of an entity described by Subdivision (1) or (2).

(c-2) Notwithstanding any other law, the term of any reverse security repurchase agreement made by the comptroller may not exceed 90 days after the date the reverse security repurchase agreement is delivered. Money received by the comptroller under the terms of a reverse security repurchase agreement may be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

(c-3) A direct security repurchase agreement or reverse security repurchase agreement made by the comptroller under this section may be submitted for clearing and settlement to a covered clearing agency, as defined by the Securities and Exchange Commission in Rule 17Ad-22 (17 C.F.R. Section 240.17Ad-22).

(d) The comptroller may contract with a depository for the payment of interest on time or demand deposits at a rate not to exceed a rate that is lawful under an Act of Congress and rules and regulations of the board of governors of the Federal Reserve System, the board of directors of the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Federal Home Loan Banking Board.

(e) The treasury may not purchase any of the following types of investments:

(1) obligations the payment of which represents the coupon payments on the outstanding principal balance of the underlying

mortgage-backed security collateral and pays no principal;

(2) obligations the payment of which represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;

(3) collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and

(4) collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

(f) The comptroller by rule may define derivative investments other than those described by Subsection (e). The treasury may not purchase investments defined by rule adopted under this subsection in an amount that at the time of purchase will cause the aggregate value of the investments to exceed five percent of the treasury's total investments.

(g) To the extent practicable, the comptroller shall give first consideration to banks that maintain main offices or branch offices in this state when investing in direct security repurchase agreements.

(h) The comptroller may not use state funds to invest in or purchase obligations of a private corporation or other private business entity doing business in Northern Ireland unless the corporation or other entity:

(1) adheres to fair employment practices; and

(2) does not discriminate on the basis of race, color, religion, sex, national origin, or disability.

(i) Notwithstanding Subsection (b)(6)(B), the comptroller may purchase commercial paper with a rating lower than the rating required by that paragraph to provide liquidity for commercial paper issued by the comptroller or an agency of the state.

(j) If the comptroller is required by law to invest funds other than as provided by this section, and if other law does not establish a conflicting standard governing that investment, the comptroller shall invest those funds under the restrictions and procedures for making the investments that persons of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the prevailing circumstances, would follow in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

(k) The comptroller may contract with private professional investment managers to assist the comptroller in investing funds under the care, custody, and control of the comptroller.

(l) The comptroller may lend securities under procedures established by the comptroller. The procedures must be consistent with industry practice and must include a requirement to fully secure the loan with cash, obligations described by Subsections (b)(1)-(6), or a combination of cash and the described obligations. Notwithstanding any law to the contrary, cash may be reinvested in the items permitted under Subsection (b) or mutual funds, as defined by the Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Section 270.2a-7).

(m) In entering into a direct security repurchase agreement or a reverse security repurchase agreement, the comptroller may agree to accept cash on an overnight basis in lieu of the securities, obligations, or participation certificates identified in Section 404.001(3). Cash held by the state under this subsection is not a deposit of state or public funds for purposes of any statute, including this subchapter or Subchapter D, that requires a deposit of state or public funds to be collateralized by eligible securities.

(n) Notwithstanding any other law to the contrary, any government investment pool created to function as a money market mutual fund and managed by the comptroller or the Texas Treasury Safekeeping Trust Company may invest the funds it receives in investments that are "eligible securities," as defined by the Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Section 270.2a-7), if it maintains a dollar-weighted average portfolio maturity of 90 days or less, with the maturity of each portfolio security calculated in accordance with Rule 2a-7 (17 C.F.R. Section 270.2a-7), and meets the diversification requirements of Rule 2a-7.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 53, Sec. 2.005, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 4, Sec. 2.06(a), eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 78, Sec. 3, eff. May 11, 1989; Acts 1991, 72nd Leg., ch. 408, Sec. 2, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 858, Sec. 2, eff. June 18, 1993; Acts 1993, 73rd Leg., ch. 939, Sec. 3, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 265, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 426, Sec. 5, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 891, Sec. 3.08, eff. Sept.

1, 1997; Acts 1997, 75th Leg., ch. 1311, Sec. 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 7.32, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.05, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 344, Sec. 5.004, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 847, Sec. 4, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1310, Sec. 25, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 834 (H.B. 860), Sec. 5, eff. September 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 1, eff. May 23, 2017.

Acts 2023, 88th Leg., R.S., Ch. 1093 (S.B. 1246), Sec. 1, eff. June 18, 2023.

Sec. 404.0241. INVESTMENT OF CERTAIN ECONOMIC STABILIZATION FUND BALANCES. (a) Subject to Subsection (b) and notwithstanding Section 404.024, for the purpose of investing the assets of the economic stabilization fund, the comptroller may acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor exercising reasonable care, skill, and caution would acquire, exchange, sell, supervise, manage, or retain in light of the purposes, terms, distribution requirements, and other circumstances then prevailing for the fund, taking into consideration the investment of all the assets of the fund rather than a single investment.

(b) At least 10 percent of the economic stabilization fund balance must be invested in a manner that ensures the liquidity of that amount.

(b-1) Notwithstanding any other law, directly or indirectly through a separately managed account or other investment vehicle, the comptroller shall invest not more than $800 million of the economic stabilization fund balance to finance the default balance as defined by Section 39.602, Utilities Code, to be repaid by ERCOT market participants through default charges established by the Public Utility Commission of Texas. The interest rate charged in connection with the debt obligations must be calculated by adding the rate determined by the Municipal Market Data Municipal Electric Index, as published by Refinitiv TM3, based on the credit rating of the independent organization, as defined by Section 39.602, Utilities

Code, plus 2.5 percent. The term of the debt obligations may not exceed 30 years.

(b-2) A person may not bring a civil action against this state, the Texas Treasury Safekeeping Trust Company, or an employee, independent contractor, or official of this state, including the comptroller, for any claim, including breach of fiduciary duty or violation of any constitutional, statutory, or regulatory requirement, in connection with any action, inaction, decision, divestment, investment, report, or other determination made or taken in connection with Subsections (b-1), (b-4), and (b-5).

(b-3) A person who brings an action described by Subsection (b-2) is liable to the defendant for the defendant's costs and attorney's fees resulting from the action.

(b-4) The comptroller shall manage the investments required by Subsection (b-1) as a separate investment portfolio. The comptroller shall provide separate accounting and reporting for the investments in that portfolio. The comptroller shall credit to that portfolio all payments, distributions, interest, and other earnings on the investments in that portfolio.

(b-5) The comptroller has any power necessary to accomplish the purposes of managing and investing the assets of the portfolio described by Subsection (b-4). In managing the assets of that portfolio, through procedures and subject to restrictions the comptroller considers appropriate, the comptroller may acquire, sell, transfer, or otherwise assign the investments as appropriate, taking into consideration the purposes, terms, distribution requirements, and other circumstances of that portfolio then prevailing.

(c) The comptroller may pool assets of the economic stabilization fund with other state assets for purposes of investment under Section 404.024(b).

(d) The comptroller shall adjust the investment of economic stabilization fund money periodically as necessary to ensure that:

(1) at all times at least 10 percent of the balance of the economic stabilization fund is invested in a manner that ensures the liquidity of that amount; and

(2) the balance of the economic stabilization fund is sufficient to meet the cash flow requirements of the fund.

(e) The comptroller shall include the fair market value of the investments of the economic stabilization fund in calculating the amount in the fund for purposes of Section 49-g(g), Article III,

Texas Constitution, and Section 316.093 of this code.

Added by Acts 2015, 84th Leg., R.S., Ch. 93 (H.B. 903), Sec. 1, eff. May 23, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1336 (S.B. 69), Sec. 3, eff. September 1, 2019.
Acts 2021, 87th Leg., R.S., Ch. 908 (H.B. 4492), Sec. 1, eff. June 16, 2021.
Acts 2023, 88th Leg., R.S., Ch. 1093 (S.B. 1246), Sec. 2, eff. June 18, 2023.

Sec. 404.0245. CRUDE OIL AND NATURAL GAS FUTURES CONTRACTS. (a) In this section, "hedging" means the buying and selling of crude oil and natural gas commodity futures or options on crude oil and natural gas commodity futures as a protection against loss due to price fluctuations. Hedging at all times shall comply with Commodity Futures Trading Commission regulations.

(b) Subject to the limitations of Subsection (c), the comptroller may determine and designate the amount of state funds that shall be invested by the comptroller in hedging transactions in crude oil and natural gas futures contracts and options on crude oil and natural gas futures contracts that are traded on an established exchange regulated by the Securities and Exchange Commission or the Commodity Futures Trading Commission.

(c) The principal amount of state funds invested and outstanding in hedging transactions on any one day may not exceed $500,000 with a maximum risk of loss of $5,000,000 in a biennium. The total principal amount of state funds that may be invested by the comptroller in hedging transactions during any one biennium may not exceed the amount of money credited to the unclaimed money fund for that biennium and attributable to the remittance of mineral proceeds under Chapter 75, Property Code. Any premium incurred in connection with hedging transactions may be paid only from funds appropriated for that purpose.

(d) The comptroller shall invest state funds in crude oil and natural gas futures contracts or options on crude oil and natural gas futures contracts under the restrictions and procedures for making investments that persons of ordinary prudence, discretion, and

intelligence, exercising the judgment and care under the circumstances then prevailing, would follow in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. The investments may be made only for hedging purposes.

(e), (f) Repealed by Acts 1995, 74th Leg., ch. 426, Sec. 32, eff. June 9, 1995.

Added by Acts 1991, 72nd Leg., ch. 871, Sec. 1, eff. June 16, 1991. Amended by Acts 1993, 73rd Leg., ch. 939, Sec. 4, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 426, Sec. 6, 32, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 891, Sec. 3.09, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 7.33, eff. Sept. 1, 1997.

Sec. 404.026. ELEEMOSYNARY FUNDS. The comptroller may invest the permanent funds of the Texas School for the Blind and Visually Impaired, Texas School for the Deaf, Austin State Hospital, and Corsicana State Home and may invest other permanent funds, the investment of which is not otherwise provided for, that have $1,000 or more on deposit with the comptroller that are not invested. The comptroller shall invest the funds in the same classes of bonds as are authorized for investment of the permanent school fund.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 247, Sec. 15, eff. June 14, 1989; Acts 1997, 75th Leg., ch. 891, Sec. 3.10, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 7.34, eff. Sept. 1, 1997.

Sec. 404.027. LIQUIDITY. (a) The comptroller may enter into credit agreements or other similar agreements to provide liquidity for obligations issued for governmental purposes by an agency of the state if the agreements do not conflict with the liquidity needs of the treasury. An agency may enter into a credit agreement with the comptroller on the issuance of obligations or at a later date as agreed to by the comptroller and the agency.

(b) The comptroller may charge reasonable costs to provide services under this section.

(c) In this section:

(1) "Credit agreement" has the meaning assigned by Section 1371.001.

(2) "Obligations" include commercial paper, variable rate demand obligations, and "public securities" as defined by Section 1201.002.

Added by Acts 1993, 73rd Leg., ch. 939, Sec. 5, eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 7.35, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 8.230, eff. Sept. 1, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2900, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 404.028. INVESTMENT ADVISORY BOARD. (a) The comptroller shall establish an investment advisory board to advise the comptroller regarding investments that the comptroller makes under this subchapter or other law. For purposes of this section, the deposit of state funds in a state depository is not considered an investment.

(b) The comptroller shall appoint members to the advisory board who possess the expertise appropriate for advising the comptroller with regard to one or more types of investments that the comptroller may make.

(c) The comptroller shall determine the number of members of the advisory board. A member serves on the advisory board at the will of the comptroller.

(d) Chapter 2110 does not apply to the size, composition, or duration of the advisory board.

Added by Acts 2001, 77th Leg., ch. 282, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER D. COLLATERAL, DEPOSITS, AND WITHDRAWALS

Sec. 404.031. COLLATERAL REQUIREMENTS. (a) The comptroller may deposit state funds with a depository only if the depository has pledged with the comptroller eligible investment securities acceptable to the comptroller in an amount not less than the amount of deposits to be secured. The comptroller shall determine the

market value of securities pledged to secure state funds for the purpose of determining the adequacy of the amount of collateral. The comptroller's valuation of the securities is final and not subject to review.

(b) If the market value of the securities pledged by a depository becomes less than the amount of funds on deposit in the depository, the comptroller shall require that additional collateral be pledged immediately or deposits reduced. If the collateral pledged by a state depository is in excess of the amount required by this chapter, the comptroller may permit the release of the excess collateral. If the balance of state funds in a state depository is increased, the depository shall increase the collateral for the deposits to the amount required by this chapter.

(c) A state depository may substitute one group of eligible securities for another group of securities pledged with the comptroller.

(d) Except as provided by Subsections (e) and (f), a state depository shall deposit any pledged securities with the comptroller. The comptroller shall give the depository a receipt for the securities and place them in the vaults of the treasury.

(e) Instead of depositing pledged securities with the comptroller, a depository may deposit them with a custodian. The custodian may be the (i) Texas Treasury Safekeeping Trust Company, (ii) a state or national bank that has a capital stock and permanent surplus of not less than $5 million, is a state depository, and has been designated as a custodian by the comptroller, or (iii) a financial institution authorized to exercise fiduciary powers that has a capital stock and permanent surplus of not less than $5 million, has its main office, branch office, or a trust office in this state, and has been designated as a custodian by the comptroller. For purposes of this subsection, "financial institution" has the meaning assigned by Section 201.101(1), Finance Code. The comptroller may designate those custodial applicants that are acceptable and may reject those whose management or condition, in the opinion of the comptroller, do not warrant the placing of securities pledged by state depositories. The comptroller may adopt and enforce rules governing the designation and conduct of custodians with respect to the acceptance and holding of securities pledged by state depositories that the public interest requires and that are not inconsistent with the law governing custodians as set forth in this

chapter. The state depository and the custodian of securities pledged by that state depository may not be the same bank or be owned by the same bank holding company. The securities shall be held in trust by the custodian to secure funds deposited by the comptroller in the state depository pledging the securities. On receipt of the securities, the custodian shall immediately, by book entry or otherwise, identify on its books and records the pledge of the securities and shall promptly issue and deliver to the comptroller controlled trust receipts for the securities pledged. The security evidenced by the trust receipts is subject to inspection by the comptroller at any time. The depository pledging the securities shall pay the charges, if any, of the custodian bank for accepting and holding the securities. The custodian, acting alone or through a permitted institution, is for all purposes under state law and notwithstanding Chapters 8 and 9, Business & Commerce Code, the bailee or agent of the comptroller. The security interest arising out of a pledge of securities to secure deposits of the state is created, attaches, and is perfected for all purposes under state law from the time the custodian identifies the pledge of the securities on its books and records and issues the trust receipts. The security interest remains perfected as of that time in the hands of all subsequent custodians and permitted institutions.

(f) Instead of depositing pledged securities with the comptroller, a state depository may deposit pledged securities with a Federal Reserve Bank or a Federal Home Loan Bank. The securities shall be held by the bank to secure funds deposited by the comptroller in the state depository pledging the securities. When the pledged securities are deposited, the bank may apply book entry to the securities. The records of the bank shall at all times reflect the name of the state depository depositing the pledged securities, and the bank shall issue an advice of transaction to the comptroller and the state depository pledging the securities.

(g) In this section, "permitted institution" means a Federal Reserve Bank, a Federal Home Loan Bank, a "clearing corporation" as defined by Section 8.102, Business & Commerce Code, the Texas Treasury Safekeeping Trust Company, a state depository, and any state or nationally chartered bank or trust company that is controlled by a bank holding company that controls a state depository. Neither the state depository that pledges the securities nor any bank that is controlled by a bank holding company that controls that state

depository may be the permitted institution with respect to the particular securities pledged by that state depository. A custodian holding in trust securities of a state depository under Subsections (e) and (f) may deposit the pledged securities with a permitted institution if the permitted institution is the third party to the transaction. The securities shall be held by the permitted institution to secure funds deposited by the comptroller in the state depository pledging the securities. On receipt of the securities, the permitted institution shall immediately issue to the custodian an advice of transaction or other document evidencing the deposit of the securities. When the pledged securities held by a custodian are deposited, the permitted institution may apply book entry procedures to the securities. The records of the permitted institution shall at all times reflect the name of the custodian depositing the pledged securities. The custodian shall immediately issue and deliver to the comptroller controlled trust receipts for the pledged securities. The trust receipts shall indicate that the custodian has deposited with the permitted institution the pledged securities held in trust for the state depository pledging the securities. A legal action or proceeding brought by or against the state, arising out of or in connection with the duties of the state depository, the custodian, or other permitted institution under this subchapter must be brought and maintained in state district court in Travis County. In this section, "control" and "bank holding company" have the meanings assigned by Section 31.002(a), Finance Code.

(h) On request of the owner or owners, the comptroller or custodian bank may surrender interest coupons or other evidence of interest on securities deposited by state depositories, when the interest is due, if the securities are sufficient to meet the collateral requirements of the state.

(i) A state depository making deposits of securities with the comptroller may cause the securities to be endorsed or stamped, as it considers proper, to show that they are deposited as collateral and not transferable except as provided by this chapter.

(j) If a state depository fails to credit a deposit or part of a deposit made by the comptroller, the comptroller may immediately sell or otherwise convert the securities to money.

(k) Repealed by Acts 1997, 75th Leg., ch. 891, Sec. 3.22(3), eff. Sept. 1, 1997.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 78, Sec. 4, eff. May 11, 1989; Acts 1993, 73rd Leg., ch. 945, Sec. 1, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 426, Sec. 8, 9, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 891, Sec. 3.22(3), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 7.36, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 7.58, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 344, Sec. 5.005, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 847, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 2, eff. September 1, 2009.

Sec. 404.032. DEPOSITS. (a) The comptroller shall deposit state funds in depositories that satisfy the collateral requirements of this chapter. The comptroller may deposit funds designated as demand deposits only in institutions designated as depositories by the comptroller.

(b) The comptroller shall monitor the financial stability of state depositories in which state deposits are held and take appropriate action to protect state funds.

(c) A state depository shall collect all checks, drafts, and demands for money deposited with it by the comptroller. If the depository uses due diligence, it is not liable for the collections until the proceeds of the collections are duly received by the depository bank. An expense incurred in collection that the depository is not permitted to pay by reason of an Act of Congress or a rule or regulation adopted under such an Act by the board of governors of the Federal Reserve System or the board of directors of the Federal Deposit Insurance Corporation shall be charged to and paid by the comptroller out of money appropriated by the legislature for that purpose.

(d) The comptroller shall keep sufficient money on deposit in demand deposit accounts in depositories designated by the comptroller as clearing institutions to meet all current claims on the state. Items received by the comptroller for collection shall be deposited with a clearing institution to be credited to the demand deposit account in the depository. Checks, drafts, or warrants drawn by the comptroller for the payment of obligations due by the state may be

drawn on such an account in such a depository or on the demand deposit account in another state depository so that the checks, drafts, or warrants of the state may at all times pass current as cash.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 939, Sec. 6, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 426, Sec. 10, 11, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 891, Sec. 3.11, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 7.37, eff. Sept. 1, 1997.

Sec. 404.033. WITHDRAWALS AND REMITTANCES. (a) Funds on deposit with a depository are subject to withdrawal at any time by the comptroller, except funds designated as time deposits, which may be withdrawn in the manner agreed on in the contract under which the funds were deposited. The depository shall remit the withdrawal on demand and free of charge, except charges that the depository is not permitted to pay by reason of an Act of Congress or a rule or regulation adopted under such an Act by the board of governors of the Federal Reserve System or the board of directors of the Federal Deposit Insurance Corporation.

(b) A remittance to the comptroller by a state depository or another person may be made by any method authorized by the comptroller, including cash, money order, or bank draft. The liability of the depository or other person making the remittance continues until the money is received by the comptroller. A depository that refuses to make a remittance required by this chapter forfeits its right to receive further deposits, on order of the comptroller. The comptroller may withdraw all funds from the depository, which after the withdrawal ceases to be a state depository.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.12, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 7.38, eff. Sept. 1, 1997.

SUBCHAPTER E. GENERAL DUTIES

Sec. 404.041. TRUSTEE. The comptroller is the trustee of funds in the treasury.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 7.39, eff. Sept. 1, 1997.

Sec. 404.043. SECURITY OFFICERS. The comptroller may employ security officers to provide needed security services for the treasury and may commission the officers as peace officers.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 426, Sec. 12, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.41, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 285, Sec. 13, eff. Sept. 1, 2003.

Sec. 404.045. RECEIPT OF MONEY. The comptroller shall receive all money paid into the treasury in accordance with the procedures required by Section 403.052.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 19, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.43, eff. Sept. 1, 1997.

Sec. 404.046. PAYMENT FROM TREASURY. The comptroller shall pay warrants the comptroller draws on the treasury that are authorized by law. Except as provided by Section 403.0271, money may not be paid out of the treasury except on a warrant drawn or an electronic funds transfer initiated by the comptroller. A warrant may not be paid by the comptroller unless presented for payment to a financial institution or the comptroller before two years after the close of the fiscal year in which the warrant was issued. Claims for the payment of warrants presented after that time may be presented to the legislature for appropriations from which the claims may be paid.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 78, Sec. 5, eff. May 11, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.44, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 1.20, eff. June 19, 1999.

Sec. 404.047. ACCOUNTS. The comptroller shall keep accounts of

the receipt and expenditure of the money in the treasury and close the accounts on August 31 of each year. The comptroller shall keep proper records, distinguishing between the receipts and disbursements of each fiscal year.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 426, Sec. 13, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.45, eff. Sept. 1, 1997.

Sec. 404.048. REPORT. In addition to the reports required by the constitution, the comptroller shall, as required by the governor, submit a statement of the balance of money remaining in the treasury and a summary of the receipts and disbursements recorded by the treasury. The comptroller shall exhibit all books, papers, and records on request by the legislature or a branch or committee of the legislature.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 426, Sec. 14, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.46, eff. Sept. 1, 1997.

Sec. 404.049. MONEY IN TREASURY. Money received by the comptroller as trustee of funds in the treasury shall be kept in the treasury. The comptroller may not keep or receive into the treasury money, or the representative of money, belonging to an individual except as provided by law. The comptroller may not appropriate to the comptroller's own use or lend, sell, or exchange money, or the representative of money, in the comptroller's custody or control.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 7.47, eff. Sept. 1, 1997.

Sec. 404.050. DELIVERY TO SUCCESSOR. The comptroller shall, at the close of the term of office, deliver into the possession of the successor comptroller the money, securities, and all other property of the state in the comptroller's possession and the books, vouchers, papers, evidences of property, and all other matters and things pertaining to the office.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 7.48, eff. Sept. 1, 1997.

Sec. 404.051. MONEY RETURNED TO COUNTY OR MUNICIPALITY. If money is in the treasury for the purpose of paying an obligation due from a county or municipality and the comptroller finds from certified copies of the records of the commissioners court or by other satisfactory evidence that the obligation is no longer outstanding against the county or municipality, the comptroller shall draw a warrant on the treasury in favor of the county or municipality for that amount of money and shall pay the money to the treasurer of the county or municipality for the benefit of its general fund.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 7.49, eff. Sept. 1, 1997.

Sec. 404.052. OBLIGATIONS OF MUNICIPALITIES, DISTRICTS, AND POLITICAL SUBDIVISIONS. (a) A bond, warrant, or other evidence of indebtedness issued by a municipality, district, or political subdivision of this state and any interest, at the discretion of the municipality, district, or political subdivision may be payable at the office of the comptroller. The comptroller serves as ex officio treasurer and fiscal agent of the municipality, district, or political subdivision for the purposes of receiving funds for the payment of the obligation and interest, making payment of the obligation and interest, and for all other purposes designated by this chapter or necessary or incidental to the service.

(b) The comptroller shall deposit money received by the comptroller under this section and shall keep a separate account for each municipality, district, or political subdivision. The payment of interest and principal due on an obligation of the municipality, district, or political subdivision must be on deposit with the comptroller not later than five business days before the date of maturity. Any charges incurred for late receipt of funds shall be assessed to the municipality, district, or political subdivision. On receipt of those amounts by the comptroller, the comptroller shall issue a warrant for the payment of amounts due.

(c) On return of the obligation, the treasurer of the

municipality, district, or political subdivision shall record the payment and cancellation.

(d) The comptroller shall collect for the use of the state from the municipality, district, or political subdivision a fee in an amount established by rule of the comptroller that is sufficient to pay the comptroller's cost of administration. The treasurer of the municipality, district, or political subdivision, at the time of the remittance for the payment of the maturing obligation or interest, shall remit the fee to the comptroller as ex officio treasurer of the municipality, district, or political subdivision. On receipt of the fee, the comptroller shall deposit it to the appropriate fund. The amount of the fees earned, or as much as necessary, is reserved to the comptroller to be used in the administration of this chapter. Any balance remaining at the end of a fiscal year is available for use in the next fiscal year.

(e) It is the general intent of this section to provide an inexpensive and feasible means for the payment of bonds and interest coupons issued by municipalities, districts, and political subdivisions in the state at the office of the comptroller, and this section shall be broadly construed to carry out that intent. An official or a municipality, district, or political subdivision concerned with the administration of this section shall perform the acts and duties necessary or appropriate to facilitate and expedite the operation of this section to the end that bonds and interest may be promptly paid and the payment clearly evidenced and accounted for.

(f) The comptroller shall cancel and return to the municipality, district, or political subdivision depositing funds for the payment of interest coupons or the retirement of bonds the coupons and bonds that have matured or been retired by purchase, together with a statement of the account of the municipality, district, or subdivision showing the amounts received and placed to its credit, service charges, and amount of coupons or bonds retired. At the request of the municipality, district, or political subdivision, the comptroller shall remit to the municipality, district, or subdivision any balance remaining in custody of the comptroller for more than two years for which bonds or coupons have not been presented for payment. The municipality, district, or political subdivision shall pay these coupons or bonds when presented. A municipality, district, or political subdivision is entitled at any reasonable time to a statement of its account with

the comptroller.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 426, Sec. 15, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.50, eff. Sept. 1, 1997.

Sec. 404.054. DAILY TOTALS. The comptroller shall post the daily totals of deposits to the proper fund and control accounts in the general ledger. The comptroller shall keep a transit record, in which the comptroller shall record the essential details of cash, checks, money orders, drafts, or other items deposited or cashed each day, showing the items deposited in each depository bank or otherwise disposed of. The totals of deposits shall be charged to the accounts of the respective depositories on the books of the treasury. The comptroller shall keep a journal of all journal vouchers or other memoranda of transfers between funds or accounts. Postings shall be made from this journal to the proper accounts on the books of the treasury.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 21, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.51, eff. Sept. 1, 1997.

Sec. 404.055. TIME AND DEMAND DEPOSITS. The comptroller shall maintain records of the daily balances of and the interest income from funds deposited by the comptroller in time and demand deposit accounts in each bank acting as a state depository. The comptroller shall maintain and preserve those records according to the provisions of Subchapter D, Chapter 441, and of Chapter 552.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(94), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 426, Sec. 16, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.52, eff. Sept. 1, 1997.

Sec. 404.056. INFORMATION CONCERNING WARRANTS. (a) The comptroller shall keep the information on each warrant that is necessary to enable an adequate audit to be performed.

(b) The comptroller shall keep information on the payment of each warrant, including the number and amount of each warrant paid.

(c) The comptroller shall keep detailed information concerning all canceled warrants.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 22, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.53, eff. Sept. 1, 1997.

Sec. 404.057. WARRANTS PAYABLE ACCOUNTS. (a) The comptroller shall keep warrants payable accounts for each fund.

(b) To each account, the comptroller shall credit the daily totals of warrants issued and charged to each fund so that the balance of those accounts represents the aggregate amount of outstanding warrants.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 23, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.54, eff. Sept. 1, 1997.

Sec. 404.058. OUTSTANDING WARRANTS. (a) The comptroller shall compile information concerning outstanding warrants, which must be consistent with the requirements of the uniform statewide accounting system.

(b) The warrant number of an outstanding warrant is excepted from the requirements of Section 552.021 if the warrant is issued by the comptroller.

(c) A person who issues a warrant under Section 403.060(a) may disclose the warrant number of the warrant to a person other than the comptroller only if the comptroller has:

(1) informed the person that the warrant is not an outstanding warrant; or

(2) authorized or required the disclosure.

(d) In this section:

(1) "Outstanding warrant" means any warrant except a warrant that:

(A) has been paid by the comptroller;

(B) has been canceled; or

(C) may not be paid by the comptroller because it was

not presented before the date determined under Section 404.046 or other applicable law.

(2) "Warrant number" means the number or other data element printed on a warrant that the comptroller uses to distinguish it from all other warrants that the comptroller may pay during the same period that the comptroller may pay the warrant under Section 404.046 or other applicable law.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 24, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.55, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1158, Sec. 20, eff. June 15, 2001.

Sec. 404.059. GENERAL LEDGER ACCOUNTS. The comptroller shall charge the daily totals of the warrants to the respective funds and control accounts in the general ledger to which they apply.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 25, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.56, eff. Sept. 1, 1997.

Sec. 404.060. PRIORITY OF WARRANTS. Warrants on the treasury shall be on an equal basis with each other, except that if a question arises concerning the priority of payment of the warrants the comptroller shall determine the priority of payment.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 26, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 679, Sec. 64, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 426, Sec. 17, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.57, eff. Sept. 1, 1997.

Sec. 404.062. UNDETERMINED REMITTANCES. (a) This subsection applies to money the status of which is undetermined or that is awaiting the time when it can be taken into the treasury. The money shall be placed with the comptroller and credited to the suspense account. The comptroller shall maintain information about the deposit of funds into the suspense account in accordance with Section

403.052.

(b) When the status of money placed in the suspense account is determined, the money shall be transferred from the suspense account by placing the portion of it belonging to the state in the appropriate fund in the treasury, and the part not belonging to the state shall be refunded. The refund shall be made either to the payor of the money or to the payor's estate, assignee, devisee, or other successor-in-interest.

(c) When a deposit is made, it and any refunds shall be entered in the suspense cash book, and the balance shall represent the aggregate of the items still in suspense. Warrants shall be used for making refunds. The warrants shall be charged against the suspense funds to which they apply.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 27, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 641, Sec. 11, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 426, Sec. 18, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.58, eff. Sept. 1, 1997.

Sec. 404.063. VIOLATION. A person who knowingly or wilfully violates this chapter commits an offense. An offense under this chapter is punishable by a fine of not less than $50 nor more than $500, by confinement in the county jail for not less than 30 days nor more than six months, or by both a fine and confinement.

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

Sec. 404.064. OFFICE FEES. The comptroller shall keep records of the fees earned by the comptroller under this chapter. Those fees shall be deposited to the appropriate fund in the treasury.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 28, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 426, Sec. 19, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.59, eff. Sept. 1, 1997.

Sec. 404.065. CASH BALANCING. The comptroller shall keep

records for the purpose of arriving at the daily cash balance. The daily totals of receipts and disbursements and the amount of cash on hand and in depository banks shall be recorded.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 426, Sec. 20, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.60, eff. Sept. 1, 1997.

Sec. 404.066. LEDGER. (a) The general ledger kept by the comptroller shall contain accounts for each fund. Those accounts shall be credited with the existing balances and the daily totals of deposits. Warrants issued and electronic funds transfers shall be charged daily to the fund accounts.

(b) The ledger shall contain control accounts for cash, depository banks, bonds, interest, securities, warrants payable, and other necessary accounts. Postings shall be made to the ledger daily.

(c) The ledger shall be balanced daily.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 29, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 641, Sec. 12, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 7.61, eff. Sept. 1, 1997.

Sec. 404.067. SAFEKEEPING; INVESTMENT AGENCIES. (a) The comptroller shall keep custodial records that shall reflect all deposits and releases of securities held by the comptroller and belonging to a state investment agency.

(b) The comptroller shall keep appropriate ledger accounts that include a short description of each security held in safekeeping for certain investment agencies of the state.

(c) The comptroller shall keep controlling or total accounts of securities in the general ledger. Those accounts shall be kept with respect to the total amount of bonds or other securities belonging to each separate fund.

(d) Those controlling accounts shall be balanced monthly with the sum of the individual accounts for securities, which also shall be balanced monthly, and shall correspond to similar accounts kept by the comptroller.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 426, Sec. 21, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.62, eff. Sept. 1, 1997.

Sec. 404.068. STATE REGULATORY AGENCIES SAFEKEEPING AND PLEDGED COLLATERAL. (a) The comptroller shall keep a suitable system in which shall be entered all securities deposited with the comptroller by state depositories and other state agencies. The comptroller shall enter in the system the authorizations to deposit or release the securities.

(b) The comptroller shall keep a securities ledger in which appropriate accounts for each custodial agency are kept. That ledger shall be balanced monthly against control accounts kept in the general ledger and against corresponding accounts kept by the comptroller.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 30, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 426, Sec. 22, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.63, eff. Sept. 1, 1997.

Sec. 404.069. TRUST FUNDS. (a) All money and securities deposited with the comptroller in trust for any legal purpose may be received by the comptroller as provided by Section 403.052. The money or securities shall be held in trust by the comptroller in the same manner as the departmental suspense account. Except as provided by Section 403.0271, the money may be withdrawn only on a warrant drawn or an electronic funds transfer initiated by the comptroller. The securities may be withdrawn only by withdrawal authorization.

(b) Money received in trust or for any legal purpose that is placed in a suspense account or fund shall be handled by the comptroller in the same manner as items deposited in the departmental suspense account.

(c) Adequate registers, ledgers, and files shall be maintained by the comptroller to account for the receiving and disposing of trust and suspense money and securities. Those registers, ledgers, and files shall be known as the trust and suspense record.

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

by Acts 1989, 71st Leg., ch. 207, Sec. 31, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.64, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 1.21, eff. June 19, 1999.

Sec. 404.070. VALIDITY OF VOIDED WARRANTS. (a) A warrant issued by the comptroller in payment of refunds from a fund in the treasury becomes void unless presented to the comptroller for payment before two years after the end of the fiscal year in which the warrant was issued. The sum of money represented by a warrant voided under this section shall be transferred by the comptroller from the fund from which the warrant was originally issued to the general revenue fund. Claims for the payment of a voided warrant may be presented to the legislature for appropriation from which the warrant may be paid. This section does not affect the laws regulating the payment of other warrants issued by the comptroller.

(b) When a transfer of money under this section is made, the comptroller shall prepare a list of the outstanding warrants representing the transfer. The list must show the date of the original warrant, the departmental suspense account against which the warrant was originally drawn, the original warrant number, and the amount of the original warrant. The list shall be maintained as a permanent record in the office of the comptroller.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 207, Sec. 32, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 426, Sec. 23, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.65, eff. Sept. 1, 1997.

Sec. 404.071. DISPOSITION OF INTEREST ON INVESTMENTS. (a) Interest received from investments of money in funds and accounts in the charge of the comptroller shall be allocated on a monthly basis as follows:

(1) the pro rata portion of the interest received due to each constitutional fund shall be credited to that fund;

(2) the pro rata portion of the interest received due to the game, fish, and water safety fund shall be credited to that fund; and

(3) the remainder of the interest received shall be

credited to the general revenue fund.

(b) The legislature may appropriate a portion of the interest under Subsection (a) to the comptroller in the amount necessary to reimburse the comptroller for costs incurred in receiving, paying, accounting for, investing, and safekeeping money in those funds and accounts. Amounts appropriated for that purpose shall be deposited to the credit of the fund established for the deposit of commissions reserved to the comptroller under Section 404.052(d).

(c) If a deficit occurs in the general revenue fund, the comptroller may place with a designated depository bank an offsetting compensating balance in a special depository account known as a special demand account secured by general revenue warrants only.

(d) The comptroller is entitled to rely on the opinion and advice of the attorney general for the proper interpretation and application of this section.

(e) For each special fund or account that contains depository interest, the comptroller shall transfer from the fund or account to the general revenue fund an amount equal to the interest paid from the general revenue fund on behalf of the fund or account. In this subsection:

(1) "Account" means a subdivision of a special fund or the general revenue fund.

(2) "Fund" and "special fund" have the meanings assigned by Section 403.001.

(f) The comptroller may adopt procedures and rules to administer Subsection (e).

(g) Subsection (e) applies notwithstanding any other law.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.07(a), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 438, Sec. 1, eff. June 6, 1993; Acts 1993, 73rd Leg., ch. 449, Sec. 33, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 426, Sec. 24, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.66, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 16, Sec. 1, eff. April 20, 2001.

Sec. 404.072. EXAMINATION BY STATE AUDITOR. The disbursements and receipts of the comptroller are subject to audit by the state auditor in accordance with Chapter 321.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 11, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.67, eff. Sept. 1, 1997.

Sec. 404.073. FUNDS OUTSIDE TREASURY. (a) The comptroller may be the trustee of funds or property outside the treasury.

(b) The comptroller functioning as the trustee of funds or property outside the treasury may contract with the treasury to manage the funds or property in a manner similar to the management of funds in the treasury.

(c) Interest that has been and that will be accrued or earned from deposits made under a law to which this subsection applies is state funds not subject to allocation or distribution to taxing units, cities, or transportation authorities under that law. This subsection applies to:

(1) Section 205.02, Alcoholic Beverage Code;

(2) Section 403.105(d) of this code;

(3) Sections 321.501 and 321.504, Tax Code;

(4) Sections 322.301 and 322.304, Tax Code; and

(5) Sections 323.501 and 323.504, Tax Code.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.08(a), eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.68, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 14.750, eff. Sept. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1051 (H.B. 914), Sec. 9, eff. January 1, 2020.

SUBCHAPTER F. STATE FUNDS REFORM ACT

Sec. 404.091. SHORT TITLE. This subchapter may be cited as the State Funds Reform Act.

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

Sec. 404.092. DEFINITION. In this subchapter, "state agency" means an office, institution, or other agency that is in the executive branch of state government, has authority that is not

limited to a geographical portion of the state, and was created by the constitution or a statute of this state, but does not include an institution of higher education as defined by Section 61.003, Education Code.

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

Sec. 404.093. APPLICABILITY OF SUBCHAPTER; EXEMPTIONS. (a) This subchapter applies to a state agency only to the extent that it is not otherwise required to deposit funds in the treasury.

(b) This subchapter does not apply to:

(1) funds pledged to the payment of bonds, notes, or other debts if the funds are not otherwise required to be deposited in the treasury;

(2) funds held in trust or escrow for the benefit of a person or entity other than a state agency;

(3) funds set apart out of earnings derived from investment of funds held in trust for others, as administrative expenses of the trustee agency; or

(4) funds, grants, donations, and proceeds from funds, grants, and donations, given in trust to the Texas State Library and Archives Commission for the establishment and maintenance of regional historical resource depositories and libraries in accordance with Section 441.154.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(87), eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 152, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 961 (S.B. 2040), Sec. 2.02, eff. September 1, 2023.

Sec. 404.094. FUNDS TO BE DEPOSITED IN TREASURY. (a) Fees, fines, penalties, taxes, charges, gifts, grants, donations, and other funds collected or received by a state agency under law shall be deposited in the treasury, credited to a special fund or funds, and subject to appropriation only for the purposes for which they are otherwise authorized to be expended or disbursed. A deposit shall be made at the earliest possible time that the treasury can accept those

funds, but not later than the third business day after the date of receipt. However, if an agency determines that for seasonal or other extraordinary reasons deposits cannot be made by the third business day after the date of receipt, the agency shall provide written notice of the determination to the state auditor and comptroller with an explanation of the circumstances that require the delay. If the state auditor finds that an agency has not complied with this subsection, the state auditor shall make an estimate of any resulting financial loss to the state, taking into consideration compliance costs that would have been additionally incurred by the agency, and report the amount on the state auditor's Internet website.

(b) Money that is required by this subchapter or by another law to be deposited in the treasury shall be deposited to the credit of the general revenue fund unless the money is expressly required to be deposited to another fund, trust fund, or special account not in the general revenue fund. This subsection does not affect the authority of the comptroller to establish and use accounts necessary to manage and account for state revenues and expenditures.

(c) Money collected or received by a state agency by mistake of fact or law, including money that is not due the state and money collected and received in excess of the amount required to be collected or received, shall, if not refunded as permitted or required by law, be deposited in the treasury to the credit of the general revenue fund. This section does not apply to unrefunded motor fuel taxes or to other unrefunded money that is required by law to be deposited to the credit of another fund, trust fund, or account not in the general revenue fund.

(d) A state agency that receives money from securities transactions under applicable law, including Chapter 815 or 825, Government Code, Chapter 161, 162, or 164, Natural Resources Code, Chapter 43, Education Code, Section 94.016, Human Resources Code, and the Texas Statewide Emergency Services Retirement Act (Article 6243e.3, Vernon's Texas Civil Statutes), with the comptroller's approval may, as an alternative to the deposit of the funds as provided by Subsection (a), net funds received against purchases of securities occurring within one business day. Any proceeds received and available for reinvestment that are not reinvested within one business day of receipt shall be deposited in the state treasury as provided by Subsection (a). An agency authorized to net securities transactions under this section is subject to the accounting and

reporting procedures established by the comptroller.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 78, Sec. 6, eff. May 11, 1989; Acts 1997, 75th Leg., ch. 1311, Sec. 5, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 7.69, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 337, Sec. 11, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1011, Sec. 1, eff. June 15, 2001.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 856 (S.B. 800), Sec. 5, eff. September 1, 2021.

Sec. 404.095. ELECTRONIC TRANSFER OF CERTAIN PAYMENTS. (a) This section applies only to a state agency that during the preceding state fiscal year collected or received more than $50 million in fees, fines, penalties, taxes, charges, gifts, grants, donations, and other funds, excluding federal grants and interest and dividend income.

(b) If during the preceding state fiscal year a person paid a state agency a total of $500,000 or more in a category of payments and the agency reasonably anticipates that during the current state fiscal year the person will pay the agency $500,000 or more in a category of payments, the state agency shall require the person to transfer payment amounts due to the agency in that category, on or before the date the payment is due, by one of the means of electronic funds transfer approved by the comptroller. For the purposes of this section, each of the following is a separate category of payments to a state agency:

(1) fees;

(2) fines;

(3) civil penalties;

(4) taxes, with each type of tax specified by the comptroller being considered a separate category; and

(5) other payments to the state agency, excluding extraordinary payments such as gifts, grants, donations, interest and dividend income, and one time surcharges.

(c) A state agency by rule may require a person other than a person subject to Subsection (b) to transfer all payment amounts due in a category of payments to the agency on or before the date the

payment is due by electronic funds transfer.

(d) A person's failure to transfer payment amounts by electronic funds transfer may result in the assessment of a penalty by the state agency in an amount equal to five percent of the payment amount.

(e) The comptroller shall adopt rules specifying approved means of electronic funds transfer and specifying the types of taxes constituting separate categories. A person's failure to comply with the rules may result in the assessment of a penalty by the state agency in an amount equal to five percent of the payment amount.

(f) To the extent of any conflict between this section and another law specifying the time or manner of making a payment to the agency, this section controls. This section does not affect a law specifying the time for the filing of a return or other report related to the payment.

(g) A state agency may not require payment by electronic funds transfer of a protested tax payment.

Added by Acts 1989, 71st Leg., ch. 78, Sec. 7, eff. May 11, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 4.01, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 426, Sec. 25, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.70, eff. Sept. 1, 1997.

Sec. 404.096. RAPID DEPOSITS, TRANSACTIONS, AND TRANSFERS REQUIRED. According to a schedule established by the comptroller, the comptroller shall conduct a study of each state agency that collects or receives $50 million or more a year from all sources or processes 100,000 or more transactions a year of any kind to determine whether implementing a program for the rapid administration of deposits or transactions by the agency or for the rapid transfer of revenue or information to or from the state agency would result in a net savings of state revenue. If the comptroller determines that the implementation of a program for the rapid administration of deposits or transactions or for the rapid transfer of revenue or information to or from the state agency would result in a net savings of state revenue, the comptroller may require the agency to implement a program for that rapid administration or transfer that meets the specifications of the comptroller.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 4.02, eff. Sept.

1, 1991. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 7.71, eff. Sept. 1, 1997.

Sec. 404.097. DEPOSIT OF FUNDS RECOVERED BY LITIGATION OR SETTLEMENT. (a) Notwithstanding Section 404.093, this section applies by its terms to each state governmental entity.

(b) In this section, "contingent fee contract" and "state governmental entity" have the meanings assigned by Section 2254.101.

(c) All funds recovered by a state governmental entity in litigation or in settlement of a matter that could have resulted in litigation, including funds designated as damages, amounts adjudged or awarded, attorney's fees, costs, interest, settlement proceeds, or expenses, are public funds of the state or the state governmental entity and shall be deposited in the state treasury to the credit of the appropriate fund or account.

(d) Legal fees and expenses may be paid from the recovered funds under a contingent fee contract for legal services only:

(1) after the funds are deposited in accordance with this section; and

(2) in accordance with Subchapter C, Chapter 2254, if that subchapter applies to the contract.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.02, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1266, Sec. 1.14, eff. June 20, 2003.

SUBCHAPTER G. TEXAS TREASURY SAFEKEEPING TRUST COMPANY

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2900, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 404.101. DEFINITIONS. In this subchapter:

(1) "Advisory board" means the Texas treasury safekeeping trust company investment advisory board.

(2) "Participant" means the state, agencies and local political subdivisions of the state, and nonprofit corporations, foundations, and other charitable organizations created on behalf of the state or an agency or local political subdivision of the state authorized to deposit money and securities with the trust company.

(3) "The state and its agencies" includes the Employees Retirement System of Texas and the Teacher Retirement System of Texas.

(4) "Trust company" means the Texas Treasury Safekeeping Trust Company.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 21, eff. June 15, 2001.

Sec. 404.102. CREATION OF TRUST COMPANY. (a) The comptroller may incorporate a special-purpose trust company called the Texas Treasury Safekeeping Trust Company. The purposes of the trust company are to provide a means for the comptroller to obtain direct access to services provided by the Federal Reserve System and to enable the comptroller to manage, disburse, transfer, safekeep, and invest funds and securities more efficiently and economically by using established and reasonable financial practices, including the pooling of funds and the lending of securities to the extent practical or necessary. The comptroller may deposit funds and securities with the trust company to achieve its purpose.

(b) The trust company is a special-purpose trust company with necessary and implied powers to accomplish its purpose and is subject to regulation only as provided by this subchapter. The trust company may not engage in commercial banking activity.

(c) The trust company may establish government investment pools consisting of state agency funds not required to be deposited in the state treasury and local government funds that are placed into the pools for investment or reinvestment by the trust company. A state agency or local government may place funds into the pools for investment or reinvestment as authorized by Subsection (a) or other law. In this subsection, "local government" and "state agency" have the meanings assigned by Section 2256.002.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 78, Sec. 8, eff. May 11, 1989; Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 1.24, eff. Jan. 1, 1992; Acts 1997, 75th Leg., ch. 1423, Sec. 7.72, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1310, Sec. 26, eff. June 20, 2003.

Sec. 404.103. POWERS. (a) The trust company may receive, transfer, and disburse money and securities as provided by statute or belonging to the state, agencies and local political subdivisions of the state, and nonprofit corporations, foundations, and other charitable organizations created on behalf of the state or an agency or local political subdivision of the state in a manner that qualifies the trust company for federal reserve services.

(b) The trust company may enter into contracts, trust agreements, or other fiduciary instruments with the comptroller, the Federal Reserve System, a depository trust company, and other third parties. The trust company shall be liable under those contracts in accordance with the terms contained in the contracts. Notwithstanding any other statute to the contrary, to the extent permitted by the Texas Constitution and the contracts, trust agreements, or other fiduciary instruments between the trust company, the Federal Reserve System, and a depository trust company, the trust company's obligations shall be guaranteed by the state, and the state expressly waives all defenses of governmental immunity by and on behalf of the trust company, the comptroller, and the state, and expressly consents to sue and be sued in federal court or in any court of competent jurisdiction. However, this provision does not alter or affect the immunity accorded to state officials and employees under state law. The trust company may enter into contracts with the comptroller and the Federal Reserve System to provide any services that the Federal Reserve System makes available, including:

(1) safekeeping book-entry United States Treasury and agency securities owned by the state and its agencies;

(2) using the federal reserve wire transfer system to transfer money and book-entry securities and to settle securities transactions involving book-entry United States Treasury and agency securities owned by the state and its agencies;

(3) collecting, through the Federal Reserve System, checks deposited with the treasury;

(4) receiving payments from and making payments to the federal government on behalf of the state and its agencies;

(5) originating automated clearinghouse transactions or other electronic transfers to make payments on behalf of the state and its agencies, collecting revenues due the state and its agencies, and transferring money between state depositories;

(6) paying warrants drawn on the treasury and presented through the Federal Reserve System for payment; and

(7) safekeeping collateral pledged to secure deposits of public funds.

(b-1) In this subsection, "securities contract" includes direct security repurchase agreements, reverse security repurchase agreements, and related custody agreements. The trust company may enter into trust agreements, fiduciary instruments, or other contracts as principal or as trustee, with the comptroller and other third parties. The trust company shall be liable under the agreements, instruments, or contracts in accordance with the terms contained in the agreements, instruments, or contracts. Notwithstanding any other statute to the contrary, to the extent permitted by the Texas Constitution and the contracts, the trust company's obligations under securities contracts between the trust company and third parties shall be guaranteed by the state with, and only to the extent of, the reserve balances held by the trust company under Section 404.105, and for those securities contracts, the state expressly waives all defenses of governmental immunity by and on behalf of the trust company, and expressly consents by and on behalf of the trust company to sue and be sued in federal court or in any court of competent jurisdiction. However, this provision does not alter or affect the immunity accorded to state officials and employees under state law.

(c) The trust company may adopt and amend articles of incorporation, bylaws, resolutions, and other documents necessary to carry out its purposes.

(d) The trust company may act as escrow agent for refunding bonds issued under Subchapter A, Chapter 1207, to make a deposit under Subchapter B or C of that chapter.

(e) The trust company may hire employees and may fix their compensation and prescribe their duties or may contract with the comptroller's office for staff support.

(f) The trust company shall develop a fee schedule in the amount necessary to recover costs of service and to retain adequate reserves to support the operations of the trust company.

(g) The trust company is exempt from other state laws regulating or limiting state purchasing or a purchasing decision if the trust company determines that the purchase or decision relates to the fiduciary duties of the trust company. The trust company shall

make all purchases of goods and services using purchasing methods that ensure the best value to the trust company and its participants. In determining best value, the trust company may consider the best value standards applicable to state agencies as enumerated in Section 2155.074. The trust company shall develop a plan of operation that includes procedures and standards for the purchases of goods and services using best value methods.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 78, Sec. 9, eff. May 11, 1989; Acts 1991, 72nd Leg., ch. 909, Sec. 1, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 1.25, eff. Jan. 1, 1992; Acts 1993, 73rd Leg., ch. 939, Sec. 7, 13, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 1311, Sec. 6, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 7.73, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1158, Sec. 22, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 8.231, eff. Sept. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 620 (S.B. 1138), Sec. 1, eff. June 10, 2019.

Sec. 404.104. DUTIES OF COMPTROLLER. (a) The comptroller is the sole officer, director, and shareholder of the trust company. The comptroller's office shall manage the trust company.

(b) The comptroller may enter into contracts, trust agreements, and other instruments with the trust company as provided by Section 404.103.

(c) The comptroller shall submit to the Legislative Budget Board an audited report regarding the operations of the trust company. The trust company may contract with a certified public accountant or the state auditor to conduct an independent audit of the operations of the trust company. This subsection does not affect the state auditor's authority to conduct an audit of the trust company in accordance with Chapter 321.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 12, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.74, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1158, Sec. 23, eff. June 15, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 620 (S.B. 1138), Sec. 2, eff. June 10, 2019.

Sec. 404.105. CAPITAL OR RESERVE. The trust company shall hold capital stock and reserve balances outside the treasury in an amount required by applicable regulatory bodies for eligibility for federal reserve services, for participation in a depository trust company, and as necessary to achieve its purposes under Section 404.103. The stock of the trust company is an authorized investment for state funds and shall be held by the comptroller, but the amount may not be more than $1 million.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 426, Sec. 26, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.75, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1158, Sec. 24, eff. June 15, 2001.

Sec. 404.106. EARNINGS; AUTHORIZED INVESTMENTS. (a) Any net earnings of the trust company attributable to capital stock or investments of capital stock shall be credited annually to the account of the treasury and shall be allocated annually to the funds held and managed by the comptroller in accordance with Section 404.071(a).

(b) Funds held by the trust company shall be invested in obligations authorized by law for the investment of funds held and managed by the comptroller.

(c) With respect to specific funds held by the trust company for a particular participant, the trust company has the same investment authority as that participant for those specific funds.

(d) The trust company may hold reserve balances or securities as required by the Federal Reserve System or as required for participation in a depository trust company.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 426, Sec. 27, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.76, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1158, Sec. 25, eff. June 15, 2001.

Sec. 404.107. FEES. (a) Any fees or assessments imposed by state law for the incorporation, regulation, or operation of trust companies do not apply to the Texas Treasury Safekeeping Trust Company.

(b) A participant that has money or securities on deposit with the trust company shall pay the fees provided in the trust company's fee schedule developed under Section 404.103(f). The trust company may:

(1) deduct a fee from the principal or earning of a participant on deposit with the trust company; or

(2) require a participant to pay a fee from an amount not on deposit with the trust company.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 26, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 27, eff. June 20, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2900, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 404.108. TRUST COMPANY INVESTMENT ADVISORY BOARD. (a) The comptroller may appoint an investment advisory board to advise the comptroller with respect to managing the assets held by the trust company. The advisory board shall provide the comptroller guidance on the investment philosophy that should be pursued in managing the assets under the trust company's control. The advisory board serves in an advisory capacity only and is not a fiduciary with respect to the assets held by the trust company.

(b) The advisory board is composed of seven members appointed by the comptroller with the advice of the governor, lieutenant governor, and speaker of the house of representatives.

(c) The members of the advisory board must have knowledge of or experience in finance, including the management of funds or business operations.

(d) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of appointees.

(e) Each member of the advisory board must be a resident of this state.

(f) The creation, size, composition, and duration of the advisory board is governed exclusively by this subchapter. Chapter 2110 does not apply to the size, composition, or duration of the advisory board.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 27, eff. June 15, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2900, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 404.109. RESTRICTIONS ON ADVISORY BOARD APPOINTMENT, MEMBERSHIP, AND EMPLOYMENT. A person is not eligible for appointment to the advisory board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the trust company;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the trust company; or

(3) receives money from the business entity or other organization receiving funds from the trust company that exceeds five percent of the person's gross income for the preceding calendar year.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 27, eff. June 15, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2900, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 404.110. REMOVAL OF ADVISORY BOARD MEMBERS. The comptroller may remove from the advisory board an advisory board member at will or for any of the following causes:

(1) at the time of the member's appointment, the member did not have the qualifications prescribed by Section 404.108 or was ineligible under Section 404.109;

(2) while serving on the advisory board, the member does not maintain the qualifications prescribed by Section 404.108 or becomes ineligible for appointment under Section 404.109;

(3) for a substantial portion of the member's term, the

member is unable to discharge the member's duties because of illness or disability; or

(4) without being excused by a majority vote of the advisory board, the member is absent from more than one-third of the regularly scheduled board meetings that the member is eligible to attend during a calendar year.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 27, eff. June 15, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2900, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 404.111. ADVISORY BOARD MEMBER TRAINING. (a) Before a member of the advisory board may assume the member's duties, the member must complete at least one course of the training program established under this section.

(b) A training program established under this section shall provide information regarding:

(1) the role and functions of the trust company;

(2) the assets managed by and programs operated by the trust company; and

(3) the statutes applicable to the trust company, including Chapters 551, 552, and 2001.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 27, eff. June 15, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2900, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 404.112. COMPENSATION; EXPENSES. Members of the advisory board serve without compensation but are entitled to reimbursement for actual and necessary expenses in attending meetings of the advisory board or performing other official duties authorized by the comptroller.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 27, eff. June 15, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2900, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 404.113. MEETINGS. (a) The advisory board may meet as often as necessary, but shall meet at least twice each year.

(b) Advisory board meetings are subject to Chapter 551.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 27, eff. June 15, 2001.

Sec. 404.114. INVESTMENT MANAGEMENT. (a) The comptroller may delegate investment authority and may contract with private professional investment managers to manage or assist in managing assets held by the trust company.

(b) The comptroller may delegate a power or duty relating to the investment of assets held by the trust company to an employee or agent of the comptroller, including professional investment managers.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 27, eff. June 15, 2001.

Sec. 404.115. PERSONNEL. (a) The comptroller may appoint a person to serve as chief executive officer in managing the trust company and carrying out the policies of the trust company. The chief executive officer and employees of the trust company serve at the will of the comptroller.

(b) The comptroller may delegate any of the comptroller's duties to the chief executive officer and trust company employees.

(c) The chief executive officer or the chief executive officer's designee shall develop a career ladder program and a system of compensation necessary to retain qualified staff.

(d) The chief executive officer or the chief executive officer's designee shall develop a system of annual performance evaluations. Merit pay for trust company employees must be based on the system established under this subsection.

(e) The chief executive officer or the chief executive officer's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel decisions are made without regard to race, color, disability, religion, age, or national origin.

(f) The chief executive officer shall appoint an internal

auditor for the trust company. The appointment of the internal auditor must be approved by the comptroller. The comptroller may require the internal auditor to submit certain reports directly to the comptroller.

(g) Except as provided by this section and Section 404.103(e), trust company employees hired under this subchapter are state employees for all purposes, including accrual of leave time, insurance benefits, retirement benefits, and travel regulations, Chapter 104, Civil Practice and Remedies Code, and Chapter 501, Labor Code.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 27, eff. June 15, 2001.

Sec. 404.116. LIABILITY INSURANCE FOR CERTAIN BOARD MEMBERS, OFFICIALS, AND STAFF. (a) The trust company may purchase or otherwise acquire insurance to protect members of the advisory board and the trust company staff.

(b) Insurance purchased or acquired by the trust company under this section may:

(1) protect against any type of liability to third persons that might be incurred while conducting trust company business; and

(2) provide for all costs of defending against such liability, including court costs and attorney's fees.

(c) This section does not authorize the purchase or acquisition of insurance to protect against liability not described in Subsection (b).

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 27, eff. June 15, 2001.

SUBCHAPTER H. TAX AND REVENUE ANTICIPATION NOTES

Sec. 404.121. DEFINITIONS. In this subchapter:

(1) "Cash flow deficit" for any period means the excess, if any, of expenditures paid and transfers made from the general revenue fund in the period, including payments provided by Section 48.273, Education Code, over taxes and other revenues deposited to the fund in the period, other than revenues deposited pursuant to Section 403.092, that are legally available for the expenditures and transfers.

(2) "Committee" means the cash management committee.

(3) "Credit agreement" means a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitment to purchase tax and revenue anticipation notes, purchase or sale agreement, forward payment conversion agreement, contract providing for payments based on levels of or changes in interest rates or currency exchange rates, or commitment or other contract or agreement approved by the comptroller in connection with the authorization, issuance, security, exchange, payment, purchase, or redemption of an obligation, interest on an obligation, or both.

(4) "Tax and revenue anticipation notes" and "notes" mean notes issued under this section, including any commercial paper notes and any obligations under credit agreements entered into by the comptroller in connection with the issuance of the notes.

(5) "Temporary cash shortfall" during any period means the greater of:

(A) the cash flow deficit forecast by the comptroller for the period; or

(B) the cash balance of taxes and other revenues in the general revenue fund at the beginning of the period that are legally available for expenditures and transfers included in the cash flow deficit, other than transfers deposited pursuant to Section 403.092, less the cash flow deficit for the period and less an amount determined by the comptroller that is reasonably required as a cash balance in the general revenue fund, but the reasonable account balance may not exceed 10 percent of expenditures and transfers made from the general revenue fund in the fiscal year before the year in which the determination is made.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 53, Sec. 2.001, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 426, Sec. 28, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 6.14, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 7.77, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 430 (S.B. 1657), Sec. 1, eff. June 10, 2015.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.076, eff. September 1, 2019.

Sec. 404.122. CASH MANAGEMENT COMMITTEE. The cash management committee is composed of the governor, lieutenant governor, speaker of the house of representatives, and comptroller. If the speaker of the house of representatives is not permitted by the Texas Constitution to serve as a voting member of the committee, the speaker of the house of representatives serves as a nonvoting member of the committee.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.09(a), eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.78, eff. Sept. 1, 1997.

Sec. 404.123. NOTES AUTHORIZED. (a) In anticipation of a temporary cash shortfall in the general revenue fund during any fiscal year, the comptroller, subject to Section 404.124, may issue, sell, and deliver tax and revenue anticipation notes on behalf of the state.

(b) The committee may impose a limit on the sum of the total amount of the notes outstanding and the total outstanding liability of the general revenue fund under Section 403.092.

(c) Tax and revenue anticipation notes are not debts of the state within the meaning of any state constitutional prohibition. The notes may be used solely to coordinate the state's cash flow within each fiscal biennium.

(d) All notes must mature and be paid in full during the fiscal biennium in which they were issued. The notes must be signed by the governor.

(e) The notes are not subject to review by the Bond Review Board.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 53, Sec. 2.002, 2.006, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 4, Sec. 2.10(a), eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 426, Sec. 29, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.79, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 8.232, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 28, eff. June 20, 2003.

Sec. 404.124. SHORTFALL FORECAST; COMMITTEE APPROVAL. (a)

Before issuing notes the comptroller shall submit to the committee a general revenue cash flow shortfall forecast, based on the comptroller's most recent anticipated revenue estimate. The forecast must contain a detailed report of estimated revenues and expenditures for each month and each major revenue and expenditure category and must demonstrate the maximum general revenue cash flow shortfall that may be predicted. The committee shall hold a public hearing to receive invited testimony on the forecast, including testimony on this state's overall economic condition, as soon as practicable after receiving the forecast.

(b) Based on the forecast and testimony provided at the hearing required by Subsection (a), the committee may approve the issuance of notes, subject to Subsections (b-1), (b-2), and (c), and the maximum outstanding balance of notes in any fiscal year. The outstanding balance may not exceed the maximum temporary cash shortfall forecast by the comptroller for any period in the fiscal year. The comptroller may not issue notes in excess of the amount approved.

(b-1) Except as provided in Subsection (b-2), the committee's approval of the issuance of notes granted under Subsection (b) expires on the 91st day after the date the hearing conducted under Subsection (a) concludes. The comptroller may not issue notes on or after the 91st day unless the comptroller submits another general revenue cash flow shortfall forecast to the committee and the committee subsequently grants approval for the issuance of the notes in accordance with the procedure required by Subsections (a) and (b). Each subsequent approval expires on the 91st day after the date the hearing on which the approval was based concludes.

(b-2) The committee's approval of the issuance of commercial paper notes expires on the last day of the fiscal year for which the tax and revenue anticipation notes are approved, providing for the issuance and rollover of commercial paper notes during that fiscal year. All commercial paper notes must mature and be paid in full in accordance with Section 404.123(d).

(c) The committee may determine whether the notes will be sold on a negotiated or competitive bid basis. If the committee determines that competitive bids are appropriate, the underwriter of any notes issued under this section shall be selected by the solicitation of sealed bids and an appropriate bid notice shall be published at least one time in one or more recognized financial publications of general circulation published within the state and

one or more recognized financial publications of general circulation published outside the state. Unless all bids are rejected, the underwriter shall be selected from the bids received. The comptroller may not sell the notes in a manner not approved.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 426, Sec. 30, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 7.8, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 34.05, eff. September 28, 2011.

Acts 2015, 84th Leg., R.S., Ch. 430 (S.B. 1657), Sec. 2, eff. June 10, 2015.

Sec. 404.125. ISSUANCE OF NOTES. (a) The comptroller, consistent with the committee's determinations under Section 404.124, shall authorize the issuance, sale, and delivery of the notes by order.

(b) Except as otherwise provided by this subsection, the proceeds of the notes shall be deposited in a special fund in the treasury called the tax and revenue anticipation note fund. The comptroller may pay the costs of issuance of the notes from the fund and from time to time shall transfer the net proceeds to the general revenue fund to honor authorized expenditures from the general revenue fund. The comptroller may invest any funds held in the tax and revenue anticipation note fund in the authorized investments described in Section 404.024 until used in accordance with this section. Proceeds of a credit agreement may be deposited as directed by the comptroller pursuant to the order authorizing the credit agreement and may be applied to pay the principal of and interest on the notes.

(c) In connection with the issuance of the notes, the comptroller may exercise the powers granted to the governing body of an issuer in connection with the issuance of obligations under Chapter 1371 to the extent not inconsistent with this section. The notes are subject to review and approval by the attorney general in the same manner and with the same effect as is provided by that chapter.

(d) The comptroller is an authorized issuer under Chapter 1201,

and that chapter applies to the tax and revenue anticipation notes authorized in this subchapter.

(e) Amounts in the tax and revenue anticipation note fund may be pledged to secure payment of the notes and performance of obligations under credit agreements relating to the notes and may be used to pay required rebates to the federal government. The comptroller may make covenants to carry out the purposes of this subchapter and take other actions necessary, desirable, or appropriate to complete the issuance of the notes. The state pledges to and agrees with the holders of any notes that the state will not limit or alter the rights vested in the comptroller to fulfill the terms of any agreements made with the holders, or in any way impair the rights and remedies of the holders, until the notes are fully discharged.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 53, Sec. 2.003, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1423, Sec. 7.81, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 8.233, eff. Sept. 1, 2001.

Sec. 404.126. FUND TRANSFERS; INTEREST; PAYMENT OF NOTES. (a) Cash received from the collection of taxes and revenues credited to the general revenue fund during the fiscal biennium in which the notes are issued is available to restore the balance of the tax and revenue anticipation note fund. The comptroller periodically shall transfer the cash to the fund to ensure the timely payment in full of the notes. Transfers to the tax and revenue anticipation note fund under this subsection may not exceed the amount that has been transferred from that fund to the general revenue fund and has not been restored to the tax and revenue anticipation note fund. The comptroller shall transfer surplus cash into the general revenue fund under Section 403.092, as is necessary to complete the transfers required by this section.

(b) Notwithstanding any other provision of law, depository interest in the tax and revenue anticipation note fund shall be credited to that fund. Depository interest shall be calculated and credited to the fund monthly as if transfers to the general revenue fund had not been made.

(c) On payment in full of all outstanding notes, all required

rebates to the federal government, and all costs of issuance of the notes, the comptroller shall transfer to the general revenue fund any amounts remaining in the tax and revenue anticipation note fund. To the extent that the amounts credited to the tax and revenue anticipation note fund are insufficient to pay the principal, premium, if any, interest on the notes, and any required rebate to the federal government when due, and any issuance costs related to the notes, amounts in the general revenue fund are available for appropriation by the legislature to make those payments. Amounts in the tax and revenue anticipation note fund are available for appropriation by the legislature to carry out the purposes of this subchapter.

(d) Payment of the notes and performance of official duties prescribed by the state constitution and by this subchapter may be enforced in the state supreme court by mandamus or other appropriate proceeding.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 53, Sec. 2.004, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 4, Sec. 2.11(a), eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 7.82, eff. Sept. 1, 1997.

CHAPTER 405. SECRETARY OF STATE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 405.001. OFFICE. The secretary of state shall keep the office of secretary of state in Austin or if a session of the legislature is held in another place, in that place.

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

Sec. 405.004. DEPUTY SECRETARY OF STATE. (a) The secretary of state shall appoint a deputy secretary of state who shall:

(1) perform the duties prescribed by law for the secretary of state when the secretary of state is absent or unable to act; and

(2) perform other duties required by the secretary of state.

(b) The deputy secretary of state serves at the pleasure of the secretary of state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2005, 79th Leg., Ch. 41 (H.B. 297), Sec. 1, eff. September 1, 2005.

Sec. 405.005. ACCEPTANCE OF GIFTS, GRANTS, AND DONATIONS. (a) The secretary of state may accept or solicit gifts, grants, and donations of money or property on behalf of the state for any lawful public purpose related to the office or duties of the secretary of state.

(b) The secretary of state may decline to accept a gift, grant, or donation that is made for a specific purpose if the secretary of state determines the gift may not be used reasonably or economically for the designated purpose.

(c) The secretary of state shall ensure that any gift, grant, or donation accepted under Subsection (a) to perform a function of administering elections is equitably distributed throughout the state based on a percentage of the population of each county or another method determined by the secretary.

(d) Not later than January 1 of each odd-numbered year, the secretary shall submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives that includes a detailed summary of any gifts, grants, or donations described by Subsection (a) and the manner in which those amounts were expended in the administration of an election.

Added by Acts 1997, 75th Leg., ch. 365, Sec. 1, eff. May 27, 1997.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 1000 (H.B. 2283), Sec. 2, eff. September 1, 2021.

SUBCHAPTER B. DUTIES

Sec. 405.011. OFFICIAL DOCUMENTS. (a) The secretary of state shall arrange and preserve books, maps, parchments, records, documents, and papers properly deposited in the secretary of state's office and sealed with the state seal.

(b) A copy of an original deposited under this section is as legal and conclusive in evidence in a state court as the original.

(c) On request of the governor, the legislature, or a house of the legislature, the secretary of state shall furnish a copy of an original deposited under this section.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 297, Sec. 3, eff. Aug. 28, 1989.

Sec. 405.012. EXCHANGES. (a) The secretary of state shall send, as the secretary of state considers appropriate, copies of laws and judicial reports printed and published by order of the legislature at the expense of the state to:

(1) the librarian of congress;

(2) the United States secretary of state;

(3) the United States secretary of the treasury;

(4) the executive department of each state; and

(5) each foreign librarian or government with whom a system of library exchange is established.

(b) Subject to the requirements of Subsection (c), the secretary of state, for the benefit of The University of Texas law library, shall exchange the reports of the supreme court, court of criminal appeals, and courts of appeals, state session laws and revised statutes, and other state publications and state department reports for similar material of the United States, other states, or foreign countries.

(c) The secretary of state shall keep on hand a sufficient number of copies of state publications to meet the reasonable demands of the state.

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

Sec. 405.013. COURT REPORTS. (a) The secretary of state shall receive the printed and bound volumes of the Supreme Court Reports and the Reports of the Court of Criminal Appeals from the supreme court reporter.

(b) The secretary of state may sell single copies of these reports for a price equal to the contract price for printing, excluding postage or express charges, and, after receiving the price for a volume, may send advance sheets of the volume as publishing progresses.

(c) The secretary of state shall deliver money received from sales under this section to the comptroller and shall make a full statement of the sales in the secretary of state's biennial report.

(d) The secretary of state shall deliver one copy of these reports to:

(1) the governor;

(2) the attorney general;

(3) each appellate and district judge;

(4) each county judge, for the use of the county;

(5) each law professor of The University of Texas; and

(6) the librarian of The University of Texas.

(e) The secretary of state shall deliver to each United States district judge for Texas one copy of these reports for each branch of the judge's court.

(f) The secretary of state may not send more than one copy of a report to a person under Subsection (d) or (e) unless it is proved, as evidenced by certificate of the person requesting the additional copy, that the first copy of the report has been destroyed by fire or rendered valueless by long use.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.11, eff. Sept. 1, 1997.

Sec. 405.014. ACTS OF THE LEGISLATURE. (a) At each session of the legislature the secretary of state shall obtain the bills that have become law. Immediately after the closing of each session of the legislature, the secretary of state shall bind all enrolled bills and resolutions in volumes on which the date of the session is placed.

(b) As soon as practicable after the closing of each session of the legislature, the secretary of state shall publish and maintain electronically the bills enacted at that session. The electronic publication must be:

(1) indexed by bill number and assigned chapter number for each bill; and

(2) made available by an electronic link on the secretary of state's generally accessible Internet website.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 297, Sec. 4, eff. Aug. 28, 1989; Acts

1991, 72nd Leg., 2nd C.S., ch. 8, Sec. 2.48, eff. Sept. 1, 1991.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 20.01, eff. September 28, 2011.

Sec. 405.015. RECEIVING OFFICER. When an officer receives a copy of a report, statute, digest, or journal, the officer shall give a receipt to the distributing officer, who shall file the receipt in his office. This material is the property of the receiving officer's office and is open to inspection by the public at all reasonable hours. An officer who does not deliver the material to the successor to the office is liable to the successor for the cost of replacing the material.

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

Sec. 405.016. COMMISSION. The secretary of state is not required to send copies of laws to or attest the authority of a state officer who does not take out the officer's commission.

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

Sec. 405.017. MISCELLANEOUS DUTIES. The secretary of state shall:

(1) affix the state seal to all official documents issued from the secretary of state's office;

(2) unless provided otherwise by law, commission state officers;

(3) keep a register of all state officers;

(4) immediately on receipt, deliver to the person in charge of the state library all books, maps, charts, printed volumes of the laws of a nation, territory, or another state, or other political or miscellaneous publications received in the secretary of state's office;

(5) immediately on receipt, deliver to the supreme court librarian reports of courts of a nation, territory, or another state received in the secretary of state's office; and

(6) perform such other and further duties as may be

directed by the governor.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 297, Sec. 5, eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 961, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 907 (S.B. 792), Sec. 1, eff. September 1, 2011.

Sec. 405.018. COMPUTER INFORMATION. (a) The secretary of state may establish a system to provide access by electronic data transmittal processes to information that is:

(1) stored in state computer record banks maintained by the secretary of state;

(2) not classified as confidential under a statute or court decision; and

(3) not maintained by the secretary of state under:

(A) Chapter 572;

(B) Title 15, Election Code; or

(C) Chapter 305, Government Code.

(b) The secretary of state may:

(1) develop computer software to facilitate the discharge of the constitutional and statutory duties of the office; and

(2) enter agreements to transfer the software on the terms and conditions specified in the agreements.

(c) Computer software developed under Subsection (b) shall be reviewed and certified by the Automated Information and Telecommunications Council.

(d) The secretary of state shall set and charge a fee for access to information under Subsection (a) in an amount reasonable and necessary to cover the costs of establishing and administering the system under that subsection. The secretary of state may assess a reasonable fee for a transfer of software under Subsection (b).

(e) The secretary of state may set and charge a fee for access to public information through telephone information banks in an amount reasonable and necessary to cover the costs of providing the information. The secretary of state may contract with a third party to provide the telephone service and to bill the users of the service.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 2.12(a), eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 3.01(a), eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(40), eff. Sept. 1, 1995.

Sec. 405.019. LIST OF STATES REQUIRING AN OFFICIAL SEAL FOR CERTAIN DOCUMENTS. (a) The secretary of state annually shall compile a list of those states or territories within the United States that require a notary public to validate a certificate of an acknowledgement, proof of a written instrument, or a jurat by attaching an official seal.

(b) The secretary of state shall make the list available to the county clerks of this state before January 1 of each year.

(c) The secretary of state shall amend the list and make the amended list available to the county clerks of this state if the secretary learns that a state or territory has changed its requirements relating to a notary public in a manner that requires it to be added to or deleted from the list.

Added by Acts 1995, 74th Leg., ch. 603, Sec. 3, eff. June 14, 1995. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 907 (S.B. 792), Sec. 2, eff. September 1, 2011.

Sec. 405.020. PUBLIC RECORDS. (a) The secretary of state shall permanently maintain as a public record any instrument, or the information included in any instrument, that is filed with the secretary of state evidencing the organization of, or otherwise in connection with, any entity formed under the laws of this state.

(b) The secretary of state shall maintain the records required under Subsection (a) in any form the secretary of state considers appropriate.

Added by Acts 2003, 78th Leg., ch. 572, Sec. 22, eff. Sept. 1, 2003.

Sec. 405.021. REPORT ON STATE-FUNDED PROJECTS SERVING COLONIAS. (a) In this section, "colonia" means a geographic area that:

(1) is an economically distressed area as defined by

Section 17.921, Water Code;

(2) is located in a county any part of which is within 62 miles of an international border; and

(3) consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood.

(b) Based on information provided under Subsections (c) and (d), the secretary of state shall establish and maintain a classification system that allows the secretary of state to track the progress of state-funded projects in providing water or wastewater services, paved roads, and other assistance to colonias.

(c) The secretary of state shall compile information received from the Texas Department of Rural Affairs, the Texas Water Development Board, the Texas Transportation Commission, the Texas Department of Housing and Community Affairs, the Department of State Health Services, the Texas Commission on Environmental Quality, the Health and Human Services Commission, the Texas Cooperative Extension, councils of governments, an institution of higher education that receives funding from the state for projects that provide assistance to colonias, and any other agency considered appropriate by the secretary of state for purposes of the classification system.

(d) The secretary of state shall compile information on colonias that is received from the colonia ombudspersons under Section 775.004.

(e) The secretary of state shall:

(1) with the assistance of the office of the attorney general, prepare a report on the progress of state-funded projects in providing water or wastewater services, paved roads, and other assistance to colonias; and

(2) submit the report to the presiding officer of each house of the legislature not later than:

(A) December 1 of each even-numbered year, if funds are appropriated specifically for the purpose of preparing and submitting the report; or

(B) if funds are not appropriated as described by Paragraph (A), December 1, 2010, and December 1 of every fourth year following that date.

(f) The report to the legislature must include a list of colonias with the highest health risk to colonia residents, based on

factors identified by the secretary of state.

(g) In conjunction with the establishment of the classification system required by this section, the secretary of state shall establish and maintain a statewide system for identifying colonias.

(g-1) A system described by Subsection (g):

(1) must include a method for a municipality or county, on a form prescribed by the secretary of state, to nominate an area for identification as a colonia; and

(2) may provide for the review of a nominated area by the Texas Water Development Board, the office of the attorney general, or any other appropriate state agency as determined by the secretary of state.

(h) The secretary of state may contract with a third party to develop the classification system or the identification system or to compile or maintain the relevant information required by this section.

Added by Acts 2005, 79th Leg., Ch. 828 (S.B. 827), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 341 (S.B. 99), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 7, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1364 (S.B. 1599), Sec. 1, eff. September 1, 2013.

Sec. 405.022. FILING OR RECORDING OF FRAUDULENT DOCUMENT. (a) If the secretary of state believes in good faith that a document filed with the secretary of state to create a lien is fraudulent, the secretary of state shall:

(1) request the assistance of the attorney general to determine whether the document is fraudulent before filing or recording the document;

(2) request that the prospective filer provide to the secretary of state additional documentation supporting the existence of the lien, such as a contract or other document that contains the alleged debtor or obligor's signature; and

(3) forward any additional documentation received to the

attorney general.

(b) For purposes of this section, a document or instrument is presumed to be fraudulent if the document or instrument is filed by an inmate or on behalf of an inmate.

(c) A presumption under Subsection (b) may be rebutted by providing the secretary of state the original or a copy of a sworn and notarized document signed by the obligor, debtor, or owner of the property designated as collateral stating that the person entered into a security agreement with the inmate and authorized the filing of the instrument as provided by Section 9.509, Business & Commerce Code.

(d) In this section:

(1) "Inmate" means a person housed in a secure correctional facility.

(2) "Secure correctional facility" has the meaning assigned by Section 1.07, Penal Code.

Added by Acts 2005, 79th Leg., Ch. 407 (S.B. 1589), Sec. 2, eff. September 1, 2005.
Renumbered from Government Code, Section 405.021 and amended by Acts 2007, 80th Leg., R.S., Ch. 895 (H.B. 2566), Sec. 4, eff. September 1, 2007.
Renumbered from Government Code, Section 405.021 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(27), eff. September 1, 2007.

Sec. 405.023. HUMAN TRAFFICKING PREVENTION BUSINESS PARTNERSHIP. (a) In this section, "partnership" means the human trafficking prevention business partnership.

(b) The secretary of state by rule shall establish and implement a program designated as the human trafficking prevention business partnership to:

(1) inform participating corporations and other private entities of the opportunity to support the trafficked persons program account established under Section 50.0153, Health and Safety Code, by making a donation to the account; and

(2) engage participating corporations and other private entities in voluntary efforts to prevent and combat human trafficking.

(c) The secretary of state shall present a certificate of recognition to a participating corporation or private entity to recognize the corporation's or entity's contributions to the efforts of federal, state, and local officials engaged in combatting human trafficking and prosecuting human trafficking crimes.

(d) A corporation or other private entity that participates in the partnership shall:

(1) adopt a zero tolerance policy toward human trafficking;

(2) take measures to ensure that the corporation's or entity's employees comply with the policy adopted under Subdivision (1);

(3) participate in public awareness and education campaigns;

(4) enhance awareness of and encourage participation in the partnership; and

(5) share with the secretary of state best practices that are effective in combatting human trafficking.

(e) The secretary of state shall work collaboratively with other state agencies to promote the partnership.

(f) The secretary of state may use private and philanthropic resources to support the work of the partnership.

Added by Acts 2015, 84th Leg., R.S., Ch. 1078 (H.B. 2511), Sec. 1, eff. June 19, 2015.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 704 (H.B. 2633), Sec. 4, eff. September 1, 2021.

Sec. 405.024. PUBLIC AWARENESS CAMPAIGN FOR TRAFFICKED PERSONS PROGRAM ACCOUNT. The secretary of state shall, as part of the office's regular operations, inform the public using e-mail, notices posted on the secretary of state's Internet website, or other publications of the opportunity to support the trafficked persons program account established under Section 50.0153, Health and Safety Code. The secretary of state may not spend more than $100,000 to promote awareness of the program account as provided by this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 704 (H.B. 2633), Sec. 5, eff. September 1, 2021.

SUBCHAPTER C. FEES

Sec. 405.031. GENERAL FEES. (a) The secretary of state shall charge for the use of the state the following:

(1) for each official certificate, a fee of $15;

(2) for a certified copy of a record in the secretary of state's office, a fee of $1 a page in addition to the fee for the certificate;

(3) for preparing and furnishing for a corporation, limited partnership, limited liability company, or registered limited liability partnership a certificate of existence or authorization that reflects any filing effecting changes to the entity's organizational documents or certificate of registration or authorization and the dates of those filings, a fee of $25; and

(4) for the maintenance by the secretary of state of a record of the service of any process, notice, or demand authorized to be made on the secretary of state as agent, and for forwarding the process, notice, or demand, a fee of $40 per person or party served through the secretary of state.

(a-1) Notwithstanding Subsection (a)(1), the secretary of state shall charge for the use of the state a fee of $10 for the issuance of an apostille requested for use in proceedings related to the adoption of a child in another country, provided that the total fees charged for apostilles issued in connection with the adoption of one child may not exceed $100.

(b) The secretary of state may charge a fee of $5 for a search of records in the secretary of state's office if written evidence of the search is required.

(c) The secretary of state may charge for purchases of public information by commercial users an additional amount, established by the secretary of state, based on employees' time in providing the information. For the purposes of this subsection "commercial user" means a purchaser of microfilm, microfiche, computer tapes, or computer printouts for the purpose of selling, advertising, or distributing a commodity or rendering professional or personal services.

(d) The fees established by the attorney general under Chapter 552 apply to uncertified copies of records in the secretary of state's office.

(e) The secretary of state may set and charge a fee for the use of a credit card to pay a fee assessed by the secretary of state in

an amount reasonable and necessary to reimburse the secretary of state for the costs involved in the use of the card. The secretary of state shall deposit the money in the state treasury.

(f) A fee paid under Subsection (a), (a-1), (b), (c), or (d) shall be paid in advance to the secretary of state's office.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.13(a), eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 3.02(a), eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(96), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 948, Sec. 1, eff. Sept. 1, 1997. Amended by:

Acts 2005, 79th Leg., Ch. 716 (S.B. 452), Sec. 10, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 885 (S.B. 1377), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 346, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 405.032. EXPEDITED HANDLING. (a) The secretary of state may set and collect the following:

(1) for the expedited handling of a certified record search or expedited filing of a document in the security interest and financing statement records of the secretary, a fee of not more than $15;

(2) for the expedited filing or reviewing of a document relating to a profit or nonprofit corporation, professional corporation or association, cooperative association, unincorporated nonprofit association, limited or general partnership, or limited liability company, a fee of not more than $25;

(3) for the expedited access or access by electronic data transmittal processes to data that is stored in state computer record banks maintained by the secretary, a fee in an amount reasonable and necessary to cover the costs of establishing and administering the system. Notwithstanding any other provision of this code, the secretary is authorized to maintain a system to provide expedited access by electronic data transmittal processes to all information that is stored in state computer banks maintained by the secretary

and that is not classified as confidential by statute or a court decision; and

(4) for the expedited handling of a request for a certified copy or certificate of fact relating to a corporation, limited partnership, assumed name, trademark document, or other document filed for public record with the corporations section of the office of the secretary of state, a fee of not more than $10 a copy or certificate.

(b) If the secretary of state collects a fee under Subsection (a)(2), the secretary of state shall collect it in advance.

(c) The secretary of state shall deposit the fees in the state treasury to the credit of the general revenue fund.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 398, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 3.03, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 1214, Sec. 1, eff. Sept. 1, 1999.

Sec. 405.033. REVOCATION OF FILING FOR NONPAYMENT. The secretary of state may revoke the filing of a document filed with the office of the secretary of state if the secretary of state determines that the filing fee for the document has not been paid or was paid by an instrument that was dishonored when presented by the state for payment. The secretary of state shall return the document and give notice of revocation to the filing party by regular mail. Failure to give or receive notice does not invalidate the revocation.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1214, Sec. 2, eff. Sept. 1, 1999.

Sec. 405.034. REFUND. If the secretary of state deposits in the state treasury a fee that is not due or is in an amount exceeding the amount due the state, the fee or excess is subject to refund.

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

CHAPTER 406. NOTARY PUBLIC; COMMISSIONER OF DEEDS

SUBCHAPTER A. NOTARY PUBLIC

Sec. 406.001. APPOINTMENTS. (a) The secretary of state may appoint a notary public at any time.

(b) The secretary of state shall assign each notary public an identifying number and keep a record of the number assigned to each notary public.

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

Acts 2015, 84th Leg., R.S., Ch. 1041 (H.B. 1683), Sec. 1, eff. January 1, 2016.

Sec. 406.002. TERM. The term of a notary public expires four years after the date the notary public qualifies.

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

Sec. 406.003. JURISDICTION. A notary public has statewide jurisdiction.

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

Sec. 406.004. ELIGIBILITY. (a) Each person appointed and commissioned as a notary public shall be at least 18 years of age and a resident of the State of Texas and must not have been convicted of a felony or crime involving moral turpitude.

(b) If the secretary of state discovers, at any time, that an applicant to be a notary public or a commissioned notary public is not eligible to serve as a notary public, the secretary of state shall:

(1) reject the notary application; or

(2) revoke the notary commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 719, Sec. 1, eff. Jan. 1, 1996.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 766 (H.B. 2235), Sec. 1, eff. September 1, 2015.

Sec. 406.005. APPOINTMENT PROCEDURE--STATEMENT. (a) Each person to be appointed a notary public shall submit an application to the secretary of state on a form prescribed by the secretary of state. The application must satisfy the secretary of state that the applicant is qualified. The application must state:

(1) the applicant's name to be used in acting as a notary public;

(2) the applicant's post office address;

(3) the applicant's county of residence;

(4) the applicant's date of birth;

(5) the applicant's driver's license number or the number of other official state-issued identification; and

(6) the applicant's social security number.

(b) The applicant shall also execute the statement of officers as required by Section 1, Article XVI, Texas Constitution.

(c) Repealed by Acts 2003, 78th Leg., ch. 1211, Sec. 1.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 719, Sec. 2, eff. Jan. 1, 1996; Acts 2003, 78th Leg., ch. 1211, Sec. 1, eff. Sept. 1, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 693, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 406.006. QUALIFICATION. An individual qualifies by:

(1) properly completing the application form;

(2) executing the statement;

(3) providing the bond, if required;

(4) paying the required filing fees; and

(5) meeting the eligibility requirements.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 406, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 719, Sec. 3, eff. Jan. 1, 1996; Acts 2003, 78th Leg., ch. 285, Sec. 14, eff. Sept. 1, 2003.

Sec. 406.007. FEES PAID TO SECRETARY OF STATE. (a) The applicant must submit to the secretary of state:

(1) a fee of $10 for approving and filing the bond of the notary public, if required; and

(2) a fee of $1 to be appropriated to and used by the secretary of state only for hiring an investigator and for preparing and distributing the materials required to be distributed under Section 406.008.

(b) The secretary of state shall charge for use of the state a fee of $10 for a notary public commission. The applicant must pay the fee in advance to the secretary of state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.14(a), eff. Sept. 1, 1989; Acts 2003, 78th Leg., ch. 285, Sec. 15, eff. Sept. 1, 2003.

Sec. 406.008. COMMISSION; NOTARY MATERIALS. (a) Immediately after the qualification of a notary public, the secretary of state shall send notice of appointment along with a commission to the notary public. The commission is effective as of the date of qualification.

(b) When the commission is issued, the secretary of state shall supply the notary public with:

(1) materials outlining the powers and duties of the office;

(2) a list of prohibited acts;

(3) sample forms for an acknowledgment, jurat, and verification and for the administering of an oath, protest, and deposition; and

(4) the identifying number assigned to the notary public.

(c) Repealed by Acts 1995, 74th Leg., ch. 719, Sec. 10, eff. Jan. 1, 1996.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 719, Sec. 4, 10, eff. Jan. 1, 1996. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1041 (H.B. 1683), Sec. 2, eff. January 1, 2016.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see S.B. 693, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 406.009. REJECTION OF APPOINTMENT; SUSPENSION OR REVOCATION OF COMMISSION. (a) The secretary of state may, for good cause, reject an application or suspend or revoke the commission of a notary public.

(b) An action by the secretary of state under this section is subject to the rights of notice, hearing, adjudication, and appeal.

(c) An appeal under this section is to the district court of Travis County. The secretary of state has the burden of proof, and the trial is conducted de novo.

(d) In this section, "good cause" includes:

(1) a false statement knowingly made in an application;

(2) the failure to comply with Section 406.017;

(3) a final conviction for a violation of a law concerning the regulation of the conduct of notaries public in this or another state;

(4) the imposition on the notary public of an administrative, criminal, or civil penalty for a violation of a law or rule prescribing the duties of a notary public; or

(5) performing any notarization when the person for whom the notarization is performed did not personally appear before the notary at the time the notarization is executed.

(e) The following may not be considered a conviction for the purposes of determining eligibility and good cause:

(1) a dismissal of a proceeding against the defendant and discharge of the defendant before an adjudication of guilt; and

(2) a finding of guilt that has been set aside.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.15(a), eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 719, Sec. 5, 6, eff. Jan. 1, 1996.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 569 (S.B. 2073), Sec. 1, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 766 (H.B. 2235), Sec. 2, eff. September 1, 2015.

Sec. 406.010. BOND; OATH. (a) Each person to be appointed a

notary public shall, before entering the official duties of office, execute a bond in the amount of $10,000 with a solvent surety company authorized to do business in this state as a surety. The bond must be approved by the secretary of state, payable to the governor, and conditioned on the faithful performance of the duties of office. The secretary of state has the authority to accept an electronic filing of the notary public bond if an agreement has been made with the surety company.

(b) The notary bond shall be deposited in the office of the secretary of state, is not void on first recovery, and may be sued on in the name of the injured party from time to time until the whole amount of the bond is recovered.

(c) A notary public, before entering on the duties of office, shall take the official oath required by Section 1, Article XVI, Texas Constitution.

(d) The oath shall be signed and sworn to or affirmed by the notary public in the presence of a notary public or other person authorized to administer oaths in this state. A notary public cannot execute his or her own oath of office.

(e) The secretary of state shall provide an oath of office form along with the commission and educational materials.

(f) Subsections (a) and (b) do not apply to a person whose services as a notary public are performed primarily as a state officer or employee.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 719, Sec. 7, eff. Jan. 1, 1996; Acts 2003, 78th Leg., ch. 285, Sec. 16, eff. Sept. 1, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 693, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 406.011. REAPPOINTMENT. (a) Not earlier than 90 days prior to the expiration date of the notary's term, a notary public may apply for reappointment on submission of a new application to the secretary of state.

(b) A notary public who is not reappointed on or before the expiration date of the term the notary public is serving will be appointed for a new term expiring four years from the date of

qualification.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 719, Sec. 8, eff. Jan. 1, 1996.

Sec. 406.012. INSPECTION OF RECORDS. All records concerning the appointment and qualification of the notary public shall be kept in the office of the secretary of state. The records are public information.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.16(a), eff. Sept. 1, 1989.

Sec. 406.013. SEAL. (a) A notary public shall provide a seal of office that clearly shows, when embossed, stamped, or printed on a document, the words "Notary Public, State of Texas" around a star of five points, the notary public's name, the notary public's identifying number, and the date the notary public's commission expires. The notary public shall authenticate all official acts with the seal of office.

(b) The seal may be a circular form not more than two inches in diameter or a rectangular form not more than one inch in width and 2-1/2 inches in length. The seal must have a serrated or milled edge border.

(c) The seal must be affixed by a seal press or stamp that embosses or prints a seal that legibly reproduces the required elements of the seal under photographic methods. An indelible ink pad must be used for affixing by a stamp the impression of a seal on an instrument to authenticate the notary public's official act.

(d) Subsection (c) does not apply to an electronically transmitted authenticated document, except that an electronically transmitted authenticated document must legibly reproduce the required elements of the seal.

(e) A notary public may not:

(1) provide a copy of the notary public's seal to another person; or

(2) affix or attach the notary public's seal to any document except to authenticate the notary public's official act.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.71(d), eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 95, Sec. 2, eff. May 11, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1041 (H.B. 1683), Sec. 3, eff. January 1, 2016.

Acts 2023, 88th Leg., R.S., Ch. 468 (H.B. 255), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 693, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 406.014. NOTARY RECORDS. (a) A notary public other than a court clerk notarizing instruments for the court shall keep in a book a record of:

(1) the date of each instrument notarized;

(2) the date of the notarization;

(3) the name of the signer, grantor, or maker;

(4) the signer's, grantor's, or maker's mailing address;

(5) whether the signer, grantor, or maker is personally known by the notary public, was identified by an identification card issued by a governmental agency or a passport issued by the United States, or was introduced to the notary public and, if introduced, the name and mailing address of the individual introducing the signer, grantor, or maker;

(6) if the instrument is proved by a witness, the mailing address of the witness, whether the witness is personally known by the notary public or was introduced to the notary public and, if introduced, the name and mailing address of the individual introducing the witness;

(7) the name and mailing address of the grantee;

(8) if land is conveyed or charged by the instrument, the name of the original grantee and the county where the land is located; and

(9) a brief description of the instrument.

(b) Entries in the notary's book are public information.

(c) A notary public shall, on payment of all fees, provide a certified copy of any record of official acts in the notary public's book of record to any person requesting the copy.

(d) A notary public who administers an oath pursuant to Article 45A.101, Code of Criminal Procedure, is exempt from the requirement in Subsection (a) of this section of recording that oath.

(e) A notary public may maintain the records required by Subsection (a) electronically in a computer or other storage device.

(f) A notary public may record the expiration date of an identification card issued by a governmental agency or passport issued by the United States if the signer, grantor, or maker of an instrument or document presents the card or passport to the notary public as identification.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.17(a), eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 406, Sec. 2, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 451, Sec. 1, eff. June 14, 1989; Acts 1999, 76th Leg., ch. 1545, Sec. 71, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 103 (S.B. 220), Sec. 1, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 731 (S.B. 1098), Sec. 1, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 468 (H.B. 255), Sec. 2, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.081, eff. January 1, 2025.

Sec. 406.015. COPIES CERTIFIED BY COUNTY CLERK. (a) A copy of a record, declaration, protest, or other official act of a notary public may be certified by the county clerk with whom the instrument is deposited.

(b) A copy of an instrument certified by the county clerk under Subsection (a) has the same authority as if certified by the notary public by whom the record, declaration, protest, or other official act was originally made.

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

Sec. 406.016. AUTHORITY. (a) A notary public has the same authority as the county clerk to:

(1) take acknowledgments or proofs of written instruments;
(2) protest instruments permitted by law to be protested;
(3) administer oaths;
(4) take depositions as provided by Section 20.001, Civil Practice and Remedies Code; and
(5) certify copies of documents not recordable in the public records.

(b) A notary public shall sign an instrument in Subsection (a) in the name under which the notary public is commissioned.

(c) A notary public may not issue an identification card.

(d) A notary public not licensed to practice law in this state may not give legal advice or accept fees for legal advice.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 10.009, eff. September 1, 2023.

Sec. 406.0165. SIGNING DOCUMENT FOR INDIVIDUAL WITH DISABILITY. (a) A notary may sign the name of an individual who is physically unable to sign or make a mark on a document presented for notarization if directed to do so by that individual, in the presence of a witness who has no legal or equitable interest in any real or personal property that is the subject of, or is affected by, the document being signed. The notary shall require identification of the witness in the same manner as from an acknowledging person under Section 121.005, Civil Practice and Remedies Code.

(b) A notary who signs a document under this section shall write, beneath the signature, the following or a substantially similar sentence:

"Signature affixed by notary in the presence of (name of witness), a disinterested witness, under Section 406.0165, Government Code."

(c) A signature made under this section is effective as the signature of the individual on whose behalf the signature was made for any purpose. A subsequent bona fide purchaser for value may rely on the signature of the notary as evidence of the individual's consent to execution of the document.

(d) In this section, "disability" means a physical impairment

that impedes the ability to sign or make a mark on a document.

Added by Acts 1997, 75th Leg., ch. 1218, Sec. 1, eff. Sept. 1, 1997.

Sec. 406.017. REPRESENTATION AS ATTORNEY. (a) A person commits an offense if the person is a notary public and the person:

(1) states or implies that the person is an attorney licensed to practice law in this state;

(2) solicits or accepts compensation to prepare documents for or otherwise represent the interest of another in a judicial or administrative proceeding, including a proceeding relating to immigration or admission to the United States, United States citizenship, or related matters;

(3) solicits or accepts compensation to obtain relief of any kind on behalf of another from any officer, agency, or employee of this state or the United States;

(4) uses the phrase "notario" or "notario publico" to advertise the services of a notary public, whether by signs, pamphlets, stationery, or other written communication or by radio or television; or

(5) advertises the services of a notary public in a language other than English, whether by signs, pamphlets, stationery, or other written communication or by radio or television, if the person does not post or otherwise include with the advertisement a notice that complies with Subsection (b).

(a-1) A person does not violate this section by offering or providing language translation or typing services and accepting compensation.

(b) The notice required by Subsection (a)(5) must state that the notary public is not an attorney and must be in English and in the language of the advertisement and in letters of a conspicuous size. If the advertisement is by radio or television, the statement may be modified, but must include substantially the same message. The notice must include the fees that a notary public may charge and the following statement:

"I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN TEXAS AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE."

(c) It is an exception to prosecution under this section that, at the time of the conduct charged, the person is licensed to

practice law in this state and in good standing with the State Bar of Texas.

(d) Except as provided by Subsection (e) of this section, an offense under this section is a Class A misdemeanor.

(e) An offense under this section is a felony of the third degree if it is shown on the trial of the offense that the defendant has previously been convicted under this section.

(f) Failure to comply with this section is, in addition to a violation of any other applicable law of this state, a deceptive trade practice actionable under Chapter 17, Business & Commerce Code.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 566, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. 2065), Sec. 2.002, eff. September 1, 2017.

Sec. 406.018. REMOVAL FROM OFFICE. (a) A notary public guilty of wilful neglect of duty or malfeasance in office may be removed from office in the manner provided by law.

(b) A notary public indicted for and convicted of a wilful neglect of duty or official misconduct shall be removed from office. The court shall include the order for removal as part of its judgment.

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

Sec. 406.019. CHANGE OF ADDRESS. A notary public shall notify the secretary of state of a change of the notary public's address not later than the 10th day after the date on which the change is made.

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

Sec. 406.020. REMOVAL FROM STATE. A notary public who removes his residence from this state vacates the office.

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

Sec. 406.021. REMOVAL FROM PRECINCT. An ex officio notary public who moves permanently from the notary public's precinct vacates the office.

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

Sec. 406.022. EFFECT OF VACANCY. If the office of a notary public becomes vacant due to resignation, removal, or death, the county clerk of the county in which the notary public resides shall obtain the record books and public papers belonging to the office of the notary public and deposit them in the county clerk's office.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 406, Sec. 3, eff. Sept. 1, 1989.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 693, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 406.023. ADMINISTRATION AND ENFORCEMENT. (a) The secretary of state shall adopt rules necessary for the administration and enforcement of this subchapter. The rules must be consistent with the provisions of this subchapter.

(b) The secretary of state may employ an investigator to aid in the enforcement of this subchapter.

(c) The secretary of state may provide for the appointment of county clerks as deputy custodians for the limited authentication of notary public records deposited in the clerks' offices.

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

Sec. 406.024. FEES CHARGED BY NOTARY PUBLIC. (a) A notary public or its employer may charge the following fees:

(1) for protesting a bill or note for nonacceptance or nonpayment, register and seal, a fee of $4;

(2) for each notice of protest, a fee of $1;

(3) for protesting in all other cases, a fee of $4;

(4) for certificate and seal to a protest, a fee of $4;

(5) for taking the acknowledgment or proof of a deed or

other instrument in writing, for registration, including certificate and seal, a fee of $10 for the first signature and $1 for each additional signature;

(6) for administering an oath or affirmation with certificate and seal, a fee of $10;

(7) for a certificate under seal not otherwise provided for, a fee of $10;

(8) for a copy of a record or paper in the notary public's office, a fee of $1 for each page;

(9) for taking the deposition of a witness, $1 for each 100 words;

(10) for swearing a witness to a deposition, certificate, seal, and other business connected with taking the deposition, a fee of $10; and

(11) for a notarial act not provided for, a fee of $10.

(b) A notary public may charge a fee only for an acknowledgment or official act under Subsection (a). The fee charged may not exceed the fee authorized by Subsection (a), as adjusted under Subsection (c).

(c) Once every five years, the secretary of state shall adjust the fees provided under Subsection (a) by the amount that results from applying the inflation rate, as determined by the comptroller on the basis of the increase, if any, in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, to the current fee amounts.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.18(a), eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 259, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 468 (H.B. 255), Sec. 3, eff. September 1, 2023.

Sec. 406.025. SIGNATURE ON COMMISSIONS AFTER CHANGE IN OFFICE. If the governor or secretary of state ceases to hold or perform the duties of office, existing stocks of commissions bearing the person's printed name, signature, or facsimile signature may be used until they are exhausted, and the person succeeding to the office or the duties of the office shall have the commissions issued with:

(1) the obsolete printed name, signature, or facsimile signature struck through;

(2) the successor's printed name submitted for the obsolete printed name, signature, or facsimile signature; and

(3) the inscription "Printed name authorized by law" near the successor's printed name.

Added by Acts 1995, 74th Leg., ch. 719, Sec. 9, eff. Jan. 1, 1996.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 406.026. ELECTRONIC NOTARIZATION. In a proceeding filed under Title 5, Family Code, if a signature is required to be notarized, acknowledged, verified, or made under oath, the requirement may be satisfied if the electronic signature of the person authorized to perform that act, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature required to be notarized, acknowledged, verified, or made under oath.

Added by Acts 2015, 84th Leg., R.S., Ch. 859 (S.B. 1726), Sec. 10, eff. September 1, 2015.

SUBCHAPTER B. COMMISSIONER OF DEEDS

Sec. 406.051. APPOINTMENT. (a) The governor may biennially appoint and commission one or more individuals in other states, territories, or foreign countries or in the District of Columbia to serve as commissioner of deeds.

(b) An appointment may be made only on the recommendation of the executive authority of the state, territory, or foreign country or of the District of Columbia.

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

Sec. 406.052. TERM. The term of office of a commissioner of deeds is two years.

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

Sec. 406.053. OATH. Before performing the duties of office, a commissioner of deeds shall take and subscribe an oath to well and faithfully perform the duties of office under the laws of this state. The oath shall be:

(1) taken before the clerk of a court of record in the city, county, or country in which the commissioner resides;

(2) certified to by the clerk under the clerk's hand and seal of office; and

(3) filed in the office of the secretary of state of this state.

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

Sec. 406.054. SEAL. A commissioner of deeds shall provide a seal with a star of five points in the center and the words "Commissioner of the State of Texas" engraved on the seal. The seal shall be used to certify all official acts of the commissioner of deeds. An instrument that does not have the impression of the seal, or an act of the commissioner of deeds that is not certified by the impression of the seal, is not valid in this state.

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

Sec. 406.055. AUTHORITY. A commissioner of deeds has the same authority as a notary public to take acknowledgments and proofs of written instruments, to administer oaths, and to take depositions to be used or recorded in this state.

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

SUBCHAPTER C. ONLINE NOTARY PUBLIC

Sec. 406.101. DEFINITIONS. In this subchapter:

(1) "Credential analysis" means a process or service operating according to criteria approved by the secretary of state through which a third person affirms the validity of a government-

issued identification credential through review of public and proprietary data sources.

(1-a) "Document" means a tangible instrument or electronic document.

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) "Electronic document" means information that is created, generated, sent, communicated, received, or stored by electronic means.

(4) "Electronic notarial certificate" means the portion of a notarized electronic document that is completed by an online notary public and contains the following:

(A) the online notary public's electronic signature, electronic seal, title, and commission expiration date;

(B) other required information concerning the date and place of the online notarization; and

(C) the facts attested to or certified by the online notary public in the particular notarization.

(5) "Electronic seal" means information within a notarized electronic document that confirms the online notary public's name, jurisdiction, identifying number, and commission expiration date and generally corresponds to information in notary seals used on paper documents.

(6) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the electronic document.

(7) "Identity proofing" means a process or service operating according to criteria approved by the secretary of state through which a third person affirms the identity of an individual through review of personal information from public and proprietary data sources.

(8) "Notarial act" means the performance by an online notary public of a function authorized under Section 406.016.

(9) "Online notarization" means a notarial act performed by means of two-way video and audio conference technology that meets the standards adopted under Section 406.104.

(10) "Online notary public" means a notary public who has been authorized by the secretary of state to perform online

notarizations under this subchapter.

(11) "Principal" means an individual:

(A) whose signature is notarized in an online notarization; or

(B) taking an oath or affirmation from the online notary public but not in the capacity of a witness for the online notarization.

(12) "Remote presentation" means transmission to the online notary public through communication technology of an image of a government-issued identification credential that is of sufficient quality to enable the online notary public to:

(A) identify the individual seeking the online notary public's services; and

(B) perform credential analysis.

(13) "Sign" means, with the present intent to authenticate or adopt a record, to:

(A) execute or adopt a tangible symbol; or

(B) execute an electronic signature, as defined by Section 322.002, Business & Commerce Code.

(14) "Signature" means a tangible symbol or electronic signature that evidences the signing of a record executed or adopted by a person with the intent to sign the document.

Added by Acts 2017, 85th Leg., R.S., Ch. 340 (H.B. 1217), Sec. 3, eff. July 1, 2018.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 258 (S.B. 1780), Sec. 1, eff. January 1, 2024.

Sec. 406.102. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to an online notarization.

Added by Acts 2017, 85th Leg., R.S., Ch. 340 (H.B. 1217), Sec. 3, eff. July 1, 2018.

Sec. 406.103. RULEMAKING. The secretary of state may adopt rules necessary to implement this subchapter, including rules to facilitate online notarizations.

Added by Acts 2017, 85th Leg., R.S., Ch. 340 (H.B. 1217), Sec. 3, eff. July 1, 2018.

Sec. 406.104. STANDARDS FOR ONLINE NOTARIZATION. (a) The secretary of state by rule shall develop and maintain standards for online notarization in accordance with this subchapter, including standards for credential analysis and identity proofing.

(b) The secretary of state may confer with the Department of Information Resources or other appropriate state agency on matters relating to equipment, security, and technological aspects of the online notarization standards.

Added by Acts 2017, 85th Leg., R.S., Ch. 340 (H.B. 1217), Sec. 3, eff. July 1, 2018.

Sec. 406.105. APPLICATION; QUALIFICATIONS. (a) A notary public or an applicant for appointment as a notary public under Subchapter A may apply to the secretary of state to be appointed and commissioned as an online notary public in the manner provided by this section.

(b) A person qualifies to be appointed as an online notary public by:

(1) satisfying the qualification requirements for appointment as a notary public under Subchapter A;

(2) paying the application fee described by Subsection (d); and

(3) electronically submitting to the secretary of state an application in the form prescribed by the secretary of state that satisfies the secretary of state that the applicant is qualified.

(c) The application required by Subsection (b) must include:

(1) the applicant's name to be used in acting as a notary public;

(2) a certification that the applicant will comply with the secretary of state's standards developed under Section 406.104; and

(3) an e-mail address of the applicant.

(d) The secretary of state may charge a fee for an application submitted under this section in an amount necessary to administer this subchapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 340 (H.B. 1217), Sec. 3, eff. July 1, 2018.

Sec. 406.106. PERFORMANCE OF NOTARIAL ACTS. An online notary public:

(1) is a notary public for purposes of Subchapter A and is subject to that subchapter to the same extent as a notary public appointed and commissioned under that subchapter;

(2) may perform notarial acts as provided by Subchapter A in addition to performing online notarizations; and

(3) may perform an online notarization authorized under this subchapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 340 (H.B. 1217), Sec. 3, eff. July 1, 2018.

Sec. 406.107. AUTHORITY TO PERFORM ONLINE NOTARIZATIONS. An online notary public has the authority to perform any of the functions authorized under Section 406.016 as an online notarization.

Added by Acts 2017, 85th Leg., R.S., Ch. 340 (H.B. 1217), Sec. 3, eff. July 1, 2018.

Sec. 406.108. ELECTRONIC RECORD OF ONLINE NOTARIZATIONS. (a) An online notary public shall keep a secure electronic record of electronic documents notarized by the online notary public. The electronic record must contain for each online notarization:

(1) the date and time of the online notarization;

(2) the type of notarial act;

(3) the type, the title, or a description of the document or proceeding;

(4) the printed name and address of each principal involved in the transaction or proceeding;

(5) evidence of identity of each principal involved in the transaction or proceeding in the form of:

(A) a statement that the person is personally known to the online notary public;

(B) a notation of the type of identification document

provided to the online notary public;

(C) a record of the identity verification made under Section 406.110, if applicable; or

(D) the following:

(i) the printed name and address of each credible witness swearing to or affirming the person's identity; and

(ii) for each credible witness not personally known to the online notary public, a description of the type of identification documents provided to the online notary public;

(6) a recording of any video and audio conference that is the basis for satisfactory evidence of identity and a notation of the type of identification presented as evidence; and

(7) the fee, if any, charged for the notarization.

(b) The online notary public shall take reasonable steps to:

(1) ensure the integrity, security, and authenticity of online notarizations;

(2) maintain a backup for the electronic record required by Subsection (a); and

(3) protect the backup record from unauthorized use.

(c) The electronic record required by Subsection (a) shall be maintained for at least five years after the date of the transaction or proceeding.

(d) For documents that are tangible instruments, an online notary public shall keep a record of the documents notarized by the online notary public with a tangible symbol. The record for each online notarization with a tangible symbol must contain the same elements required by Subsection (a) for an electronic record.

Added by Acts 2017, 85th Leg., R.S., Ch. 340 (H.B. 1217), Sec. 3, eff. July 1, 2018.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 258 (S.B. 1780), Sec. 2, eff. January 1, 2024.

Sec. 406.109. USE OF ELECTRONIC RECORD, SIGNATURE, AND SEAL. (a) An online notary public shall take reasonable steps to ensure that any registered device used to create an electronic signature is current and has not been revoked or terminated by the device's issuing or registering authority.

(b) An online notary public shall keep the online notary public's electronic record, electronic signature, and electronic seal secure and under the online notary public's exclusive control. The online notary public may not allow another person to use the online notary public's electronic record, electronic signature, or electronic seal.

(c) An online notary public may use the online notary public's electronic signature only for performing online notarization.

(d) An online notary public shall attach the online notary public's electronic signature and seal to the electronic notarial certificate of an electronic document in a manner that is capable of independent verification and renders any subsequent change or modification to the electronic document evident.

(e) An online notary public shall immediately notify an appropriate law enforcement agency and the secretary of state of the theft or vandalism of the online notary public's electronic record, electronic signature, or electronic seal. An online notary public shall immediately notify the secretary of state of the loss or use by another person of the online notary public's electronic record, electronic signature, or electronic seal.

(f) An online notary public shall authenticate all online notarizations with the online notary public's:

(1) electronic seal, if the online notarization was performed with respect to an electronic document; or

(2) seal of office as provided under Section 406.013, if the online notarization was performed with respect to a tangible document.

Added by Acts 2017, 85th Leg., R.S., Ch. 340 (H.B. 1217), Sec. 3, eff. July 1, 2018.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 258 (S.B. 1780), Sec. 3, eff. January 1, 2024.

Sec. 406.110. ONLINE NOTARIZATION PROCEDURES GENERALLY. (a) An online notary public may perform an online notarization authorized under Section 406.107 that meets the requirements of this subchapter and rules adopted under this subchapter regardless of whether the principal is physically located in this state at the time of the

online notarization.

(b) In performing an online notarization, an online notary public shall verify the identity of a person signing a document at the time of the online notarization by using two-way video and audio conference technology that meets the requirements of this subchapter and rules adopted under this subchapter. Identity shall be verified by:

(1) the online notary public's personal knowledge of the person signing a document; or

(2) each of the following:

(A) remote presentation by the person signing a document of a government-issued identification credential, including a passport or driver's license, that contains the signature and a photograph of the person;

(B) credential analysis of the credential described by Paragraph (A); and

(C) identity proofing of the person described by Paragraph (A).

(c) The online notary public shall take reasonable steps to ensure that the two-way video and audio communication used in an online notarization is secure from unauthorized interception.

(d) The notarial certificate for an online notarization must include a notation that the notarization is an online notarization and must indicate if the signature was a tangible symbol or an electronic signature.

Added by Acts 2017, 85th Leg., R.S., Ch. 340 (H.B. 1217), Sec. 3, eff. July 1, 2018.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 258 (S.B. 1780), Sec. 4, eff. January 1, 2024.

Acts 2023, 88th Leg., R.S., Ch. 258 (S.B. 1780), Sec. 5, eff. January 1, 2024.

Sec. 406.1103. ONLINE NOTARIZATION PROCEDURES FOR TANGIBLE DOCUMENTS. (a) In performing an online notarization in which the principal signs with a tangible symbol and not an electronic signature, an online notary public shall reasonably confirm that a document before the online notary public is the same document in

which the principal made a statement or on which the principal executed a signature.

(b) An online notary public satisfies the requirement of Subsection (a) to take an acknowledgment of a signature on a tangible document if:

(1) during a video and audio recording described by Section 406.108(a)(6):

(A) the acknowledgment is displayed to and identified by the principal; and

(B) the principal signs the document and a declaration in substantially the following form that is a part of or securely attached to the document:

"I declare under penalty of perjury that the document of which this declaration is a part or to which it is attached is the same document on which (name of online notary public), an online notary public, performed an online notarization and before whom I appeared by means of two-way video and audio conference technology on (date).

_____

(Signature of principal)

_____

(Printed name of principal)";

(2) the principal sends the document and declaration to the online notary public not later than the third day after the date the online notarization was performed; and

(3) the online notary public:

(A) in the video and audio recording under Subdivision (1), records the principal signing the document and declaration;

(B) receives the document and declaration sent by the principal under Subdivision (2) not later than the 10th day after the date the online notarization was performed; and

(C) after receipt of the document and declaration from the principal, executes a notarial certificate that includes a statement in substantially the following form:

"I, (name of online notary public), witnessed, by means of video and audio conference technology, (name of principal) sign the attached document and declaration on (date).".

(c) An online notarization performed in compliance with Subsection (b) complies with any requirement regarding the execution of a notarial certificate and is effective on the date the principal

signed the declaration under Subsection (b)(1)(B).

(d) A notarial certificate executed in the form described by Subsection (b)(3)(C) may be relied on as conclusive evidence of compliance with Subsections (b)(2) and (b)(3)(B).

(e) Subsection (b) does not preclude use of another procedure to satisfy Subsection (a) for an online notarization performed with respect to a tangible document.

Added by Acts 2023, 88th Leg., R.S., Ch. 258 (S.B. 1780), Sec. 6, eff. January 1, 2024.

Sec. 406.1107. ONLINE NOTARIZATION PROCEDURES FOR OATHS OR AFFIRMATIONS. An online notary public may administer an oath or affirmation to a principal as an online notarization if, except as otherwise provided by other law of this state, the online notary public:

(1) identifies the principal under Section 406.110(b);

(2) creates or causes the creation under Section 406.108 of a video and audio recording of the principal taking the oath or affirmation; and

(3) retains or causes the retention under Section 406.108 of the recording.

Added by Acts 2023, 88th Leg., R.S., Ch. 258 (S.B. 1780), Sec. 6, eff. January 1, 2024.

Sec. 406.111. FEES FOR ONLINE NOTARIZATION. An online notary public or the online notary public's employer may charge a fee in an amount not to exceed $25 for performing an online notarization in addition to any other fees authorized under Section 406.024.

Added by Acts 2017, 85th Leg., R.S., Ch. 340 (H.B. 1217), Sec. 3, eff. July 1, 2018.

Sec. 406.112. TERMINATION OF ONLINE NOTARY PUBLIC'S COMMISSION. (a) Except as provided by Subsection (b), an online notary public whose commission terminates shall destroy the coding, disk, certificate, card, software, or password that enables electronic

affixation of the online notary public's official electronic signature or seal. The online notary public shall certify compliance with this subsection to the secretary of state.

(b) A former online notary public whose commission terminated for a reason other than revocation or a denial of renewal is not required to destroy the items described by Subsection (a) if the former online notary public is recommissioned as an online notary public with the same electronic signature and seal within three months after the former online notary public's former commission terminated.

Added by Acts 2017, 85th Leg., R.S., Ch. 340 (H.B. 1217), Sec. 3, eff. July 1, 2018.

Sec. 406.113. WRONGFUL POSSESSION OF SOFTWARE OR HARDWARE; CRIMINAL OFFENSE. (a) A person who, without authorization, knowingly obtains, conceals, damages, or destroys the certificate, disk, coding, card, program, software, or hardware enabling an online notary public to affix an official electronic signature or seal commits an offense.

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

Added by Acts 2017, 85th Leg., R.S., Ch. 340 (H.B. 1217), Sec. 3, eff. July 1, 2018.

SUBTITLE B. LAW ENFORCEMENT AND PUBLIC PROTECTION

CHAPTER 411. DEPARTMENT OF PUBLIC SAFETY OF THE STATE OF TEXAS

SUBCHAPTER A. GENERAL PROVISIONS AND ADMINISTRATION

Sec. 411.001. DEFINITIONS. In this chapter:

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

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

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

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

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 791, Sec. 1, eff. June 18, 1999.

Sec. 411.0011. CERTAIN LOCAL GOVERNMENT CORPORATIONS ENGAGED IN CRIMINAL IDENTIFICATION ACTIVITIES. For purposes of this chapter, a reference to "criminal justice agency" includes a local government corporation created under Subchapter D, Chapter 431, Transportation Code, for governmental purposes relating to criminal identification activities, including forensic analysis, that allocates a substantial part of its annual budget to those criminal identification activities.

Added by Acts 2013, 83rd Leg., R.S., Ch. 782 (S.B. 1238), Sec. 5, eff. June 14, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 36, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.002. DEPARTMENT OF PUBLIC SAFETY OF THE STATE OF TEXAS. (a) The Department of Public Safety of the State of Texas is an agency of the state to enforce the laws protecting the public safety and provide for the prevention and detection of crime. The department is composed of the Texas Rangers, the Texas Highway Patrol, the administrative division, and other divisions that the commission considers necessary.

(b) The department shall have its principal office and headquarters in Austin.

(c) The Department of Public Safety of the State of Texas is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and Subsections (a) and (b) expire September 1, 2031.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.19(a), eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 1.23, eff. Nov. 12, 1991; Acts 1993, 73rd Leg., ch. 790, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1169, Sec. 4.03, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1189, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.01, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 4.01, eff.

June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 1.001, eff. September 1, 2019.

Sec. 411.003. PUBLIC SAFETY COMMISSION. (a) The Public Safety Commission controls the department.

(b) The commission is composed of five citizens of this state appointed by the governor with the advice and consent of the senate. Members must be selected because of their peculiar qualifications for the position and must reflect the diverse geographic regions and population groups of this state. Members must have and maintain a secret security clearance granted by the United States government. A member may serve on the commission upon the granting of an interim secret security clearance, but may not be given access to classified information, participate in a briefing involving classified information, or vote on an issue involving classified information until a secret security clearance has been finally approved by the United States government. Appointments to the commission shall be made without regard to race, color, disability, sex, religion, age, or national origin. In making an appointment the governor shall consider, among other things, the person's knowledge of laws, experience in the enforcement of law, honesty, integrity, education, training, and executive ability.

(c) Members serve staggered six-year terms with the terms of either one or two members expiring January 1 of each even-numbered year.

(d) The governor shall designate one member of the commission as chairman of the commission to serve in that capacity at the pleasure of the governor. The commission shall meet at the times and places specified by commission rule or at the call of the chairman. The chairman shall oversee the preparation of an agenda for each meeting and ensure that a copy is provided to each member at least seven days before the meeting.

(e) A member serves without compensation for service on the commission but is entitled to per diem for expenses as provided by the General Appropriations Act.

(f) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the

commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 790, Sec. 2, eff. Sept. 1, 1993.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 20.01, eff. September 1, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 120 (S.B. 1814), Sec. 1, eff. May 18, 2013.

Sec. 411.0031. TRAINING FOR COMMISSION MEMBERS. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing the department's operations;

(2) the programs, functions, rules, and budget of the department;

(3) the scope of and limitations on the rulemaking authority of the commission;

(4) the results of the most recent formal audit of the department;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of the commission in performing their duties; and

(6) any applicable ethics policies adopted by the department or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) The director shall create a training manual that includes the information required by Subsection (b). The director shall distribute a copy of the training manual annually to each member of

the commission. Each member of the commission shall sign and submit to the director a statement acknowledging that the member received and has reviewed the training manual.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 3, eff. Sept. 1, 1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 1.002, eff. September 1, 2019.

Sec. 411.0035. MEMBER AND GENERAL COUNSEL RESTRICTION. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the commission and may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of law enforcement or private security; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of law enforcement or private security.

(c) A person may not be a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 4, eff. Sept. 1, 1993.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.02, eff. September 1, 2009.

Sec. 411.0036. REMOVAL OF COMMISSION MEMBER. (a) It is a

ground for removal from the commission if a member:

(1) does not have at the time of appointment the qualifications required by Section 411.003;

(2) does not maintain during service on the commission the qualifications required by Section 411.003;

(3) violates a prohibition established by Section 411.0035;

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the commission.

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

(c) If the director has knowledge that a potential ground for removal exists, the director shall notify the chairman of the commission of the potential ground. The chairman shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the chairman, the director shall notify the member with the longest tenure on the commission, other than the chairman, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 5, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 2, eff. Sept. 1, 1999.

Sec. 411.004. DUTIES AND POWERS OF COMMISSION. The commission shall:

(1) formulate plans and policies for:

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

(B) prevention of crime;

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

(D) education of citizens of this state in the

promotion of public safety and the observance of law;

(2) organize the department and supervise its operation;

(3) adopt rules considered necessary for carrying out the department's work;

(4) maintain records of all proceedings and official orders; and

(5) biennially submit a report of its work to the governor and legislature, including the commission's and director's recommendations.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 790, Sec. 3, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1189, Sec. 3, eff. Sept. 1, 1999.

Sec. 411.0041. OPEN MEETINGS EXCEPTION: CRIMINAL INVESTIGATIONS. A discussion or deliberation of the commission regarding an ongoing criminal investigation, including a vote to issue a directive or take other action regarding the investigation, is not subject to the open meetings law, Chapter 551.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 3, eff. Sept. 1, 1999.

Sec. 411.0042. DIVISION OF RESPONSIBILITIES. The commission shall develop and implement policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the director and the staff of the department.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.03, eff. September 1, 2009.

Sec. 411.0043. TECHNOLOGY POLICY; REVIEW. (a) The commission shall implement a policy requiring the department to use appropriate technological solutions to improve the department's ability to perform its functions. The policy must ensure that the public is able to interact with the department on the Internet.

(b) The department shall periodically:

(1) review the department's existing information technology system to determine whether:

(A) the system's security should be upgraded; and

(B) the system provides the department with the best ability to monitor and investigate criminal activity on the Internet; and

(2) make any necessary improvements to the department's information technology system.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.04, eff. September 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 333 (H.B. 11), Sec. 5, eff. September 1, 2015.

Sec. 411.0044. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the department's jurisdiction.

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

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

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

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

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

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.05, eff. September 1, 2009.

Sec. 411.0045. PHYSICAL FITNESS PROGRAMS. The commission shall adopt:

(1) physical fitness programs in accordance with Section 614.172; and

(2) a resolution certifying that the programs adopted under Subdivision (1) are consistent with generally accepted scientific standards and meet all applicable requirements of state and federal labor and employment law.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 1.003, eff. September 1, 2019.

Sec. 411.005. DIRECTOR, DEPUTY DIRECTORS, AND ASSISTANT DIRECTORS. (a) The commission shall appoint a citizen of the United States as public safety director. The director serves until removed by the commission.

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

(c) The commission shall select the director, and the director shall select deputy directors and assistant directors, on the basis of the person's training, experience, and qualifications for the position. The director, deputy directors, and assistant directors are entitled to annual salaries as provided by the legislature.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 4, eff. Sept. 1, 1999. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.06, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.07, eff. September 1, 2009.

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

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

(2) act as executive director of the department;

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

(4) adopt rules, subject to commission approval, considered

necessary for the control of the department;

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

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

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

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

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

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 5, eff. Sept. 1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2383, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.007. OFFICERS AND EMPLOYEES. (a) Subject to the provisions of this chapter, the director may appoint, promote, reduce, suspend, or discharge any officer or employee of the department.

(b) Appointment or promotion of an officer or employee must be based on merit determined under commission rules that take into consideration the applicant's age and physical condition, if appropriate and to the extent allowed under federal law, and that take into consideration the applicant's experience and education. For promotions of commissioned officers, other than those positions covered under Section 411.0071, the department, with the advice and consent of the commission, shall establish processes to be consistently applied and based on merit. Each person who has an

application on file for a position in the department for which an applicant must take an examination shall be given reasonable written notice of the time and place of those examinations.

(c) An applicant for a position in the department must be a United States citizen. An applicant may not be questioned regarding the applicant's political affiliation or religious faith or beliefs. The department may not prohibit an officer or employee of the department, while off duty and out of uniform, from placing a bumper sticker endorsing political activities or a candidate for political office on a personal vehicle, placing a campaign sign in the person's private yard, making a political contribution, or wearing a badge endorsing political activities or a candidate. An officer commissioned by the department may not be suspended, terminated, or subjected to any form of discrimination by the department because of the refusal of the officer to take a polygraph examination. Section 411.0074 does not authorize the department to require an officer commissioned by the department to take a polygraph examination.

(d) At least annually the heads of the divisions and bureaus, after due investigation, shall make a report to the director of the efficiency of each employee within the division or bureau. These reports shall be kept in the department's permanent files and shall be given proper consideration in all matters of promotion and discharge.

(e) An officer or employee of the department may not be discharged without just cause. The director shall determine whether an officer or employee is to be discharged. A commissioned officer ordered discharged may appeal to the commission, and during the appeal the officer shall be suspended without pay.

(e-1) Except as provided by Subsection (g), the department may not discharge, suspend, or demote a commissioned officer except for the violation of a specific commission rule. If the department discharges, suspends, or demotes the officer, the department shall deliver to the officer a written statement giving the reasons for the action taken. The written statement must point out each commission rule alleged to have been violated by the officer and must describe the alleged acts of the officer that the department contends are in violation of the commission rules.

(e-2) The commission shall establish necessary policies and procedures for the appointment, promotion, reduction, suspension, and discharge of all employees.

(f) A discharged commissioned officer is entitled, on application to the commission, to a public hearing before the commission, who shall affirm or set aside the discharge. The commission shall affirm or set aside a discharge on the basis of the evidence presented. If the commission affirms the discharge, the discharged officer may seek judicial review, not later than the 90th day after the date the commission affirms the discharge, in a district court under the substantial evidence standard of review, and the officer remains suspended without pay while the case is under judicial review.

(g) A noncommissioned employee inducted into the service of the department is on probation for the first one year of service, and an officer is on probation from the date the officer is inducted into the service of the department until the anniversary of the date the officer is commissioned. At any time during the probationary period, an officer or employee may be discharged if the director, with the advice and consent of the commission, finds the officer or employee to be unsuitable for the work.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.20(a), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 790, Sec. 6, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1189, Sec. 6, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 814 (S.B. 732), Sec. 1, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 955 (H.B. 1589), Sec. 1, eff. June 18, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1109 (H.B. 3805), Sec. 1, eff. September 1, 2013.

Sec. 411.0071. DIRECT APPOINTMENT TO MANAGEMENT TEAM POSITIONS BY DIRECTOR. (a) The director may designate a head of a division or a position that involves working directly with the director as a management team position.

(b) The director may directly appoint a person to a position designated as a management team position under Subsection (a) under criteria determined by the director and approved by the commission. The director's appointment of a person to a management team position

or transfer of a person from a management team position to another position for which the person is qualified, as determined by the director, is not subject to Section 411.007.

(c) A person appointed to a management team position under this section, on removal from that position, shall be returned to the position the person held immediately before appointment to the management team position or to a position of equivalent rank. If a person is removed from a management team position as a result of the filing of a formal charge of misconduct, this subsection applies only if the person is exonerated for the misconduct charged.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 7, eff. Sept. 1, 1999.

Sec. 411.0072. EMPLOYMENT-RELATED GRIEVANCES AND APPEALS OF DISCIPLINARY ACTIONS WITHIN THE DEPARTMENT. (a) In this section:

(1) "Disciplinary action" means discharge, suspension, or demotion.

(2) "Employment-related grievance" means an employment-related issue, other than a disciplinary action, in regard to which an employee wishes to express dissatisfaction, including promotions, leave requests, performance evaluations, transfers, benefits, working environment, shift or duty assignments, harassment, retaliation, and relationships with supervisors or other employees or any other issue the commission determines by rule.

(b) The commission shall establish procedures and practices governing the appeal of a disciplinary action within the department.

(c) The commission shall establish procedures and practices through which the department will address an employment-related grievance that include:

(1) a form on which an employee may state an employment-related grievance and request a specific corrective action;

(2) time limits for submitting a grievance and for management to respond to a grievance;

(3) a multilevel process in which an employee's grievance is submitted to the lowest appropriate level of management, with each subsequent appeal submitted to a higher level in the chain of command;

(4) an assurance that confidentiality of all parties involved will be maintained, except to the extent that information is

subject to disclosure under Section 411.00755 and Chapter 552, and that retaliation against an employee who files a grievance is prohibited; and

(5) a program to advertise and explain the grievance procedure to all employees.

(d) The department shall submit annually to the commission, and as part of its biennial report to the legislature required under Section 411.004, a report on the department's use of the employment-related grievance process under Subsection (c). The report must include:

(1) the number of grievances filed;

(2) a brief description of the subject of each grievance filed; and

(3) the final disposition of each grievance.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 7, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 35 (S.B. 740), Sec. 2, eff. May 4, 2007.

Sec. 411.0073. MEDIATION OF PERSONNEL DISPUTES. (a) The commission shall establish procedures for an employee to resolve an employment-related grievance covered by Section 411.0072 through mediation if the employee chooses. The procedures must include mediation procedures and establish the circumstances under which mediation is appropriate for an employment-related grievance.

(b) Except for Section 2008.054, Chapter 2008, as added by Chapter 934, Acts of the 75th Legislature, Regular Session, 1997, does not apply to the mediation. The mediator must be trained in mediation techniques.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 7, eff. Sept. 1, 1999.

Sec. 411.0074. POLYGRAPH EXAMINATIONS FOR CERTAIN APPLICANTS. (a) This section does not apply to:

(1) an applicant who is currently a peace officer of the department commissioned by the department; or

(2) an applicant for a police communications operator position who is currently employed by the department in another

police communications operator position.

(b) Before commissioning an applicant as a peace officer or employing an applicant for a police communications operator position, the department shall require the applicant to submit to the administration of a polygraph examination in accordance with rules adopted under Subsection (e).

(c) The polygraph examination required by this section may only be administered by a polygraph examiner who:

(1) is a peace officer commissioned by the department; or

(2) has a minimum of two years of experience conducting preemployment polygraph examinations for a law enforcement agency.

(d) The department and the polygraph examiner shall maintain the confidentiality of the results of a polygraph examination administered under this section, except that the department may disclose any admission of criminal conduct made during the course of an examination to another appropriate governmental entity.

(e) The department shall adopt reasonable rules to specify the point in the hiring process at which the department shall require a polygraph examination to be administered under this section and the manner in which the examination shall be administered. Rules relating to the administration of a polygraph examination shall be adopted in accordance with the guidelines published by the American Polygraph Association or the American Association of Police Polygraphists.

(f) The department shall use the results of a polygraph examination under this section as a factor in determining whether to commission a peace officer or employ an applicant for the position of police communications operator.

Added by Acts 2005, 79th Leg., Ch. 955 (H.B. 1589), Sec. 2, eff. June 18, 2005.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 663 (H.B. 1560), Sec. 2.03, eff. September 1, 2021.

Sec. 411.00741. POLYGRAPH EXAMINATIONS FOR CERTAIN OFFICERS AND EMPLOYEES. (a) The department may require a commissioned or noncommissioned officer or employee of the department to submit to the administration of a polygraph examination administered by a

polygraph examiner if:

(1) the officer or employee is assigned to a position that requires the officer or employee to work with a federal agency on national security issues; and

(2) the federal agency requires that the officer or employee submit to a polygraph examination.

(b) If an officer or employee does not submit to the administration of a polygraph examination required under Subsection (a), the department may, as applicable:

(1) remove the officer or employee from an assignment to a position described by Subsection (a)(1); or

(2) refuse to assign the officer or employee to that position.

Added by Acts 2007, 80th Leg., R.S., Ch. 362 (S.B. 295), Sec. 1, eff. June 15, 2007.

Sec. 411.0075. PERSONNEL POLICIES. (a) The director or the director's designee shall develop an intraagency career ladder program. The program shall require intraagency postings of all non-entry-level positions concurrently with any public posting.

(b) The director or the director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies related to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the department work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the department work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(c) A policy statement prepared under Subsection (b) of this

section must cover an annual period, be updated at least annually, and be filed with the governor's office.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(30), eff. June 17, 2011.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 7, eff. Sept. 1, 1993.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(30), eff. June 17, 2011.

Sec. 411.00755. PERSONNEL RECORDS OF COMMISSIONED OFFICERS. (a) In this section:

(1) "Personnel record" includes any letter, memorandum, or document maintained by the department that relates to a commissioned officer of the department, including background investigations, employment applications, employment contracts, service and training records, requests for off-duty employment, birth records, reference letters, letters of recommendation, performance evaluations and counseling records, results of physical tests, polygraph questionnaires and results, proficiency tests, the results of health examinations and other medical records, workers' compensation files, the results of psychological examinations, leave requests, requests for transfers of shift or duty assignments, commendations, promotional processes, demotions, complaints and complaint investigations, employment-related grievances, and school transcripts.

(2) "Disciplinary action" has the meaning assigned by Section 411.0072(a)(1).

(b) The personnel records of a commissioned officer of the department may not be disclosed or otherwise made available to the public, except the department shall release in accordance with Chapter 552:

(1) any letter, memorandum, or document relating to:

(A) a commendation, congratulation, or honor bestowed on the officer for an action, duty, or activity that relates to the officer's official duties; and

(B) misconduct by the officer, if the letter, memorandum, or document resulted in disciplinary action;

(2) the state application for employment submitted by the

officer, but not including any attachments to the application;

(3) any reference letter submitted by the officer;

(4) any letter of recommendation for the officer;

(5) any employment contract with the officer;

(6) any periodic evaluation of the officer by a supervisor;

(7) any document recording a promotion or demotion of the officer;

(8) any request for leave by the officer;

(9) any request by the officer for transfers of shift or duty assignments;

(10) any documents presented to the commission in connection with a public hearing under Section 411.007(f);

(11) the officer's:

(A) name;

(B) age;

(C) dates of employment;

(D) positions held; and

(E) gross salary; and

(12) information about the location of the officer's department duty assignments.

(c) The department may release any personnel record of a commissioned officer:

(1) pursuant to a subpoena or court order, including a discovery order;

(2) for use by the department in an administrative hearing; or

(3) with the written authorization of the officer who is the subject of the record.

(d) A release of information under Subsection (c) does not waive the right to assert in the future that the information is excepted from required disclosure under this section or other law.

Added by Acts 2007, 80th Leg., R.S., Ch. 35 (S.B. 740), Sec. 1, eff. May 4, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 6.01, eff. September 1, 2009.

Sec. 411.0076. MINORITY RECRUITING. (a) The department shall

continue to place emphasis on minority recruiting and hiring efforts for noncommissioned positions.

(b) The department's minority recruiter and equal employment opportunity positions created for personnel and equal employment opportunity matters shall continue to pertain to both commissioned and noncommissioned employees.

(c) The department by September, 1994, shall study job requirements for all noncommissioned positions and thereafter shall limit promotion-from-within only to positions where department experience is essential for reasonable job performance.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 7, eff. Sept. 1, 1993.

Sec. 411.0077. LIMITATION ON RESTRICTIONS ON CERTAIN OFF-DUTY ACTIVITIES. (a) During the period that the officer is off duty, a commissioned officer of the department is entitled to attend educational programs or courses or to engage in any outside employment that does not adversely affect the operations or the reputation of the department. The rights of a commissioned officer under this section are subject to any reasonable department requirements that the officer be accessible to the department during off-duty periods for the possible performance of official duties.

(b) The department shall adopt reasonable guidelines relating to acceptable off-duty employment. The guidelines shall be uniformly applied to all supervisory and nonsupervisory commissioned officers.

(b-1) If the department denies approval of a commissioned officer's secondary employment or proposed secondary employment, the director or the director's designee must promptly notify the officer in writing of the specific guideline adopted under Subsection (b) on which the department's decision is based. The notice must explain why the secondary employment or proposed secondary employment is prohibited by the referenced guideline.

(c) If a commissioned officer is engaged in off-duty employment that the officer believes, in good faith, is not prohibited by a specific guideline adopted under Subsection (b), the officer is authorized to engage in the off-duty employment until the director or the director's designee informs the officer in writing that the employment is not acceptable.

Added by Acts 1989, 71st Leg., ch. 379, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 1991, 72nd Leg., ch. 335, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 921, Sec. 1, eff. Sept. 1, 2003.

Sec. 411.0078. USE OF UNIFORM WHILE PERFORMING CERTAIN OFF-DUTY ACTIVITIES. (a) An officer commissioned by the department may purchase from the department at fair market value a uniform to be used by the officer while providing law enforcement services for a person or entity other than the department. If an officer who purchased a uniform under this subsection leaves the service of the department for any reason, the officer shall return the uniform to the department. The department shall pay the officer the fair market value of the uniform at the time it is returned. For purposes of this subsection:

(1) a uniform does not include a handgun or other weapon; and

(2) the fair market value of a uniform is determined by the department.

(b) An officer wearing a uniform purchased under Subsection (a) may not act in a manner that adversely affects the operations or reputation of the department.

(c) The department shall adopt reasonable guidelines regarding:

(1) the types of law enforcement services for which an officer may purchase and wear a uniform under Subsection (a) and the circumstances under which the officer may perform those services; and

(2) the standards of behavior to be maintained by an officer who wears a uniform purchased under Subsection (a).

Added by Acts 1995, 74th Leg., ch. 738, Sec. 1, eff. Sept. 1, 1995.

Sec. 411.0079. WORKING CONDITIONS FOR CERTAIN PREGNANT OFFICERS. (a) The director shall make reasonable efforts to accommodate the request of a commissioned officer of the department who is determined by a physician to be partially physically restricted by a pregnancy if the request is related to the officer's working conditions.

(b) If the physician of an officer certifies that, because of the officer's pregnancy, the officer is unable to perform the duties

of the officer's permanent work assignment and a temporary work assignment that the officer may perform is available, the director shall, on request of the officer, assign the officer to the temporary work assignment.

Added by Acts 2003, 78th Leg., ch. 891, Sec. 1, eff. Sept. 1, 2003.

Sec. 411.008. DISTRICT HEADQUARTERS. The commission may establish district headquarters and stations at various places in the state and provide personnel and equipment necessary for their functioning and operation.

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

Sec. 411.0085. DRIVER'S LICENSE FACILITIES: PERSONNEL. The department may not assign more than 123 commissioned officers plus supervising personnel to driver's license facilities.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 4, eff. Sept. 1, 1995.

Sec. 411.009. LOCAL COOPERATION. (a) The sheriff and constables of each county and chief of police of each municipality are associate members of the department and are entitled to the rights and privileges granted to them by the department.

(b) The director may require a sheriff or other police officer in a county or municipality, within the limits of the officer's jurisdiction, to aid or assist in the performance of a duty imposed by this chapter. The officer shall comply with the order to the extent requested.

(c) The director with the advice and consent of the commission shall formulate and put into effect plans and means of cooperating with sheriffs, local police, and other peace officers throughout the state to prevent and discover crime, apprehend criminals, and promote public safety. Each local police and peace officer shall cooperate with the director in the plans.

(d) Each telegraph and telephone company and radio station operating in the state shall grant priority of service to a police agency and the department when notified that the service is urgent in

the interests of the public welfare.

(e) The commissioners court of each county may furnish to the department necessary building space for establishing a branch crime detection laboratory to serve the general area of the state in which the county is located. If the county offers to furnish necessary space, the department may equip and operate the laboratory within the limits of its general authority and available appropriations. Unless the legislature has specifically directed the establishment and operation of a branch laboratory, the commission has discretion to decide whether a branch laboratory should be established or maintained.

(f) If the Commissioners Court of El Paso County furnishes without cost to the state the necessary building space, the department shall establish and operate a branch crime detection laboratory in El Paso County to serve the West Texas area, if the department determines that efficient enforcement of law requires establishment of the laboratory and sufficient funds are available in the department.

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

Sec. 411.0091. SEX OFFENDER COMPLIANCE UNIT. (a) The director shall create a sex offender compliance unit to be operated by the department.

(b) The sex offender compliance unit shall investigate and arrest individuals determined to have committed a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure.

(c) The legislature may appropriate funds to the department from the fugitive apprehension account for the purpose of paying the costs to the department of implementing this section.

(d) The department may adopt rules as necessary to implement this section.

Added by Acts 1999, 76th Leg., ch. 150, Sec. 1, eff. Sept. 1, 1999.
Renumbered from Sec. 411.0098 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(39), eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1008 (H.B. 867), Sec. 2.08, eff. September 1, 2005.

Sec. 411.0092. PRIMARY JURISDICTION. The sex offender compliance unit described by Section 411.0091 has primary jurisdiction to investigate a felony offense committed by a sexually violent predator civilly committed under Chapter 841, Health and Safety Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 351 (S.B. 1179), Sec. 12, eff. September 1, 2023.

Sec. 411.0095. VEHICLE THEFT CHECKPOINTS AT BORDER CROSSING. (a) The department may establish a program for the purpose of establishing border crossing checkpoints to prevent stolen vehicles, farm tractors or implements, construction equipment, aircraft, or watercraft from entering Mexico.

(b) A checkpoint may be established under Subsection (a) if the checkpoint is:

(1) located within 250 yards of a federally designated crossing facility located at or near the actual boundary between this state and Mexico;

(2) located on a public highway or street leading directly to an international border crossing;

(3) designed to stop only traffic bound for Mexico; and

(4) operated in such a manner as to stop only vehicles, tractors or implements, equipment, aircraft, or watercraft for which law enforcement authorities have probable cause to believe is stolen and bound for Mexico.

(c) The department may establish the border crossing checkpoint program in conjunction with local law enforcement authorities. The department and local law enforcement authorities may share the cost of staffing the checkpoints.

(d) The department shall establish procedures governing the encounter between the driver and the peace officers operating the checkpoint that ensure that any intrusion on the driver is minimized and that the inquiries made are reasonably related to the purpose of the checkpoint. A peace officer at the checkpoint may not direct a driver or a passenger in a motor vehicle to leave the vehicle or move the vehicle off the roadway unless the officer has reasonable suspicion or probable cause to believe that the person committed or is committing an offense. However, a peace officer may require that

each motor vehicle passing through the checkpoint be diverted to a location immediately adjacent to the roadway, if desirable, to ensure safety.

(e) In this section:

(1) "Motor vehicle" and "vehicle" have the meanings assigned to those terms by Section 541.201, Transportation Code.

(2) "Watercraft" has the meaning assigned by Section 49.01, Penal Code.

Added by Acts 1993, 73rd Leg., ch. 497, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 184, Sec. 1, eff. May 23, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 30.191, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 670, Sec. 1, eff. Sept. 1, 1999.

Sec. 411.0096. MEMORANDUM OF UNDERSTANDING WITH CRIMINAL JUSTICE DIVISION OF THE OFFICE OF THE GOVERNOR. (a) The department and the office of the governor, criminal justice division, by rule shall adopt a joint memorandum of understanding on coordinating the drug law enforcement efforts of the department and the criminal justice division.

(b) The memorandum of understanding shall:

(1) provide that the department shall advise the criminal justice division about the statewide drug policy planning efforts of the division;

(2) provide for representation by the department on any advisory board advising the governor about drug policy;

(3) require the criminal justice division and the department to define their respective roles relating to drug task forces;

(4) require the criminal justice division and the department to jointly determine the areas of law enforcement focus for drug task force efforts; and

(5) require the criminal justice division and the department to jointly develop guidelines and procedures to govern drug task force operations that are funded by the state.

(c) The criminal justice division and the department shall update and revise the memorandum of understanding as necessary and by rule adopt all revisions to the memorandum.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 8, eff. Sept. 1, 1993.

Renumbered from Government Code Sec. 411.0095 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(13), eff Sept. 1, 1995; Acts 1995, 74th Leg., ch. 184, Sec. 2, eff. May 23, 1995.

Text of section as added by Acts 2005, 79th Leg., R.S., Ch. 693 (S.B. 293), Sec. 1

For text of section as added by Acts 2005, 79th Leg., Ch. 556 (H.B. 1239), Sec. 3, see other Sec. 411.0097.

Sec. 411.0097. TRANSPORTATION AND INSPECTIONS MEETING WITH REPRESENTATIVES OF MEXICAN STATES. (a) The department shall initiate efforts to meet at least quarterly with the department's counterparts in the Mexican states bordering this state to discuss issues relating to truck inspections and transportation and infrastructure involved in truck inspections and transportation.

(b) To assist the department in carrying out this section, the department shall contact the border commerce coordinator designated under Section 772.010 and the mayors of each municipality in this state in which a port of entry for land traffic is located.

(c) At least one department representative participating in a meeting under Subsection (a) must be proficient in Spanish.

(d) The department, in conjunction with the border commerce coordinator, shall develop short-range and long-range plans, including recommendations to increase bilateral relations with Mexico and expedite trade by mitigating delays in border crossing inspections for northbound truck traffic. In developing the plans, the department and coordinator shall consider information obtained from any meetings under Subsection (a). The department shall update the plan biennially.

Added by Acts 2005, 79th Leg., Ch. 693 (S.B. 293), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 28, eff. September 1, 2013.

Text of section as added by Acts 2005, 79th Leg., R.S., Ch. 556 (H.B. 1239), Sec. 3

For text of section as added by Acts 2005, 79th Leg., Ch. 693 (S.B. 293), Sec. 1, see other Sec. 411.0097.

Sec. 411.0097. MULTICOUNTY DRUG TASK FORCES. (a) The department shall establish policies and procedures for multicounty drug task forces, as defined by Section 362.001, Local Government Code, and may exercise the authority necessary to ensure compliance with those policies and procedures.

(b) The department shall evaluate each multicounty drug task force with respect to whether the task force:

(1) complies with state and federal requirements, including policies and procedures established by department rule; and

(2) demonstrates effective performance outcomes.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1312, Sec. 99(13), eff. September 1, 2013.

Added by Acts 2005, 79th Leg., Ch. 556 (H.B. 1239), Sec. 3, eff. September 1, 2005.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 99(13), eff. September 1, 2013.

Sec. 411.0098. COORDINATION WITH DEPARTMENT OF TRANSPORTATION. (a) The department and the Texas Department of Transportation shall establish procedures to ensure effective coordination of the development of transportation infrastructure projects that affect both agencies.

(b) Procedures established under this section shall:

(1) allow each agency to provide comments and advice to the other agency on an ongoing basis regarding statewide transportation planning efforts that affect traffic law enforcement;

(2) define the role of each agency in transportation infrastructure efforts; and

(3) require the department and the Texas Department of Transportation to develop a plan for applying for and using federal funds to address infrastructure needs that affect enforcement efforts.

(c) The department and the Texas Department of Transportation shall update and revise the procedures established under this section as necessary.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 7, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 5, eff. June 17, 2011.

Sec. 411.0099. NEEDS ASSESSMENT FOR ENFORCEMENT OF COMMERCIAL MOTOR VEHICLE RULES. (a) The department shall conduct a long-term needs assessment for the enforcement of commercial motor vehicle rules that considers at a minimum:

(1) the inventory of current facilities and equipment used for enforcement, including types of scales, structures, space, and other equipment;

(2) enforcement activity, including trend information, at fixed-site facilities;

(3) staffing levels and operating hours for each facility; and

(4) needed infrastructure improvements and the associated costs and projected increase in activity that would result from the improvements.

(b) The department shall submit a biennial report to the legislative committees with primary jurisdiction over state budgetary matters and the Texas Transportation Commission that reflects the results of the needs assessment conducted under Subsection (a). The report shall be submitted to the legislature in conjunction with the department's legislative appropriations request.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 7, eff. Sept. 1, 1999.

Sec. 411.010. ASSISTANCE OF STATE AGENCIES. The attorney general, the Texas Department of Transportation, the Texas Department of Health, and all other departments of state government shall cooperate with the department in the execution of this chapter and the enforcement of state laws concerning public safety and crime prevention and detection.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 165, Sec. 22(34), eff. Sept. 1, 1995.

Sec. 411.011. ASSISTANCE OF STATE EDUCATIONAL INSTITUTIONS. (a) The University of Texas and all other state-supported educational institutions shall:

(1) cooperate with the department in carrying out this chapter;

(2) assist in the giving of instruction in the training schools conducted by the bureau of education; and

(3) assist the bureau of identification and records in making necessary chemical tests and analyses and in making statistical analyses, charts, and reports of law enforcement and violations of law.

(b) The commission and the president of the educational institution called on for assistance shall agree on and arrange the nature and extent of the assistance.

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

Sec. 411.0111. PROVISION OF CERTAIN INFORMATION TO COMPTROLLER. (a) Not later than June 1 of every fifth year, the department shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, date of birth, and driver's license or state identification number of each person about whom the department has such information in its records.

(b) Information provided to the comptroller under this section is confidential and may not be disclosed to the public.

(c) The department shall provide the information in the format prescribed by rule of the comptroller.

Added by Acts 2009, 81st Leg., R.S., Ch. 232 (S.B. 1589), Sec. 5, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 47.01, eff. September 28, 2011.

Sec. 411.012. COMMAND BY GOVERNOR. The governor may assume command and direct the activities of the commission and department during a public disaster, riot, insurrection, or formation of a

dangerous resistance to enforcement of law, or to perform the governor's constitutional duty to enforce law. The governor shall use the personnel of the Texas Highway Patrol only if the other personnel of the department are unable to cope with the emergency.

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

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3033, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.013. EXPENDITURES, DONATIONS, AND APPROPRIATIONS. (a) Repealed by Acts 1997, 75th Leg., ch. 1206, Sec. 28, eff. Sept. 1, 1997.

(b) The department may accept donations of money and other real or personal property from any individual, group, association, corporation, or governmental agency and may use those donations for any purpose designated by the donor that furthers the exercise of duties imposed by law on the department.

(c) Appropriations for the Texas Highway Patrol must be made from the state highway fund.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(31), eff. June 17, 2011.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.21(a), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 790, Sec. 9, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1206, Sec. 28, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(31), eff. June 17, 2011.

Sec. 411.0131. USE OF SEIZED AND FORFEITED ASSETS. (a) The commission by rule shall establish a process under which the commission approves all of the department's dispositions of assets seized or forfeited under state or federal law and received by or appropriated to the department. The commission shall adopt rules under this section in accordance with Chapter 2001. Before approving a disposition, the commission shall consider how the disposition

supports priorities established in the department's strategic plan and whether the disposition complies with applicable federal guidelines.

(b) The department shall file annually with the governor and the presiding officer of each house of the legislature a report on seized and forfeited assets. The report must include:

(1) a summary of receipts, dispositions, and fund balances for the fiscal year derived from both federal and state sources;

(2) regarding receipts, the court in which each case involving seized or forfeited assets was adjudicated, the nature and value of the assets, and the specific intended use of the assets;

(3) regarding dispositions, the departmental control number and category, the division making the request, the specific item and amount requested, the amount the commission approved, and the actual amount expended per item; and

(4) regarding planned dispositions, a description of the broad categories of anticipated dispositions and how they relate to the department's strategic plan.

(c) The department shall, within 30 days after the end of each quarter, report and justify any dispositions of seized or forfeited assets during the quarter that:

(1) differ from the planned dispositions reported under Subsection (b); and

(2) were used for a purpose not considered a priority in the department's strategic plan or not required by law or applicable federal guidelines.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 7, eff. Sept. 1, 1999.

Sec. 411.0132. USE OF FUNDS TO SUPPORT CERTAIN PERSONS. The department may use appropriated funds to purchase food and beverages for:

(1) training functions required of peace officers of the department subject to director approval; and

(2) a person who is:

(A) activated to provide services in response to an emergency situation, incident, or disaster; and

(B) unable to leave or required to remain at the person's assignment area due to the emergency situation, incident, or

disaster.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1270 (H.B. 78), Sec. 2, eff. June 17, 2011.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 341 (H.B. 2343), Sec. 1, eff. June 7, 2021.

Sec. 411.0135. METHOD OF PAYMENT OF FEES AND CHARGES. (a) The department may adopt rules regarding the method of payment of any fee or charge that is imposed or collected by the department.

(b) Rules adopted under Subsection (a) may authorize payment, under circumstances prescribed by the department:

(1) in person, by mail, by telephone, or over the Internet;

(2) by means of electronic funds transfer; or

(3) by means of a valid credit card issued by a financial institution chartered by a state or the federal government or by a nationally recognized credit organization approved by the department.

(c) The department by rule may require, in addition to the amount of the fee or charge, the payment of:

(1) a discount, convenience, or service charge for a payment transaction; or

(2) a service charge in connection with the payment of a payment transaction that is dishonored or refused for lack of funds or insufficient funds.

Added by Acts 2001, 77th Leg., ch. 866, Sec. 3, eff. Sept. 1, 2001.

Sec. 411.014. BUILDINGS AND EQUIPMENT. (a) The state shall provide the necessary buildings, offices, and quarters for the department and its officers and employees in Austin and other places in the state where district headquarters are located. The state shall provide furniture, fixtures, automobiles, motorcycles, horses, firearms, ammunition, uniforms, appliances, and other materials necessary to the proper functioning and operation of the department.

(b) The department's physical plant in Austin is under the department's control and management for the use and benefit of the state in the discharge of the official duties of the department.

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

Sec. 411.0141. MULTIUSE TRAINING AND OPERATIONS CENTER FACILITY. (a) The Texas Facilities Commission shall construct a multiuse training and operations center facility to be used by the department, the Texas military forces, county and municipal law enforcement agencies, and any other military or law enforcement agency, including agencies of the federal government:

(1) for training purposes;

(2) to house law enforcement assets and equipment; and

(3) to support and initiate tactical operations and law enforcement missions.

(b) The Texas Facilities Commission, with the assistance of the department, shall locate and acquire real property for the purpose of constructing the training and operations center facility. The governing body of a county, municipality, or navigation district, on behalf of the county, municipality, or navigation district, may donate real property to the department for the facility. The donation may be in fee simple or otherwise.

(c) The department shall, with the assistance of the Texas Facilities Commission, design the training and operations center facility.

(d) On completion of the construction of the training and operations center facility, the Texas Facilities Commission shall transfer ownership of the facility, including the real property and buildings, to the department.

(e) The department shall manage the training and operations center facility and may adopt rules necessary to implement this section. The department shall make the facility available for use by the department, the Texas military forces, county and municipal law enforcement agencies, and any other military or law enforcement agency, including agencies of the federal government. The department may set and collect fees for the use of the facility.

Added by Acts 2015, 84th Leg., R.S., Ch. 333 (H.B. 11), Sec. 11, eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 944 (S.B. 1805), Sec. 1, eff. September 1, 2017.

Sec. 411.015. ORGANIZATION. (a) Except as provided by Subsection (b), the designation by this chapter of certain divisions and division chiefs is not mandatory and this chapter does not prevent the commission from reorganization or consolidation within the department in the interest of more efficient and economical management and direction of the department. The director, with the commission's approval, may organize and maintain within the department divisions of service considered necessary for the efficient conduct of the department's work.

(b) The division relating to the Texas Rangers may not be abolished.

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

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.08, eff. September 1, 2009.

Sec. 411.016. COMPENSATORY TIME; OVERTIME PAY. (a) This section applies to an officer commissioned by the department who is not employed in a position that the director has declared to be administrative, executive, or professional.

(b) If, during a 24-hour period, the total number of hours worked by a commissioned officer equals more than eight hours, the excess is overtime.

(b-1) If, during a work week, the total number of hours worked by a commissioned officer equals more than 40 hours, the excess is overtime.

(c) This section applies only to the computation of overtime entitlements and does not apply to the method of compensating a commissioned officer for working on regularly scheduled state holidays.

(d) A commissioned officer may receive a supplement paid by the federal government earned while working on a project funded by the federal government, and that supplement may not be considered in determining a commissioned officer's entitlement under this section.

(e) The department may compensate an officer commissioned by the department for the overtime earned by the officer by:

(1) allowing or requiring the officer to take compensatory leave at the rate of 1-1/2 hours of leave for each hour of overtime earned; or

(2) paying the officer for the overtime hours earned at the rate equal to 1-1/2 times the officer's regular hourly pay rate.

(f) If a conflict exists between this section and Section 659.015, this section controls.

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

Acts 2017, 85th Leg., R.S., Ch. 293 (S.B. 297), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 293 (S.B. 297), Sec. 2, eff. September 1, 2017.

Sec. 411.0161. DONATION OF ACCRUED COMPENSATORY TIME OR ACCRUED ANNUAL LEAVE FOR LEGISLATIVE PURPOSES. (a) The director shall allow a department employee to voluntarily transfer to a legislative leave pool up to eight hours of compensatory time or annual leave per year earned by the employee.

(b) The director or designee shall administer the legislative leave pool.

(c) The Public Safety Commission shall adopt rules and prescribe procedures relating to the operation of the legislative leave pool.

(d) The director or designee shall credit the legislative leave pool with the amount of time contributed by an employee and deduct a corresponding amount of time from the employee's earned compensatory time or annual leave as if the employee had used the time for personal purposes.

(e) An employee is entitled to use time contributed to the legislative leave pool if the employee uses the time for legislative leave on behalf of a law enforcement association of at least 1,000 active or retired members governed by a board of directors.

(f) The director of the pool administrator shall transfer time from the pool to the employee and credit the time to the employee.

(g) An employee may only withdraw time from the legislative leave pool in coordination and with the consent of the president or designee of the law enforcement association described in Subsection

(e), and may not draw more than 80 hours of time from the pool in a 160-hours work cycle with the maximum time taken not to exceed 480 hours per fiscal year.

(h) In addition to Subsection (g), the use of any time from the legislative leave pool must also be in accordance with rules adopted by the Public Safety Commission.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 6.02, eff. September 1, 2009.

Sec. 411.0162. SALARIES FOR CERTAIN TROOPERS. (a) Notwithstanding any other provision of law and subject to the availability of money appropriated for that purpose, the department may pay its employees classified as Trooper Trainee, Probationary Trooper, and Trooper I at rates that exceed the maximum rates designated in Salary Schedule C of the position classification schedule prescribed by the General Appropriations Act for the state fiscal biennium ending August 31, 2013, for that position by up to 10 percent.

Added by Acts 2013, 83rd Leg., R.S., Ch. 680 (H.B. 2100), Sec. 1, eff. September 1, 2013.

Sec. 411.0163. HIRING OFFICERS WITH PREVIOUS LAW ENFORCEMENT EXPERIENCE. Notwithstanding any other provision of law, the department may, at the time a commissioned officer is hired, elect to credit up to four years of experience as a peace officer in the state as years of service for the purpose of calculating the officer's salary under Schedule C. All officers are subject to the one-year probationary period under Section 411.007(g) notwithstanding the officer's rank or salary classification.

Added by Acts 2015, 84th Leg., R.S., Ch. 333 (H.B. 11), Sec. 6, eff. September 1, 2015.

Sec. 411.0164. 50-HOUR WORKWEEK FOR COMMISSIONED OFFICERS. Notwithstanding any other law, the department may implement a 10-hour workday and 50-hour workweek for commissioned officers of the

department.

Added by Acts 2015, 84th Leg., R.S., Ch. 333 (H.B. 11), Sec. 7, eff. September 1, 2015.

Sec. 411.0165. VETERAN APPLICANTS FOR TROOPER TRAINING. The department may accept a person applying to the department's trooper trainee academy if the person:

(1) has served four or more years in the United States armed forces as a member of the military police or other security force and received an honorable discharge; and

(2) meets all other department requirements for a commissioned officer.

Added by Acts 2015, 84th Leg., R.S., Ch. 333 (H.B. 11), Sec. 8, eff. September 1, 2015.

Sec. 411.017. UNAUTHORIZED ACTS INVOLVING DEPARTMENT NAME, INSIGNIA, OR DIVISION NAME. (a) A person commits an offense if, without the director's authorization, the person:

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

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

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

(b) In this section, "department insignia" means an insignia or design prescribed by the director for use by officers and employees of the department in connection with their official activities. An insignia is deceptively similar to the department's if it is not prescribed by the department but a reasonable person would presume that it was prescribed by the department.

(c) A district or county court, on application of the attorney

general or of the district attorney or prosecuting attorney performing the duties of district attorney for the district in which the court is located, may enjoin a violation or threatened violation of this section on a showing that a violation has occurred or is likely to occur.

(d) It is an affirmative defense to a prosecution under this section that the object is used exclusively:

(1) for decorative purposes, maintained or preserved in a decorative state, and not offered for sale; or

(2) in an artistic or dramatic presentation, and before the use of the object the producer of the presentation notifies the director in writing of the intended use, the location where the use will occur, and the period during which the use will occur.

(e) An offense under this section is a Class A misdemeanor, unless the object is shipped by United States mail or by any type of commercial carrier from a point outside the State of Texas to a point inside the state if the shipper or his agent has been sent notification by registered United States mail of this section prior to the shipment, in which event the offense is a felony of the third degree.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 496, Sec. 1, eff. Sept. 1, 1989.

Sec. 411.018. HAZARDOUS MATERIALS. (a) The director shall adopt rules relating to the reporting of all transportation incidents involving releases of reportable quantities of hazardous materials occurring on public roads or railroads that are not on a private industrial site. The rules must be consistent with federal rules relating to hazardous materials adopted under federal law. The director may adopt all or part of the federal hazardous materials rules by reference.

(b) The department by rule shall require that all carriers of hazardous materials report all incidents involving a release of reportable quantities of hazardous materials to the department.

(c) The department shall serve as the central repository of statistical information relating to incidents involving release of hazardous materials.

(d) The department is responsible for the on-site coordination

of all hazardous materials transportation emergencies. The director shall adopt necessary rules to implement this subsection.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 2.22(a), eff. Sept. 1, 1989.

Sec. 411.019. TOLL-FREE NUMBER. (a) The department shall provide a 24-hour toll-free telephone number for use by the public in reporting traffic offenses, including driving while intoxicated, suspected criminal activity, and traffic collisions and other emergencies.

(b) On receiving a report of an offense, the department shall contact the law enforcement agency of the jurisdiction where the reported suspected driver or incident was observed or shall dispatch department officers.

Added by Acts 1989, 71st Leg., ch. 1251, Sec. 1, eff. June 16, 1989.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 709 (H.B. 2190), Sec. 130, eff. September 1, 2023.

Sec. 411.0195. PUBLIC COMPLAINTS. (a) The department shall maintain a system to promptly and efficiently act on complaints filed with the department. The department shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The department shall make information available describing its procedures for complaint investigation and resolution.

(c) The department shall periodically notify the complaint parties of the status of the complaint until final disposition.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1146, Sec. 5.15, eff. September 1, 2009.

(e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1146, Sec. 5.15, eff. September 1, 2009.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 10, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 8, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.09, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.15, eff. September 1, 2009.

Sec. 411.0196. ACCESS TO PROGRAMS. The department shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability can be provided reasonable access to the department's programs.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 10, eff. Sept. 1, 1993.

Sec. 411.020. PURCHASE OF FIREARM FROM DEPARTMENT BY OFFICER. (a) A commissioned officer of the department may purchase for an amount set by the department, not to exceed fair market value, a firearm issued to the officer by the department if the firearm is not listed as a prohibited weapon under Section 46.05, Penal Code, and if the firearm is retired by the department for replacement purposes.

(b) The department may adopt rules for the sale of a retired firearm to an officer of the department.

Added by Acts 1991, 72nd Leg., ch. 37, Sec. 1, eff. April 19, 1991.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.35, eff. Sept. 1, 1995.

Sec. 411.0201. REPRODUCTION OF RECORDS. (a) Except as provided by Subsection (b), the department may photograph, microphotograph, or film any record in connection with the issuance of a driver's license or commercial driver's license and any record of any division of the department.

(b) None of the following may be photographed or filmed to dispose of the original record:

(1) an original fingerprint card;

(2) any evidence submitted in connection with a criminal case; or

(3) a confession or statement made by the defendant in a

criminal case.

(c) The department may create original records in micrographic form on media, such as computer output microfilm.

(d) A photograph, microphotograph, or film of a record reproduced under Subsection (a) is equivalent to the original record for all purposes, including introduction as evidence in all courts and administrative agency proceedings. A certified or authenticated copy of such a photograph, microphotograph, or film is admissible as evidence equally with the original photograph, microphotograph, or film.

(e) The director or an authorized representative may certify the authenticity of a photograph, microphotograph, or film of a record reproduced under this section and shall charge a fee for the certified photograph, microphotograph, or film as provided by law.

(f) Certified records shall be furnished to any person who is authorized by law to receive them.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 6, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1187, Sec. 3, eff. Sept. 1, 1997.

Sec. 411.0202. DISPOSAL OF RECORDS. (a) Unless otherwise required by law and subject to Chapter 441, the department may dispose of or destroy records that the department determines are not required for the performance of the department's duties and functions.

(b) The department may dispose of or destroy a defendant's original fingerprint card if:

(1) the department has on file and retains another original fingerprint card for the defendant; or

(2) the defendant has attained the age of 80.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 7, eff. Sept. 1, 1995.

Sec. 411.0206. ABATEMENT OR DEFERRAL FOR VICTIMS OF IDENTITY THEFT. (a) In this section:

(1) "License" means a license, certificate, permit, or other authorization issued by the department.

(2) "Victim of identity theft" means an individual who has

filed a criminal complaint alleging the commission of an offense under Section 32.51, Penal Code, other than a person who is convicted of an offense under Section 37.08, Penal Code, with respect to that complaint.

(b) The department may abate or defer a mandatory suspension or revocation of a license if the license holder presents evidence acceptable to the department that:

(1) the license holder is the victim of identity theft; and

(2) the person against whom a criminal complaint alleging the commission of an offense under Section 32.51, Penal Code, has been filed, and not the license holder, engaged in the act or omission that mandates the suspension or revocation.

Added by Acts 2011, 82nd Leg., R.S., Ch. 796 (H.B. 2256), Sec. 1, eff. June 17, 2011.

Sec. 411.0207. PUBLIC CORRUPTION UNIT. (a) In this section, "organized criminal activity" means conduct that constitutes an offense under Section 71.02, Penal Code.

(b) A public corruption unit is created within the department to investigate and assist in the management of allegations of participation in organized criminal activity by:

(1) an individual elected, appointed, or employed to serve as a peace officer for a governmental entity of this state under Article 2A.001, Code of Criminal Procedure; or

(2) a federal law enforcement officer while performing duties in this state.

(c) The unit shall:

(1) assist district attorneys and county attorneys in the investigation and prosecution of allegations described by Subsection (b);

(2) if requested by the agency, assist a state or local law enforcement agency with the investigation of such allegations against law enforcement officers in the agency;

(3) assist the United States Department of Justice or any other appropriate federal department or agency in the investigation and prosecution of allegations described by Subsection (b);

(4) if requested by the agency, assist a federal law enforcement agency with the investigation of such allegations against

law enforcement officers in the agency;

(5) serve as a clearinghouse for information relating to the investigation and prosecution of allegations described by Subsection (b); and

(6) report to the highest-ranking officer of the Texas Rangers division of the department.

(d) On written approval of the director or of the chair of the commission, the highest-ranking officer of the Texas Rangers division of the department may initiate an investigation of an allegation of participation in organized criminal activity by a law enforcement officer described by Subsection (b)(1). Written approval under this subsection must be based on cause.

(e) To the extent allowed by law, a state or local law enforcement agency shall cooperate with the public corruption unit by providing information requested by the unit as necessary to carry out the purposes of this section. Information described by this subsection is excepted from required disclosure under Chapter 552 in the manner provided by Section 552.108.

Added by Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. 2086), Sec. 41, eff. September 1, 2009.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.082, eff. January 1, 2025.

Sec. 411.0208. RESERVE OFFICER CORPS. (a) The commission may provide for the establishment of a reserve officer corps consisting of retired or previously commissioned peace officers, as defined by Article 2A.001, Code of Criminal Procedure, who retired or resigned in good standing.

(b) The commission shall establish qualifications and standards of training for members of the reserve officer corps.

(c) The commission may limit the size of the reserve officer corps.

(d) The director shall appoint the members of the reserve officer corps. Members serve at the director's discretion.

(e) The director may call the reserve officer corps into service at any time the director considers it necessary to have additional officers to assist the department in conducting background

investigations, sex offender compliance checks, and other duties as determined necessary by the director.

Added by Acts 2015, 84th Leg., R.S., Ch. 333 (H.B. 11), Sec. 9, eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 152 (H.B. 1780), Sec. 1, eff. September 1, 2017.
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.083, eff. January 1, 2025.

Sec. 411.0209. DEPARTMENT ASSISTANCE AT INTERNATIONAL BORDER CHECKPOINTS. (a) To prevent the unlawful transfer of contraband from this state to the United Mexican States and other unlawful activity, the department shall implement a strategy for providing to federal authorities and to local law enforcement authorities working with those federal authorities at international border checkpoints assistance in the interdiction of weapons, bulk currency, stolen vehicles, and other contraband, and of fugitives, being smuggled into the United Mexican States.
(b) The department may share with the federal government the cost of staffing any international border checkpoints for the purposes described by this section.
(c) The director and applicable local law enforcement authorities shall adopt procedures as necessary to administer this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 333 (H.B. 11), Sec. 9, eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Text of section as added by Acts 2023, 88th Leg., R.S., Ch. 196 (S.B. 602), Sec. 2

For text of section as added by Acts 2023, 88th Leg., R.S., Ch. 208 (S.B. 1484), Sec. 1, see other Sec. 411.02093.
Sec. 411.02093. STATE CRIMINAL LAW TRAINING PROGRAM FOR BORDER

PATROL AGENTS. (a) The department shall:

(1) develop a training program for Border Patrol Agents of the United States Customs and Border Protection on the criminal laws of this state, including laws relating to arrest, search, and seizure; and

(2) on request, provide the training program developed under Subdivision (1) to a Border Patrol Agent.

(b) The department may enter into a written agreement with the United States Customs and Border Protection for purposes of providing the training program developed under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 196 (S.B. 602), Sec. 2, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Text of section as added by Acts 2023, 88th Leg., R.S., Ch. 208 (S.B. 1484), Sec. 1

For text of section as added by Acts 2023, 88th Leg., R.S., Ch. 196 (S.B. 602), Sec. 2, see other Sec. 411.02093.

Sec. 411.02093. BORDER OPERATIONS TRAINING PROGRAM. (a) The department, in coordination with local law enforcement agencies, shall establish and administer a border operations training program for peace officers employed by local law enforcement agencies that will prepare the officers to:

(1) collaborate and cooperate with and assist any law enforcement agency in the interdiction, investigation, and prosecution of criminal activity in the Texas-Mexico border region; and

(2) collaborate and cooperate with and assist district attorneys, county attorneys, the border prosecution unit, and other prosecutors in the investigation and prosecution of allegations of criminal activity in the Texas-Mexico border region.

(b) The training program under Subsection (a) must include:

(1) information on:

(A) criminal activity occurring along the Texas-Mexico border, including drug trafficking and trafficking of persons and

other activity carried out by cartels, transnational gangs, and other groups engaged in organized criminal activity; and

(B) methods for identifying northbound, southbound, and intrastate criminal activity associated with drug trafficking, trafficking of persons, and other organized criminal activity, including the provision of services to victims of trafficking;

(2) best practices for investigating and prosecuting the criminal activity described by Subdivision (1) and securing the Texas-Mexico border; and

(3) an overview of the department's operations at the Texas-Mexico border, including any collaboration with the United States Customs and Border Protection.

(c) The department shall identify opportunities for a peace officer described by Subsection (a) to assist in the department's duties related to border operations. The department may authorize the officer to assist in carrying out those duties.

(d) A peace officer authorized by the department to assist in carrying out duties related to the department's border operations as described by Subsection (c) is not entitled to compensation from the department for the assistance provided.

(e) The department may partner with federal agencies in administering the training program under Subsection (a) and facilitating any assistance provided by a peace officer under Subsection (c).

Added by Acts 2023, 88th Leg., R.S., Ch. 208 (S.B. 1484), Sec. 1, eff. September 1, 2023.

Sec. 411.02095. STATEWIDE PROGRAM FOR THE PREVENTION AND DETECTION OF CERTAIN CRIMINAL OFFENSES. (a) The department may establish a program throughout this state for preventing and detecting:

(1) the unlawful possession or the unlawful and imminent movement or transfer between this state and an adjacent state or the United Mexican States of:

(A) firearms, in violation of Section 46.14, Penal Code;

(B) controlled substances, in violation of Chapter 481, Health and Safety Code; or

(C) currency, in violation of Section 34.02, Penal Code; and

(2) the commission or imminent commission of the offenses of smuggling of persons under Section 20.05, Penal Code, and trafficking of persons under Section 20A.02, Penal Code, occurring in this state or involving travel between this state and an adjacent state or the United Mexican States.

(b) A peace officer participating in a program established under this section must have reasonable suspicion or probable cause to believe that firearms, controlled substances, or currency are unlawfully possessed or being unlawfully and imminently moved or transferred between this state and an adjacent state or the United Mexican States or that an offense described by Subsection (a)(2) has been committed or imminently will be committed, as applicable, before exercising the officer's authority under the program, including stopping a person or vehicle or coming into contact with a person.

(c) In developing the program, the department shall establish:

(1) clear guidelines and procedures to mitigate any unnecessary negative impact on the flow of trade, commerce, or daily business activities in locations where the program is implemented; and

(2) protocols, standards, and guidelines to minimize any intrusion on a person in an encounter with a peace officer exercising the officer's authority under the program.

(d) The department shall implement the program established under this section in conjunction with federal and local law enforcement agencies.

(e) The director shall adopt rules as necessary to implement and administer a program established under this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 1221 (S.B. 1853), Sec. 1, eff. June 19, 2015.
Redesignated from Government Code, Section 411.0208 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(12), eff. September 1, 2017.

For expiration of this section, see Subsection (d).

Sec. 411.02096. REPORT REGARDING CERTAIN FIREARM STATISTICS. (a) Not later than January 31 of each year, the department shall

collect information for the preceding calendar year related to the carrying of firearms by persons in this state, including:

(1) the number of persons who applied for a license to carry a handgun under Subchapter H compared to the yearly average number of people who applied for a license from 2010 through 2020; and

(2) any other relevant information related to the carrying of firearms by persons in this state.

(b) The department shall identify the entities that possess information required by Subsection (a) and require each entity to report the information to the department in the manner prescribed by the department.

(c) Not later than February 1 of each year, the department shall prepare and submit to the governor, the lieutenant governor, and each member of the legislature a report that includes the information described by Subsection (a).

(d) This section expires September 1, 2028.

Added by Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 7, eff. September 1, 2021.

Sec. 411.02097. FIREARM SAFETY. The department shall develop and post on the department's Internet website a course on firearm safety and handling. The course must be accessible to the public free of charge.

Added by Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 7, eff. September 1, 2021.

SUBCHAPTER B. TEXAS RANGERS

Sec. 411.021. COMPOSITION. The Texas Rangers are a major division of the department consisting of the number of rangers authorized by the legislature. The highest ranking officer of the Texas Rangers is responsible to and reports directly to the director. Officers are entitled to compensation as provided by the legislature.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 790, Sec. 11, eff. Sept. 1, 1993.

Sec. 411.022. AUTHORITY OF OFFICERS. (a) An officer of the Texas Rangers is governed by the law regulating and defining the powers and duties of sheriffs performing similar duties, except that the officer may make arrests, execute process in a criminal case in any county and, if specially directed by the judge of a court of record, execute process in a civil case.

(b) An officer of the Texas Rangers who arrests a person charged with a criminal offense shall immediately convey the person to the proper officer of the county where the person is charged and shall obtain a receipt. The state shall pay all necessary expenses incurred under this subsection.

(c) An officer of the Texas Rangers has the authority to investigate offenses against public administration prosecuted under Subchapter B-1.

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

Acts 2015, 84th Leg., R.S., Ch. 927 (H.B. 1690), Sec. 4, eff. September 1, 2015.

Sec. 411.0221. QUALIFICATIONS. (a) To be commissioned as an officer of the Texas Rangers, a person must:

(1) have at least eight years of experience as a full-time, paid peace officer, including at least four years of experience in the department; and

(2) be a commissioned member of the department.

(b) The Texas Rangers is an equal employment opportunity employer; all personnel decisions shall be made without regard to race, color, sex, national origin, or religion.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 12, eff. Sept. 1, 1993.

Sec. 411.0222. ELIGIBILITY FOR PROMOTION. Except as provided by Section 411.0223, an officer of the Texas Rangers is eligible for promotion only if the officer has served in the next lower position for at least two years before the date of promotion.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 12, eff. Sept. 1, 1993.

Sec. 411.0223. APPOINTMENT OF HIGHEST-RANKING OFFICERS. (a) Except as provided by Subsection (c), an officer is eligible for appointment by the director to chief of the Texas Rangers only if the officer has at least five years of supervisory experience as a commissioned member of the Texas Rangers.

(b) Except as provided by Subsection (c), an officer is eligible for appointment by the director to assistant chief of the Texas Rangers only if the officer has at least four years of supervisory experience as a commissioned member of the Texas Rangers.

(c) If there are fewer than two qualified officers for appointment to chief or assistant chief of the Texas Rangers, the director may appoint an officer to the position of chief or assistant chief of the Texas Rangers only if the officer has at least two years of supervisory experience as a commissioned member of the Texas Rangers.

(d) Except as provided by Subsection (e), an officer is eligible for appointment by the director to the rank of major of the Texas Rangers only if the officer has at least one year of supervisory experience as a captain of the Texas Rangers.

(e) If there are fewer than two qualified captains for appointment to the rank of major of the Texas Rangers, the director may appoint a lieutenant to the position of major of the Texas Rangers only if the lieutenant has at least two years of supervisory experience as a commissioned member of the Texas Rangers.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 12, eff. Sept. 1, 1993.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1082 (H.B. 3412), Sec. 1, eff. September 1, 2013.

Sec. 411.023. SPECIAL RANGERS. (a) The commission may appoint as special rangers honorably retired commissioned officers of the department and not more than 300 other persons.

(b) A special ranger is subject to the orders of the commission and the governor for special duty to the same extent as other law enforcement officers provided for by this chapter, except that a special ranger may not enforce a law except one designed to protect life and property and may not enforce a law regulating the use of a state highway by a motor vehicle. A special ranger is not connected

with a ranger company or uniformed unit of the department.

(c) Before issuance of a commission to a special ranger the person shall enter into a good and sufficient bond executed by a surety company authorized to do business in the state in the amount of $2,500, approved by the director, and indemnifying all persons against damages resulting from an unlawful act of the special ranger.

(d) A special ranger is not entitled to compensation from the state for service as a special ranger.

(e) A special ranger commission expires January 1 of the first odd-numbered year after appointment. The director may revoke a special ranger commission at any time for cause.

(f) The commission shall authorize a badge for persons appointed as special rangers under this section that is distinct in appearance from the badge authorized for special Texas Rangers under Section 411.024 and from any badge issued to a Texas Ranger.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 9, eff. Sept. 1, 1999.

Sec. 411.024. SPECIAL TEXAS RANGERS. (a) The commission may appoint as a special Texas Ranger an honorably retired or retiring commissioned officer of the department whose position immediately preceding retirement is an officer of the Texas Rangers.

(b) A special Texas Ranger is subject to the orders of the commission and the governor for special duty to the same extent as other law enforcement officers provided for by this chapter, except that a special Texas Ranger may not enforce a law except one designed to protect life and property and may not enforce a law regulating the use of a state highway by a motor vehicle. A special Texas Ranger is not connected with a ranger company or uniformed unit of the department.

(c) Before issuance of a commission to a special Texas Ranger the person shall enter into a good and sufficient bond executed by a surety company authorized to do business in the state in the amount of $2,500, approved by the director, and indemnifying all persons against damages resulting from an unlawful act of the special Texas Ranger.

(d) A special Texas Ranger is not entitled to compensation from the state for service as a special Texas Ranger.

(e) A special Texas Ranger commission expires January 1 of the first odd-numbered year after appointment. The commission may revoke the commission of a special Texas Ranger who commits a violation of a rule of the department for which an active officer of the Texas Rangers would be discharged.

(f) The commission shall authorize a badge for persons appointed as special Texas Rangers under this section that is distinct in appearance from the badge authorized for special rangers under Section 411.023.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 10, eff. Sept. 1, 1999.

SUBCHAPTER B-1. PUBLIC INTEGRITY UNIT

Sec. 411.0251. DEFINITIONS. In this subchapter:

(1) "Offense" means a prohibited act for which state law imposes a criminal or civil penalty.

(2) "Prosecuting attorney" means a district attorney, criminal district attorney, or county attorney.

(3) "State agency" means a department, commission, board, office, council, authority, or other agency in the executive branch of state government that is created by the constitution or a statute of this state, including a university system or institution of higher education as defined by Section 61.003, Education Code.

(4) "State employee" means an individual, other than a state officer, who is employed by:

(A) a state agency;

(B) the Supreme Court of Texas, the Court of Criminal Appeals of Texas, a court of appeals, or the Texas Judicial Council; or

(C) either house of the legislature or a legislative agency, council, or committee, including the Legislative Budget Board, the Texas Legislative Council, the State Auditor's Office, and the Legislative Reference Library.

(5) "State officer" means an elected officer, an appointed officer, a salaried appointed officer, an appointed officer of a major state agency, or the executive head of a state agency.

Added by Acts 2015, 84th Leg., R.S., Ch. 927 (H.B. 1690), Sec. 1, eff. September 1, 2015.

Sec. 411.0252. OFFENSES AGAINST PUBLIC ADMINISTRATION. For purposes of this subchapter, the following are offenses against public administration:

(1) an offense under Title 8, Penal Code, committed by a state officer or a state employee in connection with the powers and duties of the state office or state employment;

(2) an offense under Chapter 301, 302, 571, 572, or 2004 committed by a state officer or a state employee in connection with the powers and duties of the state office or state employment or by a candidate for state office;

(3) an offense under Chapter 573 committed by a state officer in connection with the powers and duties of the state office; and

(4) an offense under Title 15, Election Code, committed in connection with:

(A) a campaign for or the holding of state office; or

(B) an election on a proposed constitutional amendment.

Added by Acts 2015, 84th Leg., R.S., Ch. 927 (H.B. 1690), Sec. 1, eff. September 1, 2015.

Sec. 411.0253. PUBLIC INTEGRITY UNIT. (a) The Texas Rangers division of the department shall establish and support a public integrity unit.

(b) On receiving a formal or informal complaint regarding an offense against public administration or on request of a prosecuting attorney or law enforcement agency, the public integrity unit may perform an initial investigation into whether a person has committed an offense against public administration.

(c) The Texas Rangers have authority to investigate an offense against public administration, any lesser included offense, and any other offense arising from conduct that constitutes an offense against public administration.

(d) If an initial investigation by the public integrity unit demonstrates a reasonable suspicion that an offense against public administration occurred, the matter shall be referred to the prosecuting attorney of the county in which venue is proper under Section 411.0256 of this code or Chapter 13A, Code of Criminal Procedure, as applicable.

(e) The public integrity unit shall, on request of the prosecuting attorney described by Subsection (d), assist the attorney in the investigation of an offense against public administration.

Added by Acts 2015, 84th Leg., R.S., Ch. 927 (H.B. 1690), Sec. 1, eff. September 1, 2015.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.084, eff. January 1, 2025.

Sec. 411.0254. NOTIFICATION REGARDING DISPOSITION OF CASE. The prosecuting attorney shall notify the public integrity unit of:

(1) the termination of a case investigated by the public integrity unit; or

(2) the results of the final disposition of a case investigated by the public integrity unit, including the final adjudication or entry of a plea.

Added by Acts 2015, 84th Leg., R.S., Ch. 927 (H.B. 1690), Sec. 1, eff. September 1, 2015.

Sec. 411.0255. DISQUALIFICATION OF PROSECUTING ATTORNEY OR JUDGE; SELECTION OF PROSECUTING ATTORNEY BY PRESIDING JUDGE OF ADMINISTRATIVE JUDICIAL REGION. (a) In this section, "presiding judges" means the presiding judges of the administrative judicial regions.

(b) A prosecuting attorney may request that the court with jurisdiction over the complaint permit the attorney to recuse himself or herself for good cause in a case investigated under this subchapter, and on submitting the notice of recusal, the attorney is disqualified.

(b-1) The judge of a court with jurisdiction over a complaint may request that the presiding judges permit the judge to recuse himself or herself for good cause in a case investigated under this subchapter, and on submitting the notice of recusal, the judge is disqualified.

(b-2) The public integrity unit shall inform the judge of the court with jurisdiction over a complaint if the prosecuting attorney is disqualified for purposes of Article 2A.104, Code of Criminal

Procedure, because the prosecuting attorney is the subject of a criminal investigation under this subchapter based on credible evidence of criminal misconduct. On showing that the prosecuting attorney is the subject of the investigation, the judge shall order the prosecuting attorney disqualified under Article 2A.105, Code of Criminal Procedure.

(b-3) If the judge of the court with jurisdiction over a complaint described by Subsection (b-2) is also disqualified, the public integrity unit shall inform the presiding judges of the prosecuting attorney's disqualification under that subsection.

(b-4) The public integrity unit shall inform the presiding judges if a judge of a court with jurisdiction over a complaint is disqualified because the judge is the subject of a criminal investigation under this subchapter based on credible evidence of criminal misconduct. On showing that the judge is the subject of the investigation, the presiding judges shall order the judge disqualified. Disqualification under this subsection applies only to the judge's access to the criminal investigation pending against the judge and to any prosecution of a criminal charge resulting from that investigation.

(c) Following the disqualification or recusal of a prosecuting attorney under this section, the presiding judges shall appoint a prosecuting attorney from another county in that administrative judicial region by majority vote. A prosecuting attorney selected under this subsection has the authority to represent the state in the prosecution of the offense.

(c-1) Following the disqualification of a judge of a court with jurisdiction over a complaint under this section, the presiding judges by majority vote shall appoint a judge from a county within the administrative judicial region. A judge selected under this subsection has jurisdiction over the complaint.

(d) The prosecutor selected under this section may pursue a waiver to extend the statute of limitations by no more than two years. If the waiver adds less than two years to limitations, the prosecutor may pursue a successive waiver for good cause shown to the court, providing that the total time of all waivers does not exceed two years.

Added by Acts 2015, 84th Leg., R.S., Ch. 927 (H.B. 1690), Sec. 1, eff. September 1, 2015.

Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1296 (H.B. 3531), Sec. 1, eff. June 14, 2019.
Acts 2019, 86th Leg., R.S., Ch. 1296 (H.B. 3531), Sec. 2, eff. June 14, 2019.
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.085, eff. January 1, 2025.

Sec. 411.0256. VENUE. Notwithstanding Chapter 13A, Code of Criminal Procedure, or other law, if the defendant is a natural person, venue for prosecution of an offense against public administration and lesser included offenses arising from the same transaction is the county in which the defendant resided at the time the offense was committed.

Added by Acts 2015, 84th Leg., R.S., Ch. 927 (H.B. 1690), Sec. 1, eff. September 1, 2015.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.086, eff. January 1, 2025.

Sec. 411.0257. RESIDENCE. For the purposes of this subchapter, a person resides in the county where that person:
(1) claims a residence homestead under Chapter 41, Property Code, if that person is a member of the legislature;
(2) claimed to be a resident before being subject to residency requirements under Article IV, Texas Constitution, if that person is a member of the executive branch of this state;
(3) claims a residence homestead under Chapter 41, Property Code, if that person is a justice on the supreme court or judge on the court of criminal appeals; or
(4) otherwise claims residence if no other provision of this section applies.

Added by Acts 2015, 84th Leg., R.S., Ch. 927 (H.B. 1690), Sec. 1, eff. September 1, 2015.

Sec. 411.0258. COOPERATION OF STATE AGENCIES AND LOCAL LAW

ENFORCEMENT AGENCIES. (a) To the extent allowed by law, a state agency or local law enforcement agency shall cooperate with the public integrity unit and prosecuting attorney by providing resources and information requested by the unit as necessary to carry out the purposes of this subchapter.

(b) Information disclosed under this section is confidential and not subject to disclosure under Chapter 552.

Added by Acts 2015, 84th Leg., R.S., Ch. 927 (H.B. 1690), Sec. 1, eff. September 1, 2015.

Sec. 411.0259. SUBPOENAS. (a) In connection with an investigation of an alleged offense against public administration, the public integrity unit may issue a subpoena to compel the production, for inspection or copying, of relevant evidence that is in this state.

(b) A subpoena may be served personally or by certified mail.

(c) If a person fails to comply with a subpoena, the public integrity unit, acting through the general counsel of the department, may file suit to enforce the subpoena in a district court in this state. On finding that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena. The court may punish a person who fails to obey the court order.

Added by Acts 2015, 84th Leg., R.S., Ch. 927 (H.B. 1690), Sec. 1, eff. September 1, 2015.

SUBCHAPTER C. TEXAS HIGHWAY PATROL

Sec. 411.031. COMPOSITION. The Texas Highway Patrol is a division of the department consisting of the chief patrol officer, the number of captains, sergeants, and privates authorized by the legislature, and administrative and clerical help as the commission determines. A person's literary attainment does not preclude the person's appointment as a private if the person is otherwise qualified. The chief patrol officer is the executive officer of the patrol. Officers are entitled to compensation as provided by the legislature.

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

Sec. 411.032. POWERS AND DUTIES OF OFFICERS. In addition to the powers and duties provided by law for the officers, noncommissioned officers, and enlisted persons of the Texas Highway Patrol, they have the powers and authority provided by law for members of the Texas Rangers force.

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

Sec. 411.033. CERTAIN EQUIPMENT FOR VEHICLES. The department shall equip all motor vehicles used by officers of the Texas Highway Patrol in discharging the officers' official duties with bullet-resistant windshields.

Added by Acts 2021, 87th Leg., R.S., Ch. 980 (S.B. 2222), Sec. 1, eff. June 18, 2021.

SUBCHAPTER D. ADMINISTRATIVE DIVISION

Sec. 411.041. COMPOSITION. The administrative division of the department consists of the bureaus of identification and records, communications, intelligence, and training. The director, with the advice and consent of the commission, shall employ chiefs, experts, operators, instructors, and assistants as necessary for the operation of this division and its bureaus.

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

Sec. 411.042. BUREAU OF IDENTIFICATION AND RECORDS. (a) The director shall appoint, with the advice and consent of the commission, a chief of the bureau of identification and records to be the executive officer of the bureau. The chief and at least one assistant must be recognized identification experts with at least three years' actual experience.

(b) The bureau of identification and records shall:

(1) procure and file for record photographs, pictures, descriptions, fingerprints, measurements, and other pertinent information of all persons arrested for or charged with a criminal

offense or convicted of a criminal offense, regardless of whether the conviction is probated;

(2) collect information concerning the number and nature of offenses reported or known to have been committed in the state and the legal steps taken in connection with the offenses, and other information useful in the study of crime and the administration of justice, including information that enables the bureau to create a statistical breakdown of:

(A) offenses in which family violence was involved;

(B) offenses under Sections 22.011 and 22.021, Penal Code; and

(C) offenses under Sections 20A.02, 43.02, 43.021, 43.03, 43.031, 43.04, 43.041, and 43.05, Penal Code;

(3) make ballistic tests of bullets and firearms and chemical analyses of bloodstains, cloth, materials, and other substances for law enforcement officers of the state;

(4) cooperate with identification and crime records bureaus in other states and the United States Department of Justice;

(5) maintain a list of all previous background checks for applicants for any position regulated under Chapter 1702, Occupations Code, who have undergone a criminal history background check as required by that chapter, if the check indicates a Class B misdemeanor or equivalent offense or a greater offense;

(6) collect information concerning the number and nature of protective orders and magistrate's orders of emergency protection and all other pertinent information about all persons subject to active orders, including pertinent information about persons subject to conditions of bond imposed for the protection of the victim in any family violence, sexual assault or abuse, indecent assault, stalking, or trafficking case. Information in the law enforcement information system relating to an active order shall include:

(A) the name, sex, race, date of birth, personal descriptors, address, and county of residence of the person to whom the order is directed;

(B) any known identifying number of the person to whom the order is directed, including the person's social security number or driver's license number;

(C) the name and county of residence of the person protected by the order;

(D) the residence address and place of employment or

business of the person protected by the order;

(E) the child-care facility or school where a child protected by the order normally resides or which the child normally attends;

(F) the relationship or former relationship between the person who is protected by the order and the person to whom the order is directed;

(G) the conditions of bond imposed on the person to whom the order is directed, if any, for the protection of a victim in any family violence, sexual assault or abuse, indecent assault, stalking, or trafficking case;

(H) any minimum distance the person subject to the order is required to maintain from the protected places or persons; and

(I) the date the order expires;

(7) grant access to criminal history record information in the manner authorized under Subchapter F;

(8) collect and disseminate information regarding offenders with mental impairments in compliance with Chapter 614, Health and Safety Code; and

(9) record data and maintain a state database for a computerized criminal history record system and computerized juvenile justice information system that serves:

(A) as the record creation point for criminal history record information and juvenile justice information maintained by the state; and

(B) as the control terminal for the entry of records, in accordance with federal law and regulations, federal executive orders, and federal policy, into the federal database maintained by the Federal Bureau of Investigation.

(c) The bureau chief shall offer assistance and, if practicable, instruction to sheriffs, chiefs of police, and other peace officers in establishing efficient local bureaus of identification in their districts.

(d) The department may charge each person and charge each entity or agency that is not primarily a criminal justice agency a fee for processing inquiries for information that is not criminal history record information regarding a person. A person, entity, or agency that receives information must be entitled to receive the information under state or federal statutes, rules, regulations, or

case law. The department may charge actual costs for processing all inquiries under this section.

(e) The department shall deposit all fees collected under this section in the operators and chauffeurs license fund.

(f) The department may keep any record or other information submitted to the department under this section, unless otherwise prohibited by law.

(g) The department may adopt reasonable rules under this section relating to:

(1) law enforcement information systems maintained by the department;

(2) the collection, maintenance, and correction of records;

(3) reports of criminal history information submitted to the department;

(4) active protective orders and reporting procedures that ensure that information relating to the issuance and dismissal of an active protective order is reported to the local law enforcement agency at the time of the order's issuance or dismissal and entered by the local law enforcement agency in the state's law enforcement information system;

(5) the collection of information described by Subsection (h);

(6) a system for providing criminal history record information through the criminal history clearinghouse under Section 411.0845; and

(7) active conditions of bond imposed on a defendant for the protection of a victim in any family violence, sexual assault or abuse, indecent assault, stalking, or trafficking case, and reporting procedures that ensure that information relating to the issuance, modification, or removal of the conditions of bond is reported, at the time of the issuance, modification, or removal, to:

(A) the victim or, if the victim is deceased, a close relative of the victim; and

(B) the local law enforcement agency for entry by the local law enforcement agency in the state's law enforcement information system.

(h) Information collected to perform a statistical breakdown of offenses under Sections 22.011 and 22.021, Penal Code, as required by Subsection (b)(2) must include information indicating the specific offense committed and information regarding:

(1) the victim;

(2) the offender and the offender's relationship to the victim;

(3) any weapons used or exhibited in the commission of the offense; and

(4) any injuries sustained by the victim.

(i) A law enforcement agency shall report offenses under Section 22.011 or 22.021, Penal Code, to the department in the form and manner and at regular intervals as prescribed by rules adopted by the department. The report must include the information described by Subsection (h).

(j) The department may contract with private vendors as necessary in implementing this section.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 490, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1225, Sec. 2, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 5.01, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 7.03, 7.04, eff. Dec. 1, 1991; Acts 1993, 73rd Leg., ch. 790, Sec. 13, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 324, Sec. 2, 3, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 974, Sec. 38, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.751, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 70 (H.B. 76), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1306 (S.B. 839), Sec. 6, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 15, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 11.002, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 11.003, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(22), eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.01, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. 2014), Sec. 3.02, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 760 (S.B. 893), Sec. 3, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 243 (S.B. 737), Sec. 5, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1133 (S.B. 147), Sec. 6, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 422 (S.B. 1242), Sec. 4, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 858 (H.B. 2552), Sec. 10, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 90 (S.B. 2390), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 3.08, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.113, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 955 (S.B. 194), Sec. 10, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 42, eff. September 1, 2021.

Sec. 411.0421. INFORMATION REGARDING FRAUDULENT USE OF IDENTIFICATION. (a) The department shall create a record of each individual who:

(1) in conjunction with the attorney representing the state in the prosecution of felonies in the county in which the individual resides and the sheriff of that county or, if the individual is not a resident of a county in this state, the attorney and sheriff in a county that the individual frequents, signs a declaration that the individual's identity has been used by another person to frustrate proper law enforcement without the individual's consent; and

(2) files that declaration with the department.

(b) A declaration filed under this section must include:

(1) the individual's name, social security number, driver's license number, date of birth, and other identifying data requested by the department;

(2) a statement that the individual's name, social security number, driver's license number, date of birth, or other data has been used by another person to frustrate proper law enforcement; and

(3) a name, word, number, letter, or combination of 30 or fewer characters designated by the individual as a unique password to verify the individual's identity.

(c) On receipt of a declaration under this section, the department shall create a record of the individual's identity, including a record of the individual's unique password, in the criminal history record information maintained by the department under Subchapter F. The department shall ensure that this record, including the unique password, is available online to any entity authorized to receive information from the department under Subchapter F.

Added by Acts 1999, 76th Leg., ch. 1334, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 945, Sec. 4, eff. June 14, 2001.

Sec. 411.043. BUREAU OF COMMUNICATIONS. (a) The director, with the advice and consent of the commission, shall appoint the chief of the bureau of communications.

(b) The bureau of communications shall:

(1) provide for the rapid exchange between law enforcement agencies of the state, counties, municipalities, other states, and the federal government of information concerning the commission of crimes and the detection of violators of the law; and

(2) establish and operate, in coordination with state, county, and municipal law enforcement agencies, a state roads blockade system.

(c) If funds are provided, the bureau of communications may install and operate a police radio broadcasting system for broadcasting information concerning the activities of violators of the law and for directing the activities and functions of the law enforcement agencies of the state, counties, and municipalities. The bureau shall cooperate with county and municipal police authorities and police radio stations in this state and other states.

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

Sec. 411.044. BUREAU OF INTELLIGENCE. (a) The director, with the advice and consent of the commission, shall appoint the chief of the bureau of intelligence.

(b) The bureau of intelligence shall:

(1) accumulate and analyze, with the aid of the other department divisions and bureaus, information of crime activities in the state and make the information available for use of the department and county and municipal law enforcement agencies; and

(2) aid in the detection and apprehension of violators of the law.

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

Sec. 411.045. BUREAU OF TRAINING. (a) The director, with the advice and consent of the commission, shall appoint the chief of the bureau of training. The chief must have substantial experience in law enforcement and in instruction of law enforcement officers.

(b) The bureau of training shall:

(1) establish and operate schools for training department personnel in their duties and functions;

(2) establish and operate schools for training county and municipal police officers who are selected to attend the schools by the authorities of the law enforcement agencies that employ them; and

(3) establish and carry out a comprehensive plan for the education of citizens of this state in matters of public safety and crime prevention and detection.

(c) The chief of the bureau of training shall organize schools for department members and other peace officers and give instruction in the schools.

(d) The adjutant general shall provide, for use of the bureau of training in conducting its training schools, suitable buildings, land, and state-owned equipment at Camp Mabry in Austin.

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

Sec. 411.046. HATE CRIME REPORTING. (a) The bureau of identification and records shall establish and maintain a central repository for the collection and analysis of information relating to crimes that are motivated by prejudice, hatred, or advocacy of violence, including, but not limited to, incidents for which statistics are or were kept under Public Law No. 101-275, as that law

existed on July 3, 1996. On establishing the repository, the department shall develop a procedure to monitor, record, classify, and analyze information relating to incidents directed against persons and property that are apparently motivated by the factors listed in this subsection.

(b) Local law enforcement agencies shall report offenses described by Subsection (a) in the form and manner and at regular intervals as prescribed by rules adopted by the department. The department shall summarize and analyze information received under this subsection and file an annual report with the governor and legislature containing the summary and analysis.

(c) The department shall make information, records, and statistics collected under this section available to any local enforcement agency, political subdivision, or state agency to the extent the information is reasonably necessary or useful to the agency or subdivision in carrying out duties imposed by law on the agency or subdivision. This subsection may not be construed to limit access to information, records, or statistics which access if permitted by other law. Dissemination of the names of defendants and victims is subject to all confidentiality requirements otherwise imposed by law.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 21A.01, eff. Oct. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 11, eff. Sept. 1, 1999.

Sec. 411.047. REPORTING RELATED TO CERTAIN HANDGUN INCIDENTS INVOLVING LICENSE HOLDERS. (a) The department may maintain statistics on its website related to responses by law enforcement agencies to incidents in which a person licensed to carry a handgun under Subchapter H is convicted of an offense only if the offense is prohibited under Subchapter H or under Title 5, Chapter 29, Chapter 46, or Section 30.02, Penal Code.

(b) Such statistics shall be drawn and reported annually from the Department of Public Safety computerized criminal history file on persons 21 years of age and older and shall be compared in numerical and graphical format to all like offenses committed in the state for the reporting period as a percentage of the total of such reported offenses.

(c) The department by rule shall adopt procedures for local law enforcement to make reports to the department described by Subsection (a).

Added by Acts 1995, 74th Leg., ch. 229, Sec. 6, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 10.06, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1189, Sec. 12, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1146, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 14, eff. January 1, 2016.

Sec. 411.048. THREATS AGAINST PEACE OFFICERS AND DETENTION OFFICERS. (a) In this section:

(1) "Criminal justice agency" has the meaning assigned by Article 66.001, Code of Criminal Procedure.

(2) "Peace officer" has the meaning assigned by Section 1.07, Penal Code.

(3) "Detention officer" means a person who is employed to ensure the safekeeping of prisoners and the security of a municipal or county jail.

(b) The bureau of identification and records shall establish and maintain a central index in the law enforcement information system maintained by the department to:

(1) collect and disseminate information relating to an individual's expression of intent to inflict serious bodily injury or death on a peace officer or detention officer; and

(2) alert a peace officer or detention officer of an expression of intent to inflict serious bodily injury or death on the officer.

(c) A criminal justice agency, after making each determination required under Subsection (d), shall immediately enter into the information system an electronic report of an individual who expresses an intent to inflict serious bodily injury or death on a peace officer or detention officer. The agency shall enter the information in the form and manner provided by rules adopted by the director.

(d) Before entering information collected under this section into the information system, a criminal justice agency must determine

that the report described by Subsection (c):

(1) is not from an anonymous source; and

(2) consists of an expression of intent to inflict serious bodily injury or death on a peace officer or detention officer.

(e) On proper inquiry into the information system, the department shall disseminate information collected under this section to a criminal justice agency as reasonably necessary to protect the safety of a peace officer or detention officer. The criminal justice agency may use information disseminated under this subsection in the manner provided by rules adopted by the director.

(f) The department shall promptly respond to a request to disclose information collected under this section by an individual who is the subject of the information.

(g) An individual who is the subject of information collected under this section may request that the director, the director's designee, or a court review the information to determine whether the information complies with rules adopted by the director. The review shall be conducted using the same procedure for reviewing criminal information collected under Chapter 67, Code of Criminal Procedure.

(h) A peace officer, detention officer, or criminal justice agency is not liable for an act or omission relating to the collection, use, or dissemination of information collected under this section in accordance with rules adopted by the director.

(i) The director may adopt rules to implement and enforce this section. Any rule adopted by the director under this section must comply with the provisions of the Code of Federal Regulations, Title 28, Part 23, as it applies to criminal intelligence systems.

Added by Acts 2001, 77th Leg., ch. 474, Sec. 3, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 557 (H.B. 1262), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 557 (H.B. 1262), Sec. 2, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 4.07, eff. January 1, 2019.

Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 4.08, eff. January 1, 2019.

Sec. 411.0485. PROTECTION FOR JUDGES. Any commissioned peace officer in this state, including a commissioned officer of the department, may provide personal security to a state judge at any location in this state, regardless of the location of the law enforcement agency or department that employs or commissions the peace officer.

Added by Acts 2017, 85th Leg., R.S., Ch. 190 (S.B. 42), Sec. 16, eff. September 1, 2017.

Sec. 411.049. REPORT RELATED TO CERTAIN INTOXICATION OFFENSES. (a) In this section, "offense relating to the operating of a motor vehicle while intoxicated" has the meaning assigned by Section 49.09, Penal Code.

(b) The department shall compile and maintain statistical information on the prosecution of offenses relating to the operating of a motor vehicle while intoxicated, including:

(1) the number of arrests;

(2) the number of arrests resulting in release with no charges;

(3) the number of charges resulting in a plea of not guilty and a trial;

(4) the number of charges resulting in a plea of guilty or nolo contendere;

(5) the number of charges resulting in a conviction of the offense charged in the original information, indictment, complaint, or other charging instrument;

(6) the number of charges resulting in a conviction of an offense other than the offense charged in the original information, indictment, complaint, or other charging instrument; and

(7) the number of charges resulting in a dismissal.

(c) Each law enforcement agency that enforces Chapter 49, Penal Code, and each appropriate prosecuting attorney's office and court in this state shall report in the manner and on a form prescribed by the department the information necessary for the department to compile the information required by Subsection (b).

(d) The department shall identify law enforcement agencies, prosecuting attorney's offices, and courts required to report under Subsection (c) that fail to timely report or that report incomplete

information to the department.

(e) The department shall submit to the legislature not later than February 15 of each year a report of the statistical information described in Subsection (b) compiled for the preceding calendar year. The report must include a list of the law enforcement agencies, prosecuting attorney's offices, and courts identified by the department under Subsection (d).

(f) The department may adopt rules to implement this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 889 (S.B. 364), Sec. 1, eff. September 1, 2011.

Sec. 411.050. CRIME STATISTIC MAPPING. The department, in conjunction with Texas State University, may annually produce maps of the state that include information regarding crime statistics correlated with the various regions of the state.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 13, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 386, Sec. 10, eff. Sept. 1, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 30 (S.B. 974), Sec. 12, eff. September 1, 2013.

Sec. 411.051. ANALYSIS OF INFORMATION IDENTIFYING PERSONS COMMITTING OR SUSPECTED OF COMMITTING CERTAIN PROPERTY OFFENSES AGAINST ELDERLY INDIVIDUALS. (a) This section applies to an offense under Chapter 31 or 32, Penal Code, or any other offense under that code involving an intent to steal or defraud if the offense was committed against an elderly individual as defined by Section 22.04(c), Penal Code.

(b) For purposes of this section, the victim's status as an elderly individual is determined according to the victim's age at the time of the offense.

(c) A law enforcement agency that investigates an offense described by Subsection (a) shall report the investigation to the department in the form and manner and at regular intervals as prescribed by rules adopted by the department. The rules must require submission of the original investigative report and any

supplemental investigative report containing new, significant information.

(d) To identify a person committing or suspected of committing an offense described by Subsection (a) or a victim of an offense described by that subsection, the department shall analyze information received under this section and any other corresponding information possessed by the department.

(e) The department shall make the analysis required by this section available to any local law enforcement agency, political subdivision, or state agency to the extent the analysis is reasonably necessary or useful to the agency or subdivision in carrying out duties imposed by law on the agency or subdivision. This subsection may not be construed to enable direct access by a person to information analyzed by the department under this section if the person does not otherwise have direct access to that information. Dissemination of the analysis required by this section is subject to all confidentiality requirements imposed by other law.

Added by Acts 2001, 77th Leg., ch. 789, Sec. 1, eff. Sept. 1, 2001.

Sec. 411.052. FEDERAL FIREARM REPORTING. (a) In this section, "federal prohibited person information" means information that identifies:

(1) an individual who is at least 16 years of age as:

(A) a person ordered by a court to receive inpatient mental health services under Chapter 574, Health and Safety Code;

(B) a person acquitted in a criminal case by reason of insanity or lack of mental responsibility, regardless of whether the person is ordered by a court to receive inpatient treatment or residential care under Chapter 46C, Code of Criminal Procedure;

(C) a person determined to have an intellectual disability and committed by a court for long-term placement in a residential care facility under Chapter 593, Health and Safety Code; or

(D) a person determined to be incompetent to stand trial under Chapter 46B, Code of Criminal Procedure;

(2) a child who is at least 16 years of age and has been:

(A) found unfit to proceed under Subchapter C, Chapter 55, Family Code, as a result of mental illness or an intellectual

disability;

(B) found not responsible for the child's conduct under Subchapter D, Chapter 55, Family Code, as a result of mental illness or an intellectual disability;

(C) ordered by a court to receive inpatient mental health services under Subchapter B, C, or D, Chapter 55, Family Code, as a result of mental illness; or

(D) committed by a court to a residential care facility under Subchapter C or D, Chapter 55, Family Code, as a result of an intellectual disability; or

(3) an incapacitated adult person for whom a court has appointed a guardian of the person under Title 3, Estates Code, based on the determination that the person lacks the mental capacity to manage the person's affairs.

(b) The department by rule shall establish a procedure to provide federal prohibited person information to the Federal Bureau of Investigation for use with the National Instant Criminal Background Check System. Except as otherwise provided by state law, the department may disseminate federal prohibited person information under this subsection only to the extent necessary to allow the Federal Bureau of Investigation to collect and maintain a list of persons who are prohibited under federal law from engaging in certain activities with respect to a firearm.

(c) The department shall grant access to federal prohibited person information to the person who is the subject of the information.

(d) Federal prohibited person information maintained by the department is confidential information for the use of the department and, except as otherwise provided by this section and other state law, may not be disseminated by the department.

(e) The department by rule shall establish a procedure to correct department records and transmit those corrected records to the Federal Bureau of Investigation when a person provides:

(1) a copy of a judicial order or finding that a person is no longer an incapacitated adult or is entitled to relief from disabilities under Section 574.088, Health and Safety Code; or

(2) proof that the person has obtained notice of relief from disabilities under 18 U.S.C. Section 925.

Added by Acts 2009, 81st Leg., R.S., Ch. 950 (H.B. 3352), Sec. 1, eff.

September 1, 2009.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.034, eff. September 1, 2017.
Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.06, eff. September 1, 2023.
Acts 2023, 88th Leg., R.S., Ch. 341 (S.B. 728), Sec. 1, eff. September 1, 2023.

Sec. 411.0521. REPORT TO DEPARTMENT CONCERNING CERTAIN PERSONS' ACCESS TO FIREARMS. (a) The clerk of the court shall prepare and forward to the department the information described by Subsection (b) not later than the 30th day after the date the court:

(1) performs any of the following actions:

(A) with respect to an individual who is at least 16 years of age:

(i) orders a person to receive inpatient mental health services under Chapter 574, Health and Safety Code;

(ii) acquits a person in a criminal case by reason of insanity or lack of mental responsibility, regardless of whether the person is ordered to receive inpatient treatment or residential care under Chapter 46C, Code of Criminal Procedure;

(iii) commits a person determined to have an intellectual disability for long-term placement in a residential care facility under Chapter 593, Health and Safety Code;

(iv) determines a person is incompetent to stand trial under Chapter 46B, Code of Criminal Procedure; or

(v) finds a person is entitled to relief from disabilities under Section 574.088, Health and Safety Code; or

(B) with respect to a child who is at least 16 years of age:

(i) finds a child unfit to proceed under Subchapter C, Chapter 55, Family Code, as a result of mental illness or an intellectual disability;

(ii) finds a child not responsible for the child's conduct under Subchapter D, Chapter 55, Family Code, as a result of mental illness or an intellectual disability;

(iii) orders a child to receive inpatient mental health services under Subchapter B, C, or D, Chapter 55, Family Code,

as a result of mental illness; or

(iv) commits a child to a residential care facility under Subchapter C or D, Chapter 55, Family Code, as a result of an intellectual disability; or

(2) appoints a guardian of the incapacitated adult person under Title 3, Estates Code, based on the determination that the person lacks the mental capacity to manage the person's affairs.

(b) The clerk of the court shall prepare and forward the following information under Subsection (a):

(1) the complete name, race, and sex of the person;

(2) any known identifying number of the person, including social security number, driver's license number, or state identification number;

(3) the person's date of birth; and

(4) the federal prohibited person information that is the basis of the report required by this section.

(c) If practicable, the clerk of the court shall forward to the department the information described by Subsection (b) in an electronic format prescribed by the department.

(c-1) On request of the department, the clerk of the court shall forward a signed court order containing federal prohibited person information to the department for an audit of records provided to the Federal Bureau of Investigation under Section 411.052 for use with the National Instant Criminal Background Check System. If the department determines that a record forwarded under this subsection is incomplete or invalid:

(1) the department shall notify the clerk of the court; and

(2) the clerk of the court shall forward to the department any additional information or record.

(d) If an order previously reported to the department under Subsection (a) is reversed by order of any court, the clerk shall notify the department of the reversal not later than 30 days after the clerk receives the mandate from the appellate court.

(e) The duty of a clerk to prepare and forward information under this section is not affected by:

(1) any subsequent appeal of the court order;

(2) any subsequent modification of the court order; or

(3) the expiration of the court order.

Added by Acts 2009, 81st Leg., R.S., Ch. 950 (H.B. 3352), Sec. 1, eff.

September 1, 2009.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.035, eff. September 1, 2017.
Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.07, eff. September 1, 2023.
Acts 2023, 88th Leg., R.S., Ch. 341 (S.B. 728), Sec. 2, eff. September 1, 2023.

Sec. 411.053. PRESERVATION OF EVIDENCE CONTAINING BIOLOGICAL MATERIAL. (a) The department:

(1) shall maintain a storage space for the preservation of evidence containing biological material that is delivered to the department under Article 38.43(f), Code of Criminal Procedure; and

(2) may maintain a storage space for the preservation of evidence of a sexual assault or other sex offense.

(b) The department shall adopt rules relating to the delivery, cataloging, and preservation of evidence stored under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1179 (H.B. 3594), Sec. 2, eff. September 1, 2009.
Redesignated from Government Code, Section 411.052 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(15), eff. September 1, 2011.

Sec. 411.054. INCIDENT-BASED CRIME STATISTICS REPORTING BY LOCAL LAW ENFORCEMENT AGENCIES. (a) The department shall require all local law enforcement agencies to:

(1) implement an incident-based reporting system that meets the reporting requirements of the National Incident-Based Reporting System of the Uniform Crime Reporting Program of the Federal Bureau of Investigation; and

(2) use the system described by Subdivision (1) to submit to the department information and statistics concerning criminal offenses committed in the jurisdiction of the local law enforcement agency.

(b) The department by rule shall prescribe the form and manner for submitting information and statistics under this section.

(c) Except as otherwise provided by this section and Section 411.0541, information and statistics submitted to the department under this section are confidential and not subject to disclosure under Chapter 552.

(d) The department shall submit the information and statistics received by the department under this section to the Uniform Crime Reporting Program of the Federal Bureau of Investigation, as required by that program.

Added by Acts 2015, 84th Leg., R.S., Ch. 333 (H.B. 11), Sec. 10, eff. September 1, 2015.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 633 (H.B. 4879), Sec. 1, eff. September 1, 2023.

Sec. 411.0541. TEXAS CRIME INFORMATION SYSTEM. (a) In this section:

(1) "Criminal justice agency" means:

(A) a state agency that is engaged in the administration of criminal justice under a statute or executive order and allocates a substantial part of the agency's annual budget to the administration of criminal justice; or

(B) a municipal or county agency, or school district law enforcement agency, that is engaged in the administration of criminal justice under a statute or executive order.

(2) "System" means the computer-based Texas crime information system established under Subsection (b).

(b) The department shall establish and maintain a computer-based Texas crime information system that includes all of the information and statistics submitted to the department under Section 411.054.

(c) The department shall restrict access to the system to authorized personnel of criminal justice agencies, as determined by the department.

(d) The department shall use the information included in the system to periodically publish reports regarding the nature and extent of criminal activities in this state. The department shall submit each report published under this subsection to the governor and each member of the legislature and shall publish each report on

the department's Internet website.

Added by Acts 2023, 88th Leg., R.S., Ch. 633 (H.B. 4879), Sec. 2, eff. September 1, 2023.

Sec. 411.055. ANNUAL REPORT ON BORDER CRIME AND OTHER CRIMINAL ACTIVITY. (a) Not later than May 30 of each year, the department shall submit to the legislature a report on border crime and other criminal activity. The report must include:

(1) statistics for each month of the preceding calendar year and yearly totals of all border crime, as defined by Section 772.0071, and other criminal activity, including transnational criminal activity, the department determines relates to border security that occurred in each county included in a department region that is adjacent to the Texas-Mexico border; and

(2) statewide crime statistics for the crimes reported under Subdivision (1).

(b) In compiling the information for the report, the department shall use information available in the National Incident-Based Reporting System of the Uniform Crime Reporting Program of the Federal Bureau of Investigation and the Texas Incident-Based Reporting System of the department.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 2.001, eff. September 1, 2019.

SUBCHAPTER D-1. CENTRAL INDEX OF CERTAIN ADDITIONAL OFFENSES SUSPECTED TO HAVE BEEN COMMITTED BY CRIMINAL DEFENDANTS

Sec. 411.0601. DEFINITION. In this subchapter, "criminal justice agency" has the meaning assigned by Article 66.001, Code of Criminal Procedure.

Added by Acts 2009, 81st Leg., R.S., Ch. 1152 (H.B. 2932), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 4.09, eff. January 1, 2019.

Sec. 411.0602. ESTABLISHMENT OF CENTRAL INDEX; ENTRY OF INFORMATION. (a) In the law enforcement information system maintained by the department, the bureau of identification and records shall establish and maintain a central index to collect and disseminate information regarding additional offenses that forensic DNA test results indicate may have been committed by a defendant who has been arrested for or charged with any felony or misdemeanor offense, other than a misdemeanor offense punishable by fine only.

(b) Information relating to a defendant described by Subsection (a) may be entered in the central index only if the information is based on forensic DNA test results indicating that the DNA profile of the defendant cannot be excluded as a donor to the DNA profile of a person suspected to have committed an offense, regardless of whether the defendant has been or will be arrested for or charged with that offense. The information must be:

(1) submitted in the form of an affidavit signed by a representative of an investigating criminal justice agency and approved by a district judge; and

(2) accompanied by a set of the defendant's fingerprints.

Added by Acts 2009, 81st Leg., R.S., Ch. 1152 (H.B. 2932), Sec. 1, eff. September 1, 2009.

Sec. 411.0603. CONFIDENTIALITY AND DISSEMINATION OF INFORMATION IN CENTRAL INDEX. (a) Information maintained by the department in the central index established under this subchapter is confidential. The department may not disseminate the information except as otherwise provided by this section.

(b) On proper inquiry, the department shall disseminate to a criminal justice agency the information collected under Section 411.0602. The criminal justice agency may disseminate the information to any other criminal justice agency if the dissemination of that information is for a criminal justice purpose.

(c) A criminal justice agency or an employee of a criminal justice agency is not liable for an act or omission relating to the collection, use, or dissemination of information collected under Section 411.0602 if that collection, use, or dissemination is performed in accordance with rules adopted by the director.

Added by Acts 2009, 81st Leg., R.S., Ch. 1152 (H.B. 2932), Sec. 1,

eff. September 1, 2009.

Sec. 411.0604. RULES. The director shall adopt rules to implement and enforce this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1152 (H.B. 2932), Sec. 1, eff. September 1, 2009.

Sec. 411.0605. RIGHT TO REQUEST NOTICE OF ENTRY IN CENTRAL INDEX. (a) A defendant described by Section 411.0602(a) may submit to the bureau of identification and records a request to determine whether the bureau has entered information relating to the defendant in the central index established under Section 411.0602. The bureau shall respond to the request not later than the 10th business day after the date the bureau receives the request.

(b) Before responding to a request under Subsection (a), the bureau may require reasonable written verification of the identity of the defendant submitting the request, including written verification of an address, date of birth, driver's license number, state identification card number, or social security number.

Added by Acts 2009, 81st Leg., R.S., Ch. 1152 (H.B. 2932), Sec. 1, eff. September 1, 2009.

Sec. 411.0606. RIGHT TO REQUEST REVIEW OF ENTRY IN CENTRAL INDEX. (a) On receipt by the bureau of identification and records of a written request that is submitted by a defendant described by Section 411.0602(a), that is accompanied by a set of the defendant's fingerprints, and that alleges that the bureau may have entered inaccurate information relating to the defendant in the central index established under Section 411.0602, the head of the bureau or that person's designee and the head of the department's crime laboratory in Austin each shall review the information to determine whether there is a high likelihood that the information is accurate.

(b) If after review the head of the bureau or that person's designee or the head of the department's crime laboratory in Austin determines there is not a high likelihood that the information relating to the defendant is accurate, the bureau shall:

(1) promptly remove that information from the central index; and

(2) notify other appropriate divisions of the department, the investigating criminal justice agency, and the defendant of the bureau's determination and the removal of the information.

(c) If after review the head of the bureau or that person's designee and the head of the department's crime laboratory in Austin jointly determine there is a high likelihood that the information relating to the defendant is accurate, the bureau shall notify the defendant of that determination.

Added by Acts 2009, 81st Leg., R.S., Ch. 1152 (H.B. 2932), Sec. 1, eff. September 1, 2009.

SUBCHAPTER E. CAPITOL COMPLEX

Sec. 411.061. DEFINITION. (a) In this subchapter, "Capitol Complex" means the following property that is located in Austin, Texas, to the extent the property is owned by or under the control of the state:

(1) the area bounded on the north by the inside curb of Martin Luther King, Jr., Boulevard, on the east by the outside curb of Trinity Street, on the south by the outside curb of 10th Street, and on the west by the outside curb of Lavaca Street;

(2) the William P. Clements State Office Building located at 300 West 15th Street; and

(3) other locations under the jurisdiction of the capitol police district as may be approved by the director.

(b) The provisions of this subchapter do not apply to the property or parking facility under the management and control of the Texas Employment Commission and located within the bounds set forth in Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 270, Sec. 3, eff. May 26, 1997.

Sec. 411.062. LAW ENFORCEMENT AND SECURITY AUTHORITY. (a) The department has primary responsibility for law enforcement and security services on the Capitol Complex.

(b) Subsection (a) does not prohibit the department from

requesting or receiving assistance from another law enforcement agency.

(c) This section does not prohibit a peace officer who is not a member of the department from exercising the officer's authority on the Capitol Complex in an emergency or in a situation where the officer reasonably believes that immediate action is necessary.

(d) The department shall adopt rules relating to security of persons and access to and protection of the grounds, public buildings, and property of the state within the Capitol Complex, except that public use of the capitol, the capitol extension, the capitol grounds, and the General Land Office building shall be governed by the State Preservation Board.

(d-1) The director shall adopt rules governing the use of unmanned aircraft in the Capitol Complex. The rules adopted under this subsection may:

(1) prohibit the use of unmanned aircraft in the Capitol Complex; or

(2) authorize limited use of unmanned aircraft in the Capitol Complex.

(e) The department may enforce the rules of the State Preservation Board, adopted under Section 443.018.

(f) The department and the City of Austin shall execute an interlocal cooperation agreement that defines the respective responsibilities of the department and the city for traffic and parking enforcement and general security in the Capitol Complex, including private property within the boundaries of the complex.

(g) The commission may authorize the director to impose within the Capitol Complex measures the director determines to be necessary to protect the safety and security of persons and property within the complex.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 270, Sec. 4, eff. May 26, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 178 (H.B. 3628), Sec. 1, eff. September 1, 2015.

Sec. 411.0625. PASS FOR EXPEDITED ACCESS TO CAPITOL. (a) The department shall allow a person to enter the Capitol and the Capitol

Extension, including any public space in the Capitol or Capitol Extension, in the same manner as the department allows entry to a person who presents a license to carry a handgun under Subchapter H if the person:

(1) obtains from the department a Capitol access pass; and

(2) presents the pass to the appropriate law enforcement official when entering the building or a space within the building.

(b) To be eligible for a Capitol access pass, a person must meet the eligibility requirements applicable to a license to carry a handgun under Subchapter H, other than requirements regarding evidence of handgun proficiency.

(c) The department shall adopt rules to establish a procedure by which a resident of the state may apply for and be issued a Capitol access pass. Rules adopted under this section must include provisions for eligibility, application, approval, issuance, and renewal that:

(1) require the department to conduct the same background check on an applicant for a Capitol access pass that is conducted on an applicant for a license to carry a handgun under Subchapter H;

(2) enable the department to conduct the background check described by Subdivision (1); and

(3) establish application and renewal fees in amounts sufficient to cover the cost of administering this section, not to exceed the amounts of similar fees required under Section 411.174 for a license to carry a handgun.

Added by Acts 2011, 82nd Leg., R.S., Ch. 205 (H.B. 2131), Sec. 1, eff. May 30, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 15, eff. January 1, 2016.

Sec. 411.063. RULES RELATING TO PARKING AND VEHICLES. (a) The State Preservation Board shall adopt rules for the safe movement and the parking of vehicles in the Capitol Complex. The department shall administer and enforce the rules adopted by the preservation board and shall administer and enforce this subchapter. This subsection does not affect the authority of the department to adopt rules under Section 411.067.

(b) Rules adopted under this section may:

(1) regulate the type, flow, and direction of vehicular traffic;

(2) designate, mark, and assign areas and spaces for parking for elected state officials, chief executives and employees of state agencies located in the Capitol Complex, state-owned vehicles, business vehicles, and visitors to the Capitol Complex;

(3) establish a system of registration for vehicle identification;

(4) prohibit or restrict the use of areas and spaces for parking;

(5) establish a reasonable fee for parking in a parking space on a parking lot or in a parking garage that is located in the Capitol Complex, other than a space in the capitol driveway or capitol extension garage; and

(6) provide for the towing and storing, at the expense of the owner, of a vehicle parked in violation of a rule.

(c) Rules that govern parking in the parking spaces in the capitol driveways and the parking lots and parking garages near the capitol, to the extent that parking in such places is not otherwise regulated by the State Preservation Board, shall provide for:

(1) assigning and marking reserved parking spaces for the unrestricted use of the governor, lieutenant governor, speaker of the house of representatives, and secretary of state;

(2) when the legislature is in session, assigning and marking reserved parking spaces requested by each house of the legislature for the unrestricted use of members and administrative staff of the legislature; and

(3) when the legislature is not in session, assigning and marking parking spaces requested by each house of the legislature for the use of members and administrative staff of the legislature.

(d) Except as provided by Section 443.015, the department shall remit to the comptroller for deposit to the credit of State Parking Fund No. 125 any fee collected for the parking of a vehicle in the Capitol Complex. Money in the fund may be appropriated only to the department for the operation, maintenance, and improvement of state parking facilities on, and for security in, the Capitol Complex.

(e) To the extent that the City of Austin on January 1, 1997, operated and maintained parking meters along either side of the streets forming the perimeter of the Capitol Complex, the city is

entitled to continue to operate, maintain, and receive the revenue from those meters, except that the city may not operate or maintain along those streets meters that accept only quarters.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 270, Sec. 5, eff. May 26, 1997; Acts 2001, 77th Leg., ch. 1462, Sec. 6, eff. June 17, 2001.

Sec. 411.064. ASSISTANCE OF TEXAS DEPARTMENT OF TRANSPORTATION OR TEXAS FACILITIES COMMISSION. (a) On request of the department, the Texas Department of Transportation and the Texas Facilities Commission shall:

(1) assist the department in the marking and designation of parking lots, parking garages, and parking spaces;

(2) maintain the painting of lines and curb markings; and

(3) furnish and erect direction and information signs.

(b) The department may recover the cost of providing the services described in Subsection (a) from the agency or agencies for which the service was provided. To the extent that either the Texas Facilities Commission or the Texas Department of Transportation provides or assists in providing the services described in Subsection (a), that agency shall be reimbursed by the department from its funds or the funds received from another agency under this subsection.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 1, eff. September 1, 2019.

Sec. 411.0645. TRANSPORTATION PLANNING COMMITTEE. (a) The department, the City of Austin, the Capital Metropolitan Transportation Authority, the Texas Facilities Commission, the State Preservation Board, and The University of Texas at Austin shall each designate a representative to a committee established for the purpose of coordinating transportation in and adjacent to the Capitol Complex. The representative of the department shall convene the initial meeting of the committee, and the committee shall elect officers and meet as decided by the committee.

(b) The committee may develop and recommend to the agencies

represented agreements and memoranda of understanding relating to transportation in and adjacent to the Capitol Complex, including agreements or understandings relating to parking, vehicle traffic, and the location of light rail or other mass transit terminals and facilities in that area.

Added by Acts 1997, 75th Leg., ch. 270, Sec. 6, eff. May 26, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 2, eff. September 1, 2019.

Sec. 411.065. OFFENSES. (a) A person commits an offense if the person violates a rule of the department adopted under Section 411.062 or a rule of the State Preservation Board adopted under Section 411.063.

(b) An offense under this section is a Class C misdemeanor, except that an offense is a Class B misdemeanor if the person violates a rule adopted under Section 411.062(d-1).

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 270, Sec. 7, eff. May 26, 1997; Acts 2001, 77th Leg., ch. 1462, Sec. 7, eff. June 17, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 178 (H.B. 3628), Sec. 2, eff. September 1, 2015.

Sec. 411.066. JURISDICTION. The municipal court of a municipality and the justice courts of a county in which an offense under Section 411.065 was committed have concurrent original jurisdiction over such an offense.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993.

Sec. 411.067. ADMINISTRATIVE PARKING VIOLATIONS. (a) The department may adopt rules for the assessment of an administrative fine of $25 for violations of the parking rules adopted under Section 411.063. Notwithstanding the provisions of Sections 411.065 and 411.066, the department may issue an administrative citation for a

parking violation.

(b) Rules adopted under this section shall:

(1) establish a system for enforcement of administrative citations, including assessment of a late fee not to exceed $5 and towing, impoundment, or immobilization of vehicles; and

(2) provide a procedure of administrative review within the highway patrol district that includes the Capitol Complex and, on request of the person assessed an administrative fine, further judicial review by the department filing the appropriate citation or complaint in a court, as provided in Section 411.066.

(c) The administrative review provided for in Subsection (b) shall not be considered a contested case under Chapter 2001 or Chapter 2003.

(d) The department shall remit to the comptroller for deposit in the general revenue fund each administrative fine and late fee collected under this section. The money deposited may be appropriated only to the department for security and parking in the highway patrol district that includes the Capitol Complex.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), (76), eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 20.01, eff. September 1, 2009.

SUBCHAPTER E-1. ORDER OF NONDISCLOSURE OF CRIMINAL HISTORY RECORD INFORMATION

Sec. 411.071. DEFINITIONS. In this subchapter, "criminal history record information," "criminal justice agency," and "criminal justice purpose" have the meanings assigned by Section 411.082.

Added by Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 1, eff. September 1, 2015.

Sec. 411.0715. DEFINITION OF DEFERRED ADJUDICATION COMMUNITY SUPERVISION FOR PURPOSE OF RECEIVING ORDER OF NONDISCLOSURE. For purposes of an order of nondisclosure of criminal history record information under this subchapter, a person is considered to have

been placed on deferred adjudication community supervision if, regardless of the statutory authorization:

(1) the person entered a plea of guilty or nolo contendere;

(2) the judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer under the supervision of the court; and

(3) at the end of the period of supervision the judge dismissed the proceedings and discharged the person.

Transferred, redesignated and amended from Government Code, Section 411.081(f) by Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 2, eff. September 1, 2015.

Sec. 411.0716. APPLICABILITY OF SUBCHAPTER. (a) Except as provided by Subsection (b), this subchapter applies to the issuance of an order of nondisclosure of criminal history record information for an offense committed before, on, or after September 1, 2017.

(b) Section 411.072 applies only to a person described by Subsection (a) of that section who receives a discharge and dismissal under Article 42A.111, Code of Criminal Procedure, on or after September 1, 2017.

Added by Acts 2017, 85th Leg., R.S., Ch. 877 (H.B. 3016), Sec. 1, eff. September 1, 2017.

Sec. 411.072. PROCEDURE FOR DEFERRED ADJUDICATION COMMUNITY SUPERVISION; CERTAIN NONVIOLENT MISDEMEANORS. (a) This section applies only to a person who:

(1) was placed on deferred adjudication community supervision under Subchapter C, Chapter 42A, Code of Criminal Procedure, for a misdemeanor other than a misdemeanor:

(A) under:

(i) Section 49.04 or 49.06, Penal Code; or

(ii) Chapter 20, 21, 22, 25, 42, 43, 46, or 71, Penal Code; or

(B) with respect to which an affirmative finding under Article 42A.105(f), Code of Criminal Procedure, or former Section 5(k), Article 42.12, Code of Criminal Procedure, was filed in the papers of the case; and

(2) has never been previously convicted of or placed on deferred adjudication community supervision for another offense other than a traffic offense that is punishable by fine only.

(b) Notwithstanding any other provision of this subchapter or Subchapter F, if a person described by Subsection (a) receives a discharge and dismissal under Article 42A.111, Code of Criminal Procedure, and satisfies the requirements of Section 411.074, the court that placed the person on deferred adjudication community supervision shall issue an order of nondisclosure of criminal history record information under this subchapter prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the deferred adjudication community supervision. The court shall determine whether the person satisfies the requirements of Section 411.074, and if the court makes a finding that the requirements of that section are satisfied, the court shall issue the order of nondisclosure of criminal history record information:

(1) at the time the court discharges and dismisses the proceedings against the person, if the discharge and dismissal occurs on or after the 180th day after the date the court placed the person on deferred adjudication community supervision; or

(2) as soon as practicable on or after the 180th day after the date the court placed the person on deferred adjudication community supervision, if the discharge and dismissal occurred before that date.

(c) The person shall present to the court any evidence necessary to establish that the person is eligible to receive an order of nondisclosure of criminal history record information under this section. The person must pay a $28 fee to the clerk of the court before the court issues the order.

(d) A person who is not eligible to receive an order of nondisclosure of criminal history record information under this section solely because an affirmative finding under Article 42A.105(f), Code of Criminal Procedure, or former Section 5(k), Article 42.12, Code of Criminal Procedure, was filed in the papers of the case may file a petition for an order of nondisclosure of criminal history record information under Section 411.0725 if the person otherwise satisfies the requirements of that section.

Added by Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 3,

eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 23.003, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 877 (H.B. 3016), Sec. 2, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 1298 (H.B. 3582), Sec. 4, eff. September 1, 2019.

Sec. 411.0725. PROCEDURE FOR DEFERRED ADJUDICATION COMMUNITY SUPERVISION; FELONIES AND CERTAIN MISDEMEANORS. (a) This section applies only to a person placed on deferred adjudication community supervision under Subchapter C, Chapter 42A, Code of Criminal Procedure, who:

(1) is not eligible to receive an order of nondisclosure of criminal history record information under Section 411.072; and

(2) was placed on deferred adjudication community supervision for an offense other than an offense under Section 49.04 or 49.06, Penal Code.

(b) Notwithstanding any other provision of this subchapter or Subchapter F, if a person described by Subsection (a) receives a discharge and dismissal under Article 42A.111, Code of Criminal Procedure, and satisfies the requirements of Section 411.074, the person may petition the court that placed the person on deferred adjudication community supervision for an order of nondisclosure of criminal history record information under this section.

(c) Except as provided by Section 411.074, a person may petition the court for an order of nondisclosure under this section regardless of whether the person has been previously convicted of or placed on deferred adjudication community supervision for another offense.

(d) After notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition and issuance of the order is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the deferred adjudication community supervision.

(e) A person may petition the court that placed the person on

deferred adjudication community supervision for an order of nondisclosure of criminal history record information under this section only on or after:

(1) the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor other than a misdemeanor described by Subdivision (2);

(2) the second anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor under Chapter 20, 21, 22, 25, 42, 43, or 46, Penal Code; or

(3) the fifth anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a felony.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.40, eff. January 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 9.001, eff. September 1, 2015.

Transferred, redesignated and amended from Government Code, Section 411.081(d) by Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 4, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 23.004, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1298 (H.B. 3582), Sec. 5, eff. September 1, 2019.

Sec. 411.0726. PROCEDURE FOR DEFERRED ADJUDICATION COMMUNITY SUPERVISION; CERTAIN DRIVING WHILE INTOXICATED AND BOATING WHILE INTOXICATED MISDEMEANORS. (a) This section applies only to a person who was placed on deferred adjudication community supervision under Subchapter C, Chapter 42A, Code of Criminal Procedure, for a misdemeanor:

(1) under Section 49.04 or 49.06, Penal Code; and

(2) with respect to which no affirmative finding under Article 42A.105(f), Code of Criminal Procedure, was filed in the papers of the case.

(b) Notwithstanding any other provision of this subchapter or

Subchapter F, a person may petition the court that placed the person on deferred adjudication community supervision for an order of nondisclosure if the person:

(1) receives a discharge and dismissal under Article 42A.111, Code of Criminal Procedure;

(2) satisfies the requirements of Section 411.074; and

(3) has never been previously convicted of or placed on deferred adjudication community supervision for another offense, other than a traffic offense that is punishable by fine only.

(c) A petition for an order of nondisclosure of criminal history record information filed under this section must include evidence that the person is entitled to file the petition.

(d) Except as provided by Subsection (e), after notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition and issuance of an order of nondisclosure of criminal history record information is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the deferred adjudication community supervision.

(e) A court may not issue an order of nondisclosure of criminal history record information under this section if the attorney representing the state presents evidence sufficient to the court demonstrating that the commission of the offense for which the order is sought resulted in a motor vehicle collision involving another person, including a passenger in a motor vehicle operated by the person seeking the order of nondisclosure.

(f) A person may petition the court that placed the person on deferred adjudication community supervision for an order of nondisclosure of criminal history record information under this section only on or after the second anniversary of the date of completion of the deferred adjudication community supervision and the discharge and dismissal of the case.

Added by Acts 2019, 86th Leg., R.S., Ch. 1298 (H.B. 3582), Sec. 6, eff. September 1, 2019.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 709 (H.B. 2190), Sec. 131, eff. September 1, 2023.

Sec. 411.0727. PROCEDURE FOLLOWING SUCCESSFUL COMPLETION OF VETERANS TREATMENT COURT PROGRAM. (a) This section applies only to a person who successfully completes a veterans treatment court program under Chapter 124 or former law.

(b) Notwithstanding any other provision of this subchapter or Subchapter F, a person described by Subsection (a) is entitled to file with the court that placed the person in the veterans treatment court program a petition for an order of nondisclosure of criminal history record information under this section if the person:

(1) satisfies the requirements of this section and Section 411.074;

(2) has never been previously convicted of an offense listed in Article 42A.054(a), Code of Criminal Procedure, or a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure; and

(3) is not convicted of any felony offense between the date on which the person successfully completed the program and the second anniversary of that date.

(c) Regardless of whether the person was convicted of or placed on deferred adjudication community supervision for the offense for which the person entered the veterans treatment court program or whether the case against the person was dismissed under Section 124.001(b), after notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition and issuance of the order is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense for which the person entered the veterans treatment court program.

(d) A person may file with the court that placed the person in the veterans treatment court program a petition for an order of nondisclosure of criminal history record information under this section only on or after the second anniversary of the date the person successfully completed the program.

(e) A person is not entitled to petition the court for an order of nondisclosure of criminal history record information under this section if the person's entry into the veterans treatment court program arose as the result of a conviction of an offense involving the operation of a motor vehicle while intoxicated.

Added by Acts 2017, 85th Leg., R.S., Ch. 889 (H.B. 3069), Sec. 4, eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 958, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.0728. PROCEDURE FOR CERTAIN VICTIMS OF TRAFFICKING OF PERSONS OR COMPELLING PROSTITUTION. (a) This section applies only to a person:

(1) who is convicted of or placed on deferred adjudication community supervision for an offense under:

(A) Section 481.120, Health and Safety Code, if the offense is punishable under Subsection (b)(1);

(B) Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1);

(C) Section 31.03, Penal Code, if the offense is punishable under Subsection (e)(1) or (2); or

(D) Section 43.02, Penal Code; and

(2) who, if requested by the applicable law enforcement agency or prosecuting attorney to provide assistance in the investigation or prosecution of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code, or a federal offense containing elements that are substantially similar to the elements of an offense under any of those sections:

(A) provided assistance in the investigation or prosecution of the offense; or

(B) did not provide assistance in the investigation or prosecution of the offense due to the person's age or a physical or mental disability resulting from being a victim of an offense described by this subdivision.

(b) Notwithstanding any other provision of this subchapter or Subchapter F, a person described by Subsection (a) who satisfies the requirements of Section 411.074(b) may petition the court that convicted the person or placed the person on deferred adjudication community supervision for an order of nondisclosure of criminal history record information under this section on the grounds that the person committed the offense solely as a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code.

(b-1) A petition under Subsection (b) must:

(1) be in writing;

(2) allege specific facts that, if proved, would establish that the petitioner committed the offense described by Subsection (a)(1) solely as a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code; and

(3) assert that if the person has previously submitted a petition for an order of nondisclosure under this section, the person has not committed an offense described by Subsection (a)(1) on or after the date on which the person's first petition under this section was submitted.

(b-2) On the filing of the petition under Subsection (b), the clerk of the court shall promptly serve a copy of the petition and any supporting document on the appropriate office of the attorney representing the state. Any response to the petition by the attorney representing the state must be filed not later than the 20th business day after the date of service under this subsection.

(b-3) A person convicted of or placed on deferred adjudication community supervision for more than one offense described by Subsection (a)(1) that the person committed solely as a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code, may file a petition for an order of nondisclosure of criminal history record information under this section with respect to each offense, and may request consolidation of those petitions, in a district court in the county where the person was most recently convicted or placed on deferred adjudication community supervision as described by this subsection. On receipt of a request for consolidation, the court shall consolidate the petitions and exercise jurisdiction over the petitions, regardless of the county in which the offenses described by Subsection (a)(1) occurred. For each offense that is the subject of a consolidated petition and that occurred in a county other than the county in which the court consolidating the petitions is located, the clerk of the court, in addition to the clerk's duties under Subsection (b-2), shall promptly serve a copy of the consolidated petition and any supporting document related to the applicable offense on the appropriate office of the attorney representing the state on behalf of the other county. Each attorney representing the state who receives a copy of a consolidated petition under this subsection may file a response to the petition in accordance with Subsection (b-2).

(b-4) A district court that consolidates petitions under

Subsection (b-3) shall allow an attorney representing the state who receives a petition involving an offense that was committed outside the county in which the court is located to appear at any hearing regarding the consolidated petition by telephone or video conference call.

(c) After notice to the state and an opportunity for a hearing, the court having jurisdiction over the petition shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense if the court determines that:

(1) the person committed the offense described by Subsection (a)(1) solely as a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code;

(2) if applicable, the person did not commit another offense described by Subsection (a)(1) on or after the date on which the person's first petition for an order of nondisclosure under this section was submitted; and

(3) issuance of the order is in the best interest of justice.

(c-1) In determining whether a person committed an offense described by Subsection (a)(1) solely as a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code, the court may consider any order of nondisclosure previously granted to the person under this section.

(d) A person may petition the applicable court for an order of nondisclosure of criminal history record information under this section only on or after the first anniversary of the date the person:

(1) completed the sentence, including any term of confinement imposed and payment of all fines, costs, and restitution imposed; or

(2) received a dismissal and discharge under Article 42A.111, Code of Criminal Procedure, if the person was placed on deferred adjudication community supervision.

Added by Acts 2015, 84th Leg., R.S., Ch. 1070 (H.B. 2286), Sec. 2.01, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 693 (H.B. 322), Sec. 5, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 4.01, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 529 (S.B. 1801), Sec. 1, eff. September 1, 2019.

Sec. 411.0729. PROCEDURE FOR CERTAIN VETERANS PLACED ON COMMUNITY SUPERVISION. (a) On successful completion of the veterans reemployment program under Subchapter H-1, Chapter 42A, Code of Criminal Procedure, and all other conditions of the defendant's community supervision, including deferred adjudication community supervision, after notice to the state and a hearing on whether issuance of an order of nondisclosure is in the best interest of justice, the court shall enter an order of nondisclosure with respect to all records of the offense for which the defendant was placed on community supervision.

(b) Subsection (a) applies regardless of whether the defendant meets the other eligibility criteria under this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 361 (H.B. 714), Sec. 2, eff. June 2, 2019.

Sec. 411.073. PROCEDURE FOR COMMUNITY SUPERVISION FOLLOWING CONVICTION; CERTAIN MISDEMEANORS. (a) This section applies only to a person placed on community supervision under Chapter 42A, Code of Criminal Procedure:

(1) following a conviction of a misdemeanor other than a misdemeanor under Section 106.041, Alcoholic Beverage Code, Section 49.04, 49.05, 49.06, or 49.065, Penal Code, or Chapter 71, Penal Code; and

(2) under a provision of Chapter 42A, Code of Criminal Procedure, other than Subchapter C, including:

(A) a provision that requires the person to serve a term of confinement as a condition of community supervision; or

(B) another provision that authorizes placing a person on community supervision after the person has served part of a term of confinement imposed for the offense.

(b) Notwithstanding any other provision of this subchapter or Subchapter F, a person described by Subsection (a) whose community

supervision is not revoked and who completes the period of community supervision, including any term of confinement imposed and payment of all fines, costs, and restitution imposed, may petition the court that placed the person on community supervision for an order of nondisclosure of criminal history record information under this section if the person:

(1) satisfies the requirements of this section and Section 411.074; and

(2) has never been previously convicted of or placed on deferred adjudication community supervision for another offense other than a traffic offense that is punishable by fine only.

(c) After notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition and issuance of the order is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the community supervision.

(d) A person may petition the court that placed the person on community supervision for an order of nondisclosure of criminal history record information under this section only on or after:

(1) the completion of the community supervision, if the offense for which the person was placed on community supervision was a misdemeanor other than a misdemeanor described by Subdivision (2); or

(2) the second anniversary of the date of completion of the community supervision, if the offense for which the person was placed on community supervision was a misdemeanor under Chapter 20, 21, 22, 25, 42, 43, or 46, Penal Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 5, eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 23.006, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 877 (H.B. 3016), Sec. 3, eff. September 1, 2017.

Sec. 411.0731. PROCEDURE FOR COMMUNITY SUPERVISION FOLLOWING CONVICTION; CERTAIN DRIVING WHILE INTOXICATED CONVICTIONS. (a) This

section applies only to a person placed on community supervision under Chapter 42A, Code of Criminal Procedure:

(1) following a conviction of an offense under Section 49.04, Penal Code, other than an offense punishable under Subsection (d) of that section; and

(2) under a provision of Chapter 42A, Code of Criminal Procedure, other than Subchapter C, including:

(A) a provision that requires the person to serve a term of confinement as a condition of community supervision; or

(B) another provision that authorizes placing a person on community supervision after the person has served part of a term of confinement imposed for the offense.

(b) Notwithstanding any other provision of this subchapter or Subchapter F, a person described by Subsection (a) whose community supervision is not revoked and who completes the period of community supervision, including any term of confinement imposed and payment of all fines, costs, and restitution imposed, may petition the court that placed the person on community supervision for an order of nondisclosure of criminal history record information under this section if the person:

(1) satisfies the requirements of this section and Section 411.074; and

(2) has never been previously convicted of or placed on deferred adjudication community supervision for another offense other than a traffic offense that is punishable by fine only.

(c) A petition for an order of nondisclosure of criminal history record information filed under this section must include evidence that the person is entitled to file the petition.

(d) Except as provided by Subsection (e), after notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition and issuance of an order of nondisclosure of criminal history record information is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the community supervision.

(e) A court may not issue an order of nondisclosure of criminal history record information under this section if the attorney representing the state presents evidence sufficient to the court demonstrating that the commission of the offense for which the order

is sought resulted in a motor vehicle collision involving another person, including a passenger in a motor vehicle operated by the person seeking the order of nondisclosure.

(f) A person may petition the court that placed the person on community supervision for an order of nondisclosure of criminal history record information under this section only on or after:

(1) the second anniversary of the date of completion of the community supervision, if the person successfully complied with a condition of community supervision that, for a period of not less than six months, restricted the person's operation of a motor vehicle to a motor vehicle equipped with an ignition interlock device; or

(2) the fifth anniversary of the date of completion of the community supervision, if the court that placed the person on community supervision did not order the person to comply with a condition of community supervision described by Subdivision (1) for the period described by that subdivision.

Added by Acts 2017, 85th Leg., R.S., Ch. 877 (H.B. 3016), Sec. 4, eff. September 1, 2017.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 709 (H.B. 2190), Sec. 132, eff. September 1, 2023.

Sec. 411.0735. PROCEDURE FOR CONVICTION; CERTAIN MISDEMEANORS. (a) This section applies only to a person who:

(1) is convicted of a misdemeanor other than a misdemeanor under Section 106.041, Alcoholic Beverage Code, Section 49.04, 49.05, 49.06, or 49.065, Penal Code, or Chapter 71, Penal Code; and

(2) is not eligible for an order of nondisclosure of criminal history record information under Section 411.073.

(b) Notwithstanding any other provision of this subchapter or Subchapter F, a person described by Subsection (a) who completes the person's sentence, including any term of confinement imposed and payment of all fines, costs, and restitution imposed, may petition the court that imposed the sentence for an order of nondisclosure of criminal history record information under this section if the person:

(1) satisfies the requirements of this section and Section 411.074; and

(2) has never been previously convicted of or placed on

deferred adjudication community supervision for another offense other than a traffic offense that is punishable by fine only.

(c) Except as provided by Subsection (c-1), after notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition and issuance of the order is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense for which the person was convicted.

(c-1) A court may not issue an order of nondisclosure of criminal history record information under this section if the court determines that the offense for which the order is sought, other than an offense under Section 22.01, Penal Code, was violent or sexual in nature.

(d) A person may petition the court that imposed the sentence for an order of nondisclosure of criminal history record information under this section only on or after:

(1) the date of completion of the person's sentence, if the offense of which the person was convicted was a misdemeanor punishable by fine only; or

(2) the second anniversary of the date of completion of the person's sentence, if the offense of which the person was convicted was a misdemeanor other than a misdemeanor described by Subdivision (1).

Added by Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 5, eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 877 (H.B. 3016), Sec. 5, eff. September 1, 2017.

Sec. 411.0736. PROCEDURE FOR CONVICTION; CERTAIN DRIVING WHILE INTOXICATED CONVICTIONS. (a) This section applies only to a person who:

(1) is convicted of an offense under Section 49.04, Penal Code, other than an offense punishable under Subsection (d) of that section; and

(2) is not eligible for an order of nondisclosure of criminal history record information under Section 411.0731.

(b) Notwithstanding any other provision of this subchapter or Subchapter F, a person described by Subsection (a) who completes the person's sentence, including any term of confinement imposed and payment of all fines, costs, and restitution imposed, may petition the court that imposed the sentence for an order of nondisclosure of criminal history record information under this section if the person:

(1) satisfies the requirements of this section and Section 411.074; and

(2) has never been previously convicted of or placed on deferred adjudication community supervision for another offense other than a traffic offense that is punishable by fine only.

(c) A petition for an order of nondisclosure of criminal history record information filed under this section must include evidence that the person is entitled to file the petition.

(d) Except as provided by Subsection (e), after notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition and issuance of an order of nondisclosure of criminal history record information is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense for which the person was convicted.

(e) A court may not issue an order of nondisclosure of criminal history record information under this section if the attorney representing the state presents evidence sufficient to the court demonstrating that the commission of the offense for which the order is sought resulted in a motor vehicle collision involving another person, including a passenger in a motor vehicle operated by the person seeking the order of nondisclosure.

(f) A person may petition the court that imposed the sentence for an order of nondisclosure of criminal history record information under this section on or after:

(1) the third anniversary of the date of completion of the person's sentence, if the person successfully complied with a condition of the sentence that, for a period of not less than six months, restricted the person's operation of a motor vehicle to a motor vehicle equipped with an ignition interlock device; or

(2) the fifth anniversary of the date of completion of the person's sentence, if the court that imposed the sentence did not order the person to comply with a condition described by Subdivision

(1) for the period described by that subdivision.

Added by Acts 2017, 85th Leg., R.S., Ch. 877 (H.B. 3016), Sec. 6, eff. September 1, 2017.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 709 (H.B. 2190), Sec. 133, eff. September 1, 2023.

Sec. 411.074. REQUIRED CONDITIONS FOR RECEIVING AN ORDER OF NONDISCLOSURE. (a) A person may be granted an order of nondisclosure of criminal history record information under this subchapter and, when applicable, is entitled to petition the court to receive an order under this subchapter only if, during the period after the court pronounced the sentence or placed the person on community supervision, including deferred adjudication community supervision, for the offense for which the order of nondisclosure is requested, and during any applicable waiting period for the person under this subchapter following completion of the person's sentence or community supervision, including deferred adjudication community supervision, the person is not convicted of or placed on deferred adjudication community supervision for any offense other than a traffic offense that is punishable by fine only.

(b) A person may not be granted an order of nondisclosure of criminal history record information under this subchapter and is not entitled to petition the court for an order of nondisclosure under this subchapter if:

(1) the person requests the order of nondisclosure for, or the person has been previously convicted of or placed on deferred adjudication community supervision for:

(A) an offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure;

(B) an offense under Section 20.04, Penal Code, regardless of whether the offense is a reportable conviction or adjudication for purposes of Chapter 62, Code of Criminal Procedure;

(C) an offense under Section 19.02, 19.03, 20A.02, 20A.03, 22.04, 22.041, 25.07, 25.072, or 42.072, Penal Code; or

(D) any other offense involving family violence, as defined by Section 71.004, Family Code; or

(2) the court makes an affirmative finding that the offense

for which the order of nondisclosure is requested involved family violence, as defined by Section 71.004, Family Code.

Amended by:
Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.40, eff. January 1, 2017.
Transferred, redesignated and amended by Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 6, eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 877 (H.B. 3016), Sec. 7, eff. September 1, 2017.

Sec. 411.0745. PETITION AND ORDER. (a) A person who petitions the court for an order of nondisclosure of criminal history record information under this subchapter, when a petition is required, may file the petition in person, electronically, or by mail.

(b) The petition must be accompanied by payment of a fee that generally applies to the filing of a civil case.

(c) The Office of Court Administration of the Texas Judicial System shall prescribe a form for the filing of a petition electronically or by mail. The form must provide for the petition to be accompanied by the required fees and any other supporting material determined necessary by the office of court administration, including evidence that the person is entitled to file the petition.

(d) The office of court administration shall make available on its Internet website the electronic application and printable application form. Each county or district clerk's office that maintains an Internet website shall include on that website a link to the electronic application and printable application form available on the office of court administration's Internet website.

(e) On receipt of a petition under this section, the court shall provide notice to the state and an opportunity for a hearing on whether the person is entitled to file the petition and issuance of the order is in the best interest of justice. The court shall hold a hearing before determining whether to issue an order of nondisclosure of criminal history record information, except that a hearing is not required if:

(1) the state does not request a hearing on the issue before the 45th day after the date on which the state receives notice

under this subsection; and

(2) the court determines that:

(A) the person is entitled to file the petition; and

(B) the order is in the best interest of justice.

Transferred, redesignated and amended from Government Code, Section 411.081(f-1) by Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 7, eff. September 1, 2015.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 2.16, eff. January 1, 2022.

Sec. 411.075. PROCEDURE AFTER ORDER. (a) Not later than the 15th business day after the date an order of nondisclosure of criminal history record information is issued under this subchapter, the clerk of the court shall send all relevant criminal history record information contained in the order or a copy of the order by certified mail, return receipt requested, or secure electronic mail, electronic transmission, or facsimile transmission to the Crime Records Service of the department.

(b) Not later than 10 business days after receipt of relevant criminal history record information contained in an order or a copy of an order under Subsection (a), the department shall seal any criminal history record information maintained by the department that is the subject of the order. The department shall also send all relevant criminal history record information contained in the order or a copy of the order by certified mail, return receipt requested, or secure electronic mail, electronic transmission, or facsimile transmission to all:

(1) law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state;

(2) central federal depositories of criminal records that there is reason to believe have criminal history record information that is the subject of the order; and

(3) private entities that purchase criminal history record information from the department or that otherwise are likely to have

criminal history record information that is subject to the order.

(c) The director shall adopt rules regarding minimum standards for the security of secure electronic mail, electronic transmissions, and facsimile transmissions under Subsections (a) and (b). In adopting rules under this subsection, the director shall consult with the Office of Court Administration of the Texas Judicial System.

(d) Not later than 30 business days after receipt of relevant criminal history record information contained in an order or a copy of an order from the department under Subsection (b), an individual or entity described by Subsection (b)(1) shall seal any criminal history record information maintained by the individual or entity that is the subject of the order.

(e) The department may charge to a private entity that purchases criminal history record information from the department a fee in an amount sufficient to recover costs incurred by the department in providing relevant criminal history record information contained in an order or a copy of an order under Subsection (b)(3) to the entity.

Transferred, redesignated and amended from Government Code, Section 411.081 by Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 8, eff. September 1, 2015.

Sec. 411.0755. STATEMENT IN APPLICATION FOR EMPLOYMENT, INFORMATION, OR LICENSING. A person whose criminal history record information is the subject of an order of nondisclosure of criminal history record information issued under this subchapter is not required in any application for employment, information, or licensing to state that the person has been the subject of any criminal proceeding related to the information that is the subject of the order.

Transferred, redesignated and amended from Government Code, Section 411.081(g-2) by Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 9, eff. September 1, 2015.

Sec. 411.076. DISCLOSURE BY COURT. (a) A court may not disclose to the public any information contained in the court records that is the subject of an order of nondisclosure of criminal history

record information issued under this subchapter. The court may disclose information contained in the court records that is the subject of an order of nondisclosure of criminal history record information only to:

(1) criminal justice agencies for criminal justice or regulatory licensing purposes;

(2) an agency or entity listed in Section 411.0765; or

(3) the person who is the subject of the order.

(b) The clerk of the court issuing an order of nondisclosure of criminal history record information under this subchapter shall seal any court records containing information that is the subject of the order as soon as practicable after the date the clerk of the court sends all relevant criminal history record information contained in the order or a copy of the order to the department under Section 411.075(a).

Transferred, redesignated and amended from Government Code, Section 411.081(g-3) by Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 10, eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.0765. DISCLOSURE BY CRIMINAL JUSTICE AGENCY. (a) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure of criminal history record information under this subchapter only:

(1) to other criminal justice agencies;

(2) for criminal justice or regulatory licensing purposes;

(3) to an agency or entity listed in Subsection (b);

(4) to the person who is the subject of the order; or

(5) for the purpose of complying with a requirement under federal law or if federal law requires the disclosure as a condition of receiving federal highway funds.

(b) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure of criminal history record information under this subchapter to the following noncriminal justice agencies or entities only:

(1) the State Board for Educator Certification;

(2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement;

(3) the Texas Medical Board;

(4) the Texas School for the Blind and Visually Impaired;

(5) the Board of Law Examiners;

(6) the State Bar of Texas;

(7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;

(8) the Texas School for the Deaf;

(9) the Department of Family and Protective Services;

(10) the Texas Juvenile Justice Department;

(11) the Department of Assistive and Rehabilitative Services;

(12) the Department of State Health Services, a local mental health service, a local intellectual and developmental disability authority, or a community center providing services to persons with mental illness or intellectual or developmental disabilities;

(13) the Texas Private Security Board;

(14) a municipal or volunteer fire department;

(15) the Texas Board of Nursing;

(16) a safe house providing shelter to children in harmful situations;

(17) a public or nonprofit hospital or hospital district, or a facility as defined by Section 250.001, Health and Safety Code;

(18) the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, the consumer credit commissioner, or the credit union commissioner;

(19) the Texas State Board of Public Accountancy;

(20) the Texas Department of Licensing and Regulation;

(21) the Health and Human Services Commission;

(22) the Department of Aging and Disability Services;

(23) the Texas Education Agency;

(24) the Judicial Branch Certification Commission;

(25) a county clerk's office in relation to a proceeding for the appointment of a guardian under Title 3, Estates Code;

(26) the Department of Information Resources but only regarding an employee, applicant for employment, contractor, subcontractor, intern, or volunteer who provides network security

services under Chapter 2059 to:

(A) the Department of Information Resources; or

(B) a contractor or subcontractor of the Department of Information Resources;

(27) the Texas Department of Insurance;

(28) the Teacher Retirement System of Texas;

(29) the Texas State Board of Pharmacy;

(30) the Texas Civil Commitment Office;

(31) a bank, savings bank, savings and loan association, credit union, or mortgage banker, a subsidiary or affiliate of those entities, or another financial institution regulated by a state regulatory entity listed in Subdivision (18) or by a corresponding federal regulatory entity, but only regarding an employee, contractor, subcontractor, intern, or volunteer of or an applicant for employment by that bank, savings bank, savings and loan association, credit union, mortgage banker, subsidiary or affiliate, or financial institution; and

(32) an employer that has a facility that handles or has the capability of handling, transporting, storing, processing, manufacturing, or controlling hazardous, explosive, combustible, or flammable materials, if:

(A) the facility is critical infrastructure, as defined by 42 U.S.C. Section 5195c(e), or the employer is required to submit to a risk management plan under Section 112(r) of the federal Clean Air Act (42 U.S.C. Section 7412) for the facility; and

(B) the information concerns an employee, applicant for employment, contractor, or subcontractor whose duties involve or will involve the handling, transporting, storing, processing, manufacturing, or controlling hazardous, explosive, combustible, or flammable materials and whose background is required to be screened under a federal provision described by Paragraph (A).

Reenacted, transferred, redesignated and amended from Government Code, Section 411.081(i) by Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 11, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 7, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 877 (H.B. 3016), Sec. 8, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 8.010, eff. September 1, 2019.

Sec. 411.077. DEPARTMENT OF PUBLIC SAFETY REPORT. (a) Repealed by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 5.01(c)(16), eff. January 1, 2022.

(b) The department shall submit a report to the legislature not later than December 1 of each even-numbered year that includes information on:

(1) the number of petitions for nondisclosure of criminal history record information and orders of nondisclosure of criminal history record information received by the department in each of the previous two years;

(2) the actions taken by the department with respect to the petitions and orders received;

(3) the costs incurred by the department in taking those actions; and

(4) the number of persons who are the subject of an order of nondisclosure of criminal history record information and who became the subject of criminal charges for an offense committed after the order was issued.

Transferred, redesignated and amended from Government Code, Section 411.081(h) by Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 12, eff. September 1, 2015.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 2.17, eff. January 1, 2022.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 5.01(c)(16), eff. January 1, 2022.

Sec. 411.0775. ADMISSIBILITY AND USE OF CERTAIN CRIMINAL HISTORY RECORD INFORMATION IN SUBSEQUENT CRIMINAL PROCEEDING. Notwithstanding any other law, criminal history record information that is related to a conviction and is the subject of an order of nondisclosure of criminal history record information under this subchapter may be:

(1) admitted into evidence during the trial of any

subsequent offense if the information is admissible under the Texas Rules of Evidence or another law; or

(2) disclosed to a prosecuting attorney for a criminal justice purpose.

Added by Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 13, eff. September 1, 2015.

SUBCHAPTER F. CRIMINAL HISTORY RECORD INFORMATION

Sec. 411.081. APPLICATION OF SUBCHAPTER. (a) This subchapter does not apply to criminal history record information that is contained in:

(1) posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;

(2) original records of entry, including police blotters maintained by a criminal justice agency that are compiled chronologically and required by law or long-standing practice to be available to the public;

(3) public judicial, administrative, or legislative proceedings;

(4) court records of public judicial proceedings;

(5) published judicial or administrative opinions; or

(6) announcements of executive clemency.

(b) This subchapter does not prohibit a criminal justice agency from disclosing to the public criminal history record information that is related to the offense for which a person is involved in the criminal justice system.

(c) This subchapter does not prohibit a criminal justice agency from confirming previous criminal history record information to any person on specific inquiry about whether a named person was arrested, detained, indicted, or formally charged on a specified date, if the information disclosed is based on data excluded by Subsection (b).

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 1236, Sec. 4, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 177 (H.B. 413), Sec. 3, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1309 (H.B. 3093), Sec. 3, eff.

September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 889 (H.B. 2426), Sec. 54, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 6.061, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1017 (H.B. 1303), Sec. 5, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1017 (H.B. 1303), Sec. 6, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1017 (H.B. 1303), Sec. 11, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 16, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 183 (H.B. 1830), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 780 (S.B. 1056), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 816 (S.B. 1599), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1027 (H.B. 4343), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.005, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 731 (H.B. 961), Sec. 12, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1182 (H.B. 3453), Sec. 12, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 2.23, eff. September 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 96 (S.B. 743), Sec. 6, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 266 (H.B. 729), Sec. 4, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 583 (S.B. 869), Sec. 32, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1146 (S.B. 107), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 20, eff.

September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2111, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.082. DEFINITIONS. In this subchapter:

(1) "Administration of criminal justice" has the meaning assigned by Article 66.001, Code of Criminal Procedure.

(1-a) "Applicant" means an individual who submits an application for employment, licensure, certification, or registration that requires the department to conduct a background check using criminal history record information.

(1-b) "Application" means an application submitted by hard copy or electronically for employment, licensure, certification, or registration that requires the department to conduct a background check using criminal history record information.

(2) "Criminal history record information" means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions. The term does not include:

(A) identification information, including fingerprint records, to the extent that the identification information does not indicate involvement of the person in the criminal justice system; or

(B) driving record information maintained by the department under Subchapter C, Chapter 521, Transportation Code.

(3) "Criminal justice agency" means:

(A) a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial portion of its annual budget to the administration of criminal justice; or

(B) a nongovernmental railroad or campus police department that has obtained an originating agency identifier from the Federal Bureau of Investigation.

(4) "Criminal justice purpose" means:

(A) an activity that is included in the administration of criminal justice; or

(B) screening of applicants for employment with a

criminal justice agency.

(5) "Office of capital and forensic writs" means the office of capital and forensic writs established under Subchapter B, Chapter 78.

(6) "Public defender's office" has the meaning assigned by Article 26.044(a), Code of Criminal Procedure.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.190, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1188 (S.B. 1044), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1215 (S.B. 1743), Sec. 23, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 4.10, eff. January 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 11, eff. June 13, 2023.

Sec. 411.083. DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION. (a) Criminal history record information maintained by the department is confidential information for the use of the department and, except as provided by this subchapter or Subchapter E-1, may not be disseminated by the department.

(b) The department shall grant access to criminal history record information to:

(1) criminal justice agencies;

(2) noncriminal justice agencies authorized by federal statute or executive order or by state statute to receive criminal history record information;

(3) the person who is the subject of the criminal history record information;

(4) a person, including a research organization or public or private institution of higher education, working on a research or statistical project that is related to the administration of criminal justice and approved by the department and that:

(A) is funded in whole or in part by a criminal justice grant or government funds; or

(B) meets the requirements of Part 22, Title 28, Code of Federal Regulations;

(5) an individual or an agency that has a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice under that agreement, if the agreement:

(A) specifically authorizes access to information;

(B) limits the use of information to the purposes for which it is given;

(C) ensures the security and confidentiality of the information;

(D) provides for sanctions if a requirement imposed under Paragraph (A), (B), or (C) is violated; and

(E) requires the individual or agency to perform the applicable services in a manner prescribed by the department;

(6) an individual or an agency that has a specific agreement with a noncriminal justice agency to provide services related to the use of criminal history record information disseminated under this subchapter, if the agreement:

(A) specifically authorizes access to information;

(B) limits the use of information to the purposes for which it is given;

(C) ensures the security and confidentiality of the information;

(D) provides for sanctions if a requirement imposed under Paragraph (A), (B), or (C) is violated; and

(E) requires the individual or agency to perform the applicable services in a manner prescribed by the department;

(7) a county or district clerk's office; and

(8) the Office of Court Administration of the Texas Judicial System.

(c) The department may disseminate criminal history record information under Subsection (b)(1) only for a criminal justice purpose. The department may disseminate criminal history record information under Subsection (b)(2) only for a purpose specified in the statute or order. The department may disseminate criminal history record information under Subsection (b)(4), (5), or (6) only for a purpose approved by the department and only under rules adopted by the department. The department may disseminate criminal history record information under Subsection (b)(7) only to the extent

necessary for a county or district clerk to perform a duty imposed by law to collect and report criminal court disposition information. Criminal history record information disseminated to a clerk under Subsection (b)(7) may be used by the clerk only to ensure that information reported by the clerk to the department is accurate and complete. The dissemination of information to a clerk under Subsection (b)(7) does not affect the authority of the clerk to disclose or use information submitted by the clerk to the department. The department may disseminate criminal history record information under Subsection (b)(8) only to the extent necessary for the office of court administration to perform a duty imposed by law, including the development and maintenance of the public safety report system as required by Article 17.021, Code of Criminal Procedure, or to compile court statistics or prepare reports. The office of court administration may disclose criminal history record information obtained from the department under Subsection (b)(8):

(1) in a public safety report prepared under Article 17.022, Code of Criminal Procedure; or

(2) in a statistic compiled by the office or a report prepared by the office, but only in a manner that does not identify the person who is the subject of the information.

(d) The department is not required to release or disclose criminal history record information to any person that is not in compliance with rules adopted by the department under this subchapter or rules adopted by the Federal Bureau of Investigation that relate to the dissemination or use of criminal history record information.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 474, Sec. 4, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 17, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.02, eff. June 19, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 21, eff. September 1, 2015.

Acts 2021, 87th Leg., 2nd C.S., Ch. 11 (S.B. 6), Sec. 18(a), eff. December 2, 2021.

Acts 2023, 88th Leg., R.S., Ch. 905 (H.B. 1184), Sec. 1, eff. September 1, 2023.

Sec. 411.0835. PROHIBITION AGAINST DISSEMINATION TO CERTAIN PRIVATE ENTITIES. If the department receives information indicating that a private entity that purchases criminal history record information from the department has been found by a court to have committed three or more violations of Section 552.1425 by compiling or disseminating information with respect to which an order of expunction has been issued under Subchapter E or F, Chapter 55A, Code of Criminal Procedure, or an order of nondisclosure of criminal history record information has been issued under Subchapter E-1 of this chapter, the department may not release any criminal history record information to that entity until the first anniversary of the date of the most recent violation.

Added by Acts 2007, 80th Leg., R.S., Ch. 1017 (H.B. 1303), Sec. 7, eff. September 1, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 22, eff. September 1, 2015.
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.087, eff. January 1, 2025.

Sec. 411.084. USE OF CRIMINAL HISTORY RECORD INFORMATION. (a) Criminal history record information obtained from the department under this subchapter, including any identification information that could reveal the identity of a person about whom criminal history record information is requested and information that directly or indirectly indicates or implies involvement of a person in the criminal justice system:

(1) is for the exclusive use of the authorized recipient of the information; and

(2) may be disclosed or used by the recipient only if, and only to the extent that, disclosure or use is authorized or directed by:

(A) this subchapter;

(B) another statute;

(C) a rule adopted under a statute; or

(D) an order of a court of competent jurisdiction.

(a-1) The term "criminal history record" information under Subsection (a) does not refer to any specific document produced to comply with this subchapter but to the information contained, wholly or partly, in a document's original form or any subsequent form or use.

(b) Notwithstanding Subsection (a) or any other provision in this subchapter relating to the release or disclosure of such information, criminal history record information obtained from the Federal Bureau of Investigation may be released or disclosed only to a governmental entity or as authorized by federal law and regulations, federal executive orders, and federal policy.

(c) An agency or individual may not confirm the existence or nonexistence of criminal history record information to any person that is not eligible to receive the information.

(d) Notwithstanding any other provision of this subchapter, a private entity that purchases information from the department is not required to provide proof of cyber-threat insurance coverage or post a performance bond if that entity:

(1) provides proof of an audit by a certified public accountant certifying that the requestor has implemented internal controls and security protocols that are consistent with the National Institute of Standards and Technology standards for cybersecurity and approved by the Department of Information Resources or an IT cybersecurity professional certified by the National Institute of Standards and Technology or a similar organization;

(2) provides proof of Payment Card Industry Data Security Standard (PCI DSS) certification or certification by a similar organization recognized by the Department of Information Resources; or

(3) provides proof of compliance with voluntary compliance standards for cybersecurity developed by a national organization of certified public accountants for the management of customer data, including SOC 1, SOC 2, or SOC.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 296, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 9A.01, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.03,

eff. June 19, 2009.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 12, eff. June 13, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2587, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.0845. CRIMINAL HISTORY CLEARINGHOUSE. (a) The department shall establish an electronic clearinghouse and subscription service to provide criminal history record information to a particular person entitled to receive criminal history record information and updates to a particular record to which the person has subscribed under this subchapter.

(b) On receiving a request for criminal history record information from a person entitled to such information under this subchapter, the department shall provide through the electronic clearinghouse:

(1) the criminal history record information reported to the department or the Federal Bureau of Investigation relating to the individual who is the subject of the request; or

(2) a statement that the individual who is the subject of the request does not have any criminal history record information reported to the department or the Federal Bureau of Investigation.

(c) If the department provides information received from the Federal Bureau of Investigation, the department must include with the information the date the department received information from the Federal Bureau of Investigation.

(d) The department shall ensure that the information described by Subsection (b) is provided only to a person otherwise entitled to obtain criminal history record information under this subchapter. Information collected under this section is confidential and is not subject to disclosure under Chapter 552.

(e) A person entitled to receive criminal history record information under this section must provide the department with the following information regarding the person who is the subject of the criminal history record information requested:

(1) the person's full name, date of birth, sex, and social security number, and the number assigned to any form of unexpired identification card issued by this state or another state, the

District of Columbia, or a territory of the United States that includes the person's photograph;

(2) a recent electronic digital image photograph of the person and a complete set of the person's fingerprints as required by the department; and

(3) any other information required by the department.

(f) The department shall maintain an Internet website for the administration of the clearinghouse and an electronic subscription service to provide notice of updates to a particular criminal history record to each person entitled under this subchapter to receive criminal history record information updates to that particular record. The department shall update clearinghouse records as a result of any change in information discovered by the department. Within 48 hours after the department becomes aware that a person's criminal history record information in a clearinghouse record has changed, the department shall provide notice of the updated information only to each subscriber to that specific record.

(g) As soon as practicable, a subscriber who is no longer entitled to receive criminal history record information relating to a particular person shall notify the department. The department shall cancel the person's subscription to that record and may not notify the former subscriber of any updated information to that record.

(h) A person who is the subject of the criminal history record information requested under this section must consent to the release of the information.

(i) The release under this section of any criminal history record information maintained by the Federal Bureau of Investigation, including the computerized information submitted to the federal database maintained by the Federal Bureau of Investigation as described by Section 411.042(b)(9)(B), is subject to federal law and regulations, federal executive orders, and federal policy.

(j) The department may charge a fee for subscription services to cover the costs of administering this section.

(k) A governmental agency may coordinate with the department regarding the use of the fingerprinting fee collection process to collect a fee for the criminal history record information and any other fees associated with obtaining a person's fingerprints as required by the department.

Added by Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 18, eff.

June 15, 2007.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.04, eff. June 19, 2009.

Sec. 411.085. UNAUTHORIZED OBTAINING, USE, OR DISCLOSURE OF CRIMINAL HISTORY RECORD INFORMATION; PENALTY. (a) A person commits an offense if the person knowingly or intentionally:

(1) obtains criminal history record information in an unauthorized manner, uses the information for an unauthorized purpose, or discloses the information to a person who is not entitled to the information; or

(2) violates a rule of the department adopted under this subchapter.

(b) An offense under Subsection (a) is a Class B misdemeanor, except as provided by Subsection (c).

(c) An offense under Subsection (a) is a felony of the second degree if the person:

(1) obtains, uses, or discloses criminal history record information for remuneration or for the promise of remuneration; or

(2) employs another person to obtain, use, or disclose criminal history record information for remuneration or for the promise of remuneration.

(d) The department shall provide a copy of this section to:

(1) each person who applies for access to criminal history record information maintained by the department; and

(2) each private entity that purchases criminal history record information from the department.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1017 (H.B. 1303), Sec. 8, eff. September 1, 2007.
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.05, eff. June 19, 2009.

Sec. 411.0851. DUTY OF PRIVATE ENTITY TO UPDATE CRIMINAL HISTORY RECORD INFORMATION; CIVIL LIABILITY. (a) A private entity

that compiles and disseminates for compensation criminal history record information shall destroy and may not disseminate any information in the possession of the entity with respect to which the entity has received notice that:

(1) an order of expunction has been issued under Subchapter E or F, Chapter 55A, Code of Criminal Procedure; or

(2) an order of nondisclosure of criminal history record information has been issued under Subchapter E-1 of this chapter.

(b) Unless the entity is regulated by the federal Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.) or the Gramm-Leach-Bliley Act (15 U.S.C. Sections 6801 to 6809), a private entity described by Subsection (a) that purchases criminal history record information from the department or from another governmental agency or entity in this state:

(1) may disseminate that information only if, within the 90-day period preceding the date of dissemination, the entity:

(A) originally obtains that information; or

(B) receives that information as updated record information to its database; and

(2) shall notify the department if the entity sells any compilation of the information to another similar entity.

(c) A private entity that disseminates information in violation of this section is liable for any damages that are sustained as a result of the violation by the person who is the subject of that information. A person who prevails in an action brought under this section is also entitled to recover court costs and reasonable attorney's fees.

Added by Acts 2007, 80th Leg., R.S., Ch. 1017 (H.B. 1303), Sec. 7, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 780 (S.B. 1056), Sec. 2, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 731 (H.B. 961), Sec. 8, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 23, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.088, eff. January 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2587, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.086. RULES. (a) The department shall adopt rules to administer this subchapter.

(b) Rules adopted by the department:

(1) shall provide for a uniform method of requesting criminal history record information from the department;

(2) may require a person requesting criminal history record information about an individual to submit to the department one or more of the following:

(A) the complete name, race, and sex of the individual;

(B) any known alias name of the individual;

(C) a complete set of the individual's fingerprints;

(D) a recent photograph of the individual;

(E) any known identifying number of the individual, including social security number, FBI number, driver's license number, or state identification number;

(F) the individual's date of birth;

(G) any known alias dates of birth of the individual; or

(H) any other information the department determines is necessary to identify the individual or the record;

(3) shall provide for the methods and formats for dissemination of criminal history record information; and

(4) shall provide security measures and policies that are designed to guard against unauthorized release or dissemination of criminal history record information that is maintained or disseminated by the department.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.0865. CONTRACTS FOR FINGERPRINTING SERVICES. (a) If the department enters into a contract with a vendor to provide fingerprinting services throughout this state for use in accessing criminal history record information, including a contract entered into under Section 2157.068, the department shall:

(1) include in the contract a provision that:

(A) requires notice to the public of a permanent

closure of a location accessible to the public that provides fingerprinting services at least 45 days before the date on which the location closes;

(B) requires a mobile unit to provide fingerprinting services in or as near as practicable to the area of a location accessible to the public that permanently closes until a replacement location is opened in that area at full capacity if the closure would cause the vendor to not meet contractual coverage requirements; and

(C) allows the department to contract with a second vendor to provide fingerprinting services or to provide fingerprinting services by other means if the department determines that the original vendor has not fulfilled the contract in a reasonable manner; and

(2) annually review and prepare a report on the services provided by the vendor under the contract that includes a determination on the vendor's ability to adequately address the need for fingerprinting services throughout this state based on:

(A) the availability of fingerprinting appointments throughout this state, including any wait times for appointments at locations; and

(B) a study of the miles required to travel throughout this state in order to receive fingerprinting services and whether there are short-term or chronic gaps in coverage in certain areas of this state.

(b) The department shall provide the report prepared under Subsection (a)(2) to the governor and members of the legislature.

Added by Acts 2021, 87th Leg., R.S., Ch. 184 (S.B. 922), Sec. 1, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2587, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.087. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION MAINTAINED BY FEDERAL BUREAU OF INVESTIGATION OR LOCAL CRIMINAL JUSTICE AGENCY. (a) Unless otherwise authorized by Subsection (e), a person, agency, department, political subdivision, or other entity that is authorized by this subchapter or Subchapter E-1 to obtain from the department criminal history record information maintained by

the department that relates to another person is authorized to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to that person; or

(2) obtain from any other criminal justice agency in this state criminal history record information maintained by that criminal justice agency that relates to that person.

(b) Any restriction or limitation in this subchapter or Subchapter E-1 on criminal history record information that a person, agency, department, political subdivision, or other entity is entitled to obtain from the department applies equally to the criminal history record information that the person, agency, department, political subdivision, or other entity is entitled to obtain from the identification division of the Federal Bureau of Investigation or other criminal justice agency.

(c) Subsection (a) does not authorize a person, agency, department, political subdivision, or other entity to obtain criminal history record information from the identification division of the Federal Bureau of Investigation if dissemination of criminal history record information by the division is prohibited by federal law, executive order, or rule.

(d) A person, agency, department, political subdivision, or other entity that is not a criminal justice agency is entitled to obtain criminal history record information from the Federal Bureau of Investigation only if:

(1) the requestor submits a complete set of the individual's fingerprints and other identifying information and pays any fee required or approved by the bureau;

(2) no disqualifying record or information from a state or local criminal justice agency is known to the requestor; and

(3) the request is not for the purpose of discriminating against a person because of the person's race, sex, age, disability, religion, color, or national origin.

(e) The department may provide access to state and national criminal history record information to qualified entities entitled to that information under 42 U.S.C. Section 5119a. The department must follow federal law and regulation, federal executive orders, and federal policy in releasing information under this subsection.

(f) Notwithstanding any other law, a person, agency, department, political subdivision, or other entity entitled to access

the criminal history record information of a person under Subsection (e) is not required to collect or submit the person's fingerprints if:

(1) a complete set of the person's fingerprints was previously submitted under Subsection (d)(1);

(2) the department retained the fingerprints;

(3) the fingerprints are acceptable to the Federal Bureau of Investigation for access to criminal history record information; and

(4) the only purpose for which the person's fingerprints are collected is to access criminal history record information under Subsection (e).

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 248, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 19, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 12, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 24, eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2111, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.088. FEES. (a) Except as otherwise provided by Subsection (a-1), the department may charge a person a fee for processing inquiries for criminal history record information. The department may charge:

(1) a fee of $10 for each inquiry for criminal history record information on a person that is processed only on the basis of the person's name, unless the inquiry is submitted electronically or by magnetic media, in which event the fee is $1;

(2) a fee of $15 for each inquiry for criminal history record information on a person that is processed on the basis of a fingerprint comparison search; and

(3) except as provided by Subsection (b), actual costs for processing all other information inquiries.

(a-1) The department may not charge a fee under Subsection (a) for providing criminal history record information to:

(1) a criminal justice agency;

(2) the office of capital and forensic writs; or

(3) a public defender's office.

(b) The department may not charge for processing an electronic inquiry, made through the use of the Internet, for information described as public information under:

(1) Section 411.1355; or

(2) Article 62.005, Code of Criminal Procedure.

(c) The fee a municipality pays under Subsection (a)(1) for an inquiry submitted electronically or by magnetic media may be used to allow the department to make the information available through electronic means under Section 411.129.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 165, Sec. 8, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 747, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 791, Sec. 2, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 1024, Sec. 2, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(40), eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1008 (H.B. 867), Sec. 2.09, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1188 (S.B. 1044), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1215 (S.B. 1743), Sec. 24, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 637 (H.B. 5202), Sec. 1, eff. June 11, 2023.

Sec. 411.089. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CRIMINAL JUSTICE AGENCY. (a) A criminal justice agency is entitled to obtain from the department any criminal history record information maintained by the department about a person.

(b) Criminal history record information obtained under Subsection (a) may be released by the criminal justice agency:

(1) to any other criminal justice agency, if such release is for a criminal justice purpose; and

(2) through audio response terminals and radio devices, whether digital or voice, if such dissemination is in accordance with rules promulgated by the department.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.0891. DEPARTMENT ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CERTAIN DEPARTMENTAL AUTHORIZATIONS. (a) The department may obtain as provided by Subsection (a-1) criminal history record information that relates to a person who:

(1) is an applicant for or holds a registration issued by the director under Subchapter C, Chapter 481, Health and Safety Code, that authorizes the person to manufacture, distribute, analyze, or conduct research with a controlled substance;

(2) is an applicant for or holds a registration issued by the department under Chapter 487, Health and Safety Code, to be a director, manager, or employee of a dispensing organization, as defined by Section 487.001, Health and Safety Code;

(3) is an applicant for or holds an authorization issued by the department under Section 521.2476, Transportation Code, to do business in this state as a vendor of ignition interlock devices;

(4) is an applicant for or holds certification by the department as an inspection station or an inspector under Subchapter G, Chapter 548, Transportation Code, holds an inspection station or inspector certificate issued under that subchapter, or is the owner of an inspection station operating under that chapter;

(5) is an applicant for or holds a certificate of registration issued by the department under Chapter 1956, Occupations Code, to act as a metal recycling entity;

(6) is an applicant for or holds a license to carry a handgun issued by the department under Subchapter H, or is an applicant for or holds a certification as an instructor issued by the department under this chapter;

(7) is an applicant for or holds a Capitol access pass issued by the department under Section 411.0625; or

(8) is an applicant for or holds a license or commission issued by the department under Chapter 1702, Occupations Code.

(a-1) Subject to Section 411.087 and consistent with the public policy of this state, the department is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from any other criminal justice agency in this state criminal history record information maintained by that criminal justice agency that relates to a person described by Subsection (a).

(b) The department may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (a-1)(1). The department may release or disclose criminal history record information obtained by the department under Subsection (a-1)(2) for a purpose described by Subsection (a) to another person or agency only:

(1) in a criminal proceeding;

(2) in a hearing conducted by the department;

(3) under an order from a court; or

(4) with the consent of the person who is the subject of the criminal history record information.

(c) This section may not be construed to limit the authority of the department to disseminate criminal history record information as provided by Section 411.083.

(d) The department may require any person for whom the department is authorized to obtain criminal history record information under Subsections (a) and (a-1) to submit a complete and legible set of fingerprints to the department on a form prescribed by the department for the purpose of obtaining criminal history record information.

(e) The department shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 9.01, eff. June 19, 2009.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.001, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 13, eff. June 13, 2023.

Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION:

STATE BOARD FOR EDUCATOR CERTIFICATION. (a) The State Board for Educator Certification is entitled to obtain any criminal history record information as provided by Subsection (a-1) about a person who has applied to the board for or who currently holds a certificate under Subchapter B, Chapter 21, Education Code.

(a-1) Subject to Section 411.087 and consistent with the public policy of this state, the State Board for Educator Certification is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(b) The State Board for Educator Certification may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (a-1)(1). Criminal history record information obtained by the board under Subsection (a-1)(2) in the original form or any subsequent form:

(1) may be used only for a purpose related to the issuance, denial, reprimand, suspension, revocation, or cancellation of a certificate issued by the board;

(2) may not be released to any person except:

(A) to the person who is the subject of the information;

(B) to the Texas Education Agency;

(C) to a local or regional educational entity as provided by Section 411.097; or

(D) by court order; and

(3) is not subject to disclosure as provided by Chapter 552.

(c) The department shall notify the State Board for Educator Certification of the arrest of any educator, as defined by Section 5.001, Education Code, who has fingerprints on file with the department. Any record of the notification and any information contained in the notification is not subject to disclosure as provided by Chapter 552.

(d) The State Board for Educator Certification is not

prohibited from disclosing criminal history record information obtained under Subsection (a-1)(2) in a criminal proceeding or in a hearing conducted by the Texas Education Agency or the State Board for Educator Certification.

(e) The State Board for Educator Certification shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 260, Sec. 27, eff. May 30, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 20, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 9A.02, eff. September 1, 2009.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 14, eff. June 13, 2023.

Sec. 411.0901. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS EDUCATION AGENCY. (a) The Texas Education Agency is entitled to obtain criminal history record information as provided by Subsection (a-1) about a person who:

(1) is employed or is an applicant for employment by a school district or open-enrollment charter school;

(2) is employed or is an applicant for employment by a shared services arrangement, if the employee's or applicant's duties are or will be performed on school property or at another location where students are regularly present;

(3) is employed or is an applicant for employment by an entity that contracts or subcontracts with a school district, open-enrollment charter school, or shared services arrangement, if the applicant or employee has or will have:

(A) continuing duties related to the contracted or subcontracted services; and

(B) direct contact with students;

(4) is employed or is an applicant for employment by the Texas Education Agency; or

(5) provides services as a tutor on behalf of a service provider that offers accelerated or supplemental instruction under

Section 28.0211, Education Code, if the tutor has or will have continuing duties related to the services provided and has or will have direct contact with students.

(a-1) Subject to Section 411.087 and consistent with the public policy of this state, the Texas Education Agency is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(b) The Texas Education Agency may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (a-1)(1). Criminal history record information obtained by the agency under Subsection (a-1)(2) in the original form or any subsequent form:

(1) may be used only for a purpose authorized by the Education Code;

(2) may not be released to any person except:

(A) the person who is the subject of the information;

(B) the State Board for Educator Certification;

(C) a local or regional educational entity as provided by Section 411.097;

(D) by court order; or

(E) as provided by Subsection (c); and

(3) is not subject to disclosure as provided by Chapter 552.

(c) The Texas Education Agency is not prohibited from disclosing criminal history record information obtained under Subsection (a-1)(2) in a criminal proceeding or in a hearing conducted by the Texas Education Agency or the State Board for Educator Certification.

(d) The Texas Education Agency shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 21, eff. June 15, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 9A.03, eff. September 1, 2009.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 15, eff. June 13, 2023.

Sec. 411.091. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS ALCOHOLIC BEVERAGE COMMISSION. (a) The Texas Alcoholic Beverage Commission is entitled to obtain from the department criminal history record information maintained by the department that the commission believes is necessary for the enforcement or administration of the Alcoholic Beverage Code.

(b) Criminal history record information obtained by the commission under Subsection (a) may be used only for the enforcement and administration of the Alcoholic Beverage Code.

(c) Repealed by Acts 2001, 77th Leg., ch. 1420, Sec. 14.753, eff. Sept. 1, 2001.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(28), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 14.752, 14.753, eff. Sept. 1, 2001.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.001, eff. September 1, 2013.

Sec. 411.0915. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION OF POLITICAL SUBDIVISIONS: TEXAS ALCOHOLIC BEVERAGE COMMISSION. The commission is entitled to receive criminal history record information, without charge, from any political subdivision of this state. Information obtained may only be used by the commission for the enforcement of the Alcoholic Beverage Code.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.092. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: BANKING COMMISSIONER. (a) The banking commissioner is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license, charter, or other authority granted or issued by the banking commissioner under:

(A) Subtitle A, F, or G, Title 3, Finance Code;

(B) Chapter 151 or 154, Finance Code; or

(C) Chapter 712, Health and Safety Code;

(2) a principal of an applicant under Subdivision (1);

(3) an employee of or applicant for employment or volunteer with the Texas Department of Banking; or

(4) a contractor or subcontractor of the Texas Department of Banking.

(b) Criminal history record information obtained by the commissioner under Subsection (a), except on court order or as provided by Subsection (c), may not be released or disclosed to any person.

(c) The commissioner is not prohibited from disclosing to the individual who is the subject of the information the dates and places of arrests, the offenses, and the dispositions in the criminal history record information.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 194, Sec. 1, eff. May 23, 1995; Acts 1999, 76th Leg., ch. 62, Sec. 7.59, eff. Sept. 1, 1999.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 35 (S.B. 192), Sec. 1, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.093. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS DEPARTMENT OF LICENSING AND REGULATION. (a) The Texas Department of Licensing and Regulation is entitled to obtain criminal history record information as provided by Subsection (b) that relates to:

(1) an applicant for or the holder of:

(A) a driver education instructor license under Chapter 1001, Education Code;

(B) a license under Chapter 202, Occupations Code;

(C) a license under Chapter 401, Occupations Code;

(D) a license under Chapter 402, Occupations Code; or

(E) an instructor license or motorcycle school license under Chapter 662, Transportation Code;

(2) a person who is:

(A) an applicant for or the holder of a license under Chapter 91, Labor Code; or

(B) a controlling person, as defined by Chapter 91, Labor Code, of an entity described by Paragraph (A); or

(3) a person who:

(A) is an applicant for or the holder of a license under Chapter 455, Occupations Code; or

(B) has an interest described under Section 455.1525(e), Occupations Code, in an entity described by Paragraph (A).

(b) Subject to Section 411.087 and consistent with the public policy of this state, the Texas Department of Licensing and Regulation is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The Texas Department of Licensing and Regulation may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the Texas Department of Licensing and Regulation under Subsection (b)(2) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(d) The Texas Department of Licensing and Regulation is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) in a criminal proceeding or in a hearing conducted by the Texas Department of Licensing and Regulation or the State Office of Administrative Hearings.

(e) The Texas Department of Licensing and Regulation shall destroy criminal history record information that is obtained under

this section after the information is used for its authorized purpose.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 296, Sec. 2, eff. Sept. 1, 2003.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 16, eff. June 13, 2023.

Sec. 411.094. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: HIGHER EDUCATION ENTITIES; SECURITY-SENSITIVE POSITION. (a) In this section:

(1) "Institution of higher education":

(A) has the meaning assigned by Section 61.003, Education Code; or

(B) means a private institution of higher education that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools.

(2) "Security-sensitive position" means an employment position held by an employee who:

(A) handles currency;

(B) has access to a computer terminal;

(C) has access to the personal information or identifying information of another person;

(D) has access to the financial information of the employer or another person;

(E) has access to a master key; or

(F) works in a location designated as a security-sensitive area.

(b) The Texas Higher Education Coordinating Board and each institution of higher education are entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for a security-sensitive position at the coordinating board or institution, as applicable.

(c) Criminal history record information obtained under Subsection (b) may be used only for the purpose of evaluating applicants for employment in security-sensitive positions.

(d) Criminal history record information received under

Subsection (b) may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

(e) All criminal history record information obtained about an individual under Subsection (b) shall be destroyed by the coordinating board or by the chief of police of the institution of higher education, as applicable, as soon as practicable after the individual becomes employed in a security-sensitive position and after the expiration of any probationary term of employment or, if the individual is not hired for a security-sensitive position, after the information is used for its authorized purpose.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 296, Sec. 3, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.06, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 340 (H.B. 2937), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 340 (H.B. 2937), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 340 (H.B. 2937), Sec. 3, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1148 (S.B. 146), Sec. 1, eff. June 14, 2013.

Sec. 411.0945. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: PUBLIC INSTITUTION OF HIGHER EDUCATION; ON-CAMPUS STUDENT HOUSING. (a) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(b) An institution of higher education is entitled to obtain from the department criminal history record information maintained by the department that relates to a student, or to an applicant for admission as a student, who applies to reside in on-campus housing at the institution.

(c) Criminal history record information obtained by an institution of higher education under Subsection (b) may be used by the chief of police of the institution or by the institution's housing office only for the purpose of evaluating current students or

applicants for enrollment who apply to reside in on-campus housing at the institution. The institution shall notify a student who is the subject of the criminal history record information of any use of the information to deny the student the opportunity to reside in on-campus housing at the institution.

(d) Criminal history record information received by an institution of higher education under Subsection (b) may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

(e) As soon as practicable after the beginning of the academic period for which the person's housing application was submitted, all criminal history record information obtained about a person under Subsection (b), including any copy of the content of that information held by the institution, shall be destroyed by the chief of police of the institution of higher education or by the institution's housing office, as applicable.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1148 (S.B. 146), Sec. 2, eff. June 14, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2587, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.095. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CONSUMER CREDIT COMMISSIONER. (a) The consumer credit commissioner is entitled to obtain criminal history record information as provided by Subsection (a-1) that relates to a person who is:

(1) an applicant for or holder of a license or registration under Chapter 180, 342, 347, 348, 351, 353, 371, 393, or 394, Finance Code;

(2) an employee of or volunteer with the Office of Consumer Credit Commissioner;

(3) an applicant for employment with the Office of Consumer Credit Commissioner;

(4) a contractor or subcontractor of the Office of Consumer Credit Commissioner; or

(5) an officer, director, owner, or employee of a person described by Subdivision (1) or another person having a substantial

relationship with that person under Chapter 180, 342, 347, 348, 351, 353, 371, 393, or 394, Finance Code.

(a-1) Subject to Section 411.087 and consistent with the public policy of this state, the consumer credit commissioner is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(b) The consumer credit commissioner may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (a-1)(1). The consumer credit commissioner may not release or disclose criminal history record information obtained under Subsection (a-1)(2) except:

(1) on court order;

(2) to the person who is the subject of the criminal history record information;

(3) with the consent of the person who is the subject of the criminal history record information; or

(4) in a hearing where the Office of Consumer Credit Commissioner is a party.

(c) The consumer credit commissioner shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.60, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1235, Sec. 24, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 296, Sec. 13(1), eff. Sept. 1, 2003. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 20, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 117 (H.B. 2559), Sec. 18, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 256 (S.B. 1075), Sec. 1, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 17, eff.

June 13, 2023.

Sec. 411.096. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS RACING COMMISSION. (a) The Texas Racing Commission is entitled to obtain as provided by Subsection (a-1) criminal history record information that relates to:

(1) a person who:

(A) is an applicant for or the holder of a license or certificate under Chapter 2025, Occupations Code;

(B) is an owner or manager of an applicant or license holder described by Paragraph (A); or

(C) has an interest described under Chapter 2025, Occupations Code, in an entity described by that chapter;

(2) an applicant for employment at or current employee of:

(A) the Texas Racing Commission; or

(B) a place of employment within the racing industry of this state; or

(3) an applicant for employment at, current employee of, or person who contracts or may contract to provide goods or services with the Texas Racing Commission.

(a-1) Subject to Section 411.087 and consistent with the public policy of this state, the Texas Racing Commission is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(b) The Texas Racing Commission may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (a-1)(1). Criminal history record information obtained by the Texas Racing Commission under Subsection (a-1)(2) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (c).

(c) The Texas Racing Commission is not prohibited from disclosing criminal history record information obtained under

Subsection (a-1)(2) in a criminal proceeding or in a hearing conducted by the Texas Racing Commission or the State Office of Administrative Hearings.

(d) The Texas Racing Commission shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 2.04, eff. April 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 18, eff. June 13, 2023.

Sec. 411.097. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: LOCAL AND REGIONAL EDUCATIONAL ENTITIES. (a) A school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement, or an entity that contracts to provide services to a school district, charter school, or shared services arrangement, is entitled to obtain criminal history record information as provided by Subsection (c-1) that the district, school, service center, shared services arrangement, or entity is required or authorized to obtain under Subchapter C, Chapter 22, Education Code, that relates to a person who is:

(1) an applicant for employment by the district, school, service center, or shared services arrangement;

(2) an employee of or an applicant for employment with a public or commercial transportation company that contracts with the district, school, service center, or shared services arrangement to provide transportation services if the employee drives or the applicant will drive a bus in which students are transported or is employed or is seeking employment as a bus monitor or bus aide on a bus in which students are transported;

(3) an employee of or applicant for employment by an entity that contracts to provide services to a school district, charter school, or shared services arrangement as provided by Section 22.0834, Education Code;

(4) an employee of or applicant for employment by a

subcontractor of an entity that contracts to provide services to a school district, charter school, or shared services arrangement as provided by Section 22.0834, Education Code; or

(5) a tutor who provides services on behalf of a service provider that offers accelerated or supplemental instruction under Section 28.0211, Education Code.

(b) A school district, charter school, private school, regional education service center, or education shared services arrangement is entitled to obtain criminal history record information as provided by Subsection (c-1) that the district, school, service center, or shared services arrangement is required or authorized to obtain under Subchapter C, Chapter 22, Education Code, that relates to a person who is a volunteer, student teacher, or employee of the district, school, service center, or shared services arrangement.

(c) An open-enrollment charter school is entitled to obtain criminal history record information as provided by Subsection (c-1) that relates to a person who:

(1) is a member of the governing body of the school, as defined by Section 12.1012, Education Code; or

(2) has agreed to serve as a member of the governing body of the school.

(c-1) Subject to Section 411.087 and consistent with the public policy of this state:

(1) a school district, charter school, regional education service center, or education shared services arrangement is entitled to obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a), (b), or (c), as applicable; and

(2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement, or an entity that contracts to provide services to a school district, charter school, or shared services arrangement, is entitled to obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a), (b), or (c), as applicable.

(d) A school district, charter school, regional education service center, or education shared services arrangement may not

release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (c-1)(1). Criminal history record information obtained by a school district, charter school, private school, service center, commercial transportation company, or shared services arrangement, or obtained by an entity that contracts to provide services to a school district, charter school, or shared services arrangement, under Subsection (c-1)(2) in the original form or any subsequent form:

(1) may not be released to any person except:

(A) the individual who is the subject of the information;

(B) the Texas Education Agency;

(C) the State Board for Educator Certification;

(D) the chief personnel officer of the transportation company, if the information is obtained under Subsection (a)(2); or

(E) by court order; and

(2) is not subject to disclosure as provided by Chapter 552.

(e) If a regional education service center or commercial transportation company that receives criminal history record information from the department under this section requests the information by providing to the department a list, including the name, date of birth, and any other personal descriptive information required by the department for each person, through electronic means, magnetic tape, or disk, as specified by the department, the department may not charge the service center or commercial transportation company more than the lesser of:

(1) the department's cost for providing the information; or

(2) the amount prescribed by another law.

(f) An employee of a school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement or an entity that contracts to provide services to a school district, charter school, or shared services arrangement may request from the employer a copy of any criminal history record information relating to that employee that the employer has obtained as provided by Subchapter C, Chapter 22, Education Code. The employer may charge a fee to an employee requesting a copy of the information in an amount not to exceed the actual cost of copying the requested criminal history record

information.

(g) A school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement or an entity that contracts to provide services to a school district, charter school, or shared services arrangement, as applicable, is not prohibited from disclosing criminal history record information obtained under Subsection (c-1)(2) in a criminal proceeding or in a hearing conducted by the Texas Education Agency or the State Board for Educator Certification.

(h) A school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement or an entity that contracts to provide services to a school district, charter school, or shared services arrangement, as applicable, shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 260, Sec. 27, eff. May 30, 1995; Acts 1997, 75th Leg., ch. 1438, Sec. 13, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1504, Sec. 33, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 22, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 23, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 9A.04, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 1070 (H.B. 3270), Sec. 4, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 19, eff. June 13, 2023.

Sec. 411.0971. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEACHER RETIREMENT SYSTEM OF TEXAS. (a) The Teacher Retirement System of Texas is entitled to obtain from the department, the Federal Bureau of Investigation Criminal Justice Information Services Division, or another law enforcement agency criminal history record

information maintained by the department, division, or agency that relates to a person who:

(1) is an employee or an applicant for employment with the retirement system;

(2) is a consultant, contract employee, independent contractor, intern, or volunteer for the retirement system or an applicant to serve in one of those positions;

(3) proposes to enter into a contract with or has a contract with the retirement system to perform services for or supply goods to the retirement system; or

(4) is an employee or subcontractor, or an applicant to be an employee or subcontractor, of a contractor that provides services to the retirement system.

(b) Criminal history record information obtained by the Teacher Retirement System of Texas under Subsection (a) may not be released or disclosed to any person except:

(1) on court order;

(2) with the consent of the person who is the subject of the criminal history record information; or

(3) to a federal agency as required by federal law or executive order.

(c) The Teacher Retirement System of Texas shall destroy criminal history record information obtained under this section after the information is used for the purposes authorized by this section.

(d) The Teacher Retirement System of Texas may provide a copy of the criminal history record information obtained from the department, the Federal Bureau of Investigation Criminal Justice Information Services Division, or other law enforcement agency to the individual who is the subject of the information.

(e) The failure or refusal of an employee or applicant to provide the following on request constitutes good cause for dismissal or refusal to hire:

(1) a complete set of fingerprints;

(2) a true and complete name; or

(3) other information necessary for a law enforcement entity to obtain criminal history record information.

Added by Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 2, eff. September 1, 2011.

Sec. 411.0972. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: QUALIFIED PRIVATE SCHOOLS. (a) In this section, "qualified private school" means a school that:

(1) offers a course of instruction for students in this state in one or more grades from prekindergarten through grade 12;

(2) is accredited by an organization recognized by the Texas Education Agency or the Texas Private School Accreditation Commission; and

(3) is determined to be eligible by the department under Subsection (b).

(b) On request by a private school, the department shall determine whether the school is eligible under the National Child Protection Act of 1993 (34 U.S.C. Section 40102) to obtain criminal history record information that relates to an employee or an applicant for employment.

(c) A qualified private school may obtain state criminal history record information from the department.

(d) Except as provided by Subsection (f), criminal history record information obtained by a qualified private school in the original form or any subsequent form:

(1) may not be released to any person except the person who is the subject of the information;

(2) is not subject to disclosure as provided by Chapter 552; and

(3) shall be destroyed by the school after the information is used for the authorized purpose.

(e) A qualified private school may obtain criminal history record information from the Federal Bureau of Investigation identification division in accordance with Section 411.087.

(f) Criminal history record information obtained from the Federal Bureau of Investigation may not be released or disclosed except on court order.

Added by Acts 2023, 88th Leg., R.S., Ch. 1105 (S.B. 1471), Sec. 3, eff. June 18, 2023.

Sec. 411.098. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED. (a) The Texas School for the Blind and Visually Impaired is entitled to obtain

criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency which relates to school employees, professional consultants, applicants for permanent, temporary, or consultative employment, student teachers, educational interns, persons who perform ongoing educational projects at the school, and volunteer positions whose employment or potential employment or volunteer positions with the school involves direct interactions with, or the opportunity to interact and associate with, the children or youth attending the school.

(b) Criminal history record information obtained by the school under Subsection (a) may not be released or disclosed to any person except on court order, with the consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(c) The school shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

(d) The school may provide the applicant, employee, professional consultant, volunteer, student teacher, educational intern, or person who performs ongoing educational projects at the school with a copy of respective criminal history record information obtained from the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency.

(e) The failure or refusal to provide a complete set of fingerprints or a complete name on request constitutes good cause for dismissal or refusal to hire or accept for placement, as applicable, with regard to school employees, professional consultants, applicants for permanent, temporary, or consultative employment, student teachers, educational interns, persons who perform ongoing educational projects at the school, or volunteer positions whose employment or potential employment or volunteer position with the school involves direct interactions with, or the opportunity to interact and associate with, the children or youth attending the school.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1341, Sec. 6, eff. Sept. 1, 1997.

Sec. 411.099. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS STATE BOARD OF MEDICAL EXAMINERS. The Texas State Board of Medical Examiners is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license under Subtitle B, Title 3, Occupations Code; or

(2) the holder of a license under that subtitle.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.754, eff. Sept. 1, 2001.

Sec. 411.0995. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE BOARD OF VETERINARY MEDICAL EXAMINERS. (a) The State Board of Veterinary Medical Examiners is entitled to obtain criminal history record information as provided by Subsection (b) that relates to a license under Chapter 801, Occupations Code, for a person who is:

(1) an applicant for:

(A) a license, temporary license, or special license to practice veterinary medicine;

(B) a veterinary technician license; or

(C) an equine dental provider license; or

(2) a holder of a license described by Subdivision (1)(A), (B), or (C).

(b) Subject to Section 411.087 and consistent with the public policy of this state, the State Board of Veterinary Medical Examiners is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The State Board of Veterinary Medical Examiners may not release or disclose to any person criminal history record information

obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the State Board of Veterinary Medical Examiners under Subsection (b)(2) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(d) The State Board of Veterinary Medical Examiners is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) in a criminal proceeding or in a hearing conducted by the State Board of Veterinary Medical Examiners.

(e) The State Board of Veterinary Medical Examiners shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2011, 82nd Leg., R.S., Ch. 940 (H.B. 414), Sec. 28, eff. September 1, 2011.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 20, eff. June 13, 2023.

Sec. 411.100. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: BOARD OF LAW EXAMINERS AND STATE BAR OF TEXAS. (a) The Board of Law Examiners is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant to take a bar examination.

(a-1) The State Bar of Texas is entitled to obtain:

(1) from the department, criminal history record information maintained by the department that relates to a person who is a member of the state bar; or

(2) from the Board of Law Examiners, criminal history record information obtained under Subsection (a).

(b) Criminal history record information obtained under Subsection (a) or (a-1) may not be released or disclosed to any person, except on court order or with consent of the applicant.

(c) Immediately following the decision of the Board of Law Examiners on recommending an applicant, the board shall collect and make accessible to the State Bar of Texas all criminal history record information obtained by the board that relates to that applicant.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 12, eff. September 1, 2017.

Sec. 411.1005. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE BAR OF TEXAS. (a) The chief disciplinary counsel of the State Bar of Texas is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) licensed by the state bar;

(2) the subject of or involved in an investigation of:

(A) professional misconduct relating to a grievance filed under the disciplinary rules of the state bar; or

(B) barratry, the unauthorized practice of law, or falsely holding oneself out as a lawyer, in violation of Section 38.12, 38.122, or 38.123, Penal Code;

(3) a witness in any disciplinary action or proceeding conducted by the state bar, the Board of Disciplinary Appeals, or any court; or

(4) an applicant for reinstatement to practice law.

(b) Information received by the state bar is confidential and may be disseminated only:

(1) in a disciplinary action or proceeding conducted by the state bar, the Board of Disciplinary Appeals, or any court; or

(2) with the consent of the person who is the subject of the criminal history record information.

(c) The state bar shall destroy criminal history record information obtained under this section promptly after a final determination is made in the matter for which the information was obtained.

Added by Acts 1997, 75th Leg., ch. 440, Sec. 1, eff. May 29, 1997.
Renumbered from Sec. 411.135 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(39), eff. Sept. 1, 1999.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.08, eff. June 19, 2009.
Acts 2017, 85th Leg., R.S., Ch. 531 (S.B. 302), Sec. 13, eff.

September 1, 2017.

Sec. 411.102. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: MCGRUFF HOUSE PROGRAM. (a) In this section:

(1) "McGruff House" means a house that has been designated as a temporary haven for school-age children by a McGruff House program.

(2) "McGruff House program" means a program organized by local law enforcement agencies and civic organizations to provide a temporary haven and sense of security to school-age children in emergency or threatening situations.

(b) A local law enforcement agency involved in establishing a McGruff House program is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an adult residing in a McGruff House.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.103. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CHILD WATCH PROGRAM. (a) In this section, "child watch program" means a program organized by a local civic organization with the cooperation of a school district to protect schoolchildren by having parents or volunteers patrol their residential neighborhoods and schools to watch for suspicious activity, dangers, and threats to children.

(b) A local law enforcement agency that participates in a child watch program is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is a participant in the program; and

(2) gives written consent to the disclosure of the information.

(c) Criminal history record information obtained by a law enforcement agency under Subsection (b) may not be released or disclosed except on court order or with the consent of the person who is the subject of the criminal history record information.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.104. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS WORKFORCE COMMISSION; SECURITY SENSITIVE POSITIONS. (a) In this section, "security sensitive position" has the meaning assigned by Section 301.042(c), Labor Code.

(b) The Texas Workforce Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for a security sensitive position.

(c) Criminal history record information obtained by the commission under Subsection (b) may not be released or disclosed to any person except on court order or with the written consent of the person who is the subject of the criminal history record information.

(d) After the commission hires an applicant for a security sensitive position, the commission shall seal the criminal history record information that relates to the applicant and deliver the information to the agency administrator or the administrator's designee, who shall destroy the information.

(e) The commission shall destroy the criminal history record information of an applicant who is not hired.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 9.59, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 296, Sec. 4, 5, eff. Sept. 1, 2003. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1138 (S.B. 208), Sec. 3, eff. September 1, 2015.

Sec. 411.1041. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS WORKFORCE COMMISSION; VOCATIONAL REHABILITATION AND OTHER SERVICES. (a) The Texas Workforce Commission, in connection with the administration of vocational rehabilitation services and other services and programs under Subtitle C, Title 4, Labor Code, is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant selected for employment with the commission whose potential duties include direct contact with clients to provide those services;

(2) an applicant for those services from the commission; or

(3) a client receiving those services from the commission.

(b) Criminal history record information obtained by the commission under Subsection (a) may not be released or disclosed to any person except on court order or with the written consent of the person who is the subject of the criminal history record information.

Added by Acts 2015, 84th Leg., R.S., Ch. 1138 (S.B. 208), Sec. 4, eff. September 1, 2016.

Sec. 411.105. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY. (a) The Texas State Board of Public Accountancy is entitled to obtain criminal history record information as provided by Subsection (b) that relates to:

(1) an applicant for a license or certification as a certified public accountant under Chapter 901, Occupations Code;

(2) an applicant to take the uniform certified public accountant examination under Chapter 901, Occupations Code;

(3) an applicant for reinstatement of a license or certificate under Chapter 901, Occupations Code;

(4) an applicant for a license or certification renewal under Chapter 901, Occupations Code; or

(5) an owner or an individual who seeks to become an owner of a certified public accountancy firm if the owner or prospective owner is not a license holder under Chapter 901, Occupations Code.

(b) Subject to Section 411.087 of this code and Section 901.169, Occupations Code, and consistent with the public policy of this state, the Texas State Board of Public Accountancy is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The Texas State Board of Public Accountancy may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the board

under Subsection (b)(2) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(d) The board is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) in a criminal proceeding or in a hearing conducted by or on behalf of the board.

(e) The board shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 296, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.002, eff. September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 21, eff. June 13, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2587, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.106. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS DEPARTMENT OF INSURANCE. (a) The Texas Department of Insurance is entitled to obtain criminal history record information as provided by Subsection (a-1) that relates to a person who is:

(1) an applicant for a license, permit, certificate of authority, certificate of registration, or other authorization issued by the Texas Department of Insurance to engage in an activity regulated under the Insurance Code; or

(2) a corporate officer or director of an insurance company regulated by the Texas Department of Insurance.

(a-1) Subject to Section 411.087 and consistent with the public policy of this state, the Texas Department of Insurance is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(b) The Texas Department of Insurance may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (a-1)(1). Criminal history record information obtained by the Texas Department of Insurance under Subsection (a-1)(2) may not be disclosed or released to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (b-1).

(b-1) The Texas Department of Insurance is not prohibited from disclosing criminal history record information obtained under Subsection (a-1)(2) in a criminal proceeding or in a hearing conducted by the Texas Department of Insurance.

(c) The Texas Department of Insurance shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 22, eff. June 13, 2023.

Sec. 411.107. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: RECEIVER. (a) In this section, "receiver" has the meaning assigned by Section 443.004, Insurance Code.

(b) A receiver is entitled to obtain criminal history record information as provided by Subsection (b-1) that relates to a person:

(1) who is a creditor or claimant of the receivership estate; or

(2) against whom the receivership estate has a claim.

(b-1) A receiver is entitled to obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (b).

(c) Criminal history record information obtained by a receiver under Subsection (b-1) may not be released or disclosed to any person

except on court order or with the written consent of the person who is the subject of the criminal history record information.

(d) A receiver shall destroy criminal history record information obtained by the receiver under this section after the purpose for which the information was obtained is accomplished.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 23, eff. June 13, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.108. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS LOTTERY COMMISSION. (a) The Texas Lottery Commission is entitled to obtain criminal history record information as provided by Subsection (a-2) that relates to a person who, under Section 466.201, is:

(1) a sales agent or an applicant for a sales agent license;

(2) a person required to be named in a license application;

(3) a lottery operator or prospective lottery operator who has submitted a written proposal to the commission in connection with the procurement of lottery operations and services by the commission;

(4) an employee of a lottery operator or prospective lottery operator, if the employee is or will be directly involved in lottery operations;

(5) a person who manufactures or distributes lottery equipment or supplies or a representative of a person who manufactures or distributes lottery equipment or supplies offered to the lottery;

(6) a person who has submitted a written bid or proposal to the commission in connection with the procurement of goods or services by the commission, if the amount of the bid or proposal exceeds $500;

(7) an employee or other person who works for or will work for a sales agent or an applicant for a sales agent license;

(8) a person who proposes to enter into or who has a

contract with the commission to supply goods or services to the commission;

(9) if a person described in Subdivisions (1) through (8) of this section is not an individual, an individual who:

(A) is an officer or director of the person;

(B) holds more than 10 percent of the stock in the person;

(C) holds an equitable interest greater than 10 percent in the person;

(D) is a creditor of the person who holds more than 10 percent of the person's outstanding debt;

(E) is the owner or lessee of a business that the person conducts or through which the person will conduct lottery-related activities;

(F) shares or will share in the profits, other than stock dividends, of the person;

(G) participates in managing the affairs of the person; or

(H) is an employee of the person who is or will be involved in:

(i) selling tickets; or

(ii) handling money from the sale of tickets;

(10) the executive director or a prospective executive director of the commission;

(11) an employee or prospective employee of the commission; or

(12) a sales agent whose license is renewed under Section 466.158.

(a-1) The Texas Lottery Commission is entitled to obtain criminal history record information as provided by Subsection (a-2) that relates to a person licensed under Chapter 2001, Occupations Code, or described by Section 2001.3025, Occupations Code.

(a-2) Subject to Sections 411.087, 466.201, and 467.036(b) of this code and Section 2001.3025, Occupations Code, and consistent with the public policy of this state, the Texas Lottery Commission is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a) or (a-1); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a) or (a-1).

(b) The Texas Lottery Commission may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (a-2)(1). Criminal history record information obtained by the commission under Subsection (a-2)(2) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (c) or (d).

(c) The Texas Lottery Commission is not prohibited from disclosing to the person who is the subject of the criminal history record information obtained under Subsection (a-2)(2) the dates and places of arrests, offenses, and dispositions contained in the information.

(d) The Texas Lottery Commission is not prohibited from disclosing criminal history record information obtained under Subsection (a-2)(2) in a criminal proceeding or in a hearing conducted by the State Office of Administrative Hearings.

(e) The Texas Lottery Commission shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.54, eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 636 (H.B. 1474), Sec. 41, eff. October 1, 2009.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 24, eff. June 13, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.109. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COMPTROLLER. (a) The comptroller is entitled to obtain criminal

history record information as provided by Subsection (c) that the comptroller believes is necessary for the enforcement or administration of Chapter 103, Civil Practice and Remedies Code, or Chapter 151, 152, 154, 155, or 162, Tax Code, including criminal history record information that relates to a person who is:

(1) an applicant for a permit under any of those chapters;

(2) a permit holder under any of those chapters;

(3) an officer, director, stockholder owning 10 percent or more of the outstanding stock, partner, owner, or managing employee of an applicant or permit holder under any of those chapters that is a corporation, association, joint venture, syndicate, partnership, or proprietorship;

(4) believed to have violated any of those chapters;

(5) being considered by the comptroller for employment as a peace officer; or

(6) receiving, scheduled to receive, or applying to receive compensation under Chapter 103, Civil Practice and Remedies Code.

(b) The comptroller is entitled to obtain criminal history record information as provided by Subsection (c) that relates to a person who is an employee, intern, learner, trainee, contractor, subcontractor, apprentice, or volunteer of, or who is an applicant for employment or service in one of those capacities with, the comptroller's office in a position that involves:

(1) handling currency, checks, or other funds;

(2) having access to taxpayer account information;

(3) working in a location designated by the comptroller as a security-sensitive area;

(4) performing financial management duties designated by the comptroller as security sensitive;

(5) performing work on a computer system; or

(6) having remote access to comptroller computer systems, information technology, or information technology resources.

(c) Subject to Section 411.087 and consistent with the public policy of this state, the comptroller is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a) or (b); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information

maintained by the department or that criminal justice agency that relates to a person described by Subsection (a) or (b).

(d) The comptroller may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (c)(1). Criminal history record information obtained by the comptroller under Subsection (c)(2) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (e) or (f).

(e) The comptroller is not prohibited from disclosing to a person who is the subject of criminal history record information the dates and places of arrests, the offenses, and the dispositions in the criminal history record information.

(f) The comptroller is not prohibited from disclosing criminal history record information obtained under Subsection (c)(2) in a criminal proceeding or in a hearing conducted by the comptroller.

(g) The comptroller shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 77, eff. June 19, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.12, eff. Sept. 1, 1997; Amended by Acts 2001, 77th Leg., ch. 442, Sec. 2, eff. Sept. 1, 2001. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 6, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 36(1), eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 621 (S.B. 1151), Sec. 2, eff. June 10, 2019.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 25, eff. June 13, 2023.

Sec. 411.110. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES AND HEALTH AND HUMAN SERVICES COMMISSION. (a) The Department of State Health Services and the Health and Human Services Commission are entitled to obtain criminal

history record information as provided by Subsection (a-1) that relates to a person who is:

(1) an applicant for a license or certificate under Chapter 773, Health and Safety Code, an owner or manager of an applicant for an emergency medical services provider license under that chapter, or the holder of a license or certificate under that chapter;

(2) an applicant for a license or a license holder under Subchapter I, L, or N, Chapter 431, Health and Safety Code;

(3) an applicant for employment at or current employee of:

(A) a public health hospital as defined by Section 13.033, Health and Safety Code; or

(B) the South Texas Health Care System;

(4) an applicant for employment at, current employee of, or person who contracts or may contract to provide goods or services with the Council on Sex Offender Treatment or other division or component of the Health and Human Services Commission that monitors sexually violent predators as described by Section 841.003(a), Health and Safety Code;

(5) authorized to access vital records or the vital records electronic registration system under Chapter 191, Health and Safety Code, including an employee of or contractor for the Department of State Health Services, a local registrar, a medical professional, or a funeral director; or

(6) an applicant for a license or a license holder under Subchapter C, Chapter 443, Health and Safety Code.

(a-1) Subject to Section 411.087 and consistent with the public policy of this state, the Department of State Health Services and the Health and Human Services Commission are entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(b) The Department of State Health Services or the Health and Human Services Commission, as applicable, may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (a-1)(1). Criminal history record information obtained by the Department of State Health

Services or the Health and Human Services Commission under Subsection (a-1)(2) may not be released or disclosed to any person except:

(1) on court order;

(2) with the written consent of the person who is the subject of the criminal history record information;

(3) between the Department of State Health Services and the Health and Human Services Commission to share with the other agency information obtained under this section for the purposes authorized by this section; or

(4) as provided by Subsection (e).

(c) The Department of State Health Services or the Health and Human Services Commission, as applicable, shall destroy the criminal history record information that is obtained under this section after the information is used for its authorized purpose.

(d) Repealed by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 71(4), eff. June 13, 2023.

(e) The Department of State Health Services or the Health and Human Services Commission, as applicable, is not prohibited from disclosing criminal history record information obtained under Subsection (a-1)(2) in a criminal proceeding or in a hearing conducted by that agency.

(f) The Department of State Health Services or the Health and Human Services Commission may not consider offenses described by Section 542.304, Transportation Code, to determine whether to hire or retain an employee or to contract with a person on whom criminal history record information is obtained under this section.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by:

Acts 2005, 79th Leg., Ch. 282 (H.B. 164), Sec. 3(j), eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 33, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 7.004, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1151 (H.B. 2917), Sec. 1, eff. June 19, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.002, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 5.04, eff.

September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 684 (S.B. 2200), Sec. 1, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1094 (H.B. 2048), Sec. 3, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 26, eff. June 13, 2023.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 71(4), eff. June 13, 2023.

Sec. 411.1103. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION. (a) The Health and Human Services Commission is entitled to obtain criminal history record information as provided by Subsection (d) that relates to a person:

(1) who is:

(A) an applicant for employment at a state hospital established under Chapter 552, Health and Safety Code;

(B) an employee of a state hospital established under Chapter 552, Health and Safety Code;

(C) a person who contracts or may contract to provide goods or services to the Health and Human Services Commission, as applicable, at a state hospital established under Chapter 552, Health and Safety Code, or an employee of or applicant for employment with that person;

(D) a volunteer with a state hospital established under Chapter 552, Health and Safety Code; or

(E) an applicant for a volunteer position with a state hospital established under Chapter 552, Health and Safety Code; and

(2) who would be placed in direct contact with a patient at a state hospital established under Chapter 552, Health and Safety Code.

(b) The Health and Human Services Commission may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (d)(1). Criminal history record information obtained by the Health and Human Services Commission under Subsection (d)(2) may not be released or disclosed to any person except:

(1) on court order;

(2) with the consent of the person who is the subject of

the criminal history record information;

(3) for purposes of an administrative hearing held by the Health and Human Services Commission concerning the person who is the subject of the criminal history record information; or

(4) as provided by Subsection (c).

(c) The Health and Human Services Commission is not prohibited from releasing criminal history record information obtained under Subsection (d)(2) to the person who is the subject of the criminal history record information.

(d) Subject to Section 411.087 and consistent with the public policy of this state, the Health and Human Services Commission is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(e) This section does not prohibit the Health and Human Services Commission from obtaining and using criminal history record information as provided by other law.

(f) The Health and Human Services Commission shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2013, 83rd Leg., R.S., Ch. 395 (S.B. 152), Sec. 5, eff. June 14, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 684 (S.B. 2200), Sec. 2, eff. June 10, 2019.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 27, eff. June 13, 2023.

Sec. 411.1105. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION. (a) The Health and Human Services Commission is entitled to obtain criminal history record information as provided by Subsections (a-1) and (b) that relates to a person who is:

(1) an applicant for a chemical dependency counselor's license, a counselor intern's registration, or a clinical supervisor certification under Chapter 504, Occupations Code; or

(2) the holder of a license, registration, or certification under that chapter.

(a-1) Subject to Section 411.087 and consistent with the public policy of this state, the Health and Human Services Commission is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(b) In addition to information obtained from the Federal Bureau of Investigation under Subsection (a-1)(1) and Section 411.087, the Health and Human Services Commission is entitled to obtain information relating to the wanted persons status of an individual listed in Subsection (a).

(c) The Health and Human Services Commission may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (a-1)(1) or (b). Criminal history record information obtained by the Health and Human Services Commission under Subsection (a-1)(2) may not be released or disclosed to any person except:

(1) on court order;

(2) with the consent of the person who is the subject of the criminal history record information; or

(3) as provided by Subsection (d).

(d) The Health and Human Services Commission may provide the applicant or licensee with a copy of the person's criminal history record information obtained from the Department of Public Safety or another law enforcement agency under Subsection (a-1)(2).

(e) This section does not prohibit the Health and Human Services Commission from obtaining and using criminal history record information as provided by other law.

(f) The Health and Human Services Commission shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 1997, 75th Leg., ch. 18, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 411.132 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(33), eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.755, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1373 (S.B. 155), Sec. 23, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 684 (S.B. 2200), Sec. 3, eff. June 10, 2019.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 28, eff. June 13, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620 and S.B. 2587, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.1106. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION. (a) In this section, "commission" means the Health and Human Services Commission.

Text of subsection as amended by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 29

(b) The executive commissioner of the commission, or the executive commissioner's designee, is entitled to obtain criminal history record information as provided by Subsection (b-1) that relates to a person who is:

(1) an applicant for a position in which the person, as an employee, contractor, or volunteer, would have access to sensitive personal or financial information, as determined by the executive commissioner, in:

(A) the eligibility services division of the commission as established under Section 531.008;

(B) the commission's office of inspector general as established by Section 531.008 and Subchapter C, Chapter 531; or

(C) the regulatory division of the commission as established under Section 531.008; or

(2) an employee of or a contractor or volunteer for the commission who has access to sensitive personal or financial information, as determined by the executive commissioner.

Text of subsection as amended by Acts 2023, 88th Leg., R.S., Ch. 1089 (S.B. 1192), Sec. 1

(b) The commission is entitled to obtain criminal history record information as provided by Subsection (b-1) that relates to a person who is required to be fingerprinted and is:

(1) an applicant for an employment or volunteer position or an applicant for a contract with the commission in which the person, as an employee, volunteer, or contractor, an applicable, would have access to sensitive personal or financial information, as determined by the executive commissioner, in:

(A) the eligibility services division of the commission;

(B) the commission's office of inspector general; or

(C) the regulatory services division of the commission; or

(2) an employee, volunteer, or contractor of the commission who has access to sensitive personal or financial information, as determined by the executive commissioner.

Text of subsection as added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 29

(b-1) Subject to Section 411.087 and consistent with the public policy of this state, the commission is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (b); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (b).

Text of subsection as added by Acts 2023, 88th Leg., R.S., Ch. 1089 (S.B. 1192), Sec. 1

(b-1) Subject to Section 411.087, the commission is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (b); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or other agency that relates to a person

described by Subsection (b).

(c) The commission may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b-1)(1). Criminal history record information obtained by the commission under Subsection (b-1)(2) may not be released or disclosed, except:

(1) if the information is in a public record at the time the information is obtained;

(2) on court order;

(3) to a criminal justice agency, upon request;

(4) with the consent of the person who is the subject of the criminal history record information; or

(5) as provided by Subsection (d).

(c-1) Criminal history record information obtained by the commission under Subsection (b-1)(1) may not be released or disclosed to any person.

(d) The commission is not prohibited from disclosing criminal history record information obtained under Subsection (b-1)(2) in a criminal proceeding or in a hearing conducted by the commission.

(e) The commission shall destroy criminal history record information obtained under this section as soon as practicable after the information is used for its authorized purpose.

(f) This section does not prohibit the commission from obtaining and using criminal history record information as provided by other law.

Added by Acts 2015, 84th Leg., R.S., Ch. 1209 (S.B. 1540), Sec. 1, eff. June 19, 2015.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 29, eff. June 13, 2023.

Acts 2023, 88th Leg., R.S., Ch. 1089 (S.B. 1192), Sec. 1, eff. June 18, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.11061. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CERTAIN MEDICAID PROVIDERS. (a) In this section, "residential

caregiver" has the meaning assigned by Section 531.02485.

(b) A Medicaid provider that provides community-based residential care services to Medicaid recipients through a group home or other residential facility licensed by or operated under the authority of the Health and Human Services Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to an individual who is an applicant for employment or seeking a contract position with the provider as a residential caregiver or who is employed or contracted by the provider as a residential caregiver.

Added by Acts 2023, 88th Leg., R.S., Ch. 674 (H.B. 1009), Sec. 1, eff. September 1, 2023.

Sec. 411.111. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DISTRICT COURT; NAME CHANGES. A district court is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an adult; and

(2) has petitioned the court to order a change of name for the person.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.112. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS COMMISSION ON LAW ENFORCEMENT. The Texas Commission on Law Enforcement is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license under Chapter 1701, Occupations Code; or

(2) the holder of a license under that chapter.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 9.0045, eff. Sept. 1, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.23, eff. May 18, 2013.

Sec. 411.113. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS SCHOOL FOR THE DEAF. (a) The Texas School for the Deaf is entitled to obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency which relates to school employees, professional consultants, applicants for permanent, temporary, or consultative employment, student teachers, educational interns, persons who perform ongoing educational projects at the school, and volunteer positions whose employment or potential employment or volunteer positions with the school involves direct interactions with, or the opportunity to interact and associate with, the children or youth attending the school.

(b) Criminal history record information obtained by the school under Subsection (a) may not be released or disclosed to any person except on court order, with the consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(c) The school shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

(d) The school may provide the applicant, employee, professional consultant, volunteer, student teacher, educational intern, or person who performs ongoing educational projects at the school with a copy of the respective criminal history record information obtained from the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency.

(e) The failure or refusal to provide a complete set of fingerprints or a complete name on request constitutes good cause for dismissal or refusal to hire or accept for placement, as applicable, with regard to school employees, professional consultants, applicants for permanent, temporary, or consultative employment, student teachers, educational interns, persons who perform ongoing educational projects at the school, or volunteer positions whose employment or potential employment or volunteer position with the school involves direct interactions with, or the opportunity to interact and associate with, the children or youth attending the school.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1340, Sec. 7, eff. Sept. 1, 1997.

Sec. 411.1131. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION. (a) The Health and Human Services Commission is entitled to obtain criminal history record information as provided by Subsection (a-1) that relates to a person who is an applicant for a staff position at an outdoor training program for children who are deaf or hard of hearing conducted by a private entity through a contract with the Health and Human Services Commission in accordance with Section 81.013, Human Resources Code.

(a-1) Subject to Section 411.087 and consistent with the public policy of this state, the Health and Human Services Commission is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(b) Criminal history record information obtained by the Health and Human Services Commission under Subsection (a-1) may be used only to evaluate an applicant for a staff position at an outdoor training program for children who are deaf or hard of hearing. The Health and Human Services Commission may release or disclose the information obtained under Subsection (a-1)(2) to a private entity described by Subsection (a) for that purpose.

(c) The Health and Human Services Commission may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (a-1)(1). The Health and Human Services Commission may not release or disclose information obtained under Subsection (a-1)(2), except as described by Subsection (b), on court order, or with the consent of the person who is the subject of the criminal history record information.

(d) The Health and Human Services Commission shall destroy criminal history record information obtained under Subsection (a-1) after the information is used for its authorized purpose.

(e) This section does not prohibit the Health and Human Services Commission from obtaining and using criminal history record information as provided by other law.

Added by Acts 2003, 78th Leg., ch. 118, Sec. 13, eff. May 23, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.09, eff. June 19, 2009.
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.003, eff. April 2, 2015.
Acts 2019, 86th Leg., R.S., Ch. 684 (S.B. 2200), Sec. 4, eff. June 10, 2019.
Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 30, eff. June 13, 2023.

Sec. 411.114. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES AND HEALTH AND HUMAN SERVICES COMMISSION. (a)(1) In this subsection:

(A) "Child," "child-care facility," "child-placing agency," "facility," and "family home" have the meanings assigned by Section 42.002, Human Resources Code.

(A-1) "Department of Family and Protective Services" includes:

(i) the Department of Family and Protective Services as authorized by Section 40.002, Human Resources Code; and

(ii) any person or entity acting as an authorized agent of the Department of Family and Protective Services.

(B) "Elderly person" has the meaning assigned by Section 48.002, Human Resources Code.

(D) "Person with a disability" has the meaning assigned by Section 48.002, Human Resources Code.

(2) The Department of Family and Protective Services or the Health and Human Services Commission, as applicable, shall obtain criminal history record information as provided by Subdivision (4) that relates to a person who is:

(A) an applicant for a license, registration, certification, or listing under Chapter 42, Human Resources Code;

(B) an owner, operator, or employee of or an applicant for employment by a child-care facility, child-placing agency, or

family home licensed, registered, certified, or listed under Chapter 42, Human Resources Code;

(C) a person 14 years of age or older who will be regularly or frequently working or staying in a facility or family home, other than a child in the care of the home or facility;

(D) an applicant selected for a position with the Department of Family and Protective Services or the Health and Human Services Commission, the duties of which include direct delivery of protective services to children, elderly persons, or persons with a disability;

(E) an employee of, an applicant for employment with, or a volunteer or an applicant volunteer with a business entity or person who contracts with the Department of Family and Protective Services or the Health and Human Services Commission to provide direct delivery of protective services to children, elderly persons, or persons with a disability, if the person's duties or responsibilities include direct contact with children, elderly persons, or persons with a disability;

(F) a registered volunteer with the Department of Family and Protective Services or the Health and Human Services Commission;

(G) a person providing or applying to provide in-home, adoptive, or foster care for children in the care of the Department of Family and Protective Services or the Health and Human Services Commission and other persons living in the residence in which the child will reside;

(H) a Department of Family and Protective Services employee or a Health and Human Services Commission employee who is engaged in the direct delivery of protective services to children, elderly persons, or persons with a disability;

(I) an alleged perpetrator in a report the Department of Family and Protective Services or the Health and Human Services Commission receives alleging that the person has abused, neglected, or exploited a child, an elderly person, or a person with a disability, provided that:

(i) the report alleges the person has engaged in conduct that meets the applicable definition of abuse, neglect, or exploitation under Chapter 261, Family Code, or Chapter 48, Human Resources Code; and

(ii) the person is not also the victim of the

alleged conduct;

(J) a person providing child care for a child who is in the care of the Department of Family and Protective Services or the Health and Human Services Commission and who is or will be receiving adoptive, foster, or in-home care;

(K) through a contract with a nonprofit management center, an employee of, an applicant for employment with, or a volunteer or an applicant volunteer with a nonprofit, tax-exempt organization that provides any service that involves the care of or access to a child, an elderly person, or a person with a disability; or

(L) an applicant for a child-care administrator or child-placing agency administrator license under Chapter 43, Human Resources Code.

(3) In addition to the criminal history record information the Department of Family and Protective Services or the Health and Human Services Commission is required to obtain under Subdivision (2), the Department of Family and Protective Services or the Health and Human Services Commission, as applicable, is entitled to obtain criminal history record information as provided by Subdivision (4) that relates to a person who is:

(A) an applicant for a position with the Department of Family and Protective Services or the Health and Human Services Commission regardless of the duties of the position, including a position described by Subdivision (2)(D);

(B) a Department of Family and Protective Services employee or a Health and Human Services Commission employee regardless of the duties of the employee's position, including an employee described by Subdivision (2)(H);

(C) a volunteer or applicant volunteer with the Department of Family and Protective Services or the Health and Human Services Commission regardless of the duties to be performed, including a registered volunteer;

(D) an employee of, an applicant for employment with, or a volunteer or an applicant volunteer with an entity or person who contracts with the Department of Family and Protective Services or the Health and Human Services Commission, as applicable, and has access to confidential information in that department's or commission's records, if the employee, applicant, volunteer, or applicant volunteer has or will have access to that confidential

information;

(E) a person living in the residence in which the alleged victim of the report resides, including an alleged perpetrator in a report described by Subdivision (2)(I);

(F) a person providing, at the request of the child's parent, in-home care for a child who is the subject of a report alleging the child has been abused or neglected;

(G) a person providing, at the request of the child's parent, in-home care for a child only if the person gives written consent to the release and disclosure of the information;

(H) a child who is related to the caretaker, as determined under Section 42.002, Human Resources Code, or any other person who resides in, is present in, or has unsupervised access to a child in the care of a facility or family home;

(I) a relative of a child in the care of the Department of Family and Protective Services or the Health and Human Services Commission, as applicable, to the extent necessary to comply with Section 162.007, Family Code;

(J) a person providing or applying to provide in-home, adoptive, or foster care for children to the extent necessary to comply with Subchapter B, Chapter 162, Family Code;

(K) a person who volunteers to supervise visitation under Subchapter B, Chapter 263, Family Code;

(L) an employee of or volunteer at, or an applicant for employment with or to be a volunteer at, an entity that provides supervised independent living services to a young adult receiving extended foster care services from the Department of Family and Protective Services or the Health and Human Services Commission, as applicable;

(M) a person 14 years of age or older who will be regularly or frequently working or staying in a host home that is providing supervised independent living services to a young adult receiving extended foster care services from the Department of Family and Protective Services or the Health and Human Services Commission, as applicable;

(N) a volunteer or applicant volunteer with a local affiliate in this state of Big Brothers Big Sisters of America;

(O) a volunteer or applicant volunteer with an organization that provides court-appointed volunteer advocates for abused or neglected children; or

(P) an employee, volunteer, or applicant volunteer of a children's advocacy center under Subchapter E, Chapter 264, Family Code, including a member of the governing board of a center.

(4) Subject to Section 411.087 and consistent with the public policy of this state, the Department of Family and Protective Services and the Health and Human Services Commission are entitled to:

(A) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subdivision (2) or (3); and

(B) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subdivision (2) or (3).

(4-a) Law enforcement entities shall expedite the furnishing of criminal history record information obtained under Subdivision (4)(B) to Department of Family and Protective Services workers or Health and Human Services Commission workers, as applicable, to ensure prompt criminal background checks for the safety of alleged victims and Department of Family and Protective Services workers or Health and Human Services Commission workers, as applicable.

(5) The Department of Family and Protective Services or the Health and Human Services Commission may not use the authority granted under this section to harass an employee or volunteer. The commissioner of the Department of Family and Protective Services or the executive commissioner of the Health and Human Services Commission, as applicable, shall adopt rules to prevent the harassment of an employee or volunteer through the request and use of criminal records.

(6) The Department of Family and Protective Services or the Health and Human Services Commission, as applicable, may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subdivision (4)(A). Criminal history record information obtained by the Department of Family and Protective Services or the Health and Human Services Commission under Subdivision (4)(B) may not be released to any person except:

(A) on court order;

(B) with the consent of the person who is the subject of the criminal history record information;

(C) for purposes of an administrative hearing held by the Department of Family and Protective Services or the Health and Human Services Commission, as applicable, concerning the person who is the subject of the criminal history record information; or

(D) as provided by Subdivision (7).

(7) Subject to Subdivision (8), the Department of Family and Protective Services or the Health and Human Services Commission, as applicable, is not prohibited from releasing criminal history record information obtained under Subdivision (4)(B) to:

(A) the person who is the subject of the criminal history record information;

(B) a child-placing agency listed in Subdivision (2) that is seeking to verify or approve a foster or adoptive home under procedures authorized by federal law;

(C) an adult who resides with an alleged victim of abuse, neglect, or exploitation of a child, elderly person, or person with a disability and who also resides with the alleged perpetrator of that abuse, neglect, or exploitation if:

(i) the alleged perpetrator is the subject of the criminal history record information; and

(ii) the Department of Family and Protective Services or the Health and Human Services Commission, as applicable, determines that the release of information to the adult is necessary to ensure the safety or welfare of the alleged victim or the adult; or

(D) an elderly person or a person with a disability who is an alleged victim of abuse, neglect, or exploitation and who resides with the alleged perpetrator of that abuse, neglect, or exploitation if:

(i) the alleged perpetrator is the subject of the criminal history record information; and

(ii) the Department of Family and Protective Services or the Health and Human Services Commission, as applicable, determines that the release of information to the person is necessary to ensure the safety or welfare of the person.

(8) The Department of Family and Protective Services or the Health and Human Services Commission may only release to a person described by Subdivision (7)(B), (C), or (D) criminal history record

information that that department or commission obtains from the Department of Public Safety's computerized criminal history system.

(b) The failure or refusal to provide a complete set of fingerprints or a complete name on request constitutes good cause for dismissal or refusal to hire, as applicable, with regard to a volunteer of or an employee or applicant for permanent or temporary employment with the Department of Family and Protective Services or the Health and Human Services Commission, as applicable, or a facility, home, business, or other entity, if the volunteer position, employment, or potential employment involves direct interaction with or the opportunity to interact and associate with children.

(c) The Department of Family and Protective Services or the Health and Human Services Commission, as applicable, may charge an organization or person that requests criminal history record information under Subsection (a)(3) a fee in an amount necessary to cover the costs of obtaining the information on the organization's or person's behalf.

(d) The Department of Family and Protective Services and the Health and Human Services Commission, as applicable, shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 920, Sec. 7, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 648, Sec. 1, eff. June 11, 1997; Acts 1997, 75th Leg., ch. 664, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 96, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.06, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 691, Sec. 1, 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 144, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 185, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.69, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 8.002, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 598 (S.B. 218), Sec. 8, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1056 (S.B. 221), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 13, eff. September 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.003, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 191 (S.B. 352), Sec. 6, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.004, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 944 (S.B. 206), Sec. 68, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 1108 (H.B. 4094), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1108 (H.B. 4094), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1108 (H.B. 4094), Sec. 3, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 684 (S.B. 2200), Sec. 5, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 684 (S.B. 2200), Sec. 6, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 684 (S.B. 2200), Sec. 16, eff. June 10, 2019.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 31, eff. June 13, 2023.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 32, eff. June 13, 2023.

Sec. 411.1141. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS JUVENILE JUSTICE DEPARTMENT. (a) The Texas Juvenile Justice Department is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1) a person described by Section 242.010(b), Human Resources Code;

(2) an applicant for a certification from the Texas Juvenile Justice Department;

(3) a holder of a certification from the Texas Juvenile Justice Department;

(4) a child committed to the custody of the Texas Juvenile Justice Department by a juvenile court;

(5) a person requesting visitation access to a facility of the Texas Juvenile Justice Department; or

(6) any person, as necessary to conduct an evaluation of the home under Section 245.051(a), Human Resources Code.

(b) Criminal history record information obtained by the Texas Juvenile Justice Department under Subsection (a) may not be released to any person except:

(1) on court order;

(2) with the consent of the entity or person who is the subject of the criminal history record information;

(3) for purposes of an administrative hearing held, or an investigation conducted, by the Texas Juvenile Justice Department concerning the person who is the subject of the criminal history record information;

(4) a juvenile board by which a certification applicant or holder is employed; or

(5) as provided by Subsection (c) or (f).

(c) The Texas Juvenile Justice Department is not prohibited from releasing criminal history record information obtained under Subsection (a) to:

(1) the person who is the subject of the criminal history record information; or

(2) a business entity or person described by Subsection (a)(1) who uses or intends to use the services of the volunteer or intern or employs or is considering employing the person who is the subject of the criminal history record information.

(d) The Texas Juvenile Justice Department may charge an entity or a person who requests criminal history record information under Subsection (c)(2) a fee in an amount necessary to cover the costs of obtaining the information on the person's or entity's behalf.

(e) After a person is certified by the Texas Juvenile Justice Department, the Texas Juvenile Justice Department shall destroy the criminal history record information that relates to a person described by Subsection (a)(2).

(f) The Texas Juvenile Justice Department is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas Juvenile Justice Department.

Added by Acts 1997, 75th Leg., ch. 320, Sec. 1, eff. May 26, 1997.

Renumbered from Sec. 411.132 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(34), eff. Sept. 1, 1999.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 16, eff. June 8, 2007.
Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 3.011, eff. September 1, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 1033 (H.B. 2733), Sec. 1, eff. September 1, 2013.

Sec. 411.1142. ACCESS TO CRIMINAL HISTORY RECORD: EARLY CHILDHOOD INTERVENTION PROGRAM WITHIN HEALTH AND HUMAN SERVICES COMMISSION. (a) The Early Childhood Intervention program within the Health and Human Services Commission, as established by Chapter 73, Human Resources Code, is entitled to obtain criminal history record information as provided by Subsection (a-1) that relates to a person:

(1) who is an employee or an applicant for permanent, temporary, or consultative employment or for a volunteer position; and

(2) whose employment or potential employment or volunteer position with the program or a local provider involves the delivery of early childhood intervention services or involves direct interactions with or the opportunity to interact and associate with children.

(a-1) Subject to Section 411.087 and consistent with the public policy of this state, the Health and Human Services Commission is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person who is described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(b) The Health and Human Services Commission may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (a-1)(1). Criminal history record information obtained by the Health and Human

Services Commission under Subsection (a-1)(2) may not be released or disclosed to any person except:

(1) on court order;

(2) with the consent of the person who is the subject of the criminal history record information; or

(3) as provided by Subsection (d).

(c) The Health and Human Services Commission shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

(d) The Health and Human Services Commission may provide the applicant, employee, professional consultant, or volunteer with a copy of the person's criminal history record information obtained from the Department of Public Safety or another law enforcement agency under Subsection (a-1)(2).

(e) The failure or refusal to provide a complete set of fingerprints or a complete name on request constitutes good cause for dismissal or refusal to hire, as applicable, with regard to program employees, professional consultants, and applicants for permanent, temporary, or consultative employment or for volunteer positions whose employment or potential employment or volunteer position with the Health and Human Services Commission or a local provider involves the delivery of early childhood intervention services or involves direct interactions with or the opportunity to interact and associate with children.

(f) The Health and Human Services Commission shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 1997, 75th Leg., ch. 923, Sec. 19, eff. Sept. 1, 1997.
Renumbered from Sec. 411.132 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(35), eff. Sept. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 684 (S.B. 2200), Sec. 7, eff. June 10, 2019.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 33, eff. June 13, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4643 and S.B. 2587,

89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.1143. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION; AGENCIES OPERATING PART OF MEDICAL ASSISTANCE PROGRAM. (a) The Health and Human Services Commission, an agency operating part of the medical assistance program under Chapter 32, Human Resources Code, or the office of inspector general established under Subchapter C, Chapter 544, Government Code, is entitled to obtain criminal history record information as provided by Subsection (a-2) that relates to a provider under the medical assistance program or a person applying to enroll as a provider under the medical assistance program.

(a-1) Criminal history record information the Health and Human Services Commission or the office of inspector general is authorized to obtain under Subsection (a) includes criminal history record information relating to:

(1) a person with a direct or indirect ownership or control interest, as defined by 42 C.F.R. Section 455.101, in a provider of five percent or more; and

(2) a person whose information is required to be disclosed in accordance with 42 C.F.R. Part 1001.

(a-2) Subject to Section 411.087 and consistent with the public policy of this state, the Health and Human Services Commission and the office of inspector general are entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person who is described by Subsection (a) or (a-1); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a) or (a-1).

(b) The Health and Human Services Commission or the office of inspector general, as applicable, may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (a-2)(1). Criminal history record information obtained by the Health and Human Services Commission or the office of inspector general under Subsection (a-2)(2) may not be released or disclosed to any person except in a criminal proceeding, in an administrative proceeding, on court order, or with the consent of the provider or applicant.

(c) This section does not prohibit the Health and Human Services Commission or the office of inspector general from obtaining and using criminal history record information as provided by other law.

(d) The Health and Human Services Commission and the office of inspector general shall destroy criminal history record information obtained under this section after the information is used for its authorized purpose.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 879 (S.B. 223), Sec. 3.10, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 980 (H.B. 1720), Sec. 1, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 2.14, eff. April 1, 2025.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 34, eff. June 13, 2023.

Sec. 411.1144. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION AND EMPLOYEES, CONTRACTORS, OR VOLUNTEERS AT STATE SUPPORTED LIVING CENTERS. (a) The Health and Human Services Commission is entitled to obtain criminal history record information as provided by Subsection (d) that relates to a person:

(1) who is:

(A) an applicant for employment with the Health and Human Services Commission;

(B) an employee of the Health and Human Services Commission;

(C) a volunteer with the Health and Human Services Commission;

(D) an applicant for a volunteer position with the Health and Human Services Commission;

(E) an applicant for a contract with the Health and Human Services Commission; or

(F) a contractor of the Health and Human Services Commission; and

(2) who would be placed in direct contact with a resident

or client of a state supported living center, as defined by Section 555.001, Health and Safety Code.

(b) The commission may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (d)(1). Criminal history record information obtained by the Health and Human Services Commission under Subsection (d)(2) may not be released or disclosed to any person except:

(1) on court order;

(2) with the consent of the person who is the subject of the criminal history record information;

(3) for purposes of an administrative hearing held by the agency concerning the person who is the subject of the criminal history record information; or

(4) as provided by Subsection (c).

(c) The Health and Human Services Commission is prohibited from releasing criminal history record information obtained under Subsection (d)(1) to the person who is the subject of the criminal history record information. The Health and Human Services Commission is not prohibited from releasing criminal history record information obtained under Subsection (d)(2) to the person who is the subject of the criminal history record information.

(d) Subject to Section 411.087 and consistent with the public policy of this state, the Health and Human Services Commission is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(e) This section does not prohibit the Health and Human Services Commission from obtaining and using criminal history record information as provided by other law.

(f) The Health and Human Services Commission shall destroy criminal history record information obtained under this section after the information is used for its authorized purpose.

Added by Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 8, eff.

June 11, 2009.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1027 (H.B. 2673), Sec. 2, eff. June 14, 2013.
Acts 2019, 86th Leg., R.S., Ch. 684 (S.B. 2200), Sec. 8, eff. June 10, 2019.
Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 35, eff. June 13, 2023.

Sec. 411.1145. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE PRESERVATION BOARD. (a) The State Preservation Board is entitled to obtain criminal history record information maintained by the department that relates to a person who is an employee, volunteer, or intern, or an applicant to be an employee, volunteer, or intern, in a position that involves:

(1) handling money or checks;

(2) working in the Capitol or another area designated by the executive director as security sensitive; or

(3) direct contact with persons under 18 years of age.

(b) Criminal history record information obtained by the board under this section may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the information.

Added by Acts 2001, 77th Leg., ch. 1462, Sec. 8, eff. June 17, 2001.

Sec. 411.1146. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF AGRICULTURE. (a) The Department of Agriculture is entitled to obtain criminal history record information maintained by the Department of Public Safety that relates to a person who is a principal of a nongovernmental entity that is a participant in or applicant for participation in the Child and Adult Care Food Program as provided by Section 33.0271(e), Human Resources Code.

(b) Criminal history record information obtained by the Department of Agriculture under this section may not be released or disclosed to any person except in a criminal proceeding, in an administrative proceeding, on court order, or with the consent of the person who is the subject of the information.

Added by Acts 2011, 82nd Leg., R.S., Ch. 870 (S.B. 77), Sec. 1, eff. September 1, 2011.

Sec. 411.1147. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS HISTORICAL COMMISSION. (a) The Texas Historical Commission is entitled to obtain criminal history record information maintained by the department or the identification division of the Federal Bureau of Investigation that relates to a person who is:

(1) an employee, volunteer, or intern;

(2) an applicant to be an employee, volunteer, or intern; or

(3) a contractor or subcontractor for the commission.

(b) Criminal history record information obtained by the Texas Historical Commission under this section may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the information.

(c) The Texas Historical Commission shall collect and destroy criminal history record information that relates to a person immediately after the commission uses the information to make an employment or other decision related to the person or take a personnel action relating to the person who is the subject of the criminal history record information.

(d) The Texas Historical Commission may not obtain criminal history record information under this section unless the commission first adopts policies and procedures that provide that evidence of a criminal conviction or other relevant information obtained from the criminal history record information does not automatically disqualify an individual from obtaining employment or another position or contract with the commission. The policies and procedures developed under this section must provide that the hiring official will determine whether the individual is qualified for employment based on factors including:

(1) the specific duties of the position;

(2) the number of offenses committed by the individual;

(3) the nature and seriousness of each offense;

(4) the length of time between the offense and the employment decision;

(5) the efforts by the individual at rehabilitation; and

(6) the accuracy of the information on the individual's

employment application.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 1, eff. June 17, 2011.
Redesignated from Government Code, Section 411.1146 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(20), eff. September 1, 2013.

Sec. 411.115. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES AND HEALTH AND HUMAN SERVICES COMMISSION; LOCAL AUTHORITIES; COMMUNITY CENTERS. (a) In this section, "local mental health authority," "local intellectual and developmental disability authority," and "community center" have the meanings assigned by Section 531.002, Health and Safety Code.

(b) The Department of State Health Services, the Health and Human Services Commission, a local mental health or intellectual and developmental disability authority, or a community center, as applicable, is entitled to obtain criminal history record information as provided by Subsection (c) that relates to a person:

(1) who is:

(A) an applicant for employment with the Department of State Health Services, the Health and Human Services Commission, a local mental health or intellectual and developmental disability authority, or a community center;

(B) an employee of the Department of State Health Services, the Health and Human Services Commission, a local mental health or intellectual and developmental disability authority, or a community center;

(C) an applicant for employment with or an employee of a business or person who contracts with the Department of State Health Services, the Health and Human Services Commission, a local mental health or intellectual and developmental disability authority, or a community center to provide residential services to patients with mental illness or clients with an intellectual or developmental disability who were furloughed or discharged from a Department of State Health Services facility, a Health and Human Services Commission facility, or a community center, as applicable;

(D) a volunteer with the Department of State Health Services, the Health and Human Services Commission, a local mental

health or intellectual and developmental disability authority, or a community center; or

(E) a volunteer applicant; and

(2) who would be placed in direct contact with patients with mental illness or clients with an intellectual or developmental disability.

(c) Subject to Section 411.087 and consistent with the public policy of this state, the Department of State Health Services, the Health and Human Services Commission, a local mental health or intellectual and developmental disability authority, or a community center, as applicable, is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person who is described by Subsection (b); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (b).

(d) The Department of State Health Services, the Health and Human Services Commission, a local mental health or intellectual and developmental disability authority, or a community center, as applicable, may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (c)(1). Criminal history record information obtained by the Department of State Health Services, the Health and Human Services Commission, a local mental health or intellectual and developmental disability authority, or a community center, as applicable, under Subsection (c)(2) may not be released or disclosed to a person, other than the contractor that employs the person who is the subject of the criminal history record information, except on court order or with the consent of the person who is the subject of the criminal history record information.

(e) The Department of State Health Services, the Health and Human Services Commission, a local mental health or intellectual and developmental disability authority, or a community center, as applicable, shall destroy criminal history record information obtained under this section after the information is used for its authorized purpose.

(f) This section does not prohibit the Department of State

Health Services, the Health and Human Services Commission, a local mental health or intellectual and developmental disability authority, or a community center, as applicable, from obtaining and using criminal history record information as provided by other law.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 296, Sec. 7, 13(2), eff. Sept. 1, 2003.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 684 (S.B. 2200), Sec. 9, eff. June 10, 2019.
Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 36, eff. June 13, 2023.

Sec. 411.116. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: ORGANIZATION PROVIDING CERTAIN NURSE AIDES. (a) In this section:

(1) "Facility" has the meaning assigned by Section 106.001, Human Resources Code.

(2) "Nurse aide" has the meaning assigned by Chapter 106, Human Resources Code.

(3) "Organization that provides temporary nurse aides" includes a temporary employment service, nursing pool, private duty nurse service, or sitter service.

(b) An organization that provides temporary nurse aides to a facility is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) a nurse aide; and

(2) a candidate for referral by the organization to a facility.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.1161. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION AND NURSE AIDE CERTIFICATION, MEDICATION AIDE PERMIT, AND NURSING FACILITY ADMINISTRATOR LICENSE. (a) The Health and Human Services Commission is entitled to obtain criminal history record information as provided by Subsection (b)

that relates to a person who is an initial or renewal applicant for:

(1) a nurse aide certification with inclusion in the nurse aide registry established under Chapter 250, Health and Safety Code;

(2) a medication aide permit issued under Chapter 142, Health and Safety Code; or

(3) a nursing facility administrator license issued under Chapter 242, Health and Safety Code.

(b) Subject to Section 411.087 and consistent with the public policy of this state, the Health and Human Services Commission is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The Health and Human Services Commission may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the Health and Human Services Commission under Subsection (b)(2) may not be released or disclosed to any person except:

(1) on court order;

(2) with the consent of the person who is the subject of the criminal history record information;

(3) for purposes of an administrative hearing held by the Health and Human Services Commission concerning the person who is the subject of the criminal history record information; or

(4) as provided by Subsection (d).

(d) The Health and Human Services Commission is not prohibited from releasing criminal history record information obtained under Subsection (b)(2) to the person who is the subject of the criminal history record information.

(e) This section does not prohibit the Health and Human Services Commission from obtaining and using criminal history record information as provided by other law.

(f) The Health and Human Services Commission shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 37, eff. June 13, 2023.

Sec. 411.117. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION AND TEXAS WORKFORCE COMMISSION. The Health and Human Services Commission and the Texas Workforce Commission are entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for services of the Health and Human Services Commission or the Texas Workforce Commission, as applicable;

(2) a client of the Health and Human Services Commission or the Texas Workforce Commission, as applicable; or

(3) an applicant for employment whose potential duties include direct contact with clients of the Health and Human Services Commission or the Texas Workforce Commission, as applicable.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 393, Sec. 25, eff. Sept. 1, 1999.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 391 (S.B. 128), Sec. 1, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 684 (S.B. 2200), Sec. 10, eff. June 10, 2019.

Sec. 411.118. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYER AT RESIDENTIAL DWELLING PROJECT. (a) In this section, "employer," "employee," "occupant," and "residential dwelling project" have the meanings assigned by Section 765.001, Health and Safety Code.

(b) An employer is entitled to obtain from the department criminal history record information maintained by the department that pertains to a person who:

(1) is an applicant for a position of employment in a residential dwelling project to whom an offer of employment is made; and

(2) may be reasonably required to have access to the

residence of an occupant.

(c) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(3).

(d) Criminal history record information obtained under Subsection (b) may not be released or disclosed to any person except on court order or with the written consent of the person who is the subject of the criminal history record information.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 572, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 296, Sec. 13(3), eff. Sept. 1, 2003.

Sec. 411.1181. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION; APPLICANTS FOR EMPLOYMENT. (a) In this section, "in-home service company" and "residential delivery company" have the meanings assigned by Section 145.001, Civil Practice and Remedies Code.

(b) An in-home service company or residential delivery company is entitled to obtain from the Department of Public Safety criminal history record information maintained by the department that relates to:

(1) an officer of or person employed by the company whose job duties require entry into another person's residence; or

(2) an applicant to whom an offer of employment is made for a position of employment with the company, the job duties of which require entry into another person's residence.

(c) Criminal history record information obtained by an in-home service company or residential delivery company under Subsection (b) may not be released or disclosed to any person except on court order, upon proper discovery request during litigation or with the consent of the person who is the subject of the criminal history record information.

(d) The in-home service company or residential delivery company shall destroy criminal history record information that relates to a person no sooner than two years after the person's office or employment with the company ends or the company determines not to employ the person, as applicable.

Added by Acts 2003, 78th Leg., ch. 228, Sec. 2, eff. Sept. 1, 2003. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 751 (S.B. 627), Sec. 5, eff. September 1, 2009.

Sec. 411.1182. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COMMERCIAL NUCLEAR POWER PLANT LICENSEES. (a) A commercial nuclear power plant licensee and its contractors, for security reasons and consistent with requirements of the United States Nuclear Regulatory Commission, are entitled to obtain from the department criminal history record information maintained by the department that relates to a person who has or is seeking employment at or access to the commercial nuclear power plant.

(b) The department shall place a high priority on requests under Subsection (a) and respond as expeditiously as possible; in no event shall the department respond later than two business days after the date the request is received by the department.

(c) Criminal history information obtained from the department may not be released or disclosed except:

(1) as needed in protecting the security of a commercial nuclear power plant;

(2) as authorized by the United States Nuclear Regulatory Commission, a court order, or a federal or state law or order; or

(3) with the consent of the person who is the subject of the criminal history record information.

Added by Acts 2003, 78th Leg., ch. 1237, Sec. 3, eff. June 20, 2003. Renumbered from Government Code, Section 411.1181 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(29), eff. September 1, 2005. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.10, eff. June 19, 2009.

Sec. 411.1183. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: INDEPENDENT ORGANIZATION CERTIFIED UNDER UTILITIES CODE. (a) An independent organization certified under Section 39.151, Utilities Code, for security reasons is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who has or is seeking employment at or access to the independent organization's systems that affect the security of the electric grid or any other background information maintained by the department that relates to the person that is considered

necessary by the independent organization or required by the Public Utility Commission.

(b) Information obtained from the department under this section may not be released or disclosed except:

(1) as needed in protecting the security of the electric grid;

(2) as authorized by a court order or a federal or state law or order; or

(3) with the consent of the person who is the subject of the criminal history record information.

Added by Acts 2023, 88th Leg., R.S., Ch. 464 (S.B. 2013), Sec. 2, eff. June 9, 2023.

Sec. 411.121. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: ADJUTANT GENERAL. (a) In this section:

(1) "Adjutant general" has the meaning assigned by Section 437.001.

(2) "State military forces" has the meaning assigned by Section 437.001.

(b) The adjutant general is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) a member of the Texas military forces;

(2) an employee of the Texas Military Department;

(3) an applicant for enlistment in the Texas military forces; or

(4) an applicant for employment with the Texas Military Department.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 156 (H.B. 1860), Sec. 1, eff. September 1, 2017.

(d) Criminal history record information obtained by the adjutant general under Subsection (b) may not be released to any person or agency except on court order or with the consent of the person who is the subject of the criminal history record information.

(e) The adjutant general shall destroy criminal history record information obtained under Subsection (b) after the purpose for which the information was obtained is accomplished.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 2.02, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 3.03, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 156 (H.B. 1860), Sec. 1, eff. September 1, 2017.

Sec. 411.1211. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS VETERANS COMMISSION. (a) The Texas Veterans Commission is entitled to obtain from the department, the Federal Bureau of Investigation Criminal Justice Information Services Division, or another law enforcement agency criminal history record information maintained by the department, division, or agency that relates to a person who:

(1) is an employee or an applicant for employment with the commission;

(2) is a consultant, intern, or volunteer for the commission or an applicant to serve as a consultant, intern, or volunteer;

(3) proposes to enter into a contract with or has a contract with the commission to perform services for or supply goods to the commission; or

(4) is an employee or subcontractor, or an applicant to be an employee or subcontractor, of a contractor that provides services to the commission.

(b) Criminal history record information obtained by the Texas Veterans Commission under Subsection (a) may not be released or disclosed to any person except:

(1) on court order;

(2) with the consent of the person who is the subject of the criminal history record information; or

(3) to a federal agency as required by federal law or executive order.

(c) The Texas Veterans Commission shall destroy criminal history record information obtained under this section after the information is used for the purposes authorized by this section.

(d) The Texas Veterans Commission may provide a copy of the criminal history record information obtained from the department, the

Federal Bureau of Investigation Criminal Justice Information Services Division, or other law enforcement agency to the individual who is the subject of the information.

(e) The failure or refusal to provide the following on request constitutes good cause for dismissal or refusal to hire:

(1) a complete set of fingerprints;

(2) a true and complete name; or

(3) other information necessary for a law enforcement entity to provide a criminal history record.

Added by Acts 2009, 81st Leg., R.S., Ch. 67 (S.B. 2163), Sec. 1, eff. May 19, 2009.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2587, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.122. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: LICENSING OR REGULATORY AGENCY. (a) Except as provided by Subsection (c)(2), an agency of this state listed in Subsection (d) or a political subdivision of this state covered by Chapter 53, Occupations Code, that licenses or regulates members of a particular trade, occupation, business, vocation, or profession is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is an applicant for a license from the agency;

(2) is the holder of a license from the agency; or

(3) requests a determination of eligibility for a license from the agency.

(b) A municipality or county that requires a sexually oriented business to obtain a license or other permit under Section 243.007, Local Government Code, is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is an applicant for a license or other permit for a sexually oriented business issued by the municipality or county;

(2) is the holder of a license or other permit for a sexually oriented business issued by the municipality or county; or

(3) requests a determination of eligibility for a license or other permit for a sexually oriented business issued by the

municipality or county.

(c) Repealed by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 71(5), eff. June 13, 2023.

(d) The following state agencies are subject to this section:

(1) Texas Appraiser Licensing and Certification Board;

(2) Texas Board of Architectural Examiners;

(3) Texas Board of Chiropractic Examiners;

(4) State Board of Dental Examiners;

(5) Texas Board of Professional Engineers and Land Surveyors;

(6) Texas Funeral Service Commission;

(7) Texas Board of Professional Geoscientists;

(8) Health and Human Services Commission, except as provided by Section 411.110, and agencies attached to the commission;

(9) Texas Department of Licensing and Regulation;

(10) Texas Commission on Environmental Quality;

(11) Executive Council of Physical Therapy and Occupational Therapy Examiners;

(12) Texas Optometry Board;

(13) Texas State Board of Pharmacy;

(14) Texas State Board of Plumbing Examiners;

(15) Texas State Board of Examiners of Psychologists;

(16) Texas Real Estate Commission;

(17) Texas Department of Transportation;

(18) State Board of Veterinary Medical Examiners;

(19) Texas Department of Housing and Community Affairs;

(20) secretary of state;

(21) state fire marshal;

(22) Texas Education Agency;

(23) Department of Agriculture; and

(24) Texas Department of Motor Vehicles.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.757, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 83, Sec. 1, 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 296, Sec. 13(4), eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 798 (S.B. 411), Sec. 4.02, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 213 (S.B. 1005), Sec. 26, eff.

May 27, 2009.

Acts 2009, 81st Leg., R.S., Ch. 335 (H.B. 960), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 450 (H.B. 2447), Sec. 38, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3E.01, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.006, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 25, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 8.005, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 19.004, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 684 (S.B. 2200), Sec. 11, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 768 (H.B. 1501), Sec. 3.002, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1232 (H.B. 1523), Sec. 2.02, eff. September 1, 2019.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(2), eff. April 1, 2025.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 38, eff. June 13, 2023.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 71(5), eff. June 13, 2023.

Sec. 411.123. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: MUNICIPAL FIRE DEPARTMENT. (a) A fire department that is operated by a municipality in this state is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a beginning position with the fire department; and

(2) required to be certified by the Texas Commission on Fire Protection.

(b) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(5).

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 296, Sec. 13(5), eff. Sept. 1, 2003.

Sec. 411.1235. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: VOLUNTEER FIRE DEPARTMENTS. (a) A volunteer fire department or a fire department operated by an emergency services district is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is required to be certified by the Texas Commission on Fire Protection and:

(A) is an applicant for a beginning position with the fire department; or

(B) currently holds a position with that fire department; or

(2) holds a position with the fire department and seeks to conduct fire safety inspections without becoming certified as a fire inspector by the Texas Commission on Fire Protection.

(b) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(6).

(c) A fire department may not keep or retain criminal history record information obtained under this section in any file. Criminal history record information must be destroyed promptly after the determination of suitability of the person for any position as a volunteer or employee.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 296, Sec. 13(6), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1204, Sec. 2.001, eff. Sept. 1, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1245 (H.B. 2446), Sec. 1, eff. June 14, 2019.

Sec. 411.1236. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS COMMISSION ON FIRE PROTECTION. (a) The Texas Commission on Fire Protection is entitled to obtain from the department criminal history record information maintained by the department that relates

to a person who is:

(1) an applicant for or holder of a license issued under Chapter 419; or

(2) an applicant for employment by or an employee of the commission

(b) Criminal history record information obtained by the Texas Commission on Fire Protection under Subsection (a) may not be released to any person or agency except on court order or with the consent of the person who is the subject of the criminal history record information, or if the information is entered into evidence by the board in an administrative, civil, or criminal hearing under Chapter 419.

(c), (d) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(7).

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 2.08, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 296, Sec. 8, 13(7), eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.12, eff. June 19, 2009.

Sec. 411.1237. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COUNTY FIRE MARSHALS; COUNTY SHERIFFS. (a) On request of the department chief or chief executive of a fire department or an emergency medical services provider for an unincorporated area, a county fire marshal or county sheriff is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1) an applicant for employment or membership with the requesting fire department or emergency medical services provider; or

(2) an employee or member of the requesting fire department or emergency medical services provider.

(b) The county fire marshal or county sheriff may disclose criminal history record information obtained under Subsection (a) to the department chief or chief executive of the requesting fire department or emergency medical services provider, except that the county fire marshal or county sheriff may disclose criminal history record information obtained by the department from the Federal Bureau of Investigation only to governmental entities or as authorized by

federal law, federal executive order, or federal rule.

Added by Acts 2003, 78th Leg., ch. 951, Sec. 1, eff. Sept. 1, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1082 (H.B. 2583), Sec. 1, eff. September 1, 2015.

Sec. 411.124. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: POLITICAL SUBDIVISIONS; PUBLIC TRANSPORTATION DRIVERS. (a) A political subdivision of this state that employs, licenses, or regulates drivers of public transportation vehicles is entitled to obtain from the department or from a law enforcement agency of the political subdivision with access to the information the criminal history record information maintained by the department that relates to a person who is:

(1) the driver of a public transportation vehicle; and

(2) employed, licensed, or regulated by the political subdivision.

(b) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(8).

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 559, Sec. 1, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 296, Sec. 13(8), eff. Sept. 1, 2003.

Sec. 411.125. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS BOARD OF NURSING. (a) The Texas Board of Nursing is entitled to obtain criminal history record information as provided by Subsection (b) that relates to a person who:

(1) is an applicant for vocational, registered, or advanced practice registered nurse licensure, or the holder of a license issued by the board;

(2) has requested a determination of eligibility for a license from the board;

(3) is subject to investigation by the board in connection with a complaint or formal charge against the person; or

(4) is accepted for enrollment in a nursing education program that prepares the person for licensure as a vocational, registered, or advanced practice registered nurse.

(b) Subject to Section 411.087 and consistent with the public

policy of this state, the Texas Board of Nursing is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The Texas Board of Nursing may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the Texas Board of Nursing under Subsection (b)(2) may not be released or disclosed to any person except:

(1) as required under a court order;

(2) to a nursing board that is a member of the nurse licensure compact under Chapter 304, Occupations Code;

(3) with the written consent of the person who is the subject of the criminal history record information; or

(4) as provided by Subsection (d).

(d) The Texas Board of Nursing is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) in a criminal proceeding, in a contested case proceeding conducted by the State Office of Administrative Hearings, or as part of an appeal of a contested case proceeding.

(e) Criminal history record information obtained by the Texas Board of Nursing shall be destroyed by the agency after a final determination is made and all appeals are concluded in the matter for which the information was obtained.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 296, Sec. 13(9), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1102, Sec. 4, eff. Sept. 1, 2003. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 889 (H.B. 2426), Sec. 55, eff. September 1, 2007.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 39, eff. June 13, 2023.

Sec. 411.12501. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION OF FEDERAL BUREAU OF INVESTIGATION: TEXAS ALCOHOLIC BEVERAGE COMMISSION. (a) Subject to Section 411.087 and Public Law 92-544, the Texas Alcoholic Beverage Commission is authorized to obtain and use criminal history record information maintained or indexed by the Federal Bureau of Investigation that relates to a person who is an applicant for or holds a license, permit, or certificate under the Texas Alcoholic Beverage Code.

(b) This section does not limit the commission's ability to obtain criminal history record information for criminal justice purposes or as authorized by other law.

(c) The commission may require any person for whom the commission is authorized to obtain and use criminal history record information under Subsection (a) to submit a complete and legible set of fingerprints to the commission on a form prescribed by the commission for the purpose of obtaining criminal history record information.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 40, eff. June 13, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2598, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.12502. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL. (a) The Texas Behavioral Health Executive Council is entitled to obtain criminal history record information as provided by Subsection (b) that relates to a person who is an applicant for or licensed as:

(1) a licensed psychologist, licensed psychological associate, or licensed specialist in school psychology under Chapter 501, Occupations Code;

(2) a licensed marriage and family therapist or licensed marriage and family therapist associate under Chapter 502, Occupations Code;

(3) a licensed professional counselor or licensed professional counselor associate under Chapter 503, Occupations Code; or

(4) a licensed baccalaureate social worker, licensed master

social worker, or licensed clinical social worker under Chapter 505, Occupations Code.

(b) Subject to Section 411.087 and consistent with the public policy of this state, the Texas Behavioral Health Executive Council is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The Texas Behavioral Health Executive Council may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the executive council under Subsection (b)(2) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(d) The Texas Behavioral Health Executive Council is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) in a criminal proceeding or in a hearing conducted by the executive council or the State Office of Administrative Hearings.

(e) The Texas Behavioral Health Executive Council shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 41, eff. June 13, 2023.

Sec. 411.12503. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS BOARD OF CHIROPRACTIC EXAMINERS. (a) The Texas Board of Chiropractic Examiners is entitled to obtain criminal history record information as provided by Subsection (b) that relates to:

(1) a person who is an applicant for a license or registration under Chapter 201, Occupations Code; or

(2) the holder of a license or registration under Chapter

201, Occupations Code.

(b) Subject to Section 411.087 and consistent with the public policy of this state, the Texas Board of Chiropractic Examiners is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The Texas Board of Chiropractic Examiners may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the Texas Board of Chiropractic Examiners under Subsection (b)(2) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(d) The Texas Board of Chiropractic Examiners is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) in a criminal proceeding or in a hearing conducted under the authority of the Texas Board of Chiropractic Examiners.

(e) The Texas Board of Chiropractic Examiners shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 42, eff. June 13, 2023.

Sec. 411.12504. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE BOARD OF DENTAL EXAMINERS. (a) The State Board of Dental Examiners is entitled to obtain criminal history record information as provided by Subsection (b) that relates to a person who:

(1) is an applicant for a license, certificate, registration, permit, or other authorization under Subtitle D, Title 3, Occupations Code;

(2) is the holder of a license, certificate, registration, permit, or other authorization under that subtitle;

(3) requests a determination of eligibility for a license, certificate, registration, permit, or other authorization from the State Board of Dental Examiners; or

(4) is an applicant for employment at or current employee of the State Board of Dental Examiners.

(b) Subject to Section 411.087 and consistent with the public policy of this state, the State Board of Dental Examiners is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The State Board of Dental Examiners may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the State Board of Dental Examiners under Subsection (b)(2) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(d) The State Board of Dental Examiners is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) in a criminal proceeding or in a hearing conducted by the State Board of Dental Examiners or the State Office of Administrative Hearings.

(e) The State Board of Dental Examiners shall destroy criminal history record information obtained under this section after a final determination is made in the matter for which the information was obtained.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 43, eff. June 13, 2023.

Sec. 411.12505. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: QUALIFIED SCHOOL CONTRACTORS. (a) In this section, "qualified school contractor" means an entity that:

(1) contracts or subcontracts to provide services to a school district, charter school, or shared services arrangement; and

(2) is determined eligible by the department to obtain criminal history record information under the National Child Protection Act of 1993 (34 U.S.C. Section 40101 et seq.) for an employee, applicant for employment, or volunteer of the qualified school contractor.

(b) A qualified school contractor is entitled to obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a)(2).

(c) Criminal history record information obtained by a qualified school contractor under Subsection (b) in the original form or any subsequent form:

(1) may not be released to any person except:

(A) to the person who is the subject of the information;

(B) with the consent of the person who is the subject of the information;

(C) by court order; or

(D) except as provided by Subsection (d); and

(2) is not subject to disclosure as provided by Chapter 552.

(d) A qualified school contractor may provide a fitness determination based on criminal history record information obtained under this section to a school district, charter school, or shared services arrangement.

(e) A qualified school contractor shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

(f) The department in coordination with the commissioner of education may adopt rules necessary to implement this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 44, eff. June 13, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2587, 89th Legislature,

Regular Session, for amendments affecting the following section.

Sec. 411.12506. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS COMMISSION ON ENVIRONMENTAL QUALITY. (a) The Texas Commission on Environmental Quality is entitled to obtain criminal history record information as provided by Subsection (b) that relates to a person who:

(1) is an applicant for a license, permit, or registration under:

(A) Chapters 341, 361, and 366, Health and Safety Code;

(B) Chapter 1903, Occupations Code; or

(C) Chapters 26 and 37, Water Code;

(2) is the holder of a license, permit, or registration under a provision listed in Subdivision (1); or

(3) requests a determination of eligibility for a license, permit, or registration from the agency under a provision listed in Subdivision (1).

(b) Subject to Section 411.087 and consistent with the public policy of this state, the Texas Commission on Environmental Quality is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The Texas Commission on Environmental Quality may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the Texas Commission on Environmental Quality under Subsection (b)(2) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(d) The Texas Commission on Environmental Quality is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) in a criminal proceeding or in an administrative proceeding conducted by the Texas Commission on Environmental Quality or the State Office of Administrative Hearings.

(e) The Texas Commission on Environmental Quality shall destroy

criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 45, eff. June 13, 2023.

Sec. 411.12507. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS FUNERAL SERVICE COMMISSION. (a) The Texas Funeral Service Commission is entitled to obtain criminal history record information as provided by Subsection (b) that relates to:

(1) a person who is:

(A) an applicant for a license or certificate under Sections 651.259 and 651.302, Occupations Code; or

(B) the holder of a license or certificate under Chapter 651, Occupations Code;

(2) an applicant for a license or a license holder under Chapter 651, Occupations Code;

(3) an applicant for employment at or current employee of the Texas Funeral Service Commission; or

(4) a person authorized to access vital records or the vital records electronic registration system under Chapter 191, Health and Safety Code, or a funeral director.

(b) Subject to Section 411.087 and consistent with the public policy of this state, the Texas Funeral Service Commission is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The Texas Funeral Service Commission may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the Texas Funeral Service Commission under Subsection (b)(2) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history

record information, or as provided by Subsection (d).

(d) The Texas Funeral Service Commission is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) in a criminal proceeding or in a hearing conducted by the Texas Funeral Service Commission.

(e) The Texas Funeral Service Commission may not consider offenses described by Section 542.304, Transportation Code, to determine whether to hire or retain an employee or to contract with a person on whom criminal history record information is obtained under this section.

(f) The Texas Funeral Service Commission shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 46, eff. June 13, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2587, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.12508. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: MANUFACTURED HOUSING DIVISION. (a) The manufactured housing division of the Texas Department of Housing and Community Affairs is entitled to obtain criminal history record information as provided by Subsection (b) that relates to a person who is:

(1) an applicant for or holder of a license under Chapter 1201, Occupations Code; or

(2) an owner, officer, or related person or manager of a person described by Subdivision (1).

(b) Subject to Section 411.087 of this code and Chapter 1201, Occupations Code, and consistent with the public policy of this state, the manufactured housing division is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The manufactured housing division may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the manufactured housing division under Subsection (b)(2) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(d) The manufactured housing division is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) in a criminal proceeding or in a hearing conducted by the manufactured housing division. Certified public documents that contain criminal history record information described by Subsection (b)(2) but that the division does not obtain under that subdivision may be used in a criminal or civil proceeding or in a hearing conducted by the manufactured housing division.

(e) The manufactured housing division shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 47, eff. June 13, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2587, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.12509. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE FIRE MARSHAL. (a) The state fire marshal is entitled to obtain criminal history record information as provided by Subsection (b) that relates to a person who is an applicant for a license issued by the state fire marshal.

(b) Subject to Section 411.087 and consistent with the public policy of this state, the state fire marshal is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that

relates to a person described by Subsection (a).

(c) The state fire marshal may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the state fire marshal under Subsection (b)(2) may not be disclosed or released to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(d) The state fire marshal is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) in a criminal proceeding or in a hearing conducted by the state fire marshal.

(e) The state fire marshal shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 48, eff. June 13, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2587, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.12510. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS MEDICAL BOARD. (a) The Texas Medical Board is entitled to obtain criminal history record information as provided by Subsection (b) that relates to a person who is:

(1) an applicant for or holder of a license to practice medicine;

(2) an applicant for or holder of a license to practice as a physician assistant;

(3) an applicant for or holder of a license to practice as an acupuncturist;

(4) an applicant for or holder of a certificate to practice as an acudetox specialist;

(5) an applicant for or holder of a license to practice as a surgical assistant;

(6) an applicant for or holder of a general certificate to perform radiologic procedures, limited certificate to perform

radiologic procedures only on specific parts of the body, or radiologist assistant certificate;

(7) an applicant for or holder of a placement on the registry of noncertified technicians;

(8) an employee of an applicant for a hardship exemption;

(9) an applicant for or holder of a license to practice as a medical physicist;

(10) an applicant for or holder of a license to practice as a perfusionist;

(11) an applicant for or holder of a license to practice as a respiratory care practitioner; and

(12) an applicant for or holder of a pain management clinic certificate.

(b) Subject to Section 411.087 and consistent with the public policy of this state, the Texas Medical Board is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The Texas Medical Board may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the Texas Medical Board under Subsection (b)(2) may not be released or disclosed to any person, except as provided by Subsection (d).

(d) The Texas Medical Board is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) in a hearing conducted by the Texas Medical Board or its advisory boards.

(e) The Texas Medical Board shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 49, eff. June 13, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2587, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.12511. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS DEPARTMENT OF MOTOR VEHICLES. (a) The Texas Department of Motor Vehicles is entitled to obtain criminal history record information as provided by Subsection (b) that relates to a person:

(1) who is an applicant for or holds a general distinguishing number under Chapter 503, Transportation Code;

(2) who is an applicant for or holds a license under Chapter 2301 or 2302, Occupations Code; or

(3) who is an officer, director, member, manager, principal, partner, trustee, or other person acting in a representative capacity for an applicant, general distinguishing number holder, or license holder and whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Chapter 503, Transportation Code, or Chapter 2301 or 2302, Occupations Code.

(b) Subject to Section 411.087 and consistent with the public policy of this state, the Texas Department of Motor Vehicles is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The Texas Department of Motor Vehicles may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the Texas Department of Motor Vehicles under Subsection (b)(2) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(d) The Texas Department of Motor Vehicles is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) in a criminal proceeding or in a hearing in which the Texas Department of Motor Vehicles is a party.

(e) The Texas Department of Motor Vehicles shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 50, eff. June 13, 2023.

Sec. 411.12512. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS OPTOMETRY BOARD. (a) The Texas Optometry Board is entitled to obtain criminal history record information as provided by Subsection (b) that relates to a person who is:

(1) an applicant for a license under Section 351.251, Occupations Code; or

(2) the holder of a license under Section 351.302, Occupations Code.

(b) Subject to Section 411.087 of this code and Sections 351.2525 and 351.3045, Occupations Code, and consistent with the public policy of this state, the Texas Optometry Board is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The Texas Optometry Board may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the Texas Optometry Board under Subsection (b)(2) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(d) The Texas Optometry Board is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) in a criminal proceeding or in a hearing conducted by the Texas Optometry Board.

(e) The Texas Optometry Board shall destroy criminal history

record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 51, eff. June 13, 2023.

Sec. 411.12513. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EXECUTIVE COUNCIL OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EXAMINERS. (a) The Executive Council of Physical Therapy and Occupational Therapy Examiners is entitled to obtain criminal history record information as provided by Subsection (b) that relates to a person who is:

(1) an applicant for or the holder of a physical therapist or physical therapist assistant license under Chapter 453, Occupations Code; or

(2) an applicant for or the holder of an occupational therapist or occupational therapy assistant license under Chapter 454, Occupations Code.

(b) Subject to Section 411.087 and consistent with the public policy of this state, the Executive Council of Physical Therapy and Occupational Therapy Examiners is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The Executive Council of Physical Therapy and Occupational Therapy Examiners may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the Executive Council of Physical Therapy and Occupational Therapy Examiners under Subsection (b)(2) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(d) The Executive Council of Physical Therapy and Occupational Therapy Examiners is not prohibited from disclosing criminal history

record information obtained under Subsection (b)(2) in a criminal proceeding or in a hearing conducted by the Executive Council of Physical Therapy and Occupational Therapy Examiners.

(e) The Executive Council of Physical Therapy and Occupational Therapy Examiners shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 52, eff. June 13, 2023.

Sec. 411.12514. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS STATE BOARD OF PLUMBING EXAMINERS. (a) The Texas State Board of Plumbing Examiners is entitled to obtain criminal history record information as provided by Subsection (b) that relates to an applicant for a license, registration, endorsement, or certificate under Chapter 1301, Occupations Code, including a license, registration, endorsement, or certificate, as applicable, for any of the following functions: master plumber, journeyman plumber, plumbing inspector, tradesman-plumber limited, plumber's apprentice, multipurpose residential fire protection sprinkler specialist, water supply protection specialist, and medical gas piping installation.

(b) Subject to Section 411.087 and consistent with the public policy of this state, the Texas State Board of Plumbing Examiners is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The Texas State Board of Plumbing Examiners may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the Texas State Board of Plumbing Examiners under Subsection (b)(2) may not be released or disclosed to any person except on court order, with the written consent of the person or entity that is the subject of the

criminal history record information, or as provided by Subsection (d).

(d) The Texas State Board of Plumbing Examiners is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) in a criminal proceeding or in a hearing conducted by the Texas State Board of Plumbing Examiners.

(e) The Texas State Board of Plumbing Examiners shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 53, eff. June 13, 2023.

Sec. 411.12515. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS REAL ESTATE COMMISSION AND TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD. (a) In this section:

(1) "Board" means the Texas Appraiser Licensing and Certification Board.

(2) "Commission" means the Texas Real Estate Commission.

(b) The commission is entitled to obtain criminal history record information as provided by Subsection (d) that relates to:

(1) an applicant for an initial broker or sales agent license or renewal of a broker or sales agent license under Chapter 1101, Occupations Code;

(2) an applicant for an original certificate of registration as an easement or right-of-way agent or renewal of a certificate of registration as an easement or right-of-way agent under Chapter 1101, Occupations Code; or

(3) an applicant for an apprentice inspector license, a real estate inspector license, or a professional inspector license or renewal of an apprentice inspector license, a real estate inspector license, or a professional inspector license under Chapter 1102, Occupations Code.

(c) The board is entitled to obtain criminal history record information as provided by Subsection (d) that relates to:

(1) an applicant for an appraiser trainee license, a residential appraiser license, a residential appraiser certificate, or a general appraiser certificate or renewal of an appraiser trainee license, a residential appraiser license, a residential appraiser

certificate, or a general appraiser certificate under Chapter 1103, Occupations Code; or

(2) an applicant for registration or renewal of a registration as an appraisal management company under Chapter 1104, Occupations Code.

(d) Subject to Section 411.087 of this code and Sections 1101.3521, 1101.4521, 1101.5041, 1102.1051, and 1103.2031, Occupations Code, and consistent with the public policy of this state, the commission and the board are entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (b) or (c); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (b) or (c).

(e) The commission or the board, as applicable, may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (d)(1). The commission or the board, as applicable, is not prohibited from disclosing criminal history record information obtained under Subsection (d)(2) in a criminal proceeding or in a hearing conducted by the State Office of Administrative Hearings on behalf of that agency.

(f) The commission or board shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 54, eff. June 13, 2023.

Sec. 411.12516. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS. (a) The Texas Board of Professional Engineers and Land Surveyors is entitled to obtain criminal history record information as provided by Subsection (b) that relates to an applicant for or holder of a license under Chapters 1001 and 1071, Occupations Code.

(b) Subject to Section 411.087 of this code and Section

1001.272, Occupations Code, and consistent with the public policy of this state, the Texas Board of Professional Engineers and Land Surveyors is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The Texas Board of Professional Engineers and Land Surveyors may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the Texas Board of Professional Engineers and Land Surveyors under Subsection (b)(2) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(d) The Texas Board of Professional Engineers and Land Surveyors is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) in a criminal proceeding or in a hearing conducted by the Texas Board of Professional Engineers and Land Surveyors.

(e) The Texas Board of Professional Engineers and Land Surveyors shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 55, eff. June 13, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2587, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.12517. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS STATE BOARD OF PHARMACY. (a) The Texas State Board of Pharmacy is entitled to obtain criminal history record information as provided by Subsection (b) that relates to a person who:

(1) is an applicant for or holder of a license, certificate, registration, permit, or other authorization under Chapters 557, 558, 559, and 568, Occupations Code;

(2) is an applicant for or holder of a Class A, Class B, Class C, Class D, or Class E pharmacy license under Chapters 560 and 561, Occupations Code;

(3) requests a determination of eligibility for a license, certificate, registration, permit, or other authorization from the Texas State Board of Pharmacy; or

(4) is an applicant for employment at or current employee of the Texas State Board of Pharmacy.

(b) Subject to Section 411.087 and consistent with the public policy of this state, the Texas State Board of Pharmacy is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The Texas State Board of Pharmacy may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the Texas State Board of Pharmacy under Subsection (b)(2) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(d) The Texas State Board of Pharmacy is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) in a criminal proceeding or in a hearing conducted by the Texas State Board of Pharmacy or the State Office of Administrative Hearings.

(e) The Texas State Board of Pharmacy shall destroy criminal history record information obtained under this section after a final determination is made in the matter for which the information was obtained.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 56,

eff. June 13, 2023.

Sec. 411.126. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: VOLUNTEER CENTERS. (a) In this section:

(1) "Volunteer center" means a nonprofit, tax-exempt organization:

(A) whose primary purpose is to recruit and refer individual volunteers for other nonprofit groups in that area; and

(B) that is certified as a bona fide volunteer center by the department.

(2) "Volunteer" or "volunteer applicant" means a person who will perform one or more of the following services without remuneration:

(A) any service performed in a residence;

(B) any service that requires the access to or the handling of money or confidential or privileged information; or

(C) any service that involves the care of or access to:

(i) a child;

(ii) an elderly person; or

(iii) a person who is mentally incompetent, physically disabled, ill, or incapacitated, or who has an intellectual disability.

(3) "Employee" or "employee applicant" means a person who will perform one or more of the following services or functions for remuneration:

(A) any service performed in a residence;

(B) any service that requires the access to or the handling of money or confidential or privileged information; or

(C) any service that involves the care of or access to:

(i) a child;

(ii) an elderly person; or

(iii) a person who is mentally incompetent, physically disabled, ill, or incapacitated, or who has an intellectual disability;

(D) coordination or referral of volunteers; or

(E) executive administrative responsibilities.

(4) "Client agency" means a nonprofit agency served by a volunteer center.

(b) A volunteer center is entitled to obtain from the

department criminal history record information maintained by the department that relates to a person who is:

(1) an employee, an employee applicant, a volunteer, or a volunteer applicant of the volunteer center; or

(2) an employee, an employee applicant, a volunteer, or a volunteer applicant of a client agency.

(c) The department may establish rules governing the administration of this section and charge volunteer centers a fee to cover the department's direct costs of administering this program.

(d) A volunteer center may disseminate criminal history record information to a client agency, if the client agency has been approved by the department.

(e) A volunteer center or client agency may not keep or retain criminal history record information obtained under this section in any file. Criminal history record information must be destroyed promptly after the determination of suitability of the person for any position as a volunteer or employee.

(f) Subject to approval by the department, two or more volunteer centers may share technical and staff resources in the development and operation of services for the dissemination of criminal history record information.

(g) Except in the case of gross negligence or intentional misconduct, a volunteer center is not liable for damages arising from:

(1) the release or use of information obtained under this section;

(2) the failure to release or use information obtained under this section; or

(3) the failure to obtain information under this section.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 248, Sec. 2, eff. Sept. 1, 1995.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.08, eff. September 1, 2023.

Sec. 411.127. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: APPLICANTS FOR EMPLOYMENT AND CONTRACTORS. (a) The Title IV-D agency is entitled to obtain from the Department of Public Safety,

the Federal Bureau of Investigation identification division, or another law enforcement agency criminal history record information maintained by the department or agency that relates to a person who is an applicant for a position of employment with the Title IV-D agency, or an applicant to serve as a consultant, intern, or volunteer, that involves the performance of duties under Chapter 231, Family Code. The Title IV-D agency may not request the information unless a supervisory employee of the agency has recommended that the applicant be hired or serve as an intern or volunteer.

(b) The Title IV-D agency is entitled to obtain from the Department of Public Safety, Federal Bureau of Investigation identification division, or another law enforcement agency criminal history record information maintained by the department or agency that relates to a person who proposes to enter into a contract with or that has a contract with the Title IV-D agency to supply goods or services to the Title IV-D agency. The authorization under this subsection to obtain criminal history record information about a person includes information relating to an employee or subcontractor of the person or an employee of the person's subcontractor.

(c) Criminal history record information obtained by the Title IV-D agency under Subsection (a) or (b) may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

(d) The Title IV-D agency shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

(e) In this section, "Title IV-D agency" has the meaning assigned by Section 101.033, Family Code.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 42, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.37, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 556, Sec. 76, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1023, Sec. 74, eff. Sept. 1, 2001.

Sec. 411.1271. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: OFFICE OF THE ATTORNEY GENERAL. (a) The office of the attorney general is entitled to obtain from the Department of Public Safety, the Federal Bureau of Investigation identification division, or

another law enforcement agency criminal history record information maintained by the department or agency that relates to a person who is an applicant for a position of employment with the office of the attorney general or an applicant to serve as a consultant, intern, or volunteer for the office.

(b) The office of the attorney general is entitled to obtain from the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency criminal history record information maintained by the department or agency that relates to a person who proposes to enter into a contract with or who has a contract with the office of the attorney general to supply goods or services to the office of the attorney general. The authorization under this subsection to obtain criminal history record information about a person includes information relating to an employee or subcontractor of the person or an employee of the person's subcontractor.

(b-1) The office of the attorney general is entitled to obtain from the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency criminal history record information maintained by the department or agency that relates to a person who owes child support in a Title IV-D case, as defined by Section 101.034, Family Code, for the purposes of locating that person and establishing, modifying, or enforcing a child support obligation against that person.

(c) Criminal history record information obtained by the office of the attorney general under this section may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

(d) The office of the attorney general shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

Added by Acts 2009, 81st Leg., R.S., Ch. 514 (S.B. 1081), Sec. 1, eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 508 (H.B. 1674), Sec. 21, eff. September 1, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2111, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.1272. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: OFFICE OF CAPITAL AND FORENSIC WRITS AND PUBLIC DEFENDER'S OFFICES. The office of capital and forensic writs and a public defender's office are entitled to obtain from the department criminal history record information maintained by the department that relates to a criminal case in which an attorney compensated by the office of capital and forensic writs or by the public defender's office has been appointed.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1188 (S.B. 1044), Sec. 3, eff. September 1, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1215 (S.B. 1743), Sec. 25, eff. September 1, 2015.

Sec. 411.128. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: PERSON SEEKING TO ADOPT CHILD. (a) A person seeking to adopt a child under Chapter 162, Family Code, who is ordered by the court to obtain the person's own criminal history record information from the department under Section 162.0085, Family Code, shall request the information as provided by this section.

(b) A person requesting information under this section shall provide the department with the name and address of the court and the date set for the adoption hearing.

Text of subsec. (c) as added by Acts 1995, 74th Leg., ch. 751, Sec. 123

(c) The department shall provide the court with criminal history record information not later than the 10th day after the date on which the criminal history record information is requested.

Text of subsec. (c) as added by Acts 1995, 74th Leg., ch. 908, Sec. 3

(c) The department shall provide the court with criminal history record information not later than the 10th day before the date set for the adoption hearing.

(d) Criminal history record information requested under this section may not be released or disclosed to a person other than the court ordering the investigation except on court order or with the

consent of the person who is the subject of the criminal history record information.

Added by Acts 1995, 74th Leg., ch. 751, Sec. 123; Acts 1995, 74th Leg., ch. 908, Sec. 3, eff. Sept. 1, 1995.

Sec. 411.1285. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DOMESTIC RELATIONS OFFICE AND CHILD CUSTODY EVALUATOR. (a) A domestic relations office created under Chapter 203, Family Code, is entitled to obtain from the department criminal history record information that relates to a person who is a party to a proceeding in which the domestic relations office is providing services permitted under Chapter 203, Family Code.

(a-1) A domestic relations office created under Chapter 203, Family Code, or a child custody evaluator appointed under Chapter 107, Family Code, is entitled to obtain from the department criminal history record information that relates to a person involved in a child custody evaluation under Chapter 107, Family Code, in which the domestic relations office or child custody evaluator has been appointed to conduct the child custody evaluation.

(b) The department shall provide the domestic relations office or the child custody evaluator with criminal history record information not later than the 10th day after the date on which the criminal history record information is requested.

(c) Criminal history record information requested under this section, except for relevant information included in a report of a child custody evaluation or adoption evaluation filed under Chapter 107, Family Code, may not be released or disclosed by a domestic relations office or a child custody evaluator to a person other than the court ordering the child custody evaluation or adoption evaluation except on court order or with the consent of the person who is the subject of the criminal history record information.

Added by Acts 1999, 76th Leg., ch. 318, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 1040 (H.B. 1181), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 832 (H.B. 772), Sec. 10, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1252 (H.B. 1449), Sec. 3.07, eff.

September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 257 (H.B. 1501), Sec. 9, eff. September 1, 2017.

Sec. 411.1286. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COUNTY COMMISSIONERS COURTS; COUNTY CHILD WELFARE BOARD MEMBERS. The commissioners court of a county is entitled to obtain from the department criminal history record information maintained by the department that relates to a member of a county child welfare board appointed by the commissioners court under Section 264.005, Family Code.

Added by Acts 1999, 76th Leg., ch. 318, Sec. 1, eff. Sept. 1, 1999.

Sec. 411.129. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYMENT BY MUNICIPALITY. (a) Except as provided by Subsection (b), a municipality is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is:

(A) an applicant for employment by the municipality;

(B) an employee of the municipality;

(C) an applicant for employment by or an employee of a business or person that contracts with the municipality;

(D) a volunteer with the municipality; or

(E) an applicant for a volunteer position with the municipality; or

(2) seeks the municipality's authorization to conduct fire safety inspections without becoming certified as a fire inspector by the Texas Commission on Fire Protection.

(a-1) The department shall make available through electronic means the information available to municipalities under this section.

(b) A municipality is not entitled to obtain under this section any information about a person if the municipality is entitled to obtain under another section of this subchapter any criminal history record information about the person.

Added by Acts 1995, 74th Leg., ch. 323, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code Sec. 411.128 by Acts 1997, 75th Leg.,

ch. 165, Sec. 31.01(34), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1024, Sec. 1, eff. June 18, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 799 (H.B. 2828), Sec. 1, eff. September 1, 2015.
Acts 2019, 86th Leg., R.S., Ch. 1245 (H.B. 2446), Sec. 2, eff. June 14, 2019.

Sec. 411.1295. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYMENT BY COUNTY. (a) Except as provided by Subsection (b), a county is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for employment by the county;

(2) an employee of the county;

(3) an applicant for employment by or an employee of a business or person that contracts with the county;

(4) a volunteer with the county; or

(5) an applicant for a volunteer position with the county.

(b) A county is not entitled to obtain under this section any information about a person if the county is entitled to obtain under another section of this subchapter any criminal history record information about the person.

Added by Acts 1999, 76th Leg., ch. 346, Sec. 1, eff. Aug. 30, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 799 (H.B. 2828), Sec. 2, eff. September 1, 2015.

Sec. 411.1296. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYMENT BY APPRAISAL DISTRICT, APPOINTMENT TO APPRAISAL REVIEW BOARD FOR APPRAISAL DISTRICT, AND APPLICANT TO TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD. (a) Except as provided by Subsection (b), an appraisal district established by Section 6.01, Tax Code, and the Texas Appraiser Licensing and Certification Board are entitled to obtain criminal history record information as provided by Subsection (a-1) that relates to a person who is an applicant for employment by the appraisal district, for appointment

to the appraisal review board for the appraisal district, for a license or certification as an appraiser trainee, licensed residential appraiser, certified residential appraiser, or certified general appraiser, or for an appraisal management company regulated by the Texas Appraiser Licensing and Certification Board.

(a-1) Subject to Section 411.087 and consistent with the public policy of this state, an appraisal district and the Texas Appraiser Licensing and Certification Board are entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(b) An appraisal district is not entitled to obtain under this section any information about a person if the appraisal district is entitled to obtain under another section of this subchapter any criminal history record information about the person.

(c) The appraisal district may provide criminal history record information obtained under Subsection (a-1)(2) to the local administrative district judge or to the appraisal review board commissioners appointed by the local administrative district judge.

(d) An appraisal district or the Texas Appraiser Licensing and Certification Board, as applicable, may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (a-1)(1). Criminal history record information obtained by an appraisal district or the Texas Appraiser Licensing and Certification Board under Subsection (a-1)(2) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsections (c) and (e).

(e) An appraisal district or the Texas Appraiser Licensing and Certification Board is not prohibited from disclosing criminal history record information obtained under Subsection (a-1)(2) in a criminal proceeding or in a hearing conducted by an appraisal district or the Texas Appraiser Licensing and Certification Board.

(f) An appraisal district or the Texas Appraiser Licensing and Certification Board shall destroy criminal history record information

that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2003, 78th Leg., ch. 1037, Sec. 1, eff. June 20, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 898 (S.B. 682), Sec. 2, eff. June 17, 2011.
Acts 2021, 87th Leg., R.S., Ch. 354 (H.B. 2941), Sec. 4, eff. June 7, 2021.
Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 57, eff. June 13, 2023.
Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 58, eff. June 13, 2023.

Sec. 411.1297. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYMENT BY EMERGENCY COMMUNICATION DISTRICT. (a) An emergency communication district created under Chapter 772, Health and Safety Code, is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for employment by or an employee of the district;

(2) an applicant for a volunteer position or a volunteer with the district; or

(3) an applicant for employment by or an employee of a person that contracts with the district.

(b) Criminal history record information obtained by an emergency communication district under Subsection (a) may not be released or disclosed to any person except:

(1) in a criminal proceeding;

(2) on court order; or

(3) with the consent of the person who is the subject of the criminal history record information.

Added by Acts 2017, 85th Leg., R.S., Ch. 314 (S.B. 1290), Sec. 1, eff. September 1, 2017.

Sec. 411.130. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION; CRIME VICTIMS' INSTITUTE. The Crime Victims' Institute is entitled

to obtain from the department criminal history record information maintained by the department that the institute believes is necessary for the performance of the duties of the institute under Section 96.65, Education Code.

Added by Acts 1995, 74th Leg., ch. 485, Sec. 2, eff. Sept. 1, 1995. Renumbered from Government Code Sec. 411.128 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(35), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 927, Sec. 3, eff. Sept. 1, 2003.

Sec. 411.1301. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CERTAIN LOCAL GOVERNMENT CORPORATIONS ENGAGED IN CRIMINAL IDENTIFICATION ACTIVITIES. (a) This section applies only to a local government corporation that is created under Subchapter D, Chapter 431, Transportation Code, for governmental purposes relating to criminal identification activities, including forensic analysis, and that allocates a substantial part of its annual budget to those criminal identification activities.

(b) A local government corporation described by Subsection (a) is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is an employee or an applicant for employment with the local government corporation;

(2) is a consultant, intern, or volunteer for the local government corporation or an applicant to serve as a consultant, intern, or volunteer;

(3) proposes to enter into a contract with or has a contract with the local government corporation to perform services for or supply goods to the local government corporation; or

(4) is an employee or subcontractor, or an applicant to be an employee or subcontractor, of a contractor that provides services to the local government corporation.

(c) Criminal history record information obtained by a local government corporation under Subsection (b) may not be released or disclosed to any person except:

(1) on court order; or

(2) with the consent of the person who is the subject of the criminal history record information.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1188 (S.B. 1044), Sec. 4, eff. September 1, 2013.

Sec. 411.131. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: SAFE HOUSES. (a) In this section:

(1) "Safe house" means a nonprofit organization:

(A) whose primary purpose is to provide temporary shelter for children avoiding harmful situations;

(B) that is certified as a bona fide safe house by a local law enforcement agency; and

(C) that is operating as a "Safe House."

(2) "Volunteer" or "volunteer applicant" means a person who will perform one or more of the following services without remuneration:

(A) any service performed in a safe house;

(B) any service that requires the access to or the handling of money or confidential or privileged information;

(C) any service that involves the care of or access to a child;

(D) coordination or referral of volunteers; or

(E) executive administrative responsibilities.

(b) A safe house is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is a volunteer or a volunteer applicant of the volunteer center, if the volunteer or applicant signs a written consent to a criminal history background check.

(c) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(10).

(d) The department may establish rules governing the administration of this section.

(e) A safe house may not keep or retain criminal history record information obtained under this section in any file. Criminal history record information must be destroyed promptly after the determination of suitability of the person for any position as a volunteer.

(f) A safe house or an officer or volunteer of a safe house is not liable in a civil action for damages resulting from a failure to comply with this section if the safe house, officer, or volunteer makes a good faith effort to comply.

Added by Acts 1995, 74th Leg., ch. 691, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code Sec. 411.128 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(36), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 296, Sec. 13(10), eff. Sept. 1, 2003.

Sec. 411.132. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE AUDITOR. (a) The state auditor is entitled to obtain from the department criminal history record information for purposes of:

(1) performing risk assessment in devising the annual audit plan; or

(2) performing an investigation under Chapter 321 of specified acts or allegations of impropriety, malfeasance, or nonfeasance.

(b) The department and the state auditor shall enter into an agreement providing the state auditor with electronic access to the information that includes appropriate safeguards against unauthorized disclosure of the information.

(c) Except as provided by Subsection (d), information obtained by the state auditor under Subsection (a) may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

(d) If, in the judgment of the state auditor, information obtained under Subsection (a) indicates a substantial risk to the interests of the state, the state auditor shall report the information to the legislative audit committee and to the administrative head of the affected agency. The reports are audit working papers of the state auditor.

(e) The state auditor shall destroy information obtained under Subsection (a) when the information is no longer needed for audit purposes or to support audit findings.

Added by Acts 1997, 75th Leg., ch. 1122, Sec. 9, eff. Sept. 1, 1997.

Sec. 411.133. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: REGIONAL TOLLWAY AUTHORITIES. (a) A regional tollway authority governed by Chapter 366, Transportation Code, is entitled to obtain from the department criminal history record information maintained by

the department that pertains to a person who is:

(1) employed by the regional tollway authority; or

(2) an applicant for employment with the regional tollway authority.

(b) Criminal history record information obtained under Subsection (a) may not be released or disclosed to any person except in a criminal proceeding, in a hearing conducted by the regional tollway authority, on court order, or with the consent of the person who is the subject of the criminal history record information.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.25, eff. Sept. 1, 1997. Renumbered from Sec. 411.132 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(37), eff. Sept. 1, 1999.

Sec. 411.134. CRIMINAL HISTORY RECORD INFORMATION: TEXAS STATE LIBRARY AND ARCHIVES COMMISSION. (a) In this section:

(1) "Commission" means the Texas State Library and Archives Commission.

(2) "Security-sensitive position" means a position of employment with the Texas State Library and Archives Commission held by an employee who:

(A) has access to the confidential records of state agencies that are stored by the commission;

(B) has access to any part of the archives of the state library as described in Section 441.010;

(C) has access to a computer terminal, if any information available from the terminal is required by law to remain confidential; or

(D) handles currency.

(b) The commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is employed in or is an applicant for a security-sensitive position.

(c) Criminal history record information obtained by the commission under Subsection (b) may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the information.

(d) The commission shall destroy criminal history record information that relates to a person after the information is used to

make an employment decision or to take a personnel action relating to the person who is the subject of the information.

Added by Acts 1997, 75th Leg., ch. 1366, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 411.132 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(38), eff. Sept. 1, 1999.

Sec. 411.135. ACCESS TO CERTAIN INFORMATION BY PUBLIC. (a) Any person is entitled to obtain from the department:

(1) any information described as public information under Chapter 62, Code of Criminal Procedure, including, to the extent available, a recent photograph of each person subject to registration under that chapter;

(2) criminal history record information maintained by the department that relates to the conviction of or a grant of deferred adjudication to a person for any criminal offense, including arrest information that relates to the conviction or grant of deferred adjudication; and

(3) any information described as public information under Section 411.1355.

(b) The department by rule shall design and implement a system to respond to electronic inquiries and other inquiries for information described by Subsection (a).

(c) A person who obtains information from the department under Subsection (a) may:

(1) use the information for any purpose; or

(2) release the information to any other person.

Added by Acts 1997, 75th Leg., ch. 747, Sec. 2, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1415, Sec. 21, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.004, eff. September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 637 (H.B. 5202), Sec. 2, eff. June 11, 2023.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.1355. CENTRAL DATABASE OF OFFENDERS WHO HAVE COMMITTED CERTAIN VIOLENT OFFENSES. (a) The department shall maintain a computerized central database containing information regarding persons who on two or more occasions have been convicted of:

(1) an offense under Section 22.01, 22.011, 22.02, or 22.021, Penal Code, for which an affirmative finding was made under Article 42.013, Code of Criminal Procedure;

(2) an offense under Section 25.11 or 42.072, Penal Code; or

(3) any combination of offenses described by Subdivision (1) or (2).

(b) The information contained in the database is public information, with the exception of any information:

(1) regarding the person's social security number, driver's license number, or telephone number; or

(2) that would identify the victim of the offense.

(c) The database maintained by the department under this section must contain, to the extent the information is available to the department:

(1) the person's full name, each alias used by the person, and the person's date of birth;

(2) a physical description and recent photograph of the person;

(3) a list of offenses described by Subsection (a) of which the person was convicted, the date of conviction of each offense, and the punishment prescribed for each offense; and

(4) an indication as to whether the person was discharged, placed on community supervision, or released on parole or to mandatory supervision following conviction of each offense.

(d) The department shall permit a person whose name is included in the database established under this section to petition the department for removal of the person's name from the database, and the department shall remove the person's name from the database in response to the petition if:

(1) an order of expunction is issued under Chapter 55, Code of Criminal Procedure, with respect to one of the offenses described by Subsection (a), unless the person has been convicted three or more times of an offense described by that subsection; or

(2) during the seven-year period preceding the date of the petition, the person is not convicted of an offense described by Subsection (a).

(e) On the Internet website through which a person may search the database described by this section, the department shall include in a prominent location information regarding:

(1) the manner in which a person may petition the department for removal of a person's name from the database, including any forms required by the department for the petitions to be used for the purpose;

(2) the circumstances under which the department will grant a petition; and

(3) contact information for family violence organizations.

(f) The department shall consult with a representative of a statewide advocacy organization for issues related to family violence and victim safety regarding implementation of the database and the information required to be included on the database website under Subsection (e)(3).

Added by Acts 2023, 88th Leg., R.S., Ch. 637 (H.B. 5202), Sec. 3, eff. June 11, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2587, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.136. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CERTAIN HOSPITALS AND HOSPITAL DISTRICTS. (a) In this section:

(1) "Public hospital" means a hospital that is owned, operated, or leased by a county, municipality, or hospital authority.

(2) "Nonprofit hospital" means a hospital that is exempt from federal taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code.

(b) A public or nonprofit hospital or hospital district is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for employment or a volunteer position with the hospital or district;

(2) an employee of or a volunteer with the hospital or district;

(3) an applicant for employment with or an employee of a person or business that contracts with the hospital or district; or

(4) a student enrolled in an educational program or course of study who is at the hospital or a hospital owned or operated by the district for educational purposes.

(c) The public or nonprofit hospital or hospital district shall adopt a uniform method to obtain criminal history information from persons described by Subsection (b). The hospital or district may require the complete name, driver's license number, fingerprints, or social security number of those persons.

(d) The public or nonprofit hospital or hospital district may dismiss a person or deny a person employment or a volunteer position or refuse to allow a person to work in a hospital or district facility if:

(1) the person fails or refuses to provide information described by Subsection (c); or

(2) the person's criminal history record information reveals a conviction or deferred adjudication that renders the person unqualified or unsuitable for employment or a volunteer position or to be present at a hospital for educational purposes.

(e) All criminal history record information received by a public or nonprofit hospital or hospital district under this section is privileged, confidential, and intended for the exclusive use of the entity that obtained the information. The hospital or district may not release or disclose criminal history record information to any person or agency except in a criminal proceeding, in a hearing conducted by the hospital or district, to another governmental entity as required by law, as required by court order, or with the consent of the person who is the subject of the criminal history record information.

(f) The public or nonprofit hospital or hospital district shall develop procedures for the custody and use of information obtained under this section. After use of the information, the hospital or district administrator or the administrator's designee shall destroy the information in accordance with the hospital's or district's document destruction procedures.

(g) A public or nonprofit hospital, a hospital district, a member of the governing board of the hospital or district, or an

employee of a hospital or district is not civilly liable for failure to comply with this chapter if the hospital or district makes a good faith effort to comply.

Added by Acts 1999, 76th Leg., ch. 60, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 97, Sec. 1, eff. May 20, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.13, eff. June 19, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 266 (H.B. 729), Sec. 1, eff. June 14, 2013.

Sec. 411.138. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: JUVENILE BOARD OR JUVENILE PROBATION DEPARTMENT. A juvenile board or juvenile probation department is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a position with the juvenile probation department;

(2) an employee for whom the juvenile board or juvenile probation department will seek certification from the Texas Juvenile Justice Department; or

(3) an employee or department applicant who currently holds certification from the Texas Juvenile Justice Department.

Added by Acts 2001, 77th Leg., ch. 1297, Sec. 56, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 93, eff. September 1, 2015.

Sec. 411.1385. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: SAVINGS AND MORTGAGE LENDING COMMISSIONER. (a) The savings and mortgage lending commissioner is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for or holder of a license, charter, or other authority granted or issued by the savings and mortgage lending commissioner under:

(A) Subtitle B or C, Title 3, Finance Code; or

(B) Chapter 156, 157, 158, or 180, Finance Code;

(2) an employee of or volunteer with the Department of Savings and Mortgage Lending;

(3) an applicant for employment or an internship with the Department of Savings and Mortgage Lending; or

(4) a contractor or subcontractor of the Department of Savings and Mortgage Lending.

(b) Except as provided by Subsection (c), the savings and mortgage lending commissioner may not release or disclose criminal history record information obtained under this section unless:

(1) the information is obtained from a fingerprint-based search; and

(2) the information is released or disclosed:

(A) on court order;

(B) to the person who is the subject of the criminal history record information; or

(C) with the consent of the person who is the subject of the criminal history record information.

(c) Criminal history record information obtained by the savings and mortgage lending commissioner under Subsection (a) with respect to the issuance of a license under Chapter 156, Finance Code, may be released or disclosed only as provided by Section 156.206, Finance Code.

Added by Acts 2003, 78th Leg., ch. 173, Sec. 3, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 296, Sec. 9, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 6.062, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 21, eff. June 19, 2009.

Acts 2017, 85th Leg., R.S., Ch. 166 (H.B. 2580), Sec. 1, eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2587, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.1386. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COURT CLERK; HEALTH AND HUMAN SERVICES COMMISSION; GUARDIANSHIPS.

(a) Except as provided by Subsections (a-1) and (a-6), the clerk of the county having venue over a proceeding for the appointment of a guardian under Title 3, Estates Code, shall obtain criminal history record information as provided by Subsection (a-7) that relates to any person proposed to serve as a guardian under Title 3, Estates Code, including a proposed temporary guardian, a proposed successor guardian, or any person who will have contact with the proposed ward or the proposed ward's estate on behalf of the proposed guardian, other than an attorney or a certified guardian.

(a-1) The Health and Human Services Commission shall obtain from the Department of Public Safety criminal history record information maintained by the Department of Public Safety that relates to each individual who is or will be providing guardianship services to a ward of or referred by the Health and Human Services Commission, including:

(1) an employee of or an applicant selected for an employment position with the Health and Human Services Commission;

(2) a volunteer or an applicant selected to volunteer with the Health and Human Services Commission;

(3) an employee of or an applicant selected for an employment position with a business entity or other person that contracts with the Health and Human Services Commission to provide guardianship services to a ward referred by that commission;

(4) a volunteer or an applicant selected to volunteer with a business entity or person described by Subdivision (3); and

(5) a contractor or an employee of a contractor who provides services to a ward of the Health and Human Services Commission under a contract with the estate of the ward.

(a-2) The information in Subsection (a-1) regarding applicants for employment positions must be obtained before an offer of employment, and the information regarding applicant volunteers must be obtained before the person's contact with a ward of or referred by the Health and Human Services Commission.

(a-3) The information in Subsection (a-1) regarding employees, contractors, or volunteers providing guardianship services must be obtained annually.

(a-4) Repealed by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 71(6), eff. June 13, 2023.

(a-5) Repealed by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 71(6), eff. June 13, 2023.

(a-6) The clerk described by Subsection (a) is not required to obtain criminal history record information from the department for a person if the Judicial Branch Certification Commission conducted a criminal history check on the person under Sections 155.203 and 155.207. The commission shall provide to the clerk the criminal history record information that was obtained from the department. The clerk shall, in accordance with Subsection (a-7)(1), obtain criminal history record information from the Federal Bureau of Investigation identification division relating to any person described by Subsection (a).

(a-7) Subject to Section 411.087 and consistent with the public policy of this state, the clerk described by Subsection (a) is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(b) Criminal history record information obtained by or provided to a clerk under this section is for the exclusive use of the court and is privileged and confidential.

(c) A clerk may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (a-7)(1). Criminal history record information obtained by or provided to a clerk under Subsection (a-7)(2) or (a-6) may not be released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information.

(c-1) The clerk shall destroy the criminal history record information after the information is used for the purposes authorized by this section.

(d) Repealed by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 71(6), eff. June 13, 2023.

(e) The court, as that term is defined by Section 1002.008, Estates Code, shall use the information obtained or provided under Subsection (a), (a-4)(1), (a-5), or (a-6) only in determining whether to:

(1) appoint, remove, or continue the appointment of a

private professional guardian, a guardianship program, or the Health and Human Services Commission; or

(2) appoint any other person proposed to serve as a guardian under Title 3, Estates Code, including a proposed temporary guardian and a proposed successor guardian, other than an attorney.

(f) Repealed by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 71(6), eff. June 13, 2023.

(g) A person commits an offense if the person releases or discloses any information received under this section without the authorization prescribed by Subsection (c). An offense under this subsection is a Class A misdemeanor.

(h) The county clerk may charge a $10 fee to recover the costs of obtaining criminal history record information authorized by Subsection (a-7).

(i) Repealed by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 71(6), eff. June 13, 2023.

Added by Acts 2003, 78th Leg., ch. 296, Sec. 9, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 361 (S.B. 291), Sec. 4, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 511 (S.B. 1057), Sec. 1, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 2.24, eff. September 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.005, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1031 (H.B. 1438), Sec. 36, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 12, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.037, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 684 (S.B. 2200), Sec. 12, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 684 (S.B. 2200), Sec. 13, eff. June 10, 2019.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 59, eff. June 13, 2023.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 71(6), eff.

June 13, 2023.

Sec. 411.13861. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION. (a) The Health and Human Services Commission is entitled to obtain criminal history record information as provided by Subsection (a-1) that relates to a person:

(1) who is required to undergo a background and criminal history check under Chapter 248A, Health and Safety Code;

(2) who seeks unsupervised visits with a ward of the Health and Human Services Commission, including a relative of the ward;

(3) who is an applicant for employment with the Health and Human Services Commission for a position in which the person, as an employee, would have direct access to residents or clients of a facility regulated by the Health and Human Services Commission, as determined by the executive commissioner of that commission; or

(4) who is an employee of the Health and Human Services Commission and who has direct access to residents or clients of a facility regulated by that commission, as determined by the executive commissioner of that commission.

(a-1) Subject to Section 411.087 and consistent with the public policy of this state, the Health and Human Services Commission is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person who is described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(b) Criminal history record information obtained under Subsection (a-1) is for the exclusive use of the Health and Human Services Commission and is privileged and confidential.

(c) The Health and Human Services Commission may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (a-1)(1). Criminal history record information obtained by the Health and Human Services Commission under Subsection (a-1)(2) may not be released or disclosed to any person or agency except on court order or with the

consent of the person who is the subject of the information.

(c-1) The Health and Human Services Commission shall destroy the criminal history record information after the information is used for the purposes authorized by this section.

(d) This section does not prohibit the Health and Human Services Commission from obtaining and using criminal history record information as provided by other law.

(e) In this section, "ward" has the meaning assigned by Section 1002.030, Estates Code.

(f) Repealed by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 71(7), eff. June 13, 2023.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1168 (S.B. 492), Sec. 2, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.006, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1209 (S.B. 1540), Sec. 2, eff. June 19, 2015.

Acts 2019, 86th Leg., R.S., Ch. 684 (S.B. 2200), Sec. 14, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 684 (S.B. 2200), Sec. 15, eff. June 10, 2019.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 60, eff. June 13, 2023.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 71(7), eff. June 13, 2023.

Sec. 411.1387. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: FACILITY, REGULATORY AGENCY, OR PRIVATE AGENCY. (a) In this section, "facility," "regulatory agency," and "private agency" have the meanings assigned by Section 250.001, Health and Safety Code.

(b) A regulatory agency is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for employment at or an employee of a facility other than a facility licensed under Chapter 142, Health and Safety Code; or

(2) an applicant for employment at or an employee of a

facility licensed under Chapter 142, Health and Safety Code, if the duties of employment involve direct contact with a consumer in the facility.

(b-1) A facility or a private agency on behalf of a facility is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for employment with, an employee of, or a volunteer with the facility;

(2) an applicant for employment with or an employee of a person or business that contracts with the facility; or

(3) a student enrolled in an educational program or course of study who is at the facility for educational purposes.

(c) A facility may:

(1) obtain directly from the department criminal history record information on a person described by Subsection (b-1); or

(2) authorize a private agency to obtain that information from the department.

(d) A private agency obtaining criminal history record information on behalf of a facility under Subsection (c) shall forward the information received to the facility requesting the information.

(e) Criminal history record information obtained by a facility, regulatory agency, or private agency on behalf of a facility under Subsection (b) or (b-1) may not be released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information.

Added by Acts 2003, 78th Leg., ch. 296, Sec. 9, eff. Sept. 1, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 266 (H.B. 729), Sec. 2, eff. June 14, 2013.

Sec. 411.1388. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: INTERAGENCY COUNCIL ON SEX OFFENDER TREATMENT. (a) The Council on Sex Offender Treatment is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is licensed to provide mental health or medical

services for the rehabilitation of sex offenders under Chapter 110, Occupations Code; or

(2) has applied for a license or renewal of a license to provide mental health or medical services for the rehabilitation of sex offenders under Chapter 110, Occupations Code.

(b) Criminal history record information obtained by the Interagency Council on Sex Offender Treatment under Subsection (a) may not be released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information.

(c) The Interagency Council on Sex Offender Treatment shall destroy criminal history record information obtained under Subsection (a) not later than the first anniversary of the date the council makes a decision as to the person's eligibility for registration or the renewal of a registration.

Added by Acts 2003, 78th Leg., ch. 296, Sec. 9, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 30, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1610, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.1389. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS CIVIL COMMITMENT OFFICE. (a) The Texas Civil Commitment Office is entitled to obtain from the department criminal history record information that is maintained by the department and that relates to a person who:

(1) has applied with the office to be:

(A) an employee of the office; or

(B) a contracted service provider with the office; or

(2) seeks the office's approval to act as a contact or chaperone for a person who is civilly committed as a sexually violent predator under Chapter 841, Health and Safety Code.

(b) Criminal history record information obtained by the Texas Civil Commitment Office under Subsection (a) may not be released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information.

(c) The Texas Civil Commitment Office shall destroy criminal history record information obtained under Subsection (a) as soon as practicable after the date on which, as applicable:

(1) the person's employment or contract with the office terminates;

(2) the office decides not to employ or contract with the person; or

(3) the office determines whether the person is suitable as a contact or chaperone for a person who is civilly committed as a sexually violent predator under Chapter 841, Health and Safety Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1201 (S.B. 166), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 845 (S.B. 746), Sec. 34, eff. June 17, 2015.
Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 8, eff. September 1, 2017.

Sec. 411.139. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE SECURITIES BOARD. (a) The securities commissioner is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a certificate of registration under The Securities Act (Title 12, Government Code);

(2) a holder of a certificate of registration under The Securities Act (Title 12, Government Code);

(3) an applicant for employment by the State Securities Board; or

(4) an employee of the State Securities Board.

(b) Criminal history record information obtained by the securities commissioner under this section may not be released by any person or agency except on court order or with the consent of the person who is the subject of the criminal history record information, unless the information is entered into evidence by the State Securities Board or a court at an administrative proceeding or a civil or criminal action under The Securities Act (Title 12, Government Code).

Added by Acts 2001, 77th Leg., ch. 1091, Sec. 2.23, eff. Sept. 1,

2001. Renumbered from Government Code Sec. 411.137 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(57), eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.14, eff. June 19, 2009.
Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 2.18, eff. January 1, 2022.

Sec. 411.1391. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS FACILITIES COMMISSION. (a) The Texas Facilities Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is an employee or an applicant for employment with the commission;

(2) is a consultant, intern, or volunteer for the commission or an applicant to serve as a consultant, intern, or volunteer;

(3) proposes to enter into a contract with or has a contract with the commission to perform services for or supply goods to the commission; or

(4) is an employee or subcontractor, or an applicant to be an employee or subcontractor, of a contractor that provides services to the commission.

(b) Criminal history record information obtained by the Texas Facilities Commission under Subsection (a) may not be released or disclosed to any person except:

(1) on court order; or

(2) with the consent of the person who is the subject of the criminal history record information.

Added by Acts 2011, 82nd Leg., R.S., Ch. 541 (H.B. 2632), Sec. 1, eff. June 17, 2011.

Sec. 411.140. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE COMMISSION ON JUDICIAL CONDUCT. (a) The State Commission on Judicial Conduct is entitled to obtain from the department criminal history record information maintained by the department that relates

to a person who is:

(1) a judge who is the subject of an investigation or proceeding under Chapter 33; or

(2) the complainant or a witness in an investigation or a proceeding under Chapter 33.

(b) Information received by the State Commission on Judicial Conduct is confidential and may be disseminated only in an investigation or proceeding conducted by the commission or with the consent of the person who is the subject of the criminal history record information.

(c) The State Commission on Judicial Conduct shall destroy criminal history record information obtained under this section promptly after a final determination is made in the matter for which the information was obtained.

Added by Acts 2001, 77th Leg., ch. 917, Sec. 19, eff. Sept. 1, 2001.
Renumbered from Government Code Sec. 411.137 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(58), eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.15, eff. June 19, 2009.

Sec. 411.1401. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: PROGRAMS PROVIDING ACTIVITIES FOR CHILDREN. (a) In this section, "activity provider" means a nonprofit program that includes as participants or recipients persons who are younger than 17 years of age and that regularly provides athletic, civic, or cultural activities.

(b) An activity provider is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is a volunteer or a volunteer applicant of the activity provider.

(c) The department may establish rules governing the administration of this section.

(d) An activity provider may use criminal history record information obtained under this section only to determine the suitability of a person for a position as a volunteer and may not keep or retain criminal history record information obtained under this section in any file. Criminal history record information must

be destroyed promptly after a determination of suitability is made.

(e) Criminal history record information obtained under this section may not be released or disclosed to any person except in a criminal proceeding, on court order, or with the consent of the person who is the subject of the criminal history record information.

(f) An employee, officer, or volunteer of an activity provider is not liable in a civil action for damages resulting from a failure to comply with this section unless the act or omission of the employee, officer, or volunteer was intentional, wilfully or wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others.

Added by Acts 2003, 78th Leg., ch. 296, Sec. 10, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 838, Sec. 1, eff. June 30, 2003.

Sec. 411.1402. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYEES RETIREMENT SYSTEM OF TEXAS. (a) The Employees Retirement System of Texas is entitled to obtain from the department, the Federal Bureau of Investigation Criminal Justice Information Services Division, or another law enforcement agency criminal history record information maintained by the department, division, or agency that relates to a person who is:

(1) an applicant for employment with, or who is or has been employed by, the retirement system;

(2) a consultant, contract employee, independent contractor, intern, or volunteer for the retirement system or an applicant to serve in one of those positions; or

(3) a candidate for appointment or election to the board of trustees of the retirement system or an advisory committee to that board.

(b) Criminal history record information obtained by the Employees Retirement System of Texas under Subsection (a) may be used only to evaluate an applicant for employment with, or a current or former employee of, the retirement system.

(c) The Employees Retirement System of Texas may not release or disclose information obtained under Subsection (a) except on court order or with the consent of the person who is the subject of the criminal history record information.

(d) After the expiration of any probationary term of the

person's employment or not later than the 180th day after the date of receipt of the information, whichever is later, the Employees Retirement System of Texas shall destroy all criminal history record information obtained under Subsection (a).

Added by Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.16, eff. June 19, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 1, eff. September 1, 2013.

Sec. 411.1403. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: RAILROAD COMMISSION OF TEXAS. (a) The Railroad Commission of Texas is entitled to obtain from the department, the Federal Bureau of Investigation Criminal Justice Information Services Division, or another law enforcement agency criminal history record information maintained by the department, division, or agency that relates to a person who is:

(1) an applicant for employment with, or who is or has been employed by, the commission; or

(2) a consultant, contract employee, independent contractor, intern, or volunteer for the commission or an applicant to serve in one of those positions.

(b) Criminal history record information obtained by the Railroad Commission of Texas under Subsection (a) may be used only to evaluate an applicant for employment with, or a current or former employee of, the commission.

(c) The Railroad Commission of Texas may not release or disclose information obtained under Subsection (a) except on court order or with the consent of the person who is the subject of the criminal history record information.

(d) After the expiration of any probationary term of the person's employment or not later than the 180th day after the date of receipt of the information, whichever is later, the Railroad Commission of Texas shall destroy all criminal history record information obtained under Subsection (a).

Added by Acts 2017, 85th Leg., R.S., Ch. 486 (H.B. 2588), Sec. 1, eff.

June 9, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4344, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.14031. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: PUBLIC UTILITY COMMISSION OF TEXAS. (a) The Public Utility Commission of Texas is entitled to obtain from the department criminal history record information maintained by the department that relates to a person undergoing a background and criminal history check under Section 12.107, Utilities Code.

(b) Criminal history record information obtained under Subsection (a):

(1) is for the exclusive use of the Public Utility Commission of Texas and is privileged and confidential; and

(2) may not be released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information.

(c) The Public Utility Commission of Texas may destroy criminal history record information obtained under Subsection (a) after the information is used for the purpose authorized by this section.

(d) This section does not prohibit the Public Utility Commission of Texas from obtaining and using criminal history record information as provided by other law.

Added by Acts 2023, 88th Leg., R.S., Ch. 154 (S.B. 1112), Sec. 1, eff. September 1, 2023.

Sec. 411.1404. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF INFORMATION RESOURCES. (a) The Department of Information Resources is entitled to obtain from the department or the identification division of the Federal Bureau of Investigation the criminal history record information maintained by the department or division that relates to a person who is an employee, applicant for employment, contractor, subcontractor, intern, or other volunteer with the Department of Information Resources or with a contractor or subcontractor for the Department of Information Resources.

(b) Criminal history record information obtained by the

Department of Information Resources under this section may not be released or disclosed except:

(1) by court order; or

(2) with the consent of the person who is the subject of the information.

(c) The Department of Information Resources shall destroy criminal history record information obtained under this section that relates to a person after the information is used to make an employment decision or to take a personnel action relating to the person who is the subject of the information.

(d) The Department of Information Resources may not obtain criminal history record information under this section unless the Department of Information Resources first adopts policies and procedures that provide that evidence of a criminal conviction or other relevant information obtained from the criminal history record information does not automatically disqualify an individual from employment. The policies and procedures adopted under this subsection must provide that the hiring official will determine, on a case-by-case basis, whether the individual is qualified for employment based on factors that include:

(1) the specific duties of the position;

(2) the number of offenses committed by the individual;

(3) the nature and seriousness of each offense;

(4) the length of time between the offense and the employment decision;

(5) the efforts by the individual at rehabilitation; and

(6) the accuracy of the information on the individual's employment application.

Added by Acts 2009, 81st Leg., R.S., Ch. 183 (H.B. 1830), Sec. 2, eff. September 1, 2009.

Sec. 411.1405. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE AGENCIES; INFORMATION TECHNOLOGY EMPLOYEES. (a) In this section:

(1) "Information resources" and "information resources technologies" have the meanings assigned by Section 2054.003.

(2) "State agency" means a department, commission, board, office, council, authority, or other agency in the executive,

legislative, or judicial branch of state government that is created by the constitution or a statute of this state, including a university system or institution of higher education as defined by Section 61.003, Education Code.

(b) To the extent consistent with Subsection (e), a state agency is entitled to obtain criminal history record information as provided by Subsection (b-1) that relates to a person who:

(1) is an employee, applicant for employment, contractor, subcontractor, or intern or other volunteer with the state agency or with a contractor or subcontractor for the state agency; and

(2) has access to information resources or information resources technologies, other than a desktop computer or telephone station assigned to that person.

(b-1) Subject to Section 411.087 and consistent with the public policy of this state, a state agency is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (b); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (b).

(c) A state agency may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b-1)(1). A state agency that obtains criminal history record information under this section may not release or disclose the information obtained under Subsection (b-1)(2) or any documents or other records derived from the information except:

(1) by court order;

(2) with the consent of the person who is the subject of the information;

(3) to the affected contractor or subcontractor; or

(4) as described by Subsection (g).

(d) A state agency and the affected contractor or subcontractor shall destroy criminal history record information obtained under this section after the information is used for the purposes authorized by this section.

(e) A state agency may not obtain criminal history record information under this section unless the state agency first adopts

policies and procedures that provide that evidence of a criminal conviction or other relevant information obtained from the criminal history record information does not automatically disqualify an individual from employment. The attorney general shall review the policies and procedures for compliance with due process and other legal requirements before adoption by the state agency. The attorney general may charge the state agency a fee to cover the cost of the review. The policies and procedures adopted under this subsection must provide that the hiring official will determine, on a case-by-case basis, whether the individual is qualified for employment based on factors that include:

(1) the specific duties of the position;

(2) the number of offenses committed by the individual;

(3) the nature and seriousness of each offense;

(4) the length of time between the offense and the employment decision;

(5) the efforts by the individual at rehabilitation; and

(6) the accuracy of the information on the individual's employment application.

(f) A criminal history record information provision in another law that is more specific to a state agency, including Section 411.089, prevails over this section to the extent of any conflict.

(g) A state agency is not prohibited from disclosing criminal history record information obtained under Subsection (b-1)(2) in a criminal proceeding.

Added by Acts 2003, 78th Leg., ch. 87, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 61, eff. June 13, 2023.

Sec. 411.14055. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS SCHOOL SAFETY CENTER. The Texas School Safety Center at Texas State University is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is registering with the Texas School Safety Center to provide school safety or security consulting services under Section 37.2091, Education Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 928 (H.B. 3597), Sec. 6, eff.

June 18, 2021.

Sec. 411.1406. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COUNTY ATTORNEY IN COUNTY WITH POPULATION OF 3.3 MILLION OR MORE. A county attorney in a county with a population of 3.3 million or more is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1) a matter falling within the authority of the county attorney as specified by Section 45.201; or

(2) a person who is an applicant for employment by the county.

Added by Acts 2007, 80th Leg., R.S., Ch. 416 (S.B. 1196), Sec. 1, eff. June 15, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 926 (H.B. 3211), Sec. 1, eff. June 15, 2007.

Sec. 411.14065. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COUNTY TAX ASSESSOR-COLLECTOR. A county tax assessor-collector in a county described by Section 520.052, Transportation Code, is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for a motor vehicle title service license issued under Subchapter E, Chapter 520, Transportation Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 229 (H.B. 2208), Sec. 1, eff. May 29, 2015.

Sec. 411.1407. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CREDIT UNION DEPARTMENT. (a) The credit union commissioner is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an individual who applies to incorporate a credit union under Subtitle D, Title 3, Finance Code;

(2) a board member of a credit union incorporated under Subtitle D, Title 3, Finance Code;

(3) an applicant for employment by the credit union

department; or

(4) an employee of the credit union department.

(b) Criminal history record information obtained by the credit union commissioner under this section may not be released by any person except:

(1) on court order, unless the information is entered into evidence by the credit union department or a court at an administrative proceeding or a civil or criminal action under Subtitle D, Title 3, Finance Code; or

(2) with the consent of the person who is the subject of the criminal history record information.

Added by Acts 2007, 80th Leg., R.S., Ch. 285 (H.B. 716), Sec. 3, eff. September 1, 2007.

Sec. 411.1408. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: JUDICIAL BRANCH CERTIFICATION COMMISSION. (a) In this section, "commission" means the Judicial Branch Certification Commission established under Chapter 152.

(b) The commission is entitled to obtain criminal history record information as provided by Subsection (b-1) that relates to a person who is an applicant for or the holder of a certificate, registration, or license issued by the commission or otherwise under Subtitle L, Title 2.

(b-1) Subject to Section 411.087 and consistent with the public policy of this state, the commission is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (b); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (b).

(c) The commission may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b-1)(1). Criminal history record information obtained by the commission under Subsection (b-1)(2):

(1) may be used by the commission for any purpose related to the issuance, denial, suspension, revocation, or renewal of a

certificate, registration, or license issued by the commission or otherwise under Subtitle L, Title 2; and

(2) may not be released or disclosed to any person except:

(A) on court order; or

(B) as authorized by Section 411.1386(a-6) of this code or Section 1104.404, Estates Code, if applicable.

(d) The commission shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2007, 80th Leg., R.S., Ch. 15 (S.B. 505), Sec. 1, eff. April 25, 2007.
Renumbered from Government Code, Section 411.1406 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(23), eff. September 1, 2009.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 511 (S.B. 1057), Sec. 2, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 2.25, eff. September 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.002(10), eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 62, eff. June 13, 2023.

Sec. 411.1409. ACCESS TO CRIMINAL HISTORY INFORMATION: APPELLATE COURTS. (a) In this section, "appellate court" means the Supreme Court of Texas, the Texas Court of Criminal Appeals, or a court of appeals.

(b) An appellate court is entitled to obtain criminal history record information as provided by Subsection (b-1) that relates to a person who is an applicant for:

(1) employment with the court;

(2) a volunteer position with the court; or

(3) an appointment made by the court.

(b-1) Subject to Section 411.087 and consistent with the public policy of this state, the court is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that

bureau that pertains to a person described by Subsection (b); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (b).

(c) Criminal history record information obtained by the court under this section may be used only to evaluate an applicant.

(d) The court may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b-1)(1). The court may not release or disclose information obtained under Subsection (b-1)(2) except on order of a district court.

(e) The court shall destroy criminal history record information obtained under this section after the information is used for its authorized purpose.

Added by Acts 2007, 80th Leg., R.S., Ch. 406 (S.B. 885), Sec. 1, eff. September 1, 2007.
Renumbered from Government Code, Section 411.1406 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(24), eff. September 1, 2009.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.17, eff. June 19, 2009.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 63, eff. June 13, 2023.

Sec. 411.1410. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: UNITED STATES ARMED FORCES. (a) In this section, "agency of the United States armed forces" means the United States Army, the United States Navy, the United States Marine Corps, the United States Coast Guard, or the United States Air Force.

(b) Subject to Subsection (c), an agency of the United States armed forces, including a recruiter for the agency, is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for enlistment in the United States armed forces.

(c) An agency of the United States armed forces is entitled to criminal history record information under Subsection (b) only if the

agency submits to the department a signed statement from the applicant that authorizes the agency to obtain the information.

(d) Criminal history record information obtained by an agency of the United States armed forces under Subsection (b) may not be released to any person or agency except on court order or with the consent of the person who is the subject of the criminal history record information.

(e) An agency of the United States armed forces shall destroy criminal history record information obtained under Subsection (b) after the purpose for which the information was obtained is accomplished.

Added by Acts 2013, 83rd Leg., R.S., Ch. 871 (H.B. 694), Sec. 3, eff. June 14, 2013.

Sec. 411.14101. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) In this section, "office" means the State Office of Administrative Hearings.

(b) The office is entitled to obtain criminal history record information as provided by Subsection (c) that relates to a person who is:

(1) an employee of, or an applicant for employment with, the office; or

(2) a contractor, subcontractor, volunteer, or intern of the office, or an applicant to serve in one of those capacities.

(c) Subject to Section 411.087 and consistent with the public policy of this state, the office is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (b); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (b).

(d) The office may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (c)(1). Criminal history record information obtained by the office under Subsection (c)(2) may not be released or disclosed to any person except by court order or with the

written consent of the person who is the subject of the criminal history record information.

(e) The office shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 64, eff. June 13, 2023.

Sec. 411.14102. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS BOARD OF ARCHITECTURAL EXAMINERS. (a) The Texas Board of Architectural Examiners is entitled to obtain criminal history record information as provided by Subsection (b) that relates to:

(1) a person who is:

(A) an applicant for an architectural registration under Chapter 1051, Occupations Code; or

(B) the holder of an architectural registration under that chapter;

(2) a person who is:

(A) an applicant for a landscape architectural registration under Chapter 1052, Occupations Code; or

(B) the holder of a landscape architectural registration under that chapter; or

(3) a person who is:

(A) an applicant for an interior design registration under Chapter 1053, Occupations Code; or

(B) the holder of an interior design registration under that chapter.

(b) Subject to Section 411.087 of this code and Section 1051.3041, Occupations Code, and consistent with the public policy of this state, the Texas Board of Architectural Examiners is entitled to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a); and

(2) obtain from the department or any other criminal justice agency in this state criminal history record information maintained by the department or that criminal justice agency that relates to a person described by Subsection (a).

(c) The Texas Board of Architectural Examiners may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (b)(1). Criminal history record information obtained by the Texas Board of Architectural Examiners under Subsection (b)(2) may not be released or disclosed to any person except on court order or as provided by Subsection (d).

(d) The Texas Board of Architectural Examiners is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) in a criminal proceeding or in a hearing conducted by the Texas Board of Architectural Examiners or the State Office of Administrative Hearings.

(e) The Texas Board of Architectural Examiners shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 65, eff. June 13, 2023.

SUBCHAPTER G. DNA DATABASE SYSTEM

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1723, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.141. DEFINITIONS. In this subchapter:

(1) "CODIS" means the FBI's Combined DNA Index System. The term includes the national DNA index system sponsored by the FBI.

(2) "Conviction" includes conviction by a jury or a court, a guilty plea, a plea of nolo contendere, or a finding of not guilty by reason of insanity.

(3) "Criminal justice agency" means:

(A) a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice;

(B) a secure correctional facility as defined by Section 1.07, Penal Code; or

(C) a community supervision and corrections department, a parole office, or a local juvenile probation department or parole office.

(4) "DNA" means deoxyribonucleic acid.

(5) "DNA database" means one or more databases that contain forensic DNA records maintained by the director.

(6) "DNA laboratory" means a laboratory that performs forensic DNA analysis on samples or specimens derived from a human body, physical evidence, or a crime scene. The term includes a department crime laboratory facility that conducts forensic DNA analysis.

(7) "DNA record" means the results of a forensic DNA analysis performed by a DNA laboratory. The term includes a DNA profile and related records, which may include a code or other identifying number referenced to a separate database to locate:

(A) the originating entity; and

(B) if known, the name and other personally identifying information concerning the individual who is the subject of the analysis.

(8) "DNA sample" means a blood sample or other biological sample or specimen provided by an individual under this subchapter or submitted to the director under this subchapter for DNA analysis or storage.

(8-a) "Elimination sample" means a blood sample or other biological sample or specimen voluntarily provided by the victim of an offense or another individual not involved in the alleged offense whose DNA is likely to be present at the scene of the crime to isolate and identify the DNA of a potential perpetrator.

(9) "FBI" means the Federal Bureau of Investigation.

(10) "Forensic analysis" has the meaning assigned by Article 38.35, Code of Criminal Procedure.

(11) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(12) "Penal institution" has the meaning assigned by Section 1.07, Penal Code.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 4, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1209 (S.B. 727), Sec. 9, eff. September 1, 2009.

Acts 2023, 88th Leg., R.S., Ch. 742 (H.B. 3506), Sec. 3, eff.

September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1723, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.142. DNA DATABASE. (a) The director shall record DNA data and establish and maintain a computerized database that serves as the central depository in the state for DNA records.

(b) The director may maintain the DNA database in the department's crime laboratory in Austin or another suitable location.

(c) The director may receive, analyze, store, and destroy a DNA record or DNA sample for the purposes described by Section 411.143. If a DNA sample was collected solely for the purpose of creating a DNA record, the director may destroy the sample after any test results associated with the sample are entered into the DNA database and the CODIS database.

(d) The DNA database must be capable of classifying, matching, and storing the results of analyses of DNA.

(e) The director, with advice from the Department of Information Resources, shall develop biennial plans to:

(1) improve the reporting and accuracy of the DNA database; and

(2) develop and maintain a monitoring system capable of identifying inaccurate or incomplete information.

(f) The DNA database must be compatible with the national DNA identification index system (CODIS) used by the FBI to the extent required by the FBI to permit the useful exchange and storage of DNA records or information derived from those records.

(g) The DNA database may contain DNA records for the following:

(1) an individual described by this subchapter, including Section 411.1471, 411.148, or 411.154;

(2) a biological specimen that is legally obtained in the investigation of a crime, regardless of origin;

(3) results of testing ordered by a court under this subchapter, Article 64.03, Code of Criminal Procedure, or other law permitting or requiring the creation of a DNA record;

(4) an unidentified missing person, or unidentified skeletal remains or body parts;

(5) a close biological relative of a person who has been

reported missing to a law enforcement agency;

(6) a person at risk of becoming lost, such as a child or a person declared by a court to be mentally incapacitated, if the record is required by court order or a parent, conservator, or guardian of the person consents to the record; or

(7) an unidentified person, if the record does not contain personal identifying information.

(h) The director shall establish standards for DNA analysis by the DNA laboratory that meet or exceed the current standards for quality assurance and proficiency testing for forensic DNA analysis issued by the FBI. The DNA database may contain only DNA records of DNA analyses performed according to the standards adopted by the director.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 2, Sec. 4, eff. April 5, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 5, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 760 (H.B. 3295), Sec. 1, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 221 (H.B. 941), Sec. 3, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 742 (H.B. 3506), Sec. 4, eff. September 1, 2023.

Sec. 411.1425. GRANT FUNDS. The director shall apply for any available federal grant funds applicable to the creation and storage of DNA records of persons arrested for certain offenses.

Added by Acts 2019, 86th Leg., R.S., Ch. 1285 (H.B. 1399), Sec. 4, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1723, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.143. PURPOSES. (a) The principal purpose of the DNA database is to assist a federal, state, or local criminal justice

agency in the investigation or prosecution of sex-related offenses or other offenses in which biological evidence is recovered.

(b) In criminal cases, the purposes of the DNA database are only for use in the investigation of an offense, the exclusion or identification of suspects or offenders, and the prosecution or defense of the case.

(c) Other purposes of the database include:

(1) assisting in the recovery or identification of human remains from a disaster or for humanitarian purposes;

(2) assisting in the identification of living or deceased missing persons;

(3) if personal identifying information is removed:

(A) establishing a population statistics database; and

(B) assisting in identification research, forensic validation studies, or forensic protocol development; and

(4) retesting to validate or update the original analysis or assisting in database or DNA laboratory quality control.

(d) The information contained in the DNA database may not be collected, analyzed, or stored to obtain information about human physical traits or predisposition for disease unless the purpose for obtaining the information is related to a purpose described by this section.

(e) The director may not store a name or other personal identifying information in the CODIS database. A file or reference number to another information system may be included in the CODIS database only if the director determines the information is necessary to:

(1) generate an investigative lead or exclusion;

(2) support the statistical interpretation of a test result; or

(3) allow for the successful implementation of the DNA database.

(f) Except as provided by this subchapter, the DNA database may not include criminal history record information.

(g) A party contracting to carry out a function of another entity under this subchapter shall comply with:

(1) a requirement imposed by this subchapter on the other entity, unless the party or other entity is exempted by the director; and

(2) any additional requirement imposed by the director on

the party.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 6, eff. September 1, 2005.

Sec. 411.1431. INCLUSION OF ELIMINATION SAMPLE IN DNA DATABASE PROHIBITED. Notwithstanding Section 411.142(g), a DNA record created from an elimination sample and all information derived from that record may not be uploaded to, stored in, or capable of being searched for in the DNA database.

Added by Acts 2023, 88th Leg., R.S., Ch. 742 (H.B. 3506), Sec. 5, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1723, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.144. REGULATION OF DNA LABORATORIES; PENALTIES. (a) The director by rule shall establish procedures for a DNA laboratory or criminal justice agency in the collection, preservation, shipment, analysis, and use of a DNA sample for forensic DNA analysis in a manner that permits the exchange of DNA evidence between DNA laboratories and the use of the evidence in a criminal case.

(b) A DNA laboratory or criminal justice agency shall follow the procedures:

(1) established by the director under this section; and

(2) specified by the FBI, including use of comparable test procedures, laboratory equipment, supplies, and computer software.

(c) The director may at any reasonable time enter and inspect the premises or audit the records, reports, procedures, or other quality assurance matters of any DNA laboratory that:

(1) provides DNA records to the director under this subchapter; or

(2) conducts forensic analysis.

(d) A DNA laboratory conducting a forensic DNA analysis under this subchapter shall:

(1) forward the DNA record of the analysis to the director at the department's crime laboratory or another location as required by the director; and

(2) comply with this subchapter and rules adopted under this subchapter.

(e) The director is the Texas liaison for DNA data, records, evidence, and other related matters between:

(1) the FBI; and

(2) a DNA laboratory or a criminal justice agency.

(f) The director may:

(1) conduct DNA analyses; or

(2) contract with a laboratory, state agency, private entity, or institution of higher education for services to perform DNA analyses for the director.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 7, eff. September 1, 2005.

Sec. 411.145. FEES. (a) The director may collect a reasonable fee under this subchapter for:

(1) the DNA analysis of a DNA sample submitted voluntarily to the director; or

(2) providing population statistics data or other appropriate research data.

(b) If the director provides a copy of an audit or other report made under this subchapter, the director may charge $6 for the copy, in addition to any other cost permitted under Chapter 552 or a rule adopted under that chapter.

(c) A fee collected under this section shall be deposited in the state treasury to the credit of the state highway fund, and money deposited to the state highway fund under this section and under Chapter 42A, Code of Criminal Procedure, may be used only to defray the cost of administering this subchapter.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1490, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 8, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.41, eff. January 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 1276 (S.B. 1287), Sec. 12, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.32, eff. January 1, 2020.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1723, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.146. DNA SAMPLES. (a) The director may not accept a DNA record or DNA sample collected from an individual who at the time of collection is alive, unless the director reasonably believes the sample was submitted voluntarily or as required by this subchapter and is:

(1) a blood sample collected in a medically approved manner by:

(A) a physician, registered nurse, licensed vocational nurse, licensed clinical laboratory technologist; or

(B) an individual who is trained to properly collect blood samples under this subchapter; or

(2) a specimen other than a blood sample collected:

(A) in a manner approved by the director by rule adopted under this section; and

(B) by an individual who is trained to properly collect the specimen under this subchapter.

(b) The director shall provide at no cost to a person collecting a DNA sample as described by Subsection (a) the collection kits, labels, report forms, instructions, and training for collection of DNA samples under this section.

(c)(1) The director shall adopt rules regarding the collection, preservation, shipment, and analysis of a DNA database sample under this subchapter, including the type of sample or specimen taken.

(2) A criminal justice agency permitted or required to collect a DNA sample for forensic DNA analysis under this subchapter:

(A) may collect the sample or contract with a phlebotomist, laboratory, state agency, private entity, or

institution of higher education for services to collect the sample at the time determined by the agency; and

(B) shall:

(i) preserve each sample collected until it is forwarded to the director under Subsection (d); and

(ii) maintain a record of the collection of the sample.

(d) A criminal justice agency that collects a DNA sample under this section shall send the sample to:

(1) the director at the department's crime laboratory; or

(2) another location as required by the director by rule.

(e) A DNA laboratory may analyze a DNA sample collected under this section only:

(1) to type the genetic markers contained in the sample;

(2) for criminal justice or law enforcement purposes; or

(3) for other purposes described by this subchapter.

(f) If possible, a second DNA sample must be collected from an individual in a criminal investigation if forensic DNA evidence is necessary for use as substantive evidence in the investigation, prosecution, or defense of a case.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 9, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1723, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.147. ACCESS TO DNA DATABASE INFORMATION. (a) The director by rule shall establish procedures:

(1) to prevent unauthorized access to the DNA database; and

(2) to release from the DNA database a DNA sample, analysis, record, or other information maintained under this subchapter.

(b) The director may adopt rules relating to the internal disclosure, access, or use of a sample or DNA record in a DNA laboratory.

(c) The director may release a DNA sample, analysis, or record

only:

(1) to a criminal justice agency for criminal justice or law enforcement identification purposes;

(2) for a judicial proceeding, if otherwise admissible under law;

(3) for criminal defense purposes to a defendant, if related to the case in which the defendant is charged or released from custody under Article 17.47, Code of Criminal Procedure, or other court order; or

(4) for another purpose:

(A) described in Section 411.143; or

(B) required under federal law as a condition for obtaining federal funding.

(d) The director may release a record of the number of requests made for a defendant's individual DNA record and the name of the requesting person.

(e) A criminal justice agency may have access to a DNA sample for a law enforcement purpose through:

(1) the agency's laboratory; or

(2) a laboratory used by the agency.

(f) The director shall maintain a record of requests made under this section.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 10, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1723, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.1471. DNA RECORDS OF PERSONS ARRESTED FOR OR CONVICTED OF CERTAIN OFFENSES. (a) This section applies to a defendant who is:

(1) arrested for any offense punishable as a felony; or

(2) convicted of an offense:

(A) under Title 5, Penal Code, that is punishable as a Class A misdemeanor, except for an offense punishable as a Class A misdemeanor under Section 22.05, Penal Code; or

(B) punishable as a Class A or B misdemeanor, as applicable, under Section 21.08, 25.04, or 43.24, Penal Code.

(b) A law enforcement agency booking a defendant described by Subsection (a)(1), immediately after fingerprinting the defendant and at the same location as the fingerprinting occurs, shall require the defendant to provide one or more specimens for the purpose of creating a DNA record.

(b-1) After a defendant described by Subsection (a)(2) is convicted, the court shall require the defendant to provide to a law enforcement agency one or more specimens for the purpose of creating a DNA record.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1285 (H.B. 1399), Sec. 7, eff. September 1, 2019.

(d) The director by rule shall require law enforcement agencies taking a specimen under this section to preserve the specimen and maintain a record of the collection of the specimen. A law enforcement agency taking a specimen under this section may use any method to take the specimen approved by the director in the rule adopted under this subsection. The rule adopted by the director must prohibit a law enforcement agency from taking a blood sample for the purpose of creating a DNA record under this section. The agency may either send the specimen to the director or send to the director an analysis of the sample performed at a laboratory chosen by the agency and approved by the director.

(e) As soon as practicable after the acquittal of a defendant described by Subsection (a)(1) or dismissal of the case against the defendant, or after a defendant has been granted relief in accordance with a writ of habeas corpus that is based on a court finding or determination that the defendant is actually innocent of a crime for which the defendant was sentenced, the court shall provide notice of the acquittal, dismissal, or grant of relief to the law enforcement agency that took the specimen and the department and shall request that the director expunge the defendant's DNA record from the DNA database under Section 411.151. On receipt of the notice, the law enforcement agency shall immediately destroy the record of the collection of the specimen, and the department shall destroy the specimen and the record of its receipt. The court shall promptly notify the defendant and the defendant's attorney after the notices required by this subsection have been provided.

(f) A defendant who provides a DNA sample under this section is

not required to provide a DNA sample under Section 411.148 of this code or under Article 42A.352, Code of Criminal Procedure, unless the attorney representing the state in the prosecution of the felony offense that makes Section 411.148 or Article 42A.352 applicable to the defendant establishes to the satisfaction of the director that the interests of justice or public safety require that the defendant provide additional samples.

Added by Acts 2001, 77th Leg., ch. 1490, Sec. 2, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 760 (H.B. 3295), Sec. 2, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 122 (H.B. 3000), Sec. 7, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 221 (H.B. 941), Sec. 5, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 23.007, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 326 (H.B. 238), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 223 (H.B. 979), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1285 (H.B. 1399), Sec. 5, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1285 (H.B. 1399), Sec. 6, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1285 (H.B. 1399), Sec. 7, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 43, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 543 (H.B. 3956), Sec. 3, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1723, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.1473. DNA RECORDS OF CERTAIN REGISTERED SEX OFFENDERS AND TERRORIST OFFENDERS. (a) This section applies only to a person who is required to register under Chapter 62 or 65, Code of Criminal

Procedure.

(b) The department by rule shall require a law enforcement agency serving as a person's primary registration authority under Chapter 62 or 65, Code of Criminal Procedure, to:

(1) take one or more specimens from a person described by Subsection (a) for the purpose of creating a DNA record; and

(2) preserve the specimen and maintain a record of the collection of the specimen.

(c) A law enforcement agency taking a specimen under this section may either send the specimen to the director or send to the director an analysis of the specimen performed by a laboratory chosen by the agency and approved by the director.

(d) A law enforcement agency is not required to take and a person is not required to provide a specimen under this section if the person is required to and has provided a specimen under this chapter or other law.

Added by Acts 2005, 79th Leg., Ch. 1008 (H.B. 867), Sec. 1.05, eff. September 1, 2005.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 935 (S.B. 1518), Sec. 2, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 935 (S.B. 1518), Sec. 3, eff. September 1, 2023.

Sec. 411.148. MANDATORY DNA RECORD. (a) This section applies to:

(1) an individual, other than a juvenile, who is:

(A) ordered by a magistrate or court to provide a DNA sample under Section 411.154 or other law, including as part of an order granting community supervision to the individual; or

(B) confined in a penal institution operated by or under contract with the Texas Department of Criminal Justice; or

(2) a juvenile who, following an adjudication for conduct constituting a felony, is:

(A) confined in a facility operated by or under contract with the Texas Juvenile Justice Department; or

(B) placed on probation, if the conduct constitutes a felony described by Section 54.0409, Family Code.

(b) An individual described by Subsection (a) shall provide one or more DNA samples for the purpose of creating a DNA record.

(c) A criminal justice agency shall collect a sample ordered by a magistrate or court in compliance with the order.

(d) If an individual described by Subsection (a)(1)(B) is received into custody by the Texas Department of Criminal Justice, that department shall collect the sample from the individual during the diagnostic process or at another time determined by the Texas Department of Criminal Justice. If an individual described by Subsection (a)(2)(A) is received into custody by the Texas Juvenile Justice Department, that department shall collect the sample from the individual during the initial examination or at another time it determines. If an individual who is required under this section or other law to provide a DNA sample is in the custody or under the supervision of another criminal justice agency, such as a community supervision and corrections department, a parole office, or a local juvenile probation department or parole office, that agency shall collect the sample from the individual at a time determined by the agency.

(e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1209, Sec. 11, eff. September 1, 2009.

(f) The Texas Department of Criminal Justice shall notify the director that an individual described by Subsection (a)(1)(B) is to be released from custody not earlier than the 120th day before the individual's statutory release date and not later than the 90th day before the individual's statutory release date. An individual described by Subsection (a)(1)(B) may not be held past the individual's statutory release date if the individual fails or refuses to provide a DNA sample under this section. The Texas Department of Criminal Justice may take lawful administrative action, including disciplinary action resulting in the loss of good conduct time, against an individual described by Subsection (a)(1)(B) who refuses to provide a sample under this section. In this subsection, "statutory release date" means the date on which an individual is discharged from the individual's controlling sentence.

(f-1) The Texas Juvenile Justice Department shall notify the director that an individual described by Subsection (a)(2)(A) is to be released from custody not earlier than the 120th day before the individual's release date.

(f-2) The Texas Department of Criminal Justice and the Texas

Juvenile Justice Department, in consultation with the director, shall determine the form of the notification described by Subsections (f) and (f-1).

(g) A medical staff employee of a criminal justice agency may collect a voluntary sample from an individual at any time.

(h) An employee of a criminal justice agency may use force against an individual required to provide a DNA sample under this section when and to the degree the employee reasonably believes the force is immediately necessary to collect the sample.

(i)(1) The Texas Department of Criminal Justice as soon as practicable shall cause a sample to be collected from an individual described by Subsection (a)(1)(B) if:

(A) the individual is confined in another penal institution after sentencing and before admission to the department; and

(B) the department determines that the individual is likely to be released before being admitted to the department.

(2) The administrator of the other penal institution shall cooperate with the Texas Department of Criminal Justice as necessary to allow the Texas Department of Criminal Justice to perform its duties under this subsection.

(j)(1) The Texas Juvenile Justice Department as soon as practicable shall cause a sample to be collected from an individual described by Subsection (a)(2)(A) if:

(A) the individual is detained in another juvenile detention facility after adjudication and before admission to the Texas Juvenile Justice Department; and

(B) the Texas Juvenile Justice Department determines the individual is likely to be released before being admitted to that department.

(2) The administrator of the other juvenile detention facility shall cooperate with the Texas Juvenile Justice Department as necessary to allow that department to perform its duties under this subsection.

(k) When a criminal justice agency of this state agrees to accept custody or supervision of an individual from another state or jurisdiction under an interstate compact or a reciprocal agreement with a local, county, state, or federal agency, the criminal justice agency that agrees to accept custody or supervision of the individual shall collect a DNA sample under this subchapter if the individual

was convicted of or adjudicated as having engaged in conduct constituting a felony and is otherwise required to provide a DNA sample under this section.

(l) If, in consultation with the director, it is determined that an acceptable sample has already been received from an individual, additional samples are not required unless requested by the director.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 1063, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1368, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1509, Sec. 1, 2.
Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 1063, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1368, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 211, Sec. 14, eff. Sept. 1, 2001.
Reenacted and amended by Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 11, eff. September 1, 2005.
Reenacted and amended by Acts 2005, 79th Leg., Ch. 1245 (H.B. 1681), Sec. 1, eff. September 1, 2005.
Reenacted and amended by Acts 2007, 80th Leg., R.S., Ch. 760 (H.B. 3295), Sec. 3, eff. June 15, 2007.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1209 (S.B. 727), Sec. 10, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1209 (S.B. 727), Sec. 11, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 94, eff. September 1, 2015.

Sec. 411.149. VOLUNTARY DNA RECORD. An individual, including an individual required to provide a DNA sample under this subchapter, may at any time voluntarily provide or cause to be provided to a criminal justice agency a sample to be forwarded to the director for the purpose of creating a DNA record under this subchapter.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 12, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.151. EXPUNCTION OR REMOVAL OF DNA RECORDS. (a) The director shall expunge a DNA record of an individual from a DNA database if:

(1) the director receives:

(A) an order of expunction under Article 55.02, Code of Criminal Procedure; or

(B) a request from a court under Section 411.1471(e); or

(2) the person provides the director with a certified copy of a court order issued under Subchapter C-1, Chapter 58, Family Code, that seals the juvenile record of the adjudication that resulted in the DNA record.

(b) Repealed by Acts 2023, 88th Leg., R.S., Ch. 543 (H.B. 3956), Sec. 5, eff. September 1, 2023.

(c) This section does not require the director to expunge a record or destroy a sample if the director determines that the individual is otherwise required to submit a DNA sample under this subchapter.

(d) The director by rule may permit administrative removal of a record, sample, or other information erroneously included in a database.

(e) The department's failure to expunge a DNA record as required by this section may not serve as the sole grounds for a court in a criminal proceeding to exclude evidence based on or derived from the contents of that record.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 283, Sec. 44, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 13, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 1, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 746 (S.B. 1304), Sec. 20, eff.

September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 543 (H.B. 3956), Sec. 4, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 543 (H.B. 3956), Sec. 5, eff. September 1, 2023.

Sec. 411.152. RULES. (a) The director may adopt rules permitted by this subchapter that are necessary to administer or enforce this subchapter but shall adopt a rule expressly required by this subchapter.

(b) The director by rule may release or permit access to information to confirm or deny whether an individual has a preexisting record under this subchapter. After receiving a request regarding an individual whose DNA record has been expunged or removed under Section 411.151, the director shall deny the preexisting record.

(c) The director by rule may exempt:

(1) a laboratory conducting non-human forensic DNA analysis from a rule adopted under this subchapter; and

(2) certain categories of individuals from a requirement to provide an additional sample after an acceptable DNA record exists for the individual.

(d) The director by rule may determine whether a DNA sample complies with a collection provision of this subchapter.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 14, eff. September 1, 2005.

Sec. 411.153. CONFIDENTIALITY OF DNA RECORDS. (a) A DNA record stored in the DNA database is confidential and is not subject to disclosure under the public information law, Chapter 552.

(b) A person commits an offense if the person knowingly discloses to an unauthorized recipient information in a DNA record or information related to a DNA analysis of a sample collected under this subchapter.

(c) An offense under this section is a state jail felony.

(d) A violation under this section constitutes official misconduct.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1490, Sec. 3, eff. Sept. 1, 2001.
Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1490, Sec. 3, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1509, Sec. 3.
Reenacted and amended by Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 15, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 760 (H.B. 3295), Sec. 4, eff. June 15, 2007.

Sec. 411.154. ENFORCEMENT BY COURT ORDER. (a) On the request of the director, a district or county attorney or the attorney general may petition a district court for an order requiring a person to:

(1) comply with this subchapter or a rule adopted under this subchapter; or

(2) refrain from acting in violation of this subchapter or a rule adopted under this subchapter.

(b) The court may issue an order requiring a person:

(1) to act in compliance with this subchapter or a rule adopted under this subchapter;

(2) to refrain from acting in violation of this subchapter or a rule adopted under this subchapter;

(3) to provide a DNA sample; or

(4) if the person has already provided a DNA sample, to provide another sample if good cause is shown.

(c) An order issued under this section is appealable as a criminal matter and if appealed is to be reviewed under an abuse of discretion standard.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 16, eff. September 1, 2005.

SUBCHAPTER G-1. CRIME LABORATORY PORTAL

Sec. 411.161. DEFINITIONS. In this subchapter, "crime laboratory," "criminal action," and "forensic analysis" have the meanings assigned by Article 38.35, Code of Criminal Procedure.

Added by Acts 2023, 88th Leg., R.S., Ch. 1149 (S.B. 991), Sec. 2, eff. September 1, 2023.

Sec. 411.162. CRIME LABORATORY PORTAL. The department by rule shall establish and maintain a central computerized portal that facilitates the process for requesting crime laboratory records and for transferring those records among crime laboratories, attorneys representing the state, and parties authorized to access the records as a part of discovery under Article 39.14, Code of Criminal Procedure. The portal may not be used as a central repository for crime laboratory records.

Added by Acts 2023, 88th Leg., R.S., Ch. 1149 (S.B. 991), Sec. 2, eff. September 1, 2023.

Sec. 411.163. MANDATORY CRIME LABORATORY PARTICIPATION; DISCIPLINARY ACTION. (a) A crime laboratory that performs a forensic analysis for use in a criminal action shall participate, in accordance with department rule, in the transfer of crime laboratory records using the crime laboratory portal established under Section 411.162. The department by rule may exempt a crime laboratory from the requirements of this subsection if the department determines that the crime laboratory:

(1) is located outside of this state; and

(2) performs an insufficient number of forensic analyses in criminal actions in this state to warrant participation in the crime laboratory portal.

(b) A crime laboratory that violates Subsection (a) is subject to disciplinary action by the Texas Forensic Science Commission in the same manner as if the laboratory had otherwise violated accreditation standards under Article 38.01, Code of Criminal Procedure.

Added by Acts 2023, 88th Leg., R.S., Ch. 1149 (S.B. 991), Sec. 2,

eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1372, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.164. DEFENSE COUNSEL ACCESS TO CRIME LABORATORY PORTAL. In accordance with department rule, the attorney representing the state in a criminal action shall designate the defendant or the defendant's attorney, as appropriate, as an individual who is authorized to access and use the crime laboratory portal under Section 411.162 to request any crime laboratory records that are subject to discovery under Article 39.14, Code of Criminal Procedure.

Added by Acts 2023, 88th Leg., R.S., Ch. 1149 (S.B. 991), Sec. 2, eff. September 1, 2023.

SUBCHAPTER H. LICENSE TO CARRY A HANDGUN

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.171. DEFINITIONS. In this subchapter:

(1) "Approved online course provider" means a person who is certified by the department to offer in an online format the classroom instruction part of the handgun proficiency course and to administer the associated written exam.

(2) "Chemically dependent person" means a person who frequently or repeatedly becomes intoxicated by excessive indulgence in alcohol or uses controlled substances or dangerous drugs so as to acquire a fixed habit and an involuntary tendency to become intoxicated or use those substances as often as the opportunity is presented.

(3) Repealed by Acts 2015, 84th Leg., R.S., Ch. 437 , Sec. 50, eff. January 1, 2016.

(4) "Convicted" means an adjudication of guilt or, except as provided in Section 411.1711, an order of deferred adjudication entered against a person by a court of competent jurisdiction whether or not the imposition of the sentence is subsequently probated and the person is discharged from community supervision. The term does

not include an adjudication of guilt or an order of deferred adjudication that has been subsequently:

(A) expunged;

(B) pardoned under the authority of a state or federal official; or

(C) otherwise vacated, set aside, annulled, invalidated, voided, or sealed under any state or federal law.

(4-a) "Federal judge" means:

(A) a judge of a United States court of appeals;

(B) a judge of a United States district court;

(C) a judge of a United States bankruptcy court; or

(D) a magistrate judge of a United States district court.

(4-b) "State judge" means:

(A) the judge of an appellate court, a district court, or a county court at law of this state;

(B) an associate judge appointed under Chapter 201, Family Code; or

(C) a justice of the peace.

(5) "Handgun" has the meaning assigned by Section 46.01, Penal Code.

(6) "Intoxicated" has the meaning assigned by Section 49.01, Penal Code.

(7) "Qualified handgun instructor" means a person who is certified to instruct in the use of handguns by the department.

(8) Repealed by Acts 1999, 76th Leg., ch. 62, Sec. 9.02(a), eff. Sept. 1, 1999.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.01(a), 9.02(a), eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1084 (H.B. 1831), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 594 (H.B. 41), Sec. 8, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 6.06, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.02, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1259 (H.B. 559), Sec. 2, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 14(1), eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 50, eff. January 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 1099 (H.B. 3784), Sec. 1, eff. September 1, 2017.

Sec. 411.1711. CERTAIN EXEMPTIONS FROM CONVICTIONS. A person is not convicted, as that term is defined by Section 411.171, if an order of deferred adjudication was entered against the person on a date not less than 10 years preceding the date of the person's application for a license under this subchapter unless the order of deferred adjudication was entered against the person for:

(1) a felony offense under:

(A) Title 5, Penal Code;

(B) Chapter 29, Penal Code;

(C) Section 25.07 or 25.072, Penal Code; or

(D) Section 30.02, Penal Code, if the offense is punishable under Subsection (c)(2) or (d) of that section; or

(2) an offense under the laws of another state if the offense contains elements that are substantially similar to the elements of an offense listed in Subdivision (1).

Added by Acts 2005, 79th Leg., Ch. 1084 (H.B. 1831), Sec. 2, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.01, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 96 (S.B. 743), Sec. 7, eff. September 1, 2013.

Sec. 411.172. ELIGIBILITY. (a) A person is eligible for a license to carry a handgun if the person:

(1) is a legal resident of this state for the six-month period preceding the date of application under this subchapter or is otherwise eligible for a license under Section 411.173(a);

(2) is at least 21 years of age;

(3) has not been convicted of a felony;

(4) is not charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment;

(5) is not a fugitive from justice for a felony or a Class A or Class B misdemeanor or equivalent offense;

(6) is not a chemically dependent person;

(7) is not incapable of exercising sound judgment with respect to the proper use and storage of a handgun;

(8) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or equivalent offense or of an offense under Section 42.01, Penal Code, or equivalent offense;

(9) is fully qualified under applicable federal and state law to purchase a handgun;

(10) has not been finally determined to be delinquent in making a child support payment administered or collected by the attorney general;

(11) has not been finally determined to be delinquent in the payment of a tax or other money collected by the comptroller, the tax collector of a political subdivision of the state, or any agency or subdivision of the state;

(12) is not currently restricted under a court protective order or subject to a restraining order affecting the spousal relationship, other than a restraining order solely affecting property interests;

(13) has not, in the 10 years preceding the date of application, been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony; and

(14) has not made any material misrepresentation, or failed to disclose any material fact, in an application submitted pursuant to Section 411.174.

(b) For the purposes of this section, an offense under the laws of this state, another state, or the United States is:

(1) except as provided by Subsection (b-1), a felony if the offense, at the time the offense is committed:

(A) is designated by a law of this state as a felony;

(B) contains all the elements of an offense designated

by a law of this state as a felony; or

(C) is punishable by confinement for one year or more in a penitentiary; and

(2) a Class A misdemeanor if the offense is not a felony and confinement in a jail other than a state jail felony facility is affixed as a possible punishment.

(b-1) An offense is not considered a felony for purposes of Subsection (b) if, at the time of a person's application for a license to carry a handgun, the offense:

(1) is not designated by a law of this state as a felony; and

(2) does not contain all the elements of any offense designated by a law of this state as a felony.

(c) An individual who has been convicted two times within the 10-year period preceding the date on which the person applies for a license of an offense of the grade of Class B misdemeanor or greater that involves the use of alcohol or a controlled substance as a statutory element of the offense is a chemically dependent person for purposes of this section and is not qualified to receive a license under this subchapter. This subsection does not preclude the disqualification of an individual for being a chemically dependent person if other evidence exists to show that the person is a chemically dependent person.

(d) For purposes of Subsection (a)(7), a person is incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person:

(1) has been diagnosed by a licensed physician as suffering from a psychiatric disorder or condition that causes or is likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability;

(2) suffers from a psychiatric disorder or condition described by Subdivision (1) that:

(A) is in remission but is reasonably likely to redevelop at a future time; or

(B) requires continuous medical treatment to avoid redevelopment;

(3) has been diagnosed by a licensed physician, determined by a review board or similar authority, or declared by a court to be incompetent to manage the person's own affairs; or

(4) has entered in a criminal proceeding a plea of not

guilty by reason of insanity.

(e) The following constitutes evidence that a person has a psychiatric disorder or condition described by Subsection (d)(1):

(1) involuntary psychiatric hospitalization;

(2) psychiatric hospitalization;

(3) inpatient or residential substance abuse treatment in the preceding five-year period;

(4) diagnosis in the preceding five-year period by a licensed physician that the person is dependent on alcohol, a controlled substance, or a similar substance; or

(5) diagnosis at any time by a licensed physician that the person suffers or has suffered from a psychiatric disorder or condition consisting of or relating to:

(A) schizophrenia or delusional disorder;

(B) bipolar disorder;

(C) chronic dementia, whether caused by illness, brain defect, or brain injury;

(D) dissociative identity disorder;

(E) intermittent explosive disorder; or

(F) antisocial personality disorder.

(f) Notwithstanding Subsection (d), a person who has previously been diagnosed as suffering from a psychiatric disorder or condition described by Subsection (d) or listed in Subsection (e) is not because of that disorder or condition incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person provides the department with a certificate from a licensed physician whose primary practice is in the field of psychiatry stating that the psychiatric disorder or condition is in remission and is not reasonably likely to develop at a future time.

(g) Notwithstanding Subsection (a)(2), a person who is at least 18 years of age but not yet 21 years of age is eligible for a license to carry a handgun if the person:

(1) is a member or veteran of the United States armed forces, including a member or veteran of the reserves or national guard;

(2) was discharged under honorable conditions, if discharged from the United States armed forces, reserves, or national guard; and

(3) meets the other eligibility requirements of Subsection (a) except for the minimum age required by federal law to purchase a

handgun.

(h) The issuance of a license to carry a handgun to a person eligible under Subsection (g) does not affect the person's ability to purchase a handgun or ammunition under federal law.

(i) Notwithstanding Subsection (a)(2), a person who is at least 18 years of age but not yet 21 years of age is eligible for a license to carry a handgun if the person:

(1) is protected under:

(A) an active protective order issued under:

(i) Title 4, Family Code; or

(ii) Subchapter A, Chapter 7B, Code of Criminal Procedure; or

(B) an active magistrate's order for emergency protection under Article 17.292, Code of Criminal Procedure; and

(2) meets the other eligibility requirements of Subsection (a) except for the minimum age required by federal law to purchase a handgun.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.03(a), 9.04(a), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 255, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 486 (H.B. 322), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.03, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 17, eff. January 1, 2016.

Acts 2021, 87th Leg., R.S., Ch. 203 (H.B. 918), Sec. 1, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 706, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.173. NONRESIDENT LICENSE. (a) The department by rule shall establish a procedure for a person who meets the eligibility requirements of this subchapter other than the residency requirement established by Section 411.172(a)(1) to obtain a license under this

subchapter if the person is a legal resident of another state or if the person relocates to this state with the intent to establish residency in this state. The procedure must include payment of a fee in an amount sufficient to recover the average cost to the department of obtaining a criminal history record check and investigation on a nonresident applicant. A license issued in accordance with the procedure established under this subsection:

(1) remains in effect until the license expires under Section 411.183; and

(2) may be renewed under Section 411.185.

(a-1) Repealed by Acts 2005, 79th Leg., Ch. 915, Sec. 4, eff. September 1, 2005.

(b) The governor shall negotiate an agreement with any other state that provides for the issuance of a license to carry a handgun under which a license issued by the other state is recognized in this state or shall issue a proclamation that a license issued by the other state is recognized in this state if the attorney general of the State of Texas determines that a background check of each applicant for a license issued by that state is initiated by state or local authorities or an agent of the state or local authorities before the license is issued. For purposes of this subsection, "background check" means a search of the National Crime Information Center database and the Interstate Identification Index maintained by the Federal Bureau of Investigation.

(c) The attorney general of the State of Texas shall annually:

(1) submit a report to the governor, lieutenant governor, and speaker of the house of representatives listing the states the attorney general has determined qualify for recognition under Subsection (b); and

(2) review the statutes of states that the attorney general has determined do not qualify for recognition under Subsection (b) to determine the changes to their statutes that are necessary to qualify for recognition under that subsection.

(d) The attorney general of the State of Texas shall submit the report required by Subsection (c)(1) not later than January 1 of each calendar year.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.05(a), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 255, Sec. 2, eff. Sept. 1,

2003; Acts 2003, 78th Leg., ch. 752, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 915 (H.B. 225), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 915 (H.B. 225), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 915 (H.B. 225), Sec. 4, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 18, eff. January 1, 2016.

Sec. 411.1735. PROTECTIVE ORDER DESIGNATION. (a) Notwithstanding any other provision of this subchapter, a person who establishes eligibility for a license to carry a handgun under Section 411.172(i) may only hold a license under this subchapter that bears a protective order designation on the face of the license.

(b) A person described by this section must submit a copy of the applicable court order described by Section 411.172(i)(1) with the application materials described by Section 411.174. The person's application is not considered complete for purposes of this subchapter unless the application includes the documentation and materials required by this section.

(c) Notwithstanding Section 411.183, a license that bears a protective order designation under this section expires on the earlier of:

(1) the date on which the applicable court order described by Section 411.172(i)(1) is rescinded or expires; or

(2) the 22nd birthday of the license holder.

(d) A holder of a license with a protective order designation under this section who becomes 21 years of age may apply for a license under this subchapter that does not bear the designation by using the renewal procedure under Section 411.185, regardless of whether the license that bears the designation has expired or is about to expire.

(e) The director shall adopt rules establishing a process by which the department periodically verifies a license holder's eligibility for a license to carry a handgun under Section 411.172(i) if the license holder's license bears a protective order designation under this section. The rules may specify different intervals at

which the department must verify the license holder's eligibility based on the court order used to satisfy the eligibility requirement described by Section 411.172(i)(1).

Added by Acts 2021, 87th Leg., R.S., Ch. 203 (H.B. 918), Sec. 2, eff. September 1, 2021.

Sec. 411.174. APPLICATION. (a) An applicant for a license to carry a handgun must submit to the director's designee described by Section 411.176:

(1) a completed application on a form provided by the department that requires only the information listed in Subsection (b);

(2) one or more photographs of the applicant that meet the requirements of the department;

(3) a certified copy of the applicant's birth certificate or certified proof of age;

(4) proof of residency in this state;

(5) two complete sets of legible and classifiable fingerprints of the applicant taken by a person appropriately trained in recording fingerprints who is employed by a law enforcement agency or by a private entity designated by a law enforcement agency as an entity qualified to take fingerprints of an applicant for a license under this subchapter;

(6) a nonrefundable application and license fee of $40 paid to the department;

(7) evidence of handgun proficiency, in the form and manner required by the department;

(8) an affidavit signed by the applicant stating that the applicant:

(A) has read and understands each provision of this subchapter that creates an offense under the laws of this state and each provision of the laws of this state related to use of deadly force; and

(B) fulfills all the eligibility requirements listed under Section 411.172; and

(9) a form executed by the applicant that authorizes the director to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license

under Section 411.172(a).

(b) An applicant must provide on the application a statement of the applicant's:

(1) full name and place and date of birth;

(2) race and sex;

(3) residence and business addresses for the preceding five years;

(4) hair and eye color;

(5) height and weight;

(6) driver's license number or identification certificate number issued by the department;

(7) criminal history record information of the type maintained by the department under this chapter, including a list of offenses for which the applicant was arrested, charged, or under an information or indictment and the disposition of the offenses; and

(8) history, if any, of treatment received by, commitment to, or residence in:

(A) a drug or alcohol treatment center licensed to provide drug or alcohol treatment under the laws of this state or another state, but only if the treatment, commitment, or residence occurred during the preceding five years; or

(B) a psychiatric hospital.

(b-1) The application must provide space for the applicant to:

(1) list any military service that may qualify the applicant to receive a license with a veteran's designation under Section 411.179(e); and

(2) include proof required by the department to determine the applicant's eligibility to receive that designation.

(c) The department shall distribute on request a copy of this subchapter and application materials.

(d) The department may not request or require an applicant to provide the applicant's social security number as part of an application under this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.06(a), eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 486 (H.B. 322), Sec. 2, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.04, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 396 (S.B. 164), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 665 (H.B. 1349), Sec. 2, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 19, eff. January 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 179 (S.B. 16), Sec. 1, eff. September 1, 2017.

Sec. 411.1741. VOLUNTARY CONTRIBUTION TO FUND FOR VETERANS' ASSISTANCE. (a) When a person applies for an original or renewal license to carry a handgun under this subchapter, the person may make a voluntary contribution in any amount to the fund for veterans' assistance established by Section 434.017.

(b) The department shall:

(1) include space on the first page of each application for an original or renewal license to carry a handgun that allows a person applying for an original or renewal license to carry a handgun to indicate the amount that the person is voluntarily contributing to the fund; and

(2) provide an opportunity for the person to contribute to the fund during the application process for an original or renewal license to carry a handgun on the department's Internet website.

(c) The department shall send any contribution made under this section to the comptroller for deposit in the state treasury to the credit of the fund for veterans' assistance not later than the 14th day of each month. Before sending the money to the fund, the department may deduct money equal to the amount of reasonable expenses for administering this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 821 (H.B. 3710), Sec. 2, eff. September 1, 2015.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1369 (H.B. 4428), Sec. 1, eff. September 1, 2019.

Sec. 411.175. PROCEDURES FOR SUBMITTING FINGERPRINTS. The department shall establish procedures for the submission of legible and classifiable fingerprints by an applicant for a license under this subchapter who:

(1) is required to submit those fingerprints to the department, including an applicant under Section 411.199, 411.1991, or 411.201; and

(2) resides in a county having a population of 46,000 or less and does not reside within a 25-mile radius of a facility with the capability to process digital or electronic fingerprints.

Added by Acts 2013, 83rd Leg., R.S., Ch. 874 (H.B. 698), Sec. 1, eff. September 1, 2013.

Sec. 411.176. REVIEW OF APPLICATION MATERIALS. (a) On receipt of application materials by the department at its Austin headquarters, the department shall conduct the appropriate criminal history record check of the applicant through its computerized criminal history system. Not later than the 30th day after the date the department receives the application materials, the department shall forward the materials to the director's designee in the geographical area of the applicant's residence so that the designee may conduct the investigation described by Subsection (b). For purposes of this section, the director's designee may be a noncommissioned employee of the department.

(b) The director's designee as needed shall conduct an additional criminal history record check of the applicant and an investigation of the applicant's local official records to verify the accuracy of the application materials. The director's designee may access any records necessary for purposes of this subsection. The scope of the record check and the investigation are at the sole discretion of the department, except that the director's designee shall complete the record check and investigation not later than the 60th day after the date the department receives the application materials. The department shall send a fingerprint card to the Federal Bureau of Investigation for a national criminal history check of the applicant. On completion of the investigation, the director's designee shall return all materials and the result of the investigation to the appropriate division of the department at its

Austin headquarters.

(c) The director's designee may submit to the appropriate division of the department, at the department's Austin headquarters, along with the application materials a written recommendation for disapproval of the application, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of a ground for denial under Section 411.172. The director's designee may also submit the application and the recommendation that the license be issued.

(d) On receipt at the department's Austin headquarters of the application materials and the result of the investigation by the director's designee, the department shall conduct any further record check or investigation the department determines is necessary if a question exists with respect to the accuracy of the application materials or the eligibility of the applicant, except that the department shall complete the record check and investigation not later than the 180th day after the date the department receives the application materials from the applicant.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.07(a), eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.05, eff. September 1, 2009.

Sec. 411.177. ISSUANCE OR DENIAL OF LICENSE. (a) The department shall issue a license to carry a handgun to an applicant if the applicant meets all the eligibility requirements and submits all the application materials. The department shall administer the licensing procedures in good faith so that any applicant who meets all the eligibility requirements and submits all the application materials shall receive a license. The department may not deny an application on the basis of a capricious or arbitrary decision by the department.

(b) Except as otherwise provided by Subsection (b-1), the department shall, not later than the 60th day after the date of the receipt by the director's designee of the completed application materials:

(1) issue the license;

(2) notify the applicant in writing that the application was denied:

(A) on the grounds that the applicant failed to qualify under the criteria listed in Section 411.172;

(B) based on the affidavit of the director's designee submitted to the department under Section 411.176(c); or

(C) based on the affidavit of the qualified handgun instructor submitted to the department under Section 411.188(k); or

(3) notify the applicant in writing that the department is unable to make a determination regarding the issuance or denial of a license to the applicant within the 60-day period prescribed by this subsection and include in that notification an explanation of the reason for the inability and an estimation of the additional period the department will need to make the determination.

(b-1) If the applicant submits with the completed application materials an application for a designation under Section 411.184, the department shall, without charging an additional fee, expedite the application. Not later than the 10th day after the receipt of the materials under this subsection, the department shall:

(1) issue the license with the designation; or

(2) notify the applicant in writing that the applicant is not eligible for the designation under Section 411.184 and the application for the license will be processed in the regular course of business.

(b-2) Notwithstanding Subsection (b-1), if the department determines that the applicant is eligible for the designation under Section 411.184 but is unable to quickly make a determination regarding the issuance or denial of a license to the applicant, the department shall provide written notice of that fact to the applicant and shall include in that notice an explanation of the reason for the inability and an estimation of the additional period the department will need to make the determination.

(b-3) The director shall adopt policies for expedited processing under Subsection (b-1).

(c) Failure of the department to issue or deny a license for a period of more than 30 days after the department is required to act under Subsection (b) constitutes denial, regardless of whether the applicant was eligible for expedited processing of the application under Subsection (b-1).

(d) A license issued under this subchapter is effective from the date of issuance.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.08(a), eff. Sept. 1, 1999.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.06, eff. September 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 5, eff. June 14, 2013.
Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 20, eff. January 1, 2016.
Acts 2021, 87th Leg., R.S., Ch. 821 (H.B. 2675), Sec. 1, eff. September 1, 2021.

Sec. 411.178. NOTICE TO LOCAL LAW ENFORCEMENT. On request of a local law enforcement agency, the department shall notify the agency of the licenses that have been issued to license holders who reside in the county in which the agency is located.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 14, eff. Sept. 1, 1999.

Sec. 411.179. FORM OF LICENSE. (a) The department by rule shall adopt the form of the license. A license must include:
(1) a number assigned to the license holder by the department;
(2) a statement of the period for which the license is effective;
(3) a photograph of the license holder;
(4) the license holder's full name, date of birth, hair and eye color, height, weight, and signature;
(5) the license holder's residence address or, as provided by Subsection (d), the street address of the courthouse in which the license holder or license holder's spouse or parent serves as a federal judge or the license holder serves as a state judge;
(6) the number of a driver's license or an identification

certificate issued to the license holder by the department;

(7) the designation "VETERAN" if required under Subsection (e);

(8) any at-risk designation for which the license holder has established eligibility under Section 411.184; and

(9) if applicable, a protective order designation under Section 411.1735.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1302, Sec. 14(2), eff. June 14, 2013.

(c) In adopting the form of the license under Subsection (a), the department shall establish a procedure for the license of a qualified handgun instructor or of the attorney general or a judge, justice, United States attorney, assistant United States attorney, assistant attorney general, prosecuting attorney, or assistant prosecuting attorney, as described by Section 46.15(a)(4), (6), or (7), Penal Code, to indicate on the license the license holder's status as a qualified handgun instructor or as the attorney general or a judge, justice, United States attorney, assistant United States attorney, assistant attorney general, district attorney, criminal district attorney, or county attorney. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status under this subsection.

(d) In adopting the form of the license under Subsection (a), the department shall establish a procedure for the license of a federal judge, including a federal bankruptcy judge, a marshal of the United States Marshals Service, a United States attorney, a state judge, or a family member of a federal judge, including a federal bankruptcy judge, a marshal of the United States Marshals Service, a United States attorney, or a state judge to omit the license holder's residence address and to include, in lieu of that address, the street address of the courthouse in which the license holder or license holder's spouse or parent serves as a federal judge, including a federal bankruptcy judge, a marshal of the United States Marshals Service, a United States attorney, or a state judge. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status as a federal judge, including a federal bankruptcy judge, a marshal of the United States Marshals Service, a United States attorney, or a state judge, or a family member of a federal judge, including a federal bankruptcy

judge, a marshal of the United States Marshals Service, a United States attorney, or a state judge.

(e) In this subsection, "veteran" has the meaning assigned by Section 411.1951. The department shall include the designation "VETERAN" on the face of any original, duplicate, modified, or renewed license under this subchapter or on the reverse side of the license, as determined by the department, if the license is issued to a veteran who:

(1) requests the designation; and

(2) provides proof sufficient to the department of the veteran's military service and honorable discharge.

(f) In this section, "family member" has the meaning assigned by Section 31.006, Finance Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 594 (H.B. 41), Sec. 9, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1222 (H.B. 2300), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(25), eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.002(6), eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 316 (H.B. 598), Sec. 5, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.07, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 396 (S.B. 164), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 6, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 14(2), eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 9.003, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 1143 (H.B. 435), Sec. 2, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 918 (H.B. 4195), Sec. 1, eff.

September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 203 (H.B. 918), Sec. 3, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 383 (S.B. 1134), Sec. 7, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 821 (H.B. 2675), Sec. 2, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 10.003, eff. September 1, 2023.

Sec. 411.180. NOTIFICATION OF DENIAL, REVOCATION, OR SUSPENSION OF LICENSE; REVIEW. (a) The department shall give written notice to each applicant for a handgun license of any denial, revocation, or suspension of that license. Not later than the 30th day after the notice is received by the applicant, according to the records of the department, the applicant or license holder may request a hearing on the denial, revocation, or suspension. The applicant must make a written request for a hearing addressed to the department at its Austin address. The request for hearing must reach the department in Austin prior to the 30th day after the date of receipt of the written notice. On receipt of a request for hearing from a license holder or applicant, the department shall promptly schedule a hearing in the appropriate justice court in the county of residence of the applicant or license holder. The justice court shall conduct a hearing to review the denial, revocation, or suspension of the license. In a proceeding under this section, a justice of the peace shall act as an administrative hearing officer. A hearing under this section is not subject to Chapter 2001 (Administrative Procedure Act). A district attorney or county attorney, the attorney general, or a designated member of the department may represent the department.

(b) The department, on receipt of a request for hearing, shall file the appropriate petition in the justice court selected for the hearing and send a copy of that petition to the applicant or license holder at the address contained in departmental records. A hearing under this section must be scheduled within 30 days of receipt of the request for a hearing. The hearing shall be held expeditiously but in no event more than 60 days after the date that the applicant or license holder requested the hearing. The date of the hearing may be reset on the motion of either party, by agreement of the parties, or

by the court as necessary to accommodate the court's docket.

(c) The justice court shall determine if the denial, revocation, or suspension is supported by a preponderance of the evidence. Both the applicant or license holder and the department may present evidence. The court shall affirm the denial, revocation, or suspension if the court determines that denial, revocation, or suspension is supported by a preponderance of the evidence. If the court determines that the denial, revocation, or suspension is not supported by a preponderance of the evidence, the court shall order the department to immediately issue or return the license to the applicant or license holder.

(d) A proceeding under this section is subject to Chapter 105, Civil Practice and Remedies Code, relating to fees, expenses, and attorney's fees.

(e) A party adversely affected by the court's ruling following a hearing under this section may appeal the ruling by filing within 30 days after the ruling a petition in a county court at law in the county in which the applicant or license holder resides or, if there is no county court at law in the county, in the county court of the county. A person who appeals under this section must send by certified mail a copy of the person's petition, certified by the clerk of the court in which the petition is filed, to the appropriate division of the department at its Austin headquarters. The trial on appeal shall be a trial de novo without a jury. A district or county attorney or the attorney general may represent the department.

(f) A suspension of a license may not be probated.

(g) If an applicant or a license holder does not petition the justice court, a denial becomes final and a revocation or suspension takes effect on the 30th day after receipt of written notice.

(h) The department may use and introduce into evidence certified copies of governmental records to establish the existence of certain events that could result in the denial, revocation, or suspension of a license under this subchapter, including records regarding convictions, judicial findings regarding mental competency, judicial findings regarding chemical dependency, or other matters that may be established by governmental records that have been properly authenticated.

(i) This section does not apply to a suspension of a license under Section 85.022, Family Code, or Article 17.292, Code of Criminal Procedure.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1412, Sec. 5, eff. Sept. 1, 1999.

Sec. 411.181. NOTICE OF CHANGE OF INFORMATION; DUPLICATE LICENSE. (a) If a person who is a current license holder moves from any residence address stated on the license, if the name of the person is changed by marriage or otherwise, or if the person's status becomes inapplicable for purposes of the information required to be displayed on the license under Section 411.179, the person shall, not later than the 30th day after the date of the address, name, or status change, notify the department and provide the department with the number of the person's license and, as applicable, the person's:

(1) former and new addresses;

(2) former and new names; or

(3) former and new status.

(a-1) If a license holder whose license will expire under Section 411.183(a)(1)(B) or (b)(1)(B) is granted an extension for the license holder's lawful presence in the United States as determined by the United States agency responsible for citizenship and immigration in compliance with federal law, the license holder may apply to the department for a duplicate license with an updated expiration date by providing to the department the person's license number and evidence of the extension. The duplicate license must provide for an expiration date, calculated in accordance with Section 411.183(a) or (b), as applicable, that takes into account the extension of the period for which the license holder may be lawfully present in the United States.

(b) If the name of the license holder is changed by marriage or otherwise, or if the person's status becomes inapplicable as described by Subsection (a), the person shall apply for a duplicate license. The duplicate license must reflect the person's current name, residence address, and status.

(c) If a license holder moves from the address stated on the license, the person shall apply for a duplicate license.

(d) The department shall charge a license holder a fee of $25 for a duplicate license.

(e) The department shall make the forms available on request.

(f) On request of a local law enforcement agency, the

department shall notify the agency of changes made under Subsection (a) by license holders who reside in the county in which the agency is located.

(g) If a license is lost, stolen, or destroyed, the license holder shall apply for a duplicate license not later than the 30th day after the date of the loss, theft, or destruction of the license.

(h) If a license holder is required under this section to apply for a duplicate license and the license expires not later than the 60th day after the date of the loss, theft, or destruction of the license, the applicant may renew the license with the modified information included on the new license. The applicant must pay only the nonrefundable renewal fee.

(i) A license holder whose application fee for a duplicate license under this section is dishonored or reversed may reapply for a duplicate license at any time, provided the application fee and a dishonored payment charge of $25 is paid by cashier's check or money order made payable to the "Texas Department of Public Safety."

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 15, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1065 (H.B. 1483), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 594 (H.B. 41), Sec. 10, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1222 (H.B. 2300), Sec. 2, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 316 (H.B. 598), Sec. 6, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.08, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1369 (H.B. 4428), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1369 (H.B. 4428), Sec. 3, eff. September 1, 2019.

Sec. 411.182. NOTICE. (a) For the purpose of a notice required by this subchapter, the department may assume that the

address currently reported to the department by the applicant or license holder is the correct address.

(b) A written notice meets the requirements under this subchapter if the notice is sent by certified mail to the current address reported by the applicant or license holder to the department.

(c) If a notice is returned to the department because the notice is not deliverable, the department may give notice by publication once in a newspaper of general interest in the county of the applicant's or license holder's last reported address. On the 31st day after the date the notice is published, the department may take the action proposed in the notice.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.183. EXPIRATION. (a) A license issued under this subchapter expires on:

(1) the earlier of:

(A) the first birthday of the license holder occurring after the fourth anniversary of the date of issuance; or

(B) the expiration of the license holder's lawful presence in the United States as determined by the United States agency responsible for citizenship and immigration in compliance with federal law; or

(2) the first anniversary of the date of issuance, if there is no definite expiration date for the applicant's lawful presence in the United States.

(b) A renewed license expires on:

(1) the earlier of:

(A) the license holder's birthdate, five years after the date of the expiration of the previous license; or

(B) the expiration of the license holder's lawful presence in the United States as determined by the United States agency responsible for citizenship and immigration in compliance with federal law; or

(2) the first anniversary of the date of renewal, if there is no definite expiration date for the applicant's lawful presence in the United States.

(c) Except as otherwise provided by Section 411.181(a-1), a duplicate license expires on the date the license that was duplicated would have expired.

(d) A modified license expires on the date the license that was modified would have expired.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 915 (H.B. 225), Sec. 3, eff. September 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 1369 (H.B. 4428), Sec. 4, eff. September 1, 2019.

Sec. 411.184. AT-RISK DESIGNATION. (a) The department shall develop a procedure for persons who are at increased risk of becoming a victim of violence to:

(1) obtain a handgun license on an expedited basis, if the person is not already a license holder; and

(2) qualify for an at-risk designation on the license.

(b) A person is eligible for an at-risk designation under this section if:

(1) the person is protected under, or a member of the person's household or family is protected under:

(A) a temporary restraining order or temporary injunction issued under Subchapter F, Chapter 6, Family Code;

(B) a temporary ex parte order issued under Chapter 83, Family Code;

(C) a protective order issued under Chapter 85, Family Code;

(D) a protective order issued under Chapter 7B, Code of Criminal Procedure; or

(E) a magistrate's order for emergency protection issued under Article 17.292, Code of Criminal Procedure; or

(2) the person participates in the address confidentiality program under Subchapter B, Chapter 58, Code of Criminal Procedure.

(c) The director may adopt rules to accept alternative documentation not described by Subsection (b) that shows that the person is at increased risk of becoming a victim of violence.

(d) A person may receive an at-risk designation under this section if the person submits to the department, in the form and manner provided by the department:

(1) an application for the designation;

(2) evidence of the increased risk of becoming a victim of violence, as provided by Subsection (b) or rules adopted under Subsection (c); and

(3) any other information that the department may require.

(e) A license holder may apply for the designation under this section by making an application for a duplicate license. A person who is not a license holder may apply for the designation with the person's application for an original license to carry a handgun.

(f) A person with a designation granted under this section shall annually certify that the person continues to qualify for the designation and shall submit to the department any information the department requires to verify the person's continuing eligibility. A person who no longer qualifies for the designation under this section shall immediately notify the department.

(g) If based on the information received under Subsection (f) the department determines that the person is no longer eligible for a designation under this section, the department shall notify the person and issue to the person a duplicate license without a designation.

(h) On receipt of a duplicate license without a designation under Subsection (g), the license holder shall return the license with the designation to the department.

(i) The department may not charge a fee for issuing a duplicate license with a designation under this section or for issuing a duplicate license without a designation if the person no longer qualifies for the designation. If a person applies for a designation at the same time the person applies for an original license under this subchapter, the department may charge only the licensing fee.

Added by Acts 2021, 87th Leg., R.S., Ch. 821 (H.B. 2675), Sec. 3, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 668, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.185. LICENSE RENEWAL PROCEDURE. (a) To renew a license, a license holder must, on or before the date the license expires, submit to the department by mail or, in accordance with the procedure adopted under Subsection (f), on the Internet:

(1) a renewal application on a form provided by the department;

(2) payment of a nonrefundable renewal fee of $40; and

(3) the informational form described by Subsection (c) signed or electronically acknowledged by the applicant.

(b) The director by rule shall adopt a renewal application form requiring an update of the information on the original completed application.

(c) The director by rule shall adopt an informational form that describes state law regarding the use of deadly force and the places where it is unlawful for the holder of a license issued under this subchapter to carry a handgun. An applicant for a renewed license must sign and return the informational form to the department by mail or acknowledge the form electronically on the Internet according to the procedure adopted under Subsection (f).

(d) Not later than the 60th day before the expiration date of the license, the department shall mail to each license holder a written notice of the expiration of the license, a renewal application form, and the informational form described by Subsection (c).

(e) The department shall renew the license of a license holder who meets all the eligibility requirements to continue to hold a license and submits all the renewal materials described by Subsection (a). Not later than the 45th day after receipt of the renewal materials, the department shall issue the renewed license or notify the license holder in writing that the department denied the license holder's renewal application.

(f) The director by rule shall adopt a procedure by which a license holder who satisfies the eligibility requirements to continue to hold a license may submit the renewal materials described by Subsection (a) by mail or on the Internet.

(g) The department may not request or require a license holder to provide the license holder's social security number to renew a license under this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1,

1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 694 (H.B. 1839), Sec. 1, eff. September 1, 2007.
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.10, eff. September 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 156 (S.B. 864), Sec. 1, eff. September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 665 (H.B. 1349), Sec. 3, eff. January 1, 2014.
Acts 2013, 83rd Leg., R.S., Ch. 1387 (H.B. 48), Sec. 1, eff. September 1, 2013.
Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 21, eff. January 1, 2016.
Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 9.004, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(22), eff. September 1, 2015.
Acts 2017, 85th Leg., R.S., Ch. 179 (S.B. 16), Sec. 2, eff. September 1, 2017.

Sec. 411.186. REVOCATION. (a) The department shall revoke a license under this section if the license holder:

(1) was not entitled to the license at the time it was issued;

(2) made a material misrepresentation or failed to disclose a material fact in an application submitted under this subchapter;

(3) subsequently becomes ineligible for a license under Section 411.172, unless the sole basis for the ineligibility is that the license holder is charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment;

(4) is determined by the department to have engaged in conduct constituting a reason to suspend a license listed in Section 411.187(a) after the person's license has been previously suspended twice for the same reason; or

(5) submits an application fee that is dishonored or reversed if the applicant fails to submit a cashier's check or money

order made payable to the "Department of Public Safety of the State of Texas" in the amount of the dishonored or reversed fee, plus $25, within 30 days of being notified by the department that the fee was dishonored or reversed.

(b) If a peace officer believes a reason listed in Subsection (a) to revoke a license exists, the officer shall prepare an affidavit on a form provided by the department stating the reason for the revocation of the license and giving the department all of the information available to the officer at the time of the preparation of the form. The officer shall attach the officer's reports relating to the license holder to the form and send the form and attachments to the appropriate division of the department at its Austin headquarters not later than the fifth working day after the date the form is prepared. The officer shall send a copy of the form and the attachments to the license holder. If the license holder has not surrendered the license or the license was not seized as evidence, the license holder shall surrender the license to the appropriate division of the department not later than the 10th day after the date the license holder receives the notice of revocation from the department, unless the license holder requests a hearing from the department. The license holder may request that the justice court in the justice court precinct in which the license holder resides review the revocation as provided by Section 411.180. If a request is made for the justice court to review the revocation and hold a hearing, the license holder shall surrender the license on the date an order of revocation is entered by the justice court.

(c) A license holder whose license is revoked for a reason listed in Subsections (a)(1)-(4) may reapply as a new applicant for the issuance of a license under this subchapter after the second anniversary of the date of the revocation if the cause for revocation does not exist on the date of the second anniversary. If the cause for revocation exists on the date of the second anniversary after the date of revocation, the license holder may not apply for a new license until the cause for revocation no longer exists and has not existed for a period of two years.

(d) A license holder whose license is revoked under Subsection (a)(5) may reapply for an original or renewed license at any time, provided the application fee and a dishonored payment charge of $25 is paid by cashier's check or money order made payable to the "Texas Department of Public Safety."

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.09(a), eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1065 (H.B. 1483), Sec. 2, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.11, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 8, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.187. SUSPENSION OF LICENSE. (a) The department shall suspend a license under this section if the license holder:

(1) is charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment;

(2) fails to notify the department of a change of address, name, or status as required by Section 411.181;

(3) commits an act of family violence and is the subject of an active protective order rendered under Title 4, Family Code; or

(4) is arrested for an offense involving family violence or an offense under Section 42.072, Penal Code, and is the subject of an order for emergency protection issued under Article 17.292, Code of Criminal Procedure.

(b) If a peace officer believes a reason listed in Subsection (a) to suspend a license exists, the officer shall prepare an affidavit on a form provided by the department stating the reason for the suspension of the license and giving the department all of the information available to the officer at the time of the preparation of the form. The officer shall attach the officer's reports relating to the license holder to the form and send the form and the attachments to the appropriate division of the department at its Austin headquarters not later than the fifth working day after the date the form is prepared. The officer shall send a copy of the form and the attachments to the license holder. If the license holder has

not surrendered the license or the license was not seized as evidence, the license holder shall surrender the license to the appropriate division of the department not later than the 10th day after the date the license holder receives the notice of suspension from the department unless the license holder requests a hearing from the department. The license holder may request that the justice court in the justice court precinct in which the license holder resides review the suspension as provided by Section 411.180. If a request is made for the justice court to review the suspension and hold a hearing, the license holder shall surrender the license on the date an order of suspension is entered by the justice court.

(c) The department shall suspend a license under this section:

(1) for 30 days, if the person's license is subject to suspension for a reason listed in Subsection (a)(2), (3), or (4), except as provided by Subdivision (2);

(2) for not less than one year and not more than three years, if the person's license:

(A) is subject to suspension for a reason listed in Subsection (a), other than the reason listed in Subsection (a)(1); and

(B) has been previously suspended for the same reason;

(3) until dismissal of the charges, if the person's license is subject to suspension for the reason listed in Subsection (a)(1); or

(4) for the duration of or the period specified by:

(A) the protective order issued under Title 4, Family Code, if the person's license is subject to suspension for the reason listed in Subsection (a)(5); or

(B) the order for emergency protection issued under Article 17.292, Code of Criminal Procedure, if the person's license is subject to suspension for the reason listed in Subsection (a)(6).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.10(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1412, Sec. 6, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 316 (H.B. 598), Sec. 7, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.12,

eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 12A.01, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 7, eff. June 14, 2013.

Sec. 411.1871. NOTICE OF SUSPENSION OR REVOCATION OF CERTAIN LICENSES. The department shall notify the Texas Commission on Law Enforcement Officer Standards and Education if the department takes any action against the license of a person identified by the commission as a person certified under Section 1701.260, Occupations Code, including suspension or revocation.

Added by Acts 2013, 83rd Leg., R.S., Ch. 655 (H.B. 1009), Sec. 4, eff. June 14, 2013.

Sec. 411.188. HANDGUN PROFICIENCY REQUIREMENT. (a) The director by rule shall establish minimum standards for handgun proficiency and shall develop a course to teach handgun proficiency and examinations to measure handgun proficiency. The course to teach handgun proficiency is required for each person who seeks to obtain a license and must contain training sessions divided into two parts. One part of the course must be classroom instruction and the other part must be range instruction and an actual demonstration by the applicant of the applicant's ability to safely and proficiently use a handgun. An applicant must be able to demonstrate, at a minimum, the degree of proficiency that is required to effectively operate a handgun. The department shall distribute the standards, course requirements, and examinations on request to any qualified handgun instructor or approved online course provider seeking to administer the course or a part of the course as described by Subsection (b).

(b) Only qualified handgun instructors may administer the range instruction part of the handgun proficiency course. A qualified handgun instructor or approved online course provider may administer the classroom instruction part of the handgun proficiency course. The classroom instruction part of the course must include not less than four hours and not more than six hours of instruction on:

(1) the laws that relate to weapons and to the use of

deadly force;

(2) handgun use and safety, including use of restraint holsters and methods to ensure the secure carrying of openly carried handguns;

(3) nonviolent dispute resolution; and

(4) proper storage practices for handguns with an emphasis on storage practices that eliminate the possibility of accidental injury to a child.

(c) An approved online course provider shall administer the classroom instruction part of the handgun proficiency course in an online format. A course administered online must include not less than four hours and not more than six hours of instruction.

(d) Except as provided by Subsection (e), only a qualified handgun instructor may administer the proficiency examination to obtain a license. The proficiency examination must include:

(1) a written section on the subjects listed in Subsection (b); and

(2) a physical demonstration of proficiency in the use of one or more handguns and in handgun safety procedures.

(d-1) A qualified handgun instructor shall require an applicant who successfully completed an online version of the classroom instruction part of the handgun proficiency course to complete not less than one hour but not more than two hours of the range instruction part of the handgun proficiency course before allowing a physical demonstration of handgun proficiency as described by Subsection (d)(2).

(e) An approved online course provider may administer online through a secure portal the written portion of the proficiency examination described by Subsection (d)(1).

(f) The department shall develop and distribute directions and materials for course instruction, test administration, and recordkeeping. All test results shall be sent to the department, and the department shall maintain a record of the results.

(g) A person who wishes to obtain a license to carry a handgun must apply in person to a qualified handgun instructor to take the range instruction part of the handgun proficiency course and to demonstrate handgun proficiency as required by the department. A person must apply in person to a qualified handgun instructor or online to an approved online course provider, as applicable, to take the classroom instruction part of the handgun proficiency course.

(h) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1302, Sec. 14(4), eff. June 14, 2013.

(i) A certified firearms instructor of the department may monitor any class or training presented by a qualified handgun instructor. A qualified handgun instructor shall cooperate with the department in the department's efforts to monitor the presentation of training by the qualified handgun instructor.

(j) A qualified handgun instructor or approved online course provider shall make available for inspection to the department any and all records maintained by the instructor or course provider under this subchapter. The qualified handgun instructor or approved online course provider shall keep a record of all information required by department rule.

(k) A qualified handgun instructor may submit to the department a written recommendation for disapproval of the application for a license or modification of a license, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of facts that lead the instructor to believe that an applicant does not possess the required handgun proficiency. The department may use a written recommendation submitted under this subsection as the basis for denial of a license only if the department determines that the recommendation is made in good faith and is supported by a preponderance of the evidence. The department shall make a determination under this subsection not later than the 45th day after the date the department receives the written recommendation. The 60-day period in which the department must take action under Section 411.177(b) is extended one day for each day a determination is pending under this subsection.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a) eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.11(a), eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.10, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.13, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 156 (S.B. 864), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 156 (S.B. 864), Sec. 3, eff.

September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 8, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 14(4), eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1387 (H.B. 48), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1387 (H.B. 48), Sec. 5, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 22, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 9.005, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 9.006, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 527 (S.B. 263), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1099 (H.B. 3784), Sec. 2, eff. September 1, 2017.

Sec. 411.1881. EXEMPTION FROM INSTRUCTION FOR CERTAIN PERSONS. (a) Notwithstanding any other provision of this subchapter, a person may not be required to complete the range instruction portion of a handgun proficiency course to obtain a license issued under this subchapter if the person:

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

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

(B) the Texas military forces, as defined by Section 437.001; and

(2) has, within the 10 years preceding the date of the person's application for the license, completed as part of the person's service with the armed forces or Texas military forces:

(A) a course of training in firearm proficiency or familiarization; or

(B) a range qualification process for firearm usage.

(b) The director by rule shall adopt a procedure by which a

license holder who is exempt under Subsection (a) from the range instruction portion of the handgun proficiency requirement may submit a form demonstrating the license holder's qualification for an exemption under that subsection. The form must provide sufficient information to allow the department to verify whether the license holder qualifies for the exemption.

Added by Acts 2005, 79th Leg., Ch. 132 (H.B. 685), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 3.04, eff. September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 1387 (H.B. 48), Sec. 3, eff. September 1, 2013.
Acts 2017, 85th Leg., R.S., Ch. 1099 (H.B. 3784), Sec. 3, eff. September 1, 2017.

Sec. 411.1882. EVIDENCE OF HANDGUN PROFICIENCY FOR CERTAIN PERSONS. (a) A person who is serving in this state as the attorney general or as a judge or justice of a federal court, as an active judicial officer as defined by Section 411.201, as a United States attorney, assistant United States attorney, assistant attorney general, district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney, as a district or county clerk, as a supervision officer as defined by Article 42A.001, Code of Criminal Procedure, or as a juvenile probation officer may establish handgun proficiency for the purposes of this subchapter by obtaining from a handgun proficiency instructor approved by the Texas Commission on Law Enforcement for purposes of Section 1702.1675, Occupations Code, a sworn statement that indicates that the person, during the 12-month period preceding the date of the person's application to the department, demonstrated to the instructor proficiency in the use of handguns.

(b) The director by rule shall adopt a procedure by which a person described under Subsection (a) may submit a form demonstrating the person's qualification for an exemption under that subsection. The form must provide sufficient information to allow the department to verify whether the person qualifies for the exemption.

(c) A license issued under this section automatically expires on the six-month anniversary of the date the person's status under Subsection (a) becomes inapplicable. A license that expires under this subsection may be renewed under Section 411.185.

Added by Acts 2007, 80th Leg., R.S., Ch. 1222 (H.B. 2300), Sec. 3, eff. June 15, 2007.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.14, eff. September 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.24, eff. May 18, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 9, eff. June 14, 2013.
Acts 2015, 84th Leg., R.S., Ch. 1029 (H.B. 1376), Sec. 1, eff. September 1, 2015.
Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 23.008, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 1143 (H.B. 435), Sec. 3, eff. September 1, 2017.
Acts 2023, 88th Leg., R.S., Ch. 1077 (S.B. 599), Sec. 1, eff. September 1, 2023.

Sec. 411.1883. TRAINING COURSE FOR CERTAIN FIRST RESPONDERS. (a) In this section, "first responder" has the meaning assigned by Section 46.01, Penal Code.

(b) The director by rule shall establish minimum standards for an initial training course that a first responder who is a license holder and who is employed or supervised by a county or municipality to which Chapter 179, Local Government Code, applies may complete to receive a certification of completion from the department under this section. The training course must:

(1) be administered by a qualified handgun instructor;

(2) include not more than 40 hours of instruction;

(3) provide classroom training in:

(A) self-defense;

(B) de-escalation techniques;

(C) tactical thinking relating to cover for and concealment of the license holder;

(D) methods to conceal a handgun and methods to ensure the secure carrying of a concealed handgun;

(E) the use of restraint holsters and methods to ensure the secure carrying of an openly carried handgun; and

(F) consequences of improper use of a handgun;

(4) provide field instruction in the use of handguns, including:

(A) instinctive or reactive shooting;

(B) tactical shooting;

(C) shooting while moving; and

(D) shooting in low light conditions;

(5) require physical demonstrations of proficiency in techniques learned in training; and

(6) provide procedures for securing and storing a handgun if the first responder, while on duty, is required to enter a location where carrying the handgun is prohibited by federal law or otherwise.

(c) The department by rule shall establish minimum standards for an annual continuing education course that is administered by a qualified handgun instructor and includes not more than 10 hours of instruction for a person who has completed the initial training course described by Subsection (b).

(d) The department shall issue a certificate of completion to a first responder who is a license holder and who completes the initial training course under Subsection (b) or the continuing education course under Subsection (c), as applicable. A certificate of completion expires on the first anniversary of issuance.

(e) A first responder is responsible for paying to the course provider the costs of a training course under this section.

(f) The director by rule shall approve devices to enable a first responder to secure and store a handgun if the first responder, while on duty, is required to enter a location where carrying the handgun is prohibited by federal law or otherwise.

Added by Acts 2021, 87th Leg., R.S., Ch. 1026 (H.B. 1069), Sec. 3, eff. September 1, 2021.
Redesignated from Government Code, Section 411.184 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(16), eff. September 1, 2023.

Sec. 411.190. QUALIFIED HANDGUN INSTRUCTORS AND APPROVED ONLINE COURSE PROVIDERS. (a) The director may certify as a qualified handgun instructor a person who:

(1) is certified by the Texas Commission on Law Enforcement or under Chapter 1702, Occupations Code, to instruct others in the use of handguns;

(2) regularly instructs others in the use of handguns and has graduated from a handgun instructor school that uses a nationally accepted course designed to train persons as handgun instructors; or

(3) is certified by the National Rifle Association of America as a handgun instructor.

(a-1) The director may certify as an approved online course provider a person who has:

(1) at least three years of experience in providing online instruction;

(2) experience working with governmental entities; and

(3) direct knowledge of handgun training.

(b) In addition to the qualifications described by Subsection (a) or (a-1), as appropriate, a qualified handgun instructor or approved online course provider must be qualified to instruct persons in:

(1) the laws that relate to weapons and to the use of deadly force;

(2) handgun use, proficiency, and safety, including use of restraint holsters and methods to ensure the secure carrying of openly carried handguns;

(3) nonviolent dispute resolution; and

(4) proper storage practices for handguns, including storage practices that eliminate the possibility of accidental injury to a child.

(c) In the manner applicable to a person who applies for a license to carry a handgun, the department shall conduct a background check of a person who applies for certification as a qualified handgun instructor or approved online course provider. If the background check indicates that the applicant for certification would not qualify to receive a handgun license, the department may not certify the applicant as a qualified handgun instructor or approved online course provider. If the background check indicates that the applicant for certification would qualify to receive a handgun license, the department shall provide handgun instructor or online

course provider training to the applicant. The applicant shall pay a fee of $100 to the department for the training. The applicant must take and successfully complete the training offered by the department and pay the training fee before the department may certify the applicant as a qualified handgun instructor or approved online course provider. The department shall issue a license to carry a handgun under the authority of this subchapter to any person who is certified as a qualified handgun instructor or approved online course provider and who pays to the department a fee of $40 in addition to the training fee. The department by rule may prorate or waive the training fee for an employee of another governmental entity.

(d) The certification of a qualified handgun instructor or approved online course provider expires on the second anniversary after the date of certification. To renew a certification, the qualified handgun instructor or approved online course provider must pay a fee of $100 and take and successfully complete the retraining courses required by department rule.

(d-1) The department shall ensure that an applicant may renew certification under Subsection (d) from any county in this state by using an online format to complete the required retraining courses if:

(1) the applicant is renewing certification for the first time; or

(2) the applicant completed the required retraining courses in person the previous time the applicant renewed certification.

(e) After certification, a qualified handgun instructor or approved online course provider may conduct training for applicants for a license under this subchapter.

(f) If the department determines that a reason exists to revoke, suspend, or deny a license to carry a handgun with respect to a person who is a qualified handgun instructor or approved online course provider or an applicant for certification as a qualified handgun instructor or approved online course provider, the department shall take that action against the person's:

(1) license to carry a handgun if the person is an applicant for or the holder of a license issued under this subchapter; and

(2) certification as a qualified handgun instructor or approved online course provider.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.13(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 199, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.758, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.11, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.15, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.007, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.25, eff. May 18, 2013.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 23, eff. January 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 179 (S.B. 16), Sec. 3, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1099 (H.B. 3784), Sec. 4, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1099 (H.B. 3784), Sec. 5, eff. September 1, 2017.

Sec. 411.1901. SCHOOL SAFETY CERTIFICATION FOR QUALIFIED HANDGUN INSTRUCTORS. (a) The department shall establish a process to enable qualified handgun instructors certified under Section 411.190 to obtain an additional certification in school safety. The process must include a school safety certification course that provides training in the following:

(1) the protection of students;

(2) interaction of license holders with first responders;

(3) tactics for denying an intruder entry into a classroom or school facility; and

(4) methods for increasing a license holder's accuracy with a handgun while under duress.

(b) The school safety certification course under Subsection (a) must include not less than 15 hours and not more than 20 hours of instruction.

(c) A qualified handgun instructor certified in school safety

under this section may provide school safety training, including instruction in the subjects listed under Subsection (a), to employees of a school district or an open-enrollment charter school who hold a license to carry a handgun issued under this subchapter.

(d) The department shall establish a fee in an amount that is sufficient to cover the costs of the school safety certification under this section.

(e) The department may adopt rules to administer this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 498 (S.B. 1857), Sec. 1, eff. September 1, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 24, eff. January 1, 2016.

Sec. 411.191. REVIEW OF DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATION AS QUALIFIED HANDGUN INSTRUCTOR OR APPROVED ONLINE COURSE PROVIDER. The procedures for the review of a denial, revocation, or suspension of a license under Section 411.180 apply to the review of a denial, revocation, or suspension of certification as a qualified handgun instructor or approved online course provider. The notice provisions of this subchapter relating to denial, revocation, or suspension of handgun licenses apply to the proposed denial, revocation, or suspension of a certification of a qualified handgun instructor or approved online course provider or an applicant for certification as a qualified handgun instructor or approved online course provider.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1099 (H.B. 3784), Sec. 6, eff. September 1, 2017.

Sec. 411.192. CONFIDENTIALITY OF RECORDS. (a) The department shall disclose to a criminal justice agency information contained in its files and records regarding whether a named individual or any individual named in a specified list is licensed under this subchapter. Information on an individual subject to disclosure under

this section includes the individual's name, date of birth, gender, race, zip code, telephone number, e-mail address, and Internet website address. Except as otherwise provided by this section and by Section 411.193, all other records maintained under this subchapter are confidential and are not subject to mandatory disclosure under the open records law, Chapter 552.

(b) An applicant or license holder may be furnished a copy of disclosable records regarding the applicant or license holder on request and the payment of a reasonable fee.

(c) The department shall notify a license holder of any request that is made for information relating to the license holder under this section and provide the name of the agency making the request.

(d) The department shall make public and distribute to the public at no cost lists of individuals who are certified as qualified handgun instructors by the department and who request to be included as provided by Subsection (e) and lists of approved online course providers. The department shall include on the lists each individual's name, telephone number, e-mail address, and Internet website address. The department shall make the lists available on the department's Internet website.

(e) An individual who is certified as a qualified handgun instructor may request in writing that the department disclose all or part of the information described by Subsection (d) regarding the individual. The department shall include all or part of the individual's information on the list as requested.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 172 (H.B. 991), Sec. 1, eff. May 23, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 6.03, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 1099 (H.B. 3784), Sec. 7, eff. September 1, 2017.

Sec. 411.193. STATISTICAL REPORT. The department shall make available, on request and payment of a reasonable fee to cover costs of copying, a statistical report that includes the number of licenses

issued, denied, revoked, or suspended by the department during the preceding month, listed by age, gender, race, and zip code of the applicant or license holder.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.194. REDUCTION OF CERTAIN FEES DUE TO INDIGENCY. (a) Notwithstanding any other provision of this subchapter, if the department determines that an applicant is indigent, the department shall reduce by:

(1) 50 percent any fee required for the issuance of a duplicate or modified license under this subchapter; and

(2) $5 any fee required for the issuance of a renewed license under this subchapter.

(b) The department shall require an applicant requesting a reduction of a fee to submit proof of indigency with the application materials.

(c) For purposes of this section, an applicant is indigent if the applicant's income is not more than 100 percent of the applicable income level established by the federal poverty guidelines.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 179 (S.B. 16), Sec. 4, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 179 (S.B. 16), Sec. 5, eff. September 1, 2017.

Sec. 411.195. REDUCTION OF CERTAIN FEES FOR SENIOR CITIZENS. Notwithstanding any other provision of this subchapter, if an applicant for the license is 60 years of age or older, the department shall reduce by:

(1) 50 percent any fee required for the issuance of a duplicate or modified license under this subchapter; and

(2) $5 any fee required for the issuance of a renewed license under this subchapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.
Amended by:
Acts 2005, 79th Leg., Ch. 289 (H.B. 1038), Sec. 1, eff. September 1, 2005.
Acts 2017, 85th Leg., R.S., Ch. 179 (S.B. 16), Sec. 6, eff. September 1, 2017.

Sec. 411.1951. WAIVER OR REDUCTION OF FEES FOR MEMBERS OR VETERANS OF UNITED STATES ARMED FORCES. (a) In this section, "veteran" means a person who:

(1) has served in:

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

(B) the Texas military forces as defined by Section 437.001; or

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

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

(b) Notwithstanding any other provision of this subchapter, the department shall waive any fee required for the issuance of an original, duplicate, modified, or renewed license under this subchapter if the applicant for the license is:

(1) a member of the United States armed forces, including a member of the reserves, national guard, or state guard; or

(2) a veteran who, within 365 days preceding the date of the application, was honorably discharged from the branch of service in which the person served.

(c) Notwithstanding any other provision of this subchapter, if the applicant is a veteran who, more than 365 days preceding the date of the application, was honorably discharged from the branch of the service in which the applicant served:

(1) the applicant must pay a fee of $25 for the issuance of an original or renewed license under this subchapter; and

(2) the department shall reduce by 50 percent any fee required of the applicant for a duplicate or modified license under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 486 (H.B. 322), Sec. 4, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 200 (H.B. 233), Sec. 1, eff. September 1, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 251 (H.B. 485), Sec. 1, eff. September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 3.05, eff. September 1, 2013.

Sec. 411.1953. REDUCTION OF FEES FOR COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT OFFICERS AND JUVENILE PROBATION OFFICERS. Notwithstanding any other provision of this subchapter, an applicant who is serving in this state as a supervision officer, as defined by Article 42A.001, Code of Criminal Procedure, or as a juvenile probation officer shall pay a fee of $25 for the issuance of an original or renewed license under this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1029 (H.B. 1376), Sec. 2, eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 23.009, eff. September 1, 2017.

Sec. 411.1954. WAIVER OF CERTAIN FEES FOR CERTAIN APPLICANTS WHO HOLD CARDIOPULMONARY RESUSCITATION CERTIFICATION. (a) Notwithstanding any other provision of this subchapter, the department shall waive any fee required for the issuance of an original or renewed license under this subchapter if at the time of the application the applicant for the license submits to the department satisfactory evidence that the applicant:

(1) holds a current certification in cardiopulmonary resuscitation issued by the American Heart Association, the American Red Cross, or another nationally recognized association; and

(2) is not required to hold the certification described by Subdivision (1) as a condition of obtaining or maintaining employment or an occupational license.

(b) For purposes of Subsection (a)(2), "occupational license"

means a license, certificate, registration, permit, or other form of authorization that a person must obtain to practice or engage in a particular business, occupation, or profession.

Added by Acts 2019, 86th Leg., R.S., Ch. 1280 (H.B. 1078), Sec. 1, eff. September 1, 2019.

Sec. 411.196. METHOD OF PAYMENT. A person may pay a fee required by this subchapter by cash, credit card, personal check, cashier's check, or money order. A person who pays a fee required by this subchapter by cash must pay the fee in person. Checks or money orders must be made payable to the "Texas Department of Public Safety." A person whose payment for a fee required by this subchapter is dishonored or reversed must pay any future fees required by this subchapter by cashier's check or money order made payable to the "Texas Department of Public Safety." A fee received by the department under this subchapter is nonrefundable.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.
Amended by:
Acts 2005, 79th Leg., Ch. 1065 (H.B. 1483), Sec. 1, eff. September 1, 2005.

Sec. 411.197. RULES. The director shall adopt rules to administer this subchapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.198. LAW ENFORCEMENT OFFICER ALIAS HANDGUN LICENSE. (a) On written approval of the director, the department may issue to a law enforcement officer an alias license to carry a handgun to be used in supervised activities involving criminal investigations.
(b) Repealed by Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 26(5), eff. September 1, 2021.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1,

1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 25, eff. January 1, 2016.
Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 26(5), eff. September 1, 2021.

Sec. 411.199. HONORABLY RETIRED PEACE OFFICERS. (a) The following peace officers may apply for a license issued under this subchapter at any time after retirement:

(1) a person who is licensed as a peace officer under Chapter 1701, Occupations Code, and who has been employed full-time as a peace officer by a law enforcement agency;

(2) a railroad peace officer appointed by the director under Article 2A.005, Code of Criminal Procedure, who holds a certificate of authority issued by the director under that article and a peace officer license issued by the Texas Commission on Law Enforcement; or

(3) a special ranger of the Texas and Southwestern Cattle Raisers Association appointed by the director under Article 2A.006, Code of Criminal Procedure, who holds a certificate of authority issued by the director under that article and a peace officer license issued by the Texas Commission on Law Enforcement.

(b) The person shall submit two complete sets of legible and classifiable fingerprints and a sworn statement from the head of the law enforcement agency that employed the applicant or other former employer of the applicant, as applicable. A head of a law enforcement agency or other former employer may not refuse to issue a statement under this subsection. If the applicant alleges that the statement is untrue, the department shall investigate the validity of the statement. The statement must include:

(1) the name and rank of the applicant;

(2) the status of the applicant before retirement;

(3) whether the applicant was accused of misconduct at the time of the retirement;

(4) the physical and mental condition of the applicant;

(5) the type of weapons the applicant had demonstrated proficiency with during the last year of employment;

(6) whether the applicant would be eligible for

reemployment with the agency or employer, and if not, the reasons the applicant is not eligible;

(7) a recommendation from the agency head or the employer regarding the issuance of a license under this subchapter; and

(8) whether the applicant holds a current certificate of proficiency under Section 1701.357, Occupations Code.

(c) The department may issue a license issued under this subchapter to an applicant under this section if the applicant is honorably retired and physically and emotionally fit to possess a handgun. In this subsection, "honorably retired" means the applicant:

(1) did not retire in lieu of any disciplinary action;

(2) was eligible to retire from the law enforcement agency or other former employer or was ineligible to retire only as a result of an injury received in the course of the applicant's employment; and

(3) for a peace officer described by Subsection (a)(1), is entitled to receive a pension or annuity for service as a law enforcement officer or is not entitled to receive a pension or annuity only because the law enforcement agency that employed the applicant does not offer a pension or annuity to its employees.

(d) The department shall waive any fee required for a license issued under this subchapter to an applicant under this section.

(e) An applicant under this section who complies with Subsections (b) and (c) or Subsection (g), as applicable, and with the other requirements of this subchapter is not required to complete the classroom instruction portion of the handgun proficiency course described by Section 411.188 to obtain a license under this subchapter.

(e-1) An applicant described by Subsection (e) who holds a current certificate of proficiency under Section 1701.357, Occupations Code, is not required to complete the range instruction portion of the handgun proficiency course described by Section 411.188 to obtain a license under this subchapter.

(f) A license issued under this subchapter to an applicant under this section expires as provided by Section 411.183.

(g) A retired officer of the United States who was eligible to carry a firearm in the discharge of the officer's official duties is eligible to apply under this section for a license issued under this subchapter. An applicant described by this subsection may submit the

application at any time after retirement. The applicant shall submit with the application proper proof of retired status by presenting the following documents prepared by the agency from which the applicant retired:

(1) retirement credentials; and

(2) a letter from the agency head stating the applicant retired in good standing.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 25, Sec. 1, eff. May 3, 1999; Acts 1999, 76th Leg., ch. 62, Sec. 9.14, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 196, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.16, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 10, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1387 (H.B. 48), Sec. 5, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 9.007, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 141 (H.B. 2137), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 908 (H.B. 3706), Sec. 1, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.090, eff. January 1, 2025.

Sec. 411.1991. PEACE OFFICERS. (a) A person may apply for a license issued under this subchapter if the person is:

(1) licensed as a peace officer under Chapter 1701, Occupations Code, and employed as a peace officer by a law enforcement agency;

(2) a railroad peace officer appointed by the director under Article 2A.005, Code of Criminal Procedure, who holds a certificate of authority issued by the director under that article and a peace officer license issued by the Texas Commission on Law Enforcement;

(3) a special ranger of the Texas and Southwestern Cattle

Raisers Association appointed by the director under Article 2A.006, Code of Criminal Procedure, who holds a certificate of authority issued by the director under that article and a peace officer license issued by the Texas Commission on Law Enforcement; or

(4) a member of the Texas military forces, excluding Texas State Guard members who are serving in the Texas Legislature.

(a-1) An applicant who is a peace officer described by Subsection (a)(1), (2), or (3) shall submit to the department:

(1) the name and rank of the applicant; and

(2) a current copy of the applicant's license issued by the Texas Commission on Law Enforcement and evidence of employment as a peace officer, railroad peace officer, or special ranger, as applicable.

(a-2) The department shall adopt rules regarding the information required to be included in an application submitted by a member of the Texas military forces under this section.

(b) The department may issue a license under this subchapter to an applicant under this section if the applicant complies with Subsection (a-1) or rules adopted under Subsection (a-2), as applicable.

(b-1) An applicant under this section who is a peace officer described by Subsection (a)(1), (2), or (3) and who complies with Subsection (a-1) and the other requirements of this subchapter is not required to complete the handgun proficiency course described by Section 411.188 to obtain a license issued under this subchapter.

(c) The department shall waive any fee required for a license issued under this subchapter to an applicant under this section.

(d) A license issued under this section expires as provided by Section 411.183.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 9.15(a), eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.17, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 251 (H.B. 485), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 251 (H.B. 485), Sec. 4, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 174 (H.B. 2604), Sec. 1, eff.

September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 179 (S.B. 16), Sec. 7, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1099 (H.B. 3784), Sec. 8, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 908 (H.B. 3706), Sec. 2, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.091, eff. January 1, 2025.

Sec. 411.1992. FORMER RESERVE LAW ENFORCEMENT OFFICERS. (a) A person who served as a reserve law enforcement officer, as defined by Section 1701.001, Occupations Code, not less than a total of 10 years of cumulative service with one or more state or local law enforcement agencies may apply for a license under this subchapter at any time.

(b) The applicant shall submit to the department two complete sets of legible and classifiable fingerprints and a sworn statement from the head of the law enforcement agency at which the applicant last served as a reserve law enforcement officer. A head of a law enforcement agency may not refuse to issue a statement under this subsection. If the applicant alleges that the statement is untrue, the department shall investigate the validity of the statement. The statement must include:

(1) the name and rank of the applicant;

(2) the status of the applicant;

(3) whether the applicant was accused of misconduct at any time during the applicant's term of service and the disposition of that accusation;

(4) a description of the physical and mental condition of the applicant;

(5) a list of the types of weapons the applicant demonstrated proficiency with during the applicant's term of service; and

(6) a recommendation from the agency head regarding the issuance of a license under this subchapter.

(c) The department may issue a license under this subchapter to an applicant under this section if the applicant was a reserve law enforcement officer for not less than a total of 10 years of cumulative service with one or more state or local law enforcement

agencies and is physically and emotionally fit to possess a handgun.

(d) An applicant under this section must pay a fee of $25 for a license issued under this subchapter.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1234 (H.B. 1552), Sec. 7(1), eff. September 1, 2019.

(f) A license issued under this section expires as provided by Section 411.183.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1080 (H.B. 3370), Sec. 1, eff. September 1, 2013.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1234 (H.B. 1552), Sec. 5, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1234 (H.B. 1552), Sec. 7(1), eff. September 1, 2019.

Sec. 411.1993. COUNTY JAILERS. (a) In this section, "county jailer" has the meaning assigned by Section 1701.001, Occupations Code.

(b) A county jailer who holds a county jailer license issued under Chapter 1701, Occupations Code, may apply for a license under this subchapter.

(c) An applicant under this section who is a county jailer shall submit to the department:

(1) the name and job title of the applicant;

(2) a current copy of the applicant's county jailer license and evidence of employment as a county jailer; and

(3) evidence that the applicant has satisfactorily completed the preparatory training program required under Section 1701.310, Occupations Code, including the demonstration of weapons proficiency required as part of the training program under Section 1701.307 of that code.

(d) The department may issue a license under this subchapter to an applicant under this section if the applicant complies with Subsection (c) and meets all other requirements of this subchapter, except that the applicant is not required to complete the range instruction part of the handgun proficiency course described by Section 411.188 if the department is satisfied, on the basis of the evidence provided under Subsection (c)(3), that the applicant is

proficient in the use of handguns.

(e) The department shall waive any fee required for a license issued under this subchapter to an applicant under this section.

(f) A license issued to an applicant under this section expires as provided by Section 411.183.

Added by Acts 2017, 85th Leg., R.S., Ch. 1099 (H.B. 3784), Sec. 9, eff. September 1, 2017.

Sec. 411.1994. STATE CORRECTIONAL OFFICERS. (a) A correctional officer of the Texas Department of Criminal Justice may apply for a license under this subchapter.

(b) An applicant under this section shall submit to the department:

(1) the name and job title of the applicant;

(2) evidence of employment as a correctional officer of the Texas Department of Criminal Justice; and

(3) evidence that the applicant has satisfactorily completed the correctional officer training program offered by the Texas Department of Criminal Justice, including a demonstration of weapons proficiency.

(c) The department may issue a license under this subchapter to an applicant under this section if the applicant complies with Subsection (b) and meets all other requirements of this subchapter, except that the applicant is not required to complete the range instruction part of the handgun proficiency course described by Section 411.188 if the department is satisfied, on the basis of the evidence provided under Subsection (b)(3), that the applicant is proficient in the use of handguns.

(d) The department shall waive any fee required for a license issued under this subchapter to an applicant under this section.

(e) A license issued to an applicant under this section expires as provided by Section 411.183.

Added by Acts 2017, 85th Leg., R.S., Ch. 1099 (H.B. 3784), Sec. 9, eff. September 1, 2017.

Sec. 411.200. APPLICATION TO LICENSED SECURITY OFFICERS. This subchapter does not exempt a license holder who is also employed as a

security officer and licensed under Chapter 1702, Occupations Code, from the duty to comply with Chapter 1702, Occupations Code, or Section 46.02, Penal Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.759, eff. Sept. 1, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 890 and H.B. 1506, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.201. ACTIVE AND RETIRED JUDICIAL OFFICERS; CERTAIN COURT OFFICERS. (a) In this section:

(1) "Active judicial officer" means:

(A) a person serving as a judge or justice of the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court;

(B) a federal judge who is a resident of this state; or

(C) a person appointed and serving as an associate judge under Chapter 201, Family Code.

(2) "Federal judge" means:

(A) a judge of a United States court of appeals;

(B) a judge of a United States district court;

(C) a judge of a United States bankruptcy court; or

(D) a magistrate judge of a United States district court.

(3) "Retired judicial officer" means:

(A) a visiting judge appointed under Section 26.023 or 26.024;

(B) a senior judge designated under Section 75.001 or a judicial officer as designated or defined by Section 75.001, 831.001, or 836.001; or

(C) a retired federal judge who is a resident of this state.

(b) Notwithstanding any other provision of this subchapter, the department shall issue a license under this subchapter to an active

or retired judicial officer who meets the requirements of this section.

(c) An active judicial officer is eligible for a license to carry a handgun under the authority of this subchapter. A retired judicial officer is eligible for a license to carry a handgun under the authority of this subchapter if the officer:

(1) has not been convicted of a felony;

(2) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or equivalent offense;

(3) is not charged with the commission of a Class A or Class B misdemeanor or equivalent offense or of a felony under an information or indictment;

(4) is not a chemically dependent person; and

(5) is not a person of unsound mind.

(d) An applicant for a license who is an active or retired judicial officer must submit to the department:

(1) a completed application, including all required affidavits, on a form prescribed by the department;

(2) one or more photographs of the applicant that meet the requirements of the department;

(3) two complete sets of legible and classifiable fingerprints of the applicant, including one set taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints;

(4) evidence of handgun proficiency, in the form and manner required by the department for an applicant under this section;

(5) a nonrefundable application and license fee of $25; and

(6) if the applicant is a retired judicial officer, a form executed by the applicant that authorizes the department to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under this subchapter.

(e) On receipt of all the application materials required by this section, the department shall:

(1) if the applicant is an active judicial officer, issue a license to carry a handgun under the authority of this subchapter; or

(2) if the applicant is a retired judicial officer, conduct an appropriate background investigation to determine the applicant's eligibility for the license and, if the applicant is eligible, issue

a license to carry a handgun under the authority of this subchapter.

(f) Except as otherwise provided by this subsection, an applicant for a license under this section must satisfy the handgun proficiency requirements of Section 411.188. The classroom instruction part of the proficiency course for an active judicial officer is not subject to a minimum hour requirement. The instruction must include instruction only on:

(1) handgun use, proficiency, and safety; and

(2) proper storage practices for handguns with an emphasis on storage practices that eliminate the possibility of accidental injury to a child.

(g) A license issued under this section expires as provided by Section 411.183 and may be renewed in accordance with Section 411.185.

(h) The department shall issue a license to carry a handgun under the authority of this subchapter to an applicant who meets the requirements of this section for an active judicial officer and who is a United States attorney or an assistant United States attorney, an attorney elected or employed to represent the state in the prosecution of felony cases, or a district or county clerk. The department shall waive any fee required for the issuance of an original, duplicate, or renewed license under this subchapter for an applicant who is a United States attorney or an assistant United States attorney, an attorney elected or employed to represent the state in the prosecution of felony cases, or a district or county clerk.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 402 (S.B. 835), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1222 (H.B. 2300), Sec. 4, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.18, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 13.01, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1387 (H.B. 48), Sec. 4, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 26, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 587 (H.B. 3747), Sec. 1, eff. June 16, 2015.

Acts 2017, 85th Leg., R.S., Ch. 179 (S.B. 16), Sec. 8, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1143 (H.B. 435), Sec. 4, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 1077 (S.B. 599), Sec. 2, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 1077 (S.B. 599), Sec. 3, eff. September 1, 2023.

Sec. 411.202. LICENSE A BENEFIT. The issuance of a license under this subchapter is a benefit to the license holder for purposes of those sections of the Penal Code to which the definition of "benefit" under Section 1.07, Penal Code, applies.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.203. RIGHTS OF EMPLOYERS. This subchapter does not prevent or otherwise limit the right of a public or private employer to prohibit persons who are licensed under this subchapter from carrying a handgun on the premises of the business. In this section, "premises" has the meaning assigned by Section 46.03, Penal Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1058 (S.B. 321), Sec. 2, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 27, eff. January 1, 2016.

Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 9, eff. September 1, 2021.

Sec. 411.2031. CARRYING OF HANDGUNS BY LICENSE HOLDERS ON

CERTAIN CAMPUSES. (a) For purposes of this section:

(1) "Campus" means all land and buildings owned or leased by an institution of higher education or private or independent institution of higher education.

(2) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.

(3) "Premises" has the meaning assigned by Section 46.03, Penal Code.

(b) A license holder may carry a concealed handgun on or about the license holder's person while the license holder is on the campus of an institution of higher education or private or independent institution of higher education in this state.

(c) Except as provided by Subsection (d), (d-1), or (e), an institution of higher education or private or independent institution of higher education in this state may not adopt any rule, regulation, or other provision prohibiting license holders from carrying handguns on the campus of the institution.

(d) An institution of higher education or private or independent institution of higher education in this state may establish rules, regulations, or other provisions concerning the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution and located on the campus of the institution.

(d-1) After consulting with students, staff, and faculty of the institution regarding the nature of the student population, specific safety considerations, and the uniqueness of the campus environment, the president or other chief executive officer of an institution of higher education in this state shall establish reasonable rules, regulations, or other provisions regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution. The president or officer may not establish provisions that generally prohibit or have the effect of generally prohibiting license holders from carrying concealed handguns on the campus of the institution. The president or officer may amend the provisions as necessary for campus safety. The provisions take effect as determined by the president or officer unless subsequently amended by the board of regents or other governing board under Subsection (d-2). The institution must give effective notice under Section 30.06, Penal Code, with respect to any

portion of a premises on which license holders may not carry.

(d-2) Not later than the 90th day after the date that the rules, regulations, or other provisions are established as described by Subsection (d-1), the board of regents or other governing board of the institution of higher education shall review the provisions. The board of regents or other governing board may, by a vote of not less than two-thirds of the board, amend wholly or partly the provisions established under Subsection (d-1). If amended under this subsection, the provisions are considered to be those of the institution as established under Subsection (d-1).

(d-3) An institution of higher education shall widely distribute the rules, regulations, or other provisions described by Subsection (d-1) to the institution's students, staff, and faculty, including by prominently publishing the provisions on the institution's Internet website.

(d-4) Not later than September 1 of each even-numbered year, each institution of higher education in this state shall submit a report to the legislature and to the standing committees of the legislature with jurisdiction over the implementation and continuation of this section that:

(1) describes its rules, regulations, or other provisions regarding the carrying of concealed handguns on the campus of the institution; and

(2) explains the reasons the institution has established those provisions.

(e) A private or independent institution of higher education in this state, after consulting with students, staff, and faculty of the institution, may establish rules, regulations, or other provisions prohibiting license holders from carrying handguns on the campus of the institution, any grounds or building on which an activity sponsored by the institution is being conducted, or a passenger transportation vehicle owned by the institution.

Added by Acts 2015, 84th Leg., R.S., Ch. 438 (S.B. 11), Sec. 1, eff. August 1, 2016.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 10, eff. September 1, 2021.

Sec. 411.2032. TRANSPORTATION AND STORAGE OF FIREARMS AND AMMUNITION BY LICENSE HOLDERS IN PRIVATE VEHICLES ON CERTAIN CAMPUSES. (a) For purposes of this section:

(1) "Campus" means all land and buildings owned or leased by an institution of higher education or private or independent institution of higher education.

(2) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.

(b) An institution of higher education or private or independent institution of higher education in this state may not adopt or enforce any rule, regulation, or other provision or take any other action, including posting notice under Section 30.06 or 30.07, Penal Code, prohibiting or placing restrictions on the storage or transportation of a firearm or ammunition in a locked, privately owned or leased motor vehicle by a person, including a student enrolled at that institution, who holds a license to carry a handgun under this subchapter and lawfully possesses the firearm or ammunition:

(1) on a street or driveway located on the campus of the institution; or

(2) in a parking lot, parking garage, or other parking area located on the campus of the institution.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1248 (S.B. 1907), Sec. 1, eff. September 1, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 28, eff. January 1, 2016.

Sec. 411.204. NOTICE REQUIRED ON CERTAIN PREMISES. (a) A business that has a permit or license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic Beverage Code, and that derives 51 percent or more of its income from the sale of alcoholic beverages for on-premises consumption as determined by the Texas Alcoholic Beverage Commission under Section 104.06, Alcoholic Beverage Code, shall prominently display at each entrance to the business premises a sign that complies with the requirements of Subsection (c).

(b) A hospital licensed under Chapter 241, Health and Safety

Code, or a nursing home licensed under Chapter 242, Health and Safety Code, shall prominently display at each entrance to the hospital or nursing home, as appropriate, a sign that complies with the requirements of Subsection (c) other than the requirement that the sign include on its face the number "51".

(c) The sign required under Subsections (a) and (b) must give notice in both English and Spanish that it is unlawful for a person licensed under this subchapter to carry a handgun on the premises. The sign must appear in contrasting colors with block letters at least one inch in height and must include on its face the number "51" printed in solid red at least five inches in height. The sign shall be displayed in a conspicuous manner clearly visible to the public.

(d) Repealed by Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 26(6), eff. September 1, 2021.

(e) This section does not apply to a business that has a food and beverage certificate issued under the Alcoholic Beverage Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.16(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 523, Sec. 1, eff. June 18, 1999.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 26(6), eff. September 1, 2021.

Sec. 411.205. REQUIREMENT TO DISPLAY LICENSE. If a license holder is carrying a handgun on or about the license holder's person when a magistrate or a peace officer demands that the license holder display identification, the license holder shall display:

(1) both the license holder's driver's license or identification certificate issued by the department and the license holder's handgun license; and

(2) if the license holder's handgun license bears a protective order designation, a copy of the applicable court order under which the license holder is protected.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.17(a), eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 12A.02, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 203 (H.B. 918), Sec. 4, eff. September 1, 2021.

Sec. 411.206. SEIZURE OF HANDGUN AND LICENSE. (a) If a peace officer arrests and takes into custody a license holder who is carrying a handgun under the authority of this subchapter, the officer shall seize the license holder's handgun and license as evidence.

(b) The provisions of Article 18.19, Code of Criminal Procedure, relating to the disposition of weapons seized in connection with criminal offenses, apply to a handgun seized under this subsection.

(c) Repealed by Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 26(7), eff. September 1, 2021.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 26(7), eff. September 1, 2021.

Sec. 411.207. AUTHORITY OF PEACE OFFICER TO DISARM. (a) A peace officer who is acting in the lawful discharge of the officer's official duties may disarm a license holder at any time the officer reasonably believes it is necessary for the protection of the license holder, officer, or another individual. The peace officer shall return the handgun to the license holder before discharging the license holder from the scene if the officer determines that the license holder is not a threat to the officer, license holder, or another individual and if the license holder has not violated any provision of this subchapter or committed any other violation that results in the arrest of the license holder.

(b) A peace officer who is acting in the lawful discharge of the officer's official duties may temporarily disarm a license holder when a license holder enters a nonpublic, secure portion of a law enforcement facility, if the law enforcement agency provides a gun

locker where the peace officer can secure the license holder's handgun. The peace officer shall secure the handgun in the locker and shall return the handgun to the license holder immediately after the license holder leaves the nonpublic, secure portion of the law enforcement facility.

(c) A law enforcement facility shall prominently display at each entrance to a nonpublic, secure portion of the facility a sign that gives notice in both English and Spanish that, under this section, a peace officer may temporarily disarm a license holder when the license holder enters the nonpublic, secure portion of the facility. The sign must appear in contrasting colors with block letters at least one inch in height. The sign shall be displayed in a clearly visible and conspicuous manner.

(d) In this section:

(1) "Law enforcement facility" means a building or a portion of a building used exclusively by a law enforcement agency that employs peace officers as described by Articles 2.12(1) and (3), Code of Criminal Procedure, and support personnel to conduct the official business of the agency. The term does not include:

(A) any portion of a building not actively used exclusively to conduct the official business of the agency; or

(B) any public or private driveway, street, sidewalk, walkway, parking lot, parking garage, or other parking area.

(2) "Nonpublic, secure portion of a law enforcement facility" means that portion of a law enforcement facility to which the general public is denied access without express permission and to which access is granted solely to conduct the official business of the law enforcement agency.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 572 (S.B. 1709), Sec. 1, eff. September 1, 2007.

Sec. 411.208. LIMITATION OF LIABILITY. (a) A court may not hold the state, an agency or subdivision of the state, an officer or employee of the state, an institution of higher education, an officer or employee of an institution of higher education, a private or

independent institution of higher education that has not adopted rules under Section 411.2031(e), an officer or employee of a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), a peace officer, a qualified handgun instructor, or an approved online course provider liable for damages caused by:

(1) an action authorized under this subchapter or a failure to perform a duty imposed by this subchapter; or

(2) the actions of an applicant or license holder that occur after the applicant has received a license or been denied a license under this subchapter.

(b) A cause of action in damages may not be brought against the state, an agency or subdivision of the state, an officer or employee of the state, an institution of higher education, an officer or employee of an institution of higher education, a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), an officer or employee of a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), a peace officer, a qualified handgun instructor, or an approved online course provider for any damage caused by the actions of an applicant or license holder under this subchapter.

(c) The department is not responsible for any injury or damage inflicted on any person by an applicant or license holder arising or alleged to have arisen from an action taken by the department under this subchapter.

(d) The immunities granted under Subsections (a), (b), and (c) do not apply to:

(1) an act or a failure to act by the state, an agency or subdivision of the state, an officer of the state, an institution of higher education, an officer or employee of an institution of higher education, a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), an officer or employee of a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), or a peace officer if the act or failure to act was capricious or arbitrary; or

(2) any officer or employee of an institution of higher education or private or independent institution of higher education described by Subdivision (1) who possesses a handgun on the campus of that institution and whose conduct with regard to the handgun is made

the basis of a claim for personal injury or property damage.

(e) The immunities granted under Subsection (a) to a qualified handgun instructor or approved online course provider do not apply to a cause of action for fraud or a deceptive trade practice.

(f) For purposes of this section:

(1) "Campus" has the meaning assigned by Section 411.2031.

(2) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.19, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 438 (S.B. 11), Sec. 2, eff. August 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 1099 (H.B. 3784), Sec. 10, eff. September 1, 2017.

Sec. 411.209. WRONGFUL EXCLUSION OF HANDGUN LICENSE HOLDER. (a) Except as provided by Subsection (i), a state agency or a political subdivision of the state may not take any action, including an action consisting of the provision of notice by a communication described by Section 30.06 or 30.07, Penal Code, that states or implies that a license holder who is carrying a handgun under the authority of this subchapter is prohibited from entering or remaining on a premises or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun on the premises or other place by Section 46.03, Penal Code, or other law.

(b) A state agency or a political subdivision of the state that violates Subsection (a) is liable for a civil penalty of:

(1) not less than $1,000 and not more than $1,500 for the first violation; and

(2) not less than $10,000 and not more than $10,500 for the second or a subsequent violation.

(c) Each day of a continuing violation of Subsection (a) constitutes a separate violation.

(d) A resident of this state or a person licensed to carry a handgun under this subchapter may file a complaint with the attorney general that a state agency or political subdivision is in violation of Subsection (a) if the resident or license holder provides the agency or subdivision a written notice that describes the location and general facts of the violation and the agency or subdivision does not cure the violation before the end of the third business day after the date of receiving the written notice. A complaint filed with the attorney general under this subsection must include evidence of the violation and a copy of the written notice provided to the agency or subdivision.

(e) A civil penalty collected by the attorney general under this section shall be deposited to the credit of the compensation to victims of crime fund established under Subchapter J, Chapter 56B, Code of Criminal Procedure.

(f) Before a suit may be brought against a state agency or a political subdivision of the state for a violation of Subsection (a), the attorney general must investigate the complaint to determine whether legal action is warranted. If legal action is warranted, the attorney general must give the chief administrative officer of the agency or political subdivision charged with the violation a written notice that:

(1) describes the violation;

(2) states the amount of the proposed penalty for the violation; and

(3) gives the agency or political subdivision 15 days from receipt of the notice to cure the violation to avoid the penalty, unless the agency or political subdivision was found liable by a court for previously violating Subsection (a).

(g) If the attorney general determines that legal action is warranted and that the state agency or political subdivision has not cured the violation within the 15-day period provided by Subsection (f)(3), the attorney general or the appropriate county or district attorney may sue to collect the civil penalty provided by Subsection (b). The attorney general may also file a petition for a writ of mandamus or apply for other appropriate equitable relief. A suit or petition under this subsection may be filed in a district court in Travis County or in a county in which the principal office of the state agency or political subdivision is located. The attorney general may recover reasonable expenses incurred in obtaining relief

under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

(h) Sovereign immunity to suit is waived and abolished to the extent of liability created by this section.

(i) Subsection (a) does not apply to a written notice provided by a state hospital under Section 552.002, Health and Safety Code.

(j) In this section, "premises" has the meaning assigned by Section 46.03, Penal Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 593 (S.B. 273), Sec. 1, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1143 (H.B. 435), Sec. 5, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1143 (H.B. 435), Sec. 6, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.44, eff. January 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 784 (H.B. 1791), Sec. 1, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 11, eff. September 1, 2021.

SUBCHAPTER I. INTERNAL OVERSIGHT

Sec. 411.241. OFFICE OF AUDIT AND REVIEW. The commission shall establish the office of audit and review. The office shall coordinate activities designed to promote effectiveness in departmental operations and to keep the commission and the legislature fully informed about deficiencies within the department. The office shall:

(1) inspect and audit departmental programs and operations for efficiency, uniformity, and compliance with established procedures and develop recommendations for improvement;

(2) coordinate and be responsible for promoting accountability, integrity, and efficiency in the department; and

(3) provide the commission with information relevant to its oversight of the department.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 16, eff. Sept. 1, 1999.

Sec. 411.242. DIRECTOR OF AUDIT AND REVIEW. (a) The commission shall appoint the director of the office of audit and review. The director of audit and review serves until removed by the commission.

(b) The director of audit and review must satisfy the requirements to be the agency's internal auditor under Section 2102.006(b) and is considered to be the agency's internal auditor for purposes of Chapter 2102.

(c) The department shall provide the director of audit and review with access to any records, data, or other information necessary to fulfill the purposes of this section and Section 411.243.

(d) The director of audit and review shall, with the advice and consent of the commission, determine which audits and inspections to perform and may publish the findings and recommendations of the office of audit and review.

(e) The director of audit and review shall:

(1) report to the commission regarding audits and inspections planned and the status and findings of those audits and inspections; and

(2) report to the director for administrative purposes and keep the director informed of the office's findings.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 16, eff. Sept. 1, 1999.

Sec. 411.243. POWERS AND DUTIES. (a) The office of audit and review shall:

(1) independently and objectively inspect all divisions of the department to:

(A) ensure that operations are conducted efficiently, uniformly, and in compliance with established procedures; and

(B) make recommendations for improvements in operational performance;

(2) independently and objectively audit all divisions of the department to:

(A) promote economy, effectiveness, and efficiency within the department;

(B) prevent and detect fraud, waste, and abuse in department programs and operations; and

(C) make recommendations about the adequacy and effectiveness of the department's system of internal control policies and procedures;

(3) advise in the development and evaluation of the department's performance measures;

(4) review actions taken by the department to improve program performance and make recommendations for improvement;

(5) review and make recommendations to the commission and the legislature regarding rules, laws, and guidelines relating to department programs and operations;

(6) keep the commission, director, and legislature fully informed of problems in department programs and operations; and

(7) ensure effective coordination and cooperation among the state auditor's office, legislative oversight committees, and other governmental bodies while attempting to avoid duplication.

(b) Chapter 2102 applies to the office of audit and review.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 16, eff. Sept. 1, 1999.

SUBCHAPTER I-1. OFFICE OF INSPECTOR GENERAL

Sec. 411.251. ESTABLISHMENT AND PURPOSE. (a) The commission shall establish the office of inspector general.

(b) The office of inspector general is responsible for:

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

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

(A) conduct described in Subdivision (1);

(B) criminal activity occurring in all divisions of the department;

(C) allegations of wrongdoing by department employees;

(D) crimes committed on department property; and

(E) serious breaches of department policy.

Transferred, redesignated and amended from Government Code, Section 411.244 by Acts 2011, 82nd Leg., R.S., Ch. 1308 (H.B. 3099), Sec. 2, eff. September 1, 2011.

Sec. 411.252. OVERSIGHT OF INVESTIGATIONS. (a) The office of inspector general has departmental jurisdiction for oversight and coordination over all investigations occurring on department property or involving department employees.

(b) The office shall coordinate and provide oversight, but is not required to conduct all investigations under this subchapter.

(c) The inspector general shall delegate any investigation considered potentially appropriate for criminal prosecution to the Texas Ranger division or the criminal investigations division of the department for investigation or referral back to the inspector general for further action.

(d) The inspector general shall continually monitor an investigation referred to another division of the department under Subsection (c), and the inspector general and the division shall report to the commission on the status of the investigation while pending.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1308 (H.B. 3099), Sec. 2, eff. September 1, 2011.

Sec. 411.253. INITIATION OF INVESTIGATIONS. The office of inspector general may only initiate an investigation based on:

(1) authorization from the commission;

(2) approval of the inspector general or deputy inspector general;

(3) approval of the director, a deputy director, an assistant director of the Texas Rangers, or an assistant director of the criminal investigations division for criminal investigations; or

(4) commission rules or approved commission policies.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1308 (H.B. 3099), Sec. 2, eff. September 1, 2011.

Sec. 411.254. COMMISSION APPOINTMENT AND OVERSIGHT. (a) The commission shall appoint the inspector general and may appoint a deputy inspector general. The inspector general serves until removed by the commission.

(b) The inspector general is not required to be a peace officer as defined by Article 2A.001, Code of Criminal Procedure. The

commission or director may commission the inspector general as a commissioned peace officer of the department if the inspector general holds a permanent peace officer license issued under Chapter 1701, Occupations Code.

(c) The commission has direct oversight over the office of inspector general, including decisions regarding budget and staffing. The inspector general shall coordinate with the director for administrative support as provided by the commission.

(d) The commission shall establish policies to ensure that the commission continues to oversee the office of inspector general as required by this section and to ensure that the office of inspector general retains and exercises its original jurisdiction under Section 411.252.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1308 (H.B. 3099), Sec. 2, eff. September 1, 2011.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.092, eff. January 1, 2025.

Sec. 411.255. REPORTS. (a) The inspector general shall report directly to the commission regarding performance of and activities related to investigations and provide the director with information regarding investigations as appropriate.

(b) The inspector general shall present at each regularly scheduled commission meeting and at other appropriate times:

(1) reports of investigations; and

(2) a summary of information relating to investigations conducted under this subchapter that includes analysis of the number, type, and outcome of investigations, trends in the investigations, and recommendations to avoid future complaints.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1308 (H.B. 3099), Sec. 2, eff. September 1, 2011.

Sec. 411.256. AUTHORITY OF STATE AUDITOR. This chapter or other law related to the operation of the department's office of inspector general does not preempt the authority of the state auditor to conduct an audit or investigation under Chapter 321 or other law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1308 (H.B. 3099), Sec. 2, eff. September 1, 2011.

SUBCHAPTER J. UNSOLVED CRIMES INVESTIGATION PROGRAM

Sec. 411.261. DEFINITIONS. In this subchapter:

(1) "Attorney representing the state" means a district attorney, criminal district attorney, or county attorney performing the duties of a district attorney.

(2) "Unsolved crime" means a criminal offense:

(A) that is an unsolved homicide or an unsolved felony that is one offense arising out of the same criminal episode as other unsolved felonies; and

(B) the investigation of which requires a level of expertise that is not readily available to local law enforcement agencies.

Added by Acts 2001, 77th Leg., ch. 1043, Sec. 1, eff. Sept. 1, 2001.

Sec. 411.262. UNSOLVED CRIMES INVESTIGATION PROGRAM. (a) The unsolved crimes investigation program is an investigative program within the department.

(b) The program is a function of the Texas Rangers and will be commanded by the chief of the Texas Rangers.

(c) The director may employ commissioned peace officers and noncommissioned employees to perform duties required of the program.

(d) To be eligible for employment under this section, a peace officer must be a sergeant or higher-ranked officer of the Texas Rangers and must have two or more years of experience in the investigation of homicides or other major felonies.

(e) To be eligible for employment under this section, a noncommissioned employee must meet the experience, training, and educational qualifications set by the director as requirements for investigating or assisting in the investigation of an unsolved crime.

Added by Acts 2001, 77th Leg., ch. 1043, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 7.02, eff. June 19, 2009.

Sec. 411.263. ASSISTANCE ON REQUEST. On the request of an attorney representing the state and with the approval of the director, employees of the unsolved crimes investigation program of the department may assist local law enforcement in the investigation of crime.

Added by Acts 2001, 77th Leg., ch. 1043, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 7.03, eff. June 19, 2009.

SUBCHAPTER K. DEPARTMENT OF PUBLIC SAFETY HISTORICAL MUSEUM AND RESEARCH CENTER

Sec. 411.281. DEFINITION. In this subchapter, "museum" means the nonprofit organization, known as the Department of Public Safety Historical Museum and Research Center, established by employees and former employees of the department for the purposes of creating and operating a museum and research facility to:

(1) inform the public about the personnel and history of the department; and

(2) educate young people about law enforcement procedures through an interactive facility.

Added by Acts 2001, 77th Leg., ch. 463, Sec. 1, eff. Sept. 1, 2001.
Renumbered from Government Code Sec. 411.301 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(59), eff. Sept. 1, 2003.

Sec. 411.282. GENERAL PROVISIONS. The commission may:

(1) establish a support staff in the department to assist the museum;

(2) use department property to fulfill the purposes of this subchapter; and

(3) enter into a contract with the museum.

Added by Acts 2001, 77th Leg., ch. 463, Sec. 1, eff. Sept. 1, 2001.
Renumbered from Government Code Sec. 411.302 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(59), eff. Sept. 1, 2003.

Sec. 411.283. PERSONNEL. (a) The director may appoint and assign duties to department personnel to serve as paid support staff for the museum.

(b) The support staff may consist of a historian, a librarian, and other personnel as needed to administer the museum.

(c) The department may spend funds to hire support staff.

Added by Acts 2001, 77th Leg., ch. 463, Sec. 1, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 411.303 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(59), eff. Sept. 1, 2003.

Sec. 411.284. FUNDING. (a) The Department of Public Safety Historical Museum and Research Center account is created as a special account outside the state treasury to be held at the Department of Public Safety Credit Union and to be administered by the commission. The money in the account may be used only to administer this subchapter.

(b) The account is composed of gifts, grants, and donations collected by the department from any public or private source for the purposes of this subchapter.

Added by Acts 2001, 77th Leg., ch. 463, Sec. 1, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 411.304 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(59), eff. Sept. 1, 2003.

SUBCHAPTER K-1. POWER OUTAGE ALERT

Sec. 411.301. POWER OUTAGE ALERT. (a) With the cooperation of the Texas Department of Transportation, the Texas Division of Emergency Management, the office of the governor, and the Public Utility Commission of Texas, the department shall develop and implement an alert to be activated when the power supply in this state may be inadequate to meet demand.

(b) The Public Utility Commission of Texas by rule shall adopt criteria for the content, activation, and termination of the alert described by Subsection (a). The criteria must provide for an alert to be regional or statewide.

Added by Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 1, eff. June 8, 2021.

Sec. 411.302. ADMINISTRATION. (a) The director is the statewide coordinator of the power outage alert.

(b) The director shall adopt rules and issue directives as necessary to ensure proper implementation of the power outage alert. The rules and directives must include the procedures to be used by the Public Utility Commission of Texas and the independent organization certified under Section 39.151, Utilities Code, to communicate with the director about the power outage alert.

Added by Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 1, eff. June 8, 2021.

Sec. 411.303. DEPARTMENT TO RECRUIT PARTICIPANTS. The department shall recruit public and commercial television and radio broadcasters, private commercial entities, state or local governmental entities, the public, and other appropriate persons to assist in developing and implementing the power outage alert system.

Added by Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 1, eff. June 8, 2021.

Sec. 411.304. STATE AGENCIES. (a) A state agency participating in the power outage alert system shall:

(1) cooperate with the department and assist in developing and implementing the alert system; and

(2) establish a plan for providing relevant information to its officers, investigators, or employees, as appropriate, once the power outage alert system has been activated.

(b) In addition to its duties as a state agency under Subsection (a), the Texas Department of Transportation shall establish a plan for providing relevant information to the public through an existing system of dynamic message signs located across the state.

Added by Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 1, eff. June 8, 2021.

Sec. 411.305. ACTIVATION OF POWER OUTAGE ALERT. (a) When the Public Utility Commission of Texas or an independent organization certified under Section 39.151, Utilities Code, notifies the department that the criteria adopted under Section 411.301(b) for the activation of the alert has been met, the department shall confirm the accuracy of the information and, if confirmed, immediately issue a power outage alert under this subchapter in accordance with department rules.

(b) In issuing the power outage alert, the department shall send the alert to designated media outlets in this state. Following receipt of the alert, participating radio stations and television stations and other participating media outlets may issue the alert at designated intervals.

Added by Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 1, eff. June 8, 2021.

Sec. 411.306. CONTENT OF POWER OUTAGE ALERT. The power outage alert must include a statement that electricity customers may experience a power outage.

Added by Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 1, eff. June 8, 2021.

Sec. 411.307. TERMINATION OF POWER OUTAGE ALERT. The director shall terminate any activation of the power outage alert as soon as practicable after the Public Utility Commission of Texas or the Electric Reliability Council of Texas notifies the department that the criteria adopted under Section 411.301(b) for the termination of the alert has been met.

Added by Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 1, eff. June 8, 2021.

Sec. 411.308. LIMITATION ON PARTICIPATION BY TEXAS DEPARTMENT OF TRANSPORTATION. Notwithstanding Section 411.304(b), the Texas Department of Transportation is not required to use any existing system of dynamic message signs in a statewide alert system created

under this subchapter if that department receives notice from the United States Department of Transportation Federal Highway Administration that the use of the signs would result in the loss of federal highway funding or other punitive actions taken against this state due to noncompliance with federal laws, regulations, or policies.

Added by Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 1, eff. June 8, 2021.

SUBCHAPTER L. STATEWIDE AMERICA'S MISSING: BROADCAST EMERGENCY RESPONSE (AMBER) ALERT SYSTEM FOR ABDUCTED CHILDREN AND MISSING PERSONS WITH INTELLECTUAL DISABILITIES

Sec. 411.351. DEFINITIONS. In this subchapter:

(1) "Abducted child" means a child 17 years of age or younger whose whereabouts are unknown and whose disappearance poses a credible threat to the safety and health of the child, as determined by a local law enforcement agency.

(2) "Alert system" means the statewide America's Missing: Broadcast Emergency Response (AMBER) alert system for abducted children and missing persons with intellectual disabilities.

(2-a) "Intellectual disability" means significantly subaverage general intellectual functioning that is concurrent with deficits in adaptive behavior and originates during the developmental period. The term includes a pervasive developmental disorder.

(3) "Local law enforcement agency" means a local law enforcement agency with jurisdiction over the investigation of:

(A) the abduction of a child; or

(B) a missing person with an intellectual disability.

(3-a) "Pervasive developmental disorder" means a disorder that meets the criteria for a pervasive developmental disorder established in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(4) "Serious bodily injury" has the meaning assigned by Section 1.07, Penal Code.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 737 (H.B. 1075), Sec. 2, eff. September 1, 2011.

Sec. 411.352. STATEWIDE AMERICA'S MISSING: BROADCAST EMERGENCY RESPONSE (AMBER) ALERT SYSTEM FOR ABDUCTED CHILDREN AND MISSING PERSONS WITH INTELLECTUAL DISABILITIES. With the cooperation of the Texas Department of Transportation, the office of the governor, and other appropriate law enforcement agencies in this state, the department shall develop and implement a statewide alert system to be activated on behalf of an abducted child or a missing person with an intellectual disability.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 737 (H.B. 1075), Sec. 3, eff. September 1, 2011.

Sec. 411.353. ADMINISTRATION. (a) The director is the statewide coordinator of the alert system.

(b) The director shall adopt rules and issue directives as necessary to ensure proper implementation of the alert system. The rules and directives must include instructions on the procedures for activating and deactivating the alert system.

(c) The director shall prescribe forms for use by local law enforcement agencies in requesting activation of the alert system.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.

Sec. 411.354. DEPARTMENT TO RECRUIT PARTICIPANTS. (a) The department shall recruit public and commercial television and radio broadcasters, private commercial entities, state or local governmental entities, the public, and other appropriate persons to assist in developing and implementing the alert system.

(b) The department may enter into agreements with participants in the alert system to provide necessary support for the alert system.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.

Sec. 411.355. ACTIVATION. (a) On the request of a local law enforcement agency regarding an abducted child, the department shall activate the alert system and notify appropriate participants in the alert system, as established by rule, if:

(1) the local law enforcement agency believes that a child has been abducted, including a child who:

(A) is younger than 14 years of age; and

(B) regardless of whether the child departed willingly with the other person, has been taken from the care and custody of the child's parent or legal guardian without the permission of the parent or legal guardian by another person who is:

(i) more than three years older than the child; and

(ii) not related to the child by any degree of consanguinity or affinity as defined under Subchapter B, Chapter 573, Government Code;

(2) the local law enforcement agency believes that the abducted child is in immediate danger of serious bodily injury or death or of becoming the victim of a sexual assault;

(3) the local law enforcement agency confirms that a preliminary investigation has taken place that verifies the abduction and eliminates alternative explanations for the child's disappearance; and

(4) sufficient information is available to disseminate to the public that could assist in locating the child, a person suspected of abducting the child, or a vehicle suspected of being used in the abduction.

(b) On the request of a local law enforcement agency regarding a missing person with an intellectual disability, the department shall activate the alert system and notify appropriate participants in the alert system, as established by rule, if:

(1) the local law enforcement agency receives notice of a missing person with an intellectual disability;

(2) the local law enforcement agency verifies that at the time the person is reported missing:

(A) the person has an intellectual disability, as determined according to the procedure provided by Section 593.005, Health and Safety Code; and

(B) the person's location is unknown;

(3) the local law enforcement agency determines that the person's disappearance poses a credible threat to the person's health

and safety; and

(4) sufficient information is available to disseminate to the public that could assist in locating the person.

(c) The department may modify the criteria described by Subsection (a) or (b) as necessary for the proper implementation of the alert system.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1404 (H.B. 3385), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 737 (H.B. 1075), Sec. 4, eff. September 1, 2011.

Sec. 411.3555. LOCAL AREA ACTIVATION FOR CERTAIN MISSING CHILDREN. On the request of a local law enforcement agency that knows a child is missing but has not verified the criteria described by Section 411.355(a), and if the chief law enforcement officer of the local law enforcement agency believes that activation of the alert system is warranted, the department shall:

(1) activate the alert system only in the following areas:

(A) within a 100-mile radius of the location from which the child is believed to have gone missing or the location in which the child was last seen, as applicable; and

(B) in all counties adjacent to the county from which the child is believed to have gone missing or the county in which the child was last seen, as applicable; and

(2) notify appropriate participants in the alert system, as established by rule.

Added by Acts 2023, 88th Leg., R.S., Ch. 863 (H.B. 3556), Sec. 1, eff. June 13, 2023.

Sec. 411.356. LOCAL LAW ENFORCEMENT AGENCIES. Before requesting activation of the alert system, a local law enforcement agency must verify that the criteria described by Section 411.355(a) or (b) or 411.3555, as applicable, have been satisfied. On verification of the applicable criteria, the local law enforcement agency shall immediately contact the department to request activation

and shall supply the necessary information on the forms prescribed by the director.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 737 (H.B. 1075), Sec. 5, eff. September 1, 2011.
Acts 2023, 88th Leg., R.S., Ch. 863 (H.B. 3556), Sec. 2, eff. June 13, 2023.

Sec. 411.357. STATE AGENCIES. (a) A state agency participating in the alert system shall:

(1) cooperate with the department and assist in developing and implementing the alert system; and

(2) establish a plan for providing relevant information to its officers, investigators, or employees, as appropriate, once the alert system has been activated.

(b) In addition to its duties as a state agency under Subsection (a), the Texas Department of Transportation shall establish a plan for providing relevant information to the public through an existing system of dynamic message signs located across the state.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.

Sec. 411.358. TERMINATION. The director shall terminate any activation of the alert system with respect to a particular abducted child or a particular missing person with an intellectual disability if:

(1) the abducted child or missing person is recovered or the situation is otherwise resolved; or

(2) the director determines that the alert system is no longer an effective tool for locating and recovering the abducted child or missing person.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 737 (H.B. 1075), Sec. 6, eff. September 1, 2011.

Sec. 411.359. SYSTEM NAME. The director by rule may assign a name other than America's Missing: Broadcast Emergency Response (AMBER) to the alert system when the system is activated regarding a missing person with an intellectual disability.

Added by Acts 2011, 82nd Leg., R.S., Ch. 737 (H.B. 1075), Sec. 7, eff. September 1, 2011.

SUBCHAPTER L-1. TEXAS ACTIVE SHOOTER ALERT SYSTEM

Sec. 411.371. DEFINITION. In this subchapter, "alert system" means the Texas Active Shooter Alert System established under this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 125 (H.B. 103), Sec. 2, eff. September 1, 2021.

Sec. 411.372. DEVELOPMENT AND IMPLEMENTATION OF ALERT SYSTEM. With the cooperation of the Texas Department of Transportation, the office of the governor, and other appropriate law enforcement agencies in this state, the department shall develop and implement an alert system to be activated on report of an active shooter.

Added by Acts 2021, 87th Leg., R.S., Ch. 125 (H.B. 103), Sec. 2, eff. September 1, 2021.

Sec. 411.373. ADMINISTRATION. (a) The director is the statewide coordinator of the alert system.

(b) The director shall adopt rules and issue directives as necessary to ensure proper implementation of the alert system. The rules and directives must include instructions on the procedures for activating and deactivating the alert system.

(c) The director shall prescribe forms for local law enforcement agencies to use in requesting activation of the alert system.

Added by Acts 2021, 87th Leg., R.S., Ch. 125 (H.B. 103), Sec. 2, eff.

September 1, 2021.

Sec. 411.374. DEPARTMENT TO RECRUIT PARTICIPANTS. (a) The department shall recruit public and commercial television and radio broadcasters, mobile telephone service providers by use of the federal Wireless Emergency Alert system, private commercial entities, state or local governmental entities, the public, and other appropriate persons to assist in developing and implementing the alert system.

(b) The department may enter into agreements with participants in the alert system to provide necessary support for the alert system.

Added by Acts 2021, 87th Leg., R.S., Ch. 125 (H.B. 103), Sec. 2, eff. September 1, 2021.

Sec. 411.375. ACTIVATION. (a) On the request of a local law enforcement agency or as the department determines appropriate to assist a local law enforcement agency regarding an active shooter, the department shall activate the alert system and notify appropriate participants in the alert system as established by rule if the local law enforcement agency or department:

(1) believes an active shooter is in the agency's jurisdiction;

(2) determines an active shooter alert would assist individuals near the active shooter's location;

(3) verifies the active shooter situation through a preliminary investigation; and

(4) provides the active shooter's last known location and any identifiable information for the active shooter.

(b) The department may modify the criteria described by Subsection (a) as necessary for the proper implementation of the alert system.

Added by Acts 2021, 87th Leg., R.S., Ch. 125 (H.B. 103), Sec. 2, eff. September 1, 2021.

Sec. 411.376. LOCAL LAW ENFORCEMENT AGENCIES. Before

requesting activation of the alert system, a local law enforcement agency must verify that the criteria described by Section 411.375(a) have been satisfied. On verification of the applicable criteria, the local law enforcement agency may immediately contact the department to request activation and supply the necessary information on forms prescribed by the director.

Added by Acts 2021, 87th Leg., R.S., Ch. 125 (H.B. 103), Sec. 2, eff. September 1, 2021.

Sec. 411.377. STATE AGENCIES. (a) A state agency participating in the alert system shall:

(1) cooperate with the department and assist in developing and implementing the alert system; and

(2) establish a plan for providing relevant information to its officers, investigators, or employees, as appropriate, on activation of the alert system.

(b) In addition to its duties as a state agency under Subsection (a), the Texas Department of Transportation shall establish a plan for providing relevant information to the public within 50 miles of an active shooter for which an alert has been issued through an existing system of dynamic message signs located across the state.

Added by Acts 2021, 87th Leg., R.S., Ch. 125 (H.B. 103), Sec. 2, eff. September 1, 2021.

Sec. 411.378. LIMITATION ON PARTICIPATION BY TEXAS DEPARTMENT OF TRANSPORTATION. Notwithstanding Section 411.377(b), the Texas Department of Transportation is not required to use any existing system of dynamic message signs in a statewide alert system created under this subchapter if the Texas Department of Transportation receives notice from the United States Department of Transportation Federal Highway Administration that the use of the signs would result in the loss of federal highway funding or other punitive actions taken against this state due to noncompliance with federal laws, regulations, or policies.

Added by Acts 2021, 87th Leg., R.S., Ch. 125 (H.B. 103), Sec. 2, eff.

September 1, 2021.

Sec. 411.379. TERMINATION. The director shall terminate any activation of the alert system for a particular active shooter if:

(1) the active shooter situation is resolved; or

(2) the director or a local law enforcement agency determines the alert system is no longer an effective tool for providing relevant information to the public about the active shooter.

Added by Acts 2021, 87th Leg., R.S., Ch. 125 (H.B. 103), Sec. 2, eff. September 1, 2021.

Sec. 411.380. LIMITATION OF LIABILITY. The department or a local law enforcement agency is not liable for failure to activate the alert system.

Added by Acts 2021, 87th Leg., R.S., Ch. 125 (H.B. 103), Sec. 2, eff. September 1, 2021.

SUBCHAPTER M. SILVER ALERT FOR MISSING SENIOR CITIZENS AND PERSONS WITH ALZHEIMER'S DISEASE

Sec. 411.381. DEFINITIONS. In this subchapter:

(1) "Alert" means the statewide silver alert for missing senior citizens and persons with Alzheimer's disease, as developed and implemented under this subchapter.

(2) "Local law enforcement agency" means a local law enforcement agency with jurisdiction over the investigation of a missing senior citizen or person with Alzheimer's disease.

(3) "Senior citizen" means a person who is 65 years of age or older.

Added by Acts 2007, 80th Leg., R.S., Ch. 69 (S.B. 1315), Sec. 1, eff. September 1, 2007.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 489 (H.B. 2639), Sec. 2, eff. June 9, 2017.

Sec. 411.382. SILVER ALERT FOR MISSING SENIOR CITIZENS AND PERSONS WITH ALZHEIMER'S DISEASE. With the cooperation of the Texas Department of Transportation, the office of the governor, and other appropriate law enforcement agencies in this state, the department shall develop and implement a statewide silver alert to be activated on behalf of a missing senior citizen or person with Alzheimer's disease.

Added by Acts 2007, 80th Leg., R.S., Ch. 69 (S.B. 1315), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 489 (H.B. 2639), Sec. 3, eff. June 9, 2017.

Sec. 411.383. ADMINISTRATION. (a) The director is the statewide coordinator of the alert.

(b) The director shall adopt rules and issue directives as necessary to ensure proper implementation of the alert. The rules and directives must include:

(1) the procedures to be used by a local law enforcement agency to verify whether a person reported missing is a senior citizen with an impaired mental condition or a person with Alzheimer's disease and whether the person's location is unknown;

(2) a description of the circumstances under which a local law enforcement agency is required to report a missing senior citizen or person with Alzheimer's disease to the department; and

(3) the procedures to be used by an individual or entity to report information about a missing senior citizen or person with Alzheimer's disease to designated media outlets in Texas.

Added by Acts 2007, 80th Leg., R.S., Ch. 69 (S.B. 1315), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 489 (H.B. 2639), Sec. 4, eff. June 9, 2017.

Sec. 411.384. DEPARTMENT TO RECRUIT PARTICIPANTS. The department shall recruit public and commercial television and radio broadcasters, private commercial entities, state or local

governmental entities, the public, and other appropriate persons to assist in developing and implementing the alert.

Added by Acts 2007, 80th Leg., R.S., Ch. 69 (S.B. 1315), Sec. 1, eff. September 1, 2007.

Sec. 411.385. DUTIES OF TEXAS DEPARTMENT OF TRANSPORTATION. The Texas Department of Transportation shall:

(1) cooperate with the department and assist in developing and implementing the alert; and

(2) establish a plan for providing relevant information to the public through an existing system of dynamic message signs located across the state.

Added by Acts 2007, 80th Leg., R.S., Ch. 69 (S.B. 1315), Sec. 1, eff. September 1, 2007.

Sec. 411.386. NOTIFICATION TO DEPARTMENT OF MISSING SENIOR CITIZEN OR PERSON WITH ALZHEIMER'S DISEASE. (a) A local law enforcement agency may notify the department if the agency:

(1) receives notice of a missing senior citizen or person with Alzheimer's disease;

(2) verifies that at the time the senior citizen or person with Alzheimer's disease is reported missing:

(A) the person reported missing:

(i) is 65 years of age or older and has an impaired mental condition; or

(ii) is a person with Alzheimer's disease; and

(B) the person's location is unknown; and

(3) determines that the person's disappearance poses a credible threat to the person's health and safety.

(b) The local law enforcement agency shall:

(1) require the family or legal guardian of the missing senior citizen or person with Alzheimer's disease to provide documentation of the person's age and condition to verify the person's status as described by Subsection (a)(2)(A); and

(2) as soon as practicable, determine whether the person's disappearance poses a credible threat to the person's health and safety for purposes of Subsection (a)(3).

Added by Acts 2007, 80th Leg., R.S., Ch. 69 (S.B. 1315), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 219 (H.B. 834), Sec. 1, eff. May 29, 2015.
Acts 2017, 85th Leg., R.S., Ch. 489 (H.B. 2639), Sec. 5, eff. June 9, 2017.

Sec. 411.387. ACTIVATION OF SILVER ALERT. (a) When a local law enforcement agency notifies the department under Section 411.386, the department shall confirm the accuracy of the information and, if confirmed, immediately issue an alert under this subchapter in accordance with department rules.

(b) In issuing the alert, the department shall send the alert to designated media outlets in Texas. Following receipt of the alert, participating radio stations and television stations and other participating media outlets may issue the alert at designated intervals to assist in locating the missing senior citizen or person with Alzheimer's disease.

Added by Acts 2007, 80th Leg., R.S., Ch. 69 (S.B. 1315), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 489 (H.B. 2639), Sec. 6, eff. June 9, 2017.

Sec. 411.388. CONTENT OF SILVER ALERT. The alert must include:

(1) all appropriate information that is provided by the local law enforcement agency and that may lead to the safe recovery of the missing senior citizen or person with Alzheimer's disease; and

(2) a statement instructing any person with information related to the missing senior citizen or person with Alzheimer's disease to contact a local law enforcement agency.

Added by Acts 2007, 80th Leg., R.S., Ch. 69 (S.B. 1315), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 489 (H.B. 2639), Sec. 7, eff. June 9, 2017.

Sec. 411.389. TERMINATION OF SILVER ALERT. (a) The director shall terminate any activation of the alert with respect to a particular missing senior citizen or person with Alzheimer's disease not later than the earlier of the date on which:

(1) the missing person is located or the situation is otherwise resolved; or

(2) the notification period ends, as determined by department rule.

(b) A local law enforcement agency that locates a missing senior citizen or person with Alzheimer's disease who is the subject of an alert under this subchapter shall notify the department as soon as possible that the missing person has been located.

Added by Acts 2007, 80th Leg., R.S., Ch. 69 (S.B. 1315), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 489 (H.B. 2639), Sec. 8, eff. June 9, 2017.

SUBCHAPTER N. INTEROPERABLE STATEWIDE EMERGENCY RADIO INFRASTRUCTURE

Sec. 411.401. DEFINITION. In this subchapter, "emergency radio infrastructure" means radio frequency hardware, software, or auxiliary equipment that:

(1) provides dispatch communications for this state and local governments to public safety agencies; and

(2) allows interoperable communication between public safety agencies, including communication between different types of public safety agencies.

Added by Acts 2011, 82nd Leg., R.S., Ch. 701 (H.B. 442), Sec. 1, eff. September 1, 2011.

Sec. 411.4015. GRANTS TO FINANCE INTEROPERABLE STATEWIDE EMERGENCY RADIO INFRASTRUCTURE. (a) The office of the governor shall establish a program to provide grants as provided by Section 411.402.

(b) The office of the governor shall establish procedures to administer the grant program, including a procedure for the submission of a proposal and a procedure to be used by the office to evaluate a proposal.

(c) The office of the governor shall enter into a contract that includes performance requirements with each grant recipient. The office shall monitor and enforce the terms of the contract.

(d) The office of the governor shall adopt rules to administer this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 295 (H.B. 2952), Sec. 1, eff. September 1, 2019.

Sec. 411.402. USE OF GRANTS. (a) A grant provided under Section 411.4015 may only:

(1) be used for the planning, development, provision, enhancement, or ongoing maintenance of an interoperable statewide emergency radio infrastructure;

(2) be used in accordance with the statewide integrated public safety radio communications plan developed under Subchapter F, Chapter 421;

(3) be used for the development of a regional or state interoperable radio communication system;

(4) be made to:

(A) regional councils of government that have entered into interlocal agreements authorized under state law; and

(B) state agencies requiring emergency radio infrastructure; or

(5) be used for other public safety purposes.

(b) A grant provided under Section 411.4015 may not be used to purchase or maintain radio subscriber equipment.

Added by Acts 2011, 82nd Leg., R.S., Ch. 701 (H.B. 442), Sec. 1, eff. September 1, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 295 (H.B. 2952), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.16, eff. January 1, 2020.

Sec. 411.403. EMERGENCY RADIO INFRASTRUCTURE ACCOUNT. (a) The emergency radio infrastructure account is an account in the general revenue fund.

(b) The account consists of fees deposited in the account as provided by Section 133.102(e)(9), Local Government Code.

(c) Money in the account may be used only for grants made under this subchapter.

(d) Section 403.095 does not apply to the account.

Added by Acts 2011, 82nd Leg., R.S., Ch. 701 (H.B. 442), Sec. 1, eff. September 1, 2011.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 295 (H.B. 2952), Sec. 3, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 1.17, eff. January 1, 2020.

SUBCHAPTER O. PREVENTION OF SCRAP METAL THEFT GRANT PROGRAM

Sec. 411.421. DEFINITION. In this subchapter, "regulated material" has the meaning assigned by Section 1956.001, Occupations Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 20, eff. September 1, 2011.
Redesignated from Government Code, Subchapter N, Chapter 411 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(21), eff. September 1, 2013.

Sec. 411.422. GRANTS TO FUND SCRAP METAL THEFT PREVENTION. (a) From fines collected and distributed to the department under Sections 1956.040(a-2) and (a-4), Occupations Code, the commission by rule shall establish and implement a grant program to provide funding to assist local law enforcement agencies in preventing the theft of regulated material.

(b) To be eligible for a grant, a recipient must be a local law enforcement agency that has established a program designed to prevent the theft of regulated material.

(c) Rules adopted under this section must:

(1) include accountability measures for grant recipients

and provisions for loss of eligibility for grant recipients that fail to comply with the measures; and

(2) require grant recipients to provide to the department information on program outcomes.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 20, eff. September 1, 2011.
Redesignated from Government Code, Subchapter N, Chapter 411 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(21), eff. September 1, 2013.

SUBCHAPTER P. BLUE ALERT SYSTEM

Sec. 411.441. DEFINITIONS. In this subchapter:

(1) "Alert system" means the statewide blue alert system that is developed and implemented under this subchapter.

(2) "Law enforcement agency" means a law enforcement agency with jurisdiction over the investigation of an alleged offense that resulted in the death or serious bodily injury of a law enforcement officer.

(3) "Law enforcement officer" means a person who is a peace officer under Article 2A.001, Code of Criminal Procedure, or a person who is a federal law enforcement officer, as defined by 5 U.S.C. Section 8331(20).

(4) "Serious bodily injury" has the meaning assigned by Section 1.07, Penal Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 417 (S.B. 1138), Sec. 1, eff. September 1, 2017.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.093, eff. January 1, 2025.

Sec. 411.442. BLUE ALERT SYSTEM. With the cooperation of the Texas Department of Transportation, the office of the governor, and other appropriate law enforcement agencies in this state, the department shall develop and implement a statewide blue alert system to be activated to aid in the apprehension of an individual suspected of killing or causing serious bodily injury to a law enforcement officer.

Added by Acts 2017, 85th Leg., R.S., Ch. 417 (S.B. 1138), Sec. 1, eff. September 1, 2017.

Sec. 411.443. ADMINISTRATION. (a) The director is the statewide coordinator of the alert system.

(b) The director shall adopt rules and issue directives as necessary to ensure proper implementation of the alert system. The rules and directives must include:

(1) the procedures to be used by a law enforcement agency to verify whether:

(A) an individual is suspected of killing or causing serious bodily injury to a law enforcement officer and is not yet apprehended; and

(B) the activation of the alert system would aid in the apprehension of that individual;

(2) a description of the circumstances under which a law enforcement agency is required to report a missing suspect to the department; and

(3) the procedures to be used by an individual or entity to report information about a missing suspect to designated media outlets in Texas.

(c) The director shall prescribe forms for use by law enforcement agencies in requesting activation of the alert system.

Added by Acts 2017, 85th Leg., R.S., Ch. 417 (S.B. 1138), Sec. 1, eff. September 1, 2017.

Sec. 411.444. DEPARTMENT TO RECRUIT PARTICIPANTS. The department shall recruit public and commercial television and radio broadcasters, private commercial entities, state or local governmental entities, the public, and other appropriate persons to assist in developing and implementing the alert system.

Added by Acts 2017, 85th Leg., R.S., Ch. 417 (S.B. 1138), Sec. 1, eff. September 1, 2017.

Sec. 411.445. STATE AGENCIES. (a) A state agency participating in the alert system shall:

(1) cooperate with the department and assist in developing and implementing the alert system; and

(2) establish a plan for providing relevant information to its officers, investigators, or employees, as appropriate, once the alert system has been activated.

(b) In addition to its duties as a state agency under Subsection (a), the Texas Department of Transportation shall establish a plan for providing relevant information to the public through an existing system of dynamic message signs located across the state.

Added by Acts 2017, 85th Leg., R.S., Ch. 417 (S.B. 1138), Sec. 1, eff. September 1, 2017.

Sec. 411.446. NOTIFICATION TO DEPARTMENT. (a) A law enforcement agency that receives notice of an individual who is suspected of killing or causing serious bodily injury to a law enforcement officer and who has not yet been apprehended shall:

(1) confirm the accuracy of the information; and

(2) if the agency believes the missing suspect poses a threat to other law enforcement officers and to the public, provide notice to the department.

(b) A law enforcement agency providing notice to the department under Subsection (a) shall include with that notice a detailed description of the missing suspect and, if applicable, any available portion of the license plate number of a motor vehicle being used by the suspect.

Added by Acts 2017, 85th Leg., R.S., Ch. 417 (S.B. 1138), Sec. 1, eff. September 1, 2017.

Sec. 411.447. ACTIVATION OF BLUE ALERT SYSTEM. (a) When a law enforcement agency notifies the department under Section 411.446, the department shall confirm the accuracy of the information and, if confirmed, immediately issue an alert through the alert system in accordance with department rules.

(b) In issuing the alert, the department shall send the alert to designated media outlets in Texas. Following receipt of the alert, participating radio stations and television stations and other

participating media outlets may issue the alert at designated intervals to assist in locating the missing suspect.

(c) The department shall also send the alert to:

(1) any appropriate law enforcement agency;

(2) the Texas Department of Transportation; and

(3) a state agency described by Section 411.445.

Added by Acts 2017, 85th Leg., R.S., Ch. 417 (S.B. 1138), Sec. 1, eff. September 1, 2017.

Sec. 411.448. CONTENT OF ALERT. The alert must include:

(1) all appropriate information that is provided by the law enforcement agency under Section 411.446 and that may lead to the apprehension of the missing suspect; and

(2) a statement instructing any person with information related to the missing suspect to contact a law enforcement agency.

Added by Acts 2017, 85th Leg., R.S., Ch. 417 (S.B. 1138), Sec. 1, eff. September 1, 2017.

Sec. 411.449. TERMINATION OF ALERT SYSTEM. (a) The director shall terminate any activation of the alert system with respect to a particular missing suspect not later than the earlier of the date on which:

(1) the missing suspect is apprehended;

(2) the department receives evidence that the missing suspect has left this state; or

(3) the department determines that the alert system will no longer aid in the apprehension of the missing suspect.

(b) A law enforcement agency that apprehends a missing suspect who is the subject of an alert under this subchapter shall notify the department as soon as possible that the missing suspect has been apprehended.

Added by Acts 2017, 85th Leg., R.S., Ch. 417 (S.B. 1138), Sec. 1, eff. September 1, 2017.

SUBCHAPTER Q. COORDINATED LAW ENFORCEMENT ADULT RESCUE (CLEAR) ALERT

FOR MISSING ADULTS

Sec. 411.461. DEFINITIONS. In this subchapter:

(1) "Adult" means a person who is 18 years of age or older but younger than 65 years of age.

(2) "Alert" means the statewide Coordinated Law Enforcement Adult Rescue (CLEAR) alert for missing adults that is developed and implemented under this subchapter.

(3) "Bodily injury" has the meaning assigned by Section 1.07, Penal Code.

(4) "Local law enforcement agency" means a local law enforcement agency with jurisdiction over the investigation of a missing adult.

Added by Acts 2019, 86th Leg., R.S., Ch. 227 (H.B. 1769), Sec. 1, eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 31 (H.B. 2677), Sec. 3, eff. May 15, 2021.

Sec. 411.462. COORDINATED LAW ENFORCEMENT ADULT RESCUE (CLEAR) ALERT FOR MISSING ADULTS. With the cooperation of the Texas Department of Transportation, the office of the governor, and other appropriate law enforcement agencies in this state, the department shall develop and implement a system to allow a statewide alert to be activated on behalf of a missing adult.

Added by Acts 2019, 86th Leg., R.S., Ch. 227 (H.B. 1769), Sec. 1, eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 31 (H.B. 2677), Sec. 4, eff. May 15, 2021.

Sec. 411.463. ADMINISTRATION. (a) The director is the statewide coordinator of the alert system.

(b) The director shall adopt rules and issue directives as necessary to ensure proper implementation of the alert system. The rules and directives must include:

(1) the procedures to be used by a local law enforcement agency to verify whether an adult is missing and whether

circumstances indicate that:

(A) the missing adult is in imminent danger of bodily injury or death; or

(B) the disappearance of the missing adult may not have been voluntary, including cases of abduction or kidnapping;

(2) a description of the circumstances under which a local law enforcement agency is required to report a missing adult to the department; and

(3) the procedures to be used by an individual or entity to report information about a missing adult to designated media outlets in this state.

(c) The director shall prescribe forms for use by local law enforcement agencies in requesting activation of the alert system.

Added by Acts 2019, 86th Leg., R.S., Ch. 227 (H.B. 1769), Sec. 1, eff. September 1, 2019.

Sec. 411.464. DEPARTMENT TO RECRUIT PARTICIPANTS. The department shall recruit public and commercial television and radio broadcasters, private commercial entities, state or local governmental entities, the public, and other appropriate persons to assist in developing and implementing the alert system.

Added by Acts 2019, 86th Leg., R.S., Ch. 227 (H.B. 1769), Sec. 1, eff. September 1, 2019.

Sec. 411.465. STATE AGENCIES. (a) A state agency participating in the alert system shall:

(1) cooperate with the department and assist in developing and implementing the alert system; and

(2) establish a plan for providing relevant information to its officers, investigators, or employees, as appropriate, once the alert system has been activated.

(b) In addition to its duties as a state agency under Subsection (a), the Texas Department of Transportation shall establish a plan for providing relevant information to the public through an existing system of dynamic message signs located across the state.

Added by Acts 2019, 86th Leg., R.S., Ch. 227 (H.B. 1769), Sec. 1, eff. September 1, 2019.

Sec. 411.466. NOTIFICATION TO DEPARTMENT OF MISSING ADULT. (a) A local law enforcement agency shall notify the department if the agency:

(1) receives a report regarding a missing adult;

(2) verifies that at the time the adult is reported missing:

(A) the person reported missing is 18 years of age or older but younger than 65 years of age;

(B) the adult's location is unknown; and

(C) the adult has been missing for less than 72 hours;

(3) confirms that a preliminary investigation has taken place with respect to the disappearance and that, as a result of that investigation, the agency believes that the adult is missing under circumstances described by Section 411.463(b)(1)(A) or (B); and

(4) believes sufficient information is available to disseminate to the public that could assist in locating the adult, a person suspected of abducting or kidnapping the adult, or a vehicle suspected of being used by the adult or in any abduction or kidnapping of the adult.

(b) The department may modify the criteria described by Subsection (a) as necessary for the proper implementation of the alert system.

Added by Acts 2019, 86th Leg., R.S., Ch. 227 (H.B. 1769), Sec. 1, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 411.467. ACTIVATION OF ALERT. (a) When a local law enforcement agency notifies the department under Section 411.466, the department shall confirm the accuracy of the information and, if confirmed, immediately issue an alert under this subchapter in accordance with the department's rules and directives under Section 411.463.

(b) The department may issue the alert on its own initiative, without receiving the notification described by Subsection (a), if the issuance conforms to the department's rules and directives and if the criteria described by Section 411.466(a) are satisfied.

(c) In issuing the alert, the department shall send the alert to designated media outlets in this state. Following receipt of the alert, participating radio stations and television stations and other participating media outlets may issue the alert at designated intervals to assist in locating the missing adult.

(d) The department shall also send the alert to:

(1) any appropriate law enforcement agency;

(2) the Texas Department of Transportation;

(3) the Texas Lottery Commission; and

(4) the Independent Bankers Association of Texas.

Added by Acts 2019, 86th Leg., R.S., Ch. 227 (H.B. 1769), Sec. 1, eff. September 1, 2019.

Sec. 411.468. CONTENT OF ALERT. The alert must include:

(1) all appropriate information that may lead to the safe recovery of the missing adult, as determined by the department; and

(2) a statement instructing any person with information related to the missing adult to contact a local or state law enforcement agency.

Added by Acts 2019, 86th Leg., R.S., Ch. 227 (H.B. 1769), Sec. 1, eff. September 1, 2019.

Sec. 411.469. TERMINATION OF ALERT. (a) The director shall terminate any activation of the alert with respect to a particular missing adult not later than the earlier of the date on which:

(1) the missing adult is located or the situation is otherwise resolved; or

(2) the notification period ends, as determined by department rule.

(b) A local law enforcement agency that locates a missing adult who is the subject of an alert under this subchapter shall notify the department as soon as possible that the missing adult has been located.

Added by Acts 2019, 86th Leg., R.S., Ch. 227 (H.B. 1769), Sec. 1, eff. September 1, 2019.

Sec. 411.470. LIMITATION ON PARTICIPATION BY TEXAS DEPARTMENT OF TRANSPORTATION. Notwithstanding Section 411.465(b), the Texas Department of Transportation is not required to use any existing system of dynamic message signs in a statewide alert system created under this subchapter if the department receives notice from the United States Department of Transportation Federal Highway Administration that the use of the signs would result in the loss of federal highway funding or other punitive actions taken against this state due to noncompliance with federal laws, regulations, or policies.

Added by Acts 2019, 86th Leg., R.S., Ch. 227 (H.B. 1769), Sec. 1, eff. September 1, 2019.

SUBCHAPTER Q-1. POWERS AND DUTIES RELATED TO CERTAIN REGULATORY PROGRAMS

Sec. 411.501. DEFINITION. In this subchapter, "license" means a license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by a person to engage in a particular activity, business, occupation, or profession.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.
Redesignated from Government Code, Subchapter Q, Chapter 411 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(15), eff. September 1, 2021.

Sec. 411.502. APPLICABILITY. This subchapter applies to a program, and persons regulated under the program, administered by the department under the following laws, including rules adopted under those laws:

(1) Section 411.0625;
(2) Chapter 487, Health and Safety Code;
(3) Chapter 1702, Occupations Code;

(4) Chapter 1956, Occupations Code;
(5) Section 521.2476, Transportation Code; and
(6) Subchapter G, Chapter 548, Transportation Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.
Redesignated from Government Code, Subchapter Q, Chapter 411 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(15), eff. September 1, 2021.

Sec. 411.503. FINAL ENFORCEMENT AUTHORITY. (a) Except as provided by Section 411.506(b), the commission shall make the final determination in an administrative action against a person for a violation of a law or rule governing a program or person subject to this subchapter.

(b) The commission may not delegate the duty under Subsection (a).

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.
Redesignated from Government Code, Subchapter Q, Chapter 411 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(15), eff. September 1, 2021.

Sec. 411.504. COMPLAINTS. (a) The department shall maintain a system to promptly and efficiently act on complaints filed with the department regarding a violation of a law or rule governing a program or person subject to this subchapter. The department shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The department shall make information available describing its procedures for complaint investigation and resolution.

(c) The department shall periodically notify the complaint parties of the status of the complaint until final disposition.

(d) On written request, the department shall inform the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the information would jeopardize an ongoing investigation.

(e) The commission shall adopt rules to:

(1) implement this section; and

(2) establish a procedure for the investigation and resolution of complaints, including a procedure for documenting complaints to the department from the time of the submission of the initial complaint to the final disposition of the complaint.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.
Redesignated from Government Code, Subchapter Q, Chapter 411 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(15), eff. September 1, 2021.

Sec. 411.505. INVESTIGATIONS. The department may conduct investigations as necessary to enforce a law or rule governing a program or person subject to this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.
Redesignated from Government Code, Subchapter Q, Chapter 411 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(15), eff. September 1, 2021.

Sec. 411.506. INFORMAL COMPLAINT RESOLUTION AND INFORMAL PROCEEDINGS. (a) The commission by rule shall establish procedures for the informal resolution of complaints filed with the department related to a violation of a law or rule governing a program or person subject to this subchapter, including procedures governing:

(1) informal disposition of a contested case under Section 2001.056; and

(2) an informal proceeding held in compliance with Section 2001.054.

(b) Any settlement agreement arising from the procedures described by Subsection (a) must be approved by the director or the director's designee.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.
Redesignated from Government Code, Subchapter Q, Chapter 411 by Acts

2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(15), eff. September 1, 2021.

Sec. 411.507. LICENSE DENIAL; ADMINISTRATIVE SANCTION. (a) This section applies to a person required to obtain a license under a program subject to this subchapter.

(b) The commission may deny an application for, revoke, suspend, or refuse to renew a license or may reprimand a license holder for a violation of a law or rule governing a program subject to this subchapter.

(c) The commission may place on probation a person whose license is suspended. If a license suspension is probated, the commission may require the person to:

(1) report regularly to the department on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the department; or

(3) continue or renew education until the person attains a degree of competency satisfactory to the commission in those areas that are the basis for the probation.

(d) The commission shall develop a penalty schedule for each program subject to this subchapter consisting of administrative sanctions authorized under Subsections (b) and (c) based on the severity and frequency of a violation of a law or rule related to the program.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.
Redesignated from Government Code, Subchapter Q, Chapter 411 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(15), eff. September 1, 2021.

Sec. 411.508. RIGHT TO NOTICE AND HEARING; ADMINISTRATIVE PROCEDURE. (a) For each program subject to this subchapter, a person is entitled to notice and a hearing if the commission proposes to:

(1) deny an application for, revoke, suspend, or refuse to renew a license;

(2) reprimand a license holder; or

(3) place a license holder on probation.

(b) A proceeding to impose an administrative sanction as described by Subsection (a) is a contested case under Chapter 2001.

(c) Unless otherwise provided by law, judicial review of an administrative sanction or penalty imposed by the commission is under the substantial evidence rule as provided by Subchapter G, Chapter 2001.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.
Redesignated from Government Code, Subchapter Q, Chapter 411 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(15), eff. September 1, 2021.

Sec. 411.509. CEASE AND DESIST ORDER. The department may issue a cease and desist order if the department determines that the action is necessary to prevent a violation of a law or rule governing a program or person subject to this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.
Redesignated from Government Code, Subchapter Q, Chapter 411 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(15), eff. September 1, 2021.

Sec. 411.510. INJUNCTIVE RELIEF. (a) On request of the department, the attorney general shall institute an action for injunctive relief to restrain a person in violation of or threatening to violate a law or rule governing a program or person subject to this subchapter.

(b) An action filed under this section shall be filed in a district court in:

(1) Travis County; or

(2) the county in which the violation allegedly occurred or is threatened to occur.

(c) The attorney general may recover reasonable expenses incurred in obtaining injunctive relief under this section, including court costs, attorney's fees, investigative costs, witness fees, and

deposition expenses.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.
Redesignated from Government Code, Subchapter Q, Chapter 411 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(15), eff. September 1, 2021.

Sec. 411.511. STAGGERED RENEWAL; PRORATION OF LICENSE FEE. (a) The commission by rule may adopt a system under which licenses expire on various dates during the year.

(b) A license issued under a program governed by this subchapter may not expire later than the second anniversary of the date the license is issued.

(c) For the year in which the expiration date of a license is changed, the department shall prorate license fees on a monthly basis so that each license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.
Redesignated from Government Code, Subchapter Q, Chapter 411 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(15), eff. September 1, 2021.

Sec. 411.512. ANNUAL REGULATORY REPORT. (a) The department shall annually make available on the department's Internet website a report of regulatory statistics for the preceding state fiscal year for each program subject to this subchapter and aggregate information on all the programs.

(b) The report must include, as applicable, information regarding:

(1) the number of licenses issued under the program;

(2) the number and types of complaints received and resolved by the department;

(3) the number of investigations conducted by the department; and

(4) the number and types of disciplinary actions taken by the department.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.
Redesignated from Government Code, Subchapter Q, Chapter 411 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(15), eff. September 1, 2021.

SUBCHAPTER R. ADMINISTRATIVE PENALTY

Sec. 411.521. DEFINITION. In this subchapter, "license" has the meaning assigned by Section 411.501.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

Sec. 411.522. APPLICABILITY. This subchapter applies to a program, and persons regulated under the program, to which Section 411.502 applies.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

Sec. 411.523. IMPOSITION OF PENALTY. The commission may impose an administrative penalty against a person who violates:

(1) a law establishing a program subject to this subchapter; or

(2) a rule adopted or order issued by the commission under a law described by Subdivision (1).

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

Sec. 411.524. AMOUNT OF PENALTY. (a) If the relevant law establishing a program subject to this subchapter does not state the maximum amount of an administrative penalty under that law, the amount of the penalty shall be assessed by the commission in an

amount not to exceed $5,000 per day for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(b) The amount of the penalty shall be based on:

(1) the seriousness of the violation;

(2) the respondent's history of previous violations;

(3) the amount necessary to deter a future violation;

(4) efforts made by the respondent to correct the violation; and

(5) any other matter that justice may require.

(c) The commission shall establish a written enforcement plan that provides notice to license holders of the specific ranges of penalties that apply to specific alleged violations and the criteria by which the department determines the amount of a proposed administrative penalty.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

Sec. 411.525. IMPOSITION OF SANCTION. A proceeding under this subchapter imposing an administrative penalty may be combined with a proceeding to impose an administrative sanction. If a sanction is imposed in a proceeding under this subchapter, the requirements of this subchapter apply to the imposition of the sanction.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

Sec. 411.526. NOTICE OF VIOLATION AND PENALTY. If, after investigation of a possible violation and the facts surrounding the possible violation, the department determines that a violation occurred, the department shall issue to the respondent a notice of alleged violation stating:

(1) a brief summary of the alleged violation;

(2) the amount of the recommended administrative penalty; and

(3) that the respondent has the right to a hearing to contest the alleged violation, the amount of the penalty, or both.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

Sec. 411.527. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Not later than the 20th day after the date the respondent receives the notice, the respondent may:

(1) accept the department's determination and recommended administrative penalty; or

(2) make a written request for a hearing on that determination.

(b) If the respondent accepts the department's determination, the commission by order may approve the determination and require the person to pay the recommended penalty.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

Sec. 411.528. HEARING ON RECOMMENDATIONS. (a) If the respondent requests a hearing, the hearing shall be conducted by the department or the State Office of Administrative Hearings.

(b) The State Office of Administrative Hearings shall consider the department's applicable substantive rules and policies when conducting a hearing under this subchapter.

(c) A department hearing officer or an administrative law judge at the State Office of Administrative Hearings, as applicable, shall:

(1) make findings of fact and conclusions of law; and

(2) promptly issue to the commission a proposal for decision as to the occurrence of the violation and the amount of any proposed administrative penalty.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

Sec. 411.529. DECISION BY COMMISSION. (a) Based on the findings of fact, conclusions of law, and proposal for decision, the commission by order may determine that:

(1) a violation occurred and impose an administrative penalty; or

(2) a violation did not occur.

(b) The department shall give notice of the order to the respondent.

(c) The order under this section must include:

(1) separate statements of the findings of fact and conclusions of law;

(2) the amount of any penalty imposed;

(3) a statement of the right of the respondent to judicial review of the order; and

(4) any other information required by law.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

Sec. 411.530. OPTIONS FOLLOWING DECISION: PAY OR APPEAL. (a) Not later than the 30th day after the date the commission's order becomes final, the respondent shall:

(1) pay the penalty; or

(2) file a petition for judicial review contesting the order and:

(A) forward the penalty to the department for deposit in an escrow account; or

(B) give the department a supersedeas bond in a form approved by the department that:

(i) is for the amount of the penalty; and

(ii) is effective until judicial review of the decision is final.

(b) A respondent who is financially unable to comply with Subsection (a)(2) is entitled to judicial review if the respondent files with the court, as part of the respondent's petition for judicial review, a sworn statement that the respondent is unable to meet the requirements of Subsection (a)(2).

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

Sec. 411.531. COLLECTION OF PENALTY. If the person on whom the administrative penalty is imposed violates Section 411.530(a), the department or the attorney general may bring an action to collect the

penalty.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

Sec. 411.532. REMITTANCE OF PENALTY AND INTEREST. (a) If, after judicial review, the administrative penalty is reduced or not imposed, the department shall:

(1) remit to the person the appropriate amount, plus accrued interest, if the person paid the amount of the penalty; or

(2) execute a release of the bond, if the person posted a supersedeas bond.

(b) The interest paid under Subsection (a)(1) is accrued at the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid to the department and ending on the date the penalty is remitted.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

Sec. 411.533. ADMINISTRATIVE PROCEDURE. (a) The commission by rule shall prescribe procedures for the determination and appeal of a decision to impose an administrative penalty.

(b) A proceeding under this subchapter to impose an administrative penalty is a contested case under Chapter 2001.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 411.951. CONFIDENTIALITY OF IWATCHTEXAS COMMUNITY REPORTING SYSTEM REPORTS. All suspicious activity reports and school safety reports included in the iWatchTexas community reporting system operated by the department are confidential and not subject to disclosure under Chapter 552.

Added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 24, eff.

September 1, 2023.

CHAPTER 413. CRIMINAL JUSTICE POLICY COUNCIL

Sec. 413.001. DEFINITION. In this chapter, "policy council" means the Criminal Justice Policy Council.

Amended by Acts 1997, 75th Leg., ch. 298, Sec. 1, eff. Sept. 1, 1997.

Sec. 413.002. CRIMINAL JUSTICE POLICY COUNCIL. The Criminal Justice Policy Council is an agency of the state.

Amended by Acts 1997, 75th Leg., ch. 298, Sec. 1, eff. Sept. 1, 1997.

Sec. 413.004. EXECUTIVE DIRECTOR. (a) The policy council is under the direction of an executive director.

(b) The executive director is appointed by the governor with the advice and consent of the senate. The appointment of an executive director shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(c) A person is not eligible for appointment as the executive director if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the policy council;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the policy council; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the policy council, other than compensation or reimbursement authorized by law for the executive director.

(d) The executive director may not work for any agency or office of the state other than the policy council and may not perform duties for any other state agency or office that negatively affect the performance of the executive director's duties as executive director of the policy council.

(e) It is a ground for removal from the position of executive director if the appointee:

(1) is disqualified for the position under Subsection (c) or engages in an activity after appointment that, under Subsection (c), would have disqualified the person for appointment to the position;

(2) violates a prohibition established by Subsection (d) or Section 413.006; or

(3) cannot because of illness or disability discharge the executive director's duties.

Amended by Acts 1997, 75th Leg., ch. 298, Sec. 1, eff. Sept. 1, 1997.

Sec. 413.005. STAFF. (a) The executive director may employ personnel necessary to administer the responsibilities of the policy council.

(b) The executive director or the executive director's designee shall provide to policy council employees, as often as necessary, information regarding their qualification for employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state employees.

(c) The executive director or the executive director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the policy council. The program shall require intra-agency posting of all positions concurrently with any public posting.

(d) The executive director or the executive director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for policy council employees must be based on the system established under this subsection.

(e) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

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

(2) a comprehensive analysis of the policy council work force that meets federal and state guidelines;

(3) procedures by which a determination can be made about the extent of underuse in the policy council work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(f) A policy statement prepared under Subsection (e) must cover an annual period, be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (e)(1), and be filed with the governor's office.

(g) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(32), eff. June 17, 2011.

Amended by Acts 1997, 75th Leg., ch. 298, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(32), eff. June 17, 2011.

Sec. 413.006. CONFLICT OF INTERESTS. (a) An officer, employee, or paid consultant of a Texas trade association in the field of criminal justice may not be the executive director of the policy council or an employee of the policy council who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(b) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of criminal justice may not be the executive director of the policy council and may not be an employee of the policy council who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(c) A person may not serve as the executive director of the policy council or act as the general counsel to the policy council if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation

on behalf of a profession related to the operation of the policy council.

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

Amended by Acts 1997, 75th Leg., ch. 298, Sec. 1, eff. Sept. 1, 1997.

Sec. 413.007. APPOINTMENT OF OTHER ADVISORY BODIES. The governor may establish other advisory councils, task forces, or commissions the governor considers necessary to advise the policy council or to accomplish the purposes of this chapter.

Amended by Acts 1997, 75th Leg., ch. 298, Sec. 1, eff. Sept. 1, 1997.

Sec. 413.008. GENERAL DUTY OF POLICY COUNCIL. The policy council shall develop means to promote a more effective and cohesive state criminal justice system.

Amended by Acts 1997, 75th Leg., ch. 298, Sec. 1, eff. Sept. 1, 1997.

Sec. 413.009. DUTIES OF POLICY COUNCIL. (a) To accomplish its duties the policy council shall:

(1) conduct an in-depth analysis of the criminal justice system;

(2) determine the long-range needs of the criminal justice system and recommend policy priorities for the system;

(3) identify critical problems in the criminal justice system and recommend strategies to solve those problems;

(4) assess the cost-effectiveness of the use of state and local funds in the criminal justice system;

(5) recommend means to improve the deterrent and rehabilitative capabilities of the criminal justice system;

(6) advise and assist the legislature in developing plans, programs, and proposed legislation for improving the effectiveness of

the criminal justice system;

(7) evaluate the rehabilitative capabilities of a state-administered sex offender treatment program and, based on that evaluation, determine if the program is necessary;

(8) make computations of daily costs and compare interagency costs on services provided by agencies that are a part of the criminal justice system;

(9) make population computations for use in planning for the long-range needs of the criminal justice system;

(10) determine long-range information needs of the criminal justice system and acquire that information;

(11) engage in other activities consistent with the responsibilities of the policy council; and

(12) cooperate with the Crime Victims' Institute by providing information and assistance to the institute relating to the improvement of crime victims' services.

(b) In addition to the policy council's other duties under this chapter, the policy council may perform any function described in Subsection (a) to promote an effective and cohesive juvenile justice system.

Amended by Acts 1997, 75th Leg., ch. 298, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 445, Sec. 16, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.07, eff. Sept. 1, 1999.

Sec. 413.010. CONSULTATION WITH LEGISLATIVE OFFICIALS. In setting the priorities for the research projects of the policy council, the executive director of the policy council shall consult the governor, the lieutenant governor, the speaker of the house of representatives, the presiding officer of each standing committee of the senate and house of representatives having primary jurisdiction over criminal justice issues, and the presiding officer of each standing committee of the senate and house of representatives having primary jurisdiction over matters relating to state finance and appropriations from the state treasury.

Amended by Acts 1997, 75th Leg., ch. 298, Sec. 1, eff. Sept. 1, 1997.

Sec. 413.011. CONTRACTUAL AUTHORITY. The policy council may

contract with public or private entities in the performance of its responsibilities.

Amended by Acts 1997, 75th Leg., ch. 298, Sec. 1, eff. Sept. 1, 1997.

Sec. 413.012. FUNDS; GRANTS AND DONATIONS. (a) All money paid to the policy council under this chapter is subject to Subchapter F, Chapter 404, Government Code.

(b) The executive director shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the policy council during the preceding fiscal year. The annual report must meet the reporting requirements applicable to financial reporting provided in the General Appropriations Act.

(c) The policy council may accept grants and donations from public and private entities in addition to legislative appropriations.

Amended by Acts 1997, 75th Leg., ch. 298, Sec. 1, eff. Sept. 1, 1997.

Sec. 413.014. STATISTICAL ANALYSIS CENTER. The policy council shall serve as the statistical analysis center for the state and as the liaison for the state to the United States Department of Justice on criminal justice issues of interest to the state and federal government relating to data, information systems, and research.

Amended by Acts 1997, 75th Leg., ch. 298, Sec. 1, eff. Sept. 1, 1997.

Sec. 413.016. INMATE RELEASE STATISTICS. (a) Each month the policy council shall determine the following information:

(1) the number and percentage of inmates released on parole or to mandatory supervision to each county;

(2) the number and percentage of inmates released on parole in absentia to each county; and

(3) the number of inmates released to and from a halfway house in each county, including the number of inmates who are required as a condition of release to reside in a county other than the county in which a halfway house is located.

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec.

25(35), eff. June 17, 2011.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(35), eff. June 17, 2011.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(35), eff. June 17, 2011.

(e) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(35), eff. June 17, 2011.

Amended by Acts 1997, 75th Leg., ch. 298, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(35), eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.005, eff. September 1, 2013.

Sec. 413.017. REVIEW OF USE OF PAROLE GUIDELINES. The policy council shall report at least annually to the Legislative Criminal Justice Board, the Texas Board of Criminal Justice, and the Board of Pardons and Paroles on the use of the parole guidelines by each member of the board in making parole decisions.

Amended by Acts 1997, 75th Leg., ch. 298, Sec. 1, eff. Sept. 1, 1997.

Sec. 413.018. ACCESS TO PROGRAMS AND FACILITIES. The policy council shall comply with federal and state laws related to program and facility accessibility. The executive director of the policy council shall also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the policy council's programs and services.

Added by Acts 1997, 75th Leg., ch. 298, Sec. 1, eff. Sept. 1, 1997.

Sec. 413.019. CONSUMER INFORMATION AND COMPLAINTS. (a) The policy council shall prepare information of public interest describing the functions of the policy council and the procedures by which complaints are filed with and resolved by the policy council. The policy council shall make the information available to the public and appropriate state agencies.

(b) The executive director of the policy council shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the policy council for the purpose of directing complaints to the policy council. The executive director of the policy council may provide for that notification on each written contract made under this chapter for the services of an individual or other entity.

(c) The policy council shall keep a file about each written complaint filed with the policy council that the policy council has authority to resolve. The policy council shall provide to the person filing the complaint and the persons or entities complained about the policy council's policies and procedures pertaining to complaint investigation and resolution. The policy council, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and the persons or entities complained about of the status of the complaint unless the notice would jeopardize an undercover investigation.

(d) The policy council shall keep information about each complaint filed with the policy council. The information shall include:

(1) the date the complaint is received;

(2) the name of the complainant;

(3) the subject matter of the complaint;

(4) a record of all persons contacted in relation to the complaint;

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

(6) for complaints for which the agency took no action, an explanation of the reason the complaint was closed without action.

Amended by Acts 1997, 75th Leg., ch. 298, Sec. 1, eff. Sept. 1, 1997.

Sec. 413.022. RECIDIVISM PERFORMANCE REVIEW. (a) The policy council shall develop methods for measuring the success of each program or service determined by the Texas Board of Criminal Justice under Section 493.0053 to be designed for the primary purpose of rehabilitating inmates. On request of the policy council, the provider of a program or service or a representative of Sam Houston State University, the Texas Workforce Commission, or the Texas

Department of Criminal Justice shall assist the policy council in developing the methods required by this section. The Texas Department of Criminal Justice shall assist the council by collecting data in accordance with those methods.

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(36), eff. June 17, 2011.

Added by Acts 1997, 75th Leg., ch. 1360, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 62, Sec. 19.02(7), eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(36), eff. June 17, 2011.

CHAPTER 414. TEXAS CRIME STOPPERS COUNCIL

Sec. 414.001. DEFINITIONS. In this chapter:

(1) "Council" means the Texas Crime Stoppers Council.

(2) "Crime stoppers organization" means:

(A) a private, nonprofit organization that is operated on a local or statewide level, that accepts donations and expends funds for rewards to persons who submit tips under Section 414.0015(a), and that forwards the information received from tips to the appropriate law enforcement agency, school district, or open-enrollment charter school as provided by Section 414.0015(b); or

(B) a public organization that is operated on a local or statewide level, that pays rewards to persons who submit tips under Section 414.0015(a), and that forwards the information received from tips to the appropriate law enforcement agency, school district, or open-enrollment charter school as provided by Section 414.0015(b).

(3) "Open-enrollment charter school" means a school that has been granted a charter under Subchapter D, Chapter 12, Education Code.

(4) "School district" means a public school district created under the laws of this state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 700, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1560, Sec. 1, eff. June 19, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 168 (H.B. 590), Sec. 2, eff. May

27, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1172 (H.B. 3316), Sec. 1, eff. September 1, 2019.

Sec. 414.0015. CRIME STOPPERS TIPS. (a) The council, a crime stoppers organization, or a person accepting information on behalf of the council or a crime stoppers organization may accept tips submitted by any person regarding:

(1) criminal activity;

(2) conduct or threatened conduct that constitutes a danger to public safety or an individual; or

(3) conduct or threatened conduct that would disrupt the efficient and effective operations of a school district or open-enrollment charter school.

(b) A crime stoppers organization may forward a tip submitted under Subsection (a) to the appropriate law enforcement agency, school district, or open-enrollment charter school, except that a tip regarding conduct or threatened conduct described only by Subsection (a)(3) may be forwarded only to the appropriate school district or open-enrollment charter school.

Added by Acts 2019, 86th Leg., R.S., Ch. 1172 (H.B. 3316), Sec. 2, eff. September 1, 2019.

Sec. 414.002. ORGANIZATION OF COUNCIL. (a) The Texas Crime Stoppers Council is within the criminal justice division of the governor's office.

(b) The council consists of five voting members appointed by the governor with the advice and consent of the senate. At least three members must be:

(1) a current or former official or employee of a school district or open-enrollment charter school; or

(2) a person who has participated in a crime stoppers organization in any of the following capacities:

(A) as a law enforcement coordinator;

(B) as a member of the board of directors;

(C) as a media representative; or

(D) as an administrative officer.

(c) The term of office of a voting member is four years.

(d) At its first meeting after the beginning of each fiscal year the council shall elect from among its voting members a chairman and other officers that the council considers necessary.

(e) In addition to the voting members appointed under Subsection (b), the council may annually appoint a current student of a public school in this state who participates in the Texas Crime Stoppers Ambassador Program as a nonvoting student advisor to the council.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 7.01(9), eff. Nov. 12, 1991; Acts 1997, 75th Leg., ch. 700, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 940, Sec. 1, eff. Aug. 30, 1999; Acts 1999, 76th Leg., ch. 1560, Sec. 1, eff. June 19, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 168 (H.B. 590), Sec. 3, eff. May 27, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1172 (H.B. 3316), Sec. 3, eff. September 1, 2019.

Sec. 414.003. PER DIEM AND EXPENSES. A voting member of the council is entitled to:

(1) a per diem as determined by appropriation; and

(2) reimbursement for actual and necessary expenses incurred in performing duties as a member.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1560, Sec. 1, eff. June 19, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1172 (H.B. 3316), Sec. 4, eff. September 1, 2019.

Sec. 414.004. DIRECTOR. The executive director of the criminal justice division of the governor's office, with input from the council, shall designate a person to serve as director. The executive director shall consult with the council to define the director's authority and responsibilities.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1560, Sec. 1, eff. June 19, 1999. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 707 (H.B. 3690), Sec. 1, eff. September 1, 2017.

Sec. 414.005. DUTIES. The council shall:

(1) encourage, advise, and assist in the creation of crime stoppers organizations;

(2) foster the detection of crime and encourage persons to submit tips under Section 414.0015(a);

(3) encourage news and other media to inform the public of the functions of crime stoppers organizations' operations and programs;

(4) promote the process of crime stoppers organizations to forward information from tips submitted under Section 414.0015(a) to the appropriate law enforcement agencies, school districts, and open-enrollment charter schools;

(5) help law enforcement agencies detect and combat crime by increasing the flow of information to and between law enforcement agencies;

(6) create specialized programs targeted at detecting specific crimes or types of crimes identified as priorities by the council, including at least one program that:

(A) encourages individuals to submit tips regarding sex offenders who have failed to register under Chapter 62, Code of Criminal Procedure;

(B) encourages individuals to submit tips regarding criminal activity relating to the trafficking of persons, as described under Chapter 20A, Penal Code; and

(C) financially rewards each individual who submits a tip described by Paragraph (A) or (B) that leads or substantially contributes to the arrest or apprehension:

(i) of a sex offender who has failed to register under Chapter 62, Code of Criminal Procedure; or

(ii) of a person suspected of engaging in conduct that constitutes an offense under Chapter 20A, Penal Code;

(7) encourage, advise, and assist crime stoppers organizations in implementing any programs created under Subdivision

(6), including a program specifically described by Subdivision (6); and

(8) encourage, advise, and assist in the creation of campus-based crime stoppers organizations to increase the detection of criminal activity and other conduct or threatened conduct that may be submitted to a crime stoppers organization under Section 414.0015(a).

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 700, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1560, Sec. 1, eff. June 19, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1291 (S.B. 6), Sec. 5, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 900 (H.B. 1120), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1351 (S.B. 1356), Sec. 5, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1172 (H.B. 3316), Sec. 5, eff. September 1, 2019.

Sec. 414.006. RULES. The council may adopt rules to carry out its functions under this chapter. The rules adopted by the council shall not conflict with rules relating to grants adopted by the criminal justice division of the governor's office.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1560, Sec. 1, eff. June 19, 1999.

Sec. 414.007. CONFIDENTIALITY OF CRIME STOPPERS RECORDS. A record relating to a tip received under Section 414.0015(a) maintained by the council, a crime stoppers organization, a law enforcement agency, a school district, or an open-enrollment charter school, including the identity of the person who submitted the tip, is confidential and is not subject to disclosure under Chapter 552.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1560, Sec. 1, eff. June 19, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1172 (H.B. 3316), Sec. 6, eff. September 1, 2019.

Sec. 414.008. PRIVILEGED INFORMATION. (a) Except as otherwise provided by this section, evidence relating to a communication between a person submitting a tip under Section 414.0015(a) and a person who accepted the tip under that subsection is not admissible in a court or an administrative proceeding and may not be considered in a hearing regarding the expulsion of a student under Subchapter A, Chapter 37, Education Code, or any other student disciplinary proceeding.

(b) A record of the council, a crime stoppers organization, a law enforcement agency, a school district, or an open-enrollment charter school concerning a tip submitted under Section 414.0015(a) may not be compelled to be produced before a court or other tribunal except on a motion:

(1) filed in a criminal trial court by a defendant who alleges that the record contains evidence that is exculpatory to the defendant in the trial of that offense; or

(2) filed in a civil case by a plaintiff who alleges that denial of access to the record concerning the tip abrogates any part of a cognizable common law cause of action, if the plaintiff alleging abrogation:

(A) was charged with or convicted of a criminal offense based at least partially on the tip and the charges were dismissed, the plaintiff was acquitted, or the conviction was overturned, as applicable; and

(B) in the motion establishes a prima facie case that the plaintiff's abrogated claim is based on injuries from the criminal charge or conviction caused by the wrongful acts of another performed in connection with the tip.

(c) On motion of a movant under Subsection (b), the court may subpoena the records or report. The court shall conduct an in camera inspection of materials produced under subpoena to determine whether the materials contain:

(1) evidence that is exculpatory to the defendant; or

(2) information necessary to a plaintiff as described by Subsection (b)(2).

(d) If the court determines that the materials produced contain

evidence that is exculpatory to the defendant or information necessary to a plaintiff as described by Subsection (b)(2), the court shall present the evidence to the movant in a form that does not disclose the identity of the person who was the source of the evidence, unless the state or federal constitution requires the disclosure of that person's identity. The court shall execute an affidavit accompanying the disclosed materials swearing that, in the opinion of the court, the materials disclosed represent the evidence the movant is entitled to receive under this section.

(e) The court shall return to the council, crime stoppers organization, law enforcement agency, school district, or open-enrollment charter school the materials that are produced under this section but not disclosed to the movant. The council, crime stoppers organization, law enforcement agency, school district, or open-enrollment charter school shall store the materials at least until the first anniversary of the following appropriate date:

(1) the date of expiration of the time for all direct appeals in a criminal case; or

(2) the date a plaintiff's right to appeal in a civil case is exhausted.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 711, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 700, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1560, Sec. 1, eff. June 19, 1999; Acts 2003, 78th Leg., ch. 233, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1172 (H.B. 3316), Sec. 7, eff. September 1, 2019.

Sec. 414.009. MISUSE OF INFORMATION. (a) A person who is a member or employee of the council, a crime stoppers organization, a law enforcement agency, a school district, or an open-enrollment charter school or who accepts a tip under Section 414.0015(a) on behalf of the council or a crime stoppers organization commits an offense if the person intentionally or knowingly discloses to a person not a member of or employed by the council, a crime stoppers organization, a law enforcement agency, a school district, or an open-enrollment charter school the identity of a person who submitted

a tip or the content of that tip without the person's consent, unless:

(1) the person disclosing the information has received authorization to disclose the information from the chief executive of the crime stoppers organization that originally received the tip, and the chief executive has reasonably determined that failing to disclose the identity of a person who submitted the tip creates a probability of imminent physical injury to another; or

(2) the disclosure is otherwise required by law or court order.

(b) An offense under this section is a Class A misdemeanor, except that an offense under this section is a third degree felony if the offense is committed with intent to obtain monetary gain or other benefit.

(c) A person convicted of an offense under this section is not eligible for state employment during the five-year period following the date that the conviction becomes final.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 700, Sec. 6, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1560, Sec. 1, eff. June 19, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1172 (H.B. 3316), Sec. 8, eff. September 1, 2019.

Sec. 414.010. PAYMENTS FROM DEFENDANTS ON COMMUNITY SUPERVISION; REWARD REPAYMENTS. (a) Except as provided by Subsection (d), a crime stoppers organization certified by the council to receive money in the form of payments from defendants placed on community supervision under Chapter 42A, Code of Criminal Procedure, or money in the form of repayments of rewards under Articles 37.073 and 42.152, Code of Criminal Procedure, may transfer not more than 20 percent of the money received during each calendar year to accounts used solely to pay costs incurred in administering the organization and shall use the remainder of the money, including any interest earned on the money, only for the payment of rewards to persons who submit tips under Section 414.0015(a). Not later than January 31 of each year, a crime stoppers organization that receives or expends money under this section shall file a detailed report with

the council.

(b) A crime stoppers organization shall establish a separate reward account for money received under this section.

(c) Not later than the 60th day after the date of dissolution or decertification of a crime stoppers organization, a dissolved or decertified organization shall forward all unexpended money received under this section to the comptroller. The comptroller shall deposit the money in the crime stoppers assistance account in the general revenue fund.

(d) A crime stoppers organization under this section may deposit excess funds, in an amount established by council rule, in separate accounts to be used by the organization solely for law enforcement or public safety purposes relating to crime stoppers or juvenile justice, as established by council rule. An organization that deposits excess funds in an account as provided by this subsection may use any interest earned on the funds to pay costs incurred in administering the organization.

Added by Acts 1989, 71st Leg., ch. 86, Sec. 2, eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 3.019, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 756, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 700, Sec. 7, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1466, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1560, Sec. 1, eff. June 19, 1999; Acts 2001, 77th Leg., ch. 390, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.42, eff. January 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1172 (H.B. 3316), Sec. 9, eff. September 1, 2019.

Sec. 414.011. CERTIFICATION OF ORGANIZATIONS TO RECEIVE PAYMENTS AND REWARD REPAYMENTS. (a) The council shall, on application by a crime stoppers organization, determine whether the organization is qualified to receive repayments of rewards under Articles 37.073 and 42.152, Code of Criminal Procedure, or payments from a defendant under Chapter 42A, Code of Criminal Procedure. The council shall certify a crime stoppers organization to receive those repayments or payments if, considering the organization, continuity,

leadership, community support, and general conduct of the crime stoppers organization, the council determines that the repayments or payments will be spent to further the crime prevention purposes of the organization.

(b) Each crime stoppers organization certified by the council to receive repayments under Articles 37.073 and 42.152, Code of Criminal Procedure, or payments from a defendant under Chapter 42A, Code of Criminal Procedure, is subject to a review or audit, including financial and programmatic reviews or audits, of finances or programs at the direction of the criminal justice division of the governor's office or its designee. A copy of the review or audit report shall be submitted to the criminal justice division.

(c) The criminal justice division of the governor's office or its designee shall draft rules for adoption by the council relating to a review or audit requested pursuant to Subsection (b).

(d) A certification issued by the council is valid for a period of two years. During this two-year period, the council shall decertify a crime stoppers organization if it determines that the organization no longer meets the certification requirements.

(e) The council shall approve a crime stoppers organization for purposes of Subsection (a) of this section even if a judge has not requested a determination for that organization and shall maintain a current list of organizations approved for that purpose.

Added by Acts 1989, 71st Leg., ch. 611, Sec. 4, eff. Sept. 1, 1989. Renumbered from Sec. 414.010 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(4), eff. Sept. 6, 1990. Amended by Acts 1993, 73rd Leg., ch. 711, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 756, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 700, Sec. 8, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1560, Sec. 1, eff. June 19, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.43, eff. January 1, 2017.

Sec. 414.012. STATEWIDE CRIME REPORTING SYSTEMS. The council shall establish a free statewide telephone service and other appropriate systems to allow tips under Section 414.0015(a) to be submitted to the council and shall make the telephone service and

other reporting systems accessible at all times to persons residing in areas of the state not served by a crime stoppers organization. The council shall forward any information it receives to appropriate crime stoppers organizations, law enforcement agencies, school districts, or open-enrollment charter schools.

Added by Acts 1993, 73rd Leg., ch. 807, Sec. 1, eff. Aug. 30, 1993.
Amended by Acts 1997, 75th Leg., ch. 700, Sec. 9, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1560, Sec. 1, eff. June 19, 1999.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 707 (H.B. 3690), Sec. 2, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1172 (H.B. 3316), Sec. 10, eff. September 1, 2019.

Sec. 414.013. IMMUNITY FROM CIVIL LIABILITY. (a) A person who submits to the council or a crime stoppers organization a tip under Section 414.0015(a) is immune from civil liability for damages resulting from the submission unless the submission was:

(1) intentionally, wilfully, or wantonly negligent or false;

(2) made with conscious indifference or reckless disregard for the safety of others; or

(3) made to further the commission of a criminal act.

(b) A person who in the course and scope of the person's duties or functions receives, forwards, or acts on a tip submitted under Section 414.0015(a) is immune from civil liability for damages resulting from an act or omission in the performance of the person's duties or functions unless the act or omission was:

(1) intentional or wilfully or wantonly negligent;

(2) done with conscious indifference or reckless disregard for the safety of others; or

(3) done to further the commission of a criminal act.

Added by Acts 2003, 78th Leg., ch. 233, Sec. 2, eff. Sept. 1, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1172 (H.B. 3316), Sec. 11, eff. September 1, 2019.

CHAPTER 417. STATE FIRE MARSHAL

Sec. 417.001. DEFINITIONS. In this chapter:

(1) "Commissioner" means the commissioner of insurance.

(2) "Department" means the Texas Department of Insurance.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 983, Sec. 2, eff. Jan. 1, 1990; Acts 1991, 72nd Leg., ch. 628, Sec. 5, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1172, Sec. 3.01, eff. Sept. 1, 1997.

Sec. 417.002. APPOINTMENT AND TENURE. The state fire marshal is appointed by the commissioner. The state fire marshal serves at the pleasure of the commissioner and may be discharged at any time. The state fire marshal shall report to the commissioner.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 628, Sec. 5, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1172, Sec. 3.01, eff. Sept. 1, 1997.

Sec. 417.003. STATUS AS STATE-COMMISSIONED OFFICER. The state fire marshal is a state-commissioned officer and functions in that capacity subject to rules of the commissioner.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 628, Sec. 5, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1172, Sec. 3.01, eff. Sept. 1, 1997.

Sec. 417.004. GENERAL POWERS AND DUTIES. (a) The state fire marshal, under the supervision of the commissioner, shall administer and enforce applicable provisions of the Insurance Code and other law relating to the state fire marshal. The commissioner shall perform the supervisory and rule-making functions previously performed by the Texas Commission on Fire Protection under this subsection. The commissioner and the commission shall transfer information between the two agencies as necessary to allow the agencies to perform their statutory duties. The commissioner and the commission may make and adopt by rule memoranda of understanding as necessary to coordinate their respective duties.

(b) The state fire marshal is the chief investigator in charge of the investigation of arson and suspected arson in the state.

(c) The state fire marshal may make or encourage studies of fire protection, including fire administration.

(d) The state fire marshal may conduct research to improve fire protection and fire administration and may stimulate research by public and private agencies for that purpose.

(e) The state fire marshal may, on the request of a public or nonprofit entity with duties related to fire protection, advise or assist the entity in relation to those duties.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 628, Sec. 5, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1172, Sec. 3.01, eff. Sept. 1, 1997.

Sec. 417.005. ADOPTION OF RULES. The commissioner, after consulting with the state fire marshal, may adopt necessary rules to guide the state fire marshal and fire and arson investigators commissioned by the state fire marshal in the investigation of arson, fire, and suspected arson and in the performance of other duties for the commissioner.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 628, Sec. 5, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 912, Sec. 21, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1172, Sec. 3.01, eff. Sept. 1, 1997.

Sec. 417.0051. FIRE PREVENTION AND SAFETY EDUCATION. The commissioner, through the state fire marshal:

(1) shall use pertinent and timely facts relating to fires to develop educational programs and disseminate materials necessary to educate the public effectively regarding methods of fire prevention and safety; and

(2) may accept gifts, grants, and donations from any source for the purposes of this section.

Added by Acts 1989, 71st Leg., ch. 186, Sec. 1, eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 628, Sec. 5, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1172, Sec. 3.01, eff. Sept. 1, 1997; Acts

2003, 78th Leg., ch. 1124, Sec. 1, eff. Sept. 1, 2003.

Sec. 417.0052. TEXAS FIRE INCIDENT REPORTING SYSTEM. The state fire marshal, under the direction of the commissioner, is responsible for maintaining and administering the Texas Fire Incident Reporting System.

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 3.02, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2467, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 417.006. FIRE AND ARSON INVESTIGATORS. The state fire marshal may commission peace officers to act as fire and arson investigators under his supervision and to perform other law enforcement duties assigned to the commissioner and the state fire marshal by law. The state fire marshal may revoke a peace officer's commission under this section for just cause.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 628, Sec. 5, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 912, Sec. 22, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1172, Sec. 3.03, eff. Sept. 1, 1997.

Sec. 417.007. INVESTIGATION OF FIRE. (a) The state fire marshal shall immediately investigate a fire occurring in this state in which property is destroyed if the commissioner directs the investigation or, in the discretion of the commissioner, if the investigation is requested by:

(1) the mayor, fire chief, fire marshal, or police chief of a municipality in which a fire occurs;

(2) a county or district judge, sheriff, county fire marshal, chief or fire marshal of a fire department in an unincorporated area, or county attorney of a county in which a fire occurs;

(3) a fire insurance company interested in a loss or the

company's general, state, or special agent;

(4) an insurance policyholder, property owner, or lessee sustaining a fire loss;

(5) a justice of the peace or a constable of a precinct in which a fire occurs; or

(6) officials of a state or federal law enforcement agency or local or special governmental district involved or interested in a fire loss that occurred in this state.

(b) The state fire marshal at any time may enter a building or premises at which a fire is in progress or has occurred and is under control of law enforcement or fire service officials to investigate the cause, origin, and circumstances of the fire. If control of the building or premises has been relinquished, entry must be in compliance with search and seizure law and applicable federal law.

(c) The state fire marshal shall conduct the investigation at the place of the fire and before an insured loss may be paid. The state fire marshal shall ascertain, if possible, whether the fire was caused intentionally, carelessly, or accidentally. The state fire marshal shall make a written report of the investigation to the commissioner.

(d) If the state fire marshal believes that further investigation is necessary, the state fire marshal shall take sworn statements from persons who in his opinion can supply relevant information and shall have the statements put in writing. The state fire marshal may administer oaths and compel the attendance of witnesses and the production of documents.

(e) If the state fire marshal believes that there is sufficient evidence to charge a person with arson, attempted arson, conspiracy to commit fraud, or another offense related to the matter under investigation, the state fire marshal shall give to the appropriate prosecuting attorney all evidence and relevant information that has been obtained, including the names of witnesses. The state fire marshal shall arrest the person if the person has not been arrested by some other authority. The state fire marshal shall assist in the prosecution of any complaint he files.

(f) The state fire marshal may, in his discretion, conduct or direct the conduct of an investigation in private and may exclude from the place of the investigation persons not needed for the investigation. Witnesses may be separated from each other and not be allowed to communicate with other witnesses until after they have

testified.

(g) The state fire marshal may elect to withhold from the public any testimony taken in an investigation under this section.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 186, Sec. 2, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 628, Sec. 5, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1172, Sec. 3.04, eff. Sept. 1, 1997.

Sec. 417.0075. INVESTIGATION OF FIREFIGHTER FATALITY. (a) In this section, the term "firefighter" includes an individual who performs fire suppression duties for a governmental entity or volunteer fire department.

(b) If a firefighter dies in the line of duty or if the firefighter's death occurs in connection with an on-duty incident in this state, the state fire marshal shall investigate the circumstances surrounding the death of the firefighter, including any factors that may have contributed to the death of the firefighter.

(c) In conducting an investigation under this section, the state fire marshal has the same powers as those granted to the state fire marshal under Section 417.007. The state fire marshal shall coordinate the investigative efforts of local government officials and may enlist established fire service organizations and private entities to assist in the investigation.

(d) The state fire marshal shall release a report concerning an investigation conducted under this section on completion of the investigation.

(e) Not later than October 31 of each year, the state fire marshal shall deliver to the commissioner a detailed report about the findings of each investigation conducted under this section in the preceding year.

(f) Information gathered in an investigation conducted under this section is subject to Section 552.108.

(g) The authority granted to the state fire marshal under this section shall not limit in any way the authority of the county or municipal fire marshal to conduct the county or municipal fire marshal's own investigation into the death of a firefighter within the county or municipal fire marshal's jurisdiction.

Added by Acts 2001, 77th Leg., ch. 846, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 47 (S.B. 396), Sec. 1, eff. May 12, 2011.

Sec. 417.008. RIGHT OF ENTRY; EXAMINATION AND CORRECTION OF DANGEROUS CONDITIONS. (a) On the complaint of any person, the state fire marshal, at any reasonable time, is entitled to enter any building or premises in the state.

(b) The state fire marshal shall enter and is entitled, at any time, to enter any mercantile, manufacturing, or public building, place of amusement, or place where public gatherings are held, or any premises belonging to such a building or place, and make a thorough examination.

(c) The state fire marshal shall order the removal of a building or structure or other remedial action if he finds that:

(1) the building or other structure, because of lack of repair, age, dilapidated condition, or other reason, is susceptible to fire and is so located or occupied that fire would endanger persons or property in the building or structure;

(2) a dangerous condition is created by:

(A) an improper arrangement of stoves, ranges, furnaces, or other heating appliances, including chimneys, flues, and pipes with which they are connected, or by their lighting systems or devices; or

(B) the manner of storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, or combustible, flammable, or refuse materials; or

(3) any other condition exists that is dangerous or is liable to cause or promote fire or create danger for fire fighters, occupants, or other buildings or structures.

(d) The occupant or owner of the building or premises shall immediately comply with an order made by the state fire marshal under this section. The state fire marshal may, if necessary, apply to a court of competent jurisdiction for writs or orders necessary to enforce this section, and the court may grant appropriate relief. The state fire marshal is not required to give a bond.

(e) The commissioner may adopt by rule any appropriate standard developed by a nationally recognized standards-making association under which the state fire marshal may enforce this section, except

that standards adopted by rule under this subsection do not apply in a geographic area under the jurisdiction of a local government that has adopted fire protection ordinances that apply in the geographic area.

(f) The commissioner by rule shall prescribe a reasonable fee for an inspection performed by the state fire marshal that may be charged to a property owner or occupant who requests the inspection, as the commissioner considers appropriate. In prescribing the fee, the commissioner shall consider the overall cost to the state fire marshal to perform the inspections, including the approximate amount of time the staff of the state fire marshal needs to perform an inspection, travel costs, and other expenses.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 186, Sec. 2, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 628, Sec. 5, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 912, Sec. 23, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1172, Sec. 3.05, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1147 (H.B. 1951), Sec. 4.001, eff. September 1, 2011.

Sec. 417.0081. INSPECTION OF STATE-OWNED OR STATE-LEASED BUILDINGS. (a) The state fire marshal, at the commissioner's direction, shall periodically inspect public buildings under the charge and control of a state agency and buildings leased for the use of a state agency.

(b) For the purpose of determining a schedule for conducting inspections under this section, the commissioner by rule shall adopt guidelines for assigning potential fire safety risk to state-owned and state-leased buildings. Rules adopted under this subsection must provide for the inspection of each state-owned and state-leased building to which this section applies, regardless of how low the potential fire safety risk of the building may be.

(c) On or before January 1 of each year, the state fire marshal shall report to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the legislature regarding the state fire marshal's findings in conducting inspections under this section.

Added by Acts 1993, 73rd Leg., ch. 684, Sec. 49, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1172, Sec. 3.06, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1147 (H.B. 1951), Sec. 4.002, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 374 (S.B. 1105), Sec. 1, eff. June 9, 2015.

Acts 2015, 84th Leg., R.S., Ch. 374 (S.B. 1105), Sec. 2, eff. June 9, 2015.

Sec. 417.0082. PROTECTION OF STATE-OWNED OR STATE-LEASED BUILDINGS AGAINST FIRE HAZARDS; AUTHORITY OF STATE FIRE MARSHAL. (a) The state fire marshal, under the direction of the commissioner, shall take any action necessary to protect a public building under the charge and control of a state agency and the building's occupants, and the occupants of a building leased for the use of a state agency, against an existing or threatened fire hazard. The state fire marshal shall include the State Office of Risk Management and each state agency occupying or managing an affected building in all communication concerning fire hazards.

(b) The commissioner and the State Office of Risk Management shall make and each adopt a memorandum of understanding that coordinates the agency's duties under this section.

(c) The state fire marshal is the authority having jurisdiction over a state-owned building for purposes of fire safety.

Added by Acts 1993, 73rd Leg., ch. 684, Sec. 52, eff. Sept. 1, 1993.
Renumbered from Government Code Sec. 419.0081, and amended by Acts 1997, 75th Leg., ch. 1172, Sec. 3.07, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 407 (S.B. 908), Sec. 12, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1147 (H.B. 1951), Sec. 4.003, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 374 (S.B. 1105), Sec. 3, eff. June 9, 2015.

Sec. 417.0083. FIRE SUPPRESSION RATINGS SCHEDULE. (a) The state fire marshal shall perform duties as directed by the commissioner relating to the department's fire suppression ratings schedule.

(b) The state fire marshal may provide technical assistance to paid fire departments, volunteer fire departments, and local governments responding to the use of the fire suppression ratings schedule.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991. Renumbered from Government Code Sec. 419.901 and amended by Acts 1997, 75th Leg., Sec. 3.08, eff. Sept. 1, 1997.

Sec. 417.009. DELEGATION OF AUTHORITY. (a) If for any reason the state fire marshal is unable to make a required investigation in person, the marshal may designate the fire marshal of the city or town where the investigation is to be made or another suitable person to act for the state fire marshal.

(b) The designated person has the same authority with respect to the investigation as is provided by this chapter for the state fire marshal. The designated person is entitled to compensation as provided by the commissioner.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 628, Sec. 5, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1172, Sec. 3.09, eff. Sept. 1, 1997.

Sec. 417.010. DISCIPLINARY AND ENFORCEMENT ACTIONS; ADMINISTRATIVE PENALTIES. (a) This section applies to each person and firm licensed, registered, or otherwise regulated by the department through the state fire marshal, including:

(1) a person regulated under Title 20, Insurance Code; and

(2) a person licensed under Chapter 2154, Occupations Code.

(b) The commissioner by rule shall delegate to the state fire marshal the authority to take disciplinary and enforcement actions, including the imposition of administrative penalties in accordance with this section on a person regulated under a law listed under Subsection (a) who violates that law or a rule or order adopted under that law. In the rules adopted under this subsection, the

commissioner shall:

(1) specify which types of disciplinary and enforcement actions are delegated to the state fire marshal; and

(2) outline the process through which the state fire marshal may, subject to Subsection (e), impose administrative penalties or take other disciplinary and enforcement actions.

(c) The commissioner by rule shall adopt a schedule of administrative penalties for violations subject to a penalty under this section to ensure that the amount of an administrative penalty imposed is appropriate to the violation. The department shall provide the administrative penalty schedule to the public on request. The amount of an administrative penalty imposed under this section must be based on:

(1) the seriousness of the violation, including:

(A) the nature, circumstances, extent, and gravity of the violation; and

(B) the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to the public interest or public confidence caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) efforts to correct the violation;

(6) whether the violation was intentional; and

(7) any other matter that justice may require.

(d) In the enforcement of a law that is enforced by or through the state fire marshal, the state fire marshal may, in lieu of cancelling, revoking, or suspending a license or certificate of registration, impose on the holder of the license or certificate of registration an order directing the holder to do one or more of the following:

(1) cease and desist from a specified activity;

(2) pay an administrative penalty imposed under this section; or

(3) make restitution to a person harmed by the holder's violation of an applicable law or rule.

(e) The state fire marshal shall impose an administrative penalty under this section in the manner prescribed for imposition of an administrative penalty under Subchapter B, Chapter 84, Insurance Code. The state fire marshal may impose an administrative penalty

under this section without referring the violation to the department for commissioner action.

(f) An affected person may dispute the imposition of the penalty or the amount of the penalty imposed in the manner prescribed by Subchapter C, Chapter 84, Insurance Code. Failure to pay an administrative penalty imposed under this section is subject to enforcement by the department.

Added by Acts 1993, 73rd Leg., ch. 912, Sec. 24, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1172, Sec. 3.10, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1147 (H.B. 1951), Sec. 4.004, eff. September 1, 2011.

CHAPTER 418. EMERGENCY MANAGEMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 418.001. SHORT TITLE. This chapter may be cited as the Texas Disaster Act of 1975.

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

Sec. 418.002. PURPOSES. The purposes of this chapter are to:

(1) reduce vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural or man-made catastrophes, riots, or hostile military or paramilitary action;

(2) prepare for prompt and efficient rescue, care, and treatment of persons victimized or threatened by disaster;

(3) provide a setting conducive to the rapid and orderly restoration and rehabilitation of persons and property affected by disasters;

(4) clarify and strengthen the roles of the governor, state agencies, the judicial branch of state government, and local governments in prevention of, preparation for, response to, and recovery from disasters;

(5) authorize and provide for cooperation in disaster mitigation, preparedness, response, and recovery;

(6) authorize and provide for coordination of activities

relating to disaster mitigation, preparedness, response, and recovery by agencies and officers of this state, and similar state-local, interstate, federal-state, and foreign activities in which the state and its political subdivisions may participate;

(7) provide an emergency management system embodying all aspects of predisaster preparedness and postdisaster response;

(8) assist in mitigation of disasters caused or aggravated by inadequate planning for and regulation of public and private facilities and land use;

(9) encourage state agencies, local governments, nongovernmental organizations, private entities, and individuals to adopt the goals of the strategic plan of the Federal Emergency Management Agency for preparing for, responding to, and recovering from a disaster that emphasize cooperation among federal agencies, state agencies, local governments, nongovernmental organizations, private entities, and individuals in each activity or project undertaken to ensure that this state is prepared to effectively respond to and recover from a disaster; and

(10) provide the authority and mechanism to respond to an energy emergency.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 5.03, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1281 (H.B. 1861), Sec. 3, eff. June 19, 2009.

Acts 2019, 86th Leg., R.S., Ch. 286 (H.B. 2340), Sec. 1, eff. September 1, 2019.

Sec. 418.003. LIMITATIONS. This chapter does not:

(1) limit the governor's authority to apply for, administer, or expend any grant, gift, or payment in aid of disaster mitigation, preparedness, response, or recovery;

(2) interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this chapter or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(3) interfere with dissemination of news or comment on public affairs, but any communications facility or organization, including radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster or potential disaster;

(4) affect the jurisdiction or responsibilities of police forces, fire-fighting forces, units of the armed forces of the United States, or of any of their personnel when on active duty, but state, local, and interjurisdictional emergency management plans shall place reliance on the forces available for performance of functions related to disasters;

(5) except as provided by Section 418.184, authorize the seizure or confiscation of any firearm or ammunition from an individual who is lawfully carrying or possessing the firearm or ammunition;

(6) limit, modify, or abridge the authority of the governor to proclaim martial law or exercise any other powers vested in the governor under the constitution or laws of this state independent of or in conjunction with any provisions of this chapter; or

(7) authorize any person to prohibit or restrict the business or operations of a firearms or ammunition manufacturer, distributor, wholesaler, supplier, or retailer or a sport shooting range, as defined by Section 250.001, Local Government Code, in connection with a disaster.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 18 (S.B. 112), Sec. 1, eff. April 27, 2007.

Acts 2021, 87th Leg., R.S., Ch. 998 (H.B. 1500), Sec. 1, eff. September 1, 2021.

Sec. 418.004. DEFINITIONS. In this chapter:

(1) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water

contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, extreme heat, cybersecurity event, other public calamity requiring emergency action, or energy emergency.

(2) "Division" means the Texas Division of Emergency Management.

(3) "Energy emergency" means a temporary statewide, regional, or local shortage of petroleum, natural gas, or liquid fuel energy supplies that makes emergency measures necessary to reduce demand or allocate supply.

(4) "Interjurisdictional agency" means a disaster agency maintained by and serving more than one political subdivision.

(5) "Organized volunteer group" means an organization such as the American National Red Cross, the Salvation Army, the Civil Air Patrol, the Radio Amateur Civil Emergency Services, a volunteer fire department, a volunteer rescue squad, or other similar organization recognized by federal or state statute, regulation, or memorandum.

(6) "Political subdivision" means a county or incorporated city.

(6-a) "Public facility" has the meaning assigned by Section 102, Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5122).

(7) "Temporary housing" has the meaning assigned by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288, as amended.

(8) "Joint board" means a board created under Section 22.074, Transportation Code, whose constituent agencies are populous home-rule municipalities as defined by Section 22.071, Transportation Code.

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

(10) "Local government entity" means a county, incorporated city, independent school district, public junior college district, emergency services district, other special district, joint board, or other entity defined as a political subdivision under the laws of this state that maintains the capability to provide mutual aid.

(11) "Mutual aid" means a homeland security activity, as defined by Section 421.001, performed under the system or a written mutual aid agreement.

(12) "Requesting local government entity" means a local

government entity requesting mutual aid assistance under the system.

(13) "Responding local government entity" means a local government entity providing mutual aid assistance in response to a request under the system.

(14) "System" means the Texas Statewide Mutual Aid System.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 497, Sec. 1, eff. June 12, 1995; Acts 1997, 75th Leg., ch. 992, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 33, Sec. 1, eff. May 14, 2003; Acts 2003, 78th Leg., ch. 72, Sec. 1, eff. May 16, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 6, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.01, eff. June 6, 2007.

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.08, eff. June 6, 2007.

Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.01, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.08, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 185 (H.B. 1998), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 2A.01, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.01, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 6.14, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 2, eff. September 1, 2019.

Sec. 418.005. EMERGENCY MANAGEMENT TRAINING. (a) This section applies only to:

(1) an elected law enforcement officer or county judge, or an appointed public officer of the state or of a political subdivision, who has management or supervisory responsibilities and:

(A) whose position description, job duties, or

assignment includes emergency management responsibilities; or

(B) who plays a role in emergency preparedness, response, or recovery; and

(2) an emergency management coordinator designated under Section 418.1015(c) by the emergency management director of a county with a population of 500,000 or more.

(b) Each person described by Subsection (a) shall complete a course of training provided or approved by the division of not less than three hours regarding the responsibilities of state and local governments under this chapter not later than the 180th day after the date the person:

(1) takes the oath of office, if the person is required to take an oath of office to assume the person's duties as a public officer;

(2) otherwise assumes responsibilities as a public officer, if the person is not required to take an oath of office to assume the person's duties; or

(3) is designated as an emergency management coordinator under Section 418.1015(c).

(c) The division shall develop and provide a training course related to the emergency management responsibilities of state-level officers and a training course related to the emergency management responsibilities of officers and emergency management coordinators of political subdivisions. The division shall ensure that the training courses satisfy the requirements of Subsection (b).

(c-1) The training course provided under this section related to the emergency management responsibilities of officers of political subdivisions must include training based on the disaster response guide as required by Section 418.054(b).

(d) The division may provide the training and may also approve any acceptable course of training offered by a governmental body or other entity. The division shall ensure that at least one course of training approved or provided by the division is available on videotape or a functionally similar and widely available medium at no cost.

(e) The division or other entity providing the training shall provide a certificate of course completion to a person who completes the training required by this section. A person who completes the training required by this section shall maintain and make available for public inspection the record of the person's completion of the

training.

(f) The failure of one or more public officers of the state or a political subdivision to complete the training required by this section does not affect the validity of an action taken by the state or the political subdivision.

(g) The hours spent in a training course required by Subsection (b) may be applied toward the continuing education requirements for county commissioners under Section 81.0025, Local Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 19.01, eff. September 1, 2007.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.02, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 946 (S.B. 6), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1018 (H.B. 6), Sec. 1, eff. September 1, 2019.

Sec. 418.006. CIVIL LIABILITY. An officer or employee of a state or local agency, or a volunteer acting at the direction of an officer or employee of a state or local agency, is considered for purposes of Section 437.222 to be a member of the Texas military forces ordered into active service of the state by proper authority and is considered to be discharging a duty in that capacity if the person is performing an activity related to sheltering or housing individuals in connection with the evacuation of an area stricken or threatened by disaster.

Added by Acts 2009, 81st Leg., R.S., Ch. 1408 (H.B. 4409), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 3.06, eff. September 1, 2013.

SUBCHAPTER B. POWERS AND DUTIES OF GOVERNOR

Sec. 418.011. RESPONSIBILITY OF GOVERNOR. The governor is responsible for meeting:

(1) the dangers to the state and people presented by

disasters; and

(2) disruptions to the state and people caused by energy emergencies.

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

Sec. 418.012. EXECUTIVE ORDERS. Under this chapter, the governor may issue executive orders, proclamations, and regulations and amend or rescind them. Executive orders, proclamations, and regulations have the force and effect of law.

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

Sec. 418.0125. LIMITATIONS ON MEDICAL PROCEDURES. (a) In this section, "nonelective medical procedure" means a medical procedure, including a surgery, a physical exam, a diagnostic test, a screening, the performance of a laboratory test, and the collection of a specimen to perform a laboratory test, that if not performed within a reasonable time may, as determined in good faith by a patient's physician, result in:

(1) the patient's loss of life; or

(2) a deterioration, complication, or progression of the patient's current or potential medical condition or disorder, including a physical condition or mental disorder.

(b) The Texas Medical Board during a declared state of disaster may not issue an order or adopt a regulation that limits or prohibits a nonelective medical procedure.

(c) The Texas Medical Board during a declared state of disaster may issue an order or adopt a regulation imposing a temporary limitation or prohibition on a medical procedure other than a nonelective medical procedure only if the limitation or prohibition is reasonably necessary to conserve resources for nonelective medical procedures or resources needed for disaster response. An order issued or regulation adopted under this subsection may not continue for more than 15 days unless renewed by the board.

(d) A person subject to an order issued or regulation adopted under this section who in good faith acts or fails to act in accordance with that order or regulation is not civilly or criminally liable and is not subject to disciplinary action for that act or

failure to act.

(e) The immunity provided by Subsection (d) is in addition to any other immunity or limitation of liability provided by law.

(f) Notwithstanding any other law, this section does not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides the basis for a cause of action for an act or omission under this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 863 (S.B. 968), Sec. 1, eff. June 16, 2021.

Sec. 418.013. EMERGENCY MANAGEMENT COUNCIL. (a) The governor by executive order may establish an emergency management council to advise and assist the governor in all matters relating to disaster mitigation, preparedness, response, and recovery.

(b) The emergency management council is composed of representatives of state agencies, boards, commissions, and organized volunteer groups designated by the head of each entity. At least once each biennium, the governor shall review the composition of the council and, if necessary, update or expand the participating entities.

(c) The emergency management council shall make recommendations to the Department of Public Safety as to which private emergency organizations, such as the American National Red Cross, the Salvation Army, Radio Amateur Civil Emergency Service, and other similar organizations with the capability to supplement the state's resources in disaster situations, should be authorized to operate certain vehicles as designated emergency vehicles in the case of a disaster.

(d) The emergency management council shall assist the division in identifying, mobilizing, and deploying state resources to respond to major emergencies and disasters throughout the state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 3, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 5.01, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.03, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 735 (S.B. 171), Sec. 1, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 602 (S.B. 799), Sec. 3, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 852 (H.B. 2794), Sec. 3, eff. June 10, 2019.

Sec. 418.014. DECLARATION OF STATE OF DISASTER. (a) The governor by executive order or proclamation may declare a state of disaster if the governor finds a disaster has occurred or that the occurrence or threat of disaster is imminent.

(b) Except as provided by Subsection (c), the state of disaster continues until the governor:

(1) finds that:

(A) the threat or danger has passed; or

(B) the disaster has been dealt with to the extent that emergency conditions no longer exist; and

(2) terminates the state of disaster by executive order.

(c) A state of disaster may not continue for more than 30 days unless renewed by the governor. The legislature by law may terminate a state of disaster at any time. On termination by the legislature, the governor shall issue an executive order ending the state of disaster.

(d) An executive order or proclamation issued under this section must include:

(1) a description of the nature of the disaster;

(2) a designation of the area threatened; and

(3) a description of the conditions that have brought the state of disaster about or made possible the termination of the state of disaster.

(e) An executive order or proclamation shall be disseminated promptly by means intended to bring its contents to the attention of the general public. An order or proclamation shall be filed promptly with the division, the secretary of state, and the county clerk or city secretary in each area to which it applies unless the circumstances attendant on the disaster prevent or impede the filing.

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

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 2B.03, eff. September 1, 2009.

Sec. 418.015. EFFECT OF DISASTER DECLARATION. (a) An executive order or proclamation declaring a state of disaster:

(1) activates the disaster recovery and rehabilitation aspects of the state emergency management plan applicable to the area subject to the declaration; and

(2) authorizes the deployment and use of any forces to which the plan applies and the use or distribution of any supplies, equipment, and materials or facilities assembled, stockpiled, or arranged to be made available under this chapter or other law relating to disasters.

(b) The preparedness and response aspects of the state emergency management plan are activated as provided by that plan.

(c) During a state of disaster and the following recovery period, the governor is the commander in chief of state agencies, boards, and commissions having emergency responsibilities. To the greatest extent possible, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or plans, but this chapter does not restrict the governor's authority to do so by orders issued at the time of the disaster.

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

Sec. 418.0155. SUSPENSION LIST. (a) The governor's office, using existing resources, shall compile and maintain a comprehensive list of regulatory statutes and rules that may require suspension during a disaster.

(b) On request by the governor's office, a state agency that would be impacted by the suspension of a statute or rule on the list compiled under Subsection (a) shall review the list for accuracy and shall advise the governor's office regarding any statutes or rules that should be added to the list.

Added by Acts 2019, 86th Leg., R.S., Ch. 945 (H.B. 7), Sec. 1, eff. September 1, 2019.

Sec. 418.016. SUSPENSION OF CERTAIN LAWS AND RULES. (a) The governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.

(b) Upon declaration of a state of disaster, enforcement of the regulation of on-premise outdoor signs under Subchapter A, Chapter 216, Local Government Code, by a municipality that is located in a county within, or that is located in a county adjacent to a county within, the disaster area specified by the declaration is suspended to allow licensed or admitted insurance carriers or licensed agents acting on behalf of insurance carriers to erect temporary claims service signage for not more than 30 days or until the end of the declaration of disaster, whichever is earlier.

(c) A temporary claims service sign shall not:

(1) be larger than forty square feet in size;

(2) be more than five feet in height; and

(3) be placed in the right of way.

(d) At the end of the 30 days or the end of the declaration of disaster, whichever is earlier, the insurance carrier or its licensed agents must remove the temporary claims service signage that was erected.

(e) On request of a political subdivision, the governor may waive or suspend a deadline imposed by a statute or the orders or rules of a state agency on the political subdivision, including a deadline relating to a budget or ad valorem tax, if the waiver or suspension is reasonably necessary to cope with a disaster.

(f) The governor may suspend any of the following requirements in response to an emergency or disaster declaration of another jurisdiction if strict compliance with the requirement would prevent, hinder, or delay necessary action in assisting another state with coping with an emergency or disaster:

(1) a registration requirement in an agreement entered into under the International Registration Plan under Section 502.091, Transportation Code, to the extent authorized by federal law;

(2) a temporary registration permit requirement under Section 502.094, Transportation Code;

(3) a provision of Subtitle E, Title 7, Transportation Code, to the extent authorized by federal law;

(4) a motor carrier registration requirement under Chapter 643, Transportation Code;

(5) a registration requirement under Chapter 645, Transportation Code, to the extent authorized by federal law; or

(6) a fuel tax requirement under the International Fuel Tax Agreement described by 49 U.S.C. Section 31701 et seq., to the extent authorized by federal law.

(g) For the purposes of Subsection (f), "emergency or disaster declaration of another jurisdiction" means an emergency declaration, a major disaster declaration, a state of emergency declaration, a state of disaster declaration, or a similar declaration made by:

(1) the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.); or

(2) the governor of another state.

(h) To the extent federal law requires this state to issue a special permit under 23 U.S.C. Section 127 or an executive order, a suspension issued under Subsection (f) is a special permit or an executive order.

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

Acts 2009, 81st Leg., R.S., Ch. 990 (H.B. 3851), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.03a, eff. September 1, 2009.

Reenacted and amended by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.008, eff. September 1, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 3, eff. September 1, 2013.

Sec. 418.017. USE OF PUBLIC AND PRIVATE RESOURCES. (a) The governor may use all available resources of state government and of political subdivisions that are reasonably necessary to cope with a disaster.

(b) The governor may temporarily reassign resources, personnel, or functions of state executive departments and agencies or their units for the purpose of performing or facilitating emergency

services.

(c) The governor may commandeer or use any private property if the governor finds it necessary to cope with a disaster, subject to the compensation requirements of this chapter.

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

Sec. 418.018. MOVEMENT OF PEOPLE. (a) The governor may recommend the evacuation of all or part of the population from a stricken or threatened area in the state if the governor considers the action necessary for the preservation of life or other disaster mitigation, response, or recovery.

(b) The governor may prescribe routes, modes of transportation, and destinations in connection with an evacuation.

(c) The governor may control ingress and egress to and from a disaster area and the movement of persons and the occupancy of premises in the area.

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

Sec. 418.019. RESTRICTED SALE AND TRANSPORTATION OF MATERIALS. The governor may suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles, other than explosives or combustibles that are components of firearm ammunition.

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

Acts 2021, 87th Leg., R.S., Ch. 998 (H.B. 1500), Sec. 2, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 418.0195. DISCONNECTION OF STATE COMPUTER NETWORKS. (a) This section applies only to a computer network used by:

(1) a state agency; or

(2) an entity other than a state agency receiving network

security services from the Department of Information Resources under Section 2059.058.

(b) The governor may order the Department of Information Resources to disconnect a computer network from the Internet in the event of a substantial external threat to the computer network.

(c) The authority granted under this section is limited to Internet connectivity services provided exclusively to an entity described by Subsection (a).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1310 (H.B. 3333), Sec. 1, eff. September 1, 2011.

Sec. 418.020. TEMPORARY HOUSING AND EMERGENCY SHELTER. (a) The governor may enter into purchase, lease, or other arrangements with an agency of the United States for temporary housing units to be occupied by disaster victims and may make units available to any political subdivision.

(b) The governor may assist a political subdivision that is the locus of temporary housing or emergency shelters for disaster victims to acquire sites necessary for temporary housing or emergency shelters and to do all things required to prepare the sites to receive and use temporary housing units or emergency shelters by:

(1) advancing or lending funds available to the governor from any appropriation made by the legislature or from any other source;

(2) allocating funds made available by a public or private agency; or

(3) becoming a copartner with the political subdivision for the execution and performance of any temporary housing or emergency shelter project for disaster victims.

(c) Under regulations prescribed by the governor, the governor may temporarily suspend or modify for a period of not more than 60 days any public health, safety, zoning, intrastate transportation, or other law or regulation if by proclamation the governor considers the suspension or modification essential to provide temporary housing or emergency shelter for disaster victims.

(d) Any political subdivision may temporarily or permanently acquire by lease, purchase, or other means sites required for installation of temporary housing units or emergency shelters for

disaster victims and may enter into arrangements necessary to prepare or equip the sites to use the housing units or shelters, including arrangements for the purchase of temporary housing units or shelters and the payment of transportation charges.

(e) A political subdivision that is the locus of temporary housing or emergency shelters for persons moved or evacuated by recommendation or order of the governor may be assisted by any resource available to the state, including the disaster contingency fund, to ensure the political subdivision receives an advance or reimbursement:

(1) of all expenses, including lost revenue, incurred by the political subdivision associated with the use of public facilities for temporary housing or emergency shelters; and

(2) of the amounts paid for salaries and benefits of permanently employed, straight-time and regular-time personnel of the political subdivision who perform duties associated with the movement or evacuation of persons into, out of, or through the political subdivision.

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

Acts 2009, 81st Leg., R.S., Ch. 185 (H.B. 1998), Sec. 2, eff. September 1, 2009.

Sec. 418.021. FEDERAL AID FOR LOCAL GOVERNMENT. (a) On the governor's determination that a local government of the state has suffered or will suffer a substantial loss of tax and other revenue from a major disaster and has demonstrated a need for financial assistance to perform its governmental functions, the governor may apply to the federal government on behalf of the local government for a loan and may receive and disburse the proceeds of an approved loan to the local government.

(b) The governor may determine the amount needed by a local government to restore or resume its governmental functions and certify that amount to the federal government. The amount sought for the local government may not exceed 25 percent of the annual operating budget of the local government for the fiscal year in which the major disaster occurs.

(c) The governor may recommend to the federal government, based

on the governor's review, the cancellation of all or part of repayment if in the first three full fiscal years following the major disaster the revenues of the local government are insufficient to meet its operating expenses, including additional disaster-related expenses of a municipal operation character.

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

Sec. 418.022. AID FOR INDIVIDUALS. (a) On the governor's determination that financial assistance is essential to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster that cannot be otherwise adequately met from other means of assistance, the governor may accept a grant by the federal government to fund the financial assistance, subject to the terms and conditions imposed on the grant. The governor may agree with the federal government or any officer or agency of the United States pledging the state to participate in funding not more than 25 percent of the financial assistance.

(b) The governor may make financial grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster that cannot otherwise adequately be met from other means of assistance. The grants may not exceed an aggregate amount in excess of that established by federal statute for an individual or family in any single major disaster declared by the president of the United States.

(c) The governor may designate in the state emergency management plan the Department of Human Services or another state agency to carry out the functions of providing financial aid to individuals or families qualified for disaster relief. The designated agency may employ temporary personnel for those functions to be paid from funds appropriated to the agency, from federal funds, or from the disaster contingency fund. The merit system does not apply to the temporary positions. The governor may allocate funds appropriated under this chapter to implement the purposes of this chapter.

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

Sec. 418.023. CLEARANCE OF DEBRIS. (a) Through the use of any

state agency or instrumentality, the governor, acting through members of the Emergency Management Council, may clear or remove debris or wreckage from public or private land or water if it threatens public health or safety or public or private property in a state of disaster declared by the governor or major disaster declared by the president of the United States.

(b) The governor may accept funds from the federal government and use the funds to make grants to a local government for the purpose of removing debris or wreckage from public or private land or water.

(c) Debris or wreckage may not be removed from public or private property until the affected local government, corporation, organization, or individual presents to the governor or member of the Emergency Management Council an unconditional authorization for removal. Debris or wreckage may not be removed from private property until the state is indemnified against any claim arising from removal. In instances where it is not practical and further delay would create a greater risk to public health or safety, the governor, acting through the Emergency Management Council, may remove debris or wreckage from public or private property without an unconditional authorization or indemnification.

(d) If the governor provides for clearance of debris or wreckage under this chapter, state employees or other individuals acting by authority of the governor may enter on private land or water to perform tasks necessary to the removal or clearance operation. Except in cases of wilful misconduct, gross negligence, or bad faith, a state employee or agent performing his duties while complying with orders of the governor issued under this chapter is not liable for the death of or injury to a person or for damage to property.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 4, eff. Sept. 1, 1997.

Sec. 418.024. RULES. The governor may adopt rules necessary for carrying out the purposes of this chapter, including rules on:

(1) standards of eligibility for persons applying for benefits;

(2) procedures for applying for benefits;

(3) procedures for the administration, investigation, filing, and approval of applications for benefits;

(4) procedures for the formation of local or statewide boards to pass on applications for benefits; and

(5) procedures for appeals of decisions relating to applications for benefits.

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

Sec. 418.025. LIMITED PURPOSE DECLARATION. (a) If the governor determines that a disaster can be adequately addressed without invoking all the powers and duties provided by this subchapter, the governor may, by proclamation or executive order, issue a limited purpose disaster declaration invoking only the authority provided by Sections 418.016(a) and (e).

(b) A declaration made under this section is subject to Section 418.014.

Added by Acts 2015, 84th Leg., R.S., Ch. 959 (S.B. 1465), Sec. 1, eff. June 18, 2015.

Sec. 418.026. GRANTS FOR DISASTER RESPONSE BY NONPROFIT FOOD BANKS. (a) In this section, "nonprofit food bank" means a nonprofit organization that solicits, warehouses, and redistributes edible food to agencies that feed needy families and individuals.

(b) Using money available for the purpose, the office of the governor shall establish a program to provide grants to nonprofit organizations in this state for distribution to nonprofit food banks to build the capacity of the nonprofit food banks to respond to disasters.

(c) To be eligible to receive a grant under this section, a nonprofit organization must:

(1) have at least five years of experience coordinating a statewide network of nonprofit food banks and charitable organizations that distribute food to needy or low income individuals during disasters; and

(2) be a member of the Texas Voluntary Organizations Active in Disaster.

(d) Grant money awarded under this section may be used only to

reimburse a nonprofit food bank for all or part of the costs incurred by the nonprofit food bank as a result of:

(1) maintaining an inventory of emergency food boxes in preparation for a disaster;

(2) purchasing, storing, and transporting food for distribution during a disaster; and

(3) purchasing capital equipment necessary to operate during a disaster, including back-up generators, mobile food pantries, trucks, meal preparation units, forklifts, technology, and other equipment.

(e) The office of the governor shall establish procedures to administer the grant program, including a procedure for the submission of a proposal and a procedure to be used by the office to evaluate a proposal.

(f) The office of the governor shall enter into a contract that includes performance requirements with each grant recipient. The office shall monitor and enforce the terms of the contract. The contract must authorize the office to recoup grant money from a grant recipient for failure of the grant recipient to comply with the terms of the contract.

(g) The office of the governor may solicit and accept gifts, grants, and donations from any source for the purpose of awarding grants under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 1299 (H.B. 3668), Sec. 1, eff. September 1, 2019.

SUBCHAPTER C. TEXAS DIVISION OF EMERGENCY MANAGEMENT

Sec. 418.041. ORGANIZATION. (a) The Texas Division of Emergency Management is a component of The Texas A&M University System.

(b) The division is managed by a chief appointed by the governor. The chief serves at the pleasure of the governor. The chief must possess professional training and knowledge consisting of not less than five years of managerial or strategic planning experience in matters relating to public safety, security, emergency services, and emergency response.

(c) At least once every two months, the following shall meet to coordinate efforts, prevent overlap of activities, and ensure that

the state's approach to emergency management and homeland security is unified:

(1) a representative of the department;

(2) a representative of the division;

(3) the presiding officer of the Homeland Security Council; and

(4) a state agency representative from the emergency management council, selected by the chair of the emergency management council.

(d) The division shall employ other coordinating and planning officers and other professional, technical, secretarial, and clerical personnel necessary to the performance of its functions.

(e) The division shall manage and staff the state operations center under an agreement with the department.

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

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 2A.02, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 602 (S.B. 799), Sec. 4, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 852 (H.B. 2794), Sec. 4, eff. June 10, 2019.

Sec. 418.042. STATE EMERGENCY MANAGEMENT PLAN. (a) The division shall prepare and keep current a comprehensive state emergency management plan. The plan may include:

(1) provisions for prevention and minimization of injury and damage caused by disaster;

(2) provisions for prompt and effective response to disaster;

(3) provisions for emergency relief;

(4) provisions for energy emergencies;

(5) identification of areas particularly vulnerable to disasters;

(6) recommendations for zoning, building restrictions, and other land-use controls, safety measures for securing mobile homes or other nonpermanent or semipermanent structures, and other preventive and preparedness measures designed to eliminate or reduce disasters

or their impact;

(7) provisions for assistance to local officials in designing local emergency management plans;

(8) authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, fire, or other disaster;

(9) preparation and distribution to the appropriate state and local officials of state catalogs of federal, state, and private assistance programs;

(10) organization of manpower and channels of assistance;

(11) coordination of federal, state, and local emergency management activities;

(12) coordination of the state emergency management plan with the emergency management plans of the federal government;

(13) coordination of federal and state energy emergency plans;

(14) provisions for providing information to local officials on activation of the Emergency Alert System established under 47 C.F.R. Part 11;

(15) a database of public facilities that may be used under Section 418.017 to shelter individuals during a disaster, including air-conditioned facilities for shelter during an extreme heat disaster and fortified structures for shelter during a wind disaster;

(16) provisions for quickly replenishing the food supplies of area food banks or food pantries following a disaster;

(17) provisions for protecting public health; and

(18) other necessary matters relating to disasters.

(b) In preparing and revising the state emergency management plan, the division shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic organizations, volunteer organizations, and community leaders.

(c) All or part of the state emergency management plan may be incorporated into regulations of the division or executive orders that have the force and effect of law.

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

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 7.01, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 365 (H.B. 1326), Sec. 1, eff.

June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.04, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.009, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 889 (S.B. 1780), Sec. 3, eff. September 1, 2021.

Sec. 418.0425. STATE EMERGENCY MANAGEMENT PLAN ANNEX. (a) In this section, "critical water or wastewater facility" means a facility with:

(1) water supply, treatment, or distribution equipment that is essential to maintain the minimum water pressure requirements established by the governing body of a municipality or the Texas Commission on Environmental Quality; or

(2) wastewater collection or treatment equipment that is essential to prevent the discharge of untreated wastewater to water in the state.

(b) The division, in cooperation with the emergency management council, local governments, regional entities, health and medical facilities, volunteer groups, private sector partners, the Federal Emergency Management Agency, and other federal agencies, shall develop an annex to the state emergency management plan that addresses initial response planning for providing essential population support supplies, equipment, and services during the first five days immediately following a disaster. The annex must include:

(1) plans to make fuel available to, maintain continuing operations of, and assess the backup power available for, all:

(A) hospitals;

(B) prisons;

(C) assisted living facilities licensed under Chapter 247, Health and Safety Code;

(D) institutions licensed under Chapter 242, Health and Safety Code; and

(E) other critical facilities determined by the division;

(2) provisions for interagency coordination of disaster response efforts;

(3) provisions for the rapid gross assessment of population

support needs;

(4) plans for the clearance of debris from major roadways to facilitate emergency response operations and delivery of essential population support supplies and equipment;

(5) methods to obtain food, water, and ice for disaster victims through prearranged contracts or suppliers, stockpiled supplies, or plans to request assistance from federal agencies, as appropriate;

(6) guidelines for arranging temporary points of distribution for disaster relief supplies and standardized procedures for operating those distribution points;

(7) methods for providing basic medical support for disaster victims, including medical supplies and pharmaceuticals;

(8) provisions, developed in coordination with fuel suppliers and retailers, for the continued operation of service stations to provide fuel to disaster victims and emergency responders; and

(9) provisions for the dissemination of emergency information through the media to aid disaster victims.

(c) The division, in coordination with the Texas Commission on Environmental Quality and electric, gas, water, and wastewater utility providers, shall develop for inclusion in the annex to the state emergency management plan provisions to provide emergency or backup power to restore or continue the operation of critical water or wastewater facilities following a disaster. The provisions must:

(1) establish an online resource database of available emergency generators configured for transport that are capable of providing backup power for critical water or wastewater facilities following a disaster;

(2) include procedures for the maintenance, activation, transportation, and redeployment of available emergency generators;

(3) develop a standardized form for use by a water or wastewater utility provider in developing and maintaining data on the number and type of emergency generators required for the operation of the provider's critical water or wastewater facilities following a disaster; and

(4) include procedures for water or wastewater utility providers to maintain a current list of generators available in surrounding areas through mutual aid agreements, recognized and coordinated statewide mutual aid programs, and through commercial

firms offering generators for rent or lease.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.05, eff. September 1, 2009.

Sec. 418.043. OTHER POWERS AND DUTIES. The division shall:

(1) determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of a disaster;

(2) procure and position supplies, medicines, materials, and equipment;

(3) adopt standards and requirements for local and interjurisdictional emergency management plans;

(4) periodically review local and interjurisdictional emergency management plans;

(5) coordinate deployment of mobile support units;

(6) establish and operate training programs and programs of public information or assist political subdivisions and emergency management agencies to establish and operate the programs;

(7) make surveys of public and private industries, resources, and facilities in the state that are necessary to carry out the purposes of this chapter;

(8) plan and make arrangements for the availability and use of any private facilities, services, and property and provide for payment for use under terms and conditions agreed on if the facilities are used and payment is necessary;

(9) establish a register of persons with types of training and skills important in disaster mitigation, preparedness, response, and recovery;

(10) establish a register of mobile and construction equipment and temporary housing available for use in a disaster;

(11) assist political subdivisions in developing plans for the humane evacuation, transport, and temporary sheltering of service animals and household pets in a disaster;

(12) prepare, for issuance by the governor, executive orders and regulations necessary or appropriate in coping with disasters;

(13) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter

and in implementing programs for disaster mitigation, preparation, response, and recovery;

(14) develop a plan to raise public awareness and expand the capability of the information and referral network under Section 526.0004;

(15) improve the integration of volunteer groups, including faith-based organizations, into emergency management plans;

(16) cooperate with the Federal Emergency Management Agency to create uniform guidelines for acceptable home repairs following disasters and promote public awareness of the guidelines;

(17) cooperate with state agencies to:

(A) encourage the public to participate in volunteer emergency response teams and organizations that respond to disasters; and

(B) provide information on those programs in state disaster preparedness and educational materials and on Internet websites;

(18) establish a liability awareness program for volunteers, including medical professionals;

(19) define "individuals with special needs" in the context of a disaster;

(20) establish and operate, subject to the availability of funds, a search and rescue task force in each field response region established by the division to assist in search, rescue, and recovery efforts before, during, and after a natural or man-made disaster; and

(21) do other things necessary, incidental, or appropriate for the implementation of this chapter.

Reenacted and amended by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.010, eff. September 1, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 959 (S.B. 1465), Sec. 2, eff. June 18, 2015.

Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 2.15, eff. April 1, 2025.

Sec. 418.0435. PERSONAL PROTECTIVE EQUIPMENT CONTRACTS. (a) The division shall enter into a contract with a manufacturer or wholesale distributor of personal protective equipment that

guarantees a set amount and stocked supply of the equipment for use during a public health disaster declared under Section 81.0813, Health and Safety Code.

(b) The division may purchase personal protective equipment under a contract described by Subsection (a) only if the division determines the state's supply of personal protective equipment will be insufficient based on an evaluation of the personal protective equipment:

(1) held in reserve in this state; and

(2) supplied by or expected to be supplied by the federal government.

(c) The division shall pursue all available federal funding to cover the costs of personal protective equipment purchased under a contract described by Subsection (a).

(d) In entering into a contract under Subsection (a), the division shall ensure that the manufacturer is located in the United States to the extent practicable.

Added by Acts 2021, 87th Leg., R.S., Ch. 863 (S.B. 968), Sec. 2, eff. June 16, 2021.

Sec. 418.044. ASSISTANCE IN DEVELOPMENT OF LOCAL PLANS. (a) The division shall take an integral part in the development and revision of local and interjurisdictional emergency management plans. For that purpose, the division shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions and emergency management agencies. Those personnel shall consult with the subdivisions and agencies on a regularly scheduled basis and shall make field reviews of the areas, circumstances, and conditions to which particular local and interjurisdictional emergency management plans apply and may suggest revisions.

(b) The division shall encourage local and interjurisdictional agencies to seek advice from local government, business, labor, industry, agriculture, civic organizations, volunteer organizations, and community leaders.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 6, eff. Sept. 1, 1997.

Sec. 418.045. TEMPORARY PERSONNEL. (a) The division may employ or contract with temporary personnel from funds appropriated to the division, from federal funds, or from the disaster contingency fund. The merit system does not apply to the temporary or contract positions.

(b) The division may enroll, organize, train, and equip a cadre of disaster reservists with specialized skills in disaster recovery, hazard mitigation, community outreach, and public information to temporarily augment its permanent staff. The division may activate enrolled disaster reservists to support recovery operations in the aftermath of a disaster or major emergency and pay them at a daily rate commensurate with their qualifications and experience. Chapter 654, Chapter 2254, and Subtitle D, Title 10, do not apply in relation to a disaster reservist under this subsection.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 7, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.07, eff. September 1, 2009.

Sec. 418.046. ASSISTANCE TO AVIATORS. (a) The division may provide assistance to private aviators, including partial reimbursement for funds expended, to meet the actual costs of aircraft operation in performing search, rescue, or disaster-related functions requested by the governor or the governor's designee.

(b) Any reimbursement must be limited to the actual cost of aircraft operation not reimbursable from other sources.

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

Sec. 418.0461. ASSISTANCE TO CIVIL AIR PATROL. The division may provide financial assistance to the Civil Air Patrol, Texas Wing, to support the wing's disaster-related activities that assist the state and state agencies and the wing's training and exercises associated with those activities.

Added by Acts 1995, 74th Leg., ch. 889, Sec. 1, eff. Aug. 28, 1995.

Sec. 418.047. COMMUNICATIONS. (a) In cooperation with other state agencies, the division shall ascertain what means exist for rapid and efficient communication in times of disaster.

(a-1) The division shall coordinate with the Texas Department of Transportation to establish additional methods for disseminating emergency public service messages to motorists, including:

(1) severe weather advisories;

(2) AMBER alerts under Subchapter L, Chapter 411; and

(3) silver alerts under Subchapter M, Chapter 411.

(b) The division shall consider the desirability of supplementing the communication resources or integrating them into a state or state-federal telecommunication or other communication system or network.

(c) In studying the character and feasibility of any system or its parts, the division shall evaluate the possibility of its multipurpose use for general state and local governmental purposes.

(d) The division shall make recommendations to the governor as appropriate.

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

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 8.01, eff. September 1, 2009.

Sec. 418.048. MONITORING WEATHER; DISASTER PREPAREDNESS EDUCATION. (a) The division shall keep continuously apprised of weather conditions that present danger of climatic activity, such as precipitation, severe enough to constitute a disaster.

(b) The division shall create a list of suggested actions for state agencies and the public to take to prepare for winter storms, organized by severity of storm based on the National Weather Service Winter Storm Severity Index.

(c) The division shall develop disaster preparedness educational materials that include instructions for preparing a disaster kit containing supplies most needed in a disaster or emergency, such as water, nonperishable food, medical supplies, flashlights, and other essential items, to assist families and businesses in adequately preparing for winter storms, hurricanes, floods, drought, fires, and other potential disasters.

(d) The division shall post on the division's Internet website and distribute to local governments and businesses the educational materials and instructions developed under Subsection (c).

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.08, eff. September 1, 2009.
Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 2, eff. June 8, 2021.

Sec. 418.050. PHASED REENTRY PLAN. (a) The division shall develop a phased reentry plan to govern the order in which particular groups of people are allowed to reenter areas previously evacuated because of a disaster or threat of disaster. The plan may provide different reentry procedures for different types of disasters.

(b) The phased reentry plan shall:

(1) recognize the role of local emergency management directors in making decisions regarding the timing and implementation of reentry plans for a disaster; and

(2) provide local emergency management directors with sufficient flexibility to adjust the plan as necessary to accommodate the circumstances of a particular emergency.

(c) The division, in consultation with representatives of affected parties and local emergency management directors, shall develop a reentry credentialing process. The division shall include the credentialing process in the phased reentry plan. The department shall provide support for the credentialing process.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.09, eff. September 1, 2009.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 602 (S.B. 799), Sec. 5, eff. June 10, 2019.
Acts 2019, 86th Leg., R.S., Ch. 852 (H.B. 2794), Sec. 5, eff. June 10, 2019.

Sec. 418.0501. REENTRY CREDENTIALING PILOT PROGRAM. (a) The division shall consider implementing a pilot program for a reentry

credentialing process for reentry into areas previously evacuated because of a disaster or threat of disaster.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 2B.051, eff. September 1, 2009.
Redesignated from Government Code, Section 418.050 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(16), eff. September 1, 2011.

Sec. 418.051. COMMUNICATIONS COORDINATION GROUP. (a) The communications coordination group shall facilitate interagency coordination and collaboration to provide efficient and effective planning and execution of communications support to joint, interagency, and intergovernmental task forces.

(b) At the direction of the division, the communications coordination group shall assist with coordination and collaboration during an emergency.

(c) The communications coordination group consists of members selected by the division, including representatives of:

(1) the Texas military forces;

(2) the department;

(3) the Federal Emergency Management Agency;

(4) federal agencies that comprise Emergency Support Function No. 2;

(5) the telecommunications industry, including cable service providers, as defined by Section 66.002, Utilities Code;

(6) electric utilities, as defined by Section 31.002, Utilities Code;

(7) gas utilities, as defined by Sections 101.003 and 121.001, Utilities Code;

(8) the National Guard's Joint Continental United States Communications Support Environment;

(9) the National Guard Bureau;

(10) amateur radio operator groups;

(11) the Texas A&M Forest Service;

(12) the Texas Department of Transportation;

(13) the General Land Office;

(14) the Texas A&M Engineering Extension Service;

(15) the Public Utility Commission of Texas;

(16) the Railroad Commission of Texas;
(17) the Department of State Health Services;
(18) the judicial branch of state government;
(19) the Texas Association of Regional Councils;
(20) the United States Air Force Auxiliary Civil Air Patrol, Texas Wing;
(21) each trauma service area regional advisory council;
(22) state agencies, counties, and municipalities affected by the emergency, including 9-1-1 agencies; and
(23) other agencies as determined by the division.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.10, eff. September 1, 2009.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 602 (S.B. 799), Sec. 6, eff. June 10, 2019.
Acts 2019, 86th Leg., R.S., Ch. 852 (H.B. 2794), Sec. 6, eff. June 10, 2019.

Sec. 418.052. USE OF FUNDS TO SUPPORT CERTAIN PERSONS. The division may use appropriated funds to purchase food and beverages for a person who is:
(1) activated to provide services in response to an emergency situation, an incident, or a disaster; and
(2) unable to leave or required to remain at the person's assignment area due to the emergency situation, incident, or disaster.

Added by Acts 2015, 84th Leg., R.S., Ch. 267 (H.B. 120), Sec. 1, eff. June 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 308 (S.B. 854), Sec. 1, eff. May 29, 2017.

Sec. 418.053. EMERGENCY SERVICES DISTRICT PROGRAM. (a) The division shall serve as a resource to provide interested rural communities with:
(1) general information about emergency services districts; and

(2) information and training related to the establishment of an emergency services district.

(b) The division may:

(1) provide to fire departments in rural areas information relating to assistance programs offered to rural volunteer firefighters, including the federal Staffing for Adequate Fire and Emergency Response grant program to help fire departments increase staffing and deployment capabilities; and

(2) provide to rural homeowners information relating to the benefits of volunteer fire departments, including a reduction in homeowners insurance risk ratings, lower homeowners insurance rates, and better fire protection.

Added by Acts 2005, 79th Leg., Ch. 634 (H.B. 2619), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 560 (S.B. 1440), Sec. 2, eff. June 16, 2007.
Renumbered from Government Code, Section 487.060 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(29), eff. September 1, 2007.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 30, eff. September 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 7, eff. September 1, 2013.
Transferred, redesignated and amended from Government Code, Section 487.061 by Acts 2017, 85th Leg., R.S., Ch. 1019 (H.B. 1510), Sec. 1, eff. September 1, 2017.

Sec. 418.054. DISASTER RESPONSE GUIDE. (a) The division shall develop a model guide for local officials regarding disaster response and recovery. The guide must provide a comprehensive approach to disaster recovery by local officials and include information on:

(1) contracting for debris removal;

(2) obtaining federal disaster funding;

(3) coordinating the availability and construction of short-term and long-term housing; and

(4) obtaining assistance from local, state, and federal

volunteer organizations.

(b) The division, in coordination with the Texas A&M AgriLife Extension Service and the Texas A&M Engineering Extension Service, shall provide training based on the disaster response guide as a part of the emergency management training course provided under Section 418.005.

Added by Acts 2019, 86th Leg., R.S., Ch. 946 (S.B. 6), Sec. 2, eff. September 1, 2019.

Sec. 418.0541. CATASTROPHIC DEBRIS MANAGEMENT PLAN AND TRAINING. (a) The division, in consultation with any other state agencies selected by the division, shall develop a catastrophic debris management plan and model guide for use by political subdivisions in the event of a disaster.

(b) The plan must:

(1) provide a guide for clearance and disposal of debris caused by a disaster, including information on preparing for debris removal before a disaster; and

(2) include:

(A) provisions for the use of trench burners and air curtain incinerators of vegetative debris, including identifying sources of equipment for use immediately following a disaster; and

(B) contracting standards and a model contract for use in procuring debris removal services following a disaster.

(c) The division shall consult with the comptroller about including a contract for debris removal services on the schedule of multiple award contracts developed under Subchapter I, Chapter 2155, or in another cooperative purchasing program administered by the comptroller.

(d) The Texas A&M Engineering Extension Service, in coordination with the Texas Commission on Environmental Quality, shall establish a training program for state agencies and political subdivisions on the use of trench burners in debris removal.

Added by Acts 2019, 86th Leg., R.S., Ch. 946 (S.B. 6), Sec. 2, eff. September 1, 2019.
Redesignated from Government Code, Section 418.055 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(23), eff. September 1, 2021.

Sec. 418.0542. CATASTROPHIC DEBRIS MANAGEMENT PLAN AND TRAINING. (a) The division, in consultation with any other state agencies selected by the division, shall develop a catastrophic debris management plan and model guide for use by political subdivisions in the event of a disaster.

(b) The plan must:

(1) provide a guide for clearance and disposal of debris caused by a disaster, including information on preparing for debris removal before a disaster; and

(2) include:

(A) provisions for the use of trench burners and air curtain incinerators of vegetative debris, including identifying sources of equipment for use immediately following a disaster; and

(B) procedures for:

(i) vegetative debris burning, including the role of the Texas Department of Transportation in debris removal;

(ii) the coordination of clearance and disposal of debris;

(iii) obtaining equipment necessary for use immediately following a disaster; and

(iv) the interaction between political subdivisions and state and federal agencies.

(c) The Texas A&M Engineering Extension Service shall establish a training program for state agencies and political subdivisions on the use of trench burners in debris removal.

Added by Acts 2019, 86th Leg., R.S., Ch. 703 (H.B. 5), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 418.054 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(18), eff. September 1, 2021.

Sec. 418.0543. CONTRACTING FOR DEBRIS REMOVAL. (a) The division, in consultation with the Federal Emergency Management Agency, shall develop and publish a model contract for debris removal services to be used by political subdivisions following a disaster.

(b) The division shall consult with the comptroller to:

(1) establish appropriate contracting standards and contractor requirements to include in the model contract; and

(2) include a contract for debris removal services on the schedule of multiple award contracts developed under Subchapter I, Chapter 2155, or in another cooperative purchasing program administered by the comptroller.

Added by Acts 2019, 86th Leg., R.S., Ch. 703 (H.B. 5), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 418.055 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(18), eff. September 1, 2021.

Sec. 418.0544. DISASTER PREPARATION CONTRACTS. (a) The division, in consultation with other state agencies the division considers appropriate, shall develop a plan to assist political subdivisions of this state with executing contracts for services that political subdivisions are likely to need following a disaster. The plan must include:

(1) training on the benefits to a political subdivision from executing disaster preparation contracts in advance of a disaster;

(2) recommendations on the services political subdivisions are likely to need following a disaster, including debris management and infrastructure repair; and

(3) assistance to political subdivisions with finding persons capable of providing the services described by Subdivision (2) and executing contracts with those persons in advance of a disaster.

(b) The division shall consult with the comptroller regarding including a contract for services a political subdivision is likely to need following a disaster, including debris management and infrastructure repair, on the schedule of multiple award contracts developed under Subchapter I, Chapter 2155, or as part of another cooperative purchasing program administered by the comptroller.

Added by Acts 2019, 86th Leg., R.S., Ch. 945 (H.B. 7), Sec. 2, eff. September 1, 2019.
Redesignated from Government Code, Section 418.054 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(16), eff. September 1,

2021.

Sec. 418.0545. DISASTER CASE MANAGEMENT SYSTEM. (a) The division shall, subject to the availability of funds, contract with a vendor to develop and maintain an electronic disaster case management system.

(b) The system developed under Subsection (a) may be used for case management during and after a disaster by persons selected by the division, including:

(1) a person affected by a disaster;
(2) a municipality or county affected by a disaster;
(3) the Health and Human Services Commission;
(4) the General Land Office;
(5) the Department of State Health Services;
(6) the Texas Department of Motor Vehicles;
(7) the Texas Workforce Commission;
(8) the Texas Department of Insurance;
(9) the Department of Agriculture;
(10) appropriate federal agencies; and
(11) any other appropriate entity.

(c) The system developed under Subsection (a) may include the capability for a person affected by a disaster to apply for assistance from multiple sources. The system must allow the person to control which other users of the system have access to information submitted by the person to the system.

(d) Information collected or maintained by the system developed under Subsection (a) that could identify a person affected by a disaster is confidential and not subject to disclosure under Chapter 552. The information may be disclosed to a governmental body described by Subsection (b) for the purpose of disaster relief or recovery.

(e) The division shall adopt rules necessary to implement this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 1065 (H.B. 1307), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 418.054 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(17), eff. September 1, 2021.

Sec. 418.0546. EMERGENCY PLAN FOR SPECIALTY CARE POPULATIONS. The division, in consultation with the Department of State Health Services and local governmental entities that have established emergency management plans, shall develop a plan to increase the capabilities of local emergency shelters in the provision of shelter and care for specialty care populations during a disaster.

Added by Acts 2019, 86th Leg., R.S., Ch. 614 (S.B. 982), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 418.054 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(19), eff. September 1, 2021.

Sec. 418.0547. ACCESS TO LOCAL VOLUNTEER NETWORKS; VOLUNTEER MOBILE MEDICAL UNITS. (a) The division, in consultation with the Department of State Health Services, shall increase awareness of and encourage local government emergency response teams to utilize services provided by local volunteer networks, including the Medical Reserve Corps, that are available in the area to respond during a disaster or emergency.

(b) The division shall develop a plan to create and manage state-controlled volunteer mobile medical units in each public health region to assist counties that lack access to a volunteer network described by Subsection (a).

(c) The Department of State Health Services shall collaborate with local medical organizations that represent licensed physicians who practice in a county or public health region to:

(1) ensure the physicians are informed about local government emergency response teams and those teams are aware of physician resources in the county or region, as applicable;

(2) compile and maintain a list of physicians in the county or region and the contact information for the physicians;

(3) provide up-to-date information about resources for physicians regarding disaster planning, including continuing medical education;

(4) promote the Texas Disaster Volunteer Registry and the Emergency System for Advance Registration of Volunteer Health

Professionals;

(5) consider incentives to assist with recruiting physician volunteers; and

(6) encourage physicians and health professionals to advocate for disaster planning measures in health care facilities.

Added by Acts 2019, 86th Leg., R.S., Ch. 614 (S.B. 982), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 418.055 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(19), eff. September 1, 2021.

Sec. 418.0548. COMMUNICATIONS IMMEDIATELY FOLLOWING A DISASTER. The division, in collaboration with other appropriate entities selected by the division, shall to the extent practicable include private wireless communication, Internet, and cable service providers in the disaster planning process and determine the availability of the providers' portable satellite communications equipment and portable mobile telephone towers to assist in response and recovery immediately following disasters.

Added by Acts 2019, 86th Leg., R.S., Ch. 285 (H.B. 2320), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 418.054 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(20), eff. September 1, 2021.

Sec. 418.0549. HARDENING OF UTILITY FACILITIES AND CRITICAL INFRASTRUCTURE. (a) In this section, "critical infrastructure" includes hospitals and fire stations.

(b) The division shall identify methods for hardening utility facilities and critical infrastructure in order to maintain operations of essential services during disasters.

(c) The division shall, in collaboration with the Texas Commission on Environmental Quality, the Railroad Commission of Texas, and any other state agencies selected by the division:

(1) determine methods for effectively reducing risks and impacts on utility facilities and critical infrastructure from a disaster; and

(2) encourage public and private entities that are responsible for utility facilities and critical infrastructure to implement the methods determined under Subdivision (1).

(d) This section does not apply to a utility facility owned or controlled by a utility regulated by the Public Utility Commission of Texas.

Added by Acts 2019, 86th Leg., R.S., Ch. 285 (H.B. 2320), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 418.055 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(20), eff. September 1, 2021.

Sec. 418.055. INFORMATION SHARING WORK GROUP. (a) In this section, "work group" means the work group established under this section.

(b) The division shall establish a work group of state agencies involved in disaster management. The work group consists of members appointed by the chief of the division who represent:

(1) the comptroller's office;

(2) the Department of State Health Services;

(3) the Texas Department of Transportation;

(4) the General Land Office;

(5) the Health and Human Services Commission;

(6) institutions of higher education; and

(7) to the extent practicable, appropriate federal agencies.

(c) The work group shall develop recommendations for improving the manner in which electronic information is stored by and shared among state agencies and between state agencies and federal agencies to improve the capacity of the agencies to:

(1) respond to a disaster; and

(2) coordinate the agencies' responses to a disaster.

(d) Not later than November 1 of each even-numbered year, the work group shall submit the group's recommendations to the governor.

Added by Acts 2019, 86th Leg., R.S., Ch. 286 (H.B. 2340), Sec. 2, eff. September 1, 2019.

Sec. 418.0551. PERMITTING TASK FORCE. (a) The division shall form a task force with representatives from the General Land Office, Texas Commission on Environmental Quality, Parks and Wildlife Department, Texas Water Development Board, Texas A&M AgriLife Extension Service, Department of State Health Services, Public Utility Commission of Texas, and Texas Historical Commission to be activated if a state of disaster is declared under Section 418.014 because of weather conditions to expedite:

(1) environmental permitting; and

(2) access to funds from federal disaster relief programs following the disaster.

(b) The task force formed under this section shall develop recommendations for expediting the evaluation of environmental permits during disaster recovery in order for local entities to demonstrate compliance with regulations and access federal disaster relief programs and funding.

(c) In performing its duties under this section, the task force may use resources of agencies participating in the task force.

Added by Acts 2019, 86th Leg., R.S., Ch. 286 (H.B. 2340), Sec. 3, eff. September 1, 2019.
Redesignated from Government Code, Section 418.056 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(24), eff. September 1, 2021.

Sec. 418.0552. BUSINESS ADVISORY COUNCIL. (a) In this section, "advisory council" means the business advisory council established under this section.

(b) The business advisory council is established to provide advice and expertise on actions state and local governments can take to assist businesses in recovering from a disaster.

(c) The advisory council is composed of 12 members who represent business in this state appointed as follows:

(1) four members appointed by the governor;

(2) four members appointed by the lieutenant governor; and

(3) four members appointed by the speaker of the house of representatives.

(d) Members of the advisory council serve staggered four-year terms.

(e) An advisory council member is not entitled to compensation but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the advisory council.

(f) The advisory council members shall elect a presiding officer from among the members.

(g) The advisory council shall:

(1) advise the division on policies, rules, and program operations to assist businesses in recovering from a disaster;

(2) advise the division on the state resources and services needed to assist businesses in recovering from a catastrophic loss of electric power; and

(3) propose solutions to address inefficiencies or problems in the state or local governmental disaster response with respect to impact on businesses and the economy.

(h) The advisory council shall meet at the times and locations determined by the presiding officer, not to exceed four meetings each year.

(i) Not later than November 1 of each even-numbered year, the advisory council shall submit a report on the advisory council's activities, advice, and proposed solutions to the division, the governor, the lieutenant governor, and the speaker of the house of representatives.

(j) The division shall provide administrative support to the advisory council.

(k) Chapter 2110 does not apply to the advisory council.

Added by Acts 2019, 86th Leg., R.S., Ch. 602 (S.B. 799), Sec. 7, eff. September 1, 2019.
Redesignated from Government Code, Section 418.054 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(22), eff. September 1, 2021.

Sec. 418.0553. DISASTER RECOVERY TASK FORCE. (a) The division shall develop a disaster recovery task force to operate throughout the long-term recovery period following natural and man-made disasters by providing specialized assistance for communities and individuals to address financial issues, available federal assistance programs, and recovery and resiliency planning to speed recovery efforts at the local level.

(b) The disaster recovery task force may include and use the resources of:

(1) any appropriate state agencies, including institutions of higher education; and

(2) organized volunteer groups.

(c) The disaster recovery task force shall develop procedures for preparing and issuing a report listing each project related to a disaster that qualifies for federal assistance. A report must be submitted to the appropriate federal agencies as soon as practicable after any disaster.

(d) Once each quarter, the disaster recovery task force shall brief members of the legislature, legislative staff, and state agency personnel on the response and recovery efforts for previous disasters and any preparation or planning for potential future hazards, threats, or disasters.

Added by Acts 2019, 86th Leg., R.S., Ch. 602 (S.B. 799), Sec. 7, eff. September 1, 2019.
Redesignated from Government Code, Section 418.056 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(22), eff. September 1, 2021.

Sec. 418.0554. COORDINATING 9-1-1 TEXT MESSAGE CAPABILITY. The division, in consultation with the Texas A&M AgriLife Extension Service, shall coordinate state and local government efforts to make 9-1-1 emergency service capable of receiving text messages from a cellular telephone or other wireless communication device.

Added by Acts 2019, 86th Leg., R.S., Ch. 1116 (H.B. 2325), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 418.054 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(21), eff. September 1, 2021.

Sec. 418.0555. SOCIAL MEDIA USE DURING AND AFTER DISASTERS. The division, in consultation with any state agency or private entity the division determines is appropriate, shall develop standards for the use of social media as a communication tool by governmental entities during and after a disaster. The standards must:

(1) require state agencies, political subdivisions, first responders, and volunteers that use social media during and after a disaster to post consistent and clear information;

(2) optimize the effectiveness of social media use during and after a disaster; and

(3) require that certain official social media accounts be used during and after a disaster only for providing credible sources of information.

Added by Acts 2019, 86th Leg., R.S., Ch. 1116 (H.B. 2325), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 418.055 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(21), eff. September 1, 2021.

Sec. 418.056. DISASTER MOBILE APPLICATION. (a) The division shall develop a mobile application for wireless communication devices to communicate critical information during a disaster directly to disaster victims and first responders.

(b) The mobile application may provide information on:

(1) road and weather conditions during a disaster; and

(2) disaster response and recovery activities.

Added by Acts 2019, 86th Leg., R.S., Ch. 1116 (H.B. 2325), Sec. 1, eff. September 1, 2019.

Sec. 418.057. DISASTER WEB PORTAL. The division shall develop a comprehensive disaster web portal. The web portal must:

(1) provide disaster information to the public, including information on programs and services available to disaster victims and funding for and expenditures of disaster assistance programs;

(2) include information on disaster response and recovery activities; and

(3) provide information on obtaining assistance from the Federal Emergency Management Agency, state agencies, organized volunteer groups, and any other entities providing disaster assistance.

Added by Acts 2019, 86th Leg., R.S., Ch. 1116 (H.B. 2325), Sec. 1,

eff. September 1, 2019.

Sec. 418.058. USE OF DATA ANALYTICS IN DISASTER MANAGEMENT. To the extent feasible, the division shall use data analytics software to integrate data from federal, state, local, and nongovernmental sources to more effectively manage disaster response and recovery.

Added by Acts 2019, 86th Leg., R.S., Ch. 1116 (H.B. 2325), Sec. 1, eff. September 1, 2019.

SUBCHAPTER C-1. DISASTER RECOVERY LOAN PROGRAM

Sec. 418.061. DEFINITIONS. In this subchapter:

(1) "Account" means the disaster recovery loan account created under Section 418.066.

(2) "Eligible political subdivision" means a county, municipality, or school district that meets the qualifications prescribed by Section 418.062.

Added by Acts 2019, 86th Leg., R.S., Ch. 946 (S.B. 6), Sec. 3, eff. September 1, 2019.

Sec. 418.062. ELIGIBILITY FOR LOAN. A political subdivision may apply to the division for a loan under this subchapter if:

(1) the political subdivision:

(A) is located wholly or partly in an area declared to be a disaster area by the governor or the president of the United States; and

(B) before applying to the division for a loan under this subchapter:

(i) has submitted to the division, within 30 days of the date of its adoption by the governing body of the political subdivision, the political subdivision's operating budget for the most recent fiscal year; and

(ii) has submitted an application for a loan from the Federal Emergency Management Agency's community disaster loan program;

(2) an assessment of damages due to the disaster for which the declaration was made has been conducted in the political

subdivision; and

(3) the division, in consultation with the Federal Emergency Management Agency, determines that the estimated cost to rebuild the political subdivision's infrastructure damaged in the disaster is greater than 50 percent of the political subdivision's total revenue for the current year as shown in the most recent operating budget of the political subdivision submitted to the division under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 946 (S.B. 6), Sec. 3, eff. September 1, 2019.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 597 (H.B. 3222), Sec. 1, eff. September 1, 2023.

Sec. 418.063. DISASTER RECOVERY LOAN PROGRAM. The division by rule shall establish a loan program to use money from the account to provide short-term loans for disaster recovery projects to eligible political subdivisions.

Added by Acts 2019, 86th Leg., R.S., Ch. 946 (S.B. 6), Sec. 3, eff. September 1, 2019.

Sec. 418.064. LOANS. (a) A loan made from the account must be subject to the following conditions:

(1) the loan must be made at or below market interest rates for a term not to exceed 10 years; and

(2) the loan proceeds must be expended by the eligible political subdivision solely for disaster recovery projects.

(b) The comptroller shall credit to the account all principal and interest payments on a loan from the account.

(c) If the term of a loan from the account exceeds two years, the state auditor shall, on the second anniversary of the date on which the eligible political subdivision received the loan, conduct a limited audit of the political subdivision to determine whether the political subdivision has the ability to repay the loan under the terms of the loan. The division may forgive a loan made to an eligible political subdivision if the state auditor determines that the political subdivision is unable to repay the loan. The state

auditor's participation under this subsection is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c).

Added by Acts 2019, 86th Leg., R.S., Ch. 946 (S.B. 6), Sec. 3, eff. September 1, 2019.

Sec. 418.065. APPLICATION FOR LOAN. The division shall develop and implement an application process for a loan under this subchapter. At a minimum, the application must include:

(1) a description of the disaster recovery project for which the applicant is requesting the loan;

(2) an estimate of the total cost of the project;

(3) a statement of the amount of federal money that the applicant will receive for the project, or, if that information is not available on the date the applicant submits the application, an estimate of the amount of that money; and

(4) evidence that the applicant has staff, policies, and procedures in place adequate to complete the project.

Added by Acts 2019, 86th Leg., R.S., Ch. 946 (S.B. 6), Sec. 3, eff. September 1, 2019.

Sec. 418.066. CREATION OF ACCOUNT. (a) The disaster recovery loan account is created as an account in the general revenue fund with the comptroller, to be administered by the division.

(b) Money in the account may be used only to provide short-term loans to eligible political subdivisions in the manner provided by this subchapter.

(c) The account consists of:

(1) money appropriated, credited, or transferred to the account by the legislature;

(2) money received by the comptroller for the repayment of a loan made from the account;

(3) gifts or grants contributed to the account; and

(4) interest earned on deposits and investments of the account.

Added by Acts 2019, 86th Leg., R.S., Ch. 946 (S.B. 6), Sec. 3, eff.

September 1, 2019.

Sec. 418.067. RULES. The division shall adopt rules to implement and administer this subchapter. The rules adopted by the division to implement this subchapter must include the development of a form on which a political subdivision may electronically submit its budget to the division.

Added by Acts 2019, 86th Leg., R.S., Ch. 946 (S.B. 6), Sec. 3, eff. September 1, 2019.

SUBCHAPTER D. FINANCE

Sec. 418.071. STATE POLICY. It is the intent of the legislature and the policy of the state that funds to meet disaster emergencies always be available.

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

Sec. 418.073. DISASTER CONTINGENCY FUND. (a) The disaster contingency fund consists of money appropriated to the fund.

(b) It is the intent of the legislature that in responding to an emergency or disaster, the first recourse of state and local agencies should be to the funds regularly appropriated to those agencies.

Text of subsection as added by Acts 2007, 80th Leg., R.S., Ch. 992 (S.B. 1339), Sec. 1

(c) The purposes for which money in the disaster contingency fund may be used include making funds available to a state or local agency that will use the funds to provide assistance to producers of agricultural products affected by or recovering from a disaster caused by severe drought, wildfire, flood, storm, or hurricane. In this subsection, "agricultural products" includes:

(1) horticultural, viticultural, forestry, dairy, livestock, poultry, and bee products, including products of exotic livestock as defined by Section 161.001, Agriculture Code; and

(2) any farm or ranch product, including a product produced by aquaculture as defined by Section 134.001, Agriculture Code.

Text of subsection as added by Acts 2007, 80th Leg., R.S., Ch. 1250 (H.B. 2694), Sec. 1, and amended by Acts 2009, 81st Leg., R.S., Ch. 1006 (H.B. 4102), Sec. 1

(c) A state or local government entity that participates in disaster preparation or disaster recovery may request and receive funding from the disaster contingency fund to pay for costs incurred by the state or local government entity in preparing for or recovering from a disaster.

(d) The division shall administer the disaster contingency fund and shall develop and implement rules and procedures for providing emergency assistance from the fund. The division shall annually report to the speaker of the house of representatives and the lieutenant governor expenditures from the fund, the overall status of the fund, and any changes to rules and procedures regarding the fund.

(f) A state or local government entity or other eligible entity that receives funding from the disaster contingency fund to pay for costs associated with disaster recovery and that subsequently receives reimbursement from the federal government, an insurer, or another source for those same costs shall reimburse the disaster contingency fund for the reimbursed amounts. In developing rules and procedures under Subsection (d) the governor's division of emergency management shall prescribe accounting and other procedures necessary to efficiently and effectively implement this subsection.

(g) Money in the disaster contingency fund may be used to pay for a disaster risk financing instrument using a parametric index based on affected population to leverage available funds and receive proceeds greater than appropriated amounts to pay for extraordinary expenses.

(h) Money in the disaster contingency fund may be used to provide to a local government entity that is suffering financial hardship as a result of a disaster declared under this chapter funds for the purpose of providing local matching funds for Federal Emergency Management Agency qualifying projects.

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

Acts 2007, 80th Leg., R.S., Ch. 992 (S.B. 1339), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1250 (H.B. 2694), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1006 (H.B. 4102), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1006 (H.B. 4102), Sec. 2, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 2B.05, eff. September 1, 2009.

Sec. 418.074. ACCEPTANCE AND ALLOCATION OF GIFTS AND GRANTS. (a) If the federal government, another public or private agency, or an individual offers to the state or through the state to a political subdivision services, equipment, supplies, materials, or funds as a gift, grant, or loan for purposes of emergency services or disaster recovery, the governor (if required by the donor) or the presiding officer of the governing body of the political subdivision may accept the offer on behalf of the state or political subdivision, as applicable.

(b) If a gift, grant, or loan is accepted by the state, the governor, or the emergency management council or chief of the division if designated by the governor, may dispense the gift, grant, or loan directly to accomplish the purpose for which it was made or may allocate and transfer to a political subdivision services, equipment, supplies, materials, or funds in the amount the governor or the governor's designee may determine.

(c) Funds received by the state shall be placed in one or more special funds and shall be disbursed by warrants issued by the comptroller on order of the governor or the governor's designee. The governor shall name the designee in a written agreement accepting the funds or in a written authorization filed with the secretary of state. On receipt of an order for disbursement, the comptroller shall issue a warrant without delay.

(d) If the funds are to be used for purchase of equipment, supplies, or commodities of any kind, it is not necessary that bids be obtained or that the purchases be approved by any other agency.

(e) A political subdivision may accept and use all services, equipment, supplies, materials, and funds to the full extent authorized by the agreement under which they are received by the state or political subdivision.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 2A.04, eff. September 1, 2009.

SUBCHAPTER E. LOCAL AND INTERJURISDICTIONAL EMERGENCY MANAGEMENT

Sec. 418.101. ALL POLITICAL SUBDIVISIONS SERVED. (a) Each political subdivision is within the jurisdiction of and served by the division and by a local or interjurisdictional agency responsible for disaster preparedness and coordination of response.

(b) The presiding officer of the governing body of each political subdivision shall notify the division of the manner in which the political subdivision is providing or securing an emergency management program, identify the person who heads the agency responsible for the program, and furnish additional pertinent information that the division requires. The person so designated shall accomplish training prescribed by the division.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 9, eff. Sept. 1, 1997.

Sec. 418.1015. EMERGENCY MANAGEMENT DIRECTORS. (a) The presiding officer of the governing body of an incorporated city or a county or the chief administrative officer of a joint board is designated as the emergency management director for the officer's political subdivision.

(b) An emergency management director serves as the governor's designated agent in the administration and supervision of duties under this chapter. An emergency management director may exercise the powers granted to the governor under this chapter on an appropriate local scale.

(c) An emergency management director may designate a person to serve as emergency management coordinator. The emergency management coordinator shall serve as an assistant to the emergency management director for emergency management purposes.

(d) A person, other than an emergency management director exercising under Subsection (b) a power granted to the governor, may not seize state or federal resources without prior authorization from the division or the state or federal agency having responsibility for

those resources.

Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.02, eff. June 15, 2007.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.11, eff. September 1, 2009.

Sec. 418.102. COUNTY PROGRAMS. (a) Each county shall maintain an emergency management program or participate in a local or interjurisdictional emergency management program that, except as otherwise provided by this chapter, has jurisdiction over and serves the entire county or interjurisdictional area.

(a-1) An emergency management program required by Subsection (a) and maintained by a county, or in which a county participates, must provide for catastrophic debris management.

(b) The county program is the first channel through which a municipal corporation or a joint board shall request assistance when its resources are exceeded. Requests that exceed the county capability shall be forwarded to the state as prescribed in the state emergency management plan.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 10, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 33, Sec. 2, eff. May 14, 2003.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1018 (H.B. 6), Sec. 3, eff. September 1, 2019.

Sec. 418.103. MUNICIPAL PROGRAMS. (a) The governor shall determine which municipal corporations need emergency management programs of their own and shall recommend that they be established and maintained. The governor shall make the determinations on the basis of the municipality's disaster vulnerability and capability of response related to population size and concentration.

(b) The emergency management program of a county must be coordinated with the emergency management programs of municipalities situated in the county but does not apply in a municipality having its own emergency management program.

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

Sec. 418.104. INTERJURISDICTIONAL PROGRAMS. The governor may recommend that a political subdivision establish and maintain a program and form an interjurisdictional agency jointly with one or more other political subdivisions if the governor finds that the establishment and maintenance of a joint program or participation in it is made necessary by circumstances or conditions that make it unusually difficult to provide disaster mitigation, preparedness, response, or recovery services under other provisions of this chapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 10, eff. Sept. 1, 1997.

Sec. 418.105. LIAISON OFFICERS. (a) Each city that does not have a program and has not made arrangements to secure or participate in the services of an existing program shall designate a liaison officer to facilitate the cooperation and protection of the city in the work of disaster mitigation, preparedness, response, and recovery.

(b) Each county shall provide an office and a liaison officer to coordinate with state and federal emergency management personnel concerning disaster mitigation, preparedness, response, and recovery activities under other provisions of this chapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 10, eff. Sept. 1, 1997.

Sec. 418.106. LOCAL AND INTERJURISDICTIONAL EMERGENCY MANAGEMENT PLANS. (a) Each local and interjurisdictional agency shall prepare and keep current an emergency management plan for its area providing for disaster mitigation, preparedness, response, and recovery.

(b) The plan must provide for:

(1) wage, price, and rent controls and other economic stabilization methods in the event of a disaster; and

(2) curfews, blockades, and limitations on utility use in

an area affected by a disaster, rules governing entrance to and exit from the affected area, and other security measures.

(c) The local or interjurisdictional emergency management agency shall prepare in written form and distribute to all appropriate officials a clear and complete statement of the disaster responsibilities of all local agencies and officials and of the disaster channels of assistance.

(d) Each local or interjurisdictional agency shall conduct at least one public meeting each calendar year to exchange information about its emergency management plan. Each agency shall provide written notice of the date, time, and location of the meeting, not later than the fifth day before the meeting, to the pipeline safety section of the gas services division of the Railroad Commission of Texas.

(e) An emergency management plan of an agency is excepted from the requirements of Subsection (d) if:

(1) the emergency management plan contains sensitive information relating to critical infrastructures or facilities; and

(2) the safety or security of those infrastructures or facilities could be jeopardized by disclosure of the emergency management plan.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 11, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 557, Sec. 1, eff. Sept. 1, 2003.

Sec. 418.107. LOCAL FINANCE. (a) A political subdivision may make appropriations for emergency management services as provided by law for making appropriations for ordinary expenses.

(b) Political subdivisions may make agreements for the purpose of organizing emergency management service divisions and provide for a mutual method of financing the organization of units on a basis satisfactory to the subdivisions.

(c) A local government entity may render mutual aid to other local government entities under mutual aid agreements or the system.

(d) A political subdivision may issue time warrants for the payment of the cost of any equipment, construction, acquisition, or any improvements for carrying out this chapter. The warrants shall be issued in accordance with Chapter 252, Local Government Code, in

the case of a municipality, or Subchapter C, Chapter 262, Local Government Code, in the case of a county. Time warrants issued for financing permanent construction or improvement for emergency management purposes are subject to the right of the voters to require a referendum vote under Section 252.045 or 262.029, Local Government Code, as applicable.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 30, eff. Sept. 1, 1999. Amended by:

Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 7, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.03, eff. June 6, 2007.

Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.03, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.12, eff. September 1, 2009.

Sec. 418.1075. SUSPENSION OF DEADLINES IMPOSED BY LOCAL LAW. (a) Notwithstanding any other law, a deadline imposed by local law on a political subdivision, including a deadline relating to a budget or ad valorem tax, is suspended if:

(1) the territory of the political subdivision is wholly or partly located in the area of a disaster declared by the president of the United States or the governor; and

(2) the presiding officer of the political subdivision or, if there is no presiding officer, the political subdivision's governing body, proclaims the political subdivision is unable to comply with the requirement because of the disaster.

(b) The presiding officer of the political subdivision or, if there is no presiding officer, the political subdivision's governing body, may issue an order ending the suspension of a deadline under this section. A deadline may not be suspended for more than 30 days after the date the presiding officer or governing body, as appropriate, makes the proclamation described by Subsection (a)(2).

Added by Acts 2009, 81st Leg., R.S., Ch. 990 (H.B. 3851), Sec. 2, eff. June 19, 2009.

Sec. 418.108. DECLARATION OF LOCAL DISASTER. (a) Except as provided by Subsection (e), the presiding officer of the governing body of a political subdivision may declare a local state of disaster.

(b) A declaration of local disaster may not be continued or renewed for a period of more than seven days except with the consent of the governing body of the political subdivision or the joint board as provided by Subsection (e), as applicable.

(c) An order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the city secretary, the county clerk, or the joint board's official records, as applicable.

(d) A declaration of local disaster activates the appropriate recovery and rehabilitation aspects of all applicable local or interjurisdictional emergency management plans and authorizes the furnishing of aid and assistance under the declaration. The appropriate preparedness and response aspects of the plans are activated as provided in the plans and take effect immediately after the local state of disaster is declared.

(e) The chief administrative officer of a joint board has exclusive authority to declare that a local state of disaster exists within the boundaries of an airport operated or controlled by the joint board, regardless of whether the airport is located in or outside the boundaries of a political subdivision.

(f) The county judge or the mayor of a municipality may order the evacuation of all or part of the population from a stricken or threatened area under the jurisdiction and authority of the county judge or mayor if the county judge or mayor considers the action necessary for the preservation of life or other disaster mitigation, response, or recovery.

(g) The county judge or the mayor of a municipality may control ingress to and egress from a disaster area under the jurisdiction and authority of the county judge or mayor and control the movement of persons and the occupancy of premises in that area.

(h) For purposes of Subsections (f) and (g):

(1) the jurisdiction and authority of the county judge includes the incorporated and unincorporated areas of the county; and

(2) to the extent of a conflict between decisions of the county judge and the mayor, the decision of the county judge

prevails.

(i) A declaration under this section may include a restriction that exceeds a restriction authorized by Section 352.051, Local Government Code. A restriction that exceeds a restriction authorized by Section 352.051, Local Government Code, is effective only:

(1) for 60 hours unless extended by the governor; and

(2) if the county judge requests the governor to grant an extension of the restriction.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 33, Sec. 3, eff. May 14, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 274 (H.B. 3111), Sec. 1, eff. June 9, 2005.

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 17.01, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.13, eff. September 1, 2009.

Sec. 418.1085. LIMITATIONS ON CONSTRUCTION AND RELATED SERVICES. The presiding officer of the governing body of a political subdivision may not issue an order during a declared state of disaster or local disaster to address a pandemic disaster that would limit or prohibit:

(1) housing and commercial construction activities, including related activities involving the sale, transportation, and installation of manufactured homes;

(2) the provision of governmental services for title searches, notary services, and recording services in support of mortgages and real estate services and transactions;

(3) residential and commercial real estate services, including settlement services; or

(4) essential maintenance, manufacturing, design, operation, inspection, security, and construction services for essential products, services, and supply chain relief efforts.

Added by Acts 2021, 87th Leg., R.S., Ch. 863 (S.B. 968), Sec. 3, eff. June 16, 2021.

Sec. 418.109. AUTHORITY TO RENDER MUTUAL AID ASSISTANCE. (a) Repealed by Acts 2007, 80th Leg., R.S., Ch. 865, Sec. 1.08, eff. June 15, 2007.

(b) Repealed by Acts 2007, 80th Leg., R.S., Ch. 865, Sec. 1.08, eff. June 15, 2007.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 865, Sec. 1.08, eff. June 15, 2007.

(d) A local government entity or organized volunteer group may provide mutual aid assistance on request from another local government entity or organized volunteer group. The chief or highest ranking officer of the entity from which assistance is requested, with the approval and consent of the presiding officer of the governing body of that entity, may provide that assistance while acting in accordance with the policies, ordinances, and procedures established by the governing body of that entity.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 497, Sec. 2, eff. June 12, 1995; Acts 2003, 78th Leg., ch. 1204, Sec. 2.002, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 8, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.04, eff. June 6, 2007.

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.05, eff. June 6, 2007.

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.08, eff. June 6, 2007.

Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.04, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.05, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.08, eff. June 15, 2007.

Sec. 418.110. STATEWIDE MUTUAL AID PROGRAM FOR FIRE EMERGENCIES. (a) The division, in consultation with state fire protection agencies and the Texas Commission on Fire Protection, may develop a statewide mutual aid program for fire emergencies.

(b) A program developed under this section:

(1) does not alter the legal obligations of a political subdivision participating in the system; and

(2) must be consistent with the state emergency management plan.

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 5.01, eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.06, eff. June 15, 2007.

Sec. 418.1101. PLAN FOR CONTINUITY OF FUNCTIONS. (a) The governing body of a political subdivision may at any time adopt a plan for the continuity of functions of the political subdivision to be carried out during a disaster declared as provided by law by the president of the United States or the governor or during another catastrophic event.

(b) The plan may provide for:

(1) delegating any administrative duty of the governing body of the political subdivision or any official or employee of the political subdivision to another appropriate person;

(2) establishing orders of succession for performing essential functions of the political subdivision; and

(3) establishing meeting procedures for the governing body of the political subdivision.

(c) The plan may not provide for the delegation of a duty that the governing body or official is required to perform by the Texas Constitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 338 (S.B. 61), Sec. 1, eff. June 15, 2007.
Renumbered from Government Code, Section 418.111 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(26), eff. September 1, 2009.

Sec. 418.1102. EXCEPTION TO QUORUM REQUIREMENTS. (a) This section applies to a local governmental entity created and operating under the laws of this state, including a political subdivision,

school district, or special district or authority.

(b) Notwithstanding any other law, a quorum is not required for the governing body of a local governmental entity to act if:

(1) the entity's jurisdiction is wholly or partly located in the area of a disaster declared by the president of the United States or the governor; and

(2) a majority of the members of the governing body are unable to be present at a meeting of the governing body as a result of the disaster.

Added by Acts 2007, 80th Leg., R.S., Ch. 338 (S.B. 61), Sec. 1, eff. June 15, 2007.
Renumbered from Government Code, Section 418.112 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(27), eff. September 1, 2009.

SUBCHAPTER E-1. TEXAS STATEWIDE MUTUAL AID SYSTEM

Sec. 418.111. CREATION OF THE TEXAS STATEWIDE MUTUAL AID SYSTEM. (a) The Texas Statewide Mutual Aid System is established to provide integrated statewide mutual aid response capability between local government entities without a written mutual aid agreement.

(b) A request for mutual aid assistance between local government entities is considered to be made under the system, unless the requesting and responding entities are parties to a written mutual aid agreement in effect when the request is made.

(c) This subchapter does not affect a written mutual aid agreement between local government entities in effect on or before the effective date of this subchapter or restrict the ability of local government entities to enter into a written mutual aid agreement as otherwise authorized by statute after the effective date of this subchapter. If a request is made between local government entities that are parties to a written mutual aid agreement, the terms of that agreement control the rights and obligations of the parties.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.

Sec. 418.112. ADMINISTRATION BY DIVISION. The division shall administer the system. In administering the system, the division shall encourage and assist political subdivisions in planning and implementing comprehensive all-hazards emergency management programs, including assisting political subdivisions to ensure that the local emergency management plan of each subdivision adequately provides for the rendering and receipt of mutual aid.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.

Sec. 418.113. DISASTER DISTRICTS. (a) This state is divided into disaster districts to engage in homeland security preparedness and response activities. The boundaries of the disaster districts coincide with the geographic boundaries of the state planning regions established by the governor under Chapter 391, Local Government Code.

(b) A disaster district committee is established for each disaster district. Each committee is composed of local representatives of the state agencies, boards, and commissions and organized volunteer groups with representation on the emergency management council.

(c) Each disaster district committee shall coordinate with political subdivisions located in the disaster district to ensure that state and federal emergency assets are made available as needed to provide the most efficient and effective response possible.

(d) The chair of the emergency management council shall appoint a chair of each disaster district committee based on the declared disaster and phase of disaster response in accordance with the National Incident Management System guidelines. The chair of each disaster district committee shall:

(1) inform the chair of the emergency management council on all matters relating to disasters and emergencies as requested by the chair of the emergency management council; and

(2) inform the public safety director of the Department of Public Safety of the State of Texas on all matters as requested by the public safety director.

(e) Representatives of the emergency management council

assigned to each district shall assist the chair of their disaster district committee and provide guidance, counsel, and administrative support as required.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 527 (H.B. 3223), Sec. 1, eff. September 1, 2023.

Sec. 418.115. REQUESTING AND PROVIDING MUTUAL AID ASSISTANCE. (a) A request for mutual aid assistance may be submitted verbally or in writing. If a request is submitted verbally, it must be confirmed in writing.

(b) If a request for mutual aid assistance is made to a department or agency of a political subdivision, the chief or highest ranking officer of the department or agency, with the approval and consent of the presiding officer of the governing body of the political subdivision or that officer's designee, may provide the requested assistance in accordance with the policies, ordinances, and procedures established by the governing body of the political subdivision.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 708 (H.B. 3178), Sec. 1, eff. June 14, 2013.

Sec. 418.1151. ASSESSMENT OF ABILITY TO RENDER ASSISTANCE. (a) When contacted with a request for mutual aid assistance, a local government entity shall assess local resources to determine availability of personnel, equipment, and other assistance to respond to the request.

(b) A responding local government entity may provide assistance

to the extent personnel, equipment, and resources are determined to be available. A local government entity is not required to provide mutual aid assistance unless the entity determines that the entity has sufficient resources to provide assistance, based on current or anticipated events in its jurisdiction.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.

Sec. 418.1152. SUPERVISION AND CONTROL. When providing mutual aid assistance under the system:

(1) the response effort must be organized and function in accordance with the National Incident Management System guidelines;

(2) the personnel, equipment, and resources of a responding local government entity being used in the response effort are under the operational control of the requesting local government entity unless otherwise agreed;

(3) direct supervision and control of personnel, equipment, and resources and personnel accountability remain the responsibility of the designated supervisory personnel of the responding local government entity;

(4) unless otherwise agreed in advance, an emergency medical service organization providing assistance under the system shall use the medical protocols authorized by the organization's medical director;

(5) the designated supervisory personnel of the responding local government entity shall:

(A) maintain daily personnel time records, material records, and a log of equipment hours;

(B) be responsible for the operation and maintenance of the equipment and other resources furnished by the responding local government entity; and

(C) report work progress to the requesting local government entity; and

(6) the responding local government entity's personnel and other resources are subject to recall at any time, subject to reasonable notice to the requesting local government entity.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.

Sec. 418.1153. DURATION OF AID. The provision of mutual aid assistance under the system may continue until:

(1) the services of the responding local government entity are no longer required; or

(2) the responding local government entity determines that further assistance should not be provided.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.

Sec. 418.116. RIGHTS AND PRIVILEGES. (a) A person assigned, designated, or ordered to perform duties by the governing body of the local government entity employing the person in response to a request under the system is entitled to receive the same wages, salary, pension, and other compensation and benefits, including injury or death benefits, disability payments, and workers' compensation benefits, for the performance of the duties under the system as though the services were rendered for the entity employing the person.

(b) The local government entity employing the person is responsible for the payment of wages, salary, pension, and other compensation and benefits associated with the performance of duties under the system.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.

Sec. 418.117. LICENSE PORTABILITY. If the assistance of a person who holds a license, certificate, permit, or other document

evidencing qualification in a professional, mechanical, or other skill is requested by a state agency or local government entity under the system, the person is considered licensed, certified, permitted, or otherwise documented in the political subdivision in which the service is provided as long as the service is required, subject to any limitations imposed by the chief executive officer or the governing body of the requesting state agency or local government entity.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.14, eff. September 1, 2009.

Sec. 418.118. REIMBURSEMENT OF COSTS: STATE REQUEST OR FEDERAL DISASTER DECLARATION. (a) The division shall administer all requests for reimbursement for costs associated with providing mutual aid assistance in response to a request made by the division for an incident resulting in the issuance of a disaster declaration by the president of the United States. A request for reimbursement made to the division must be made in accordance with procedures developed by the division.

(b) The division may directly request the provision of mutual aid assistance from any local government entity participating in the system. If the division requests the provision of assistance and the local government entity responds, the state shall reimburse the actual costs of providing assistance, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the responding local government entity. The state shall pay reimbursements from available state money. If funds are made available from the disaster contingency fund, the division shall make reimbursement from the disaster contingency fund for eligible expenses to the extent that available state money is inadequate.

(c) If federal money is available to pay costs associated with the provision of mutual aid assistance in response to a request made

by the division, the division shall make the claim for the eligible costs of the responding local government entity on the division's grant application and shall disburse the federal share of the money to the responding local government entity, with sufficient state funds to cover the actual costs incurred by the responding local government entity in providing the assistance.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.

Sec. 418.1181. REIMBURSEMENT OF COSTS: REQUEST BY LOCAL GOVERNMENT ENTITY. (a) If a local government entity requests mutual aid assistance from another local government entity under the system that requires a response that exceeds 12 consecutive hours, the requesting local government entity shall reimburse the actual costs of providing mutual aid assistance to the responding local government entity, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the responding local government entity in response to a request for reimbursement. Local government entities with a mutual aid agreement when the request for mutual aid assistance is made are subject to the agreement's terms of reimbursement, as provided by Section 418.111.

(b) The requesting local government entity shall pay the reimbursement from available funds. If federal money is available to pay costs associated with the provision of mutual aid assistance, the requesting local government entity shall make the claim for the eligible costs of the responding local government entity on the requesting entity's subgrant application and shall disburse the federal share of the money to the responding local government entity, with sufficient local funds to cover the actual costs of the responding local government entity in providing assistance.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 1.07, eff. June 6, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 865 (H.B. 1471), Sec. 1.07, eff. June 15, 2007.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 708 (H.B. 3178), Sec. 2, eff. June 14, 2013.

SUBCHAPTER F. DISASTER MITIGATION

Sec. 418.121. DUTY OF GOVERNOR. (a) In addition to disaster mitigation measures included in the state, local, and interjurisdictional emergency management plans, the governor shall as a continuing duty consider steps that could be taken to mitigate the harmful consequences of disasters.

(b) At the direction of the governor and pursuant to any other authority and competence a state agency may have, a state agency shall study matters related to disaster mitigation. This includes agencies charged with responsibility in connection with floodplain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land use planning, and construction standards.

(c) The governor shall from time to time make recommendations to the legislature, local governments, and other appropriate public and private entities as may facilitate measures to mitigate the harmful consequences of disasters.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 992, Sec. 13, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 766, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 418.122. STATE STUDY OF LAND USE AND CONSTRUCTION STANDARDS. (a) The Texas Natural Resource Conservation Commission and other state agencies, in conjunction with the division, shall keep land uses and construction of structures and other facilities under continuing study and shall identify areas that are particularly susceptible to severe land shifting, subsidence, flooding, or other catastrophes.

(b) The studies shall concentrate on means of reducing or avoiding the dangers and consequences of a catastrophe.

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

by Acts 1995, 74th Leg., ch. 76, Sec. 11.08, eff. Sept. 1, 1995.

Sec. 418.123. RECOMMENDATIONS FOR CHANGES IN LAND USE OR CONSTRUCTION STANDARDS. (a) The division shall recommend to the governor the changes it considers essential if the division believes, on the basis of the studies under Section 418.122 or other competent evidence that:

(1) an area is susceptible to a disaster of catastrophic proportions without adequate warning;

(2) existing building standards and land-use controls in that area are inadequate and could add substantially to the magnitude of the disaster; and

(3) changes in zoning regulations, other land-use regulations, or building requirements are essential to further the purposes of this subchapter.

(b) The governor shall review the recommendations. If after public hearing the governor finds the changes are essential, the governor shall make appropriate recommendations to the agencies or local governments with jurisdiction over the area and subject matter.

(c) If no action or insufficient action pursuant to the governor's recommendations is taken within the time specified by the governor, the governor shall inform the legislature and request legislative action appropriate to mitigate the impact of the disaster.

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

Sec. 418.124. SUSPENSION OF LAND USE OR CONSTRUCTION STANDARDS. (a) When the governor makes recommendations under Section 418.123, the governor may suspend the standard or control found to be inadequate to protect the public safety and by rule may place a new standard or control in effect.

(b) The new standard or control remains in effect until rejected by concurrent resolution of both houses of the legislature or amended by the governor.

(c) During the time the new standard or control is in effect, it shall be administered and given effect by all appropriate regulatory agencies of the state and of the local governments to

which it applies.

(d) The governor's action under this section is subject to judicial review but is not subject to temporary stay pending litigation.

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

Sec. 418.125. DISASTER PREPAREDNESS COMMUNITY OUTREACH. To the extent practicable, the following entities shall conduct community outreach, including public awareness campaigns, and education activities on disaster preparedness each year:

(1) municipalities and counties;
(2) the department, including the division;
(3) the Texas Education Agency;
(4) the office of the comptroller;
(5) the Texas Department of Insurance;
(6) the Texas Department of Transportation;
(7) the Texas Department of Housing and Community Affairs;
(8) the Health and Human Services Commission; and
(9) the Department of State Health Services.

Added by Acts 2019, 86th Leg., R.S., Ch. 1116 (H.B. 2325), Sec. 2, eff. September 1, 2019.
Redesignated from Government Code, Section 418.127 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(25), eff. September 1, 2021.

Sec. 418.126. PRE-EVENT DISASTER RESPONSE CONTRACTS. (a) The General Land Office shall solicit proposals for and enter into one or more pre-event contracts that may be activated by the office in the event of a weather-related disaster declaration to obtain services for debris removal from beaches as needed following the disaster.

(b) The Texas Department of Transportation shall solicit proposals for and enter into one or more pre-event contracts that may be activated by the department in the event of a weather-related disaster declaration to obtain services for debris removal from the state highway system as needed following the disaster.

(c) The Texas Department of Housing and Community Affairs shall solicit proposals for and enter into one or more pre-event contracts

that may be activated by the department in the event of a weather-related disaster declaration to obtain temporary or emergency housing as needed following the disaster.

(d) Services obtained under a pre-event contract under this section may be paid for with money from the disaster contingency fund under Section 418.073.

Added by Acts 2009, 81st Leg., R.S., Ch. 1408 (H.B. 4409), Sec. 3, eff. September 1, 2009.

Sec. 418.127. HURRICANE PREPAREDNESS. The governor shall issue a proclamation each year before hurricane season instructing:

(1) individuals, including residential and commercial property owners, to prepare their property and communities for the upcoming hurricane season;

(2) state agencies to review and update their hurricane preparedness plans; and

(3) the following entities, to the extent practicable, to conduct community outreach and education activities on hurricane preparedness between May 25 and May 31 of each year:

(A) municipalities and counties;

(B) the division;

(C) the Texas Education Agency;

(D) the office of the comptroller;

(E) the Texas Department of Insurance; and

(F) the Department of State Health Services.

Added by Acts 2019, 86th Leg., R.S., Ch. 575 (S.B. 285), Sec. 1, eff. September 1, 2019.

Sec. 418.128. STATE AGENCY HURRICANE PREPAREDNESS. (a) Not later than the 30th day after the date the governor issues a proclamation under Section 418.127, the governor, in consultation with the division and each appropriate state agency as determined by the governor, shall publish on the office of the governor's Internet website a report on the preparedness of state agencies for hurricane response. The report must include:

(1) a list of each state agency involved in this state's response to a hurricane;

(2) contact information for each state agency in the event of a hurricane, including the name, e-mail address, and telephone number of the officer or employee who manages the state agency's response to a hurricane; and

(3) whether the officer or employee under Subdivision (2) has completed the emergency management training course described by Section 418.005.

(b) Notwithstanding any other law, the governor may, by executive order, take any action necessary to ensure each state agency listed under Subsection (a)(1) is able to respond to a hurricane. An executive order issued under this subsection must be published in the Texas Register and expires on the last day of the first regular session of the legislature to convene after the date the order is issued unless the governor specifies an earlier expiration date in the order.

(c) In this section, "response" includes any activity related to the prevention or discovery of, response to, or recovery from a hurricane.

Added by Acts 2019, 86th Leg., R.S., Ch. 575 (S.B. 285), Sec. 1, eff. September 1, 2019.

Sec. 418.129. HOUSING ASSISTANCE INFORMATION. The General Land Office shall conduct a public information campaign each year before and during hurricane season to provide local officials and the public with information regarding housing assistance that may be available under state and federal law in the event of a major hurricane or flooding event, including information about types of assistance unavailable under that law.

Added by Acts 2019, 86th Leg., R.S., Ch. 575 (S.B. 285), Sec. 1, eff. September 1, 2019.

SUBCHAPTER F-1. DISASTER HOUSING RECOVERY

Sec. 418.131. DEFINITIONS. In this subchapter:

(1) "Center" means the Hazard Reduction and Recovery Center at Texas A&M University.

(2) "Local government" means a county, municipality, or council of government that has jurisdiction in a first tier coastal

county, as defined by Section 2210.003, Insurance Code.

(3) "Plan" means a local housing recovery plan developed under Section 418.133.

Added by Acts 2019, 86th Leg., R.S., Ch. 576 (S.B. 289), Sec. 2, eff. September 1, 2019.

Sec. 418.132. DUTIES OF GENERAL LAND OFFICE OR DESIGNATED STATE AGENCY. (a) Unless the governor designates a state agency under Subsection (d), the General Land Office shall receive and administer federal and state funds appropriated for long-term disaster recovery.

(b) The General Land Office shall:

(1) collaborate with the Texas Division of Emergency Management and the Federal Emergency Management Agency, as appropriate, on plans developed under Section 418.133;

(2) seek prior approval from the Federal Emergency Management Agency and the United States Department of Housing and Urban Development for the immediate post-disaster implementation of local housing recovery plans accepted by the General Land Office under Section 418.135; and

(3) maintain a division with adequate staffing and other administrative support to review plans developed under Section 418.133.

(c) The General Land Office may adopt rules as necessary to implement the General Land Office's duties under this subchapter.

(d) The governor may designate a state agency to be responsible for long-term disaster recovery under this subchapter instead of the General Land Office. If the governor designates a state agency under this subsection, a reference to the General Land Office in this subchapter means the designated state agency.

Added by Acts 2019, 86th Leg., R.S., Ch. 576 (S.B. 289), Sec. 2, eff. September 1, 2019.

Sec. 418.133. LOCAL HOUSING RECOVERY PLAN. (a) A local government may develop and adopt a local housing recovery plan to provide for the rapid and efficient construction of permanent replacement housing following a disaster.

(b) In developing the plan, a local government shall seek input

from:

(1) stakeholders in the community, including residents, local businesses, and community-based organizations; and

(2) neighboring local governments.

(c) A local government may submit a plan developed and adopted under Subsection (a) to the center for certification.

Added by Acts 2019, 86th Leg., R.S., Ch. 576 (S.B. 289), Sec. 2, eff. September 1, 2019.

Sec. 418.134. DUTIES OF HAZARD REDUCTION AND RECOVERY CENTER; PLAN CRITERIA AND CERTIFICATION. (a) The center shall review and certify plans submitted to the center by local governments.

(b) The center shall establish criteria for certifying a plan. The center may not certify a plan unless the plan:

(1) identifies areas in the local government's boundaries that are vulnerable to disasters;

(2) identifies sources of post-disaster housing assistance and recovery funds;

(3) provides procedures for rapidly responding to a disaster, including procedures for:

(A) assessing and reporting housing damage, disaggregated by insured and uninsured losses, to the governor;

(B) providing fair and efficient access to disaster recovery assistance for residents;

(C) determining residents' eligibility for disaster recovery assistance;

(D) educating residents about the rebuilding process and providing outreach and case management services; and

(E) prequalifying and training local professionals needed for disaster recovery;

(4) allows for the temporary waiver or modification of an existing local code, ordinance, or regulation on an emergency basis that may apply in the event of a disaster declaration in order to expedite the process of providing temporary housing or rebuilding residential structures for persons displaced by a disaster;

(5) provides procedures to encourage residents to rebuild outside of the vulnerable areas identified under Subdivision (1);

(6) provides procedures to maximize the use of local

businesses, contractors, and supplies to rebuild to the extent possible;

(7) provides procedures to maximize cost efficiency;

(8) provides for the provision of:

(A) temporary housing to displaced residents as soon as possible after the disaster, with a goal of providing the housing within six months following the disaster; and

(B) permanent replacement housing to displaced residents as soon as possible after the disaster, with a goal of providing the housing within three years following the disaster;

(9) specifies whether the local government that submitted the plan or the General Land Office, as determined by the General Land Office, will administer disaster rebuilding activities under the plan;

(10) provides a procedure through which the local government that submits the plan is required to, between every four to seven years:

(A) review the plan to ensure continued local community support;

(B) provide the center with, as necessary, revisions to the plan based on the review conducted under Paragraph (A); and

(C) provide the center with a resolution or proclamation adopted by the local government that certifies continued local community support for the plan; and

(11) complies with applicable state and federal law.

(c) If the center determines that a plan does not meet the criteria prescribed by Subsection (b), the center shall identify the plan's deficiencies and assist the local government in revising the plan to meet the criteria.

(d) The center shall provide training to local governments and community-based organizations on developing a plan. A local government that submits a plan to the center for certification under this section shall designate at least one representative to attend the center's training. The training must include information relating to:

(1) previous experiences with housing recovery from disasters;

(2) best practices for achieving rapid and efficient construction of permanent replacement housing;

(3) federal and state laws and regulations on disaster

recovery;

(4) methods for identifying and planning for vulnerable areas and populations before a disaster; and

(5) cost-effective land use and building practices.

(e) The center shall create and maintain mapping and data resources related to disaster recovery and planning, including the Texas Coastal Communities Planning Atlas.

(f) The center shall assist a local government on request in identifying areas that are vulnerable to disasters.

(g) The center shall provide recommendations to the Texas Department of Insurance regarding the development of policies, procedures, and education programs to enable the quick and efficient reporting and settling of housing claims related to disasters.

(h) The center may seek and accept gifts, grants, donations, and other funds to assist the center in fulfilling its duties under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 576 (S.B. 289), Sec. 2, eff. September 1, 2019.

Sec. 418.135. REVIEW OF LOCAL HOUSING RECOVERY PLAN BY GENERAL LAND OFFICE. (a) The center shall submit to the General Land Office a plan certified by the center under Section 418.134.

(b) The General Land Office shall review the plan and consult with the center and the local government about any potential improvements the General Land Office may identify. In reviewing the plan, the General Land Office shall give deference to the local government regarding matters in the local government's discretion.

(c) On completion of the review, the General Land Office shall accept the plan unless the General Land Office determines that the plan does not:

(1) satisfy the criteria for a certified plan under Section 418.134(b);

(2) provide for the rapid and efficient construction of permanent replacement housing; or

(3) comply with applicable state and federal law.

(d) If the General Land Office rejects a plan under this section, the General Land Office may require the local government to revise and resubmit the plan.

(e) At any point after the General Land Office accepts a plan under this section, the General Land Office may withdraw acceptance of the plan and require the plan to be revised and resubmitted for acceptance or rejection under this section.

(f) The General Land Office may limit the number of plans it reviews annually under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 576 (S.B. 289), Sec. 2, eff. September 1, 2019.

Sec. 418.136. EFFECT OF ACCEPTANCE. (a) A plan accepted by the General Land Office under Section 418.135 is valid for four years and may be implemented during that period without further acceptance if a disaster occurs.

(b) In accordance with rules adopted by the General Land Office, on or before expiration, the plan may be reviewed by the center and the General Land Office, updated if necessary, and resubmitted to the General Land Office for acceptance or rejection.

Added by Acts 2019, 86th Leg., R.S., Ch. 576 (S.B. 289), Sec. 2, eff. September 1, 2019.

SUBCHAPTER F-2. DISASTER ISSUES AFFECTING PERSONS WHO ARE ELDERLY AND PERSONS WITH DISABILITIES

Sec. 418.141. DEFINITIONS. In this subchapter:

(1) "Disability" means, with respect to an individual, a mental or physical impairment that substantially limits at least one major life activity of that individual.

(2) "Task force" means the task force established under Section 418.142.

Added by Acts 2019, 86th Leg., R.S., Ch. 614 (S.B. 982), Sec. 2, eff. September 1, 2019.
Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(26), eff. September 1, 2021.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.002(5), eff. September 1, 2021.

Sec. 418.142. ESTABLISHMENT; PURPOSE. The task force on disaster issues affecting persons who are elderly and persons with disabilities is established to study methods to more effectively:

(1) assist persons who are elderly and persons with disabilities during a disaster or emergency evacuation; and

(2) accommodate persons who are elderly and persons with disabilities in emergency shelters.

Added by Acts 2019, 86th Leg., R.S., Ch. 614 (S.B. 982), Sec. 2, eff. September 1, 2019.
Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(26), eff. September 1, 2021.

Sec. 418.143. COMPOSITION. (a) The task force is composed of 11 members appointed by the governor, including:

(1) three members who are first responders;

(2) one member who represents municipalities;

(3) one member who represents counties; and

(4) six members who represent persons with disabilities.

(b) A majority of the members appointed to the task force must be persons with disabilities or guardians of children with disabilities.

(c) Members serve staggered six-year terms with the terms of three or four members expiring February 1 of each odd-numbered year.

(d) The governor shall designate one member of the task force to serve as the presiding officer of the task force. The presiding officer serves in that capacity at the pleasure of the governor.

Added by Acts 2019, 86th Leg., R.S., Ch. 614 (S.B. 982), Sec. 2, eff. September 1, 2019.
Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(26), eff. September 1, 2021.

SUBCHAPTER G. CITIZEN DUTIES AND CLAIMS FOR COMPENSATION

Sec. 418.151. CITIZEN DUTIES. (a) Each person in this state shall conduct himself and keep and manage his affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public successfully to manage emergencies. This obligation includes appropriate personal service

and use or restriction on the use of property in time of disaster.

(b) This chapter neither increases nor decreases these obligations but recognizes their existence under the constitution and statutes of this state and the common law.

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

Sec. 418.152. COMPENSATION FOR SERVICES AND PROPERTY. (a) Services or the taking or use of property shall be compensated only to the extent that:

(1) the obligations recognized in this chapter are exceeded in a particular case; and

(2) the claimant may not be considered to have volunteered services or property without compensation.

(b) Personal services may not be compensated by the state or a subdivision or agency of the state except under statute or ordinance.

(c) Compensation for property may be made only if the property was commandeered or otherwise used in coping with a disaster and its use or destruction was ordered by the governor or a member of the disaster forces of this state.

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

Sec. 418.153. COMPENSATION CLAIMS. (a) A person claiming compensation for the use, damage, loss, or destruction of property under this chapter shall file a claim for compensation with the division in the form and manner required by the division.

(b) Unless the amount of compensation on account of property damage, loss, or destruction is agreed on between the claimant and the division, the amount of compensation is computed in the same manner as compensation due for taking of property under the condemnation laws of this state.

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

Sec. 418.154. CERTAIN CLAIMS EXCLUDED. This subchapter does not apply to or authorize compensation for:

(1) the destruction or damaging of standing timber or other

property in order to provide a firebreak;

(2) the release of water or breach of impoundments in order to reduce pressure or other danger from actual or threatened flood; or

(3) contravention of Article I, Section 17, of the Texas Constitution or statutes pertaining to that section.

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

SUBCHAPTER H. MISCELLANEOUS PROVISIONS

Sec. 418.171. QUALIFICATIONS FOR RENDERING AID. A person who holds a license, certificate, or other permit issued by a state or political subdivision of any state evidencing the meeting of qualifications for professional, mechanical, or other skills may render aid involving the skill in this state to meet an emergency or disaster. This state shall give due consideration to the license, certificate, or other permit.

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

Sec. 418.172. INSURANCE COVERAGE. (a) Property damage insurance covering state facilities may be purchased by agencies of the state if necessary to qualify for federal disaster assistance funds.

(b) If sufficient funds are not available for the required insurance, an agency may request funding from the disaster contingency fund to purchase the insurance.

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

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.15, eff. September 1, 2009.

Sec. 418.173. PENALTY FOR VIOLATION OF EMERGENCY MANAGEMENT PLAN. (a) A state, local, or interjurisdictional emergency management plan may provide that failure to comply with the plan or with a rule, order, or ordinance adopted under the plan is an offense.

(b) The plan may prescribe a punishment for the offense but may not prescribe a fine that exceeds $1,000 or confinement in jail for a term that exceeds 180 days.

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

Sec. 418.174. PERSONAL LIABILITY EXEMPTION OF MEMBER OF EMERGENCY PLANNING COUNCIL OR LOCAL EMERGENCY PLANNING COMMITTEE. A member of the emergency management council established under Section 418.013 or of a local emergency planning committee established to develop an emergency management program in accordance with Subchapter E of this chapter is not personally liable for civil damages for an action arising from the performance of the person's duties on the council or committee.

Added by Acts 1989, 71st Leg., ch. 851, Sec. 1, eff. Aug. 28, 1989.

Sec. 418.175. CERTAIN INFORMATION CONFIDENTIAL. (a) Information that relates to physically or mentally disabled individuals or other individuals with special needs and that is maintained for purposes of emergency management or disaster planning is confidential.

(b) This section applies to information in the possession of any person, including:

(1) the state, an agency of the state, a political subdivision, or an agency of a political subdivision; or

(2) an electric, telecommunications, gas, or water utility.

Added by Acts 1999, 76th Leg., ch. 778, Sec. 1, eff. June 18, 1999. Amended by Acts 2003, 78th Leg., ch. 1312, Sec. 2, eff. June 21, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 132, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 418.176. CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO EMERGENCY RESPONSE PROVIDERS. (a) Information is confidential if the information is collected, assembled, or maintained by or for a

governmental entity for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity and:

(1) relates to the staffing requirements of an emergency response provider, including a law enforcement agency, a fire-fighting agency, or an emergency services agency;

(2) relates to a tactical plan of the provider; or

(3) consists of a list or compilation of pager or telephone numbers, including mobile and cellular telephone numbers, of the provider.

(b) In this section and Sections 418.177-418.183, "governmental entity" includes the governing body of a nonprofit corporation organized under Chapter 67, Water Code, that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Section 11.30, Tax Code.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 3, eff. June 21, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 132, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 418.177. CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO RISK OR VULNERABILITY ASSESSMENT. Information is confidential if the information:

(1) is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity; and

(2) relates to an assessment by or for a governmental entity, or an assessment that is maintained by a governmental entity, of the risk or vulnerability of persons or property, including critical infrastructure, to an act of terrorism or related criminal activity.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 3, eff. June 21, 2003.

Sec. 418.178. CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO CONSTRUCTION OR ASSEMBLY OF WEAPONS. (a) In this section, "explosive weapon" has the meaning assigned by Section 46.01, Penal

Code.

(b) Information is confidential if it is information collected, assembled, or maintained by or for a governmental entity and:

(1) is more than likely to assist in the construction or assembly of an explosive weapon or a chemical, biological, radiological, or nuclear weapon of mass destruction; or

(2) indicates the specific location of:

(A) a chemical, biological agent, toxin, or radioactive material that is more than likely to be used in the construction or assembly of such a weapon; or

(B) unpublished information relating to a potential vaccine or to a device that detects biological agents or toxins.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 3, eff. June 21, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 132, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 418.179. CONFIDENTIALITY OF CERTAIN ENCRYPTION CODES AND SECURITY KEYS FOR COMMUNICATIONS SYSTEM. (a) Information is confidential if the information:

(1) is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity; and

(2) relates to the details of the encryption codes or security keys for a public communications system.

(b) This section does not prohibit a governmental entity from making available, at cost, to bona fide local news media, for the purpose of monitoring emergency communications of public interest, the communications terminals used in the entity's trunked communications system that have encryption codes installed.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 3, eff. June 21, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 132, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 418.180. CONFIDENTIALITY OF CERTAIN INFORMATION PREPARED

FOR UNITED STATES. Information, other than financial information, in the possession of a governmental entity is confidential if the information:

(1) is part of a report to an agency of the United States;

(2) relates to an act of terrorism or related criminal activity; and

(3) is specifically required to be kept confidential:

(A) under Section 552.101 because of a federal statute or regulation;

(B) to participate in a state-federal information sharing agreement; or

(C) to obtain federal funding.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 3, eff. June 21, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 132, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 418.181. CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO CRITICAL INFRASTRUCTURE. Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 3, eff. June 21, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 132, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 418.182. CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO SECURITY SYSTEMS. (a) Except as provided by Subsections (b) and (c), information, including access codes and passwords, in the possession of a governmental entity that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential.

(b) Financial information in the possession of a governmental entity that relates to the expenditure of funds by a governmental

entity for a security system is public information that is not excepted from required disclosure under Chapter 552.

(c) Information in the possession of a governmental entity that relates to the location of a security camera in a private office at a state agency, including an institution of higher education, as defined by Section 61.003, Education Code, is public information and is not excepted from required disclosure under Chapter 552 unless the security camera:

(1) is located in an individual personal residence for which the state provides security; or

(2) is in use for surveillance in an active criminal investigation.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 3, eff. June 21, 2003.

Sec. 418.183. DISCLOSURE OF CERTAIN CONFIDENTIAL INFORMATION. (a) This section applies only to information that is confidential under Sections 418.175-418.182.

(b) At any time during a state of disaster, the executive or administrative head of the governmental entity may voluntarily disclose or otherwise make available all or part of the confidential information to another person or another entity if the executive or administrative head believes that the other person or entity has a legitimate need for the information.

(c) The executive or administrative head of a port, port authority, or navigation district created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, may voluntarily disclose or otherwise make available all or part of the confidential information to another person if the information:

(1) is shared in connection with a security network or committee, including a federal or state security committee or task force;

(2) consists of data, video, or other information on an information-sharing device that is shared with a security network; or

(3) is shared with an emergency operations center.

(d) The disclosure or making available of confidential information by a hospital district to a national accreditation body does not waive or affect the confidentiality of the information.

(e) The disclosure or making available of confidential information under Subsection (b) or (c) does not waive or affect the confidentiality of the information.

(f) A governmental body subject to Chapter 551 is not required to conduct an open meeting to deliberate information to which this section applies. Notwithstanding Section 551.103(a), the governmental body must make a tape recording of the proceedings of a closed meeting to deliberate the information.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 3, eff. June 21, 2003.

Sec. 418.184. FIREARMS. (a) A peace officer who is acting in the lawful execution of the officer's official duties during a state of disaster may disarm an individual if the officer reasonably believes it is immediately necessary for the protection of the officer or another individual.

(b) The peace officer shall return a firearm and any ammunition to an individual disarmed under Subsection (a) before ceasing to detain the individual unless the officer:

(1) arrests the individual for engaging in criminal activity; or

(2) seizes the firearm as evidence in a criminal investigation.

Added by Acts 2007, 80th Leg., R.S., Ch. 18 (S.B. 112), Sec. 2, eff. April 27, 2007.

Sec. 418.185. MANDATORY EVACUATION. (a) This section does not apply to a person who is authorized to be in an evacuated area, including a person who returns to the area under a phased reentry plan or credentialing process under Section 418.050.

(b) A county judge or mayor of a municipality who orders the evacuation of an area stricken or threatened by a disaster by order may compel persons who remain in the evacuated area to leave and authorize the use of reasonable force to remove persons from the area.

(c) The governor and a county judge or mayor of a municipality who orders the evacuation of an area stricken or threatened by a disaster by a concurrent order may compel persons who remain in the

evacuated area to leave.

(d) A person is civilly liable to a governmental entity, or a nonprofit agency cooperating with a governmental entity, that conducts a rescue on the person's behalf for the cost of the rescue effort if:

(1) the person knowingly ignored a mandatory evacuation order under this section and:

(A) engaged in an activity or course of action that a reasonable person would not have engaged in; or

(B) failed to take a course of action a reasonable person would have taken;

(2) the person's actions under Subdivision (1) placed the person or another person in danger; and

(3) a governmental rescue effort was undertaken on the person's behalf.

(e) An officer or employee of the state or a political subdivision who issues or is working to carry out a mandatory evacuation order under this section is immune from civil liability for any act or omission within the course and scope of the person's authority under the order.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.16, eff. September 1, 2009.

Sec. 418.186. DISASTER AND EMERGENCY EDUCATION. (a) The Department of State Health Services shall establish a program designed to educate the citizens of this state on disaster and emergency preparedness, response, and recovery. Before establishing the program, the department must collaborate with local authorities to prevent state efforts that are duplicative of local efforts. The program must address:

(1) types of disasters or other emergencies;

(2) the appropriate response to each type of disaster or emergency, including options for evacuation and shelter;

(3) how to prepare for each type of disaster or emergency;

(4) the impact of each type of disaster or emergency on citizens requiring medical assistance or other care;

(5) ways to respond in a disaster or emergency or to assist the victims of a disaster or emergency; and

(6) resources and supplies for disaster or emergency recovery.

(b) The executive commissioner of the Health and Human Services Commission, in cooperation with the governor, shall adopt rules to create and administer a disaster and emergency education program established under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.16, eff. September 1, 2009.

Sec. 418.1861. DISEASE PREVENTION INFORMATION SYSTEM. (a) The Department of State Health Services, using existing resources, shall develop and implement a disease prevention information system for dissemination of immunization information during a declared state of disaster or local state of disaster.

(b) During a declared state of disaster or local state of disaster, the Department of State Health Services shall ensure that educational materials regarding immunizations are available to local health authorities in this state for distribution to:

(1) public and private schools;

(2) child-care facilities as defined by Section 42.002, Human Resources Code;

(3) community centers offering youth services and programs;

(4) community centers offering services and programs to vulnerable populations, including communities of color, low-income individuals, and elderly individuals;

(5) local health care providers; and

(6) veterans homes as defined by Section 164.002, Natural Resources Code.

(c) The educational materials must include:

(1) the most recent immunization schedules by age as recommended by the Centers for Disease Control and Prevention; and

(2) locations, if any, of local health care providers that offer immunizations.

Added by Acts 2021, 87th Leg., R.S., Ch. 549 (S.B. 239), Sec. 1, eff. September 1, 2021.
Added by Acts 2021, 87th Leg., R.S., Ch. 863 (S.B. 968), Sec. 4, eff. June 16, 2021.

Sec. 418.188. POSTDISASTER EVALUATION. Not later than the 90th day after the date a request is received from the division, a state agency, political subdivision, or interjurisdictional agency shall conduct an evaluation of the entity's response to a disaster, identify areas for improvement, and issue a report of the evaluation to the division.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.16, eff. September 1, 2009.

Sec. 418.1881. SHELTER OPERATIONS. The Department of State Health Services shall develop, with the direction, oversight, and approval of the division, an annex to the state emergency management plan that includes provisions for:

(1) developing medical special needs categories;

(2) categorizing the requirements of individuals with medical special needs; and

(3) establishing minimum health-related standards for short-term and long-term shelter operations for shelters operated with state funds or receiving state assistance.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.16, eff. September 1, 2009.

Sec. 418.1882. PERSONNEL SURGE CAPACITY PLANNING. (a) With the direction, oversight, and approval of the division and the assistance of the Department of State Health Services, health care facilities, county officials, trauma service area regional advisory councils, and other appropriate entities, each council of government, regional planning commission, or similar regional planning agency created under Chapter 391, Local Government Code, shall develop a regional plan for personnel surge capacity during disasters, including plans for providing lodging and meals for disaster relief workers and volunteers.

(b) Entities developing regional plans for personnel surge capacity with regard to lodging shall consult with representatives of emergency responders, infrastructure and utility repair personnel, and other representatives of agencies, entities, or businesses determined by the division to be essential to the planning process.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.16, eff. September 1, 2009.

Sec. 418.190. AGRICULTURE EMERGENCY RESPONSE PLAN. (a) In coordination with the division, the Department of Agriculture and the Texas Animal Health Commission shall prepare and keep current an agriculture emergency response plan as an annex to the state emergency management plan. The plan must include provisions for:

(1) identifying and assessing necessary training, resource, and support requirements;

(2) providing information on recovery, relief, and assistance requirements following all types of disasters, including information on biological and radiological response; and

(3) all other information the Department of Agriculture and the Texas Animal Health Commission determine to be relevant to prepare for an all-hazards approach to agricultural disaster management.

(b) The Department of Agriculture and the Texas Animal Health Commission shall include the plan developed under Subsection (a) in an annual report to the legislature and the office of the governor.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.16, eff. September 1, 2009.

Sec. 418.191. MEDICAL SPECIAL NEEDS VOLUNTEERS. (a) An entity responsible for the care of individuals with medical special needs shall develop and distribute information on volunteering in connection with a disaster.

(b) The division shall provide information to interested parties and the public regarding how volunteers can be identified and trained to help all groups of people, including those with medical special needs and those who are residents of assisted living facilities.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.16, eff. September 1, 2009.

Sec. 418.192. COMMUNICATIONS BY PUBLIC SERVICE PROVIDERS DURING

DISASTERS AND EMERGENCIES. (a) In this section:

(1) "Emergency" means a temporary, sudden, and unforeseen occurrence that requires action by a public service provider to correct the occurrence, inform others of the occurrence, protect lives or property, or temporarily reduce demand for or allocate supply of the provider's products or services to ensure public safety or preserve the integrity of service delivery mechanisms.

(2) "Public service provider" means any person or entity that provides essential products or services to the public that are regulated under the Natural Resources Code, Utilities Code, or Water Code, including:

(A) common carriers under Section 111.002, Natural Resources Code;

(B) telecommunications providers as defined by Section 51.002, Utilities Code; and

(C) any other person or entity providing or producing heat, light, power, or water.

(b) A public service provider may enter into a contract for an emergency notification system described by this section for use in informing the provider's customers, governmental entities, and other affected persons regarding:

(1) notice of a disaster or emergency; and

(2) any actions a recipient is required to take during a disaster or emergency.

(c) The emergency notification system for which a contract is entered into under Subsection (b) must rely on a dynamic information database that:

(1) is capable of simultaneous transmission of emergency messages to all recipients through at least two industry-standard gateways to one or more telephones or electronic devices owned by a recipient in a manner that does not negatively impact the existing communications infrastructure;

(2) allows the public service provider to:

(A) store prewritten emergency messages in the dynamic information database for subsequent use; and

(B) generate emergency messages in real time based on provider inputs;

(3) allows a recipient to select the language in which the recipient would prefer to receive messages;

(4) transmits the message in the recipient's language of

choice to that recipient;

(5) converts text messages to sound files and transmits those sound files to the appropriate device;

(6) assigns recipients to priority groups for notification;

(7) allows for the collection and verification of responses by recipients of emergency messages; and

(8) reads or receives alerts from a commercial mobile alert system established by the Federal Communications Commission or complies with standards adopted for a commercial mobile alert system established by the Federal Communications Commission.

(d) The dynamic information database must comply with:

(1) the Telecommunications Service Priority program established by the Federal Communications Commission; and

(2) the Federal Information Processing Standard 140-2 governing compliant cryptographic modules for encryption and security issued by the National Institute of Standards and Technology.

(e) Before sending a notice described by Subsection (b), a public service provider must:

(1) provide a copy of the notice to the emergency management director designated under Section 418.1015, for each political subdivision for which the public service provider provides services at the time of the notice; and

(2) during a disaster declared by the governor or United States government, obtain approval of the notice from the emergency management director designated under Section 418.1015, for each political subdivision for which the public service provider provides services during the disaster.

(f) A customer of a public service provider may decline to receive the notices described by Subsection (b) by providing written notice of that decision to the public service provider.

(g) A public service provider shall cooperate with emergency management officials of each political subdivision in which the public service provider provides services to survey the number of notification systems in place.

(h) The requirements of this section do not apply to:

(1) a public service provider serving 250,000 or fewer customers; or

(2) an emergency notification system that is in use by a public service provider on June 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1068 (S.B. 924), Sec. 3(a), eff. June 17, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1052 (H.B. 3096), Sec. 1, eff. June 14, 2013.

Sec. 418.195. ATTORNEY GENERAL AS LEGAL ADVISOR ON ISSUES RELATED TO DECLARED DISASTER. (a) This section applies only during a declared state of disaster under Section 418.014 and the 90-day period following the expiration or termination of the disaster declaration.

(b) The attorney general may provide legal counsel to a political subdivision subject to a declared state of disaster under Section 418.014 on issues related to disaster mitigation, preparedness, response, and recovery applicable to the area subject to the disaster declaration.

(c) A request for counsel under this section may be submitted only by:

(1) the emergency management director designated under Section 418.1015 for the political subdivision;

(2) the county judge or a commissioner of a county subject to the declaration; or

(3) the mayor of a municipality subject to the declaration.

Added by Acts 2019, 86th Leg., R.S., Ch. 70 (S.B. 416), Sec. 1, eff. May 20, 2019.
Redesignated from Government Code, Section 418.193 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(27), eff. September 1, 2021.

SUBCHAPTER I. WELLNESS CHECKS FOR MEDICALLY FRAGILE INDIVIDUALS DURING CERTAIN EMERGENCIES

Sec. 418.251. DEFINITIONS. In this subchapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Department" means the Department of State Health Services.

(3) "Emergency assistance registry" means the registry

maintained by the division that provides local emergency planners and emergency responders with additional information on the needs of certain individuals in their communities.

(4) "First responder" means any federal, state, or local personnel who may respond to a disaster, including:

(A) public health and public safety personnel;

(B) commissioned law enforcement personnel;

(C) fire protection personnel, including volunteer firefighters;

(D) emergency medical services personnel, including hospital emergency facility staff;

(E) a member of the National Guard; or

(F) a member of the Texas State Guard.

(5) "Medically fragile individual" means any individual who, during a time of disaster or emergency, would be particularly vulnerable because of a medical condition, including individuals:

(A) with Alzheimer's disease and other related disorders;

(B) receiving dialysis services;

(C) who are diagnosed with a debilitating chronic illness;

(D) who are dependent on oxygen treatment; and

(E) who have medical conditions that require 24-hour supervision from a skilled nurse.

Added by Acts 2021, 87th Leg., R.S., Ch. 863 (S.B. 968), Sec. 5, eff. June 16, 2021.
Redesignated by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(17), eff. September 1, 2023.

Sec. 418.252. MEDICALLY FRAGILE INDIVIDUAL DESIGNATION. The division shall develop a process for designating individuals who are included in the emergency assistance registry as medically fragile for the purposes of this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 863 (S.B. 968), Sec. 5, eff. June 16, 2021.
Redesignated by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(17), eff. September 1, 2023.

Sec. 418.253. EMERGENCY ASSISTANCE REGISTRY ACCESS. The division shall authorize the following persons to access the emergency assistance registry to assist medically fragile individuals during an event described by Section 418.255:

(1) the commission;
(2) the department;
(3) first responders;
(4) local governments; and
(5) local health departments.

Added by Acts 2021, 87th Leg., R.S., Ch. 863 (S.B. 968), Sec. 5, eff. June 16, 2021.
Redesignated by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(17), eff. September 1, 2023.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.002(9), eff. September 1, 2023.

Sec. 418.254. REQUIRED WELLNESS CHECK. The division shall collaborate with the persons authorized to access the emergency assistance registry under Section 418.253 and with applicable municipalities and counties to ensure that a wellness check is conducted on each medically fragile individual listed in the emergency assistance registry and located in an area that experiences an event described by Section 418.255 to ensure the individual has:

(1) continuity of care; and
(2) the ability to continue using electrically powered medical equipment, if applicable.

Added by Acts 2021, 87th Leg., R.S., Ch. 863 (S.B. 968), Sec. 5, eff. June 16, 2021.
Redesignated by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(17), eff. September 1, 2023.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.002(10), eff. September 1, 2023.

Sec. 418.255. EVENTS REQUIRING WELLNESS CHECKS. (a) The division, in collaboration with the commission and the department,

shall adopt rules regarding which events require a wellness check, including:

(1) an extended power, water, or gas outage;

(2) a state of disaster declared under this chapter; or

(3) any other event considered necessary by the commission, the department, or the division.

(b) If more than one disaster is declared for the same event, or the same event qualifies as an event requiring a wellness check for multiple reasons under Subsection (a), only one wellness check is required to be conducted under this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 863 (S.B. 968), Sec. 5, eff. June 16, 2021.
Redesignated by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(17), eff. September 1, 2023.

Sec. 418.256. REQUIREMENTS FOR WELLNESS CHECK. (a) The division, in collaboration with the commission and the department, by rule shall develop minimum standards for conducting wellness checks. Each county and municipality shall adopt procedures for conducting wellness checks in compliance with the minimum standards.

(b) A wellness check on a medically fragile individual under this subchapter must:

(1) include:

(A) an automated telephone call and text to the individual;

(B) a personalized telephone call to the individual; and

(C) if the individual is unresponsive to a telephone call under Paragraph (B), an in-person wellness check; and

(2) be conducted in accordance with the minimum standards prescribed by division rule and the procedures of the applicable county or municipality.

(c) A wellness check must be conducted as soon as practicable but not later than 24 hours after the event requiring a wellness check occurs.

Added by Acts 2021, 87th Leg., R.S., Ch. 863 (S.B. 968), Sec. 5, eff. June 16, 2021.
Redesignated by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec.

24.001(17), eff. September 1, 2023.

Sec. 418.257. RULES. The division, in collaboration with the commission and the department, shall adopt rules to implement this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 863 (S.B. 968), Sec. 5, eff. June 16, 2021.
Redesignated by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(17), eff. September 1, 2023.

SUBCHAPTER J. TEXAS ENERGY RELIABILITY COUNCIL

Sec. 418.301. DEFINITIONS. In this subchapter:

(1) "Chief" means the division's chief.

(2) "Council" means the Texas Energy Reliability Council.

Added by Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 3, eff. June 8, 2021.

Sec. 418.302. COUNCIL ESTABLISHED. (a) The Texas Energy Reliability Council is established to:

(1) ensure that the energy and electric industries in this state meet high priority human needs and address critical infrastructure concerns; and

(2) enhance coordination and communication in the energy and electric industries in this state.

(b) Chapter 2110 does not apply to the council.

Added by Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 3, eff. June 8, 2021.

Sec. 418.303. MEMBERSHIP. (a) The council is composed of:

(1) the chairman of the Railroad Commission of Texas;

(2) the presiding officer of the Public Utility Commission of Texas;

(3) the chief executive of the Office of Public Utility Counsel;

(4) the presiding officer of the Texas Commission on Environmental Quality;

(5) the chair of the Texas Transportation Commission;

(6) a person to represent the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region, appointed by the governor;

(7) the chief;

(8) five persons to represent participants in the natural gas supply chain in this state, appointed by the Railroad Commission of Texas to represent as many types of participants as possible;

(9) five persons to represent the electric industry, appointed by the Public Utility Commission of Texas, including:

(A) one person to represent entities that provide dispatchable electric energy to the power grid in this state;

(B) one person to represent transmission and distribution utilities, as defined by Section 31.002, Utilities Code;

(C) one person to represent retail electric providers, as defined by Section 31.002, Utilities Code;

(D) one person to represent municipally owned utilities, as defined by Section 11.003, Utilities Code; and

(E) one person to represent electric cooperatives;

(10) three persons to represent energy sectors not otherwise represented on the council, appointed by the Public Utility Commission of Texas; and

(11) five persons to represent industrial concerns, appointed by the governor, including:

(A) one person to represent motor fuel producers; and

(B) one person to represent chemical manufacturers.

(b) A member of the council described by Subsection (a)(1), (2), (3), (4), (5), (6), or (7) may designate a person from the member's agency to represent the member in any meeting.

(c) The council may request that a person collaborate with the council to achieve the purposes described by Section 418.302.

Added by Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 3, eff. June 8, 2021.

Sec. 418.304. OFFICERS. (a) The chief shall serve as presiding officer of the council.

(b) The council may select an assistant presiding officer and secretary from among its members.

Added by Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 3, eff. June 8, 2021.

Sec. 418.305. COMPENSATION; REIMBURSEMENT. A member of the council is not entitled to compensation or reimbursement of expenses for service on the council.

Added by Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 3, eff. June 8, 2021.

Sec. 418.306. MEETINGS. (a) After its initial meeting, the council shall meet at least twice each year at a time and place determined by the chief.

(b) The council may meet at other times the council considers appropriate. The presiding officer may call a meeting on the officer's own motion.

Added by Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 3, eff. June 8, 2021.

Sec. 418.307. ADMINISTRATIVE SUPPORT. The division shall provide administrative support to the council.

Added by Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 3, eff. June 8, 2021.

Sec. 418.308. GENERAL DUTIES OF COUNCIL. (a) The council shall foster communication and planning to ensure preparedness for making available and delivering energy and electricity in this state to ensure that high priority human needs are met and critical infrastructure needs are addressed.

(b) The council shall foster communication and coordination between the energy and electric industries in this state.

Added by Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 3, eff. June 8, 2021.

Sec. 418.309. INFORMATION. (a) In this section:

(1) "Gas provider" means:

(A) a natural gas pipeline facility operator;

(B) an operator of a natural gas well; or

(C) an entity that produces, treats, processes, pressurizes, stores, or transports natural gas in this state or otherwise participates in the natural gas supply chain in this state.

(2) "Public utility" means an entity that generates, transmits, or distributes electric energy to the public, including an electric cooperative, an electric utility, a municipally owned utility, or a river authority.

(b) A public utility or gas provider shall provide to the council any information related to a disaster requested by the council. Information obtained by the council under this subsection is confidential and not subject to disclosure by the council if the information is critical energy infrastructure information as defined by the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region or federal law.

(c) Except as provided by Subsection (d), the meetings of the council and information obtained or created by the council are not subject to the requirements of Chapter 551 or 552.

(d) Information written, produced, collected, assembled, or maintained under law or in connection with the transaction of official business by the council or an officer or employee of the council is subject to Section 552.008 in the same manner as public information.

Added by Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 3, eff. June 8, 2021.

Sec. 418.310. REPORT. (a) Not later than December 1 of each even-numbered year, the council shall submit to the legislature a report on the reliability and stability of the electricity supply chain in this state.

(b) The report must include recommendations on methods to

strengthen the electricity supply chain in this state and to decrease the frequency of extended power outages caused by a disaster in this state.

Added by Acts 2021, 87th Leg., R.S., Ch. 426 (S.B. 3), Sec. 3, eff. June 8, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 522 (H.B. 3096), Sec. 1, eff. September 1, 2023.

CHAPTER 419. TEXAS COMMISSION ON FIRE PROTECTION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 419.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Commission on Fire Protection.

(2) Except as otherwise provided in this chapter, "volunteer fire fighter" and "volunteer fire chief" do not include a person who is also employed full-time in the fire service.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 1, eff. September 1, 2009.

Sec. 419.002. COMMISSION. The Texas Commission on Fire Protection is an agency of the state.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991.

Sec. 419.003. SUNSET PROVISION. The Texas Commission on Fire Protection is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2035.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 3.10, eff. Nov. 12, 1991; Acts 1997, 75th Leg., ch. 1172, Sec. 1.01, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 2, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 580 (S.B. 709), Sec. 1, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 941 (S.B. 1659), Sec. 3.06, eff. June 18, 2023.

Sec. 419.004. COMPOSITION OF COMMISSION. (a) The commission is composed of the following 13 members:

(1) two members to be selected from a list of five names submitted by the Texas Fire Chiefs Association who are chief officers with a minimum rank that is equivalent to the position immediately below that of the fire chief and who are employed in fire departments as defined by Section 419.021 that are under the jurisdiction of the commission, at least one of whom must be the head of a fire department and one of whom must be employed by a political subdivision with a population of less than 100,000;

(2) two members to be selected from a list of five names submitted by the Texas State Association of Fire Fighters who are fire protection personnel as defined by Section 419.021 with the rank of battalion chief or below and who are employed in fire departments or other appropriate local authorities under the jurisdiction of the commission, one of whom must be employed by a political subdivision with a population of less than 100,000;

(3) two members to be selected from a list of five names submitted by the State Firemen's and Fire Marshals' Association of Texas who are volunteer fire chiefs or volunteer fire fighters;

(4) one certified fire protection engineer;

(5) one certified arson investigator or certified fire protection inspector;

(6) one fire protection instructor from an institution of higher education as defined by Section 61.003, Education Code; and

(7) four public members.

(b) The members of the commission are appointed by the governor with the advice and consent of the senate for staggered terms of six years with four or five members' terms expiring February 1 of each odd-numbered year.

(c) The duties of a public officer or employee on the

commission constitute additional duties of the member's office or employment.

(d) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(e) A person may not be a public member of the commission if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of fire protection;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the commission;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the commission;

(4) uses or receives a substantial amount of tangible goods, services, or money from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses; or

(5) is employed in the field of fire protection.

(f) For purposes of this section, "volunteer fire fighter" and "volunteer fire chief" mean a person who is a member of a nonprofit volunteer fire department, and the term may include a person who is also employed full-time in the fire service.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1172, Sec. 1.02, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1170, Sec. 14.01, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 3, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 580 (S.B. 709), Sec. 2, eff. September 1, 2021.

Sec. 419.005. REMOVAL OF COMMISSION MEMBERS. (a) It is a ground for removal from the commission that a member:

(1) does not have at the time of taking office the qualifications required by Section 419.004;

(2) does not maintain during service on the commission the qualifications required by Section 419.004;

(3) is ineligible for membership under Section 419.006;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved by majority vote of the commission.

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

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1997, 75th Leg., ch. 1172, Sec. 1.03, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 4, eff. September 1, 2009.

Sec. 419.006. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the commission and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of

the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of fire protection; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of fire protection.

(c) A person may not be a member of the commission or act as the general counsel to the commission or the agency if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 5, eff. September 1, 2009.

Sec. 419.007. OFFICERS; COMPENSATION; MEETINGS. (a) The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor. The commission shall elect from among its members an assistant presiding officer and a secretary.

(b) The commission shall meet at least quarterly.

(c) A member of the commission may not receive compensation for service on the commission. A member is entitled to receive reimbursement, subject to any applicable limitation on reimbursement provided by the General Appropriations Act, for actual and necessary expenses incurred in performing services as a member of the commission.

(d) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 2, eff. Sept. 1, 1993.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 6, eff. September 1, 2009.

Sec. 419.0071. COMMISSION MEMBER TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing commission operations;

(2) the programs, functions, rules, and budget of the commission;

(3) the scope of and limitations on the rulemaking authority of the commission;

(4) the results of the most recent formal audit of the commission;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of a state policy-making body in performing their duties; and

(6) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) The executive director of the commission shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each member of the commission. Each member of the commission shall sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 1.04, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 7, eff.

September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 580 (S.B. 709), Sec. 3, eff. September 1, 2021.

Sec. 419.008. GENERAL POWERS AND DUTIES. (a) The commission may adopt rules for its internal management and control and for the administration of its powers and duties.

(b) The commission shall perform the duties assigned to the commission under this chapter or other law.

(c) The commission shall perform duties assigned by law to the Commission on Fire Protection Personnel Standards and Education.

(d) The commission may accept gifts, grants, and contributions from private individuals or foundations and from the federal government.

(e) Repealed by Acts 2021, 87th Leg., R.S., Ch. 580 (S.B. 709), Sec. 9, eff. September 1, 2021.

(f) The commission may appoint advisory committees to assist it in the performance of its duties. A member of an advisory committee appointed by the commission or otherwise appointed under this chapter may not receive compensation for service on the advisory committee. A member appointed under this chapter is entitled to receive reimbursement, subject to any applicable limitation on reimbursement provided by the General Appropriations Act, for actual and necessary expenses incurred in performing services as a member of the advisory committee. Members appointed under this chapter shall serve six-year staggered terms but may not be appointed to more than two consecutive terms.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 3, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1172, Sec. 1.05, eff. Sept. 1, 1997. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 8, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 29, eff. September 1, 2013.

Acts 2021, 87th Leg., R.S., Ch. 580 (S.B. 709), Sec. 4, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 580 (S.B. 709), Sec. 9, eff.

September 1, 2021.

Sec. 419.0083. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

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

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

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

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

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

Added by Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 10, eff. September 1, 2009.

Sec. 419.009. PERSONNEL. (a) The commission shall employ an executive director who shall employ other personnel necessary for the performance of commission functions.

(b) The commission shall provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(c) The commission shall develop and implement policies that clearly separate the policy-making responsibilities of the commission and the management responsibilities of the executive director and the staff of the commission.

(d) The executive director or the executive director's designee shall develop an intraagency career ladder program that addresses opportunities for mobility and advancement for employees within the commission. The program shall require intraagency postings of all positions concurrently with any public posting.

(e) The executive director or the executive director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for commission employees must be based on the system established under this subsection.

(f) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

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

(2) a comprehensive analysis of the commission work force that meets federal and state laws, rules, regulations, and instructions directly adopted under those laws, rules, or regulations;

(3) procedures by which a determination can be made about the extent of underuse in the commission work force of all persons for whom federal or state laws, rules, regulations, and instructions directly adopted under those laws, rules, or regulations encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(g) A policy statement prepared under Subsection (f) must cover an annual period, be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (f)(1), and be filed with the governor's office.

(h) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (g). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1997, 75th Leg., ch. 1172, Sec. 1.07, eff. Sept. 1, 1997.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 11, eff. September 1, 2009.

Sec. 419.0091. GENERAL COUNSEL. The commission may employ not more than one attorney. The attorney shall serve as general counsel of the commission.

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 1.08, eff. Sept. 1, 1997.

Sec. 419.011. COMPLAINTS. (a) The commission shall maintain a system to promptly and efficiently act on complaints filed with the commission. The commission shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The commission shall make information available describing its procedures for complaint investigation and resolution.

(c) The commission shall periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize an investigation.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1997, 75th Leg., ch. 1172, Sec. 1.09, eff. Sept. 1, 1997.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 12, eff. September 1, 2009.
Acts 2021, 87th Leg., R.S., Ch. 580 (S.B. 709), Sec. 5, eff. September 1, 2021.

Sec. 419.012. TECHNOLOGICAL SOLUTIONS. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to

perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

Added by Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 13, eff. September 1, 2009.

SUBCHAPTER B. REGULATING AND ASSISTING FIRE FIGHTERS AND FIRE DEPARTMENTS

Sec. 419.021. DEFINITIONS. In this subchapter:

(1) "Aircraft rescue and fire protection personnel" means permanent, full-time local governmental employees who, as a permanent duty assignment, fight aircraft fires at airports, stand by for potential crash landings, and perform aircraft crash rescue.

(2) "Fire department" means a department of a local government that is staffed by permanent, full-time employees of the local government and that is organized to prevent or suppress fires.

(3) "Fire protection personnel" means:

(A) permanent, full-time law enforcement officers designated as fire and arson investigators by an appropriate local authority;

(B) aircraft rescue and fire protection personnel; or

(C) permanent, full-time fire department employees who are not secretaries, stenographers, clerks, budget analysts, or similar support staff persons or other administrative employees and who are assigned duties in one or more of the following categories:

(i) fire suppression;

(ii) fire inspection;

(iii) fire and arson investigation;

(iv) marine fire fighting;

(v) aircraft rescue and fire fighting;

(vi) fire training;

(vii) fire education;

(viii) fire administration; and

(ix) any other position necessarily or customarily related to fire prevention or suppression.

(4) "Local government" means a municipality, a county, a special-purpose district or authority, or any other political subdivision of the state.

(5) "Marine fire protection personnel" means permanent,

full-time local governmental employees who work aboard a fireboat and fight fires that occur on or adjacent to a waterway, waterfront, channel, or turning basin.

(6) "Protective clothing" means garments, including turnout coats, bunker coats, bunker pants, boots, gloves, trousers, helmets, and protective hoods, worn by fire protection personnel in the course of performing fire-fighting operations, including wildland fire suppression.

(7) "Structure fire protection personnel" means permanent, full-time local government employees who engage in fire-fighting activities involving structures and may perform other emergency activities typically associated with fire-fighting duties such as rescue, emergency medical response, confined space rescue, hazardous materials response, and wildland fire-fighting.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.40(a), eff. Sept. 1, 1989. Redesignated from Sec. 416.001 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 4, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1172, Sec. 2.01, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1241, Sec. 1, eff. Sept. 1, 2001.

Sec. 419.022. GENERAL POWERS RELATING TO THIS SUBCHAPTER. (a) The commission may:

(1) require the submission of reports and information by a local governmental agency in this state that employs fire protection personnel;

(2) assist fire departments and fire protection personnel with problems related to fire-fighting techniques, clothing, and equipment;

(3) assist fire departments and local governments with the development and updating of local fire codes;

(4) on request, assist in performing staffing studies of fire departments; and

(5) establish minimum educational, training, physical, and mental standards for admission to employment as fire protection personnel in a permanent, temporary, or probationary status and for advanced or specialized fire protection personnel positions.

(b) The commission may not change a minimum standard under Subsection (a)(5) to a standard that is less stringent than the applicable standard set by the Commission on Fire Protection Personnel Standards and Education in rules that were in effect on August 31, 1991.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.41(a), eff. Sept. 1, 1989. Redesignated from Sec. 416.007 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 5, eff. Sept. 1, 1993.

Sec. 419.0225. CERTAIN RULES PROHIBITED. (a) The commission may not adopt rules restricting competitive bidding or advertising by a certificate holder except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the commission may not include a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the use of a certificate holder's personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the certificate holder; or

(4) restricts the certificate holder's advertisement under a trade name.

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 2.02, eff. Sept. 1, 1997.

Sec. 419.024. LOCAL GOVERNMENT POWERS. Except as expressly provided by this chapter, this subchapter does not limit the powers, rights, duties, or responsibilities of a local government and does not affect Chapter 143, Local Government Code.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.42(a), eff. Sept. 1, 1989. Redesignated from Sec. 416.008 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.025. MANUAL. The commission shall set and collect a fee for a manual that states rules and minimum standards for fire protection personnel. The amount of the fee may not exceed the cost of preparing, printing, and distributing the manual.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.43(a), eff. Sept. 1, 1989. Redesignated from Sec. 416.009 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.026. FEES FOR CERTIFICATES. (a) The commission shall set and collect a fee for each certificate that the commission issues or renews under this subchapter, except that if a person holds more than one certificate the commission may collect only one fee for the renewal of those certificates. The commission by rule shall set the amount of the fee under this subsection in an amount designed to recover the commission's costs in connection with issuing certificates under this subchapter, including the cost to the commission of obtaining fingerprint-based criminal history record information under Section 419.0325. The employing agency or entity shall pay the fee in the manner prescribed by commission rule. A certificate issued under this subchapter is valid for one or two years as determined by commission rule.

(b) The commission shall set and collect a fee for each examination given to fire protection personnel for basic certification under this subchapter. The amount of the fee may not exceed the cost of preparing, printing, administering, and grading the examination.

(c) The commission may revoke, refuse to issue, or refuse to renew the certificate of fire protection personnel for failure to pay a fee required under Subsection (a).

(d) The commission shall send the fees authorized by Subsection (a) and Section 419.033(b) to the comptroller. The comptroller shall deposit the fees in the general revenue fund.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.44(a), eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 798, Sec. 1, eff. Sept. 1, 1989. Redesignated from Sec. 416.010 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1423,

Sec. 8.13, eff. Sept. 1, 1997.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 15, eff. January 1, 2010.
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 64.01, eff. October 1, 2011.
Acts 2021, 87th Leg., R.S., Ch. 580 (S.B. 709), Sec. 6, eff. September 1, 2021.

Sec. 419.0265. RECIPROCITY. (a) The commission may waive any prerequisite to obtaining a certificate under this subchapter for an applicant who holds a license or certificate issued by another jurisdiction:

(1) that has licensing or certification requirements substantially equivalent to those of this state; or

(2) with which this state has a reciprocity agreement.

(b) The commission may make an agreement with another state to allow for certification by reciprocity.

Added by Acts 2021, 87th Leg., R.S., Ch. 580 (S.B. 709), Sec. 7, eff. September 1, 2021.

Sec. 419.027. BIENNIAL INSPECTIONS. (a) At least biennially, the commission shall visit and inspect each institution or facility conducting courses for training fire protection personnel and recruits, each fire department, and each local governmental agency providing fire protection to determine if the department, agency, institution, or facility is complying with this chapter and commission rules.

(b) The commission may conduct risk-based inspections of institutions and facilities in addition to the inspections under Subsection (a). In determining whether to conduct an inspection of an institution or facility under this subsection, the commission shall consider:

(1) how recently the institution or facility has come under regulation;

(2) the institution's or facility's history of compliance with state law and commission rules;

(3) the number of complaints filed with the commission regarding the institution or facility during the last year;

(4) the number of paid personnel in the institution or facility;

(5) the frequency of fire responses;

(6) the institution's or facility's ability to inspect and maintain equipment; and

(7) any other factor the commission considers appropriate to assess an institution's or facility's safety risk.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 16, eff. September 1, 2009.

Sec. 419.028. TRAINING PROGRAMS AND INSTRUCTORS. The commission may:

(1) authorize reimbursement for a local governmental agency for expenses in attending training programs as authorized by the legislature;

(2) through issuance or revocation of a certificate, approve or revoke the approval of an institution or facility for a school operated by or for this state or a local government specifically for training fire protection personnel or recruits;

(3) certify persons as qualified fire protection personnel instructors under conditions that the commission prescribes;

(4) contract with persons or public or private agencies, as the commission considers necessary, for studies and reports that the commission requires to cooperate with local governmental agencies in training programs and to otherwise perform its functions;

(5) revoke the certification of fire protection personnel instructors; and

(6) provide staff or educational materials on request to training programs or fire departments.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.45(a), eff. Sept. 1, 1989. Redesignated from Sec. 416.021 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 6, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1177, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 419.029. TRAINING CURRICULUM. The commission may establish minimum curriculum requirements for preparatory, in-service, and advanced courses and programs for a school operated by or for this state or a local government specifically for training fire protection personnel or recruits.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.46(a), eff. Sept. 1, 1989. Redesignated from Sec. 416.022 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.030. COOPERATION WITH OTHER ENTITIES FOR TRAINING PURPOSES. The commission may consult and cooperate with a local governmental agency, other governmental agency, university, college, junior college, or another institution concerning the development of training schools and programs of courses of instruction for fire protection personnel, including the preparation or implementation of continuing education or training programs.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.47(a), eff. Sept. 1, 1989. Redesignated from Sec. 416.023 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.031. TRAINING ASSISTANCE. The commission shall adopt rules and procedures for the administration of a training assistance program under this subchapter. The training assistance provided to fire departments under this subchapter may be provided by any of the following methods:

(1) purchasing and providing training aids to fire departments on a temporary or permanent basis;

(2) financing training seminars for fire departments; or

(3) paying instructor fees to teach specialized courses for

fire departments that employ fully paid fire protection personnel.

Added by Acts 1989, 71st Leg., ch. 798, Sec. 2, eff. Sept. 1, 1989. Redesignated from Sec. 416.024 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.032. APPOINTMENT OF FIRE PROTECTION PERSONNEL. (a) A fire department may not appoint a person to the fire department, except on a temporary or probationary basis, unless:

(1) the person:

(A) has satisfactorily completed a preparatory program of training in fire protection at a school approved by the commission; and

(B) meets the qualifications established by the commission under Subsection (b); and

(2) the commission has approved the person's fingerprint-based criminal history record information under Section 419.0325.

(b) The commission by rule may establish qualifications relating to minimum age, education, physical and mental condition, citizenship, basic certification tests, continuing education or training programs, and other matters that relate to the competence and reliability of persons to assume and discharge the responsibilities of fire protection personnel. The commission shall prescribe the means of presenting evidence of fulfillment of these qualifications. This chapter does not preclude an employing agency from establishing qualifications and standards for hiring fire protection personnel that exceed the minimum qualifications set by the commission.

(c) Fire protection personnel who receive temporary or probationary appointment and who fail to satisfactorily complete a basic course in fire protection, as prescribed by the commission, before one year after the date of the original appointment forfeit, and shall be removed from, the position. A temporary or probationary appointment may not be extended beyond one year by renewal of appointment or otherwise, except that on petition of a fire department one year or more after the date of the forfeiture and removal, the commission may reinstate the person's temporary or probationary employment. Fire protection personnel must complete a commission-approved training course in fire suppression before being

assigned full-time to fire suppression duties. The commission may, on application by a fire department, extend from one year to a period not to exceed two years the time allowed for fire protection personnel receiving a temporary or probationary appointment to successfully complete a basic course in fire protection.

(d) The commission may certify persons who are qualified under this subchapter to be fire protection personnel. The commission shall adopt rules relating to presentation of evidence of satisfactory completion of a program or course of instruction in another jurisdiction equivalent in content and quality to that required by the commission for approved fire protection education and training programs in this state and shall issue to a person meeting the rules and the requirements of Section 419.0325 a certificate evidencing satisfaction of Subsections (a) and (b). The commission may waive any certification requirement, except those under Section 419.0325, for an applicant with a valid license from another state having certification requirements substantially equivalent to those of this state.

(e) Fire protection personnel serving under permanent appointment before September 1, 1972, are not required to meet a requirement of Subsection (a) or (b) as a condition of tenure or continued employment or for eligibility for a promotional examination for which they are otherwise eligible. The fire protection personnel are eligible to attend training courses subject to commission rules.

(f) A local government may appoint a person to the position of head of the fire department, though the person is not certified by the commission as fire protection personnel, if the person either has at least 10 years' experience as a volunteer fire fighter or may be eligible to become certified under the provisions of Subsection (d) relating to other states or jurisdictions. The appointment is on a temporary basis pending certification of the person as fire protection personnel by the commission under this subsection. The temporary appointment may not be extended beyond one year by renewal of appointment or otherwise. In addition to rules adopted under Subsection (d) relating to other states or jurisdictions, the commission shall adopt rules for purposes of this subsection relating to presentation of evidence that a person has been a volunteer fire fighter for the required period. The rules may not include more stringent requirements on the nature of the volunteer fire departments with which a person may accumulate the required period of

volunteer service than the requirements contained in the definition of an organized volunteer fire department under Chapter 615. The commission shall certify as fire protection personnel a person who is serving as a temporarily appointed department head under this subsection and who:

(1) presents satisfactory evidence that the person has been a volunteer fire fighter for at least 10 years and passes the commission's basic certification examination administered under this subchapter on the first or second attempt;

(2) presents satisfactory evidence that the person is eligible to be certified as fire protection personnel under Subsection (d) and passes the commission's basic certification examination administered under this subchapter on the first or second attempt; or

(3) satisfies the requirements of Subsections (a) and (b).

(g) This chapter does not prevent a fire department from assigning volunteer fire fighters, or other auxiliary fire fighters who are not fire protection personnel, to fire suppression, fire education, or fire station duties.

(h) This chapter does not prevent an employee of a local government from being a volunteer fire fighter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.48(a), eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 798, Sec. 3, eff. Jan. 1, 1990. Redesignated from Sec. 416.031 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 7, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(31), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1241, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 17, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 580 (S.B. 709), Sec. 8, eff. September 1, 2021.

Sec. 419.0321. PART-TIME FIRE PROTECTION EMPLOYEES. (a) A fire department may employ part-time fire protection employees under this section. The commission shall create a separate certification

class for part-time fire protection employees.

(b) To become certified as a part-time fire protection employee, a person must:

(1) satisfy the requirements of Sections 419.032(a) and (b) or Section 419.032(d) for certification as fire protection personnel; and

(2) be employed by a fire department as a temporary or probationary part-time fire protection employee.

(c) A fire department may not employ a person as a part-time fire protection employee, except on a temporary or probationary basis, unless the person has been certified by the commission as a part-time fire protection employee. A temporary or probationary employment may not extend beyond one year or be renewed, except that on petition of a fire department one year or more after the date that a temporary or probationary part-time employment expires, the commission may reinstate the person's temporary or probationary part-time employment.

(d) A person who is certified as a part-time fire protection employee and a fire department or local government that employs a part-time fire protection employee are subject to this subchapter and applicable commission rules to the same extent that this subchapter and applicable commission rules apply to certified fire protection personnel and to a fire department or local government in the employment of fire protection personnel.

(e) A part-time fire protection employee may not:

(1) work more than 24 hours a week or average more than approximately 24 hours a week during a work cycle, as appropriate, for an employing fire department; or

(2) work more than 500 hours a year for an employing fire department in duties related to fire suppression.

(f) A part-time fire protection employee may work, on a temporary basis only, in place of a person who is fire protection personnel who is absent from work because of vacation, illness, injury, or administrative leave. Work may not be assigned under this subsection in a manner that will cause a reduction in the number of authorized full-time positions in a fire department. Hours worked under this subsection are not counted when computing hours under Subsection (e)(1).

Added by Acts 1993, 73rd Leg., ch. 912, Sec. 8, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5424, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 419.0322. CATEGORIES AND DESIGNATION OF PERSONS PERFORMING FIRE PROTECTION DUTIES. (a) Each person who is assigned by a fire department to perform one or more duties listed under Section 419.021(3)(C) must be:

(1) fire protection personnel;

(2) a part-time fire protection employee; or

(3) a volunteer or other auxiliary fire fighter.

(b) Each fire department shall designate each person who is assigned by the department to perform one or more duties listed under Section 419.021(3)(C) as fire protection personnel, a part-time fire protection employee, or a volunteer or auxiliary fire fighter, but a department may not designate the same person under more than one category under this section. The designation shall be made on the records of the department and the designation shall be made available for inspection by the commission or sent to the commission on request.

(c) A fire department may not compensate, reimburse, or provide benefits to a person the department has designated as a volunteer or other auxiliary fire fighter to the extent that the person would be considered fully paid fire protection personnel.

(d) A person designated as a part-time fire protection employee under this section is subject to Section 419.0321.

Added by Acts 1993, 73rd Leg., ch. 912, Sec. 9, eff. Sept. 1, 1993.
Amended by:

Acts 2005, 79th Leg., Ch. 112 (S.B. 879), Sec. 2, eff. May 20, 2005.

Sec. 419.0325. CRIMINAL HISTORY RECORD INFORMATION APPROVAL REQUIRED FOR CERTIFICATION. (a) The commission may not certify a person as fire protection personnel unless the commission, after review, has approved fingerprint-based criminal history record information about the person obtained from the Department of Public Safety under Subchapter F, Chapter 411, and from the Federal Bureau

of Investigation under Section 411.087.

(b) The applicant for certification or the fire department may submit the required fingerprint-based state and national criminal history record information to the commission. If neither the applicant nor the fire department submits the required criminal history record information to the commission, the commission shall obtain the required criminal history record information pursuant to Sections 411.087 and 411.1236.

(c) The commission by rule shall establish criteria for denying a person certification to be fire protection personnel based on the person's criminal history record information. The criteria must relate to a person's fitness to serve as fire protection personnel.

(d) Criminal history record information received by the commission is privileged and confidential and for commission use only.

Added by Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 18, eff. September 1, 2009.

Sec. 419.033. CERTIFICATE EXPIRATION. (a) The commission by rule may adopt a system under which certificates expire on various dates during the year. For the year in which the certificate expiration date is changed, certificate fees payable on the date set by commission rule shall be prorated on a monthly basis so that each fire department or other employing entity shall pay only that portion of the certificate fee that is allocable to the number of months during which the certificate is valid. On renewal of the certificate on the new expiration date, the total certificate renewal fee is payable.

(b) The commission shall issue to a person who has held a commission certificate but is no longer employed by an entity that is regulated by the commission a one-time certificate that states the level of certification held by the person on the date the person left the regulated entity's employment. The commission shall prescribe the procedure under which a person applies for a certificate under this subsection. The commission shall set and collect from the person a fee of not more than $35 for the certificate.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.034. CERTIFICATE RENEWAL. (a) A fire department or other employing entity may renew an unexpired certification by, before the expiration date of the certificate:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission the required renewal fee.

(b) If a person's certificate has been expired for 30 days or less, the fire department or other employing entity may renew the certificate by:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission the required renewal fee and a fee that is one-half of the certification fee for the certificate.

(c) If a person's certificate has been expired for longer than 30 days but less than one year, the fire department or other employing entity may renew the certificate by:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission all unpaid renewal fees and a fee that is equal to the certification fee.

(d) If a person's certificate has been expired for one year or longer, the person may not renew the certificate. The person may obtain a new certificate by submitting to the proficiency examination or repeating the requirements and procedures for obtaining an original certificate. The commission shall charge a fee to recover the cost of administering the proficiency examination. The fire department or other employing entity shall pay the certification fee.

(e) Notwithstanding any other law, the commission by rule may establish a procedure to waive the late fees or examination required by this section if:

(1) the person's certificate expired because of the employing entity's good faith clerical error, including the failure of the employing entity to submit fees in a timely manner; or

(2) the person's certificate expired as a result of termination of the person's employment and the person has been restored to employment as a result of a disciplinary procedure or a court action.

(f) At least 30 days before the expiration of a person's certificate, the commission shall send written notice of the impending certificate expiration to the last known fire department or

other employing entity employing the regulated person according to the records of the commission.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 10, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1172, Sec. 2.04, eff. Sept. 1, 1997. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 19, eff. September 1, 2009.

Sec. 419.0341. INDIVIDUAL CERTIFICATE HOLDER; CERTIFICATE RENEWAL. (a) Notwithstanding any other provision of this subchapter, a person may be certified as fire protection personnel and continue to hold and renew the certificate without regard to whether the person is employed or continues to be employed by a local authority or fire department.

(b) A person who is certified as fire protection personnel who is not employed by a local authority or fire department may renew an unexpired certificate before the expiration of the certificate by:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission the required renewal fee.

(c) If the person's certificate has been expired for 30 days or less, the person may renew the certificate by:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission the required renewal fee and a fee that is one-half of the certification fee for the certificate.

(d) If the person's certificate has been expired for longer than 30 days but less than one year, the person may renew the certificate by:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission all unpaid renewal fees and a fee that is equal to the certification fee for the certificate.

(e) If the person's certificate has been expired for more than five years, the person may not renew the certificate. The person may obtain a new certificate by submitting to the proficiency examination or repeating the requirements and procedures for obtaining an

original certificate. The commission shall charge a fee to cover the cost of administering the proficiency examination.

(e-1) If the person's certificate has been expired for more than one year but not more than five years, the person may renew the certificate in accordance with rules established by the commission. The commission by rule shall establish:

(1) a system for renewing a certificate under this subsection;

(2) a list of criteria a person must satisfy to renew a certificate under this subsection; and

(3) a fee for renewing a certificate under this subsection.

(f) At least 30 days before the expiration of the certificate of a person who is not employed by a local authority or fire department, the commission shall send written notice of the impending certificate expiration to the last known address of the person according to the records of the commission.

(g) The commission shall establish by rule the procedures and requirements for evidence of compliance with this section.

(h) Notwithstanding any other law, the commission by rule may establish a procedure to waive the late fees or examination required by this section for a person whose certificate expired because of the person's good faith clerical error, including the person's failure to submit fees in a timely manner.

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 2.05, eff. Sept. 1, 1997.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 755 (H.B. 4073), Sec. 1, eff. September 1, 2023.

Sec. 419.035. CERTIFICATION EXAMINATIONS. (a) Not later than the 30th day after the date on which a certification examination is administered under this subchapter, the commission shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the commission shall notify examinees of the results of the examination not later than the 14th day after the date on which the commission receives the results from the testing service. If the notice of examination results graded or reviewed by a national testing service

will be delayed for longer than 90 days after the examination date, the commission shall notify the examinee of the reason for the delay before the 90th day.

(b) If requested in writing by a person who fails an examination administered under this subchapter, the commission shall furnish the person with an analysis of the person's performance on the examination.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 35, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 419.036. DISCIPLINARY ACTIONS. (a) The commission may revoke or suspend a certificate, place on probation a person whose certificate has been suspended, or reprimand a regulated person for a violation of this subchapter or a rule of the commission. If a regulated person's suspension is probated, the commission may require the practitioner:

(1) to report regularly to the commission on matters that are the basis of the probation;

(2) to limit practice to the areas prescribed by the commission; or

(3) to continue or renew professional education until the practitioner attains a degree of skill satisfactory to the commission in those areas that are the basis of the probation.

(b) If the commission proposes to suspend or revoke a person's certificate, the person is entitled to a hearing before the commission or a hearings officer appointed by the commission. The commission shall prescribe procedures by which all decisions to suspend or revoke are made by or are appealable to the commission.

(c) A complaint case opened by the commission based on a violation found during an inspection conducted under Section 419.027 must be opened not later than the 30th day after the date the commission provides notice of the violation to the applicable department, agency, institution, or facility.

(d) The commission by rule shall create a matrix for determining penalty amounts and disciplinary actions for fire departments, training providers, and certified personnel who commit

violations of this chapter or a rule adopted under this chapter. In developing the matrix, the commission shall consider the following factors:

(1) compliance history;
(2) seriousness of the violation;
(3) the safety threat to the public or fire personnel;
(4) any mitigating factors; and
(5) any other factors the commission considers appropriate.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 20, eff. September 1, 2009.

Sec. 419.0365. DISCIPLINARY HEARING. If the commission proposes to suspend, revoke, or refuse to renew a person's certificate, the person is entitled to a hearing conducted by the State Office of Administrative Hearings. Proceedings for a disciplinary action are governed by the administrative procedure law, Chapter 2001. Rules of practice adopted by the commission under Section 2001.004 applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings.

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 2.06, eff. Sept. 1, 1997.

Sec. 419.0366. TRACKING AND ANALYSIS OF COMPLAINT AND VIOLATION DATA. (a) The commission shall develop and implement a method for tracking and categorizing the sources and types of complaints filed with the commission and of violations of this chapter or a rule adopted under this chapter.

(b) The commission shall analyze the complaint and violation data maintained under Subsection (a) to identify trends and areas that may require additional regulation or enforcement.

Added by Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 21, eff. September 1, 2009.

Sec. 419.037. APPOINTMENT AS MARINE FIRE PROTECTION PERSONNEL. (a) The commission shall adopt requirements for certification of marine fire protection personnel. A person may not be appointed to a marine fire protection personnel position, except on a probationary basis, unless the person has completed the training prescribed by the commission.

(b) Marine fire protection personnel appointed on a probationary basis must complete the prescribed training before two years after the date of appointment.

(c) Marine fire protection personnel serving under permanent appointment with five or more years' service before September 1, 1978, have satisfied the training requirements by experience.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.49(a), eff. Sept. 1, 1989. Redesignated from Sec. 416.032 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.038. APPOINTMENT TO AIRCRAFT FIRE FIGHTING AND RESCUE FIRE PROTECTION PERSONNEL POSITION. (a) The commission shall adopt requirements for certification of aircraft fire fighting and rescue fire protection personnel. A person may not be appointed to an aircraft fire fighting and rescue fire protection personnel position, except on a probationary basis, unless the person has completed the training prescribed by the commission.

(b) Aircraft fire fighting and rescue fire protection personnel appointed on a probationary basis must complete the prescribed training before two years after the date of appointment.

(c) Aircraft fire fighting and rescue fire protection personnel serving under permanent appointment with two or more years' service before September 1, 1984, have satisfied the training requirements.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.50(a), eff. Sept. 1, 1989. Redesignated from Sec. 416.033 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 11, eff. Sept. 1, 1993.

Sec. 419.039. CRIMINAL PENALTY. (a) A person commits an

offense if the person:

(1) accepts an appointment in violation of Section 419.032 or 419.037;

(2) knowingly accepts an appointment in violation of Section 419.038;

(3) appoints or retains a person in violation of Section 419.032; or

(4) appoints a person in violation of Section 419.037 or 419.038.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $100 nor more than $1,000.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.51, eff. Sept. 1, 1989. Redesignated from Sec. 416.034 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.040. PROTECTIVE CLOTHING. (a) A fire department shall purchase, provide, and maintain a complete ensemble of appropriate protective clothing for each of its fire protection personnel who would be exposed to hazardous conditions from fire or other emergencies or where the potential for such exposure exists.

(b) The protective clothing shall be suitable for the task that the individual is expected to perform and must comply with the minimum standards of the National Fire Protection Association or its successor.

(c) The fire department shall develop and maintain a standard operating procedure covering the proper use, selection, care, and maintenance of all of its protective clothing.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.54(a), eff. Sept. 1, 1989. Redesignated from Sec. 416.041 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 1241, Sec. 3, eff. Sept. 1, 2001.

Sec. 419.041. SELF-CONTAINED BREATHING APPARATUS. (a) A fire department shall furnish with self-contained breathing apparatus all of its fire protection personnel who engage in operations where the

personnel might encounter atmospheres that are immediately dangerous to life or health, where the potential for such exposure exists, or where the atmosphere is unknown.

(b) All self-contained breathing apparatus shall comply with the minimum standards of the National Fire Protection Association or its successor.

(c) A fire department shall develop and maintain a standard operating procedure covering the proper use, selection, care, and maintenance of all of its breathing apparatus.

(d) A fire department shall require each self-contained breathing apparatus used by the department to be inspected at least monthly. The inspection shall comply with the minimum standards of the National Fire Protection Association or its successor.

(e) A fire department shall require each self-contained breathing apparatus used by the department to be tested annually for overall condition and proper functioning. The tests shall comply with the minimum standards of the National Fire Protection Association or its successor.

(f) A fire department that uses self-contained breathing apparatus shall have samples of the breathing air used to refill the cylinders of the self-contained breathing apparatus tested at least every six months by a competent testing laboratory that has equipment designed to test compressed breathing air. The quality of the compressed breathing air and the laboratory conducting the tests of the compressed breathing air quality must conform with the quality and testing procedures established by the National Fire Protection Association or its successor.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.55(a), eff. Sept. 1, 1989. Redesignated from Sec. 416.042 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 1241, Sec. 4, eff. Sept. 1, 2001.

Sec. 419.042. PERSONAL ALERT SAFETY SYSTEMS. (a) A fire department shall purchase, provide, and maintain a personal alert safety system for each of its fire protection personnel who would be exposed to hazardous conditions from fire or other emergencies or where the potential for such exposure exists.

(b) The personal alert safety system must comply with minimum standards of the National Fire Protection Association or its successor.

(c) The fire department shall develop and maintain a standard operating procedure covering the proper use, selection, care, and maintenance of all of its personal alert safety systems.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.56(a), eff. Sept. 1, 1989. Redesignated from Sec. 416.043 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 1241, Sec. 5, eff. Sept. 1, 2001.

Sec. 419.043. APPLICABLE NATIONAL FIRE PROTECTION ASSOCIATION STANDARD. The National Fire Protection Association standard applicable to protective clothing, self-contained breathing apparatus, or personal alert safety systems is the standard in effect when a fire-fighting agency contracts to purchase the item. The agency may continue to use an item that was in use or contracted for before a change in a standard unless the commission determines that the continued use constitutes an undue risk to the wearer, in which case the commission shall order the use be discontinued and shall set an appropriate date for compliance with the revised standard.

Added by Acts 2001, 77th Leg., ch. 1241, Sec. 6, eff. Sept. 1, 2001.

Sec. 419.044. INCIDENT MANAGEMENT SYSTEM. (a) A fire department shall develop and maintain an incident management system. The system shall include a written standard operating procedure for the management of emergency incidents. The system shall require operations to be conducted in a manner that recognizes hazards and prevents accidents and injuries.

(b) A fire department shall require all fire protection personnel to be trained in and to use the incident management system. The system shall also be applied to all drills, exercises, and other situations that involve hazards similar to those encountered at actual emergency incidents.

(c) The incident management system shall comply with the minimum standards established by the National Fire Protection

Association or its successor.

Added by Acts 2001, 77th Leg., ch. 1241, Sec. 7, eff. Sept. 1, 2001.

Sec. 419.045. PERSONNEL ACCOUNTABILITY SYSTEM. (a) A fire department shall develop and maintain a standard operating procedure for personnel accountability. The system shall provide a rapid accounting of all personnel at an emergency incident.

(b) A fire department shall require all personnel to be trained in and to use the personnel accountability system.

(c) The personnel accountability system shall comply with the minimum standards established by the National Fire Protection Association or its successor. If the National Fire Protection Association standard applicable to personnel accountability systems is revised, the fire department shall comply with the new standard within one year from the effective date of the new standard.

Added by Acts 2001, 77th Leg., ch. 1241, Sec. 8, eff. Sept. 1, 2001.

Sec. 419.046. FIRE PROTECTION PERSONNEL OPERATING AT EMERGENCY INCIDENTS. (a) A fire department shall develop, maintain, and use a standard operating procedure covering fire protection personnel operating at emergency incidents. The procedure shall specify an adequate number of personnel to safely conduct emergency scene operations. The procedure shall limit operations to those that can be safely performed by the personnel available at the scene.

(b) A fire department shall require all personnel to be trained in and to use the standard operating procedure pertaining to fire protection personnel operating at emergency incidents.

(c) The minimum standards established by the National Fire Protection Association or its successor for operating procedures for fire protection personnel operating at an emergency incident may be used as a guideline for fire departments when developing standard operating procedures.

(d) The standard operating procedures for structure fires shall comply with the Occupational Safety and Health Administration's Final Rule, 29 C.F.R. Section 1910.134(g)(4), procedures for interior structural fire fighting of July 1, 1998.

Added by Acts 2001, 77th Leg., ch. 1241, Sec. 9, eff. Sept. 1, 2001.

Sec. 419.047. COMMISSION ENFORCEMENT. The commission shall enforce Sections 419.040, 419.041, 419.042, 419.043, 419.044, 419.045, and 419.046. The commission may adopt minimum standards consistent with those sections for protective clothing, self-contained breathing apparatus, personal alert safety systems, incident management systems, personnel accountability systems, fire protection personnel operating at emergency incidents, and applicable National Fire Protection Association standards for fire protection personnel.

Added by Acts 2001, 77th Leg., ch. 1241, Sec. 10, eff. Sept. 1, 2001.

Sec. 419.048. FIRE PROTECTION PERSONNEL INJURY DATA; RECOMMENDATIONS TO REDUCE INJURIES. (a) Pursuant to Section 417.004, the commission and the commissioner of insurance, as necessary to allow the agencies to perform their statutory duties, shall transfer information between the two agencies, including injury information from the Texas Fire Incident Reporting System and workers' compensation data showing claims filed by fire protection personnel.

(b) Personally identifiable information received by the commission under this section relating to injured fire protection personnel is confidential. The commission may not release, and a person may not gain access to, any information that could reasonably be expected to reveal the identity of injured fire protection personnel.

(c) The commission shall evaluate information and data on fire protection personnel injuries and develop recommendations for reducing fire protection personnel injuries. The commission shall forward the recommendations to the state fire marshal not later than September 1 of each year for inclusion in the annual report required by Section 417.0075.

(d) The commission shall establish criteria for evaluating fire protection personnel injury information to determine the nature of injuries that the commission should investigate. Based on these investigations, the commission shall identify fire departments in

need of assistance in reducing injuries and may provide assistance to those fire departments.

Added by Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 22, eff. September 1, 2009.

SUBCHAPTER D. VOLUNTEER FIRE FIGHTERS AND FIRE DEPARTMENTS

Sec. 419.071. VOLUNTARY CERTIFICATION PROGRAM FOR VOLUNTEER FIRE FIGHTERS AND FIRE DEPARTMENTS. (a) The commission shall develop a voluntary certification program for volunteer fire fighters and volunteer fire departments. The program must include the same components and requirements as the certification program established under Subchapter B. The certification program for volunteer fire fighters and volunteer fire departments may take into account the different circumstances of volunteer fire fighters in establishing deadlines for completion of various components or requirements of the program.

(b) A certificate for a given type and level of certification that is issued under the certification program established under this section is equivalent to a certificate for the same type and level issued under Subchapter B. The certificate is subject to the same issuance and renewal requirements as a certificate issued under Subchapter B, and a certificate holder may be disciplined and regulated in the same manner as provided by Subchapter B.

(c) A volunteer fire fighter, volunteer fire department, or facility that provides training to volunteer fire fighters is not required to participate in any component of the commission's program under this chapter. A volunteer fire fighter, volunteer fire department, or facility that provides training to volunteer fire fighters may on request participate in one or more components of the program under this subchapter as appropriate. The volunteer fire department with which a volunteer fire fighter is affiliated may, but is not required to, pay the certificate fee for a volunteer fire fighter certified under this subchapter.

(d) At least 30 days before the expiration of a volunteer fire fighter's certificate, the commission shall send written notice of the impending certificate expiration to the last known address of the fire fighter according to the records of the commission.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 12, 13, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1172, Sec. 2.07, eff. Sept. 1, 1997.

Sec. 419.072. OBTAINING PAID EMPLOYMENT AS FIRE FIGHTER. (a) Notwithstanding anything to the contrary in Subchapter B, a fire department may appoint as fire protection personnel a volunteer fire fighter or former volunteer fire fighter who is certified by the commission under this subchapter. On receiving the appointment from the employing fire department, the person is considered to be certified fire protection personnel.

(b) In this section, "fire department" has the meaning assigned by Section 419.021.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 16, eff. Sept. 1, 1993. Renumbered from Government Code Sec. 419.075 and amended by Acts 1997, 75th Leg., ch. 1172, Sec. 2.07, eff. Sept. 1, 1997.

Sec. 419.073. INDIVIDUAL CERTIFICATE HOLDER; CERTIFICATE RENEWAL. (a) A volunteer fire fighter certified under this subchapter may continue to hold and renew the certificate without regard to whether the person continues to be affiliated with a volunteer fire department.

(b) A former volunteer fire fighter who is no longer affiliated with a volunteer fire department may renew an unexpired certificate before the expiration of the certificate by:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission the required renewal fee.

(c) If a person's certificate has been expired for 30 days or less, the person may renew the certificate by:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission the required renewal fee and a fee that is one-half of the certification fee for the certificate.

(d) If a person's certificate has been expired for longer than 30 days but less than one year, the person may renew the certificate by:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission all unpaid renewal fees and a fee that is equal to the certification fee.

(e) If a person's certificate has been expired for one year or longer, the person may not renew the certificate.

(f) The commission shall establish by rule the requirements evidence must meet to be considered satisfactory for the purpose of complying with this section.

(g) Notwithstanding any other law, the commission may by rule establish a procedure to recertify a person if:

(1) the person's certification has lapsed because of the person's good faith clerical error, including the person's failure to submit fees in a timely manner; or

(2) the person's certification has lapsed as a result of termination of the person's employment and the person has been restored to employment as a result of a disciplinary procedure.

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 2.07, eff. Sept. 1, 1997.

SUBCHAPTER E. PAID FIRE FIGHTERS AND FIRE DEPARTMENTS NOT CONNECTED WITH A LOCAL GOVERNMENT

Sec. 419.081. MANDATORY INSPECTION AND REGULATION OF CERTAIN STATE AGENCIES. (a) Each state agency providing fire protection shall furnish all of its employees who engage in fire fighting with self-contained breathing apparatus as provided by Section 419.041 for local fire departments.

(b) At least biennially, the commission shall visit and inspect each state agency providing fire protection to determine if the agency is complying with applicable portions of this chapter and commission rules.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991.

Sec. 419.082. TRAINING FOR STATE AGENCY FIRE FIGHTERS. The commission may allow a state agency employee who provides fire protection to attend fire protection training programs conducted under Subchapter B, including an employee who is not regulated under

Section 419.083. The commission may authorize reimbursement for a state agency's costs under this section as authorized by the legislature, whether or not the agency is regulated under Section 419.083.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991.

Sec. 419.083. VOLUNTARY REGULATION OF CERTAIN STATE OFFICIALS, STATE AGENCIES, AND STATE AGENCY EMPLOYEES. (a) Certain state officials, state agencies, and state agency employees may apply to the commission for regulation under one or more discrete components of the commission's regulatory authority under Subchapter B. The commission shall define the components by rule.

(b) A state agency employee who would be fire protection personnel under Section 419.021 if the person were employed by a local government, or who is employed full-time in the field of fire instruction or fire training evaluation and who meets the commission's training and experience requirements for fire protection personnel, may apply to the commission for regulation under this section. The fact that a state agency employee becomes regulated by the commission under this section does not make the employing agency subject to commission regulation under this section, except that the commission may require reports from the agency that relate to the employee. A state agency may pay an employee's fees under this subsection.

(c) A person who is elected to public office in state government and who holds a commission certificate at the time the person takes office may maintain the certificate by applying to the commission for regulation under this section and by paying the required renewal fee in accordance with Section 419.034. A person applying for regulation under this section must comply with continuing education requirements applicable to the discipline in which the certificate is held in order to maintain the certificate.

(d) A state agency may apply to the commission for regulation under this section if the agency is the employing authority for persons who, if employed by a local government, would be fire protection personnel under Section 419.021.

(e) The commission shall prescribe the procedures under which a state official, state agency, or agency employee may apply for

regulation under this section and the means by which the state official, state agency, or agency employee may present evidence that the official, agency, or employee is eligible for regulation under this section.

(f) The commission shall determine whether a state official, state agency, or agency employee that has applied for regulation is eligible for regulation under this section. The commission shall approve a request for regulation if the official, agency, or employee meets the requirements of Subsection (b), (c), or (d), and the commission shall notify the applying official, agency, or employee of its decision.

(g) A state official, state agency, or agency employee regulated under this section is subject to the appropriate component or components of Subchapter B and applicable rules adopted under this chapter to the same extent as a local government, a fire department, or fire protection personnel employed by a local government.

(h) A state agency or agency employee that is subject to regulation under this section is entitled to a reasonable period in which to comply with applicable requirements. The commission by rule shall determine the time period in which a state agency or agency employee must come into compliance with each requirement.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 17, eff. Sept. 1, 1993.

Sec. 419.084. VOLUNTARY REGULATION OF CERTAIN FEDERAL AGENCIES AND FEDERAL FIRE FIGHTERS. (a) Certain federal agencies and federal fire fighters may apply to the commission for regulation under one or more discrete components of the commission's regulatory authority under Subchapter B. The commission shall define the components by rule.

(b) A federal fire fighter who would be fire protection personnel under Section 419.021 if the person were employed by a local government may apply to the commission for regulation under this section. The fact that a federal fire fighter becomes regulated by the commission under this section does not make the employing agency subject to commission regulation under this section.

(c) A federal agency may apply to the commission for regulation

under this section if the agency is the employing authority for persons who, if employed by a local government, would be fire protection personnel under Section 419.021.

(d) The commission shall prescribe the procedures under which a federal agency or federal fire fighter may apply for regulation under this section and the means by which a federal agency or federal fire fighter may present evidence that the agency or fire fighter is eligible for regulation under this section.

(e) The commission shall determine whether a federal agency or federal fire fighter that has applied for regulation is eligible for regulation under this section. The commission shall approve a request for regulation if the agency or fire fighter meets the requirements of Subsection (b) or (c), and the commission shall notify the applying agency or fire fighter of its decision.

(f) A federal agency or federal fire fighter regulated under this section is subject, to the extent allowed by federal law, to the appropriate component or components of Subchapter B and applicable rules adopted under this chapter to the same extent as a local government, a fire department, or fire protection personnel employed by a local government.

(g) A federal agency or federal fire fighter that is subject to regulation under this section is entitled to a reasonable period in which to comply with applicable requirements. The commission by rule shall determine the time period in which a federal agency or federal fire fighter must come into compliance with each requirement.

(h) In this section, "federal fire fighter" means a person who is employed to provide fire protection to property of the federal government by:

(1) an agency of the federal government; or

(2) an entity that contracts with the federal government.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 18, eff. Sept. 1, 1993.

Sec. 419.085. VOLUNTARY REGULATION OF CERTAIN NONGOVERNMENTAL DEPARTMENTS. (a) A nongovernmental entity may apply to the commission for regulation under Subchapter B if:

(1) the entity is the employing authority for persons who,

if employed by a local government, would be fire protection personnel under Section 419.021; and

(2) at the time of application, those fire protection employees are employed to provide fire protection for an unincorporated area that:

(A) constitutes a rating territory established by the State Board of Insurance with a protected key rate assigned by the board; and

(B) has a population of more than 25,000.

(b) The commission shall prescribe the procedures under which a nongovernmental entity may apply for regulation under this section and the means by which it may present evidence that it is eligible for regulation under Subsection (a).

(c) The commission shall determine whether an entity that has applied for regulation under this section is eligible for regulation under Subsection (a). The commission shall approve a request for regulation if the entity meets the requirements of Subsection (a), and the commission shall notify the applying entity and the affected fire protection employees of its decision.

(d) A nongovernmental entity, department, and fire protection employee regulated under this section are subject to Subchapter B and applicable commission rules to the same extent that Subchapter B and applicable commission rules apply to a local government, a fire department, or fire protection personnel employed by a local government.

(e) A person, department, or other entity that is subject to regulation under this section is entitled to a reasonable period in which to comply with the requirements of Subchapter B and applicable commission rules. The commission by rule shall determine the time period in which a person, department, or other entity must come into compliance with each requirement.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991.

Sec. 419.086. ELIGIBILITY FOR CERTAIN TRAINING ASSISTANCE. If an entity or the employees of an entity are regulated under this subchapter so that as a consequence of the regulation a certification fee is paid to the commission on behalf of each employee of the entity who would be fire protection personnel under Section 419.021

if the employee were employed by a local government, the commission shall use the special account in the general revenue fund created under Section 419.026(d) to provide training assistance to the entity to the same extent that the commission provides training assistance to a fire department under Section 419.031.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991.

Sec. 419.087. MANDATORY REGULATION OF CERTAIN NONGOVERNMENTAL ORGANIZATIONS AND PERSONNEL. (a) In this section, "fire department," "fire protection personnel," and "local government" have the meanings assigned by Section 419.021.

(b) An organization that is not a local government, a department of a local government, or a state or federal agency is subject to regulation by the commission under Subchapter B if the organization:

(1) provides fire protection for a local government for profit under a contract or other agreement with the local government; and

(2) would be a fire department if it were a department of a local government.

(c) A person who is not an employee of a local government or of a state or federal agency is subject to regulation by the commission under Subchapter B if the person:

(1) provides fire protection for a local government under a contract or other agreement between the local government and either the person or an organization subject to regulation under Subsection (b); and

(2) would be fire protection personnel if employed by a local government.

(d) A person or organization that is subject to regulation by the commission under this section is subject to Subchapter B and applicable commission rules to the same extent that Subchapter B and applicable commission rules apply to a fire department or to fire protection personnel.

(e) The commission may create a separate certification class for persons regulated under this section.

(f) A local government which provided fire protection for its citizens utilizing a fire department and fire protection personnel as

of May 31, 1997, may not thereafter provide fire protection by utilizing an organization which is not a local government, a department of local government, or a state or federal agency and which provides fire protection for the local government for profit under a contract or other agreement with the local government without approval of a majority of the voters at an election called for that purpose.

Added by Acts 1993, 73rd Leg., ch. 912, Sec. 19, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1172, Sec. 1.13, eff. Sept. 1, 1997.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 419.902. COORDINATION WITH FIREMEN'S TRAINING SCHOOL. The commission and the director of the Texas Engineering Extension Service of The Texas A&M University System shall enter into a memorandum of understanding to coordinate the responsibilities of the commission with the training provided by the firemen's training school operated under Section 86.16, Education Code.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 1172, Sec. 1.14, eff. Sept. 1, 1997.

Sec. 419.903. COORDINATION WITH TEXAS FOREST SERVICE. The commission and the director of the Texas Forest Service shall enter into a memorandum of understanding to coordinate the provision of training assistance and other assistance to fire-fighting entities.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 1172, Sec. 1.14, eff. Sept. 1, 1997.

Sec. 419.904. TECHNICAL ASSISTANCE TO EMERGENCY SERVICES DISTRICTS. The commission may on request provide technical assistance to emergency services districts, including advice on the efficient and effective provision of fire protection within a district.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991. Amended by Acts 2003, 78th Leg., ch. 1204, Sec. 2.003, eff. Sept. 1, 2003.

Sec. 419.905. APPEAL OF COMMISSION DECISIONS. (a) A person dissatisfied with an action of the commission may appeal the action in accordance with Chapter 2001.

(b) The attorney general, the district or county attorney, or an assistant of one of these persons shall represent the commission in an appeal under this section.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), eff. Sept. 1, 1995.

Sec. 419.906. ADMINISTRATIVE AND CIVIL PENALTIES; INJUNCTION. (a) In addition to other penalties imposed by law, a person who violates this chapter or a rule adopted under this chapter is subject to an administrative penalty in an amount set by the commission not to exceed $1,000 for each violation. In addition to the administrative penalty, the person must pay costs incurred by the attorney general's office under this subsection. The administrative penalty shall be assessed in a proceeding conducted in accordance with Chapter 2001.

(b) The attorney general or the commission may institute a suit for an injunction to enforce this chapter. Venue for the suit is in a district court in Travis County. The court may also award the commission a civil penalty not to exceed $1,000 for each violation of this chapter or a rule adopted under this chapter, plus court costs, reasonable attorney fees, and costs incurred by the commission or the attorney general's office under this subsection.

(c) The commission may enter into a consent order or settlement agreement with any person under the commission's jurisdiction under this chapter or other law. The consent order or settlement agreement may include an agreement between the commission and the person under which the person will make restitution to a third party or pay a monetary penalty to the commission. The consent order or settlement agreement is valid and enforceable without regard to whether the

commission is authorized to order restitution or impose the monetary penalty under other law in the absence of the affected person's agreement.

(d) The commission may enter a default order if a fire department or training provider fails to take action to correct a violation found during an inspection conducted under this chapter or to request an informal settlement conference before the 61st day after the date the commission provides to the department or provider notice requiring the department or provider to correct the violation.

(e) Notwithstanding Section 419.0365, the commission may temporarily suspend a person's or regulated entity's certificate on a determination by a panel of the commission that continued activity by the person or entity would present an immediate threat to the public or to fire service trainees. The panel may hold a meeting for purposes of this subsection by teleconference call pursuant to Section 551.125. A person or regulated entity whose certificate is temporarily suspended under this subsection is entitled to a hearing before the commission not later than the 14th day after the date of the temporary suspension.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 20, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 23, eff. September 1, 2009.

Sec. 419.907. LOCATION OF OFFICES OF COMMISSION, STATE FIRE MARSHAL, AND TEXAS FOREST SERVICE. (a) To the extent feasible, the commission, the state fire marshal, and the Texas Forest Service shall colocate office space outside of Travis County used for related functions performed by the three entities.

(b) The commission, the commissioner of insurance, and the Texas Forest Service may enter into a memorandum of understanding to implement this section.

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 1.15, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.006, eff. September 1, 2013.

Sec. 419.908. COOPERATION WITH FEDERAL AND STATE ENTITIES IN A DISASTER. In a declared state of disaster under Section 418.014, the commission shall coordinate with appropriate state and federal agencies, including the governor's office of the homeland security and the Federal Emergency Management Agency.

Added by Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 24, eff. September 1, 2009.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1177, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 419.909. FIRE SAFETY INSPECTIONS. (a) Except as provided by Subsection (a-1), only an individual certified by the commission as a fire inspector may conduct a fire safety inspection required by a state or local law, rule, regulation, or ordinance. The following entities may provide training related to fire safety inspections:

(1) the commission or a training facility certified by the commission;

(2) the State Firefighters' and Fire Marshals' Association of Texas or a training facility approved by that association;

(3) any state agency with authority over fire safety inspections; or

(4) any local agency authorized to provide the training by a state agency described by Subdivision (3).

(a-1) Subject to Subsection (a-2), for purposes of conducting a fire safety inspection under Subsection (a), an individual is not required to be certified by the commission if:

(1) the individual:

(A) has completed a course of training on fire safety inspections offered by an entity described by Subsection (a) that complies with NFPA Standard 1031: Fire Inspector I, 2014 Edition, "Standard for Professional Qualifications for Fire Inspector and Plan Examiner," as published by the National Fire Protection Association;

(B) is:

(i) a member of a volunteer fire department; or

(ii) authorized to conduct fire safety inspections by a municipality in which an emergency services district is located if the municipality has adopted a fire safety code; and

(C) has not been convicted of an offense that involves family violence, as defined by Section 71.004, Family Code, or a felony; and

(2) the inspection is conducted in:

(A) a county with a population of less than 100,000; or

(B) a political subdivision of this state that employs fewer than five firefighters regulated by the commission.

(a-2) A volunteer fire department or a municipality described by Subsection (a-1)(1)(B)(ii) may obtain an individual's criminal history record information for use in conducting a criminal history background check before authorizing the individual to conduct fire safety inspections.

(b) A fire safety inspection required by a state or local law, rule, regulation, or ordinance must be conducted in accordance with:

(1) the most recent local fire code; or

(2) the most recent fire code adopted by the state fire marshal.

(c) This section does not apply to state agency personnel who conduct a life safety code survey of a building or facility in connection with determining whether to issue or renew a license under Chapter 142, 241, 242, 243, 244, 245, 247, 248, 251, 252, 464, 466, or 577, Health and Safety Code, or Chapter 103, Human Resources Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 994 (H.B. 3866), Sec. 1, eff. September 1, 2009.
Redesignated from Government Code, Section 419.908 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(17), eff. September 1, 2011.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1245 (H.B. 2446), Sec. 3, eff. June 14, 2019.

CHAPTER 420. SEXUAL ASSAULT PREVENTION AND CRISIS SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 420.001. SHORT TITLE. This chapter may be cited as the

Sexual Assault Prevention and Crisis Services Act.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991. Renumbered from Health and Safety Code Sec. 44.001 by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Sec. 420.002. PURPOSE. The purpose of this chapter is to promote the development throughout the state of locally based and supported nonprofit programs for the survivors of sexual assault and to standardize the quality of services provided.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991. Renumbered from Health and Safety Code Sec. 44.002 by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Sec. 420.003. DEFINITIONS. In this chapter:

(1) "Accredited crime laboratory" means a crime laboratory, as that term is defined by Article 38.35, Code of Criminal Procedure, that has been accredited under Article 38.01 of that code.

(1-a) "Active criminal case" means a case:

(A) in which:

(i) a sexual assault or other sex offense has been reported to a law enforcement agency;

(ii) physical evidence of the offense has been submitted to the agency or an accredited crime laboratory under this chapter for analysis; and

(iii) the agency documents that an offense has been committed and reported; and

(B) for which:

(i) the statute of limitations has not run with respect to the prosecution of the offense; or

(ii) a DNA profile was obtained that is eligible under Section 420.043 for comparison with DNA profiles in the state database or CODIS DNA database.

(1-b) "Advocate" means a person who provides advocacy services as an employee or volunteer of a sexual assault program.

(1-c) "Department" means the Department of Public Safety of the State of Texas.

(1-d) "Law enforcement agency" means a state or local law

enforcement agency in this state with jurisdiction over the investigation of a sexual assault or other sex offense.

(1-e) "Minimum services" means:

(A) a 24-hour crisis hotline;

(B) crisis intervention;

(C) public education;

(D) advocacy; and

(E) accompaniment to hospitals, law enforcement offices, prosecutors' offices, and courts.

(2) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1173, Sec. 17, eff. September 1, 2013.

(3) "Sex offense" means an offense under Chapter 21, Penal Code, for which biological evidence is collected in an evidence collection kit.

(4) "Sexual assault" means any act or attempted act as described by Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code.

(5) "Sexual assault examiner" means a person who uses an attorney general-approved evidence collection kit and protocol to collect and preserve evidence of a sexual assault or other sex offense.

(6) "Sexual assault nurse examiner" means a registered nurse who has completed an attorney general-approved examiner training course described by Section 420.011 and who is certified according to minimum standards prescribed by attorney general rule.

(7) "Sexual assault program" means any local public or private nonprofit corporation, independent of a law enforcement agency or prosecutor's office, that is operated as an independent program or as part of a municipal, county, or state agency and that provides the minimum services to adult survivors of stranger and non-stranger sexual assault.

(7-a) "State sexual assault coalition" means a statewide nonprofit organization that has been identified as a state sexual assault coalition by a state or federal agency authorized to make that designation.

(8) "Survivor" means an individual who is a victim of a sexual assault or other sex offense, regardless of whether a report or conviction is made in the incident.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991.

Amended by Acts 1997, 75th Leg., ch. 775, Sec. 1, eff. Sept. 1, 1997. Renumbered from Health and Safety Code Sec. 44.003 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 8.08, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.35, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 175 (S.B. 533), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 17, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1276 (S.B. 1287), Sec. 13, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 5, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 817 (H.B. 2462), Sec. 11, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 822 (H.B. 2706), Sec. 8, eff. September 1, 2021.

Sec. 420.004. ADMINISTRATION OF PROGRAM. The attorney general shall administer the Sexual Assault Prevention and Crisis Services Program and may delegate a power or duty given to the attorney general under this chapter to an employee in the attorney general's office.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991. Renumbered from Health and Safety Code Sec. 44.004 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 4, eff. September 1, 2013.

Sec. 420.005. GRANTS. (a) For purposes described by Section

420.008, the attorney general may award grants to sexual assault programs, state sexual assault coalitions, and other appropriate local and statewide programs and organizations related to sexual assault.

(b) The attorney general may by rule:

(1) determine eligibility requirements for any grant awarded under this chapter;

(2) require a grant recipient to offer minimum services for not less than nine months before receiving a grant and to continue to offer minimum services during the grant period; and

(3) require a grant recipient to submit financial and programmatic reports.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1173, Sec. 17, eff. September 1, 2013.

(d) This section does not prohibit a grant recipient from offering any additional service, including a service for sexual assault offenders.

(e) A grant is governed by Chapter 783 and rules adopted under that chapter.

(f) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1173, Sec. 17, eff. September 1, 2013.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991. Renumbered from Health and Safety Code Sec. 44.005 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1206 (H.B. 1751), Sec. 4, eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 5, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 17, eff. September 1, 2013.

Sec. 420.006. SPECIAL PROJECTS. The attorney general may consult and contract with or award grants to entities described by Section 420.005(a) for special projects to prevent sexual assault and improve services to survivors.

Added by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 6, eff. September 1, 2013.

Sec. 420.007. FUNDING. (a) The attorney general may receive grants, gifts, or appropriations of money from the federal government, the state legislature, or private sources to finance the grant program created by this chapter.

(b) The attorney general may not use more than 15 percent of the annual legislative appropriation to the attorney general under Section 420.008(c)(1) for the administration of this chapter.

(c) The sexual assault prevention and crisis services fund is a special account in the general revenue fund. Money deposited to the credit of the fund may be used only as provided by this subchapter and is not available for any other purpose.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991. Renumbered from Health and Safety Code Sec. 44.006 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 7, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 420.008. SEXUAL ASSAULT PROGRAM FUND. (a) The sexual assault program fund is a special account in the general revenue fund.

(b) The fund consists of:

(1) fees and fines collected under:

(A) Article 42A.653(a), Code of Criminal Procedure;

(B) Section 508.189, Government Code; and

(C) Subchapter B, Chapter 102, Business & Commerce Code, and deposited under Section 102.054 of that code;

(2) administrative penalties collected under Section 51.258, Education Code; and

Text of subdivision as added by Acts 2023, 88th Leg., R.S., Ch. 190 (H.B. 3345), Sec. 2

(3) amounts allocated under Section 183.054, Tax Code

Text of subdivision as added by Acts 2023, 88th Leg., R.S., Ch. 858 (H.B. 3461), Sec. 14

(3) interest and other earnings on money in the fund.

(c) The legislature may appropriate money deposited to the credit of the fund only to:

(1) the attorney general, for:

(A) sexual violence awareness and prevention campaigns;

(B) grants to faith-based groups, independent school districts, and community action organizations for programs for the prevention of sexual assault and programs for victims of human trafficking;

(C) grants for equipment for sexual assault nurse examiner programs, to support the preceptorship of future sexual assault nurse examiners, and for the continuing education of sexual assault nurse examiners;

(D) grants to increase the level of sexual assault services in this state;

(E) grants to support victim assistance coordinators;

(F) grants to support technology in rape crisis centers;

(G) grants to and contracts with a statewide nonprofit organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code of 1986, having as a primary purpose ending sexual violence in this state, for programs for the prevention of sexual violence, outreach programs, and technical assistance to and support of youth and rape crisis centers working to prevent sexual violence;

(H) grants to regional nonprofit providers of civil legal services to provide legal assistance for sexual assault victims;

(I) grants to prevent sex trafficking and to provide services for victims of sex trafficking; and

(J) grants to carry out the purpose of this chapter, including standardizing the quality of services provided, preventing sexual assault, and improving services to survivors of sexual assault;

(2) the Department of State Health Services, to measure the prevalence of sexual assault in this state and for grants to support programs assisting victims of human trafficking;

(3) the Institute on Domestic Violence and Sexual Assault or the Bureau of Business Research at The University of Texas at Austin, to conduct research on all aspects of sexual assault and domestic violence;

(4) Texas State University, for training and technical assistance to independent school districts for campus safety;

(5) the office of the governor, for grants to support sexual assault and human trafficking prosecution projects;

(6) the department, to support sexual assault training for commissioned officers;

(7) the comptroller's judiciary section, for increasing the capacity of the sex offender civil commitment program;

(8) the Texas Department of Criminal Justice:

(A) for pilot projects for monitoring sex offenders on parole; and

(B) for increasing the number of adult incarcerated sex offenders receiving treatment;

(9) the Texas Juvenile Justice Department, for increasing the number of incarcerated juvenile sex offenders receiving treatment;

(10) the comptroller, for the administration of the fee imposed on sexually oriented businesses under Section 102.052, Business & Commerce Code;

(11) the supreme court, to be transferred to the Texas Access to Justice Foundation, or a similar entity, to provide victim-related legal services to sexual assault victims, including legal assistance with protective orders, relocation-related matters, victim compensation, and actions to secure privacy protections available to victims under law;

(12) any state agency or organization for the purpose of conducting human trafficking enforcement programs; and

(13) any other designated state agency for the purpose of preventing sexual assault or improving services for victims of sexual assault.

Added by Acts 1993, 73rd Leg., ch. 805, Sec. 12, eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.18, eff. Sept. 1, 1997. Renumbered from Health and Safety Code Sec. 44.0061 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1206 (H.B. 1751), Sec. 5, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 11.004, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 14, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 95, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.44, eff. January 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 958 (S.B. 212), Sec. 3, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 4.33, eff. January 1, 2020.

Acts 2023, 88th Leg., R.S., Ch. 190 (H.B. 3345), Sec. 2, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 858 (H.B. 3461), Sec. 14, eff. September 1, 2023.

Text of section as amended by Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 8

For text of section as amended by Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 30, see other Sec. 420.009.

Sec. 420.009. REPORT. Not later than December 10 of each even-numbered year, the attorney general shall publish a report regarding grants awarded under this chapter. The report must analyze the effectiveness of the grants and include information on the expenditure of funds authorized by this chapter, the services provided, the number of persons receiving services, and any other information relating to the provision of sexual assault services. A copy of the report shall be submitted to the governor, lieutenant governor, speaker of the house of representatives, Legislative Budget Board, Senate Committee on Health and Human Services or its successor committee, and House Committee on Human Services or its successor committee.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991. Renumbered from Health and Safety Code Sec. 44.007 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.

Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 8, eff. September 1, 2013.

Text of section as amended by Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 30

For text of section as amended by Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 8, see other Sec. 420.009.

Sec. 420.009. REPORT. The attorney general shall publish a report on the service not later than December 10 of each year. The report must summarize reports from programs receiving grants from the attorney general, analyze the effectiveness of the grants, and include information on the expenditure of funds authorized by this chapter, the services provided, the number of persons receiving services, and any other information relating to the provision of sexual assault services. A copy of the report shall be submitted to the governor, lieutenant governor, speaker of the house of representatives, Legislative Budget Board, Senate Committee on Health and Human Services or its successor committee, and House Committee on Human Services or its successor committee.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991.
Renumbered from Health and Safety Code Sec. 44.007 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 30, eff. September 1, 2013.

Sec. 420.010. CONFIDENTIALITY. The attorney general may not disclose any information received from reports, collected case information, or site-monitoring visits that would identify a person working at or receiving services from a sexual assault program.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991.
Renumbered from Health and Safety Code Sec. 44.008 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 9, eff.

September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 47, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 420.011. CERTIFICATION BY ATTORNEY GENERAL; RULES. (a) The attorney general may adopt rules necessary to implement this chapter. A proposed rule must be provided to grant recipients at least 60 days before the date of adoption.

(b) The attorney general shall adopt rules establishing minimum standards for the certification of a sexual assault training program and the renewal of that certification by the program. The certification is valid for two years from the date of issuance. The attorney general shall also adopt rules establishing minimum standards for the suspension, decertification, or probation of a training program that violates this chapter.

(c) The attorney general shall adopt rules establishing minimum standards for the certification of a sexual assault nurse examiner and the renewal of that certification by the nurse examiner, including standards for examiner training courses and for the interstate reciprocity of sexual assault nurse examiners. The certification is valid for two years from the date of issuance. The attorney general shall also adopt rules establishing minimum standards for the suspension, decertification, or probation of a sexual assault nurse examiner who violates this chapter.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991. Renumbered from Health and Safety Code Sec. 44.009 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 175 (S.B. 533), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 10, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 11, eff. September 1, 2013.

Sec. 420.012. CONSULTATIONS. In implementing this chapter, the

attorney general shall consult with:

(1) state sexual assault coalitions;

(2) state agencies, task forces, and councils that have duties relating to the prevention, investigation, or prosecution of sexual assault or other sex offenses or services provided to survivors;

(3) forensic science experts; and

(4) individuals and organizations having knowledge and experience relating to the issues of sexual assault and other sex offenses.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 13, eff. Sept. 1, 1991. Renumbered from Health and Safety Code Sec. 44.010 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 411 (H.B. 1590), Sec. 1, eff. June 4, 2019.

Sec. 420.013. DEPOSIT BY COMPTROLLER; AUDIT. (a) The comptroller shall deposit any money received under this subchapter and any money credited to the Sexual Assault Prevention and Crisis Services Program by another law in the sexual assault prevention and crisis services fund.

(b) The sexual assault prevention and crisis services fund is subject to audit by the comptroller. Money expended from the fund is subject to audit by the state auditor.

Added by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 12, eff. September 1, 2013.

Sec. 420.014. ATTORNEY GENERAL SUPERVISION OF COLLECTION OF COSTS; FAILURE TO COMPLY. (a) If the attorney general reasonably believes that a court or a community supervision office has not properly assessed or made a reasonable effort to collect costs due under Chapter 42A, Code of Criminal Procedure, or Chapter 508, Government Code, the attorney general shall send a warning letter to the court or the governing body of the governmental unit in which the

court is located.

(b) Not later than the 60th day after the receipt of a warning letter, the court or governing body shall respond in writing to the attorney general specifically addressing the charges in the warning letter.

(c) If the court or governing body does not respond or if the attorney general considers the response inadequate, the attorney general may request the comptroller to audit the records of:

(1) the court;

(2) the community supervision office;

(3) the officer charged with collecting the costs; or

(4) the treasury of the governmental unit in which the court is located.

(d) The comptroller shall provide the attorney general with the results of the audit.

(e) If the attorney general finds from available evidence that a court or a community supervision office has not properly assessed or made a reasonable effort to collect costs due under Chapter 42A, Code of Criminal Procedure, or Chapter 508, Government Code, the attorney general may:

(1) refuse to award grants under this subchapter to residents of the jurisdiction served by the court or community supervision office; or

(2) in the case of a court, notify the State Commission on Judicial Conduct of the findings.

(f) The failure, refusal, or neglect of a judicial officer to comply with a requirement of this subchapter constitutes official misconduct and is grounds for removal from office.

Added by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.45, eff. January 1, 2017.

Sec. 420.015. ASSESSMENT OF SEXUALLY ORIENTED BUSINESS REGULATIONS. The legislature may appropriate funds for a third-party assessment of the sexually oriented business industry in this state and provide recommendations to the legislature on how to further regulate the growth of the sexually oriented business industry in

this state.

Added by Acts 2007, 80th Leg., R.S., Ch. 1206 (H.B. 1751), Sec. 6, eff. January 1, 2008.

SUBCHAPTER B. COLLECTION, PRESERVATION, AND TRACKING OF EVIDENCE OF SEX OFFENSE

Sec. 420.031. EVIDENCE COLLECTION PROTOCOL; KITS. (a) The attorney general shall develop and distribute to law enforcement agencies and proper medical personnel an evidence collection protocol that shall include collection procedures and a list of requirements for the contents of an evidence collection kit for use in the collection and preservation of evidence of a sexual assault or other sex offense. Medical or law enforcement personnel collecting evidence of a sexual assault or other sex offense shall use an attorney general-approved evidence collection kit and protocol.

(b) An evidence collection kit must contain items to collect and preserve evidence of a sexual assault or other sex offense and other items determined necessary for the kit by the attorney general.

(c) In developing the evidence collection kit and protocol, the attorney general shall consult with the individuals and organizations listed in Section 420.012.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1037 (H.B. 616), Sec. 8(3), eff. September 1, 2019.

(e) Evidence collected under this section may not be released unless a signed, written consent to release the evidence is obtained as provided by Section 420.0735.

(f) Failure to comply with evidence collection procedures or requirements adopted under this section does not affect the admissibility of the evidence in a trial of the offense.

Added by Acts 1991, 72nd Leg., ch. 143, Sec. 1, eff. Aug. 26, 1991. Renumbered from Health and Safety Code Sec. 44.031 and amended by Acts 1997, 75th Leg., ch. 784, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 3, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 13, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 411 (H.B. 1590), Sec. 2, eff.

June 4, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1037 (H.B. 616), Sec. 8(3), eff. September 1, 2019.

Sec. 420.032. PHOTO DOCUMENTATION REQUIRED FOR CHILD VICTIMS IN CERTAIN COUNTIES. (a) In this section:

(1) "Child" has the meaning assigned by Section 101.003, Family Code.

(2) "Medical professional" has the meaning assigned by Section 91.001, Family Code.

(3) "Photo documentation" means video or photographs of a child alleged to be the victim of a sexual assault that are taken with a colposcope or other magnifying camera during the forensic portion of a medical examination of the child.

(b) In a county with a population of three million or more, the forensic portion of a medical examination of a child alleged to be the victim of a sexual assault must include the production of photo documentation unless the medical professional examining the child determines that good cause for refraining from producing photo documentation exists.

(c) The photo documentation must include images of the child's anogenital area and any signs of injury apparent on the body of the child.

(d) If photo documentation is not produced, the medical professional conducting the forensic portion of the medical examination shall document in the child's medical records the reason photo documentation was not produced.

(e) The fact that the medical professional examining the child did not produce photo documentation in the forensic portion of a medical examination of a child alleged to be the victim of a sexual assault and the reasons behind the lack of photo documentation are admissible at the trial of the alleged sexual assault, but the lack of photo documentation will not affect the admissibility of other evidence in the case.

Added by Acts 2005, 79th Leg., Ch. 180 (H.B. 546), Sec. 1, eff. May 27, 2005.

Sec. 420.033. CHAIN OF CUSTODY. Medical, law enforcement, department, and laboratory personnel who handle evidence of a sexual assault or other sex offense under this chapter or other law shall maintain the chain of custody of the evidence from the time the evidence is collected until the time the evidence is destroyed.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 4, eff. September 1, 2011.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 6, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 608, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 420.034. STATEWIDE ELECTRONIC TRACKING SYSTEM. (a) For purposes of this section, "evidence" means evidence collected during the investigation of a sexual assault or other sex offense, including:

(1) evidence from an evidence collection kit used to collect and preserve evidence of a sexual assault or other sex offense; and

(2) other biological evidence of a sexual assault or other sex offense.

(b) The department shall develop and implement a statewide electronic tracking system for evidence collected in relation to a sexual assault or other sex offense.

(c) The tracking system must:

(1) include the evidence collection kit and any other items collected during the forensic medical examination in relation to a sexual assault or other sex offense and submitted for a laboratory analysis that is necessary to identify the offender or offenders, regardless of whether the evidence is collected in relation to an individual who is alive or deceased;

(2) track the location and status of each item of evidence through the criminal justice process, including the initial collection of the item of evidence in a forensic medical examination, receipt and storage of the item of evidence at a law enforcement agency, receipt and analysis of the item of evidence at an accredited

crime laboratory, and storage and destruction of the item of evidence after the item is analyzed;

(3) allow a facility or entity performing a forensic medical examination of a survivor, law enforcement agency, accredited crime laboratory, prosecutor, or other entity providing a chain of custody for an item of evidence to update and track the status and location of the item; and

(4) allow a survivor to anonymously track or receive updates regarding the status and location of each item of evidence collected in relation to the offense.

(d) The department shall require participation in the tracking system by any facility or entity that collects evidence of a sexual assault or other sex offense or investigates or prosecutes a sexual assault or other sex offense for which evidence has been collected.

(e) Records entered into the tracking system are confidential and are not subject to disclosure under Chapter 552. Records relating to evidence tracked under the system may be accessed only by:

(1) the survivor from whom the evidence was collected; or

(2) an employee of a facility or entity described by Subsection (d), for purposes of updating or tracking the status or location of an item of evidence.

(f) An employee of the department or a facility or entity described by Subsection (d) may not disclose to a parent or legal guardian of a survivor information that would aid the parent or legal guardian in accessing records relating to evidence tracked under the system if the employee knows or has reason to believe that the parent or legal guardian is a suspect or a suspected accomplice in the commission of the offense with respect to which evidence was collected.

(g) To assist in establishing and maintaining the statewide electronic tracking system under this section, the department may accept gifts, grants, or donations from any person or entity.

(h) Not later than December 1 of each year, the department shall submit a report to the governor, lieutenant governor, speaker of the house of representatives, and members of the legislature identifying the number of evidence collection kits that have not yet been submitted for laboratory analysis or for which the laboratory analysis has not yet been completed, as applicable. The annual report must be titled "Statewide Electronic Tracking System Report" and must

be posted on the department's publicly accessible Internet website.

Added by Acts 2017, 85th Leg., R.S., Ch. 1137 (H.B. 281), Sec. 2, eff. September 1, 2017.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 817 (H.B. 2462), Sec. 12, eff. September 1, 2021.
Acts 2021, 87th Leg., R.S., Ch. 817 (H.B. 2462), Sec. 13, eff. September 1, 2021.

Sec. 420.035. EVIDENCE RELEASE. (a) If a health care facility or other entity that performs a medical examination to collect evidence of a sexual assault or other sex offense receives signed, written consent to release the evidence as provided by Section 420.0735, the facility or entity shall:

(1) promptly notify any law enforcement agency investigating the offense; and

(2) not later than two business days after the date the examination is performed, enter the identification number of the evidence collection kit into the statewide electronic tracking system under Section 420.034.

(b) Except as provided by Subsection (c), a law enforcement agency that receives notice from a health care facility or other entity under Subsection (a) shall take possession of the evidence not later than the seventh day after the date the law enforcement agency receives notice.

(c) A law enforcement agency that receives notice from a health care facility or other entity that is located more than 100 miles from the law enforcement agency shall take possession of the evidence not later than the 14th day after the date the law enforcement agency receives notice.

(d) Failure to comply with evidence collection procedures or requirements under this section does not affect the admissibility of the evidence in a trial of the offense.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 7, eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 817 (H.B. 2462), Sec. 14, eff. September 1, 2021.

Sec. 420.036. DUTY TO ENTER CERTAIN INFORMATION INTO VIOLENT CRIMINAL APPREHENSION PROGRAM DATABASE. (a) In this section, "database" means the national database of the Violent Criminal Apprehension Program established and maintained by the Federal Bureau of Investigation, or a successor database.

(b) Each law enforcement agency in this state shall request access from the Federal Bureau of Investigation to enter information into the database.

(c) A law enforcement agency that investigates a sexual assault or other sex offense shall enter into the database the following information regarding the investigation of the sexual assault or other sex offense, as available:

(1) the suspect's name and date of birth;

(2) the specific offense being investigated;

(3) a description of the manner in which the offense was committed, including any pattern of conduct occurring during the course of multiple offenses suspected to have been committed by the suspect; and

(4) any other information required by the Federal Bureau of Investigation for inclusion in the database.

(d) Information entered into the database under this section is excepted from required disclosure under Chapter 552 in the manner provided by Section 552.108.

Added by Acts 2019, 86th Leg., R.S., Ch. 297 (H.B. 3106), Sec. 2, eff. September 1, 2019.
Redesignated from Government Code, Section 420.035 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(28), eff. September 1, 2021.

SUBCHAPTER B-1. ANALYSIS OF EVIDENCE OF SEXUAL ASSAULT OR OTHER SEX OFFENSE

Sec. 420.041. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to physical evidence of a sexual assault or other sex offense that is collected with respect to an active criminal case.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 5, eff. September 1, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 8, eff. September 1, 2019.

Sec. 420.042. ANALYSIS OF EVIDENCE. (a) A law enforcement agency that receives evidence of a sexual assault or other sex offense that is collected under this chapter or other law shall submit that evidence to a public accredited crime laboratory for analysis not later than the 30th day after the date on which that evidence was received.

(b) Repealed by Acts 2021, 87th Leg., R.S., Ch. 817 (H.B. 2462), Sec. 17, eff. September 1, 2021.

(c) If sufficient personnel and resources are available, a public accredited crime laboratory, as soon as practicable but not later than the 90th day after the date on which the laboratory received the evidence, shall complete its analysis of evidence of a sexual assault or other sex offense that is submitted under this chapter or other law.

(c-1) With respect to a criminal case in which evidence of a sexual assault or other sex offense is collected and the number of offenders is uncertain or unknown, a public accredited crime laboratory shall analyze any evidence of the sexual assault or other sex offense submitted to the laboratory under this chapter or other law that is necessary to identify the offender or offenders.

(d) To ensure the expeditious completion of analyses, the department and other applicable public accredited crime laboratories may contract with private accredited crime laboratories as appropriate to perform those analyses, subject to the necessary quality assurance reviews by the public accredited crime laboratories.

(e) The failure of a law enforcement agency to take possession of evidence of a sexual assault or other sex offense within the period required by Section 420.035 or to submit that evidence within the period required by this section does not affect the authority of:

(1) the agency to take possession of the evidence;

(2) the agency to submit the evidence to an accredited crime laboratory for analysis;

(3) an accredited crime laboratory to analyze the evidence or provide the results of that analysis to appropriate persons; or

(4) the department or a public accredited crime laboratory authorized under Section 420.043(b) to compare the DNA profile obtained from the biological evidence with DNA profiles in the databases described by Section 420.043(a).

(f) Failure to comply with the requirements under this section does not affect the admissibility of the evidence in a trial of the offense.

(g) A law enforcement agency that fails to submit evidence of a sexual assault or other sex offense to a public accredited crime laboratory within the period required by this section shall provide to the department written documentation of the failure, including a detailed explanation for the failure. The agency shall submit the documentation required by this subsection on or before the 30th day after the date on which the agency discovers that the evidence was not submitted within the period required by this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 5, eff. September 1, 2011.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 8, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 817 (H.B. 2462), Sec. 15, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 817 (H.B. 2462), Sec. 17, eff. September 1, 2021.

Sec. 420.043. DATABASE COMPARISON REQUIRED. (a) Not later than the 30th day after the date an evidence collection kit containing biological evidence has been analyzed by an accredited crime laboratory and any necessary quality assurance reviews have been performed, except as provided by Subsection (b), the department shall compare the DNA profile obtained from the biological evidence with DNA profiles maintained in:

(1) state databases, including the DNA database maintained under Subchapter G, Chapter 411, if the amount and quality of the analyzed sample meet the requirements of the state database comparison policies; and

(2) the CODIS DNA database established by the Federal Bureau of Investigation, if the amount and quality of the analyzed

sample meet the requirements of the bureau's CODIS comparison policies.

(a-1) An accredited crime laboratory that submits a DNA profile to the department to perform the comparison required under Subsection (a) shall monitor the accredited crime laboratory's database for any matches between the DNA profile submitted to the department and the DNA profiles contained in the databases described by Subsections (a)(1) and (2). For purposes of Section 420.0431, the date on which a match is displayed in an accredited crime laboratory's database is considered written notification of a match.

(b) If the evidence kit containing biological evidence is analyzed by a public accredited crime laboratory, the laboratory, instead of the department, may perform the comparison of DNA profiles required under Subsection (a) provided that:

(1) the laboratory performs the comparison not later than the 30th day after the date the analysis is complete and any necessary quality assurance reviews have been performed;

(2) the law enforcement agency that submitted the evidence collection kit containing biological evidence gives permission; and

(3) the laboratory meets applicable federal and state requirements to access the databases described by Subsection (a).

(c) The department may use appropriated funds to employ personnel and purchase equipment and technology necessary to comply with the requirements of this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 5, eff. September 1, 2011.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 8, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 884 (H.B. 4628), Sec. 1, eff. September 1, 2023.

Sec. 420.0431. DUTIES FOLLOWING DATABASE DNA MATCH. (a) If a match that may assist in the investigation of a criminal case is identified under Section 420.043 between biological evidence contained in an evidence collection kit and a DNA profile contained in a database described by Subsection (a)(1) or (2) of that section, on request of the accredited crime laboratory that performed the

analysis of the evidence collection kit, a law enforcement agency that submitted the evidence collection kit to the crime laboratory shall, not later than the fifth business day after the date the request is made, provide any additional information requested by the crime laboratory concerning the match.

(b) Not later than the 60th business day after the crime laboratory receives written notification that a match that may aid in the investigation of a criminal case has been identified under Section 420.043 between biological evidence contained in an evidence collection kit and a DNA profile contained in a database described by Subsection (a)(1) or (2) of that section, written notification must be provided to the law enforcement agency that submitted the evidence collection kit of:

(1) any case-to-case match that may assist in the investigation of a criminal case; and

(2) any verified match that identifies a suspect or offender.

(c) Verification of a match identifying an offender under Subsection (b)(2) may be expedited in cases involving a significant public safety concern.

(d) Not later than the fifth business day after receiving a notification under Subsection (b)(1), the law enforcement agency shall acknowledge receipt of the notification.

(e) Not later than the 30th business day after the date a law enforcement agency receives a notification of a verified match under Subsection (b)(2), the law enforcement agency shall attempt to collect a DNA sample from an identified suspect or offender and submit the sample to an accredited crime laboratory for analysis.

Added by Acts 2023, 88th Leg., R.S., Ch. 884 (H.B. 4628), Sec. 2, eff. September 1, 2023.

Sec. 420.0432. SURVIVOR NOTIFICATION CONCERNING DATABASE DNA MATCH. (a) If, with respect to a sexual assault or other sex offense, a match is identified under Section 420.043 between biological evidence contained in an evidence collection kit and a DNA profile contained in a database described by Subsection (a)(1) or (2) of that section, the law enforcement agency with jurisdiction over the offense shall, not later than the fifth business day after the

law enforcement agency receives notification of the match, notify the survivor, as applicable, of:

(1) the match, if disclosing the match would not interfere with the investigation or prosecution of the offense; or

(2) the estimated date on which the match is expected to be disclosed, if disclosing the match would interfere with the investigation or prosecution of the offense.

(b) If a law enforcement agency is unable to notify a survivor under Subsection (a) within the period required by that subsection, the agency shall continue to make reasonable efforts to notify the survivor.

Added by Acts 2023, 88th Leg., R.S., Ch. 884 (H.B. 4628), Sec. 2, eff. September 1, 2023.

Sec. 420.044. GRANT FUNDS. The department shall apply for any available federal grant funds applicable to the analysis of evidence collection kits containing biological evidence, including grant money available under the National Institute of Justice's DNA Capacity Enhancement and Backlog Reduction Program.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 8, eff. September 1, 2019.

Sec. 420.046. NONCOMPLIANCE. Failure to comply with the requirements of Subchapter B or this subchapter may be used to determine eligibility for receiving grant funds from the department, the office of the governor, or another state agency.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 8, eff. September 1, 2019.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 817 (H.B. 2462), Sec. 16, eff. September 1, 2021.

SUBCHAPTER C. ADVOCATES FOR SURVIVORS OF SEXUAL ASSAULT

Sec. 420.051. ADVOCATES FOR SURVIVORS OF SEXUAL ASSAULT. An individual may act as an advocate for survivors of sexual assault for

the purposes of Subchapter H, Chapter 56A, Code of Criminal Procedure, if the individual has completed a sexual assault training program certified by the attorney general and is an employee or volunteer of a sexual assault program.

Added by Acts 1997, 75th Leg., ch. 775, Sec. 2, eff. Sept. 1, 1997, as Sec. 44.051 Health and Safety Code.
Renumbered from Health and Safety Code, Section 44.051 by Acts 2007, 80th Leg., Ch. 921 (H.B. 3167), Sec. 17.001, eff. September 9, 2007.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 14, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.45, eff. January 1, 2021.

SUBCHAPTER D. CONFIDENTIAL COMMUNICATIONS AND RECORDS

Sec. 420.071. CONFIDENTIAL COMMUNICATIONS AND RECORDS; PRIVILEGE. (a) Any communication, including an oral or written communication, between an advocate and a survivor that is made in the course of advising, counseling, or assisting the survivor is confidential.

(b) Any record created by, provided to, or maintained by an advocate is confidential if the record relates to the services provided to a survivor or contains the identity, personal history, or background information of the survivor or information concerning the victimization of the survivor.

(c) In any civil, criminal, administrative, or legislative proceeding, subject to Section 420.072, a survivor has a privilege to refuse to disclose and to prevent another from disclosing, for any purpose, a communication or record that is confidential under this section.

(c-1) Except as provided by this subsection, the unauthorized disclosure of a portion of a confidential communication or record does not constitute a waiver of the privilege provided by Subsection (c). If a portion of a confidential communication or record is disclosed, a party to the relevant court or administrative proceeding may make a motion requesting that the privilege be waived with respect to the disclosed portion. The court or administrative hearing officer, as applicable, may determine that the privilege has

been waived only if:

(1) the disclosed portion is relevant to a disputed matter at the proceeding; and

(2) waiver is necessary for a witness to be able to respond to questioning concerning the disclosed portion.

(d) This subchapter governs a confidential communication or record concerning a survivor regardless of when the survivor received the services of an advocate or sexual assault program.

Added by Acts 1997, 75th Leg., ch. 775, Sec. 2, eff. Sept. 1, 1997, as Sec. 44.071, Health and Safety Code.
Renumbered from Health and Safety Code, Section 44.071 by Acts 2007, 80th Leg., Ch. 921 (H.B. 3167), Sec. 17.001, eff. September 9, 2007.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 513 (S.B. 295), Sec. 2, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 513 (S.B. 295), Sec. 3, eff. September 1, 2021.

Sec. 420.072. DISCLOSURE OF CONFIDENTIAL COMMUNICATION OR RECORD. (a) A communication or record that is confidential under Section 420.071 may only be disclosed if:

(1) the communication or record is relevant to the claims or defense of an advocate or sexual assault program in a proceeding brought by the survivor against the advocate or program;

(2) the survivor has waived the privilege established under Section 420.071(c) with respect to the communication or record;

(3) the survivor or other appropriate person consents in writing to the disclosure as provided by Section 420.073;

(4) an advocate determines that, unless the disclosure is made, there is a probability of:

(A) imminent physical danger to any person; or

(B) immediate mental or emotional injury to the survivor;

(5) the disclosure is necessary:

(A) to comply with:

(i) Chapter 261, Family Code; or

(ii) Chapter 48, Human Resources Code; or

(B) for a management audit, a financial audit, a

program evaluation, or research, except that a report of the audit, evaluation, or research may not directly or indirectly identify a survivor;

(6) the disclosure is made to an employee or volunteer of the sexual assault program after an advocate or a person under the supervision of a counseling supervisor who is participating in the evaluation or counseling of or the provision of services to the survivor determines that the disclosure is necessary to facilitate the provision of services to the survivor; or

(7) the communication or record is in the possession, custody, or control of the state and a court, after conducting an in camera review of the communication or record, determines the communication or record is exculpatory, provided that the disclosure is limited to the specific portion of the communication or record that was determined to be exculpatory in relation to a defendant in a criminal case.

(b) Regardless of whether written consent has been given by a parent or legal guardian under Section 420.073(a), a person may not disclose a communication or record that is confidential under Section 420.071 to a parent or legal guardian of a survivor who is a minor or to a guardian appointed under Title 3, Estates Code, of an adult survivor, if applicable, if the person knows or has reason to believe that the parent or guardian of the survivor is a suspect or accomplice in the sexual assault of the survivor.

(c) Notwithstanding Subsections (a) and (b), the Texas Rules of Evidence govern the disclosure of a communication or record that is confidential under Section 420.071 in a criminal or civil proceeding by an expert witness who relies on facts or data from the communication or record to form the basis of the expert's opinion.

Added by Acts 1997, 75th Leg., ch. 775, Sec. 2, eff. Sept. 1, 1997, as Sec. 44.072, Health and Safety Code.
Renumbered from Health and Safety Code, Section 44.072 by Acts 2007, 80th Leg., Ch. 921 (H.B. 3167), Sec. 17.001, eff. September 9, 2007.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.002(3), eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 6, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1329 (H.B. 4531), Sec. 3, eff.

September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 513 (S.B. 295), Sec. 4, eff. September 1, 2021.

Sec. 420.073. CONSENT FOR RELEASE OF CERTAIN CONFIDENTIAL INFORMATION. (a) Consent for the release of confidential information other than evidence contained in an evidence collection kit must be in writing and signed by the survivor, a parent or legal guardian if the survivor is a minor, an attorney ad litem appointed for the survivor, or a personal representative if the survivor is deceased. The written consent must specify:

(1) the information or records covered by the release;

(2) the reason or purpose for the release;

(3) the person to whom the information is to be released; and

(4) a reasonable time limitation during which the information or records may be released.

(b) A survivor or other person authorized to consent may withdraw consent to the release of information by submitting a written notice of withdrawal to the person or sexual assault program to which consent was provided. Withdrawal of consent does not affect information disclosed before the date written notice of the withdrawal was received.

(c) A person who receives information made confidential by this chapter may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the person obtained the information.

(d) For purposes of Subsection (a), a written consent signed by an adult survivor with a guardian appointed under Title 3, Estates Code, is effective regardless of whether the adult survivor's guardian, guardian ad litem, or other legal agent signs the release. If the adult survivor agrees to the release but is unable to provide a signature and the guardian, guardian ad litem, or other legal agent is unavailable or declines to sign the release, the person seeking the release of confidential information may petition a court with probate jurisdiction in the county in which the adult survivor resides for an emergency order authorizing the release of the information, in the manner provided by Section 48.208, Human Resources Code.

Added by Acts 1997, 75th Leg., ch. 775, Sec. 2, eff. Sept. 1, 1997, as Sec. 44.073, Health and Safety Code.
Renumbered from Health and Safety Code, Section 44.073 by Acts 2007, 80th Leg., Ch. 921 (H.B. 3167), Sec. 17.001, eff. September 9, 2007.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 7, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 8, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 15, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1329 (H.B. 4531), Sec. 4, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1422, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 420.0735. CONSENT FOR RELEASE OF CERTAIN EVIDENCE. (a) Consent for the release of evidence contained in an evidence collection kit must be in writing and signed by:

(1) the survivor, if the survivor is 14 years of age or older;

(2) the survivor's parent or guardian or an employee of the Department of Family and Protective Services, if the survivor is younger than 14 years of age; or

(3) the survivor's personal representative, if the survivor is deceased.

(b) For purposes of Subsection (a)(1), a written consent signed by an adult survivor with a guardian appointed under Title 3, Estates Code, is effective regardless of whether the adult survivor's guardian, guardian ad litem, or other legal agent signs the release. If the adult survivor with an appointed guardian agrees to the release but is unable to provide a signature and the guardian, guardian ad litem, or other legal agent is unavailable or declines to sign the release, then the investigating law enforcement officer may sign the release.

(c) Consent for release under Subsection (a) applies only to evidence contained in an evidence collection kit and does not affect the confidentiality of any other confidential information under this

chapter.

(d) The written consent must specify:

(1) the evidence covered by the release;

(2) the reason or purpose for the release; and

(3) the person to whom the evidence is to be released.

(e) A survivor or other person authorized to consent may withdraw consent to the release of evidence by submitting a written notice of withdrawal to the person or sexual assault program to which consent was provided. Withdrawal of consent does not affect evidence disclosed before the date written notice of the withdrawal was received.

(f) A person who receives evidence made confidential by this chapter may not disclose the evidence except to the extent that disclosure is consistent with the authorized purposes for which the person obtained the evidence.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 9, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1173 (S.B. 745), Sec. 16, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.038, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1329 (H.B. 4531), Sec. 5, eff. September 1, 2019.

Sec. 420.074. DISCLOSURE OF PRIVILEGED COMMUNICATIONS OR OTHER INFORMATION IN CRIMINAL PROCEEDING. (a) Subject to the provisions of this chapter, not later than the 30th day before the date of the trial, a defendant in a criminal proceeding may make a motion for disclosure of a communication or record that is privileged under this chapter. The motion must include a supporting affidavit showing reasonable grounds to believe the privileged communication or record contains exculpatory evidence.

(b) The defendant shall serve the motion on the attorney representing the state and the person who holds the privilege with regard to the communication or record at issue.

(c) The court shall order the privileged communication or record to be produced for the court under seal and shall examine the

communication or record in camera if the court finds by a preponderance of the evidence that:

(1) there is a good-faith, specific, and reasonable basis for believing that the privileged communication or record is relevant, material, and exculpatory upon the issue of guilt for the offense charged; and

(2) the privileged communication or record would not be duplicative of other evidence or information available or already obtained by the defendant.

(d) The court shall disclose to the defendant and to the state only the evidence that the court finds to be exculpatory on the issue of guilt for the offense charged.

Added by Acts 1997, 75th Leg., ch. 775, Sec. 2, eff. Sept. 1, 1997, as Sec. 44.074, Health and Safety Code.
Renumbered from Health and Safety Code, Section 44.074 by Acts 2007, 80th Leg., Ch. 921 (H.B. 3167), Sec. 17.001, eff. September 9, 2007.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 10, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 513 (S.B. 295), Sec. 5, eff. September 1, 2021.

Sec. 420.075. OFFENSE. A person commits an offense if the person intentionally or knowingly discloses a communication, a record, or evidence that is confidential under this chapter, except as provided by this chapter. An offense under this section is a Class C misdemeanor.

Added by Acts 1997, 75th Leg., ch. 775, Sec. 2, eff. Sept. 1, 1997, as Sec. 44.075, Health and Safety Code.
Renumbered from Health and Safety Code, Section 44.075 by Acts 2007, 80th Leg., Ch. 921 (H.B. 3167), Sec. 17.001, eff. September 9, 2007.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. 1636), Sec. 11, eff. September 1, 2011.

SUBCHAPTER E. STATEWIDE TELEHEALTH CENTER FOR SEXUAL ASSAULT FORENSIC MEDICAL EXAMINATION

Sec. 420.101. DEFINITIONS. In this subchapter:

(1) "Center" means the statewide telehealth center for sexual assault forensic medical examination.

(2) "Telehealth service" has the meaning assigned by Section 111.001, Occupations Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 9, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 414 (S.B. 71), Sec. 1, eff. September 1, 2019.

Sec. 420.102. ESTABLISHMENT OF CENTER. The attorney general shall establish the statewide telehealth center for sexual assault forensic medical examination to expand access to sexual assault nurse examiners for underserved populations.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 9, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 414 (S.B. 71), Sec. 1, eff. September 1, 2019.

Sec. 420.103. POWERS OF CENTER. (a) In accordance with other law, the center may facilitate in person or through telecommunications or information technology the provision by a sexual assault nurse examiner of:

(1) training or technical assistance to a sexual assault examiner on:

(A) conducting a forensic medical examination on a survivor; and

(B) the use of telehealth services; and

(2) consultation services, guidance, or technical assistance to a sexual assault examiner during a forensic medical examination on a survivor.

(b) With permission from the facility or entity where a forensic medical examination on a survivor is conducted and to the extent authorized by other law, the center may facilitate the use of telehealth services during a forensic medical examination on a survivor.

(c) The center may deliver other services as requested by the

attorney general to carry out the purposes of this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 9, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 414 (S.B. 71), Sec. 1, eff. September 1, 2019.

Sec. 420.104. OPERATION PROTOCOLS REQUIRED. (a) The center and the attorney general shall develop operation protocols to address compliance with applicable laws and rules governing:

(1) telehealth services;

(2) standards of professional conduct for licensure and practice;

(3) standards of care;

(4) maintenance of records;

(5) technology requirements;

(6) data privacy and security of patient information; and

(7) the operation of a telehealth center.

(b) The center shall make every effort to ensure the system through which the center operates for the provision of telehealth services meets national standards for interoperability to connect to telehealth systems outside of the center.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 9, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 414 (S.B. 71), Sec. 1, eff. September 1, 2019.

Sec. 420.105. AUTHORIZED CONTRACTS. The attorney general may enter into any contract the attorney general considers necessary to implement this subchapter, including a contract to:

(1) develop, implement, maintain, or operate the center;

(2) train or provide technical assistance for health care professionals on conducting forensic medical examinations and the use of telehealth services; or

(3) provide consultation, guidance, or technical assistance for health care professionals using telehealth services during a forensic medical examination.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 9, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 414 (S.B. 71), Sec. 1, eff. September 1, 2019.

Sec. 420.106. FUNDING. (a) The legislature may appropriate money to the attorney general to establish the center.

(b) The attorney general may provide funds to the center for:

(1) establishing and maintaining the operations of the center;

(2) training conducted by or through the center;

(3) travel expenses incurred by a sexual assault nurse examiner for:

(A) carrying out the nurse's duties under Section 420.103(a); or

(B) testifying as a witness outside the nurse's county of residence;

(4) equipment and software applications for the center; and

(5) any other purpose considered appropriate by the attorney general.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 9, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 414 (S.B. 71), Sec. 1, eff. September 1, 2019.

Sec. 420.107. CONSULTATION REQUIRED. In implementing this subchapter, the attorney general shall consult with persons with expertise in medicine and forensic medical examinations, a statewide sexual assault coalition, a statewide organization with expertise in the operation of children's advocacy programs, and attorneys with expertise in prosecuting sexual assault offenses.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 9, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 414 (S.B. 71), Sec. 1, eff. September 1, 2019.

Sec. 420.108. RULES. The attorney general may adopt rules as necessary to implement this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 9, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 414 (S.B. 71), Sec. 1, eff. September 1, 2019.

CHAPTER 420A. TEXAS CIVIL COMMITMENT OFFICE

Sec. 420A.001. DEFINITIONS. In this chapter:

(1) "Board" means the governing board of the Texas Civil Commitment Office.

(2) "Office" means the Texas Civil Commitment Office.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1201 (S.B. 166), Sec. 2, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 845 (S.B. 746), Sec. 36, eff. June 17, 2015.

Sec. 420A.002. OFFICE; GOVERNING BOARD. (a) The Texas Civil Commitment Office is a state agency.

(b) The office is governed by a board composed of five members appointed by the governor, including:

(1) one member experienced in the management of sex offenders;

(2) one member experienced in the investigation or prosecution of sex offenses; and

(3) one member experienced in counseling or advocating on behalf of victims of sexual assault.

(c) Members of the board serve staggered six-year terms, with the terms of one or two members expiring on February 1 of each odd-numbered year.

(d) A member of the board is entitled to travel expenses incurred in performing official duties and to a per diem equal to the maximum amount allowed on January 1 of that year for federal employees per diem for federal income tax purposes, subject to the same limitations provided for members of state boards and commissions in the General Appropriations Act.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1201 (S.B. 166), Sec. 2, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 845 (S.B. 746), Sec. 37, eff. June 17, 2015.
Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 9, eff. September 1, 2017.

Sec. 420A.003. PRESIDING OFFICER; MEETINGS. (a) The governor shall designate a member of the board as presiding officer. The presiding officer serves at the discretion of the governor.

(a-1) The presiding officer shall select a member of the board as an assistant presiding officer and may create board committees.

(b) The board shall meet at least quarterly and at other times at the call of the presiding officer.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1201 (S.B. 166), Sec. 2, eff. September 1, 2011.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 10, eff. September 1, 2017.

Sec. 420A.004. SUNSET PROVISION. The Texas Civil Commitment Office is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished and this chapter expires September 1, 2027.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1201 (S.B. 166), Sec. 2, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 845 (S.B. 746), Sec. 38, eff. June 17, 2015.
Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 4.03, eff. June 10, 2019.

Sec. 420A.005. GRANTS AND DONATIONS. On behalf of the state, the office may apply for and accept grants and donations from any source to be used by the office in the performance of the duties of

the office.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1201 (S.B. 166), Sec. 2, eff. September 1, 2011.

Sec. 420A.006. PUBLIC INTEREST INFORMATION. The office shall prepare information of public interest describing the functions of the office and the procedures by which complaints are filed with and resolved by the office. The office shall make the information available to the public and appropriate state agencies.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1201 (S.B. 166), Sec. 2, eff. September 1, 2011.

Sec. 420A.007. BIENNIAL REPORT. Not later than December 1 of each even-numbered year, the office shall submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report concerning the operation of the office. The office may include in the report any recommendations that the office considers appropriate.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1201 (S.B. 166), Sec. 2, eff. September 1, 2011.

Sec. 420A.008. STAFF. The office may select and employ a general counsel, staff attorneys, a family liaison officer described by Section 420A.012, and other staff necessary to perform the office's functions.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1201 (S.B. 166), Sec. 2, eff. September 1, 2011.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 351 (S.B. 1179), Sec. 13, eff. September 1, 2023.

Sec. 420A.009. SALARY CAREER LADDER FOR CASE MANAGERS. (a) The board shall adopt a salary career ladder for case managers. The

salary career ladder must base a case manager's salary on the manager's classification and years of service with the office.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 40(1), eff. September 1, 2017.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 40(1), eff. September 1, 2017.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1201 (S.B. 166), Sec. 2, eff. September 1, 2011.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 40(1), eff. September 1, 2017.

Sec. 420A.010. POWERS AND DUTIES. The office shall perform appropriate functions related to the sex offender civil commitment program provided under Chapter 841, Health and Safety Code, including functions related to the provision of treatment and supervision to civilly committed sex offenders.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1201 (S.B. 166), Sec. 2, eff. September 1, 2011.

Sec. 420A.011. ADMINISTRATIVE ATTACHMENT; SUPPORT. (a) The office is administratively attached to the Health and Human Services Commission.

(b) The Health and Human Services Commission shall provide administrative support services, including human resources, budgetary, accounting, purchasing, payroll, information technology, and legal support services, to the office as necessary to carry out the purposes of this chapter.

(c) The office, in accordance with the rules and procedures of the Legislative Budget Board, shall prepare, approve, and submit a legislative appropriations request that is separate from the legislative appropriations request for the Health and Human Services Commission and is used to develop the office's budget structure. The office shall maintain the office's legislative appropriations request and budget structure separately from those of the commission.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1201 (S.B. 166), Sec. 2,

eff. September 1, 2011.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 11, eff. September 1, 2017.

Sec. 420A.012. FAMILY LIAISON OFFICER. (a) The office may designate an employee to serve as a family liaison officer. The family liaison officer may, as the office determines appropriate:

(1) facilitate the continuation and maintenance of ties between a civilly committed sex offender and the offender's family members who are supportive of the offender's participation in the treatment and supervision program;

(2) notify an offender regarding emergencies concerning the offender's family and provide the offender with other necessary information related to the offender's family; and

(3) assist in resolving problems that may affect permitted contact with an offender.

(b) Before each required quarterly meeting of the board, a family liaison officer designated under this section may provide an update to the board regarding the officer's activities.

(c) This section does not:

(1) require the office to designate a family liaison officer; or

(2) guarantee to a civilly committed sex offender or family member of an offender any additional right or privilege that is not already required by state or federal law.

(d) In implementing this section, the office may adopt any policy or impose any limitation the office considers necessary.

Added by Acts 2023, 88th Leg., R.S., Ch. 351 (S.B. 1179), Sec. 14, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1610, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 420A.013. FAMILY UNITY AND PARTICIPATION. (a) The office may adopt and implement policies that encourage family unity during a civilly committed sex offender's commitment. In adopting the

policies, the office may consider the impact of a telephone, mail, and in-person visitation policy on a family member's ability to provide support to the offender through ongoing, appropriate contact with the offender while the offender participates in the treatment and supervision program.

(b) This section does not guarantee to a civilly committed sex offender or family member of an offender any additional right or privilege that is not already required by state or federal law.

(c) In implementing this section, the office may adopt any policy or impose any limitation the office considers necessary.

Added by Acts 2023, 88th Leg., R.S., Ch. 351 (S.B. 1179), Sec. 14, eff. September 1, 2023.

CHAPTER 421. HOMELAND SECURITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 421.001. DEFINITIONS. In this chapter:

(1) "Agency" means any governmental entity.

(2) "Critical infrastructure" includes all public or private assets, systems, and functions vital to the security, governance, public health and safety, economy, or morale of the state or the nation.

(2-a) "Fusion center" means a state or regional multidisciplinary collaborative effort of two or more agencies that combine resources, expertise, and intelligence and other information with the goal of maximizing the ability of those agencies to detect, prevent, and respond to criminal activities or to otherwise engage in homeland security activities.

(3) "Homeland security activity" means any activity related to the prevention or discovery of, response to, or recovery from:

(A) a terrorist attack;

(B) a natural or man-made disaster;

(C) a hostile military or paramilitary action;

(D) an extraordinary law enforcement emergency; or

(E) a fire or medical emergency requiring resources beyond the capabilities of a local jurisdiction.

(4) "Intelligence" means the product of systematic gathering, evaluation, and synthesis of raw data on individuals or activities suspected of being, or known to be, criminal in nature.

(5) "Recognized fusion center" means a fusion center operating in this state that has been recognized by the director of Texas Homeland Security as meeting the fusion center mission identified in the governor's homeland security strategy and in the Department of Homeland Security State, Local, and Regional Fusion Center Initiative established under 6 U.S.C. Section 124h.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1178 (H.B. 3324), Sec. 1, eff. June 17, 2011.
Acts 2015, 84th Leg., R.S., Ch. 798 (H.B. 2827), Sec. 1, eff. June 17, 2015.

Sec. 421.002. HOMELAND SECURITY STRATEGY. (a) The governor shall direct homeland security in this state and shall develop a statewide homeland security strategy that improves the state's ability to:

(1) protect against homeland security threats and hazards;

(2) respond to homeland security emergencies;

(3) recover from homeland security emergencies;

(4) mitigate the loss of life and property by lessening the impact of future disasters; and

(5) prevent significant criminal and terrorist attacks.

(b) The governor's homeland security strategy shall coordinate homeland security activities among and between local, state, and federal agencies and the private sector and must include specific plans for:

(1) intelligence gathering and analysis;

(2) information sharing;

(3) reducing the state's vulnerability to homeland security emergencies;

(4) protecting critical infrastructure;

(5) protecting the state's international border, ports, and airports;

(6) detecting, deterring, and defending against terrorism, including cyber-terrorism and biological, chemical, and nuclear terrorism;

(7) positioning equipment, technology, and personnel to

improve the state's ability to respond to a homeland security emergency;

(8) directing the Texas Fusion Center and giving the center certain forms of authority to implement the governor's homeland security strategy; and

(9) using technological resources to:

(A) facilitate the interoperability of government technological resources, including data, networks, and applications;

(B) coordinate the warning and alert systems of state and local agencies;

(C) incorporate multidisciplinary approaches to homeland security; and

(D) improve the security of governmental and private sector information technology and information resources.

(c) The governor's homeland security strategy must complement and operate in coordination with federal strategic guidance on homeland security.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1178 (H.B. 3324), Sec. 2, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 616 (S.B. 1393), Sec. 1, eff. June 14, 2013.

Sec. 421.003. CRIMINAL INTELLIGENCE INFORMATION. The Department of Public Safety of the State of Texas is:

(1) the repository in this state for the collection of multijurisdictional criminal intelligence information that is about terrorist activities or otherwise related to homeland security activities; and

(2) the state agency that has primary responsibility to analyze and disseminate that information.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

Sec. 421.004. PROVISIONS GOVERNING MOBILE TRACKING DEVICES. In the event of a conflict between Subchapter E, Chapter 18B, Code of Criminal Procedure, and this chapter or a rule adopted under this

chapter, Subchapter E, Chapter 18B, Code of Criminal Procedure, controls.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 3.09, eff. January 1, 2019.

SUBCHAPTER B. HOMELAND SECURITY COUNCIL

Sec. 421.021. MEMBERSHIP. (a) The Homeland Security Council is composed of the governor or the governor's designee, the speaker of the house of representatives or the speaker's designee, the lieutenant governor or the lieutenant governor's designee, and one representative of each of the following entities, appointed by the single statewide elected or appointed governing officer, administrative head, or chair, as appropriate, of the entity:

(1) Department of Agriculture;
(2) office of the attorney general;
(3) General Land Office;
(4) Public Utility Commission of Texas;
(5) Department of State Health Services;
(6) Department of Information Resources;
(7) Department of Public Safety of the State of Texas;
(8) Texas Division of Emergency Management;
(9) Texas Military Department;
(10) Texas Commission on Environmental Quality;
(11) Railroad Commission of Texas;
(12) Texas Military Preparedness Commission;
(13) Texas Department of Transportation;
(14) Commission on State Emergency Communications;
(15) Office of State-Federal Relations;
(16) secretary of state;
(17) the committee of the senate having jurisdiction over veterans affairs;
(18) the committee of the senate having jurisdiction over homeland security;
(19) the committee of the house of representatives having jurisdiction over veterans affairs;
(20) the committee of the house of representatives having

jurisdiction over homeland security;

(21) Texas Animal Health Commission;

(22) Texas Commission on Law Enforcement;

(23) state fire marshal's office;

(24) Texas Education Agency;

(25) Texas Commission on Fire Protection;

(26) Parks and Wildlife Department;

(27) Texas A&M Forest Service; and

(28) Texas Water Development Board.

(b) To be eligible for appointment as a member of the council, a person must be directly involved in policies, programs, or funding activities that are relevant to homeland security or infrastructure protection.

(c) A member of the council serves at the will of the governor. At the request of the governor, an appointing authority under this section shall appoint a different member.

(d) An officer or employee of a state or local agency who serves as a member of the council or a special advisory committee under this subchapter shall perform the duties required by the council or special advisory committee as an additional duty of the member's office or employment.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 10, eff. June 18, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 2B.06, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.26, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 616 (S.B. 1393), Sec. 2, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 2.03, eff. September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 161 (S.B. 1598), Sec. 1, eff. September 1, 2023.

Sec. 421.022. REIMBURSEMENT OF EXPENSES. A member of the council may not receive additional compensation for service on the

council but is entitled to reimbursement of reasonable expenses incurred in direct performance of official duties, including travel expenses incurred by the member while conducting the business of the council, subject to any applicable limitation on reimbursement provided by general law or the General Appropriations Act.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

Sec. 421.023. ADMINISTRATION. (a) The council is an advisory entity administered by the office of the governor.

(b) The governor may adopt rules as necessary for the operation of the council.

(c) The governor shall designate the presiding officer of the council.

(d) The council shall meet at the call of the governor and shall meet at least once each quarter in a calendar year.

(e) The council is not subject to Chapter 2110.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 36, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 421.024. DUTIES. The council shall advise the governor on:

(1) the implementation of the governor's homeland security strategy by state and local agencies and provide specific suggestions for helping those agencies implement the strategy; and

(2) other matters related to the planning, development, coordination, and implementation of initiatives to promote the governor's homeland security strategy.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1208 (S.B. 1394), Sec. 1, eff. June 14, 2013.

Sec. 421.025. SPECIAL ADVISORY COMMITTEES. (a) The governor

may appoint one or more special advisory committees composed of representatives from state or local agencies or nongovernmental entities not represented on the council.

(b) The governor shall determine the number of members and qualifications for membership on a special advisory committee under this section.

(c) A special advisory committee under this section shall assist the council in performing its duties.

(d) A special advisory committee under this section is subject to Chapter 2110, except that Section 2110.002 does not apply.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

Sec. 421.026. REPORT. The council shall annually submit to the governor a report stating:

(1) the status and funding of state programs designed to detect and deter homeland security emergencies, including the status and funding of counterterrorism efforts;

(2) recommendations on actions to reduce threats to homeland security, including threats related to terrorism; and

(3) recommendations for improving the alert, response, and recovery capabilities of state and local agencies.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1208 (S.B. 1394), Sec. 2, eff. June 14, 2013.

SUBCHAPTER B-1. PERMANENT SPECIAL ADVISORY COMMITTEES

Sec. 421.041. FIRST RESPONDER ADVISORY COUNCIL. (a) The First Responder Advisory Council is a permanent special advisory committee created to advise the governor or the governor's designee on homeland security issues relevant to first responders, radio interoperability, the integration of statewide exercises for hazards, and the related use of available funding.

(b) The council is composed of:

(1) one representative for each of the following sectors of the state, appointed by the governor or the governor's designee:

(A) law enforcement;

(B) firefighters;
(C) private first responders; and
(D) emergency medical services; and
(2) other members, as determined by the governor or the governor's designee.

Added by Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 11, eff. June 18, 2005.

Sec. 421.042. PRIVATE SECTOR ADVISORY COUNCIL. (a) The Private Sector Advisory Council is a permanent special advisory committee created to advise the governor or the governor's designee on homeland security issues relevant to the private sector.

(b) The council is composed of:

(1) one representative of a private organization or entity for each of the following sectors of the state, each appointed by the governor or the governor's designee:
(A) agriculture and food;
(B) banking and finance;
(C) chemicals and hazardous materials;
(D) the defense industry;
(E) energy;
(F) emergency services;
(G) information technology;
(H) telecommunications;
(I) postal and shipping;
(J) public health;
(K) transportation;
(L) ports and waterways; and
(M) national monuments and icons; and
(2) other members, as determined by the governor or the governor's designee.

Added by Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 11, eff. June 18, 2005.

Sec. 421.043. ELIGIBILITY. (a) To be eligible for appointment as a member of a permanent special advisory committee created under this subchapter, a person must demonstrate experience in the sector

that the person is under consideration to represent and be directly involved in related policies, programs, or funding activities that are relevant to homeland security or infrastructure protection.

(b) Each member of a permanent special advisory committee created under this subchapter serves at the will of the governor.

Added by Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 11, eff. June 18, 2005.

Sec. 421.044. COMPENSATION AND REIMBURSEMENT OF EXPENSES PROHIBITED. A person who is a member of a permanent special advisory committee created under this subchapter is not entitled to receive compensation from this state for service on the committee or travel expenses incurred by the person while conducting the business of the committee.

Added by Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 11, eff. June 18, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 36, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 421.045. DUTIES. Each permanent special advisory committee created under this subchapter shall advise the governor on:

(1) the implementation of the governor's homeland security strategy by state and local agencies and provide specific suggestions for helping those agencies implement the strategy;

(2) specific priorities related to the governor's homeland security strategy that the committee determines to be of significant importance to the statewide security of critical infrastructure; and

(3) other matters related to the planning, development, coordination, and implementation of initiatives to promote the governor's homeland security strategy.

Added by Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 11, eff. June 18, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1208 (S.B. 1394), Sec. 3, eff. June 14, 2013.

SUBCHAPTER C. CIVIL LIABILITY FOR ACTS OR OMISSIONS

Sec. 421.061. CIVIL LIABILITY. (a) An officer or employee of a state or local agency performing a homeland security activity or a volunteer performing a homeland security activity at the request or under the direction of an officer or employee of a state or local agency is considered for purposes of Section 437.222 to be a member of the Texas military forces ordered into active service of the state by proper authority and is considered to be discharging a duty in that capacity if:

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

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

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

(b) A person described by Subsection (a) is not immune from civil liability under Section 437.222 for damages resulting from the performance of a homeland security activity if, under the circumstances, the person's performance of the homeland security activity was wilfully or wantonly negligent or done with conscious indifference or reckless disregard for the safety of persons this chapter is intended to protect.

(c) This section does not make a person a member of the state military forces for any other purpose, including for purposes of the application of the Uniform Code of Military Justice.

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

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 3.07, eff. September 1, 2013.

Sec. 421.062. LIABILITY UNDER INTERLOCAL CONTRACT. (a) In this section, "interlocal contract" has the meaning assigned by Section 791.003.

(b) A state or local agency that furnishes a service related to a homeland security activity under an interlocal contract is immune from civil liability for any act or omission resulting in death, damage, or injury while acting under the interlocal contract if:

(1) the interlocal contract expressly states that the furnishing state or local agency is not responsible for any civil liability that arises from the furnishing of a service under the contract; and

(2) the state or local agency committed the act or omission while acting in good faith and in the course and scope of its functions to provide a service related to a homeland security activity.

(c) This section may not be interpreted as a waiver of any immunity that might exist in the absence of an interlocal contract or a provision in an interlocal contract as set forth in Subsection (b).

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

SUBCHAPTER D. COOPERATION AND ASSISTANCE; FUNDING

Sec. 421.071. COOPERATION AND ASSISTANCE. A state or local agency that performs a homeland security activity or a nongovernmental entity that contracts with a state or local agency to perform a homeland security activity shall cooperate with and assist the office of the governor, the Homeland Security Council, the Texas Fusion Center, and the National Infrastructure Protection Center in the performance of their duties under this chapter and other state or federal law.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 12, eff. June 18, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1178 (H.B. 3324), Sec. 3, eff. June 17, 2011.

Sec. 421.072. FUNDING. (a) The office of the governor shall:

(1) allocate available federal and state grants and other funding related to homeland security to state and local agencies and defense base development authorities created under Chapter 379B, Local Government Code, that perform homeland security activities;

(2) periodically review the grants and other funding for appropriateness and compliance;

(3) designate state administering agencies to administer all grants and other funding to the state related to homeland security; and

(4) measure the effectiveness of the homeland security grants and other funding.

(b) State and local agencies that perform homeland security activities shall inform the office of the governor about any actions taken relating to requests for revenue, grants, or other funding for homeland security activities or initiatives.

(c) A state or local agency or defense base development authority that receives a grant or other funding related to homeland security must provide an annual report to the office of the governor detailing:

(1) the compliance of the agency or authority with the state homeland security strategy;

(2) any expenditures made using the funding;

(3) any programs developed or implemented using the funding; and

(4) the manner in which any expenditures made or programs developed or implemented have improved the ability of the agency or authority to detect, deter, respond to, and recover from a terrorist attack.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 13, eff. June 18, 2005.

SUBCHAPTER E. TEXAS FUSION CENTER AND OTHER FUSION CENTERS OPERATING IN THIS STATE

Sec. 421.081. FACILITIES AND ADMINISTRATIVE SUPPORT. The Department of Public Safety of the State of Texas shall provide

facilities and administrative support for the Texas Fusion Center.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 18.03, eff. September 1, 2007.

Sec. 421.082. POWERS AND DUTIES. (a) The Texas Fusion Center shall serve as the state's primary entity for the planning, coordination, and integration of government communications capabilities to help implement the governor's homeland security strategy and ensure an effective response in the event of a homeland security emergency.

(b) The center's duties include:

(1) promotion of emergency preparedness;

(2) receipt and analysis of information, assessment of threats, and issuance of public warnings related to homeland security emergencies;

(3) authorization and facilitation of cooperative efforts related to emergency response and recovery efforts in the event of a homeland security emergency; and

(4) making recommendations to the Department of Public Safety regarding the monitoring of fusion centers operating in this state and regarding the functions of the Texas Fusion Center Policy Council created under Section 421.083.

(c) In performing its duties under this section, the center shall aim to:

(1) reduce the vulnerability of at-risk or targeted entities to homeland security emergencies; and

(2) prevent or minimize damage, injury, loss of life, and loss of property in the event of a homeland security emergency.

(d) The center shall perform its duties under circumstances prescribed by and as directed by the governor's homeland security strategy.

(e) The gang section of the center shall annually submit to the governor and the legislature a report assessing the threat posed statewide by criminal street gangs. The report must include identification of:

(1) law enforcement strategies that have been proven

effective in deterring gang-related crime; and

(2) gang involvement in trafficking of persons.

(f) On request, the office of the attorney general, the Department of Public Safety, the Texas Department of Criminal Justice, other law enforcement agencies, and juvenile justice agencies of this state shall provide to the gang section of the center information relating to criminal street gangs, gang-related crime, and gang involvement in trafficking of persons.

(g) Any information received by the center under this section that is stored, combined with other information, analyzed, or disseminated is subject to the rules governing criminal intelligence in 28 C.F.R. Part 23.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1350 (S.B. 379), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1178 (H.B. 3324), Sec. 5, eff. June 17, 2011.

Sec. 421.083. TEXAS FUSION CENTER POLICY COUNCIL. (a) The Department of Public Safety shall create the Texas Fusion Center Policy Council and the bylaws for the council to assist the department in monitoring fusion center activities in this state.

(b) The policy council is composed of one executive representative from each recognized fusion center operating in this state.

(c) The policy council shall:

(1) develop and disseminate strategies to:

(A) facilitate the implementation of applicable federal standards and programs on a statewide basis by each fusion center operating in this state;

(B) expand and enhance the statewide intelligence capacity to reduce the threat of terrorism and criminal enterprises; and

(C) continuously review critical issues pertaining to homeland security activities;

(2) establish a privacy advisory group, with at least one member who is a privacy advocate, to advise the policy council and to

meet at the direction of the policy council; and

(3) recommend best practices for each fusion center operating in this state, including:

(A) best practices to ensure that the center adheres to 28 C.F.R. Part 23 and any other federal or state law designed to protect privacy and the other legal rights of individuals; and

(B) best practices for the smooth exchange of information among all fusion centers operating in this state.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1178 (H.B. 3324), Sec. 6, eff. June 17, 2011.

Sec. 421.084. FUSION CENTERS OPERATING IN THIS STATE: RULES AND MONITORING. (a) After considering the recommendations of the Texas Fusion Center under Section 421.082(b)(4) and the Texas Fusion Center Policy Council under Section 421.083(c)(3), the Department of Public Safety shall adopt rules to govern the operations of fusion centers in this state, including guidelines to:

(1) for any fusion center operating in this state, establish a common concept of operations to provide clear baseline standards for each aspect of the center's activities;

(2) inform and define the monitoring of those activities by the Texas Fusion Center Policy Council; and

(3) ensure that any fusion center operating in this state adheres to federal and state laws designed to protect privacy and the other legal rights of individuals, including 28 C.F.R. Part 23 and any other law that provides clear standards for the treatment of intelligence or for the collection and storage of noncriminal information, personally identifiable information, or protected health information.

(b) The Department of Public Safety may require that a fusion center audited under applicable department rules pay any costs incurred by the policy council in relation to the audit.

(c) A member of the policy council may not receive compensation but is entitled to reimbursement for the member's travel expenses as provided by Chapter 660 and the General Appropriations Act.

(d) A fusion center may not receive state grant money if the center adopts a rule, order, ordinance, or policy under which the center fails or refuses to comply with rules adopted by the

Department of Public Safety under Subsection (a), beginning with the first state fiscal year occurring after the center adopts the rule, order, ordinance, or policy.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1178 (H.B. 3324), Sec. 6, eff. June 17, 2011.

Sec. 421.085. PRIVACY POLICY REQUIRED. (a) Each fusion center operating in this state shall adopt a privacy policy providing at a minimum that, with respect to an individual or organization, the fusion center:

(1) will not seek, collect, or retain information that is based solely on any of the following factors, as applicable to that individual or organization:

(A) religious, political, or social views or activities;

(B) participation in a particular organization or event; or

(C) race, ethnicity, citizenship, place of origin, age, disability, gender, or sexual orientation; and

(2) will take steps to ensure that any agency that submits information to the fusion center does not submit information based solely on a factor described by Subdivision (1).

(b) In a criminal investigation, a factor described by Subsection (a)(1) may not alone give rise to reasonable suspicion. However, a factor described by Subsection (a)(1) may be used in connection with a specific description of a suspect in the investigation.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1178 (H.B. 3324), Sec. 6, eff. June 17, 2011.

Sec. 421.086. REPORT. The Texas Fusion Center Policy Council annually shall submit to the governor and to each house of the legislature a report that contains, with respect to the preceding year:

(1) the council's progress in developing and coordinating the statewide fusion effort and intelligence network described by the governor's homeland security strategy;

(2) the progress made by fusion centers operating in this state in meeting the fusion center guidelines developed under the Department of Homeland Security State, Local, and Regional Fusion Center Initiative established under 6 U.S.C. Section 124h; and

(3) a summary of fusion center audits or reviews conducted under applicable rules adopted by the Department of Public Safety.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1178 (H.B. 3324), Sec. 6, eff. June 17, 2011.

SUBCHAPTER F. GOVERNOR'S INTEROPERABLE RADIO COMMUNICATIONS PROGRAM

Sec. 421.095. DEFINITIONS. In this subchapter:

(1) "First responder" means a public safety employee or volunteer whose duties include responding rapidly to an emergency. The term includes:

(A) a peace officer whose duties include responding rapidly to an emergency;

(B) fire protection personnel under Section 419.021;

(C) a volunteer firefighter who is:

(i) certified by the Texas Commission on Fire Protection or by the State Firemen's and Fire Marshalls' Association of Texas; or

(ii) a member of an organized volunteer fire-fighting unit as described by Section 615.003;

(D) an individual certified as emergency medical services personnel by the Department of State Health Services;

(E) an emergency response operator or emergency services dispatcher who provides communication support services for an agency by responding to requests for assistance in emergencies; and

(F) other emergency response personnel employed by an agency.

(2) "Infrastructure equipment" means the underlying permanent equipment required to establish interoperable communication between radio systems used by local, state, and federal agencies and first responders.

Added by Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 14, eff. June 18, 2005.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 757 (H.B. 1090), Sec. 1, eff. September 1, 2019.

Sec. 421.096. INTEROPERABILITY OF RADIO SYSTEMS. The office of the governor shall:

(1) develop and administer a strategic plan to design and implement a statewide integrated public safety radio communications system that promotes interoperability within and between local, state, and federal agencies and first responders;

(2) develop and administer a plan in accordance with Subdivision (1) to purchase infrastructure equipment for state and local agencies and first responders;

(3) advise representatives of entities in this state that are involved in homeland security activities with respect to interoperability; and

(4) use appropriated money, including money from relevant federal homeland security grants, for the purposes of designing, implementing, and maintaining a statewide integrated public safety radio communications system.

Added by Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 14, eff. June 18, 2005.

Sec. 421.097. ASSISTANCE. The office of the governor may consult with a representative of an entity described by Section 421.096(3) to obtain assistance or information necessary for the performance of any duty under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 14, eff. June 18, 2005.

Sec. 421.098. REPORT. Not later than September 1 of each year, the office of the governor shall provide to the legislature a report on the status of its duties under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 14, eff. June 18, 2005.

SUBCHAPTER Z. MISCELLANEOUS

Sec. 421.901. INTEROPERABILITY OF CRITICAL INFORMATION SYSTEMS. The office of the governor shall develop a plan for appropriate entities to use information systems that:

(1) employ underlying computer equipment and software required to establish interoperable communication between computer systems used by local, state, and federal agencies and first responders; and

(2) provide a single point of entry to disseminate information, applications, processes, and communications.

Added by Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 15, eff. June 18, 2005.

CHAPTER 422. INTERNET-BASED SEXUAL EXPLOITATION OF MINOR

Sec. 422.001. DEFINITION. In this chapter, "ICAC task force" means an Internet Crimes Against Children task force that is:

(1) located in this state; and

(2) recognized by the United States Department of Justice.

Added by Acts 2011, 82nd Leg., R.S., Ch. 850 (H.B. 3746), Sec. 2, eff. September 1, 2011.

Sec. 422.002. INTERNET CRIMES AGAINST CHILDREN ACCOUNT. (a) The Internet crimes against children account is an account in the general revenue fund.

(b) The account consists of:

(1) money transferred by the legislature directly to the account; and

(2) gifts, grants, or donations.

(c) Interest earned on the account shall be credited to the account.

(d) Section 403.095 does not apply to the account.

(e) Money in the account may be appropriated only to support the administration and activities of an ICAC task force.

(f) Any money in the account that is appropriated in a state fiscal year under Subsection (e) shall be appropriated in equal amounts to each ICAC task force.

Added by Acts 2011, 82nd Leg., R.S., Ch. 850 (H.B. 3746), Sec. 2, eff. September 1, 2011.

Sec. 422.003. ADMINISTRATIVE SUBPOENA. (a) The attorney general shall assist persons authorized under this section in obtaining administrative subpoenas to investigate and prosecute offenses that involve the Internet-based sexual exploitation of a minor.

(b) A prosecuting attorney or an officer of an ICAC task force may issue and cause to be served an administrative subpoena that requires the production of records or other documentation as described by Subsection (d) if:

(1) the subpoena relates to an investigation of an offense that involves the sexual exploitation of a minor; and

(2) there is reasonable cause to believe that an Internet or electronic service account provided through an electronic communication service or remote computing service has been used in the sexual exploitation or attempted sexual exploitation of the minor.

(c) A subpoena under Subsection (b) must:

(1) describe any objects or items to be produced; and

(2) prescribe a reasonable return date by which those objects or items must be assembled and made available.

(d) Except as provided by Subsection (e), a subpoena issued under Subsection (b) may require the production of any records or other documentation relevant to the investigation, including:

(1) a name;

(2) an address;

(3) a local or long distance telephone connection record, satellite-based Internet service provider connection record, or record of session time and duration;

(4) the duration of the applicable service, including the start date for the service and the type of service used;

(5) a telephone or instrument number or other number used to identify a subscriber, including a temporarily assigned network address; and

(6) the source of payment for the service, including a credit card or bank account number.

(e) A provider of an electronic communication service or remote

computing service may not disclose the following information in response to a subpoena issued under Subsection (b):

(1) an in-transit electronic communication;

(2) an account membership related to an Internet group, newsgroup, mailing list, or specific area of interest;

(3) an account password; or

(4) any account content, including:

(A) any form of electronic mail;

(B) an address book, contact list, or buddy list;

(C) a financial record;

(D) Internet proxy content or Internet history; or

(E) a file or other digital document stored in the account or as part of the use of the account.

(f) A provider of an electronic communication service or remote computing service shall disclose the information described by Subsection (e) if that disclosure is required by court order.

(g) A person authorized to serve process under the Texas Rules of Civil Procedure may serve a subpoena issued under Subsection (b). The person shall serve the subpoena in accordance with the Texas Rules of Civil Procedure.

(h) Before the return date specified on a subpoena issued under Subsection (b), the person receiving the subpoena may, in an appropriate court located in the county where the subpoena was issued, petition for an order to modify or quash the subpoena or to prohibit disclosure of applicable information by a court.

(i) If a criminal case or proceeding does not result from the production of records or other documentation under this section within a reasonable period, the prosecuting attorney or ICAC task force shall, as appropriate:

(1) destroy the records or documentation; or

(2) return the records or documentation to the person who produced the records or documentation.

Added by Acts 2011, 82nd Leg., R.S., Ch. 850 (H.B. 3746), Sec. 2, eff. September 1, 2011.

Sec. 422.004. CONFIDENTIALITY OF INFORMATION. Any information, records, or data reported or obtained under a subpoena issued under Section 422.003(b):

(1) is confidential; and

(2) may not be disclosed to any other person unless the disclosure is made as part of a criminal case related to those materials.

Added by Acts 2011, 82nd Leg., R.S., Ch. 850 (H.B. 3746), Sec. 2, eff. September 1, 2011.

CHAPTER 423. USE OF UNMANNED AIRCRAFT

Sec. 423.001. DEFINITION. In this chapter, "image" means any capturing of sound waves, thermal, infrared, ultraviolet, visible light, or other electromagnetic waves, odor, or other conditions existing on or about real property in this state or an individual located on that property.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1390 (H.B. 912), Sec. 2, eff. September 1, 2013.

Sec. 423.002. NONAPPLICABILITY. (a) It is lawful to capture an image using an unmanned aircraft in this state:

(1) for the purpose of professional or scholarly research and development or for another academic purpose by a person acting on behalf of an institution of higher education or a private or independent institution of higher education, as those terms are defined by Section 61.003, Education Code, including a person who:

(A) is a professor, employee, or student of the institution; or

(B) is under contract with or otherwise acting under the direction or on behalf of the institution;

(2) in airspace designated as a test site or range authorized by the Federal Aviation Administration for the purpose of integrating unmanned aircraft systems into the national airspace;

(3) as part of an operation, exercise, or mission of any branch of:

(A) the United States military; or

(B) the Texas military forces as defined by Section 437.001;

(4) if the image is captured by a satellite for the purposes of mapping;

(5) if the image is captured by or for an electric or natural gas utility or a telecommunications provider:

(A) for operations and maintenance of utility or telecommunications facilities for the purpose of maintaining utility or telecommunications system reliability and integrity;

(B) for inspecting utility or telecommunications facilities to determine repair, maintenance, or replacement needs during and after construction of such facilities;

(C) for assessing vegetation growth for the purpose of maintaining clearances on utility or telecommunications easements; and

(D) for utility or telecommunications facility routing and siting for the purpose of providing utility or telecommunications service;

(6) with the consent of the individual who owns or lawfully occupies the real property captured in the image;

(7) pursuant to a valid search or arrest warrant;

(8) if the image is captured by a law enforcement authority or a person who is under contract with or otherwise acting under the direction or on behalf of a law enforcement authority:

(A) in immediate pursuit of a person law enforcement officers have reasonable suspicion or probable cause to suspect has committed an offense, not including misdemeanors or offenses punishable by a fine only;

(B) for the purpose of documenting a crime scene where an offense, not including misdemeanors or offenses punishable by a fine only, has been committed;

(C) for the purpose of investigating the scene of:

(i) a human fatality;

(ii) a motor vehicle collision causing death or serious bodily injury to a person; or

(iii) any motor vehicle collision on a state highway or federal interstate or highway;

(D) in connection with the search for a missing person;

(E) for the purpose of conducting a high-risk tactical operation that poses a threat to human life;

(F) of private property that is generally open to the public where the property owner consents to law enforcement public safety responsibilities; or

(G) of real property or a person on real property that

is within 25 miles of the United States border for the sole purpose of ensuring border security;

(9) if the image is captured by state or local law enforcement authorities, or a person who is under contract with or otherwise acting under the direction or on behalf of state authorities, for the purpose of:

(A) surveying the scene of a catastrophe or other damage to determine whether a state of emergency should be declared;

(B) preserving public safety, protecting property, or surveying damage or contamination during a lawfully declared state of emergency; or

(C) conducting routine air quality sampling and monitoring, as provided by state or local law;

(10) at the scene of a spill, or a suspected spill, of hazardous materials;

(11) for the purpose of fire suppression;

(12) for the purpose of rescuing a person whose life or well-being is in imminent danger;

(13) if the image is captured by a Texas licensed real estate broker in connection with the marketing, sale, or financing of real property, provided that no individual is identifiable in the image;

(14) from a height no more than eight feet above ground level in a public place, if the image was captured without using any electronic, mechanical, or other means to amplify the image beyond normal human perception;

(15) of public real property or a person on that property;

(16) if the image is captured by the owner or operator of an oil, gas, water, or other pipeline for the purpose of inspecting, maintaining, or repairing pipelines or other related facilities, and is captured without the intent to conduct surveillance on an individual or real property located in this state;

(17) in connection with oil pipeline safety and rig protection;

(18) in connection with port authority surveillance and security;

(19) if the image is captured by a registered professional land surveyor in connection with the practice of professional surveying, as those terms are defined by Section 1071.002, Occupations Code, provided that no individual is identifiable in the

image;

(20) if the image is captured by a professional engineer licensed under Subchapter G, Chapter 1001, Occupations Code, in connection with the practice of engineering, as defined by Section 1001.003, Occupations Code, provided that no individual is identifiable in the image; or

(21) if:

(A) the image is captured by an employee of an insurance company or of an affiliate of the company in connection with the underwriting of an insurance policy, or the rating or adjusting of an insurance claim, regarding real property or a structure on real property; and

(B) the operator of the unmanned aircraft is authorized by the Federal Aviation Administration to conduct operations within the airspace from which the image is captured.

(b) This chapter does not apply to the manufacture, assembly, distribution, or sale of an unmanned aircraft.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1390 (H.B. 912), Sec. 2, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 360 (H.B. 2167), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 583 (S.B. 840), Sec. 1, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 50 (S.B. 423), Sec. 1, eff. May 19, 2023.

Acts 2023, 88th Leg., R.S., Ch. 709 (H.B. 2190), Sec. 134, eff. September 1, 2023.

Sec. 423.003. OFFENSE: ILLEGAL USE OF UNMANNED AIRCRAFT TO CAPTURE IMAGE. (a) A person commits an offense if the person uses an unmanned aircraft to capture an image of an individual or privately owned real property in this state with the intent to conduct surveillance on the individual or property captured in the image.

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

(c) It is a defense to prosecution under this section that the person destroyed the image:

(1) as soon as the person had knowledge that the image was

captured in violation of this section; and

(2) without disclosing, displaying, or distributing the image to a third party.

(d) In this section, "intent" has the meaning assigned by Section 6.03, Penal Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1390 (H.B. 912), Sec. 2, eff. September 1, 2013.

Sec. 423.004. OFFENSE: POSSESSION, DISCLOSURE, DISPLAY, DISTRIBUTION, OR USE OF IMAGE. (a) A person commits an offense if the person:

(1) captures an image in violation of Section 423.003; and

(2) possesses, discloses, displays, distributes, or otherwise uses that image.

(b) An offense under this section for the possession of an image is a Class C misdemeanor. An offense under this section for the disclosure, display, distribution, or other use of an image is a Class B misdemeanor.

(c) Each image a person possesses, discloses, displays, distributes, or otherwise uses in violation of this section is a separate offense.

(d) It is a defense to prosecution under this section for the possession of an image that the person destroyed the image as soon as the person had knowledge that the image was captured in violation of Section 423.003.

(e) It is a defense to prosecution under this section for the disclosure, display, distribution, or other use of an image that the person stopped disclosing, displaying, distributing, or otherwise using the image as soon as the person had knowledge that the image was captured in violation of Section 423.003.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1390 (H.B. 912), Sec. 2, eff. September 1, 2013.

Sec. 423.0045. OFFENSE: OPERATION OF UNMANNED AIRCRAFT OVER CRITICAL INFRASTRUCTURE FACILITY. (a) In this section:

(1) Repealed by Acts 2023, 88th Leg., R.S., Ch. 591 (H.B. 3075), Sec. 4, eff. September 1, 2023.

(1-a) "Critical infrastructure facility" means:

(A) one of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that are posted on the property, are reasonably likely to come to the attention of intruders, and indicate that entry is forbidden:

(i) a petroleum or alumina refinery;

(ii) an electrical power generating facility, substation, switching station, or electrical control center;

(iii) a chemical, polymer, or rubber manufacturing facility;

(iv) a water intake structure, water treatment facility, wastewater treatment plant, or pump station;

(v) a natural gas compressor station;

(vi) a liquid natural gas terminal or storage facility;

(vii) a telecommunications central switching office or any structure used as part of a system to provide wired or wireless telecommunications services;

(viii) a port, a railroad switching yard, a trucking terminal, or any other freight transportation facility;

(ix) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas;

(x) a transmission facility used by a federally licensed radio or television station;

(xi) a steelmaking facility that uses an electric arc furnace to make steel;

(xii) a dam that is classified as a high hazard by the Texas Commission on Environmental Quality; or

(xiii) a concentrated animal feeding operation, as defined by Section 26.048, Water Code; or

(B) if enclosed by a fence or other physical barrier obviously designed to exclude intruders:

(i) any portion of an aboveground oil, gas, or chemical pipeline;

(ii) an oil or gas drilling site;

(iii) a group of tanks used to store crude oil, such as a tank battery;

(iv) an oil, gas, or chemical production facility;

(v) an oil or gas wellhead; or

(vi) any oil and gas facility that has an active flare.

(2) "Dam" means any barrier, including any appurtenant structures, that is constructed for the purpose of permanently or temporarily impounding water.

(3) Repealed by Acts 2023, 88th Leg., R.S., Ch. 591 (H.B. 3075), Sec. 4, eff. September 1, 2023.

(b) A person commits an offense if the person intentionally or knowingly:

(1) operates an unmanned aircraft over a critical infrastructure facility and the unmanned aircraft is not higher than 400 feet above ground level;

(2) allows an unmanned aircraft to make contact with a critical infrastructure facility, including any person or object on the premises of or within the facility; or

(3) allows an unmanned aircraft to come within a distance of a critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility.

(c) This section does not apply to conduct described by Subsection (b) that is committed by:

(1) the federal government, the state, or a governmental entity;

(2) a person under contract with or otherwise acting under the direction or on behalf of the federal government, the state, or a governmental entity;

(3) a law enforcement agency;

(4) a person under contract with or otherwise acting under the direction or on behalf of a law enforcement agency;

(5) an operator of an unmanned aircraft that is being used for a commercial purpose, if the operation is conducted in compliance with:

(A) each applicable Federal Aviation Administration rule, restriction, or exemption; and

(B) all required Federal Aviation Administration authorizations;

(6) an owner or operator of the critical infrastructure facility;

(7) a person under contract with or otherwise acting under the direction or on behalf of an owner or operator of the critical

infrastructure facility;

(8) a person who has the prior written consent of the owner or operator of the critical infrastructure facility; or

(9) the owner or occupant of the property on which the critical infrastructure facility is located or a person who has the prior written consent of the owner or occupant of that property.

(d) An offense under this section is a Class B misdemeanor, except that the offense is a Class A misdemeanor if the actor has previously been convicted under this section or Section 423.0046.

Added by Acts 2015, 84th Leg., R.S., Ch. 1033 (H.B. 1481), Sec. 1, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 824 (H.B. 1643), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 824 (H.B. 1643), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1010 (H.B. 1424), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1010 (H.B. 1424), Sec. 3, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 8.011(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 8.011(b), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 8.012, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1297 (H.B. 3557), Sec. 3, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1297 (H.B. 3557), Sec. 4, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 538 (S.B. 149), Sec. 1, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 591 (H.B. 3075), Sec. 2, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 591 (H.B. 3075), Sec. 3, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 591 (H.B. 3075), Sec. 4, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 1096 (S.B. 1308), Sec. 2, eff.

September 1, 2023.

Sec. 423.0046. OFFENSE: OPERATION OF UNMANNED AIRCRAFT OVER SPORTS VENUE. (a) In this section, "sports venue" means an arena, automobile racetrack, coliseum, stadium, or other type of area or facility that:

(1) has a seating capacity of 30,000 or more people; and

(2) is primarily used for one or more professional or amateur sports or athletics events.

(b) A person commits an offense if the person intentionally or knowingly operates an unmanned aircraft over a sports venue and the unmanned aircraft is not higher than 400 feet above ground level.

(c) This section does not apply to conduct described by Subsection (b) that is committed by:

(1) the federal government, the state, or a governmental entity;

(2) a person under contract with or otherwise acting under the direction or on behalf of the federal government, the state, or a governmental entity;

(3) a law enforcement agency;

(4) a person under contract with or otherwise acting under the direction or on behalf of a law enforcement agency;

(5) an operator of an unmanned aircraft that is being used for a commercial purpose, if the operation is conducted in compliance with:

(A) each applicable Federal Aviation Administration rule, restriction, or exemption; and

(B) all required Federal Aviation Administration authorizations;

(6) an owner or operator of the sports venue;

(7) a person under contract with or otherwise acting under the direction or on behalf of an owner or operator of the sports venue; or

(8) a person who has the prior written consent of the owner or operator of the sports venue.

(d) An offense under this section is a Class B misdemeanor, except that the offense is a Class A misdemeanor if the actor has previously been convicted under this section or Section 423.0045.

Added by Acts 2017, 85th Leg., R.S., Ch. 1010 (H.B. 1424), Sec. 4, eff. September 1, 2017.

Sec. 423.005. ILLEGALLY OR INCIDENTALLY CAPTURED IMAGES NOT SUBJECT TO DISCLOSURE. (a) Except as otherwise provided by Subsection (b), an image captured in violation of Section 423.003, or an image captured by an unmanned aircraft that was incidental to the lawful capturing of an image:

(1) may not be used as evidence in any criminal or juvenile proceeding, civil action, or administrative proceeding;

(2) is not subject to disclosure, inspection, or copying under Chapter 552; and

(3) is not subject to discovery, subpoena, or other means of legal compulsion for its release.

(b) An image described by Subsection (a) may be disclosed and used as evidence to prove a violation of this chapter and is subject to discovery, subpoena, or other means of legal compulsion for that purpose.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1390 (H.B. 912), Sec. 2, eff. September 1, 2013.

Sec. 423.006. CIVIL ACTION. (a) An owner or tenant of privately owned real property located in this state may bring against a person who, in violation of Section 423.003, captured an image of the property or the owner or tenant while on the property an action to:

(1) enjoin a violation or imminent violation of Section 423.003 or 423.004;

(2) recover a civil penalty of:

(A) $5,000 for all images captured in a single episode in violation of Section 423.003; or

(B) $10,000 for disclosure, display, distribution, or other use of any images captured in a single episode in violation of Section 423.004; or

(3) recover actual damages if the person who captured the image in violation of Section 423.003 discloses, displays, or distributes the image with malice.

(b) For purposes of recovering the civil penalty or actual damages under Subsection (a), all owners of a parcel of real property are considered to be a single owner and all tenants of a parcel of real property are considered to be a single tenant.

(c) In this section, "malice" has the meaning assigned by Section 41.001, Civil Practice and Remedies Code.

(d) In addition to any civil penalties authorized under this section, the court shall award court costs and reasonable attorney's fees to the prevailing party.

(e) Venue for an action under this section is governed by Chapter 15, Civil Practice and Remedies Code.

(f) An action brought under this section must be commenced within two years from the date the image was:

(1) captured in violation of Section 423.003; or

(2) initially disclosed, displayed, distributed, or otherwise used in violation of Section 423.004.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1390 (H.B. 912), Sec. 2, eff. September 1, 2013.

Sec. 423.007. RULES FOR USE BY LAW ENFORCEMENT. The Department of Public Safety shall adopt rules and guidelines for use of an unmanned aircraft by a law enforcement authority in this state.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1390 (H.B. 912), Sec. 2, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2569, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 423.008. REPORTING BY LAW ENFORCEMENT AGENCY. (a) Not earlier than January 1 and not later than January 15 of each odd-numbered year, each state law enforcement agency and each county or municipal law enforcement agency located in a county or municipality, as applicable, with a population greater than 150,000, that used or operated an unmanned aircraft during the preceding 24 months shall issue a written report to the governor, the lieutenant governor, and each member of the legislature and shall:

(1) retain the report for public viewing; and

(2) post the report on the law enforcement agency's publicly accessible website, if one exists.

(b) The report must include:

(1) the number of times an unmanned aircraft was used, organized by date, time, location, and the types of incidents and types of justification for the use;

(2) the number of criminal investigations aided by the use of an unmanned aircraft and a description of how the unmanned aircraft aided each investigation;

(3) the number of times an unmanned aircraft was used for a law enforcement operation other than a criminal investigation, the dates and locations of those operations, and a description of how the unmanned aircraft aided each operation;

(4) the type of information collected on an individual, residence, property, or area that was not the subject of a law enforcement operation and the frequency of the collection of this information; and

(5) the total cost of acquiring, maintaining, repairing, and operating or otherwise using each unmanned aircraft for the preceding 24 months.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1390 (H.B. 912), Sec. 2, eff. September 1, 2013.

Sec. 423.009. REGULATION OF UNMANNED AIRCRAFT BY POLITICAL SUBDIVISION. (a) In this section:

(1) "Political subdivision" includes a county, a joint board created under Section 22.074, Transportation Code, and a municipality.

(2) "Special event" means a festival, celebration, or other gathering that:

(A) involves:

(i) the reservation and temporary use of all or a portion of a public park, road, or other property of a political subdivision; and

(ii) entertainment, the sale of merchandise, food, or beverages, or mass participation in a sports event; and

(B) requires a significant use or coordination of a

political subdivision's services.

(b) Except as provided by Subsection (c), a political subdivision may not adopt or enforce any ordinance, order, or other similar measure regarding the operation of an unmanned aircraft.

(c) A political subdivision may adopt and enforce an ordinance, order, or other similar measure regarding:

(1) the use of an unmanned aircraft during a special event;

(2) the political subdivision's use of an unmanned aircraft; or

(3) the use of an unmanned aircraft near a facility or infrastructure owned by the political subdivision, if the political subdivision:

(A) applies for and receives authorization from the Federal Aviation Administration to adopt the regulation; and

(B) after providing reasonable notice, holds a public hearing on the political subdivision's intent to apply for the authorization.

(d) An ordinance, order, or other similar measure that violates Subsection (b) is void and unenforceable.

Added by Acts 2017, 85th Leg., R.S., Ch. 824 (H.B. 1643), Sec. 3, eff. September 1, 2017.

CHAPTER 424. PROTECTION OF CRITICAL INFRASTRUCTURE FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1198, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 424.001. DEFINITION. In this chapter, "critical infrastructure facility" has the meaning assigned by Section 423.0045(a)(1-a) and also includes:

(1) any pipeline transporting oil or gas or the products or constituents of oil or gas;

(2) a public or private airport depicted in any current aeronautical chart published by the Federal Aviation Administration;

(3) a military installation owned or operated by or for the federal government, this state, or another governmental entity; and

(4) a facility or pipeline described by this section that is under construction and all equipment and appurtenances used during

that construction.

Added by Acts 2019, 86th Leg., R.S., Ch. 1297 (H.B. 3557), Sec. 2, eff. September 1, 2019.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1096 (S.B. 1308), Sec. 3, eff. September 1, 2023.

SUBCHAPTER B. CRIMINAL LIABILITY

Sec. 424.051. OFFENSE: DAMAGING OR DESTROYING CRITICAL INFRASTRUCTURE FACILITY. (a) A person commits an offense if, without the effective consent of the owner, the person enters or remains on or in a critical infrastructure facility and intentionally or knowingly damages or destroys the facility.

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

(c) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

(d) It is a defense to prosecution under this section that the damage caused to the critical infrastructure facility was only superficial.

Added by Acts 2019, 86th Leg., R.S., Ch. 1297 (H.B. 3557), Sec. 2, eff. September 1, 2019.

Sec. 424.052. OFFENSE: IMPAIRING OR INTERRUPTING OPERATION OF CRITICAL INFRASTRUCTURE FACILITY. (a) A person commits an offense if, without the effective consent of the owner, the person enters or remains on or in a critical infrastructure facility and intentionally or knowingly impairs or interrupts the operation of the facility.

(b) An offense under this section is a state jail felony.

(c) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

Added by Acts 2019, 86th Leg., R.S., Ch. 1297 (H.B. 3557), Sec. 2, eff. September 1, 2019.

Sec. 424.053. OFFENSE: INTENT TO DAMAGE OR DESTROY CRITICAL INFRASTRUCTURE FACILITY. (a) A person commits an offense if, without the effective consent of the owner, the person enters or remains on or in a critical infrastructure facility with the intent to damage or destroy the facility.

(b) An offense under this section is a state jail felony.

(c) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

(d) It is a defense to prosecution under this section that the actor intended to cause only superficial damage to the critical infrastructure facility.

Added by Acts 2019, 86th Leg., R.S., Ch. 1297 (H.B. 3557), Sec. 2, eff. September 1, 2019.

Sec. 424.054. OFFENSE: INTENT TO IMPAIR OR INTERRUPT OPERATION OF CRITICAL INFRASTRUCTURE FACILITY. (a) A person commits an offense if, without the effective consent of the owner, the person enters or remains on or in a critical infrastructure facility with the intent to impair or interrupt the operation of the facility.

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

(c) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

Added by Acts 2019, 86th Leg., R.S., Ch. 1297 (H.B. 3557), Sec. 2, eff. September 1, 2019.

Sec. 424.055. PUNISHMENT FOR CORPORATIONS AND ASSOCIATIONS. Notwithstanding Section 12.51, Penal Code, a court shall sentence a corporation or association adjudged guilty of an offense under this subchapter to pay a fine not to exceed $500,000.

Added by Acts 2019, 86th Leg., R.S., Ch. 1297 (H.B. 3557), Sec. 2, eff. September 1, 2019.

Sec. 424.056. RESTITUTION. If a defendant is convicted of an

offense under this subchapter and the offense results in damage to or destruction of property, a court may, in accordance with Article 42.037, Code of Criminal Procedure, order the defendant to make restitution to the owner of the damaged or destroyed property, or the owner's designee, in an amount equal to the value of the property on the date of the damage or destruction.

Added by Acts 2019, 86th Leg., R.S., Ch. 1297 (H.B. 3557), Sec. 2, eff. September 1, 2019.

SUBCHAPTER C. CIVIL LIABILITY

Sec. 424.101. CIVIL LIABILITY FOR DAMAGE TO CRITICAL INFRASTRUCTURE FACILITY. (a) A defendant who engages in conduct constituting an offense under Section 424.051, 424.052, 424.053, or 424.054 is liable to the property owner, as provided by this subchapter, for damages arising from that conduct.

(b) It is not a defense to liability under this section that a defendant has been acquitted or has not been prosecuted or convicted under Section 424.051, 424.052, 424.053, or 424.054, or has been convicted of a different offense or of a different type or class of offense, for the conduct that is alleged to give rise to liability under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 1297 (H.B. 3557), Sec. 2, eff. September 1, 2019.

Sec. 424.102. CERTAIN ADDITIONAL LIABILITY. In addition to any liability under Section 424.101, an organization that, acting through an officer, director, or other person serving in a managerial capacity, knowingly compensates a person for engaging in conduct occurring on the premises of a critical infrastructure facility is liable to the property owner, as provided by this subchapter, for damages arising from the conduct if the conduct constituted an offense under Section 424.051, 424.052, 424.053, or 424.054.

Added by Acts 2019, 86th Leg., R.S., Ch. 1297 (H.B. 3557), Sec. 2, eff. September 1, 2019.

Sec. 424.103. DAMAGES. (a) A claimant who prevails in a suit under this subchapter shall be awarded:

(1) actual damages; and

(2) court costs.

(b) In addition to an award under Subsection (a), a claimant who prevails in a suit under this subchapter may recover exemplary damages.

Added by Acts 2019, 86th Leg., R.S., Ch. 1297 (H.B. 3557), Sec. 2, eff. September 1, 2019.

Sec. 424.104. CAUSE OF ACTION CUMULATIVE. The cause of action created by this subchapter is cumulative of any other remedy provided by common law or statute.

Added by Acts 2019, 86th Leg., R.S., Ch. 1297 (H.B. 3557), Sec. 2, eff. September 1, 2019.

Sec. 424.105. NONAPPLICABILITY. The following provisions of the Civil Practice and Remedies Code do not apply to a cause of action arising under this subchapter:

(1) Chapter 27; and

(2) Section 41.008.

Added by Acts 2019, 86th Leg., R.S., Ch. 1297 (H.B. 3557), Sec. 2, eff. September 1, 2019.

CHAPTER 425. PEACE OFFICER WELLNESS PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 425.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Fund" means the peace officer wellness fund.

(3) "Law enforcement agency" means a state agency or political subdivision of this state that employs at least 20 peace

officers described by Article 2.12(1), (3), (4), (8), or (10), Code of Criminal Procedure, to answer emergency calls for service or conduct patrol operations, traffic enforcement, or criminal investigations.

(4) "Violent incident" means an incident involving a peace officer that occurs while the officer is performing official duties and that poses a substantial risk of serious harm to the officer's mental health or well-being, including responding to a homicide, suicide, or fatal motor vehicle accident.

Added by Acts 2023, 88th Leg., R.S., Ch. 615 (H.B. 3858), Sec. 1, eff. September 1, 2023.

SUBCHAPTER B. WELLNESS PROGRAM

Sec. 425.051. ESTABLISHMENT OF PROGRAM. A law enforcement agency may establish and maintain a wellness program for the agency's peace officers.

Added by Acts 2023, 88th Leg., R.S., Ch. 615 (H.B. 3858), Sec. 1, eff. September 1, 2023.

Sec. 425.052. PROGRAM REQUIREMENTS. A law enforcement agency that establishes a wellness program must ensure the program complies with any requirements established by the commission and is available to each peace officer who has routinely responded to and may have been affected by a violent incident. The program at a minimum must provide:

(1) an initial telephone call or other form of contact from an agency representative to monitor the mental and physical well-being of a peace officer who may have been affected by a violent incident; and

(2) information regarding mental health resources, including counseling and therapy services, to a peace officer who is struggling to cope with the effect on the officer of responding to a violent incident.

Added by Acts 2023, 88th Leg., R.S., Ch. 615 (H.B. 3858), Sec. 1, eff. September 1, 2023.

SUBCHAPTER C. PEACE OFFICER WELLNESS FUND AND GRANT PROGRAM

Sec. 425.101. FUND. (a) The peace officer wellness fund is an account in the general revenue fund.

(b) The fund is composed of:

(1) money appropriated to the fund by the legislature;

(2) gifts and grants contributed to the fund; and

(3) the earnings of the fund.

(c) Money in the fund may be appropriated only to the commission. The commission may use the money only for making grants under Section 425.102.

Added by Acts 2023, 88th Leg., R.S., Ch. 615 (H.B. 3858), Sec. 1, eff. September 1, 2023.

Sec. 425.102. PEACE OFFICER WELLNESS GRANT PROGRAM. (a) The commission shall establish and administer a grant program to assist law enforcement agencies in establishing and maintaining peace officer wellness programs as required under Subchapter B.

(b) The commission shall establish:

(1) eligibility criteria for grant applicants;

(2) grant application procedures;

(3) guidelines relating to grant amounts;

(4) procedures for evaluating grant applications;

(5) guidelines relating to the use of a grant awarded under the program, including the reimbursement of costs associated with the provision of counseling and therapy services to peace officers participating in a wellness program; and

(6) procedures for monitoring the use of a grant awarded under the program and ensuring compliance with any condition of a grant.

Added by Acts 2023, 88th Leg., R.S., Ch. 615 (H.B. 3858), Sec. 1, eff. September 1, 2023.

SUBTITLE C. STATE MILITARY FORCES AND VETERANS

CHAPTER 431. STATE MILITIA

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 431.001. DEFINITIONS. In this chapter:

(1) "Reserve militia" means the persons liable to serve,

but not serving, in the state military forces.

(1-a) "Servicemember" has the meaning assigned by Section 161.551, Health and Safety Code.

(2) "State militia" means the state military forces and the reserve militia.

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

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

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

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

(7) "Political subdivision" has the meaning assigned by Section 21.002, Labor Code.

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

Acts 2007, 80th Leg., R.S., Ch. 1381 (S.B. 1058), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 1, eff. June 17, 2011.

SUBCHAPTER B. ADJUTANT GENERAL'S DEPARTMENT

Sec. 431.030. REPORT OF MILITARY USE OF PROPERTY. (a) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 4.01(2), eff. September 1, 2013.

Without reference to the amendment of this subsection, this subchapter was repealed by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 4.01(2), eff. September 1, 2013.

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

Code, the adjutant general shall submit the report as required by Subsection (a) to:

(1) the governor;

(2) the presiding officer of each house of the legislature; and

(3) the Governor's Office of Budget, Planning, and Policy.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 907, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1021, Sec. 8, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1168, Sec. 4, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1335 (S.B. 1724), Sec. 4, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 4.01(2), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 31, eff. September 1, 2013.

Sec. 431.034. REPORT.

Without reference to the amendment of this subsection, this subchapter was repealed by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 4.01(2), eff. September 1, 2013.

(a) The adjutant general annually shall report to the governor. The report shall be delivered to the legislature. The report must include:

(1) an account, to the extent of the adjutant general's knowledge, of all arms, ammunition, and other military property owned by or in possession of the state, the source from which it was received, to whom it is issued, and its present condition;

(2) a statement of the number, condition, and organization of the Texas National Guard and reserve militia;

(3) suggestions that the adjutant general considers important to the military interests and conditions of the state and the perfection of its military organization;

(4) a list and description of all Texas National Guard missions that are in progress at the time the report is prepared; and

(5) a statement of department plans to obtain and maintain

future Texas National Guard missions, including proposed missions that are consistent with the United States Department of Defense's war-fighting strategies, including strategies used in the war on terrorism.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 4.01(2), eff. September 1, 2013.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1021, Sec. 9, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 31, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 4.01(2), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 32, eff. September 1, 2013.

SUBCHAPTER E. RESERVE MILITIA

Sec. 431.071. MILITARY DUTY. (a) The reserve militia is not subject to active military duty, except that the governor may call into service the portion of the reserve militia needed for the period required in case of war, insurrection, invasion or prevention of invasion, suppression of riot, tumult, or breach of peace or to aid civil officers to execute law or serve process.

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

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

Sec. 431.072. COUNTY EMERGENCY BOARD. The county emergency board of each county consists of the county judge, sheriff, and tax assessor-collector. If one of those officers is unable to act, the governor shall designate another public official to serve on the board.

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

Sec. 431.073. DRAFT. (a) The governor, by order to the county

emergency board, shall apportion the number of members of the reserve militia called into service among the counties by draft according to each county's population or by other means the governor directs. The county emergency board shall establish fair and equitable procedures for selection of persons to fill the draft according to regulations adopted by the governor. On completion of the selection, the board shall deliver a list of the persons selected to the governor and notify each person selected of the time and place to appear and report.

(b) A member of the reserve militia while in active service is a member of the state military forces under Section 432.001(16), and is subject to the punitive provisions of Chapter 432. A member who does not appear at the time and place designated by the county emergency board shall be punished as a court-martial directs.

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

Sec. 431.074. PENALTY. (a) A member of a county emergency board who neglects or refuses to perform a duty required by this subchapter commits an offense.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than $1,000 and confinement in jail for not less than six nor more than 12 months.

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

SUBCHAPTER H. CALLING OF FORCES

Sec. 431.111. CALLING OF FORCES BY GOVERNOR. (a) The governor may call all or part of the state military forces to repel or suppress an invasion of or insurrection in or threatened invasion of or insurrection in the state or if the governor considers it necessary to enforce state law. If the number of state military forces is insufficient, the governor shall call the part of the reserve militia that the governor considers necessary.

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

(c) The governor may order a commander of a unit of the state

military forces to appear at a time and place directed to suppress or prevent tumult, riot, or the actions of a group of persons acting together by force with intent to commit a breach of the peace or violence to a person or property or to otherwise violate state law.

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

Sec. 431.112. CALLING OF FORCES BY OTHER OFFICIAL. If military aid is immediately and urgently necessary to prevent or suppress violence under Section 431.111(c) and it is impracticable to secure the aid in time by order of the governor, the district judge of the judicial district, the sheriff of the county, or the mayor of the municipality in which the disturbance occurs may call for aid on the commanding officer of the state military forces stationed in the judicial district, county, or municipality or an adjacent judicial district, county, or municipality. The officer must make the call in writing and shall immediately notify the governor of the action.

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

Sec. 431.113. DUTY OF COMMANDING OFFICER. (a) On receipt of a call under this subchapter, a commanding officer immediately shall order the called forces under the officer's command to parade at the time and place appointed and shall notify the governor of the action.

(b) After the forces have appeared at the appointed place, the commanding officer shall obey and execute the general instructions of the civil authorities charged by law with the suppression of riot or tumult or the preservation of public peace. The instructions must be in writing, except that if written instructions are impracticable the instructions must be given verbally in the presence of two or more credible witnesses. The commanding officer is solely responsible for determining the kind and extent of force to be used and the method of implementing the instructions.

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

Sec. 431.114. SALE OF ARMS. The commanding officer of forces called to enforce law may order the closing of any place where arms,

ammunition, or explosives are sold and forbid the sale, barter, loan, or gift of arms, ammunition, or explosives while forces are on duty in or near that place.

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

Sec. 431.115. STATE OF INSURRECTION. The governor by proclamation may declare any portion of the state where state military forces are serving in aid of the civil authority to be in a state of insurrection, if the governor determines that law and order will be promoted by the declaration.

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

SUBCHAPTER J. AWARDS

CHAPTER 432. TEXAS CODE OF MILITARY JUSTICE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 432.001. DEFINITIONS. In this chapter:

(1) "Accuser" means a person who signs and swears to charges, who directs that charges nominally be signed and sworn to by another, or who has an interest other than an official interest in the prosecution of the accused.

(2) "Active state duty" means duty authorized under the constitution and laws of the state and all training authorized under Title 32, United States Code.

(3) "Commanding officer" includes commissioned officers and warrant officers of the state military forces who either have been appointed to command by a superior authority or have lawfully assumed command.

(4) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding temporarily, or a successor in command.

(5) "Day" means a calendar day and is not synonymous with unit training assembly or any other accounting for training. A punishment authorized under this chapter that is measured in terms of days means calendar days.

(6) "Duty" means any presence or performance of any service with or on behalf of the state military forces.

(7) "Enlisted member" means a person in an enlisted grade.

(8) "Grade" means a step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation.

(9) "Judge advocate" means a commissioned officer appointed to serve as a judge advocate by the adjutant general under Section 432.005(b).

(10) "Legal officer" means a commissioned officer of the state military forces designated to perform legal duties for a command.

(11) "Military" refers to all or part of the state military forces.

(12) "Military court" means a court-martial, court of inquiry, military commission, or provost court.

(13) "Military judge" means an official of a court-martial detailed in accordance with Section 432.045.

(14) "Officer" means a commissioned or warrant officer of the state military forces.

(15) "Officer candidate" means a candidate of the state officer candidate school.

(16) "Rank" means the order of precedence among members of the state military forces.

(17) "State judge advocate general" means the judge advocate general of the state military forces, commissioned in those forces, and responsible for supervising the administration of military justice in the state military forces, and performing other legal duties required by the adjutant general.

(18) "State military forces" means the National Guard of this state, as defined in Title 32, United States Code, and other militia or military forces organized under the laws of this state.

(19) "Superior commissioned officer" means a commissioned officer superior in rank or command.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 309, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 1, eff. September 1, 2011.

Sec. 432.002. PERSONS SUBJECT TO CHAPTER. This chapter applies

to all members of the state military forces who are not in federal service under Title 10, United States Code.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 2, eff. September 1, 2011.

Sec. 432.003. JURISDICTION TO TRY CERTAIN PERSONNEL. (a) A person discharged from the state military forces who is later charged with having fraudulently obtained the discharge is, except as provided by Section 432.068, subject to trial by court-martial on that charge and is, after apprehension, subject to this chapter while in custody of the military for that trial. On conviction of that charge the person is subject to trial by court-martial for all offenses under this chapter committed before the fraudulent discharge.

(b) A person who has deserted from the state military forces may not be relieved from amenability to the jurisdiction of this chapter by virtue of a separation from any later period of service.

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

Sec. 432.004. TERRITORIAL APPLICABILITY OF CHAPTER. (a) This chapter applies in all places and to all persons otherwise subject to this chapter while they are serving outside the state and while they are going to and returning from service outside the state, in the same manner and to the same extent as if they were serving inside the state.

(b) Courts-martial and courts of inquiry may be convened and held in units of the state military forces while those units are serving outside the state, with the same jurisdiction and power as to persons subject to this chapter as if the proceedings were held inside the state, and offenses committed outside the state may be tried and punished either inside or outside the state.

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

Sec. 432.005. JUDGE ADVOCATES AND LEGAL OFFICERS. (a) The adjutant general shall appoint an officer of the state military forces as state judge advocate general. To be eligible for appointment, an officer must be a member of the State Bar of Texas for at least five years.

(b) The adjutant general shall appoint judge advocates and legal officers on recommendation by the state judge advocate general. To be eligible for appointment, a judge advocate or legal officer must be an officer of the state military forces and a member of the State Bar of Texas.

(c) The state judge advocate general or his assistants shall make frequent inspections in the field in supervision of the administration of military justice.

(d) Convening authorities shall at all times communicate directly with their staff judge advocates or legal officers in matters relating to the administration of military justice. The staff judge advocates or legal officers of a command are entitled to communicate directly with the staff judge advocates or legal officers of a superior or subordinate command or with the state judge advocate general.

(e) A person who has acted as member, military judge, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, or investigating officer, or who has been a witness for either the prosecution or defense in a case, may not later act as staff judge advocate or legal officer to a reviewing authority on the same case.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 309, Sec. 2, eff. Sept. 1, 1999.

SUBCHAPTER B. APPREHENSION AND RESTRAINT; NONJUDICIAL PUNISHMENT

Sec. 432.008. APPREHENSION. (a) In this subchapter, "apprehend" means to take a person into custody.

(b) A person authorized by this chapter or by regulations issued under it to apprehend a person subject to this chapter, a marshal of a court-martial appointed under this chapter, and a peace officer having authority to apprehend offenders under the laws of the United States or of a state, may do so on reasonable belief that an offense has been committed and that the person apprehended committed

it.

(c) Commissioned officers, warrant officers, and noncommissioned officers may quell quarrels, frays, and disorders among persons subject to this chapter and apprehend persons subject to this chapter who take part in those activities.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 3, eff. September 1, 2011.

Sec. 432.009. APPREHENSION OF DESERTERS. A civil officer or peace officer having authority to apprehend offenders under the laws of the United States or a state, territory, commonwealth, or possession, or the District of Columbia, may summarily apprehend a deserter from the state military forces and deliver the deserter into the custody of the state military forces.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 3, eff. September 1, 2011.

Sec. 432.010. IMPOSITION OF RESTRAINT. (a) In this subchapter:

(1) "Arrest" means the restraint of a person by an order, not imposed as a punishment for an offense, directing the person to remain within certain specified limits.

(2) "Confinement" means the physical restraint of a person.

(b) An enlisted member may be ordered into arrest or confinement by a commissioned officer by an oral or written order delivered in person, through other persons subject to this chapter, or through a person authorized by this chapter to apprehend persons. A commanding officer may authorize warrant officers or noncommissioned officers to order enlisted members of the officer's company or subject to the officer's authority into arrest or confinement.

(c) A commissioned officer or warrant officer may be ordered apprehended or into arrest or confinement only by a commanding officer to whose authority the person is subject, by an oral or written order delivered in person or by another commissioned officer.

The authority to order such persons apprehended or into arrest or confinement may not be delegated.

(d) A person may not be ordered apprehended or into arrest or confinement except for probable cause.

(e) This section does not limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until the proper authority may be notified.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 3, eff. September 1, 2011.

Sec. 432.011. RESTRAINT OF PERSONS CHARGED WITH OFFENSES. A person subject to this chapter charged with an offense under this chapter shall be ordered into arrest or confinement, as circumstances may require, but if charged with only an offense normally tried by a summary court-martial, the person may not ordinarily be placed in confinement. If a person subject to this chapter is placed in arrest or confinement before trial, immediate steps shall be taken to inform the person of the specific wrong of which the person is accused and to try the person or to dismiss the charges and release the person. A person confined other than in a guardhouse, whether before, during, or after trial by a military court, shall be confined in a civilian jail.

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

Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 3, eff. September 1, 2011.

Sec. 432.012. REPORTS AND RECEIVING OF PRISONERS. (a) A provost marshal, commander of a guard, master at arms, warden, keeper, or officer of a city or county jail or any other jail designated under Section 432.011 may not refuse to receive or keep a prisoner committed to the person's charge, when the committing person furnishes a statement, signed by the committing person, of the offense charged against the prisoner.

(b) A commander of a guard, master at arms, warden, keeper, or officer of a city or county jail or of any other jail designated

under Section 432.011 to whose charge a prisoner is committed shall, within 24 hours after that commitment or as soon as the person is relieved from guard, report to the commanding officer of the prisoner the name of the prisoner, the offense charged against the prisoner, and the name of the person who ordered or authorized the commitment.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 3, eff. September 1, 2011.

Sec. 432.013. PUNISHMENT PROHIBITED BEFORE TRIAL. Subject to Section 432.093, a person, while being held for trial or the result of trial, may not be subjected to punishment or penalty other than arrest or confinement on the charges pending against the person, nor may the arrest or confinement imposed on the person be more rigorous than the circumstances require to ensure the person's presence, but the person may be subjected to minor punishment during that period for infractions of discipline.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 3, eff. September 1, 2011.

Sec. 432.014. DELIVERY OF OFFENDERS TO CIVIL AUTHORITIES. (a) Under regulations prescribed under this chapter a person subject to this chapter who is on active state duty and who is accused of an offense against civil authority may be delivered, on request, to the civil authority for trial.

(b) If delivery under this section is made to a civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial, and the offender, after having answered to the civil authorities for the offense, on the request of competent military authority, shall be returned to military custody for the completion of the sentence.

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

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 3, eff. September 1, 2011.

Sec. 432.015. COMMANDING OFFICER'S NONJUDICIAL PUNISHMENT. (a) Under regulations as may be prescribed, any commanding officer may impose disciplinary punishments for minor offenses without the intervention of a court-martial in accordance with this subchapter. There is no right to trial by court-martial in lieu of nonjudicial punishment imposed under this section. Only the governor, the adjutant general, or an officer of a general or flag rank in command may delegate the powers under this section to a principal assistant who is a member of the state military forces.

(b) Any accused person who is facing discipline under this section shall be afforded the opportunity to be represented by defense counsel having the qualifications prescribed under Section 432.046(b), if such a counsel is reasonably available. Otherwise, the accused shall be afforded the opportunity to be represented by any available commissioned officer of the accused's choice. The accused may also be represented by civilian counsel at no expense to the state. In all proceedings, the accused is allowed three duty days, or longer on written justification, to reply to the notification of intent to impose punishment under this section.

(c) Any commanding officer may impose on enlisted members in the officer's command:

(1) a reprimand;

(2) a fine equal to an amount that is not more than seven days' pay; and

(3) a reduction to the next inferior pay grade.

(d) Any commanding officer of the grade of O-4 or above may impose on enlisted members in the officer's command:

(1) a reprimand;

(2) a fine equal to an amount that is not more than one month's pay; and

(3) a reduction to the lowest or any intermediate pay grade, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades.

(e) The governor, the adjutant general, an officer exercising general court-martial convening authority, or an officer of a general

or flag rank in command may impose:

(1) on officers in the officer's command:

(A) a reprimand; and

(B) a fine equal to an amount that is not more than one month's pay; and

(2) on enlisted members in the officer's command, any punishment authorized under Subsection (d).

(f) The officer who imposes the punishment authorized in this section or the officer's successor in command may at any time suspend, set aside, reduce, or remit any part or amount of the punishment and restore all rights, privileges, and property affected. The mitigated punishment may not be for a greater amount than the punishment mitigated. When mitigating reduction in grade to a fine, the amount of the fine may not be greater than the amount that could have been imposed initially under this section by the officer who imposed the punishment mitigated.

(g) A person punished under this section who considers the punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority not later than the 15th day after the date the punishment is either announced or sent to the accused, as the commanding officer determines. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under Subsection (f) by the officer who imposed the punishment. Before acting on an appeal from a punishment, the authority who is to act on the appeal may refer the case to a judge advocate for consideration and advice.

(h) The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court-martial or a civilian court of competent jurisdiction for a serious crime or offense growing out of the same act or omission and not properly punishable under this section, but the fact that a disciplinary punishment has been enforced may be shown by the accused on trial and, when shown, shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(i) Regulations may prescribe the form of records to be kept of proceedings under this section and that certain categories of those

proceedings shall be in writing.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 3, eff. September 1, 2011.

SUBCHAPTER D. COURTS-MARTIAL

Sec. 432.031. COURTS-MARTIAL CLASSIFIED. The three kinds of courts-martial in each of the state military forces are:

(1) general court-martial, consisting of:

(A) a military judge and not fewer than five members; or

(B) only a military judge, if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests in writing a court composed only of a military judge and the military judge approves;

(2) special court-martial, consisting of:

(A) a military judge and not fewer than three members; or

(B) only a military judge, if one has been detailed to the court, and the accused under the same conditions as those prescribed in Subdivision (1)(B) requests; and

(3) summary court-martial, consisting of one officer, who must be a military judge or an attorney licensed to practice law in this state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 4, eff. September 1, 2011.

Sec. 432.032. JURISDICTION OF COURT-MARTIAL IN GENERAL. Each force of the state military forces has court-martial jurisdiction over a member of the force who is subject to this chapter. The Texas Army National Guard and the Texas Air National Guard have court-martial jurisdiction over all enlisted members subject to this chapter. The exercise of jurisdiction by one force over personnel of another force shall be in accordance with regulations prescribed by

the governor.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 5, eff. September 1, 2011.

Sec. 432.033. JURISDICTION OF GENERAL COURT-MARTIAL. (a) Subject to Section 432.032, a general court-martial has jurisdiction to try a person subject to this chapter for any offense made punishable by this chapter and may, under limitations the governor prescribes, adjudge any of the following punishments:

(1) reprimand;
(2) forfeiture of pay and allowances;
(3) a fine of not more than $10,000;
(4) reduction of any enlisted member to any lower rank;
(5) confinement for not more than five years;
(6) dismissal or bad conduct or dishonorable discharge; or
(7) any combination of those punishments.

(b) A dismissal or dishonorable discharge may not be adjudged unless a complete record of the proceedings and testimony is made, counsel having the qualifications prescribed under Section 432.046(b) is detailed to represent the accused; and a military judge is detailed to the trial.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2005, 79th Leg., Ch. 94 (S.B. 1217), Sec. 2, eff. September 1, 2005.
Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 6, eff. September 1, 2011.

Sec. 432.034. JURISDICTION OF SPECIAL COURT-MARTIAL. (a) Subject to Section 432.032, a special court-martial has jurisdiction to try a person subject to this chapter, except a commissioned officer, for any offense under this chapter. A special court-martial has the same powers of punishment as a general court-martial, except that a special court-martial may not impose more than a $4,000 fine and confinement of not more than one year for a single offense.

(b) A dismissal or bad conduct discharge may not be adjudged unless a complete record of the proceedings and testimony is made, counsel having the qualifications prescribed under Section 432.046(b) is detailed to represent the accused, and a military judge is detailed to the trial, except in a case in which a military judge cannot be detailed to the trial because of physical conditions or military exigencies. In a case in which a military judge is not detailed to the trial, the convening authority shall make a detailed written statement, to be appended to the record, stating the reason a military judge could not be detailed.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2005, 79th Leg., Ch. 94 (S.B. 1217), Sec. 3, eff. September 1, 2005.
Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 7, eff. September 1, 2011.

Sec. 432.035. JURISDICTION OF SUMMARY COURT-MARTIAL. (a) Subject to Section 432.032, a summary court-martial has jurisdiction to try persons subject to this chapter, except officers, for any offense under this chapter.

(b) A person of whom a summary court-martial has jurisdiction may not be brought to trial before a summary court-martial if the person objects. If an accused objects to trial by summary court-martial, trial may be ordered by special or general court-martial, as appropriate.

(c) A summary court-martial may sentence a person to pay a fine of not more than $1,000 and confinement for not more than 90 days for a single offense, to forfeit pay and allowances, and to reduction of a noncommissioned officer to any lower rank.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2005, 79th Leg., Ch. 94 (S.B. 1217), Sec. 4, eff. September 1, 2005.
Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 8, eff. September 1, 2011.

Sec. 432.036. JURISDICTION OF COURT-MARTIAL NOT EXCLUSIVE. The provisions of this chapter conferring jurisdiction on courts-martial do not deprive military commissions, provost courts, or other military tribunals of concurrent jurisdiction with respect to offenders or offenses that by statute or by the law of war may be tried by military commissions, provost courts, or other military tribunals.

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

SUBCHAPTER E. COMPOSITION OF COURTS-MARTIAL

Sec. 432.041. WHO MAY CONVENE GENERAL COURT-MARTIAL. In the militia or state military forces not in federal service a general court-martial may be convened by:

(1) the governor; or

(2) the adjutant general or any other general officer under regulations the governor may adopt.

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

Sec. 432.042. WHO MAY CONVENE SPECIAL COURT-MARTIAL. In the state military forces not in federal service, any commander in the grade of O-5 or higher may convene a special court-martial.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 309, Sec. 3, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 9, eff. September 1, 2011.

Sec. 432.043. WHO MAY CONVENE SUMMARY COURT-MARTIAL. In the state military forces not in federal service, any commander in the grade of O-4 or higher may convene a summary court-martial.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 309, Sec. 4, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 10, eff.

September 1, 2011.

Sec. 432.044. WHO MAY SERVE ON COURT-MARTIAL. (a) Any state commissioned officer in a duty status is eligible to serve on a court-martial.

(b) A warrant officer in a duty status is eligible to serve on general and special courts-martial for the trial of a person, other than a commissioned officer, who may lawfully be brought before the courts for trial.

(c) An enlisted member of the state military forces in a duty status who is not a member of the same unit as the accused is eligible to serve on general and special courts-martial for the trial of an enlisted member of the state military forces who may lawfully be brought before the court for trial if, before the conclusion of a session called by the military judge under Section 432.064(a) before trial or, in the absence of such a session, before the court is assembled for the trial of the accused, the accused personally has requested in writing that enlisted members serve on it. After such a request, the accused may not be tried by a general or special court-martial the membership of which does not include enlisted members in a number comprising at least one-third of the total membership of the court, unless eligible members cannot be obtained because of physical conditions or military exigencies. If a sufficient number of enlisted members cannot be obtained, the court may be convened and the trial held without them, but the convening authority shall make a detailed written statement, to be appended to the record, stating why they could not be obtained. In this subsection, "unit" means a regularly organized body of the state military forces not larger than a company, squadron, division of the naval militia, or body corresponding to a company, squadron, or division.

(d) When it can be avoided, a person subject to this chapter may not be tried by a court-martial of which any member is junior to the accused in rank or grade. On convening a court-martial, the convening authority shall detail as members of the court-martial members of the state military forces that, in the convening authority's opinion, are best qualified for the duty because of age, education, training, experience, length of service, and judicial temperament. A member of the state military forces is not eligible to serve as a member of a general or special court-martial if the

member is the accuser, is a witness, or has acted as investigating officer or counsel in the same case.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 309, Sec. 5, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 11, eff. September 1, 2011.

Sec. 432.045. MILITARY JUDGE OF COURT-MARTIAL. (a) The authority convening a general court-martial shall, and, subject to regulations issued by the governor, the authority convening a special or summary court-martial may, detail a military judge to the court-martial. A military judge shall preside over open sessions of the court-martial to which the judge has been detailed.

(b) A military judge must be a commissioned officer of the state military forces, a member of the State Bar of Texas, and certified to be qualified for duty as a military judge by the state judge advocate general of the state military forces.

(c) The military judge of a general court-martial shall be designated by the state judge advocate general or his designee for detail by the convening authority, and unless the court-martial was convened by the governor or the adjutant general, neither the convening authority nor a member of his staff shall prepare or review any report concerning the effectiveness, fitness, or efficiency of the military judge's performance of duty as a military judge.

(d) A person who is the accuser, is a witness, or has acted as investigating officer or counsel in a case is not eligible to act as military judge in the same case.

(e) The military judge of a court-martial may not consult with the members of the court except in the presence of the accused, trial counsel, and defense counsel, nor may he vote with the members of the court.

(f) A military judge detailed to preside over a court-martial is not subject to any report by the convening authority concerning the effectiveness, fitness, or efficiency of that military judge that relates to performance of duty as a military judge, nor any member of his staff.

(g) A trial counsel, defense counsel, military judge, legal

officer, summary court officer, or any other person certified by the state judge advocate general to perform legal functions under this chapter shall be used interchangeably, as needed, among all of the state military forces.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 309, Sec. 6, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 12, eff. September 1, 2011.

Sec. 432.046. DETAIL OF TRIAL COUNSEL AND DEFENSE COUNSEL. (a) The authority convening each general, special, or summary court-martial shall detail trial counsel, defense counsel, and assistants that the authority considers appropriate. A person who has acted as investigating officer, military judge, or court member in a case may not act later as trial counsel or assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant defense counsel in the same case. A person who has acted for the prosecution may not act later in the same case for the defense, nor may a person who has acted for the defense act later in the same case for the prosecution.

(b) Trial counsel or defense counsel detailed for a general court-martial must be:

(1) a member of the State Bar of Texas; and

(2) certified as competent to perform those duties by the state judge advocate general.

(b-1) Trial counsel or defense counsel detailed for a general court-martial may not be under the supervision or command of the other counsel unless the accused and the prosecution expressly waive this restriction.

(c) In the case of a special or summary court-martial the accused shall be afforded the opportunity to be represented at the trial by counsel having the qualifications prescribed under Subsection (b) unless counsel having those qualifications cannot be obtained because of physical conditions or military exigencies. If counsel having those qualifications cannot be obtained, the court may be convened and the trial held, but the convening authority shall make a detailed written statement, to be appended to the record,

stating why counsel with those qualifications could not be obtained. If the trial counsel is qualified to act as counsel before a general court-martial, the defense counsel detailed by the convening authority must be a person similarly qualified. If the trial counsel is a judge advocate or a member of the State Bar of Texas, the defense counsel detailed by the convening authority must be a judge advocate or a member of the State Bar of Texas.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 309, Sec. 7, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 13, eff. September 1, 2011.

Sec. 432.047. DETAIL OR EMPLOYMENT OF REPORTERS AND INTERPRETERS. Under regulations that the governor prescribes, the convening authority of a general or special court-martial, military commission, court of inquiry, or a military tribunal:

(1) shall detail or employ qualified court reporters who shall record the proceedings of and testimony taken before that court, commission, or tribunal; and

(2) may detail or employ interpreters who shall interpret for the court, commission, or tribunal.

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

Sec. 432.048. ABSENT AND ADDITIONAL MEMBERS. (a) A member of a general or special court-martial may not be absent or excused after the court has been assembled for the trial of the accused except for physical disability or as the result of a challenge or by order of the convening authority for good cause.

(b) If a general court-martial, other than a general court-martial composed of a military judge only, is reduced below five members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not fewer than five members. The trial may proceed with the new members present after the recorded evidence previously introduced has been read to the court in the presence of the military judge, the accused, and counsel for both sides.

(c) If a special court-martial, other than a special court-martial composed of a military judge only, is reduced below three members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not fewer than three members. The trial shall proceed with the new members present as if no evidence had previously been introduced at the trial, unless a verbatim record of the evidence previously introduced before the members of the court or a stipulation of that evidence is read to the court in the presence of the military judge, if any, the accused, and counsel for both sides.

(d) If the military judge of a court-martial composed of a military judge only is unable to proceed with the trial because of physical disability, as a result of a challenge, or for other good cause, the trial shall proceed, subject to any applicable conditions of Section 432.031(1)(B) or (2)(C), after the detail of a new military judge as if no evidence had previously been introduced, unless a verbatim record of the evidence previously introduced or stipulation of that evidence is read in court in the presence of the new military judge, the accused, and counsel for both sides.

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

SUBCHAPTER F. PRETRIAL PROCEDURE

Sec. 432.051. CHARGES AND SPECIFICATIONS. (a) Charges and specifications must be signed by a person subject to this chapter, under oath, and before a commissioned officer of the state military force authorized to administer oaths, and must state that:

(1) the signer has personal knowledge of, or has investigated, the matters set forth; and

(2) the matters set forth are true in fact to the best of the signer's knowledge and belief.

(b) On the preferring of charges, the proper authority shall take immediate steps to determine the disposition that should be made in the interest of justice and discipline, and the person accused shall be informed of the charges as soon as practicable.

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

Sec. 432.052. COMPULSORY SELF-INCRIMINATION PROHIBITED. (a) A

person subject to this chapter may not compel any person to incriminate himself or to answer a question the answer to which may tend to incriminate him.

(b) A person subject to this chapter may not interrogate or request any statement from an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected and that any statement made by him may be used as evidence against him in a trial by court-martial.

(c) A person subject to this chapter may not compel any person to make a statement or produce evidence before a military tribunal if the statement or evidence is not material to the issue and may tend to degrade him.

(d) A statement obtained from a person in violation of this section, or through the use of coercion, unlawful influence, or unlawful inducement, may not be received in evidence against the person in a trial by court-martial.

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

Sec. 432.053. INVESTIGATION. (a) A charge or specification may not be referred to a general court-martial for trial until a thorough and impartial investigation of all the matters set forth has been made. This investigation must include inquiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the disposition that should be made of the case in the interest of justice and discipline.

(b) The accused is entitled to be advised of the charges against him and of his right to be represented at that investigation by counsel. On the accused's own request, he is entitled to be represented by civilian counsel if provided by him, or by military counsel of his own selection if that counsel is reasonably available, or by counsel detailed by the officer exercising general court-martial jurisdiction over the command. At that investigation full opportunity shall be given to the accused to cross-examine witnesses against him if they are available and to present anything he may desire in his own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by

the accused. If the charges are forwarded after the investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides, and a copy shall be given to the accused.

(c) If an investigation of the subject matter of an offense has been conducted before the accused is charged with the offense, and if the accused was present at the investigation and afforded the opportunities for representation, cross-examination, and presentation prescribed in Subsection (b), further investigation of that charge is not necessary under this section unless it is demanded by the accused after he is informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross-examination and to offer any new evidence in his own behalf.

(d) The requirements of this section are binding on all persons administering this chapter but failure to follow them does not constitute jurisdictional error.

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

Sec. 432.054. FORWARDING OF CHARGES. (a) If a person is held for trial by general court-martial, the commanding officer shall, not later than the eighth day after the date the accused is ordered into arrest or confinement, forward the charges, together with the investigation and allied papers, to the officer exercising general court-martial jurisdiction.

(b) If compliance with Subsection (a) is not practicable, the commanding officer shall instead report in writing to that officer the reasons for delay.

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

Sec. 432.055. ADVICE OF STAFF JUDGE ADVOCATE AND REFERENCE FOR TRIAL. (a) Before directing the trial of a charge by general court-martial, the convening authority shall refer it to the authority's staff judge advocate or legal officer for consideration and advice. The convening authority may not refer a charge to a general court-martial for trial unless the authority has found that the charge alleges an offense under this chapter and is warranted by evidence indicated in the report of investigation.

(b) If the charges or specifications are not formally correct or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections and changes in the charges and specifications that are needed to make them conform to the evidence may be made.

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

Sec. 432.056. SERVICE OF CHARGES. (a) The trial counsel to whom court-martial charges are referred for trial shall cause to be served on the accused a copy of the charges on which trial is to be had.

(b) In time of peace a person may not be brought to trial against his objections or be required to participate by himself or counsel in a session called by the military judge under Section 432.064(a) in a general court-martial case within five days after the date of service of charges on him, or in a special court-martial case within three days after the date of service of charges on him.

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

SUBCHAPTER G. TRIAL PROCEDURE

Sec. 432.061. PROCEDURE. The procedure, including modes of proof, in cases before military courts and other military tribunals may by regulations be prescribed by the governor. The regulations, so far as the governor considers practicable, must conform to the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the courts of the state but may not be contrary to or inconsistent with this chapter.

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

Sec. 432.062. UNLAWFULLY INFLUENCING ACTION OF COURT. (a) An authority convening a general, special, or summary court-martial, another commanding officer, or officer serving one of their staffs may not censure, reprimand, or admonish the court, a court member, military judge, or counsel of the court with respect to the findings or sentence adjudged by the court or with respect to another exercise

of its or his functions in the conduct of the proceeding.

(b) A person subject to this chapter may not attempt to coerce or by unauthorized means influence the action of the court-martial or another military tribunal or a member of the tribunal in reaching the findings or sentence in a case or the action of a convening, approving, or reviewing authority with respect to his judicial acts.

(c) Subsections (a) and (b) do not apply to:

(1) general instructional or informational courses in military justice if the courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of court-martial; or

(2) statements and instructions given in open court by the military judge, president of a special court-martial, or counsel.

(d) In the preparation of an effectiveness, fitness, or efficiency report, or another report or document used in whole or part for determining whether a member of the state military forces is qualified to be advanced in grade, in determining the assignment or transfer of a member of the state military forces, or in determining whether a member of the state military forces should be retained on duty, a person subject to this chapter may not:

(1) consider or evaluate the performance of duty of the member as a member of a court-martial or a witness in a court-martial; or

(2) give a less favorable rating or evaluation of a member of the state military forces because of the zeal with which the member, as counsel, represented an accused before a court-martial.

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

Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 14, eff. September 1, 2011.

Sec. 432.063. DUTIES OF TRIAL COUNSEL AND DEFENSE COUNSEL. (a) The trial counsel of a general or special court-martial shall prosecute in the name of the state and shall, under the direction of the court, prepare the record of the proceedings.

(b) The accused has the right to be represented in his defense before a general, special, or summary court-martial by civilian counsel if provided by him, or by military counsel of his own

selection if reasonably available, or by the defense counsel detailed under Section 432.046. If the accused has counsel of his own selection, the defense counsel, and assistant defense counsel, if any, who were detailed, shall, if the accused so desires, act as his associate counsel; otherwise they shall be excused by the military judge or by the president of a court-martial without a military judge.

(c) In every court-martial proceeding, the defense counsel, in the event of conviction, may forward for attachment to the record of proceedings, a brief of the matters the counsel feels should be considered in behalf of the accused on review, including any objection to the contents of the record that the counsel considers appropriate.

(d) An assistant trial counsel of a general court-martial, under the direction of the trial counsel or if he is qualified to be a trial counsel as required by Section 432.046, may perform any duty imposed on the trial counsel of the court by law, regulation, or the custom of the service. An assistant trial counsel of a special court-martial may perform any duty of the trial counsel.

(e) An assistant defense counsel of a general or special court-martial, under the direction of the defense counsel or when he is qualified to be the defense counsel as required by Section 432.046, may perform any duty imposed on counsel for the accused by law, regulation, or the custom of the service.

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

Sec. 432.064. SESSIONS. (a) At any time after the service of charges that have been referred for trial to a court-martial composed of a military judge and members, the military judge, subject to Section 432.056, may call the court into session without the presence of the members for the purpose of:

(1) hearing and determining motions raising defenses or objections that are capable of determination without trial of the issues raised by a plea of not guilty;

(2) hearing and ruling on matters that may be ruled on by the military judge under this chapter, whether or not the matter is appropriate for later consideration or decision by the members of the court;

(3) holding the arraignment and receiving the pleas of the accused if permitted by regulations of the governor; and

(4) performing any other procedural function that may be performed by the military judge under this chapter or under rules prescribed pursuant to Section 432.061 and that does not require the presence of the members of the court.

(b) Proceedings under this section shall be conducted in the presence of the accused, the defense counsel, and the trial counsel and shall be made a part of the record.

(c) When the members of a court-martial deliberate or vote, only the members may be present. All other proceedings, including any other consultation of the members of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and in cases in which a military judge has been detailed to the court, the military judge.

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

Sec. 432.065. CONTINUANCES. The military judge or a court-martial without a military judge may, for reasonable cause, grant a continuance to a party for the period, and as often, as may appear to be just.

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

Sec. 432.066. CHALLENGES. (a) The military judge and members of a general or special court-martial may be challenged by the accused or the trial counsel for cause stated to the court. The military judge, or, if none, the court, shall determine the relevancy and validity of challenges for cause and may not receive a challenge to more than one person at a time. Challenges by trial counsel shall ordinarily be presented and decided before those by the accused are offered.

(b) Each accused and the trial counsel are entitled to one preemptory challenge, but the military judge may not be challenged except for cause.

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

Sec. 432.067. OATHS. Before performing their respective duties, military judges, members of general and special courts-martial, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully. The oath or affirmation shall be taken in the presence of the accused, and shall read as follows:

(1) for court members: "You, _____, do swear (or affirm) that you will faithfully perform all the duties incumbent upon you as a member of this court; that you will faithfully and impartially try, according to the evidence, your conscience, and the laws and regulations provided for trials by courts-martial, the case of (the) (each) accused now before this court; and that if any doubt should arise not explained by the laws and regulations, then according to the best of your understanding and the customs of the service in like cases; that you will not divulge the findings and sentence in any case until they shall have been duly announced by the court; and that you will not disclose or discover the vote or opinion of any particular member of the court upon a challenge or upon the findings or sentence unless required to do so before a court of justice in due course of law. So help you God."

(2) for a military judge: "You, _____, do swear (or affirm) that you will faithfully and impartially perform, according to your conscience and the laws and regulations provided for trials by courts-martial, all the duties incumbent upon you as military judge of this court; that if any doubt should arise not explained by the laws and regulations, then according to the best of your understanding and the customs of the service in like cases; and that you will not divulge the findings or sentence in any case until they shall have been duly announced by the court. So help you God."

(3) for a trial counsel and assistant trial counsel: "You, _____ (and) _____, do swear (or affirm) that you will faithfully perform the duties of trial counsel and will not divulge the findings or sentence of the court to any but the proper authority until they shall be duly disclosed. So help you God."

(4) for defense counsel and assistant defense counsel: "You, _____ (and) _____, do swear (or affirm) that you will faithfully perform the duties of defense (and

individual) counsel and will not divulge the findings or sentence of the court to any but the proper authority until they shall be duly disclosed. So help you God."

(5) for a court of inquiry:

(A) the recorder of a court of inquiry shall administer to the members the following oath: "You shall well and truly examine and inquire, according to the evidence, into the matter now before you without partiality, favor, affection, prejudice, or hope of reward. So help you God."

(B) then the president of the court shall administer to the recorder the following oath: "You do swear that you will according to your best abilities accurately and impartially record the proceedings of the court and the evidence to be given in the case in hearing. So help you God."

(6) all persons who give evidence before a court-martial or court of inquiry shall be examined on oath administered by the presiding officer in the following form: "You swear (or affirm) that the evidence you shall give in the case now in hearing shall be the truth, the whole truth, and nothing but the truth. So help you God."

(7) for a reporter or interpreter: "You swear (or affirm) that you will faithfully perform the duties of reporter (or interpreter) to this court. So help you God."

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

Sec. 432.068. LIMITATIONS. (a) A person charged with desertion or absence without leave in time of war, aiding the enemy, or mutiny may be tried and punished at any time without limitation.

(b) A person charged with desertion in time of peace or with an offense punishable under Sections 432.157, 432.158, or 432.159 is not liable to be tried by court-martial if the offense was committed more than three years before the date of receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

(c) A person charged with any offense is not liable to be tried by court-martial or punished under Section 432.015 if the offense was committed more than two years before the date of receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command, or before the imposition of

punishment under Section 432.015.

(d) A period in which the accused is absent from territory in which the state has the authority to apprehend him, is in the custody of civil authorities, or is in the hands of the enemy is excluded in computing the period of limitation prescribed by this section.

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

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.007, eff. September 1, 2013.

Sec. 432.069. FORMER JEOPARDY. (a) A person may not be tried a second time in a military court of the state for the same offense.

(b) A proceeding in which an accused has been found guilty by a court-martial on a charge or specification is not a trial for the purposes of this section until the finding of guilty has become final after review of the case has been fully completed.

(c) A proceeding that, after the introduction of evidence but before a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses without fault of the accused is a trial for the purposes of this section.

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

Sec. 432.070. PLEAS OF ACCUSED. (a) If an accused after arraignment makes an irregular pleading or after a plea of guilty sets up matter inconsistent with the plea, if it appears that the accused has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if the accused fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though the accused had pleaded not guilty.

(b) With respect to a charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge, or by a court-martial without a military judge, a finding of guilty on the charge or specification may, if permitted by regulations of the governor, be entered immediately without vote. This finding constitutes the finding of the court unless the plea of

guilty is withdrawn before the announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

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

Sec. 432.071. OPPORTUNITY TO OBTAIN WITNESSES AND OTHER EVIDENCE. (a) The trial counsel, defense counsel, accused, and court-martial have equal opportunity to obtain witnesses and other evidence. Each has the right of compulsory process for obtaining witnesses.

(b) The presiding officer of a court-martial may:

(1) issue a warrant for the arrest of an accused person who, having been served with a warrant and a copy of the charges, disobeys a written order by the convening authority to appear before the court;

(2) issue subpoenas duces tecum and other subpoenas;

(3) enforce by attachment the attendance of witnesses and the production of books and papers; and

(4) sentence for refusal to be sworn or to answer as provided in actions before civil courts of the state.

(c) Process issued in court-martial cases to compel witnesses to appear and testify and to compel the production of other evidence runs to any part of the state and shall be executed by civil officers or peace officers as described by the laws of the state.

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

Sec. 432.072. REFUSAL TO APPEAR OR TESTIFY. (a) A person not subject to this chapter commits an offense if the person:

(1) has been duly subpoenaed to appear as a witness or to produce books and records before a military court or before a military or civil officer or peace officer designated to take a deposition to be read in evidence before a court;

(2) has been duly paid or tendered by the Texas military forces the fees and mileage of a witness at the rates allowed to witnesses under Section 432.192; and

(3) wilfully neglects or refuses to appear, qualify as a witness, testify, or produce evidence that the person may have been

legally subpoenaed to produce.

(b) An offense under this section is punishable by fine not to exceed $1,000 or confinement not to exceed 60 days in jail, or by both. The witness may be prosecuted in the appropriate county court.

(c) The appropriate prosecuting official for the state in a county court having jurisdiction where the military proceeding was convened, on submission of a complaint to the official by the presiding officer of a military court, commission, court of inquiry, or board, shall file an information against and prosecute a person violating this section.

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

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 2.04, eff. September 1, 2013.

Sec. 432.073. CONTEMPT. A military court may punish for contempt a person who uses a menacing word, sign, or gesture in its presence, or who disturbs its proceedings by riot or disorder. Punishment may not exceed confinement for 30 days and a fine of $100.

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

Sec. 432.074. DEPOSITIONS. (a) At any time after charges have been signed, as provided in Section 432.051, a party may take oral or written depositions unless the military judge, a court-martial without a military judge hearing the case, or, if the case is not being heard, an authority competent to convene a court-martial for the trial of those charges forbids it for good cause. If a deposition is to be taken before charges are referred for trial, the authority may designate commissioned officers to represent the prosecution and the defense and may authorize those officers to take the deposition of any witness.

(b) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

(c) Depositions may be taken before and authenticated by any military or civil officer authorized to administer oaths by laws of the state or by the laws of the place where the deposition is taken.

(d) A duly authenticated deposition taken on reasonable notice to the other parties, to the extent otherwise admissible under the rules of evidence, may be read in evidence before a military court or commission, or in a proceeding before a court of inquiry or military board, if it appears that:

(1) the witness resides or is beyond the state in which the court-martial or court of inquiry is ordered to sit, or more than 100 miles from the place of trial or hearing;

(2) the witness because of death, age, sickness, bodily infirmity, imprisonment, military necessity, nonamenability to process, or other reasonable cause, is unable or refuses to appear and testify in person at the place of trial or hearing; or

(3) the present location of the witness is unknown.

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

Sec. 432.075. ADMISSIBILITY OF RECORDS OF COURTS OF INQUIRY. (a) In a case not extending to the dismissal of a commissioned officer, the sworn testimony contained in the duly authenticated record of proceedings of a court of inquiry of a person whose oral testimony cannot be obtained, may, if otherwise admissible under the rules of evidence, be read in evidence by a party before a court-martial if the accused was a party before the court of inquiry and the same issue was involved or if the accused consents to the introduction of the evidence.

(b) The testimony may be read in evidence only by the defense in cases extending to the dismissal of a commissioned officer.

(c) The testimony may also be read in evidence before a court of inquiry or a military board.

(d) In all courts of inquiry both enlisted men and officers have the right to counsel and the right to cross examination of all witnesses.

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

Sec. 432.076. VOTING AND RULINGS. (a) Voting by members of a general or special court-martial on the findings or sentence, and by members of a court-martial without a military judge upon questions of challenge, must be by secret written ballot. The junior member of

the court shall count the votes. The count shall be checked by the president, who shall immediately announce the result of the ballot to the members of the court.

(b) The military judge and, except for questions of challenge, the president of a court-martial without a military judge shall rule on all questions of law and interlocutory questions arising during the proceedings. A ruling made by the military judge on a question of law or interlocutory question other than the factual issue of mental responsibility of the accused, or by the president of a court-martial without a military judge on a question of law other than a motion for a finding of not guilty, is final and constitutes the ruling of the court. However, the military judge or the president of a court-martial without a military judge may change the ruling at any time during the trial. Unless the ruling is final, if a member objects to it the court shall be cleared and closed and the question decided by a voice vote as provided by Section 432.077 beginning with the junior in rank.

(c) Before a vote is taken on the findings, the military judge or the president of a court-martial without a military judge, in the presence of the accused and counsel, shall instruct the members of the court as to the elements of the offense and charge them that:

(1) the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond reasonable doubt;

(2) in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and he must be acquitted;

(3) if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is not a reasonable doubt; and

(4) the burden of proof of establishing the guilt of the accused beyond reasonable doubt is on the state.

(d) Subsections (a), (b), and (c) do not apply to a court-martial composed of a military judge only. The military judge of such a court-martial shall determine all questions of law and fact arising during the proceedings and, if the accused is convicted, adjudge an appropriate sentence. The military judge of such a court-martial shall make a general finding and shall on request find the facts specially. If an opinion or memorandum of decision is filed, it is sufficient if the findings of fact appear in that document.

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

Sec. 432.077. NUMBER OF VOTES REQUIRED. (a) A person may be convicted of an offense only by the concurrence of two-thirds of the members present when the vote is taken.

(b) All sentences shall be determined by the concurrence of two-thirds of the members present at the time the vote is taken.

(c) All other questions to be decided by the members of a general or special court-martial shall be determined by a majority vote. A tie vote on a challenge disqualifies the member challenged, but a determination to reconsider a finding of guilty or to reconsider a sentence for the purpose of reducing it may be made by a lesser vote that indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence. A tie vote on a motion for a finding of not guilty or on a motion relating to the question of the accused's sanity is a determination against the accused. A tie vote on any other question is a determination in favor of the accused.

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

Sec. 432.078. COURT-MARTIAL TO ANNOUNCE ACTION. A court-martial shall announce its findings and sentence to the parties as soon as determined.

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

Sec. 432.079. RECORD OF TRIAL. (a) Each general court-martial shall keep a separate record of the proceedings of the trial of each case brought before it. The record must be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge because of the judge's death, disability, or absence, it must be authenticated by the signature of the trial counsel or by that of a member if the trial counsel is unable to authenticate it because of the counsel's death, disability, or absence. In a court-martial consisting of only a military judge, the record must be authenticated by the court reporter under the same conditions that would impose that duty on a member under this

subsection. If the proceedings have resulted in an acquittal of all charges and specifications or, if not affecting a general or flag officer, in a sentence not including discharge and not in excess of that which may otherwise be adjudged by a special court-martial, the record must contain the matters prescribed by regulations of the governor.

(b) Each special and summary court-martial shall keep a separate record of the proceedings in each case, and the record must contain the matter and be authenticated in the manner prescribed by regulations of the governor.

(c) A copy of the record of the proceedings of each general and special court-martial shall be given to the accused as soon as it is authenticated.

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

SUBCHAPTER H. SENTENCES

Sec. 432.091. CRUEL AND UNUSUAL PUNISHMENTS PROHIBITED. Punishment by flogging, branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by any court-martial or inflicted on any person subject to this chapter. The use of irons, single or double, except for the purpose of safe custody, is prohibited.

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

Sec. 432.092. LIMITS. The punishment that a court-martial may direct for an offense may not exceed the limits prescribed by this chapter nor limits prescribed by the governor.

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

Sec. 432.093. EFFECTIVE DATE OF SENTENCES. (a) If a sentence of a court-martial as lawfully adjudged and approved includes a forfeiture of pay or allowances in addition to confinement not suspended or deferred, the forfeiture may apply to pay or allowances becoming due on or after the date the sentence is approved by the convening authority. A forfeiture may not extend to pay or

allowances accrued before that date.

(b) A period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial, but periods during which the sentence to confinement is suspended or deferred are excluded in computing the service of the term of confinement.

(c) On application by an accused who is under sentence to confinement that has not been ordered executed, the convening authority or, if the accused is no longer under the convening authority's jurisdiction, the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned, may in his sole discretion defer service of the sentence. The deferment shall terminate when the sentence is ordered executed. The deferment may be rescinded at any time by the officer who granted it or, if the accused is no longer under that officer's jurisdiction, by the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned.

(d) In the militia or state military forces not in federal service, a sentence of dismissal or dishonorable discharge may not be executed until it is approved by the governor.

(e) All other sentences of courts-martial are effective on the date ordered executed.

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

Sec. 432.094. EXECUTION OF CONFINEMENT. (a) A sentence of confinement adjudged by a military court, whether or not the sentence includes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be executed by confinement in any place of confinement under the control of any of the forces of the state military forces or in any jail, penitentiary, or prison designated for that purpose. Persons confined in a jail, penitentiary, or prison are subject to the same discipline and treatment as persons confined or committed to the jail, penitentiary, or prison by the courts of the state or of a political subdivision of the state.

(b) The omission of the words "hard labor" from a sentence or punishment of a court-martial adjudging confinement does not deprive

the authority executing that sentence or punishment of the power to require hard labor as a part of the punishment.

(c) The keepers, officers, and wardens of city or county jails and other jails, penitentiaries, or prisons designated by the governor or by a person authorized by the governor to act under Section 432.011, shall receive persons ordered into confinement before trial and persons committed to confinement by a military court and shall confine them according to law. The keeper, officer, or warden may not require payment of a fee or charge for receiving or confining a person.

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

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.008, eff. September 1, 2013.

SUBCHAPTER I. REVIEW OF COURTS-MARTIAL

Sec. 432.101. ERROR OF LAW; LESSER INCLUDED OFFENSE. (a) A finding or sentence of a court-martial may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(b) A reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm instead as much of the finding as includes a lesser included offense.

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

Sec. 432.102. INITIAL ACTION ON RECORD. After trial by court-martial the record shall be forwarded to the convening authority, and action on the record may be taken by the person who convened the court, a commissioned officer then commanding, a successor in command, or any officer exercising general court-martial jurisdiction.

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

Sec. 432.103. SAME GENERAL COURT-MARTIAL RECORDS. The convening authority shall refer the record of each general court-

martial to the authority's judge advocate who shall submit the judge advocate's written opinion on the record to the convening authority. If the final action of the court resulted in an acquittal of all charges and specifications, the opinion is limited to questions of jurisdiction.

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

Sec. 432.104. RECONSIDERATION AND REVISION. (a) If a specification before a court-martial has been dismissed on motion and the ruling does not amount to a finding of not guilty, the convening authority may return the record to the court for reconsideration of the ruling and any further appropriate action.

(b) If an apparent error or omission is in the record or the record shows improper or inconsistent action by a court-martial with respect to a finding or sentence that can be corrected without material prejudice to the substantial rights of the accused, the convening authority may return the record to the court for appropriate action. However, a record may not be returned for:

(1) reconsideration of a finding of not guilty, or a ruling that amounts to a finding of not guilty;

(2) consideration of a finding of not guilty of any charge, unless the record shows a finding of guilty under a specification laid under that charge that sufficiently alleges a violation of this chapter; or

(3) increasing the severity of the sentence unless the sentence prescribed for the offense is mandatory.

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

Sec. 432.105. REHEARINGS. (a) If the convening authority disapproves the finding and sentence of a court-martial, the authority, unless there is lack of sufficient evidence in the record to support the findings, may order a rehearing. The authority shall state the reasons for a disapproval. If the authority disapproves the findings and sentence and does not order a rehearing, the authority shall dismiss the charges.

(b) Each rehearing must take place before a court-martial composed of members who were not members of the court-martial that

first heard the case. On a rehearing the accused may not be tried for any offense of which the accused was found not guilty by the first court-martial, and sentence in excess of or more severe than the original sentence may not be imposed, unless the sentence is based on a finding of guilty of an offense not considered on the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory.

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

Sec. 432.106. APPROVAL BY CONVENING AUTHORITY. In acting on the findings and sentence of a court-martial, the convening authority may approve only findings of guilty and the sentence or part or amount of the sentence that the authority finds correct in law and fact and that the authority in his discretion determines should be approved. Unless the authority indicates otherwise, approval of the sentence is approval of the findings and sentence.

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

Sec. 432.107. DISPOSITION OF RECORDS AFTER REVIEW BY CONVENING AUTHORITY. (a) If the convening authority is the governor, the governor's action on the review of any record of trial is final.

(b) If the convening authority is not the governor, and if the sentence of a special court-martial as approved by the convening authority includes a dishonorable discharge, whether or not suspended, the entire record shall be sent to the appropriate judge advocate or legal officer of the state military forces concerned to be reviewed in the same manner as a record of trial by general court-martial. The record and the opinion of the judge advocate or legal officer shall then be sent to the state judge advocate general for review.

(c) All other special and summary court-martial records shall be sent to the judge advocate or legal officer of the appropriate force of the state military forces and shall be acted on, transmitted, and disposed of as prescribed by regulations of the governor.

(d) The state judge advocate general shall review the record of trial in each case sent to him for review under Subsection (b). If

the final action of the court-martial has resulted in an acquittal of all charges and specifications, the opinion of the state judge advocate general is limited to questions of jurisdiction.

(e) The state judge advocate general shall take final action in any case reviewable by him.

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

Sec. 432.108. REVIEW BY STATE JUDGE ADVOCATE GENERAL. (a) In a case reviewable by the state judge advocate general, the state judge advocate general may act only with respect to the findings and sentence as approved by the convening authority. He may affirm only findings of guilty and the sentence or part of the sentence that he finds correct in law and fact and determines, on the basis of the entire record, should be approved. In considering the record, the state judge advocate general may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses. If the state judge advocate general sets aside the findings and sentence, he may order a rehearing, unless the setting aside is based on lack of sufficient evidence in the record to support the findings. If the state judge advocate general sets aside the findings and sentence and does not order a rehearing, he shall order that the charges be dismissed.

(b) In a case reviewable by the state judge advocate general, the state judge advocate general shall instruct the convening authority to act in accordance with his decision on the review. If he has ordered a rehearing but the convening authority finds a rehearing impracticable, he may dismiss the charges.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 309, Sec. 8, eff. Sept. 1, 1999.

Sec. 432.109. REVIEW BY TEXAS COURT OF MILITARY APPEALS. (a) The Texas Court of Military Appeals consists of five judges appointed by the adjutant general on the advice and recommendation of the state judge advocate general for staggered six-year terms. A judge appointed to fill a vacancy occurring before the expiration of the term for which the judge's predecessor was appointed shall be

appointed only for the unexpired term of his predecessor. The adjutant general, on the advice and recommendation of the state judge advocate general, shall appoint the chief judge of the court. A person is eligible for appointment to the court if the person:

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

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

(3) has been engaged in the active practice of law for at least five years and has at least five years' experience as a staff judge advocate, judge advocate, or legal officer with the Texas military forces, except that the requirements of this subdivision are satisfied by equivalent experience or practice in the armed forces of the United States.

(b) The court may promulgate rules of procedure, except that a majority constitutes a quorum and the concurrence of three judges is necessary for a decision of the court.

(c) Judges of the Texas Court of Military Appeals may be removed by the adjutant general, on notice and hearing, for neglect of duty or malfeasance in office or mental or physical disability.

(d) If a judge of the Texas Court of Military Appeals is temporarily unable to perform his duties, the adjutant general, on the advice and recommendation of the state judge advocate general, may designate a military judge to fill the office for the period of disability.

(e) The judges of the Texas Court of Military Appeals, while sitting in review of a matter placed under their jurisdiction by this chapter and while travelling to and from such a session, shall be paid compensation equal to the compensation appropriated by the legislature for judges of the Texas Courts of Appeals, plus the actual cost of their meals and lodging and actual travel expense or the amount set by legislative appropriation if private transportation is used.

(f) The Texas Court of Military Appeals has appellate jurisdiction, on petition of an accused, to hear and review the record in:

(1) all general and special court-martial cases; and

(2) a summary court-martial case in which a judge of this court has made a determination that there may be a constitutional issue involved.

(g) An accused may petition the Texas Court of Military Appeals for review of a court-martial conviction not later than the 60th day after the date the accused or the accused's counsel is notified of the final action on the accused's case, whichever date is earlier. If the court fails or refuses to grant the petition for review, the final action of the convening authority is considered approved. If the court grants a petition for review, the court may grant a stay or defer service of the sentence of confinement or any other punishment under this chapter until the court's final decision on the case.

(h) In a case reviewable under Subsection (f)(1), the Texas Court of Military Appeals may act only with respect to the findings and sentence as finally approved and ordered executed by the convening authority. In a case reviewable under Subsection (f)(2), the court need take action only with respect to issues specified in the grant of review. The court shall take action only with respect to matters of law, and the action of the court is final.

(i) If the Texas Court of Military Appeals sets aside the findings and sentence, it may order a rehearing, unless the setting aside is based on lack of sufficient evidence in the record to support the findings. If it sets aside the findings and sentence and does not order a rehearing, it shall order that the charges be dismissed. After the Texas Court of Military Appeals has acted on the case, the record shall be returned to the state judge advocate general, who shall notify the convening authority of the court's decision. If further action is required, the state judge advocate general shall instruct the convening authority to take action in accordance with that decision. If the court has ordered a rehearing, but the convening authority finds a rehearing impracticable, the convening authority may dismiss the charges.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1021, Sec. 14, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 309, Sec. 9, eff. Sept. 1, 1999.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 2.05, eff. September 1, 2013.

Sec. 432.110. APPELLATE COUNSEL. The trial counsel and defense counsel of a court-martial shall serve in the capacity of appellate

counsel on an appeal authorized under this chapter. The accused has the additional right to be represented by civilian counsel at his own expense. If the defense or trial counsel becomes unable to perform these duties because of illness or other disability, the convening authority shall appoint a qualified trial or defense counsel to continue the proceedings.

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

Sec. 432.111. VACATION OF SUSPENSION. (a) Before the vacation of the suspension of a special court-martial sentence that as approved includes a dismissal or dishonorable discharge, or of a general court-martial sentence, the officer having special court-martial jurisdiction over the probationer shall hold a hearing on the alleged violation of probation. The probationer has the right to be represented at the hearing by military counsel.

(b) The record of the hearing and the recommendation of the officer having special court-martial jurisdiction shall be sent for action to the governor in cases involving a general court-martial sentence and to the commanding officer of the force of the state military forces of which the probationer is a member in all other cases under Subsection (a). If the governor or commanding officer vacates the suspension, any unexecuted part of the sentence except a dismissal shall be executed.

(c) The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence.

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

Sec. 432.112. PETITION FOR NEW TRIAL. At any time within two years after approval by the convening authority of a court-martial sentence, the accused may petition the state judge advocate general for a new trial on ground of newly discovered evidence or fraud on the court-martial. If the accused's case is pending before the Texas Court of Military Appeals when the petition is filed, the appeal does not proceed until the state judge advocate general has made a decision on the request. If the petition is granted, the appeal

shall be dismissed. If the petition is denied, the court of military appeals shall continue its proceedings on the case.

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

Sec. 432.113. REMISSION OR SUSPENSION. (a) A convening authority may remit or suspend any part or amount of the unexecuted part of a sentence, including all uncollected forfeitures.

(b) The governor may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

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

Sec. 432.114. RESTORATION. (a) Under regulations the governor prescribes, all rights, privileges, and property affected by an executed part of a court-martial sentence that has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and the executed part is included in a sentence imposed on a new trial or hearing.

(b) If a previously executed sentence of dishonorable discharge is not imposed on a new trial, the governor shall substitute a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of the accused's enlistment.

(c) If a previously executed sentence of dismissal is not imposed on a new trial, the governor shall substitute a form of discharge authorized for administrative issue, and the commissioned officer dismissed by that sentence may be reappointed only by the governor to the commissioned grade and with the rank that in the opinion of the governor the former officer would have attained if the officer had not been dismissed. The reappointment of the former officer may be made if a position vacancy is available under applicable tables of organization. All time between the dismissal and reappointment shall be considered as service for all purposes.

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

Sec. 432.115. FINALITY OF PROCEEDINGS, FINDINGS, AND SENTENCES.

The appellate review of records of trial provided by this chapter, the proceedings, findings, and sentences of courts-martial as reviewed and approved, as required by this chapter, and all dismissals and discharges carried into execution under sentences by courts-martial following review and approval as required by this chapter, are final and conclusive. Orders publishing the proceedings of the courts-martial and all action taken pursuant to those proceedings are binding on all departments, courts, agencies, and officers of the state, subject only to action on a petition for a new trial as provided in Section 432.112.

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

SUBCHAPTER J. PUNITIVE ARTICLES

Sec. 432.121. PERSONS TO BE TRIED OR PUNISHED. A person may not be tried or punished for any offense provided for in this subchapter unless it was committed while the person was in a duty status or during a period in which the person was under lawful orders to be in a duty status.

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

Sec. 432.122. PRINCIPALS. A person subject to this chapter is a principal if the person:

(1) commits an offense punishable under this chapter, or aids, abets, counsels, commands, or procures its commission; or

(2) causes an act to be done that if directly performed by the person would be punishable under this chapter.

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

Sec. 432.1225. PENAL CODE OFFENSES. A person subject to this chapter who commits an offense under the Penal Code is considered to violate this chapter and is subject to punishment under this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 15, eff. September 1, 2011.

Sec. 432.123. ACCESSORY AFTER THE FACT. A person subject to this chapter shall be punished as a court-martial directs if the person knows that an offense punishable under this chapter has been committed and receives, comforts, or assists the offender in order to hinder or prevent the offender's apprehension, trial, or punishment.

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

Sec. 432.124. CONVICTION OF LESSER INCLUDED OFFENSE. An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included in the offense charged.

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

Sec. 432.125. ATTEMPTS. (a) An act done with specific intent to commit an offense under this chapter amounting to more than mere preparation and tending, even though failing to effect its commission, is an attempt to commit that offense.

(b) A person subject to this chapter who attempts to commit an offense punishable under this chapter shall be punished as a court-martial directs, unless otherwise specifically prescribed.

(c) A person subject to this chapter may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

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

Sec. 432.126. CONSPIRACY. A person subject to this chapter who conspires with another person to commit an offense under this chapter shall be punished as a court-martial directs if one or more of the conspirators does an act to effect the object of the conspiracy.

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

Sec. 432.127. SOLICITATION. (a) A person subject to this chapter who solicits or advises another or others to desert in

violation of Section 432.130 or mutiny in violation of Section 432.139 shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense. If the offense solicited or advised is not committed or attempted, the person shall be punished as a court-martial directs.

(b) A person subject to this chapter who solicits or advises another or others to commit an act of sedition in violation of Section 432.139 shall, if the offense solicited or advised is committed, be punished with the punishment provided for the commission of the offense. If the offense solicited or advised is not committed, the person shall be punished as a court-martial directs.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 309, Sec. 10, eff. Sept. 1, 1999.

Sec. 432.128. FRAUDULENT ENLISTMENT, APPOINTMENT, OR SEPARATION. A person shall be punished as a court-martial directs if the person:

(1) procures his own enlistment or appointment in the state military forces by knowingly false representation or deliberate concealment as to his qualifications for that enlistment or appointment and receives pay or allowances under the enlistment or appointment; or

(2) procures his own separation from the state military forces by knowingly false representation or deliberate concealment as to his eligibility for that separation.

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

Sec. 432.129. UNLAWFUL ENLISTMENT, APPOINTMENT, OR SEPARATION. A person subject to this chapter who effects an enlistment or appointment in or a separation from the state military forces of a person who is known to him to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, regulation, or order shall be punished as a court-martial directs.

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

Sec. 432.130. DESERTION. (a) A member of the state military forces is guilty of desertion if the member:

(1) without authority goes or remains absent from his unit, organization, or place of duty with intent to remain away permanently;

(2) quits his unit, organization, or place of duty with intent to avoid hazardous duty or to shirk important service; or

(3) without being regularly separated from one of the state military forces, enlists or accepts an appointment in the same or another of the state military forces, or in one of the armed forces of the United States, without fully disclosing the fact that he has not been regularly separated.

(b) A commissioned officer of the state military forces who, after tender of his resignation and before notice of its acceptance, quits his post or proper duties without leave and with intent to remain away permanently is guilty of desertion.

(c) A person found guilty of desertion or attempt to desert shall be punished as a court-martial directs.

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

Sec. 432.131. ABSENCE WITHOUT LEAVE. A person subject to this chapter shall be punished as a court-martial directs if the person without authority:

(1) fails to go to his appointed place of duty at the time prescribed;

(2) goes from that place; or

(3) absents himself or remains absent from his unit, organization, or place of duty at which he is required to be at the time prescribed.

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

Sec. 432.132. MISSING MOVEMENT. A person subject to this chapter who through neglect or design misses the movement of a ship, aircraft, or unit with which he is required to move in the course of duty shall be punished as a court-martial directs.

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

Sec. 432.133. CONTEMPT TOWARDS GOVERNOR. A person subject to this chapter who uses contemptuous words against the governor shall be punished as a court-martial directs.

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

Sec. 432.134. DISRESPECT TOWARD SUPERIOR COMMISSIONED OFFICER. A person subject to this chapter who behaves with disrespect toward his superior commissioned officer shall be punished as a court-martial directs.

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

Sec. 432.135. ASSAULTING OR WILFULLY DISOBEYING SUPERIOR COMMISSIONED OFFICER. A person subject to this chapter shall be punished as a court-martial directs if the person:

(1) strikes his superior commissioned officer or draws or lifts up a weapon or offers any violence against him while in the execution of his office; or

(2) wilfully disobeys a lawful command of his commissioned officer.

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

Sec. 432.136. INSUBORDINATE CONDUCT TOWARD WARRANT OFFICER OR NONCOMMISSIONED OFFICER. A warrant officer or enlisted member shall be punished as a court-martial directs if the officer or member:

(1) strikes or assaults a warrant officer or noncommissioned officer while that officer is in the execution of his office;

(2) wilfully disobeys the lawful order of a warrant officer or noncommissioned officer; or

(3) treats with contempt or is disrespectful in language or deportment toward a warrant officer or noncommissioned officer while that officer is in the execution of his office.

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

Sec. 432.137. FAILURE TO OBEY ORDER OR REGULATION. A person subject to this chapter shall be punished as a court-martial directs if the person:

(1) violates or fails to obey a lawful general order or regulation;

(2) having knowledge of any other lawful order issued by a member of the state military forces that it is the person's duty to obey, fails to obey the order; or

(3) is derelict in the performance of the person's duties.

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

Sec. 432.138. CRUELTY AND MALTREATMENT. A person subject to this chapter who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his order shall be punished as a court-martial directs.

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

Sec. 432.139. MUTINY, SEDITION, FAILURE TO SUPPRESS MUTINY OR SEDITION. A person subject to this chapter who:

(1) with intent to usurp or override lawful military authority refuses, in concert with any other person, to obey orders or otherwise do his duty or creates a violence or disturbance is guilty of mutiny;

(2) with intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, revolt, violence, or other disturbance against that authority is guilty of sedition;

(3) fails to do his utmost to prevent and suppress a mutiny or sedition being committed in his presence, or fails to take all reasonable means to inform his superior commissioned officer or commanding officer of a mutiny or sedition that he knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.

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

Sec. 432.140. RESISTANCE, BREACH OF ARREST, AND ESCAPE. A person subject to this chapter who resists apprehension, breaks arrest, or escapes from physical restraint lawfully imposed shall be punished as a court-martial directs.

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

Sec. 432.141. RELEASING PRISONER WITHOUT PROPER AUTHORITY. A person subject to this chapter who, without proper authority, releases a prisoner committed to his charge, or who through neglect or design permits the prisoner to escape, shall be punished as a court-martial directs, whether or not the prisoner was committed in strict compliance with law.

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

Sec. 432.142. UNLAWFUL DETENTION OF ANOTHER. A person subject to this chapter who, except as provided by law or regulation, apprehends, arrests, or confines a person shall be punished as a court-martial directs.

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

Sec. 432.143. NONCOMPLIANCE WITH PROCEDURAL RULES. A person subject to this chapter shall be punished as a court-martial directs if the person:

(1) is responsible for unnecessary delay in the disposition of a case of a person accused of an offense under this chapter; or

(2) knowingly and intentionally fails to enforce or comply with a provision of this chapter regulating the proceedings before, during, or after trial of an accused.

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

Sec. 432.151. FALSE OFFICIAL STATEMENTS. A person subject to this chapter who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing it to be false, or makes any other false official statement knowing it to be false, shall be punished as a court-martial directs.

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

Sec. 432.152. MILITARY PROPERTY--LOSS, DAMAGE, DESTRUCTION, OR WRONGFUL DISPOSITION. A person subject to this chapter shall be punished as a court-martial directs if the person, without proper authority, sells or otherwise disposes of, or wilfully or through neglect damages, destroys, loses, or suffers to be damaged, destroyed, sold, or wrongfully disposed of any military property of the United States or the state.

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

Sec. 432.153. PROPERTY OTHER THAN MILITARY PROPERTY--WASTE, SPOILAGE, OR DESTRUCTION. A person subject to this chapter who, while in a duty status, wilfully or recklessly wastes, spoils, or otherwise wilfully and wrongfully destroys or damages any property other than military property of the United States or of this state shall be punished as a court-martial directs.

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

Sec. 432.154. IMPROPER HAZARDING OF VESSEL. A person subject to this chapter who wilfully and wrongfully or who negligently hazards or suffers to be hazarded any vessel of the armed forces of the United States or of the state military forces shall be punished as a court-martial directs.

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

Sec. 432.155. DRIVING WHILE INTOXICATED OR WHILE UNDER INFLUENCE OF NARCOTIC DRUG. A person subject to this chapter who

operates a vehicle while under the influence of intoxicating liquor or a narcotic drug, or in a reckless or wanton manner, shall be punished as a court-martial directs.

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

Sec. 432.156. DRUNK ON DUTY; SLEEPING ON POST; LEAVING POST BEFORE RELIEF. A person subject to this chapter who is found under the influence of intoxicating liquor or narcotic drugs while on duty, or found sleeping on his post, or who leaves his post before he is regularly relieved, shall be punished as a court-martial directs.

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

Sec. 432.157. MALINGERING. A person subject to this chapter shall be punished as a court-martial directs if the person, for the purpose of avoiding work, duty, or service in the state military forces:

(1) feigns illness, physical disablement, mental lapse, or derangement; or

(2) intentionally inflicts self-injury.

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

Sec. 432.158. RIOT OR BREACH OF PEACE. A person subject to this chapter who causes or participates in a riot or breach of the peace shall be punished as a court-martial directs.

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

Sec. 432.159. PROVOKING SPEECHES OR GESTURES. A person subject to this chapter who uses provoking or reproachful words or gestures towards another person subject to this chapter shall be punished as a court-martial directs.

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

Sec. 432.160. LARCENY AND WRONGFUL APPROPRIATION. (a) A person subject to this chapter who wrongfully takes, obtains, or withholds, by any means, from the possession of the owner or any other person any money, personal property, or article of value of any kind:

(1) with intent permanently to deprive or defraud another person of the use and benefit of property, or to appropriate it to his own use or the use of any person other than the owner, steals that property and is guilty of larceny; or

(2) with intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, is guilty of wrongful appropriation.

(b) A person found guilty of larceny or wrongful appropriation shall be punished as a court-martial directs.

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

Sec. 432.161. FORGERY. A person subject to this chapter is guilty of forgery and shall be punished as a court-martial directs if the person, with intent to defraud:

(1) falsely makes or alters a signature to a writing or any part of a writing that would, if genuine, apparently impose a legal liability on another or change his legal right or liability to his prejudice; or

(2) utters, offers, issues, or transfers such a writing, known by him to be so made or altered.

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

Sec. 432.162. EXTORTION. A person subject to this chapter who communicates threats to another person with the intent to obtain anything of value or any acquittance, advantage, or immunity is guilty of extortion and shall be punished as a court-martial directs.

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

Sec. 432.163. ASSAULT. A person subject to this chapter who

attempts or offers with unlawful force or violence to do bodily harm to another person, whether or not the attempt or offer is consummated, is guilty of assault and shall be punished as a court-martial directs.

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

Sec. 432.164. PERJURY. A person subject to this chapter who in a judicial proceeding or in a court of justice conducted under this chapter wilfully and corruptly gives, on a lawful oath or in any form allowed by law to be substituted for an oath, false testimony material to the issue or matter of inquiry is guilty of perjury and shall be punished as a court-martial directs.

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

Sec. 432.165. FRAUDS AGAINST GOVERNMENT. A person subject to this chapter on conviction shall be punished as a court-martial directs if the person:

(1) knowing it to be false or fraudulent:

(A) makes a claim against the United States, the state, or an officer of the United States or the state; or

(B) presents to a person in the civil or military service of the United States or the state for approval or payment a claim against the United States, the state, or an officer of the United States or the state;

(2) for the purpose of obtaining the approval, allowance, or payment of a claim against the United States, the state, or an officer of the United States or the state:

(A) makes or uses a writing or other paper knowing it to contain false or fraudulent statements;

(B) makes an oath to a fact or to a writing or other paper knowing the oath to be false; or

(C) forges or counterfeits a signature on a writing or other paper, or uses such a signature knowing it to be forged or counterfeited;

(3) having charge, possession, custody, or control of money or other property of the United States or the state, furnished or intended for the armed forces of the United States or the state

military forces, knowingly delivers to a person having authority to receive it, any amount of the money or property less than that for which he receives a certificate or receipt; or

(4) being authorized to make or deliver a paper certifying the receipt of property of the United States or the state, furnished or intended for the armed forces of the United States or the state military forces, makes or delivers to a person the paper without having full knowledge of the truth of its statements and with intent to defraud the United States or the state.

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

Sec. 432.166. CONDUCT UNBECOMING AN OFFICER AND A GENTLEMAN. A commissioned officer or officer candidate who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court-martial directs.

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

Sec. 432.167. GENERAL ARTICLE. Whether or not specifically mentioned by this chapter, all disorders and neglects to the prejudice of good order and discipline in the state military forces and all conduct of a nature to bring discredit on the state military forces, of which persons subject to this chapter may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of the court.

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

SUBCHAPTER J-1. SEXUAL OFFENSE PREVENTION AND RESPONSE

Sec. 432.171. DEFINITIONS. In this subchapter:

(1) "Coordinator" means the state sexual offense response coordinator employed as provided by this subchapter.

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

(3) "Program" means the state sexual offense prevention and response program established as provided by this subchapter.

(4) "Restricted report" means a reporting option that

allows a person who is a victim of an offense to confidentially disclose the offense to the coordinator and obtain medical treatment, including emergency care and counseling, without initiating an investigation. The report may not be referred to law enforcement officers or to command officials of the Texas military forces to initiate an official investigation unless the person who reported the offense consents.

(5) "Texas military forces" means the Texas Army National Guard, the Texas Air National Guard, and the Texas State Guard.

(6) "Unrestricted report" means a reporting option that allows a person who is a victim of an offense to report the offense to the coordinator if the person does not request confidentiality in reporting the offense or request a restricted report.

Added by Acts 2021, 87th Leg., R.S., Ch. 846 (S.B. 623), Sec. 2, eff. September 1, 2021.

Sec. 432.172. SEXUAL ASSAULT AND INDECENT ASSAULT. A person subject to this chapter who commits an offense under Section 22.011, 22.012, or 22.021, Penal Code, is subject to investigation under this subchapter and punishment under this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 846 (S.B. 623), Sec. 2, eff. September 1, 2021.

Sec. 432.173. STATE SEXUAL OFFENSE PREVENTION AND RESPONSE PROGRAM; COORDINATOR. (a) To the extent state funds are available for this purpose, the department shall establish a state sexual offense prevention and response program and employ or designate a state sexual offense response coordinator to perform victim advocacy services, including ensuring that persons who are victims of sexual assault or indecent assault receive appropriate responsive care and understand the options available for reporting the assault.

(b) The coordinator shall accept reports for alleged offenses under Sections 22.011, 22.012, and 22.021, Penal Code, made by a person who is a member of the Texas military forces against an accused person who is a member of the Texas military forces.

(c) The coordinator shall notify each person who is a victim of a sexual assault reported under Subsection (b) of their eligibility

for crime victims' compensation under Chapter 56B, Code of Criminal Procedure.

(d) The program and coordinator are within the department but shall exercise the authority granted under this subchapter independently from the chain of command within the department.

(e) The coordinator must allow a member of the Texas military forces who is the victim of an alleged offense under Section 22.011, 22.012, or 22.021, Penal Code, to:

(1) file with the coordinator a restricted or unrestricted report or file a restricted report and later convert that report to an unrestricted report;

(2) participate in the United States Department of Defense Catch a Serial Offender program; and

(3) receive notice when the coordinator is made aware that the accused person has been subsequently accused of an offense under Section 22.011, 22.012, or 22.021, Penal Code, by a service member or any other person.

Added by Acts 2021, 87th Leg., R.S., Ch. 846 (S.B. 623), Sec. 2, eff. September 1, 2021.

Sec. 432.174. INVESTIGATION. (a) On the filing of an unrestricted report alleging an offense under Section 22.011 or 22.021, Penal Code, the coordinator:

(1) shall refer the unrestricted report to the Texas Rangers division of the Department of Public Safety for investigation; and

(2) may refer the unrestricted report to the appropriate local law enforcement agency for the initial collection of evidence.

(b) A local law enforcement agency that initially collects evidence for an unrestricted report under Subsection (a) shall transfer all relevant evidence and information to the Texas Rangers division of the Department of Public Safety on request of the division.

(c) On the filing of an unrestricted report alleging an offense under Section 22.012, Penal Code, the coordinator shall refer the unrestricted report to the appropriate local law enforcement agency for investigation.

(d) The Texas Rangers division of the Department of Public

Safety shall assign an officer of the Texas Rangers to investigate reports referred to the division under this section. If the investigation demonstrates probable cause that an offense under Section 22.011 or 22.021, Penal Code, was committed by a person subject to this chapter, the investigator shall refer the matter to the appropriate local district attorney, criminal district attorney, or county attorney with criminal jurisdiction.

Added by Acts 2021, 87th Leg., R.S., Ch. 846 (S.B. 623), Sec. 2, eff. September 1, 2021.

Sec. 432.175. PROTECTIVE ORDER. In accordance with Article 7B.001(a-3), Code of Criminal Procedure, and with the consent of the person who is the victim of an offense under Section 22.011, 22.012, or 22.021, Penal Code, alleged to have been committed by a person subject to this chapter, the coordinator may file an application for a protective order under Subchapter A, Chapter 7B, Code of Criminal Procedure, on behalf of the victim.

Added by Acts 2021, 87th Leg., R.S., Ch. 846 (S.B. 623), Sec. 2, eff. September 1, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.002(11), eff. September 1, 2023.

Sec. 432.176. REPORT TO LEGISLATURE; LEGISLATIVE OVERSIGHT. (a) The adjutant general or coordinator shall annually submit a report on the activities under the program and the activities of the department relating to sexual offense prevention and response to:

(1) the governor;

(2) the lieutenant governor;

(3) the speaker of the house of representatives; and

(4) the chairs of the standing committees of the senate and house of representatives with primary jurisdiction over the department.

(b) Using state data collected by the coordinator, the report must include for the preceding state fiscal year:

(1) the policies and procedures implemented by the coordinator and adjutant general in response to incidents of sexual

assault and indecent assault;

(2) an assessment of the implementation and effectiveness of the program and the policies and procedures on the prevention and oversight of and the state's response to reports of sexual assault and indecent assault within the department;

(3) an analysis of the number of incidents of sexual assault and indecent assault involving members of the Texas military forces; and

(4) deficiencies in the department's training of the coordinator.

(c) Information provided in the report required under Subsection (b)(3) for restricted cases is limited to aggregated statistical data to protect victim privacy and for unrestricted cases is limited to aggregated statistical data that at a minimum includes:

(1) statistics relating to the types of offenses investigated under this subchapter;

(2) statistics relating to victims and accused persons;

(3) the status of investigations under this subchapter and prosecutions under this chapter; and

(4) the status of administrative actions taken by the department against members of the Texas military forces who are on state active duty.

Added by Acts 2021, 87th Leg., R.S., Ch. 846 (S.B. 623), Sec. 2, eff. September 1, 2021.

SUBCHAPTER K. MISCELLANEOUS PROVISIONS

Sec. 432.181. COURTS OF INQUIRY. (a) Courts of inquiry to investigate any matter may be convened by the governor, by a person designated by the governor for that purpose, or by a person authorized to convene a general court-martial by this chapter, whether or not a person involved has requested an inquiry.

(b) A court of inquiry consists of three or more commissioned officers. For each court of inquiry the convening authority shall also appoint counsel for the court.

(c) A person subject to this chapter whose conduct is subject to inquiry shall be designated as a party. A person subject to this chapter or employed in the division of military affairs who has a direct interest in the subject of inquiry has the right to be

designated as a party on request to the court. A person designated as a party is entitled to due notice and has the rights to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

(d) Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

(e) The members, counsel, reporter, and interpreters of courts of inquiry shall take an oath or affirmation to faithfully perform their duties.

(f) Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

(g) Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

(h) Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel.

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

Sec. 432.182. AUTHORITY TO ADMINISTER OATHS. (a) The following persons may administer oaths for the purpose of military administration including military justice, and they have the general powers of a notary public in the performance of all notarial acts to be executed by members of the state military forces, wherever they may be:

(1) the state judge advocate general and all judge advocates;

(2) law specialists and military judges;

(3) a summary courts-martial officer;

(4) adjutants, assistant adjutants, acting adjutants, and personnel adjutants;

(5) administrative officers, assistant administrative officers, and acting administrative officers;

(6) staff judge advocates and legal officers, and acting or

assistant staff judge advocates and legal officers; and

(7) all other persons designated by regulations of the state military forces or by statute.

(b) The following persons may administer oaths necessary in the performance of their duties:

(1) the president, military judge, trial counsel, and assistant trial counsel for all general and special courts-martial;

(2) the president, counsel for the court, and recorder of any court of inquiry;

(3) officers designated to take a deposition;

(4) persons detailed to conduct an investigation;

(5) recruiting officers; and

(6) all other persons designated by regulations of the state military forces or by statute.

(c) A fee may not be paid to or received by any person for the performance of a notarial act authorized by this section.

(d) The signature without seal of such a person acting as notary, together with the title of his office, is prima facie evidence of his authority.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 309, Sec. 11, eff. Sept. 1, 1999.

Sec. 432.183. CHAPTER TO BE EXPLAINED. This chapter shall be carefully explained to every enlisted member at the time of or not later than the 30th day after the date of the member's enlistment, transfer, or induction into, or the member's order to duty in or with, any of the state military forces. It shall also be explained annually to each unit of the state military forces. A complete text of this chapter and of the regulations prescribed by the governor under this chapter shall be made available to any member of the state military forces, on the member's request, for the member's personal examination.

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

Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 16, eff. September 1, 2011.

Sec. 432.184. COMPLAINTS OF WRONGS. (a) A member of the state military forces who believes himself wronged by his commanding officer, and who, on due application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the next highest commander, who shall examine into the complaint and take proper measures for redressing the wrong complained of, and send to the adjutant general, as soon as possible, a true statement of that complaint with the proceedings had on it.

(b) If an action or proceeding of any nature is commenced in a court other than a military court by any person against a member of the state military forces for any act done or caused, or ordered or directed to be done, in the line of duty while the member was not in federal service, as determined by the adjutant general, all expenses of representation in the action or proceeding, including fees of witnesses, depositions, court costs, and all costs for transcripts of records or other documents that might be needed during trial or appeal shall be paid as provided by this chapter. In such an action or proceeding the adjutant general, on the written request of the member involved, shall designate the state judge advocate general, a judge advocate, or a legal officer of the state military forces to represent the member. Judge advocates or legal officers performing duty under this subsection will be called to duty by order of the governor. If the military legal services, as provided above, are not available, the adjutant general, after consultation with the state judge advocate general and member involved, shall contract with a competent private attorney to conduct the representation.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 309, Sec. 12, eff. Sept. 1, 1999.

Sec. 432.185. REDRESS OF INJURIES TO PROPERTY. (a) If complaint is made to a commanding officer that wilful damage has been done to the property of any person or that a person's property has been wrongfully taken by members of the state military forces, the officer, subject to regulations the governor prescribes, may convene a board to investigate the complaint. The board shall consist of from one to three commissioned officers, and for the purpose of that investigation, it may summon witnesses, examine them on oath or

affirmation, receive depositions or other documentary evidence, and assess the damages sustained against the responsible parties. The assessment of damages made by the board is subject to the approval of the commanding officer, and in the amount approved by him shall be charged against the pay of the offenders. The order of the commanding officer directing charges authorized by this section is conclusive, except as provided by Subsection (c), on any disbursing officer for the payment by him to the injured parties of the damages assessed and approved.

(b) If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be paid to the injured parties from the military funds of the units of the state military forces to which the offenders belong.

(c) A person subject to this chapter who is accused of causing wilful damage to property has the rights to be represented by counsel, to summon witnesses in his behalf, and to cross-examine those appearing against him. The counsel mentioned must be military counsel, provided by the commanding officer instituting this inquiry. The accused may also employ civilian counsel of his own choosing at his own expense. The accused has the right of appeal to the next higher commander.

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

Sec. 432.186. IMMUNITY FOR ACTION OF MILITARY COURTS. An accused may not bring an action or proceeding against the convening authority or a member of a military court, board convened under this chapter or military regulations, or officer or person acting under the authority of a court or board or reviewing its proceedings because of the approval, imposition, or execution of a sentence, the imposition or collection of a fine or penalty, or the execution of a process or mandate of a military court, board convened under this chapter, or military regulation.

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

Sec. 432.187. DELEGATION OF AUTHORITY BY GOVERNOR. The governor may delegate any authority vested in him under this chapter

and may provide for the subdelegation of this authority. The governor may not delegate the power given him by Section 432.093(d).

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

Sec. 432.188. EXECUTION OF PROCESS AND SENTENCE. (a) In the state military forces not in federal service, the processes and sentences of its courts-martial shall be executed by the civil officers prescribed by the laws of the state.

(b) If the sentence of a court-martial, as approved and ordered executed, adjudges confinement, and the convening authority has approved the sentence in whole or in part, the reviewing authority, or the commanding officer for the time being, as the case may be, shall issue a warrant of commitment to the sheriff of the county in which the court-martial was held or in which the offense was committed, directing the sheriff to take the body of the sentenced person and confine him in the county jail of the county for the period named in the sentence, as approved, or until the sheriff is directed to release him by proper authority.

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

Sec. 432.189. PROCESS OF MILITARY COURTS. (a) A military court may issue any process or mandate necessary to carry into effect its powers. The court may issue subpoenas and subpoenas duces tecum and enforce by attachment attendance of witnesses and production of books and records if it is sitting in the state and the witnesses, books, and records sought are also located in the state.

(b) A process or mandate may be issued by a summary court-martial, provost court, or the president of another military court and may be directed to and executed by a marshal of the military court or any peace officer. A process or mandate must be in the form prescribed by regulations issued under this chapter.

(c) All officers to whom process or mandates may be directed shall execute them and make return of their acts under the process or mandates according to the requirements of those documents. Except as otherwise specifically provided by this chapter, an officer may not demand or require payment of a fee or charge for receiving, executing, or returning such a process or mandate or for any service

in connection with the process or mandate.

(d) The president of a court-martial and any summary court officer may issue all necessary process, subpoenas, attachments, warrants, or arrest and warrant of commitment, under his hand, in the name of the state, and directed to a sheriff or constable, who shall serve or execute it in the same manner in which similar process issued by a magistrate is served or executed.

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

Sec. 432.190. PAYMENT OF FINES, COSTS, AND DISPOSITION THEREOF. (a) A fine or forfeiture imposed by general court-martial shall be paid to the officer ordering the court or to the officer commanding at that time. The officer, not later than the fifth day after the date of the payment's receipt, shall pay it to the adjutant general, who shall disburse it as he sees fit for military purposes.

(b) A fine or forfeiture imposed by nonjudicial punishment or a special or summary court-martial shall be paid to the officer imposing nonjudicial punishment or ordering the court or to the officer commanding at that time. The officer, not later than the fifth day after the date of the payment's receipt, shall place it to the credit of the military unit fund of the unit of which the person fined was a member when the fine was imposed.

(c) If the sentence of a court-martial adjudges a fine against a person and the fine has not been fully paid before the 11th day after the date of its confirmation, the convening authority shall issue a warrant of commitment directed to the sheriff of the county in which the court-martial was held or in which the offense was committed, directing him to take the body of the convicted person and confine him in the county jail for one day for a fine not exceeding $1 and one additional day for every dollar above that amount.

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

Acts 2011, 82nd Leg., R.S., Ch. 807 (H.B. 2417), Sec. 17, eff. September 1, 2011.

Sec. 432.191. PRESUMPTION OF JURISDICTION. The jurisdiction of the military courts and boards established by this chapter shall be

presumed and the burden of proof rests on a person seeking to oust those courts or boards of jurisdiction in any action or proceeding.

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

Sec. 432.192. WITNESSES' EXPENSES. (a) Persons in the employ of this state but not belonging to its military forces if traveling on summons as witnesses before military courts, are entitled to round trip transportation between their place of residence and the place where the court is in session. If transportation is not furnished, they are entitled to reimbursement of the cost of travel actually performed by the shortest usually traveled route and to reimbursement of the actual cost of meals and rooms at a rate not to exceed $25 a day for each actually and unavoidably consumed in travel or in attendance on the court under the order or summons. Allowance may not be made to them if attendance on court does not require them to leave their place of residence.

(b) A person not in the employ of this state and not belonging to its active military forces, who has been duly summoned to appear as a witness before a military court, is entitled to receive $50 a day for each day actually in attendance on the court, and 12 cents a mile for going from his place of residence to the place of trial or hearing, and 12 cents a mile for returning. Civilian witnesses will be paid by the Texas military forces.

(c) The charges for return journeys of witnesses shall be made on the basis of the actual charges allowed for travel to the court, and the entire account thus completed in this manner shall be paid on discharge from attendance without waiting for completion of return travel.

(d) Fees may not be allowed to a person as witness fees, unless the person has been subpoenaed, attached, or recognized as a witness in the case.

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

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 2.06, eff. September 1, 2013.

Sec. 432.193. ARREST, BONDS, LAWS APPLICABLE. (a) If charges

against a person in the military service of this state are made or referred to a convening authority authorized to convene a court-martial for the trial of the person, and a convening authority, believing that the charges can be sustained and that the person charged will not appear for trial or intends to flee from justice, may issue a warrant of arrest to the sheriff or any constable of the county in which the person charged resides, or in which he is supposed to be, commanding the sheriff or constable to take the body of the charged person and confine him in jail until his case is finally disposed of. The sheriff or constable, on the order of the convening authority, shall bring the charged person before the court-martial for trial, or turn him over to whoever the order may direct. The convening authority issuing the warrant of arrest shall endorse on it the amount of bail to be required. It is a violation of duty on the part of a sheriff or constable to permit a committed person to remain out of jail, except that the sheriff or constable may, if the person desires it, permit the person to give bail in the sum endorsed on the warrant, conditioned for his appearance, from time to time, before the court-martial as he may be ordered for trial and until his case is finally disposed of or until he surrenders to the sheriff or constable as directed by the convening authority of the court-martial before which he may be ordered for trial.

(b) On the failure of any person who has been admitted to bail conditioned for his appearance for trial before a court-martial, or on failure of any person admitted to bail to appear as a witness in any case before a court-martial, as conditioned in the bail bond of the person, the court-martial shall certify the fact of the failure to appear to the convening authority, or to the officer commanding for the time being, as the case may be. The officer shall cause a judge advocate or district or county attorney to file suit in Travis County for the bail.

(c) The rules laid down in the Code of Criminal Procedure relating to the giving of bail, the amount of bail, the number of sureties, the persons who may be sureties, the property exempt from liability, the responsibility of parties to it, and all other rules of a general nature not inconsistent with this chapter are applicable to bail taken as provided by this chapter.

(d) A warrant of arrest issued by a convening authority to order a court-martial, and all subpoenas and other process issued by courts-martial and courts of inquiry, extend to every part of the

state.

(e) If a lawful process, issued by the proper officer of a court-martial, comes to the hands of a sheriff or constable, the sheriff or constable shall perform the usual duties of that officer and perform all acts and duties imposed by this chapter or authorized to be performed by a sheriff or constable. Failure of a sheriff or constable to perform the duties required by this chapter is a misdemeanor punishable by a fine of not more than $1,000 and by confinement of not less than six months nor more than 12 months in jail.

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

Sec. 432.194. EXPENSES OF ADMINISTRATION. The adjutant general may pay all expenses incurred in the administration of state military justice, including the expenses of courts-martial and expenses incurred under Sections 432.109, 432.184, and 432.192, from any funds appropriated to the Texas military forces.

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

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 2.07, eff. September 1, 2013.

Sec. 432.195. SHORT TITLE. This chapter may be cited as the Texas Code of Military Justice.

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

CHAPTER 433. STATE OF EMERGENCY

Sec. 433.001. PROCLAMATION OF STATE OF EMERGENCY. On application of the chief executive officer or governing body of a county or municipality during an emergency, the governor may proclaim a state of emergency and designate the area involved. For the purposes of this section an emergency exists in the following situations:

(1) a riot or unlawful assembly by three or more persons acting together by use of force or violence;

(2) if a clear and present danger of the use of violence exists; or

(3) a natural or man-made disaster.

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

Sec. 433.002. ISSUANCE OF DIRECTIVES. (a) After a state of emergency is proclaimed, the governor may issue reasonable directives calculated to control effectively and terminate the emergency and protect life and property. Before a directive takes effect, reasonable notice must be given in a newspaper of general circulation in the affected area, through television or radio serving the affected area, or by circulating notices or posting signs at conspicuous places in the affected area.

(b) The directive may provide for:

(1) control of public and private transportation in the affected area;

(2) designation of specific zones in the affected area in which, if necessary, the use and occupancy of buildings and vehicles may be controlled;

(3) control of the movement of persons;

(4) control of places of amusement or assembly;

(5) establishment of curfews;

(6) control of the sale, transportation, and use of alcoholic beverages; and

(7) control of the storage, use, and transportation of explosives or flammable materials considered dangerous to public safety, other than explosives or flammable materials that are components of firearm ammunition.

(c) A directive takes effect according to its terms, but not before notice is given as required by Subsection (a). The governor may amend, modify, or rescind a directive in a manner similar to adoption of a directive during the state of emergency.

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

Acts 2007, 80th Leg., R.S., Ch. 18 (S.B. 112), Sec. 3, eff. April 27, 2007.

Acts 2021, 87th Leg., R.S., Ch. 998 (H.B. 1500), Sec. 3, eff. September 1, 2021.

Sec. 433.003. DURATION OF STATE OF EMERGENCY. (a) Except as provided by Subsection (b), a directive expires 72 hours after the time of proclamation of the state of emergency for which it was issued.

(b) The governor by proclamation may terminate or set a shorter period for a directive. The governor may proclaim successive states of emergency, each not exceeding 72 hours, as necessary to protect health, life, and property in the affected area, and may extend a directive from one state of emergency to the next.

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

Sec. 433.004. DUTIES OF LAW ENFORCEMENT AGENCY. (a) During a state of emergency, each law enforcement agency in the state shall cooperate in the manner the governor or the governor's designated representative requests and shall allow the use of the agency's equipment and facilities as the governor or the governor's designated representative requires, except that if the agency is not located within the affected area, the use may not substantially interfere with the normal duties of the agency.

(b) A county or municipal law enforcement agency shall notify the director of the Department of Public Safety if the agency receives notice of a threatened or actual disturbance indicating the possibility of serious domestic violence.

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

Sec. 433.0045. FIREARMS. (a) A directive issued under this chapter may not:

(1) authorize the seizure or confiscation of any firearm or ammunition from an individual who is lawfully carrying or possessing the firearm or ammunition; or

(2) prohibit or restrict the business or operations of a firearms or ammunition manufacturer, distributor, wholesaler, supplier, or retailer or a sport shooting range, as defined by Section 250.001, Local Government Code, in connection with a state of emergency.

(b) A peace officer who is acting in the lawful execution of the officer's official duties during a state of emergency may disarm an individual if the officer reasonably believes it is immediately necessary for the protection of the officer or another individual.

(c) The peace officer shall return a firearm and any ammunition to an individual disarmed under Subsection (b) before ceasing to detain the individual unless the officer:

(1) arrests the individual for engaging in criminal activity; or

(2) seizes the firearm as evidence in a criminal investigation.

Added by Acts 2007, 80th Leg., R.S., Ch. 18 (S.B. 112), Sec. 4, eff. April 27, 2007.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 998 (H.B. 1500), Sec. 4, eff. September 1, 2021.

Sec. 433.005. CALLING OF STATE MILITARY FORCES. (a) The chief executive officer or governing body of a county or municipality may request the governor to provide state military forces to aid in controlling conditions in the county or municipality that the officer or governing body believes cannot be controlled by the local law enforcement agencies alone. On receiving the request, the governor may order a commander of a unit of the state military forces to appear at a time and place the governor directs to aid the civil authorities.

(b) After the forces have appeared at the appointed place, the commanding officer shall obey and execute the general instructions of the civil authorities charged by law with the suppression of riot, the preservation of public peace, and the protection of life and property. The instructions must be in writing, except that if written instructions are impracticable, the instructions may be given verbally in the presence of two or more credible witnesses. The commanding officer shall exercise his discretion as to the proper method of practically accomplishing the instructions.

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

Sec. 433.006. VIOLATIONS. (a) A person who violates this chapter or a directive issued under this chapter commits an offense. An offense under this subsection is a misdemeanor punishable by a fine of not more than $200, confinement for not more than 60 days, or both.

(b) A temporary restraining order or temporary or permanent injunction may be issued to prevent violation of this chapter or a directive issued under this chapter as provided by the Texas Rules of Civil Procedure and applicable law.

(c) The governor may institute an action under this section in any court of competent jurisdiction in the state.

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

Sec. 433.007. CONSTRUCTION OF CHAPTER. This chapter shall be construed broadly to effect its intent to recognize the governor's broad power of action in the exercise of the police power of the state to provide adequate control over persons and conditions during periods of impending or actual public crisis or disaster and to provide means for local governments to protect lives and property and maintain the operation of government.

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

CHAPTER 434. VETERAN ASSISTANCE AGENCIES

SUBCHAPTER A. TEXAS VETERANS COMMISSION

Sec. 434.001. COMMISSION. The Texas Veterans Commission is an agency of the state.

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

Sec. 434.002. APPLICATION OF SUNSET, OPEN MEETINGS, AND ADMINISTRATIVE PROCEDURE LAWS. (a) The Texas Veterans Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2031.

(b) The commission is subject to Chapter 551, and Chapter 2001.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 3.07, eff. Nov. 12, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), (83), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 970, Sec. 2.02, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1169, Sec. 2.02, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1481, Sec. 2.03, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1112, Sec. 2.01, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1269 (H.B. 3426), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 4.03, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 593 (S.B. 601), Sec. 1, eff. September 1, 2019.

Sec. 434.003. MEMBERS. (a) The commission is composed of five members appointed by the governor with the advice and consent of the senate. The governor shall make each appointment without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(b) A member must be a citizen and resident of the state. At least three members must have been honorably discharged or honorably released from active military service of the United States. At least one member must be a person classified as a disabled veteran by the United States Veterans Administration or the branch of the United States armed forces in which the person served. This person's disability must be service-connected and compensable.

(c) A person having a less than honorable discharge from military service is not eligible to be a member. No two members may reside in the same senatorial district.

(d) Members are appointed for staggered six-year terms.

(e) A person may not be a member of the commission if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization, other than a veterans service organization, receiving money from the commission; or

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving money from the commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 1170, Sec. 45.01, eff. Sept. 1, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 12.01, eff. Jan. 11, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1269 (H.B. 3426), Sec. 2, eff. September 1, 2007.

Sec. 434.004. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas or national veterans service organization or a Texas trade association in the field of labor, workforce development, or career schools and colleges; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas or national veterans service organization or a Texas trade association in the field of labor, workforce development, or career schools and colleges.

(c) A person may not serve as a member of the commission if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of labor, workforce development, or career schools and colleges; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of labor, workforce development, or career schools and colleges.

(d) A person required to register as a lobbyist under Chapter 305 because of activities on behalf of a veterans association may not serve as a member of or as general counsel to the commission.

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

Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1269 (H.B. 3426), Sec. 3, eff. September 1, 2007.

Sec. 434.005. REMOVAL. (a) It is a ground for removal from the commission if a member:

(1) does not have at the time of taking office, or does not maintain during the service on the commission, the qualifications required by Section 434.003 for appointment to the commission;

(2) violates a prohibition under Section 434.004;

(3) fails to attend at least half of the regularly scheduled commission meetings held in a calendar year, excluding meetings held while the person was not a member of the commission without an excuse approved by a majority vote of the commission; or

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term.

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

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1269 (H.B. 3426), Sec. 4, eff. September 1, 2007.

Sec. 434.006. OFFICERS; COMMISSION ACTIONS. (a) The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor.

(b) The commission annually shall elect from among its members an assistant presiding officer and a secretary. An officer shall serve until the officer's successor is appointed and qualified.

(c) The commission shall meet at least once in each three-month period. No action may be taken by less than a majority of the commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1269 (H.B. 3426), Sec. 5, eff. September 1, 2007.

Sec. 434.0061. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing commission operations;

(2) the programs, functions, rules, and budget of the commission;

(3) the results of the most recent formal audit of the commission;

(4) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosure of conflicts of interest; and

(B) other laws applicable to members of a state policymaking body in performing their duties;

(5) any applicable ethics policies adopted by the commission or the Texas Ethics Commission; and

(6) the scope of and limitations on the rulemaking authority of the commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) The executive director of the commission shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each member of the commission. Each member of the commission shall sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

Added by Acts 2007, 80th Leg., R.S., Ch. 1269 (H.B. 3426), Sec. 6, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 593 (S.B. 601), Sec. 2, eff. September 1, 2019.

Sec. 434.007. DUTIES. (a) The commission shall:

(1) compile federal, state, and local laws enacted to benefit members of the armed forces, veterans, and their families and dependents;

(2) collect information relating to services and facilities available to veterans;

(3) cooperate with veterans service agencies in the state;

(4) inform members and veterans of the armed forces, their families and dependents, and military and civilian authorities about the existence or availability of:

(A) educational training and retraining facilities;

(B) health, medical, rehabilitation, and housing services and facilities;

(C) employment and reemployment services;

(D) provisions of federal, state, and local law affording rights, privileges, and benefits to members and veterans of the armed forces and their families and dependents; and

(E) other similar, related, or appropriate matters;

(5) assist veterans and their families and dependents in presenting, proving, and establishing claims, privileges, rights, and benefits they may have under federal, state, or local law;

(6) cooperate with all government and private agencies securing services or benefits to veterans and their families and dependents;

(7) investigate, and if possible correct, abuses or

exploitation of veterans or their families or dependents, and recommend necessary legislation for full correction;

(8) coordinate the services and activities of state departments and divisions having services and resources affecting veterans or their families or dependents;

(9) provide training and certification of veterans county service officers and assistant veterans county service officers in accordance with Section 434.038;

(10) through surveys or other reasonable and accurate methods of estimation, collect and maintain for each county in the state the number of servicemembers and veterans residing in the county and annually update and publish the information on the commission's website;

(11) with the assistance and cooperation of the comptroller, inform and assist veterans and their families and dependents with respect to discovering and initiating claims for unclaimed property held by the United States Department of Veterans Affairs;

(12) annually evaluate and set priorities for each program administered by the commission to meet the changing needs of veterans in this state;

(13) annually set concrete goals for staff and measure the staff's performance; and

(14) establish success measures and corresponding targets for each program administered by the commission and report the program's progress in meeting the measures and targets in:

(A) any annual internal report for that program; and

(B) the commission's strategic plan under Section 2056.002.

(b) In setting priorities under Subsection (a)(12), the commission shall consider:

(1) the existing strategic plan under Section 2056.002 and the needs assessment under Section 434.017(c-1);

(2) complaint data;

(3) performance outcomes;

(4) veteran survey results;

(5) staff input; and

(6) any other available information.

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

by Acts 1989, 71st Leg., ch. 364, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1381 (S.B. 1058), Sec. 3, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 453 (S.B. 1660), Sec. 1, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 593 (S.B. 601), Sec. 3, eff. September 1, 2019.

Sec. 434.0071. MEMORANDUM OF UNDERSTANDING. The commission shall adopt a joint memorandum of understanding with the following governmental entities to coordinate the provision of services to state military veterans:

(1) the Texas Workforce Commission;

(2) the Veterans' Land Board; and

(3) any other agency of the state that administers a program applicable only to veterans or the family members of veterans.

Added by Acts 2001, 77th Leg., ch. 175, Sec. 1, eff. May 18, 2001.

Sec. 434.0076. RECORD OF COMPLAINTS. (a) The commission shall maintain a system to promptly and efficiently act on complaints filed with the commission. The commission shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The commission shall make information available describing its procedures for complaint investigation and resolution.

(c) The commission shall periodically notify the complaint parties of the status of the complaint until final disposition.

Added by Acts 2007, 80th Leg., R.S., Ch. 1269 (H.B. 3426), Sec. 7, eff. September 1, 2007.

Sec. 434.0077. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

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

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

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

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

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

Added by Acts 2007, 80th Leg., R.S., Ch. 1269 (H.B. 3426), Sec. 7, eff. September 1, 2007.

Sec. 434.0078. CLAIMS ASSISTANCE SERVICES. (a) The commission shall adopt procedures for administering claims assistance services under Section 434.007(a)(5). The procedures must include:

(1) criteria for determining when a veteran's initial claim is substantially complete and basic eligibility requirements are met as provided by federal law;

(2) a process for expediting a claim based on hardship, including whether the veteran:

(A) is in immediate need;

(B) is terminally ill;

(C) has a verifiable financial hardship; or

(D) has a disability that presents an undue burden;

(3) a procedure for advising veterans on the potential merits or drawbacks of pursuing a claim;

(4) a process to ensure adequate documentation and development of a claim or appeal, including early client involvement, collection of needed evidence and records, and analysis of actions necessary to pursue and support a claim or appeal;

(5) criteria for evaluating whether a decision of the United States Department of Veterans Affairs contains sufficient cause for filing an appeal;

(6) a requirement that a claims benefit advisor report to the United States Department of Veterans Affairs if the advisor has direct knowledge that a claim contains false or deceptive information; and

(7) a procedure for prioritizing a claim, when appropriate, or providing an alternative source for obtaining claims assistance services when it is not appropriate to prioritize.

(b) The commission shall consult with the United States Department of Veterans Affairs in developing the procedures under Subsection (a) to:

(1) ensure the services provided by the commission do not unnecessarily duplicate services provided through the United States Department of Veterans Affairs;

(2) ensure that the procedures will provide for resolving disputes at the lowest level of the United States Department of Veterans Affairs benefit decision process;

(3) ensure that commission employees are not improperly involved in adjudicating claims; and

(4) establish broad areas of cooperation between the commission and the United States Department of Veterans Affairs to streamline and align the commission's service delivery with United States Department of Veterans Affairs processes, including:

(A) identifying processes to update changes to veterans' cases and power of attorney designation;

(B) cooperating to expedite hardship cases and appeals; and

(C) identifying opportunities for the United States Department of Veterans Affairs to provide the commission with necessary data to assist with tracking the progress and outcomes of claims.

(c) The commission shall regularly evaluate claims assistance services staffing to determine where advisors and special team staff are most needed. The evaluation must include the:

(1) workload of staff;

(2) number of veterans denied claims assistance services; and

(3) quality of claims prepared at each of the claims

assistance services offices.

(d) The commission shall regularly evaluate the needs and performance of any special claims assistance resources provided by the legislature, including the state strike force team and the fully developed claims team, and request to adjust staffing for those resources as appropriate.

(e) The commission shall regularly collect detailed information on the outcome of claims and use that information to evaluate and improve claims assistance services. The commission, at a minimum, shall track and evaluate the average processing time for claims and appeals by the United States Department of Veterans Affairs.

(f) Repealed by Acts 2023, 88th Leg., R.S., Ch. 38 (S.B. 1859), Sec. 5(3), eff. September 1, 2023.

Added by Acts 2007, 80th Leg., R.S., Ch. 1269 (H.B. 3426), Sec. 7, eff. September 1, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 593 (S.B. 601), Sec. 4, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 38 (S.B. 1859), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 38 (S.B. 1859), Sec. 5(3), eff. September 1, 2023.

Sec. 434.0079. DUTIES REGARDING CERTAIN TUITION AND FEE EXEMPTIONS FOR VETERANS AND FAMILY MEMBERS. (a) The commission, through its veteran education program, shall assist veterans and their family members in claiming and qualifying for exemptions from the payment of tuition and fees at institutions of higher education under Section 54.341, Education Code.

(b) The commission shall establish the application and necessary evidence requirements for a person to claim an exemption under Section 54.341, Education Code, at an institution of higher education.

(c) The commission shall adopt rules governing the coordination of federal and state benefits of a person eligible to receive an exemption under Section 54.341(k), Education Code, including rules governing:

(1) the total number of credit hours assigned under that

section that a person may apply to an individual degree or certificate program, consistent with the standards of the appropriate recognized regional accrediting agency; and

(2) the application of the assigned exemption to credit hours for which the institution of higher education does not receive state funding.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1193 (S.B. 1158), Sec. 3, eff. June 14, 2013.

Sec. 434.00791. ELECTRONIC SYSTEM TO MONITOR TUITION EXEMPTIONS FOR VETERANS AND FAMILY MEMBERS. (a) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(b) The commission shall ensure a system to electronically monitor the use of tuition and fee exemptions at institutions of higher education under Section 54.341, Education Code, is developed. The system must allow the commission to electronically receive, for each semester, the following information from institutions of higher education:

(1) the name of the institution;

(2) the name, identification number, and date of birth of each individual attending the institution and receiving benefits for the semester under Section 54.341, Education Code;

(3) for each individual receiving benefits, the number of credit hours for which the individual received an exemption for the semester;

(4) for each individual receiving benefits at the institution during the semester, the total cumulative number of credit hours for which the individual has received an exemption at the institution; and

(5) any other information required by the commission.

Added by Acts 2005, 79th Leg., Ch. 7 (S.B. 101), Sec. 2, eff. May 3, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 359 (S.B. 32), Sec. 6, eff. January 1, 2012.

Transferred, redesignated and amended from Education Code, Section 61.0516 by Acts 2013, 83rd Leg., R.S., Ch. 1193 (S.B. 1158), Sec. 4,

eff. June 14, 2013.

Sec. 434.008. FEES PROHIBITED. The commission may not charge a fee or permit the payment of a fee by an applicant to a third person for services rendered by the commission.

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

Sec. 434.009. EXECUTIVE DIRECTOR. (a) The commission shall employ an executive director qualified by experience and training to administer the policies of the commission.

(b) The executive director shall:

(1) place into operation the policies and instructions of the commission;

(2) serve as the executive officer of the commission, without the power to vote;

(3) be in charge of commission offices;

(4) direct the paid personnel of the commission; and

(5) be responsible to the commission for all reports, data, and similar information required by the commission.

(c) The executive director may:

(1) administer oaths;

(2) certify official acts under the commission's seal;

(3) take depositions inside or outside the state, as provided by law; and

(4) compel the production of pertinent books, accounts, records, and documents.

(d) The executive director shall devote the executive director's entire time to the duties of the office and may not actively engage or be employed in another business, vocation, or profession.

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

Sec. 434.0091. SEPARATION OF POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. The commission shall develop and implement policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive

director and the staff of the commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 1269 (H.B. 3426), Sec. 8, eff. September 1, 2007.

Sec. 434.010. RULES. (a) The commission may adopt rules that it considers necessary for its administration.

(b) The commission shall adopt procedures for receiving input and recommendations from interested persons regarding the development of rules and policies.

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

Acts 2007, 80th Leg., R.S., Ch. 1269 (H.B. 3426), Sec. 9, eff. September 1, 2007.

Sec. 434.0101. ADVISORY COMMITTEES. (a) In developing procedures under Section 434.010, the commission may establish and appoint members to an advisory committee to advise and make recommendations to the commission on programs, rules, and policies affecting the delivery of services to veterans.

(b) If the commission establishes an advisory committee under Subsection (a), the commission shall adopt rules regarding:

(1) the purpose, role, and goals of the committee;

(2) the size and quorum requirements of the committee;

(3) the qualifications of the members and the criteria for selecting members;

(4) the procedures for appointing members;

(5) the terms of service of members;

(6) the training requirements of members;

(7) the implementation of a needs assessment process to regularly evaluate the continuing need for the committee; and

(8) a requirement that the committee comply with Chapter 551.

Added by Acts 2007, 80th Leg., R.S., Ch. 1269 (H.B. 3426), Sec. 10, eff. September 1, 2007.

Sec. 434.011. OFFICE; EXPENSES; EMPLOYEES. (a) The state shall provide the commission suitable offices and office equipment in Austin. The commission may incur the expenses necessary to perform its work.

(b) The commission shall employ sufficient office personnel, stenographers, typists, and clerical help to maintain the efficient operation of the office.

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

Sec. 434.012. COMPENSATION AND EXPENSES. (a) A member of the commission is entitled to a per diem as set by legislative appropriation for each day that the member engages in commission business.

(b) A member is entitled to receive compensation for meals, lodging, or other travel expenses as provided by the General Appropriations Act.

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

Sec. 434.013. FINANCES. (a) The financial transactions of the commission are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(38), eff. June 17, 2011.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 24, eff. Sept. 1, 1989. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(38), eff. June 17, 2011.

Sec. 434.014. EMPLOYMENT PRACTICES. (a) The executive director or the executive director's designee shall develop a career ladder program. The program must require that openings in all positions except entry level positions be posted within the commission concurrently with any public posting.

(b) The executive director or the executive director's designee

shall develop a system of annual performance evaluation based on measurable job tasks. Merit pay for commission employees must be based on this system.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1385 (S.B. 1655), Sec. 1, eff. June 19, 2009.

Sec. 434.015. INFORMATION OF PUBLIC INTEREST. The commission shall prepare information of public interest describing the functions of the commission and the procedures for filing and for resolution by the commission of public complaints. The commission shall make the information available to the general public and appropriate state agencies.

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

Sec. 434.0151. PUBLIC PARTICIPATION. The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 1269 (H.B. 3426), Sec. 11, eff. September 1, 2007.

Sec. 434.016. GIFTS AND GRANTS. The commission may accept gifts of money and property and may accept grants.

Added by Acts 2005, 79th Leg., Ch. 395 (S.B. 1480), Sec. 3, eff. September 1, 2005.

Sec. 434.0161. USE OF FUNDS TO SUPPORT OUTREACH AND TRAINING. The commission may use appropriated funds to purchase, for use at outreach and training functions:

(1) promotional items that include the agency's name and contact information to be distributed to veterans; and

(2) food and beverages.

Added by Acts 2009, 81st Leg., R.S., Ch. 1385 (S.B. 1655), Sec. 2, eff. June 19, 2009.

Sec. 434.017. FUND FOR VETERANS' ASSISTANCE. (a) The fund for veterans' assistance is a special fund in the state treasury outside the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) gifts and grants contributed to the fund;

(3) the earnings of the fund;

(4) money transferred to the fund from proceeds of the lottery game operated under Section 466.027 or transferred to the fund under Section 466.408(b);

(5) money deposited to the credit of the fund under Section 502.1746, Transportation Code;

(6) money deposited to the credit of the fund under Sections 521.008 and 522.0295, Transportation Code;

(7) money deposited to the credit of the fund under Section 12.007, Parks and Wildlife Code; and

(8) money deposited to the credit of the fund under Section 411.1741.

(b) Except as provided by Subsections (c) and (e), money in the fund may not be appropriated for any purpose.

(c) Money in the fund may only be appropriated to the Texas Veterans Commission. Money appropriated under this subsection shall be used to:

(1) make grants to address veterans' needs;

(2) make grants to provide pro bono legal services to veterans, active duty members of the United States armed forces, and members of the state military forces;

(3) administer the fund; and

(4) analyze and investigate data received from the federal Public Assistance Reporting Information System (PARIS) that is administered by the Administration for Children and Families of the United States Department of Health and Human Services.

(c-1) Every four years, the commission shall:

(1) conduct a needs assessment to identify the specific

high-priority needs of veterans and the services available to address those needs;

(2) determine the grant categories that correspond to the needs identified under Subdivision (1); and

(3) identify any discrepancy between the needs identified under Subdivision (1) and the services available to address those needs.

(c-2) On completion of the needs assessment and other determinations under Subsection (c-1), the commission shall incorporate the results of the assessment and determinations into the commission's process for awarding grants from the fund for veterans' assistance.

(c-3) In making the grants required under Subsection (c), the Texas Veterans Commission shall use at least five percent of the money appropriated to the commission under that subsection in each state fiscal year to provide grants to veterans county service offices created as provided by Section 434.032. A veterans county service office that receives a grant under Subsection (c) shall use the money to provide direct assistance and services to veterans residing in the county served by that office. On July 1 of each state fiscal year, if the commission has not received sufficient grant requests from veterans county service offices to make grants to the offices in the amount of five percent of the money appropriated to the commission under Subsection (c) in that state fiscal year, the commission may use any amount of the five percent remaining on that date for any purpose authorized under that subsection. This subsection may not be construed to prevent the commission from using more than five percent of the money appropriated to the commission under Subsection (c) to provide grants to veterans county service offices.

(c-4) The commission shall publish the most recent needs assessment under Subsection (c-1) on the commission's Internet website.

(d) The Texas Veterans Commission may adopt rules governing the award of grants by the commission under this section. The commission shall adopt rules governing the award of grants to veterans county service offices under Subsection (c-3).

(e) To carry out any purpose of this chapter, the commission may solicit, accept, or refuse a gift, grant, devise, bequest of money, security, service, or property, including money raised or a

service provided by a volunteer or volunteer group, to promote the work of the commission for any purpose related to the fund for veterans' assistance. The commission may participate in the establishment and operation of an affiliated nonprofit organization that is established for the purpose of raising money for or providing services or other benefits to the commission or a program established in the commission, including the Texas Women Veterans Program. A gift, grant, devise, or bequest to the fund may be appropriated in the same manner as other money in the fund, subject to the purposes provided by Subsection (c) and any limitation or requirement placed on the gift, grant, devise, or bequest by the donor or granting entity.

(f) Sections 403.095 and 404.071 do not apply to the fund.

Added by Acts 2005, 79th Leg., Ch. 395 (S.B. 1480), Sec. 1, eff. September 1, 2005.
Redesignated from Government Code, Section 403.108 and amended by Acts 2007, 80th Leg., R.S., Ch. 1418 (H.B. 3107), Sec. 16(a), eff. June 15, 2007.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 840 (S.B. 1940), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1385 (S.B. 1655), Sec. 3, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.011, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 669 (S.B. 1635), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 673 (S.B. 1739), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 673 (S.B. 1739), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 26.01, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 868 (H.B. 633), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 160 (H.B. 1584), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 210 (S.B. 1879), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 325 (H.B. 867), Sec. 2, eff. June 4, 2015.

Acts 2015, 84th Leg., R.S., Ch. 821 (H.B. 3710), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.002(11), eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 6.006, eff. September 1, 2017.

Reenacted and amended by Acts 2017, 85th Leg., R.S., Ch. 324 (S. B. 1488), Sec. 8.006, eff. September 1, 2017.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 753 (S.B. 1679), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 593 (S.B. 601), Sec. 5, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 675 (S.B. 2104), Sec. 1, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 614 (H.B. 3798), Sec. 5, eff. September 1, 2023.

Sec. 434.0171. STATE EMPLOYEE CONTRIBUTIONS TO FUND FOR VETERANS' ASSISTANCE. For purposes of Subchapter I, Chapter 659:

(1) the Texas Veterans Commission, for the sole purpose of managing the fund for veterans' assistance, is considered an eligible charitable organization entitled to participate in the state employee charitable campaign; and

(2) a state employee is entitled to authorize a deduction for contributions to the Texas Veterans Commission for the purposes of managing the fund for veterans' assistance as a charitable contribution under Section 659.132, and the Texas Veterans Commission may use the contributions for the purposes listed in Section 434.017(c).

Added by Acts 2009, 81st Leg., R.S., Ch. 840 (S.B. 1940), Sec. 2, eff. June 19, 2009.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 675 (S.B. 2104), Sec. 2, eff. September 1, 2019.

Sec. 434.018. PERFORMANCE INCENTIVE AWARD. (a) The commission may make a monetary performance incentive award to an individual or an entity for providing services to veterans as authorized by Section 3(a) of the federal Jobs for Veterans Act (38 U.S.C. Section 4112).

(b) A performance incentive award made under this section to a state employee is not a promotion or a merit salary increase under Chapter 659.

Added by Acts 2007, 80th Leg., R.S., Ch. 364 (S.B. 310), Sec. 1, eff. September 1, 2007.
Renumbered from Government Code, Section 434.017 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(29), eff. September 1, 2009.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 38 (S.B. 1859), Sec. 2, eff. September 1, 2023.

Sec. 434.019. VETERANS HOSPITAL. (a) The Texas Veterans Commission and the Department of State Health Services, in collaboration with the office of the governor, shall work with the United States Department of Veterans Affairs and any other appropriate federal agency to propose that the federal government establish a veterans hospital in the Rio Grande Valley region of the state.

(b) The state may contribute money, property, and other resources to the establishment, maintenance, and operation of a veterans hospital described by this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 439 (H.B. 2217), Sec. 1, eff. June 19, 2009.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 633 (S.B. 1463), Sec. 2, eff. June 16, 2015.

Sec. 434.020. NOTICE TO STATE CEMETERY COMMITTEE OF SERVICEMEMBER'S DEATH. The Texas Veterans Commission shall notify the State Cemetery Committee as soon as practicable after the commission receives notice of the death of a member of the United States armed forces from the state who is killed while serving in a

combat zone.

Added by Acts 2009, 81st Leg., R.S., Ch. 1394 (S.B. 2135), Sec. 2, eff. June 19, 2009.

Sec. 434.0205. CONFIDENTIALITY OF INFORMATION PROVIDED TO COMMISSION. Any information provided by a person to the commission to receive services or participate in commission programs is confidential and not subject to disclosure under Chapter 552.

Added by Acts 2019, 86th Leg., R.S., Ch. 367 (H.B. 1351), Sec. 1, eff. September 1, 2019.

Sec. 434.021. CONFIDENTIAL INFORMATION RECEIVED BY THE COMMISSION. Information received by the commission that is confidential under Chapter 552 remains confidential regardless of the format in which the commission maintains the information.

Added by Acts 2009, 81st Leg., R.S., Ch. 1385 (S.B. 1655), Sec. 2, eff. June 19, 2009.

Sec. 434.022. VETERAN ENTREPRENEUR PROGRAM. (a) In this section, "veteran" means a person who has served in:

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

(2) the Texas National Guard as defined by Section 431.001.

(b) The Texas Veterans Commission by rule shall establish and implement the veteran entrepreneur program to foster and promote veteran entrepreneurship and business ownership.

(c) The program shall provide assistance to veteran entrepreneurs and business owners by:

(1) performing outreach functions to improve veteran entrepreneurs' and business owners' awareness of federal and state benefits and services available to those veterans;

(2) assessing the need for benefits and services among veteran entrepreneurs and business owners;

(3) reviewing and researching programs, projects, and initiatives designed to address the needs of veteran entrepreneurs

and business owners;

(4) periodically evaluating the effectiveness of the commission's efforts to assist veteran entrepreneurs and business owners and making appropriate recommendations to the executive director of the commission to improve services and assistance provided to those veterans;

(5) incorporating issues concerning veteran entrepreneurs and business owners into the commission's plans for assisting veterans in securing benefits and services;

(6) advocating for veteran entrepreneurs and working to increase public awareness about the needs of veteran entrepreneurs and business owners;

(7) recommending legislative initiatives and policies at the local, state, and national levels to address the issues affecting veteran entrepreneurship and business ownership;

(8) collaborating with federal, state, and private agencies that provide services to veteran entrepreneurs and business owners to allow the veterans to make use of those services;

(9) monitoring and researching issues affecting the interests of veteran entrepreneurs and business owners;

(10) providing information about opportunities for veteran entrepreneurs and business owners in the commission's collaborative network of businesses and organizations;

(11) providing guidance to veteran entrepreneurs and business owners through conferences, seminars, and training workshops with federal, state, and private agencies; and

(12) promoting events and activities that recognize or honor veteran entrepreneurs and business owners.

(c-1) The program shall establish regional coordinators in major centers of economic growth to provide the services described in Subsection (c).

(d) The executive director of the commission shall appoint a program coordinator to administer the program.

(e) The commission shall provide facilities as appropriate in support of the program to the extent funding is available for that purpose.

(f) The program shall consult with the United States Department of Veterans Affairs and the United States Small Business Administration in developing procedures under this section to ensure the services provided by this program do not duplicate services

provided through the United States Department of Veterans Affairs or the United States Small Business Administration.

Added by Acts 2013, 83rd Leg., R.S., Ch. 483 (S.B. 1476), Sec. 1, eff. June 14, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 73 (S.B. 660), Sec. 1, eff. May 22, 2015.

Sec. 434.023. HEALTH CARE ADVOCACY PROGRAM FOR VETERANS. (a) In this section, "veteran" means a person who has served in:

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

(2) the Texas National Guard as defined by Section 431.001.

(b) The commission by rule shall establish and implement a health care advocacy program to assist veterans in gaining access to health care facilities of the United States Department of Veterans Affairs.

(c) The program shall provide assistance to veterans by:

(1) resolving any access issues raised by veterans in this state or referred to the commission by the veterans toll-free hotline operated under Section 161.077, Natural Resources Code;

(2) coordinating with the Veterans Health Administration of the United States Department of Veterans Affairs to support the health care advocacy program established under this section;

(3) coordinating with health care providers in this state to expand providers' opportunities to treat veterans through the United States Department of Veterans Affairs;

(4) reviewing and researching programs, projects, and initiatives designed to address the health care needs of veterans;

(5) evaluating the effectiveness of the efforts of the commission to improve access to health care services for veterans;

(6) making recommendations to the executive director of the commission to improve health care services and assistance for veterans;

(7) incorporating veterans' health care issues into the commission's strategic plan required under Section 2056.002;

(8) assisting veterans in securing benefits and services; and

(9) recommending legislative initiatives and policies at the local, state, and national levels to address issues affecting health care for veterans.

(d) The executive director of the commission shall appoint a program coordinator to administer the health care advocacy program.

(e) The commission shall provide facilities as appropriate to support the program to the extent funding is available for that purpose.

Added by Acts 2015, 84th Leg., R.S., Ch. 542 (H.B. 1762), Sec. 1, eff. June 16, 2015.

Sec. 434.024. VETERANS COMMUNITY OUTREACH CAMPAIGN. (a) The Texas Veterans Commission shall conduct a community outreach campaign to provide information relating to and increase awareness of benefits and services available to veterans, including:

(1) claims assistance services;

(2) technology services, including the veterans website under Section 434.102;

(3) health, financial, rehabilitation, and housing services;

(4) employment and reemployment services;

(5) legal services, including the veterans treatment court program under Chapter 124;

(6) state and federal education benefits;

(7) grants available to veterans;

(8) entrepreneurial services under Section 434.022; and

(9) mental health services.

(b) The community outreach campaign must include outreach efforts at:

(1) community centers;

(2) places of worship; and

(3) any other place in a community where veterans routinely gather, as determined by the commission.

(c) The commission shall collaborate with, and may contract with, community-based, nonprofit, or private organizations to implement the community outreach campaign under this section.

(d) The commission may solicit and accept gifts and grants to fund the community outreach campaign under this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 562 (S.B. 591), Sec. 1, eff. September 1, 2017.

Sec. 434.0241. VETERANS SUICIDE PREVENTION CAMPAIGN. (a) The Texas Veterans Commission shall conduct a suicide prevention campaign to provide veterans with information regarding suicide prevention.

(b) In conducting the suicide prevention campaign, the commission shall establish a dedicated Internet website to provide veterans with information regarding suicide prevention.

(c) The commission shall collaborate with, and may contract with, community-based, nonprofit, or private organizations to conduct the suicide prevention campaign under this section.

(d) The commission may solicit and accept gifts and grants for purposes of conducting the suicide prevention campaign under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 482 (H.B. 671), Sec. 1, eff. September 1, 2023.

Sec. 434.025. INFORMATION REGARDING VETERAN'S EMPLOYMENT PREFERENCE POLICIES. The commission shall make available on its website a list of each private employer who has provided notice under Section 23.002(c), Labor Code, regarding a veteran's employment preference policy.

Added by Acts 2017, 85th Leg., R.S., Ch. 387 (S.B. 588), Sec. 1, eff. September 1, 2017.
Redesignated from Government Code, Section 434.024 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(22), eff. September 1, 2019.

Sec. 434.026. ONLINE REPOSITORY FOR ACTIVE DUTY MILITARY. (a) The Texas Veterans Commission shall develop and maintain on the state electronic Internet portal project described by Section 2054.252 an online repository of information of use to active duty members of the United States armed forces and their families relocating to this state.

(b) The repository under Subsection (a) must include

information on assistance, fee waivers, and programs the state provides to active duty members of the United States armed forces and their families related to occupational and professional licenses, education, and health care.

(c) A link to the repository developed under Subsection (a) must be prominently displayed on the public home page of the state electronic Internet portal project described by Section 2054.252.

Added by Acts 2019, 86th Leg., R.S., Ch. 316 (H.B. 2530), Sec. 1, eff. September 1, 2019.

Sec. 434.027. ENERGY INDUSTRY PROGRAM FOR VETERAN PROFESSIONAL DEVELOPMENT. (a) The Texas Veterans Commission shall develop and administer a program to provide assistance to veterans seeking a certification or training to prepare for employment in the energy industry.

(b) The commission, in coordination with the General Land Office and Veterans' Land Board, shall conduct an outreach campaign to encourage veterans to participate in the program established under this section.

(c) The commission shall adopt rules to implement the program established under this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 133 (H.B. 33), Sec. 4, eff. September 1, 2021.

Sec. 434.028. CITIZENSHIP ASSISTANCE FOR VETERANS. On request of a veteran, the Texas Veterans Commission shall evaluate the veteran's citizenship status in order to:

(1) educate and direct the veteran in becoming a United States citizen; and

(2) facilitate the veteran's naturalization process.

Added by Acts 2021, 87th Leg., R.S., Ch. 157 (S.B. 886), Sec. 1, eff. September 1, 2021.
Redesignated from Government Code, Section 434.027 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(18), eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Text of section as added by Acts 2023, 88th Leg., R.S., Ch. 1067 (S.B. 493), Sec. 1

For text of section as added by Acts 2023, 88th Leg., R.S., Ch. 587 (H.B. 2951), Sec. 1, see other Sec. 434.029.

Sec. 434.029. CERTAIN VETERANS QUALIFIED FOR BENEFITS. (a) In this section, "COVID-19" means the 2019 novel coronavirus disease.

(b) For purposes of determining qualifications for any veterans benefits or services from the state, a former member of the United States armed forces who received a less than honorable discharge due to the individual's refusal to receive a vaccination against COVID-19 shall be considered to have received an honorable discharge.

(c) For a discharge of a former member of the United States armed forces to be considered honorable under Subsection (b), the former member of the United States armed forces must prove to the Texas Veterans Commission that the individual's refusal to receive a vaccination against COVID-19 was the sole reason for the individual's less than honorable discharge.

Added by Acts 2023, 88th Leg., R.S., Ch. 1067 (S.B. 493), Sec. 1, eff. June 18, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Text of section as added by Acts 2023, 88th Leg., R.S., Ch. 587 (H.B. 2951), Sec. 1

For text of section as added by Acts 2023, 88th Leg., R.S., Ch. 1067 (S.B. 493), Sec. 1, see other Sec. 434.029.

For expiration of this section, see Subsection (j).

Sec. 434.029. SERVICE DOG PILOT PROGRAM FOR CERTAIN VETERANS. (a) In this section:

(1) "Commission" means the Texas Veterans Commission.

(2) "Pilot program" means the pilot program established under this section.

(3) "Veteran" means an individual who has served in:

(A) an active or reserve component of the army, navy, air force, coast guard, space force, or marine corps of the United States; or

(B) the Texas National Guard, as defined by Section 431.001.

(b) The commission by rule shall establish a pilot program for veterans to assist in mitigating the symptoms of military service-related post-traumatic stress disorder, traumatic brain injury, or military sexual trauma through the provision of a service dog.

(c) The commission shall issue a request for proposals from nonprofit corporations to provide trained service dogs and training and services to veterans who participate in the pilot program.

(d) The commission shall approve one or more nonprofit corporations to provide services through the pilot program. The commission may not approve a nonprofit corporation unless the corporation:

(1) has demonstrated experience working with veterans who have experienced post-traumatic stress disorder, traumatic brain injury, or military sexual trauma;

(2) is authorized to conduct business in this state;

(3) is able to provide follow-up services to a veteran who participates in the pilot program and the veteran's service dog; and

(4) adheres to the standards of Assistance Dogs International.

(e) A nonprofit corporation that is approved to provide services under the pilot program shall:

(1) employ professional staff to train dogs to become service dogs for veterans participating in the pilot program;

(2) provide each veteran participating in the pilot program a fully trained service dog;

(3) instruct each veteran participating in the pilot program on maintaining the service dog's health and training;

(4) while a veteran is participating in the pilot program, ensure that regular mental health and depression assessments are conducted on the veteran; and

(5) be able to provide a veteran participating in the pilot program a new service dog if the veteran's service dog:

(A) is incompatible with the veteran; or

(B) dies or is otherwise unable to fulfill the dog's

duty as a service dog before the fourth anniversary of the date the veteran received the service dog under the pilot program.

(f) All goods and services provided to a veteran as part of the pilot program, including a veteran's service dog, must be provided at no cost to the veteran.

(g) A service dog provided by a nonprofit corporation as part of the pilot program must:

(1) complete a training program accredited by Assistance Dogs International;

(2) comply with any requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.); and

(3) be evaluated by a veterinarian to ensure the dog is medically fit to serve as a service dog.

(h) The commission may accept gifts, grants, and donations to fund the pilot program.

(i) Not later than October 1, 2026, the commission shall prepare and submit a report evaluating the pilot program to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the legislature. The report must include:

(1) recommendations for legislative or other action; and

(2) an evaluation of the pilot program's effectiveness, including a recommendation on whether the pilot program should be continued, expanded, or terminated.

(j) The pilot program concludes and this section expires September 1, 2027.

Added by Acts 2023, 88th Leg., R.S., Ch. 587 (H.B. 2951), Sec. 1, eff. September 1, 2023.

SUBCHAPTER B. VETERANS COUNTY SERVICE OFFICES

Sec. 434.031. DEFINITIONS. In this subchapter:

(1) "Office" means a Veterans County Service Office created under this subchapter.

(2) "Officer" means a veterans county service officer or assistant veterans county service officer.

(3) "Commission" means the Texas Veterans Commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 364, Sec. 2, eff. Sept. 1, 1989.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 651, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 434.032. CREATION. (a) In a county with a population of 200,000 or more, the commissioners court shall maintain a veterans county service office. The office must:

(1) be separate and distinct from other county offices;

(2) be staffed by at least one full-time employee; and

(3) report directly to the commissioners court.

(b) In a county with a population of less than 200,000, the commissioners court, by a majority vote of its full membership, may maintain and operate a veterans county service office if the commissioners court determines that the office is a public necessity to enable county residents who are veterans to promptly, properly, and rightfully obtain benefits to which they are entitled.

(c) The commissioners court of a county that maintains an office:

(1) may not consider donations made to the office under Article 42A.304(f), Code of Criminal Procedure, or Section 61.003 for purposes of determining the county's budget for the office; and

(2) may use donations described by Subdivision (1) only to supplement, rather than supplant, amounts budgeted by the county for the office.

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

Acts 2017, 85th Leg., R.S., Ch. 1124 (S.B. 1676), Sec. 1, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 565 (S.B. 456), Sec. 2, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 11.03, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 306 (H.B. 541), Sec. 2, eff. September 1, 2023.

Sec. 434.033. OFFICERS. (a) A commissioners court that maintains and operates an office shall appoint a veterans county

service officer and the number of assistant veterans county service officers that it considers necessary.

(b) To be appointed as an officer a person must:

(1) be qualified by education and training for the duties of the office; and

(2) be experienced in the law, regulations, and rulings of the United States Department of Veterans Affairs controlling cases that come before the commission.

(b-1) In appointing an officer, the commissioners court shall give preference to a veteran who qualifies for a veteran's employment preference under Chapter 657. A commissioners court shall adopt and implement a county policy to give preference in appointing officers to veterans.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 593 (S.B. 601), Sec. 9, eff. September 1, 2019.

(d) An officer serves at the pleasure of the commissioners court.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 364, Sec. 3, eff. Sept. 1, 1989.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1194 (H.B. 3872), Sec. 1, eff. June 19, 2009.

Acts 2015, 84th Leg., R.S., Ch. 701 (H.B. 906), Sec. 1, eff. June 17, 2015.

Acts 2019, 86th Leg., R.S., Ch. 593 (S.B. 601), Sec. 6, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 593 (S.B. 601), Sec. 9, eff. September 1, 2019.

Sec. 434.034. JOINT EMPLOYMENT. The commissioners courts of any number of contiguous counties, by a majority vote of the full membership of each commissioners court, may agree to jointly establish an office and employ a veterans county service officer. The agreement must stipulate the amount of compensation and travel and other expenses to be paid by each county.

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

Sec. 434.035. DUTIES. An officer shall aid any county resident who served in the armed forces or nurses corps of the United States, and any orphan or dependent of the person, to prepare, submit, and present any claim against the United States or a state for benefits to which the person may be entitled under United States or state law. The officer shall defeat all unjust claims that come to the officer's attention.

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

Sec. 434.036. PROHIBITIONS. (a) An officer may not charge a fee or permit the payment of a fee by an applicant to a third person for services the officer renders under this subchapter.

(b) An officer may not seek to influence the execution of a power of attorney to one national service organization over that of another.

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

Sec. 434.037. ACCESS TO RECORDS. A state eleemosynary or penal institution shall give an officer access to its records to enable the officer to determine the status of a person confined in the institution relating to a benefit to which the person may be entitled. Access to records of a penal institution is governed by rules of the Texas Department of Criminal Justice.

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

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.070, eff. September 1, 2009.

Sec. 434.038. TRAINING AND CERTIFICATION. (a) An officer shall, within the time after the date of the officer's appointment that the commission prescribes, complete a course of initial training provided by the Texas Veterans Commission or approved under Subsection (e)(5). The commission shall issue the officer a certificate of training after completion of all initial training requirements established by the commission under this section. To

maintain certification, the officer shall complete continuing training required by the commission that is approved under Subsection (e)(5) or provided by the commission. An officer must maintain certification to remain in office.

(a-1) The commission shall develop and implement methods for providing training to officers. The methods may include Internet-based seminars, participation through videoconference, cooperation with training provided by the United States Department of Veterans Affairs, and other methods as appropriate.

(b) The commission may provide, at commission expense, the initial and continuing training required by this section at least once each year. If state funds are appropriated for that purpose, the commission shall reimburse an officer's travel and lodging expenses incurred in attending training provided by the commission. The commission shall make the reimbursement in the manner prescribed for the reimbursement of these expenses to state employees.

(c) The commissioners court of an officer's county shall reimburse an officer's travel and lodging expenses incurred in attending training required under this section that is approved under Subsection (e)(5).

(d) The commission shall develop standard course materials, training curriculum, and examinations to be used for county service officer certification and United States Department of Veterans Affairs accreditation.

(e) The commission shall:

(1) maintain course materials and examinations in a central location and provide county service offices and commission field staff with access to the course materials on the commission's Internet website;

(2) regularly update course materials, training curriculum, and examinations after consulting with:

(A) the United States Department of Veterans Affairs to ensure the course materials, training curriculum, and examinations are accurate and meet applicable United States Department of Veterans Affairs requirements; and

(B) accredited county service officers to ensure the materials, training curriculum, and examinations include issues developing at the county level;

(3) develop a training handbook containing instruction and case studies addressing:

(A) general assistance techniques, including how to provide general information regarding state and federal benefits and referrals for other services and to other agencies, and general information regarding state and federal benefits;

(B) basic counseling approaches for assisting veterans, their family members, and other eligible dependents filing benefit claims;

(C) basic information on United States Department of Veterans Affairs processes and procedures, including how to accurately complete claims and appeals forms and how to support claims;

(D) methods of collecting required documentation and developing claims and appeals;

(E) methods of documenting progress and updating a veteran's, a veteran's family member's, or another eligible dependent's case information;

(F) methods of assisting veterans, their family members, or other eligible dependents in pursuing appeals, including offering case knowledge in appeals hearings; and

(G) methods of representing veterans, their family members, or other eligible dependents during appeals hearings;

(4) coordinate with the Department of State Health Services to incorporate a suicide prevention component as part of the accreditation training and examination; and

(5) approve training provided by public or private entities to fulfill initial and continuing training requirements established by the commission under this section.

(f) The commission may establish rules to carry out the purposes of this section, including rules regarding carryover of credit for extra course attendance from one year into subsequent years and the anniversary date by which the continuing certification requirement must be met.

Added by Acts 1989, 71st Leg., ch. 364, Sec. 4, eff. Sept. 1, 1989.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1269 (H.B. 3426), Sec. 12, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 29 (S.B. 846), Sec. 1, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 558 (S.B. 544), Sec. 1, eff.

September 1, 2017.

Sec. 434.039. COORDINATION WITH COUNTY SERVICE OFFICERS AND COMMISSIONERS COURTS. The commission shall develop and adopt procedures to coordinate with county service officers and county commissioners courts to:

(1) identify the shared objectives of the commission, county service officers, and counties with a county service office in serving veterans;

(2) develop a plan for encouraging service officers to become accredited by the United States Department of Veterans Affairs;

(3) develop a procedure for consulting with counties to evaluate the state's overall approach to service delivery by county service officers and commission claims staff as part of the state's veterans assistance network;

(4) define the commission's responsibilities in overseeing claims and appeals prepared by county service officers for instances when the commission has been designated as a veteran's agent under a power of attorney;

(5) develop a process for collecting information regarding claims filed by county service officers for instances when the commission has been designated as a veteran's agent under a power of attorney, for providing technical assistance to county service officers, and for providing evaluative information, on request, to county judges or other local officials who supervise county service officers;

(6) incorporate county service officers into United States Department of Veterans Affairs appeals hearings either to represent veterans or to appear as witnesses, as needed;

(7) explore opportunities for funding county service officer travel to participate in United States Department of Veterans Affairs appeals hearings; and

(8) develop procedures to regularly update county service officers on changes in United States Department of Veterans Affairs policies and procedures, and other information.

Added by Acts 2007, 80th Leg., R.S., Ch. 1269 (H.B. 3426), Sec. 13, eff. September 1, 2007.

SUBCHAPTER C. TECHNOLOGY SERVICES AND REQUIREMENTS

Sec. 434.101. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Veterans Commission.

(2) "State electronic Internet portal" has the meaning assigned by Section 2054.003.

Added by Acts 2003, 78th Leg., ch. 69, Sec. 1, eff. May 16, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 5, eff. June 17, 2011.

Sec. 434.102. VETERANS WEBSITE. (a) The Department of Information Resources shall establish and maintain on the state electronic Internet portal a veterans website. The website must allow veterans to access information on state and federal veterans benefits programs.

(b) A state agency that participates in the veterans website is encouraged to allow a veteran to electronically file for state veterans benefits, including the electronic signing of the filing by the veteran and an electronic acknowledgment of the filing.

(c) The veterans website may allow a veteran to electronically file for selected federal veterans benefits, as specified by the commission.

Added by Acts 2003, 78th Leg., ch. 69, Sec. 1, eff. May 16, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 6, eff. June 17, 2011.

Sec. 434.103. COMMISSION FORMS. Commission forms shall contain:

(1) the veterans website address maintained under Section 434.102; and

(2) the commission's toll-free telephone number.

Added by Acts 2003, 78th Leg., ch. 69, Sec. 1, eff. May 16, 2003.

Sec. 434.104. BENEFITS BOOKLETS. (a) Not later than February 1 of each even-numbered year, the commission shall create an electronic state veterans benefits booklet. The commission shall make a printable version of the booklet available to:

(1) each veterans county service officer; and

(2) the personnel office of each state or federal military installation in this state.

(b) A veterans county service officer is encouraged to inform any person who claims or will claim Texas as a residence after discharge from the United States armed forces how to access the electronic state veterans benefits booklet.

(c) Each veterans county service officer shall provide access to the electronic state veterans benefits booklet at the veterans county service office.

(d) The commission may update the booklet as necessary.

(e) The commission shall make the electronic state veterans benefits booklet available on the commission's website.

Added by Acts 2003, 78th Leg., ch. 69, Sec. 1, eff. May 16, 2003.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 38 (S.B. 1859), Sec. 3, eff. September 1, 2023.

Sec. 434.105. ELECTRONIC ACCESS TO NEWSLETTER OR SERVICES. The commission, with the assistance of the executive director of the Department of Information Resources, may develop and implement a program that uses appropriate computer hardware and software and required training programs to facilitate electronic:

(1) delivery of a veterans newsletter; and

(2) initiation of veterans benefits claims by veterans county service officers.

Added by Acts 2003, 78th Leg., ch. 69, Sec. 1, eff. May 16, 2003.

Sec. 434.107. USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

Added by Acts 2007, 80th Leg., R.S., Ch. 1269 (H.B. 3426), Sec. 14, eff. September 1, 2007.

Sec. 434.108. DIRECTORY OF SERVICES. (a) The commission shall collaborate with and assist the Department of State Health Services and the Health and Human Services Commission in compiling and maintaining the directory of services established under Section 161.552, Health and Safety Code.

(b) The commission shall provide the directory of services established under Section 161.552, Health and Safety Code, on the commission's website or through links appearing on the commission's website.

Added by Acts 2007, 80th Leg., R.S., Ch. 1381 (S.B. 1058), Sec. 4, eff. September 1, 2007.
Renumbered from Government Code, Section 434.107 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(30), eff. September 1, 2009.

SUBCHAPTER D. TEXAS COORDINATING COUNCIL FOR VETERANS SERVICES

Sec. 434.151. DEFINITIONS. In this subchapter:

(1) "Council" means the Texas Coordinating Council for Veterans Services.

(2) "Servicemember" has the meaning assigned by Section 161.551, Health and Safety Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1112 (S.B. 1796), Sec. 1, eff. September 1, 2011.

Sec. 434.152. TEXAS COORDINATING COUNCIL FOR VETERANS SERVICES. The Texas Coordinating Council for Veterans Services is established to:

(1) coordinate the activities of state agencies that assist veterans, servicemembers, and their families;

(2) coordinate outreach efforts that ensure that veterans, servicemembers, and their families are made aware of services; and

(3) facilitate collaborative relationships among state, federal, and local agencies and private organizations to identify and

address issues affecting veterans, servicemembers, and their families.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1112 (S.B. 1796), Sec. 1, eff. September 1, 2011.

Sec. 434.153. COMPOSITION OF COUNCIL. The council is composed of the director or executive head of the following entities, or that person's designated representative:

(1) the Texas Veterans Commission;
(2) the Veterans' Land Board;
(3) the Texas Military Department;
(4) the Health and Human Services Commission;
(5) the State Bar of Texas;
(6) the office of acquired brain injury of the Health and Human Services Commission;
(7) the Department of State Health Services;
(8) the Department of Family and Protective Services;
(9) the Texas Workforce Commission;
(10) the Texas Workforce Investment Council;
(11) the Texas Higher Education Coordinating Board;
(12) the Texas Department of Licensing and Regulation;
(13) the Department of Public Safety;
(14) the Texas Department of Criminal Justice;
(15) the Commission on Jail Standards;
(16) the Texas Commission on Law Enforcement;
(17) the Texas Department of Housing and Community Affairs;
(18) the Texas Department of Transportation;
(19) the Texas Department of Motor Vehicles; and
(20) the Office of Public Utility Counsel.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1112 (S.B. 1796), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 502 (S.B. 1892), Sec. 1, eff. September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 2.08, eff. September 1, 2013.
Acts 2023, 88th Leg., R.S., Ch. 38 (S.B. 1859), Sec. 4, eff. September 1, 2023.

Sec. 434.154. COORDINATING WORKGROUPS. (a) The council may, by majority vote, establish the following coordinating workgroups to focus on specific issues affecting veterans, servicemembers, and their families:

(1) health;

(2) mental health;

(3) employment;

(4) higher education;

(5) criminal justice;

(6) housing;

(7) transportation;

(8) women veterans;

(9) pro bono legal services for veterans, including opportunities and obstacles for providing those services; and

(10) any other coordinating workgroup considered necessary.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 502, Sec. 4, eff. September 1, 2013.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 502, Sec. 4, eff. September 1, 2013.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 502, Sec. 4, eff. September 1, 2013.

(e) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 502, Sec. 4, eff. September 1, 2013.

(f) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 502, Sec. 4, eff. September 1, 2013.

(g) Each member of the council may invite organizations or agencies that provide services to veterans, servicemembers, and their families, but that are not otherwise members of the council, to each designate a representative to participate in a coordinating workgroup through procedures established by the council.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1112 (S.B. 1796), Sec. 1, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 502 (S.B. 1892), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 502 (S.B. 1892), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 502 (S.B. 1892), Sec. 4, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 199 (S.B. 832), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 675 (S.B. 2104), Sec. 4, eff. September 1, 2019.

Sec. 434.155. PRESIDING OFFICER. The executive director of the Texas Veterans Commission shall serve as the presiding officer.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1112 (S.B. 1796), Sec. 1, eff. September 1, 2011.

Sec. 434.156. MEETINGS. The council shall meet at least annually and at the call of the presiding officer.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1112 (S.B. 1796), Sec. 1, eff. September 1, 2011.

Sec. 434.157. ADMINISTRATIVE SUPPORT. (a) The council is administratively attached to the Texas Veterans Commission. The Texas Veterans Commission may provide administrative support and resources to the council as necessary to enable the council to perform its duties.

(b) A state agency represented on the council shall support the agency's involvement with the council and provide staff support as needed to the council.

(c) The designated representative of any organization or agency that accepts an invitation to serve on a coordinating workgroup of the council under Section 434.154(g) is not entitled to compensation, but is entitled to reimbursement of the representative's travel expenses as provided by Chapter 660 and the General Appropriations Act.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1112 (S.B. 1796), Sec. 1, eff. September 1, 2011.

Sec. 434.158. REPORT BY COUNCIL. Not later than October 1 of each even-numbered year, the council shall submit a report to the governor, lieutenant governor, speaker of the house of representatives, and chairs of the appropriate committees of the legislature detailing the work of the council and any recommendations.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1112 (S.B. 1796), Sec. 1, eff. September 1, 2011.

SUBCHAPTER E. TEXAS WOMEN VETERANS PROGRAM

Sec. 434.201. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Veterans Commission.

(2) "Executive director" means the executive director of the commission.

(3) "Program" means the Texas Women Veterans Program.

(4) "Woman veteran" means a woman who:

(A) served on active duty in the armed forces of the United States or in the Texas National Guard on federal active duty under Title 10, United States Code; and

(B) was discharged or released from that service under conditions other than dishonorable.

Added by Acts 2015, 84th Leg., R.S., Ch. 325 (H.B. 867), Sec. 1, eff. June 4, 2015.

Sec. 434.202. ESTABLISHMENT OF PROGRAM; PROGRAM MISSION. (a) The Texas Women Veterans Program is established in the commission. The program is attached to the office of the executive director for administrative purposes.

(b) The mission of the program is to ensure that the women veterans of this state have equitable access to federal and state veterans' benefits and services.

Added by Acts 2015, 84th Leg., R.S., Ch. 325 (H.B. 867), Sec. 1, eff. June 4, 2015.

Sec. 434.203. COORDINATOR. (a) The executive director shall

designate a women veterans coordinator for this state.

(b) The coordinator or the coordinator's designee shall serve as a liaison between state and federal agencies and organizations that provide benefits and services to women veterans.

Added by Acts 2015, 84th Leg., R.S., Ch. 325 (H.B. 867), Sec. 1, eff. June 4, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 579 (S.B. 805), Sec. 1, eff. September 1, 2017.

Sec. 434.204. GENERAL PROGRAM DUTIES. The program shall:

(1) provide assistance to the women veterans of this state as provided by this subchapter;

(2) perform outreach functions to improve the awareness of women veterans of their eligibility for federal and state veterans' benefits and services;

(3) assess the needs of women veterans with respect to benefits and services;

(4) review programs, research projects, and other initiatives designed to address the needs of the women veterans of this state;

(5) make recommendations to the executive director regarding the improvement of benefits and services to women veterans;

(6) incorporate issues concerning women veterans in commission planning regarding veterans' benefits and services; and

(7) in collaboration with appropriate state agencies, provide information to women veterans on services and resources provided by state or federal agencies and organizations to women veterans.

Added by Acts 2015, 84th Leg., R.S., Ch. 325 (H.B. 867), Sec. 1, eff. June 4, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 579 (S.B. 805), Sec. 2, eff. September 1, 2017.

Sec. 434.205. ADVOCACY AND PUBLIC AWARENESS. (a) The program shall advocate for women veterans and work to increase public

awareness about the gender-specific needs of women veterans.

(b) The program shall recommend legislative initiatives and the development of policies on the local, state, and national levels to address the issues affecting women veterans.

Added by Acts 2015, 84th Leg., R.S., Ch. 325 (H.B. 867), Sec. 1, eff. June 4, 2015.

Sec. 434.206. COLLABORATION. The program shall collaborate with federal, state, county, municipal, and private agencies that provide services to women veterans.

Added by Acts 2015, 84th Leg., R.S., Ch. 325 (H.B. 867), Sec. 1, eff. June 4, 2015.

Sec. 434.207. RESEARCH; DISSEMINATION OF INFORMATION. (a) The program shall monitor and research issues relating to women veterans.

(b) The program shall disseminate information regarding opportunities for women veterans throughout the network of entities with which the program collaborates.

Added by Acts 2015, 84th Leg., R.S., Ch. 325 (H.B. 867), Sec. 1, eff. June 4, 2015.

Sec. 434.208. EDUCATION. Through conferences, seminars, and training workshops with federal, state, county, municipal, and private agencies, the program shall provide guidance and direction to a woman veteran who is applying for grants, benefits, or services.

Added by Acts 2015, 84th Leg., R.S., Ch. 325 (H.B. 867), Sec. 1, eff. June 4, 2015.

Sec. 434.209. HONOR AND RECOGNITION. The program shall promote events and activities that recognize and honor the women veterans of this state and women who serve in the military.

Added by Acts 2015, 84th Leg., R.S., Ch. 325 (H.B. 867), Sec. 1, eff.

June 4, 2015.

Sec. 434.210. FACILITIES. To the extent funding is available for that purpose, the program shall provide facilities as appropriate in support of the program.

Added by Acts 2015, 84th Leg., R.S., Ch. 325 (H.B. 867), Sec. 1, eff. June 4, 2015.

Sec. 434.211. FUNDING; GRANTS. On behalf of the program, the commission may:

(1) accept and spend funds:

(A) appropriated to the commission for the operation of the program; and

(B) received from other sources, including donations and grants; and

(2) provide matching grants to assist in the implementation of the program's goals and objectives.

Added by Acts 2015, 84th Leg., R.S., Ch. 325 (H.B. 867), Sec. 1, eff. June 4, 2015.

Sec. 434.212. WOMEN VETERANS REPORT. Not later than November 1 of each even-numbered year, the commission shall submit to the governor, lieutenant governor, and legislature a report on women veterans in this state. The report may be delivered electronically and must:

(1) estimate the:

(A) number of women veterans in this state;

(B) number of women veterans who contact the commission for assistance; and

(C) number of women veterans who receive assistance from the commission, the Texas Workforce Commission, the Department of State Health Services, and other state agencies;

(2) identify the unique problems faced by women veterans; and

(3) recommend policy proposals, initiatives, and funding levels to address the problems identified in Subdivision (2).

Added by Acts 2017, 85th Leg., R.S., Ch. 579 (S.B. 805), Sec. 3, eff. September 1, 2017.

Sec. 434.213. WOMEN VETERANS COMMUNITY OUTREACH CAMPAIGN. The women veterans coordinator designated under Section 434.203, in consultation with the Governor's Commission for Women, the United States Department of Veterans Affairs, and any other appropriate agency, shall conduct a community outreach campaign to:

(1) provide information relating to and increase awareness of benefits and services available to women veterans;

(2) improve access to benefits and services for women veterans;

(3) increase participation of women veterans in programs that provide benefits and services;

(4) provide information on the significant contributions of women veterans in this state; and

(5) provide information relating to and increase awareness of support groups and other organizations relating to family services, including services for women veterans who are single parents.

Added by Acts 2017, 85th Leg., R.S., Ch. 579 (S.B. 805), Sec. 3, eff. September 1, 2017.

Sec. 434.214. APPLICATION FOR STATE AGENCY PROGRAMS, SERVICES, OR ASSISTANCE. (a) This section applies to a state agency in the executive branch of state government, including a health and human services agency, that provides to adult women in this state a program, a service, or assistance, including the Temporary Assistance for Needy Families program, the supplemental nutrition assistance program, the women's health program, Medicaid, the Special Supplemental Nutrition Program for Women, Infants, and Children, and a housing program or service or housing assistance.

(b) A state agency shall include in each application for a program, a service, or assistance provided by the agency to adult women:

(1) a space to indicate whether the applicant is a veteran; and

(2) model language informing the applicant that she may be entitled to additional services because of her veteran status.

(c) The commission shall develop the model language required on an application under Subsection (b)(2). The language must include a link to the veterans website established under Section 434.102 or, for an online application, a hyperlink to that website.

Added by Acts 2017, 85th Leg., R.S., Ch. 579 (S.B. 805), Sec. 3, eff. September 1, 2017.

SUBCHAPTER F. VETERAN EDUCATION EXCELLENCE RECOGNITION AWARD NETWORK

Sec. 434.251. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Veterans Commission.

(2) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1193 (S.B. 1158), Sec. 5, eff. September 1, 2014.

Sec. 434.252. VETERAN EDUCATION EXCELLENCE RECOGNITION AWARD NETWORK. (a) The commission by rule shall establish an award program under which institutions of higher education may receive recognition from the commission for excellence in providing education and related services to veterans.

(b) For purposes of receiving an award under Subsection (a), the commission shall evaluate an institution of higher education regarding, as applicable, the existence and quality at the institution of:

(1) a centralized place for students who are veterans to meet or find assistance and information;

(2) an institution employee who serves as a central point of contact for students who are veterans;

(3) a United States Department of Veterans Affairs work-study program;

(4) admissions and enrollment policies for veterans;

(5) new student orientation and courses for veterans;

(6) a student organization for veterans;

(7) academic support services for students who are veterans;

(8) mental health and disability services;

(9) a housing policy that applies to veterans;

(10) faculty and staff training on issues affecting students who are veterans;

(11) career services for students who are veterans; and

(12) any other criteria considered necessary or appropriate by the commission.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1193 (S.B. 1158), Sec. 5, eff. September 1, 2014.

Sec. 434.253. RULEMAKING AUTHORITY. The commission may adopt rules as necessary to administer this subchapter. In developing rules under this section, the commission shall consult with the Texas Higher Education Coordinating Board and institutions of higher education.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1193 (S.B. 1158), Sec. 5, eff. September 1, 2014.

SUBCHAPTER G. VETERANS EDUCATION COUNSELORS PROGRAM

Sec. 434.301. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Veterans Commission.

(2) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1193 (S.B. 1158), Sec. 5, eff. June 14, 2013.

Sec. 434.302. VETERANS EDUCATION COUNSELORS. The commission shall employ veterans education counselors. The veterans education counselors shall:

(1) work with institutions of higher education and any existing veterans programs at those institutions to:

(A) create a hospitable and supportive environment for veterans;

(B) enhance awareness of and encourage participation in veterans educational programs and commission programs providing other

services to veterans, including employment and claims assistance services;

(C) develop programs providing ancillary assistance to veterans based on the unique needs of veterans and their family members;

(D) ensure that veterans successfully complete their education; and

(E) promote the establishment of a student veterans group on each campus of those institutions;

(2) work with local, state, and national veterans groups, including the Veterans of Foreign Wars and the American Legion, to promote educational opportunities and benefits to the veteran population;

(3) work with local workforce development boards to:

(A) ensure that the veterans education counselors are aware of available nontraditional educational opportunities, including on-the-job training programs and apprenticeships; and

(B) advise employers of potential opportunities to create on-the-job training programs for veterans;

(4) work with education services officers at military installations to encourage active duty members of the armed forces of the United States and veterans to use federal and state educational benefits;

(5) create and manage publicity campaigns in concert with the commission and institutions of higher education to promote the use of education benefits under the federal Post-9/11 Veterans Educational Assistance Act of 2008 (38 U.S.C. Section 3301 et seq.), the tuition exemption program for veterans and their family members under Section 54.341, Education Code, and any other education benefit for veterans or their family members under federal or state law;

(6) support programs to assist students who are combat veterans in readjusting and reintegrating into a noncombat environment;

(7) maintain statistical information regarding demographics of veterans assisted, application success, program completion rates, dropout rates, and reasons for success or failure, as appropriate; and

(8) perform other activities, as assigned by the commission, to enhance the educational opportunities of veterans and their family members.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1193 (S.B. 1158), Sec. 5, eff. June 14, 2013.

Sec. 434.303. SUPPORT FROM INSTITUTIONS OF HIGHER EDUCATION. Each institution of higher education shall cooperate with the commission to provide information, as permitted by law, related to student veterans at the institution, provide access to veteran resource centers or other student meeting areas, and otherwise support the work of veterans education counselors.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1193 (S.B. 1158), Sec. 5, eff. June 14, 2013.

Sec. 434.304. RULEMAKING AUTHORITY. The commission may adopt rules to implement this subchapter. In developing rules under this section, the commission shall consult with the Texas Higher Education Coordinating Board and institutions of higher education.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1193 (S.B. 1158), Sec. 5, eff. June 14, 2013.

SUBCHAPTER H. STATEWIDE COORDINATION OF MENTAL HEALTH PROGRAM FOR VETERANS

Sec. 434.351. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Veterans Commission.

(2) "Peer" means a person who is a veteran or a veteran's family member.

(2-a) "Peer service coordinator" means a person who recruits and retains veterans, peers, and volunteers to participate in the mental health program for veterans and related activities.

(3) "Veteran" means a person who has served in:

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

(B) the state military forces as defined by Section 431.001; or

(C) an auxiliary service of one of those branches of the armed forces.

(4) Repealed by Acts 2017, 85th Leg., R.S., Ch. 512 (S.B.

27), Sec. 8(1), eff. September 1, 2017.

Added by Acts 2015, 84th Leg., R.S., Ch. 324 (H.B. 19), Sec. 2, eff. June 4, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 512 (S.B. 27), Sec. 2, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 512 (S.B. 27), Sec. 8(1), eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 114, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 434.352. DUTIES. (a) The commission and the Health and Human Services Commission shall coordinate to administer the mental health program for veterans developed under Chapter 1001, Health and Safety Code.

(b) For the mental health program for veterans, the commission shall:

(1) provide training to peer service coordinators and peers in accordance with Section 434.353;

(2) provide technical assistance to peer service coordinators and peers;

(3) identify, train, and communicate with community-based licensed mental health professionals, community-based organizations, and faith-based organizations;

(4) coordinate services for justice involved veterans;

(5) coordinate local delivery to veterans and immediate family members of veterans of mental health first aid for veterans training; and

(6) employ and train mental health professionals to assist the Health and Human Services Commission in the administration of the program.

(c) Subject to Section 434.3525, the executive director of the commission shall appoint a program director to administer the mental health program for veterans.

(d) The commission shall provide appropriate facilities in support of the mental health program for veterans to the extent funding is available for that purpose.

(e) A state agency may not award a grant to an entity for the provision of mental health services to veterans or veterans' families unless the entity demonstrates the entity:

(1) has previously received and successfully executed a grant from the state agency; or

(2) provides training on military informed care or military cultural competency to entity personnel who provide mental health services to veterans or veterans' families or requires those personnel to complete military competency training provided by any of the following:

(A) the commission;

(B) the Health and Human Services Commission;

(C) the Military Veteran Peer Network;

(D) the Substance Abuse and Mental Health Services Administration within the United States Department of Health and Human Services;

(E) the United States Department of Defense;

(F) the United States Department of Veterans Affairs; or

(G) a nonprofit organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt entity under Section 501(c)(3) of that code, with experience in providing training or technical assistance to entities that provide mental health services to veterans or veterans' families.

(f) The commission and the Department of State Health Services shall jointly verify that each state agency authorized to award a grant subject to the requirements of Subsection (e) has adopted policies to ensure compliance with Subsection (e).

Added by Acts 2015, 84th Leg., R.S., Ch. 324 (H.B. 19), Sec. 2, eff. June 4, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 512 (S.B. 27), Sec. 3, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 593 (S.B. 601), Sec. 7, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1327 (H.B. 4429), Sec. 1, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 725 (H.B. 3821), Sec. 1, eff.

September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 407 (H.B. 1457), Sec. 1, eff. September 1, 2023.

Sec. 434.3525. MENTAL HEALTH PROGRAM DIRECTOR ELIGIBILITY. To be eligible for appointment under Section 434.352(c), an individual must:

(1) have at least a master's degree in a recognized mental health field;

(2) be licensed in this state to practice a mental health profession;

(3) have multiple years of postgraduate experience in a human services setting, such as a community mental health center, chemical dependency rehabilitation center, or residential treatment facility; and

(4) have experience in providing trauma-informed care, with preference given to a candidate with at least two years of that experience.

Added by Acts 2019, 86th Leg., R.S., Ch. 593 (S.B. 601), Sec. 8, eff. September 1, 2019.

Sec. 434.353. TRAINING AND CERTIFICATION. (a) The commission shall develop and implement methods for providing peer service coordinator certification training to peer service coordinators, including providing training for initial certification and recertification and providing continuing education.

(b) The commission shall manage and coordinate the peer training program to include initial training, advanced training, certification, and continuing education for peers associated with the mental health program for veterans.

Added by Acts 2015, 84th Leg., R.S., Ch. 324 (H.B. 19), Sec. 2, eff. June 4, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 512 (S.B. 27), Sec. 4, eff. September 1, 2017.

SUBCHAPTER I. COMMUNITY COLLABORATION INITIATIVE

Sec. 434.401. COMMUNITY COLLABORATION. (a) The commission and the Department of State Health Services shall include as a part of the mental health program for veterans described by Section 434.352(a) an initiative to encourage local communities to conduct cross-sector collaboration to synchronize locally accessible resources available for veterans and military service members.

(b) The initiative must be designed to encourage local communities to form a committee that is tasked with developing a plan to identify and support the needs of veterans and military service members residing in their community. The commission may designate general areas of focus for the initiative.

Added by Acts 2015, 84th Leg., R.S., Ch. 324 (H.B. 19), Sec. 2, eff. June 4, 2015.

CHAPTER 436. TEXAS MILITARY PREPAREDNESS COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2564, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 436.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Military Preparedness Commission.

(2) "Defense community" has the meaning assigned by Section 397.001, Local Government Code.

(3) "Defense worker" means:

(A) an employee of the United States Department of Defense, including a member of the armed forces and a government civilian worker;

(B) an employee of a government agency or private business, or entity providing a department of defense related function, who is employed at a defense facility;

(C) an employee of a business that directly provides services or products to the department of defense and whose job is directly dependent on defense expenditures; or

(D) an employee or private contractor employed by the United States Department of Energy working on a defense or department of energy facility in support of a department of defense related

project.

(4) "Defense worker job" means a department of defense authorized permanent position or a position held or occupied by one or more defense workers for more than 12 months.

(5) Repealed by Acts 2015, 84th Leg., R.S., Ch. 330 , Sec. 15, eff. September 1, 2015.

(6) "Panel" means the commission's defense economic adjustment assistance panel.

(7) "Texas Commanders Council" means the consortium of commanding officers of the military installations in this state.

Amended by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 43 (H.B. 2546), Sec. 1, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 330 (S.B. 1358), Sec. 15, eff. September 1, 2015.

Sec. 436.002. COMMISSION. The commission is attached for administrative purposes to the office of the governor.

Amended by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 43 (H.B. 2546), Sec. 2, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 330 (S.B. 1358), Sec. 1, eff. September 1, 2015.

SUBCHAPTER B. ORGANIZATION AND ADMINISTRATION

Sec. 436.051. COMPOSITION; ELIGIBILITY. (a) The commission is composed of:

(1) 13 public members, appointed by the governor; and

(2) the following ex officio members:

(A) the chair of the committee of the Texas House of Representatives that has primary jurisdiction of matters concerning defense affairs and military affairs;

(B) the chair of the committee of the Texas Senate that

has primary jurisdiction of matters concerning defense affairs and military affairs; and

(C) the adjutant general.

(b) To be eligible for appointment as a public member to the commission, a person must have demonstrated experience in economic development, the defense industry, military installation operation, environmental issues, finance, local government, or the use of airspace or outer space for future military missions.

(c) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(d) A person may not be a public member of the commission if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the commission;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the commission; or

(3) uses or receives a substantial amount of tangible goods, services, or money from the commission other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.
Reenacted and amended by Acts 2005, 79th Leg., Ch. 655 (H.B. 3163), Sec. 1, eff. September 1, 2005.
Reenacted and amended by Acts 2005, 79th Leg., Ch. 1160 (H.B. 3302), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 43 (H.B. 2546), Sec. 3, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 157 (H.B. 1133), Sec. 1, eff. September 1, 2015.

Sec. 436.052. TERMS AND OFFICERS; EX OFFICIO MEMBERS; DESIGNATION OF REPRESENTATIVE. (a) The 13 public members of the

commission serve staggered terms of six years with the terms of four or five members expiring February 1 of each odd-numbered year. A legislative member vacates the person's position on the commission if the person ceases to be the chair of the applicable legislative committee. The ex officio member of the commission described by Section 436.051(a)(2)(C) vacates the person's position on the commission if the person ceases to hold the position that qualifies the person for service on the commission.

(a-1) The ex officio member of the commission described by Section 436.051(a)(2)(C) may designate a representative to serve on the commission in the member's absence. A representative designated under this subsection must be an officer or employee of the state agency the ex officio member serves.

(b) The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 655 (H.B. 3163), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1160 (H.B. 3302), Sec. 2, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 157 (H.B. 1133), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 157 (H.B. 1133), Sec. 3, eff. September 1, 2015.

Sec. 436.053. COMPENSATION AND EXPENSES. (a) A public member of the commission is not entitled to compensation but is entitled to reimbursement, from commission funds, for the travel expenses incurred by the member while conducting the business of the commission, as provided by the General Appropriations Act.

(b) The entitlement of a legislative member to compensation or reimbursement for travel expenses is governed by the law applying to the member's service in that underlying position, and any payments to the member shall be made from the appropriate funds of the applicable house of the legislature.

(c) The entitlement of the ex officio member described by

Section 436.051(a)(2)(C) to compensation or to reimbursement for travel expenses incurred while transacting commission business is governed by the law that applies to the member's service in that underlying position, and any payment to the member for either purpose must be made from money that may be used for the purpose and is available to the state agency that the member serves in that underlying position.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 157 (H.B. 1133), Sec. 4, eff. September 1, 2015.

Sec. 436.054. MEETINGS. (a) The commission shall meet at least quarterly. The commission may meet at other times at the call of the presiding officer or as provided by the rules of the commission.

(b) The commission is a governmental body for purposes of the open meetings law, Chapter 551. Except as otherwise provided by this section, Chapter 551 applies to a meeting of the commission.

(c) The commission may allow for members' participation in a meeting by telephone or other means of telecommunication or electronic communication to consider an application for a loan from the Texas military value revolving loan account. Any voting conducted by telephone or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

(d) A meeting described by Subsection (c) is subject to the notice requirements applicable to other meetings. The notice of the meeting must specify as the location of the meeting the location where meetings of the commission are usually held.

(e) Each part of a meeting described by Subsection (c) that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and the audio shall be recorded. The audio recording shall be made available to the public.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 276 (S.B. 2131), Sec. 1, eff.

September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 800 (H.B. 2119), Sec. 1, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.005, eff. September 1, 2021.

Sec. 436.055. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a public member of the commission and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of military affairs; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of military affairs.

(c) A person may not be a public member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.

Sec. 436.056. REMOVAL. (a) It is a ground for removal from the commission that a public member:

(1) does not have at the time of taking office the qualifications required by Section 436.051(b);

(2) does not maintain during service on the commission the qualifications required by Section 436.051(b);

(3) is ineligible for membership under Section 436.051(d)

or 436.055;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the commission.

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

(c) If the director has knowledge that a potential ground for removal exists, the director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 43 (H.B. 2546), Sec. 4, eff. September 1, 2009.

Sec. 436.0561. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the commission;

(2) the programs, functions, rules, and budget of the commission;

(3) the results of the most recent formal audit of the commission;

(4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of

interest; and

(5) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2009, 81st Leg., R.S., Ch. 43 (H.B. 2546), Sec. 5, eff. September 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 330 (S.B. 1358), Sec. 2, eff. September 1, 2015.

Sec. 436.057. DIRECTOR; STAFF. (a) The commission shall, subject to approval of the governor, hire a director to serve as the chief executive officer of the commission and to perform the administrative duties of the commission.

(b) The director shall hire at least one full-time employee who is knowledgeable about or has experience with military installations.

(c) The director may hire other staff within the guidelines established by the commission.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 43 (H.B. 2546), Sec. 6, eff. September 1, 2009.
Acts 2009, 81st Leg., R.S., Ch. 43 (H.B. 2546), Sec. 7, eff. September 1, 2009.
Acts 2009, 81st Leg., R.S., Ch. 43 (H.B. 2546), Sec. 22(2), eff. September 1, 2009.
Acts 2015, 84th Leg., R.S., Ch. 330 (S.B. 1358), Sec. 3, eff. September 1, 2015.

Sec. 436.058. PUBLIC ACCESS. The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.

Sec. 436.059. EQUAL EMPLOYMENT OPPORTUNITY. (a) The director or the director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the commission to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the commission's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

(3) be filed with the governor's office.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.

Sec. 436.060. QUALIFICATIONS AND STANDARDS OF CONDUCT. The director or the director's designee shall provide to members of the commission and to commission employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.

Sec. 436.062. COMPLAINTS. (a) The commission shall maintain a file on each written complaint filed with the commission. The file

must include:

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

(2) the date the complaint is received by the commission;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

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

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

(b) The commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.

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

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.

Sec. 436.063. USE OF ALTERNATIVE PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

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

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

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

(2) serve as a resource for any training needed to

implement the procedures for negotiated rulemaking or alternative dispute resolution; and

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

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.

Sec. 436.064. TECHNOLOGY POLICY. The commission shall develop and implement a policy requiring the director and commission employees to research and propose appropriate technological solutions to improve the commission's ability to perform its functions. The technological solutions must:

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

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

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

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

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

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 436.101. GENERAL POWERS AND DUTIES. (a) The commission shall advise the governor and the legislature on defense and military issues.

(b) The commission shall meet not less than once each year with the Texas Commanders Council to:

(1) discuss the goals and challenges facing military installations and develop recommendations for improvements;

(2) discuss ways the state can enhance and complement the mission of the military installations in this state; and

(3) discuss services available to assist transitioning military service members and their families.

(c) The commission shall act as the liaison to improve coordination among the Texas Commanders Council and relevant state

agencies, including:

(1) the Texas Veterans Commission;

(2) the Veterans' Land Board;

(3) the Public Utility Commission of Texas;

(4) the Office of Public Utility Counsel; and

(5) the Texas Commission on Environmental Quality.

(d) The commission shall:

(1) administer and monitor the implementation of this chapter;

(2) establish criteria and procedures and award grants equitably based on evaluations, giving preference to defense communities that may be adversely affected over positively affected defense communities;

(3) make recommendations regarding:

(A) the development of policies and plans to support the long-term viability and prosperity of the military, active and civilian, in this state, including promoting strategic regional alliances that may extend over state lines; and

(B) the development of methods to assist defense-dependent communities in the design and execution of programs that enhance a community's relationship with military installations and defense-related businesses;

(4) provide information to communities, the legislature, the state's congressional delegation, and state agencies regarding federal actions affecting military installations and missions;

(5) serve as a clearinghouse for:

(A) defense economic adjustment and transition information and activities along with the Texas Business and Community Economic Development Clearinghouse; and

(B) information about:

(i) issues related to the operating costs, missions, and strategic value of federal military installations located in the state;

(ii) employment issues for communities that depend on defense bases and in defense-related businesses; and

(iii) defense strategies and incentive programs that other states are using to maintain, expand, and attract new defense contractors;

(6) provide assistance to communities that have experienced a defense-related closure or realignment;

(7) assist communities in the design and execution of programs that enhance a community's relationship with military installations and defense-related businesses, including regional alliances that may extend over state lines;

(8) assist communities in the retention and recruiting of defense-related businesses, including fostering strategic regional alliances that may extend over state lines;

(9) encourage economic development in this state by fostering the development of industries related to defense affairs; and

(10) advocate for the preservation and expansion of missions of reservists at military installations in the state.

(e) The commission may use an amount equal to not more than two percent of the total amount of grants authorized during each biennium to administer this chapter and other law relating to readjustment of defense communities.

(f) The commission shall adopt rules necessary to implement this chapter.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1160 (H.B. 3302), Sec. 3, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 43 (H.B. 2546), Sec. 8, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 3, eff. September 1, 2013.

Sec. 436.102. CONSULTING AGREEMENTS. With prior approval of the governor, the commission may enter into an agreement with a consulting firm to provide information and assistance on a pending decision of the United States Department of Defense or other federal agency regarding the status of military installations and defense-related businesses located in this state.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.

Sec. 436.103. BIENNIAL REPORT; ANNUAL MEETING. (a) In this section, "state agency" has the meaning assigned by Section 2151.002.

(b) Not later than July 1 of each even-numbered year, the commission shall prepare and submit a report to the governor and the legislature about the active military installations, communities that depend on military installations, and defense-related businesses in this state. The commission may update the report in an odd-numbered year. The report must include:

(1) an economic impact statement describing in detail the effect of the military on the economy of this state;

(2) a statewide assessment of active military installations and current missions;

(3) a statewide strategy to attract new military missions and defense-related business and include specific actions that add military value to existing military installations;

(4) a list of state and federal activities that have significant impact on active military installations and current missions;

(5) a statement identifying:

(A) the state and federal programs and services that assist communities impacted by military base closures or realignments and the efforts to coordinate those programs; and

(B) the efforts to coordinate state agency programs and services that assist communities in retaining active military installations and current missions;

(6) an evaluation of initiatives to retain existing defense-related businesses;

(7) a list of agencies with regulations, policies, programs, or services that impact the operating costs or strategic value of federal military installations and activities in the state; and

(8) a summary of the commission's meetings with the Texas Commanders Council under Section 436.101(b), including recommendations, goals, and challenges based on those meetings.

(c) State agencies shall cooperate with and assist the commission in the preparation of the report required under Subsection (b), including providing information about regulations, policies, programs, and services that may impact communities dependent on military installations, defense-related businesses, and the viability of existing Texas military missions.

(d) The commission shall periodically meet with each state agency that has defense-related programs or is engaged in a project

in a defense-dependent community and with each member of the legislature whose district contains an active, closed, or realigned military installation to discuss defense-related issues and the implementation of the recommendations outlined in the report required under Subsection (b).

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 396 (S.B. 1481), Sec. 2, eff. June 17, 2005.
Acts 2005, 79th Leg., Ch. 1160 (H.B. 3302), Sec. 4, eff. September 1, 2005.
Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 4, eff. September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 5, eff. September 1, 2013.

Sec. 436.104. COORDINATING ASSISTANCE FOR EVALUATION OF MILITARY BASE. When a commander of a military installation receives a copy of the evaluation criteria for the base under the United States Department of Defense base realignment or closure process, the base commander may request that the commission coordinate assistance from other state agencies to assist the commander in preparing the evaluation. If the commission asks a state agency for assistance under this section, the state agency shall make the provision of that assistance a top priority.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.

Sec. 436.1051. MILITARY BASE REALIGNMENT AND CLOSURE TASK FORCE; PRESERVATION OF INFORMATION. (a) On the abolishment of the military base realignment and closure task force, the task force shall transfer all information written, produced, collected, assembled, or maintained by or for the task force to the commission and the commission shall maintain the information.

(b) Any information transferred to the commission under Subsection (a) is public information subject to disclosure under Chapter 552.

Added by Acts 2017, 85th Leg., R.S., Ch. 575 (S.B. 751), Sec. 2, eff. September 1, 2017.

SUBCHAPTER D. FISCAL PROVISIONS

Sec. 436.152. ANALYSIS OF PROJECTS THAT ADD MILITARY OR DEFENSE VALUE; FINANCING. (a) A defense community may submit the community's military base or defense facility value enhancement statement prepared under Chapter 397, Local Government Code, to the commission.

(b) On receiving a defense community's military base or defense facility value enhancement statement, the commission shall analyze the projects included in the statement using the criteria it has developed. The commission shall develop project analysis criteria based on the criteria the United States Department of Defense uses for evaluating military bases or defense facilities in the department's realignment and closure process.

(c) The commission shall determine whether each project identified in the defense community's military base or defense facility value enhancement statement will enhance the military or defense value of the military base or defense facility. The commission shall assist the community in prioritizing the projects that enhance the military or defense value of a military base or defense facility, giving the highest priority to projects that add the most value under the commission's project analysis criteria.

(d) The commission shall refer the defense community to the appropriate state agency that has an existing program to provide financing for each project identified in the community's military base or defense facility value enhancement statement that adds military or defense value to a military base or defense facility. If there is no existing program to finance a project, the commission may provide a loan of financial assistance to the defense community for the project.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 43 (H.B. 2546), Sec. 9, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 7, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 330 (S.B. 1358), Sec. 6, eff. September 1, 2015.

Sec. 436.153. LOANS. (a) The commission may provide a loan of financial assistance to a defense community for a project that will enhance the military or defense value of a military base or defense facility located in, near, or adjacent to the defense community. The loan shall be made from the Texas military value revolving loan account established under Section 436.156.

(b) On receiving an application for a loan under this section, the commission shall confirm that the project adds military or defense value to the military base or defense facility.

(c) If the commission determines that a project will enhance the military or defense value of the military base or defense facility, the commission shall, in accordance with the criteria adopted by the commission under Section 436.154(a):

(1) analyze the creditworthiness of the defense community to determine the defense community's ability to repay the loan; and

(2) evaluate the feasibility of the project to be financed to ensure that the defense community has pledged a source of revenue or taxes sufficient to repay the loan for the project.

(d) If the commission confirms that the funds will be used to enhance the military or defense value of the military base or defense facility based on the base realignment and closure criteria, to overcome an action of the United States Department of Defense that will negatively impact the military base or defense facility, or for the recruitment or retention of a defense facility and the commission determines that the project is financially feasible, the commission may award a loan to the defense community for the project. The commission shall enter into a written agreement with a defense community that is awarded a loan. The agreement must contain the terms and conditions of the loan, including the loan repayment requirements.

(e) The commission shall notify the Texas Public Finance Authority of the amount of the loan and the recipient of the loan and request the authority to issue general obligation bonds in an amount necessary to fund the loan. The commission and the authority shall determine the amount and time of a bond issue to best provide funds for one or multiple loans.

(f) The commission shall administer the loans to ensure full repayment of the general obligation bonds issued to finance the project.

(g) The commission may provide a loan only for a project that is included in the political subdivision's statement under Section 397.002, Local Government Code, or to prepare a comprehensive defense installation and community strategic impact plan under Section 397.003, Local Government Code.

(h) A project financed with a loan under this section must be completed on or before the fifth anniversary of the date the loan is awarded.

(i) The amount of a loan under this section may not exceed the total cost of the project.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 43 (H.B. 2546), Sec. 10, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 8, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 330 (S.B. 1358), Sec. 7, eff. September 1, 2015.

Sec. 436.1531. LOANS FOR COMMUNITIES ADVERSELY AFFECTED BY DEFENSE BASE REDUCTION. (a) The commission may provide a loan of financial assistance to a defense community for an economic development project that minimizes the negative effects of a defense base reduction on the defense community as a result of a United States Department of Defense base realignment process that occurs during 1995 or later. The loan shall be made from the Texas military value revolving loan account established under Section 436.156.

(b) On receiving an application for a loan under this section, the commission shall evaluate the economic development project to determine how the project will minimize the negative effects of a defense base reduction on the defense community, including the number of jobs that the project will create and the economic impact the project will have on the community.

(c) If the commission determines that a project will reduce the negative effects of a defense base reduction on the defense

community, the commission shall:

(1) analyze the creditworthiness of the defense community to determine the defense community's ability to repay the loan; and

(2) evaluate the feasibility of the project to be financed to ensure that the defense community has pledged a source of revenue or taxes sufficient to repay the loan for the project.

(d) If the commission determines that the funds will be used to finance an economic development project that will reduce the negative effects of a defense base reduction on the defense community and that the project is financially feasible, the commission may award a loan to the defense community for the project. The commission shall enter into a written agreement with a defense community that is awarded a loan. The agreement must contain the terms and conditions of the loan, including the loan repayment requirements.

(e) The commission shall notify the Texas Public Finance Authority of the amount of the loan and the recipient of the loan and request the authority to issue general obligation bonds in an amount necessary to fund the loan. The commission and the authority shall determine the amount and time of a bond issue to best provide funds for one or multiple loans.

(f) The commission shall administer the loans to ensure full repayment of the general obligation bonds issued to finance the project.

(g) A project financed with a loan under this section must be completed on or before the fifth anniversary of the date the loan is awarded.

(h) The amount of a loan under this section may not exceed the total cost of the project.

Added by Acts 2005, 79th Leg., Ch. 396 (S.B. 1481), Sec. 3, eff. June 17, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 43 (H.B. 2546), Sec. 11, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 71 (S.B. 503), Sec. 1, eff. May 22, 2015.

Acts 2015, 84th Leg., R.S., Ch. 330 (S.B. 1358), Sec. 8, eff. September 1, 2015.

Sec. 436.1532. LOANS FOR COMMUNITIES POSITIVELY AFFECTED BY DEFENSE BASE RESTRUCTURING. (a) The commission may provide a loan of financial assistance to a defense community for an infrastructure project to accommodate new or expanded military missions assigned to a military base or defense facility located in, near, or adjacent to the defense community as a result of a United States Department of Defense base realignment process that occurs during 1995 or later. The loan shall be made from the Texas military value revolving loan account established under Section 436.156.

(b) On receiving an application for a loan under this section, the commission shall evaluate the infrastructure project to determine how the project will assist the defense community in accommodating the new or expanded military missions that are assigned to the military facility.

(c) If the commission determines that the project will assist the defense community in accommodating the new or expanded military missions that are assigned to the military facility, the commission shall:

(1) analyze the creditworthiness of the defense community to determine the defense community's ability to repay the loan; and

(2) evaluate the feasibility of the project to be financed to ensure that the defense community has pledged a source of revenue or taxes sufficient to repay the loan for the project.

(d) If the commission determines that the funds will be used to finance an infrastructure project to accommodate new or expanded military missions assigned to the military facility located in, near, or adjacent to the defense community and the commission determines that the project is financially feasible, the commission may award a loan to the defense community for the project. The commission shall enter into a written agreement with a defense community that is awarded a loan. The agreement must contain the terms and conditions of the loan, including the loan repayment requirements.

(e) The commission shall notify the Texas Public Finance Authority of the amount of the loan and the recipient of the loan and request the authority to issue general obligation bonds in an amount necessary to fund the loan. The commission and the authority shall determine the amount and time of a bond issue to best provide funds for one or multiple loans.

(f) The commission shall administer the loans to ensure full repayment of the general obligation bonds issued to finance the

project.

(g) A project financed with a loan under this section must be completed on or before the fifth anniversary of the date the loan is awarded.

(h) The amount of a loan under this section may not exceed the total cost of the project.

Added by Acts 2005, 79th Leg., Ch. 396 (S.B. 1481), Sec. 3, eff. June 17, 2005.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 43 (H.B. 2546), Sec. 12, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 9, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 71 (S.B. 503), Sec. 2, eff. May 22, 2015.

Acts 2015, 84th Leg., R.S., Ch. 330 (S.B. 1358), Sec. 9, eff. September 1, 2015.

Sec. 436.1533. USE OF LOAN PROCEEDS TO PAY OTHER DEBT INCURRED TO FINANCE PROJECT. A defense community awarded a loan of financial assistance from the Texas military value revolving loan account for an eligible project under this subchapter may use a portion of the loan proceeds to pay off other debt, including commercial debt, the defense community incurred for purposes of financing the project.

Added by Acts 2019, 86th Leg., R.S., Ch. 276 (S.B. 2131), Sec. 2, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 800 (H.B. 2119), Sec. 2, eff. September 1, 2019.

Sec. 436.154. LOAN PROCESS. (a) The commission shall adopt rules, in consultation with the Texas Public Finance Authority, that contain the criteria for evaluating the credit of a loan applicant and the financial feasibility of a project. The commission, in consultation with the Texas Public Finance Authority, shall also adopt a loan application form. The application form may include:

(1) the name of the defense community and its principal officers;

(2) the total cost of the project;

(3) the amount of state financial assistance requested;

(4) the plan for repaying the loan; and

(5) any other information the commission requires to perform its duties and to protect the public interest.

(b) The commission may not accept an application for a loan from the Texas military value revolving loan account unless the application is submitted in affidavit form by the officials of the defense community. The commission shall prescribe the affidavit form.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 43 (H.B. 2546), Sec. 13, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 330 (S.B. 1358), Sec. 10, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 276 (S.B. 2131), Sec. 3, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 800 (H.B. 2119), Sec. 3, eff. September 1, 2019.

Sec. 436.155. INCURRENCE OF DEBT BY PUBLIC ENTITY. (a) A defense community in this state may borrow money from the state, including by direct loan, based on the credit of the defense community to finance a project included in the community's military base or defense facility value enhancement statement.

(b) A defense community may enter into a loan agreement with the state to provide financing for a project. The defense community may pledge the taxes of the community or provide any other guarantee for the loan.

(c) Money borrowed must be segregated from other funds under the control of the defense community and may only be used for purposes related to a specific project.

(d) The authority granted by this section does not affect the ability of a defense community to incur debt using other statutorily authorized methods.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 10, eff. September 1, 2013.

Sec. 436.156. TEXAS MILITARY VALUE REVOLVING LOAN ACCOUNT. (a) The Texas military value revolving loan account is an account in the general revenue fund.

(b) The account may be used only for loans made under this subchapter.

(c) The commission shall deposit to the credit of the account all loan payments made by a political subdivision for a loan under Section 436.153, 436.1531, or 436.1532. The loan payments shall be used to reimburse the general revenue fund for money appropriated to pay the principal, premium if any, and interest on the bonds issued under Section 436.158. If loan payments exceed the amounts required for reimbursement, the excess shall first be applied to reimburse the expenses of administering the program and secondly deposited to the credit of the Texas military value revolving loan account to fund subsequent loans.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 43 (H.B. 2546), Sec. 14, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 330 (S.B. 1358), Sec. 11, eff. September 1, 2015.

Sec. 436.157. GIFTS AND GRANTS. The commission may solicit and accept gifts and grants from any source for the purposes of this chapter. The commission shall deposit a gift or grant to the credit of the specific account that is established for the purpose for which the gift or grant was made. If a gift or grant is not made for a specific purpose, the commission may deposit the gift or grant to the credit of any of the commission's accounts created under this chapter.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. May 27, 2003.

Sec. 436.158. ISSUANCE OF GENERAL OBLIGATION BONDS AND NOTES

FOR MILITARY VALUE ACCOUNT. (a) The Texas Public Finance Authority may issue and sell general obligation bonds and notes of the state, as authorized by Section 49-n, Article III, Texas Constitution, for the purpose of providing money to establish the Texas military value revolving loan account.

(b) The proceeds of the bonds and notes shall be deposited into the Texas military value revolving loan account or into other separate funds as may be required to provide for payment of issuance and administrative costs and may be used as authorized by Section 49-n, Article III, Texas Constitution, including:

(1) to fund loans approved under Section 436.153, 436.1531, or 436.1532;

(2) to pay the costs of issuing and selling bonds and notes; and

(3) to pay the costs of administering the bonds and notes and the loan program, including the payment of fees and expenses of advisors.

(c) The bonds and notes shall be issued in accordance with and subject to the provisions of Chapters 1201, 1207, 1231, 1232, and 1371.

(d) In connection with bonds or notes issued under this section, the Texas Public Finance Authority may enter into one or more credit agreements at any time for a period and on conditions the authority approves.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. September 13, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 43 (H.B. 2546), Sec. 15, eff. September 1, 2009.

Sec. 436.159. APPROPRIATION REQUIRED. In accordance with Section 49-n, Article III, Texas Constitution, general revenue is to be appropriated to the Texas Public Finance Authority in an amount determined by the authority to be necessary to pay the principal, premium if any, and interest on the bonds, and that amount shall be specified in biennial appropriations acts.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 3, eff. September 13, 2003.

SUBCHAPTER E. GRANTS

Sec. 436.201. ELIGIBILITY FOR GRANT. (a) The following local governmental entities are eligible for a grant under this subchapter:

(1) a municipality or county that is a defense community;

(2) a regional planning commission that has a defense community within its boundaries;

(3) a public junior college district that is wholly or partly located in a defense community;

(4) a campus or education extension center of the Texas State Technical College System that is located in a defense community;

(5) a defense base development authority created under Chapter 379B, Local Government Code; and

(6) a political subdivision that has the power of a defense base development authority created under Chapter 379B, Local Government Code.

(b) An eligible local governmental entity may be awarded a grant if the commission determines that the entity may be adversely or positively affected by an anticipated, planned, announced, or implemented action of the United States Department of Defense to close, reduce, increase, or otherwise realign defense worker jobs or facilities.

Added by Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 11, eff. September 1, 2013.

Sec. 436.202. GRANT CRITERIA. (a) From money appropriated for this purpose, the commission may make a grant to an eligible local governmental entity to:

(1) enable the entity to match money or meet an investment requirement necessary to receive federal assistance provided to the local governmental entity for responding to or recovering from an event described by Section 436.201(b);

(2) match the entity's contribution for a purpose described by Section 436.203 at a closed or realigned defense facility;

(3) construct infrastructure and other projects necessary to accommodate a new, expanded, or retained military mission at a

military base or to reduce the impact of an action of the United States Department of Defense that will negatively impact a defense facility located in or near the entity; or

(4) construct infrastructure and other projects necessary to prevent the reduction or closing of a defense facility.

(b) The commission may not make a grant for an amount less than $50,000 or an amount more than the lesser of:

(1) 50 percent of the amount of matching money or investment that the local governmental entity is required to provide, subject to Subsection (c);

(2) 50 percent of the local governmental entity's investment for purposes described by Section 436.203 if federal assistance is unavailable; or

(3) $5 million.

(c) If the local governmental entity demonstrates to the commission that, because of a limited budget, the entity lacks the resources necessary to provide 50 percent of the amount of matching money or investment that the entity is required to provide, the commission may make a grant in an amount of not more than 80 percent of the amount of that matching money or investment requirement but may not make a grant in an amount that exceeds $5 million.

(d) The commission may make a grant to an eligible local governmental entity without regard to the availability or acquisition of matching money.

Added by Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 11, eff. September 1, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 71 (S.B. 503), Sec. 3, eff. May 22, 2015.

Acts 2015, 84th Leg., R.S., Ch. 330 (S.B. 1358), Sec. 12, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 840 (S.B. 318), Sec. 1, eff. June 17, 2015.

Sec. 436.203. USE OF PROCEEDS. (a) A local governmental entity may use the proceeds of a grant awarded under this subchapter for the purchase of property, including the purchase of property from the United States Department of Defense or its designated agent, new

construction, rehabilitation or renovation of facilities or infrastructure, or purchase of capital equipment or facilities insurance.

(b) The local governmental entity may deliver the money to a special district, development corporation, or other instrumentality of this state or the local governmental entity for use as provided by this chapter and other applicable law.

Text of subsection as amended by Acts 2015, 84th Leg., R.S., Ch. 71 (S.B. 503), Sec. 4

(c) An eligible local governmental entity described by Section 436.201(a)(3), (4), or (5) may use the proceeds of the grant to purchase or lease equipment to train defense workers whose jobs have been threatened or lost because of an event described by Section 436.201(b) or to train workers to support military installations or defense facilities.

Text of subsection as amended by Acts 2015, 84th Leg., R.S., Ch. 840 (S.B. 318), Sec. 2

(c) An eligible local governmental entity described by Section 436.201(a)(3), (4), or (5) may use the proceeds of the grant to purchase or lease equipment to train defense workers whose jobs have been threatened or lost because of an event described by Section 436.201(b) or to train workers to support the mission at military installations or defense facilities.

Added by Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 11, eff. September 1, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 71 (S.B. 503), Sec. 4, eff. May 22, 2015.

Acts 2015, 84th Leg., R.S., Ch. 840 (S.B. 318), Sec. 2, eff. June 17, 2015.

Sec. 436.204. APPLICATION FOR GRANT. (a) A local governmental entity may apply for a grant under this subchapter to the commission on a form prescribed by the commission. The commission shall establish periodic application cycles to enable the evaluation of groups of applicants.

(b) The commission may assist a local governmental entity in applying for a grant under this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 11, eff. September 1, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 330 (S.B. 1358), Sec. 13, eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2564, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 436.205. PANEL: EVALUATION OF APPLICATION. (a) The commission shall establish a defense economic adjustment assistance panel composed of at least three and not more than five professional full-time employees of the office of the governor appointed by the director of the commission.

(b) The panel shall evaluate each grant application and assign the applicant a score based on:

(1) the significance of the adverse or positive effect within the local governmental entity; and

(2) any other criteria established by the commission.

Added by Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 11, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 83 (S.B. 1443), Sec. 2, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2564, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 436.206. MAKING OF GRANT. The panel shall submit its scores to the commission. The commission shall use the scores to determine whether to make a grant to an applicant. The commission may not make a grant unless the legislature has appropriated the money for the grant.

Added by Acts 2013, 83rd Leg., R.S., Ch. 777 (S.B. 1200), Sec. 11, eff. September 1, 2013.

CHAPTER 437. TEXAS MILITARY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 437.001. DEFINITIONS. In this chapter:

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

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

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

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

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

(6) "Director of state administration" means the administrative head of the department who is responsible for managing the department.

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

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

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

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

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

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

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

(14) "Texas military forces" means the Texas National

Guard, the Texas State Guard, and any other military force organized under state law.

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

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

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

(18) "Unit fund" means:

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

(B) the state post exchange services account; or

(C) the billeting account.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 1, eff. September 1, 2019.

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

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

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

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

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

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

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

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

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

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

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

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

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

eff. September 1, 2013.

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

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

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

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

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

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

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

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

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

the costs to this state.

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

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

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

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

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

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

Sec. 437.007. ENLISTMENT AND APPOINTMENT. (a) Federal law prescribes the terms and the qualifications and requirements for enlistment and appointment in the Texas National Guard. The governor and legislature may prescribe additional terms, qualifications, and requirements that do not conflict with federal law.

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

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

Sec. 437.008. MILITARY FACILITIES PROJECTS: MATCHING FEDERAL FUNDS. If the governor, after consulting with the adjutant general, determines that the state is eligible for federal matching funds for projects at military facilities in this state, the governor may

direct that money appropriated for another purpose be used to obtain the federal matching funds if the appropriation authorizes the money to be used for that purpose.

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

SUBCHAPTER B. TEXAS MILITARY DEPARTMENT

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 2, eff. September 1, 2019.

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

(b) The adjutant general shall adopt and implement regulations or policies that clearly separate the adjutant general's responsibilities from the administrative responsibilities of the department's director of state administration and staff.

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

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

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

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

(4) have completed at least 15 years of service as a

federally recognized reserve or active duty commissioned officer with an active unit of the United States Army or Air Force, the National Guard, or the Texas National Guard, including at least five years with the Texas National Guard.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 3, eff. September 1, 2019.

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

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

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

(3) assume responsibility for all administration of the department, including ensuring compliance with applicable state law and priorities and overseeing state employees;

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

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

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

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

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

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

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 4, eff. September 1, 2019.

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

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

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

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

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

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

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5308, 89th Legislature, Regular Session, for amendments affecting the following section.

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

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

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

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

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

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

Sec. 437.056. MANDATORY TRAINING FOR ADJUTANT GENERAL. (a) Before the adjutant general may assume the duties of the office and

before the adjutant general may be confirmed by the senate, the adjutant general must complete at least one course of the training program established under this section.

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

(1) this chapter;

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

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

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

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

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

(7) the requirements of:

(A) Chapter 552; and

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

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

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

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

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

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

(b) A deputy adjutant general shall assist the adjutant general

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 5, eff. September 1, 2019.

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

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

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

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

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

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

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

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

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

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

(b) A deputy adjutant general, general officer, or director of

state administration employed under this chapter is entitled to a salary subject to the classification and salary schedule provisions defined in the General Appropriations Act.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 6, eff. September 1, 2019.

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

Added by Acts 2017, 85th Leg., R.S., Ch. 260 (H.B. 1630), Sec. 1, eff. September 1, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 7, eff. September 1, 2019.

SUBCHAPTER C. TEXAS MILITARY DEPARTMENT OPERATIONS

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 8, eff. September 1, 2019.

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 9, eff. September 1, 2019.

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

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

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

Sec. 437.104. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS. (a) The director of state administration shall develop a career

ladder program. The program must require intra-agency postings of all non-entry level positions concurrently with any public posting.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 10, eff. September 1, 2019.

Sec. 437.105. AUTHORITY TO MAKE DIFFERENTIAL PAYMENTS. The department may pay an employee additional compensation for duty hours other than Monday through Friday normal business hours or for the ability to legally carry weapons if required for the position. The department shall adopt regulations to establish the classification, procedures, and amount of the additional compensation. The department may make differential payments only if money is available to pay those amounts.

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

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

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

Sec. 437.107. REPORTS. (a) The department annually shall submit to the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all

funds received and disbursed by the department during the preceding fiscal year. The report must be in the form and reported in the time provided by the General Appropriations Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 11, eff. September 1, 2019.

Sec. 437.109. EXEMPTION FROM CERTAIN STATE ACTIVITIES. (a) The department is exempt from the provisions of Chapter 2054 relating to the oversight of information resources and information resource manager provisions to the extent the National Guard Bureau and the United States Department of Defense provide information technology and communications support to the department.

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

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

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

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

individual is qualified to buy, lease, or rent goods at the post exchange.

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

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

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

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

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

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

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

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

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

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

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

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

Amended by:

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

Sec. 437.111. DONATIONS. (a) Except as provided by

Subsections (d) and (e), all money paid to the department under this chapter is subject to Subchapter F, Chapter 404.

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

(1) a state agency or department;

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

(3) a special purpose district or authority.

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

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

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

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

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

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

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

complaint filed with the department. The file must include:

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

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

(3) the subject matter of the complaint;

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

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

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

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

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

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

Sec. 437.113. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The department shall develop and implement a policy to encourage the use of appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes within the department's jurisdiction.

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

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

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

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

dispute resolution; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 437.119. USE OF FUNDS TO PURCHASE FOOD AND BEVERAGES. The department may use appropriated money to purchase food and beverages for:

(1) charged military housing;

(2) service members of the Texas military forces on military duty, including required training functions; and

(3) students participating in the Texas ChalleNGe Academy.

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

SUBCHAPTER D. REAL PROPERTY MANAGEMENT

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

(1) two deputy adjutants general;

(2) the director of state administration; and

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

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

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

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

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

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

(1) the facility master plan;

(2) the long-range construction plan;

(3) the selection of architecture and engineering firms;

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

(5) the disposal or sale of department property;

(6) surface leases of department property;

(7) natural resources management plans; and

(8) environmental studies and agreements.

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

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

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

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

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 224 (H.B. 1326), Sec. 12, eff. September 1, 2019.

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

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

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

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

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

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

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

(1) the governor;

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

(3) the Legislative Budget Board; and

(4) the governor's budget office.

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

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

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

(c) The department may:

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

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

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

(d) The department may own and operate or contract with a

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 437.163. DISPOSAL OF CERTAIN SURPLUS REAL PROPERTY. (a) When department property that is owned or transferred to this state is fully paid for and free of liens incurred in connection with the acquisition and construction of the property, the department may, after conducting the analysis required under this section, if applicable, properly dispose of the property that is designated by the adjutant general as surplus.

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

(c) To accomplish the purposes of Subsection (a), the department may remove, dismantle, or sever any of the property or

authorize its removal, dismantling, or severance.

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

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

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

(g) The department may:

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

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

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

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

SUBCHAPTER E. TEXAS MILITARY FORCES

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

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

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2513, 89th Legislature, Regular Session, for amendments affecting the following section.

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

(a-1) In addition to the leave provided under Subsection (a), a person described by Subsection (a) called to state active duty by the governor or another appropriate authority in response to a disaster is entitled to a paid leave of absence from the person's duties for each day the person is called to active duty during the disaster, not to exceed seven workdays in a fiscal year. During a leave of absence under this subsection, the person may not be subjected to loss of time, efficiency rating, personal time, sick leave, or vacation time. For purposes of this subsection, "disaster" has the meaning assigned by Section 418.004.

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

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

(d) An employee of this state or a municipality, a county, or another political subdivision of this state with at least five full-time employees who is a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team and who is ordered to duty by proper authority is entitled, when relieved from duty, to be restored to the position that the employee held when ordered to duty.

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

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

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

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

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

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

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

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

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

Amended by:

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

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

Acts 2021, 87th Leg., R.S., Ch. 923 (H.B. 1589), Sec. 1, eff. September 1, 2021.

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

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

eff. September 1, 2013.

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

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

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

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

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

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

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

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

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

(1) in the name and by authority of this state;

(2) sealed with the state seal;

(3) signed by the governor and attested by the secretary of state;

(4) recorded by the Texas military forces; and

(5) conferred without fee.

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

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

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

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

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

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

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

a body politic and corporate and may:

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

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

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

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

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

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

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

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

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

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

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

Sec. 437.209. FOREIGN TROOPS. A military force from another state, territory, or district, except a force that is on federal orders and acting as a part of the United States armed forces, may

not enter this state without the permission of the governor. The governor may delegate the powers granted by this section to the adjutant general.

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

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

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

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

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

(1) trespasses on a place of duty;

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

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

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

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

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

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

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

(A) on September 1 of each year; and

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

(b) The unit fund consists of:

(1) donations made to the fund;

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

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

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

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

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

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

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

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

(c) Service members who are state employees when called by proper authority into a state active duty status or for state

training and other duty status are entitled to the regular benefits provided by the employing agency and a paid leave of absence as provided by Section 437.202.

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

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

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

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

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

(f-1) The department shall require payment of the cost associated with paying the state contribution of a member of the state military forces who elects to participate in the state group benefits program under Subsection (f) by the person responsible for paying for the mission for which the member is on state active duty or state training and other duty. On receipt of payment, the department shall reimburse the board of trustees of the Employees Retirement System of Texas for that cost.

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

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

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

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

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

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

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

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

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

Amended by:

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

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

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

extended state active duty service.

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

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

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

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

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

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

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

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

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

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

Sec. 437.2131. RIGHT TO CIVIL ACTION AND PRIVATE LEGAL COUNSEL. (a) This section applies to a service member of the Texas military forces who is ordered to state active duty or to state training and

other duty by the governor, the adjutant general, or another proper authority under the law of this state and who is entitled under Section 437.213 to the same benefits and protections provided to persons:

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

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

(b) A service member described by Subsection (a) may retain private legal counsel and, notwithstanding Subchapter I, file a civil action in a district court in this state if the service member is aggrieved by a violation of or is denied a benefit or protection guaranteed under:

(1) Section 437.204;

(2) 38 U.S.C. Sections 4301-4313 and 4316-4319; or

(3) 50 U.S.C. Sections 3901-3959, 3991, and 4011-4026.

(c) The court may award to a service member who prevails in an action filed under this section:

(1) any appropriate declaratory or equitable relief;

(2) other appropriate relief, including monetary damages; and

(3) costs of the action and reasonable attorney's fees.

(d) This section does not limit any remedy or relief available to a service member under other law, including:

(1) a remedy or relief available under Section 437.204(b) or Subchapter I; or

(2) consequential and punitive damages.

Added by Acts 2021, 87th Leg., R.S., Ch. 844 (S.B. 484), Sec. 1, eff. September 1, 2021.

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

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

(1) the decedent's spouse;

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

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

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

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

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

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

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

Sec. 437.215. GRAVE MARKERS FOR STATE MILITARY PERSONNEL. (a) On the request of a person listed in Subsection (b), the department shall provide a grave marker for a decedent who served in the Texas military forces.

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

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

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

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

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

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

(b) The program shall:

(1) identify and make referrals to community-based organizations that have existing programs that provide reintegration

services to service members and their families;

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

(3) promote family cohesion and sustainability;

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

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

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

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

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

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

(c) The Texas military forces shall ensure that:

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

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

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

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

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

(1) fees for obtaining copies of:

(A) a birth certificate;

(B) a recorded marriage license;

(C) a divorce decree;

(D) a child support order;

(E) guardianship documents; and

(F) property tax records;

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

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

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

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

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

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

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

Subscribed to and sworn to before me this _____ day of

_____, _____

SEAL

_____

_____

_____

Notary Public

in and for

_____

County, Texas"

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

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

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

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

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

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

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

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

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

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

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

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

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

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

manner and method of paying supplemental pay under this section.

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

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

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

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

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

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

(1) the defendant applies for the removal; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) an enlisted member;

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

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

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

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

Texas State Guard may not exceed 30 for any semester unless the adjutant general finds a compelling need for additional awards to members of the Texas State Guard.

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

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

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

(g) Before each semester, the department must certify to the appropriate public and private institutions of higher education a list of the service members to whom the adjutant general has awarded assistance for tuition and mandatory fees under this section for that semester. The amount of assistance awarded by the adjutant general under this section may not exceed the amount of money available to fund the assistance awards.

(h) From money appropriated for purposes of this section, the department shall authorize the comptroller to reimburse an institution of higher education in an amount equal to the amount of the exemption from tuition and mandatory fees the institution grants to a person under Section 54.345, Education Code.

(i) From money appropriated for purposes of this section, the department shall authorize the comptroller to make a grant to a service member attending a private or independent institution of higher education to whom the adjutant general has awarded assistance for tuition and mandatory fees for the semester under this section. The amount of a grant under this subsection is an amount equal to the average amount of reimbursement the department estimates will be paid per student for the same semester under Subsection (h).

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.227. COMPENSATION FOR DEATH OR INJURY. A member of

the Texas military forces who is on state active duty, on state training or other duty, or traveling to or from the member's duty location and who is killed or injured while engaged in authorized duty, training, or travel is entitled to receive compensation and protections under Title 5, Labor Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.228. ISSUANCE AND USE OF UNIFORM AND OTHER MILITARY PROPERTY. (a) A service member to whom the department issues a uniform or other military property shall give a receipt for the uniform or property. The adjutant general shall prescribe the manner in which the uniform and property shall be accounted for and kept.

(b) The uniform or other property may be used only for military purposes. An officer or enlisted service member of the Texas military forces who is responsible for public property may not lend the property for private use or permit it to be used for a purpose for which it was not intended.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.229. UNIFORM. (a) Except as provided by Subsection (b), the uniform of the officers and enlisted service members of the Texas military forces is the uniform prescribed for the United States armed forces with modifications that the governor, or adjutant general if delegated the authority, considers necessary.

(b) The uniforms of the officers and enlisted personnel of the Texas State Guard are the uniforms prescribed for the United States armed forces with any modifications the governor, or the adjutant general if delegated the authority by the governor, considers necessary to distinguish the Texas State Guard from the Texas National Guard.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.230. EXEMPTION FROM LEVY AND SALE. Arms, equipment, clothing, and other military supplies issued by the department to units or service members of the Texas military forces for military purposes are exempt from levy and sale because of execution for debt or other legal proceedings.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.231. SEIZURE. (a) On a finding by the adjutant general that a person unlawfully possesses, and refuses or fails to deliver up, arms, equipment, or other military property issued by the department for use of the Texas military forces, the governor may by warrant command the sheriff of the county in which the person resides or is located to seize the arms, equipment, or other military property and keep the property subject to the governor's further order. The sheriff in executing the warrant may invoke the power of the county.

(b) Each sheriff may collect military arms or property issued by the department that is liable to loss or in the hands of unauthorized persons and safely keep the arms and property subject to order of the governor. The sheriff shall make a report of the collection to the governor. The sheriff's official bond covers faithful performance of duties under this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.232. CONFIDENTIALITY OF MILITARY PERSONNEL INFORMATION. (a) In this section, "military personnel information" means a service member's name, Department of Defense identification number, home address, rank, official title, pay rate or grade, state active duty orders, deployment locations, military duty addresses, awards and decorations, length of military service, and medical records.

(b) A service member's military personnel information is confidential and not subject to disclosure under Chapter 552.

Added by Acts 2015, 84th Leg., R.S., Ch. 170 (H.B. 2152), Sec. 1, eff.

September 1, 2015.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 630 (H.B. 4615), Sec. 1, eff. September 1, 2023.

SUBCHAPTER F. TEXAS NATIONAL GUARD

Sec. 437.251. COMPOSITION. The Texas National Guard may not exceed half of one percent of the population of the state except in case of war, insurrection, or invasion, the prevention of invasion, the suppression of riot, or the aiding of civil authorities to execute state law.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.252. LOCAL GOVERNMENTAL ASSISTANCE. Funds, other property, or services may be donated to a unit of the Texas National Guard by any public or private entity, including:

(1) a state agency or department;

(2) a political subdivision, including a county, municipality, or public school district; or

(3) a special purpose district or authority.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.253. PROPERTY FORFEITURE. When the National Guard Counterdrug Program assists a federal law enforcement agency in enforcing drug laws, the National Guard Counterdrug Program is considered to be a law enforcement agency of this state for the purpose of participating in the sharing of property seized or forfeited to the United States under federal law.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.254. EMPLOYEES IN TEXAS MILITARY FORCES; EMERGENCY

LEAVE. (a) A state employee called to state active duty as a member of the Texas military forces by the governor or other appropriate authority in response to a natural or man-made disaster is entitled to receive paid emergency leave without loss of military leave under Section 437.202 or annual leave.

(b) A state employee called to federal active duty for the purpose of providing assistance to civil authorities in a declared emergency or for training for that purpose is entitled to receive paid emergency leave for not more than 22 workdays without loss of military leave under Section 437.202 or annual leave.

(c) The duty or training under Subsection (b) does not include duty or training carried out under Section 437.202.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.255. ASSISTING TEXAS STATE GUARD WITH CYBER OPERATIONS. To serve the state and safeguard the public from malicious cyber activity, the governor may command the Texas National Guard to assist the Texas State Guard with defending the state's cyber operations.

Added by Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 3, eff. September 1, 2019.

SUBCHAPTER G. TEXAS STATE GUARD

Sec. 437.301. COMMANDER. The commander of the Texas State Guard is responsible:

(1) for the welfare, strength, and management of the Texas State Guard;

(2) for the organization, training, and administration of all Texas State Guard components;

(3) to the adjutant general to ensure the Texas State Guard missions remain relevant and responsive as a force provider to this state; and

(4) to field and staff the volunteer components of the Texas State Guard.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01,

eff. September 1, 2013.

Sec. 437.302. COMPOSITION. (a) The Texas State Guard is composed of units the governor, or adjutant general if delegated the authority, considers advisable.

(b) To serve in the Texas State Guard, a person:

(1) must be a resident of this state for at least 180 days;

(2) must be a citizen of the United States or a person who has been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.);

(3) subject to Subsections (c) and (d), must be at least 17 years of age and not older than 70 years of age;

(4) must undergo a criminal history check;

(5) must not be a registered sex offender; and

(6) must be acceptable to and approved by the governor or adjutant general under the governor's direction.

(c) The adjutant general may adopt a policy regarding waiver of the maximum age requirement under Subsection (b)(3).

(d) A person who is at least 17 years of age but younger than 18 years of age may serve in the Texas State Guard if the person:

(1) is emancipated by marriage, court order, or other operation of law; or

(2) provides to the adjutant general, in a form and manner prescribed by the adjutant general, the written consent of:

(A) each of the person's parents or legal guardians, other than a parent or legal guardian who is:

(i) deceased;

(ii) determined by a court to be incapacitated;

(iii) absent at an unknown location for an indefinite period; or

(iv) confined in jail or prison serving a term of punishment that will result in the parent or guardian being released after the person's 18th birthday; or

(B) for a person who is in the managing conservatorship of the Department of Family and Protective Services or another legal entity, a representative of the department or other legal entity.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01,

eff. September 1, 2013.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 452 (H.B. 1062), Sec. 1, eff. September 1, 2021.

Sec. 437.303. GOVERNOR'S AUTHORITY. (a) The governor has full control and authority over the Texas State Guard.

(b) The governor may adopt regulations governing enlistment, organization, administration, uniforms, equipment, maintenance, command, training, and discipline of the Texas State Guard. The regulations to the extent practicable and desirable must conform to law and regulations governing the Texas National Guard.

(c) The governor may delegate the powers granted by this section to the adjutant general.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.304. ASSISTANCE. (a) Funds or other property or services may be solicited by or donated to a unit in the Texas State Guard by any public or private entity, including:

(1) a state agency or department;

(2) a political subdivision, including a county, municipality, or public school district; or

(3) a special purpose district or authority.

(b) A public school district may permit the Texas State Guard to use a school building.

(c) The assistance solicited or received under this section is governed by the policies and regulations adopted by the adjutant general.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.305. EMPLOYEES IN STATE GUARD; EMERGENCY LEAVE. A state employee called to state active duty as a member of the Texas State Guard by the governor or other appropriate authority in response to a natural or man-made disaster is entitled to receive

paid emergency leave without loss of military leave under Section 437.202 or annual leave.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.306. USE OUTSIDE STATE; FRESH PURSUIT FROM OR INTO STATE. (a) Except as provided by Subsections (b) and (c), the Texas State Guard may not be required to serve outside the state.

(b) The governor, on request of the governor of another state, may order all or part of the Texas State Guard to assist a military or civil authority of that state in defending that state. The governor may recall these forces.

(c) If authorized by the law of another state, an organization, unit, or detachment of the Texas State Guard, on order of the officer in immediate command, may continue in fresh pursuit of an insurrectionist, a saboteur, an enemy, or enemy forces into that state until the apprehension or capture of the person or forces pursued or until military or police forces of that state or the United States have had a reasonable opportunity to apprehend, capture, or take up the pursuit of the person or forces. The Texas State Guard without unnecessary delay shall surrender a person apprehended or captured in another state to the military or police forces of that state or the United States. This surrender is not a waiver by this state of a right to extradite or prosecute the person for a crime committed in this state.

(d) Military forces of another state may continue a fresh pursuit into this state in the same manner permitted the Texas State Guard under Subsection (c). The military forces of the other state shall without unnecessary delay surrender a person captured or arrested in this state to the military or police forces of this state to be dealt with according to law. This subsection does not prohibit an arrest in this state permitted by other law.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.307. FEDERAL SERVICE. This chapter does not authorize the calling, ordering, or drafting of all or part of the Texas State

Guard into military service of the United States. A person is not exempted by enlistment or commission in the Texas State Guard from military service under federal law.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.308. RECORDS; ARMS; EQUIPMENT. (a) The commander of the Texas State Guard shall maintain and preserve the individual and unit records of the Texas State Guard and the Texas State Guard Honorary Reserve.

(b) The governor may request for use of the Texas State Guard arms and equipment that the United States government possesses and can spare. The governor, or the adjutant general if delegated the authority by the governor, shall make available to the Texas State Guard state armories and available state property.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.309. TEXAS STATE GUARD HONORARY RESERVE. (a) The governor, or adjutant general under the governor's authority and direction, may transfer to the Texas State Guard Honorary Reserve an officer or enlisted service member of the Texas State Guard who:

(1) is physically disabled;

(2) is at least 60 years of age; or

(3) has served the federal or state military satisfactorily for at least 20 years.

(b) The governor may advance the service member one grade or rank at the time of the transfer into the honorary reserve. For a service member who is not a general officer, the adjutant general may advance the service member one grade or rank at the time of the transfer into the honorary reserve.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.

Sec. 437.310. TEXAS STATE GUARD UNIFORM AND INSIGNIA FUND. (a)

A special revolving fund is established outside the state treasury to be known as the Texas State Guard uniform and insignia fund. The fund may be used only to purchase uniforms and insignia to be used by members of the Texas State Guard. The fund shall be administered in accordance with Section 437.211.

(b) The fund consists of:

(1) donations made to the fund;

(2) revenue received by the Texas State Guard from the sale of uniforms and insignia to members of the guard;

(3) depository interest and investment income earned on money in the fund; and

(4) money appropriated, credited, or transferred to the fund by the legislature.

(c) If any part of the fund remains unexpended and unobligated at the end of the state fiscal year, that amount is dedicated for the same purposes in the subsequent year. Money in the fund may not be diverted for any other purpose.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.01, eff. September 1, 2013.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 387 (H.B. 387), Sec. 1, eff. June 9, 2023.

SUBCHAPTER H. AWARDS

Sec. 437.351. TEXAS LEGISLATIVE MEDAL OF HONOR. (a) The Texas Legislative Medal of Honor shall be awarded to a member of the state or federal military forces designated by concurrent resolution of the legislature who voluntarily performs a deed of personal bravery or self-sacrifice involving risk of life that is so conspicuous as to clearly distinguish the service member for gallantry and intrepidity above the service member's comrades. Awarding of the medal shall be considered on the standard of extraordinary merit. The medal may be awarded only on incontestable proof of performance of the deed. To be eligible for the Texas Legislative Medal of Honor, a service member must:

(1) have been born in this state;

(2) reside in this state or have been a resident of this state on the service member's death; or

(3) have been a resident of this state when the service member entered military service.

(b) A service member is not ineligible for the Texas Legislative Medal of Honor because the service member has received any other medal or award for military service, including a medal or award made by the United States.

(c) To receive the Texas Legislative Medal of Honor, a service member must be nominated during a regular session of the legislature by majority vote of all the members of a nominating committee consisting of:

(1) the adjutant general or the adjutant general's designated representative;

(2) the lieutenant governor or the lieutenant governor's designated representative;

(3) the speaker of the house of representatives or the speaker's designated representative; and

(4) the chair of the standing committee of each house of the legislature with primary jurisdiction over military and veterans affairs.

(d) The legislature by concurrent resolution may direct the governor to award the Texas Legislative Medal of Honor to a service member nominated by the nominating committee. The committee chairs serving on the nominating committee shall jointly prepare a concurrent resolution directing the governor to award the medal to a service member nominated. The legislature may direct the medal to be awarded only during a regular session and may not, during a regular session, direct the medal to be awarded to more than:

(1) one service member for service in the state or federal military forces during the period beginning after 1835 but before 1956;

(2) one service member for service in the state or federal military forces during the period beginning after January 1, 1956, but before September 11, 2001; and

(3) one service member for service in the state or federal military forces on or after September 11, 2001.

(e) Notwithstanding Subsections (a) and (c), the Texas Legislative Medal of Honor shall be awarded to a resident of this state who receives the Congressional Medal of Honor. A Texas Legislative Medal of Honor awarded under this subsection is not included for purposes of determining the number of medals that may be

awarded under Subsection (d).

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1092, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1020, Sec. 1, eff. June 20, 2003.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 311 (H.B. 1589), Sec. 1, eff. June 14, 2013.
Transferred, redesignated and amended from Government Code, Subchapter J, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.02, eff. September 1, 2013.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 764 (H.B. 4421), Sec. 1, eff. September 1, 2023.

Sec. 437.352. LONE STAR MEDAL OF VALOR. The Lone Star Medal of Valor shall be awarded to a member of the military forces of this state, another state, or the United States who performs, either individually or as a member of a crew, specific acts of bravery or outstanding courage, or who performs within an exceptionally short period, either individually or as a member of a crew, a closely related series of heroic acts, if the acts involve personal hazard or danger and the voluntary risk of life and result in an accomplishment so exceptional and outstanding as to clearly set the person or crew apart from the person's or crew's comrades or from other persons in similar circumstances. Awarding of the medal requires a lesser degree of gallantry than awarding of the Texas Legislative Medal of Honor, but requires that the acts be performed with marked distinction.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Transferred, redesignated and amended from Government Code, Subchapter J, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.02, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 85 (S.B. 1597), Sec. 1, eff. September 1, 2019.

Sec. 437.353. RECOMMENDATIONS. (a) A recommendation for award

of the Texas Legislative Medal of Honor or Lone Star Medal of Valor shall be forwarded through military channels to the adjutant general. An individual having personal knowledge of an act or achievement or exceptional service believed to warrant the award of one of these medals may submit a letter of recommendation to the adjutant general.

(b) A letter of recommendation for award of the Texas Legislative Medal of Honor or Lone Star Medal of Valor must give an account of the occurrence and statements of eyewitnesses, extracts from official records, sketches, maps, diagrams, or photographs to support and amplify the stated facts.

(c) If the adjutant general determines that a case meets the criteria established by Section 437.352 for award of the Lone Star Medal of Valor, the adjutant general shall by endorsement recommend to the governor the awarding of the medal.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Transferred, redesignated and amended from Government Code, Subchapter J, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.02, eff. September 1, 2013.

Sec. 437.354. AWARDING. The governor awards the Texas Legislative Medal of Honor as directed by the legislature under Section 437.351. The governor awards the Lone Star Medal of Valor on recommendation of the adjutant general.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 1020, Sec. 2, eff. June 20, 2003. Transferred, redesignated and amended from Government Code, Subchapter J, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.02, eff. September 1, 2013.

Sec. 437.355. OTHER AWARDS. (a) The governor or adjutant general, if delegated the authority, may adopt policies and regulations relating to awarding:

(1) the Texas Purple Heart Medal, which shall be awarded to a service member who:

(A) after September 11, 2001:

(i) was inducted into federal service from the Texas National Guard; and

(ii) meets the criteria for an award of the federal Purple Heart Medal; or

(B) was wounded or killed at Fort Hood on November 5, 2009;

(2) the Texas Superior Service Medal, which shall be awarded to:

(A) a service member of the Texas military forces who has:

(i) completed 30 or more years of honorable state service or a combination of state and federal service; and

(ii) continually demonstrated superior performance and service while assigned to key leadership positions demanding responsibility; or

(B) a civilian who has contributed significant service to the Texas military forces;

(3) the Lone Star Distinguished Service Medal, which shall be awarded to a member of the military forces of this state, another state, or the United States for exceptionally outstanding achievement or service to this state in performance of a duty of great responsibility while serving with the Texas military forces for whom the department receives a letter of recommendation for award of the Lone Star Distinguished Service Medal that:

(A) gives an account of the exceptional achievement or service; and

(B) includes facts and photographs, and extracts from official documents to support and amplify the facts;

(4) the Texas Outstanding Service Medal, which shall be awarded to a service member of the military forces of this state, another state, or the United States who has performed service, either individually or as a member of a crew, in a superior and clearly outstanding manner;

(5) the Texas Humanitarian Service Medal, which shall be awarded to a service member who:

(A) does not meet the criteria for an award of the federal Humanitarian Service Medal;

(B) is a member of the Texas military forces; and

(C) while serving on state active duty or active duty under state authority in accordance with Title 32, United States Code, participates satisfactorily in defense support to a mission under civilian authority to protect life or property during or soon

after a natural disaster or civil unrest in the state;

(6) the Texas Homeland Defense Service Medal, which shall be awarded to a service member of the Texas military forces who served:

(A) on or after September 11, 2001;

(B) on state active duty or active duty under state authority in accordance with Title 32, United States Code; and

(C) satisfactorily in defense support to a mission in the state under civilian authority;

(7) the Federal Service Medal, which shall be awarded to a service member who was inducted into federal service from the Texas military forces between June 15, 1940, and January 1, 1946, or after June 1, 1950, if the service was for more than 90 days;

(8) the Texas Combat Service Ribbon, which shall be awarded to a service member of the Texas National Guard who served, after September 11, 2001, in a hostile fire zone as designated by the United States secretary of defense;

(9) the Texas Faithful Service Medal, which shall be awarded to a member of the Texas military forces who has completed five years of honorable service during which the service member has shown fidelity to duty, efficient service, and great loyalty to this state;

(10) the Texas Medal of Merit, which shall be awarded to a member of the military forces of this state, another state, or the United States who performs outstanding service or attains extraordinary achievement, either individually or as a member of a crew, in behalf of the state or United States;

(11) the Texas State Guard Service Medal, which shall be awarded to a service member who completes three consecutive years of honorable service in the Texas State Guard during which the service member has shown fidelity to duty, efficient service, and great loyalty to this state;

(12) the Texas Desert Shield/Desert Storm Campaign Medal, which shall be awarded to a service member who was inducted into federal service from the Texas National Guard after August 1, 1990, in support of Operation Desert Shield or Operation Desert Storm, without regard to the place that the service member was deployed while serving on active federal military duty;

(13) the Texas Iraqi Campaign Medal, which shall be awarded to a service member who was inducted into federal service from the

Texas National Guard, without regard to the place that the service member was deployed while serving on active federal military duty, after:

(A) March 19, 2003, in support of Operation Iraqi Freedom; or

(B) August 31, 2010, in support of Operation New Dawn;

(14) the Texas Afghanistan Campaign Medal, which shall be awarded to a service member who was inducted into federal service from the Texas National Guard after October 6, 2001, in support of Operation Enduring Freedom, without regard to the place that the service member was deployed while serving on active federal military duty;

(15) the Cold War Medal, which, subject to Subsection (c), shall be awarded to a member of the military forces of this state or the United States who:

(A) served between September 2, 1945, and December 26, 1991; and

(B) was a resident of this state at the time the service member entered military service; and

(16) the Texas Border Security and Support Service Ribbon, which shall be awarded to a service member of the military forces of this state, another state, or the United States who served:

(A) on or after July 28, 2014;

(B) on state active duty or active duty under state authority in accordance with Title 32, United States Code, for at least 90 consecutive days, or in response to an emergency activation; and

(C) honorably in support of operations under civilian authority to secure this state's international border.

(b) A person may be awarded only one Texas Superior Service Medal.

(c) A person described by Subsection (a)(15) may be awarded a Cold War Medal only if:

(1) a federal Cold War Medal or an equivalent federal medal is not available to be awarded; and

(2) a fee in the amount necessary to cover the costs of awarding the medal is paid to the adjutant general's department.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.02, eff. September 1, 2013.

Amended by:
Acts 2015, 84th Leg., R.S., Ch. 144 (H.B. 115), Sec. 1, eff. May 28, 2015.
Reenacted and amended by Acts 2015, 84th Leg., R.S., Ch. 760 (H.B. 2108), Sec. 1, eff. September 1, 2015.
Reenacted by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 8.007, eff. September 1, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 85 (S.B. 1597), Sec. 2, eff. September 1, 2019.
Acts 2021, 87th Leg., R.S., Ch. 852 (S.B. 793), Sec. 1, eff. September 1, 2021.

Sec. 437.356. POSTHUMOUS AWARDS. An award may be made to a person who has died in the same manner as an award to a living person, except the orders and citation must indicate that the award is made posthumously.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Transferred, redesignated and amended from Government Code, Subchapter J, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.02, eff. September 1, 2013.

Sec. 437.357. DESIGN; RIBBONS. (a) The department shall design and have manufactured the medals, awards, decorations, and ribbons awarded under this subchapter and others that the adjutant general has approved for award.
(b) The department may purchase or replace medals, awards, decorations, and ribbons authorized under this subchapter for the recipient, the decedent's family, and nonprofit and governmental entities honoring the recipient or decedent.
(c) The adjutant general shall adopt regulations prescribing when a ribbon may be appropriately worn instead of the medal it symbolizes.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 68, Sec. 1, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 613, Sec. 5, eff. June 15, 1991.
Transferred, redesignated and amended from Government Code,

Subchapter J, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.02, eff. September 1, 2013.

SUBCHAPTER I. ADMINISTRATIVE REVIEW AND JUDICIAL ENFORCEMENT

Sec. 437.401. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Workforce Commission civil rights division.

(2) "Complainant" means an individual who brings an action or proceeding under this subchapter.

(3) "Respondent" means the person charged in a complaint filed under this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.402. FILING OF COMPLAINT; FORM AND CONTENT; SERVICE. (a) A person claiming to be aggrieved by an unlawful employment practice under Section 437.204 or the person's agent may file a complaint with the commission.

(b) The complaint must be in writing and made under oath.

(c) The complaint must state:

(1) that an unlawful employment practice under Section 437.204 has been committed;

(2) the facts on which the complaint is based, including the date, place, and circumstances of the alleged unlawful employment practice; and

(3) facts sufficient to enable the commission to identify the respondent.

(d) The commission shall serve the respondent with a copy of the perfected complaint not later than the 10th day after the date the complaint is filed.

(e) A complaint may be amended to cure technical defects or omissions, including a failure to verify the complaint or to clarify and amplify an allegation made in the complaint.

(f) An amendment to a complaint alleging additional facts that

constitute an unlawful employment practice under Section 437.204 relating to or arising from the subject matter of the original complaint relates back to the date the complaint was first received by the commission.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.403. ALTERNATIVE DISPUTE RESOLUTION. The use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, fact-finding, minitrials, and arbitration, is encouraged to resolve disputes arising under Section 437.204. The settlement of a disputed claim under this subchapter that results from the use of traditional or alternative means of dispute resolution is binding on the parties to the claim.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.404. INVESTIGATION BY COMMISSION. The commission shall investigate a complaint arising under Section 437.204 and determine if there is reasonable cause to believe that the respondent engaged in an unlawful employment practice as alleged in the complaint.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.405. LACK OF REASONABLE CAUSE; DISMISSAL OF COMPLAINT. (a) If, after investigation, the commission determines that reasonable cause does not exist to believe that the respondent engaged in an unlawful employment practice under Section 437.204 as alleged in a complaint, the commission shall issue a written determination incorporating the finding that the evidence does not support the complaint and dismissing the complaint.

(b) The commission shall serve a copy of the determination on the complainant, the respondent, and other agencies as required by law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.406. DETERMINATION OF REASONABLE CAUSE; REVIEW BY PANEL. If, after investigation, the commission determines that there is reasonable cause to believe that the respondent engaged in an unlawful employment practice under Section 437.204 as alleged in a complaint, the commission shall:

(1) issue a written determination incorporating the finding that the evidence supports the complaint; and

(2) serve a copy of the determination on the complainant, the respondent, and other agencies as required by law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.407. RESOLUTION BY INFORMAL METHODS. (a) If a determination of reasonable cause is made, the commission shall endeavor to eliminate the alleged unlawful employment practice arising under Section 437.204 by informal methods of conference, conciliation, and persuasion.

(b) Without the written consent of the complainant and

respondent, the commission, its executive director, or its other officers or employees may not disclose to the public information about the efforts in a particular case to resolve an alleged unlawful employment practice by conference, conciliation, or persuasion, regardless of whether there is a determination of reasonable cause.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.408. NOTICE OF DISMISSAL OR UNRESOLVED COMPLAINT. If the commission dismisses a complaint or does not resolve the complaint, the commission shall inform the complainant of the dismissal or failure to resolve the complaint in writing by certified mail.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.409. TEMPORARY INJUNCTIVE RELIEF. (a) If the commission concludes from a preliminary investigation of an unlawful employment practice arising under Section 437.204 alleged in a complaint that prompt judicial action is necessary, the commission shall file a petition seeking appropriate temporary relief against the respondent pending final determination of a proceeding under this subchapter.

(b) The petition shall be filed in a district court in a county in which:

(1) the alleged unlawful employment practice that is the subject of the complaint occurred; or

(2) the respondent resides.

(c) A court may not issue temporary injunctive relief unless the commission shows:

(1) a substantial likelihood of success on the merits; and

(2) irreparable harm to the complainant in the absence of the preliminary relief pending final determination on the merits.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.410. CIVIL ACTION BY COMMISSION. (a) The commission may bring a civil action against a respondent if:

(1) the commission determines that there is reasonable cause to believe that the respondent engaged in an unlawful employment practice under Section 437.204; and

(2) the commission's efforts to resolve the discriminatory practice to the satisfaction of the complainant and respondent through informal methods have been unsuccessful.

(b) The complainant may intervene in a civil action brought by the commission.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.411. NOTICE OF COMPLAINANT'S RIGHT TO FILE CIVIL ACTION. (a) A complainant who receives notice under Section 437.408 that the complaint is dismissed or not resolved is entitled to request from the commission a written notice of the complainant's right to file a civil action.

(b) The complainant must request the notice in writing.

(c) The executive director of the commission may issue the notice.

(d) Failure of the executive director of the commission to issue the notice of a complainant's right to file a civil action does not affect the complainant's right under this subchapter to bring a civil action against the respondent.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.412. CIVIL ACTION BY COMPLAINANT. Within 60 days after the date a notice of the right to file a civil action is received, the complainant may bring a civil action against the respondent.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.413. COMMISSION'S INTERVENTION IN CIVIL ACTION BY COMPLAINANT. After receipt of a timely application, a court may permit the commission to intervene in a civil action filed under Section 437.412 if:

(1) the commission certifies that the case is of general public importance; and

(2) before commencement of the action, the commission issued a determination of reasonable cause to believe that Section 437.204 was violated.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.414. ASSIGNMENT TO EARLY HEARING. The court shall set an action brought under this subchapter for hearing at the earliest practicable date to expedite the action.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3,

eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.415. INJUNCTION; EQUITABLE RELIEF. (a) On finding that a respondent engaged in an unlawful employment practice under Section 437.204 as alleged in a complaint, a court may:

(1) prohibit by injunction the respondent from engaging in an unlawful employment practice under Section 437.204; and

(2) order additional equitable relief as may be appropriate.

(b) Additional equitable relief may include:

(1) hiring or reinstating with or without back pay;

(2) upgrading an employee with or without pay; and

(3) paying court costs.

(c) Liability under a back pay award may not accrue for a date more than two years before the date a complaint is filed with the commission. Interim earnings, workers' compensation benefits, and unemployment compensation benefits received operate to reduce the back pay otherwise allowable.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.416. COMPENSATORY AND PUNITIVE DAMAGES. (a) On finding that a respondent engaged in an intentional unlawful employment practice under Section 437.204 as alleged in a complaint, a court may, as provided by this section, award:

(1) compensatory damages; and

(2) punitive damages.

(b) A complainant may recover punitive damages against a respondent, other than a respondent that is a governmental entity, if the complainant demonstrates that the respondent engaged in an unlawful employment practice under Section 437.204 with malice or

with reckless indifference to the state-protected rights of an aggrieved individual.

(c) Compensatory damages awarded under this section may not include:

(1) back pay;

(2) interest on back pay; or

(3) other relief authorized under Section 437.415(b).

(d) The sum of the amount of compensatory damages awarded under this section for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses and the amount of punitive damages awarded under this section may not exceed, for each complainant:

(1) $50,000 in the case of a respondent that has fewer than 101 employees;

(2) $100,000 in the case of a respondent that has more than 100 and fewer than 201 employees;

(3) $200,000 in the case of a respondent that has more than 200 and fewer than 501 employees; and

(4) $300,000 in the case of a respondent that has more than 500 employees.

(e) For the purposes of Subsection (d), in determining the number of employees of a respondent, the requisite number of employees must be employed by the respondent for each of 20 or more calendar weeks in the current or preceding calendar year.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.417. ATTORNEY'S FEES; COSTS. (a) In a proceeding under this subchapter, a court may allow the prevailing party, other than the commission, a reasonable attorney's fee as part of the costs.

(b) The state, a state agency, or a political subdivision is liable for costs, including attorney's fees, to the same extent as a private person.

(c) In awarding costs and attorney's fees in an action or a

proceeding under this subchapter, the court, in its discretion, may include reasonable expert fees.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.418. COMPELLED COMPLIANCE. If an employer fails to comply with a court order issued under this subchapter, a party to the action or the commission, on the written request of a person aggrieved by the failure, may commence proceedings to compel compliance with the order.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

Sec. 437.419. TRIAL DE NOVO. (a) A judicial proceeding under this subchapter is by trial de novo.

(b) A commission finding, recommendation, determination, or other action is not binding on a court.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 3, eff. June 17, 2011.
Transferred, redesignated and amended from Government Code, Subchapter K, Chapter 431 by Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 1.03, eff. September 1, 2013.

SUBTITLE D. HISTORY, CULTURE, AND EDUCATION
CHAPTER 441. LIBRARIES AND ARCHIVES
SUBCHAPTER A. TEXAS STATE LIBRARY AND ARCHIVES COMMISSION

Sec. 441.001. COMMISSION; MEMBERS. (a) The Texas State Library and Archives Commission is composed of seven members appointed by the governor with the advice and consent of the senate.

All seven members must be representatives of the general public. A person is not eligible for appointment as a member of the commission if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of library or information science;

(2) is employed by or participates in the management of a business entity or other organization regulated by the commission or receiving funds from the commission;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from the commission; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

(b) Members of the commission serve staggered terms of six years.

(c) A person appointed to fill a vacancy serves for the remainder of the term to which that person's predecessor was appointed.

(d) An appointment to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(e) A person may not be a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

(f) A person may not be a member of the commission and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of library and information science, archives management, or records management; or

(2) the person's spouse is an officer, manager, or paid

consultant of a Texas trade association in the field of library and information science, archives management, or records management.

(h) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(i) It is a ground for removal from the commission if a member:

(1) does not have at the time of taking office the qualifications required by Subsection (a);

(2) does not maintain during service on the commission the qualifications required by Subsection (a);

(3) is ineligible for membership under Subsection (e) or (f);

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved by majority vote of the commission.

(j) The validity of an action of the commission is not affected by the fact that it was taken when a ground for removal of a commission member exists.

(k) If the director and librarian has knowledge that a potential ground for removal exists, the director and librarian shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the director and librarian shall notify the next highest officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

(l) The commission shall be assigned suitable offices in the Capitol area in which the commission shall hold at least one regular meeting annually and as many special meetings as are necessary.

(m) The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor.

(n) A member of the commission may not receive compensation for

services as a member but is entitled to the per diem provided by the General Appropriations Act for attending a meeting of the commission. A member is also entitled to reimbursement for actual expenses reasonably incurred in connection with the performance of those services, subject to any applicable limitation on reimbursement provided by the General Appropriations Act.

(o) The commission is subject to the open meetings law, Chapter 551, and the administrative procedure law, Chapter 2001.

(p) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

(q) The Texas State Library and Archives Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2031.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 2.05, eff. Nov. 12, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), (83), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 86, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 573, Sec. 1, eff. June 2, 1997; Acts 2003, 78th Leg., ch. 1170, Sec. 24.01, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 251 (S.B. 913), Sec. 1, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 2, eff. September 1, 2019.

Sec. 441.0011. TRAINING FOR COMMISSION MEMBERS. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing commission operations;

(2) the programs, functions, rules, and budget of the commission;

(3) the scope of and limitations on the rulemaking authority of the commission;

(4) the results of the most recent formal audit of the commission;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of a state policymaking body in performing their duties; and

(6) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) The director and librarian shall create a training manual that includes the information required by Subsection (b). The director and librarian shall distribute a copy of the training manual annually to each member of the commission. Each member of the commission shall sign and submit to the director and librarian a statement acknowledging that the member received and has reviewed the training manual.

Added by Acts 1995, 74th Leg., ch. 86, Sec. 2, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 251 (S.B. 913), Sec. 2, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 3, eff. September 1, 2019.

Sec. 441.002. DIRECTOR AND LIBRARIAN. (a) The commission shall appoint a director and librarian.

(b) The director and librarian is the executive and administrative officer of the commission and shall discharge the administrative and executive functions of the commission.

(c) To be appointed as the director and librarian, a person must have:

(1) at least two years of training in library science or

experience in teaching or research or in a library that is the equivalent of two years of training in library science; and

(2) at least two years of administrative experience in the field of libraries or research or in a related field.

(d) The director and librarian serves at the will of the commission.

(e) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(14).

(f) Based on the sworn account of the director and librarian showing expenses in detail, the director and librarian is entitled to reimbursement for actual expenses incurred when traveling in the service of the commission.

(g) Under the direction of the commission, the director and librarian shall:

(1) record the commission's proceedings;

(2) keep an accurate account of the commission's financial transactions;

(3) have charge of the state library and any book, picture, document, newspaper, manuscript, archive, relic, memento, flag, or similar item contained in the library;

(4) administer programs to carry out the duties of the commission and the director and librarian under Subtitle C, Title 6, Local Government Code, and Subchapters J and L;

(5) ascertain the condition of all public libraries in this state and report the results to the commission; and

(6) perform any other duty the commission assigns.

(h) Under the direction of the commission, the director and librarian may:

(1) spend money appropriated for that purpose to purchase any book relating to Texas;

(2) approve the voucher for any expenditure made in connection with the state library; and

(3) withhold from any library a public document furnished the commission for distribution or an interlibrary loan the library desires if the library refuses or neglects to furnish an annual report or other information the librarian requests.

(i) Repealed by Acts 1997, 75th Leg., ch. 873, Sec. 8(1), eff. Sept. 1, 1997.

(j) The commission shall develop and implement policies that clearly separate the policy-making responsibilities of the commission and the management responsibilities of the director and librarian and

the staff of the commission.

(k) The commission shall comply with federal and state laws related to program and facility accessibility. The director and librarian shall also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the commission's programs and services.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 36, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 86, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 873, Sec. 3, 8, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 285, Sec. 31(14), eff. Sept. 1, 2003.

Sec. 441.003. EMPLOYEES. (a) Subject to the approval of the commission, the director and librarian shall appoint an assistant state librarian, a state archivist, a state records administrator, and other assistants and employees necessary to fulfill the duties of the commission and the director and librarian as prescribed by law.

(b) The assistant state librarian has the rank of a department head. In the absence of the director and librarian, the assistant may sign and certify accounts and documents in the same manner and with the same legal authority as the director and librarian. The assistant shall take the official oath.

(c) To be eligible for appointment as state archivist, a person must have appropriate training and experience in the administration of a government archive, but is not required to have technical library school training or library experience to be appointed state archivist.

(d) To be eligible for appointment as state records administrator, a person must have appropriate training and experience in the administration of a government records management program, but is not required to have technical library training or library experience to be appointed state records administrator.

(e) The director and librarian may designate a staff member to serve as both state archivist and state records administrator. In that event, any provision of Subchapter L requiring joint action by the state archivist and the state records administrator requires only the action of the person designated.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1997, 75th Leg., ch. 873, Sec. 4, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 285, Sec. 17, eff. Sept. 1, 2003.

Sec. 441.004. CAREER LADDER; PERFORMANCE EVALUATIONS. (a) The director and librarian or the director and librarian's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the commission. The program must require intra-agency posting of all positions concurrently with any public posting.

(b) The director and librarian or the director and librarian's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for commission employees must be based on the system established under this subsection.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 4, eff. Sept. 1, 1995.

Sec. 441.005. STANDARDS OF CONDUCT; EQUAL EMPLOYMENT OPPORTUNITY. (a) The director and librarian or the director and librarian's designee shall provide to members of the commission and to commission employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(b) The director and librarian or the director and librarian's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the commission workforce that meets federal and state guidelines;

(3) procedures by which a determination can be made about

the extent of underuse in the commission workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to address those areas of underuse appropriately.

(c) A policy statement prepared under Subsection (b) must cover an annual period, be updated annually, be reviewed by the Commission on Human Rights for compliance with Subsection (b)(1), and be filed with the governor's office.

(d) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (c). The report may be made separately or as a part of other biennial reports made to the legislature.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 5, eff. Sept. 1, 1995.

Sec. 441.006. GENERAL POWERS AND DUTIES. (a) The commission shall:

(1) govern the Texas State Library;

(2) adopt policies and rules to aid and encourage the development of and cooperation among all types of libraries, including public, academic, special, and other types of libraries;

(3) aid those studying problems to be dealt with by legislation;

(4) prepare and make available to the public and appropriate state agencies information of public interest describing the functions of the commission;

(5) deposit money paid to the commission under this chapter subject to Subchapter F, Chapter 404;

(6) give to any person contemplating the establishment of a public library advice regarding matters such as maintaining a public library, selecting books, cataloging, and managing a library;

(7) conduct library institutes and encourage library associations;

(8) take custody of, preserve, and make available for public use state records and other historical resources that document the history and culture of Texas as a province, colony, republic, or state;

(9) prepare and make available to the public a complete list of every state symbol and place designation, including state symbols and place designations made in accordance with Chapter 391;

(10) aid and encourage, by adoption of policies and programs, the development of effective records management and preservation programs in state agencies and the local governments of the state; and

(11) provide library services to persons with disabilities in cooperation with the federal government.

(b) The commission may:

(1) purchase, as state property, any suitable book, picture, or similar item, within the limits of the annual legislative appropriation;

(2) receive a donation or gift of money, property, or services on any terms and conditions it considers proper as long as the state does not incur financial liability;

(3) accept, receive, and administer federal funds made available by grant or loan to improve the public libraries of this state;

(4) contract or agree with the governing body or head of a county, city, or town of this state to meet the terms prescribed by the United States and consistent with state law for the expenditure of federal funds for improving public libraries;

(5) participate in the establishment and operation of an affiliated nonprofit organization whose purpose is to raise funds for or provide services or other benefits to the commission; and

(6) use general revenue, grants, donations, gifts, and, if authorized by federal law, federal funds to advertise and promote commission programs and increase participation in and awareness of those programs.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 37, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 86, Sec. 6, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1108, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 873, Sec. 5, eff. Sept. 1, 1997; Amended by Acts 2001, 77th Leg., ch. 395, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 251 (S.B. 913), Sec. 3, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 1, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 4, eff. September 1, 2019.

Sec. 441.0065. ADVISORY COMMITTEES. (a) The commission may establish an advisory committee to make recommendations to the commission on programs, rules, and policies affecting the delivery of information services in the state.

(b) In establishing an advisory committee under this section, the commission shall adopt rules regarding:

(1) the purpose, role, responsibility, and goals of the committee;

(2) the size and quorum requirement of the committee;

(3) qualifications for committee membership;

(4) appointment procedures for members;

(5) terms of service for members;

(6) training requirements for members;

(7) a periodic review process to evaluate the continuing need for the committee; and

(8) a requirement that committee meetings be open to the public.

Added by Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 5, eff. September 1, 2019.

Sec. 441.008. TRANSFER OR EXCHANGE OF BOOKS OR DOCUMENTS. (a) The commission may transfer a book or document to another library that is supported by state appropriation if the commission believes that the transfer would benefit the state library. The commission may make the transfer permanent or temporary.

(b) If a duplicate book or document is no longer needed by the state library, the commission may exchange the duplicate or may dispose of the duplicate to any state or local public library.

(c) This section does not apply to any state archival record or other historical resource that the director and librarian has designated to be part of the state archives program established under Section 441.181.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 873, Sec. 6, eff. Sept. 1, 1997.

Sec. 441.0085. ADOPT-A-LIBRARY PROGRAM. (a) The commission may establish or may assist other state agencies or organizations in the establishment of an Adopt-A-Library program to encourage investment in and donations to public libraries in this state.

(b) The commission may use any cash, gift, grant, donation, or in-kind contribution that it receives from a public or private entity through the Adopt-A-Library program to assist the commission or public libraries in this state in the establishment, provision, improvement, or expansion of library services.

(c) The commission shall provide information about the Adopt-A-Library program on the commission's Internet website.

(d) The commission may adopt rules reasonably necessary to perform its duties under this section.

(e) For purposes of Subchapter I, Chapter 659:

(1) the Adopt-A-Library program is considered an eligible charitable organization entitled to participate in the state employee charitable campaign; and

(2) a state employee is entitled to authorize a deduction for contributions to the Adopt-A-Library program as a charitable contribution under Section 659.132.

Added by Acts 2011, 82nd Leg., R.S., Ch. 518 (H.B. 2139), Sec. 1, eff. September 1, 2011.

Sec. 441.009. STATE PLAN FOR LIBRARY SERVICES AND TECHNOLOGY. (a) The commission may adopt a state plan for improving library services consistent with federal goals.

(b) The state library shall prepare the plan for the commission and shall administer the plan the commission adopts.

(c) The plan must include a procedure by which a library may apply for money under the plan and a procedure for a fair hearing for a library whose application for money is refused. Money from local, state, or federal sources may be used. The money shall be administered according to local, state, and federal requirements.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:
Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 2, eff. September 1, 2009.
Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 3, eff. September 1, 2009.

Sec. 441.0091. GRANT PROGRAM FOR LOCAL LIBRARIES. (a) In addition to a grant or funding under Subchapter I, the commission may provide for grants to meet specific information needs of residents of this state and specific needs of local libraries that are not adequately addressed under Subchapter I or other law.

(b) The commission, in designing the grant program under this section:

(1) may consider federal law and federal funding priorities;

(2) may include competitive grants; and

(3) shall adopt by rule the guidelines for awarding grants.

Added by Acts 1995, 74th Leg., ch. 86, Sec. 9, eff. Sept. 1, 1995.

Sec. 441.0092. TEXAS READS PROGRAM GRANTS. (a) From money in the Texas Reads program account, the commission shall make grants to fund programs to promote reading provided by public libraries.

(b) The commission shall:

(1) determine standards that a reading promotion program must meet to be eligible for a grant under this section;

(2) provide procedures for application for a grant; and

(3) determine the recipient and amount of each grant.

Added by Acts 1999, 76th Leg., ch. 763, Sec. 2, eff. Sept. 1, 1999.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 4, eff. September 1, 2009.
Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 5, eff. September 1, 2009.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 441.010. ELECTRONICALLY SEARCHABLE CENTRAL GRANT DATABASE. (a) In this section:

(1) "Department" means the Department of Information Resources.

(2) "Grant" means a grant, contract, or other cooperative agreement under which a state agency awards financial assistance in the form of money, property, a loan, or another thing of value to a governmental or nongovernmental entity and the governmental or nongovernmental entity receiving the award is responsible for implementing a state or federal program in accordance with guidelines provided by the agency awarding the grant. The term does not include a contract to obtain a professional or consulting service subject to Chapter 2254.

(b) The commission, in cooperation with the department, shall establish an electronically searchable central database accessible through the commission's on-line access system that will allow a person to:

(1) use keyword searches to discover all available state agency grant opportunities;

(2) obtain basic information regarding each available state agency grant opportunity, including basic information about the program that the grant recipient will implement, the geographic area in which the grant recipient will implement the program, the eligibility requirements for obtaining the grant, and the grant application process; and

(3) electronically link to the portion of the granting agency's website at which the person may obtain more detailed information about each available state agency grant opportunity.

(c) The department shall provide a link on the state electronic Internet portal to the database established under Subsection (b). In this subsection, "state electronic Internet portal" has the meaning assigned by Section 2054.003.

(d) Each state agency that will award a grant shall, concurrently with any other action the agency takes to inform the public or any person about the grant opportunity, report to the commission information related to the grant that the commission requires in a form prescribed by the commission so that the commission may include information about the grant in the

electronically searchable central database established under Subsection (b).

(e) The governor shall appoint an advisory committee composed of nine representatives from the Electronic Grants Technical Assistance Workgroup to:

(1) gather input from public and other users of the database; and

(2) advise the commission regarding the development of the database and regarding the commission's exercise of its powers under Subsection (d).

(f) The advisory committee appointed under Subsection (e) shall meet in Austin. A state agency that is represented on the committee by a person who is not based in the Austin area is responsible for any travel expenses incurred by its representative.

(g) The commission shall appoint an advisory committee composed of five public members to annually evaluate the operation of the electronically searchable central database.

(h) Chapter 2110 does not apply to an advisory committee formed under this section.

Added by Acts 2003, 78th Leg., ch. 1246, Sec. 28, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 7, eff. June 17, 2011.

Sec. 441.013. REPORTS. (a) The commission shall make a biennial report to the governor that includes:

(1) a comprehensive view of the operation of the commission in discharging the duties imposed by this subchapter;

(2) a review of the library conditions in this state;

(3) any recommendations suggested by the experience of the commission; and

(4) a review of commission activities under Subtitle C, Title 6, Local Government Code, and Subchapters J and L.

(b) The report made under Subsection (a) shall be printed, and the governor shall lay the report before the legislature as the governor does with other departmental reports.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(39), eff. June 17, 2011.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 12, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 873, Sec. 7, eff. Sept. 1, 1997.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 6, eff. June 17, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(39), eff. June 17, 2011.

Sec. 441.014. AUDIT. The financial transactions of the commission are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 9, eff. Sept. 1, 1989.

Sec. 441.015. SEAL. (a) The official seal of the state library is a circle of not less than 1-1/2 nor more than two inches in diameter that bears a star of five points surrounded by two concentric circles between which is printed "Texas State Library."
(b) The seal shall be used to authenticate the official acts of the Texas State Library.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.016. BUILDING. The name of the state archives and library building is the Lorenzo de Zavala State Archives and Library Building.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.017. COST RECOVERY FOR RECORDS STORAGE SERVICES. (a) This section:
(1) applies to a record stored by the commission for a state agency; and
(2) does not apply to a record that is under the permanent control of the commission for archival purposes.

(b) The commission shall establish and keep current a cost recovery schedule for its records storage services. The schedule shall show the total cost, including indirect costs, to the commission of its records storage services.

(c) Each state agency that will use the commission's records storage services during a state fiscal biennium shall send to the commission an estimate of the amount and nature of the services that the agency will use during the biennium. The commission shall prescribe:

(1) the time that the estimate must be sent; and

(2) the information that must be included in the estimate.

(d) The commission shall base its legislative appropriations request for providing records storage services to other agencies for the biennium on the estimates received under Subsection (c). The commission's appropriations request must:

(1) show the estimated cost for each agency for records storage services; and

(2) identify the estimated amount that would need to be appropriated from the general revenue fund, account in the general revenue fund, or other fund or account to recover fully the commission's costs in providing records storage services for other agencies.

(e) The legislature may appropriate money to pay the commission's costs in providing records storage services for an agency:

(1) to the commission; or

(2) to the agency, which shall pay the commission its costs as the services are provided.

(f) In this section, "agency" means a state executive, judicial, or legislative department, institution, board, or commission, including an eleemosynary institution.

Added by Acts 1995, 74th Leg., ch. 86, Sec. 13, eff. Sept. 1, 1995.

Sec. 441.018. COMPLAINTS. (a) The commission shall maintain a system to promptly and efficiently act on complaints filed with the commission. The commission shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its

disposition.

(b) The commission shall make information available describing its procedures for complaint investigation and resolution.

(c) The commission shall periodically notify the complaint parties of the status of the complaint until final disposition.

Added by Acts 2007, 80th Leg., R.S., Ch. 251 (S.B. 913), Sec. 4, eff. September 1, 2007.

Sec. 441.019. USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

Added by Acts 2007, 80th Leg., R.S., Ch. 251 (S.B. 913), Sec. 4, eff. September 1, 2007.

Sec. 441.020. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 251 (S.B. 913), Sec. 4, eff. September 1, 2007.

SUBCHAPTER B. COURT DOCUMENTS

Sec. 441.025. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas State Library and Archives Commission.

(2) "Court document" means any instrument, document, paper, or other record filed with, otherwise presented to, or produced by a court in this state.

Added by Acts 2011, 82nd Leg., R.S., Ch. 204 (H.B. 1559), Sec. 1, eff. May 30, 2011.

Sec. 441.026. RETENTION, STORAGE, AND DESTRUCTION OF CERTAIN COURT DOCUMENTS. (a) The commission shall adopt rules for the retention, storage, and destruction of a court document filed with, otherwise presented to, or produced by a court in this state before January 1, 1951.

(b) A court in this state may not destroy a court document described by Subsection (a) except as provided by rules of the commission.

Added by Acts 2011, 82nd Leg., R.S., Ch. 204 (H.B. 1559), Sec. 1, eff. May 30, 2011.

SUBCHAPTER C. RECORDS MANAGEMENT DIVISION OF TEXAS STATE LIBRARY

Sec. 441.031. DEFINITION. In this subchapter, "state record" means a document, book, paper, photograph, sound recording, or other material, regardless of physical form or characteristic, made or received by a state department or institution according to law or in connection with the transaction of official state business. The term does not include:

(1) library or museum material made or acquired and preserved solely for reference or exhibition purposes;

(2) an extra copy of a document preserved only for convenience of reference;

(3) a stock of publications or of processed documents; or

(4) any records, correspondence, notes, memoranda, or documents, other than a final written agreement described by Section 2009.054(c), associated with a matter conducted under an alternative dispute resolution procedure in which personnel of a state department or institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 40, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 31, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1352, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER E. PUBLIC LIBRARY ENDOWMENT AND OPERATING FUNDS

Sec. 441.071. TEXAS PUBLIC LIBRARY ENDOWMENT FUND. (a) The Texas public library endowment fund is a trust fund outside the state treasury held by a bank or depository trust company and administered by the commission for the benefit of the public as provided by this section.

(b) The fund consists of donations accepted by the commission under Section 441.074.

(c) The corpus of the endowment fund may not be spent for any purpose.

(d) Not later than September 1 of each year, the commission shall remit all or part of the interest and income earned on money in the endowment fund to the comptroller for deposit in the state treasury to the credit of the Texas public library fund. The commission shall credit to the corpus of the endowment fund any portion of the interest and income not credited to the public library fund in the treasury.

Added by Acts 1999, 76th Leg., ch. 152, Sec. 1, eff. Sept. 1, 1999.

Sec. 441.072. INVESTMENT AND MANAGEMENT OF ENDOWMENT FUND. (a) The commission shall appoint investment managers for the management and investment of the Texas public library endowment fund by contracting for professional investment management services with one or more organizations that are in the business of managing

investments.

(b) In choosing and contracting for professional investment management services and in continuing the use of an investment manager, the commission shall act prudently and in the interest of the beneficiaries of the endowment fund.

(c) In making and supervising investments of the endowment fund, an investment manager and the commission shall discharge their respective duties solely in the interest of the beneficiaries of the fund:

(1) for the exclusive purposes of providing benefits for the beneficiaries of the fund and defraying reasonable expenses of administering this chapter;

(2) with the care, skill, prudence, and diligence under the prevailing circumstances that a prudent person acting in a similar capacity and familiar with matters of the type would use in the conduct of an enterprise with a similar character and aims;

(3) by diversifying the investments of the fund to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(4) in accordance with the documents and instruments governing the fund to the extent that the documents and instruments are consistent with this section.

(d) To be eligible for appointment under this section, an investment manager must be:

(1) registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.), as amended;

(2) a bank as defined by that Act that has a trust department; or

(3) an insurance company qualified to perform investment services under the laws of more than one state.

(e) In a contract made under this section, the commission shall specify any policies, requirements, or restrictions, including criteria for determining the quality of investments and for the use of standard rating services, that the commission adopts for investments of the endowment fund.

(f) A member of the commission is not liable for the acts or omissions of an investment manager appointed under Subsection (a). A member of the commission is not permitted or obligated to invest or otherwise to manage any asset of the fund subject to management by the investment manager.

(g) An investment manager appointed under Subsection (a) shall acknowledge in writing the manager's fiduciary responsibilities to the endowment fund.

(h) The commission may at any time and shall frequently monitor the investments made by each investment manager for the endowment fund. The commission may contract for professional evaluation services to fulfill this requirement.

(i) The commission shall enter into an investment custody account agreement designating a bank or a depository trust company to serve as custodian for all assets allocated to or generated under a contract for professional investment management services.

(j) Under a custody account agreement, the commission shall require the designated custodian to perform the duties and assume the responsibilities for the endowment fund that are performed and assumed, in the absence of a contract, by the custodian of the endowment fund. The custodian shall furnish to the commission, annually or more frequently if required by commission rule, a sworn statement of the amount of the endowment fund assets in the custodian's custody.

(k) For purposes of this section, the beneficiaries of the Texas public library endowment fund are the persons who use public libraries, public library facilities, and public library collections and the public libraries that benefit from the performance of the commission's powers and duties under this chapter.

Added by Acts 1999, 76th Leg., ch. 152, Sec. 1, eff. Sept. 1, 1999.

Sec. 441.073. TEXAS PUBLIC LIBRARY FUND. (a) The Texas public library fund is a special fund in the state treasury outside the general revenue fund.

(b) The public library fund consists of money credited to the fund under Section 441.071(d) and proceeds from sales under Section 441.074(d).

(c) Money in the public library fund may be appropriated only to the commission to perform the commission's powers and duties concerning public library development under this chapter and to pay the commission's expenses incurred under this subchapter.

(d) The public library fund is exempt from the application of Sections 403.095 and 404.071. Interest and income from deposit and

investment of money in the fund shall be allocated to the fund monthly.

Added by Acts 1999, 76th Leg., ch. 152, Sec. 1, eff. Sept. 1, 1999.

Sec. 441.074. DONATIONS, APPROPRIATIONS, AND SALES. (a) The commission may solicit and accept on behalf of the state donations of money, securities, and other property as it determines best further the orderly development of public library resources of the state. Money paid to the commission under this subsection shall be deposited in the Texas public library endowment fund.

(b) The commission by rule shall establish an acquisition policy for accepting donations of money, securities, and other property.

(c) The legislature may make appropriations to the commission to carry out the purposes of this chapter.

(d) The commission may purchase and resell items it determines appropriate for the promotion of public libraries in Texas. The value of commission inventory, as determined by generally accepted accounting principles, may not exceed $50,000 at the end of any fiscal year. The net profits from those sales shall be deposited in the Texas public library fund.

Added by Acts 1999, 76th Leg., ch. 152, Sec. 1, eff. Sept. 1, 1999.

Sec. 441.075. PUBLIC LIBRARY FUND GRANT PROGRAM. (a) The commission shall make grants to public libraries from the Texas public library fund for facility construction projects, acquisition of books and other collection development materials, and payment of actual and reasonable general and administrative expenses. The commission shall allocate amounts from the fund to direct and matching grant programs.

(b) The commission shall adopt rules:

(1) establishing methods for participation by local governments in a matching grant program for facility construction projects; and

(2) providing allocations for a direct grant program for acquisition of books and other collection development materials according to a formula that allocates a base grant to each

participating public library plus an amount that is proportional to the size of the population served.

(c) To participate in a grant program under this section, a public library must maintain a level of local public library funding equal to or greater than the average funding for the three years preceding participation. The commission shall adopt rules to implement this requirement.

Added by Acts 1999, 76th Leg., ch. 152, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER F. MAINTENANCE AND DISPOSITION OF CERTAIN COUNTY RECORDS

Sec. 441.091. DEFINITION. In this subchapter, "county record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a county or precinct or any county or precinct officers or employees, including the district clerk, pursuant to law, including an ordinance or order of the commissioners court of the county, or in the transaction of public business. The term does not include:

(1) extra identical copies of documents created only for convenience of reference or research by county or precinct officers or employees;

(2) notes, journals, diaries, and similar documents created by a county or precinct officer or employee for the officer's or employee's personal convenience;

(3) blank forms;

(4) stocks of publications;

(5) library and museum materials acquired solely for the purposes of reference or display;

(6) copies of documents in any media furnished to members of the public to which they are entitled under Chapter 552, or other state law; or

(7) any records, correspondence, notes, memoranda, or documents, other than a final written agreement described by Section 2009.054(c), associated with a matter conducted under an alternative dispute resolution procedure in which personnel of a state department or institution, local government, special district, or other

political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 123, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(96), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 31, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1352, Sec. 2, eff. Sept. 1, 1999.

Sec. 441.094. RECORDS SCHEDULE AND IMPLEMENTATION PLAN. (a) Repealed by Acts 1989, 71st Leg., ch. 1248, Sec. 85(3), eff. Sept. 1, 1989.

(b) A records schedule must:

(1) contain a list by record title of the county records to be scheduled; and

(2) prescribe a minimum retention period for each record that is at least as long as that prescribed by law or the county records manual or state that a retention period for the record will be assigned later.

(c) A records schedule may:

(1) contain a list of all of the county records kept by the custodian or a list of only those records to be scheduled; and

(2) contain a list of material that is excluded from the definition of county record by Section 441.091 and that is kept by the custodian, with retention periods assigned by the custodian.

(d) A custodian may amend a records schedule or implementation plan.

(e) Repealed by Acts 2019, 86th Leg., Ch. 533, (H.B. 1962), Sec. 20(a)(1), eff. September 1, 2019.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 123, Sec. 2, eff. Sept. 1, 1989. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 20(a)(1), eff. September 1, 2019.

Sec. 441.0945. DISPOSITION OF SCHEDULED RECORDS. (a) A county record may be destroyed if the record is listed on a valid records

schedule and implementation plan and either its retention period has expired or it has been microfilmed or stored electronically in accordance with applicable law.

(b) The retention period of a record as listed on the records schedule and implementation plan must be at least as long as the retention period for the record established on a records retention schedule issued by the commission.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 20(a)(2), eff. September 1, 2019.

Added by Acts 1989, 71st Leg., ch. 123, Sec. 3, eff. Sept. 1, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 6, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 20(a)(2), eff. September 1, 2019.

Sec. 441.095. DISPOSITION OF UNSCHEDULED RECORDS.

(a) Repealed by Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 20(a)(3), eff. September 1, 2019.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 20(a)(3), eff. September 1, 2019.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 20(a)(3), eff. September 1, 2019.

(d) A custodian may dispose of a county record that is not listed on a records retention schedule issued by the commission if, not later than the 10th day before the date the record is destroyed, the custodian files and records a notice with the county clerk. The notice must indicate the record to be destroyed, how it is to be destroyed, and the date of its destruction. On the day the notice is filed, the county clerk shall post a copy of it in the same manner that a notice of a meeting is posted under Chapter 551.

(e) The custodian may destroy the record at any time after the notice required by Subsection (d) has been posted for 10 days by the county clerk.

(f) A county record may be destroyed only by sale or donation for recycling purposes, shredding, burning, burial in a landfill, or pulping.

(g) A person is not civilly liable for destruction of a record

in accordance with this subchapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 123, Sec. 4, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(79), eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 7, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 20(a)(3), eff. September 1, 2019.

SUBCHAPTER G. STATE PUBLICATIONS

Sec. 441.101. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas State Library and Archives Commission.

(2) "Depository library" means the Texas State Library, the Legislative Reference Library, the Library of Congress, the Center for Research Libraries, or any other library that the commission designates as a site for retaining and allowing public access to state publications.

(3) "State agency" means a state office, officer, department, division, bureau, board, commission, legislative committee, authority, institution, substate planning bureau, university system, institution of higher education as defined by Section 61.003, Education Code, or a subdivision of one of those entities.

(4) "State publication":

(A) means information in any format, including materials in a physical format or in an electronic format, that:

(i) is produced by the authority of or at the total or partial expense of a state agency or is required to be distributed under law by the agency; and

(ii) is publicly distributed outside the agency by or for the agency; and

(B) does not include information the distribution of which is limited to:

(i) contractors with or grantees of the agency;

(ii) persons within the agency or within other government agencies; or

(iii) members of the public under a request made under the open records law, Chapter 552.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 15, eff. Sept. 1, 1995.
Amended by:
Acts 2005, 79th Leg., Ch. 1124 (H.B. 2473), Sec. 1, eff. September 1, 2005.

Sec. 441.102. DISTRIBUTION OF STATE PUBLICATIONS. (a) The commission by rule shall establish procedures for the distribution of state publications to depository libraries and for the retention of those publications.

(b) The commission may enter into a contract with a depository library under which the depository library receives all or part of the state publications that are distributed.

(c) The commission shall establish and maintain a system, named the "Texas Records and Information Locator," or "TRAIL," to allow electronic access, including access through the Internet, at the Texas State Library and other depository libraries to state publications that have been made available to the public through the Internet by or on behalf of a state agency.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 16, eff. Sept. 1, 1995.
Amended by:
Acts 2005, 79th Leg., Ch. 1124 (H.B. 2473), Sec. 2, eff. September 1, 2005.

Sec. 441.103. STATE AGENCY DUTIES. (a) A state agency shall designate one or more staff persons as agency publications liaisons and shall notify the Texas State Library of those persons' identities. A publications liaison shall maintain a record of the agency's state publications and shall furnish to the Texas State Library a list of the agency's new state publications as they become available.

(b) A state agency shall furnish copies of its state publications that exist in a physical format to the Texas State Library in the number specified by commission rules. On the creation

of or awarding of a contract for the production of a publication in a physical format, a state agency shall arrange for the required number of copies to be deposited with the Texas State Library. The commission may not require more than 75 copies of a state publication in a physical format.

(c) On the release of a state publication in an electronic format and for the purpose of further distribution of the publication, a state agency shall provide the Texas State Library:

(1) on-line access to the publication; or

(2) copies of the publication on an electronic external storage device in the number of copies prescribed by the commission but not to exceed 75.

(d) If a state agency is allowing public on-line access to a state publication, the agency shall also provide the Texas State Library with at least one free on-line connection to the agency's state publications that can be accessed on-line. The connection must:

(1) be provided in the form and manner prescribed by the director and librarian; and

(2) be compatible with applicable standards prescribed by the Department of Information Resources.

(e) Each state publication shall clearly reflect the date that the state publication is produced or initially distributed by a state agency in a conspicuous location at or near the beginning of the publication.

(f) A state agency shall include, for any of its publications available on the Internet, identifying and descriptive information about the publication as specified by commission and Department of Information Resources rules.

(g) If an electronic state publication is not printed or available from the state agency's website, the state agency shall furnish the Texas State Library copies in a manner prescribed by commission rules. The commission may not require more than 75 copies of the publication.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 17, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 762, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 1124 (H.B. 2473), Sec. 3, eff.

September 1, 2005.

Sec. 441.1035. STATE PUBLICATIONS DISTRIBUTED IN PHYSICAL FORMAT; NOTICE; ONLINE AVAILABILITY. (a) A state agency that distributes by subscription a state publication in a physical format, such as paper, tape, or disk, and without a fee or other cost to the subscriber shall make the publication accessible in an electronic format from the agency's Internet website.

(b) When distributing a state publication in a physical format, a state agency that makes the publication accessible on its Internet website must inform each subscriber to the publication that the subscriber may, instead of receiving a physical copy, access the publication at the agency's Internet website.

(c) If a subscriber prefers to access a publication at the state agency's Internet website and notifies the agency of that preference, the agency shall:

(1) remove the subscriber from the distribution list for that publication; and

(2) notify the subscriber electronically each time the publication becomes available at the agency's Internet website and provide an electronic link to the publication.

Added by Acts 2005, 79th Leg., Ch. 20 (H.B. 423), Sec. 1, eff. September 1, 2005.

Sec. 441.104. DUTIES OF TEXAS STATE LIBRARY. The Texas State Library shall:

(1) acquire, organize, retain, and provide access to state publications;

(2) collect state publications and distribute them to depository libraries;

(3) establish a program for the preservation and management of state publications and make available state publications in alternative formats to depository libraries and other libraries at a reasonable cost;

(4) periodically issue a list of all state publications that it has received in a physical format to all depository libraries and other libraries on request;

(5) catalog, classify, and index all state publications that it receives and distribute the cataloging, classification, and indexing information to depository libraries and to other libraries on request;

(6) ensure that state publications are fully represented in regional and national automated library networks;

(7) index all state publications that are available through the Internet and make the index available through the Internet; and

(8) provide other depository libraries appropriate access, at no charge, to state publications available in an electronic format.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 18, eff. Sept. 1, 1995.
Amended by:
Acts 2005, 79th Leg., Ch. 1124 (H.B. 2473), Sec. 4, eff. September 1, 2005.

Sec. 441.105. EXEMPT PUBLICATIONS. The state librarian may specifically exempt a publication or a distribution format from this subchapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 19, eff. Sept. 1, 1995.

Sec. 441.106. PAYMENT FOR PRINTING OF STATE PUBLICATIONS. If a state agency's printing is done by contract, an account for the printing may not be approved and a warrant may not be issued unless the agency first furnishes to the comptroller a receipt from the state librarian for the publication or a written waiver from the state librarian exempting the publication from this subchapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2005, 79th Leg., Ch. 1124 (H.B. 2473), Sec. 5, eff. September 1, 2005.
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.46, eff. September 1, 2007.

SUBCHAPTER H. PRINT ACCESS AIDS FOR PERSONS WITH VISUAL DISABILITIES

Sec. 441.111. DEFINITIONS. In this subchapter:

(1) "Print access aid" means an item, piece of equipment, or product system that improves or facilitates access to standard print by enlarging or magnifying print, or by electronically converting print to spoken, recorded, or tactile format.

(2) "Public library" has the meaning assigned by Section 441.122.

(3) "Standard print" means text that appears on paper, microfilm, microfiche, or other microformat, or in machine-readable form, in a type size smaller than 14 points.

(4) "State library" means the Texas State Library.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 11.01(a), eff. Sept. 1, 1997.

Sec. 441.112. PRINT ACCESS AIDS IN PUBLIC LIBRARIES. (a) To make its services and collections more accessible, a public library may make a print access aid available for use by a person who cannot clearly read printed material because of a visual disability.

(b) If funds from a gift or grant are available for that purpose, the state library may acquire and lend at no cost print access aids to a public library.

(c) For a public library to be eligible to receive a print access aid under Subsection (b), a community need for the aid must exist.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 11.01(a), eff. Sept. 1, 1997.

Sec. 441.113. TRAINING AND INFORMATION. The state library may provide to a library requesting or receiving a print access aid under this subchapter technical assistance, including assistance in:

(1) explaining to library employees the function of a print access aid;

(2) assessing local needs for use of a print access aid;

(3) providing to library employees training and information in the use of a print access aid;

(4) preparing and distributing public information regarding

the availability and location of a print access aid; and

(5) providing assistance in developing policies and guidelines for use of an aid.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 11.01(a), eff. Sept. 1, 1997.

Sec. 441.114. MAINTENANCE OF EQUIPMENT. The state library may pay the maintenance or repair cost of a print access aid supplied to a library under this subchapter out of funds available to the library from gifts or grants for that purpose. If the state library cannot pay the maintenance or repair cost of an aid, the library receiving the aid may pay the maintenance or repair cost or return the aid to the state library.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 11.01(a), eff. Sept. 1, 1997.

Sec. 441.115. RELOCATION. The state library shall review each library that receives a print access aid under this subchapter once every two years to determine whether to relocate an aid provided to that library. The state library shall make a relocation decision based on population shifts, the use of the equipment, and community need.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 11.01(a), eff. Sept. 1, 1997.

Sec. 441.116. FUNDING. (a) The requirements of this subchapter for the provision and placement of print access aids by the state library are contingent on the receipt of gifts or grants for the state library to purchase, maintain, and repair the print access aids. If the state library's funds are not sufficient to place and maintain a print access aid in a library that may need an aid, the state library shall make a placement decision for any available aid based on demonstrated community need and local support provided by a library.

(b) Money from the general revenue fund may not be appropriated

to implement this subchapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 11.01(a), eff. Sept. 1, 1997.

SUBCHAPTER I. LIBRARY SYSTEMS

Sec. 441.121. SHORT TITLE. This subchapter may be cited as the Library Systems Act.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.122. DEFINITIONS. In this subchapter:

(1) "Accreditation of libraries" means the evaluation and rating of libraries according to commission accreditation standards.

(2) "Accreditation standards" means the criteria established by the commission that a library must meet to be accredited and eligible for membership in a major resource system.

(3) Repealed by Acts 2009, 81st Leg., R.S., Ch. 983, Sec. 26(1), eff. September 1, 2009.

(4) "Commission" means the Texas State Library and Archives Commission.

(5) Repealed by Acts 2009, 81st Leg., R.S., Ch. 983, Sec. 26(1), eff. September 1, 2009.

(6) "Governing body" means the body having power to authorize a library to join, participate in, or withdraw from a library system.

(7) "Interlibrary contract" means a written agreement between two or more libraries to cooperate, consolidate, or receive one or more services.

(8) "Library board" means the body that has the authority to give administrative direction or advisory counsel to a library or library system.

(9) "Library system" means two or more public libraries cooperating in a system approved by the commission to improve library service and to make their resources accessible to all residents of the area the libraries serve.

(10) "Major resource center" means a large public library that is designated by the commission as the central library of a major resource system for cooperative service with other libraries in

the system.

(11) "Major resource system" means a network of libraries attached to a major resource center.

(12) "Public library" means a library that is operated by a single public agency or board, that is freely open to all persons under identical conditions, and that receives its financial support in whole or part from public funds.

(13) "Regional library system" means a network of libraries established under this subchapter.

(14) "State library system" means a network of library systems, interrelated by contract, for the purpose of organizing library resources and services for research, information, and recreation to improve statewide library service and to serve collectively the entire population of the state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 155, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 86, Sec. 20, eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 6, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 26(1), eff. September 1, 2009.

Sec. 441.123. ESTABLISHMENT OF STATE LIBRARY SYSTEM. The commission shall establish and develop a state library system.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.124. ADVISORY BOARD. (a) The commission shall appoint an advisory board composed of five librarians qualified by training, experience, and interest to advise the commission on the policy to be followed in applying this subchapter. Chapter 2110 does not apply to the composition of the advisory board.

(b) The term of office of a board member is three years.

(c) The board shall meet at least once a year. The commission may call other meetings during the year.

(d) A member of the board serves without compensation but is entitled to reimbursement for actual and necessary expenses incurred

in the performance of official duties, subject to any applicable limitation on reimbursement provided by the General Appropriations Act.

(e) A vacancy shall be filled for the remainder of the unexpired term in the same manner as an original appointment.

(f) A member may not serve more than two consecutive terms.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 7, eff. September 1, 2009.

Sec. 441.125. PLAN OF SERVICE. The director and librarian shall submit an annual plan for the development of the state library system for review by the advisory board and approval by the commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.126. AUTHORITY TO ESTABLISH SYSTEMS. The commission may establish and develop major resource systems or regional library systems in conformity with the plan for a state library system as provided by this subchapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 155, Sec. 2, eff. Sept. 1, 1993.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 8, eff. September 1, 2009.

Sec. 441.127. MEMBERSHIP IN SYSTEM. (a) To be eligible for membership in a major resource system or regional library system a library must be accredited by the commission as having met the accreditation standards established by the commission.

(b) To meet population change, economic change, and changing service strengths of member libraries, a major resource system may be reorganized, merged with another major resource system, or partially transferred to another major resource system by the commission with

the approval of the majority of the appropriate governing bodies of the libraries comprising the system. A regional library system may be reorganized, divided, dissolved, or merged into another regional library system in a manner provided by bylaws of the corporation operating the system or by contract between the member libraries and the managing authority of the system.

(c) The governing body of a public library that proposes to become a major resource center shall submit to the director and librarian an annual plan of service for the major resource system made in consultation with the advisory council.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 155, Sec. 3, eff. Sept. 1, 1993.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 9, eff. September 1, 2009.

Sec. 441.1271. EXTENDING MEMBERSHIP OF SYSTEMS TO CERTAIN NONPUBLIC LIBRARIES. (a) A major resource system may extend its membership to include libraries that are not public libraries and that are operated by one of the following:

(1) a public school district;

(2) an institution of higher education;

(3) a unit of local, state, or federal government;

(4) accredited nonpublic elementary or secondary schools; or

(5) special or research libraries.

(b) The decision to extend major resource system membership under Subsection (a) must be:

(1) made in accordance with the bylaws of the library system; and

(2) approved by the commission.

(c) A library that is a type of library to which a major resource system has extended its membership under this section:

(1) must be accredited by the commission to be eligible to join the system; and

(2) may join the system by resolution or agreement of its governing body or designee.

(d) The commission may terminate the membership of a library

that is not a public library and that joined a major resource system under this section if the library loses its accreditation by ceasing to meet the minimum standards established by the commission.

(e) A library that joins a major resource system under this section must agree to loan materials without charge to users of other libraries in the system.

(f) A major resource system that has extended its membership to some but not all of the types of libraries described by Subsection (a) may extend its membership to one or more of the remaining types of libraries described by Subsection (a). A decision under this subsection must be made and approved in the manner prescribed for a decision under Subsection (b).

Added by Acts 1995, 74th Leg., ch. 86, Sec. 21, eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 10, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 11, eff. September 1, 2009.

Sec. 441.128. OPERATION AND MANAGEMENT. (a) Governing bodies within a major resource system area or regional library system area may join in the development, operation, and maintenance of the system and appropriate and allocate funds for its support.

(b) Governing bodies of political subdivisions of the state may negotiate separately or collectively a contract with the governing bodies of member libraries of a major resource system or regional library system for all library services or for those services defined in the contract.

(c) On petition of 10 percent of the persons qualified to vote in the most recent general election of a county or municipality within a major resource system service area or a regional library system service area, the governing body of that political subdivision shall call an election to vote on the question of whether or not the political subdivision shall establish contractual relationships with the system.

(d) The governing body of a major resource center, the governing body or managing authority of a regional library system, and the commission may enter into agreements with the governing

bodies of other libraries, including other public libraries, school libraries and media centers, academic libraries, technical information and research libraries, or systems of those libraries, to provide or receive specialized resources and services. The commission shall coordinate and encourage the dissemination of specialized resources and services and may adopt rules for the contracts and agreements authorized by this subsection.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.129. WITHDRAWAL FROM SYSTEM. (a) The governing body of a political subdivision of the state may by resolution or ordinance withdraw from a major resource system. The governing body must give notice of withdrawal not later than the 90th day before the end of the state fiscal year.

(b) The provision for termination of all or part of a major resource system does not prohibit revision of the system by the commission, with the approval of the majority of the appropriate governing bodies, by reorganization, by transfer of part of the system, or by merger with other systems.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.130. ADVISORY COUNCIL. (a) Each major resource system has an advisory council composed of not more than 12 members representing the member libraries of the system.

(b) The commission shall adopt rules to provide guidance to major resource systems on the administrative operation of advisory councils. Major resource systems will use this guidance to develop bylaw provisions for their advisory councils.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 983, Sec. 26(2), eff. September 1, 2009.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 983, Sec. 26(2), eff. September 1, 2009.

(e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 983, Sec. 26(2), eff. September 1, 2009.

(f) Repealed by Acts 2009, 81st Leg., R.S., Ch. 983, Sec. 26(2), eff. September 1, 2009.

(g) The council shall serve as a liaison agency between the

member libraries and their governing bodies and library boards to:

(1) advise in the formulation of the annual plan for service to be offered by the system;

(2) recommend policies appropriate to services needed;

(3) evaluate services received;

(4) counsel with administrative personnel; and

(5) recommend functions and limitations of contracts between cooperating agencies.

(h) The functions of the advisory council do not diminish the powers of a local library board.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 12, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 26(2), eff. September 1, 2009.

Sec. 441.131. REGIONAL LIBRARY SYSTEM. (a) The governing bodies of two-thirds of the member libraries of a major resource system may elect, for the purpose of administering the receipt and dispersal of services under this subchapter within their area, to form a regional library system that includes all libraries that are members of the major resource system.

(b) Governing bodies of libraries within a regional library system may establish a nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) to administer the system or may contract with a private business to administer the system. If the governing bodies form a nonprofit corporation, they may select a board of directors and adopt bylaws for the corporation. Bylaws adopted or a contract executed under this section may permit other libraries operated by the following entities to become members of the regional library system:

(1) a public school district;

(2) an institution of higher education;

(3) a unit of local, state, or federal government;

(4) an accredited nonpublic elementary or secondary school; or

(5) a special or research library.

(b-1) Bylaws adopted under Subsection (b) may provide for reorganization, merger, division, and dissolution.

(b-2) A library that joins a regional system under this section must agree to loan materials without charge to users of other libraries in the system.

(c) To ensure the sound management and viability of regional library systems, the commission shall include in its rules provisions stipulating a cash reserve requirement for regional library systems. To enable the accumulation of sufficient reserves for the sole purpose of cash flow management, regional library systems may retain up to five percent of their annual system operation grant general revenue funds from year to year until the commission's reserve requirement is satisfied. These funds must be held in a federally insured account and the commission may provide for periodic reporting of the funds and their inclusion in the annual audit. Interest earned on these funds shall be retained in this account and shall be subject to the same terms and reporting as the corpus. These funds remain the property of the state, and if the commission ceases to contract with a regional library system, such funds must be fully and promptly returned as provided by this section.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 155, Sec. 4, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 213, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 13, eff. September 1, 2009.

Sec. 441.132. MAJOR RESOURCE CENTERS. (a) The commission may designate major resource centers from existing public libraries according to criteria approved by the commission and agreed to by the governing body of the library involved. The governing body of a library designated as a major resource center may accept the designation by resolution or ordinance stating the type of service to be given and the area to be served.

(b) The commission may revoke the designation of a major resource center that ceases to meet the criteria for a major resource center or that fails to comply with obligations stated in the

resolution or ordinance agreements. The commission shall provide a fair hearing on request of the major resource center.

(c) Funds allocated by governing bodies contracting with the major resource center and funds contributed from state grants for the purposes of this subchapter shall be deposited with the governing body operating the major resource center following procedures agreed to by the contributing agency.

(d) The powers of the governing board of the major resource center do not diminish the powers of local library boards.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.135. GRANTS. (a) Using state, federal, or other funds, the commission shall establish a program of grants within the limitations of funds appropriated by the legislature. The commission shall adopt by rule the guidelines for awarding grants.

(b) The program of grants shall include one or more of the following:

(1) system operation grants, to:

(A) provide basic system support services to member libraries;

(B) provide coordination and enable cooperation with the commission and with other libraries in a region; and

(C) meet commission and federal goals;

(2) incentive grants, to encourage public libraries to join together into larger units of service to meet commission and federal goals;

(3) establishment grants, to help libraries establish consortia or cooperatives that will enable libraries to better serve their communities;

(4) equalization grants, to help public libraries in communities with relatively limited taxable resources to meet commission and federal goals and qualify for library system membership;

(5) public information technology grants, to help public libraries make state, local, and federal government information that is accessible through the Internet available to the public through computers;

(6) competitive grants, to promote innovation by public

libraries and by libraries described by Section 441.1271(a) and to encourage major resource systems or regional library systems and libraries to meet commission and federal goals; and

(7) grants to aid local libraries, to provide assistance to public libraries, and to help those libraries meet commission and federal goals.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 155, Sec. 5, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 988, Sec. 1, 2, eff. Aug. 28, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 251 (S.B. 913), Sec. 5, eff. September 1, 2007.

Sec. 441.136. RULES. (a) The director and librarian, with the advice of the advisory board, shall propose rules necessary to the administration of the program of state grants, including qualifications for major resource system membership. The rules shall be proposed and adopted according to Chapter 2001.

(b) Repealed by Acts 2009, 81st Leg., R.S., Ch. 983, Sec. 26(5), eff. September 1, 2009.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 983, Sec. 26(5), eff. September 1, 2009.

(d) The commission shall include requirements in its rules to ensure that the constituent member libraries are adequately represented in the conduct of system business relating to activities involved in the development of a plan of service and adequately represented on each major resource system advisory council. Rules adopted as required by this subsection do not apply to the governing board or board of directors of a regional library system governed by applicable requirements of the Texas Business Corporation Act or the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes).

(e) The commission shall include in its rules provisions necessary to ensure compliance with the standard financial management conditions developed under Chapter 783 with regard to the purchasing of library materials and equipment.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 78, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 14, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 26(5), eff. September 1, 2009.

Sec. 441.137. ADMINISTRATION. The director and librarian shall administer the program of state grants and shall make public the rules adopted by the commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.138. FUNDING. (a) The commission may use funds appropriated by the legislature for personnel and other administrative expenses necessary to carry out the provisions of this subchapter.

(b) Libraries and library systems may use state grants for materials, personnel, equipment, administrative expenses, and financing programs that enrich the services and materials offered a community by its public library. State grants may not be used for site acquisition, construction, acquisition of buildings, or payment of past debts.

(c) State aid to a free tax-supported public library is a supplement to and not a replacement of local support.

(d) The commission by rule shall adopt a formula for distributing system operation grants among the major resource systems and regional library systems. The formula must include funding for basic system support services.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 251 (S.B. 913), Sec. 6, eff. September 1, 2007.

Sec. 441.1381. COMPETITIVE GRANTS; SYSTEM OPERATION GRANTS. (a) The commission shall design and implement a competitive grant program described by Section 441.135(b)(6) and shall require a recipient of a competitive grant to report to the commission

information relating to best practices and performance outcomes.

(b) The commission shall continue to provide system operation grants to major resource systems and regional library systems. The commission may not award system operation grants through a competitive process.

Added by Acts 2007, 80th Leg., R.S., Ch. 251 (S.B. 913), Sec. 7, eff. September 1, 2007.

Sec. 441.1382. ADDITIONAL FUNDING. (a) The commission may authorize a major resource system or regional library system to receive money in addition to the system operation grant, including money from:

(1) gifts or grants from the federal government, local or regional governments, private sources, or other sources;

(2) contracts for services;

(3) cost-sharing arrangements; or

(4) other fees.

(b) The commission may authorize a major resource system or regional library system to use money received under Subsection (a) to initiate, expand, or enhance activities approved by the commission that meet commission and federal goals.

(c) The commission may authorize a major resource system or regional library system to retain money received under Subsection (a) remaining at the end of a fiscal year for activities approved by the commission that meet commission and federal goals.

(d) The commission by rule shall require that money received under Subsection (a) must be held in a federally insured account. Interest earned on money in the account shall be retained in the account and is subject to the same terms and reporting requirements as the corpus.

(e) The commission by rule may require periodic reporting regarding money received under Subsection (a) and include this information in the annual audit.

(f) Money generated through the use of state or federal funds remains the property of the state. If the commission ceases to contract with a major resource system or regional library system, all money received under this section or described by this subsection must be promptly returned to the commission for use in regional

library development programs.

Added by Acts 2007, 80th Leg., R.S., Ch. 251 (S.B. 913), Sec. 7, eff. September 1, 2007.

Sec. 441.1383. GRANTS TO AID LOCAL LIBRARIES. The commission shall design and implement a program of grants to aid local libraries as described by Section 441.135(b)(7) and shall require a recipient of a grant under that program to report to the commission information relating to best practices and performance outcomes.

Added by Acts 2007, 80th Leg., R.S., Ch. 251 (S.B. 913), Sec. 7, eff. September 1, 2007.

SUBCHAPTER J. PRESERVATION AND MANAGEMENT OF LOCAL GOVERNMENT RECORDS

Sec. 441.151. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas State Library and Archives Commission.

(2) "Custodian" means the appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.

(3) "Depository" means a regional historical resource depository established under Section 441.153.

(4) "Director and librarian" means the executive and administrative officer of the Texas State Library and Archives Commission.

(5) "Essential record" means any local government record necessary to the resumption or continuation of government operations in an emergency or disaster, to the re-creation of the legal and financial status of the government, or to the protection and fulfillment of obligations to the people of the state.

(6) "Historical resource" means a book, publication, newspaper, manuscript, paper, document, memorandum, record, map, artwork, photograph, microfilm, sound recording, or other material of historical interest or value, including a local government record of permanent value transferred to the custody of the commission under Subtitle C, Title 6, Local Government Code.

(7) "Local government" means a county, including all

district and precinct offices of a county, municipality, public school district, appraisal district, or any other special-purpose district or authority.

(8) "Local government record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. The term does not include:

(A) extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government;

(B) notes, journals, diaries, and similar documents created by an officer or employee of the local government for the officer's or employee's personal convenience;

(C) blank forms;

(D) stocks of publications;

(E) library and museum materials acquired solely for the purposes of reference or display; or

(F) copies of documents in any media furnished to members of the public to which they are entitled under Chapter 552, or other state law.

(9) "Permanent record" or "record of permanent value" means any local government record whose retention period on a records retention schedule issued by the commission is given as permanent.

(10) "Records management" means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

(11) "Records management officer" means the person identified under Section 203.001 or designated under Section 203.025,

Local Government Code, as the records management officer.

(12) "Research center" means a regional research center established under Section 441.154.

(13) "Retention period" means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(96), eff. Sept. 1, 1995.

Sec. 441.152. DUTIES AND RESPONSIBILITIES OF THE DIRECTOR AND LIBRARIAN. The director and librarian shall:

(1) carry out the duties and responsibilities of the commission relating to the management and preservation of local government records imposed by this subchapter and Subtitle C, Title 6, Local Government Code;

(2) administer the regional historical depository system and regional research centers the establishment of which is provided for by this subchapter and provide additional assistance through publications and other means to persons wishing to use local government records for historical and other research purposes;

(3) provide assistance, information, and training to records management officers and custodians of local government records in fulfilling their responsibilities under Subtitle C, Title 6, Local Government Code;

(4) work with other state agencies in seeking methods to assist and encourage local governments and the custodians of local government records in the establishment and operation of efficient and economical records management programs, in reducing paperwork required of local governments by the state, and in preserving records of historical value;

(5) establish and administer a clearinghouse for information relating to all aspects of the management and preservation of local government records; and

(6) assist local governments in seeking grants from federal, state, and private foundations, agencies, or organizations for records management and preservation activities.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.

Sec. 441.153. REGIONAL HISTORICAL RESOURCE DEPOSITORIES. (a) To provide for an orderly, uniform statewide system for the professional retention and preservation of historical resources in the region of their origin or interest, the commission may enter into an agreement with a public or private library or archives to serve as a regional historical resource depository.

(b) The commission shall adopt rules that:

(1) establish standards that an institution must meet in order to qualify for designation as a depository;

(2) prescribe procedures for depositing, accessioning, cataloging, storing, transferring, preserving, and providing reference services for historical resources placed in a depository; and

(3) establish other policies as the commission considers necessary to ensure the effective administration of the system of depositories.

(c) An agreement under Subsection (a) may not include any provision that limits the authority of the commission to adopt or amend rules under Subsection (b).

(d) The commission shall determine the region to be served by a depository. An agreement may not limit the authority of the commission to change the boundaries of a region at its discretion.

(e) The commission may place a staff member at a depository to care for historical resources deposited there by the commission and to perform other duties imposed on the commission and the director and librarian by this subchapter and Subtitle C, Title 6, Local Government Code, but an agreement may not limit the power of the commission to transfer a staff member to a duty station at times as it considers advisable.

(f) Except as otherwise provided by Subsection (g), title to historical resources placed in a depository by the commission remains with the commission, and the historical resources may not be intermingled with other holdings of the institution that serves as a depository.

(g) A depository may apply to the commission to transfer to the depository title to local historical resources placed in the depository by the commission. The commission shall approve the

application only if the transfer of title is in the state's best interest. The commission, in consultation with depositories, shall adopt rules providing an application procedure and standards for evaluating applications to transfer title to local historical resources to depositories. This subsection does not authorize the commission to transfer title to state historical resources.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 8, eff. September 1, 2019.

Sec. 441.154. REGIONAL RESEARCH CENTERS. (a) To provide additional methods for the preservation of the historical resources of the state in the region of their origin or interest and to provide additional methods of carrying out the other responsibilities placed on the commission by this subchapter and Subtitle C, Title 6, Local Government Code, the commission may establish and operate regional research centers in accordance with this section.

(b) The commission may accept on behalf of the state land and buildings that meet criteria established by the commission as suitable sites or buildings for a regional research center.

(c) The commission may solicit, accept, or collect and may administer for any purpose related to the construction, purchase, remodeling, operation, equipping, staffing, and maintenance of a regional research center or for the operation of any other program of the commission relating to the management and preservation of local government records:

(1) federal, state, local government, or private funds made available by grant; or

(2) gifts of money or real or personal property from donors.

(d) If acceptable to the commission, a donor may specify that donated money or property be used for specific purchases or projects related to the purposes described by Subsection (c).

(e) The commission may keep outside the state treasury in a separate bank depository that the commission designates any money collected under Subsection (c). The money is not subject to legislative appropriation and may be used only for the purposes

described by Subsection (c).

(f) If real or personal property is donated to and accepted by the commission specifically for the purpose of sale or lease to provide funds for any of the purposes described by Subsection (c), the commission may proceed with the sale or lease. In converting donated property to money, the commission may execute bills of sale, leases, or deeds in consideration of the payment to the commission of the reasonable market value of the property as determined by a licensed or professional appraiser. The instruments of conveyance must be authorized by written resolution of the commission and must be signed by the chairman and attested to by the secretary.

(g) Subject to the terms of the donation and unless provided otherwise by the donor, the commission in action for the state with respect to donated property has the powers of a trustee under Subtitle B, Title 9, Property Code (Texas Trust Code), with the state as the beneficiary and owner of the remainder of the donated property.

(h) The commission may accept gifts or loans of furniture, equipment, artwork, museum pieces, and other historical resources for placement in a specified regional research center under conditions to which the commission and the donor agree.

(i) For the purposes described by Subsection (c), the commission may enter into agreements the commission considers advisable with grantors and donors. The agreements may not create a financial obligation on the part of the state.

(j) The commission may provide out of regular appropriations for the operation, equipping, staffing, and maintenance of a regional research center and may enter into any cooperative agreements it considers advisable with any state agency, county, municipality, or other local government for the purposes described by Subsection (c) in, or through services provided by, a regional research center.

(k) A regional research center established under this section is owned by the state and is under the direct control and supervision of the commission.

(l) The commission shall adopt rules that prescribe procedures for depositing, accessioning, cataloging, storing, transferring, preserving, and providing reference services for historical resources placed in a research center and shall also establish other policies it considers necessary to ensure the effective administration of a research center.

(m) A regional research center is dedicated to the objectives described by Subsection (a) and may not be used for other purposes, but the commission may establish rules governing the use of meeting rooms in a research center for educational purposes.

(n) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(40), eff. June 17, 2011.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(40), eff. June 17, 2011.

Sec. 441.155. PLACEMENT AND REMOVAL OF RESOURCES. (a) The commission may place any historical resources in its custody in a depository or research center.

(b) Subject only to an agreement under Section 441.154(i), the commission may remove historical resources in its custody from one depository or research center to another or to the state library in Austin if the commission determines that the removal would ensure the safety, preservation, or availability of the resources.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.

Sec. 441.156. CONTRACTING AUTHORITY. (a) The commission may enter into contracts or agreements that it considers necessary or advisable to foster and assist in the development of local government records management programs and the preservation of local government records of permanent value and to carry out its duties and responsibilities under this subchapter and Subtitle C, Title 6, Local Government Code.

(b) No contract or agreement made by the commission may bind the state for the payment of any funds that have not been authorized by an appropriation of the legislature or that are not available in accounts established under Section 441.154(e).

(c) The commission may sell advertising in publications developed pursuant to its duties under this subchapter and Subtitle C, Title 6, Local Government Code, and the commission may spend proceeds from the sale only to carry out those duties. The revenue from the sale shall be deposited in the state treasury to the credit

of a special fund and reappropriated to the commission.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.

Sec. 441.157. GRANT-IN-AID PROGRAM. (a) A program of state grants within the limitations of funds appropriated by the legislature is established for the purpose of aiding local governments in the establishment of records management programs or for the purposes of preserving historically valuable local government records.

(b) The commission shall adopt rules necessary to the administration of the grant program.

(c) The commission may use appropriated funds for personnel and other administrative expenses necessary to carry out the grant program.

(d) The commission shall report annually to the governor and the legislature all grants made under the program.

(e) If the United States Congress enacts legislation to fund a grant-in-aid program for the management or preservation of local government records, and if the legislation provides for the distribution of the funds by a state agency, the commission shall accept and administer the funds unless the federal legislation provides otherwise.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.

Sec. 441.158. LOCAL GOVERNMENT RECORDS RETENTION SCHEDULES. (a) The director and librarian, under the direction of the commission, shall prepare and distribute free of charge to records management officers of affected local governments the records retention schedules for each type of local government, including a schedule for records common to all types of local government. The commission shall adopt the schedules by rule.

(b) Each records retention schedule must:

(1) list the various types of records of the applicable local government;

(2) state the retention period prescribed by a federal or state law, rule of court, or regulation for records for which a period is prescribed; and

(3) prescribe retention periods for all other records, which periods have the same effect as if prescribed by law after the records retention schedule is adopted as a rule of the commission.

(c) In preparing the records retention schedules, the director and librarian shall consult with custodians and other local government officials whose records are affected by the schedules and with appropriate state agencies.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 983, Sec. 26(7), eff. September 1, 2009.

(e) After the adoption of a records retention schedule, a retention period for a record prescribed in a new or amended federal or state law, rule of court, or regulation that differs from that in a records retention schedule prevails over that in the schedule.

(f) Expired.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.
Amended by Acts 1995, 74th Leg., ch. 86, Sec. 22, eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 26(7), eff. September 1, 2009.

Sec. 441.159. PRIOR RETENTION PERIODS IN COUNTY RECORDS MANUAL. Retention periods for county records contained in the county records manual or any amendments to the manual approved before September 1, 1989, as provided under prior law are validated and have the same effect as retention periods in a records retention schedule adopted under Section 441.158. Any amendments to retention periods in the manual after September 1, 1989, must be in accordance with Section 441.160.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.

Sec. 441.160. REVISIONS TO RECORDS RETENTION SCHEDULES. The records retention schedules may be revised and the revisions take effect according to their terms when they are approved and adopted in the same manner as provided by Section 441.158.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 15, eff. September 1, 2009.

Sec. 441.166. STATE AGENCY RULES. A state agency other than the commission, the Texas Supreme Court, or the Texas Court of Criminal Appeals may not require a local government to retain a record for any specific period of time unless the requirements are imposed by federal law or regulation, state law, or rules adopted by the agency under Chapter 2001.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), eff. Sept. 1, 1995.

Sec. 441.167. ASSISTANCE AND INFORMATION. The director and librarian may designate employees of the commission to provide assistance and information to local governments on records management issues under Subtitle C, Title 6, Local Government Code, or rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 9, eff. September 1, 2019.

Sec. 441.168. MICROFILMING AND STORING LOCAL GOVERNMENT RECORDS. (a) On request of a local government, the director and librarian may provide for the microfilming or storage of the local government records of that local government. Local government records are open to the director and librarian for that purpose.

(b) The commission shall establish fees for the microfilming and storage of local government records in amounts sufficient to cover the costs of administering and expanding the microfilming and storage services of the records management division in the state library for the purpose of implementing Subsection (a). The fees received under this section shall be deposited in the state treasury in an account to be used only for the costs of administering and expanding microfilming and storage services.

(c) The director and librarian may allow the state records center to provide for the economical and efficient storage, accessibility, protection, and final disposition of inactive and vital local government records under this section.

Added by Acts 1991, 72nd Leg., ch. 738, Sec. 1, eff. Aug. 26, 1991.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1145 (H.B. 1844), Sec. 1, eff. June 17, 2011.

Sec. 441.169. DUTIES OF LOCAL GOVERNMENTS. Each local government shall:

(1) submit to the director and librarian the name of the local government's records management officer identified under Section 203.001, Local Government Code, or designated under Section 203.025, Local Government Code, and the name of the new officer in the event of a change;

(2) file a plan or an ordinance or order establishing a records management program and any amendments to the plan or ordinance or order with the director and librarian as required by Sections 203.005 and 203.026, Local Government Code;

(3) notify the commission at least 10 days before destroying a local government record that does not appear on a records retention schedule issued by the commission; and

(4) file with the director and librarian a written certification as provided by Section 203.041, Local Government Code, that the local government has prepared a records control schedule that:

(A) establishes a retention period for each local government record as required by Subchapter C, Chapter 203, Local Government Code; and

(B) complies with a local government records retention schedule distributed by the director and librarian under Section 441.158 and any other state and federal requirements.

Added by Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 10, eff. September 1, 2019.

SUBCHAPTER L. PRESERVATION AND MANAGEMENT OF STATE RECORDS AND OTHER

HISTORICAL RESOURCES

Sec. 441.180. DEFINITIONS. In this subchapter:

(1) "Agency head" means the appointed or elected official who serves by the state constitution, state statute, or action of the governing body of a state agency as the chief executive and administrative officer of a state agency.

(2) "Archival state record" means a state record of enduring value that will be preserved on a continuing basis by the Texas State Library and Archives Commission or another state agency until the state archivist indicates that based on a reappraisal of the record it no longer merits further retention.

(3) "Commission" means the Texas State Library and Archives Commission.

(4) "Confidential state record" means any state record to which public access is or may be restricted or denied under Chapter 552 or other state or federal law.

(5) "Director and librarian" means the chief executive and administrative officer of the Texas State Library and Archives Commission.

(6) "Historical resources" means any manuscript, map, photograph, artistic depiction, printed material, flag, or other recorded information, or copies of that information, in the possession of this state, an individual, a private institution, another state, or another nation relating to the history and culture of Texas as a province, colony, republic, or state.

(6-a) "Legislative record" means any record created or received by the office of a member of the legislature or the lieutenant governor during the official's term of office.

(7) "Records management" means the application of management techniques to the creation, use, maintenance, retention, preservation, and destruction of state records for the purposes of improving the efficiency of recordkeeping, ensuring access to public information under Chapter 552, and reducing costs. The term includes:

(A) the development of records retention schedules;

(B) the management of filing and information retrieval systems in any media;

(C) the adequate protection of state records that are vital, archival, or confidential according to accepted archival and records management practices;

(D) the economical and space-effective storage of inactive records;

(E) control over the creation and distribution of forms, reports, and correspondence; and

(F) maintenance of public information in a manner to facilitate access by the public under Chapter 552.

(8) "Records management officer" means the person who administers the records management program established in each state agency under Section 441.183.

(9) "State agency" means:

(A) any department, commission, board, office, or other agency in the executive, legislative, or judicial branch of state government created by the constitution or a statute of this state and includes an eleemosynary institution but does not include the office of a member of the legislature or the lieutenant governor;

(B) any university system and its components and any institution of higher education as defined by Section 61.003, Education Code, except a public junior college, not governed by a university system board;

(C) the Texas Municipal Retirement System and the Texas County and District Retirement System; and

(D) any public nonprofit corporation created by the legislature whose responsibilities and authority are not limited to a geographical area less than that of the state.

(10) "State archivist" means the person designated by the director and librarian to administer the state archives program under Section 441.181.

(11) "State record" means any written, photographic, machine-readable, or other recorded information created or received by or on behalf of a state agency or an elected state official that documents activities in the conduct of state business or use of public resources. The term includes any recorded information created or received by a Texas government official in the conduct of official business, including officials from periods in which Texas was a province, colony, republic, or state. The term does not include:

(A) library or museum material made or acquired and maintained solely for reference or exhibition purposes;

(B) an extra copy of recorded information maintained only for reference;

(C) a stock of publications or blank forms; or

(D) a legislative record.

(12) "State records administrator" means the person designated by the director and librarian to administer the state records management program under Section 441.182.

(13) "Vital state record" means any state record necessary to:

(A) the resumption or continuation of state agency operations in an emergency or disaster;

(B) the re-creation of the legal and financial status of the agency; or

(C) the protection and fulfillment of obligations to the people of the state.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 16, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 11, eff. September 1, 2019.

Sec. 441.181. STATE ARCHIVES PROGRAM. (a) The commission shall take legal custody of and preserve archival state records and shall endeavor to collect and preserve other historical resources determined by the director and librarian to possess sufficient value to warrant continued preservation in the state archives.

(b) The director and librarian shall appoint a state archivist to administer the state archives program.

(c) Under the direction of the director and librarian, the state archivist shall:

(1) identify and designate archival state records and arrange for their transfer to the custody of the commission in accordance with Section 441.186;

(2) according to accepted archival practices, arrange, describe, and preserve archival state records and historical resources that come into the possession of the commission through gift, purchase, or other means that the director and librarian determines shall be included in the state archives program;

(3) prepare inventories, indexes, catalogs, or other research aids to state archival records and other historical

resources held by the program;

(4) encourage public use of state archival records and other historical resources held by the program and provide public access to them in accordance with rules adopted by the commission under Section 441.193;

(5) cooperate with and, when practicable, provide training and consultative assistance to state agencies, libraries, organizations, and individuals on projects designed to preserve original source materials relating to Texas history, government, and culture;

(6) advise the director and librarian and the commission on all matters concerning the acquisition and preservation of archival state records and other historical resources; and

(7) perform other duties as this subchapter or the director and librarian may require.

(d) Under the direction of the director and librarian, the state archivist shall also assist in carrying out the duties of the commission and the director and librarian relating to the preservation of local government records of permanent value under Subtitle C, Title 6, Local Government Code, and Subchapter J.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.1815. STATE ARCHIVES STRATEGIC PLAN. The commission, with input from interested persons, shall develop and implement a comprehensive strategic plan regarding the state archives. The commission shall update the strategic plan at least once every five years. The strategic plan must include:

(1) an assessment of any current archives backlog;

(2) a prioritized list of projects and goals related to the state archives;

(3) an evaluation of the resources needed to achieve the commission's goals related to the state archives, including the impact that different amounts of those resources are expected to have on the commission's ability to achieve those goals;

(4) performance measures, targets, and timeframes for achieving the commission's goals related to the state archives;

(5) a mechanism for regular reporting to the commission on progress toward achieving the commission's goals related to the state

archives; and

(6) opportunities and standards for entering into collaborative agreements with interested persons regarding the state archives.

Added by Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 12, eff. September 1, 2019.

Sec. 441.182. STATE RECORDS MANAGEMENT PROGRAM. (a) The commission shall assist state agencies in managing state records in accordance with this subchapter and rules adopted under this subchapter.

(b) The director and librarian shall designate a state records administrator to administer the state records management program.

(c) Under the direction of the director and librarian, the state records administrator shall:

(1) provide training, consultative services, and informational material to agency heads, records management officers, and other staff to assist them in establishing and administering records management programs in each state agency as required under Section 441.183;

(2) review and recommend to the director and librarian the approval or disapproval of state agency records retention schedules submitted under Section 441.185 and records destruction requests submitted under Section 441.187;

(3) advise the director and librarian and the commission on all matters concerning the management of state records;

(4) maintain in a safe and secure manner all state records in the physical custody of the program under Subsection (e);

(5) preserve the confidentiality of all confidential state records in the physical custody of the program under Subsection (e); and

(6) perform other duties as this subchapter or the director and librarian may require.

(d) Under the direction of the director and librarian, the state records administrator shall also assist in carrying out the duties of the commission and the director and librarian relating to the management of local government records under Subtitle C, Title 6, Local Government Code, and Subchapter J.

(e) As part of the records management program established under this section, the commission shall:

(1) operate the state records center for the economical and efficient storage, accessibility, protection, and final disposition of inactive and vital state records;

(2) perform micrographic and other imaging services for the protection, accessibility, and preservation of state records;

(3) provide a mandatory or optional, as determined by the commission, training and continuing education program to records management officers to assist them in administering records management programs in each state agency as required under this subchapter; and

(4) provide, with the cooperation of the Department of Information Resources, training for records management and information technology staff to assist them in managing records in an electronic format.

(f) In addition to the duties prescribed by Subsection (e), the commission may provide for or oversee other records storage, micrographics, and imaging services as may become necessary to manage state records efficiently and economically.

(g) The commission may recover costs through the assessment of fees for services provided under Subsections (c)(1), (e), and (f).

(h) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(15).

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 321, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 285, Sec. 31(15), eff. Sept. 1, 2003.

Sec. 441.1821. LEGISLATIVE RECORDS MANAGEMENT. (a) As used in this section, "legislative record" has the meaning assigned by Section 324.001.

(b) Upon receipt of a request from the Legislative Reference Library for the return of a legislative record in the custody of the commission, the commission shall immediately return the legislative record to the library, at no cost to the library.

(c) Notwithstanding any other law, the Legislative Reference Library shall manage legislative records under Chapter 324. To the extent of any conflict, Chapter 324 prevails over this chapter or any other state law relating to the management of state records that are

legislative records.

Added by Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 29, eff. June 14, 2019.

Sec. 441.183. RECORDS MANAGEMENT PROGRAMS IN STATE AGENCIES. The agency head of each state agency shall:

(1) establish and maintain a records management program on a continuing and active basis;

(2) create and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency designed to furnish information to protect the financial and legal rights of the state and any person affected by the activities of the agency;

(3) make certain that all records of the agency are passed to the agency head's successor in the position of agency head;

(4) identify and take adequate steps to protect confidential and vital state records;

(5) cooperate with the commission in the conduct of state agency records management surveys; and

(6) cooperate with the commission, the director and librarian, and any other authorized designee of the director and librarian in fulfilling their duties under this subchapter.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.184. RECORDS MANAGEMENT OFFICERS. (a) Each state agency head shall act as or appoint a records management officer for the state agency to administer the agency's records management program. An employee of an agency is eligible to be appointed as the agency's records management officer only if the employee holds a position in which the employee reports directly to the agency head or to a person with a title functionally equivalent to deputy executive director.

(b) The records management officer for each state agency shall:

(1) administer the records management program established under Section 441.183;

(2) assist the agency head in fulfilling all of the agency

head's duties under this subchapter and rules adopted under this subchapter;

(3) disseminate to employees of the agency information concerning state laws, administrative rules, and agency policies and procedures relating to the management of state records; and

(4) fulfill all duties required of records management officers under this subchapter and rules adopted under this subchapter.

(c) A records management officer designated under this section continues to serve in that capacity until:

(1) the officer ceases employment with the state agency;

(2) the agency head chooses to act as the records management officer for the agency; or

(3) the agency head appoints another person as the records management officer.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 321, Sec. 2, eff. Sept. 1, 1999.

Sec. 441.185. RECORD RETENTION SCHEDULES. (a) Each records management officer, with the cooperation of any staff of a state agency that the officer considers necessary, shall survey the state records of the agency and prepare and submit a records retention schedule to the state records administrator.

(b) The records retention schedule must list the state records created and received by the agency, propose a period of time each record shall be maintained by the agency, and provide other information necessary for the operation of an effective records management program.

(c) The state records administrator and the state archivist shall review the schedule and recommend the schedule's approval or disapproval to the director and librarian and the state auditor. The state auditor, based on a risk assessment and subject to the legislative audit committee's approval of including the review in the audit plan under Section 321.013, may review the schedule.

(d) If the director and librarian, and the state auditor, if the state auditor reviewed the schedule under Subsection (c), approve the schedule, the schedule may be used as the basis for the lawful disposition of state records under Section 441.187 for a period to be

determined by the commission.

(e) The commission shall adopt rules concerning the submission of records retention schedules to the state records administrator.

(f) The commission may by rule prescribe a minimum retention period for any state record unless a minimum retention period for the record is prescribed by another federal or state law, regulation, or rule of court.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 14, eff. Sept. 1, 2003.

Sec. 441.1855. RETENTION OF CONTRACT AND RELATED DOCUMENTS BY STATE AGENCIES. (a) Notwithstanding Section 441.185 or 441.187, a state agency:

(1) shall retain in its records each contract entered into by the state agency and all contract solicitation documents related to the contract; and

(2) may destroy the contract and documents only after the seventh anniversary of the date:

(A) the contract is completed or expires; or

(B) all issues that arise from any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving the contract or documents are resolved.

(b) A contract solicitation document that is an electronic document must be retained under Subsection (a) in the document's electronic form. A state agency may print and retain the document in paper form only if the agency provides for the preservation, examination, and use of the electronic form of the document in accordance with Subsection (a), including any formatting or formulas that are part of the electronic format of the document.

(c) In this section:

(1) "Contract solicitation document" includes any document, whether in paper form or electronic form, that is used by a state agency to evaluate responses to a competitive solicitation for a contract issued by the agency.

(2) "Electronic document" means:

(A) information that is created, generated, sent, communicated, received, or stored by electronic means; or

(B) the output of a word processing, spreadsheet, presentation, or business productivity application.

Added by Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 3, eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 1, eff. September 1, 2019.

Sec. 441.186. ARCHIVAL STATE RECORDS. (a) The state archivist, through review of state records retention schedules submitted to the state records administrator under Section 441.185 and other means available under this section, shall identify and designate which state records are archival state records or which state records of potential archival value shall be subject to the review of the state archivist prior to their destruction.

(b) Records management officers shall submit to the state archivist any information concerning a state record that the state archivist considers necessary to determine the archival value of a record.

(c) The state archivist may inspect any state record to determine if the record is an archival state record and the inspection is not a release of a record to a member of the public under Chapter 552.

(d) Archival state records shall be transferred to the custody of the commission when they are no longer needed for the administration of the state agency unless state law requires that the records remain in the custody of the agency.

(e) If the commission cannot accept immediate custody of an archival state record, the record shall remain in the custody of the state agency and shall be preserved in accordance with this subchapter, rules adopted under this subchapter, and other terms on which the director and librarian and the agency head may agree.

(f) Instead of transferring archival state records under this section, the components of university systems and other institutions of higher education may retain and preserve the archival state records of the component or institution in accordance with this subchapter and rules adopted under this subchapter if the records are preserved in an archives established in a library or research center

directly controlled by the university.

(g) Except when permitted under state law, an archival state record may not be transferred from one state agency to another without the consent of the director and librarian.

(h) With the approval of the director and librarian, the state archivist may remove the designation of a state record as an archival state record and permit destruction of the record under this subchapter and rules adopted under this subchapter.

(i) In the event of a disagreement between the commission and a state agency over custody of an archival state record, the attorney general shall decide the issue of custody.

(j) In the event of a disagreement between the commission and the attorney general over custody of an archival state record in the possession of the office of the attorney general, the commission may petition a district court in Travis County to decide the issue of custody. On request, the attorney general shall provide the commission with legal counsel to represent the commission in the matter.

(k) If a disagreement exists between an institution of higher education, as defined by Section 61.003, Education Code, and a county over custody of a record that has been in existence for more than 50 years and if the commission determines that further negotiations between the institution and the commission are unlikely to resolve the disagreement, the record shall be transferred to the custody of the commission and treated as an archival state record.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 251 (S.B. 913), Sec. 8, eff. September 1, 2007.

Sec. 441.187. DESTRUCTION OF STATE RECORDS. (a) A state record may be destroyed by a state agency if:

(1) the record appears on a records retention schedule approved under Section 441.185 and the record's retention period has expired;

(2) a records destruction request is submitted to the state records administrator and approved by the director and librarian, or the designee of the director and librarian, for a state record that

does not appear on the approved records retention schedule of the agency; or

(3) the record is exempted from the need to be listed on a records destruction request under rules adopted by the commission.

(b) A state record may not be destroyed if any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving the record is initiated before the expiration of a retention period for the record set by the commission or in the approved records retention schedule of the agency until the completion of the action and the resolution of all issues that arise from the action, or until the expiration of the retention period, whichever is later.

(c) The director and librarian may destroy any state record in the physical custody of the commission under Section 441.182 whose minimum retention requirements have expired without the consent of the agency head if, in the opinion of the director and librarian and either the attorney general or the state auditor, there is no justification under this subchapter or other state law for the record's further retention.

(d) A state record may be destroyed before the expiration of its retention period on the approved records retention schedule of the state agency that has custody of the record only with the special consent of the director and librarian and, if the record possesses fiscal or financial value, with the concurrent consent of the state auditor.

(e) The commission may adopt rules prescribing the permissible means by which state records may be destroyed.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.188. MICROFILMED STATE RECORDS. (a) Any state record may be maintained on microfilm.

(b) The microfilming of any state record and the maintenance of a state record on microfilm must be in accordance with standards and procedures adopted as administrative rules of the commission.

(c) A microfilmed state record created in compliance with the rules of the commission is an original record and the microfilmed record or a certified copy of it shall be accepted as such by any court or administrative agency of this state.

(d) A microfilmed state record that was produced in accordance with any state law in force before September 1, 1997, is considered an original record.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.189. ELECTRONIC STATE RECORDS. (a) Any state record may be created or stored electronically in accordance with standards and procedures adopted as administrative rules of the commission.

(b) Certified output from electronically digitized images or other electronic data compilations created and stored in accordance with the rules of the commission shall be accepted as original state records by any court or administrative agency of this state unless barred by a federal law, regulation, or rule of court.

(c) Certified output from electronically digitized images or other data compilations created before September 1, 1997, in accordance with any applicable prior law shall be accepted as original state records or, in the absence of an applicable prior law, at the discretion of the court or administrative agency.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.190. PROTECTION, MAINTENANCE, AND STORAGE OF STATE RECORDS. (a) The commission may adopt rules establishing standards and procedures for the protection, maintenance, and storage of state records.

(b) In the development and adoption of the rules, the commission shall pay particular attention to the maintenance and storage of archival and vital state records and may adopt rules as it considers necessary to protect them.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.191. ALIENATION OF STATE RECORDS PROHIBITED. (a) A state record may not be sold or donated, loaned, transferred, or otherwise passed out of the custody of the state by a state agency without the consent of the director and librarian.

(b) Subsection (a) does not apply to the temporary transfer of

a state record to a person for the purposes of microfilming, duplication, conversion to electronic media, restoration, or similar records preservation or management procedures if the transfer is authorized by the agency head or designated records management officer.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.192. RIGHT OF RECOVERY. (a) The governing body of a state agency may demand the return of any state record in the private possession of a person if the removal of the state record from the state agency or the agency's predecessor was not authorized by law.

(b) The director and librarian may demand the return of any state record or archival state record in the private possession of any person.

(c) If the person in possession of the state record or archival state record refuses to deliver the record on demand, the director and librarian or the governing body of a state agency may ask the attorney general to petition a district court in Travis County for the recovery of the record as provided by this section. If the court finds that the record is a state record or archival state record, the court shall order the return of the record to the custody of the state. As part of the petition or at any time after its filing, the attorney general may petition to have the record seized pending the determination of the court if the director and librarian or governing body finds the record is in danger of being destroyed, mutilated, altered, secreted, or removed from the state.

(d) A state government record recovered under Subsection (c) shall be transferred to the custody of the commission or the state agency that originally demanded the return of the record.

(e) If the attorney general recovers a record under Subsection (c), the court shall award attorney's fees and court costs to the attorney general.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 17, eff. September 1, 2009.

Sec. 441.193. CUSTODY OF STATE RECORDS AND OTHER HISTORICAL RESOURCES OF COMMISSION; PUBLIC ACCESS. (a) All archival state records transferred to the custody of the commission in accordance with this subchapter and all other historical resources acquired by the commission through gift or purchase become the property of the commission.

(b) The director and librarian, the state archivist, or their authorized designees may make certified copies of archival state records or other historical resources, and the certified copies shall have the same force and effect as if certified by their original custodian or owner.

(c) The commission shall adopt rules regarding public access to the archival state records and other historical resources in the possession of the commission.

(d) Except as provided in Subsection (e), any rules adopted under this section may not violate any requirements of Chapter 552 or any other state law regarding public access to state records or the terms of any agreement between the commission and a donor of other historical resources to the commission.

(e) In rules adopted under this section, the commission may restrict access to any original archival state record or other historical resource in its possession and provide only copies if, in the opinion of the state archivist, such access would compromise the continued survival of the original record.

(f) The commission shall ensure that the confidentiality established under Chapter 552 or any other state law of any archival state record transferred to the commission's custody under Section 441.186 shall be preserved until state law allows public access to the records.

(g) Requests for public access to state records of other state agencies in the physical custody of the records management program of the commission established by Section 441.182 shall be denied by the state records administrator unless the state agency having legal custody of the records provides written authorization.

(h) Authorizations for public access under Subsection (g) may not provide for public access to the original microfilm of state records.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.1935. REQUIREMENTS FOR REQUESTS FOR INFORMATION HELD BY STATE ARCHIVES PROGRAM. (a) The commission shall promulgate a form that persons must use to request access to information held by the state archives program. The form must allow the requestor to designate the request either as a request for public information made under Chapter 552 or as a research request not subject to the requirements of that chapter. The form must include:

(1) a plain-language explanation of the difference between a request for public information made under Chapter 552 and a research request not subject to the requirements of that chapter;

(2) the requirements for making and responding to each type of request; and

(3) an option for the requestor to change the type of request at any time.

(b) Notwithstanding any other law, a request for information held by the state archives program is considered to be a request for public information under Chapter 552 only if the requestor makes the request using the form described by Subsection (a) and on the form designates the request as a request for public information under Chapter 552.

Added by Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 12, eff. September 1, 2019.

Sec. 441.194. RECORDS OF ABOLISHED STATE AGENCIES. (a) Unless otherwise provided by law, the comptroller shall take custody of the records of a state agency that is abolished by the legislature and whose duties and responsibilities are not transferred to another state agency.

(b) Unless the requirement is waived by the state records administrator, the records management officer of the comptroller, or of another state agency that receives custody of the records pursuant to law, shall prepare and submit to the state archivist and the state records administrator a list of the records of the abolished state agency within 180 days of the effective date of the agency's abolition.

(c) The state archivist shall determine which records of the abolished state agency are archival state records. Any archival state records of the abolished state agency shall be transferred to

the custody of the commission in accordance with Section 441.186.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.47, eff. September 1, 2007.

Sec. 441.195. CONTRACTING AUTHORITY. (a) The commission may enter into any contract or agreement that it considers necessary or advisable to foster and assist the preservation and management of state records or other historical resources.

(b) A contract or agreement made by the commission may not bind the state for the payment of any funds that have not been authorized by an appropriation of the legislature.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.196. SALE OF COPIES OF STATE ARCHIVES. (a) The commission may sell copies of state archival records and other historical resources in its possession at a price not exceeding 25 percent above the cost of publishing or producing the copies.

(b) Any money paid to the commission under this section is subject to Subchapter F, Chapter 404.

(c) This section is not intended to conflict with Chapter 552.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.1965. SALE OF REPLICAS FROM STATE ARCHIVES. (a) The commission may sell replicas of archival state records and other historical resources in its custody subject to the approval of the commission.

(b) Money received from the sale of replicas under Subsection (a) shall be deposited to the credit of a dedicated account in the general revenue fund and may be appropriated only to the commission for the purposes of preservation, digitization, archives information services, and education.

Added by Acts 2019, 86th Leg., R.S., Ch. 533 (H.B. 1962), Sec. 12,

eff. September 1, 2019.

Sec. 441.197. SALE OF DUPLICATE OR UNNEEDED MATERIAL. (a) After certification by both the director and librarian and the state archivist that an archival state record or other historical resource in the custody of the commission is a duplicate or is not needed to document the history and culture of Texas as a province, colony, republic, or state, the commission may authorize its sale by auction or other means.

(b) Revenue from the sale of a duplicate or unneeded archival state record or other historical resource shall be used to preserve state archival records and other historical resources and to make the records and resources available for research.

(c) The sale of an archival state record under Subsection (a) does not constitute an alienation of a state record under Section 441.191.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3059, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 441.198. AGREEMENT WITH MEXICO. (a) The commission may negotiate an agreement with the appropriate authorities in Mexico under which this state will trade or lend to Mexico the flags of the Toluca Battalion, the Guerrero Battalion, and the Matamoros Battalion captured at the Battle of San Jacinto and Mexico will trade or lend to this state the flag of the New Orleans Greys captured at the Battle of the Alamo. An agreement under this section:

(1) may not affect title to the flags;

(2) may provide that this state will restore the San Jacinto flags to a suitable condition and Mexico will restore the Alamo flag to a suitable condition before the trade or loan of the flags as long as such conditioning does not alter the authenticity or integrity of the flags; and

(3) is not valid if it is not approved by the governor and by the appropriate authority for approval under the laws of Mexico.

(b) The commission may use only gifts or grants to restore the

San Jacinto battle flags to a suitable condition under an agreement to trade or lend the flags made under Subsection (a).

(c) If an agreement to trade or lend the Alamo and San Jacinto battle flags made under Subsection (a) does not provide that Mexico will restore the Alamo battle flag to a suitable condition before the trade or loan of the flag, the commission may use only gifts or grants to restore the Alamo battle flag to a suitable condition after the trade or loan of the flags.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.199. RULEMAKING AUTHORITY. In addition to other rulemaking authority granted in this subchapter, the commission may adopt other rules it determines necessary for cost reduction and efficiency of recordkeeping by state agencies and for the state's management and preservation of records.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.200. AUDIT. The state auditor may report on a state agency's compliance with this subchapter and rules adopted under this subchapter.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.201. RECORDS OF OFFICE OF GOVERNOR. In consultation with the commission, a governor may designate an institution of higher education or alternate archival institution in the state, in lieu of the Texas State Library and Archives, as the repository for the records of the executive office of the governor created or received during that governor's term of office. Such alternative repository shall administer the records in accordance with normally accepted archival principles and practices and shall ensure that the records are available to the public. The terms of any such alternative repository arrangement shall be recorded by the commission through a memorandum of understanding, deposit agreement, or other appropriate documentation.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.202. ARCHIVES OF GENERAL LAND OFFICE. (a) Any papers, including any book, transfer, power of attorney, field note, map, plat, legal proceeding, official report, or original document, that pertain to the land of the Republic or State of Texas and that have been deposited or filed in the General Land Office in accordance with any law of the republic or of this state constitute the archives of the General Land Office and are not subject to transfer to the commission under Section 441.186.

(b) A person owning land between the Nueces River and the Rio Grande under a grant or title from the former government that was issued before November 13, 1835, and, before the adoption of the constitution, was recorded in the county in which the land is situated but that has not been filed in the archives of the General Land Office shall submit the grant or title to the commissioner of the General Land Office who shall file the title or grant in the archives of the General Land Office. The act of filing does not invest the title or grant with any greater validity than it had as a title or grant recorded in the proper county, and it is subject to any defense or objection to which it would have been subject if not so filed.

(c) The commissioner of the General Land Office shall procure, accept, and file in the archives of the General Land Office the original papers relating to the survey of lands by virtue of certificates issued by this state to the Texas & Pacific Railway Company and its predecessors in title, including the maps, sketches, reports, and other papers that were drawn by the surveyors in making the original or corrected surveys of the land and that are in the custody of the railway company. If the commissioner cannot procure the original papers, the commissioner may procure, accept, and file verified copies. The commissioner shall verify the authenticity of the papers. If the commissioner can procure only a portion of the originals, the commissioner shall procure and accept that portion and take and file verified copies of those originals the commissioner cannot procure. The original papers or verified copies filed by the commission in the archives of the General Land Office are admissible in evidence as are other papers, documents, and records and certified copies of the office.

(d) This section does not give any papers named in this section any greater force or validity, because of being recognized as archives of the General Land Office, than was accorded the papers by the laws in force at the date of their execution and deposit in the General Land Office.

(e) A written instrument, including a deed, that was executed or issued before March 2, 1836, on stamped paper of the second or third seal and that is not an original instrument in the General Land Office or expressly declared by law to be part of the archives of that office do not constitute a part of the archives of that office. An owner of land to which the instrument relates may withdraw the instrument from the General Land Office on making a written, sworn application for the instrument to the commissioner. The application must state the fact of ownership of the land to which the instrument relates. If the commissioner is satisfied that the person applying is the owner, the commissioner may deliver the instrument to the applicant. The commissioner shall take a receipt for the instrument that describes the instrument delivered, summarizes its contents, and names the original grantee of land to which the instrument relates or refers.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.203. RECORDS MANAGEMENT INTERAGENCY COORDINATING COUNCIL. (a) The Records Management Interagency Coordinating Council is composed of:

(1) permanent members, consisting of the following officers or the officer's designee:

(A) the secretary of state;

(B) the state auditor, who serves as a nonvoting member;

(C) the comptroller of public accounts;

(D) the attorney general;

(E) the director and librarian; and

(F) the executive director of the Department of Information Resources; and

(2) auxiliary voting members, consisting of:

(A) one faculty member of a public senior college or university, as defined by Section 61.003, Education Code, who has

demonstrated knowledge of records and information management; and

(B) two individuals who serve as information resources managers, under Section 2054.071, for state agencies in the executive branch of government.

(a-1) The presiding officer of the council shall appoint auxiliary voting members in accordance with this section. To be appointed by the presiding officer as an auxiliary voting member for a full or partial term, a person must be nominated by the presiding officer and receive the approval of a majority of the permanent members listed under Subsection (a)(1).

(a-2) Auxiliary voting members serve two-year terms, with the terms expiring February 1 of each odd-numbered year. A person who is appointed as an auxiliary voting member or to fill a vacancy of an auxiliary voting member may continue to serve as a member only while the person continues to possess the qualifications for the category under which the person is appointed.

(a-3) The presiding officer shall fill a vacancy of an auxiliary voting member for the unexpired term by appointing a person who has the qualifications required under Subsection (a)(2) for the vacated position. A person appointed to fill a vacant position of an auxiliary voting member shall serve for the unexpired portion of the term for which the person is appointed.

(b) The position of presiding officer rotates among the permanent members of the council according to the procedures adopted by the council. A term as presiding officer is two years and expires on February 1 of each odd-numbered year.

(c) Service on the council is an additional duty of a member's office or employment. A member of the council is not entitled to compensation, but is entitled to reimbursement of travel expenses incurred by the member while conducting the business of the council, as provided in the General Appropriations Act.

(d) The council's permanent member agencies shall provide the staff for the council.

(e) The council shall:

(1) review the activities of each permanent member agency that affect the state's management of records;

(2) study other records management issues; and

(3) report its findings and any recommended legislation to the governor and the legislature not later than November 1 of each even-numbered year.

(f) The council shall adopt policies that coordinate the activities of each permanent member agency and that make other improvements in the state's management of records. The council shall adopt policies under this subsection using the rulemaking procedures prescribed by Chapter 2001.

(g) Each permanent member agency shall adopt the policies adopted under Subsection (f) as the permanent member agency's own rules, except to the extent that the policies conflict with other state or federal law.

(h) Each permanent member agency shall report on the agency's adoption and implementation of rules under Subsection (g) to the council not later than October 1 of each even-numbered year.

(i) In this section, "permanent member agency" means each state officer who is a permanent member of the council or an agency that has a representative who is a permanent member of the council.

(j) The council shall categorize state agency programs and telephone numbers by subject matter as well as by agency. The council shall cooperate with the Texas Information and Referral Network under Section 526.0004 to ensure that the council and the network use a single method of defining and organizing information about health and human services.

(k) A state agency shall cooperate with the council in the performance of its duties.

(l) Participation by the state auditor under Subsection (a) is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c).

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 1460, Sec. 3.07, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 79, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 785, Sec. 15, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(31), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 3.04, eff. September 1, 2007.

Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 2.16, eff. April 1, 2025.

Sec. 441.204. RECORDS OF OFFICE OF LIEUTENANT GOVERNOR. (a) Notwithstanding any other law, a lieutenant governor who vacates the office of lieutenant governor to complete the unexpired term of the governor as provided by Section 16(d), Article IV, Texas Constitution, may transfer the records of the office of the lieutenant governor created or received during that lieutenant governor's term of office to the office of the governor.

(b) Records of the office of the lieutenant governor transferred under Subsection (a) must be maintained separate and distinct from records created or received from the office of the governor.

(c) Records transferred under Subsection (a) must be listed separately and distinctly on the records retention schedule of the office of the governor required by Section 441.185.

Added by Acts 2001, 77th Leg., ch. 771, Sec. 1, eff. June 13, 2001.

Sec. 441.205. ONLINE ACCESS TO CULTURAL RESOURCES. The commission may:

(1) encourage Texas institutions, including libraries, archives, museums, historical societies, and governmental entities, to develop ways to provide Internet access to digitized cultural resources; and

(2) provide leadership in collaborative efforts among the institutions to achieve this goal.

Added by Acts 2007, 80th Leg., R.S., Ch. 251 (S.B. 913), Sec. 9, eff. September 1, 2007.

SUBCHAPTER M. TEXSHARE LIBRARY CONSORTIUM

Sec. 441.221. DEFINITION. In this subchapter:

(1) "Commission" means the Texas State Library and Archives Commission.

(2) "Institution of higher education" includes:

(A) an institution of higher education and a private or independent institution of higher education, as those terms are defined by Section 61.003, Education Code; and

(B) a work college, as defined by 20 U.S.C. Section 1087-58.

(3) "Nonprofit corporation" means a nonprofit corporation established under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) that provides extensive library services and collections in the fields of clinical medicine and the history of medicine.

(4) "Public library" has the meaning assigned by Section 441.122.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 441.201 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(40), eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 91, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1350, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 498 (H.B. 4202), Sec. 1, eff. September 1, 2021.

Sec. 441.222. CREATION OF CONSORTIUM. The commission shall establish and maintain the TexShare consortium as a resource-sharing consortium operated as a program within the commission for libraries at institutions of higher education and for public libraries, libraries of nonprofit corporations, and other types of libraries.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 441.202 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(40), eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 91, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1350, Sec. 2, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 18, eff. September 1, 2009.

Sec. 441.223. FINDINGS; PURPOSE AND METHODS. The legislature finds that it is necessary to assist libraries across the state to promote the public good by achieving the following public purposes through the following methods:

(1) to promote the future well-being of the citizenry, enhance quality teaching and research excellence at institutions of higher education through the efficient exchange of information and

the sharing of library resources, improve educational resources in all communities, and expand the availability of information about clinical medical research and the history of medicine;

(2) to maximize the effectiveness of library expenditures by enabling libraries to share staff expertise and to share library resources in print and in an electronic form, including books, journals, technical reports, and databases;

(3) to increase the intellectual productivity of students and faculty at the participating institutions of higher education by emphasizing access to information rather than ownership of documents and other information sources;

(4) to facilitate joint purchasing agreements for purchasing information services and encourage cooperative research and development of information technologies; and

(5) to enhance the ability of public schools to further student achievement and lifelong learning.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 441.203 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(40), eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 91, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1350, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 721 (S.B. 483), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 19, eff. September 1, 2009.

Sec. 441.224. MEMBERSHIP; FEES. (a) Membership in the consortium is open to all institutions of higher education, all public libraries that are members of the state library system, and all libraries of nonprofit corporations. The commission, by rule, may also admit other types of libraries as members or as affiliated members.

(b) The director and librarian may establish categories of consortium services and assess different fees for different categories of consortium services.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 441.204 by Acts 1999, 76th Leg., ch. 62, Sec.

19.01(40), eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 91, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1350, Sec. 4, eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 721 (S.B. 483), Sec. 2, eff. September 1, 2005.
Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 20, eff. September 1, 2009.

Sec. 441.225. ADMINISTRATION; RULES. (a) The director and librarian administers the consortium. The director and librarian shall employ a staff that is sufficient in number, education, and experience to achieve the purposes of the consortium.
(b) The commission may adopt rules to govern the operation of the consortium.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 441.205 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(40), eff. Sept. 1, 1999.

Sec. 441.226. ADVISORY BOARD. (a) The commission shall appoint an advisory board to advise the commission on matters relating to the consortium. Composition of the board must be representative of the various types of libraries comprising the membership. At least two members must be representatives of the general public. Members of the advisory board must be qualified by training and experience to advise the commission on policy to be followed in applying this subchapter. Chapter 2110 does not apply to the composition of the advisory board.
(b) The commission shall adopt rules regarding the organization and structure of the advisory board.
(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 983, Sec. 26(13), eff. September 1, 2009.
(d) A member of the advisory board serves without compensation but is entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties, subject to any applicable limitation on reimbursement provided by the General Appropriations Act.

(e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 983, Sec. 26(13), eff. September 1, 2009.

(f) The advisory board may recommend to the commission that the consortium enter into cooperative projects with entities other than public libraries, institutions of higher education, or nonprofit corporations.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 441.206 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(40), eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 91, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1350, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 21, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 26(13), eff. September 1, 2009.

Sec. 441.227. ROLE AND SCOPE OF CONSORTIUM. The consortium shall engage in activities designed to facilitate library resource sharing. These activities must include providing electronic networks, shared databases, and other infrastructure necessary to enable the libraries in the consortium to share resources, negotiating and executing statewide contracts for information products and services, coordinating library planning, research and development, and training library personnel.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 441.207 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(40), eff. Sept. 1, 1999.

Sec. 441.228. ACCEPTANCE AND USE OF GIFTS OR GRANTS. In addition to state appropriations, the commission may accept from any public or private source gifts or grants of money, property, or services, and spend or use the money, property, or services, under rules established by the commission and under applicable state laws.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 441.208 by Acts 1999, 76th Leg., ch. 62, Sec.

19.01(40), eff. Sept. 1, 1999.

Sec. 441.229. GROUP PURCHASING AGREEMENTS. (a) For the purposes of administering this subchapter, the commission may enter into group purchasing agreements on behalf of the consortium under which materials or services may be obtained at discount rates by two or more libraries if the commission determines that the agreements offer the most cost-effective method of purchasing library materials or services for the consortium.

(b) The commission may designate libraries that may participate in group purchasing agreements provided to the consortium. The commission by rule shall establish criteria for the participation.

(c) The commission may allow designated libraries to participate in a group purchasing agreement only to the extent that the commission may do so efficiently and in a manner that enhances resource sharing services to the consortium members.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 441.209 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(40), eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 91, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 721 (S.B. 483), Sec. 3, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 22, eff. September 1, 2009.

Sec. 441.230. GRANTS TO MEMBERSHIP INSTITUTIONS. To achieve the purposes of this subchapter, the commission may grant money to consortium members. The commission shall ensure that the commission or institutions in the consortium receive benefits that are sufficient to constitute fair value in return for any grant made by the commission. The commission shall require a recipient of a grant to report to the commission information relating to best practices and performance outcomes.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 441.210 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(40), eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 983 (H.B. 3756), Sec. 23, eff. September 1, 2009.

SUBCHAPTER N. TEXAS HISTORICAL RECORDS ADVISORY BOARD

Sec. 441.241. DEFINITIONS. In this subchapter:

(1) "Board" means the Texas Historical Records Advisory Board.

(2) "Commission" means the Texas State Library and Archives Commission.

(3) "Director and librarian" means the executive and administrative officer of the commission.

(4) "Historical records coordinator" means the presiding officer of the board.

(5) "National commission" means the National Historical Publications and Records Commission.

Added by Acts 1997, 75th Leg., ch. 872, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 441.201 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(41), eff. Sept. 1, 1999.

Sec. 441.242. TEXAS HISTORICAL RECORDS ADVISORY BOARD. (a) The Texas Historical Records Advisory Board is established to serve as the central advisory body for historical records planning and projects funded by the national commission that are developed and implemented in this state.

(b) The board shall:

(1) seek funds from the national commission to sponsor and publish surveys of the conditions and needs of historical records in the state;

(2) solicit and develop proposals for projects to be implemented in the state with funds provided by the national commission and other funding sources;

(3) review proposals submitted by institutions in the state and make recommendations to the national commission;

(4) work with the commission to develop, revise, and submit state priorities to the national commission for historical records projects following guidelines developed by the national commission;

(5) review the operation and progress of records projects in the state;

(6) foster and support cooperative networks and programs dealing with historical records in conjunction with the commission's goals; and

(7) develop and promote programs to raise public awareness of the value, condition, and needs of historical records.

Added by Acts 1997, 75th Leg., ch. 872, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 441.202 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(41), eff. Sept. 1, 1999.

Sec. 441.243. COMPOSITION OF THE BOARD. (a) The board is composed of:

(1) the state archivist, who shall be appointed as the historical records coordinator by the governor;

(2) two public members, appointed by the governor; and

(3) six members, appointed by the director and librarian, who must have recognized experience in the administration of government records, historical records, or archives.

(b) The historical records coordinator shall serve as presiding officer of the board.

Added by Acts 1997, 75th Leg., ch. 872, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 441.203 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(41), eff. Sept. 1, 1999.

Sec. 441.244. TERMS. (a) The historical records coordinator serves a four-year term.

(b) The two public members appointed by the governor serve staggered terms of three years with the terms of the members expiring on February 1 of different years.

(c) The six members appointed by the director and librarian serve staggered terms of three years with the terms of one-third of the members expiring on February 1 of each year.

Added by Acts 1997, 75th Leg., ch. 872, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 441.204 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(41), eff. Sept. 1, 1999.

Sec. 441.245. COMPENSATION. A member of the board is not entitled to compensation but is entitled to reimbursement from board funds for the travel expenses incurred by the member while conducting the business of the board, as provided in the General Appropriations Act.

Added by Acts 1997, 75th Leg., ch. 872, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 441.205 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(41), eff. Sept. 1, 1999.

Sec. 441.246. VACANCY. A vacancy on the board shall be filled in the same manner as the original appointment.

Added by Acts 1997, 75th Leg., ch. 872, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 441.206 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(41), eff. Sept. 1, 1999.

CHAPTER 442. TEXAS HISTORICAL COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 442.001. DEFINITIONS. In this chapter:

(1) "Historic courthouse" means a county courthouse that is at least 50 years old. The term includes a structure that:

(A) previously functioned as the official county courthouse of the county in which it is located; and

(B) is owned by a municipality.

(2) "Historic courthouse project" means a project to preserve or restore a historic courthouse.

(3) "Historic structure" means a structure that:

(A) is included on the National Register of Historic Places;

(B) is designated as a Recorded Texas Historic Landmark;

(C) is designated as a State Archeological Landmark;

(D) is determined by the Texas Historical Commission to qualify as eligible property under criteria for inclusion on the National Register of Historic Places or for designation as a Recorded Texas Historic Landmark or as a State Archeological Landmark;

(E) is certified by the Texas Historical Commission to other state agencies as worthy of preservation; or

(F) is designated by an ordinance of a municipality with a population of more than 1.5 million as historic.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1056, Sec. 2, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 403, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1100 (H.B. 3674), Sec. 1, eff. September 1, 2013.

Sec. 442.002. COMMISSION; MEMBERS; SUNSET ACT. (a) The Texas Historical Commission is an agency of the state.

(b) The commission is composed of 15 members appointed by the governor with the advice and consent of the senate. One member must have expertise in archeology, preferably as a professional archeologist, one must have expertise in history, preferably as a professional historian, and one must have expertise in architecture, preferably as a professional architect who is licensed in this state and has expertise in historic preservation and architectural history. The remaining members must represent the general public. A person is not eligible for appointment as a member of the commission if the person or the person's spouse:

(1) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving money other than grant money from the commission;

(2) uses or receives a substantial amount of tangible goods, services, or money from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses; or

(3) is employed by or participates in the management of a business entity or other organization regulated by or receiving money other than grant money from the commission.

(c) Members serve for staggered six-year terms, with the terms of one-third of the members expiring February 1 of each odd-numbered year.

(d) Any vacancy occurring on the commission shall be filled for

the unexpired term.

(e) A member of the commission must be a citizen of this state who has demonstrated an interest in the preservation of the state's historical or archeological heritage. In making appointments to the commission, the governor shall seek to have each geographical section of the state represented as nearly as possible.

(f) A person may not serve as a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

(g) The commission shall hold at least one regular meeting in each calendar quarter of each year. The commission may hold other meetings at times and places scheduled by it in formal session or called by the chairman of the commission.

(h) The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor. At its first meeting in each odd-numbered year, the commission shall select from its membership an assistant presiding officer and a secretary.

(i) A member of the commission serves without pay but shall be reimbursed for actual expenses incurred in attending a meeting of the commission.

(j) The commission is subject to the open meetings law, Chapter 551, and the administrative procedure law, Chapter 2001. The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

(k) The Texas Historical Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2031.

(l) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 2.13, eff. Nov. 12, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), (83), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 109, Sec. 1, eff. Aug. 30, 1995;

Acts 2003, 78th Leg., ch. 1170, Sec. 19.01, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 37 (S.B. 283), Sec. 1, eff. May 14, 2013.

Acts 2017, 85th Leg., R.S., Ch. 26 (S.B. 763), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 1, eff. September 1, 2019.

Sec. 442.0021. COMMISSION MEMBERS: TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing commission operations;

(2) the programs, functions, rules, and budget of the commission;

(3) the scope of and limitations on the rulemaking authority of the commission;

(4) the results of the most recent formal audit of the commission;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of the commission in performing their duties; and

(6) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) The executive director of the commission shall create a training manual that includes the information required by Subsection

(b). The executive director shall distribute a copy of the training manual annually to each member of the commission. Each member of the commission shall sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

Added by Acts 1995, 74th Leg., ch. 109, Sec. 2, eff. Aug. 30, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 2, eff. September 1, 2007.
Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 2, eff. September 1, 2019.

Sec. 442.0022. COMMISSION MEMBERS: CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the commission and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of archeology or historic preservation; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of archeology or historic preservation.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 46, eff. June 15, 2007.

Added by Acts 1995, 74th Leg., ch. 109, Sec. 2, eff. Aug. 30, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 3, eff. September 1, 2007.
Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 46, eff. June 15, 2007.

Sec. 442.0023. COMMISSION MEMBERS: GROUNDS FOR REMOVAL. (a) It is a ground for removal from the commission if a member:

(1) does not have at the time of appointment the qualifications required by Sections 442.002(b) and (e);

(2) does not maintain during service on the commission the qualifications required by Sections 442.002(b) and (e);

(3) violates a prohibition established by Sections 442.002(f) or 442.0022;

(4) cannot because of illness or disability discharge the member's duties for a substantial part of the term for which the member is appointed; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest officer of the commission, who shall notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1995, 74th Leg., ch. 109, Sec. 2, eff. Aug. 30, 1995.

Sec. 442.003. PURPOSE OF COMMISSION. The commission shall provide leadership and coordinate services in the field of archeological and historic preservation.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 109, Sec. 3, eff. Aug. 30, 1995.

Sec. 442.004. PERSONNEL. (a) The commission shall employ an executive director.

(b) A person employed as executive director must:

(1) be a citizen of this state;

(2) have ability in organization, administration, and coordination of organizational work; and

(3) have particular qualities for carrying out the purposes of the commission.

(b-1) The executive director may not serve as a voting director on the board of directors of an affiliated nonprofit organization formed under Section 442.005(p).

(c) The executive director may employ professional and clerical personnel as considered necessary. The number of employees, their compensation, and other expenditures shall be in accordance with appropriations to the commission by the legislature.

(d) The executive director or the executive director's designee shall provide to members of the commission and to agency employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(e) The executive director or the executive director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the commission. The program shall require intra-agency posting of all positions concurrently with any public posting.

(f) The executive director or the executive director's designee shall develop a system of annual performance evaluations based on documented employee performance. All merit pay for commission employees must be based on the system established under this subsection.

(g) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel, that are in compliance with the requirements

of Chapter 21, Labor Code;

(2) a comprehensive analysis of the commission workforce that meets federal and state guidelines;

(3) procedures by which a determination can be made about the extent of underuse in the commission workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(h) A policy statement prepared under Subsection (g) must cover an annual period, be updated annually, be reviewed by the Commission on Human Rights for compliance with Subsection (g), and be filed with the governor's office.

(i) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (h). The report may be made separately or as a part of other biennial reports made to the legislature.

(j) Before the expiration of 30 days after April 1 and November 1 of each year the commission shall submit a progress report to the governor. The report must include a statement of the steps that the commission has taken during the previous six months to comply with the requirement of Subsection (g).

(k) The governor shall designate the executive director as the state historic preservation officer, and the executive director shall act in that capacity for the conduct of relations with the representatives of the federal government and the respective states concerning matters of historic preservation.

(l) The commission shall develop and implement policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive director and the staff of the commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 109, Sec. 4, eff. Aug. 30, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 4, eff. September 1, 2007.

Sec. 442.0045. DELEGATION OF CERTAIN POWERS AND DUTIES. (a)

Except as provided by Subsection (b), the commission by order or rule may delegate to the executive director the authority to perform the duties or exercise the powers of the commission under this chapter or other law, including Chapter 191, Natural Resources Code.

(b) The commission may not delegate to the executive director the following powers and duties:

(1) proposing and adopting commission policies and rules;

(2) developing and approving the commission's strategic plan under Chapter 2056 and annual operations plan and periodically updating and reviewing those plans;

(3) approving the commission's legislative appropriations request;

(4) approving the commission's biennial budget and any significant amendments to that budget;

(5) approving the statewide comprehensive preservation plan;

(6) providing information to the legislature regarding the commission's budget and policies;

(7) hiring, evaluating, terminating, and setting the compensation of the executive director;

(8) formally accepting gifts and grants to the commission;

(9) establishing advisory committees and appointing the members of those committees;

(10) designating, and removing the designation of, State Archeological Landmarks;

(11) excusing a commissioner's absence from a meeting of the commission;

(12) approving the designation and removal of Recorded Texas Historic Landmarks, historic cemeteries, and Official Texas Historical Markers;

(13) designating official main street cities;

(14) awarding historic courthouse preservation program grants, certified local government grants, Texas preservation trust fund account grants, and all other grants;

(15) selecting the winners of the governor's award for historic preservation and other competitive statewide awards awarded by the commission;

(16) approving curatorial facilities to hold state-associated collections that are held in trust;

(17) acquiring and disposing of real property;

(18) establishing fees for commission services;

(19) approving amendments to contracts entered into by the commission if the amendment extends the contract by six or more months or increases the contract price by 10 percent or more;

(20) identifying and defining the relationship between the commission and any affiliated nonprofit organization;

(21) raising issues regarding the performance of the commission's staff and the operation of agency programs with the chair, the executive director, or the appropriate deputy executive director;

(22) determining whether a property offered to the commission should be accepted into the commission's land banking program or as a historic site; and

(23) recommending, in partnership with the Texas State Historical Association, a nominee for appointment by the governor as state historian.

(c) A delegation under this section may be amended or withdrawn by commission vote.

Added by Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 3, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4187, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 442.005. GENERAL POWERS AND DUTIES OF COMMISSION. (a) The commission shall furnish leadership, coordination, and services to county historical commissions, historical societies, and the organizations, agencies, institutions, museums, and individuals of this state interested in the preservation of archeological or historical heritage and shall act as a clearinghouse and information center for that work in this state.

(b) The commission is responsible for the administration of the Antiquities Code of Texas, Chapter 191, Natural Resources Code, and shall strive to establish effective working relationships among individuals primarily interested in history, architecture, and archeology.

(c) The commission shall furnish professional consultant services to museums and to agencies, individuals, and organizations

interested in the preservation and restoration of archeological or historic structures, sites, or landmarks.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(41), eff. June 17, 2011.

(e) The commission shall administer the federal National Historic Preservation Act of 1966 and may prepare, maintain, and keep up to date a statewide comprehensive historic preservation plan.

(f) The commission by rule may establish a reasonable fee to recover its costs arising from review of a rehabilitation project on an income-producing property included in the National Register of Historic Places. Any fee established is payable by the applicant for the rehabilitation project.

(g) The commission may apply to any appropriate agency or officer of the United States for participation in any federal program pertaining to historic preservation.

(h) The commission may certify to another state agency the worthiness of preservation of any historic district, site, structure, or object significant in Texas or American history, architecture, archeology, or culture.

(i) The commission may provide matching grants to assist the preservation of a historic structure significant in Texas or American history, architecture, archeology, or culture.

(j) The commission shall use its facilities and leadership to stimulate the development and protection of archeological or historical resources in every locality of this state, emphasizing responsibility and privilege of local effort except in a case in which the project or problem clearly demands a broader approach.

(k) The commission may provide matching grants to preserve collections of small history museums in this state if the collections are significant in Texas or American history, architecture, archeology, or culture.

(l) The commission may conduct educational programs, seminars, and workshops throughout this state covering any phase of historic preservation.

(m) The commission shall continue cooperative studies and surveys of the various aspects of historical heritage.

(n) Not later than December 1 before each regular session of the legislature, the commission shall make a report of its activities to the governor and to the legislature.

(o) The commission may enter into contracts with other state

agencies or institutions, qualified private institutions, and other persons, including for-profit corporations, to carry out the purposes of this chapter. A contract with a for-profit corporation under this chapter may not permit any property preserved, maintained, or administered by the commission under this chapter to display any corporate name, logo, or product other than a discreet plaque or similar acknowledgment that does not detract from the property's historic purpose.

(p) The commission may accept a gift, grant, devise, or bequest of money, securities, services, or property to carry out any purpose of this chapter, including funds raised or services provided by a volunteer or volunteer group to promote the work of the commission. The commission may participate in the establishment and operation of an affiliated nonprofit organization whose purpose is to raise funds for or provide services or other benefits to the commission.

(q) The commission may adopt rules as it considers proper for the effective administration of this chapter.

(r) The commission may establish advisory committees to advise the commission on archeological and historical matters, including an advisory committee to consider matters relating to Chapter 191, Natural Resources Code.

(s) The commission may promote the appreciation of historic sites, structures, or objects in the state through a program designed to develop tourism in the state.

(t) The commission shall promote heritage tourism by assisting persons, including local governments, organizations, and individuals, in the preservation, enhancement, and promotion of heritage and cultural attractions in this state. The program must include efforts to:

(1) raise the standards of heritage and cultural attractions around this state;

(2) foster heritage preservation and education;

(3) encourage regional cooperation and promotion of heritage and cultural attractions; and

(4) foster effective local tourism leadership and organizational skills.

(u) The commission may:

(1) maintain the historic character of the sites and structures entrusted to its care;

(2) use its resources to develop the historic sites through

promotional and educational activities, including the purchase of items for resale or donation and the purchase of plants and landscaping services; and

(3) accept advertisements in selected agency publications, including print and electronic publications, at a rate that offsets development and production costs.

(v) The commission may accept a gift of real property, whether of historical value or not. When the gift is received, the commission may:

(1) arrange for the preservation, maintenance, and public exhibition of the property; or

(2) at the commission's discretion, sell the property at fair market value and use the proceeds to carry out any purpose of this chapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 109, Sec. 5, eff. Aug. 30, 1995; Acts 1997, 75th Leg., ch. 428, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 461, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 377, Sec. 2, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(41), eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 550 (S.B. 615), Sec. 1, eff. September 1, 2013.

Sec. 442.0051. FEES. The commission by rule may establish reasonable fees for commission purposes under this chapter, including an admission fee appropriate to a historic site under its jurisdiction.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 5, eff. June 15, 2007.

Sec. 442.0052. VOLUNTEER SERVICES. (a) Except as provided by Subsection (b), the commission may use the services of volunteers to help carry out the duties and responsibilities of the commission.

(b) A volunteer may not enforce this code.

(c) The executive director may waive entrance fees and facility

use fees for historic sites under the commission's jurisdiction for a volunteer to assist in the accomplishment of the volunteer's service to the commission.

(d) The executive director may expend funds appropriated to the commission from dedicated funding sources for:

(1) the establishment of an insurance program to protect volunteers in the performance of volunteer service; and

(2) recognition of the services of a volunteer or volunteer groups.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 5, eff. June 15, 2007.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 2, eff. June 17, 2011.

Sec. 442.0053. ELIGIBILITY CRITERIA FOR INCLUSION OF REAL PROPERTY IN STATE HISTORIC SITES SYSTEM. (a) The commission by rule shall adopt criteria for determining the eligibility of real property for inclusion in the historic sites system.

(b) The commission may acquire by purchase or gift or in any other manner real property that satisfies the criteria adopted under Subsection (a).

(b-1) Before adding real property to the historic sites system under this section, the commission shall develop a funding plan for the restoration, interpretation, development, long-term operation, and preservation of the real property to be added to the historic sites system. The plan may provide for an endowment fund, or other sources of funding, as appropriate. The commission may not add the real property to the historic sites system unless there are adequate financial resources available or assured for the restoration, interpretation, development, long-term operation, and preservation of the real property.

(c) The commission may:

(1) renovate or restore real property acquired under Subsection (b), including improvements to the property; or

(2) construct new improvements on the real property as necessary and prudent.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 5, eff.

June 15, 2007.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 510 (H.B. 2719), Sec. 1, eff. September 1, 2023.

Sec. 442.0054. DISCLOSURE OF PERSONAL CUSTOMER INFORMATION. (a) The name and address and a telephone, social security, driver's license, bank account, credit card, or charge card number of a person who purchases customer products, licenses, or services from the commission may not be disclosed except as authorized under this section.

(b) Chapter 552 does not apply to customer information described by Subsection (a).

(c) The commission by rule shall adopt policies relating to:

(1) the release of the customer information;

(2) the use of the customer information by the commission; and

(3) the sale of a mailing list consisting of the names and addresses of persons who purchase customer products, licenses, or services.

(d) The commission shall include in its policies a method for a person by request to exclude information about the person from a mailing list sold by the commission.

(e) The commission may disclose customer information to a federal or state law enforcement agency if the agency provides a lawfully issued subpoena.

(f) The commission and its officers and employees are immune from civil liability for an unintentional violation of this section.

(g) In this section, a reference to the commission includes a reference to an agent of the commission.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 3, eff. June 17, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4187, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 442.0055. AFFILIATED NONPROFIT ORGANIZATION; RULES;

GUIDELINES. (a) The commission shall adopt rules governing the relationship between the commission and an affiliated nonprofit organization formed under Section 442.005(p), including rules that, at a minimum:

(1) define the extent to which commission employees with regulatory responsibilities, including the executive director, may participate in activities that raise funds for an affiliated nonprofit organization, which may not include the direct solicitation of funds; and

(2) define the relationship between commission employees and an affiliated nonprofit organization.

(b) The commission shall establish guidelines for identifying and defining the administrative and financial support the commission may provide for an affiliated nonprofit organization formed under Section 442.005(p).

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 6, eff. September 1, 2007.

Sec. 442.0056. ACQUISITION OF HISTORIC SITES. (a) The commission may acquire by purchase, gift, or other manner historic sites:

(1) where events occurred that represent an important aspect of the cultural, political, economic, military, or social history of the nation or state;

(2) significantly associated with the lives of outstanding historic persons or with an important event that represents a great ideal or idea;

(3) embodying the distinguishing characteristics of an architectural type that is inherently valuable for study of a period, style, or method of construction;

(4) that contribute significantly to the understanding of aboriginal humans in the nation or state; or

(5) that are of significant geologic interest relating to prehistoric animal or plant life.

(b) The commission shall restore and maintain each historic site acquired under this section for the benefit of the general public. The commission may enter into interagency contracts and contracts with other persons, including for-profit corporations, for

this purpose.

(c) The commission shall formulate plans for the preservation and development of historic sites. Before formulating a plan for a specific site, the commission shall conduct an archeological survey of the site. In formulating plans, the commission shall:

(1) consider the results from the archeological survey for the site if the plan is for a specific site; and

(2) consider the resources necessary to manage a site.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 4, eff. June 17, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 550 (S.B. 615), Sec. 2, eff. September 1, 2013.

Sec. 442.0057. SOLICITATION, RECEIPT, AND TRANSFER OF LAND. (a) The commission may solicit and receive donations of land for public purposes and may refuse donations of land not acceptable for public purposes.

(b) If title to a site has vested in the commission and if ownership of the site is no longer in the best interest of the commission, the commission may transfer the title:

(1) to another state commission, department, or institution requesting the site;

(2) to the donor of the land if the donor requests the return of the site;

(3) to the United States if it has undertaken the development of the site for public purposes;

(4) to the grantor if the deed to the commission contains a reversion clause providing that title reverts to the grantor when the site is not used for the purposes for which it was acquired; or

(5) to any legally authorized entity if the property is to be used for public purposes.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 4, eff. June 17, 2011.

Sec. 442.0058. SALE OR EXCHANGE OF LAND. (a) The executive director with the approval of the commission may execute a deed

exchanging real property or an interest in real property either as all or partial consideration for other real property or interest in real property. The executive director with the approval of the commission may execute a deed selling real property or an interest in real property under the jurisdiction of the commission if ownership of the real property is no longer in the best interest of the commission.

(b) The commission shall receive a good and marketable title to all land exchanged under this section.

(c) All land to be received in the exchange must be appraised, and if the land to be received is of greater value, as determined by an independent and competent appraisal, than the state land exchanged, the commission may use funds available for land acquisitions as a partial consideration for the exchange.

(d) The receipts from the sale of land under this section shall be used for improving or acquiring other real property dedicated to the same purpose for which the land sold was dedicated.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 4, eff. June 17, 2011.

Sec. 442.0059. EMPLOYEE FUND-RAISING. (a) This section applies only to the solicitation or receipt of a gift, including money, that has a value of $500 or more.

(b) The commission by rule shall adopt policies to govern fund-raising activities by commission employees on behalf of the commission. The rules must:

(1) designate the types of employees who may solicit donations;

(2) restrict where and how fund-raising may occur; and

(3) establish requirements for reports by employees to the director.

(c) The executive director shall approve and manage fund-raising activities by commission employees on behalf of the commission in accordance with commission rules.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 4, eff. June 17, 2011.

Sec. 442.006. STATE HISTORICAL MARKER PROGRAM. (a) The commission shall give direction and coordination to the state historical marker program.

(b) The commission shall:

(1) develop statewide themes for the program related to the commission's preservation goals for the state;

(2) install markers recognizing districts, sites, individuals, events, structures, and objects significant in Texas or American history, architecture, archeology, or culture;

(3) keep a register of those markers; and

(4) establish a limit for the number of markers the commission awards annually.

(c) To assure a degree of uniformity and quality of historical markers, monuments, and medallions in this state, the commission shall review and approve or reject the final form or dimensions of or text or illustrations on any marker, monument, or medallion before its fabrication by the state or by a county, county historical commission, incorporated city, individual, or organization in this state. The commission shall designate an approved marker as an Official Texas Historical Marker.

(d) The commission shall designate any structure receiving the Official Texas Historical Building Medallion as a Recorded Texas Historic Landmark that is considered worthy of preservation because of its history, culture, or architecture.

(d-1) The commission shall specially designate as a Texas Historical Use Building that is considered worthy of preservation because of its history, culture, or architecture a building that:

(1) is currently used regularly for a purpose that benefits the community in which the building is located, as determined by the commission; and

(2) has been used regularly for the purpose described by Subdivision (1) for at least 150 years.

(e) The commission by rule may establish a reasonable fee to recover its costs arising from review of a proposal for a historical marker, monument, or medallion. Any fee established is payable by the applicant for the marker, monument, or medallion.

(f) A person may not damage the historical or architectural integrity of a structure the commission has designated as a Recorded Texas Historic Landmark without notifying the commission at least 60 days before the date on which the action causing the damage is to

begin. After receiving the notice, the commission may waive the waiting period or, if the commission determines that a longer period will enhance the chance for preservation, it may require an additional waiting period of not longer than 30 days. On the expiration of the time limits imposed by this section, the person may proceed, but must proceed not later than the 180th day after the date on which notice was given or the notice is considered to have expired.

(g) This chapter does not authorize the commission to review or determine the placement or location of an object in or on a Recorded Texas Historic Landmark if the placement or location does not result in substantial structural change or damage to the landmark.

(h) The commission by rule shall establish guidelines for an application for, and the commission's review of the application for, a historical marker, monument, or medallion. The guidelines must include criteria for ranking the applications. The commission shall give priority to the markers, monuments, and medallions that relate to the statewide themes developed by the commission.

(i) Notwithstanding any other law, a monument, marker, or medallion installed by the commission is state property solely under the commission's custody and control and may not be altered, removed, relocated, covered, obscured, or concealed without the express written permission of the commission.

(j) The attorney general may file suit in district court to seek civil penalties in accordance with Section 442.011 and equitable relief in accordance with Section 442.012 against a person who violates this section. Governmental immunity to suit of any county, municipality, or other political subdivision is waived and abolished to the extent liability is created by this section.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 7, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 390 (S.B. 111), Sec. 1, eff. September 1, 2013.

Acts 2021, 87th Leg., R.S., Ch. 718 (H.B. 3584), Sec. 1, eff. September 1, 2021.

Sec. 442.0061. STATE HISTORICAL MARKER PROGRAM TO HONOR AFRICAN AMERICAN LEGISLATORS. (a) The commission shall establish and administer a state historical marker program to honor African Americans who served in the Texas Legislature between 1870 and 1875, during the 12th, 13th, or 14th Legislative Session.

(b) Except as provided by Subsection (c), the commission shall install a historical marker at or as near as practicable to the grave of each former member of the Texas Legislature described by Subsection (a) in consultation with the:

(1) county historical commission established under Chapter 318, Local Government Code, for the county in which the grave is located; and

(2) cemetery association or other entity that manages the cemetery in which the grave is located.

(c) If the former member's place of burial is unknown or the commission determines that placement of a historical marker at the former member's place of burial is inappropriate, the commission, in consultation with the county historical commission established under Chapter 318, Local Government Code, for each county represented by the former member, shall install a historical marker at an appropriate place within the boundaries of the counties represented by the former member.

(d) Historical markers installed under this section must:

(1) have the same form, dimensions, and illustrations as a large Official Texas Historical Marker described by Section 442.006(c) except that the markers must also include the state seal at the bottom of the markers; and

(2) include text that reads:

"FOLLOWING THE AMERICAN CIVIL WAR AND EMANCIPATION OF SLAVES IN 1865, IT WAS NOT UNTIL 1871 THAT AFRICAN AMERICANS IN TEXAS WERE ABLE TO UNIFORMLY REGISTER TO VOTE, FOLLOWING THE RATIFICATION OF THE 15TH AMENDMENT TO THE U.S. CONSTITUTION.

"WHILE AFRICAN AMERICANS SERVED AS DELEGATES TO STATE CONSTITUTIONAL CONVENTIONS PRIOR TO 1870, THE FIRST AFRICAN AMERICANS ELECTED TO SERVE IN THE TEXAS LEGISLATURE WERE ELECTED TO THE 12TH LEGISLATURE, WHICH CONVENED IN PROVISIONAL SESSION ON FEBRUARY 8, 1870.

"PRIOR TO THE END OF FEDERAL RECONSTRUCTION IN 1870, TWELVE AFRICAN AMERICANS SERVED IN THE TEXAS HOUSE OF REPRESENTATIVES, AND TWO SERVED IN THE TEXAS SENATE.

"THIS MARKER IS ERECTED IN HONOR OF:

"(FIRST NAME, MIDDLE INITIAL, AND SURNAME OF THE FORMER MEMBER) | (THE CHAMBER OF THE LEGISLATURE IN WHICH THE FORMER MEMBER SERVED AND THE LEGISLATURE DURING WHICH THE FORMER MEMBER SERVED) | (THE FORMER MEMBER'S DATE OF BIRTH OR "UNKNOWN," AS APPLICABLE) | (THE FORMER MEMBER'S DATE OF DEATH) | (EACH COUNTY REPRESENTED BY THE FORMER MEMBER)

"ERECTED BY THE 88TH TEXAS LEGISLATURE AND THE TEXAS HISTORICAL COMMISSION AS AUTHORIZED BY (NUMBER OF THE BILL PASSED BY THE 88TH LEGISLATURE AUTHORIZING THE ESTABLISHMENT OF THE STATE HISTORICAL MARKER PROGRAM HONORING AFRICAN AMERICAN LEGISLATORS)"

(e) The commission may seek assistance from other state and local governmental entities in carrying out the commission's duties under this section.

(f) The commission may seek and accept gifts, grants, and donations from public or private sources, including seeking available federal funds, to accomplish the purposes of this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 1135 (S.B. 667), Sec. 2, eff. September 1, 2023.

Sec. 442.0065. GUIDE TO HISTORICAL MARKERS. (a) In this section, "department" means the Texas Department of Transportation.

(b) The department, in consultation with the commission, shall publish a guide to historical markers along roadways in this state that includes:

(1) a listing of the historical markers along roadways with identifying numbers assigned to each marker by the department; and

(2) a summary of the information on each marker.

(c) For each historical marker, the department shall erect and maintain, if practicable, signs informing users of the roadway of the marker and indicating the identifying number of the marker. The department shall erect a sign under this subsection approximately one mile preceding the historical marker if that placement is practicable.

(d) The department shall use information from the commission's Texas historical roadside marker restoration program and the state historical marker program under Section 442.006 in creating the guide to historical markers under Subsection (b).

(e) The department shall make available to the public the guide published under Subsection (b) at a reasonable price determined by the department. Revenue from sales of the guide shall be deposited to the credit of the state highway fund and is exempt from the application of Section 403.095.

(f) The department shall work with the commission to ensure that there is no duplication between publications currently available through the commission or other sources.

Added by Acts 2001, 77th Leg., ch. 649, Sec. 1, eff. June 13, 2001.

Sec. 442.007. STATE ARCHEOLOGICAL PROGRAM. (a) The commission, through the state archeologist, shall direct the state archeological program.

(b) The program must include:

(1) a continuing inventory of nonrenewable archeological resources;

(2) evaluation of known sites through testing and excavation;

(3) maintenance of extensive field and laboratory data, including data on collections of antiquities;

(4) consultation with state agencies and organizations and local groups concerning archeological and historical problems; and

(5) publication of the results of the program through various sources, including a regular series of reports.

(c) The commission may enter into contracts or cooperative agreements with the federal government, other state agencies, state or private museums or educational institutions, or qualified persons, including for-profit corporations, for prehistoric or historic archeological investigations, surveys, excavations, or restorations in this state.

(d) The state archeologist has general jurisdiction and supervision over archeological work, reports, surveys, excavations, and archeological programs of the commission and of cooperating state agencies.

(e) The duties of the state archeologist include:

(1) maintaining an inventory of significant historic or prehistoric sites of archeological or historic interest;

(2) providing public information and education in the

fields of archeology and history;

(3) conducting surveys and excavations with respect to significant archeological or historic sites in this state;

(4) preparing reports and publications concerning the work of the office of the state archeologist;

(5) doing cooperative and contract work in prehistoric and historic archeology with other state agencies, the federal government, state or private institutions, or individuals;

(6) maintaining and determining the repository of catalogued collections of artifacts and other materials of archeological or historic interest; and

(7) preserving the archeological and historical heritage of this state.

(f) The state archeologist shall withhold from disclosure to the public information relating to the location or character of archeological or historic resources if the state archeologist determines that the disclosure of the information may create a substantial risk of harm, theft, or destruction to the resources or to the area or place where the resources are located.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.009, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 550 (S.B. 615), Sec. 3, eff. September 1, 2013.

Sec. 442.0071. DUTIES REGARDING GOVERNOR'S MANSION. (a) The commission shall approve construction plans and monitor the work on the Governor's Mansion to ensure compliance with Chapter 191, Natural Resources Code, to ensure the historical and architectural integrity of the mansion's exterior, interior, contents, and grounds. A substantial addition, deletion, or other alteration may not be made to the mansion or its contents or grounds without the prior approval of the commission.

(b) The commission shall:

(1) develop and maintain an inventory of the contents of the Governor's Mansion that includes all furnishings, fixtures, works of art, and decorative objects and states the owner of each of those

items;

(2) develop a plan for the acquisition, by purchase, donation, or loan, of furnishings, fixtures, works of art, and decorative objects for the mansion, especially early 19th-century American, museum-quality items and items having historical significance to the Governor's Mansion;

(3) develop a plan for the disposition of furnishings, fixtures, works of art, and decorative objects that the commission determines are not needed or inappropriate; and

(4) recommend and arrange for the conservation or restoration of furnishings, fixtures, works of art, and decorative objects in the mansion that are owned by the state.

(c) The commission may accept gifts, grants, or other donations on behalf of the Governor's Mansion. The commission shall contract with a nonprofit organization formed to assist in the preservation and maintenance of the Governor's Mansion to develop and implement a plan for the solicitation and acceptance of gifts, grants, devises, and bequests of money, other property, and services to be used in the acquisition of furnishings, fixtures, works of art, and decorative objects for the Governor's Mansion or for necessary landscaping, conservation, or restoration services. The commission also may contract with a nonprofit organization described by this subsection for the performance of any duty provided by Subsection (b). A contract under this subsection may not exceed a term of two years.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 240, Sec. 3, eff. May 27, 2009.

(e) The State Preservation Board and the office of the governor may exercise the powers and shall perform the duties relating to the Governor's Mansion that are provided by applicable law, subject to the requirements of this section.

(f) Section 443.007 does not apply to this section.

Added by Acts 1989, 71st Leg., ch. 177, Sec. 1, eff. May 25, 1989.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 240 (S.B. 2307), Sec. 2, eff. May 27, 2009.

Acts 2009, 81st Leg., R.S., Ch. 240 (S.B. 2307), Sec. 3, eff. May 27, 2009.

Sec. 442.0072. PRESERVATION AND MAINTENANCE OF GETHSEMANE CHURCH AND CARRINGTON-COVERT HOUSE. (a) In this section:

(1) The Gethsemane Church includes the adjoining grounds of the church.

(2) The Carrington-Covert House includes the adjoining grounds of the house.

(b) The State of Texas owns the Gethsemane Church and the Carrington-Covert House.

(c) The church and the house are located at Congress Avenue and 16th Street on Lots 5, 6, 7, and 8, Outlot 46, Division "E" of the original City of Austin, Travis County, Texas.

(d) The commission shall preserve, maintain in a state of suitable repair, restore, and develop the church and the house, their contents, and their grounds, in the manner determined by the commission, for the beautification and cultural enhancement of the properties as a significant Texas historical site and in a manner consistent with development of the Capitol Complex.

(e) The commission shall spend the money the legislature appropriates for purposes of this section to accomplish those purposes.

(f) The commission may:

(1) accept gifts and donations for the church and the house; and

(2) use the gifts and donations in accordance with the donor's conditions and instructions that are consistent with this section.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.102, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 898 (H.B. 2621), Sec. 1, eff. September 1, 2007.

Sec. 442.0073. PRESERVATION AND MAINTENANCE OF CERTAIN STATE BUILDINGS. (a) The commission shall preserve, maintain, and restore Luther Hall, the Elrose Building, and the Christianson-Leberman Building, their contents, and their grounds.

(b) For purposes of this section, Luther Hall and the Elrose Building are located on 16th Street between Colorado Street and North

Congress Avenue in Austin and the Christianson-Leberman Building is located at 1304 Colorado Street in Austin.

Added by Acts 2007, 80th Leg., R.S., Ch. 898 (H.B. 2621), Sec. 2, eff. September 1, 2007.

Sec. 442.0074. PRESERVATION, MAINTENANCE, AND IMPROVEMENT OF REPUBLIC OF TEXAS GRANITE BOUNDARY MARKER. (a) In this section, "boundary marker" means the granite marker designating the former international boundary between the Republic of Texas and the United States, originally placed in 1841 at its location in Panola County near Farm to Market Road No. 31, at or about 32°2'3"N, 94°2'35"W, and known as the Republic of Texas Granite Boundary Marker and the International Boundary Marker.

(b) To the extent authorized by law, the commission shall preserve, maintain, and improve the boundary marker and state land adjacent to the boundary marker and shall:

(1) design and construct a structure or device sufficient to protect the boundary marker from vandalism, theft, and natural elements;

(2) display historical and educational information on a sign or plaque at the boundary marker site to inform the public of the history of the boundary marker and the region;

(3) cooperate with the federal government and other persons as necessary to facilitate the implementation of duties imposed by this section; and

(4) take other action the commission determines necessary to preserve, maintain, restore, and improve the boundary marker and the state grounds adjacent to the boundary marker for the beautification and cultural enhancement of the property as a significant historical site in this state.

(c) Notwithstanding any other law, any power or duty related to the boundary marker formerly vested in another state agency is vested solely in the commission.

(d) The commission may spend money appropriated to the commission for purposes of this section only to accomplish those purposes.

(e) The commission may solicit and accept gifts, grants, and donations of money or property from any public or private source to

be used for the purposes of this section.

(f) Repealed by Acts 2023, 88th Leg., R.S., Ch. 936 (S.B. 1520), Sec. 1, eff. June 18, 2023.

Added by Acts 2019, 86th Leg., R.S., Ch. 607 (S.B. 907), Sec. 1, eff. September 1, 2019.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 936 (S.B. 1520), Sec. 1, eff. June 18, 2023.

Sec. 442.008. COUNTY COURTHOUSES. (a) A county may not demolish, sell, lease, or damage the historical or architectural integrity of any building that serves or has served as a county courthouse without notifying the commission of the intended action at least six months before the date on which it acts.

(b) If the commission determines that a courthouse has historical significance worthy of preservation, the commission shall notify the commissioners court of the county of that fact not later than the 30th day after the date on which the commission received notice from the county. A county may not demolish, sell, lease, or damage the historical or architectural integrity of a courthouse before the 180th day after the date on which it received notice from the commission. The commission shall cooperate with any interested person during the 180-day period to preserve the historical integrity of the courthouse.

(c) A county may carry out ordinary maintenance of and repairs to a courthouse without notifying the commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 403, Sec. 3, eff. Sept. 1, 1999.

Sec. 442.0081. HISTORIC COURTHOUSE PRESERVATION AND MAINTENANCE PROGRAMS; GRANTS AND LOANS. (a) The commission shall administer a historic courthouse preservation program.

(b) A county or municipality that owns a historic courthouse may apply to the commission for a grant or loan for a historic courthouse project. The application must:

(1) state the location of the courthouse;

(2) state whether the courthouse is or is likely to become

a historic structure;

(3) state the amount of money or in-kind contributions that the county or municipality promises to contribute to the project;

(4) state whether the courthouse is currently functioning as a courthouse;

(5) include any plans, including a master preservation plan, that the county or municipality may have for the project; and

(6) include any other information that the commission by rule may require.

(c) The commission may grant or loan money to a county or municipality that owns a historic courthouse, for the purpose of preserving or restoring the courthouse, if the county's or municipality's application meets the standards of the historic courthouse preservation program. In considering whether to grant an application, the commission shall consider the preferences and factors listed in this section as well as any other factors that it may provide by rule.

(d) In considering whether to grant an application, the commission shall give preference to:

(1) a proposed project to preserve or restore a courthouse:

(A) that is or is likely to become a historic structure; and

(B) that:

(i) is still functioning as a courthouse;

(ii) was built before 1875; or

(iii) is subject to a conservation easement held by the commission; and

(2) a county or municipality that will provide or has provided at least 15 percent of the project's costs, including:

(A) in-kind contributions; and

(B) previous expenditures for master planning and renovations on the courthouse that are the subject of the application.

(e) In considering whether to grant an application, the commission shall also consider the following factors:

(1) the amount of money available for a grant or loan and the percentage of the costs that the county or municipality will contribute;

(2) whether the county or municipality will contribute any in-kind contribution such as labor or materials;

(3) the cost to preserve or restore the courthouse;

(4) the architectural style of the courthouse;

(5) the historic significance of the courthouse;

(6) the county's or municipality's master preservation plan;

(7) the county's or municipality's local funding capacity as measured by the total taxable value of properties in the county or municipality, as applicable; and

(8) any other factors that the commission by rule may provide.

(f) The commission shall adopt rules regarding the way in which it will consider the following factors in analyzing a county's or municipality's contribution to project costs under Subsection (d)(2):

(1) the period during which past expenditures can be considered;

(2) the amount of past expenditures that can be considered; and

(3) the amount and type of in-kind contributions that can be considered.

(g) Repealed by Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 12(1), eff. September 1, 2019.

(g-1) To help protect courthouses that have benefited from the historic courthouse preservation program, the commission shall develop and implement a maintenance program to assist counties and municipalities receiving money under the preservation program in continuing to maintain, repair, and preserve the courthouses. The maintenance program may include offering to periodically inspect the courthouses and offering counties and municipalities technical assistance and information on best practices in maintaining the courthouses.

(h) The commission shall adopt rules necessary to implement the historic courthouse preservation and maintenance programs.

Added by Acts 1999, 76th Leg., ch. 403, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 646 (H.B. 2902), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 646 (H.B. 2902), Sec. 2, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1100 (H.B. 3674), Sec. 2, eff.

September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 12(1), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 424 (S.B. 496), Sec. 1, eff. September 1, 2019.

Sec. 442.0082. HISTORIC COURTHOUSE PROJECT; REQUIREMENTS. (a) Before incurring any expenses payable from funds received from the commission under the historic courthouse preservation program, a county or municipality must have a master preservation plan for its historic courthouse project. The commission by rule shall prescribe the minimum standards for a master preservation plan.

(b) A county or municipality that receives money under the historic courthouse preservation program must use recognized preservation standards for work on a historic courthouse project. The commission by rule shall establish standards regarding the quality of the work performed on a historic courthouse project.

(c) A county or municipality that receives money under the historic courthouse preservation program for a historic courthouse project may use the money only for eligible preservation and restoration expenses that the commission by rule shall prescribe. Eligible expenses may include costs for:

(1) structural, mechanical, electrical, and plumbing systems and weather protection and emergency public safety issues not covered by insurance;

(2) code and environmental compliance, including complying with the federal Americans with Disabilities Act of 1990 and its subsequent amendments, Chapter 469, and other state laws relating to accessibility standards, hazardous materials mitigation rules, and other similar concerns;

(3) replication of a missing architectural feature;

(4) removal of an inappropriate addition or modification; and

(5) restoration of a courtroom or other significant public space in a functional and historically appropriate manner.

(d) A county's or municipality's expenditure of money received under this chapter for a historic courthouse project is subject to audit by the state auditor in accordance with Chapter 321.

(e) The commission by rule shall provide for oversight

procedures on a project. These rules shall provide for reasonable inspections by the commission as well as periodic reports by a county or municipality on a project's progress.

Added by Acts 1999, 76th Leg., ch. 403, Sec. 2, eff. Sept. 1, 1999.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1100 (H.B. 3674), Sec. 3, eff. September 1, 2013.

Sec. 442.0083. FUNDING FOR HISTORIC COURTHOUSE PRESERVATION PROGRAM; HISTORIC COURTHOUSE PRESERVATION FUND ACCOUNT. (a) The historic courthouse preservation fund account is a separate account in the general revenue fund. The account consists of transfers made to the account, payments on loans made under the historic courthouse preservation program, grants and donations made for the purposes of the historic courthouse preservation program, and income earned on investments of money in the account. Appropriations to the commission for the historic courthouse preservation program shall be deposited to the credit of the account. Notwithstanding Section 404.071, income earned on money in the account shall be deposited to the credit of the account.

(b) Except as otherwise provided by Subsection (c), the commission may use money in the historic courthouse preservation fund account to provide a grant or loan to a county or municipality that owns a historic courthouse for a historic courthouse project. The grant or loan may be in the amount and according to the terms that the commission by rule shall determine.

(c) The commission may use money in the historic courthouse preservation fund account to provide a loan under the historic courthouse preservation program only to the extent that the legislature provides in the General Appropriations Act that money appropriated to the commission for the program may be used to make loans.

(d) As a condition for providing the money under this section, the commission may require creation of a conservation easement in the property, as provided by Chapter 183, Natural Resources Code, in favor of the state and may require creation of other appropriate covenants in favor of the state. The commission may take any necessary action to enforce repayment of a loan or any other

agreements made under this section and Sections 442.0081 and 442.0082.

(e) A grant for a historic courthouse project may not exceed the greater of $10 million or two percent of the amount appropriated for implementing the historic courthouse preservation program during the state fiscal biennium.

(f) Biennial appropriations to the commission for administering the historic courthouse preservation and maintenance programs during a state fiscal biennium, including providing oversight for historic courthouse projects, may not exceed 2-1/2 percent of the amount appropriated for implementing the historic courthouse preservation and maintenance programs during the state fiscal biennium.

(g) The commission by rule may set a limit on the loan amount for a historic courthouse project. This amount may be expressed as a dollar amount or as a percentage of the total amount appropriated for implementing the historic courthouse preservation program during the state fiscal biennium.

(h) The commission may accept a gift, grant, or other donation for the historic courthouse preservation program or a specific historic courthouse project.

Added by Acts 1999, 76th Leg., ch. 403, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 646 (H.B. 2902), Sec. 3, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1100 (H.B. 3674), Sec. 4, eff. September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 56 (S.B. 1332), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 510 (H.B. 2719), Sec. 2, eff. September 1, 2023.

Sec. 442.0084. EQUITABLE REPRESENTATION IN MONUMENTS. (a) In this section, "monument" has the meaning assigned by Section 443.015, as added by Chapter 1141, Acts of the 75th Legislature, Regular Session, 1997.

(b) To ensure that the diverse history of Texas is accurately represented on land owned by the state other than the Capitol Complex, the Texas Historical Commission shall:

(1) collect information relating to each monument on land owned by the state other than the Capitol Complex; and

(2) in cooperation with the chair of the history department at Prairie View A&M University, at The University of Texas at Austin, or at any other land grant university in the state, as determined by the commission, ensure the:

(A) historical accuracy of the monuments; and

(B) equitable representation of all Texans, including African slaves, African Americans, Hispanic Americans, Native Americans, women in Texas history, and Texans exemplifying military service and rural heritage in monuments on land owned by the state other than the Capitol Complex.

(c) The commission shall make the information collected under this section available to the public.

Added by Acts 2001, 77th Leg., ch. 1315, Sec. 1, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 442.0087 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(60), eff. Sept. 1, 2003.

Sec. 442.0085. STATE REGISTER OF HISTORIC PLACES. (a) The commission shall develop and maintain a state register of historic places using existing statutory classifications of those places, including Recorded Texas Historic Landmarks, National Register listings, subject markers, and state archeological landmarks.

(b) The commission shall adopt rules to implement this section.

Added by Acts 1995, 74th Leg., ch. 109, Sec. 6, eff. Aug. 30, 1995.

Sec. 442.0086. MILITARY SITES PROGRAM. (a) The commission shall identify sites in and outside this state that are historically significant to this state because of:

(1) military action or service at the sites; or

(2) other significant events of a military nature at the sites that shaped the history of this state.

(b) In carrying out its duties under Subsection (a), the commission shall assist other governmental entities, including other states, institutions, organizations, and other entities in identifying military sites outside this state where Texans served with distinction.

(c) The commission may designate or encourage the designation of sites identified under Subsections (a) and (b) through existing history programs, including:

(1) local community landmark programs;

(2) the state historical marker program under Section 442.006;

(3) the National Register of Historic Places;

(4) the National Historic Landmarks program;

(5) the World Heritage List; and

(6) other appropriate programs.

(d) The commission may provide information regarding the significance of the sites designated under this section using:

(1) historical markers and monuments;

(2) publications and films; and

(3) other appropriate media.

(e) The commission may seek assistance from other state and local governmental entities in carrying out the commission's duties under this section.

(f) The commission may seek and accept gifts, grants, and donations from public or private sources, including seeking available federal funds, to accomplish the purposes of this section.

Added by Acts 1995, 74th Leg., ch. 109, Sec. 7, eff. Aug. 30, 1995.

Sec. 442.0087. FORT BLISS MUSEUM AND STUDY CENTER. (a) The commission may assist Fort Bliss Military Reservation in El Paso in the establishment and operation at Fort Bliss of a museum and study center devoted to the history of the United States air defense system.

(b) To accomplish the purposes of this section, the commission may:

(1) seek and accept gifts, grants, and donations of funds or property from public and private sources, including seeking available federal funds; and

(2) contribute funds appropriated to the commission for the purpose.

(c) The commission may provide assistance and contribute funds under this section only if the commission receives appropriate assurances that, subject to the security requirements of the military

reservation, the museum and study center will be open for use by the general public.

Added by Acts 2001, 77th Leg., ch. 312, Sec. 1, eff. May 23, 2001.

Sec. 442.0088. TEXAS HERITAGE TRAILS PROGRAM. (a) The Texas Historical Commission may establish and administer the Texas Heritage Trails Program to promote tourism to heritage and cultural attractions in this state.

(b) The commission may contract with one or more nonprofit organizations to fulfill the commission's duties under this section.

(c) The commission shall adopt rules to administer the Texas Heritage Trails Program, including rules defining the principles of heritage tourism and relating to contracts the commission enters into with nonprofit organizations. Rules adopted under this subsection relating to contracts with nonprofit organizations must require each contract to clearly establish:

(1) the role of the nonprofit organization in promoting heritage tourism;

(2) the nature of the relationship between the commission and the nonprofit organization;

(3) the performance expectations for the nonprofit organization;

(4) requirements and expectations regarding the nonprofit organization's employees;

(5) the commission's expectations regarding ownership of any literature, media, or other products developed or produced by the nonprofit organization to promote heritage tourism during the course of the contract;

(6) the commission's long-term goals for the program and the nonprofit organization's role in meeting those goals;

(7) a system for evaluating the nonprofit organization's overall performance, including the organization's effectiveness in meeting the performance expectations described by Subdivision (3); and

(8) the types of support, other than financial support, the commission will provide to the nonprofit organization to assist in the implementation and administration of the Texas Heritage Trails Program.

Added by Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 3, eff. September 1, 2019.

Sec. 442.009. CONSUMER INFORMATION AND COMPLAINTS. (a) The commission shall maintain a system to promptly and efficiently act on complaints filed with the commission. The commission shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The commission shall make information available describing its procedures for complaint investigation and resolution.

(c) The commission shall periodically notify the complaint parties of the status of the complaint until final disposition.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 46, eff. June 15, 2007.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 109, Sec. 8, eff. Aug. 30, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 8, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 46, eff. June 15, 2007.

Sec. 442.0095. PROGRAM AND FACILITY ACCESSIBILITY. The commission shall comply with federal and state laws related to program and facility accessibility. The executive director shall also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the commission's programs and services.

Added by Acts 1995, 74th Leg., ch. 109, Sec. 9, eff. Aug. 30, 1995.

Sec. 442.010. AUDITS. (a) The financial transactions of the commission are subject to audit by the state auditor in accordance with Chapter 321.

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(42), eff. June 17, 2011.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 92, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 109, Sec. 10, eff. Aug. 30, 1995.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 7, eff. June 17, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(42), eff. June 17, 2011.

Sec. 442.011. PENALTY. A person who violates this chapter or Chapter 191, Natural Resources Code, is subject to a civil penalty of not less than $50 nor more than $1,000 for each day of violation. Each day a violation continues may be considered a separate violation. If the party seeking a civil penalty demonstrates the same violation occurred on more than one day, it is presumed that the person committed a violation on each intervening day between the days of violation, including the days on which a violation was demonstrated.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 312 (H.B. 2056), Sec. 1, eff. September 1, 2007.
Acts 2021, 87th Leg., R.S., Ch. 718 (H.B. 3584), Sec. 2, eff. September 1, 2021.

Sec. 442.012. LAWSUITS. (a) The attorney general or any resident of this state may file suit in district court to restrain and enjoin a violation or threatened violation of this chapter or Chapter 191, Natural Resources Code, to recover on behalf of the state a civil penalty provided by this chapter, including a civil penalty provided for a violation of Chapter 191, Natural Resources Code, or for both injunctive relief and a civil penalty.
(b) Venue of the suit filed is in Travis County or the county in which the activity sought to be restrained or penalized is alleged to have occurred, be occurring, or be about to occur.
(c) If the attorney general substantially prevails in an action to recover a civil penalty under this section, the court shall award

the attorney general reasonable expenses incurred in recovering the penalty, including court costs, reasonable attorney's fees, expert witness fees, and deposition expenses.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 312 (H.B. 2056), Sec. 2, eff. September 1, 2007.

Sec. 442.013. NO EFFECT ON OTHER ORGANIZATIONS AND ACTIVITIES. It is not the purpose of this chapter to duplicate or replace existing historical heritage organizations and activities, but to give leadership, coordination, and service as needed and desired.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 442.014. MAIN STREET PROGRAM. (a) The commission shall administer a main street program to assist communities with the development, restoration, and preservation of their historic neighborhood commercial districts and central business districts.

(b) The commission shall designate certain communities to participate in the program as official main street cities.

(c) The commission by rule shall prescribe the frequency of community designations and qualification standards for participation in the program.

(d) The commission by rule shall prescribe a fee schedule for participation in the program under Subsection (c). The commission shall collect fees from the participating communities to offset costs of participation in the program.

Added by Acts 1989, 71st Leg., ch. 23, Sec. 1, eff. April 19, 1989.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 393 (S.B. 1269), Sec. 1, eff. September 1, 2021.

Sec. 442.0145. TEXAS HISTORICAL ARTIFACTS PROGRAM; FUND. (a) The commission shall administer a program to assist municipalities, counties, museums, and county historical commissions with:

(1) the development or improvement of museum facilities used to display historical artifacts discovered in Texas that are significant in Texas or American history; and

(2) the acquisition of historical artifacts discovered in Texas that are significant in Texas or American history.

(b) The Texas Historical Artifacts Program fund is created as a separate account in the general revenue fund. The fund is composed of money appropriated to the fund, money deposited to the fund under Subsection (c), and interest received from investments of money in the fund that the comptroller shall allocate to the fund. Sections 403.095 and 404.071 do not apply to the fund or to interest received from investments of money in the fund. Money in the fund may be spent only as provided by the commission under this section.

(c) The commission may accept, for deposit in the Texas Historical Artifacts Program fund, grants or other donations from any source.

(d) The commission shall establish rules governing the use, administration, and distribution of the Texas Historical Artifacts Program fund. The rules must ensure that money in the fund is used only for the purposes prescribed by Subsection (a), including paying the expenses of administering the program.

Added by Acts 1999, 76th Leg., ch. 1370, Sec. 1, eff. June 19, 1999.
Amended by Acts 2001, 77th Leg., ch. 377, Sec. 3, eff. Sept. 1, 2001.

Sec. 442.015. TEXAS PRESERVATION TRUST FUND ACCOUNT. (a) Notwithstanding Section 403.095, the Texas preservation trust fund account is a separate account in the general revenue fund. The account consists of transfers made to the account, loan repayments, grants and donations made for the purposes of this program, proceeds of sales, earnings on the account, and any other money received under this section. Distributions from the account may be used only for the purposes of this section and may not be used to pay operating expenses of the commission. Money allocated to the commission's historic preservation grant program shall be deposited to the credit of the account. Earnings on the account shall be deposited to the credit of the account.

(b) The commission may use distributions from the Texas preservation trust fund account to provide financial assistance to

public or private entities for the acquisition, survey, restoration, or preservation, or for planning and educational activities leading to the preservation, of historic property in the state that is listed in the National Register of Historic Places or designated as a State Archeological Landmark or Recorded Texas Historic Landmark, or that the commission determines is eligible for such listing or designation. The financial assistance may be in the amount and form and according to the terms that the commission by rule determines. The commission shall give priority to property the commission determines to be endangered by demolition, neglect, underuse, looting, vandalism, or other threat to the property. Gifts and grants deposited to the credit of the account specifically for any eligible projects may be used only for the type of projects specified. If such a specification is not made, the gift or grant shall be unencumbered and accrue to the benefit of the Texas preservation trust fund account. If such a specification is made, the entire amount of the gift or grant may be used during any period for the project or type of project specified.

(c) As a condition of providing financial assistance under this section, the commission shall require the creation of a preservation easement in the property, as provided by Chapter 183, Natural Resources Code, in favor of the state, the designation of the property as a State Archeological Landmark, as provided by Chapter 191, Natural Resources Code, or the creation of other appropriate covenants in favor of the state. The commission may take any necessary action to enforce repayment of a loan made under this section.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 12(2), eff. September 1, 2019.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 12(2), eff. September 1, 2019.

(f) Repealed by Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 12(2), eff. September 1, 2019.

(g) The commission may accept grants or other donations of money or other property and services from any source. Money received under this subsection shall be deposited to the credit of the Texas preservation trust fund account.

(h) The comptroller shall manage the assets of the account. In managing the assets of the account, the comptroller may acquire, exchange, sell, supervise, manage, or retain, through procedures and

subject to restrictions the comptroller considers appropriate, any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the account then prevailing, taking into consideration the investment of all the assets of the account rather than a single investment.

(i) The amount of a distribution shall be determined by the comptroller in a manner intended to provide a stable and predictable stream of annual distributions and to maintain over time the purchasing power of account investments and annual distributions from the account. If the purchasing power of account investments for any 10-year period is not preserved, the comptroller may not increase annual distributions from the account until the purchasing power of account investments is restored.

(j) An annual distribution made by the comptroller from the account during a fiscal year may not exceed an amount equal to seven percent of the average net fair market value of the investment assets of the account as determined by the comptroller.

(k) The expenses of managing account investments shall be paid from the account.

(l) On request, the comptroller shall fully disclose all details concerning the investments of the account.

Added by Acts 1989, 71st Leg., ch. 366, Sec. 1, eff. Sept. 1, 1989. Renumbered from Sec. 442.0071 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(6), eff. Sept. 6, 1990. Amended by Acts 1995, 74th Leg., ch. 109, Sec. 11, eff. Aug. 30, 1995; Acts 1999, 76th Leg., ch. 461, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 377, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 9, eff. June 15, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 22.01, eff. November 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 22.02, eff. November 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1218 (S.B. 1546), Sec. 1, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 12(2), eff.

September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4187, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 442.0151. HISTORIC INFRASTRUCTURE SUSTAINABILITY TRUST FUND. (a) In this section, "trust company" means the Texas Treasury Safekeeping Trust Company.

(b) The historic infrastructure sustainability trust fund is created as a trust fund outside the treasury held by the trust company and administered by the comptroller as trustee on behalf of the people of this state to generate earnings on money in the fund for the purpose of maintaining, preserving, rehabilitating, and restoring historic sites throughout the state.

(c) The fund consists of:

(1) money appropriated or transferred to the fund at the direction of the legislature;

(2) gifts, grants, and donations received by the commission for a purpose for which money in the fund may be used under this section; and

(3) any returns received from the investment of money in the fund.

(d) The trust company shall hold, manage, and invest the fund, and shall determine the amount available for distribution from the fund each year in accordance with a distribution policy adopted by the comptroller. The distribution policy must be designed to preserve the purchasing power of the assets of the fund, provide a stable and predictable series of annual distributions from the fund, and meet the liquidity needs of the fund as necessary. The expenses of managing the fund and its assets shall be paid from the fund. Except as otherwise provided by this section, money in the fund may not be used for any other purpose.

(e) In managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, the trust company may acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration

the investment of all the assets of the fund rather than a single investment. At the request of the trust company, the commission shall provide the trust company with information the trust company determines is necessary to ensure that the trust company is able to achieve the objectives specified by Subsection (d).

(f) The commission annually may request a distribution from the fund in an amount that may not exceed the amount the trust company determines is available for distribution in the applicable year under Subsection (d). Money distributed from the fund to the commission may be used only for the purpose of maintaining, preserving, rehabilitating, and restoring state historic sites under the control of the commission and for the historic courthouse preservation program under Section 442.0081. The commission shall allocate at least one-third of each annual distribution from the fund under this subsection for the historic courthouse preservation program. The commission may not use money received from an annual distribution under this subsection to pay salaries, employee benefits, costs associated with employee benefits, or administration, operating, or program costs of the commission.

(g) Subject to Subsection (h) and not more frequently than once each calendar year, the commission may request an additional distribution from the fund in an amount that exceeds the amount the trust company determines is available for distribution from the fund in that year under Subsection (d). An additional distribution under this subsection may be used for a purpose described by Subsection (f). The trust company may not make an additional distribution under this subsection if the distribution would negatively affect the purchasing power of the assets of the fund as determined by the terms of the distribution policy adopted by the comptroller under Subsection (d).

(h) The commission may receive an additional distribution from the fund under Subsection (g) only after the commission certifies to the Legislative Budget Board that:

(1) the commission has reviewed and approved the use of the money;

(2) all purchases made with the money will conform to any applicable provision of law governing state procurement and contracting; and

(3) the money will not be used to:

(A) pay salaries, employee benefits, costs associated

with employee benefits, or administration, operating, or program costs of the commission or the state historic sites under the control of the commission;

(B) acquire new historic sites or real property; or

(C) purchase capital equipment that is not related to the rehabilitation or restoration of a historic site under the control of the commission or the historic courthouse preservation program under Section 442.0081.

(i) All expenditures by the commission under this section are subject to audit by the state auditor.

(j) The commission shall include in the strategic plan submitted under Section 2056.002 a report on each project funded using money in the fund during the two-year period preceding the date on which the commission submits the plan and a list of each project the commission anticipates will be funded using money in the fund for the period covered by the plan.

Added by Acts 2023, 88th Leg., R.S., Ch. 56 (S.B. 1332), Sec. 2, eff. September 1, 2023.

Sec. 442.0155. FUNDS SUBJECT TO STATE FUNDS REFORM ACT. All money paid to the commission under this chapter is subject to Subchapter F, Chapter 404.

Added by Acts 1995, 74th Leg., ch. 109, Sec. 12, eff. Aug. 30, 1995.

Sec. 442.016. LIABILITY FOR ADVERSELY AFFECTING HISTORIC STRUCTURE OR PROPERTY. (a) In this section, "historic structure or property" means a historic structure or a structure or property that is designated as historic by a political subdivision of the state, the state, or the federal government.

(b) A person is liable to the commission for damages if the person:

(1) demolishes, causes to be demolished, or otherwise adversely affects the structural, physical, or visual integrity of a historic structure or property that is not located in a municipality that has a demolition permit and a building permit procedure; and

(2) does not obtain written permission from the commission before beginning to demolish, cause the demolition of, or otherwise

adversely affect the structural, physical, or visual integrity of the structure or property.

(c) If the structural, physical, or visual integrity of the structure or property is adversely affected to the extent that it is not feasible to restore the structural, physical, or visual integrity substantially to its former level, the damages are equal to the cost of constructing, using as many of the original materials as possible, a new structure or property that is a reasonable facsimile of the historic structure or property and the cost of attorney's, architect's, and appraiser's fees and other costs related to the enforcement of this section. If it is feasible to restore the structural, physical, or visual integrity of the structure or property substantially to its former level, the damages are equal to the cost of the restoration, using as many of the original materials as possible, and the cost of attorney's, architect's, and appraiser's fees and other costs related to the enforcement of this section.

(d) Instead of accepting monetary damages, the commission may permit the liable person to construct, using as many of the original materials as possible, a structure or property that is a reasonable facsimile of the demolished historic structure or property or to restore, using as many of the original materials as possible, the historic structure or property and to pay the cost of attorney's, architect's, and appraiser's fees and other costs related to the enforcement of this section.

(e) Damages recovered under this section shall be deposited in the Texas preservation trust fund account.

(f) The construction of a facsimile structure or property under Subsection (d) must be undertaken at the location designated by the commission, which may be the same location as that of the demolished historic structure or property.

(g) The commission may make contracts and adopt rules as necessary to carry out this section.

(h) The commission shall file in the real property records of the county clerk's office in each county in which a historic structure or property that is included on the National Register of Historic Places or that is designated as a Recorded Texas Historic Landmark is located a verified written instrument listing each structure or property located in that county by:

(1) the street address, if available in the commission files;

(2) the legal description of the real property on which the structure or property is located; and

(3) the name of the owner of the real property, if available in the commission files.

(i) Subsections (a) through (g) of this section apply only to a historic structure or property on or after the date the instrument has been filed under Subsection (h) and indexed.

Added by Acts 1991, 72nd Leg., ch. 594, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 109, Sec. 13, eff. Aug. 30, 1995.

Sec. 442.017. IDENTIFICATION AND PRESERVATION OF ABANDONED CEMETERIES. (a) The commission should establish a program to identify and preserve abandoned cemeteries across the state.

(b) The commission is encouraged to use volunteers to the maximum extent possible to implement the program and to model the program to the extent appropriate on the "Adopt-A-Beach" program conducted by the General Land Office.

(c) The commission may accept gifts, grants, and in-kind donations from public and private entities for the implementation of the program. The legislature may appropriate money to the commission to implement the program.

(d) The commission may adopt rules reasonably necessary to implement the program.

Added by Acts 2001, 77th Leg., ch. 377, Sec. 5, eff. Sept. 1, 2001.

Sec. 442.018. IDENTIFICATION AND PRESERVATION OF TEXAS UNDERGROUND RAILROAD HISTORICAL SITES. (a) The commission should establish a program to identify and preserve Texas Underground Railroad Historical Sites.

(b) The commission is encouraged to use volunteers to the maximum extent possible to implement the program and to model the program to the extent appropriate on the "Adopt-A-Beach" program conducted by the General Land Office.

(c) The commission may accept gifts, grants, and in-kind donations from public and private entities for the implementation of the program. The legislature may appropriate money to the commission

to implement the program.

(d) The commission may adopt rules reasonably necessary to implement the program.

Added by Acts 2001, 77th Leg., ch. 377, Sec. 6, eff. Sept. 1, 2001.

Sec. 442.019. TOM LEA TRAIL. (a) The commission shall develop a Tom Lea Trail program to commemorate the life and art of Tom Lea.

(b) The program, at a minimum, shall include:

(1) designation of locations that are historically significant to the life and art of Tom Lea;

(2) adoption of an icon, symbol, or other identifying device to represent a designation under this section;

(3) the use of the icon, symbol, or other identifying device in promoting tourism around this state by the commission and at locations designated under this section; and

(4) the development of itineraries and maps to guide tourists to locations designated under this section.

(c) The commission shall adopt:

(1) eligibility criteria for a designation under this section; and

(2) procedures to administer the program created under this section.

(d) A historic marker or sign relating to the life and art of Tom Lea that is erected or maintained pursuant to the program adopted under this section must be located not more than five miles from a location designated under Subsection (b)(1).

(e) The commission may, as necessary, enter into a memorandum of understanding with the Texas Economic Development and Tourism Office and the Texas Department of Transportation to implement this section.

(f) The commission may solicit and accept gifts, grants, and other donations from any source to implement this section. The commission is not required to promote or market the Tom Lea Trail unless the commission receives funds raised from private entities for that purpose.

(g) The following segments of highway shall constitute the Tom Lea Trail:

(1) Interstate Highway 10 from its intersection with the

northern municipal boundary of El Paso to its intersection with Interstate Highway 20;

(2) Interstate Highway 20 from its intersection with Interstate Highway 10 to its intersection with the western municipal boundary of Sweetwater;

(3) Interstate Highway 20 from its intersection with the eastern municipal boundary of Sweetwater to its intersection with U.S. Highway 277;

(4) U.S. Highway 277 from its intersection with Interstate Highway 10 to its intersection with State Highway 114 in Seymour;

(5) State Highway 114 from its intersection with U.S. Highway 277 in Seymour to its intersection with State Highway 199;

(6) State Highway 199 from its intersection with U.S. Highway 281 to its intersection with Interstate Highway 30;

(7) Interstate Highway 30 from its intersection with State Highway 199 to its intersection with Interstate Highway 35 East in Dallas;

(8) Interstate Highway 35 East from its intersection with Interstate Highway 30 in Dallas to its intersection with State Highway 6 outside of the southern municipal boundary of Waco;

(9) State Highway 6 from its intersection with Interstate 35 East to its intersection with State Highway 30 in College Station;

(10) State Highway 30 from its intersection with State Highway 6 in College Station to its intersection with Interstate Highway 45;

(11) Interstate Highway 45 from its intersection with State Highway 30 to its terminus in Galveston;

(12) State Highway 21 from its intersection with State Highway 6 to its intersection with U.S. Highway 290;

(13) U.S. Highway 290 from its intersection with State Highway 21 to its intersection with the eastern municipal boundary of Austin;

(14) U.S. Highway 290 from its intersection with the western municipal boundary of Austin to its intersection with the eastern municipal boundary of Fredericksburg;

(15) U.S. Highway 290 from its intersection with the western municipal boundary of Fredericksburg to its intersection with Interstate Highway 10;

(16) Interstate Highway 10 from its intersection with U.S. Highway 290:

(A) west to its intersection with U.S. Highway 385; and

(B) east to its intersection with Interstate Highway 37;

(17) U.S. Highway 385 from its intersection with Interstate Highway 10 to its intersection with the southern municipal boundary of Odessa;

(18) Interstate Highway 37 from its intersection with Interstate Highway 10 to its intersection with U.S. Highway 77;

(19) U.S. Highway 77 from its intersection with Interstate Highway 37 to its intersection with the northern municipal boundary of Kingsville;

(20) U.S. Highway 77 from its intersection with the southern municipal boundary of Kingsville to its intersection with State Highway 285 in Riviera; and

(21) State Highway 285 from its intersection with U.S. Highway 77 in Riviera to its intersection with the eastern municipal boundary of Hebbronville.

(h) In this section, a reference to a municipal boundary means that boundary as it exists on September 1, 2017.

(i) A designation of highway segments as the Tom Lea Trail may not be construed as a designation under the National Historic Preservation Act (54 U.S.C. Section 300101 et seq.).

Added by Acts 2017, 85th Leg., R.S., Ch. 718 (S.B. 928), Sec. 1, eff. September 1, 2017.
Added by Acts 2017, 85th Leg., R.S., Ch. 1008 (H.B. 1317), Sec. 1, eff. September 1, 2017.

Sec. 442.0195. TEXAS MUSIC HISTORY TRAIL. (a) The commission shall develop a Texas Music History Trail program to promote and preserve Texas music history.

(b) The program, at a minimum, shall include:

(1) designation of locations or organizations that are historically significant to this state's musical heritage;

(2) adoption of an icon, symbol, or other identifying device to represent a designation under this section;

(3) the use of the icon, symbol, or other identifying device in promoting tourism around this state and at the locations or organizations designated under this section; and

(4) to the extent funds are available, the development of itineraries and maps to guide tourists to locations or organizations designated under this section.

(c) The commission shall adopt:

(1) eligibility criteria for a designation under this section; and

(2) procedures to administer the program created under this section.

(d) To implement this section, the commission may, as necessary, enter into a memorandum of understanding with:

(1) the Texas Economic Development and Tourism Office, including the divisions of the governor's office responsible for tourism and music, film, television, and multimedia;

(2) the Texas Commission on the Arts; or

(3) the Texas Department of Transportation.

(e) The commission may solicit and accept gifts, grants, and other donations from any source to implement this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 838 (H.B. 2079), Sec. 1, eff. September 1, 2017.
Redesignated from Government Code, Section 442.019 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(23), eff. September 1, 2019.

Sec. 442.020. TEXAS TREASURE AWARDS. (a) The commission shall create the Texas Treasure Award program to honor businesses that have existed in this state providing employment and supporting the Texas economy for 50 years or more.

(b) Any person may nominate a business that meets the criteria described by Subsection (a) to the commission for consideration to receive the award.

(c) The commission shall establish separate levels of recognition for businesses that have existed in this state providing employment and supporting the Texas economy for at least 50 years, at least 75 years, at least 100 years, and at least 125 years.

(d) The commission shall periodically select businesses to receive Texas Treasure Awards for the various levels of recognition as the commission considers appropriate considering the significance of the contribution of each business to this state. The commission

shall honor the recipient of a Texas Treasure Award by presenting the recipient with a suitable plaque that includes the business's level of recognition and other appropriate information.

(e) The commission shall notify the state senator and state representative in whose districts a recipient's principal place of business in this state is located. The commission, the recipient, and the state senator and state representative shall cooperate in determining whether the ceremony at which the plaque honoring the recipient will be presented will be held in the hall of the senate, in the hall of the house of representatives, in the municipality or general area in which the recipient's principal place of business in this state is located, or in another suitable location.

Added by Acts 2005, 79th Leg., Ch. 850 (S.B. 920), Sec. 1, eff. June 17, 2005.
Renumbered from Government Code, Section 442.019 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(28), eff. September 1, 2007.

Sec. 442.021. EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL. (a) In cooperation with the National Park Service, the commission shall administer and coordinate the efforts of state and local public and private entities in this state regarding the preservation of El Camino Real de los Tejas National Historic Trail.

(b) The commission shall develop educational and interpretative programs relating to El Camino Real de los Tejas National Historic Trail.

(c) The commission shall cooperate with the Texas Department of Transportation to designate, interpret, and market the El Camino Real de los Tejas National Historic Trail as a Texas historic highway.

(d) To supplement revenue available for the purposes under Subsection (c), the commission and the Texas Department of Transportation may pursue federal funds dedicated to highway enhancement.

(e) A designation of the El Camino Real de los Tejas National Historic Trail as a Texas historic highway may not be construed as a designation under the National Historic Preservation Act (16 U.S.C. Section 470 et seq.).

(f) The Texas Department of Transportation is not required to

design, construct, or erect a marker under this section unless a grant or donation of funds is made to the department to cover the cost of the design, construction, and erection of the marker. Money received to cover the cost of the marker shall be deposited to the credit of the state highway fund.

Added by Acts 2005, 79th Leg., Ch. 1316 (H.B. 3269), Sec. 1, eff. June 18, 2005.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 461 (S.B. 1831), Sec. 1, eff. September 1, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 838 (H.B. 3421), Sec. 1, eff. September 1, 2011.

Sec. 442.022. USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 10, eff. September 1, 2007.

Sec. 442.023. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to

implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 10, eff. September 1, 2007.

Sec. 442.024. SCENIC LOOP ROAD--BOERNE STAGE ROAD--TOUTANT BEAUREGARD ROAD HISTORIC CORRIDOR. (a) The commission shall designate as a historic corridor the corridor that follows part of the Old Spanish Trail automobile highway in Bexar County and consists of four legs. The first leg begins at State Highway 16 in Helotes and continues north on the Scenic Loop Road to the intersection of the Boerne Stage Road and the Toutant Beauregard Road. The second leg begins at the Boerne Stage Road in Leon Springs and continues west to the intersection of the Scenic Loop Road and the Toutant Beauregard Road. The third leg begins at the intersection of the Scenic Loop Road, the Boerne Stage Road, and the Toutant Beauregard Road and continues west on the Toutant Beauregard Road to the Kendall County line. The fourth leg begins at the intersection of the Scenic Loop Road, the Boerne Stage Road, and the Toutant Beauregard Road and continues north on the Boerne Stage Road to the Kendall County line.

(b) The historic corridor designated by the commission shall be known as the Scenic Loop Road--Boerne Stage Road--Toutant Beauregard Road Historic Corridor.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1137 (H.B. 1499), Sec. 1, eff. September 1, 2011.

Sec. 442.025. TEXAS HISTORIC ROADS AND HIGHWAYS PROGRAM. (a) The commission shall cooperate with the Texas Department of Transportation to establish a program for the identification, designation, interpretation, and marketing of Texas historic roads and highways.

(b) The designation of a road or highway under a program established under this section is not, and may not be considered to be, a designation under the National Historic Preservation Act (16 U.S.C. Section 470 et seq.).

(c) To supplement revenue available for the program, the commission and the Texas Department of Transportation may pursue federal funds dedicated to highway enhancement for the program.

(d) The Texas Department of Transportation is not required to construct or erect a marker under this section unless a grant or donation of funds is made to cover the cost of the design, construction, and erection of the marker. Money received to cover the cost of a marker under this subsection shall be deposited to the credit of the state highway fund.

Added by Acts 2009, 81st Leg., R.S., Ch. 685 (H.B. 2642), Sec. 1, eff. September 1, 2009.

Sec. 442.026. BANKHEAD HIGHWAY AS TEXAS HISTORIC HIGHWAY. (a) The commission shall cooperate with the Texas Department of Transportation to identify, designate, interpret, and market the Bankhead Highway as a Texas historic highway, for the portion of the Bankhead Highway located in this state.

(b) To supplement revenue available for the purposes under Subsection (a), the commission and the Texas Department of Transportation may pursue federal funds dedicated to highway enhancement.

(c) A designation of the Bankhead Highway as a Texas historic highway may not be construed as a designation under the National Historic Preservation Act (16 U.S.C. Section 470 et seq.).

(d) The Texas Department of Transportation is not required to design, construct, or erect a marker under this section unless a grant or donation of funds is made to the department to cover the cost of the design, construction, and erection of the marker. Money received to cover the cost of the marker shall be deposited to the credit of the state highway fund.

Added by Acts 2009, 81st Leg., R.S., Ch. 1315 (H.B. 2644), Sec. 1, eff. September 1, 2009.

Sec. 442.027. STATE HIGHWAY 20 AS TEXAS HISTORIC HIGHWAY. (a) The commission shall cooperate with the Texas Department of Transportation to designate, interpret, and market State Highway 20 as a Texas historic highway.

(b) To supplement revenue available for the purposes under Subsection (a), the commission and the Texas Department of Transportation may pursue federal funds dedicated to highway enhancement.

(c) A designation of State Highway 20 as a Texas historic highway may not be construed as a designation under the National Historic Preservation Act (16 U.S.C. Section 470 et seq.).

(d) The Texas Department of Transportation is not required to design, construct, or erect a marker under this section unless a grant or donation of funds is made to the department to cover the cost of the design, construction, and erection of the marker. Money received to cover the cost of the marker shall be deposited to the credit of the state highway fund.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1287 (H.B. 1866), Sec. 1, eff. September 1, 2011.

Sec. 442.028. U.S. HIGHWAY 80 AS TEXAS HISTORIC HIGHWAY. (a) The commission shall cooperate with the Texas Department of Transportation to designate, interpret, and market the portion of U.S. Highway 80 in Gregg and Upshur Counties as a Texas historic highway.

(b) To supplement revenue available for the purposes under Subsection (a), the commission and the Texas Department of Transportation may pursue federal funds dedicated to highway enhancement.

(c) A designation of a portion of U.S. Highway 80 as a Texas historic highway may not be construed as a designation under the National Historic Preservation Act (16 U.S.C. Section 470 et seq.).

(d) The Texas Department of Transportation is not required to design, construct, or erect a marker under this section unless a grant or donation of funds is made to the department to cover the cost of the design, construction, and erection of the marker. Money received to cover the cost of the marker shall be deposited to the credit of the state highway fund.

Added by Acts 2013, 83rd Leg., R.S., Ch. 704 (H.B. 3070), Sec. 1, eff. September 1, 2013.

Sec. 442.029. HISPANIC HERITAGE CENTER OF TEXAS. The commission may:

(1) assist the Hispanic Heritage Center of Texas in establishing a facility to educate Texans regarding the contributions and historical significance of Hispanic persons to this state;

(2) solicit and accept gifts, donations, and grants of money or property from any public or private source to be used for the purposes of this section; and

(3) use money appropriated to the commission for the purposes of this section to assist the Hispanic Heritage Center of Texas as described by Subdivision (1).

Added by Acts 2013, 83rd Leg., R.S., Ch. 376 (H.B. 3211), Sec. 1, eff. September 1, 2013.
Redesignated from Government Code, Section 442.028 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(23), eff. September 1, 2015.

Sec. 442.030. ROUTE 66 HISTORIC CORRIDOR. (a) The commission shall identify relevant segments of former U.S. Highway 66 located in this state that are still in use and designate those segments as a historic corridor.

(b) The historic corridor designated by the commission shall be known as the Route 66 Historic Corridor.

Added by Acts 2015, 84th Leg., R.S., Ch. 284 (H.B. 978), Sec. 1, eff. September 1, 2015.

Sec. 442.031. DON JUAN DE ONATE TRAIL AS TEXAS HISTORIC HIGHWAY. (a) The commission shall cooperate with the Texas Department of Transportation to designate, interpret, and market Westside Drive in El Paso County as the Don Juan de Onate Trail and a Texas historic highway.

(b) To supplement revenue available for the purposes under Subsection (a), the commission and the Texas Department of Transportation may pursue federal funds dedicated to highway enhancement.

(c) A designation of Westside Drive in El Paso County as the Don Juan de Onate Trail and a Texas historic highway may not be

construed as a designation under the National Historic Preservation Act (16 U.S.C. Section 470 et seq.).

(d) The Texas Department of Transportation is not required to design, construct, or erect a marker under this section unless a grant or donation of funds is made to the department to cover the cost of the design, construction, and erection of the marker. Money received to cover the cost of the marker shall be deposited to the credit of the state highway fund.

Added by Acts 2015, 84th Leg., R.S., Ch. 445 (H.B. 3868), Sec. 1, eff. September 1, 2015.
Redesignated from Government Code, Section 442.030 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(13), eff. September 1, 2017.

Sec. 442.032. NAMING OF CERTAIN AREAS ON HISTORIC SITES. The commission may name an area of a historic site, including a room or exhibition hall, in honor of a donor or other benefactor as the commission considers appropriate, provided the area does not have historical value. The commission shall adopt rules to implement this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 556 (H.B. 2332), Sec. 1, eff. September 1, 2015.
Redesignated from Government Code, Section 442.030 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(14), eff. September 1, 2017.

Sec. 442.033. STATE HIGHWAYS 118 AND 166 AS DAVIS MOUNTAINS SCENIC LOOP HIGHWAY. (a) The commission shall cooperate with the Texas Department of Transportation to designate, interpret, and market as the Davis Mountains Scenic Loop Highway and a Texas historic highway the route formed by:

(1) State Highway 166; and

(2) the portion of State Highway 118 between Fort Davis and its intersection with State Highway 166.

(b) To supplement revenue available for the purposes under Subsection (a), the commission and the Texas Department of Transportation may pursue federal funds dedicated to highway

enhancement.

(c) A designation of the route described by Subsection (a) as the Davis Mountains Scenic Loop Highway and a Texas historic highway may not be construed as a designation under 54 U.S.C. Section 300101 et seq.

(d) The Texas Department of Transportation is not required to design, construct, or erect a marker under this section unless a grant or donation of funds is made to the department to cover the cost of the design, construction, and erection of the marker. Money received to cover the cost of the marker shall be deposited to the credit of the state highway fund.

Added by Acts 2021, 87th Leg., R.S., Ch. 85 (S.B. 633), Sec. 1, eff. September 1, 2021.

SUBCHAPTER B. NATIONAL MUSEUM OF THE PACIFIC WAR

Sec. 442.051. MUSEUM DEFINITION; JURISDICTION. (a) In this subchapter, "museum" means the National Museum of the Pacific War.

(b) The museum is under the jurisdiction of the commission.

Redesignated from Parks and Wildlife Code, Subchapter Q, Chapter 22 and amended by Acts 2005, 79th Leg., Ch. 1259 (H.B. 2025), Sec. 3, eff. June 18, 2005.

Sec. 442.052. POWERS OF COMMISSION. With respect to the museum and in addition to its other powers and duties, the commission:

(1) shall foster and commemorate the memory of the era of supreme United States naval power upon the seas and the men and women of the armed services whose gallant and selfless dedication to duty made this era possible;

(2) shall administer the museum at Fredericksburg;

(3) shall act in any other capacity relative to preserving naval documents, relics, and other items of historical interest;

(4) may employ and discharge a museum director and other employees it deems necessary to fulfill its duties and responsibilities within the limits of funds available;

(5) may accept on behalf of the State of Texas donations of money, property, and historical relics related to the museum's theme; and

(6) may acquire property and historical relics by purchase within the limits of funds available.

Redesignated from Parks and Wildlife Code, Subchapter Q, Chapter 22 and amended by Acts 2005, 79th Leg., Ch. 1259 (H.B. 2025), Sec. 3, eff. June 18, 2005.

Sec. 442.053. REVENUE BONDS FOR MUSEUM. (a) The commission by resolution may request the Texas Public Finance Authority to issue revenue bonds or other revenue obligations to finance the repair, renovation, improvement, expansion, and equipping of the museum for one or more projects not to exceed an aggregated estimated cost of $9 million.

(b) On receipt of a request by the commission under this section, the Texas Public Finance Authority shall promptly issue the bonds or other revenue obligations under and in accordance with Chapter 1232.

(c) The commission shall deposit the proceeds of revenue bonds or other revenue obligations issued under this section in accordance with Chapter 1232 and may use the proceeds only to finance the repair, renovation, improvement, expansion, and equipping of the museum.

(d) Notwithstanding any other law, the commission may contract with the Admiral Nimitz Foundation for the administration and operation of the museum, including any necessary renovation, improvement, or expansion of the museum.

(e) The commission may accept contributions from the Admiral Nimitz Foundation and other sources in connection with the repair, renovation, improvement, expansion, equipping, or operation of the museum.

Redesignated from Parks and Wildlife Code, Subchapter Q, Chapter 22 and amended by Acts 2005, 79th Leg., Ch. 1259 (H.B. 2025), Sec. 3, eff. June 18, 2005.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 345 (H.B. 1492), Sec. 1, eff. June 1, 2017.

Sec. 442.055. GRANTS; DONATIONS. The commission may accept a

grant or donation for any program or purpose of the museum.

Redesignated from Parks and Wildlife Code, Subchapter Q, Chapter 22 and amended by Acts 2005, 79th Leg., Ch. 1259 (H.B. 2025), Sec. 3, eff. June 18, 2005.

Sec. 442.056. NATIONAL MUSEUM OF THE PACIFIC WAR MUSEUM FUND. (a) In this section:

(1) "Commission" means the Texas Historical Commission.

(2) "Fund" means the National Museum of the Pacific War museum fund.

(b) The National Museum of the Pacific War museum fund is created as a fund outside the state treasury. The commission shall administer the fund but may contract with the Admiral Nimitz Foundation for administration of the fund. The fund consists of:

(1) admissions revenue from operation of the museum; and

(2) donations made to the commission for the museum.

(c) Money in the fund may be spent without appropriation and only to administer, operate, preserve, repair, expand, or otherwise maintain the museum.

(d) Interest and income from the assets of the fund shall be credited to and deposited in the fund.

Added by Acts 2017, 85th Leg., R.S., Ch. 345 (H.B. 1492), Sec. 2, eff. June 1, 2017.

SUBCHAPTER B-1. STAR OF THE REPUBLIC MUSEUM

Sec. 442.061. DEFINITION. In this subchapter, "museum" means the Star of the Republic Museum.

Added by Acts 2019, 86th Leg., R.S., Ch. 693 (S.B. 2309), Sec. 1, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 1248 (H.B. 2913), Sec. 2.001, eff. September 1, 2019.

Sec. 442.062. JURISDICTION AND MAINTENANCE OF MUSEUM. (a) The museum and its contents, artifacts, structure, and land are under the jurisdiction of the commission. The commission is responsible for

the preservation, maintenance, and operation of the museum.

(b) Repealed by Acts 2021, 87th Leg., R.S., Ch. 30 (H.B. 2660), Sec. 2, eff. May 15, 2021.

(c) Any power or duty related to the museum formerly vested in any other state agency or entity is vested solely in the commission.

(d) The commission shall, in coordination with an advisory committee appointed by the board of trustees of the Blinn College District, promote the educational and public awareness programs at the museum, the Washington-on-the-Brazos State Historic Site, and the Barrington Living History Farm.

Added by Acts 2019, 86th Leg., R.S., Ch. 693 (S.B. 2309), Sec. 1, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 1248 (H.B. 2913), Sec. 2.001, eff. September 1, 2019.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 30 (H.B. 2660), Sec. 1, eff. May 15, 2021.

Acts 2021, 87th Leg., R.S., Ch. 30 (H.B. 2660), Sec. 2, eff. May 15, 2021.

Sec. 442.063. GRANTS; DONATIONS. The commission may accept a grant or donation for any program or purpose of the museum.

Added by Acts 2019, 86th Leg., R.S., Ch. 693 (S.B. 2309), Sec. 1, eff. September 1, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 1248 (H.B. 2913), Sec. 2.001, eff. September 1, 2019.

SUBCHAPTER B-2. IWO JIMA MONUMENT AND MUSEUM

Sec. 442.065. DEFINITION. In this subchapter, "monument and museum" means the Iwo Jima monument and museum at the Marine Military Academy in Harlingen, Texas.

Added by Acts 2023, 88th Leg., R.S., Ch. 166 (S.B. 2057), Sec. 1, eff. May 23, 2023.

Sec. 442.066. IWO JIMA MONUMENT AND MUSEUM; FUND. (a) To the

extent authorized by law, the commission may enter into a contract with the nonprofit entity that owns the monument and museum to transfer to the commission the operation and management of the monument and museum.

(b) The contract authorized by this section must include provisions for:

(1) expanding, renovating, managing, maintaining, operating, or providing financial support for the monument and museum, including administration, construction and operation of a visitor center, and related activities;

(2) preserving military documents, relics, and other items of historical interest;

(3) employing a museum director and other employees the commission considers necessary to fulfill its duties and responsibilities under the contract;

(4) accepting donations of money, property, and historical relics; and

(5) acquiring property and historical relics with funds available for that purpose.

(c) The Iwo Jima monument and museum fund is created as a fund outside the state treasury. The commission shall administer the fund but may contract with the nonprofit entity that owns the monument and museum for administration of the fund. The fund consists of:

(1) admissions revenue from the operation of the monument and museum;

(2) sales revenue from the operation of the monument and museum gift shop; and

(3) donations made to the commission for the monument and museum.

(d) Money in the Iwo Jima monument and museum fund may be spent without legislative appropriation and only to administer, operate, preserve, repair, expand, or otherwise maintain the monument and museum.

(e) Interest and income from the assets of the Iwo Jima monument and museum fund shall be credited to and deposited in the fund.

Added by Acts 2023, 88th Leg., R.S., Ch. 166 (S.B. 2057), Sec. 1, eff. May 23, 2023.

SUBCHAPTER C. COMMISSION JURISDICTION OVER HISTORIC SITES

Sec. 442.071. DEFINITION. In this subchapter, "historic site" means:

(1) a site listed under Section 442.072; or

(2) real property significant to the history of this state that the commission administers or acquires for use by the public.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 11, eff. June 15, 2007.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 510 (H.B. 2719), Sec. 4, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4187, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 442.072. COMMISSION JURISDICTION; AGREEMENTS FOR HISTORIC SITES. (a) The following historic sites in this state are under the commission's jurisdiction:

(1) Acton State Historic Site;

(2) Caddoan Mounds State Historic Site;

(3) Casa Navarro State Historic Site;

(4) Confederate Reunion Grounds State Historic Site;

(5) Eisenhower Birthplace State Historic Site;

(6) Fannin Battleground State Historic Site;

(7) Fanthorp Inn State Historic Site;

(8) Fort Griffin State Historic Site;

(9) Fort Lancaster State Historic Site;

(10) Fort McKavett State Historic Site;

(11) Fulton Mansion State Historic Site;

(12) Landmark Inn State Historic Site;

(13) Levi Jordan State Historic Site;

(14) Lipantitlan State Historic Site;

(15) Magoffin Home State Historic Site;

(16) Mission Dolores State Historic Site;

(17) Monument Hill and Kreische Brewery State Historic Sites;

(18) National Museum of the Pacific War;

(19) Sabine Pass Battleground State Historic Site;
(20) Sam Bell Maxey House State Historic Site;
(21) Sam Rayburn House State Historic Site;
(22) San Felipe State Historic Site;
(23) Starr Family Home State Historic Site;
(24) Varner-Hogg Plantation State Historic Site;
(25) Washington-on-the-Brazos State Historic Site; and
(26) the property known as the French Legation.

(b) The commission may enter into an agreement with a nonprofit or for-profit corporation, foundation, association, or other nonprofit or for-profit entity for the expansion, renovation, management, operation, or financial support of a historic site.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 11, eff. June 15, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 550 (S.B. 615), Sec. 4, eff. September 1, 2013.
Acts 2017, 85th Leg., R.S., Ch. 709 (H.B. 3810), Sec. 1, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 4, eff. September 1, 2019.
Acts 2023, 88th Leg., R.S., Ch. 510 (H.B. 2719), Sec. 5, eff. September 1, 2023.

Sec. 442.073. HISTORIC SITE ACCOUNT. (a) The historic site account is a dedicated account in the general revenue fund.

(b) The account consists of:
(1) credits made to the account under Section 151.801, Tax Code;
(2) transfers to the account;
(3) interest earned on the account;
(4) fees and other revenue from operation of a historic site; and
(5) grants and donations accepted under Section 442.074.

(c) A fee or other revenue generated at a historic site must be credited to the account.

(d) Except as provided by Subsection (e), money in the account may be used only to administer, operate, preserve, repair, expand, or

otherwise maintain a historic site or to acquire a historical item appropriate to a historic site.

(e) The commission may make an expenditure from the account for a historic site that is not described by Section 442.072(a). The commission shall provide notice of an expenditure described by this subsection to the Legislative Budget Board not later than the 30th day after the date the commission makes the expenditure. The Legislative Budget Board may establish the procedure by which the commission provides notice to the board under this subsection.

(f) Money in the account may not be used to pay employee benefits or benefit-related costs. Notwithstanding any other law, the account is exempt from any applicable employee benefits proportionality requirement.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 11, eff. June 15, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 5, eff. September 1, 2019.
Reenacted and amended by Acts 2019, 86th Leg., R.S., Ch. 503 (S.B. 26), Sec. 1, eff. January 1, 2020.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 56 (S.B. 1332), Sec. 3, eff. September 1, 2023.

Sec. 442.074. GRANTS; DONATIONS. (a) The commission may seek and accept grants and donations for a historic site from any appropriate source.

(b) Money accepted under this section shall be deposited to the credit of the historic site account.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 11, eff. June 15, 2007.

Sec. 442.075. TRANSFER OF HISTORIC SITES FROM PARKS AND WILDLIFE. (a) Section 442.071 does not apply to this section.

(b) By interagency agreement, a historic site under the jurisdiction of the Parks and Wildlife Department may be transferred to the commission.

(c) If jurisdiction over a historic site is transferred under this section, all rights, powers, duties, obligations, functions, activities, property, and programs of the Parks and Wildlife Department relating to the site are transferred to the commission.

(d) On or after the transfer of jurisdiction over a historic site, the commission may enter into an agreement with a nonprofit or for-profit corporation, including the Admiral Nimitz Foundation, for the expansion, renovation, management, operation, or financial support of the site.

(e) The legislature may adjust the percentages allocated to the commission and the Parks and Wildlife Department under Section 151.801(c), Tax Code, in future appropriations to reflect the transfer of a site under this section and the associated savings or costs to each agency.

Added by Acts 2005, 79th Leg., Ch. 1259 (H.B. 2025), Sec. 2, eff. June 18, 2005.
Renumbered from Government Code, Section 442.019 and amended by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 12, eff. June 15, 2007.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 550 (S.B. 615), Sec. 5, eff. September 1, 2013.

Sec. 442.076. FRENCH LEGATION. (a) The commission is responsible for:

(1) the preservation, maintenance, and restoration of the property known as the French Legation and its contents; and

(2) the protection of the historical and architectural integrity of the exterior, interior, and grounds of the French Legation.

(b) Any power or duty related to the French Legation formerly vested in another state agency or entity is vested solely in the commission.

(c) The commission may solicit and accept gifts, donations, and grants of money or property from any public or private source to be used for the purposes of this section.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Transferred, redesignated and amended from Government Code, Section

2165.257 by Acts 2017, 85th Leg., R.S., Ch. 709 (H.B. 3810), Sec. 3, eff. September 1, 2017.

Sec. 442.077. AGREEMENT RELATING TO FRENCH LEGATION. The commission may enter into an agreement with the Daughters of the Republic of Texas regarding the management, staffing, parking facilities, operation, and financial support of the property known as the French Legation.

Added by Acts 2017, 85th Leg., R.S., Ch. 709 (H.B. 3810), Sec. 2, eff. September 1, 2017.

SUBCHAPTER D. OPERATION OF HISTORIC SITES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4187, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 442.101. AUTHORITY TO CONTRACT. (a) For the purpose of carrying out the powers, duties, and responsibilities of the commission related to historic sites described by Subchapter C, the executive director or the executive director's designee may negotiate, contract, or enter an agreement for:

(1) professional services relating to a commission project, including project management, design, bid, and construction administration; and

(2) construction, restoration, renovation, or preservation of any building, structure, or landscape.

(b) The commission may contract with any appropriate entity, including a for-profit corporation, for services necessary to carry out its responsibilities regarding historic sites described by Subchapter C.

(c) The commission by rule shall adopt policies and procedures consistent with Subchapter A, Chapter 2254, and other applicable state procurement practices for soliciting and awarding contracts under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 550 (S.B. 615), Sec. 6, eff. September 1, 2013.

Sec. 442.102. CONSTRUCTION OF ROADS BY TEXAS DEPARTMENT OF TRANSPORTATION. (a) The commission may contract with the Texas Transportation Commission for the construction and paving of roads in and adjacent to historic sites described by Subchapter C.

(b) Agreements under this section must be made in conformity with Chapter 771.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.103. LEASE OF LANDS AND IMPROVEMENTS. (a) The commission may lease any land or improvement that is part of a historic site described by Subchapter C to a municipality, county, special district, nonprofit organization, or political subdivision. After the execution of the lease, the leased area may not be referred to as a state facility and state funds may not be used to operate or maintain the property.

(b) The conditions and duration of the lease agreement are determined by the agreement of the commission and the lessee.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.104. LEASE OF GRAZING RIGHTS; SALE OF PRODUCTS. (a) The commission may lease grazing rights on any historic site described by Subchapter C and may lease from other parties grazing rights necessary for proper livestock management. The commission may harvest and sell, or sell in place, any timber, hay, livestock, or other product grown on any historic site described by Subchapter C that the commission finds to be in excess of natural resource management, educational, or interpretive objectives. Timber may be harvested only for forest pest management, salvage, or habitat restoration and consistent with good forestry practices and the advice of the Texas Forest Service.

(b) The commission may agree to accept materials, supplies, or

services instead of money as part or full payment for a sale or lease under this subchapter. The commission may not assign to the materials, supplies, or services accepted as payment under this subsection a value that exceeds their actual market value.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.105. ESTABLISHMENT OF FEES; REVENUE. (a) In setting the amounts of the fees for entering, reserving, or using a historic site described by Subchapter C, the commission:

(1) shall establish reasonable and necessary fees for the administration of commission programs; and

(2) may not set fees in amounts that permit the commission to maintain unnecessary fund balances.

(b) The commission may sell any item in the possession of the commission in which the state has title, or acquire and resell items if a profit can be made, to provide funding for programs administered by the commission.

(c) The commission may set and charge a fee for the use of a credit card to pay a fee imposed by the commission in an amount reasonable and necessary to reimburse the commission for the costs involved in the use of the card.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.106. CONCESSIONS. The commission may operate or grant contracts to operate concessions on the grounds of historic sites described by Subchapter C. The commission may make rules governing the granting or operating of concessions. The commission may establish and operate staff concessions, including salaries, consumable supplies and materials, operating expenses, rental and other equipment, and other capital outlays.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.107. PUBLICATIONS ON HISTORIC SITES. (a) The commission may provide or sell information about historic sites described by Subchapter C to the public, including books, magazines, photographs, prints, and bulletins.

(b) The commission may enter into contractual agreements for publication of information concerning historic sites described by Subchapter C.

(c) The commission may receive royalties on commission-owned materials that are sold or supplied to others by the commission for publication.

(d) Money received under this section shall be deposited in the state treasury to the credit of the account from which expenses for the publication were paid.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.108. DEPOSIT OF RECEIPTS. The commission shall deposit to the credit of the historic site account all revenue, less allowable costs, received from the following sources:

(1) the operation of concessions at historic sites described by Subchapter C;

(2) lease of grazing rights on a historic site;

(3) sale of products grown on a historic site;

(4) fines received from violations of rules governing historic sites under Subchapter E; and

(5) any other source.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.109. MISTAKEN DEPOSIT. (a) Any funds deposited in the state treasury under this subchapter by the commission by mistake of fact or mistake of law shall be refunded by warrant issued against the fund and credited against the account in the state treasury into which the money was deposited. Refunds necessary to make the proper correction shall be appropriated by the General Appropriations Act.

(b) The comptroller may require written evidence from the executive director of the commission to indicate the reason for the

mistake of fact or law before issuing the refund warrant authorized by Subsection (a).

(c) This section does not apply to any funds that have been deposited under a written contract.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.110. PROGRAMS FOR THE DEVELOPMENT OF HISTORIC SITES AND STRUCTURES. (a) The commission may apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program involving the planning, acquisition, and development of historic sites and structures described by Subchapter C.

(b) The commission may contract with the United States to plan, acquire, and develop historic sites and structures described by Subchapter C in conformity with any federal act concerning the development of historic sites and structures.

(c) The commission shall keep financial and other records relating to programs under this section and shall furnish to appropriate officials and agencies of the United States and of this state all reports and information reasonably necessary for the administration of the programs.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.111. FINANCING OF HISTORIC SITE PROGRAMS. (a) The operation, maintenance, and improvement of historic sites described by Subchapter C shall be financed from the general revenue fund, the historic site account, other accounts that may be authorized by law, and donations, grants, and gifts received by the commission for these purposes.

(b) A donation, grant, or gift accruing to the state or received by the commission for the purpose of operating, maintaining, improving, or developing historic sites described by Subchapter C may not be used for any purpose other than the operation, maintenance, or developing of historic sites.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.112. STATE HISTORIC SITE RETAIL OPERATIONS. (a) The commission may establish, manage, and operate gift and souvenir retail establishments and provide retail services through the Internet or another electronic method to support and promote state historic sites and related commission goals.

(b) To implement this section, the commission may:

(1) employ necessary personnel;

(2) establish procurement standards and procedures in collaboration with the comptroller and the Department of Information Resources to meet the business needs of the commission's retail operations; and

(3) contract with a nonprofit corporation to assist with the commission's retail operations, accept money from the retail operations, and support state historic site operations and commission educational missions.

Added by Acts 2023, 88th Leg., R.S., Ch. 510 (H.B. 2719), Sec. 6, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4187, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 442.113. TEXAS HISTORICAL COMMISSION RETAIL OPERATIONS FUND. (a) The Texas Historical Commission retail operations fund is a special fund established outside the state treasury as a fund to be held and administered by the comptroller as directed by the commission to provide support for commission retail operations under Section 442.112. The fund consists of revenue from commission retail operations and may not include appropriated money.

(b) Interest and income from assets of the fund shall be credited to and deposited in the fund.

(c) Money in the fund may be spent without appropriation and be used only to benefit state historic sites and to support the commission's retail operations, including to pay personnel salaries, acquire capital improvements, contract for necessary services, and

purchase inventory, advertising, fixtures, computer software, and other goods necessary to support the retail operations.

Added by Acts 2023, 88th Leg., R.S., Ch. 510 (H.B. 2719), Sec. 6, eff. September 1, 2023.

SUBCHAPTER E. RULES GOVERNING HISTORIC SITES

Sec. 442.201. AUTHORIZATION. The commission may adopt rules governing the health, safety, and protection of persons and property in historic sites described by Subchapter C under the control of the commission, including public water within historic sites.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.202. SCOPE OF RULES. The rules may govern:

(1) the conservation, preservation, and use of state property, whether natural features or constructed facilities;

(2) the abusive, disruptive, or destructive conduct of persons;

(3) the activities of site visitors, including camping, swimming, boating, fishing, or other recreational activities;

(4) the possession of pets or animals;

(5) the regulation of traffic and parking; and

(6) conduct that endangers the health or safety of site visitors or their property.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.203. POSTING OF RULES. All specific or general rules applying to a historic site described by Subchapter C must be posted in a conspicuous place at the site. A copy of the rules shall be made available on request to persons visiting the site.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.204. REMOVAL FROM SITE. (a) Any person directly or indirectly responsible for disruptive, destructive, or violent conduct that endangers property or the health, safety, or lives of persons or animals may be removed from a historic site described by Subchapter C for a period not to exceed 48 hours.

(b) Before removal under this section, the person must be given notice of the provisions of this section and an opportunity to correct the conduct justifying removal.

(c) A court of competent jurisdiction may enjoin a person from reentry to the historic site described by Subchapter C, on cause shown, for any period set by the court.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.205. ENFORCEMENT OF RULES. Rules adopted under this subchapter may be enforced by any peace officer. A notice to appear may be issued by a peace officer for violation of a rule on a form prescribed by the commission.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.206. EFFECT OF RULES. A rule adopted under this subchapter does not amend or repeal any penal law of this state.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.207. PENALTY. A person who violates a rule adopted under this subchapter commits an offense that is a Class C misdemeanor.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

SUBCHAPTER F. SAN JACINTO BATTLEGROUND STATE HISTORIC SITE

Sec. 442.251. JURISDICTION. (a) The San Jacinto Battleground State Historic Site is under the jurisdiction of the commission.

(b) The San Jacinto Battleground State Historic Site is a historic site for purposes of Subchapter C.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Transferred, redesignated, and amended from Parks and Wildlife Code, Section 22.011 by Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 7, eff. September 1, 2019.

Sec. 442.252. SAN JACINTO MUSEUM AND BATTLEFIELD ASSOCIATION. (a) In this section, "association" means the San Jacinto Museum and Battlefield Association, which was previously known as the San Jacinto Museum of History Association.

(b) The association is a nonprofit historical association organized for the purposes of operating the San Jacinto Memorial Building and Tower and establishing a museum. The association retains ownership of property and historical data held in the name of the association and may acquire museum accessions by gift, grant, or purchase from association funds.

(c) The commission shall designate the association as the entity responsible for operating the San Jacinto Memorial Building and Tower, operating the museum, engaging in related activities on the battleground at the San Jacinto Battleground State Historic Site, and providing financial support for the association's responsibilities under this section. The commission is responsible for maintaining and repairing the San Jacinto Memorial Building and Tower and providing utilities required for operation of the San Jacinto Memorial Building and Tower and related facilities.

(d) The commission may enter into an agreement with the association for the purposes of:

(1) expanding, renovating, managing, maintaining, operating, or providing financial support for the San Jacinto Battleground State Historic Site, including the administration and operation of a history museum and related activities in the San Jacinto Memorial Building and Tower or on the battleground;

(2) maintaining, preserving, restoring, and protecting the historic San Jacinto battleground;

(3) promoting and conducting archeological studies at the

San Jacinto Battleground State Historic Site;

(4) maintaining, repairing, renovating, restoring, improving, expanding, or equipping the San Jacinto Memorial Building and Tower, museum, or battleground for one or more projects, including construction of new or additional facilities;

(5) designing and fabricating exhibits and preserving, storing, and displaying artifacts, historical data, and items of historical significance, including artifacts, data, and items owned or held by the association;

(6) creating interpretive and educational programs;

(7) acquiring additional artifacts, historical data, and items of historical significance relevant to the battle at San Jacinto, the Texas Revolution and the period in which it occurred, and early Texas settlement and culture; and

(8) preserving, restoring, storing, and conserving artifacts, historical data, and items of historical significance.

(e) Under the terms of an agreement with the commission, the association may, in connection with the association's activities regarding the San Jacinto Memorial Building and Tower, the museum, and the San Jacinto battleground, charge and collect fees, including entry fees and fees for viewing exhibits or films, attending programs or events, and utilizing the elevator or other facilities, and collect revenue from gift shop and concession sales. The association shall hold, invest, manage, use, and apply money received from those fees and sales for the benefit of the San Jacinto Battleground State Historic Site, and may exercise discretion, subject to the terms of the association's agreement with the commission, regarding business operations, exhibits, programing, collection management, preservation, restoration and storage, and site development at the San Jacinto Battleground State Historic Site.

(f) The commission may appoint two nonvoting members to the association's board of trustees. The commission may advise the association on museum operations, interpretation, history, preservation, archeology, education, nature, philanthropy, and business development.

(g) In the event of the association's dissolution, the commission is the sole beneficiary of all items held in the association's name that relate to the revolutionary and battle history of the San Jacinto Battleground State Historic Site and to early Texas settlement and culture, except as otherwise provided by

the association's articles of incorporation or the terms of the gift or other transfer of the items to the association. The items for which the commission is not the sole beneficiary must be clearly identified and described on an agreed list prepared jointly by the commission and the association.

(h) The commission may adopt rules to establish:

(1) guidelines under which the association may solicit and accept sponsorships or donations from private entities in connection with the association's activities at the San Jacinto Battleground State Historic Site; and

(2) best practices under which the association may engage in activities described by this section, including procurement guidelines for the use of state funds.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975.
Transferred and redesignated from Parks and Wildlife Code, Section 22.016 by Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 7, eff. September 1, 2019.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 414 (S.B. 2008), Sec. 1, eff. September 1, 2021.

Sec. 442.253. EXECUTIVE MANAGER; OTHER EMPLOYEES. (a) The commission may employ an executive manager to manage the business operations and direct staff at the San Jacinto Battleground State Historic Site.

(b) The executive manager is responsible for managing the business operations of the San Jacinto Battleground State Historic Site on behalf of the commission and the San Jacinto Museum and Battlefield Association. The executive manager's duties as they relate to the commission and the association must be specified in an agreement between the commission and the association.

(c) The commission may hire employees the commission determines are necessary to fulfill the commission's duties and responsibilities related to the San Jacinto Battleground State Historic Site. The employees report to the executive manager.

Added by Acts 2021, 87th Leg., R.S., Ch. 414 (S.B. 2008), Sec. 2, eff. September 1, 2021.

SUBCHAPTER G. PORT ISABEL LIGHTHOUSE STATE HISTORICAL MONUMENT AND PARK

Sec. 442.271. JURISDICTION. (a) The Port Isabel Lighthouse is a state historical monument and park and is under the jurisdiction of the commission.

(b) The Port Isabel Lighthouse State Historical Monument and Park is a historic site for purposes of Subchapter C.

Transferred, redesignated, and amended from Parks and Wildlife Code, Section 22.102 by Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 8, eff. September 1, 2019.

Sec. 442.272. POWERS OF COMMISSION. The commission may rehabilitate, maintain, and preserve the property of the park, and may collect entrance fees for admission to the park or operate it on a concession basis under the provisions of this chapter.

Transferred, redesignated, and amended from Parks and Wildlife Code, Section 22.102 by Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 8, eff. September 1, 2019.

CHAPTER 443. STATE PRESERVATION BOARD

Sec. 443.001. BOARD. The State Preservation Board is an agency of the state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 443.002. SUNSET PROVISION. The State Preservation Board is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2029.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 2.14, eff. Nov. 12, 1991; Acts 1995, 74th Leg., ch. 848, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1367, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 1227 (H.B. 1116), Sec. 3.04, eff.

September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 4.01, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 401 (S.B. 201), Sec. 1, eff. September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 1120 (H.B. 1620), Sec. 1, eff. September 1, 2023.

Sec. 443.003. MEMBERSHIP. (a) The board consists of the governor, lieutenant governor, speaker of the house of representatives, one senator appointed by the lieutenant governor, one representative appointed by the speaker of the house of representatives, and one member appointed by the governor. The board member appointed by the governor must be a representative of the general public. A person is not eligible for appointment as the public member of the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the board;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity receiving funds from the board; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(b) The senator and representative appointed to the board serve two-year terms expiring on the date that the regular session of the legislature convenes. The governor's appointee serves a two-year term expiring February 1 of each odd-numbered year.

(c) The board functions performed by the governor, lieutenant governor, speaker of the house of representatives, and appointed senator and representative are additional functions of their other public offices.

(d) The governor's appointee is entitled to a per diem as set by the General Appropriations Act for each day the person engages in board business.

(e) The governor, lieutenant governor, and speaker, as a member of the board, may designate a representative to act, including the ability to vote, on behalf of the member during a board meeting.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 900, Sec. 1, eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 848, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1367, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 149, Sec. 16, eff. May 21, 1999.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 401 (S.B. 201), Sec. 2, eff. September 1, 2013.

Sec. 443.0031. LOBBYING PROHIBITION. A person may not serve as the public member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Added by Acts 1995, 74th Leg., ch. 848, Sec. 3, eff. Sept. 1, 1995.

Sec. 443.0032. ANTIDISCRIMINATION POLICY FOR APPOINTMENTS TO BOARD. Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Added by Acts 1995, 74th Leg., ch. 848, Sec. 3, eff. Sept. 1, 1995.

Sec. 443.0033. GROUNDS FOR REMOVAL FROM BOARD. (a) It is a ground for removal from the board if the public member:

(1) violates a prohibition established by Section 443.0031;

(2) cannot because of illness or disability discharge the member's duties for a substantial part of the term for which the member is appointed; or

(3) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the executive director has knowledge that a potential

ground for removal exists, the executive director shall notify the governor of the potential ground. The governor shall then notify the attorney general that a potential ground for removal exists.

Added by Acts 1995, 74th Leg., ch. 848, Sec. 3, eff. Sept. 1, 1995.

Sec. 443.004. CHAIRMAN; MEETINGS. (a) The governor is chairman of the board.

(b) The board shall meet at least twice each year and at other times at the call of the governor and as provided by board rules.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 900, Sec. 2, eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 149, Sec. 1, eff. May 21, 1999.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 401 (S.B. 201), Sec. 3, eff. September 1, 2013.

Sec. 443.0041. APPLICATION OF OPEN MEETINGS AND ADMINISTRATIVE PROCEDURE LAWS. The board is subject to the open meetings law, Chapter 551, and the administrative procedure law, Chapter 2001.

Added by Acts 1995, 74th Leg., ch. 848, Sec. 4, eff. Sept. 1, 1995.

Sec. 443.0042. INFORMATION ON RESPONSIBILITIES OF BOARD MEMBERS AND EMPLOYEES. The executive director or the executive director's designee shall provide to members of the board and to board employees, as often as necessary, information regarding their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 1995, 74th Leg., ch. 848, Sec. 4, eff. Sept. 1, 1995.

Sec. 443.0043. SEPARATION OF POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the

staff of the board.

Added by Acts 1995, 74th Leg., ch. 848, Sec. 4, eff. Sept. 1, 1995.

Sec. 443.0044. ACCESSIBILITY PLAN AND COMPLIANCE. The board shall comply with federal and state laws related to program and facility accessibility. The executive director shall also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs and services.

Added by Acts 1995, 74th Leg., ch. 848, Sec. 4, eff. Sept. 1, 1995.

Sec. 443.0045. PUBLIC NOTIFICATION OF BOARD ACTIVITIES. (a) The board shall prepare information of public interest describing the functions of the board and the procedures by which complaints are filed with and resolved by the board. The board shall make the information available to the public and appropriate agencies.

(b) The board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board. The board may provide for that notification on brochures and other educational or informational publications distributed by the board.

Added by Acts 1995, 74th Leg., ch. 848, Sec. 4, eff. Sept. 1, 1995.

Sec. 443.0046. PUBLIC TESTIMONY AT BOARD MEETINGS. The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

Added by Acts 1995, 74th Leg., ch. 848, Sec. 4, eff. Sept. 1, 1995.

Sec. 443.0047. MAINTAINING INFORMATION ON COMPLAINTS FILED WITH BOARD. The board shall keep information about each complaint filed with the board. The information shall include:

(1) the date the complaint is received;
(2) the name of the complainant;
(3) the subject matter of the complaint;
(4) a record of all persons contacted in relation to the complaint;
(5) a summary of the results of the review or investigation of the complaint; and
(6) for complaints for which the board took no action, an explanation of the reason the complaint was closed without action.

Added by Acts 1995, 74th Leg., ch. 848, Sec. 4, eff. Sept. 1, 1995.

Sec. 443.0048. INFORMATION ON STATUS OF COMPLAINTS. The board shall keep a file about each written complaint filed with the board that the board has authority to resolve. The board shall provide to the person filing the complaint and the persons or entities complained about the board's policies and procedures pertaining to complaint investigation and resolution. The board, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and the persons or entities complained about of the status of the complaint.

Added by Acts 1995, 74th Leg., ch. 848, Sec. 4, eff. Sept. 1, 1995.

Sec. 443.005. ARCHITECT OF THE CAPITOL. (a) The executive director may employ an architect of the Capitol who serves under the direction of the executive director.

(b) The architect of the Capitol must:
(1) have a bachelor's degree from an institution of higher education;
(2) be registered to practice architecture in this state; and
(3) have at least four years' experience in various aspects of architectural preservation, including historical research, preparation of plans and specifications, personnel management, policy development, and budget management.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 900, Sec. 3, eff. Aug. 28, 1989; Acts

1991, 72nd Leg., ch. 53, Sec. 1, eff. May 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 10, Sec. 1, eff. Aug. 29, 1991; Acts 1997, 75th Leg., ch. 1367, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 149, Sec. 2, eff. May 21, 1999.

Sec. 443.0051. EXECUTIVE DIRECTOR. (a) The board may employ an executive director who serves under the sole direction of the board.

(b) The executive director shall:

(1) employ staff necessary to administer the functions of the office and contract for professional services of qualified consultants, including architectural historians, landscape architects with experience in landscape architectural preservation, conservators, historians, historic architects, engineers, and craftsmen;

(2) direct and coordinate the activities of the architect of the Capitol, the curator of the Capitol, and other board employees; and

(3) provide for the preparation of and recommend for board approval an annual budget and work plan consistent with the master plan for the Capitol and the furnishings plan of the Capitol for all work under this chapter, including usual maintenance for the buildings, their contents, and their grounds.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(43), eff. June 17, 2011.

Added by Acts 1991, 72nd Leg., ch. 53, Sec. 2, eff. May 1, 1991.
Amended by Acts 1995, 74th Leg., ch. 848, Sec. 5, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 149, Sec. 3, eff. May 21, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(43), eff. June 17, 2011.

Sec. 443.0052. EQUAL EMPLOYMENT OPPORTUNITY. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex,

religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the board workforce that meets federal and state guidelines;

(3) procedures by which a determination can be made about the extent of underuse in the board workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(b) A policy statement prepared under Subsection (a) must cover an annual period, be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (a)(1), and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1995, 74th Leg., ch. 848, Sec. 6, eff. Sept. 1, 1995.

Sec. 443.0053. EMPLOYEE PERFORMANCE EVALUATIONS. The executive director or the executive director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for board employees must be based on the system established under this section.

Added by Acts 1995, 74th Leg., ch. 848, Sec. 6, eff. Sept. 1, 1995.

Sec. 443.0054. COMPENSATORY TIME FOR EMPLOYEES EXEMPT FROM FLSA. For employees who are not subject to the overtime provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), as amended, the board shall allow compensatory time off in accordance with a schedule adopted by the board for hours worked in a week in which the combination of hours worked, paid leave, and holidays exceeds a total of 40 hours.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 4, eff. May 21, 1999.

Sec. 443.006. CURATOR OF THE CAPITOL. (a) The executive director shall employ a curator of the Capitol. The curator of the Capitol must have at least a master's degree and four years' experience in historic collections administration with a specialization in the material culture of this state.

(b) The curator of the Capitol shall:

(1) assist in matters dealing with the preservation of historic materials;

(2) develop and maintain a registration system and inventory of the contents of the Capitol and the General Land Office Building and their grounds;

(3) develop a program to purchase or accept by donation, permanent loan, or outside funding items of historical significance that were at one time in the buildings and that are not owned by the state;

(4) develop a program to locate and acquire state-owned items of historical significance that were at one time in the buildings;

(5) develop a collections policy regarding the items of historic significance as identified in the registration system and inventory for the approval of the board;

(6) make recommendations on conservation needs and make arrangements to contract for conservation services for objects of significance;

(7) make recommendations for the transfer or loan of objects of significance as detailed in the approved collections policy;

(8) develop for board approval a furnishings plan for the placement and care of objects under the care of the curator; and

(9) make recommendations to transfer, sell, or otherwise dispose of unused surplus property that is not of significance as defined in the collections policy and by the registration system and inventory prepared by the curator, in the manner provided by Chapter 2175.

(c) The curator shall develop the collections policy with the assistance of a review committee composed of five members whose qualifications, tenure, and duties are defined by the executive

director. Chapter 2110 does not apply to the review committee.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 53, Sec. 3, eff. May 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 10, Sec. 2, eff. Aug. 29, 1991; Acts 1997, 75th Leg., ch. 165, Sec. 17.19, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1367, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 149, Sec. 5, eff. May 21, 1999; Acts 2001, 77th Leg., ch. 1462, Sec. 1, eff. June 17, 2001.

Sec. 443.007. GENERAL POWERS AND DUTIES OF BOARD. (a) The board shall:

(1) preserve, maintain, and restore the Capitol, the General Land Office Building, their contents, and their grounds;

(2) define the buildings' grounds, except that the grounds may not include another state office building;

(3) review and approve the executive director's annual budget and work plan, the long-range master plan for the buildings and their grounds, and the furnishings plan for placement and care of objects under the care of the curator;

(4) approve all changes to the buildings and their grounds, including usual maintenance and any transfers or loans of objects under the curator of the Capitol's care;

(5) define and identify all significant aspects of the buildings and their grounds;

(6) define and identify, with the curator of the Capitol, all significant contents of the buildings and all state-owned items of historical significance that were at one time in the buildings; and

(7) maintain records relating to the construction and development of the buildings, their contents, and their grounds, including documents such as plans, specifications, photographs, purchase orders, and other related documents, the original copies of which shall be maintained by the Texas State Library and Archives Commission.

(a-1) If the board updates or modifies its long-range master plan for the preservation, maintenance, restoration, and modification of the Capitol and the Capitol grounds, the board must conform its plan to the Capitol Complex master plan prepared by the Texas

Facilities Commission under Section 2166.105.

(b) The board may adopt rules concerning the buildings, their contents, and their grounds. The board may allocate specific duties and responsibilities to any other state agency, if the other agency agrees to perform the duty or accept the responsibility.

(c) Any power or duty related to the buildings and formerly vested in the Texas Commission on the Arts, State Purchasing and General Services Commission, Antiquities Committee, Texas Historical Commission, Texas State Library and Archives Commission, or any other entity or state agency is vested solely in the board.

(d) The board may purchase insurance policies to insure the buildings, the contents of the buildings, and any other personal property against any insurable risk, including insurance covering historical artifacts, art, or other items on loan to the board.

(e) The board shall manage and maintain the two adjacent landscaped areas bordered and separated by contiguous concrete sidewalks abutting the south side of the Sam Houston Building.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 900, Sec. 4, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 53, Sec. 4, eff. May 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 10, Sec. 3, eff. Aug. 29, 1991; Acts 1993, 73rd Leg., ch. 612, Sec. 1, eff. June 13, 1993; Acts 1999, 76th Leg., ch. 149, Sec. 6, 7 eff. May 21, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 356 (S.B. 246), Sec. 1, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 3, eff. June 14, 2013.

Sec. 443.0071. REVIEW OF CONSTRUCTION IN CAPITOL COMPLEX. (a) A proposal to construct a building, monument, or other improvement in the Capitol complex must be submitted to the board for its review and comment at the earliest planning stages of any such project.

(b) In this section, "Capitol complex" means the state-owned property within the area bounded on the north by Martin Luther King, Jr., Boulevard, bounded on the east by Trinity Street, bounded on the south by 10th Street, and bounded on the west by Lavaca Street.

Added by Acts 1989, 71st Leg., ch. 900, Sec. 5, eff. Aug. 28, 1989.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 915 (S.B. 1338), Sec. 1, eff. June 17, 2011.

Sec. 443.0072. POWERS AND DUTIES RELATING TO OTHER BUILDINGS AND GROUNDS. In regard to any buildings, contents, or grounds over which the board has jurisdiction, the board has the same powers and duties it has in regard to the Capitol and the General Land Office Building, except as expressly limited by law.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 8, eff. May 21, 1999.

Sec. 443.008. ADVISORY COMMITTEES. The board may appoint advisory committees to aid it in carrying out its duties.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 900, Sec. 6, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 53, Sec. 5, eff. May 1, 1991; Acts 1995, 74th Leg., ch. 109, Sec. 14, eff. Aug. 30, 1995; Acts 1995, 74th Leg., ch. 876, Sec. 22.02, eff. Sept. 1, 1995.

Sec. 443.0081. HISTORICAL REPRESENTATION ADVISORY COMMITTEE. (a) To ensure that the diverse history of Texas is accurately represented in the Capitol Complex, the historical representation advisory committee shall provide guidance to the board on the addition of monuments to the Capitol Complex.

(b) The advisory committee consists of the following 12 members:

(1) four members appointed by the governor;

(2) four members appointed by the lieutenant governor; and

(3) four members appointed by the speaker of the house of representatives.

(c) In making appointments under this section, the governor, the lieutenant governor, and the speaker of the house of representatives shall attempt to include African American Texans, Hispanic American Texans, Native American Texans, female Texans, and Texans exemplifying rural heritage.

(d) The governor shall designate the presiding officer of the

committee from among the members of the committee. The presiding officer serves a term of two years.

(e) A member of the advisory committee serves at the pleasure of the appointing officer and serves without compensation or reimbursement of expenses.

(f) The advisory committee shall conduct meetings the committee considers necessary to provide guidance under this section. The board shall provide necessary administrative support to the advisory committee.

(g) Subject to the approval of the board, the advisory committee shall develop its own bylaws under which it shall operate.

(h) Chapter 2110 does not apply to the advisory committee.

(i) The advisory committee is subject to the open meetings law, Chapter 551.

(j) The advisory committee is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the advisory committee is abolished September 1, 2007.

(k) The advisory committee shall:

(1) collect information relating to each proposed monument to the Capitol Complex; and

(2) in cooperation with the chair of the history department at Prairie View A&M University, at The University of Texas at Austin, or at any other land grant university in the state, as determined by the committee, ensure the:

(A) historical accuracy of any proposed monument; and

(B) equitable representation of all Texans, including African slaves, African Americans, Hispanic Americans, Native Americans, women in Texas history, and Texans exemplifying military service and rural heritage in additional monuments to the Capitol Complex.

(l) In this section, "monument" has the meaning assigned by Section 443.015, as added by Chapter 1141, Acts of the 75th Legislature, Regular Session, 1997.

Added by Acts 2001, 77th Leg., ch. 1315, Sec. 2, eff. Sept. 1, 2001.

Sec. 443.009. OFFICES, RECORDS, AND DOCUMENTS IN THE CAPITOL. (a) The board and the employees of the board may not move the office of the governor, lieutenant governor, speaker of the house of

representatives, or a member of the legislature from the Capitol unless the removal is approved by the governor in the case of the governor's office, the lieutenant governor in the case of the lieutenant governor's office, the speaker of the house of representatives in the case of the speaker's office, or the house of the legislature in which the member serves in the case of a legislative member's office.

(b) The board and the employees of the board have no control over the furniture, furnishings, and decorative objects in the offices of the members of the legislature except as provided by Section 443.017 or as necessary to inventory or conserve items of historical significance owned by the state.

(c) The board and the employees of the board have no control over records and documents produced by or in the custody of a state agency, official, or employee having an office in the Capitol.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 900, Sec. 7, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 53, Sec. 6, eff. May 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 10, Sec. 4, eff. Aug. 29, 1991; Acts 1993, 73rd Leg., ch. 107, Sec. 4.02, eff. Aug. 30, 1993.

Sec. 443.010. DONATIONS. (a) The board and the employees of the board shall develop plans and programs to solicit, and may solicit, gifts, money, and items of value from private persons, foundations, or organizations. Property provided by those entities and money donated to the board become the property of the state and are under the control of the board. The board shall use gifts of money made to the board for the purpose specified by the grantor, if any. To the extent practicable, the board shall use gifts of property made to the board for the purpose specified by the grantor. The board may refuse a gift if in the board's judgment the purpose specified by the grantor conflicts with the goal of preserving the historic character of the buildings under the board's control.

(b) This section does not apply to temporary exhibits or property of a person having an office in the Capitol.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 10, Sec. 5, eff. Aug. 29, 1991.

Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 915 (S.B. 1338), Sec. 2, eff. June 17, 2011.

Sec. 443.0101. CAPITOL FUND. (a) Money and securities donated to the board shall be held in trust outside the treasury by the comptroller in a special fund to be known as the Capitol fund. The comptroller shall manage and invest the fund on behalf of the board as directed or agreed to by the board.

(b) Interest, dividends, and other income of the fund shall be credited to the fund. The proceeds from the sale of unused surplus property under Section 443.006(b) shall be deposited in the fund.

(c) The executive director shall submit to the board a detailed annual report on the fund. That report shall describe the status of the fund and shall list all donations to the fund, including the name of each donor, and all disbursements from the fund, including the purpose of each disbursement.

(d) Repealed by Acts 2001, 77th Leg., ch. 1462, Sec. 10, eff. June 17, 2001.

(e) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 915, Sec. 6, eff. June 17, 2011.

Added by Acts 1989, 71st Leg., ch. 900, Sec. 8, eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 53, Sec. 7, eff. May 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 10, Sec. 6, eff. Aug. 29, 1991; Acts 1997, 75th Leg., ch. 1367, Sec. 5, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.15, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 149, Sec. 9, eff. May 21, 1999; Acts 2001, 77th Leg., ch. 1462, Sec. 10, eff. June 17, 2001.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 915 (S.B. 1338), Sec. 6, eff. June 17, 2011.

Sec. 443.0102. APPLICATION OF STATE FUNDS REFORM ACT. (a) Except as provided by Subsection (b), all money paid to the board under this chapter is subject to Subchapter F, Chapter 404.

(b) The Capitol fund created by Section 443.0101 and the Texas state buildings preservation endowment fund created by Section

443.0103 are not subject to Subchapter F, Chapter 404. A provision of this chapter or other law that provides for the deposit of money or another thing of value into the Capitol fund or the Texas state buildings preservation endowment fund prevails over Subchapter F, Chapter 404.

Added by Acts 1995, 74th Leg., ch. 848, Sec. 7, eff. Sept. 1, 1995.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 25 (S.B. 1333), Sec. 1, eff. September 1, 2023.

Sec. 443.0103. TEXAS STATE BUILDINGS PRESERVATION ENDOWMENT FUND. (a) In this section:

(1) "Fund" means the Texas state buildings preservation endowment fund.

(2) "Trust company" means the Texas Treasury Safekeeping Trust Company.

(b) The Texas state buildings preservation endowment fund is created as a fund outside the treasury. The purpose of the fund is to maintain, preserve, rehabilitate, and restore the state buildings and grounds over which the board has jurisdiction.

(c) The fund consists of:

(1) money transferred or appropriated to the fund by the legislature, including money transferred to the fund from the former capital renewal trust fund, Governor's Mansion renewal trust fund, and State Cemetery preservation trust fund;

(2) gifts, grants, and donations contributed to the fund for a purpose for which money in the fund may be used under this section; and

(3) any returns received from the investment of money in the fund.

(d) The trust company shall hold, manage, and invest the fund, and shall determine the amount available for distribution from the fund each year in accordance with a distribution policy adopted by the comptroller. The distribution policy must be designed to preserve the purchasing power of the assets of the fund, provide a stable and predictable series of annual distributions from the fund, and meet the liquidity needs of the fund as necessary. The expenses of managing the fund and its assets shall be paid from the fund.

Except as otherwise provided by this section, money in the fund may not be used for any other purpose.

(e) In managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, the trust company may acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment. At the request of the trust company, the board shall provide the trust company with information the trust company determines is necessary to ensure that the trust company is able to achieve the objectives specified by Subsection (d).

(f) The board annually may request a distribution from the fund in an amount that may not exceed the amount the trust company determines is available for distribution in the applicable year under Subsection (d). Money distributed from the fund to the board may be used only for the purpose of maintaining, preserving, rehabilitating, and restoring the buildings and grounds over which the board has jurisdiction. The board shall allocate to projects at the Bob Bullock Texas State History Museum an amount equal to at least one-third of each annual distribution from the fund under this subsection, other than the portion of the distribution made using money transferred to the fund from the former capital renewal trust fund, Governor's Mansion renewal trust fund, and State Cemetery preservation trust fund. The board, with the written approval of the Legislative Budget Board, may use money received from an annual distribution under this subsection to acquire land in close proximity to the State Cemetery for expansion of the cemetery. The board may not use money received from an annual distribution under this subsection to pay salaries, employee benefits, costs associated with employee benefits, or administration, operating, or program costs of the board or the buildings and grounds over which the board has jurisdiction.

(g) Subject to Subsection (h) and not more frequently than once each calendar year, the board may request an additional distribution from the fund in an amount that exceeds the amount the trust company determines is available for distribution from the fund in that year under Subsection (d). An additional distribution under this

subsection may be used for a purpose described by Subsection (f). The trust company may not make an additional distribution under this subsection if the distribution would negatively affect the purchasing power of the assets of the fund as determined by the terms of the distribution policy adopted by the comptroller under Subsection (d).

(h) The board may receive an additional distribution from the fund under Subsection (g) only after the board certifies to the Legislative Budget Board that:

(1) the board has reviewed and approved the use of the money;

(2) all purchases made with the money will conform to any applicable provision of law governing state procurement and contracting; and

(3) the money will not be used to:

(A) pay salaries, employee benefits, costs associated with employee benefits, or administration, operating, or program costs of the board or the buildings and grounds over which the board has jurisdiction;

(B) except as provided by Subsection (f), acquire new historic sites or real property; or

(C) purchase capital equipment that is not related to the rehabilitation or restoration of a building or grounds.

(i) All expenditures by the board under this section are subject to audit by the state auditor.

(j) The board shall include in the strategic plan submitted under Section 2056.002 a report on each project funded using money in the fund during the two-year period preceding the date on which the board submits the plan and a list of each project the board anticipates will be funded using money in the fund for the period covered by the plan.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 10, eff. May 21, 1999.
Amended by Acts 2001, 77th Leg., ch. 549, Sec. 1, eff. Aug. 31, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 915 (S.B. 1338), Sec. 3, eff. June 17, 2011.

Acts 2023, 88th Leg., R.S., Ch. 25 (S.B. 1333), Sec. 2, eff. September 1, 2023.

Sec. 443.011. RESPONSIBILITY FOR ITEMS. Furniture, furnishings, fixtures, works of art, and decorative objects for which the board has responsibility under this chapter are not part of the Texas State Library and are not subject to the custody or control of the Texas State Library and Archives Commission or any other agency.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 443.012. FIRE INSPECTION. The state fire marshal shall inspect the Capitol annually and when requested by the board and shall report the results of the inspection to the board.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 443.013. VENDING FACILITIES. (a) The board may approve one or more vending facilities in the Capitol and determine the location of facilities, including vending machines. A vending facility may not be operated in the Capitol without the approval of the board.

(b) The board may charge a vendor a reasonable fee or a percentage of gross or net sales for the right to operate in the Capitol and may charge a royalty on items sold. Revenue received under this section shall be deposited in the Capitol fund. Revenue received from a food service vendor under this section shall be deposited to the credit of a separate account in the fund. Money in the account may be spent only for the purchase and maintenance of equipment, furnishings, and space related to food service in the Capitol. To the extent the balance in the account exceeds $300,000, the excess may be transferred with board approval to another account and may be spent for any purpose within the board's jurisdiction.

(c) Chapter 94, Human Resources Code, does not apply to a vending facility approved or operated by the board under this section.

(d) The board may establish, manage, and operate gift and souvenir shops in the Capitol and in the General Land Office Building. The board may deposit money it receives under this subsection to the credit of a separate account in the Capitol fund. Money in the account may be spent only for the benefit of the buildings and the contents and grounds of the buildings, educational

programs related to the General Land Office Building and the historical portion of the Capitol, and the operation of the gift and souvenir shops and a Capitol Complex visitors center in the General Land Office Building.

(e) The sale of alcoholic beverages in the Capitol and the General Land Office Building and on their grounds is prohibited.

Added by Acts 1989, 71st Leg., ch. 900, Sec. 9, eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 612, Sec. 2, eff. June 13, 1993; Acts 1997, 75th Leg., ch. 1367, Sec. 6, eff. Sept. 1, 1997.

Sec. 443.0131. RENTAL OF SPACE TO NEWS MEDIA. (a) The board may set and collect a fee from news media representatives for the rental of space in the Capitol. The fee shall be set in an amount designed to recover the board's costs in furnishing and maintaining the space.

(b) The board shall deposit money received under this section to the credit of a separate account in the Capitol fund.

(c) Money in the account may be spent only to maintain and furnish the space rented to news media representatives. To the extent the balance in the account exceeds $50,000, the excess may be transferred with board approval to another account and may be spent for any purpose within the board's jurisdiction.

Added by Acts 1993, 73rd Leg., ch. 612, Sec. 3, eff. June 13, 1993. Amended by Acts 1997, 75th Leg., ch. 1367, Sec. 7, eff. Sept. 1, 1997.

Sec. 443.0132. FEE FOR USE OF GENERAL LAND OFFICE BUILDING. The board may set and collect a fee for public use of the building for special activities. The fee shall be set in an amount designed to pay for the maintenance and operation of a Capitol Complex visitors center in the building. The board shall deposit money received under this section to the credit of a separate account in the Capitol fund. Money in the account may be used only for the maintenance and operation of a Capitol Complex visitors center in the building.

Added by Acts 1993, 73rd Leg., ch. 612, Sec. 3, eff. June 13, 1993.

Sec. 443.0133. FEE FOR COPY OF COPYRIGHTED MATERIAL. (a) The board may set and collect a fee for providing a copy, for personal or educational use, of state archival records and other historical resources protected by copyright and owned by the board, including photographs, video recordings, and other documentation related to the history of the buildings and grounds under board control.

(b) The board may set its fees under this section in amounts necessary to cover the cost of creating the image or document and the cost of reproducing and dispersing the image or document requested. The board shall deposit money received under this section to the credit of a separate account in the Capitol fund.

(c) Fees under this section for copies of state archival records and other historical resources protected by copyright and owned by the board are excepted from the fee schedule and other provisions related to costs and charges under Chapter 552.

Added by Acts 2007, 80th Leg., R.S., Ch. 432 (S.B. 1732), Sec. 1, eff. June 15, 2007.

Sec. 443.0135. ALCOHOLIC BEVERAGES. (a) The following activities are prohibited in the Capitol, including the Capitol extension and on its grounds:

(1) the sale of alcoholic beverages;

(2) the gift of alcoholic beverages in open containers or for on-premises consumption;

(3) the consumption of alcoholic beverages; and

(4) the possession of an open container of an alcoholic beverage.

(b) Subsections (a)(2), (3), and (4) are not applicable in the offices, reception areas, and other similar areas under the control of the legislature, a legislative agency, the governor, or another officer of the state.

(c) Subsections (a)(2), (3), and (4) are not applicable to celebrations of events of significant importance to the history of the Capitol if consumption of alcoholic beverages at the event is approved by the board.

(d) The board may adopt rules that permit the sale, gift,

consumption, and possession of an open container of alcoholic beverages at celebrations of events of significant importance to the history of the Capitol and may determine the historical events that qualify as events of significant importance to the history of the Capitol.

(e) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(44), eff. June 17, 2011.

Added by Acts 1993, 73rd Leg., ch. 612, Sec. 4, eff. June 13, 1993.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(44), eff. June 17, 2011.

Sec. 443.014. TEXANS AWARDED THE CONGRESSIONAL MEDAL OF HONOR. (a) The board shall include in its long-range master plan for the maintenance, preservation, restoration, and modification of the Capitol and the grounds of the Capitol the construction of a permanent exhibit or memorial honoring citizens of this state who have been awarded the Congressional Medal of Honor.

(b) On the request of the board, the Texas State Library and Archives Commission, the Texas Historical Commission, and the Texas Veterans Commission shall assist the board in the planning of the exhibit or memorial, including its design, placement, and content.

(c) The board shall create an advisory committee, consisting of any number of citizens of this state each of whom has been awarded the Congressional Medal of Honor, to advise the board regarding the exhibit or memorial.

Added by Acts 1989, 71st Leg., ch. 884, Sec. 1, eff. June 14, 1989.

Sec. 443.015. PARKING METERS. (a) The board may expend any available funds for the installation of parking meters in appropriate areas of the Capitol Complex for which parking and traffic control is under the jurisdiction of the Department of Public Safety. The board shall cooperate with the department in the installation of the meters.

(b) The Department of Public Safety is responsible for the operation and maintenance of parking meters installed under this section and shall enforce parking violations related to metered

spaces in accordance with Subchapter E, Chapter 411. The board may reimburse the department for the department's expenses in operating and maintaining the parking meters.

(c) The board and department may not install, operate, or maintain parking meters that accept only quarters.

(d) The revenue collected from meters installed under this section shall be deposited in the Capitol fund.

(e) For purposes of this section, the Capitol Complex includes the William P. Clements State Office Building.

Added by Acts 1997, 75th Leg., ch. 270, Sec. 1, eff. May 26, 1997.

Sec. 443.0151. VISITOR PARKING FACILITIES. (a) The board shall operate a garage or similar parking facility for the benefit of visitors to the Capitol Complex. The parking facility is under the control of the board.

(b) The board may set and collect a fee for parking. Revenue from the parking facility shall be credited to the Capitol fund. If revenue bonds are issued for the project, the board shall transfer to the Texas Public Finance Authority the amount necessary for the debt service on not more than one-half of the total amount of bonds issued.

(c) The Department of Public Safety shall enforce the rules of the board governing parking in the facility in the same manner in which the department enforces the department's rules under Subchapter E, Chapter 411, including the issuance of administrative citations for violations of the board's rules. Except as provided by board rule, the parking rules of the department adopted under that subchapter do not apply to parking in the facility.

Added by Acts 1997, 75th Leg., ch. 270, Sec. 2, eff. May 26, 1997.
Amended by Acts 1999, 76th Leg., ch. 227, Sec. 3, eff. Sept. 1, 1999.

Sec. 443.0152. CAPITOL GROUNDS MONUMENTS. (a) The board may not approve the installation of a permanent monument on the grounds under the jurisdiction of the board, and erection or construction of an approved monument may not begin, unless the board or the board's designee finds that the installation of the monument will be complete not later than the fourth anniversary of the date on which approval

is granted. Installation by that anniversary date is a condition of the board's approval, and if installation is not complete by that date the board's approval of the monument is considered withdrawn and the monument may not be installed.

(a-1) Except as provided by Sections 443.01525 and 443.01526, after September 1, 2009, no additional monuments may be placed on the historic grounds of the Capitol.

(b) In this section, "monument" means a marker, memorial, statue, or other commemoration of a person, organization, or event, including one authorized or requested pursuant to legislative resolution.

Added by Acts 1997, 75th Leg., ch. 1141, Sec. 1, eff. June 19, 1997. Renumbered from Sec. 443.015 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(41), eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 252 (H.B. 4114), Sec. 2, eff. May 29, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 207 (S.B. 1928), Sec. 2, eff. September 1, 2011.

Sec. 443.01525. TEJANO MEMORIAL MONUMENT. The State Preservation Board shall establish a Tejano memorial monument on the historic south grounds of the Capitol that pays tribute to the contributions of Tejanos to the State of Texas.

Added by Acts 2009, 81st Leg., R.S., Ch. 252 (H.B. 4114), Sec. 1, eff. May 29, 2009.

Sec. 443.01526. AFRICAN AMERICAN TEXANS MONUMENT. The State Preservation Board shall establish an African American Texans memorial monument on the State Capitol grounds that pays tribute to the contributions of African Americans to the State of Texas.

Added by Acts 2011, 82nd Leg., R.S., Ch. 207 (S.B. 1928), Sec. 1, eff. September 1, 2011.

Sec. 443.01527. MEMORIAL MONUMENT FOR EMERGENCY MEDICAL

SERVICES PERSONNEL. The State Preservation Board may approve and establish an appropriate memorial monument on the State Capitol grounds dedicated to emergency medical services personnel, as defined by Section 773.003, Health and Safety Code, in this state. The State Preservation Board may only use private contributions made for a purpose related to the memorial monument to create, establish, and perpetually maintain the monument.

Added by Acts 2021, 87th Leg., R.S., Ch. 278 (H.B. 3644), Sec. 1, eff. September 1, 2021.

Sec. 443.0153. PARKING FEES NOT SUBJECT TO SALES TAX. Parking fees paid through parking meters maintained under this chapter and parking fees paid in a visitor parking facility under this chapter or Chapter 445 are exempt from the application of the tax imposed by Chapter 151, Tax Code.

Added by Acts 2001, 77th Leg., ch. 1462, Sec. 2, eff. June 17, 2001.

Sec. 443.016. USE OF INDIGENOUS PLANTS AND TREES. (a) Except as otherwise provided by this section, to the extent reasonable and practical only plants and trees indigenous to this state may be used in landscaping work on the Capitol grounds. The board may authorize the use of specimens of nonindigenous plants that have historical significance in relation to the Capitol grounds.

(b) A nursery plant that is transplanted onto the Capitol grounds must have been grown in this state.

(c) A tree that is displayed in the Capitol or on the Capitol grounds must have been grown in this state.

(d) The board may adopt standards for the selection of plants and trees displayed in the Capitol or on the Capitol grounds or used in landscaping work on the Capitol grounds.

Added by Acts 1991, 72nd Leg., ch. 91, Sec. 1, eff. May 15, 1991. Renumbered from Sec. 443.015 by Acts 1991, 72nd Leg., 1st C.S., ch. 14, Sec. 8.01(13), eff. Nov. 12, 1991. Amended by Acts 1999, 76th Leg., ch. 149, Sec. 11, eff. May 21, 1999.

Sec. 443.017. TRANSFER OF CERTAIN HISTORICAL ITEMS. (a) A state agency or other state entity that possesses a state-owned item identified by the curator of the Capitol and the board as an item of historical significance that was at one time located in the Capitol or in the General Land Office Building shall transfer the item to the inventory of the board at the direction of the curator not later than the 60th day after the date that the curator notifies the agency or entity. The state agency or other state entity shall subsequently transfer physical possession of the item to the board in accordance with policies and procedures established by the board.

(b) An item that is in the Capitol office of a member of the legislature, that is transferred under Subsection (a), and that the board proposes to relocate may be relocated only to a place within the original dimensions of the Capitol building and only after the proposed relocation is approved by the chairman of the administration committee of the appropriate house of the legislature.

(c) This section does not apply to records or documents in the custody of the General Land Office or the Texas State Library and Archives Commission.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 10, Sec. 7, eff. Aug. 29, 1991.

Sec. 443.018. REGULATION OF VISITORS AND VENDORS. (a) The board shall adopt rules that regulate the actions of visitors in the Capitol or on the grounds of the Capitol.

(b) The rules adopted under Subsection (a) shall include rules that:

(1) prohibit persons from attaching signs, banners, or other displays to a part of the Capitol or to a structure, including a fence, on the grounds of the Capitol except as approved by the board;

(2) prohibit a visitor from placing furniture in the Capitol or on the grounds of the Capitol for a period that exceeds 24 hours except as approved by the board;

(3) prohibit the setting up or placement of camping equipment, shelter, or related materials in the Capitol or on the grounds of the Capitol except as approved by the board;

(4) prohibit actions that block ingress and egress:

(A) into the Capitol building; or

(B) rooms or hallways within the Capitol building, except as approved by the board;

(5) prohibit actions that pose a risk to safety;

(6) provide that members of the public must leave the Capitol when the building is closed to the public;

(7) provide that all pets except service dogs are not permitted in the Capitol, and shall be restrained at all times on a leash or similar device in the immediate control of the owner while on the grounds of the Capitol, except as approved by the board;

(8) prohibit the use of skateboards, rollerblades, and rollerskates in the Capitol or on the grounds of the Capitol; and

(9) prohibit a vendor or commercial enterprise from operating in the Capitol or on the grounds of the Capitol unless the vendor or commercial enterprise is authorized to do so by the board.

(c) A person commits an offense if the person violates a rule of the board adopted under Subsection (a).

(d) An offense under this section is a Class C misdemeanor.

(e) This section may not be applied in a manner that violates a person's rights under the Texas Constitution or the First Amendment to the United States Constitution, including the right of persons peaceably to assemble.

(f) The board shall send proposed rules under this section to the attorney general for review and comment before the board adopts the rules.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 10, Sec. 7, eff. Aug. 29, 1991. Amended by Acts 1995, 74th Leg., ch. 848, Sec. 8, eff. Sept. 1, 1995.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 975 (S.B. 2333), Sec. 1, eff. September 1, 2023.

Sec. 443.019. DEPOSIT FOR USE OF CAPITOL OR CAPITOL GROUNDS. (a) The board may require and collect a standardized deposit from a person or entity that uses the Capitol or the grounds of the Capitol for an event, exhibit, or other scheduled activity. The deposit is in an amount set by the board designed to recover the estimated direct and indirect costs to the state of the event, exhibit, or

activity. The board shall set the amounts of deposits required under this section in a uniform and nondiscriminatory manner for similar events, exhibits, or other scheduled activities. The board may deduct from the deposit:

(1) the cost of damage to the Capitol or grounds of the Capitol that directly results from the event, exhibit, or other activity;

(2) the costs of labor, materials, and utilities directly or indirectly attributable to the event, exhibit, or other activity; and

(3) the costs of security requested by the person or entity for the event, exhibit, or other activity.

(b) The board may charge and collect the costs listed under Subsection (a) from a person or entity that uses the Capitol or the grounds of the Capitol for an event, exhibit, or other scheduled activity and that does not post a deposit under Subsection (a).

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 10, Sec. 7, eff. Aug. 29, 1991.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 915 (S.B. 1338), Sec. 4, eff. June 17, 2011.

Sec. 443.020. PASS KEYS TO ROOMS IN THE CAPITOL. Any person who shall make or have made or keep in his possession a pass or master key to the rooms and apartments in the state capitol, unless authorized to do so, shall be fined not exceeding $100.

Added by Acts 1979, 66th Leg., p. 1960, ch. 773, Sec. 4.13. Transferred from Vernon's Ann.Civ.St. art. 601b Sec. 4.13 and amended by Acts 1993, 73rd Leg., ch. 684, Sec. 24, eff. Sept. 1, 1993.

Sec. 443.021. STATE HISTORY MUSEUM. The board is authorized to develop, construct, govern, and operate, from funds appropriated for that purpose, a state history museum to be located within the Capitol complex. In this section, "Capitol complex" has the meaning assigned by Section 443.0071.

Added by Acts 1997, 75th Leg., ch. 1367, Sec. 8, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 149, Sec. 12, eff. May 21, 1999.

Sec. 443.022. AUDITS. (a) The transactions, funds, and programs of the board are subject to audit by the state auditor in accordance with Chapter 321.

(b) The state auditor may review the performance of the management of the board by conducting an economy and efficiency audit under Section 321.0133 and an effectiveness audit under Section 321.0134. The scope and frequency of such audits shall be determined in consultation with the legislative audit committee.

(c) Expired.

Added by Acts 1997, 75th Leg., ch. 1367, Sec. 8, eff. Sept. 1, 1997.

Sec. 443.023. PURCHASE AND LEASE REQUIREMENTS FOR CERTAIN EXPENDITURES. Subtitle D, Title 10, does not apply to a purchase or lease under this chapter. The executive director, as appropriate, may approve in writing the purchase or lease of goods and services needed to repair or improve an area within the Capitol, Capitol extension, Capitol grounds, or General Land Office building, if the cost of the purchase or lease will not exceed $50,000. The executive director shall notify the board in writing of any expenditures in excess of $50,000 made under this chapter.

Added by Acts 1997, 75th Leg., ch. 1367, Sec. 8, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 149, Sec. 13, eff. May 21, 1999; Acts 2001, 77th Leg., ch. 1462, Sec. 3, eff. June 17, 2001.

Sec. 443.0231. INFORMATION TECHNOLOGIES. Chapter 2054 does not apply to the board.

Added by Acts 2001, 77th Leg., ch. 1462, Sec. 4, eff. June 17, 2001.

Sec. 443.024. DISPLAY OF THE TEXAS AND UNITED STATES FLAGS. (a) The flag of the State of Texas and the flag of the United States shall be flown on the same pole above the south door of the Capitol building.

(b) The flag of the State of Texas alone shall be flown above the north door of the Capitol building.

(c) In the event that the flags shall be flown at half staff, the flag of the United States alone shall be flown above the south door and the flag of the State of Texas alone shall be flown above the north door of the Capitol building.

(d) On the occasion of the flying of the POW/MIA flag, the POW/MIA flag and the flag of the United States shall be flown above the south door of the Capitol building and the flag of the State of Texas alone shall be flown above the north door of the Capitol building.

(e) The flag of the State of Texas and the flag of the United States shall be flown at half-staff at the Capitol building on the death of a member of the armed forces of the United States who was a resident of this state and who was killed in action. The flags shall be displayed at half-staff for one day following the date the person's family is notified of the person's death. The office of the governor shall notify the State Preservation Board of the days on which flags shall be flown at half-staff under this subsection.

Added by Acts 1999, 76th Leg., ch. 869, Sec. 1, eff. Aug. 30, 1999.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 226 (H.B. 150), Sec. 1, eff. June 14, 2013.

Sec. 443.025. WOODLAWN. (a) Title to the historic property Woodlawn, also commonly known as Pease Mansion and Shivers Mansion, located at No. 6 Niles Road in Austin, is in the name of the board. The board may:

(1) preserve, maintain, restore, and furnish the building;

(2) preserve, maintain, and restore its contents and grounds; and

(3) otherwise provide for use of the building and grounds.

(b) The board may set and collect a fee for the use of Woodlawn for special activities. The board shall deposit money received under this subsection to the credit of the Capitol fund.

(c) The board, after consulting with the Texas Historical Commission and with the approval of the Legislative Budget Board, may sell Woodlawn at its fair market value. The General Land Office

shall transact the sale on behalf of the board using procedures under Section 31.158(c), Natural Resources Code. Proceeds from the transaction:

(1) shall be deposited in the Capitol renewal account or its successor in function under Section 443.0103; and

(2) may be spent only for a purpose described by Section 443.0103.

(d) In selling Woodlawn under Subsection (c), the board shall add to the deed of Woodlawn a provision that requires the purchaser to use the property in a manner that preserves the historical character of Woodlawn, including its buildings, facades, interior, and grounds.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 14, eff. May 21, 1999. Amended by Acts 2001, 77th Leg., ch. 1078, Sec. 1, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1462, Sec. 5, eff. June 17, 2001.

Sec. 443.026. TOURS. (a) The board may provide for public tours of the Capitol and the other buildings and grounds under the jurisdiction of the board.

(b) The board may provide for the transportation of visitors within the Capitol complex and between the buildings and grounds subject to the jurisdiction of the board. In cooperation with other public and private authorities, the board may participate in providing for the transportation of visitors between the buildings and grounds subject to the jurisdiction of the board and other historic and cultural sites.

(c) The board may set and collect a fee for transportation under this section. The board shall deposit money received under this subsection to the credit of the Capitol fund.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 14, eff. May 21, 1999.

Sec. 443.027. PUBLICATIONS AND PUBLICITY. (a) Publicity of the buildings, contents, and grounds subject to the jurisdiction of the board is essential to the board's statutory objectives. For that purpose, the board may:

(1) employ public relations personnel; and

(2) publish or contract for the publication of brochures,

books, and periodicals intended for the general public that are promotional, informational, or educational.

(b) The board may sell at prices set by the board publications printed under this section.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 14, eff. May 21, 1999.

Sec. 443.028. CHAPEL. The board may establish and maintain a chapel in the Capitol.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 14, eff. May 21, 1999.

Sec. 443.029. GOVERNOR'S MANSION. (a) Except as otherwise specifically provided by law, the board is responsible for the preservation and maintenance of the Governor's Mansion and the protection of the historical and architectural integrity of the mansion's exterior, interior, and grounds. This section does not limit the authority of the Texas Historical Commission under Chapter 191, Natural Resources Code.

(b) Except for a change in or to the Pease bedroom, the Sam Houston bedroom, the hallway, or the stairwell, a nonstructural decorative change in or to the private living and guest quarters of the governor and the governor's family on the second floor of the Governor's Mansion does not require the prior approval of the board or the Texas Historical Commission.

(c) The Texas Historical Commission and the office of the governor may exercise the powers and shall perform the duties relating to the Governor's Mansion that are provided by applicable law, subject to the requirements of this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 240 (S.B. 2307), Sec. 1, eff. May 27, 2009.

Sec. 443.030. SUPPORT ORGANIZATIONS. (a) The board may establish, maintain, and participate in the operation of one or more organizations of persons whose purpose is to raise funds for or provide services or other benefits to the board. The organization may be incorporated as a Texas nonprofit corporation.

(b) The board shall contract with a nonprofit corporation formed to assist in the preservation, maintenance, and improvement of the Capitol and the Capitol grounds to develop and implement a plan for the solicitation and acceptance of gifts, grants, devises, and bequests of money, other property, and services to be used to preserve, maintain, and improve the Capitol and the Capitol grounds. The board may contract with a nonprofit corporation described by Subsection (a) or another nonprofit corporation.

Added by Acts 2011, 82nd Leg., R.S., Ch. 915 (S.B. 1338), Sec. 5, eff. June 17, 2011.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 94 (H.B. 1829), Sec. 1, eff. September 1, 2017.

CHAPTER 444. TEXAS COMMISSION ON THE ARTS

SUBCHAPTER A. GENERAL PROVISIONS AND ADMINISTRATION

Sec. 444.001. COMMISSION. The Texas Commission on the Arts is an agency of the state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 444.002. APPLICATION OF SUNSET, OPEN MEETINGS, AND ADMINISTRATIVE PROCEDURES LAWS. (a) The Texas Commission on the Arts is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2029.

(b) The commission is subject to the open meetings law, Chapter 551, and the administrative procedure law, Chapter 2001.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 2.12, eff. Nov. 12, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), (83), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 108, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1232 (H.B. 2460), Sec. 1, eff. September 1, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 68 (S.B. 202), Sec. 1, eff. August 26, 2013.

Acts 2023, 88th Leg., R.S., Ch. 1120 (H.B. 1620), Sec. 2, eff. September 1, 2023.

See Acts 2013, 83rd Leg., R.S., Ch. 68 (S.B. 202), Sec. 5(e), for provisional temporary suspension of the residency requirement of Subsection (a) until September 1, 2015.

Sec. 444.003. COMPOSITION; TERMS. (a) The commission is composed of nine members appointed by the governor with the advice and consent of the senate. The members must represent a diverse cross-section of the fields of the arts and be widely known for their professional competence and experience in connection with the arts. At least two members must be residents of a county with a population of less than 50,000. Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(b) A person may not be a member of the commission if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving money from the commission;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving money from the commission; or

(3) uses or receives a substantial amount of tangible goods, services, or money from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

(c) Members of the commission serve staggered terms of six years.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 108, Sec. 2, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1170, Sec. 3.01, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1232 (H.B. 2460), Sec. 2, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 68 (S.B. 202), Sec. 2, eff. August 26, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 68 (S.B. 202), Sec. 3, eff.

August 26, 2013.

Sec. 444.004. COMPENSATION. (a) A member of the commission is entitled to per diem as set by legislative appropriation for each day that the member engages in commission business.

(b) A member is not entitled to other compensation for service on the commission but is entitled to reimbursement for travel and other necessary expenses in the performance of commission business in an amount not exceeding the amount authorized to be paid a member of the legislature for similar expenses.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 444.005. OFFICERS. The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor. The commission may elect from its members other officers.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 108, Sec. 3, eff. Sept. 1, 1995.

Sec. 444.006. CONFLICT OF INTEREST; REMOVAL PROVISIONS. (a) A person may not be a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

(b) A person may not be a member of the commission and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of art; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of art.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1232, Sec. 9,

eff. September 1, 2007.

(d) It is a ground for removal from the commission that a member:

(1) does not have at the time of taking office the qualifications required by Section 444.003(a);

(2) does not maintain during service on the commission the qualifications required by Section 444.003(a);

(3) is ineligible for membership under Subsection (a) or (b);

(4) cannot because of illness or disability discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved by majority vote of the commission.

(e) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(f) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

(g) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 108, Sec. 4, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1232 (H.B. 2460), Sec. 3, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1232 (H.B. 2460), Sec. 9, eff.

September 1, 2007.

Sec. 444.007. RESPONSIBILITIES OF COMMISSION, EXECUTIVE DIRECTOR AND STAFF. (a) The commission may employ an executive director. The executive director shall hire the staff of the commission.

(b) The commission shall develop and implement policies that clearly separate the policy-making responsibilities of the commission and the management responsibilities of the executive director and the staff of the commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 108, Sec. 5, eff. Sept. 1, 1995.

Sec. 444.008. MEETINGS. (a) The commission may meet at the times and places within the state that the commission designates.

(b) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 108, Sec. 6, eff. Sept. 1, 1995.

Sec. 444.009. RULES. The commission may adopt rules to govern itself, its officers, and its committees and may prescribe the duties of its officers, consultants, and employees.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 444.010. EMPLOYMENT PRACTICES. (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the commission. The program must require intra-agency posting of all positions concurrently with any public posting.

(b) The executive director or the executive director's designee

shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for commission employees must be based on the system established under this section.

(c) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with the requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the commission's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made about the extent of underuse in the commission work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to address those areas of underuse appropriately.

(d) A policy statement prepared under Subsection (c) must cover an annual period, be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (c)(1), and be filed with the governor's office.

(e) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (d). The report may be made separately or as a part of other biennial reports made to the legislature.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 108, Sec. 7, eff. Sept. 1, 1995.

Sec. 444.011. STANDARDS OF CONDUCT. The executive director or the executive director's designee shall provide to members of the commission and to commission employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws

relating to standards of conduct for state officers or employees.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 108, Sec. 8, eff. Sept. 1, 1995.

Sec. 444.012. COMPLAINTS. (a) The commission shall maintain a system to promptly and efficiently act on complaints filed with the commission. The commission shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The commission shall make information available describing its procedures for complaint investigation and resolution.

(c) The commission shall periodically notify the complaint parties of the status of the complaint until final disposition.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 108, Sec. 9, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1232 (H.B. 2460), Sec. 4, eff. September 1, 2007.

Sec. 444.013. ACCESSIBILITY. The commission shall comply with federal and state laws related to program and facility accessibility. The executive director shall also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the commission's programs and services.

Added by Acts 1995, 74th Leg., ch. 108, Sec. 11, eff. Sept. 1, 1995.

Sec. 444.014. TRAINING. (a) The commission shall establish a training program for commission members.

(b) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(c) The training program must provide the person with information regarding:

(1) the legislation that created the commission; its programs, functions, rules, and budget;

(2) the results of the most recent formal audit of the commission;

(3) the requirements of laws relating to open meetings, public information, administrative procedure, and conflict of interest; and

(4) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(d) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 1995, 74th Leg., ch. 108, Sec. 11, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1232 (H.B. 2460), Sec. 5, eff. September 1, 2007.

Sec. 444.015. USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

Added by Acts 2007, 80th Leg., R.S., Ch. 1232 (H.B. 2460), Sec. 6, eff. September 1, 2007.

Sec. 444.016. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model

guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 1232 (H.B. 2460), Sec. 6, eff. September 1, 2007.

SUBCHAPTER B. POWERS AND DUTIES; FUNDING

Sec. 444.021. GENERAL DUTIES. (a) The commission shall:

(1) foster the development of a receptive climate for the arts that will culturally enrich and benefit state citizens in their daily lives;

(2) make visits and vacations to the state more appealing to the world;

(3) attract, through appropriate programs of publicity and education, additional outstanding artists to become state residents;

(4) direct activities such as the sponsorship of lectures and exhibitions and the central compilation and dissemination of information on the progress of the arts in the state;

(5) provide advice to the comptroller, Texas Historical Commission, Texas State Library, Texas Tourist Development Agency, Texas Department of Transportation, and other state agencies to provide a concentrated state effort in encouraging and developing an appreciation for the arts in the state;

(6) provide advice relating to the creation, acquisition, construction, erection, or remodeling by the state of a work of art; and

(7) provide advice, on request of the governor, relating to the artistic character of buildings constructed, erected, or remodeled by the state.

(b) The commission shall not knowingly foster, encourage, promote, or fund any project which includes obscene material as

defined in Section 43.21, Penal Code.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 108, Sec. 10, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 165, Sec. 22(35), eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.48, eff. September 1, 2007.

Sec. 444.022. GATHERING OF INFORMATION. The commission may conduct research, investigations, and inquiries necessary to inform the commission of the development of the arts in the state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 444.023. COMMITTEES; CONSULTANTS. (a) The commission may appoint committees from its membership and prescribe their duties.

(b) The commission may appoint consultants to the commission. In appointing consultants, the commission shall attempt to achieve representation from each geographic area of the state and from the various racial and ethnic groups present in the state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 444.024. GRANTS. (a) The commission may award grants in accordance with the commission's mission to advance the state economically and culturally by investing in the arts in this state.

(a-1) An applicant for a grant of money from the commission shall specify in the grant application a minimum and maximum amount of money requested.

(b) Before making a grant of money, the commission shall submit the grant application to a panel of commission consultants for its recommendations. The panel shall include in its recommendations its determination of the reasonableness of the proposed amounts of funding.

(c) The commission by rule shall adopt equitable procedures for the distribution of grants to recipients who reflect the

geographical, cultural, and ethnic diversity of the state's population.

(d) The commission shall adopt rules to govern the review, approval, and oversight of special initiative grants. The rules must provide for:

(1) commission approval of special initiative grants, including expedited approval of the grants in limited circumstances for cases requiring immediate action;

(2) criteria to be used in reviewing and evaluating special initiative grant applications; and

(3) procedures to be used in determining the amounts of the special initiative grants.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 951, Sec. 2, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1232 (H.B. 2460), Sec. 7, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 68 (S.B. 202), Sec. 4, eff. August 26, 2013.

Sec. 444.025. DONATIONS; APPROPRIATIONS; LICENSING AND SALES REVENUE; AUDIT. (a) The commission may accept on behalf of the state donations of money, property, and art objects as it determines best further the orderly development of the artistic resources of the state. Money paid to the commission under this chapter shall be deposited in the Texas Commission on the Arts operating fund.

(b) The commission may solicit donations from an appropriate source.

(c) The commission by rule shall establish an acquisition policy for accepting property and art objects.

(d) The legislature may make appropriations to the commission to carry out the purposes of this chapter.

(e) The commission may license for a fee the use of its name or logo and any other artwork or graphics developed by the commission to a private vendor for the promotion of the arts in Texas, for fundraising for the commission, or for any other lawful purpose of the commission. The commission shall require that the use of the licensed property be consistent with the mission of the commission.

The licensing fees shall be deposited in the Texas Commission on the Arts operating fund.

(f) The commission may purchase and resell such items described in Subsection (e) as it determines appropriate for the promotion of the arts in Texas, provided that the value of commission inventory, as determined by generally accepted accounting principles, shall not exceed $50,000 at the end of any fiscal year. The net profits from those sales shall be deposited in the Texas Commission on the Arts operating fund.

(g) The financial transactions of the commission are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

(h) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(45), eff. June 17, 2011.

(i) All money paid to the commission under this chapter is subject to Subchapter F, Chapter 404.

(j) The commission shall adopt rules to govern its acceptance of private gifts, grants, and donations to ensure that the use of the money or property supports the commission's primary functions. At a minimum, the rules must:

(1) require the commission to evaluate a gift, grant, or donation before acceptance to ensure that the purpose of the gift, grant, or donation supports the commission's priorities as established by statute and the commission's appropriations pattern;

(2) prohibit the commission from creating and directly administering programs for the purpose of qualifying for or complying with a condition for the acceptance of private funding; and

(3) require the commission, before acceptance of a gift, grant, or donation, to evaluate any obligations the commission would have to meet in order to accept the gift, grant, or donation, including required matching funds, the amount of staff time and effort, and any other additional costs.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 94, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 951, Sec. 3, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 108, Sec. 12, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 346, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1232 (H.B. 2460), Sec. 8, eff.

September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 666 (H.B. 2242), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(45), eff. June 17, 2011.

Sec. 444.027. TEXAS COMMISSION ON THE ARTS OPERATING FUND. (a) The Texas Commission on the Arts operating fund is a special fund in the state treasury.

(b) Money deposited to the credit of the operating fund may be appropriated only to carry out the commission's powers and duties under this chapter and for necessary administrative costs incurred by the commission under this chapter.

(c) The operating fund is exempt from the application of Sections 403.095 and 404.071. Interest received from investments of money in the operating fund shall be allocated monthly by the comptroller to the operating fund.

Added by Acts 1993, 73rd Leg., ch. 951, Sec. 4, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.16, eff. Sept. 1, 1997.

Sec. 444.029. EXPENDITURES FOR FINE ARTS PROJECTS ON CERTAIN PUBLIC CONSTRUCTION PROJECTS. (a) Any using agency exempt from Chapter 2166 under Section 2166.003 and any county, municipality, or other political subdivision of this state undertaking a public construction project estimated to cost more than $250,000 may specify that a percentage not to exceed one percent of the cost of the construction project shall be used for fine arts projects at or near the site of the construction project.

(b) The using agency or the governing body of a political subdivision may consult and cooperate with the commission for advice in determining how to use the portion of the cost set aside for fine arts purposes.

(c) The commission shall place emphasis on works by living Texas artists whenever feasible and, when consulting with the governing body of a political subdivision, shall place emphasis on works by artists who reside in or near the political subdivision.

Consideration shall be given to artists of all ethnic origins.

(d) In this section, "construction," "cost of a project," "project," and "using agency" have the meanings assigned by Section 2166.001.

Acts 1979, 66th Leg., p. 1908, ch. 773, Sec. 5.19, eff. Sept. 1, 1979. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 8, Sec. 2.20, eff. Sept. 1, 1991. Redesignated from Vernon's Ann.Civ.St. art. 601b, Sec. 5.19 and amended by Acts 1995, 74th Leg., ch. 41, Sec. 2, eff. Sept. 1, 1995.

Sec. 444.030. MEMORANDA OF UNDERSTANDING WITH OTHER STATE AGENCIES. (a) The commission shall initiate negotiations for and enter into a memorandum of understanding with each state agency involved in the arts to cooperate in program planning and budgeting.

(b) The commission shall enter into an agreement as required by Subsection (a) with the:

(1) Central Education Agency regarding the arts in education program in the public schools;

(2) Music, Film, Television, and Multimedia Office in the governor's office regarding work with the state's music and film industries; and

(3) Texas Department of Commerce, Texas Department of Transportation, and Parks and Wildlife Department regarding state tourism promotion efforts.

(c) Each agency listed in Subsection (b) may enter into memoranda of understanding in areas other than those listed for the respective agency.

(d) A memorandum of understanding between the commission and another state agency must be adopted by the governing bodies of the commission and the other state agency.

(e) After a memorandum of understanding is adopted, the commission shall publish the memorandum of understanding in the Texas Register.

Added by Acts 1995, 74th Leg., ch. 108, Sec. 13, eff. Sept. 1, 1995. Renumbered from Government Code Sec. 444.029 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(38), eff. Sept. 1, 1997.

Sec. 444.031. CULTURAL AND FINE ARTS DISTRICT PROGRAM. (a) The commission shall develop a cultural and fine arts district program to designate districts that significantly contribute to the culture and fine arts of this state.

(b) The commission shall develop:

(1) eligibility criteria for a designation under this section; and

(2) procedures to administer the program created under this section.

(c) A designated district or, if necessary to comply with federal eligibility requirements, a municipality or county in which a designated district is located on behalf of the district may apply for state incentives, funding, grants, and loans from state agencies, including the:

(1) Department of Agriculture;

(2) Texas Department of Transportation; and

(3) office of the governor.

(d) The commission shall assist designated districts, municipalities, and counties in applying under Subsection (c).

(e) The commission may amend the boundaries of a designated district to include private sector development.

Added by Acts 2005, 79th Leg., Ch. 219 (H.B. 2208), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1031 (H.B. 2718), Sec. 1, eff. September 1, 2013.

Sec. 444.032. TEXAS MUSIC PROJECT. (a) The commission shall develop and implement a Texas music compact disc project under which the commission shall create, promote, and distribute a series of compact discs that feature the work of established and emerging music artists of this state.

(b) The commission shall seek donations of time, talent, and property from music artists and other persons to help facilitate the project.

(c) All proceeds from the sale of compact discs under the project shall be deposited in the Texas Commission on the Arts operating fund under Section 444.027.

(d) In accordance with this chapter and commission policy, the commission shall use part of the interest earned on the proceeds of the project to fund grants of money that promote music education through the commission's arts education grant program.

Added by Acts 2003, 78th Leg., ch. 686, Sec. 1, eff. June 20, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 666 (H.B. 2242), Sec. 2, eff. June 19, 2009.

CHAPTER 445. TEXAS STATE HISTORY MUSEUM

Sec. 445.001. MUSEUM. (a) The Bob Bullock Texas State History Museum is established for the purpose of educating and engaging visitors in the exciting and unique story of Texas and displaying objects and information relating to the history of Texas.

(b) The museum shall provide exhibits, programs, and activities that support the education of public school students in the essential knowledge and skills developed and adopted under Chapter 28, Education Code.

(c) The museum is not subject to the provisions of Section 2165.005.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 15, eff. May 21, 1999.

Sec. 445.002. GOVERNANCE. (a) The State Preservation Board shall govern and provide for the operation of the museum.

(b) Except to the extent of conflict with this chapter, the board and the executive director of the board have the same powers and duties in relation to the museum that they have in regard to other facilities and programs under Chapter 443.

(c) Repealed by Acts 2001, 77th Leg., ch. 1462, Sec. 10, eff. June 17, 2001.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 15, eff. May 21, 1999.
Amended by Acts 2001, 77th Leg., ch. 1462, Sec. 10, eff. June 17, 2001.

Sec. 445.003. VENDING FACILITIES. (a) In addition to exhibits

and theaters, the museum may operate:

(1) a gift shop;

(2) food services, including one or more restaurants, cafeterias, and vending machines;

(3) pay station telephones;

(4) automated teller machines (ATMs); and

(5) other services and facilities convenient or necessary for visitors to the museum.

(b) Chapter 94, Human Resources Code, does not apply to vending facilities operated by or approved for operation in the museum.

(c) The museum may provide for the public sale, possession, or consumption of alcoholic beverages on property owned or controlled by the museum.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 15, eff. May 21, 1999.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 243 (H.B. 4964), Sec. 1, eff. May 27, 2023.

Sec. 445.004. THEATERS; FILMS AND OTHER PRODUCTS. (a) The museum may operate one or more film theaters, including a large-format theater.

(b) In addition to films connected with Texas history, the museum may exhibit commercially produced entertainment films in museum theaters.

(c) The museum may develop and produce films and other products and may retain royalties or otherwise receive revenue from the production, distribution, exhibition, or sale of those films or products.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 15, eff. May 21, 1999.

Sec. 445.005. MARKETING AND PUBLIC RELATIONS. Marketing and publicity of the museum's exhibits, programs, and activities is essential to the museum's statutory objectives. For that purpose, the museum may:

(1) employ public relations personnel;

(2) publish brochures, books, and periodicals intended for the general public that are promotional, informational, or

educational; and

(3) advertise the museum in any available media.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 15, eff. May 21, 1999.

Sec. 445.006. TOURS; PARKING AND TRANSPORTATION. The museum may provide parking for visitors and, in cooperation with other public and private authorities, may participate in providing for tour transportation of visitors between other historical and cultural sites.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 15, eff. May 21, 1999.

Sec. 445.007. PRIVATE EVENTS. (a) The museum may rent all or part of the museum facility at various times for private events. The museum may restrict public access to that part of the facility rented for a private event.

(b) The museum may provide for the sale, gift, possession, and consumption of alcoholic beverages at a private event held in the facility.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 15, eff. May 21, 1999.

Sec. 445.008. INSURANCE. The museum may purchase insurance policies to insure the museum buildings and contents and other personal property against any insurable risk, including insurance covering historical artifacts, art, or other items on loan to the museum.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 15, eff. May 21, 1999.

Sec. 445.009. CONTRACTS. The museum may contract with public or private entities to the extent necessary or convenient to the operation of the museum's exhibits, programs, activities, and facilities, including contracts for the acquisition by purchase or loan of items for exhibition.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 15, eff. May 21, 1999.

Sec. 445.010. PROGRAM AND FACILITY ACCESSIBILITY. The museum shall comply with federal and state laws related to program and facility accessibility. The museum shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the museum's programs and services.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 15, eff. May 21, 1999.

Sec. 445.011. FUNDING. (a) To the extent possible, the costs of operating the museum shall be paid from revenues generated by the museum, but the legislature may appropriate funds for the operation of the museum.

(b) The museum shall solicit and may accept gifts of money or items from individuals and from public or private foundations and organizations.

(c) The museum may set and collect fees in amounts necessary to provide for the operation of the museum, including fees for:

(1) admission to exhibits, theaters, programs, and activities;

(2) parking and transportation; and

(3) facility rental.

(d) The museum may sell at prices set by the museum items manufactured or publications printed under contract with the museum.

(e) All net revenue collected by the museum under this chapter, including the net revenue from vending facilities under Section 445.003, shall be credited to the Bob Bullock Texas State History Museum fund.

(f) The transactions, funds, and programs of the museum are subject to audit by the state auditor in accordance with Chapter 321.

(g) The museum may establish a membership program.

(h) Notwithstanding other law, for purposes of Subchapter I, Chapter 659:

(1) the museum is considered an eligible charitable organization entitled to participate in a state employee charitable campaign under Subchapter I, Chapter 659; and

(2) a state employee is entitled to authorize a deduction for contributions to the museum, including contributions for museum membership, as a charitable contribution under Section 659.132, and the museum may use the contributions for museum purposes.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 15, eff. May 21, 1999.
Amended by Acts 2001, 77th Leg., ch. 1462, Sec. 9, eff. June 17, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 8.0035, eff. September 1, 2005.

Sec. 445.012. MUSEUM FUND. (a) Money and securities received by the museum shall be held in trust outside the treasury by the comptroller in a special fund to be known as the Bob Bullock Texas State History Museum fund. The museum may spend money received by the museum for any purpose connected with the museum.

(b) The comptroller shall manage and invest the fund on behalf of the museum as directed or agreed to by the museum. Interest, dividends, and other income of the fund shall be credited to the fund.

(c) The museum shall prepare a detailed annual report on the fund. That report must describe the status of the fund, list all donations to the fund, including the name of each donor, and list all disbursements from the fund, including the purpose of each disbursement.

(d) The state auditor, based on a risk assessment and subject to the legislative audit committee's approval of including the review in the audit plan under Section 321.013, may review the annual report on the fund, and any information used in preparing the report as the auditor determines necessary, and shall report any findings or recommendations to the museum and the legislative audit committee.

(e) The fund is not subject to Subchapter F, Chapter 404. A provision of this chapter or other law that provides for the deposit of money or another thing of value into the fund prevails over Subchapter F, Chapter 404.

(f) Subtitle D, Title 10, does not apply to a purchase or lease made with money from the fund.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 15, eff. May 21, 1999.

Amended by Acts 2003, 78th Leg., ch. 785, Sec. 16, eff. Sept. 1, 2003.

Sec. 445.013. SUPPORT ORGANIZATIONS. The museum may establish and maintain one or more organizations of persons interested in supporting the programs and activities of the museum. Such an organization may be incorporated as a Texas nonprofit corporation.

Added by Acts 1999, 76th Leg., ch. 149, Sec. 15, eff. May 21, 1999.

Sec. 445.014. MUSEUM DIRECTOR. The executive director of the State Preservation Board shall employ a museum director to manage and operate the museum.

Added by Acts 2013, 83rd Leg., R.S., Ch. 401 (S.B. 201), Sec. 5, eff. September 1, 2013.

Sec. 445.015. NAMING OF MUSEUM AREAS. The State Preservation Board shall adopt reasonable policies for naming areas within the museum, including rooms and exhibition halls, in honor of donors or other benefactors, if appropriate.

Added by Acts 2013, 83rd Leg., R.S., Ch. 401 (S.B. 201), Sec. 5, eff. September 1, 2013.

CHAPTER 447. STATE ENERGY CONSERVATION OFFICE

Sec. 447.001. GOVERNANCE AND GENERAL AUTHORITY. The state energy conservation office:

(1) is under the direction and control of the comptroller;

(2) shall promote the policies enumerated in this chapter; and

(3) may act in any capacity authorized by state or federal law.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 52, art. 2, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 612, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 526, Sec. 7, eff.

Sept. 1, 1995; Acts 1995, 74th Leg., ch. 698, Sec. 4, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 573, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 28, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 2001. Reenacted and amended by Acts 2003, 78th Leg., ch. 1310, Sec. 29, eff. June 20, 2003.

Sec. 447.002. INFORMATION; PROCEDURES AND RULES; MEASURES AND PROGRAMS. (a) The state energy conservation office shall develop and provide energy and water conservation information for the state.

(b) The state energy conservation office may establish procedures and adopt rules relating to the development and implementation of energy and water conservation measures and programs applicable to state buildings and facilities.

(c) A procedure established or a rule adopted under Subsection (b) may include provisions relating to:

(1) the retrofitting of existing state buildings and facilities with energy-saving or water-saving devices; and

(2) the energy-related or water-related renovation of those buildings and facilities.

(d) To the extent that the governor receives money appropriated for energy and water efficiency measures and programs, the governor, through the state energy conservation office, shall implement measures and programs that the state energy conservation office identifies as encouraging energy or water conservation by state government.

(e) A state agency shall implement an energy or water conservation measure or program in accordance with plans developed under Section 447.009.

(f) The state energy conservation office shall coordinate all water conservation-related activities with the Texas Water Development Board. The board shall assist the office in the development of all proposed water conservation and reuse requirements and provide training and expertise to the office regarding water conservation issues.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 52, art. 2, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 612, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50),

eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 573, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 28, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 2001. Reenacted and amended by Acts 2003, 78th Leg., ch. 1310, Sec. 29, eff. June 20, 2003.

Sec. 447.003. LIAISON TO FEDERAL GOVERNMENT. The state energy conservation office is the state liaison to the federal government for the implementation and administration of federal programs relating to state agency energy matters. The office shall administer state programs established under:

(1) Part D, Title III, Energy Policy and Conservation Act (42 U.S.C. Section 6321 et seq.), and its subsequent amendments;

(2) Part G, Title III, Energy Policy and Conservation Act (42 U.S.C. Section 6371 et seq.), and its subsequent amendments; and

(3) other federal energy conservation programs as assigned to the office by the governor or the legislature.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 52, art. 2, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 612, Sec. 1, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 573, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 28, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 2001. Reenacted and amended by Acts 2003, 78th Leg., ch. 1310, Sec. 29, eff. June 20, 2003.

Sec. 447.004. DESIGN STANDARDS. (a) The state energy conservation office shall establish and publish mandatory energy and water conservation design standards for each new state building or major renovation project, including a new building or major renovation project of a state-supported institution of higher education. The office shall define "major renovation project" for purposes of this section and shall review and update the standards biennially.

(b) The standards established under Subsection (a) must:

(1) include performance and procedural standards for the maximum energy and water conservation allowed by the latest and most cost-effective technology that is consistent with the requirements of

public health, safety, and economic resources;

(2) be stated in terms of energy and water consumption levels that meet energy standards adopted by the state energy conservation office and that:

(A) achieve a 15 percent reduction in water use when compared to water use based on plumbing fixtures selected in accordance with the Energy Policy Act of 1992 (Pub. L. No. 102-486); or

(B) comply with water conservation standards published by the state energy conservation office;

(3) consider the various types of building uses; and

(4) allow for design flexibility, including allowing for certification under any high-performance design evaluation system approved by the state energy conservation office.

(b-1) A building to which this section applies must be designed and constructed or renovated so that the building achieves certification under any high-performance design evaluation system approved by the state energy conservation office that:

(1) is developed and revised through a nationally recognized consensus-based process or by a municipally owned utility in this state;

(2) provides minimum requirements for energy use, natural resources use, and indoor air quality;

(3) requires substantiating documentation for certification;

(4) requires on-site, third-party, post-construction review and verification for certification, or a third-party, post-construction, rigorous review of documentation and verification for certification; and

(5) encourages the use of materials or products manufactured or produced in this state.

(b-2) The state energy conservation office shall appoint an advisory committee to advise the office in selecting one or more high-performance building design evaluation systems to approve for use under Subsection (b-1). At least once every two years, the advisory committee shall review available high-performance building standards and make recommendations to the office. The advisory committee consists of:

(1) one individual appointed by the comptroller who represents the state energy conservation office and who serves as the

presiding officer of the committee;

(2) eight individuals with experience and expertise in high-performance buildings or related products, including experience and expertise in energy efficiency, water efficiency, or low-impact site development, with one individual selected from each of the following lists of nominees:

(A) a list submitted by the president of the Texas Society of Architects;

(B) a list submitted by the presidents of the Texas Council of Engineering Companies and Texas Society of Professional Engineers;

(C) a list submitted by the president of the Associated Builders and Contractors of Texas and the presiding officer of the executive committee of the Associated General Contractors, Texas Building Branch;

(D) a list submitted by the president of the Texas chapter of the American Society of Landscape Architects;

(E) a list submitted by the president of the Texas Chemical Council;

(F) a list submitted by the Texas State Building and Construction Trades Council;

(G) a list submitted by the president of the Texas chapter of the Urban Land Institute; and

(H) a list submitted by the chair of the Brick Industry Association;

(3) the director of facilities construction and space management appointed under Section 2152.104;

(4) one individual representing the Energy Systems Laboratory of the Texas Engineering Experiment Station of The Texas A&M University System;

(5) one individual representing a state agency that has a substantial ongoing construction program; and

(6) one individual representing the interests of historically underutilized businesses.

(b-3) A contract between a state agency and a private design professional relating to services in connection with the construction or renovation of a building to which this section applies must provide that, for billing purposes, any service provided by the private design professional that is necessary to satisfy the certification requirements of Subsection (b-1) is considered an

additional service rather than a basic service. A governmental entity may not disallow the allocation of federal deductions to eligible design professionals authorized by the Energy Policy Act of 2005 (Pub. L. No. 109-58).

(c) Any procedural standard established under this section must be directed toward specific design and building practices that produce good thermal resistance and low infiltration and toward requiring practices in the design of mechanical and electrical systems that maximize energy and water efficiency. The procedural standards must address, as applicable:

(1) insulation;

(2) lighting;

(3) ventilation;

(4) climate control;

(5) water-conserving fixtures, appliances, and equipment or the substitution of non-water-using fixtures, appliances, and equipment;

(6) water-conserving landscape irrigation equipment;

(7) landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including:

(A) landscape contouring, including the use of berms, swales, and terraces; and

(B) the use of soil amendments that increase the water-holding capacity of the soil, including compost;

(8) rainwater harvesting equipment and equipment to make use of water collected as part of a storm-water system installed for water quality control;

(9) equipment for recycling or reusing water originating on the premises or from other sources, including treated municipal effluent;

(10) equipment needed to capture water from nonconventional, alternate sources, including air conditioning condensate or graywater, for nonpotable uses;

(11) metering equipment needed to segregate water use in order to identify water conservation opportunities or verify water savings;

(12) special energy requirements of health-related facilities of higher education and state agencies; and

(13) any other item that the state energy conservation office considers appropriate.

(c-1) The procedural standards adopted under this section must require that:

(1) on-site reclaimed system technologies, including rainwater harvesting, condensate collection, or cooling tower blow down, or a combination of those system technologies, for potable and nonpotable indoor and outdoor water use be incorporated into the design and construction of:

(A) each new state building with a roof area measuring at least 10,000 square feet; and

(B) any other new state building for which the incorporation of such systems is feasible; and

(2) rainwater harvesting system technology for potable and nonpotable indoor and outdoor water use be incorporated into the design and construction of each new state building with a roof area measuring at least 50,000 square feet that is located in an area of this state in which the average annual rainfall is at least 20 inches.

(c-2) The procedural standards required by Subsection (c-1) do not apply to a building if the state agency or institution of higher education constructing the building:

(1) determines that compliance with those standards is impractical; and

(2) notifies the state energy conservation office of the determination and provides to the office documentation supporting the determination.

(c-3) The procedural standards required by Subsection (c-1)(2) apply to a building described by that subdivision unless Subsection (c-2) applies or the state agency or institution of higher education constructing the building provides the state energy conservation office evidence that the amount of rainwater that will be harvested from one or more existing buildings at the same location is equivalent to the amount of rainwater that could have been harvested from the new building had rainwater harvesting system technology been incorporated into its design and construction.

(d) A state agency or an institution of higher education shall submit a copy of its design and construction manuals to the state energy conservation office as the office considers necessary to demonstrate compliance by the agency or institution with the standards established under this section.

(e) A state agency may not begin construction of a new state

building or a major renovation project before the design architect or engineer for the construction or renovation has:

(1) certified to the appropriate authority having jurisdiction that the construction or renovation complies with:

(A) the standards established under this section; and

(B) the alternative energy and energy-efficient architectural and engineering design evaluation requirements under Sections 2166.401, 2166.403, and 2166.408; and

(2) provided to the appropriate authority having jurisdiction and the state energy conservation office copies of:

(A) each certification under Subdivision (1); and

(B) any written evaluation or detailed economic feasibility study prepared in accordance with Section 2166.401, 2166.403, or 2166.408.

(f) An institution of higher education may not begin construction of a new state building or a major renovation project before the design architect or engineer for the construction or renovation has:

(1) certified to the institution of higher education that the construction or renovation complies with the standards established under this section; and

(2) provided to the state energy conservation office a copy of that certification.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 52, art. 2, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 612, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 526, Sec. 8, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 698, Sec. 5, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 573, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 28, eff. June 15, 2001; Acts, 2001, 77th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 2001. Reenacted and amended by Acts 2003, 78th Leg., ch. 1310, Sec. 29, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 856 (S.B. 982), Sec. 1, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1352 (H.B. 4), Sec. 10, eff. September 1, 2009.

Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.27, eff.

September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 937 (H.B. 51), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1311 (H.B. 3391), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 695 (H.B. 2781), Sec. 1, eff. September 1, 2013.

Sec. 447.005. ENERGY AND WATER EFFICIENCY PROJECTS. Subject to applicable state and federal laws or guidelines, the state energy conservation office may:

(1) implement an energy or water efficiency project at a state agency; or

(2) assist the agency in implementing the project through an energy or water efficiency program.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 52, art. 2, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 612, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 526, Sec. 9, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 698, Sec. 6, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 573, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 28, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 2001. Reenacted and amended by Acts 2003, 78th Leg., ch. 1310, Sec. 29, eff. June 20, 2003.

Sec. 447.006. ADDITIONAL ENERGY AND WATER SERVICES. (a) The state energy conservation office may provide additional energy and water services, including:

(1) training of designated state employees in energy and water management, energy-accounting techniques, water-accounting techniques, and energy efficient and water efficient design and construction;

(2) technical assistance regarding energy efficient and water efficient capital improvements, energy efficient and water efficient building design, and cogeneration and thermal storage investments;

(3) technical assistance to the state auditor or a state

agency regarding energy and water management performance audits and the monitoring of utility bills to detect billing errors;

(4) technical assistance to a state agency regarding third-party financing of an energy efficient and water efficient capital improvement project; and

(5) other energy-related and water-related assistance that the office considers appropriate, if the assistance is requested by a state agency, an institution of higher education, a consortium of institutions of higher education, or another governmental entity created by state law.

(b) Using available state, federal, or oil overcharge funds, the state energy conservation office may provide technical assistance to a state agency or an institution of higher education in analyzing or negotiating rates for electricity or natural gas supplies from a locally certificated electric supplier, a natural gas supplier, or a state-owned energy resource, including a transportation charge for natural gas.

(c) A state agency or an institution of higher education may request the assistance of the state energy conservation office before negotiating or contracting for the supply or transportation of natural gas or electricity.

(d) A state agency or an institution of higher education with expertise in rate analysis, negotiation, or any other matter related to the procurement of electricity and natural gas supplies from a locally certificated electric supplier, a natural gas supplier, or a state-owned energy resource may assist the state energy conservation office whenever practicable. The attorney general on request shall assist the office and other state agencies and institutions of higher education in negotiating rates for electricity and other terms of electric utility service.

(e) Using available funds from any source, the state energy conservation office may assist a state agency, an institution of higher education, a consortium of institutions of higher education, or another governmental entity created by state law to further the goals and pursue the policies of the state in energy research as may be determined by the governor or the legislature. The office may assist a state agency in implementing current federal energy policy.

(f) The state energy conservation office on request may negotiate rates for electricity and other terms of electric utility service for a state agency or an institution of higher education.

The office also may negotiate the rates and the other terms of service for a group of agencies or institutions in a single contract.

(g) The state energy conservation office may analyze the rates for electricity charged to and the amount of electricity used by state agencies and institutions of higher education to determine ways the state could obtain lower rates and use less electricity. Each state agency, including the Public Utility Commission of Texas, and institution of higher education shall assist the office in obtaining the information the office needs to perform its analysis.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 52, art. 2, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 612, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 526, Sec. 9, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 698, Sec. 6, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 573, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 28, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 2001. Redesignated from Government Code Sec. 447.008 and reenacted and amended by Acts 2003, 78th Leg., ch. 1310, Sec. 29, eff. June 20, 2003.

Sec. 447.007. ENERGY AND WATER AUDITS. (a) The state energy conservation office may audit a state-owned building used by a state agency to assist the agency in reducing energy and water consumption and costs through improved energy and water efficiency.

(b) Based on any audit performed under Subsection (a), the state energy conservation office may recommend changes to improve energy and water efficiency.

(c) Each state agency or institution of higher education shall review and audit utility billings and contracts to detect billing errors. Any contract with a private person to conduct the review or audit must comply with all applicable provisions of Subchapter A, Chapter 2254, regarding professional services contracts. The contract may not be awarded on a contingent fee basis unless the governor determines that the contract is necessary, reasonable, and prudent.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 52, art. 2, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 612, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 526, Sec. 9, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 698, Sec. 6, eff. Aug. 28,

1995; Acts 2001, 77th Leg., ch. 573, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 28, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 2001. Redesignated from Government Code Sec. 447.009 and reenacted and amended by Acts 2003, 78th Leg., ch. 1310, Sec. 29, eff. June 20, 2003.

Sec. 447.008. ENERGY-SAVING AND WATER-SAVING DEVICES OR MEASURES. (a) On approval by the state energy conservation office, a state agency that reduces its energy or water expenses may use any funds saved by the agency from appropriated utility funds for the purchase of an energy-saving or water-saving device or measure. For purposes of this section, "energy-saving or water-saving device or measure" means a device or measure that directly reduces:

(1) energy or water costs; or

(2) the energy or water consumption of equipment, including a lighting, heating, ventilation, air-conditioning system, or other water-using system, without materially altering the quality of the equipment.

(b) A state agency, in accordance with the recommendations of an energy or water audit, may purchase energy-saving and water-saving devices or measures from appropriated utility funds if the savings in utility funds projected by the audit will offset the purchase. The agency shall retain in its files a copy of the recommendation and repayment schedule as evidence of the projected savings.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 52, art. 2, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 612, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 176, Sec. 1, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 526, Sec. 10, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 698, Sec. 7, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 1206, Sec. 23, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 573, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 28, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 2001. Redesignated from Government Code Sec. 447.010 and reenacted and amended by Acts 2003, 78th Leg., ch. 1310, Sec. 29, eff. June 20, 2003.

Sec. 447.009. ENERGY AND WATER MANAGEMENT PLANNING; REPORTING.

(a) The state energy conservation office shall provide energy and water management planning assistance to a state agency or an institution of higher education, including assistance to:

(1) the Department of Public Safety for energy emergency contingency planning, using state or federal funds when available; and

(2) each state agency or institution of higher education in preparing comprehensive energy and water management plans.

(b) The state energy conservation office shall prepare guidelines for preparation of the plan described in Subsection (a)(2) and develop a template for state agencies and institutions of higher education to use in creating the plan. Each state agency and institution of higher education shall set percentage goals for reducing the agency's or institution's use of water, electricity, transportation fuel, and natural gas and include those goals in the agency's or institution's comprehensive energy and water management plan.

(c) The comprehensive energy and water management plan described in Subsection (a)(2) shall be included in the five-year construction and major repair and rehabilitation plans for institutions of higher education as required by Section 61.0651, Education Code.

(d) Not later than January 15 of each odd-numbered year, the state energy conservation office shall submit a report to the governor and the Legislative Budget Board on the status and effectiveness of the utility management and conservation efforts of state agencies and institutions of higher education. The report must include information submitted to the office from each state agency and institution of higher education. The office shall post the report on the office's Internet website.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 52, art. 2, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 612, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(45), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 698, Sec. 8, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 573, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 28, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 2001. Redesignated from Government Code Sec. 447.011 and reenacted and amended by Acts 2003, 78th Leg., ch. 1310, Sec. 29, eff. June 20,

2003.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1332 (S.B. 700), Sec. 2, eff. September 1, 2013.
Acts 2017, 85th Leg., R.S., Ch. 288 (S.B. 59), Sec. 1, eff. September 1, 2017.

Sec. 447.010. FUEL SAVINGS FOR STATE AGENCIES. (a) In this section and in Section 447.011:

(1) "Cost-effective" means resulting in fuel consumption reduction with a projected savings in fuel cost over a one-year period that exceeds the cost of purchasing and using a technology.

(2) "Fuel-saving technology" means a:

(A) device containing no lead metal that is installed on a motor vehicle or non-road diesel and that has been proven to reduce fuel consumption per mile or per hour of operation by at least five percent;

(B) fuel additive registered in accordance with 40 C.F.R. Part 79 that contains no known mutagenic materials and that has been proven to reduce fuel consumption per mile or per hour of operation by at least five percent; or

(C) fuel registered in accordance with 40 C.F.R. Part 79 that contains no known mutagenic materials and that has been proven to reduce fuel consumption per mile or per hour of operation by at least five percent.

(3) "Motor vehicle" and "non-road diesel" have the meanings assigned by Section 386.101, Health and Safety Code.

(4) "Proven fuel-saving technologies" means technologies shown to reduce fuel use by at least five percent in:

(A) an Environmental Protection Agency fuel economy federal test protocol test performed at a laboratory recognized by the Environmental Protection Agency;

(B) a fuel economy test performed in accordance with protocols and at testing laboratories or facilities recognized by the state energy conservation office, the Texas Commission on Environmental Quality, or the Environmental Protection Agency; or

(C) a field demonstration performed in accordance with Section 447.011.

(b) A state agency with 10 or more motor vehicles or non-road

diesels shall reduce the total fuel consumption of the vehicles or diesels by at least five percent from fiscal year 2002 consumption levels through the use of cost-effective proven fuel-saving technologies.

(c) A state agency may delay reducing fuel use as described in this section until a list of proven fuel-saving technologies is provided by the state energy conservation office as provided by Section 447.011.

(d) A state agency may not purchase or use as a fuel-saving technology a technology that:

(1) is known to increase oxides of nitrogen emissions or toxic air contaminants;

(2) may be reasonably concluded to degrade air quality or human health or to negatively impact the environment; or

(3) is known to affect negatively the manufacturer's warranty of a motor vehicle or a non-road diesel.

(e) A state agency may purchase cost-effective proven fuel-saving technologies out of the agency's fuel budget.

(f) A state agency shall competitively evaluate similar fuel-saving technologies.

(g) A state agency may require a seller of a fuel-saving technology to refund the cost of the technology if it is determined to be ineffective at reducing fuel use by at least five percent before the 91st day after the date the technology is first used by the agency.

(h) A state agency may use fuel-saving technologies that the agency determines are cost-effective and may use a fuel-saving technology in applications that provide other benefits, including emissions reductions.

(i) A state agency may establish a program for agency employees to voluntarily:

(1) purchase fuel-saving technologies; and

(2) document reductions in fuel savings and air emissions.

(j) Repealed by Acts 2021, 87th Leg., R.S., Ch. 856 (S.B. 800), Sec. 25(2), eff. September 1, 2021.

(k) This section does not apply to an institution of higher education as defined by Section 61.003, Education Code.

Added by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 5.01, eff. Jan. 11, 2004.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 856 (S.B. 800), Sec. 25(2), eff. September 1, 2021.

Sec. 447.011. FIELD DEMONSTRATIONS. (a) Under the direction of the state energy conservation office, the Texas Department of Transportation shall demonstrate the effectiveness of at least four fuel-saving technologies on a combined maximum of 100 motor vehicles or non-road diesels in accordance with this section to determine the fuel-saving technologies that may cost-effectively reduce fuel consumption and save state revenue.

(b) The Texas Department of Transportation shall select varying ages and types of motor vehicles and non-road diesels to demonstrate the fuel-saving technologies and shall give a preference to high-use motor vehicles and non-road diesels in the selection.

(c) The Texas Department of Transportation shall demonstrate the performance of fuel-saving technologies by:

(1) assessing a technology's performance in the normal course of operations of motor vehicles or non-road diesels; and

(2) performing controlled field tests.

(d) In selecting the technologies to be evaluated, the state energy conservation office shall:

(1) consult with governmental and business organizations that are currently using fuel-saving technology;

(2) consider technologies that are proven fuel-saving technologies that have demonstrated fuel economy benefits of five percent or more in field tests or recorded use data of government organizations or businesses that operate fleets; and

(3) determine whether each technology selected has the potential to be cost-effective.

(e) A fuel-saving technology may be disqualified from being demonstrated or used if it is known to reduce engine performance, reduce the life of the engine, require additional maintenance expenses, or degrade air quality.

(f) The Texas Commission on Environmental Quality, the Texas Transportation Institute, The University of Texas Center for Transportation Research, the University of Houston Diesel Emissions Center, or another agency may be designated to assist with executing the demonstration, compiling the results, estimating the potential

average fuel savings of the technologies in different applications, or preparing a final report.

(g) On completing the demonstration described by this section the state energy conservation office shall rank the fuel-saving technologies based on their fuel savings, other cost savings, and overall cost-effectiveness. The office shall:

(1) list recommended applications of the technologies;

(2) document other negative or positive effects; and

(3) prepare a concise report of these findings.

(h) The Texas Commission on Environmental Quality shall obtain information on any fuel-saving technology that appears to reduce particulate matter, oxides of nitrogen, carbon monoxide, or hydrocarbon emissions.

(i) The state energy conservation office shall provide the report prepared under Subsection (g) to each state agency with 10 or more motor vehicles or non-road diesels and to the Legislative Budget Board.

(j) The demonstration and associated reports described by this section shall be completed not later than January 1, 2005.

(k) All results of a demonstration project under this section shall be made public on the state energy conservation office's Internet website.

(l) The state energy conservation office shall provide quarterly an updated list of all proven fuel-saving technologies on its Internet website.

(m) Money from the state highway fund may not be used for the purchase, installation, maintenance, or operation of the fuel-saving technologies being assessed or subjected to controlled field tests under this section. Repairs to state equipment resulting from demonstrations of fuel-saving technologies must be paid from the same funds used to implement this section.

Added by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 5.01, eff. Jan. 11, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 28 (S.B. 527), Sec. 7, eff. September 1, 2011.

Sec. 447.012. APPLIANCE STANDARDS. The state energy

conservation office shall determine the feasibility and cost-benefit to consumers of setting appliance standards for appliances that are not currently regulated for energy efficiency in this state, if the office determines that the new standards would reduce the emission of air contaminants. The office may not consider the feasibility and cost-benefit to consumers of setting appliance standards for air conditioning systems under this section.

Added by Acts 2005, 79th Leg., Ch. 1095 (H.B. 2129), Sec. 5, eff. September 1, 2005.

Sec. 447.013. ADVANCED CLEAN ENERGY PROJECT GRANT AND LOAN PROGRAM. (a) In this section:

(1) "Account" means the advanced clean energy project account established under this section.

(2) "Advanced clean energy project" has the meaning assigned by Section 382.003, Health and Safety Code.

(3) "Program" means the advanced clean energy project grant and loan program established under this section.

(b) The advanced clean energy project grant and loan program is established to encourage the development of advanced clean energy projects in an environmentally protective manner. The program is administered by the State Energy Conservation Office.

(c) The advanced clean energy project account is an account in the general revenue fund.

(d) The account consists of:

(1) a sub-account in the account that consists of the proceeds of bonds issued under Subsection (j);

(2) revenues allocated to the account under Section 182.122, Tax Code;

(3) any amount appropriated by the legislature for the account;

(4) gifts, grants, and other donations received for the account; and

(5) interest earned on the investment of money in the account.

(e) Money in the account may be appropriated only to the State Energy Conservation Office to award grants or to make or guarantee loans under this section. The total amount of grants that may be

awarded under this section in any state fiscal biennium from revenues described by Subsection (d)(2) may not exceed $20 million. The total amount of loans that may be made or guaranteed under this section in any state fiscal biennium from revenues described by Subsection (d)(2) may not exceed $10 million.

(f) Before awarding a grant or making a loan under this section, the State Energy Conservation Office shall enter into a written agreement with the entity to which the grant is to be awarded or the loan is to be made. The agreement may specify that if, as of a date specified by the agreement, the entity has not used the grant or loan for the purposes for which the grant or loan was intended, the entity shall repay the amount of the grant or the amount of the loan and any accrued interest, as applicable, under terms specified by the agreement.

(g) Under the program, the State Energy Conservation Office may award a grant to the managing entity of an advanced clean energy project in an amount not to exceed 50 percent of the total amount invested in the project by private industry sources. The managing entity of the project must provide any information considered necessary by the State Energy Conservation Office to determine whether the entity qualifies for the grant.

(h) Under the program, the State Energy Conservation Office may make or guarantee a loan to the managing entity of an advanced clean energy project in this state. If the loan or guarantee is to be funded by the proceeds of bonds issued under Subsection (j), the project must qualify for the loan or guarantee under Section 49-q, Article III, Texas Constitution.

(i) A recipient of a grant or loan under this section is encouraged to purchase goods and services from small businesses and historically underutilized businesses, as those terms are defined by former Section 481.191, as that section existed on January 1, 2015.

Added by Acts 2007, 80th Leg., R.S., Ch. 1277 (H.B. 3732), Sec. 1, eff. September 1, 2007.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 364 (H.B. 2667), Sec. 2, eff. September 1, 2015.

CHAPTER 448. TEXAS HOLOCAUST, GENOCIDE, AND ANTISEMITISM ADVISORY

COMMISSION

SUBCHAPTER A. GENERAL AND ADMINISTRATIVE PROVISIONS

Sec. 448.001. DEFINITIONS. In this chapter:

(1) "Advisory commission" means the Texas Holocaust, Genocide, and Antisemitism Advisory Commission.

(2) "Antisemitism" means a certain perception of Jews that may be expressed as hatred toward Jews. The term includes rhetorical and physical acts of antisemitism directed toward Jewish or non-Jewish individuals or their property or toward Jewish community institutions and religious facilities. Examples of antisemitism are included with the International Holocaust Remembrance Alliance's "Working Definition of Antisemitism" adopted on May 26, 2016.

(3) "Commission" means the Texas Historical Commission.

(4) "Genocide" means any of the following acts committed with intent to wholly or partly destroy a national, ethnic, racial, or religious group:

(A) killing members of the group;

(B) causing serious bodily or mental harm to members of the group;

(C) deliberately inflicting on the group conditions of life calculated to wholly or partly cause the group's physical destruction;

(D) imposing measures intended to prevent births within the group; or

(E) forcibly transferring children of the group to another group.

(5) "Holocaust" means the killing of approximately six million Jews and millions of other persons during World War II by the National Socialist German Workers' Party (Nazis) and Nazi collaborators as part of a state-sponsored, systematic program of genocide and other acts of persecution, discrimination, violence, or other human rights violations committed by the Nazis and Nazi collaborators against those persons.

Added by Acts 2021, 87th Leg., R.S., Ch. 897 (H.B. 3257), Sec. 1, eff. September 1, 2021.

Sec. 448.002. SUNSET REVIEW. The advisory commission shall be reviewed during the period in which the Texas Historical Commission

is reviewed under Chapter 325.

Added by Acts 2021, 87th Leg., R.S., Ch. 897 (H.B. 3257), Sec. 1, eff. September 1, 2021.

Sec. 448.003. ADVISORY COMMISSION. The Texas Holocaust, Genocide, and Antisemitism Advisory Commission is established as an advisory commission to the commission.

Added by Acts 2021, 87th Leg., R.S., Ch. 897 (H.B. 3257), Sec. 1, eff. September 1, 2021.

SUBCHAPTER B. TEXAS HOLOCAUST, GENOCIDE, AND ANTISEMITISM ADVISORY COMMISSION

Sec. 448.051. COMPOSITION OF ADVISORY COMMISSION. (a) The governor shall appoint nine members to the advisory commission.

(b) A member of the advisory commission must be a resident of this state.

(c) The advisory commission must include members who:

(1) have demonstrated a significant interest in and are knowledgeable about issues in the Jewish community and antisemitism;

(2) have served prominently as leaders of or spokespersons for public or private organizations that serve members of religious, ethnic, national heritage, or social groups that were subjected to antisemitism, the Holocaust, or other genocides;

(3) have significant professional experience in the field of Holocaust or genocide education;

(4) represent liberators of Holocaust or other genocide victims; or

(5) have demonstrated a significant, particular interest in Holocaust or genocide education.

(d) The governor shall fill any vacancy in a position on the advisory commission for the unexpired portion of the term.

Added by Acts 2021, 87th Leg., R.S., Ch. 897 (H.B. 3257), Sec. 1, eff. September 1, 2021.

Sec. 448.052. TERMS. (a) Advisory commission members serve

staggered six-year terms with the terms of three members expiring February 1 of each odd-numbered year.

(b) An advisory commission member is eligible for reappointment to another term or part of a term.

(c) An advisory commission member may not serve more than two consecutive terms. For purposes of this subsection, a member is considered to have served a term only if the member served two or more years of the member's term.

Added by Acts 2021, 87th Leg., R.S., Ch. 897 (H.B. 3257), Sec. 1, eff. September 1, 2021.

Sec. 448.053. PRESIDING OFFICER. The governor shall designate a member of the advisory commission as presiding officer of the advisory commission to serve in that capacity at the pleasure of the governor.

Added by Acts 2021, 87th Leg., R.S., Ch. 897 (H.B. 3257), Sec. 1, eff. September 1, 2021.

Sec. 448.054. SUBCOMMITTEES. The presiding officer of the advisory commission may appoint a subcommittee for any purpose consistent with the duties of the advisory commission under this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 897 (H.B. 3257), Sec. 1, eff. September 1, 2021.

Sec. 448.055. COMPENSATION; EXPENSES. A member of the advisory commission is not entitled to compensation but is entitled to reimbursement for the travel expenses incurred by the member while transacting advisory commission business, as provided by the General Appropriations Act.

Added by Acts 2021, 87th Leg., R.S., Ch. 897 (H.B. 3257), Sec. 1, eff. September 1, 2021.

Sec. 448.056. MEETINGS; QUORUM; PUBLIC ACCESS. (a) The advisory commission shall meet at least quarterly at the times and places in this state the commission designates.

(b) Five voting members of the advisory commission constitute a quorum for transacting advisory commission business.

(c) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the advisory commission and speak on any issue under the jurisdiction of the advisory commission.

Added by Acts 2021, 87th Leg., R.S., Ch. 897 (H.B. 3257), Sec. 1, eff. September 1, 2021.

Sec. 448.057. TRAINING. Each member of the advisory commission shall complete the training program prescribed by the commission. The program must provide the member with information on:

(1) the role and duties of advisory commission members;

(2) the functions of the advisory commission; and

(3) the commission's oversight of the advisory commission.

Added by Acts 2021, 87th Leg., R.S., Ch. 897 (H.B. 3257), Sec. 1, eff. September 1, 2021.

Sec. 448.058. PERSONNEL. The commission shall:

(1) hire personnel as necessary to support the advisory commission in fulfilling its duties under this chapter, including establishing staffing levels, position titles, and salaries of the employees and managing and evaluating the employees; and

(2) provide other administrative support to the advisory commission as necessary.

Added by Acts 2021, 87th Leg., R.S., Ch. 897 (H.B. 3257), Sec. 1, eff. September 1, 2021.

SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION AND ADVISORY COMMISSION; FUNDING

Sec. 448.101. DUTIES OF ADVISORY COMMISSION. (a) The advisory commission, under direction of the commission, shall:

(1) conduct a study on antisemitism in this state and submit a report on the results of the study to the governor, the lieutenant governor, the speaker of the house of representatives, and each member of the legislature not later than November 1 of each even-numbered year;

(2) provide advice and assistance to public and private primary and secondary schools and institutions of higher education in this state regarding methods of combating antisemitism and implementation of Holocaust and genocide courses of study and awareness programs;

(3) meet with appropriate representatives of public and private organizations, including service organizations, to provide information on and to assist in planning, coordinating, or modifying antisemitism awareness programs and Holocaust and genocide courses of study and awareness programs;

(4) compile a list of volunteers, such as Holocaust or other genocide survivors, liberators of concentration camps, scholars, and members of the clergy, who have agreed to share, in classrooms, seminars, exhibits, or workshops, their verifiable knowledge and experiences regarding the Holocaust or other genocide;

(5) annually coordinate events in this state memorializing the Holocaust and other genocides on January 27, International Holocaust Remembrance Day, on the Days of Remembrance established by the United States Congress, or on any other day designated by the advisory commission for that purpose;

(6) solicit volunteers to participate in commemorative events designed to enhance public awareness of the fight against antisemitism and continuing significance of the Holocaust and other genocides;

(7) collaborate with appropriate groups to support efforts to recognize International Holocaust Remembrance Day; and

(8) make recommendations as to whether International Holocaust Remembrance Day shall be a state holiday.

(b) In implementing Subsection (a), the advisory commission, under direction of the commission, may contact and cooperate with:

(1) existing public or private antisemitism, Holocaust, or other genocide resource organizations, including the United States Holocaust Memorial Museum;

(2) other museums, centers, and organizations based in this state;

(3) state agencies that perform this state's educational functions as delegated under the Education Code, including the Texas Education Agency and the Texas Higher Education Coordinating Board;

(4) the Texas Veterans Commission; and

(5) members of the United States Congress and of the legislature of this state.

(c) The commission may provide matching grants to assist in the implementation of the advisory commission's goals and objectives.

(d) Chapter 2110 does not apply to the advisory commission.

Added by Acts 2021, 87th Leg., R.S., Ch. 897 (H.B. 3257), Sec. 1, eff. September 1, 2021.

Sec. 448.102. COMMISSION POWERS AND DUTIES. (a) The commission shall adopt rules as necessary governing the operation of the advisory commission. The rules may include the delegation of certain final decisions and authorities to the advisory commission that are appropriate given the advisory commission's advisory status.

(b) The commission, in coordination with the advisory commission, shall adopt rules, policies, and procedures for the matching grants program established to assist in the implementation of the goals and objectives of this chapter. The commission must prescribe for the program an annual budget, a funding cycle, goals, award eligibility criteria, grant application and selection processes, requirements for in-kind services and matching fund waivers, maximum grant awards, conflict of interest policies, data collection and evaluation, and audits of grant recipients.

Added by Acts 2021, 87th Leg., R.S., Ch. 897 (H.B. 3257), Sec. 1, eff. September 1, 2021.

Sec. 448.103. FUNDING. (a) The commission may accept gifts and grants from a public or private source on behalf of the advisory commission for the advisory commission to use in performing the duties assigned to the advisory commission under this chapter.

(b) All legislative appropriations to support the functions and activities of the advisory commission shall be made as part of the commission's legislative appropriations request process and disbursed to the commission.

Added by Acts 2021, 87th Leg., R.S., Ch. 897 (H.B. 3257), Sec. 1, eff. September 1, 2021.

Sec. 448.104. COMMISSION REPORT; AUDITS. (a) The commission shall include the activities of the advisory commission as authorized by Section 448.101 in the report the commission is required to submit under Section 442.005(n).

(b) The advisory commission is subject to audit and evaluation by the commission or another appropriate state agency, including the state auditor's office.

Added by Acts 2021, 87th Leg., R.S., Ch. 897 (H.B. 3257), Sec. 1, eff. September 1, 2021.

Sec. 448.105. CONTRACTS WITH NONPROFIT ORGANIZATIONS. (a) The commission may contract with one or more nonprofit organizations to assist in fulfilling the advisory commission's duties under this chapter.

(b) The commission shall adopt rules relating to contracts entered into under this section. The rules must require each contract to clearly establish:

(1) the role of the nonprofit organization in assisting the advisory commission in fulfilling its duties under this chapter;

(2) the nature of the relationship between the commission and the nonprofit organization;

(3) the performance expectations for the nonprofit organization;

(4) requirements and expectations regarding the nonprofit organization's employees;

(5) the commission's expectations regarding ownership of any literature, media, or other products developed or produced by the nonprofit organization to assist the advisory commission in fulfilling its duties under this chapter;

(6) the commission's long-term goals for the advisory commission and the nonprofit organization's role in meeting those goals;

(7) a system for evaluating the nonprofit organization's overall performance, including the organization's effectiveness in

meeting the performance expectations described by Subdivision (3); and

(8) the types of support, other than financial support, the commission will provide to the nonprofit organization to assist in the fulfillment of the advisory commission's duties.

Added by Acts 2021, 87th Leg., R.S., Ch. 897 (H.B. 3257), Sec. 1, eff. September 1, 2021.

CHAPTER 450. EDUCATIONAL PROGRAMS TO ADVANCE THE TEACHING OF TEXAS HISTORY

Sec. 450.001. APPLICABILITY OF CHAPTER. In this chapter "charitable historical organization" means an entity that:

(1) is organized as a nonprofit organization;

(2) has its main office at an institution of higher education, as that term is defined under Section 61.003, Education Code; and

(3) maintains an established educational department that provides:

(A) opportunities for students in this state to study and work to preserve the history, heritage, and symbols of this state; and

(B) training and resources to assist educators in developing effective strategies to teach students about the heritage, history, and symbols of this state.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1015 (H.B. 2549), Sec. 1, eff. September 1, 2011.

Sec. 450.002. FUNDING. For the purposes of Subchapter I, Chapter 659:

(1) a charitable historical organization is considered an eligible charitable organization entitled to participate in a state employee charitable campaign; and

(2) a state employee is entitled to authorize a deduction for contributions to a charitable historical organization as a charitable contribution under Section 659.132, and the organization may use the contributions for the purpose of administering and providing educational outreach programs established by the

organization.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1015 (H.B. 2549), Sec. 1, eff. September 1, 2011.

For expiration of this chapter, see Section 451.007.

CHAPTER 451. TEXAS 1836 PROJECT

Sec. 451.001. DEFINITIONS. In this chapter:

(1) "1836 Project" means the advisory committee established under this chapter.

(2) "Patriotic education" includes the:

(A) presentation of the history of this state's founding and foundational principles;

(B) examination of how this state has grown closer to those principles throughout its history; and

(C) explanation of why commitment to those principles is beneficial and justified.

(3) "State agency" means a department, commission, board, office, or other agency in the executive branch of state government that is created by the constitution or a statute of this state.

Added by Acts 2021, 87th Leg., R.S., Ch. 818 (H.B. 2497), Sec. 1, eff. September 1, 2021.

Sec. 451.002. ESTABLISHMENT. (a) The 1836 Project is established as an advisory committee to promote patriotic education and increase awareness of the Texas values that continue to stimulate boundless prosperity across this state.

(b) The 1836 Project is composed of nine members reflective of the diversity of the state. The governor, lieutenant governor, and speaker of the house of representatives shall each appoint three members. The appointees may include persons in the private sector with relevant experience or subject matter expertise.

(c) Members serve two-year terms and may not be removed except for inefficiency, neglect of duty, or malfeasance.

(d) The governor shall appoint one member of the 1836 Project as the presiding officer.

(e) The presiding officer shall:

(1) convene regular meetings of the 1836 Project; and

(2) coordinate and direct the activities of the 1836 Project.

Added by Acts 2021, 87th Leg., R.S., Ch. 818 (H.B. 2497), Sec. 1, eff. September 1, 2021.

Sec. 451.003. DUTIES. (a) The 1836 Project shall:

(1) promote awareness among residents of this state of the following as they relate to the history of prosperity and democratic freedom in this state:

(A) Texas history, including the indigenous peoples of this state, the Spanish and Mexican heritage of this state, Tejanos, the African-American heritage of this state, the Texas War for Independence, Juneteenth, annexation of Texas by the United States, the Christian heritage of this state, and this state's heritage of keeping and bearing firearms in defense of life and liberty and for use in hunting;

(B) the founding documents of this state;

(C) the founders of this state;

(D) state civics; and

(E) the role of this state in passing and reauthorizing the federal Voting Rights Act of 1965 (52 U.S.C. Section 10101 et seq.), highlighting:

(i) President Lyndon B. Johnson's signing of the act;

(ii) President George W. Bush's 25-year extension of the act; and

(iii) Congresswoman Barbara Jordan's successful efforts to broaden the act to include Spanish-speaking communities;

(2) advise the governor on the core principles of the founding of this state and how those principles further enrich the lives of its residents;

(3) facilitate the development and implementation of the Gubernatorial 1836 Award to recognize student knowledge of Texas Independence and other items listed in Subdivisions (1)(A)-(D);

(4) advise state agencies with regard to their efforts to ensure patriotic education is provided to the public at state parks, battlefields, monuments, museums, installations, landmarks,

cemeteries, and other places important to the Texas War for Independence and founding of this state, as appropriate and consistent with applicable law; and

(5) facilitate, advise on, and promote other activities to support public knowledge of and patriotic education on the Texas War for Independence and founding of this state, as appropriate and consistent with applicable law.

(b) In carrying out its duties under Subsection (a)(2), the project may solicit statements and contributions from intellectual and cultural figures.

Added by Acts 2021, 87th Leg., R.S., Ch. 818 (H.B. 2497), Sec. 1, eff. September 1, 2021.

Sec. 451.004. FUNDING; COMPENSATION. (a) The Texas Education Agency shall provide funding and administrative support for the 1836 Project, including for the pamphlets described by Section 451.005, to the extent funds are available for those purposes.

(b) A member of the 1836 Project is not entitled to compensation but is entitled to reimbursement for the travel expenses incurred by the member while transacting project business, as provided by the General Appropriations Act.

Added by Acts 2021, 87th Leg., R.S., Ch. 818 (H.B. 2497), Sec. 1, eff. September 1, 2021.

Sec. 451.005. PAMPHLET. Not later than September 1, 2022, the 1836 Project shall provide a pamphlet to the Texas Department of Public Safety that explains the significance of policy decisions made by this state that promote liberty and freedom for businesses and families. The contents must include:

(1) an overview of Texas history and civics;

(2) the legacy of economic prosperity in this state; and

(3) the abundant opportunities for businesses and families in this state.

Added by Acts 2021, 87th Leg., R.S., Ch. 818 (H.B. 2497), Sec. 1, eff. September 1, 2021.

Sec. 451.006. REPORT. (a) Not later than September 1, 2022, the 1836 Project shall prepare and produce a written report that includes:

(1) a description of the activities of the project;

(2) the findings and recommendations of the project;

(3) a plan that identifies the best method of carrying out the duties under Sections 451.003(a)(1), (4), and (5);

(4) any proposals for legislation; and

(5) any other matter the project considers appropriate.

(b) Subsequent to the report required under Subsection (a), the 1836 Project may prepare and produce additional reports the project considers appropriate.

(c) The Texas Education Agency shall make a report described by this section available to the public on the agency's Internet website.

(d) To the extent existing agency resources are available for this purpose, the Texas Education Agency may provide to the 1836 Project any agency resources necessary to prepare or produce a report described by this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 818 (H.B. 2497), Sec. 1, eff. September 1, 2021.

Sec. 451.007. ABOLITION; EXPIRATION. The 1836 Project is abolished and this chapter expires September 1, 2036.

Added by Acts 2021, 87th Leg., R.S., Ch. 818 (H.B. 2497), Sec. 1, eff. September 1, 2021.

SUBTITLE E. OTHER EXECUTIVE AGENCIES AND PROGRAMS

CHAPTER 464. BUILDING MATERIALS AND SYSTEMS TESTING LABORATORY

Sec. 464.001. DEFINITIONS. In this chapter:

(1) "Council" means the Technical Testing and Evaluation Council.

(2) "Department" means the Texas Department of Housing and Community Affairs.

(3) "Director" means the executive director of the department.

(4) "Laboratory" means the State of Texas Building

Materials and Systems Testing Laboratory.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 762, Sec. 8, eff. Sept. 1, 1991.

Sec. 464.002. LABORATORY AND COUNCIL. The State of Texas Building Materials and Systems Testing Laboratory is an agency of the state, and includes the Technical Testing and Evaluation Council.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 464.003. COMPOSITION OF LABORATORY. (a) The department may invite a college or university with facilities to perform tests or make evaluations described by this chapter to participate in laboratory testing and evaluation and to appoint a representative to serve as a member of the council.

(b) A public college or university invited under this section may participate in the functions of the laboratory.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 464.004. COMPOSITION AND CHAIRMAN OF COUNCIL. (a) The council is composed of members who are the laboratory operations directors of the colleges and universities participating in the laboratory.

(b) The members of the council shall elect a chairman by a majority vote at a meeting called for that purpose. The chairman serves for a term of two years.

(c) A member of the council may not receive compensation for services on the council, but is entitled to reimbursement, from funds of the laboratory, for travel and subsistence expenses incurred in performance of official duties and services for the laboratory.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 464.005. COUNCIL MANAGEMENT AND PERFORMANCE OF LABORATORY FUNCTIONS. (a) The council shall administer the business of the

laboratory subject to the policies, controls, and direction of the department.

(b) The council is responsible for the conduct of all tests and evaluations provided for by this chapter. The council shall distribute test and evaluation responsibilities to member colleges and universities according to their abilities to perform the activities required.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 464.006. TESTING AND EVALUATION OF MATERIALS, PRODUCTS, AND SYSTEMS. (a) The laboratory shall be responsible for the testing and evaluation of building materials, products, and systems to establish performance capability based on the established and generally acceptable test standards adopted by the council and approved by the department. The council shall report the results of these tests and evaluations to the department, which shall publish the test data and evaluations.

(b) On receipt of a report under this section, the department shall issue an official performance certification statement. The statement is a public record.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 464.007. EVALUATION OF TESTS. (a) The laboratory through its council may evaluate tests of building materials, products, and systems conducted by a public or private testing institution that is:

(1) accredited or approved by the United States Department of Housing and Urban Development or the National Bureau of Standards; or

(2) included on a list of testing laboratories formulated by the council and the department.

(b) On completion of an evaluation, the department shall review it and issue a performance certification statement. The statement must approve the test if it meets test standards established by the council and department or disapprove the test if it does not meet these standards.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 464.008. FEES. (a) The department, with the advice of the council, shall establish a schedule of fees.

(b) The fees shall be paid to the laboratory and deposited for the use of the laboratory in the administration, implementation, and enforcement of this chapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

CHAPTER 466. STATE LOTTERY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 466.001. SHORT TITLE. This chapter may be cited as the State Lottery Act.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.002. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Lottery Commission.

(2) "Director" means the director of the division.

(3) "Division" means the lottery division established by the commission under Chapter 467.

(4) "Executive director" means the executive director of the commission.

(5) "Lottery" means the procedures operated by the state under this chapter through which prizes are awarded or distributed by chance among persons who have paid, or unconditionally agreed to pay, for a chance or other opportunity to receive a prize.

(6) "Lottery game" includes a lottery activity.

(7) "Lottery operator" means a person selected under Section 466.014(b) to operate a lottery.

(8) "Player" means a person who contributes any part of the consideration for a ticket.

(9) "Sales agent" or "sales agency" means a person licensed

under this chapter to sell tickets.

(10) "Ticket" means any tangible evidence issued to provide participation in a lottery game authorized by this chapter.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.01, eff. Sept. 1, 1995.

Sec. 466.004. EXEMPTION FROM TAXATION. (a) A political subdivision of this state may not impose:

(1) a tax on the sale of a ticket;

(2) a tax on the payment of a prize under this chapter; or

(3) an ad valorem tax on tickets.

(b) The receipts from the sale, use, or other consumption of a ticket are exempt from taxation under Chapter 151, Tax Code.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

SUBCHAPTER B. ADMINISTRATION

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.012. DIVISION EMPLOYEES. Division employees are specifically exempted from Chapter 654. The director shall set the salaries of these employees.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.02, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.014. POWERS AND DUTIES OF COMMISSION AND EXECUTIVE DIRECTOR. (a) The commission and executive director have broad authority and shall exercise strict control and close supervision

over all lottery games conducted in this state to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery.

(b) The executive director may contract with or employ a person to perform a function, activity, or service in connection with the operation of the lottery as prescribed by the executive director. A person with whom the executive director contracts to operate a lottery must be eligible for a sales agent license under Section 466.155.

(c) The executive director may award a contract for lottery supplies or services, including a contract under Subsection (b), pending the completion of any investigation authorized by this chapter. A contract awarded under this subsection must include a provision permitting the executive director to terminate the contract without penalty if the investigation reveals that the person to whom the contract is awarded would not be eligible for a sales agent license under Section 466.155.

(d) A contract between the division and a lottery operator under Subsection (b) must contain a provision allowing the contract to be terminated without penalty if the division is abolished.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.03, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 1, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.015. RULES. (a) The commission shall adopt all rules necessary to administer this chapter. The executive director may propose rules to be adopted by the commission, but the executive director's proposed rules have no effect until adopted by the commission.

(b) The commission shall adopt rules to the extent they are not inconsistent with Chapters 551 and 552 governing the:

(1) security for the lottery and the commission, including

the development of an internal security plan;

(2) apportionment of the total revenues from the sale of tickets and from all other sources in the amounts provided by this chapter;

(3) enforcement of prohibitions on the sale of tickets to or by an individual younger than 18 years of age; and

(4) enforcement of prohibitions on a person playing a lottery game by telephone.

(b-1) The commission shall adopt rules governing nondisclosure of the personally identifiable information of certain lottery prize winners under Section 466.411.

(c) The commission may adopt rules governing the establishment and operation of the lottery, including rules governing:

(1) the type of lottery games to be conducted;

(2) the price of each ticket;

(3) the number of winning tickets and amount of the prize paid on each winning ticket;

(4) the frequency of the drawing or selection of a winning ticket;

(5) the number and types of locations at which a ticket may be sold;

(6) the method to be used in selling a ticket;

(7) the use of vending machines or electronic or mechanical devices of any kind, other than machines or devices that dispense currency or coins as prizes;

(8) the manner of paying a prize to the holder of a winning ticket;

(9) the investigation of possible violations of this chapter or any rule adopted under this chapter;

(10) the means of advertising to be used for the lottery;

(11) the qualifications of vendors of lottery services or equipment;

(12) the confidentiality of information relating to the operation of the lottery, including:

(A) trade secrets;

(B) security measures, systems, or procedures;

(C) security reports;

(D) bids or other information regarding the commission's contracts, if disclosure of the information would impair the commission's ability to contract for facilities, goods, or

services on terms favorable to the commission;

(E) personnel information unrelated to compensation, duties, qualifications, or responsibilities; and

(F) information obtained by commission security officers or investigators;

(13) the development and availability of a model agreement governing the division of a prize among multiple purchasers of a winning ticket purchased through a group purchase or pooling arrangement;

(14) the criteria to be used in evaluating bids for contracts for lottery facilities, goods, and services; or

(15) any other matter necessary or desirable as determined by the commission, to promote and ensure:

(A) the integrity, security, honesty, and fairness of the operation and administration of the lottery; and

(B) the convenience of players and holders of winning tickets.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 74, Sec. 1, eff. May 20, 2009.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(83), (94), 6.04, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 592, Sec. 3.01, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1353, Sec. 1, 2, eff. June 19, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 74 (H.B. 1963), Sec. 1, eff. May 20, 2009.

Acts 2017, 85th Leg., R.S., Ch. 689 (H.B. 59), Sec. 1, eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.016. ANNUAL REPORT. The commission shall make an annual report to the governor and the legislature that provides a summary of lottery revenues, prize disbursements, and other expenses for the fiscal year preceding the report. The report must be in the form and reported in the time provided by the General Appropriations

Act.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.04, eff. Sept. 1, 1995.

Sec. 466.0161. REVIEW BY COMPTROLLER. (a) Annually, the comptroller shall review the management and operations of the lottery. The comptroller may examine books, records, documents, things, or persons as necessary for that purpose.

(b) The comptroller shall report the results of the review to the governor, the lieutenant governor, and the speaker of the house of representatives.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 6.05, eff. Sept. 1, 1995.

Sec. 466.017. AUDITS. (a) The executive director shall provide for a certified public accountant to conduct an independent audit for each fiscal year of all accounts and transactions of the lottery. The certified public accountant may not have, as determined by the executive director, a significant financial interest in a sales agent, lottery vendor, or lottery operator. The certified public accountant shall present an audit report to the executive director, the commission, the governor, the comptroller, and the legislature not later than the 30th day after the submission date for the annual financial report required by the General Appropriations Act. The report must contain recommendations to enhance the earnings capability of the lottery and improve the efficiency of lottery operations. The state auditor may review the results of and working papers related to the audit.

(b) Each lottery operator's and sales agent's records are subject to audit by the commission and the state auditor. For the purpose of carrying out this chapter, the executive director or state auditor may examine all books, records, papers, or other objects that the executive director or state auditor determines are necessary for conducting a complete examination under this chapter and may also examine under oath any officer, director, or employee of a lottery operator or sales agent. The executive director or state auditor may conduct an examination at the principal office or any other office of

the lottery operator or sales agent or may require the lottery operator or sales agent to produce the records at the office of the commission or state auditor. If a sales agent refuses to permit an examination or to answer any question authorized by this subsection, the executive director may summarily suspend the license of the sales agent under Section 466.160 until the examination is completed as required. Section 321.013(h) does not apply to an audit of a lottery operator or sales agent.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.06, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1035, Sec. 66, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.018. INVESTIGATIONS. The attorney general, the district attorney for Travis County, or the district attorney, criminal district attorney, or county attorney performing the duties of district attorney for the county in which the violation or alleged violation occurred may investigate a violation or alleged violation of this chapter and of the penal laws of this state by the commission or its employees, a sales agent, a lottery vendor, or a lottery operator.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.07, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.019. ENFORCEMENT. (a) The executive director or designated personnel of the commission may investigate violations of this chapter and violations of the rules adopted under this chapter. After conducting investigations, the executive director, a person designated by the commission, or any law enforcement agency may file

a complaint with the district attorney of Travis County or with the district attorney of the county in which a violation is alleged to have occurred.

(b) The executive director has the administrative, enforcement, and collection powers provided by Subtitle B, Title 2, Tax Code, in regard to the lottery. For purposes of the application of Title 2 of the Tax Code:

(1) the state's share of proceeds from the sale of lottery tickets is treated as if it were a tax; and

(2) a power granted to the comptroller may be exercised by the commission.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.07, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.020. SECURITY. (a) The executive director shall maintain a department of security in the commission. The executive director shall appoint a deputy to administer the department. The deputy must be qualified by training and experience in law enforcement or security to supervise, direct, and administer the activities of the department.

(b) The executive director may employ security officers or investigators as the executive director considers necessary and may commission security officers or investigators as peace officers. The deputy and all investigators employed by the department of security as peace officers must meet the requirements under Chapter 415 for employment and commission as peace officers.

(c) A security officer or investigator employed by the department of security or a peace officer who is working in conjunction with the commission or the Department of Public Safety in the enforcement of this chapter, without a search warrant, may search and seize a lottery vending machine, lottery computer terminal, or other lottery equipment that is located on premises for which a person holds a sales agent license issued under this chapter.

(d) The Department of Public Safety, at the commission's

request, shall perform a full criminal background investigation of a prospective deputy or investigator of the department of security. The commission shall reimburse the Department of Public Safety for the actual costs of an investigation.

(e) At least once every two years, the executive director shall employ an independent firm that is experienced in security, including computer security and systems security, to conduct a comprehensive study of all aspects of lottery security, including:

(1) lottery personnel security;

(2) sales agent security;

(3) lottery operator and vendor security;

(4) security against ticket counterfeiting and alteration and other means of fraudulent winning;

(5) security of lottery drawings;

(6) lottery computer, data communications, database, and systems security;

(7) lottery premises and warehouse security;

(8) security of distribution of tickets;

(9) security of validation and payment procedures;

(10) security involving unclaimed prizes;

(11) security aspects of each lottery game;

(12) security against the deliberate placement of winning tickets in lottery games that involve preprinted winning tickets by persons involved in the production, storage, transportation, or distribution of tickets; and

(13) other security aspects of lottery operations.

(f) The executive director shall provide the commission with a complete report of the security study conducted under Subsection (e). The commission shall provide the governor and the legislature, before the convening of each regular legislative session, with a summary of the security study that shows the overall evaluation of the lottery's security.

(g) Expired.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.08, eff. Sept. 1, 1995.

Sec. 466.021. DEMOGRAPHIC STUDIES. (a) The executive director

shall, every two years, employ an independent firm experienced in demographic analysis to conduct a demographic study of lottery players. The study must include the income, age, sex, race, education, and frequency of participation of players.

(b) The executive director shall report the results of the demographic study conducted under Subsection (a) to the commission, the governor, and the legislature before the convening of each regular legislative session.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.09, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.022. CONFIDENTIAL INFORMATION. (a) Except as otherwise provided by law, all commission records are subject to public inspection in accordance with Chapter 552.

(b) In addition to commission records excepted from disclosure under Chapter 552, the following information is confidential and is exempt from disclosure:

(1) security plans and procedures of the commission designed to ensure the integrity and security of the operation of the lottery;

(2) information of a nature that is designed to ensure the integrity and security of the selection of winning tickets or numbers in the lottery, other than information describing the general procedures for selecting winning tickets or numbers;

(3) the street address and telephone number of a prize winner, if the prize winner has not consented to the release of the information; and

(4) except as otherwise authorized by Section 466.411, all personally identifiable information of a natural person who is:

(A) a lottery prize winner and who has chosen to remain anonymous under Section 466.411; or

(B) an owner of a beneficial interest in a legal entity that is a lottery prize winner and who has chosen to remain anonymous under Section 466.411.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(94), 6.09, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 792, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 689 (H.B. 59), Sec. 2, eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.023. DEPARTMENT OF PUBLIC SAFETY RECORDS. (a) Except as otherwise provided by this chapter, all files, records, information, compilations, documents, photographs, reports, summaries, and reviews of information and related matters collected, retained, or compiled by the Department of Public Safety in the discharge of its duties under this chapter are confidential and are not subject to public disclosure. Each of those items is subject to discovery by a person that is the subject of the item.

(b) An investigation report or other document submitted by the Department of Public Safety to the commission becomes part of the investigative files of the commission and is subject to discovery by a person that is the subject of the investigation report or other document.

(c) Information that is in the form available to the public is not privileged or confidential under this section and is subject to public disclosure.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.10, eff. Sept. 1, 1995.

Sec. 466.024. PROHIBITED GAMES. (a) The executive director or a lottery operator may not establish or operate a lottery game in which the winner is chosen on the basis of the outcome of a sports event.

(b) The commission shall adopt rules prohibiting the operation of any game using a video lottery machine or machine.

(c) In this section:

(1) "Sports event" means a football, basketball, baseball, or similar game, or a horse or dog race on which pari-mutuel wagering is allowed.

(2) "Video lottery machine" or "machine" means any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including video poker, keno, and blackjack, using a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash, coins, or tokens, or that directly dispenses cash, coins, or tokens.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.11, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.026. AMBER ALERT. On receipt of notice by the Department of Public Safety that the Statewide Texas Amber Alert Network has been activated, the commission shall disseminate Amber Alert information at its retail locations through the lottery operator system.

Added by Acts 2003, 78th Leg., ch. 544, Sec. 1, eff. Sept. 1, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.027. VETERANS' ASSISTANCE GAME. (a) The commission shall operate an instant-ticket lottery game to benefit the fund for veterans' assistance established by Section 434.017.

(b) The commission shall:

(1) determine the ticket price, payout amounts, and manner in which the game is conducted;

(2) make tickets to the game available for sale continuously to the extent practicable; and

(3) change the design or theme of the game regularly to ensure that the game remains competitive with other instant-ticket lottery games offered by the commission.

(c) The commission shall market and advertise the lottery game operated under this section in a manner intended to inform the public that the game tickets are available for purchase and that the game proceeds are used to fund veterans programs in this state. The game tickets must clearly state that the game proceeds are used to benefit the veterans in this state. The Texas Veterans Commission may make recommendations to the Texas Lottery Commission relating to the marketing and advertising of the game.

(d) The commission shall encourage each sales agent that sells tickets to instant-ticket games or similar types of lottery games to sell tickets to the game operated under this section.

(e) No organization that would otherwise be eligible to receive funds from the state lottery account attributable to any lottery game authorized by this section may receive any such funds if it conducts illegal gambling or the illegal operation of gambling devices as defined by Chapter 47, Penal Code, or allows illegal gambling or the illegal operation of gambling devices to be conducted on its property or in its facilities.

Added by Acts 2009, 81st Leg., R.S., Ch. 1385 (S.B. 1655), Sec. 5(a), eff. June 19, 2009.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.028. COMPREHENSIVE BUSINESS PLAN. (a) The commission shall develop a comprehensive business plan to guide the commission's major initiatives. The plan must at a minimum include:

(1) specific goals for the agency; and

(2) an evaluation of:

(A) the agency's overall performance;

(B) the effectiveness of specific programs and initiatives;

(C) the ongoing efficiency of agency operations;

(D) the amount of lottery revenue that is generated for state purposes other than the payment of prizes; and

(E) the factors affecting the amount of lottery revenue received and disbursed, including ticket sales and administrative efficiency.

(b) The commission as frequently as the commission determines appropriate shall review the comprehensive business plan and at least annually hold a public meeting to discuss the plan or updates to the plan.

Added by Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 2, eff. September 1, 2013.

SUBCHAPTER C. PROCUREMENT; ADVERTISING

Sec. 466.1005. PROCUREMENTS. (a) The commission may purchase or lease facilities, goods, and services and make any purchases, leases, or contracts necessary for carrying out the purposes of this chapter.

(b) The commission shall review and must approve all major procurements as provided by commission rule. The commission by rule shall establish a procedure to determine what constitutes a major procurement based on the cumulative value of a contract and other relevant factors. This subsection does not require a commission member to sign the contract.

(c) The commission may delegate to the executive director the authority to approve procurements other than major procurements.

Added by Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 3, eff. September 1, 2013.

Sec. 466.101. PROCUREMENT PROCEDURES. (a) The commission and executive director may establish procedures for the purchase or lease of facilities, goods, and services and make any purchases, leases, or contracts that are necessary for carrying out the purposes of this chapter. The procedures must, as determined feasible and appropriate by the commission and executive director, promote competition to the maximum extent possible.

(b) In all procurement decisions, the commission and executive director shall take into account the particularly sensitive nature of the lottery and shall act to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the

lottery and the objective of producing revenues for the state treasury.

(c) The procurement procedures adopted by the executive director must, as determined feasible and appropriate by the executive director, afford any party who is aggrieved by the terms of a solicitation or the award of a contract an opportunity to protest the executive director's action to the commission. The protest procedures must provide for an expedient resolution of the protest in order to avoid substantially delaying a solicitation or contract award that is necessary for the timely implementation of a lottery game. A protest must be in writing and be filed with the commission not later than 72 hours after receipt of notice of the executive director's action.

(d) A party who is aggrieved by the commission's resolution of a protest under Subsection (c) may file an action in the district court of Travis County. The court shall give preference to hearings and trials of actions under this section. If the party filing the action seeks to enjoin the implementation of a solicitation or contract, the party shall post a bond that is payable to the state if the party does not prevail in the appeal, and is in an amount sufficient to compensate the state for the revenue that would be lost due to the delay in lottery operations.

(e) The commission shall require any person seeking to contract for goods or services relating to the implementation and administration of this chapter to submit to competitive bidding procedures in accordance with rules adopted by the commission. The procedures must be for the purpose of ensuring fairness and integrity.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.12, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 4, eff. September 1, 2013.

Sec. 466.102. LIQUIDATED DAMAGES; PERFORMANCE BOND. A contract for the acquisition or provision of facilities, supplies, equipment, materials, or services related to the operation of the

lottery must provide for liquidated damages and a performance bond in an amount equal to the executive director's best available estimate of the revenue that would be lost if the contractor fails to meet deadlines specified in the contract.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.12, eff. Sept. 1, 1995.

Sec. 466.103. PROHIBITED CONTRACTS. (a) Except as provided by Subsection (b), the executive director may not award a contract for the purchase or lease of facilities, goods, or services related to lottery operations to a person who would be denied a license as a sales agent under Section 466.155.

(b) Subsection (a) does not prohibit the executive director from awarding a contract for the purpose of conducting a promotional event to a person who would be denied a license as a sales agent under Section 466.155(a)(4)(C) but not under any other provision of Section 466.155.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.12, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 678, Sec. 1, eff. Sept. 1, 1999.

Sec. 466.104. ASSISTANCE OF COMPTROLLER. (a) On request of the executive director, the comptroller shall assist the executive director in:

(1) acquiring facilities, supplies, materials, equipment, and services under Subtitle D, Title 10; or

(2) establishing procedures for the executive director's accelerated acquisition of facilities, supplies, materials, equipment, and services for the operation of the lottery.

(b) The comptroller may request assistance from the Texas Facilities Commission in performing its facilities-related duties under this section.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.12, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 17.19(5), eff. Sept. 1,

1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.51, eff. September 1, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.105. APPLICABILITY OF OTHER LAW. (a) A contract for the acquisition or provision of facilities, supplies, equipment, materials, or services related to the operation of the lottery is not subject to:

(1) Chapter 2054 or 2254; or

(2) Subtitle D, Title 10.

(b) Notwithstanding the provisions of Title 2, Utilities Code, the commission may negotiate rates and execute contracts with telecommunications service providers for the interexchange services necessary for the operation of the lottery. The commission may acquire transmission facilities by lease, purchase, or lease-purchase. The acquisition of transmission facilities must be done on a competitive bid basis if possible.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(14), 6.13, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 17.19(5), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 18.21, eff. Sept. 1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.106. PREFERENCE FOR TEXAS BUSINESSES. (a) In all contracts for lottery equipment, supplies, services, and advertising, the commission and each lottery operator shall give preference to equipment or supplies produced in this state or services or advertising offered by bidders from this state, the cost to the state and quality being equal.

(b) If equipment or supplies produced in this state or services

or advertising offered by a bidder from this state are not equal in cost and quality, then equipment or supplies produced in another state or services or advertising offered by a bidder from another state shall be given preference over foreign equipment, supplies, services, or advertising.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.14, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.107. MINORITY BUSINESSES. (a) The executive director and each lottery operator shall take positive steps to:

(1) inform minority businesses of opportunities to:

(A) provide lottery equipment and supplies to the commission;

(B) provide services, including advertising, to the commission for the operation of the lottery; or

(C) obtain a license to sell lottery tickets;

(2) waive or modify bond requirements, if feasible;

(3) award contracts for lottery equipment or supplies to minority businesses when possible;

(4) award contracts for lottery services, including advertising, to minority businesses when possible;

(5) license minority businesses as sales agents;

(6) monitor the effectiveness of the efforts to increase the ability of minority businesses to do business with the commission; and

(7) require all bidders or contractors, when appropriate, to include specific plans or arrangements to use subcontracts with minority businesses.

(b) In this section:

(1) "Minority business" means a business entity at least 51 percent of which is owned by minority group members or, in the case of a corporation, at least 51 percent of the shares of which are owned by minority group members, and that:

(A) is managed and, in daily operations, is controlled

by minority group members; and

(B) is a domestic business entity with a home or branch office located in this state and is not a branch or subsidiary of a foreign corporation, firm, or other business entity.

(2) "Minority group members" includes:

(A) African Americans;

(B) American Indians;

(C) Asian Americans; and

(D) Mexican Americans and other Americans of Hispanic origin.

(c) The commission shall annually report to the legislature and the governor on the level of minority business participation as pertains to both the commission's contracts and the licensing of sales agents. The report must include recommendations for the improvement of minority business opportunities in lottery-related business.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.15, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.108. TELEVISION CONTRACTS. If the drawing or selection of winning tickets is televised under a contract with the commission, the contract must be awarded by competitive bid. The commission shall adopt rules governing the competitive bidding process. Money received under the contract shall be deposited in the state lottery account established under Section 466.355.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.16, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.109. PUBLICITY OF INDIVIDUALS PROHIBITED. (a) A state officer, including a commission member or the executive director, or an officer or employee of the commission, may not appear in an advertisement or promotion for the lottery that is sponsored by the commission or in a televised lottery drawing. An advertisement or promotion for the lottery may not contain the likeness or name of a state officer, including a commission member or the executive director, or an officer or employee of the commission.

(b) In connection with providing security for the lottery, this section does not prohibit a security officer or investigator employed by the commission from appearing in a televised lottery drawing or other promotion for the lottery that is sponsored by the commission .

(c) Notwithstanding this section, the executive director may designate an employee of the commission to participate in a promotional event.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.16, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.110. PROHIBITED ADVERTISEMENTS. The legislature intends that advertisements or promotions sponsored by the commission or the division for the lottery not be of a nature that unduly influences any person to purchase a lottery ticket or number.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.17, eff. Sept. 1, 1995.

SUBCHAPTER D. LICENSING OF SALES AGENTS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.151. LICENSE REQUIRED. (a) If the executive director authorizes a person who is not an employee of the commission to sell

tickets, the person must be licensed as a sales agent by the commission.

(b) The executive director may establish a provisional license or other classes of licenses necessary to regulate and administer the quantity and type of lottery games provided at each licensed location.

(c) The director shall attempt to license minority businesses as sales agents in at least 20 percent of the licenses issued. Implementation of this subsection must be consistent with Sections 466.152-466.154 and the rest of this section.

(d) The director may license as a sales agent each person the director believes will best serve the public convenience. The director may not issue a license to a person to engage in business exclusively as a sales agent. A license may not be transferred or assigned to any other person or location.

(e) The director may issue a license to a person only if the director finds that the person's experience, character, and general fitness are such that the person's participation as a sales agent will not detract from the integrity, security, honesty, and fairness of the operation of the lottery.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.18, eff. Sept. 1, 1995.

Sec. 466.152. LICENSE APPLICATION; FEE. (a) An applicant for a license under this subchapter must apply to the division under rules adopted by the commission, provide information necessary to determine the applicant's eligibility for a license under Section 466.155, and provide other information considered necessary by the commission.

(b) The applicant must include an application fee with each application. The director shall set the application fee in an amount that is at least sufficient to cover the costs incurred by the division and by the Department of Public Safety to process the application. The director shall determine from information provided by the department the amount required for costs incurred by the department and shall allocate those amounts to the department at least monthly. If the director denies an application for a license

based on a factor listed in Section 466.154, the director shall refund one-half of the application fee to the applicant. If the director denies an application based on another factor, the director may not refund any part of the application fee.

(c) Applications for licenses must be available for public inspection during regular office hours.

(d) A separate license is required for each location at which tickets are to be sold. A person who desires to operate more than one location to sell tickets must submit a separate application for each location.

(e) Fees collected under this section shall be deposited in the state treasury to the credit of the state lottery account.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.19, eff. Sept. 1, 1995.

Sec. 466.153. CHANGE IN APPLICATION INFORMATION. (a) Except as provided by Subsection (b), an applicant or sales agent shall notify the director of any change in the information in the applicant's or sales agent's most recent application for a license or renewal of a license. The applicant or sales agent shall notify the director of the change in the information not later than the 10th day after the date of the change.

(b) A corporate applicant or sales agent is not required to notify the director under Subsection (a) of a transfer of less than 10 percent of the corporate stock unless the transfer results in a shareholder who previously held 10 percent or less of the stock holding more than 10 percent of the stock.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.154. RULES. The commission shall adopt rules under which, before issuing a license to an applicant, the director shall consider:

(1) the financial responsibility and security of the applicant and the business or activity in which the applicant is engaged;

(2) the public accessibility of the applicant's place of business or activity;

(3) the sufficiency of existing sales agents to serve the public convenience;

(4) whether individuals under 18 years of age constitute a majority of the applicant's customers or as customers provide a majority of the applicant's sales volume;

(5) the volume of expected sales; and

(6) any other factor that the director considers appropriate.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.20, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.155. DENIAL OF APPLICATION OR SUSPENSION OR REVOCATION OF LICENSE. (a) After a hearing, the director shall deny an application for a license or the commission shall suspend or revoke a license if the director or commission, as applicable, finds that the applicant or sales agent:

(1) is an individual who:

(A) has been convicted of a felony, criminal fraud, gambling or a gambling-related offense, or a misdemeanor involving moral turpitude, if less than 10 years has elapsed since the termination of the sentence, parole, mandatory supervision, or probation served for the offense;

(B) is or has been a professional gambler;

(C) is married to an individual:

(i) described in Paragraph (A) or (B); or

(ii) who is currently delinquent in the payment of any state tax;

(D) is an officer or employee of the commission or a lottery operator; or

(E) is a spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of a person described by Paragraph (D);

(2) is not an individual, and an individual described in Subdivision (1):

(A) is an officer or director of the applicant or sales agent;

(B) holds more than 10 percent of the stock in the applicant or sales agent;

(C) holds an equitable interest greater than 10 percent in the applicant or sales agent;

(D) is a creditor of the applicant or sales agent who holds more than 10 percent of the applicant's or sales agent's outstanding debt;

(E) is the owner or lessee of a business that the applicant or sales agent conducts or through which the applicant will conduct a ticket sales agency;

(F) shares or will share in the profits, other than stock dividends, of the applicant or sales agent; or

(G) participates in managing the affairs of the applicant or sales agent;

(3) has been finally determined to be delinquent in the payment of a tax or other money collected by the comptroller, the Texas Workforce Commission, or the Texas Alcoholic Beverage Commission;

(4) is a person whose location for the sales agency is:

(A) a location licensed for games of bingo under Chapter 2001, Occupations Code;

(B) on land that is owned by:

(i) this state; or

(ii) a political subdivision of this state and on which is located a public primary or secondary school, an institution of higher education, or an agency of the state; or

(C) a location for which a person holds a wine and malt beverage retailer's permit, mixed beverage permit, mixed beverage permit with a retailer late hours certificate, private club registration permit, or private club registration permit with a retailer late hours certificate issued under Chapter 25, 28, 29, or 32, Alcoholic Beverage Code, other than a location for which a person holds a wine and malt beverage retailer's permit issued under Chapter 25, Alcoholic Beverage Code, that derives less than 30 percent of the location's gross receipts from the sale or service of alcoholic beverages; or

(5) has violated this chapter or a rule adopted under this chapter.

(b) If the director proposes to deny an application for a license or the commission proposes to suspend or revoke a license under this section, the applicant or sales agent is entitled to written notice of the time and place of the hearing. A notice may be served on an applicant or sales agent personally or sent by certified or registered mail, return receipt requested, to the person's mailing address as it appears on the commission's records. A notice must be served or mailed not later than the 20th day before the date of the hearing. The commission shall provide for a formal administrative hearings process.

(b-1) A hearing under this section must be conducted by the State Office of Administrative Hearings and is subject to Section 2001.058(e).

(c) At a hearing, an applicant or sales agent must show by a preponderance of the evidence why the application should not be denied or the license suspended or revoked.

(d) The director shall give an applicant or sales agent written notice of a denial of an application or a suspension or revocation of a license.

(e) The director may not issue a license to a person who has previously had a license under this chapter revoked unless the director is satisfied the person will comply with this chapter and the rules adopted under this chapter. The director may prescribe the terms under which a suspended license will be reissued.

(f) The director may not issue a license to an applicant who fails to certify to the director the applicant's compliance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

(g) For purposes of Subsection (a)(3), the comptroller, Texas Workforce Commission, and Texas Alcoholic Beverage Commission shall each provide the executive director with a report of persons who have been finally determined to be delinquent in the payment of any money owed to or collected by that agency. The commission shall adopt rules regarding the form and frequency of reports under this subsection.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.21, eff. Sept.

1, 1995; Acts 1995, 74th Leg., ch. 696, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1275, Sec. 51, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 394, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 14.760, eff. Sept. 1, 2001.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 5, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 141 (H.B. 1555), Sec. 1, eff. May 26, 2017.

Acts 2019, 86th Leg., R.S., Ch. 506 (S.B. 37), Sec. 6, eff. June 7, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 391, eff. September 1, 2021.

Sec. 466.156. BOND; INSURANCE. (a) Each sales agent shall post a cash bond, surety bond, letter of credit, certificate of deposit, or other security approved by the executive director, including the contribution of cash to a pooled bond fund established by the executive director to protect the state from possible losses. The amount of the security shall be determined by the executive director and must reflect the possible losses to the state from the operation of the sales agent. The total amount retained in a pooled bond fund established under this subsection may not exceed $5 million.

(b) The executive director may also require a sales agent to maintain insurance if necessary to protect the interests of the state.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.22, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 458, Sec. 1, eff. Sept. 1, 1999.

Sec. 466.157. DISPLAY OF LICENSE. As prescribed by rule, each sales agent shall prominently display the license in each place of business or activity at which the sales agent sells tickets.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.22, eff. Sept. 1, 1995.

Sec. 466.158. EXPIRATION OF LICENSE; RENEWAL. (a) Unless suspended or revoked, a license expires on the date specified in the license, which may not be later than the second anniversary of its date of issuance.

(b) The commission shall adopt rules for the renewal of licenses. The director shall set the fee for a renewal of a license in an amount at least sufficient to cover the cost of processing the renewal.

(c) A sales agent must file a renewal application and pay the renewal fee before the sales agent's license expires.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.23, eff. Sept. 1, 1995.

Sec. 466.159. DEATH, DISSOLUTION, OR BANKRUPTCY OF SALES AGENT. (a) A license issued under this chapter expires on:

(1) the death of a sales agent who is an individual;

(2) the dissolution of a sales agent that is not an individual; or

(3) the bankruptcy or receivership of a sales agent.

(b) If a license expires under Subsection (a) and the sales agent's successor in interest desires to operate the sales agency, the successor shall file an application for an extended license not later than the 30th day after the date the license expired. The application must state the basis for the applicant's claim to be the successor in interest to the sales agent and must contain a certification that the applicant would be eligible for a license under Section 466.155. The director shall permit a qualified applicant to operate under an extended license for not more than one year or until a new license is issued to the applicant, whichever occurs first.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.160. SUMMARY SUSPENSION OF LICENSE. (a) The commission may suspend a sales agent's license summarily without notice or hearing if the commission finds that the action is necessary to maintain the integrity, security, honesty, or fairness of the operation or administration of the lottery or to prevent financial loss to the state and:

(1) the sales agent fails to deposit money received from ticket sales under Section 466.351;

(2) an event occurs that would render the sales agent ineligible for a license under Section 466.155;

(3) the sales agent refuses to permit the executive director, the director, the commission, or the state auditor to examine the agent's books, records, papers, or other objects under Section 466.017(b); or

(4) the executive director learns the sales agent has failed to disclose information that would, if disclosed, render the sales agent ineligible for a license under Section 466.155.

(b) The commission may summarily suspend a sales agent's license if proceedings for a preliminary hearing before the State Office of Administrative Hearings are initiated simultaneously with the summary suspension. The preliminary hearing shall be set for a date not later than 10 days after the date of the summary suspension, unless the parties agree to a later date.

(c) At the preliminary hearing, the sales agent must show cause why the license should not remain suspended pending a final hearing on suspension or revocation. The rules governing a hearing on any other license suspension or revocation under this chapter govern a final administrative hearing under this subsection. A hearing under this section is subject to Section 2001.058(e).

(d) To initiate a proceeding to summarily suspend a sales agent's license, the commission must serve notice to the sales agent informing the agent of the right to a preliminary hearing and of the time and place of the preliminary hearing. The notice must be personally served on the sales agent or an officer, employee, or agent of the sales agent or sent by certified or registered mail, return receipt requested, to the sales agent's mailing address as it appears on the commission's records. The notice must state the

alleged violations that constitute grounds for summary suspension. The suspension is effective at the time the notice is served. If notice is served in person, the sales agent shall immediately surrender the license to the commission. If notice is served by mail, the sales agent shall immediately return the license to the commission. If the sales agent uses an on-line electronic terminal to sell tickets, the director or a lottery operator on the instructions of the director may terminate the connection of the terminal to the commission's lottery computer at the time:

(1) the proceeding to summarily suspend the license is initiated; or

(2) the division discovers the sales agent has failed to deposit money received from ticket sales, if the sales agent's license is being summarily suspended under Subsection (a)(1).

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), 6.24, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 6, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.161. IMMUNITY; CIVIL ACTIONS. (a) A sales agent acting in good faith is immune from civil liability for an act or omission within the course and scope of the agent's license under this chapter.

(b) This section does not waive any immunity of the commission or this state.

(c) This section does not create a cause of action against this state, the commission, a commission employee, or a sales agent.

(d) The immunity provided by Subsection (a) does not apply to a cause of action for personal injury or wrongful death.

Added by Acts 2005, 79th Leg., Ch. 713 (S.B. 442), Sec. 1, eff. June 17, 2005.

SUBCHAPTER E. CRIMINAL HISTORY INVESTIGATIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.201. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION. (a) The commission is entitled to conduct an investigation of and is entitled to obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation Identification Division, or another law enforcement agency to assist in the investigation of:

(1) a sales agent or an applicant for a sales agent license;

(2) a person required to be named in a license application;

(3) a lottery operator or prospective lottery operator;

(4) an employee of a lottery operator or prospective lottery operator, if the employee is or will be directly involved in lottery operations;

(5) a person who manufactures or distributes lottery equipment or supplies, or a representative of a person who manufactures or distributes lottery equipment or supplies offered to the lottery;

(6) a person who has submitted a written bid or proposal to the commission in connection with the procurement of goods or services by the commission, if the amount of the bid or proposal exceeds $500;

(7) an employee or other person who works for or will work for a sales agent or an applicant for a sales agent license;

(8) a person who proposes to enter into or who has a contract with the commission to supply goods or services to the commission; or

(9) if a person described in Subdivisions (1) through (8) is not an individual, an individual who:

(A) is an officer or director of the person;

(B) holds more than 10 percent of the stock in the person;

(C) holds an equitable interest greater than 10 percent in the person;

(D) is a creditor of the person who holds more than 10 percent of the person's outstanding debt;

(E) is the owner or lessee of a business that the

person conducts or through which the person will conduct lottery-related activities;

(F) shares or will share in the profits, other than stock dividends, of the person;

(G) participates in managing the affairs of the person; or

(H) is an employee of the person who is or will be involved in:

(i) selling tickets; or

(ii) handling money from the sale of tickets.

(b) The commission shall conduct an investigation of and obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation Identification Division, or another law enforcement agency to assist in the investigation of:

(1) the executive director or a prospective executive director; or

(2) an employee or prospective employee of the commission.

(c) Not later than the first anniversary after the date of each renewal, the commission shall obtain criminal history record information maintained by the Department of Public Safety on a sales agent whose license is renewed under Section 466.158.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.25, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.202. FINGERPRINTS. (a) The executive director may discharge from employment an employee of the commission who fails to provide a complete legible set of fingerprints on request. The executive director may refuse to consider a prospective employee of the commission who fails to provide a complete legible set of fingerprints on request.

(b) The executive director may deny an application for a license or the commission may suspend or revoke a license if the applicant or sales agent fails on request to provide a complete

legible set of fingerprints of a person required to be named in a license application.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.26, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.203. DEPARTMENT OF PUBLIC SAFETY ASSISTANCE; COSTS OF INVESTIGATION. (a) The executive director may request the cooperation of the Department of Public Safety to perform a background investigation of a person listed in Section 466.201(a) or (b). The executive director shall reimburse the department for the actual cost of an investigation.

(b) The executive director may require a person who is subject to investigation to pay all costs of the investigation and to provide any information, including fingerprints, necessary to carry out the investigation or facilitate access to state or federal criminal history record information. Payments made to the executive director under this subsection shall be deposited in the general revenue fund and may be used to reimburse the Department of Public Safety for the actual costs of an investigation.

(c) Unless otherwise prohibited by law, the Department of Public Safety may retain any record or information submitted to it under this section. The department shall notify the executive director of any change in information provided to the executive director when the department learns of the change.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.27, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.204. ACCESS TO INTERNAL REVENUE SERVICE INFORMATION.

The executive director may obtain information relating to a person's qualification for licensing, employment, or contracting under this chapter from the Internal Revenue Service under a contract between the comptroller and the Internal Revenue Service on:

(1) a sales agent or an applicant for a sales agent license;

(2) an employee or prospective employee of the commission;

(3) a person required to be named in a license application;

(4) a lottery operator or prospective lottery operator;

(5) an employee of a lottery operator or prospective lottery operator, if the employee is or will be directly involved in lottery operations;

(6) a person who manufactures or distributes lottery equipment or supplies, or a representative of a person who manufactures or distributes lottery equipment or supplies offered to the lottery;

(7) a person who has submitted a written bid or proposal to the commission in connection with the procurement of goods or services by the commission;

(8) an employee or other person who works for or will work for a sales agent or an applicant for a sales agent license; or

(9) a person who proposes to enter into or who has a contract with the commission to supply goods or services to the commission.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.27, eff. Sept. 1, 1995.

Sec. 466.205. CONFIDENTIAL INFORMATION. (a) All information received by the executive director from the Internal Revenue Service is confidential and may only be used as provided by the contract between the comptroller and the Internal Revenue Service under which the information was obtained.

(b) The commission shall adopt rules governing the custody and use of criminal history record information obtained under this subchapter. The comptroller shall adopt necessary rules governing the custody and use of information obtained from the Internal Revenue Service under this subchapter.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.28, eff. Sept. 1, 1995.

SUBCHAPTER F. REGULATION OF GAMES

Sec. 466.251. TICKETS. (a) The executive director shall prescribe the form of tickets.

(b) Repealed by Acts 2003, 78th Leg., ch. 198, Sec. 2.72(b).

(c) The overall estimated odds of winning a prize in a particular lottery game must be printed on each ticket and prominently displayed in association with the sale of lottery products. The estimate must be based on reasonable projections and past experience.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.29, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 198, Sec. 2.72(b), eff. Sept. 1, 2003.

Sec. 466.252. PURCHASE OF TICKET AGREEMENT TO ABIDE BY RULES. (a) By purchasing a ticket in a particular lottery game, a player agrees to abide by and be bound by the commission's rules, including the rules applicable to the particular lottery game involved. The player also acknowledges that the determination of whether the player is a valid winner is subject to:

(1) the commission's rules and claims procedures, including those developed for the particular lottery game involved; and

(2) any validation tests established by the commission for the particular lottery game involved.

(b) If the lottery uses tickets, an abbreviated form of the rules or a reference to the rules may appear on the tickets.

(c) The commission by rule shall require that a ticket that contains a number of words, as determined by commission rule, in a language other than English must include disclosures in that language.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.30, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 7, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.254. PURCHASE OF TICKET BY OR PAYMENT OF PRIZE TO CERTAIN PERSONS. A person may not purchase a ticket or claim, collect, or receive a lottery prize or a share of a lottery prize if the person is:

(1) a member, officer, or employee of a person that has a contract with the commission to sell or lease goods or services used in the operation of the lottery, and the member, officer, or employee is directly involved in selling or leasing the goods or performing the services that are the subject of the contract with the commission;

(2) a member, officer, or employee of a lottery operator;

(3) an officer or employee of the commission; or

(4) a spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of a person described by Subdivision (1), (2), or (3).

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.32, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 678, Sec. 2, eff. Sept. 1, 1999.

Sec. 466.256. REPRESENTATIVES BY PERSON CLAIMING LOTTERY PRIZE. A person claiming or attempting to claim a lottery prize or a share of a lottery prize represents that the ticket or other item showing that the person is entitled to the prize or share was lawfully obtained, is not stolen, forged, or altered, and has not previously been redeemed.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 6.34, eff. Sept. 1, 1995.

SUBCHAPTER G. OFFENSES

Sec. 466.3011. VENUE. Venue is proper in Travis County or any county in which venue is proper under Chapter 13A, Code of Criminal Procedure, for:

(1) an offense under this chapter;

(2) an offense under the Penal Code, if the accused:

(A) is a lottery operator, lottery vendor, sales agent, or employee of the division; and

(B) is alleged to have committed the offense while engaged in lottery activities; or

(3) an offense that involves property consisting of or including lottery tickets under Title 7 or 11, Penal Code.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 6.35, eff. Sept. 1, 1995. Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.094, eff. January 1, 2025.

Sec. 466.3012. AGGREGATION OF AMOUNTS INVOLVED. When amounts are claimed, attempted to be claimed, or obtained in violation of this chapter pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one offense and the amounts aggregated in determining the grade of the offense.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 6.35, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.302. SALE OF TICKET AT PRICE GREATER THAN FIXED PRICE. (a) A person commits an offense if the person intentionally or knowingly sells a ticket at a price the person knows is greater than that fixed by the commission or by the lottery operator authorized to set that price.

(b) An offense under this section is a Class A misdemeanor.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.36, eff. Sept. 1, 1995.

Sec. 466.303. SALE OF TICKET BY UNAUTHORIZED PERSON. (a) Except as provided by Subsection (b), a person who is not a sales agent or an employee of a sales agent commits an offense if the person intentionally or knowingly sells a ticket.

(b) A lottery operator may sell tickets to a sales agent. A person who is not a sales agent may distribute tickets as premiums to customers, employees, or other persons who deal with the person if no purchase is required to entitle the recipient to the ticket. A qualified organization as defined in Section 2002.002, Occupations Code, may distribute tickets as a prize in a raffle authorized by Chapter 2002, Occupations Code.

(c) An offense under this section is a felony of the third degree.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.37, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 14.761, eff. Sept. 1, 2001.

Sec. 466.304. SALE OF TICKET AT UNAUTHORIZED LOCATION. (a) A person commits an offense if the person sells a ticket at a location other than the location of a sales agency.

(b) An offense under this section is a Class A misdemeanor.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.305. SALE OF TICKET ON CREDIT. (a) A sales agent or an employee of a sales agent commits an offense if the person intentionally or knowingly sells a ticket to another person by extending credit or lending money to the person to enable the person to purchase the ticket.

(b) An offense under this section is a Class C misdemeanor.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.3051. SALE OF TICKET TO OR PURCHASE OF TICKET BY PERSON YOUNGER THAN 18 YEARS OF AGE. (a) A sales agent or an employee of a sales agent commits an offense if the person intentionally or knowingly sells or offers to sell a ticket to an individual that the person knows is younger than 18 years of age.

(b) An individual who is younger than 18 years of age commits an offense if the individual:

(1) purchases a ticket; or

(2) falsely represents the individual to be 18 years of age or older by displaying evidence of age that is false or fraudulent or misrepresents in any way the individual's age in order to purchase a ticket.

(c) A person 18 years of age or older may purchase a ticket to give as a gift to another person, including an individual younger than 18 years of age.

(d) It is a defense to the application of Subsection (b) that the individual younger than 18 years of age is participating in an inspection or investigation on behalf of the commission or other appropriate governmental entity regarding compliance with this section.

(e) An offense under Subsection (a) is a Class C misdemeanor.

(f) An offense under Subsection (b) is punishable by a fine not to exceed $250.

Renumbered from Sec. 466.253 and amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.31, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 696, Sec. 1, eff. Sept. 1, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.3052. PURCHASE AND SALE OF TICKETS. (a) A person commits an offense if the person intentionally or knowingly sells a ticket and the person accepts anything other than the following as payment for the ticket:

(1) United States currency;

(2) a negotiable instrument in the form of a check that meets the requirements of Section 3.104, Business & Commerce Code;

(3) a debit made through a financial institution debit card;

(4) a coupon or voucher issued by the commission for purposes of purchasing a lottery ticket; or

(5) a mail order subscription on a mail order subscription form authorized by the commission.

(b) An offense under this section is a Class C misdemeanor.

Renumbered from Sec. 466.255 and amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.33, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 687, Sec. 1, eff. Sept. 1, 1999.

Sec. 466.3053. PURCHASE OF TICKET WITH PROCEEDS OF AFDC CHECK OR FOOD STAMPS. (a) A person commits an offense if the person intentionally or knowingly purchases a ticket with:

(1) the proceeds of a check issued as a payment under the Aid to Families with Dependent Children program administered under Chapter 31, Human Resources Code; or

(2) a food stamp coupon issued under the food stamp program administered under Chapter 33, Human Resources Code.

(b) An offense under this section is a Class C misdemeanor.

Renumbered from Sec. 466.255 and amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.33, eff. Sept. 1, 1995.

Sec. 466.3054. GROUP PURCHASE ARRANGEMENTS. (a) A person commits an offense if, for financial gain, the person establishes or promotes a group purchase or pooling arrangement under which tickets are purchased on behalf of the group or pool and any prize is divided among the members of the group or pool, and the person intentionally or knowingly:

(1) uses any part of the funds solicited or accepted for a purpose other than purchasing tickets on behalf of the group or pool; or

(2) retains a share of any prize awarded as compensation for establishing or promoting the group purchase or pooling arrangement.

(b) An offense under this section is a felony of the third degree.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 6.38, eff. Sept. 1, 1995.

Sec. 466.306. FORGERY; ALTERATION OF TICKET. (a) A person commits an offense if the person intentionally or knowingly alters or forges a ticket.

(b) An offense under this section is a felony of the third degree unless it is shown on the trial of the offense that the prize alleged to be authorized by the ticket forged or altered is greater than $10,000, in which event the offense is a felony of the second degree.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.307. INFLUENCING SELECTION OF WINNER. (a) A person commits an offense if the person intentionally or knowingly influences or attempts to influence the selection of the winner of a lottery game.

(b) An offense under this section is a felony of the third degree unless it is shown on the trial of the offense that a prize in the game influenced or attempted to be influenced is greater than $10,000, in which event the offense is a felony of the second degree.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.308. CLAIMING LOTTERY PRIZE BY FRAUD. (a) A person commits an offense if the person intentionally or knowingly:

(1) claims a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation; or

(2) aids or agrees to aid another person or persons to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation.

(b) In this section, "claim" includes an attempt to claim, without regard to whether the attempt is successful.

(c) An offense under this section is a Class A misdemeanor unless it is shown on the trial of the offense that:

(1) the amount claimed is greater than $200 but not more than $10,000, in which event the offense is a felony of the third degree;

(2) the amount claimed is greater than $10,000, in which event the offense is a felony of the second degree; or

(3) the person has previously been convicted of an offense under Section 466.306, 466.307, 466.309, 466.310, or this section, in which event the offense is a felony of the third degree, unless the offense is designated as a felony of the second degree under Subdivision (2).

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.39, eff. Sept. 1, 1995.

Sec. 466.309. TAMPERING WITH LOTTERY EQUIPMENT. (a) A person commits an offense if the person intentionally or knowingly tampers with, damages, defaces, or renders inoperable any vending machine, electronic computer terminal, or other mechanical device used in a lottery game.

(b) An offense under this section is a felony of the third degree.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.310. CERTAIN TRANSFERS OF CLAIMS. (a) A person commits an offense if the person:

(1) induces another person to assign or transfer a right to claim a prize;

(2) offers for sale the right to claim a prize; or

(3) offers, for compensation, to claim the prize of another person.

(b) An offense under this section is a felony of the third degree, unless it is shown on the trial of the offense that the prize involved is greater than $10,000, in which event the offense is a felony of the second degree.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.311. REPORTING AND RECORD VIOLATIONS. (a) A person commits an offense if the person, in a license application, in a book or record required to be maintained by this chapter or a rule adopted under this chapter, or in a report required to be submitted by this chapter or a rule adopted under this chapter:

(1) intentionally or knowingly makes a statement or entry that the person knows to be false or misleading; or

(2) fails to maintain or make an entry the person knows is required to be maintained or made.

(b) A person commits an offense if the person knowingly refuses to produce for inspection by the director, executive director, commission, or state auditor a book, record, or document required to be maintained or made by this chapter or a rule adopted under this chapter.

(c) An offense under this section is a Class A misdemeanor.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.40, eff. Sept. 1, 1995.

Sec. 466.312. FALSE, INCORRECT, OR DECEPTIVE STATEMENT. (a) A person commits an offense if the person intentionally or knowingly makes a material and false, incorrect, or deceptive statement to a person conducting an investigation or exercising discretion under this chapter or a rule adopted under this chapter.

(b) In this section, "statement" includes:

(1) a written or oral statement; and

(2) a sworn or unsworn statement.

(c) An offense under this section is a Class A misdemeanor.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.41, eff. Sept.

1, 1995.

Sec. 466.313. CONSPIRACY. (a) A person commits an offense of conspiracy if, with intent that an offense under this chapter be committed:

(1) the person agrees with one or more other persons that they or one or more of them engage in conduct that would constitute the offense; and

(2) one or more of the persons agreeing under Subdivision (1) performs an overt act in pursuance of the agreement.

(b) An agreement constituting a conspiracy may be inferred from acts of the parties.

(c) It is no defense to prosecution for conspiracy under this section that:

(1) one or more of the coconspirators is not criminally responsible for the object offense;

(2) one or more of the coconspirators has been acquitted, so long as at least two coconspirators have not been acquitted;

(3) one or more of the coconspirators has not been prosecuted or convicted, has been convicted of a different offense, or is immune from prosecution;

(4) the actor belongs to a class of persons that by definition of the object offense is legally incapable of committing the object offense in an individual capacity; or

(5) the object offense was not actually committed.

(d) An offense under this section is one category lower than the most serious offense under this chapter that is the object of the conspiracy, and if the most serious offense under this chapter that is the object of the conspiracy is a felony of the third degree, the offense is a Class A misdemeanor.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.317. PROHIBITION AGAINST SALE OF CERTAIN LOTTERY TICKETS. (a) Except as permitted by a compact entered into under Subsection (b), a person may not sell or offer for sale in this state any interest in a lottery of another state or state government or an

Indian tribe or tribal government, including an interest in an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of the interest.

(b) The state may enter into a compact with another state or state government or an Indian tribe or tribal government to permit the sale of lottery tickets of this state in the state's, tribe's, or government's jurisdiction and to allow the sale of the state's, tribe's, or government's lottery tickets in this state.

(c) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

Added by Acts 1995, 74th Leg., ch. 696, Sec. 2, eff. Sept. 1, 1995.

SUBCHAPTER H. REVENUE

Sec. 466.351. DELIVERY OF FUNDS. (a) Except as provided by Subsection (d), all revenue received from the sale of tickets and all money credited to the state lottery account from any other source shall be deposited in the state treasury through approved state depositories on the settlement day or days established by the director.

(b) The director may require sales agents to establish separate electronic funds transfer accounts for the purposes of depositing money from ticket sales, making payments to the division, and receiving payments from the division. The commission by rule shall establish the procedures for depositing money from ticket sales into electronic funds transfer accounts, as well as other procedures regarding the handling of money from ticket sales.

(c) The director may not permit a sales agent to make payments to the division or a lottery operator in cash.

(d) The director may provide for a sales agent to retain from the money received from the sale of tickets the amount of prizes paid by the agent or the agent's commission, if any, and may establish how often the agent will make settlement payments to the treasury.

(e) The director may provide for a sales agent to pay amounts received for the sale of tickets directly to an officer or employee of the division for immediate deposit in the state treasury.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.45, eff. Sept. 1, 1995.

Sec. 466.352. REPORTING BY SALES AGENT; RECORDS. (a) The director may require a sales agent to file with the division reports of receipts and transactions relating to the sale of tickets in the form and containing the information that the director requires.

(b) Each sales agent shall maintain records adequate to establish the disposition of each ticket provided to the sales agent, the amounts of money received for the sale of those tickets, and any prizes awarded by the sales agent.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.353. LIABILITY OF SALES AGENT. (a) A sales agent is liable to the division for all tickets accepted or generated by the sales agent or any employee or agent of the sales agent, and tickets shall be deemed to have been purchased by the sales agent unless returned to the division within the time and manner prescribed by the division.

(b) Money received by a sales agent from the sales of tickets, less the amount retained for prizes paid by the sales agent or for the agent's commission, if any, together with any unsold tickets, shall be held in trust for the benefit of the state before delivery to a lottery operator or the division or electronic transfer to the state treasury, and the sales agent is liable to the division for the full amount of the money or unsold tickets so held. If the sales agent is not an individual, each officer, director, or owner of the sales agent is personally liable to the division for the full amount of the money or unsold tickets held in trust for the benefit of the state.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.354. DUTIES OF COMPTROLLER. (a) The comptroller, in consultation with the director, shall establish procedures for the efficient implementation and operation of an electronic funds transfer system to meet the needs of the director under this chapter.

(b) The comptroller periodically shall file reports with the executive director providing information regarding the revenue credited to the state lottery account, the investments of the money in the account, and the distributions made from the account.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.46, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.2, eff. Sept. 1, 1997.

Sec. 466.355. STATE LOTTERY ACCOUNT. (a) The state lottery account is a special account in the general revenue fund. The account consists of all revenue received from the sale of tickets, license and application fees under this chapter, and all money credited to the account from any other fund or source under law. Interest earned by the state lottery account shall be deposited in the unobligated portion of the general revenue fund.

(b) Money in the state lottery account may be used only for the following purposes and shall be distributed as follows:

(1) the payment of prizes to the holders of winning tickets;

(2) the payment of costs incurred in the operation and administration of the lottery, including any fees received by a lottery operator, provided that the costs incurred in a fiscal biennium may not exceed an amount equal to 12 percent of the gross revenue accruing from the sale of tickets in that biennium;

(3) the establishment of a pooled bond fund, lottery prize reserve fund, unclaimed prize fund, and prize payment account; and

(4) the balance, after creation of a reserve sufficient to pay the amounts needed or estimated to be needed under Subdivisions (1) through (3), to be transferred on or before the 15th day of each month as follows:

(A) the portion of the balance attributable to the lottery game operated under Section 466.027 to the fund for veterans' assistance established by Section 434.017; and

(B) the remainder to the foundation school fund.

(c) Each August the comptroller shall:

(1) estimate the amount to be transferred to the foundation school fund on or before September 15; and

(2) notwithstanding Subsection (b)(4), transfer the amount estimated in Subdivision (1) to the foundation school fund before August installment payments are made under Section 48.273, Education Code.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.47, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 592, Sec. 3.02, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1178, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1158, Sec. 29, eff. June 15, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1385 (S.B. 1655), Sec. 7(a), eff. June 19, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 1.02, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 431 (S.B. 559), Sec. 2, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1410 (S.B. 758), Sec. 2, eff. June 14, 2013.

Reenacted and amended by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.078, eff. September 1, 2019.

Sec. 466.357. APPLICABILITY OF CONSTITUTIONAL PROVISIONS. For purposes of Article III, Section 49a, and Article VIII, Section 22, of the Texas Constitution:

(1) funds received from the operation of a lottery are not revenue; and

(2) expenses of operating the lottery and paying prizes are not expenses of state government.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.358. COMPENSATION OF SALES AGENT. (a) The director and each lottery operator shall determine the compensation to be paid to sales agents for the sale of tickets as provided by this section. The compensation paid to a sales agent may not be an amount less than five percent of the retail price of the tickets sold plus, at the discretion of the director or lottery operator supervising the

lottery game involved, an incentive bonus based on attainment of sales volume, the redemption of winning tickets, or other objectives specified by the director or lottery operator for each type of lottery.

(b) The division or a lottery operator may run sales agent incentive games for sales agents using the incentive bonus amount or other amounts allocated by the director as compensation for sales agents.

(c) to (e) Repealed by Acts 2001, 77th Leg., ch. 394, Sec. 4, eff. Sept. 1, 2001.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 1104, Sec. 2, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 394, Sec. 4, eff. Sept. 1, 2001.

Sec. 466.359. COMPENSATION OF SALES AGENT FOR PURPOSES OF CONTRACTUAL RENTAL PAYMENT. If a sales agent's rental payments for premises are contractually computed in whole or in part on the basis of a percentage of the lessee's retail sales and if the computation of the lessee's rental payment is not explicitly defined to include sales of tickets in a state-operated lottery, the compensation received by the sales agent from the lottery is considered to be the net amount of the lessee's retail sales of tickets for the purpose of computing the rental payment.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

SUBCHAPTER I. PRIZES

Sec. 466.4001. DEFINITION. In this subchapter, "prize winner" means a person who presents a valid winning ticket, claims a lottery prize, and is recognized by the commission as the person entitled to receive lottery prize payments. The term does not include an assignee of a lottery prize.

Added by Acts 2011, 82nd Leg., R.S., Ch. 403 (S.B. 626), Sec. 1, eff. June 17, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.401. TICKET VALIDATION; DRAWINGS. (a) The department of security shall supervise ticket validation and lottery drawings.

(b) If a lottery game involves a drawing, the drawing must be open to the public. An independent certified public accountant must witness the drawing.

(c) An employee of the division and the independent certified public accountant witnessing the drawing shall inspect any equipment used in the drawing. The equipment must be inspected immediately before and after the drawing. The drawing and inspections must be recorded on video and audio tape.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.402. PAYMENT OF PRIZES GENERALLY. (a) The director may authorize prizes to be paid by warrants to be drawn on the state lottery account.

(b) The payment of a prize in an amount of $600 or more may be made only by the director.

(c) The director may authorize a sales agent to pay a prize in an amount less than $600 after performing procedures to validate the winning ticket as required by the director. A prize paid under this subsection is not required to be paid by warrant on the state lottery account.

(d) The state is discharged of all further liability on the payment of a prize under Section 466.403, 466.404, 466.406, 466.407, or 466.410 or this section or under any additional procedures established by rule.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1999, 76th Leg., ch. 1394, Sec. 1, eff. Sept. 1, 1999.

Sec. 466.403. PAYMENT OF PRIZE IN INSTALLMENTS. If the director determines that prize money is to be paid in installments,

the comptroller shall invest funds from the state lottery account as necessary to ensure the payment of the installments. The investments may be in securities, annuities, or other instruments as determined by the comptroller.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.21, eff. Sept. 1, 1997.

Sec. 466.404. PAYMENT OF PRIZE TO MULTIPLE WINNERS. (a) A specific prize as set forth by the prize structure of a specific lottery game may not be paid more than once. If the director determines that more than one claimant has been awarded a specific unpaid prize in a specific lottery game, each claimant is entitled only to an equal share of the prize.

(b) The director shall pay the cash equivalent of a prize other than prize money if more than one person is entitled to share the prize as provided by Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.405. PAYMENT OF PRIZE AWARDED TO MINOR. (a) If a minor is entitled to prize money on a winning ticket in an amount less than $600, the director may make payment by delivery to an adult member of the minor's family, or to the minor's guardian, of a warrant payable to the order of the minor.

(b) If a minor is entitled to prize money on a winning ticket in an amount of $600 or more, the director may direct payment to the minor by depositing the amount of the prize in any financial institution to the credit of an adult member of the minor's family or of the minor's guardian as custodian for the minor.

(c) The director shall pay the cash equivalent of a prize other than prize money if the person entitled to claim the prize is a minor. Payment of the cash equivalent of a prize other than prize money to a minor shall be made as provided by Subsections (a) and (b).

(d) A person designated to receive payment on behalf of a minor has the powers and duties of a custodian under Chapter 141, Property

Code.

(e) In this section:

(1) "Adult" means an individual who is at least 18 years of age.

(2) "Custodian," "financial institution," "guardian," and "member of the minor's family," have the meanings assigned by Section 141.002, Property Code.

(3) "Minor" means an individual who is younger than 18 years of age.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 190 (H.B. 2509), Sec. 1, eff. September 1, 2009.

Sec. 466.406. RIGHT TO PRIZE NOT GENERALLY ASSIGNABLE. (a) Except as provided by this section and Section 466.410, the right of any person to a prize is not assignable.

(b) Payment of prize payments not previously assigned as provided by this section or Section 466.410 shall be made to the estate of a deceased prize winner if the prize winner was an individual.

(c) A prize to which a winner is otherwise entitled may be paid to any person under an appropriate judicial order.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1999, 76th Leg., ch. 1394, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 403 (S.B. 626), Sec. 2, eff. June 17, 2011.

Sec. 466.407. DEDUCTIONS FROM PRIZES. (a) The executive director shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

(1) delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the comptroller

under Section 403.055;

(2) in default on a loan made under Chapter 52, Education Code; or

(3) in default on a loan guaranteed under Chapter 57, Education Code.

(a-1) The executive director shall deduct delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as determined by a court or a Title IV-D agency under Chapter 231, Family Code.

(b) If the winnings of a prize winner exceed the amount of a delinquency under Subsection (a) or (a-1), the director shall pay the balance to the prize winner. The director shall transfer the amount deducted to the appropriate agency or to the state disbursement unit under Chapter 234, Family Code, as applicable.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 403, Sec. 6(a), eff. June 17, 2011.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.48, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 135, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1104, Sec. 3, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1153, Sec. 3.04(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.22, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 403 (S.B. 626), Sec. 3, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 403 (S.B. 626), Sec. 6(a), eff. June 17, 2011.

Sec. 466.4075. DEDUCTIONS OF CHILD SUPPORT FROM CERTAIN LOTTERY WINNINGS. (a) This section applies only to a prize that is awarded by the director under Section 466.402(b), including a prize paid in periodic installments.

(b) In the event of a single payment, the executive director shall deduct from winnings of the prize winner an amount for delinquent child support owed by the prize winner if the executive director has been provided with a certified copy of a court order or a writ of withholding issued under Chapter 158, Family Code, or notice of a child support lien created under Subchapter G, Chapter

157, Family Code.

(c) If the prize is paid in periodic installments, the executive director shall deduct from periodic installment winnings paid to a prize winner amounts owed by the prize winner for child support if the executive director has been provided with a certified copy of a court order or a writ of withholding issued under Chapter 158, Family Code, or notice of a child support lien created under Subchapter G, Chapter 157, Family Code. This subsection does not apply to the payment of amounts to a person to whom the prize winner assigns the right to receive prize payments under Section 466.410.

(d) The court order, writ of withholding, or notice of a child support lien provided under Subsection (c) must direct child support to be paid in the manner in which the periodic installment prize is paid. The executive director is not required to receive the court order, the writ of withholding, or notice of child support lien until the executive director determines there is a periodic installment prize to which the prize winner is entitled.

(e) If the winnings of a prize winner exceed the amount deducted under Subsection (b) or (c) and Section 466.407 or any other section of this chapter allowing a deduction from the winnings of a prize winner, the executive director shall pay the balance to the prize winner. The executive director shall transfer the money deducted under Subsection (b) or (c) to the appropriate person as determined by court order, the clerk of the court that issued the order for placement in the registry of the court, or the state disbursement unit under Chapter 234, Family Code, as appropriate.

(f) The commission may adopt rules necessary to administer this section.

(g) Section 9.406, Business & Commerce Code, does not apply to periodic payments of lottery prize winnings under this section.

Added by Acts 1997, 75th Leg., ch. 1104, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 403 (S.B. 626), Sec. 4, eff. June 17, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.408. UNCLAIMED PRIZES. (a) The division shall retain an unclaimed prize on a winning ticket for payment or delivery to the person entitled to the prize for 180 days after the date on which the winner was selected.

(b) If a claim is not made for prize money on or before the 180th day after the date on which the winner was selected, the prize money shall be used in the following order of priority:

(1) subject to legislative appropriation, not more than $20 million in prize money each year may be deposited to the Department of State Health Services state-owned multicategorical teaching hospital account, which is an account in the general revenue fund, or appropriated from that account to provide indigent health care services as specified in Chapter 61, Health and Safety Code;

(2) not more than $5 million in prize money each year may be appropriated to the Health and Human Services Commission and shall be used to support the provision of inpatient hospital services in hospitals located in the 15 counties that comprise the Texas-Mexico border area, with payment for those services to be not less than the amount established under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) cost reimbursement methodology for the hospital providing the services;

(3) the remaining amount, not to exceed $5 million in prize money in each state fiscal year less any amount deposited in the fund in that year attributable to the lottery game operated under Section 466.027, shall be deposited to the fund for veterans' assistance; and

(4) all prize money subject to this section and not deposited or appropriated in accordance with Subdivision (1), (2), or (3) shall be deposited to the credit of the foundation school fund.

(b-1) Notwithstanding Subsection (b), if the legislature appropriates money from the general revenue fund to the programs described by Subsection (b) in an amount equal to the maximum amount of money that could be appropriated from unclaimed prize money to those programs under that subsection, all unclaimed prize money must be deposited to the credit of the foundation school fund.

(c) If a claim is not made for a prize other than prize money on or before the 180th day after the date on which the winner was selected, the prize shall revert to the division for use in subsequent games.

(d) Except as provided by Subsection (e), a ticket holder forfeits any claim or entitlement to a prize for:

(1) an on-line game after the expiration of the 180th day following the draw date; and

(2) an instant game after the expiration of the 180th day following the official "end of game" as determined by the commission.

(e) An eligible person serving on active military duty in any branch of the United States armed forces during a war or national emergency declared in accordance with federal law may claim a lottery prize not later than the 90th day after the date on which the earliest of the following occurs:

(1) the person is discharged from active military duty;

(2) the person returns to this state for more than 10 consecutive days;

(3) the person returns to nonactive military duty status in the reserve or national guard; or

(4) the war or national emergency ends.

(f) The commission may deduct money paid to an eligible person under Subsection (e) from prize money that would otherwise be deposited under Subsection (b).

(g) For purposes of this section, a person is considered to be on active military duty if the person is covered by the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C. Sections 501-594) or the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Sections 4301-4333), as amended.

(h) In this section, "eligible person" means a person entitled to a lottery prize who:

(1) while on active military duty in this state was transferred out of the state:

(A) as a result of a war or national emergency declared in accordance with federal law; and

(B) before the 180th day after the date on which the winner of the lottery prize was selected; or

(2) while serving in the reserve forces in this state was placed on active military duty and transferred out of the state:

(A) as a result of a war or national emergency declared in accordance with federal law; and

(B) before the expiration of the 180th day after the date on which the drawing occurred for on-line games or before the expiration of the 180th day following the official "end of game" for instant games as determined by the commission.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1999, 76th Leg., ch. 1394, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1128, Sec. 6, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 198, Sec. 2.34, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 781, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1385 (S.B. 1655), Sec. 8, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 8, eff. September 1, 2013.

Sec. 466.409. TREATMENT OF PRIZE PAYABLE ON TICKET PURCHASED BY INELIGIBLE PERSON. If an individual listed in Section 466.254 purchases a ticket or claims or otherwise attempts to collect or receive a lottery prize or a share of a lottery prize or an individual younger than 18 years of age directly purchases a ticket, the individual is not eligible to receive a prize or share of a prize, and the prize or share of a prize otherwise payable on the ticket is treated as an unclaimed prize as provided by Section 466.408.

Renumbered from Sec. 466.253 and amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.31, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.410. ASSIGNMENT OF PRIZES. (a) A person may assign, in whole or in part, the right to receive prize payments that are paid by the commission in installments over time if the assignment is made to a person designated by an order of a district court of Travis County, except that a person may not assign the right to receive prize payments if the person is subject to a child support order and is delinquent in making support payments under that order.

(b) A district court shall issue an order approving a voluntary assignment and directing the commission to direct prize payments in whole or in part to the assignee if:

(1) a copy of the petition for the order and copies of all

notices of any hearing in the matter have been served on the executive director not later than 20 days prior to any hearing or entry of any order. The commission may intervene in a proceeding to protect the interests of the commission but shall not be considered an indispensable or necessary party. A petition filed under this section shall include in the caption the prize winner's name as it appears on the lottery claim form;

(2) the assignment is in writing, executed by the assignor and assignee (or designated agent), and by its terms subject to the laws of this state; and

(3) the assignor provides a sworn and notarized affidavit stating that the assignor:

(A) is of sound mind, over 18 years of age, is in full command of the person's faculties, and is not acting under duress;

(B) is not delinquent in payment of child support under a court or administrative order issued in this state or another state;

(C) has been advised regarding the assignment by independent legal counsel and has had the opportunity to receive independent financial and tax advice concerning the effects of the assignment;

(D) understands that the assignor will not receive the prize payments, or portions of the prize payments, for the assigned years;

(E) understands and agrees that with regard to the assigned payments, the state, the commission, and its officials and employees will have no further liability or responsibility to make the assigned payments to the assignor;

(F) has been provided a one-page written disclosure statement stating, in boldfaced type, 14 points or larger:

(i) the payments being assigned, by amounts and payment dates;

(ii) the purchase price being paid, if any;

(iii) if a purchase price is paid, the rate of discount to the present value of the prize, assuming daily compounding and funding on the contract date; and

(iv) the amount, if any, of any origination or closing fees that will be charged to the assignor; and

(G) was advised in writing, at the time the assignment was signed, that the assignor had the right to cancel without any

further obligation not later than the third business day after the date the assignment was signed.

(c) It shall be the responsibility of the assignor to bring to the attention of the court, either by sworn testimony or by written declaration submitted under penalty of perjury, the existence or nonexistence of a current spouse. If married, the assignor shall identify his or her spouse and submit to the court a sworn and notarized statement wherein the spouse consents to the assignment. If the assignor is married and the sworn and notarized statement is not presented to the court, the court shall determine, to the extent necessary and as appropriate under applicable law, the ability of the assignor to make the proposed assignment without the spouse's consent.

(d) With respect to any given prize, the order shall also recite and identify all prior assignments by amount of or fraction of payment assigned, the identity of the assignee, and the date(s) of payment(s) assigned. A court order obtained pursuant to this section, together with all such prior orders, shall not require the commission to divide any single prize payment among more than three different persons.

(e) The court order shall include specific findings as to compliance with the requirements of Subsections (b), (c), and (d) and shall specify the prize payment or payments assigned, or any portion thereof, including the dates and amounts of the payments to be assigned, the years in which each payment is to begin and end, the gross amount of the annual payments assigned before taxes, and the name of the prize winner as it appears on the lottery claim form.

(f) A certified copy of a court order granted under this section shall be delivered to the commission and such order must be provided to the commission no later than 20 days prior to the date upon which the first assigned payment is to be paid to the assignee. Within 20 days of receipt of the court order, the commission shall acknowledge in writing to both the assignor and the assignee its receipt of said court order. Unless the commission provides written notice to the assignor and assignee that the commission cannot comply with the court order, the commission shall thereafter make the prize payments in accordance with the court order.

(g) The commission shall establish and collect a reasonable fee to defray any administrative expenses associated with an assignment made under this section, including the cost to the commission of any

processing fee imposed by a private annuity provider. The commission shall establish the amount of the fee to reflect the direct and indirect costs associated with processing the assignment.

(h) An assignment pursuant to court order may not include or cover payments or portions of payments that are subject to any offset provided by this chapter.

(i) Notwithstanding any other provision of this section, there will be no right to assign prize payments following:

(1) the issuance, by the Internal Revenue Service, of a technical rule letter, revenue ruling, or other public ruling of the Internal Revenue Service that determines that, based on the right of assignment as provided by this section, a lottery prize winner who does not assign prize payments would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid; or

(2) the issuance by a court of a published decision holding that, based on the right of assignment as provided by this section, a lottery prize winner who does not assign prize payments would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid.

(j) After receiving a letter or ruling from the Internal Revenue Service or a published decision of a court as provided by Subsection (i)(1) or (2), the executive director shall immediately file a copy of the letter, ruling, or published decision with the secretary of state. When the executive director files a copy of the letter, ruling, or published decision with the secretary of state, an assignor is ineligible to assign a prize under this section, and the commission shall not make any payment to an assignee pursuant to a court order entered after the date of such letter or ruling.

(k) Section 9.406, Business & Commerce Code, does not apply to periodic payments of lottery prize winnings under this section.

Added by Acts 1999, 76th Leg., ch. 1394, Sec. 4, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 403 (S.B. 626), Sec. 5, eff. June 17, 2011.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.411. CHOICE BY CERTAIN PRIZE WINNERS TO REMAIN ANONYMOUS. (a) Subject to Subsection (b), a natural person who is a prize winner of a lottery prize in an amount equal to $1 million or more, or who is an owner of a beneficial interest in a legal entity that is a prize winner of a lottery prize in an amount equal to $1 million or more, may on the date the winner claims the prize choose to remain anonymous and prohibit all personally identifiable information from being released to the public.

(b) The commission may release or disclose the personally identifiable information of a natural person who is a lottery prize winner if the person chooses to have the prize paid in periodic installments. The commission may only disclose the information on or after the 30th day after the date the person claims the lottery prize if the person chooses to remain anonymous under Subsection (a).

(c) For purposes of this section, the amount of a lottery prize is the total amount of prize money paid to a prize winner for a single lottery prize claim, whether paid in one payment or in periodic installments, before deducting any federal tax withholdings or other deductions required by law.

(d) This section does not prohibit release of a natural person prize winner's city or county of residence or prevent the commission from releasing the person's personally identifiable information to the Health and Human Services Commission or as necessary to comply with Section 466.407 or 466.4075.

Added by Acts 2017, 85th Leg., R.S., Ch. 689 (H.B. 59), Sec. 3, eff. September 1, 2017.

SUBCHAPTER J. PARTICIPATION IN MULTIJURISDICTION LOTTERY GAME

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.451. MULTIJURISDICTION AGREEMENT AUTHORIZED. The commission may enter into a written agreement with the appropriate officials of one or more other states or other jurisdictions, including foreign countries, to participate in the operation, marketing, and promotion of a multijurisdiction lottery game or

games. The commission may adopt rules relating to a multijurisdiction lottery game or games.

Acts 2003, 78th Leg., ch. 201, Sec. 78, eff. Sept. 1, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.452. REVENUE FROM MULTIJURISDICTION LOTTERY. (a) Except as provided by this section, revenue received from the sale of tickets in this state for a multijurisdiction lottery game is subject to Subchapter H.

(b) The commission may deposit a portion of the revenue received from the sale of multijurisdiction lottery game tickets in this state into a fund shared with other parties to an agreement under this subchapter for the payment of prizes awarded in multijurisdiction lottery games in which the commission participates. The commission may retain that revenue in the fund for as long as necessary to pay prizes claimed during the period designated for claiming a prize in the multijurisdiction lottery game.

Acts 2003, 78th Leg., ch. 201, Sec. 78, eff. Sept. 1, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 466.453. PAYMENT OF COSTS AUTHORIZED. The commission may share in the payment of costs associated with participating in multijurisdiction lottery games.

Acts 2003, 78th Leg., ch. 201, Sec. 78, eff. Sept. 1, 2003.

CHAPTER 467. TEXAS LOTTERY COMMISSION
SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Lottery Commission.

(2) "Executive director" means the executive director of the Texas Lottery Commission.

(3) "Communicate directly with" has the meaning assigned by Section 305.002, Government Code.

(4) "Gift" includes a gratuity, trip, meal, or other thing of value for which the recipient does not compensate the person making the gift and that is not conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient.

(5) "Legislation" has the meaning assigned by Section 305.002.

(6) "Member of the legislative branch" has the meaning assigned by Section 305.002.

(7) "Participated" means to have taken action as an officer or employee through decision, approval, disapproval, recommendation, giving advice, or similar action.

(8) "Particular matter" includes an investigation, an application, a request for a ruling or determination, a license proceeding, rulemaking, a contract, a controversy, a claim, a charge, an accusation, an arrest, or a judicial or other proceeding.

(9) "Person that has a significant financial interest in the lottery" means:

(A) a person or a board member, officer, trustee, or general partner of a person that manufactures, distributes, sells, or produces lottery equipment, supplies, services, or advertising;

(B) an employee of a person that manufactures, distributes, sells, or produces lottery equipment, supplies, services, or advertising and that employee is directly involved in the manufacturing, distribution, selling, or production of lottery equipment, supplies, services, or advertising;

(C) a person or a board member, officer, trustee, or general partner of a person that has made a bid to operate the lottery in the preceding two years or that intends to make a bid to operate the lottery or an employee of the person if the employee is directly involved in making the bid; or

(D) a sales agent.

(10) "Political committee" has the meaning assigned by Section 251.001, Election Code.

(11) "Political contribution" has the meaning assigned by Section 251.001, Election Code.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1441, Sec. 1, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.002. APPLICATION OF SUNSET ACT. The commission is subject to review under Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter, Chapter 466 of this code, and Chapter 2001, Occupations Code, expire September 1, 2025.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 1112, Sec. 1.03(a), eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1227 (H.B. 1116), Sec. 3.08, eff. September 1, 2005.

Acts 2009, 81st Leg., 1st C.S., Ch. 2 (S.B. 2), Sec. 2.03, eff. July 10, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 9, eff. September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 941 (S.B. 1659), Sec. 1.06, eff. June 18, 2023.

Acts 2023, 88th Leg., R.S., Ch. 1120 (H.B. 1620), Sec. 3, eff. September 1, 2023.

SUBCHAPTER B. COMMISSION

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.021. MEMBERSHIP. (a) The commission is composed of five members appointed by the governor with the advice and consent of the senate.

(b) In making appointments to the commission, the governor shall strive to achieve representation by all the population groups of the state with regard to economic status, sex, race, and ethnicity.

(c) One member must have experience in the bingo industry.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 11, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.022. TERM OF OFFICE. Members hold office for staggered terms of six years, with the terms of either one or two members expiring February 1 of each odd-numbered year.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 12, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.023. RESIDENCE REQUIREMENT. An individual is not eligible to be a member of the commission unless the individual has been a resident of this state for at least 10 consecutive years immediately before appointment.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.024. ELIGIBILITY. (a) An individual is not eligible

to be an appointed member of the commission if the individual:

(1) is registered, certified, or licensed by a regulatory agency in the field of bingo or lottery;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from the commission;

(3) is employed by or participates in the management of a business entity or other organization regulated by or receiving funds from the commission;

(4) uses or receives a substantial amount of tangible goods, services, or funds from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses;

(5) is an officer, employee, or paid consultant of a Texas trade association in the field of bingo or lottery;

(6) is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission;

(7) is married to an individual described by Subdivisions (2)-(6);

(8) has been convicted of a felony or of any crime involving moral turpitude; or

(9) is not a citizen of the United States.

(b) In this section, "Texas trade association" means a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(c) A person may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of bingo or lottery; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of bingo or lottery.

(d) A person may not act as the general counsel to the

commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 13, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.025. PROHIBITED CONDUCT. (a) A commission member may not:

(1) accept any employment or remuneration from:

(A) a person that has a significant financial interest in the lottery; or

(B) a bingo commercial lessor, bingo distributor, or bingo manufacturer;

(2) play any lottery or bingo game conducted in this state;

(3) accept or be entitled to accept any part of the winnings to be paid from a lottery or bingo game conducted in this state;

(4) use the member's official authority to affect the result of an election or nomination for public office; or

(5) directly or indirectly coerce, attempt to coerce, command, or advise a person to pay, lend, or contribute anything of value to another person for political purposes.

(b) A commission member or former commission member or the spouse of a commission member or former commission member may not solicit or accept employment from a person regulated by the commission before the second anniversary of the date on which the commission member's service on the commission ends.

(c) Repealed by Acts 1997, 75th Leg., ch. 1441, Sec. 5, eff. Sept. 1, 1997.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.49, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1441, Sec. 5, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.0255. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the commission;

(2) the programs, functions, rules, and budget of the commission;

(3) the results of the most recent formal audit of the commission;

(4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(5) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 14, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.026. REMOVAL OF COMMISSION MEMBER. (a) It is a ground for removal from the commission that a member:

(1) does not have at the time of taking office the qualifications required by Sections 467.023 and 467.024;

(2) does not maintain during service on the commission the

qualifications required by Sections 467.023 and 467.024;

(3) is ineligible for membership under Section 467.023, 467.024, or 467.025;

(4) cannot discharge the member's duties for a substantial part of the member's term because of illness or disability; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 15, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.027. COMPENSATION AND EXPENSES. (a) A commission member is not entitled to compensation for serving on the commission.

(b) A commission member is entitled to reimbursement for actual and necessary expenses incurred in performing the member's duties, subject to any applicable limitation in the General Appropriations Act.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.028. OFFICES. The commission shall maintain its general office in the city of Austin. The commission may also establish branch offices.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.029. PRESIDING OFFICER. The governor shall designate one member of the commission as presiding officer of the commission to serve in that capacity at the pleasure of the governor.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.030. MEETINGS. (a) The commission shall hold at least six regular meetings each year on dates fixed by the commission. The commission may meet at other times at the call of the presiding officer or as provided by commission rule.

(b) Section 551.002 does not apply to a closed meeting of the commission relating to the negotiation of a lottery operator's contract if the commission determines, in writing, that an open meeting would have a detrimental effect on the commission's position in the negotiations.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1242, Sec. 1, eff. June 15, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature,

Regular Session, for amendments affecting the following section.

Sec. 467.031. DIVISIONS. The commission shall establish separate divisions to oversee bingo and the state lottery.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.032. EXECUTIVE DIRECTOR. (a) The commission shall employ an executive director to administer this chapter.

(b) The executive director holds office at the will of the commission and is specifically exempted from Chapter 654.

(c) The executive director or an acting executive director shall be appointed by the commission no later than November 1, 1993.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.50, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.033. DIVISION DIRECTORS. The executive director shall employ a director to oversee each division. A division director serves at the will of the executive director and is specifically exempted from Chapter 654.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.51, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.034. EMPLOYEES. The executive director shall employ other personnel necessary to administer the laws under the

commission's jurisdiction. Commission employees serve at the will of the executive director.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.035. RESTRICTIONS ON EMPLOYMENT. (a) The commission may not employ or continue to employ a person who owns a financial interest in:

(1) a bingo commercial lessor, bingo distributor, or bingo manufacturer; or

(2) a lottery sales agency or a lottery operator.

(b) The commission may not employ or continue to employ a person who is a spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of a person who is subject to a disqualification prescribed by Subsection (a).

(c) In employing the executive director and other employees, the commission shall strive to reflect the diversity of the population of the state as regards race, color, handicap, sex, religion, age, and national origin.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.036. ACCESS TO CRIMINAL HISTORY RECORDS. (a) The governor shall conduct an investigation of and is entitled to obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation Identification Division, or another law enforcement agency relating to an individual the governor intends to appoint to the commission.

(b) The commission shall conduct an investigation of and is entitled to obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation

Identification Division, or another law enforcement agency relating to an individual the commission intends to employ.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.037. DIVISION OF RESPONSIBILITIES. The commission shall develop and implement policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive director and the staff of the commission.

Added by Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 16, eff. September 1, 2013.

SUBCHAPTER C. POWERS AND DUTIES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.101. POWERS AND DUTIES OF COMMISSION. (a) The commission has broad authority and shall exercise strict control and close supervision over all activities authorized and conducted in this state under:

(1) Chapter 2001, Occupations Code; and

(2) Chapter 466 of this code.

(b) The commission shall ensure that games are conducted fairly and in compliance with the law.

(c) The commission also has the powers and duties granted under:

(1) Chapter 2001, Occupations Code; and

(2) Chapter 466 of this code.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.52, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 14.762, eff. Sept. 1, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.102. RULES. The commission may adopt rules for the enforcement and administration of this chapter and the laws under the commission's jurisdiction.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.103. DUTIES OF EXECUTIVE DIRECTOR. (a) The executive director shall perform all duties required by the commission to administer this chapter and the laws under the commission's jurisdiction. The executive director may not hold other employment.

(b) The executive director may create, abolish, transfer, and consolidate bureaus and other units that are part of the commission and that are not expressly established by law as the executive director determines to be necessary for the efficient operation of the commission.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.104. RECORDS. (a) Except as otherwise provided by law, all commission records are subject to public inspection in accordance with Chapter 552.

(b) The executive director shall keep the records of the commission.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 792, Sec. 2, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.105. LEGAL REPRESENTATION. (a) The attorney general shall designate at least one member of the attorney general's staff to counsel and advise the commission and to represent the commission in legal proceedings. The attorney general shall make available to the appropriate prosecuting attorneys any information obtained regarding a violation of a law under the commission's jurisdiction.

(b) The attorney general may apply for injunctive or declaratory relief to enforce a law under the commission's jurisdiction or a rule adopted by the commission. Action by the attorney general under this subsection does not limit the authority of the attorney general or a prosecuting attorney to bring a criminal proceeding.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.106. GIFT OR POLITICAL CONTRIBUTION TO OFFICER OR EMPLOYEE. (a) A commission member, the executive director, or an employee of the commission may not intentionally or knowingly accept a gift or political contribution from:

(1) a person that has a significant financial interest in the lottery;

(2) a person related in the first degree of consanguinity or affinity to a person that has a significant financial interest in the lottery;

(3) a person that owns more than a 10 percent interest in an entity that has a significant financial interest in the lottery;

(4) a political committee that is directly established, administered, or controlled, in whole or in part, by a person that has a significant financial interest in the lottery; or

(5) a person who, within the two years preceding the date of the gift or contribution, won a lottery prize exceeding $600 in amount or value.

(b) A person may not make a gift or political contribution to a

person known by the actor to be a commission member, the executive director, or an employee of the commission, if the actor:

(1) has a significant financial interest in the lottery;

(2) is related in the first degree of consanguinity or affinity to a person that has a significant financial interest in the lottery;

(3) owns more than a 10 percent interest in an entity that has a significant financial interest in the lottery;

(4) is a political committee that is directly established, administered, or controlled, in whole or in part, by a person that has a significant financial interest in the lottery; or

(5) within the two years preceding the date of the gift or contribution, won a lottery prize exceeding $600 in amount or value.

(c) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

Added by Acts 1997, 75th Leg., ch. 1441, Sec. 2, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.107. GIFT OR POLITICAL CONTRIBUTION TO FORMER OFFICER OR EMPLOYEE. (a) A former commission member, former executive director, or former employee of the commission may not, before the second anniversary of the date that the person's service in office or employment with the commission ceases, intentionally or knowingly accept a gift or political contribution from:

(1) a person that has a significant financial interest in the lottery;

(2) a person related in the first degree of consanguinity or affinity to a person that has a significant financial interest in the lottery;

(3) a person that owns more than a 10 percent interest in an entity that has a significant financial interest in the lottery;

(4) a political committee that is directly established, administered, or controlled, in whole or in part, by a person that has a significant financial interest in the lottery; or

(5) a person who, within the two years preceding the date of the gift or contribution, won a lottery prize exceeding $600 in

amount or value.

(b) A person may not make a gift or political contribution to a person known by the actor to be a former commission member, former executive director, or former employee of the commission, if the actor:

(1) has a significant financial interest in the lottery;

(2) is related in the first degree of consanguinity or affinity to a person that has a significant financial interest in the lottery;

(3) owns more than a 10 percent interest in an entity that has a significant financial interest in the lottery;

(4) is a political committee that is directly established, administered, or controlled, in whole or in part, by a person that has a significant financial interest in the lottery; or

(5) within the two years preceding the date of the gift or contribution, won a lottery prize exceeding $600 in amount or value.

(c) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

Added by Acts 1997, 75th Leg., ch. 1441, Sec. 3, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.108. REPRESENTATION BY FORMER OFFICER OR EMPLOYEE. (a) A former commission member, former executive director, or former director may not:

(1) for compensation, represent a person that has made or intends to make a bid to operate the lottery before the commission before the second anniversary of the date that the person's service in office or employment with the commission ceases;

(2) represent any person or receive compensation for services rendered on behalf of any person regarding a particular matter in which the former officer or employee participated during the period of service or employment with the commission, either through personal involvement or because the matter was within the scope of the officer's or employee's official responsibility; or

(3) for compensation communicate directly with a member of the legislative branch to influence legislation on behalf of a person

that has a significant financial interest in the lottery, before the second anniversary of the date that the person's service in office or employment with the commission ceases.

(b) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

Added by Acts 1997, 75th Leg., ch. 1441, Sec. 4, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.109. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Added by Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 17, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.110. PUBLIC PARTICIPATION. The commission shall

develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

Added by Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 17, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 467.111. COMPLAINTS. (a) The commission shall maintain a system to promptly and efficiently act on each complaint filed with the commission. The commission shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The commission shall make information available to the public describing the commission's procedures for complaint investigation and resolution.

(c) The commission shall periodically notify the complaint parties of the status of the complaint until final disposition.

(d) The commission by rule shall adopt and publish procedures governing the entire complaint process from submission to disposition.

(e) The commission shall analyze the complaints filed with the commission to identify any trends or issues related to violations of state laws under the commission's jurisdiction. The analysis must:

(1) categorize complaints based on the type of violation alleged;

(2) track each complaint from submission to disposition;

(3) evaluate the effectiveness of the commission's enforcement process; and

(4) include any additional information the commission considers necessary.

(f) The commission shall prepare a report on the trends and issues identified under Subsection (e) and make the report available to the public. The commission shall address the identified trends and issues, including trends and issues related to the regulation of lottery operations under Chapter 466 and of bingo under Chapter 2001,

Occupations Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 17, eff. September 1, 2013.

CHAPTER 468. STATE DEMOGRAPHER

Sec. 468.001. DEFINITION. In this section, "state agency" means a department, commission, board, office, or other agency in the executive branch of state government, including a university system or institution of higher education as defined by Section 61.003, Education Code.

Added by Acts 2001, 77th Leg., ch. 245, Sec. 1, eff. Sept. 1, 2001.

Sec. 468.002. DESIGNATION OF STATE DEMOGRAPHER. (a) The governor shall appoint an employee or officer of a state agency as the state demographer from a list submitted by the speaker of the house of representatives and the lieutenant governor.

(b) To be eligible for designation as state demographer, a person must have:

(1) a graduate degree with specialization in demography or a closely related field of study; and

(2) extensive experience in employing demographic and related socioeconomic data for use by legislative, public, and private entities.

Added by Acts 2001, 77th Leg., ch. 245, Sec. 1, eff. Sept. 1, 2001.

Sec. 468.003. PERSONNEL AND FACILITIES. (a) The state agency that employs the person designated as the state demographer shall provide:

(1) staff necessary for the state demographer to perform the demographer's duties; and

(2) the main office for the state demographer.

(b) The Texas Legislative Council shall provide office space and other support in Austin necessary for the state demographer to perform the demographer's duties for the legislature.

Added by Acts 2001, 77th Leg., ch. 245, Sec. 1, eff. Sept. 1, 2001.

Sec. 468.004. POWERS AND DUTIES.The state demographer shall:

(1) disseminate demographic and related socioeconomic data to the public, with emphasis on data that may be useful to public policymakers;

(2) provide annual population estimates for all counties and municipalities in the state;

(3) provide biennial population projections for the state and all counties of the state;

(4) adhere to current standards of practice when determining which racial/ethnic groups to include in estimates and projections;

(5) provide information by request which justifies the omission of any particular racial/ethnic group from estimates and projections, including limitations of data and methodology;

(6) provide information to the legislature relating to the impact that demographic and socioeconomic changes in the population of the state have on the demand for state services; and

(7) evaluate the type and quality of data needed to:

(A) adequately monitor demographic and socioeconomic changes in the population of the state; and

(B) assess the effectiveness of delivery of state services.

Added by Acts 2001, 77th Leg., ch. 245, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 569 (H.B. 3255), Sec. 1, eff. June 17, 2011.

Sec. 468.005. ADMINISTRATOR OF THE UNITED STATES BUREAU OF THE CENSUS FEDERAL-STATE COOPERATIVE. The state agency that employs the state demographer shall serve as the official cognizant administrator for the State of Texas of the United States Bureau of the Census federal-state cooperative program for population estimates and the federal-state cooperative program for population projections and as coordinating agency for the State Data Center program.

Added by Acts 1993, 73rd Leg., ch. 529, Sec. 1, eff. June 8, 1993.

Renumbered from Education Code Sec. 88.214 and amended by Acts 2001, 77th Leg., ch. 245, Sec. 2, eff. Sept. 1, 2001.

CHAPTER 469. ELIMINATION OF ARCHITECTURAL BARRIERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 469.001. SCOPE OF CHAPTER; PUBLIC POLICY. (a) The intent of this chapter is to ensure that each building and facility subject to this chapter is accessible to and functional for persons with disabilities without causing the loss of function, space, or facilities.

(b) This chapter relates to nonambulatory and semiambulatory disabilities, sight disabilities, hearing disabilities, disabilities of coordination, and aging.

(c) This chapter is intended to further the policy of this state to encourage and promote the rehabilitation of persons with disabilities and to eliminate, to the extent possible, unnecessary barriers encountered by persons with disabilities whose ability to engage in gainful occupations or to achieve maximum personal independence is needlessly restricted.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Sec. 469.002. DEFINITIONS. In this chapter:

(1) "Architect" means a person registered as an architect under Chapter 1051, Occupations Code.

(2) "Commission" means the Texas Commission of Licensing and Regulation.

(3) "Department" means the Texas Department of Licensing and Regulation.

(4) "Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more major life activities.

(5) "Engineer" means a person licensed as an engineer under Chapter 1001, Occupations Code.

(6) "Executive director" means the executive director of the department.

(7) "Interior designer" means a person registered as an

interior designer under Chapter 1053, Occupations Code.

(8) "Landscape architect" means a person registered as a landscape architect under Chapter 1052, Occupations Code.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Sec. 469.003. APPLICABILITY OF STANDARDS. (a) The standards adopted under this chapter apply to:

(1) a building or facility used by the public that is constructed, renovated, or modified, in whole or in part, on or after January 1, 1970, using funds from the state or a county, municipality, or other political subdivision of the state;

(2) a building or facility described by this subsection or Subsection (b) that is constructed on a temporary or emergency basis;

(3) a building leased for use or occupied, in whole or in part, by the state under a lease or rental agreement entered into on or after January 1, 1972;

(4) a privately funded building or facility that is defined as a "public accommodation" by Section 301, Americans with Disabilities Act of 1990 (42 U.S.C. Section 12181), and its subsequent amendments, and that is constructed, renovated, or modified on or after January 1, 1992; and

(5) a privately funded building or facility that is defined as a "commercial facility" by Section 301, Americans with Disabilities Act of 1990 (42 U.S.C. Section 12181), and its subsequent amendments, and that is constructed, renovated, or modified on or after September 1, 1993.

(b) To the extent there is not a conflict with federal law and it is not beyond the state's regulatory power, the standards adopted under this chapter apply to a building or facility constructed in this state or leased or rented for use by the state using federal money.

(c) The standards adopted under this chapter do not apply to a place used primarily for religious rituals within a building or facility of a religious organization.

(d) If any portion of a building described by Subsection (a)(1) is occupied solely for residential use and the remaining occupied portion of the building is occupied for nonresidential use, the

executive director shall consider only the nonresidential portion of the building in determining whether the building complies with the standards and specifications adopted under this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 8.004, eff. September 1, 2005.

Sec. 469.004. APPLICABILITY OF OTHER LAW. Section 51.4041, Occupations Code, does not apply to this chapter.

Added by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 8.005, eff. September 1, 2005.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 586 (H.B. 3742), Sec. 2, eff. September 1, 2015.

SUBCHAPTER B. ADMINISTRATION AND ENFORCEMENT

Sec. 469.051. ADMINISTRATION AND ENFORCEMENT; ASSISTANCE OF OTHER AGENCIES. (a) The commission shall administer and enforce this chapter. The appropriate state rehabilitation agencies and the Governor's Committee on People with Disabilities shall assist the commission in the administration and enforcement of this chapter.

(b) In enforcing this chapter, the commission is entitled to the assistance of all appropriate elective or appointive state officials.

(c) The commission has all necessary powers to require compliance with the rules adopted under this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Sec. 469.052. ADOPTION OF STANDARDS AND SPECIFICATIONS; RULEMAKING. (a) The commission shall adopt standards, specifications, and other rules under this chapter that are consistent with standards, specifications, and other rules adopted

under federal law.

(b) The standards and specifications adopted by the commission under this chapter must be consistent in effect with the standards and specifications adopted by the American National Standards Institute or that entity's federally recognized successor in function.

(b-1) Subject to Subsection (b), the standards and specifications adopted by the commission under this chapter must provide that:

(1) if an accessible parking space provided in accordance with a requirement of the standards and specifications is paved:

(A) the international symbol of access must be painted on the parking space; and

(B) the words "NO PARKING" must be painted on any access aisle adjacent to the parking space; and

(2) a sign identifying an accessible parking space provided in accordance with a requirement of the standards and specifications must include a statement regarding the potential consequences of illegally parking a vehicle in the space, including the towing of the vehicle or the assessment of a fine or other penalty against the vehicle owner or operator.

(c) The department shall publish the standards and specifications in a readily accessible form for use by interested parties.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1159 (H.B. 3163), Sec. 1, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2075, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 469.053. ADVISORY COMMITTEE; REVIEW OF AND COMMENT ON RULES. (a) The presiding officer of the commission, with the commission's approval, shall appoint an advisory committee for the architectural barriers program. The committee shall consist of building professionals and persons with disabilities who are familiar

with architectural barrier problems and solutions. The committee shall consist of at least eight members. A majority of the members of the committee must be persons with disabilities.

(b) A committee member serves at the will of the presiding officer of the commission.

(c) A committee member may not receive compensation for service on the committee but is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member.

(d) The presiding officer of the commission, with the commission's approval, shall appoint a committee member as presiding officer for two years.

(e) Repealed by Acts 2021, 87th Leg., R.S., Ch. 663 (H.B. 1560), Sec. 1.25(2), eff. September 1, 2021.

(f) The committee periodically shall review the rules relating to the architectural barriers program and recommend changes in the rules to the commission.

(g) The commission must submit all proposed changes to any rule or procedure that relates to the architectural barriers program to the committee for review and comment before adopting or implementing the new or amended rule or procedure.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 8.006, eff. September 1, 2005.

Acts 2021, 87th Leg., R.S., Ch. 663 (H.B. 1560), Sec. 1.25(2), eff. September 1, 2021.

Sec. 469.054. FEES IN GENERAL. (a) The commission shall adopt fees in accordance with Section 51.202, Occupations Code, for performing the commission's functions under this chapter.

(b) The owner of a building or facility is responsible for paying a fee charged by the commission for performing a function under this chapter related to the building or facility.

(c) The commission may charge a fee for:

(1) the review of the plans or specifications of a building or facility;

(2) the inspection of a building or facility; and

(3) the processing of an application for a variance from accessibility standards for a building or facility.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Sec. 469.055. CONTRACT TO PERFORM REVIEW AND INSPECTION. The commission may contract with other state agencies and political subdivisions to perform the commission's review and inspection functions.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Sec. 469.056. INTERAGENCY CONTRACTS. A state agency that extends direct services to persons with disabilities may enter into an interagency contract with the department to provide additional funding required to ensure that the service objectives and responsibilities of the agency are achieved through the administration of this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Sec. 469.057. DUTY TO INFORM ABOUT LAW. (a) The department periodically shall inform professional organizations and others, including persons with disabilities, architects, engineers, and other building professionals, of this chapter and its application.

(b) Information about the architectural barriers program disseminated by the department must include:

(1) the type of buildings and leases subject to this chapter;

(2) the procedures for submitting plans and specifications for review;

(3) complaint procedures; and

(4) the address and telephone number of the department's program under this chapter.

(c) The department may enter into cooperative agreements to

integrate information about the architectural barriers program with information produced or distributed by other public entities or by private entities.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Sec. 469.058. ADMINISTRATIVE PENALTY. (a) The commission or executive director may impose an administrative penalty under Subchapter F, Chapter 51, Occupations Code, on a building owner for a violation of this chapter or a rule adopted under this chapter.

(b) Each day that a violation is not corrected is a separate violation.

(c) Repealed by Acts 2023, 88th Leg., R.S., Ch. 953 (S.B. 1802), Sec. 3, eff. September 1, 2023.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 953 (S.B. 1802), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 953 (S.B. 1802), Sec. 3, eff. September 1, 2023.

Sec. 469.059. COMPLAINTS. (a) The department shall continue to monitor a complaint made under Section 51.252, Occupations Code, that alleges that a building or facility is not in compliance with the standards and specifications adopted by the commission under this chapter until the department determines that:

(1) the building or facility has been brought into compliance; or

(2) the building or facility is not required to be brought into compliance because of a rule or statute, including Section 469.151.

(b) If the building or facility is not required to be brought into compliance, the department shall, on final disposition of the complaint, notify in writing the person filing the complaint that the building or facility is not required to be brought into compliance because of a rule or statute and provide a reference to the rule or

statute.

(c) Repealed by Acts 2023, 88th Leg., R.S., Ch. 953 (S.B. 1802), Sec. 3, eff. September 1, 2023.

Added by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 8.007, eff. September 1, 2005.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 953 (S.B. 1802), Sec. 3, eff. September 1, 2023.

SUBCHAPTER C. REVIEW AND APPROVAL REQUIRED FOR CERTAIN PLANS AND SPECIFICATIONS

Sec. 469.101. SUBMISSION FOR REVIEW AND APPROVAL REQUIRED. All plans and specifications for the construction of or for the substantial renovation or modification of a building or facility must be submitted to the department for review and approval if:

(1) the building or facility is subject to this chapter; and

(2) the estimated construction cost is at least $50,000.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Sec. 469.102. PROCEDURE FOR SUBMITTING PLANS AND SPECIFICATIONS. (a) The architect, interior designer, landscape architect, or engineer who has overall responsibility for the design of a constructed or reconstructed building or facility shall submit the plans and specifications required under Section 469.101.

(b) The person shall submit the plans and specifications not later than the 20th day after the date the person issues the plans and specifications. If plans and specifications are issued on more than one date, the person shall submit the plans and specifications not later than the 20th day after each date the plans and specifications are issued. In computing time under this subsection, a Saturday, Sunday, or legal holiday is not included.

(c) The owner of the building or facility may not allow an application to be filed with a local governmental entity for a building construction permit related to the plans and specifications or allow construction, renovation, or modification of the building or

facility to begin before the date the plans and specifications are submitted to the department. On application to a local governmental entity for a building construction permit, the owner shall submit to the entity proof that the plans and specifications have been submitted to the department under this chapter.

(d) A public official of a political subdivision who is legally authorized to issue building construction permits may not accept an application for a building construction permit for a building or facility subject to Section 469.101 unless the official verifies that the building or facility has been registered with the department as provided by rule.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 342 (H.B. 1055), Sec. 1, eff. September 1, 2009.

Sec. 469.103. MODIFICATION OF APPROVED PLANS AND SPECIFICATIONS. Approved plans and specifications to which any substantial modification is made shall be resubmitted to the department for review and approval.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Sec. 469.104. FAILURE TO SUBMIT PLANS AND SPECIFICATIONS. The commission shall report to the Texas Board of Architectural Examiners, the Texas Board of Professional Engineers and Land Surveyors, or another appropriate licensing authority the failure of any architect, interior designer, landscape architect, or engineer to submit or resubmit in a timely manner plans and specifications to the department as required by this subchapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1232 (H.B. 1523), Sec. 2.03, eff. September 1, 2019.

Sec. 469.105. INSPECTION OF BUILDING OR FACILITY. (a) The owner of a building or facility described by Section 469.101 is responsible for having the building or facility inspected for compliance with the standards and specifications adopted by the commission under this chapter not later than the first anniversary of the date the construction or substantial renovation or modification of the building or facility is completed.

(b) The inspection must be performed by:

(1) the department;

(2) an entity with which the commission contracts under Section 469.055; or

(3) a person who holds a certificate of registration under Subchapter E.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Sec. 469.106. BUILDINGS AND FACILITIES USED TO PROVIDE DIRECT SERVICES TO PERSONS WITH MOBILITY IMPAIRMENTS; STATE LEASES. (a) Notwithstanding any other provision of this chapter, the commission shall require complete compliance with the standards and specifications adopted by the commission under this chapter that apply specifically to a building or facility occupied by a state agency involved in extending direct services to persons with mobility impairments. Those standards and specifications also apply to a building or facility occupied by the Health and Human Services Commission.

(b) The department and the Texas Facilities Commission shall ensure compliance with the standards and specifications described by Subsection (a) for a building or facility described by Subsection (a) and leased for an annual amount of more than $12,000 or built by or for the state.

(c) Before a building or facility to be leased by the state for an annual amount of more than $12,000 is occupied in whole or in part by the state, a person described by Section 469.105(b) must perform an on-site inspection of the building or facility to determine whether it complies with all accessibility standards and

specifications adopted under this chapter.

(d) If an inspection under Subsection (c) determines that a building or facility does not comply with all applicable standards and specifications, the leasing agency or the Texas Facilities Commission, as applicable, shall cancel the lease unless the lessor brings the building or facility into compliance not later than:

(1) the 60th day after the date the person performing the inspection delivers the results of the inspection to the lessor or the lessor's agent; or

(2) a later date established by the commission if circumstances justify a later date.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 3, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 953 (S.B. 1802), Sec. 2, eff. September 1, 2023.

Sec. 469.107. REVIEW OF PLANS AND SPECIFICATIONS FOR STRUCTURES NOT SUBJECT TO CHAPTER. The commission may:

(1) review plans and specifications and make inspections of a structure not otherwise subject to this chapter; and

(2) issue a certification that a structure not otherwise subject to this chapter is free of architectural barriers and in compliance with this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

SUBCHAPTER D. WAIVER OR MODIFICATION OF ACCESSIBILITY STANDARDS

Sec. 469.151. WAIVER OR MODIFICATION PERMITTED. (a) The commission may waive or modify accessibility standards adopted under this chapter if:

(1) the commission considers the application of the standards to be irrelevant to the nature, use, or function of a building or facility subject to this chapter; or

(2) the owner of the building or facility for which a

request for a waiver or modification is made, or the owner's designated agent, presents proof to the commission that compliance with a specific standard is impractical.

(b) If a request is made for waiver or modification of an accessibility standard with respect to a building described by Section 469.003(a)(3) or a building or facility leased or rented for use by the state through the use of federal money, the owner of the building or facility, or the owner's designated agent, must present to the commission the proof required by Subsection (a)(2).

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Sec. 469.152. WAIVER OR MODIFICATION PROHIBITED. The commission may not waive or modify a standard or specification if:

(1) the waiver or modification would significantly impair the acquisition of goods and services by persons with disabilities or substantially reduce the potential for employment of persons with disabilities;

(2) the commission knows that the waiver or modification would result in a violation of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) and its subsequent amendments; or

(3) the proof presented to the commission under Section 469.151(a)(2) is not adequate.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Sec. 469.153. MAINTENANCE OF CERTAIN INFORMATION. All evidence supporting a waiver or modification determination by the commission is a matter of public record and shall be made part of the file system maintained by the department.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

SUBCHAPTER E. REGISTRATION TO PERFORM REVIEWS OR INSPECTIONS

Sec. 469.201. CERTIFICATE OF REGISTRATION REQUIRED. (a) A person may not perform a review or inspection function of the commission on behalf of the owner of a building or facility unless the person holds a certificate of registration issued under this subchapter.

(b) This section does not apply to an employee of:

(1) the department; or

(2) an entity with which the commission contracts under Section 469.055.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Sec. 469.202. FEES RELATED TO CERTIFICATE OF REGISTRATION. The commission may charge a fee for:

(1) an application for a certificate of registration;

(2) an examination for a certificate of registration;

(3) an educational course required for eligibility for a certificate of registration;

(4) issuance of an original certificate of registration;

(5) a continuing education course required to renew a certificate of registration; and

(6) renewal of a certificate of registration.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Sec. 469.203. APPLICATION AND ELIGIBILITY. (a) An applicant for a certificate of registration must file with the commission an application on a form prescribed by the executive director.

(b) To be eligible for a certificate of registration, an applicant must satisfy any requirements adopted by the commission by rule, including education and examination requirements.

(c) The executive director may recognize, prepare, or administer educational courses required for obtaining a certificate of registration.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Amended by:
Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 8.008, eff. September 1, 2005.

Sec. 469.204. EXAMINATION. (a) The executive director may administer separate examinations for applicants for certificates of registration to perform review functions, inspection functions, or both review and inspection functions.
(b) Repealed by Acts 2005, 79th Leg., Ch. 728, Sec. 8.011, eff. September 1, 2005.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 8.011, eff. September 1, 2005.

Sec. 469.205. ISSUANCE OF CERTIFICATE. (a) The executive director shall issue an appropriate certificate of registration to an applicant who meets the requirements for a certificate.
(b) The executive director may issue a certificate of registration to perform review functions of the commission, inspection functions of the commission, or both review and inspection functions.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Sec. 469.206. CERTIFICATE TERM. The commission by rule shall specify the term of a certificate of registration.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 8.009, eff. September 1, 2005.

Sec. 469.208. PERFORMANCE OF REVIEWS AND INSPECTIONS. (a) A certificate holder shall perform a review or inspection function of the commission in a competent and professional manner and in compliance with:

(1) standards and specifications adopted by the commission under this chapter; and

(2) rules adopted by the commission under this chapter.

(b) A certificate holder may not engage in false or misleading advertising in connection with the performance of review or inspection functions of the commission.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 8.010, eff. September 1, 2005.

CHAPTER 470. ADVISORY COUNCIL ON CULTURAL AFFAIRS

Sec. 470.001. DEFINITIONS. In this chapter:

(1) "Council" means the Advisory Council on Cultural Affairs.

(2) "State agency" includes an institution of higher education as defined by Section 61.003, Education Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 947 (S.B. 459), Sec. 1, eff. September 1, 2015.

Sec. 470.002. ESTABLISHMENT. The Advisory Council on Cultural Affairs is established in the office of the governor to advise the office on setting policy priorities that address and raise public awareness of major issues affecting this state due to the rapid growth of the state's Hispanic population and other issues resulting from changes in demographics in this state as determined by the governor.

Added by Acts 2015, 84th Leg., R.S., Ch. 947 (S.B. 459), Sec. 1, eff. September 1, 2015.

Sec. 470.003. COMPOSITION; TERMS. (a) The council is composed of nine members appointed as follows:

(1) one ex officio member of the legislature appointed by the speaker of the house of representatives;

(2) one ex officio member of the legislature appointed by the lieutenant governor; and

(3) seven members appointed by the governor.

(b) Members appointed by the speaker of the house and the lieutenant governor serve two-year terms. Members appointed by the governor serve four-year staggered terms, with either three or four members' terms expiring February 1 of each odd-numbered year.

(c) In making appointments to the council, the appointing officials shall attempt to achieve representation of all areas of the state.

(d) The governor shall designate the chair and vice chair of the council from among the members of the council.

Added by Acts 2015, 84th Leg., R.S., Ch. 947 (S.B. 459), Sec. 1, eff. September 1, 2015.

Sec. 470.004. MEETINGS. The council shall meet at least quarterly each fiscal year. The council may hold meetings by conference call.

Added by Acts 2015, 84th Leg., R.S., Ch. 947 (S.B. 459), Sec. 1, eff. September 1, 2015.

Sec. 470.005. COMPENSATION. A member of the council is not entitled to compensation or reimbursement of expenses incurred in performing council duties.

Added by Acts 2015, 84th Leg., R.S., Ch. 947 (S.B. 459), Sec. 1, eff. September 1, 2015.

Sec. 470.006. DUTIES. The council shall study and make recommendations relating to the effect of the changing demographics of this state on the following areas, as they relate to this state:

(1) the economy;

(2) the workplace;
(3) educational attainment;
(4) health;
(5) veterans affairs; and
(6) political leadership.

Added by Acts 2015, 84th Leg., R.S., Ch. 947 (S.B. 459), Sec. 1, eff. September 1, 2015.

Sec. 470.007. RECOMMENDATIONS. The council shall submit a report of the council's recommendations to the governor, lieutenant governor, and speaker of the house of representatives not later than October 1 of each even-numbered year.

Added by Acts 2015, 84th Leg., R.S., Ch. 947 (S.B. 459), Sec. 1, eff. September 1, 2015.

Sec. 470.008. EXEMPTION. Chapter 2110 does not apply to the council.

Added by Acts 2015, 84th Leg., R.S., Ch. 947 (S.B. 459), Sec. 1, eff. September 1, 2015.

Sec. 470.009. ASSISTANCE OF STATE AGENCIES. State agencies and political subdivisions of this state shall cooperate with the council to the greatest extent practicable to fully implement the council's statutory duties.

Added by Acts 2015, 84th Leg., R.S., Ch. 947 (S.B. 459), Sec. 1, eff. September 1, 2015.

CHAPTER 472. SELF-DIRECTED SEMI-INDEPENDENT AGENCIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 472.001. APPLICABILITY OF CHAPTER. This chapter applies to:

(1) the Texas State Board of Public Accountancy;
(2) the Texas Board of Professional Engineers and Land

Surveyors; and

(3) the Texas Board of Architectural Examiners.

Added by Acts 1999, 76th Leg., ch. 1552, Sec. 2, eff. Sept. 1, 1999. Sec. 14 amended by Acts 2001, 77th Leg., ch. 939, Sec. 1, eff. Sept. 1, 2001; Sec. 15(b) amended by Acts 2001, 77th Leg., ch. 939, Sec. 2, eff. Sept. 1, 2001; Sec. 4(a) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 4(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 6(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 2, eff. Sept. 1, 2003; Sec. 14(c) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 14(d) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 18 added by Acts 2003, 78th Leg., ch. 367, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 4.09, eff. June 15, 2007.

Transferred, redesignated and amended from Vernon's Civil Statutes, Art/Sec 8930 by Acts 2013, 83rd Leg., R.S., Ch. 150 (H.B. 1685), Sec. 1, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1232 (H.B. 1523), Sec. 2.04, eff. September 1, 2019.

Sec. 472.002. DEFINITION. In this chapter, "agency" means an agency listed in Section 472.001.

Added by Acts 1999, 76th Leg., ch. 1552, Sec. 2, eff. Sept. 1, 1999. Sec. 14 amended by Acts 2001, 77th Leg., ch. 939, Sec. 1, eff. Sept. 1, 2001; Sec. 15(b) amended by Acts 2001, 77th Leg., ch. 939, Sec. 2, eff. Sept. 1, 2001; Sec. 4(a) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 4(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 6(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 2, eff. Sept. 1, 2003; Sec. 14(c) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 14(d) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 18 added by Acts 2003, 78th Leg., ch. 367, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 4.09, eff.

June 15, 2007.
Transferred, redesignated and amended from Vernon's Civil Statutes, Art/Sec 8930 by Acts 2013, 83rd Leg., R.S., Ch. 150 (H.B. 1685), Sec. 1, eff. September 1, 2013.

SUBCHAPTER B. STATUS OF AGENCIES

Sec. 472.051. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS OF AGENCIES. (a) Each agency is self-directed and semi-independent as specified in this chapter.

(b) Each agency is a state agency, as that term is defined in Section 2001.003(7).

(b-1) Except as otherwise provided by this chapter, each agency is subject to a provision of law that applies to state agencies, including:

(1) state purchasing requirements under Subtitle D, Title 10;

(2) interagency transfer voucher requirements under Section 2155.327;

(3) travel requirements under Chapters 2171 and 2205, using amounts provided by the General Appropriations Act to guide travel reimbursement rates; and

(4) prompt payment requirements under Chapter 2251.

(c) The Sunset Advisory Commission shall examine each agency's performance as a self-directed and semi-independent agency and the agency's compliance with this chapter as part of the commission's periodic review of the agency under Chapter 325 (Texas Sunset Act).

(d) Each agency shall pay the cost incurred by the Sunset Advisory Commission in performing a review of the agency under the agency's enabling legislation. The Sunset Advisory Commission shall determine the cost, and the agency shall pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

Added by Acts 1999, 76th Leg., ch. 1552, Sec. 2, eff. Sept. 1, 1999. Sec. 14 amended by Acts 2001, 77th Leg., ch. 939, Sec. 1, eff. Sept. 1, 2001; Sec. 15(b) amended by Acts 2001, 77th Leg., ch. 939, Sec. 2, eff. Sept. 1, 2001; Sec. 4(a) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 4(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 6(c) amended by

Acts 2003, 78th Leg., ch. 367, Sec. 2, eff. Sept. 1, 2003; Sec. 14(c) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 14(d) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 18 added by Acts 2003, 78th Leg., ch. 367, Sec. 4, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 4.09, eff. June 15, 2007.
Transferred, redesignated and amended from Vernon's Civil Statutes, Art/Sec 8930 by Acts 2013, 83rd Leg., R.S., Ch. 150 (H.B. 1685), Sec. 1, eff. September 1, 2013.

SUBCHAPTER C. POWERS AND DUTIES OF AGENCIES

Sec. 472.101. GENERAL DUTIES OF ALL AGENCIES. In addition to the duties enumerated in the enabling legislation specifically applicable to each agency, each agency shall have the duties prescribed by Sections 472.102 through 472.105.

Added by Acts 1999, 76th Leg., ch. 1552, Sec. 2, eff. Sept. 1, 1999. Sec. 14 amended by Acts 2001, 77th Leg., ch. 939, Sec. 1, eff. Sept. 1, 2001; Sec. 15(b) amended by Acts 2001, 77th Leg., ch. 939, Sec. 2, eff. Sept. 1, 2001; Sec. 4(a) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 4(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 6(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 2, eff. Sept. 1, 2003; Sec. 14(c) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 14(d) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 18 added by Acts 2003, 78th Leg., ch. 367, Sec. 4, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 4.09, eff. June 15, 2007.
Transferred, redesignated and amended from Vernon's Civil Statutes, Art/Sec 8930 by Acts 2013, 83rd Leg., R.S., Ch. 150 (H.B. 1685), Sec. 1, eff. September 1, 2013.

Sec. 472.102. BUDGET. (a) An agency shall adopt a budget annually using generally accepted accounting principles. The budget

shall be reviewed and approved only by the agency's governing board notwithstanding any other provision of law, including the General Appropriations Act. No costs shall be incurred by the general revenue fund. An agency shall be responsible for all costs, both direct and indirect.

(b) An agency shall keep financial and statistical information as necessary to disclose completely and accurately the financial condition and operation of the agency.

(c) The Texas State Board of Public Accountancy shall annually remit $703,344 to the general revenue fund, the Texas Board of Professional Engineers and Land Surveyors shall annually remit $373,900 to the general revenue fund, and the Texas Board of Architectural Examiners shall annually remit $510,000 to the general revenue fund.

Added by Acts 1999, 76th Leg., ch. 1552, Sec. 2, eff. Sept. 1, 1999. Sec. 14 amended by Acts 2001, 77th Leg., ch. 939, Sec. 1, eff. Sept. 1, 2001; Sec. 15(b) amended by Acts 2001, 77th Leg., ch. 939, Sec. 2, eff. Sept. 1, 2001; Sec. 4(a) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 4(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 6(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 2, eff. Sept. 1, 2003; Sec. 14(c) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 14(d) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 18 added by Acts 2003, 78th Leg., ch. 367, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 4.09, eff. June 15, 2007.

Transferred, redesignated and amended from Vernon's Civil Statutes, Art/Sec 8930 by Acts 2013, 83rd Leg., R.S., Ch. 150 (H.B. 1685), Sec. 1, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1232 (H.B. 1523), Sec. 2.05, eff. September 1, 2019.

Sec. 472.103. AUDITS. Nothing in this chapter shall affect the duty of the state auditor to audit an agency. The state auditor shall enter into a contract and schedule with each agency to conduct

audits, including financial reports and performance audits. Costs incurred in performing such audits shall be reimbursed by the agency.

Added by Acts 1999, 76th Leg., ch. 1552, Sec. 2, eff. Sept. 1, 1999. Sec. 14 amended by Acts 2001, 77th Leg., ch. 939, Sec. 1, eff. Sept. 1, 2001; Sec. 15(b) amended by Acts 2001, 77th Leg., ch. 939, Sec. 2, eff. Sept. 1, 2001; Sec. 4(a) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 4(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 6(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 2, eff. Sept. 1, 2003; Sec. 14(c) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 14(d) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 18 added by Acts 2003, 78th Leg., ch. 367, Sec. 4, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 4.09, eff. June 15, 2007.
Transferred, redesignated and amended from Vernon's Civil Statutes, Art/Sec 8930 by Acts 2013, 83rd Leg., R.S., Ch. 150 (H.B. 1685), Sec. 1, eff. September 1, 2013.

Sec. 472.104. REPORTING REQUIREMENTS. (a) An agency shall submit to the legislature and the governor by the first day of the regular session of the legislature a report describing all of the agency's activities in the previous biennium. The report shall include:

(1) an audit required by Section 472.103;

(2) a financial report of the previous fiscal year;

(3) a description of any changes in licensing fees;

(4) a report on the number of examination candidates, licensees, certificate holders, and enforcement activities and any changes in those figures; and

(5) a description of all new rules adopted or repealed.

(b) In addition to the reporting requirements of Subsection (a), each agency shall report annually, not later than November 1, to the governor, to the committee of each house of the legislature that has jurisdiction over appropriations, and to the Legislative Budget Board the following:

(1) the salary for all agency personnel and the total

amount of per diem expenses and travel expenses paid for all agency employees, including trend performance data for the preceding five fiscal years;

(2) the total amount of per diem expenses and travel expenses paid for each member of the governing body of each agency, including trend performance data for the preceding five fiscal years;

(3) each agency's operating plan covering a period of two fiscal years;

(4) each agency's operating budget, including revenues and a breakdown of expenditures by program and administrative expenses, showing:

(A) projected budget data for a period of two fiscal years; and

(B) trend performance data for the preceding five fiscal years; and

(5) trend performance data for the preceding five fiscal years regarding:

(A) the number of full-time equivalent positions at the agency;

(B) the number of complaints received from the public and the number of complaints initiated by agency staff;

(C) the number of complaints dismissed and the number of complaints resolved by enforcement action;

(D) the number of enforcement actions by sanction type;

(E) the number of enforcement cases closed through voluntary compliance;

(F) the amount of administrative penalties assessed and the rate of collection of assessed administrative penalties;

(G) the number of enforcement cases that allege a threat to public health, safety, or welfare or a violation of professional standards of care and the disposition of those cases;

(H) the average time to resolve a complaint;

(I) the number of license holders or regulated persons broken down by type of license and license status, including inactive status or retired status;

(J) the fee charged to issue and renew each type of license, certificate, permit, or other similar authorization issued by the agency;

(K) the average time to issue a license;

(L) litigation costs, broken down by administrative

hearings, judicial proceedings, and outside counsel costs; and

(M) reserve fund balances.

Added by Acts 1999, 76th Leg., ch. 1552, Sec. 2, eff. Sept. 1, 1999. Sec. 14 amended by Acts 2001, 77th Leg., ch. 939, Sec. 1, eff. Sept. 1, 2001; Sec. 15(b) amended by Acts 2001, 77th Leg., ch. 939, Sec. 2, eff. Sept. 1, 2001; Sec. 4(a) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 4(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 6(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 2, eff. Sept. 1, 2003; Sec. 14(c) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 14(d) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 18 added by Acts 2003, 78th Leg., ch. 367, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 4.09, eff. June 15, 2007.

Transferred, redesignated and amended from Vernon's Civil Statutes, Art/Sec 8930 by Acts 2013, 83rd Leg., R.S., Ch. 150 (H.B. 1685), Sec. 1, eff. September 1, 2013.

Sec. 472.105. DISPOSITION OF FEES COLLECTED. If provided in an agency's enabling legislation, the agency shall collect a professional fee of $200 from its license holders annually, which shall be remitted to the state. If provided in an agency's enabling legislation, the agency shall collect a scholarship fee of $10 annually from its license holders.

Added by Acts 1999, 76th Leg., ch. 1552, Sec. 2, eff. Sept. 1, 1999. Sec. 14 amended by Acts 2001, 77th Leg., ch. 939, Sec. 1, eff. Sept. 1, 2001; Sec. 15(b) amended by Acts 2001, 77th Leg., ch. 939, Sec. 2, eff. Sept. 1, 2001; Sec. 4(a) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 4(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 6(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 2, eff. Sept. 1, 2003; Sec. 14(c) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 14(d) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 18 added by Acts 2003, 78th Leg., ch. 367, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 4.09, eff. June 15, 2007.
Transferred, redesignated and amended from Vernon's Civil Statutes, Art/Sec 8930 by Acts 2013, 83rd Leg., R.S., Ch. 150 (H.B. 1685), Sec. 1, eff. September 1, 2013.

Sec. 472.106. GENERAL POWERS OF ALL AGENCIES. In addition to the powers enumerated in each agency's enabling legislation, each agency shall have the powers described in Sections 472.107 through 472.110.

Added by Acts 1999, 76th Leg., ch. 1552, Sec. 2, eff. Sept. 1, 1999. Sec. 14 amended by Acts 2001, 77th Leg., ch. 939, Sec. 1, eff. Sept. 1, 2001; Sec. 15(b) amended by Acts 2001, 77th Leg., ch. 939, Sec. 2, eff. Sept. 1, 2001; Sec. 4(a) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 4(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 6(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 2, eff. Sept. 1, 2003; Sec. 14(c) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 14(d) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 18 added by Acts 2003, 78th Leg., ch. 367, Sec. 4, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 4.09, eff. June 15, 2007.
Transferred, redesignated and amended from Vernon's Civil Statutes, Art/Sec 8930 by Acts 2013, 83rd Leg., R.S., Ch. 150 (H.B. 1685), Sec. 1, eff. September 1, 2013.

Sec. 472.107. ABILITY TO CONTRACT. To carry out and promote the objectives of this chapter, an agency may enter into contracts and do all other acts incidental to those contracts that are necessary for the administration of its affairs and for the attainment of its purposes. Any indebtedness, liability, or obligation of the agency shall not:

(1) create a debt or other liability of the state or any other entity other than the agency; or

(2) create any personal liability on the part of the

members of the board of the agency or its employees.

Added by Acts 1999, 76th Leg., ch. 1552, Sec. 2, eff. Sept. 1, 1999. Sec. 14 amended by Acts 2001, 77th Leg., ch. 939, Sec. 1, eff. Sept. 1, 2001; Sec. 15(b) amended by Acts 2001, 77th Leg., ch. 939, Sec. 2, eff. Sept. 1, 2001; Sec. 4(a) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 4(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 6(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 2, eff. Sept. 1, 2003; Sec. 14(c) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 14(d) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 18 added by Acts 2003, 78th Leg., ch. 367, Sec. 4, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 4.09, eff. June 15, 2007.
Transferred, redesignated and amended from Vernon's Civil Statutes, Art/Sec 8930 by Acts 2013, 83rd Leg., R.S., Ch. 150 (H.B. 1685), Sec. 1, eff. September 1, 2013.

Sec. 472.108. PROPERTY. An agency may acquire by lease, and maintain, use, and operate, any real, personal, or mixed property necessary to the exercise of the powers, rights, privileges, and functions of the agency.

Added by Acts 1999, 76th Leg., ch. 1552, Sec. 2, eff. Sept. 1, 1999. Sec. 14 amended by Acts 2001, 77th Leg., ch. 939, Sec. 1, eff. Sept. 1, 2001; Sec. 15(b) amended by Acts 2001, 77th Leg., ch. 939, Sec. 2, eff. Sept. 1, 2001; Sec. 4(a) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 4(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 6(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 2, eff. Sept. 1, 2003; Sec. 14(c) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 14(d) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 18 added by Acts 2003, 78th Leg., ch. 367, Sec. 4, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 4.09, eff. June 15, 2007.
Transferred, redesignated and amended from Vernon's Civil Statutes,

Art/Sec 8930 by Acts 2013, 83rd Leg., R.S., Ch. 150 (H.B. 1685), Sec. 1, eff. September 1, 2013.

Sec. 472.109. SUITS. The office of the attorney general shall represent an agency in any litigation. The attorney general may assess and collect from the agency reasonable attorney's fees associated with any litigation under this section.

Added by Acts 1999, 76th Leg., ch. 1552, Sec. 2, eff. Sept. 1, 1999. Sec. 14 amended by Acts 2001, 77th Leg., ch. 939, Sec. 1, eff. Sept. 1, 2001; Sec. 15(b) amended by Acts 2001, 77th Leg., ch. 939, Sec. 2, eff. Sept. 1, 2001; Sec. 4(a) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 4(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 6(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 2, eff. Sept. 1, 2003; Sec. 14(c) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 14(d) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 18 added by Acts 2003, 78th Leg., ch. 367, Sec. 4, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 4.09, eff. June 15, 2007.
Transferred, redesignated and amended from Vernon's Civil Statutes, Art/Sec 8930 by Acts 2013, 83rd Leg., R.S., Ch. 150 (H.B. 1685), Sec. 1, eff. September 1, 2013.

Sec. 472.110. FEES AND DISPOSITION OF FUNDS. (a) Subject to the limitations, if any, in the applicable enabling legislation, each agency may set the amount of fees by statute or rule as necessary for the purpose of carrying out the functions of the agency.

(b) All fees and funds collected by an agency, any funds appropriated to the agency, and any other funds belonging to or under the control of an agency shall be deposited in interest-bearing deposit accounts in the Texas Treasury Safekeeping Trust Company. The comptroller shall contract with the agency for the maintenance of the deposit accounts under terms comparable to a contract between a commercial banking institution and its customers. An agency may not hold funds in an account that is not under the control of the

comptroller.

(c) An agency shall use the comptroller's uniform statewide accounting system under Chapter 2101 to make all payments, other than direct payments from an agency's account to the Texas Treasury Safekeeping Trust Company.

(d) An agency shall remit all administrative penalties collected by the agency to the comptroller for deposit in the general revenue fund.

Added by Acts 1999, 76th Leg., ch. 1552, Sec. 2, eff. Sept. 1, 1999. Sec. 14 amended by Acts 2001, 77th Leg., ch. 939, Sec. 1, eff. Sept. 1, 2001; Sec. 15(b) amended by Acts 2001, 77th Leg., ch. 939, Sec. 2, eff. Sept. 1, 2001; Sec. 4(a) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 4(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 6(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 2, eff. Sept. 1, 2003; Sec. 14(c) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 14(d) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 18 added by Acts 2003, 78th Leg., ch. 367, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 4.09, eff. June 15, 2007.

Transferred, redesignated and amended from Vernon's Civil Statutes, Art/Sec 8930 by Acts 2013, 83rd Leg., R.S., Ch. 150 (H.B. 1685), Sec. 1, eff. September 1, 2013.

Sec. 472.111. POST-PARTICIPATION LIABILITY. (a) If a state agency no longer has status under this chapter as a self-directed semi-independent agency for any reason, the state agency shall be liable for any expenses or debts incurred by the state agency during the time the state agency had status as a self-directed semi-independent agency. The state agency's liability under this section includes liability for any lease entered into by the state agency. The state is not liable for any expense or debt covered by this subsection, and money from the general revenue fund may not be used to repay the expense or debt.

(b) If a state agency no longer has status under this chapter as a self-directed semi-independent agency for any reason, ownership

of any property or other asset acquired by the state agency during the time the state agency had status as a self-directed semi-independent agency, including unexpended fees in a deposit account in the Texas Treasury Safekeeping Trust Company, shall be transferred to the state.

Added by Acts 1999, 76th Leg., ch. 1552, Sec. 2, eff. Sept. 1, 1999. Sec. 14 amended by Acts 2001, 77th Leg., ch. 939, Sec. 1, eff. Sept. 1, 2001; Sec. 15(b) amended by Acts 2001, 77th Leg., ch. 939, Sec. 2, eff. Sept. 1, 2001; Sec. 4(a) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 4(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 6(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 2, eff. Sept. 1, 2003; Sec. 14(c) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 14(d) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 18 added by Acts 2003, 78th Leg., ch. 367, Sec. 4, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 4.09, eff. June 15, 2007.
Transferred, redesignated and amended from Vernon's Civil Statutes, Art/Sec 8930 by Acts 2013, 83rd Leg., R.S., Ch. 150 (H.B. 1685), Sec. 1, eff. September 1, 2013.

Sec. 472.112. OPEN GOVERNMENT. Subject to the confidentiality provisions of an agency's enabling legislation:

(1) meetings of the agency are subject to Chapter 551; and

(2) records maintained by the agency are subject to Chapter 552.

Added by Acts 1999, 76th Leg., ch. 1552, Sec. 2, eff. Sept. 1, 1999. Sec. 14 amended by Acts 2001, 77th Leg., ch. 939, Sec. 1, eff. Sept. 1, 2001; Sec. 15(b) amended by Acts 2001, 77th Leg., ch. 939, Sec. 2, eff. Sept. 1, 2001; Sec. 4(a) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 4(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 6(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 2, eff. Sept. 1, 2003; Sec. 14(c) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 14(d) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 18 added by Acts 2003, 78th Leg., ch. 367,

Sec. 4, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 4.09, eff. June 15, 2007.
Transferred, redesignated and amended from Vernon's Civil Statutes, Art/Sec 8930 by Acts 2013, 83rd Leg., R.S., Ch. 150 (H.B. 1685), Sec. 1, eff. September 1, 2013.

Sec. 472.113. MEMBERSHIP IN EMPLOYEES RETIREMENT SYSTEM. Employees of the agencies are members of the Employees Retirement System of Texas under Chapter 812, and the agencies' independent status shall have no effect on their membership.

Added by Acts 1999, 76th Leg., ch. 1552, Sec. 2, eff. Sept. 1, 1999. Sec. 14 amended by Acts 2001, 77th Leg., ch. 939, Sec. 1, eff. Sept. 1, 2001; Sec. 15(b) amended by Acts 2001, 77th Leg., ch. 939, Sec. 2, eff. Sept. 1, 2001; Sec. 4(a) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 4(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 6(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 2, eff. Sept. 1, 2003; Sec. 14(c) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 14(d) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 18 added by Acts 2003, 78th Leg., ch. 367, Sec. 4, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 4.09, eff. June 15, 2007.
Transferred, redesignated and amended from Vernon's Civil Statutes, Art/Sec 8930 by Acts 2013, 83rd Leg., R.S., Ch. 150 (H.B. 1685), Sec. 1, eff. September 1, 2013.

Sec. 472.114. GIFTS. (a) Notwithstanding other law, an agency may not accept a gift, grant, or donation:
(1) from a party to an enforcement action; or
(2) to pursue a specific investigation or enforcement action.
(b) An agency must:
(1) report each gift, grant, or donation that the agency

receives as a separate item in the agency's detailed report under Section 472.104(b); and

(2) include with the report a statement indicating the purpose for which each gift, grant, or donation was used.

Added by Acts 1999, 76th Leg., ch. 1552, Sec. 2, eff. Sept. 1, 1999. Sec. 14 amended by Acts 2001, 77th Leg., ch. 939, Sec. 1, eff. Sept. 1, 2001; Sec. 15(b) amended by Acts 2001, 77th Leg., ch. 939, Sec. 2, eff. Sept. 1, 2001; Sec. 4(a) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 4(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 1, eff. Sept. 1, 2003; Sec. 6(c) amended by Acts 2003, 78th Leg., ch. 367, Sec. 2, eff. Sept. 1, 2003; Sec. 14(c) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 14(d) added by Acts 2003, 78th Leg., ch. 367, Sec. 3, eff. Sept. 1, 2003; Sec. 18 added by Acts 2003, 78th Leg., ch. 367, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 4.09, eff. June 15, 2007.

Transferred, redesignated and amended from Vernon's Civil Statutes, Art/Sec 8930 by Acts 2013, 83rd Leg., R.S., Ch. 150 (H.B. 1685), Sec. 1, eff. September 1, 2013.

SUBTITLE E-1. EVENT REIMBURSEMENT PROGRAMS

CHAPTER 475. GENERAL PROVISIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 475.0001. DEFINITIONS. In this subtitle:

(1) "Endorsing county" means an endorsing county for purposes of Chapter 477, 478, 479, or 480.

(2) "Endorsing municipality" means an endorsing municipality for purposes of Chapter 476, 477, 478, 479, or 480.

(3) "Event" means a game or an event as defined by Chapter 478, 479, or 480.

(4) "Games" means any of the following and includes the events and activities related to the following:

(A) the College Football Playoff games;

(B) the Major League Baseball All-Star Game;

(C) the National Basketball Association All-Star Game;

(D) the National Collegiate Athletic Association Final

Four;

(E) the National Hockey League All-Star Game;

(F) the Olympic Games;

(G) the Pan American Games;

(H) the Super Bowl;

(I) the World Cup Soccer Games; or

(J) the World Games.

(5) "Games support contract" means a joinder undertaking, a joinder agreement, or a similar contract executed by the office and containing terms permitted or required by this subtitle.

(6) "Joinder agreement" means an agreement:

(A) entered into by the office on behalf of this state and a site selection organization setting out representations and assurances by this state in connection with the selection of a site in this state for a game or event; or

(B) entered into by a local organizing committee, an endorsing municipality, or an endorsing county, or more than one local organizing committee, endorsing municipality, or endorsing county acting collectively, and a site selection organization setting out representations and assurances by each local organizing committee, endorsing municipality, or endorsing county in connection with the selection of a site in this state for a game or event.

(7) "Joinder undertaking" means an agreement:

(A) entered into by the office on behalf of this state and a site selection organization that this state will execute a joinder agreement if the site selection organization selects a site in this state for a game or event; or

(B) entered into by a local organizing committee, an endorsing municipality, or an endorsing county, or more than one local organizing committee, endorsing municipality, or endorsing county acting collectively, and a site selection organization that each local organizing committee, endorsing municipality, or endorsing county will execute a joinder agreement if the site selection organization selects a site in this state for a game or event.

(8) "Local organizing committee" means a nonprofit corporation or the corporation's successor in interest that:

(A) is authorized by an endorsing municipality, endorsing county, or more than one endorsing municipality or county acting collectively to pursue an application and bid on the applicant's behalf to a site selection organization for selection as

the site of a game or event; or

(B) with authorization from an endorsing municipality, endorsing county, or more than one endorsing municipality or county acting collectively, executes an agreement with a site selection organization regarding a bid to host a game or event.

(9) "Office" means the Texas Economic Development and Tourism Office within the office of the governor.

(10) "Site selection organization" means a site selection organization as defined by Chapters 477, 478, and 480.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 475.0002. PURPOSES OF SUBTITLE. The purposes of this subtitle are to:

(1) provide assurances required by a site selection organization sponsoring a game or event; and

(2) provide financing for the costs of:

(A) applying or bidding for selection as the site of a game or event in this state;

(B) making preparations necessary and desirable for conducting a game or event in this state, including costs of the construction or renovation of facilities to the extent authorized by this subtitle; and

(C) conducting a game or event in this state.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 475.0003. LEGISLATIVE FINDINGS. Conducting one or more games or events in this state will:

(1) provide invaluable public visibility throughout the nation or world for this state and the communities where the games or events are held;

(2) encourage and provide major economic benefits to the communities where the games or events are held and to the entire state; and

(3) provide opportunities for local and Texas businesses to create jobs that pay a living wage.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 475.0004. RULES. The office of the governor shall adopt rules consistent with this subtitle to ensure efficient administration of the trust funds established under this subtitle, including rules related to application and receipt requirements.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER B. ACTIONS OF OFFICE AND STATE AGENCIES IN RELATION TO GAMES

Sec. 475.0051. APPLICABILITY OF SUBCHAPTER. This subchapter does not apply to or otherwise affect an event support contract under Chapter 478, 479, or 480 to which the office is not a party.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 475.0052. REQUEST FOR OFFICE TO ENTER INTO GAMES SUPPORT CONTRACT. (a) The office shall review a request from a local organizing committee, endorsing municipality, or endorsing county that the office, on behalf of this state, enter into a games support contract required by a site selection organization in connection with the committee's, municipality's, or county's bid to host any of the games.

(b) A request under Subsection (a) must be accompanied by:

(1) a general description and summary of the games for which the local organizing committee, endorsing municipality, or endorsing county is seeking a site selection;

(2) a preliminary and general description of the proposal the local organizing committee, endorsing municipality, or endorsing county intends to submit to a site selection organization;

(3) the estimated cost of preparing and submitting the intended proposal;

(4) the local organizing committee's, endorsing municipality's, or endorsing county's intended method of obtaining

the money needed for preparing the proposal;

(5) a description by type and approximate amount of the site selection application costs that the local organizing committee, endorsing municipality, or endorsing county intends to pay; and

(6) any other information reasonably requested by the office to assist the office in reviewing the request.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 475.0053. TIME FOR DETERMINATION. The office shall approve or deny a request under Section 475.0052 not later than the 30th day after the date the local organizing committee, endorsing municipality, or endorsing county submits the request.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 475.0054. PREREQUISITE FOR EXECUTION OF GAMES SUPPORT CONTRACT. The office may agree to execute a games support contract only if:

(1) the office determines that:

(A) this state's assurances and obligations under the contract are reasonable; and

(B) any financial commitment of this state will be satisfied exclusively by recourse to the Pan American Games trust fund or the Olympic Games trust fund, as applicable; and

(2) the endorsing municipality or endorsing county has executed an agreement with a site selection organization that contains substantially similar terms.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 475.0055. JOINDER UNDERTAKING TERMS. The office may agree in a joinder undertaking entered into with a site selection organization that the office will:

(1) execute a joinder agreement if the site selection

organization selects a site in this state for the games; and

(2) refrain from taking any action after execution of the joinder undertaking that would impair the office's ability to execute the joinder agreement.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 475.0056. JOINDER AGREEMENT TERMS. The office may agree in a joinder agreement that this state will:

(1) provide or cause to be provided all of the governmental funding, facilities, and other resources specified in the local organizing committee's, endorsing municipality's, or endorsing county's bid to host the games;

(2) be bound by the terms of, cause the local organizing committee, endorsing municipality, or endorsing county to perform, and guarantee performance of the committee's, municipality's, or county's obligations under contracts relating to selecting a site in this state for the games; and

(3) be jointly and severally liable with the local organizing committee, endorsing municipality, or endorsing county for:

(A) an obligation of the committee, municipality, or county to a site selection organization, including an obligation indemnifying the organization against a claim of and liability to a third party arising out of or relating to the games; and

(B) any financial deficit relating to the games.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 475.0057. ADDITIONAL TERMS OF GAMES SUPPORT CONTRACT. A games support contract may contain any additional provision the office requires to carry out the purposes of this subtitle.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 475.0058. REPAYMENT AGREEMENT REQUIRED. (a) Before executing a games support contract, the office must execute an agreement with the local organizing committee, endorsing municipality, or endorsing county requiring the committee, municipality, or county to repay this state any money spent by the office under this subtitle if a site selection organization selects a site for the games in this state in accordance with an application by the committee, municipality, or county.

(b) The local organizing committee, endorsing municipality, or endorsing county will make a repayment under Subsection (a) from any surplus of the committee's, municipality's, or county's money remaining after:

(1) presentation of the games; and

(2) payment of the expenses and obligations incurred by the committee, municipality, or county.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 475.0059. STATE AS ADDITIONAL INSURED. The office may require a local organizing committee, endorsing municipality, or endorsing county to list this state as an additional insured on any insurance policy purchased by the committee, municipality, or county that a site selection organization requires to be in effect in connection with the games.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 475.0060. SUPPORT BY CERTAIN STATE AGENCIES. The Texas Department of Transportation, the Department of Public Safety of the State of Texas, and the Texas Department of Housing and Community Affairs may:

(1) assist a local organizing committee, endorsing municipality, or endorsing county in developing applications and planning for the games; and

(2) enter into a contract or agreement or give assurances related to the presentation of the games.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER C. LOCAL ORGANIZING COMMITTEES

Sec. 475.0101. APPLICABILITY OF OPEN MEETINGS AND OPEN RECORDS LAWS. (a) A local organizing committee and the committee's governing body are subject to Chapters 551 and 552. For purposes of those chapters, the governing body of a local organizing committee is considered a governmental body as defined by those chapters. For purposes of Chapter 552, the records and information of a local organizing committee are considered public records and public information.

(b) A final bid that a local organizing committee submits to a site selection organization, or a draft of that bid, is excepted from required public disclosure under Chapter 552 until the organization selects the site for the games.

(c) Chapter 551 does not apply to a meeting of a subcommittee of a local organizing committee's governing body if:

(1) the subcommittee consists of not more than five members;

(2) the meeting is not held in a public building;

(3) the subcommittee makes a recording of the meeting proceedings in compliance with Section 551.103, and the committee preserves the recording until the second anniversary of the date the recording is made;

(4) the subcommittee does not discuss or decide any financial matters during the meeting; and

(5) any decision the subcommittee makes will not take effect without the governing body reviewing and officially adopting the decision at a meeting held in compliance with Chapter 551.

(d) A recording made under Subsection (c) is subject to required public disclosure in the manner prescribed by Chapter 552 for a public record.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 475.0102. TAX EXEMPTIONS FOR CERTAIN COMMITTEES. A local

organizing committee that is exempt from paying federal income tax under Section 501(c), Internal Revenue Code of 1986, is exempt from:

(1) the sales, excise, and use taxes imposed under Chapter 151, Tax Code;

(2) taxes on the sale, rental, and use of a motor vehicle imposed under Chapter 152, Tax Code;

(3) the hotel occupancy tax imposed under Chapter 156, Tax Code; and

(4) the franchise tax imposed under Chapter 171, Tax Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 475.0103. ETHICS REQUIREMENTS RELATING TO CERTAIN COMMITTEES; FINANCIAL DISCLOSURES. (a) A local organizing committee that submits a request under Section 475.0052 must:

(1) affirm as a part of that request that the committee is in full compliance with the ethical guidelines provided by all contracts entered into and rules adopted by the site selection organization, including the organization's requirements regarding disclosure of any financial interest a director, officer, or senior-level employee of the committee has in any proposed transaction with the committee;

(2) not later than the 15th day of the first month following each calendar quarter, file with the secretary of the endorsing municipality for which the committee submits a request:

(A) a certification that the committee continues to comply with the ethical guidelines described by Subdivision (1); and

(B) a report of contributions to and expenditures by the committee, in the manner described by Subsection (b); and

(3) file with the secretary of the endorsing municipality on April 15 of each year a copy of each financial statement a committee or a member of a committee is required to submit to the United States Olympic Committee during the preceding calendar year.

(b) A report under Subsection (a)(2)(B) must include:

(1) for each contribution made to the local organizing committee:

(A) the contributor's full name and address;

(B) the date of the contribution;

(C) whether the contribution is cash, made by check, or in-kind; and

(D) the amount or market value of the contribution; and

(2) for each expenditure made by the local organizing committee:

(A) the full name and address of the person who receives payment of the expenditure;

(B) the date of the expenditure;

(C) the amount of the expenditure; and

(D) the purpose of the expenditure.

(c) The endorsing municipality for which a local organizing committee submits a request under Section 475.0052 must have a comprehensive ethics code establishing standards of conduct, disclosure requirements, and enforcement mechanisms relating to municipal officials and employees before the office considers the request.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER D. LOCAL GOVERNMENT CORPORATION IN CERTAIN POPULOUS COUNTIES AS ENDORSING MUNICIPALITY OR COUNTY

Sec. 475.0151. APPLICABILITY. This subchapter applies only to a local government corporation that:

(1) is authorized to collect a municipal hotel occupancy tax; and

(2) is located in a county with a population of 3.3 million or more.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 475.0152. AUTHORITY TO ACT AS ENDORSING MUNICIPALITY OR COUNTY. (a) A local government corporation may act as an endorsing municipality or endorsing county under this subtitle.

(b) Subject to Section 475.0153, a local government corporation acting as an endorsing municipality or endorsing county under this subtitle has all the powers of an endorsing municipality or endorsing county under this subtitle, and any action an endorsing municipality

or endorsing county is required to take by ordinance or order under this subtitle may be taken by order or resolution of the corporation.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 475.0153. DEPOSIT OF MUNICIPAL OR COUNTY TAX REVENUE TO TRUST FUND. (a) A local government corporation acting as an endorsing municipality or endorsing county under this subtitle shall remit for deposit into the trust fund established for the games or event the amounts determined by the office under this subtitle.

(b) The office shall determine the incremental increase in tax receipts attributable to the games or event and related activities under this subtitle based on the amount of taxes imposed by each municipality or county that comprises the corporation and not on the amount of taxes imposed by the corporation.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 475.0154. PLEDGE OF SURCHARGES TO GUARANTEE OBLIGATIONS. A local government corporation acting as an endorsing municipality or endorsing county under this subtitle may guarantee the corporation's obligations under a games support contract or event support contract by pledging surcharges from user fees, including parking or ticket fees, charged in connection with the games or event and related activities.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER E. CRIMINAL PENALTIES

Sec. 475.0201. OFFENSE OF BRIBERY. (a) In this section, "benefit" has the meaning assigned by Section 36.01, Penal Code.

(b) A person commits an offense if the person intentionally or knowingly offers, confers, or agrees to confer on another person, or solicits, accepts, or agrees to accept from another person, any benefit as consideration for the recipient's decision, opinion,

recommendation, vote, or other exercise of discretion as a member or employee of a local organizing committee or site selection organization.

(c) It is a defense to prosecution under Subsection (b) that the benefit conferred is a meal or entertainment reported under Section 475.0103(a)(2)(B).

(d) It is not a defense to prosecution under Subsection (b) that a person whom the actor sought to influence was not qualified to act as the actor intended the person to act.

(e) It is not a defense to prosecution under Subsection (b) that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:

(1) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or

(2) the person whom the actor sought to influence is no longer a member of the local organizing committee or a site selection organization.

(f) An offense under this section is a felony of the second degree.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

CHAPTER 476. PAN AMERICAN GAMES TRUST FUND

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 476.0001. DEFINITIONS. In this chapter:

(1) "Endorsing municipality" means a municipality that authorizes a bid by a local organizing committee for selection of the municipality as the site of the games.

(2) "Games" means the Pan American Games.

(3) "Site selection organization" means:

(A) the Pan American Sports Organization; or

(B) the United States Olympic Committee.

(4) "Trust fund" means the Pan American Games trust fund established by this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 476.0002. ELIGIBILITY AS ENDORSING MUNICIPALITY. Only a municipality with a population of one million or more is eligible as an endorsing municipality under this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 43, eff. September 1, 2023.

SUBCHAPTER B. STATE ACTIONS RELATING TO GAMES

Sec. 476.0051. DETERMINATION OF INCREMENTAL INCREASE IN CERTAIN TAX RECEIPTS. (a) After a site selection organization selects a site for the games in this state in accordance with an application by a local organizing committee acting on behalf of an endorsing municipality, the office shall determine for each subsequent calendar quarter the incremental increases in the following tax receipts that the office determines are directly attributable to the preparation for and presentation of the games and related events:

(1) the receipts to this state from the taxes imposed under Chapters 151, 152, 156, and 183, Tax Code, and under Title 5, Alcoholic Beverage Code, in the market areas designated under Section 476.0053;

(2) the receipts collected by this state for the endorsing municipality from the sales and use tax imposed by the municipality under Section 321.101(a), Tax Code; and

(3) the receipts collected by the endorsing municipality from the municipality's hotel occupancy tax imposed under Chapter 351, Tax Code.

(b) The office shall make the determination required by Subsection (a) in accordance with procedures the office develops.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 476.0052. TIME FOR DETERMINATION. The office shall determine the incremental increase in tax receipts under Section 476.0051 after the first occurrence of a measurable economic impact in this state resulting from the preparation for the games, as

determined by the office, but not later than one year before the scheduled opening event of the games.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 476.0053. DESIGNATION OF MARKET AREA. (a) For purposes of Section 476.0051(a)(1), the office shall designate as a market area for the games each area in which the office determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the games and related events. The office shall include areas likely to provide venues, accommodations, and services in connection with the games based on the proposal the local organizing committee provides under Section 475.0052.

(b) The office shall determine the geographic boundaries of each market area.

(c) The endorsing municipality selected as the site for the games must be included in a market area for the games.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 476.0054. ESTIMATE OF TAX REVENUE CREDITED TO TRUST FUND. (a) Not later than September 1 of the year that is eight years before the year the games would be held in this state, the office shall provide an estimate of the total amount of municipal and state tax revenue that would be transferred or deposited to the trust fund before January 1 of the year following the year the games would be held if the games were held in this state at a site selected in accordance with an application by a local organizing committee.

(b) The office shall provide the estimate on request to a local organizing committee.

(c) A local organizing committee may submit the office's estimate to a site selection organization.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER C. TRUST FUND ESTABLISHMENT, CONTRIBUTION, AND LIMITATION

Sec. 476.0101. PAN AMERICAN GAMES TRUST FUND. The Pan American Games trust fund is established outside the state treasury. The trust fund is held in trust by the comptroller for administration of this subtitle.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 476.0102. DEPOSIT OF MUNICIPAL TAX REVENUE. (a) Subject to Section 476.0104, the endorsing municipality shall deposit to the trust fund the amount of the municipality's hotel occupancy tax revenue determined under Section 476.0051(a)(3). The endorsing municipality shall deposit the hotel occupancy tax revenue to the trust fund at least quarterly.

(b) To guarantee the joint obligations of this state and the endorsing municipality under a games support contract and this subtitle, the comptroller, at the direction of the office, shall retain the amount of municipal sales and use tax revenue determined under Section 476.0051(a)(2) from the amounts otherwise required to be sent to the municipality under Section 321.502, Tax Code, and, subject to Section 476.0104, deposit the retained tax revenue to the trust fund.

(c) The comptroller shall begin retaining the municipal sales and use tax revenue with the first distribution of that tax revenue that occurs after the date the office makes the determination under Section 476.0051(a)(2).

(d) The comptroller shall discontinue retaining the municipal sales and use tax revenue on the earlier of:

(1) the end of the third calendar month following the month in which the closing event of the games occurs; or

(2) the date the amount of municipal sales and use tax revenue and municipal hotel occupancy tax revenue in the trust fund equals 14 percent of the maximum amount of municipal and state tax revenue that may be transferred or deposited to the trust fund under Section 476.0104.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 476.0103. STATE TAX REVENUE. (a) At the time the endorsing municipality deposits to the trust fund its hotel occupancy tax revenue under Section 476.0102(a), the comptroller, at the direction of the office, shall transfer to the trust fund a portion of the state tax revenue determined under Section 476.0051(a)(1) in an amount equal to 6.25 multiplied by the amount of that municipal hotel occupancy tax revenue.

(b) At the time the comptroller deposits to the trust fund the municipal sales and use tax revenue under Section 476.0102(b), the comptroller, at the direction of the office, shall transfer to the trust fund a portion of the state tax revenue determined under Section 476.0051(a)(1) in an amount equal to 6.25 multiplied by the amount of that municipal sales and use tax revenue.

(c) The comptroller shall discontinue transferring to the trust fund any state tax revenue determined under Section 476.0051(a)(1) on the earlier of:

(1) the end of the third calendar month following the month in which the closing event of the games occurs; or

(2) the date the amount of state revenue in the trust fund equals 86 percent of the maximum amount of municipal and state tax revenue that may be transferred or deposited to the trust fund under Section 476.0104.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 476.0104. LIMITATION ON TRANSFERS AND DEPOSITS TO TRUST FUND. The total amount of municipal and state tax revenue transferred or deposited to the trust fund may not exceed $20 million.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER D. DISBURSEMENTS FROM TRUST FUND

Sec. 476.0151. DISBURSEMENT WITHOUT APPROPRIATION. Money in the trust fund may be spent by the office without appropriation only as provided by this subtitle.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 476.0152. DISBURSEMENT FROM TRUST FUND. (a) The office may make a disbursement from the trust fund only if the office certifies that the disbursement is for a purpose for which this state and the endorsing municipality are jointly obligated under a games support contract or another agreement providing assurances from the office or the municipality to a site selection organization.

(b) On a certification described by Subsection (a), the office shall satisfy the obligation:

(1) first, from municipal revenue deposited to the trust fund and any interest earned on that municipal revenue; and

(2) if the municipal revenue is insufficient to satisfy the entire deficit, from state revenue transferred to the trust fund and any interest earned on that state revenue in an amount sufficient to satisfy the portion of the deficit not covered by the municipal revenue.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 476.0153. ALLOWABLE EXPENSES. The office may use money in the trust fund only to fulfill joint obligations of this state and the endorsing municipality to a site selection organization under a games support contract or another agreement providing assurances from the office or municipality to a site selection organization.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 476.0154. TRANSFER AND REMITTANCE OF REMAINING TRUST FUND MONEY. (a) On January 1 of the second year following the year in which the games are held in this state, the comptroller, at the direction of the office, shall transfer to the general revenue fund the amount of state revenue remaining in the trust fund plus any interest earned on that state revenue.

(b) The comptroller shall remit to the endorsing municipality

any money remaining in the trust fund after the required amount is transferred under Subsection (a).

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER E. LOCAL POWERS AND DUTIES RELATING TO GAMES

Sec. 476.0201. REQUIRED INFORMATION. (a) A local organizing committee shall provide information required by the office to fulfill the office's duties under this subtitle, including:

(1) annual audited statements of any committee financial records required by a site selection organization; and

(2) data obtained by the committee relating to:

(A) attendance at the games; and

(B) the economic impact of the games.

(b) A local organizing committee must provide any annual audited financial statement required by the office not later than the end of the fourth month after the last day of the period covered by the financial statement.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 476.0202. PLEDGE OF SURCHARGES TO GUARANTEE OBLIGATIONS. An endorsing municipality may guarantee its obligations under a games support contract and this subtitle by pledging, in addition to municipal sales and use tax revenue retained under Section 476.0102(b), surcharges from user fees charged in connection with presentation of the games, including parking or ticket fees.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER F. LIMITATIONS ON JOINT LIABILITY

Sec. 476.0251. LIMITATION AMOUNTS. The joint liability of this state and the endorsing municipality under a joinder agreement and any other games support contracts entered into under this subtitle may not exceed the lesser of:

(1) $20 million; or

(2) the total amount of revenue transferred or deposited to the trust fund and interest earned on the trust fund.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

CHAPTER 477. OLYMPIC GAMES TRUST FUND

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 477.0001. DEFINITIONS. In this chapter:

(1) "Endorsing county" means a county that:

(A) contains all or part of a municipality described by Section 477.0002; or

(B) is adjacent to a county described by Paragraph (A).

(2) "Endorsing municipality" means a municipality that authorizes a bid by a local organizing committee for selection of the municipality as the site of the games.

(3) "Games" means the Olympic Games.

(4) "Site selection organization" means:

(A) the International Olympic Committee; or

(B) the United States Olympic Committee.

(5) "Trust fund" means the Olympic Games trust fund established by this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 477.0002. ELIGIBILITY AS ENDORSING MUNICIPALITY. Only a municipality with a population of one million or more is eligible as an endorsing municipality under this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 44, eff. September 1, 2023.

SUBCHAPTER B. STATE ACTIONS RELATING TO GAMES

Sec. 477.0051. DETERMINATION OF INCREMENTAL INCREASE IN CERTAIN TAX RECEIPTS. (a) After a site selection organization selects a site for the games in this state in accordance with an application by a local organizing committee, the office shall determine for each subsequent calendar quarter the incremental increases in the following tax receipts that the office determines are directly attributable to the preparation for and presentation of the games and related events:

(1) the receipts to this state from the taxes imposed under Chapters 151, 152, 156, and 183, Tax Code, and under Title 5, Alcoholic Beverage Code, in the market areas designated under Section 477.0053;

(2) the receipts collected by this state for each endorsing municipality from the sales and use tax imposed by the municipality under Section 321.101(a), Tax Code, and the mixed beverage tax revenue to be received by the municipality under Section 183.051(b), Tax Code;

(3) the receipts collected by this state for each endorsing county from the sales and use tax imposed by the county under Section 323.101(a), Tax Code, and the mixed beverage tax revenue received by the county under Section 183.051(b), Tax Code;

(4) the receipts collected by each endorsing municipality from the hotel occupancy tax imposed under Chapter 351, Tax Code; and

(5) the receipts collected by each endorsing county from the hotel occupancy tax imposed under Chapter 352, Tax Code.

(b) The office shall make the determination required by Subsection (a) in accordance with procedures the office develops.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 477.0052. TIME FOR DETERMINATION. The office shall determine the incremental increase in tax receipts under Section 477.0051 after the first occurrence of a measurable economic impact in this state resulting from the preparation for the games, as determined by the office, but not later than one year before the scheduled opening event of the games.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 477.0053. DESIGNATION OF MARKET AREA. (a) For purposes of Section 477.0051(a)(1), the office shall designate as a market area for the games each area in which the office determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the games and related events. The office shall include areas likely to provide venues, accommodations, and services in connection with the games based on the proposal the local organizing committee provides under Section 475.0052.

(b) The office shall determine the geographic boundaries of each market area.

(c) Each endorsing municipality or endorsing county selected as the site for the games must be included in a market area for the games.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 477.0054. ESTIMATE OF TAX REVENUE CREDITED TO TRUST FUND. (a) Before August 31 of the year that is 12 years before the year the games would be held in this state, or as soon as practicable after that date, the office shall provide an estimate of the total amount of municipal, county, and state tax revenue that would be transferred or deposited to the trust fund if the games were held in this state at a site selected in accordance with an application by a local organizing committee.

(b) The office shall provide the estimate on request to a local organizing committee.

(c) A local organizing committee may submit the office's estimate to a site selection organization.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER C. TRUST FUND ESTABLISHMENT, CONTRIBUTION, AND LIMITATION

Sec. 477.0101. OLYMPIC GAMES TRUST FUND. The Olympic Games trust fund is established outside the treasury. The trust fund is

held in trust by the comptroller for the administration of this subtitle.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 477.0102. DEPOSIT OF MUNICIPAL AND COUNTY TAX REVENUE. (a) Subject to Section 477.0104, each endorsing municipality or endorsing county shall remit to the comptroller and the comptroller, at the direction of the office, quarterly shall deposit to the trust fund the amount of the municipality's or county's hotel occupancy tax revenue determined under Section 477.0051(a)(4) or (5), as applicable.

(b) To guarantee the joint obligations of this state and an endorsing municipality or endorsing county under a games support contract and this subtitle, subject to Section 477.0203, the comptroller, at the direction of the office, shall retain the amount of sales and use tax revenue and mixed beverage tax revenue determined under Section 477.0051(a)(2) or (3) from the amounts otherwise required to be sent to the municipality under Section 183.051(b) or 321.502, Tax Code, or to the county under Section 183.051(b) or 323.502, Tax Code. Subject to Sections 477.0104 and 477.0203, the comptroller, at the direction of the office, shall deposit the retained tax revenue to the trust fund for the same calendar quarter as under Subsection (a).

(c) The comptroller shall begin retaining municipal and county sales and use tax revenue and mixed beverage tax revenue with the first distribution of that tax revenue that occurs after the date the office makes the determination under Section 477.0051(a)(2) or (3).

(d) The comptroller shall discontinue retaining municipal and county sales and use tax revenue and mixed beverage tax revenue on the earlier of:

(1) the end of the third calendar month following the month in which the closing event of the games occurs; or

(2) the date the amount of municipal and county sales and use tax revenue and mixed beverage tax revenue in the trust fund equals 14 percent of the maximum amount of municipal, county, and state tax revenue that may be transferred or deposited to the trust fund under Section 477.0104.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 477.0103. STATE TAX REVENUE. (a) At the time the comptroller deposits to the trust fund the municipal and county tax revenue under Section 477.0102(b), the comptroller shall transfer to the trust fund the state tax revenue determined under Section 477.0051(a)(1) for the quarter.

(b) The comptroller shall discontinue transferring the amount of state tax revenue determined under Section 477.0051(a)(1) on the earlier of:

(1) the end of the third calendar month following the month in which the closing event of the games occurs; or

(2) the date the amount of state revenue in the trust fund equals 86 percent of the maximum amount of municipal, county, and state tax revenue that may be transferred or deposited to the trust fund under Section 477.0104.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 477.0104. LIMITATION ON TRANSFERS AND DEPOSITS TO TRUST FUND. The total amount of municipal, county, and state tax revenue transferred or deposited to the trust fund may not exceed $100 million.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER D. DISBURSEMENTS FROM TRUST FUND

Sec. 477.0151. DISBURSEMENT WITHOUT APPROPRIATION. Money in the trust fund may be spent by the office without appropriation only as provided by this subtitle.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 477.0152. DISBURSEMENT FROM TRUST FUND. (a) The office may make a disbursement from the trust fund only if the office certifies that the disbursement is for a purpose for which this state and each endorsing municipality and endorsing county are jointly obligated under a games support contract or another agreement providing assurances from the office or an endorsing municipality or endorsing county to a site selection organization.

(b) On a certification described by Subsection (a), the office shall satisfy the obligation proportionately from the state and municipal or county revenue in the trust fund.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 477.0153. ALLOWABLE EXPENSES. The office may use money in the trust fund only to fulfill joint obligations of this state and each endorsing municipality and endorsing county to a site selection organization under a games support contract or another agreement providing assurances from the office or the municipality or county to a site selection organization.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 477.0154. PROHIBITED DISBURSEMENT. The office may not make a disbursement from the trust fund that the office determines would be used to solicit the relocation of a professional sports franchise located in this state.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 477.0155. TRANSFER AND REMITTANCE OF REMAINING TRUST FUND MONEY. (a) Two years after the closing event of the games, the office shall transfer to the general revenue fund the amount of state revenue remaining in the trust fund plus any interest earned on that state revenue.

(b) The office shall remit to each endorsing entity in

proportion to the amount contributed by the entity any money remaining in the trust fund after the required amount is transferred under Subsection (a).

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER E. LOCAL POWERS AND DUTIES RELATING TO GAMES

Sec. 477.0201. REQUIRED INFORMATION. (a) A local organizing committee shall provide information required by the office to fulfill the office's duties under this subtitle, including:

(1) annual audited statements of any committee financial records required by a site selection organization; and

(2) data obtained by the committee relating to:

(A) attendance at the games; and

(B) the economic impact of the games.

(b) A local organizing committee must provide any annual audited financial statement required by the office not later than the end of the fourth month after the last day of the period covered by the financial statement.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 477.0202. PLEDGE OF SURCHARGES TO GUARANTEE OBLIGATIONS. An endorsing municipality or endorsing county may guarantee its obligations under a games support contract and this subtitle by pledging, in addition to sales and use tax revenue, mixed beverage tax revenue, and hotel occupancy tax revenue retained under Section 477.0102, surcharges from user fees charged in connection with the presentation of the games, including parking or ticket fees.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 477.0203. MUNICIPAL OR COUNTY ELECTION. (a) An endorsing municipality or endorsing county must hold an election in the municipality or county to determine whether the municipality or

county may contribute a portion of its sales and use taxes to the trust fund under this chapter. The election must be held on a uniform election date before the date a site selection organization requires the endorsing municipality or endorsing county and the state to enter into a joinder undertaking relating to the applicable games.

(b) If an endorsing municipality or endorsing county is required to hold an election under this section and the contribution of a portion of the municipality's or county's sales and use taxes to the trust fund under this chapter is not approved by a majority of the voters voting in the election:

(1) the comptroller may not establish the trust fund under this chapter, may not retain the municipality's or county's tax revenue under Section 477.0102 from amounts otherwise required to be sent to that municipality or county, and may not transfer any state tax revenue into the trust fund;

(2) the office is not required to determine the incremental increase in municipal, county, or state tax revenue under Section 477.0051; and

(3) the office may not enter into a games support contract relating to the games for which the municipality or county has authorized a bid on its behalf.

(c) Notwithstanding any other provisions of this subtitle, an endorsing municipality or endorsing county is not required to hold an election to contribute its mixed beverage tax revenue or its hotel occupancy tax revenue to the trust fund under this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER F. LIMITATIONS ON JOINT LIABILITY

Sec. 477.0251. LIMITATION AMOUNTS. The joint liability of this state and an endorsing municipality or endorsing county under a joinder agreement and any other games support contracts entered into under this subtitle may not exceed the lesser of:

(1) $100 million; or

(2) the total amount of revenue transferred or deposited to the trust fund and interest earned on the trust fund.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

CHAPTER 478. MAJOR EVENTS REIMBURSEMENT PROGRAM
SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4396, S.B. 1718 and S.B. 2004, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 478.0001. DEFINITIONS. In this chapter:

(1) "Endorsing county" means:

(A) a county that contains a site selected by a site selection organization for an event; or

(B) a county that:

(i) does not contain a site selected by a site selection organization for an event;

(ii) is included in the market area for the event as designated by the office; and

(iii) is a party to an event support contract.

(2) "Endorsing municipality" means:

(A) a municipality that contains a site selected by a site selection organization for an event; or

(B) a municipality that:

(i) does not contain a site selected by a site selection organization for an event;

(ii) is included in the market area for the event as designated by the office; and

(iii) is a party to an event support contract.

(3) "Event" means any of the following and includes any activity related to or associated with the following:

(A) the Academy of Country Music Awards;

(B) the Amateur Athletic Union Junior Olympic Games;

(C) the Bassmaster Classic;

(D) a Big 12 Football Conference Championship game;

(E) the Breeders' Cup World Championships;

(F) the CMT (Country Music Television) Music Awards;

(G) a game of the College Football Playoff or its successor;

(H) the Confederation of North, Central America and Caribbean Association Football (Concacaf) Gold Cup;

(I) a CONVRG conference;

(J) an Elite Rodeo Association World Championship;

(K) a Federation Equestre Internationale World Cup Final;

(L) a Federation Internationale de Motocyclisme (FIM) World Supercross Championship race;

(M) the Formula One United States Grand Prix;

(N) the largest event held each year at a sports entertainment venue in this state with a permanent seating capacity, including grandstand and premium seating, of at least 125,000 on September 1, 2021;

(O) the Major League Baseball All-Star Game;

(P) the Major League Soccer All-Star Game or the Major League Soccer Cup;

(Q) a mixed martial arts championship;

(R) the Moto Grand Prix of the United States;

(S) the National Association for Stock Car Auto Racing (NASCAR):

(i) All-Star Race;

(ii) season-ending Championship Race; or

(iii) Texas Grand Prix race;

(T) the National Basketball Association All-Star Game;

(U) a National Collegiate Athletic Association Final Four tournament game;

(V) the National Collegiate Athletic Association men's or women's lacrosse championships;

(W) a national collegiate championship of an amateur sport sanctioned by the national governing body of the sport that is recognized by the United States Olympic Committee;

(X) the National Cutting Horse Association Triple Crown;

(Y) the National Hockey League All-Star Game;

(Z) the National Hot Rod Association Fall Nationals at the Texas Motorplex;

(AA) a national political convention of the Republican National Committee or the Democratic National Committee;

(BB) the National Reined Cow Horse Association (NRCHA) Championship Series;

(CC) an Olympic activity, including a Junior or Senior activity, training program, or feeder program sanctioned by the United States Olympic Committee's Community Olympic Development

Program;

(DD) a presidential general election debate;

(EE) the Professional Bull Riders World Finals;

(FF) the Professional Rodeo Cowboys Association National Finals Rodeo;

(GG) a series of cricket matches or competitions within the T20 World Cup;

(HH) a Super Bowl;

(II) the United States Open Championship;

(JJ) a World Cup soccer game or the World Cup soccer tournament;

(KK) the World Games;

(LL) a World Wrestling Entertainment WrestleMania event; or

(MM) the X Games.

(4) "Event support contract" means a joinder undertaking, joinder agreement, or similar contract executed by a site selection organization and a local organizing committee, an endorsing municipality, or an endorsing county.

(5) "Fund" means the major events reimbursement program fund.

(6) "Program" means the major events reimbursement program.

(7) "Site selection organization" means:

(A) the Academy of Country Music;

(B) the Amateur Athletic Union;

(C) Bass Anglers Sportsman Society, LLC;

(D) the Big 12 Conference;

(E) CMT (Country Music Television) Productions Inc.;

(F) the College Football Playoff Administration, LLC, or its successor;

(G) the Commission on Presidential Debates;

(H) the Confederation of North, Central America and Caribbean Association Football (Concacaf);

(I) the Democratic National Committee;

(J) Dorna Sports;

(K) the Elite Rodeo Association;

(L) Encore Live;

(M) ESPN or an affiliate;

(N) the Federation Equestre Internationale (FEI);

(O) the Federation Internationale de Football

Association (FIFA);

(P) the International Cricket Council;

(Q) the International World Games Association;

(R) Major League Baseball;

(S) Major League Soccer;

(T) the National Association for Stock Car Auto Racing (NASCAR);

(U) the National Basketball Association;

(V) the National Collegiate Athletic Association;

(W) the National Cutting Horse Association;

(X) the National Football League;

(Y) the National Hockey League;

(Z) the National Hot Rod Association;

(AA) the National Reined Cow Horse Association (NRCHA);

(BB) Professional Bull Riders, LLC;

(CC) the Professional Rodeo Cowboys Association;

(DD) the Republican National Committee;

(EE) SX Global;

(FF) the Ultimate Fighting Championship;

(GG) the United States Golf Association;

(HH) the United States Olympic Committee;

(II) World Wrestling Entertainment; or

(JJ) the national governing body of a sport that is recognized by:

(i) the Federation Internationale de l'Automobile;

(ii) Formula One Management Limited or its successor;

(iii) the National Thoroughbred Racing Association; or

(iv) the United States Olympic Committee.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 10 (H.B. 1472), Sec. 1, eff. May 15, 2021.

Acts 2021, 87th Leg., R.S., Ch. 102 (S.B. 1265), Sec. 1, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 605 (S.B. 1155), Sec. 1, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.006(a), eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 974 (S.B. 2325), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 974 (S.B. 2325), Sec. 2, eff. September 1, 2023.

Sec. 478.0002. RULES. The office may adopt rules necessary to implement this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 478.0003. CONSTRUCTION OF CHAPTER. This chapter may not be construed as creating or requiring a state guarantee of an obligation imposed on an endorsing municipality, an endorsing county, or this state under an event support contract or another agreement relating to hosting an event in this state.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER B. ELIGIBILITY

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2004, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 478.0051. EVENTS ELIGIBLE FOR FUNDING. (a) Only an event listed in Section 478.0001(3) is eligible for funding under this chapter.

(b) A listed event may receive funding through the program only if:

(1) a site selection organization, after considering through a highly competitive selection process one or more sites not in this state, selects a site in this state for the event to be held:

(A) one time; or

(B) if the event is scheduled under an event contract or event support contract to be held each year for a period of years,

one time in each year;

(2) a site selection organization selects a site in this state as:

(A) the sole site for the event; or

(B) the sole site for the event in a region composed of this state and one or more adjoining states;

(3) the event is held not more than one time in any year;

(4) the incremental increase in tax receipts determined under Section 478.0102 is at least $1 million; and

(5) not later than the 30th day before the first day of the event, a site selection organization submits a plan to prevent the trafficking of persons in connection with the event to:

(A) the office of the attorney general; and

(B) the chief of the Texas Division of Emergency Management.

(c) Notwithstanding Subsection (b), an event described by Section 478.0001(3)(GG) may receive funding through the program if a portion of the event is held at one or more sites located in another state or country.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 974 (S.B. 2325), Sec. 3, eff. September 1, 2023.

Sec. 478.0052. SINGLE EVENT CLASSIFICATION FOR ELIGIBILITY PURPOSES. For purposes of Section 478.0051:

(1) each presidential general election debate in a series of presidential debates before a general election is considered a separate, single event; and

(2) each series of games for the World Cup soccer tournament held in a market area designated for that series is considered a separate, single event.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 86 (S.B. 1158), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 974 (S.B. 2325), Sec. 4, eff. September 1, 2023.

Sec. 478.00525. SINGLE YEAR CLASSIFICATION FOR ELIGIBILITY PURPOSES FOR CERTAIN SPORTING EVENTS. For purposes of Sections 478.0051(b)(1) and (3), a sporting event listed in Section 478.0001(3) is considered to be held one time in each year if the event is held only one time in any annual season for that sport.

Added by Acts 2023, 88th Leg., R.S., Ch. 974 (S.B. 2325), Sec. 5, eff. September 1, 2023.

Sec. 478.0053. EXEMPTION FROM CERTAIN ELIGIBILITY REQUIREMENT FOR CERTAIN LARGE VENUES. Section 478.0051(b)(1) does not apply to an event described by Section 478.0001(3)(N). If an endorsing municipality or endorsing county requests the office to make a determination under Section 478.0102 for an event described by Section 478.0001(3)(N), the remaining provisions of this chapter apply to that event as if the event satisfied the eligibility requirements under Section 478.0051(b)(1).

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 10 (H.B. 1472), Sec. 2, eff. May 15, 2021.
Acts 2023, 88th Leg., R.S., Ch. 974 (S.B. 2325), Sec. 6, eff. September 1, 2023.

SUBCHAPTER C. STATE ACTIONS RELATING TO EVENTS

Sec. 478.0101. PREREQUISITES FOR OFFICE ACTION. The office may not undertake any duty imposed by this chapter unless:

(1) the municipality or county in which an event will be located submits a request;

(2) the event meets the requirements for funding under Section 478.0051 and all other funding requirements under this chapter; and

(3) the request is accompanied by documentation from a site

selection organization selecting the site for the event.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 478.0102. DETERMINATION OF INCREMENTAL INCREASE IN CERTAIN TAX RECEIPTS. (a) After a site selection organization selects a site for an event in this state in accordance with an application by a local organizing committee, endorsing municipality, or endorsing county and on request of a local organizing committee, endorsing municipality, or endorsing county, the office shall determine the incremental increases in the following tax receipts that the office determines are directly attributable to the preparation for and presentation of the event for a one-year period that begins two months before the date on which the event will begin:

(1) the receipts to this state from taxes imposed under Chapters 151, 152, 156, and 183, Tax Code, and under Title 5, Alcoholic Beverage Code, in the market areas designated under Section 478.0105;

(2) the receipts collected by this state for each endorsing municipality in the market area from the sales and use tax imposed by each endorsing municipality under Section 321.101(a), Tax Code, and the mixed beverage tax revenue to be received by each endorsing municipality under Section 183.051(b), Tax Code;

(3) the receipts collected by this state for each endorsing county in the market area from the sales and use tax imposed by each endorsing county under Section 323.101(a), Tax Code, and the mixed beverage tax revenue to be received by each endorsing county under Section 183.051(b), Tax Code;

(4) the receipts collected by each endorsing municipality in the market area from the hotel occupancy tax imposed under Chapter 351, Tax Code; and

(5) the receipts collected by each endorsing county in the market area from the hotel occupancy tax imposed under Chapter 352, Tax Code.

(b) The office shall make the determination required by Subsection (a) in accordance with procedures the office develops and shall base that determination on information submitted by a local organizing committee, endorsing municipality, or endorsing county.

(c) For an event scheduled to be held each year for a period of years under an event contract or event support contract, the office shall calculate the incremental increase in the tax receipts specified by Subsection (a) as if the event did not occur in the prior year for purposes of Section 478.0051(b)(4).

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 478.0103. TIME FOR DETERMINATION REQUEST. A request for a determination of the incremental increase in tax receipts under Section 478.0102 must be submitted to the office not earlier than one year and not later than the 45th day before the beginning date of the event.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 478.0104. TIME FOR DETERMINATION. The office shall determine the incremental increase in tax receipts under Section 478.0102 not later than the 30th day after the date the office receives the request for that determination and related information.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 478.0105. DESIGNATION OF MARKET AREA. (a) For purposes of Section 478.0102(a)(1), the office shall designate as a market area for an event each area in which the office determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the event. The office shall include areas likely to provide venues, accommodations, and services in connection with the event based on the proposal the local organizing committee provides to the office.

(b) The office shall determine the geographic boundaries of each market area.

(c) An endorsing municipality or endorsing county selected as the site for an event must be included in a market area for the

event.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 478.0106. ESTIMATE OF TAX REVENUE CREDITED TO FUND. (a) Not later than the 30th day after the date a local organizing committee, endorsing municipality, or endorsing county submits a request for a determination of the incremental increase in tax receipts under Section 478.0102, the office shall provide an estimate of the total amount of tax revenue that would be deposited to the fund under this chapter in connection with that event if the event were held in this state at a site selected in accordance with an application by a local organizing committee, endorsing municipality, or endorsing county.

(b) A local organizing committee, endorsing municipality, or endorsing county may submit the office's estimate to a site selection organization.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 478.0107. ECONOMIC IMPACT STUDY. (a) Not later than the 10th month after the last day of an event eligible for disbursements from the fund, using existing resources, the office shall complete a study in the market area of the event on the measurable economic impact directly attributable to the preparation for and presentation of the event.

(b) The office shall post on the office's Internet website:

(1) the results of the study conducted under Subsection (a), including any source documentation or other information on which the office relied for the study;

(2) the incremental increase in tax receipts for the event determined under Section 478.0102 and any source documentation or information described by Section 478.0251 on which the office relied to determine that increase;

(3) the documentation described by Section 478.0101(3); and

(4) documentation verifying that:

(A) a request submitted under Section 478.0101 is

complete and certified as complete by the office;

(B) the office considered the information submitted by a local organizing committee, endorsing municipality, or endorsing county to determine the incremental increase in tax receipts under Section 478.0102 as required by Section 478.0102(b); and

(C) each deadline established under this chapter was met.

(c) This section does not require disclosure of information that is confidential under Chapter 552 or confidential or privileged under other law.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.007, eff. September 1, 2021.

Sec. 478.0108. DISTRIBUTION AND PUBLICATION OF PLAN TO PREVENT TRAFFICKING OF PERSONS IN CONNECTION WITH EVENT. The office of the attorney general may:

(1) distribute the plan required by Section 478.0051(b)(5) to appropriate law enforcement agencies and the office of the governor; and

(2) publish the plan on the Internet website of the office of the attorney general.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER D. FUND ESTABLISHMENT AND CONTRIBUTIONS

Sec. 478.0151. MAJOR EVENTS REIMBURSEMENT PROGRAM FUND. The major events reimbursement program fund is established outside the state treasury and is held in trust by the comptroller for administration of this subtitle.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 478.0152. DEPOSIT OF MUNICIPAL AND COUNTY TAX REVENUE. (a) Each endorsing municipality or endorsing county participating in the program shall remit to the comptroller and the comptroller shall deposit into a trust fund created by the comptroller, at the direction of the office, and designated as the major events reimbursement program fund the amount of the municipality's or county's hotel occupancy tax revenue determined under Section 478.0102(a)(4) or (5), less any amount of the revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county.

(b) The comptroller, at the direction of the office, shall retain the amount of sales and use tax revenue and mixed beverage tax revenue determined under Section 478.0102(a)(2) or (3) from the amounts otherwise required to be sent to the municipality under Sections 321.502 and 183.051(b), Tax Code, or to the county under Sections 323.502 and 183.051(b), Tax Code, less any amount of the revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county, and shall deposit the retained tax revenue to the fund.

(c) The comptroller shall begin retaining and depositing the municipal and county tax revenue:

(1) with the first distribution of that tax revenue that occurs after the first day of the one-year period described by Section 478.0102(a); or

(2) at a time the office otherwise determines to be practicable.

(d) The comptroller shall discontinue retaining the municipal and county tax revenue when the amount of the applicable tax revenue determined under Section 478.0102(a)(2) or (3) has been retained.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 478.0153. OTHER LOCAL MONEY. (a) In lieu of the municipal and county tax revenues remitted or retained under Section 478.0152, an endorsing municipality or endorsing county may remit to the office for deposit to the fund other local money in an amount equal to the total amount of municipal and county tax revenue determined under Sections 478.0102(a)(2)-(5).

(b) An endorsing municipality or endorsing county must remit the other local money not later than the 90th day after the last day of an event eligible for funding under the program.

(c) For purposes of Section 478.0155, the amount deposited under this section is considered remitted local revenue.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 478.0154. SURCHARGES AND USER FEES. An endorsing municipality or endorsing county may collect and remit to the office surcharges and user fees attributable to an event for deposit to the fund.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 478.0155. STATE TAX REVENUE. (a) The comptroller, at the direction of the office, shall transfer to the fund a portion of the state tax revenue in an amount equal to the prevailing state sales tax rate multiplied by the amount of the local revenue retained or remitted under this chapter, including:

(1) local sales and use tax revenue;

(2) mixed beverage tax revenue;

(3) hotel occupancy tax revenue; and

(4) surcharge and user fee revenue.

(b) The amount transferred under Subsection (a) may not exceed the incremental increase in tax receipts determined under Section 478.0102(a)(1).

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER E. DISBURSEMENTS FROM FUND

Sec. 478.0201. DISBURSEMENT WITHOUT APPROPRIATION. Money in the fund may be disbursed by the office without appropriation only as provided by this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 478.0202. DISBURSEMENT FROM FUND. (a) After approval of each contributing endorsing municipality and endorsing county, the office may make a disbursement from the fund for a purpose for which a local organizing committee, an endorsing municipality, an endorsing county, or this state is obligated under a games support contract or event support contract.

(b) In considering whether to make a disbursement from the fund, the office may not consider a contingency clause in an event support contract as relieving a local organizing committee's, endorsing municipality's, or endorsing county's obligation to pay a cost under the contract.

(c) If the office makes a disbursement from the fund, the office shall satisfy the obligation proportionately from the local and state revenue in the fund.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 478.0203. REDUCTION OF DISBURSEMENT AMOUNT. (a) After the conclusion of an event, the office shall compare information on the actual attendance figures provided under Section 478.0251 with the estimated attendance numbers used to determine the incremental increase in tax receipts under Section 478.0102. If the actual attendance figures are significantly lower than the estimated attendance numbers, the office may reduce the amount of a disbursement from the fund for an endorsing entity:

(1) in proportion to the discrepancy between the actual and estimated attendance; and

(2) in proportion to the amount the entity contributed to the fund.

(b) The office by rule shall:

(1) define "significantly lower" for purposes of this section; and

(2) provide the manner in which the office may proportionately reduce a disbursement.

(c) This section does not affect the remittance under Section 478.0207 of any money remaining in the fund.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 478.0204. ALLOWABLE EXPENSES. (a) Money in the fund may be used to:

(1) pay the principal of and interest on notes issued under Section 478.0252; and

(2) fulfill obligations of an endorsing municipality, an endorsing county, or this state to a site selection organization under a games support contract or event support contract.

(b) Subject to Sections 478.0202 and 478.0205, the obligations described by Subsection (a)(2) may include the payment of:

(1) the costs relating to the preparations necessary or desirable for conducting the event; and

(2) the costs of conducting the event, including the costs of an improvement or renovation to an existing facility and the costs of the acquisition or construction of a new facility or other facility.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 478.0205. LIMITATION ON CERTAIN DISBURSEMENTS. (a) A disbursement from the fund is limited to five percent of the cost of a structural improvement or a fixture if:

(1) an obligation is incurred under a games support contract or event support contract to make the improvement or add the fixture to a site for an event; and

(2) the improvement or fixture is expected to derive most of its value in subsequent uses of the site for future events.

(b) The remainder of an obligation described by Subsection (a) is not eligible for a disbursement from the fund, unless the obligation is for an improvement or fixture for a publicly owned facility.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01,

eff. April 1, 2021.

Sec. 478.0206. PROHIBITED DISBURSEMENT. The office may not make a disbursement from the fund that the office determines would be used to solicit the relocation of a professional sports franchise located in this state.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 478.0207. REMITTANCE OF REMAINING FUND MONEY. On payment of all municipal, county, or state obligations under a games support contract or event support contract related to the location of an event in this state, the office shall remit to each endorsing entity, in proportion to the amount contributed by the entity, any money remaining in the fund.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER F. LOCAL POWERS AND DUTIES RELATING TO EVENTS

Sec. 478.0251. REQUIRED INFORMATION. (a) A local organizing committee, endorsing municipality, or endorsing county shall provide information required by the office to fulfill the office's duties under this chapter, including:

(1) annual audited statements of any financial records required by a site selection organization; and

(2) data obtained by the local organizing committee, an endorsing municipality, or an endorsing county relating to:

(A) attendance at the event, including an estimate of the number of people expected to attend the event who are not residents of this state; and

(B) the economic impact of the event.

(b) A local organizing committee, endorsing municipality, or endorsing county must provide an annual audited financial statement required by the office not later than the end of the fourth month after the last day of the period covered by the financial statement.

(c) After the conclusion of an event and on the office's

request, a local organizing committee, endorsing municipality, or endorsing county must provide information about the event, such as attendance figures, including an estimate of the number of people who attended the event who are not residents of this state, financial information, or other public information held by the committee, municipality, or county that the office considers necessary.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 478.0252. ISSUANCE OF NOTES. (a) To meet its obligations under a games support contract or event support contract to improve, construct, renovate, or acquire facilities or to acquire equipment, an endorsing municipality by ordinance or an endorsing county by order may authorize the issuance of notes.

(b) An endorsing municipality or endorsing county may provide that the notes be paid from and secured by:

(1) amounts on deposit or amounts to be deposited to the fund; or

(2) surcharges from user fees charged in connection with the event, including parking or ticket fees.

(c) A note issued must mature not later than the seventh anniversary of the date of issuance.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 478.0253. PLEDGE OF SURCHARGES TO GUARANTEE OBLIGATIONS. An endorsing municipality or endorsing county may guarantee its obligations under an event support contract and this chapter by pledging, in addition to the tax revenue deposited under Section 478.0152, surcharges from user fees charged in connection with the event, including parking or ticket fees.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

CHAPTER 479. MOTOR SPORTS RACING TRUST FUND

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 479.0001. DEFINITIONS. In this chapter:

(1) "Endorsing county" means a county that contains a site selected by a site selection organization for a motor sports racing event.

(2) "Endorsing municipality" means a municipality that contains a site selected by a site selection organization for a motor sports racing event.

(3) "Event support contract" means a joinder undertaking, joinder agreement, or similar contract executed by a site selection organization and an endorsing municipality or endorsing county.

(4) "Motor sports racing event" means a specific automobile racing event sanctioned by the Automobile Competition Committee for the United States (ACCUS) and held at a temporary event venue. The term includes an event or activity held, sponsored, or endorsed by the site selection organization in conjunction with the racing event.

(5) "Trust fund" means the motor sports racing trust fund established by this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 479.0002. CONSTRUCTION OF CHAPTER. This chapter may not be construed as creating or requiring a state guarantee of an obligation imposed on an endorsing municipality, an endorsing county, or this state under a motor sports racing event support contract or another agreement relating to hosting a motor sports racing event in this state.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 479.0003. APPLICABILITY OF PROVISIONS RELATING TO GAMES. Any provision of this subtitle applicable to games as defined by Section 475.0001 also applies to a motor sports racing event.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER B. STATE ACTIONS RELATING TO MOTOR SPORTS RACING EVENTS

Sec. 479.0051. PREREQUISITES FOR OFFICE ACTION. The office may not undertake any duty imposed by this chapter unless:

(1) the municipality and county in which a motor sports racing event will be held submit a request; and

(2) the request is accompanied by documentation from a site selection organization selecting the site for the racing event.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 479.0052. DETERMINATION OF INCREMENTAL INCREASE IN CERTAIN TAX RECEIPTS. (a) After a site selection organization selects a site for a motor sports racing event in this state in accordance with an application by a local organizing committee, endorsing municipality, or endorsing county, the office shall determine the incremental increases in the following tax receipts that the office determines are directly attributable to the preparation for and presentation of the racing event for the 30-day period that ends at the end of the day after the date on which the racing event will be held:

(1) the receipts to this state from taxes imposed under Chapters 151, 152, 156, and 183, Tax Code, and under Title 5, Alcoholic Beverage Code, in the market areas designated under Section 479.0054;

(2) the receipts collected by this state for each endorsing municipality in the market area from the sales and use tax imposed by each endorsing municipality under Section 321.101(a), Tax Code, and the mixed beverage tax revenue to be received by each endorsing municipality under Section 183.051(b), Tax Code;

(3) the receipts collected by this state for each endorsing county in the market area from the sales and use tax imposed by each endorsing county under Section 323.101(a), Tax Code, and the mixed beverage tax revenue to be received by each endorsing county under Section 183.051(b), Tax Code;

(4) the receipts collected by each endorsing municipality in the market area from the hotel occupancy tax imposed under Chapter 351, Tax Code; and

(5) the receipts collected by each endorsing county in the

market area from the hotel occupancy tax imposed under Chapter 352, Tax Code.

(b) The office shall make the determination required by Subsection (a) in accordance with procedures the office develops.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 479.0053. TIME FOR DETERMINATION. The office shall determine the incremental increase in tax receipts under Section 479.0052 not later than three months before the date of the motor sports racing event.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 479.0054. DESIGNATION OF MARKET AREA. (a) For purposes of Section 479.0052(a)(1), the office shall designate as a market area for a motor sports racing event each area in which the office determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the racing event. The office shall include areas likely to provide venues, accommodations, and services in connection with the racing event based on a proposal or other information a local organizing committee, endorsing municipality, or endorsing county provides to the office.

(b) The office shall determine the geographic boundaries of each market area.

(c) An endorsing municipality or endorsing county selected as the site for the motor sports racing event must be included in a market area for the racing event.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 479.0055. ESTIMATE OF TAX REVENUE CREDITED TO TRUST FUND. (a) Not later than three months before the date of a motor sports racing event, the office shall provide an estimate of the total

amount of tax revenue that would be transferred or deposited to the trust fund under this chapter in connection with that racing event if the racing event were held in this state at a site selected in accordance with an application by a local organizing committee, endorsing municipality, or endorsing county.

(b) The office shall provide the estimate on request to a local organizing committee, endorsing municipality, or endorsing county.

(c) A local organizing committee, endorsing municipality, or endorsing county may submit the office's estimate to a site selection organization.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER C. TRUST FUND ESTABLISHMENT AND CONTRIBUTIONS

Sec. 479.0101. MOTOR SPORTS RACING TRUST FUND. The motor sports racing trust fund is established outside the state treasury and is held in trust by the comptroller for administration of this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 479.0102. DEPOSIT OF MUNICIPAL AND COUNTY TAX REVENUE. (a) Each endorsing municipality or endorsing county shall remit to the comptroller and the comptroller shall deposit into a trust fund created by the comptroller, at the direction of the office, and designated as the motor sports racing trust fund for the motor sports racing event the amount of the municipality's or county's hotel occupancy tax revenue determined under Section 479.0052(a)(4) or (5), less any amount of the revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county.

(b) The comptroller, at the direction of the office, shall retain the amount of sales and use tax revenue and mixed beverage tax revenue determined under Section 479.0052(a)(2) or (3) from the amounts otherwise required to be sent to the municipality under Sections 321.502 and 183.051(b), Tax Code, or to the county under Sections 323.502 and 183.051(b), Tax Code, less any amount of the

revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county, and shall deposit the retained tax revenue to the trust fund.

(c) The comptroller shall begin retaining and depositing the municipal and county tax revenue with the first distribution of that tax revenue that occurs after the first day of the period described by Section 479.0052(a).

(d) The comptroller shall discontinue retaining the municipal and county tax revenue when the amount of the applicable tax revenue determined under Section 479.0052(a)(2) or (3) has been retained.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 479.0103. STATE TAX REVENUE. The comptroller, at the direction of the office, shall transfer to the trust fund a portion of the state tax revenue determined under Section 479.0052(a)(1) in an amount equal to 6.25 multiplied by the amount of the municipal and county sales and use tax revenue and mixed beverage tax revenue retained and the hotel occupancy tax revenue remitted by an endorsing municipality or endorsing county under Section 479.0102.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER D. DISBURSEMENTS FROM TRUST FUND

Sec. 479.0151. DISBURSEMENT WITHOUT APPROPRIATION. Money in the trust fund may be disbursed by the office without appropriation only as provided by this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 479.0152. DISBURSEMENT FROM TRUST FUND. (a) After approval of each contributing endorsing municipality and endorsing county, the office may make a disbursement from the trust fund for a purpose for which an endorsing municipality, an endorsing county, or this state is obligated under a motor sports racing event support

contract or event support contract.

(b) If the office makes a disbursement from the trust fund, the office shall satisfy the obligation proportionately from the municipal, county, and state revenue in the trust fund.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 479.0153. ALLOWABLE EXPENSES. (a) Money in the trust fund may be used to:

(1) pay the principal of and interest on notes issued under Section 479.0202; and

(2) fulfill obligations of an endorsing municipality, an endorsing county, or this state to a site selection organization under a motor sports racing event support contract or event support contract.

(b) The obligations described by Subsection (a)(2) may include the payment of:

(1) the costs relating to the preparations necessary or desirable for conducting the motor sports racing event; and

(2) the costs of conducting the racing event, including costs of a temporary improvement or temporary renovation to an existing facility specific to the racing event.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 479.0154. PROHIBITED DISBURSEMENT. The office may not make a disbursement from the trust fund that the office determines would be used to solicit the relocation of a professional sports franchise located in this state.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 479.0155. REMITTANCE OF REMAINING TRUST FUND MONEY. On payment of all municipal, county, or state obligations under a motor sports racing event support contract or event support contract

related to the location of a motor sports racing event in this state, the office shall remit to each endorsing entity, in proportion to the amount contributed by the entity, any money remaining in the trust fund.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER E. LOCAL POWERS AND DUTIES RELATING TO MOTOR SPORTS RACING EVENTS

Sec. 479.0201. REQUIRED INFORMATION. (a) A local organizing committee, endorsing municipality, or endorsing county shall provide information required by the office to fulfill the office's duties under this chapter, including:

(1) annual audited statements of any financial records required by a site selection organization; and

(2) data obtained by the local organizing committee, an endorsing municipality, or an endorsing county relating to:

(A) attendance at the motor sports racing event; and

(B) the economic impact of the racing event.

(b) A local organizing committee, endorsing municipality, or endorsing county must provide any annual audited financial statement required by the office not later than the end of the fourth month after the last day of the period covered by the financial statement.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 479.0202. ISSUANCE OF NOTES. (a) To meet its obligations under a motor sports racing event support contract or event support contract to improve, renovate, or acquire facilities or to acquire equipment, an endorsing municipality by ordinance or an endorsing county by order may authorize the issuance of notes.

(b) An endorsing municipality or endorsing county may provide that the notes be paid from and secured by:

(1) amounts on deposit or amounts to be transferred or deposited to the trust fund; or

(2) surcharges from user fees charged in connection with the motor sports racing event, including parking or ticket fees.

(c) A note issued must mature not later than the seventh anniversary of the date of issuance.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 479.0203. PLEDGE OF SURCHARGES TO GUARANTEE OBLIGATIONS. An endorsing municipality or endorsing county may guarantee its obligations under a motor sports racing event support contract and this chapter by pledging, in addition to the tax revenue deposited under Section 479.0102, surcharges from user fees charged in connection with the motor sports racing event, including parking or ticket fees.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

CHAPTER 480. EVENTS TRUST FUND

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 480.0001. DEFINITIONS. In this chapter:

(1) "Endorsing county" means a county that contains a site selected by a site selection organization for an event.

(2) "Endorsing municipality" means a municipality that contains a site selected by a site selection organization for an event.

(3) "Event" means an event or related series of events to be held in this state for which a local organizing committee, endorsing municipality, or endorsing county seeks approval from a site selection organization to hold the event at a site in this state. The term includes any activity related to or associated with the event.

(4) "Event support contract" means a joinder undertaking, a joinder agreement, or a similar contract executed by a site selection organization and a local organizing committee, an endorsing municipality, or an endorsing county.

(5) "Site selection organization" means an entity that conducts or considers conducting in this state an event eligible under Section 480.0051.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0002. RULES. The office may adopt rules necessary to implement this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0003. CONSTRUCTION OF CHAPTER. This chapter may not be construed as creating or requiring a state guarantee of an obligation imposed on an endorsing municipality, an endorsing county, or this state under an event support contract or another agreement relating to hosting an event in this state.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER B. ELIGIBILITY

Sec. 480.0051. EVENTS ELIGIBLE FOR FUNDING. An event is eligible for funding under this chapter only if:

(1) a site selection organization, after considering through a highly competitive selection process one or more sites not in this state, selects a site in this state for the event to be held:

(A) one time; or

(B) if the event is scheduled under an event contract or event support contract to be held each year for a period of years, one time in each year;

(2) a site selection organization selects a site in this state as:

(A) the sole site for the event; or

(B) the sole site for the event in a region composed of this state and one or more adjoining states; and

(3) the event is held not more than one time in any year in this state or an adjoining state.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.00515. SINGLE YEAR CLASSIFICATION FOR ELIGIBILITY PURPOSES FOR CERTAIN SPORTING EVENTS. For purposes of Sections 480.0051(1) and (3), a sporting event is considered to be held one time in each year if the event is held only one time in any annual season for that sport.

Added by Acts 2023, 88th Leg., R.S., Ch. 974 (S.B. 2325), Sec. 7, eff. September 1, 2023.

Sec. 480.0052. LIMITATIONS ON CERTAIN FUNDING REQUESTS. (a) This section applies only to an event for which the office determines under Section 480.0102 that the total incremental increase in tax receipts is less than $200,000.

(b) Subject to Subsection (c), an endorsing municipality or endorsing county may during any 12-month period submit requests for funding under this chapter for not more than 10 events to which this section applies.

(c) Not more than three of the events described by Subsection (b) may be nonsporting events.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER C. STATE ACTIONS RELATING TO EVENTS

Sec. 480.0101. PREREQUISITES FOR OFFICE ACTION. The office may not undertake any duty imposed by this chapter unless:

(1) the municipality or county in which an event will be located submits a request; and

(2) the request is accompanied by documentation from a site selection organization selecting the site for the event.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0102. DETERMINATION OF INCREMENTAL INCREASE IN CERTAIN TAX RECEIPTS. (a) After a site selection organization selects a

site for an event in this state in accordance with an application by a local organizing committee, endorsing municipality, or endorsing county, the office shall determine the incremental increases in the following tax receipts that the office determines are directly attributable to the preparation for and presentation of the event for the 30-day period that ends at the end of the day after the date on which the event will be held or, if the event will be held on more than one day, after the last date on which the event will be held:

(1) the receipts to this state from taxes imposed under Chapters 151, 152, 156, and 183, Tax Code, and under Title 5, Alcoholic Beverage Code, in the market areas designated under Section 480.0104;

(2) the receipts collected by this state for each endorsing municipality in the market area from the sales and use tax imposed by each endorsing municipality under Section 321.101(a), Tax Code, and the mixed beverage tax revenue to be received by each endorsing municipality under Section 183.051(b), Tax Code;

(3) the receipts collected by this state for each endorsing county in the market area from the sales and use tax imposed by each endorsing county under Section 323.101(a), Tax Code, and the mixed beverage tax revenue to be received by each endorsing county under Section 183.051(b), Tax Code;

(4) the receipts collected by each endorsing municipality in the market area from the hotel occupancy tax imposed under Chapter 351, Tax Code; and

(5) the receipts collected by each endorsing county in the market area from the hotel occupancy tax imposed under Chapter 352, Tax Code.

(b) The office shall make the determination required by Subsection (a) in accordance with procedures the office develops and shall base that determination on information submitted by a local organizing committee, endorsing municipality, or endorsing county.

(c) In determining the amount of state revenue available under Subsection (a)(1), the office may consider whether:

(1) the event has been previously held in this state; and

(2) changes to the character of the event could affect the incremental increase in tax receipts collected and remitted to this state by an endorsing municipality or endorsing county under Subsection (a)(1).

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0103. TIME FOR DETERMINATION. The office shall determine the incremental increase in tax receipts under Section 480.0102 not later than the earlier of:

(1) the 30th day after the date the office receives the information for an event submitted by a local organizing committee, endorsing municipality, or endorsing county on which the office bases the determination as provided by Section 480.0102(b); and

(2) three months before the date of the event.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0104. DESIGNATION OF MARKET AREA. (a) For purposes of Section 480.0102(a)(1), the office shall designate as a market area for an event each area in which the office determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the event. The office shall include areas likely to provide venues, accommodations, and services in connection with the event based on the proposal the local organizing committee provides to the office.

(b) The office shall determine the geographic boundaries of each market area.

(c) An endorsing municipality or endorsing county selected as the site for the event must be included in a market area for the event.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0105. ESTIMATE OF TAX REVENUE CREDITED TO FUND. (a) Not later than three months before the date of an event, the office shall provide an estimate of the total amount of tax revenue that would be transferred or deposited to the events trust fund under this chapter in connection with that event if the event were held in this state at a site selected in accordance with an application by a local

organizing committee, endorsing municipality, or endorsing county.

(b) The office shall provide the estimate on request to a local organizing committee, endorsing municipality, or endorsing county.

(c) A local organizing committee, endorsing municipality, or endorsing county may submit the office's estimate to a site selection organization.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0106. MODEL EVENT SUPPORT CONTRACT. (a) The office may adopt a model event support contract and make the contract available on the office's Internet website.

(b) The office's adoption of a model event support contract under this section does not require use of the model event support contract for purposes of this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER D. FUND ESTABLISHMENT AND CONTRIBUTIONS

Sec. 480.0151. EVENTS TRUST FUND. The events trust fund is established outside the state treasury and is held in trust by the comptroller for administration of this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0152. DEPOSIT OF MUNICIPAL AND COUNTY TAX REVENUE. (a) Each endorsing municipality or endorsing county shall remit to the comptroller and the comptroller shall deposit into a trust fund created by the comptroller, at the direction of the office, and designated as the events trust fund the amount of the municipality's or county's hotel occupancy tax revenue determined under Section 480.0102(a)(4) or (5), less any amount of the revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county.

(b) The comptroller, at the direction of the office, shall

retain the amount of sales and use tax revenue and mixed beverage tax revenue determined under Section 480.0102(a)(2) or (3) from the amounts otherwise required to be sent to the municipality under Sections 321.502 and 183.051(b), Tax Code, or to the county under Sections 323.502 and 183.051(b), Tax Code, less any amount of the revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county, and shall deposit the retained tax revenue to the events trust fund.

(c) The comptroller shall begin retaining and depositing the municipal and county tax revenue:

(1) with the first distribution of that tax revenue that occurs after the first day of the period described by Section 480.0102(a); or

(2) at a time the office otherwise determines to be practicable.

(d) The comptroller shall discontinue retaining the municipal and county tax revenue when the amount of the applicable tax revenue determined under Section 480.0102(a)(2) or (3) has been retained.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0153. OTHER LOCAL MONEY. (a) In lieu of the municipal and county tax revenues remitted or retained under Section 480.0152, an endorsing municipality or endorsing county may remit to the office for deposit to the events trust fund other local money in an amount equal to the total amount of municipal and county tax revenue determined under Sections 480.0102(a)(2)-(5).

(b) An endorsing municipality or endorsing county must remit the other local money not later than the 90th day after the last day of an event.

(c) For purposes of Section 480.0155, the amount deposited under this section is considered remitted municipal and county tax revenue.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0154. SURCHARGES AND USER FEES. An endorsing

municipality or endorsing county may collect and remit to the office surcharges and user fees attributable to an event for deposit to the events trust fund.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0155. STATE TAX REVENUE. (a) The comptroller, at the direction of the office, shall transfer to the events trust fund a portion of the state tax revenue in an amount equal to 6.25 multiplied by the amount of the municipal and county tax revenue retained or remitted under this chapter, including:

(1) local sales and use tax revenue;

(2) mixed beverage tax revenue;

(3) hotel occupancy tax revenue; and

(4) surcharge and user fee revenue.

(b) The amount transferred under Subsection (a) may not exceed the incremental increase in tax receipts determined under Section 480.0102(a)(1).

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER E. DISBURSEMENTS FROM FUND

Sec. 480.0201. DISBURSEMENT WITHOUT APPROPRIATION. Money in the events trust fund may be disbursed by the office without appropriation only as provided by this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0202. DISBURSEMENT FROM FUND. (a) After approval of each contributing endorsing municipality and endorsing county, the office may make a disbursement from the events trust fund for a purpose for which a local organizing committee, an endorsing municipality, an endorsing county, or this state is obligated under an event support contract, including an obligation to pay costs incurred in making preparations necessary for the event and

conducting the event.

(b) In considering whether to make a disbursement from the events trust fund, the office may not consider a contingency clause in an event support contract as relieving a local organizing committee's, endorsing municipality's, or endorsing county's obligation to pay a cost under the contract.

(c) If the office makes a disbursement from the events trust fund, the office shall satisfy the obligation proportionately from the local and state revenue in the fund.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0203. REDUCTION OF DISBURSEMENT AMOUNT. (a) After the conclusion of an event, the office shall compare information on the actual attendance figures provided under Section 480.0251 with the estimated attendance numbers used to determine the incremental increase in tax receipts under Section 480.0102. If the actual attendance figures are significantly lower than the estimated attendance numbers, the office may reduce the amount of a disbursement from the events trust fund for an endorsing entity:

(1) in proportion to the discrepancy between the actual and estimated attendance; and

(2) in proportion to the amount the entity contributed to the fund.

(b) The office by rule shall:

(1) define "significantly lower" for purposes of this section; and

(2) provide the manner in which the office may proportionately reduce a disbursement.

(c) This section does not affect the remittance under Section 480.0207 of any money remaining in the events trust fund.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0204. ALLOWABLE EXPENSES. (a) Money in the events trust fund may be used to:

(1) pay the principal of and interest on notes issued under

Section 480.0252; and

(2) fulfill obligations of an endorsing municipality, an endorsing county, or this state to a site selection organization under an event support contract.

(b) Subject to Sections 480.0202 and 480.0205, the obligations described by Subsection (a)(2) may include the payment of:

(1) the costs relating to the preparations necessary for conducting the event; and

(2) the costs of conducting the event, including costs of an improvement or renovation to an existing facility and costs of acquisition or construction of a new facility or other facility.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0205. LIMITATION ON CERTAIN DISBURSEMENTS. (a) A disbursement from the events trust fund is limited to five percent of the cost of a structural improvement or a fixture if:

(1) an obligation is incurred under an event support contract to make the improvement or add the fixture to a site for an event; and

(2) the improvement or fixture is expected to derive most of its value in subsequent uses of the site for future events.

(b) The remainder of an obligation described by Subsection (a) is not eligible for a disbursement from the events trust fund, unless the obligation is for an improvement or fixture for a publicly owned facility.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0206. PROHIBITED DISBURSEMENTS. (a) Subject to Subsection (b), the office may not make a disbursement from the events trust fund that the office determines would be used to:

(1) solicit the relocation of a professional sports franchise located in this state;

(2) construct an arena, stadium, or convention center; or

(3) conduct usual and customary maintenance of a facility.

(b) Subsection (a) does not prohibit a disbursement from the

events trust fund for the construction of temporary structures within an arena, stadium, or convention center that are necessary for the conduct of an event or temporary maintenance of a facility that is necessary for the preparation for or conduct of an event.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0207. REMITTANCE OF REMAINING FUND MONEY. On payment of all municipal, county, or state obligations under an event support contract related to the location of an event in this state, the office shall remit to each endorsing entity, in proportion to the amount contributed by the entity, any money remaining in the events trust fund.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBCHAPTER F. LOCAL POWERS AND DUTIES RELATING TO EVENTS

Sec. 480.0251. REQUIRED INFORMATION. (a) A local organizing committee, endorsing municipality, or endorsing county shall provide information required by the office to fulfill the office's duties under this chapter, including:

(1) annual audited statements of any financial records required by a site selection organization; and

(2) data obtained by the local organizing committee, an endorsing municipality, or an endorsing county relating to:

(A) attendance at the event, including an estimate of the number of people expected to attend the event who are not residents of this state; and

(B) the economic impact of the event.

(b) A local organizing committee, endorsing municipality, or endorsing county must provide any annual audited financial statement required by the office not later than the end of the fourth month after the last day of the period covered by the financial statement.

(c) After the conclusion of an event and on the office's request, a local organizing committee, endorsing municipality, or endorsing county must provide information about the event, such as attendance figures, including an estimate of the number of people who

attended the event who are not residents of this state, financial information, or other public information held by the committee, municipality, or county that the office considers necessary.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0252. ISSUANCE OF NOTES. (a) To meet its obligations under an event support contract to improve, construct, renovate, or acquire facilities or to acquire equipment, an endorsing municipality by ordinance or an endorsing county by order may authorize the issuance of notes.

(b) An endorsing municipality or endorsing county may provide that the notes be paid from and secured by:

(1) amounts on deposit or amounts to be transferred or deposited to the events trust fund; or

(2) surcharges from user fees charged in connection with the event, including parking or ticket fees.

(c) A note issued must mature not later than the seventh anniversary of the date of issuance.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

Sec. 480.0253. PLEDGE OF SURCHARGES TO GUARANTEE OBLIGATIONS. An endorsing municipality or endorsing county may guarantee its obligations under an event support contract and this chapter by pledging, in addition to the tax revenue deposited under Section 480.0152, surcharges from user fees charged in connection with the event, including parking or ticket fees.

Added by Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 1.01, eff. April 1, 2021.

SUBTITLE F. COMMERCE AND INDUSTRIAL DEVELOPMENT

CHAPTER 481. TEXAS ECONOMIC DEVELOPMENT AND TOURISM OFFICE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 481.001. DEFINITIONS. In this chapter:

(1) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(3).

(2) "Bond" includes a note, draft, bill, warrant, debenture, certificate, or other evidence of indebtedness.

(3), (4) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(3).

(5) "Bank" means the Texas Economic Development Bank.

(6) "Industry cluster" means a concentration of businesses and industries in a geographic region that are interconnected by the markets they serve, the products they produce, their suppliers, the trade associations to which their employees belong, and the educational institutions from which their employees or prospective employees receive training.

(7) "Office" means the Texas Economic Development and Tourism Office.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1041, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 1.02, 6.01(3), eff. Sept. 1, 2003.

Sec. 481.002. OFFICE. The Texas Economic Development and Tourism Office is an office within the office of the governor.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1041, Sec. 3, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 1.03, eff. Sept. 1, 2003.

Sec. 481.003. SUNSET PROVISION. The Texas Economic Development and Tourism Office is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished September 1, 2035.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 1.22, eff. Nov. 12, 1991; Acts 1993, 73rd Leg., ch. 986, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1041, Sec. 4, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1481, Sec. 1.01(a), eff. Sept. 1, 2001;

Acts 2003, 78th Leg., ch. 814, Sec. 1.04, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 5.04, eff. June 17, 2011.

Acts 2021, 87th Leg., R.S., Ch. 850 (S.B. 713), Sec. 1.01, eff. June 16, 2021.

Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 1, eff. September 1, 2023.

Sec. 481.0042. CONFLICT OF INTEREST. (a) A person may not be the executive director or an employee of the office employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if the person:

(1) is employed by, participates in the management of, or is a paid consultant of a business entity that contracts with the office;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization that contracts with the office;

(3) uses or receives a substantial amount of tangible goods, services, or funds from the office, other than compensation or reimbursement authorized by law for employee salaries and benefits; or

(4) is an officer, employee, or paid consultant of a trade association of businesses in the field of economic development or tourism or that contracts with the office.

(b) A person may not be the executive director or an employee of the office if the person's spouse:

(1) is employed by, participates in the management of, or is a paid consultant of a business entity that contracts with the office;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization that contracts with the office;

(3) uses or receives a substantial amount of tangible goods, services, or funds from the office; or

(4) is an officer, manager, or paid consultant of a trade association of businesses in the field of economic development or tourism or that contracts with the office.

(c) For the purposes of this section, a trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(d) For the purposes of this section, a business entity is a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust, or any other entity recognized in law through which business for profit is conducted.

(e) A person may not be the executive director or an employee of the office if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business entity that has an interest in a contract with the office or a profession related to the operation of the office.

(f) A person may not act as the general counsel to the office if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the office.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 3, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 986, Sec. 4, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1041, Sec. 7, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 1.05, eff. Sept. 1, 2003.

Sec. 481.0045. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) The office shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of office rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the office's jurisdiction.

(b) The office's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model

guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The office shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the office.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 1.06, eff. Sept. 1, 2003.

Sec. 481.005. EXECUTIVE DIRECTOR; DUTIES. (a) The governor shall appoint an executive director of the office who serves at the pleasure of the governor.

(b) The executive director must have demonstrated experience in the areas of economic development or tourism and executive and organizational ability.

(c) The executive director shall manage the affairs of the office under the direction of the governor.

(d) The executive director shall direct the activities of the office and, in performing that duty, shall establish policy, adopt rules, evaluate the implementation of new legislation that affects the office's duties, review and comment on the office's budget, prepare an annual report of the office's activities, conduct investigations and studies, and develop long-range plans for the future goals and needs of the office.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 4, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 986, Sec. 6, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1041, Sec. 10, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 285, Sec. 18, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 814, Sec. 1.07, 1.08, 6.01(3), eff. Sept. 1, 2003.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see H.B. 5246 and H.B. 4850, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 481.0066. AEROSPACE AND AVIATION OFFICE. (a) The office shall establish and maintain an aerospace and aviation office.

(b) The office may hire a director of the aerospace and aviation office and staff as necessary to perform the duties of the aerospace and aviation office under this section.

(c) The aerospace and aviation office shall encourage economic development in this state by fostering the growth and development of aerospace and aviation industries in Texas.

(d) The aerospace and aviation office shall:

(1) analyze space-related and aviation-related research currently conducted in this state and may conduct activities designed to further that research;

(2) analyze the state's economic position in the aerospace and aviation industries;

(3) develop short-term and long-term business strategies as part of an industry-specific strategic plan to promote the retention, development, and expansion of aerospace and aviation industry facilities in the state that is consistent with and complementary of the office strategic plan;

(4) as part of and to further the purposes of the industry-specific strategic plan described by Subdivision (3), develop short-term and long-term policy initiatives or recommend reforms the state may undertake or implement to:

(A) increase investment in aerospace and aviation activities;

(B) support the retention, development, and expansion of spaceports in this state;

(C) identify and encourage educational, economic, and defense-related opportunities for aerospace and aviation activities;

(D) determine the appropriate level of funding for the spaceport trust fund created under Section 481.0069 and support ongoing projects that have been assisted by the fund, including recommending to the legislature an appropriate funding level for the fund;

(E) partner with the Texas Higher Education Coordinating Board to foster technological advancement and economic development for spaceport activities by strengthening higher

education programs and supporting aerospace activities; and

(F) partner with the Texas Workforce Commission to support initiatives that address the high technology skills and staff resources needed to better promote the state's efforts in becoming the leading space exploration state in the nation;

(5) act as a liaison with other state and federal entities with related economic, educational, and defense responsibilities to support the marketing of the state's aerospace and aviation capabilities;

(6) provide technical support and expertise to the state and to local spaceport authorities regarding aerospace and aviation business matters; and

(7) be responsible for the promotion and development of spaceports in this state.

(d-1) Repealed by Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 16(1), eff. September 1, 2023.

(d-2) Repealed by Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 16(1), eff. September 1, 2023.

(e) The governor shall appoint an aerospace and aviation advisory committee consisting of:

(1) seven qualified members to assist in the state's economic development efforts to recruit and retain aerospace and aviation jobs and investment; and

(2) one member for each active spaceport development corporation in the state who represents the interests of each respective spaceport development corporation.

(e-1) The aerospace and aviation advisory committee shall:

(1) advise the governor on the recruitment and retention of aerospace and aviation jobs and investment;

(2) assist the office and the aerospace and aviation office in meeting the state's economic development efforts to recruit and retain aerospace and aviation jobs and investment;

(3) advise the office, the aerospace and aviation office, and the governor on an appropriate funding level for the spaceport trust fund;

(4) advise the office, the aerospace and aviation office, and the governor on recruitment, retention, and expansion of aerospace and aviation industry activities; and

(5) collect and disseminate information on federal, state, local, and private community economic development programs that

assist or provide loans, grants, or other funding to aerospace and aviation industry activities.

(e-2) Members of the aerospace and aviation advisory committee:

(1) shall serve staggered four-year terms; and

(2) may not receive compensation for serving on the committee.

(f) Chapter 2110 does not apply to the size, composition, or duration of the aerospace and aviation advisory committee.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 1.09, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 68 (S.B. 458), Sec. 1, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 2, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 16(1), eff. September 1, 2023.

Sec. 481.0067. SMALL BUSINESS ADVOCATE. (a) The executive director shall designate an individual as the small business advocate.

(b) To be eligible to serve as the small business advocate, a person must have demonstrated a strong commitment to and involvement in small business efforts.

(c) The small business advocate shall:

(1) serve as the principal focal point in this state for assisting small and historically underutilized businesses;

(2) assist small and historically underutilized businesses by identifying:

(A) conflicting state policy goals and state agency rules that may inhibit small and historically underutilized business development;

(B) financial barriers for those businesses; and

(C) sources of financial assistance for those businesses;

(3) provide assistance to small and historically underutilized businesses in complying with federal, state, and local laws; and

(4) perform research, studies, and analyses of matters affecting the interests of small and historically underutilized businesses.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 1.10, eff. Sept. 1, 2003.

Sec. 481.0068. OFFICE OF SMALL BUSINESS ASSISTANCE. (a) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(3), eff. Sept. 1, 2003.

(b) The Office of Small Business Assistance shall:

(1) examine the role of small and historically underutilized businesses in the state's economy and the contribution of small and historically underutilized businesses in generating economic activity, expanding employment opportunities, promoting exports, stimulating innovation and entrepreneurship, and bringing new and untested products and services to the marketplace;

(2) serve as the principal focal point in the state for small and historically underutilized businesses by:

(A) providing to the legislature information on the effects of proposed policies or actions;

(B) assisting state agencies in determining the impact proposed rules have on small businesses as required by Section 2006.002; and

(C) assisting the agencies in reducing the adverse effect that rules have on small businesses, if appropriate;

(3) evaluate the effectiveness of efforts of state agencies and other entities to assist small and historically underutilized businesses and make appropriate recommendations to the legislature and state agencies to assist the development and strengthening of small and historically underutilized businesses;

(4) identify regulations that inhibit small and historically underutilized business development and to the extent possible identify conflicting state policy goals;

(5) determine the availability of financial and other resources to small and historically underutilized businesses and recommend methods for:

(A) increasing the availability of equity capital and other forms of financial assistance to small and historically

underutilized businesses;

(B) generating markets for the goods and services of small and historically underutilized businesses;

(C) providing more effective education, training, and management and technical assistance to small and historically underutilized businesses; and

(D) providing assistance to small and historically underutilized businesses in complying with federal, state, and local laws;

(6) identify the reasons for small and historically underutilized business successes and failures, ascertain the related factors that are particularly important in this state, and recommend actions for increasing the success rate of small and historically underutilized businesses;

(7) serve as a focal point for receiving comments and suggestions concerning state government policies and activities that affect small and historically underutilized businesses;

(8) develop and suggest proposals for changes in state policies and activities that adversely affect small and historically underutilized businesses;

(9) provide to state agencies information on the effects of proposed policies or actions that affect small and historically underutilized businesses;

(10) provide information and assistance relating to establishing, operating, or expanding small and historically underutilized businesses;

(11) assist small and historically underutilized businesses by:

(A) identifying:

(i) sources of financial assistance for those businesses; and

(ii) financial barriers to those businesses;

(B) working with relevant organizations to identify financing programs that aid small businesses in overcoming financial barriers;

(C) matching those businesses with sources of financial assistance and credit enhancement; and

(D) assisting those businesses with the preparation of applications for government loans, loan guarantees, and credit enhancement programs;

(12) sponsor meetings, to the extent practicable in cooperation with public and private educational institutions, to provide training and disseminate information beneficial to small and historically underutilized businesses;

(13) assist small and historically underutilized businesses in their dealings with federal, state, and local governmental agencies and provide information regarding governmental requirements affecting small and historically underutilized businesses;

(14) perform research, studies, and analyses of matters affecting the interests of small and historically underutilized businesses;

(15) use available resources within the state, such as small business development centers, educational institutions, and nonprofit associations, to coordinate the provision of management and technical assistance to small and historically underutilized businesses in a systematic manner;

(16) publish newsletters, brochures, and other documents containing information useful to small and historically underutilized businesses;

(17) identify successful small and historically underutilized business assistance programs provided by other states and determine the feasibility of adapting those programs for implementation in this state;

(18) establish an outreach program to make the existence of the office known to small and historically underutilized businesses and potential clients throughout the state;

(19) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the state that benefit small businesses and how small businesses can participate in or make use of those programs and services;

(20) defer to the small business compliance assistance program as defined by Section 5.135, Water Code, on advocacy and technical assistance related to environmental programs that regulate small businesses;

(21) develop a "one-stop" approach for all small business needs, including competitive activity with state agencies and political subdivisions; and

(22) perform any other functions necessary to carry out the purposes of this section.

(c) to (e). Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(3), eff. Sept. 1, 2003.

Added by Acts 1997, 75th Leg., ch. 1041, Sec. 12, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 750, Sec. 2, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 1408, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 81, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 814, Sec. 6.01(3), eff. Sept. 1, 2003.

Sec. 481.00681. OFFICE OF SMALL BUSINESS ASSISTANCE ADVISORY TASK FORCE. (a) In this section:

(1) "Small business" means a business that employs at least 25 but not more than 250 individuals.

(2) "Task force" means the Office of Small Business Assistance Advisory Task Force.

(b) The Office of Small Business Assistance shall establish the task force.

(c) The task force is composed of seven members appointed as follows:

(1) three members appointed by the governor;

(2) two members appointed by the speaker of the house of representatives; and

(3) two members appointed by the lieutenant governor.

(d) A task force member serves a two-year term. A task force member may be reappointed for additional terms.

(e) Task force members serve without compensation but are entitled to reimbursement for reasonable and necessary expenses incurred in the discharge of their duties.

(f) The task force shall meet as often as necessary but shall meet at least once a year.

(g) The task force shall:

(1) advise and assist the Office of Small Business Assistance with its duties under Section 481.0068(b) to the extent that they relate to small businesses;

(2) advise and assist the governor, the lieutenant governor, and the speaker of the house of representatives with issues that relate to small businesses; and

(3) provide information in plain language to the public on issues related to small businesses, including:

(A) environmental permitting and compliance;
(B) local regulations;
(C) construction permitting;
(D) the duties of the comptroller to the extent that the duties relate to small businesses; and
(E) the formation of business entities.

(h) Not later than January 1 of each odd-numbered year, the task force shall submit to the legislature a report that:
(1) describes issues related to small businesses; and
(2) proposes legislation to assist small businesses.

(i) Chapter 2110 does not apply to the size, composition, or duration of the task force.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1103 (H.B. 3714), Sec. 1, eff. June 14, 2013.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 3, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 481.0069. SPACEPORT TRUST FUND. (a) In this section:
(1) "Reusable launch vehicle" means a vehicle intended for repeated use that:
(A) is built to operate in or place a payload into space; or
(B) is a suborbital rocket.
(2) "Spaceport" has the meaning assigned by Section 507.001, Local Government Code.

(b) The spaceport trust fund is created as a trust fund outside the treasury with the comptroller and shall be administered by the office under this section and rules adopted by the office.

(c) The spaceport trust fund consists of money from:
(1) gifts, grants, or donations to the office for the development of spaceport infrastructure; and
(2) any other source designated by the legislature.

(d) Money in the spaceport trust fund may not be spent unless the office certifies to the comptroller that:

(1) a viable business entity has been established that:

(A) has a business plan that demonstrates that the entity has available the financial, managerial, and technical expertise and capability necessary to launch and land a reusable launch vehicle or spacecraft; and

(B) has committed to locating its facilities at a spaceport in this state;

(2) a development corporation for spaceport facilities created under Chapter 507, Local Government Code, has established a development plan for the spaceport project and has demonstrated the financial ability to fund at least 75 percent of the funding required for the project; and

(3) the spaceport or launch operator, if required by federal law, has obtained or applied for the appropriate Federal Aviation Administration license or other appropriate authorization.

(e) Money in the spaceport trust fund may be used only to pay expenditures for the development of infrastructure necessary or useful for establishing a spaceport. The office may contract with a development corporation for spaceport facilities for the infrastructure development.

(f) The office may invest, reinvest, and direct the investment of any available money in the spaceport trust fund. Money in the fund may be invested in the manner that state funds may be invested under Section 404.024.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 1.11, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.03, eff. April 1, 2009.

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.04, eff. April 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 953 (H.B. 1791), Sec. 5, eff. September 1, 2013.

Sec. 481.008. AUDIT. (a) The financial transactions of the office are subject to audit by:

(1) the state auditor in accordance with Chapter 321; or

(2) a private auditing firm.

(b) The state auditor shall inform the executive director when a financial audit of the office is not included in the audit plan for the state for a fiscal year. The executive director shall ensure that the office is audited under Subsection (a)(2) during those fiscal years.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 40, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 599, Sec. 10, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1041, Sec. 14, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 1.12, eff. Sept. 1, 2003.

Sec. 481.009. REVIEW OF BONDS. (a) Bonds may not be issued under this chapter, and proceeds of bonds issued under this chapter may not be used to finance a project, unless the issuance or project, as applicable, has been reviewed and approved by the bond review board.

(b) A member of the bond review board may not be held liable for damages resulting from the performance of the member's functions under this section.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989.

Sec. 481.010. PERSONNEL. (a) The executive director shall employ personnel necessary for the performance of office functions. The equal employment opportunity officer and the internal auditor of the office of the governor shall serve the same functions for the office as they serve for the office of the governor. The internal auditor shall report directly to the governor and may consult with the executive director or the executive director's designee.

(b) The executive director or the executive director's designee shall provide to office employees, as often as necessary, information regarding their qualifications for employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state employees.

(c) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(3).

(d) The executive director or the executive director's designee shall develop an intraagency career ladder program. The program shall require intraagency postings of all non-entry-level positions

concurrently with any public posting.

(e) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for office employees must be based on the system established under this subsection.

(f) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with requirements of the Commission on Human Rights;

(2) a comprehensive analysis of the office work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the office work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(g) A policy statement prepared under Subsection (f) must cover an annual period, be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (f)(1), and be filed with the governor's office.

(h) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (g). The report may be made separately or as a part of other biennial reports made to the legislature.

(i) Repealed by Acts 2009, 81st Leg., R.S., Ch. 614, Sec. 4(11), eff. June 19, 2009.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 7, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 986, Sec. 7, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1041, Sec. 15, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 1.13, 6.01(3), eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 614 (H.B. 874), Sec. 4(11), eff.

June 19, 2009.

Sec. 481.012. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) The office shall prepare information of public interest describing the functions of the office and the office's procedures by which complaints are filed with and resolved by the office. The office shall make the information available to the public and appropriate state agencies. The office shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the office's policies and procedures relating to complaint investigation and resolution.

(b) The office shall keep an information file about each complaint filed with the office that the office has authority to resolve. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the office;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the office closed the file without taking action other than to investigate the complaint.

(c) If a written complaint is filed with the office that the office has authority to resolve, the office, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(d) The office shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the office's programs. The office shall also comply with federal and state laws for program and facility accessibility.

(e) The executive director by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the office for the purpose of directing complaints to the office.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 7, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 986, Sec. 9, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1041, Sec. 16, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 1.15, eff. Sept. 1, 2003.

SUBCHAPTER B. GENERAL POWERS AND DUTIES OF OFFICE

Sec. 481.021. GENERAL POWERS OF OFFICE. (a) The office may:

(1) adopt and enforce rules necessary to carry out this chapter;

(2) adopt and use an official seal;

(3) solicit and accept gifts, grants, or loans from and contract with any entity;

(4) acquire and convey property or an interest in property;

(5) procure insurance and pay premiums on insurance of any type, in accounts, and from insurers as the office considers necessary and advisable to accomplish any of the office's purposes;

(6) hold patents, copyrights, trademarks, or other evidence of protection or exclusivity issued under the laws of the United States, any state, or any nation and may enter into license agreements with any third parties for the receipt of fees, royalties, or other monetary or nonmonetary value;

(7) sell advertisements in any medium; and

(8) exercise any other power necessary to carry out this chapter.

(b) Except as otherwise provided by this chapter, money paid to the office under this chapter shall be deposited in the state treasury.

(c) The office shall deposit contributions from private sources in a separate fund kept and held in escrow and in trust by the comptroller for and on behalf of the office as funds held outside the treasury under Section 404.073, and the money contributed shall be used to carry out the purposes of the office and, to the extent possible, the purposes specified by the donors. The comptroller may invest and reinvest the money, pending its use, in the fund in investments authorized by law for state funds that the comptroller considers appropriate.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989.

Amended by Acts 1991, 72nd Leg., ch. 602, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 8, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 986, Sec. 10, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1423, Sec. 8.23, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 1.17, eff. Sept. 1, 2003.

Sec. 481.0211. ADVISORY COMMITTEES. (a) The office by rule may establish advisory committees to make recommendations to the office on programs, rules, and policies administered by the office.

(b) In establishing an advisory committee under this section, the office shall adopt rules, including rules regarding:

(1) the purpose, role, responsibility, goals, and duration of the committee;

(2) the size of and quorum requirement for the committee;

(3) qualifications for committee membership;

(4) appointment procedures for members;

(5) terms of service for members;

(6) training requirements for members;

(7) policies to avoid conflicts of interest by committee members;

(8) a periodic review process to evaluate the continuing need for the committee; and

(9) policies to ensure the committee does not violate any provisions of Chapter 551 applicable to the office or the committee.

Added by Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 4, eff. September 1, 2023.

Sec. 481.0215. COORDINATION OF ECONOMIC DEVELOPMENT EFFORTS. (a) The executive director of the department or its successor shall work with the legislature and state agencies to identify grants and programs at all levels of government and to maximize access to federal funds for economic development.

(b) At the direction of the governor, the executive director of the department or its successor shall work with each state agency that administers a program relating to job training or job creation, including the Texas Workforce Commission, the Council on Workforce and Economic Competitiveness, the Department of Agriculture, and the

Office of Rural Affairs, to address the challenges facing the agencies relating to job training and job creation.

(c) The executive director of the department or its successor may form partnerships or enter into agreements with private entities and develop connections with existing businesses in this state for the purpose of improving the marketing of this state through networking and clarifying the potential of the businesses for expansion.

Added by Acts 2003, 78th Leg., ch. 978, Sec. 1, eff. Sept. 1, 2003.

Sec. 481.022. GENERAL DUTIES OF OFFICE. The office shall:

(1) market and promote the state as a premier business location and tourist destination;

(2) facilitate the location, expansion, and retention of domestic and international business investment to the state;

(3) promote and administer business and community economic development programs and services in the state, including business incentive programs;

(4) provide to businesses and communities in the state assistance with exporting products and services to international markets;

(5) serve as a central source of economic research and information;

(6) establish a statewide strategy to address economic growth and quality of life issues, a component of which is based on the identification and development of industry clusters; and

(7) develop a plan to engage with stakeholders to gather input and solicit feedback on the development of rules promulgated by the office related to lending programs, including participant selection, requirements for borrowers, terms of loans, requirements for disbursement of funds, and other aspects of program administration.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 819, Sec. 6, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 933, Sec. 4, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 602, Sec. 2, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1041, Sec. 17, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 1.18, eff. Sept. 1, 2003.

Amended by:
Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 5, eff. September 1, 2023.

Sec. 481.023. ADMINISTRATION OF OTHER STATUTES. (a) The office shall perform the administrative duties prescribed under:
(1) Chapter 1433; and
(2) the Development Corporation Act (Subtitle C1, Title 12, Local Government Code).
(b), (c) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(3).

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(20), 9.60, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1041, Sec. 18, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 8.236, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 814, Sec. 1.19, 6.01(3), eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.05, eff. April 1, 2009.

Sec. 481.024. TEXAS ECONOMIC DEVELOPMENT CORPORATION. (a) The Texas Economic Development Corporation on behalf of the state shall carry out the public purposes of this chapter. The creation of the corporation does not limit or impair the rights, powers, and duties of the office provided by this chapter. The corporate existence of the Texas Economic Development Corporation begins on the issuance of a certificate of incorporation by the secretary of state. The governor shall appoint the board of directors of the corporation. The governor or the governor's designee and the executive director serve as nonvoting, ex officio members of the board. The corporation has the powers and is subject to the limitations provided for the office by this chapter in carrying out the public purposes of this chapter. The corporation has the rights and powers of a nonprofit corporation incorporated under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) except to the extent inconsistent with this section. The corporation may

contract with the office and with bond counsel, financial advisors, or underwriters as its board of directors considers necessary.

(b) The corporation may engage exclusively in the performance of charitable functions and is exempt from all taxation by this state or a municipality or other political subdivision of this state.

(c) The corporation is a nonprofit corporation, and no part of its net earnings remaining after payment of its expenses may inure to any individual, firm, or corporation, except that if the board of directors determines that sufficient provision has been made for the full payment of the expenses, bonds, and other obligations of the corporation, the additional net earnings of the corporation shall be deposited to the credit of the general revenue fund.

(d) At any time the board of directors by written resolution may alter the structure, organization, programs, or activities of the corporation or terminate and dissolve the corporation, subject only to any limitation provided by the law of the state on the impairment of contracts of the corporation.

(e) If the board of directors by resolution determines that the purposes for which the corporation was formed have been substantially complied with and that all bonds issued by the corporation have been fully paid, the board of directors shall dissolve the corporation. On dissolution, the title to all funds and properties then owned by the corporation shall be transferred to the office.

(f) The Texas Economic Development Corporation and any other corporation whose charter specifically dedicates the corporation's activities to the benefit of the office or the Texas Department of Economic Development or its predecessor agency shall file an annual report of the financial activity of the corporation. The annual report shall be filed prior to the 90th day after the last day for the corporation's fiscal year and shall be prepared in accordance with generally accepted accounting principles. The report must include a statement of support, revenue, and expenses and change in fund balances, a statement of functional expenses, and balance sheets for all funds.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 602, Sec. 3, 4, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 9, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1041, Sec. 19, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 1.20, eff. Sept. 1, 2003.

Sec. 481.025. EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY PROGRAM. The office is the agency of this state responsible for administering the Empowerment Zone and Enterprise Community grant program in this state. The bank shall cooperate with appropriate federal and local agencies as necessary to administer the grant program.

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 7.01, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 1.21, eff. Sept. 1, 2003.

Sec. 481.026. TECHNOLOGICAL SOLUTIONS. The office shall develop and implement a policy that requires the executive director and the staff of the office to research and propose appropriate technological solutions to improve the ability of the office to perform its mission. The technological solutions must include measures to ensure that the public is able to easily find information about the office through the Internet and that persons who have a reason to use the office's services are able to use the Internet to interact with the office and to access any service that can be provided effectively through the Internet. The policy shall also ensure that the proposed technological solutions are cost-effective and developed through the office's planning processes.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 1.22, eff. Sept. 1, 2003.

Sec. 481.027. FOREIGN OFFICES. (a) The office shall maintain and operate offices in foreign countries for the purposes of promoting investment that generates jobs in Texas, exporting of Texas products, tourism, and international relations for Texas. The foreign offices shall be named "The State of Texas" offices. To the extent permitted by law, other state agencies that conduct business in foreign countries may place staff in the foreign offices established by the office and share the overhead and operating expenses of the foreign offices. Other state agencies and the office may enter interagency contracts for this purpose. Chapter 771 does

not apply to those contracts. Any purchase for local procurement or contract in excess of $5,000 shall be approved by the executive director prior to its execution.

(b) The foreign offices shall be accessible to Texas-based institutions of higher education and their nonprofit affiliates for the purposes of fostering Texas science, technology, and research development, international trade and investment, and cultural exchange. The office and the institutions may enter contracts for this purpose. Chapter 771 does not apply to those contracts.

(c) The office shall maintain regional offices in locations specified in the General Appropriations Act.

(d) The office may collect fees for the use of the foreign offices from public and private entities except that any payments by a state agency are governed by any interagency contract under Subsection (a). The fees may be used only to expand, develop, and operate foreign offices under this section.

(e) Chapter 2175 applies to the operation and maintenance of the foreign offices. No other provisions of Subtitle D, Title 10, apply to the operation and maintenance of the foreign offices, or to transactions of the office that are authorized by this section.

(f) The comptroller may, at the request of a state agency, provide to the agency services exempted from the application of Subtitle D, Title 10 under Subsection (e). Chapter 771 does not apply to services provided under this subsection. The comptroller shall establish a system of charges and billings that ensures recovery of the cost of providing the services and shall submit a purchase voucher or a journal voucher, after the close of each month, to the agency for which services were performed.

Added by Acts 1989, 71st Leg., ch. 938, Sec. 1, eff. Aug. 28, 1989. Renumbered from Sec. 481.025 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(7), eff. Sept. 6, 1990. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 8, Sec. 5.06, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 986, Sec. 11, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 17.16, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 165, Sec. 17.19(a), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 1.23, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.52, eff. September 1, 2007.

Sec. 481.029. COST RECOVERY. The office shall recover the cost of providing direct technical assistance, management training services, and other services to businesses and communities when reasonable and practical.

Added by Acts 1993, 73rd Leg., ch. 986, Sec. 13, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1041, Sec. 21, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 1.24, eff. Sept. 1, 2003.

Sec. 481.0295. IDENTIFICATION OF INDUSTRY CLUSTERS. (a) The office shall work with industry associations and organizations and key state agencies to identify regional and statewide industry clusters.

(b) The activities of the office in identifying industry clusters may include:

(1) conducting focus group discussions, facilitating meetings, and conducting studies to identify:

(A) members of an industry cluster;

(B) the general economic state of the industry cluster; and

(C) issues of common concern in the industry cluster;

(2) supporting the formation of industry cluster associations, publishing industry cluster association directories, and encouraging the entry of new members into the industry cluster; and

(3) providing methods for electronic communication and information dissemination among members of the industry clusters.

(c) The office shall identify an industry cluster as a targeted sector if the office determines that the development of the industry cluster is a high priority.

(d) The office shall work with targeted sectors, private sector organizations, key state agencies, local governments, local economic development organizations, and higher education and training institutions to develop strategies to strengthen the competitiveness of industry clusters. The strategies shall be designed to:

(1) diversify the economy;

(2) facilitate technology transfer; and

(3) increase value-added production.

(e) The activities of the office to assist the development of a targeted sector may include:

(1) conducting focus group discussions, facilitating meetings, and conducting studies to identify:

(A) members of a targeted sector;

(B) the general economic state of the sector; and

(C) issues of common concern in the sector;

(2) supporting the formation of industry associations, publishing industry association directories, and creating or expanding the activities of the industry associations;

(3) assisting in the formation of flexible networks between persons interested in the development of the targeted sector by providing:

(A) employees of the office or private sector consultants trained to organize and implement flexible networks; and

(B) funding for potential flexible network participants to organize and implement a flexible network;

(4) helping to establish research consortia;

(5) facilitating training and education programs conducted jointly by sector members;

(6) promoting cooperative market development activities;

(7) analyzing the need for, feasibility of, and cost of establishing product certification and testing facilities and services; and

(8) providing for methods of electronic communication and information dissemination among sector members to facilitate network or industry cluster activity.

(f) The office shall, on a continuing basis as determined by the office, evaluate:

(1) the effectiveness of the services provided to industry clusters, using information gathered at regional and statewide levels; and

(2) the potential return to the state from devoting additional resources to the economic development of a targeted sector and devoting resources to additional targeted sectors.

(g) The office shall use information gathered in each region for which the office identifies industry clusters to:

(1) formulate strategies to promote the economic development of targeted sectors; and

(2) designate new targeted sectors.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 1.25, eff. Sept. 1, 2003.

Sec. 481.0296. ADVANCED TECHNOLOGY INDUSTRIES. (a) The office shall coordinate state efforts to attract, develop, or retain technology industries in this state in certain sectors, including:

(1) the semiconductor industry;

(2) information and computer technology;

(3) microelectromechanical systems;

(4) manufactured energy systems;

(5) nanotechnology; and

(6) biotechnology.

(b) The office shall:

(1) recommend to the governor actions to promote economic development in the area of advanced technology;

(2) identify and assess specific economic development opportunities; and

(3) engage in outreach to advanced technology industries, including a joint venture created under the National Cooperative Research and Production Act of 1993 (15 U.S.C. Section 4301 et seq.), as amended, that is exempt from federal taxation as an organization described by Section 501(c)(6), Internal Revenue Code of 1986, as amended.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 1.25, eff. Sept. 1, 2003.

SUBCHAPTER D. INTERNATIONAL TRADE

Sec. 481.043. GENERAL POWERS AND DUTIES RELATING TO INTERNATIONAL TRADE. The office shall:

(1) provide businesses in the state with technical assistance, information, and referrals related to the export of products and services, including export finance and international business practices;

(2) coordinate the representation of exporters in the state at international trade shows, missions, marts, seminars, and other appropriate promotional venues;

(3) cooperate and act in conjunction with other public and private organizations to promote and advance export trade activities in this state; and

(4) disseminate trade leads to exporters in the state through the use of the Internet and other available media.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1041, Sec. 25, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 1.26, eff. Sept. 1, 2003.

Sec. 481.047. CONFIDENTIALITY. Information collected by the office concerning the identity, background, finance, marketing plans, trade secrets, or other commercially sensitive information of a lender or export business is confidential unless the lender or export business consents to disclosure of the information.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 1.27, eff. Sept. 1, 2003.

SUBCHAPTER E. BUSINESS DEVELOPMENT--GENERAL PROVISIONS

Sec. 481.072. DEFINITIONS. In this subchapter:

(1) "Cost" has the meaning assigned that term by Subtitle C1, Title 12, Local Government Code.

(2) "Project" has the meaning assigned that term by Subtitle C1, Title 12, Local Government Code.

(3) "User" includes any person.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.06, eff. April 1, 2009.

Sec. 481.0725. GENERAL POWERS AND DUTIES. The office shall:

(1) provide businesses with site selection assistance and communities with investment leads;

(2) develop a comprehensive business recruitment marketing plan;

(3) participate in international and domestic trade shows, trade missions, marketing trips, and seminars; and

(4) produce and disseminate information through the use of available media and resources, including the Internet, to promote business assistance programs and the overall business climate in the state.

Amended by Acts 1997, 75th Leg., ch. 1041, Sec. 29, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 1.28, eff. Sept. 1, 2003.

Sec. 481.073. POWERS AND DUTIES RELATING TO FINANCING. (a) , (b) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(3).

(c) The office may:

(1) purchase, discount, sell, assign, negotiate, and otherwise dispose of notes, bonds, and other evidences of indebtedness incurred to finance or refinance projects whether secured or unsecured;

(2) administer or participate in programs established by another person to finance or refinance projects; and

(3) acquire, hold, invest, use, and dispose of the office's revenues, funds, and money received from any source under this subchapter and the proceedings authorizing the bonds issued under this subchapter, subject only to the provisions of the Texas Constitution, this subchapter, and any covenants relating to the office's bonds in classes of investments that the executive director determines.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 17, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1041, Sec. 30, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 1.29, 6.01(3), eff. Sept. 1, 2003.

Sec. 481.075. PROGRAM RULES. (a) The executive director shall adopt rules to establish criteria for determining which users may participate in programs established by the office under this subchapter. The office shall adopt collateral or security requirements to ensure the full repayment of any loan, lease, or installment sale and the solvency of any program implemented under

this subchapter. The executive director must approve all leases and sale and loan agreements made under this subchapter.

(b) Users participating in the programs established under this subchapter shall pay the costs of applying for, participating in, and administering and servicing the program in amounts that the office considers reasonable and necessary.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 18, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1041, Sec. 31, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 1.30, eff. Sept. 1, 2003.

Sec. 481.078. TEXAS ENTERPRISE FUND. (a) The Texas Enterprise Fund is a dedicated account in the general revenue fund.

(b) The following amounts shall be deposited in the fund:

(1) any amounts appropriated by the legislature for the fund for purposes described by this section;

(2) interest earned on the investment of money in the fund; and

(3) gifts, grants, and other donations received for the fund.

(c) Except as provided by Subsections (d) and (d-1), the fund may be used only for economic development, infrastructure development, community development, job training programs, and business incentives.

(d) The fund may be temporarily used by the comptroller for cash management purposes.

(d-1) The fund may be used for the Texas homeless housing and services program administered by the Texas Department of Housing and Community Affairs under Section 2306.2585. The governor may transfer appropriations from the fund to the Texas Department of Housing and Community Affairs to fund the Texas homeless housing and services program. Subsections (e-1), (f), (f-1), (f-2), (g), (h), (h-1), (i), and (j) and Section 481.080 do not apply to a grant awarded for a purpose specified by this subsection.

(e) The administration of the fund is considered to be a trusteed program within the office of the governor. The governor may negotiate on behalf of the state regarding awarding, by grant, money

appropriated from the fund. The governor may award money appropriated from the fund only with the prior approval of the lieutenant governor and speaker of the house of representatives. For purposes of this subsection, an award of money appropriated from the fund is considered disapproved by the lieutenant governor or speaker of the house of representatives if that officer does not approve the proposal to award the grant before the 31st day after the date of receipt of the proposal from the governor. The lieutenant governor or the speaker of the house of representatives may extend the review deadline applicable to that officer for an additional 14 days by submitting a written notice to that effect to the governor before the expiration of the initial review period.

(e-1) To be eligible to receive a grant under this section, the entity must:

(1) be in good standing under the laws of the state in which the entity was formed or organized, as evidenced by a certificate issued by the secretary of state or the state official having custody of the records pertaining to entities or other organizations formed under the laws of that state; and

(2) owe no delinquent taxes to a taxing unit of this state.

(f) Before awarding a grant under this section, the governor shall enter into a written agreement with the entity to be awarded the grant money specifying that:

(1) if the governor finds that the grant recipient has not met each of the performance targets specified in the agreement as of a date certain provided in the agreement:

(A) the recipient shall repay the grant and any related interest to the state at the agreed rate and on the agreed terms;

(B) the governor will not distribute to the recipient any grant money that remains to be awarded under the agreement; and

(C) the governor may assess specified penalties for noncompliance against the recipient;

(2) if all or any portion of the amount of the grant is used to build a capital improvement, the state may:

(A) retain a lien or other interest in the capital improvement in proportion to the percentage of the grant amount used to pay for the capital improvement; and

(B) require the recipient of the grant, if the capital improvement is sold, to:

(i) repay to the state the grant money used to pay

for the capital improvement, with interest at the rate and according to the other terms provided by the agreement; and

(ii) share with the state a proportionate amount of any profit realized from the sale; and

(3) if, as of a date certain provided in the agreement, the grant recipient has not used grant money awarded under this section for the purposes for which the grant was intended, the recipient shall repay that amount and any related interest to the state at the agreed rate and on the agreed terms.

(f-1) A grant agreement must contain a provision:

(1) requiring the creation of a minimum number of jobs in this state; and

(2) specifying the date by which the recipient intends to create those jobs.

(f-2) A grant agreement must contain a provision providing that if the recipient does not meet job creation performance targets as of the dates specified in the agreement, the recipient shall repay the grant in accordance with Subsection (j).

(g) The grant agreement may include a provision providing that a reasonable percentage of the total amount of the grant will be withheld until specified performance targets are met by the entity as of the date described by Subsection (f)(1).

(h) The governor, after consultation with the speaker of the house of representatives and the lieutenant governor, shall determine:

(1) the performance targets and date required to be contained in the grant agreement as provided by Subsection (f)(1); and

(2) if the grant agreement includes the provision authorized by Subsection (g), the percentage of grant money required to be withheld.

(h-1) At least 14 days before the date the governor intends to amend a grant agreement, the governor shall notify and provide a copy of the proposed amendment to the speaker of the house of representatives and the lieutenant governor.

(i) An entity entering into a grant agreement under this section shall submit to the governor, lieutenant governor, and speaker of the house of representatives an annual progress report containing the information compiled during the previous calendar year regarding the attainment of each of the performance targets specified

in the agreement.

(j) Repayment of a grant under Subsection (f)(1)(A) shall be prorated to reflect a partial attainment of job creation performance targets, and may be prorated for a partial attainment of other performance targets.

(k) To encourage the development and location of small businesses in this state, the governor shall consider making grants from the fund:

(1) to recipients that are small businesses in this state that commit to using the grants to create additional jobs;

(2) to recipients that are small businesses from outside the state that commit to relocate to this state; or

(3) for individual projects that create 100 or fewer additional jobs.

(l) For purposes of Subsection (k), "small business" means a legal entity, including a corporation, partnership, or sole proprietorship, that:

(1) is formed for the purpose of making a profit;

(2) is independently owned and operated; and

(3) has fewer than 100 employees.

Added by Acts 2003, 78th Leg., ch. 978, Sec. 2, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 602 (H.B. 1938), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1254 (H.B. 394), Sec. 2, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1297 (H.B. 2457), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 35.01, eff. September 28, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 43.01, eff. September 28, 2011.

Acts 2015, 84th Leg., R.S., Ch. 915 (H.B. 26), Sec. 3.01, eff. September 1, 2015.

Sec. 481.079. REPORT ON USE OF MONEY IN TEXAS ENTERPRISE FUND. (a) Before the beginning of each regular session of the legislature, the governor shall submit to the lieutenant governor, the speaker of

the house of representatives, and each other member of the legislature a report on grants made under Section 481.078 that states:

(1) the number of direct jobs each recipient committed to create in this state;

(2) the number of direct jobs each recipient created in this state;

(3) the median wage of the jobs each recipient created in this state;

(4) the amount of capital investment each recipient committed to expend or allocate per project in this state;

(5) the amount of capital investment each recipient expended or allocated per project in this state;

(6) the total amount of grants made to each recipient;

(7) the average amount of money granted in this state for each job created in this state by grant recipients;

(8) the number of jobs created in this state by grant recipients in each sector of the North American Industry Classification System (NAICS); and

(9) of the number of direct jobs each recipient created in this state, the number of positions created that provide health benefits for employees.

(a-1) For grants awarded for a purpose specified by Section 481.078(d-1), the report must include only the amount and purpose of each grant.

(b) The report may not include information that is made confidential by law.

(c) The governor may require a recipient of a grant under Section 481.078 to submit, on a form the governor provides, information required to complete the report.

Added by Acts 2005, 79th Leg., Ch. 602 (H.B. 1938), Sec. 2, eff. September 1, 2005.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 43.02, eff. September 28, 2011.

Sec. 481.080. ECONOMIC AND FISCAL IMPACT STATEMENT FOR CERTAIN GRANT PROPOSALS. (a) Before the governor awards a grant under

Section 481.078 to an entity for a proposed initiative, the office shall prepare a statement that, specifically and in detail, assesses the direct economic impact that approval of the grant will have on the residents of this state.

(b) The statement must include:

(1) for the period covered by the grant:

(A) the estimated number of jobs to be created in this state by the potential recipient each biennium; and

(B) the estimated median wage of the jobs to be created in this state by the potential recipient each biennium;

(2) the additional amount of ad valorem taxes, sales and use taxes, and fee revenues projected to be generated each year by governmental entities of this state;

(3) the total amount of tax credits, local incentives, and other money or credits estimated to be distributed to the proposed grant recipient by governmental entities of this state; and

(4) any other information the office considers necessary to include in the statement.

Added by Acts 2005, 79th Leg., Ch. 602 (H.B. 1938), Sec. 2, eff. September 1, 2005.

SUBCHAPTER H. BUSINESS DEVELOPMENT--PERMIT ASSISTANCE

Sec. 481.121. DEFINITIONS. In this subchapter:

(1) "Applicant" means a person acting for himself or authorized to act on behalf of another person to obtain a permit.

(2) "Permit office" means the Texas Economic Development and Tourism Office's business permit office.

(3) "Permit" means any license, certificate, registration, permit, or other form of authorization required by law or by state agency rules to be obtained by a person in order to engage in a particular business but does not include a permit or license issued in connection with any form of gaming or gambling.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 1.31, eff. Sept. 1, 2003.

Sec. 481.122. CREATION. The business permit office is an

office within the Texas Economic Development and Tourism Office.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 1.32, eff. Sept. 1, 2003.

Sec. 481.123. DUTIES. The permit office shall:

(1) provide comprehensive information on permits required for business enterprises in the state and make that information available to applicants and other persons;

(2) assist applicants in obtaining timely and efficient permit review and in resolving issues arising from the review;

(3) facilitate contacts between applicants and state agencies responsible for processing and reviewing permit applications;

(4) assist applicants in the resolution of outstanding issues identified by state agencies, including delays experienced in permit review;

(5) develop comprehensive application procedures to expedite the permit process;

(6) compile a comprehensive list of all permits required of a person desiring to establish, operate, or expand a business enterprise in the state;

(7) encourage and facilitate the participation of federal and local government agencies in permit coordination;

(8) make recommendations for eliminating, consolidating, simplifying, expediting, or otherwise improving permit procedures affecting business enterprises by requesting that the state auditor, with the advice and support of the permit office, initiate a business permit reengineering review process involving all state agencies;

(9) develop and implement an outreach program to publicize and make small business entrepreneurs and others aware of services provided by the permit office;

(10) adopt rules, procedures, instructions, and forms required to carry out the functions, powers, and duties of the permit office under this subchapter; and

(11) except as provided in Section 481.129, complete the implementation of the business permit review process on or before September 1, 1994, and provide all recommended statutory changes as

needed to the legislature on or before January 1, 1995.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 775, Sec. 1, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 814, Sec. 1.33, eff. Sept. 1, 2003.

Sec. 481.124. COMPREHENSIVE PERMIT APPLICATION PROCEDURE. (a) The permit office shall develop and by rule implement a comprehensive application procedure to expedite the identification and processing of required permits. The permit office shall specify the permits to which the comprehensive application procedure applies. A comprehensive application must be made on a form prescribed by the permit office. The permit office shall consult with affected agencies in designing the form to ensure that the form provides the necessary information to allow agencies to identify which permits may be needed by the applicant. The form must be designed primarily for the convenience of an applicant who is required to obtain multiple permits and must provide for concise and specific information necessary to determine which permits are or may be required of the particular applicant.

(b) Use of the comprehensive application procedure by the applicant is optional. On request the permit office shall assist an applicant in preparing a comprehensive application, describe the procedures involved, and provide other appropriate information from the comprehensive permit information file.

(c) On receipt of a comprehensive application from an applicant, the permit office shall immediately notify in writing each state agency having a possible interest in the proposed business undertaking, project, or activity with respect to permits that are or may be required.

(d) Not later than the 25th day after the date of receipt of the notice, the state agency shall specify to the permit office each permit under its jurisdiction that is or may be required for the business undertaking, project, or activity described in the comprehensive application and shall indicate each permit fee to be charged.

(e) If a notified state agency responds that it does not have an interest in the permit requirements of the business undertaking, project, or activity described in the comprehensive application or

does not respond within the period specified by Subsection (d), no permit under the jurisdiction of that agency is required for the undertaking, project, or activity described in the comprehensive application. This subsection does not apply if the comprehensive application contains false, misleading, or deceptive information or fails to include pertinent information, the lack of which could reasonably lead a state agency to misjudge whether a permit under its jurisdiction is required.

(f) The permit office shall promptly provide the applicant with application forms and related information for all permits specified by the interested state agencies and shall advise the applicant that the forms are to be completed and submitted to the appropriate state agencies.

(g) An applicant may withdraw a comprehensive application at any time without forfeiture of any permit approval applied for or obtained under the comprehensive application procedures.

(h) Each state agency having jurisdiction over a permit to which the comprehensive application procedure applies shall designate an officer or employee to act as permit liaison officer to cooperate with the permit office in carrying out this subchapter.

(i) This section does not apply to a permit or license issued under Title 2, Tax Code, and does not exempt any person from liability for a tax under that title.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 1.34, eff. Sept. 1, 2003.

Sec. 481.125. COMPREHENSIVE PERMIT HANDBOOK. (a) The permit office shall compile a comprehensive list of all state permits required of a person desiring to operate a business enterprise in the state.

(b) To the extent possible, the permit office shall organize the list according to the types of businesses affected and shall publish the list in a comprehensive permit handbook.

(c) The handbook must include:

(1) the name of each state agency required to review, approve, or grant a permit on the list;

(2) the address of the agency to which the license, permit,

or registration materials must be sent; and

(3) the telephone number of the agency.

(d) The permit office shall periodically update the handbook.

(e) The permit office shall make the handbook available to persons interested in establishing a business enterprise, public libraries, educational institutions, and the state agencies listed in the handbook.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 1.35, eff. Sept. 1, 2003.

Sec. 481.126. ASSISTANCE OF OTHER STATE AGENCIES. Each state agency, on request of the permit office, shall provide assistance, services, facilities, and data to enable the permit office to carry out its duties. An agency is not required to provide information made confidential by a constitution, statute, or judicial decision.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 1.36, eff. Sept. 1, 2003.

Sec. 481.127. COMPREHENSIVE PERMIT INFORMATION. (a) Each state agency required to review, approve, or grant permits for business undertakings, projects, or activities shall report to the permit office in a form prescribed by the permit office on each type of review, approval, or permit administered by the agency.

(b) The agency's report must include application forms, applicable agency rules, and the estimated period necessary to process permit applications.

(c) The permit office shall prepare an information file on state agency permit requirements and shall develop methods for maintenance, revision, update, and ready access. The permit office shall provide comprehensive permit information based on that file.

(d) The permit office may prepare and distribute publications, guides, and other materials to serve the convenience of permit applicants and explain permit requirements affecting business, including requirements involving multiple permits or regulation by more than one state agency.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 1.37, eff. Sept. 1, 2003.

Sec. 481.128. NO CHARGES FOR SERVICES. The permit office shall provide its services without charge.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 1.38, eff. Sept. 1, 2003.

Sec. 481.129. ENVIRONMENTAL PERMITS. The permit office shall consult and cooperate with the Natural Resource Conservation Commission in conducting any studies on permits issued by the Natural Resource Conservation Commission. The Natural Resource Conservation Commission shall cooperate fully in the study and analysis of the procedures involving the issuance of permits by that commission and shall, in any report issued, evaluate all alternatives for improving the process pursuant to the permit office's responsibilities under Section 481.123. The permit office and the Natural Resource Conservation Commission shall jointly submit any report required under Section 481.123.

Added by Acts 1993, 73rd Leg., ch. 775, Sec. 2, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 1.39, eff. Sept. 1, 2003.

SUBCHAPTER K. INFORMATION AND REFERRAL

Sec. 481.166. LEGISLATIVE FINDINGS. The legislature finds that:

(1) economic development programs and services are located in a number of state agencies;

(2) businesses and communities need a single point of contact on business and community economic development programs and services; and

(3) state agencies need to work together to provide outreach and assistance to local governments and businesses.

Added by Acts 1997, 75th Leg., ch. 1041, Sec. 44, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4850, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 481.167. TEXAS BUSINESS AND COMMUNITY ECONOMIC DEVELOPMENT CLEARINGHOUSE. (a) The office shall establish the Texas Business and Community Economic Development Clearinghouse to provide information and assistance to businesses and communities in the state through the use of a statewide toll-free telephone service.

(b) The clearinghouse shall collect and disseminate information on federal, state, local, and private:

(1) business development programs, including financial assistance and business incentive programs;

(2) business development services, including technical assistance, workshops, business incubators, training, and useful publications;

(3) rural and urban community economic development programs, including loans, grants, and other funding sources;

(4) rural and urban community economic development services, including technical assistance, workshops, training, and useful publications;

(5) small business programs and services and useful publications;

(6) defense economic adjustment programs and services and useful publications; and

(7) international trade programs, services, and useful publications.

(c) The clearinghouse shall provide access to the information compiled under this subchapter in a user-friendly format through the use of the Internet.

(d) The office shall obtain from other state agencies appropriate information needed by the office to carry out its duties under this subchapter.

(e) The comptroller shall assist the office in furthering the purposes of this subchapter by allowing the office to use the field offices and personnel of the comptroller to disseminate brochures, documents, and other information useful to businesses in the state.

Added by Acts 1997, 75th Leg., ch. 1041, Sec. 44, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 1.40, eff. Sept. 1, 2003.

SUBCHAPTER L. TOURISM

Sec. 481.172. DUTIES. (a) The office shall:

(1) as the primary state governmental entity responsible for out-of-state tourism marketing and promotion efforts, promote and advertise within the United States and in foreign countries, by radio, television, newspaper, the Internet, and other means considered appropriate, tourism in this state by non-Texans, including persons from foreign countries, and distribute promotional materials through appropriate distribution channels;

(2) represent the state in domestic and international travel trade shows, trade missions, and seminars;

(3) encourage travel by Texans to this state's scenic, historical, cultural, natural, agricultural, educational, recreational, and other attractions;

(4) conduct a public relations campaign to create a responsible and accurate national and international image of this state;

(5) use current market research to develop a tourism marketing plan to increase travel to the state by domestic and international visitors;

(6) develop methods to attract tourist attractions to the state;

(7) assist communities to develop tourist attractions;

(8) not later than December 31, 2003, enter into a memorandum of understanding with the Parks and Wildlife Department, the Texas Department of Transportation, the Texas Historical Commission, and the Texas Commission on the Arts to direct the efforts of those agencies in all matters relating to tourism;

(9) promote and encourage the horse racing and greyhound racing industry, if funds are appropriated for the promotion or encouragement; and

(10) promote the sports industry and related industries in this state, including promoting this state as a host for national and international amateur athletic competition and promoting sports or fitness programs for the residents of this state, if funds are

appropriated for the promotion.

(b) A memorandum of understanding entered into under Subsection (a)(8) shall provide that the office may:

(1) strategically direct and redirect each agency's tourism priorities and activities to:

(A) most effectively meet consumer demands and emerging travel trends, as established by the latest market research; and

(B) minimize duplication of efforts and realize cost savings through economies of scale;

(2) require each agency to submit to the office for advance approval:

(A) resources, activities, and materials related to the promotion of tourism proposed to be provided by the agency;

(B) a biennial plan of action for the agency's proposed tourism activities that includes:

(i) priorities identified by the agency that must include marketing, product development, and program development;

(ii) the agency's proposed budget for tourism activities; and

(iii) measurable goals and objectives of the agency related to the promotion of tourism; and

(C) any proposed marketing message, material, logo, slogan, or other communication to be used by the agency in its tourism-related efforts, to assist the office in coordinating tourism-related efforts conducted in this state by the agency and the office and conducted outside of this state by the office;

(3) direct the development of a biennial strategic tourism plan, including a marketing plan, to increase travel to this state, that:

(A) provides the most effective and efficient expenditure of state funds for in-state marketing activities conducted by the agencies and encouraged by the office and out-of-state marketing activities conducted by the office;

(B) establishes goals, objectives, and performance measures, including the measurement of the return on the investment made by an agency or the office, for the tourism-related efforts of all state agencies; and

(C) is developed not later than December 1 of each even-numbered year; and

(4) direct the agencies to share costs related to

administrative support for the state's tourism activities.

(b-1) The office may, using the input of each agency that is a party to a memorandum of understanding under Subsection (a)(8), establish procedures for the submission of the plan required under Subsection (b)(2)(B).

(c) The promotion of the sports industry and related industries under Subsection (a)(10) may include the establishment by the governor of a Texas Sports Commission composed of volunteers who are knowledgeable about or active in amateur sports.

(d) This section does not affect the authority of the State Preservation Board to conduct activities or make expenditures related to tourism or to promote the Bob Bullock Texas State History Museum.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 653, Sec. 1, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 165, Sec. 22(36), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1041, Sec. 41, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1275, Sec. 52, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 1.41, eff. Sept. 1, 2003.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 6, eff. September 1, 2023.

Sec. 481.173. NAME AND PICTURE OF LIVING STATE OFFICIAL. The name or the picture of a living state official may not be used for advertising purposes under this subchapter.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 3.01, eff. Sept. 1, 1989.

Sec. 481.174. ADVERTISEMENTS IN TOURISM PROMOTIONS. (a) The office may sell advertisements in travel promotions in any medium.

(b) The executive director shall adopt rules to implement the sale of advertisements under Subsection (a), including rules regulating:

(1) the cost of advertisements;

(2) the type of products or services that may be advertised;

(3) the size of advertisements; and

(4) refunds on advertisements that are not run.

(c) Proceeds from the sale of advertisements shall be deposited in the special account in the general revenue fund that may be used for advertising and marketing activities of the office as provided by Section 156.251, Tax Code.

Added by Acts 1993, 73rd Leg., ch. 986, Sec. 23, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1041, Sec. 42, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 1.42, eff. Sept. 1, 2003.

SUBCHAPTER O. MAIN STREET PROGRAM

SUBCHAPTER P. RESEARCH AND DATA SERVICES

Sec. 481.211. POWERS AND DUTIES. The office shall:

(1) compile and update demographic and economic information on the state;

(2) develop and update information products for local communities on community economic development issues and practices that encourage regional cooperation; and

(3) compile and disseminate information on economic and industrial development trends and issues, including NAFTA, emerging industries, and patterns of international trade and investment.

Added by Acts 1997, 75th Leg., ch. 1041, Sec. 44, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 1.49, eff. Sept. 1, 2003.

Sec. 481.212. COMPILATION AND DISTRIBUTION OF DATA AND RESEARCH. (a) To serve as a one-stop center for business-related information, the office shall obtain from other state agencies and organizations, including the comptroller and the Texas Workforce Commission, business-related statistics and data.

(b) To maximize the accessibility of business-related data, the office shall create a web site to publish business-related information on the Internet. The web site must provide connections to other business-related web sites.

(c) The office may charge a reasonable access fee in connection with this subchapter.

Added by Acts 1997, 75th Leg., ch. 1041, Sec. 44, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 1.50, eff. Sept. 1,

2003.

SUBCHAPTER AA. WORKFORCE DEVELOPMENT INITIATIVE FOR YOUTH

Sec. 481.379. DESIGN COMMITTEE. (a) Expired.

(b) The design committee is composed of members appointed by the executive director as follows:

(1) three members who are employers, representing the business community, including representation of small businesses;

(2) three members who are employees, representing the labor community;

(3) three members who are high school teachers, representing secondary education, including representation by persons with experience in the federal technical preparatory education programs created under 20 U.S.C. Section 2394b;

(4) three members who are faculty members of institutions of higher education, representing higher education, including representation by persons with experience in the federal technical preparatory education programs created under 20 U.S.C. Section 2394b;

(5) three members who are training directors from registered United States Department of Labor Bureau of Apprenticeship and Training programs; and

(6) three members who are persons who are not eligible for appointment under Subdivisions (1) through (5), representing the general public.

(c) to (e) Expired.

Added by Acts 1993, 73rd Leg., ch. 709, Sec. 1, eff. Aug. 30, 1993.
Amended by Acts 1995, 74th Leg., ch. 260, Sec. 30, eff. May 30, 1995.

SUBCHAPTER BB. ACCESS TO CAPITAL PROGRAMS

Sec. 481.401. DEFINITIONS. In this subchapter:

(1) "Capital access loan" means a loan that is entitled to be secured by the fund.

(2) "Financial institution" includes a bank, trust company, banking association, savings and loan association, mortgage company, investment bank, credit union, or nontraditional financial institution.

(3) "Fund" means the original capital access fund.

(4) "Loan" includes a line of credit.

(5) "Medium-sized business" means a corporation, partnership, sole proprietorship, or other legal entity that:

(A) is domiciled in this state or has at least 51 percent of its employees located in this state;

(B) is formed to make a profit; and

(C) employs 100 or more but fewer than 500 full-time employees.

(6) "Nonprofit organization" means a private, nonprofit, tax-exempt corporation, association, or organization listed in Section 501(c)(3), Internal Revenue Code of 1986, that is domiciled in this state or has at least 51 percent of its members located in this state.

(6-a) Repealed by Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 16(2), eff. September 1, 2023.

(7) "Participating financial institution" means a financial institution participating in a program.

(8) "Program" means an access to capital program established by the bank under this subchapter.

(9) "Reserve account" means an account established in a participating financial institution on approval of the bank in which money is deposited to serve as a source of additional revenue to reimburse the financial institution for losses on loans enrolled in a program.

(10) "Small business" means a corporation, partnership, sole proprietorship, or other legal entity that:

(A) is domiciled in this state or has at least 51 percent of its employees located in this state;

(B) is formed to make a profit;

(C) is independently owned and operated; and

(D) employs fewer than 100 full-time employees.

Added by Acts 1997, 75th Leg., ch. 1163, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 2003, 78th Leg., ch. 814, Sec. 1.51, eff. Sept. 1, 2003.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 1004 (H.B. 3271), Sec. 3, eff. June 18, 2021.

Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 16(2), eff. September 1, 2023.

Sec. 481.403. ACCESS TO CAPITAL PROGRAMS. The bank may establish access to capital loan-related programs of the following types to promote private access to capital to certain businesses with fewer than 500 full-time employees:

(1) capital access programs;

(2) collateral support programs;

(3) loan guarantee programs; and

(4) loan participation programs.

Added by Acts 2021, 87th Leg., R.S., Ch. 1004 (H.B. 3271), Sec. 5, eff. June 18, 2021.

Sec. 481.406. RULEMAKING AUTHORITY. (a) The executive director may adopt rules relating to the implementation of any program established under this subchapter and any other rules necessary to accomplish the purposes of this subchapter.

(b) Repealed by Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 16(3), eff. September 1, 2023.

(c) Repealed by Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 16(3), eff. September 1, 2023.

(d) The office shall by rule develop:

(1) procedures for disbursement of money to borrowers and lending partners for access to capital programs; and

(2) documentation and recovery effort requirements of a participating partner for a claim against a reserve account.

Added by Acts 1997, 75th Leg., ch. 1163, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 2003, 78th Leg., ch. 814, Sec. 1.55, eff. Sept. 1, 2003.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 1004 (H.B. 3271), Sec. 8, eff. June 18, 2021.

Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 7, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 16(3), eff. September 1, 2023.

Sec. 481.411. ANNUAL REPORT. A participating financial institution shall submit an annual report to the bank. The report must, at a minimum:

(1) provide information regarding outstanding loans, loan losses, and any other information related to participation in a program established under this subchapter the bank considers appropriate;

(2) state the total amount of loans for which the bank has made a contribution from the fund under this subchapter;

(3) include a copy of the institution's most recent financial statement; and

(4) include information regarding the type and size of businesses and nonprofit organizations with loans under this subchapter.

Added by Acts 1997, 75th Leg., ch. 1163, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 2003, 78th Leg., ch. 814, Sec. 1.60, eff. Sept. 1, 2003.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 1004 (H.B. 3271), Sec. 13, eff. June 18, 2021.

Sec. 481.412. REPORTS; AUDITS. (a) Repealed by Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 16(4), eff. September 1, 2023.

(b) The financial transactions of the fund are subject to audit by the state auditor as provided by Chapter 321.

Added by Acts 1997, 75th Leg., ch. 1163, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 2003, 78th Leg., ch. 814, Sec. 1.61, eff. Sept. 1, 2003.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 1004 (H.B. 3271), Sec. 14, eff. June 18, 2021.
Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 16(4), eff. September 1, 2023.

Sec. 481.413. STATE LIABILITY PROHIBITED. The state is not liable to a participating financial institution for payment of the

principal, the interest, or any late charges on a capital access loan made under this subchapter.

Added by Acts 1997, 75th Leg., ch. 1163, Sec. 1, eff. Sept. 1, 1997.

Sec. 481.414. GIFTS AND GRANTS. The bank may accept gifts, grants, and donations from any source for the purposes of this subchapter.

Added by Acts 1997, 75th Leg., ch. 1163, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 1.62, eff. Sept. 1, 2003.

SUBCHAPTER CC. MICRO-BUSINESS DISASTER RECOVERY PROGRAM

Sec. 481.451. DEFINITIONS. In this subchapter:

(1) "Community development financial institution" has the meaning assigned by 12 U.S.C. Section 4702.

(2) "Declared disaster" means:

(A) a declaration of a state of disaster under Section 418.014 or 418.108; or

(B) a disaster declared by the president of the United States, if any part of this state is named in the federally designated disaster area.

(3) "Default rate" means the percentage of micro-business disaster recovery loans made that did not meet the payment terms during a period specified by the bank.

(4) "Fund" means the micro-business recovery fund established under Section 481.452.

(5) "Micro-business" means a corporation, partnership, sole proprietorship, or other legal entity that:

(A) is domiciled in this state and has at least 95 percent of its employees located in this state;

(B) is formed to make a profit; and

(C) employs not more than 20 employees.

(6) "Micro-business disaster recovery loan" or "disaster recovery loan" means a loan made by a participating community development financial institution to micro-businesses under the program.

(7) "Program" means the micro-business disaster recovery

loan program established under this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 1004 (H.B. 3271), Sec. 1, eff. June 18, 2021.

Sec. 481.452. MICRO-BUSINESS RECOVERY FUND. (a) The micro-business recovery fund is a dedicated account in the general revenue fund.

(b) Appropriations for the implementation and administration of this subchapter and any other amounts, including federal allocations, received by the bank or state under this subchapter shall be deposited in the fund.

(c) Money in the fund may be appropriated only to the bank for use in carrying out the purposes of this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 1004 (H.B. 3271), Sec. 1, eff. June 18, 2021.

Sec. 481.453. POWERS OF BANK IN ADMINISTERING MICRO-BUSINESS RECOVERY FUND. In administering the fund, the bank has the powers necessary to carry out the purposes of this subchapter, including the power to:

(1) make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise of its powers;

(2) invest money at the bank's discretion in obligations determined proper by the bank, and select and use depositories for its money;

(3) employ personnel and counsel and pay those persons from money in the fund legally available for that purpose; and

(4) impose and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees or charges.

Added by Acts 2021, 87th Leg., R.S., Ch. 1004 (H.B. 3271), Sec. 1, eff. June 18, 2021.

Sec. 481.454. ESTABLISHMENT OF LOAN PROGRAM; PURPOSE. (a) The bank shall establish and administer a revolving loan program as

provided by this subchapter.

(b) The program shall expand access to capital for qualifying micro-businesses to create jobs in this state and constitutes a capital access program under Subchapter BB.

Added by Acts 2021, 87th Leg., R.S., Ch. 1004 (H.B. 3271), Sec. 1, eff. June 18, 2021.

Sec. 481.455. PROGRAM ADMINISTRATION. (a) The bank, under the program, shall provide zero interest loans to eligible community development financial institutions for purposes of making interest-bearing loans to qualifying micro-businesses that have difficulty in accessing capital following a declared disaster.

(b) A loan made by an eligible community development financial institution under the program:

(1) must be made to a micro-business that:

(A) is in good standing under the laws of this state; and

(B) did not owe delinquent taxes to a taxing unit of this state before the date of the initial issuance of the disaster declaration;

(2) may not be made to a micro-business that:

(A) has total revenue that exceeds the amount for which no franchise tax is due under Section 171.002(d)(2), Tax Code;

(B) is a franchise;

(C) is a national chain with operations in this state;

(D) is a lobbying firm; or

(E) is a private equity firm or backed by a private equity firm; and

(3) must meet any other criteria provided by this subchapter.

(c) Payments on micro-business disaster recovery loans shall be made directly to the lending community development financial institutions.

(d) All income received on a loan made by a community development financial institution participating in the program is the property of the financial institution. Income received on a loan includes the payment of interest by a borrower micro-business and the administrative fees assessed by the community development financial

institution.

(e) A community development financial institution participating in the program shall make payments to the bank on the zero interest loans borrowed by the financial institution under the program quarterly, and the bank or this state is not responsible or liable for any defaults in micro-business disaster recovery loans made by the community development financial institution.

Added by Acts 2021, 87th Leg., R.S., Ch. 1004 (H.B. 3271), Sec. 1, eff. June 18, 2021.

Sec. 481.456. RULEMAKING. The executive director shall adopt rules relating to the implementation of the program and any other rules necessary to accomplish the purposes of this subchapter, including rules that provide criteria under which community development financial institutions may qualify for the program.

Added by Acts 2021, 87th Leg., R.S., Ch. 1004 (H.B. 3271), Sec. 1, eff. June 18, 2021.

Sec. 481.457. OVERSIGHT. (a) A community development financial institution participating in the program shall report quarterly to the bank:

(1) the names of micro-businesses that have received a disaster recovery loan;

(2) the current balance of all outstanding disaster recovery loans;

(3) the default rate on existing disaster recovery loans; and

(4) any other information the bank requires.

(b) A community development financial institution participating in the program shall prepare a detailed financial statement each quarter and provide a copy to the bank.

(c) A community development financial institution shall allow the bank to inspect the institution's financial records on request for purposes that relate to loans under the program.

Added by Acts 2021, 87th Leg., R.S., Ch. 1004 (H.B. 3271), Sec. 1, eff. June 18, 2021.

SUBCHAPTER DD. DEFENSE COMMUNITY ASSISTANCE

Sec. 481.501. DEFINITIONS. In this subchapter:

(1) "Defense base" means a federally owned or operated military installation, facility, or mission that is functioning on June 1, 2003.

(2) "Defense community" means a political subdivision, including a municipality, county, defense base development authority, or special district, that is adjacent to, is near, or encompasses any part of a defense base.

(3) Repealed by Acts 2009, 81st Leg., R.S., Ch. 43, Sec. 22(6), eff. September 1, 2009.

Added by Acts 2003, 78th Leg., ch. 362, Sec. 1, eff. June 18, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 43 (H.B. 2546), Sec. 22(6), eff. September 1, 2009.

Sec. 481.502. FINANCIAL ASSISTANCE. (a) The office and the Texas Military Preparedness Commission shall assist defense communities in obtaining financing for economic development projects that seek to address future realignment or closure of a defense base that is in, adjacent to, or near the defense community. The office shall refer the defense community to:

(1) a local economic development corporation created under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code) for possible financing; or

(2) an appropriate state agency that has an existing program to provide financing for the project, including:

(A) the Texas Water Development Board; or

(B) the Texas Department of Transportation.

(b) A state agency making a loan to a defense community under this section shall evaluate the project and determine whether the project may be financed through the agency's program. The state agency has sole discretion on whether to finance the project.

Added by Acts 2003, 78th Leg., ch. 362, Sec. 1, eff. June 18, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.07, eff.

April 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 43 (H.B. 2546), Sec. 16, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 330 (S.B. 1358), Sec. 14, eff. September 1, 2015.

Sec. 481.503. MEMORANDUM OF UNDERSTANDING. The office shall enter into a memorandum of understanding with each state agency that has a program to fund economic development projects for defense communities. The memorandum of understanding shall include each agency's responsibilities in granting and administering a loan to a defense community.

Added by Acts 2003, 78th Leg., ch. 362, Sec. 1, eff. June 18, 2003.

Sec. 481.504. SECURITY FOR LOANS. In addition to any other security provided by law, if a defense community defaults on a loan, a state agency making a loan to the defense community for a project described by Section 481.502(a) may foreclose under a loan agreement in the manner provided by law for foreclosure and liquidate any collateral provided under the loan agreement to recover any outstanding debt.

Added by Acts 2003, 78th Leg., ch. 362, Sec. 1, eff. June 18, 2003.

SUBCHAPTER EE. SMALL BUSINESS DISASTER RECOVERY LOAN PROGRAM

Sec. 481.601. DEFINITIONS. In this subchapter:

(1) "Disaster declaration" means a declaration by the governor of a state of disaster under Section 418.014.

(2) "Fund" means the small business disaster recovery revolving fund created under Section 481.606.

(3) "Small business" has the meaning assigned by Section 481.401.

(4) "Trust company" means the Texas Treasury Safekeeping Trust Company.

Added by Acts 2021, 87th Leg., R.S., Ch. 847 (S.B. 678), Sec. 1, eff. September 1, 2021.

Redesignated from Government Code, Subchapter CC, Chapter 481 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(19), eff. September 1, 2023.

Sec. 481.602. SMALL BUSINESS DISASTER RECOVERY LOAN PROGRAM. (a) The office by rule shall establish a loan program to use money from the fund established under this subchapter to provide financial assistance to small businesses affected by a disaster.

(b) The office may provide financial assistance from the fund only:

(1) in the form of a loan to an eligible small business that is located in an area under a disaster declaration; and

(2) during the period for which the disaster declaration is in effect.

(c) The office shall credit to the fund all principal and interest payments on a loan from the fund.

Added by Acts 2021, 87th Leg., R.S., Ch. 847 (S.B. 678), Sec. 1, eff. September 1, 2021.
Redesignated from Government Code, Subchapter CC, Chapter 481 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(19), eff. September 1, 2023.

Sec. 481.603. ELIGIBILITY FOR LOAN. The office by rule shall establish the eligibility requirements for a loan to a small business under this subchapter. The requirements must include that the small business:

(1) is in good standing under the laws of this state;

(2) does not owe delinquent taxes to a taxing unit of this state;

(3) has suffered physical damage or economic injury as a result of the event leading to the disaster declaration; and

(4) has paid in full any previous loans received under this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 847 (S.B. 678), Sec. 1, eff. September 1, 2021.
Redesignated from Government Code, Subchapter CC, Chapter 481 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(19), eff.

September 1, 2023.

Sec. 481.604. USES OF LOAN. An eligible small business may only use a loan received under this subchapter to pay the small business's payroll costs, including costs related to the continuation of health care benefits for the small business's employees.

Added by Acts 2021, 87th Leg., R.S., Ch. 847 (S.B. 678), Sec. 1, eff. September 1, 2021.
Redesignated from Government Code, Subchapter CC, Chapter 481 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(19), eff. September 1, 2023.

Sec. 481.605. APPLICATION FOR LOAN. The office shall develop and implement an application process for an eligible small business to receive a loan under this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 847 (S.B. 678), Sec. 1, eff. September 1, 2021.
Redesignated from Government Code, Subchapter CC, Chapter 481 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(19), eff. September 1, 2023.

Sec. 481.606. SMALL BUSINESS DISASTER RECOVERY REVOLVING FUND. (a) The small business disaster recovery revolving fund is a special fund outside the state treasury to be used by the office, without further legislative appropriation, for the purpose of providing financial assistance to small businesses in response to a disaster declaration as provided by this subchapter. The office shall administer the fund. The office may establish separate accounts in the fund. The fund and the fund's accounts are kept and held by the trust company in escrow and in trust for and in the name of the office. The office has legal title to money and investments in the fund until money is disbursed from the fund as provided by this subchapter and office rules.

(b) Money deposited to the credit of the fund may be used only as provided by this subchapter.

(c) The fund consists of:

(1) money transferred or deposited to the credit of the fund by law, including money from any source transferred or deposited to the credit of the fund at the office's discretion as authorized by law;

(2) the proceeds of any fee or tax imposed by this state that by statute is dedicated for deposit to the credit of the fund;

(3) any other revenue that the legislature by statute dedicates for deposit to the credit of the fund; and

(4) investment earnings and interest earned on amounts credited to the fund.

Added by Acts 2021, 87th Leg., R.S., Ch. 847 (S.B. 678), Sec. 1, eff. September 1, 2021.
Redesignated from Government Code, Subchapter CC, Chapter 481 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(19), eff. September 1, 2023.

Sec. 481.607. MANAGEMENT AND INVESTMENT OF FUND. (a) The trust company shall hold and invest the fund, and any accounts established in the fund, for and in the name of the office, taking into account the purposes for which money in the fund may be used. The fund may be co-invested with the state treasury pool.

(b) The overall objective for the investment of the fund is to maintain sufficient liquidity to meet the needs of the fund while striving to preserve the purchasing power of the fund. It is the intent of the legislature that the fund remain available in perpetuity for the purposes of this subchapter.

(c) The trust company has any power necessary to accomplish the purposes of managing and investing the assets of the fund. In managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, the trust company may acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(d) The trust company may recover the costs incurred in managing and investing the fund only from the earnings of the fund.

(e) The trust company annually shall report to the office with respect to the investment of the fund. The trust company shall contract with a certified public accountant to conduct an independent audit of the fund annually and shall present the results of each annual audit to the office. This subsection does not affect the state auditor's authority to conduct an audit of the fund under Chapter 321.

(f) The trust company shall adopt an investment policy that is appropriate for the fund. The trust company shall present the investment policy to the investment advisory board established under Section 404.028. The investment advisory board shall submit to the trust company recommendations regarding the policy.

(g) The office annually shall provide to the trust company a forecast of the cash flows into and out of the fund. The office shall provide updates to the forecasts as appropriate to ensure that the trust company is able to achieve the objective specified by Subsection (b).

(h) The trust company shall disburse money from the fund as directed by the office.

Added by Acts 2021, 87th Leg., R.S., Ch. 847 (S.B. 678), Sec. 1, eff. September 1, 2021.
Redesignated from Government Code, Subchapter CC, Chapter 481 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(19), eff. September 1, 2023.

Sec. 481.608. RULES. The office shall adopt rules necessary to implement this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 847 (S.B. 678), Sec. 1, eff. September 1, 2021.
Redesignated from Government Code, Subchapter CC, Chapter 481 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(19), eff. September 1, 2023.

Sec. 481.609. REPORT. Not later than December 1 of each even-numbered year, the office shall prepare and submit to the governor, the lieutenant governor, and each member of the legislature a report that includes:

(1) the balance of the fund as of the date of the report;

(2) the total dollar amount of disbursements from the fund during the two-year period preceding that date; and

(3) a general description of each small business for which an applicant was awarded a loan from the fund during the two-year period preceding that date.

Added by Acts 2021, 87th Leg., R.S., Ch. 847 (S.B. 678), Sec. 1, eff. September 1, 2021.
Redesignated from Government Code, Subchapter CC, Chapter 481 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(19), eff. September 1, 2023.

SUBCHAPTER GG. TEXAS SEMICONDUCTOR INNOVATION CONSORTIUM

Sec. 481.651. DEFINITIONS. In this subchapter:

(1) "Consortium" means the Texas Semiconductor Innovation Consortium.

(2) "Executive committee" means the executive committee of the consortium.

(3) "Fund" means the Texas Semiconductor Innovation Fund.

(4) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 455 (H.B. 5174), Sec. 1, eff. June 9, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4850, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 481.652. ESTABLISHMENT; PURPOSES. (a) The Texas Semiconductor Innovation Consortium is established as an advisory panel to the governor and the legislature.

(b) The purposes of the consortium are to:

(1) leverage the expertise and capacity of institutions of higher education, industry, and nonprofit stakeholders to develop a comprehensive strategic plan to ensure ongoing semiconductor innovation;

(2) sustain the leadership of this state in advanced

semiconductor research, design, and manufacturing;

(3) attract public and private investment in this state related to research, development, commercialization, and manufacturing of semiconductors;

(4) identify and expand opportunities for workforce training and development related to the research, design, and manufacturing of semiconductors; and

(5) establish a forum for public and private stakeholders across the semiconductor manufacturing industry in this state to focus on education, research and development, and commercial production.

Added by Acts 2023, 88th Leg., R.S., Ch. 455 (H.B. 5174), Sec. 1, eff. June 9, 2023.

Sec. 481.653. COMPOSITION OF CONSORTIUM. (a) The consortium is composed of a designee of each of the following institutions of higher education appointed by the office of the president of the institution:

(1) The University of Texas at Arlington;

(2) The University of Texas at Austin;

(3) The University of Texas at Dallas;

(4) The University of Texas at El Paso;

(5) The University of Texas Rio Grande Valley;

(6) The University of Texas at San Antonio;

(7) Texas A&M University;

(8) Prairie View A&M University;

(9) the University of Houston;

(10) the University of North Texas;

(11) Texas Tech University;

(12) Texas State University;

(13) Texas State Technical College System;

(14) Lamar University;

(15) Lamar State College - Orange;

(16) Lamar State College - Port Arthur;

(17) Lamar Institute of Technology;

(18) Austin Community College; and

(19) Dallas Community College.

(b) In addition to the appointments under Subsection (a), the

executive committee established under Section 481.655 may appoint any other entity or individual the executive committee considers necessary.

(c) In making appointments under Subsections (a) and (b), priority shall be given to individuals with experience in semiconductor design and manufacturing.

Added by Acts 2023, 88th Leg., R.S., Ch. 455 (H.B. 5174), Sec. 1, eff. June 9, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4850, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 481.654. ADMINISTRATIVE ATTACHMENT. (a) The consortium is administratively attached to the office of the governor.

(b) The office shall provide the staff and facilities necessary to assist the consortium in performing the consortium's duties under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 455 (H.B. 5174), Sec. 1, eff. June 9, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4850, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 481.655. EXECUTIVE COMMITTEE COMPOSITION. (a) The consortium is governed by an executive committee composed of the following members:

(1) three members appointed by the governor;

(2) two members appointed by the lieutenant governor;

(3) two members appointed by the speaker of the house of representatives;

(4) the chancellor of The Texas A&M University System or the chancellor's designee; and

(5) the chancellor of The University of Texas System or the chancellor's designee.

(b) In making appointments under Subsection (a), priority shall be given to individuals with experience in manufacturing, design,

industrial development, academic research, and scientific research in the field of semiconductors.

(c) In making appointments under Subsection (a), the governor, the lieutenant governor, and the speaker of the house of representatives shall coordinate to ensure that at least two representatives from the commercial semiconductor design and manufacturing sectors with an established presence in the state are appointed to the executive committee.

Added by Acts 2023, 88th Leg., R.S., Ch. 455 (H.B. 5174), Sec. 1, eff. June 9, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4850, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 481.656. DUTIES OF EXECUTIVE COMMITTEE. (a) The executive committee shall:

(1) develop and execute a comprehensive statewide strategic plan to further the objectives of the consortium as established under Section 481.652;

(2) solicit recommendations from consortium members on funding and research opportunities related to semiconductor research, design, commercialization, and manufacturing;

(3) appoint an executive director of the consortium and determine the title, functions, duties, powers, and salary for the executive director; and

(4) prepare and submit the report required by Section 481.657.

(b) The executive director may enter into agreements with the office of the governor for staff support services to facilitate the work of the consortium.

Added by Acts 2023, 88th Leg., R.S., Ch. 455 (H.B. 5174), Sec. 1, eff. June 9, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4850, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 481.657. BIENNIAL REPORT. Not later than December 1 of each even-numbered year, the executive committee shall prepare and submit to the governor and the Legislative Budget Board a written report that outlines:

(1) activities undertaken to meet the purposes of the consortium under Section 481.652;

(2) a summary of the funding and research opportunities identified under Section 481.656(a)(2);

(3) any legislative recommendations to further the purposes of the consortium;

(4) any prospective grants or funding the consortium members expect to apply for or receive; and

(5) any research accomplishments associated with the consortium.

Added by Acts 2023, 88th Leg., R.S., Ch. 455 (H.B. 5174), Sec. 1, eff. June 9, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4850, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 481.658. TEXAS SEMICONDUCTOR INNOVATION FUND. (a) The Texas Semiconductor Innovation Fund is created as a dedicated account within the general revenue fund. The fund consists of:

(1) gifts, grants, or donations to the fund; and

(2) money from any other source designated by the legislature.

(b) Money in the fund may be used to:

(1) provide matching funding to state entities, including institutions of higher education, for semiconductor manufacturing and design projects;

(2) award grants to business entities with an established presence in this state to encourage economic development related to semiconductor manufacturing and design; and

(3) subject to Subsection (c), pay for staff support services described by Section 481.656(b).

(c) The consortium shall request from the Legislative Budget Board approval to use money in the fund for the purpose described by Subsection (b)(3). A request under this subsection shall be

considered approved on the 30th day after receipt by the Legislative Budget Board unless expressly disapproved.

Added by Acts 2023, 88th Leg., R.S., Ch. 455 (H.B. 5174), Sec. 1, eff. June 9, 2023.

CHAPTER 482. TEXAS AEROSPACE AND TECHNOLOGY SUPPORT

SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the commission.

(2) "Commission" means the Texas Space Commission.

(3) "Fund" means the space exploration and aeronautics research fund.

(4) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

SUBCHAPTER B. TEXAS SPACE COMMISSION

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.101. ESTABLISHMENT; PURPOSE. (a) The Texas Space Commission is established to strengthen this state's proven leadership in civil, commercial, and military aerospace activity.

(b) The purpose of the commission is to promote innovation in the fields of space exploration and commercial aerospace opportunities, including the integration of space, aeronautics, and aviation industries into the economy of this state.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

Sec. 482.102. ADMINISTRATIVE ATTACHMENT. (a) The commission is administratively attached to the office of the governor, and the office of the governor shall provide administrative support to the commission as provided by this section. The equal employment opportunity officer and the internal auditor of the office of the governor shall serve the same functions for the commission as they serve for the office of the governor.

(b) The office of the governor and the board shall enter into a memorandum of understanding detailing:

(1) the administrative support the commission requires from the office of the governor to fulfill the purposes of this chapter;

(2) the reimbursement of administrative expenses to the office of the governor; and

(3) any other provisions available by law to ensure the efficient operation of the commission as attached to the office of the governor.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.103. SUNSET PROVISION. The commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2032.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

Sec. 482.104. STATE AUDITOR. Nothing in this chapter limits the authority of the state auditor under Chapter 321 or other law.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.105. BOARD OF DIRECTORS. (a) The commission is governed by a nine-member board of directors. The board is composed of:

(1) three members appointed by the governor;

(2) three members appointed by the lieutenant governor; and

(3) three members appointed by the speaker of the house of representatives.

(b) In making appointments under Subsection (a), the governor, lieutenant governor, and speaker of the house of representatives shall prioritize appointing individuals with experience in:

(1) commercial aerospace;

(2) civil aviation;

(3) military aerospace;

(4) space economic development;

(5) space-related academic research; and

(6) nonprofit support of the space economy.

(c) Members of the board appointed by the governor, lieutenant governor, and speaker of the house serve at the pleasure of the appointing office for staggered six-year terms, with the terms of two members expiring on January 31 of each odd-numbered year.

(d) If a vacancy occurs on the board, the appropriate appointing authority shall appoint a successor, in the same manner as the original appointment, to serve for the remainder of the unexpired term. The appropriate appointing authority shall appoint the successor not later than the 30th day after the date the vacancy occurs.

(e) Not later than the 30th day after the date a board member's term expires, the appropriate appointing authority shall appoint a replacement.

(f) The board shall elect a presiding officer from among the members of the board.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

Sec. 482.106. EXECUTIVE DIRECTOR. (a) The board shall hire an

executive director. The executive director shall perform the duties required by this chapter and any duty delegated by the board.

(b) The executive director must have a demonstrated ability to lead and develop academic, commercial, military, or governmental partnerships and coalitions.

(c) The executive director may hire staff as necessary to implement the duties of the commission under this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.107. BOARD OF DIRECTORS: AUTHORITY. (a) The board shall:

(1) direct the activities of, establish goals for, and provide oversight to the commission;

(2) develop and execute a strategic plan in accordance with Section 482.201;

(3) establish the appropriate standards and executive bodies to ensure the proper use of funds authorized under this chapter for research and facilities development;

(4) identify research and funding opportunities for entities within this state that:

(A) strengthen and enhance this state's proven leadership position in civil, commercial, and military aeronautics research and development and space flight infrastructure;

(B) enhance the integration of the space, aeronautics, astronautics, and aviation industries into this state's economy; and

(C) promote and further research involving materials derived from or developed through space exploration and space flight;

(5) capitalize, promote, and assist in the development of workforce training to further the development of emerging technologies required for all aspects of space exploration; and

(6) solicit proposals on funding and research opportunities related to the objectives in this chapter from the Texas Aerospace Research and Space Economy Consortium established under Subchapter G.

(b) The board shall employ a chief compliance officer to

monitor and report to the board regarding compliance with this chapter and rules adopted under this chapter. The chief compliance officer shall ensure that all grant proposals comply with this chapter and rules adopted under this chapter before the proposals are submitted to the board for approval.

(c) The board may:

(1) establish ad hoc advisory committees as necessary to carry out the board's duties under this chapter;

(2) adopt and use an official seal;

(3) solicit and accept gifts or grants, and contract with any entity;

(4) acquire and convey property or an interest in property;

(5) procure insurance and pay premiums on insurance of any type, in accounts, and from insurers as the board considers necessary and advisable to accomplish any of the commission's purposes;

(6) make grants to public or private persons with an established presence within this state to encourage economic development related to space and aerospace;

(7) make grants to enhance the capacity of institutions of higher education to participate in and support classified research;

(8) provide matching funding to external funding provided by relevant federal agencies, private industry, or private research organizations; and

(9) engage in the planning and implementation of aerospace-related educational opportunities within this state in coordination with the Texas Aerospace Research and Space Economy Consortium established under Subchapter G.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

SUBCHAPTER C. STRATEGIC PLAN

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.201. STRATEGIC PLAN. (a) The commission shall develop and annually update a strategic plan for the promotion of space, aeronautics, and aviation economic development in this state.

(b) The strategic plan must include a list of potential

projects that further the purpose of the commission, and, for each project:

(1) the estimated total cost for completion, including a potential state matching cost; and

(2) an assessment of the availability of external funding sources.

(c) The strategic plan may include any other information the commission determines is relevant to furthering the purpose of the commission.

(d) The board shall submit the strategic plan to the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 31 of each year.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

SUBCHAPTER D. SPACE EXPLORATION AND AERONAUTICS RESEARCH FUND

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.301. SPACE EXPLORATION AND AERONAUTICS RESEARCH FUND; ESTABLISHMENT. (a) The space exploration and aeronautics research fund is established to provide grants to eligible entities as provided by this chapter.

(b) The fund is a trust fund outside the treasury with the comptroller and administered by the commission.

(c) The fund is composed of:

(1) gifts, grants, and donations provided to the commission; and

(2) money from any source designated by the legislature.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.302. SPACE EXPLORATION AND AERONAUTICS RESEARCH FUND;

GRANTS. (a) Using money available in the fund, the commission may provide grants to eligible entities described by Subsection (b) for the purposes of:

(1) development of emerging technologies required for any aspect of human space flight;

(2) research involving any aspect of space exploration and space flight;

(3) workforce training to promote space exploration and space flight;

(4) curation of post-mission materials involved in space exploration and space flight; and

(5) development of infrastructure useful or necessary for the establishment or maintenance of a spaceport.

(b) The following entities are eligible for a grant made under this subchapter:

(1) a business or nonprofit entity involved in the space exploration, research, or aeronautics industry; and

(2) a governmental entity with which the commission has entered into an intergovernmental agreement for that purpose.

(c) The board shall comply with the provisions of this chapter in developing the procedures for administration and approval of grants through the fund.

(d) The commission shall provide written notification to the Legislative Budget Board not later than the 30th day after the date a grant award is made from the fund.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

SUBCHAPTER E. ETHICS AND AUDIT

Sec. 482.401. CONFLICT OF INTEREST. (a) The board shall adopt conflict-of-interest rules to govern members of the board and commission employees.

(b) A board member or commission employee shall recuse himself or herself, as provided by Section 482.402, if the board member or employee, or a person who is related to the board member or employee within the second degree of affinity or consanguinity, has a professional or financial interest in an entity receiving or applying to receive money from the commission.

(c) A person has a financial interest in an entity receiving or applying to receive money from the commission if the person:

(1) owns or controls, directly or indirectly, an ownership interest, including sharing in profits, proceeds, or capital gains, in an entity, or in a foundation or similar organization affiliated with an entity, receiving or applying to receive money from the commission; or

(2) could reasonably foresee that an action or recommendation by the board or commission could result in a financial benefit to the person.

(d) Nothing in this subchapter limits the authority of the board to adopt additional conflict-of-interest standards.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

Sec. 482.402. DISCLOSURE OF CONFLICT OF INTEREST; RECUSAL. (a) If a board member has a conflict of interest as described by Section 482.401 regarding an application that comes before the board for review or other action, the board member shall:

(1) provide written notice to the executive director and the presiding officer of the board or the next ranking member of the board if the presiding officer has the conflict of interest;

(2) disclose the conflict of interest in an open meeting of the board; and

(3) recuse himself or herself from participating in the review, discussion, deliberation, and vote on the application and from accessing information regarding the matter to be decided.

(b) If a commission employee has a conflict of interest described by Section 482.401 regarding an application that comes before the employee for review or other action, the employee shall:

(1) provide written notice to the executive director of the conflict of interest; and

(2) recuse himself or herself from participating in the review of the application and be prevented from accessing information regarding the matter to be decided.

(c) A board member or commission employee with a conflict of interest may seek a waiver as provided by Section 482.403.

(d) A board member or commission employee who reports a

potential conflict of interest or another impropriety or self-dealing of the member or employee and who fully complies with the recommendations of the general counsel and recusal requirements is considered in compliance with the conflict-of-interest provisions of this subchapter. The member or employee is subject to other applicable laws, rules, requirements, and prohibitions.

(e) A board member or commission employee who intentionally violates this section is subject to removal from further participation in the commission's review process.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

Sec. 482.403. EXCEPTIONAL CIRCUMSTANCES REQUIRING PARTICIPATION; INVESTIGATION OF UNREPORTED CONFLICT OF INTEREST. (a) The board shall adopt rules governing the waiver of the conflict-of-interest requirements of this subchapter under exceptional circumstances for a board member or commission employee. The rules must:

(1) authorize the executive director or a board member to propose granting a waiver by submitting to the presiding officer of the board a written statement about the conflict of interest, the exceptional circumstance requiring the waiver, and any proposed limitations to the waiver;

(2) require a proposed waiver to be publicly reported at a meeting of the board;

(3) require a majority vote of the board members present and voting to grant a waiver; and

(4) require the commission to retain documentation of each waiver granted.

(b) The board shall adopt rules governing the investigation and consequences of unreported conflicts of interest.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

Sec. 482.404. CODE OF CONDUCT. (a) The board shall adopt a code of conduct applicable to each board member and commission employee.

(b) The code of conduct at a minimum must include provisions prohibiting the member, the employee, or the member's or employee's spouse from:

(1) accepting or soliciting any gift, favor, or service that could reasonably influence the member or employee in the discharge of official duties or that the member, employee, or spouse of the member or employee knows or should know is being offered with the intent to influence the member's or employee's official conduct;

(2) accepting employment or engaging in any business or professional activity that would reasonably require or induce the member or employee to disclose confidential information acquired in the member's or employee's official position;

(3) accepting other employment or compensation that could reasonably impair the member's or employee's independent judgment in the performance of official duties;

(4) making personal investments or having a financial interest that could reasonably create a substantial conflict between the member's or employee's private interest and the member's or employee's official duties;

(5) intentionally or knowingly soliciting, accepting, or agreeing to accept any benefit for exercising the member's official powers or performing the member's or employee's official duties in favor of another;

(6) leasing, directly or indirectly, any property, capital equipment, employee, or service to any entity that receives a grant from the commission;

(7) submitting a grant application for funding by the board;

(8) serving on the board of directors of an organization established with a grant from the commission; or

(9) serving on the board of directors of a grant recipient.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

SUBCHAPTER F. PROCEDURE FOR MAKING AWARDS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.501. RULES FOR GRANT AWARD PROCEDURE. (a) The board shall adopt rules regarding the procedure for awarding grants to an applicant under this chapter, including a procedure for the Texas Aerospace Research and Space Economy Consortium to make recommendations to the board for grant awards.

(b) The board may not award a grant to an applicant who has made a gift or grant to the commission or a nonprofit organization established to provide support to the commission.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

Sec. 482.502. MULTIYEAR PROJECTS. The board may grant money for a multiyear project. The board shall specify the total amount of money approved to fund the multiyear project. The total amount specified is considered for purposes of this subchapter to have been awarded in the state fiscal year that the project is approved by the board. The board shall distribute only the money that will be expended during that fiscal year. The board shall distribute the remaining grant money as the money is needed in each subsequent state fiscal year.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

Sec. 482.503. PREFERENCE FOR TEXAS SUPPLIERS. The board shall establish standards to ensure that grant recipients purchase goods and services from suppliers in this state to the extent reasonably possible, in a good faith effort to achieve a goal of more than 50 percent of those purchases from suppliers in this state.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

Sec. 482.504. GRANT EVALUATION. (a) The executive director shall determine the grant review process under this section. The executive director may terminate grants that do not meet contractual obligations.

(b) The executive director shall report at least annually to the board on the progress and continued merit of each grant funded by the commission.

(c) The board shall establish and implement reporting requirements to ensure that each grant recipient complies with the terms and conditions in the grant contract, including verification of the amounts of matching money dedicated to the research that is the subject of the grant award to the grant recipient.

(d) The commission shall implement a system to:

(1) track the dates on which grant recipient reports are due and are received by the commission; and

(2) monitor the status of any required report that is not timely submitted to the commission by a grant recipient.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.505. GRANT RECORDS. The commission shall maintain complete records of:

(1) the review of each grant application submitted to the board, including an application reviewed in accordance with rules adopted under this chapter, even if the grant application is not funded by the board or is withdrawn after submission;

(2) each grant recipient's financial reports, including the amount of matching money dedicated to the research specified for the grant award;

(3) each grant recipient's progress reports; and

(4) the board's review of the grant recipient's financial reports and progress reports.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

SUBCHAPTER G. TEXAS AEROSPACE RESEARCH AND SPACE ECONOMY CONSORTIUM

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.601. DEFINITIONS. In this subchapter:

(1) "Consortium" means the Texas Aerospace Research and Space Economy Consortium.

(2) "Executive committee" means the executive committee of the consortium.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.602. SUNSET PROVISION. The consortium is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the consortium is abolished and this subchapter expires September 1, 2032.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.603. ESTABLISHMENT; PURPOSE. The Texas Aerospace Research and Space Economy Consortium is established to:

(1) identify research opportunities for entities within this state that:

(A) strengthen this state's proven leadership in civil, commercial, and military aerospace activity;

(B) enhance this state's position in aeronautics research and development, astronautics, space commercialization, and space flight infrastructure; and

(C) enhance the integration of the space, aeronautics, astronautics, and aviation industries into this state's economy; and

(2) provide funding and research recommendations to the commission.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.604. CONSORTIUM COMPOSITION. The consortium is composed of:

(1) each institution of higher education; and

(2) any other entity that the executive committee considers necessary.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.605. ADMINISTRATIVE ATTACHMENT. The consortium is administratively attached to the office of the governor for the purpose of receiving and administering appropriations and other funds under this subchapter. The office of the governor is not responsible for providing to the consortium staff, human resources, contract monitoring, purchasing, or any other administrative support services.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.606. EXECUTIVE COMMITTEE COMPOSITION. (a) The consortium is governed by an independent executive committee composed of the following nine members:

(1) two members appointed by the governor;

(2) two members appointed by the lieutenant governor;

(3) two members appointed by the speaker of the house of

representatives;

(4) the chancellor of The Texas A&M University System or the chancellor's designee;

(5) the chancellor of The University of Texas System or the chancellor's designee; and

(6) the president of Rice University or the president's designee.

(b) In making appointments under Subsection (a), the governor, the lieutenant governor, and the speaker of the house of representatives, respectively, shall:

(1) prioritize appointing individuals with experience in:

(A) aeronautics;

(B) space economic development; and

(C) academic engagement with the space economy; and

(2) ensure that the appointments reflect, to the extent possible, the ethnic and geographic diversity of this state.

(c) A vacancy on the executive committee is filled in the same manner as the initial appointment.

(d) The executive committee shall:

(1) elect a presiding officer from among the members of the committee; and

(2) meet at the call of the presiding officer.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.607. GIFTS, GRANTS, AND DONATIONS. The executive committee may solicit and accept on behalf of the consortium gifts, grants, or donations from any public or private source for the purpose of carrying out this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.608. GENERAL DUTIES. (a) The executive committee shall:

(1) develop and execute a comprehensive statewide strategic plan to further the purposes of the consortium;

(2) gather and coordinate recommendations from consortium members on funding and research opportunities in accordance with the purposes of the consortium; and

(3) establish procedures and policies for the administration of the consortium, including:

(A) procedures for documenting compliance by members of the committee and consortium and consortium staff with applicable laws governing conflicts of interest;

(B) designation of a member of the committee as the committee's liaison to the commission; and

(C) procedures for entering into contracts with The Texas A&M University System as necessary for that system to provide administrative and staff support to the consortium.

(b) A member of the consortium may participate in consortium fact-finding and strategic planning and the formation of recommendations for purposes of Subsections (a)(1) and (a)(2). Before assisting the executive committee as provided by this subsection, a member of the consortium must designate a liaison to the executive committee to represent that member.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5246, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 482.609. BIENNIAL REPORT. Not later than December 31 of each even-numbered year, the executive committee shall submit to the commission a written report that includes for that biennium:

(1) the activities and objectives of the consortium;

(2) a synopsis of the funding and research opportunities identified by the consortium;

(3) legislative recommendations, if any;

(4) prospective grants or funding the consortium members expect to receive, if any; and

(5) research accomplishments associated with the consortium, if any.

Added by Acts 2023, 88th Leg., R.S., Ch. 856 (H.B. 3447), Sec. 1, eff. September 1, 2023.

CHAPTER 485. MUSIC, FILM, TELEVISION, AND MULTIMEDIA INDUSTRIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 485.001. DEFINITIONS. In this chapter, "office" means the Music, Film, Television, and Multimedia Office.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 29, eff. Sept. 1, 1991.

Sec. 485.002. ESTABLISHMENT. The Music, Film, Television, and Multimedia Office is established in the office of the governor.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 29, eff. Sept. 1, 1991.

Sec. 485.003. DIRECTOR; STAFF. The governor may employ a director who may employ other employees necessary to carry out the office's duties.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 29, eff. Sept. 1, 1991.

Sec. 485.004. PROMOTION; DUTIES. (a) The office shall promote the development of the music industry in the state by informing members of that industry and the public about the resources available in the state for music production.

(b) The office shall promote the development of the film, television, and multimedia industries in this state by informing members of those industries and the public of the resources available in this state for film, television, and multimedia production.

(c) State agencies and political subdivisions of this state shall cooperate with the office to the greatest extent possible to fully implement the goal of promoting the development of the music, film, television, and multimedia industries in this state.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 29, eff. Sept. 1, 1991.

Sec. 485.005. ADVISORS. (a) The office may appoint advisors to assist in the administration of this chapter.

(b) An advisor serves without compensation but is entitled to necessary and actual expenses incurred in performing duties under this chapter.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 29, eff. Sept. 1, 1991.

Sec. 485.006. GIFTS AND GRANTS. The office may accept gifts, grants, and other funds specifically designated by the donor or grantor for use in developing the music, film, television, and multimedia industries of this state.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 29, eff. Sept. 1, 1991.

Sec. 485.007. MUSIC, FILM, TELEVISION, AND MULTIMEDIA FUND. The music, film, television, and multimedia fund is in the state treasury. The continued existence of this fund is determined by the provisions of S.B. No. 3, Acts of the 72nd Legislature, 1st Called Session, 1991. All gifts, grants, and other funds received by the office under this chapter shall be deposited to the credit of the fund and may be used only for the purposes of this chapter.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 29, eff. Sept. 1, 1991.

SUBCHAPTER B. MOVING IMAGE INDUSTRY INCENTIVE PROGRAM

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 22, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 485.021. DEFINITIONS. In this subchapter:

(1) "In-state spending" means the amount of money spent in Texas by a production company during the production and completion of a moving image project, including the amount spent on wages to Texas residents. The term does not include wages described by Section 485.024(b).

(2) "Moving image project" means a visual and sound production, including a film, television program, national or multistate commercial, educational or instructional video, or digital interactive media production. The term does not include a production that is obscene, as defined by Section 43.21, Penal Code.

(3) "Production company" includes a film production company, television production company, digital interactive media production company, or film and television production company.

(4) "Texas resident" means an individual who has resided in Texas since the 120th day before the first day of principal photography on a moving image project.

(5) "Underutilized and economically distressed area" includes any area of this state that:

(A) the office determines receives less than 15 percent of the total film and television production in this state during a fiscal year; or

(B) has a median household income that does not exceed 75 percent of the median state household income.

Added by Acts 2005, 79th Leg., Ch. 342 (S.B. 1142), Sec. 2, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 260 (H.B. 1634), Sec. 2, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 2 (H.B. 873), Sec. 1, eff. April 23, 2009.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 22, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 485.022. MOVING IMAGE INDUSTRY INCENTIVE PROGRAM. (a) The office shall administer a grant program for production companies that produce moving image projects in this state, to the extent that gifts, grants, donations, or other money, including appropriations, are made available to the office for that purpose.

(b) The office shall develop a procedure for the submission of grant applications and the awarding of grants under this subchapter. The procedure must include provisions relating to:

(1) methods by which an individual's Texas residency as described by Section 485.021(4) can be proved; and

(2) requirements for the submission, before production of a moving image project begins, of:

(A) an estimate of total in-state spending;

(B) the shooting script or story board, as applicable;

(C) the estimated number of jobs for cast and production crew during the production and completion of a moving image project; and

(D) any other information considered useful and necessary by the office for an adequate and accurate analysis of a production company's in-state spending.

(c) The office may accept gifts, grants, and donations for the purpose of implementing this subchapter.

(d) The office may award a grant to a production company only based on a production company's in-state spending that the office verifies as having been completed.

(e) The office is not required to act on any grant application and may deny an application because of inappropriate content or content that portrays Texas or Texans in a negative fashion, as determined by the office, in a moving image project. In determining whether to act on or deny a grant application, the office shall consider general standards of decency and respect for the diverse beliefs and values of the citizens of Texas.

(f) Before a grant is awarded under this subchapter, the office shall:

(1) require a copy of the final script; and

(2) determine if any substantial changes occurred during production on a moving image project to include content described by Subsection (e).

Added by Acts 2005, 79th Leg., Ch. 342 (S.B. 1142), Sec. 2, eff.

September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 260 (H.B. 1634), Sec. 3, eff. June 8, 2007.
Acts 2007, 80th Leg., R.S., Ch. 260 (H.B. 1634), Sec. 4, eff. June 8, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 22, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 485.023. QUALIFICATION. To qualify for a grant under this subchapter:

(1) a production company must have spent a minimum of:

(A) $250,000 in in-state spending for a film or television program; or

(B) $100,000 in in-state spending for a commercial or series of commercials, an educational or instructional video or series of educational or instructional videos, or a digital interactive media production;

(2) at least 55 percent of the production crew, actors, and extras for a moving image project must be Texas residents unless the office determines and certifies in writing that a sufficient number of qualified crew, actors, and extras are not available to the company at the time principal photography begins;

(3) at least 60 percent of the moving image project must be filmed in Texas; and

(4) a production company must submit to the office an expended budget, in a format prescribed by the office, that reflects all in-state spending and includes all receipts, invoices, pay orders, and other documentation considered necessary by the office to accurately determine the amount of a production company's in-state spending that has occurred.

Added by Acts 2005, 79th Leg., Ch. 342 (S.B. 1142), Sec. 2, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 260 (H.B. 1634), Sec. 5, eff. June 8, 2007.
Acts 2009, 81st Leg., R.S., Ch. 2 (H.B. 873), Sec. 2, eff. April

23, 2009.

Acts 2023, 88th Leg., R.S., Ch. 767 (H.B. 4539), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 22, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 485.024. GRANT. (a) Except as provided by Section 485.025, a grant under this subchapter may not exceed the amount established by office rule. The office shall adopt rules prescribing the method the office will use to calculate the amount of a grant under this subsection. The office shall publish a written summary of the method for determining grants before awarding a grant under this section. The method must consider at a minimum:

(1) the current and likely future effect a moving image project will have on employment, tourism, and economic activity in this state; and

(2) the amount of a production company's in-state spending for a moving image project.

(b) In calculating a grant amount under Section 485.025 or the amount of in-state spending for purposes of rules adopted under Subsection (a), the office may not include wages of persons, including an actor or director, employed in the production of a moving image project that exceed $1 million.

(c) The office may only make a grant from appropriated funds.

Added by Acts 2005, 79th Leg., Ch. 342 (S.B. 1142), Sec. 2, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 260 (H.B. 1634), Sec. 6, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 2 (H.B. 873), Sec. 3, eff. April 23, 2009.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 22, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 485.025. ADDITIONAL GRANT FOR UNDERUTILIZED AND

ECONOMICALLY DISTRESSED AREAS. In addition to the grant calculated under Section 485.024, a production company that spends at least 25 percent of a moving image project's filming days in an underutilized and economically distressed area is eligible for an additional grant in an amount equal to 2.5 percent of the total amount of the production company's in-state spending for the moving image project.

Added by Acts 2005, 79th Leg., Ch. 342 (S.B. 1142), Sec. 2, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 260 (H.B. 1634), Sec. 6, eff. June 8, 2007.
Acts 2009, 81st Leg., R.S., Ch. 2 (H.B. 873), Sec. 3, eff. April 23, 2009.

Sec. 485.026. STATE DEBT. If a production company owes money to the state at the time the production company is awarded a grant under this subchapter, the office shall offset the amount owed to the state from the amount awarded.

Added by Acts 2005, 79th Leg., Ch. 342 (S.B. 1142), Sec. 2, eff. September 1, 2005.

Sec. 485.027. WORKFORCE TRAINING AND PERFORMANCE MEASURES. (a) The office may contract with public junior colleges, as defined by Section 61.003, Education Code, or Texas nonprofit organizations to create a moving image industry personnel training program for developing and expanding the workforce for moving image projects in Texas.

(b) The office shall develop appropriate performance measures for training programs created under this section.

(c) The office and the Texas Higher Education Coordinating Board shall cooperate to develop performance measures that are appropriate for classroom instruction before the office may spend money to implement this section.

(d) The office shall consult with the Texas Workforce Commission to collect and compile data on the status of the moving image industry employment base in Texas.

Added by Acts 2007, 80th Leg., R.S., Ch. 260 (H.B. 1634), Sec. 7, eff. June 8, 2007.

Sec. 485.028. FILM ARCHIVE PROGRAM. (a) The office may contract with an organization that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986, to provide technical resources regarding archiving moving image projects, improving public access to the moving image heritage of Texas, including campaign material, and discovering, preserving, and collecting digital copies of the moving image heritage of Texas. A contract entered into under this section must require an organization to:

(1) provide service to the public;

(2) assist private organizations statewide; and

(3) provide technical assistance with archiving and preserving moving images and digitization work.

(b) The office by rule may develop policies and procedures for coordinating with state agencies to implement this section.

(c) The office shall establish performance measures for contractors that enter into a contract under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 260 (H.B. 1634), Sec. 7, eff. June 8, 2007.

SUBCHAPTER C. TEXAS MUSIC INCUBATOR REBATE PROGRAM

Sec. 485.041. DEFINITIONS. (a) Except as provided by Subsection (b), the definitions in Section 1.04, Alcoholic Beverage Code, apply to this subchapter.

(b) In this subchapter:

(1) "Mixed beverage gross receipts tax" means the tax imposed by Subchapter B, Chapter 183, Tax Code.

(2) "Permit holder" means a person who holds a permit issued under Section 151.201, Tax Code.

(3) "Permittee" has the meaning assigned by Section 183.001(b), Tax Code.

(4) "Program" means the Texas music incubator rebate program.

(5) "Sales tax" means the tax imposed by Chapter 151, Tax

Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 84 (S.B. 609), Sec. 1, eff. September 1, 2021.

Sec. 485.042. TEXAS MUSIC INCUBATOR REBATE PROGRAM. (a) The office shall administer the Texas music incubator rebate program under which the office shall provide to eligible music venues and eligible music festival promoters from money appropriated from the Texas music incubator account a full or partial rebate of the mixed beverage gross receipts taxes and sales tax receipts attributable to the sale of beer and wine and remitted to the comptroller annually by those venues and promoters. The Texas music incubator account shall be funded by mixed beverage gross receipts taxes and sales tax receipts attributable to the sale of beer and wine remitted annually by venues and promoters and deposited into that account as required by Sections 151.801(f) and 183.023(c), Tax Code. The rebates are to assist eligible music venues and eligible music festival promoters in their efforts to support and continue to bring to local communities in this state live musical performances, including the recruitment of musical performance artists.

(b) The office may not provide a rebate under the program to a music venue or music festival promoter in an amount that exceeds the lesser of:

(1) the amount of mixed beverage gross receipts taxes and sales taxes attributable to the sale of beer and wine remitted in the preceding fiscal year to the comptroller by the music venue or music festival promoter as a permittee or permit holder; or

(2) $100,000.

Added by Acts 2021, 87th Leg., R.S., Ch. 84 (S.B. 609), Sec. 1, eff. September 1, 2021.

Sec. 485.043. ELIGIBILITY FOR REBATE. (a) Except as provided by Subsection (b), to qualify for a rebate under the program, a music venue or music festival promoter, for at least the two years preceding the date on which the music venue or promoter, as applicable, submits an application under Section 485.044, must have:

(1) been a permittee subject to the mixed beverage gross

receipts tax or a permit holder subject to the sales tax on the sale of beer or wine;

(2) if the applicant is a music venue, been a retail establishment with a dedicated audience capacity of not more than 3,000 persons;

(3) if the applicant is a music festival promoter, held a music festival in a county with a population of less than 100,000;

(4) entered into a written contract with a musical performance artist to conduct a live performance at the venue or festival, as applicable, under which the artist received as compensation a specified percentage of ticket sales for or other sales during the performance, or a guaranteed amount in advance of the performance; and

(5) met at least five of the following criteria, one of which must be described by Paragraph (A) or (B):

(A) the marketing of live music performances through listings in printed or electronic publications;

(B) the provision of live music performances five or more nights per week;

(C) employment or contracting of the services of one or more people who are tasked with two or more of the following positions or services:

(i) sound engineer;

(ii) booker;

(iii) promoter;

(iv) stage manager; or

(v) security personnel;

(D) having live performance and audience space;

(E) the provision of technical sound and lighting support, either in-house or through a contract with a vendor;

(F) having a space for the storage of audio equipment or musical instruments;

(G) the application of cover charges to one or more live music performances through ticketing or the imposition of a front door entrance fee; or

(H) the maintenance of hours of operation that coincide with live music performance show times.

(b) The office may, at the office's discretion, provide a rebate under the program to a music venue or a music festival promoter that fails to meet the eligibility requirements prescribed

by Subsection (a) solely because the venue is located, or the festival is usually held, as applicable, in a county located wholly or partly in an area that at any time during the preceding two-year period was declared to be a disaster area by the governor or by the president of the United States.

Added by Acts 2021, 87th Leg., R.S., Ch. 84 (S.B. 609), Sec. 1, eff. September 1, 2021.

Sec. 485.044. REBATE APPLICATION. (a) The office shall:

(1) subject to Subsection (b), prescribe the application form for obtaining a rebate under the program; and

(2) establish an online portal on the office's public Internet website that allows a music venue or music festival promoter to submit the application to the office for consideration.

(b) The application must:

(1) state the amount of mixed beverage gross receipts tax and sales tax receipts attributable to the sale of beer and wine that was remitted to the comptroller by the music venue or music festival promoter in the preceding fiscal year;

(2) include sufficient evidence for the office to determine that the music venue or promoter qualifies for a rebate; and

(3) include any other information the office determines necessary to administer the program.

(c) The office shall accept rebate applications beginning September 1 of each year and may provide rebates until all the money in the Texas music incubator account is exhausted.

(d) The office may expedite the review of an application submitted by a music venue or music festival promoter, if the venue is located, or the festival is usually held, as applicable, in a county located wholly or partly in an area that at any time during the preceding two-year period was declared to be a disaster area by the governor or by the president of the United States.

Added by Acts 2021, 87th Leg., R.S., Ch. 84 (S.B. 609), Sec. 1, eff. September 1, 2021.

Sec. 485.045. REVIEW OF APPLICATIONS; REBATES. (a) After reviewing applications for a rebate under the program, the office

shall grant rebates to eligible music venues and music festival promoters that the office determines provide or have committed to provide the most economic benefit to the communities in which the music venues are located or the festivals are held, as applicable, and to the Texas music industry, including live music performers.

(b) As directed by the office, the comptroller shall issue a warrant for a rebate granted by the office under this section drawn on the Texas music incubator account.

Added by Acts 2021, 87th Leg., R.S., Ch. 84 (S.B. 609), Sec. 1, eff. September 1, 2021.

Sec. 485.046. TEXAS MUSIC INCUBATOR ACCOUNT. (a) The Texas music incubator account is a dedicated account in the general revenue fund. The account is composed of:

(1) money deposited to the credit of the account under Sections 151.801(f) and 183.023(c), Tax Code;

(2) gifts, grants, and other money received by the office for the program; and

(3) other amounts deposited to the credit of the account.

(b) Money in the account may be appropriated only to the office for the purpose of paying rebates to music venues and certain music festival promoters under the program.

(c) Interest and other earnings from money in the account shall be credited to the account.

(d) On the last day of each state fiscal biennium, the comptroller shall transfer any money deposited to the account under Subsection (a)(1) that is unobligated and unexpended on that date to the general revenue fund to be used in accordance with legislative appropriation.

Added by Acts 2021, 87th Leg., R.S., Ch. 84 (S.B. 609), Sec. 1, eff. September 1, 2021.

Sec. 485.047. RULES. The office shall adopt rules necessary to implement and administer this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 84 (S.B. 609), Sec. 1, eff. September 1, 2021.

CHAPTER 485A. MEDIA PRODUCTION DEVELOPMENT ZONES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 485A.001. SHORT TITLE. This chapter may be cited as the Media Production Development Zone Act.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.002. DEFINITIONS. In this chapter:

(1) "Media production facility" means a structure, building, or room used for the specific purpose of creating a moving image project. The term includes but is not limited to:

(A) a soundstage and scoring stage;

(B) a production office;

(C) an editing facility, an animation production facility, and a video game production facility;

(D) a storage and construction space; and

(E) a sound recording studio and motion capture studio.

(2) "Media production development zone" means an area recognized by a nominating body and approved by the office as a media production development zone under this chapter.

(3) "Moving image project" means a visual and sound production, including a film, television program, national or multistate commercial, or digital interactive media production. The term does not include a production that is obscene, as defined by Section 43.21, Penal Code.

(4) "Nominating body" means the governing body of a municipality or county, or a combination of the governing bodies of municipalities or counties, that:

(A) recognizes a qualified area as a media production development zone; and

(B) nominates and applies for designation of a location in a media production development zone as a qualified media production location.

(5) "Office" means the Music, Film, Television, and Multimedia Office within the office of the governor.

(6) "Qualified media production location" means a location

in a media production development zone that has been designated by the office as a qualified media production location in accordance with this chapter.

(7) "Qualified person" means a person certified as a qualified person under Section 485A.201.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.003. JURISDICTION OF MUNICIPALITY. For the purposes of this chapter, territory in the extraterritorial jurisdiction of a municipality is considered to be in the jurisdiction of the municipality.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

SUBCHAPTER B. OFFICE POWERS AND DUTIES IN GENERAL

Sec. 485A.051. GENERAL POWERS AND DUTIES. (a) Except as provided by Subsection (b), the office shall administer and monitor the implementation of this chapter.

(b) The office and the comptroller's office shall jointly establish criteria and procedures for:

(1) approving a qualified area recognized as a media production development zone by a nominating body;

(2) designating a qualified location in a media production development zone as a qualified media production location; and

(3) certifying a person as a qualified person under Section 485A.201.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.052. RULEMAKING AUTHORITY. The office shall adopt rules necessary to implement this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.053. ANNUAL REPORT. On or before December 15 of each year, the office shall submit to the governor, the legislature, and the Legislative Budget Board a report that:

(1) evaluates the effectiveness of the media production development zone program; and

(2) describes the use of state and local incentives under this chapter and their effect on revenue.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.054. ASSISTANCE. The office shall provide to persons desiring to construct, expand, maintain, improve, or renovate a media production facility in a qualified media production location information and appropriate assistance relating to the required legal authorization, including a permit, certificate, approval, and registration, necessary in this state to accomplish that objective.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

SUBCHAPTER C. APPROVAL OF MEDIA PRODUCTION DEVELOPMENT ZONE AND DESIGNATION OF QUALIFIED MEDIA PRODUCTION LOCATIONS

Sec. 485A.101. CRITERIA FOR MEDIA PRODUCTION DEVELOPMENT ZONE RECOGNITION. To be approved as a media production development zone, an area:

(1) must be in a metropolitan statistical area, the principal municipality of which has the adequate workforce, infrastructure, facilities, or resources to support the production and completion of moving image projects;

(2) must be recognized as a media production development zone by ordinance or order, as appropriate, of a municipality or the commissioners court of a county; and

(3) will contain a qualified media production location within its geographical boundaries that meets the criteria under Section 485A.102.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 544 (H.B. 4051), Sec. 1, eff. September 1, 2023.

Sec. 485A.102. CRITERIA FOR QUALIFIED MEDIA PRODUCTION LOCATION DESIGNATION. To be designated a qualified media production location, a location must be land or other real property that is in a media production development zone and will:

(1) be used exclusively to build or construct one or more media production facilities;

(2) if the real property is a building or other facility, be renovated solely for the purpose of being converted into one or more media production facilities; or

(3) if the real property consists solely of one or more media production facilities, be improved or renovated for that purpose or will be expanded into one or more additional media production facilities.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.103. MAXIMUM NUMBER OF ZONES AND LOCATIONS THROUGHOUT STATE. (a) There may not be more than 10 media production development zone designations under this chapter at any one time.

(b) There may not be more than five media production development zones under this chapter in a region at any one time.

(c) Each media production development zone may not contain more than three media production locations at any one time.

(d) For purposes of Subsection (b), the office shall divide the state into regions consisting of geographical boundaries prescribed by office rule.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.104. NOMINATION OF QUALIFIED MEDIA PRODUCTION

LOCATION. (a) The governing body of a municipality or county, individually or in combination with other municipalities or counties, by ordinance or order, as appropriate, may nominate as a qualified media production location a location within its jurisdiction that meets the criteria under Section 485A.102.

(b) The governing body of a county may not nominate territory in a municipality, including extraterritorial jurisdiction of a municipality, to be included in a proposed qualified media production location unless the governing body of the municipality also nominates the territory and together with the county files a joint application under Section 485A.106.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.105. NOMINATING ORDINANCE OR ORDER. An ordinance or order nominating a location as a qualified media production location must:

(1) describe precisely both the media production development zone in which the location is to be included and the proposed location by a legal description or reference to municipal or county boundaries;

(2) state a finding that the location meets the requirements of this chapter and that the media production development zone in which the location is to be included has been recognized as a zone by ordinance or order, as appropriate, by the nominating body;

(3) summarize briefly the local financial incentives, including tax incentives, that, at the election of the nominating body, will apply to a qualified person;

(4) contain a brief description of the project or activity to be conducted by a qualified person at the location;

(5) nominate the location as a qualified media production location; and

(6) contain an economic impact analysis from an economic expert.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.106. APPLICATION FOR DESIGNATION. (a) For a location in a media production development zone to be designated as a qualified media production location, the nominating body, after nominating the location as a qualified media production location, must send to the office a written application for designation of the location in the zone as a qualified media production location.

(b) The application must include:

(1) a certified copy of the ordinance or order, as appropriate, nominating the location as a media production location;

(2) a certified copy of the ordinance or order, as appropriate, recognizing the zone in which the location is to be included as a media production development zone;

(3) appropriate supporting documents demonstrating that the location qualifies for designation as a qualified media production location;

(4) an estimate of the economic impact of the designation of the location as a qualified media production location on the revenues of the governmental entity or entities nominating the location as a qualified media production location, considering the financial incentives and benefits contemplated;

(5) an economic impact analysis of the proposed project or activities to be conducted at the proposed qualified media production location, which must include:

(A) an estimate of the amount of revenue to be generated to the state by the project or activity;

(B) an estimate of any secondary economic benefits to be generated by the project or activity;

(C) an estimate of the amount of state taxes to be exempted, as provided by Section 151.3415, Tax Code; and

(D) any other information required by the comptroller for purposes of making the certification required by Section 485A.109(b); and

(6) any additional information the office requires.

(c) Information required by Subsection (b) is for evaluation purposes only.

(d) The economic impact analysis required by Subsection (b)(5) must also be submitted to the comptroller.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.107. ADVISORY COMMITTEE. (a) The media production advisory committee is composed of the following members:

(1) the director of the Texas Film Commission division of the governor's office;

(2) one representative of the comptroller's office, appointed by the comptroller; and

(3) subject to Subsection (b), nine representatives appointed by the comptroller.

(b) In making appointments to the advisory committee under Subsection (a)(3), the comptroller shall provide for a balanced representation of the different geographic regions of this state. Each of the following types of companies or organizations must be represented by at least one member serving on the advisory committee:

(1) animation production companies;

(2) film and television production companies;

(3) labor or workforce organizations;

(4) equipment vendors;

(5) the video gaming industry; and

(6) commercial production companies.

(c) The director of the Texas Film Commission division of the office of the governor serves as the presiding officer of the advisory committee. The advisory committee shall meet at the call of the presiding officer.

(d) The advisory committee, through review of applications submitted under Section 485A.108, shall make recommendations to the office for designation of qualified media production locations under this subchapter. The office may provide administrative support to the advisory committee.

(e) Section 2110.008 does not apply to the advisory committee.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.108. REVIEW OF APPLICATION. (a) On receipt of an application for the designation of a qualified media production location, the office shall review the application to determine whether the nominated location qualifies for designation as a

qualified media production location under this chapter.

(b) The office shall consider recommendations submitted by the media production advisory committee with respect to applications received by the office.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.109. DESIGNATION. (a) If the office determines that a nominated location for which a designation application has been received satisfies the criteria under Section 485A.102 and on recommendation of the media production advisory committee, the office may designate the nominated location as a qualified media production location unless the office determines that the designation request should be denied for the reasons specified by Section 485A.110.

(b) A designation of a qualified media production location may not be made under this section until the comptroller, based on an evaluation of the economic impact analysis submitted under Section 485A.106(b)(5), certifies that the project or activity to be conducted at the designated location will have a positive impact on state revenue.

(c) On designation of the first qualified media production location in a media production development zone recognized by the nominating body for that purpose, the office shall simultaneously approve the media production development zone.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.110. DENIAL OF APPLICATION; NOTICE. (a) The office shall deny an application for the designation of a qualified media production location if:

(1) the office determines that the nominated location does not satisfy the criteria under Section 485A.102;

(2) the office determines that the number of media production location designations or number of approved media production development zones at the time of the application are at the maximum limit prescribed by Section 485A.103; or

(3) the comptroller has not certified that the proposed

project or activity to be conducted at the location will have a positive impact on state revenue.

(b) The office shall inform the nominating body of the specific reasons for denial of an application under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.111. PERIOD OF APPROVAL OR DESIGNATION. (a) An area that qualifies under this subchapter may be approved by the office as a media production development zone for a maximum of five years after the date the last qualified media production location was designated within the zone's boundaries.

(b) A location may be designated as a qualified media production location, and may be eligible for the sales and use tax exemption as provided by Section 151.3415, Tax Code, for a maximum of two years.

(c) Except as provided by Section 485A.112, a media production development zone approval and qualified media production location designation remains in effect until September 1 of the final year of the approval or designation, as appropriate.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.112. REMOVAL OF APPROVAL OR DESIGNATION. (a) The office may remove the approval of an area recognized as a media production development zone if the area no longer meets the criteria for that recognition under this chapter or by office rule adopted under this chapter.

(b) The office may remove the designation of a location as a qualified media production location if the location no longer meets the criteria for that designation under this chapter or by office rule adopted under this chapter.

(c) The removal of a designation or approval does not affect the validity of a tax incentive granted or accrued before the removal.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1,

eff. September 1, 2009.

SUBCHAPTER D. ADMINISTRATION OF MEDIA PRODUCTION LOCATION

Sec. 485A.151. ANNUAL REPORT. (a) For purposes of this section, the governing body of a qualified media production location is the governing body of the municipality or county, or the governing bodies of the combination of municipalities or counties, that applied to have the location designated as a qualified media production location.

(b) Not later than October 1 of each year, the governing body of a qualified media production location shall submit to the office a report in the form prescribed by the office.

(c) The report must include for the year preceding the date of the report:

(1) the use of local incentives for which the governing body provided in the ordinance or order nominating the qualified media production location and the effect of those incentives on revenue;

(2) the number of qualified persons engaging in a project or activity related to a media production facility at the qualified media production location; and

(3) the types of projects or activities engaged or to be engaged in by qualified persons at the qualified media production location.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

SUBCHAPTER E. QUALIFIED PERSON DESIGNATION AND CERTIFICATION

Sec. 485A.201. QUALIFIED PERSON. A person is a qualified person if the office, for the purpose of state benefits under this chapter, or the nominating body of a qualified media production location, for the purpose of local benefits, certifies that the person, not later than 18 months after the date of the designation:

(1) will build or construct one or more media production facilities at a location;

(2) will renovate a building or facility solely for the purpose of being converted into one or more media production

facilities at a location; or

(3) will renovate or expand one or more media production facilities at a location.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.202. PROHIBITION ON QUALIFIED PERSON CERTIFICATION. If the office determines that the nominating body of a qualified media production location is not complying with this chapter, the office shall prohibit the certification of a qualified person at the location until the office determines that the nominating body is complying with this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.203. DURATION OF DESIGNATION. Except as provided by Section 485A.204, the office's certification of a person as a qualified person is effective until the second anniversary of the date the designation is made, regardless of whether the designation of the qualified media production location at which the qualified person is to perform its commitments under this chapter is terminated before that date.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.204. REMOVAL OF DESIGNATION. The office shall remove the certification of a qualified person for state benefits under this chapter if the office determines that the construction, renovation, improvement, maintenance, or expansion of a media production facility has not been completed at the qualified media production location for which it has received its certification within the period prescribed by Section 485A.201.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

SUBCHAPTER F. MEDIA PRODUCTION LOCATION BENEFITS

Sec. 485A.251. EXEMPTION FROM SALES AND USE TAX. Certain items are exempt from the sales and use tax as provided by Section 151.3415, Tax Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

Sec. 485A.252. MONITORING QUALIFIED PERSON COMMITMENTS. (a) The office may monitor a qualified person to determine whether and to what extent the qualified person has followed through on the commitments made by the qualified person under this chapter.

(b) The office may determine that the qualified person is not entitled to a tax exemption under Section 151.3415, Tax Code, if the office determines that the qualified person:

(1) is not willing to cooperate with the office in providing information needed by the office to make the determination under Subsection (a);

(2) has substantially failed to follow through on the commitments made by the person under this chapter before the first anniversary of the date of the qualified media production location designation; or

(3) fails to submit the report required by Section 151.3415, Tax Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 1, eff. September 1, 2009.

CHAPTER 487. OFFICE OF RURAL AFFAIRS IN DEPARTMENT OF AGRICULTURE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 487.001. DEFINITIONS. In this chapter:

(1) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 148, Sec. 44(1), eff. September 1, 2013.

(2) "Commissioner" means the commissioner of agriculture.

(3) "Department" means the Department of Agriculture.

(4) "Office" means the Office of Rural Affairs established

within the Department of Agriculture under Section 12.038, Agriculture Code.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 1, eff. June 15, 2007.
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 9, eff. September 1, 2009.
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 62.02, eff. September 28, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 2, eff. September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 44(1), eff. September 1, 2013.

Sec. 487.003. REFERENCE IN LAW. (a) A reference in this chapter or other law to the Texas Department of Rural Affairs or the Office of Rural Community Affairs means the office, and a reference in this chapter or other law to the board of the Texas Department of Rural Affairs means the commissioner.
(b) A reference in law to the executive director of the Texas Department of Rural Affairs means the director of the Office of Rural Affairs appointed under Section 12.038, Agriculture Code.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 62.03, eff. September 28, 2011.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 487.026. DIRECTOR. The director serves as the chief executive officer of the office and performs the administrative duties of the office.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 5, eff. June 15, 2007.
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 15, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 62.04, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 3, eff. September 1, 2013.

SUBCHAPTER C. GENERAL POWERS AND DUTIES

Sec. 487.051. POWERS AND DUTIES. (a) The office shall:

(1) assist rural communities in the key areas of economic development, community development, rural health, and rural housing;

(2) serve as a clearinghouse for information and resources on all state and federal programs affecting rural communities;

(3) in consultation with rural community leaders, locally elected officials, state elected and appointed officials, academic and industry experts, and the interagency work group created under this chapter, identify and prioritize policy issues and concerns affecting rural communities in the state;

(4) make recommendations to the legislature to address the concerns affecting rural communities identified under Subdivision (3);

(5) monitor developments that have a substantial effect on rural Texas communities, especially actions of state government;

(6) administer the federal community development block grant nonentitlement program;

(7) administer programs supporting rural health care as provided by this chapter;

(8) perform research to determine the most beneficial and cost-effective ways to improve the welfare of rural communities;

(9) ensure that the office qualifies as the state's office of rural health for the purpose of receiving grants from the Office of Rural Health Policy of the United States Department of Health and Human Services under 42 U.S.C. Section 254r;

(10) manage the state's Medicare rural hospital flexibility program under 42 U.S.C. Section 1395i-4;

(11) seek state and federal money available for economic development in rural areas for programs under this chapter;

(12) in conjunction with other offices and divisions of the department, regularly cross-train office employees with other employees of the department regarding the programs administered and services provided to rural communities; and

(13) work with interested persons to assist volunteer fire departments and emergency services districts in rural areas.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 4, Sec. 62.11(2), eff. September 28, 2011.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 609, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.006(a), eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 560 (S.B. 1440), Sec. 1, eff. June 16, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 9, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 11.007, eff. September 1, 2009.

Reenacted and amended by Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 21, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 62.05, eff. September 28, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 62.11(2), eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 4, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 446 (S.B. 772), Sec. 2, eff. June 14, 2013.

Sec. 487.052. RULES. The department may adopt rules as necessary to implement this chapter.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 10, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 5, eff. September 1, 2013.

Sec. 487.055. ADVISORY COMMITTEES. (a) The commissioner may appoint advisory committees as necessary to assist the office in

performing its duties. An advisory committee may be composed of private citizens and representatives from state and local governmental entities. A state or local governmental entity shall appoint a representative to an advisory committee at the request of the commissioner.

(b) Chapter 2110 does not apply to an advisory committee created under this section.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 13, eff. June 15, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 62.07, eff. September 28, 2011.

Sec. 487.060. APPLICATION REQUIREMENT FOR COLONIAS PROJECTS. (a) In this section, "colonia" means a geographic area that:

(1) is an economically distressed area as defined by Section 17.921, Water Code;

(2) is located in a county any part of which is within 62 miles of an international border; and

(3) consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(2), eff. September 1, 2019.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(2), eff. September 1, 2019.

(d) Regarding any projects funded by the department that serve colonias by providing water or wastewater services, paved roads, or other assistance, the department shall require an applicant for the funds to submit to the department a colonia classification number, if one exists, for each colonia that may be served by the project proposed in the application. If a colonia does not have a classification number, the department may contact the secretary of state or the secretary of state's representative to obtain a number. On request of the department, the secretary of state or the secretary of state's representative shall assign a classification number.

Added by Acts 2005, 79th Leg., Ch. 828 (S.B. 827), Sec. 2, eff.

September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 341 (S.B. 99), Sec. 2, eff. June 15, 2007.
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 29, eff. September 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 6, eff. September 1, 2013.
Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 2.03, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 2.04, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(2), eff. September 1, 2019.

SUBCHAPTER D. OUTSTANDING RURAL SCHOLAR RECOGNITION AND LOAN PROGRAM FOR RURAL HEALTH CARE

Sec. 487.101. DEFINITIONS. In this subchapter:
(1) "Selection committee" means the Outstanding Rural Scholar Selection Committee.
(2) "Fund" means the outstanding rural scholar fund.
(3) "Postsecondary educational institution" means:
(A) an institution of higher education, as defined by Section 61.003, Education Code;
(B) a nonprofit, independent institution approved under Section 61.222, Education Code; or
(C) a nonprofit, health-related school or program accredited by the Southern Association of Colleges and Schools, the Liaison Committee on Medical Education, the American Osteopathic Association, the Texas Board of Nursing, or, in the case of allied health, an accrediting body recognized by the United States Department of Education.
(4) "Program" means the outstanding rural scholar recognition and loan program for rural health care.
(5) "Rural community" means a municipality in a nonmetropolitan county as defined by the United States Census Bureau in its most recent census.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.

Amended by Acts 2003, 78th Leg., ch. 553, Sec. 2.004, eff. Feb. 1, 2004.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 889 (H.B. 2426), Sec. 56, eff. September 1, 2007.

Sec. 487.102. ADMINISTRATION. The department shall administer or contract for the administration of the program.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 31, eff. September 1, 2009.

Sec. 487.103. SELECTION COMMITTEE. (a) The selection committee shall advise the department on the progress of the program.
(b) The selection committee is composed of 12 members appointed by the commissioner.
(c) The commissioner shall consider geographical representation in making appointments to the selection committee.
(d) Selection committee members serve for staggered three-year terms, with the terms of four members expiring August 31 of each year. A member is eligible for reappointment to consecutive terms.
(e) A member of the selection committee is not entitled to reimbursement for expenses incurred in performing duties under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 17, eff. June 15, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 8, eff. September 1, 2013.

Sec. 487.104. SELECTION OF OUTSTANDING RURAL SCHOLARS. (a) The selection committee shall select outstanding rural scholars through a statewide competition.
(b) The selection committee shall make selections based on

criteria approved by the department and adopted as a rule of the department.

(c) The selection committee may not use the applicant's performance on a standardized test as the sole criterion to determine the applicant's selection as an outstanding rural scholar.

(d) The selection committee shall recommend to the department guidelines to be used by rural communities in the selection of students for nomination and sponsorship as outstanding rural scholars.

(e) An outstanding rural scholar receives public recognition and a certificate of award and is eligible for a forgivable loan under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 18, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 32, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 9, eff. September 1, 2013.

Sec. 487.105. ELIGIBILITY FOR OUTSTANDING RURAL SCHOLAR COMPETITION. (a) To be eligible to participate in the competition under Section 487.104, a high school student or an undergraduate student at a postsecondary educational institution must:

(1) be nominated and sponsored by a rural community, which sponsorship must include financial support;

(2) be a Texas resident under Subchapter B, Chapter 54, Education Code;

(3) if the person is a high school student, be in the upper 25 percent of the student's high school class, if the class contains 48 or more students, and intend to enter a postsecondary educational institution; and

(4) if the person is an undergraduate student, be in the upper 25 percent of the student's class or have a cumulative grade average that is equal to or greater than the equivalent of a 3.0 on a 4.0 scale and be enrolled in a postsecondary educational institution.

(b) If a person is neither a high school student nor an

undergraduate student, the person must be eligible for participation in the competition under rules adopted by the department.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 33, eff. September 1, 2009.

Sec. 487.106. ELIGIBILITY FOR LOANS; RURAL COMMUNITY FINANCIAL SUPPORT. (a) For an outstanding rural scholar to be eligible for a forgivable loan, community sponsorship must include financial support.

(b) Community financial support consists of a commitment to fund 50 percent of the costs of a scholar's tuition, fees, educational materials, and living expenses.

(c) The financial support under this section may be satisfied wholly or partly by a grant, a scholarship, or private foundation support.

(d) Evidence of the financial support must be submitted with a community's nomination.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.

Sec. 487.107. AWARDING OF LOANS. (a) The selection committee shall recommend to the department guidelines for the awarding of forgivable loans to outstanding rural scholars.

(b) The department, acting on the advice of the selection committee, shall award forgivable loans to outstanding rural scholars based on the availability of money in the fund.

(c) If in any year the fund is inadequate to provide loans to all eligible applicants, the department shall award forgivable loans on a priority basis according to the applicants' academic performance, test scores, and other criteria of eligibility.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 19, eff. June 15, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 10, eff.

September 1, 2013.

Sec. 487.108. AMOUNT OF LOAN. (a) On confirmation of an outstanding rural scholar's admission to a postsecondary educational institution, or on receipt of an enrollment report of the scholar at a postsecondary educational institution, and a certification of the amount of financial support needed, the selection committee annually shall recommend to the department that the department award a forgivable loan to the scholar in the amount of 50 percent of the cost of the scholar's tuition, fees, educational materials, and living expenses.

(b) An outstanding rural scholar may receive another grant, loan, or scholarship for which the scholar is eligible in addition to the receipt of a forgivable loan, except that the total amount of funds received may not exceed the reasonable needs of the scholar.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 20, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 11, eff. September 1, 2013.

Sec. 487.109. LOAN FORGIVENESS. (a) The principal balance and interest for one year of a forgivable loan awarded to an outstanding rural scholar must be forgiven for each year the scholar practices as a health care professional in the sponsoring community.

(b) The sponsoring community shall report to the department the length of time the scholar practices as a health care professional in the community.

(c) If the department finds that a sponsoring community is not in need of the scholar's services and that the community is willing to forgive repayment of the principal balance and interest of the scholar's loan, the department by rule may provide for the principal balance and interest of one year of the scholar's loan to be forgiven for each year the scholar practices in another rural community in this state.

(d) Any amount of loan principal or interest that is not

forgiven under this section shall be repaid to the department with reasonable collection fees in a timely manner as provided by department rule.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 21, eff. June 15, 2007.
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 34, eff. September 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 12, eff. September 1, 2013.

Sec. 487.110. FUND. (a) The outstanding rural scholar fund is in the state treasury.
(b) The fund consists of legislative appropriations, gifts, grants, donations, the market value of in-kind contributions, and principal and interest payments on forgivable loans deposited to the credit of the fund by the department.
(c) The department shall administer the fund.
(d) The department shall allocate the fund, as available, for forgivable loans under this subchapter.
(e) The department shall deposit any principal and interest payments on forgivable loans to the credit of the fund.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 35, eff. September 1, 2009.

Sec. 487.111. POSTSECONDARY EDUCATIONAL INSTITUTIONS; MONITORING. (a) A postsecondary educational institution shall provide to the selection committee a copy of the academic transcript of each rural scholar for whom the institution has received a release that complies with state and federal open records laws and authorizes the provision of a transcript.
(b) The department shall require reports from students and postsecondary educational institutions as needed to monitor the program. After receiving any necessary releases as a condition of

providing assistance, the department shall distribute reports relating to the progress of an outstanding rural scholar to the community sponsoring the scholar.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 36, eff. September 1, 2009.

Sec. 487.112. ADOPTION AND DISTRIBUTION OF RULES. (a) The department shall adopt reasonable rules to enforce the requirements, conditions, and limitations under this subchapter.

(b) The department shall set the rate of interest charged on a forgivable loan under this subchapter.

(c) The department shall adopt rules necessary to ensure compliance with the federal Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.) concerning nondiscrimination in admissions.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 22, eff. June 15, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 13, eff. September 1, 2013.

SUBCHAPTER E. HEALTH CAREERS PROMOTION AND EDUCATION PROGRAM

Sec. 487.151. DEFINITIONS. In this subchapter:

(1) "Fund" means the health careers education fund.

(2) "Postsecondary educational institution" means:

(A) an institution of higher education, as defined by Section 61.003, Education Code;

(B) a nonprofit, independent institution approved under Section 61.222, Education Code; or

(C) a nonprofit, health-related school or program accredited by the Southern Association of Colleges and Schools, the Liaison Committee on Medical Education, the American Osteopathic Association, the Texas Board of Nursing, or, in the case of allied health, an accrediting body recognized by the United States Department of Education.

(3) "Program" means the health careers promotion and education program.

(4) "Qualified area" means an area qualifying under the National Health Services Corps Community Scholarship Program or an area with similar characteristics as identified by the department.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 553, Sec. 2.005, eff. Feb. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 889 (H.B. 2426), Sec. 57, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 37, eff. September 1, 2009.

Sec. 487.152. ADMINISTRATION. (a) Subject to available funding, the department shall administer or contract for the administration of the program.

(b) The department may solicit and accept gifts, grants, donations, and contributions to support the program.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 38, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 14, eff. September 1, 2013.

Sec. 487.153. HEALTH CAREERS PROMOTION. The department may establish a program to work with students, communities, and community-based organizations to encourage high school students to pursue health care professional careers. The department shall give priority to working with communities and students in qualified areas.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 39, eff. September 1, 2009.

Sec. 487.154. LOANS. (a) The department may award forgivable educational loans to eligible students under this subchapter.

(b) The department may award forgivable loans to eligible students based on the availability of money in the fund.

(c) If in any year the fund is inadequate to provide loans to all eligible students, the department may award forgivable loans on a priority basis according to the students' academic performance, test scores, and other criteria of eligibility.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 23, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 15, eff. September 1, 2013.

Sec. 487.155. STUDENT ELIGIBILITY. (a) To be eligible to receive a loan under this subchapter, a student must:

(1) be sponsored by an eligible community;

(2) at the time of the application for the loan, be enrolled in high school or enrolled or accepted for enrollment in a postsecondary educational institution in this state;

(3) meet academic requirements as established by the department;

(4) plan to complete a health care professional degree or certificate program;

(5) plan to practice as a health care professional in a qualified area of the state; and

(6) meet other requirements as established by the department.

(b) Other requirements for eligibility for a loan under this subchapter must include:

(1) one or more interviews with the student; and

(2) a statement written by the student of the student's reasons for:

(A) entering the health care profession; and

(B) wanting to provide health care services to a qualified area in this state.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.

Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 24, eff. June 15, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 16, eff. September 1, 2013.

Sec. 487.156. COMMUNITY ELIGIBILITY. (a) To be eligible to sponsor a student under this subchapter, a community must:
(1) be located in a qualified area in this state; and
(2) provide evidence of community sponsorship of the student.
(b) Community sponsorship consists of:
(1) a commitment to pay for a percentage of the student's postsecondary educational expenses, including tuition, fees, educational materials, and living expenses; and
(2) a commitment to employ the student on a full-time basis as a health care professional on the student's completion of the academic program and licensure or certification in the health care profession for which the student is sponsored.
(c) The department shall determine the percentage of educational expenses communities are required to provide under this section.
(d) Community financial support may be satisfied wholly or partly by a grant, a scholarship, or private foundation support.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 25, eff. June 15, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 17, eff. September 1, 2013.

Sec. 487.157. AMOUNT OF LOAN. (a) On confirmation of an eligible student's admission to a postsecondary educational institution, or on receipt of an enrollment report of the student at a postsecondary educational institution, and certification of the amount of financial support needed, the department may award a forgivable loan to the student in the amount of not more than the

cost of the student's tuition, fees, educational materials, and living expenses.

(b) An eligible student may receive another grant, loan, or scholarship for which the student is eligible in addition to the receipt of a forgivable loan, except that the total amount of funds received may not exceed the reasonable needs of the student as determined by the postsecondary educational institution in which the student is enrolled.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 26, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 18, eff. September 1, 2013.

Sec. 487.158. REQUIRED CONTRACT. (a) A student may receive assistance under this subchapter only if the student signs a contract agreeing to provide health care services to the sponsoring community on completion of the academic program and licensure or certification in the health care profession for which the student is sponsored.

(b) The contract must provide that if the student does not provide the required services to the community or provides those services for less than the required time, the student is personally liable to the state for:

(1) the total amount of assistance the student receives from the department and the sponsoring community;

(2) interest on the total amount at a rate set by the department; and

(3) the state's reasonable expenses incurred in obtaining payment, including reasonable attorney's fees.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 27, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 40, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 19, eff. September 1, 2013.

Sec. 487.159. LOAN FORGIVENESS. (a) A loan recipient shall be forgiven the principal and interest of one year's loan for each year the recipient practices as a health care professional providing health care services in the sponsoring community, but only if the loan recipient practices as a health care professional providing health care services in the sponsoring community or in another qualified area under Subsection (b) for a minimum of two years.

(b) If the department finds that a sponsoring community is not in need of the student's services and that the community is willing to forgive repayment of the principal balance and interest of the student's loan, the department by rule may provide for the principal balance and interest of the student's loan to be forgiven if the student provides services in another qualified area in this state.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 28, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 20, eff. September 1, 2013.

Sec. 487.160. FUND. (a) The health careers education fund is established in the state treasury.

(b) The department shall administer the fund.

(c) The fund consists of gifts, grants, donations, the market value of in-kind contributions, and principal and interest payments on forgivable loans deposited to the credit of the fund by the department.

(d) The department shall deposit any principal and interest payments on forgivable loans to the credit of the fund.

(e) The department shall allocate the fund, as available, for forgivable loans and community repayment under this subchapter.

(f) Unless otherwise provided by the General Appropriations Act, the department may use money appropriated to the department to support the fund.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 41, eff. September 1, 2009.

Sec. 487.161. REPORTING; MONITORING. (a) The department shall require reports from students, communities, and postsecondary educational institutions as needed to monitor the program. After receiving any necessary releases as a condition of providing assistance, the department shall distribute reports relating to the progress of a student to the community sponsoring the student.

(b) The sponsoring community shall report to the office the length of time the student provides health care services in the community in accordance with the guidelines established by the department.

(c) A postsecondary educational institution shall provide to the office a copy of the academic transcript of each student for whom the institution has received a release that complies with state and federal open records laws and that authorizes the provision of the transcript.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 29, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 42, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 21, eff. September 1, 2013.

Sec. 487.162. PROGRAM PROMOTION. The department shall provide postsecondary educational institutions and communities in qualified areas with information about health care careers and loan opportunities, including information on eligibility and availability of funds under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 43, eff. September 1, 2009.

Sec. 487.163. ADOPTION OF RULES. (a) The department shall adopt reasonable rules to enforce the requirements, conditions, and limitations of this subchapter.

(b) The department shall set the rate of interest charged on a forgivable loan under this subchapter.

(c) The department shall adopt rules necessary to ensure compliance with the federal Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.) concerning nondiscrimination in admissions.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 30, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 22, eff. September 1, 2013.

SUBCHAPTER F. MEDICALLY UNDERSERVED COMMUNITY-STATE MATCHING INCENTIVE PROGRAM

Sec. 487.201. DEFINITIONS. In this subchapter:

(1) "Medically underserved community" means:

(A) a community located in an area in this state with a medically underserved population;

(B) a community located in an area in this state designated by the United States secretary of health and human services as an area with a shortage of personal health services;

(C) a population group designated by the United States secretary of health and human services as having a shortage of personal health services;

(D) a community designated under state or federal law as a medically underserved community; or

(E) a community that the department considers to be medically underserved based on relevant demographic, geographic, and environmental factors.

(2) "Physician" means a person licensed to practice medicine in this state.

(3) "Primary care" means physician services in family practice, general practice, internal medicine, pediatrics, obstetrics, or gynecology.

(4) "Start-up money" means a payment made by a medically

underserved community for reasonable costs incurred by a physician to establish a medical office and ancillary facilities for diagnosing and treating patients.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 44, eff. September 1, 2009.

Sec. 487.202. PROGRAM. (a) The department shall establish and administer a program under this subchapter to increase the number of physicians providing primary care in medically underserved communities.

(b) A medically underserved community may sponsor a physician who has completed a primary care residency program and has agreed to provide primary care in the community by contributing start-up money for the physician and having that contribution matched wholly or partly by state money appropriated to the department for that purpose.

(c) A participating medically underserved community may provide start-up money to an eligible physician over a two-year period.

(d) The department may not pay more than $25,000 to a community in a fiscal year unless the office makes a specific finding of need by the community.

(e) The office shall establish priorities so that the neediest communities eligible for assistance under this subchapter are assured the receipt of a grant.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 31, eff. June 15, 2007.
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 45, eff. September 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 23, eff. September 1, 2013.

Sec. 487.203. ELIGIBILITY. To be eligible to receive money from the department, a medically underserved community must:

(1) apply for the money; and

(2) provide evidence satisfactory to the office that it has entered into an agreement with a physician for the physician to provide primary care in the community for at least two years.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 31, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 46, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 24, eff. September 1, 2013.

Sec. 487.204. RULES. The department shall adopt rules necessary for the administration of this subchapter, including rules addressing:

(1) eligibility criteria for a medically underserved community;

(2) eligibility criteria for a physician;

(3) minimum and maximum community contributions to the start-up money for a physician to be matched with state money;

(4) conditions under which state money must be repaid by a community or physician;

(5) procedures for disbursement of money by the department;

(6) the form and manner in which a community must make its contribution to the start-up money; and

(7) the contents of an agreement to be entered into by the parties, which must include at least:

(A) a credit check for an eligible physician; and

(B) community retention of interest in any property, equipment, or durable goods for seven years.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 31, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 47, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 24, eff.

September 1, 2013.

SUBCHAPTER G. TEXAS HEALTH SERVICE CORPS PROGRAM FOR MEDICALLY UNDERSERVED AREAS

Sec. 487.251. DEFINITIONS. In this subchapter:

(1) "Medically underserved area" means an area designated by the United States secretary of health and human services as having:

(A) a shortage of personal health services or a population group that has such a shortage as provided by 42 U.S.C. Section 300e-1(7); or

(B) a health professional shortage as provided by 42 U.S.C. Section 254e(a)(1).

(2) "Physician" means a resident physician who is enrolled in an accredited residency training program in this state in the specialty of:

(A) family practice;

(B) general internal medicine;

(C) general pediatric medicine; or

(D) general obstetrics and gynecology.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.

Sec. 487.252. TEXAS HEALTH SERVICE CORPS PROGRAM. (a) Subject to available funding, the department shall establish a program to assist communities in recruiting and retaining physicians to practice in medically underserved areas.

(b) The department by rule shall establish:

(1) eligibility criteria for applicants;

(2) stipend application procedures;

(3) guidelines relating to stipend amounts;

(4) procedures for evaluating stipend applications; and

(5) a system of priorities relating to the:

(A) geographic areas covered;

(B) medical specialties eligible to receive funding under the program; and

(C) level of stipend support.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.

Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 32, eff. June 15, 2007.
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 48, eff. September 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 25, eff. September 1, 2013.

Sec. 487.253. ADMINISTRATION. (a) The department shall adopt rules necessary to administer this subchapter, and the department shall administer the program in accordance with those rules.
(b) The department may not spend for the department's administrative costs in administering the program more than 10 percent of the amount appropriated to implement this subchapter.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 33, eff. June 15, 2007.
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 49, eff. September 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 26, eff. September 1, 2013.

Sec. 487.254. REQUIRED CONTRACT. (a) The department may award a stipend to a physician under this subchapter if the physician enters into a written contract to provide services in a medically underserved area for at least one year for each year that the physician receives the stipend.
(b) The contract must provide that if the physician does not provide the required services in the medically underserved area or provides those services for less than the required term, the physician is personally liable to the state for:
(1) the total amount of the stipend the physician receives;
(2) interest on that total amount for the period beginning on the date the physician signs the contract and ending on the date the physician repays the amount of the stipend computed at a rate equal to the sum of:

(A) the auction average rate quoted on a bank discount basis for 26-week treasury bills issued by the United States government, as published by the Federal Reserve Board, for the week preceding the week in which the contract is signed; and

(B) five percent; and

(3) the state's reasonable expenses incurred in obtaining payment, including reasonable attorney's fees.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 50, eff. September 1, 2009.

Sec. 487.255. STIPENDS. (a) The department shall award stipends to physicians for one-year periods. A stipend awarded under this subchapter may not exceed $15,000 each year.

(b) The department may renew a stipend used to assist a particular physician.

(c) A physician is not eligible for a stipend under this subchapter for a period longer than is ordinarily and customarily required for the completion of residency training for first board eligibility.

(d) A physician who receives a stipend under this subchapter is not eligible to receive assistance under a state educational loan repayment program or other state incentive program.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 51, eff. September 1, 2009.

Sec. 487.256. FUNDING. The department may seek, receive, and spend money received through an appropriation, grant, donation, or reimbursement from any public or private source to implement this subchapter.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 52, eff.

September 1, 2009.

SUBCHAPTER H. RURAL HEALTH FACILITY CAPITAL IMPROVEMENT

Sec. 487.301. DEFINITIONS. In this subchapter:

(1) "Public hospital" means a general or special hospital licensed under Chapter 241, Health and Safety Code, that is owned or operated by a municipality, county, municipality and county, hospital district, or hospital authority and that performs inpatient or outpatient services.

(2) "Rural county" means:

(A) a county that has a population of 150,000 or less; or

(B) with respect to a county that has a population of more than 150,000 and that contains a geographic area that is not delineated as urbanized by the federal census bureau, that part of the county that is not delineated as urbanized.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.

Sec. 487.302. POWERS OF DEPARTMENT. In administering this subchapter, the department may:

(1) enter into and enforce contracts and execute and deliver conveyances and other instruments necessary to make and administer grants, loans, and loan guarantees under this subchapter;

(2) employ personnel and counsel necessary to implement this subchapter and pay them from money appropriated for that purpose;

(3) impose and collect reasonable fees and charges in connection with grants, loans, and loan guarantees made under this subchapter and provide reasonable penalties for delinquent payment of fees, charges, or loan repayments;

(4) take and enforce a mortgage or appropriate security interest in real or personal property that a loan recipient acquires with the proceeds of a loan made under this subchapter; and

(5) adopt rules necessary to implement the grant, loan, and loan guarantee program.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 53, eff. September 1, 2009.

Sec. 487.303. GRANT, LOAN, AND LOAN GUARANTEE PROGRAM. (a) The department may use money appropriated to the department under Section 403.1065 to make a grant or low-interest loan to, or guarantee a loan for, a public or nonprofit hospital located in a rural county.

(b) A grant, loan, or loan guarantee recipient may use the money only to make capital improvements to existing health facilities located in a rural county, to construct new health facilities in a rural county, or to purchase capital equipment, including information systems hardware and software, for a health facility located in a rural county.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 54, eff. September 1, 2009.

Sec. 487.304. ELIGIBILITY FOR GRANT, LOAN, OR LOAN GUARANTEE; INTEREST RATE. (a) The department shall adopt rules that establish eligibility criteria for receiving a grant, loan, or loan guarantee under this subchapter.

(b) The rules must state generally the factors the department will consider in determining whether an applicant should receive a grant, loan, or loan guarantee. The rules must consider at least the financial need of the applicant, the health care needs of the rural area served by the applicant, and the probability that the applicant will effectively and efficiently use the money obtained through the grant, loan, or loan guarantee to meet the health care needs of the rural area served by the applicant.

(c) The rules must state generally the factors the department will consider in determining the extent to which the interest rate on a loan should be below market rates.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 55, eff.

September 1, 2009.

SUBCHAPTER I. COMMUNITY DEVELOPMENT BLOCK GRANT NONENTITLEMENT PROGRAM

Sec. 487.351. ADMINISTRATION OF COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM; ALLOCATION OF FUNDS. (a) The department shall, under the Omnibus Budget Reconciliation Act of 1981 (Pub.L. No. 97-35) and 24 CFR, Part 570, Subpart I, administer the state's allocation of federal funds provided under the community development block grant nonentitlement program authorized by Title I of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.).

(b) Community development block grant program funds shall be allocated to eligible counties and municipalities under department rules.

(c) The department shall give priority to eligible activities in the areas of economic development, community development, and rural health to support workforce development in awarding funding for community development block grant programs.

(d) An applicant for a grant, loan, or award under a community development block grant program may appeal a decision of the director by filing an appeal with the commissioner. The commissioner shall hold a hearing on the appeal and render a decision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.73(a), eff. Sept. 1, 1995. Renumbered from Sec. 2306.098 and amended by Acts 2001, 77th Leg., ch. 1424, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 34, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 101 (H.B. 1079), Sec. 1, eff. May 23, 2009.

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 56, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 62.08, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 27, eff. September 1, 2013.

Sec. 487.354. FINANCIAL ASSISTANCE FOR INSTALLATION OF STREET LIGHTS IN COLONIAS. (a) In this section, "colonia" means an identifiable unincorporated community, or an identifiable community annexed by a municipality and eligible for assistance as described by Section 43.907(b), Local Government Code, that:

(1) is located within 150 miles of the international border of this state in a county that is eligible to receive financial assistance from the community development block grant colonia fund under this subchapter, as identified by department rule;

(2) is determined by the department to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

(3) was in existence and generally recognized as a colonia before November 28, 1990.

(b) The department shall adopt a rule requiring a political subdivision that receives community development block grant program money targeted toward street improvement projects to allocate not less than five percent but not more than 15 percent of the total amount of targeted money to providing financial assistance to colonias within the political subdivision to enable the installation of adequate street lighting in those colonias if street lighting is absent or needed.

Added by Acts 2005, 79th Leg., Ch. 1210 (H.B. 775), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 59, eff. September 1, 2009.

SUBCHAPTER J. DESIGNATING RURAL HOSPITALS

Sec. 487.401. ADMINISTRATION. (a) The department shall adopt rules that establish a procedure for designating a hospital as a rural hospital in order for the hospital to qualify for federal funds under 42 C.F.R. Part 412.

(b) At the hospital's request, the department shall designate the hospital as a rural hospital if the hospital meets the requirements for a rural hospital under the department's rules.

Added by Acts 2001, 77th Leg., ch. 1424, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 37, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 60, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 28, eff. September 1, 2013.

SUBCHAPTER K. COMMUNITY HEALTHCARE AWARENESS AND MENTORING PROGRAM FOR STUDENTS

Sec. 487.451. DEFINITIONS. In this subchapter:

(1) "Health care professional" means:

(A) an advanced nurse practitioner;

(B) a dentist;

(C) a dental hygienist;

(D) a laboratory technician;

(E) a licensed vocational nurse;

(F) a licensed professional counselor;

(G) a medical radiological technologist;

(H) an occupational therapist;

(I) a pharmacist;

(J) a physical therapist;

(K) a physician;

(L) a physician assistant;

(M) a psychologist;

(N) a registered nurse;

(O) a social worker;

(P) a speech-language pathologist;

(Q) a veterinarian;

(R) a chiropractor; and

(S) another appropriate health care professional identified by the department.

(2) "Program" means the community healthcare awareness and mentoring program for students established under this subchapter.

(3) "Underserved urban area" means an urban area of this state with a medically underserved population, as determined in accordance with criteria adopted by the department by rule, considering relevant demographic, geographic, and environmental factors.

Added by Acts 2001, 77th Leg., ch. 831, Sec. 1, eff. Sept. 1, 2001. Redesignated from Health and Safety Code, Sec. 106.251 and amended by Acts 2003, 78th Leg., ch. 609, Sec. 4, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.006(c), eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 38, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 29, eff. September 1, 2013.

Sec. 487.452. COMMUNITY HEALTHCARE AWARENESS AND MENTORING PROGRAM FOR STUDENTS. (a) Subject to available funding, the department, in collaboration with Area Health Education Center Programs, shall establish a community healthcare awareness and mentoring program for students to:

(1) identify high school students in rural and underserved urban areas who are interested in serving those areas as health care professionals;

(2) identify health care professionals in rural and underserved urban areas to act as positive role models, mentors, or reference resources for the interested high school students;

(3) introduce interested high school students to the spectrum of professional health care careers through activities such as health care camps and shadowing of health care professionals;

(4) encourage a continued interest in service as health care professionals in rural and underserved urban areas by providing mentors and community resources for students participating in training or educational programs to become health care professionals; and

(5) provide continuing community-based support for students during the period the students are attending training or educational programs to become health care professionals, including summer job opportunities and opportunities to mentor high school students in the community.

(b) In connection with the program, the department shall establish and maintain an updated medical resource library that contains information relating to medical careers. The department shall make the library available to school counselors, students, and parents of students.

Added by Acts 2001, 77th Leg., ch. 831, Sec. 1, eff. Sept. 1, 2001. Redesignated from Health and Safety Code Sec. 106.252 and amended by Acts 2003, 78th Leg., ch. 609, Sec. 4, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.006(c), eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 39, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 61, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 30, eff. September 1, 2013.

Sec. 487.453. ADMINISTRATION. (a) The department shall administer or contract for the administration of the program.

(b) The department may solicit and accept gifts, grants, donations, and contributions to support the program.

(c) The department may administer the program in cooperation with other public and private entities.

(d) The department, in consultation with Area Health Education Center Programs, shall coordinate the program with similar programs, including programs relating to workforce development, scholarships for education, and employment of students, that are administered by other agencies, such as the Texas Workforce Commission and local workforce development boards.

Added by Acts 2001, 77th Leg., ch. 831, Sec. 1, eff. Sept. 1, 2001. Redesignated from Health and Safety Code Sec. 106.253 and amended by Acts 2003, 78th Leg., ch. 609, Sec. 4, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.006(c), eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 62, eff. September 1, 2009.

Sec. 487.454. GRANTS; ELIGIBILITY. (a) Subject to available funding, the department shall develop and implement, as a component of the program, a grant program to support employment opportunities in rural and underserved urban areas in this state for students participating in training or educational programs to become health

care professionals.

(b) In awarding grants under the program, the department shall give first priority to grants to training or educational programs that provide internships to students.

(c) To be eligible to receive a grant under the grant program, a person must:

(1) apply for the grant on a form adopted by the department;

(2) be enrolled or intend to be enrolled in a training or educational program to become a health care professional;

(3) commit to practice or work, after licensure as a health care professional, for at least one year as a health care professional in a rural or underserved urban area in this state; and

(4) comply fully with any practice or requirements associated with any scholarship, loan, or other similar benefit received by the student.

(d) As a condition of receiving a grant under the program the student must agree to repay the amount of the grant, plus a penalty in an amount established by rule of the department not to exceed two times the amount of the grant, if the student becomes licensed as a health care professional and fails to practice or work for at least one year as a health care professional in a rural or underserved urban area in this state.

Added by Acts 2001, 77th Leg., ch. 831, Sec. 1, eff. Sept. 1, 2001. Redesignated from Health and Safety Code Sec. 106.254 by Acts 2003, 78th Leg., ch. 609, Sec. 4, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276 Sec. 9.006(c), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 40, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 31, eff. September 1, 2013.

SUBCHAPTER L. RURAL PHYSICIAN RECRUITMENT PROGRAM

Sec. 487.501. DEFINITIONS. In this subchapter:

(1) "Rural community" means a rural area as defined by the department.

(2) "Medical school" has the meaning assigned by Section

61.501, Education Code.

Added by Acts 2001, 77th Leg., ch. 1112, Sec. 1, eff. Sept. 1, 2001. Redesignated from Health and Safety Code Sec. 106.251 and amended by Acts 2003, 78th Leg., ch. 609, Sec. 5, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.006(d), eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 63, eff. September 1, 2009.

Sec. 487.502. GIFTS AND GRANTS. The department may accept gifts, grants, and donations to support the rural physician recruitment program.

Added by Acts 2001, 77th Leg., ch. 1112, Sec. 1, eff. Sept. 1, 2001. Redesignated from Health and Safety Code Sec. 106.252 and amended by Acts 2003, 78th Leg., ch. 609, Sec. 5, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.006(d), eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 64, eff. September 1, 2009.

Sec. 487.503. RURAL PHYSICIAN RECRUITMENT PROGRAM. (a) Subject to available funding, the department shall establish a process in consultation with the Texas Higher Education Coordinating Board for selecting Texas medical schools to recruit students from rural communities and encourage them to return to rural communities to practice medicine.

(b) The Texas medical schools selected shall:

(1) encourage high school and college students from rural communities to pursue a career in medicine;

(2) develop a screening process to identify rural students most likely to pursue a career in medicine;

(3) establish a rural medicine curriculum;

(4) establish a mentoring program for rural students;

(5) provide rural students with information about financial aid resources available for postsecondary education; and

(6) establish a rural practice incentive program.

Added by Acts 2001, 77th Leg., ch. 1112, Sec. 1, eff. Sept. 1, 2001. Redesignated from Health and Safety Code Sec. 106.253 and amended by Acts 2003, 78th Leg., ch. 609, Sec. 5, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.006(d), eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 65, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 32, eff. September 1, 2013.

SUBCHAPTER M. RURAL COMMUNITIES HEALTH CARE INVESTMENT PROGRAM

Sec. 487.551. DEFINITIONS. In this subchapter:

(1) "Health professional" means a person other than a physician who holds a license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by an individual to practice in a health care profession.

(2) "Medically underserved community" means a community that:

(A) is located in a county with a population of 50,000 or less;

(B) has been designated under state or federal law as:

(i) a health professional shortage area; or

(ii) a medically underserved area; or

(C) has been designated as a medically underserved community by the department.

Added by Acts 2001, 77th Leg., ch. 435, Sec. 2, eff. May 28, 2001. Redesignated from Health and Safety Code Sec. 106.301 and amended by Acts 2003, 78th Leg., ch. 609, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.006(e), eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 66, eff. September 1, 2009.

Sec. 487.553. LOAN REIMBURSEMENT PROGRAM. Subject to available funding, the department shall establish a program to assist communities in recruiting health professionals to practice in

medically underserved communities by providing loan reimbursement for health professionals who serve in those communities.

Added by Acts 2001, 77th Leg., ch. 435, Sec. 2, eff. May 28, 2001. Redesignated from Health and Safety Code Sec. 106.303 and amended by Acts 2003, 78th Leg., ch. 609, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.006(e), eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 41, eff. June 15, 2007.
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 68, eff. September 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 33, eff. September 1, 2013.

Sec. 487.554. STIPEND PROGRAM. (a) Subject to available funding, the department shall establish a program to assist communities in recruiting health professionals to practice in medically underserved communities by providing a stipend to health professionals who agree to serve in those communities.
(b) A stipend awarded under this section may be paid in periodic installments.
(c) A health professional who participates in the program established under this section must establish an office and residency in the medically underserved area before receiving any portion of the stipend.

Added by Acts 2001, 77th Leg., ch. 435, Sec. 2, eff. May 28, 2001. Redesignated from Health and Safety Code Sec. 106.304 and amended by Acts 2003, 78th Leg., ch. 609, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.006(e), eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 42, eff. June 15, 2007.
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 69, eff. September 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 34, eff. September 1, 2013.

Sec. 487.555. CONTRACT REQUIRED. (a) A health professional may receive assistance under this subchapter only if the health professional signs a contract agreeing to provide health care services in a medically underserved community.

(b) A student in a degree program preparing to become a health professional may contract with the department for the loan reimbursement program under Section 487.553 before obtaining the license required to become a health professional.

(c) The department may contract with a health professional for part-time services under the stipend program established under Section 487.554.

(d) A health professional who participates in any loan reimbursement program is not eligible for a stipend under Section 487.554.

(e) A contract under this section must provide that a health professional who does not provide the required services to the community or provides those services for less than the required time is personally liable to the state for:

(1) the total amount of assistance the health professional received from the department and the medically underserved community;

(2) interest on the amount under Subdivision (1) at a rate set by the department;

(3) the state's reasonable expenses incurred in obtaining payment, including reasonable attorney's fees; and

(4) a penalty as established by the department by rule to help ensure compliance with the contract.

(f) Amounts recovered under Subsection (e) shall be deposited in the permanent endowment fund for the rural communities health care investment program under Section 487.558.

Added by Acts 2001, 77th Leg., ch. 435, Sec. 2, eff. May 28, 2001. Redesignated from Health and Safety Code Sec. 106.305 and amended by Acts 2003, 78th Leg., ch. 609, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.006(e), eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 43, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 70, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 35, eff.

September 1, 2013.

Sec. 487.556. POWERS AND DUTIES OF DEPARTMENT. (a) The department shall adopt rules necessary for the administration of this subchapter, including guidelines for:

(1) developing contracts under which loan reimbursement or stipend recipients provide services to qualifying communities;

(2) identifying the duties of the state, state agency, loan reimbursement or stipend recipient, and medically underserved community under the loan reimbursement or stipend contract;

(3) determining a rate of interest to be charged under Section 487.555(e)(2);

(4) ensuring that a loan reimbursement or stipend recipient provides access to health services to participants in government-funded health benefits programs in qualifying communities;

(5) encouraging the use of telecommunications or telemedicine, as appropriate;

(6) prioritizing the provision of loan reimbursements and stipends to health professionals who are not eligible for any other state loan forgiveness, loan repayment, or stipend program;

(7) prioritizing the provision of loan reimbursements and stipends to health professionals who are graduates of health professional degree programs in this state;

(8) encouraging a medically underserved community served by a loan reimbursement or stipend recipient to contribute to the cost of the loan reimbursement or stipend when making a contribution is feasible; and

(9) requiring a medically underserved community served by a loan reimbursement or stipend recipient to assist the department in contracting with the loan reimbursement or stipend recipient who will serve that community.

(b) The department by rule may designate areas of the state as medically underserved communities.

(c) The department shall make reasonable efforts to contract with health professionals from a variety of different health professions.

Added by Acts 2001, 77th Leg., ch. 435, Sec. 2, eff. May 28, 2001. Redesignated from Health and Safety Code Sec. 106.306 and amended by

Acts 2003, 78th Leg., ch. 609, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.006(e), eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1241 (H.B. 2542), Sec. 44, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 72, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 36, eff. September 1, 2013.

Sec. 487.557. USE OF TELECOMMUNICATION AND TELEMEDICINE. A health professional who participates in a program under this subchapter may not use telecommunication technology, including telemedicine, as the sole or primary method of providing services and may not use telecommunication technology as a substitute for providing health care services in person. A health professional who participates in a program under this subchapter may use telecommunication technology only to supplement or enhance the health care services provided by the health professional.

Added by Acts 2001, 77th Leg., ch. 435, Sec. 2, eff. May 28, 2001. Redesignated from Health and Safety Code Sec. 106.307 and amended by Acts 2003, 78th Leg., ch. 609, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.006(e), eff. Sept. 1, 2003.

Sec. 487.558. PERMANENT ENDOWMENT FUND. (a) The permanent endowment fund for the rural communities health care investment program is a special fund in the treasury outside the general revenue fund.

(b) The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) gifts and grants contributed to the fund;

(3) the returns received from investment of money in the fund; and

(4) amounts recovered under Section 487.555(e).

Added by Acts 2001, 77th Leg., ch. 435, Sec. 2, eff. May 28, 2001. Redesignated from Health and Safety Code Sec. 106.308 and amended by

Acts 2003, 78th Leg., ch. 609, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.006(e), eff. Sept. 1, 2003.

Sec. 487.559. ADMINISTRATION AND USE OF FUND. (a) The department may administer the permanent endowment fund for the rural communities health care investment program. If the department elects not to administer the fund, the comptroller shall administer the fund.

(b) The administrator of the fund shall invest the fund in a manner intended to preserve the purchasing power of the fund's assets and the fund's annual distributions. The administrator may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions the administrator considers appropriate, any kind of investment of the fund's assets that prudent investors, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(c) The comptroller or the department may solicit and accept gifts and grants to the fund.

(d) Annual distributions for the fund shall be determined by the investment and distribution policy adopted by the administrator of the fund for the fund's assets.

(e) Except as provided by Subsection (f), money in the fund may not be used for any purpose.

(f) The amount available for distribution from the fund, including any gift or grant, may be appropriated only for providing stipends and loan reimbursement under the programs authorized by this subchapter and to pay the expenses of managing the fund. The expenditure of a gift or grant is subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(g) Sections 403.095 and 404.071, Government Code, do not apply to the fund. Section 404.094(d), Government Code, applies to the fund.

Added by Acts 2001, 77th Leg., ch. 435, Sec. 2, eff. May 28, 2001. Redesignated from Health and Safety Code Sec. 106.309 and amended by

Acts 2003, 78th Leg., ch. 609, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.006(e), eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 73, eff. September 1, 2009.

Sec. 487.560. REPORTING REQUIREMENT. The department shall provide a report on the permanent endowment fund for the rural communities health care investment program to the Legislative Budget Board not later than November 1 of each year. The report must include the total amount of money the department received from the fund, the purpose for which the money was used, and any additional information that may be requested by the Legislative Budget Board.

Added by Acts 2001, 77th Leg., ch. 435, Sec. 2, eff. May 28, 2001.
Redesignated from Health and Safety Code Sec. 106.310 and amended by Acts 2003, 78th Leg., ch. 609, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.006(e), eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 74, eff. September 1, 2009.

SUBCHAPTER N. RURAL PHYSICIAN RELIEF PROGRAM

Sec. 487.601. DEFINITIONS. In this subchapter:

(1) "Physician" means a person licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code.

(2) "Relief services" means the temporary coverage of a physician's practice by another physician for a predetermined time during the physician's absence and before the physician's return.

(3) "Rural" means:

(A) a community located in a county with a population not greater than 50,000;

(B) an area designated under state or federal law as:

(i) a health professional shortage area; or

(ii) a medically underserved area; or

(C) a medically underserved community designated by the department.

Added by Acts 2003, 78th Leg., ch. 609, Sec. 1, eff. Sept. 1, 2003.

Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 75, eff. September 1, 2009.

Sec. 487.602. RURAL PHYSICIAN RELIEF PROGRAM. Subject to available funding, the department shall create a program to provide affordable relief services to rural physicians practicing in the fields of general family medicine, general internal medicine, and general pediatrics to facilitate the ability of those physicians to take time away from their practice.

Added by Acts 2003, 78th Leg., ch. 609, Sec. 1, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 76, eff. September 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 37, eff. September 1, 2013.

Sec. 487.603. FEES. (a) The department shall charge a fee for rural physicians to participate in the program.
(b) The fees collected under this section shall be deposited in a special account in the general revenue fund that may be appropriated only to the department for administration of this subchapter.

Added by Acts 2003, 78th Leg., ch. 609, Sec. 1, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 77, eff. September 1, 2009.

Sec. 487.604. FUNDING. The department may solicit and accept gifts, grants, donations, and contributions to support the program.

Added by Acts 2003, 78th Leg., ch. 609, Sec. 1, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 78, eff. September 1, 2009.

Sec. 487.605. RELIEF PHYSICIAN'S EXPENSES. The department shall pay a physician providing relief under the program using fees collected by the center.

Added by Acts 2003, 78th Leg., ch. 609, Sec. 1, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 79, eff. September 1, 2009.

Sec. 487.606. PRIORITY ASSIGNMENT OF RELIEF PHYSICIANS. (a) The department shall assign physicians to provide relief to a rural area in accordance with the following priorities:

(1) solo practitioners;

(2) counties that have fewer than seven residents per square mile;

(3) counties that have been designated under federal law as a health professional shortage area;

(4) counties that do not have a hospital; and

(5) counties that have a hospital but do not have a continuously staffed hospital emergency room.

(b) In determining where to assign relief physicians, the department shall consider the number of physicians in the area available to provide relief services and the distance in that area to the nearest physician who practices in the same specialty.

(c) At the request of the department, residency program directors may assist the department in coordinating the assignment of relief physicians.

Added by Acts 2003, 78th Leg., ch. 609, Sec. 1, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 80, eff. September 1, 2009.

Sec. 487.607. RELIEF PHYSICIAN RECRUITMENT. The department shall actively recruit physicians to participate in the program as relief physicians. The department shall concentrate on recruiting physicians involved in an accredited residency program in general pediatrics, general internal medicine, and general family medicine, physicians registered on the department's locum tenens registry,

physicians employed at a medical school, and physicians working for private locum tenens groups.

Added by Acts 2003, 78th Leg., ch. 609, Sec. 1, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 81, eff. September 1, 2009.

SUBCHAPTER O. COMMUNITY TELECOMMUNICATIONS ALLIANCE PROGRAM

Sec. 487.651. DEFINITIONS. In this subchapter:

(1) "Community telecommunications alliance" means an association of public and private entities created to share resources, promote innovative school health technology, promote economic development opportunities for the community, and improve the overall quality of life within a local community through telecommunications and information services provided by the private sector.

(2) "Program" means the community telecommunications alliance program.

Acts 2003, 78th Leg., ch. 1151, Sec. 1, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 831 (H.B. 735), Sec. 5, eff. September 1, 2008.

Sec. 487.652. RULES GOVERNING PROGRAM. (a) Subject to available funding, the community telecommunications alliance program shall:

(1) assist local communities in the creation and development of community telecommunications alliances, including alliances established to pursue rural economic development or innovative rural school health technology projects, by providing advice and assistance in assessing local uses of and local demands or needs for local telecommunications and information services of private sector providers; and

(2) assist community telecommunications alliances in applying for grant funding for projects, including:

(A) assisting alliances in securing matching private sector funding for projects; and

(B) requiring alliances to develop sustainable plans:

(i) that demonstrate how the alliance will continue to obtain private sector services once the grant funding terminates;

(ii) that do not directly compete with local businesses, telecommunications providers, or information services providers; and

(iii) that prohibit a network created with assistance from the alliance or other public funding from being sold to a direct competitor of a private sector provider.

(b) Each community telecommunications alliance established under this section shall have an advisory council with representation from each of the following:

(1) a local nonprofit organization;

(2) a local county-elected official;

(3) a local city-elected official;

(4) a local telecommunications provider;

(5) a local economic development group;

(6) the local financial community; and

(7) a local information services provider.

(c) This chapter may not be construed to:

(1) expand eligibility for private network services under Section 58.253(a) or 59.072(a), Utilities Code, to persons not eligible to purchase the services; or

(2) permit the direct or indirect sharing or resale of private network services with persons not eligible to purchase the services.

(d) A community telecommunications alliance created under this section shall offer the following local entities the opportunity to be included in the alliance:

(1) a library;

(2) a public school;

(3) a public not-for-profit health care facility; and

(4) a local institution of higher education.

Acts 2003, 78th Leg., ch. 1151, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 831 (H.B. 735), Sec. 6, eff. September 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 38, eff. September 1, 2013.

Sec. 487.654. PROHIBITION. A community telecommunications alliance may not directly or indirectly:

(1) provide telecommunications or information services to the public;

(2) resell or share telecommunications or information services obtained through grants or loans received under Chapter 57, Utilities Code, with persons not eligible for the grants or loans; or

(3) provide or support the provision of telecommunications or information services in competition with a private sector provider.

Acts 2003, 78th Leg., ch. 1151, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER Q. RURAL TECHNOLOGY CENTER GRANT PROGRAM

Sec. 487.751. DEFINITION. In this subchapter, "rural county" means a county that has a population of not more than 125,000.

Renumbered from Government Code, Section 487.701 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(31), eff. September 1, 2009.
Relettered from Government Code, Subchapter P, Chapter 487 and amended by Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 91, eff. September 1, 2009.

Sec. 487.752. GRANT PROGRAM. (a) Subject to available funds, the department shall establish a grant program under which the department awards grants to public institutions of higher education, public high schools, and governmental entities located in a rural county for the development and operation of multi-institutional technology centers that provide:

(1) community access to technology;

(2) computer literacy programs;

(3) educational programs designed to provide concurrent enrollment credit for high school students taking postsecondary courses in information and emerging technologies;

(4) training for careers in technology-related fields and

other highly skilled industries; and

(5) technology-related continuing and adult education programs.

(b) The department by rule shall establish:

(1) eligibility criteria for grant applicants;

(2) grant application procedures;

(3) guidelines relating to grant amounts;

(4) procedures for evaluating grant applications; and

(5) procedures for monitoring the use of grants awarded under the program and for ensuring compliance with the conditions of a grant.

Renumbered from Government Code, Section 487.702 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(31), eff. September 1, 2009.
Relettered from Government Code, Subchapter P, Chapter 487 and amended by Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 91, eff. September 1, 2009.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 148 (H.B. 1493), Sec. 43, eff. September 1, 2013.

Sec. 487.753. FUNDING. The department may seek, receive, and spend money received through an appropriation, grant, donation, or reimbursement from any public or private source to implement this subchapter.

Renumbered from Government Code, Section 487.703 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(31), eff. September 1, 2009.
Relettered from Government Code, Subchapter P, Chapter 487 and amended by Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 91, eff. September 1, 2009.

CHAPTER 488. SOUTHEAST TEXAS BIOTECHNOLOGY PARK

Sec. 488.001. COALITION ESTABLISHMENT. The Southeast Texas Biotechnology Park Coalition is established. The coalition is composed of public and private health-related institutions, and other private for-profit and nonprofit and governmental institutions, and

is established for the purpose of developing, funding, and operating a biotechnology research and development park to be known as the Southeast Texas Biotechnology Park.

Added by Acts 2001, 77th Leg., ch. 574, Sec. 1, eff. June 11, 2001.

Sec. 488.002. PURPOSE; LOCATION. (a) The park shall be operated for the purposes of:

(1) furthering the mission of the coalition members;

(2) economic development of the state, including the production of net revenue to the state and coalition members, from the commercialization of biotechnology research;

(3) recruiting and retaining leading scientists and established biotechnology enterprises; and

(4) supporting the growth and development of new biotechnology enterprises.

(b) The park shall be located in the area of Houston, Texas, known as the Texas Medical Center.

Added by Acts 2001, 77th Leg., ch. 574, Sec. 1, eff. June 11, 2001.

Sec. 488.003. COALITION MEMBERS. The membership of the coalition may include any interested governmental or private for-profit or nonprofit institution, including:

(1) Baylor College of Medicine;

(2) Johnson Space Center of the National Aeronautics and Space Administration;

(3) Memorial Hermann Health Care System;

(4) Rice University;

(5) St. Luke's Episcopal Health System/Texas Heart Institute;

(6) Texas Southern University;

(7) TIRR Systems;

(8) the University of Houston System;

(9) The University of Texas M. D. Anderson Cancer Center;

(10) The University of Texas Medical Branch at Galveston; and

(11) The University of Texas Health Science Center at Houston.

Added by Acts 2001, 77th Leg., ch. 574, Sec. 1, eff. June 11, 2001.

Sec. 488.004. NONPROFIT CORPORATION. The coalition may establish a nonprofit corporation to develop and operate the park.

Added by Acts 2001, 77th Leg., ch. 574, Sec. 1, eff. June 11, 2001.

Sec. 488.005. LAND AND INFRASTRUCTURE. The park may be developed on land owned by the State of Texas and made available for that purpose, as well as on land acquired by the state, the nonprofit corporation, or a member institution for purposes of the park.

Added by Acts 2001, 77th Leg., ch. 574, Sec. 1, eff. June 11, 2001.

Sec. 488.006. INVESTMENT; FUNDING. (a) The park shall be developed as a public-private partnership in which both public institutions and private entities contribute to the development, funding, and operation of the park.

(b) Leases producing revenue to state institutions participating in the development of the park shall be at market rates.

Added by Acts 2001, 77th Leg., ch. 574, Sec. 1, eff. June 11, 2001.

CHAPTER 489. TEXAS ECONOMIC DEVELOPMENT BANK

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 489.001. DEFINITIONS. In this chapter:

(1) "Bank" means the Texas Economic Development Bank established under Section 489.101.

(2) "Fund" means the Texas economic development bank fund.

(3) "Office" means the Texas Economic Development and Tourism Office.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 2.01, eff. Sept. 1, 2003.

Sec. 489.002. RULES. The office shall adopt rules necessary to carry out the purposes of this chapter.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 2.01, eff. Sept. 1, 2003.

SUBCHAPTER B. CREATION AND OPERATION OF BANK; TEXAS ECONOMIC DEVELOPMENT BANK FUND

Sec. 489.101. CREATION OF BANK. (a) The office shall establish the Texas Economic Development Bank for the purpose of:

(1) providing globally competitive, cost-effective state incentives to expanding businesses operating in this state and businesses relocating to this state; and

(2) ensuring that communities and businesses in this state have access to capital for economic development purposes.

(b) The bank's effectiveness shall be measured on the basis of the number of jobs created and retained and the total amount of nonstate funds leveraged as a result of the bank's efforts.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 2.01, eff. Sept. 1, 2003.

Sec. 489.102. POWERS AND DUTIES OF BANK. (a) The bank shall offer a variety of financial incentives to help communities and businesses in this state compete and succeed in the global marketplace. The bank shall assist communities in accessing financing with which to fund their economic development efforts.

(b) The bank may:

(1) provide, as provided under the programs the bank administers under Section 489.108 or otherwise as provided by law:

(A) qualifying communities with tax incentives for expanding businesses or businesses relocating to this state;

(B) incentives to lenders to:

(i) make loans to near-bankable businesses in the lender's community; and

(ii) make low-interest loans to qualifying businesses; and

(C) bond-based long-term debt financing for capital investment in public entities, in large commercial and industrial

projects, and for other economic development purposes;

(2) act as a link between businesses searching for investment capital and potential investors;

(3) inform institutional lenders of economic development plans and strategies for each region of this state and encourage institutional lenders to support those plans in their marketing and investment strategies;

(4) offer communities a one-stop source of financing for their economic development efforts;

(5) provide communities with technical assistance in the development of their incentive programs to attract and retain businesses and in the design of incentive packages for specific proposals;

(6) provide expanding businesses or businesses relocating to this state with a single source of information concerning financial incentives offered by this state to those businesses; and

(7) provide grants or financing to the Texas Department of Transportation to implement the department's powers and duties relating to rural rail development under Chapter 91, Transportation Code.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 2.01, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1410 (H.B. 2660), Sec. 1, eff. June 15, 2007.

Sec. 489.103. FEES. The bank shall charge fees to the beneficiaries of its services as the bank determines necessary. Amounts collected under this section may be used to support the administration of the bank's programs and implementation of the bank's strategies.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 2.01, eff. Sept. 1, 2003.

Sec. 489.104. ALLOCATION OF RESOURCES. The bank may allocate its resources as necessary to efficiently meet the level of demand experienced by:

(1) each program or service described by Section 489.108; and

(2) the Texas Department of Transportation under Section 489.102(b)(7).

Added by Acts 2003, 78th Leg., ch. 814, Sec. 2.01, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1410 (H.B. 2660), Sec. 2, eff. June 15, 2007.

Sec. 489.105. TEXAS ECONOMIC DEVELOPMENT BANK FUND. (a) The Texas economic development bank fund is a dedicated account in the general revenue fund.

(b) The fund consists of:

(1) appropriations for the implementation and administration of this chapter;

(2) fees charged under Subchapter BB, Chapter 481;

(3) interest earned on the investment of money in the fund;

(4) fees charged under this chapter;

(5) investment earnings from the programs administered by the bank;

(6) amounts transferred under Section 2303.504(b);

(7) investment earnings under the Texas product development fund under Section 489.211;

(8) investment earnings under the Texas small business incubator fund under Section 489.212; and

(9) any other amounts received by the state under this chapter.

(c) Money in the fund may be used only to carry out the purposes of this chapter.

(d) The financial transactions of the fund are subject to audit by the state auditor as provided by Chapter 321.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 2.01, eff. Sept. 1, 2003.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 1004 (H.B. 3271), Sec. 17, eff. June 18, 2021.
Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 8, eff.

September 1, 2023.

Sec. 489.106. ADMINISTRATION OF FUND AND CHAPTER. The office shall administer the fund. In administering the fund and this chapter, the office has the powers necessary to carry out the purposes of this chapter, including the power to:

(1) make, execute, and deliver contracts, conveyances, and other instruments;

(2) impose and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payments or performance; and

(3) issue bonds for economic development projects as that term is defined by Section 501.101, Local Government Code, or Section 505.151, 505.152, 505.153, 505.154, 505.155, or 505.156, Local Government Code.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 2.01, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.08, eff. April 1, 2009.

Sec. 489.107. ANNUAL REPORT. (a) On or before January 1 of each year, the office shall submit to the legislature an annual status report on the activities of the bank.

(b) The report under Subsection (a) must include for each program administered by the office:

(1) the number of grants, loans, and designations awarded in the previous fiscal year;

(2) the total number of grants, loans, and designations awarded by the bank;

(3) the amount in dollars of all grants, loans, and designations described by Subdivisions (1) and (2);

(4) the number of applications received in the previous fiscal year;

(5) the number of outstanding loans and designations;

(6) a summary of each outstanding loan and designation, including the amount outstanding and the terms of the loan or

designation;

(7) the balance of each program's fund and any reserve account; and

(8) any challenges in administering each program, including any proposals for statutory changes that would address the challenges.

(c) For the small business disaster recovery loan program, the report must include a general description of each small business for which an applicant was awarded a loan from the fund during the preceding fiscal year.

(d) In preparing the report under Subsection (a), the office shall remove any identifying information pertaining to program participants.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 2.01, eff. Sept. 1, 2003.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 9, eff. September 1, 2023.

Sec. 489.108. PROGRAMS, SERVICES, AND FUNDS UNDER BANK'S DIRECTION. Notwithstanding any other law, the bank shall perform the duties and functions of the office with respect to the following programs, services, and funds:

(1) the original capital access program established under Section 481.405;

(2) the Texas leverage fund;

(3) the enterprise zone program established under Chapter 2303;

(4) the industrial revenue bond program;

(5) the defense economic readjustment zone program established under Chapter 2310;

(6) the Empowerment Zone and Enterprise Community grant program established under Section 481.025; and

(7) the renewal community program.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 2.01, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.09, eff.

April 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 364 (H.B. 2667), Sec. 3, eff. September 1, 2015.

Acts 2021, 87th Leg., R.S., Ch. 1004 (H.B. 3271), Sec. 18, eff. June 18, 2021.

SUBCHAPTER C. MISCELLANEOUS PROVISIONS

Sec. 489.151. STATE LIABILITY PROHIBITED. The state and state officers or employees are not liable to participants for grants, loans, or other transactions under this chapter except as specifically provided by law.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 2.01, eff. Sept. 1, 2003.

Sec. 489.152. GIFTS, GRANTS, AND DONATIONS. The office may accept gifts, grants, and donations from any source for the purposes of this chapter.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 2.01, eff. Sept. 1, 2003.

SUBCHAPTER D. PRODUCT DEVELOPMENT AND SMALL BUSINESS INCUBATORS

Sec. 489.211. TEXAS PRODUCT DEVELOPMENT FUND. (a) The Texas product development fund is a fund in the state treasury.

(b) The product fund is composed of proceeds of bonds issued under this subchapter, financing application fees, loan repayments, guarantee fees, royalty receipts, dividend income, money appropriated by the legislature for authorized purposes of the product fund, amounts received by the state from loans, loan guarantees, and equity investments made under this subchapter, amounts received by the state from federal grants or other sources, and any other amounts received under this subchapter and required by the bank to be deposited in the product fund. The product fund contains a program account, an interest and sinking account, and other accounts that the bank authorizes to be created and maintained. Money in the product fund is available for use by the bank under this subchapter. Investment earnings under the product fund must be transferred to the fund

created under Section 489.105. Notwithstanding any other provision of this subchapter, any money in the product fund may be used for debt service, bond redemption, or any costs associated with debt service or bond redemption.

(c) Repealed by Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 16(5), eff. September 1, 2023.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 2.01, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1092 (H.B. 3578), Sec. 2, eff. September 1, 2013.

Acts 2021, 87th Leg., R.S., Ch. 1004 (H.B. 3271), Sec. 19, eff. June 18, 2021.

Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 10, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 16(5), eff. September 1, 2023.

Sec. 489.212. SMALL BUSINESS INCUBATOR FUND. (a) The Texas small business incubator fund is a fund in the state treasury.

(b) The small business fund is composed of proceeds of bonds issued under this subchapter, financing application fees, loan repayments, guarantee fees, royalty receipts, dividend income, money appropriated by the legislature for authorized purposes of the small business fund, amounts received by the state from loans, loan guarantees, and equity investments made under this subchapter, amounts received by the state from federal grants or other sources, and any other amounts received under this subchapter and required by the bank to be deposited in the small business fund. The small business fund contains a project account, an interest and sinking account, and other accounts that the bank authorizes to be created and maintained. Money in the small business fund is available for use by the bank under this subchapter. Investment earnings under the small business fund must be transferred to the fund created under Section 489.105. Notwithstanding any other provision of this subchapter, any money in the small business fund may be used for debt service, bond redemption, or any costs associated with debt service or bond redemption.

(c) Repealed by Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 16(5), eff. September 1, 2023.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 2.01, eff. Sept. 1, 2003.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1092 (H.B. 3578), Sec. 3, eff. September 1, 2013.
Acts 2021, 87th Leg., R.S., Ch. 1004 (H.B. 3271), Sec. 20, eff. June 18, 2021.
Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 11, eff. September 1, 2023.
Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 16(5), eff. September 1, 2023.

Sec. 489.215. INFORMATION CONFIDENTIAL. (a) Information described by Subsection (b) collected, assembled, or maintained by or for the bank is confidential and may not be disclosed by the bank, the board, the office, or the executive director of the office.

(b) This section applies to information in any form provided by or on behalf of an applicant for financing or a recipient of financing under this subchapter, including information contained in, accompanying, or derived from any application or report, that relates to a product, to the development, application, manufacture, or use of a product, or to the markets, market prospects, or marketing of a product and that is proprietary information of actual or potential commercial value to the applicant or recipient that has not been disclosed to the public. Confidential information includes scientific and technological information, including computer programs and software, and marketing and business operation information, regardless of whether the product to which the information relates is patentable or capable of being registered under copyright or trademark laws or has a potential for being sold, traded, or licensed for a fee. This section does not make confidential information in an account, voucher, or contract relating to the receipt or expenditure of public funds by the bank, board, or the department or its successor under this subchapter. This section applies to any information collected in winding up the product development and small business incubator program investment portfolio under Subchapter D-1.

(c) Repealed by Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 16(5), eff. September 1, 2023.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 2.01, eff. Sept. 1, 2003.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 12, eff. September 1, 2023.
Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 16(5), eff. September 1, 2023.

SUBCHAPTER D-1. WINDING UP OF PRODUCT DEVELOPMENT AND SMALL BUSINESS INCUBATOR PROGRAM

Sec. 489.221. MANAGEMENT OF INVESTMENT PORTFOLIO; WINDING UP AND FINAL LIQUIDATION. (a) In this section, "product development and small business incubator program investment portfolio" means:

(1) the equity positions in the form of stock or other security the bank took, on behalf of the state, in companies that received financing under the product development and small business incubator program; and

(2) any other investments made by the bank, on behalf of the state, and associated assets in connection with financing made under the product development and small business incubator program.

(b) The bank shall manage and wind up the product development and small business incubator program investment portfolio, including revenues and associated assets from financing and defaults on financing, in a manner that, to the extent feasible, provides for the maximum return on the state's investment. In managing those investments and associated assets through procedures and subject to restrictions that the bank considers appropriate, the bank may acquire, exchange, sell, supervise, manage, or retain any kind of investment or associated assets that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances then prevailing pertinent to each investment or associated asset. The bank may recover its reasonable and necessary costs incurred in the management of the portfolio, including costs incurred in the retaining of professional or technical advisors, from the earnings on the investments in the portfolio.

(c) On completion of the winding up process under Subsection (b), the bank shall deposit any remaining investment earnings to the credit of the Texas economic development bank fund, as required under Sections 489.211 and 489.212.

(d) The bank has any power necessary to accomplish the purposes of this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 13, eff. September 1, 2023.

SUBCHAPTER E. TEXAS SMALL AND RURAL COMMUNITY SUCCESS FUND

Sec. 489.251. DEFINITION. In this subchapter, "fund" means the Texas small and rural community success fund established by Section 489.252.

Added by Acts 2021, 87th Leg., R.S., Ch. 947 (S.B. 1465), Sec. 1, eff. June 18, 2021.

Sec. 489.252. TEXAS SMALL AND RURAL COMMUNITY SUCCESS FUND. (a) The Texas small and rural community success fund is created as a trust fund held outside the state treasury by the comptroller as trustee. The comptroller shall hold money in the fund in escrow and in trust for and on behalf of the bank and the owners of bonds issued under Section 489.253.

(b) The fund consists of:

(1) proceeds from the issuance of bonds under Section 489.253;

(2) payments of principal and interest on loans made under this subchapter;

(3) loan origination fees imposed on loans made under this subchapter;

(4) investment earnings described by Subsection (e); and

(5) any other money received by the bank under this subchapter.

(c) The fund may be used only:

(1) to make loans to economic development corporations for eligible projects as authorized by Chapters 501, 504, and 505, Local Government Code;

(2) to pay the bank's necessary and reasonable costs of

administering the program established by this subchapter, including the payment of letter of credit fees and credit rating fees;

(3) to pay the principal of and interest on bonds issued under Section 489.253;

(4) to pay reasonable fees and other costs incurred by the bank in administering the fund; and

(5) for any other purpose authorized by this subchapter.

(d) The bank, in coordination with the comptroller, may provide for the establishment and maintenance of separate accounts or sub-accounts in the fund, including interest and sinking accounts, reserve accounts, program accounts, or other accounts. The accounts and sub-accounts must be kept and held in escrow and in trust as provided by Subsection (a).

(e) Pending use, the comptroller may invest and reinvest the money in the fund in investments authorized by law for state funds. Earnings on the investments shall be credited to the fund.

(f) The bank may use money in the fund for the purposes specified by and according to the procedures established by this subchapter. This state may take action with respect to the fund only as specified by this subchapter and only in accordance with the resolutions of the executive director of the office adopted under Section 489.253.

Added by Acts 2021, 87th Leg., R.S., Ch. 947 (S.B. 1465), Sec. 1, eff. June 18, 2021.

Sec. 489.253. REVENUE-BASED BONDS AUTHORIZED. (a) The bank, the office, or the office's successor agency may provide for the issuance, sale, and retirement of bonds, including obligations in the form of commercial paper notes, to provide funding for economic development purposes as authorized by Section 52-a, Article III, Texas Constitution, and this subchapter.

(b) The bonds are special obligations of the bank and the principal of and interest on the bonds must be payable solely from the revenues derived by the bank under this subchapter, including loan repayments secured by a pledge of the local economic development sales and use tax revenues imposed by municipalities for the benefit of economic development corporations created under Chapters 504 and 505, Local Government Code. The bonds do not constitute an

indebtedness of this state, the office, or the bank in the meaning of the Texas Constitution or of any statutory limitation. The bonds do not constitute a pecuniary liability of this state, the office, or the bank or constitute a charge against the general credit of this state, the office, or the bank, or against the taxing power of this state. The limitations provided by this subsection must be stated plainly on the face of each bond.

(c) The executive director of the office by resolution may provide for the bonds to:

(1) be executed and delivered at any time in one or more series as a single issue or as several issues;

(2) be in any denomination and form, including registered uncertificated bonds not represented by written instruments and commonly known as book-entry obligations, the registration of ownership and transfer of which the bank shall provide for under a system of books and records maintained by a financial institution serving as trustee, paying agent, or bond registrar;

(3) be of a term authorized by the executive director, not to exceed 40 years from their date;

(4) be in coupon or registered form;

(5) be payable in installments and at a time or times not exceeding the term authorized by applicable law;

(6) be subject to terms of redemption;

(7) be payable at a place or places;

(8) bear no interest or bear interest at any rate or rates, fixed, variable, floating, or otherwise determined by the bank or determined under a contractual arrangement approved by the executive director, except that the maximum net effective interest rate, computed in accordance with Section 1204.005, on the bonds may not exceed a rate equal to the maximum annual interest rate established by Section 1204.006; and

(9) contain provisions not inconsistent with this subchapter.

(d) Bonds issued under this section are subject to review and approval by the attorney general in the same manner and with the same effect as may be required by law, including Chapter 1202 or 1371, as applicable.

(e) This state pledges to and agrees with the owners of any bonds issued under this section that this state will not limit or alter the rights vested in the bank to fulfill the terms of any

agreements made with an owner or in any way impair the rights and remedies of an owner until the bonds, together with any premium and the interest on the bonds, with interest on any unpaid premium or installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the owners, are fully met and discharged. The bank may include this pledge and agreement of this state in any agreement with the owners of the bonds.

Added by Acts 2021, 87th Leg., R.S., Ch. 947 (S.B. 1465), Sec. 1, eff. June 18, 2021.

Sec. 489.254. BOND SALE AND ISSUANCE. (a) Bonds issued under Section 489.253 may be sold at public or private sale at a price and in a manner and from time to time as resolutions of the executive director of the office that authorize issuance of the bonds provide.

(b) From the proceeds of the sale of the bonds, the bank may pay expenses, premiums, and insurance premiums that the bank considers necessary or advantageous in connection with the authorization, sale, and issuance of the bonds.

(c) In connection with the issuance of its bonds, the bank may exercise the powers granted to the governing body of an issuer in connection with the issuance of obligations under Chapter 1371. However, any bonds issued in accordance with this subchapter and Chapter 1371 are not subject to the rating requirement for an obligation issued under Chapter 1371.

Added by Acts 2021, 87th Leg., R.S., Ch. 947 (S.B. 1465), Sec. 1, eff. June 18, 2021.

Sec. 489.255. AGREEMENTS IN BONDS. (a) A resolution of the executive director of the office that authorizes bonds to be issued under Section 489.253 or a security agreement, including a related indenture or trust indenture, may contain any agreements and provisions customarily contained in instruments securing bonds, including provisions respecting the fixing and collection of obligations, the creation and maintenance of special funds, and the rights and remedies available, in the event of default to the holders of the bonds or to the trustee under the security agreement, all as

the bank considers advisable and consistent with this subchapter. However, in making such an agreement or provision, the bank may not incur:

(1) a pecuniary liability of this state, the office, or the bank; or

(2) a charge against the general credit of this state, the office, or the bank, or against the taxing powers of this state.

(b) The resolution of the executive director of the office authorizing the issuance of the bonds and a security agreement securing the bonds may provide that, in the event of default in payment of the principal of or interest on the bonds or in the performance of an agreement contained in the proceedings or security agreement, the payment and performance may be enforced as provided by Sections 403.055 and 403.0551, by mandamus, or by the appointment of a receiver in equity with power to charge and collect bonds and to apply revenues pledged according to the proceedings or the provisions of the security agreement. A security agreement may provide that, in the event of default in payment or the violation of an agreement contained in the security agreement, a trustee under the security agreement may enforce the bondholder's rights by mandamus or other proceedings at law or in equity to obtain any relief permitted by law, including the right to collect and receive any revenue used to secure the bonds.

(c) A breach of a resolution of the executive director of the office adopted under Section 489.253, a breach of an agreement made under this section, or a default under bonds issued under this subchapter does not constitute:

(1) a pecuniary liability of this state, the office, or the bank; or

(2) a charge against the general credit of this state, the office, or the bank, or against the taxing power of this state.

(d) The trustee or trustees under a security agreement or a depository specified by the security agreement may be any person that the bank designates, regardless of whether the person is a resident of this state or incorporated under the laws of the United States or any state.

Added by Acts 2021, 87th Leg., R.S., Ch. 947 (S.B. 1465), Sec. 1, eff. June 18, 2021.

Sec. 489.256. REFUNDING BONDS. (a) Bonds issued under Section 489.253 may be refunded by the bank by the issuance of the bank's refunding bonds in the amount that the bank considers necessary to refund the unpaid principal of the refunded bonds, together with any unpaid interest, premiums, expenses, and commissions required to be paid in connection with the refunded bonds. Refunding may be effected whether the refunded bonds have matured or are to mature later, either by sale of the refunding bonds or by exchange of the refunding bonds for the refunded bonds.

(b) A holder of refunded bonds may not be compelled to surrender the bonds for payment or exchange before the date on which the bonds are payable, or, if the bonds are called for redemption, before the date on which they are by their terms subject to redemption.

(c) Refunding bonds having a final maturity not to exceed that permitted for other bonds issued under Section 489.253 may be issued under the same terms and conditions provided by this subchapter for the issuance of bonds or may be issued in the manner provided by statute, including Chapters 1207 and 1371.

Added by Acts 2021, 87th Leg., R.S., Ch. 947 (S.B. 1465), Sec. 1, eff. June 18, 2021.

Sec. 489.257. USE OF BOND PROCEEDS. The proceeds from the sale of bonds issued under this subchapter may be applied only for a purpose for which the bonds were issued, except that:

(1) any secured interest received in the sale shall be applied to the payment of the principal of or interest on the bonds sold and, if a portion of the proceeds is not needed for a purpose for which the bonds were issued, that portion shall be applied to the payment of the principal of or interest on the bonds; and

(2) any premium received in the sale of the bonds shall be applied in accordance with Section 1201.042(d).

Added by Acts 2021, 87th Leg., R.S., Ch. 947 (S.B. 1465), Sec. 1, eff. June 18, 2021.

Sec. 489.258. BONDS AS LEGAL INVESTMENTS FOR FIDUCIARIES AND OTHER PERSONS. (a) Bonds of the bank issued under this subchapter

are securities in which all public officers and bodies of this state; municipalities; municipal subdivisions; insurance companies and associations and other persons carrying on an insurance business; banks, bankers, trust companies, savings and loan associations, investment companies, and other persons carrying on a banking business; administrators, guardians, executors, trustees, and other fiduciaries; and other persons authorized to invest in other obligations of this state may invest funds, including capital, in their control or belonging to them.

(b) Notwithstanding any other provision of law, the bonds of the bank issued under this subchapter are also securities that may be deposited with and received by public officers and bodies of this state and municipalities and municipal subdivisions for any purpose for which the deposit of other obligations of the state are authorized.

Added by Acts 2021, 87th Leg., R.S., Ch. 947 (S.B. 1465), Sec. 1, eff. June 18, 2021.

Sec. 489.259. ADMINISTRATION OF FUND. The bank shall administer the fund. In administering the fund and this subchapter, the bank has the powers necessary to carry out the purposes of this subchapter, including the power to:

(1) make, execute, and deliver contracts, conveyances, and other instruments; and

(2) impose charges and provide for reasonable penalties for delinquent payments or performance in connection with any transaction.

Added by Acts 2021, 87th Leg., R.S., Ch. 947 (S.B. 1465), Sec. 1, eff. June 18, 2021.

SUBCHAPTER F. MICRO-BUSINESS DISASTER RECOVERY LOAN GUARANTEE PROGRAM

Sec. 489.301. DEFINITIONS. In this subchapter:

(1) "Declared disaster" means a state of disaster declared by the governor under Chapter 418.

(2) "Financial institution" includes a bank, trust company, banking association, savings and loan association, mortgage company,

investment bank, credit union, and nontraditional financial institution.

(3) "Micro-business" means a corporation, partnership, sole proprietorship, or other legal entity that:

(A) is domiciled in this state and has at least 95 percent of its employees located in this state;

(B) is formed to make a profit; and

(C) employs not more than 20 employees.

(4) "Participating financial institution" means a financial institution participating in the program.

(5) "Program" means the micro-business disaster recovery loan guarantee program.

Added by Acts 2021, 87th Leg., R.S., Ch. 947 (S.B. 1465), Sec. 1, eff. June 18, 2021.

Sec. 489.302. MICRO-BUSINESS DISASTER RECOVERY FUND. (a) The micro-business disaster recovery fund is a dedicated account in the general revenue fund.

(b) The micro-business disaster recovery fund is composed of:

(1) money appropriated by the legislature for the implementation and administration of this subchapter;

(2) amounts received by the state from federal grants or other sources;

(3) interest earned on the investment of money in the micro-business disaster recovery fund;

(4) amounts transferred from the Texas economic development bank fund; and

(5) any other amounts received under this subchapter and required by the bank to be deposited in the micro-business disaster recovery fund.

(c) Money in the micro-business disaster recovery fund may be appropriated only to the bank for use in carrying out the purposes of this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 947 (S.B. 1465), Sec. 1, eff. June 18, 2021.

Sec. 489.303. POWERS OF BANK IN ADMINISTERING MICRO-BUSINESS

DISASTER RECOVERY FUND. In administering the micro-business disaster recovery fund, the bank has the powers necessary to carry out the purposes of this subchapter, including the power to invest money at the bank's discretion in obligations determined proper by the bank.

Added by Acts 2021, 87th Leg., R.S., Ch. 947 (S.B. 1465), Sec. 1, eff. June 18, 2021.

Sec. 489.304. MICRO-BUSINESS DISASTER RECOVERY LOAN GUARANTEE PROGRAM. (a) The bank shall establish and administer a micro-business disaster recovery loan guarantee program in which money in the micro-business disaster recovery fund is used to guarantee loans made by participating financial institutions to micro-businesses that have suffered economic injury as a result of a declared disaster.

(b) The bank shall determine the eligibility of a financial institution to participate in the program and may set a limit on the number of eligible financial institutions that may participate in the program.

(c) To participate in the program, an eligible financial institution must enter into a participation agreement with the bank that sets out the terms and conditions under which loans made to micro-businesses recovering from a declared disaster will be guaranteed.

(d) To qualify for a loan guarantee under the program, a micro-business:

(1) must:

(A) be in good standing under the laws of this state; and

(B) not owe delinquent taxes to a taxing unit of this state before the date of the initial issuance of the disaster declaration; and

(2) may not:

(A) have total revenue that exceeds the amount for which no franchise tax is due under Section 171.002(d)(2), Tax Code; or

(B) be a franchise, a national chain with operations in this state, a lobbying firm, or a private equity firm or backed by a private equity firm.

(e) A micro-business that receives a loan guarantee shall apply

the loan to working capital or to the purchase, construction, or lease of capital assets damaged, reduced, or lost as a result of the declared disaster.

Added by Acts 2021, 87th Leg., R.S., Ch. 947 (S.B. 1465), Sec. 1, eff. June 18, 2021.

Sec. 489.305. RULEMAKING AUTHORITY. The executive director of the office shall adopt rules relating to the implementation of the program and any other rules necessary to accomplish the purposes of this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 947 (S.B. 1465), Sec. 1, eff. June 18, 2021.

Sec. 489.306. ANNUAL REPORT BY PARTICIPATING FINANCIAL INSTITUTION. A participating financial institution shall submit an annual report to the bank. The report must:

(1) provide information regarding outstanding loan guarantees, loan guarantee losses, and any other information on loan guarantees under the program the bank considers appropriate;

(2) state the total amount of loans that the bank has guaranteed under this subchapter;

(3) include a copy of the financial institution's most recent financial statement; and

(4) include information regarding the type and size of micro-businesses with loan guarantees.

Added by Acts 2021, 87th Leg., R.S., Ch. 947 (S.B. 1465), Sec. 1, eff. June 18, 2021.

CHAPTER 490. WINDING UP CONTRACTS AND STATE'S INVESTMENT PORTFOLIO IN CONNECTION WITH AWARDS FROM TEXAS EMERGING TECHNOLOGY FUND

SUBCHAPTER C. TEXAS EMERGING TECHNOLOGY FUND

Sec. 490.101. TEXAS EMERGING TECHNOLOGY FUND. (a) The Texas emerging technology fund is a dedicated account in the general revenue fund.

(b) The following amounts shall be deposited in the fund:

(1) any amounts appropriated by the legislature for the fund;

(2) benefits realized from a project undertaken with money from the fund, as provided by a contract entered into under Section 490.103;

(3) gifts, grants, and other donations received for the fund; and

(4) interest earned on the investment of money in the fund.

Text of subsection as added by Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 16

(b-1) The fund may be used only for the purposes described by Section 490.104.

Text of subsection as added by Acts 2015, 84th Leg., R.S., Ch. 323 (S.B. 632), Sec. 3, and Ch. 915 (H.B. 26), Sec. 1.03

(b-1) Notwithstanding Subsection (b), benefits realized from a project undertaken with money from the fund, as provided by a contract entered into under former Section 490.103 before September 1, 2015, shall be deposited to the credit of the governor's university research initiative fund established under Subchapter H, Chapter 62, Education Code.

(b-2) The fund may be used only for the purposes described by Section 490.104.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 323 , Sec. 4(a)(1), Ch. 448 , Sec. 47(1), and Ch. 915 , Sec. 1.04(a)(1), eff. September 1, 2015.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 323 , Sec. 4(a)(1), Ch. 448 , Sec. 47(1), and Ch. 915 , Sec. 1.04(a)(1), eff. September 1, 2015.

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 323 , Sec. 4(a)(1), Ch. 448 , Sec. 47(1), and Ch. 915 , Sec. 1.04(a)(1), eff. September 1, 2015.

(f) Repealed by Acts 2015, 84th Leg., R.S., Ch. 323 , Sec. 4(a)(1), Ch. 448 , Sec. 47(1), and Ch. 915 , Sec. 1.04(a)(1), eff. September 1, 2015.

(f-1) Repealed by Acts 2015, 84th Leg., R.S., Ch. 323 , Sec. 4(a)(1), Ch. 448 , Sec. 47(1), and Ch. 915 , Sec. 1.04(a)(1), eff. September 1, 2015.

(g) Repealed by Acts 2015, 84th Leg., R.S., Ch. 323 , Sec. 4(a)(1), Ch. 448 , Sec. 47(1), and Ch. 915 , Sec. 1.04(a)(1), eff.

September 1, 2015.

(h) Repealed by Acts 2015, 84th Leg., R.S., Ch. 323 , Sec. 4(a)(1), Ch. 448 , Sec. 47(1), and Ch. 915 , Sec. 1.04(a)(1), eff. September 1, 2015.

(i) Repealed by Acts 2015, 84th Leg., R.S., Ch. 323 , Sec. 4(a)(1), Ch. 448 , Sec. 47(1), and Ch. 915 , Sec. 1.04(a)(1), eff. September 1, 2015.

Added by Acts 2005, 79th Leg., Ch. 280 (H.B. 1765), Sec. 1, eff. June 14, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 852 (H.B. 1188), Sec. 8, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1297 (H.B. 2457), Sec. 10, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 323 (S.B. 632), Sec. 3, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 323 (S.B. 632), Sec. 4(a)(1), eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 16, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 47(1), eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 915 (H.B. 26), Sec. 1.03, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 915 (H.B. 26), Sec. 1.04(a)(1), eff. September 1, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 17

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 323 (S.B. 632), Sec. 2, and Ch. 915 (H.B. 26), Sec. 1.02, see other Sec. 490.104.

Sec. 490.104. MANAGEMENT OF INVESTMENT PORTFOLIO; WINDING UP AND FINAL LIQUIDATION. (a) In this section, "state's emerging technology investment portfolio" means:

(1) the equity positions in the form of stock or other security the governor took, on behalf of the state, in companies that received awards under the Texas emerging technology fund; and

(2) any other investments made by the governor, on behalf of the state, in connection with an award made under the Texas emerging technology fund.

(b) The Texas Treasury Safekeeping Trust Company shall manage and wind up the state's emerging technology investment portfolio. The trust company shall wind up the portfolio in a manner that, to the extent feasible, provides for the maximum return on the state's investment while also ensuring the return of the state's investment. In managing those investments through procedures and subject to restrictions that the trust company considers appropriate, the trust company may acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances then prevailing pertinent to each investment. The trust company may recover its reasonable and necessary costs incurred in the management of the portfolio, including costs incurred in the retaining of professional or technical advisors, from the earnings on the investments in the portfolio.

(c) Any realized proceeds or other earnings from the sale of stock or other investments in the state's emerging technology investment portfolio, less the amount permitted to be retained for payment of its costs for managing the portfolio as provided by Subsection (b), shall be remitted by the Texas Treasury Safekeeping Trust Company to the comptroller for deposit in the general revenue fund.

(d) The Texas Treasury Safekeeping Trust Company has any power necessary to accomplish the purposes of this section.

(e) On final liquidation of the state's emerging technology investment portfolio, the Texas Treasury Safekeeping Trust Company shall promptly notify the comptroller of that occurrence. As soon as practicable after receiving that notice, the comptroller shall verify that the final liquidation has been completed and, if the comptroller so verifies, shall certify to the governor that the final liquidation of the portfolio has been completed. The governor shall post notice of the certification on the office of the governor's Internet website.

Added by Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 17, eff. September 1, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 323 (S.B. 632), Sec. 2, and Ch. 915 (H.B. 26), Sec. 1.02

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 17, see other Sec. 490.104.

Sec. 490.104. MANAGEMENT OF INVESTMENT PORTFOLIO; WINDING UP AND FINAL LIQUIDATION. (a) In this section, "state's emerging technology investment portfolio" means:

(1) the equity positions in the form of stock or other security the governor took, on behalf of the state, in companies that received awards under the Texas emerging technology fund; and

(2) any other investments made by the governor, on behalf of the state, and associated assets in connection with an award made under the Texas emerging technology fund.

(b) The Texas Treasury Safekeeping Trust Company shall manage and wind up the state's emerging technology investment portfolio. The trust company shall wind up the portfolio in a manner that, to the extent feasible, provides for the maximum return on the state's investment. In managing those investments and associated assets through procedures and subject to restrictions that the trust company considers appropriate, the trust company may acquire, exchange, sell, supervise, manage, or retain any kind of investment or associated assets that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances then prevailing pertinent to each investment or associated asset. The trust company may recover its reasonable and necessary costs incurred in the management of the portfolio from the earnings on the investments and associated assets in the portfolio.

(c) Any realized proceeds or other earnings from the sale of stock or other investments or associated assets in the state's emerging technology investment portfolio, less the amount permitted to be retained for payment of its costs for managing the portfolio as provided by Subsection (b), shall be remitted by the Texas Treasury Safekeeping Trust Company to the comptroller for deposit in the general revenue fund.

(d) The Texas Treasury Safekeeping Trust Company has any power necessary to accomplish the purposes of this section.

(e) On final liquidation of the state's emerging technology investment portfolio, the Texas Treasury Safekeeping Trust Company shall promptly notify the comptroller of that occurrence. As soon as practicable after receiving that notice, the comptroller shall verify that the final liquidation has been completed and, if the comptroller so verifies, shall certify to the governor that the final liquidation of the portfolio has been completed. The governor shall post notice of the certification on the office of the governor's Internet website.

(f) Any balance remaining in the Texas emerging technology fund on final liquidation by the Texas Treasury Safekeeping Trust Company shall be remitted to the comptroller for deposit in the general revenue fund.

Added by Acts 2015, 84th Leg., R.S., Ch. 323 (S.B. 632), Sec. 2, eff. September 1, 2015.
Added by Acts 2015, 84th Leg., R.S., Ch. 915 (H.B. 26), Sec. 1.02, eff. September 1, 2015.

Sec. 490.105. CONFIDENTIALITY OF CERTAIN INFORMATION. (a) Except as provided by Subsection (b), information concerning the identity, background, finance, marketing plans, trade secrets, or other commercially or academically sensitive information of an individual or entity that was considered for or received an award from the Texas emerging technology fund is confidential unless the individual or entity consents to disclosure of the information.

(b) The following information collected in connection with the Texas emerging technology fund is public information and may be disclosed under Chapter 552, Government Code:

(1) the name and address of an individual or entity that received an award from the fund;

(2) the amount of funding received by an award recipient;

(3) a brief description of the project funded by the award;

(4) if applicable, a brief description of the equity position that the governor, on behalf of the state, has taken in an entity that received an award from the fund; and

(5) any other information with the consent of:

(A) the governor;

(B) the lieutenant governor;

(C) the speaker of the house of representatives; and

(D) the individual or entity that received an award from the fund, if the information relates to that individual or entity.

Added by Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 17, eff. September 1, 2015.

CHAPTER 490A. TEXAS ENTREPRENEURSHIP NETWORK

Sec. 490A.001. DEFINITIONS. In this chapter:

(1) "Entrepreneur participant" means an individual who has a business or an idea for a business and registers with the network.

(2) "Fund" means the Texas Entrepreneurship Network fund.

(3) "Network" means the Texas Entrepreneurship Network.

Added by Acts 2005, 79th Leg., Ch. 593 (H.B. 1747), Sec. 1, eff. September 1, 2005.
Renumbered from Government Code, Section 490.001 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(30), eff. September 1, 2007.

Sec. 490A.002. ESTABLISHMENT OF NETWORK. (a) The Texas Entrepreneurship Network is established to develop and diversify the economy of this state through:

(1) the provision of programs and services to facilitate the growth and success of entrepreneurs; and

(2) the statewide, results-driven collaboration of public and private entities to create jobs and energize sustainable local economies through the development of entrepreneurs in this state.

(b) The Texas Center for Rural Entrepreneurship shall:

(1) operate the network under an agreement with the Department of Agriculture and as provided by this chapter; and

(2) comply with all reasonable and customary oversight measures required by the Department of Agriculture.

Added by Acts 2005, 79th Leg., Ch. 593 (H.B. 1747), Sec. 1, eff. September 1, 2005.
Renumbered from Government Code, Section 490.002 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(30), eff. September 1,

2007.

Sec. 490A.003. MEMBERS OF NETWORK. (a) The founding members of the network are:

(1) the Texas Cooperative Extension of The Texas A&M University System;

(2) the IC2 Institute at The University of Texas at Austin;

(3) the College of Agricultural Sciences and Natural Resources at Texas Tech University;

(4) the Department of Agriculture;

(5) the Texas Workforce Commission;

(6) the Texas Department of Rural Affairs;

(7) the Texas Center for Rural Entrepreneurship;

(8) the Texas Economic Development Council;

(9) the Texas Center for Border Economic and Enterprise Development at The University of Texas Rio Grande Valley;

(10) the office of external affairs at Texas Southern University; and

(11) the John F. Baugh Center for Entrepreneurship and Free Enterprise at Baylor University.

(b) An institution of higher education, chamber of commerce, economic development corporation, business, or organization with an interest in promoting entrepreneurship may join the network.

Added by Acts 2005, 79th Leg., Ch. 593 (H.B. 1747), Sec. 1, eff. September 1, 2005.
Renumbered from Government Code, Section 490.003 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(30), eff. September 1, 2007.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 92, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 188 (S.B. 1467), Sec. 12, eff. May 30, 2021.

Sec. 490A.004. ADVISORY BOARD. (a) The Texas Center for Rural Entrepreneurship shall establish an advisory board to guide and advise the operations of the network.

(b) The advisory board consists of one representative from each of the founding members of the network under Section 490A.003(a) and at least one member from the private sector. An organization other than a founding member of the network under Section 490A.003(a) may have a representative on the advisory board only if the creation of an additional seat on the board is authorized by a two-thirds majority vote of the existing board.

(c) The initial advisory board shall adopt provisions to determine the terms of board members and stagger the members' terms, and other provisions necessary to administer the board.

(d) Advisory board members serve without compensation but are entitled to reimbursement for reasonable expenses incurred in traveling to meetings related to the network.

Added by Acts 2005, 79th Leg., Ch. 593 (H.B. 1747), Sec. 1, eff. September 1, 2005.
Renumbered from Government Code, Section 490.004 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(30), eff. September 1, 2007.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.002(4), eff. September 1, 2007.

Sec. 490A.005. GENERAL DUTIES AND GOALS. (a) The network shall train and refocus existing state and local resources to build a more prosperous, dynamic, and sustainable economy throughout this state by:

(1) providing coordinated training and services that enhance the value of the state's existing infrastructure investments and make the investments available to entrepreneur participants;

(2) developing a statewide network of entrepreneurship developers and entrepreneurship centers as provided by Section 490A.006;

(3) developing a comprehensive network of knowledge, leadership, and financial capital resources accessible through the network's entrepreneurship developers and entrepreneurship centers;

(4) educating entrepreneur participants and generating awareness of the network and its programs;

(5) identifying the most promising ventures through

activities, including business-plan competitions, and assisting the ventures' potential for job and wealth creation;

(6) developing evaluation methods to measure the effectiveness of the network and the impact of entrepreneurship on local and regional economies;

(7) developing best practices for successful entrepreneurship and applied research regarding critical success factors for entrepreneurial businesses to provide a strategic competitive advantage for businesses in this state; and

(8) collaborating with existing local, state, and federal agencies and economic development professionals to use the strengths and assets of the agencies and professionals.

(b) The network shall work locally, regionally, and statewide with educators, agencies, organizations, networks, businesses, economic developers, consultants, communities, researchers, or other persons to develop and support strategies to assist entrepreneur participants and improve the environment for entrepreneurial development in this state.

Added by Acts 2005, 79th Leg., Ch. 593 (H.B. 1747), Sec. 1, eff. September 1, 2005.
Renumbered from Government Code, Section 490.005 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(30), eff. September 1, 2007.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.002(5), eff. September 1, 2007.

Sec. 490A.006. ENTREPRENEURSHIP SERVICES. (a) The network shall develop a statewide association of local individuals who are entrepreneurship developers trained to analyze, evaluate, and develop business plans and help local entrepreneur participants start, grow, or develop their businesses.

(b) The network may establish local entrepreneurship centers in every county practicable, at which an entrepreneur participant may access programs, necessary support, and online resources provided and developed by the network. In establishing the entrepreneurship centers, the network shall use existing infrastructure, public and private organizations, and other resources, including chambers of

commerce, universities and community colleges, county extension offices, Texas Workforce Commission offices, and local business offices.

(c) The network shall adopt requirements for entrepreneurship centers. An organization must meet the requirements adopted under this subsection before hosting an entrepreneurship center.

(d) A group of individuals who have services, resources, or expertise to offer entrepreneur participants may agree to provide services through the network as an entrepreneurship force.

Added by Acts 2005, 79th Leg., Ch. 593 (H.B. 1747), Sec. 1, eff. September 1, 2005.
Renumbered from Government Code, Section 490.006 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(30), eff. September 1, 2007.

Sec. 490A.007. NETWORK PROGRAMS. The network may develop:

(1) programs for:

(A) business plan development, competitive enhancement, and management skills development;

(B) entrepreneurship best practices training;

(C) entrepreneurship education in primary and secondary schools and community colleges;

(D) expanding entrepreneurship in workforce development programs;

(E) accessing sources of start-up and growth capital;

(F) training and assisting entrepreneurship agents who facilitate and assist entrepreneurial efforts; and

(G) community readiness preparation and evaluation, and community planning;

(2) methods for helping entrepreneur participants access other loan, guarantee, and grant programs;

(3) necessary policies and regulations; and

(4) collaborations with other entities.

Added by Acts 2005, 79th Leg., Ch. 593 (H.B. 1747), Sec. 1, eff. September 1, 2005.
Renumbered from Government Code, Section 490.007 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(30), eff. September 1, 2007.

Sec. 490A.008. TEXAS ENTREPRENEURSHIP NETWORK FUND. (a) The Texas Entrepreneurship Network fund is an account in the general revenue fund. The Department of Agriculture shall administer the fund.

(b) The following amounts shall be deposited in the fund:

(1) any amounts appropriated by the legislature for the fund; and

(2) gifts, grants, and other donations received for the fund.

(c) The fund may be used only for network purposes, subject to Section 490A.009.

(d) The network may solicit and accept gifts and grants for the fund from public and private universities and all other public and private entities.

Added by Acts 2005, 79th Leg., Ch. 593 (H.B. 1747), Sec. 1, eff. September 1, 2005.
Renumbered from Government Code, Section 490.008 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(30), eff. September 1, 2007.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.002(6), eff. September 1, 2007.

Sec. 490A.009. USE OF FUND. Money appropriated to the fund by the legislature shall be used for:

(1) programs related to local entrepreneurship centers, training, and entrepreneurship developers;

(2) curriculum development, infrastructure, data management, and research;

(3) technology and economic development research centers of excellence;

(4) the network's overhead expenses; and

(5) other activities necessary to accomplish the mission of this chapter.

Added by Acts 2005, 79th Leg., Ch. 593 (H.B. 1747), Sec. 1, eff. September 1, 2005.

Renumbered from Government Code, Section 490.009 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(30), eff. September 1, 2007.

CHAPTER 490B. TEXAS-MEXICO STRATEGIC INVESTMENT COMMISSION

Sec. 490B.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas-Mexico Strategic Investment Commission.

(2) "Texas-Mexico border region" has the meaning assigned by Section 2056.002.

Added by Acts 2005, 79th Leg., Ch. 1215 (H.B. 925), Sec. 2, eff. September 1, 2005.
Renumbered from Government Code, Section 490.001 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(31), eff. September 1, 2007.

Sec. 490B.002. PURPOSE. The ongoing economic stability and growth of Texas and the improved quality of life for all Texans are dependent in part on coordination with neighboring states. Texas and the Mexican border states of Chihuahua, Coahuila, Nuevo Leon, and Tamaulipas face common challenges in the areas of infrastructure, health care, access to and availability of water, economic development and trade, and environmental protection. The commission will encourage a collaborative approach between Texas and neighboring Mexican states in specific areas so as to better address challenges and plan for the future.

Added by Acts 2005, 79th Leg., Ch. 1215 (H.B. 925), Sec. 2, eff. September 1, 2005.
Renumbered from Government Code, Section 490.002 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(31), eff. September 1, 2007.

Sec. 490B.003. TEXAS-MEXICO STRATEGIC INVESTMENT COMMISSION; MEMBERS. (a) The Texas-Mexico Strategic Investment Commission is established.

(b) The commission is composed of:

(1) the border commerce coordinator or a designee;

(2) the executive director of the Texas Department of Transportation or a designee;

(3) the executive administrator of the Texas Water Development Board or a designee;

(4) the commissioner of state health services or a designee;

(5) the chair of the Railroad Commission or a designee; and

(6) the executive director of the Texas Commission on Environmental Quality or a designee.

(c) The border commerce coordinator shall serve as the chair of the commission.

Added by Acts 2005, 79th Leg., Ch. 1215 (H.B. 925), Sec. 2, eff. September 1, 2005.
Renumbered from Government Code, Section 490.003 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(31), eff. September 1, 2007.

Sec. 490B.004. FUNCTIONS OF COMMISSION. (a) The commission shall:

(1) represent government agencies within the Texas-Mexico border region to help reduce regulations by improving communication and cooperation between federal, state, and local governments;

(2) examine trade issues between the United States and Mexico;

(3) study the flow of commerce at ports of entry between this state and Mexico, including the movement of commercial vehicles across the border, and establish a plan to aid that commerce and improve the movement of those vehicles;

(4) work with federal officials to resolve transportation issues involving infrastructure, including roads and bridges, to allow for the efficient movement of goods and people across the border between Texas and Mexico;

(5) work with federal officials to create a unified federal agency process to streamline border crossing needs;

(6) identify problems involved with border truck inspections and related trade and transportation infrastructure;

(7) work to increase funding for the North American

Development Bank to assist in the financing of water and wastewater facilities;

(8) explore the sale of excess electric power from Texas to Mexico;

(9) identify areas of environmental protection that need to be addressed cooperatively between Texas and the Mexican states;

(10) identify common challenges to health care on which all states can collaborate; and

(11) develop recommendations, when possible, for addressing border challenges.

(b) The commission shall work with local governments, metropolitan planning organizations, and other appropriate community organizations in the Texas Department of Transportation's Pharr, Laredo, and El Paso transportation districts, and with comparable entities in Mexican states bordering those districts, to address the unique planning and capacity needs of those areas. The commission shall assist those governments, organizations, and entities to identify and develop initiatives to address those needs.

(c) The commission shall work with industries and communities on both sides of the Texas-Mexico border to develop international industry cluster initiatives to capitalize on resources available in communities located adjacent to each other across the border.

(d) The commission may meet at least once a year with representatives from the Mexican states of Chihuahua, Coahuila, Nuevo Leon, and Tamaulipas during the Border Governors Conference to discuss issues and challenges of the Texas-Mexico border region and develop strategic collaborative approaches for addressing the challenges.

Added by Acts 2005, 79th Leg., Ch. 1215 (H.B. 925), Sec. 2, eff. September 1, 2005.
Renumbered from Government Code, Section 490.004 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(31), eff. September 1, 2007.

Sec. 490B.005. FUNDING. (a) In addition to any amount appropriated by the legislature, the commission may request state agencies to apply for funds from the federal government or any other public or private entity. The commission may also solicit grants,

gifts, and donations from private sources on the state's behalf. The use of a gift, grant, or donation solicited under this section must be consistent with the purposes of the commission.

(b) The commission shall review and may require reports of state agencies that receive appropriations, gifts, grants, donations, or endowments as a result of the commission's recommendations.

(c) A state agency may accept a gift, grant, donation, or endowment received as a result of the commission's recommendations.

Added by Acts 2005, 79th Leg., Ch. 1215 (H.B. 925), Sec. 2, eff. September 1, 2005.
Renumbered from Government Code, Section 490.005 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(31), eff. September 1, 2007.

CHAPTER 490C. PROMOTION OF TEXAS MANUFACTURED PRODUCTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 490C.001. DEFINITIONS. In this chapter:

(1) "Genuine Texas program" means the program established by the office under this chapter to develop and expand markets for Texas manufactured products.

(2) "Texas manufactured product" means a product that is manufactured in this state or otherwise has value added to the product in this state. The term does not include a Texas agricultural product, as defined by Section 46.002, Agriculture Code.

(3) "Office" means the governor's office of economic development.

Added by Acts 2007, 80th Leg., R.S., Ch. 337 (H.B. 3446), Sec. 1, eff. September 1, 2007.

SUBCHAPTER B. POWERS AND DUTIES OF OFFICE

Sec. 490C.051. ESTABLISHMENT OF GENUINE TEXAS PROGRAM. The office may establish and administer a program in accordance with this chapter to develop and expand markets for Texas manufactured products.

Added by Acts 2007, 80th Leg., R.S., Ch. 337 (H.B. 3446), Sec. 1, eff. September 1, 2007.

Sec. 490C.052. RULEMAKING AUTHORITY. The office may adopt rules and establish procedures to administer this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 337 (H.B. 3446), Sec. 1, eff. September 1, 2007.

Sec. 490C.053. DUTIES OF OFFICE. If the office establishes a Genuine Texas program under this chapter, the office shall:

(1) design and administer the use of a logo for Texas manufactured products and adopt manufactured product quality standards and other criteria for evaluating applications to use the logo;

(2) develop procedures for acceptance and administration of money received to administer the program;

(3) develop a general promotional campaign for Texas manufactured products and advertising campaigns for specific Texas manufactured products;

(4) contract with media representatives to disperse promotional materials;

(5) receive gifts, donations, or grants from any source and establish internal reporting requirements for use of available money; and

(6) enter into a memorandum of understanding with the Department of Agriculture to minimize duplication of programs.

Added by Acts 2007, 80th Leg., R.S., Ch. 337 (H.B. 3446), Sec. 1, eff. September 1, 2007.

Sec. 490C.054. FEE FOR USE OF LOGO. To cover the costs of administering the Genuine Texas program, the office may require a person to pay a fee not to exceed $100 a year for use of the logo designed under Section 490C.053(1).

Added by Acts 2007, 80th Leg., R.S., Ch. 337 (H.B. 3446), Sec. 1, eff. September 1, 2007.

Sec. 490C.055. PROMOTIONAL EVENTS. The office may use available money to purchase food and beverages for a promotional event.

Added by Acts 2007, 80th Leg., R.S., Ch. 337 (H.B. 3446), Sec. 1, eff. September 1, 2007.

Sec. 490C.056. SALE OF PROMOTIONAL ITEMS. (a) The office may sell or contract for the sale of items, including clothing, posters, and banners, to promote Texas manufactured products.

(b) The office may use the office's Internet website to advertise and sell the items described by Subsection (a).

Added by Acts 2007, 80th Leg., R.S., Ch. 337 (H.B. 3446), Sec. 1, eff. September 1, 2007.

Sec. 490C.057. ADVISORY BOARD. (a) If the office establishes a Genuine Texas program as authorized by this chapter, the office shall appoint an advisory board to assist in the implementation of the program.

(b) A member of the advisory board serves at the pleasure of the office.

(c) A member of the advisory board serves without compensation but is entitled to reimbursement for actual expenses incurred in the performance of official board duties, subject to approval of the office.

(d) Chapter 2110 does not apply to the advisory board.

(e) At the request of the office, the advisory board shall advise the office on the adoption of rules and the establishment of procedures relating to the administration of the Genuine Texas program.

(f) The office shall provide the advisory board with the staff necessary to assist the board in carrying out the board's duties under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 337 (H.B. 3446), Sec. 1, eff. September 1, 2007.

SUBCHAPTER C. ENFORCEMENT

Sec. 490C.101. VIOLATION. A person violates this chapter if the person:

(1) uses, reproduces, or distributes the logo designed by the office under Section 490C.053 without the consent of the office; or

(2) violates a rule adopted or a procedure established by the office under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 337 (H.B. 3446), Sec. 1, eff. September 1, 2007.

Sec. 490C.102. SUSPENSION OR FORFEITURE OF RIGHT TO USE LOGO. (a) The office may temporarily suspend or permanently forfeit the right of a person who violates this chapter to use the logo of the Genuine Texas program.

(b) Before suspending or forfeiting a person's right to use the logo, the office may consider the circumstances and seriousness of the violation, any efforts by the person to correct the violation, and whether the person previously has violated this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 337 (H.B. 3446), Sec. 1, eff. September 1, 2007.

Sec. 490C.103. ADMINISTRATIVE PENALTY. The office may impose an administrative penalty not to exceed $500 against a person who violates this chapter. A proceeding to impose the administrative penalty is a contested case under Chapter 2001.

Added by Acts 2007, 80th Leg., R.S., Ch. 337 (H.B. 3446), Sec. 1, eff. September 1, 2007.

Sec. 490C.104. CIVIL PENALTY. A person who violates this chapter is subject to a civil penalty not to exceed $500 for each violation.

Added by Acts 2007, 80th Leg., R.S., Ch. 337 (H.B. 3446), Sec. 1, eff. September 1, 2007.

Sec. 490C.105. CALCULATING AMOUNT OF ADMINISTRATIVE OR CIVIL PENALTY. (a) Each day that a violation continues may be considered a separate violation for purposes of an administrative or civil penalty under this subchapter.

(b) The amount of an administrative or civil penalty must be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the history of previous violations;

(3) the amount necessary to deter a future violation;

(4) efforts by the person to correct the violation; and

(5) any other matter that justice may require.

Added by Acts 2007, 80th Leg., R.S., Ch. 337 (H.B. 3446), Sec. 1, eff. September 1, 2007.

Sec. 490C.106. ENFORCEMENT OF ADMINISTRATIVE OR CIVIL PENALTY. (a) The enforcement of an administrative penalty under this section may be stayed during the time the order is under judicial review if the person pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A person who cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the office to contest the affidavit as provided by those rules.

(b) At the request of the office, the attorney general or the county attorney or district attorney of the county in which the violation is alleged to have occurred may file suit to collect the civil penalty.

Added by Acts 2007, 80th Leg., R.S., Ch. 337 (H.B. 3446), Sec. 1, eff. September 1, 2007.

Sec. 490C.107. DEPOSIT OF MONEY. An administrative or civil penalty collected under this subchapter shall be deposited to the credit of the general revenue fund.

Added by Acts 2007, 80th Leg., R.S., Ch. 337 (H.B. 3446), Sec. 1, eff. September 1, 2007.

Sec. 490C.108. INJUNCTIVE RELIEF. (a) At the request of the office, the attorney general or the county or district attorney of the county in which the alleged violation is threatened to occur or is occurring may file suit for the appropriate injunctive relief to prevent or abate a violation of this chapter.

(b) Venue for an action brought under this section is in Travis County.

Added by Acts 2007, 80th Leg., R.S., Ch. 337 (H.B. 3446), Sec. 1, eff. September 1, 2007.

CHAPTER 490D. "MADE IN TEXAS" LABELING PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 490D.001. DEFINITIONS. In this chapter:

(1) "Office" means the Texas Economic Development and Tourism Office.

(2) "Program" means the "Made in Texas" labeling program established under this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 911 (H.B. 2194), Sec. 1, eff. September 1, 2023.

SUBCHAPTER B. "MADE IN TEXAS" LABELING PROGRAM

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4850, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 490D.051. ESTABLISHMENT OF "MADE IN TEXAS" LABELING PROGRAM. (a) The office shall establish and administer a "Made in Texas" labeling program.

(b) In establishing the program, the office by rule shall:

(1) establish criteria for determining whether a person may sell, advertise, or offer for sale in this state a product that uses "Made in Texas" or equivalent phrasing to represent that the product was made in whole or in substantial part in this state; and

(2) design and administer the use of a logo for products to be labeled as "Made in Texas" and adopt an application process for authorizing use of the logo.

(c) The criteria established under Subsection (b)(1) must include a requirement that all or virtually all significant parts and processing of a product originated in this state.

Added by Acts 2023, 88th Leg., R.S., Ch. 911 (H.B. 2194), Sec. 1, eff. September 1, 2023.

Sec. 490D.052. EXEMPT PRODUCTS. This chapter does not apply to or authorize the office to adopt rules governing the labeling of:

(1) wine; or

(2) Texas agricultural products, as defined by Section 12.0175, Agriculture Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 911 (H.B. 2194), Sec. 1, eff. September 1, 2023.

CHAPTER 490E. TASK FORCE ON ECONOMIC GROWTH AND ENDANGERED SPECIES

Sec. 490E.001. PURPOSE. The purpose of this chapter is to establish a mechanism for state agencies to provide policy and technical assistance regarding compliance with endangered species laws and regulations to local and regional governmental entities and their communities engaged in economic development activities so that compliance with endangered species laws and regulations is as effective and cost efficient as possible.

Added by Acts 2009, 81st Leg., R.S., Ch. 886 (S.B. 2534), Sec. 1, eff. June 19, 2009.

Sec. 490E.002. DEFINITIONS. In this chapter:

(1) "Endangered species" has the meaning assigned by Section 68.002, Parks and Wildlife Code.

(2) "Task force" means the interagency task force on economic growth and endangered species created under this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 886 (S.B. 2534), Sec. 1, eff.

June 19, 2009.

Sec. 490E.003. CREATION. (a) The task force on economic growth and endangered species is created and is composed of:

(1) the comptroller;

(2) the commissioner of agriculture;

(3) the executive director of the Parks and Wildlife Department;

(4) the executive director of the Texas Department of Transportation; and

(5) the executive director of the State Soil and Water Conservation Board.

(b) The comptroller is the presiding officer of the task force.

(c) The task force shall meet as often as necessary to fulfill its duties under this chapter.

(d) New members may be added to the task force by the unanimous consent of the existing members.

(e) A member of the task force may designate another person to act on the member's behalf.

Added by Acts 2009, 81st Leg., R.S., Ch. 886 (S.B. 2534), Sec. 1, eff. June 19, 2009.

Sec. 490E.004. FUNCTIONS AND DUTIES. (a) The task force may:

(1) assess the economic impact on the state of federal, state, or local regulations relating to endangered species;

(2) assist landowners and other persons in this state to identify, evaluate, and implement cost-efficient strategies for mitigation of impacts to and recovery of endangered species that will promote economic growth and development in this state; and

(3) facilitate state and local governmental efforts to effectively implement endangered species regulations in a cost-efficient manner.

(b) If requested by a local government or a state official, the task force may review state and local governmental efforts to address endangered species issues and provide recommendations to make those efforts more cost effective. The task force shall consider all available options as part of its recommendations. The options

considered must include:

(1) fee simple acquisition of land;

(2) conservation easements;

(3) use of land owned by local governments or this state;

(4) recovery crediting; and

(5) all relevant federal programs.

Added by Acts 2009, 81st Leg., R.S., Ch. 886 (S.B. 2534), Sec. 1, eff. June 19, 2009.

Sec. 490E.005. ADVISORY COMMITTEES. (a) With the advice of the task force, the comptroller may create advisory committees to assist the task force with its work. Of the members of an advisory committee:

(1) one-third must be representatives of affected landowners;

(2) one-third must be representatives of conservation interests; and

(3) one-third must be representatives of municipalities or other affected jurisdictions.

(b) The composition of an advisory committee must provide the balance necessary to address economic, environmental, and policy issues related to the specific issue or action under consideration.

(c) The comptroller shall designate one member of an advisory committee as interim presiding officer for the purpose of calling and conducting the initial meeting of the committee.

(d) An advisory committee shall:

(1) at its initial meeting, select a presiding officer from among its members for the purpose of conducting meetings;

(2) conduct meetings as necessary to perform the business of the advisory committee; and

(3) provide recommendations to the task force as requested by the task force.

(e) Chapter 2110 does not apply to the size, composition, or duration of an advisory committee created under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 886 (S.B. 2534), Sec. 1, eff. June 19, 2009.

Sec. 490E.006. COORDINATION WITH OTHER ENTITIES. (a) The task force shall work in coordination with the United States Fish and Wildlife Service, institutions of higher education, and agriculture and conservation organizations in performing its functions and duties.

(b) The Texas A&M University System shall, within its expertise:

(1) assist in the analysis of biological and economic impacts of proposed actions; and

(2) direct programs recommended by the task force.

Added by Acts 2009, 81st Leg., R.S., Ch. 886 (S.B. 2534), Sec. 1, eff. June 19, 2009.

Sec. 490E.007. REPORTS. The task force may provide reports as needed on:

(1) innovative programs to address endangered species issues while promoting economic growth;

(2) the activities of the task force; and

(3) recommendations for future programs or legislation.

Added by Acts 2009, 81st Leg., R.S., Ch. 886 (S.B. 2534), Sec. 1, eff. June 19, 2009.

Sec. 490E.008. ADMINISTRATIVE SUPPORT. The comptroller's office shall provide administrative support to the task force.

Added by Acts 2009, 81st Leg., R.S., Ch. 886 (S.B. 2534), Sec. 1, eff. June 19, 2009.

For expiration of this chapter, see Section 490F.008.

CHAPTER 490F. TEXAS 2036 COMMISSION

Sec. 490F.001. DEFINITION. In this chapter, "commission" means the Texas 2036 Commission.

Added by Acts 2013, 83rd Leg., R.S., Ch. 978 (H.B. 2036), Sec. 1, eff. June 14, 2013.

Sec. 490F.002. CREATION OF COMMISSION; COMPOSITION. (a) The Texas 2036 Commission is created.

(b) The commission is composed of the following members:

(1) the presiding officer of the legislative standing committee in each house of the legislature with primary jurisdiction over higher education;

(2) the commissioner of higher education;

(3) the chair of the Texas Higher Education Coordinating Board;

(4) the chair of the Texas Workforce Commission;

(5) the chair of a governing board of an institution of higher education appointed by the governor;

(6) a trustee of a public junior college district appointed by the governor;

(7) two persons appointed by the lieutenant governor, one of whom must possess experience in the field of education; and

(8) two persons appointed by the speaker of the house of representatives, one of whom must possess experience in the field of education.

(c) Appointed members of the commission serve for two years and may be reappointed.

(d) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(e) A vacancy in an appointed office of the commission shall be filled in the same manner as the original appointment.

Added by Acts 2013, 83rd Leg., R.S., Ch. 978 (H.B. 2036), Sec. 1, eff. June 14, 2013.

Sec. 490F.003. OFFICERS. The members serving under Section 490F.002(b)(1) shall serve as presiding officers of the commission and are entitled to vote on all matters before the commission.

Added by Acts 2013, 83rd Leg., R.S., Ch. 978 (H.B. 2036), Sec. 1, eff. June 14, 2013.

Sec. 490F.004. COMPENSATION. A member of the commission serves without compensation but is entitled to reimbursement for actual and

necessary expenses incurred in performing functions as a member of the commission, subject to any applicable limitation on reimbursement provided by the General Appropriations Act.

Added by Acts 2013, 83rd Leg., R.S., Ch. 978 (H.B. 2036), Sec. 1, eff. June 14, 2013.

Sec. 490F.005. MEETINGS. The commission shall meet at the call of the presiding officers and as provided by commission rule.

Added by Acts 2013, 83rd Leg., R.S., Ch. 978 (H.B. 2036), Sec. 1, eff. June 14, 2013.

Sec. 490F.006. POWERS AND DUTIES OF COMMISSION. (a) The commission may adopt rules as necessary for its procedures.

(b) The commission, with an emphasis on the changing demographics of this state, shall:

(1) assess and identify future higher education and workforce needs in the state and the state's ability to meet those needs; and

(2) develop recommendations for meeting those needs by the state's bicentennial in 2036, including recommendations for achieving the following goals by that date:

(A) attaining a state workforce in which at least 60 percent of its workers hold a postsecondary credential, certificate, or degree of value in the workplace;

(B) increasing by at least three the number of institutions of higher education designated as research institutions under the Texas Higher Education Coordinating Board's accountability system;

(C) ensuring the alignment of workforce development with higher education in this state;

(D) increasing the college-attending population in this state to a level that is comparable to the best performing states on that measure;

(E) improving the affordability of higher education in this state while maintaining excellence; and

(F) ensuring the global competitiveness of the state workforce.

Added by Acts 2013, 83rd Leg., R.S., Ch. 978 (H.B. 2036), Sec. 1, eff. June 14, 2013.

Sec. 490F.007. REPORTS. Not later than January 1 of each odd-numbered year, the commission shall report to the legislature its assessment of the state's ability to meet the future higher education and workforce needs of this state and its recommendations for meeting those needs, including by achieving the goals prescribed by Section 490F.006(b)(2).

Added by Acts 2013, 83rd Leg., R.S., Ch. 978 (H.B. 2036), Sec. 1, eff. June 14, 2013.

Sec. 490F.008. EXPIRATION. This chapter expires and the commission is abolished January 1, 2037.

Added by Acts 2013, 83rd Leg., R.S., Ch. 978 (H.B. 2036), Sec. 1, eff. June 14, 2013.

CHAPTER 490G. ECONOMIC INCENTIVE OVERSIGHT BOARD

Sec. 490G.001. DEFINITIONS. In this chapter:

(1) "Board" means the Economic Incentive Oversight Board.

(2) "Monetary incentive" means a grant, loan, or other form of monetary incentive paid from state revenues, including a state trust fund, that a business entity or other person may receive in exchange for or as a result of conducting an activity with an economic development purpose.

(2-a) "Rural county" means a county with a population of less than 60,000.

(3) "Tax incentive" means any exemption, deduction, credit, exclusion, waiver, rebate, discount, deferral, or other abatement or reduction of state tax liability of a business entity or other person that the person may receive in exchange for or as a result of conducting an activity with an economic development purpose.

Added by Acts 2015, 84th Leg., R.S., Ch. 915 (H.B. 26), Sec. 2.01, eff. September 1, 2015.

Sec. 490G.002. ESTABLISHMENT AND COMPOSITION. (a) The Economic Incentive Oversight Board is an advisory body composed of nine members as follows:

(1) two public members appointed by the speaker of the house of representatives, one of whom must be from a rural county;

(2) two public members appointed by the lieutenant governor, one of whom must be from a rural county;

(3) two public members appointed by the comptroller; and

(4) three public members appointed by the governor.

(b) In appointing members of the board, each appointing officer shall appoint one member who has expertise in the area of economic development.

(c) A member of the board serves at the pleasure of the appointing officer.

(d) The board members are entitled to reimbursement for actual and necessary expenses incurred by the members in serving on the board as provided by Chapter 660 and the General Appropriations Act.

(e) The office of the governor shall provide administrative support and staff to the board.

Added by Acts 2015, 84th Leg., R.S., Ch. 915 (H.B. 26), Sec. 2.01, eff. September 1, 2015.

Sec. 490G.003. PRESIDING OFFICER. The governor shall appoint the presiding officer of the board.

Added by Acts 2015, 84th Leg., R.S., Ch. 915 (H.B. 26), Sec. 2.01, eff. September 1, 2015.

Sec. 490G.004. MEETINGS. (a) The board shall meet at least annually at the call of the presiding officer.

(b) The board may hold a meeting by telephone conference call or videoconference.

(c) A board meeting held under Subsection (b) is subject to the requirements of Subchapter F, Chapter 551, Government Code, except that a quorum of the board is not required to be physically present at one location of the meeting.

Added by Acts 2015, 84th Leg., R.S., Ch. 915 (H.B. 26), Sec. 2.01,

eff. September 1, 2015.

Sec. 490G.005. REVIEW OF CERTAIN STATE INCENTIVE PROGRAMS; PERFORMANCE MATRIX. (a) The board shall examine the effectiveness and efficiency of programs and funds administered by the office of the governor, the comptroller, or the Department of Agriculture that award to business entities and other persons state monetary or tax incentives for which the governor, comptroller, or department has discretion in determining whether or not to award the incentives.

(b) The board shall develop a performance matrix that clearly establishes the economic performance indicators, measures, and metrics that will guide the board's evaluations of those programs and funds.

Added by Acts 2015, 84th Leg., R.S., Ch. 915 (H.B. 26), Sec. 2.01, eff. September 1, 2015.

Sec. 490G.006. SCHEDULE OF REVIEW; RECOMMENDATION TO LEGISLATIVE AUDIT COMMITTEE. (a) The board shall develop a schedule for the periodic review of each state incentive program or fund described by Section 490G.005 for the purposes of making recommendations on whether to continue the program or fund or whether to improve program or fund effectiveness and efficiency. The board shall review and make recommendations to the legislature regarding each program or fund according to the review schedule.

(b) After conducting a review of a state incentive program or fund under this chapter, the board may recommend to the legislative audit committee that an audit of the program or fund be included in the audit plan under Section 321.013.

Added by Acts 2015, 84th Leg., R.S., Ch. 915 (H.B. 26), Sec. 2.01, eff. September 1, 2015.

Sec. 490G.007. BIENNIAL REPORT. Not later than January 1 of each odd-numbered year, the board shall submit to the lieutenant governor, the speaker of the house of representatives, and each standing committee of the senate and house of representatives with primary jurisdiction over economic development a report containing

findings and recommendations resulting from each review of state incentive programs and funds conducted by the board under this chapter during the preceding two calendar years.

Added by Acts 2015, 84th Leg., R.S., Ch. 915 (H.B. 26), Sec. 2.01, eff. September 1, 2015.

Sec. 490G.008. CONFLICTS OF INTEREST. (a) A member of the board who has a substantial interest in a business entity or other person that previously applied for or received a state monetary or tax incentive from a program or fund subject to review by the board shall disclose that interest in writing to the board.

(b) A board member who has a business, commercial, or other relationship, other than an interest described by Subsection (a), that could reasonably be expected to diminish the person's independence of judgment in the performance of the person's responsibilities in relation to the board shall disclose the relationship in writing to the board.

Added by Acts 2015, 84th Leg., R.S., Ch. 915 (H.B. 26), Sec. 2.01, eff. September 1, 2015.

Sec. 490G.009. CONFIDENTIALITY OF INFORMATION. The provision of information that is confidential by law to the board does not affect the confidentiality of the information.

Added by Acts 2015, 84th Leg., R.S., Ch. 915 (H.B. 26), Sec. 2.01, eff. September 1, 2015.

For expiration of this chapter, see Section 490H.008.

CHAPTER 490H. GOVERNOR'S BROADBAND DEVELOPMENT COUNCIL

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4850 and S.B. 1405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 490H.001. DEFINITIONS. In this chapter:

(1) "Broadband" means a service that provides advanced

telecommunications capability and Internet access.

(2) "Council" means the governor's broadband development council.

(3) "Unserved area" means a census block without access to broadband capable of providing:

(A) a download speed of at least 25 megabits per second; and

(B) an upload speed of at least three megabits per second.

Added by Acts 2019, 86th Leg., R.S., Ch. 228 (H.B. 1960), Sec. 1, eff. May 25, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4850 and S.B. 1405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 490H.002. COMPOSITION. (a) The council is composed of one nonvoting member appointed by the broadband development office and the following voting members appointed by the governor:

(1) two representatives of separate Internet service provider industry associations, including at least one representative of an association that primarily represents small providers, as defined by Section 56.032, Utilities Code;

(2) one representative of the health information technology industry;

(3) two representatives of unaffiliated nonprofit organizations that advocate for elderly persons statewide;

(4) two representatives of unaffiliated nonprofit organizations that have a demonstrated history of working with the legislature and the public to identify solutions for expanding broadband to rural, unserved areas of this state;

(5) one representative of an agricultural advocacy organization in this state;

(6) one representative of a hospital advocacy organization in this state;

(7) one representative of a medical advocacy organization in this state;

(8) one county official who serves in an elected office of

a county with a population of less than 35,000;

(8-a) one county clerk of a county with a population of less than 60,000;

(8-b) one sheriff of a county with a population of less than 60,000;

(9) one municipal official who serves in an elected office of a municipality with a population of less than 20,000 located in a county with a population of less than 60,000;

(10) one representative of an institution of higher education that has its main campus in a county with a population of less than 60,000;

(11) one representative of a school district with a territory that includes only counties with a population of less than 60,000;

(12) one representative from a library association;

(13) one hospital administrator employed by a licensed hospital located in a county with a population of less than 60,000;

(14) one representative from an electric cooperative providing broadband;

(15) one representative of a school district with a territory that includes all or part of a county with a population of more than 500,000; and

(16) one representative of a nonprofit organization that has a demonstrated history of facilitating broadband adoption by offering digital literacy training or providing access to broadband technology.

(b) The governor shall, to the greatest extent practicable, make appointments to the council that ensure that the composition of the council reflects the racial and ethnic composition of the state.

(c) A member of the council appointed under Subsection (a) serves for a five-year term.

(d) A vacancy on the council is filled in the same manner as the original appointment.

Added by Acts 2019, 86th Leg., R.S., Ch. 228 (H.B. 1960), Sec. 1, eff. May 25, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 1, eff. June 15, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4850 and S.B. 1405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 490H.003. COUNCIL OFFICERS; COMMITTEES. (a) The governor shall designate from the members of the council a chair and vice chair of the council for two-year terms.

(b) When designating a chair or vice chair, the governor shall ensure that:

(1) during a term when the chair resides in a county with a population of 100,000 or more, the vice chair resides in a county with a population of less than 100,000;

(2) during a term when the chair resides in a county with a population of less than 100,000, the vice chair resides in a county with a population of 100,000 or more;

(3) persons described by Subdivision (1) are immediately succeeded by persons described by Subdivision (2); and

(4) persons described by Subdivision (2) are immediately succeeded by persons described by Subdivision (1).

(c) The chair may appoint subcommittees and technical advisory committees to assist with the duties of the council.

Added by Acts 2019, 86th Leg., R.S., Ch. 228 (H.B. 1960), Sec. 1, eff. May 25, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 2, eff. June 15, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4850 and S.B. 1405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 490H.004. MEETINGS. (a) The council shall convene at least once every quarter.

(b) The council shall convene at the call of the chair or, if the chair is unable to call a meeting or does not call at least one meeting to meet the requirements of Subsection (a), at the call of the vice chair.

(c) The council shall:

(1) post the agenda for each council meeting on the council's Internet website at least 48 hours before the meeting; and

(2) not later than the 14th day after the date of each meeting, post on the council's Internet website the minutes or recording of the meeting required under Section 551.021.

(d) As an exception to Chapter 551 and other law, the council may meet by use of video conference call. This subsection applies for purposes of constituting a quorum, for purposes of voting, and for any other purpose allowing a member of the council to fully participate in any meeting of the council. A meeting held by use of video conference call:

(1) must be open to the public, which includes a video broadcast of the meeting in real time through the council's Internet website;

(2) must specify in the meeting notice the link to the video broadcast described by Subdivision (1); and

(3) must provide two-way video communication between all council members attending the meeting.

Added by Acts 2019, 86th Leg., R.S., Ch. 228 (H.B. 1960), Sec. 1, eff. May 25, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 3, eff. June 15, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4850 and S.B. 1405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 490H.005. ADMINISTRATIVE SUPPORT. The office of the governor shall provide administrative support to the council.

Added by Acts 2019, 86th Leg., R.S., Ch. 228 (H.B. 1960), Sec. 1, eff. May 25, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4850 and S.B. 1405, 89th Legislature, Regular Session, for amendments affecting the

following section.

Sec. 490H.006. DUTIES. (a) The council shall:

(1) research and monitor the progress of:

(A) broadband development in unserved areas;

(B) deployment of broadband statewide;

(C) purchase of broadband by residential and commercial customers; and

(D) patterns and discrepancies in access to broadband;

(2) identify barriers to residential and commercial broadband deployment in unserved areas;

(3) study:

(A) technology-neutral solutions to overcome barriers identified under Subdivision (2);

(B) industry and technology trends in broadband; and

(C) the detrimental impact of pornographic or other obscene materials on residents of this state and the feasibility of limiting access to those materials; and

(4) analyze how statewide access to broadband would benefit:

(A) economic development;

(B) the delivery of educational opportunities in higher education and public education;

(C) state and local law enforcement;

(D) state emergency preparedness; and

(E) the delivery of health care services, including telemedicine and telehealth.

(b) The council may research another matter related to broadband.

(c) For the purpose of performing its duties under this section, the council may consult with a representative of an institution of higher education who has published scholarly research on broadband.

Added by Acts 2019, 86th Leg., R.S., Ch. 228 (H.B. 1960), Sec. 1, eff. May 25, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 4, eff. June 15, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4850 and S.B. 1405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 490H.007. ANNUAL REPORT. Not later than November 1 of each year, the council shall prepare and deliver an electronic report of its findings and recommendations to the governor, the lieutenant governor, and each member of the legislature.

Added by Acts 2019, 86th Leg., R.S., Ch. 228 (H.B. 1960), Sec. 1, eff. May 25, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4850 and S.B. 1405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 490H.008. EXPIRATION. This chapter expires September 1, 2029.

Added by Acts 2019, 86th Leg., R.S., Ch. 228 (H.B. 1960), Sec. 1, eff. May 25, 2019.

CHAPTER 490I. BROADBAND DEVELOPMENT OFFICE

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 490I.0101. THRESHOLD SPEED FOR BROADBAND SERVICE. (a) For purposes of this chapter, subject to Subsection (b), "broadband service" means Internet service with the capability of providing a:

(1) speed of not less than 25 megabits per second for a download;

(2) speed of not less than three megabits per second for an upload; and

(3) network round-trip latency of less than or equal to 100 milliseconds based on the 95th percentile of speed measurements.

(b) If the Federal Communications Commission adopts standards for advanced telecommunications capability under 47 U.S.C. Section 1302 that are different than those specified by Subsection (a), the

comptroller by rule may require Internet service to be capable of matching the federal standards in order to qualify under this chapter as "broadband service."

(c) Repealed by Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 7(1), eff. June 2, 2023.

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 1, eff. June 2, 2023.
Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 7(1), eff. June 2, 2023.

Sec. 490I.0102. OFFICE. (a) The broadband development office is an office within the comptroller's office.

(b) The comptroller may employ additional employees necessary for the discharge of the duties of the broadband development office.

(c) The broadband development office:

(1) is under the direction and control of the comptroller;

(2) shall promote the policies enumerated in this chapter; and

(3) may perform any action authorized by state or federal law.

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.

Sec. 490I.0103. POWERS AND DUTIES. (a) The broadband development office shall:

(1) serve as a resource for information regarding broadband service and digital connectivity in this state;

(2) engage in outreach to communities regarding the expansion, adoption, affordability, and use of broadband service and the programs administered by the office; and

(3) serve as an information clearinghouse in relation to:

(A) federal programs providing assistance to local entities with respect to broadband service; and

(B) addressing barriers to digital connectivity.

(b) The office has the powers necessary to carry out the duties of the office under this chapter, including the power to enter into contracts and other necessary instruments.

(c) This chapter does not grant the comptroller authority to regulate broadband services or broadband service providers or, except as required of an applicant or recipient under Section 490I.0106, to require broadband service providers to submit information to the comptroller.

(d) For the purpose of carrying out a duty or power of the office under this chapter, the office may:

(1) advertise in any available media; and

(2) promote the office's programs and functions.

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.

Sec. 490I.0104. PARTICIPATION IN PROCEEDINGS OF FEDERAL COMMUNICATIONS COMMISSION. (a) The broadband development office may monitor, participate in, and provide input in proceedings of the Federal Communications Commission related to the geographic availability and deployment of broadband service in this state to ensure that:

(1) the information available to the commission reflects the current status of geographic availability and deployment of broadband service in this state; and

(2) this state is best positioned to benefit from broadband service deployment programs administered by federal agencies.

(b) The office may participate in a process established by the Federal Communications Commission allowing governmental entities to challenge the accuracy of the commission's information regarding the geographic availability and deployment of broadband service.

(c) The office shall establish procedures and a data collection process in accordance with rules established by the Federal Communications Commission that will enable the office to participate in the process described by Subsection (b).

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 490I.0105. BROADBAND DEVELOPMENT MAP. (a) The broadband development office shall create, update annually, and publish on the comptroller's Internet website a map classifying each broadband serviceable location in this state as:

(1) an unserved location if the location does not have access to reliable broadband service capable of providing the speeds described by Section 490I.0101(a);

(2) an underserved location if the location is not an unserved location but does not have access to reliable broadband service with the capability of providing:

(A) a speed of not less than 100 megabits per second for a download;

(B) a speed of not less than 20 megabits per second for an upload; and

(C) a network round-trip latency of less than or equal to 100 milliseconds based on the 95th percentile of speed measurements; or

(3) a served location if the location is neither an unserved nor an underserved location.

(b) The comptroller by rule may establish new threshold speeds for a location to qualify as an underserved location if the comptroller has required Internet service to be capable of matching federal standards to qualify as broadband service under Section 490I.0101(b).

(c) After creation of the initial map described in Subsection (a), the office may evaluate the usefulness of the standards for unserved and underserved locations outlined in Subsection (a) and, if appropriate, make a recommendation to the legislature to revise the standards.

(d) The map required by Subsection (a) must organize broadband serviceable locations into designated areas and display for each area:

(1) the number of broadband service providers that serve the area;

(2) an indication of whether the area has access to Internet service that is not broadband service, regardless of the technology used to provide the service;

(3) each public school campus with an indication of whether the public school campus has access to broadband service; and

(4) the number and percentage of unserved, underserved, and served locations within the area.

(e) The office must create, update, and publish the map in a manner consistent with the most current mapping methodology adopted by the Federal Communications Commission.

(f) Except as provided by Subsection (g), the office shall use the best available data, including information available from the Federal Communications Commission, to create or update the map.

(g) If information from the Federal Communications Commission is not available or not sufficient for the office to create or update the map, the office may request the necessary information from a political subdivision or broadband service provider, and the subdivision or provider may report the information to the office. The office may not require a subdivision or provider to report information in a format different from the format required by the most current mapping methodology adopted by the Federal Communications Commission.

(h) Information a broadband service provider reports to the office under Subsection (g) and information provided by the Federal Communications Commission, if not publicly available, is confidential and not subject to disclosure under Chapter 552.

(i) The office may contract with a private consultant or other appropriate person who is not associated or affiliated with a commercial broadband provider, including a local governmental entity, to provide technical or administrative assistance to the office for the purpose of creating or updating the map.

(j) The office may release information reported under Subsection (g) to a contractor providing services under Subsection (i). The contractor shall:

(1) keep the information confidential; and

(2) return the information to the office on the earliest of the following dates:

(A) the date the contract expires;

(B) the date the contract is terminated; or

(C) the date the mapping project for which the contractor is providing services is complete.

(k) A person who contracts under Subsection (i) may not provide services in this state to a broadband provider before the second

anniversary of the last day the contract is in effect.

(l) The office shall establish criteria for determining whether a broadband serviceable location should be reclassified as an unserved or underserved location. The criteria must include an evaluation of Internet speed test and reliability data.

(m) Repealed by Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 7(2), eff. June 2, 2023.

(n) A broadband service provider or political subdivision may petition the office to reclassify a broadband serviceable location. The office shall provide notice of each accepted petition to each affected broadband service provider and political subdivision by posting notice of the petition on the comptroller's Internet website.

(o) Not later than the 45th day after the date that the office posts notice under Subsection (n), each affected broadband service provider or political subdivision may provide information to the office showing whether the broadband serviceable location should or should not be reclassified.

(p) Not later than the 75th day after the date that the office posts the notice under Subsection (n), the office shall determine whether to reclassify the broadband serviceable location on the map and update the map as necessary. A determination made by the office under this subsection is not a contested case for purposes of Chapter 2001.

(q) The office is not required to create, update, or publish a map under this section if the Federal Communications Commission produces a map that:

(1) enables the office to identify eligible and ineligible areas, as described by Subsection (a); and

(2) meets the requirements of Subsection (d).

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 2, eff. June 2, 2023.

Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 7(2), eff. June 2, 2023.

Sec. 490I.01051. MAP OF LOCATIONS RECEIVING BROADBAND AND

CERTAIN TELECOMMUNICATIONS SERVICES; REPORT. (a) The Public Utility Commission of Texas shall create, update annually, and publish on the commission's Internet website a map that shows locations in this state that are:

(1) receiving reliable broadband service at speeds of not less than 100 megabits per second for a download and not less than 20 megabits per second for an upload;

(2) served by an eligible telecommunications provider under Section 56.023, Utilities Code, that receives support for that purpose under a plan of the state universal service fund established under Section 56.021, Utilities Code; and

(3) described by both Subdivisions (1) and (2).

(b) The comptroller shall assist the Public Utility Commission of Texas in creating and updating the map described by Subsection (a).

(c) Not later than December 1 of each year, the Public Utility Commission of Texas shall submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the legislature that shows the locations described by Subsection (a)(3).

Added by Acts 2023, 88th Leg., R.S., Ch. 964 (S.B. 2119), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 490I.0106. BROADBAND DEVELOPMENT PROGRAM. (a) The broadband development office shall establish a program to award grants, low-interest loans, and other financial incentives to applicants for the purpose of expanding access to and adoption of broadband service.

(a-1) The office may award grants, low-interest loans, and other financial incentives to applicants for eligible broadband infrastructure projects designed to provide qualifying broadband service to unserved and underserved locations. For the purposes of this subsection, an eligible broadband infrastructure project includes a project in which not less than 80 percent of the broadband serviceable locations to be served by the project are unserved and

underserved locations.

(a-2) The office may award grants, low-interest loans, and other financial incentives to applicants for middle-mile broadband infrastructure projects.

(a-3) The office may award grants, low-interest loans, and other financial incentives to applicants for projects not involving the deployment of broadband infrastructure that expand the accessibility, affordability, or adoption of broadband service, including education, training, community outreach, remote learning or telehealth facilities, equipment purchases, or any other use permitted by the applicable funding source.

(b) The office shall establish eligibility and award criteria for making awards under this chapter for each applicable notice of funds availability. The comptroller by rule may prescribe the manner in which the office shall provide notice to applicants of the applicable criteria. In establishing eligibility and award criteria, the office shall:

(1) take into consideration grants and other financial incentives awarded by the federal government for the deployment of broadband service;

(2) prioritize the applications of applicants that will expand access to and adoption of broadband service in designated areas in which the highest percentage of broadband serviceable locations are unserved or underserved locations;

(3) prioritize the applications of applicants that will expand access to broadband service in public and private primary and secondary schools and institutions of higher education;

(4) give preference to an applicant that provided the information requested by the office under Section 490I.0105 or 490I.01061; and

(5) take into consideration whether an applicant has forfeited federal funding for defaulting on a project to deploy qualifying broadband service.

(c) Notwithstanding Subsection (b)(2), the office may establish criteria that take into account a cost benefit analysis for awarding money to the areas described by that subdivision.

(d) The office may not:

(1) except as provided by Section 490I.01062, favor a particular broadband technology in awarding grants, loans, or other financial incentives;

(2) award a grant, loan, or other financial incentive to a noncommercial provider of broadband service for a broadband serviceable location if an eligible commercial provider of broadband service has submitted an application for the same location;

(3) take into consideration distributions from the state universal service fund established under Section 56.021, Utilities Code, when deciding to award grants, loans, or other financial incentives; or

(4) except as provided by Section 490I.01061, award a grant, loan, or other financial incentive for deployment of last-mile broadband service for a location that is subject to a federal commitment to deploy qualifying broadband service on the date the application is submitted or during the application process.

(e) The office shall:

(1) post on the comptroller's Internet website information about the application process and the receipt of awards and shall update that information as necessary; and

(2) post on the comptroller's Internet website for at least 30 days information from each accepted application, including the applicant's name, the area targeted for expanded broadband service access or adoption by the application, and any other information the office considers relevant or necessary.

(f) During the 30-day posting period described by Subsection (e) for an application, the office shall accept from any interested party, other than a broadband service provider that does not report information requested by the office under Section 490I.0105 or 490I.01061, a written protest of the application relating to whether the applicant or project is eligible for an award or should not receive an award based on the criteria prescribed by the office.

(g) Notwithstanding any deadline for submitting an application, if the office upholds a protest submitted under Subsection (f) on the grounds that one or more of the broadband serviceable locations are not eligible to receive funding under this chapter, the applicant may resubmit the application without the challenged locations not later than 30 days after the date that the office upheld the protest.

(h) The office shall establish and publish criteria for award recipients. The criteria must include requirements that grants, loans, and other financial incentives awarded through the program for the deployment of broadband infrastructure may be used only for capital expenses, purchase or lease of property, and other expenses,

including backhaul and transport, that will facilitate the provision or adoption of broadband service.

(i) An award granted under this section does not affect the eligibility of a telecommunications provider to receive support from the state universal service fund under Section 56.021, Utilities Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 3, eff. June 2, 2023.

Sec. 490I.01061. EXISTING FEDERAL FUNDING; REPORTING REQUIREMENTS. (a) The broadband development office may award a grant, loan, or other financial incentive for deployment of last-mile broadband service for a location that is subject to a federal commitment to deploy qualifying broadband service if:

(1) federal funding is forfeited or the recipient of the federal funding is disqualified from receiving the funding; and

(2) the location otherwise may receive funding under the program.

(b) An applicant for an award under this chapter that has been awarded federal funding directly and has entered into an enforceable commitment to deploy broadband services in a location shall provide to the office information the office may require regarding:

(1) the existing enforceable commitment; and

(2) the proposed deployment of broadband.

Added by Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 4, eff. June 2, 2023.

Sec. 490I.01062. FIBER OPTIC PREFERENCE. (a) The broadband development office shall prioritize broadband infrastructure projects that connect each end-user location using end-to-end fiber optic facilities that meet speed, latency, reliability, consistency, scalability, and related criteria as the office shall determine for each applicable notice of funds availability.

(b) The office may consider an application for a broadband

infrastructure project that does not employ end-to-end fiber optic facilities if the use of an alternative technology:

(1) is proposed for a high cost area;

(2) may be deployed at a lower cost; or

(3) meets the criteria established by the office under Subsection (a).

Added by Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 4, eff. June 2, 2023.

Sec. 490I.0107. STATE BROADBAND PLAN. (a) The broadband development office shall prepare, update, and publish on the comptroller's Internet website a state broadband plan that establishes long-term goals for greater access to and adoption, affordability, and use of broadband service in this state.

(b) In developing the state broadband plan, the office shall:

(1) to the extent possible, collaborate with state agencies, political subdivisions, broadband industry stakeholders and representatives, and community organizations that focus on broadband services and technology access;

(2) favor policies that are technology-neutral and protect all members of the public;

(3) explore state and regional approaches to broadband development; and

(4) examine broadband service needs related to:

(A) public safety, including the needs of state agencies involved in the administration of criminal justice, as that term is defined by Article 66.001, Code of Criminal Procedure;

(B) public education and state and local education agencies, including any agency involved in the electronic administration of an assessment instrument required under Section 39.023, Education Code; and

(C) public health, including the needs of state agencies involved in the administration of public health initiatives such as the Health and Human Services Commission and the Department of State Health Services.

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 5, eff. June 2, 2023.

Sec. 490I.0108. BROADBAND DEVELOPMENT ACCOUNT. (a) The broadband development account is an account in the general revenue fund.

(b) The account consists of:

(1) appropriations of money to the account by the legislature;

(2) gifts, donations, and grants, including federal grants; and

(3) interest earned on the investment of the money in the account.

(c) The comptroller shall deposit to the credit of the account federal money received by the state for the purpose of broadband development, to the extent permitted by federal law.

(d) Money in the account may be appropriated only to the broadband development office for purposes of:

(1) creating or updating the map described by Section 490I.0105;

(2) administering the broadband development program under Section 490I.0106;

(3) creating or updating the state broadband plan under Section 490I.0107; or

(4) engaging in outreach to communities regarding the expansion, adoption, affordability, and use of broadband service and the programs administered by the office and equipment.

(e) The account is exempt from the application of Sections 403.095, 403.0956, and 404.071.

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.

Sec. 490I.0109. RULEMAKING. The comptroller may adopt rules as necessary to implement this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2900 and S.B. 1405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 490I.0110. BOARD OF ADVISORS. (a) In this section:

(1) "Rural area" means a county with a population of less than 100,000 that is not adjacent to a county with a population of more than 350,000.

(2) "Urban area" means a county with a population of more than one million.

(b) The broadband development office board of advisors is composed of 10 members, appointed as follows:

(1) two members appointed by the governor, including:

(A) one member to represent the Texas Economic Development and Tourism Office; and

(B) one member of the public with experience in telecommunications or broadband service;

(2) three members appointed by the lieutenant governor, including:

(A) one member who resides in an urban area;

(B) one member to represent the public primary and secondary education community; and

(C) one member who resides in a county that:

(i) is adjacent to an international border;

(ii) is located not more than 150 miles from the Gulf of Mexico; and

(iii) has a population of more than 60,000;

(3) three members appointed by the speaker of the house of representatives, including:

(A) one member who resides in a rural area;

(B) one member to represent the health and telemedicine industry; and

(C) one member to represent the public higher education community;

(4) the comptroller or the comptroller's designee; and

(5) one nonvoting member appointed by the broadband development office to represent the office.

(c) The comptroller or the comptroller's designee serves as the presiding officer of the board of advisors.

(d) Members of the board of advisors serve at the pleasure of

the appointing authority for staggered two-year terms, with the terms of the members described by Subsections (b)(1) and (2) expiring February 1 of each odd-numbered year and the terms of the members described by Subsections (b)(3), (4), and (5) expiring February 1 of each even-numbered year. A member may serve more than one term.

(e) Not later than the 30th day after the date a member's term expires, the appropriate appointing authority shall appoint a replacement in the same manner as the original appointment.

(f) If a vacancy occurs on the board of advisors, the appropriate appointing authority shall appoint a successor in the same manner as the original appointment to serve for the remainder of the unexpired term. The appropriate appointing authority shall appoint the successor not later than the 30th day after the date the vacancy occurs.

(g) The board of advisors shall provide guidance to the broadband development office regarding the expansion, adoption, affordability, and use of broadband service and the programs administered by the office.

(h) The board of advisors shall meet at least semiannually with representatives from the broadband development office for the purpose of advising the work of the office in implementing the provisions of this chapter.

(i) A person who is professionally affiliated with a person serving as a member of the board of advisors is not eligible for funding from the broadband development program under Section 490I.0106 if the member is involved in decisions regarding the award of grants, loans, or other financial incentives under that section.

(j) The board of advisors may consult with stakeholders with technical expertise in the area of broadband and telecommunication technology.

(k) Meetings of the board of advisors are subject to Chapter 551.

Added by Acts 2021, 87th Leg., R.S., Ch. 625 (H.B. 5), Sec. 5, eff. June 15, 2021.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 352 (S.B. 1238), Sec. 6, eff. June 2, 2023.

SUBTITLE G. CORRECTIONS
CHAPTER 491. TEXAS BOARD OF CRIMINAL JUSTICE, TEXAS DEPARTMENT OF CRIMINAL JUSTICE: GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 491.001. DEFINITIONS. (a) In this subtitle, except for Chapter 511:

(1) "Board" means the Texas Board of Criminal Justice, except as provided by Section 508.001.

(2) "Community justice assistance division" means the community justice assistance division of the department.

(3) "Department" means the Texas Department of Criminal Justice, except in Chapter 509.

(4) "Executive director" means the executive director of the department.

(5) "Institutional division" means the institutional division of the department.

(6) "Internal audit division" means the internal audit division of the department.

(7) "Pardons and paroles division" means the pardons and paroles division of the department.

(8) "State jail division" means the state jail division of the department.

(b) A reference in other law to:

(1) "Board of Pardons and Paroles" means:

(A) the Board of Pardons and Paroles in any statute relating to a subject under the board's jurisdiction as provided by Chapter 508; or

(B) the pardons and paroles division in any statute relating to a subject under the division's jurisdiction as provided by Chapter 508.

(2) "Probation department" or "adult probation department" means a community supervision and corrections department established under Chapter 76, Government Code.

(3) "Texas Adult Probation Commission" means the community justice assistance division.

(4) "Texas Board of Corrections" means the board.

(5) "Texas Department of Corrections" means the institutional division.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 988, Sec. 1.01, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 7.04, 7.17, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 12.06, 12.07, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 490, Sec. 1, eff. Sept. 1, 1997.

CHAPTER 492. TEXAS BOARD OF CRIMINAL JUSTICE: GENERAL DUTIES; MEMBERSHIP

Sec. 492.001. CONTROL OVER DEPARTMENT. The board governs the department.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 492.0011. PRIVATE SECTOR PRISON INDUSTRIES PROGRAM MANAGEMENT. (a) The board shall approve, certify, and supervise private sector prison industries programs operated by the department, the Texas Juvenile Justice Department, and county correctional facilities in accordance with Subchapter C, Chapter 497.

(b) This section does not authorize the board to direct the general operations of or to govern the Texas Juvenile Justice Department or county correctional facilities in any manner not specifically described by Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 1, eff. June 19, 2009.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 96, eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 492.002. COMPOSITION OF BOARD; COMPENSATION OF MEMBERS.

(a) The board is composed of nine members appointed by the governor with the advice and consent of the senate. The governor may not appoint more than two members who reside in an area encompassed by the same administrative judicial region, as determined by Section 74.042.

(b) Members serve staggered six-year terms with the terms of three members expiring February 1 of each odd-numbered year.

(c) A member of the board is not entitled to compensation but is entitled to reimbursement for actual and necessary expenses as provided by the General Appropriations Act.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 492.003. ELIGIBILITY FOR MEMBERSHIP; REMOVAL. (a) Each member of the board must be representative of the general public. A person is not eligible for appointment as a member if the person or the person's spouse:

(1) is a person, other than a judge participating in the management of a community supervision and corrections department, who is employed by or participates in the management of a business entity or other organization regulated by the department or receiving funds from the department;

(2) owns, or controls directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the department or receiving funds from the department, including an entity or organization with which the department contracts under Subchapter C, Chapter 497;

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses; or

(4) owns, controls directly or indirectly, or is employed by a business entity or other organization with which the department contracts concerning a private sector prison industries program approved and certified by the board under Subchapter C, Chapter 497.

(b) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or

professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.

(c) A person may not be a member of the board and may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of criminal justice or private sector prison industries; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of criminal justice or private sector prison industries.

(d) A person who is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation in or on behalf of a profession related to the operation of the board may not serve as a member of the board or act as the general counsel to the board or the department.

(e) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(f) It is a ground for removal from the board if a member:

(1) does not have at the time of taking office the qualifications required by Subsection (a) for appointment to the board;

(2) does not maintain during the member's service on the board the qualifications required by Subsection (a) for appointment to the board;

(3) is ineligible for membership under Subsection (c) or (d);

(4) is unable to discharge the member's duties for a substantial part of the term for which the member was appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during each calendar year or is absent from more than two consecutive regularly scheduled board meetings that the member is eligible to attend, except when the absence is excused by majority vote of the

board.

(g) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a member of the board existed.

(h) If the executive director has knowledge that a potential ground for removal exists, the director shall notify the chairman of the board of the ground. The chairman shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the chairman, the executive director shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991; Acts 1999, 76th Leg., ch. 1188, Sec. 1.01, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 2, eff. June 19, 2009.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 492.0031. TRAINING PROGRAM FOR MEMBERS. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the department and the board;

(2) the programs operated by the department;

(3) the role and functions of the department;

(4) the rules of the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the department;

(6) the results of the most recent formal audit of the

department;

(7) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552;

(C) the administrative procedure law, Chapter 2001; and

(D) other laws relating to public officials, including conflict of interest laws; and

(8) any applicable ethics policies adopted by the department or the Texas Ethics Commission.

(b-1) In addition to the information described by Subsection (b), the training program must provide the person with information regarding:

(1) the legislative history of Subchapter C, Chapter 497;

(2) the history and operation of programs under that subchapter; and

(3) any applicable federal law concerning the operation or certification of a program under that subchapter.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 1.02, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 3, eff. June 19, 2009.

Sec. 492.004. NOTICE OF QUALIFICATIONS, RESPONSIBILITIES. The executive director or the executive director's designee shall provide to members of the board and to agency employees, as often as necessary, information regarding requirements for office or employment under this subtitle, including information regarding a person's responsibilities under applicable law relating to standards of conduct for state officers or employees.

Added by Acts. 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff.

Aug. 26, 1991; Acts 1999, 76th Leg., ch. 1188, Sec. 1.03, eff. Sept. 1, 1999.

Sec. 492.005. ORGANIZATION OF BOARD. (a) At the beginning of a governor's term, the governor shall designate one member of the board as chairman of the board. That member shall serve as chairman at the pleasure of the governor.

(b) The board shall elect a vice-chairman of the board from among its members and may appoint committees to accomplish the duties of the board.

(c) The board may employ clerical assistance as necessary to discharge the board's duties.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 492.006. BOARD MEETINGS. (a) The board shall meet at least once in each quarter of the calendar year at a site determined by the chairman.

(b) The board may meet at other times at the call of the chairman or as provided by the rules of the board.

(c) At each regularly scheduled meeting of the board, the board shall allow:

(1) the presiding officer of the Board of Pardons and Paroles or a designee of the presiding officer to present to the board any item relating to the operation of the parole system determined by the presiding officer to require the board's consideration; and

(2) the chairman of the judicial advisory council to the community justice assistance division and to the board to present to the board any item relating to the operation of the community justice system determined by the chairman to require the board's consideration.

Added by Acts 1989, 71st Leg. ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 268, Sec. 46(2), eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1188, Sec. 1.04, eff. Sept. 1, 1999.

Sec. 492.007. OPPORTUNITY FOR PUBLIC TO APPEAR BEFORE BOARD. The board by rule shall provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 492.008. OATHS; EXAMINATION OF WITNESSES; INQUIRIES. Each member of the board and the executive director, in the discharge of a duty, may administer oaths, summon and examine witnesses, and take other actions necessary to determine the truth of a matter about which the member or executive director is entitled to inquire.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 492.009. SEAL. (a) The board shall use an official seal to attest to official acts of the board.

(b) The official seal must contain an engraved, five-pointed star in the center with the words "Texas Board of Criminal Justice" around the margin.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 492.010. SUITS BY BOARD. (a) The board may sue for the collection and enforcement of demands and debts owed to the department. The venue of a suit authorized by this section is in Travis County. The attorney general shall represent the board.

(b) In a suit brought against the board or a member of the board for acts made in an official capacity other than a suit brought by the state, the board or a member of the board may not be required

to supply any form of security, including:

(1) a bond for costs;

(2) an appeal bond;

(3) a supersedeas bond; and

(4) a writ of error bond.

(c) This section does not authorize a civil suit against the board or a member of the board, but does not prohibit a claim that is an offset or counterclaim to an action originally brought by the board.

(d) The executive director is the only person authorized to receive service on behalf of the board, department, or any division of the department.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 492.012. SUNSET PROVISION. The Texas Board of Criminal Justice and the Texas Department of Criminal Justice are subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board and the department are abolished September 1, 2025.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 3.01, eff. Nov. 12, 1991; Acts 1995, 74th Leg., ch. 321, Sec. 1.112, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1188, Sec. 1.05, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1227 (H.B. 1116), Sec. 1.01, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 14, eff. June 15, 2007.

Acts 2009, 81st Leg., 1st C.S., Ch. 2 (S.B. 2), Sec. 2.04, eff. July 10, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 1, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 3.03, eff. June 10, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 492.013. GENERAL POWERS AND DUTIES OF BOARD. (a) The board may adopt rules as necessary for its own procedures and for operation of the department.

(b) The board shall employ an executive director. The board shall supervise the executive director's administration of the department.

(c) The board shall approve the operating budget of the department and the department's request for appropriations.

(d) The board shall appoint the members of any advisory committees to the department.

(e) The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of the department.

(f) The board may apply for and accept gifts or grants from any public or private source for use in maintaining and improving correctional programs and services.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1999, 76th Leg., ch. 1188, Sec. 1.06, eff. Sept. 1, 1999.

Sec. 492.0131. PAROLE RULES, POLICIES, PROCEDURES. The board and the presiding officer of the Board of Pardons and Paroles shall jointly review all rules, policies, and procedures of the department and the Board of Pardons and Paroles that relate to or affect the operation of the parole process. The board and the presiding officer of the Board of Pardons and Paroles shall identify areas of inconsistency between the department and the Board of Pardons and Paroles and shall amend rules or change policies and procedures as

necessary for consistent operation of the parole process.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 1.07, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.01, eff. Jan. 11, 2004.

Sec. 492.014. HEADQUARTERS. (a) The board shall maintain headquarters in Austin.

(b) The department shall maintain dual headquarters in Austin and Huntsville. The institutional division shall maintain its headquarters in Huntsville and may not assign more than 15 personnel to Austin. The board shall attempt to locate all Austin offices in one building or in buildings that are in close proximity to one another.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 492.015. USE OF TECHNOLOGY. The board shall implement a policy requiring the department to use appropriate technological solutions to improve the department's ability to perform its functions. The policy must ensure that the public is able to interact with the department on the Internet.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 15, eff. June 15, 2007.

Sec. 492.016. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for

the use of alternative dispute resolution by state agencies.

(c) The board shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the department.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 15, eff. June 15, 2007.

Sec. 492.017. LEGISLATIVE APPROPRIATIONS REQUEST. (a) The board shall require the department to submit each legislative appropriations request, accompanied by the most recent report prepared by the community justice assistance division of the department under Section 509.004(c), to the board for approval before the department submits the appropriations request to the Legislative Budget Board.

(b) In deciding whether to approve a legislative appropriations request submitted under Subsection (a), the board shall consider the most recent report prepared by the community justice assistance division of the department under Section 509.004(c).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1045 (H.B. 3691), Sec. 3, eff. June 17, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1074 (S.B. 1055), Sec. 2, eff. September 1, 2011.

CHAPTER 493. TEXAS DEPARTMENT OF CRIMINAL JUSTICE: ORGANIZATION

Sec. 493.001. DEPARTMENT MISSION. The mission of the department is to provide public safety, promote positive change in offender behavior, reintegrate offenders into society, and assist victims of crime.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.001, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1188, Sec. 1.08, eff. Sept.

1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 493.002. DIVISIONS. (a) The following divisions are within the department:

(1) the community justice assistance division;

(2) the institutional division;

(3) the pardons and paroles division;

(4) the state jail division;

(5) the internal audit division; and

(6) the programs and services division.

(b) The board may establish additional divisions within the department as it determines is necessary.

(c) Except as provided by Section 493.0052, the executive director shall hire a director for each division in the department, and each director serves at the pleasure of the executive director.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 988, Sec. 1.02, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 490, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1360, Sec. 2, eff. Sept. 1, 1998; Acts 2001, 77th Leg., ch. 1420, Sec. 9.006, eff. Sept. 1, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 493.0021. ORGANIZATIONAL FLEXIBILITY. (a) Notwithstanding Sections 493.002, 493.003, 493.004, 493.005, 493.0051, 493.0052, as added by Chapter 1360, Acts of the 75th Legislature, Regular Session, 1997, and 493.0052, as added by Chapter 490, Acts of the 75th Legislature, Regular Session, 1997, the executive director, with the approval of the board, may:

(1) create divisions in addition to those listed in Section 493.002 and assign to the newly created divisions any duties and powers imposed on or granted to an existing division or to the department generally;

(2) eliminate any division listed in Section 493.002 or created under this section and assign any duties or powers previously assigned to the eliminated division to another division listed in Section 493.002 or created under this section; or

(3) eliminate all divisions listed in Section 493.002 or created under this section and reorganize the distribution of powers and duties granted to or imposed on a division in any manner the executive director determines is best for the proper administration of the department.

(b) The executive director may not take an action under this section with potential impact on the administration of community corrections programs by community supervision and corrections departments without requesting and considering comments from the judicial advisory council to the community justice assistance division of the Texas Department of Criminal Justice and the Texas Board of Criminal Justice as to the effect of the proposed action.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 1.09, eff. Sept. 1, 1999.

Sec. 493.003. COMMUNITY JUSTICE ASSISTANCE DIVISION. (a) The community justice assistance division shall:

(1) establish minimum standards for programs, facilities, and services provided by community supervision and corrections departments; and

(2) fund programs, facilities, and services for community supervision and corrections departments.

(b) The chief justice of the Supreme Court of Texas and the presiding judge of the Texas Court of Criminal Appeals shall each appoint six members to serve as the judicial advisory council to the community justice assistance division and the board. The advisory council members serve staggered six-year terms, with the terms of four of the members expiring September 1 of each odd-numbered year. In the event of a vacancy during a term, the appointing authority for the member who vacated the office shall appoint a replacement to fill the unexpired portion of the term. The advisory council shall advise the director of the community justice assistance division and the board on matters of interest to the judiciary, and the director and the board shall carefully consider the advice. Members of the

advisory council are not entitled to compensation but are entitled to reimbursement for actual and necessary expenses in the conduct of their duties, as provided by the General Appropriations Act.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 988, Sec. 2.03, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 321, Sec. 1.002(a), eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 493.004. INSTITUTIONAL DIVISION. The institutional division shall operate and manage the state prison system.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 493.005. PARDONS AND PAROLES DIVISION. The pardons and paroles division shall supervise and reintegrate felons into society after release from confinement.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 493.0051. STATE JAIL DIVISION. The state jail division shall operate and manage state jails to confine defendants described by Section 507.002.

Added by Acts 1993, 73rd Leg., ch. 988, Sec. 1.03, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 493.0052. INTERNAL AUDIT DIVISION. (a) The board shall hire a director for the internal audit division. The employment of the director may be terminated only with the approval of the board.

(b) The internal audit division shall conduct a program of internal auditing in accordance with Chapter 2102. The program may include internal audits, contract audits, and community supervision and corrections department audits for the department. The division shall:

(1) conduct recurring financial and management audits;

(2) conduct internal audits to evaluate department programs and the economy and efficiency of those programs; and

(3) recommend improvements in management and programs on the basis of evaluations made under this subsection.

(c) The director of the internal audit division shall send reports, audits, evaluations, and recommendations to the board and to the executive director. The director shall report directly to the board at least once a year on:

(1) the activities of the division; and

(2) the response of the department to recommendations made by the division.

(d) The director shall report directly to the board on other matters at the times required by board policy.

(e) Expired.

Added by Acts 1995, 74th Leg., ch. 321, Sec. 1.003. eff. Sept. 1, 1995. Renumbered from Government Code Sec. 493.0081 and amended by Acts 1997, 75th Leg., ch. 490, Sec. 3, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 493.0053. PROGRAMS AND SERVICES DIVISION. (a) The programs and services division shall administer those rehabilitation and reintegration programs and services designated by the board under

Subsection (b).

(b) The board shall determine which programs and services operating under the authority of the department are designed for the primary purpose of rehabilitating inmates and shall designate those programs and services as programs and services provided under the direction of the programs and services division.

Added by Acts 1997, 75th Leg., ch. 1360, Sec. 3, eff. Sept. 1, 1997. Renumbered from Sec. 493.0052 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(43), eff. Sept. 1, 1999.

Sec. 493.006. EXECUTIVE DIRECTOR. (a) The board shall employ an executive director who possesses the following minimum qualifications:

(1) five years experience in the field of corrections in an administrative capacity;

(2) three years experience in the field of corrections in an administrative capacity and a graduate degree from an institution of higher education in penology or a related field; or

(3) seven years experience in management or administration of a government agency, institution of higher education, or business enterprise of size comparable to the department.

(b) The executive director is responsible for the administration and enforcement of all laws relating to the department including rules implemented by the department but may delegate those responsibilities as permitted by board rule or general law.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 493.007. PERSONNEL. (a) The executive director shall develop an intraagency career ladder program. The program shall require intraagency postings of all nonentry level positions concurrently with any public postings.

(b) The executive director shall develop a system of annual performance evaluations. All merit pay for department employees must be based on the system established under this subsection.

(c) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements

a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies related to recruitment, evaluation, selection, training, and promotion of personnel that show the intent of the department to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the department's personnel is in accordance with state and federal law and reasonable methods to achieve compliance with state and federal law.

(d) A policy statement must:

(1) be updated at least annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (c)(1); and

(3) be filed with the governor's office.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1999, 76th Leg., ch. 1188, Sec. 1.10, eff. Sept. 1, 1999.

Sec. 493.0071. EMPLOYEE EXIT INTERVIEWS. (a) The department shall adopt a policy that provides for an exit interview of each institutional division employee who terminates employment with the department. Employee participation in the interview process is voluntary, and the department is not required to conduct an exit interview of an employee who is terminated against the employee's will.

(b) The department shall encourage the employee to state in the employee's own words the reasons for which the employee is terminating employment.

(c) The department shall analyze responses to interviews conducted under this section on the basis of the responding employees' age, gender, race or ethnicity, years of service, rank, and duty locations.

Added by Acts 2001, 77th Leg., ch. 1089, Sec. 1, eff. Sept. 1, 2001.

Sec. 493.008. AUDIT BY STATE AUDITOR. The financial transactions of the department are subject to audit by the state auditor in accordance with Chapter 321, and the state auditor shall include in the audit report a review of the department's employment practices to ensure that they conform with state law and department policies regarding nepotism.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 493.0081. LEGISLATIVE APPROPRIATIONS REQUEST. The department shall include in each legislative appropriations request submitted to the Legislative Budget Board the information contained in the most recent report prepared by the community justice assistance division under Section 509.004(c).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1045 (H.B. 3691), Sec. 4, eff. June 17, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1074 (S.B. 1055), Sec. 3, eff. September 1, 2011.

Sec. 493.0082. DISPOSITION OF CERTAIN FINANCIAL ASSETS. (a) All money and other financial assets collected or received by the department shall be deposited:

(1) in the general revenue fund of the state treasury;

(2) in trust with the comptroller; or

(3) in a local bank account on approval by the comptroller.

(b) For purposes of this section, a financial asset collected or received by the department includes:

(1) an asset held outside the state treasury; or

(2) an asset held in trust by the department, such as money held in an inmate or employee trust account or in an education and recreation account.

Added by Acts 1997, 75th Leg., ch. 490, Sec. 4, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature,

Regular Session, for amendments affecting the following section.

Sec. 493.0083. PROGRAM EVALUATION CAPABILITY. The department shall maintain a program evaluation capability separate from the programs and services division to determine the effectiveness of rehabilitation and reintegration programs and services provided to inmates and other offenders under the jurisdiction of the department.

Added by Acts 1997, 75th Leg., ch. 1360, Sec. 3, eff. Sept. 1, 1997. Renumbered from Sec. 493.0082 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(44), eff. Sept. 1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 493.009. SUBSTANCE ABUSE FELONY PUNISHMENT FACILITIES. (a) The department shall establish a program to confine and treat:

(1) defendants required to participate in the program under Article 42A.303, Code of Criminal Procedure; and

(2) individuals referred for treatment as part of a drug court program established under Chapter 123 or a similar program created under other law.

(a-1) The board by rule may modify requirements imposed by this section and Chapter 42A, Code of Criminal Procedure, as necessary to properly treat individuals who are not participating in the program as a condition of community supervision.

(b) The board shall adopt criteria to determine the suitability of candidates for participation in the program. The department and the Department of State Health Services shall jointly develop methods of screening and assessing defendants required to participate in the program under Article 42A.303, Code of Criminal Procedure, to determine their need for specific types of treatment for alcohol or drug abuse problems.

(c) The program for persons required to participate in the program under Article 42A.303, Code of Criminal Procedure, must consist of treatment programs that may vary in time from 90 days to 12 months.

(d) The program for persons required to participate in the program under Article 42A.303, Code of Criminal Procedure, provided under this section must contain highly structured work, education,

and treatment schedules, a clearly delineated authority structure, and well-defined goals and guidelines. The department shall establish a graded system of rewards and sanctions for defendants who participate in the program, but a defendant required to participate in the program under Article 42A.303, Code of Criminal Procedure, is not entitled to earn awards of time for good conduct. A qualified professional, at least every 60 days, must perform an evaluation on a defendant that determines the defendant's treatment progress and institutional behavior. Not later than three days after the date on which a four-month evaluation is performed, the qualified professional shall establish a tentative release date for the defendant, notify the sentencing court of that fact, and include with the notice a copy of the four-month evaluation. The qualified professional immediately shall notify the court if the professional determines the defendant's conduct requires a revision of the tentative release date.

(e) The department shall employ or contract with qualified professionals to implement the program for persons required to participate in the program under Article 42A.303, Code of Criminal Procedure. For purposes of this subsection, a "qualified professional" is a person who:

(1) is a licensed chemical dependency counselor;

(2) is a licensed social worker who has at least two years of experience in chemical dependency counseling; or

(3) is a licensed professional counselor, physician, or psychologist and who has at least two years of experience in chemical dependency counseling.

(f)

(1) The department shall adopt rules of conduct for persons required to participate in the program under Article 42A.303, Code of Criminal Procedure, or required to participate in the program following modification of community supervision or parole.

(2) If the qualified professional with primary responsibility for treating a defendant and the individual in charge of security in the facility in which the defendant is housed jointly determine that the defendant is not complying with the rules or is medically or psychologically unsuitable for the program, they shall notify the department of that fact.

(3) The department, immediately on receiving notice, shall request the sentencing court to reassume custody of the defendant if

the defendant was required to participate in the program under Article 42A.303, Code of Criminal Procedure, or required to participate in the program following modification of community supervision. The court shall reassume custody before the 12th day after the date on which the department notifies the court. If the court revokes the defendant's community supervision, the admission of the defendant to the institutional division is an admission for which the department must account in the scheduled admissions policy established under Section 499.071.

(4) The department, immediately on receiving notice, shall request the pardons and paroles division to reassume custody of the defendant if the defendant was required to participate in the program following modification of parole. The pardons and paroles division shall immediately take action in accordance with established policies and procedures of the Board of Pardons and Paroles to remove the defendant from the program. If a parole panel revokes the defendant's parole, the admission of the defendant to the institutional division is an admission for which the department must account in the scheduled admissions policy established under Section 499.071.

(5) If the defendant was transferred to the facility from a county jail under Subsection (l), the department shall return the defendant to the county jail.

(6) A court's recommendation that a defendant be placed in a program created under this section does not give the court the power to hold the department or any officer or employee of the department in contempt of court for failure to adhere to that recommendation.

(g) The department shall provide beds for the purpose of operating the program for persons required to participate in the program under Article 42A.303, Code of Criminal Procedure, except that the beds may also be used to house the following categories of persons:

(1) persons transferred under Subchapter A, Chapter 499, and Section 508.118;

(2) persons whose community supervision or parole has been modified;

(3) defendants confined in county jails awaiting transfer to the institutional division; and

(4) inmates participating in the program described by

Section 501.0931.

(h) On and after the date persons are required under Article 42A.303, Code of Criminal Procedure, to participate in the program established under this section, the department shall give priority to housing those persons over the categories of persons described by Subsections (g)(1)-(4).

(i) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1154, Sec. 29(1), eff. September 1, 2013.

(j) The department shall recover from a program participant the cost to the department of providing treatment, to the extent the participant has insurance that covers the treatment or is otherwise able to pay for the treatment.

(k) It is the intent of the legislature that facilities established under this section be used primarily to house persons required to participate in the program under Article 42A.303, Code of Criminal Procedure, except that if treatment beds are empty, this subsection does not prohibit the department from using those empty beds to treat the categories of persons listed in Subsection (g).

(l) The department shall identify defendants confined in county jails who are awaiting transfer to the institutional division and who because of their need for treatment of drug or alcohol problems require transfer to a substance abuse felony punishment facility. The department shall provide for the transportation of the defendant to such a facility. If the board finds that a county has failed to fully cooperate with the department in evaluating defendants under this section, the board shall notify the Commission on Jail Standards of that fact. On notice from the board, the commission may reduce or suspend payments under Subchapter F, Chapter 499, or may suspend the certification of the county jail as provided by Section 511.012.

(m) Notwithstanding any other provision of this section, the department is authorized to provide substance abuse felony punishment facilities, not to exceed 500 beds, for newly provided alcohol and drug abuse beds exclusively for persons whose community supervision or parole has been modified.

(n) Except as otherwise provided by this subsection, the department shall separate participants in the program created under this section from inmates of the institutional division, except at times determined necessary by the department for the purpose of transportation or staging or for medical or security reasons. The department may commingle participants in the program created under

this section with inmates in the program described by Section 501.0931.

(o) Repealed by Acts 1995, 74th Leg., ch. 321, Sec. 1.113, eff. Sept. 1, 1995.

(p) To the extent funds are available, the Criminal Justice Policy Council, with the assistance of the Texas Commission on Alcohol and Drug Abuse and the department, shall develop methods to evaluate the processes used by the department in providing the program and the level of success achieved by the program.

(q) The department not less often than every two years shall determine whether the department should increase the number of beds provided by the department for the operation of the program for persons required to participate in the program under Article 42A.303, Code of Criminal Procedure.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 19.03, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 988, Sec. 3.01, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 321, Sec. 1.004 to 1.006, 1.113, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 12.08, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1269, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 892, Sec. 22, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1139 (H.B. 2791), Sec. 2, eff. June 18, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 2.10, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 29(1), eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.46, eff. January 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.47, eff. January 1, 2017.

Sec. 493.010. CONTRACTS FOR MISCELLANEOUS HOUSING. (a) The board, for the temporary or permanent housing of inmates, may enter into leases or contract with:

(1) public or private jails; or

(2) operators of alternative housing facilities.

(b) The board may not enter into a lease or contract with an operator of an alternative housing facility that is located in a county with a population of 3.3 million or more unless the operator submits to the board a permit or other documentation showing that the facility is in compliance with all applicable municipal and county regulations.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 19.04, eff. Oct. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.007, eff. Sept. 1, 1995.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 462 (H.B. 954), Sec. 1, eff. September 1, 2021.

Sec. 493.011. CONSULTANT CONTRACTS FOR PRISON CONSTRUCTION. The board may not contract for construction-related consulting services to the board with an individual or firm if that individual or firm is also under contract with the department to provide construction management services for prison unit construction.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 19.05, eff. Oct. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.008, eff. Sept. 1, 1995.

Sec. 493.012. HISTORICALLY UNDERUTILIZED BUSINESSES. (a) The board and the department each shall make a good faith effort to assist historically underutilized businesses to receive at least 30 percent of the total value of:

(1) each construction contract awarded for construction, purchase of supplies, materials, services, and equipment that the board and the department expect to make; and

(2) contracts awarded for operation, maintenance, or management.

(b) The board and the department each shall annually report to the legislature and the governor on the level of historically underutilized business participation in board and department contracts. The report shall include:

(1) names and locations of the historically underutilized businesses participating in contracts;

(2) types of services conducted by the historically underutilized businesses participating in contracts;

(3) a description of the type of recruitment strategy used to attract historically underutilized businesses; and

(4) recommendations for the improvement of historically underutilized business opportunities with the board and the department.

(c) In this section, "historically underutilized business" means:

(1) a business entity formed for the purpose of making a profit of which at least 51 percent is owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, including women, African Americans, Hispanic Americans, Native Americans, and Asian Americans, who have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control; or

(2) a corporation formed for the purpose of making a profit in which at least 51 percent of all classes of the shares of stock or other equitable securities is owned by one or more persons described by Subdivision (1). Those persons must have proportionate interest in the control, operation, and management of the corporation's affairs.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 19.06, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 988, Sec. 4.07, eff. Sept. 1, 1993.

Sec. 493.013. FEDERAL FUNDS COMMITTEE. (a) The board shall ensure that the federal funds committee of the department includes representatives of all divisions of the department that may be able to assist the committee in identifying and qualifying for additional federal funds, specifically including the offices of the institutional division that manage agricultural and industrial issues.

(b) The board shall require the committee to:

(1) maximize federal grant and entitlement funding available to the state;

(2) submit biennially to the board a detailed report that includes information on all federal grants and entitlements

identified and applied for by the committee and the results of the applications; and

(3) work in conjunction with the Office of State-Federal Relations and the Texas Department of Human Services to investigate the applicability of:

(A) the national school lunch program to inmates who are pursuing a primary or secondary education while confined in the institutional division; and

(B) the food stamp program administered under Chapter 33, Human Resources Code, to inmates who are confined and treated in substance abuse felony punishment facilities.

Added by Acts 1993, 73rd Leg., ch. 238, Sec. 1.01, eff. May 22, 1993.

Sec. 493.014. APPLICABILITY OF CERTAIN GRIEVANCE PROCEDURES. A grievance procedure of the department or a division of the department, including the procedure established under Section 501.008, applies to a grievance of an inmate or other person under the custody or control of the department relating to a rule or internal procedure of the board or department.

Added by Acts 1993, 73rd Leg., ch. 988, Sec. 9.02, eff. Sept. 1, 1993. Renumbered from Government Code Sec. 493.013 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(15), eff. Sept. 1, 1995.

Sec. 493.0145. IDENTIFICATION OF INMATES SUBJECT TO ARREST WARRANT. Before an inmate is discharged or is released on parole or mandatory supervision from the department, the department shall conduct a criminal history record check to determine whether the inmate is the subject of an arrest warrant. In conducting the criminal history record check, the department shall allow sufficient time for compliance with any requirements related to notifying the proper authorities of the inmate's discharge or release and, if necessary, processing a demand for extradition of the inmate.

Added by Acts 1999, 76th Leg., ch. 205, Sec. 1, eff. Sept. 1, 1999.

Sec. 493.015. IDENTIFICATION OF DEPORTABLE ALIENS. (a) In

this section, "illegal criminal alien" means an alien who has been convicted of a felony and is in the custody of the state and who:

(1) entered the United States without inspection or at any time or any place other than as designated by the United States Attorney General;

(2) was admitted as a nonimmigrant and, before the date of the commission of the crime, had failed to maintain the nonimmigrant status under which the alien was admitted or to which it was changed under Section 248, Immigration and Nationality Act (8 U.S.C. Section 1258), or to comply with the conditions of the alien's status; or

(3) is a Marielito Cuban as defined in Section 501, Immigration Reform and Control Act of 1986 (8 U.S.C. Section 1365).

(b) The department shall identify those inmates who are imprisoned in the institutional division or confined in a substance abuse treatment facility, a state jail felony facility, or a county jail awaiting transfer to the institutional division and for whom the department is unable to reasonably ascertain whether or not the person is an illegal criminal alien.

(c) In attempting to ascertain whether an inmate is an illegal criminal alien, the department may take into account a statement of noncitizenship made to the department by the inmate or any information in the criminal history record information maintained on the inmate, including information developed in presentence investigation reports that may reflect place of birth, registration with the Social Security Administration, or work history.

(d) The department shall promptly notify the United States Immigration and Naturalization Service of any inmate determined by the department to be an illegal criminal alien and request the assistance of the Immigration and Naturalization Service, if necessary, in determining whether or not the person is an illegal criminal alien.

(e) The department shall promptly notify the criminal justice division of the governor's office of any inmate determined by the department or by the Immigration and Naturalization Service to be an illegal criminal alien, and the criminal justice division of the governor's office shall apply to the federal government for any funds due the state for criminal justice costs incurred with respect to an illegal criminal alien.

(f) Federal funds received for criminal justice costs incurred with respect to an illegal criminal alien shall be deposited to the

credit of the general revenue fund.

(g) The department shall cooperate with the Immigration and Naturalization Service in implementing an efficient system for the deportation of illegal criminal aliens on completion of the inmates' sentences or release of the inmates on parole or mandatory supervision. The department shall consider:

(1) designating facilities or units within the department as central locations to hold inmates who are illegal criminal aliens for the period immediately preceding release on parole or mandatory supervision; and

(2) providing two-way closed circuit communications systems and other technology that will assist the state and the federal government in ensuring the timely and efficient deportation of illegal criminal aliens on the release of those aliens from imprisonment or confinement under the authority of the department.

Added by Acts 1995, 74th Leg., ch. 85, Sec. 1, eff. May 16, 1995.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 126 (H.B. 719), Sec. 1, eff. September 1, 2021.

Sec. 493.0151. DYNAMIC RISK ASSESSMENT OF SEX OFFENDERS. (a) For purposes of this section, "sexual offense" means a criminal offense the conviction of which requires a person to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(b) Before an inmate who is serving a sentence for a sexual offense is discharged or is released on parole or mandatory supervision from the department, the department shall use the dynamic risk assessment tool developed by the Council on Sex Offender Treatment under Section 110.164, Occupations Code, to assign the inmate a risk level of low, medium, or high.

(c) The department shall conduct the risk assessment required by this section in addition to any other risk assessment the department is required to conduct.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 16, eff. June 15, 2007.

Sec. 493.0155. PROPER IDENTIFICATION OF INMATES USING ALIAS.

On receipt of information from the Department of Public Safety under Article 66.105, Code of Criminal Procedure, that a person's identifying information may have been falsely used by an inmate as the inmate's identifying information, regardless of whether the inmate is in the custody of the department, is serving a period of supervised release, or has been discharged, the department shall:

(1) make a reasonable effort to identify the inmate's actual identity; and

(2) take action to ensure that any information maintained in the department's records and files regarding the inmate reflects the inmate's use of the person's identity as a stolen alias and refers to available information concerning the inmate's actual identity.

Added by Acts 2003, 78th Leg., ch. 339, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 4.11, eff. January 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 493.016. INFORMATION OF PUBLIC INTEREST; COMPLAINTS. (a) The department shall prepare information of public interest describing the functions of the department and the procedures by which complaints are filed with and resolved by the department. The department shall make the information available to the general public and appropriate state agencies.

(b) The department shall establish methods by which interested persons are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department.

(c) The department shall keep an information file on each written complaint filed with the department by a member of the general public that relates to the operations of the department. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the department;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the agency closed the file without taking action other than to investigate the complaint.

(d) The department shall provide a written copy of the department's policies and procedures relating to complaint investigation and resolution to:

(1) all department employees; and

(2) each person filing a complaint.

(e) The department, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Added by Acts 1995, 74th Leg., ch. 321, Sec. 1.010, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1188, Sec. 1.11, eff. Sept. 1, 1999.

Sec. 493.017. REPORTS ON SEX OFFENDER TREATMENT. (a) A sex offender correction program that provides counseling sessions for a sex offender under Article 42A.453, Code of Criminal Procedure, shall report to the community supervision and corrections department officer supervising the offender, not later than the 15th day of each month, the following information about the offender:

(1) the total number of counseling sessions attended by the sex offender during the preceding month; and

(2) if during the preceding month the sex offender terminates participation in the program before completing counseling, the reason for the sex offender's termination of counseling.

(b) A sex offender correction program that provides counseling sessions for a sex offender under Section 508.187 shall report to the parole officer supervising the offender, not later than the 15th day of each month, the following information about the offender:

(1) the total number of counseling sessions attended by the sex offender during the preceding month; and

(2) if during the preceding month the sex offender

terminates participation in the program before completing counseling, the reason for the sex offender's termination of counseling.

(c) A sex offender correction program that provides counseling sessions for a child under Section 54.0405, Family Code, shall report to the local juvenile probation department supervising the child, not later than the 15th day of each month, the following information about the child:

(1) the total number of counseling sessions attended by the child during the preceding month; and

(2) if during the preceding month the child terminates participation in the program before completing counseling, the reason for the child's termination of counseling or that the reason for the termination of counseling is unknown.

(d) A sex offender correction program that provides counseling sessions for a child who is released under supervision under Section 245.053, Human Resources Code, shall report to the Texas Juvenile Justice Department, not later than the 15th day of each month, the following information about the child:

(1) the total number of counseling sessions attended by the child during the preceding month; and

(2) if during the preceding month the child terminates participation in the program before completing counseling, the reason for the child's termination of counseling or that the reason for the termination of counseling is unknown.

Added by Acts 1995, 74th Leg., ch. 256, Sec. 5, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.09, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 669, Sec. 4, eff. Sept. 1, 1997. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 3.012, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.48, eff. January 1, 2017.

Sec. 493.018. CARE OF TERMINALLY ILL INMATES. (a) The department may provide direct hospice services for terminally ill inmates and defendants confined in facilities operated by the department or may contract with a licensed hospice for the provision of those services. Hospice services established by the department

shall meet licensure standards established under Chapter 142, Health and Safety Code, except for those standards which are determined to be in conflict with security considerations in the institutional setting.

(b) In this section, "hospice" and "hospice services" have the meanings assigned to those terms by Section 142.001, Health and Safety Code.

Added by Acts 1995, 74th Leg., ch. 769, Sec. 1, eff. Sept. 1, 1995. Renumbered from Government Code Sec. 493.014 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(39), eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 493.019. ENFORCEMENT OFFICERS. The inspector general may appoint employees who are certified by the Texas Commission on Law Enforcement as qualified to be peace officers to serve under the direction of the inspector general and assist the inspector general in performing the enforcement duties of the department.

Added by Acts 1995, 74th Leg., ch. 321, Sec. 1.009, eff. Sept. 1, 1995. Renumbered from Government Code Sec. 493.015 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(40), eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1172 (H.B. 434), Sec. 2, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.27, eff. May 18, 2013.

Sec. 493.0191. ADMINISTRATIVE SUBPOENAS. (a) The inspector general may issue an administrative subpoena to a communication common carrier or an electronic communications service provider to compel the production of the carrier's or service provider's business records that:

(1) disclose information about:

(A) the carrier's or service provider's customers; or

(B) users of the services offered by the carrier or

service provider; and

(2) are material to a criminal investigation of an escape or a potential escape or a violation of Section 38.11, Penal Code.

(b) In this section:

(1) "Communication common carrier" means a person that:

(A) for a fee, provides directly to the public or to certain members of the public the ability to transmit between or among points specified by the person who uses that ability, regardless of the technology used, information of the person's choosing without change in the form or content of the information transmitted; or

(B) is a provider that bills customers for services described by Paragraph (A).

(2) "Electronic communications service provider" means a service provider that provides to users of the service the ability to send or receive wire or electronic communications, as those terms are defined by Article 18A.001, Code of Criminal Procedure.

Added by Acts 2009, 81st Leg., R.S., Ch. 395 (H.B. 1728), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 3.10, eff. January 1, 2019.

Sec. 493.020. SEAL OF DEPARTMENT. (a) The department shall use an official seal to certify documents received by the department under Sections 8(a) and (c), Article 42.09, Code of Criminal Procedure.

(b) The official seal must contain an engraved, five-pointed star in the center with the words "Texas Department of Criminal Justice" around the margin.

Added by Acts 1995, 74th Leg., ch. 321, Sec. 1.011, eff. Sept. 1, 1995. Renumbered from Government Code Sec. 493.017 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(41), eff. Sept. 1, 1997.

Sec. 493.021. ELECTRONIC CREATION AND TRANSMISSION OF DOCUMENTS. (a) If a statute requires the department to create a document, the department through electronic means may create and

maintain the information that would otherwise be contained in a paper document. If a statute requires the department to provide a receipt, signature, or seal as evidence of creating a document, the department may develop and use an electronic identifier, and when used by the department, the identifier has the same force and effect as the use of a receipt, signature, or seal.

(b) If a statute requires a person to submit a document to the department, the department may accept the document in paper form or may accept an electronic transmission of the information otherwise contained in the paper document.

(c) If a statute requires the department to provide a receipt, signature, or seal as evidence of delivery of a document, and if the department has received an electronic transmission in lieu of accepting the document in paper form, the department may transmit electronically evidence of delivery. The department may use the electronic identifier developed under Subsection (a), and when used by the department, the identifier has the same force and effect as the use of a receipt, signature, or seal.

(d) This section does not authorize the department to require that a person submitting information to the department submit the information electronically.

Added by Acts 1999, 76th Leg., ch. 202, Sec. 1, eff. May 24, 1999.

Sec. 493.022. POLYGRAPH EXAMINATION. An employee of the department who is the subject of a written complaint made by or filed with the department may not be suspended, discharged, or subjected to any other form of employment discrimination by the department because the employee refuses to take a polygraph examination.

Added by Acts 1997, 75th Leg., ch. 367, Sec. 1, eff. Sept. 1, 1997.

Sec. 493.023. CHARITABLE FUND-RAISING. (a) Under policies established by the department, a department employee may participate in fund-raising activities conducted on department property on the employee's own time for the benefit of an eligible charitable organization. The department shall adopt policies under this section which address:

(1) minimum qualifications of eligible charitable

organizations;

(2) limitations on the use of funds;

(3) handling and distribution of the proceeds of fund-raising activity to eligible charitable organizations located in the county where the fund-raising takes place; and

(4) ensuring that participation in fund-raising is voluntary and not coercive.

(b) Funds collected under this section are not subject to Section 404.094.

(c) This section does not affect the department's participation in the state employees charitable campaign under Subchapter H, Chapter 659.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 1.12, eff. Sept. 1, 1999.

Sec. 493.024. APPLICATION OF LAW RELATING TO FREE EXERCISE OF RELIGION. For purposes of Chapter 110, Civil Practice and Remedies Code, an ordinance, rule, order, decision, or practice that applies to a person in the custody of a jail or other correctional facility operated by or under a contract with the department is presumed to be in furtherance of a compelling governmental interest and the least restrictive means of furthering that interest. The presumption may be rebutted.

Added by Acts 1999, 76th Leg., ch. 399, Sec. 4, eff. Aug. 30, 1999. Renumbered from Sec. 493.023 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(42), eff. Sept. 1, 2001.

Sec. 493.025. NOTIFICATION OF COURT OF RELEASE. On release of an inmate who discharges the inmate's sentence or on release of an inmate on parole or to mandatory supervision, the department promptly shall notify the clerk of the court in which the inmate was convicted of that fact. The notice must be provided by e-mail or other electronic communication.

Added by Acts 1999, 76th Leg., ch. 541, Sec. 1, eff. Sept. 1, 1999. Renumbered from Sec. 493.023 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(43), eff. Sept. 1, 2001.

Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1123 (H.B. 200), Sec. 1, eff. September 1, 2011.

Sec. 493.0251. VICTIM NOTIFICATION OF SUBSEQUENT FELONY. (a) In this section, "victim," "guardian of a victim," and "close relative of a deceased victim" have the meanings assigned by Section 508.117.

(b) If the department receives a notification under Article 2A.110, Code of Criminal Procedure, regarding the indictment of a defendant described by that article, the department shall, to the extent requested under Subsection (c), make a reasonable effort to provide notice of the offense charged in the indictment to each victim, guardian of a victim, or close relative of a deceased victim of an offense described by Article 2A.110(a), Code of Criminal Procedure, for which the defendant was previously imprisoned at a facility operated by or under contract with the department and subsequently released.

(c) The department shall adopt a procedure by which a victim, guardian of a victim, or close relative of a deceased victim may:

(1) request to receive notice under this section; and

(2) inform the department of the person's address for purposes of providing the notice.

(d) Except as necessary to comply with this section, the board or the department may not disclose to any person the name or address of a person entitled to notice under this section unless:

(1) the person approves the disclosure; or

(2) a court determines that there is good cause for the disclosure and orders the board or the department to disclose the information.

Added by Acts 2017, 85th Leg., R.S., Ch. 772 (H.B. 104), Sec. 2, eff. September 1, 2017.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.095, eff. January 1, 2025.

Sec. 493.026. CERTAIN INTERAGENCY COMMUNICATIONS PROHIBITED.

The department, regardless of available capacity in the program, may not prohibit a parole panel from, or request a parole panel to refrain from, requiring an inmate to participate in and complete a treatment program operated by the department before the inmate is released on parole.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 17, eff. June 15, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 860, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 493.027. MANAGEMENT-EMPLOYEE MEETINGS. (a) The director of the department may meet regularly with representatives of an eligible state employee organization, as certified by the comptroller under Section 403.0165, that represents department employees in disciplinary or grievance matters to identify:

(1) department policies or practices that impair the efficient, safe, and effective operation of department facilities; and

(2) issues that could lead to unnecessary conflicts between the department and department employees and that could undermine retention and recruitment of those employees.

(b) The director annually shall submit a report to the Criminal Justice Legislative Oversight Committee on the outcome of any meetings held under this section. The report must:

(1) be signed by the director and each representative of an employee organization described by Subsection (a) that participates in the meetings; and

(2) include a statement from each party regarding the impact of the meetings on the recruitment and retention of department employees and on employee morale.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 18, eff. June 15, 2007.

Sec. 493.028. INSPECTOR GENERAL REPORT ON CRIMINAL OFFENSES. (a) In this section, "special prosecution unit" means the special

prosecution unit established under Subchapter E, Chapter 41.

(b) The inspector general of the department shall on a quarterly basis prepare and deliver to the board of directors of the special prosecution unit a report concerning any alleged criminal offense concerning the department and described by Article 104.003(a), Code of Criminal Procedure, that occurred during the preceding calendar quarter.

Added by Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 17, eff. June 8, 2007.
Renumbered from Government Code, Section 493.026 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(32), eff. September 1, 2009.

Sec. 493.029. LOCAL AND REGIONAL RELEASE AND DISCHARGE PROCEDURE. (a) The department shall establish a procedure through which an inmate being discharged from the department or being released on parole or to mandatory supervision is discharged or released, as applicable, from:

(1) the facility in which the inmate is serving the inmate's sentence; or

(2) the facility designated as a regional release facility under Subsection (b) that is nearest to the facility in which the inmate is serving the inmate's sentence.

(b) The department shall designate six or more facilities operated by the department as regional release facilities from which an inmate being discharged from the department or being released on parole or to mandatory supervision may be discharged or released, as applicable, rather than being released under Subsection (a)(1). If the department determines that discharging or releasing an inmate under Subsection (a) is not in the best interest of the inmate or would threaten the safety of the public, the department may release the inmate from a regional release facility designated under this subsection other than the facility described by Subsection (a)(2).

Added by Acts 2009, 81st Leg., R.S., Ch. 445 (H.B. 2289), Sec. 1, eff. September 1, 2009.

Sec. 493.030. NOTICE TO SOCIAL SECURITY ADMINISTRATION. (a)

The department shall notify the United States Social Security Administration of the release or discharge of a prisoner who:

(1) immediately before the prisoner's confinement in a state correctional facility, was receiving:

(A) Supplemental Security Income (SSI) benefits under 42 U.S.C. Section 1381 et seq.; or

(B) Social Security Disability Insurance (SSDI) benefits under 42 U.S.C. Section 401 et seq.; and

(2) before the release or discharge, was confined in the facility for a period of less than 12 consecutive months.

(b) The department shall provide the notice described by Subsection (a) to the United States Social Security Administration by mail and electronically immediately on the prisoner's release or discharge from custody. The department shall provide a copy of the notice to the prisoner at the time of the prisoner's release or discharge.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1123 (H.B. 200), Sec. 2, eff. September 1, 2011.

Sec. 493.031. CASE MANAGEMENT COMMITTEES. (a) Each facility under the oversight of the correctional institutions division shall establish a case management committee to assess each inmate in the facility and ensure the inmate is receiving appropriate services or participating in appropriate programs. The case management committee shall:

(1) review each individualized treatment plan adopted under Section 508.152 for an inmate in the facility and, as applicable, discuss with the inmate a possible treatment plan, including participation in any program or service that may be available through the department, the Windham School District, or any volunteer organization; and

(2) meet with each inmate in the facility at the time of the inmate's initial placement in the facility and at any time in which the committee seeks to reclassify the inmate based on the inmate's refusal to participate in a program or service recommended by the committee.

(b) A case management committee must include the members of the unit classification committee. In addition to those members, a case

management committee may include any of the following members, based on availability and inmate needs:

(1) an employee whose primary duty involves providing rehabilitation and reintegration programs or services;

(2) an employee whose primary duty involves providing vocational training or educational services to inmates;

(3) an employee whose primary duty involves providing medical care or mental health care treatment to inmates; or

(4) a representative of a faith-based or volunteer organization.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 2, eff. September 1, 2013.

Sec. 493.032. CORRECTIONAL OFFICER TRAINING RELATED TO PREGNANT INMATES. (a) The department shall provide training relating to medical and mental health care issues applicable to pregnant inmates to:

(1) each correctional officer employed by the department at a facility in which female inmates are confined; and

(2) any other department employee whose duties involve contact with pregnant inmates.

(b) The training must include information regarding:

(1) appropriate care for pregnant inmates; and

(2) the impact on a pregnant inmate and the inmate's unborn child of:

(A) the use of restraints;

(B) placement in administrative segregation; and

(C) invasive searches.

Added by Acts 2019, 86th Leg., R.S., Ch. 123 (H.B. 650), Sec. 1, eff. September 1, 2019.

Sec. 493.033. AVAILABILITY OF PEER SUPPORT SERVICES. (a) The department shall adopt a policy to increase the availability of formal and informal peer support services, including certified peer specialist services, to a person confined in a facility operated by or under contract with the department, including a state jail felony facility, substance abuse felony punishment facility, or intermediate

sanction facility.

(b) The policy adopted under Subsection (a) must:

(1) allow for persons who have previously been convicted of an offense, including releasees on parole or mandatory supervision and defendants on community supervision, to serve as certified peer specialists in a facility described by Subsection (a);

(2) specify the conditions under which a person described by Subdivision (1) may serve as a certified peer specialist; and

(3) allow for persons confined in a facility described by Subsection (a) to serve in a peer support role, provided that the persons are trained and supervised by a community-based organization described by Subsection (c).

(c) In implementing the policy adopted under Subsection (a), the department shall:

(1) collaborate with community-based organizations that provide peer specialist training, including training in any of the following peer support specialties:

(A) certified peer specialist;

(B) certified peer reentry specialist;

(C) certified peer recovery specialist; or

(D) any other peer support specialty recognized by the Health and Human Services Commission; and

(2) encourage and assist persons described by Subsection (b)(3), with particular emphasis on persons who have been involved with programs or services relating to substance abuse or behavioral health, to participate in training described by Subdivision (1).

Added by Acts 2019, 86th Leg., R.S., Ch. 1163 (H.B. 3227), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 493.032 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(30), eff. September 1, 2021.

Sec. 493.034. EDUCATIONAL AND VOCATIONAL TRAINING PILOT PROGRAM. (a) The department shall establish a pilot program to provide educational and vocational training, employment, and reentry services to:

(1) defendants placed on community supervision under Article 42A.562, Code of Criminal Procedure; and

(2) inmates released on parole who are required to participate in the program as a condition of parole imposed under Section 508.1455.

(b) The department, in consultation with interested parties, shall determine the eligibility criteria for a defendant or inmate to participate in the pilot program, including requiring the defendant or inmate to arrange for suitable housing while participating in the program.

(c) The department, in consultation with interested parties, shall identify at least two and not more than four sites in this state in which the pilot program will operate. In identifying the sites, the department shall consider locating the program in various regions throughout the state, including locations having a variety of population sizes, provided that the department shall select sites based on where the program will have the greatest likelihood of success and regardless of geographic region or population size. The department shall also give consideration to whether a risk and needs assessment is generally conducted before sentencing defendants in a particular location and to the degree to which local judges show support for the establishment of the program in a particular location.

(d) The department shall issue a request for proposals from public or private entities to provide services through the pilot program. The department shall select one or more qualified applicants to provide services through the program to eligible defendants and inmates.

(e) The pilot program consists of approximately 180 days of employment-related services and support and must include:

(1) an initial period during which the defendant or inmate will:

(A) receive training and education related to the defendant's or inmate's vocational goals; and

(B) be employed by the provider;

(2) job placement services designed to provide employment for the defendant or inmate after the period described by Subdivision (1);

(3) assistance in obtaining a high school diploma or industry certification for applicable defendants and inmates;

(4) life-skills training, including information about budgeting and money management; and

(5) counseling and mental health services.

(f) The department shall limit the number of defendants and inmates who may participate in the pilot program to not more than 45 individuals per quarter per program location.

(g) The department shall pay providers not less than $40 per day for each participant.

Added by Acts 2017, 85th Leg., R.S., Ch. 1060 (H.B. 3130), Sec. 2, eff. September 1, 2017.
Transferred, redesignated and amended from Government Code, Section 507.007 by Acts 2021, 87th Leg., R.S., Ch. 1014 (H.B. 2352), Sec. 3, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1666, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 493.035. UNCLAIMED PROPERTY CLAIMS FILED ON BEHALF OF CRIME VICTIMS. (a) The department shall file a claim for unclaimed property under Section 74.501, Property Code, on behalf of a victim of a criminal offense if the reported owner of the unclaimed property:

(1) was finally convicted of the criminal offense in this state; and

(2) based on the final conviction:

(A) was ordered to pay criminal restitution to the victim; and

(B) on the date the claim is submitted, is confined in a facility operated by or under contract with the department.

(b) The department shall quarterly send to the comptroller a data set regarding confined inmates to initiate the filing and facilitate the approval of the claims submitted under Subsection (a).

(c) The department must file a claim under this section only if the department has:

(1) received notification from a court under Section 501.014(e); and

(2) confirmed with the county the amount of outstanding restitution owed before filing the claim if the department finds the confirmation to be necessary.

(d) The department may adopt rules necessary to administer this

section.

Added by Acts 2023, 88th Leg., R.S., Ch. 368 (H.B. 1221), Sec. 1, eff. September 1, 2023.

CHAPTER 494. INSTITUTIONAL DIVISION: POLICY, DIRECTOR, AND STAFF

Sec. 494.001. INSTITUTIONAL DIVISION MISSION. The mission of the institutional division is to provide safe and appropriate confinement, supervision, rehabilitation, and reintegration of adult felons, and to effectively manage or administer correctional facilities based on constitutional and statutory standards.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a). Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.012, eff. Sept. 1, 1995.

Sec. 494.002. DIRECTOR. (a) The director of the institutional division may adopt policies governing the humane treatment, training, education, rehabilitation, and discipline of inmates and may arrange for the separation and classification of inmates according to the inmates' sex, age, health, corrigibility, and type of offense for which the inmate was sentenced to the institutional division.

(b) In addition to a salary, the board shall provide the director of the institutional division with a house and reimburse the director for necessary expenses related to travel for the institutional division.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1991. Renumbered from Sec. 493.001 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.013, eff. Sept. 1, 1995.

Sec. 494.003. DIRECTOR'S ACCOUNTS. (a) The department shall keep a correct and accurate account of each financial transaction involving the institutional division, including the receipt and disbursement of money by the division. The department shall keep an account of each institutional division unit, industry, and farm, and for each person doing business with the division.

(b) The director of the institutional division or a designee of

the director shall provide a receipt for all money received by the institutional division.

(c) The director of the institutional division may require employees of the institutional division to make necessary reports at stated intervals.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 493.002 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.014, eff. Sept. 1, 1995.

Sec. 494.004. DIRECTOR'S REPORTS. The director of the institutional division shall make a complete report to the board at each regular meeting of the board. The report must describe the fiscal affairs of the institutional division and the division's general fiscal condition. On January 1 of each year the board shall require a complete inventory of institutional division property. The inventory must contain a statement of the book and the actual market value of each item listed in the inventory and a statement of the fiscal condition of the institutional division as of January 1. The board shall prepare a sufficient number of copies of the inventory to make the inventory generally available for public inspection.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 493.003 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 494.007. EMPLOYEES' SALARIES, ROOM AND BOARD, MEDICAL CARE. (a) Salaries of employees of the institutional division and the provision of board, lodging, uniforms, and other provisions to employees are as provided by the General Appropriations Act.

(b) The department, in preparing its biennial budget request, shall review the rent charged department employees for state-owned housing and the department's policy of providing rent-free state-owned housing to certain employees. The department, as part of the budget request, shall adjust the rent charged employees as necessary to more closely reflect the market value of the housing and shall adjust the list of employees receiving rent-free housing if necessary to comply with the General Appropriations Act, state law, or policies

on rent-free housing adopted by the Texas Department of Criminal Justice. If the department determines that no adjustment in rent charged to employees is necessary for a biennium, the department shall state that fact in the department's budget request.

(c) Employees of the institutional division who are injured in the line of duty are entitled to receive free medical care and hospitalization from division doctors and the division hospital.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 493.008 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 238, Sec. 2.01, eff. May 22, 1993.

Sec. 494.008. DEPARTMENT EMPLOYEES: LIMITED LAW ENFORCEMENT POWERS. (a) The executive director or the executive director's designee may authorize employees of the department to transport offenders and to apprehend escapees from any division of the department. An employee acting under authority granted by the executive director has the same powers and duties as a peace officer under the laws of this state, except that the employee may not act without receiving express orders from the executive director or the executive director's designee, and may exercise those powers and perform those duties throughout the state.

(b) The department may allow employees who are granted law enforcement authority under this section to assist municipal, county, state, or federal law enforcement officers if:

(1) the assistance is requested for an emergency situation that presents an immediate or potential threat to public safety if assistance is not received, including apprehending an escapee of a municipal or county jail or privately operated or federal correctional facility; and

(2) the department determines that the assistance will not jeopardize the safety and security of the department and its personnel.

(b-1) An employee who assists under Subsection (b) a law enforcement officer in the performance of the officer's duties has the same powers and duties as the officer requesting assistance.

(c) An employee of the department may not enforce the laws of this state relating to the prevention of misdemeanors and the

detention of persons who commit misdemeanors, including laws regulating traffic and the use of state highways.

(d) An employee described by Subsection (a) may not be considered a peace officer for any purposes other than those specified under this section and is not required to be certified by the Texas Commission on Law Enforcement.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 493.009 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 988, Sec. 1.04, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 322, Sec. 1, eff. May 29, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 19, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.28, eff. May 18, 2013.

Sec. 494.010. EMPLOYEES' POSSESSION AND USE OF TOBACCO PRODUCTS. A rule adopted by the board that regulates the possession and use of tobacco products by department employees must provide that employees of the department are permitted to use tobacco products during work hours at times and locations designated by the board. In designating locations at which the use of tobacco products is permitted, the board shall designate locations that:

(1) are at a sufficient distance from a place at which employees regularly perform duties to ensure that no employee who abstains from the use of tobacco products is physically affected by the use of tobacco products at the location; and

(2) do not negatively affect the comfort or safety of any employee or inmate.

Added by Acts 1997, 75th Leg., ch. 859, Sec. 1, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 494.011. ASSESSMENT OF UNIT DESIGN AND SECURITY SYSTEMS.

(a) In order to ensure that the institutional division is managed effectively, the division not less than once every three years shall assess the long-term administrative segregation and maximum security needs of the division. The institutional division shall report to the Legislative Criminal Justice Board the results of each assessment made under this section not later than one year after the assessment is completed.

(b) The institutional division shall include in the assessment:

(1) a feasibility study on the conversion of at least one maximum security facility into a medium security facility;

(2) a review of the division's unit design prototypes to determine whether the prototypes could be improved by:

(A) the use of new technologies;

(B) redesign of interiors and exteriors to improve visibility within the prototypes; or

(C) the use of other cost-saving measures;

(3) a feasibility study on increased use of closed-circuit camera technology, electronic perimeter detection technology, or other electronic technology; and

(4) a review of any other issues the division determines are relevant to the continued improvement and cost-effectiveness of the system's security system.

(c) The institutional division shall include in the report to the Legislative Criminal Justice Board required by Subsection (a) with the results of the assessment:

(1) a description, with documentation, of the distribution of levels of security within the institutional division;

(2) a comparison of the distribution of levels of security within the division to the distribution of levels of security in prisons in other states; and

(3) if there is a disparity between the distribution of levels of security within the institutional division and that in prisons in other states, a discussion of whether that disparity is in the best interest of the institutional division.

Added by Acts 1993, 73rd Leg., ch. 238, Sec. 3.01, eff. May 22, 1993.

Sec. 494.012. MAINTENANCE STAFF. (a) The institutional division shall evaluate the efficiency of the maintenance staff of

each unit of the division.

(b) The institutional division may assign a staff member to more than one unit of the division to increase the efficiency of the maintenance staff.

(c) The institutional division shall assign a maintenance staff member to two or more units of the division if the division determines that such an assignment is cost-effective.

(d) The institutional division may not employ an assistant unit maintenance manager for a maintenance staff of a unit of the division unless the division determines that the employment of an assistant unit manager at that unit is cost-effective.

Added by Acts 1993, 73rd Leg., ch. 238, Sec. 4.01, eff. May 22, 1993. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.015, eff. Sept. 1, 1995.

CHAPTER 495. CONTRACTS FOR CORRECTIONAL FACILITIES AND SERVICES

SUBCHAPTER A. CONTRACTS WITH PRIVATE VENDORS AND COMMISSIONERS COURTS

Sec. 495.001. AUTHORITY TO CONTRACT. (a) The board may contract with a private vendor or with the commissioners court of a county for the financing, construction, operation, maintenance, or management of a secure correctional facility.

(b) A facility operated, maintained, and managed under this subchapter by a private vendor or county must:

(1) hold not more than an average daily population of 1,150 inmates;

(2) comply with federal constitutional standards and applicable court orders; and

(3) receive and retain, as an individual facility, accreditation from the American Correctional Association.

(c) A facility authorized by this subchapter may be located on private land or on land owned by the state or a political subdivision of the state. The board may accept land donated for that purpose.

(d) The population requirements imposed by Subsection (b)(1) do not apply to a facility that is under construction or completed before April 14, 1987.

(e) The board shall give priority to entering contracts under this subchapter that will provide the institutional division with secure regionally based correctional facilities designed to

successfully reintegrate inmates into society through preparole, prerelease, work release, and prison industries programs.

(f) Notwithstanding Subsection (b)(1), a facility that before December 1, 1991, was operated, maintained, and managed under this subchapter by a private vendor or county may not hold more than an average daily population of 500 inmates, unless the commissioners court of the county in which the facility is located expresses in a resolution on the subject that the limit on population imposed by this subsection should not apply to the facility.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 494.001 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 2.01, eff. Dec. 1, 1991. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 601 (H.B. 198), Sec. 1, eff. June 15, 2007.

Sec. 495.002. INMATES. The institutional division may confine only minimum or medium security inmates in a facility authorized by this subchapter. An inmate confined in a facility authorized by this subchapter remains in the legal custody of the institutional division .

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 494.002 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 495.003. CONTRACT PROPOSALS; QUALIFICATIONS AND STANDARDS. (a) The board may not award a contract under this subchapter unless the board requests proposals and receives a proposal that meets or exceeds, in addition to requirements specified in the request for proposals, the requirements specified in Subsections (b), (c), and (d).

(b) A person proposing to enter a contract with the board under this subchapter must demonstrate:

(1) the qualifications and the operations and management experience to carry out the terms of the contract; and

(2) the ability to comply with the standards of the

American Correctional Association and with specific court orders.

(c) In addition to meeting the requirements specified in the requests for proposals, a proposal must:

(1) provide for regular, on-site monitoring by the institutional division;

(2) acknowledge that payment by the state is subject to the availability of appropriations;

(3) provide for payment of a maximum amount per biennium;

(4) offer a level and quality of programs at least equal to those provided by state-operated facilities that house similar types of inmates and at a cost that provides the state with a savings of not less than 10 percent of the cost of housing inmates in similar facilities and providing similar programs to those types of inmates in state-operated facilities;

(5) permit the state to terminate the contract for cause, including as cause the failure of the private vendor or county to meet the conditions required by this subchapter and other conditions required by the contract;

(6) provide that cost adjustments may be made only once each fiscal year, to take effect at the beginning of the next fiscal year;

(7) have an initial contract term of not more than three years, with an option to renew for additional periods of two years;

(8) if the proposal includes construction of a facility, contain a performance bond approved by the board that is adequate and appropriate for the proposed contract;

(9) provide for assumption of liability by the private vendor or county for all claims arising from the services performed under the contract by the private vendor or county;

(10) provide for an adequate plan of insurance for the private vendor or county and its officers, guards, employees, and agents against all claims, including claims based on violations of civil rights arising from the services performed under the contract by the private vendor or county;

(11) provide for an adequate plan of insurance to protect the state against all claims arising from the services performed under the contract by the private vendor or county and to protect the state from actions by a third party against the private vendor or county, its officers, guards, employees, and agents as a result of the contract;

(12) provide plans for the purchase and assumption of operations by the state in the event of the bankruptcy of the private vendor or inability of the county to perform its duties under the contract; and

(13) contain comprehensive standards for conditions of confinement.

(d) Before the commissioners court of a county proposes to enter into a contract under this subchapter, the commissioners court of the county must receive the written approval of the sheriff of the county. A sheriff may not unreasonably withhold written approval under this subsection. A correctional facility provided by a county under this subchapter is subject to the same standards and requirements as a correctional facility provided by a private vendor.

(e) The Legislative Budget Board determines the costs and cost savings under Subsection (c)(4) and may consider any relevant factor, including additional costs to the state for providing the same service as a private vendor or county, indirect costs properly allocable to either the state or the private vendor or county, and continuing costs to the state directly associated with the contract.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 494.003 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 2.03, eff. Dec. 1, 1991.

Sec. 495.004. LIMITATION ON AUTHORITY OVER INMATES. A private vendor or county operating under a contract authorized by this subchapter may not:

(1) compute inmate release and parole eligibility dates;

(2) award good conduct time;

(3) approve an inmate for work, medical, or temporary furlough or for preparole transfer; or

(4) classify an inmate or place an inmate in less restrictive custody than the custody ordered by the institutional division.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 494.004 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 495.005. CIVIL LIABILITY. A private vendor operating under a contract authorized by this subchapter may not claim sovereign immunity in a suit arising from the services performed under the contract by the private vendor or county. This section does not deprive the private vendor or the state of the benefit of any law limiting exposure to liability, setting a limit on damages, or establishing a defense to liability.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01 eff. Sept. 1, 1989. Renumbered from Sec. 494.005 by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 495.006. CONVERSION OF FACILITY. The board may not convert a facility into a correctional facility operated by a private vendor or by a county if, before April 14, 1987, the facility is:

(1) operated as a correctional facility by the board; or

(2) being constructed by the board for use as a correctional facility.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 494.006 by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 495.007. LIMITATION. The board may not enter into contracts under this subchapter for more than 5,580 beds.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 2.02, eff. Dec. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 238, Sec. 6.01, eff. May 22, 1993; Acts 1999, 76th Leg., ch. 1188, Sec. 1.13, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 601 (H.B. 198), Sec. 2, eff. June 15, 2007.

Sec. 495.008. AUDITING AND MONITORING CONTRACTS. (a) The department shall develop a comprehensive methodology for enhanced auditing and monitoring of all facilities operated under contract with the department that house inmates of the department and

releasees under the supervision of the department. To achieve this objective, the department shall first review existing auditing, monitoring, and oversight capabilities of the department to determine what further procedures and resources are necessary to achieve this goal.

(b) The department shall ensure that all new and renewed contracts described by Subsection (a) include:

(1) a provision that the department or a designee of the department may conduct periodic contract compliance reviews, without advance notice, to monitor vendor performance;

(2) minimum acceptable standards of performance prescribed by the department that include provisions regarding the health, safety, and welfare of inmates and releasees;

(3) a provision that if a review determines that a vendor is not in compliance with the contract, the department may require that the vendor's per diem compensation be withheld until the vendor meets contract requirements or the vendor is replaced;

(4) a provision requiring a vendor not in compliance with the contract to implement a plan of corrective action approved by the department; and

(5) a provision under which the state is indemnified for costs of litigation and for any damages in lawsuits alleging that the health, safety, or welfare of an inmate or releasee in a contract facility is not protected.

(c) The department shall complete at least one enhanced audit for each facility described by Subsection (a), without regard to whether the facility is operated by a public or private vendor. The enhanced audit must include an enhanced contract compliance review of any vendors hired by a community supervision and corrections department to operate a facility.

(d) The department, in conjunction with an advisory committee composed of state officials and private officials from within the industry, shall adopt rules to implement the requirements of this section.

(e) The department shall develop an appeals process, incorporated by reference into all new and renewed contracts, under which a vendor may appeal any imposed sanction under the contract, with the appeals process including the right to a formal hearing and a right to a final determination by the board.

Added by Acts 2001, 77th Leg., ch. 474, Sec. 5, eff. Sept. 1, 2001.

SUBCHAPTER B. MISCELLANEOUS CONTRACTS FOR CORRECTIONAL FACILITIES AND SERVICES

Sec. 495.021. LEASE-PURCHASE, INSTALLMENT CONTRACTS. (a) The board may contract with the commissioners court of a county to use, lease-purchase, purchase on an installment contract, or acquire in any other manner a secure correctional facility financed and constructed under the authority of the county. The contract must be subject to specific appropriative authority in the General Appropriations Act, and the facility must be managed by the institutional division.

(b) A contract under this section is subject to review and approval by the Bond Review Board under the provisions of Chapter 1231 without regard to the amount or the duration of the contract.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 494.021 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.237, eff. Sept. 1, 2001.

Sec. 495.022. CONTRACTS WITH FEDERAL GOVERNMENT. (a) The board may contract with the federal government for the lease of any military base or other federal facility that is not being used by the federal government.

(b) A facility leased under this section may be used by the institutional division for the purpose of housing inmates determined by the division to be minimum security inmates.

(c) The board may not enter into a contract under this section unless funds have been appropriated specifically for the purpose of making payments on contracts authorized under this section.

(d) The board shall attempt to enter into contracts authorized by this section that will provide the institutional division with facilities located in the various parts of the state.

(e) A facility leased under this section by the board must comply with federal constitutional standards and applicable court orders.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1,

1989. Renumbered from Sec. 494.022 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 495.023. CONTRACTS FOR DIAGNOSTIC AND EVALUATION SERVICES. (a) The institutional division shall request proposals and may award one contract to a private vendor or community supervision and corrections department to screen and diagnose, either before or after adjudications of guilt, persons who may be transferred to the division. The term of the contract may not be for more than two years. The institutional division shall award the contract if the division determines that:

(1) the person proposing to enter into the contract can provide psychiatric, psychological, or social evaluations of persons who are to be transferred to the division;

(2) the services provided will reduce the chances of misdiagnosis of persons with mental illness or persons with intellectual disabilities who are to be transferred to the division, expedite the diagnostic process, and offer savings to the division;

(3) the quality of services offered equals or exceeds the quality of the same services provided by the division; and

(4) the state will assume no additional liability by entering into a contract for the services.

(b) If the institutional division enters into the contract and during or at the end of the contract period determines that the diagnostic services performed under the contract are of a sufficient quality and are cost effective, the division shall submit requests for additional proposals for contracts and award one or more contracts in the same manner as provided by Subsection (a).

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 494.023 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.09, eff. September 1, 2023.

Sec. 495.024. RELEASE OF OUT-OF-STATE INMATES. A county or a municipality or a private vendor operating a correctional facility

under a contract with a county under Subchapter F, Chapter 351, Local Government Code, or a municipality under Subchapter E, Chapter 361, Local Government Code, that enters into a contract with any entity to house in this state inmates convicted of offenses committed against the laws of another state of the United States must require as a condition of the contract that each inmate to be released from custody must be released in the sending state.

Added by Acts 1997, 75th Leg., ch. 175, Sec. 1, eff. May 21, 1997.

Sec. 495.025. CERTAIN COMMISSARY CONTRACTS; TASTE TESTS. (a) For the purchase of commissary food goods, the department may conduct a taste test as consideration for a bid award only if, to conduct the test, the department contracts with a private marketing vendor, a university, or another independent organization that is experienced in food product evaluation and taste tests.

(b) In awarding a bid for commissary food goods for which a taste test is conducted, the department may use the taste test results as not more than 30 percent of the criteria used for the bid award.

(c) A contract into which the department enters under Subsection (a) must require the vendor, university, or other organization, at the expense of the vendor, university, or organization, to annually re-conduct the taste test to ensure that the product meets the original specifications of the request for proposal that resulted in the department entering a contract for the tested product.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 20, eff. June 15, 2007.

Sec. 495.026. PRODUCT BUNDLING, BULK PURCHASING, AND VENDOR DISCOUNTS. The department may provide for the practice of bundling products into categories to ensure savings through bulk purchasing, discounts for advance invoice payments, and online ordering.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 20, eff. June 15, 2007.

Sec. 495.027. INMATE PAY TELEPHONE SERVICE. (a) The board shall request proposals from private vendors for a contract to provide pay telephone service to eligible inmates confined in facilities operated by the department. The board may not consider a proposal or award a contract to provide the service unless under the contract the vendor:

(1) provides for installation, operation, and maintenance of the service without any cost to the state;

(2) pays the department a commission of not less than 40 percent of the gross revenue received from the use of any service provided;

(3) provides a system with the capacity to:

(A) compile approved inmate call lists;

(B) verify numbers to be called by inmates, if necessary;

(C) oversee entry of personal identification numbers;

(D) use a biometric identifier of the inmate making the call;

(E) generate reports to department personnel on inmate calling patterns; and

(F) network all individual facility systems together to allow the same investigative monitoring from department headquarters that is available at each facility;

(4) provides on-site monitoring of calling patterns and customizes technology to provide adequate system security;

(5) provides a fully automated system that does not require a department operator;

(6) provides for periodic review by the state auditor of documents maintained by the vendor regarding billing procedures and statements, rate structures, computed commissions, and service metering;

(7) ensures that a ratio of not greater than 30 eligible inmates per communication device is maintained at each facility;

(8) ensures that no charge will be assessed for an uncompleted call and that the charge for local calls will not be greater than the highest rate for local calls for inmates in county jails; and

(9) ensures that each eligible inmate or person acting on behalf of an eligible inmate may prepay for the service.

(b) The board shall award a contract to a single private vendor

to install, operate, and maintain the inmate pay telephone service. The initial term of the contract may not be less than seven years. The contract must provide the board with the option of renewing the contract for additional two-year terms.

(c) The department shall transfer 50 percent of all commissions paid to the department by a vendor under this section to the compensation to victims of crime fund established by Subchapter J, Chapter 56B, Code of Criminal Procedure, and the other 50 percent to the credit of the undedicated portion of the general revenue fund, except that the department shall transfer the first $10 million of the commissions collected in any given year under a contract awarded under this section to the compensation to victims of crime fund established by Subchapter J, Chapter 56B, Code of Criminal Procedure. This section does not reduce any appropriation to the department.

(d) Subject to board approval, the department shall adopt policies governing the use of the pay telephone service by an inmate confined in a facility operated by the department, including a policy governing the eligibility of an inmate to use the service. The policies adopted under this subsection may not unduly restrict calling patterns or volume and must allow for an average monthly call usage rate of eight calls, with each call having an average duration of not less than 10 minutes, per eligible inmate.

(e) The department shall ensure that the inmate is allowed to communicate only with persons who are on a call list that is preapproved by the department. Except as provided by Subsection (f), the department shall ensure that all communications under this section are recorded and preserved for a reasonable period of time for law enforcement and security purposes. A recording under this subsection is excepted from disclosure under Chapter 552.

(f) The department shall ensure that no confidential attorney-client communication is monitored or recorded by the department or any person acting on the department's behalf and shall provide to the vendor the name and telephone number of each attorney who represents an inmate to ensure that communication between the inmate and the attorney is not monitored or recorded.

Added by Acts 2007, 80th Leg., R.S., Ch. 100 (S.B. 1580), Sec. 1, eff. May 15, 2007.
Renumbered from Government Code, Section 495.025 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(33), eff. September 1,

2009.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1051 (H.B. 4583), Sec. 12(a), eff. June 19, 2009.
Acts 2009, 81st Leg., R.S., Ch. 1234 (S.B. 1844), Sec. 1, eff. June 19, 2009.
Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.46, eff. January 1, 2021.

Text of section effective on June 19, 2009, but only if a specific appropriation is provided as described by Acts 2009, 81st Leg., R.S., Ch. 643, Sec. 4, which states: This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

Sec. 495.028. IMPLEMENTATION OF REENTRY AND REINTEGRATION PLAN. (a) The department may contract and coordinate with private vendors, units of local government, or other entities to implement the comprehensive reentry and reintegration plan developed under Section 501.092, including contracting to:

(1) coordinate the supervision and services provided to offenders in correctional facilities with any supervision or services provided to offenders who have been released or discharged from the correctional facility;

(2) provide offenders awaiting release or discharge with documents that are necessary after release or discharge, including identification papers, medical prescriptions, job training certificates, and referrals to services; and

(3) provide housing and structured programs, including group homes for recovering substance abusers, through which offenders are provided services immediately following release or discharge.

(b) To ensure accountability, any contract entered into under this section must contain specific performance measures that the department shall use to evaluate compliance with the terms of the contract.

Added by Acts 2009, 81st Leg., R.S., Ch. 643 (H.B. 1711), Sec. 1, eff. June 19, 2009.

CHAPTER 496. LAND AND PROPERTY
SUBCHAPTER A. LAND

Sec. 496.001. ACQUISITION OF REAL PROPERTY. The board may acquire real property through purchase, subject to specific appropriative authority in the General Appropriations Act, or through the acceptance of a gift, grant, or donation for a facility.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 495.001 by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.016, eff. Sept. 1, 1995.

Sec. 496.002. EMINENT DOMAIN. (a) The board has eminent domain authority to condemn and acquire land if necessary to eliminate security hazards, protect the life and property of citizens of this state, or improve the efficiency, management, or operations of the department.

(b) The exercise of the power of eminent domain by the board is governed by Chapter 21, Property Code.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 495.002 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.017, eff. Sept. 1, 1995.

Sec. 496.0021. SALE OF DEPARTMENT REAL PROPERTY. (a) The board may sell state-owned real property under the board's management and control at the real property's fair market value. The General Land Office shall negotiate and close a transaction under this section on behalf of the board using procedures under Section 31.158(c), Natural Resources Code. Proceeds from the transaction shall be deposited in the Texas capital trust fund.

(b) The board may authorize the sale of land directly to a local government at fair market value without the requirement of a sealed bid sale if the local government acquires the property for use as a local correctional facility.

(c) The board shall authorize the sale of land directly to a municipality at fair market value without the requirement of a sealed bid sale if:

(1) the municipality seeking to acquire the land notifies the department in writing of the municipality's desire to acquire the land for municipal airport expansion;

(2) the land is located next to an active runway of a municipally owned airport;

(3) the municipality is acquiring the land to expand municipal airport facilities or supporting commercial operations for the airport; and

(4) the department primarily uses the land for guard housing.

(d) After receiving the notice required by Subsection (c), the board shall:

(1) obtain an appraisal of the land to be sold to the municipality;

(2) request that the municipality provide the board with an appraisal of the land to be sold; and

(3) determine whether a third appraisal by an appraiser mutually selected by the department and municipality is necessary to determine fair market value of the land to be sold.

(e) Within 18 months of receiving the notice required by Subsection (c), the board shall finalize the sale of the land to the municipality at fair market value.

(f) In determining the fair market value of land to be sold under Subsection (c), the department shall consider the necessary remediation that must be completed before the land can be used for airport expansion. If a third appraisal is required under Subsection (d), the fair market value is considered to be the average of the three appraisals required under this section.

Added by Acts 1995, 74th Leg., ch. 215, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.018, eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 25 (S.B. 1149), Sec. 1, eff. May 12, 2009.

Sec. 496.003. LEASE OF REAL PROPERTY. (a) The board may lease state-owned real property under the board's management and control at the real property's fair market lease value. The initial period of a lease under this section may not exceed 20 years. The lease may

contain terms and conditions determined by the board to be in the best interest of the department. Neither a member of the board nor a person related to a member within the second degree by affinity or within the third degree by consanguinity, as determined under Subchapter B, Chapter 573, may own an interest in an entity leasing real property under this section.

(b) The department shall deposit in the general revenue fund to the credit of a special account the proceeds of a lease entered into under this section, after deducting expenses. The proceeds may be used only for the payment of operating expenses of the department. Sections 403.094 and 403.095 do not apply to the dedication of lease proceeds under this subsection.

(c) The department shall notify taxing units authorized to impose property taxes on land leased under this section that the land has been leased. The department shall send a copy of the lease by first class mail, return receipt requested, to each taxing unit in which the land is located. The lessee is liable for property taxes imposed on land leased under this section.

Added by Acts 1989, 72nd Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 495.003 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended as Sec. 495.003 by Acts 1991, 72nd Leg., ch. 561, Sec. 28, eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(28), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.019, eff. Sept. 1, 1995.

Sec. 496.0031. TRANSFER OF FACILITIES. (a) The department may transfer a correctional facility to another agency of the state, and the agency receiving the facility subsequently may transfer the facility back to the department.

(b) A transfer under this section requires the agreement of the board and the governing body of the agency receiving the correctional facility or returning the correctional facility to the department, both as to the identity of the facility to be transferred and to the method of transfer.

(c) In this section, "transfer" means to convey title to, lease, or otherwise convey the beneficial use of a correctional facility and land appurtenant to the facility.

Added by Acts 1995, 74th Leg., ch. 312, Sec. 1, eff. June 5, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.020, eff. June 7, 1995.

Sec. 496.0032. AGRICULTURAL LEASE. The board under terms advantageous to the department may lease real property for use by the department for agricultural purposes and lease fixtures and appurtenances to the property.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 8.09, eff. Sept. 1, 1999.

Sec. 496.004. EASEMENTS. (a) The board may grant or lease permanent or temporary right-of-way easements on department land for:

(1) public highways, roads and streets, and ditches;

(2) electric lines and pipelines, including necessary wires, pipes, poles, and other equipment used to transmit, convey, or distribute water, electricity, gas, oil, or similar substances or commodities;

(3) electrical substations; or

(4) the provision of utilities for the operation of facilities of the department and roadways for access to facilities of the department.

(b) The board may not grant or lease an easement unless the board receives fair and adequate consideration. However, the board may without consideration grant a state highway easement to the Texas Department of Transportation, a roadway easement to a county for connecting roads between state highways, easements to utility providers for utilities to serve facilities of the department, and roadway easements to a city or a county to provide roadways for facilities of the department.

(c) A grant or lease must contain a full reservation of minerals in and under the land. The board may impose other fair and reasonable conditions, covenants, and provisions.

(d) The department shall deposit money received from a grant or lease of easements and money received from damages to department land in the general revenue fund to the credit of a special account. Money received under this section may be used only for the payment of operating expenses of the department. Sections 403.094 and 403.095 do not apply to the dedication of money under this section.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 495.004 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1991, 72nd Leg., ch. 508, Sec. 1, eff. June 13, 1991; Acts 1995, 74th Leg., ch. 165, Sec. 22(37), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.021, eff. Sept. 1, 1995.

Sec. 496.005. TAX EXEMPTION. (a) Property associated with a facility described by Subsection (b) is exempt from taxation during the time the property is used exclusively for the purposes of the department.

(b) This section applies to:

(1) land in Anderson County owned by the state for the use and benefit of the institutional division that is subject to a lease granted by the board and a sublease entered into by the division and the General Services Commission, on which is located the correctional facility known as the Mark W. Michael Unit of the Coffield Prison Farm; and

(2) a parcel of land in Anderson, Brazoria, Coryell, Houston, Madison, or Walker County owned by the state for the use and benefit of the institutional division that is subject to a lease granted by the board and a sublease entered into by the division and the General Services Commission, on which is located a trusty camp facility.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 495.005 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.022, eff. Sept. 1, 1995.

Sec. 496.006. ROAD MAINTENANCE. (a) The department and the Texas Department of Transportation may enter into and perform an agreement or contract for the maintenance of a road in or adjacent to a facility of the department.

(b) An agreement or contract entered into under this section and payments made under the agreement or contract must conform with the provisions of Chapter 771.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1,

1989. Renumbered from Sec. 495.006 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 165, Sec. 22(38), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.023, eff. Sept. 1, 1995.

Sec. 496.007. LOCATION OF NEW FACILITIES. In determining the location of a facility to be built, the department, in evaluating the advantages and disadvantages of the proposed location, shall consider whether the proposed location is:

(1) close enough to a county with 100,000 or more inhabitants to provide access to services and other resources provided in such a county;

(2) cost-effective with respect to its proximity to other facilities of the department;

(3) close to an area that would facilitate release of inmates or persons confined in state jail felony facilities to their area of residence; and

(4) close to an area that provides adequate educational opportunities and medical care.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 495.007 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.024, eff. Sept. 1, 1995.

SUBCHAPTER B. PURCHASING PROCEDURES; PROPERTY INSURANCE

Sec. 496.051. PURCHASING PROCEDURES. (a) The department shall comply with any special purchasing procedures requiring competitive review under Subtitle D, Title 10. The department shall test the goods and services that it purchases in accordance with Section 2155.069 and may enter into a contract with a private or public entity to assist with testing.

(b), (c) Repealed by Acts 1997, 75th Leg., ch. 1409, Sec. 9, eff. Sept. 1, 1997.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 495.051 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.025, eff. Sept. 1, 1995; Acts 1997,

75th Leg., ch. 165, Sec. 17.19(5), (12), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 335, Sec. 1, eff. May 27, 1997; Acts 1997, 75th Leg., ch. 1206, Sec. 24, eff. Sept. 1, 1997.

Sec. 496.0515. HAZARDOUS WASTE MANAGEMENT CONTRACTS. (a) The competitive bidding contract procedures established by Chapters 2155-2158, do not apply to a contract awarded by the department for:

(1) testing a solid waste or other substance to determine whether the waste or other substance is a hazardous waste; or

(2) the transport, storage, treatment, or disposal of a hazardous waste.

(b) The department shall promulgate procedures for the purpose of purchasing under Subsection (a). The department shall file copies of the procedures promulgated under this subsection with the comptroller.

Added by Acts 1991, 72nd Leg., ch. 920, Sec. 1, eff. June 16, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.026, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 17.192, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.53, eff. September 1, 2007.

Sec. 496.052. INSURANCE. (a) The board may purchase insurance to protect the department from loss due to the damage, loss, theft, or destruction of department aircraft.

(b) Insurance purchased by the board under this section must be on a form approved by the State Board of Insurance.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 495.052 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.027, eff. Sept. 1, 1995.

SUBCHAPTER C. MANAGEMENT OF PROPERTY

Sec. 496.101. AUTOMATED INVENTORY AND MAINTENANCE SYSTEM. (a) As funds are appropriated for that purpose, the department shall

establish for each facility of the department an automated inventory and maintenance system that interacts with the centralized computer system of the department.

(b) The system must maintain inventory records for parts and supplies control, monitor preventive maintenance and warranty schedules for equipment, estimate time standards for maintenance jobs, and organize a work order control process.

Added by Acts 1993, 73rd Leg., ch. 238, Sec. 4.02, eff. Jan. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.028, eff. Sept. 1, 1995.

CHAPTER 497. INDUSTRY AND AGRICULTURE; LABOR OF INMATES

SUBCHAPTER A. TEXAS CORRECTIONAL INDUSTRIES

Sec. 497.001. TEXAS CORRECTIONAL INDUSTRIES; DEFINITIONS. (a) Texas Correctional Industries is an office in the department.

(b) In this subchapter and Subchapter B:

(1) "Office" means Texas Correctional Industries.

(2) "Articles and products" includes services provided through the use of work program participant labor.

(3) "Work program participant" means a person who:

(A) is an inmate confined in a facility operated by or under contract with the department or a defendant or releasee housed in a facility operated by or under contract with the department; and

(B) works at a job assigned by the office.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.001 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.029, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1188, Sec. 1.14, 1.15, eff. Sept. 1, 1999.

Sec. 497.002. PURPOSE; IMPLEMENTATION. (a) The purposes of the office are to implement this subchapter and Subchapter B to:

(1) provide work program participants with marketable job skills to help reduce recidivism through a coordinated program of:

(A) job skills training;

(B) documentation of work history; and

(C) access to resources provided by Project RIO and the Texas Workforce Commission, including access to resources provided through assistance to local workforce development boards in referring work program participants to the Project RIO employment referral services provided under Section 306.002, Labor Code; and

(2) reduce department costs by providing products and articles for the department and providing products or articles for sale on a for-profit basis to the public or to agencies of the state or political subdivisions of the state.

(b) To implement the purposes of the office, the department may establish and operate a prison industries program at each correctional facility that the department considers suitable for such a program.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.002 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.030, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1188, Sec. 1.16, eff. Sept. 1, 1999.

Sec. 497.003. ADVISORY COMMITTEE. (a) The board may establish a prison industries advisory committee. If the board establishes a prison industries advisory committee, the advisory committee must be composed of nine members appointed by the board. In appointing members under this subsection, the board shall appoint persons who represent business and industry, including one member of the board and other persons who are:

(1) local workforce development board members;

(2) members of recognized labor organizations; and

(3) members of the staff of the State Occupational Information Coordinating Committee.

(b) Members of the advisory committee, if the advisory committee is established, serve staggered three-year terms with the terms of three members expiring February 1 of each calendar year.

(c) The prison industries advisory committee shall advise the board on all aspects of prison industry operations and shall make recommendations to the board on the effective use of prison industries programs to assist work program participants in the

development of job skills necessary for successful reintegration into the community after release from imprisonment.

(d) Expired.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.003 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1997, 75th Leg., ch. 1360, Sec. 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1188, Sec. 1.17, eff. Sept. 1, 1999.

Sec. 497.004. LABOR, PAY. (a) The board may develop by rule and the department may administer an incentive pay scale for work program participants consistent with rules adopted by the board under Subchapter C. Prison industries may be financed through contributions donated for this purpose by private businesses contracting with the department. The department shall apportion pay earned by a work program participant in the same manner as is required by rules adopted by the board under Section 497.0581.

(b) In assigning work program participants to available job training positions in factories, the department shall consider each participant's classification and availability for work. The department shall give priority to work program participants closest to release from imprisonment or supervision in making assignment to those job training positions that provide the most marketable skills.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.004 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(109), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.031, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1360, Sec. 5, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1188, Sec. 1.18, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 4, eff. June 19, 2009.

Sec. 497.005. INDUSTRIAL RECEIPTS. The office may use money

appropriated to the office in amounts corresponding to receipts from the sale of articles and products under this subchapter and Subchapter B to purchase real property, erect buildings, improve facilities, buy equipment and tools, install or replace equipment, buy industrial raw materials and supplies, and pay for other necessary expenses for the administration of this subchapter and Subchapter B.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.005 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.032, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1188, Sec. 1.19, eff. Sept. 1, 1999.

Sec. 497.006. CONTRACTS WITH PRIVATE BUSINESS. (a) To encourage the development and expansion of prison industries, the prison industries office may enter into necessary contracts related to the prison industries program.

(b) With the approval of the board, the office may enter into a contract with a private business to conduct a program on or off property operated by the department. Except as provided by Subsection (c), a contract entered into under this section must comply with all requirements of the Private Sector/Prison Industry Enhancement Certification Program operated by the Bureau of Justice Assistance and authorized by 18 U.S.C. Section 1761. In determining under Section 497.062 the number of participants participating in private sector prison industries programs, the department shall count the number of work program participants participating in a program under a contract entered into under this section. Not more than 700 work program participants may participate in programs under contracts entered into under this subsection.

(c) A contract for the provision of services under this section must:

(1) be certified by the board as complying with all requirements of the Private Sector/Prison Industry Enhancement Certification Program operated by the Bureau of Justice Assistance and authorized by 18 U.S.C. Section 1761, other than a requirement relating to the payment of prevailing wages, so long as the contract

requires payment of not less than the federal minimum wage;

(2) be certified by the board, under rules adopted under Section 497.059, that the contract would not cause the loss of existing jobs of a specific type provided by any employer in this state; and

(3) be approved by the board.

(d) Not more than 500 work program participants may participate in programs under contracts entered into under Subsection (c).

(e) Section 497.058 does not apply to the payment of a work program participant participating in a program under a contract described by Subsection (c).

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.006 and amended by Acts 1991, 72nd leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.033, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1188, Sec. 1.20, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 752 (H.B. 2839), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 21, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 5, eff. June 19, 2009.

Sec. 497.007. GRANTS. The office may accept any grant designated for work program participant vocational rehabilitation. The office shall maintain records relating to the receipt and disbursement of grant funds and shall annually report to the board on the administration of grant funds.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.007 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1997, 75th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1188, Sec. 1.21, eff. Sept. 1, 1999.

Sec. 497.008. LEASE OF LAND. To further the expansion and

development of prison industries, the department may lease prison land to a private business. A lease under this section may not exceed a term of 50 years. The business must lease the land at a mutually agreed upon price and may construct or convert plant facilities on the land.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.008 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.034, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1037, Sec. 1, eff. June 15, 2001.

Sec. 497.010. OFFENSE: SALE OR OFFER OF SALE OF PRISON-PRODUCED ARTICLES OR PRODUCTS. (a) A person commits an offense if the person intentionally sells or offers to sell on the open market in this state an article or product the person knows was manufactured in whole or in part by an inmate of the department or an inmate in any correctional facility or reformatory institution in this state or in any other state, other than an inmate:

(1) who was on community supervision, parole, or mandatory supervision;

(2) employed by an enterprise that has employed the inmate in order to take advantage of the franchise tax credit offered under Subchapter L, Chapter 171, Tax Code, at the time of manufacture; or

(3) participating in a federally certified prison industry enhancement program.

(b) An offense under this section is a Class B misdemeanor.

(c) It is an exception to the application of this section that the article or product sold is:

(1) a state flag or similar item produced for sale or distribution by the legislature under Section 301.071; or

(2) a service provided under a contract for which the Private Sector/Prison Industry Enhancement Certification Program operated by the Bureau of Justice Assistance and authorized by 18 U.S.C. Section 1761 does not require certification.

(d) It is an exception to the application of this section that the actor was an inmate or state jail defendant confined in a facility operated by or under contract with the department who sold

or offered to sell an art or craft in the manner authorized under Section 501.013(b).

Added by Acts 1993, 73rd Leg., ch. 737, Sec. 3, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.036, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 377, Sec. 2, eff. May 29, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 21.002(6), eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 752 (H.B. 2839), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 618 (H.B. 432), Sec. 1, eff. September 1, 2007.

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.008, eff. September 1, 2021.

Sec. 497.011. CERTAIN CONTRACTS PROHIBITED. The department may not enter into a contract with a private business or public entity that requires or permits an inmate confined in a correctional facility operated by or for the department to have access to personal information about persons who are not confined in facilities operated by or for the department.

Added by Acts 1999, 76th Leg., ch. 1196, Sec. 1, eff. Sept. 1, 1999.

Sec. 497.012. REPAIR AND RESALE OF SURPLUS DATA PROCESSING EQUIPMENT. (a) The department may receive surplus or salvage data processing equipment from a state agency under Chapter 2175 or from any political subdivision that chooses to send the equipment to the department. Acceptance by the board is not necessary for receipt by the department of equipment under this section.

(b) If the department determines that it is economically feasible, the department shall repair or refurbish the surplus or salvage data processing equipment. The department shall sell the repaired or refurbished data processing equipment, in the following order of preference, to:

(1) a school district;

(2) a state agency;

(3) a political subdivision of the state; or

(4) a statewide organization described by Section 264.603(a), Family Code, or a local volunteer advocate program, as defined by Section 264.601, Family Code, for use by children or youth in foster care.

(c) If it is not economically feasible to repair or refurbish the surplus or salvage data processing equipment, the department shall disassemble the equipment and sell the components or retain the components in the department's inventory for future use.

(d) The department shall attempt to realize the maximum benefit to the state in selling repaired or refurbished data processing equipment or the components.

(e) The sales price of the components or the repaired or refurbished data processing equipment must be sufficient to defray the cost of repairing, refurbishing, or disassembling the data processing equipment.

(f) Proceeds from the sale of the components or the repaired or refurbished data processing equipment shall be deposited in the industrial revolving account. The proceeds may be used only to reduce the cost of repairing and refurbishing data processing equipment.

(g) The department may adopt rules to implement this section.

(h) The department shall ensure that all information stored on the surplus or salvage data processing equipment received by the department under this section is removed from the equipment before any inmate is given access to the equipment. This subsection does not require the removal of any operating system or software program stored on the data processing equipment.

Added by Acts 1999, 76th Leg., ch. 419, Sec. 1, eff. Sept. 1, 1999.
Renumbered from Sec. 497.011 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(44), eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 613 (H.B. 2196), Sec. 1, eff. June 17, 2005.

Acts 2017, 85th Leg., R.S., Ch. 289 (S.B. 78), Sec. 1, eff. September 1, 2017.

SUBCHAPTER B. SALES OF PRISON-MADE ARTICLES OR PRODUCTS

Sec. 497.021. AUTHORITY. This subchapter governs the sale of

prison-made products to governmental agencies.

Amended by Acts 1997, 75th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 1997.

Sec. 497.0211. EXCEPTION: INSTITUTIONS OF HIGHER EDUCATION. This subchapter does not apply to an institution of higher education, as defined by Section 61.003, Education Code.

Added by Acts 2001, 77th Leg., ch. 118, Sec. 1.03, eff. Sept. 1, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 497.022. CONTRACTS. The department may contract with:

(1) another state, the federal government, a foreign government, or an agency of any of those governments to manufacture for or sell to those governments prison-made articles or products;

(2) a private or independent institution of higher education to manufacture for or sell to that school or institution prison-made articles or products; or

(3) a private school or a visually handicapped person in this state to manufacture Braille textbooks or other instructional aids for the education of visually handicapped persons.

Amended by Acts 1997, 75th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2005, 79th Leg., Ch. 752 (H.B. 2839), Sec. 1, eff. September 1, 2005.

Sec. 497.023. PRIORITIES. Under this subchapter and Subchapter A, the office shall produce products and articles first to fulfill the needs of agencies of the state and second to fulfill the needs of political subdivisions or other purchasers.

Amended by Acts 1997, 75th Leg., ch. 1409, Sec. 1, eff. Sept. 1,

1997.

Sec. 497.024. AGENCIES AND POLITICAL SUBDIVISIONS: DUTIES TO PURCHASE. (a) If the office produces an article or product under this subchapter, an agency of the state or a political subdivision may purchase the article or product only from the office.

(b) If the comptroller determines that an article or product produced by the office under this subchapter does not meet the requirements of an agency of the state or a political subdivision, or that the office has determined that the office is unable to fill a requisition for an article or product, the agency or subdivision may purchase the article or product from another source.

(c) An agency of the state or a political subdivision may not evade the intent of this subchapter by requesting an article or product that varies slightly from standards for articles or products established under Section 497.027, if the office produces a similar article or product that is in compliance with established standards and is reasonably suited to the actual needs of the agency or subdivision.

(d) This section applies to the department in the same manner as it applies to other agencies of the state.

(e) The office at least once each year shall determine whether there are articles or products needed by the department that are not produced by but could be produced by the office at a reduced cost or savings to the department.

Amended by Acts 1997, 75th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1056, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.54, eff. September 1, 2007.

Sec. 497.025. PURCHASING PROCEDURE. (a) An agency of the state that purchases articles and products under this subchapter must requisition the purchase through the comptroller except for purchases of articles or products not included in an established contract. The purchase of articles or products not included in an established contract and that do not exceed the dollar limits established under

Section 2155.132 may be acquired directly from the office on the agency's obtaining an informal or a formal quotation for the item and issuing a proper purchase order to the office. The comptroller and the department shall enter into an agreement to expedite the process by which agencies are required to requisition purchases of articles or products through the comptroller.

(b) A political subdivision may purchase articles and products under this subchapter directly from the office.

(c) If an agency or political subdivision purchasing goods under this subchapter desires to purchase goods or articles from the office, it may do so without complying with any other state law otherwise requiring the agency or political subdivision to request competitive bids for the article or product. Nothing herein shall be interpreted to require a political subdivision to purchase goods or articles from the office if the political subdivision determines that the goods or articles can be purchased elsewhere at a lower price. An agency may decline to purchase goods or articles from the office if the agency determines, after giving the office a final opportunity to negotiate on price, and the comptroller certifies, that the goods or articles can be purchased elsewhere at a lower price.

Amended by Acts 1997, 75th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1188, Sec. 1.23, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.55, eff. September 1, 2007.

Sec. 497.026. PRICES. The office and the comptroller shall determine the sales price of articles and products produced under this subchapter.

Amended by Acts 1997, 75th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.56, eff. September 1, 2007.

Sec. 497.027. SPECIFICATIONS. (a) The comptroller shall establish specifications for articles and products produced under

this subchapter. An article or product produced under this subchapter must meet specifications established under this subsection in effect when the article or product is produced.

(b) The office may manufacture articles and products to meet commercial specifications for the article or product if the comptroller has not established specifications for the article or product and the comptroller approves the commercial specifications.

Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19(14), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.57, eff. September 1, 2007.

Sec. 497.028. CATALOGS. The office shall prepare catalogs that accurately and completely describe articles and products produced under this subchapter. The office shall send copies of the catalogs to all state agencies and make the catalogs available to political subdivisions.

Amended by Acts 1997, 75th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 1997.

Sec. 497.029. NEW ARTICLES AND PRODUCTS. The comptroller may request the office to produce additional articles or products under this subchapter.

Amended by Acts 1997, 75th Leg., ch. 1409, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.58, eff. September 1, 2007.

Sec. 497.031. SALE OF STATE FLAGS TO STATE AGENCY. The department shall sell state flags to the Texas Commission on Law Enforcement at a price that does not exceed the department's cost in producing or obtaining the state flags.

Added by Acts 2001, 77th Leg., ch. 476, Sec. 2, eff. Sept. 1, 2001.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.29, eff. May 18, 2013.

SUBCHAPTER C. PRIVATE SECTOR PRISON INDUSTRIES PROGRAMS

Sec. 497.051. PURPOSE; DEFINITIONS. (a) The board shall approve, certify, and supervise the operation of private sector prison industries programs in the department, the Texas Juvenile Justice Department, and in county correctional facilities in compliance with the federal prison enhancement certification program established under 18 U.S.C. Section 1761. The board may use board and department employees to provide the clerical and technical support necessary for the board to perform the board's duties under this subchapter and shall ensure that the department implements the policies adopted by the board that relate to the operation of private sector prison industries programs.

(a-1) The board shall ensure that private sector prison industries programs are operated under this subchapter in a manner that is designed to avoid the loss of existing jobs for employees in this state who are not incarcerated or imprisoned.

(b) In this subchapter:

(1) "Governmental entity" means the department, the Texas Juvenile Justice Department, and any county that operates a private sector prison industries program under this subchapter.

(2) "Participant" means a participant in a private sector prison industries program.

(c) This subchapter does not authorize the board to direct the general operations of or to govern the Texas Juvenile Justice Department or county correctional facilities in any manner not specifically described by Subsection (a).

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a). Amended by Acts 1995, 74th Leg., ch. 318, Sec. 69, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1236, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1188, Sec. 1.24, eff. Sept. 1, 1999.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 7, eff. June 19, 2009.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 97, eff. September 1, 2015.

Sec. 497.0527. COMPLAINTS. (a) The board shall maintain a file on each written complaint filed with the board in relation to a private sector prison industries program. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the board;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the board closed the file without taking action other than to investigate the complaint.

(b) The board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the board's policies and procedures relating to complaint investigation and resolution.

(c) The board, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation, unless the notice would jeopardize an undercover investigation.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 2.02, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 8, eff. June 19, 2009.

Sec. 497.056. PRIVATE SECTOR PRISON INDUSTRIES ACCOUNT. (a) The department shall forward money collected under Section 497.0581 to the comptroller. The comptroller shall deposit the money in the general revenue fund.

(b) The private sector prison industry account is created as an account in the general revenue fund. Money in the account may be

appropriated only to:

(1) recruit corporations to participate as private sector industries programs;

(2) pay costs of the board and department in implementing this subchapter, including the cost to the department in reimbursing board members for expenses; and

(3) pay costs associated with the storage of evidence:

(A) containing biological material and used in the prosecution and conviction of an offense; or

(B) of a sexual assault or other sex offense.

(c) On each certification by the department that an amount has been deposited to the credit of the general revenue fund from deductions from participants' wages under Section 497.0581, the comptroller shall transfer an equivalent amount from the general revenue fund to the private sector prison industry account, until the balance in the account is $1 million. The balance of the account may not exceed $1 million.

(d) The department during each calendar quarter shall make a certification of the amount deposited during the previous calendar quarter to the credit of the general revenue fund from deductions from participants' wages under Section 497.0581.

Added by Acts 1997, 75th Leg., ch. 1236, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1188, Sec. 1.26, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1037, Sec. 2, eff. June 15, 2001. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 9, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 10, eff. June 19, 2009.

Sec. 497.057. RULES. The board shall adopt rules as necessary to ensure that the private sector prison industries program authorized by this subchapter is in compliance with the federal prison enhancement certification program established under 18 U.S.C. Section 1761.

Added by Acts 1997, 75th Leg., ch. 1236, Sec. 1, eff. Sept. 1, 1997. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 11, eff.

June 19, 2009.

Sec. 497.058. PIECP WAGE. (a) The board by rule shall require that participants at each private sector prison industries program be paid not less than the prison industry enhancement certification program (PIECP) wage as computed by the Texas Workforce Commission, except that:

(1) the board may permit employers to pay a participant the federal minimum wage for the two-month period beginning on the date participation begins; and

(2) the minimum wage for participants committed to the Texas Juvenile Justice Department, because of the age of the participants and the extensive training component of their employment, is the federal minimum wage.

(b) For the purposes of computations required by this section:

(1) the PIECP wage is the wage paid by the employer for work of a similar nature in the location in which the work is performed;

(2) in the event that the employer has no employees other than those employed under this subchapter performing work of a similar nature within the location, the prevailing wage for work of a similar nature is determined by reference to openings and wages by occupation data collected by the labor market information department of the Texas Workforce Commission; and

(3) the location in which work is performed is the local workforce development area in which the work is performed.

Added by Acts 1997, 75th Leg., ch. 1236, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1188, Sec. 1.27, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1056, Sec. 2, eff. Sept. 1, 2003. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 12, eff. June 19, 2009.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 98, eff. September 1, 2015.

Sec. 497.0581. PARTICIPANT CONTRIBUTIONS; ASSISTANCE ACCOUNT. (a) The board by rule shall determine the amount of deductions to be

taken from wages received by the participant under this subchapter and the disbursement of those deductions. The board may establish deductions for participants committed to the Texas Juvenile Justice Department that are different than deductions established for other participants in the program. In determining the amount of deductions under this section, the board shall ensure that the deductions do not place the private sector prison industries programs in the department in noncompliance with the federal prison enhancement certification program established under 18 U.S.C. Section 1761.

(b) The private sector prison industry crime victims assistance account is created as an account in the general revenue fund. Money in the account may be appropriated only to the board for the purpose of aiding victims of crime, under rules adopted by the board.

Added by Acts 1997, 75th Leg., ch. 1236, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1188, Sec. 1.28, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1037, Sec. 3, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 1056, Sec. 3, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 13, eff. June 19, 2009.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 99, eff. September 1, 2015.

Sec. 497.059. LIMITING IMPACT OF CERTIFICATION ON NON-PRISON INDUSTRY. (a) The board may not grant initial certification to a private sector prison industries program if the board determines that the operation of the program would result in the loss of existing jobs provided by any employer in this state.

(b) The board shall adopt rules to determine whether a program would cause the loss of existing jobs of a specific type provided by an employer in this state.

(c) For the purposes of this section, a program does not result in the loss of existing jobs if, at the time of initial certification, the jobs are performed by workers in a foreign country.

Added by Acts 1997, 75th Leg., ch. 1236, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1188, Sec. 1.29, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1056, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 14, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 15, eff. June 19, 2009.

Sec. 497.0595. LIMITATION ON CONTRACTS. (a) A governmental entity may not enter into a contract or renew a contract with an employer for a private sector prison industries program under this subchapter if the board determines that the contract has negatively affected or would negatively affect any employer in this state, including through the loss of existing jobs provided by the employer to employees in this state who are not incarcerated or imprisoned.

(b) The board shall adopt rules that establish a procedure to be used in making the determination described by Subsection (a). The procedure must allow an aggrieved employer in this state to submit a sworn statement to the board alleging that the employer has been or would be negatively affected by the contract to be entered into or renewed.

(c) For the purposes of this section, a contract does not negatively affect an employer if the only negative effect alleged in a sworn statement by the employer is the loss of existing jobs that, at the time the sworn statement is submitted to the board, are performed by workers in a foreign country.

Added by Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 16, eff. June 19, 2009.

Sec. 497.0596. NOTICE CONCERNING CERTAIN CONTRACTS. (a) Not later than the 60th day before the date a governmental entity intends to enter into a contract with an employer for a private sector prison industries program under this subchapter, the governmental entity shall notify:

(1) the state senator and state representative in whose district the program covered by the contract is or will be located;

(2) the executive heads of the Texas AFL-CIO, the Texas Association of Manufacturers, the National Federation of Independent Business/Texas, the Texas Association of Business, and the Texas

Association of Workforce Boards;

(3) the chamber of commerce in any municipality or county in which the program covered by the contract is or will be located; and

(4) any employer that employs persons in this state who are not incarcerated or imprisoned and who, as determined under rules adopted by the Texas Workforce Commission to implement this subdivision:

(A) perform work in the same job descriptions as participants in the program covered by the contract will perform; or

(B) are otherwise engaged in the manufacture of the same or a substantially similar product as will be manufactured under the contract.

(b) The notice required by Subsection (a) must include a specific description, in plain language and in an easily readable and understandable format, of any product that will be manufactured under the contract.

(c) A governmental entity that provides notice under Subsection (a) may charge the employer with whom the governmental entity intends to enter into the contract for the cost of providing that notice.

Added by Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 16, eff. June 19, 2009.

Sec. 497.060. WORKERS' COMPENSATION. The board by rule shall require private sector prison industries program employers to meet or exceed all federal requirements for providing compensation to participants injured while working.

Added by Acts 1997, 75th Leg., ch. 1236, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 1188, Sec. 1.30, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 17, eff. June 19, 2009.

Sec. 497.061. RECIDIVISM STUDIES. The board shall gather data to determine whether participation in a private sector prison industries program is a factor that reduces recidivism among

participants.

Added by Acts 1997, 75th Leg., ch. 1236, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 1188, Sec. 1.31, eff. Sept. 1, 1999.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 17, eff. June 19, 2009.

Sec. 497.062. LIMITATION ON NUMBER OF PARTICIPANTS AND COST ACCOUNTING CENTERS. (a) The board may certify private sector prison industries programs that meet or exceed the requirements of federal law and the rules of the board. Except as provided by Subsection (b), the board may not allow more than 750 participants in the program at any one time or authorize the operation of more than 11 cost accounting centers at any one time.

(b) The board may allow more than 750 participants in the program at one time on a temporary basis if:

(1) an employer that operates a private sector prison industries program requests in writing that the board temporarily allow more than 750 participants in the program; and

(2) the board determines that there is good cause to temporarily allow more than 750 participants in the program.

Added by Acts 1997, 75th Leg., ch. 1236, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 1188, Sec. 1.32, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1037, Sec. 4, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 1056, Sec. 5, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 17, eff. June 19, 2009.

Sec. 497.063. CONTRACT REQUIREMENTS. (a) The board shall adopt rules requiring a contract entered into by a governmental entity concerning a private sector prison industries program operated under this subchapter to:

(1) include specific job descriptions for any work that will be performed by participants under the contract;

(2) include a specific description, in plain language and

in an easily readable and understandable format, of any product that will be manufactured under the contract; and

(3) charge a private sector prison industries employer or other participating entity the fair market value for the lease of any property owned by the governmental entity and leased to the employer or entity under the contract.

(b) For the purposes of Subsection (a), "fair market value" means an amount or rate that is equal to or greater than the average amount or rate paid by the state for the lease of substantially similar property.

Added by Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 18, eff. June 19, 2009.

Sec. 497.064. AVAILABILITY OF CERTAIN INFORMATION ON INTERNET. The board shall make the following information available on any publicly accessible Internet website that is maintained by the board and contains any information concerning the private sector prison industries programs operated under this subchapter:

(1) a copy of each current contract entered into by a governmental entity;

(2) a list of hourly wages paid to participants under each contract described by Subdivision (1); and

(3) minutes of any meeting of the board in which the board discusses or takes action concerning:

(A) the board's powers and duties under this subchapter; or

(B) one or more private sector prison industries programs operated under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1282 (H.B. 1914), Sec. 18, eff. June 19, 2009.

SUBCHAPTER D. TRUSTIES

Sec. 497.081. APPOINTMENT. (a) For the purposes of this subchapter, only the institutional division may appoint an inmate to serve as a trusty, under policies adopted by the director of the institutional division.

(b) The institutional division may not appoint an inmate to

serve as a trusty for the purposes of this subchapter unless the inmate has a good record in the division.

(c) An inmate who is serving three or more terms may be used as a trusty for the purposes of this subchapter only if the inmate has an unblemished record in the institutional division and the inmate has served more than one-half of the inmate's sentence.

(d) An inmate may not be appointed to serve as a trusty for the purposes of this subchapter if the inmate has attempted an escape in which the inmate:

(1) used a firearm or other deadly weapon; or

(2) wounded a guard or other person.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.081 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.039, eff. Sept. 1, 1995.

Sec. 497.082. USE OF REGULAR INMATES AS TRUSTIES PROHIBITED. An employee of the institutional division may not use the inmate as a trusty unless the division appoints the inmate to serve as a trusty. However, in the case of an extreme emergency, as determined by a farm manager, the farm manager may fill a vacancy in a position formerly held by a trusty by appointing an inmate to serve in that position for not more than 10 days.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.082 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 497.083. RESTRICTIONS ON TRUSTIES. (a) A trusty may not be permitted to leave the location where the institutional division has assigned the trusty unless the trusty is on division business.

(b) A trusty may not be at large or off institutional division property after 9 p.m. unless accompanied by a guard or other employee of the division or a member of the board.

(c) Subsection (b) does not apply to a trusty who operates pumps or other necessary machinery at night on an institutional division farm.

(d) Employees of the institutional division who are in charge

of trusties shall ensure that trusties required to be inside division buildings not later than 9 p.m. are inside by that time.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.083 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 497.084. HONOR FARMS. This subchapter does not apply to an institutional division farm established by the board as an honor farm.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.084 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 497.085. FAILURE TO ENFORCE; REMOVAL. A member of the board or employee of the institutional division who is required to enforce this subchapter and fails or refuses to do so is subject to removal from the board or from employment.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.085 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

SUBCHAPTER E. GENERAL PROVISIONS RELATED TO INMATE LABOR

Sec. 497.091. CONTRACTS FOR INMATE LABOR. (a) In this section:

(1) "Agency" has the meaning assigned that term by Section 771.002.

(2) "Local government" has the meaning assigned that term by Section 791.003.

(b) The department shall seek contracts with agencies and local governments to provide inmate labor to those agencies and governments, with the department giving priority to seeking contracts for the use of inmate labor for service projects that benefit the public.

(c) The department may not enter into a contract with an agency under this section unless the contract complies with Chapter 771 and

may not enter into a contract with a local government under this section unless the contract complies with Chapter 791. A contract entered into under this section may provide that the department be reimbursed for expenses incurred by the division in providing inmate labor to the agency or local government.

(d) The department shall make reasonable efforts to contract with nonprofit organizations that provide services to the general public and enhance social welfare and the general well-being of the community to provide inmate labor to those organizations. In entering contracts under this subsection, the department should give preference to nonprofit organizations that will use the inmate labor in a manner that increases the inmates' vocational skills.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.091 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.041, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1409, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 302, Sec. 1, eff. May 29, 1999; Acts 1999, 76th Leg., ch. 1188, Sec. 1.33, eff. Sept. 1, 1999.

Sec. 497.092. HIGHWAY IMPROVEMENT. (a) The board and the Texas Transportation Commission may enter into and perform an agreement or contract for the use of inmate labor for a state highway improvement project.

(b) An agreement or contract entered into under this section and payments made under the agreement or contract must conform with Chapter 771.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.092 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 165, Sec. 22(39), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.042, eff. Sept. 1, 1995.

Sec. 497.093. INMATE LABOR AT SAM HOUSTON STATE UNIVERSITY. The institutional division may provide trusties to work at Sam Houston State University. The institutional division shall maintain control over the trusties at all times. Time spent by a trusty

working at the university is considered time spent by the inmate in custody.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.093 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 497.094. JOB TRAINING PROGRAMS. (a) The department shall implement a job training program for each job performed by an inmate confined in a facility operated by or under contract with the department or a defendant or releasee housed in a facility operated by or under contract with the department and monitor the success of those programs. The department shall also establish a permanent record for each inmate, defendant, or releasee. The record must describe the types of job training provided to the inmate, defendant, or releasee by the department. On release from imprisonment or supervision, the department shall provide the inmate, defendant, or releasee with a copy of the record. The department shall collect information relating to the employment histories of inmates released from the institutional division on parole and mandatory supervision.

(b) The department and the Texas Workforce Investment Council by rule shall adopt a memorandum of understanding that establishes the respective responsibility of those entities to provide through local workforce development boards job training and employment assistance to persons formerly sentenced to the institutional division or the state jail division and information on services available to employers or potential employers of those persons. The department shall coordinate the development of the memorandum of understanding.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.094 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.043, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 611, Sec. 4, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 1188, Sec. 1.34, eff. Sept. 1, 1999; Acts 2003, 78th Leg.,

ch. 818, Sec. 6.07, eff. Sept. 1, 2003.

Sec. 497.095. INMATE'S WORK RECORD. The department shall establish a permanent record for each inmate confined, and for each defendant or releasee housed, in a facility operated by or under contract with the department who participates in a department work program. The record must describe the type or types of work performed by the inmate, defendant, or releasee during the person's confinement or supervision and must contain evaluations of the performance of and proficiency at tasks assigned and a record of the attendance at work by the inmate, defendant, or releasee. On release from imprisonment or supervision, the department shall provide the inmate, defendant, or releasee with a copy of a record made by the department under this section.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.095 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1999, 76th Leg., ch. 1188, Sec. 1.35, eff. Sept. 1, 1999.

Sec. 497.096. LIABILITY PROTECTIONS. An employee of the Texas Department of Criminal Justice, sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, employee of a community corrections and supervision department, restitution center, or officer or employee of a political subdivision other than a county is not liable for damages arising from an act or failure to act in connection with community service performed by an inmate imprisoned in a facility operated by the department or in connection with an inmate or offender programmatic or nonprogrammatic activity, including work, community service, educational, and treatment activities, if the act or failure to act was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

Added by Acts 1993, 73rd Leg., ch. 201, Sec. 5, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.044, eff. Sept. 1, 1995.

Sec. 497.097. USE OF STATE JAIL FELONS. The department may use the labor of defendants confined in a state jail felony facility in any work or community service program or project performed by the institutional division.

Added by Acts 1995, 74th Leg., ch. 321, Sec. 1.045, eff. Sept. 1, 1995.

Sec. 497.099. PARTICIPATION IN WORK PROGRAM REQUIRED. (a) The department shall require each inmate and each defendant or releasee housed in a facility operated by or under contract with the department to work in an agricultural, industrial, or other work program to the extent that the inmate, defendant, or releasee is physically and mentally capable of working. The department may waive the work requirement for an inmate, defendant, or releasee as necessary to maintain security or to permit the inmate, defendant, or releasee to participate in rehabilitative programming.

(b) The board may develop by rule and the department may administer an incentive pay scale program for inmates required to work in agricultural, industrial, or other work programs. In developing the program, the board shall set pay levels not to unjustly reward inmates, but rather to instruct inmates on the virtues of diligent participation in the workplace. The department shall deposit an amount earned by an inmate under this subsection into the inmate's trust fund and may deduct not more than 80 percent of the amount deposited under this subsection for payment of restitution and dependent care owed by the inmate. This subsection does not apply to the compensation of an inmate participating in a Texas Correctional Industries program under Subchapter A or an inmate participating in a private sector prison industries program under Subchapter C.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 1.36, eff. Sept. 1, 1999.

SUBCHAPTER F. AGRICULTURE

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature,

Regular Session, for amendments affecting the following section.

Sec. 497.111. ADVISORY COMMITTEE ON AGRICULTURE. (a) The Advisory Committee on Agriculture to the institutional division is created.

(b) The advisory committee consists of five members. One member must be a member of the board, and if possible that member should have a knowledge of agriculture. One member must be a member of the faculty at Texas A&M University with expertise in agriculture. The other members must be citizens of the state with knowledge of agriculture. The board shall appoint the board member, the faculty member from Texas A&M University, and two of the citizen members. The commissioner of agriculture shall appoint the remaining citizen member.

(c) Members of the advisory committee serve at the will of the board.

(d) The member of the advisory committee who is the board member serves as chairman of the advisory committee.

(e) Members of the advisory committee are not entitled to compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing their official duties as advisory committee members.

(f) Necessary costs for the operation of the committee shall be paid from funds appropriated to the board.

(g) The advisory committee shall hold regular quarterly meetings on dates fixed by the committee and special meetings as the committee determines necessary.

(h) The advisory committee shall keep a public record of its decisions at the general office of the institutional division.

(i) The advisory committee shall present to the board periodic evaluations of agricultural programs, suggestions for new areas of agricultural operations, and reviews related to the need for mechanization and the use of inmate labor in agricultural operations. The committee shall report to the board on its activities at least twice each year.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.111 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 497.112. AGRICULTURAL EFFICIENCY AND ECONOMY. (a) The institutional division shall review annually the agricultural operations of the division. The review must include:

(1) a cost-effectiveness analysis of all agricultural programs;

(2) a determination as to whether the institutional division could more economically purchase certain agricultural products rather than produce those products; and

(3) a determination as to whether certain agricultural operations performed by inmates could be mechanized, taking into account whether mechanization would adversely affect security or inmate discipline.

(b) The institutional division shall use the information provided by the annual review in developing and improving agricultural operations.

(c) The institutional division shall provide the board with a copy of the annual review required by this section.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 496.112 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 497.113. SURPLUS AGRICULTURAL PROPERTY AND PRODUCTS. (a) The board may authorize the sale or disposal of surplus agricultural products and personal property owned by the department, other than products or property produced for sale by the department.

(b) Products and property described by Subsection (a) shall be sold under rules adopted by the board and at prices and terms set pursuant to those rules.

(c) The department may use surplus agricultural capacity to provide agricultural products to a nonprofit organization at no profit to the department.

(d) The department is encouraged to enter into agreements with nonprofit food banks. An agreement under this subsection may provide that a food bank will supply seed and fertilizer to the department and that the department will in turn provide to the food bank

agricultural products grown from the seed and with the assistance of the fertilizer. For the purpose of this subsection, "nonprofit food bank" means a nonprofit organization that solicits, warehouses, and redistributes edible food to agencies that feed needy families and individuals.

Added by Acts 1997, 75th Leg., ch. 1409, Sec. 3, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 303, Sec. 1, eff. May 29, 1999.

CHAPTER 498. INMATE CLASSIFICATION AND GOOD TIME

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 498.001. DEFINITIONS. In this chapter:

(1) "Inmate" means a person imprisoned by order of a court, whether the person is actually imprisoned in a facility operated by or under contract with the institutional division or is under the supervision or custody of the pardons and paroles division.

(2) "Term" means:

(A) the term of confinement in the institutional division stated in the sentence of the convicting court, if the inmate is serving a sentence for a single offense;

(B) the term of confinement established by Section 508.150, if the inmate is serving two or more sentences consecutively; or

(C) the longest term of confinement in the institutional division stated in the sentence of the convicting court, if the inmate is serving two or more concurrent sentences.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 497.001 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 249, Sec. 1, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.046, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 12.10, eff. Sept. 1, 1997.

Sec. 498.002. CLASSIFICATION AND RECLASSIFICATION. The department shall classify each inmate as soon as practicable on the

inmate's arrival at the institutional division and, subject to the requirements of Section 498.005, shall reclassify the inmate as circumstances warrant. Each inmate must be classified according to the inmate's conduct, obedience, and industry. The department shall maintain a record on each inmate showing each classification and reclassification of the inmate with the date and reason for each classification or reclassification. The department may classify each inmate on the inmate's arrival at the institutional division in a time-earning category that does not allow the inmate to earn more than 30 days' good conduct time for each 30 days actually served.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 497.002 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 11.03, eff. Aug. 29, 1991; Acts 1995, 74th Leg., ch. 249, Sec. 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.047, eff. Sept. 1, 1995.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 126 (H.B. 719), Sec. 2, eff. September 1, 2021.

Sec. 498.003. ACCRUAL OF GOOD CONDUCT TIME. (a) Good conduct time applies only to eligibility for parole or mandatory supervision as provided by Section 508.145 or 508.147 and does not otherwise affect an inmate's term. Good conduct time is a privilege and not a right. Regardless of the classification of an inmate, the department may grant good conduct time to the inmate only if the department finds that the inmate is actively engaged in an agricultural, vocational, or educational endeavor, in an industrial program or other work program, or in a treatment program, unless the department finds that the inmate is not capable of participating in such a program or endeavor.

(b) An inmate accrues good conduct time according to the inmate's classification in amounts as follows:

(1) 20 days for each 30 days actually served while the inmate is classified as a trusty, except that the department may award the inmate not more than 10 extra days for each 30 days actually served;

(2) 20 days for each 30 days actually served while the

inmate is classified as a Class I inmate; and

(3) 10 days for each 30 days actually served while the inmate is classified as a Class II inmate.

(c) An inmate may not accrue good conduct time during any period the inmate is classified as a Class III inmate or is on parole or under mandatory supervision.

(d) An inmate may accrue good conduct time, in an amount determined by the department that does not exceed 15 days for each 30 days actually served, for diligent participation in an industrial program or other work program or for participation in an agricultural, educational, or vocational program provided to inmates by the department. For the purposes of this subsection, the term "participation in an educational program" includes the participation of the inmate as a tutor or a pupil in a literacy program authorized by Section 501.005. The department may not award good conduct time under this subsection for participation in a literacy program unless the department determines that the inmate participated in good faith and with diligence as a tutor or pupil.

(e) If a person is confined in a county jail, the department shall award good conduct time to the person up to an amount equal to the amount earned by an inmate in the entry level time earning class. The department shall award good conduct time to a defendant for diligent participation in a voluntary work program operated by a sheriff under Article 43.101, Code of Criminal Procedure, in the same manner as if the inmate had diligently participated in an industrial program or other work program provided to inmates by the department. The sheriff of each county shall have attached a certification of the number of days each inmate diligently participated in the volunteer work program operated by the sheriff under Article 43.101, Code of Criminal Procedure.

(f) Repealed by Acts 1999, 76th Leg., ch. 1188, Sec. 1.37(b), eff. Sept. 1, 1999.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 497.003 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 86, Sec. 2, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 988, Sec. 1.05, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 249, Sec. 3, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.048, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec.

12.11, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1430, Sec. 7, eff. Sept. 1, Acts 1999, 76th Leg., ch. 1188, Sec. 1.37(a), (b), eff. Sept. 1, 1999.

Sec. 498.004. FORFEITURE AND RESTORATION OF GOOD CONDUCT TIME. (a) If, during the actual term of imprisonment of an inmate in the department, the inmate commits an offense or violates a rule of the department, the department may forfeit all or any part of the inmate's accrued good conduct time or, in accordance with the policy adopted under Subsection (c), place all or any part of the inmate's accrued good conduct time in suspension. The department may not restore good conduct time forfeited under this subsection but may reinstate good conduct time suspended under this subsection.

Text of subsection as amended by Acts 1995, 74th Leg., ch. 249, Sec. 4

(b) On the revocation of parole or mandatory supervision of an inmate, the inmate forfeits all good conduct time previously accrued. On return to the institutional division the inmate may accrue new good conduct time for subsequent time served in the division. The department may not restore good conduct time forfeited on a revocation.

Text of subsection as amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.049

(b) On the revocation of parole or mandatory supervision of an inmate, the inmate forfeits all good conduct time previously accrued. On return to the institutional division the inmate may accrue new good conduct time for subsequent time served in the division. The department may restore good conduct time forfeited on a revocation that does not involve a new criminal conviction after the inmate has served at least three months of good behavior in the institutional division, subject to policies established by the division.

(c) The department shall establish a policy regarding the suspension of good conduct time under Subsection (a). The policy must provide that:

(1) the department will consider the severity of an inmate's offense or violation in determining whether to suspend all or part of the inmate's good conduct time instead of forfeiting the inmate's good conduct time;

(2) during any period of suspension, good conduct time placed in suspension may not be used:

(A) for purposes of granting privileges to an inmate; or

(B) to compute an inmate's eligibility for parole under Section 508.145 or to determine an inmate's date of release to mandatory supervision under Section 508.147;

(3) at the conclusion of any period of suspension, the department may forfeit or reinstate the good conduct time placed in suspension based on the inmate's conduct during the period of the suspension; and

(4) in determining whether to forfeit or reinstate good conduct time placed in suspension, the department must consider whether any impact to public safety is likely to result from the inmate's release on parole or to mandatory supervision if the good conduct time is reinstated.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 497.004 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 249, Sec. 4, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.049, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1251 (H.B. 93), Sec. 1, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 126 (H.B. 719), Sec. 3, eff. September 1, 2021.

Sec. 498.0042. FORFEITURE FOR CONTACTING VICTIMS. (a) The department shall adopt policies that prohibit an inmate in the institutional division from contacting by letter, telephone, or any other means, either directly or indirectly, a victim of the offense for which the inmate is serving a sentence or a member of the victim's family, if:

(1) the victim was younger than 17 years of age at the time of the commission of the offense; and

(2) the department has not, before the inmate makes contact:

(A) received written consent to the contact from:

(i) a parent of the victim or the member of the victim's family, other than the inmate;

(ii) a legal guardian of the victim or the member of the victim's family; or

(iii) the victim or the member of the victim's family, if the victim is 17 years of age or older at the time of giving the consent; and

(B) provided the inmate with a copy of the consent.

(b) If, during the actual term of imprisonment of an inmate in the institutional division, the inmate violates a policy adopted under Subsection (a) or an order entered under Article 42.24, Code of Criminal Procedure, the department shall forfeit all or any part of the inmate's accrued good conduct time. The department may not restore good conduct time forfeited under this subsection.

(c) In this section, "family" has the meaning assigned by Section 71.003, Family Code.

Added by Acts 1997, 75th Leg., ch. 666, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 670, Sec. 7, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 491 (H.B. 1028), Sec. 3, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 126 (H.B. 719), Sec. 4, eff. September 1, 2021.

Sec. 498.0045. FORFEITURE OF GOOD CONDUCT TIME: FRIVOLOUS LAWSUITS. (a) In this section, "final order" means a certified copy of a final order of a state or federal court that dismisses as frivolous or malicious a lawsuit, including a proceeding arising from an application for writ of habeas corpus, brought by an inmate while the inmate was in the custody of the department or confined in county jail awaiting transfer to the department following conviction of a felony or revocation of community supervision, parole, or mandatory supervision.

(a-1) For purposes of this chapter, an application for writ of habeas corpus is considered "frivolous" if brought for the purpose of abusing judicial resources.

(b) On receipt of a final order, the department shall forfeit:

(1) 60 days of an inmate's accrued good conduct time, if

the department has previously received one final order;

(2) 120 days of an inmate's accrued good conduct time, if the department has previously received two final orders; or

(3) 180 days of an inmate's accrued good conduct time, if the department has previously received three or more final orders.

(c) The department may not restore good conduct time forfeited under this section.

Added by Acts 1995, 74th Leg., ch. 378, Sec. 5, eff. June 8, 1995. Amended by Acts 1999, 76th Leg., ch. 655, Sec. 3, eff. June 18, 1999. Amended by:

Acts 2005, 79th Leg., Ch. 1207 (H.B. 681), Sec. 1, eff. September 1, 2005.

Sec. 498.005. ANNUAL REVIEW OF CLASSIFICATION; RETROACTIVE AWARD OF GOOD TIME. At least annually, the board shall review the institutional division's policies relating to the manner in which inmates are classified and reclassified, and the manner in which additional good conduct time is awarded retroactively to inmates who have been reclassified.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 497.005 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 11.04, eff. Aug. 29, 1991; Acts 1995, 74th Leg., ch. 249, Sec. 5, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.050, eff. Sept. 1, 1995.

CHAPTER 499. POPULATION MANAGEMENT; SPECIAL PROGRAMS
SUBCHAPTER A. PRE-PAROLE TRANSFER

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 499.001. DEFINITIONS. In this subchapter:

(1) "Community residential facility" means a facility under contract with the department under Section 508.119 or another facility or residence approved by the department.

(2) "Eligible inmate" means an inmate in the actual

physical custody of the institutional division for whom a presumptive parole date has been established by a parole panel.

(3) "Pre-parolee" means an eligible inmate of whom the pardons and paroles division has assumed custody.

(4) "Presumptive parole date" means a date specified by a parole panel under Section 508.151 on which an inmate's parole release is to become effective.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 498.001 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.051, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 12.12, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 499.002. TRANSFER TO COMMUNITY RESIDENTIAL FACILITY. (a) The pardons and paroles division may assume custody of an eligible inmate not more than one year before the inmate's presumptive parole date or mandatory supervision release date. The eligible inmate becomes a pre-parolee on the date the pardons and paroles division assumes custody, and the pardons and paroles division immediately shall transfer the pre-parolee to a community residential facility. Except as otherwise provided by this subchapter, the pre-parolee may serve the remainder of the pre-parolee's sentence before release on parole in the facility designated by the pardons and paroles division.

(b) At the time of the transfer of the pre-parolee, the pardons and paroles division shall designate a community residential facility as the pre-parolee's assigned unit of confinement.

(c) If a pre-parolee is transferred from pre-parole status to parole status the pre-parolee shall receive any balance of the money to which the pre-parolee is entitled under Section 501.015.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 498.002 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.052, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 499.0021. TRANSFER OF REVOKED DEFENDANTS. (a) An inmate is eligible for transfer under this section if the inmate is confined in the institutional division or a county jail following revocation of community supervision on grounds other than the commission of a subsequent felony offense.

(b) The pardons and paroles division may assume custody of an inmate who is eligible for transfer under this section not earlier than one year before the inmate's presumptive parole date. The inmate becomes a pre-parolee on the date the pardons and paroles division assumes custody, and the pardons and paroles division immediately shall transfer the pre-parolee to a facility under contract with the department, which may be a community residential facility, a community corrections facility listed in Section 509.001, or a county correctional facility. A pre-parolee transferred under this section is considered to be in the actual physical custody of the pardons and paroles division.

(c) A pre-parolee transferred by the pardons and paroles division to a facility under this section is subject to the provisions of Sections 499.002(c), 499.004, and 499.005 in the same manner as if the person were a pre-parolee who had been transferred to a community residential facility under Section 499.002.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 12.01, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 988, Sec. 4.01, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 7.05, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.053, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 499.003. TRANSFER FROM JAIL OR OTHER CORRECTIONAL FACILITY. (a) A person is eligible for transfer under this section from a jail or correctional institution to a secure community

residential facility if:

(1) the person has been sentenced to a term of confinement in the institutional division;

(2) the person has not been delivered to the custody of the institutional division, but rather is confined in a jail in this state, a federal correctional institution, or a jail or correctional institution in another state; and

(3) a presumptive parole date or mandatory supervision release date for the person has been established.

(b) The pardons and paroles division may authorize the transfer of an eligible person from a jail in this state, a federal correctional institution, or a jail or correctional institution in another state to a secure community residential facility designated by the pardons and paroles division not more than one year before the person's presumptive parole date or mandatory supervision release date. A person transferred under this section is considered to be in the actual physical custody of the pardons and paroles division.

(c) A person transferred by the pardons and paroles division to a secure community residential facility is subject to the provisions of Sections 499.002(c), 499.004, and 499.005 in the same manner as if the person is a pre-parolee who had been transferred to a community residential facility under Section 499.002.

(d) The pardons and paroles division may request of a sheriff that the sheriff forward to the pardons and paroles division copies of any records possessed by the sheriff that are relevant to the pardons and paroles division in its determination as to whether to transfer a person from the county jail to a secure community residential facility, and the pardons and paroles division shall request the sheriff to forward to the institutional division and to the pardons and paroles division the information relating to the defendant the sheriff would be required under Section 8, Article 42.09, Code of Criminal Procedure, to deliver to the department had the defendant been transferred to the institutional division. The pardons and paroles division shall determine whether the information forwarded by the sheriff contains a thumbprint taken from the person in the manner provided by Article 38.33, Code of Criminal Procedure, and, if not, the pardons and paroles division shall obtain a thumbprint in the manner provided by that article, and shall forward the thumbprint to the institutional division for inclusion with the information sent by the sheriff. The sheriff shall comply with a

request from the pardons and paroles division made under this subsection.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a). Amended by Acts 1993, 73rd Leg., ch. 988, Sec. 4.02, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 321, Sec. 1.054, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 499.004. RULES; SUPERVISION OF PRE-PAROLEES. (a) The department shall establish policies for the conduct of pre-parolees transferred under this subchapter.

(b) On transfer, the pre-parolee is subject to supervision by the pardons and paroles division and shall obey the orders of the Board of Pardons and Paroles and the pardons and paroles division.

(c) A facility director or designee of a facility director shall immediately report to the pardons and paroles division in writing if the director or designee believes that a pre-parolee has violated the terms of the pre-parolee's transfer agreement or the rules of the facility. The pardons and paroles division may require an agent of the pardons and paroles division or the community residential facility to conduct a hearing.

(d) If the pardons and paroles division has an administrative need to deliver the pre-parolee to the custody of the institutional division or if after a disciplinary hearing the pardons and paroles division concurs that a violation has occurred, the pardons and paroles division may deliver the pre-parolee to the actual custody of the institutional division and the institutional division may assign the pre-parolee to a regular unit of the institutional division. If the pardons and paroles division recommends rescission or revision of the pre-parolee's presumptive parole date, a parole panel shall rescind or revise the date unless it determines the action is inappropriate.

(e) Before a pre-parolee is transferred to a community residential facility under this section and before the pre-parolee is released on parole, the department may award good conduct time to the pre-parolee in the same amounts and in the same manner as the department awards good conduct time to inmates in the institutional

division under Chapter 498.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 498.003 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.055, eff. Sept. 1, 1995.

Sec. 499.005. TRANSFER TO PAROLE STATUS. (a) If a pre-parolee transferred under this subchapter satisfactorily serves a term in a community residential facility until the pre-parolee's presumptive parole date, the Board of Pardons and Paroles may transfer the pre-parolee from pre-parole status to parole status and the Board of Pardons and Paroles may issue the pre-parolee an appropriate certificate of release to conditional freedom under Chapter 508.

(b) A pre-parolee transferred from pre-parole status to parole status is subject to provisions concerning inmates released on parole provided under Chapter 508.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 498.004 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.13, eff. Sept. 1, 1997.

Sec. 499.007. LEGISLATIVE INTENT. It is the intent of the legislature that this subchapter not create an expectation of release on the part of any individual.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a).

SUBCHAPTER B. POPULATION MANAGEMENT

Sec. 499.021. DEFINITIONS. In this subchapter:

(1) "Capacity" means the greatest density of inmates in relation to space available for inmate housing in the institutional division that is in compliance with standards for prison population established by the board.

(2) "Intensive supervision parole" means a parole supervision program established by the department under Section 508.317.

(3) "Objective parole criteria" means criminal and social history variables that have been shown statistically to be reliable indicators of the probability of favorable outcome on release.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 498.021 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.14, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 499.022. PURPOSE. (a) The purpose of this subchapter is to:

(1) allow the institutional division the flexibility to house inmates in appropriate settings and determine the proper amount of available housing; and

(2) provide the executive branch with alternatives to appropriately balance population, consistent with the intent of this subchapter, if the population of the division reaches 95 percent of capacity or if a backlog of convicted felons exists in the county jails in this state, as determined by this subchapter.

(b) The flexibility provided by this subchapter shall be exercised in a manner consistent with sound correctional practices, applicable federal law, and state law and policy.

(c) This subchapter does not:

(1) create a right on the part of an inmate confined in the institutional division to serve the inmate's sentence in a department with a population below 95 percent of capacity, as determined by this subchapter;

(2) grant to an inmate the right to be released or to be considered for release if the inmate population of the division reaches 95 percent of capacity as determined under this subchapter;

(3) require a population level below 95 percent of capacity as determined by this subchapter; or

(4) require the board or the Board of Pardons and Paroles to take an action under this subchapter because a backlog of convicted felons exists in the county jails in this state.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 498.022 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 17.01, eff. Oct. 1, 1991.

Sec. 499.023. INAPPLICABILITY. This subchapter does not apply to emergency overcrowding if the situation is the direct result of the destruction of institutional division facilities by a natural or man-made disaster.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 499.023 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 499.024. CALCULATION OF AVAILABLE SPACE. Temporary housing may not be considered for the purpose of computation of space available for inmate housing.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 498.024 by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 499.025. AWARD OF ADMINISTRATIVE GOOD CONDUCT TIME; ADVANCEMENT OF PAROLE ELIGIBILITY DATE. (a) If the inmate population of the institutional division reaches 99 percent or more of capacity, the director shall immediately notify the executive director and the board in writing of that fact. Until the inmate population is reduced to less than 99 percent of capacity, the director shall make a weekly written report to the executive director and the board stating the extent to which the inmate population is less than, equal to, or in excess of capacity.

(b) If the inmate population of the institutional division reaches 100 percent of capacity or, if the attorney general has authorized an increase in the permissible percentage of capacity

under Section 499.109, the inmate population reaches that increased permissible percentage, the director shall immediately notify the executive director, the board, and the attorney general in writing of that fact. The attorney general shall certify to the board in writing as to whether the institutional division has reached 100 percent of capacity or, if applicable, the increased permissible percentage. If the attorney general certifies that 100 percent of capacity has been reached or, if applicable, that the increased permissible percentage has been reached, the board shall immediately certify that an emergency overcrowding situation exists and direct the Board of Pardons and Paroles to proceed in the manner described by Subsection (c). If the Commission on Jail Standards determines that in any county jail in this state there exists an inmate awaiting transfer to the institutional division following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom all paperwork and processing required for transfer have been completed for not less than 45 days, the board may direct the Board of Pardons and Paroles to proceed in the manner described by Subsection (c).

(c) If the Board of Pardons and Paroles receives a directive from the board under Subsection (b), the Board of Pardons and Paroles acting in parole panels, shall immediately begin to review and consider for early release to intensive supervision parole each eligible inmate who would not at the time of review otherwise be eligible for parole. The board may impose additional criteria for determining which inmates are eligible for release under this subsection. A parole panel may not release an inmate under this subsection if the panel determines that the release of the inmate will increase the likelihood of harm to the public, according to objective parole criteria.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 498.025 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1991, 72nd Leg., ch. 655, Sec. 1, eff. June 16, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 17.02, eff. Oct. 1, 1991; Acts 1993, 73rd Leg., ch. 107, Sec. 4.10, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 318, Sec. 71(a), eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 499.026. RELEASE PROCEDURE. (a) If a parole panel releases an inmate under this subchapter, the panel shall impose conditions and limitations as appropriate on the parolee and to the extent practicable shall maximize placements in residential treatment centers. The parole panel shall otherwise place a parolee released under this subchapter under intensive supervision parole, whether or not the parolee is of a type who would ordinarily be required to submit to intensive supervision parole.

(b) The authority of the board to take the actions listed in Section 499.025(b) continues until the attorney general, or if appropriate, the Commission on Jail Standards, certifies in writing to the board that the overcrowding crisis that produced the emergency certification under Section 499.025(b) has been resolved. If the board receives this certification from the attorney general or the Commission on Jail Standards under this subsection, the board shall immediately notify the pardons and paroles division that the emergency overcrowding situation no longer exists.

(c) An inmate released to parole under this subchapter is subject to terms and conditions imposed on parolees released under Chapter 508.

(d) Not later than the 10th day before the date on which a parole panel proposes to release an inmate under this subchapter, the department shall give notice of the proposed release to the sheriff, the attorney representing the state, and the district judge of the county in which the defendant was convicted. If there was a change of venue in the case, the department shall also notify the sheriff, the attorney representing the state, and the district judge of the county in which the prosecution was originated. Any notice required by this subsection must be provided by e-mail or other electronic communication.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 498.026 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 17.02, eff. Oct. 1, 1991; Acts 1995, 74th Leg., ch. 321, Sec. 1.056, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 12.15, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1123 (H.B. 200), Sec. 3, eff. September 1, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1422, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 499.027. ELIGIBLE INMATES. (a) Except as provided by Subsection (b) and subject to the conditions imposed by this subchapter, an inmate is eligible under this subchapter to be considered for release to intensive supervision parole if the inmate is awaiting transfer to the institutional division following conviction of a felony or probation revocation and for whom paperwork and processing required for transfer have been completed or is classified as a state approved Trusty I, II, III, or IV, and:

(1) is serving a sentence of 10 years or less;

(2) does not have a history of or has not shown a pattern of violent or assaultive behavior in the institutional division or county jail or prior to confinement; and

(3) will not increase the likelihood of harm to the public if released, according to objective parole criteria as determined by a parole panel.

(b) An inmate is not eligible under this subchapter to be considered for release to intensive supervision parole if:

(1) the inmate is awaiting transfer to the institutional division, or serving a sentence, for an offense for which the judgment contains an affirmative finding under Article 42A.054(c) or (d), Code of Criminal Procedure;

(2) the inmate is awaiting transfer to the institutional division, or serving a sentence, for an offense listed in one of the following sections of the Penal Code:

(A) Section 19.02 (murder);

(B) Section 19.03 (capital murder);

(C) Section 19.04 (manslaughter);

(D) Section 20.03 (kidnapping);

(E) Section 20.04 (aggravated kidnapping);

(F) Section 21.11 (indecency with a child);

(G) Section 22.011 (sexual assault);

(H) Section 22.02 (aggravated assault);

(I) Section 22.021 (aggravated sexual assault);

(J) Section 22.04 (injury to a child, elderly individual, or disabled individual);

(K) Section 25.02 (prohibited sexual conduct);

(L) Section 25.08 (sale or purchase of a child);

(M) Section 28.02 (arson);

(N) Section 29.02 (robbery);

(O) Section 29.03 (aggravated robbery);

(P) Section 30.02 (burglary), if the offense is punished as a first-degree felony under that section;

(Q) Section 43.04 (aggravated promotion of prostitution);

(R) Section 43.05 (compelling prostitution);

(S) Section 43.24 (sale, distribution, or display of harmful material to minor);

(T) Section 43.25 (sexual performance by a child);

(U) Section 46.10 (deadly weapon in penal institution);

(V) Section 15.01 (criminal attempt), if the offense attempted is listed in this subsection;

(W) Section 15.02 (criminal conspiracy), if the offense that is the subject of the conspiracy is listed in this subsection;

(X) Section 15.03 (criminal solicitation), if the offense solicited is listed in this subsection;

(Y) Section 21.02 (continuous sexual abuse of young child or disabled individual);

(Z) Section 20A.02 (trafficking of persons);

(AA) Section 20A.03 (continuous trafficking of persons); or

(BB) Section 43.041 (aggravated online promotion of prostitution); or

(3) the inmate is awaiting transfer to the institutional division, or serving a sentence, for an offense under Chapter 481, Health and Safety Code, punishable by a minimum term of imprisonment or a maximum fine that is greater than the minimum term of imprisonment or the maximum fine for a first degree felony.

(c) The department shall provide each county with necessary assistance to enable the county to identify inmates confined in the county jail who may be eligible under this subchapter to be considered for release.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 498.027 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 17.02, eff. Oct. 1, 1991; Acts 1995, 74th Leg., ch. 321, Sec. 1.057, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.36, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1 (S.B. 24), Sec. 5.01, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 122 (H.B. 3000), Sec. 8, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.010, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.49, eff. January 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 3.09, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 221 (H.B. 375), Sec. 2.20, eff. September 1, 2021.

SUBCHAPTER C. MISCELLANEOUS PROGRAMS

Sec. 499.051. NOTIFICATION OF RELEASE OF GANG MEMBER. (a) On the release of an inmate determined by the department to be a member of a security threat group, the department shall notify the sheriff of the county to which the inmate is released and, if the inmate is released to a municipality, the chief of police for that municipality. The notice must state the date on which the inmate was released and state that the inmate has been determined by the department to be a member of a security threat group. The notice must be provided by e-mail or other electronic communication.

(b) If the department is required by Section 508.115 to notify a sheriff before the release of the inmate, the department shall include the information described by Subsection (a) with the notice provided under Section 508.115.

Added by Acts 1999, 76th Leg., ch. 1287, Sec. 1, eff. June 18, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1123 (H.B. 200), Sec. 4, eff.

September 1, 2011.

Sec. 499.053. TRANSFERS FROM TEXAS JUVENILE JUSTICE DEPARTMENT OR POST-ADJUDICATION SECURE CORRECTIONAL FACILITY. (a) In this section, "post-adjudication secure correctional facility" has the meaning assigned by Section 152.00011, Human Resources Code.

(a-1) The department shall accept persons transferred to the department from:

(1) the Texas Juvenile Justice Department under Section 245.151, Human Resources Code; or

(2) a post-adjudication secure correctional facility under Section 152.00161, Human Resources Code.

(b) A person transferred to the department from the Texas Juvenile Justice Department or from a post-adjudication secure correctional facility is entitled to credit on the person's sentence for the time served in the custody of the Texas Juvenile Justice Department or the juvenile board or local juvenile probation department, as applicable.

(c) All laws relating to good conduct time and eligibility for release on parole or mandatory supervision apply to a person transferred to the department by the Texas Juvenile Justice Department or by a juvenile board or local juvenile probation department that operates the post-adjudication secure correctional facility as if the time the person was detained in a detention facility and the time the person served in the custody of the Texas Juvenile Justice Department or the juvenile board or local juvenile probation department was time served in the custody of the department.

(d) A person transferred from the Texas Juvenile Justice Department or a post-adjudication secure correctional facility for the offense of capital murder shall become eligible for parole as provided in Section 508.145(d) for an offense listed in Article 42A.054, Code of Criminal Procedure, or an offense for which a deadly weapon finding has been made.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 498.053 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 799, Sec. 2, eff. June 18, 1993; Acts 2001,

77th Leg., ch. 1297, Sec. 57, eff. Sept. 1, 2001.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 3.013, eff. September 1, 2011.
Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.50, eff. January 1, 2017.
Acts 2015, 84th Leg., R.S., Ch. 854 (S.B. 1149), Sec. 5, eff. September 1, 2015.

Sec. 499.054. SEX OFFENDER TREATMENT PROGRAM. (a) In this section, "sex offender treatment program" means a comprehensive treatment program that:

(1) psychologically evaluates inmates who are serving a sentence for an offense described by Section 12.42(c)(2), Penal Code;

(2) addresses the motivation and psychosocial education of inmates described by Subdivision (1); and

(3) provides relapse prevention training for inmates described by Subdivision (1), including interruption of cognitive and behavioral patterns that have led the inmate to commit criminal offenses.

(b) The department shall establish a sex offender treatment program to treat inmates who are serving sentences for offenses punishable under Section 21.02(h) or 22.021(f), Penal Code. The department shall require an inmate described by this subsection to participate in and complete the sex offender treatment program before being released from the department.

(c) The department may establish a sex offender treatment program to treat inmates other than those inmates described by Subsection (b).

Added by Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 1.09, eff. September 1, 2007.

Sec. 499.055. POPULATION MANAGEMENT BASED ON INMATE HEALTH. The department shall adopt policies designed to manage inmate population based on similar health conditions suffered by inmates. The policies adopted under this section must maximize organizational efficiencies and reduce health care costs to the department by

housing inmates with similar health conditions in the same unit or units that are, if possible, served by or located near one or more specialty health care providers most likely to be needed for the treatment of the health condition.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 65.01, eff. September 28, 2011.

SUBCHAPTER D. ALLOCATION FORMULAS

Sec. 499.071. SCHEDULED ADMISSIONS POLICY. The board shall adopt and enforce a scheduled admissions policy that requires the department to:

(1) review documents received under Section 8(a) or (c), Article 42.09, Code of Criminal Procedure, and certify the documents or notify the county that the documents require corrective action within the time period required by Section 8(b) of that article; and

(2) accept persons within the time period required by Section 499.1215(b).

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a). Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 11.01, eff. Dec. 1, 1991; Acts 1993, 73rd Leg., ch. 988, Sec. 4.05, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 321, Sec. 1.060, eff. June 7, 1995.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1122 (H.B. 2620), Sec. 1, eff. June 18, 2023.

Sec. 499.072. LOCATION OF CENTRAL PRISON UNIT. (a) The department shall conduct a feasibility study of relocating the Central Prison Unit and the adjoining prison housing units from their current location in Sugar Land, Texas, to a location that more appropriately addresses the needs of the correctional system.

(b) If relocation is determined to be in the best interest of the correctional system and the City of Sugar Land, during the course of the study the department shall examine:

(1) the costs and benefits of relocating the Central Prison Unit and the adjoining prison housing units;

(2) appropriate measures to ensure that adequate easements are granted to allow development of surrounding property; and

(3) an anticipated timeline for the relocation.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 22, eff. June 15, 2007.

SUBCHAPTER E. UNIT AND SYSTEM CAPACITY

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 499.101. EXISTING UNITS. (a) The maximum capacities for the units in the institutional division are as follows:

Beto I 3,000
Beto II 888
Boyd 1,012
Briscoe 1,012
Central 720
Clemens 851
Clements 2,200
Coffield 3,000
Daniel 1,012
Darrington 1,610
Diagnostic 1,365
Eastham 2,050
Ellis I 1,900
Ellis II 2,260
Ferguson 2,100
Gatesville 1,571
Goree 1,058
Hightower 1,012
Hilltop 761
Hobby 1,012
Hughes 2,264
Huntsville 1,705
Jester I 323
Jester II 378
Jester III 908
Lewis 1,012
McConnell 2,264
Michael 2,264

Mountain View 718
Pack I 864
Pack II 1,088
Panpa 1,012
Ramsey I 1,400
Ramsey II 850
Ramsey III 1,000
Retrieve 770
Roach 1,012
Robertson 2,264
Smith 1,012
Stiles 2,264
Terrell 2,264
Torres 1,012
Wynne 2,300

(b) It is the intent of the legislature that as case law evolves and indicates that maximum capacities established under Subsection (a) may be increased, the staff of the institutional division shall use the procedures established by this subchapter to increase those capacities. There shall be no cause of action against the institutional division for failure to take action under this subsection.

Added by Acts 1991, 72nd Leg., ch. 655, Sec. 2, eff. June 16, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 499.102. STAFF DETERMINATIONS AND RECOMMENDATIONS. (a) The staff of the institutional division, on its own initiative or as directed by the governor or the board, may recommend to the administration of the institutional division that the maximum capacity established under Section 499.101 for a unit be increased if the staff determines through written findings that the division can increase the maximum capacity and provide:

(1) proper inmate classification and housing within the unit that is consistent with the classification system;

(2) housing flexibility to allow necessary repairs and routine and preventive maintenance to be performed without

compromising the classification system;

(3) adequate space in dayrooms;

(4) all meals within a reasonable time, allowing each inmate a reasonable time within which to eat;

(5) operable hygiene facilities that ensure the availability of a sufficient number of fixtures to serve the inmate population;

(6) adequate laundry services;

(7) sufficient staff to:

(A) meet operational and security needs;

(B) meet health care needs, including the needs of inmates requiring psychiatric care, inmates with an intellectual disability, and inmates with a physical disability;

(C) provide a safe environment for inmates and staff; and

(D) provide adequate internal affairs investigation and review;

(8) medical, dental, and psychiatric care adequate to ensure:

(A) minimal delays in delivery of service from the time sick call requests are made until the service is performed;

(B) access to regional medical facilities;

(C) access to the institutional division hospital at Galveston or contract facilities performing the same services;

(D) access to specialty clinics; and

(E) a sufficient number of psychiatric inpatient beds and sheltered beds for inmates with an intellectual disability;

(9) a fair disciplinary system that ensures due process and is adequate to ensure safety and order in the unit;

(10) work, vocational, academic, and on-the-job training programs that afford all eligible inmates with an opportunity to learn job skills or work habits that can be applied on release, appropriately staffed and of sufficient quality;

(11) a sufficient number and quality of nonprogrammatic and recreational activities for all eligible inmates who choose to participate;

(12) adequate assistance from persons trained in the law or a law library with a collection containing necessary materials and space adequate for inmates to use the law library for study related to legal matters;

(13) adequate space and staffing to permit contact and noncontact visitation of all eligible inmates;

(14) adequate maintenance programs to repair and prevent breakdowns caused by increased use of facilities and fixtures; and

(15) space and staff sufficient to provide all the services and facilities required by this section.

(b) The staff of the institutional division shall request of the Legislative Budget Board an estimate of the initial cost of implementing the increase in capacity and the increase in operating costs of the unit for the five years immediately following the increase in capacity. The Legislative Budget Board shall provide the staff with the estimates, and the staff shall attach a copy of the estimates to the recommendations.

(c) The staff of the institutional division may not take more than 90 days from the date the process is initiated to make recommendations on an increase in the maximum capacity for a unit under this section.

Added by Acts 1991, 72nd Leg., ch. 655, Sec. 2, eff. June 16, 1991.
Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.061, eff. Sept. 1, 1995.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.10, eff. September 1, 2023.

Sec. 499.103. NOTICE TO INMATES. (a) The director of the institutional division shall prominently display in areas accessible to inmates housed in a unit for which the staff has recommended an increase in capacity copies of the recommendation and findings accompanying the recommendation.

(b) The board shall establish a process by which inmates may comment on the recommendations and ensure that a written summary of inmate comments is available to each individual or entity that makes a determination under this subchapter.

Added by Acts 1991, 72nd Leg., ch. 655, Sec. 2, eff. June 16, 1991.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 499.104. OFFICERS' REVIEW AND RECOMMENDATION. The executive director of the department, the director of the institutional division, the deputy director for operations, the deputy director for finance, the deputy director for health services, and the assistant director for classification and treatment shall independently review staff recommendations for an increase in the maximum capacity of a unit and the written findings accompanying the recommendation. Not later than the 30th day after the date of accepting the comments of the other officers, if the executive director agrees that the new maximum capacity for the unit is supported by the findings, the executive director shall forward the recommendation and findings to the board.

Added by Acts 1991, 72nd Leg., ch. 655, Sec. 2, eff. June 16, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 499.105. BOARD REVIEW AND RECOMMENDATION. The board shall review the recommendation and findings forwarded to the board under Section 499.104. Not later than the 60th day after the date the board receives the recommendation and findings, the board shall reject the recommendation or accept or modify the recommendation and forward the recommendation or modified recommendation and findings to the governor. The board may not modify the recommendation by increasing the maximum capacity specified in the recommendation.

Added by Acts 1991, 72nd Leg., ch. 655, Sec. 2, eff. June 16, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 499.106. GOVERNOR'S REVIEW AND RECOMMENDATION. The governor shall review the recommendation and findings forwarded to the governor under Section 499.105. The governor shall determine whether population pressures otherwise making an increase in maximum

capacity necessary may instead be ameliorated by other measures, including the use of community corrections programs. Not later than the 30th day after the date the governor receives the recommendation and findings, the governor shall reject the recommendation or accept the recommendation and forward the recommendation and findings to the attorney general.

Added by Acts 1991, 72nd Leg., ch. 655, Sec. 2, eff. June 16, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 499.107. ATTORNEY GENERAL REVIEW; BOARD DECISION. (a) The attorney general shall review the recommendation and findings forwarded to the attorney general under Section 499.106 to determine whether the institutional division may confine the number of inmates permitted under the recommended new maximum capacity and be in compliance with state and federal law. In conducting the review under this section, the attorney general may request additional information from the institutional division and conduct on-site inspections of the institutional division. Not later than the 30th day after the date the attorney general receives the recommendation and findings, the attorney general shall approve or disapprove the recommendations and findings. If the attorney general approves the recommendations and findings, the attorney general shall notify the board of the approval, and on receiving the approval the board may establish a new maximum capacity for the unit. The attorney general may make the approval conditional and subject to further monitoring by the attorney general. The maximum capacity of a unit may not be increased if the attorney general determines that the increase would violate state or federal law.

(b) The institutional division may request that the board increase or decrease the new maximum capacity of a unit, but the board may not increase the new maximum capacity without following all procedures required by Sections 499.102-499.106 and by Subsection (a), and except as provided by Subsection (c) may not decrease the new maximum capacity without following the procedures required by Sections 499.103-499.106.

(c) The board may decrease a new maximum capacity without

following the procedures listed in Subsection (b) only for the purposes of allowing single-celling flexibility or to repair minor structural deficiencies, provided that the decrease does not continue in effect for longer than 60 days.

Added by Acts 1991, 72nd Leg., ch. 655, Sec. 2, eff. June 16, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 499.108. CAPACITY FOR NEW UNITS. (a) Before construction begins on a unit of the institutional division for which construction was not approved before January 1, 1991, the board shall establish a maximum capacity for the unit.

(b) Maximum capacity for a unit must be established under this section in the same manner as maximum capacity for a unit is increased under Sections 499.102, 499.104, 499.105, 499.106, and 499.107, except that time limits on official actions imposed by those sections do not apply.

(c) This section does not apply to a 2,250-bed (Michael-type) unit or a 1,012-bed (Daniel-type) unit, approved on or after January 1, 1991, unless the design for the unit is significantly altered or space in the unit is reduced.

Added by Acts 1991, 72nd Leg., ch. 655, Sec. 2, eff. June 16, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 499.109. SYSTEM CAPACITY. (a) The inmate population of the institutional division may not exceed 100 percent of the combined capacities of each unit in the division, as determined by this subchapter.

(b) The attorney general may authorize the institutional division to increase the inmate population of the division above 100 percent, but only if:

(1) the staff determines through written findings that the population may be increased without limiting the ability of the

division to transfer inmates between units as necessary for classification, medical, and security purposes; and

(2) the administration of the department, the board, and the governor approve of the increase, in the same manner as increases in capacity of individual units are approved under Sections 499.104, 499.105, and 499.106.

(c) If the attorney general authorizes the institutional division to increase the inmate population of the division above 100 percent, the institutional division shall distribute the additional admissions permitted by the increase among counties or groups of counties in the same manner as regular admissions are distributed under the allocation formula.

Added by Acts 1991, 72nd Leg., ch. 655, Sec. 2, eff. June 16, 1991. Amended by Acts 1995, 74th Leg., ch. 318, Sec. 71, eff. Sept. 1, 1997.

Sec. 499.110. ADMINISTRATIVE PROCEDURE ACT. Subchapter B, Chapter 2001, applies to all reviews, recommendations, and decisions made under Sections 499.102-499.109.

Added by Acts 1991, 72nd Leg., ch. 655, Sec. 2, eff. June 16, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.062, eff. Sept. 1, 1995.

SUBCHAPTER F. PROCEDURES FOR REDUCING COUNTY JAIL BACKLOG

Sec. 499.121. LEGISLATIVE DECLARATION; MANDAMUS. (a) The legislature declares that until September 1, 1995, the institutional division shall continue to perform its duty to accept inmates only as provided by the allocation formula established under Section 499.071.

(b) The legislature declares that until September 1, 1995, a county shall continue to perform its duty to confine and maintain under suitable conditions and at the county's own expense each inmate eligible for transfer from the county to the institutional division, until the date the inmate is actually accepted into custody by the institutional division. This subsection does not take effect if the County of Nueces et al. v. Texas Board of Corrections et al., in the 250th Judicial District Court of Travis County, Texas, Cause No. 452,071 and Harris County, Texas v. the State of Texas, et al., in

the 126th District Court of Travis County, Texas, Cause No. 475,468 are settled by written agreement on or before the 31st day after the effective date of this article.

(c) Repealed by Acts 2023, 88th Leg., R.S., Ch. 1122 (H.B. 2620), Sec. 4, eff. June 18, 2023.

(d) The duties provided by this subchapter may be enforced by an action in mandamus.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 11.02, eff. Aug. 29, 1991.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1122 (H.B. 2620), Sec. 4, eff. June 18, 2023.

Sec. 499.1215. TRANSFER TO DEPARTMENT; COMPENSATION TO COUNTIES. (a) In this section, "cost of confinement" means the amount that would have been incurred by the department to confine a person. The term does not include costs for medical, behavioral, or pharmaceutical care.

(b) The department shall take custody of a person awaiting transfer to the department following conviction of a felony and sentencing to death or to a term of imprisonment in the department or confinement in a state jail not later than the 45th day following the date on which all documents required by Sections 8(a) and (c), Article 42.09, Code of Criminal Procedure, have been certified as required by Section 8(b) of that article.

(c) If the department does not take custody of a person within the period prescribed by Subsection (b), the department shall compensate the county for the cost of confinement for each day the person remains confined in the county jail following the expiration of that period.

(d) If a person remains confined in the county jail following the expiration of the period prescribed by Subsection (b) due to a delay caused by the county:

(1) the county is not entitled to compensation under Subsection (c) for any day that the person remains confined due to the delay caused by the county; and

(2) the county and the department shall arrange to transfer the person to the department as soon as practicable after the delay.

Added by Acts 2023, 88th Leg., R.S., Ch. 1122 (H.B. 2620), Sec. 2, eff. June 18, 2023.

Sec. 499.122. INMATE COUNT. The Commission on Jail Standards shall analyze monthly the population of each jail in this state that is the jail for a qualifying county and determine the number of inmates confined in the jail who are awaiting transfer to the institutional division following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom all paperwork and processing required under Section 8(a), Article 42.09, Code of Criminal Procedure, for transfer have been completed. The commission may not consider in determining the population of the jail under this section any inmate who is in the jail after having been transferred from another jail and for whom the commission has made payment under this subchapter.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 11.02, eff. Aug. 29, 1991.

Sec. 499.123. PAYMENT. (a) Not later than the 32nd day after the effective date of this subchapter, the Commission on Jail Standards shall determine for each jail in this state that is the jail for a qualifying county the number of inmates confined in the jail on April 1, 1991, who were awaiting transfer to the institutional division following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom paperwork and processing required under Section 8(a), Article 42.09, Code of Criminal Procedure, for transfer had been completed on that date.

(b) A qualifying county is entitled to payment from the Commission on Jail Standards as compensation to the county for confining the number of inmates determined as ready for transfer under Subsection (a) at an amount per inmate to be determined by dividing into $11.5 million the total number of inmates in jails that are the jails for qualifying counties under Subsection (a) confined by qualifying counties. The commission shall make the payment under this subsection on or before January 15, 1992.

(c) Not later than September 10, 1993, the Commission on Jail

Standards shall determine for each jail in this state that is the jail for a qualifying county the number of inmates confined in the jail on September 1, 1993, who were awaiting transfer to the institutional division following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom paperwork and processing required under Section 8(a), Article 42.09, Code of Criminal Procedure, for transfer had been completed, as determined under Section 499.122, on that date.

(d) A qualifying county is entitled to payment from the Commission on Jail Standards as compensation to the county for confining the number of inmates determined as ready for transfer under Subsection (c) at an amount per inmate to be determined by dividing the total number of inmates in county jails that are the jails for qualifying counties under Subsection (c) confined by qualifying counties into $11.5 million. The commission shall make the payment under this subsection on or before January 15, 1994.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 11.02, eff. Aug. 29, 1991.

Sec. 499.124. EMERGENCY OVERCROWDING RELIEF. (a) From the effective date of this subchapter until August 31, 1993, for each month in which the number of inmates confined in a jail that is the jail for a qualifying county who are awaiting transfer to the institutional division following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom paperwork and processing required under Section 8(a), Article 42.09, Code of Criminal Procedure, for transfer have been completed, as determined under Section 499.122, is greater than 50 percent of the number of such inmates confined in the jail on April 1, 1991, as determined under Section 499.123, the Commission on Jail Standards shall pay to a qualifying county for each inmate in excess of 50 percent but less than or equal to 210 percent of the April 1, 1991, number for each day of confinement the sum of $20, and for each inmate in excess of 210 percent of the April 1, 1991, number for each day of confinement the sum of $30.

(b) From September 1, 1993, until September 1, 1995, for each month in which the number of inmates confined in a jail that is the jail for a qualifying county who are awaiting transfer to the

institutional division following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom paperwork and processing required under Section 8(a), Article 42.09, Code of Criminal Procedure, for transfer have been completed, as determined under Section 499.122, is greater than 25 percent of the number of such inmates confined in the jail on April 1, 1991, as determined under Section 499.123, the Commission on Jail Standards shall pay to a qualifying county for each inmate in excess of 25 percent but less than or equal to 210 percent of the April 1, 1991, number for each day of confinement the sum of $20, and for each inmate in excess of 210 percent of the April 1, 1991, number for each day of confinement the sum of $30.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 11.02, eff. Aug. 29, 1991.

Sec. 499.125. TRANSFER OF FELONY BACKLOG. (a) If a state or federal court determines that conditions in a county jail are unconstitutional, and if on or after October 1, 1991, the percentage of inmates in the jail awaiting transfer to the institutional division is 20 percent or more of the total number of inmates in the jail, the commission shall transfer inmates from the jail to an appropriate jail, detention center, work camp, or correctional facility, but only to the extent necessary to bring the county into compliance with court orders or to reduce the percentage of inmates in the jail awaiting transfer to the institutional division to less than 20 percent of the total number of inmates in the jail.

(b) The Commission on Jail Standards is liable to counties for payment of the costs of transportation for and maintenance of transferred inmates. Costs paid to a county shall be paid into the treasury of the county operating the facility receiving the inmates. The costs for maintenance of an inmate for which the commission is liable under this section are:

(1) the actual costs, as determined by the agreement between the board and the officer or governing body authorized by law to enter into contracts, but only if Harris County, Texas v. the State of Texas, et al. in the 126th District Court of Travis County, Texas, Cause No. 475,468 is settled by written agreement on or before the 31st day after the effective date of this subchapter; or

(2) if the suit described by Subdivision (1) of this subsection is not settled within the period specified by the subdivision, for each inmate for each day the first $20 of actual costs and one-half of costs that are in excess of $20, with the transferring county liable to the operators of the receiving facility for all costs not paid by the state.

(c) If the board determines that a county is not reasonably utilizing its available certified jail beds, the payments authorized by this section shall be withheld to the extent necessary to equal the cost of the unutilized beds.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 11.02, eff. Aug. 29, 1991.

Sec. 499.126. DEFINITION. (a) In this subchapter, "qualifying county" means a county that:

(1) on or after the effective date of this subchapter does not initiate or become a party to a suit against the state or a state agency or state official, the subject of which is the reimbursement of the county for the confinement of inmates in the county jail who are awaiting transfer to the institutional division following conviction of a felony or revocation of probation, parole, or release on mandatory supervision; and

(2) if, before the effective date of this subchapter, it was a party to a suit in state court described by Subdivision (1), has before the 31st day after the effective date of this subchapter:

(A) had the county's suit vacated and dismissed by the court;

(B) had the county's suit abated by the court, by entry of an abatement order that specifically provides that:

(i) the suit may not be reactivated except before September 1, 1997, and except on a finding by the court that the state has substantially failed to perform a duty imposed under this subchapter;

(ii) the county is barred from any claim for reimbursement for the cost of confining inmates on and after the effective date of this subchapter and until September 1, 1995, other than reimbursement specified in this subchapter; and

(iii) if the suit is not reactivated before

September 1, 1997, the court shall vacate and dismiss the suit on that date; or

(C) had the county's suit settled by written agreement.

(b) For the purposes of this section, a court retains jurisdiction over a case in which the court has entered an abatement order during the period in which the case is abated.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 11.02, eff. Aug. 29, 1991.

SUBCHAPTER G. TRANSFER FACILITIES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Without reference to the addition of this section, this subchapter was repealed by Acts 2021, 87th Leg., R.S., Ch. 126 (H.B. 719), Sec. 9(1), eff. September 1, 2021.

Sec. 499.156. VOCATIONAL TRAINING. The department shall adopt a policy under which a representative of a public or private entity, including a public or private institution of higher education, may provide vocational training on a voluntary basis to inmates confined in a transfer facility authorized under this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 719 (H.B. 3606), Sec. 1, eff. September 1, 2021.

CHAPTER 500. MISCELLANEOUS DISCIPLINARY MATTERS

Sec. 500.001. SUPERVISORY OR DISCIPLINARY AUTHORITY OF INMATES. (a) An inmate housed in a facility operated by the department or under contract with the department may not act in a supervisory or administrative capacity over another inmate.

(b) An inmate housed in a facility operated by the department or under contract with the department may not administer disciplinary action over another inmate.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 499.001 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts

1995, 74th Leg., ch. 321, Sec. 1.065, eff. Sept. 1, 1995.

Sec. 500.002. DESTRUCTION OF PROPERTY. (a) An inmate housed in a facility operated by the department or under contract with the department is liable for the inmate's intentional damage to property belonging to the state. If more than one inmate is involved in damage to property, each inmate involved in the damage is jointly and severally liable.

(b) The department shall establish a hearing procedure, giving consideration to the due process rights of inmates, for the adjudication of claims for property damage under this section. Damages may be awarded to the department only after a hearing and may not exceed the value of the property damaged.

(c) If at a hearing it is determined that an inmate is liable for property damage, the department may seize the contents of inmate trust funds established for the inmate under Section 501.014.

(d) An inmate, after exhausting all administrative remedies provided by the grievance system developed under Section 501.008, may appeal a final decision under this section by filing a petition for judicial review in a district court having jurisdiction in the county in which the alleged damages occurred. On judicial review, the district court shall follow the rules governing judicial review of contested cases under Subchapter G, Chapter 2001. Appeals may be taken from the district court as in other civil cases.

(e) If an inmate fails to file a petition seeking judicial review of an adverse decision within 30 days after exhausting all administrative remedies, a district court may not review the final decision.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 499.002 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(54), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.066, eff. Sept. 1, 1995.

Sec. 500.003. GAMBLING PROHIBITED. Gambling is not permitted at any place in a facility operated by or under contract with the department where inmates are housed or worked. An employee of the

department who engages in gambling or knowingly permits gambling at any place where inmates are housed or worked is subject to immediate dismissal.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 499.003 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.067, eff. Sept. 1, 1995.

Sec. 500.004. PARTICIPATION IN TREATMENT PROGRAM. An inmate required by law or department policy to participate in a treatment program shall participate in the program.

Added by Acts 2001, 77th Leg., ch. 403, Sec. 1, eff. Sept. 1, 2001.

Sec. 500.005. REWARDS ON ESCAPE. The director of the institutional division, in compliance with board policy, may offer a reward for the apprehension of an escaped inmate. The director may determine the amount of the reward and the manner in which the reward is to be paid.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 499.005 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.068, eff. Sept. 1, 1995.

Sec. 500.006. TRANSPORTATION OF INMATES. (a) The department shall establish policies to provide for the safe transfer of inmates. A sheriff may transport inmates to the institutional division if the sheriff is able to perform the service as economically as if the service were performed by the division. The institutional division is responsible for the cost of transportation of inmates to the division.

(b) An inmate may not be transported directly from a county jail to an institutional division facility other than a designated diagnostic unit.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1,

1989. Renumbered from Sec. 499.006 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.069, eff. Sept. 1, 1995.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 126 (H.B. 719), Sec. 5, eff. September 1, 2021.

Sec. 500.007. TESTING FOR CONTROLLED SUBSTANCES. (a) The department after consultation with the Criminal Justice Policy Council shall implement a program to randomly test, for the purpose of determining the presence of controlled substances, the breath, blood, or other bodily substances of inmates housed in facilities operated by or under contract with the department.

(b) The department annually shall test not less than five percent of the inmates housed in facilities operated by or under contract with the department.

(c) The department shall use the most cost-effective means possible to perform the tests required by this section, and shall actively seek grants from the federal government or other sources to expand the program created under this section.

(d) If the department performs a test described by Subsection (a) and determines the presence of a controlled substance in an inmate, the department may in return for the cooperation of the inmate in identifying the individual who delivered the controlled substance to the inmate defer or dismiss punitive actions, including criminal prosecution, forfeiture of good conduct time or reduction in good conduct time earning status, or forfeiture of privileges, that the department could otherwise take against the inmate.

Added by Acts 1997, 75th Leg., ch. 1351, Sec. 1, eff. Sept. 1, 1997.

Sec. 500.008. DETECTION AND MONITORING OF CELLULAR TELEPHONES. (a) The department may own and the office of inspector general may possess, install, operate, or monitor an interception device, as defined by Article 18A.001, Code of Criminal Procedure.

(b) The inspector general shall designate in writing the commissioned officers of the office of inspector general who are authorized to possess, install, operate, and monitor interception

devices for the department.

(c) An investigative or law enforcement officer or other person, on request of the office of inspector general, may assist the office in the operation and monitoring of an interception of wire, oral, or electronic communications if the investigative or law enforcement officer or other person:

(1) is designated by the executive director for that purpose; and

(2) acts in the presence and under the direction of a commissioned officer of the inspector general.

Added by Acts 2009, 81st Leg., R.S., Ch. 1169 (H.B. 3228), Sec. 7, eff. September 1, 2009.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 3.11, eff. January 1, 2019.

CHAPTER 501. INMATE WELFARE

SUBCHAPTER A. GENERAL WELFARE PROVISIONS

Sec. 501.001. DISCRIMINATION AGAINST INMATES PROHIBITED. The institutional division and the director of the institutional division may not discriminate against an inmate on the basis of the inmate's sex, race, color, creed, or national origin.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.001 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 501.002. ASSAULT BY EMPLOYEE ON INMATE. If an employee of the department commits an assault on an inmate housed in a facility operated by or under contract with the department, the executive director shall file a complaint with the proper official of the county in which the offense occurred. If an employee is charged with an assault described by this section, an inmate or person who was an inmate at the time of the alleged offense may testify in a

prosecution of the offense.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1989. Renumbered from Sec. 500.002 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.070, eff. Sept. 1, 1995.

Sec. 501.003. FOOD. The department shall ensure that inmates housed in facilities operated by the department are fed good and wholesome food, prepared under sanitary conditions, and provided in sufficient quantity and reasonable variety. The department shall hold employees charged with preparing food for inmates strictly to account for a failure to carry out this section. The department shall provide for the training of inmates as cooks so that food for inmates may be properly prepared.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.003 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.071, eff. Sept. 1, 1995.

Sec. 501.004. CLOTHING. The department shall provide to inmates housed in facilities operated by the department suitable clothing that is of substantial material, uniform make, and reasonable fit and footwear that is substantial and comfortable. The department may not allow an inmate to wear clothing that is not furnished by the department, except as a reward for meritorious conduct. The department may allow inmates to wear underwear not furnished by the department.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.004 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.072, eff. Sept. 1, 1995.

Sec. 501.005. LITERACY PROGRAMS. (a) The institutional division shall establish a program to teach reading to functionally illiterate inmates housed in facilities operated by the division.

The institutional division shall allow an inmate who is capable of serving as a tutor to tutor functionally illiterate inmates and shall actively encourage volunteer organizations to aid in the tutoring of inmates. The institutional division, the inmate to be tutored, and the person who tutors the inmate jointly shall establish reading goals for the inmate to be tutored. A person who acts as a tutor may only function as a teacher and advisor to an inmate and may not exercise supervisory authority or control over the inmate.

(b) The institutional division shall require illiterate inmates housed in facilities operated by the division to receive not less than five or more than eight hours a week of reading instruction.

(c) The institutional division shall identify functionally illiterate inmates housed in facilities operated by the division and shall inform the parole division if it determines that an inmate who is to be released to the supervision of the parole division is in need of continuing education after release from the institutional division.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.005 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.073, eff. Sept. 1, 1995.

Sec. 501.0051. RECEIPT OF BOOKS BY MAIL. (a) The department shall establish a policy that permits an inmate to receive by mail reference books and other educational materials from a volunteer organization that operates programs described by Section 501.009, regardless of whether the organization provides those programs to inmates housed in facilities operated by the department.

(b) The department may adopt rules as necessary to implement this section, including rules to:

(1) provide for screening of packages sent to inmates;

(2) prohibit inmates from receiving books that might assist them in committing crimes, such as books on escaping prison; and

(3) define the terms "reference books" and "educational materials."

Added by Acts 2009, 81st Leg., R.S., Ch. 976 (H.B. 3649), Sec. 1, eff. June 19, 2009.

Sec. 501.006. EMERGENCY ABSENCE. (a) The institutional division may grant an emergency absence under escort to an inmate so that the inmate may:

(1) obtain a medical diagnosis or medical treatment;

(2) obtain treatment and supervision at a facility operated by the Health and Human Services Commission; or

(3) attend a funeral or visit a critically ill relative.

(b) The institutional division shall adopt policies for the administration of the emergency absence under escort program.

(c) An inmate absent under this section is considered to be in the custody of the institutional division, and the inmate must be under physical guard while absent.

(d) The institutional division may not grant a furlough to an inmate convicted of an offense under Section 42.072, Penal Code.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.006 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 10, Sec. 7, eff. March 19, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 14.36, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 321, Sec. 1.074, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 657, Sec. 7, eff. June 14, 1995; Acts 1997, 75th Leg., ch. 1, Sec. 9, eff. Jan. 28, 1997.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.11, eff. September 1, 2023.

Sec. 501.007. INMATE CLAIMS FOR LOST OR DAMAGED PROPERTY. The department may pay from the miscellaneous funds appropriated to the division claims made by inmates housed in facilities operated by the department for property lost or damaged by the division. The department shall maintain a record of all transactions made under this section. The record must show the amount of each claim paid, the identity of each claimant, and the purpose for which each claim was made. The department may not pay under this section more than $500 on a claim.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.007 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts

1995, 74th Leg., ch. 321, Sec. 1.075, eff. Sept. 1, 1995.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 8, eff. June 17, 2011.

Sec. 501.008. INMATE GRIEVANCE SYSTEM. (a) The department shall develop and maintain a system for the resolution of grievances by inmates housed in facilities operated by the department or under contract with the department that qualifies for certification under 42 U.S.C. Section 1997e and the department shall obtain and maintain certification under that section. A remedy provided by the grievance system is the exclusive administrative remedy available to an inmate for a claim for relief against the department that arises while the inmate is housed in a facility operated by the department or under contract with the department, other than a remedy provided by writ of habeas corpus challenging the validity of an action occurring before the delivery of the inmate to the department or to a facility operated under contract with the department.

(b) The grievance system must provide procedures:

(1) for an inmate to identify evidence to substantiate the inmate's claim; and

(2) for an inmate to receive all formal written responses to the inmate's grievance.

(c) A report, investigation, or supporting document prepared by the department in response to an inmate grievance is considered to have been prepared in anticipation of litigation and is confidential, privileged, and not subject to discovery by the inmate in a claim arising out of the same operative facts as are alleged in the grievance.

(d) An inmate may not file a claim in state court regarding operative facts for which the grievance system provides the exclusive administrative remedy until:

(1) the inmate receives a written decision issued by the highest authority provided for in the grievance system; or

(2) if the inmate has not received a written decision described by Subdivision (1), the 180th day after the date the grievance is filed.

(e) The limitations period applicable to a claim arising out of the same operative facts as a claim for which the grievance system

provides the exclusive remedy:

(1) is suspended on the filing of the grievance; and

(2) remains suspended until the earlier of the following dates:

(A) the 180th day after the date the grievance is filed; or

(B) the date the inmate receives the written decision described by Subsection (d)(1).

(f) This section does not affect any immunity from a claim for damages that otherwise exists for the state, the department, or an employee of the department.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.008 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 378, Sec. 6, eff. June 8, 1995.

Sec. 501.0081. DISPUTE RESOLUTION: TIME-SERVED CREDITS. (a) The department shall develop a system that allows resolution of a complaint by an inmate who alleges that time credited on the inmate's sentence is in error and does not accurately reflect the amount of time-served credit to which the inmate is entitled.

(b) Except as provided by Subsection (c), an inmate may not in an application for a writ of habeas corpus under Article 11.07, Code of Criminal Procedure, raise as a claim a time-served credit error until:

(1) the inmate receives a written decision issued by the highest authority provided for in the resolution system; or

(2) if the inmate has not received a written decision described by Subdivision (1), the 180th day after the date on which under the resolution system the inmate first alleges the time-served credit error.

(c) Subsection (b) does not apply to an inmate who, according to the department's computations, is within 180 days of the inmate's presumptive parole date, date of release on mandatory supervision, or date of discharge. An inmate described by this subsection may raise a claim of time-served credit error by filing a complaint under the system described by Subsection (a) or, if an application for a writ of habeas corpus is not otherwise barred, by raising the claim in

that application.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 1.38(a), eff. Sept. 1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 501.009. VOLUNTEER AND FAITH-BASED ORGANIZATIONS; REPORT. (a) The department shall adopt a policy that requires each warden to identify volunteer and faith-based organizations that provide programs for inmates housed in facilities operated by the department. The policy must require each warden to actively encourage volunteer and faith-based organizations to provide the following programs for inmates in the warden's facility:

(1) literacy and education programs;

(2) life skills programs;

(3) job skills programs;

(4) parent-training programs;

(5) drug and alcohol rehabilitation programs;

(6) support group programs;

(7) arts and crafts programs; and

(8) other programs determined by the department to aid inmates in the transition between confinement and society and to reduce incidence of recidivism among inmates.

(b) The policy must require that each warden submit a report to the board not later than December 31 of each year that includes, for the preceding fiscal year, a summary of:

(1) the programs provided to inmates under this section; and

(2) the actions taken by the warden to identify volunteer and faith-based organizations willing to provide programs to inmates and to encourage those organizations to provide programs in the warden's facility.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.009 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.076, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1406 (S.B. 345), Sec. 1, eff. September 1, 2013.

Sec. 501.010. VISITORS. (a) In this section:

(1) "Guardian" has the meaning assigned by Section 1002.012, Estates Code.

(2) "Letters of guardianship" means a certificate issued under Section 1106.001(a), Estates Code.

(a-1) The institutional division shall allow the governor, members of the legislature, and members of the executive and judicial branches to enter at proper hours any part of a facility operated by the division where inmates are housed or worked, for the purpose of observing the operations of the division. A visitor described by this subsection may talk with inmates away from institutional division employees.

(b) The institutional division shall have a uniform visitation policy that allows eligible inmates housed in facilities operated by the division, other than state jails, to receive visitors. The institutional division shall require each warden in the division to:

(1) apply the policy in the unit under the warden's control;

(2) prominently display copies of the policy in locations in the unit that are accessible to inmates or visitors; and

(3) if requested, provide visitors with copies of the policy.

(b-1) The uniform visitation policy must:

(1) allow visitation by a guardian of an inmate to the same extent as the inmate's next of kin, including placing the guardian on the inmate's approved visitors list on the guardian's request and providing the guardian access to the inmate during a facility's standard visitation hours if the inmate is otherwise eligible to receive visitors; and

(2) require the guardian to provide the warden with letters of guardianship before being allowed to visit the inmate.

(b-2) Regardless of the implementation of video visitation or visitation by other electronic means, the uniform visitation policy must allow in-person visitation for eligible inmates, provided that the policy may allow the temporary suspension of in-person visitation

for a health or safety emergency.

(c) At the end of each biennium, each warden in the institutional division shall report to the director of the division on the manner in which the policy has affected visitation at the warden's unit during the preceding two years.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.010 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.077, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 688 (H.B. 634), Sec. 2, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 328 (H.B. 2708), Sec. 1, eff. September 1, 2023.

Sec. 501.011. ZERO-TOLERANCE POLICY. (a) The department shall adopt a zero-tolerance policy concerning the detection, prevention, and punishment of the sexual abuse, including consensual sexual contact, of inmates in the custody of the department.

(b) The department shall establish standards for reporting and collecting data on the sexual abuse of inmates in the custody of the department.

(c) The department shall establish a procedure for inmates in the custody of the department and department employees to report incidents of sexual abuse involving an inmate in the custody of the department. The procedure must designate a person employed at the department facility in which the abuse is alleged to have occurred as well as a person who is employed at the department's headquarters to whom a person may report an incident of sexual abuse.

(d) The department shall prominently display the following notice in the office of the chief administrator of each department facility, the employees' break room of each department facility, the cafeteria of each department facility, and at least six additional locations in each department facility:

THE TEXAS LEGISLATURE HAS ADOPTED A ZERO-TOLERANCE POLICY REGARDING THE SEXUAL ABUSE, INCLUDING CONSENSUAL SEXUAL CONTACT, OF AN INMATE IN THE CUSTODY OF THE DEPARTMENT. ANY SUCH VIOLATION MUST BE REPORTED TO _____.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 23, eff. June 15, 2007.

Sec. 501.012. FAMILY LIAISON OFFICER. The director of the institutional division shall designate one employee at each facility operated by the institutional division to serve as family liaison officer for that facility. The family liaison officer shall facilitate the maintenance of ties between inmates and their families for the purpose of reducing recidivism. Each family liaison officer shall:

(1) provide inmates' relatives with information about the classification status, location, and health of inmates in the facility;

(2) notify inmates about emergencies involving their families and provide inmates with other necessary information relating to their families; and

(3) assist inmates' relatives and other persons during visits with inmates and aid those persons in resolving problems that may affect permitted contact with inmates.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.012 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.079, eff. Sept. 1, 1995.

Sec. 501.013. MATERIALS USED FOR ARTS AND CRAFTS. (a) The institutional division may purchase materials to be used by inmates housed in facilities operated by the division to produce arts and crafts.

(b) The institutional division may allow an inmate housed in a facility operated by the division who produces arts and crafts in the division to sell those arts and crafts to the general public in a manner determined by the division.

(c) If an inmate housed in a facility operated by the division sells arts and crafts and the materials used in the production of the arts and crafts were provided by the division, the proceeds of the sale go first to the division to pay for the cost of the materials, and the remainder, if any, goes to the inmate. The institutional

division may not purchase more than $30 of materials for any inmate unless the inmate has repaid the division in full for previous purchases of materials.

(d) The manufacturing and logistics division and the institutional division shall work cooperatively in supervising the production and sale of arts and crafts under this section.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.013 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.080, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1056, Sec. 6, eff. Sept. 1, 2003.

Sec. 501.014. INMATE MONEY. (a) The department shall take possession of all money that an inmate has on the inmate's person or that is received with the inmate when the inmate arrives at a facility to be admitted to the custody of the department and all money the inmate receives at the department during confinement and shall credit the money to an account created for the inmate. The department may spend money from an inmate account on the written order of the inmate in whose name the account is established or as required by law or policy subject to restrictions on the expenditure established by law or policy. The department shall ensure that each facility operated by or under contract with the department shall operate an account system that complies with this section, but the department is not required to operate a separate account system for or at each facility.

(b) If an inmate with money in an account established under Subsection (a) dies while confined in a facility operated by or under contract with the department, the department shall attempt to give notice of the account to a beneficiary or known relative of the deceased inmate. On the presentation of a notarized claim to the department for the money by a person entitled to the notice, the department may pay any amount not exceeding $2,500 of the deceased inmate's money held by the department to the claimant. A claim for money in excess of $2,500 must be made under Chapter 205, Estates Code, or another law, as applicable. The department is not liable for making a payment or failing to make a payment under this subsection.

(c) If money is unclaimed two years after the department gives or attempts to give notice under Subsection (b), or two years after the date of the death of an inmate whose beneficiary or relative is unknown, the executive director, or the executive director's designee, shall make an affidavit stating that the money in the inmate account is unclaimed and send the affidavit and money to the comptroller.

(d) An inmate who escapes or attempts to escape from the custody of the department forfeits to the department all of the money held by the department in the inmate's account at the time of the escape or attempted escape. Money forfeited to the comptroller under Subsection (c) escheats to the state.

(e) On notification by a court, the department shall withdraw from an inmate's account any amount the inmate is ordered to pay by order of the court under this subsection. On receipt of a valid court order requiring an inmate to pay child support, the department shall withdraw the appropriate amount from the inmate's account under this subsection, regardless of whether the court order is provided by the court or another person. The department shall make a payment under this subsection to either the court or the party specified in the court order. The department is not liable for withdrawing or failing to withdraw money or making payments or failing to make payments under this subsection. The department shall make withdrawals and payments from an inmate's account under this subsection according to the following schedule of priorities:

(1) as payment in full for all orders for child support;

(2) as payment in full for all orders for restitution;

(3) as payment in full for all orders for reimbursement of the Health and Human Services Commission for financial assistance provided for the child's health needs under Chapter 31, Human Resources Code, to a child of the inmate;

(4) as payment in full for all orders for court fees and costs;

(5) as payment in full for all orders for fines; and

(6) as payment in full for any other court order, judgment, or writ.

(e-1) Notification from a court under Subsection (e) of an order for restitution must specify the amount of restitution owed on the date of notification.

(f) The department may place a hold on money in or withdraw

money from an inmate account:

(1) to restore amounts withdrawn by the inmate against uncollected money;

(2) to correct accounting errors;

(3) to make restitution for wrongful withdrawals made by an inmate from the account of another inmate;

(4) to cover deposits until cleared;

(5) as directed by court order in accordance with Subsection (e);

(6) as part of an investigation by the department of inmate conduct involving the use of the account or an investigation in which activity or money in the inmate's account is evidence;

(7) to transfer money deposited in violation of law or department policy; or

(8) to recover money the inmate owes the department for indigent supplies, medical copayments, destruction of state property, or other indebtedness.

(g) The department shall withdraw money from an inmate's account under Subsection (e) before the department applies a deposit to that account toward any unpaid balance owed to the department by the inmate under Section 501.063.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.014 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 804, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 321, Sec. 1.081, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 257, Sec. 2, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 807, Sec. 1, eff. Sept. 1, 1997; Acts 1997. 75th Leg., ch. 1409, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.34, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.10, 19.02(8), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 326, Sec. 1, 2, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 767 (S.B. 865), Sec. 32, eff. June 19, 2009.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.039, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 368 (H.B. 1221), Sec. 2, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 501.015. PROVIDING DISCHARGED OR RELEASED INMATE WITH CLOTHING AND MONEY; BURIAL EXPENSES. (a) When an inmate is discharged or is released on parole, mandatory supervision, or conditional pardon, the department shall provide the inmate with:

(1) suitable civilian clothing;

(2) money held in the inmate's trust account by the director;

(3) cash, in an amount and in the manner described by Subsection (b); and

(4) a personal identification certificate obtained under Section 501.0165, if available.

(b) When an inmate is released on parole, mandatory supervision, or conditional pardon, the inmate is entitled to receive $100 from the department and transportation at the expense of the department to the location at which the inmate is required to report to a parole officer by the pardons and paroles division. The inmate shall receive $50 on his release from the institution and $50 on initially reporting to a parole officer at the location at which the inmate is required to report to a parole officer. If an inmate is released and is not required by the pardons and paroles division to report to a parole officer or is authorized by the pardons and paroles division to report to a location outside this state, the department shall provide the inmate with $100 and, at the expense of the department, transportation to:

(1) the location of the inmate's residence, if the residence is in this state; or

(2) a transit point determined appropriate by the department, if the inmate's residence is outside this state or the inmate is required by the pardons and paroles division to report to a location outside this state.

(c) The department may spend not more than $200 to defray the costs of transportation or other expenses related to the burial of an inmate who dies while confined in a facility operated by the institutional division.

(d) The director of the institutional division shall provide

the comptroller with funds sufficient to maintain not less than $100,000 in a bank or banks in Huntsville, Texas, for the purpose of making prompt payments to inmates required by Subsection (b). Funds maintained in a bank under this subsection must be secured by bonds or other securities approved by the attorney general.

(e) A bank that maintains funds described by Subsection (b) shall make a weekly report to the comptroller on the condition of the funds.

(f) Subsection (a)(3) does not apply to an inmate who on discharge or release on parole, mandatory supervision, or conditional pardon is transferred from the custody of the institutional division to a state jail felony facility or who is subject to a felony detainer and is released to the custody of another jurisdiction.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.015 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 238, Sec. 7.01, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 321, Sec. 1.082, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.35, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 745, Sec. 1, eff. Aug. 30, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1288 (H.B. 2161), Sec. 1, eff. September 1, 2009.

Sec. 501.0155. PROVIDING DISCHARGED OR RELEASED INMATE WITH DOCUMENTATION FOR EMPLOYMENT. When an inmate who is able to work, as determined by the department based on the inmate's age or mental or physical condition, is discharged or released on parole, mandatory supervision, or conditional pardon and the intended residence designated by the inmate is in this state, the department shall provide the inmate with relevant documentation to assist the inmate in obtaining post-release employment, including:

(1) as applicable, a copy of the inmate's job training record described by Section 497.094 and the inmate's work record described by Section 497.095; and

(2) for an inmate who completed a prerelease program required by a parole panel as a condition of release:

(A) a resume that includes any trade learned by the

inmate and the inmate's proficiency at that trade; and

(B) documentation that the inmate has completed a practice job interview.

Added by Acts 2019, 86th Leg., R.S., Ch. 364 (H.B. 918), Sec. 1, eff. January 1, 2020.

Sec. 501.016. DISCHARGE OR RELEASE PAPERS; RELEASE DATE. (a) The department shall prepare and provide an inmate with the inmate's discharge or release papers when the inmate is entitled to be discharged or to be released on parole, mandatory supervision, or conditional pardon. The papers must be dated and signed by the officer preparing the papers and bear the seal of the department. The papers must contain:

(1) the inmate's name;

(2) a statement of the offense or offenses for which the inmate was sentenced;

(3) the date on which the defendant was sentenced and the length of the sentence;

(4) the name of the county in which the inmate was sentenced;

(5) the amount of calendar time the inmate actually served;

(6) a statement of any trade learned by the inmate and the inmate's proficiency at that trade; and

(7) the physical description of the inmate, as far as practicable.

(b) If the release date of an inmate occurs on a Saturday, Sunday, or legal holiday, the department may release the inmate on the preceding workday.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.016 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.083, eff. Sept. 1, 1995.

Sec. 501.0165. STATE-ISSUED IDENTIFICATION; NECESSARY DOCUMENTATION. (a) Before discharging an inmate or releasing an inmate on parole, mandatory supervision, or conditional pardon, the department shall:

(1) determine whether the inmate has:

(A) a valid license issued under Chapter 521 or 522, Transportation Code; or

(B) a valid personal identification certificate issued under Chapter 521, Transportation Code; and

(2) if the inmate does not have a valid license or certificate described by Subdivision (1), submit to the Department of Public Safety on behalf of the inmate a request for the issuance of a personal identification certificate under Chapter 521, Transportation Code.

(b) The department shall submit a request under Subsection (a)(2) as soon as is practicable to enable the department to provide the inmate with the personal identification certificate when the department discharges or releases the inmate.

(c) The department, the Department of Public Safety, and the bureau of vital statistics of the Department of State Health Services shall by rule adopt a memorandum of understanding that establishes their respective responsibilities with respect to the issuance of a personal identification certificate to an inmate, including responsibilities related to verification of the inmate's identity. The memorandum of understanding must require the Department of State Health Services to electronically verify the birth record of an inmate whose name and any other personal information is provided by the department and to electronically report the recorded filing information to the Department of Public Safety to validate the identity of an inmate under this section.

(d) The department shall reimburse the Department of Public Safety or the Department of State Health Services for the actual costs incurred by those agencies in performing responsibilities established under this section. The department may charge an inmate for the actual costs incurred under this section or the fees required by Section 521.421, Transportation Code.

(e) This section does not apply to an inmate who:

(1) is not legally present in the United States; or

(2) was not a resident of this state before the person was placed in the custody of the department.

Added by Acts 2009, 81st Leg., R.S., Ch. 1288 (H.B. 2161), Sec. 2, eff. September 1, 2009.

Sec. 501.0166. PROVIDING DISCHARGED OR RELEASED INMATE WITH BIRTH CERTIFICATE AND SOCIAL SECURITY CARD. (a) In addition to complying with the requirements of Section 501.0165 regarding a license or personal identification certificate for an inmate being discharged or released on parole, mandatory supervision, or conditional pardon, the department must:

(1) determine whether the inmate has a:

(A) certified copy of the inmate's birth certificate; and

(B) copy of the inmate's social security card; and

(2) if the inmate does not have a document described by Subdivision (1), submit to the appropriate entity on behalf of the inmate a request for the issuance of the applicable document.

(b) The department shall submit a request under Subsection (a)(2) as soon as is practicable to enable the department to provide the inmate with the applicable document when the department discharges or releases the inmate.

(c) This section does not apply to an inmate who:

(1) is not legally present in the United States; or

(2) was not a resident of this state before the person was placed in the custody of the department.

Added by Acts 2019, 86th Leg., R.S., Ch. 364 (H.B. 918), Sec. 1, eff. January 1, 2020.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 501.017. COST OF CONFINEMENT AS CLAIM. (a) The department may establish a claim and lien against the estate of an inmate who dies while confined in a facility operated by or under contract with the department for the cost to the department of the inmate's confinement.

(b) The department may not enforce a claim or lien established under this section if the inmate has a surviving spouse or a surviving dependent or disabled child.

(c) The department shall adopt policies regarding recovery of the cost of confinement through enforcement of claims or liens established under this section.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.017 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.084, eff. Sept. 1, 1995.

Sec. 501.019. COST OF CONFINEMENT AS CLAIM; SETOFF. (a) The state may deduct from any monetary obligation owed to an incarcerated person:

(1) the cost of incarceration, if a cost of incarceration for the person can be computed; and

(2) any amount assessed against the person under Section 14.006, Civil Practice and Remedies Code, that remains unpaid at the time the monetary obligation is to be paid.

(b) In a case in which a person may be indemnified under Chapter 104, Civil Practice and Remedies Code, and that arises from a claim made by a person for whom a cost of incarceration can be computed, the court shall reduce the amount recoverable by the claimant by the amount of the cost of incarceration.

(c) The annual cost of incarceration of a person shall be computed using the average cost per day for imprisonment calculated by the Criminal Justice Policy Council.

(d) In making a deduction under Subsection (a) or in reducing an award under Subsection (b), the department or the court shall credit or debit a prorated portion of the cost of incarceration for a person incarcerated for 365 days or less in a year. The number of days of incarceration in a year includes time served before conviction.

(e) This section applies to a monetary obligation arising from a judgment against the state, an agency of the state, or an officer or employee of the state or an agency of the state, only if:

(1) the judgment awards damages for property damage or bodily injury resulting from a negligent act or omission, including an act or omission described by Section 101.021(1), Civil Practice and Remedies Code; and

(2) there is not a finding by the court of a violation of the constitution of this state or the United States.

Added by Acts 1995, 74th Leg., ch. 378, Sec. 7, eff. June 8, 1995.

Sec. 501.021. USE OF INMATES IN TRAINING PROHIBITED. The department may not use an inmate in a program that trains dogs to attack individuals without the inmate's permission.

Added by Acts 1995, 74th Leg., ch. 321, Sec. 1.085, eff. Sept. 1, 1995.

Sec. 501.0215. EDUCATIONAL PROGRAMMING FOR PREGNANT INMATES. The department shall develop and provide to each pregnant inmate educational programming relating to pregnancy and parenting. The programming must include instruction regarding:

(1) appropriate prenatal care and hygiene;

(2) the effects of prenatal exposure to alcohol and drugs on a developing fetus;

(3) parenting skills; and

(4) medical and mental health issues applicable to children.

Added by Acts 2019, 86th Leg., R.S., Ch. 123 (H.B. 650), Sec. 3, eff. September 1, 2019.

Sec. 501.022. INFANT CARE AND PARENTING. The department shall implement a residential infant care and parenting program for mothers who are confined by the department. To the extent practicable, the department shall model the program after the Federal Bureau of Prisons' Mothers and Infants Together program operated under contract in Fort Worth.

Added by Acts 2007, 80th Leg., R.S., Ch. 824 (H.B. 199), Sec. 1, eff. September 1, 2007.

Sec. 501.023. INFORMATION CONCERNING FOSTER CARE HISTORY. (a) The department, during the diagnostic process, shall assess each inmate with respect to whether the inmate has at any time been in the conservatorship of a state agency responsible for providing child protective services.

(b) Not later than December 31 of each year, the department shall submit a report to the governor, the lieutenant governor, and

each member of the legislature and shall make the report available to the public on the department's Internet website. The report must summarize statistical information concerning the total number of inmates who have at any time been in the conservatorship of a state agency responsible for providing child protective services, including, disaggregated by age, the number of inmates who have not previously served a term of imprisonment.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1032 (H.B. 2719), Sec. 1, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 761 (H.B. 1191), Sec. 1, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2938, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 501.024. VERIFICATION OF INMATE VETERAN STATUS. (a) The department, during the diagnostic process, shall record information relating to an inmate's military history in the inmate's admission sheet and intake screening form, or any other similar document.

(b) The department shall:

(1) in consultation with the Texas Veterans Commission, investigate and verify the veteran status of each inmate by using the best available federal data; and

(2) use the data described by Subdivision (1) to assist inmates who are veterans in applying for federal benefits or compensation for which the inmates may be eligible under a program administered by the United States Department of Veterans Affairs.

Added by Acts 2013, 83rd Leg., R.S., Ch. 261 (H.B. 634), Sec. 1, eff. June 14, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 281 (H.B. 875), Sec. 1, eff. September 1, 2015.
Redesignated from Government Code, Section 501.023 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(24), eff. September 1, 2015.

Sec. 501.025. VETERANS SERVICES COORDINATOR. (a) The department shall establish a veterans services coordinator to coordinate responses to the needs of veterans under the supervision of the department, including veterans who are released on parole or mandatory supervision. The veterans services coordinator, with the cooperation of the community justice assistance division, shall provide information to community supervision and corrections departments to help those departments coordinate responses to the needs of veterans placed on community supervision. The veterans services coordinator shall coordinate veterans' services for all of the department's divisions.

(b) The veterans services coordinator, in collaboration with the attorney general's office, shall provide each incarcerated veteran a child support modification application.

Added by Acts 2017, 85th Leg., R.S., Ch. 987 (H.B. 865), Sec. 1, eff. September 1, 2017.

Sec. 501.026. LIMITATION ON CERTAIN SEARCHES. The department shall adopt a policy regarding a search of any room or other area that occurs while a female inmate who is not fully clothed is present in the room or area. The policy must:

(1) require that the search be conducted by a female correctional officer if one is available;

(2) include staffing procedures to ensure the availability of female officers; and

(3) provide that if it is necessary for a male correctional officer to conduct the search, the officer must submit a written report explaining the reasons for the search to the warden not later than 72 hours after the search.

Added by Acts 2019, 86th Leg., R.S., Ch. 123 (H.B. 650), Sec. 3, eff. September 1, 2019.

Sec. 501.027. ACCESS TO PROGRAMS BY FEMALE INMATES. (a) The department shall develop and implement policies that increase and promote a female inmate's access to programs offered to inmates in the custody of the department, including educational, vocational, substance use treatment, rehabilitation, life skills training, and

prerelease programs. The department may not reduce or limit a male inmate's access to a program to meet the requirements of this section.

(b) Not later than December 31 of each year, the department shall:

(1) prepare and submit to the governor, the lieutenant governor, the speaker of the house of representatives, each standing committee of the legislature having primary jurisdiction over the department, and the reentry task force described by Section 501.098 a written report that includes:

(A) a description of any department policies that were created, modified, or eliminated during the preceding year to meet the requirements of this section; and

(B) a list of programs available to female inmates in the custody of the department during the preceding year; and

(2) publish the report on the department's Internet website.

Added by Acts 2019, 86th Leg., R.S., Ch. 1163 (H.B. 3227), Sec. 2, eff. September 1, 2019.
Redesignated from Government Code, Section 501.026 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(31), eff. September 1, 2021.

SUBCHAPTER B. GENERAL MEDICAL AND MENTAL HEALTH CARE PROVISIONS

Sec. 501.051. MEDICAL FACILITIES AT UNIVERSITY OF TEXAS MEDICAL BRANCH. (a) The medical facility constructed by the institutional division at The University of Texas Medical Branch at Galveston shall be used as a teaching facility and be limited to patients who are teaching patients, as long as the medical facility is used for the treatment of department patients. The Board of Regents of The University of Texas System shall maintain and operate the facility and provide professional staff services necessary for the care of patients in the facility, except that the department shall provide security at the facility. The facility shall provide the same level of care as is provided for patients in other facilities of The University of Texas Medical Branch at Galveston.

(b) If the medical facility ceases to be used for department patients, the facility shall revert to the medical branch for its use

and be operated under the exclusive management and control of the Board of Regents of The University of Texas System.

(c) The medical facility shall be operated with funds appropriated for that purpose.

(d) The department shall establish and maintain an overnight holding facility for inmate outpatients at The University of Texas Medical Branch at Galveston.

(e) The department and The University of Texas Medical Branch at Galveston shall by rule adopt a memorandum of understanding that establishes the responsibilities of the department and the medical branch in maintaining the department's medical facility, providing security, and providing medical care. The memorandum must also establish a joint peer review committee and a joint utilization review committee. Each committee shall be composed of medical personnel employed by the department and by the medical branch. The joint peer review committee shall review all case files to determine whether the quality of medical care provided is adequate, according to accepted medical standards. The joint utilization review committee shall review all case files to determine whether treatment given is medically necessary under the circumstances of each case, taking into account accepted medical standards. The department shall coordinate the development of the memorandum of understanding.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.051 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.086, eff. Sept. 1, 1995.

Sec. 501.0515. PROCEDURES FOR TRANSPORTATION OF FEMALE INMATES FOR MEDICAL CARE. The department shall establish procedures to be used during the regularly scheduled transportation of female inmates for nonemergency medical care to The University of Texas Medical Branch at Galveston or another medical facility that provides medical services for inmates. The procedures must ensure that:

(1) any searches conducted are performed in an area and manner that conforms with the requirements of the Prison Rape Elimination Act of 2003 (34 U.S.C. Section 30301 et seq.) and any regulation adopted under that Act;

(2) buses used to transport female inmates are equipped

with bathrooms and have an adequate supply of toilet paper and feminine hygiene products as defined by Section 501.0675 for the inmates being transported;

(3) female inmates receive sufficient food and nutrition in accordance with medical or nutritional standards as determined by the department; and

(4) facilities used to house female inmates overnight while being transported have an adequate number of beds for the inmates being transported.

Added by Acts 2023, 88th Leg., R.S., Ch. 1162 (S.B. 1146), Sec. 1, eff. September 1, 2023.

Sec. 501.052. MEDICAL RESIDENCIES. The department may establish a residency program or a rotation program to employ or train physicians to treat inmates in the department.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.052 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.087, eff. Sept. 1, 1995.

Sec. 501.053. REPORTS OF PHYSICIAN MISCONDUCT. (a) If the department receives an allegation that a physician employed or under contract with the department has committed an action that constitutes a ground for the denial or revocation of the physician's license under Section 164.051, Occupations Code, the department shall report the information to the Texas State Board of Medical Examiners in the manner provided by Section 154.051, Occupations Code.

(b) The department shall provide the Texas State Board of Medical Examiners with a copy of any report or finding relating to an investigation of an allegation reported to the board.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.053 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.088, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 14.763, eff. Sept. 1, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 501.054. AIDS AND HIV EDUCATION; TESTING. (a) In this section, "AIDS," "HIV," and "test result" have the meanings assigned by Section 81.101, Health and Safety Code.

(b) The department, in consultation with the Texas Department of Health, shall establish education programs to educate inmates and employees of the department about AIDS and HIV. In establishing the programs for inmates, the department shall design a program that deals with issues related to AIDS and HIV that are relevant to inmates while confined and a program that deals with issues related to AIDS and HIV that will be relevant to inmates after the inmates are released. The department shall design the programs to take into account relevant cultural and other differences among inmates. The department shall require each inmate in a facility operated by the department to participate in education programs established under this subsection.

(c) The department shall require each employee of the department to participate in programs established under this section at least once during each calendar year.

(d) The department shall ensure that education programs for employees include information and training relating to infection control procedures. The department shall also ensure that employees have infection control supplies and equipment readily available.

(e) The department, in consultation with the Texas Department of Health, shall periodically revise education programs established under this section so that the programs reflect the latest medical information available on AIDS and HIV.

(f) The department shall adopt a policy for handling persons with AIDS or HIV infection who are in the custody of the department or under the department's supervision. The policy must be substantially similar to a model policy developed by the Texas Department of Health under Subchapter G, Chapter 85, Health and Safety Code.

(g) The department shall maintain the confidentiality of test results of an inmate indicating HIV infection at all times, including after the inmate's discharge, release from a state jail, or release on parole or mandatory supervision. The department may not honor the request of an agency of the state or any person who requests a test

result as a condition of housing or supervising the inmate while the inmate is on community supervision or parole or mandatory supervision, unless honoring the request would improve the ability of the inmate to obtain essential health and social services.

(h) The department shall report to the legislature not later than January 15 of each odd-numbered year concerning the implementation of this section and the participation of inmates and employees of the department in education programs established under this section.

(i) The department may test an inmate confined in a facility operated by the correctional institutions division for human immunodeficiency virus at any time, but must test:

(1) during the diagnostic process, an inmate for whom the department does not have a record of a positive test result; and

(2) an inmate who is eligible for release before the inmate is released from the division.

(j) If the department determines that an inmate has a positive test result, the department may segregate the inmate from other inmates. The department shall report the results of a positive test to the Department of State Health Services for the purposes of notification and reporting as described by Sections 81.050-81.052, Health and Safety Code.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.054 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.089, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 1184 (H.B. 43), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 255 (S.B. 453), Sec. 1, eff. May 26, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405 and H.B. 1610, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 501.055. REPORT OF INMATE DEATH. (a) If an inmate dies while in the custody of the department, an employee of the facility

who is in charge of the inmate shall immediately notify the nearest justice of the peace serving in the county in which the inmate died and the office of internal affairs for the department. The justice shall personally inspect the body and make an inquiry as to the cause of death. The justice shall make written copies of evidence taken during the inquest, and give one copy to the director and one copy to a district judge serving in the county in which the inmate died. The judge shall provide the copy to the grand jury and, if the judge determines the evidence indicates wrongdoing, instruct the grand jury to thoroughly investigate the cause of death.

(b) Subsection (a) does not apply if the inmate:

(1) dies of natural causes while attended by a physician or a registered nurse; or

(2) is lawfully executed.

(c) If an inmate dies as described by Subsection (b)(1), the department or an authorized official of the department shall immediately attempt to notify the next of kin of the inmate that the inmate has died, state the time of the inmate's death, and inform the next of kin that unless the next of kin objects to the department within eight hours of the stated time of death, an autopsy will be conducted on the inmate.

(d) If the next of kin consents to the autopsy or does not within eight hours of the time of death file an objection with the department about the autopsy, the department or an authorized official of the department shall order an autopsy to be conducted on the inmate. The order of an autopsy under this subsection constitutes consent to an autopsy for the purposes of Article 49.32, Code of Criminal Procedure.

(e) For purposes of this section, an "inmate in the custody of the department" is a convicted felon who:

(1) is confined in a secure correctional facility operated by or under contract with the department; or

(2) has been admitted for treatment into a hospital while remaining in the custody of the department.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.055 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.090, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1422, Sec. 2, eff. June 20, 1997.

Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 950 (H.B. 1009), Sec. 3, eff. January 1, 2012.

Sec. 501.0551. ANATOMICAL GIFTS. (a) The department, during the diagnostic process, shall provide each inmate with a form on which the inmate may indicate whether the inmate wishes to be an eye, tissue, or organ donor if the inmate dies while in the custody of the department.

(b) If an inmate indicates on the form that the inmate wishes to be a donor, the effect is the same as if the inmate executed a statement of gift under Section 521.401, Transportation Code.

(c) The department shall adopt procedures to provide inmates with the form described by Subsection (a).

(d) Expired.

Added by Acts 1997, 75th Leg., ch. 1422, Sec. 3, eff. June 20, 1997.

Sec. 501.056. CONTRACT FOR CARE OF INMATES WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITY. The department shall contract with the Health and Human Services Commission for provision of commission facilities, treatment, and habilitation for inmates with mental illness or an intellectual disability in the custody of the department. The contract must provide:

(1) detailed characteristics of the inmate population with mental illness and the inmate population with intellectual disabilities to be affected under the contract;

(2) for the respective responsibilities of the commission and the department with regard to the care and supervision of the affected inmates; and

(3) that the department remains responsible for security.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.056 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.091, eff. Sept. 1, 1995.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.12, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 501.057. CIVIL COMMITMENT BEFORE PAROLE. (a) The department shall establish a system to identify mentally ill inmates who are nearing eligibility for release on parole.

(b) Not later than the 30th day before the initial parole eligibility date of an inmate identified as mentally ill, an institutional division psychiatrist shall examine the inmate. The psychiatrist shall file a sworn application for court-ordered temporary mental health services under Chapter 574, Health and Safety Code, if the psychiatrist determines that the inmate is mentally ill and as a result of the illness the inmate meets at least one of the criteria listed in Section 574.034 or 574.0345, Health and Safety Code.

(c) The psychiatrist shall include with the application a sworn certificate of medical examination for mental illness in the form prescribed by Section 574.011, Health and Safety Code.

(d) The institutional division is liable for costs incurred for a hearing under Chapter 574, Health and Safety Code, that follows an application filed by a division psychiatrist under this section.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.057 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.092, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 582 (S.B. 362), Sec. 7, eff. September 1, 2019.

Sec. 501.058. COMPENSATION OF PSYCHIATRISTS. The amount of compensation paid by the institutional division to psychiatrists employed by the division should be similar to the amount of compensation authorized for the Health and Human Services Commission to pay to psychiatrists.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1,

1989. Renumbered from Sec. 500.058 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.13, eff. September 1, 2023.

Sec. 501.059. SCREENING FOR AND EDUCATION CONCERNING FETAL ALCOHOL EXPOSURE DURING PREGNANCY. (a) The department shall establish a screening program to identify female inmates who are:

(1) between the ages of 18 and 44;

(2) sentenced to a term of confinement not to exceed two years; and

(3) at risk for having a pregnancy with alcohol-related complications, including giving birth to a child with alcohol-related birth defects.

(b) The screening program established under Subsection (a) must:

(1) evaluate the family planning practices of each female inmate described by Subsection (a) in relation to the inmate's consumption of alcohol and risk of having a pregnancy with alcohol-related complications;

(2) include an objective screening tool to be used by department employees administering the screening program; and

(3) occur during the diagnostic process or at another time determined by the department.

(c) The department shall provide:

(1) a brief substance abuse intervention to all female inmates identified by the screening program as being at risk for having a pregnancy with alcohol-related complications; and

(2) an educational brochure describing the risks and dangers of consuming alcohol during pregnancy to all female inmates.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 24, eff. June 15, 2007.

Sec. 501.060. TUBERCULOSIS SCREENING. (a) The board will establish requirements for tuberculosis screening of department employees and volunteers in a manner similar to that established for

jail employees and volunteers as outlined in Subchapter B, Chapter 89, Health and Safety Code.

(b) The institutional division shall provide tuberculosis screening for a person if:

(1) the person is an employee of:

(A) the institutional division;

(B) the correctional managed care plan operated by The University of Texas Medical Branch at Galveston; or

(C) the Texas Tech University Health Science Center Correctional Managed Care Plan; and

(2) the person requests the screening.

Added by Acts 1993, 73rd Leg., ch. 786, Sec. 2, eff. Sept. 1, 1993. Renumbered from Government Code Sec. 501.059 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(17), eff. Sept. 1, 1995. Renumbered from Government Code Sec. 501.059 and amended by Acts 1995, 74th Leg., ch. 385, Sec. 1, eff. Aug. 28, 1995.

Sec. 501.061. ORCHIECTOMY FOR CERTAIN SEX OFFENDERS. (a) A physician employed or retained by the department may perform an orchiectomy on an inmate only if:

(1) the inmate has been convicted of an offense under Section 21.02, 21.11, 22.011(a)(2), or 22.021(a)(2)(B), Penal Code, and has previously been convicted under one or more of those sections;

(2) the inmate is 21 years of age or older;

(3) the inmate requests the procedure in writing;

(4) the inmate signs a statement admitting the inmate committed the offense described by Subsection (a)(1) for which the inmate has been convicted;

(5) a psychiatrist and a psychologist who are appointed by the department and have experience in the treatment of sex offenders:

(A) evaluate the inmate and determine that the inmate is a suitable candidate for the procedure; and

(B) counsel the inmate before the inmate undergoes the procedure;

(6) the physician obtains the inmate's informed, written consent to undergo the procedure;

(7) the inmate has not previously requested that the

department perform the procedure and subsequently withdrawn the request; and

(8) the inmate consults with a monitor as provided by Subsection (f).

(b) The inmate may change his decision to undergo an orchiectomy at any time before the physician performs the procedure. An inmate who withdraws his request to undergo an orchiectomy is ineligible to have the procedure performed by the department.

(c) Either the psychiatrist or psychologist appointed by the department under this section must be a member of the staff of a medical facility under contract with the department or the institutional division to treat inmates in the division.

(d) A physician who performs an orchiectomy on an inmate under this section is not liable for an act or omission relating to the procedure unless the act or omission constitutes negligence.

(e) The name of an inmate who requests an orchiectomy under this section is confidential, and the department may use the inmate's name only for purposes of notifying and providing information to the inmate's spouse if the inmate is married.

(f) The executive director of the Texas State Board of Medical Examiners shall appoint, in consultation with two or more executive directors of college or university institutes or centers for the study of medical ethics or medical humanities, a monitor to assist an inmate in his decision to have an orchiectomy. The monitor must have experience in the mental health field, in law, and in ethics. The monitor shall consult with the inmate to:

(1) ensure adequate information regarding the orchiectomy has been provided to the inmate by medical professionals providing treatment or advice to the inmate;

(2) provide information regarding the orchiectomy to the inmate if the monitor believes the inmate is not adequately informed about the orchiectomy;

(3) determine whether the inmate is free from coercion in his decision regarding the orchiectomy; and

(4) advise the inmate to withdraw his request for an orchiectomy if the monitor determines the inmate is being coerced to have an orchiectomy.

(g) A monitor appointed under Subsection (f) is not liable for damages arising from an act or omission under Subsection (f) unless the act or omission was intentional or grossly negligent.

Added by Acts 1997, 75th Leg., ch. 144, Sec. 1, eff. May 20, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.37, eff. September 1, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 501.062. STUDY OF RATE OF RECIDIVISM AMONG SEX OFFENDERS. (a) The department shall conduct a long-term study, for at least 10 years after the date an orchiectomy is performed under Section 501.061, to measure the rate of recidivism among inmates who undergo the procedure.

(b) During the study period under Subsection (a), with respect to each inmate who undergoes an orchiectomy under Section 501.061 and who volunteers to undergo the evaluations described by this subsection, the department shall provide for:

(1) a psychiatric or psychological evaluation of the inmate; and

(2) periodic monitoring and medical evaluation of the presence of the hormone testosterone in the inmate's body.

(c) Before each regular session of the legislature, the department shall submit to the legislature a report that compares the rate of recidivism of sex offenders released from the institutional division who have undergone an orchiectomy to the rate of recidivism of those sex offenders who have not.

(d) The department may contract with a public or private entity to conduct the study required under this section.

Added by Acts 1997, 75th Leg., ch. 144, Sec. 1, eff. May 20, 1997.

Sec. 501.063. INMATE FEE FOR HEALTH CARE. (a)(1) An inmate confined in a facility operated by or under contract with the department, other than a halfway house, who initiates a visit to a health care provider shall pay a health care services fee to the department in the amount of $13.55 per visit, except that an inmate may not be required to pay more than $100 during a state fiscal year.

(2) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1046 (H.B.

812), Sec. 2, eff. September 1, 2019.

(3) The inmate shall pay the fee out of the inmate's trust fund. If the balance in the fund is insufficient to cover the fee, 50 percent of each deposit to the fund shall be applied toward the balance owed until the total amount owed is paid.

(b) The department shall adopt policies to ensure that before any deductions are made from an inmate's trust fund under this section, the inmate is informed that the health care services fee will be deducted from the inmate's trust fund as required by Subsection (a).

(c) The department may not deny an inmate access to health care as a result of the inmate's failure or inability to pay a fee under this section.

(d) The department shall deposit money received under this section in an account in the general revenue fund that may be used only to pay the cost of correctional health care. At the beginning of each fiscal year, the comptroller shall transfer any surplus from the preceding fiscal year to the state treasury to the credit of the general revenue fund.

Added by Acts 1997, 75th Leg., ch. 257, Sec. 1, eff. Jan. 1, 1998. Renumbered from Sec. 501.061 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(45), eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 65.02, eff. September 28, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1046 (H.B. 812), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1046 (H.B. 812), Sec. 2, eff. September 1, 2019.

Sec. 501.064. AVAILABILITY OF CORRECTIONAL HEALTH CARE INFORMATION TO INMATES. The department shall ensure that the following information is available to any inmate confined in a facility operated by or under contract with the department:

(1) a description of the level, type, and variety of health care services available to inmates;

(2) the formulary used by correctional health care personnel in prescribing medication to inmates;

(3) correctional managed care policies and procedures; and

(4) the process for the filing of inmate grievances concerning health care services provided to inmates.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 24, eff. June 15, 2007.

Sec. 501.065. CONSENT TO MEDICAL, DENTAL, PSYCHOLOGICAL, AND SURGICAL TREATMENT. An inmate who is younger than 18 years of age and is confined in a facility operated by or under contract with the department may, in accordance with procedures established by the department, consent to medical, dental, psychological, and surgical treatment for the inmate by a licensed health care practitioner, or a person under the direction of a licensed health care practitioner, unless the treatment would constitute a prohibited practice under Section 164.052(a)(19), Occupations Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 1227 (H.B. 2389), Sec. 1, eff. June 15, 2007.
Renumbered from Government Code, Section 501.059 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(34), eff. September 1, 2009.

Sec. 501.066. RESTRAINT OF PREGNANT INMATE OR DEFENDANT. (a) The department may not place restraints around the ankles, legs, or waist of a pregnant woman in the custody of the department at any time after the woman's pregnancy has been confirmed by a medical professional, unless the director, the director's designee, or a medical professional determines that the use of restraints is necessary based on a reasonable belief that the woman will harm herself, her unborn child or infant, or any other person or will attempt escape.

(b) If a determination to use restraints is made under Subsection (a), the type of restraint used and the manner in which the restraint is used must be the least restrictive available under the circumstances to ensure safety and security or to prevent escape.

Added by Acts 2009, 81st Leg., R.S., Ch. 1184 (H.B. 3653), Sec. 1, eff. September 1, 2009.

Amended by:
Acts 2019, 86th Leg., R.S., Ch. 123 (H.B. 650), Sec. 4, eff. September 1, 2019.

Sec. 501.0665. CERTAIN INVASIVE SEARCHES PROHIBITED. (a) Except as provided by Subsection (b), any invasive body cavity search of a pregnant inmate shall be conducted by a medical professional.

(b) A correctional officer may conduct an invasive body cavity search of a pregnant inmate only if the officer has a reasonable belief that the inmate is concealing contraband. An officer who conducts a search described by this section shall submit a written report to the warden not later than 72 hours after the search. The report must:

(1) explain the reasons for the search; and

(2) identify any contraband recovered in the search.

Added by Acts 2019, 86th Leg., R.S., Ch. 123 (H.B. 650), Sec. 5, eff. September 1, 2019.

Sec. 501.0666. NUTRITION REQUIREMENTS FOR PREGNANT INMATES. The department shall ensure that pregnant inmates are provided sufficient food and dietary supplements, including prenatal vitamins, as ordered by an appropriate medical professional.

Added by Acts 2019, 86th Leg., R.S., Ch. 123 (H.B. 650), Sec. 5, eff. September 1, 2019.

Sec. 501.0667. INMATE POSTPARTUM RECOVERY REQUIREMENTS. (a) The department shall ensure that, for a period of 72 hours after the birth of an infant by an inmate:

(1) the infant is allowed to remain with the inmate, unless a medical professional determines doing so would pose a health or safety risk to the inmate or infant; and

(2) the inmate has access to any nutritional or hygiene-related products necessary to care for the infant, including diapers.

(b) The department shall make the items described by Subsection (a)(2) available free of charge to an indigent inmate.

Added by Acts 2019, 86th Leg., R.S., Ch. 123 (H.B. 650), Sec. 5, eff. September 1, 2019.

Sec. 501.0668. DUTIES FOLLOWING MISCARRIAGE OR PHYSICAL OR SEXUAL ASSAULT OF PREGNANT INMATE. (a) In this section:

(1) "Physical assault" means any conduct that constitutes an offense under Section 22.01 or 22.02, Penal Code.

(2) "Sexual assault" means any conduct that constitutes an offense under Section 22.011 or 22.021, Penal Code.

(b) As soon as practicable after receiving a report of a miscarriage or physical or sexual assault of a pregnant inmate, the department shall ensure that an obstetrician or gynecologist and a mental health professional promptly:

(1) review the health care services provided to the inmate; and

(2) order additional health care services, including obstetrical and gynecological services and mental health services, as appropriate.

Added by Acts 2021, 87th Leg., R.S., Ch. 424 (H.B. 1307), Sec. 1, eff. September 1, 2021.

Sec. 501.067. AVAILABILITY OF CERTAIN MEDICATION. (a) In this section, "over-the-counter medication" means medication that may legally be sold and purchased without a prescription.

(b) The department shall make over-the-counter medication available for purchase by inmates in each inmate commissary operated by or under contract with the department.

(c) The department may not deny an inmate access to over-the-counter medications as a result of the inmate's inability to pay for the medication. The department shall pay for the cost of over-the-counter medication for inmates who are unable to pay for the medication out of the profits of inmate commissaries operated by or under contract with the department.

(d) The department may adopt policies concerning the sale and purchase of over-the-counter medication under this section as necessary to ensure the safety and security of inmates in the custody of, and employees of, the department, including policies concerning

the quantities and types of over-the-counter medication that may be sold and purchased under this section.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 65.03, eff. September 28, 2011.

Sec. 501.0675. PROVISION OF FEMININE HYGIENE PRODUCTS. (a) In this section, "feminine hygiene product" means:

(1) a regular or large size tampon with applicator;

(2) a regular or large size sanitary napkin or menstrual pad with wings;

(3) a regular size panty liner; or

(4) any other similar item sold for the principal purpose of feminine hygiene in connection with the menstrual cycle.

(b) On request of a female inmate, the department shall provide free of charge to the inmate up to 10 feminine hygiene products per day that comply with applicable federal standards for comfort, effectiveness, and safety.

Added by Acts 2019, 86th Leg., R.S., Ch. 123 (H.B. 650), Sec. 5, eff. September 1, 2019.

Sec. 501.068. MENTAL HEALTH ASSESSMENT FOR CERTAIN INMATES. (a) Before the department may confine an inmate in administrative segregation, an appropriate medical or mental health care professional must perform a mental health assessment of the inmate.

(b) The department may not confine an inmate in administrative segregation if the assessment performed under Subsection (a) indicates that type of confinement is not appropriate for the inmate's medical or mental health.

Added by Acts 2015, 84th Leg., R.S., Ch. 705 (H.B. 1083), Sec. 1, eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 501.069. DEVELOPMENTALLY DISABLED OFFENDER PROGRAM. (a)

In this section, "offender" has the meaning assigned by Section 501.091.

(b) The department shall establish and maintain a program for offenders:

(1) who are suspected of or identified as having an intellectual disability or borderline intellectual functioning; and

(2) whose adaptive functioning is significantly impaired.

(c) The program must provide an offender described by Subsection (b) with:

(1) a safe environment while confined; and

(2) specialized programs, treatments, and activities designed by the department to assist the offender in effectively managing, treating, or accommodating the offender's intellectual disability or borderline intellectual functioning.

(d) The department may accept gifts, awards, or grants for the purpose of providing the services described by Subsection (b).

Added by Acts 2015, 84th Leg., R.S., Ch. 406 (H.B. 2189), Sec. 2, eff. September 1, 2015.
Redesignated from Government Code, Section 501.068 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(15), eff. September 1, 2017.

Sec. 501.070. TRAUMA HISTORY SCREENING. The department shall:

(1) screen each female inmate during the diagnostic process to determine whether the inmate has experienced adverse childhood experiences or other significant trauma; and

(2) refer the inmate as needed to the appropriate medical or mental health care professional for treatment.

Added by Acts 2019, 86th Leg., R.S., Ch. 123 (H.B. 650), Sec. 5, eff. September 1, 2019.

Sec. 501.071. ACCESS TO TELEMEDICINE AND TELEHEALTH SERVICES AND ON-SITE MEDICAL CARE. The department, in conjunction with The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center, shall establish procedures to increase opportunities and expand access to telemedicine medical services and telehealth services, as those terms are defined by

Section 111.001, Occupations Code, and on-site medical care for inmates, including on-site mobile care units that provide diagnostic imaging, physical therapy, and other appropriate mobile health services.

Added by Acts 2023, 88th Leg., R.S., Ch. 1162 (S.B. 1146), Sec. 1, eff. September 1, 2023.

SUBCHAPTER C. CONTINUITY OF CARE PROGRAMS; REENTRY PROGRAM

Text of section effective on June 19, 2009, but only if a specific appropriation is provided as described by Acts 2009, 81st Leg., R.S., Ch. 643, Sec. 4, which states: This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

Sec. 501.091. DEFINITIONS. In this subchapter:

(1) "Correctional facility" means a facility operated by or under contract with the department.

(2) "Offender" means an inmate or state jail defendant confined in a correctional facility.

Added by Acts 2009, 81st Leg., R.S., Ch. 643 (H.B. 1711), Sec. 2, eff. June 19, 2009.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 501.092. COMPREHENSIVE REENTRY AND REINTEGRATION PLAN FOR OFFENDERS. (a) The department shall develop and adopt a comprehensive plan to reduce recidivism and ensure the successful reentry and reintegration of offenders into the community following an offender's release or discharge from a correctional facility.

(b) The reentry and reintegration plan adopted under this section must:

(1) incorporate the use of the risk and needs assessment instrument adopted under Section 501.0921;

(2) provide for programs that address the assessed needs of offenders;

(3) provide for a comprehensive network of transition programs to address the needs of offenders released or discharged from a correctional facility;

(4) identify and define the transition services that are to be provided by the department and which offenders are eligible for those services;

(5) coordinate the provision of reentry and reintegration services provided to offenders through state-funded and volunteer programs across divisions of the department to:

(A) target eligible offenders efficiently; and

(B) ensure maximum use of existing facilities, personnel, equipment, supplies, and other resources;

(6) provide for collecting and maintaining data regarding the number of offenders who received reentry and reintegration services and the number of offenders who were eligible for but did not receive those services, including offenders who did not participate in those services;

(7) provide for evaluating the effectiveness of the reentry and reintegration services provided to offenders by collecting, maintaining, and reporting outcome information, including recidivism data as applicable;

(8) identify providers of existing local programs and transitional services with whom the department may contract under Section 495.028 to implement the reentry and reintegration plan; and

(9) subject to Subsection (f), provide for the sharing of information between local coordinators, persons with whom the department contracts under Section 495.028, and other providers of services as necessary to adequately assess and address the needs of each offender.

(c) The department, in consultation with the Board of Pardons and Paroles and the Windham School District, shall establish the role of each entity in providing reentry and reintegration services. The reentry and reintegration plan adopted under this section must include, with respect to the department, the Board of Pardons and Paroles, and the Windham School District:

(1) the reentry and reintegration responsibilities and goals of each entity, including the duties of each entity to administer the risk and needs assessment instrument adopted under Section 501.0921;

(2) the strategies for achieving the goals identified by

each entity; and

(3) specific timelines for each entity to implement the components of the reentry and reintegration plan for which the entity is responsible.

(d) The department shall regularly evaluate the reentry and reintegration plan adopted under this section. Not less than once in each three-year period following the adoption of the plan, the department shall update the plan.

(e) The department shall provide a copy of the initial reentry and reintegration plan adopted under this section and each evaluation and revision of the plan to the board, the Windham School District, and the Board of Pardons and Paroles.

(f) An offender's personal health information may be disclosed under Subsection (b)(9) only if:

(1) the offender consents to the disclosure; and

(2) the disclosure does not violate the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) or other state or federal law.

(g) The programs provided under Subsections (b)(2) and (3) must:

(1) be implemented by highly skilled staff who are experienced in working with inmate reentry and reintegration programs;

(2) provide offenders with:

(A) individualized case management and a full continuum of care;

(B) life-skills training, including information about budgeting, money management, nutrition, and exercise;

(C) education and, if an offender has a learning disability, special education;

(D) employment training;

(E) appropriate treatment programs, including substance abuse and mental health treatment programs; and

(F) parenting and relationship building classes; and

(3) be designed to build for former offenders post-release and post-discharge support from the community into which an offender is released or discharged, including support from agencies and organizations within that community.

(h) In developing the reentry and reintegration plan adopted under this section, the department shall ensure that the reentry

program for long-term inmates under Section 501.096 and the reintegration services provided under Section 501.097 are incorporated into the plan.

(i) Not later than September 1 of each even-numbered year, the department shall deliver a report of the results of evaluations conducted under Subsection (b)(7) to the lieutenant governor, the speaker of the house of representatives, and each standing committee of the senate and house of representatives having primary jurisdiction over the department.

Added by Acts 2009, 81st Leg., R.S., Ch. 643 (H.B. 1711), Sec. 2, eff. June 19, 2009.
Reenacted and amended by Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 3, eff. September 1, 2013.

Sec. 501.0921. RISK AND NEEDS ASSESSMENT INSTRUMENT. (a) The department shall adopt a standardized instrument to assess, based on criminogenic factors, the risks and needs of each offender within the adult criminal justice system.

(b) The department shall make the risk and needs assessment instrument available for use by each community supervision and corrections department established under Chapter 76.

(c) The department and the Windham School District shall jointly determine the duties of each entity with respect to implementing the risk and needs assessment instrument in order to efficiently use existing assessment processes.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 4, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 501.093. INMATES SUFFERING FROM DRUG OR ALCOHOL ABUSE. (a) The department and the Health and Human Services Commission shall by rule adopt a memorandum of understanding that establishes their respective responsibilities to establish a continuity of care program for inmates with a history of drug or alcohol abuse.

(b) An agency of the state not listed in Subsection (a) that determines that it may provide services to inmates with a history of drug or alcohol abuse may participate in the development of the memorandum, if the parties listed in this subsection approve the agency's participation.

(c) The memorandum of understanding must establish methods for:

(1) identifying inmates with a history of drug or alcohol abuse;

(2) notifying the pardons and paroles division and the Health and Human Services Commission as to when an inmate with a history of drug or alcohol abuse is to be released and as to the inmate's release destination;

(3) identifying the services needed by inmates with a history of drug or alcohol abuse to reenter the community successfully; and

(4) determining the manner in which each agency that participates in the establishment of the memorandum can share information about inmates and use that information to provide continuity of care.

(d) The Texas Commission on Alcohol and Drug Abuse shall coordinate the memorandum of understanding.

(e) The institutional division shall fund and operate a full service alcoholism and drug counseling program for chemically dependent inmates. The institutional division shall provide a sufficient number of alcoholism and drug counselors to provide counseling services for not less than 80 percent of those inmates in need of alcohol or drug counseling. The institutional division also shall provide a sufficient administrative and supervisory staff to organize, operate, and evaluate a program that motivates those inmates with a history of alcohol or drug-related problems to pursue a socially acceptable and chemically free lifestyle. The institutional division shall use funds received for these purposes and shall actively pursue federal grants for helping fund the program.

(f) The institutional division may require that inmates selected by the division attend a substance abuse treatment program that includes recognition and awareness of the disease concept of addiction. The institutional division may use suitable inmates as tutors in the program but must ensure that the inmate tutors do not exercise any authority over other inmates. The institutional

division shall provide educational materials designed to assist an inmate in understanding the inmate's alcohol or drug dependency problem.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.093 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.093, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1269, Sec. 3, eff. Sept. 1, 1997.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.14, eff. September 1, 2023.

Sec. 501.0931. IN-PRISON THERAPEUTIC COMMUNITIES. (a) The institutional division shall establish a program to confine and treat in in-prison therapeutic communities inmates determined by the division to have a history of drug or alcohol abuse and to need drug or alcohol abuse treatment. The program is in addition to existing educational and substance abuse treatment services provided to inmates.

(b) The institutional division and the Texas Commission on Alcohol and Drug Abuse shall jointly develop methods of screening and assessing inmates to determine their need for treatment for alcohol or drug abuse problems. The institutional division shall screen for alcohol and drug abuse each inmate who is transferred to the custody of the institutional division. The institutional division shall assess the inmates who are identified as having a substance abuse problem and shall determine the severity of the problem and the need for treatment.

(c) The program must consist of a treatment program of indeterminate length, not to exceed 12 months. The institutional division shall make a referral of an inmate to a program based on the severity of the substance abuse problem, eligibility of the inmate, and the availability of treatment space. An inmate who has not more than 12 months remaining in the inmate's sentence before the earliest date the inmate is eligible for parole is eligible for the program.

(d) The institutional division shall separate inmates participating in the program from the general population of the division and house the inmates in discrete units or areas within

units, except during the diagnostic process or at other times determined to be necessary by the division for medical or security purposes. The institutional division shall separate an inmate who successfully completes the program from the general population of the division during any period after completion and before the inmate is discharged or released on parole or mandatory supervision from the department.

(e) The program provided under this section must contain highly structured work, education, and treatment schedules, a clearly delineated authority structure, and well-defined goals and guidelines. The institutional division shall establish a graded system of rewards and sanctions for inmates who participate in the program.

(f) The institutional division shall employ or contract with qualified professionals to implement the program. For purposes of this subsection, a "qualified professional" is a person who:

(1) is a licensed chemical dependency counselor;

(2) is a licensed social worker who has at least two years of experience in chemical dependency counseling; or

(3) is a licensed professional counselor, physician, or psychologist and who has at least two years of experience in chemical dependency counseling.

(g) The institutional division shall adopt:

(1) a procedure for determining which inmates are the best candidates for participation in the program, with priority for those inmates who volunteer;

(2) a procedure for determining which inmates may be required to participate in the program; and

(3) rules of conduct for inmates participating in the program.

(h) If the qualified professional implementing the program determines that an inmate is not complying with the rules of the program, the qualified professional shall notify the institutional division of that fact and the institutional division shall end the inmate's participation in the program and transfer the inmate out of the program.

(i) The institutional division shall provide at least 800 beds for housing participants in the program. The institutional division not less often than every two years shall determine whether the division should increase the number of beds provided by the division

for the program.

(j) Neither the institutional division nor a qualified professional implementing the program may operate the program in a manner that automatically excludes inmates who do not volunteer to participate, and the division and the treatment provider shall attempt to encourage nonvolunteer inmates to participate.

(k) If funding is available, the Criminal Justice Policy Council, with the assistance of the institutional division, shall develop methods to evaluate the processes used by the division in providing the program and the level of success achieved by the program.

Added by Acts 1991, 72nd Leg., ch. 490, Sec. 3, eff. Dec. 1, 1991. Transferred from Vernon's Ann.Civ.St. art. 4413(401), Sec. 1.131 and amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 9.02, eff. Aug. 29, 1991. Amended by Acts 1993, 73rd Leg., ch. 988, Sec. 3.02, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 321, Sec. 1.094, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1269, Sec. 4, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 892, Sec. 23, eff. Sept. 1, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 501.095. INMATES WITH HISTORY OF CHRONIC UNEMPLOYMENT. (a) The department and the Texas Employment Commission shall by rule adopt a memorandum of understanding that establishes their respective responsibilities to establish a continuity of care program for inmates with a history of chronic unemployment.

(b) An agency of the state not listed in this section that determines that it may provide services to inmates with a history of chronic unemployment may participate in the development of the memorandum, if the parties listed in this section approve the agency's participation.

(c) The memorandum of understanding must establish methods for:

(1) identifying inmates with a history of chronic unemployment;

(2) notifying the pardons and paroles division and the commission as to when an inmate with a history of chronic unemployment is to be released and as to the inmate's release

destination;

(3) identifying the services needed by inmates with a history of chronic unemployment to reenter the community successfully; and

(4) determining the manner in which each agency that participates in the establishment of the memorandum can share information about inmates and use that information to provide continuity of care.

(d) The Texas Workforce Commission shall coordinate the development of the memorandum of understanding.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 500.095 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.095, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 655, Sec. 11.62, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 817, Sec. 10.02, eff. Sept. 1, 2003.

Sec. 501.096. REENTRY PROGRAM FOR LONG-TERM INMATES. (a) The institutional division shall establish a program to assist inmates that have served long terms in preparing for their release from the division.

(b) In order to participate in the program established under this section, an inmate must:

(1) be serving a sentence of 30 years or longer;

(2) be within one year of the date projected for release;

(3) volunteer for participation in the program; and

(4) be approved for participation in the program by the institutional division.

(c) The institutional division shall provide to participating inmates academic and vocational education, employment counseling, and individual therapy. Services provided under this subsection must be designed to address the special needs of inmates who have served long terms of confinement in the institutional division.

(d) The department shall determine the special needs of inmates who have served long terms of confinement in the institutional division and shall identify and develop community resources to meet those needs.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1,

1989. Renumbered from Sec. 500.096 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.096, eff. Sept. 1, 1995.

Sec. 501.097. REINTEGRATION SERVICES. (a) The department and the Texas Workforce Commission shall by rule adopt a memorandum of understanding that establishes their respective responsibilities for providing inmates who are released into the community on parole or other conditional release with a network of centers designed to provide education, employment, and other support services based on a "one stop for service" approach.

(b) An agency of the state not listed in this section that determines that it may provide reintegration services to inmates similar to those described by Subsection (a) may participate in the development of the memorandum, if the department and the Texas Workforce Commission approve the agency's participation.

Added by Acts 1997, 75th Leg., ch. 1360, Sec. 6, eff. Sept. 1, 1997.

Sec. 501.0971. PROVISION OF REENTRY AND REINTEGRATION INFORMATION TO INMATES. (a) The department shall identify organizations that provide reentry and reintegration resource guides and shall collaborate with those organizations to prepare a resource guide that is to be made available to all inmates. At a minimum, the department shall collaborate with:

(1) nonprofit entities that specialize in criminal justice issues;

(2) faith-based organizations; and

(3) organizations that:

(A) offer pro bono legal services to inmates; or

(B) are composed of the families and friends of inmates.

(b) The department shall make the resource guide available in the Windham School District libraries and in each of the following areas of a correctional facility:

(1) peer educator classrooms;

(2) chapels;

(3) reintegration specialist offices; and

(4) any area or classroom that is used by the department for the purpose of providing information about reentry to inmates.

(c) The department shall make available a sufficient number of copies of the resource guide to ensure that each inmate is able to access the resource guide in a timely manner.

(d) The department shall identify organizations described by Subsection (a) that provide information described by Subsection (e) and shall collaborate with those organizations to compile county-specific information packets for inmates. The department shall, within the 180-day period preceding the date an inmate will discharge the inmate's sentence or is released on parole, mandatory supervision, or conditional pardon, provide the inmate with a county-specific information packet for the county that the inmate designates as the inmate's intended residence.

(e) At the minimum, a county-specific packet described by Subsection (d) must include, for the applicable county:

(1) contact information, including telephone numbers, e-mail addresses, physical locations, and mailing addresses, as applicable, of:

(A) workforce offices, housing options, places of worship, support groups, peer-to-peer counseling groups, and other relevant organizations or agencies as determined by the department and the collaborating organization;

(B) agencies and organizations that offer emergency assistance, such as food and clothing banks, temporary bus passes, low-cost medical assistance, and overnight and temporary housing; and

(C) agencies and organizations that offer mental health counseling; and

(2) information necessary for the inmate to apply for governmental assistance or benefits, including Medicaid, social security benefits, or nutritional assistance programs under Chapter 33, Human Resources Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 112 (S.B. 578), Sec. 1, eff. September 1, 2015.

Sec. 501.098. REENTRY TASK FORCE. (a) The department shall establish a reentry task force and shall coordinate the work of the task force with the Office of Court Administration. The executive

director shall ensure that the task force includes representatives of the following entities:

(1) the Texas Juvenile Justice Department;

(2) the Texas Workforce Commission;

(3) the Department of Public Safety;

(4) the Texas Department of Housing and Community Affairs;

(5) the Texas Correctional Office on Offenders with Medical or Mental Impairments;

(6) the Health and Human Services Commission;

(7) the Texas Judicial Council;

(8) the Board of Pardons and Paroles;

(9) the Windham School District;

(10) the Texas Commission on Jail Standards;

(11) the Department of State Health Services;

(12) the Texas Court of Criminal Appeals;

(13) the County Judges and Commissioners Association of Texas;

(14) the Sheriffs' Association of Texas;

(15) the Texas District and County Attorneys Association; and

(16) the Texas Conference of Urban Counties.

(b) The executive director shall appoint a representative from each of the following entities to serve on the reentry task force:

(1) a community supervision and corrections department established under Chapter 76;

(2) an organization that advocates on behalf of offenders;

(3) a local reentry planning entity; and

(4) a statewide organization that advocates for or provides reentry or reintegration services to offenders following their release or discharge from a correctional facility.

(c) To the extent feasible, the executive director shall ensure that the membership of the reentry task force reflects the geographic diversity of this state and includes members of both rural and urban communities.

(d) The executive director may appoint additional members as the executive director determines necessary.

(e) The reentry task force shall:

(1) identify gaps in services for offenders following their release or discharge to rural or urban communities in the areas of employment, housing, substance abuse treatment, medical care, and any

other areas in which the offenders need special services; and

(2) coordinate with providers of existing local reentry and reintegration programs, including programs operated by a municipality or county, to make recommendations regarding the provision of comprehensive services to offenders following their release or discharge to rural or urban communities.

(f) In performing its duties under Subsection (e), the reentry task force shall:

(1) identify:

(A) specific goals of the task force;

(B) specific deliverables of the task force, including the method or format in which recommendations under Subsection (e)(2) will be made available; and

(C) the intended audience or recipients of the items described by Paragraph (B);

(2) specify the responsibilities of each entity represented on the task force regarding the goals of the task force; and

(3) specify a timeline for achieving the task force's goals and producing the items described by Subdivision (1)(B).

Added by Acts 2009, 81st Leg., R.S., Ch. 643 (H.B. 1711), Sec. 2, eff. June 19, 2009.
Reenacted and amended by Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 5, eff. September 1, 2013.

Text of section effective on June 19, 2009, but only if a specific appropriation is provided as described by Acts 2009, 81st Leg., R.S., Ch. 643, Sec. 4, which states: This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

Sec. 501.099. FAMILY UNITY AND PARTICIPATION. (a) The department shall adopt and implement policies that encourage family unity while an offender is confined and family participation in an offender's post-release or post-discharge transition to the community. In adopting the policies, the department shall consider the impact of department telephone, mail, and visitation policies on the ability of an offender's child to maintain ongoing contact with the offender.

(b) The department, when determining in which correctional facility to house an offender, shall consider the best interest of the offender's family and, if possible, house the offender in, or in proximity to, the county in which the offender's family resides.

(c) The department shall conduct and coordinate research that examines the impact of an offender's confinement on the well-being of the offender's child.

Added by Acts 2009, 81st Leg., R.S., Ch. 643 (H.B. 1711), Sec. 2, eff. June 19, 2009.

Sec. 501.101. PROGRAMS AND SERVICES FOR WRONGFULLY IMPRISONED PERSONS WHO ARE DISCHARGED. (a) In this section, "wrongfully imprisoned person" means a person who:

(1) has served in whole or in part a sentence in a facility operated by or under contract with the department; and

(2) has:

(A) received a pardon for innocence for the crime for which the person was sentenced;

(B) been granted relief in accordance with a writ of habeas corpus that is based on a court finding or determination that the person is actually innocent of the crime for which the person was sentenced; or

(C) been granted relief in accordance with a writ of habeas corpus and:

(i) the state district court in which the charge against the person was pending has entered an order dismissing the charge; and

(ii) the district court's dismissal order is based on a motion to dismiss in which the state's attorney states that no credible evidence exists that inculpates the defendant and, either in the motion or in an affidavit, the state's attorney states that the state's attorney believes that the defendant is actually innocent of the crime for which the person was sentenced.

(b) The department shall ensure that the same programs and services that are available to or in which participation is mandatory for an inmate released on parole or to mandatory supervision, including programs and services offered or required under Subchapter F or G of Chapter 508, are available to a wrongfully imprisoned

person when the person is discharged from the department.

(c) The executive director of the department may:

(1) adopt rules as necessary to implement this section; and

(2) direct the director of the Texas Correctional Office on Offenders with Medical or Mental Impairments to take any actions necessary to implement this section.

(d) The department shall provide information to wrongfully imprisoned persons as required by Section 103.002, Civil Practice and Remedies Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1389 (S.B. 1847), Sec. 1, eff. June 19, 2009.
Redesignated from Government Code, Section 501.091 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(18), eff. September 1, 2011.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 698 (H.B. 417), Sec. 8, eff. June 17, 2011.

Sec. 501.102. REENTRY AND REINTEGRATION SERVICES FOR WRONGFULLY IMPRISONED PERSONS. (a) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 698, Sec. 10, eff. June 17, 2011.

(b) The department shall develop a comprehensive plan to ensure the successful reentry and reintegration of wrongfully imprisoned persons into the community following discharge from the department. The reentry and reintegration plan developed under this section must include:

(1) life-skills, job, and vocational training for a wrongfully imprisoned person following discharge, for as long as those services are beneficial to the person;

(2) a requirement that the department provide, before a wrongfully imprisoned person is discharged from the department, the person with any documents that are necessary after discharge, including a state identification card; and

(3) the provision of financial assistance to aid a wrongfully imprisoned person in the reentry and reintegration process and in covering living expenses following discharge, in an amount not to exceed $10,000.

(c) The provision of financial assistance under Subsection

(b)(3) shall be administered by the Texas Correctional Office on Offenders with Medical or Mental Impairments or the department.

(d) The amount of financial assistance provided to a wrongfully imprisoned person under Subsection (b)(3) shall be deducted from the amount of compensation provided to the person under Section 103.052, Civil Practice and Remedies Code.

(e) The department may contract with private vendors or other entities to implement the comprehensive reentry and reintegration plan required by this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 180 (H.B. 1736), Sec. 10, eff. September 1, 2009.
Redesignated from Government Code, Section 501.091 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(19), eff. September 1, 2011.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 698 (H.B. 417), Sec. 10, eff. June 17, 2011.

Sec. 501.103. ANNUAL REPORT. (a) Not later than December 31 of each year, the department's reentry and integration division and parole division shall jointly prepare and submit an annual report to:

(1) the governor;

(2) the lieutenant governor;

(3) the speaker of the house of representatives;

(4) the standing committees of the house and senate primarily responsible for criminal justice issues and corrections issues; and

(5) the reentry task force.

(b) The report must include the following information about parole during the year in which the report is submitted:

(1) the number of referrals of releasees for employment, housing, medical care, treatment for substance abuse or mental illness, education, or other basic needs;

(2) the outcome of each referral;

(3) the identified areas in which referrals are not possible due to unavailable resources or providers;

(4) community resources available to releasees, including faith-based and volunteer organizations; and

(5) parole officer training.

(c) The report must include the following information about reentry and reintegration during the year in which the report is submitted:

(1) the outcomes of programs and services that are available to releasees based on follow-up inquiries evaluating clients' progress after release;

(2) the common reentry barriers identified during releasees' individual assessments, including in areas of employment, housing, medical care, treatment for substance abuse or mental illness, education, or other basic needs;

(3) the common reentry benefits and services that reentry coordinators help releasees obtain or apply for;

(4) available community resources, including faith-based and volunteer organizations; and

(5) reentry coordinator training.

(d) The report required by Subsection (a) must be made available to the public.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1032 (H.B. 2719), Sec. 2, eff. September 1, 2013.

SUBCHAPTER D. INMATE HOUSING

Sec. 501.111. TEMPORARY HOUSING. (a) Except as provided by Subsection (b) and Subsection (c), the institutional division may not house inmates in tents, cellblock runs, hallways, laundry distribution rooms, converted dayroom space, gymnasiums, or any other facilities not specifically built for housing.

(b) Temporary housing may be used to house roving inmate construction crews and inmates temporarily displaced only because of housing renovation, fire, natural disaster, riot or hostage situations, if the institutional division provides those inmates with reasonable sanitary hygiene facilities.

(c) The institutional division may house inmates in tents or tent-like structures unless prohibited by federal law or a specific court order.

Added by Acts 1991, 72nd Leg., ch. 655, Sec. 3, eff. June 16, 1991.
Amended by Acts 1993, 73rd Leg., ch. 845, Sec. 1, eff. June 19, 1993.

Sec. 501.112. MIXING CLASSIFICATIONS PROHIBITED. (a) Except as provided by Subsection (b), the institutional division may not house inmates with different custody classifications in the same cellblock or dormitory unless the structure of the cellblock or dormitory allows the physical separation of the different classifications of inmates.

(b) If an appropriate justification is provided by the unit classification committee or the state classification committee, the board may permit the institutional division to house inmates with different custody classifications in the same cellblock or dormitory, but only until sufficient beds become available in the division to allow the division to house the inmates in the manner required by Subsection (a) and in no event for more than 30 days.

Added by Acts 1991, 72nd Leg., ch. 655, Sec. 3, eff. June 16, 1991.

Sec. 501.113. TRIPLE-CELLING PROHIBITED; SINGLE-CELLING REQUIRED FOR CERTAIN INMATES. (a) The institutional division may not house more than two inmates in a cell designed for occupancy by one inmate or two inmates.

(b) The institutional division shall house the following classes of inmates in single occupancy cells:

(1) inmates confined in death row segregation;

(2) inmates confined in administrative segregation;

(3) inmates assessed as having intellectual disabilities and whose habilitation plans recommend housing in a single occupancy cell;

(4) inmates with a diagnosed psychiatric illness being treated on an inpatient or outpatient basis whose individual treatment plans recommend housing in single occupancy cells; and

(5) inmates whose medical treatment plans recommend housing in a single occupancy cell.

Added by Acts 1991, 72nd Leg., ch. 655, Sec. 3, eff. June 16, 1991.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.15, eff. September 1, 2023.

Sec. 501.114. HOUSING REQUIREMENTS APPLICABLE TO PREGNANT

INMATES. (a) The department may not place in administrative segregation an inmate who is pregnant or who gave birth during the preceding 30 days unless the director or director's designee determines that the placement is necessary based on a reasonable belief that the inmate will harm herself, her unborn child or infant, or any other person or will attempt escape.

(b) The department may not assign a pregnant inmate to any bed that is elevated more than three feet above the floor.

Added by Acts 2019, 86th Leg., R.S., Ch. 123 (H.B. 650), Sec. 6, eff. September 1, 2019.

SUBCHAPTER E. MANAGED HEALTH CARE

Sec. 501.131. DEFINITIONS. In this subchapter:

(1) "Committee" means the Correctional Managed Health Care Committee.

(2) "Contracting entity" means an entity that contracts with the department to provide health care services under this chapter.

(3) "Medical school" means the medical school at The University of Texas Health Science Center at Houston, the medical school at The University of Texas Health Science Center at Dallas, the medical school at The University of Texas Health Science Center at San Antonio, The University of Texas Medical Branch at Galveston, the Texas Tech University Health Sciences Center, the Baylor College of Medicine, the college of osteopathic medicine at the University of North Texas Health Science Center at Fort Worth, or The Texas A&M University System Health Science Center.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 6, eff. September 1, 2013.

Sec. 501.132. APPLICATION OF SUNSET ACT. The Correctional Managed Health Care Committee is subject to review under Chapter 325 (Texas Sunset Act) regarding the committee's role and responsibilities. The committee shall be reviewed during the period in which the Texas Department of Criminal Justice is reviewed.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 1112, Sec. 4.01, eff. Sept. 1, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 1227 (H.B. 1116), Sec. 1.02, eff. September 1, 2005.
Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 25, eff. June 15, 2007.

Sec. 501.133. COMMITTEE MEMBERSHIP. (a) The committee consists of nine voting members and one nonvoting member as follows:

(1) one member employed full-time by the department, appointed by the executive director;

(2) one member who is a physician and employed full-time by The University of Texas Medical Branch at Galveston, appointed by the president of the medical branch;

(3) one member who is a physician and employed full-time by the Texas Tech University Health Sciences Center, appointed by the president of the university;

(4) two members who are physicians, each of whom is employed full-time by a medical school other than The University of Texas Medical Branch at Galveston or the Texas Tech University Health Sciences Center, appointed by the governor;

(5) two members appointed by the governor who are licensed mental health professionals;

(6) two public members appointed by the governor who are not affiliated with the department or with any contracting entity, at least one of whom is licensed to practice medicine in this state; and

(7) the state Medicaid director or a person employed full-time by the Health and Human Services Commission and appointed by the Medicaid director, to serve ex officio as a nonvoting member.

(b) An appointment to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(c) A committee member appointed under Subsection (a)(7) shall assist the department with developing the expertise needed to accurately assess health care costs and determine appropriate rates.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 42.01, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 7, eff. September 1, 2013.

Sec. 501.134. PUBLIC MEMBER ELIGIBILITY. A person may not be a public member of the committee if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the department or the committee;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the department or the committee; or

(3) uses or receives a substantial amount of tangible goods, services, or money from the department or the committee other than compensation or reimbursement authorized by law for committee membership, attendance, or expenses.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.135. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be an appointed member of the committee and may not be a committee employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care or health care services; or

(2) the person's spouse is an officer, manager, or paid

consultant of a Texas trade association in the field of health care or health care services.

(c) A person may not be a member of the committee or act as the general counsel to the committee if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the committee.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 42.02, eff. September 28, 2011.

Sec. 501.136. APPOINTMENT; TERMS OF OFFICE; VACANCY. (a) The two committee members appointed under Section 501.133(a)(4) serve concurrent four-year terms expiring on February 1 following the fourth anniversary of the date of appointment. On the expiration of the terms, the governor shall appoint one member from each of the next two medical schools that, based on an alphabetical listing of the names of the medical schools, follow the medical schools that employ the vacating members. A medical school may not be represented at any given time by more than one member appointed under Section 501.133(a)(4).

(b) The two committee members appointed under Section 501.133(a)(5) serve concurrent four-year terms expiring on February 1 following the fourth anniversary of the date of appointment.

(c) Public members appointed under Section 501.133(a)(6) serve staggered four-year terms, with the term of one of those members expiring on February 1 of each odd-numbered year.

(d) Other committee members serve at the will of the appointing official or until termination of the member's employment with the entity the member represents.

(e) If a vacancy occurs, the appropriate appointing authority shall appoint a person, in the same manner as the original appointment, to serve for the remainder of the unexpired term. If a vacancy occurs in a position appointed under Section 501.133(a)(4), the governor shall appoint a physician employed by the same medical school as that of the vacating member.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 42.03, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 8, eff. September 1, 2013.

Sec. 501.137. PRESIDING OFFICER. The governor shall designate a public member of the committee who is licensed to practice medicine in this state as presiding officer. The presiding officer serves in that capacity at the will of the governor.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 27, eff. June 15, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 501.138. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the committee that a member:

(1) does not have at the time of taking office the qualifications required by Section 501.133;

(2) does not maintain during service on the committee the qualifications required by Section 501.133;

(3) is ineligible for membership under Section 501.134 or 501.135;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the committee.

(b) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a committee member exists.

(c) If the managed health care administrator has knowledge that a potential ground for removal exists, the administrator shall notify

the presiding officer of the committee of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the managed health care administrator shall notify the next highest ranking officer of the committee, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.139. MEETINGS. (a) The committee shall meet at least once in each quarter of the calendar year and at any other time at the call of the presiding officer.

(b) The committee may hold a meeting by telephone conference call or other video or broadcast technology.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 501.140. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the committee may not vote, deliberate, or be counted as a member in attendance at a meeting of the committee until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the committee;

(2) the programs operated by the committee;

(3) the role and functions of the committee;

(4) the rules of the committee with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the committee;

(6) the results of the most recent formal audit of the committee;

(7) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552;

(C) the administrative procedure law, Chapter 2001; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the committee or the Texas Ethics Commission.

(c) A person appointed to the committee is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.141. COMPENSATION; REIMBURSEMENT. A committee member serves without compensation but is entitled to reimbursement for actual and necessary expenses incurred in the performance of the duties of the committee.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.142. ADMINISTRATION; PERSONNEL. The committee may hire a managed health care administrator, who may employ personnel necessary for the administration of the committee's duties. The committee shall pay necessary costs for its operation, including costs of hiring the managed health care administrator and other personnel, from funds appropriated by the legislature to the department for correctional health care.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.143. DIVISION OF RESPONSIBILITIES. The committee shall develop and implement policies that clearly separate the policy-making responsibilities of the committee and the management responsibilities of the managed health care administrator and staff of the committee.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.144. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION. The managed health care administrator or the administrator's designee shall provide to members of the committee and to committee employees, as often as necessary, information regarding the requirements for office or employment under this subchapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.145. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The managed health care administrator or the administrator's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the committee to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the committee's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

(3) be filed with the governor's office.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.146. MANAGED HEALTH CARE PLAN. (a) The committee

shall develop and approve a managed health care plan for all persons confined by the department that:

(1) specifies the types and general level of care to be provided to persons confined by the department; and

(2) ensures continued access to needed care in the correctional health care system.

(b) To implement the managed health care plan, The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center, for employees who are entitled to retain salary and benefits applicable to employees of the Texas Department of Criminal Justice under Section 9.01, Chapter 238, Acts of the 73rd Legislature, Regular Session, 1993, may administer, offer, and report through their payroll systems participation by those employees in the Texas employees group benefits program and the Employees Retirement System of Texas.

(c) The committee shall provide expertise to the department, and may appoint subcommittees to assist the department, in developing policies and procedures for implementation of the managed health care plan.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 10A.514, eff. Sept. 1, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 9, eff. September 1, 2013.

Sec. 501.147. POWERS AND DUTIES OF DEPARTMENT; AUTHORITY TO CONTRACT. (a) The department, in cooperation with the contracting entities, shall:

(1) establish a managed health care provider network of physicians and hospitals to provide health care to persons confined by the department; and

(2) evaluate and recommend to the board sites for new medical facilities that appropriately support the managed health care provider network.

(b) The department may:

(1) communicate with the legislature regarding the financial needs of the correctional health care system;

(2) monitor the expenditures of a contracting entity to ensure that those expenditures comply with applicable statutory and contractual requirements;

(3) address problems found through monitoring activities, including requiring corrective action if care does not meet expectations as determined by those monitoring activities;

(4) identify and address long-term needs of the correctional health care system;

(5) contract with any entity to fully implement the managed health care plan under this subchapter, including contracting for health care services and the integration of those services into the managed health care provider network;

(6) contract with an individual for financial consulting services and make use of financial monitoring of the managed health care plan to assist the department in determining an accurate capitation rate; and

(7) contract with an individual for actuarial consulting services to assist the department in determining trends in the health of the inmate population and the impact of those trends on future financial needs.

(c) In contracting for the implementation of the managed health care plan, the department shall:

(1) include provisions necessary to ensure that the contracting entity is eligible for and makes reasonable efforts to participate in the purchase of prescription drugs under Section 340B, Public Health Service Act (42 U.S.C. Section 256b); and

(2) to the extent possible, integrate the managed health care provider network with the medical schools and the component and affiliated hospitals of those medical schools.

(d) For services that a governmental entity cannot provide, the department shall initiate a competitive bidding process for contracts with other providers for medical care to persons confined by the department.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 236, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 42.04, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 10, eff.

September 1, 2013.

Sec. 501.1471. REPORT. (a) Not later than the 30th day after the end of each fiscal quarter, the department shall submit to the Legislative Budget Board and the governor a report that contains, for the preceding quarter:

(1) the actual and projected expenditures for the correctional health care system, including expenditures for unit and psychiatric care, hospital and clinical care, and pharmacy services;

(2) health care utilization and acuity data;

(3) other health care information as determined by the governor and the Legislative Budget Board; and

(4) the amount of cost savings realized as a result of contracting for health care services under this subchapter with a provider other than the Texas Tech University Health Sciences Center and The University of Texas Medical Branch.

(b) A contract entered into by the department for the provision of health care services must require the contracting entity to provide the department with necessary documentation to fulfill the requirements of this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 11, eff. September 1, 2013.

Sec. 501.148. GENERAL POWERS AND DUTIES OF COMMITTEE. (a) The committee may:

(1) develop statewide policies for the delivery of correctional health care;

(2) serve as a dispute resolution forum in the event of a disagreement relating to inmate health care services between:

(A) the department and the health care providers; or

(B) contracting entities; and

(3) report to the board at the board's regularly scheduled meeting each quarter on the committee's policy recommendations.

(b) The committee shall advise the department and the board as necessary, including providing medical expertise and assisting the department and the board in identifying system needs and resolving contract disputes.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1154, Sec. 29(3), eff. September 1, 2013.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1154, Sec. 29(3), eff. September 1, 2013.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 236, Sec. 2, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 28, eff. June 15, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 42.05, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 12, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 29(3), eff. September 1, 2013.

Sec. 501.1485. CORRECTIONS MEDICATION AIDES. (a) The department, in cooperation with any contracting entity that is a medical school, shall develop and implement a training program for corrections medication aides that uses a curriculum specific to administering medication in a correctional setting.

(b) In developing the curriculum for the training program, the department and the medical school shall:

(1) consider the content of the curriculum developed by the American Correctional Association for certified corrections nurses; and

(2) modify as appropriate the content of the curriculum developed under Chapter 242, Health and Safety Code, for medication aides administering medication in convalescent and nursing homes and related institutions to produce content suitable for administering medication in a correctional setting.

(c) The department shall submit an application for the approval of a training program developed under this section, including the curriculum, to the Department of Aging and Disability Services in the manner established by the executive commissioner of the Health and Human Services Commission under Section 161.083, Human Resources Code.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 65.04,

eff. September 28, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 13, eff. September 1, 2013.

Sec. 501.149. DISEASE MANAGEMENT SERVICES. (a) In this section, "disease management services" means services to assist an individual manage a disease or other chronic health condition, such as heart disease, diabetes, respiratory illness, end-stage renal disease, HIV infection, or AIDS, and with respect to which the committee identifies populations requiring disease management.

(b) A managed health care plan provided under this chapter must provide disease management services in the manner required by the committee, including:

(1) patient self-management education;
(2) provider education;
(3) evidence-based models and minimum standards of care;
(4) standardized protocols and participation criteria; and
(5) physician-directed or physician-supervised care.

Added by Acts 2003, 78th Leg., ch. 589, Sec. 6, eff. June 20, 2003.

Sec. 501.150. QUALITY OF CARE MONITORING BY THE DEPARTMENT AND HEALTH CARE PROVIDERS. (a) The committee shall establish a procedure for monitoring the quality of care delivered by the health care providers. Under the procedure, the department shall monitor the quality of care delivered by the health care providers, including investigating medical grievances, ensuring access to medical care, and conducting periodic operational reviews of medical care provided at its units.

(b) The department and the medical care providers shall cooperate in monitoring quality of care. The clinical and professional resources of the health care providers shall be used to the greatest extent feasible for clinical oversight of quality of care issues. The department may require the health care providers to take corrective action if the care provided does not meet expectations as determined by quality of care monitoring.

(c) The department and the medical care providers shall

communicate the results of their monitoring activities, including a list of and the status of any corrective actions required of the health care providers, to the committee and to the Texas Board of Criminal Justice.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 29, eff. June 15, 2007.

Sec. 501.151. COMPLAINTS. (a) The committee shall maintain a file on each written complaint filed with the committee by a member of the general public. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the committee;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the committee closed the file without taking action other than to investigate the complaint.

(b) The committee shall make information available describing its procedures for complaint investigation and resolution.

(c) The committee, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 30, eff. June 15, 2007.

Sec. 501.152. PUBLIC PARTICIPATION. The committee shall develop and implement policies that provide the public with a reasonable opportunity to appear before the committee and to speak on

any issue under the jurisdiction of the committee.

Added by Acts 1999, 76th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1999.

Sec. 501.153. ALTERNATIVE DISPUTE RESOLUTION. (a) The committee shall develop and implement a policy to encourage the use of appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the committee's jurisdiction.

(b) The committee's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The committee shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the committee.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 31, eff. June 15, 2007.

Sec. 501.154. USE OF TECHNOLOGY. The committee shall implement a policy requiring the committee to use appropriate technological solutions to improve the committee's ability to perform its functions. The policy must ensure that the public is able to interact with the committee on the Internet.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 31, eff. June 15, 2007.

Sec. 501.155. AVAILABILITY OF CORRECTIONAL HEALTH CARE INFORMATION TO THE PUBLIC. (a) The committee shall ensure that the following information is available to the public:

(1) contracts between the department, the committee, and health care providers, and other information concerning the

contracts, including a description of the level, type, and variety of health care services available to inmates;

(2) the formulary used by correctional health care personnel in prescribing medication to inmates;

(3) correctional managed care policies and procedures;

(4) quality assurance statistics and data, to the extent permitted by law;

(5) general information concerning the costs associated with correctional health care, including at a minimum:

(A) quarterly and monthly financial reports; and

(B) aggregate cost information for:

(i) salaries and benefits;

(ii) equipment and supplies;

(iii) pharmaceuticals;

(iv) offsite medical services; and

(v) any other costs to the correctional health care system;

(6) aggregate statistical information concerning inmate deaths and the prevalence of disease among inmates;

(7) the process for the filing of inmate grievances concerning health care services provided to inmates;

(8) general statistics on the number and types of inmate grievances concerning health care services provided to inmates filed during the preceding quarter;

(9) contact information for a member of the public to submit an inquiry to or file a complaint with the department or a health care provider;

(10) information concerning the regulation and discipline of health care professionals, including contact information for the Health Professions Council and a link to the council's website;

(11) unit data regarding health care services, including hours of operation, available services, general information on health care staffing at the unit, statistics on an inmate's ability to access care at the unit in a timely manner, and, if the unit is accredited by a national accrediting body, the most recent accreditation review date; and

(12) dates and agendas for quarterly committee meetings and the minutes from previous committee meetings.

(b) The committee shall make the information described by Subsection (a) available on the committee's website and, on request,

in writing. The committee shall cooperate with the department and the health care providers to ensure that the committee's website:

(1) is linked to the websites of the department and the health care providers;

(2) is accessible through the State of Texas website; and

(3) can be located through common search engines.

(c) In determining the specific information to be made available under this section, the committee shall cooperate with the department to ensure that public disclosure of the information would not pose a security threat to any individual or to the criminal justice system.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 31, eff. June 15, 2007.

Sec. 501.156. STUDENT LOAN REPAYMENT ASSISTANCE. (a) From funds appropriated for purposes of correctional managed health care, the committee may provide student loan repayment assistance for medical and mental health care physicians and other staff providing correctional managed health care. The repayment assistance may be applied to any student loan received through any lender for education at a public or accredited private institution of higher education in the United States, including loans for undergraduate, graduate, and medical education.

(b) The committee may adopt rules to implement this section, including rules governing eligibility for the loan repayment assistance and the terms of contracts between the committee and recipients of the loan repayment assistance. In adopting those rules, the committee shall consider the requirements of Subchapter J, Chapter 61, Education Code, and the rules of the Texas Higher Education Coordinating Board adopted under that subchapter.

(c) A physician may not receive loan repayment assistance under both this section and Subchapter J, Chapter 61, Education Code.

(d) Not later than December 1 of each state fiscal year, the committee shall submit a report to the Legislative Budget Board and the governor on the use of funds under this section for the preceding fiscal year.

Added by Acts 2011, 82nd Leg., R.S., Ch. 295 (H.B. 1908), Sec. 3, eff. June 17, 2011.

SUBCHAPTER F. ELIMINATION OF SEXUAL ASSAULT AGAINST INMATES

Sec. 501.171. DEFINITIONS. In this subchapter:

(1) "Correctional facility" means a facility operated by or under contract with the department.

(2) "Inmate" means an inmate or state jail defendant confined in a facility operated by or under contract with the department.

Added by Acts 2007, 80th Leg., R.S., Ch. 1217 (H.B. 1944), Sec. 3, eff. June 15, 2007.

Sec. 501.172. APPOINTMENT OF OMBUDSPERSON. The board shall appoint an ombudsperson to coordinate the department's efforts to eliminate the occurrence of sexual assault in correctional facilities. The ombudsperson shall report to the board.

Added by Acts 2007, 80th Leg., R.S., Ch. 1217 (H.B. 1944), Sec. 3, eff. June 15, 2007.

Sec. 501.173. POWERS AND DUTIES OF OMBUDSPERSON. (a) The ombudsperson shall:

(1) monitor department policies for the prevention of sexual assault in correctional facilities;

(2) oversee the administrative investigation of inmate complaints of sexual assault;

(3) ensure the impartial resolution of inmate complaints of sexual assault; and

(4) collect statistics regarding all allegations of sexual assault from each correctional facility in accordance with the standards established by the National Prison Rape Elimination Commission.

(b) The ombudsperson may collect evidence at correctional facilities and interview inmates or employees at correctional facilities in conducting an investigation of an inmate complaint of sexual assault under this section.

(c) The ombudsperson may not require an inmate who reports a sexual assault to assist in the investigation or prosecution of the

offense.

Added by Acts 2007, 80th Leg., R.S., Ch. 1217 (H.B. 1944), Sec. 3, eff. June 15, 2007.

Sec. 501.174. DEPARTMENT TO ADOPT POLICY. The department shall adopt a policy providing for:

(1) a designated administrator at each correctional facility to post information throughout the facility describing how an inmate may confidentially contact the ombudsperson regarding a sexual assault;

(2) an inmate to write a confidential letter to the ombudsperson regarding a sexual assault;

(3) employees at correctional facilities, on notification of the occurrence of a sexual assault, to immediately:

(A) contact the ombudsperson and the office of the inspector general; and

(B) ensure that the alleged victim is safe;

(4) the office of the inspector general, at the time the office is notified of the sexual assault, to arrange for a medical examination of the alleged victim to be conducted in accordance with Subchapter G, Chapter 56A, Code of Criminal Procedure, or, if an appropriate employee of the office of the inspector general is not available at the time the office is notified of the sexual assault, a qualified employee at the correctional facility to conduct a medical examination of the alleged victim in accordance with that subchapter;

(5) a grievance proceeding under Section 501.008 based on an alleged sexual assault to be exempt from any deadline applicable to grievances initiated under that section; and

(6) each correctional facility to collect statistics on all alleged sexual assaults against inmates confined in the facility and to report the statistics to the ombudsperson.

Added by Acts 2007, 80th Leg., R.S., Ch. 1217 (H.B. 1944), Sec. 3, eff. June 15, 2007.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.47, eff. January 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 206 (S.B. 1401), Sec. 17, eff. September 1, 2023.

Sec. 501.175. OMBUDSPERSON TO MAKE AVAILABLE TO PUBLIC CERTAIN INFORMATION. The ombudsperson shall make available to the public and appropriate state agencies:

(1) information regarding the powers and duties of the ombudsperson; and

(2) statistical information regarding the total number of allegations of sexual assault investigated by the department, the outcome of the investigations, and any disciplinary sanctions imposed as a result of the investigations.

Added by Acts 2007, 80th Leg., R.S., Ch. 1217 (H.B. 1944), Sec. 3, eff. June 15, 2007.

Sec. 501.176. ANNUAL REPORT. (a) Not later than January 1 of each year, the ombudsperson shall submit a written report regarding the activities of the ombudsperson during the preceding fiscal year to:

(1) the governor;

(2) the lieutenant governor;

(3) the speaker of the house of representatives;

(4) the presiding officer of each house and senate committee having jurisdiction over the department;

(5) the board;

(6) the executive director;

(7) the state auditor; and

(8) the comptroller.

(b) The report must include public information regarding:

(1) each investigation and monitoring activity relating to sexual assault completed during the fiscal year by the ombudsperson and the inspector general; and

(2) statistics collected by the ombudsperson regarding allegations of sexual assault.

(c) The annual report must meet the financial reporting requirements of the General Appropriations Act.

(d) Upon review of the findings of the annual report submitted to the board, the board shall make recommendations on, or implement policy that has the goal of, lowering the rate and incidence of

sexual assault against inmates at a correctional facility. That policy will include methods to address a correctional facility where the rate and incidence of sexual assault against inmates has not shown improvement.

Added by Acts 2007, 80th Leg., R.S., Ch. 1217 (H.B. 1944), Sec. 3, eff. June 15, 2007.

Sec. 501.177. STATE AUDITOR AUDITS, INVESTIGATIONS, AND ACCESS TO INFORMATION NOT IMPAIRED. This subchapter or other law related to the operation of the ombudsperson or the office of the inspector general does not prohibit the state auditor from conducting an audit, investigation, or other review or from having full and complete access to all records and other information, including witnesses and electronic data, that the state auditor considers necessary for the audit, investigation, or other review.

Added by Acts 2007, 80th Leg., R.S., Ch. 1217 (H.B. 1944), Sec. 3, eff. June 15, 2007.

Sec. 501.178. AUTHORITY OF STATE AUDITOR TO CONDUCT TIMELY AUDITS NOT IMPAIRED. This subchapter or other law related to the operation of the ombudsperson or the office of the inspector general does not take precedence over the authority of the state auditor to conduct an audit under Chapter 321 or other law.

Added by Acts 2007, 80th Leg., R.S., Ch. 1217 (H.B. 1944), Sec. 3, eff. June 15, 2007.

CHAPTER 507. STATE JAIL DIVISION
SUBCHAPTER A. STATE JAIL FELONY FACILITIES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 507.001. AUTHORITY TO OPERATE OR CONTRACT FOR STATE JAIL FELONY FACILITIES. (a) The state jail division may operate, maintain, and manage state jail felony facilities to confine inmates described by Section 507.002, and the department may finance and

construct those facilities. The state jail division, with the approval of the board, may contract with the institutional division, a private vendor, a community supervision and corrections department, or the commissioners court of a county for the construction, operation, maintenance, or management of a state jail felony facility. The community justice assistance division shall assist the state jail division to contract with a community supervision and corrections department for the construction, operation, maintenance, or management of a state jail felony facility. The state jail division shall consult with the community justice assistance division before contracting with a community supervision and corrections department under this section. A community supervision and corrections department or the commissioners court of a county that contracts under this section may subcontract with a private vendor for the provision of any or all services described by this subsection. A community supervision and corrections department that contracts under this section may subcontract with the commissioners court of a county for the provision of any or all services described by this subsection. The board may contract with a private vendor or the commissioners court of a county for the financing or construction of a state jail felony facility.

(b) The community justice assistance division and the state jail division shall develop and implement work programs and programs of rehabilitation, education, and recreation in state jail felony facilities. For each state jail felony facility, the community justice assistance division and the state jail division shall consult with the community supervision and corrections departments and the community justice councils served by the facility in developing programs in that facility, and shall develop the programs in a manner that makes appropriate use of facilities and personnel of the community supervision and corrections departments. In developing the programs, the state jail division and the community justice assistance division shall attempt to structure programs so that they are operated on a 90-day cycle, although the divisions should deviate from a 90-day schedule as necessary to meet the requirements of a particular program.

(c) Services described by Subsection (a) must be provided in compliance with standards established by the board. Programs described by Subsection (b) must be provided in compliance with minimum requirements established under Subsection (b).

(d) A state jail felony facility authorized by this subchapter may be located on private land or on land owned by the federal government, the state, a community supervision and corrections department, or a political subdivision of the state. The board may accept land donated for that purpose.

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1051 , Sec. 13, eff. September 1, 2015.

Added by Acts 1993, 73rd Leg., ch. 988, Sec. 1.07, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.097, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1051 (H.B. 1930), Sec. 13, eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 507.002. ELIGIBLE DEFENDANTS. The state jail division may confine in a state jail felony facility authorized by this subchapter defendants required by a judge to serve a term of confinement in a state jail felony facility following a grant of deferred adjudication for or conviction of an offense punishable as a state jail felony.

Added by Acts 1993, 73rd Leg., ch. 988, Sec. 1.07, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 318, Sec. 72, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 507.003. REGIONS. The board shall designate not fewer than nine regions in the state for the purpose of providing regional state jail felony facilities. The board shall ensure that regions are designed to efficiently serve community supervision and corrections departments. The board may not designate a region that contains a part of an area served by a community supervision and corrections department. The board may designate a region that

contains only one judicial district, but only if the judicial district serves a municipality with a population of 400,000 or more. Any other provision of law that would otherwise require the board to designate regions on the basis of uniform service regions does not apply to this section.

Added by Acts 1993, 73rd Leg., ch. 988, Sec. 1.07, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 507.004. ALLOCATION POLICIES. The board shall adopt and enforce:

(1) a regional allocation policy to allocate the number of facilities and beds to each region established under Section 507.003; and

(2) an intra-regional allocation policy for each region, to allocate the number of facilities and beds within a region to the community supervision and corrections departments in that region, unless those departments by their own agreement establish the allocation of beds in the region.

Added by Acts 1993, 73rd Leg., ch. 988, Sec. 1.07, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 507.006. USE OF FACILITY FOR OTHER INMATES. (a) Notwithstanding any other provision of this subchapter, the state jail division, with the approval of the board, may designate one or more state jail felony facilities to treat inmates who are eligible for confinement in a substance abuse felony punishment facility under Section 493.009 or to house inmates who are sentenced to imprisonment in the institutional division, but only if the designation does not deny placement in a state jail felony facility of defendants required to serve terms of confinement in a facility following conviction of

state jail felonies. The division may not house in a state jail felony facility an inmate who:

(1) has a history of or has shown a pattern of violent or assaultive behavior in county jail or a facility operated by the department; or

(2) will increase the likelihood of harm to the public if housed in the facility.

(b) Repealed by Acts 2021, 87th Leg., R.S., Ch. 126 (H.B. 719), Sec. 9(2), eff. September 1, 2021.

(c) The responsibility of the department to provide substance abuse felony punishment facilities is governed by the General Appropriations Act and Section 493.009. This section does not affect the responsibility of the department to provide substance abuse felony punishment facilities.

Added by Acts 1993, 73rd Leg., ch. 988, Sec. 1.07, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.098, 1.113, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 488, Sec. 5, eff. Sept. 1, 1997.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 126 (H.B. 719), Sec. 6, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 126 (H.B. 719), Sec. 9(2), eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 831 (H.B. 2201), Sec. 1, eff. September 1, 2023.

SUBCHAPTER B. MISCELLANEOUS PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 507.022. EMPLOYEES' SALARIES, ROOM AND BOARD, AND MEDICAL CARE. (a) Salaries of employees of the state jail division and the provision of board, lodging, uniforms, and other provisions to employees are as provided by the General Appropriations Act.

(b) Employees of the state jail division who are injured in the line of duty are entitled to receive free medical care and hospitalization from institutional division doctors and the institutional division hospital.

Added by Acts 1993, 73rd Leg., ch. 988, Sec. 1.07, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 507.023. AIDS AND HIV EDUCATION; TESTING. (a) The state jail division shall establish and provide education programs to educate state jail division employees and defendants in state jail felony facilities about AIDS and HIV in the same manner as the institutional division establishes and provides programs for employees and inmates under Section 501.054.

(b) The state jail division shall adopt a policy for handling a defendant with AIDS or HIV and shall test a defendant for AIDS or HIV in the same manner and subject to the same conditions as apply to the institutional division under Section 501.054.

(c) In this section, "AIDS" and "HIV" have the meanings assigned by Section 81.101, Health and Safety Code.

Added by Acts 1993, 73rd Leg., ch. 988, Sec. 1.07, eff. Sept. 1, 1993.
Amended by:

Acts 2005, 79th Leg., Ch. 1184 (H.B. 43), Sec. 2, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 507.024. TRANSPORTATION OF DEFENDANTS. The board shall adopt rules to provide for the safe transfer of defendants from counties to state jail felony facilities. A sheriff may transport defendants to a state jail felony facility if the sheriff is able to perform the service as economically as if the service were performed by the division. The state jail division is responsible for the cost of transportation of defendants to the division. Defendants may be transported with other persons being transported to the custody of the department provided appropriate security precautions prescribed by policies of the department are taken.

Added by Acts 1993, 73rd Leg., ch. 988, Sec. 1.07, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 507.025. MEDICAL CARE. The state jail division, with the approval of the board, may contract with the institutional division, a private vendor, or any public health care provider for the provision of medical services to defendants in state jail felony facilities.

Added by Acts 1993, 73rd Leg., ch. 988, Sec. 1.07, eff. Sept. 1, 1993.

Sec. 507.026. CHANGE IN DESIGNATION OF FACILITY. The board may designate any facility under its control as a state jail felony facility and confine state jail felons in that facility.

Added by Acts 1993, 73rd Leg., ch. 988, Sec. 1.07, eff. Sept. 1, 1993.

Sec. 507.027. INSPECTIONS. The board shall adopt rules relating to inspections by the department of state jail felony facility construction projects.

Added by Acts 1993, 73rd Leg., ch. 988, Sec. 1.07, eff. Sept. 1, 1993.

Sec. 507.028. SCREENING FOR AND EDUCATION CONCERNING FETAL ALCOHOL EXPOSURE DURING PREGNANCY. (a) The department shall establish and use a screening program in state jail felony facilities that is substantially similar to the program established and used by the department under Section 501.059.

(b) The department shall provide to all female defendants confined in state jail felony facilities an educational brochure describing the risks and dangers of consuming alcohol during

pregnancy.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 32, eff. June 15, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 507.029. USE OF INMATE LABOR. The department may use the labor of inmates of the institutional division in any work or community service program or project performed by the state jail division.

Added by Acts 1995, 74th Leg., ch. 321, Sec. 1.100, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 507.030. VISITATION. (a) In this section:

(1) "Guardian" has the meaning assigned by Section 1002.012, Estates Code.

(2) "Letters of guardianship" means a certificate issued under Section 1106.001(a), Estates Code.

(a-1) The state jail division shall allow the governor, members of the legislature, and officials of the executive and judicial branches to enter during business hours any part of a facility operated by the division, for the purpose of observing the operations of the division. A visitor described by this subsection may talk with defendants away from division employees.

(b) The state jail division shall establish a visitation policy for persons confined in state jail felony facilities. The visitation policy must:

(1) allow visitation by a guardian of a defendant confined in a state jail felony facility to the same extent as the defendant's next of kin, including placing the guardian on the defendant's approved visitors list on the guardian's request and providing the guardian access to the defendant during a facility's standard

visitation hours if the defendant is otherwise eligible to receive visitors; and

(2) require the guardian to provide the director of the facility with letters of guardianship before being allowed to visit the defendant.

(c) Regardless of the implementation of video visitation or visitation by other electronic means, the visitation policy must allow in-person visitation for defendants who are eligible to receive visitors, provided that the policy may allow the temporary suspension of in-person visitation for a health or safety emergency.

Added by Acts 1995, 74th Leg., ch. 321, Sec. 1.101, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 688 (H.B. 634), Sec. 3, eff. September 1, 2015.
Acts 2023, 88th Leg., R.S., Ch. 328 (H.B. 2708), Sec. 2, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 507.031. FURLOUGH PROGRAM. (a) The director of a state jail felony facility may grant a furlough to a defendant so that the defendant may:

(1) obtain a medical diagnosis or medical treatment;

(2) obtain treatment and supervision at a facility operated by the Health and Human Services Commission;

(3) attend a funeral or visit a critically ill relative; or

(4) participate in a programmatic activity sanctioned by the state jail division.

(b) The state jail division shall adopt policies for the administration of the furlough program.

(c) A defendant furloughed under this section is considered to be in the custody of the state jail division, even if the defendant is not under physical guard while furloughed.

Added by Acts 1995, 74th Leg., ch. 321, Sec. 1.099, eff. Sept. 1, 1995. Renumbered from Government Code Sec. 507.028 by Acts 1997,

75th Leg., ch. 165, Sec. 31.01(43), eff. Sept. 1, 1997.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.16, eff. September 1, 2023.

Sec. 507.032. IDENTIFICATION OF DEFENDANTS SUBJECT TO ARREST WARRANT. Before a defendant is released from confinement in a state jail felony facility, the department shall conduct a criminal history record check to determine whether the defendant is the subject of an arrest warrant. In conducting the criminal history record check, the department shall allow sufficient time for compliance with any requirements related to notifying the proper authorities of the defendant's release and, if necessary, processing a demand for extradition of the defendant.

Added by Acts 1999, 76th Leg., ch. 205, Sec. 2, eff. Sept. 1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 507.033. REHABILITATION PROGRAMS. (a) The state jail division may allow a defendant who is capable of serving as a tutor to tutor functionally illiterate defendants and shall actively encourage volunteer organizations to aid in the tutoring of defendants. A person who acts as a tutor may function only as a teacher and advisor to a defendant and may not exercise supervisory authority or control over the defendant.

(b) The state jail division shall actively encourage volunteer organizations to provide the following programs for defendants who are housed in facilities operated by or under contract with the division:

(1) literacy and education programs;
(2) life skills programs;
(3) job skills programs;
(4) parent-training programs;
(5) drug and alcohol rehabilitation programs;
(6) support group programs;
(7) arts and crafts programs; and

(8) other programs determined by the division to aid defendants confined in state jail felony facilities in the transition from confinement or supervision back into society and to reduce incidents of recidivism among defendants.

Added by Acts 2003, 78th Leg., ch. 391, Sec. 1, eff. June 20, 2003.

Sec. 507.034. VETERANS REENTRY DORM PROGRAM. (a) The department, in coordination with the Texas Veterans Commission, shall establish and administer a voluntary rehabilitation and transition program for defendants confined in state jail felony facilities:

(1) who are veterans of the United States armed forces, including veterans of the reserves, national guard, or state guard; and

(2) who suffer from a brain injury, a mental illness, a mental disorder, including post-traumatic stress disorder, or substance abuse, or were victims of military sexual trauma, as defined by Section 124.002, that:

(A) occurred during or resulted from their military service; and

(B) may have contributed to their criminal activity.

(b) The program established under this section must:

(1) provide for investigating and verifying the veteran status of each defendant confined in a state jail felony facility by using data made available from the Veterans Reentry Search Service (VRSS) operated by the United States Department of Veterans Affairs or a similar service;

(2) be available to male defendants and, if resources are available, female defendants;

(3) include provisions regarding interviewing and selecting defendants for participation in the program;

(4) allow a defendant to decline participation in the program or to withdraw from the program at any time;

(5) house defendants participating in the program in housing that is designed to mimic the squadron structure familiar to veterans;

(6) coordinate and provide available services and programming approved by the department, including:

(A) individual and group peer support programing, as

appropriate;

(B) access to military trauma-informed licensed mental health professional counseling, as appropriate;

(C) evidence-based rehabilitation programming; and

(D) reemployment services; and

(7) to the extent feasible, not later than the 60th day before the date a defendant participating in the program is scheduled for release or discharge from the department:

(A) match the defendant with community-based veteran peer support services to assist the defendant in transitioning into the community; and

(B) transfer the defendant to a state jail felony facility located near the defendant's home community, or the community in which the defendant intends to reside after the defendant's release or discharge, to begin establishing transition relationships with community-based veteran peer support service providers and family members.

Added by Acts 2017, 85th Leg., R.S., Ch. 987 (H.B. 865), Sec. 2, eff. September 1, 2017.

CHAPTER 508. PAROLE AND MANDATORY SUPERVISION
SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.001. DEFINITIONS. In this chapter:

(1) "Board" means the Board of Pardons and Paroles.

(2) "Community supervision and corrections department" means a department established under Chapter 76.

(3) "Director" means the director of the pardons and paroles division.

(4) "Division" means the pardons and paroles division.

(5) "Mandatory supervision" means the release of an eligible inmate sentenced to the institutional division so that the inmate may serve the remainder of the inmate's sentence not on parole but under the supervision of the pardons and paroles division.

(6) "Parole" means the discretionary and conditional release of an eligible inmate sentenced to the institutional division

so that the inmate may serve the remainder of the inmate's sentence under the supervision of the pardons and paroles division.

(7) "Parole officer" means a person appointed by the director and assigned the duties of assessment of risks and needs, investigation, case management, and supervision of releasees to ensure that releasees are complying with the conditions of parole or mandatory supervision.

(8) "Parole commissioner" means a person employed by the board to perform the duties described by Section 508.0441.

(9) "Releasee" means a person released on parole or to mandatory supervision.

(10) "Presiding officer" means the presiding officer of the Board of Pardons and Paroles.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.01, eff. Sept. 1, 1999; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.02, eff. Jan. 11, 2004.

Sec. 508.002. CLEMENCY, COMMUTATION DISTINGUISHED. Neither parole nor mandatory supervision is a commutation of sentence or any other form of clemency.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.003. INAPPLICABLE TO JUVENILES AND CERTAIN INMATES. (a) This chapter does not apply to an emergency absence under escort granted to an inmate by the institutional division under Section 501.006.

(b) Except as provided by Subsection (c), this chapter does not apply to release on parole from an institution for juveniles.

(c) The provisions of this chapter not in conflict with Section 508.156 apply to parole of a person from the Texas Juvenile Justice Department or from a post-adjudication secure correctional facility operated by or under contract with a juvenile board or local juvenile probation department under that section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1,

1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 100, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 854 (S.B. 1149), Sec. 6, eff. September 1, 2015.

SUBCHAPTER B. BOARD OF PARDONS AND PAROLES

Sec. 508.031. COMPOSITION OF BOARD. (a) The board consists of seven members appointed by the governor with the advice and consent of the senate.

(b) Appointments to the board must be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointed members.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 554, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.03, eff. Jan. 11, 2004.

Sec. 508.032. REQUIREMENTS FOR MEMBERSHIP. (a) Board members must be representative of the general public.

(b) A member must have resided in this state for the two years before appointment.

(c)(1) A person who is a former employee of the department may not serve on the board before the second anniversary of the date the person terminated employment with the department.

(2) A person who is employed by the department on August 1, 2003, may not serve on the board before August 1, 2005.

(d) At any time not more than three members of the board may be former employees of the department.

(e) For purposes of Subsections (c) and (d), previous service as a board member is not considered to be employment with the department.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.04, eff. Jan. 11, 2004.

Sec. 508.033. DISQUALIFICATIONS. (a) A person is not eligible for appointment as a member of the board or for employment as a parole commissioner if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the department or the board;

(2) owns or controls, directly or indirectly, more than a 10-percent interest in a business entity or other organization:

(A) regulated by the department; or

(B) receiving funds from the department or the board; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department or the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(b) In determining eligibility under Subsection (a)(3), the compensation or reimbursement that a board member's spouse or parole commissioner's spouse receives as an employee of the board or the department may not be considered. This subsection does not affect any restriction on employment or board membership imposed by any other law.

(c) A person may not serve as a parole commissioner, may not be a member of the board, and may not be an employee of the division or the board employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of criminal justice; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of criminal justice.

(d) A person who is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation in or on behalf of a profession related to the operation of the board may not:

(1) serve as a member of the board or as a parole commissioner; or

(2) act as the general counsel to the board or division.

(e) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in:

(1) dealing with mutual business or professional problems; and

(2) promoting their common interests.

(f) A person who is a current or former employee of the department may not serve as a parole commissioner before the second anniversary of the date the person's employment with the department ceases, and a member of the board may not serve as a parole commissioner before the second anniversary of the date the person's membership on the board ceases.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.04, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 554, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 33, eff. June 15, 2007.

Sec. 508.034. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of taking office the qualification required by Section 508.032(b) for appointment to the board;

(2) is ineligible for membership under Section 508.033;

(3) is unable to discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(4) is absent from more than half of the regularly scheduled board or panel meetings that the member is eligible to attend during each calendar year.

(b) The board administrator or the board administrator's designee shall provide to members of the board and to employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state

officers or employees.

(c) The validity of an action of the board or panel is not affected by the fact that the action is taken when a ground for removal of a board member exists.

(d) If the general counsel to the board has knowledge that a potential ground for removal exists, the general counsel shall notify the presiding officer of the board of the potential ground. The presiding officer shall notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the general counsel to the board shall notify the governor and the attorney general that a potential ground for removal exists.

(e) It is a ground for removal from the board that a member fails to comply with policies or rules adopted by the board.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.05, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 554, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 856, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.05, eff. Jan. 11, 2004.

Sec. 508.035. PRESIDING OFFICER. (a) The governor shall designate one member to serve as presiding officer of the board.

(b) The presiding officer serves in that capacity at the pleasure of the governor.

(c) The presiding officer reports directly to the governor and serves as the administrative head of the board.

(d) The presiding officer may:

(1) delegate responsibilities and authority to other members of the board, parole commissioners, or to employees of the board;

(2) appoint advisory committees from the membership of the board or from parole commissioners to further the efficient administration of board business; and

(3) establish policies and procedures to further the efficient administration of the business of the board.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 856, Sec. 2, eff. Sept.

1, 2001; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.06, eff. Jan. 11, 2004.

Sec. 508.036. GENERAL ADMINISTRATIVE DUTIES. (a) The presiding officer shall:

(1) develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the board administrator, parole commissioners, and the staff of the board;

(2) establish caseloads and required work hours for members of the board and parole commissioners;

(3) update parole guidelines, assign precedential value to previous decisions of the board relating to the granting of parole and the revocation of parole or mandatory supervision, and develop policies to ensure that members of the board and parole commissioners use guidelines and previous decisions of the board and parole commissioners in making decisions under this chapter;

(4) require members of the board and parole commissioners to file activity reports that provide information on release decisions made by members of the board and parole commissioners, the workload and hours worked of the members of the board and parole commissioners, and the use of parole guidelines by members of the board and parole commissioners; and

(5) report at least annually to the governor and the legislature on the activities of the board and parole commissioners, parole release decisions, and the use of parole guidelines by the board and parole commissioners.

(b) The board shall:

(1) adopt rules relating to the decision-making processes used by the board and parole panels;

(2) prepare information of public interest describing the functions of the board and make the information available to the public and appropriate state agencies;

(3) comply with federal and state laws related to program and facility accessibility; and

(4) develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board, with the exception of an individual parole determination or clemency recommendation.

(c) The board administrator shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs and services.

(d) The board, in performing its duties, is subject to the open meetings law, Chapter 551, and the administrative procedure law, Chapter 2001. This subsection does not affect the provisions of Section 2001.223 exempting hearings and interviews conducted by the board or the division from Section 2001.038 and Subchapters C-H, Chapter 2001.

(e) The board, in accordance with the rules and procedures of the Legislative Budget Board, shall prepare, approve, and submit a legislative appropriations request that is separate from the legislative appropriations request for the department and is used to develop the board's budget structure. The board shall maintain the board's legislative appropriations request and budget structure separately from those of the department.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.06, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 856, Sec. 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1170, Sec. 31.01, eff. Sept. 1, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.07, eff. Jan. 11, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 34, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 35, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 9, eff. June 17, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.0362. TRAINING REQUIRED. (a) (1) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes at least one course

of a training program that complies with this section.

(2) A parole commissioner employed by the board may not vote or deliberate on a matter described by Section 508.0441 until the person completes at least one course of a training program that complies with this section.

(b) A training program must provide information to the person regarding:

(1) the enabling legislation that created the board;

(2) the programs operated by the board;

(3) the role and functions of the board and parole commissioners;

(4) the rules of the board;

(5) the current budget for the board;

(6) the results of the most recent formal audit of the board;

(7) the requirements of the:

(A) open meetings law, Chapter 551;

(B) open records law, Chapter 552; and

(C) administrative procedure law, Chapter 2001;

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 10.08, eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 554, Sec. 4, eff. Sept. 1, 1999; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.08, eff. Jan. 11, 2004.

Sec. 508.037. TERMS; REMOVAL. (a) A board member holds office for a term of six years.

(b) The terms of one-third of the members expire February 1 of each odd-numbered year.

(c) The governor may remove a board member, other than a member

appointed by another governor, at any time and for any reason.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.038. VACANCIES. If a vacancy occurs, the governor shall appoint in the same manner as other appointments are made a person to serve the remainder of the unexpired term.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.039. COMPENSATION. A board member is paid the salary the legislature determines in the General Appropriations Act.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.040. PERSONNEL. (a) The presiding officer is responsible for the employment and supervision of:

(1) parole commissioners;

(2) a general counsel to the board;

(3) a board administrator to manage the day-to-day activities of the board;

(4) hearing officers;

(5) personnel to assist in clemency and hearing matters; and

(6) secretarial or clerical personnel.

(b) The board administrator or the board administrator's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity under which all personnel decisions of the board are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the board to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the board's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must be updated annually, be reviewed by the Commission on Human Rights for compliance with Subsection (b)(1), and be filed with the governor's office.

(d) The board administrator or the board administrator's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the board. The program shall require intra-agency posting of all positions concurrently with any public posting.

(e) The board administrator or the board administrator's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for board employees must be based on the system established under this subsection.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.09, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 554, Sec. 5, eff. Sept. 1, 1999; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.09, eff. Jan. 11, 2004.

Sec. 508.041. DESIGNEE TRAINING; HANDBOOK. (a) The board shall develop and implement:

(1) a training program that each newly hired employee of the board designated to conduct hearings under Section 508.281 must complete before conducting a hearing without the assistance of a board member or experienced parole commissioner or designee; and

(2) a training program to provide an annual update to designees of the board on issues and procedures relating to the revocation process.

(b) The board shall prepare and biennially update a procedural manual to be used by designees of the board. The board shall include in the manual:

(1) descriptions of decisions in previous hearings determined by the board to have value as precedents for decisions in subsequent hearings;

(2) laws and court decisions relevant to decision making in hearings; and

(3) case studies useful in decision making in hearings.

(c) The board shall prepare and update as necessary a handbook to be made available to participants in hearings under Section 508.281, such as defense attorneys, persons released on parole or mandatory supervision, and witnesses. The handbook must describe in plain language the procedures used in a hearing under Section 508.281.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.10, eff. Sept. 1, 1999; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.10, eff. Jan. 11, 2004.

Sec. 508.042. TRAINING PROGRAM FOR MEMBERS AND PAROLE COMMISSIONERS. (a) The board shall develop for board members and parole commissioners a comprehensive training and education program on the criminal justice system, with special emphasis on the parole process.

(b)(1) A new member may not participate in a vote of the board or a panel, deliberate, or be counted as a member in attendance at a meeting of the board until the member completes the program.

(2) A new parole commissioner may not participate in a vote of a panel until the commissioner completes the program. This subdivision does not apply to a new parole commissioner who as a board member completed the program.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.11, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 554, Sec. 6, eff. Sept. 1, 1999; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.11, eff. Jan. 11, 2004.

Sec. 508.043. GIFTS AND GRANTS. The board may apply for and accept gifts or grants from any public or private source for use in any lawful purpose of the board.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1,

1997.

Sec. 508.044. POWERS AND DUTIES OF BOARD. A board member shall give full time to the duties of the member's office, including duties imposed on the board by the Texas Constitution and other law.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.12 to 10.14, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 856, Sec. 4, eff. Sept. 1, 2001; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.12, eff. Jan. 11, 2004.

Sec. 508.0441. RELEASE AND REVOCATION DUTIES. (a) Board members and parole commissioners shall determine:

(1) which inmates are to be released on parole or mandatory supervision;

(2) conditions of parole or mandatory supervision, including special conditions;

(3) the modification and withdrawal of conditions of parole or mandatory supervision;

(4) which releasees may be released from supervision and reporting; and

(5) the continuation, modification, and revocation of parole or mandatory supervision.

(b) The board shall develop and implement a policy that clearly defines circumstances under which a board member or parole commissioner should disqualify himself or herself from voting on:

(1) a parole decision; or

(2) a decision to revoke parole or mandatory supervision.

(c) The board may adopt reasonable rules as proper or necessary relating to:

(1) the eligibility of an inmate for release on parole or release to mandatory supervision;

(2) the conduct of a parole or mandatory supervision hearing; or

(3) conditions to be imposed on a releasee.

(d) The presiding officer may provide a written plan for the administrative review of actions taken by a parole panel by a review

panel.

(e) Board members and parole commissioners shall, at the direction of the presiding officer, file activity reports on duties performed under this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.12 to 10.14, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 856, Sec. 4, eff. Sept. 1, 2001. Redesignated from Government Code Sec. 508.044(b) to (f) and amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.12, eff. Jan. 11, 2004.

Sec. 508.045. PAROLE PANELS. (a) Except as provided by Section 508.046, board members and parole commissioners shall act in panels composed of three in matters of:

(1) release on parole;

(2) release to mandatory supervision; and

(3) revocation of parole or mandatory supervision.

(b) The presiding officer shall designate the composition of each panel and shall designate panels composed of at least one board member and any combination of board members and parole commissioners.

(c) A parole panel may:

(1) grant, deny, or revoke parole;

(2) revoke mandatory supervision; and

(3) conduct parole revocation hearings and mandatory supervision revocation hearings.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.13, eff. Jan. 11, 2004.

Sec. 508.046. EXTRAORDINARY VOTE REQUIRED. To release on parole an inmate who was convicted of an offense under Section 20A.03, 21.02, 21.11(a)(1), or 22.021, Penal Code, or who is required under Section 508.145(c) to serve 35 calendar years before becoming eligible for release on parole, all members of the board must vote on the release on parole of the inmate, and at least two-thirds of the members must vote in favor of the release on parole. A member of the board may not vote on the release unless the member first receives a

copy of a written report from the department on the probability that the inmate would commit an offense after being released on parole.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.
Amended by:
Acts 2005, 79th Leg., Ch. 787 (S.B. 60), Sec. 3, eff. September 1, 2005.
Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.38, eff. September 1, 2007.
Acts 2011, 82nd Leg., R.S., Ch. 122 (H.B. 3000), Sec. 9, eff. September 1, 2011.

Sec. 508.047. MEETINGS. (a) The members of the board shall meet at least once in each quarter of the calendar year at a site determined by the presiding officer.
(b) The members of the board are not required to meet as a body to perform the members' duties in clemency matters.
(c) A majority of each parole panel constitutes a quorum for the transaction of the panel's business. A panel's decision must be by majority vote.
(d) The members of a parole panel are not required to meet as a body to perform the members' duties, except to conduct a hearing under Section 508.281.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.15, eff. Sept. 1, 1999; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.14, eff. Jan. 11, 2004.

Sec. 508.048. SUBPOENAS. (a) A parole panel may issue a subpoena requiring the attendance of a witness or the production of any record, book, paper, or document the panel considers necessary for investigation of the case of a person before the panel.
(b) A member of the board may sign a subpoena and administer an oath.
(c) A peace officer, parole officer, or community supervision and corrections department officer may serve the subpoena in the same manner as similar process in a court of record having original

jurisdiction of criminal actions is served.

(d) A person who testifies falsely, fails to appear when subpoenaed, or fails or refuses to produce material under the subpoena is subject to the same orders and penalties to which a person taking those actions before a court is subject.

(e) On application of the board, a court of record having original jurisdiction of criminal actions may compel the attendance of a witness, the production of material, or the giving of testimony before the board, by an attachment for contempt or in the same manner as the court may otherwise compel the production of evidence.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.0481. VICTIM'S RIGHT TO REPRESENTATION. (a) If a victim, close relative of a deceased victim, or guardian of a victim is required by a subpoena issued under Section 508.048 to appear at a hearing, the victim, relative, or guardian is entitled to representation by counsel at the hearing.

(b) This section does not require the state to provide representation by counsel to a victim, close relative of a deceased victim, or guardian of a victim.

(c) In this section, "victim," "close relative of a deceased victim," and "guardian of a victim" have the meanings assigned by Section 508.117.

Added by Acts 2001, 77th Leg., ch. 1034, Sec. 10, eff. Sept. 1, 2001.

Sec. 508.049. MISSION STATEMENT. (a) The board, after consultation with the governor and the Texas Board of Criminal Justice, shall adopt a mission statement that reflects the responsibilities for the operation of the parole process that are assigned to the board, the division, the department, or the Texas Board of Criminal Justice.

(b) The board shall include in the mission statement a description of specific locations at which the board intends to conduct business related to the operation of the parole process.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1,

1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.16, eff. Sept. 1, 1999; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.15, eff. Jan. 11, 2004.

Sec. 508.050. REPORT TO GOVERNOR. (a) On request of the governor, the board shall investigate a person being considered by the governor for:

(1) pardon;

(2) commutation of sentence;

(3) reprieve;

(4) remission of fine; or

(5) forfeiture.

(b) The board shall report to the governor on its investigation and make recommendations about the person to the governor.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.051. SUNSET PROVISION. The Board of Pardons and Paroles is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The board shall be reviewed during the period in which the Texas Department of Criminal Justice is reviewed.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.17, eff. Sept. 1, 1999.

Sec. 508.052. COMPUTERS; OFFICE SPACE; OTHER EQUIPMENT. (a) The department by interagency contract may provide to the board necessary computer equipment and computer access to all computerized records and physical access to all printed records in the custody of the department that are related to the duties and functions of the board.

(b) The department by interagency contract may provide to the board necessary and appropriate:

(1) office space at locations designated by the presiding officer of the board; and

(2) utilities and communications equipment.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.053. USE OF TECHNOLOGY. The board shall implement a policy requiring the board to use appropriate technological solutions to improve the board's ability to perform its functions. The policy must ensure that the public is able to interact with the board on the Internet.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 36, eff. June 15, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.054. RECORDS OF COMPLAINTS. (a) The board shall maintain a system to promptly and efficiently act on complaints filed with the board. The board shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The board shall make information available describing its procedures for complaint investigation and resolution.

(c) The board shall periodically notify the complaint parties of the status of the complaint until final disposition.

(d) This section does not apply to a complaint about an individual parole determination or clemency recommendation.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 36, eff. June 15, 2007.

Sec. 508.055. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal disputes under the board's jurisdiction.

(b) The board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the board.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 36, eff. June 15, 2007.

SUBCHAPTER C. REPRESENTATION OF INMATES

Sec. 508.081. DEFINITIONS. In this subchapter:

(1) "Compensation" has the meaning assigned by Section 305.002.

(2) "Inmate" includes:

(A) an administrative releasee;

(B) an inmate imprisoned in the institutional division; and

(C) a person confined in a county jail awaiting:

(i) transfer to the institutional division; or

(ii) a revocation hearing.

(3) "Represent" means to directly or indirectly contact in person or by telephone, facsimile transmission, or correspondence a member or employee of the board or an employee of the department on behalf of an inmate.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 126 (H.B. 719), Sec. 7, eff. September 1, 2021.

Sec. 508.082. RULES. The board shall adopt rules relating to:

(1) the submission and presentation of information and arguments to the board, a parole panel, and the department for and in behalf of an inmate; and

(2) the time, place, and manner of contact between a person representing an inmate and:

(A) a member of the board or a parole commissioner;

(B) an employee of the board; or

(C) an employee of the department.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.18, eff. Sept. 1, 1999; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.16, eff. Jan. 11, 2004.

Sec. 508.083. ELIGIBILITY TO REPRESENT INMATES. (a) A person who represents an inmate for compensation must:

(1) be an attorney licensed in this state; and

(2) register with the division.

(b) A person serving as a member or employee of the board or the Texas Board of Criminal Justice may not, before the second anniversary of the date the person ceases to be a board member or employee:

(1) represent any person in a matter before the board or a parole panel; or

(2) receive compensation for services rendered on behalf of any person regarding a matter pending before the board or a parole panel.

(c) A person, other than a person subject to Subsection (b), who is employed by the department may not, before the second anniversary of the date the person terminates service with the department:

(1) represent an inmate in a matter before the board or a parole panel; or

(2) receive compensation for services rendered on behalf of any person regarding a matter pending before the board or a parole panel.

(d) Repealed by Acts 2003, 78th Leg., ch 1007, Sec. 2.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1007, Sec. 1, 2, eff. Sept. 1, 2003.

Sec. 508.084. FEE AFFIDAVIT. (a) A person required to register under Section 508.083, before the person first contacts a member of the board, an employee of the board, or an employee of the department on behalf of an inmate, shall file a fee affidavit with the department in a form prescribed by the department for each inmate the person represents for compensation.

(b) The fee affidavit must be written and verified and contain a statement of:

(1) the registrant's full name and address;

(2) the registrant's normal business, business phone number, and business address;

(3) the full name of any former member or employee of the board or the Texas Board of Criminal Justice or any former employee of the department with whom the registrant:

(A) is associated;

(B) has a relationship as an employer or employee; or

(C) maintains a contractual relationship to provide services;

(4) the full name and institutional identification number of the inmate the registrant represents;

(5) the amount of compensation the registrant has received or expects to receive in exchange for the representation; and

(6) the name of the person providing the compensation.

(c) If a registrant receives compensation in excess of the amount reported on the fee affidavit, the registrant shall file with the department, not later than the fifth day after the date the registrant receives compensation in excess of the reported amount, a supplemental fee affidavit in a form prescribed by the department indicating the total amount of compensation received for representing the inmate.

(d) For each fee affidavit and supplemental fee affidavit received, the department shall:

(1) keep a copy of the affidavit in a central location;

and

(2) not later than the third day after the date the affidavit is filed, place a copy of the affidavit in the inmate's file that is reviewed by a parole panel or the board.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.085. REPRESENTATION SUMMARY FORM. (a) A person required to register under Section 508.083 shall, for each calendar year in which the person represents an inmate, file a representation summary form with the division on a form prescribed by the division.

(b) The form must be filed not later than January 31 of the year succeeding the year for which the report is filed and must include a statement of:

(1) the registrant's full name and address;

(2) the registrant's normal business, business phone number, and business address;

(3) the full name of any former member or employee of the board or the Texas Board of Criminal Justice or any former employee of the department with whom the registrant:

(A) is associated;

(B) has a relationship as an employer or employee; or

(C) maintains a contractual relationship to provide services;

(4) the full name and institutional identification number of each inmate the registrant represented in the previous calendar year; and

(5) the amount of compensation the registrant has received for representing each inmate in the previous calendar year.

(c) A person who files a form under this section and for whom the information required for the form has changed shall, not later than the 10th day after the date the information changes, file a supplemental statement with the division indicating the change.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.086. CRIMINAL PENALTIES. (a) A former member or

employee of the board or the Texas Board of Criminal Justice or a former employee of the department commits an offense if the former member or employee violates Section 508.083(b), (c), or (d).

(b) A person who represents an inmate for compensation commits an offense if the person is not an attorney licensed in this state.

(c) A person who is required to file an affidavit under Section 508.084(a) or (c) or a form or statement under Section 508.085 commits an offense if the person fails to file the affidavit, form, or statement.

(d) An offense under Subsection (a) is a Class A misdemeanor. An offense under Subsection (b) or (c) is a Class C misdemeanor.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

SUBCHAPTER D. PARDONS AND PAROLES DIVISION

Sec. 508.111. DIRECTOR. (a) The executive director shall hire the director of the division.

(b) The director is responsible for the administration of the division.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.112. DUTY OF DIVISION. The division is responsible for the investigation and supervision of all releasees.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.113. PAROLE OFFICERS, SUPERVISORS: QUALIFICATIONS. (a) This subsection and Subsection (b) apply only to a person employed as a parole officer or supervisor on or before September 1, 1990. A person may not be employed as a parole officer or supervisor, or be responsible for investigating or supervising a

releasee, unless the person has:

(1) four years of successfully completed education in an accredited college or university;

(2) two years of full-time paid employment in responsible correctional work with adults or juveniles or in a related field; and

(3) any other qualifications that may be specified by the director.

(b) Additional experience in a category described by Subsection (a)(2) may be substituted year for year for the required college education, with a maximum substitution of two years.

(c) The director shall establish qualifications for parole officers and supervisors that are the same as qualifications for community supervision and corrections department officers imposed by Section 76.005. A person may not begin employment as a parole officer or supervisor after September 1, 1990, unless the person meets the qualifications established by the director.

(d) A person who is serving as a peace officer or as a prosecuting attorney may not act as a parole officer or be responsible for supervising a releasee.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.1131. SALARY CAREER LADDER FOR PAROLE OFFICERS. (a) The executive director shall adopt a salary career ladder for parole officers. The salary career ladder must base a parole officer's salary on the officer's classification and years of service with the department.

(b) For purposes of the salary schedule, the department shall classify all parole officer positions as Parole Officer I, Parole Officer II, Parole Officer III, Parole Officer IV, or Parole Officer V.

(c) Under the salary career ladder adopted under Subsection (a), a parole officer to whom the schedule applies and who received an overall evaluation of at least satisfactory in the officer's most

recent annual evaluation is entitled to an annual salary increase, during each of the officer's first 10 years of service in a designated parole officer classification as described by Subsection (b), equal to one-tenth of the difference between:

(1) the officer's current annual salary; and

(2) the minimum annual salary of a parole officer in the next highest classification.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 37, eff. June 15, 2007.

Sec. 508.114. PAROLE OFFICERS, SUPERVISORS: ADDITIONAL DUTIES. (a) The judge of a court having original jurisdiction of criminal actions may, with the approval of the director, designate a parole officer or supervisor as a community supervision and corrections department officer. The director must give prior written approval for the payment of a proportional part of the salary paid to the parole officer or supervisor in compensation for service as a community supervision and corrections department officer. The director shall periodically report to the governor and the legislature the proportional salary payments.

(b) A parole officer or supervisor, on request of the governor or on order of the director, shall be responsible for supervising an inmate placed on conditional pardon or granted an emergency absence under escort.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.1141. SPECIALIZED TRAINING; GANG MEMBERS. The department shall develop and provide specialized training for parole officers supervising releasees previously identified by the department as being members of prison gangs, criminal street gangs, or security threat groups.

Added by Acts 1999, 76th Leg., ch. 490, Sec. 1, eff. Sept. 1, 1999.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.1142. PAROLE OFFICER MAXIMUM CASELOADS. (a) The department shall adopt a policy that establishes guidelines for a maximum caseload for each parole officer of:

(1) 60 active releasees, if the releasees are not in a specialized program described by Subdivisions (2)-(6);

(2) 35 active releasees, if the releasees are in the special needs offender program;

(3) 35 active releasees, if the releasees are in the therapeutic community substance abuse aftercare treatment program;

(4) 24 active releasees, if the releasees are in the sex offender program;

(5) 20 active releasees, if the releasees are electronically monitored; and

(6) 11 active releasees, if the releasees are in the super-intensive supervision program.

(b) If the department is unable to meet the maximum caseload guidelines, the department shall submit a report to the Legislative Budget Board, at the end of each fiscal year in which the department fails to meet the guidelines, stating the amount of money needed by the department to meet the guidelines.

Added by Acts 2007, 80th Leg., R.S., Ch. 1421 (H.B. 3736), Sec. 1, eff. June 15, 2007.

Sec. 508.115. NOTIFICATION OF RELEASE OF INMATE. (a) Not later than the 11th day before the date a parole panel orders the release on parole of an inmate or not later than the 11th day after the date the board recommends that the governor grant executive clemency, the division shall notify the sheriffs, each chief of police, the prosecuting attorneys, and the district judges in the county in which the inmate was convicted and the county to which the inmate is released that a parole panel is considering release on parole or the governor is considering clemency.

(b) In a case in which there was a change of venue, the division shall notify the sheriff, the prosecuting attorney, and the district judge in the county in which the prosecution was originated if, not later than the 30th day after the date the inmate was

sentenced, those officials request in writing that the division give the officials notice under this section of a release of the inmate.

(c) Not later than the 10th day after the date a parole panel orders the transfer of an inmate to a halfway house under this chapter, the division shall give notice in accordance with Subsection (d) to:

(1) the sheriff of the county in which the inmate was convicted;

(2) the sheriff of the county in which the halfway house is located and each chief of police in the county; and

(3) the attorney who represents the state in the prosecution of felonies in the county in which the halfway house is located.

(d) The notice must state:

(1) the inmate's name;

(2) the county in which the inmate was convicted; and

(3) the offense for which the inmate was convicted.

(e) The notice must be provided by e-mail or other electronic communication.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.19, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 856, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1123 (H.B. 200), Sec. 5, eff. September 1, 2011.

Sec. 508.116. PAROLE INFORMATION PROGRAM. (a) The division shall develop and implement a comprehensive program to inform inmates, the inmates' families, and other interested parties about the parole process.

(b) The division shall update the program annually.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.117. VICTIM NOTIFICATION. (a) Before a parole panel considers for release on parole an inmate who is serving a sentence for an offense in which a person was a victim, the division, using the name and address provided on the victim impact statement, shall make a reasonable effort to notify:

(1) the victim;

(2) if the victim has a guardian, the guardian; or

(3) if the victim is deceased, a close relative of the deceased victim.

(b) A victim, guardian of a victim, or close relative of a deceased victim who would have been entitled to notification of parole consideration by the division but failed to provide a victim impact statement containing the person's name and address may file with the division a written request for notification. After receiving the written request, the division shall grant to the person all privileges, including notification under this section, to which the person would have been entitled had the person submitted a completed victim impact statement.

(c) If the notice is sent to a guardian or close relative of a deceased victim, the notice must contain a request by the division that the guardian or relative inform other persons having an interest in the matter that the inmate is being considered for release on parole.

(d) The failure of the division to comply with notice requirements of this section is not a ground for revocation of parole.

(e) Before an inmate is released from the institutional division on parole or to mandatory supervision, the pardons and paroles division shall give notice of the release to a person entitled to notification of parole consideration for the inmate under Subsection (a) or (b).

(f) Except as necessary to comply with this section, the board or the department may not disclose to any person the name or address of a person entitled to notice under this section unless:

(1) the person approves the disclosure; or

(2) a court determines that there is good cause for disclosure and orders the board or the department to disclose the information.

(g) In this section:

(1) "Close relative of a deceased victim" means a person who was:

(A) the spouse of the victim at the time of the victim's death;

(B) a parent of the deceased victim;

(C) an adult brother, sister, or child of the deceased victim; or

(D) the nearest relative of the deceased victim by consanguinity, if the persons described by Paragraphs (A) through (C) are deceased or are incapacitated due to physical or mental illness or infirmity.

(2) "Guardian of a victim" means a person who is the legal guardian of a victim, whether or not the legal relationship between the guardian and the victim exists because of the age of the victim or the physical or mental incompetency of the victim.

(2-a) "Sexual assault" includes an offense under Section 21.02, Penal Code.

(3) "Victim" means a person who:

(A) is a victim of sexual assault, kidnapping, aggravated robbery, or felony stalking; or

(B) has suffered bodily injury or death as the result of the criminal conduct of another.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.39, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 826 (H.B. 309), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 38, eff. June 15, 2007.

Sec. 508.118. HALFWAY HOUSES. (a) The division, in conjunction with the institutional division, shall use halfway houses to divert from housing in regular units of the institutional division suitable low-risk inmates and other inmates who would benefit from a smoother transition from incarceration to supervised release.

(b) Before transferring an inmate to a halfway house, the division shall send to the director of the halfway house all information relating to the inmate that the division determines will aid the halfway house in helping the inmate make a transition from the institutional division to supervised release.

(c) The division is responsible for supervising an inmate:

(1) for whom a presumptive parole date has been established; and

(2) who is transferred into a preparole residence in a halfway house under Subchapter A, Chapter 499.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.119. COMMUNITY RESIDENTIAL FACILITIES. (a) The purpose of a community residential facility is to provide housing, supervision, counseling, personal, social, and work adjustment training, and other programs to:

(1) releasees who are required by a parole panel as a condition of release on parole or to mandatory supervision to serve a period in a community residential facility; and

(2) releasees whose parole or mandatory supervision has been continued or modified under Section 508.283 and on whom sanctions have been imposed under that section.

(b) The division may establish and operate, or contract for the operation of, community residential facilities.

(c) The division may contract with a public or private vendor for the financing, construction, operation, or management of a community residential facility using a lease-purchase or installment sale contract to provide or supplement housing, board, or supervision for releasees placed in a community residential facility. A releasee housed or supervised in a facility operated by a vendor under a contract is subject to the same laws as if the housing or supervision were provided directly by the division.

(d) Unless the division or a vendor proposing to operate a community residential facility provides notice of a following proposed action and a hearing on the issues in the same manner as required under Section 509.010, the division may not:

(1) establish or contract for a community residential

facility;

(2) change the use of a community residential facility;

(3) significantly increase the capacity of a community residential facility; or

(4) increase the capacity of a community residential facility to more than 500 residents, regardless of whether the increase is significant.

(e) Subsection (d) applies to any residential facility that the division establishes or contracts for under:

(1) this chapter;

(2) Subchapter C, Chapter 497; or

(3) Subchapter A, Chapter 499.

(f) The Texas Board of Criminal Justice shall adopt rules necessary for the management of a community residential facility.

(g) The division may charge to a releasee housed in a community residential facility a reasonable fee for the cost of housing, board, and the part of the administrative costs of the facility that is properly allocable to the releasee. The fee may not exceed the actual costs to the division for services to that releasee. The division may not deny placement in a community residential facility to a releasee because the releasee is unable to pay the fee.

(h) A parole panel or a designated agent of the division may grant a limited release to a releasee placed in a community residential facility to maintain or seek employment or participation in an education or training course or to seek housing after release from the facility.

(i) The notice required by Subsection (d) must clearly state that the proposed action concerns a facility in which persons who have been released from prison on parole or to mandatory supervision are to be housed.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.20, eff. Sept. 1, 1999.

SUBCHAPTER E. PAROLE AND MANDATORY SUPERVISION; RELEASE PROCEDURES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1506, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.141. AUTHORITY TO CONSIDER AND ORDER RELEASE ON PAROLE. (a) A parole panel may consider for release and release on parole an inmate who:

(1) has been sentenced to a term of imprisonment in the institutional division;

(2) is confined in a penal or correctional institution, including a jail in this state, a federal correctional institution, or a jail or a correctional institution in another state; and

(3) is eligible for release on parole.

(b) A parole is issued only on the order of a parole panel.

(c) Before releasing an inmate on parole, a parole panel may have the inmate appear before the panel and interview the inmate.

(d) A parole panel may release an inmate on parole during the parole month established for the inmate if the panel determines that the inmate's release will not increase the likelihood of harm to the public.

(e) A parole panel may release an inmate on parole only when:

(1) arrangements have been made for the inmate's employment or for the inmate's maintenance and care, which may include the issuance of payment for the cost of temporary post-release housing under Section 508.157; and

(2) the parole panel believes that the inmate is able and willing to fulfill the obligations of a law-abiding citizen.

(f) A parole panel may order a parole only for the best interest of society and not as an award of clemency.

(g) The board shall adopt a policy establishing the date on which the board may reconsider for release an inmate who has previously been denied release. The policy must require the board to reconsider for release:

(1) an inmate serving a sentence for an offense listed in Section 508.149(a) or for an offense punishable as a felony of the second or third degree under Section 22.04, Penal Code, during a month designated under Subsection (g-1) by the parole panel that denied release; and

(2) an inmate other than an inmate described by Subdivision (1) as soon as practicable after the first anniversary of the date of the denial.

(g-1) The month designated under Subsection (g)(1) by the parole panel that denied release must begin after the first anniversary of the date of the denial and end before the fifth

anniversary of the date of the denial, unless the inmate is serving a sentence for an offense under Section 22.021, Penal Code, or a life sentence for a capital felony, in which event the designated month must begin after the first anniversary of the date of the denial and end before the 10th anniversary of the date of the denial.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 349, Sec. 1, eff. June 18, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.17, eff. Jan. 11, 2004.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 944 (H.B. 3226), Sec. 2, eff. June 19, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 1256 (H.B. 431), Sec. 2, eff. June 14, 2013.
Acts 2015, 84th Leg., R.S., Ch. 358 (H.B. 1914), Sec. 1, eff. September 1, 2015.

Sec. 508.1411. NOTIFICATION OF PAROLE PANEL DECISION. (a) For each decision of a parole panel granting or denying the release of an inmate on parole, or denying the release of an inmate on mandatory supervision, the parole panel shall:

(1) produce a written statement, in clear and understandable language, that explains:

(A) the decision; and

(B) the reasons for the decision only to the extent those reasons relate specifically to the inmate;

(2) provide a copy of the statement to the inmate; and

(3) place a copy of the statement in the inmate's file.

(b) In a written statement produced under Subsection (a), the parole panel may withhold information that:

(1) is confidential and not subject to public disclosure under Chapter 552; or

(2) the parole panel considers to possibly jeopardize the health or safety of any individual.

(c) The board shall keep a copy of each statement produced under Subsection (a) in a central location.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 14, eff. September 1, 2013.

Sec. 508.142. PERIOD OF PAROLE. (a) The institutional division shall provide the board with sentence time credit information for each inmate who is eligible for release on parole.

(b) Good conduct time credit is computed for an inmate as if the inmate were confined in the institutional division during the entire time the inmate was actually confined.

(c) The period of parole is computed by subtracting from the term for which the inmate was sentenced the calendar time served on the sentence.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.143. LEGAL CUSTODY OF RELEASEE. (a) A releasee while on parole is in the legal custody of the division.

(b) A releasee while on mandatory supervision is in the legal custody of the state.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.144. PAROLE GUIDELINES AND RANGE OF RECOMMENDED PAROLE APPROVAL RATES. (a) The board shall:

(1) develop according to an acceptable research method the parole guidelines that are the basic criteria on which a parole decision is made;

(2) base the guidelines on the seriousness of the offense and the likelihood of a favorable parole outcome;

(3) ensure that the guidelines require consideration of an inmate's progress in any programs in which the inmate participated during the inmate's term of confinement;

(4) establish and maintain a range of recommended parole approval rates for each category or score within the guidelines; and

(5) implement the guidelines.

(b) The board shall meet annually to review and discuss the parole guidelines and range of recommended parole approval rates. The board may consult outside experts to assist with the review. The

board shall prioritize the use of outside experts, technical assistance, and training in taking any action under Subsection (c). The board must consider:

(1) how the parole guidelines and range of recommended parole approval rates serve the needs of parole decision-making; and

(2) the extent to which the parole guidelines and range of recommended parole approval rates reflect parole panel decisions and predict successful parole outcomes.

(c) Based on the board's review under Subsection (b), the board may:

(1) update the guidelines by:

(A) including new risk factors; or

(B) changing the values of offense severity or risk factor scores; or

(2) modify the range of recommended parole approval rates under the guidelines, if parole approval rates differ significantly from the range of recommended parole approval rates.

(d) The board is not required to hold an open meeting to review the parole guidelines and range of recommended parole approval rates as required by Subsection (b), but any modifications or updates to the guidelines or range of recommended parole approval rates made by the board under Subsection (c) must occur in an open meeting.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.18, eff. Jan. 11, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 39, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 15, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 860, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.1445. ANNUAL REPORT ON GUIDELINES REQUIRED. (a) The board annually shall submit a report to the Criminal Justice Legislative Oversight Committee, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the

standing committees in the senate and house of representatives primarily responsible for criminal justice regarding the board's application of the parole guidelines adopted under Section 508.144.

(b) The report must include:

(1) a brief explanation of the parole guidelines, including how the board:

(A) defines the risk factors and offense severity levels; and

(B) determines the range of recommended parole approval rates for each guideline score;

(2) a comparison of the range of recommended parole approval rates under the parole guidelines to the actual approval rates for individual parole panel members, regional offices, and the state as a whole; and

(3) a description of instances in which the actual parole approval rates do not meet the range of recommended parole approval rates under the parole guidelines, an explanation of the variations, and a list of actions that the board has taken or will take to meet the guidelines.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 40, eff. June 15, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 16, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2017, H.B. 1422, H.B. 1871 and H.B. 2306, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.145. ELIGIBILITY FOR RELEASE ON PAROLE; COMPUTATION OF PAROLE ELIGIBILITY DATE. (a) An inmate is not eligible for release on parole if the inmate is under sentence of death, serving a sentence of life imprisonment without parole, or serving a sentence for any of the following offenses under the Penal Code:

(1) Section 20A.03, if the offense is based partly or wholly on conduct constituting an offense under Section 20A.02(a)(5), (6), (7), or (8);

(2) Section 21.02;

(3) Section 22.021, if the offense is punishable under Subsection (f) of that section; or

(4) Section 51.03 or 51.04.

(b) An inmate serving a life sentence under Section 12.31(a)(1), Penal Code, for a capital felony is not eligible for release on parole until the actual calendar time the inmate has served, without consideration of good conduct time, equals 40 calendar years.

(c) An inmate serving a sentence under Section 12.42(c)(2), Penal Code, is not eligible for release on parole until the actual calendar time the inmate has served, without consideration of good conduct time, equals 35 calendar years.

(c-1)(1) Except as provided by Subdivision (2), an inmate serving a sentence for an offense under Section 20A.02(a)(5), (6), (7), or (8), Penal Code, is not eligible for release on parole.

(2) An inmate serving a sentence for an offense described by Subdivision (1) for which the judgment in the case contains an affirmative finding under Article 42.01991, Code of Criminal Procedure, is not eligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less, but in no event is the inmate eligible for release on parole in less than two calendar years.

(d)(1) This subsection applies only to an inmate who is serving a sentence for:

(A) an offense described by Article 42A.054(a), Code of Criminal Procedure, other than an offense under Section 19.03, Penal Code, or an offense under Chapter 20A, Penal Code, that is described by Subsection (a)(1) or (c-1)(1);

(B) an offense for which the judgment contains an affirmative finding under Article 42A.054(c) or (d), Code of Criminal Procedure; or

(C) an offense under Section 71.02 or 71.023, Penal Code.

(2) An inmate described by Subdivision (1) is not eligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less, but in no event is the inmate eligible for release on parole in less than two calendar years.

(3) Notwithstanding Subdivision (2), an inmate who is serving a sentence for an offense under Section 22.021, Penal Code, is not eligible for release on parole if the inmate is serving a sentence for an offense for which punishment was enhanced under Section 12.42(c)(4), Penal Code.

(d-1) Notwithstanding Subsection (d), for every 12 months that elapse between the date an arrest warrant is issued for the inmate following an indictment for the offense and the date the inmate is arrested for the offense, the earliest date on which an inmate is eligible for parole is delayed by three years from the date otherwise provided by Subsection (d), if the inmate is serving a sentence for an offense under Section 19.02, 22.011, or 22.021, Penal Code.

(e) An inmate serving a sentence for which the punishment is increased under Section 481.134, Health and Safety Code, is not eligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals five years or the term to which the inmate was sentenced, whichever is less.

(f) Except as provided by Section 508.146, any other inmate is eligible for release on parole when the inmate's actual calendar time served plus good conduct time equals one-fourth of the sentence imposed or 15 years, whichever is less.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.21, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 787 (S.B. 60), Sec. 4, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 787 (S.B. 60), Sec. 12, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 405 (S.B. 877), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 1.10, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 146 (S.B. 1832), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 765 (S.B. 839), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1400 (H.B. 221), Sec. 3, eff.

September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 122 (H.B. 3000), Sec. 10, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1119 (H.B. 3), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 126 (S.B. 727), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1252 (H.B. 8), Sec. 13, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1325 (S.B. 549), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.51, eff. January 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 632 (H.B. 465), Sec. 2, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 632 (H.B. 465), Sec. 3, eff. September 1, 2021.

Acts 2023, 88th Leg., 4th C.S., Ch. 1 (S.B. 4), Sec. 6, eff. March 5, 2024.

Sec. 508.1455. EARLY RELEASE ON PAROLE FOR CERTAIN INMATES REQUIRED TO PARTICIPATE IN EDUCATIONAL AND VOCATIONAL TRAINING PILOT PROGRAM. (a) This section applies only to an inmate:

(1) who is serving a sentence for an offense under Chapter 481, Health and Safety Code, that is punishable as a felony of the third degree;

(2) who has not previously been convicted of a felony under Title 5, Penal Code, or under Chapter 43 or 71 of that code; and

(3) whose eligibility for parole is computed under Section 508.145(f).

(b) Notwithstanding any other law, a parole panel may release on parole an inmate described by Subsection (a) approximately 180 days before the date the inmate would be eligible for release on parole under Section 508.145(f).

(c) A parole panel releasing an inmate on parole under this section shall require as a condition of release on parole that the inmate participate in a program operated under Section 493.034, to begin immediately following the inmate's release on parole.

(d) For purpose of consideration by a parole panel for early

release on parole under Subsection (b), the department shall annually identify not fewer than 100 inmates described by Subsection (a) who are suitable candidates for participation in a program operated under Section 493.034. The board and the department shall jointly adopt rules for identifying inmates under this subsection. The rules must require the board or the department to notify an inmate that the inmate is being considered for release on parole under this section.

(e) The board shall adopt rules governing the release of an inmate on parole under this section.

(f) An inmate who is considered for but not granted release on parole under this section shall be considered for release on parole on the date that the inmate otherwise would have been considered for release on parole under this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 1014 (H.B. 2352), Sec. 4, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.146. MEDICALLY RECOMMENDED INTENSIVE SUPERVISION. (a) An inmate other than an inmate who is serving a sentence of death or life without parole may be released on medically recommended intensive supervision on a date designated by a parole panel described by Subsection (e), except that an inmate with an instant offense that is an offense described in Article 42A.054, Code of Criminal Procedure, or an inmate who has a reportable conviction or adjudication under Chapter 62, Code of Criminal Procedure, may only be considered if a medical condition of terminal illness or long-term care has been diagnosed by a physician, if:

(1) the Texas Correctional Office on Offenders with Medical or Mental Impairments, in cooperation with the Correctional Managed Health Care Committee, identifies the inmate as being:

(A) a person who is elderly or terminally ill, a person with mental illness, an intellectual disability, or a physical disability, or a person who has a condition requiring long-term care, if the inmate is an inmate with an instant offense that is described in Article 42A.054, Code of Criminal Procedure; or

(B) in a persistent vegetative state or being a person

with an organic brain syndrome with significant to total mobility impairment, if the inmate is an inmate who has a reportable conviction or adjudication under Chapter 62, Code of Criminal Procedure;

(2) the parole panel determines that, based on the inmate's condition and a medical evaluation, the inmate does not constitute a threat to public safety; and

(3) the Texas Correctional Office on Offenders with Medical or Mental Impairments, in cooperation with the pardons and paroles division, has prepared for the inmate a medically recommended intensive supervision plan that requires the inmate to submit to electronic monitoring, places the inmate on super-intensive supervision, or otherwise ensures appropriate supervision of the inmate.

(b) An inmate may be released on medically recommended intensive supervision only if the inmate's medically recommended intensive supervision plan under Subsection (a)(3) is approved by the Texas Correctional Office on Offenders with Medical or Mental Impairments.

(c) The parole panel shall require as a condition of release under Subsection (a) that the releasee remain under the care of a physician and in a medically suitable placement. At least once each calendar quarter, the Texas Correctional Office on Offenders with Medical or Mental Impairments shall report to the parole panel on the releasee's medical and placement status. On the basis of the report, the parole panel may modify conditions of release and impose any condition on the releasee that a panel could impose on a releasee released under Section 508.145, including a condition that the releasee reside in a halfway house or community residential facility.

(d) The Texas Correctional Office on Offenders with Medical or Mental Impairments and the Texas Department of Human Services shall jointly request proposals from public or private vendors to provide under contract services for inmates released on medically recommended intensive supervision. A request for proposals under this subsection may require that the services be provided in a medical care facility located in an urban area. For the purposes of this subsection, "urban area" means the area in this state within a metropolitan statistical area, according to the standards of the United States Bureau of the Census.

(e) Only parole panels composed of the presiding officer of the

board and two members appointed to the panel by the presiding officer may make determinations regarding the release of inmates on medically recommended intensive supervision under Subsection (a) or of inmates released pending deportation. If the Texas Council on Offenders with Mental Impairments identifies an inmate as a candidate for release under the guidelines established by Subsection (a)(1), the council shall present to a parole panel described by this subsection relevant information concerning the inmate and the inmate's potential for release under this section.

(f) An inmate who is not a citizen of the United States, as defined by federal law, who is not under a sentence of death or life without parole, and who does not have a reportable conviction or adjudication under Chapter 62, Code of Criminal Procedure, or an instant offense described in Article 42A.054, Code of Criminal Procedure, may be released to immigration authorities pending deportation on a date designated by a parole panel described by Subsection (e) if the parole panel determines that on release the inmate would be deported to another country and that the inmate does not constitute a threat to public safety in the other country or this country and is unlikely to reenter this country illegally.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1435, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 252, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 856, Sec. 21, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 787 (S.B. 60), Sec. 5, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1247 (H.B. 2611), Sec. 1, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.52, eff. January 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2017, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.147. RELEASE TO MANDATORY SUPERVISION. (a) Except as provided by Section 508.149, a parole panel shall order the release of an inmate who is not on parole to mandatory supervision when the

actual calendar time the inmate has served plus any accrued good conduct time equals the term to which the inmate was sentenced.

(b) An inmate released to mandatory supervision is considered to be released on parole.

(c) To the extent practicable, arrangements for the inmate's proper employment, maintenance, and care must be made before the inmate's release to mandatory supervision.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.1471. RELEASE TO MANDATORY SUPERVISION OF CERTAIN INMATES CONFINED IN COUNTY JAIL. (a) This section applies only to an inmate who, at the time the inmate is sentenced to a term of imprisonment in the department, is:

(1) confined in a county jail; and

(2) eligible for immediate release to mandatory supervision.

(b) Before an inmate is released from a county jail to mandatory supervision, the department shall provide notice to a victim, guardian of a victim, or close relative of a deceased victim that the inmate is eligible for release to mandatory supervision. The notice must be sent to the address provided in the victim impact statement or submitted under Section 508.117(b) and must state that the victim, guardian, or close relative may submit, not later than the 14th day after the date of the notice, a written statement to the parole panel considering the inmate's release regarding:

(1) the offense;

(2) the inmate; and

(3) the effect of the offense on the victim, guardian, or close relative.

(c) Notwithstanding any other law, the parole panel may interview a victim, guardian of a victim, or close relative of a deceased victim regarding the release of the inmate to mandatory supervision.

(d) In this section, "victim," "guardian of a victim," and "close relative of a deceased victim" have the meanings assigned by Section 508.117.

Added by Acts 2021, 87th Leg., R.S., Ch. 636 (H.B. 721), Sec. 1, eff.

September 1, 2021.

Sec. 508.148. PERIOD OF MANDATORY SUPERVISION. (a) The period of mandatory supervision is computed by subtracting from the term for which the inmate was sentenced the calendar time served on the sentence.

(b) The time served on mandatory supervision is computed as calendar time.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1422 and H.B. 1871, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.149. INMATES INELIGIBLE FOR MANDATORY SUPERVISION. (a) An inmate may not be released to mandatory supervision if the inmate is serving a sentence for or has been previously convicted of:

(1) an offense for which the judgment contains an affirmative finding under Article 42A.054(c) or (d), Code of Criminal Procedure;

(2) a first degree felony or a second degree felony under Section 19.02, Penal Code;

(3) a capital felony under Section 19.03, Penal Code;

(4) a first degree felony or a second degree felony under Section 20.04, Penal Code;

(5) an offense under Section 21.11, Penal Code;

(6) a felony under Section 22.011, Penal Code;

(7) a first degree felony or a second degree felony under Section 22.02, Penal Code;

(8) a first degree felony under Section 22.021, Penal Code;

(9) a first degree felony under Section 22.04, Penal Code;

(10) a first degree felony under Section 28.02, Penal Code;

(11) a second degree felony under Section 29.02, Penal Code;

(12) a first degree felony under Section 29.03, Penal Code;

(13) a first degree felony under Section 30.02, Penal Code;

(14) a felony for which the punishment is increased under Section 481.134 or 481.140, Health and Safety Code;

(15) an offense under Section 43.25, Penal Code;

(16) an offense under Section 21.02, Penal Code;

(17) a first degree felony under Section 15.03, Penal Code;

(18) an offense under Section 43.05, Penal Code;

(19) an offense under Section 20A.02, Penal Code;

(20) an offense under Section 20A.03, Penal Code;

(21) a first degree felony under Section 71.02 or 71.023, Penal Code;

(22) an offense under Section 481.1123, Health and Safety Code, punished under Subsection (d), (e), or (f) of that section;

(23) a second degree felony under Section 22.01, Penal Code; or

(24) an offense under Section 22.01, Penal Code, punished under Subsection (b)(2), (7), or (8) of that section.

(a-1) An inmate serving a sentence for an offense under Section 51.03 or 51.04, Penal Code, may not be released to mandatory supervision.

(b) An inmate may not be released to mandatory supervision if a parole panel determines that:

(1) the inmate's accrued good conduct time is not an accurate reflection of the inmate's potential for rehabilitation; and

(2) the inmate's release would endanger the public.

(c) A parole panel that makes a determination under Subsection (b) shall specify in writing the reasons for the determination.

(d) A determination under Subsection (b) is not subject to administrative or judicial review, except that the parole panel making the determination shall reconsider the inmate for release to mandatory supervision at least twice during the two years after the date of the determination.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.22, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 786, Sec. 3, eff. June 14, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 1.11, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 146 (S.B. 1832), Sec. 3, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1 (S.B. 24), Sec. 5.02, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 122 (H.B. 3000), Sec. 11, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.011, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1325 (S.B. 549), Sec. 3, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.53, eff. January 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 584 (S.B. 768), Sec. 16, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 692 (H.B. 1577), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., 4th C.S., Ch. 1 (S.B. 4), Sec. 7, eff. March 5, 2024.

Sec. 508.150. CONSECUTIVE FELONY SENTENCES. (a) If an inmate is sentenced to consecutive felony sentences under Article 42.08, Code of Criminal Procedure, a parole panel shall designate during each sentence the date, if any, the inmate would have been eligible for release on parole if the inmate had been sentenced to serve a single sentence.

(b) For the purposes of Article 42.08, Code of Criminal Procedure, the judgment and sentence of an inmate sentenced for a felony, other than the last sentence in a series of consecutive sentences, cease to operate:

(1) when the actual calendar time served by the inmate equals the sentence imposed by the court; or

(2) on the date a parole panel designates as the date the inmate would have been eligible for release on parole if the inmate had been sentenced to serve a single sentence.

(c) A parole panel may not:

(1) consider consecutive sentences as a single sentence for purposes of parole; or

(2) release on parole an inmate sentenced to serve consecutive felony sentences before the date the inmate becomes

eligible for release on parole from the last sentence imposed on the inmate.

(d) A parole panel may not use calendar time served and good conduct time accrued by an inmate that are used by the panel in determining when a judgment and sentence cease to operate:

(1) for the same purpose in determining that date in a subsequent sentence in the same series of consecutive sentences; or

(2) for determining the date an inmate becomes eligible for release on parole from the last sentence in a series of consecutive sentences.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1422, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.151. PRESUMPTIVE PAROLE DATE. (a) For the purpose of diverting inmates to halfway houses under Section 508.118, a parole panel, after reviewing all available pertinent information, may designate a presumptive parole date for an inmate who:

(1) has never been convicted of an offense listed under Article 42A.054(a), Code of Criminal Procedure, or an offense under Section 21.02, Penal Code; and

(2) has never had a conviction with a judgment that contains an affirmative finding under Article 42A.054(c) or (d), Code of Criminal Procedure.

(b) The presumptive parole date may not be a date that is earlier than the inmate's initial parole eligibility date computed under Section 508.145.

(c) A parole panel may rescind or postpone a previously established presumptive parole date on the basis of a report from an agent of the division responsible for supervision or an agent of the institutional division acting in the case.

(d) If an inmate transferred to preparole status has satisfactorily served the inmate's sentence in the halfway house to which the inmate is assigned from the date of transfer to the presumptive parole date, without rescission or postponement of the date, the parole panel shall order the inmate's release on parole and

issue an appropriate certificate of release. The releasee is subject to the provisions of this chapter governing release on parole.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.40, eff. September 1, 2007.
Acts 2011, 82nd Leg., R.S., Ch. 122 (H.B. 3000), Sec. 12, eff. September 1, 2011.
Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.54, eff. January 1, 2017.
Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 10.007, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.152. INDIVIDUAL TREATMENT PLAN. (a) Not later than the 120th day after the date an inmate is admitted to the institutional division, the department shall obtain all pertinent information relating to the inmate, including:

(1) the court judgment;

(2) any sentencing report;

(3) the circumstances of the inmate's offense;

(4) the inmate's previous social history and criminal record;

(5) the inmate's physical and mental health record;

(6) a record of the inmate's conduct, employment history, and attitude in the institutional division; and

(7) any written comments or information provided by local trial officials or victims of the offense.

(b) The department shall:

(1) establish for the inmate an individual treatment plan; and

(2) submit the plan to the board at the time of the board's consideration of the inmate's case for release.

(b-1) The department shall include in an inmate's individual treatment plan:

(1) a record of the inmate's institutional progress that includes the inmate's participation in any program, including an intensive volunteer program as defined by the department;

(2) the results of any assessment of the inmate, including any assessment made using the risk and needs assessment instrument adopted under Section 501.0921 and any vocational, educational, or substance abuse assessment;

(3) the dates on which the inmate must participate in any subsequent assessment; and

(4) all of the treatment and programming needs of the inmate, prioritized based on the inmate's assessed needs.

(b-2) At least once in every 12-month period, the department shall review each inmate's individual treatment plan to assess the inmate's institutional progress and revise or update the plan as necessary. The department shall make reasonable efforts to provide an inmate the opportunity to complete any classes or programs included in the inmate's individual treatment plan, other than classes or programs that are to be completed immediately before the inmate's release on parole, in a timely manner so that the inmate's release on parole is not delayed due to any uncompleted classes or programs.

(c) The board shall conduct an initial review of an eligible inmate not later than the 180th day after the date of the inmate's admission to the institutional division. The board shall identify any classes or programs that the board intends to require the inmate to complete before releasing the inmate on parole. The department shall provide the inmate with a list of those classes or programs.

(d) Before the inmate is approved for release on parole, the inmate must agree to participate in the programs and activities described by the individual treatment plan.

(e) The institutional division shall:

(1) work closely with the board to monitor the progress of the inmate in the institutional division; and

(2) report the progress to the board before the inmate's release.

(f) An attorney representing the state in the prosecution of an inmate serving a sentence for an offense described by Section 508.187(a) shall provide written comments to the department on the circumstances related to the commission of the offense and other information determined by the attorney to be relevant to any

subsequent parole decisions regarding the inmate.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 978, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 17, eff. September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 18, eff. September 1, 2013.
Acts 2017, 85th Leg., R.S., Ch. 505 (H.B. 2888), Sec. 1, eff. September 1, 2017.

Sec. 508.153. STATEMENTS OF VICTIM. (a) A parole panel considering for release on parole or mandatory supervision an inmate who is serving a sentence for an offense in which a person was a victim shall allow:

(1) the victim, a guardian of the victim, a close relative of the deceased victim, or a representative of the victim, the victim's guardian, or the victim's close relative to provide a written statement to the panel; and

(2) the victim, guardian of the victim, or close relative of the deceased victim to appear in person before the board members to present a statement of the person's views about:

(A) the offense;

(B) the inmate; and

(C) the effect of the offense on the victim.

(b) If more than one person is entitled to appear in person before the board members or parole commissioners, only the person chosen by all persons entitled to appear as the persons' sole representative may appear.

(c) The panel shall consider the statements and the information provided in a victim impact statement in determining whether to recommend an inmate for release on parole.

(d) This section does not limit the number of persons who may provide written statements for or against the release of the inmate on parole.

(e) In this section:

(1) "Close relative of a deceased victim" means a person

who, regardless of whether the victim's death was related to the offense committed, was:

(A) the spouse of the victim at the time of the victim's death;

(B) a parent of the deceased victim;

(C) an adult brother, sister, or child of the deceased victim; or

(D) the nearest relative of the deceased victim by consanguinity, if the persons described by Paragraphs (A) through (C) are deceased or are incapacitated due to physical or mental illness or infirmity.

(2) "Guardian of a victim" and "victim" have the meanings assigned by Section 508.117.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 856, Sec. 6, eff. Sept. 1, 2001; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.19, eff. Jan. 11, 2004.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 471 (H.B. 517), Sec. 2, eff. September 1, 2023.

Sec. 508.1531. CONTACT WITH VICTIM. A parole panel considering the release of an inmate on parole or to mandatory supervision may consider whether the inmate violated a policy adopted by the department under Section 498.0042(a) or a court order entered under Article 42.24, Code of Criminal Procedure.

Added by Acts 2011, 82nd Leg., R.S., Ch. 491 (H.B. 1028), Sec. 4, eff. September 1, 2011.

Sec. 508.154. CONTRACT ON RELEASE. (a) An inmate to be released on parole shall be furnished a contract stating in clear and intelligible language the conditions and rules of parole.

(b) Acceptance, signing, and execution of the contract by the inmate to be paroled is a precondition to release on parole.

(c) An inmate released to mandatory supervision shall be furnished a written statement stating in clear and intelligible language the conditions and rules of mandatory supervision.

(d) A releasee while on parole or mandatory supervision must be amenable to the conditions of supervision ordered by a parole panel.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.155. COMPLETION OF PAROLE PERIOD. (a) To complete a parole period, a releasee must serve the entire period of parole.

(b) The time on parole is computed as calendar time.

(c) The division may allow a releasee to serve the remainder of the releasee's sentence without supervision and without being required to report if a parole supervisor at the regional level has approved the releasee's early release from supervision under Section 508.1555.

(d) The division may require a person released from supervision and reporting under Subsection (c) to resubmit to supervision and resume reporting at any time and for any reason.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 41, eff. June 15, 2007.

Sec. 508.1555. PROCEDURE FOR THE EARLY RELEASE FROM SUPERVISION OF CERTAIN RELEASEES. (a) A parole officer annually shall identify the releasees under the parole officer's supervision who are eligible for early release from supervision under Section 508.155(c). A releasee is eligible for early release if:

(1) the releasee has been under supervision for at least one-half of the time that remained on the releasee's sentence when the releasee was released from imprisonment;

(2) during the preceding two-year period, the releasee has not committed any violation of the rules or conditions of release;

(3) during the period of supervision the releasee's parole or release to mandatory supervision has not been revoked; and

(4) the division determines:

(A) that the releasee has made a good faith effort to comply with any restitution order imposed on the releasee by a court;

and

(B) that allowing the releasee to serve the remainder of the releasee's sentence without supervision and reporting is in the best interest of society.

(b) After identifying any releasees who are eligible for early release under Subsection (a), the parole officer shall review the eligible releasees, including any releasees the parole officer has previously declined to recommend for early release, to determine if a recommendation for early release from supervision is appropriate. In conducting the review and determining recommendations, the parole officer shall consider whether the releasee:

(1) has a low risk of recidivism as determined by an assessment developed by the department; and

(2) has made a good faith effort to comply with the conditions of release.

(c) A parole officer shall forward to the parole supervisor at the regional level any recommendations for early release the parole officer makes under Subsection (b). If the parole supervisor approves the recommendation, the division shall allow a releasee to serve the remainder of the releasee's sentence without supervision and without being required to report as authorized by Section 508.155.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 42, eff. June 15, 2007.

Sec. 508.156. DETERMINATE SENTENCE PAROLE. (a) Before the release of a person who is transferred under Section 152.0016(g), 152.00161(e), 245.051(c), or 245.151(e), Human Resources Code, to the department for release on parole, a parole panel shall review the person's records and may interview the person or any other person the panel considers necessary to determine the conditions of parole. The panel may impose any reasonable condition of parole on the person that the panel may impose on an adult inmate under this chapter.

(b) The panel shall furnish the person with a written statement clearly describing the conditions and rules of parole. The person must accept and sign the statement as a precondition to release on parole.

(c) While on parole, the person remains in the legal custody of

the state and shall comply with the conditions of parole ordered by a panel under this section.

(d) The period of parole for a person released on parole under this section is the term for which the person was sentenced less calendar time served at the Texas Juvenile Justice Department or in the custody of a juvenile board or local juvenile probation department following a commitment under Section 54.04011(c)(2), Family Code, and in a juvenile detention facility in connection with the conduct for which the person was adjudicated.

(e) If a parole panel revokes the person's parole, the panel may require the person to serve the remaining portion of the person's sentence in the institutional division. The remaining portion of the person's sentence is computed without credit for the time from the date of the person's release to the date of revocation. The panel may not recommit the person to the Texas Juvenile Justice Department or to the custody of a juvenile board or local juvenile probation department.

(f) For purposes of this chapter, a person released from the Texas Juvenile Justice Department or the custody of a juvenile board or local juvenile probation department on parole under this section is considered to have been convicted of the offense for which the person has been adjudicated.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 19, eff. June 8, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 3.014, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 101, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 854 (S.B. 1149), Sec. 7, eff. September 1, 2015.

Sec. 508.157. TEMPORARY HOUSING ON RELEASE. (a) This section applies only to inmates who are eligible for release on parole or to mandatory supervision and to releasees.

(a-1) In this section, "residential correctional facility"

means a facility operated by or under contract with the department to provide housing, supervision, and programmatic support to individuals released on parole or to mandatory supervision. The term includes a halfway house described by Section 508.118 or a community residential facility described by Section 508.119. The term does not include a transitional treatment center, a substance abuse felony punishment facility, or any other facility operated by or under contract with the department the primary purpose of which is to provide substance abuse treatment or aftercare.

(b) If the department does not operate or contract for the operation of a residential correctional facility in the county of legal residence of an inmate or releasee, the department may issue, for an inmate described by Subsection (a) or for a releasee, payment for the cost of temporary post-release housing that:

(1) meets any conditions or requirements imposed by a parole panel;

(2) is located in the county of legal residence of the inmate or releasee; and

(3) except as provided by Subsection (e-1), is in a structure that existed on June 1, 2009, as a multifamily residence or as a motel to which Section 156.001, Tax Code, applies.

(c) The amount of payment issued under Subsection (b) may not exceed an amount that is equal to the cost the department would incur, for the period for which the payment is issued, to:

(1) incarcerate the inmate or releasee in a facility operated by or under contract with the department; or

(2) house the inmate or releasee in a residential correctional facility.

(d) The department shall issue payment under Subsection (b) out of funds appropriated by the legislature to the department for use in administering the parole system with respect to the housing of inmates on their release.

(e) The executive director of the Texas Department of Criminal Justice shall adopt rules as necessary to implement this section.

(e-1) The department may issue payment for post-release housing under Subsection (b) for a structure not described by Subsection (b)(3) if, before issuing payment, the department or the owner of the structure provides, in the same manner as required for a community corrections facility under Section 509.010, notice of the proposed use of the structure under this section and a hearing on the issue of

whether the use is appropriate.

Added by Acts 2009, 81st Leg., R.S., Ch. 944 (H.B. 3226), Sec. 1, eff. June 19, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 286 (H.B. 1770), Sec. 1, eff. June 17, 2011.

SUBCHAPTER E-1. ALTERNATIVE HOUSING IN CERTAIN COUNTIES

Sec. 508.171. APPLICABILITY. This subchapter applies only with respect to alternative housing that is located in a county with a population of 3.3 million or more.

Added by Acts 2021, 87th Leg., R.S., Ch. 462 (H.B. 954), Sec. 2, eff. September 1, 2021.

Sec. 508.172. ALTERNATIVE HOUSING PROGRAM. The department shall require that an applicant to participate as a provider in a program designed to provide alternative housing for two or more unrelated releasees submit with the application, in the manner specified by the department, a permit or other documentation showing that the proposed alternative housing facility is in compliance with all applicable municipal and county regulations.

Added by Acts 2021, 87th Leg., R.S., Ch. 462 (H.B. 954), Sec. 2, eff. September 1, 2021.

Sec. 508.173. INFORMATION REGARDING ALTERNATIVE HOUSING; NOTICE TO POLITICAL SUBDIVISION. (a) The department shall maintain the following information regarding releasees:

(1) a list of facilities providing alternative housing to two or more unrelated releasees, including:

(A) the name, address, and telephone number of the facility;

(B) the county in which the facility is located;

(C) information regarding whether the facility is in compliance with all applicable municipal and county regulations;

(D) the number of releasees residing at the facility;

and

(E) the maximum capacity of the facility; and

(2) a list of releasees being housed at a facility described by Subdivision (1), including:

(A) the releasee's name;

(B) the county in which the releasee is required to reside under Section 508.181;

(C) the county in which the releasee committed the offense for which the releasee is on parole or mandatory supervision;

(D) the alternative housing facility in which the releasee resides; and

(E) the date on which the releasee began residing at the facility.

(b) On request of a county or municipality, the department shall provide monthly the information maintained by the department under Subsection (a). A county or municipality shall notify the department if the county or municipality does not want to continue to receive the information.

(c) The department shall provide the information to a county or municipality under Subsection (b) by secured electronic mail and in a machine-readable format.

(d) On request by a member of the legislature, the department shall provide the information maintained by the department under Subsection (a) to the member.

Added by Acts 2021, 87th Leg., R.S., Ch. 462 (H.B. 954), Sec. 2, eff. September 1, 2021.

SUBCHAPTER F. MANDATORY CONDITIONS OF PAROLE OR MANDATORY SUPERVISION

Sec. 508.181. RESIDENCE DURING RELEASE. (a) Except as provided by Subsections (b) and (c), a parole panel shall require as a condition of parole or mandatory supervision that the releasee reside in the county in which:

(1) the releasee resided at the time of committing the offense for which the releasee was sentenced to the institutional division; or

(2) the releasee committed the offense for which the releasee was sentenced to the institutional division, if the releasee was not a resident of this state at the time of committing the

offense.

(b) A parole panel may require a releasee to reside in a county other than the county required under Subsection (a) to:

(1) protect the life or safety of:

(A) a victim of the releasee's offense;

(B) the releasee;

(C) a witness in the case; or

(D) any other person; or

(2) increase the likelihood of the releasee's successful completion of parole or mandatory supervision, because of:

(A) written expressions of significant public concern in the county in which the releasee would otherwise be required to reside;

(B) the presence of family members or friends in the other county who have expressed a willingness to assist the releasee in successfully completing the conditions of the releasee's parole or mandatory supervision;

(C) the verified existence of a job offer in the other county; or

(D) the availability of a treatment program, educational program, or other social service program in the other county that is not available in the county in which the releasee is otherwise required to reside under Subsection (a).

(c) At any time after a releasee is released on parole or to mandatory supervision, a parole panel may modify the conditions of parole or mandatory supervision to require the releasee to reside in a county other than the county required by the original conditions. In making a decision under this subsection, a parole panel must consider the factors listed under Subsection (b).

(d) If a parole panel initially requires the releasee to reside in a county other than the county required under Subsection (a), the parole panel shall subsequently require the releasee to reside in the county described under Subsection (a) if the requirement that the releasee reside in the other county was based on:

(1) the verified existence of a job offer under Subsection (b)(2)(C) and the releasee is no longer employed or actively seeking employment; or

(2) the availability of a treatment program, educational program, or other social service program under Subsection (b)(2)(D) and the releasee:

(A) no longer regularly participates in the program as required by a condition of parole or mandatory supervision; or

(B) has successfully completed the program but has violated another condition of the releasee's parole or mandatory supervision.

(e) If a parole panel requires the releasee to reside in a county other than the county required under Subsection (a), the panel shall:

(1) state in writing the reason for the panel's decision; and

(2) place the statement in the releasee's permanent record.

(f) This section does not apply to a decision by a parole panel to require a releasee to serve the period of parole or mandatory supervision in another state.

(g) The division shall, on the first working day of each month, notify the sheriff of any county in which the total number of sex offenders under the supervision and control of the division residing in the county exceeds 10 percent of the total number of sex offenders in the state under the supervision and control of the division. The notice must be provided by e-mail or other electronic communication. If the total number of sex offenders under the supervision and control of the division residing in a county exceeds 22 percent of the total number of sex offenders in the state under the supervision and control of the division, a parole panel may require a sex offender to reside in that county only as required by Subsection (a) or for the reason stated in Subsection (b)(2)(B). In this subsection, "sex offender" means a person who is released on parole or to mandatory supervision after serving a sentence for an offense described by Section 508.187(a).

(h) If a parole panel requires a releasee to reside in a county other than the county required under Subsection (a), the division shall include the reason for residency exemption in the required notification to the sheriff of the county in which the defendant is to reside, the chief of police of the municipality in which the halfway house is located, and the attorney who represents the state in the prosecution of felonies in that county.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.23, 10.24, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1123 (H.B. 200), Sec. 6, eff. September 1, 2011.

Sec. 508.182. PAROLE SUPERVISION FEE; ADMINISTRATIVE FEE. (a) A parole panel shall require as a condition of parole or mandatory supervision that a releasee pay to the division for each month during which the releasee is under parole supervision:

(1) a parole supervision fee of $10; and

(2) an administrative fee of $8.

(b) A fee under this section applies to an inmate released in another state who is required as a condition of the inmate's release to report to a parole officer or supervisor in this state for parole supervision.

(c) On the request of the releasee, a parole panel may allow the releasee to defer one or more payments under this section. The releasee remains responsible for payment of the fee and shall pay the amount of the deferred payment not later than the second anniversary of the date the payment becomes due.

(d) The Texas Board of Criminal Justice shall adopt rules relating to the method of payment required of the releasee.

(e) The division shall remit fees collected under this section to the comptroller. The comptroller shall deposit the fees collected under:

(1) Subsection (a)(1) in the general revenue fund; and

(2) Subsection (a)(2) in the compensation to victims of crime fund.

(f) In a parole or mandatory supervision revocation hearing under Section 508.281 at which it is alleged only that the releasee failed to make a payment under this section, it is an affirmative defense to revocation that the releasee is unable to pay the amount as ordered by a parole panel. The releasee must prove the affirmative defense by a preponderance of the evidence.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.183. EDUCATIONAL SKILL LEVEL. (a) A parole panel

shall require as a condition of release on parole or release to mandatory supervision that an inmate demonstrate to the parole panel whether the inmate has an educational skill level that is equal to or greater than the average skill level of students who have completed the sixth grade in a public school in this state.

(b) If the parole panel determines that the inmate has not attained that skill level, the parole panel shall require as a condition of parole or mandatory supervision that the inmate as a releasee attain that level of educational skill, unless the parole panel determines that the inmate lacks the intellectual capacity or the learning ability to ever achieve that level of skill.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.184. CONTROLLED SUBSTANCE TESTING. (a) A parole panel shall require as a condition of parole or mandatory supervision that a releasee submit to testing for controlled substances on evidence that:

(1) a controlled substance is present in the releasee's body;

(2) the releasee has used a controlled substance; or

(3) the use of a controlled substance is related to the offense for which the releasee was convicted.

(b) The Texas Board of Criminal Justice by rule shall adopt procedures for the administration of a test required under this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.185. SUBSTANCE ABUSE TREATMENT. (a) A parole panel shall require as a condition of release on parole or release to mandatory supervision that an inmate who immediately before release is a participant in the program established under Section 501.0931 participate as a releasee in a drug or alcohol abuse continuum of care treatment program.

(b) The Texas Commission on Alcohol and Drug Abuse shall develop the continuum of care treatment program.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.186. SEX OFFENDER REGISTRATION. A parole panel shall require as a condition of parole or mandatory supervision that a releasee required to register as a sex offender under Chapter 62, Code of Criminal Procedure:

(1) register under that chapter; and

(2) submit a blood sample or other specimen to the Department of Public Safety under Subchapter G, Chapter 411, for the purpose of creating a DNA record of the releasee, unless the releasee has already submitted the required specimen under other state law.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.25, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 211, Sec. 16, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1300, Sec. 9, eff. Sept. 1, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 1008 (H.B. 867), Sec. 1.06, eff. September 1, 2005.

Sec. 508.1861. PROHIBITIONS ON INTERNET ACCESS FOR CERTAIN SEX OFFENDERS. (a) This section applies only to a person who, on release, will be required to register as a sex offender under Chapter 62, Code of Criminal Procedure, by court order or otherwise, and:

(1) is serving a sentence for an offense under Section 21.11, 22.011(a)(2), 22.021(a)(1)(B), 33.021, or 43.25, Penal Code;

(2) used the Internet or any other type of electronic device used for Internet access to commit the offense or engage in the conduct for which the person is required to register under Chapter 62, Code of Criminal Procedure; or

(3) is assigned a numeric risk level of two or three based on an assessment conducted under Article 62.007, Code of Criminal Procedure.

(b) If the parole panel releases on parole or to mandatory supervision a person described by Subsection (a), the parole panel as a condition of parole or mandatory supervision shall:

(1) prohibit the releasee from using the Internet to:

(A) access material that is obscene as defined by Section 43.21, Penal Code;

(B) access a commercial social networking site, as defined by Article 62.0061(f), Code of Criminal Procedure;

(C) communicate with any individual concerning sexual relations with an individual who is younger than 17 years of age; or

(D) communicate with another individual the releasee knows is younger than 17 years of age; and

(2) to ensure the releasee's compliance with Subdivision (1), require the releasee to submit to regular inspection or monitoring of each electronic device used by the releasee to access the Internet.

(c) The parole panel may modify at any time the condition described by Subsection (b)(1)(D) if:

(1) the condition interferes with the releasee's ability to attend school or become or remain employed and consequently constitutes an undue hardship for the releasee; or

(2) the releasee is the parent or guardian of an individual who is younger than 17 years of age and the releasee is not otherwise prohibited from communicating with that individual.

Added by Acts 2009, 81st Leg., R.S., Ch. 755 (S.B. 689), Sec. 10, eff. September 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 684 (H.B. 372), Sec. 2, eff. September 1, 2015.

Sec. 508.1862. SEX OFFENDER TREATMENT. A parole panel shall require as a condition of release on parole or to mandatory supervision that a releasee participate in a sex offender treatment program developed by the department if:

(1) the releasee:

(A) was serving a sentence for an offense under Chapter 21, Penal Code; or

(B) is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and

(2) immediately before release, the releasee is participating in a sex offender treatment program established under Section 499.054.

Added by Acts 2015, 84th Leg., R.S., Ch. 1114 (H.B. 3387), Sec. 1, eff. September 1, 2015.

Sec. 508.1864. NOTIFICATION TO DEPARTMENT OF PUBLIC SAFETY AND LICENSING AUTHORITY. (a) In this section, "health care professional," "license," and "licensing authority" have the meanings assigned by Section 108.051, Occupations Code.

(b) A parole panel that knows an inmate holds or has submitted an application for a license as a health care professional shall immediately notify the Department of Public Safety and the applicable licensing authority if the parole panel requires the inmate as a condition of release on parole or to mandatory supervision to register as a sex offender under Chapter 62, Code of Criminal Procedure.

Added by Acts 2019, 86th Leg., R.S., Ch. 789 (H.B. 1899), Sec. 4, eff. September 1, 2019.

Sec. 508.187. CHILD SAFETY ZONE. (a) This section applies only to a releasee serving a sentence for an offense under:

(1) Section 43.25 or 43.26, Penal Code;

(2) Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code;

(3) Section 20.04(a)(4), Penal Code, if the releasee committed the offense with the intent to violate or abuse the victim sexually;

(4) Section 30.02, Penal Code, punishable under Subsection (d) of that section, if the releasee committed the offense with the intent to commit a felony listed in Subdivision (2) or (3);

(5) Section 43.05(a)(2), Penal Code; or

(6) Section 20A.02, Penal Code, if the defendant:

(A) trafficked the victim with the intent or knowledge that the victim would engage in sexual conduct, as defined by Section 43.25, Penal Code; or

(B) benefited from participating in a venture that involved a trafficked victim engaging in sexual conduct, as defined by Section 43.25, Penal Code.

(b) A parole panel shall establish a child safety zone

applicable to a releasee if the panel determines that a child as defined by Section 22.011(c), Penal Code, was the victim of the offense, by requiring as a condition of parole or mandatory supervision that the releasee:

(1) not:

(A) supervise or participate in any program that includes as participants or recipients persons who are 17 years of age or younger and that regularly provides athletic, civic, or cultural activities; or

(B) go in, on, or within a distance specified by the panel of premises where children commonly gather, including a school, day-care facility, playground, public or private youth center, public swimming pool, or video arcade facility; and

(2) attend for a period of time determined necessary by the panel psychological counseling sessions for sex offenders with an individual or organization that provides sex offender treatment or counseling as specified by the parole officer supervising the releasee after release.

(b-1) Notwithstanding Subsection (b)(1)(B), a requirement that a releasee not go in, on, or within a distance specified by a parole panel of certain premises does not apply to a releasee while the releasee is in or going immediately to or from:

(1) a parole office;

(2) premises at which the releasee is participating in a program or activity required as a condition of release;

(3) a residential facility in which the releasee is required to reside as a condition of release;

(4) a private residence in which the releasee is required to reside as a condition of release; or

(5) any other premises, facility, or location that is:

(A) designed to rehabilitate or reform the releasee; or

(B) authorized by the division as a premises, facility, or location where it is reasonable and necessary for the releasee to be present and at which the releasee has legitimate business, including a church, synagogue, or other established place of religious worship, a workplace, a health care facility, or a location of a funeral.

(c) A parole officer who under Subsection (b)(2) specifies a sex offender treatment provider to provide counseling to a releasee shall:

(1) contact the provider before the releasee is released;

(2) establish the date, time, and place of the first session between the releasee and the provider; and

(3) request the provider to immediately notify the officer if the releasee fails to attend the first session or any subsequent scheduled session.

(d) At any time after the imposition of a condition under Subsection (b)(1), the releasee may request the parole panel to modify the child safety zone applicable to the releasee because the zone as created by the panel:

(1) interferes with the releasee's ability to attend school or hold a job and consequently constitutes an undue hardship for the releasee; or

(2) is broader than necessary to protect the public, given the nature and circumstances of the offense.

(e) A parole officer supervising a releasee may permit the releasee to enter on an event-by-event basis into the child safety zone that the releasee is otherwise prohibited from entering if:

(1) the releasee has served at least two years of the period of supervision imposed on release;

(2) the releasee enters the zone as part of a program to reunite with the releasee's family;

(3) the releasee presents to the parole officer a written proposal specifying:

(A) where the releasee intends to go within the zone;

(B) why and with whom the releasee is going; and

(C) how the releasee intends to cope with any stressful situations that occur;

(4) the sex offender treatment provider treating the releasee agrees with the officer that the releasee should be allowed to attend the event; and

(5) the officer and the treatment provider agree on a chaperon to accompany the releasee, and the chaperon agrees to perform that duty.

(f) In this section, "playground," "premises," "school," "video arcade facility," and "youth center" have the meanings assigned by Section 481.134, Health and Safety Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 978, Sec. 2, eff. Sept.

1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.41, eff. September 1, 2007.
Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. 2014), Sec. 3.03, eff. September 1, 2011.
Acts 2017, 85th Leg., R.S., Ch. 997 (H.B. 1111), Sec. 1, eff. September 1, 2017.

Sec. 508.188. COMMUNITY SERVICE FOR CERTAIN RELEASEES. A parole panel shall require as a condition of parole or mandatory supervision that a releasee for whom the court has made an affirmative finding under Article 42.014, Code of Criminal Procedure, perform not less than 300 hours of community service at a project designated by the parole panel that primarily serves the person or group that was the target of the releasee.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1422, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.189. PAROLE FEE FOR CERTAIN RELEASEES. (a) A parole panel shall require as a condition of parole or mandatory supervision that a releasee convicted of an offense under Section 21.02, 21.08, 21.11, 22.011, 22.021, 25.02, 43.25, or 43.26, Penal Code, pay to the division a parole supervision fee of $5 each month during the period of parole supervision.

(b) The division shall send fees collected under this section to the comptroller. The comptroller shall deposit the fees in the general revenue fund to the credit of the sexual assault program fund established under Section 44.0061, Health and Safety Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.42, eff.

September 1, 2007.

Sec. 508.190. AVOIDING VICTIM OF STALKING OFFENSE. (a) A parole panel shall require as a condition of parole or mandatory supervision that a releasee serving a sentence for an offense under Section 42.072, Penal Code, not:

(1) communicate directly or indirectly with the victim;

(2) go to or near the residence, place of employment, or business of the victim; or

(3) go to or near a school, day-care facility, or similar facility where a dependent child of the victim is in attendance.

(b) If a parole panel requires the prohibition contained in Subsection (a)(2) or (3) as a condition of parole or mandatory supervision, the parole panel shall specifically describe the prohibited locations and the minimum distances, if any, that the releasee must maintain from the locations.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 10.26, eff. Sept. 1, 1999.

Sec. 508.191. NO CONTACT WITH VICTIM. (a) If a parole panel releases a defendant on parole or to mandatory supervision, the panel shall require as a condition of parole or mandatory supervision that the defendant not intentionally or knowingly communicate directly or indirectly with a victim of the offense or intentionally or knowingly go near a residence, school, place of employment, or business of a victim. At any time after the defendant is released on parole or to mandatory supervision, a victim of the offense may petition the panel for a modification of the conditions of the defendant's parole or mandatory supervision allowing the defendant contact with the victim subject to reasonable restrictions.

(b) Notwithstanding Subsection (a), a defendant may participate in victim-offender mediation authorized by Section 508.324 on the request of the victim or a guardian of the victim or a close relative of a deceased victim.

(c) In this section, "victim" has the meaning assigned by Article 56A.001, Code of Criminal Procedure.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 10.27, eff. Sept. 1,

1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.48, eff. January 1, 2021.

Sec. 508.192. REENTRY INTO THE UNITED STATES PROHIBITED. (a) In this section, "illegal criminal alien" has the meaning assigned by Section 493.015.

(b) A parole panel shall require as a condition of parole or mandatory supervision that an illegal criminal alien released to the custody of United States Immigration and Customs Enforcement:

(1) regardless of whether a final order of deportation is issued with reference to the illegal criminal alien, leave the United States as soon as possible after release; and

(2) not unlawfully return to or unlawfully reenter the United States in violation of the Immigration Reform and Control Act of 1986 (8 U.S.C. Section 1101 et seq.).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1025 (H.B. 2734), Sec. 1, eff. September 1, 2011.

SUBCHAPTER G. DISCRETIONARY CONDITIONS OF PAROLE OR MANDATORY SUPERVISION

Sec. 508.221. CONDITIONS PERMITTED GENERALLY. A parole panel may impose as a condition of parole or mandatory supervision any condition that a court may impose on a defendant placed on community supervision under Chapter 42A, Code of Criminal Procedure, including the condition that a releasee submit to testing for controlled substances or submit to electronic monitoring if the parole panel determines that without testing for controlled substances or participation in an electronic monitoring program the inmate would not be released on parole.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.55, eff. January 1, 2017.

Sec. 508.222. PAYMENT OF CERTAIN DAMAGES. A parole panel may require as a condition of parole or mandatory supervision that a releasee make payments in satisfaction of damages for which the releasee is liable under Section 500.002.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.223. PSYCHOLOGICAL COUNSELING. A parole panel may require as a condition of parole or mandatory supervision that a releasee serving a sentence for an offense under Section 42.072, Penal Code, attend psychological counseling sessions of a type and for a duration as specified by the parole panel, if the parole panel determines in consultation with a local mental health services provider that appropriate mental health services are available through the Department of State Health Services in accordance with Section 534.053, Health and Safety Code, or through another mental health services provider.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.28, eff. Sept. 1, 1999.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.17, eff. September 1, 2023.

Sec. 508.224. SUBSTANCE ABUSE COUNSELING. A parole panel may require as a condition of parole or mandatory supervision that the releasee attend counseling sessions for substance abusers or participate in substance abuse treatment services in a program or facility approved or licensed by the Texas Commission on Alcohol and Drug Abuse if:

(1) the releasee was sentenced for an offense involving a controlled substance; or

(2) the panel determines that the releasee's substance abuse was related to the commission of the offense.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.225. CHILD SAFETY ZONE. (a) If the nature of the offense for which an inmate is serving a sentence warrants the establishment of a child safety zone, a parole panel may establish a child safety zone applicable to an inmate serving a sentence for an offense listed in Article 42A.054(a), Code of Criminal Procedure, or for which the judgment contains an affirmative finding under Article 42A.054(c) or (d), Code of Criminal Procedure, by requiring as a condition of parole or release to mandatory supervision that the inmate not:

(1) supervise or participate in any program that includes as participants or recipients persons who are 17 years of age or younger and that regularly provides athletic, civic, or cultural activities; or

(2) go in or on, or within a distance specified by the panel of, a premises where children commonly gather, including a school, day-care facility, playground, public or private youth center, public swimming pool, or video arcade facility.

(a-1) Notwithstanding Subsection (a)(2), a requirement that an inmate not go in, on, or within a distance specified by a parole panel of certain premises does not apply to an inmate while the inmate is in or going immediately to or from:

(1) a parole office;

(2) premises at which the inmate is participating in a program or activity required as a condition of release;

(3) a residential facility in which the inmate is required to reside as a condition of release;

(4) a private residence in which the inmate is required to reside as a condition of release; or

(5) any other premises, facility, or location that is:

(A) designed to rehabilitate or reform the inmate; or

(B) authorized by the division as a premises, facility, or location where it is reasonable and necessary for the inmate to be present and at which the inmate has legitimate business, including a church, synagogue, or other established place of religious worship, a workplace, a health care facility, or a location of a funeral.

(b) At any time after the imposition of a condition under Subsection (a), the inmate may request the parole panel to modify the child safety zone applicable to the inmate because the zone as

created by the panel:

(1) interferes with the ability of the inmate to attend school or hold a job and consequently constitutes an undue hardship for the inmate; or

(2) is broader than is necessary to protect the public, given the nature and circumstances of the offense.

(c) This section does not apply to an inmate described by Section 508.187.

(d) In this section, "playground," "premises," "school," "video arcade facility," and "youth center" have the meanings assigned by Section 481.134, Health and Safety Code.

Added by Acts 1999, 76th Leg., ch. 56, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.56, eff. January 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 997 (H.B. 1111), Sec. 2, eff. September 1, 2017.

Sec. 508.226. ORCHIECTOMY AS CONDITION PROHIBITED. A parole panel may not require an inmate to undergo an orchiectomy as a condition of release on parole or to mandatory supervision.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 10.29, eff. Sept. 1, 1999. Renumbered from Sec. 508.225 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(45), eff. Sept. 1, 2001.

Sec. 508.227. ELECTRONIC MONITORING OF CERTAIN MEMBERS OF CRIMINAL STREET GANG. (a) This section applies only to a releasee who:

(1) is identified as a member of a criminal street gang in an intelligence database established under Chapter 67, Code of Criminal Procedure; and

(2) has three or more times been convicted of, or received a grant of deferred adjudication community supervision or another functionally equivalent form of community supervision or probation for, a felony offense under the laws of this state, another state, or the United States.

(b) A parole panel may require as a condition of release on

parole or to mandatory supervision that a releasee described by Subsection (a) submit to tracking under an electronic monitoring service or other appropriate technological service designed to track a person's location.

Added by Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. 2086), Sec. 20, eff. September 1, 2009.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 4.12, eff. January 1, 2019.

Sec. 508.228. SEX OFFENDER TREATMENT. A parole panel may require as a condition of release on parole or to mandatory supervision that a releasee participate in a sex offender treatment program as specified by the parole panel if:

(1) the releasee:

(A) was serving a sentence for an offense under Chapter 21, Penal Code; or

(B) is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or

(2) a designated agent of the board after conducting a hearing that allows the releasee to contest the evidence, on evidence that a sex offense occurred during the commission of the offense for which the releasee was serving a sentence, makes an affirmative finding that, regardless of the offense for which the releasee was serving a sentence, the releasee constitutes a threat to society because of the releasee's lack of sexual control.

Added by Acts 2015, 84th Leg., R.S., Ch. 1114 (H.B. 3387), Sec. 2, eff. September 1, 2015.

SUBCHAPTER H. WARRANTS

Sec. 508.251. ISSUANCE OF WARRANT OR SUMMONS. (a) In a case of parole or mandatory supervision, the director or a designated agent of the director or, in another case, the board on order by the governor, may issue a warrant as provided by Section 508.252 for the return of:

(1) a releasee;

(2) an inmate released although not eligible for release;

(3) a resident released to a preparole or work program;

(4) an inmate released on emergency reprieve or on emergency absence under escort; or

(5) a person released on a conditional pardon.

(b) A warrant issued under Subsection (a) must require the return of the person to the institution from which the person was paroled or released.

(c) Instead of the issuance of a warrant under this section, the division:

(1) may issue to the person a summons requiring the person to appear for a hearing under Section 508.281 if the person:

(A) is not a releasee who is:

(i) on intensive supervision or superintensive supervision;

(ii) an absconder; or

(iii) determined by the division to be a threat to public safety; or

(B) is charged only with committing a new offense that is alleged to have been committed after the first anniversary of the date the person was released on parole or to mandatory supervision if:

(i) the new offense is a Class C misdemeanor under the Penal Code, other than an offense committed against a child younger than 17 years of age or an offense involving family violence, as defined by Section 71.004, Family Code;

(ii) the person has maintained steady employment for at least one year;

(iii) the person has maintained a stable residence for at least one year; and

(iv) the person has not previously been charged with an offense after the person was released on parole or to mandatory supervision; and

(2) shall issue to the person a summons requiring the person to appear for a hearing under Section 508.281 if the person:

(A) is charged only with committing an administrative violation of release that is alleged to have been committed after the first anniversary of the date the person was released on parole or to mandatory supervision;

(B) is not serving a sentence for, and has not been previously convicted of, an offense listed in or described by Article

62.001(5), Code of Criminal Procedure; and

(C) is not a releasee with respect to whom a summons may not be issued under Subdivision (1).

(c-1) A summons issued under Subsection (c) must state the time, date, place, and purpose of the hearing.

(d) A designated agent of the director acts independently from a parole officer and must receive specialized training as determined by the director.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 264, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 546 (H.B. 2735), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 693 (H.B. 710), Sec. 1, eff. September 1, 2015.

Sec. 508.252. GROUNDS FOR ISSUANCE OF WARRANT OR SUMMONS. A warrant or summons may be issued under Section 508.251 if:

(1) there is reason to believe that the person has been released although not eligible for release;

(2) the person has been arrested for an offense;

(3) there is a document that is self-authenticating as provided by Rule 902, Texas Rules of Evidence, stating that the person violated a rule or condition of release; or

(4) there is reliable evidence that the person has exhibited behavior during the person's release that indicates to a reasonable person that the person poses a danger to society that warrants the person's immediate return to custody.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.30, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 264, Sec. 2, eff. Sept. 1, 2003.

Sec. 508.253. EFFECT ON SENTENCE AFTER ISSUANCE OF WARRANT. If it appears a releasee has violated a condition or provision of the releasee's parole or mandatory supervision, the date of the issuance

of the warrant to the date of the releasee's arrest is not counted as a part of the time served under the releasee's sentence.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.254. DETENTION UNDER WARRANT. (a) A person who is the subject of a warrant may be held in custody pending a determination of all facts surrounding the alleged offense, violation of a rule or condition of release, or dangerous behavior.

(b) A warrant authorizes any officer named by the warrant to take custody of the person and detain the person until a parole panel orders the return of the person to the institution from which the person was released.

(c) Except as provided by Subsection (d), pending a hearing on a charge of parole violation, ineligible release, or violation of a condition of mandatory supervision, a person returned to custody shall remain confined.

(d) A magistrate of the county in which the person is held in custody may release the person on bond pending the hearing if:

(1) the person is arrested or held in custody only on a charge that the person committed an administrative violation of release;

(2) the division, in accordance with Subsection (e), included notice on the warrant for the person's arrest that the person is eligible for release on bond; and

(3) the magistrate determines that the person is not a threat to public safety.

(e) The division shall include a notice on the warrant for the person's arrest indicating that the person is eligible for release on bond under Subsection (d) if the division determines that the person:

(1) has not been previously convicted of:

(A) an offense under Chapter 29, Penal Code;

(B) an offense under Title 5, Penal Code, punishable as a felony; or

(C) an offense involving family violence, as defined by Section 71.004, Family Code;

(2) is not on intensive supervision or super-intensive supervision;

(3) is not an absconder; and

(4) is not a threat to public safety.

(f) The provisions of Chapters 17 and 22, Code of Criminal Procedure, apply to a person released under Subsection (d) in the same manner as those provisions apply to a person released pending an appearance before a court or magistrate, except that the release under that subsection is conditioned on the person's appearance at a hearing under this subchapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 472 (S.B. 790), Sec. 1, eff. September 1, 2015.

Sec. 508.255. STATUS AS FUGITIVE FROM JUSTICE. (a) After the issuance of a warrant, a person for whose return a warrant was issued is a fugitive from justice.

(b) The law relating to the right of the state to extradite a person and return a fugitive from justice and Article 42.11, Code of Criminal Procedure, relating to the waiver of all legal requirements to obtain extradition of a fugitive from justice from another state to this state, are not impaired by this chapter and remain in full force and effect.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.256. WITHDRAWAL OF WARRANT. At any time before setting a revocation hearing date under Section 508.282, the division may withdraw a warrant and continue supervision of a releasee.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

SUBCHAPTER I. HEARINGS AND SANCTIONS

Sec. 508.281. HEARING. (a) A releasee, a person released although ineligible for release, or a person granted a conditional

pardon is entitled to a hearing before a parole panel or a designated agent of the board under the rules adopted by the board and within a period that permits a parole panel, a designee of the board, or the department to dispose of the charges within the periods established by Sections 508.282(a) and (b) if the releasee or person:

(1) is accused of a violation of the releasee's parole or mandatory supervision or the person's conditional pardon, on information and complaint by a peace officer or parole officer; or

(2) is arrested after an ineligible release.

(b) If a parole panel or designated agent of the board determines that a releasee or person granted a conditional pardon has been convicted of a felony offense committed while an administrative releasee and has been sentenced to a term of confinement in a penal institution, the determination is considered to be a sufficient hearing to revoke the parole or mandatory supervision or recommend to the governor revocation of a conditional pardon without further hearing, except that the parole panel or designated agent shall conduct a hearing to consider mitigating circumstances if requested by the releasee or person granted a conditional pardon.

Text of subsection as amended by Acts 2015, 84th Leg., R.S., Ch. 472 (S.B. 790), Sec. 2

(c) If a designated agent of the board determines that a releasee who appears in compliance with a summons has violated a condition of release, the agent shall notify the board. After the board or a parole panel makes a final determination regarding the violation, the division may issue a warrant requiring the releasee to be held in a county jail pending the return of the releasee to the institution from which the releasee was released.

Text of subsection as amended by Acts 2015, 84th Leg., R.S., Ch. 693 (H.B. 710), Sec. 2

(c) If a hearing before a designated agent of the board is held under this section for a releasee who appears in compliance with a summons, the sheriff of the county in which the releasee is required to appear shall provide the designated agent with a place at the county jail to hold the hearing. After the board or a parole panel makes a final determination that a releasee has violated a condition of release, a warrant may be issued requiring the releasee to be held in the county jail pending:

(1) transfer to an intermediate sanction facility; or

(2) the return of the releasee to the institution from which the releasee was released.

(d) If a parole panel or designated agent of the board determines that a releasee has violated a condition of release required under Section 508.192 and confirms the violation with a peace officer or other law enforcement officer of this state who is authorized under federal law to verify a person's immigration status or, in accordance with 8 U.S.C. Section 1373(c), with a federal law enforcement officer, the determination is considered to be a sufficient hearing to revoke the parole or mandatory supervision without further hearing or determination, except that the parole panel or designated agent shall conduct a hearing to consider mitigating circumstances, if requested by the releasee.

(e) A parole panel or designated agent of the board may not revoke the parole or mandatory supervision of a releasee if the parole panel or designated agent finds that the only evidence supporting the alleged violation of a condition of release is the uncorroborated results of a polygraph examination.

(f) Any hearing required to be conducted by a parole panel under this chapter may be conducted by a designated agent of the board. The designated agent may make recommendations to a parole panel that has responsibility for making a final determination.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.31, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 264, Sec. 3, eff. Sept. 1, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.20, eff. Jan. 11, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1025 (H.B. 2734), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 19, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1160 (S.B. 358), Sec. 3, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 472 (S.B. 790), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 693 (H.B. 710), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec.

21.001(25), eff. September 1, 2015.

Sec. 508.2811. PRELIMINARY HEARING. A parole panel or a designee of the board shall provide within a reasonable time to an inmate or person described by Section 508.281(a) a preliminary hearing to determine whether probable cause or reasonable grounds exist to believe that the inmate or person has committed an act that would constitute a violation of a condition of release, unless the inmate or person:

(1) waives the preliminary hearing; or

(2) after release:

(A) has been charged only with an administrative violation of a condition of release; or

(B) has been adjudicated guilty of or has pleaded guilty or nolo contendere to an offense committed after release, other than an offense punishable by fine only involving the operation of a motor vehicle, regardless of whether the court has deferred disposition of the case, imposed a sentence in the case, or placed the inmate or person on community supervision.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 10.32, eff. Sept. 1, 1999.

Sec. 508.282. DEADLINES. (a) Except as provided by Subsection (b), a parole panel, a designee of the board, or the department shall dispose of the charges against an inmate or person described by Section 508.281(a):

(1) before the 41st day after the date on which a warrant issued as provided by Section 508.251 is executed, if the inmate or person is arrested only on a charge that the inmate or person has committed an administrative violation of a condition of release; or

(2) before the 91st day after the date on which a warrant issued as provided by Section 508.251 is executed, if:

(A) the inmate or person allegedly committed an offense after release; and

(B) an indictment, information, or complaint for the offense has not been filed in court.

(b) A parole panel, a designee of the board, or the department

is not required to dispose of the charges against an inmate or person within the period required by Subsection (a) if:

(1) the inmate or person is in custody in another state or a federal correctional institution;

(2) the parole panel or a designee of the board is not provided a place by the sheriff to hold the hearing, in which event the department, parole panel, or designee is not required to dispose of the charges against the inmate or person until the 30th day after the date on which the sheriff provides a place to hold the hearing; or

(3) the inmate or person is granted a continuance by a parole panel or a designee of the board in the inmate's or person's hearing under Section 508.281(a), but in no event may a parole panel, a designee of the board, or the department dispose of the charges against the person later than the 15th day after the date on which the parole panel, designee, or department would otherwise be required to dispose of the charges under this section, unless the inmate or person is released from custody and a summons is issued under Section 508.251 requiring the inmate or person to appear for a hearing under Section 508.281.

(c) In Subsections (a), (b), and (f), charges against an inmate or person are disposed of when:

(1) the inmate's or person's conditional pardon, parole, or release to mandatory supervision is:

(A) revoked; or

(B) continued or modified and the inmate or person is released from the county jail;

(2) the warrant for the inmate or person issued under Section 508.251 is withdrawn; or

(3) the inmate or person is transferred to a facility described by Section 508.284 for further proceedings.

(d) A sheriff, not later than the 10th day before the date on which the sheriff intends to release from custody an inmate or person described by Section 508.281(a) or transfer the inmate or person to the custody of an entity other than the department, shall notify the department of the intended release or transfer.

(e) If a warrant for an inmate or person issued under Section 508.251 is withdrawn, a summons may be issued requiring the inmate or person to appear for a hearing under Section 508.281.

(f) A parole panel, a designee of the board, or the department

shall dispose of the charges against a releasee for whom a warrant is issued under Section 508.281(c) not later than the 31st day after the date on which the warrant is issued.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.33, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 264, Sec. 4, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1194, Sec. 1, eff. Sept. 1, 2003.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1055 (S.B. 374), Sec. 1, eff. September 1, 2023.

Sec. 508.283. SANCTIONS. (a) After a parole panel or designated agent of the board has held a hearing under Section 508.281, in any manner warranted by the evidence:

(1) the board may recommend to the governor to continue, revoke, or modify the conditional pardon; and

(2) a parole panel may continue, revoke, or modify the parole or mandatory supervision.

(b) If the parole, mandatory supervision, or conditional pardon of a person described by Section 508.149(a) is revoked, the person may be required to serve the remaining portion of the sentence on which the person was released. The remaining portion is computed without credit for the time from the date of the person's release to the date of revocation.

(c) If the parole, mandatory supervision, or conditional pardon of a person other than a person described by Section 508.149(a) is revoked, the person may be required to serve the remaining portion of the sentence on which the person was released. For a person who on the date of issuance of a warrant or summons initiating the revocation process is subject to a sentence the remaining portion of which is greater than the amount of time from the date of the person's release to the date of issuance of the warrant or summons, the remaining portion is to be served without credit for the time from the date of the person's release to the date of revocation. For a person who on the date of issuance of the warrant or summons is subject to a sentence the remaining portion of which is less than the amount of time from the date of the person's release to the date of issuance of the warrant or summons, the remaining portion is to be

served without credit for an amount of time equal to the remaining portion of the sentence on the date of issuance of the warrant or citation.

(d) If a warrant is issued charging a violation of a release condition or a summons is issued for a hearing under Section 508.281, the sentence time credit may be suspended until a determination is made in the case. The suspended time credit may be reinstated if the parole, mandatory supervision, or conditional pardon is continued.

(e) If a person's parole or mandatory supervision is modified after it is established that the person violated conditions of release, the board may require the releasee to remain under custodial supervision in a county jail for a period of not less than 60 days or more than 180 days. A sheriff is required to accept an inmate sanctioned under this subsection only if the commissioners court of the county in which the sheriff serves and the Texas Department of Criminal Justice have entered into a contract providing for the housing of persons sanctioned under this subsection.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.34, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 856, Sec. 7, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1197, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1275, Sec. 2(62), eff. Sept. 1, 2003.

Sec. 508.284. TRANSFER PENDING REVOCATION HEARING. The department, as provided by Section 508.282(c), may authorize a facility that is otherwise required to detain and house an inmate or person to transfer the inmate or person to a correctional facility operated by the department or under contract with the department if:

(1) the department determines that adequate space is available in the facility to which the inmate or person is to be transferred; and

(2) the facility to which the inmate or person is to be transferred is located not more than 150 miles from the facility from which the inmate or person is to be transferred.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 10.35, eff. Sept. 1, 1999.

SUBCHAPTER J. MISCELLANEOUS

Sec. 508.311. DUTY TO PROVIDE INFORMATION. On request of a member of the board or employee of the board or department, a public official of the state, including a judge, district attorney, county attorney, or police officer, who has information relating to an inmate eligible for parole shall send to the department in writing the information in the official's possession or under the official's control.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.312. INFORMATION ON RECIDIVISM OF RELEASEES. The Texas Board of Criminal Justice shall collect information on recidivism of releasees under the supervision of the division and shall use the information to evaluate operations.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1120 and S.B. 1080, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.313. CONFIDENTIAL INFORMATION. (a) All information obtained and maintained, including a victim protest letter or other correspondence, a victim impact statement, a list of inmates eligible for release on parole, and an arrest record of an inmate, is confidential and privileged if the information relates to:

(1) an inmate of the institutional division subject to release on parole, release to mandatory supervision, or executive clemency;

(2) a releasee; or

(3) a person directly identified in any proposed plan of release for an inmate.

(b) Statistical and general information relating to the parole and mandatory supervision system, including the names of releasees and data recorded relating to parole and mandatory supervision

services, is not confidential or privileged and must be made available for public inspection at any reasonable time.

(c) The department, on request or in the normal course of official business, shall provide information that is confidential and privileged under Subsection (a) to:

(1) the governor;

(2) a member of the board or a parole commissioner;

(3) the Criminal Justice Policy Council in performing duties of the council under Section 413.017; or

(4) an eligible entity requesting information for a law enforcement, prosecutorial, correctional, clemency, or treatment purpose.

(d) In this section, "eligible entity" means:

(1) a government agency, including the office of a prosecuting attorney;

(2) an organization with which the department contracts or an organization to which the department provides a grant; or

(3) an organization to which inmates are referred for services by the department.

(e) This section does not apply to information relating to a sex offender that is authorized for release under Chapter 62, Code of Criminal Procedure.

(f) This section does not apply to information that is subject to required public disclosure under Section 552.029.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.36, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 783, Sec. 3, eff. Aug. 30, 1999; Acts 2001, 77th Leg., ch. 856, Sec. 8, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 6, Sec. 3, eff. April 10, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.21, eff. Jan. 11, 2004.

Sec. 508.314. ACCESS TO INMATES. The department shall:

(1) grant to a member or employee of the board access at all reasonable times to any inmate;

(2) provide for the member or employee or a representative of the member or employee facilities for communicating with or observing an inmate; and

(3) furnish to the member or employee:

(A) any report the member or employee requires relating to the conduct or character of an inmate; or

(B) other facts a parole panel considers pertinent in determining whether an inmate will be released on parole.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.315. ELECTRONIC MONITORING PROGRAMS. (a) To establish and maintain an electronic monitoring program under this chapter, the department may:

(1) fund an electronic monitoring program in a parole office;

(2) develop standards for the operation of an electronic monitoring program in a parole office; and

(3) fund the purchase, lease, or maintenance of electronic monitoring equipment.

(b) In determining whether electronic monitoring equipment should be leased or purchased, the department shall consider the rate at which technological change makes electronic monitoring equipment obsolete.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.316. SPECIAL PROGRAMS. (a) The department may contract for services for releasees if funds are appropriated to the department for the services, including services for releasees who have a history of:

(1) mental impairment or intellectual disability;

(2) substance abuse; or

(3) sexual offenses.

(b) The department shall seek funding for a contract under this section as a priority item.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.18, eff.

September 1, 2023.

Sec. 508.317. INTENSIVE SUPERVISION PROGRAM; SUPER-INTENSIVE SUPERVISION PROGRAM. (a) The department shall establish a program to provide intensive supervision to inmates released under Subchapter B, Chapter 499, and other inmates determined by a parole panel or the department to require intensive supervision.

(b) The Texas Board of Criminal Justice shall adopt rules that establish standards for determining which inmates require intensive supervision.

(c) The program must provide the level of supervision the department provides that is higher than any level of supervision other than the level of supervision described by Subsection (d).

(d) The department shall establish a program to provide super-intensive supervision to inmates released on parole or mandatory supervision and determined by parole panels to require super-intensive supervision. The program must provide the highest level of supervision provided by the department.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 10.37, eff. Sept. 1, 1999.

Sec. 508.318. CONTINUING EDUCATION PROGRAM. (a) The Texas Board of Criminal Justice and the Texas Education Agency shall adopt a memorandum of understanding that establishes the respective responsibilities of the board and the agency in implementing a continuing education program to increase the literacy of releasees.

(b) The Texas Board of Criminal Justice and the agency shall coordinate the development of the memorandum of understanding and each by rule shall adopt the memorandum.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.319. PROGRAM TO ASSESS AND ENHANCE EDUCATIONAL AND VOCATIONAL SKILLS. (a) The department, with the assistance of public school districts, community and public junior colleges, public

and private institutions of higher education, and other appropriate public and private entities, may establish a developmental program based on information obtained under Section 508.183 for an inmate to be released to the supervision of the division.

(b) The developmental program may provide the inmate with the educational and vocational training necessary to:

(1) meet the average skill level required under Section 508.183; and

(2) acquire employment while in the custody of the division to lessen the likelihood that the inmate will return to the institutional division.

(c) To decrease state expense for a program established under this section, the Texas Workforce Commission shall provide to the department and the other entities described by Subsection (a) information relating to obtaining financial assistance under applicable programs of public or private entities.

(d) The department may establish a developmental program similar to the program described by Subsection (a) for inmates released from the institutional division who will not be supervised by the department.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.320. CONTRACTS FOR LEASE OF FEDERAL FACILITIES. (a) The department may contract with the federal government for the lease of a military base or other federal facility that is not being used by the federal government.

(b) The department may use a facility leased under this section to house releasees in the custody of the division.

(c) The department may not enter into a contract under this section unless funds have been appropriated specifically to make payments on a contract under this section.

(d) The department shall attempt to enter into contracts that will provide the department with facilities located in various parts of the state.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

Sec. 508.321. REPORTING, MANAGEMENT, AND COLLECTION SERVICES. The department, with the approval of the Texas Board of Criminal Justice, may contract with a public or private vendor to provide telephone reporting, automated caseload management, or collection services for:

(1) fines, fees, restitution, or other costs ordered to be paid by a court; or

(2) fees collected by the division.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1666, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.322. RELEASEE RESTITUTION FUND. (a) The releasee restitution fund is a fund outside the treasury and consists of restitution payments made by releasees. Money in the fund may be used only to pay restitution as required by a condition of parole or mandatory supervision to victims of criminal offenses.

(b) The comptroller is the trustee of the releasee restitution fund as provided by Section 404.073.

(c) When a parole panel orders the payment of restitution from a releasee as provided by Article 42.037(h), Code of Criminal Procedure, the department shall:

(1) collect the payment for disbursement to the victim;

(2) deposit the payment in the releasee restitution fund; and

(3) transmit the payment to the clerk of the court that entered the order of restitution as soon as practicable for the clerk to remit the payment to the victim.

(c-1) The department shall include the releasee's name and other relevant identifying information, the cause number, and the payment amount when transmitting a payment to the clerk of the court under Subsection (c)(3).

(c-2) On receipt of a payment transmitted to the clerk of the court under Subsection (c)(3), the clerk shall process and account for the payment in the same manner as if the payment had been made directly to the clerk.

(d) If a victim who is entitled to restitution cannot be located, immediately after receiving a final payment in satisfaction of an order of restitution for the victim, the clerk of the court shall attempt to notify the victim of that fact by certified mail, mailed to the last known address of the victim. If a victim then makes a claim for payment, the clerk of the court promptly shall remit the payment to the victim.

(e) If a victim who is entitled to restitution does not make a claim for payment before the fifth anniversary of the date the clerk of the court receives the initial restitution payment or if, after the victim makes a claim for payment, the clerk is unable to locate the victim for a period of five years after the date the clerk last made a payment to the victim, any unclaimed restitution payments being held by the clerk for payment to the victim are presumed abandoned. The clerk of the court shall report and deliver to the comptroller all unclaimed restitution payments presumed abandoned under this section in the manner provided by Chapter 77, Property Code.

(f) If on March 1 a clerk of the court is not holding unclaimed restitution payments that are presumed abandoned under this section, the clerk shall file a property report under Section 77.051, Property Code, that certifies that the clerk is not holding any unclaimed restitution payments that are presumed abandoned under this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 856, Sec. 9, eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 351 (H.B. 1866), Sec. 3, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 864 (H.B. 3603), Sec. 1, eff. December 1, 2023.

Sec. 508.323. AUDIT. The financial transactions of the division and the board are subject to audit by the state auditor in accordance with Chapter 321.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 12.01, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 508.324. VICTIM-OFFENDER MEDIATION. If the pardons and paroles division receives notice from the victim services office of the department that a victim of the defendant, or the victim's guardian or close relative, wishes to participate in victim-offender mediation with a person released on parole or to mandatory supervision, the division shall cooperate and assist the person if the person chooses to participate in the mediation program provided by the office. The pardons and paroles division may not require the defendant to participate and may not reward the person for participation by modifying conditions of release or the person's level of supervision or by granting any other benefit to the person.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 10.38, eff. Sept. 1, 1999.

CHAPTER 509. COMMUNITY JUSTICE ASSISTANCE DIVISION

Sec. 509.001. DEFINITIONS. In this chapter:

(1) "Community corrections facility" means a physical structure, established by the judges described by Section 76.002 after authorization of the establishment of the structure has been included in a department's strategic plan, that is operated by the department or operated for the department by an entity under contract with the department, for the purpose of treating persons who have been placed on community supervision or who are participating in a pretrial intervention program operated under Section 76.011 or a drug court program established under Chapter 123 or former law and providing services and programs to modify criminal behavior, deter criminal activity, protect the public, and restore victims of crime. The term includes:

(A) a restitution center;

(B) a court residential treatment facility;

(C) a substance abuse treatment facility;

(D) a custody facility or boot camp;

(E) a facility for an offender with a mental impairment, as defined by Section 614.001, Health and Safety Code; and

(F) an intermediate sanction facility.

(2) "Department" means a community supervision and corrections department established under Chapter 76.

(3) "Division" means the community justice assistance division.

(4) "State aid" means funds appropriated by the legislature to the division to provide financial assistance to:

(A) the judges described by Section 76.002 for:

(i) a department established by the judges;

(ii) the development and improvement of community supervision services and community-based correctional programs;

(iii) the establishment and operation of community corrections facilities; and

(iv) assistance in conforming with standards and policies of the division and the board; and

(B) state agencies, counties, municipalities, and nonprofit organizations for the implementation and administration of community-based sanctions and programs.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.23(a), eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 255 (H.B. 1326), Sec. 9, eff. May 30, 2005.

Acts 2005, 79th Leg., Ch. 1139 (H.B. 2791), Sec. 3, eff. June 18, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 2.11, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1051 (H.B. 1930), Sec. 6, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 977 (H.B. 351), Sec. 5(c), eff. September 1, 2017.

Sec. 509.002. PURPOSE. The purpose of this chapter is to:

(1) allow localities to increase their involvement and responsibility in developing sentencing programs that provide effective sanctions for criminal defendants;

(2) provide increased opportunities for criminal defendants

to make restitution to victims of crime through financial reimbursement or community service;

(3) provide increased use of community penalties designed specifically to meet local needs; and

(4) promote efficiency and economy in the delivery of community-based correctional programs consistent with the objectives defined by Section 1.02, Penal Code.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995.

Sec. 509.003. STANDARDS AND PROCEDURES. (a) The division shall propose and the board shall adopt reasonable rules establishing:

(1) minimum standards for programs, community corrections facilities and other facilities, equipment, and other aspects of the operation of departments;

(2) a list and description of core services that should be provided by each department;

(3) methods for measuring the success of community supervision and corrections programs, including methods for measuring rates of diversion, program completion, and recidivism;

(4) a format for strategic plans; and

(5) minimum standards for the operation of substance abuse facilities and programs funded through the division.

(b) In establishing standards relating to the operation of departments, the division shall consider guidelines developed and presented by the advisory committee on community supervision and corrections department management to the judicial advisory council established under Section 493.003(b).

(c) A substance abuse facility or program operating under the standards is not required to be licensed or otherwise approved by any other state or local agency.

(d) The division shall develop a screening and evaluation procedure for use in accordance with Section 76.017. The division shall determine if a single screening and evaluation procedure may be used in each program. If the division determines that a single procedure is not feasible, the division shall identify and approve procedures that may be used.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.24(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1269, Sec. 5, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1051 (H.B. 1930), Sec. 7, eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 663 and S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 509.004. RECORDS, REPORTS, AND INFORMATION SYSTEMS. (a) The division shall require each department to:

(1) keep financial and statistical records determined necessary by the division;

(2) submit a strategic plan and all supporting information requested by the division;

(3) present data requested by the division as necessary to determine the amount of state aid for which the department is eligible;

(4) submit periodic financial audits and statistical reports to the division; and

(5) submit to the Department of Public Safety the full name, address, date of birth, social security number, and driver's license number of each person restricted to the operation of a motor vehicle equipped with a device that uses a deep-lung breath analysis mechanism to make impractical the operation of the motor vehicle if ethyl alcohol is detected in the breath of the restricted operator.

(b) The division shall develop an automated tracking system that:

(1) is capable of receiving tracking data from community supervision and corrections departments' caseload management and accounting systems;

(2) is capable of tracking the defendant and the sentencing event at which the defendant was placed on community supervision by name, arrest charge code, and incident number;

(3) provides the division with the statistical data it needs to support budget requests and satisfy requests for information; and

(4) is compatible with the requirements of Chapter 66, Code

of Criminal Procedure, and the information systems used by the institutional division and the pardons and paroles division of the Texas Department of Criminal Justice.

(c) The division shall prepare a report that contains a summary of the programs and services provided by departments, as described in each strategic plan submitted to the division under Section 509.007.

(d) As soon as is practicable after the completion of the report, the division shall submit the report prepared under Subsection (c) to the Texas Board of Criminal Justice and the executive director of the Texas Department of Criminal Justice.

(e) Not later than the date on which the Texas Department of Criminal Justice is required to submit the department's legislative appropriations request to the Legislative Budget Board, the division shall submit the report prepared under Subsection (c) to the Legislative Budget Board.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.25(a), eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1007, Sec. 1, eff. June 15, 2001. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1045 (H.B. 3691), Sec. 5, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1074 (S.B. 1055), Sec. 4, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1051 (H.B. 1930), Sec. 8, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 4.13, eff. January 1, 2019.

Sec. 509.0041. USE OF RISK AND NEEDS ASSESSMENT INSTRUMENT. The division shall require each department to use the risk and needs assessment instrument adopted by the Texas Department of Criminal Justice under Section 501.0921 to assess each defendant at the time of the defendant's initial placement on community supervision and at other times as required by the comprehensive reentry and reintegration plan adopted under Section 501.092.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 20, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 509.005. INSPECTIONS; AUDITS; EVALUATIONS. The community justice assistance division shall from time to time inspect and evaluate and the internal audit division may at any reasonable time conduct an audit of the financial, program compliance, or performance records of a department to determine:

(1) compliance with the division's rules and standards;

(2) economical and efficient use of resources;

(3) accomplishment of goals and objectives;

(4) reliability and integrity of information; and

(5) safeguarding of assets.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.26(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 490, Sec. 5, eff. Sept. 1, 1997.

Sec. 509.006. COMMUNITY CORRECTIONS FACILITIES. (a) To establish and maintain community corrections facilities, the division may:

(1) fund division-managed facilities;

(2) fund contracts for facilities that are managed by departments, counties, or vendors;

(3) provide funds to departments for the renovation of leased or donated buildings for use as facilities;

(4) accept ownership of real property pursuant to an agreement under which the division agrees to construct a facility and offer the facility for lease;

(5) allow departments, counties, or municipalities to accept and use buildings provided by units of local governments, including rural hospital districts, for use as facilities;

(6) provide funds to departments, counties, or municipalities to lease, purchase, or construct buildings or to lease or purchase land or other real property for use as facilities, lease or purchase equipment necessary for the operation of facilities, and pay other costs as necessary for the management and operation of facilities; and

(7) be a party to a contract for correctional services or

approve a contract for those services if the state, on a biennial appropriations basis, commits to fund a portion of the contract.

(b) The division may require that community corrections facilities comply with state and local safety laws and may develop standards for:

(1) the physical plant and operation of community corrections facilities;

(2) programs offered by community corrections facilities;

(3) disciplinary rules for residents of community corrections facilities; and

(4) emergency furloughs for residents of community corrections facilities.

(c) Minimum standards for community corrections facilities must include requirements that a facility:

(1) provide levels of security appropriate for the population served by the facility, including as a minimum a monitored and structured environment in which a resident's interior and exterior movements and activities can be supervised by specific destination and time; and

(2) accept only those residents who are physically and mentally capable of participating in any program offered at the facility that requires strenuous physical activity, if participation in the program is required of all residents of the facility.

(d) Standards developed by the division that relate to state jail felony facilities must meet minimum requirements adopted by the board for the operation of state jail felony facilities. The board may adopt rules and procedures for the operation of more than one type of state jail felony facility.

(e) With the consent of the department operating or contracting for the operation of the facility, the board may designate any community corrections facility that is an intermediate sanction facility as a state jail felony facility and confine state jail felons in that facility.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 663, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 509.007. STRATEGIC PLAN. (a) The division shall require as a condition to payment of state aid to a department or county under Section 509.011 that a strategic plan be submitted for the department. The department shall submit the plan required by this subsection. A department may not submit a plan under this section unless the plan is first approved by the judges described by Section 76.002 who established the department. The department shall submit a revised plan to the division each even-numbered year not later than March 1. A plan may be amended at any time with the approval of the division.

(b) A strategic plan required under this section must include:

(1) a statement of goals and priorities and of commitment by the department and the judges described by Section 76.002 who established the department to achieve a targeted level of alternative sanctions;

(2) a description of methods for measuring the success of programs provided by the department or provided by an entity served by the department;

(3) a summary of the programs and services the department provides or intends to provide, including a separate summary of:

(A) any services the department intends to provide in relation to a specialty court program; and

(B) any programs or other services the department intends to provide to enhance public safety, reduce recidivism, strengthen the investigation and prosecution of criminal offenses, improve programs and services available to victims of crime, and increase the amount of restitution collected from persons supervised by the department; and

(4) an outline of the department's projected programmatic and budgetary needs, based on the programs and services the department both provides and intends to provide.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 255 (H.B. 1326), Sec. 10, eff. May 30, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1045 (H.B. 3691), Sec. 6, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1074 (S.B. 1055), Sec. 5, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.07, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1051 (H.B. 1930), Sec. 9, eff. September 1, 2015.

Sec. 509.0071. COMMITMENT REDUCTION PLAN. (a) In addition to submitting a strategic plan to the division under Section 509.007, a department or a regional partnership of departments may submit a commitment reduction plan to the division not later than the 60th day after the date on which the time for gubernatorial action on the state budget has expired under Section 14, Article IV, Texas Constitution.

(b) A commitment reduction plan submitted under this section may contain a request for additional state funding in the manner described by Subsection (e). A commitment reduction plan must contain:

(1) a target number by which the county or counties served by the department or regional partnership of departments will, relative to the number of individuals committed in the preceding state fiscal year from the county or counties to the Texas Department of Criminal Justice for offenses not listed in or described by Article 42A.054, Code of Criminal Procedure, reduce that number in the fiscal year for which the commitment reduction plan is submitted by reducing the number of:

(A) direct sentencing commitments;

(B) community supervision revocations; or

(C) direct sentencing commitments and community supervision revocations;

(2) a calculation, based on the most recent Criminal Justice Uniform Cost Report published by the Legislative Budget Board, of the savings to the state that will result from the county or counties reaching the target number described by Subdivision (1);

(3) an explanation of the programs and services the department or regional partnership of departments intends to provide using any funding received under Subsection (e)(1), including any programs or services designed to enhance public safety, reduce recidivism, strengthen the investigation and prosecution of criminal offenses, improve programs and services available to victims of crime, and increase the amount of restitution collected from persons

supervised by the department or regional partnership of departments;

(4) a pledge by the department or regional partnership of departments to provide accurate data to the division at the time and in the manner required by the division;

(5) a pledge to repay to the state, not later than the 30th day after the last day of the state fiscal year in which the lump-sum award is made, a percentage of the lump sum received under Subsection (e)(1) that is equal to the percentage by which the county or counties fail to reach the target number described by Subdivision (1), if the county or counties do not reach that target number; and

(6) if the commitment reduction plan is submitted by a regional partnership of departments, an agreement and plan for the receipt, division, and administration of any funding received under Subsection (e).

(c) For purposes of Subsection (b)(5), if the target number contained in the commitment reduction plan is described by Subsection (b)(1)(B), the county or counties fail to reach the target number if the sum of any increase in the number of direct sentencing commitments and any reduction in community supervision revocations is less than the target number contained in the commitment reduction plan.

(d) A pledge described by Subsection (b)(4) or (5) must be signed by:

(1) the director of the department submitting the commitment reduction plan; or

(2) if the commitment reduction plan is submitted by a regional partnership of departments, a director of one of the departments in the regional partnership submitting the commitment reduction plan.

(e) After reviewing a commitment reduction plan, if the division is satisfied that the plan is feasible and would achieve desirable outcomes, the division may award to the department or regional partnership of departments:

(1) a one-time lump sum in an amount equal to 35 percent of the savings to the state described by Subsection (b)(2); and

(2) on a biennial basis, and from the 65 percent of the savings to the state that remains after payment of the lump sum described by Subdivision (1), the following incentive payments for the department's or regional partnership's performance in the two years immediately preceding the payment:

(A) 15 percent, for reducing the percentage of persons supervised by the department or regional partnership of departments who commit a new felony while under supervision;

(B) five percent, for increasing the percentage of persons supervised by the department or regional partnership of departments who are not delinquent in making any restitution payments; and

(C) five percent, for increasing the percentage of persons supervised by the department or regional partnership of departments who are gainfully employed, as determined by the division.

(f) A department or regional partnership of departments may use funds received under Subsection (e) to provide any program or service that a department is authorized to provide under other law, including implementing, administering, and supporting evidence-based community supervision strategies, electronic monitoring, substance abuse and mental health counseling and treatment, specialized community supervision caseloads, intermediate sanctions, victims' services, restitution collection, short-term incarceration in county jails, specialized courts, pretrial services and intervention programs, and work release and day reporting centers.

(g) Any funds received by a department or regional partnership of departments under Subsection (e):

(1) are in addition to any per capita or formula funding received under Section 509.011; and

(2) may not be deducted from any per capita or formula funding received or to be received by:

(A) another department, if the commitment reduction plan is submitted by a department; or

(B) any department, if the commitment reduction plan is submitted by a regional partnership of departments.

(h) The division shall deduct from future state aid paid to a department, or from any incentive payments under Subsection (e)(2) for which a department is otherwise eligible, an amount equal to the amount of any pledge described by Subsection (b)(5) that remains unpaid on the 31st day after the last day of the state fiscal year in which a lump-sum award is made under Subsection (e)(1). If the lump-sum award was made to a regional partnership of departments, the division shall deduct, in accordance with the agreement and plan described by Subsection (b)(6), the amount of the unpaid pledge from

the future state aid to each department that is part of the partnership or from any incentive payments under Subsection (e)(2) for which the regional partnership of departments is otherwise eligible.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1045 (H.B. 3691), Sec. 7, eff. June 17, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1074 (S.B. 1055), Sec. 6, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.57, eff. January 1, 2017.
Acts 2015, 84th Leg., R.S., Ch. 1051 (H.B. 1930), Sec. 10, eff. September 1, 2015.

Sec. 509.008. OFFICER CERTIFICATION. (a) The division shall establish officer certification programs for department residential officers and department supervision officers. A program must include coursework relating to the proper performance of the officer's duties and an examination prepared by the division administered at the conclusion of the coursework. The examination must test officers on knowledge required for the proper performance of their duties. An officer who satisfactorily completes the coursework and examination shall be certified.

(b) Except as provided by Subsections (d), (e), and (f), a department may not continue to employ an officer unless the officer was exempt from certification requirements on September 1, 1989, or satisfactorily completes the coursework and examination required by this section not later than the first anniversary of the date on which the officer begins employment with the department.

(c) The division shall provide adequate notification of the results of examinations and provide other relevant information regarding examinations as requested by examinees.

(d) The division may extend the period for the coursework and examination requirements for an officer under Subsection (b) or (f) for an additional period not to exceed one year because:

(1) the department has a need to increase hiring to reduce caseloads to a level necessary to receive full state aid; or

(2) an extenuating circumstance, as determined by the

division director, prevents the officer from completing the coursework and examination within the required period.

(e) The division may waive certification requirements other than a fee requirement for an applicant with a valid certificate from another state that has certification requirements substantially similar to those of this state.

(f) A department may not continue to employ a residential officer unless the officer successfully completes the coursework and examination requirement under this section before the first anniversary of the date on which the officer begins the officer's assignment to a residential facility.

(g) The division may deny, revoke, or suspend a certification or may reprimand an officer for a violation of a standard adopted under this chapter.

(h) If the division proposes to deny, revoke, or suspend an officer's certification or to reprimand an officer, the officer is entitled to a hearing before the division or a hearings examiner appointed by the division. The division shall adopt procedures for appeals by officers of decisions made by the division to deny, revoke, or suspend a certification or to reprimand an officer.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.27(a), eff. Sept. 1, 1997.

Sec. 509.009. TRAINING. The division may provide pre-service, in-service, and educational training and technical assistance to departments to promote compliance with the standards under this chapter and to assist departments in improving the operation of department services.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995.

Sec. 509.010. PUBLIC MEETING. (a) The division may not take an action under Sections 509.006(a)(1) through (6) relating to a community corrections facility established after August 31, 1989, unless a public meeting is held about the proposed action before the action is taken.

(b) Before the 30th day before the date of the meeting, the

division, the department that the facility is to serve, or a vendor proposing to operate the facility shall:

(1) publish by advertisement that is not less than 3-1/2 inches by 5 inches notice of the date, hour, place, and subject of the hearing required by Subsection (a) in three consecutive issues of a newspaper of, or in newspapers that collectively have, general circulation in the county in which the proposed facility is to be located; and

(2) mail a copy of the notice to each police chief, sheriff, city council member, mayor, county commissioner, county judge, school board member, state representative, and state senator who serves or represents the area in which the proposed facility is to be located, unless the proposed facility has been previously authorized to operate at a particular location as part of a community justice plan submitted by a community justice council under Section 509.007.

(c) If a private vendor, other than a private vendor that operates as a nonprofit corporation, proposes to operate a facility that is the subject of a public meeting under this section, the private vendor is responsible for the costs of providing notice and holding the public meeting required by this section.

(d) In describing the subject of a hearing for purposes of publishing notice under this section, the notice must specifically state the address of the facility on which a proposed action is to be taken and describe the proposed action.

(e) The division, a department, or a private vendor shall hold a public meeting required by Subsection (a) at a site as close as practicable to the location at which the proposed action is to be taken. The division, department, or vendor may not hold the meeting on a Saturday, Sunday, or legal holiday and must begin the meeting after 6 p.m.

(f) A department, a county, a municipality, or a combination involving more than one of those entities may not take an action under Section 76.010 unless the entity or entities hold a public meeting before the action is taken, with notice provided and the hearing to be held in the same manner as provided by Subsections (a) through (e).

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 478, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 21, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1051 (H.B. 1930), Sec. 11, eff. September 1, 2015.

Sec. 509.011. PAYMENT OF STATE AID. (a) If the division determines that a department complies with division standards and if the department has submitted a strategic plan under Section 509.007 and the supporting information required by the division and the division determines the plan and supporting information are acceptable, the division shall prepare and submit to the comptroller vouchers for payment to the department as follows:

(1) for per capita funding, a per diem amount for each felony defendant directly supervised by the department pursuant to lawful authority;

(2) for per capita funding, a per diem amount for a period not to exceed 182 days for each defendant supervised by the department pursuant to lawful authority, other than a felony defendant; and

(3) for formula funding, an annual amount as computed by multiplying a percentage determined by the allocation formula established under Subsection (f) times the total amount provided in the General Appropriations Act for payments under this subdivision.

(a-1) Repealed by Acts 2017, 85th Leg., R.S., Ch. 346 (H.B. 1526), Sec. 3, eff. September 1, 2017.

(b) The division may use discretionary grant funds to further the purposes of this chapter by contracting for services with state agencies or nonprofit organizations. The division may also make discretionary grants to departments, municipalities, or counties for the following purposes:

(1) development and operation of pretrial and presentencing services;

(2) electronic monitoring services, surveillance supervision programs, and controlled substances testing services;

(3) research projects to evaluate the effectiveness of community corrections programs, if the research is conducted in cooperation with the Criminal Justice Policy Council;

(4) contract services for felony defendants;

(5) residential services for misdemeanor defendants who exhibit levels of risk or needs indicating a need for confinement and treatment, as described by Section 509.005(b);

(6) establishment or operation of county correctional centers under Subchapter H, Chapter 351, Local Government Code, or community corrections facilities for which the division has established standards under Section 509.006;

(7) development and operation of treatment alternative to incarceration programs under Section 76.017; and

(8) other purposes determined appropriate by the division and approved by the board.

(b-1) The division may award a grant to a department for the development and operation of a pretrial intervention program for defendants who are:

(1) pregnant at the time of placement into the program; or

(2) the primary caretaker of a child younger than 18 years of age.

(c) Each department, county, or municipality shall deposit all state aid received from the division in a special fund of the county treasury or municipal treasury, as appropriate, to be used solely for the provision of services, programs, and facilities under this chapter or Subchapter H, Chapter 351, Local Government Code.

(d) The division shall provide state aid to each department on a biennial basis, pursuant to the strategic plan for the biennium submitted by the department. A department with prior division approval may transfer funds from one program or function to another program or function.

(e) In establishing per diem payments authorized by Subsections (a)(1) and (a)(2), the division shall consider the amounts appropriated in the General Appropriations Act for basic supervision as sufficient to provide basic supervision in each year of the fiscal biennium.

(f) The division annually shall compute for each department for community corrections program formula funding a percentage determined by assigning equal weights to the percentage of the state's population residing in the counties served by the department and the department's percentage of all felony defendants in the state under direct community supervision. The division shall use the most recent information available in making computations under this subsection. The board by rule may adopt a policy limiting for all departments the

percentage of benefit or loss that may be realized as a result of the operation of the formula.

(g) If the Texas Department of Criminal Justice determines that at the end of a biennium a department maintains in reserve an amount greater than six months' basic supervision operating costs for the department, the Texas Department of Criminal Justice in the succeeding biennium may reduce the amount of per capita and formula funding provided under Subsection (a) so that in the succeeding biennium the department's reserves do not exceed six months' basic supervision operating costs. The Texas Department of Criminal Justice may adopt policies and standards permitting a department to maintain reserves in an amount greater than otherwise permitted by this subsection as necessary to cover emergency costs or implement new programs with the approval of the Texas Department of Criminal Justice. The Texas Department of Criminal Justice may distribute unallocated per capita or formula funds to provide supplemental funds to individual departments to further the purposes of this chapter.

(h) A community supervision and corrections department at any time may transfer to the Texas Department of Criminal Justice any unencumbered state funds held by the department. The Texas Department of Criminal Justice may distribute funds received from a community supervision and corrections department under this subsection to provide supplemental funds to individual departments to further the purposes of this chapter.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.28(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1188, Sec. 1.39, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1030, Sec. 2.02, eff. Sept. 1, 2004. Amended by:

Acts 2005, 79th Leg., Ch. 255 (H.B. 1326), Sec. 11, eff. May 30, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 22, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1051 (H.B. 1930), Sec. 12, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 346 (H.B. 1526), Sec. 3, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1230 (H.B. 1374), Sec. 1, eff. June 14, 2019.

Sec. 509.012. REFUSAL OR SUSPENSION OF STATE AID. (a) The division shall take one or more of the following actions against a department that the division determines is not in substantial compliance with division standards or requirements adopted under Sections 509.003 through 509.006:

(1) a reduction, refusal, or suspension of payment of state aid to the department; or

(2) an imposition of budget control over the department.

(b) The board shall provide for notice and a hearing in cases in which the division proposes to take an action authorized by this section, other than a refusal by the division to provide discretionary grant funding or a reduction by the division of discretionary grant funding during a funding cycle. The division shall define with specificity the conduct that constitutes substantial noncompliance with division standards and shall establish the procedures to be used in imposing or waiving a sanction authorized by this section, subject to approval of the definition and the procedures by adoption by the board.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 7.01, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.29(a), eff. Sept. 1, 1997.

Sec. 509.013. GRANT PROGRAM ADMINISTRATION. (a) In this section, "grant program" means a grant program administered by the division through which the division awards grants to departments through an application process.

(b) The division shall:

(1) establish goals for each grant program that are consistent with the purposes described by Section 509.002 and the mission of the division;

(2) establish grant application, review, award, and evaluation processes;

(3) establish the process by which and grounds on which an applicant may appeal a decision of the division regarding a grant application;

(4) establish and maintain a system to routinely monitor

grant performance;

(5) establish and make available to the public:

(A) all criteria used in evaluating grant applications; and

(B) all factors used to measure grant program performance;

(6) publish on the division's Internet website for each grant awarded:

(A) the amount awarded;

(B) the method used in scoring the grant applications and the results of that scoring; and

(C) additional information describing the methods used to make the funding determination; and

(7) require each department to submit program-specific outcome data for the division's use in making grant awards and funding decisions.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 23, eff. September 1, 2013.

Sec. 509.014. STUDY REGARDING PERFORMANCE-BASED FUNDING. (a) The division shall:

(1) review the funding formulas specified under Section 509.011 and study the feasibility of adopting performance-based funding formulas, including whether the formulas should take into consideration an offender's risk level or other appropriate factors in allocating funding; and

(2) make recommendations for modifying the current funding formulas.

(b) In conducting the study and making recommendations under Subsection (a), the division shall:

(1) seek input from departments, the judicial advisory council established under Section 493.003(b), and other relevant interest groups; and

(2) in consultation with the Legislative Budget Board, determine the impact of any recommendations on the allocation of the division's funds as projected by the Legislative Budget Board.

(c) The division shall include in the reports prepared under Sections 509.004(c) and 509.016(c):

(1) the findings of the study;

(2) any recommendations regarding modifying the funding formulas; and

(3) the projected impact of the recommendations on the allocation of the division's funds.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. 213), Sec. 23, eff. September 1, 2013.

Sec. 509.015. TREATMENT STANDARDS FOR CERTAIN STATE JAIL FELONIES. The division shall propose and the board shall adopt best practices standards for substance abuse treatment conditions imposed under Article 42A.554(c), Code of Criminal Procedure.

Added by Acts 2003, 78th Leg., ch. 1122, Sec. 2, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.58, eff. January 1, 2017.

Sec. 509.016. PRISON DIVERSION PROGRESSIVE SANCTIONS PROGRAM. (a) The division shall provide grants to selected departments for the implementation of a system of progressive sanctions designed to reduce the revocation rate of defendants placed on community supervision. The division shall give priority in providing grants to departments that:

(1) serve counties in which the revocation rate for defendants on community supervision significantly exceeds the statewide average or historically has significantly exceeded the statewide average; or

(2) have demonstrated success, through the implementation of a system of progressive sanctions, in reducing the revocation rate of defendants placed on community supervision.

(b) In determining which departments are proper candidates for grants under this section, the division shall give preference to departments that present to the division a plan that will target medium-risk and high-risk defendants and use progressive sanction models that adhere to the components set forth in Section 469.001, Health and Safety Code. As a condition to receiving a grant, a department must offer a plan that contains some if not all of the

following components:

(1) an evidence-based assessment process that includes risk and needs assessment instruments and clinical assessments that support conditions of community supervision or case management strategies;

(2) reduced and specialized caseloads for supervision officers, which may include electronic monitoring or substance abuse testing of defendants;

(3) the creation, designation, and fiscal support of courts and associated infrastructure necessary to increase judicial oversight and reduce revocations;

(4) increased monitoring and field contact by supervision officers;

(5) shortened terms of community supervision, with increased supervision during the earliest part of the term;

(6) strategies that reduce the number of technical violations;

(7) improved coordination between courts and departments to provide early assessment of defendant needs at the outset of supervision;

(8) graduated sanctions and incentives, offered to a defendant by both the departments and courts served by the department;

(9) the use of inpatient and outpatient treatment options, including substance abuse treatment, mental health treatment, and cognitive and behavioral programs for defendants;

(10) the use of intermediate sanctions facilities;

(11) the use of community corrections beds;

(12) early termination strategies and capabilities;

(13) gang intervention strategies; and

(14) designation of faith-based community coordinators who will develop faith-based resources, including a mentoring program.

(c) The division shall, not later than December 1 of each even-numbered year, provide a report to the board. The report must state the number of departments receiving grants under this section, identify those departments by name, and describe for each department receiving a grant the components of the department's program and the success of the department in reducing revocations. The report must also contain an analysis of the scope, effectiveness, and cost benefit of programs funded by grants provided under this section and

a comparison of those programs to similar programs in existence in various departments before March 1, 2005. The division may include in the report any other information the division determines will be beneficial to the board or the legislature. The board shall forward the report to the lieutenant governor and the speaker of the house of representatives not later than December 15 of each even-numbered year.

Added by Acts 2007, 80th Leg., R.S., Ch. 799 (S.B. 166), Sec. 1, eff. June 15, 2007.

Sec. 509.017. SPECIAL ALLOCATION FOR CERTAIN DEFENDANTS PLACED ON STATE JAIL FELONY COMMUNITY SUPERVISION. Notwithstanding any other provision of this chapter, the Texas Department of Criminal Justice shall adopt policies and procedures to:

(1) determine the cost savings to the Texas Department of Criminal Justice realized through the release of defendants on community supervision under Article 42A.551(d)(2)(B), Code of Criminal Procedure; and

(2) provide 30 percent of that cost savings to the division to be allocated to individual departments and used for the same purpose that state aid is used under Section 509.011.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1195 (S.B. 1173), Sec. 4, eff. September 1, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.59, eff. January 1, 2017.

For expiration of this section, see Subsection (e).

Sec. 509.018. FAMILY VIOLENCE PRETRIAL DIVERSION PILOT PROGRAM. (a) In this section, "family violence" has the meaning assigned by Section 71.004, Family Code.

(b) To reduce rates of family violence recidivism, the division shall collaborate with judges in Bexar County who have jurisdiction over cases involving family violence to establish a family violence pretrial diversion pilot program for individuals who are charged with an offense involving family violence and who suffer from a substance

abuse disorder or chemical dependency.

(c) The pretrial diversion pilot program developed under this section shall include:

(1) assessment instruments to accurately analyze the needs of pilot program participants;

(2) a comprehensive substance abuse disorder and chemical dependency treatment program that includes case managers, clinicians, peer mentors, or recovery coaches;

(3) in collaboration with law enforcement agencies, a procedure to rapidly respond to pilot program participants who fail to comply with pilot program requirements, including, when appropriate, immediate removal from the pilot program; and

(4) the use of a video teleconferencing system in court to facilitate the cooperation of witnesses in the criminal justice system and to reduce costs associated with transporting defendants.

(d) The division shall review the pilot program established under this section and submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the legislature not later than December 1 of each even-numbered year. The report must include:

(1) a summary of the status and results of the pilot program;

(2) an analysis of the effectiveness of the pilot program in reducing the rate of family violence recidivism among individuals charged with an offense involving family violence and suffering from a substance abuse disorder or chemical dependency;

(3) sources of funding available to extend the pilot program to other counties or for a longer period of time, including available local, state, and federal funding sources; and

(4) any legislative or other recommendations.

(e) This section expires September 1, 2027.

Added by Acts 2019, 86th Leg., R.S., Ch. 896 (H.B. 3529), Sec. 1, eff. June 10, 2019.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 551 (H.B. 4333), Sec. 1, eff. June 10, 2023.

CHAPTER 510. INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 510.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Interstate Commission for Adult Offender Supervision.

(2) "Compact" means the Interstate Compact for Adult Offender Supervision.

(3) "State council" means the Texas State Council for Interstate Adult Offender Supervision.

Added by Acts 2001, 77th Leg., ch. 543, Sec. 1, eff. June 11, 2001.

Sec. 510.002. APPLICABILITY OF CHAPTER 2110. Chapter 2110 applies to the state council, except for Sections 2110.002, 2110.003, and 2110.008.

Added by Acts 2001, 77th Leg., ch. 543, Sec. 1, eff. June 11, 2001.

Sec. 510.003. ADMINISTRATION. The state council, the compact administrator, and the state's commissioner to the commission are administratively attached to the department.

Added by Acts 2001, 77th Leg., ch. 543, Sec. 1, eff. June 11, 2001.

SUBCHAPTER B. TEXAS STATE COUNCIL FOR INTERSTATE ADULT OFFENDER SUPERVISION

Sec. 510.011. ESTABLISHMENT. The Texas State Council for Interstate Adult Offender Supervision is established.

Added by Acts 2001, 77th Leg., ch. 543, Sec. 1, eff. June 11, 2001.

Sec. 510.012. COMPOSITION; TERMS. (a) The state council is composed of:

(1) the executive director or the executive director's designee;

(2) three members appointed by the governor, one of whom must be a representative of an organization representing the rights of victims of crime;

(3) one member appointed by the presiding judge of the court of criminal appeals;

(4) one member appointed by the lieutenant governor; and

(5) one member appointed by the speaker of the house of representatives.

(b) Appointed members of the state council serve staggered terms of six years, with the terms of two members expiring February 1 of each odd-numbered year.

Added by Acts 2001, 77th Leg., ch. 543, Sec. 1, eff. June 11, 2001.

Sec. 510.013. DUTIES OF EXECUTIVE DIRECTOR, EXECUTIVE DIRECTOR'S DESIGNEE. (a) The governor shall designate one member of the state council as the presiding officer of the state council, and the presiding officer serves in that capacity at the pleasure of the governor.

(b) The governor shall appoint the state's compact administrator and the state's commissioner to the commission, and may appoint one person as administrator and one person as commissioner or one person to be both administrator and commissioner. The person or persons, as appropriate, serve at the pleasure of the governor.

Added by Acts 2001, 77th Leg., ch. 543, Sec. 1, eff. June 11, 2001.

Sec. 510.014. DUTIES OF COUNCIL. The council shall advise the compact administrator and the state's commissioner to the commission on the state's participation in commission activities and the administration of the compact.

Added by Acts 2001, 77th Leg., ch. 543, Sec. 1, eff. June 11, 2001.

Sec. 510.015. LIABILITIES FOR CERTAIN COMMISSION AGENTS. The compact administrator, the state's commissioner to the commission, and each member, officer, executive director, employee, or agent of the commission acting within the scope of the person's employment or duties is, for the purposes of acts and omissions occurring within this state, entitled to the same protections under Chapter 104, Civil Practice and Remedies Code, as an employee, a member of the governing

board, or any other officer of a state agency, institution, or department.

Added by Acts 2001, 77th Leg., ch. 543, Sec. 1, eff. June 11, 2001.

Sec. 510.016. EFFECT ON TEXAS LAWS. In the event the laws of this state conflict with the compact, the compact controls, except that in the event of a conflict between the compact and the Texas Constitution, as determined by the courts of this state, the Texas Constitution controls.

Added by Acts 2001, 77th Leg., ch. 543, Sec. 1, eff. June 11, 2001.

Sec. 510.017. COMPACT TO BE ENTERED; TEXT. The Interstate Compact for Adult Offender Supervision is hereby entered into and enacted into law as follows:

ARTICLE I. PURPOSE

(a) The compacting states to this interstate compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the bylaws and rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner and, when necessary, return offenders to the originating jurisdictions. The compacting states also recognize that the United States Congress, by enacting 4 U.S.C. 112, has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

(b) It is the purpose of this compact and the Interstate Commission created under this compact, through means of joint and cooperative action among the compacting states: To provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits and obligations of the compact among the compacting states.

(c) In addition, this compact is intended to: Create an Interstate Commission that will establish uniform procedures to

manage the movement between states of offenders placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities or corrections or other criminal justice agencies that will promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials and regular reporting of compact activities to the heads of State Councils, the state executive, judicial and legislative branches and the criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct noncompliance; and coordinate training and education on the regulation of interstate movement of offenders for officials involved in such activity.

(d) The compacting states recognize that there is no right of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision, subject to the provisions of this compact and the bylaws and rules promulgated under this compact. It is the policy of the compacting states that the activities conducted by the Interstate Commission are intended to formulate public policy and are therefore public business.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

(a) "Adult" means a person who is 18 years of age or older or a person under 18 years of age who is legally classified, either by statute or court order, as an adult.

(b) "Bylaws" means those bylaws established by the Interstate Commission for its governance or for directing or controlling the Interstate Commission's actions or conduct.

(c) "Compact Administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

(d) "Compacting state" means any state which has enacted the enabling legislation for this compact.

(e) "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.

(f) "Interstate Commission" means the Interstate Commission for Adult Offender Supervision created by Article III of this compact.

(g) "Member" means the commissioner of a compacting state or the commissioner's designee, who shall be an individual officially connected with the commissioner.

(h) "Noncompacting state" means any state that has not enacted the enabling legislation for this compact.

(i) "Offender" means an adult placed under or subject to supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities or corrections or other criminal justice agencies.

(j) "Person" means any individual, corporation, business enterprise or other legal entity, either public or private.

(k) "Rules" means acts of the Interstate Commission, duly promulgated pursuant to Article VII of this compact and substantially affecting interested parties in addition to the Interstate Commission, that have the force and effect of law in the compacting states.

(l) "State" means a state of the United States, the District of Columbia or any territorial possession of the United States.

(m) "State Council" means the resident members of the State Council for Interstate Adult Offender Supervision created by each state under this compact.

ARTICLE III. THE INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION

(a) The compacting states hereby create the Interstate Commission for Adult Offender Supervision. The Interstate Commission shall be a body corporate and joint agency of the compacting states. The Interstate Commission shall have all the responsibilities, powers and duties set forth in this compact, including the power to sue and be sued and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(b) The Interstate Commission shall consist of commissioners selected and appointed by each state. In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not

commissioners but who are members of interested organizations. Such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All noncommissioner members of the Interstate Commission shall be nonvoting members. The Interstate Commission may provide in its bylaws for such additional nonvoting members as it deems necessary.

(c) Each compacting state represented at any meeting of the Interstate Commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

(d) The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of 27 or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public, except as provided in Article VII of this compact.

(e) The Interstate Commission shall establish an executive committee that shall include commission officers, members and others as shall be determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking or amendment to the compact. The executive committee oversees the day-to-day activities managed by the executive director and Interstate Commission staff, administers enforcement and compliance with the provisions of the compact, its bylaws and rules and as directed by the Interstate Commission and performs other duties as directed by the Interstate Commission or as set forth in the bylaws and rules.

ARTICLE IV. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

(a) To adopt a seal and suitable bylaws governing the management and operation of the Interstate Commission.

(b) To promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

(c) To oversee, supervise and coordinate the interstate movement of offenders subject to the terms of this compact and any bylaws adopted and rules promulgated by the Interstate Commission.

(d) To enforce compliance with the compact and the rules and bylaws of the Interstate Commission, using all necessary and proper means, including, but not limited to, the use of judicial process.

(e) To establish and maintain offices.

(f) To purchase and maintain insurance and bonds.

(g) To borrow, accept or contract for the services of personnel, including, but not limited to, members and their staffs.

(h) To establish and appoint committees and hire staff that it deems necessary to carry out its functions, including, but not limited to, an executive committee as required by Article III of this compact, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties under this compact.

(i) To elect or appoint officers, attorneys, employees, agents or consultants, and to fix their compensation, define their duties and determine their qualifications, and to establish the Interstate Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of personnel.

(j) To accept any and all donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of same.

(k) To lease, purchase, accept contributions or donations of any property, or otherwise to own, hold, improve or use any property, whether real, personal or mixed.

(l) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed.

(m) To establish a budget and make expenditures and levy dues as provided in Article IX of this compact.

(n) To sue and be sued.

(o) To provide for dispute resolution among compacting states.

(p) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

(q) To report annually to the legislatures, governors, judiciary and State Councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

(r) To coordinate education, training and public awareness

regarding the interstate movement of offenders for officials involved in such activity.

(s) To establish uniform standards for the reporting, collecting and exchanging of data.

ARTICLE V. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(a) The Interstate Commission shall, by a majority of the members, within 12 months of the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

(1) Establishing the fiscal year of the Interstate Commission.

(2) Establishing an Executive Committee and such other committees as may be necessary.

(3) Providing reasonable standards and procedures:

(i) For the establishment of committees; and

(ii) Governing any general or specific delegation of any authority or function of the Interstate Commission.

(4) Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each meeting.

(5) Establishing the titles and responsibilities of the officers of the Interstate Commission.

(6) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Interstate Commission. Notwithstanding any civil service laws or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the Interstate Commission.

(7) Providing a mechanism for winding up the operations of the Interstate Commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment or reserving of all of the Interstate Commission's debts and obligations.

(8) Providing transition rules for start-up administration of the compact.

(9) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

(b)(1) The Interstate Commission shall, by a majority of the members, elect from among its members a chairperson and a vice

chairperson, each of whom shall have such authorities and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission, provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

(2) The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission and shall hire and supervise other staff as may be authorized by the Interstate Commission, but shall not be a member of the Interstate Commission.

(c) The Interstate Commission shall maintain its corporate books and records in accordance with the bylaws.

(d)(1) The Interstate Commission shall defend the commissioner of a compacting state, the commissioner's representatives or employees or the Interstate Commission's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such person.

(2) The Interstate Commission shall indemnify and hold the commissioner of a compacting state, the appointed representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided that the actual or alleged act, error or

omission did not result from intentional wrongdoing on the part of such persons.

ARTICLE VI. ACTIVITIES OF THE INTERSTATE COMMISSION

(a) The Interstate Commission shall meet and take such actions as are consistent with the provisions of this compact.

(b) Except as otherwise provided in this compact and unless a greater percentage is required under the bylaws, in order to constitute an act of the Interstate Commission, such act shall have been taken at a meeting of the Interstate Commission and shall have received an affirmative vote of a majority of the members present.

(c) Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person on behalf of the compacting state and shall not delegate a vote to another compacting state. However, a member may designate another individual, in the absence of the member, to cast a vote on behalf of the member at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

(d) The Interstate Commission shall meet at least once during each calendar year. The chairperson of the Interstate Commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

(e) The Interstate Commission's bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent the information or records would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the Interstate Commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

(f) Public notice shall be given of all meetings, and all

meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission shall promulgate rules consistent with the principles contained in the Government in the Sunshine Act, 5 U.S.C. 552, as amended. The Interstate Commission and any of its committees may close a meeting to the public when the Interstate Commission determines by two-thirds vote that an open meeting would be likely to:

(1) Relate solely to the Interstate Commission's internal personnel practices and procedures;

(2) Disclose matters specifically exempted from disclosure by statute;

(3) Disclose trade secrets or commercial or financial information that is privileged or confidential;

(4) Involve accusing any person of a crime or formally censuring any person;

(5) Disclose information of a personal nature when such disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) Disclose investigatory records compiled for law enforcement purposes;

(7) Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated entity for the purpose of regulation or supervision of such entity;

(8) Disclose information when such premature disclosure would significantly endanger the life of a person or the stability of a regulated entity; or

(9) Specifically relate to the Interstate Commission's issuance of a subpoena or its participation in a civil action or proceeding.

(g) For every meeting closed pursuant to Subsection (f) of this Article, the Interstate Commission's chief legal officer shall publicly certify that, in the officer's opinion, the meeting may be closed to the public and shall make reference to each relevant provision authorizing closure of the meeting. The Interstate Commission shall keep minutes that fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any action taken, and the reasons therefor,

including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(h) The Interstate Commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules that specify the data to be collected, the means of collection and data exchange and reporting requirements.

ARTICLE VII. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(a) The Interstate Commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact, including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

(b) Rulemaking shall occur pursuant to the criteria set forth in this Article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C. 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, section 1 et seq., as amended. All rules and amendments shall become binding as of the date specified in each rule or amendment.

(c) If a majority of the legislatures of the compacting states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

(d) When promulgating a rule, the Interstate Commission shall:

(1) Publish the proposed rule, stating with particularity the text of the rule that is proposed and the reason for the proposed rule;

(2) Allow persons to submit written data, facts, opinions and arguments, which information shall be publicly available;

(3) Provide an opportunity for an informal hearing; and

(4) Promulgate a final rule and its effective date, if appropriate, based on the rulemaking record. Not later than 60 days after a rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia or in the federal district court where the Interstate Commission's principal office is located for judicial review of the rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the

court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the federal Administrative Procedure Act, 5 U.S.C. 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, section 1 et seq., as amended.

(e) Rules related to the following subjects must be addressed within 12 months after the first meeting of the Interstate Commission:

(1) Notice to victims and opportunity to be heard;

(2) Offender registration and compliance;

(3) Violations and returns;

(4) Transfer procedures and forms;

(5) Eligibility for transfer;

(6) Collection of restitution and fees from offenders;

(7) Data collection and reporting;

(8) The level of supervision to be provided by the receiving state;

(9) Transition rules governing the operation of the compact and the Interstate Commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact; and

(10) Mediation, arbitration and dispute resolution.

(f) The existing rules governing the operation of the previous compact superseded by this compact shall be null and void 12 months after the first meeting of the Interstate Commission created under this compact.

(g) Upon determination by the Interstate Commission that an emergency exists, the Interstate Commission may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided in this Article shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the rule.

ARTICLE VIII. OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

(a)(1) The Interstate Commission shall oversee the Interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in noncompacting states that may significantly affect compacting states.

(2) The courts and executive agencies in each compacting

state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact that may affect the powers, responsibilities or actions of the Interstate Commission, the Interstate Commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes.

(b)(1) The compacting states shall report to the Interstate Commission on issues or activities of concern to them and cooperate with and support the Interstate Commission in the discharge of its duties and responsibilities.

(2) The Interstate Commission shall attempt to resolve any disputes or other issues that are subject to the compact and that may arise among compacting states and noncompacting states. The Interstate Commission shall enact a bylaw or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(c) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in Article XI (b) of this compact.

ARTICLE IX. FINANCE

(a) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

(b) The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state. The Interstate Commission shall promulgate a rule binding upon all compacting states that governs said assessment.

(c) The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same, nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting

state.

(d) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE X. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

(a) Any state, as defined in Article II of this compact, is eligible to become a compacting state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by no fewer than 35 of the states. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the 35th jurisdiction. Thereafter, the compact shall become effective and binding, as to any other compacting state, upon enactment of the compact into law by that state. The governors of noncompacting states or their designees may be invited to participate in Interstate Commission activities on a non-voting basis prior to adoption of the compact by all states.

(c) Amendments to the compact may be proposed by the Interstate Commission for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XI. WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

(a)(1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state, provided that a compacting state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repeal of the statute that enacted the compact into law.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

(4) The withdrawing state is responsible for all

assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(5) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

(b)(1) If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact or the bylaws or rules of the Interstate Commission, the Interstate Commission may impose any or all of the following penalties:

(i) Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission;

(ii) Remedial training and technical assistance as directed by the Interstate Commission;

(iii) Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission to the governor, the chief justice or chief judicial officer of the defaulting state; the majority and minority leaders of the defaulting state's legislature, and the state council.

(2) The grounds for default include, but are not limited to, failure of a compacting state to perform obligations or responsibilities imposed upon it by this compact or the Interstate Commission bylaws or rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission on the defaulting state pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of suspension. Within 60 days of the effective date of termination of a defaulting state, the Interstate Commission shall notify the governor, the chief justice or chief judicial officer of the defaulting state, the majority and minority leaders of the defaulting

state's legislature and the State Council of such termination.

(3) The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including any obligations, the performance of which extend beyond the effective date of termination.

(4) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the Interstate Commission and the defaulting state. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

(c) The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district court where the Interstate Commission has its principal office to enforce compliance with the provisions of the compact, its rules or bylaws against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(d)(1) The compact dissolves effective upon the date of the withdrawal or default of the compacting state that reduces membership in the compact to one compacting state.

(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XII. SEVERABILITY AND CONSTRUCTION

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally construed to effectuate its purposes.

ARTICLE XIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

(a)(1) Nothing in this compact prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(2) All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

(4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Added by Acts 2001, 77th Leg., ch. 543, Sec. 1, eff. June 11, 2001.

CHAPTER 511. COMMISSION ON JAIL STANDARDS

Sec. 511.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Commission on Jail Standards.

(2) "Correctional facility" means a facility operated by a county, a municipality, or a private vendor for the confinement of a person arrested for, charged with, or convicted of a criminal offense.

(3) "County jail" means a facility operated by or for a county for the confinement of persons accused or convicted of an offense.

(4) "Executive director" means the executive director of the commission.

(5) "Federal prisoner" means a person arrested for, charged with, or convicted of a violation of a federal law.

(6) "Inmate" means a person arrested for, charged with, or convicted of a criminal offense of this state or another state of the United States and confined in a county jail, a municipal jail, or a correctional facility operated by a county, a municipality, or a private vendor.

(7) "Prisoner" means a person confined in a county jail.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 259, Sec. 1, eff. Sept. 1, 1997.

Sec. 511.002. COMMISSION. The Commission on Jail Standards is an agency of the state.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989.

Sec. 511.003. SUNSET PROVISION. The Commission on Jail Standards is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2035.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 740, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 3.03, eff. Nov. 12, 1991; Acts 1997, 75th Leg., ch. 259, Sec. 2, eff. Sept. 1, 1997.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1215 (S.B. 1009), Sec. 1, eff. September 1, 2009.
Acts 2021, 87th Leg., R.S., Ch. 254 (H.B. 1545), Sec. 1, eff. September 1, 2021.
Acts 2023, 88th Leg., R.S., Ch. 941 (S.B. 1659), Sec. 3.07, eff. June 18, 2023.

Sec. 511.004. MEMBERSHIP; TERMS; VACANCIES. (a) The commission consists of nine members appointed by the governor with the advice and consent of the senate. One member must be a sheriff of a county with a population of more than 35,000, one must be a sheriff of a county with a population of 35,000 or less, one must be a county judge, one must be a county commissioner, one must be a practitioner of medicine licensed by the Texas State Board of Medical Examiners, and the other four must be representatives of the general public. At least one of the four citizen members must be from a county with a population of 35,000 or less.
(b) The sheriffs, county judge, and county commissioner appointed to the commission shall perform the duties of a member in addition to their other duties.

(c) Members serve for terms of six years with the terms of one-third of the members expiring on January 31 of each odd-numbered year.

(d) If a sheriff, county judge, or county commissioner member of the commission ceases to be sheriff, county judge, or county commissioner, the person's position on the commission becomes vacant.

(e) A person appointed to fill a vacancy must have the same qualifications for appointment as the member who vacated the position.

(f) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(g) A person is not eligible for appointment as a public member of the commission if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of law enforcement;

(2) is employed by or participates in the management of a business entity, county jail, or other organization regulated by the commission or receiving funds from the commission;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from the commission; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 740, Sec. 2, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 259, Sec. 3, eff. Sept. 1, 1997. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1215 (S.B. 1009), Sec. 2, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 254 (H.B. 1545), Sec. 2, eff. September 1, 2021.

Sec. 511.00405. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote,

deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing commission operations;

(2) the programs, functions, rules, and budget of the commission;

(3) the scope of and limitations on the rulemaking authority of the commission;

(4) the results of the most recent formal audit of the commission;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of a state policy-making body in performing their duties; and

(6) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether attendance at the program occurs before or after the person qualifies for office.

(d) The executive director of the commission shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each member of the commission. Each member of the commission shall sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

Redesignated from Government Code, Sec. 511.004(h), (i), (j) and amended by Acts 2021, 87th Leg., R.S., Ch. 254 (H.B. 1545), Sec. 2, eff. September 1, 2021.

Sec. 511.0041. REMOVAL OF COMMISSION MEMBERS. (a) It is a ground for removal from the commission if a member:

(1) does not have at the time of taking office the

qualifications required by Section 511.004;

(2) does not maintain during service on the commission the qualifications required by Section 511.004;

(3) is ineligible for membership under Section 511.004(g) or 511.0042;

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1991, 72nd Leg., ch. 740, Sec. 3, eff. Sept. 1, 1991.
Amended by Acts 1997, 75th Leg., ch. 259, Sec. 4, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1215 (S.B. 1009), Sec. 3, eff. September 1, 2009.

Sec. 511.0042. CONFLICT OF INTEREST. (a) A person may not be a member of the commission and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of county corrections; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of county corrections.

(b) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(c) A person may not be a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

Added by Acts 1991, 72nd Leg., ch. 740, Sec. 4, eff. Sept. 1, 1991.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1215 (S.B. 1009), Sec. 4, eff. September 1, 2009.

Sec. 511.005. PRESIDING OFFICER; ASSISTANT PRESIDING OFFICER. (a) The governor shall designate one member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor.

(b) The commission biennially shall elect from the membership an assistant presiding officer. The assistant presiding officer serves in that capacity for a period of two years expiring February 1 of each odd-numbered year.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 740, Sec. 5, eff. Sept. 1, 1991.

Sec. 511.006. MEETINGS; RULES. (a) The commission shall hold a regular meeting each calendar quarter and may hold special meetings at the call of the presiding officer or on the written request of three members. If the presiding officer is absent, the assistant presiding officer shall preside at a meeting.

(b) The commission shall adopt, amend, and rescind rules for

the conduct of its proceedings.

(c) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 740, Sec. 6, eff. Sept. 1, 1991.

Sec. 511.0061. USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

Added by Acts 2009, 81st Leg., R.S., Ch. 1215 (S.B. 1009), Sec. 5, eff. September 1, 2009.

Sec. 511.007. COMPENSATION; REIMBURSEMENT. A member of the commission is not entitled to compensation but is entitled to reimbursement for actual and necessary expenses incurred in performing official duties.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989.

Sec. 511.0071. COMPLAINTS AND ACCESS. (a) The commission shall prepare information of public interest describing the functions of the commission. The commission shall make the information available:

(1) to the public, inmates, county officials, and appropriate state agencies; and

(2) on any publicly accessible Internet website maintained by the commission.

(a-1) The commission shall adopt rules and procedures regarding the receipt, investigation, resolution, and disclosure to the public of complaints regarding the commission and complaints regarding jails

under the commission's jurisdiction that are filed with the commission. The commission shall:

(1) prescribe a form or forms on which written complaints regarding the commission and complaints regarding jails under the commission's jurisdiction may be filed with the commission;

(2) keep an information file in accordance with Section 511.0072 regarding each complaint filed with the commission regarding the commission or a jail under the commission's jurisdiction;

(3) develop procedures for prioritizing complaints filed with the commission and a reasonable time frame for responding to those complaints and appeals of those complaints;

(4) develop a procedure for tracking and analyzing all complaints filed with the commission, according to criteria that must include:

(A) the reason for or origin of complaints;

(B) the average number of days that elapse between the date on which complaints are filed, the date on which the commission first investigates or otherwise responds to complaints, and the date on which complaints are resolved;

(C) the outcome of investigations or the resolution of complaints, including dismissals and commission actions resulting from complaints;

(D) the number of pending complaints at the close of each fiscal year;

(E) a list of complaint topics that the commission does not have jurisdiction to investigate or resolve;

(F) the detailed categorization of each violation alleged in a complaint;

(G) the comprehensive documentation of each violation alleged in a complaint; and

(H) for a complaint for which the commission took no action, the documentation of the reason the complaint was closed without action;

(5) regularly analyze complaints to identify trends, including trends with respect to jails with a higher than average number of complaints, to determine jails requiring additional inspections; and

(6) regularly prepare and distribute to members of the commission and make available to the public a report containing a summary of the information compiled under Subdivisions (4) and (5).

(b) The commission shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability can be provided reasonable access to the commission programs.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1215, Sec. 13, eff. September 1, 2009.

(d) The commission shall adopt rules and procedures regarding the referral of a complaint filed with the commission from or related to a prisoner to the appropriate local agency for investigation and resolution. The commission may perform a special inspection of a facility named in the complaint to determine compliance with commission requirements.

(e) Repealed by Acts 2021, 87th Leg., R.S., Ch. 254 (H.B. 1545), Sec. 13, eff. September 1, 2021.

(f) Repealed by Acts 2021, 87th Leg., R.S., Ch. 254 (H.B. 1545), Sec. 13, eff. September 1, 2021.

(g) The commission shall adopt rules requiring jail administrators to include in any inmate handbook and prominently display throughout the jail information regarding the procedure for complaint investigation and resolution.

(h) The commission shall ensure that a jail complies with Subsection (g) during any inspection of the jail.

Added by Acts 1991, 72nd Leg., ch. 740, Sec. 7, eff. Sept. 1, 1991.
Amended by Acts 1997, 75th Leg., ch. 259, Sec. 5, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1215 (S.B. 1009), Sec. 6, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1215 (S.B. 1009), Sec. 13, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 254 (H.B. 1545), Sec. 3, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 254 (H.B. 1545), Sec. 13, eff. September 1, 2021.

Sec. 511.0072. COMPLAINT INFORMATION. (a) The commission shall maintain a system to promptly and efficiently act on complaints filed with the commission. The commission shall maintain information about parties to the complaint, the subject matter of the complaint,

a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The commission shall make information available describing its procedures for complaint investigation and resolution.

(c) The commission shall periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize an investigation.

Added by Acts 2021, 87th Leg., R.S., Ch. 254 (H.B. 1545), Sec. 4, eff. September 1, 2021.

Sec. 511.008. DIRECTOR; STAFF. (a) The commission shall employ an executive director who is the chief executive officer of the commission and who serves at the will of the commission. The executive director is subject to the policy direction of the commission.

(b) The executive director may employ personnel as necessary to enforce and administer this chapter.

(c) The executive director and employees are entitled to compensation and expenses as provided by legislative appropriation.

(d) The commission shall provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(e) The commission shall develop and implement policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive director and the staff of the commission.

(f) The executive director or the executive director's designee shall develop an intraagency career ladder program. The program shall require intraagency postings of all nonentry level positions concurrently with any public posting.

(g) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for commission employees must be based on the system established under this subsection.

(h) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure

implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel, that are in compliance with Chapter 21, Labor Code;

(2) a comprehensive analysis of the commission work force that meets federal and state laws, rules, regulations, and instructions directly adopted under those laws, rules, or regulations;

(3) procedures by which a determination can be made about the extent of underuse in the commission work force of all persons for whom federal or state laws, rules, regulations, and instructions directly adopted under those laws, rules, or regulations encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(i) A policy statement prepared under Subsection (h) must cover an annual period, be updated at least annually and reviewed by the Commission on Human Rights for compliance with Subsection (h)(1), and be filed with the governor's office.

(j) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (i). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 740, Sec. 8, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 259, Sec. 6, eff. Sept. 1, 1997. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1215 (S.B. 1009), Sec. 7, eff. September 1, 2009.

Sec. 511.0081. ADVISORY COMMITTEES. (a) The commission by rule may establish advisory committees to make recommendations to the commission on programs, rules, and policies administered by the commission.

(b) In establishing an advisory committee under this section, the commission shall adopt rules, including rules regarding:

(1) the purpose, role, responsibility, goals, and duration of the committee;

(2) the size of and quorum requirement for the committee;

(3) qualifications for committee membership;

(4) appointment procedures for members;

(5) terms of service for members;

(6) training requirements for members;

(7) policies to avoid conflicts of interest by members;

(8) a periodic review process to evaluate the continuing need for the committee; and

(9) policies to ensure the committee does not violate any provision of Chapter 551 applicable to the commission or the committee.

Added by Acts 2021, 87th Leg., R.S., Ch. 254 (H.B. 1545), Sec. 5, eff. September 1, 2021.

Sec. 511.0085. RISK FACTORS; RISK ASSESSMENT PLAN. (a) The commission shall develop a comprehensive set of risk factors to use in assessing the overall risk level of each jail under the commission's jurisdiction. The set of risk factors must include:

(1) a history of the jail's compliance with state law and commission rules, standards, and procedures;

(2) the population of the jail;

(3) the number and nature of complaints regarding the jail, including complaints regarding a violation of any required ratio of correctional officers to inmates;

(4) problems with the jail's internal grievance procedures;

(5) available mental and medical health reports relating to inmates in the jail, including reports relating to infectious disease or pregnant inmates;

(6) recent turnover among sheriffs and jail staff;

(7) inmate escapes from the jail;

(8) the number and nature of inmate deaths at the jail, including the results of the investigations of those deaths; and

(9) whether the jail is in compliance with commission rules, standards developed by the Texas Correctional Office on

Offenders with Medical or Mental Impairments, and the requirements of Article 16.22, Code of Criminal Procedure, regarding screening and assessment protocols for the early identification of and reports concerning persons with mental illness or an intellectual disability.

(b) The set of risk factors developed under this section may include the number of months since the commission's last inspection of the jail.

(c) The commission shall use the set of risk factors developed under this section to guide the inspections process for all jails under the commission's jurisdiction by:

(1) establishing a risk assessment plan to use in assessing the overall risk level of each jail; and

(2) regularly monitoring the overall risk level of each jail.

Added by Acts 2009, 81st Leg., R.S., Ch. 1215 (S.B. 1009), Sec. 8, eff. September 1, 2009.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1276 (H.B. 601), Sec. 22, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 254 (H.B. 1545), Sec. 6, eff. September 1, 2021.

Sec. 511.0086. RISK-BASED INSPECTIONS. (a) The commission shall adopt a policy prioritizing the inspection of jails under the commission's jurisdiction based on the relative risk level of a jail. The policy must require the commission to use the risk assessment plan established under Section 511.0085 to:

(1) schedule announced and unannounced inspections of jails under the commission's jurisdiction; and

(2) determine how frequently and intensively the commission conducts risk-based inspections.

(b) The policy may provide for the commission to use alternative inspection methods for jails determined to be low-risk, including using abbreviated inspection procedures or other methods instead of conducting an in-person inspection.

Added by Acts 2021, 87th Leg., R.S., Ch. 254 (H.B. 1545), Sec. 7, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2938, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 511.009. GENERAL DUTIES. (a) The commission shall:

(1) adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails;

(2) adopt reasonable rules and procedures establishing minimum standards for the custody, care, and treatment of prisoners;

(3) adopt reasonable rules establishing minimum standards for the number of jail supervisory personnel and for programs and services to meet the needs of prisoners;

(4) adopt reasonable rules and procedures establishing minimum requirements for programs of rehabilitation, education, and recreation in county jails;

(5) regularly review the commission's rules and procedures and revise, amend, or change the rules and procedures if necessary;

(6) provide to local government officials consultation on and technical assistance for county jails;

(7) review and comment on plans for the construction and major modification or renovation of county jails;

(8) require that the sheriff and commissioners of each county submit to the commission, on a form prescribed by the commission, an annual report on the conditions in each county jail within their jurisdiction, including all information necessary to determine compliance with state law, commission orders, and the rules adopted under this chapter;

(9) review the reports submitted under Subdivision (8) and require commission employees to inspect county jails regularly to ensure compliance with state law, commission orders, and rules and procedures adopted under this chapter;

(10) adopt a classification system to assist sheriffs and judges in determining which defendants are low-risk and consequently suitable participants in a county jail work release program under Article 42.034, Code of Criminal Procedure;

(11) adopt rules relating to requirements for segregation of classes of inmates and to capacities for county jails;

(12) adopt a policy for gathering and distributing to jails under the commission's jurisdiction information regarding:

(A) common issues concerning jail administration;

(B) examples of successful strategies for maintaining compliance with state law and the rules, standards, and procedures of the commission; and

(C) solutions to operational challenges for jails;

(13) report to the Texas Correctional Office on Offenders with Medical or Mental Impairments on a jail's compliance with Article 16.22, Code of Criminal Procedure;

(14) adopt reasonable rules and procedures establishing minimum requirements for a county jail to:

(A) determine if a prisoner is pregnant;

(B) ensure that the jail's health services plan addresses medical care, including obstetrical and gynecological care, mental health care, nutritional requirements, and any special housing or work assignment needs for prisoners who are known or determined to be pregnant; and

(C) identify when a pregnant prisoner is in labor and provide appropriate care to the prisoner, including promptly transporting the prisoner to a local hospital;

(15) provide guidelines to sheriffs regarding contracts between a sheriff and another entity for the provision of food services to or the operation of a commissary in a jail under the commission's jurisdiction, including specific provisions regarding conflicts of interest and avoiding the appearance of impropriety;

(16) adopt reasonable rules and procedures establishing minimum standards for prisoner visitation that provide each prisoner at a county jail with a minimum of two in-person, noncontact visitation periods per week of at least 20 minutes duration each;

(17) require the sheriff of each county to:

(A) investigate and verify the veteran status of each prisoner by using data made available from the Veterans Reentry Search Service (VRSS) operated by the United States Department of Veterans Affairs or a similar service; and

(B) use the data described by Paragraph (A) to assist prisoners who are veterans in applying for federal benefits or compensation for which the prisoners may be eligible under a program administered by the United States Department of Veterans Affairs;

(18) adopt reasonable rules and procedures regarding visitation of a prisoner at a county jail by a guardian, as defined by Section 1002.012, Estates Code, that:

(A) allow visitation by a guardian to the same extent

as the prisoner's next of kin, including placing the guardian on the prisoner's approved visitors list on the guardian's request and providing the guardian access to the prisoner during a facility's standard visitation hours if the prisoner is otherwise eligible to receive visitors; and

(B) require the guardian to provide the sheriff with letters of guardianship issued as provided by Section 1106.001, Estates Code, before being allowed to visit the prisoner;

(19) adopt reasonable rules and procedures to ensure the safety of prisoners, including rules and procedures that require a county jail to:

(A) give prisoners the ability to access a mental health professional at the jail or through a telemental health service 24 hours a day or, if a mental health professional is not at the county jail at the time, then require the jail to use all reasonable efforts to arrange for the inmate to have access to a mental health professional within a reasonable time;

(B) give prisoners the ability to access a health professional at the jail or through a telehealth service 24 hours a day or, if a health professional is unavailable at the jail or through a telehealth service, provide for a prisoner to be transported to access a health professional; and

(C) if funding is available under Section 511.019, install automated electronic sensors or cameras to ensure accurate and timely in-person checks of cells or groups of cells confining at-risk individuals; and

(20) adopt reasonable rules and procedures establishing minimum standards for the quantity and quality of feminine hygiene products, including tampons in regular and large sizes and menstrual pads with wings in regular and large sizes, provided to a female prisoner.

(a-1) A county jail that as of September 1, 2015, has incurred significant design, engineering, or construction costs to provide prisoner visitation that does not comply with a rule or procedure adopted under Subsection (a)(16), or does not have the physical plant capability to provide the in-person prisoner visitation required by a rule or procedure adopted under Subsection (a)(16), is not required to comply with any commission rule or procedure adopted under Subsection (a)(16).

(a-2) A commission rule or procedure adopted under Subsection

(a)(16) may not restrict the authority of a county jail under the commission's rules in effect on September 1, 2015, to limit prisoner visitation for disciplinary reasons.

(b) A commission rule or procedure is not unreasonable because compliance with the rule or procedure requires major modification or renovation of an existing jail or construction of a new jail.

(c) At any time and on the application of the county commissioners court or sheriff, the commission may grant reasonable variances, including variances that are to last for the life of a facility, clearly justified by the facts, for operation of a facility not in strict compliance with state law. A variance may not permit unhealthy, unsanitary, or unsafe conditions.

(d) The commission shall adopt reasonable rules and procedures establishing minimum standards regarding the continuity of prescription medications for the care and treatment of prisoners. The rules and procedures shall require that:

(1) a qualified medical professional shall review as soon as possible any prescription medication a prisoner is taking when the prisoner is taken into custody; and

(2) a prisoner with a mental illness be provided with each prescription medication that a qualified medical professional or mental health professional determines is necessary for the care, treatment, or stabilization of the prisoner.

(e) The commission may monitor compliance with the provisions of Article 43.13, Code of Criminal Procedure, relating to the release of a prisoner from county jail.

(f) The commission's compliance with the requirements of this section, particularly the requirements regarding the adoption of rules and procedures, is not contingent on the enactment and becoming law of any additional legislation.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 171, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 262, Sec. 89, eff. Jan. 1, 1996; Acts 1995, 74th Leg., ch. 722, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 12.30, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 259, Sec. 7, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1092, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 8, eff.

September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 977 (H.B. 3654), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1215 (S.B. 1009), Sec. 9, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.012, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 281 (H.B. 875), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 648 (H.B. 549), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 688 (H.B. 634), Sec. 4, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 8.008, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 3.05, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 3.06, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 401 (S.B. 1700), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1074 (H.B. 1651), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1104 (H.B. 2169), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1252 (H.B. 4468), Sec. 1, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 254 (H.B. 1545), Sec. 8, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 936 (S.B. 49), Sec. 10, eff. September 1, 2021.

Sec. 511.00901. DUTY REGARDING MINIMUM STANDARDS. (a) The commission shall ensure that the minimum standards established under Section 511.009 take into consideration the needs and risks of the different types and sizes of jails under the commission's jurisdiction.

(b) The commission shall, on an ongoing basis, review the minimum standards to identify any standards that do not account for

the needs and risks of the different types and sizes of jails. In conducting the review, the commission shall solicit feedback from a diverse collection of jails, including those of different types and sizes.

(c) The commission shall revise any standards identified under Subsection (b) as the commission considers necessary. In revising a standard, the commission shall consider:

(1) establishing tiered or separate standards depending on the size, resources, or type of jail;

(2) clarifying or amending existing standards; and

(3) publishing guidance on the commission's rule interpretations.

(d) The commission may not lower any standard in effect on September 1, 2021, as a result of a review conducted under this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 254 (H.B. 1545), Sec. 9, eff. September 1, 2021.

Sec. 511.00902. REINSPECTION. The commission shall adopt rules and procedures for reinspecting a jail following a determination by the commission that the jail is not in compliance with minimum standards. The rules and procedures must require the commission to:

(1) reinspect all jails not in compliance;

(2) establish a percentage of reinspections for which the commission shall assess the jail's compliance with all minimum standards, regardless of whether the jail was in compliance with a particular standard during the previous inspection; and

(3) randomly select the jails subject to a reinspection described by Subdivision (2).

Added by Acts 2021, 87th Leg., R.S., Ch. 254 (H.B. 1545), Sec. 9, eff. September 1, 2021.

Sec. 511.00903. INSPECTION TREND ANALYSIS. The commission shall regularly analyze data collected during inspections or reported to the commission under this chapter to identify trends in noncompliance, inspection outcomes, serious incidents, and any other related area of jail operations.

Added by Acts 2021, 87th Leg., R.S., Ch. 254 (H.B. 1545), Sec. 9, eff. September 1, 2021.

Sec. 511.00905. JAIL ADMINISTRATOR POSITION; EXAMINATION REQUIRED. (a) The Texas Commission on Law Enforcement shall develop and the commission shall approve an examination for a person assigned to the jail administrator position overseeing a county jail.

(b) The commission shall adopt rules requiring a person, other than a sheriff, assigned to the jail administrator position overseeing a county jail to pass the examination not later than the 180th day after the date the person is assigned to that position. The rules must provide that a person who fails the examination may be immediately removed from the position and may not be reinstated until the person passes the examination.

(c) The sheriff of a county shall perform the duties of the jail administrator position at any time there is not a person available who satisfies the examination requirements of this section.

(d) A person other than a sheriff may not serve in the jail administrator position of a county jail unless the person satisfies the examination requirement of this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 4.01, eff. September 1, 2017.

Sec. 511.0091. FEES; INSPECTION ACCOUNT. (a) The commission shall set and collect reasonable fees to cover the cost of performing the following services for municipal jails operated for a municipality by a private vendor or for county jails, whether financed, purchased, designed, constructed, leased, operated, maintained, or managed for the county by a private vendor or provided entirely by the county:

(1) review of and comment on construction documents for new facilities or expansion projects;

(2) performance of occupancy inspections; and

(3) performance of annual inspections.

(b) The commission may collect a fee under Subsection (a)(1) only for the review of and comment on construction documents for a jail for which the commission projects:

(1) a rated capacity of 100 or more prisoners; and

(2) an annual average jail population of prisoners sentenced by jurisdictions other than the courts of this state that is 30 percent or more of the total population of the jail.

(c) The commission may collect a fee under Subsection (a)(2) or (a)(3) only for the performance of an inspection of a jail that during the year in which the inspection is performed:

(1) has a rated capacity of 100 or more prisoners; and

(2) the commission projects as having an annual average jail population of prisoners sentenced by jurisdictions other than the courts of this state that is 30 percent or more of the total population of the jail.

(c-1) In addition to the other fees authorized by this section, the commission may set and collect a reasonable fee to cover the cost of performing any reinspection of a municipal or county jail described by Subsection (a) that is conducted by the commission:

(1) following a determination by the commission that the jail is not in compliance with minimum standards; and

(2) in response to a request by the operator of the jail for an inspection.

(d) All money paid to the commission under this chapter:

(1) is subject to Subchapter F, Chapter 404; and

(2) shall be deposited to the credit of a special account in the general revenue fund to be appropriated only to pay costs incurred by the commission in performing services under this section.

Added by Acts 1991, 72nd Leg., ch. 740, Sec. 9, eff. Sept. 1, 1991.
Amended by Acts 1997, 75th Leg., ch. 259, Sec. 8, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 359 (S.B. 1264), Sec. 1, eff. September 1, 2005.

Sec. 511.0092. CONTRACTS FOR OUT-OF-STATE INMATES. (a) The only entities other than the state that are authorized to operate a correctional facility to house in this state inmates convicted of offenses committed against the laws of another state of the United States are:

(1) a county or municipality; and

(2) a private vendor operating a correctional facility

under a contract with a county under Subchapter F, Chapter 351, Local Government Code, or a municipality under Subchapter E, Chapter 361, Local Government Code.

(b) A county commissioners court or the governing body of a municipality may enter into a contract with another state or a jurisdiction in another state for the purpose described by Subsection (a) only if:

(1) the county or municipality submits to the commission:

(A) a statement of the custody level capacity and availability in the correctional facility that will house the inmates; and

(B) a written plan explaining the procedure to be used to coordinate law enforcement activities in response to any riot, rebellion, escape, or other emergency situation occurring in the facility; and

(2) the commission:

(A) inspects the facility and reviews the statement and plan submitted under Subdivision (1); and

(B) after the inspection and review, determines that the correctional facility is a proper facility for housing the inmates and provides the county or municipality with a copy of that determination.

(c) A private vendor operating a correctional facility in this state may not enter into a contract for the purposes of Subsection (a) with another state or a jurisdiction in another state.

(d) A contract described by Subsection (b) must provide that:

(1) each correctional facility in which inmates are to be housed meets minimum standards established by the commission;

(2) each inmate to be released from custody must be released in the sending state;

(3) before transferring an inmate, the receiving facility shall review for compliance with the commission's classification standards:

(A) all records concerning the sending state's classification of the inmate, including records relating to the inmate's conduct while confined in the sending state; and

(B) appropriate medical information concerning the inmate, including certification of tuberculosis screening or treatment;

(4) except as provided by Subsection (e), the sending state

will not transfer and the receiving facility will not accept an inmate who has a record of institutional violence involving the use of a deadly weapon or a pattern of violence while confined in the sending state or a record of escape or attempted escape from secure custody;

(5) the receiving entity will determine the inmate's custody level in accordance with commission rules, in order to ensure that the custody level assignments for the facility as a whole are compatible with the construction security level availability in the facility; and

(6) the receiving facility is entitled to terminate at will the contract by providing the sending state with 90 days' notice of the intent to terminate the contract.

(e) The commission may waive the requirement that a contract contain the provision described by Subsection (d)(4) if the commission determines that the receiving facility is capable of confining an inmate described by Subsection (d)(4).

(f) A county, municipality, or private vendor operating under a contract described by Subsection (b) shall:

(1) send a copy of the contract to the commission;

(2) require all employees at the facility to maintain certification as required by the Texas Commission on Law Enforcement;

(3) submit to inspections by the commission; and

(4) immediately notify the commission of any riot, rebellion, escape, or other emergency situation occurring at the facility.

(g) The commission may require the sending state or an entity described in Subsection (a) to reimburse the state for any cost incurred by a state agency in responding to any riot, rebellion, escape, or other emergency situation occurring at the facility.

(h) Notwithstanding the provisions of Chapter 252, Chapter 262, Subchapter F, Chapter 351, or Subchapter E, Chapter 361, Local Government Code, the governing body of a municipality or a county commissioners court may enter into a contract with a private vendor to provide professional services under this section if the commission reviews and approves the private vendor's qualifications to provide such services and the terms of the proposed contract comply with this section.

(i) Chapter 1702, Occupations Code, does not apply to an employee of a facility in the actual discharge of duties as an

employee of the facility if the employee is required by Subsection (f)(2) to maintain certification from the Texas Commission on Law Enforcement.

Added by Acts 1997, 75th Leg., ch. 259, Sec. 9, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.764, eff. Sept. 1, 2001.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.30, eff. May 18, 2013.

Sec. 511.0093. RULES AND FEES RELATED TO OUT-OF-STATE INMATES. (a) The commission may impose a fee on a private vendor that operates a correctional facility housing prisoners from jurisdictions other than this state. The fee must reasonably compensate the commission for the cost of regulating and providing technical assistance to the facility.

(b) The commission may adopt rules regulating the number of federal prisoners and prisoners from jurisdictions other than Texas that are housed in a county jail, a municipal jail, or a correctional facility operated by a private vendor under contract with a municipality if the jail or correctional facility houses state, county, or municipal prisoners or prisoners of another state of the United States.

(c) The commission may adopt other rules regulating jails or correctional facilities described by Subsection (b) as necessary to protect the health and safety of prisoners described by Subsection (b), local and Texas prisoners, jail personnel, and the public.

Added by Acts 1997, 75th Leg., ch. 259, Sec. 9, eff. Sept. 1, 1997.

Sec. 511.0094. EXCLUSION OF JAILS OR CORRECTIONAL FACILITIES HOUSING ONLY FEDERAL PRISONERS. The provisions of this chapter do not apply to a correctional facility contracting to house only federal prisoners and operating pursuant to a contract between a unit of the federal government and a county, a municipality, or a private vendor. If a county, municipality, or private vendor contracts to house or begins to house state, county, or municipal prisoners or prisoners of another state of the United States, it shall report to

the commission before placing such inmates in a correctional facility housing only federal prisoners.

Added by Acts 1997, 75th Leg., ch. 259, Sec. 9, eff. Sept. 1, 1997.
Amended by Acts 2003, 78th Leg., ch. 755, Sec. 1, eff. Sept. 1, 2003.

Sec. 511.0095. AUTHORITY TO HOUSE OUT-OF-STATE INMATES. Nothing in this chapter shall be construed to limit the authority of the state granted under Article 42.19, Code of Criminal Procedure, or other applicable law to house in this state inmates convicted of offenses committed against the laws of another state of the United States.

Added by Acts 1997, 75th Leg., ch. 259, Sec. 9, eff. Sept. 1, 1997.

Sec. 511.0096. TERMINATION OF CONTRACTS FOR OUT-OF-STATE INMATES. The commission may require the receiving facility to terminate a contract under Section 511.0092(d)(6), if the commission determines that the receiving facility is needed to house inmates convicted of offenses against the laws of the state and funds have been appropriated by the state to compensate the receiving facility for the incarceration of the inmates.

Added by Acts 1997, 75th Leg., ch. 259, Sec. 9, eff. Sept. 1, 1997.

Sec. 511.0097. FIRE SPRINKLER HEAD INSPECTION. (a) On the request of a sheriff, the commission shall inspect a facility to determine whether there are areas in the facility in which fire sprinkler heads should not be placed as a fire prevention measure. In making a decision under this section, the commission shall consider:

(1) the numbers and types of inmates having access to the area;

(2) the likelihood that an inmate will attempt to vandalize the fire sprinkler system or commit suicide by hanging from a sprinkler head; and

(3) the suitability of other types of fire prevention and smoke dispersal devices available for use in the area.

(b) If the commission determines that fire sprinkler heads should not be placed in a particular area within a facility, neither a county fire marshal nor a municipal officer charged with enforcing ordinances related to fire safety may require the sheriff to install sprinkler heads in that area.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.008(a), eff. Sept. 1, 2003.

Sec. 511.0098. PRISONER HEALTH BENEFITS COVERAGE INFORMATION; PAYMENT FOR MENTAL HEALTH SERVICES. (a) The commission shall adopt procedures by which a local mental health authority or other mental health services provider providing services to a prisoner in a county jail under a contract with the county may collect the following from a prisoner who receives those services and is covered by health insurance or other health benefits coverage:

(1) the name of the policyholder or group contract holder;

(2) the number of the policy or evidence of coverage;

(3) a copy of the health coverage membership card, if available; and

(4) any other information necessary for the prisoner to obtain benefits under the coverage.

(b) A local mental health authority or other mental health services provider who provides mental health services to a prisoner under a contract with a county may arrange for the issuer of the health insurance policy or other health benefits coverage to pay for those services.

Added by Acts 2019, 86th Leg., R.S., Ch. 1195 (H.B. 4559), Sec. 1, eff. September 1, 2019.

Sec. 511.010. GATHERING OF INFORMATION. (a) The commission shall be granted access at any reasonable time to a county jail and to books, records, and data relating to a county jail that the commission or executive director considers necessary to administer the commission's functions, powers, and duties.

(b) The county commissioners and sheriff of each county shall furnish the commission, a member of the commission, the executive director, or an employee designated by the executive director any

information that the requesting person states is necessary for the commission to:

(1) discharge its functions, powers, and duties;

(2) determine whether the commission's rules are being observed or whether its orders are being obeyed; and

(3) otherwise implement this chapter.

(c) To carry out its functions, powers, and duties, the commission may:

(1) issue subpoenas and subpoenas duces tecum to compel attendance of witnesses and the production of books, records, and documents;

(2) administer oaths; and

(3) take testimony concerning all matters within its jurisdiction.

(d) The commission is not bound by strict rules of evidence or procedure in the conduct of its proceedings, but its determinations must be founded on sufficient legal evidence.

(e) The commission may delegate to the executive director the authority conferred by this section.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989.

Sec. 511.0101. JAIL POPULATION REPORTS. (a) Each county shall submit to the commission on or before the fifth day of each month a report containing the following information:

(1) the number of prisoners confined in the county jail on the first day of the month, classified on the basis of the following categories:

(A) total prisoners;

(B) pretrial Class C misdemeanor offenders;

(C) pretrial Class A and B misdemeanor offenders;

(D) convicted misdemeanor offenders;

(E) felony offenders whose penalty has been reduced to a misdemeanor;

(F) pretrial felony offenders;

(G) convicted felony offenders;

(H) prisoners detained on bench warrants;

(I) prisoners detained for parole violations;

(J) prisoners detained for federal officers;

(K) prisoners awaiting transfer to the institutional division of the Texas Department of Criminal Justice following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom paperwork and processing required for transfer have been completed;

(L) prisoners detained after having been transferred from another jail and for whom the commission has made a payment under Subchapter F, Chapter 499, Government Code;

(M) prisoners for whom an immigration detainer has been issued by United States Immigration and Customs Enforcement;

(N) female prisoners; and

(O) other prisoners;

(2) the total capacity of the county jail on the first day of the month;

(3) the total number of prisoners who were confined in the county jail during the preceding month, based on a count conducted on each day of that month, who were known or had been determined to be pregnant;

(4) the total cost to the county during the preceding month of housing prisoners described by Subdivision (1)(M), calculated based on the average daily cost of housing a prisoner in the county jail; and

(5) certification by the reporting official that the information in the report is accurate.

(b) The commission shall prescribe a form for the report required by this section. If the report establishes that a county jail has been operated in excess of its total capacity for three consecutive months, the commission may consider adoption of an order to prohibit confinement of prisoners in the county jail under Section 511.012.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 18.01, eff. Oct. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 1368, Sec. 1, eff. June 20, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 977 (H.B. 3654), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1215 (S.B. 1009), Sec. 10, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 458 (S.B. 1698), Sec. 1, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1104 (H.B. 2169), Sec. 2, eff. September 1, 2019.

Sec. 511.0102. INFORMATION ON LICENSED JAILER TURNOVER. On or before the fifth day of each month, each jail under the commission's jurisdiction shall submit to the commission a report containing the number of licensed jailers who left employment at the jail during the previous month. The commission shall prescribe a form for the report required by this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 929 (S.B. 1687), Sec. 1, eff. September 1, 2011.

Sec. 511.0103. NOTIFICATION REGARDING POLICY CHANGE. In the manner prescribed by the commission, a county jail shall notify the commission of any change in the jail's policies and procedures related to:

(1) the provision of health care to pregnant prisoners; and

(2) the placement of a pregnant prisoner in solitary confinement or administrative segregation.

Added by Acts 2015, 84th Leg., R.S., Ch. 522 (H.B. 1140), Sec. 1, eff. September 1, 2015.

Sec. 511.0104. RULES REGARDING RESTRAINT OF PREGNANT PRISONER. (a) The commission shall adopt reasonable rules and procedures regarding the use of any type of restraints to control or restrict the movement of a prisoner, including a limb or other part of the prisoner, who is confirmed to be pregnant or who gave birth in the preceding 12 weeks.

(b) The rules and procedures must:

(1) prohibit the use of restraints on a prisoner described by Subsection (a) for the duration of the pregnancy and for a period of not less than 12 weeks after the prisoner gives birth unless:

(A) supervisory personnel determines:

(i) the use of restraints is necessary to prevent an immediate and credible risk that the prisoner will attempt to escape; or

(ii) the prisoner poses an immediate and serious threat to the health and safety of the prisoner, staff, or any member of the public; or

(B) a health care professional responsible for the health and safety of the prisoner determines that the use of restraints is appropriate for the health and safety of the prisoner and, if applicable, the unborn child of the prisoner;

(2) require jail staff that uses restraints as permitted under Subdivision (1) to use the least restrictive restraints necessary to prevent escape or to ensure health and safety; and

(3) notwithstanding Subdivision (1), require jail staff to, at the request of a health care professional responsible for the health and safety of the prisoner, refrain from using restraints on the prisoner or to remove the restraints.

Added by Acts 2019, 86th Leg., R.S., Ch. 1074 (H.B. 1651), Sec. 2, eff. September 1, 2019.

Sec. 511.0105. REPORT REGARDING RESTRAINT OF PREGNANT PRISONER. (a) Not later than February 1 of each year, each county jail shall submit to the commission a report regarding the jail's use, during the preceding calendar year, of any type of restraints to control or restrict the movement of a prisoner, including a limb or other part of the prisoner, who is confirmed to be pregnant or who gave birth in the preceding 12 weeks.

(b) The report must include the circumstances of each use of restraints, including:

(1) the specific type of restraints used;

(2) what activity the prisoner was engaged in immediately before being restrained;

(3) whether the prisoner was restrained during or after delivery;

(4) whether the prisoner was restrained while being transported to a local hospital; and

(5) the reasons supporting the determination to use the restraints, a description of the process by which the determination

was made, and the name and title of the person or persons making the determination.

(c) The commission shall prescribe a form for the report required for this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 1074 (H.B. 1651), Sec. 2, eff. September 1, 2019.

Sec. 511.0106. ELECTRONIC SUBMISSION OF FORMS, DATA, AND DOCUMENTS. (a) The commission shall establish a system for the electronic submission of forms, data, and documents required to be submitted to the commission under this chapter or a rule adopted under this chapter.

(b) Except as provided by Subsection (c), a person shall submit all forms, data, or documents described by Subsection (a) to the commission through the system established under that subsection and in a standardized electronic format prescribed by the commission.

(c) The commission may allow a person to submit the forms, data, or documents described by Subsection (a) in a nonelectronic format. The commission shall set and collect a reasonable fee to cover the cost of processing the forms, data, or documents.

(d) The commission may adopt rules as necessary to implement this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 891 (H.B. 3440), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 511.0104 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(32), eff. September 1, 2021.

Sec. 511.011. REPORT ON NONCOMPLIANCE. (a) If the commission finds that a county jail does not comply with state law, including Chapter 89, Health and Safety Code, or the rules, standards, or procedures of the commission, it shall report the noncompliance to the county commissioners and sheriff of the county responsible for the county jail and shall send a copy of the report to the governor.

(b) If a notice of noncompliance is issued to a facility operated by a private entity under Section 351.101 or 361.061, Local Government Code, the compliance status of the facility shall be

reviewed at the next meeting of the Commission on Jail Standards.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 348, Sec. 12, eff. Sept. 1, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1252 (H.B. 4468), Sec. 2, eff. September 1, 2019.

Sec. 511.0115. PUBLIC INFORMATION ABOUT COMPLIANCE STATUS OF JAILS. The commission shall provide information to the public concerning whether jails under the commission's jurisdiction are in compliance with state law and the rules, standards, and procedures of the commission:

(1) on any publicly accessible Internet website maintained by the commission; and

(2) through other formats, including newsletters or press releases, as determined by the commission.

Added by Acts 2009, 81st Leg., R.S., Ch. 1215 (S.B. 1009), Sec. 11, eff. September 1, 2009.

Sec. 511.012. FAILURE TO COMPLY AFTER REPORT. (a) The commission shall grant the county or sheriff a reasonable period of not more than one year after the date of the report under Section 511.011 to comply with commission rules and procedures and state law.

(b) If the county commissioners or sheriff does not comply within the period granted by the commission, the commission by order may prohibit confinement of prisoners in the county jail. In that event, the commission shall furnish the sheriff with a list of qualified detention facilities to which the prisoners may be transferred for confinement. Immediately on issuance of the commission's order, the sheriff shall transfer the number of prisoners necessary to bring the county jail into compliance to a detention facility that agrees to accept the prisoners. The agreement must be in writing and signed by the sheriffs of the counties transferring and receiving the prisoners. A county transferring prisoners under this section shall remove the prisoners from the receiving facility immediately on request of the sheriff of

the receiving county.

(c) The county transferring prisoners under this section is liable for payment of the costs of transportation for, and maintenance of, transferred prisoners. These costs shall be determined by agreement between the participating counties and shall be paid into the treasury of the entity operating the detention facility receiving the prisoners.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 1092, Sec. 2, eff. June 20, 2003.

Sec. 511.0121. FAILURE TO COOPERATE IN PAROLE IN ABSENTIA PROGRAM. The Texas Board of Criminal Justice shall notify the commission of the failure of a county to fully cooperate with employees of the institutional division of the Texas Department of Criminal Justice in evaluating inmates for release on parole from the county jail. On such notification, the commission shall find the county in noncompliance for the purpose of this chapter and may invoke a remedy as provided by Section 511.012.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 11.07, eff. Aug. 29, 1991.

Sec. 511.013. APPEAL OF ORDER. (a) A county commissioner or sheriff may seek review of an order issued under Section 511.012(b) by making a written request to the executive director for a contested case hearing not later than the 30th day after the date of receipt of the order.

(b) Procedure and practice in a contested case hearing is governed by Chapter 2001 and the rules of the commission.

(c) After the contested case hearing, judicial review of the final decision of the commission is governed by Subchapter G, Chapter 2001.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 1092, Sec. 3, eff. June 20, 2003.

Sec. 511.014. ACTION TO ENFORCE. (a) Instead of closing a county jail, the commission may bring an action in its own name to enforce or enjoin a violation of Subchapter A, Chapter 351, Local Government Code, Chapter 89, Health and Safety Code, or a commission rule, order, or procedure. The action is in addition to any other action, proceeding, or remedy provided by law. The court shall give preferential setting and shall try the action without a jury, unless the county requests a jury trial. The attorney general shall represent the commission.

(b) The suit may be brought in a district court of Travis County.

(c) The court shall issue an injunction ordering compliance with commission rules and procedures and state law if it finds that:

(1) the operation of the county jail does not comply with the rules and procedures or state law; and

(2) the county commissioners or sheriff, having been given a reasonable period to comply, has failed to comply with the rules and procedures.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 348, Sec. 13, eff. Sept. 1, 1997.

Sec. 511.0145. ENFORCEMENT ACTIONS. (a) The commission shall adopt rules establishing a system of graduated, escalating enforcement actions the commission is authorized under this chapter to take against jails under the commission's jurisdiction that:

(1) have not made timely progress correcting noncompliance issues; or

(2) have failed multiple inspections within a certain number of years as determined by the commission.

(b) The rules must establish time frames for the commission to take certain graduated, escalating enforcement actions against jails.

(c) The commission shall develop a schedule of actions to guide the enforcement actions the commission may take under rules adopted under Subsection (a). The commission shall make the schedule available on any publicly accessible Internet website maintained by the commission. The schedule must:

(1) recommend the appropriate enforcement action based on

the severity of the noncompliance; and

(2) include consideration of any:

(A) aggravating factors, including repeat violations and failing consecutive inspections; and

(B) mitigating factors.

Added by Acts 2021, 87th Leg., R.S., Ch. 254 (H.B. 1545), Sec. 10, eff. September 1, 2021.

Sec. 511.015. ANNUAL REPORTS. (a) Before February 1 of each year the commission shall submit to the governor and the presiding officer of each house of the legislature a report on its operations, its findings concerning county jails during the preceding year, and recommendations that it considers appropriate.

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(50), eff. June 17, 2011.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 740, Sec. 10, eff. Sept. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(50), eff. June 17, 2011.

Sec. 511.016. AUDITS. (a) Each county auditor shall provide the commission with a copy of each audit of the county jail's commissary operations the auditor performs under Section 351.0415, Local Government Code, and a copy of the annual financial audit of general operations of the county jail. The county auditor shall provide a copy of an audit not later than the 10th day after completing the audit.

(b) At the request of the commissioners court or a sheriff or on the commission's own initiative, the commission shall conduct an audit of staffing matters at a county jail.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 18.02, eff. Oct. 1, 1991.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 230 (H.B. 1780), Sec. 1, eff. May

25, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 511.017. DUTIES RELATED TO STATE JAIL FELONY FACILITIES. (a) In this section:

(1) "State jail division" means the state jail division of the Texas Department of Criminal Justice.

(2) "State jail felony facility" means a state jail felony facility authorized by Subchapter A, Chapter 507.

(3) Repealed by Acts 2021, 87th Leg., R.S., Ch. 126 (H.B. 719), Sec. 9(3), eff. September 1, 2021.

(b) The commission shall provide the state jail division with consultation and technical assistance relating to the operation and construction of state jail felony facilities.

Added by Acts 1993, 73rd Leg., ch. 988, Sec. 1.09, eff. Sept. 1, 1993.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 126 (H.B. 719), Sec. 8, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 126 (H.B. 719), Sec. 9(3), eff. September 1, 2021.

Sec. 511.018. ALTERNATIVE DISPUTE RESOLUTION. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the commission.

Added by Acts 2009, 81st Leg., R.S., Ch. 1215 (S.B. 1009), Sec. 12, eff. September 1, 2009.

Sec. 511.019. PRISONER SAFETY FUND. (a) The prisoner safety fund is a dedicated account in the general revenue fund.

(b) The prisoner safety fund consists of:

(1) appropriations of money to the fund by the legislature; and

(2) gifts, grants, including grants from the federal government, and other donations received for the fund.

(c) Money in the fund may be appropriated only to the commission to pay for capital improvements that are required under Section 511.009(a)(19).

(d) The commission by rule may establish a grant program to provide grants to counties to fund capital improvements described by Subsection (c). The commission may only provide a grant to a county for capital improvements to a county jail with a capacity of not more than 288 prisoners.

Added by Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 3.07, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1252 (H.B. 4468), Sec. 3, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 254 (H.B. 1545), Sec. 11, eff. September 1, 2021.

Sec. 511.020. SERIOUS INCIDENTS REPORT. (a) On or before the fifth day of each month, the sheriff of each county shall report to the commission regarding the occurrence during the preceding month of any of the following incidents involving a prisoner in the county

jail:

(1) a suicide;

(2) an attempted suicide;

(3) a death;

(4) a serious bodily injury, as that term is defined by Section 1.07, Penal Code;

(5) an assault;

(6) an escape;

(7) a sexual assault; and

(8) any use of force resulting in bodily injury, as that term is defined by Section 1.07, Penal Code.

(b) The commission shall prescribe a form for the report required by Subsection (a).

(c) The information required to be reported under Subsection (a)(8) may not include the name or other identifying information of a county jailer or jail employee.

(d) The information reported under Subsection (a) is public information subject to an open records request under Chapter 552.

Added by Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 3.07, eff. September 1, 2017.

Sec. 511.021. INDEPENDENT INVESTIGATION OF DEATH OCCURRING IN COUNTY JAIL. (a) On the death of a prisoner in a county jail, the commission shall appoint a law enforcement agency, other than the local law enforcement agency that operates the county jail, to investigate the death as soon as possible. Except as otherwise provided by Subsection (b), the appointed law enforcement agency shall conduct the investigation.

(b) A law enforcement agency appointed by the commission under Subsection (a) may present evidence to the commission that investigating the death would create a conflict of interest that cannot be mitigated by the law enforcement agency. If the commission determines that the conflict of interest cannot be mitigated, the commission shall appoint another law enforcement agency under Subsection (a) to investigate the death.

(c) The commission shall adopt any rules necessary relating to the appointment of a law enforcement agency under Subsection (a), including rules relating to cooperation between law enforcement

agencies and to procedures for handling evidence.

Added by Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 3.07, eff. September 1, 2017.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 254 (H.B. 1545), Sec. 12, eff. September 1, 2021.

Sec. 511.022. ADVISORY COMMITTEE. (a) The commission shall establish an advisory committee to advise the commission and make recommendations on matters related to the confinement in county jail of persons with intellectual or developmental disabilities.

(b) The advisory committee consists of 13 members appointed by the presiding officer of the commission, with the commission's approval, as follows:

(1) one representative of the commission;

(2) one representative of the Department of State Health Services;

(3) one representative of the Health and Human Services Commission with expertise in intellectual and developmental disabilities;

(4) one representative of the Texas Commission on Law Enforcement;

(5) one representative of the Texas Correctional Office on Offenders with Medical or Mental Impairments;

(6) one sheriff of a county with a population of 80,000 or more;

(7) one sheriff of a county with a population of less than 80,000;

(8) two representatives of statewide organizations that advocate for individuals with intellectual and developmental disabilities;

(9) one representative who is a mental health professional with a focus on trauma and intellectual and developmental disabilities;

(10) one representative from a state supported living center;

(11) one member who has an intellectual or developmental disability or whose family member has an intellectual or

developmental disability; and

(12) one member who represents the public.

(c) Members of the advisory committee serve staggered six-year terms, with the terms of three or four members expiring January 31 of each odd-numbered year. If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall appoint a replacement to fill the unexpired term.

(d) The presiding officer of the commission shall designate one member of the advisory committee to serve as presiding officer of the committee for a two-year term.

(e) The advisory committee shall:

(1) gather and review data regarding the confinement in county jails of persons with intellectual or developmental disabilities; and

(2) provide recommendations and guidelines to sheriffs and counties regarding the confinement of persons with intellectual or developmental disabilities.

(f) Not later than December 1 of each even-numbered year, the advisory committee shall submit a report that includes recommendations for legislative or other action related to the confinement of persons with intellectual or developmental disabilities in county jails to:

(1) the governor;

(2) the lieutenant governor;

(3) the speaker of the house of representatives; and

(4) each standing committee of the legislature with primary jurisdiction over the commission.

(g) Chapter 2110 does not apply to the size, composition, or duration of the advisory committee or to the designation of the committee's presiding officer.

Added by Acts 2021, 87th Leg., R.S., Ch. 708 (H.B. 2831), Sec. 1, eff. September 1, 2021.

Sec. 511.023. INTAKE OF PERSONS WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITIES. (a) The commission, with the assistance of the advisory committee established under Section 511.022, shall:

(1) monitor the intake processes in county jails to assess each county jail's ability to properly identify persons with

intellectual or developmental disabilities; and

(2) assist county jails in improving the intake processes with respect to persons with intellectual or developmental disabilities.

(b) The commission shall periodically update the intake screening form adopted by the commission for use by county jails as necessary to reflect the recommendations of the advisory committee established under Section 511.022.

Added by Acts 2021, 87th Leg., R.S., Ch. 708 (H.B. 2831), Sec. 2, eff. September 1, 2021.

SUBTITLE I. HEALTH AND HUMAN SERVICES
CHAPTER 521. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 521.0001. DEFINITIONS. In this subtitle:

(1) "Child health plan program" means the programs established under Chapters 62 and 63, Health and Safety Code.

(2) "Commission" means the Health and Human Services Commission.

(3) "Executive commissioner" means the executive commissioner of the commission.

(4) "Executive council" means the council established under Subchapter C, Chapter 523.

(5) "Health and human services agencies" includes the Department of State Health Services.

(6) "Health and human services system" means the system for providing or otherwise administering health and human services in this state by the commission, including through:

(A) an office or division of the commission; or

(B) another entity under the administrative and operational control of the executive commissioner.

(7) "Home telemonitoring service" means a health service that requires scheduled remote monitoring of data related to a patient's health and transmission of the data to a licensed home and community support services agency or hospital, as those terms are defined by Section 548.0251.

(8) "Medicaid" means the medical assistance program established under Chapter 32, Human Resources Code.

(9) "Medicaid managed care organization" means a managed care organization as defined by Section 540.0001 that contracts with the commission under Chapter 540 or 540A to provide health care services to Medicaid recipients.

(10) "Platform" means the technology, system, software, application, modality, or other method through which a health professional remotely interfaces with a patient when providing a health care service or procedure as a telemedicine medical service, teledentistry dental service, or telehealth service.

(11) "Section 1915(c) waiver program" means a federally funded state Medicaid program authorized under Section 1915(c) of the Social Security Act (42 U.S.C. Section 1396n(c)).

(12) "Teledentistry dental service," "telehealth service," and "telemedicine medical service" have the meanings assigned by Section 111.001, Occupations Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 521.0002. REFERENCES IN LAW MEANING COMMISSION OR COMMISSION DIVISION. (a) This section applies notwithstanding Section 521.0001(5).

(b) A reference in any law to any of the following state agencies or entities in relation to a function transferred to the commission under Section 531.0201, 531.02011, or 531.02012, as those sections existed immediately before their expiration on September 1, 2023, means the commission or the division of the commission performing the function previously performed by the state agency or entity before the transfer, as appropriate:

(1) health and human services agency;

(2) the Department of State Health Services;

(3) the Department of Aging and Disability Services;

(4) subject to Chapter 316 (H.B. 5), Acts of the 85th Legislature, Regular Session, 2017, the Department of Family and Protective Services; or

(5) the Department of Assistive and Rehabilitative Services.

(c) Notwithstanding any other law, a reference in any law to any of the following state agencies or entities in relation to a function transferred to the commission under Section 531.0201, 531.02011, or 531.02012, as those sections existed immediately before their expiration on September 1, 2023, from the state agency that assumed the relevant function in accordance with Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, means the commission or the division of the commission performing the function previously performed by the agency that assumed the function before the transfer, as appropriate:

(1) the Texas Department on Aging;

(2) the Texas Commission on Alcohol and Drug Abuse;

(3) the Texas Commission for the Blind;

(4) the Texas Commission for the Deaf and Hard of Hearing;

(5) the Texas Department of Health;

(6) the Texas Department of Human Services;

(7) the Texas Department of Mental Health and Mental Retardation;

(8) the Texas Rehabilitation Commission;

(9) the Texas Health Care Information Council; or

(10) the Interagency Council on Early Childhood Intervention.

(d) Notwithstanding any other law and subject to Chapter 316 (H.B. 5), Acts of the 85th Legislature, Regular Session, 2017, a reference in any law to the Department of Protective and Regulatory Services in relation to a function transferred under Section 531.0201, 531.02011, or 531.02012, as those sections existed immediately before their expiration on September 1, 2023, from the Department of Family and Protective Services means the commission or the division of the commission performing the function previously performed by the Department of Family and Protective Services before the transfer.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 140, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 521.0003. REFERENCES IN LAW MEANING EXECUTIVE COMMISSIONER, EXECUTIVE COMMISSIONER'S DESIGNEE, OR DIVISION DIRECTOR. (a) A reference in any law to any of the following persons in relation to a function transferred to the commission under Section 531.0201, 531.02011, or 531.02012, as those sections existed immediately before their expiration on September 1, 2023, means the executive commissioner, the executive commissioner's designee, or the director of the commission division performing the function previously performed by the state agency from which the function was transferred and that the person represented, as appropriate:

(1) the commissioner of aging and disability services;

(2) the commissioner of assistive and rehabilitative services;

(3) the commissioner of state health services; or

(4) subject to Chapter 316 (H.B. 5), Acts of the 85th Legislature, Regular Session, 2017, the commissioner of the Department of Family and Protective Services.

(b) Notwithstanding any other law and subject to Chapter 316 (H.B. 5), Acts of the 85th Legislature, Regular Session, 2017, a reference in any law to any of the following persons or entities in relation to a function transferred to the commission under Section 531.0201, 531.02011, or 531.02012, as those sections existed immediately before their expiration on September 1, 2023, from the state agency that assumed or continued to perform the function in accordance with Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, means the executive commissioner or the director of the commission division performing the function performed before the enactment of Chapter 198 (H.B. 2292) by the state agency that was abolished or renamed by Chapter 198 (H.B. 2292) and that the person or entity represented:

(1) an executive director or other chief administrative officer of a state agency listed in Section 521.0002(c) or of the Department of Protective and Regulatory Services; or

(2) the governing body of a state agency listed in Section 521.0002(c) or of the Department of Protective and Regulatory Services.

(c) A reference to any of the following councils means the executive commissioner or the executive commissioner's designee, as appropriate, and a function of any of the following councils is a function of that appropriate person:

(1) the Health and Human Services Council;
(2) the Aging and Disability Services Council;
(3) the Assistive and Rehabilitative Services Council;
(4) subject to Chapter 316 (H.B. 5), Acts of the 85th Legislature, Regular Session, 2017, the Family and Protective Services Council; or
(5) the State Health Services Council.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 521.0004. REFERENCES IN LAW TO PROVISIONS DERIVED FROM FORMER CHAPTER 531. A reference in any law to "revised provisions derived from Chapter 531, as that chapter existed on March 31, 2025," is a reference to the following:
(1) Sections 532.0051, 532.0052, 532.0053, 532.0054, 532.0055, 532.0057, 532.0058, 532.0059, 532.0060, 532.0061, and 540.0051;
(2) Subchapters B, C, D, E, F, G, H, I, and J, Chapter 532, Subchapters A, B, C, D, E, F, G, H, and I, Chapter 548, and Subchapters D, D-1, and E, Chapter 550; and
(3) this chapter and Chapters 522, 523, 524, 525, 526, 544, 545, 546, 547, and 549.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

CHAPTER 522. PROVISIONS APPLICABLE TO ALL HEALTH AND HUMAN SERVICES AGENCIES AND CERTAIN OTHER STATE ENTITIES

SUBCHAPTER A. FISCAL PROVISIONS

Sec. 522.0001. LEGISLATIVE APPROPRIATIONS REQUEST BY HEALTH AND HUMAN SERVICES AGENCY. (a) Each health and human services agency shall submit to the commission a biennial agency legislative appropriations request on a date determined by commission rule.
(b) A health and human services agency may not submit the agency's legislative appropriations request to the legislature or the governor until the commission reviews and comments on the request.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

Sec. 522.0002. ACCEPTANCE OF CERTAIN GIFTS AND GRANTS BY HEALTH AND HUMAN SERVICES AGENCY. (a) Subject to the executive commissioner's written approval, a health and human services agency may accept a gift or grant of money, drugs, equipment, or any other item of value from a pharmaceutical manufacturer, distributor, provider, or other entity engaged in a pharmaceutical-related business.

(b) Chapter 575 does not apply to a gift or grant under this section.

(c) The executive commissioner may adopt rules and procedures to implement this section. The rules must ensure that acceptance of a gift or grant under this section:

(1) is consistent with federal laws and regulations; and

(2) does not adversely affect federal financial participation in any state program, including Medicaid.

(d) This section does not affect the commission's or a health and human services agency's authority under other law to accept a gift or grant from a person other than a pharmaceutical manufacturer, distributor, provider, or other entity engaged in a pharmaceutical-related business.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER B. CONTRACTS

Sec. 522.0051. NEGOTIATION AND REVIEW OF CERTAIN CONTRACTS FOR HEALTH CARE PURPOSES. (a) This section applies to a contract with a contract amount of $250 million or more:

(1) under which a person will provide goods or services in connection with the provision of medical or health care services, coverage, or benefits; and

(2) that will be entered into by the person and:

(A) the commission;

(B) a health and human services agency; or

(C) any other state agency under the commission's jurisdiction.

(b) An agency described by Subsection (a)(2) must notify the office of the attorney general at the time the agency initiates the planning phase of the contracting process for a contract described by Subsection (a). A representative of the office of the attorney general or another attorney advising the agency as provided by Subsection (d) may:

(1) participate in negotiations or discussions with proposed contractors; and

(2) be physically present during those negotiations or discussions.

(c) Notwithstanding any other law, before an agency described by Subsection (a)(2) may enter into a contract described by Subsection (a), a representative of the office of the attorney general shall review the form and terms of the contract and may make recommendations to the agency for changes to the contract if the attorney general determines that the office of the attorney general has sufficient subject matter expertise and resources available to provide this service.

(d) If the attorney general determines that the office of the attorney general does not have sufficient subject matter expertise or resources available to provide the services described by this section, the office of the attorney general may require the agency described by Subsection (a)(2) to enter into an interagency agreement or obtain outside legal services under Section 402.0212 for the provision of services described by this section.

(e) The agency described by Subsection (a)(2) shall provide to the office of the attorney general any information the office of the attorney general determines is necessary to administer this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 522.0052. PERFORMANCE STANDARDS FOR CONTRACTED SERVICES PROVIDED TO INDIVIDUALS WITH LIMITED ENGLISH PROFICIENCY. (a) This section does not apply to 2-1-1 services provided by the Texas Information and Referral Network.

(b) Each contract with the commission or a health and human services agency that requires the provision of call center services or written communications related to call center services must

include performance standards that measure the effectiveness, promptness, and accuracy of the contractor's oral and written communications with individuals with limited English proficiency.

(c) A person who seeks to enter into a contract described by Subsection (b) must include in the bid or other applicable expression of interest for the contract a proposal for providing call center services or written communications related to call center services to individuals with limited English proficiency. The proposal must include a language access plan that describes how the contractor will:

(1) achieve any performance standards described in the request for bids or other applicable expressions of interest;

(2) identify individuals who need language assistance;

(3) provide language assistance measures, including the translation of forms into languages other than English and the provision of translators and interpreters;

(4) inform individuals with limited English proficiency of the language services available to them and how to obtain those services;

(5) develop and implement qualifications for bilingual staff; and

(6) monitor compliance with the plan.

(d) In determining which bid or other applicable expression of interest offers the best value, the commission or a health and human services agency, as applicable, shall evaluate the extent to which the proposal for providing call center services or written communications related to call center services in languages other than English will provide meaningful access to the services for individuals with limited English proficiency.

(e) In determining the extent to which a proposal will provide meaningful access under Subsection (d), the commission or health and human services agency, as applicable, shall consider:

(1) the language access plan described by Subsection (c);

(2) the number or proportion of individuals with limited English proficiency in the commission's or agency's eligible service population;

(3) the frequency with which individuals with limited English proficiency seek information regarding the commission's or agency's programs;

(4) the importance of the services provided by the

commission's or agency's programs; and

(5) the resources available to the commission or agency.

(f) The commission or health and human services agency, as applicable, shall avoid selecting a contractor that the commission or agency reasonably believes will:

(1) provide information in languages other than English that is limited in scope;

(2) unreasonably delay the provision of information in languages other than English; or

(3) provide program information, including forms, notices, and correspondence, in English only.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER C. DATA SHARING

Sec. 522.0101. SHARING OF DATA RELATED TO CERTAIN GENERAL REVENUE FUNDED PROGRAMS. To the extent permitted under federal law and notwithstanding any provision of Chapter 191 or 192, Health and Safety Code, the commission and other health and human services agencies shall share data to facilitate patient care coordination, quality improvement, and cost savings in Medicaid, the child health plan program, and other health and human services programs funded using money appropriated from the general revenue fund.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER D. COORDINATION OF MULTIAGENCY SERVICES

Sec. 522.0151. DEFINITION. In this subchapter, "least restrictive setting" means a service setting for an individual that, in comparison to other available service settings:

(1) is most able to meet the individual's identified needs;

(2) prioritizes a home and community-based care setting; and

(3) engages the strengths of the family.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 522.0152. APPLICABILITY OF SUBCHAPTER TO CERTAIN STATE ENTITIES. This subchapter applies to the following state entities:

(1) the commission;

(2) the Department of Family and Protective Services;

(3) the Department of State Health Services;

(4) the Texas Education Agency;

(5) the Texas Correctional Office on Offenders with Medical or Mental Impairments;

(6) the Texas Department of Criminal Justice;

(7) the Texas Department of Housing and Community Affairs;

(8) the Texas Workforce Commission; and

(9) the Texas Juvenile Justice Department.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 522.0153. MEMORANDUM OF UNDERSTANDING REQUIRED. The state entities to which this subchapter applies shall enter into a joint memorandum of understanding to promote a system of local-level interagency staffing groups for the identification and coordination of services for individuals needing multiagency services that:

(1) are to be provided in the least restrictive setting appropriate; and

(2) use residential, institutional, or congregate care settings only as a last resort.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 522.0154. DEVELOPMENT AND IMPLEMENTATION OF MEMORANDUM OF UNDERSTANDING. (a) The division within the commission that coordinates the policy for and delivery of mental health services shall oversee the development and implementation of the memorandum of understanding required by this subchapter.

(b) The state entities that participate in developing the memorandum of understanding shall consult with and solicit input from advocacy and consumer groups.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 522.0155. CONTENTS OF MEMORANDUM OF UNDERSTANDING. The memorandum of understanding required by this subchapter must:

(1) clarify the statutory responsibilities of each state entity to which this subchapter applies in relation to individuals needing multiagency services, including subcategories for different services such as:

(A) family preservation and strengthening;

(B) physical and behavioral health care;

(C) prevention and early intervention services, including services designed to prevent:

(i) child abuse;

(ii) neglect; or

(iii) delinquency, truancy, or school dropout;

(D) diversion from juvenile or criminal justice involvement;

(E) housing;

(F) aging in place;

(G) emergency shelter;

(H) residential care;

(I) after-care;

(J) information and referral; and

(K) investigation services;

(2) include a functional definition of "individuals needing multiagency services";

(3) outline membership, officers, and necessary standing committees of local-level interagency staffing groups;

(4) define procedures aimed at eliminating duplication of services relating to assessment and diagnosis, treatment, residential placement and care, and case management of individuals needing multiagency services;

(5) define procedures for addressing disputes between the state entities that relate to the entities' areas of service responsibilities;

(6) provide that each local-level interagency staffing group includes:

(A) a local representative of each state entity;

(B) representatives of local private sector agencies; and

(C) family members or caregivers of individuals needing multiagency services or other current or previous consumers of multiagency services acting as general consumer advocates;

(7) provide that the local representative of each state entity has authority to contribute entity resources to solving problems identified by the local-level interagency staffing group;

(8) provide that if an individual's needs exceed the resources of a state entity, the entity may, with the consent of the individual's legal guardian, if applicable, submit a referral on behalf of the individual to the local-level interagency staffing group for consideration;

(9) provide that a local-level interagency staffing group may be called together by a representative of any member state entity;

(10) provide that a state entity representative may be excused from attending a meeting if the staffing group determines that the age or needs of the individual to be considered are clearly not within the entity's service responsibilities, provided that each entity representative is encouraged to attend all meetings to contribute to the collective ability of the staffing group to solve an individual's need for multiagency services;

(11) define the relationship between state-level interagency staffing groups and local-level interagency staffing groups in a manner that defines, supports, and maintains local autonomy;

(12) provide that records used or developed by a local-level interagency staffing group or the group's members that relate to a particular individual are confidential and may not be released to any other person or agency except as provided by this subchapter or other law; and

(13) provide a procedure that permits the state entities to share confidential information while preserving the confidential nature of the information.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 522.0156. ADOPTION OF MEMORANDUM OF UNDERSTANDING; REVISIONS. Each state entity to which this subchapter applies shall adopt the memorandum of understanding required by this subchapter and all revisions to the memorandum. The entities shall develop revisions as necessary to reflect major reorganizations or statutory changes affecting the entities.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 522.0157. STATE-LEVEL INTERAGENCY STAFFING GROUP DUTIES; BIENNIAL REPORT. The state entities to which this subchapter applies shall ensure that a state-level interagency staffing group provides:

(1) information and guidance to local-level interagency staffing groups regarding:

(A) the availability of programs and resources in the community; and

(B) best practices for addressing the needs of individuals with complex needs in the least restrictive setting appropriate; and

(2) a biennial report to the administrative head of each entity, the legislature, and the governor that includes:

(A) the number of individuals served through the local-level interagency staffing groups and the outcomes of the services provided;

(B) a description of any identified barriers to the state's ability to provide effective services to individuals needing multiagency services; and

(C) any other information relevant to improving the delivery of services to individuals needing multiagency services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER E. PUBLIC ACCESS TO MEETINGS

Sec. 522.0201. DEFINITION. In this subchapter, "agency" means the commission or a health and human services agency.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

Sec. 522.0202. ADDITIONAL APPLICABILITY TO CERTAIN ADVISORY BODIES. (a) The requirements of this subchapter also apply to the meetings of any advisory body that advises the executive commissioner or an agency.

(b) The archived video and audio recording of an advisory body's meeting must be made available through the Internet website of the agency to which the advisory body provides advice.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 522.0203. INTERNET BROADCAST AND ARCHIVE OF OPEN MEETING. (a) An agency shall:

(1) broadcast over the Internet live video and audio of each open meeting of the agency;

(2) make a video and audio recording of reasonable quality of the broadcast; and

(3) provide access to the archived video and audio recording on the agency's Internet website in accordance with Subsection (c).

(b) An agency may use for an Internet broadcast of an open meeting of the agency a room made available to the agency on request in any state building, as that term is defined by Section 2165.301.

(c) Not later than the seventh day after the date an open meeting is broadcast under this section, the agency shall make available through the agency's Internet website the archived video and audio recording of the open meeting. The agency shall maintain the archived video and audio recording on the agency's Internet website until at least the second anniversary of the date the recording was first made available on the website.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 522.0204. INTERNET NOTICE OF OPEN MEETING. An agency shall provide on the agency's Internet website the same notice of an

open meeting that the agency is required to post under Subchapter C, Chapter 551. The notice must be posted within the time required for posting notice under Subchapter C, Chapter 551.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 522.0205. EXEMPTION UNDER CERTAIN CIRCUMSTANCES. An agency is exempt from the requirements of this subchapter to the extent a catastrophe, as defined by Section 551.0411, or a technical breakdown prevents the agency from complying with this subchapter. Following the catastrophe or technical breakdown, the agency shall make all reasonable efforts to make available in a timely manner the required video and audio recording of the open meeting.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 522.0206. CONTRACTING AUTHORIZED. The commission shall consider contracting through competitive bidding with a private individual or entity to broadcast and archive an open meeting subject to this subchapter to minimize the cost of complying with this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER F. FACILITIES

Sec. 522.0251. LEASE OR SUBLEASE OF CERTAIN OFFICE SPACE. (a) A health and human services agency, with the commission's approval, or the Texas Workforce Commission or any other state agency that administers employment services programs may lease or sublease office space to a private service entity or lease or sublease office space from a private service entity that provides publicly funded health, human, or workforce services to enable agency eligibility and enrollment personnel to work with the entity if:

(1) client access to services would be enhanced; and

(2) the colocation of offices would improve the efficiency

of the administration and delivery of services.

(b) Subchapters D and E, Chapter 2165, do not apply to a state agency that leases or subleases office space to a private service entity under this section.

(c) Subchapter B, Chapter 2167, does not apply to a state agency that leases or subleases office space from a private service entity under this section.

(d) A state agency is delegated the authority to enter into a lease or sublease under this section and may negotiate the terms of the lease or sublease.

(e) To the extent authorized by federal law, a state agency may share business resources with a private service entity that enters into a lease or sublease agreement with the agency under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 522.0252. ASSUMPTION OF LEASE FOR IMPLEMENTATION OF INTEGRATED ENROLLMENT SERVICES INITIATIVE. (a) A health and human services agency, with the commission's approval, or the Texas Workforce Commission or any other state agency that administers employment services programs may assume a lease from an integrated enrollment services initiative contractor or subcontractor to implement the initiative at one development center, one mail center, or 10 or more call or change centers.

(b) Subchapter B, Chapter 2167, does not apply to a state agency that assumes a lease from a contractor or subcontractor under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 522.0253. PREREQUISITES FOR ESTABLISHING NEW HEALTH AND HUMAN SERVICES FACILITY IN CERTAIN COUNTIES. A health and human services agency may not establish a new facility in a county with a population of less than 200,000 until the agency provides notice about the facility and the facility's location and purpose to:

(1) each state representative and state senator who

represents all or part of the county;

(2) the county judge who represents the county; and

(3) the mayor of any municipality in which the facility would be located.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

CHAPTER 523. HEALTH AND HUMAN SERVICES COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 523.0001. HEALTH AND HUMAN SERVICES COMMISSION; RESPONSIBILITY FOR DELIVERY OF HEALTH AND HUMAN SERVICES. (a) The Health and Human Services Commission is an agency of this state.

(b) The commission is the state agency with primary responsibility for ensuring the delivery of state health and human services in a manner that:

(1) uses an integrated system to determine client eligibility;

(2) maximizes the use of federal, state, and local funds; and

(3) emphasizes coordination, flexibility, and decision-making at the local level.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0002. GOALS. The commission's goals are to:

(1) maximize federal funds through the efficient use of available state and local resources;

(2) provide a system that delivers prompt, comprehensive, effective services to individuals of this state by:

(A) improving access to health and human services at the local level; and

(B) eliminating architectural, communication, programmatic, and transportation barriers;

(3) promote the health of individuals of this state by:

(A) reducing the incidence of disease and disabling conditions;

(B) increasing the availability and improving the

quality of health care services;

(C) addressing the high incidence of certain illnesses and conditions in minority populations;

(D) increasing the availability of trained health care professionals;

(E) improving knowledge of health care needs;

(F) reducing infant death and disease;

(G) reducing the impacts of mental disorders in adults and emotional disturbances in children;

(H) increasing nutritional education and participation in nutrition programs; and

(I) reducing substance abuse;

(4) foster the development of responsible, productive, and self-sufficient citizens by:

(A) improving workforce skills;

(B) increasing employment, earnings, and benefits;

(C) increasing housing opportunities;

(D) increasing child-care and other dependent-care services;

(E) improving education and vocational training to meet specific career goals;

(F) reducing school dropouts and teen pregnancy;

(G) improving parental effectiveness;

(H) increasing support services for individuals with disabilities and services to help those individuals maintain or increase their independence;

(I) improving access to work sites, accommodations, transportation, and other public places and activities covered by the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.); and

(J) improving services for juvenile offenders;

(5) provide needed resources and services to individuals of this state when they cannot provide or care for themselves by:

(A) increasing support services for adults and their families during periods of unemployment, financial need, or homelessness;

(B) reducing extended dependency on basic support services; and

(C) increasing the availability and diversity of long-term care provided to support individuals with chronic conditions in

settings that focus on community-based services, with options ranging from their own homes to total-care facilities;

(6) protect the physical and emotional safety of all individuals of this state by:

(A) reducing abuse, neglect, and exploitation of elderly individuals and adults with disabilities;

(B) reducing child abuse and neglect;

(C) reducing family violence;

(D) increasing services to children who are truant or who run away, or who are at risk of truancy or running away, and their families;

(E) reducing crime and juvenile delinquency;

(F) reducing community health risks; and

(G) improving regulation of human services providers; and

(7) improve the coordination and delivery of children's services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0003. SUNSET PROVISION. The Health and Human Services Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2027, and Chapter 531 and revised provisions derived from Chapter 531, as that chapter existed on March 31, 2025, expire on that date.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0004. APPLICABILITY OF OTHER LAW. The commission is subject to Chapters 2001 and 2002.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER B. EXECUTIVE COMMISSIONER; PERSONNEL

Sec. 523.0051. EXECUTIVE COMMISSIONER. (a) The commission is governed by an executive commissioner.

(b) The governor appoints the executive commissioner with the advice and consent of the senate, and shall make the appointment without regard to race, color, disability, sex, religion, age, or national origin.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0052. ELIGIBILITY FOR APPOINTMENT AS EXECUTIVE COMMISSIONER OR TO SERVE IN CERTAIN EMPLOYMENT POSITIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) An individual may not be appointed as executive commissioner or be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the individual is an officer, employee, or paid consultant of a Texas trade association in the field of health and human services; or

(2) the individual's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health and human services.

(c) An individual may not be appointed as executive commissioner or act as the commission's general counsel if the individual is required to register as a lobbyist under Chapter 305 because of the individual's activities for compensation on behalf of a profession related to the commission's operation.

(d) An individual may not be appointed as executive commissioner if the individual has a financial interest in a corporation, organization, or association under contract with:

(1) the commission or a health and human services agency;

(2) a local mental health or intellectual and developmental

disability authority; or

(3) a community center.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0053. TERM. The executive commissioner serves a two-year term expiring February 1 of each odd-numbered year.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0054. MEDICAL DIRECTOR; OTHER PERSONNEL. The executive commissioner:

(1) shall employ a medical director to provide medical expertise to the executive commissioner and the commission; and

(2) may employ other personnel necessary to administer the commission's duties.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0055. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS. (a) The executive commissioner shall develop an intra-agency career ladder program. The program must require the intra-agency posting of all non-entry-level positions concurrently with any public posting.

(b) The executive commissioner shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for commission employees must be based on the system established under this subsection.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0056. MERIT SYSTEM. (a) The commission may establish a merit system for commission employees.

(b) The merit system may be maintained in conjunction with

other state agencies that are required by federal law to operate under a merit system.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0057. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION. The executive commissioner shall provide to commission employees as often as necessary information regarding their qualifications under this chapter and their responsibilities under applicable laws relating to standards of conduct for state employees.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0058. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The executive commissioner shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the commission's intent to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the commission's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must be:

(1) updated annually;

(2) reviewed by the Texas Workforce Commission civil rights division for compliance with Subsection (b)(1); and

(3) filed with the governor's office.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0059. USE OF AGENCY STAFF. To the extent the commission requests, a health and human services agency shall assign existing staff to perform a function imposed under Chapter 531 or revised provisions derived from Chapter 531, as that chapter existed on March 31, 2025.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0060. CRIMINAL HISTORY BACKGROUND CHECKS. (a) In this section, "eligible individual" means an individual whose criminal history record information the executive commissioner or the executive commissioner's designee is entitled to obtain from the Department of Public Safety under Section 411.1106.

(b) The executive commissioner may require an eligible individual to submit fingerprints in a form and of a quality acceptable to the Department of Public Safety and the Federal Bureau of Investigation for use in conducting a criminal history background check by obtaining criminal history record information under Sections 411.087 and 411.1106.

(c) Criminal history record information the executive commissioner obtains under Sections 411.087 and 411.1106 may be used only to evaluate the qualification or suitability for employment, including continued employment, of an eligible individual.

(d) Notwithstanding Subsection (c), the executive commissioner or the executive commissioner's designee may release or disclose criminal history record information obtained under Section 411.087 only to a governmental entity or as otherwise authorized by federal law, including federal regulations and executive orders.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER C. EXECUTIVE COUNCIL

Sec. 523.0101. HEALTH AND HUMAN SERVICES COMMISSION EXECUTIVE COUNCIL. The Health and Human Services Commission Executive Council is established to receive public comment and advise the executive commissioner regarding the commission's operation.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0102. POWERS AND DUTIES. (a) The executive council shall seek and receive public comment on:

(1) proposed rules;

(2) advisory committee recommendations;

(3) legislative appropriations requests or other documents related to the appropriations process;

(4) the operation of health and human services programs; and

(5) other items the executive commissioner determines appropriate.

(b) The executive council does not have authority to make administrative or policy decisions.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0103. COMPOSITION. (a) The executive council is composed of:

(1) the executive commissioner;

(2) the director of each division the executive commissioner established under former Section 531.008(c) before the expiration of that subsection on September 1, 2023;

(3) the commissioner of a health and human services agency;

(4) the commissioner of the Department of Family and Protective Services, regardless of whether that agency continues as a state agency separate from the commission; and

(5) other individuals the executive commissioner appoints as the executive commissioner determines necessary.

(b) To the extent the executive commissioner appoints members to the executive council under Subsection (a)(5), the executive commissioner shall make every effort to ensure that those appointments result in the executive council including:

(1) a balanced representation of a broad range of health and human services industry and consumer interests; and

(2) representation from broad geographic regions of this

state.

(c) An executive council member appointed under Subsection (a)(5) serves at the executive commissioner's pleasure.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0104. ELIGIBILITY TO SERVE ON EXECUTIVE COUNCIL. (a) In this section, "Texas trade association" has the meaning assigned by Section 523.0052.

(b) An individual may not serve on the executive council if:

(1) the individual is an officer, employee, or paid consultant of a Texas trade association in the field of health and human services; or

(2) the individual's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health and human services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0105. PRESIDING OFFICER; RULES FOR OPERATION. The executive commissioner serves as the chair of the executive council and shall adopt rules for the council's operation.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0106. MEETINGS; QUORUM. (a) The executive council shall meet at the executive commissioner's call at least quarterly. The executive commissioner may call additional meetings as the executive commissioner determines necessary.

(b) A majority of the executive council members constitutes a quorum for the transaction of business.

(c) The executive council shall comply with the requirements of Subchapter E, Chapter 522. The archived video and audio recording of a council meeting must be made available through the commission's Internet website.

(d) A meeting of individual executive council members that occurs in the ordinary course of commission operation is not a council meeting, and the requirements of Subsection (c) do not apply to the meeting.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0107. COMPENSATION; REIMBURSEMENT FOR EXPENSES. An executive council member appointed under Section 523.0103(a)(5) may not receive compensation for service as a council member but is entitled to reimbursement for travel expenses the member incurs while conducting council business as provided by the General Appropriations Act.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0108. PUBLIC COMMENT. The executive commissioner shall develop and implement policies that provide the public with a reasonable opportunity to appear before the executive council which may include holding meetings in various geographic areas across this state or allowing public comment at teleconferencing centers in various geographic areas across this state and to speak on any issue under the commission's jurisdiction.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0109. CONSTRUCTION OF SUBCHAPTER. This subchapter does not limit the executive commissioner's authority to establish additional advisory committees or councils.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0110. INAPPLICABILITY OF CERTAIN OTHER LAW. Except as

provided by Section 522.0204, Chapters 551 and 2110 do not apply to the executive council.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER D. COMMISSION ORGANIZATION

Sec. 523.0151. COMMISSION DIVISIONS. (a) The executive commissioner shall establish divisions within the commission along functional lines as necessary for effective administration and the discharge of the commission's functions.

(b) The executive commissioner may allocate and reallocate functions among the commission's divisions.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0152. DIVISION DIRECTOR APPOINTMENT AND QUALIFICATIONS. (a) The executive commissioner shall appoint a director for each division established within the commission under Section 523.0151, except that the director of the office of inspector general is appointed in accordance with Section 544.0101.

(b) The executive commissioner shall:

(1) develop clear qualifications for each director appointed under this section to ensure the director has:

(A) demonstrated experience in fields relevant to the director position; and

(B) executive-level administrative and leadership experience; and

(2) ensure the qualifications developed under Subdivision (1) are publicly available.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0153. DIVISION DIRECTOR DUTIES. (a) The executive commissioner shall clearly define the duties and responsibilities of a division director.

(b) The executive commissioner shall develop clear policies for the delegation to division directors of specific decision-making authority, including budget authority. The delegation should be significant enough to ensure the efficient administration of the commission's programs and services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4666, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 523.0154. DATA ANALYSIS UNIT; QUARTERLY UPDATE. (a) The executive commissioner shall establish a data analysis unit within the commission to establish, employ, and oversee data analysis processes designed to:

(1) improve contract management;

(2) detect data trends; and

(3) identify anomalies relating to service utilization, providers, payment methodologies, and compliance with requirements in Medicaid and child health plan program managed care and fee-for-service contracts.

(b) The commission shall assign to the data analysis unit staff who perform duties only in relation to the unit.

(c) The data analysis unit shall use all available data and tools for data analysis when establishing, employing, and overseeing data analysis processes under this section.

(d) Not later than the 30th day following the end of each calendar quarter, the data analysis unit shall provide an update on the unit's activities and findings to the governor, the lieutenant governor, the speaker of the house of representatives, the chair of the Senate Finance Committee, the chair of the House Appropriations Committee, and the chairs of the standing committees of the senate and house of representatives having jurisdiction over Medicaid.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0155. OFFICE OF POLICY AND PERFORMANCE. (a) In this section, "office" means the office of policy and performance established under this section.

(b) The executive commissioner shall establish the office of policy and performance as an executive-level office designed to coordinate policy and performance efforts across the health and human services system. To coordinate those efforts, the office shall:

(1) develop a performance management system;

(2) take the lead in providing support and oversight for the implementation of major policy changes and in managing organizational changes; and

(3) act as a centralized body of experts within the commission that offers program evaluation and process improvement expertise.

(c) In developing a performance management system under Subsection (b)(1), the office shall:

(1) gather, measure, and evaluate performance measures and accountability systems the health and human services system uses;

(2) develop new and refined performance measures as appropriate; and

(3) establish targeted, high-level system metrics capable of measuring overall performance and achievement of goals by the health and human services system and of communicating that performance and achievement to both internal and public audiences through various mechanisms, including the Internet.

(d) In providing support and oversight for the implementation of policy or organizational changes within the health and human services system under Subsection (b)(2), the office shall:

(1) ensure individuals receiving services from or participating in programs administered through the health and human services system do not lose visibility or attention during the implementation of any new policy or organizational change by:

(A) establishing timelines and milestones for any transition;

(B) supporting health and human services system staff in any change between service delivery methods; and

(C) providing feedback to executive management on technical assistance and other support needed to achieve a successful transition;

(2) address cultural differences among health and human

services system staff; and

(3) track and oversee changes in policy or organization mandated by legislation or administrative rule.

(e) In acting as a centralized body of experts under Subsection (b)(3), the office shall:

(1) for the health and human services system, provide program evaluation and process improvement guidance both generally and for specific projects identified with executive or stakeholder input or through risk analysis; and

(2) identify and monitor cross-functional efforts involving different administrative components within the health and human services system and the establishment of cross-functional teams when necessary to improve the coordination of services provided through the system.

(f) Except as otherwise provided by this section, the executive commissioner may develop the office's structure and duties as the executive commissioner determines appropriate.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0156. PURCHASING UNIT. (a) The commission shall establish a purchasing unit to manage administrative activities related to the purchasing functions within the health and human services system.

(b) The purchasing unit shall:

(1) seek to achieve targeted cost reductions, increase process efficiencies, improve technological support and customer services, and enhance purchasing support within the health and human services system; and

(2) if cost-effective, contract with private entities to perform purchasing functions for the health and human services system.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER E. ADVISORY COMMITTEES

Sec. 523.0201. ESTABLISHMENT OF ADVISORY COMMITTEES. The

executive commissioner shall establish and maintain advisory committees to consider issues and solicit public input across all major areas of the health and human services system which may be from various geographic areas across this state, which may be done either in person or through teleconferencing centers, including relating to the following issues:

(1) Medicaid and other social services programs;

(2) managed care under Medicaid and the child health plan program;

(3) health care quality initiatives;

(4) aging;

(5) individuals with disabilities, including individuals with autism;

(6) rehabilitation, including for individuals with brain injuries;

(7) children;

(8) public health;

(9) behavioral health;

(10) regulatory matters;

(11) protective services; and

(12) prevention efforts.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0202. APPLICABILITY OF OTHER LAW. Chapter 2110 applies to an advisory committee established under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0203. RULES FOR ADVISORY COMMITTEES. The executive commissioner shall adopt rules:

(1) in compliance with Chapter 2110 to govern the purpose, tasks, reporting requirements, and date of abolition of an advisory committee established under this subchapter; and

(2) related to an advisory committee's:

(A) size and quorum requirements;

(B) membership, including:

(i) member qualifications and any experience requirements;

(ii) required geographic representation;

(iii) appointment procedures; and

(iv) members' terms; and

(C) duty to comply with the requirements for open meetings under Chapter 551.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0204. PUBLIC ACCESS TO ADVISORY COMMITTEE MEETINGS. (a) This section applies to an advisory committee established under this subchapter.

(b) The commission shall create a master calendar that includes all advisory committee meetings across the health and human services system.

(c) The commission shall make available on the commission's Internet website:

(1) the master calendar;

(2) all meeting materials for an advisory committee meeting; and

(3) streaming live video and audio of each advisory committee meeting.

(d) The commission shall provide Internet access in each room used for a meeting that appears on the master calendar.

(e) The commission shall ensure that, to the same extent and in the same manner as the broadcast, archiving, and notice of agency meetings are required under Subchapter E, Chapter 522, advisory committee meetings are:

(1) broadcast;

(2) archived on the Internet website of the agency to which the advisory committee provides advice; and

(3) subject to public notice requirements.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0205. ADVISORY COMMITTEE REPORTING. An advisory

committee established under this subchapter shall:

(1) report any recommendations to the executive commissioner; and

(2) submit a written report to the legislature of any policy recommendations the advisory committee made to the executive commissioner under Subdivision (1).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER F. PUBLIC INTEREST INFORMATION, INPUT, AND COMPLAINTS

Sec. 523.0251. PUBLIC INTEREST INFORMATION AND INPUT GENERALLY. (a) The commission shall develop and implement policies that provide the public a reasonable opportunity to appear before the commission and speak on any issue under the commission's jurisdiction.

(b) The commission shall develop and implement routine and ongoing mechanisms, in accessible formats, to:

(1) receive consumer input;

(2) involve consumers in the planning, delivery, and evaluation of programs and services under the commission's jurisdiction; and

(3) communicate to the public regarding the input the commission receives under this section and actions taken in response to that input.

(c) The commission shall prepare information of public interest describing the commission's functions. The commission shall make the information available to the public and appropriate state agencies.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0252. PUBLIC HEARINGS. (a) The commission biennially shall conduct a series of public hearings in diverse locations throughout this state to give citizens of this state an opportunity to comment on health and human services issues. The commission shall conduct a sufficient number of hearings to allow reasonable access by citizens in both rural and urban areas, with an emphasis on geographic diversity.

(b) In conducting a public hearing under this section, the

commission shall, to the greatest extent possible, encourage participation in the hearings process by diverse groups of citizens in this state.

(c) A public hearing held under this section is subject to Chapter 551.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0253. NOTICE OF PUBLIC HEARING. (a) In addition to the notice required by Chapter 551, the commission shall:

(1) publish notice of a public hearing under Section 523.0252 in a newspaper of general circulation in the county in which the hearing is to be held; and

(2) provide written notice of the hearing to public officials in the affected area.

(b) If the county in which the public hearing is to be held does not have a newspaper of general circulation, the commission shall publish notice in a newspaper of general circulation in an adjacent county or in the nearest county in which a newspaper of general circulation is published.

(c) Notice must be published once a week for two consecutive weeks before the public hearing, with the first publication appearing not later than the 15th day before the date set for the hearing.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0254. COMPLAINTS. (a) The commission shall prepare information of public interest describing the commission's procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the public and appropriate state agencies.

(b) The executive commissioner by rule shall establish methods by which the public, consumers, and service recipients can be notified of the mailing addresses and telephone numbers of appropriate agency personnel for the purpose of directing complaints to the commission. The commission may provide for that notice:

(1) on each registration form, application, or written

contract for services of a person the commission regulates;

(2) on a sign prominently displayed in the place of business of each person the commission regulates; or

(3) in a bill for service provided by a person the commission regulates.

(c) The commission shall:

(1) keep an information file about each complaint filed with the commission relating to:

(A) a license holder or entity the commission regulates; or

(B) a service the commission delivers; and

(2) maintain an information file about each complaint the commission receives relating to any other matter or agency under the commission's jurisdiction.

(d) If a written complaint is filed with the commission relating to a license holder or entity the commission regulates or a service the commission delivers, the commission, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless notice would jeopardize an undercover investigation.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 523.0255. OFFICE OF OMBUDSMAN. (a) The executive commissioner shall establish the commission's office of the ombudsman with authority and responsibility over the health and human services system in performing the following functions:

(1) providing dispute resolution services for the health and human services system;

(2) performing consumer protection and advocacy functions related to health and human services, including assisting a consumer or other interested person with:

(A) raising a matter within the health and human services system that the person feels is being ignored; and

(B) obtaining information regarding a filed complaint;

and

(3) collecting inquiry and complaint data related to the health and human services system.

(b) The office of the ombudsman does not have the authority to provide a separate process for resolving complaints or appeals.

(c) The executive commissioner shall develop a standard process for tracking and reporting received inquiries and complaints within the health and human services system. The process must provide for the centralized tracking of inquiries and complaints submitted to field, regional, or other local health and human services system offices.

(d) Using the process developed under Subsection (c), the office of the ombudsman shall collect inquiry and complaint data from all agencies, divisions, offices, and other entities within the health and human services system. To assist with the collection of data under this subsection, the office may access any system or process for recording inquiries and complaints the health and human services system uses or maintains.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER G. OFFICE OF HEALTH COORDINATION AND CONSUMER SERVICES

Sec. 523.0301. DEFINITION. In this subchapter, "office" means the Office of Health Coordination and Consumer Services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0302. OFFICE; STAFF. (a) The Office of Health Coordination and Consumer Services is an office within the commission.

(b) The executive commissioner shall employ staff as needed to carry out the duties of the office.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0303. GOALS. The goals of the office are to:

(1) promote community support for parents of children younger than six years of age through an integrated state and local-level decision-making process; and

(2) provide for the seamless delivery of health and human services to children younger than six years of age to ensure that children are prepared to succeed in school.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0304. STRATEGIC PLAN. (a) The office shall create and implement a statewide strategic plan for the delivery of health and human services to children younger than six years of age.

(b) In developing the statewide strategic plan, the office shall:

(1) consider existing programs and models to serve children younger than six years of age, including:

(A) community resource coordination groups;

(B) the Texas System of Care; and

(C) the Texas Information and Referral Network and the 2-1-1 telephone number for access to human services;

(2) attempt to maximize federal funds and local existing infrastructure and funds; and

(3) provide for local participation to the greatest extent possible.

(c) The statewide strategic plan must address the needs of children with disabilities who are younger than six years of age.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0305. POWERS AND DUTIES. (a) The office shall identify:

(1) gaps in early childhood services by functional area and geographical area;

(2) state policies, rules, and service procedures that prevent or inhibit children younger than six years of age from accessing available services;

(3) sources of funds for early childhood services, including federal, state, and private-public venture sources;

(4) opportunities for collaboration between the Texas Education Agency and health and human services agencies to better serve the needs of children younger than six years of age;

(5) methods for coordinating early childhood services provided by the Texas Head Start State Collaboration Office, the Texas Education Agency, and the Texas Workforce Commission;

(6) quantifiable benchmarks for success within early childhood service delivery; and

(7) national best practices in early care and educational delivery models.

(b) The office shall establish community outreach efforts and ensure adequate communication lines that provide:

(1) the office with information about community-level efforts; and

(2) communities with information about funds and programs available to communities.

(c) The office shall make recommendations to the commission on strategies to:

(1) ensure optimum collaboration and coordination between state agencies serving the needs of children younger than six years of age and other community stakeholders;

(2) fill functional and geographical gaps in early childhood services; and

(3) amend state policies, rules, and service procedures that prevent or inhibit children younger than six years of age from accessing services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 523.0306. TEXAS HOME VISITING PROGRAM TRUST FUND. (a) The Texas Home Visiting Program trust fund is a trust fund outside the treasury with the comptroller. The fund is administered by the office under this section and rules the executive commissioner adopts. Money in the fund is not state money and is not subject to legislative appropriation.

(b) The fund consists of money from voluntary contributions

under Section 191.0048, Health and Safety Code, and Section 118.018, Local Government Code.

(c) The office may spend money in the fund without appropriation and only for the purpose of the Texas Home Visiting Program the commission administers.

(d) Interest and income from fund assets shall be credited to and deposited in the fund.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

CHAPTER 524. AUTHORITY OVER HEALTH AND HUMAN SERVICES SYSTEM

SUBCHAPTER A. SYSTEM OVERSIGHT AUTHORITY OF COMMISSION

Sec. 524.0001. GENERAL RESPONSIBILITY OF COMMISSION FOR HEALTH AND HUMAN SERVICES SYSTEM; PRIORITIZATION OF CERTAIN DUTIES. (a) The commission shall:

(1) supervise the administration and operation of Medicaid, including the administration and operation of the Medicaid managed care system in accordance with Sections 532.0051 and 532.0057;

(2) perform information resources planning and management for the health and human services system under Section 525.0251, with:

(A) the provision of information technology services for the health and human services system as a centralized administrative support service performed either by commission personnel or under a contract with the commission; and

(B) an emphasis on research and implementation on a demonstration or pilot basis of appropriate and efficient uses of new and existing technology to improve the operation of the health and human services system and delivery of health and human services;

(3) monitor and ensure the effective use of all federal funds received for the health and human services system in accordance with Section 525.0052 and the General Appropriations Act;

(4) implement Texas Integrated Enrollment Services as required by Subchapter A, Chapter 545, except that notwithstanding that subchapter, the commission is responsible for determining and must centralize benefits eligibility under the following programs:

(A) the child health plan program;

(B) the financial assistance program under Chapter 31,

Human Resources Code;

(C) Medicaid;

(D) the supplemental nutrition assistance program under Chapter 33, Human Resources Code;

(E) long-term care services as defined by Section 22.0011, Human Resources Code;

(F) community-based support services identified or provided in accordance with Subchapter D, Chapter 546; and

(G) other health and human services programs, as appropriate; and

(5) implement programs intended to prevent family violence and provide services to victims of family violence.

(b) The commission shall implement the powers and duties given to the commission under Sections 525.0002, 525.0153, 2155.144, and 2167.004.

(c) After implementing the commission's duties under Subsections (a) and (b), the commission shall implement the powers and duties given to the commission under Section 525.0160.

(d) Nothing in the priorities established by this section is intended to limit the commission's authority to work simultaneously to achieve the multiple tasks assigned to the commission in this section and Section 524.0202(a)(1) when that approach is beneficial in the commission's judgment.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 524.0002. GENERAL RESPONSIBILITY OF EXECUTIVE COMMISSIONER FOR HEALTH AND HUMAN SERVICES SYSTEM. (a) The executive commissioner, as necessary to perform the functions described by Section 524.0001 and Subchapter E in implementing applicable policies the executive commissioner establishes for a health and human services agency or division, shall:

(1) manage and direct the operations of each agency or division, as applicable;

(2) supervise and direct the activities of each agency commissioner or division director, as applicable; and

(3) be responsible for the administrative supervision of the internal audit program for the agencies, including:

(A) selecting the director of internal audit;

(B) ensuring the director of internal audit reports directly to the executive commissioner; and

(C) ensuring the independence of the internal audit function.

(b) The executive commissioner's operational authority and responsibility for purposes of Subsection (a) and Section 524.0151(a)(2) for each health and human services agency or division, as applicable, includes authority over and responsibility for:

(1) daily operations management of the agency or division, including the organization, management, and operating procedures of the agency or division;

(2) resource allocation within the agency or division, including the use of federal funds the agency or division receives;

(3) personnel and employment policies;

(4) contracting, purchasing, and related policies, subject to this chapter and other laws relating to contracting and purchasing by a state agency;

(5) information resources systems the agency or division uses;

(6) facility location; and

(7) the coordination of agency or division activities with activities of other components of the health and human services system and state agencies.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 524.0003. ADOPTION OR APPROVAL OF PAYMENT RATES. Notwithstanding any other law, the executive commissioner's operational authority and responsibility for purposes of Sections 524.0002(a) and 524.0151(a)(2) for each health and human services agency or division, as applicable, include the authority and responsibility to adopt or approve, subject to applicable limitations, any payment rate or similar provision a health and human services agency is required by law to adopt or approve.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 524.0004. PROGRAM TO EVALUATE AND SUPERVISE DAILY OPERATIONS. (a) For each health and human services agency and division, as applicable, the executive commissioner shall implement a program to evaluate and supervise daily operations.

(b) The program must include:

(1) measurable performance objectives for each agency commissioner or division director; and

(2) adequate reporting requirements to permit the executive commissioner to perform the duties assigned to the executive commissioner under:

(A) this subchapter;

(B) Sections 524.0101(a), 524.0151(a)(2) and (b), and 525.0254(b); and

(C) Section 524.0202 with respect to the health and human services system.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 524.0005. RULES. The executive commissioner shall adopt rules to implement the executive commissioner's authority under this subchapter with respect to the health and human services system.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER B. COMMISSIONERS OF HEALTH AND HUMAN SERVICES AGENCIES

Sec. 524.0051. APPOINTMENT OF AGENCY COMMISSIONER BY EXECUTIVE COMMISSIONER. (a) The executive commissioner, with the governor's approval, shall appoint a commissioner for each health and human services agency.

(b) A health and human services agency commissioner serves at the executive commissioner's pleasure.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 524.0052. EVALUATION OF AGENCY COMMISSIONER. Based on the

performance objectives outlined in the memorandum of understanding entered into under Section 524.0101(a), the executive commissioner shall perform an employment evaluation of each health and human services agency commissioner. The executive commissioner shall submit the evaluation to the governor not later than January 1 of each even-numbered year.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER C. MEMORANDUM OF UNDERSTANDING FOR OPERATION OF SYSTEM

Sec. 524.0101. MEMORANDUM OF UNDERSTANDING BETWEEN EXECUTIVE COMMISSIONER AND HEALTH AND HUMAN SERVICES AGENCY COMMISSIONER. (a) The executive commissioner and each health and human services agency commissioner shall enter into a memorandum of understanding in the manner prescribed by Section 524.0102 that:

(1) clearly defines the responsibilities of the executive commissioner and the commissioner, including:

(A) the responsibility of the commissioner to:

(i) report to the governor; and

(ii) report to and implement policies of the executive commissioner; and

(B) the extent to which the commissioner acts as a liaison between the health and human services agency the commissioner serves and the commission;

(2) establishes the program to evaluate and supervise daily operations required by Section 524.0004;

(3) describes each power or duty delegated to a commissioner; and

(4) ensures the commission and each health and human services agency has access to databases or other information each other agency maintains or keeps that is necessary for the operation of a function the commission or the health and human services agency performs, to the extent not prohibited by other law.

(b) The memorandum of understanding must also outline specific performance objectives, as the executive commissioner defines, to be fulfilled by the health and human services agency commissioner with whom the executive commissioner enters into the memorandum of understanding, including the performance objectives required by

Section 524.0004.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 524.0102. ADOPTION AND AMENDMENT OF MEMORANDUM OF UNDERSTANDING. (a) The executive commissioner by rule shall adopt the memorandum of understanding under Section 524.0101 in accordance with the procedures prescribed by Subchapter B, Chapter 2001, for adopting rules, except that the requirements of Sections 2001.033(a)(1)(A) and (C) do not apply with respect to any part of the memorandum of understanding that:

(1) concerns only internal management or organization within or among health and human services agencies and does not affect private rights or procedures; or

(2) relates solely to the internal personnel practices of health and human services agencies.

(b) The memorandum of understanding may be amended only by following the procedures prescribed by Subsection (a).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER D. RULES AND POLICIES FOR HEALTH AND HUMAN SERVICES

Sec. 524.0151. AUTHORITY TO ADOPT RULES AND POLICIES. (a) The executive commissioner shall:

(1) adopt rules necessary to carry out the commission's duties under Chapter 531 and revised provisions derived from Chapter 531, as that chapter existed on March 31, 2025; and

(2) notwithstanding any other law, adopt rules and policies for the operation of the health and human services system and the provision of health and human services by that system.

(b) Notwithstanding any other law, the executive commissioner has the authority to adopt rules and policies governing:

(1) the delivery of services to persons the health and human services system serves; and

(2) the rights and duties of persons the system serves or regulates.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 524.0152. PROCEDURES FOR ADOPTING RULES AND POLICIES. (a) The executive commissioner shall develop procedures for adopting rules for the health and human services agencies. The procedures must specify the manner in which the agencies may participate in the rulemaking process.

(b) A health and human services agency shall assist the executive commissioner in developing policies and guidelines needed for the administration of the agency's functions and shall submit any proposed policies and guidelines to the executive commissioner. The agency may implement a proposed policy or guideline only if the executive commissioner approves the policy or guideline.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 524.0153. POLICY FOR NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop and implement a policy for the commission and each health and human services agency to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of rules for the commission and each agency; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's or agency's jurisdiction.

(b) The procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines the State Office of Administrative Hearings issues for the use of alternative dispute resolution by state agencies.

(c) The commission shall:

(1) coordinate the implementation of the policy developed under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 524.0154. PERSON FIRST RESPECTFUL LANGUAGE PROMOTION. The executive commissioner shall ensure that the commission and each health and human services agency use the terms and phrases listed as preferred under the person first respectful language initiative in Chapter 392 when proposing, adopting, or amending the commission's or agency's rules, reference materials, publications, or electronic media.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER E. ADMINISTRATIVE SUPPORT SERVICES

Sec. 524.0201. DEFINITION. In this subchapter, "administrative support services" includes strategic planning and evaluation, audit, legal, human resources, information resources, purchasing, contracting, financial management, and accounting services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 524.0202. CENTRALIZED SYSTEM OF ADMINISTRATIVE SUPPORT SERVICES. (a) Subject to Section 524.0203(a), the executive commissioner shall plan and implement an efficient and effective centralized system of administrative support services for:

(1) the health and human services system; and

(2) the Department of Family and Protective Services.

(b) The commission is responsible for the performance of administrative support services for the health and human services system. The executive commissioner shall adopt rules to implement the executive commissioner's authority under this section with respect to that system.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 524.0203. PRINCIPLES FOR AND REQUIREMENTS OF CENTRALIZED SYSTEM; MEMORANDUM OF UNDERSTANDING. (a) The executive commissioner shall plan and implement the centralized system of administrative support services in accordance with the following principles and requirements:

(1) the executive commissioner shall consult with the commissioner of each agency and the director of each division within the health and human services system to ensure the commission is responsive to and addresses agency or division needs;

(2) consolidation of staff providing the support services must be done in a manner that ensures each agency or division within the health and human services system that loses staff as a result of the centralization of support services has adequate resources to carry out functions of the agency or division, as appropriate; and

(3) the commission and each agency or division within the health and human services system shall, as appropriate, enter into a memorandum of understanding or other written agreement to ensure accountability for the provision of support services by clearly detailing:

(A) the responsibilities of each agency or division and the commission;

(B) the points of contact for each agency or division and the commission;

(C) the transfer of personnel among each agency or division and the commission;

(D) the agreement's budgetary effect on each agency or division and the commission; and

(E) any other item the executive commissioner determines is critical for maintaining accountability.

(b) A memorandum of understanding or other written agreement entered into under Subsection (a)(3) may be combined with the memorandum of understanding required under Section 524.0101(a), if appropriate.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER F. LEGISLATIVE OVERSIGHT

Sec. 524.0251. OVERSIGHT BY LEGISLATIVE COMMITTEES. The

standing or other committees of the house of representatives and the senate that have jurisdiction over the commission and other agencies relating to implementation of Chapter 531 and revised provisions derived from Chapter 531, as that chapter existed on March 31, 2025, as identified by the speaker of the house of representatives and the lieutenant governor, shall:

(1) to ensure implementation consistent with law, monitor the commission's:

(A) implementation of Subchapter A, Sections 524.0101(a), 524.0151(a)(2) and (b), and 525.0254(b), and Section 524.0202 with respect to the health and human services system; and

(B) other duties in consolidating and integrating health and human services;

(2) recommend any needed adjustments to the implementation of the provisions listed in Subdivision (1)(A) and the commission's other duties in consolidating and integrating health and human services; and

(3) review the commission's rulemaking process, including the commission's plan for obtaining public input.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 524.0252. INFORMATION PROVIDED TO LEGISLATIVE COMMITTEES. The commission shall provide the committees described by Section 524.0251 with copies of all required reports and proposed rules. Copies of the proposed rules must be provided to the committees before the rules are published in the Texas Register. At the request of a committee or the executive commissioner, a health and human services agency shall:

(1) provide other information to the committee, including information relating to the health and human services system; and

(2) report on agency progress in implementing statutory directives the committee identifies and the commission's directives.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

CHAPTER 525. GENERAL POWERS AND DUTIES OF COMMISSION AND EXECUTIVE COMMISSIONER

SUBCHAPTER A. HEALTH AND HUMAN SERVICES ADMINISTRATION GENERALLY

Sec. 525.0001. POWERS AND DUTIES RELATING TO HEALTH AND HUMAN SERVICES ADMINISTRATION. The commission and the executive commissioner have all the powers and duties necessary to administer Chapter 531 and revised provisions derived from Chapter 531, as that chapter existed March 31, 2025.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0002. LOCATION OF AND CONSOLIDATION OF CERTAIN SERVICES AMONG HEALTH AND HUMAN SERVICES AGENCIES. (a) The commission may require a health and human services agency, under the commission's direction, to:

(1) ensure that the agency's location is accessible to:

(A) employees with disabilities; and

(B) agency clients with disabilities; and

(2) consolidate agency support services, including clerical, administrative, and information resources support services, with support services provided to or by another health and human services agency.

(b) The executive commissioner may require a health and human services agency, under the executive commissioner's direction, to locate all or a portion of the agency's employees and programs:

(1) in the same building as another health and human services agency; or

(2) at a location near or adjacent to another health and human services agency's location.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0003. CONSOLIDATED INTERNAL AUDIT PROGRAM. (a) Notwithstanding Section 2102.005, the commission shall operate the internal audit program required under Chapter 2102 for the commission and each health and human services agency as a consolidated internal audit program.

(b) For purposes of this section, a reference in Chapter 2102 to the administrator of a state agency with respect to a health and

human services agency means the executive commissioner.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0004. INTERAGENCY DISPUTE ARBITRATION. The executive commissioner shall arbitrate and render the final decision on interagency disputes.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER B. ACCOUNTING AND FISCAL PROVISIONS

Sec. 525.0051. MANAGEMENT INFORMATION AND COST ACCOUNTING SYSTEMS. The executive commissioner shall establish a management information system and a cost accounting system for all health and human services that is compatible with and meets the requirements of the uniform statewide accounting project.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 525.0052. FEDERAL FUNDS: PLANNING AND MANAGEMENT; ANNUAL REPORT. (a) The commission, subject to the General Appropriations Act, is responsible for planning for and managing the use of federal funds in a manner that maximizes the federal funding available to this state while promoting the delivery of services.

(b) The executive commissioner shall:

(1) establish a federal money management system to coordinate and monitor the use of federal money health and human services agencies receive to ensure that the money is spent in the most efficient manner;

(2) establish priorities for health and human services agencies' use of federal money in coordination with the coordinated strategic plan the executive commissioner develops under Section

525.0154;

(3) coordinate and monitor the use of federal money for health and human services to ensure that the money is spent in the most cost-effective manner throughout the health and human services system;

(4) review and approve all federal funding plans for health and human services in this state;

(5) estimate available federal money, including earned federal money, and monitor unspent money;

(6) ensure that the state meets federal requirements relating to receipt of federal money for health and human services, including requirements relating to state matching money and maintenance of effort;

(7) transfer appropriated amounts as described by Section 525.0053; and

(8) ensure that each governmental entity the executive commissioner identifies under Section 525.0155 has access to complete and timely information about all sources of federal money for health and human services programs and that technical assistance is available to governmental entities seeking grants of federal money to provide health and human services.

(c) The commission shall prepare an annual report regarding the results of implementing this section. The report must identify strategies to:

(1) maximize the receipt and use of federal funds; and

(2) improve federal funds management.

(d) Not later than December 15 of each year, the commission shall file the report the commission prepares under Subsection (c) with the governor, the lieutenant governor, and the speaker of the house of representatives.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0053. AUTHORITY TO TRANSFER CERTAIN APPROPRIATED AMOUNTS AMONG HEALTH AND HUMAN SERVICES AGENCIES. The commission may, subject to the General Appropriations Act, transfer amounts appropriated to health and human services agencies among the agencies to:

(1) enhance the receipt of federal money under the federal money management system the executive commissioner establishes under Section 525.0052;

(2) achieve efficiencies in the agencies' administrative support functions; and

(3) perform the functions assigned to the executive commissioner under:

(A) Subchapter A, Chapter 524; and

(B) Sections 524.0101, 524.0151, 524.0202, and 525.0254.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0054. EFFICIENCY AUDIT OF CERTAIN ASSISTANCE PROGRAMS. (a) For purposes of this section, "efficiency audit" means an investigation of the implementation and administration of the federal Temporary Assistance for Needy Families program operated under Chapter 31, Human Resources Code, and the state temporary assistance and support services program operated under Chapter 34, Human Resources Code, to examine fiscal management, the efficiency of the use of resources, and the effectiveness of state efforts in achieving the goals of the Temporary Assistance for Needy Families program described under 42 U.S.C. Section 601(a).

(b) In 2022 and every sixth year after that year, an external auditor selected under Subsection (c) shall conduct an efficiency audit. The commission shall pay the costs associated with the audit using existing resources.

(c) The state auditor shall:

(1) not later than March 1 of the year in which an efficiency audit is required under this section, select an external auditor to conduct the audit; and

(2) ensure that the external auditor conducts the audit in accordance with this section.

(d) The external auditor shall be independent and not subject to direction from:

(1) the commission; or

(2) any other state agency that:

(A) is subject to evaluation by the auditor for

purposes of this section; or

(B) receives or spends money under the programs described by Subsection (a).

(e) The external auditor shall complete the efficiency audit not later than the 90th day after the date the state auditor selects the external auditor.

(f) The Legislative Budget Board shall establish the scope of the efficiency audit and determine the areas of investigation for the audit, including:

(1) reviewing the resources dedicated to a program described by Subsection (a) to determine whether those resources:

(A) are used effectively and efficiently to achieve desired outcomes for individuals receiving benefits under the program; and

(B) are not used for purposes other than the intended goals of the program;

(2) identifying cost savings or reallocations of resources; and

(3) identifying opportunities to improve services through consolidation of essential functions, outsourcing, and elimination of duplicative efforts.

(g) Not later than November 1 of the year an efficiency audit is conducted, the external auditor shall prepare and submit a report of the audit and recommendations for efficiency improvements to:

(1) the governor;

(2) the Legislative Budget Board;

(3) the state auditor;

(4) the executive commissioner; and

(5) the chairs of the House Human Services Committee and the Senate Health and Human Services Committee.

(h) The executive commissioner and the state auditor shall publish the report, recommendations, and full efficiency audit on the commission's and the state auditor's Internet websites.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0055. GIFTS AND GRANTS. The commission may accept a gift or grant from a public or private source to perform any of the

commission's powers or duties.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER C. CONTRACTS

Sec. 525.0101. GENERAL CONTRACT AUTHORITY. The commission may enter into contracts as necessary to perform any of the commission's powers or duties.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0102. SUBROGATION AND THIRD-PARTY REIMBURSEMENT CONTRACTS. (a) Except as provided by Subsection (d), the commission shall enter into a contract under which the contractor is authorized on behalf of the commission or a health and human services agency to recover money under a subrogation or third-party reimbursement right the commission or agency holds that arises from payment of medical expenses. The contract must provide that:

(1) the commission or agency, as appropriate, shall compensate the contractor based on a percentage of the amount of money the contractor recovers for the commission or agency; and

(2) the contractor may represent the commission or agency in a court proceeding to recover money under a subrogation or third-party reimbursement right if:

(A) the attorney required by other law to represent the commission or agency in court approves; and

(B) the representation is cost-effective and specifically authorized by the commission.

(b) The commission shall develop a process to:

(1) identify claims for the recovery of money under a subrogation or third-party reimbursement right described by this section; and

(2) refer the identified claims to a contractor authorized under this section.

(c) A health and human services agency shall cooperate with a contractor authorized under this section on a claim the agency refers to the contractor for recovery.

(d) If the commission cannot identify a contractor who is willing to contract with the commission under this section on reasonable terms, the commission:

(1) is not required to enter into a contract under Subsection (a); and

(2) shall develop and implement alternative policies to ensure the recovery of money under a subrogation or third-party reimbursement right.

(e) The commission may allow a state agency other than a health and human services agency to be a party to the contract required by Subsection (a). If the commission allows an additional state agency to be a party to the contract, the commission shall modify the contract as necessary to reflect the services the contractor is to provide to that agency.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER D. PLANNING AND DELIVERY OF HEALTH AND HUMAN SERVICES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 525.0151. PLANNING AND DELIVERY OF HEALTH AND HUMAN SERVICES GENERALLY. The executive commissioner shall:

(1) facilitate and enforce coordinated planning and delivery of health and human services, including:

(A) compliance with the coordinated strategic plan;

(B) colocation of services;

(C) integrated intake; and

(D) coordinated referral and case management;

(2) establish and enforce uniform regional boundaries for all health and human services agencies;

(3) carry out statewide health and human services needs surveys and forecasting;

(4) perform independent special-outcome evaluations of health and human services programs and activities; and

(5) on request of a governmental entity the executive commissioner identifies under Section 525.0155, assist the entity in implementing a coordinated plan that:

(A) may include colocation of services, integrated intake, and coordinated referral and case management; and

(B) is tailored to the entity's needs and priorities.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0152. PLANNING AND POLICY DIRECTION OF TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM. (a) In this section, "financial assistance program" means the financial assistance program operated under Chapter 31, Human Resources Code.

(b) The commission shall:

(1) plan and direct the financial assistance program, including the procurement, management, and monitoring of contracts necessary to implement the program; and

(2) establish requirements for and define the scope of the ongoing evaluation of the financial assistance program.

(c) The executive commissioner shall adopt rules and standards governing the financial assistance program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0153. ANNUAL BUSINESS SERVICES PLANS. The commission shall develop and implement an annual business services plan for each health and human services region that:

(1) establishes performance objectives for all health and human services agencies providing services in the region; and

(2) measures agency effectiveness and efficiency in achieving those objectives.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 525.0154. COORDINATED STRATEGIC PLAN AND BIENNIAL PLAN

UPDATES FOR HEALTH AND HUMAN SERVICES. (a) The executive commissioner shall:

(1) develop a coordinated, six-year strategic plan for health and human services in this state; and

(2) submit a biennial update of the plan to the governor, the lieutenant governor, and the speaker of the house of representatives not later than October 1 of each even-numbered year.

(b) The coordinated strategic plan must include the following goals:

(1) developing a comprehensive, statewide approach to the planning of health and human services;

(2) creating a continuum of care for families and individuals in need of health and human services;

(3) integrating health and human services to provide for the efficient and timely delivery of those services;

(4) maximizing existing resources through effective funds management and the sharing of administrative functions;

(5) effectively using management information systems to continually improve service delivery;

(6) providing systemwide accountability through effective monitoring mechanisms;

(7) promoting teamwork among the health and human services agencies and providing incentives for creativity;

(8) fostering innovation at the local level; and

(9) encouraging full participation of fathers in programs and services relating to children.

(c) In developing the coordinated strategic plan and plan updates under this section, the executive commissioner shall consider:

(1) existing strategic plans of health and human services agencies;

(2) health and human services priorities and plans governmental entities submit under Section 525.0155;

(3) facilitation of pending reorganizations or consolidations of health and human services agencies and programs;

(4) public comment, including comment documented through public hearings conducted under Section 523.0252; and

(5) budgetary issues, including projected agency needs and projected availability of funds.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 525.0155. COORDINATION WITH LOCAL GOVERNMENTAL ENTITIES. The executive commissioner shall:

(1) identify the governmental entities that coordinate the delivery of health and human services in regions, counties, and municipalities; and

(2) request that each identified governmental entity:

(A) identify the health and human services priorities in the entity's jurisdiction and the most effective ways to deliver and coordinate services in that jurisdiction;

(B) develop a coordinated plan for delivering health and human services in the jurisdiction, including transition services that prepare special education students for adulthood; and

(C) make available to the commission the information requested under Paragraphs (A) and (B).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0156. SUBMISSION AND REVIEW OF AGENCY STRATEGIC PLANS AND BIENNIAL PLAN UPDATES. (a) Each health and human services agency shall submit to the commission a strategic plan and biennial updates of the plan on a date determined by commission rule.

(b) The commission shall:

(1) review and comment on each strategic plan and biennial update a health and human services agency submits to the commission under this section; and

(2) not later than January 1 of each even-numbered year, begin formal discussions with each health and human services agency regarding that agency's strategic plan or biennial update, as appropriate.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

Sec. 525.0157. STATEWIDE NEEDS APPRAISAL PROJECT. (a) The commission may implement the Statewide Needs Appraisal Project to obtain county-specific demographic data concerning health and human services needs in this state.

(b) Any collected data must be made available for use in planning and budgeting for health and human services programs by state agencies.

(c) The commission shall coordinate the commission's activities with the appropriate health and human services agencies.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0158. STREAMLINING SERVICE DELIVERY. To integrate and streamline service delivery and facilitate access to services, the executive commissioner may:

(1) request a health and human services agency to take a specific action; and

(2) recommend the manner for accomplishing the streamlining, including requesting each agency to:

(A) simplify or automate agency procedures;

(B) coordinate service planning and management tasks between and among health and human services agencies;

(C) reallocate staff resources;

(D) waive existing rules; or

(E) take other necessary actions.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0159. HOTLINE AND CALL CENTER COORDINATION. (a) The commission shall establish a process to ensure all health and human services system hotlines and call centers are necessary and appropriate. Under the process, the commission shall:

(1) develop criteria for use in assessing whether a hotline or call center serves an ongoing purpose;

(2) develop and maintain an inventory of all system hotlines and call centers;

(3) use the inventory and assessment criteria the commission develops under this subsection to periodically consolidate hotlines and call centers along appropriate functional lines;

(4) develop an approval process designed to ensure that a newly established hotline or call center, including the telephone system and contract terms for the hotline or call center, meets policies and standards the commission establishes; and

(5) develop policies and standards for hotlines and call centers that:

(A) include quality and quantity performance measures and benchmarks; and

(B) may include policies and standards for:

(i) client satisfaction with call resolution;

(ii) accuracy of information provided;

(iii) the percentage of received calls that are answered;

(iv) the amount of time a caller spends on hold; and

(v) call abandonment rates.

(b) In consolidating hotlines and call centers under Subsection (a)(3), the commission shall seek to maximize the use and effectiveness of the commission's 2-1-1 telephone number.

(c) In developing policies and standards under Subsection (a)(5), the commission may allow varied performance measures and benchmarks for a hotline or call center based on factors affecting the capacity of the hotline or call center, including factors such as staffing levels and funding.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0160. COMMUNITY-BASED SUPPORT SYSTEMS. (a) Subject to Sections 524.0001(c) and (d) and 524.0202(a)(1), the commission shall assist communities in this state in developing comprehensive, community-based support systems for health and human services. At a community's request, the commission shall provide to the community resources and assistance to enable the community to:

(1) identify and overcome institutional barriers to developing more comprehensive community support systems, including barriers resulting from the policies and procedures of state health and human services agencies; and

(2) develop a system of blended funds to allow the community to customize services to fit individual community needs.

(b) At the commission's request, a health and human services agency shall provide to a community resources and assistance as necessary to perform the commission's duties under Subsection (a).

(c) A health and human services agency that receives or develops a proposal for a community initiative shall submit the proposal to the commission for review and approval. The commission shall review the proposal to ensure that the proposed initiative:

(1) is consistent with other similar programs offered in communities; and

(2) does not duplicate other services provided in the community.

(d) In implementing this section, the commission shall consider models used in other service delivery systems, including the mental health and intellectual disability service delivery systems.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER E. HEALTH INFORMATION EXCHANGE SYSTEM

Sec. 525.0201. DEFINITIONS. In this subchapter:

(1) "Electronic health record" means an electronic record of an individual's aggregated health-related information that conforms to nationally recognized interoperability standards and that can be created, managed, and consulted by authorized health care providers across two or more health care organizations.

(2) "Electronic medical record" means an electronic record of an individual's health-related information that can be created, gathered, managed, and consulted by authorized clinicians and staff within a single health care organization.

(3) "Health information exchange system" means an electronic health information exchange system created under this subchapter that moves health-related information among entities according to nationally recognized standards.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0202. HEALTH INFORMATION EXCHANGE SYSTEM DEVELOPMENT. (a) The commission shall develop an electronic health information exchange system to improve the quality, safety, and efficiency of health care services provided under Medicaid and the child health plan program. In developing the system, the commission shall ensure that:

(1) the confidentiality of patients' health information is protected and patient privacy is maintained in accordance with federal and state law, including:

(A) Section 1902(a)(7), Social Security Act (42 U.S.C. Section 1396a(a)(7));

(B) the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191);

(C) Chapter 552;

(D) Subchapter G, Chapter 241, Health and Safety Code;

(E) Section 12.003, Human Resources Code; and

(F) federal and state rules, including:

(i) 42 C.F.R. Part 431, Subpart F; and

(ii) 45 C.F.R. Part 164;

(2) appropriate information technology systems the commission and health and human services agencies use are interoperable;

(3) the system and external information technology systems are interoperable in receiving and exchanging appropriate electronic health information as necessary to enhance:

(A) the comprehensive nature of information contained in electronic health records; and

(B) health care provider efficiency by supporting integration of the information into the electronic health record health care providers use;

(4) the system and other health information systems not described by Subdivision (3) and data warehousing initiatives are interoperable; and

(5) the system includes the elements described by Subsection (b).

(b) The health information exchange system must include the

following elements:

(1) an authentication process that uses multiple forms of identity verification before allowing access to information systems and data;

(2) a formal process for establishing data-sharing agreements within the community of participating providers in accordance with the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) and the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5);

(3) a method by which the commission may open or restrict access to the system during a declared state emergency;

(4) the capability of appropriately and securely sharing health information with state and federal emergency responders;

(5) compatibility with the Nationwide Health Information Network (NHIN) and other national health information technology initiatives coordinated by the Office of the National Coordinator for Health Information Technology;

(6) technology that allows for patient identification across multiple systems; and

(7) the capability of allowing a health care provider with technology that meets current national standards to access the system.

(c) The health information exchange system must be developed in accordance with the Medicaid Information Technology Architecture (MITA) initiative of the Centers for Medicare and Medicaid Services and conform to other standards required under federal law.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0203. HEALTH INFORMATION EXCHANGE SYSTEM IMPLEMENTATION IN STAGES. The commission shall implement the health information exchange system in stages as described by this subchapter, except that the commission may deviate from those stages if technological advances make a deviation advisable or more efficient.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0204. HEALTH INFORMATION EXCHANGE SYSTEM STAGE ONE: ENCOUNTER DATA. In stage one of implementing the health information exchange system and for purposes of the implementation, the commission shall require each managed care organization with which the commission contracts under Chapter 540 or 540A for the provision of Medicaid managed care services or under Chapter 62, Health and Safety Code, for the provision of child health plan program services to submit to the commission complete and accurate encounter data not later than the 30th day after the last day of the month in which the managed care organization adjudicated the claim.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0205. HEALTH INFORMATION EXCHANGE SYSTEM STAGE ONE: ELECTRONIC PRESCRIBING. (a) In stage one of implementing the health information exchange system, the commission shall support and coordinate electronic prescribing tools health care providers and health care facilities use under Medicaid and the child health plan program.

(b) The commission shall collaborate with, and accept recommendations from, physicians and other stakeholders to ensure that the electronic prescribing tools described by Subsection (a):

(1) are integrated with existing electronic prescribing systems otherwise in use in the public and private sectors; and

(2) to the extent feasible:

(A) provide current payer formulary information at the time a health care provider writes a prescription; and

(B) support the electronic transmission of a prescription.

(c) The commission may take any reasonable action to comply with this section, including establishing information exchanges with national electronic prescribing networks or providing health care providers with access to an Internet-based prescribing tool the commission develops.

(d) The commission shall apply for and actively pursue any waiver to the state Medicaid plan or the child health plan program from the Centers for Medicare and Medicaid Services or any other federal agency as necessary to remove an identified impediment to

supporting and implementing electronic prescribing tools under this section, including the requirement for handwritten certification of certain drugs under 42 C.F.R. Section 447.512. If the commission, with assistance from the Legislative Budget Board, determines that the implementation of an operational modification in accordance with a waiver the commission obtains as required by this subsection has resulted in a cost increase in Medicaid or the child health plan program, the commission shall take the necessary actions to reverse the operational modification.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0206. HEALTH INFORMATION EXCHANGE SYSTEM STAGE TWO: EXPANSION. (a) In stage two of implementing the health information exchange system and based on feedback provided by interested parties, the commission may expand the system by:

(1) providing an electronic health record for each child health plan program enrollee;

(2) including state laboratory results information in an electronic health record, including the results of newborn screenings and tests conducted under the Texas Health Steps program, based on the system developed for the health passport under Section 266.006, Family Code;

(3) improving electronic health record data-gathering capabilities to allow the record to include basic health and clinical information as the executive commissioner determines in addition to available claims information;

(4) using evidence-based technology tools to create a unique health profile to alert health care providers regarding the need for additional care, education, counseling, or health management activities for specific patients; and

(5) continuing to enhance the electronic health record created for each Medicaid recipient as technology becomes available and interoperability capabilities improve.

(b) In expanding the health information exchange system, the commission shall collaborate with, and accept recommendations from, physicians and other stakeholders to ensure that electronic health records provided under this section support health information

exchange with electronic medical records systems physicians use in the public and private sectors.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0207. HEALTH INFORMATION EXCHANGE SYSTEM STAGE THREE: EXPANSION. In stage three of implementing the health information exchange system, the commission may expand the system by:

(1) developing evidence-based benchmarking tools for a health care provider to use in evaluating the provider's own performance on health care outcomes and overall quality of care as compared to aggregated peer performance data; and

(2) expanding the system to include state agencies, additional health care providers, laboratories, diagnostic facilities, hospitals, and medical offices.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0208. STRATEGIES TO ENCOURAGE HEALTH INFORMATION EXCHANGE SYSTEM USE. The commission shall develop strategies to encourage health care providers to use the health information exchange system, including incentives, education, and outreach tools to increase usage.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0209. RULES. The executive commissioner may adopt rules to implement this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER F. INFORMATION RESOURCES AND TECHNOLOGY

Sec. 525.0251. INFORMATION RESOURCES STRATEGIC PLANNING AND

MANAGEMENT. (a) The commission is responsible for strategic planning for information resources at each health and human services agency and shall direct the management of information resources at each health and human services agency.

(b) The commission shall:

(1) develop a coordinated strategic plan for information resources management that:

(A) covers a five-year period;

(B) defines objectives for information resources management at each health and human services agency;

(C) prioritizes information resources projects and implementation of new technology for all health and human services agencies;

(D) integrates planning and development of each information resources system a health and human services agency uses into a coordinated information resources management planning and development system the commission establishes;

(E) establishes standards for information resources system security and that promotes the capability of information resources systems operating with each other;

(F) achieves economies of scale and related benefits in purchasing for health and human services information resources systems; and

(G) is consistent with the state strategic plan for information resources developed under Chapter 2054;

(2) establish and ensure compliance with information resources management policies, procedures, and technical standards; and

(3) review and approve the information resources deployment review and biennial operating plan of each health and human services agency.

(c) A health and human services agency may not submit the agency's plans to the Department of Information Resources or the Legislative Budget Board under Subchapter E, Chapter 2054, until the commission approves the plans.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0252. TECHNOLOGICAL SOLUTIONS POLICIES. (a) The commission shall develop and implement a policy requiring the agency commissioner and employees of each health and human services agency to research and propose appropriate technological solutions to improve the agency's ability to perform the agency's functions. The technological solutions must:

(1) ensure that the public is able to easily find information about a health and human services agency on the Internet;

(2) ensure that an individual who wants to use a health and human services agency's services is able to:

(A) interact with the agency through the Internet; and

(B) access any service that can be effectively provided through the Internet;

(3) be cost-effective and developed through the commission's planning process; and

(4) meet federal accessibility standards for individuals with disabilities.

(b) The commission shall develop and implement the policy described by Subsection (a) in relation to the commission's functions.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0253. TECHNOLOGY USE FOR ADULT PROTECTIVE SERVICES PROGRAM. (a) Subject to available appropriations, the commission shall use technology whenever possible in connection with the Department of Family and Protective Services' adult protective services program to:

(1) provide for automated collection of information necessary to evaluate program effectiveness using systems that integrate collection of necessary information with other routine duties of caseworkers and other service providers; and

(2) consequently reduce the time required for caseworkers and other service providers to gather and report information necessary for program evaluation.

(b) The commission shall include private sector representatives in the technology planning process used to determine appropriate technology for the Department of Family and Protective Services'

adult protective services program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0254. ELECTRONIC SIGNATURES. (a) In this section, "transaction" has the meaning assigned by Section 322.002, Business & Commerce Code.

(b) The executive commissioner shall establish standards for the use of electronic signatures in accordance with Chapter 322, Business & Commerce Code, with respect to any transaction in connection with the administration of health and human services programs.

(c) The executive commissioner shall adopt rules to implement the executive commissioner's authority under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0255. HEALTH AND HUMAN SERVICES SYSTEM INTERNET WEBSITES. The commission shall establish a process to ensure that Internet websites across the health and human services system are developed and maintained according to standard criteria for uniformity, efficiency, and technical capabilities. Under the process, the commission shall:

(1) develop and maintain an inventory of all health and human services system Internet websites; and

(2) on an ongoing basis, evaluate the inventory the commission maintains under Subdivision (1) to:

(A) determine whether any Internet websites should be consolidated to improve public access to those websites' content and, if appropriate, consolidate those websites; and

(B) ensure that the Internet websites comply with the standard criteria.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0256. AUTOMATION STANDARDS FOR DATA SHARING. The executive commissioner, with the Department of Information Resources, shall develop automation standards for computer systems to enable health and human services agencies, including agencies operating at a local level, to share pertinent data.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0257. ELECTRONIC EXCHANGE OF HEALTH INFORMATION; BIENNIAL REPORT. (a) In this section, "health care provider" includes a physician.

(b) The executive commissioner shall ensure that:

(1) all information systems available for the commission or a health and human services agency to use in sending protected health information to a health care provider or receiving protected health information from a health care provider, and for which planning or procurement begins on or after September 1, 2015, are capable of sending or receiving the information in accordance with the applicable data exchange standards developed by the appropriate standards development organization accredited by the American National Standards Institute;

(2) if national data exchange standards do not exist for a system described by Subdivision (1), the commission makes every effort to ensure that the system is interoperable with the national standards for electronic health record systems; and

(3) the commission and each health and human services agency establish an interoperability standards plan for all information systems that exchange protected health information with health care providers.

(c) Not later than December 1 of each even-numbered year, the executive commissioner shall report to the governor and the Legislative Budget Board on the commission's and the health and human services agencies' measurable progress in ensuring that the information systems described by Subsection (b) are interoperable with one another and meet the appropriate standards specified by that subsection. The report must include an assessment of the progress made in achieving commission goals related to the exchange of health information, including facilitating care coordination among the

agencies, ensuring quality improvement, and realizing cost savings.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER G. STUDIES, REPORTS, AND PUBLICATIONS

Sec. 525.0301. BIENNIAL REFERENCE GUIDE. (a) The commission shall:

(1) publish a biennial reference guide describing available public health and human services in this state; and

(2) make the guide available to all interested parties and agencies.

(b) The reference guide must include a dictionary of uniform terms and services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0302. CONSOLIDATION OF REPORTS. The commission may consolidate any annual or biennial reports required to be made under this chapter or another law if:

(1) the consolidated report is submitted not later than the earliest deadline for the submission of any component of the report; and

(2) each person required to receive a component of the consolidated report receives the report, and the report identifies the component the person was required to receive.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 525.0303. ANNUAL REPORT ON SAFEGUARDING PROTECTED HEALTH INFORMATION. (a) The commission, in consultation with the Department of State Health Services, the Texas Medical Board, and the Texas Department of Insurance, shall explore and evaluate new developments in safeguarding protected health information.

(b) Not later than December 1 of each year, the commission shall report to the legislature on:

(1) new developments in safeguarding protected health information; and

(2) recommendations for implementing safeguards within the commission.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

CHAPTER 526. ADDITIONAL POWERS AND DUTIES OF COMMISSION AND EXECUTIVE COMMISSIONER

SUBCHAPTER A. INTERNET WEBSITES, ELECTRONIC RESOURCES, AND OTHER TECHNOLOGY

Sec. 526.0001. DEFINITIONS. In this subchapter:

(1) "Council" means the Records Management Interagency Coordinating Council.

(2) "Network" means the Texas Information and Referral Network.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0002. INTERNET WEBSITE FOR HEALTH AND HUMAN SERVICES INFORMATION. (a) The commission, in cooperation with the Department of Information Resources, shall maintain through the state electronic Internet portal project established by the department a generally accessible and interactive Internet website that contains information for the public regarding the services and programs each health and human services agency provides or administers in this state. The commission shall establish the website in such a manner that allows it to be located easily through electronic means.

(b) The Internet website must:

(1) include information that is:

(A) presented in a concise and easily understandable and accessible format; and

(B) organized by the type of service provided rather than by the agency or provider delivering the service;

(2) provide eligibility criteria for each health and human services agency program;

(3) provide application forms for each of the public

assistance programs administered by a health and human services agency, including forms for:

(A) the financial assistance program under Chapter 31, Human Resources Code;

(B) Medicaid; and

(C) the nutritional assistance program under Chapter 33, Human Resources Code;

(4) to avoid duplication of functions and efforts, provide a link to an Internet website maintained by the network under Section 526.0005;

(5) provide the telephone number and, to the extent available, the e-mail address for each health and human services agency and local health and human services provider;

(6) be designed in a manner that allows a member of the public to electronically:

(A) send questions about each agency's programs or services; and

(B) receive the agency's responses to those questions; and

(7) be updated at least quarterly.

(c) In designing the Internet website, the commission shall comply with any state standards for Internet websites that are prescribed by the Department of Information Resources or any other state agency.

(d) The commission shall ensure that:

(1) the Internet website's design and applications:

(A) comply with generally acceptable standards for Internet accessibility for individuals with disabilities; and

(B) contain appropriate controls for information security; and

(2) the Internet website does not contain any confidential information, including any confidential information regarding a client of a human services provider.

(e) A health and human services agency, the network, and the Department of Information Resources shall cooperate with the commission to the extent necessary to enable the commission to perform its duties under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0003. INFORMATION ON LONG-TERM CARE SERVICES. (a) The Internet website maintained under Section 526.0002 must include information for consumers concerning long-term care services. The information must:

(1) be presented in a manner that is easily accessible to and understandable by a consumer; and

(2) allow a consumer to make informed choices concerning long-term care services and include:

(A) an explanation of the manner in which long-term care service delivery is administered in different counties through different programs the commission operates so that an individual can easily understand the service options available in the area in which that individual lives; and

(B) for the STAR+PLUS Medicaid managed care program, information in an accessible format, such as a table, that allows a consumer to evaluate the performance of each participating plan issuer, including for each issuer:

(i) the enrollment in each county;

(ii) additional "value-added" services provided;

(iii) a summary of the financial statistical report required under Section 540.0211;

(iv) complaint information;

(v) any sanction or penalty imposed by any state agency, including a sanction or penalty imposed by the commission or the Texas Department of Insurance;

(vi) consumer satisfaction information; and

(vii) other data, including relevant data from reports of external quality review organizations, that may be used by the consumer to evaluate the quality of the services provided.

(b) In addition to providing the information required by this section through the Internet website, the commission shall, on request by a consumer without Internet access, provide the consumer with a printed copy of the information from the Internet website. The commission may charge a reasonable fee for printing the information. The executive commissioner by rule shall establish the fee amount.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

Sec. 526.0004. TEXAS INFORMATION AND REFERRAL NETWORK. (a) The Texas Information and Referral Network is responsible for developing, coordinating, and implementing a statewide information and referral network that integrates existing community-based structures with state and local agencies. The network must:

(1) include information relating to transportation services provided to clients of state and local agencies;

(2) be capable of assisting with statewide disaster response and emergency management, including through the use of interstate agreements with out-of-state call centers to ensure preparedness and responsiveness;

(3) include technology capable of communicating with clients of state and local agencies using electronic text messaging; and

(4) include a publicly accessible Internet-based system to provide real-time, searchable data about the location and number of clients of state and local agencies using the system and the types of requests the clients made.

(b) The commission shall cooperate with the council and the comptroller to establish a single method of categorizing information about health and human services to be used by the council and the network. The network, in cooperation with the council and the comptroller, shall ensure that:

(1) information relating to health and human services is included in each residential telephone directory published by a for-profit publisher and distributed to the public at minimal or no cost; and

(2) the single method of categorizing information about health and human services is used in the directory.

(c) A health and human services agency or a public or private entity receiving state-appropriated funds to provide health and human services shall provide the council and the network with information about the health and human services the agency or entity provides for inclusion in the statewide information and referral network, residential telephone directories described by Subsection (b), and any other materials produced under the council's or the network's direction. The agency or entity shall provide the information in the

format the council or the network requires and shall update the information at least quarterly or as required by the council or the network.

(d) The Texas Department of Housing and Community Affairs shall provide the network with information regarding the department's housing and community affairs programs for inclusion in the statewide information and referral network. The department shall provide the information in a form the commission determines and shall update the information at least quarterly.

(e) Each local workforce development board, the Texas Head Start State Collaboration Office, and each school district shall provide the network with information regarding eligibility for and availability of child-care and education services as defined by Section 526.0006 for inclusion in the statewide information and referral network. The local workforce development boards, Texas Head Start State Collaboration Office, and school districts shall provide the information in a form the executive commissioner determines.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0005. INTERNET WEBSITE FOR HEALTH AND HUMAN SERVICES REFERRAL INFORMATION. (a) The network may develop an Internet website to provide information to the public regarding the health and human services provided by public or private entities throughout this state.

(b) The material on the network Internet website must be:

(1) geographically indexed, including by type of service provided within each geographic area; and

(2) designed to inform an individual about the health and human services provided in the area in which the individual lives.

(c) The Internet website may contain:

(1) links to the Internet websites of any local health and human services provider;

(2) the name, address, and telephone number of organizations providing health and human services in a county and a description of the type of services those organizations provide; and

(3) any other information that educates the public about the health and human services provided in a county.

(d) The network shall coordinate with the Department of Information Resources to maintain the Internet website through the state electronic Internet portal project established by the department.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0006. INTERNET WEBSITE FOR CHILD-CARE AND EDUCATION SERVICES REFERRAL INFORMATION. (a) In this section, "child-care and education services" means:

(1) subsidized child-care services administered by the Texas Workforce Commission and local workforce development boards and funded wholly or partly by federal child-care development funds;

(2) child-care and education services provided by a Head Start or Early Head Start program provider;

(3) child-care and education services provided by a school district through a prekindergarten or after-school program; and

(4) any other government-funded child-care and education services, other than education and services a school district provides as part of the general program of public education, designed to educate or provide care for children younger than 13 years of age in middle-income or low-income families.

(b) In addition to providing health and human services information, the network Internet website established under Section 526.0005 must provide information to the public regarding child-care and education services public or private entities provide throughout this state. The Internet website will serve as a single point of access through which an individual may be directed toward information regarding the manner of or location for applying for all child-care and education services available in the individual's community.

(c) To the extent resources are available, the Internet website must:

(1) be geographically indexed and designed to inform an individual about the child-care and education services provided in the area in which the individual lives;

(2) contain prescreening questions to determine an individual's or family's probable eligibility for child-care and education services; and

(3) be designed in a manner that allows network staff to:

(A) provide an applicant with the telephone number, physical address, and e-mail address of the:

(i) nearest Head Start or Early Head Start office or center and local workforce development center; and

(ii) appropriate school district; and

(B) send an e-mail message to each appropriate entity described by Paragraph (A) containing each applicant's name and contact information and a description of the services for which the applicant is applying.

(d) On receipt of an e-mail message from the network under Subsection (c)(3)(B), each applicable entity shall:

(1) contact the applicant to verify information regarding the applicant's eligibility for available child-care and education services; and

(2) on certifying the applicant's eligibility, match the applicant with entities providing those services in the applicant's community, including local workforce development boards, local child-care providers, or a Head Start or Early Head Start program provider.

(e) The child-care resource and referral network described by Chapter 310, Labor Code, and each entity providing child-care and education services in this state, including local workforce development boards, the Texas Education Agency, school districts, Head Start and Early Head Start program providers, municipalities, counties, and other political subdivisions of this state, shall cooperate with the network as necessary to administer this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0007. INTERNET WEBSITE FOR REFERRAL INFORMATION ON HOUSING OPTIONS FOR INDIVIDUALS WITH MENTAL ILLNESS. (a) The commission shall make available through the network Internet website established under Section 526.0005 information regarding housing options for individuals with mental illness provided by public or private entities throughout this state. The Internet website serves as a single point of access through which an individual may be directed toward information regarding the manner of or where to apply for housing for individuals with mental illness in the individual's

community. In this subsection, "private entity" includes any provider of housing specifically for individuals with mental illness other than a state agency, county, municipality, or other political subdivision of this state, regardless of whether the provider accepts payment for providing housing for those individuals.

(b) To the extent resources are available, the Internet website must be geographically indexed and designed to inform an individual about the housing options for individuals with mental illness provided in the area in which the individual lives.

(c) The Internet website must contain a searchable listing of available housing options for individuals with mental illness by type with a definition for each type of housing and an explanation of the populations of individuals with mental illness generally served by that type of housing. The list must include the following types of housing for individuals with mental illness:

(1) state hospitals;

(2) step-down units in state hospitals;

(3) community hospitals;

(4) private psychiatric hospitals;

(5) an inpatient treatment service provider in the network of service providers assembled by a local mental health authority under Section 533.035(c), Health and Safety Code;

(6) assisted living facilities;

(7) continuing care facilities;

(8) boarding homes;

(9) emergency shelters for individuals who are homeless;

(10) transitional housing intended to move individuals who are homeless to permanent housing;

(11) supportive housing or long-term, community-based affordable housing that provides supportive services;

(12) general residential operations, as defined by Section 42.002, Human Resources Code; and

(13) residential treatment centers or a type of general residential operation that provides services to children with emotional disorders in a structured and supportive environment.

(d) For each housing facility named in the listing of available housing options for individuals with mental illness, the Internet website must indicate whether the provider operating the housing facility is licensed by this state.

(e) The Internet website must display a disclaimer that the

information provided is for informational purposes only and is not an endorsement or recommendation of any type of housing or any housing facility.

(f) Each entity providing housing specifically for individuals with mental illness in this state, including the commission, counties, municipalities, other political subdivisions of this state, and private entities, shall cooperate with the network as necessary to administer this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0008. COMPLIANCE WITH NATIONAL ELECTRONIC DATA INTERCHANGE STANDARDS FOR HEALTH CARE INFORMATION. Each health and human services agency and other state agency that acts as a health care provider or a claims payer for the provision of health care shall:

(1) process information related to health care in compliance with national data interchange standards adopted under Subtitle F, Title II, Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.), within the applicable deadline established under federal law or federal regulations; or

(2) demonstrate to the commission the reasons the agency should not be required to comply with Subdivision (1), and to the extent allowed under federal law, obtain the commission's approval to:

(A) comply with the standards at a later date; or

(B) not comply with one or more of the standards.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0009. TECHNICAL ASSISTANCE FOR HUMAN SERVICES PROVIDERS. (a) A health and human services agency shall, in conjunction with the Department of Information Resources, coordinate and enhance the agency's existing Internet website to provide technical assistance for human services providers. The commission shall take the lead and ensure involvement of the agencies with the greatest potential to produce cost savings.

(b) Assistance provided under this section:

(1) must include information on the impact of federal and state welfare reform changes on human services providers;

(2) may include information in the following subjects:

(A) case management;

(B) contract management;

(C) financial management;

(D) performance measurement and evaluation;

(E) research; and

(F) other matters the commission considers appropriate; and

(3) may not include any confidential information regarding a client of a human services provider.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0010. INFORMATION RESOURCES MANAGER REPORTS. Notwithstanding Section 2054.075(b), the information resources manager of a health and human services agency shall report directly to the executive commissioner or a deputy executive commissioner the executive commissioner designates.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER B. PROGRAMS AND SERVICES PROVIDED OR ADMINISTERED BY COMMISSION

Sec. 526.0051. RESTRICTIONS ON AWARDS TO FAMILY PLANNING SERVICE PROVIDERS. (a) Notwithstanding any other law, money appropriated to the commission for the purpose of providing family planning services must be awarded:

(1) to eligible entities in the following order of descending priority:

(A) public entities that provide family planning services, including state, county, and local community health clinics and federally qualified health centers;

(B) nonpublic entities that provide comprehensive primary and preventive care services in addition to family planning

services; and

(C) nonpublic entities that provide family planning services but do not provide comprehensive primary and preventive care services; or

(2) as otherwise directed by the legislature in the General Appropriations Act.

(b) Notwithstanding Subsection (a), the commission shall, in compliance with federal law, ensure distribution of funds for family planning services in a manner that does not severely limit or eliminate access to those services in any region of this state.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0052. INFORMATION FOR CERTAIN ENROLLEES IN HEALTHY TEXAS WOMEN PROGRAM. (a) In this section, "Healthy Texas Women program" means a program the commission operates that is substantially similar to the demonstration project operated under former Section 32.0248, Human Resources Code, and that is intended to expand access to preventive health and family planning services for women in this state.

(b) This section applies to a woman who is automatically enrolled in the Healthy Texas Women program following a pregnancy for which the woman received Medicaid, but who is no longer eligible to participate in Medicaid.

(c) After a woman to whom this section applies is enrolled in the Healthy Texas Women program, the commission shall provide to the woman:

(1) information about the Healthy Texas Women program, including the services provided under the program; and

(2) a list of health care providers who participate in the Healthy Texas Women program and are located in the same geographical area in which the woman resides.

(d) The commission shall consult with the Texas Maternal Mortality and Morbidity Review Committee established under Chapter 34, Health and Safety Code, to improve the process for providing the information required by Subsection (c), including by determining:

(1) the best time for providing the information; and

(2) the manner of providing the information, including the

information about health care providers described by Subsection (c)(2).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0053. VACCINES FOR CHILDREN PROGRAM PROVIDER ENROLLMENT; IMMUNIZATION REGISTRY. (a) In this section, "vaccines for children program" means the program the Department of State Health Services operates under 42 U.S.C. Section 1396s.

(b) The commission shall ensure that a provider may enroll in the vaccines for children program on the same form the provider completes to apply as a Medicaid health care provider.

(c) The commission shall allow providers to:

(1) report vaccines administered under the vaccines for children program to the immunization registry established under Section 161.007, Health and Safety Code; and

(2) use the immunization registry, including individually identifiable information in accordance with state and federal law, to determine whether a child received an immunization.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0054. PRIOR AUTHORIZATION FOR HIGH-COST MEDICAL SERVICES AND PROCEDURES. (a) The commission may:

(1) evaluate and implement, as appropriate, procedures, policies, and methodologies to require prior authorization for high-cost medical services and procedures; and

(2) contract with qualified service providers or organizations to perform those functions.

(b) A procedure, policy, or methodology implemented under this section must comply with any prohibitions in state or federal law on limits in the amount, duration, or scope of medically necessary services for Medicaid recipients who are children.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0055. TAILORED BENEFIT PACKAGES FOR NON-MEDICAID POPULATIONS. (a) The commission shall identify state or federal non-Medicaid programs that provide health care services to individuals whose health care needs could be met by providing customized benefits through a system of care that is used under a Medicaid tailored benefit package implemented under Section 532.0351.

(b) If the commission determines it is feasible and to the extent permitted by federal and state law, the commission shall:

(1) provide the health care services for individuals described by Subsection (a) through the applicable Medicaid tailored benefit package; and

(2) if appropriate or necessary to provide the services as required by Subdivision (1), develop and implement a system of blended funding methodologies to provide the services in that manner.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0056. PILOT PROGRAM TO PREVENT SPREAD OF INFECTIOUS OR COMMUNICABLE DISEASES. The commission may provide guidance to the local health authority of Bexar County in establishing a pilot program funded by the county to prevent the spread of HIV, hepatitis B, hepatitis C, and other infectious and communicable diseases. The program may include a disease control program that provides for the anonymous exchange of used hypodermic needles and syringes.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0057. APPLICATION REQUIREMENT FOR COLONIAS PROJECTS. (a) In this section, "colonia" means a geographic area that:

(1) is an economically distressed area as defined by Section 17.921, Water Code;

(2) is located in a county any part of which is within 62 miles of an international border; and

(3) consists of 11 or more dwellings located in proximity to each other in an area that may be described as a community or neighborhood.

(b) The commission shall require an applicant for funds under

any project the commission funds that provides assistance to colonias to submit to the commission any existing colonia classification number for each colonia that may be served by the project proposed in the application.

(c) The commission may contact the secretary of state or the secretary of state's representative to obtain a classification number for a colonia that does not have a classification number. On request of the commission, the secretary of state or the secretary of state's representative shall assign a classification number to the colonia.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0058. RULES REGARDING REFUGEE RESETTLEMENT. (a) In this section, "local resettlement agency" and "national voluntary agency" have the meanings assigned by 45 C.F.R. Section 400.2.

(b) The executive commissioner shall adopt rules to ensure that:

(1) any refugee placement report required under a federal refugee resettlement program includes local governmental and community input; and

(2) governmental entities and officials are provided with related information.

(c) In adopting the rules, the executive commissioner shall, to the extent permitted by federal law, ensure that meetings are convened at least quarterly in the communities proposed for refugee placement at which representatives of local resettlement agencies have an opportunity to consult with and obtain feedback regarding proposed refugee placement from:

(1) local governmental entities and officials, including:

(A) municipal and county officials;

(B) local school district officials; and

(C) representatives of local law enforcement agencies; and

(2) other community stakeholders, including:

(A) major providers under the local health care system; and

(B) major employers of refugees.

(d) In adopting the rules, the executive commissioner shall, to

the extent permitted by federal law, ensure that:

(1) a local resettlement agency:

(A) considers all feedback obtained in meetings conducted under Subsection (c) before preparing a proposed annual report on the placement of refugees for purposes of 8 U.S.C. Section 1522(b)(7)(E);

(B) informs the state and local governmental entities and officials and community stakeholders described by Subsection (c) of the proposed annual report; and

(C) develops a final annual report for the national voluntary agencies and the commission that includes a summary regarding the manner in which stakeholder input contributed to the report; and

(2) the commission:

(A) obtains from local resettlement agencies the preliminary number of refugees the local resettlement agencies recommended to the national voluntary agencies for placement in communities throughout this state and provides that information to local governmental entities and officials in those communities; and

(B) obtains from the United States Department of State or other appropriate federal agency the number of refugees apportioned to this state and provides that information and information regarding the number of refugees intended to be placed in each community in this state to local governmental entities and officials in those communities.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0059. PROHIBITED AWARD OF CONTRACTS TO MANAGED CARE ORGANIZATIONS FOR CERTAIN CRIMINAL CONVICTIONS. The commission may not contract with a managed care organization, including a health maintenance organization, or a pharmacy benefit manager if, in the preceding three years, the organization or manager, in connection with a bid, proposal, or contract with the commission, was subject to a final judgment by a court of competent jurisdiction resulting in:

(1) a conviction for:

(A) a criminal offense under state or federal law related to the delivery of an item or service;

(B) a criminal offense under state or federal law related to neglect or abuse of patients in connection with the delivery of an item or service; or

(C) a felony offense under state or federal law related to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct; or

(2) the imposition of a penalty or fine in the amount of $500,000 or more in a state or federal administrative proceeding based on a conviction for a criminal offense under state or federal law.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER C. COORDINATION OF QUALITY INITIATIVES

Sec. 526.0101. DEFINITION. In this subchapter, "waiver" means the Texas Healthcare Transformation and Quality Improvement Program waiver issued under Section 1115 of the Social Security Act (42 U.S.C. Section 1315).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0102. OPERATIONAL PLAN TO COORDINATE MAJOR QUALITY INITIATIVES. (a) The commission shall develop and implement a comprehensive, coordinated operational plan to ensure a consistent approach across the major quality initiatives of the health and human services system for improving the quality of health care. The plan must include broad goals for improving the quality of health care in this state, including health care services provided through Medicaid.

(b) The plan may evaluate:

(1) the Delivery System Reform Incentive Payment (DSRIP) program under the waiver;

(2) enhancing funding to disproportionate share hospitals in this state;

(3) Section 1332 of the Patient Protection and Affordable Care Act (42 U.S.C. Section 18052);

(4) enhancing uncompensated care pool payments to hospitals in this state under the waiver;

(5) home and community-based services state plan options under Section 1915(i) of the Social Security Act (42 U.S.C. Section 1396n(i)); and

(6) a contingency plan in the event the commission does not obtain an extension or renewal of the uncompensated care pool provisions or any other provisions of the granted waiver.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0103. REVISION AND EVALUATION OF MAJOR QUALITY INITIATIVES. Notwithstanding other law, the commission shall revise major quality initiatives of the health and human services system in accordance with the operational plan and health care quality improvement goals developed under Section 526.0102. To the extent possible, the commission shall ensure that outcome measure data is collected and reported consistently across all major quality initiatives to improve the evaluation of the initiatives' statewide impact.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0104. INCENTIVES FOR MAJOR QUALITY INITIATIVE COORDINATION. The commission shall consider and, if appropriate, develop in accordance with this subchapter, incentives that promote coordination among the various major quality initiatives, including projects and initiatives approved under the granted waiver.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER D. TEXAS HEALTH OPPORTUNITY POOL TRUST FUND

Sec. 526.0151. DEFINITION. In this subchapter, "fund" means the Texas health opportunity pool trust fund established under Section 526.0153.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

Sec. 526.0152. AUTHORITY TO OBTAIN FEDERAL WAIVER. (a) The executive commissioner may seek a waiver under Section 1115 of the Social Security Act (42 U.S.C. Section 1315) to the state Medicaid plan to allow the commission to more efficiently and effectively use federal money paid to this state under various programs to defray costs associated with providing uncompensated health care in this state by using that federal money, appropriated state money to the extent necessary, and any other money described by this section for purposes consistent with this subchapter.

(b) The executive commissioner may include the following federal money in the waiver:

(1) money provided under:

(A) the disproportionate share hospitals program;

(B) the upper payment limit supplemental payment program; or

(C) both;

(2) money provided by the federal government in lieu of some or all of the payments provided under one or both of the programs described by Subdivision (1);

(3) any combination of funds authorized to be pooled by Subdivisions (1) and (2); and

(4) any other money available for that purpose, including:

(A) federal money and money identified under Subsection (c);

(B) gifts, grants, or donations for that purpose;

(C) local funds received by this state through intergovernmental transfers; and

(D) if approved in the waiver, federal money obtained through the use of certified public expenditures.

(c) The commission shall seek to optimize federal funding by:

(1) identifying health care-related state and local funds and program expenditures that, before September 1, 2011, are not being matched with federal money; and

(2) exploring the feasibility of:

(A) certifying or otherwise using those funds and expenditures as state expenditures for which this state may receive federal matching money; and

(B) depositing federal matching money received as provided by Paragraph (A) with other federal money deposited as provided by Section 526.0154, or substituting that federal matching money for federal money that otherwise would be received under the disproportionate share hospitals and upper payment limit supplemental payment programs as a match for local funds received by this state through intergovernmental transfers.

(d) The terms of a waiver approved under this section must:

(1) include safeguards to ensure that the total amount of federal money provided under the disproportionate share hospitals or upper payment limit supplemental payment program that is deposited as provided by Section 526.0154 is, for a particular state fiscal year, at least equal to the greater of the annualized amount provided to this state under those supplemental payment programs during:

(A) state fiscal year 2011, excluding retroactive payment amounts provided during that state fiscal year; or

(B) the state fiscal years during which the waiver is in effect; and

(2) allow this state to develop a methodology for allocating money in the fund to:

(A) supplement Medicaid hospital reimbursements under a waiver that includes terms consistent with, or that produce revenues consistent with, disproportionate share hospital and upper payment limit principles;

(B) reduce the number of individuals in this state who do not have health benefits coverage; and

(C) maintain and enhance the community public health infrastructure provided by hospitals.

(e) In seeking a waiver under this section, the executive commissioner shall attempt to:

(1) obtain maximum flexibility in the use of the money in the fund for purposes consistent with this subchapter;

(2) include an annual adjustment to the aggregate caps under the upper payment limit supplemental payment program to account for inflation, population growth, and other appropriate demographic factors that affect the ability of residents of this state to obtain health benefits coverage;

(3) ensure, for the term of the waiver, that the aggregate caps under the upper payment limit supplemental payment program for each of the three classes of hospitals are not less than the

aggregate caps applied during state fiscal year 2007; and

(4) to the extent allowed by federal law, including federal regulations, and federal waiver authority, preserve the federal supplemental payment program payments made to hospitals, the state match with respect to which is funded by intergovernmental transfers or certified public expenditures that are used to optimize Medicaid payments to safety net providers for uncompensated care, and preserve allocation methods for those payments, unless the need for the payments is revised through measures that reduce the Medicaid shortfall or uncompensated care costs.

(f) The executive commissioner shall seek broad-based stakeholder input in the development of the waiver under this section and shall provide information to stakeholders regarding the terms of the waiver for which the executive commissioner seeks federal approval.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0153. TEXAS HEALTH OPPORTUNITY POOL TRUST FUND ESTABLISHED. (a) Subject to approval of the waiver authorized by Section 526.0152, the Texas health opportunity pool trust fund is created as a trust fund outside the state treasury to be held by the comptroller and administered by the commission as trustee on behalf of residents of this state who do not have private health benefits coverage and health care providers providing uncompensated care to those individuals.

(b) The commission may spend money in the fund only for purposes consistent with this subchapter and the terms of the waiver authorized by Section 526.0152.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0154. DEPOSITS TO FUND. (a) The comptroller shall deposit in the fund:

(1) federal money provided to this state under the disproportionate share hospitals supplemental payment program, the hospital upper payment limit supplemental payment program, or both,

other than money provided under those programs to state-owned and -operated hospitals, and all other nonsupplemental payment program federal money provided to this state that is included in the waiver authorized by Section 526.0152; and

(2) state money appropriated to the fund.

(b) The commission and comptroller may accept gifts, grants, and donations from any source, and receive intergovernmental transfers, for purposes consistent with this subchapter and the terms of the waiver authorized by Section 526.0152. The comptroller shall deposit a gift, grant, or donation made for those purposes in the fund.

(c) Any intergovernmental transfer received, including associated federal matching funds, shall be used, if feasible, for the purposes intended by the transferring entity and in accordance with the terms of the waiver authorized by Section 526.0152.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0155. USE OF FUND IN GENERAL; RULES FOR ALLOCATION. (a) Except as otherwise provided by the terms of a waiver authorized by Section 526.0152, money in the fund may be used:

(1) subject to Section 526.0156, to provide to health care providers reimbursements that:

(A) are based on the providers' costs related to providing uncompensated care; and

(B) compensate the providers for at least a portion of those costs;

(2) to reduce the number of individuals in this state who do not have health benefits coverage;

(3) to reduce the need for uncompensated health care provided by hospitals in this state; and

(4) for any other purpose specified by this subchapter or the waiver.

(b) On approval of the waiver authorized by Section 526.0152, the executive commissioner shall:

(1) seek input from a broad base of stakeholder representatives on the development of rules with respect to and for the administration of the fund; and

(2) by rule develop a methodology for allocating money in the fund that is consistent with the terms of the waiver.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0156. REIMBURSEMENTS FOR UNCOMPENSATED HEALTH CARE COSTS. (a) Except as otherwise provided by the terms of a waiver authorized by Section 526.0152 and subject to Subsections (b) and (c), money in the fund may be allocated to hospitals in this state and political subdivisions of this state to defray the costs of providing uncompensated health care.

(b) To be eligible for money allocated from the fund under this section, a hospital or political subdivision must use a portion of the money to implement strategies that will reduce the need for uncompensated inpatient and outpatient care, including care provided in a hospital emergency room. The strategies may include:

(1) fostering improved access for patients to primary care systems or other programs that offer those patients medical homes, including the following programs:

(A) regional or local health care programs;

(B) programs to provide premium subsidies for health benefits coverage; and

(C) other programs to increase access to health benefits coverage; and

(2) creating health care systems efficiencies, such as using electronic medical records systems.

(c) The allocation methodology the executive commissioner develops under Section 526.0155(b) must specify the percentage of the money from the fund allocated to a hospital or political subdivision that the hospital or political subdivision must use for strategies described by Subsection (b) of this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0157. INCREASING ACCESS TO HEALTH BENEFITS COVERAGE. (a) Except as otherwise provided by the terms of a waiver authorized by Section 526.0152, money in the fund that is available to reduce

the number of individuals in this state who do not have health benefits coverage or to reduce the need for uncompensated health care provided by hospitals in this state may be used for purposes relating to increasing access to health benefits coverage for individuals with low income, including:

(1) providing premium payment assistance to those individuals through a premium payment assistance program developed under this section;

(2) making contributions to health savings accounts for those individuals; and

(3) providing other financial assistance to those individuals through alternate mechanisms established by hospitals in this state or political subdivisions of this state that meet certain commission-specified criteria.

(b) The commission and the Texas Department of Insurance shall jointly develop a premium payment assistance program designed to assist individuals described by Subsection (a) in obtaining and maintaining health benefits coverage. The program may provide assistance in the form of payments for all or part of the premiums for that coverage. In developing the program, the executive commissioner shall adopt rules establishing:

(1) eligibility criteria for the program;

(2) the amount of premium payment assistance that will be provided under the program;

(3) the process by which that assistance will be paid; and

(4) the mechanism for measuring and reporting the number of individuals who obtained health insurance or other health benefits coverage as a result of the program.

(c) The commission shall implement the premium payment assistance program developed under Subsection (b), subject to availability of money in the fund for that purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0158. INFRASTRUCTURE IMPROVEMENTS. (a) Except as otherwise provided by the terms of a waiver authorized by Section 526.0152 and subject to Subsection (c), money in the fund may be used for purposes related to developing and implementing initiatives to

improve the infrastructure of local provider networks that provide services to Medicaid recipients and individuals with low income and without health benefits coverage in this state.

(b) The infrastructure improvements may include developing and implementing a system for maintaining medical records in an electronic format.

(c) Not more than 10 percent of the total amount of the money in the fund used in a state fiscal year for purposes other than providing reimbursements to hospitals for uncompensated health care may be used for infrastructure improvements described by Subsection (b).

(d) Money from the fund may not be used to finance the construction, improvement, or renovation of a building or land unless the commission approves the construction, improvement, or renovation in accordance with rules the executive commissioner adopts for that purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER E. LONG-TERM CARE FACILITIES

Sec. 526.0201. DEFINITION. In this subchapter, "council" means the Long-Term Care Facilities Council.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2269, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 526.0202. INFORMAL DISPUTE RESOLUTION FOR CERTAIN LONG-TERM CARE FACILITIES. (a) The executive commissioner by rule shall establish an informal dispute resolution process in accordance with this section. The process must:

(1) provide for adjudication by an appropriate disinterested person of disputes relating to a proposed commission enforcement action or related proceeding under:

(A) Section 32.021(d), Human Resources Code; or

(B) Chapter 242, 247, or 252, Health and Safety Code; and

(2) require:

(A) a facility to request informal dispute resolution not later than the 10th calendar day after the commission notifies the facility of the violation of a standard or standards; and

(B) the completion of the process not later than:

(i) the 30th calendar day after receipt of a request for informal dispute resolution from a facility, other than an assisted living facility; or

(ii) the 90th calendar day after receipt of a request from an assisted living facility for informal dispute resolution.

(b) As part of the informal dispute resolution process, the commission shall contract with an appropriate disinterested person to adjudicate disputes between a facility licensed under Chapter 242 or 247, Health and Safety Code, and the commission concerning a statement of violations the commission prepares in connection with a survey the commission conducts of the facility. The contracting person shall adjudicate all disputes described by this subsection. The informal dispute resolution process for the statement of violations must require:

(1) the surveyor who conducted the survey for which the statement was prepared to be available to clarify or answer questions asked by the contracting person or by the facility related to the facility or statement; and

(2) the commission's review of the facility's informal dispute resolution request for a standard of care violation to be conducted by a registered nurse with long-term care experience.

(c) Section 2009.053 does not apply to the commission's selection of an appropriate disinterested person under Subsection (b).

(d) The executive commissioner shall adopt rules to adjudicate claims in contested cases.

(e) The commission may not delegate to another state agency the commission's responsibility to administer the informal dispute resolution process.

(f) The rules adopted under Subsection (a) that relate to a dispute described by Section 247.051(a), Health and Safety Code, must incorporate the requirements of Section 247.051, Health and Safety

Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0203. LONG-TERM CARE FACILITIES COUNCIL. (a) In this section, "long-term care facility" means a facility subject to regulation under Section 32.021(d), Human Resources Code, or Chapter 242, 247, or 252, Health and Safety Code.

(b) The executive commissioner shall establish a long-term care facilities council as a permanent advisory committee to the commission. The council is composed of the following members the executive commissioner appoints:

(1) at least one member who is a for-profit nursing facility provider;

(2) at least one member who is a nonprofit nursing facility provider;

(3) at least one member who is an assisted living services provider;

(4) at least one member responsible for survey enforcement within the state survey and certification agency;

(5) at least one member responsible for survey inspection within the state survey and certification agency;

(6) at least one member of the state agency responsible for informal dispute resolution;

(7) at least one member with expertise in Medicaid quality-based payment systems for long-term care facilities;

(8) at least one member who is a practicing medical director of a long-term care facility;

(9) at least one member who is a physician with expertise in infectious disease or public health; and

(10) at least one member who is a community-based provider at an intermediate care facility for individuals with intellectual or developmental disabilities licensed under Chapter 252, Health and Safety Code.

(c) The executive commissioner shall designate a council member to serve as presiding officer. The council members shall elect any other necessary officers.

(d) A council member serves at the will of the executive

commissioner.

(e) The council shall meet at the call of the executive commissioner.

(f) A council member is not entitled to reimbursement of expenses or to compensation for service on the council.

(g) Chapter 2110 does not apply to the council.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0204. COUNCIL DUTIES; REPORT. (a) In this section, "long-term care facility" has the meaning assigned by Section 526.0203.

(b) The council shall:

(1) study and make recommendations regarding a consistent survey and informal dispute resolution process for long-term care facilities, Medicaid quality-based payment systems for those facilities, and the allocation of Medicaid beds in those facilities;

(2) study and make recommendations regarding best practices and protocols to make survey, inspection, and informal dispute resolution processes more efficient and less burdensome on long-term care facilities;

(3) recommend uniform standards for those processes;

(4) study and make recommendations regarding Medicaid quality-based payment systems and a rate-setting methodology for long-term care facilities; and

(5) study and make recommendations relating to the allocation of and need for Medicaid beds in long-term care facilities, including studying and making recommendations relating to:

(A) the effectiveness of rules adopted by the executive commissioner relating to the procedures for certifying and decertifying Medicaid beds in long-term care facilities; and

(B) the need for modifications to those rules to better control the procedures for certifying and decertifying Medicaid beds in long-term care facilities.

(c) Not later than January 1 of each odd-numbered year, the council shall submit a report on the council's findings and recommendations to the executive commissioner, the governor, the

lieutenant governor, the speaker of the house of representatives, and the chairs of the appropriate legislative committees.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER F. UNCOMPENSATED HOSPITAL CARE REPORTING AND ANALYSIS; ADMINISTRATIVE PENALTY

Sec. 526.0251. RULES. The executive commissioner shall adopt rules providing for:

(1) a standard definition of "uncompensated hospital care";

(2) a methodology for hospitals in this state to use in computing the cost of uncompensated hospital care that incorporates a standard set of adjustments to a hospital's initial computation of the cost that accounts for all funding streams that:

(A) are not patient-specific; and

(B) are used to offset the hospital's initially computed amount of uncompensated hospital care; and

(3) procedures for hospitals to use in reporting the cost of uncompensated hospital care to the commission and in analyzing that cost, which may include procedures by which the commission may periodically verify the completeness and accuracy of the reported information.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0252. NOTICE OF FAILURE TO REPORT; ADMINISTRATIVE PENALTY. (a) The commission shall notify the attorney general of a hospital's failure to report the cost of uncompensated hospital care on or before the report due date in accordance with rules adopted under Section 526.0251(3).

(b) On receipt of the notice, the attorney general shall impose an administrative penalty on the hospital in the amount of $1,000 for each day after the report due date that the hospital has not submitted the report, not to exceed $10,000.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0253. NOTICE OF INCOMPLETE OR INACCURATE REPORT; ADMINISTRATIVE PENALTY. (a) If the commission determines that a hospital submitted a report with incomplete or inaccurate information using a procedure adopted under Section 526.0251(3), the commission shall:

(1) notify the hospital of the specific information the hospital must submit; and

(2) prescribe a date by which the hospital must provide that information.

(b) If the hospital fails to submit the specified information on or before the date the commission prescribes, the commission shall notify the attorney general of that failure.

(c) On receipt of the commission's notice, the attorney general shall impose an administrative penalty on the hospital in an amount not to exceed $10,000. In determining the amount of the penalty to be imposed, the attorney general shall consider:

(1) the seriousness of the violation;

(2) whether the hospital had previously committed a violation; and

(3) the amount necessary to deter the hospital from committing future violations.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0254. REQUIREMENTS FOR ATTORNEY GENERAL NOTIFICATION. The commission's notification to the attorney general under Section 526.0252 or 526.0253 must include the facts on which the commission based the determination that the hospital failed to submit a report or failed to completely and accurately report information, as applicable.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0255. ATTORNEY GENERAL NOTICE TO HOSPITAL. The attorney general shall give written notice of the commission's

notification to the attorney general under Section 526.0252 or 526.0253 to the hospital that is the subject of the notification. The notice must include:

(1) a brief summary of the alleged violation;

(2) a statement of the amount of the administrative penalty to be imposed; and

(3) a statement of the hospital's right to a hearing on the alleged violation, the amount of the penalty, or both.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0256. PENALTY PAID OR HEARING REQUESTED. Not later than the 20th day after the date the attorney general sends the notice under Section 526.0255, the hospital receiving the notice must submit a written request for a hearing or remit the amount of the administrative penalty to the attorney general. Failure to timely request a hearing or remit the amount of the administrative penalty results in a waiver of the right to a hearing under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0257. HEARING. (a) If a hospital requests a hearing in accordance with Section 526.0256, the attorney general shall conduct the hearing in accordance with Chapter 2001.

(b) If the hearing results in a finding that a violation has occurred, the attorney general shall:

(1) provide to the hospital written notice of:

(A) the findings established at the hearing; and

(B) the amount of the penalty; and

(2) enter an order requiring the hospital to pay the amount of the penalty.

(c) An order entered by the attorney general under this section is subject to judicial review as a contested case under Chapter 2001.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0258. OPTIONS FOLLOWING DECISION: PAY OR APPEAL. Not later than the 30th day after the date the hospital receives the order entered by the attorney general under Section 526.0257, the hospital shall:

(1) pay the amount of the administrative penalty;

(2) remit the amount of the penalty to the attorney general for deposit in an escrow account and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both; or

(3) without paying the amount of the penalty:

(A) file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both; and

(B) file with the court a sworn affidavit stating that the hospital is financially unable to pay the amount of the penalty.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0259. DECISION BY COURT. (a) If a hospital paid an administrative penalty imposed under this subchapter and on review a court does not sustain the occurrence of the violation or finds that the amount of the penalty should be reduced, the attorney general shall remit the appropriate amount to the hospital not later than the 30th day after the date the court's judgment becomes final.

(b) If the court sustains the occurrence of the violation:

(1) the court:

(A) shall order the hospital to pay the amount of the administrative penalty; and

(B) may award to the attorney general the attorney's fees and court costs the attorney general incurred in defending the action; and

(2) the attorney general shall remit the amount of the penalty to the comptroller for deposit in the general revenue fund.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0260. RECOVERY OF PENALTY. If a hospital does not pay the amount of an administrative penalty imposed under this subchapter

after the attorney general's order becomes final for all purposes, the attorney general may enforce the penalty as provided by law for legal judgments.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER G. RURAL HOSPITAL INITIATIVES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 18, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 526.0301. STRATEGIC PLAN FOR RURAL HOSPITAL SERVICES; REPORT. (a) The commission shall develop and implement a strategic plan to ensure that the citizens in this state residing in rural areas have access to hospital services.

(b) The strategic plan must include:

(1) a proposal for using at least one of the following methods to ensure access to hospital services in the rural areas of this state:

(A) an enhanced cost reimbursement methodology for the payment of rural hospitals participating in the Medicaid managed care program in conjunction with a supplemental payment program for rural hospitals to cover costs incurred in providing services to recipients;

(B) a hospital rate enhancement program applicable only to rural hospitals;

(C) a reduction of punitive actions under Medicaid that require reimbursement for Medicaid payments made to a rural hospital provider, a reduction of the frequency of payment reductions under Medicaid made to rural hospitals, and an enhancement of payments made under merit-based programs or similar programs for rural hospitals;

(D) a reduction of state regulatory-related costs related to the commission's review of rural hospitals; or

(E) in accordance with rules the Centers for Medicare and Medicaid Services adopts, the establishment of a minimum fee schedule that applies to payments made to rural hospitals by Medicaid managed care organizations; and

(2) target dates for achieving goals related to the proposal described by Subdivision (1).

(c) Not later than November 1 of each even-numbered year, the commission shall submit a report regarding the commission's development and implementation of the strategic plan to:

(1) the legislature;

(2) the governor; and

(3) the Legislative Budget Board.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0302. RURAL HOSPITAL ADVISORY COMMITTEE. (a) The commission shall establish the rural hospital advisory committee, either as an advisory committee or as a subcommittee of the hospital payment advisory committee, to advise the commission on issues relating specifically to rural hospitals.

(b) The rural hospital advisory committee is composed of interested individuals the executive commissioner appoints. Section 2110.002 does not apply to the advisory committee.

(c) An advisory committee member serves without compensation.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0303. COLLABORATION WITH OFFICE OF RURAL AFFAIRS. The commission shall collaborate with the Office of Rural Affairs to ensure that this state is pursuing to the fullest extent possible federal grants, funding opportunities, and support programs available to rural hospitals as administered by the Health Resources and Services Administration and the Office of Minority Health in the United States Department of Health and Human Services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER H. MEDICAL TRANSPORTATION

Sec. 526.0351. DEFINITIONS. In this subchapter:

(1) "Medical transportation program" means the program that provides nonemergency transportation services to recipients under

Medicaid, subject to Section 526.0353, the children with special health care needs program, and the transportation for indigent cancer patients program, who have no other means of transportation.

(2) "Nonemergency transportation service" means nonemergency medical transportation services authorized under:

(A) for a Medicaid recipient, the state Medicaid plan; and

(B) for a recipient under another program described by Subdivision (1), that program.

(3) "Regional contracted broker" means an entity that contracts with the commission to provide or arrange for the provision of nonemergency transportation services under the medical transportation program.

(4) "Transportation network company" has the meaning assigned by Section 2402.001, Occupations Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0352. DUTY TO PROVIDE MEDICAL TRANSPORTATION SERVICES. (a) The commission shall provide medical transportation services for clients of eligible health and human services programs.

(b) The commission may contract with any public or private transportation provider or with any regional transportation broker for the provision of public transportation services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0353. APPLICABILITY. Sections 526.0354-526.0360 do not apply to the provision of nonemergency transportation services to a Medicaid recipient who is enrolled in a managed care plan offered by a Medicaid managed care organization.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0354. COMMISSION SUPERVISION OF MEDICAL TRANSPORTATION

PROGRAM. Notwithstanding any other law, the commission:

(1) shall directly supervise the administration and operation of the medical transportation program under this subchapter; and

(2) may not delegate the commission's duty to supervise the medical transportation program to any other person, including through a contract with the Texas Department of Transportation for the department to assume any of the commission's responsibilities relating to the provision of services through that program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0355. CONTRACT FOR PUBLIC TRANSPORTATION SERVICES. Subject to Subchapter B, Chapter 540A, the commission may contract for the provision of public transportation services, as defined by Section 461.002, Transportation Code, under the medical transportation program, with:

(1) a public transportation provider, as defined by Section 461.002, Transportation Code;

(2) a private transportation provider; or

(3) a regional transportation broker.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0356. RULES FOR NONEMERGENCY TRANSPORTATION SERVICES; COMPLIANCE. (a) The executive commissioner shall adopt rules to ensure the safe and efficient provision of nonemergency transportation services under this subchapter. The rules must:

(1) include minimum standards regarding the physical condition and maintenance of motor vehicles used to provide the services, including standards regarding the accessibility of motor vehicles by individuals with disabilities;

(2) require a regional contracted broker to:

(A) verify that each motor vehicle operator providing the services or seeking to provide the services has a valid driver's license;

(B) check the driving record information maintained by

the Department of Public Safety under Subchapter C, Chapter 521, Transportation Code, of each motor vehicle operator providing the services or seeking to provide the services; and

(C) check the public criminal record information maintained by the Department of Public Safety and made available to the public through the department's Internet website of each motor vehicle operator providing the services or seeking to provide the services; and

(3) include training requirements for motor vehicle operators providing the services through a regional contracted broker, including training on:

(A) passenger safety;

(B) passenger assistance;

(C) assistive devices, including wheelchair lifts, tie-down equipment, and child safety seats;

(D) sensitivity and diversity;

(E) customer service;

(F) defensive driving techniques; and

(G) prohibited behavior by motor vehicle operators.

(b) Except as provided by Section 526.0358, the commission shall require compliance with the rules adopted under Subsection (a) in any contract entered into with a regional contracted broker to provide nonemergency transportation services under the medical transportation program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0357. MEMORANDUM OF UNDERSTANDING; DRIVER AND VEHICLE INFORMATION. (a) The commission shall enter into a memorandum of understanding with the Texas Department of Motor Vehicles and the Department of Public Safety for purposes of obtaining the motor vehicle registration and driver's license information of a medical transportation services provider, including a regional contracted broker and a subcontractor of the broker, to confirm the provider complies with applicable requirements adopted under Section 526.0356(a).

(b) The commission shall establish a process by which medical transportation services providers, including providers under a

managed transportation delivery model, that contract with the commission may request and obtain the information described by Subsection (a) to ensure that subcontractors providing medical transportation services meet applicable requirements adopted under Section 526.0356(a).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0358. MEDICAL TRANSPORTATION SERVICES SUBCONTRACTS. (a) A regional contracted broker may subcontract with a transportation network company to provide services under this subchapter. A rule or other requirement the executive commissioner adopts under Section 526.0356(a) does not apply to the subcontracted transportation network company or a motor vehicle operator who is part of the company's network. The commission or the regional contracted broker may not require a motor vehicle operator who is part of the subcontracted transportation network company's network to enroll as a Medicaid provider to provide services under this subchapter.

(b) The commission or a regional contracted broker that subcontracts with a transportation network company under Subsection (a) may require the transportation network company or a motor vehicle operator who provides services under this subchapter to be periodically screened against the list of excluded individuals and entities maintained by the Office of Inspector General of the United States Department of Health and Human Services.

(c) Notwithstanding any other law, a motor vehicle operator who is part of the network of a transportation network company that subcontracts with a regional contracted broker under Subsection (a) and who satisfies the driver requirements in Section 2402.107, Occupations Code, is qualified to provide services under this subchapter. The commission and the regional contracted broker may not impose any additional requirements on a motor vehicle operator who satisfies the driver requirements in Section 2402.107, Occupations Code, to provide services under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0359. CERTAIN PROVIDERS PROHIBITED FROM PROVIDING NONEMERGENCY TRANSPORTATION SERVICES. Emergency medical services personnel and emergency medical services vehicles, as those terms are defined by Section 773.003, Health and Safety Code, may not provide nonemergency transportation services under the medical transportation program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0360. CERTAIN WHEELCHAIR-ACCESSIBLE VEHICLES AUTHORIZED. For purposes of this section and Sections 526.0354-526.0359 and notwithstanding Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle operator who provides services under Sections 526.0354-526.0359 may use a wheelchair-accessible vehicle equipped with a lift or ramp that is capable of transporting passengers using a fixed-frame wheelchair in the cabin of the vehicle if the vehicle otherwise meets the requirements of Section 2402.111, Occupations Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER I. CASEWORKERS AND PROGRAM PERSONNEL

Sec. 526.0401. CASELOAD STANDARDS FOR DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES. (a) In this section:

(1) "Caseload standards" means the minimum and maximum number of cases that an employee can reasonably be expected to perform in a normal work month based on the number of cases handled by or the number of different job functions performed by the employee.

(2) "Professional caseload standards" means caseload standards for employees of health and human services agencies that are established or are recommended for establishment by:

(A) management studies conducted for health and human services agencies; or

(B) an authority or association, including:

(i) the Child Welfare League of America;

(ii) the National Eligibility Workers Association;

(iii) the National Association of Social Workers; and

(iv) associations of state health and human services agencies.

(b) Subject to Chapter 316 (H.B. 5), Acts of the 85th Legislature, Regular Session, 2017, the executive commissioner may establish caseload standards and other standards relating to caseloads for each category of caseworker the Department of Family and Protective Services employs.

(c) In establishing standards under this section, the executive commissioner shall:

(1) ensure that the standards are based on the caseworker's actual duties;

(2) ensure that the caseload standards are reasonable and achievable;

(3) ensure that the standards are consistent with existing professional caseload standards;

(4) consider standards developed by other states for caseworkers in similar positions of employment; and

(5) ensure that the standards are consistent with existing caseload standards of other state agencies.

(d) Subject to the availability of funds the legislature appropriates:

(1) the commissioner of the Department of Family and Protective Services shall use the standards established under this section to determine the number of personnel to assign as caseworkers for the department; and

(2) the Department of Family and Protective Services shall use the standards established to assign caseloads to individual caseworkers the department employs.

(e) Nothing in this section may be construed to create a cause of action.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0402. JOINT TRAINING FOR CERTAIN CASEWORKERS. (a) The executive commissioner shall provide for joint training for health and human services caseworkers whose clients are children,

including caseworkers employed by:

(1) the commission;

(2) the Department of State Health Services;

(3) a local mental health authority; and

(4) a local intellectual and developmental disability authority.

(b) The joint training must be designed to increase a caseworker's knowledge and awareness of the services available to children at each health and human services agency or local mental health or intellectual and developmental disability authority, including long-term care programs and services available under a Section 1915(c) waiver program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0403. COORDINATION AND APPROVAL OF CASELOAD ESTIMATES. (a) The commission shall coordinate and approve caseload estimates for programs health and human services agencies administer.

(b) To implement this section, the commission shall:

(1) adopt uniform guidelines for health and human services agencies to use in estimating each agency's caseload, with allowances given for those agencies for which exceptions from the guidelines may be necessary;

(2) assemble a single set of economic and demographic data and provide that data to each health and human services agency to use in estimating the agency's caseload; and

(3) seek advice from health and human services agencies, the Legislative Budget Board, the governor's budget office, the comptroller, and other relevant agencies as needed to coordinate the caseload estimating process.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0404. DEAF-BLIND WITH MULTIPLE DISABILITIES (DBMD) WAIVER PROGRAM: CAREER LADDER FOR INTERVENERS. (a) In this section:

(1) "Deaf-blind-related course work" means educational courses designed to improve a student's:

(A) knowledge of deaf-blindness and its effect on learning;

(B) knowledge of the intervention role and ability to facilitate the intervention process;

(C) knowledge of communication areas relevant to deaf-blindness, including methods, adaptations, and use of assistive technology, and ability to facilitate development and use of communication skills for an individual who is deaf-blind;

(D) knowledge of the effect deaf-blindness has on an individual's psychological, social, and emotional development and ability to facilitate the emotional well-being of an individual who is deaf-blind;

(E) knowledge of and issues related to sensory systems and ability to facilitate the use of the senses;

(F) knowledge of motor skills, movement, orientation, and mobility strategies and ability to facilitate orientation and mobility skills;

(G) knowledge of the effect additional disabilities have on an individual who is deaf-blind and ability to provide appropriate support; or

(H) professionalism and knowledge of ethical issues relevant to the intervener role.

(2) "Program" means the deaf-blind with multiple disabilities (DBMD) waiver program.

(b) The executive commissioner by rule shall adopt a career ladder for individuals who provide intervener services under the program. The rules must provide a system under which each individual may be classified based on the individual's level of training, education, and experience, as one of the following:

(1) Intervener;

(2) Intervener I;

(3) Intervener II; or

(4) Intervener III.

(c) The rules must require that:

(1) an Intervener:

(A) complete any orientation or training course required to be completed by any individual who provides direct care services to recipients of services under the program;

(B) hold a high school diploma or a high school equivalency certificate;

(C) have at least two years of experience working with individuals with developmental disabilities;

(D) have the ability to proficiently communicate in the functional language of the individual who is deaf-blind; and

(E) meet all direct-care worker qualifications as determined by the program;

(2) an Intervener I:

(A) meet the requirements of an Intervener under Subdivision (1);

(B) have at least six months of experience working with individuals who are deaf-blind; and

(C) have completed at least eight semester credit hours, plus a one-hour practicum in deaf-blind-related course work, at an accredited college or university;

(3) an Intervener II:

(A) meet the requirements of an Intervener I;

(B) have at least nine months of experience working with individuals who are deaf-blind; and

(C) have completed an additional 10 semester credit hours in deaf-blind-related course work at an accredited college or university; and

(4) an Intervener III:

(A) meet the requirements of an Intervener II;

(B) have at least one year of experience working with individuals who are deaf-blind; and

(C) hold an associate's or bachelor's degree from an accredited college or university in a course of study with a focus on deaf-blind-related course work.

(d) Notwithstanding Subsections (b) and (c), the executive commissioner may adopt a career ladder under this section based on credentialing standards for interveners developed by the Academy for Certification of Vision Rehabilitation and Education Professionals or any other private credentialing entity as the executive commissioner determines appropriate.

(e) The compensation an intervener receives for providing services under the program must be based on and commensurate with the intervener's career ladder classification.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER J. LICENSING, LISTING, OR REGISTRATION OF CERTAIN ENTITIES

Sec. 526.0451. APPLICABILITY. (a) This subchapter applies only to the final licensing, listing, or registration decisions of a health and human services agency with respect to a person under the law authorizing the agency to regulate the following:

(1) a youth camp licensed under Chapter 141, Health and Safety Code;

(2) a home and community support services agency licensed under Chapter 142, Health and Safety Code;

(3) a hospital licensed under Chapter 241, Health and Safety Code;

(4) a facility licensed under Chapter 242, Health and Safety Code;

(5) an assisted living facility licensed under Chapter 247, Health and Safety Code;

(6) a special care facility licensed under Chapter 248, Health and Safety Code;

(7) an intermediate care facility licensed under Chapter 252, Health and Safety Code;

(8) a chemical dependency treatment facility licensed under Chapter 464, Health and Safety Code;

(9) a mental hospital or mental health facility licensed under Chapter 577, Health and Safety Code;

(10) a child-care facility or child-placing agency licensed under or a family home listed or registered under Chapter 42, Human Resources Code; or

(11) a day activity and health services facility licensed under Chapter 103, Human Resources Code.

(b) This subchapter does not apply to an agency decision that did not result in a final order or that was reversed on appeal.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0452. REQUIRED APPLICATION INFORMATION. An applicant submitting an initial or renewal application for a license, including a renewal license or a license that does not expire, a listing, or a

registration described by Section 526.0451 must include with the application a written statement of:

(1) the name of any person who is or will be a controlling person, as the applicable agency regulating the person determines, of the entity for which the license, listing, or registration is sought; and

(2) any other relevant information required by rules the executive commissioner adopts.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0453. APPLICATION DENIAL BASED ON ADVERSE AGENCY DECISION. A health and human services agency that regulates a person to whom this subchapter applies may deny an application for a license, including a renewal license or a license that does not expire, a listing, or a registration described by Section 526.0451, if:

(1) any of the following persons are listed in a record maintained under Section 526.0454:

(A) the applicant;

(B) a person listed on the application; or

(C) a person the applicable regulating agency determines to be a controlling person of an entity for which the license, including a renewal license or a license that does not expire, the listing, or the registration is sought; and

(2) the agency's action resulting in the person being listed in a record maintained under Section 526.0454 is based on:

(A) an act or omission that resulted in physical or mental harm to an individual in the care of the applicant or person;

(B) a threat to the health, safety, or well-being of an individual in the care of the applicant or person;

(C) the physical, mental, or financial exploitation of an individual in the care of the applicant or person; or

(D) the agency's determination that the applicant or person has committed an act or omission that renders the applicant unqualified or unfit to fulfill the obligations of the license, listing, or registration.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

Sec. 526.0454. RECORD OF FINAL DECISION. (a) Each health and human services agency that regulates a person to whom this subchapter applies shall, in accordance with this section and rules the executive commissioner adopts, maintain a record of:

(1) each application for a license, including a renewal license or a license that does not expire, a listing, or a registration that the agency denies under the law authorizing the agency to regulate the person; and

(2) each license, listing, or registration that the agency revokes, suspends, or terminates under the applicable law.

(b) The record of an application required by Subsection (a)(1) must be maintained until the 10th anniversary of the date the application is denied. The record of the license, listing, or registration required by Subsection (a)(2) must be maintained until the 10th anniversary of the date of the revocation, suspension, or termination.

(c) The record required under Subsection (a) must include:

(1) the name and address of the applicant for a license, listing, or registration that is denied as described by Subsection (a)(1);

(2) the name and address of each person listed in the application for a license, listing, or registration that is denied as described by Subsection (a)(1);

(3) the name of each person the applicable regulatory agency determines to be a controlling person of an entity for which an application, license, listing, or registration is denied, revoked, suspended, or terminated as described by Subsection (a);

(4) the specific type of license, listing, or registration the agency denied, revoked, suspended, or terminated;

(5) a summary of the terms of the denial, revocation, suspension, or termination; and

(6) the effective period of the denial, revocation, suspension, or termination.

(d) Each health and human services agency that regulates a person to whom this subchapter applies each month shall provide a copy of the records maintained under this section to any other health and human services agency that regulates the person.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER K. CHILDREN AND FAMILIES

Sec. 526.0501. SUBSTITUTE CARE PROVIDER OUTCOME STANDARDS. (a) The executive commissioner, after consulting with representatives from the commission, the Department of Family and Protective Services, and the Texas Juvenile Justice Department, shall by rule adopt result-oriented standards that a provider of substitute care services for children under the care of this state must achieve.

(b) A health and human services agency that purchases substitute care services shall include the result-oriented standards as requirements in each substitute care service provider contract.

(c) A health and human services agency may provide information about a substitute care provider, including rates, contracts, outcomes, and client information, to another agency that purchases substitute care services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0502. REPORT ON DELIVERY OF HEALTH AND HUMAN SERVICES TO YOUNG TEXANS. (a) The commission shall publish on the commission's Internet website a biennial report that addresses the efforts of the health and human services agencies to provide health and human services to children younger than six years of age.

(b) The report may:

(1) contain the commission's recommendations to better coordinate state agency programs relating to the delivery of health and human services to children younger than six years of age; and

(2) propose joint agency collaborative programs.

(c) On or before the date the report is due, the commission shall notify the governor, the lieutenant governor, the speaker of the house of representatives, the comptroller, and the appropriate legislative committees that the report is available on the commission's Internet website.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0503. POOLED FUNDING FOR FOSTER CARE PREVENTIVE SERVICES. (a) The commission and the Department of Family and Protective Services shall develop and implement a plan to combine, to the extent and in the manner allowed by Section 51, Article III, Texas Constitution, and other applicable law, funds held by those agencies with funds held by other appropriate state agencies and local governmental entities to provide services designed to prevent children from being placed in foster care. The preventive services may include:

(1) child and family counseling;

(2) instruction in parenting and homemaking skills;

(3) parental support services;

(4) temporary respite care; and

(5) crisis services.

(b) The plan must provide for:

(1) state funding to be distributed to other state agencies, local governmental entities, or private entities only as specifically directed by the terms of a grant or contract to provide preventive services;

(2) procedures to ensure that funds the commission receives by gift, grant, or interagency or interlocal contract from another state agency, a local governmental entity, the federal government, or any other public or private source for purposes of this section are disbursed in accordance with the terms under which the commission received the funds; and

(3) a reporting mechanism to ensure appropriate use of funds.

(c) For the purposes of this section, the commission may request and accept gifts and grants under the terms of a gift, grant, or contract from a local governmental entity, a private entity, or any other public or private source for use in providing services designed to prevent children from being placed in foster care. If required by the terms of a gift, grant, or contract or by applicable law, the commission shall use the amounts received:

(1) from a local governmental entity to provide the services in the geographic area of this state in which the entity is located; and

(2) from the federal government or a private entity to

provide the services statewide or in a particular geographic area of this state.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0504. PARTICIPATION BY FATHERS. (a) The commission and each health and human services agency shall periodically examine commission or agency policies and procedures to determine if the policies and procedures deter or encourage participation of fathers in commission or agency programs and services relating to children.

(b) Based on the examination required under Subsection (a), the commission and each health and human services agency shall modify policies and procedures as necessary to permit full participation of fathers in commission or agency programs and services relating to children in all appropriate circumstances.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0505. PROHIBITED PUNITIVE ACTION FOR FAILURE TO IMMUNIZE. (a) In this section:

(1) "Person responsible for a child's care, custody, or welfare" has the meaning assigned by Section 261.001, Family Code.

(2) "Punitive action" includes initiating an investigation of a person responsible for a child's care, custody, or welfare for alleged or suspected abuse or neglect of a child.

(b) The executive commissioner by rule shall prohibit a health and human services agency from taking a punitive action against a person responsible for a child's care, custody, or welfare for the person's failure to ensure that the child receives the immunization series prescribed by Section 161.004, Health and Safety Code.

(c) This section does not affect a law, including Chapter 31, Human Resources Code, that specifically provides a punitive action for failure to ensure that a child receives the immunization series prescribed by Section 161.004, Health and Safety Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0506. INVESTIGATION UNIT FOR CHILD-CARE FACILITIES OPERATING ILLEGALLY. The executive commissioner shall maintain a unit within the commission's child-care licensing division consisting of investigators whose primary responsibility is to:

(1) identify child-care facilities that are operating without a license, certification, registration, or listing required by Chapter 42, Human Resources Code; and

(2) initiate appropriate enforcement actions against those facilities.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER L. TEXAS HOME VISITING PROGRAM

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 526.0551. DEFINITIONS. In this subchapter:

(1) "Home visiting program" means a voluntary-enrollment program in which early childhood and health professionals such as nurses, social workers, or trained and supervised paraprofessionals repeatedly visit over a period of at least six months the homes of pregnant women or families with children younger than six years of age who are born with or exposed to one or more risk factors.

(2) "Risk factors" means factors that make a child more likely to experience adverse experiences leading to negative consequences, including preterm birth, poverty, low parental education, having a teenaged mother or father, poor maternal health, and parental underemployment or unemployment.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 526.0552. RULES. The executive commissioner may adopt rules as necessary to implement this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 526.0553. STRATEGIC PLAN; ELIGIBILITY. (a) The commission shall maintain a strategic plan to serve at-risk pregnant women and families with children younger than six years of age through home visiting programs that improve outcomes for parents and families.

(b) A pregnant woman or family is considered at-risk for purposes of this section and may be eligible for voluntary enrollment in a home visiting program if the woman or family is exposed to one or more risk factors.

(c) The commission may determine if a risk factor or combination of risk factors an at-risk pregnant woman or family experiences qualifies the woman or family for enrollment in a home visiting program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 526.0554. TYPES OF HOME VISITING PROGRAMS. (a) A home visiting program is classified as either an evidence-based program or a promising practice program.

(b) An evidence-based program is a home visiting program that:

(1) is research-based and grounded in relevant, empirically based knowledge and program-determined outcomes;

(2) is associated with a national organization, institution of higher education, or national or state public health institute;

(3) has comprehensive standards that ensure high-quality

service delivery and continuously improving quality;

(4) has demonstrated significant positive short-term and long-term outcomes;

(5) has been evaluated by at least one rigorous randomized controlled research trial across heterogeneous populations or communities, the results of at least one of which have been published in a peer-reviewed journal;

(6) follows with fidelity a program manual or design that specifies the purpose, outcomes, duration, and frequency of the services that constitute the program;

(7) employs well-trained and competent staff and provides continual relevant professional development opportunities;

(8) demonstrates strong links to other community-based services; and

(9) ensures compliance with home visiting standards.

(c) A promising practice program is a home visiting program that:

(1) has an active impact evaluation program or can demonstrate a timeline for implementing an active impact evaluation program;

(2) has been evaluated by at least one outcome-based study demonstrating effectiveness or a randomized controlled trial in a homogeneous sample;

(3) follows with fidelity a program manual or design that specifies the purpose, outcomes, duration, and frequency of the services that constitute the program;

(4) employs well-trained and competent staff and provides continual relevant professional development opportunities;

(5) demonstrates strong links to other community-based services; and

(6) ensures compliance with home visiting standards.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 526.0555. OUTCOMES. The commission shall ensure that a

home visiting program achieves favorable outcomes in at least two of the following areas:

(1) improved maternal or child health outcomes;

(2) improved cognitive development of children;

(3) increased school readiness of children;

(4) reduced child abuse, neglect, and injury;

(5) improved child safety;

(6) improved social-emotional development of children;

(7) improved parenting skills, including nurturing and bonding;

(8) improved family economic self-sufficiency;

(9) reduced parental involvement with the criminal justice system; and

(10) increased father involvement and support.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 526.0556. EVALUATION OF HOME VISITING PROGRAM. (a) The commission shall adopt outcome indicators to measure the effectiveness of a home visiting program in achieving desired outcomes.

(b) The commission may work directly with the model developer of a home visiting program to identify appropriate outcome indicators for the program and to ensure that the program demonstrates fidelity to its research model.

(c) The commission shall develop internal processes to work with home visiting programs in sharing data and information to aid in relevant analysis of a home visiting program's performance.

(d) The commission shall use data gathered under this section to monitor, conduct ongoing quality improvement on, and evaluate the effectiveness of home visiting programs.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 526.0557. FUNDING. (a) The commission shall ensure that at least 75 percent of the funds appropriated for home visiting programs is used in evidence-based programs described by Section 526.0554(b), with any remaining funds dedicated to promising practice programs described by Section 526.0554(c).

(b) The commission shall actively seek and apply for any available federal funds to support home visiting programs, including federal funds from the Temporary Assistance for Needy Families program.

(c) The commission may accept gifts, donations, and grants to support home visiting programs.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 526.0558. REPORTS TO LEGISLATURE. (a) Not later than December 1 of each even-numbered year, the commission shall prepare and submit a report on state-funded home visiting programs to the Senate Committee on Health and Human Services and the House Human Services Committee or their successors.

(b) A report submitted under this section must include:

(1) a description of home visiting programs being implemented and the associated models;

(2) data on the number of families being served and their demographic information;

(3) the goals and achieved outcomes of home visiting programs;

(4) data on cost per family served, including third-party return-on-investment analysis, if available; and

(5) data explaining the percentage of funding that has been used on evidence-based programs and the percentage of funding that has been used on promising practice programs.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER M. SERVICE MEMBERS, DEPENDENTS, AND VETERANS

Sec. 526.0601. SERVICES FOR SERVICE MEMBERS. (a) In this section, "service member" means a member or former member of the state military forces or a component of the United States armed forces, including a reserve component.

(b) The executive commissioner shall ensure that each health and human services agency adopts policies and procedures that require the agency to:

(1) identify service members who are seeking services from the agency during the agency's intake and eligibility determination process; and

(2) direct service members seeking services to appropriate service providers, including:

(A) the United States Veterans Health Administration;

(B) National Guard Bureau facilities; and

(C) other federal, state, and local service providers.

(c) The executive commissioner shall make the directory of resources established under Section 161.552, Health and Safety Code, accessible to each health and human services agency.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0602. INTEREST OR OTHER WAITING LIST FOR CERTAIN SERVICE MEMBERS AND DEPENDENTS. (a) In this section, "service member" means a member of the United States military serving in the army, navy, air force, marine corps, or coast guard on active duty.

(b) This section applies only to:

(1) a service member who has declared and maintains this state as the member's state of legal residence in the manner provided by the applicable military branch;

(2) a spouse or dependent child of a member described by Subdivision (1); or

(3) the spouse or dependent child of a former service member who had declared and maintained this state as the member's

state of legal residence in the manner provided by the applicable military branch and who:

(A) was killed in action; or

(B) died while in service.

(c) The executive commissioner by rule shall require the commission or another health and human services agency to:

(1) maintain the position of an individual to whom this section applies in the queue of an interest list or other waiting list for any assistance program the commission or other health and human services agency provides, including a Section 1915(c) waiver program, if the individual cannot receive benefits under the assistance program because the individual temporarily resides out of state as the result of military service; and

(2) subject to Subsection (e), offer benefits to the individual according to the individual's position on the interest list or other waiting list that was attained while the individual resided out of state if the individual returns to reside in this state.

(d) If an individual to whom this section applies reaches a position on an interest list or other waiting list that would allow the individual to receive benefits under an assistance program but the individual cannot receive the benefits because the individual temporarily resides out of state as the result of military service, the commission or agency providing the benefits shall maintain the individual's position on the list relative to other individuals on the list but continue to offer benefits to other individuals on the interest list or other waiting list in accordance with those individuals' respective positions on the list.

(e) In adopting rules under Subsection (c), the executive commissioner must limit the amount of time an individual to whom this section applies may maintain the individual's position on an interest list or other waiting list under Subsection (c) to not more than one year after the date on which, as applicable:

(1) the service member's active duty ends;

(2) the member was killed if the member was killed in action; or

(3) the member died if the member died while in service.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0603. MEMORANDUM OF UNDERSTANDING REGARDING PUBLIC ASSISTANCE REPORTING INFORMATION SYSTEM; MAXIMIZATION OF BENEFITS. (a) In this section, "system" means the Public Assistance Reporting Information System (PARIS) operated by the Administration for Children and Families of the United States Department of Health and Human Services.

(b) The commission, the Texas Veterans Commission, and the Veterans' Land Board shall enter into a memorandum of understanding for the purposes of:

(1) coordinating and collecting information about state agencies' use and analysis of data received from the system; and

(2) developing new strategies for state agencies to use system data in ways that:

(A) generate fiscal savings for this state; and

(B) maximize the availability of and access to benefits for veterans.

(c) The commission and the Texas Veterans Commission:

(1) shall coordinate to assist veterans in maximizing the benefits available to each veteran by using the system; and

(2) together may determine the geographic scope of the efforts described by Subdivision (1).

(d) Not later than October 1 of each year, the commission, the Texas Veterans Commission, and the Veterans' Land Board collectively shall submit to the legislature, the governor, and the Legislative Budget Board a report describing:

(1) interagency progress in identifying and obtaining United States Department of Veterans Affairs benefits for veterans receiving Medicaid and other public benefits;

(2) the number of veterans benefits claims awarded, the total dollar amount of veterans benefits claims awarded, and the costs to this state that were avoided as a result of state agencies' use of the system;

(3) efforts to expand the use of the system and improve the effectiveness of shifting veterans from Medicaid and other public benefits to United States Department of Veterans Affairs benefits, including any barriers and the manner in which state agencies have addressed those barriers; and

(4) the extent to which the Texas Veterans Commission has

targeted specific veteran populations, including populations in rural counties and in specific age and service-connected disability categories, in order to maximize benefits for veterans and savings to this state.

(e) The report may be consolidated with any other report relating to the same subject matter the commission is required to submit under other law.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER N. PLAN TO SUPPORT GUARDIANSHIPS

Sec. 526.0651. DEFINITIONS. In this subchapter:

(1) "Guardian" has the meaning assigned by Section 1002.012, Estates Code.

(2) "Guardianship program" has the meaning assigned by Section 155.001.

(3) "Incapacitated individual" means an incapacitated person as defined by Section 1002.017, Estates Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0652. PLAN ESTABLISHMENT. The commission shall develop and, subject to appropriations, implement a plan to:

(1) ensure that each incapacitated individual in this state who needs a guardianship or another less restrictive type of assistance to make decisions concerning the incapacitated individual's own welfare and financial affairs receives that assistance; and

(2) foster the establishment and growth of local volunteer guardianship programs.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0653. GUARDIANSHIP PROGRAM GRANT REQUIREMENTS. (a) The commission in accordance with commission rules may award grants

to:

(1) a local guardianship program; and

(2) a local legal guardianship program to enable the family members and friends with low incomes of a proposed ward who is indigent to have legal representation in court if the individuals are willing and able to be appointed guardians of the proposed ward.

(b) To receive a grant under Subsection (a)(1), a local guardianship program operating in a county with a population of at least 150,000 must offer or submit a plan acceptable to the commission to offer, among the program's services, a money management service for appropriate clients, as determined by the program. The program may provide the money management service directly or by referring a client to a money management service that satisfies the requirements under Subsection (c).

(c) A money management service to which a local guardianship program may refer a client must:

(1) use employees or volunteers to provide bill payment or representative payee services;

(2) provide the service's employees and volunteers with training, technical support, monitoring, and supervision;

(3) match employees or volunteers with clients in a manner that ensures that the match is agreeable to both the employee or volunteer and the client;

(4) insure each employee and volunteer and hold the employee or volunteer harmless from liability for damages proximately caused by acts or omissions of the employee or volunteer while acting in the course and scope of the employee's or volunteer's duties or functions within the organization;

(5) have an advisory council that meets regularly and is composed of individuals who are knowledgeable with respect to issues related to guardianship, alternatives to guardianship, and related social services programs;

(6) be administered by a nonprofit corporation:

(A) formed under the Texas Nonprofit Corporation Law, as described by Section 1.008, Business Organizations Code; and

(B) exempt from taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt entity under Section 501(c)(3) of that code; and

(7) refer clients who are in need of other services from an area agency on aging to the appropriate area agency on aging.

(d) A local guardianship program operating in a county with a population of less than 150,000 may, at the program's option, offer, either directly or by referral, a money management service among the program's services. If the program elects to offer a money management service by referral, the service must satisfy the requirements under Subsection (c), except as provided by Subsection (e).

(e) On request by a local guardianship program, the commission may waive a requirement under Subsection (c) if the commission determines the waiver is appropriate to strengthen the continuum of local guardianship programs in a geographic area.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER O. ASSISTANCE PROGRAM FOR DOMESTIC VICTIMS OF TRAFFICKING

Sec. 526.0701. DEFINITIONS. In this subchapter:

(1) "Domestic victim" means a victim of trafficking who is a permanent legal resident or citizen of the United States.

(2) "Victim of trafficking" has the meaning assigned by 22 U.S.C. Section 7102.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0702. VICTIM ASSISTANCE PROGRAM. The commission shall develop and implement a program designed to assist domestic victims, including victims who are children, in accessing necessary services. The program must include:

(1) a searchable database of assistance programs for domestic victims that may be used to match victims with appropriate resources, including:

(A) programs that provide mental health services;

(B) other health services;

(C) services to meet victims' basic needs;

(D) case management services; and

(E) any other services the commission considers appropriate;

(2) the grant program described by Section 526.0703;

(3) recommended training programs for judges, prosecutors,

and law enforcement personnel; and

(4) an outreach initiative to ensure that victims, judges, prosecutors, and law enforcement personnel are aware of the availability of services through the program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0703. GRANT PROGRAM. (a) Subject to available funds, the commission shall establish a grant program to award grants to public and nonprofit organizations that provide assistance to domestic victims, including organizations that provide public awareness activities, community outreach and training, victim identification services, and legal services.

(b) To apply for a grant under this section, an applicant must submit an application in the form and manner the commission prescribes. An applicant must describe in the application the services the applicant intends to provide to domestic victims if the grant is awarded.

(c) In awarding grants under this section, the commission shall give preference to organizations that have experience in successfully providing the types of services for which the grants are awarded.

(d) A grant recipient shall provide the reports the commission requires regarding the use of grant funds.

(e) Not later than December 1 of each even-numbered year, the commission shall submit a report to the legislature:

(1) summarizing the activities, funding, and outcomes of programs awarded a grant under this section; and

(2) providing recommendations regarding the grant program.

(f) For purposes of Subchapter I, Chapter 659:

(1) the commission, for the sole purpose of administering the grant program under this section, is considered an eligible charitable organization entitled to participate in the state employee charitable campaign; and

(2) a state employee is entitled to authorize a deduction for contributions to the commission for the purposes of administering the grant program under this section as a charitable contribution under Section 659.132, and the commission may use the contributions as provided by Subsection (a).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0704. TRAINING PROGRAMS. The commission, with assistance from the Office of Court Administration of the Texas Judicial System, the Department of Public Safety, and local law enforcement agencies, shall create training programs designed to increase the awareness of judges, prosecutors, and law enforcement personnel on:

(1) the needs of domestic victims;

(2) the availability of services under this subchapter;

(3) the database of services described by Section 526.0702; and

(4) potential funding sources for those services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0705. FUNDING. The commission may use appropriated funds and may accept gifts, grants, and donations from any sources for purposes of the victim assistance program established under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER P. AGING ADULTS WITH VISUAL IMPAIRMENTS

Sec. 526.0751. OUTREACH CAMPAIGNS FOR AGING ADULTS WITH VISUAL IMPAIRMENTS. (a) The commission, in collaboration with the Texas State Library and Archives Commission and other appropriate state agencies, shall conduct public awareness and education outreach campaigns designed to provide information relating to the programs and resources available to aging adults who are blind or visually impaired in this state.

(b) The campaigns must be:

(1) tailored to targeted populations, including:

(A) aging adults with or at risk of blindness or visual impairment and the families and caregivers of those adults;

(B) health care providers, including home and community-based services providers, health care facilities, and emergency medical services providers;

(C) community and faith-based organizations; and

(D) the public; and

(2) disseminated through methods appropriate for each targeted population, including by:

(A) attending health fairs; and

(B) working with organizations or groups that serve aging adults, including community clinics, libraries, support groups for aging adults, veterans organizations, for-profit providers of vision services, and the state and local chapters of the National Federation of the Blind.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0752. RULES. The executive commissioner may adopt rules necessary to implement this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 526.0753. COMMISSION SUPPORT. To support campaigns conducted under this subchapter, the commission shall:

(1) establish a toll-free telephone number for providing counseling and referrals to appropriate services for aging adults who are blind or visually impaired;

(2) post on the commission's Internet website information and training resources for aging adults, community stakeholders, and health care and other service providers that generally serve aging adults, including:

(A) links to Internet websites that contain resources for individuals who are blind or visually impaired;

(B) existing videos that provide awareness of blindness and visual impairments among aging adults and the importance of early intervention;

(C) best practices for referring aging adults at risk of blindness or visual impairment for appropriate services; and

(D) training about resources available for aging adults who are blind or visually impaired for the staff of aging and disability resource centers established under the Aging and Disability Resource Center initiative funded partly by the federal Administration on Aging and the Centers for Medicare and Medicaid Services;

(3) designate a commission contact to assist aging adults who are diagnosed with a visual impairment and are losing vision and the families of those adults with locating and obtaining appropriate services; and

(4) encourage awareness of the reading services the Texas State Library and Archives Commission offers for individuals who are blind or visually impaired.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

CHAPTER 531. HEALTH AND HUMAN SERVICES COMMISSION

Text of subchapter effective until April 1, 2025

SUBCHAPTER A. GENERAL PROVISIONS; ORGANIZATION OF COMMISSION

Sec. 531.001. DEFINITIONS. In this subtitle:

Without reference to the amendment of this subdivision, this subchapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01, eff. April 1, 2025.

(4-a) "Home telemonitoring service" means a health service that requires scheduled remote monitoring of data related to a patient's health and transmission of the data to a licensed home and community support services agency, a federally qualified health center, a rural health clinic, or a hospital, as those terms are defined by Section 531.02164(a). The term is synonymous with "remote patient monitoring."

Added by Acts 1995, 74th Leg., ch. 76, Sec. 8.002(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 14.01, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 97, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 7, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1460, Sec. 8.01, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 53, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg.,

ch. 957, Sec. 6, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1429, Sec. 9.007, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 198, Sec. 1.01(a) to 1.01(c), 2.01, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.009, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1205 (S.B. 293), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.007, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 2.01, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 205 (S.B. 1107), Sec. 8, eff. May 27, 2017.

Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 22, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 623 (S.B. 1207), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 964 (S.B. 670), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1235 (H.B. 1576), Sec. 1, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1330 (H.B. 4533), Sec. 1, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 811 (H.B. 2056), Sec. 17, eff. September 1, 2021.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(2), eff. April 1, 2025.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 840 (H.B. 2727), Sec. 1, eff. June 13, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Without reference to the addition of this section, this subchapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01, eff. April 1, 2025.

Sec. 531.0045. LIMIT ON SUNSET REVIEW. The Sunset Advisory

Commission's review of the Health and Human Services Commission under Chapter 325 (Texas Sunset Act) during the period in which state agencies abolished in 2027 are reviewed may not include a review of the family support services programs transferred to the commission under Chapter 137, Human Resources Code, or the Thriving Texas Families Program established under Chapter 54, Health and Safety Code. This section expires September 1, 2027.

Added by Acts 2023, 88th Leg., R.S., Ch. 1033 (S.B. 24), Sec. 12, eff. September 1, 2023.

SUBCHAPTER B. POWERS AND DUTIES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.02119. DISCRIMINATION BASED ON IMMUNIZATION STATUS PROHIBITED. (a) A provider who participates in Medicaid or the child health plan program, including a provider participating in the provider network of a managed care organization that contracts with the commission to provide services under Medicaid or the child health plan program, may not refuse to provide health care services to a Medicaid recipient or child health plan program enrollee based solely on the recipient's or enrollee's refusal or failure to obtain a vaccine or immunization for a particular infectious or communicable disease.

(a-1) Notwithstanding Subsection (a), a provider is not in violation of this section if the provider:

(1) adopts a policy requiring some or all of the provider's patients, including patients who are Medicaid recipients or child health plan program enrollees, to be vaccinated or immunized against a particular infection or communicable disease to receive health care services from the provider; and

(2) provides an exemption to the policy described by Subdivision (1) under which the provider accepts from a patient who is a Medicaid recipient or child health plan program enrollee an oral or written request for an exemption from each required vaccination or immunization based on:

(A) a reason of conscience, including a sincerely held religious belief, observance, or practice, that is incompatible with

the administration of the vaccination or immunization; or

(B) a recognized medical condition for which the vaccination or immunization is contraindicated.

(b) The commission may not provide any reimbursement under Medicaid or the child health plan program, as applicable, to a provider who violates this section unless and until the commission finds that the provider is in compliance with this section.

(c) Subsection (b) applies only with respect to an individual physician. The commission may not refuse to provide reimbursement to a provider who did not violate this section based on that provider's membership in a provider group or medical organization with an individual physician who violated this section.

(d) This section does not apply to a provider who is a specialist in:

(1) oncology; or

(2) organ transplant services.

(e) The executive commissioner shall adopt rules necessary to implement this section, including rules establishing the right of a provider who is alleged to have violated this section to seek administrative and judicial review of the alleged violation.

Added by Acts 2023, 88th Leg., R.S., Ch. 656 (H.B. 44), Sec. 1, eff. September 1, 2023.

Without reference to the amendment of this section, this section was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01, eff. April 1, 2025.

Sec. 531.02164. MEDICAID SERVICES PROVIDED THROUGH HOME TELEMONITORING SERVICES. (a) In this section:

(1) "Federally qualified health center" has the meaning assigned by 42 U.S.C. Section 1396d(l)(2)(B).

(1-a) "Home and community support services agency" means a person licensed under Chapter 142, Health and Safety Code, to provide home health, hospice, or personal assistance services as defined by Section 142.001, Health and Safety Code.

(2) "Hospital" means a hospital licensed under Chapter 241, Health and Safety Code.

(3) "Rural health clinic" has the meaning assigned by 42 U.S.C. Section 1396d(l)(1).

(b) The executive commissioner shall adopt rules for the provision and reimbursement of home telemonitoring services under Medicaid as provided under this section.

(c) For purposes of adopting rules under this section, the commission shall:

(1) identify and provide home telemonitoring services to persons diagnosed with conditions for which the commission determines the provision of home telemonitoring services would be cost-effective and clinically effective;

(2) consider providing home telemonitoring services under Subdivision (1) to Medicaid recipients who:

(A) are diagnosed with one or more of the following conditions:

(i) pregnancy;

(ii) diabetes;

(iii) heart disease;

(iv) cancer;

(v) chronic obstructive pulmonary disease;

(vi) hypertension;

(vii) congestive heart failure;

(viii) mental illness or serious emotional disturbance;

(ix) asthma;

(x) myocardial infarction;

(xi) stroke;

(xii) end stage renal disease; or

(xiii) a condition that requires renal dialysis treatment; and

(B) exhibit at least one of the following risk factors:

(i) two or more hospitalizations in the prior 12-month period;

(ii) frequent or recurrent emergency room admissions;

(iii) a documented history of poor adherence to ordered medication regimens;

(iv) a documented risk of falls; and

(v) a documented history of care access challenges;

(3) ensure that clinical information gathered by the following providers while providing home telemonitoring services is shared with the recipient's physician:

(A) a home and community support services agency;
(B) a federally qualified health center;
(C) a rural health clinic; or
(D) a hospital;
(4) ensure that the home telemonitoring services provided under this section do not duplicate disease management program services provided under Section 32.057, Human Resources Code; and
(5) require a provider to:
(A) establish a plan of care that includes outcome measures for each recipient who receives home telemonitoring services under this section; and
(B) share the plan and outcome measures with the recipient's physician.
(c-1) Notwithstanding any other provision of this section, the commission shall ensure that home telemonitoring services are available to pediatric persons who:
(1) are diagnosed with end-stage solid organ disease;
(2) have received an organ transplant; or
(3) require mechanical ventilation.
(c-2) In addition to determining whether to provide home telemonitoring services to Medicaid recipients with the conditions described under Subsection (c)(2), the commission shall determine whether high-risk pregnancy is a condition for which the provision of home telemonitoring services is cost-effective and clinically effective. If the commission determines that high-risk pregnancy is a condition for which the provision of home telemonitoring services is cost-effective and clinically effective:
(1) the commission shall, to the extent permitted by state and federal law, provide recipients experiencing a high-risk pregnancy with clinically appropriate home telemonitoring services equipment for temporary use in the recipient's home; and
(2) the executive commissioner by rule shall:
(A) establish criteria to identify recipients experiencing a high-risk pregnancy who would benefit from access to home telemonitoring services equipment;
(B) ensure that, if cost-effective, feasible, and clinically appropriate, the home telemonitoring services equipment provided includes uterine remote monitoring services equipment and pregnancy-induced hypertension remote monitoring services equipment;
(C) subject to Subsection (c-3), require that a

provider obtain:

(i) prior authorization from the commission before providing home telemonitoring services equipment to a recipient during the first month the equipment is provided to the recipient; and

(ii) an extension of the authorization under Subparagraph (i) from the commission before providing the equipment in a subsequent month based on the ongoing medical need of the recipient; and

(D) prohibit payment or reimbursement for home telemonitoring services equipment during any period that the equipment was not in use because the recipient was hospitalized or away from the recipient's home regardless of whether the equipment remained in the recipient's home while the recipient was hospitalized or away.

(c-3) For purposes of Subsection (c-2), the commission shall require that:

(1) a request for prior authorization under Subsection (c-2)(2)(C)(i) be based on an in-person assessment of the recipient; and

(2) documentation of the recipient's ongoing medical need for the equipment is provided to the commission before the commission grants an extension under Subsection (c-2)(2)(C)(ii).

(d) If, after implementation, the commission determines that a condition for which the commission has authorized the provision and reimbursement of home telemonitoring services under Medicaid under this section is not cost-effective and clinically effective, the commission may discontinue the availability of home telemonitoring services for that condition and stop providing reimbursement under Medicaid for home telemonitoring services for that condition, notwithstanding Section 531.0216 or any other law.

(e) The commission shall determine whether the provision of home telemonitoring services to persons who are eligible to receive benefits under both Medicaid and the Medicare program achieves cost savings for the Medicare program.

(f) To comply with state and federal requirements to provide access to medically necessary services under Medicaid, including the Medicaid managed care program, and if the commission determines it is cost-effective and clinically effective, the commission or a Medicaid managed care organization, as applicable, may reimburse providers for home telemonitoring services provided to persons who have conditions

and exhibit risk factors other than those expressly authorized by this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1205 (S.B. 293), Sec. 5, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.033, eff. April 2, 2015.
Acts 2019, 86th Leg., R.S., Ch. 1061 (H.B. 1063), Sec. 2, eff. September 1, 2019.
Acts 2021, 87th Leg., R.S., Ch. 624 (H.B. 4), Sec. 3, eff. June 15, 2021.
Repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01, eff. April 1, 2025.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 840 (H.B. 2727), Sec. 2, eff. June 13, 2023.

Sec. 531.024. PLANNING AND DELIVERY OF HEALTH AND HUMAN SERVICES; DATA SHARING.

Without reference to the amendment of this subsection, this section was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.

(a) The executive commissioner shall:

(1) facilitate and enforce coordinated planning and delivery of health and human services, including:

(A) co-location of services;

(B) integrated intake; and

(C) coordinated referral and case management;

(2) develop with the Department of Information Resources automation standards for computer systems to enable health and human services agencies, including agencies operating at a local level, to share pertinent data;

(3) establish and enforce uniform regional boundaries for all health and human services agencies;

(4) carry out statewide health and human services needs surveys and forecasting;

(5) perform independent special-outcome evaluations of

health and human services programs and activities;

(6) at the request of a governmental entity that coordinates the delivery of health and human services in regions, counties, and municipalities of this state, assist the entity in implementing a coordinated plan that may include co-location of services, integrated intake, and coordinated referral and case management and is tailored to the needs and priorities of that entity; and

(7) promulgate uniform fair hearing rules for all Medicaid-funded services.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 8.002(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 14.06, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 342, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.11, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 713 (H.B. 2256), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1310 (S.B. 7), Sec. 6.01, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1310 (S.B. 7), Sec. 6.02, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.046, eff. April 2, 2015.

Acts 2019, 86th Leg., R.S., Ch. 623 (S.B. 1207), Sec. 2, eff. September 1, 2019.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1147 (S.B. 956), Sec. 1, eff. September 1, 2023.

Sec. 531.024131. EXPANSION OF BILLING COORDINATION AND INFORMATION COLLECTION ACTIVITIES.

Without reference to the amendment of this subsection, this section was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.

(a) If cost-effective, the commission may:

(1) contract to expand all or part of the billing coordination system established under Section 531.02413 to process claims for services provided through other benefits programs administered by the commission or a health and human services agency;

(2) expand any other billing coordination tools and resources used to process claims for health care services provided through Medicaid to process claims for services provided through other benefits programs administered by the commission or a health and human services agency; and

(3) expand the scope of persons about whom information is collected under Section 32.0424(a), Human Resources Code, to include recipients of services provided through other benefits programs administered by the commission or a health and human services agency.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. 7), Sec. 1.10, eff. September 28, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.052, eff. April 2, 2015.
Repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1098 (S.B. 1342), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.024183. STANDARDIZED SCREENING QUESTIONS FOR ASSESSING NONMEDICAL HEALTH-RELATED NEEDS OF CERTAIN PREGNANT WOMEN; INFORMED CONSENT. (a) In this section, "alternatives to abortion program" means the program established by the commission to enhance and increase resources that promote childbirth for women facing unplanned pregnancy, or a successor program.

(b) The commission shall adopt standardized screening questions designed to screen for, identify, and aggregate data regarding the nonmedical health-related needs of pregnant women eligible for benefits under a public benefits program administered by the commission or another health and human services agency, including:

(1) Medicaid; and

(2) the alternatives to abortion program.

(c) Subject to Subsection (d), the standardized screening questions must be used by Medicaid managed care organizations and providers participating in the alternatives to abortion program.

(d) A managed care organization or provider participating in a public benefits program described by Subsection (b), including the alternatives to abortion program, may not perform a screening of a pregnant woman using the standardized screening questions required by this section unless the organization or provider:

(1) informs the woman:

(A) about the type of data that will be collected during the screening and the purposes for which the data will be used; and

(B) that the collected data will become part of the woman's medical record or service plan; and

(2) obtains the woman's informed consent to perform the screening.

(e) A managed care organization or provider participating in a public benefits program described by Subsection (b), including the alternatives to abortion program, must provide to the commission, in the form and manner prescribed by the commission, data the organization or provider collects using the standardized screening questions required by this section.

(f) Not later than December 1 of each even-numbered year, the commission shall prepare and submit to the legislature a report that, using de-identified information, summarizes the data collected and provided to the commission under Subsection (e) during the previous biennium. In accordance with Section 531.014, the commission may consolidate the report required under this subsection with any other report to the legislature required under this chapter or another law that relates to the same subject matter.

Added by Acts 2023, 88th Leg., R.S., Ch. 316 (H.B. 1575), Sec. 2, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.02485. REQUIRED REVIEW OF CRIMINAL HISTORY RECORD INFORMATION FOR CERTAIN RESIDENTIAL CAREGIVERS. (a) In this section, "residential caregiver" means an individual who provides, through a group home or other residential facility licensed by or operated under the authority of the commission, community-based residential care services:

(1) to not more than four individuals with an intellectual or developmental disability at any time; and

(2) at a residence other than the home of the individual providing the services.

(b) A Medicaid provider, including a provider providing services under a 1915(c) waiver program, that employs or contracts with a residential caregiver to provide community-based residential care services to Medicaid recipients shall review state and federal criminal history record information and obtain electronic updates from the Department of Public Safety of arrests and convictions for each residential caregiver the provider employs or contracts with to provide community-based residential care services to Medicaid recipients.

(c) An individual who has been convicted of an offense described by Section 250.006, Health and Safety Code, may not be employed or contracted as a residential caregiver or otherwise provide direct care to a Medicaid recipient with an intellectual or developmental disability to the same extent and, if applicable, for the same period of time prescribed by Section 250.006(a) or (b), Health and Safety Code, as an individual similarly convicted under those subsections. An individual who violates this subsection is subject to disciplinary action by the commission.

(d) A Medicaid provider shall immediately discharge any individual the provider employs or contracts with as a residential caregiver who is convicted of an offense described by Section 250.006, Health and Safety Code.

(e) Notwithstanding any other law, the commission shall take disciplinary action against a Medicaid provider that violates this section, including imposing an administrative penalty or vendor hold, terminating a contract or license, or any other disciplinary action the commission determines appropriate. In determining the appropriate disciplinary action to take against a Medicaid provider under this subsection, the commission shall consider:

(1) the nature and seriousness of the violation;

(2) the history of previous violations; and

(3) any other matter justice may require.

(f) The executive commissioner shall adopt rules necessary to implement this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 674 (H.B. 1009), Sec. 2, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.02486. SUSPENDING EMPLOYMENT OF CERTAIN RESIDENTIAL CAREGIVERS. (a) In this section:

(1) "Consumer-directed service option" has the meaning assigned by Section 531.051.

(2) "Reportable conduct" includes:

(A) abuse or neglect that causes or may cause death or harm to an individual using the consumer-directed service option or a resident;

(B) sexual abuse of an individual using the consumer-directed service option or a resident;

(C) financial exploitation of an individual using the consumer-directed service option or a resident in an amount of $25 or more; and

(D) emotional, verbal, or psychological abuse that causes harm to an individual using the consumer-directed service option or a resident.

(3) "Resident" means an individual residing in a group home or other residential facility who is receiving services from a residential caregiver.

(4) "Residential caregiver" has the meaning assigned by Section 531.02485.

(b) A Medicaid provider, including a provider providing services under a Section 1915(c) waiver program, who employs or contracts with a residential caregiver to provide community-based residential care services through a group home or other residential facility described by Subsection (a)(4), on receiving notice of the reportable conduct finding, shall immediately suspend the employment or contract of an individual the provider employs or contracts with

as a residential caregiver who the commission finds has engaged in reportable conduct while the individual exhausts any applicable appeals process, including informal and formal appeals, pending a final decision by an administrative law judge. The provider may not reinstate the individual's employment or contract during the course of any appeals process.

(c) Notwithstanding any other law, the commission shall take disciplinary action against a Medicaid provider that violates Subsection (b), including imposing an administrative penalty or vendor hold, terminating a contract or license, or any other disciplinary action the commission determines appropriate. In determining the appropriate disciplinary action to take against a Medicaid provider under this subsection, the commission shall consider:

(1) the nature and seriousness of the violation;

(2) the history of previous violations; and

(3) any other matter justice may require.

(d) The executive commissioner shall adopt rules necessary to implement this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 674 (H.B. 1009), Sec. 2, eff. September 1, 2023.

Sec. 531.028. MONITORING AND EFFECTIVE MANAGEMENT OF FUNDS.

Without reference to the amendment of this subsection, this section was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.

(b) The executive commissioner shall establish a federal money management system to coordinate and monitor the use of federal money that is received by health and human services agencies to ensure that the money is spent in the most efficient manner and shall:

(1) establish priorities for use of federal money by all health and human services agencies;

(2) coordinate and monitor the use of federal money for health and human services to ensure that the money is spent in the most cost-effective manner throughout the health and human services system;

(3) review and approve all federal funding plans for health

and human services in this state;

(4) estimate available federal money, including earned federal money, and monitor unspent money;

(5) ensure that the state meets federal requirements relating to receipt of federal money for health and human services, including requirements relating to state matching money and maintenance of effort;

(6) transfer appropriated amounts as described by Section 531.0271; and

(7) ensure that each governmental entity that coordinates the delivery of health and human services in regions, counties, and municipalities of this state has access to complete and timely information about all sources of federal money for health and human services programs and that technical assistance is available to governmental entities seeking grants of federal money to provide health and human services.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 8.002(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 14.10(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1460, Sec. 3.04, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.072, eff. April 2, 2015.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.06, eff. September 1, 2019.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1147 (S.B. 956), Sec. 2, eff. September 1, 2023.

Sec. 531.06021. MEDICALLY DEPENDENT CHILDREN (MDCP) WAIVER PROGRAM QUALITY MONITORING; REPORT.

Without reference to the amendment of this subsection, this section was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.

(b) The commission shall submit to the governor, the lieutenant

governor, the speaker of the house of representatives, the Legislative Budget Board, and each standing legislative committee with primary jurisdiction over Medicaid a semiannual report containing, for the preceding six-month period, the following information and data related to access to care for Medicaid recipients receiving benefits under the medically dependent children (MDCP) waiver program:

(1) enrollment in the Medicaid buy-in for children program implemented under Section 531.02444;

(2) requests relating to interest list placements under Section 531.0601;

(3) use of the Medicaid escalation help line established under Section 533.00253, if the help line was operational during the applicable six-month period;

(4) use of, requests for, and outcomes of the external medical review procedure established under Section 531.024164; and

(5) complaints relating to the medically dependent children (MDCP) waiver program, categorized by disposition.

Added by Acts 2019, 86th Leg., R.S., Ch. 623 (S.B. 1207), Sec. 3(b), eff. September 1, 2019.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 738 (H.B. 3265), Sec. 1, eff. September 1, 2023.
Repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.0691. VENDOR DRUG PROGRAM INCLUSION. (a) The commission shall ensure that the vendor drug program includes all drugs and national drug codes made available under the federal Medicaid Drug Rebate Program if a certificate of information form to request the drug's inclusion in the vendor drug program has been submitted to the commission and:

(1) approved by the commission; or

(2) subject to Subsection (b), is pending review by the commission.

(b) On receipt of a certificate of information form to request the addition to the Texas Drug Code Index of a drug that is available under the federal Medicaid Drug Rebate Program, the commission shall, if the commission determines that the drug is appropriate for dispensing through an outpatient pharmacy, provisionally make the drug available under the vendor drug program for a period that expires on the earlier of:

(1) the 90th day after the date the form was submitted; or

(2) the date the commission makes a determination regarding whether to approve or deny the drug's inclusion on the vendor drug program formulary.

(c) The commission shall:

(1) denote the provisional availability of a drug under this section; and

(2) remove a drug made provisionally available under the vendor drug program:

(A) on the expiration of the 90-day period prescribed by Subsection (b)(1); or

(B) if applicable, on the date the commission denies the drug's inclusion on the vendor drug program formulary.

Added by Acts 2023, 88th Leg., R.S., Ch. 739 (H.B. 3286), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Without reference to the amendment of this section, this section was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.

Sec. 531.072. PREFERRED DRUG LISTS.

(b-3) Notwithstanding Subsection (b), the preferred drug lists must contain all therapeutic equivalents for a generic drug on the preferred drug list.

(g) The commission shall develop an expedited review process to consider requests from managed care organizations and providers to add drugs to the preferred drug list.

(h) The commission shall grant temporary non-preferred status

to new drugs that are available but have not yet been reviewed by the drug utilization review board and establish criteria for authorizing drugs with temporary non-preferred status.

Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1286 (H.B. 2030), Sec. 3, eff. September 1, 2009.
Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 3.08(d), eff. January 1, 2016.
Acts 2015, 84th Leg., R.S., Ch. 946 (S.B. 277), Sec. 2.08(d), eff. January 1, 2016.
Acts 2023, 88th Leg., R.S., Ch. 739 (H.B. 3286), Sec. 3, eff. September 1, 2023.
Repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.

Sec. 531.073. PRIOR AUTHORIZATION FOR CERTAIN PRESCRIPTION DRUGS.

Without reference to the amendment of this subsection, this section was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.

(b) The commission shall establish procedures for the prior authorization requirement under the Medicaid vendor drug program to ensure that the requirements of 42 U.S.C. Section 1396r-8(d)(5) and its subsequent amendments are met. Specifically, the procedures must ensure that:

(1) there will be a response to a request for prior authorization by telephone or other telecommunications device within 24 hours after receipt of a request for prior authorization; and

(2) a 72-hour supply of the drug prescribed will be provided in an emergency or if the commission does not provide a response within the time required by Subdivision (1).

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.14, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1286 (H.B. 2030), Sec. 4, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 99(17), eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.110, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 3.08(e), eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 946 (S.B. 277), Sec. 2.08(e), eff. January 1, 2016.

Acts 2019, 86th Leg., R.S., Ch. 1343 (S.B. 1283), Sec. 1, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 348 (H.B. 2822), Sec. 1, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 739 (H.B. 3286), Sec. 4, eff. September 1, 2023.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.

Sec. 531.0736. DRUG UTILIZATION REVIEW BOARD.

Without reference to the amendment of this subsection, this section was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.

(c) The executive commissioner shall determine the composition of the board, which must:

(1) comply with applicable federal law, including 42 C.F.R. Section 456.716;

(2) include three representatives of managed care organizations, all of whom must be physicians or pharmacists;

(3) include at least 17 physicians and pharmacists who:

(A) provide services across the entire population of Medicaid recipients and represent different specialties, including at least one of each of the following types of physicians:

(i) a pediatrician;

(ii) a primary care physician;

(iii) an obstetrician and gynecologist;

(iv) a child and adolescent psychiatrist; and

(v) an adult psychiatrist; and

(B) have experience in either developing or practicing under a preferred drug list; and

(4) include a consumer advocate who represents Medicaid recipients.

Without reference to the amendment of this subsection, this section was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.

(d) Notwithstanding any other law, members appointed under Subsection (c)(2) may attend quarterly and other regularly scheduled meetings, but may not:

(1) attend portions of the executive sessions in which confidential drug pricing information is shared; or

(2) access confidential drug pricing information.

Added by Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 3.08(b), eff. January 1, 2016.
Added by Acts 2015, 84th Leg., R.S., Ch. 946 (S.B. 277), Sec. 2.08(b), eff. January 1, 2016.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 739 (H.B. 3286), Sec. 5, eff. September 1, 2023.
Repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.

Sec. 531.084. MEDICAID LONG-TERM CARE COST CONTAINMENT STRATEGIES. (a) The commission shall make every effort to achieve cost efficiencies within the Medicaid long-term care program. To achieve those efficiencies, the commission shall:

(1) establish a fee schedule for reimbursable incurred medical expenses for dental services controlled in long-term care facilities;

(2) implement a fee schedule for reimbursable incurred medical expenses for durable medical equipment in nursing facilities and ICF-IID facilities;

(3) implement a durable medical equipment fee schedule action plan;

(4) establish a system for private contractors to secure and coordinate the collection of Medicare funds for recipients who are dually eligible for Medicare and Medicaid;

(5) create additional partnerships with pharmaceutical companies to obtain discounted prescription drugs for Medicaid

recipients; and

(6) develop and implement a system for auditing the Medicaid hospice care system that provides services in long-term care facilities to ensure correct billing for pharmaceuticals.

(b) The executive commissioner and the commissioner of aging and disability services shall jointly appoint persons to serve on a work group to assist the commission in developing the fee schedule required by Subsection (a)(1). The work group must consist of providers of long-term care services, including dentists and long-term care advocates.

(c) In developing the fee schedule required by Subsection (a)(1), the commission shall consider:

(1) the need to ensure access to dental services for residents of long-term care facilities who are unable to travel to a dental office to obtain care;

(2) the most recent Comprehensive Fee Report published by the National Dental Advisory Service;

(3) the difficulty of providing dental services in long-term care facilities;

(4) the complexity of treating medically compromised patients; and

(5) time-related and travel-related costs incurred by dentists providing dental services in long-term care facilities.

(d) The commission shall annually update the fee schedule required by Subsection (a)(1).

Added by Acts 2005, 79th Leg., Ch. 349 (S.B. 1188), Sec. 5(a), eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.117, eff. April 2, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.0932. INSTRUCTION GUIDE FOR FAMILY MEMBERS AND CAREGIVERS OF VETERANS WHO HAVE MENTAL HEALTH DISORDERS. (a) The commission and the Texas Veterans Commission jointly shall produce and make publicly available an instruction guide for family members

and caregivers of veterans who have mental health disorders.

(b) The instruction guide produced under this section must include:

(1) general education about different mental health disorders, including instruction intended to improve understanding about the experience of persons suffering from those mental health disorders;

(2) techniques for handling crisis situations and administering mental health first aid to persons suffering from mental health disorders;

(3) techniques for coping with the stress of living with a person with a mental health disorder; and

(4) information about related services available for family members and caregivers of veterans who have mental health disorders that are provided by the commission, the Texas Veterans Commission, other state agencies, community organizations, and mental health services providers.

(c) The commission and the Texas Veterans Commission each shall publish the guide produced under this section on the respective agency's Internet website.

Added by Acts 2023, 88th Leg., R.S., Ch. 139 (S.B. 63), Sec. 1, eff. May 23, 2023.

See note following this section.

Sec. 531.0991. GRANT PROGRAM FOR MENTAL HEALTH SERVICES.

Without reference to the addition of this subsection, this section was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.

(e-1) If the commission is appropriated money to implement this section for a state fiscal year in an amount that exceeds the total amount of grants awarded under this section in the previous state fiscal year, the commission, in selecting grant recipients for the excess amount, must accept applications or proposals from applicants that were not selected as grant recipients under this section in the previous state fiscal year or applicants that were selected as grant recipients but require additional funding for the recipient's community mental health program for purposes of this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 770 (H.B. 13), Sec. 1, eff. June 14, 2017.
Redesignated from Government Code, Section 531.0999 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(25), eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 486 (H.B. 3088), Sec. 1, eff. June 14, 2021.
Repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 944 (S.B. 1677), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.09915. INNOVATION MATCHING GRANT PROGRAM FOR MENTAL HEALTH EARLY INTERVENTION AND TREATMENT. (a) In this section:

(1) "Inpatient mental health facility" has the meaning assigned by Section 571.003, Health and Safety Code.

(2) "Program" means the grant program established under this section.

(3) "State hospital" has the meaning assigned by Section 552.0011, Health and Safety Code.

(b) To the extent money is appropriated to the commission for that purpose, the commission shall establish a matching grant program to provide support to eligible entities for community-based initiatives that promote identification of mental health issues and improve access to early intervention and treatment for children and families. The initiatives may:

(1) be evidence-based or otherwise demonstrate positive outcomes, including:

(A) improved relationship skills;

(B) improved self-esteem;

(C) reduced involvement in the juvenile justice system;

(D) participation in the relinquishment avoidance program under Subchapter E, Chapter 262, Family Code; and

(E) avoidance of emergency room use; and

(2) include:

(A) training; and

(B) services and supports for:

(i) community-based initiatives;

(ii) agencies that provide services to children and families;

(iii) individuals who work with children or caregivers of children showing atypical social or emotional development or other challenging behaviors; and

(iv) children in or at risk of placement in foster care or the juvenile justice system.

(c) The commission may award a grant under the program only in accordance with a contract between the commission and a grant recipient. The contract must include provisions under which the commission is given sufficient control to ensure the public purpose of providing mental health prevention services to children and families is accomplished and the state receives the return benefit.

(d) The executive commissioner by rule shall establish application and eligibility requirements for an entity to be awarded a grant under the program.

(e) The following entities are eligible for a grant awarded under the program:

(1) a hospital licensed under Chapter 241, Health and Safety Code;

(2) a mental hospital licensed under Chapter 577, Health and Safety Code;

(3) a hospital district;

(4) a local mental health authority;

(5) a child-care facility, as defined by Chapter 42, Human Resources Code;

(6) a county or municipality; and

(7) a nonprofit organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt entity under Section 501(c)(3) of that code.

(f) In awarding grants under the program, the commission shall prioritize entities that work with children and family members of children with a high risk of experiencing a crisis or developing a mental health condition to reduce:

(1) the need for future intensive mental health services;

(2) the number of children at risk of placement in foster care or the juvenile justice system; or

(3) the demand for placement in state hospitals, inpatient mental health facilities, and residential behavioral health facilities.

(g) The commission shall condition each grant awarded under the program on the grant recipient providing matching money in an amount that is equal to at least 10 percent of the grant amount.

(h) A grant recipient may only use grant money awarded under the program and matching money provided by the recipient to develop innovative strategies that provide:

(1) resiliency;

(2) coping and social skills;

(3) healthy social and familial relationships; and

(4) parenting skills and behaviors.

(i) A grant recipient may not use grant money awarded under the program or matching money provided by the recipient to:

(1) reimburse an expense or pay a cost that another source, including the Medicaid program, is obligated to reimburse or pay by law or under a contract; or

(2) supplant or be a substitute for money awarded to the recipient from a non-Medicaid federal funding source, including federal grant funding.

(j) A Medicaid provider's receipt of a grant under the program does not affect any legal or contractual duty of the provider to comply with requirements under the Medicaid program.

(k) The commission may use a reasonable amount of the money appropriated by the legislature for the purposes of the program, not to exceed five percent, to pay the administrative costs of implementing and administering the program.

Added by Acts 2023, 88th Leg., R.S., Ch. 1035 (S.B. 26), Sec. 3, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.0993. GRANT PROGRAM TO REDUCE RECIDIVISM, ARREST, AND

INCARCERATION AMONG INDIVIDUALS WITH MENTAL ILLNESS AND TO REDUCE WAIT TIME FOR FORENSIC COMMITMENT.

Without reference to the addition of this subsection, this section was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.

(d-1) The commission shall establish procedures to assist a community collaborative that includes a county with a population of less than 250,000 with submission of a petition under Subsection (d).

Without reference to the addition of this subsection, this section was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.

(d-2) If the commission is appropriated money to implement this section for a state fiscal year in an amount that exceeds the total amount of grants awarded under this section in the previous state fiscal year, the commission, in selecting grant recipients for the excess amount, must accept petitions from community collaboratives that were not selected as grant recipients under this section in the previous state fiscal year or collaboratives that were selected as grant recipients in the previous state fiscal year but require additional funding for the recipient's collaborative for purposes of this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 528 (S.B. 292), Sec. 1, eff. September 1, 2017.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 486 (H.B. 3088), Sec. 3, eff. June 14, 2021.
Repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(1), eff. April 1, 2025.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 944 (S.B. 1677), Sec. 2, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.09936. ESTABLISHMENT OR EXPANSION OF REGIONAL BEHAVIORAL HEALTH CENTERS OR JAIL DIVERSION CENTERS. (a) In this

section:

(1) "Governmental entity" means this state, a political subdivision of this state, or an agency of this state or a political subdivision of this state.

(2) "Local mental health authority" has the meaning assigned by Section 531.002, Health and Safety Code.

(3) "Nonprofit organization" means an organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt entity under Section 501(c)(3) of that code.

(b) To the extent money is appropriated to the commission for that purpose, the commission, in cooperation with local mental health authorities located primarily in rural areas of this state, shall contract with nonprofit organizations or governmental entities to establish or expand behavioral health centers or jail diversion centers in the authorities' local service areas to:

(1) provide additional forensic hospital beds and competency restoration services;

(2) provide inpatient and outpatient mental health services to adults and children; and

(3) provide services to reduce recidivism and the frequency of arrest, incarceration, and emergency detentions among persons with mental illness in the service areas.

(c) The executive commissioner shall develop criteria for the evaluation of applications or proposals submitted by a nonprofit organization or governmental entity seeking to contract with the commission under this section.

(d) This section may not be construed to affect a grant program established by the commission under this code.

Added by Acts 2023, 88th Leg., R.S., Ch. 944 (S.B. 1677), Sec. 3, eff. September 1, 2023.

For expiration of this section, see Subsection (d).

Sec. 531.09991. PLAN FOR THE TRANSITION OF CARE OF CERTAIN INDIVIDUALS. (a) Not later than January 1, 2025, the commission shall, in consultation with nursing facilities licensed under Chapter 242, Health and Safety Code, develop a plan for transitioning from a hospital that primarily provides behavioral health services to a

nursing facility individuals who require:

(1) a level of care provided by nursing facilities; and

(2) a high level of behavioral health supports and services.

(b) The plan must include:

(1) recommendations for providing incentives to providers for the provision of services to individuals described by Subsection (a), including an assessment of the feasibility of including incentive payments under the Quality Incentive Payment Program (QIPP) for those providers;

(2) recommendations for methods to create bed capacity, including reserving specific beds; and

(3) a fiscal estimate, including estimated costs to nursing facilities and savings to hospitals that will result from transitioning individuals under Subsection (a).

(c) The commission may implement the plan, including recommendations under the plan, only if the commission determines that implementing the plan would increase the amount of available state general revenue.

(d) This section expires September 1, 2025.

Added by Acts 2023, 88th Leg., R.S., Ch. 1035 (S.B. 26), Sec. 4, eff. September 1, 2023.

Text of subchapter effective until April 1, 2025

SUBCHAPTER C. MEDICAID AND OTHER HEALTH AND HUMAN SERVICES FRAUD, ABUSE, OR OVERCHARGES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Without reference to the amendment of this section, this subchapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01, eff. April 1, 2025.

Sec. 531.1025. PERFORMANCE AUDITS AND COORDINATION OF AUDIT ACTIVITIES.

(c) The commission's office of inspector general shall conduct performance audits and require financial audits to be conducted of

each local behavioral health authority designated under Section 533.0356, Health and Safety Code, and local mental health authority, as defined by Section 531.002, Health and Safety Code. The office shall:

(1) establish a performance audit schedule that ensures the office audits each authority described by this subsection at least once every five years;

(2) establish a financial audit schedule that ensures each authority described by this subsection:

(A) undergoes a financial audit conducted by an independent auditor at least once every three years; and

(B) submits to the office the results of the financial audit; and

(3) require additional audits to be conducted as necessary based on adverse findings in a previous audit or as requested by the commission.

Added by Acts 2015, 84th Leg., R.S., Ch. 945 (S.B. 207), Sec. 11, eff. September 1, 2015.
Repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(2), eff. April 1, 2025.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1035 (S.B. 26), Sec. 5, eff. September 1, 2023.

SUBCHAPTER M-2. STATEWIDE INTERAGENCY AGING SERVICES COORDINATING COUNCIL

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.491. DEFINITIONS. In this subchapter:

(1) "Council" means the statewide interagency aging services coordinating council.

(2) "Strategic plan" means the statewide interagency aging services strategic plan required under Section 531.497(1).

Added by Acts 2023, 88th Leg., R.S., Ch. 484 (H.B. 728), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.492. PURPOSE. The council is established to ensure a strategic statewide approach to interagency aging services.

Added by Acts 2023, 88th Leg., R.S., Ch. 484 (H.B. 728), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.493. COMPOSITION OF COUNCIL. (a) Subject to Subsection (b), the council is composed of at least one representative appointed by each of the following agencies and entities:

(1) the governor's office;

(2) the commission, including one representative of the commission's aging services coordination office;

(3) the Department of Family and Protective Services;

(4) the Department of State Health Services;

(5) the Department of Agriculture's office of rural health;

(6) the Texas Veterans Commission;

(7) the Texas Workforce Commission;

(8) the office of the attorney general;

(9) the Barshop Institute for Longevity and Aging Studies at The University of Texas Health Science Center at San Antonio;

(10) the Texas Aging and Longevity Consortium at The University of Texas at Austin; and

(11) the Center for Community Health and Aging at Texas A&M University.

(b) The executive commissioner shall determine the number of representatives that each agency or entity may appoint to serve on the council.

(c) The council may authorize another state agency or entity that provides specific interagency aging services with the use of appropriated money to appoint a representative to the council.

(d) A council member serves at the pleasure of the appointing agency or entity.

Added by Acts 2023, 88th Leg., R.S., Ch. 484 (H.B. 728), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.494. TERMS; VACANCY. (a) Council members serve six-year terms.

(b) A vacancy on the council shall be filled in the same manner as the original appointment. A council member appointed to fill a vacancy on the council shall serve the remainder of the unexpired term.

Added by Acts 2023, 88th Leg., R.S., Ch. 484 (H.B. 728), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.495. PRESIDING OFFICER. The representative of the commission's aging services coordination office appointed under Section 531.493(a) shall serve as the presiding officer.

Added by Acts 2023, 88th Leg., R.S., Ch. 484 (H.B. 728), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.496. MEETINGS. The council shall meet at least once quarterly or more frequently at the call of the presiding officer.

Added by Acts 2023, 88th Leg., R.S., Ch. 484 (H.B. 728), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.497. POWERS AND DUTIES. The council:

(1) shall, in accordance with Section 531.498:

(A) develop a recurring five-year statewide interagency aging services strategic plan; and

(B) submit the strategic plan to the executive commissioner and the administrative head of each agency subject to the strategic plan;

(2) shall develop and, not later than November 1 of each even-numbered year, submit to the legislature a biennial coordinated statewide interagency aging services expenditure proposal;

(3) shall annually publish an updated inventory of state-funded interagency aging programs and services that includes a description of how those programs and services further the purpose of the statewide interagency aging services strategic plan;

(4) may facilitate opportunities to increase collaboration for the effective expenditure of available federal and state money for interagency aging services in this state; and

(5) may establish subcommittees as necessary to carry out the council's duties under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 484 (H.B. 728), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.498. RECURRING FIVE-YEAR STRATEGIC PLAN AND RELATED IMPLEMENTATION PLANS. (a) Not later than March 1 of the last state fiscal year in each five-year period covered by the most recent strategic plan, the council shall:

(1) develop a new strategic plan for the next five state fiscal years that begins with the following fiscal year; and

(2) submit the new strategic plan to the executive commissioner and the administrative head of each agency subject to the strategic plan.

(b) Not later than the 90th day after receiving the strategic

plan, the executive commissioner and the administrative head of each agency that is subject to the plan shall develop and submit to the governor, the lieutenant governor, and the legislature a plan for implementing the recommendations applicable to the agency under the strategic plan. An implementation plan must include a justification for any recommendation the commission or other agency declines to implement.

Added by Acts 2023, 88th Leg., R.S., Ch. 484 (H.B. 728), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.499. APPLICATION OF SUNSET ACT. The council is subject to Chapter 325 (Texas Sunset Act). The council shall be reviewed during the period in which the commission is reviewed under Section 531.004. Unless continued in existence as provided by Chapter 325, the council is abolished and this subchapter expires on the date on which the commission is subject to abolishment under that section.

Added by Acts 2023, 88th Leg., R.S., Ch. 484 (H.B. 728), Sec. 1, eff. September 1, 2023.

SUBCHAPTER Q. CASE MANAGEMENT SERVICES FOR CERTAIN PREGNANT WOMEN

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.651. DEFINITIONS. In this subchapter:

(1) "Case management for children and pregnant women program" means the "children and pregnant women program," as defined by Section 533.002555.

(2) "Nonmedical health-related needs screening" means a screening performed using the standardized screening questions required under Section 531.024183.

(3) "Program services" means case management services provided under the case management for children and pregnant women program, including assistance provided to a Medicaid managed care

organization in coordinating the provision of benefits to a recipient enrolled in the organization's managed care plan in a manner that is consistent with the recipient's plan of care.

Added by Acts 2023, 88th Leg., R.S., Ch. 316 (H.B. 1575), Sec. 3, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.652. MEDICAID MANAGED CARE ORGANIZATION SERVICE COORDINATION BENEFITS NOT AFFECTED. The provision of program services to a recipient does not preempt or otherwise affect a Medicaid managed care organization's obligation to provide service coordination benefits to the recipient.

Added by Acts 2023, 88th Leg., R.S., Ch. 316 (H.B. 1575), Sec. 3, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.653. CASE MANAGEMENT FOR CHILDREN AND PREGNANT WOMEN PROGRAM: PROVIDER QUALIFICATIONS. Program services may be provided only by a provider who completes the standardized case management training required by the commission under Section 531.654 and who is:

(1) an advanced practice nurse who holds a license, other than a provisional or temporary license, under Chapter 301, Occupations Code;

(2) a registered nurse who holds a license, other than a provisional or temporary license, under Chapter 301, Occupations Code, and:

(A) completed a baccalaureate degree program in nursing; or

(B) completed an associate degree program in nursing and has:

(i) at least two years of cumulative paid full-time work experience; or

(ii) at least two years of cumulative, supervised full-time educational internship or practicum experience obtained in the last 10 years that included assessing the psychosocial and health needs of and making community referrals of:

(a) children who are 21 years of age or younger; or

(b) pregnant women;

(3) a social worker who holds a license, other than a provisional or temporary license, under Chapter 505, Occupations Code, appropriate for the individual's practice, including the practice of independent social work;

(4) a community health worker as defined by Section 48.001, Health and Safety Code, who is certified by the Department of State Health Services; or

(5) a doula who is certified by a recognized national certification program, as determined by the commission, unless the doula qualifies as a certified community health worker under Subdivision (4).

Added by Acts 2023, 88th Leg., R.S., Ch. 316 (H.B. 1575), Sec. 3, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.654. CASE MANAGEMENT FOR CHILDREN AND PREGNANT WOMEN PROGRAM: PROVIDER TRAINING. The commission shall require that each provider of program services complete training prescribed by the commission. The training must be trauma-informed and include instruction on:

(1) social services provided by this state and local governments in this state;

(2) community assistance programs, including programs providing:

(A) nutrition and housing assistance;

(B) counseling and parenting services;

(C) substance use disorder treatment; and

(D) domestic violence assistance and shelter;

(3) domestic violence and coercive control dynamics;

(4) methods for explaining and eliciting an eligible recipient's informed consent to receive:

(A) program services screening; and

(B) any services that may be offered as a result of the screening; and

(5) procedures for:

(A) an eligible recipient to:

(i) decline program services screening; or

(ii) withdraw consent for offered services; and

(B) ensuring that the recipient is not subject to any retaliatory action for declining or discontinuing any screenings or services.

Added by Acts 2023, 88th Leg., R.S., Ch. 316 (H.B. 1575), Sec. 3, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.655. INITIAL MEDICAL AND NONMEDICAL HEALTH-RELATED SCREENINGS OF CERTAIN RECIPIENTS. (a) A Medicaid managed care organization that provides health care services to a pregnant woman under the STAR Medicaid managed care program shall conduct an initial health needs screening and nonmedical health-related needs screening of each pregnant recipient to determine, regardless of whether the recipient is considered to have a high-risk pregnancy, if the recipient:

(1) is eligible for service coordination benefits to be provided by the managed care organization; or

(2) should be referred for program services.

(b) Service coordination benefits described by Subsection (a) must include identifying and coordinating the provision of non-covered services, community supports, and other resources the Medicaid managed care organization determines will improve the recipient's health outcomes.

(c) A Medicaid managed care organization must use the results of the screenings conducted under Subsection (a) to determine if a recipient requires a more comprehensive assessment for purposes of determining whether the recipient is eligible for service

coordination benefits or program services.

Added by Acts 2023, 88th Leg., R.S., Ch. 316 (H.B. 1575), Sec. 3, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.656. SCREENING AND PROGRAM SERVICES OPTIONAL. A Medicaid managed care organization providing screenings under Section 531.655 must inform each pregnant woman who is referred for program services or for whom screening is conducted under that section that:

(1) the woman has a right to decline the screening or services or choose to discontinue the screening or services at any time; and

(2) declining or discontinuing the screening or services will not result in retaliatory action against the woman in the provision of other services.

Added by Acts 2023, 88th Leg., R.S., Ch. 316 (H.B. 1575), Sec. 3, eff. September 1, 2023.

SUBCHAPTER Y. COMMISSION OMBUDSMAN PROGRAMS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.991. DEFINITIONS. In this subchapter:

(1) "Department" means the Department of Family and Protective Services.

(2) "Ombudsman" means the individual appointed as the ombudsman for an ombudsman program.

(3) "Ombudsman program" means an ombudsman program administered by the commission under this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1168 (S.B. 830), Sec. 1, eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 906 (S.B. 213), Sec. 2, eff.

September 1, 2017.
Reenacted and amended by Acts 2023, 88th Leg., R.S., Ch. 741 (H.B. 3462), Sec. 2, eff. June 12, 2023.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 741 (H.B. 3462), Sec. 3, eff. June 12, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.9912. ESTABLISHMENT OF OMBUDSMAN PROGRAMS. The executive commissioner shall establish the following ombudsman programs:

(1) the health and human services office of the ombudsman in accordance with Section 531.9915;

(2) the ombudsman for children and youth in foster care in accordance with Section 531.9931;

(3) the ombudsman for managed care assistance in accordance with Section 531.9932;

(4) the ombudsman for behavioral health access to care in accordance with Section 531.9933; and

(5) the ombudsman for individuals with an intellectual or developmental disability in accordance with Section 531.9934.

Added by Acts 2023, 88th Leg., R.S., Ch. 741 (H.B. 3462), Sec. 4, eff. June 12, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.9915. OFFICE OF OMBUDSMAN. (a) The executive commissioner shall establish the commission's office of the ombudsman with authority and responsibility over the health and human services system in performing the following functions:

(1) providing dispute resolution services for the health and human services system;

(2) performing consumer protection and advocacy functions related to health and human services, including assisting a consumer

or other interested person with:

(A) raising a matter within the health and human services system that the person feels is being ignored; and

(B) obtaining information regarding a filed complaint; and

(3) collecting inquiry and complaint data related to the health and human services system.

(b) The office of the ombudsman does not have the authority to provide a separate process for resolving complaints or appeals.

(c) The executive commissioner shall develop a standard process for tracking and reporting received inquiries and complaints within the health and human services system. The process must provide for the centralized tracking of inquiries and complaints submitted to field, regional, or other local health and human services system offices.

(d) Using the process developed under Subsection (c), the office of the ombudsman shall collect inquiry and complaint data from all offices, agencies, divisions, and other entities within the health and human services system. To assist with the collection of data under this subsection, the office may access any system or process for recording inquiries and complaints used or maintained within the health and human services system.

Added by Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 2.06(a), eff. September 1, 2015.
Transferred and redesignated from Government Code, Section 531.0171 by Acts 2023, 88th Leg., R.S., Ch. 741 (H.B. 3462), Sec. 5, eff. June 12, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.992. APPOINTMENT OF OMBUDSMAN. The executive commissioner shall appoint an ombudsman for each ombudsman program to serve at the will of the executive commissioner.

Added by Acts 2015, 84th Leg., R.S., Ch. 1168 (S.B. 830), Sec. 1, eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 906 (S.B. 213), Sec. 4, eff. September 1, 2017.
Reenacted and amended by Acts 2023, 88th Leg., R.S., Ch. 741 (H.B. 3462), Sec. 6, eff. June 12, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.9921. CONFLICT OF INTEREST. A person may not serve as ombudsman in an ombudsman program if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the commission;

(2) owns or controls, directly or indirectly, any interest in a business entity or other organization receiving funds from the commission; or

(3) is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

Added by Acts 2017, 85th Leg., R.S., Ch. 906 (S.B. 213), Sec. 5, eff. September 1, 2017.
Reenacted and amended by Acts 2023, 88th Leg., R.S., Ch. 741 (H.B. 3462), Sec. 7, eff. June 12, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.993. DUTIES OF OMBUDSMAN. (a) An ombudsman serves as an impartial party in assisting:

(1) children and youth in the conservatorship of the department with complaints regarding issues within the authority of the commission or department, as applicable; and

(2) persons with a complaint against the commission regarding case-specific activities of the programs within the health and human services system.

(b) An ombudsman shall:

(1) develop and implement statewide procedures to:

(A) receive complaints from:

(i) children and youth in the conservatorship of the department; and

(ii) other persons with a complaint against a program within the health and human services system;

(B) review complaints filed with an ombudsman and take appropriate action, including:

(i) conducting an investigation into individual complaints that allege violations of commission or department procedures or policies or other violations; and

(ii) referring to the commission or department for resolution any trends or systemic issues identified in complaints;

(C) provide any necessary assistance to:

(i) children and youth in the conservatorship of the department in making complaints and reporting allegations of abuse, neglect, or exploitation under Chapter 48, Human Resources Code; and

(ii) any other person in making complaints against a program within the health and human services system or reporting allegations of abuse, neglect, or exploitation under Chapter 48, Human Resources Code;

(D) maintain the confidentiality of:

(i) an ombudsman's communications and records;

(ii) records of another person that have been provided to an ombudsman; and

(iii) communications of another person with an ombudsman; and

(E) ensure that any person who files a complaint with an ombudsman is informed of the results of the ombudsman's investigation of the complaint, including whether the ombudsman was able to substantiate the complaint;

(2) collaborate with the commission to develop and implement an annual outreach plan to promote awareness of the ombudsman programs among the public and stakeholders that includes:

(A) how an ombudsman may be contacted;

(B) the purpose of an ombudsman; and

(C) the services an ombudsman provides;

(3) issue and file with the commission or department, as applicable, a report that contains an ombudsman's final determination

regarding a complaint and any recommended corrective actions to be taken as a result of the complaint;

(4) establish a secure form of communication with any individual who files a complaint with an ombudsman;

(5) collaborate with the commission or department, as applicable, to identify consequences for any retaliatory action related to a complaint filed with an ombudsman, in accordance with Section 531.997; and

(6) monitor and evaluate the corrective actions taken in response to a recommendation by an ombudsman.

(c) An ombudsman's final determination in a report described by Subsection (b)(3) must include a determination of whether there was wrongdoing or negligence by the commission or department or an agent of the commission or department or whether the complaint was frivolous or without merit. If the ombudsman determines there was wrongdoing or negligence, the ombudsman shall recommend corrective actions to be taken by the commission or department.

(c-1) The department and the commission shall provide written notice to an ombudsman on whether the department or commission adopted or rejected the ombudsman's recommended corrective action. If the department or commission rejects a recommended corrective action, the department or commission shall include in the notice the reason for the rejection.

(d) An ombudsman may attend any judicial proceeding related to a complaint filed with the ombudsman program.

Added by Acts 2015, 84th Leg., R.S., Ch. 1168 (S.B. 830), Sec. 1, eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 906 (S.B. 213), Sec. 6, eff. September 1, 2017.
Reenacted and amended by Acts 2023, 88th Leg., R.S., Ch. 741 (H.B. 3462), Sec. 8, eff. June 12, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.9931. OMBUDSMAN FOR CHILDREN AND YOUTH IN FOSTER CARE. (a) The commission shall establish an ombudsman program to provide

support and information services to children and youth in foster care.

(b) An ombudsman appointed under this section shall:

(1) receive complaints from children and youth in the conservatorship of the department as provided under Section 531.993(b)(1)(A)(i);

(2) inform children and youth in the conservatorship of the department who file a complaint under this subchapter about the result of an ombudsman's investigation of the complaint, including whether the ombudsman was able to substantiate the child's or youth's complaint; and

(3) collaborate with the department to develop an outreach plan for children and youth in the conservatorship of the department to promote awareness of the ombudsman program.

Added by Acts 2017, 85th Leg., R.S., Ch. 906 (S.B. 213), Sec. 7, eff. September 1, 2017.
Reenacted and amended by Acts 2023, 88th Leg., R.S., Ch. 741 (H.B. 3462), Sec. 9, eff. June 12, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Text of section as transferred, redesignated and amended by Acts 2023, 88th Leg., R.S., Ch. 741 (H.B. 3462), Sec. 10

Without reference to the amendment of this section, this section was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01, eff. April 1, 2025.

Sec. 531.9932. OMBUDSMAN FOR MANAGED CARE ASSISTANCE. (a) The commission shall establish an ombudsman program to provide support and information services to a person enrolled in or applying for Medicaid coverage who experiences barriers to receiving health care services.

(b) An ombudsman appointed under this section shall give emphasis to assisting a person with an urgent or immediate medical or support need.

(c) The commission shall provide support and information services required by this section through a network of entities

coordinated by the commission's ombudsman program and composed of:

(1) the commission's ombudsman program or other division of the commission designated by the executive commissioner to coordinate the network;

(2) the office of the state long-term care ombudsman required under Subchapter F, Chapter 101A, Human Resources Code;

(3) the division within the commission responsible for oversight of Medicaid managed care contracts;

(4) area agencies on aging;

(5) aging and disability resource centers established under the Aging and Disability Resource Center initiative funded in part by the federal Administration on Aging and the Centers for Medicare and Medicaid Services; and

(6) any other entity the executive commissioner determines appropriate.

(d) As a part of the support and information services required by this section, the ombudsman program shall:

(1) operate a statewide toll-free assistance telephone number that includes relay services for persons with speech or hearing disabilities and assistance for persons who speak Spanish;

(2) intervene promptly with the state Medicaid office, managed care organizations and providers, and any other appropriate entity on behalf of a person who has an urgent need for medical services;

(3) assist a person who is experiencing barriers in the Medicaid application and enrollment process and refer the person for further assistance if appropriate;

(4) educate persons so that they:

(A) understand the concept of managed care;

(B) understand their rights under Medicaid, including grievance and appeal procedures; and

(C) are able to advocate for themselves;

(5) assist the state Medicaid office and managed care organizations and providers in identifying and correcting problems, including site visits to affected regions if necessary;

(6) meet the needs of all current and future Medicaid managed care recipients, including children receiving dental benefits;

(7) incorporate support services for children enrolled in the child health plan established under Chapter 62, Health and Safety

Code; and

(8) ensure that staff providing support and information services receives sufficient training, including training in the Medicare program for the purpose of assisting recipients who are dually eligible for Medicare and Medicaid, and has sufficient authority to resolve barriers experienced by recipients to health care and long-term services and supports.

(e) The ombudsman program must be sufficiently independent from other aspects of Medicaid managed care to represent the best interests of recipients in problem resolution.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 14.03(a), eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.025, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 3, eff. September 1, 2015.

Transferred, redesignated and amended from Government Code, Section 531.0213 by Acts 2023, 88th Leg., R.S., Ch. 741 (H.B. 3462), Sec. 10, eff. June 12, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Text of section as transferred, redesignated and amended by Acts 2023, 88th Leg., R.S., Ch. 741 (H.B. 3462), Sec. 11

Without reference to the amendment of this section, this section was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01, eff. April 1, 2025.

Sec. 531.9933. OMBUDSMAN FOR BEHAVIORAL HEALTH ACCESS TO CARE. (a) The commission shall establish an ombudsman program to provide support and information services to a consumer enrolled in or applying for a behavioral health program.

(b) The commission may use an alternate title for the ombudsman in consumer-facing materials if the commission determines that an alternate title would be beneficial to consumer understanding or access.

(c) An ombudsman serves as an impartial party to help consumers, including consumers who are uninsured or have public or private health benefit coverage, and behavioral health care providers navigate and resolve issues related to consumer access to behavioral health care, including care for mental health conditions and substance use disorders.

(d) An ombudsman shall:

(1) interact with consumers and behavioral health care providers with concerns or complaints to help the consumers and providers resolve behavioral health care access issues;

(2) identify, track, and help report potential violations of state or federal rules, regulations, or statutes concerning the availability of, and terms and conditions of, benefits for mental health conditions or substance use disorders, including potential violations related to quantitative and nonquantitative treatment limitations;

(3) report concerns, complaints, and potential violations described by Subdivision (2) to the appropriate regulatory or oversight agency;

(4) receive and report concerns and complaints relating to inappropriate care or mental health commitment;

(5) provide appropriate information to help consumers obtain behavioral health care;

(6) develop appropriate points of contact for referrals to other state and federal agencies; and

(7) provide appropriate information to help consumers or providers file appeals or complaints with the appropriate entities, including insurers and other state and federal agencies.

(e) The Texas Department of Insurance shall appoint a liaison to an ombudsman to receive reports of concerns, complaints, and potential violations described by Subsection (d)(2) from an ombudsman, consumers, or behavioral health care providers.

Added by Acts 2017, 85th Leg., R.S., Ch. 769 (H.B. 10), Sec. 1, eff. September 1, 2017.
Transferred, redesignated and amended from Government Code, Section 531.02251 by Acts 2023, 88th Leg., R.S., Ch. 741 (H.B. 3462), Sec. 11, eff. June 12, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.9934. OMBUDSMAN FOR INDIVIDUALS WITH AN INTELLECTUAL OR DEVELOPMENTAL DISABILITY. The executive commissioner shall appoint an ombudsman to assist a client, or a person acting on behalf of an individual with an intellectual or developmental disability or a group of individuals with an intellectual or developmental disability, with a complaint or grievance regarding the infringement of the rights of an individual with an intellectual or developmental disability or the delivery of intellectual disability services submitted under Section 592.039, Health and Safety Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 741 (H.B. 3462), Sec. 12, eff. June 12, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.994. INVESTIGATION OF UNREPORTED COMPLAINTS. If, during the investigation of a complaint, an ombudsman discovers unreported violations of the commission's or department's rules and policies, the ombudsman shall open a new investigation for each unreported violation.

Added by Acts 2015, 84th Leg., R.S., Ch. 1168 (S.B. 830), Sec. 1, eff. September 1, 2015.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 741 (H.B. 3462), Sec. 13, eff. June 12, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.995. ACCESS TO INFORMATION. The commission and department shall provide an ombudsman access to the records that relate to a complaint the ombudsman is reviewing or investigating.

Added by Acts 2015, 84th Leg., R.S., Ch. 1168 (S.B. 830), Sec. 1, eff. September 1, 2015.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 741 (H.B. 3462), Sec. 14, eff. June 12, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.996. COMMUNICATION AND CONFIDENTIALITY. (a) A person may communicate with an ombudsman relating to a complaint by telephone, by mail, by electronic mail, or by any other means the ombudsman determines to be feasible, secure, and accessible.

(b) A communication with an ombudsman is confidential during an investigation or review of a complaint and remains confidential after the complaint is resolved.

(c) The records of an ombudsman are confidential and must be maintained in a manner that preserves the confidentiality of the records.

(d) The disclosure of confidential information to an ombudsman under this subchapter does not constitute a waiver of confidentiality. Any information disclosed to the ombudsman under this subchapter remains confidential and privileged following disclosure.

(e) An ombudsman is not prohibited from communicating with the commission or department regarding confidential information disclosed to the ombudsman.

(f) An ombudsman may make reports relating to an investigation of a complaint public after the complaint is resolved. A report may not include information that identifies an individual complainant, client, parent, or employee or any other person involved in the complaint.

Added by Acts 2015, 84th Leg., R.S., Ch. 1168 (S.B. 830), Sec. 1, eff. September 1, 2015.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 741 (H.B. 3462), Sec. 14, eff. June 12, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.997. RETALIATION PROHIBITED. The commission or department may not retaliate against an employee of the commission or department, as applicable, or any other person who in good faith makes a complaint to an ombudsman or against any person who cooperates with the ombudsman in an investigation.

Added by Acts 2015, 84th Leg., R.S., Ch. 1168 (S.B. 830), Sec. 1, eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 906 (S.B. 213), Sec. 9, eff. September 1, 2017.
Reenacted and amended by Acts 2023, 88th Leg., R.S., Ch. 741 (H.B. 3462), Sec. 15, eff. June 12, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 531.998. REPORT. (a) Each ombudsman shall prepare an annual report that contains:

(1) a description of the ombudsman's work;

(2) any change made by the commission or department in response to a substantiated complaint;

(3) a description of any trends in the nature of complaints received by the ombudsman or any systemic issues identified by the ombudsman in the investigation of individual complaints, any recommendations related to addressing those trends and issues, and an evaluation of the feasibility of the ombudsman's recommendations;

(4) a glossary of terms used in the report;

(5) a description of the methods used to promote awareness of the ombudsman under Section 531.993(b) and the ombudsman's promotion plan for the next year; and

(6) any public feedback received by the ombudsman relating to the ombudsman's previous annual reports.

(b) Each report must be submitted to the governor, the lieutenant governor, each standing committee of the legislature with jurisdiction over matters involving the commission, each member of

the legislature, and the executive commissioner not later than December 1 of each year. On receipt of the report, the commission shall make the report publicly available on the commission's Internet website.

Added by Acts 2015, 84th Leg., R.S., Ch. 1168 (S.B. 830), Sec. 1, eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 906 (S.B. 213), Sec. 10, eff. September 1, 2017.
Reenacted and amended by Acts 2023, 88th Leg., R.S., Ch. 741 (H.B. 3462), Sec. 15, eff. June 12, 2023.

CHAPTER 532. MEDICAID ADMINISTRATION AND OPERATION IN GENERAL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 532.0001. DEFINITION. In this chapter, "recipient" means a Medicaid recipient.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER B. ADMINISTRATION

Sec. 532.0051. COMMISSION ADMINISTRATION OF MEDICAID. (a) The commission is the state agency designated to administer federal Medicaid funds.

(b) The commission shall:

(1) in each agency that operates a portion of Medicaid, plan and direct Medicaid, including the management of the Medicaid managed care system and the development, procurement, management, and monitoring of contracts necessary to implement that system; and

(2) establish requirements for and define the scope of the ongoing evaluation of the Medicaid managed care system conducted in conjunction with the Department of State Health Services under Section 108.0065, Health and Safety Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0052. STREAMLINING ADMINISTRATIVE PROCESSES. The commission shall make every effort:

(1) using the commission's existing resources, to reduce the paperwork and other administrative burdens placed on recipients, Medicaid providers, and other Medicaid participants, and shall use technology and efficient business practices to reduce those burdens; and

(2) to improve the business practices associated with Medicaid administration by any method the commission determines is cost-effective, including:

(A) expanding electronic claims payment system use;

(B) developing an Internet portal system for prior authorization requests;

(C) encouraging Medicaid providers to submit program participation applications electronically;

(D) ensuring that the Medicaid provider application is easy to locate on the Internet so that providers can conveniently apply to the program;

(E) working with federal partners to take advantage of every opportunity to maximize additional federal funding for technology in Medicaid; and

(F) encouraging providers' increased use of medical technology, including increasing providers' use of:

(i) electronic communications between patients and their physicians or other health care providers;

(ii) electronic prescribing tools that provide current payer formulary information at the time the physician or other health care provider writes a prescription and that support the electronic transmission of a prescription;

(iii) ambulatory computerized order entry systems that facilitate at the point of care physician and other health care provider orders for medications and laboratory and radiological tests;

(iv) inpatient computerized order entry systems to reduce errors, improve health care quality, and lower costs in a hospital setting;

(v) regional data-sharing to coordinate patient care across a community for patients who are treated by multiple providers; and

(vi) electronic intensive care unit technology to

allow physicians to fully monitor hospital patients remotely.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0053. GRIEVANCES. (a) The commission shall:

(1) adopt a definition of "grievance" related to Medicaid and ensure the definition is consistent among divisions within the commission to ensure all grievances are managed consistently;

(2) standardize Medicaid grievance data reporting and tracking among divisions within the commission;

(3) implement a no-wrong-door system for Medicaid grievances reported to the commission; and

(4) verify grievance data a Medicaid managed care organization reports.

(b) The commission shall establish a procedure for expedited resolution of a grievance related to Medicaid that allows the commission to:

(1) identify a grievance related to a Medicaid access-to-care issue that is urgent and requires an expedited resolution; and

(2) resolve the grievance within a specified period.

(c) The commission shall:

(1) aggregate recipient and Medicaid provider grievance data to provide a comprehensive data set of grievances; and

(2) make the aggregated data available to the legislature and the public in a manner that does not allow for the identification of a particular recipient or provider.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0054. OFFICE OF COMMUNITY ACCESS AND SERVICES. The executive commissioner shall establish within the commission an office of community access and services. The office is responsible for:

(1) collaborating with community, state, and federal stakeholders to improve the elements of the health care system that are involved in delivering Medicaid services; and

(2) sharing with Medicaid providers, including hospitals,

any best practices, resources, or other information regarding improvements to the health care system.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0055. SERVICE DELIVERY AUDIT MECHANISMS. The commission shall make every effort to ensure the integrity of Medicaid. To ensure that integrity, the commission shall:

(1) perform risk assessments of every element of the program and audit the program elements determined to present the greatest risks;

(2) ensure that sufficient oversight is in place for the Medicaid medical transportation program and that a quality review assessment of that program occurs; and

(3) evaluate Medicaid with respect to use of the metrics developed through the Texas Health Steps performance improvement plan to guide changes and improvements to the program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0056. FEDERAL AUTHORIZATION FOR REFORM. The executive commissioner shall seek a waiver under Section 1115 of the Social Security Act (42 U.S.C. Section 1315) to the state Medicaid plan that is designed to achieve the following objectives regarding Medicaid and alternatives to Medicaid:

(1) provide flexibility to determine Medicaid eligibility categories and income levels;

(2) provide flexibility to design Medicaid benefits that meet the demographic, public health, clinical, and cultural needs of this state or regions within this state;

(3) encourage use of the private health benefits coverage market rather than public benefits systems;

(4) encourage individuals who have access to private employer-based health benefits to obtain or maintain those benefits;

(5) create a culture of shared financial responsibility, accountability, and participation in Medicaid by:

(A) establishing and enforcing copayment requirements

similar to private sector principles for all eligibility groups;

(B) promoting the use of health savings accounts to influence a culture of individual responsibility; and

(C) promoting the use of vouchers for consumer-directed services in which consumers manage and pay for health-related services provided to them using program vouchers;

(6) consolidate federal funding streams, including funds from the disproportionate share hospitals and upper payment limit supplemental payment programs and other federal Medicaid funds, to ensure the most effective and efficient use of those funding streams;

(7) allow flexibility in the use of state funds used to obtain federal matching funds, including allowing the use of intergovernmental transfers, certified public expenditures, costs not otherwise matchable, or other funds and funding mechanisms to obtain federal matching funds;

(8) empower individuals who are uninsured to acquire health benefits coverage through the promotion of cost-effective coverage models that provide access to affordable primary, preventive, and other health care on a sliding scale, with fees paid at the point of service; and

(9) allow for the redesign of long-term care services and supports to increase access to patient-centered care in the most cost-effective manner.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0057. FEES, CHARGES, AND RATES. (a) The executive commissioner shall adopt reasonable rules and standards governing the determination of fees, charges, and rates for Medicaid payments.

(b) In adopting rules and standards required by Subsection (a), the executive commissioner:

(1) may provide for payment of fees, charges, and rates in accordance with:

(A) formulas, procedures, or methodologies commission rules prescribe;

(B) state or federal law, policies, rules, regulations, or guidelines;

(C) economic conditions that substantially and

materially affect provider participation in Medicaid, as the executive commissioner determines; or

(D) available levels of appropriated state and federal funds; and

(2) shall include financial performance standards that, in the event of a proposed rate reduction, provide private ICF-IID facilities and home and community-based services providers with flexibility in determining how to use Medicaid payments to provide services in the most cost-effective manner while continuing to meet state and federal Medicaid requirements.

(c) Notwithstanding any other provision of Chapter 32, Human Resources Code, Chapter 531 or revised provisions of Chapter 531, as that chapter existed on March 31, 2025, or Chapter 540 or 540A, the commission may adjust the fees, charges, and rates paid to Medicaid providers as necessary to achieve the objectives of Medicaid in a manner consistent with the considerations described by Subsection (b)(1).

(d) In adopting rates for Medicaid payments under Subsection (a), the executive commissioner may adopt reimbursement rates for appropriate nursing services provided to recipients with certain health conditions if those services are determined to provide a cost-effective alternative to hospitalization. A physician must certify that the nursing services are medically appropriate for the recipient for those services to qualify for reimbursement under this subsection.

(e) In adopting rates for Medicaid payments under Subsection (a), the executive commissioner may adopt cost-effective reimbursement rates for group appointments with Medicaid providers for certain diseases and medical conditions commission rules specify.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0058. ACUTE CARE BILLING COORDINATION SYSTEM; PENALTIES. (a) The acute care Medicaid billing coordination system for the fee-for-service and primary care case management delivery models for which the commission contracts must, on entry of a claim in the claims system:

(1) identify within 24 hours whether another entity has

primary responsibility for paying the claim; and

(2) submit the claim to the entity the system determines is the primary payor.

(b) The billing coordination system may not increase Medicaid claims payment error rates.

(c) If cost-effective and feasible, the commission shall contract to expand the acute care Medicaid billing coordination system to process claims for all other Medicaid health care services in the manner the system processes claims for acute care services. This subsection does not apply to claims for Medicaid health care services if, before September 1, 2009, those claims were being processed by an alternative billing coordination system.

(d) If cost-effective, the executive commissioner shall adopt rules to enable the acute care Medicaid billing coordination system to identify an entity with primary responsibility for paying a claim that is processed by the system and establish reporting requirements for an entity that may have a contractual responsibility to pay for the types of services that are provided under Medicaid and the claims for which are processed by the system.

(e) An entity that holds a permit, license, or certificate of authority issued by a regulatory agency of this state:

(1) must allow a contractor under this section access to databases to allow the contractor to carry out the purposes of this section, subject to the contractor's contract with the commission and rules the executive commissioner adopts under this section; and

(2) is subject to an administrative penalty or other sanction as provided by the law applicable to the permit, license, or certificate of authority for the entity's violation of a rule the executive commissioner adopts under this section.

(f) Public funds may not be spent on an entity that is not in compliance with this section unless the executive commissioner and the entity enter into a memorandum of understanding.

(g) Information obtained under this section is confidential. The contractor may use the information only for the purposes authorized under this section. A person commits an offense if the person knowingly uses information obtained under this section for any purpose not authorized under this section. An offense under this subsection is a Class B misdemeanor and all other penalties may apply.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0059. RECOVERY OF CERTAIN THIRD-PARTY REIMBURSEMENTS. The commission shall obtain Medicaid reimbursement from each fiscal intermediary who makes a payment to a service provider on behalf of the Medicare program, including a reimbursement for a payment made to a home health services provider or nursing facility for services provided to an individual who is eligible to receive health care benefits under both Medicaid and the Medicare program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0060. DENTAL DIRECTOR. The executive commissioner shall appoint a Medicaid dental director who is a licensed dentist under Subtitle D, Title 3, Occupations Code, and rules the State Board of Dental Examiners adopts under that subtitle.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0061. ALIGNMENT OF MEDICAID AND MEDICARE DIABETIC EQUIPMENT AND SUPPLIES WRITTEN ORDER PROCEDURES. (a) The commission shall review Medicaid forms and requirements regarding written orders for diabetic equipment and supplies to identify variations between permissible Medicaid ordering procedures and ordering procedures available to Medicare providers.

(b) To the extent practicable and in conformity with Chapter 157, Occupations Code, and Chapter 483, Health and Safety Code, after the commission conducts a review under Subsection (a), the commission or executive commissioner, as appropriate, shall modify only Medicaid forms, rules, and procedures applicable to orders for diabetic equipment and supplies to provide for an ordering system that is comparable to the Medicare ordering system for diabetic equipment and supplies. The ordering system must permit a diabetic equipment or supplies supplier to complete forms by hand or enter medical information or supply orders electronically into a form as necessary

to provide the information required to dispense diabetic equipment or supplies.

(c) A diabetic equipment and supplies provider may bill and collect payment for the provider's services if the provider has a copy of the form that meets the requirements of Subsection (b) and is signed by a medical provider licensed in this state to treat diabetic patients. Additional documentation may not be required.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER C. FINANCING

Sec. 532.0101. FINANCING OPTIMIZATION. The commission shall ensure that the Medicaid finance system is optimized to:

(1) maximize this state's receipt of federal funds;

(2) create incentives for providers to use preventive care;

(3) increase and retain providers in the system to maintain an adequate provider network;

(4) more accurately reflect the costs borne by providers; and

(5) encourage improvement of the quality of care.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0102. RETENTION OF CERTAIN MONEY TO ADMINISTER CERTAIN PROGRAMS; ANNUAL REPORT REQUIRED. (a) In this section, "directed payment program" means a delivery system and provider patient initiative implemented by this state under 42 C.F.R. Section 438.6(c).

(b) This section applies only to money the commission receives from a source other than the general revenue fund to operate a waiver program established under Section 1115 of the Social Security Act (42 U.S.C. Section 1315) or a directed payment program or successor program as the commission determines.

(c) Subject to Subsection (d), the commission may retain from money to which this section applies an amount equal to the estimated costs necessary to administer the program for which the commission receives the money, but not to exceed $8 million for a state fiscal

year.

(d) If the commission determines that the commission needs additional money to administer a program described by Subsection (b), the commission may retain an additional amount with the governor's and the Legislative Budget Board's approval, but not to exceed a total retained amount equal to 0.25 percent of the total estimated amount the commission receives for the program.

(e) The commission shall spend the retained money to assist in paying the costs necessary to administer the program for which the commission receives the money, except that the commission may not use the money to pay any type of administrative cost that, before June 1, 2019, was funded with general revenue.

(f) The commission shall submit an annual report to the governor and the Legislative Budget Board that:

(1) details the amount of money the commission retained and spent under this section during the preceding state fiscal year, including a separate detail of any increase in the amount of money the commission retained for a program under Subsection (d);

(2) contains a transparent description of how the commission used the money described by Subdivision (1); and

(3) assesses the extent to which the retained money covered the estimated costs to administer the applicable program and states whether, based on that assessment, the commission adjusted or considered adjustments to the amount retained.

(g) The executive commissioner shall adopt rules necessary to implement this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0103. BIENNIAL FINANCIAL REPORT. (a) The commission shall prepare a biennial Medicaid financial report covering each state agency that operates a part of Medicaid and each component of Medicaid those agencies operate.

(b) The report must include:

(1) for each state agency that operates a part of Medicaid:

(A) a description of each of the Medicaid components the agency operates; and

(B) an accounting of all funds related to Medicaid the

agency received and disbursed during the period the report covers, including:

(i) the amount of any federal Medicaid funds allocated to the agency for the support of each of the Medicaid components the agency operates;

(ii) the amount of any funds the legislature appropriated to the agency for each of those components; and

(iii) the amount of Medicaid payments and related expenditures made by or in connection with each of those components; and

(2) for each Medicaid component identified in the report:

(A) the amount and source of funds or other revenue received by or made available to the agency for the component;

(B) the amount spent on each type of service or benefit provided by or under the component;

(C) the amount spent on component operations, including eligibility determination, claims processing, and case management; and

(D) the amount spent on any other administrative costs.

(c) The report must cover the three-year period ending on the last day of the previous fiscal year.

(d) The commission may request from any appropriate state agency information necessary to complete the report. Each agency shall cooperate with the commission in providing information for the report.

(e) Not later than December 1 of each even-numbered year, the commission shall submit the report to the governor, the lieutenant governor, the speaker of the house of representatives, the presiding officer of each standing committee of the senate and house of representatives having jurisdiction over health and human services issues, and the state auditor.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER D. PROVIDERS

Sec. 532.0151. STREAMLINING PROVIDER ENROLLMENT AND CREDENTIALING PROCESSES. (a) The commission shall streamline Medicaid provider enrollment and credentialing processes.

(b) In streamlining the Medicaid provider enrollment process, the commission shall establish a centralized Internet portal through which providers may enroll in Medicaid.

(c) In streamlining the Medicaid provider credentialing process, the commission may:

(1) designate a centralized credentialing entity;

(2) share information in the database established under Subchapter C, Chapter 32, Human Resources Code, with the centralized credentialing entity; and

(3) require all Medicaid managed care organizations to use the centralized credentialing entity as a hub for collecting and sharing information.

(d) The commission may:

(1) use the Internet portal created under Subsection (b) to create a single, consolidated Medicaid provider enrollment and credentialing process; and

(2) if cost-effective, contract with a third party to develop the single, consolidated process.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0152. USE OF NATIONAL PROVIDER IDENTIFIER NUMBER. (a) In this section, "national provider identifier number" means the national provider identifier number required under Section 1128J(e) of the Social Security Act (42 U.S.C. Section 1320a-7k(e)).

(b) The commission shall transition from using a state-issued provider identifier number to using only a national provider identifier number in accordance with this section.

(c) The commission shall implement a Medicaid provider management and enrollment system and, following that implementation, use only a national provider identifier number to enroll a provider in Medicaid.

(d) The commission shall implement a modernized claims processing system and, following that implementation, use only a national provider identifier number to process claims for and authorize Medicaid services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0153. ENROLLMENT OF CERTAIN EYE HEALTH CARE PROVIDERS. (a) This section applies only to:

(1) an optometrist who is licensed by the Texas Optometry Board;

(2) a therapeutic optometrist who is licensed by the Texas Optometry Board;

(3) an ophthalmologist who is licensed by the Texas Medical Board; and

(4) an institution of higher education that provides an accredited program for:

(A) training as a doctor of optometry or an optometrist residency; or

(B) training as an ophthalmologist or an ophthalmologist residency.

(b) The commission may not prevent a provider to whom this section applies from enrolling as a Medicaid provider if the provider:

(1) either:

(A) joins an established practice of a health care provider or provider group that has a contract with a Medicaid managed care organization to provide health care services to recipients under Chapter 540 or 540A; or

(B) is employed by or otherwise compensated for providing training at an institution of higher education described by Subsection (a)(4);

(2) applies to be an enrolled Medicaid provider;

(3) if applicable, complies with the requirements of the contract described by Subdivision (1)(A); and

(4) complies with all other applicable requirements related to being a Medicaid provider.

(c) The commission may not prevent an institution of higher education from enrolling as a Medicaid provider if the institution:

(1) has a contract with a managed care organization to provide health care services to recipients under Chapter 540 or 540A;

(2) applies to be an enrolled Medicaid provider;

(3) complies with the requirements of the contract described by Subdivision (1); and

(4) complies with all other applicable requirements related

to being a Medicaid provider.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0154. RURAL HEALTH CLINIC REIMBURSEMENT. The commission may not impose any condition on the reimbursement of a rural health clinic under Medicaid if the condition is more stringent than the conditions imposed by:

(1) the Rural Health Clinic Services Act of 1977 (Pub. L. No. 95-210); or

(2) the laws of this state regulating the practice of medicine, pharmacy, or professional nursing.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 18, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 532.0155. RURAL HOSPITAL REIMBURSEMENT. (a) In this section, "rural hospital" has the meaning assigned by commission rules for purposes of reimbursing hospitals for providing Medicaid inpatient or outpatient services.

(b) To the extent allowed by federal law and subject to limitations on appropriations, the executive commissioner by rule shall adopt a prospective reimbursement methodology for the payment of rural hospitals participating in Medicaid that ensures the rural hospitals are reimbursed on an individual basis for providing inpatient and general outpatient services to recipients by using the hospitals' most recent cost information concerning the costs incurred for providing the services. The commission shall calculate the prospective cost-based reimbursement rates once every two years.

(c) In adopting rules under Subsection (b), the executive commissioner may:

(1) adopt a methodology that requires:

(A) a Medicaid managed care organization to reimburse rural hospitals for services delivered through the Medicaid managed

care program using a minimum fee schedule or other method for which federal matching money is available; or

(B) both the commission and a Medicaid managed care organization to share in the total amount of reimbursement paid to rural hospitals; and

(2) require that the reimbursement amount paid to a rural hospital is subject to any applicable adjustments the commission makes for payments to or penalties imposed on the rural hospital that are based on a quality-based or performance-based requirement under the Medicaid managed care program.

(d) Not later than September 1 of each even-numbered year, the commission shall, for purposes of Subsection (b), determine the allowable costs incurred by a rural hospital participating in the Medicaid managed care program based on the rural hospital's cost reports submitted to the Centers for Medicare and Medicaid Services and other available information that the commission considers relevant in determining the hospital's allowable costs.

(e) Notwithstanding Subsection (b) and subject to Subsection (f), the executive commissioner shall adopt and the commission shall implement, beginning with the state fiscal year ending August 31, 2022, a true cost-based reimbursement methodology for inpatient and general outpatient services provided to recipients at rural hospitals that provides:

(1) prospective payments during a state fiscal year to the hospitals using the reimbursement methodology adopted under Subsection (b); and

(2) to the extent allowed by federal law, in the subsequent state fiscal year a cost settlement to provide additional reimbursement as necessary to reimburse the hospitals for the true costs incurred in providing inpatient and general outpatient services to recipients during the previous state fiscal year.

(f) If federal law does not permit the use of a true cost-based reimbursement methodology described by Subsection (e), the commission shall continue to use the prospective cost-based reimbursement methodology the executive commissioner adopts under Subsection (b) for the payment of rural hospitals for providing inpatient and general outpatient services to recipients.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0156. REIMBURSEMENT SYSTEM FOR ELECTRONIC HEALTH INFORMATION REVIEW AND TRANSMISSION. If feasible and cost-effective, the executive commissioner by rule may develop and the commission may implement a system to provide Medicaid reimbursement to a health care provider, including a physician, for reviewing and transmitting electronic health information.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER E. DATA AND TECHNOLOGY

Sec. 532.0201. DATA COLLECTION SYSTEM. (a) The commission and each health and human services agency that administers a part of Medicaid shall jointly develop a system to coordinate and integrate state Medicaid databases to:

(1) facilitate the comprehensive analysis of Medicaid data; and

(2) detect fraud a program provider or recipient perpetrates.

(b) To minimize cost and duplication of activities, the commission shall assist and coordinate:

(1) the efforts of the agencies that are participating in developing the system; and

(2) the efforts of those agencies with the efforts of other agencies involved in a statewide health care data collection system provided for by Section 108.006, Health and Safety Code, including avoiding duplication of expenditure of state funds for computer hardware, staff, or services.

(c) On the executive commissioner's request, a state agency that administers any part of Medicaid shall assist the commission in developing the system.

(d) The commission shall develop the system in a manner that will enable a complete analysis of the use of prescription medications, including information relating to:

(1) recipients for whom more than three medications have been prescribed; and

(2) the medical effect denial of Medicaid coverage for more

than three medications has had on recipients.

(e) The commission shall ensure that the system is used each month to match vital statistics unit death records with a list of individuals eligible for Medicaid, and that each individual who is deceased is promptly removed from the list of individuals eligible for Medicaid.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0202. INFORMATION COLLECTION AND ANALYSIS. (a) The commission shall:

(1) make every effort to improve data analysis and integrate available information associated with Medicaid;

(2) use the decision support system in the commission's center for analytics and decision support for the purpose described by Subdivision (1);

(3) modify or redesign the decision support system to allow for the data collected by Medicaid to be used more systematically and effectively for Medicaid evaluation and policy development; and

(4) develop or redesign the decision support system as necessary to ensure that the system:

(A) incorporates currently collected Medicaid enrollment, utilization, and provider data;

(B) allows data manipulation and quick analysis to address a large variety of questions concerning enrollment and utilization patterns and trends within Medicaid;

(C) is able to obtain consistent and accurate answers to questions;

(D) allows for analysis of multiple issues within Medicaid to determine whether any programmatic or policy issues overlap or are in conflict;

(E) includes predefined data reports on utilization of high-cost services that allow Medicaid management to analyze and determine the reasons for an increase or decrease in utilization and immediately proceed with policy changes, if appropriate;

(F) includes any encounter data with respect to recipients that a Medicaid managed care organization receives from a health care provider in the organization's provider network; and

(G) links Medicaid and non-Medicaid data sets, including data sets related to:

(i) Medicaid;

(ii) the financial assistance program under Chapter 31, Human Resources Code;

(iii) the special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786;

(iv) vital statistics; and

(v) other public health programs.

(b) The commission shall ensure that all Medicaid data sets the decision support system creates or identifies are made available on the Internet to the extent not prohibited by federal or state laws regarding medical privacy or security. If privacy concerns exist or arise with respect to making the data sets available on the Internet, the system and the commission shall make every effort to make the data available on the Internet either by:

(1) removing individually identifiable information; or

(2) aggregating the data in a manner to prevent the association of individual records with particular individuals.

(c) The commission shall regularly evaluate data submitted by Medicaid managed care organizations to determine whether:

(1) the data continues to serve a useful purpose; and

(2) additional data is needed to oversee contracts or evaluate the effectiveness of Medicaid.

(d) The commission shall collect Medicaid managed care data that effectively captures the quality of services recipients receive.

(e) The commission shall develop a dashboard for agency leadership that is designed to assist leadership with overseeing Medicaid and comparing the performance of Medicaid managed care organizations. The dashboard must identify a concise number of important Medicaid indicators, including key data, performance measures, trends, and problems.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0203. PUBLIC ACCESS TO CERTAIN DATA. (a) To the extent permitted by federal law, the commission, in collaboration

with the appropriate advisory committees related to Medicaid, shall make available to the public on the commission's Internet website in an easy-to-read format data relating to the quality of health care recipients received and the health outcomes of those recipients. Data the commission makes available to the public must be made available in a manner that does not identify or allow for the identification of individual recipients.

(b) In performing duties under this section, the commission may collaborate with an institution of higher education or another state agency with experience in analyzing and producing public use data.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0204. DATA REGARDING TREATMENT FOR PRENATAL ALCOHOL OR CONTROLLED SUBSTANCE EXPOSURE. (a) The commission shall collect hospital discharge data for recipients regarding treatment of a newborn child for prenatal exposure to alcohol or a controlled substance.

(b) The commission shall provide the collected data to the Department of Family and Protective Services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0205. MEDICAL TECHNOLOGY. The commission shall explore and evaluate new developments in medical technology and propose implementing the technology in Medicaid, if appropriate and cost-effective. Commission staff implementing this section must have skills and experience in research regarding health care technology.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0206. PILOT PROJECTS RELATING TO TECHNOLOGY APPLICATIONS. (a) Notwithstanding any other law, the commission may establish one or more pilot projects through which Medicaid reimbursement is made to demonstrate the applications of technology

in providing Medicaid services.

(b) A pilot project under this section may relate to providing rehabilitation services, services for the aging or individuals with disabilities, or long-term care services, including community care services and supports.

(c) Notwithstanding an eligibility requirement prescribed by any other law or rule, the commission may establish requirements for an individual to receive services provided through a pilot project under this section.

(d) An individual's receipt of services provided through a pilot project under this section does not entitle the individual to other services under a government-funded health program.

(e) The commission may set a maximum enrollment limit for a pilot project under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER F. ELECTRONIC VISIT VERIFICATION SYSTEM

Sec. 532.0251. DEFINITION. In this subchapter, "electronic visit verification system" means the electronic visit verification system implemented under Section 532.0253.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0252. IMPLEMENTATION OF CERTAIN PROVISIONS. Notwithstanding any other provision of this subchapter, the commission is required to implement a change in law made to former Section 531.024172 by Chapter 909 (S.B. 894), Acts of the 85th Legislature, Regular Session, 2017, only if the commission determines the implementation is appropriate based on the findings of the electronic visit verification system review conducted before April 1, 2018, under Section 531.024172(a) as that section existed before that date.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0253. ELECTRONIC VISIT VERIFICATION SYSTEM IMPLEMENTATION. (a) Subject to Section 532.0258(a), the commission shall, in accordance with federal law, implement an electronic visit verification system to electronically verify that personal care services, attendant care services, or other services the commission identifies that are provided under Medicaid to recipients, including personal care services or attendant care services provided under the Texas Health Care Transformation and Quality Improvement Program waiver issued under Section 1115 of the Social Security Act (42 U.S.C. Section 1315) or any other Medicaid waiver program, are provided to recipients in accordance with a prior authorization or plan of care.

(b) The verification must be made through a telephone, global positioning, or computer-based system.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0254. INFORMATION TO BE VERIFIED. The electronic visit verification system must allow for verification of only the following information relating to the delivery of Medicaid services:

(1) the type of service provided;

(2) the name of the recipient to whom the service was provided;

(3) the date and times the provider began and ended the service delivery visit;

(4) the location, including the address, at which the service was provided;

(5) the name of the individual who provided the service; and

(6) other information the commission determines is necessary to ensure the accurate adjudication of Medicaid claims.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0255. COMPLIANCE STANDARDS AND STANDARDIZED PROCESSES. (a) In implementing the electronic visit verification system:

(1) subject to Subsection (b), the executive commissioner

shall adopt compliance standards for health care providers; and

(2) the commission shall ensure that:

(A) the information required to be reported by health care providers is standardized across Medicaid managed care organizations and commission programs;

(B) processes Medicaid managed care organizations require to retrospectively correct data are standardized and publicly accessible to health care providers;

(C) standardized processes are established for addressing the failure of a Medicaid managed care organization to provide a timely authorization for delivering services necessary to ensure continuity of care; and

(D) a health care provider is allowed to enter a variable schedule into the system.

(b) In establishing compliance standards for health care providers under Subsection (a), the executive commissioner shall consider:

(1) the administrative burdens placed on health care providers required to comply with the standards; and

(2) the benefits of using emerging technologies for ensuring compliance, including Internet-based, mobile telephone-based, and global positioning-based technologies.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0256. RECIPIENT COMPLIANCE. The commission shall inform each recipient who receives personal care services, attendant care services, or other services the commission identifies that the health care provider providing the services and the recipient are each required to comply with the electronic visit verification system. A Medicaid managed care organization shall also inform recipients described by this section who are enrolled in a managed care plan offered by the organization of those requirements.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0257. HEALTH CARE PROVIDER COMPLIANCE. A health care

provider that provides to recipients personal care services, attendant care services, or other services the commission identifies shall:

(1) use the electronic visit verification system or a proprietary system the commission allows as provided by Section 532.0258 to document the provision of those services;

(2) comply with all documentation requirements the commission establishes;

(3) comply with federal and state laws regarding confidentiality of recipients' information;

(4) ensure that the commission or the Medicaid managed care organization with which a claim for reimbursement for a service is filed may review electronic visit verification system documentation related to the claim or obtain a copy of that documentation at no charge to the commission or the organization; and

(5) at any time, allow the commission or a Medicaid managed care organization with which a health care provider contracts to provide health care services to recipients enrolled in the organization's managed care plan to have direct, on-site access to the electronic visit verification system in use by the health care provider.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0258. HEALTH CARE PROVIDER: USE OF PROPRIETARY SYSTEM. (a) The commission may recognize a health care provider's proprietary electronic visit verification system, whether purchased or developed by the provider, as complying with this subchapter and allow the health care provider to use that system for a period the commission determines if the commission determines that the system:

(1) complies with all necessary data submission, exchange, and reporting requirements established under this subchapter; and

(2) meets all other standards and requirements established under this subchapter.

(b) If feasible, the executive commissioner shall ensure a health care provider is reimbursed for the use of the provider's proprietary electronic visit verification system the commission recognizes.

(c) For purposes of facilitating the use of proprietary electronic visit verification systems by health care providers and in consultation with industry stakeholders and the work group established under Section 532.0259, the commission or the executive commissioner, as appropriate, shall:

(1) develop an open model system that mitigates the administrative burdens providers required to use electronic visit verification identify;

(2) allow providers to use emerging technologies, including Internet-based, mobile telephone-based, and global positioning-based technologies, in the providers' proprietary electronic visit verification systems; and

(3) adopt rules governing data submission and provider reimbursement.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0259. STAKEHOLDER INPUT. The commission shall create a stakeholder work group composed of representatives of affected health care providers, Medicaid managed care organizations, and recipients. The commission shall periodically solicit from the work group input regarding the ongoing operation of the electronic visit verification system.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0260. RULES. The executive commissioner may adopt rules necessary to implement this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER G. APPLICANTS AND RECIPIENTS

Sec. 532.0301. BILL OF RIGHTS AND BILL OF RESPONSIBILITIES. (a) The executive commissioner by rule shall adopt a bill of rights and a bill of responsibilities for each recipient.

(b) The bill of rights must address a recipient's right to:

(1) respect, dignity, privacy, confidentiality, and nondiscrimination;

(2) a reasonable opportunity to choose a health benefits plan and primary care provider and to change to another plan or provider in a reasonable manner;

(3) consent to or refuse treatment and actively participate in treatment decisions;

(4) ask questions and receive complete information relating to the recipient's medical condition and treatment options, including specialty care;

(5) access each available complaint process, receive a timely response to a complaint, and receive a fair hearing; and

(6) timely access to care that does not have any communication or physical access barriers.

(c) The bill of responsibilities must address a recipient's responsibility to:

(1) learn and understand each right the recipient has under Medicaid;

(2) abide by the health plan and Medicaid policies and procedures;

(3) share information relating to the recipient's health status with the primary care provider and become fully informed about service and treatment options; and

(4) actively participate in decisions relating to service and treatment options, make personal choices, and take action to maintain the recipient's health.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0302. UNIFORM FAIR HEARING RULES. (a) The executive commissioner shall adopt uniform fair hearing rules for Medicaid-funded services. The rules must provide:

(1) due process to a Medicaid applicant and to a recipient who seeks a Medicaid service, including a service that requires prior authorization; and

(2) the protections for applicants and recipients required by 42 C.F.R. Part 431, Subpart E, including requiring that:

(A) the written notice to an individual of the individual's right to a hearing must:

(i) contain an explanation of the circumstances under which Medicaid is continued if a hearing is requested; and

(ii) be delivered by mail, and postmarked at least 10 business days, before the date the individual's Medicaid eligibility or service is scheduled to be terminated, suspended, or reduced, except as provided by 42 C.F.R. Section 431.213 or 431.214; and

(B) if a hearing is requested before the date a recipient's service, including a service that requires prior authorization, is scheduled to be terminated, suspended, or reduced, the agency may not take that proposed action before a decision is rendered after the hearing unless:

(i) it is determined at the hearing that the sole issue is one of federal or state law or policy; and

(ii) the agency promptly informs the recipient in writing that services are to be terminated, suspended, or reduced pending the hearing decision.

(b) The commission shall develop a process to address a situation in which:

(1) an individual does not receive adequate notice as required by Subsection (a)(2)(A); or

(2) the notice required by Subsection (a)(2)(A) is delivered without a postmark.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 532.0303. SUPPORT AND INFORMATION SERVICES FOR RECIPIENTS. (a) The commission shall provide support and information services to a recipient or applicant for Medicaid who experiences barriers to receiving health care services. The commission shall give emphasis to assisting an individual with an urgent or immediate medical or support need.

(b) The commission shall provide the support and information

services through a network of entities that are:

(1) coordinated by the commission's office of the ombudsman or other commission division the executive commissioner designates; and

(2) composed of:

(A) the commission's office of the ombudsman or other commission division the executive commissioner designates to coordinate the network;

(B) the office of the state long-term care ombudsman required under Subchapter F, Chapter 101A, Human Resources Code;

(C) the commission division responsible for oversight of Medicaid managed care contracts;

(D) area agencies on aging;

(E) aging and disability resource centers established under the aging and disability resource center initiative funded in part by the Administration on Aging and the Centers for Medicare and Medicaid Services; and

(F) any other entity the executive commissioner determines appropriate, including nonprofit organizations with which the commission contracts under Subsection (c).

(c) The commission may provide the support and information services by contracting with nonprofit organizations that are not involved in providing health care, health insurance, or health benefits.

(d) As a part of the support and information services, the commission shall:

(1) operate a statewide toll-free assistance telephone number that includes relay services for individuals with speech or hearing disabilities and assistance for individuals who speak Spanish;

(2) intervene promptly with the state Medicaid office, Medicaid managed care organizations and providers, and any other appropriate entity on behalf of an individual who has an urgent need for medical services;

(3) assist an individual who is experiencing barriers in the Medicaid application and enrollment process and refer the individual for further assistance if appropriate;

(4) educate individuals so that they:

(A) understand the concept of managed care;

(B) understand their rights under Medicaid, including

grievance and appeal procedures; and

(C) are able to advocate for themselves;

(5) collect and maintain statistical information on a regional basis regarding calls the assistance lines receive and publish quarterly reports that:

(A) list the number of calls received by region;

(B) identify trends in delivery and access problems;

(C) identify recurring barriers in the Medicaid system; and

(D) indicate other identified problems with Medicaid managed care;

(6) assist the state Medicaid office and Medicaid managed care organizations and providers in identifying and correcting problems, including site visits to affected regions if necessary;

(7) meet the needs of all current and future managed care recipients, including children receiving dental benefits and other recipients receiving benefits, under:

(A) the STAR Medicaid managed care program;

(B) the STAR+PLUS Medicaid managed care program, including the Texas Dual Eligible Integrated Care Demonstration Project provided under that program;

(C) the STAR Kids managed care program established under Subchapter R, Chapter 540; and

(D) the STAR Health program;

(8) incorporate support services for children enrolled in the child health plan program established under Chapter 62, Health and Safety Code; and

(9) ensure that staff providing support and information services receive sufficient training, including training in the Medicare program for the purpose of assisting recipients who are dually eligible for Medicare and Medicaid, and have sufficient authority to resolve barriers experienced by recipients to health care and long-term services and supports.

(e) The commission's office of the ombudsman or other commission division the executive commissioner designates to coordinate the network of entities responsible for providing the support and information services must be sufficiently independent from other aspects of Medicaid managed care to represent the best interests of recipients in problem resolution.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0304. NURSING SERVICES ASSESSMENTS. (a) In this section, "acute nursing services" means home health skilled nursing services, home health aide services, and private duty nursing services.

(b) If cost-effective, the commission shall develop an objective assessment process for use in assessing a recipient's need for acute nursing services. If the commission develops the objective assessment process, the commission shall require that:

(1) the assessment be conducted:

(A) by a state employee or contractor who is a registered nurse licensed to practice in this state, and who is not:

(i) the individual who will deliver any necessary services to the recipient; or

(ii) affiliated with the person who will deliver those services; and

(B) in a timely manner so as to protect the recipient's health and safety by avoiding unnecessary delays in service delivery; and

(2) the process include:

(A) an assessment of specified criteria and documentation of the assessment results on a standard form;

(B) an assessment of whether the recipient should be referred for additional assessments regarding the recipient's need for therapy services, as described by Section 532.0305, attendant care services, and durable medical equipment; and

(C) completion by the individual conducting the assessment of any documents related to obtaining prior authorization for necessary nursing services.

(c) If the commission develops the objective assessment process under Subsection (b), the commission shall:

(1) implement the process within the Medicaid fee-for-service model and the primary care case management Medicaid managed care model; and

(2) take necessary actions, including modifying contracts with Medicaid managed care organizations to the extent allowed by law, to implement the process within the STAR and STAR+PLUS Medicaid

managed care programs.

(d) Unless the commission determines that the assessment is feasible and beneficial, an assessment under Subsection (b)(2)(B) of whether a recipient should be referred for additional therapy services assessments shall be waived if the recipient's need for therapy services has been established by a recommendation from a therapist providing care before the recipient is discharged from a licensed hospital or nursing facility. The assessment may not be waived if the recommendation is made by a therapist who:

(1) will deliver any services to the recipient; or

(2) is affiliated with a person who will deliver those services after the recipient is discharged from the licensed hospital or nursing facility.

(e) The executive commissioner shall adopt rules providing for a process by which a provider of acute nursing services who disagrees with the results of the assessment conducted under Subsection (b) may request and obtain a review of those results.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0305. THERAPY SERVICES ASSESSMENTS. (a) In this section, "therapy services" includes occupational, physical, and speech therapy services.

(b) After implementing the objective assessment process for acute nursing services in accordance with Section 532.0304, the commission shall consider whether implementing age- and diagnosis-appropriate objective assessment processes for use in assessing a recipient's need for therapy services would be feasible and beneficial.

(c) If the commission determines that implementing age- and diagnosis-appropriate processes with respect to one or more types of therapy services is feasible and would be beneficial, the commission may implement the processes within:

(1) the Medicaid fee-for-service model;

(2) the primary care case management Medicaid managed care model; and

(3) the STAR and STAR+PLUS Medicaid managed care programs.

(d) An objective assessment process implemented under this

section must include a process that allows a therapy services provider to request and obtain a review of the results of an assessment conducted as provided by this section. The review process must be comparable to the review process implemented under Section 532.0304(e).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0306. WELLNESS SCREENING PROGRAM. If cost-effective, the commission may implement a wellness screening program for recipients that is designed to evaluate a recipient's risk for having certain diseases and medical conditions to establish:

(1) a health baseline for each recipient that may be used to tailor the recipient's treatment plan; or

(2) the recipient's health goals.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0307. FEDERALLY QUALIFIED HEALTH CENTER AND RURAL HEALTH CLINIC SERVICES. (a) In this section:

(1) "Federally qualified health center services" has the meaning assigned by 42 U.S.C. Section 1396d(l)(2)(A).

(2) "Rural health clinic services" has the meaning assigned by 42 U.S.C. Section 1396d(l)(1).

(b) Notwithstanding any provision of this chapter, Chapter 32, Human Resources Code, or any other law, the commission shall:

(1) promote recipient access to federally qualified health center services or rural health clinic services; and

(2) ensure that payment for federally qualified health center services or rural health clinic services is in accordance with 42 U.S.C. Section 1396a(bb).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER H. PROGRAMS AND SERVICES FOR CERTAIN CATEGORIES OF MEDICAID POPULATION

Sec. 532.0351. TAILORED BENEFIT PACKAGES FOR CERTAIN CATEGORIES OF MEDICAID POPULATION. (a) The executive commissioner may seek a waiver under Section 1115 of the Social Security Act (42 U.S.C. Section 1315) to develop and, subject to Subsection (c), implement tailored benefit packages designed to:

(1) provide Medicaid benefits that are customized to meet the health care needs of recipients within defined categories of the Medicaid population through a defined system of care;

(2) improve health outcomes and access to services for those recipients;

(3) achieve cost containment and efficiency; and

(4) reduce the administrative complexity of delivering Medicaid benefits.

(b) The commission:

(1) shall develop a tailored benefit package that is customized to meet the health care needs of recipients who are children with special health care needs, subject to approval of the waiver described by Subsection (a); and

(2) may develop tailored benefit packages that are customized to meet the health care needs of other categories of recipients.

(c) If the commission develops tailored benefit packages under Subsection (b)(2), the commission shall submit to the standing committees of the senate and house of representatives having primary jurisdiction over Medicaid a report that specifies in detail the categories of recipients to which each of those packages will apply and the services available under each package.

(d) Except as otherwise provided by this section and subject to the terms of the waiver authorized by this section, the commission has broad discretion to develop the tailored benefit packages and determine the respective categories of recipients to which the packages apply in a manner that preserves recipients' access to necessary services and is consistent with federal requirements. In developing the tailored benefit packages, the commission shall consider similar benefit packages established in other states as a guide.

(e) Each tailored benefit package must include:

(1) a basic set of benefits that are provided under all tailored benefit packages;

(2) to the extent applicable to the category of recipients

to which the package applies:

(A) a set of benefits customized to meet the health care needs of recipients in that category; and

(B) services to integrate the management of a recipient's acute and long-term care needs, to the extent feasible; and

(3) if the package applies to recipients who are children, at least the services required by federal law under the early and periodic screening, diagnosis, and treatment program.

(f) A tailored benefit package may include any service available under the state Medicaid plan or under any federal Medicaid waiver, including any preventive health or wellness service.

(g) A tailored benefit package must increase this state's flexibility with respect to the state's use of Medicaid funding and may not reduce the benefits available under the Medicaid state plan to any recipient population.

(h) The executive commissioner by rule shall define each category of recipients to which a tailored benefit package applies and a mechanism for appropriately placing recipients in specific categories. Recipient categories must include children with special health care needs and may include:

(1) individuals with disabilities or special health care needs;

(2) elderly individuals;

(3) children without special health care needs; and

(4) working-age parents and caretaker relatives.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0352. WAIVER PROGRAM FOR CERTAIN INDIVIDUALS WITH CHRONIC HEALTH CONDITIONS. (a) If feasible and cost-effective, the commission may apply for a waiver from the Centers for Medicare and Medicaid Services or another appropriate federal agency to more efficiently leverage the use of state and local funds to maximize the receipt of federal Medicaid matching funds by providing Medicaid benefits to individuals who:

(1) meet established income and other eligibility criteria; and

(2) are eligible to receive services through the county for chronic health conditions.

(b) In establishing the waiver program, the commission shall:

(1) ensure that this state is a prudent purchaser of the health care services that are needed for the individuals described by Subsection (a);

(2) solicit broad-based input from interested persons;

(3) ensure that the benefits an individual receives through the county are not reduced once the individual is enrolled in the waiver program; and

(4) employ the use of intergovernmental transfers and other procedures to maximize the receipt of federal Medicaid matching funds.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0353. BUY-IN PROGRAMS FOR CERTAIN INDIVIDUALS WITH DISABILITIES. (a) The executive commissioner shall develop and implement:

(1) a Medicaid buy-in program for individuals with disabilities as authorized by the Ticket to Work and Work Incentives Improvement Act of 1999 (Pub. L. No. 106-170) or the Balanced Budget Act of 1997 (Pub. L. No. 105-33); and

(2) a Medicaid buy-in program for children with disabilities described by 42 U.S.C. Section 1396a(cc)(1) whose family incomes do not exceed 300 percent of the applicable federal poverty level, as authorized by the Deficit Reduction Act of 2005 (Pub. L. No. 109-171).

(b) The executive commissioner shall adopt rules in accordance with federal law that provide for:

(1) eligibility requirements for each program described by Subsection (a); and

(2) requirements for program participants to pay premiums or cost-sharing payments, subject to Subsection (c).

(c) Rules the executive commissioner adopts under Subsection (b) with respect to the program for children with disabilities described by Subsection (a)(2) must require a participant to pay monthly premiums according to a sliding scale that is based on family

income, subject to the requirements of 42 U.S.C. Sections 1396o(i)(2) and (3).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER I. UTILIZATION REVIEW, PRIOR AUTHORIZATION, AND COVERAGE PROCESSES AND DETERMINATIONS

Sec. 532.0401. REVIEW OF PRIOR AUTHORIZATION AND UTILIZATION REVIEW PROCESSES. The commission shall:

(1) in accordance with an established schedule, periodically review the prior authorization and utilization review processes within the Medicaid fee-for-service delivery model to determine whether those processes need modification to reduce authorizations of unnecessary services and inappropriate use of services;

(2) monitor the prior authorization and utilization review processes within the Medicaid fee-for-service delivery model for anomalies and, on identification of an anomaly in a process, review the process for modification earlier than scheduled; and

(3) monitor Medicaid managed care organizations to ensure that the organizations are using prior authorization and utilization review processes to reduce authorizations of unnecessary services and inappropriate use of services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0402. ACCESSIBILITY OF INFORMATION REGARDING PRIOR AUTHORIZATION REQUIREMENTS. (a) The executive commissioner by rule shall require each Medicaid managed care organization or other entity responsible for authorizing coverage for health care services under Medicaid to ensure that the organization or entity maintains on the organization's or entity's Internet website in an easily searchable and accessible format:

(1) the applicable timelines for prior authorization requirements, including:

(A) the time within which the organization or entity must make a determination on a prior authorization request;

(B) a description of the notice the organization or entity provides to a provider and recipient on whose behalf the request was submitted regarding the documentation required to complete a determination on a prior authorization request; and

(C) the deadline by which the organization or entity is required to submit the notice described by Paragraph (B); and

(2) an accurate and current catalog of coverage criteria and prior authorization requirements, including:

(A) for a prior authorization requirement first imposed on or after September 1, 2019, the effective date of the requirement;

(B) a list or description of any supporting or other documentation necessary to obtain prior authorization for a specified service; and

(C) the date and results of each review of a prior authorization requirement conducted under Section 540.0304, if applicable.

(b) The executive commissioner by rule shall require each Medicaid managed care organization or other entity responsible for authorizing coverage for health care services under Medicaid to:

(1) adopt and maintain a process for a provider or recipient to contact the organization or entity to clarify prior authorization requirements or to assist the provider in submitting a prior authorization request; and

(2) ensure that the process described by Subdivision (1) is not arduous or overly burdensome to a provider or recipient.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0403. NOTICE REQUIREMENTS REGARDING COVERAGE OR PRIOR AUTHORIZATION DENIAL AND INCOMPLETE REQUESTS. (a) The commission shall ensure that a notice the commission or a Medicaid managed care organization sends to a recipient or Medicaid provider regarding the denial, partial denial, reduction, or termination of coverage or denial of prior authorization for a service includes:

(1) information required by federal and state law and regulations;

(2) for the recipient:

(A) a clear and easy-to-understand explanation of the

reason for the decision, including a clear explanation of the medical basis, applying the policy or accepted standard of medical practice to the recipient's particular medical circumstances;

(B) a copy of the information the commission or organization sent to the provider; and

(C) an educational component that includes:

(i) a description of the recipient's rights;

(ii) an explanation of the process related to appeals and Medicaid fair hearings; and

(iii) a description of the role of an external medical review; and

(3) for the provider, a thorough and detailed clinical explanation of the reason for the decision, including, as applicable, information required under Subsection (b).

(b) The commission or a Medicaid managed care organization that receives from a provider a coverage or prior authorization request that contains insufficient or inadequate documentation to approve the request shall issue a notice to the provider and the recipient on whose behalf the request was submitted. The notice must:

(1) include a section specifically for the provider that contains:

(A) a clear and specific list and description of the documentation necessary for the commission or organization to make a final determination on the request;

(B) the applicable timeline, based on the requested service, for the provider to submit the documentation and a description of the reconsideration process described by Section 540.0306, if applicable; and

(C) information on the manner through which a provider may contact a Medicaid managed care organization or other entity as required by Section 532.0402; and

(2) be sent:

(A) to the provider:

(i) using the provider's preferred method of communication, to the extent practicable using existing resources; and

(ii) as applicable, through an electronic notification on an Internet portal; and

(B) to the recipient using the recipient's preferred method of communication, to the extent practicable using existing

resources.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0404. EXTERNAL MEDICAL REVIEW. (a) In this section, "external medical reviewer" means a third-party medical review organization that provides objective, unbiased medical necessity determinations conducted by clinical staff with education and practice in the same or similar practice area as the procedure for which an independent determination of medical necessity is sought in accordance with state law and rules.

(b) The commission shall contract with an independent external medical reviewer to conduct external medical reviews and review:

(1) the resolution of a recipient appeal related to a reduction in or denial of services on the basis of medical necessity in the Medicaid managed care program; or

(2) the commission's denial of eligibility for a Medicaid program in which eligibility is based on a recipient's medical and functional needs.

(c) A Medicaid managed care organization may not have a financial relationship with or ownership interest in the external medical reviewer with which the commission contracts.

(d) The external medical reviewer with which the commission contracts must:

(1) be overseen by a medical director who is a physician licensed in this state; and

(2) employ or be able to consult with staff with experience in providing private duty nursing services and long-term services and supports.

(e) The commission shall establish:

(1) a common procedure for external medical reviews that:

(A) to the greatest extent possible, reduces:

(i) administrative burdens on providers; and

(ii) the submission of duplicative information or documents; and

(B) bases a medical necessity determination on clinical criteria that is:

(i) publicly available;

(ii) current;

(iii) evidence-based; and

(iv) peer-reviewed; and

(2) a procedure and time frame for expedited reviews that allow the external medical reviewer to:

(A) identify an appeal that requires an expedited resolution; and

(B) resolve the review of the appeal within a specified period.

(f) The external medical reviewer shall conduct an external medical review within a period the commission specifies.

(g) A recipient or Medicaid applicant, or the recipient's or applicant's parent or legally authorized representative, must affirmatively request an external medical review. If requested:

(1) an external medical review described by Subsection (b)(1):

(A) occurs after the internal Medicaid managed care organization appeal and before the Medicaid fair hearing; and

(B) is granted when a recipient contests the internal appeal decision of the Medicaid managed care organization; and

(2) an external medical review described by Subsection (b)(2) occurs after the eligibility denial and before the Medicaid fair hearing.

(h) The external medical reviewer's determination of medical necessity establishes the minimum level of services a recipient must receive, except that the level of services may not exceed the level identified as medically necessary by the ordering health care provider.

(i) The external medical reviewer shall require a Medicaid managed care organization, in an external medical review relating to a reduction in services, to submit a detailed reason for the reduction and supporting documents.

(j) To the extent money is appropriated for this purpose, the commission shall publish data regarding prior authorizations the external medical reviewer reviewed, including the rate of prior authorization denials the external medical reviewer overturned and additional information the commission and the external medical reviewer determine appropriate.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

SUBCHAPTER J. COST-SAVING INITIATIVES

Sec. 532.0451. HOSPITAL EMERGENCY ROOM USE REDUCTION INITIATIVES. (a) The commission shall develop and implement a comprehensive plan to reduce recipients' use of hospital emergency room services. The plan may include:

(1) a pilot program that is designed to assist a program participant in accessing an appropriate level of health care and that may include as components:

(A) providing a program participant access to bilingual health services providers; and

(B) giving a program participant information on how to access primary care physicians, advanced practice registered nurses, and local health clinics;

(2) a pilot program under which a health care provider other than a hospital is given a financial incentive for treating a recipient outside of normal business hours to divert the recipient from a hospital emergency room;

(3) payment of a nominal referral fee to a hospital emergency room that performs an initial medical evaluation of a recipient and subsequently refers the recipient, if medically stable, to an appropriate level of health care, such as care provided by a primary care physician, advanced practice registered nurse, or local clinic;

(4) a program under which the commission or a Medicaid managed care organization contacts, by telephone or mail, a recipient who accesses a hospital emergency room three times during a six-month period and provides the recipient with information on ways the recipient may secure a medical home to avoid unnecessary treatment at a hospital emergency room;

(5) a health care literacy program under which the commission develops partnerships with other state agencies and private entities to:

(A) assist the commission in developing materials that:

(i) contain basic health care information for parents of young children who are recipients and who are participating in public or private child-care or prekindergarten programs, including federal Head Start programs; and

(ii) are written in a language understandable to those parents and specifically tailored to be applicable to the needs of those parents;

(B) distribute the materials developed under Paragraph (A) to those parents; and

(C) otherwise teach those parents about their children's health care needs and ways to address those needs; and

(6) other initiatives developed and implemented in other states that have shown success in reducing the incidence of unnecessary treatment in a hospital emergency room.

(b) The commission shall coordinate with hospitals and other providers that receive supplemental payments under the uncompensated care payment program operated under the Texas Health Care Transformation and Quality Improvement Program waiver issued under Section 1115 of the Social Security Act (42 U.S.C. Section 1315) to identify and implement initiatives based on best practices and models that are designed to reduce recipients' use of hospital emergency room services as a primary means of receiving health care benefits, including initiatives designed to improve recipients' access to and use of primary care providers.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0452. PHYSICIAN INCENTIVE PROGRAM TO REDUCE HOSPITAL EMERGENCY ROOM USE FOR NON-EMERGENT CONDITIONS. (a) If cost-effective, the executive commissioner by rule shall establish a physician incentive program designed to reduce recipients' use of hospital emergency room services for non-emergent conditions.

(b) In establishing the physician incentive program, the executive commissioner may include only the program components identified as cost-effective in the study conducted under former Section 531.086 before that section expired September 1, 2014.

(c) If the physician incentive program includes the payment of an enhanced reimbursement rate for routine after-hours appointments, the executive commissioner shall implement controls to ensure that the after-hours services billed are actually provided outside of normal business hours.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4666, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 532.0453. CONTINUED IMPLEMENTATION OF CERTAIN INTERVENTIONS AND BEST PRACTICES BY PROVIDERS; SEMIANNUAL REPORT. (a) The commission shall encourage Medicaid providers to continue implementing effective interventions and best practices associated with improvements in the health outcomes of recipients that were developed and achieved under the Delivery System Reform Incentive Payment (DSRIP) program previously operated under the Texas Health Care Transformation and Quality Improvement Program waiver issued under Section 1115 of the Social Security Act (42 U.S.C. Section 1315), through:

(1) existing provider incentive programs and the creation of new provider incentive programs;

(2) the terms included in contracts with Medicaid managed care organizations;

(3) implementation of alternative payment models; or

(4) adoption of other cost-effective measures.

(b) The commission shall semiannually prepare and submit to the legislature a report that contains a summary of the commission's efforts under this section and Section 532.0451(b).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0454. HEALTH SAVINGS ACCOUNT PILOT PROGRAM. (a) If the commission determines that it is cost-effective and feasible, the commission shall develop and implement a Medicaid health savings account pilot program that is consistent with federal law to:

(1) encourage adult recipients' health care cost awareness and sensitivity; and

(2) promote adult recipients' appropriate use of Medicaid services.

(b) If the commission implements the pilot program, the commission:

(1) may include only adult recipients as program participants; and

(2) shall ensure that:

(A) participation in the pilot program is voluntary; and

(B) a recipient who participates in the pilot program may, at the recipient's option and subject to Subsection (c), discontinue participating and resume receiving benefits and services under the traditional Medicaid delivery model.

(c) A recipient who chooses to discontinue participating in the pilot program and resume receiving benefits and services under the traditional Medicaid delivery model before completion of the health savings account enrollment period forfeits any funds remaining in the recipient's health savings account.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 532.0455. DURABLE MEDICAL EQUIPMENT REUSE PROGRAM. (a) In this section:

(1) "Complex rehabilitation technology equipment":

(A) means equipment that is:

(i) classified as durable medical equipment under the Medicare program on January 1, 2013;

(ii) configured specifically for an individual to meet the individual's unique medical, physical, and functional needs and capabilities for basic and instrumental daily living activities; and

(iii) medically necessary to prevent the individual's hospitalization or institutionalization; and

(B) includes a complex rehabilitation power wheelchair, highly configurable manual wheelchair, adaptive seating and positioning system, standing frame, and gait trainer.

(2) "Durable medical equipment" means equipment, including repair and replacement parts for the equipment, but excluding complex rehabilitation technology equipment, that:

(A) can withstand repeated use;

(B) is primarily and customarily used to serve a medical purpose;

(C) generally is not useful to an individual in the absence of illness or injury; and

(D) is appropriate and safe for use in the home.

(b) If the commission determines that it is cost-effective, the executive commissioner by rule shall establish a program to facilitate the reuse of durable medical equipment provided to recipients.

(c) The program must include provisions for ensuring that:

(1) reused equipment meets applicable standards of functionality and sanitation; and

(2) a recipient's participation in the reuse program is voluntary.

(d) The program does not:

(1) waive any immunity from liability of the commission or a commission employee; or

(2) create a cause of action against the commission or a commission employee arising from the provision of reused durable medical equipment under the program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Text of chapter effective until April 1, 2025

CHAPTER 533. MEDICAID MANAGED CARE PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 533.00257. DELIVERY OF MEDICAL TRANSPORTATION PROGRAM SERVICES THROUGH MANAGED TRANSPORTATION ORGANIZATION.

Without reference to the amendment of this subsection, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01, eff. April 1, 2025.

(j) The commission may not delay providing medical transportation program services through a managed transportation delivery model in:

(1) a county with a population of one million or more:

(A) in which all or part of a municipality with a population of one million or more is located; and

(B) that is located adjacent to a county with a population of 2.5 million or more; or

(2) a county with a population of at least 60,000 but not more than 70,000 that is located adjacent to a county with a population of at least 500,000 but not more than 1.5 million.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1311 (S.B. 8), Sec. 7(a), eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1235 (H.B. 1576), Sec. 5, eff. June 14, 2019.
Acts 2019, 86th Leg., R.S., Ch. 1235 (H.B. 1576), Sec. 6, eff. June 14, 2019.
Acts 2019, 86th Leg., R.S., Ch. 1235 (H.B. 1576), Sec. 7, eff. June 14, 2019.
Acts 2019, 86th Leg., R.S., Ch. 1235 (H.B. 1576), Sec. 9, eff. June 14, 2019.
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 45, eff. September 1, 2023.
Repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(3), eff. April 1, 2025.

Sec. 533.005. REQUIRED CONTRACT PROVISIONS.

Without reference to the amendment of this subsection, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01, eff. April 1, 2025.

(a-1) The requirements imposed by Subsections (a)(23)(A), (B), and (C) do not apply, and may not be enforced, on and after August 31, 2033.

Added by Acts 1997, 75th Leg., ch. 1262, Sec. 2, eff. June 20, 1997.
Amended by Acts 1999, 76th Leg., ch. 493, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1447, Sec. 4, eff. June 19, 1999; Acts 1999, 76th Leg., ch. 1460, Sec. 9.04, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 198, Sec. 2.35, eff. Sept. 1, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 349 (S.B. 1188), Sec. 6(a), eff. September 1, 2005.
Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. 7), Sec. 1.02(d), eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 418 (S.B. 406), Sec. 20, eff. November 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1191 (S.B. 1106), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1261 (H.B. 595), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1310 (S.B. 7), Sec. 2.04, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1311 (S.B. 8), Sec. 8, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.222, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1272 (S.B. 760), Sec. 4, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 302 (S.B. 654), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 832 (H.B. 1917), Sec. 1, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 619 (S.B. 1096), Sec. 3, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 981 (S.B. 1177), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1343 (S.B. 1283), Sec. 2, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 348 (H.B. 2822), Sec. 2, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 820 (H.B. 2658), Sec. 3, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(34), eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 491 (H.B. 1283), Sec. 1, eff. September 1, 2023.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(3), eff. April 1, 2025.

Without reference to the amendment of this section, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01, eff. April 1, 2025.

Sec. 533.008. MARKETING GUIDELINES.

(c) The executive commissioner shall adopt and publish guidelines for Medicaid managed care organizations regarding how organizations may communicate by telephone, text message, or e-mail with recipients enrolled in the organization's managed care plan using the contact information provided in a recipient's application for Medicaid benefits under Section 32.025(g)(2), Human Resources Code, including updated information provided to the organization in accordance with Section 32.025(h), Human Resources Code.

(d) In adopting the guidelines under Subsection (c) for a recipient enrolled in a Medicaid managed care organization's managed care plan who provides to the organization the recipient's contact information through any method other than the recipient's Medicaid application, the commission:

(1) must allow the organization to communicate with the recipient through any electronic means, including telephone, text message, and e-mail, regarding eligibility, enrollment, and other health care matters; and

(2) may not require the organization to submit the recipient's contact preference information to the commission.

Added by Acts 1997, 75th Leg., ch. 1262, Sec. 2, eff. June 20, 1997.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 624 (H.B. 4), Sec. 5, eff. June 15, 2021.

Acts 2023, 88th Leg., R.S., Ch. 582 (H.B. 2802), Sec. 1, eff. September 1, 2023.

Repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(3), eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Without reference to the addition of this section, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01, eff. April 1, 2025.

Sec. 533.0091. SICKLE CELL DISEASE TREATMENT. To the extent possible, the commission shall:

(1) in collaboration with the sickle cell task force

established under Chapter 52, Health and Safety Code:

(A) support initiatives to assist managed care plans in promoting timely, evidence-informed health care services to plan enrollees diagnosed with sickle cell disease to ensure the services reflect national clinical practice guidelines and protocols for sickle cell disease treatment and meet medical necessity criteria; and

(B) address sickle cell disease education for Medicaid providers, including emergency department providers, by collaborating with medical specialty organizations in this state, state agencies, and health-related institutions to promote existing or new continuing education courses or facilitate development of any necessary new courses to improve the diagnosis, treatment, and management of sickle cell disease and the personal treatment of patients with sickle cell disease; and

(2) use the commission's existing data to identify opportunities for improving health outcomes of recipients diagnosed with sickle cell disease by:

(A) reducing hospital admissions and readmissions; and

(B) connecting those recipients to a sickle cell disease health home or sickle cell disease expert.

Added by Acts 2023, 88th Leg., R.S., Ch. 409 (H.B. 1488), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Without reference to the addition of this section, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01, eff. April 1, 2025.

Sec. 533.021. COMMUNITY HEALTH WORKERS. (a) In this section, "community health worker" has the meaning assigned by Section 48.001, Health and Safety Code.

(b) The commission shall allow each Medicaid managed care organization providing health care services under the STAR Medicaid managed care program to categorize services provided by a community health worker as a quality improvement cost, as authorized by federal law, instead of as an administrative expense.

Added by Acts 2023, 88th Leg., R.S., Ch. 796 (H.B. 113), Sec. 1, eff. June 13, 2023.

Without reference to the addition of this subchapter, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01, eff. April 1, 2025.

SUBCHAPTER C. PRESCRIPTION DRUG BENEFITS UNDER CERTAIN OUTPATIENT PHARMACY BENEFIT PLANS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 533.071. PREFERRED DRUG LIST EXCEPTIONS. (a) The commission shall adopt rules allowing exceptions to the preferred drug list if:

(1) the drug required under the preferred drug list:

(A) is contraindicated;

(B) will likely cause an adverse reaction in or physical or mental harm to the recipient; or

(C) is expected to be ineffective based on the known clinical characteristics of the recipient and the known characteristics of the prescription drug regimen;

(2) the recipient previously discontinued taking the preferred drug at any point in the recipient's clinical history and for any length of time because the drug:

(A) was not effective;

(B) had a diminished effect; or

(C) resulted in an adverse event;

(3) the recipient was prescribed and is taking a nonpreferred drug in the antidepressant or antipsychotic drug class and the recipient:

(A) was prescribed the nonpreferred drug before being discharged from an inpatient facility;

(B) is stable on the nonpreferred drug; and

(C) is at risk of experiencing complications from switching from the nonpreferred drug to another drug; or

(4) the preferred drug is not available for reasons outside of the Medicaid managed care organization's control, including because:

(A) the drug is in short supply according to the Food and Drug Administration Drug Shortages Database; or

(B) the drug's manufacturer has placed the drug on backorder or allocation.

(b) An exception provided under this section does not subject the Medicaid managed care plan to liquidated damages for failing to comply with the preferred drug list.

Added by Acts 2023, 88th Leg., R.S., Ch. 739 (H.B. 3286), Sec. 2, eff. September 1, 2023.

Text of chapter effective until April 1, 2025

CHAPTER 539. COMMUNITY COLLABORATIVES

Without reference to the amendment of this section, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(3), eff. April 1, 2025.

Sec. 539.002. GRANTS FOR ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLABORATIVES. (a) To the extent funds are appropriated to the department for that purpose, the department shall make grants to entities, including local governmental entities, nonprofit community organizations, and faith-based community organizations, to establish or expand community collaboratives that bring the public and private sectors together to provide services to persons experiencing homelessness, substance abuse issues, or mental illness. In awarding grants, the department shall give special consideration to entities:

(1) establishing new collaboratives;

(2) establishing or expanding collaboratives that serve two or more counties, each with a population of less than 100,000; or

(3) providing services to an average of at least 50 percent of persons experiencing homelessness in a geographic area served by a Continuum of Care Program funded by the United States Department of Housing and Urban Development according to the last three Point-in-Time surveys of homelessness conducted by that department.

(b) Except as provided by Subsection (c), the department shall require each entity awarded a grant under this section to:

(1) leverage additional funding or in-kind contributions from private contributors or local governments, excluding state or federal funds, in an amount that is at least equal to the amount of

the grant awarded under this section;

(2) provide evidence of significant coordination and collaboration between the entity, local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in establishing or expanding a community collaborative funded by a grant awarded under this section; and

(3) provide evidence of a local law enforcement policy to divert appropriate persons from jails, other detention facilities, or mental health facilities operated by or under contract with the commission to an entity affiliated with a community collaborative for the purpose of providing services to those persons.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1143 (S.B. 58), Sec. 2, eff. September 1, 2013.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 2.03, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 1252 (H.B. 4468), Sec. 4, eff. September 1, 2019.
Acts 2021, 87th Leg., R.S., Ch. 486 (H.B. 3088), Sec. 4, eff. June 14, 2021.
Repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(3), eff. April 1, 2025.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 859 (H.B. 3466), Sec. 2, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Without reference to the addition of this section, this chapter was repealed by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 3.01(3), eff. April 1, 2025.

Sec. 539.010. BIENNIAL REPORT. (a) The department shall prepare a report that includes:

(1) the method by which the department chose entities to award grants to under this chapter;

(2) the amount of each grant awarded to an entity under this chapter;

(3) the number of individuals served by each community collaborative receiving grant funds under this chapter; and

(4) the results of the annual review of outcome measures required by Section 539.006.

(b) Not later than September 1 of each even-numbered year, the department shall submit a report described by Subsection (a) to:

(1) the lieutenant governor;

(2) the speaker of the house of representatives;

(3) the standing committees of the legislature having primary jurisdiction over the department and state finance; and

(4) the Legislative Budget Board.

Added by Acts 2023, 88th Leg., R.S., Ch. 859 (H.B. 3466), Sec. 3, eff. September 1, 2023.

CHAPTER 540. MEDICAID MANAGED CARE PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 540.0001. DEFINITIONS. In this chapter:

(1) Notwithstanding Section 521.0001(2), "commission" means the Health and Human Services Commission or an agency operating part of the Medicaid managed care program, as appropriate.

(2) "Health care service region" or "region" means a Medicaid managed care service area the commission delineates.

(3) "Managed care organization" means a person that is authorized or otherwise permitted by law to arrange for or provide a managed care plan.

(4) "Managed care plan" means a plan under which a person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care service. A part of the plan must consist of arranging for or providing health care services as distinguished from indemnification against the cost of those services on a prepaid basis through insurance or otherwise. The term includes a primary care case management provider network. The term does not include a plan that indemnifies a person for the cost of health care services through insurance.

(5) "Potentially preventable event" has the meaning assigned by Section 543A.0001.

(6) "Recipient" means a Medicaid recipient.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

SUBCHAPTER B. ADMINISTRATION OF MEDICAID MANAGED CARE PROGRAM

Sec. 540.0051. PURPOSE AND IMPLEMENTATION. The commission shall implement the Medicaid managed care program by contracting with managed care organizations in a manner that, to the extent possible:

(1) improves the health of Texans by:

(A) emphasizing prevention;

(B) promoting continuity of care; and

(C) providing a medical home for recipients;

(2) ensures each recipient receives high quality, comprehensive health care services in the recipient's local community;

(3) encourages training of and access to primary care physicians and providers;

(4) maximizes cooperation with existing public health entities, including local health departments;

(5) provides incentives to managed care organizations to improve the quality of health care services for recipients by providing value-added services; and

(6) reduces administrative and other nonfinancial barriers for recipients in obtaining health care services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0052. RECIPIENT DIRECTORY. The commission shall, in accordance with a single source of truth design:

(1) maintain an accurate electronic directory of contact information for each recipient enrolled in a Medicaid managed care plan offered by a managed care organization, including, to the extent feasible, each recipient's:

(A) home, work, and mobile telephone numbers;

(B) e-mail address; and

(C) home and work addresses; and

(2) ensure that each Medicaid managed care organization and enrollment broker participating in the Medicaid managed care program update the electronic directory in real time.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0053. STATEWIDE EFFORT TO PROMOTE MEDICAID ELIGIBILITY MAINTENANCE. (a) The commission shall develop and implement a statewide effort to assist recipients who satisfy Medicaid eligibility requirements and who receive Medicaid services through a Medicaid managed care organization with:

(1) maintaining eligibility; and

(2) avoiding lapses in Medicaid coverage.

(b) As part of the commission's effort under Subsection (a), the commission shall:

(1) require each Medicaid managed care organization to assist the organization's recipients with maintaining eligibility;

(2) if the commission determines it is cost-effective, develop specific strategies for assisting recipients who receive Supplemental Security Income (SSI) benefits under 42 U.S.C. Section 1381 et seq. with maintaining eligibility; and

(3) ensure information relevant to a recipient's eligibility status is provided to the recipient's Medicaid managed care organization.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0054. PROVIDER AND RECIPIENT EDUCATION PROGRAMS. (a) In adopting rules to implement a Medicaid managed care program, the executive commissioner shall establish guidelines for, and require Medicaid managed care organizations to provide, education programs for providers and recipients using a variety of techniques and media.

(b) A provider education program must include information on:

(1) Medicaid policies, procedures, eligibility standards, and benefits;

(2) recipients' specific problems and needs; and

(3) recipients' rights and responsibilities under the bill of rights and the bill of responsibilities prescribed by Section 532.0301.

(c) A recipient education program must present information in a

manner that is easy to understand. A program must include information on:

(1) a recipient's rights and responsibilities under the bill of rights and the bill of responsibilities prescribed by Section 532.0301;

(2) how to access health care services;

(3) how to access complaint procedures and the recipient's right to bypass the Medicaid managed care organization's internal complaint system and use the notice and appeal procedures otherwise required by Medicaid;

(4) Medicaid policies, procedures, eligibility standards, and benefits;

(5) the Medicaid managed care organization's policies and procedures; and

(6) the importance of prevention, early intervention, and appropriate use of services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 963, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 540.0055. MARKETING GUIDELINES. (a) The commission shall establish marketing guidelines for Medicaid managed care organizations, including guidelines that prohibit:

(1) door-to-door marketing to a recipient by a Medicaid managed care organization or the organization's agent;

(2) using marketing materials with inaccurate or misleading information;

(3) making a misrepresentation to a recipient or provider;

(4) offering a recipient a material or financial incentive to choose a Medicaid managed care plan, other than a nominal gift or free health screening the commission approves that the Medicaid managed care organization offers to all recipients regardless of whether the recipients enroll in the plan;

(5) using a marketing agent who is paid solely by commission; and

(6) face-to-face marketing at a public assistance office by

a Medicaid managed care organization or the organization's agent.

(b) This section does not prohibit:

(1) distributing approved marketing materials at a public assistance office; or

(2) providing information directly to a recipient under marketing guidelines the commission establishes.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 540.0056. GUIDELINES FOR COMMUNICATIONS WITH RECIPIENTS. The executive commissioner shall adopt and publish guidelines for Medicaid managed care organizations regarding how an organization may communicate by text message or e-mail with a recipient enrolled in the organization's Medicaid managed care plan using the contact information provided in the recipient's application for Medicaid benefits under Section 32.025(g)(2), Human Resources Code, including updated information provided to the organization in accordance with Section 32.025(h), Human Resources Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0057. COORDINATION OF EXTERNAL OVERSIGHT ACTIVITIES. (a) To the extent possible, the commission shall coordinate all external oversight activities to minimize duplicating oversight of Medicaid managed care plans and disrupting operations under those plans.

(b) The executive commissioner, after consulting with the commission's office of inspector general, shall by rule define the commission's and office's roles in, jurisdiction over, and frequency of audits of Medicaid managed care organizations that are conducted by the commission and the office.

(c) In accordance with Section 544.0109, the commission shall share with the commission's office of inspector general, at the

office's request, the results of any informal audit or on-site visit that could inform the office's risk assessment when determining:

(1) whether to conduct an audit of a Medicaid managed care organization; or

(2) the scope of the audit.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0058. INFORMATION FOR FRAUD CONTROL. (a) Each Medicaid managed care organization shall submit at no cost to the commission and, on request, the office of the attorney general:

(1) a description of any financial or other business relationship between the organization and any subcontractor providing health care services under the contract between the organization and the commission;

(2) a copy of each type of contract between the organization and a subcontractor relating to the delivery of or payment for health care services;

(3) a description of the fraud control program any subcontractor that delivers health care services uses; and

(4) a description and breakdown of all funds paid to or by the organization, including a health maintenance organization, primary care case management provider, pharmacy benefit manager, and exclusive provider organization, necessary for the commission to determine the actual cost of administering the Medicaid managed care plan.

(b) The information under this section must be:

(1) submitted in the form the commission or the office of the attorney general, as applicable, requires; and

(2) updated as the commission or the office of the attorney general, as applicable, requires.

(c) The commission's office of inspector general or the office of the attorney general, as applicable, shall review the information a Medicaid managed care organization submits under this section as appropriate in investigating fraud in the Medicaid managed care program.

(d) Information a Medicaid managed care organization submits to the commission or the office of the attorney general under Subsection

(a)(1) is confidential and not subject to disclosure under Chapter 552.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0059. MANAGED CARE CLINICAL IMPROVEMENT PROGRAM. (a) In consultation with appropriate stakeholders with an interest in the provision of acute care services and long-term services and supports under the Medicaid managed care program, the commission shall:

(1) establish a clinical improvement program to identify goals designed to:

(A) improve quality of care and care management; and

(B) reduce potentially preventable events; and

(2) require Medicaid managed care organizations to develop and implement collaborative program improvement strategies to address the goals.

(b) Goals established under this section may be set by geographic region and program type.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0060. COMPLAINT SYSTEM GUIDELINES. (a) The Texas Department of Insurance, in conjunction with the commission, shall establish complaint system guidelines for Medicaid managed care organizations.

(b) The guidelines must require that information regarding a Medicaid managed care organization's complaint process be made available to a recipient in an appropriate communication format when the recipient enrolls in the Medicaid managed care program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER C. FISCAL PROVISIONS

Sec. 540.0101. FISCAL SOLVENCY STANDARDS. The Texas Department of Insurance, in conjunction with the commission, shall establish

fiscal solvency standards for Medicaid managed care organizations.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0102. PROFIT SHARING. (a) The executive commissioner shall adopt rules regarding the sharing of profits earned by a Medicaid managed care organization through a Medicaid managed care plan.

(b) Except as provided by Subsection (c), any amount this state receives under this section shall be deposited in the general revenue fund.

(c) If cost-effective, the commission may use amounts this state receives under this section to provide incentives to specific Medicaid managed care organizations to promote quality of care, encourage payment reform, reward local service delivery reform, increase efficiency, and reduce inappropriate or preventable service utilization.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0103. TREATMENT OF STATE TAXES IN CALCULATING EXPERIENCE REBATE OR PROFIT SHARING. The commission shall ensure that any experience rebate or profit sharing for Medicaid managed care organizations is calculated by treating premium, maintenance, and other taxes under the Insurance Code and any other taxes payable to this state as allowable expenses to determine the amount of the experience rebate or profit sharing.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER D. STRATEGY FOR MANAGING AUDIT RESOURCES

Sec. 540.0151. DEFINITIONS. In this subchapter:

(1) "Accounts receivable tracking system" means the system the commission uses to track experience rebates and other payments collected from managed care organizations.

(2) "Agreed-upon procedures engagement" means an evaluation of a managed care organization's financial statistical reports or other data conducted by an independent auditing firm the commission engages as agreed in the managed care organization's contract with the commission.

(3) "Experience rebate" means the amount a managed care organization is required to pay this state according to the graduated rebate method described in the organization's contract with the commission.

(4) "External quality review organization" means an organization that performs an external quality review of a managed care organization in accordance with 42 C.F.R. Section 438.350.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0152. APPLICABILITY AND CONSTRUCTION OF SUBCHAPTER. This subchapter does not apply to and may not be construed as affecting the conduct of audits by the commission's office of inspector general under the authority provided by Subchapter C, Chapter 544, including an audit of a managed care organization the office conducts after coordinating the office's audit and oversight activities with the commission as required by Section 544.0109(c).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0153. OVERALL STRATEGY FOR MANAGING AUDIT RESOURCES. The commission shall develop and implement an overall strategy for planning, managing, and coordinating audit resources that the commission uses to verify the accuracy and reliability of program and financial information managed care organizations report.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0154. PERFORMANCE AUDIT SELECTION PROCESS AND FOLLOW-UP. (a) To improve the commission's processes for performance

audits of managed care organizations, the commission shall:

(1) document the process by which the commission selects organizations to audit;

(2) include previous audit coverage as a risk factor in selecting organizations to audit; and

(3) prioritize the highest risk organizations to audit.

(b) To verify that managed care organizations correct negative performance audit findings, the commission shall:

(1) establish a process to:

(A) document how the commission follows up on those findings; and

(B) verify that organizations implement performance audit recommendations; and

(2) establish and implement policies and procedures to:

(A) determine under what circumstances the commission must issue a corrective action plan to an organization based on a performance audit; and

(B) follow up on the organization's implementation of the plan.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0155. AGREED-UPON PROCEDURES ENGAGEMENTS AND CORRECTIVE ACTION PLANS. To enhance the commission's use of agreed-upon procedures engagements to identify managed care organizations' performance and compliance issues, the commission shall:

(1) ensure that financial risks identified in agreed-upon procedures engagements are adequately and consistently addressed; and

(2) establish policies and procedures to determine under what circumstances the commission must issue a corrective action plan based on an agreed-upon procedures engagement.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0156. AUDITS OF PHARMACY BENEFIT MANAGERS. To obtain greater assurance about the effectiveness of pharmacy benefit managers' internal controls and compliance with state requirements,

the commission shall:

(1) periodically audit each pharmacy benefit manager that contracts with a managed care organization; and

(2) develop, document, and implement a monitoring process to ensure that managed care organizations correct and resolve negative findings reported in performance audits or agreed-upon procedures engagements of pharmacy benefit managers.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0157. COLLECTING COSTS FOR AUDIT-RELATED SERVICES. The commission shall develop, document, and implement billing processes in the commission's Medicaid and CHIP services department to ensure that managed care organizations reimburse the commission for audit-related services as required by contract.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0158. COLLECTION ACTIVITIES RELATED TO PROFIT SHARING. To strengthen the commission's process for collecting shared profits from managed care organizations, the commission shall develop, document, and implement monitoring processes in the commission's Medicaid and CHIP services department to ensure that the commission:

(1) identifies experience rebates deposited in the commission's suspense account and timely transfers those rebates to the appropriate accounts; and

(2) timely follows up on and resolves disputes over experience rebates managed care organizations claim.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0159. USING INFORMATION FROM EXTERNAL QUALITY REVIEWS. (a) To enhance the commission's monitoring of managed care organizations, the commission shall use the information provided by the external quality review organization, including:

(1) detailed data from results of surveys of:

(A) recipients and, if applicable, child health plan program enrollees;

(B) caregivers of those recipients and enrollees; and

(C) Medicaid and, as applicable, child health plan program providers; and

(2) the validation results of matching paid claims data with medical records.

(b) The commission shall document how the commission uses the information described by Subsection (a) to monitor managed care organizations.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0160. SECURITY OF AND PROCESSING CONTROLS OVER INFORMATION TECHNOLOGY SYSTEMS. The commission shall:

(1) strengthen user access controls for the commission's accounts receivable tracking system and network folders that the commission uses to manage the collection of experience rebates;

(2) document daily reconciliations of deposits recorded in the accounts receivable tracking system to the transactions processed in:

(A) the commission's cost accounting system for all health and human services agencies; and

(B) the uniform statewide accounting system; and

(3) develop, document, and implement a process to ensure that the commission formally documents:

(A) all programming changes made to the accounts receivable tracking system; and

(B) the authorization and testing of the changes described by Paragraph (A).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER E. CONTRACT ADMINISTRATION

Sec. 540.0201. CONTRACT ADMINISTRATION IMPROVEMENT EFFORTS. The commission shall make every effort to improve the administration

of contracts with managed care organizations. To improve contract administration, the commission shall:

(1) ensure that the commission has appropriate expertise and qualified staff to effectively manage contracts with managed care organizations under the Medicaid managed care program;

(2) evaluate options for Medicaid payment recovery from a managed care organization if an enrolled recipient:

(A) dies;

(B) is incarcerated;

(C) is enrolled in more than one state program; or

(D) is covered by another liable third party insurer;

(3) maximize Medicaid payment recovery options by contracting with private vendors to assist in recovering capitation payments, payments from other liable third parties, and other payments made to a managed care organization with respect to an enrolled recipient who leaves the managed care program;

(4) decrease the administrative burdens of managed care for this state, managed care organizations, and providers in managed care networks to the extent that those changes are compatible with state law and existing Medicaid managed care contracts, including by:

(A) where possible, decreasing duplicate administrative reporting and process requirements for managed care organizations and providers, such as requirements for submitting:

(i) encounter data;

(ii) quality reports;

(iii) historically underutilized business reports; and

(iv) claims payment summary reports;

(B) allowing a managed care organization to provide updated address information directly to the commission for correction in the state system;

(C) promoting consistency and uniformity among managed care organization policies, including policies relating to:

(i) the preauthorization process;

(ii) lengths of hospital stays;

(iii) filing deadlines;

(iv) levels of care; and

(v) case management services;

(D) reviewing the appropriateness of primary care case management requirements in the admission and clinical criteria

process, such as requirements relating to:

(i) including a separate cover sheet for all communications;

(ii) submitting handwritten communications instead of electronic or typed review processes; and

(iii) admitting patients listed on separate notices; and

(E) providing a portal through which a provider in any managed care organization's provider network may submit acute care services and long-term services and supports claims; and

(5) reserve the right to amend a managed care organization's process for resolving provider appeals of denials based on medical necessity to include an independent review process the commission establishes for final determination of these disputes.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0202. PUBLIC NOTICE OF REQUEST FOR CONTRACT APPLICATIONS. Not later than the 30th day before the date the commission plans to issue a request for applications to enter into a contract with the commission to provide health care services to recipients in a region, the commission shall publish notice of and make available for public review the request for applications and all related nonproprietary documents, including the proposed contract.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0203. CERTIFICATION BY COMMISSION. (a) Before the commission may award a contract under this chapter to a managed care organization, the commission shall evaluate and certify that the organization is reasonably able to fulfill the contract terms, including all federal and state law requirements. Notwithstanding any other law, the commission may not award a contract under this chapter to an organization that does not receive the required certification.

(b) A managed care organization may appeal the commission's denial of certification.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0204. CONTRACT CONSIDERATIONS RELATING TO MANAGED CARE ORGANIZATIONS. In awarding contracts to managed care organizations, the commission shall:

(1) give preference to an organization that has significant participation in the organization's provider network from each health care provider in the region who has traditionally provided care to Medicaid and charity care patients;

(2) give extra consideration to an organization that agrees to assure continuity of care for at least three months beyond a recipient's Medicaid eligibility period;

(3) consider the need to use different managed care plans to meet the needs of different populations; and

(4) consider the ability of an organization to process Medicaid claims electronically.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0205. CONTRACT CONSIDERATIONS RELATING TO PHARMACY BENEFIT MANAGERS. In considering approval of a subcontract between a managed care organization and a pharmacy benefit manager to provide Medicaid prescription drug benefits, the commission shall review and consider whether in the preceding three years the pharmacy benefit manager has been:

(1) convicted of:

(A) an offense involving a material misrepresentation or an act of fraud; or

(B) another violation of state or federal criminal law;

(2) adjudicated to have committed a breach of contract; or

(3) assessed a penalty or fine of $500,000 or more in a state or federal administrative proceeding.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0206. MANDATORY CONTRACTS. (a) Subject to the certification required under Section 540.0203 and the considerations required under Section 540.0204, in providing health care services through Medicaid managed care to recipients in a health care service region, the commission shall contract with a managed care organization in that region that holds a certificate of authority issued under Chapter 843, Insurance Code, to provide health care in that region and that is:

(1) wholly owned and operated by a hospital district in that region;

(2) created by a nonprofit corporation that:

(A) has a contract, agreement, or other arrangement with a hospital district in that region or with a municipality in that region that owns a hospital licensed under Chapter 241, Health and Safety Code, and has an obligation to provide health care to indigent patients; and

(B) under the contract, agreement, or other arrangement, assumes the obligation to provide health care to indigent patients and leases, manages, or operates a hospital facility the hospital district or municipality owns; or

(3) created by a nonprofit corporation that has a contract, agreement, or other arrangement with a hospital district in that region under which the nonprofit corporation acts as an agent of the district and assumes the district's obligation to arrange for services under the Medicaid expansion for children as authorized by Chapter 444 (S.B. 10), Acts of the 74th Legislature, Regular Session, 1995.

(b) A managed care organization described by Subsection (a) is subject to all terms to which other managed care organizations are subject, including all contractual, regulatory, and statutory provisions relating to participation in the Medicaid managed care program.

(c) The commission shall make the awarding and renewal of a mandatory contract under this section to a managed care organization affiliated with a hospital district or municipality contingent on the district or municipality entering into a matching funds agreement to expand Medicaid for children as authorized by Chapter 444 (S.B. 10), Acts of the 74th Legislature, Regular Session, 1995. The commission shall make compliance with the matching funds agreement a condition of the continuation of the contract with the managed care

organization to provide health care services to recipients.

(d) Subsection (c) does not apply if:

(1) the commission does not expand Medicaid for children as authorized by Chapter 444, Acts of the 74th Legislature, Regular Session, 1995; or

(2) a waiver from a federal agency necessary for the expansion is not granted.

(e) In providing health care services through Medicaid managed care to recipients in a health care service region, with the exception of the Harris service area for the STAR Medicaid managed care program, as the commission defined as of September 1, 1999, the commission shall also contract with a managed care organization in that region that holds a certificate of authority as a health maintenance organization issued under Chapter 843, Insurance Code, and that:

(1) is certified under Section 162.001, Occupations Code;

(2) is created by The University of Texas Medical Branch at Galveston; and

(3) has obtained a certificate of authority as a health maintenance organization to serve one or more counties in that region from the Texas Department of Insurance before September 2, 1999.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0207. CONTRACTUAL OBLIGATIONS REVIEW. The commission shall review each Medicaid managed care organization to determine whether the organization is prepared to meet the organization's contractual obligations.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0208. CONTRACT IMPLEMENTATION PLAN. (a) Each Medicaid managed care organization that contracts to provide health care services to recipients in a health care service region shall submit an implementation plan not later than the 90th day before the date the organization plans to begin providing those services in that region through managed care. The implementation plan must include:

(1) specific staffing patterns by function for all operations, including enrollment, information systems, member services, quality improvement, claims management, case management, and provider and recipient training; and

(2) specific time frames for demonstrating preparedness for implementation before the date the organization plans to begin providing those services in that region through managed care.

(b) The commission shall respond to an implementation plan not later than the 10th day after the date a Medicaid managed care organization submits the plan if the plan does not adequately meet preparedness guidelines.

(c) Each Medicaid managed care organization that contracts to provide health care services to recipients in a health care service region shall submit status reports on the implementation plan:

(1) not later than the 60th day and the 30th day before the date the organization plans to begin providing those services in that region through managed care; and

(2) every 30th day after that date until the 180th day after that date.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0209. COMPLIANCE AND READINESS REVIEW. (a) The commission shall conduct a compliance and readiness review of each Medicaid managed care organization:

(1) not later than the 15th day before the date the process of enrolling recipients in a managed care plan the organization issues is to begin in a region; and

(2) not later than the 15th day before the date the organization plans to begin providing health care services to recipients in that region through managed care.

(b) The compliance and readiness review must include an on-site inspection and tests of service authorization and claims payment systems, including:

(1) the Medicaid managed care organization's ability to process claims electronically;

(2) the Medicaid managed care organization's complaint processing systems; and

(3) any other process or system the contract between the Medicaid managed care organization and the commission requires.

(c) The commission may delay recipient enrollment in a managed care plan a Medicaid managed care organization issues if the compliance and readiness review reveals that the organization is not prepared to meet the organization's contractual obligations. The commission shall notify the organization of a decision to delay enrollment in a plan the organization issues.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0210. INTERNET POSTING OF SANCTIONS IMPOSED FOR CONTRACTUAL VIOLATIONS. (a) The commission shall prepare and maintain a record of each enforcement action the commission initiates that results in a sanction, including a penalty, being imposed against a managed care organization for failure to comply with the terms of a contract to provide health care services to recipients through a Medicaid managed care plan the organization issues.

(b) The record must include:

(1) the managed care organization's name and address;

(2) a description of the contractual obligation the organization failed to meet;

(3) the date of determination of noncompliance;

(4) the date the sanction was imposed;

(5) the maximum sanction that may be imposed under the contract for the violation; and

(6) the actual sanction imposed against the organization.

(c) The commission shall:

(1) post and maintain on the commission's Internet website the records required by this section:

(A) in English and Spanish; and

(B) in a format that is readily accessible to and understandable by the public; and

(2) update the list of records on the website at least quarterly.

(d) The commission may not post information under this section that relates to a sanction while the sanction is the subject of an administrative appeal or judicial review.

(e) A record prepared under this section may not include information that is excepted from disclosure under Chapter 552.

(f) The executive commissioner shall adopt rules as necessary to implement this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0211. PERFORMANCE MEASURES AND INCENTIVES FOR VALUE-BASED CONTRACTS. (a) The commission shall establish outcome-based performance measures and incentives to include in each contract between the commission and a health maintenance organization to provide health care services to recipients that is procured and managed under a value-based purchasing model. The performance measures and incentives must:

(1) be designed to facilitate and increase recipient access to appropriate health care services; and

(2) to the extent possible, align with other state and regional quality care improvement initiatives.

(b) Subject to Subsection (c), the commission shall include the performance measures and incentives in each contract described by Subsection (a) in addition to all other contract provisions required by this chapter and Chapter 540A.

(c) The commission may use a graduated approach to including the performance measures and incentives in contracts described by Subsection (a) to ensure incremental and continued improvements over time.

(d) Subject to Subsection (e), the commission shall assess the feasibility and cost-effectiveness of including provisions in a contract described by Subsection (a) that require the health maintenance organization to provide to the providers in the organization's provider network pay-for-performance opportunities that support quality improvements in recipient care. Pay-for-performance opportunities may include incentives for providers to:

(1) provide care after normal business hours;

(2) participate in the early and periodic screening, diagnosis, and treatment program; and

(3) participate in other activities that improve recipient access to care.

(e) The commission shall, to the extent possible, base an assessment of feasibility and cost-effectiveness under Subsection (d) on publicly available, scientifically valid, evidence-based criteria appropriate for assessing the Medicaid population.

(f) In assessing feasibility and cost-effectiveness under Subsection (d), the commission may consult with participating Medicaid providers, including providers with expertise in quality improvement and performance measurement.

(g) If the commission determines that the provisions described by Subsection (d) are feasible and may be cost-effective, the commission shall develop and implement a pilot program in at least one health care service region under which the commission will include the provisions in contracts with health maintenance organizations offering Medicaid managed care plans in the region.

(h) The commission shall post the financial statistical report on the commission's Internet website in a comprehensive and understandable format.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0212. MONITORING COMPLIANCE WITH BEHAVIORAL HEALTH INTEGRATION. (a) In this section, "behavioral health services" has the meaning assigned by Section 540.0703.

(b) In monitoring contracts the commission enters into with Medicaid managed care organizations under this chapter, the commission shall:

(1) ensure the organizations fully integrate behavioral health services into a recipient's primary care coordination;

(2) use performance audits and other oversight tools to improve monitoring of the provision and coordination of behavioral health services; and

(3) establish performance measures that may be used to determine the effectiveness of the behavioral health services integration.

(c) In monitoring a Medicaid managed care organization's compliance with behavioral health services integration requirements under this section, the commission shall give particular attention to an organization that provides behavioral health services through a

contract with a third party.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER F. REQUIRED CONTRACT PROVISIONS

Sec. 540.0251. APPLICABILITY. This subchapter applies to a contract between a Medicaid managed care organization and the commission to provide health care services to recipients.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0252. ACCOUNTABILITY TO STATE. A contract to which this subchapter applies must contain procedures to ensure accountability to this state for providing health care services, including procedures for:

(1) financial reporting;

(2) quality assurance;

(3) utilization review; and

(4) assurance of contract and subcontract compliance.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0253. CAPITATION RATES. A contract to which this subchapter applies must contain capitation rates that:

(1) include acuity and risk adjustment methodologies that consider the costs of providing acute care services and long-term services and supports, including private duty nursing services, provided under the Medicaid managed care plan; and

(2) ensure the cost-effective provision of quality health care.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0254. COST INFORMATION. A contract to which this subchapter applies must require the contracting Medicaid managed care organization and any entity with which the organization contracts to perform services under a Medicaid managed care plan to disclose at no cost to the commission and, on request, the office of the attorney general all agreements affecting the net cost of goods or services provided under the plan, including:

(1) discounts;

(2) incentives;

(3) rebates;

(4) fees;

(5) free goods; and

(6) bundling arrangements.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0255. FRAUD CONTROL. A contract to which this subchapter applies must require the contracting Medicaid managed care organization to:

(1) provide the information required by Section 540.0058; and

(2) otherwise comply and cooperate with the commission's office of inspector general and the office of the attorney general.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0256. RECIPIENT OUTREACH AND EDUCATION. A contract to which this subchapter applies must:

(1) require the contracting Medicaid managed care organization to provide:

(A) information about the availability of and referral to educational, social, and other community services that could benefit a recipient; and

(B) special programs and materials for recipients with limited English proficiency or low literacy skills; and

(2) contain procedures for recipient outreach and education.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0257. NOTICE OF MEDICAID CERTIFICATION DATE. A contract to which this subchapter applies must require the commission to inform the contracting Medicaid managed care organization, on the date of a recipient's enrollment in a Medicaid managed care plan the organization issues, of the recipient's Medicaid certification date.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0258. PRIMARY CARE PROVIDER ASSIGNMENT. A contract to which this subchapter applies must require the contracting Medicaid managed care organization to make initial and subsequent primary care provider assignments and changes.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0259. COMPLIANCE WITH PROVIDER NETWORK REQUIREMENTS. A contract to which this subchapter applies must require the contracting Medicaid managed care organization to comply with Sections 540.0651(a)(1) and (2) and (b) as a condition of contract retention and renewal.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0260. COMPLIANCE WITH PROVIDER ACCESS STANDARDS; REPORT. A contract to which this subchapter applies must require the contracting Medicaid managed care organization to:

(1) develop and submit to the commission, before the organization begins providing health care services to recipients, a comprehensive plan that describes how the organization's provider network complies with the provider access standards the commission establishes under Section 540.0652;

(2) as a condition of contract retention and renewal:

(A) continue to comply with the provider access standards; and

(B) make substantial efforts, as the commission determines, to mitigate or remedy any noncompliance with the provider access standards;

(3) pay liquidated damages for each failure, as the commission determines, to comply with the provider access standards in amounts that are reasonably related to the noncompliance; and

(4) regularly, as the commission determines, submit to the commission and make available to the public a report containing:

(A) data on the organization's provider network sufficiency with regard to providing the care and services described by Section 540.0652(a); and

(B) specific data with respect to access to primary care, specialty care, long-term services and supports, nursing services, and therapy services on the average length of time between:

(i) the date a provider requests prior authorization for the care or service and the date the organization approves or denies the request; and

(ii) the date the organization approves a request for prior authorization for the care or service and the date the care or service is initiated.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0261. PROVIDER NETWORK SUFFICIENCY. A contract to which this subchapter applies must require the contracting Medicaid managed care organization to demonstrate to the commission, before the organization begins providing health care services to recipients, that, subject to the provider access standards the commission establishes under Section 540.0652:

(1) the organization's provider network has the capacity to serve the number of recipients expected to enroll in a Medicaid managed care plan the organization offers;

(2) the organization's provider network includes:

(A) a sufficient number of primary care providers;

(B) a sufficient variety of provider types;

(C) a sufficient number of long-term services and supports providers and specialty pediatric care providers of home and community-based services; and

(D) providers located throughout the region in which the organization will provide health care services; and

(3) health care services will be accessible to recipients through the organization's provider network to a comparable extent that health care services would be available to recipients under a fee-for-service model or primary care case management Medicaid managed care model.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0262. QUALITY MONITORING PROGRAM FOR HEALTH CARE SERVICES. A contract to which this subchapter applies must require the contracting Medicaid managed care organization to develop a monitoring program for measuring the quality of the health care services provided by the organization's provider network that:

(1) incorporates the National Committee for Quality Assurance's Healthcare Effectiveness Data and Information Set (HEDIS) measures or, as applicable, the national core indicators adult consumer survey and the national core indicators child family survey for individuals with an intellectual or developmental disability;

(2) focuses on measuring outcomes; and

(3) includes collecting and analyzing clinical data relating to prenatal care, preventive care, mental health care, and the treatment of acute and chronic health conditions and substance use disorder.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0263. OUT-OF-NETWORK PROVIDER USAGE AND REIMBURSEMENT. (a) A contract to which this subchapter applies must require that:

(1) the contracting Medicaid managed care organization's usages of out-of-network providers or groups of out-of-network providers may not exceed limits the commission determines for those usages relating to total inpatient admissions, total outpatient

services, and emergency room admissions; and

(2) the organization reimburse an out-of-network provider for health care services at a rate that is equal to the allowable rate for those services as determined under Sections 32.028 and 32.0281, Human Resources Code, if the commission finds that the organization violated Subdivision (1).

(b) In accordance with Subsection (a)(2), a Medicaid managed care organization must reimburse an out-of-network provider of poststabilization services for providing the services at the allowable rate for those services until the organization arranges for the recipient's timely transfer, as the recipient's attending physician determines, to a provider in the organization's provider network. The organization may not refuse to reimburse an out-of-network provider for emergency or poststabilization services provided as a result of the organization's failure to arrange for and authorize a recipient's timely transfer.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0264. PROVIDER REIMBURSEMENT RATE REDUCTION. (a) A contract to which this subchapter applies must require that the contracting Medicaid managed care organization not implement a significant, nonnegotiated, across-the-board provider reimbursement rate reduction unless:

(1) subject to Subsection (b), the organization has the commission's prior approval to implement the reduction; or

(2) the rate reduction is based on changes to the Medicaid fee schedule or cost containment initiatives the commission implements.

(b) A provider reimbursement rate reduction a Medicaid managed care organization proposes is considered to have received the commission's prior approval unless the commission issues a written statement of disapproval not later than the 45th day after the date the commission receives notice of the proposed rate reduction from the organization.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0265. PROMPT PAYMENT OF CLAIMS. (a) A contract to which this subchapter applies must require the contracting Medicaid managed care organization to pay a physician or provider for health care services provided to a recipient under a Medicaid managed care plan on any claim for payment the organization receives with documentation reasonably necessary for the organization to process the claim:

(1) not later than:

(A) the 10th day after the date the organization receives the claim if the claim relates to services a nursing facility, intermediate care facility, or group home provided;

(B) the 30th day after the date the organization receives the claim if the claim relates to the provision of long-term services and supports not subject to Paragraph (A); and

(C) the 45th day after the date the organization receives the claim if the claim is not subject to Paragraph (A) or (B); or

(2) within a period, not to exceed 60 days, specified by a written agreement between the physician or provider and the organization.

(b) A contract to which this subchapter applies must require the contracting Medicaid managed care organization to demonstrate to the commission that the organization pays claims described by Subsection (a)(1)(B) on average not later than the 21st day after the date the organization receives the claim.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0266. REIMBURSEMENT FOR CERTAIN SERVICES PROVIDED OUTSIDE REGULAR BUSINESS HOURS. (a) A contract to which this subchapter applies must require the contracting Medicaid managed care organization to reimburse a federally qualified health center or rural health clinic for health care services provided to a recipient outside of regular business hours, including on a weekend or holiday, at a rate that is equal to the allowable rate for those services as determined under Section 32.028, Human Resources Code, if the recipient does not have a referral from the recipient's primary care physician.

(b) The executive commissioner shall adopt rules regarding the days, times of days, and holidays that are considered to be outside of regular business hours for purposes of Subsection (a).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0267. PROVIDER APPEALS PROCESS. (a) A contract to which this subchapter applies must require the contracting Medicaid managed care organization to develop, implement, and maintain a system for tracking and resolving provider appeals related to claims payment. The system must include a process that requires:

(1) a tracking mechanism to document the status and final disposition of each provider's claims payment appeal;

(2) contracting with physicians who are not network providers and who are of the same or related specialty as the appealing physician to resolve claims disputes that:

(A) relate to denial on the basis of medical necessity; and

(B) remain unresolved after a provider appeal;

(3) the determination of the physician resolving the dispute to be binding on the organization and provider; and

(4) the organization to allow a provider to initiate an appeal of a claim that has not been paid before the time prescribed by Section 540.0265(a)(1)(B).

(b) A contract to which this subchapter applies must require the contracting Medicaid managed care organization to develop and establish a process for responding to provider appeals in the region in which the organization provides health care services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0268. ASSISTANCE RESOLVING RECIPIENT AND PROVIDER ISSUES. A contract to which this subchapter applies must require the contracting Medicaid managed care organization to provide ready access to a person who assists:

(1) a recipient in resolving issues relating to enrollment, plan administration, education and training, access to services, and

grievance procedures; and

(2) a provider in resolving issues relating to payment, plan administration, education and training, and grievance procedures.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0269. USE OF ADVANCED PRACTICE REGISTERED NURSES AND PHYSICIAN ASSISTANTS. (a) A contract to which this subchapter applies must require the contracting Medicaid managed care organization, notwithstanding any other law, including Sections 843.312 and 1301.052, Insurance Code, to:

(1) use advanced practice registered nurses and physician assistants as primary care providers in addition to physicians to increase the availability of primary care providers in the organization's provider network; and

(2) treat advanced practice registered nurses and physician assistants in the same manner as primary care physicians with regard to:

(A) selection and assignment as primary care providers;

(B) inclusion as primary care providers in the organization's provider network; and

(C) inclusion as primary care providers in any provider network directory the organization maintains.

(b) For purposes of this section, an advanced practice registered nurse may be included as a primary care provider in a Medicaid managed care organization's provider network regardless of whether the physician supervising the advanced practice registered nurse is in the provider network. This subsection may not be construed as authorizing a Medicaid managed care organization to supervise or control the practice of medicine as prohibited by Subtitle B, Title 3, Occupations Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0270. MEDICAL DIRECTOR AVAILABILITY. A contract to which this subchapter applies must require that a medical director

who is authorized to make medical necessity determinations be available to the region in which the contracting Medicaid managed care organization provides health care services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0271. PERSONNEL REQUIRED IN CERTAIN SERVICE REGIONS. A contract to which this subchapter applies must require a contracting Medicaid managed care organization that provides a Medicaid managed care plan in the South Texas service region to ensure the following personnel are located in that region:

(1) a medical director;

(2) patient care coordinators; and

(3) provider and recipient support services personnel.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 26, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 540.0272. CERTAIN SERVICES PERMITTED IN LIEU OF OTHER MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES; ANNUAL REPORT. A contract to which this subchapter applies must contain language permitting the contracting Medicaid managed care organization to offer medically appropriate, cost-effective, evidence-based services from a list approved by the state Medicaid managed care advisory committee and included in the contract in lieu of mental health or substance use disorder services specified in the state Medicaid plan. A recipient is not required to use a service from the list included in the contract in lieu of another mental health or substance use disorder service specified in the state Medicaid plan. The commission shall:

(1) prepare and submit to the legislature an annual report on the number of times during the preceding year a service from the list included in the contract is used; and

(2) consider the actual cost and use of any services from

the list included in the contract that are offered by a Medicaid managed care organization when setting the capitation rates for that organization under the contract.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 540.0273. OUTPATIENT PHARMACY BENEFIT PLAN. (a) Subject to Subsection (b), a contract to which this subchapter applies must require the contracting Medicaid managed care organization to develop, implement, and maintain an outpatient pharmacy benefit plan for the organization's enrolled recipients that:

(1) except as provided by Section 540.0280(2), exclusively employs the vendor drug program formulary and preserves this state's ability to reduce Medicaid fraud, waste, and abuse;

(2) adheres to the applicable preferred drug list the commission adopts under Subchapter E, Chapter 549;

(3) except as provided by Section 540.0280(1), includes the prior authorization procedures and requirements prescribed by or implemented under Sections 549.0257(a) and (c) and 549.0259 for the vendor drug program;

(4) does not require a clinical, nonpreferred, or other prior authorization for any antiretroviral drug, as defined by Section 549.0252, or a step therapy or other protocol, that could restrict or delay the dispensing of the drug except to minimize fraud, waste, or abuse; and

(5) does not require prior authorization for a nonpreferred antipsychotic drug prescribed to an adult recipient if the requirements of Section 549.0253(a) are met.

(b) The requirements imposed by Subsections (a)(1)-(3) do not apply, and may not be enforced, on and after August 31, 2023.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0274. PHARMACY BENEFIT PLAN: REBATES AND RECEIPT OF CONFIDENTIAL INFORMATION PROHIBITED. A Medicaid managed care organization, for purposes of the organization's outpatient pharmacy benefit plan required by Section 540.0273 in a contract to which this subchapter applies, may not:

(1) negotiate or collect rebates associated with pharmacy products on the vendor drug program formulary; or

(2) receive drug rebate or pricing information that is confidential under Subchapter D, Chapter 549.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0275. PHARMACY BENEFIT PLAN: CERTAIN PHARMACY BENEFITS FOR SEX OFFENDERS PROHIBITED. A Medicaid managed care organization's pharmacy benefit plan required by Section 540.0273 in a contract to which this subchapter applies must comply with the prohibition under Section 549.0004.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0276. PHARMACY BENEFIT PLAN: RECIPIENT SELECTION OF PHARMACEUTICAL SERVICES PROVIDER. A Medicaid managed care organization, under the organization's pharmacy benefit plan required by Section 540.0273 in a contract to which this subchapter applies, may not prohibit, limit, or interfere with a recipient's selection of a pharmacy or pharmacist of the recipient's choice to provide pharmaceutical services under the plan by imposing different copayments.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0277. PHARMACY BENEFIT PLAN: PHARMACY BENEFIT PROVIDERS. (a) A Medicaid managed care organization's pharmacy benefit plan required by Section 540.0273 in a contract to which this subchapter applies must allow the organization or any subcontracted

pharmacy benefit manager to contract with a pharmacist or pharmacy providers separately for specialty pharmacy services, except that:

(1) the organization and pharmacy benefit manager are prohibited from allowing exclusive contracts with a specialty pharmacy owned wholly or partly by the pharmacy benefit manager responsible for administering the pharmacy benefit program; and

(2) the organization and pharmacy benefit manager must adopt policies and procedures for reclassifying prescription drugs from retail to specialty drugs that:

(A) are consistent with rules the executive commissioner adopts; and

(B) include notice to network pharmacy providers from the organization.

(b) A Medicaid managed care organization, under the organization's pharmacy benefit plan required by Section 540.0273 in a contract to which this subchapter applies:

(1) may not prevent a pharmacy or pharmacist from participating as a provider if the pharmacy or pharmacist agrees to comply with the financial terms, as well as other reasonable administrative and professional terms, of the contract;

(2) may include mail-order pharmacies in the organization's networks, but may not require enrolled recipients to use those pharmacies; and

(3) may not charge an enrolled recipient who opts to use a mail-order pharmacy a fee, including a postage or handling fee.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0278. PHARMACY BENEFIT PLAN: PROMPT PAYMENT OF PHARMACY BENEFIT CLAIMS. A Medicaid managed care organization or pharmacy benefit manager, as applicable, under the organization's pharmacy benefit plan required by Section 540.0273 in a contract to which this subchapter applies, must pay claims in accordance with Section 843.339, Insurance Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0279. PHARMACY BENEFIT PLAN: MAXIMUM ALLOWABLE COST PRICE AND LIST FOR PHARMACY BENEFITS. (a) A Medicaid managed care organization or pharmacy benefit manager, as applicable, under the organization's pharmacy benefit plan required by Section 540.0273 in a contract to which this subchapter applies, must:

(1) ensure that, to place a drug on a maximum allowable cost list:

(A) the drug is listed as "A" or "B" rated in the most recent version of the United States Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations, also known as the Orange Book, has an "NR" or "NA" rating or a similar rating by a nationally recognized reference; and

(B) the drug is generally available for purchase by pharmacies in this state from national or regional wholesalers and is not obsolete;

(2) review and update maximum allowable cost price information at least once every seven days to reflect any maximum allowable cost pricing modification;

(3) in formulating a drug's maximum allowable cost price, use only the price of the drug and drugs listed as therapeutically equivalent in the most recent version of the United States Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations, also known as the Orange Book;

(4) establish a process for eliminating products from the maximum allowable cost list or modifying maximum allowable cost prices in a timely manner to remain consistent with pricing changes and product availability in the marketplace; and

(5) notify the commission not later than the 21st day after implementing a practice of using a maximum allowable cost list for drugs dispensed at retail but not by mail.

(b) A Medicaid managed care organization or pharmacy benefit manager, as applicable, under the organization's pharmacy benefit plan required by Section 540.0273 in a contract to which this subchapter applies, must:

(1) provide a procedure for a network pharmacy provider to challenge a drug's listed maximum allowable cost price;

(2) respond to a challenge not later than the 15th day after the date the provider makes the challenge;

(3) if the challenge is successful, adjust the drug price effective on the date the challenge is resolved and make the

adjustment applicable to all similarly situated network pharmacy providers, as the Medicaid managed care organization or pharmacy benefit manager, as appropriate, determines;

(4) if the challenge is denied, provide the reason for the denial; and

(5) report to the commission every 90 days the total number of challenges that were made and denied in the preceding 90-day period for each maximum allowable cost list drug for which a challenge was denied during the period.

(c) A Medicaid managed care organization or pharmacy benefit manager, as applicable, under the organization's pharmacy benefit plan required by Section 540.0273 in a contract to which this subchapter applies, must provide:

(1) to a network pharmacy provider, at the time the organization or pharmacy benefit manager enters into or renews a contract with the provider, the sources used to determine the maximum allowable cost pricing for the maximum allowable cost list specific to that provider; and

(2) a process for each network pharmacy provider to readily access the maximum allowable cost list specific to that provider.

(d) Except as provided by Subsection (c)(2), a maximum allowable cost list specific to a provider that a Medicaid managed care organization or pharmacy benefit manager maintains is confidential.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0280. PHARMACY BENEFIT PLAN: PHARMACY BENEFITS FOR CHILD ENROLLED IN STAR KIDS MANAGED CARE PROGRAM. A Medicaid managed care organization or pharmacy benefit manager, as applicable, under the organization's pharmacy benefit plan required by Section 540.0273 in a contract to which this subchapter applies:

(1) may not require a prior authorization, other than a clinical prior authorization or a prior authorization the commission imposes to minimize the opportunity for fraud, waste, or abuse, for or impose any other barriers to a drug that is prescribed to a child enrolled in the STAR Kids managed care program for a particular disease or treatment and that is on the vendor drug program formulary

or require additional prior authorization for a drug included in the preferred drug list the commission adopts under Subchapter E, Chapter 549;

(2) must provide continued access to a drug prescribed to a child enrolled in the STAR Kids managed care program, regardless of whether the drug is on the vendor drug program formulary or, if applicable on or after August 31, 2023, the organization's formulary;

(3) may not use a protocol that requires a child enrolled in the STAR Kids managed care program to use a prescription drug or sequence of prescription drugs other than the drug the child's physician recommends for the child's treatment before the organization will cover the recommended drug; and

(4) must pay liquidated damages to the commission for each failure, as the commission determines, to comply with this section in an amount that is a reasonable forecast of the damages caused by the noncompliance.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER G. PRIOR AUTHORIZATION AND UTILIZATION REVIEW PROCEDURES

Sec. 540.0301. INAPPLICABILITY OF CERTAIN OTHER LAW TO MEDICAID MANAGED CARE UTILIZATION REVIEWS. Section 4201.304(a)(2), Insurance Code, does not apply to a Medicaid managed care organization or a utilization review agent who conducts utilization reviews for a Medicaid managed care organization.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0302. PRIOR AUTHORIZATION PROCEDURES FOR HOSPITALIZED RECIPIENT. (a) This section applies only to a prior authorization request submitted with respect to a recipient who is hospitalized at the time of the request.

(b) In addition to the requirements of Subchapter F, a contract between a Medicaid managed care organization and the commission to which that subchapter applies must require that, notwithstanding any other law, the organization review and issue a determination on a prior authorization request to which this section applies according

to the following time frames:

(1) within one business day after the organization receives the request, except as provided by Subdivisions (2) and (3);

(2) within 72 hours after the organization receives the request if a provider of acute care inpatient services submits the request and the request is for services or equipment necessary to discharge the recipient from an inpatient facility; or

(3) within one hour after the organization receives the request if the request is related to poststabilization care or a life-threatening condition.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0303. PRIOR AUTHORIZATION PROCEDURES FOR NONHOSPITALIZED RECIPIENT. (a) This section applies only to a prior authorization request submitted with respect to a recipient who is not hospitalized at the time of the request.

(b) In addition to the requirements of Subchapter F, a contract between a Medicaid managed care organization and the commission to which that subchapter applies must require that the organization review and issue a determination on a prior authorization request to which this section applies according to the following time frames:

(1) within three business days after the organization receives the request; or

(2) within the time frame and following the process the commission establishes if the organization receives a prior authorization request that does not include sufficient or adequate documentation.

(c) In consultation with the state Medicaid managed care advisory committee, the commission shall establish a process for use by a Medicaid managed care organization that receives a prior authorization request to which this section applies that does not include sufficient or adequate documentation. The process must provide a time frame within which a provider may submit the necessary documentation. The time frame must be longer than the time frame specified by Subsection (b)(1).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0304. ANNUAL REVIEW OF PRIOR AUTHORIZATION REQUIREMENTS. (a) Each Medicaid managed care organization, in consultation with the organization's provider advisory group required by contract, shall develop and implement a process for conducting an annual review of the organization's prior authorization requirements. The annual review process does not apply to a prior authorization requirement prescribed by or implemented under Subchapter F, Chapter 549, for the vendor drug program.

(b) In conducting an annual review, a Medicaid managed care organization must:

(1) solicit, receive, and consider input from providers in the organization's provider network; and

(2) ensure that each prior authorization requirement is based on accurate, up-to-date, evidence-based, and peer-reviewed clinical criteria that, as appropriate, distinguish between categories of recipients for whom prior authorization requests are submitted, including age categories.

(c) A Medicaid managed care organization may not impose a prior authorization requirement, other than a prior authorization requirement prescribed by or implemented under Subchapter F, Chapter 549, for the vendor drug program, unless the organization reviewed the requirement during the most recent annual review.

(d) The commission shall periodically review each Medicaid managed care organization to ensure the organization's compliance with this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0305. PHYSICIAN CONSULTATION BEFORE ADVERSE PRIOR AUTHORIZATION DETERMINATION. In addition to the requirements of Subchapter F, a contract between a Medicaid managed care organization and the commission to which that subchapter applies must require that, before issuing an adverse determination on a prior authorization request, the organization provide the physician requesting the prior authorization with a reasonable opportunity to discuss the request with another physician who:

(1) practices in the same or a similar specialty, but not necessarily the same subspecialty; and

(2) has experience in treating the same category of population as the recipient on whose behalf the physician submitted the request.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0306. RECONSIDERATION FOLLOWING ADVERSE DETERMINATIONS ON CERTAIN PRIOR AUTHORIZATION REQUESTS. (a) In consultation with the state Medicaid managed care advisory committee, the commission shall establish a uniform process and timeline for a Medicaid managed care organization to reconsider an adverse determination on a prior authorization request that resulted solely from the submission of insufficient or inadequate documentation. In addition to the requirements of Subchapter F, a contract between a Medicaid managed care organization and the commission to which that subchapter applies must include a requirement that the organization implement the process and timeline.

(b) The process and timeline must:

(1) allow a provider to submit any documentation identified as insufficient or inadequate in the notice provided under Section 532.0403;

(2) allow the provider requesting the prior authorization to discuss the request with another provider who:

(A) practices in the same or a similar specialty, but not necessarily the same subspecialty; and

(B) has experience in treating the same category of population as the recipient on whose behalf the provider submitted the request; and

(3) require the Medicaid managed care organization to amend the determination on the prior authorization request as necessary, considering the additional documentation.

(c) An adverse determination on a prior authorization request is considered a denial of services in an evaluation of the Medicaid managed care organization only if the determination is not amended under Subsection (b)(3) to approve the request.

(d) The process and timeline for reconsidering an adverse

determination on a prior authorization request under this section do not affect:

(1) any related timelines, including the timeline for an internal appeal, a Medicaid fair hearing, or a review conducted by an external medical reviewer; or

(2) any rights of a recipient to appeal a determination on a prior authorization request.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0307. MAXIMUM PERIOD FOR PRIOR AUTHORIZATION DECISION; ACCESS TO CARE. The combined amount of time provided for the time frames prescribed by the utilization review and prior authorization procedures described by Sections 540.0301, 540.0303, and 540.0305 and the timeline for reconsidering an adverse determination on a prior authorization described by Section 540.0306 may not exceed the time frame for a decision under federally prescribed time frames. It is the intent of the legislature that these provisions allow sufficient time to provide necessary documentation and avoid unnecessary denials without delaying access to care.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER H. PREMIUM PAYMENT RATES

Sec. 540.0351. PREMIUM PAYMENT RATE DETERMINATION. (a) In determining premium payment rates paid to a managed care organization under a managed care plan, the commission shall consider:

(1) the regional variation in health care service costs;

(2) the range and type of health care services that premium payment rates are to cover;

(3) the number of managed care plans in a region;

(4) the current and projected number of recipients in each region, including the current and projected number for each category of recipient;

(5) the managed care plan's ability to meet operating costs under the proposed premium payment rates;

(6) the requirements of the Balanced Budget Act of 1997

(Pub. L. No. 105-33) and implementing regulations that require adequacy of premium payments to Medicaid managed care organizations;

(7) the adequacy of the management fee paid for assisting enrollees of Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.) who are voluntarily enrolled in the managed care plan;

(8) the impact of reducing premium payment rates for the category of pregnant recipients; and

(9) the managed care plan's ability under the proposed premium payment rates to pay inpatient and outpatient hospital provider payment rates that are comparable to the inpatient and outpatient hospital provider payment rates the commission pays under a primary care case management model or a partially capitated model.

(b) The premium payment rates paid to a managed care organization that holds a certificate of authority issued under Chapter 843, Insurance Code, must be established by a competitive bid process but may not exceed the maximum premium payment rates the commission establishes under Section 540.0352(b).

(c) The commission shall pursue and, if appropriate, implement premium rate-setting strategies that encourage provider payment reform and more efficient service delivery and provider practices. In pursuing the strategies, the commission shall review and consider strategies employed or under consideration by other states. If necessary, the commission may request a waiver or other authorization from a federal agency to implement strategies the commission identifies under this subsection.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0352. MAXIMUM PREMIUM PAYMENT RATES FOR CERTAIN PROGRAMS. (a) This section applies only to a Medicaid managed care organization that holds a certificate of authority issued under Chapter 843, Insurance Code, and with respect to Medicaid managed care pilot programs, Medicaid behavioral health pilot programs, and Medicaid STAR+PLUS pilot programs implemented in a health care service region after June 1, 1999.

(b) In determining the maximum premium payment rates paid to a Medicaid managed care organization to which this section applies, the commission shall consider and adjust for the regional variation in

costs of services under the traditional fee-for-service component of Medicaid, utilization patterns, and other factors that influence the potential for cost savings. For a service area with a service area factor of.93 or less, or another appropriate service area factor, as the commission determines, the commission may not discount premium payment rates in an amount that is more than the amount necessary to meet federal budget neutrality requirements for projected fee-for-service costs unless:

(1) a historical review of managed care financial results among managed care organizations in the service area the organization serves demonstrates that additional savings are warranted; or

(2) a review of Medicaid fee-for-service delivery in the service area the organization serves has historically shown:

(A) significant recipient overutilization of certain services covered by the premium payment rates in comparison to utilization patterns throughout the rest of this state; or

(B) an above-market cost for services for which there is substantial evidence that Medicaid managed care delivery will reduce the cost of those services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0353. USE OF ENCOUNTER DATA IN DETERMINING PREMIUM PAYMENT RATES AND OTHER PAYMENT AMOUNTS. (a) In determining premium payment rates and other amounts paid to managed care organizations under a managed care plan, the commission may not base or derive the rates or amounts on or from encounter data, or incorporate in the determination an analysis of encounter data, unless a certifier of encounter data certifies that:

(1) the encounter data for the most recent state fiscal year is complete, accurate, and reliable; and

(2) there is no statistically significant variability in the encounter data attributable to incompleteness, inaccuracy, or another deficiency as compared to equivalent data for similar populations and when evaluated against professionally accepted standards.

(b) In determining whether data is equivalent data for similar populations under Subsection (a)(2), a certifier of encounter data

shall, at a minimum, consider:

(1) the regional variation in recipient utilization patterns and health care service costs;

(2) the range and type of health care services premium payment rates are to cover;

(3) the number of managed care plans in the region; and

(4) the current number of recipients in each region, including the number for each recipient category.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER I. ENCOUNTER DATA

Sec. 540.0401. PROVIDER REPORTING OF ENCOUNTER DATA. The commission shall collaborate with Medicaid managed care organizations and health care providers in the organizations' provider networks to develop incentives and mechanisms to encourage providers to report complete and accurate encounter data to the organizations in a timely manner.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0402. CERTIFIER OF ENCOUNTER DATA QUALIFICATIONS. (a) The state Medicaid director shall appoint a person as the certifier of encounter data.

(b) The certifier of encounter data must have:

(1) demonstrated expertise in estimating premium payment rates paid to a managed care organization under a managed care plan; and

(2) access to actuarial expertise, including expertise in estimating premium payment rates paid to a managed care organization under a managed care plan.

(c) A person may not be appointed as the certifier of encounter data if the person participated with the commission in developing premium payment rates for managed care organizations under managed care plans in this state during the three-year period before the date the certifier is appointed.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0403. ENCOUNTER DATA CERTIFICATION. (a) The certifier of encounter data shall certify the completeness, accuracy, and reliability of encounter data for each state fiscal year.

(b) The commission shall make available to the certifier of encounter data all records and data the certifier considers appropriate for evaluating whether to certify the encounter data. The commission shall provide to the certifier selected resources and assistance in obtaining, compiling, and interpreting the records and data.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER J. MANAGED CARE PLAN REQUIREMENTS

Sec. 540.0451. MEDICAID MANAGED CARE PLAN ACCREDITATION. (a) A Medicaid managed care plan must be accredited by a nationally recognized accreditation organization. The commission may:

(1) require all Medicaid managed care plans to be accredited by the same organization; or

(2) allow for accreditation by different organizations.

(b) The commission may use the data, scoring, and other information provided to or received from an accreditation organization in the commission's contract oversight process.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0452. MEDICAL DIRECTOR QUALIFICATIONS. An individual who serves as a medical director for a managed care plan must be a physician licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER K. MEDICAID MANAGED CARE PLAN ENROLLMENT AND DISENROLLMENT

Sec. 540.0501. RECIPIENT ENROLLMENT IN AND DISENROLLMENT FROM MEDICAID MANAGED CARE PLAN. The commission shall:

(1) encourage recipients to choose appropriate Medicaid managed care plans and primary health care providers by:

(A) providing initial information to recipients and providers in a region about the need for recipients to choose plans and providers not later than the 90th day before the date a Medicaid managed care organization plans to begin providing health care services to recipients in that region through managed care;

(B) providing follow-up information before assignment of plans and providers and after assignment, if necessary, to recipients who delay in choosing plans and providers; and

(C) allowing plans and providers to provide information to recipients or engage in marketing activities under marketing guidelines the commission establishes under Section 540.0055(a) after the commission approves the information or activities;

(2) in assigning plans and providers to recipients who fail to choose plans and providers, consider:

(A) the importance of maintaining existing provider-patient and physician-patient relationships, including relationships with specialists, public health clinics, and community health centers;

(B) to the extent possible, the need to assign family members to the same providers and plans; and

(C) geographic convenience of plans and providers for recipients;

(3) retain responsibility for enrolling recipients in and disenrolling recipients from plans, except that the commission may delegate the responsibility to an independent contractor who receives no form of payment from, and has no financial ties to, any managed care organization;

(4) develop and implement an expedited process for determining eligibility for and enrolling pregnant women and newborn infants in plans; and

(5) ensure immediate access to prenatal services and newborn care for pregnant women and newborn infants enrolled in plans, including ensuring that a pregnant woman may obtain an appointment with an obstetrical care provider for an initial maternity evaluation not later than the 30th day after the date the

woman applies for Medicaid.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0502. AUTOMATIC ENROLLMENT IN MEDICAID MANAGED CARE PLAN. (a) If the commission determines that it is feasible and notwithstanding any other law, the commission may implement an automatic enrollment process under which an applicant determined eligible for Medicaid is automatically enrolled in a Medicaid managed care plan the applicant chooses.

(b) The commission may elect to implement the automatic enrollment process for certain recipient populations.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0503. ENROLLMENT OF CERTAIN RECIPIENTS IN SAME MEDICAID MANAGED CARE PLAN. The commission shall ensure that all recipients who are children and who reside in the same household may, at the family's election, be enrolled in the same Medicaid managed care plan.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0504. QUALITY-BASED ENROLLMENT INCENTIVE PROGRAM FOR MEDICAID MANAGED CARE ORGANIZATIONS. The commission shall create an incentive program that automatically enrolls in a Medicaid managed care plan a greater percentage of recipients who did not actively choose a plan, based on:

(1) the quality of care provided through the Medicaid managed care organization offering the plan;

(2) the organization's ability to efficiently and effectively provide services, considering the acuity of populations the organization primarily serves; and

(3) the organization's performance with respect to exceeding or failing to achieve appropriate outcome and process

measures the commission develops, including measures based on potentially preventable events.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0505. LIMITATIONS ON RECIPIENT DISENROLLMENT FROM MEDICAID MANAGED CARE PLAN. (a) Except as provided by Subsections (b) and (c) and to the extent permitted by federal law, a recipient enrolled in a Medicaid managed care plan may not disenroll from that plan and enroll in another Medicaid managed care plan during the 12-month period after the date the recipient initially enrolls in a plan.

(b) At any time before the 91st day after the date of a recipient's initial enrollment in a Medicaid managed care plan, the recipient may disenroll from that plan for any reason and enroll in another Medicaid managed care plan.

(c) The commission shall allow a recipient who is enrolled in a Medicaid managed care plan to disenroll from that plan and enroll in another Medicaid managed care plan:

(1) at any time for cause in accordance with federal law; and

(2) once for any reason after the periods described by Subsections (a) and (b).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER L. CONTINUITY OF CARE AND COORDINATION OF BENEFITS

Sec. 540.0551. GUIDANCE REGARDING CONTINUATION OF SERVICES UNDER CERTAIN CIRCUMSTANCES. The commission shall provide guidance and additional education to Medicaid managed care organizations regarding federal law requirements to continue providing services during an internal appeal, a Medicaid fair hearing, or any other review.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0552. COORDINATION OF BENEFITS; CONTINUITY OF SPECIALTY CARE FOR CERTAIN RECIPIENTS. (a) In this section, "Medicaid wrap-around benefit" means a Medicaid-covered service, including a pharmacy or medical benefit, that is provided to a recipient who has primary health benefit plan coverage in addition to Medicaid coverage when:

(1) the recipient has exceeded the primary health benefit plan coverage limit; or

(2) the service is not covered by the primary health benefit plan issuer.

(b) The commission, in coordination with Medicaid managed care organizations and in consultation with the STAR Kids Managed Care Advisory Committee, shall develop and adopt a clear policy for a Medicaid managed care organization to ensure the coordination and timely delivery of Medicaid wrap-around benefits for recipients who have primary health benefit plan coverage in addition to Medicaid coverage. In developing the policy, the commission shall consider requiring a Medicaid managed care organization to allow, notwithstanding Subchapter F, Chapter 549, Section 540.0273, and Section 540.0280 or any other law, a recipient using a prescription drug for which the recipient's primary health benefit plan issuer previously provided coverage to continue receiving the prescription drug without requiring additional prior authorization.

(c) If the commission determines that a recipient's primary health benefit plan issuer should have been the primary payor of a claim, the Medicaid managed care organization that paid the claim shall:

(1) work with the commission on the recovery process; and

(2) make every attempt to reduce health care provider and recipient abrasion.

(d) The executive commissioner may seek a waiver from the federal government as needed to:

(1) address federal policies related to coordination of benefits and third-party liability; and

(2) maximize federal financial participation for recipients who have primary health benefit plan coverage in addition to Medicaid coverage.

(e) The commission may include in the Medicaid managed care eligibility files an indication of whether a recipient has primary health benefit plan coverage or is enrolled in a group health benefit

plan for which the commission provides premium assistance under the health insurance premium payment program. For a recipient with that coverage or for whom that premium assistance is provided, the files may include the following up-to-date, accurate information related to primary health benefit plan coverage to the extent the information is available to the commission:

(1) the primary health benefit plan issuer's name and address;

(2) the recipient's policy number;

(3) the primary health benefit plan coverage start and end dates; and

(4) the primary health benefit plan coverage benefits, limits, copayment, and coinsurance information.

(f) To the extent allowed by federal law, the commission shall maintain processes and policies to allow a health care provider who is primarily providing services to a recipient through primary health benefit plan coverage to receive Medicaid reimbursement for services ordered, referred, or prescribed, regardless of whether the provider is enrolled as a Medicaid provider. The commission shall allow a provider who is not enrolled as a Medicaid provider to order, refer, or prescribe services to a recipient based on the provider's national provider identifier number and may not require an additional state provider identifier number to receive reimbursement for the services. The commission may seek a waiver of Medicaid provider enrollment requirements for providers of recipients with primary health benefit plan coverage to implement this subsection.

(g) The commission shall develop a clear and easy process, to be implemented through a contract, that allows a recipient with complex medical needs who has established a relationship with a specialty provider to continue receiving care from that provider, regardless of whether the recipient has primary health benefit plan coverage in addition to Medicaid coverage.

(h) If a recipient who has complex medical needs wants to continue to receive care from a specialty provider that is not in the provider network of the Medicaid managed care organization offering the Medicaid managed care plan in which the recipient is enrolled, the organization shall develop a simple, timely, and efficient process to, and shall make a good-faith effort to, negotiate a single-case agreement with the specialty provider. Until the organization and the specialty provider enter into the single-case

agreement, the specialty provider shall be reimbursed in accordance with the applicable reimbursement methodology specified in commission rules, including 1 T.A.C. Section 353.4.

(i) A single-case agreement entered into under this section is not considered accessing an out-of-network provider for the purposes of Medicaid managed care organization network adequacy requirements.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER M. PROVIDER NETWORK ADEQUACY

Sec. 540.0601. MONITORING OF PROVIDER NETWORKS. The commission shall establish and implement a process for the direct monitoring of a Medicaid managed care organization's provider network and providers in the network. The process:

(1) must be used to ensure compliance with contractual obligations related to:

(A) the number of providers accepting new patients under the Medicaid managed care program; and

(B) the length of time a recipient must wait between scheduling an appointment with a provider and receiving treatment from the provider;

(2) may use reasonable methods to ensure compliance with contractual obligations, including telephone calls made at random times without notice to assess the availability of providers and services to new and existing recipients; and

(3) may be implemented directly by the commission or through a contractor.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0602. REPORT ON OUT-OF-NETWORK PROVIDER SERVICES. To ensure appropriate access to an adequate provider network, each Medicaid managed care organization providing health care services to recipients in a health care service region shall submit to the commission, in the format and manner the commission prescribes, a report detailing the number, type, and scope of services out-of-network providers provide to recipients enrolled in a Medicaid

managed care plan the organization provides.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0603. REPORT ON COMMISSION INVESTIGATION OF PROVIDER COMPLAINT. Not later than the 60th day after the date a provider files a complaint with the commission regarding reimbursement for or overuse of out-of-network providers by a Medicaid managed care organization, the commission shall provide to the provider a report regarding the conclusions of the commission's investigation. The report must include:

(1) a description of any corrective action required of the organization that was the subject of the complaint; and

(2) if applicable, a conclusion regarding the amount of reimbursement owed to an out-of-network provider.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0604. ADDITIONAL REIMBURSEMENT FOLLOWING PROVIDER COMPLAINT. (a) If, after an investigation, the commission determines that a Medicaid managed care organization owes additional reimbursement to a provider, the organization shall, not later than the 90th day after the date the provider filed the complaint, pay the additional reimbursement or provide to the provider a reimbursement payment plan under which the organization must pay the entire amount of the additional reimbursement not later than the 120th day after the date the provider filed the complaint.

(b) The commission may require a Medicaid managed care organization to pay interest on any amount of the additional reimbursement that is not paid on or before the 90th day after the date the provider to whom the amount is owed filed the complaint. If the commission requires the organization to pay interest, interest accrues at a rate of 18 percent simple interest per year on the unpaid amount beginning on the 90th day after the date the provider to whom the amount is owed filed the complaint and accrues until the date the organization pays the entire reimbursement amount.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0605. CORRECTIVE ACTION PLAN FOR INADEQUATE NETWORK AND PROVIDER REIMBURSEMENT. (a) The commission shall initiate a corrective action plan requiring a Medicaid managed care organization to maintain an adequate provider network, provide reimbursement to support that network, and educate recipients enrolled in Medicaid managed care plans provided by the organization regarding the proper use of the plan's provider network, if:

(1) as the commission determines, the organization exceeds maximum limits the commission established for out-of-network access to health care services; or

(2) based on the commission's investigation of a provider complaint regarding reimbursement, the commission determines that the organization did not reimburse an out-of-network provider based on a reasonable reimbursement methodology.

(b) The corrective action plan required by Subsection (a) must include at least one of the following elements:

(1) a requirement that reimbursements the Medicaid managed care organization pays to out-of-network providers for a health care service provided to a recipient enrolled in a Medicaid managed care plan provided by the organization equal the allowable rate for the service, as determined under Sections 32.028 and 32.0281, Human Resources Code, for all health care services provided during the period the organization:

(A) is not in compliance with the utilization benchmarks the commission determines; or

(B) is not reimbursing out-of-network providers based on a reasonable methodology, as the commission determines;

(2) an immediate freeze on the enrollment of additional recipients in a Medicaid managed care plan the organization provides that continues until the commission determines that the provider network under the plan can adequately meet the needs of additional recipients; and

(3) other actions the commission determines are necessary to ensure that recipients enrolled in a Medicaid managed care plan the organization provides have access to appropriate health care services and that providers are properly reimbursed for providing

medically necessary health care services to those recipients.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0606. REMEDIES FOR NONCOMPLIANCE WITH CORRECTIVE ACTION PLAN. The commission shall pursue any appropriate remedy authorized in the contract between the Medicaid managed care organization and the commission if the organization fails to comply with a corrective action plan under Section 540.0605(a).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER N. PROVIDERS

Sec. 540.0651. INCLUSION OF CERTAIN PROVIDERS IN MEDICAID MANAGED CARE ORGANIZATION PROVIDER NETWORK. (a) The commission shall require that each managed care organization that contracts with the commission under any managed care model or arrangement to provide health care services to recipients in a region:

(1) seek participation in the organization's provider network from:

(A) each health care provider in the region who has traditionally provided care to recipients;

(B) each hospital in the region that has been designated as a disproportionate share hospital under Medicaid; and

(C) each specialized pediatric laboratory in the region, including a laboratory located in a children's hospital;

(2) include in the organization's provider network for at least three years:

(A) each health care provider in the region who:

(i) previously provided care to Medicaid and charity care recipients at a significant level as the commission prescribes;

(ii) agrees to accept the organization's prevailing provider contract rate; and

(iii) has the credentials the organization requires, provided that lack of board certification or accreditation by The Joint Commission may not be the sole ground for exclusion from

the provider network;

(B) each accredited primary care residency program in the region; and

(C) each disproportionate share hospital the commission designates as a statewide significant traditional provider; and

(3) subject to Section 32.047, Human Resources Code, and notwithstanding any other law, include in the organization's provider network each optometrist, therapeutic optometrist, and ophthalmologist described by Section 532.0153(b)(1)(A) or (B) who, and an institution of higher education described by Section 532.0153(a)(4) in the region that:

(A) agrees to comply with the organization's terms;

(B) agrees to accept the organization's prevailing provider contract rate;

(C) agrees to abide by the organization's required standards of care; and

(D) is an enrolled Medicaid provider.

(b) A contract between a Medicaid managed care organization and the commission for the organization to provide health care services to recipients in a health care service region that includes a rural area must require the organization to include in the organization's provider network rural hospitals, physicians, home and community support services agencies, and other rural health care providers who:

(1) are sole community providers;

(2) provide care to Medicaid and charity care recipients at a significant level as the commission prescribes;

(3) agree to accept the organization's prevailing provider contract rate; and

(4) have the credentials the organization requires, provided that lack of board certification or accreditation by The Joint Commission may not be the sole ground for exclusion from the provider network.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0652. PROVIDER ACCESS STANDARDS; BIENNIAL REPORT. (a) The commission shall establish minimum provider access standards for a Medicaid managed care organization's provider network. The

provider access standards must ensure that a Medicaid managed care organization provides recipients sufficient access to:

(1) preventive care;

(2) primary care;

(3) specialty care;

(4) after-hours urgent care;

(5) chronic care;

(6) long-term services and supports;

(7) nursing services;

(8) therapy services, including services provided in a clinical setting or in a home or community-based setting; and

(9) any other services the commission identifies.

(b) To the extent feasible, the provider access standards must:

(1) distinguish between access to providers in urban and rural settings;

(2) consider the number and geographic distribution of Medicaid-enrolled providers in a particular service delivery area; and

(3) subject to Section 548.0054(a) and consistent with Section 111.007, Occupations Code, consider and include the availability of telehealth services and telemedicine medical services in a Medicaid managed care organization's provider network.

(c) The commission shall biennially submit to the legislature and make available to the public a report that contains:

(1) information and statistics on:

(A) recipient access to providers through Medicaid managed care organizations' provider networks; and

(B) Medicaid managed care organization compliance with contractual obligations related to provider access standards;

(2) a compilation and analysis of information Medicaid managed care organizations submit to the commission under Section 540.0260(4);

(3) for both primary care providers and specialty providers, information on provider-to-recipient ratios in a Medicaid managed care organization's provider network and benchmark ratios to indicate whether deficiencies exist in a given network; and

(4) a description of, and analysis of the results from, the commission's monitoring process established under Section 540.0601.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

Sec. 540.0653. PENALTIES AND OTHER REMEDIES FOR FAILURE TO COMPLY WITH PROVIDER ACCESS STANDARDS. If a Medicaid managed care organization fails to comply with one or more provider access standards the commission establishes under Section 540.0652 and the commission determines the organization has not made substantial efforts to mitigate or remedy the noncompliance, the commission:

(1) may:

(A) elect to not retain or renew the commission's contract with the organization; or

(B) require the organization to pay liquidated damages in accordance with Section 540.0260(3); and

(2) if the organization's noncompliance occurs in a given service delivery area for two consecutive calendar quarters, shall suspend default enrollment to the organization in that service delivery area for at least one calendar quarter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0654. PROVIDER NETWORK DIRECTORIES. (a) The commission shall ensure that a Medicaid managed care organization:

(1) posts on the organization's Internet website:

(A) the organization's provider network directory; and

(B) a direct telephone number and e-mail address through which a recipient enrolled in the organization's managed care plan or the recipient's provider may contact the organization to receive assistance with:

(i) identifying in-network providers and services available to the recipient; and

(ii) scheduling an appointment for the recipient with an available in-network provider or to access available in-network services; and

(2) updates the online directory required under Subdivision (1)(A) at least monthly.

(b) A Medicaid managed care organization is required to send a paper form of the organization's provider network directory for the

program only to a recipient who requests to receive the directory in paper form.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0655. PROVIDER PROTECTION PLAN. (a) The commission shall develop and implement a provider protection plan designed to:

(1) reduce administrative burdens on providers participating in a Medicaid managed care model or arrangement implemented under this chapter or Chapter 540A; and

(2) ensure efficient provider enrollment and reimbursement.

(b) To the greatest extent possible, the commission shall incorporate the measures in the provider protection plan into each contract between a managed care organization and the commission to provide health care services to recipients.

(c) The provider protection plan must provide for:

(1) a Medicaid managed care organization's prompt payment to and proper reimbursement of providers;

(2) prompt and accurate claim adjudication through:

(A) educating providers on properly submitting clean claims and on appeals;

(B) accepting uniform forms, including HCFA Forms 1500 and UB-92 and subsequent versions of those forms, through an electronic portal; and

(C) establishing standards for claims payments in accordance with a provider's contract;

(3) adequate and clearly defined provider network standards that:

(A) are specific to provider type, including physicians, general acute care facilities, and other provider types defined in the commission's network adequacy standards in effect on January 1, 2013; and

(B) ensure choice among multiple providers to the greatest extent possible;

(4) a prompt credentialing process for providers;

(5) uniform efficiency standards and requirements for Medicaid managed care organizations for submitting and tracking preauthorization requests for Medicaid services;

(6) establishing an electronic process, including the use of an Internet portal, through which providers in any managed care organization's provider network may:

(A) submit electronic claims, prior authorization requests, claims appeals and reconsiderations, clinical data, and other documents that the organization requests for prior authorization and claims processing; and

(B) obtain electronic remittance advice, explanation of benefits statements, and other standardized reports;

(7) measuring Medicaid managed care organization retention rates of significant traditional providers;

(8) creating a work group to review and make recommendations to the commission concerning any requirement under this subsection for which immediate implementation is not feasible at the time the plan is otherwise implemented, including the required process for submitting and accepting attachments for claims processing and prior authorization requests through an electronic process under Subdivision (6) and, for any requirement that is not implemented immediately, recommendations regarding the expected:

(A) fiscal impact of implementing the requirement; and

(B) timeline for implementing the requirement; and

(9) any other provision the commission determines will ensure efficiency or reduce administrative burdens on providers participating in a Medicaid managed care model or arrangement.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3151, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 540.0656. EXPEDITED CREDENTIALING PROCESS FOR CERTAIN PROVIDERS. (a) In this section, "applicant provider" means a physician or other health care provider applying for expedited credentialing.

(b) Notwithstanding any other law and subject to Subsection (c), a Medicaid managed care organization shall establish and implement an expedited credentialing process that allows an applicant provider to provide services to recipients on a provisional basis.

(c) The commission shall identify the types of providers for which a Medicaid managed care organization must establish and implement an expedited credentialing process.

(d) To qualify for expedited credentialing and payment under Subsection (e), an applicant provider must:

(1) be a member of an established health care provider group that has a current contract with a Medicaid managed care organization;

(2) be a Medicaid-enrolled provider;

(3) agree to comply with the terms of the contract described by Subdivision (1); and

(4) submit all documentation and other information the Medicaid managed care organization requires as necessary to enable the organization to begin the credentialing process the organization requires to include a provider in the organization's provider network.

(e) On an applicant provider's submission of the information the Medicaid managed care organization requires under Subsection (d), and for Medicaid reimbursement purposes only, the organization shall treat the provider as if the provider were in the organization's provider network when the provider provides services to recipients, subject to Subsections (f) and (g).

(f) Except as provided by Subsection (g), a Medicaid managed care organization that determines on completion of the credentialing process that an applicant provider does not meet the organization's credentialing requirements may recover from the provider the difference between payments for in-network benefits and out-of-network benefits.

(g) A Medicaid managed care organization that determines on completion of the credentialing process that an applicant provider does not meet the organization's credentialing requirements and that the provider made fraudulent claims in the provider's application for credentialing may recover from the provider the entire amount the organization paid the provider.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0657. FREQUENCY OF PROVIDER RECREDENTIALING. (a) A

Medicaid managed care organization shall formally recredential a physician or other provider with the frequency required by the single, consolidated Medicaid provider enrollment and credentialing process, if that process is created under Section 532.0151.

(b) Notwithstanding any other law, the required frequency of recredentialing may be less frequent than once in any three-year period.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0658. PROVIDER INCENTIVES FOR PROMOTING PREVENTIVE SERVICES. To the extent possible, the commission shall work to ensure that a Medicaid managed care organization provides payment incentives to a health care provider in the organization's provider network whose performance in promoting recipient use of preventive services exceeds minimum established standards.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0659. REIMBURSEMENT RATE FOR CERTAIN SERVICES PROVIDED BY CERTAIN HEALTH CENTERS AND CLINICS OUTSIDE REGULAR BUSINESS HOURS. (a) This section applies only to a recipient receiving benefits through a Medicaid managed care model or arrangement.

(b) The commission shall ensure that a federally qualified health center, rural health clinic, or municipal health department's public clinic is reimbursed for health care services provided to a recipient outside of regular business hours, including on a weekend or holiday, at a rate that is equal to the allowable rate for those services as determined under Section 32.028, Human Resources Code, regardless of whether the recipient has a referral from the recipient's primary care provider.

(c) The executive commissioner shall adopt rules regarding the days, times of days, and holidays that are considered to be outside of regular business hours for purposes of Subsection (b).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER O. DELIVERY OF SERVICES: GENERAL PROVISIONS

Sec. 540.0701. ACUTE CARE SERVICE DELIVERY THROUGH MOST COST-EFFECTIVE MODEL; MANAGED CARE SERVICE DELIVERY AREAS. (a) Except as otherwise provided by this section and notwithstanding any other law, the commission shall provide Medicaid acute care services through the most cost-effective model of Medicaid capitated managed care as the commission determines. The commission shall require mandatory participation in a Medicaid capitated managed care program for all individuals eligible for Medicaid acute care benefits, but may implement alternative models or arrangements, including a traditional fee-for-service arrangement, if the commission determines the alternative would be more cost-effective or efficient.

(b) In determining whether a model or arrangement described by Subsection (a) is more cost-effective, the executive commissioner must consider:

(1) the scope, duration, and types of health benefits or services to be provided in a certain part of this state or to a certain recipient population;

(2) administrative costs necessary to meet federal and state statutory and regulatory requirements;

(3) the anticipated effect of market competition associated with the configuration of Medicaid service delivery models the commission determines; and

(4) the gain or loss to this state of a tax collected under Chapter 222, Insurance Code.

(c) If the commission determines that it is not more cost-effective to use a Medicaid managed care model to provide certain types of Medicaid acute care in a certain area or to certain recipients as prescribed by this section, the commission shall provide Medicaid acute care through a traditional fee-for-service arrangement.

(d) The commission shall determine the most cost-effective alignment of managed care service delivery areas. The executive commissioner may consider:

(1) the number of lives impacted;

(2) the usual source of health care services for residents in an area; and

(3) other factors that impact health care service delivery

in the area.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0702. TRANSITION OF CASE MANAGEMENT FOR CHILDREN AND PREGNANT WOMEN PROGRAM RECIPIENTS TO MEDICAID MANAGED CARE PROGRAM. (a) In this section, "children and pregnant women program" means the Medicaid benefits program administered by the Department of State Health Services that provides case management services to children who have a health condition or health risk and pregnant women who have a high-risk condition.

(b) The commission shall transition to a Medicaid managed care model all case management services provided to children and pregnant women program recipients. In transitioning the services, the commission shall ensure a recipient is provided case management services through the Medicaid managed care plan in which the recipient is enrolled.

(c) In implementing this section, the commission shall ensure that:

(1) there is a seamless transition in case management services for children and pregnant women program recipients; and

(2) case management services provided under the program are not interrupted.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0703. BEHAVIORAL HEALTH AND PHYSICAL HEALTH SERVICES. (a) In this section, "behavioral health services" means mental health and substance use disorder services.

(b) To the greatest extent possible, the commission shall integrate the following services into the Medicaid managed care program:

(1) behavioral health services, including targeted case management and psychiatric rehabilitation services; and

(2) physical health services.

(c) A Medicaid managed care organization shall:

(1) develop a network of public and private behavioral

health services providers; and

(2) ensure adults with serious mental illness and children with serious emotional disturbance have access to a comprehensive array of services.

(d) In implementing this section, the commission shall ensure that:

(1) an appropriate assessment tool is used to authorize services;

(2) providers are well-qualified and able to provide an appropriate array of services;

(3) appropriate performance and quality outcomes are measured;

(4) two health home pilot programs are established in two health service areas, representing two distinct regions of this state, for individuals who are diagnosed with:

(A) a serious mental illness; and

(B) at least one other chronic health condition;

(5) a health home established under a pilot program under Subdivision (4) complies with the principles for patient-centered medical homes described in Section 540.0712; and

(6) all behavioral health services provided under this section are based on an approach to treatment in which the expected outcome of treatment is recovery.

(e) If the commission determines that it is cost-effective and beneficial to recipients, the commission shall include a peer specialist as a benefit to recipients or as a provider type.

(f) To the extent of any conflict between this section and any other law relating to behavioral health services, this section prevails.

(g) The executive commissioner shall adopt rules necessary to implement this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0704. TARGETED CASE MANAGEMENT AND PSYCHIATRIC REHABILITATIVE SERVICES FOR CHILDREN, ADOLESCENTS, AND FAMILIES. (a) A provider in the provider network of a Medicaid managed care organization that contracts with the commission to provide behavioral

health services under Section 540.0703 may contract with the organization to provide targeted case management and psychiatric rehabilitative services to children, adolescents, and their families.

(b) Commission rules and guidelines concerning contract and training requirements applicable to the provision of behavioral health services may apply to a provider that contracts with a Medicaid managed care organization under Subsection (a) only to the extent those contract and training requirements are specific to the provision of targeted case management and psychiatric rehabilitative services to children, adolescents, and their families.

(c) Commission rules and guidelines applicable to a provider that contracts with a Medicaid managed care organization under Subsection (a) may not require the provider to provide a behavioral health crisis hotline or a mobile crisis team that operates 24 hours per day and seven days per week. This subsection does not prohibit a Medicaid managed care organization that contracts with the commission to provide behavioral health services under Section 540.0703 from specifically contracting with a provider for the provision of a behavioral health crisis hotline or a mobile crisis team that operates 24 hours per day and seven days per week.

(d) Commission rules and guidelines applicable to a provider that contracts with a Medicaid managed care organization to provide targeted case management and psychiatric rehabilitative services specific to children and adolescents who are at risk of juvenile justice involvement, expulsion from school, displacement from the home, hospitalization, residential treatment, or serious injury to self, others, or animals may not require the provider to also provide less intensive psychiatric rehabilitative services specified by commission rules and guidelines as applicable to the provision of targeted case management and psychiatric rehabilitative services to children, adolescents, and their families, if that provider has a referral arrangement to provide access to those less intensive psychiatric rehabilitative services.

(e) Commission rules and guidelines applicable to a provider that contracts with a Medicaid managed care organization under Subsection (a) may not require the provider to provide services not covered under Medicaid.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0705. BEHAVIORAL HEALTH SERVICES PROVIDED THROUGH THIRD PARTY OR SUBSIDIARY. (a) In this section, "behavioral health services" has the meaning assigned by Section 540.0703.

(b) For a Medicaid managed care organization that provides behavioral health services through a contract with a third party or an arrangement with a subsidiary of the organization, the commission shall:

(1) require the effective sharing and integration of care coordination, service authorization, and utilization management data between the organization and the third party or subsidiary;

(2) encourage the colocation of physical health and behavioral health care coordination staff, to the extent feasible;

(3) require warm call transfers between physical health and behavioral health care coordination staff;

(4) require the organization and the third party or subsidiary to implement joint rounds for physical health and behavioral health services network providers or some other effective means for sharing clinical information; and

(5) ensure that the organization makes available a seamless provider portal for both physical health and behavioral health services network providers, to the extent allowed by federal law.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0706. PSYCHOTROPIC MEDICATION MONITORING SYSTEM FOR CERTAIN CHILDREN. (a) In this section, "psychotropic medication" has the meaning assigned by Section 266.001, Family Code.

(b) The commission shall implement a system under which the commission will use Medicaid prescription drug data to monitor the prescribing of psychotropic medications for:

(1) children who are in the conservatorship of the Department of Family and Protective Services and enrolled in the STAR Health program or eligible for both Medicaid and Medicare; and

(2) children who are under the supervision of the Department of Family and Protective Services through an agreement under the Interstate Compact on the Placement of Children under

Subchapter B, Chapter 162, Family Code.

(c) The commission shall include as a component of the monitoring system a medical review of a prescription to which Subsection (b) applies when that review is appropriate.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0707. MEDICATION THERAPY MANAGEMENT. The executive commissioner shall collaborate with Medicaid managed care organizations to implement medication therapy management services to lower costs and improve quality outcomes for recipients by reducing adverse drug events.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0708. SPECIAL DISEASE MANAGEMENT. (a) The commission shall ensure that a Medicaid managed care organization develops and implements special disease management programs to manage a disease or other chronic health condition with respect to which disease management would be cost-effective for populations the commission identifies. The special disease management programs may manage a disease or other chronic health condition such as:

(1) heart disease;

(2) chronic kidney disease and related medical complications;

(3) respiratory illness, including asthma;

(4) diabetes;

(5) end-stage renal disease;

(6) HIV infection; or

(7) AIDS.

(b) A Medicaid managed care plan must provide, in the manner the commission requires, disease management services including:

(1) patient self-management education;

(2) provider education;

(3) evidence-based models and minimum standards of care;

(4) standardized protocols and participation criteria; and

(5) physician-directed or physician-supervised care.

(c) The executive commissioner by rule shall prescribe the minimum requirements that a Medicaid managed care organization must meet in providing a special disease management program to be eligible to receive a contract under this section. The organization must at a minimum be required to:

(1) provide disease management services that have performance measures for particular diseases that are comparable to the relevant performance measures applicable to a provider of disease management services under Section 32.057, Human Resources Code;

(2) show evidence of ability to manage complex diseases in the Medicaid population; and

(3) if a special disease management program the organization provides has low active participation rates, identify the reason for the low rates and develop an approach to increase active participation in special disease management programs for high-risk recipients.

(d) If a Medicaid managed care organization implements a special disease management program to manage chronic kidney disease and related medical complications as provided by Subsection (a) and the organization develops a program to provide screening for and diagnosis and treatment of chronic kidney disease and related medical complications to recipients under the organization's Medicaid managed care plan, the program for screening, diagnosis, and treatment must use generally recognized clinical practice guidelines and laboratory assessments that identify chronic kidney disease on the basis of impaired kidney function or the presence of kidney damage.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0709. SPECIAL PROTOCOLS FOR INDIGENT POPULATIONS. In conjunction with an academic center, the commission may study the treatment of indigent populations to develop special protocols for use by Medicaid managed care organizations in providing health care services to recipients.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0710. DIRECT ACCESS TO EYE HEALTH CARE SERVICES. (a) Notwithstanding any other law, the commission shall ensure that a Medicaid managed care plan offered by a Medicaid managed care organization and any other Medicaid managed care model or arrangement implemented under this chapter allow a recipient receiving services through the plan or other model or arrangement to, in the manner and to the extent required by Section 32.072, Human Resources Code:

(1) select an in-network ophthalmologist or therapeutic optometrist in the managed care network to provide eye health care services other than surgery; and

(2) have direct access to the selected in-network ophthalmologist or therapeutic optometrist for the nonsurgical services.

(b) This section does not affect the obligation of an ophthalmologist or therapeutic optometrist in a managed care network to comply with the terms of the Medicaid managed care plan.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0711. DELIVERY OF BENEFITS USING TELECOMMUNICATIONS OR INFORMATION TECHNOLOGY. (a) The commission shall establish policies and procedures to improve access to care under the Medicaid managed care program by encouraging the use under the program of:

(1) telehealth services;

(2) telemedicine medical services;

(3) home telemonitoring services; and

(4) other telecommunications or information technology.

(b) To the extent allowed by federal law, the executive commissioner by rule shall establish policies and procedures that allow a Medicaid managed care organization to conduct assessments and provide care coordination services using telecommunications or information technology. In establishing the policies and procedures, the executive commissioner shall consider:

(1) the extent to which a Medicaid managed care organization determines using the telecommunications or information technology is appropriate;

(2) whether the recipient requests that the assessment or service be provided using telecommunications or information

technology;

(3) whether the recipient consents to receiving the assessment or service using telecommunications or information technology;

(4) whether conducting the assessment, including an assessment for an initial waiver eligibility determination, or providing the service in person is not feasible because of the existence of an emergency or state of disaster, including a public health emergency or natural disaster; and

(5) whether the commission determines using the telecommunications or information technology is appropriate under the circumstances.

(c) If a Medicaid managed care organization conducts an assessment of or provides care coordination services to a recipient using telecommunications or information technology, the organization shall:

(1) monitor the health care services provided to the recipient for evidence of fraud, waste, and abuse; and

(2) determine whether additional social services or supports are needed.

(d) To the extent allowed by federal law, the commission shall allow a recipient who is assessed or provided with care coordination services by a Medicaid managed care organization using telecommunications or information technology to provide consent or other authorizations to receive services verbally instead of in writing.

(e) The commission shall determine categories of recipients of home and community-based services who must receive in-person visits. Except during circumstances described by Subsection (b)(4), a Medicaid managed care organization shall, for a recipient of home and community-based services for which the commission requires in-person visits, conduct:

(1) at least one in-person visit with the recipient to make an initial waiver eligibility determination; and

(2) additional in-person visits with the recipient if necessary, as determined by the organization.

(f) Notwithstanding this section, the commission may, on a case-by-case basis, require a Medicaid managed care organization to discontinue the use of telecommunications or information technology for assessment or care coordination services if the commission

determines that the discontinuation is in the recipient's best interest.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0712. PROMOTION AND PRINCIPLES OF PATIENT-CENTERED MEDICAL HOME. (a) In this section, "patient-centered medical home" means a medical relationship:

(1) between a primary care physician and a patient in which the physician:

(A) provides comprehensive primary care to the patient; and

(B) facilitates partnerships between the physician, the patient, any acute care and other care providers, and, when appropriate, the patient's family; and

(2) that encompasses the following primary principles:

(A) the patient has an ongoing relationship with the physician, who is trained to be the first contact for and to provide continuous and comprehensive care to the patient;

(B) the physician leads a team of individuals at the practice level who are collectively responsible for the patient's ongoing care;

(C) the physician is responsible for providing all of the care the patient needs or for coordinating with other qualified providers to provide care to the patient throughout the patient's life, including preventive care, acute care, chronic care, and end-of-life care;

(D) the patient's care is coordinated across health care facilities and the patient's community and is facilitated by registries, information technology, and health information exchange systems to ensure that the patient receives care when and where the patient wants and needs the care and in a culturally and linguistically appropriate manner; and

(E) quality and safe care is provided.

(b) The commission shall, to the extent possible, work to ensure that Medicaid managed care organizations:

(1) promote the development of patient-centered medical homes for recipients; and

(2) provide payment incentives for providers that meet the requirements of a patient-centered medical home.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0713. VALUE-ADDED SERVICES. The commission shall actively encourage Medicaid managed care organizations to offer benefits, including health care services or benefits or other types of services, that:

(1) are in addition to the services ordinarily covered by the Medicaid managed care plan the organization offers; and

(2) have the potential to improve the health status of recipients enrolled in the plan.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER P. DELIVERY OF SERVICES: STAR+PLUS MEDICAID MANAGED CARE PROGRAM

Sec. 540.0751. DELIVERY OF ACUTE CARE SERVICES AND LONG-TERM SERVICES AND SUPPORTS. Subject to Sections 540.0701 and 540.0753, the commission shall expand the STAR+PLUS Medicaid managed care program to all areas of this state to serve individuals eligible for Medicaid acute care services and long-term services and supports.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 457, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 540.0752. DELIVERY OF MEDICAID BENEFITS TO NURSING FACILITY RESIDENTS. (a) In this section:

(1) "Clean claim" means a claim that meets the same criteria the commission uses for a clean claim in reimbursing nursing facility claims.

(2) "Nursing facility" means a convalescent or nursing home

or related institution licensed under Chapter 242, Health and Safety Code, that provides long-term services and supports to recipients.

(b) Subject to Section 540.0701 and notwithstanding any other law, the commission shall provide Medicaid benefits through the STAR+PLUS Medicaid managed care program to recipients who reside in nursing facilities. In implementing this subsection, the commission shall ensure that:

(1) a nursing facility is paid not later than the 10th day after the date the facility submits a clean claim;

(2) services are used appropriately, consistent with criteria the commission establishes;

(3) the incidence of potentially preventable events and unnecessary institutionalizations is reduced;

(4) a Medicaid managed care organization providing services under the program:

(A) provides discharge planning, transitional care, and other education programs to physicians and hospitals regarding all available long-term care settings;

(B) assists in collecting applied income from recipients; and

(C) provides payment incentives to nursing facility providers that:

(i) reward reductions in preventable acute care costs; and

(ii) encourage transformative efforts in the delivery of nursing facility services, including efforts to promote a resident-centered care culture through facility design and services provided;

(5) a portal is established that complies with state and federal regulations, including standard coding requirements, through which nursing facility providers participating in the program may submit claims to any participating Medicaid managed care organization;

(6) rules and procedures relating to certifying and decertifying nursing facility beds under Medicaid are not affected;

(7) a Medicaid managed care organization providing services under the program, to the greatest extent possible, offers nursing facility providers access to:

(A) acute care professionals; and

(B) telemedicine, when feasible and in accordance with

state law, including rules adopted by the Texas Medical Board; and

(8) the commission approves the staff rate enhancement methodology for the staff rate enhancement paid to a nursing facility that qualifies for the enhancement under the program.

(c) The commission shall establish credentialing and minimum performance standards for nursing facility providers seeking to participate in the STAR+PLUS Medicaid managed care program that are consistent with adopted federal and state standards. A Medicaid managed care organization may refuse to contract with a nursing facility provider if the nursing facility does not meet the minimum performance standards the commission establishes under this section.

(d) In addition to the minimum performance standards the commission establishes for nursing facility providers seeking to participate in the STAR+PLUS Medicaid managed care program, the executive commissioner shall adopt rules establishing minimum performance standards applicable to nursing facility providers that participate in the program. The commission is responsible for monitoring provider performance in accordance with the standards and requiring corrective actions, as the commission determines necessary, from providers that do not meet the standards. The commission shall share data regarding the requirements of this subsection with STAR+PLUS Medicaid managed care organizations as appropriate.

(e) A managed care organization may not require prior authorization for a nursing facility resident in need of emergency hospital services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0753. DELIVERY OF BASIC ATTENDANT AND HABILITATION SERVICES. Subject to Section 542.0152, the commission shall:

(1) implement the option for the delivery of basic attendant and habilitation services to individuals with disabilities under the STAR+PLUS Medicaid managed care program that:

(A) is the most cost-effective; and

(B) maximizes federal funding for the delivery of services for that program and other similar programs; and

(2) provide voluntary training to individuals receiving services under the STAR+PLUS Medicaid managed care program or their

legally authorized representatives regarding how to select, manage, and dismiss a personal attendant providing basic attendant and habilitation services under the program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0754. EVALUATION OF CERTAIN PROGRAM SERVICES. The external quality review organization shall periodically conduct studies and surveys to assess the quality of care and satisfaction with health care services provided to recipients who are:

(1) enrolled in the STAR+PLUS Medicaid managed care program; and

(2) eligible to receive health care benefits under both Medicaid and the Medicare program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0755. UTILIZATION REVIEW; ANNUAL REPORT. (a) The commission's office of contract management shall establish an annual utilization review process for Medicaid managed care organizations participating in the STAR+PLUS Medicaid managed care program. The commission shall determine the topics to be examined in the review process. The review process must include a thorough investigation of each Medicaid managed care organization's procedures for determining whether a recipient should be enrolled in the STAR+PLUS home and community-based services (HCBS) waiver program, including the conduct of functional assessments for that purpose and records relating to those assessments.

(b) The office of contract management shall use the utilization review process to review each fiscal year:

(1) every Medicaid managed care organization participating in the STAR+PLUS Medicaid managed care program; or

(2) only the Medicaid managed care organizations that, using a risk-based assessment process, the office determines have a higher likelihood of inappropriate recipient placement in the STAR+PLUS home and community-based services (HCBS) waiver program.

(c) Not later than December 1 of each year and in conjunction

with the commission's office of contract management, the commission shall provide a report to the standing committees of the senate and house of representatives with jurisdiction over Medicaid. The report must:

(1) summarize the results of the utilization reviews conducted under this section during the preceding fiscal year;

(2) provide analysis of errors committed by each reviewed Medicaid managed care organization; and

(3) extrapolate those findings and make recommendations for improving the STAR+PLUS Medicaid managed care program's efficiency.

(d) If a utilization review conducted under this section results in a determination to recoup money from a Medicaid managed care organization, a service provider who contracts with the organization may not be held liable for providing services in good faith based on the organization's authorization.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER Q. DELIVERY OF SERVICES: STAR HEALTH PROGRAM

Sec. 540.0801. TRAUMA-INFORMED CARE TRAINING. (a) A STAR Health program managed care contract between a Medicaid managed care organization and the commission must require that trauma-informed care training be offered to each contracted physician or provider.

(b) The commission shall encourage each Medicaid managed care organization providing health care services to recipients under the STAR Health program to make training in post-traumatic stress disorder and attention-deficit/hyperactivity disorder available to a contracted physician or provider within a reasonable time after the date the physician or provider begins providing services under the Medicaid managed care plan the organization offers.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0802. MENTAL HEALTH PROVIDERS. A STAR Health program managed care contract between a Medicaid managed care organization and the commission must require the organization to ensure that the organization maintains a network of mental and behavioral health

providers, including child psychiatrists and other appropriate providers, in all Department of Family and Protective Services regions in this state, regardless of whether community-based care has been implemented in any region.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0803. HEALTH SCREENING REQUIREMENTS AND COMPLIANCE WITH TEXAS HEALTH STEPS. (a) A Medicaid managed care organization providing health care services to a recipient under the STAR Health program must ensure that the recipient receives a complete early and periodic screening, diagnosis, and treatment checkup in accordance with the requirements specified in the managed care contract between the organization and the commission.

(b) The commission shall encourage each Medicaid managed care organization providing health care services to a recipient under the STAR Health program to ensure that the organization's network providers comply with the regimen of care prescribed by the Texas Health Steps program under Section 32.056, Human Resources Code, if applicable, including the requirement to provide a mental health screening during each of the recipient's Texas Health Steps medical exams a network provider conducts.

(c) The commission shall include a provision in a STAR Health program managed care contract between a Medicaid managed care organization and the commission specifying progressive monetary penalties for the organization's failure to comply with Subsection (a).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0804. HEALTH CARE AND OTHER SERVICES FOR CHILDREN IN SUBSTITUTE CARE. (a) The commission shall annually evaluate the use of benefits offered to children in foster care under the STAR Health program and provide recommendations to the Department of Family and Protective Services and each single source continuum contractor in this state to better coordinate the provision of health care and use of those benefits for those children.

(b) In conducting the evaluation, the commission shall:

(1) collaborate with residential child-care providers regarding any unmet needs of children in foster care and the development of capacity for providing quality medical, behavioral health, and other services for those children; and

(2) identify options to obtain federal matching funds under Medicaid to pay for a safe home-like or community-based residential setting for a child in the conservatorship of the Department of Family and Protective Services:

(A) who is identified or diagnosed as having a serious behavioral or mental health condition that requires intensive treatment;

(B) who is identified as a victim of serious abuse or serious neglect;

(C) for whom a traditional substitute care placement contracted for or purchased by the department is not available or would further denigrate the child's behavioral or mental health condition; or

(D) for whom the department determines a safe home-like or community-based residential placement could stabilize the child's behavioral or mental health condition in order to return the child to a traditional substitute care placement.

(c) The commission shall report the commission's findings to the standing committees of the senate and house of representatives having jurisdiction over the Department of Family and Protective Services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0805. PLACEMENT CHANGE NOTICE AND CARE COORDINATION. A STAR Health program managed care contract between a Medicaid managed care organization and the commission must require the organization to ensure continuity of care for a child whose placement has changed by:

(1) notifying each specialist treating the child of the placement change; and

(2) coordinating the transition of care from the child's previous treating primary care physician and specialists to the

child's new treating primary care physician and specialists, if any.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0806. MEDICAID BENEFITS FOR CERTAIN CHILDREN FORMERLY IN FOSTER CARE. (a) This section applies only with respect to a child who:

(1) resides in this state; and

(2) is eligible for assistance or services under:

(A) Subchapter D, Chapter 162, Family Code; or

(B) Subchapter K, Chapter 264, Family Code.

(b) Except as provided by Subsection (c), the commission shall ensure that each child to whom this section applies remains or is enrolled in the STAR Health program until the child is enrolled in another Medicaid managed care program.

(c) A child to whom this section applies who received Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.) or was receiving Supplemental Security Income before becoming eligible for assistance or services under Subchapter D, Chapter 162, Family Code, or Subchapter K, Chapter 264, Family Code, may receive Medicaid benefits in accordance with the program established under this subsection. To the extent allowed by federal law, the commission, in consultation with the Department of Family and Protective Services, shall develop and implement a program that allows the adoptive parent or permanent managing conservator of a child described by this subsection to elect on behalf of the child to receive or continue receiving Medicaid benefits under the:

(1) STAR Health program; or

(2) STAR Kids managed care program.

(d) The commission shall protect the continuity of care for each child to whom this section applies and ensure coordination between the STAR Health program and any other Medicaid managed care program for each child who is transitioning between Medicaid managed care programs.

(e) The executive commissioner shall adopt rules necessary to implement this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER R. DELIVERY OF SERVICES: STAR KIDS MANAGED CARE PROGRAM

Sec. 540.0851. STAR KIDS MANAGED CARE PROGRAM. (a) In this section, "health home" means a primary care provider practice or specialty care provider practice that incorporates several features, including comprehensive care coordination, family-centered care, and data management, that are focused on improving outcome-based quality of care and increasing patient and provider satisfaction under Medicaid.

(b) Subject to Sections 540.0701 and 540.0753, the commission shall establish a mandatory STAR Kids capitated managed care program tailored to provide Medicaid benefits to children with disabilities. The program must:

(1) provide Medicaid benefits customized to meet the health care needs of program recipients through a defined system of care;

(2) better coordinate recipient care under the program;

(3) improve recipient:

(A) access to health care services; and

(B) health outcomes;

(4) achieve cost containment and cost efficiency;

(5) reduce:

(A) the administrative complexity of delivering Medicaid benefits; and

(B) the incidence of unnecessary institutionalizations and potentially preventable events by ensuring the availability of appropriate services and care management;

(6) require a health home; and

(7) for recipients who receive long-term services and supports outside of the Medicaid managed care organization, coordinate and collaborate with long-term care service providers and long-term care management providers.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0852. CARE MANAGEMENT AND CARE NEEDS ASSESSMENT. (a) The commission may require that care management services made available as provided by Section 540.0851(b)(5)(B):

(1) incorporate best practices as the commission determines;

(2) integrate with a nurse advice line to ensure appropriate redirection rates;

(3) use an identification and stratification methodology that identifies recipients who have the greatest need for services;

(4) include a care needs assessment for a recipient;

(5) are delivered through multidisciplinary care teams located in different geographic areas of this state that use in-person contact with recipients and their caregivers;

(6) identify immediate interventions for transitioning care;

(7) include monitoring and reporting outcomes that, at a minimum, include:

(A) recipient quality of life;

(B) recipient satisfaction; and

(C) other financial and clinical metrics the commission determines appropriate; and

(8) use innovations in providing services.

(b) To improve the care needs assessment tool used for a care needs assessment provided as a component of care management services and to improve the initial assessment and reassessment processes, the commission, in consultation and collaboration with the STAR Kids Managed Care Advisory Committee, shall consider changes that will:

(1) reduce the amount of time needed to complete the initial care needs assessment and a reassessment; and

(2) improve training and consistency in the completion of the care needs assessment using the tool and in the initial assessment and reassessment processes across different Medicaid managed care organizations and different service coordinators within the same Medicaid managed care organization.

(c) To the extent feasible and allowed by federal law, the commission shall streamline the STAR Kids managed care program annual care needs reassessment process for a child who has not had a significant change in function that may affect medical necessity.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0853. BENEFITS FOR CHILDREN IN MEDICALLY DEPENDENT CHILDREN (MDCP) WAIVER PROGRAM. The commission shall:

(1) provide Medicaid benefits through the STAR Kids managed care program to children receiving benefits under the medically dependent children (MDCP) waiver program; and

(2) ensure that the STAR Kids managed care program provides all of the benefits provided under the medically dependent children (MDCP) waiver program to the extent necessary to implement this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0854. BENEFITS TRANSITION FROM STAR KIDS TO STAR+PLUS MEDICAID MANAGED CARE PROGRAM. The commission shall ensure that there is a plan for transitioning the provision of Medicaid benefits to recipients 21 years of age or older from the STAR Kids managed care program to the STAR+PLUS Medicaid managed care program in a manner that protects continuity of care. The plan must ensure that coordination between the programs begins when a recipient reaches 18 years of age.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540.0855. UTILIZATION REVIEW OF PRIOR AUTHORIZATIONS. At least once every two years, the commission shall conduct a utilization review on a sample of cases for children enrolled in the STAR Kids managed care program to ensure that all imposed clinical prior authorizations are based on publicly available clinical criteria and are not being used to negatively impact a recipient's access to care.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

CHAPTER 540A. MEDICAID MANAGED TRANSPORTATION SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 540A.0001. DEFINITIONS. In this chapter:

(1) Notwithstanding Section 521.0001(2), "commission" means the Health and Human Services Commission or an agency operating part of the Medicaid managed care program, as appropriate.

(2) "Managed care plan" means a plan under which a person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care service. A part of the plan must consist of arranging for or providing health care services as distinguished from indemnification against the cost of those services on a prepaid basis through insurance or otherwise. The term includes a primary care case management provider network. The term does not include a plan that indemnifies a person for the cost of health care services through insurance.

(3) "Managed transportation organization" means:

(A) a rural or urban transit district created under Chapter 458, Transportation Code;

(B) a public transportation provider as defined by Section 461.002, Transportation Code;

(C) a regional contracted broker as defined by Section 526.0351;

(D) a local private transportation provider the commission approves to provide Medicaid nonemergency medical transportation services; or

(E) any other entity the commission determines meets the requirements of Subchapter B.

(4) "Medical transportation program" has the meaning assigned by Section 526.0351.

(5) "Nonemergency transportation service" has the meaning assigned by Section 526.0351.

(6) "Nonmedical transportation service" means:

(A) curb-to-curb transportation to or from a medically necessary, nonemergency covered health care service in a standard passenger vehicle that is scheduled not more than 48 hours before the transportation occurs, that is provided to a recipient enrolled in a Medicaid managed care plan offered by a Medicaid managed care organization, and that the organization determines meets the level of care that is medically appropriate for the recipient, including transportation related to:

(i) discharging a recipient from a health care facility;

(ii) receiving urgent care; and

(iii) obtaining pharmacy services and prescription drugs; and

(B) any other transportation to or from a medically necessary, nonemergency covered health care service the commission considers appropriate to be provided by a transportation vendor, as determined by commission rule or policy.

(7) "Recipient" means a Medicaid recipient.

(8) "Transportation network company" has the meaning assigned by Section 2402.001, Occupations Code.

(9) "Transportation vendor" means an entity, including a transportation network company, that contracts with a Medicaid managed care organization to provide nonmedical transportation services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER B. MEDICAL TRANSPORTATION PROGRAM SERVICES THROUGH MANAGED TRANSPORTATION DELIVERY MODEL

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 540A.0051. DELIVERY OF MEDICAL TRANSPORTATION PROGRAM SERVICES THROUGH MANAGED TRANSPORTATION ORGANIZATION. (a) The commission may provide medical transportation program services on a regional basis through a managed transportation delivery model using managed transportation organizations and providers, as appropriate, that:

(1) operate under a capitated rate system;

(2) assume financial responsibility under a full-risk model;

(3) operate a call center;

(4) use fixed routes when available and appropriate; and

(5) agree to provide data to the commission if the commission determines that the data is required to receive federal matching funds.

(b) The commission shall procure managed transportation organizations under the medical transportation program through a

competitive bidding process for each managed transportation region as determined by the commission.

(c) The commission may not delay providing medical transportation program services through a managed transportation delivery model in:

(1) a county with a population of 750,000 or more:

(A) in which all or part of a municipality with a population of one million or more is located; and

(B) that is located adjacent to a county with a population of two million or more; or

(2) a county with a population of at least 55,000 but not more than 65,000 that is located adjacent to a county with a population of at least 500,000 but not more than 1.5 million.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0052. MINIMUM QUALITY AND EFFICIENCY MEASURES. Except as provided by Sections 540A.0054, 540A.0057, and 540A.0058, the commission shall require that managed transportation organizations and providers participating in the medical transportation program meet minimum quality and efficiency measures the commission determines.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0053. MANAGED TRANSPORTATION ORGANIZATION: CONTRACT WITH MEDICAL TRANSPORTATION PROVIDER. Except as provided by Sections 540A.0054, 540A.0057, and 540A.0058, a managed transportation organization that participates in the medical transportation program must attempt to contract with medical transportation providers that:

(1) are significant traditional providers, as the executive commissioner defines by rule;

(2) meet the minimum quality and efficiency measures required under Section 540A.0052 and other requirements that the managed transportation organization may impose; and

(3) agree to accept the managed transportation organization's prevailing contract rate.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0054. MANAGED TRANSPORTATION ORGANIZATION: SUBCONTRACT WITH TRANSPORTATION NETWORK COMPANY. A managed transportation organization may subcontract with a transportation network company to provide services under this subchapter. A rule or other requirement the executive commissioner adopts under this subchapter or Subchapter H, Chapter 526, does not apply to the subcontracted transportation network company or a motor vehicle operator who is part of the company's network.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0055. MANAGED TRANSPORTATION ORGANIZATION: VEHICLE FLEETS. (a) To the extent allowed under federal law, a managed transportation organization may own, operate, and maintain a fleet of vehicles or contract with an entity that owns, operates, and maintains a fleet of vehicles. The commission shall seek an appropriate federal waiver or other authorization to implement this subsection as necessary.

(b) The commission shall consider a managed transportation organization's ownership, operation, and maintenance of a fleet of vehicles to be a related-party transaction for purposes of applying experience rebates, administrative costs, and other administrative controls the commission determines.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0056. PERIODIC SCREENING OF TRANSPORTATION NETWORK COMPANY OR MOTOR VEHICLE OPERATOR AUTHORIZED. The commission or a managed transportation organization that subcontracts with a transportation network company under Section 540A.0054 may require the transportation network company or a motor vehicle operator who provides services under this subchapter to be periodically screened against the list of excluded individuals and entities the Office of

Inspector General of the United States Department of Health and Human Services maintains.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0057. ENROLLMENT AS MEDICAID PROVIDER BY CERTAIN MOTOR VEHICLE OPERATORS NOT REQUIRED. The commission or a managed transportation organization that subcontracts with a transportation network company under Section 540A.0054 may not require a motor vehicle operator who is part of the subcontracted transportation network company's network to enroll as a Medicaid provider to provide services under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0058. DRIVER REQUIREMENTS FOR CERTAIN MOTOR VEHICLE OPERATORS. Notwithstanding any other law, a motor vehicle operator who is part of the network of a transportation network company that subcontracts with a managed transportation organization under Section 540A.0054 and who satisfies the driver requirements in Section 2402.107, Occupations Code, is qualified to provide services under this subchapter. The commission and the managed transportation organization may not impose any additional requirements on a motor vehicle operator who satisfies the driver requirements in Section 2402.107, Occupations Code, to provide services under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0059. MOTOR VEHICLE OPERATOR: VEHICLE ACCESSIBILITY. For purposes of this subchapter and notwithstanding Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle operator who provides a service under this subchapter may use a wheelchair-accessible vehicle equipped with a lift or ramp that is capable of transporting a passenger using a fixed-frame wheelchair in the cabin

of the vehicle if the vehicle otherwise meets the requirements of Section 2402.111, Occupations Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER C. NONEMERGENCY TRANSPORTATION SERVICES THROUGH MEDICAID MANAGED CARE ORGANIZATION

Sec. 540A.0101. DELIVERY OF NONEMERGENCY TRANSPORTATION SERVICES THROUGH MEDICAID MANAGED CARE ORGANIZATION. (a) The commission shall require each Medicaid managed care organization to arrange and provide nonemergency transportation services to a recipient enrolled in a Medicaid managed care plan offered by the organization using the most cost-effective and cost-efficient method of delivery, including by delivering nonmedical transportation services through a transportation network company or other transportation vendor as provided by Section 540A.0151, if available and medically appropriate. The commission shall supervise the provision of the services.

(b) The commission may temporarily waive the applicability of Subsection (a) to a Medicaid managed care organization as necessary based on the results of a review conducted under Sections 540.0207 and 540.0209 and until enrollment of recipients in a Medicaid managed care plan offered by the organization is permitted under that section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0102. RULES FOR NONEMERGENCY TRANSPORTATION SERVICES. Subject to Sections 540A.0103 and 540A.0105, the executive commissioner shall adopt rules as necessary to ensure the safe and efficient provision of nonemergency transportation services by a Medicaid managed care organization under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0103. MEDICAID MANAGED CARE ORGANIZATION: SUBCONTRACT WITH TRANSPORTATION NETWORK COMPANY. A Medicaid managed care organization may subcontract with a transportation network company to provide nonemergency transportation services under this subchapter. A rule or other requirement the executive commissioner adopts under Section 540A.0102 or Subchapter H, Chapter 526, does not apply to the subcontracted transportation network company or a motor vehicle operator who is part of the company's network.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0104. PERIODIC SCREENING OF TRANSPORTATION NETWORK COMPANY OR MOTOR VEHICLE OPERATOR AUTHORIZED. The commission or a Medicaid managed care organization that subcontracts with a transportation network company under Section 540A.0103 may require the transportation network company or a motor vehicle operator who provides services under this subchapter to be periodically screened against the list of excluded individuals and entities the Office of Inspector General of the United States Department of Health and Human Services maintains.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0105. ENROLLMENT AS MEDICAID PROVIDER BY CERTAIN MOTOR VEHICLE OPERATORS NOT REQUIRED. The commission or a Medicaid managed care organization that subcontracts with a transportation network company under Section 540A.0103 may not require a motor vehicle operator who is part of the subcontracted transportation network company's network to enroll as a Medicaid provider to provide services under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0106. DRIVER REQUIREMENTS FOR CERTAIN MOTOR VEHICLE OPERATORS. Notwithstanding any other law, a motor vehicle operator

who is part of the network of a transportation network company that subcontracts with a Medicaid managed care organization under Section 540A.0103 and who satisfies the driver requirements in Section 2402.107, Occupations Code, is qualified to provide services under this subchapter. The commission and the Medicaid managed care organization may not impose any additional requirements on a motor vehicle operator who satisfies the driver requirements in Section 2402.107, Occupations Code, to provide services under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0107. MOTOR VEHICLE OPERATOR: VEHICLE ACCESSIBILITY. For purposes of this subchapter and notwithstanding Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle operator who provides a service under this subchapter may use a wheelchair-accessible vehicle equipped with a lift or ramp that is capable of transporting a passenger using a fixed-frame wheelchair in the cabin of the vehicle if the vehicle otherwise meets the requirements of Section 2402.111, Occupations Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER D. NONMEDICAL TRANSPORTATION SERVICES THROUGH MEDICAID MANAGED CARE ORGANIZATION

Sec. 540A.0151. DELIVERY OF NONMEDICAL TRANSPORTATION SERVICES THROUGH MEDICAID MANAGED CARE ORGANIZATION. (a) The commission shall require each Medicaid managed care organization to arrange for the provision of nonmedical transportation services to a recipient enrolled in a Medicaid managed care plan offered by the organization.

(b) A Medicaid managed care organization may contract with a transportation vendor or other third party to arrange for the provision of nonmedical transportation services. If a Medicaid managed care organization contracts with a third party that is not a transportation vendor to arrange for the provision of nonmedical transportation services, the third party shall contract with a transportation vendor to deliver the nonmedical transportation

services.

(c) A Medicaid managed care organization that contracts with a transportation vendor or other third party to arrange for the provision of nonmedical transportation services shall ensure the effective sharing and integration of service coordination, service authorization, and utilization management data between the managed care organization and the transportation vendor or third party.

(d) The commission may waive the applicability of Subsection (a) to a Medicaid managed care organization for not more than three months as necessary based on the results of a review conducted under Sections 540.0207 and 540.0209 and until enrollment of recipients in a Medicaid managed care plan offered by the organization is permitted under that section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0152. RULES FOR NONMEDICAL TRANSPORTATION SERVICES. (a) The executive commissioner shall adopt rules regarding the manner in which nonmedical transportation services may be arranged and provided.

(b) The rules must require a Medicaid managed care organization to create a process to:

(1) verify that a passenger is eligible to receive nonmedical transportation services;

(2) ensure that nonmedical transportation services are provided only to and from covered health care services in areas in which a transportation network company operates; and

(3) ensure the timely delivery of nonmedical transportation services to a recipient, including by setting reasonable service response goals.

(c) The rules must require a transportation vendor to, before permitting a motor vehicle operator to provide nonmedical transportation services:

(1) confirm that the operator:

(A) is at least 18 years of age;

(B) maintains a valid driver's license issued by this state, another state, or the District of Columbia; and

(C) possesses proof of registration and automobile

financial responsibility for each motor vehicle to be used to provide nonmedical transportation services;

(2) conduct, or cause to be conducted, a local, state, and national criminal background check for the operator that includes the use of:

(A) a commercial multistate and multijurisdiction criminal records locator or other similar commercial nationwide database; and

(B) the national sex offender public website the United States Department of Justice or a successor agency maintains;

(3) confirm that any vehicle to be used to provide nonmedical transportation services:

(A) meets the applicable requirements of Chapter 548, Transportation Code; and

(B) except as provided by Section 540A.0156, has at least four doors; and

(4) obtain and review the operator's driving record.

(d) The rules may not permit a motor vehicle operator to provide nonmedical transportation services if the operator:

(1) has been convicted in the three-year period preceding the issue date of the driving record obtained under Subsection (c)(4) of:

(A) more than three offenses the Department of Public Safety classifies as moving violations; or

(B) one or more of the following offenses:

(i) fleeing or attempting to elude a police officer under Section 545.421, Transportation Code;

(ii) reckless driving under Section 545.401, Transportation Code;

(iii) driving without a valid driver's license under Section 521.025, Transportation Code; or

(iv) driving with an invalid driver's license under Section 521.457, Transportation Code;

(2) has been convicted in the preceding seven-year period of any of the following:

(A) driving while intoxicated under Section 49.04 or 49.045, Penal Code;

(B) use of a motor vehicle to commit a felony;

(C) a felony crime involving property damage;

(D) fraud;

(E) theft;
(F) an act of violence; or
(G) an act of terrorism; or
(3) is found to be registered in the national sex offender public website the United States Department of Justice or a successor agency maintains.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0153. PERIODIC SCREENING OF TRANSPORTATION VENDOR OR MOTOR VEHICLE OPERATOR AUTHORIZED. The commission or a Medicaid managed care organization that contracts with a transportation vendor may require the transportation vendor or a motor vehicle operator who provides services under this subchapter to be periodically screened against the list of excluded individuals and entities the Office of Inspector General of the United States Department of Health and Human Services maintains.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0154. ENROLLMENT AS MEDICAID PROVIDER BY, OR CREDENTIALING OF, MOTOR VEHICLE OPERATOR NOT REQUIRED. (a) The commission or a Medicaid managed care organization may not require a motor vehicle operator to enroll as a Medicaid provider to provide nonmedical transportation services.

(b) The commission may not require a Medicaid managed care organization to credential a motor vehicle operator to provide nonmedical transportation services, and the organization may not require the credentialing of a motor vehicle operator to provide those services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0155. DRIVER REQUIREMENTS FOR CERTAIN MOTOR VEHICLE OPERATORS. Notwithstanding any other law, a motor vehicle operator

who is part of a transportation network company's network and who satisfies the driver requirements in Section 2402.107, Occupations Code, is qualified to provide nonmedical transportation services. The commission and a Medicaid managed care organization may not impose any additional requirements on a motor vehicle operator who satisfies the driver requirements in Section 2402.107, Occupations Code, to provide nonmedical transportation services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 540A.0156. MOTOR VEHICLE OPERATOR: VEHICLE ACCESSIBILITY. For purposes of this subchapter and notwithstanding Section 2402.111(a)(2)(A), Occupations Code, a motor vehicle operator who provides a service under this subchapter may use a wheelchair-accessible vehicle equipped with a lift or ramp that is capable of transporting a passenger using a fixed-frame wheelchair in the cabin of the vehicle if the vehicle otherwise meets the requirements of Section 2402.111, Occupations Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

CHAPTER 542. SYSTEM REDESIGN FOR DELIVERY OF MEDICAID ACUTE CARE SERVICES AND LONG-TERM SERVICES AND SUPPORTS TO INDIVIDUALS WITH AN INTELLECTUAL OR DEVELOPMENTAL DISABILITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 542.0001. DEFINITIONS. In this chapter:

(1) "Advisory committee" means the intellectual and developmental disability system redesign advisory committee established under Section 542.0052.

(2) "Basic attendant service" means a service provided to an individual to assist the individual with an activity of daily living, including an instrumental activity of daily living, because of a physical, cognitive, or behavioral limitation related to the individual's disability or chronic health condition.

(3) "Comprehensive long-term services and supports provider" means a provider of long-term services and supports under this chapter that ensures the coordinated, seamless delivery of the

full range of services in a recipient's program plan. The term includes:

(A) an ICF-IID program provider; and

(B) a Medicaid waiver program provider.

(4) "Consumer direction model" has the meaning assigned by Section 546.0101.

(5) "Functional need" means the measurement of an individual's services and supports needs, including the individual's intellectual, psychiatric, medical, and physical support needs.

(6) "Habilitation service" includes a service provided to an individual to assist the individual with acquiring, retaining, or improving:

(A) a skill related to the activities of daily living; and

(B) the social and adaptive skills necessary for the individual to live and fully participate in the community.

(7) "ICF-IID" means the Medicaid program serving individuals with an intellectual or developmental disability who receive care in intermediate care facilities other than a state supported living center.

(8) "ICF-IID program" means a Medicaid program serving individuals with an intellectual or developmental disability who reside in and receive care from:

(A) an intermediate care facility licensed under Chapter 252, Health and Safety Code; or

(B) a community-based intermediate care facility operated by a local intellectual and developmental disability authority.

(9) "Local intellectual and developmental disability authority" has the meaning assigned by Section 531.002, Health and Safety Code.

(10) "Managed care organization" has the meaning assigned by Section 543A.0001.

(11) "Medicaid waiver program" means only the following programs that are authorized under Section 1915(c) of the Social Security Act (42 U.S.C. Section 1396n(c)) for the provision of services to individuals with an intellectual or developmental disability:

(A) the community living assistance and support services (CLASS) waiver program;

(B) the home and community-based services (HCS) waiver program;

(C) the deaf-blind with multiple disabilities (DBMD) waiver program; and

(D) the Texas home living (TxHmL) waiver program.

(12) "Potentially preventable event" has the meaning assigned by Section 543A.0001.

(13) "Residential service" means a service provided to an individual with an intellectual or developmental disability through a community-based ICF-IID, three- or four-person home or host home setting under the home and community-based services (HCS) waiver program, or a group home under the deaf-blind with multiple disabilities (DBMD) waiver program.

(14) "State supported living center" has the meaning assigned by Section 531.002, Health and Safety Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0002. CONFLICT WITH OTHER LAW. To the extent of a conflict between a provision of this chapter and another state law, the provision of this chapter controls.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0003. DELAYED IMPLEMENTATION AUTHORIZED. Notwithstanding any other law, the commission may delay implementing a provision of this chapter without additional investigation, adjustment, or legislative action if the commission determines implementing the provision would adversely affect the system of services and supports to persons and programs to which this chapter applies.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER B. ACUTE CARE SERVICES AND LONG-TERM SERVICES AND SUPPORTS SYSTEM REDESIGN

Sec. 542.0051. REDESIGN OF ACUTE CARE SERVICES AND LONG-TERM SERVICES AND SUPPORTS SYSTEM FOR INDIVIDUALS WITH AN INTELLECTUAL OR DEVELOPMENTAL DISABILITY. The commission shall design and implement an acute care services and long-term services and supports system for individuals with an intellectual or developmental disability that supports the following goals:

(1) provide Medicaid services to more individuals in a cost-efficient manner by providing the type and amount of services most appropriate to an individual's needs and preferences in the most integrated and least restrictive setting;

(2) improve access to services and supports by ensuring that an individual receives information about all available programs and services, including employment and least restrictive housing assistance, and the manner of applying for the programs and services;

(3) improve the assessment of an individual's needs and available supports, including the assessment of an individual's functional needs;

(4) promote person-centered planning, self-direction, self-determination, community inclusion, and customized, integrated, competitive employment;

(5) promote individualized budgeting based on an assessment of an individual's needs and person-centered planning;

(6) promote integrated service coordination of acute care services and long-term services and supports;

(7) improve acute care and long-term services and supports outcomes, including reducing unnecessary institutionalization and potentially preventable events;

(8) promote high-quality care;

(9) provide fair hearing and appeals processes in accordance with federal law;

(10) ensure the availability of a local safety net provider and local safety net services;

(11) promote independent service coordination and independent ombudsmen services; and

(12) ensure that individuals with the most significant needs are appropriately served in the community and that processes are in place to prevent the inappropriate institutionalization of an individual.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

For expiration of this section, see Subsection (h).

Sec. 542.0052. INTELLECTUAL AND DEVELOPMENTAL DISABILITY SYSTEM REDESIGN ADVISORY COMMITTEE. (a) The intellectual and developmental disability system redesign advisory committee shall advise the commission on implementing the acute care services and long-term services and supports system redesign under this chapter.

(b) The executive commissioner shall appoint stakeholders from the intellectual and developmental disabilities community to serve as advisory committee members, including:

(1) individuals with an intellectual or developmental disability who receive services under a Medicaid waiver program;

(2) individuals with an intellectual or developmental disability who receive services under an ICF-IID program;

(3) representatives who are advocates for individuals described by Subdivisions (1) and (2), including at least three representatives from intellectual and developmental disability advocacy organizations;

(4) representatives of Medicaid managed care and nonmanaged care health care providers, including:

(A) physicians who are primary care providers;

(B) physicians who are specialty care providers;

(C) nonphysician mental health professionals; and

(D) long-term services and supports providers, including direct service workers;

(5) representatives of entities with responsibilities for delivering Medicaid long-term services and supports or for other Medicaid service delivery, including:

(A) representatives of aging and disability resource centers established under the Aging and Disability Resource Center initiative funded in part by the Administration on Aging and the Centers for Medicare and Medicaid Services;

(B) representatives of community mental health and intellectual disability centers;

(C) representatives of and service coordinators or case managers from private and public home and community-based services providers that serve individuals with an intellectual or developmental disability; and

(D) representatives of private and public ICF-IID providers; and

(6) representatives of managed care organizations that contract with this state to provide services to individuals with an intellectual or developmental disability.

(c) To the greatest extent possible, the executive commissioner shall appoint members to the advisory committee who reflect the geographic diversity of this state and include members who represent rural Medicaid recipients.

(d) The executive commissioner shall appoint the presiding officer of the advisory committee.

(e) The advisory committee must meet at least quarterly or more frequently if the presiding officer determines that more frequent meetings are necessary to address planning and development needs related to implementation of the acute care services and long-term services and supports system. The advisory committee may establish work groups that meet at other times to study and make recommendations on issues the advisory committee considers appropriate.

(f) An advisory committee member serves without compensation. An advisory committee member who is a Medicaid recipient or the relative of a Medicaid recipient is entitled to a per diem allowance and reimbursement at rates established in the General Appropriations Act.

(g) Chapter 551 applies to the advisory committee.

(h) On the second anniversary of the date the commission completes implementation of the transition required under Section 542.0201:

(1) the advisory committee is abolished; and

(2) this section expires.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0053. IMPLEMENTATION OF SYSTEM REDESIGN. The commission shall, in collaboration with the advisory committee, implement the acute care services and long-term services and supports system for individuals with an intellectual or developmental disability in the manner and in the stages described by this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4666, 89th Legislature, Regular Session, for amendments affecting the following section.

For expiration of this section, see Subsection (b).

Sec. 542.0054. ANNUAL REPORT ON IMPLEMENTATION. (a) Not later than September 30 of each year, the commission, in collaboration with the advisory committee, shall prepare and submit to the legislature a report that includes:

(1) an assessment of the implementation of the system required by this chapter, including appropriate information regarding the provision of acute care services and long-term services and supports to individuals with an intellectual or developmental disability under Medicaid;

(2) recommendations regarding implementation of and improvements to the system redesign, including recommendations regarding appropriate statutory changes to facilitate the implementation; and

(3) an assessment of the effect of the system on:

(A) access to long-term services and supports;

(B) the quality of acute care services and long-term services and supports;

(C) meaningful outcomes for Medicaid recipients using person-centered planning, individualized budgeting, and self-determination, including an individual's inclusion in the community;

(D) the integration of service coordination of acute care services and long-term services and supports;

(E) the efficiency and use of funding;

(F) the placement of individuals in housing that is the least restrictive setting appropriate to an individual's needs;

(G) employment assistance and customized, integrated, competitive employment options; and

(H) the number and types of fair hearing and appeals processes in accordance with federal law.

(b) This section expires on the second anniversary of the date the commission completes implementation of the transition required

under Section 542.0201.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER C. STAGE ONE: PILOT PROGRAM FOR IMPROVING SERVICE DELIVERY MODELS

Sec. 542.0101. DEFINITIONS. In this subchapter:

(1) "Capitation" means a method of compensating a provider on a monthly basis for providing or coordinating the provision of a defined set of services and supports that is based on a predetermined payment per services recipient.

(2) "Pilot program" means the pilot program established under this subchapter.

(3) "Pilot program participant" means an individual who is enrolled in and receives services through the pilot program.

(4) "Pilot program work group" means the pilot program work group established under Section 542.0104.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0102. PILOT PROGRAM TO TEST PERSON-CENTERED MANAGED CARE STRATEGIES AND IMPROVEMENTS BASED ON CAPITATION. (a) The commission, in collaboration with the advisory committee and pilot program work group, shall develop and implement a pilot program to test the delivery of long-term services and supports to pilot program participants through the STAR+PLUS Medicaid managed care program.

(b) A managed care organization participating in the pilot program shall provide Medicaid long-term services and supports to individuals with an intellectual or developmental disability and individuals with similar functional needs to test the organization's managed care strategy based on capitation.

(c) The pilot program must be designed to:

(1) increase access to long-term services and supports;

(2) improve the quality of acute care services and long-term services and supports;

(3) promote:

(A) informed choice and meaningful outcomes by using

person-centered planning, flexible consumer-directed services, individualized budgeting, and self-determination; and

(B) community inclusion and engagement;

(4) promote integrated service coordination of acute care services and long-term services and supports;

(5) promote efficiency and best funding use based on a pilot program participant's needs and preferences;

(6) promote, through housing supports and navigation services, stability in housing that is the most integrated and least restrictive based on a pilot program participant's needs and preferences;

(7) promote employment assistance and customized, integrated, competitive employment;

(8) provide fair hearing and appeals processes in accordance with federal and state law;

(9) promote the use of innovative technologies and benefits, including telemedicine, telemonitoring, the testing of remote monitoring, transportation services, and other innovations that support community integration;

(10) ensure a provider network that is adequate and includes comprehensive long-term services and supports providers and ensure that pilot program participants have a choice among those providers;

(11) ensure the timely initiation and consistent provision of long-term services and supports in accordance with a pilot program participant's person-centered plan;

(12) ensure that pilot program participants with complex behavioral, medical, and physical needs are assessed and receive appropriate services in the most integrated and least restrictive setting based on the participants' needs and preferences;

(13) increase access to, expand flexibility of, and promote the use of the consumer direction model;

(14) promote independence, self-determination, the use of the consumer direction model, and decision making by pilot program participants by using alternatives to guardianship, including a supported decision-making agreement as defined by Section 1357.002, Estates Code; and

(15) promote sufficient flexibility to achieve, through the pilot program, the goals listed in:

(A) this subsection;

(B) Subsection (b); and

(C) Sections 542.0103, 542.0110(a), 542.0113, and 542.0116(c).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0103. ALTERNATIVE PAYMENT RATE OR METHODOLOGY. (a) The pilot program must be designed to test the use of innovative payment rates and methodologies for the provision of long-term services and supports to achieve the goals of the pilot program. The payment methodologies must include:

(1) the payment of a bundled amount without downside risk to a comprehensive long-term services and supports provider for some or all services delivered as part of a comprehensive array of long-term services and supports;

(2) enhanced incentive payments to comprehensive long-term services and supports providers based on the completion of predetermined outcomes or quality metrics; and

(3) any other payment model the commission approves.

(b) An alternative payment rate or methodology may be used for a managed care organization and comprehensive long-term services and supports provider only if the organization and provider agree in advance and in writing to use the rate or methodology.

(c) In developing an alternative payment rate or methodology, the commission, managed care organizations, and comprehensive long-term services and supports providers shall consider:

(1) the historical costs of long-term services and supports, including Medicaid fee-for-service rates;

(2) reasonable cost estimates for new services under the pilot program; and

(3) whether an alternative payment rate or methodology is sufficient to promote quality outcomes and ensure a provider's continued participation in the pilot program.

(d) An alternative payment rate or methodology may not reduce the minimum payment a provider receives for delivering long-term services and supports under the pilot program to an amount that is less than the fee-for-service reimbursement rate the provider received for delivering those services before participating in the

pilot program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0104. PILOT PROGRAM WORK GROUP. (a) The executive commissioner, in consultation with the advisory committee, shall establish a pilot program work group to assist in developing and provide advice on the operation of the pilot program.

(b) The pilot program work group is composed of:

(1) representatives of the advisory committee;

(2) stakeholders representing individuals with an intellectual or developmental disability;

(3) stakeholders representing individuals with similar functional needs as the individuals described by Subdivision (2); and

(4) representatives of managed care organizations that contract with the commission to provide services under the STAR+PLUS Medicaid managed care program.

(c) Chapter 2110 applies to the pilot program work group.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0105. STAKEHOLDER INPUT. As part of developing and implementing the pilot program, the commission, in collaboration with the advisory committee and pilot program work group, shall develop a process to receive and evaluate:

(1) input from:

(A) statewide stakeholders; and

(B) stakeholders from a STAR+PLUS Medicaid managed care service area in which the pilot program will be implemented; and

(2) other evaluations and data.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0106. MEASURABLE GOALS. (a) The commission, in collaboration with the advisory committee and pilot program work

group, shall:

(1) identify, using national core indicators, the National Quality Forum long-term services and supports measures, and other appropriate Consumer Assessment of Healthcare Providers and Systems measures, measurable goals the pilot program is to achieve;

(2) develop specific strategies and performance measures for achieving the identified goals; and

(3) ensure that mechanisms to report, track, and assess specific strategies and performance measures for achieving the identified goals are established before implementing the pilot program.

(b) A strategy proposed under Subsection (a)(2) may be evidence-based if an evidence-based strategy is available for meeting the identified goals.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0107. MANAGED CARE ORGANIZATION SELECTION. The commission shall:

(1) in collaboration with the advisory committee and pilot program work group, develop criteria regarding the selection of a managed care organization to participate in the pilot program; and

(2) select and contract with not more than two managed care organizations that contract with the commission to provide services under the STAR+PLUS Medicaid managed care program to participate in the pilot program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0108. MANAGED CARE ORGANIZATION PARTICIPATION REQUIREMENTS. The commission shall require that a managed care organization participating in the pilot program:

(1) ensures that pilot program participants have a choice among acute care and comprehensive long-term services and supports providers and service delivery options, including the consumer direction model;

(2) demonstrates to the commission's satisfaction that the

organization's network of acute care, long-term services and supports, and comprehensive long-term services and supports providers have experience and expertise in providing services for individuals with an intellectual or developmental disability and individuals with similar functional needs;

(3) has a process for preventing the inappropriate institutionalization of pilot program participants; and

(4) ensures the timely initiation and consistent provision of services in accordance with a pilot program participant's person-centered plan.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0109. REQUIRED BENEFITS. (a) The commission shall ensure that a managed care organization participating in the pilot program provides:

(1) all Medicaid state plan acute care benefits available under the STAR+PLUS Medicaid managed care program;

(2) long-term services and supports under the Medicaid state plan, including:

(A) Community First Choice services;

(B) personal assistance services;

(C) day activity health services; and

(D) habilitation services;

(3) long-term services and supports under the STAR+PLUS home and community-based services (HCBS) waiver program, including:

(A) assisted living services;

(B) personal assistance services;

(C) employment assistance;

(D) supported employment;

(E) adult foster care;

(F) dental care;

(G) nursing care;

(H) respite care;

(I) home-delivered meals;

(J) cognitive rehabilitative therapy;

(K) physical therapy;

(L) occupational therapy;

(M) speech-language pathology;
(N) medical supplies;
(O) minor home modifications; and
(P) adaptive aids;
(4) the following long-term services and supports under a Medicaid waiver program:
(A) enhanced behavioral health services;
(B) behavioral supports;
(C) day habilitation; and
(D) community support transportation;
(5) the following additional long-term services and supports:
(A) housing supports;
(B) behavioral health crisis intervention services; and
(C) high medical needs services;
(6) other nonresidential long-term services and supports that the commission, in collaboration with the advisory committee and pilot program work group, determines are appropriate and consistent with requirements governing the Medicaid waiver programs, person-centered approaches, home and community-based setting requirements, and achievement of the most integrated and least restrictive setting based on an individual's needs and preferences; and
(7) dental services benefits in accordance with Subsection (b).
(b) In developing the pilot program, the commission shall:
(1) evaluate dental services benefits provided through Medicaid waiver programs and dental services benefits provided as a value-added service under the Medicaid managed care delivery model;
(2) determine which dental services benefits are the most cost-effective in reducing emergency room and inpatient hospital admissions resulting from poor oral health; and
(3) based on the determination made under Subdivision (2), provide the most cost-effective dental services benefits to pilot program participants.
(c) Before implementing the pilot program, the commission, in collaboration with the advisory committee and pilot program work group, shall:
(1) for pilot program purposes only, develop recommendations to modify adult foster care and supported employment and employment assistance benefits to increase access to and

availability of those services; and

(2) as necessary, define services listed under Subsections (a)(4) and (5) and any other services the commission determines to be appropriate under Subsection (a)(6).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0110. PROVIDER PARTICIPATION. (a) The pilot program must allow a comprehensive long-term services and supports provider for individuals with an intellectual or developmental disability or similar functional needs that contracts with the commission to provide Medicaid services before the date the pilot program is implemented to voluntarily participate in the pilot program. A provider's choice not to participate in the pilot program does not affect the provider's status as a significant traditional provider.

(b) For the duration of the pilot program, the commission shall ensure that comprehensive long-term services and supports providers are:

(1) considered significant traditional providers; and

(2) included in the provider network of a managed care organization participating in the pilot program.

(c) A comprehensive long-term services and supports provider may deliver services listed under the following provisions only if the provider also delivers the services under a Medicaid waiver program:

(1) Sections 542.0109(a)(2)(A) and (D);

(2) Sections 542.0109(a)(3)(B), (C), (D), (G), (H), (J), (K), (L), and (M); and

(3) Section 542.0109(a)(4).

(d) A comprehensive long-term services and supports provider may deliver services listed under Sections 542.0109(a)(5) and (6) only if the managed care organization in the network of which the provider participates agrees, in a contract with the provider, to the provision of those services.

(e) Day habilitation services listed under Section 542.0109(a)(4)(C) may be delivered by a provider who contracts or subcontracts with the commission to provide day habilitation services under the home and community-based services (HCS) waiver program or

the ICF-IID program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0111. CARE COORDINATION. (a) A comprehensive long-term services and supports provider participating in the pilot program shall work in coordination with the care coordinators of a managed care organization participating in the pilot program to ensure the seamless daily delivery of acute care and long-term services and supports in accordance with a pilot program participant's plan of care.

(b) A managed care organization may reimburse a comprehensive long-term services and supports provider for coordinating with care coordinators under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0112. PERSON-CENTERED PLANNING. The commission, in collaboration with the advisory committee and pilot program work group, shall ensure that each pilot program participant or the participant's legally authorized representative has access to a comprehensive, facilitated, person-centered plan that identifies outcomes for the participant and drives the development of the individualized budget. The consumer direction model must be an available option for a participant to achieve self-determination, choice, and control.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0113. USE OF INNOVATIVE TECHNOLOGY. A pilot program participant is not required to use an innovative technology described by Section 542.0102(c)(9). If a participant chooses to use an innovative technology described by that subdivision, the commission shall ensure that:

(1) services associated with the technology are delivered

in a manner that:

(A) ensures the participant's privacy, health, and well-being;

(B) provides access to housing in the most integrated and least restrictive environment;

(C) assesses individual needs and preferences to promote autonomy, self-determination, the use of the consumer direction model, and privacy;

(D) increases personal independence;

(E) specifies the extent to which the innovative technology will be used, including:

(i) the times of day during which the technology will be used;

(ii) the place in which the technology is authorized to be used;

(iii) the types of telemonitoring or remote monitoring that will be used; and

(iv) the purposes for which the technology will be used; and

(F) is consistent with and agreed on during the person-centered planning process;

(2) staff overseeing the use of the innovative technology:

(A) review the person-centered and implementation plans for each participant before overseeing the use of the innovative technology; and

(B) demonstrate competency regarding the support needs of each participant using the innovative technology;

(3) a participant using the innovative technology is able to request the removal of equipment associated with the technology and, on receipt of a request for the removal, the equipment is immediately removed; and

(4) a participant is not required to use telemedicine at any point during the pilot program and, if the participant refuses to use telemedicine, the managed care organization providing pilot program health care services to the participant arranges for services that do not include telemedicine.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0114. INFORMATIONAL MATERIALS. (a) To ensure that prospective pilot program participants are able to make an informed decision on whether to participate in the pilot program, the commission, in collaboration with the advisory committee and pilot program work group, shall develop and distribute informational materials that describe the pilot program's benefits and impact on current services and other related information.

(b) The commission shall establish a timeline and process for developing and distributing the informational materials and ensure that:

(1) the materials are developed and distributed to individuals eligible to participate in the pilot program with sufficient time to educate the individuals, their families, and other persons actively involved in their lives regarding the pilot program;

(2) individuals eligible to participate in the pilot program, including individuals enrolled in the STAR+PLUS Medicaid managed care program, their families, and other persons actively involved in their lives receive the materials and oral information on the pilot program;

(3) the materials contain clear, simple language presented in a manner that is easy to understand; and

(4) at a minimum, the materials explain that:

(A) on the pilot program's conclusion, each pilot program participant will be asked to provide feedback on the participant's experience, including feedback on whether the pilot program was able to meet the participant's unique support needs;

(B) participation in the pilot program does not remove an individual from any Medicaid waiver program interest list;

(C) a pilot program participant who, during the pilot program's operation, is offered enrollment in a Medicaid waiver program may accept the enrollment, transition, or diversion offer; and

(D) a pilot program participant has a choice among acute care and comprehensive long-term services and supports providers and service delivery options, including the consumer direction model and comprehensive services model.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0115. IMPLEMENTATION, LOCATION, AND DURATION. The commission shall:

(1) implement the pilot program on September 1, 2023;

(2) conduct the pilot program in a STAR+PLUS Medicaid managed care service area the commission selects; and

(3) operate the pilot program for at least 24 months.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0116. RECIPIENT ENROLLMENT, PARTICIPATION, AND ELIGIBILITY. (a) The commission, in collaboration with the advisory committee and pilot program work group, shall develop pilot program participant eligibility criteria. The criteria must ensure that pilot program participants:

(1) include individuals with an intellectual or developmental disability or a cognitive disability, including:

(A) individuals with autism;

(B) individuals with significant complex behavioral, medical, and physical needs who are receiving home and community-based services through the STAR+PLUS Medicaid managed care program;

(C) individuals enrolled in the STAR+PLUS Medicaid managed care program who:

(i) are on a Medicaid waiver program interest list;

(ii) meet the criteria for an intellectual or developmental disability; or

(iii) have a traumatic brain injury that occurred after the age of 21; and

(D) other individuals with disabilities who have similar functional needs without regard to the age of onset or diagnosis; and

(2) do not include individuals who are receiving only acute care services under the STAR+PLUS Medicaid managed care program and are enrolled in the community-based ICF-IID program or another Medicaid waiver program.

(b) An individual who is eligible to participate in the pilot program will be enrolled automatically. The decision to opt out of participating may be made only by the individual or the individual's legally authorized representative.

(c) Before implementing the pilot program, the commission, in collaboration with the advisory committee and pilot program work group, shall develop and implement a process to ensure that pilot program participants remain eligible for Medicaid for 12 consecutive months during the pilot program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0117. PILOT PROGRAM INFORMATION COLLECTION AND ANALYSIS. (a) The commission, in collaboration with the advisory committee and pilot program work group, shall determine the information to collect from a managed care organization participating in the pilot program for use in conducting the evaluation and preparing the report under Section 542.0119.

(b) For the duration of the pilot program, a managed care organization participating in the pilot program shall submit to the commission and the advisory committee quarterly reports on the services provided to each pilot program participant. The reports must include information on:

(1) the level of each requested service and the authorization and utilization rates for those services;

(2) timelines of:

(A) the authorization of each requested service;

(B) the initiation of each requested service;

(C) the delivery of each requested service; and

(D) each unplanned break in the delivery of requested services and the duration of the break;

(3) the number of pilot program participants using employment assistance and supported employment services;

(4) the number of service denials and fair hearings and the dispositions of the fair hearings;

(5) the number of complaints and inquiries the managed care organization received and the outcome of each complaint; and

(6) the number of pilot program participants who choose the consumer direction model and the reasons other participants did not choose the consumer direction model.

(c) The commission shall ensure that the mechanisms to report and track the information and data required by Subsections (a) and

(b) are established before implementing the pilot program.

(d) For purposes of making a recommendation about a system of programs and services for implementation through future state legislation or rules, the commission, in collaboration with the advisory committee and pilot program work group, shall analyze:

(1) information provided by managed care organizations participating in the pilot program; and

(2) any information the commission collects during the operation of the pilot program.

(e) The analysis under Subsection (d) must include an assessment of the effect of the managed care strategies implemented in the pilot program on the goals described by Sections 542.0102(b) and (c), 542.0103, 542.0110(a), 542.0113, and 542.0116(c).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0118. PILOT PROGRAM CONCLUSION; PUBLICATION OF CONTINUATION. On September 1, 2025, the pilot program is concluded unless the commission continues the pilot program under Section 542.0120. If the commission continues the pilot program, the commission shall publish notice of that continuation in the Texas Register not later than September 1, 2025.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4666, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 542.0119. EVALUATIONS AND REPORTS. (a) The commission, in collaboration with the advisory committee and pilot program work group, shall review and evaluate the progress and outcomes of the pilot program and submit, as part of the annual report required under Section 542.0054, a report on the pilot program's status that includes recommendations for improving the pilot program.

(b) Not later than September 1, 2026, the commission, in collaboration with the advisory committee and pilot program work

group, shall prepare and submit to the legislature a written report that evaluates the pilot program based on a comprehensive analysis. The analysis must:

(1) assess the effect of the pilot program on:

(A) access to and quality of long-term services and supports;

(B) informed choice and meaningful outcomes using person-centered planning, flexible consumer-directed services, individualized budgeting, and self-determination, including a pilot program participant's inclusion in the community;

(C) the integration of service coordination of acute care services and long-term services and supports;

(D) employment assistance and customized, integrated, competitive employment options;

(E) the number, types, and dispositions of fair hearings and appeals in accordance with federal and state law;

(F) increasing the use and flexibility of the consumer direction model;

(G) increasing the use of alternatives to guardianship, including supported decision-making agreements as defined by Section 1357.002, Estates Code;

(H) achieving the best and most cost-effective funding use based on a pilot program participant's needs and preferences; and

(I) attendant recruitment and retention;

(2) analyze the experiences and outcomes of the following systems changes:

(A) the comprehensive assessment instrument described by Section 533A.0335, Health and Safety Code;

(B) the 21st Century Cures Act (Pub. L. No. 114-255);

(C) implementation of the federal rule adopted by the Centers for Medicare and Medicaid Services and published at 79 Fed. Reg. 2948 (January 16, 2014) related to the provision of long-term services and supports through a home and community-based services (HCS) waiver program under Section 1915(c), 1915(i), or 1915(k) of the Social Security Act (42 U.S.C. Section 1396n(c), (i), or (k));

(D) the provision of basic attendant and habilitation services under Section 542.0152; and

(E) the benefits of providing STAR+PLUS Medicaid managed care services to individuals based on functional needs;

(3) include feedback on the pilot program based on the

personal experiences of:

(A) individuals with an intellectual or developmental disability and individuals with similar functional needs who were pilot program participants;

(B) families of and other persons actively involved in the lives of individuals described by Paragraph (A); and

(C) comprehensive long-term services and supports providers who delivered services under the pilot program;

(4) be incorporated in the annual report required under Section 542.0054; and

(5) include recommendations on:

(A) a system of programs and services for the legislature's consideration;

(B) necessary statutory changes; and

(C) whether to implement the pilot program statewide under the STAR+PLUS Medicaid managed care program for eligible individuals.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0120. TRANSITION BETWEEN PROGRAMS; CONTINUITY OF CARE. (a) During the evaluation of the pilot program required under Section 542.0119, the commission may continue the pilot program to ensure continuity of care for pilot program participants. If, following the evaluation, the commission does not continue the pilot program, the commission shall ensure that there is a comprehensive plan for transitioning the provision of Medicaid benefits for pilot program participants to the benefits provided before participation in the pilot program.

(b) A transition plan under Subsection (a) shall be developed in collaboration with the advisory committee and pilot program work group and with stakeholder input as described by Section 542.0105.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0121. SERVICE TRANSITION REQUIREMENTS. (a) For purposes of implementing the pilot program and transitioning the

provision of services provided to recipients under certain Medicaid waiver programs to a Medicaid managed care delivery model following completion of the pilot program, the commission shall:

(1) implement and maintain a certification process for and maintain regulatory oversight over providers under the Texas home living (TxHmL) and home and community-based services (HCS) waiver programs; and

(2) require managed care organizations to include in the organizations' provider networks providers who are certified in accordance with the certification process described by Subdivision (1).

(b) For purposes of implementing the pilot program and transitioning the provision of services described by Section 542.0201 to the STAR+PLUS Medicaid managed care program, a comprehensive long-term services and supports provider:

(1) must report to the managed care organization in the network of which the provider participates each encounter of any directly contracted service;

(2) must provide to the managed care organization quarterly reports on:

(A) coordinated services and time frames for the delivery of those services; and

(B) the goals and objectives outlined in an individual's person-centered plan and progress made toward meeting those goals and objectives; and

(3) may not be held accountable for the provision of services specified in an individual's service plan that are not authorized or are subsequently denied by the managed care organization.

(c) On transitioning services under a Medicaid waiver program to a Medicaid managed care delivery model, the commission shall ensure that individuals do not lose benefits the individuals receive under the Medicaid waiver program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER D. STAGE ONE: PROVISION OF ACUTE CARE AND CERTAIN OTHER SERVICES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4666, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 542.0151. DELIVERY OF ACUTE CARE SERVICES TO INDIVIDUALS WITH AN INTELLECTUAL OR DEVELOPMENTAL DISABILITY. (a) Subject to Sections 540.0701 and 540.0753, the commission shall:

(1) provide acute care Medicaid benefits to individuals with an intellectual or developmental disability through the STAR+PLUS Medicaid managed care program or the most appropriate integrated capitated managed care program delivery model; and

(2) monitor the provision of those benefits.

(b) The commission, in collaboration with the advisory committee, shall analyze the outcomes of providing acute care Medicaid benefits to individuals with an intellectual or developmental disability under a model described by Subsection (a). The analysis must:

(1) include an assessment of the effects of the delivery model on:

(A) access to and quality of acute care services; and

(B) the number and types of fair hearing and appeals processes in accordance with federal law;

(2) be incorporated into the annual report to the legislature required under Section 542.0054; and

(3) include recommendations for delivery model improvements and implementation for the legislature's consideration, including recommendations for needed statutory changes.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0152. DELIVERY OF CERTAIN OTHER SERVICES UNDER STAR+PLUS MEDICAID MANAGED CARE PROGRAM AND BY WAIVER PROGRAM PROVIDERS. (a) The commission shall:

(1) implement the option for the delivery of basic attendant and habilitation services to individuals with an intellectual or developmental disability under the STAR+PLUS Medicaid managed care program that:

(A) is the most cost-effective; and

(B) maximizes federal funding for the delivery of

services for that program and other similar programs; and

(2) provide voluntary training to individuals receiving services under the STAR+PLUS Medicaid managed care program or their legally authorized representatives regarding how to select, manage, and dismiss a personal attendant providing basic attendant and habilitation services under the program.

(b) The commission shall require each managed care organization that contracts with the commission to provide basic attendant and habilitation services under the STAR+PLUS Medicaid managed care program in accordance with this section to:

(1) include in the organization's provider network for the provision of those services:

(A) home and community support services agencies licensed under Chapter 142, Health and Safety Code, with which the commission has a contract to provide services under the community living assistance and support services (CLASS) waiver program; and

(B) persons exempted from licensing under Section 142.003(a)(19), Health and Safety Code, with which the commission has a contract to provide services under:

(i) the home and community-based services (HCS) waiver program; or

(ii) the Texas home living (TxHmL) waiver program;

(2) review and consider any assessment conducted by a local intellectual and developmental disability authority providing intellectual and developmental disability service coordination under Subsection (c); and

(3) enter into a written agreement with each local intellectual and developmental disability authority in the service area regarding the processes the organization and the authority will use to coordinate the services provided to individuals with an intellectual or developmental disability.

(c) The commission shall contract with and make contract payments to local intellectual and developmental disability authorities to:

(1) provide intellectual and developmental disability service coordination to individuals with an intellectual or developmental disability under the STAR+PLUS Medicaid managed care program by assisting individuals who are eligible to receive services in a community-based setting, including individuals transitioning to a community-based setting;

(2) provide to the appropriate managed care organization, based on the functional need, risk factors, and desired outcomes of an individual with an intellectual or developmental disability, an assessment of whether the individual needs attendant or habilitation services;

(3) assist individuals with an intellectual or developmental disability with developing the individuals' plans of care under the STAR+PLUS Medicaid managed care program, including with making any changes resulting from periodic reassessments of the plans;

(4) provide to the appropriate managed care organization and the commission information regarding the recommended plans of care with which the authorities provide assistance as provided by Subdivision (3), including documentation necessary to demonstrate the need for care described by a plan; and

(5) annually provide to the appropriate managed care organization and the commission a description of outcomes based on an individual's plan of care.

(d) Local intellectual and developmental disability authorities providing service coordination under this section may not also provide attendant and habilitation services under this section.

(e) A local intellectual and developmental disability authority with which the commission contracts under Subsection (c) may subcontract with an eligible person, including a nonprofit entity, to coordinate the delivery of services to individuals with an intellectual or developmental disability under this section. The executive commissioner by rule shall establish minimum qualifications a person must meet to be considered an eligible person under this subsection.

(f) The commission may contract with providers participating in the home and community-based services (HCS) waiver program, the Texas home living (TxHmL) waiver program, the community living assistance and support services (CLASS) waiver program, or the deaf-blind with multiple disabilities (DBMD) waiver program for the delivery of basic attendant and habilitation services to individuals as described by Subsection (a). The commission has regulatory and oversight authority over the providers with which the commission contracts for the delivery of those services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

SUBCHAPTER E. STAGE TWO: TRANSITION OF ICF-IID PROGRAM RECIPIENTS AND LONG-TERM CARE MEDICAID WAIVER PROGRAM RECIPIENTS TO INTEGRATED MANAGED CARE SYSTEM

Sec. 542.0201. TRANSITION OF ICF-IID PROGRAM RECIPIENTS AND CERTAIN OTHER MEDICAID WAIVER PROGRAM RECIPIENTS TO MANAGED CARE PROGRAM. (a) This section applies to individuals with an intellectual or developmental disability who are receiving long-term services and supports under:

(1) a Medicaid waiver program; or

(2) an ICF-IID program.

(b) After implementing the pilot program under Subchapter C and completing the evaluations required by Section 542.0119, the commission, in collaboration with the advisory committee, shall develop a plan for transitioning all or a portion of the services provided through a Medicaid waiver program or an ICF-IID program to a Medicaid managed care model. The plan must include:

(1) a process for transitioning the services in the following phases:

(A) beginning September 1, 2027, the Texas home living (TxHmL) waiver program services;

(B) beginning September 1, 2029, the community living assistance and support services (CLASS) waiver program services;

(C) beginning September 1, 2031, nonresidential services provided under the home and community-based services (HCS) waiver program and the deaf-blind with multiple disabilities (DBMD) waiver program; and

(D) subject to Subdivision (2), the residential services provided under an ICF-IID program, the home and community-based services (HCS) waiver program, and the deaf-blind with multiple disabilities (DBMD) waiver program; and

(2) a process for evaluating and determining the feasibility and cost efficiency of transitioning residential services described by Subdivision (1)(D) to a Medicaid managed care model based on an evaluation of a separate pilot program the commission, in collaboration with the advisory committee, conducts that operates after the transition process described by Subdivision (1).

(c) Before implementing the transition plan, the commission

shall determine whether to:

(1) continue operating the Medicaid waiver programs or ICF-IID program only for purposes of providing, if applicable:

(A) supplemental long-term services and supports not available under the managed care program delivery model the commission selects; or

(B) long-term services and supports to Medicaid waiver program recipients who choose to continue receiving benefits under the waiver programs as provided by Section 542.0202(a); or

(2) provide all or a portion of the long-term services and supports previously available under the Medicaid waiver programs or ICF-IID program through the managed care program delivery model the commission selects.

(d) In implementing the transition plan, the commission shall develop a process to receive and evaluate input from interested statewide stakeholders that is in addition to the input the advisory committee provides.

(e) The commission shall ensure that there is a comprehensive plan for transitioning the provision of Medicaid benefits under this section that protects the continuity of care provided to individuals to whom this section applies and ensures that individuals have a choice among acute care and comprehensive long-term services and supports providers and service delivery options, including the consumer direction model.

(f) Before transitioning the provision of Medicaid benefits for children under this section, a managed care organization providing services under the managed care program delivery model the commission selects must demonstrate to the commission's satisfaction that the providers in the organization's provider network have experience and expertise in providing services to children with an intellectual or developmental disability.

(g) Before transitioning the provision of Medicaid benefits for adults under this section, a managed care organization providing services under the managed care program delivery model the commission selects must demonstrate to the commission's satisfaction that the providers in the organization's provider network have experience and expertise in providing services to adults with an intellectual or developmental disability.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

Sec. 542.0202. RECIPIENT CHOICE OF DELIVERY MODEL. (a) If the commission determines under Section 542.0201(c)(2) that all or a portion of the long-term services and supports previously available under Medicaid waiver programs should be provided through a managed care program delivery model, the commission shall, at the time of the transition, allow each recipient receiving long-term services and supports under a Medicaid waiver program the option of:

(1) continuing to receive the services and supports under the Medicaid waiver program; or

(2) receiving the services and supports through the managed care program delivery model the commission selects.

(b) A recipient who chooses under Subsection (a) to receive long-term services and supports through a managed care program delivery model may not subsequently choose to receive the services and supports under a Medicaid waiver program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0203. REQUIRED CONTRACT PROVISIONS. In addition to the requirements of Subchapter F, Chapter 540, a contract between a managed care organization and the commission for the organization to provide Medicaid benefits under Section 542.0201 must contain a requirement that the organization implement a process for individuals with an intellectual or developmental disability that:

(1) ensures that the individuals have a choice among acute care and comprehensive long-term services and supports providers and service delivery options, including the consumer direction model;

(2) to the greatest extent possible, protects those individuals' continuity of care with respect to access to primary care providers, including through the use of single-case agreements with out-of-network providers; and

(3) provides access to a member services telephone line for individuals or their legally authorized representatives to obtain information on and assistance with accessing services through network providers, including providers of primary and specialty services and

other long-term services and supports.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 542.0204. RESPONSIBILITIES OF COMMISSION UNDER SUBCHAPTER. In administering this subchapter, the commission shall ensure, on making a determination to transition services under Section 542.0201:

(1) that the commission is responsible for setting the minimum reimbursement rate paid to an ICF-IID services or group home provider under the integrated managed care system, including the staff rate enhancement paid to an ICF-IID services or group home provider;

(2) that an ICF-IID services or group home provider is paid not later than the 10th day after the date the provider submits a clean claim in accordance with the criteria the commission uses to reimburse an ICF-IID services or group home provider, as applicable;

(3) the establishment of an electronic portal through which an ICF-IID services or group home provider participating in the STAR+PLUS Medicaid managed care program delivery model or the most appropriate integrated capitated managed care program delivery model, as appropriate, may submit long-term services and supports claims to any participating managed care organization; and

(4) that the consumer direction model is an available option for each individual with an intellectual or developmental disability who receives Medicaid benefits in accordance with this subchapter to achieve self-determination, choice, and control and that the individual or the individual's legally authorized representative has access to a comprehensive, facilitated, person-centered plan that identifies outcomes for the individual.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

CHAPTER 543. CLINICAL INITIATIVES TO IMPROVE MEDICAID QUALITY OF CARE AND COST-EFFECTIVENESS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 543.0001. EFFECT OF CHAPTER ON COMMISSION'S AUTHORITY. This chapter does not affect the commission's authority, or give the

commission additional authority, to:

(1) affect any individual health care treatment decision for a Medicaid recipient;

(2) replace or affect:

(A) the process of determining Medicaid benefits, including the approval process for receiving benefits for durable medical equipment; or

(B) any applicable approval process required for reimbursement for services or other equipment under Medicaid;

(3) implement a clinical initiative or associated rule or program policy that is otherwise prohibited under state or federal law; or

(4) implement any initiative that would expand eligibility for Medicaid benefits.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543.0002. RULES. The executive commissioner shall adopt rules necessary to implement this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543.0003. INTERNET WEBSITE. The commission shall maintain an Internet website related to the quality improvement process required under this chapter. The website must include:

(1) an explanation of the process for submission, preliminary review, analysis, and approval of a clinical initiative under this chapter;

(2) an explanation of how members of the public may submit comments or research related to an initiative;

(3) a copy of each initiative selected for analysis under Section 543.0054;

(4) the status of each initiative in the approval process; and

(5) a copy of each final report prepared under this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER B. ASSESSMENT OF CLINICAL INITIATIVES

Sec. 543.0051. MEDICAID QUALITY IMPROVEMENT PROCESS. The commission shall, in accordance with this chapter, develop and implement a quality improvement process by which the commission:

(1) receives suggestions for clinical initiatives designed to improve:

(A) the quality of care provided under Medicaid; and

(B) the cost-effectiveness of Medicaid;

(2) conducts a preliminary review under Section 543.0053(2) of each suggestion received under Section 543.0052 to determine whether the suggestion warrants further consideration and analysis; and

(3) conducts an analysis under Section 543.0054 of each suggestion that is selected for analysis in accordance with Subdivision (2).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543.0052. SOLICITATION OF SUGGESTIONS FOR CLINICAL INITIATIVES. (a) Subject to Subsection (b), the commission shall solicit and accept written or electronic suggestions for clinical initiatives from:

(1) a member of the legislature;

(2) the executive commissioner;

(3) the commissioner of state health services;

(4) the commissioner of the Department of Family and Protective Services; and

(5) the medical care advisory committee appointed under Section 32.022, Human Resources Code.

(b) The commission may not accept a suggestion for a clinical initiative that:

(1) is undergoing clinical trials; or

(2) expands a health care provider's scope of practice beyond the law governing the provider's practice.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543.0053. CLINICAL INITIATIVE EVALUATION PROCESS. The commission shall establish and implement an evaluation process for the submission, preliminary review, analysis, and approval of a clinical initiative. The process must:

(1) require that a suggestion for a clinical initiative be submitted to the state Medicaid director;

(2) allow the commission to conduct, with the assistance of an appropriate advisory committee or similar group as determined by the commission, a preliminary review of each suggested clinical initiative to determine whether the initiative warrants further consideration and analysis under Section 543.0054;

(3) require the commission to publish on the Internet website maintained in accordance with Section 543.0003 the criteria the commission uses in the preliminary review under Subdivision (2) to determine whether an initiative warrants analysis under Section 543.0054;

(4) limit the number of suggestions analyzed under Section 543.0054;

(5) require that a suggestion for a clinical initiative selected for analysis under Section 543.0054 be published on the Internet website maintained in accordance with Section 543.0003 not later than the 30th day after the date the state Medicaid director receives the suggestion;

(6) provide for a formal public comment period that lasts at least 30 days during which the public may submit comments and research relating to a suggested clinical initiative;

(7) require commission employees to analyze, in accordance with Section 543.0054, each suggested clinical initiative selected for analysis; and

(8) require the development and publication of a final report in accordance with Section 543.0055 on each clinical initiative selected for analysis under Section 543.0054 not later than the 180th day after the date the state Medicaid director receives the suggestion.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

Sec. 543.0054. ANALYSIS OF CLINICAL INITIATIVES. After conducting a preliminary review of a clinical initiative under Section 543.0053(2), the commission shall analyze the clinical initiative if the commission selects the initiative for analysis. The analysis must include a review of:

(1) any public comments and submitted research relating to the initiative;

(2) the available clinical research and historical utilization information relating to the initiative;

(3) published medical literature relating to the initiative;

(4) any adoption of the initiative by a medical society or other clinical group;

(5) whether the initiative has been implemented under:

(A) the Medicare program;

(B) another state medical assistance program; or

(C) a state-operated health care program, including the child health plan program;

(6) the results of reports, research, pilot programs, or clinical studies relating to the initiative conducted by:

(A) institutions of higher education, including related medical schools;

(B) governmental entities and agencies; and

(C) private and nonprofit think tanks and research groups;

(7) the impact the initiative would have on Medicaid if the initiative were implemented in this state, including:

(A) an estimate of the number of Medicaid recipients that would be impacted by implementing the initiative; and

(B) a description of any potential cost savings to the state that would result from implementing the initiative; and

(8) any statutory barriers to implementing the initiative.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543.0055. FINAL REPORT ON CLINICAL INITIATIVE. The commission shall prepare a final report based on the analysis of a clinical initiative conducted under Section 543.0054. The final report must include:

(1) a final determination of:

(A) the feasibility of implementing the initiative;

(B) the likely impact implementing the initiative would have on the quality of care provided under Medicaid; and

(C) the anticipated cost savings to the state that would result from implementing the initiative;

(2) a summary of the public comments, including a description of any opposition to the initiative;

(3) an identification of any statutory barriers to implementing the initiative; and

(4) if the initiative is not implemented, an explanation of that decision.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543.0056. COMMISSION ACTION ON CLINICAL INITIATIVE. After the commission analyzes a clinical initiative under Section 543.0054:

(1) if the commission determined that the initiative is cost-effective and will improve the quality of care under Medicaid, the commission may:

(A) implement the initiative if implementing the initiative is not otherwise prohibited by law; or

(B) if implementation requires a change in law, submit a copy of the final report together with recommendations relating to the initiative's implementation to the standing committees of the senate and house of representatives with jurisdiction over Medicaid; and

(2) if the commission determined that the initiative is not cost-effective or will not improve quality of care under Medicaid, the commission may not implement the initiative.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

CHAPTER 543A. QUALITY-BASED OUTCOMES AND PAYMENTS UNDER MEDICAID AND CHILD HEALTH PLAN PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 543A.0001. DEFINITIONS. In this chapter:

(1) "Alternative payment system" includes:

(A) a global payment system;

(B) an episode-based bundled payment system; and

(C) a blended payment system.

(2) "Blended payment system" means a system for compensating a physician or other health care provider that:

(A) includes at least one feature of a global payment system and an episode-based bundled payment system; and

(B) may include a system under which a portion of the compensation paid to a physician or other health care provider is based on a fee-for-service payment arrangement.

(3) "Enrollee" means an individual enrolled in the child health plan program.

(4) "Episode-based bundled payment system" means a system for compensating a physician or other health care provider for providing or arranging for health care services to an enrollee or recipient that is based on a flat payment for all services provided in connection with a single episode of medical care.

(5) "Exclusive provider benefit plan" means a managed care plan subject to 28 T.A.C. Part 1, Chapter 3, Subchapter KK.

(6) "Freestanding emergency medical care facility" means a facility licensed under Chapter 254, Health and Safety Code.

(7) "Global payment system" means a system for compensating a physician or other health care provider for providing or arranging for a defined set of covered health care services to an enrollee or recipient for a specified period that is based on a predetermined payment per enrollee or recipient for the specified period, without regard to the quantity of services actually provided.

(8) "Health care provider" means a person, facility, or institution licensed, certified, registered, or chartered by this state to provide health care. The term includes an employee, independent contractor, or agent of a health care provider acting in the course and scope of the employment or contractual relationship.

(9) "HIV" has the meaning assigned by Section 81.101, Health and Safety Code.

(10) "Hospital" means an institution licensed under Chapter

241 or 577, Health and Safety Code, including a general or special hospital as defined by Section 241.003 of that code.

(11) "Managed care organization" means a person that is authorized or otherwise permitted by law to arrange for or provide a managed care plan. The term includes a health maintenance organization and an exclusive provider organization.

(12) "Managed care plan" means a plan, including an exclusive provider benefit plan, under which a person undertakes to provide, arrange or pay for, or reimburse any part of the cost of health care services. The plan must include arranging for or providing health care services as distinguished from indemnification against the cost of those services on a prepaid basis through insurance or otherwise. The term does not include a plan that indemnifies a person for the cost of health care services through insurance.

(13) "Physician" means an individual licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code.

(14) "Potentially preventable admission" means an individual's admission to a hospital or long-term care facility that may have reasonably been prevented with adequate access to ambulatory care or health care coordination.

(15) "Potentially preventable ancillary service" means a health care service that:

(A) a physician or other health care provider provides or orders to supplement or support evaluating or treating a patient, including a diagnostic test, laboratory test, therapy service, or radiology service; and

(B) might not be reasonably necessary to provide quality health care or treatment.

(16) "Potentially preventable complication" means a harmful event or negative outcome with respect to an individual, including an infection or surgical complication, that:

(A) occurs after the individual's admission to a hospital or long-term care facility; and

(B) may have resulted from the care, lack of care, or treatment provided during the hospital or long-term care facility stay rather than from a natural progression of an underlying disease.

(17) "Potentially preventable emergency room visit" means an individual's treatment in a hospital emergency room or freestanding emergency medical care facility for a condition that

might not require emergency medical attention because the condition could be treated, or could have been prevented, by a physician or other health care provider in a nonemergency setting.

(18) "Potentially preventable event" means a:

(A) potentially preventable admission;

(B) potentially preventable ancillary service;

(C) potentially preventable complication;

(D) potentially preventable emergency room visit;

(E) potentially preventable readmission; or

(F) combination of those events.

(19) "Potentially preventable readmission" means an individual's return hospitalization within a period the commission specifies that may have resulted from deficiencies in the individual's care or treatment provided during a previous hospital stay or from deficiencies in post-hospital discharge follow-up. The term does not include a hospital readmission necessitated by the occurrence of unrelated events after the individual's discharge. The term includes an individual's readmission to a hospital for:

(A) the same condition or procedure for which the individual was previously admitted;

(B) an infection or other complication resulting from care previously provided;

(C) a condition or procedure indicating that a surgical intervention performed during a previous admission was unsuccessful in achieving the anticipated outcome; or

(D) another condition or procedure of a similar nature that the executive commissioner determines.

(20) "Quality-based payment system" means a system, including an alternative payment system, for compensating a physician or other health care provider that:

(A) provides incentives to the physician or other health care provider to provide high-quality, cost-effective care; and

(B) bases some portion of the payment made to the physician or other health care provider on quality-of-care outcomes, which may include the extent to which the physician or other health care provider reduces potentially preventable events.

(21) "Recipient" means a Medicaid recipient.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

Sec. 543A.0002. DEVELOPMENT OF OUTCOME AND PROCESS MEASURES; CORRELATION WITH INCREASED REIMBURSEMENT RATES. (a) The commission shall develop quality-based outcome and process measures that:

(1) promote the provision of efficient, quality health care; and

(2) can be used in the child health plan program and Medicaid to implement quality-based payments for acute care services and long-term services and supports across all delivery models and payment systems, including fee-for-service and managed care payment systems.

(b) The commission, in coordination with the Department of State Health Services, shall develop and implement a quality-based outcome measure for the child health plan program and Medicaid to annually measure the percentage of enrollees or recipients with HIV infection, regardless of age, whose most recent viral load test indicates a viral load of less than 200 copies per milliliter of blood.

(c) To the extent feasible, the commission shall develop outcome and process measures:

(1) consistently across all child health plan program and Medicaid delivery models and payment systems;

(2) in a manner that takes into account appropriate patient risk factors, including the burden of chronic illness on a patient and the severity of a patient's illness;

(3) that will have the greatest effect on improving quality of care and the efficient use of services, including acute care services and long-term services and supports;

(4) that are similar to outcome and process measures used in the private sector, as appropriate;

(5) that reflect effective coordination of acute care services and long-term services and supports;

(6) that can be tied to expenditures; and

(7) that reduce preventable health care utilization and costs.

(d) In developing the outcome and process measures, the commission must include measures that are based on potentially preventable events and advance quality improvement and innovation.

The outcome measures based on potentially preventable events must:

(1) allow for a rate-based determination of health care provider performance compared to statewide norms; and

(2) be risk-adjusted to account for the severity of the illnesses of patients a provider serves.

(e) The commission may modify the outcome and process measures to:

(1) promote continuous system reform, improved quality, and reduced costs; and

(2) account for managed care organizations added to a service area.

(f) To the extent feasible, the commission shall align the outcome and process measures with measures required or recommended under reporting guidelines established by:

(1) the Centers for Medicare and Medicaid Services;

(2) the Agency for Healthcare Research and Quality; or

(3) another federal agency.

(g) The executive commissioner by rule may require physicians, other health care providers, and managed care organizations participating in the child health plan program and Medicaid to report information necessary to develop the outcome and process measures to the commission in a format the executive commissioner specifies.

(h) If the commission increases physician and other health care provider reimbursement rates under the child health plan program or Medicaid as a result of an increase in the amounts appropriated for those programs for a state fiscal biennium as compared to the preceding state fiscal biennium, the commission shall, to the extent permitted under federal law and to the extent otherwise possible considering other relevant factors, correlate the increased reimbursement rates with the quality-based outcome and process measures.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4666, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 543A.0003. USE OF QUALITY-BASED OUTCOME MEASURE FOR

ENROLLEES OR RECIPIENTS WITH HIV INFECTION. (a) The commission shall include aggregate, nonidentifying data collected using the quality-based outcome measure described by Section 543A.0002(b) in the annual report required by Section 543A.0008. The commission may include the data in any other report required by this chapter.

(b) The commission shall determine the appropriateness of including the quality-based outcome measure described by Section 543A.0002(b) in the quality-based payments and payment systems developed under Sections 543A.0004 and 543A.0051.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543A.0004. DEVELOPMENT OF QUALITY-BASED PAYMENT SYSTEMS. (a) Using the quality-based outcome and process measures developed under Section 543A.0002 and after consulting with appropriate stakeholders with an interest in the provision of acute care and long-term services and supports under the child health plan program and Medicaid, the commission shall develop and require managed care organizations to develop quality-based payment systems for compensating a physician or other health care provider participating in the child health plan program or Medicaid that:

(1) align payment incentives with high-quality, cost-effective health care;

(2) reward the use of evidence-based best practices;

(3) promote health care coordination;

(4) encourage appropriate physician and other health care provider collaboration;

(5) promote effective health care delivery models; and

(6) take into account the specific needs of the enrollee and recipient populations.

(b) The commission shall develop the quality-based payment systems in the manner specified by this chapter. To the extent necessary to maximize the receipt of federal funds or reduce administrative burdens, the commission shall coordinate the timeline for developing and implementing a payment system with the implementation of other initiatives such as:

(1) the Medicaid Information Technology Architecture (MITA) initiative of the Center for Medicaid and State Operations;

(2) the ICD-10 code sets initiative; or

(3) the ongoing Enterprise Data Warehouse (EDW) planning process.

(c) In developing the quality-based payment systems, the commission shall examine and consider implementing:

(1) an alternative payment system;

(2) an existing performance-based payment system used under the Medicare program that meets the requirements of this chapter, modified as necessary to account for programmatic differences, if implementing the system would:

(A) reduce unnecessary administrative burdens; and

(B) align quality-based payment incentives for physicians and other health care providers with the Medicare program; and

(3) alternative payment methodologies within a system that are used in the Medicare program, modified as necessary to account for programmatic differences, and that will achieve cost savings and improve quality of care in the child health plan program and Medicaid.

(d) In developing the quality-based payment systems, the commission shall ensure that a system will not reward a physician, other health care provider, or managed care organization for withholding or delaying medically necessary care.

(e) The commission may modify a quality-based payment system to account for:

(1) programmatic differences between the child health plan program and Medicaid; and

(2) delivery systems under those programs.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543A.0005. PAYMENT METHODOLOGY CONVERSION. (a) To the extent possible, the commission shall convert hospital reimbursement systems under the child health plan program and Medicaid to a diagnosis-related groups (DRG) methodology that will allow the commission to more accurately classify specific patient populations and account for the severity of patient illness and mortality risk.

(b) Subsection (a) does not authorize the commission to direct

a managed care organization to compensate a physician or other health care provider providing services under the organization's managed care plan based on a diagnosis-related groups (DRG) methodology.

(c) Notwithstanding Subsection (a) and to the extent possible, the commission shall convert outpatient hospital reimbursement systems under the child health plan program and Medicaid to an appropriate prospective payment system that will allow the commission to:

(1) more accurately classify the full range of outpatient service episodes;

(2) more accurately account for the intensity of services provided; and

(3) motivate outpatient service providers to increase efficiency and effectiveness.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543A.0006. TRANSPARENCY; CONSIDERATIONS. (a) The commission shall:

(1) ensure transparency in developing and establishing:

(A) quality-based payment and reimbursement systems under Section 543A.0004 and Subchapters B, C, and D, including in developing outcome and process measures under Section 543A.0002; and

(B) quality-based payment initiatives under Subchapter E, including developing quality-of-care and cost-efficiency benchmarks under Section 543A.0203(a) and approving efficiency performance standards under Section 543A.0203(b); and

(2) for developing and establishing the quality-based payment and reimbursement systems and initiatives described by Subdivision (1), develop guidelines that establish procedures to provide notice and information to and receive input from managed care organizations, health care providers, including physicians and experts in the various medical specialty fields, and other stakeholders, as appropriate.

(b) In developing and establishing the quality-based payment and reimbursement systems and initiatives described by Subsection (a)(1), the commission shall consider that there will be a diminishing rate of improved performance over time as the performance

of a physician, other health care provider, or managed care organization improves with respect to an outcome or process measure, quality-of-care and cost-efficiency benchmark, or efficiency performance standard, as applicable.

(c) The commission shall develop web-based capability that:

(1) provides health care providers and managed care organizations with data on their clinical and utilization performance, including comparisons to peer organizations and providers located in this state and in the provider's respective region; and

(2) supports the requirements of the electronic health information exchange system under Sections 525.0206, 525.0207, and 525.0208.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543A.0007. PERIODIC EVALUATION. At least once each two-year period, the commission shall evaluate the outcomes and cost-effectiveness of any quality-based payment system or other payment initiative implemented under this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4666, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 543A.0008. ANNUAL REPORT. (a) The commission shall submit to the legislature and make available to the public an annual report on:

(1) the quality-based outcome and process measures developed under Section 543A.0002, including measures based on each potentially preventable event; and

(2) the progress of implementing quality-based payment systems and other payment initiatives under this chapter.

(b) The commission shall, as appropriate, report outcome and process measures under Subsection (a)(1) by:

(1) geographic location, which may require reporting by county, health care service region, or another appropriately defined geographic area;

(2) enrollee or recipient population or eligibility group served;

(3) type of health care provider, such as acute care or long-term care provider;

(4) number of enrollees and recipients who relocated to a community-based setting from a less integrated setting;

(5) quality-based payment system; and

(6) service delivery model.

(c) The report may not identify a specific health care provider.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER B. QUALITY-BASED PAYMENTS RELATING TO MANAGED CARE ORGANIZATIONS

Sec. 543A.0051. QUALITY-BASED PREMIUM PAYMENTS; PERFORMANCE REPORTING. (a) Subject to Section 1903(m)(2)(A), Social Security Act (42 U.S.C. Section 1396b(m)(2)(A)), and other federal law, the commission shall base a percentage of the premiums paid to a managed care organization participating in the child health plan program or Medicaid on the organization's performance with respect to outcome and process measures developed under Section 543A.0002 that address potentially preventable events. The percentage may increase each year.

(b) The commission shall make available information relating to a managed care organization's performance with respect to outcome and process measures under this subchapter to an enrollee or recipient before the enrollee or recipient chooses a managed care plan.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543A.0052. FINANCIAL INCENTIVES AND CONTRACT AWARD PREFERENCES. (a) The commission may allow a managed care organization participating in the child health plan program or

Medicaid increased flexibility to implement quality initiatives in a managed care plan offered by the organization, including flexibility with respect to financial arrangements, to:

(1) achieve high-quality, cost-effective health care;

(2) increase the use of high-quality, cost-effective delivery models;

(3) reduce the incidence of unnecessary institutionalization and potentially preventable events; and

(4) in collaboration with physicians and other health care providers, increase the use of alternative payment systems, including shared savings models.

(b) The commission shall develop quality-of-care and cost-efficiency benchmarks, including benchmarks based on a managed care organization's performance with respect to:

(1) reducing potentially preventable events; and

(2) containing the growth rate of health care costs.

(c) The commission may include in a contract between a managed care organization and the commission financial incentives that are based on the organization's successful implementation of quality initiatives under Subsection (a) or success in achieving quality-of-care and cost-efficiency benchmarks under Subsection (b). The commission may implement the financial incentives only if implementing the incentives would be cost-effective.

(d) In awarding contracts to managed care organizations under the child health plan program and Medicaid, the commission shall, in addition to considerations under Section 540.0204 of this code and Section 62.155, Health and Safety Code, give preference to an organization that offers a managed care plan that:

(1) successfully implements quality initiatives under Subsection (a) as the commission determines based on data or other evidence the organization provides; or

(2) meets quality-of-care and cost-efficiency benchmarks under Subsection (b).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER C. QUALITY-BASED HEALTH HOME PAYMENT SYSTEMS

Sec. 543A.0101. DEFINITION. In this subchapter, "health home"

means a primary care provider practice or, if appropriate, a specialty care provider practice, incorporating several features, including comprehensive care coordination, family-centered care, and data management, that are focused on improving outcome-based quality of care and increasing patient and provider satisfaction under the child health plan program and Medicaid.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543A.0102. QUALITY-BASED HEALTH HOME PAYMENTS. (a) The commission may develop and implement quality-based payment systems for health homes designed to improve quality of care and reduce the provision of unnecessary medical services. A quality-based payment system must:

(1) base payments made to an enrollee's or recipient's health home on quality and efficiency measures that may include measurable wellness and prevention criteria and the use of evidence-based best practices, sharing a portion of any realized cost savings the health home achieves, and ensuring quality of care outcomes, including a reduction in potentially preventable events; and

(2) allow for the examination of measurable wellness and prevention criteria, use of evidence-based best practices, and quality-of-care outcomes based on the type of primary or specialty care provider practice.

(b) The commission may develop a quality-based payment system for health homes only if implementing the system would be feasible and cost-effective.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543A.0103. HEALTH HOME ELIGIBILITY. To be eligible to receive reimbursement under a quality-based payment system under this subchapter, a health home must:

(1) directly or indirectly provide enrollees or recipients who have a health home with access to health care services outside of regular business hours;

(2) educate those enrollees and recipients about the

availability of health care services outside of regular business hours; and

(3) provide evidence satisfactory to the commission that the health home meets the requirement of Subdivision (1).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER D. QUALITY-BASED HOSPITAL REIMBURSEMENT SYSTEM

Sec. 543A.0151. COLLECTING CERTAIN INFORMATION; REPORTS TO CERTAIN HOSPITALS. (a) The executive commissioner shall adopt rules for identifying:

(1) potentially preventable admissions and readmissions of enrollees and recipients, including preventable admissions to long-term care facilities;

(2) potentially preventable ancillary services provided to or ordered for enrollees and recipients;

(3) potentially preventable emergency room visits by enrollees and recipients; and

(4) potentially preventable complications experienced by enrollees and recipients.

(b) The commission shall collect data from hospitals on present-on-admission indicators for purposes of this section.

(c) The commission shall establish a program to provide to each hospital in this state that participates in the child health plan program or Medicaid a report regarding the hospital's performance with respect to each potentially preventable event described by Subsection (a). To the extent possible, the report should include all potentially preventable events across all child health plan program and Medicaid payment systems. A hospital shall distribute the information in the report to physicians and other health care providers providing services at the hospital.

(d) Except as provided by Subsection (e), a report provided to a hospital under Subsection (c) is confidential and not subject to Chapter 552.

(e) The commission may release information in a report described by Subsection (c):

(1) not earlier than one year after the date the report is provided to the hospital; and

(2) only after deleting any data that relates to a hospital's performance with respect to a particular diagnosis-related group or an individual patient.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543A.0152. REIMBURSEMENT ADJUSTMENTS. (a) The commission shall use the data collected under Section 543A.0151 and the diagnosis-related groups (DRG) methodology implemented under Section 543A.0005, if applicable, to adjust, to the extent feasible, child health plan program and Medicaid reimbursements to hospitals, including payments made under the disproportionate share hospitals and upper payment limit supplemental payment programs. The commission shall base an adjustment for a hospital on the hospital's performance with respect to exceeding or failing to achieve outcome and process measures developed under Section 543A.0002 that address the rates of potentially preventable readmissions and potentially preventable complications.

(b) The commission must provide the report required by Section 543A.0151(c) to a hospital at least one year before adjusting child health plan program and Medicaid reimbursements to the hospital under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER E. QUALITY-BASED PAYMENT INITIATIVES

Sec. 543A.0201. PAYMENT INITIATIVES; DETERMINATION OF BENEFIT TO STATE. (a) The commission shall establish payment initiatives to test the effectiveness of quality-based payment systems, alternative payment methodologies, and high-quality, cost-effective health care delivery models that provide incentives to physicians and other health care providers to develop health care interventions for enrollees or recipients that will:

(1) improve the quality of health care provided to the enrollees or recipients;

(2) reduce potentially preventable events;

(3) promote prevention and wellness;

(4) increase the use of evidence-based best practices;

(5) increase appropriate physician and other health care provider collaboration;

(6) contain costs; and

(7) improve integration of acute care services and long-term services and supports, including discharge planning from acute care services to community-based long-term services and supports.

(b) The commission shall:

(1) establish a process through which a physician, other health care provider, or managed care organization may submit a proposal for a payment initiative; and

(2) determine whether implementing one or more proposed payment initiatives is feasible and cost-effective.

(c) If the commission determines that implementing one or more payment initiatives is feasible and cost-effective for this state, the commission shall establish one or more payment initiatives as provided by this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543A.0202. PAYMENT INITIATIVE ADMINISTRATION. (a) The commission shall administer any payment initiative the commission establishes under this subchapter. The executive commissioner may adopt rules, plans, and procedures and enter into contracts and other agreements as the executive commissioner considers appropriate and necessary to administer this subchapter.

(b) The commission may limit a payment initiative to:

(1) one or more regions in this state;

(2) one or more organized networks of physicians and other health care providers; or

(3) specified types of services provided under the child health plan program or Medicaid, or specified types of enrollees or recipients.

(c) An implemented payment initiative must be operated for at least one calendar year.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543A.0203. QUALITY-OF-CARE AND COST-EFFICIENCY BENCHMARKS AND GOALS; EFFICIENCY PERFORMANCE STANDARDS. (a) The executive commissioner shall develop quality-of-care and cost-efficiency benchmarks and measurable goals that a payment initiative must meet to ensure high-quality and cost-effective health care services and healthy outcomes.

(b) In addition to the benchmarks and goals described by Subsection (a), the executive commissioner may approve efficiency performance standards that may include the sharing of realized cost savings with physicians and other health care providers who provide health care services that exceed the standards. The standards may not create a financial incentive for or involve making a payment to a physician or other health care provider that directly or indirectly induces limiting medically necessary services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543A.0204. PAYMENT RATES UNDER PAYMENT INITIATIVES. The executive commissioner may contract with appropriate entities, including qualified actuaries, to assist in determining appropriate payment rates for an implemented payment initiative.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER F. QUALITY-BASED LONG-TERM SERVICES AND SUPPORTS PAYMENT SYSTEMS

Sec. 543A.0251. QUALITY-BASED PAYMENT SYSTEMS FOR LONG-TERM SERVICES AND SUPPORTS. (a) The commission, after consulting with appropriate stakeholders representing nursing facility providers with an interest in providing long-term services and supports, may develop and implement quality-based payment systems for Medicaid long-term services and supports providers designed to improve quality of care and reduce the provision of unnecessary services. A quality-based payment system must base payments made to providers on quality and efficiency measures that may include measurable wellness and prevention criteria and the use of evidence-based best practices, sharing a portion of any realized cost savings the provider achieves,

and ensuring quality of care outcomes, including a reduction in potentially preventable events.

(b) The commission may develop a quality-based payment system for Medicaid long-term services and supports providers only if implementing the system would be feasible and cost-effective.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543A.0252. DATA SET EVALUATION. To ensure that the commission is using the best data to inform developing and implementing quality-based payment systems under Section 543A.0251, the commission shall evaluate the reliability, validity, and functionality of post-acute and long-term services and supports data sets. The commission's evaluation should assess:

(1) to what degree data sets on which the commission relies meet a standard:

(A) for integrating care;

(B) for developing coordinated care plans; and

(C) that would allow for the meaningful development of risk adjustment techniques;

(2) whether the data sets will provide value for outcome or performance measures and cost containment; and

(3) how classification systems and data sets used for Medicaid long-term services and supports providers can be standardized and, where possible, simplified.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 543A.0253. COLLECTING CERTAIN INFORMATION; REPORTS TO CERTAIN PROVIDERS. (a) The executive commissioner shall adopt rules for identifying the incidence of potentially preventable admissions, potentially preventable readmissions, and potentially preventable emergency room visits by Medicaid long-term services and supports recipients.

(b) The commission shall establish a program to provide to each Medicaid long-term services and supports provider in this state a report regarding the provider's performance with respect to

potentially preventable admissions, potentially preventable readmissions, and potentially preventable emergency room visits. To the extent possible, the report should include applicable potentially preventable events information across all Medicaid payment systems.

(c) Except as provided by Subsection (d), a report provided to a provider under Subsection (b) is confidential and not subject to Chapter 552.

(d) The commission may release information in a report described by Subsection (b):

(1) not earlier than one year after the date the report is provided to the provider; and

(2) only after deleting any data that relates to a provider's performance with respect to a particular resource utilization group or an individual recipient.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

CHAPTER 544. FRAUD, WASTE, ABUSE, AND OVERCHARGES RELATING TO HEALTH AND HUMAN SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 544.0001. DEFINITIONS. In this chapter:

(1) "Abuse" means:

(A) a practice a provider engages in that is inconsistent with sound fiscal, business, or medical practices and that results in:

(i) an unnecessary cost to Medicaid; or

(ii) reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care; or

(B) a practice a recipient engages in that results in an unnecessary cost to Medicaid.

(2) "Allegation of fraud" means an allegation of Medicaid fraud the commission receives from any source that has not been verified by this state, including an allegation based on:

(A) a fraud hotline complaint;

(B) claims data mining;

(C) data analysis processes; or

(D) a pattern identified through provider audits, civil

false claims cases, or law enforcement investigations.

(3) "Credible allegation of fraud" means an allegation of fraud that has been verified by this state. An allegation is considered credible when the commission has:

(A) verified that the allegation has indicia of reliability; and

(B) carefully reviewed all allegations, facts, and evidence and acts judiciously on a case-by-case basis.

(4) "Fraud" means an intentional deception or misrepresentation a person makes with the knowledge that the deception or misrepresentation could result in an unauthorized benefit to that person or another person. The term does not include unintentional technical, clerical, or administrative errors.

(5) "Furnished" refers to the provision of items or services directly by or under the direct supervision of, or the ordering of items or services by:

(A) a practitioner or other individual acting as an employee or in the individual's own capacity;

(B) a provider; or

(C) another supplier of services, excluding services ordered by one party but billed for and provided by or under the supervision of another.

(6) "Inspector general" means the inspector general the governor appoints under Section 544.0101.

(7) "Office of inspector general" means the commission's office of inspector general.

(8) "Payment hold" means the temporary denial of Medicaid reimbursement for items or services a specified provider furnished.

(9) "Physician" includes:

(A) an individual licensed to practice medicine in this state;

(B) a professional association composed solely of physicians;

(C) a partnership composed solely of physicians;

(D) a single legal entity authorized to practice medicine that is owned by two or more physicians; and

(E) a nonprofit health corporation certified by the Texas Medical Board under Chapter 162, Occupations Code.

(10) "Practitioner" means a physician or other individual licensed under state law to practice the individual's profession.

(11) "Program exclusion" means the suspension of a provider's authorization under Medicaid to request reimbursement for items or services the provider furnished.

(12) "Provider" means, except as otherwise provided by this chapter, a person that was or is approved by the commission to:

(A) provide Medicaid services under a contract or provider agreement with the commission; or

(B) provide third-party billing vendor services under a contract or provider agreement with the commission.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0002. REFERENCE TO OFFICE OF INVESTIGATIONS AND ENFORCEMENT. Notwithstanding any other law, a reference in law or rule to the commission's office of investigations and enforcement means the office of inspector general.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0003. AUTHORITY OF STATE AGENCY OR GOVERNMENTAL ENTITY NOT LIMITED. Nothing in the following provisions limits the authority of any other state agency or governmental entity:

(1) Section 544.0052;

(2) Section 544.0101;

(3) Section 544.0102;

(4) Section 544.0103;

(5) Section 544.0104;

(6) Section 544.0105;

(7) Section 544.0106;

(8) Section 544.0108;

(9) Sections 544.0109(b) and (d);

(10) Section 544.0110;

(11) Section 544.0113;

(12) Section 544.0114;

(13) Section 544.0251;

(14) Section 544.0252(b);

(15) Section 544.0254;

(16) Section 544.0255;
(17) Section 544.0257;
(18) Section 544.0301;
(19) Section 544.0302;
(20) Section 544.0303; and
(21) Section 544.0304.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER B. HEALTH AND HUMAN SERVICES COMMISSION: ADMINISTRATIVE PROVISIONS

Sec. 544.0051. COORDINATION WITH OFFICE OF ATTORNEY GENERAL; ANNUAL REPORT. (a) The commission, acting through the office of inspector general, and the office of the attorney general shall enter into a memorandum of understanding to develop and implement joint written procedures for processing:

(1) cases of suspected fraud, waste, or abuse, as those terms are defined by state or federal law; or

(2) other violations of state or federal law under Medicaid or another program the commission or a health and human services agency administers, including:

(A) the financial assistance program under Chapter 31, Human Resources Code;

(B) the supplemental nutrition assistance program under Chapter 33, Human Resources Code; and

(C) the child health plan program.

(b) The memorandum of understanding must:

(1) require the office of inspector general and the office of the attorney general to:

(A) set priorities and guidelines for referring cases to appropriate state agencies for investigation, prosecution, or other disposition to:

(i) enhance deterrence of fraud, waste, abuse, or other violations of state or federal law under the programs described by Subsection (a)(2), including a violation of Chapter 102, Occupations Code; and

(ii) maximize the imposition of penalties, the recovery of money, and the successful prosecution of cases; and

(B) submit information the comptroller requests about each resolved case for the comptroller's use in improving fraud detection;

(2) require the office of inspector general to:

(A) refer each case of suspected provider fraud, waste, or abuse to the office of the attorney general not later than the 20th business day after the date the office of inspector general determines that the existence of fraud, waste, or abuse is reasonably indicated;

(B) keep detailed records for cases the office of inspector general or the office of the attorney general processes, including information on the total number of cases processed and, for each case:

(i) the agency and division to which the case is referred for investigation;

(ii) the date the case is referred; and

(iii) the nature of the suspected fraud, waste, or abuse; and

(C) notify each appropriate division of the office of the attorney general of each case the office of inspector general refers;

(3) require the office of the attorney general to:

(A) take appropriate action in response to each case referred to the attorney general, which may include:

(i) directly initiating prosecution, with the appropriate local district or county attorney's consent;

(ii) directly initiating civil litigation;

(iii) referring the case to an appropriate United States attorney, a district attorney, or a county attorney; or

(iv) referring the case to a collections agency for initiation of civil litigation or other appropriate action;

(B) ensure that information relating to each case the office of the attorney general investigates is available to each division of the office with responsibility for investigating suspected fraud, waste, or abuse; and

(C) notify the office of inspector general of each case the attorney general declines to prosecute or prosecutes unsuccessfully;

(4) require representatives of the office of inspector general and of the office of the attorney general to meet not less

than quarterly to share case information and determine the appropriate agency and division to investigate each case;

(5) ensure that barriers to direct fraud referrals to the office of the attorney general's Medicaid fraud control unit or unreasonable impediments to communication between Medicaid agency employees and the Medicaid fraud control unit are not imposed; and

(6) include procedures to facilitate the referral of cases directly to the office of the attorney general.

(c) An exchange of information under this section between the office of the attorney general and the commission, the office of inspector general, or a health and human services agency does not affect whether the information is subject to disclosure under Chapter 552.

(d) The commission and the office of the attorney general may not assess or collect investigation and attorney's fees on any state agency's behalf unless the office of the attorney general or another state agency collects a penalty, restitution, or other reimbursement payment to this state.

(e) A district attorney, county attorney, city attorney, or private collection agency may collect and retain:

(1) costs associated with a case referred to the attorney or agency in accordance with procedures adopted under this section; and

(2) 20 percent of the amount of the penalty, restitution, or other reimbursement payment collected.

(f) The commission and the office of the attorney general shall jointly prepare and submit to the governor, lieutenant governor, and speaker of the house of representatives an annual report concerning the activities of those agencies in detecting and preventing fraud, waste, and abuse under Medicaid or another program the commission or a health and human services agency administers. The commission and the office of the attorney general may consolidate the report with any other report relating to the same subject matter the commission or the office of the attorney general is required to submit under other law.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0052. RULES REGARDING ENFORCEMENT AND PUNITIVE ACTIONS. (a) The executive commissioner, in consultation with the office of inspector general, shall adopt rules establishing criteria for determining enforcement and punitive actions regarding a provider who violated state law, program rules, or the provider's Medicaid provider agreement.

(b) The rules must include:

(1) direction for categorizing provider violations according to the nature of the violation and for scaling resulting enforcement actions, taking into consideration:

(A) the seriousness of the violation;

(B) the prevalence of errors by the provider;

(C) the financial or other harm to this state or recipients resulting or potentially resulting from those errors; and

(D) mitigating factors the office of inspector general determines appropriate; and

(2) a specific list of potential penalties, including the amount of the penalties, for fraud and other Medicaid violations.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0053. PROVISION OF INFORMATION TO PHARMACY SUBJECT TO AUDIT; INFORMAL HEARING ON AUDIT FINDINGS. (a) To increase transparency, the office of inspector general shall, if the office has access to the information, provide to pharmacies that are subject to audit by the office or by an entity that contracts with the federal government to audit Medicaid providers information relating to the extrapolation methodology used as part of the audit and the methods used to determine whether the pharmacy has been overpaid under Medicaid in sufficient detail so that the audit results may be demonstrated to be statistically valid and are fully reproducible.

(b) A pharmacy has a right to request an informal hearing before the commission's appeals division to contest the findings of an audit that the office of inspector general or an entity that contracts with the federal government to audit Medicaid providers conducted if the audit findings do not include findings that the pharmacy engaged in Medicaid fraud.

(c) In an informal hearing held under this section, the

commission's appeals division staff, assisted by staff responsible for the commission's vendor drug program with expertise in the law governing pharmacies' participation in Medicaid, make the final decision on whether the audit findings are accurate. Office of inspector general staff may not serve on the panel that makes the decision on the accuracy of an audit.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0054. RECORDS OF ALLEGATIONS OF FRAUD OR ABUSE. The commission shall maintain a record of all allegations of fraud or abuse against a provider containing the date each allegation was received or identified and the source of the allegation, if available. The record is confidential under Section 544.0259(e) and is subject to Section 544.0259(f).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0055. RECORD AND CONFIDENTIALITY OF INFORMAL RESOLUTION MEETINGS. (a) On the written request of a provider who requests an informal resolution meeting held under Section 544.0304 or 544.0506(b), the commission shall, at no expense to the provider, provide for the meeting to be recorded and for the recording to be made available to the provider. The commission may not record an informal resolution meeting unless the commission receives a written request from a provider.

(b) Notwithstanding Section 544.0259(e) and except as provided by this section:

(1) an informal resolution meeting held under Section 544.0304 or 544.0506(b) is confidential; and

(2) any information or materials the office of inspector general, including the office's employees or agents, obtains during or in connection with an informal resolution meeting, including a recording made under Subsection (a), are privileged, confidential, and not subject to disclosure under Chapter 552 or any other means of legal compulsion for release, including disclosure, discovery, or subpoena.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0056. EXPUNCTION OF CHILD'S CHEMICAL DEPENDENCY DIAGNOSIS IN CERTAIN RECORDS. (a) In this section:

(1) "Chemical dependency" has the meaning assigned by Section 461A.002, Health and Safety Code.

(2) "Child" means an individual who is 13 years of age or younger.

(b) After a chemical dependency treatment provider is finally convicted of an offense in which an element of the offense involves submitting a fraudulent claim for reimbursement for services under Medicaid, the commission or other health and human services agency that operates a portion of Medicaid shall expunge or provide for the expunction of a child's diagnosis of chemical dependency that the provider made and that has been entered in any:

(1) appropriate official record of the commission or agency;

(2) applicable medical record that is in the commission's or agency's custody; and

(3) applicable record of a company with which the commission contracts for processing and paying Medicaid claims.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER C. OFFICE OF INSPECTOR GENERAL: GENERAL PROVISIONS

Sec. 544.0101. APPOINTMENT OF INSPECTOR GENERAL; TERM. (a) The governor shall appoint an inspector general to serve as director of the office of inspector general.

(b) The inspector general serves a one-year term that expires February 1.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0102. COMMISSION POWERS AND DUTIES RELATED TO OFFICE OF INSPECTOR GENERAL. (a) The executive commissioner shall work in

consultation with the office of inspector general when the executive commissioner is required by law to adopt a rule or policy necessary to implement a power or duty of the office of inspector general, including a rule necessary to carry out a responsibility of the office of inspector general under Section 544.0103(a).

(b) The executive commissioner is responsible for performing all administrative support services functions necessary to operate the office of inspector general in the same manner that the executive commissioner is responsible for providing administrative support services functions for the health and human services system, including office functions related to:

(1) procurement processes;

(2) contracting policies;

(3) information technology services;

(4) legal services, but only those related to:

(A) open records;

(B) procurement;

(C) contracting;

(D) human resources;

(E) privacy;

(F) litigation support by the attorney general;

(G) bankruptcy; and

(H) other legal services as detailed in the memorandum of understanding or other written agreement required under Subchapter E, Chapter 524;

(5) budgeting; and

(6) personnel and employment policies.

(c) The commission's internal audit division shall:

(1) regularly audit the office of inspector general as part of the commission's internal audit program; and

(2) include the office of inspector general in the commission's risk assessments.

(d) The commission's chief counsel is the final authority for all legal interpretations related to statutes, rules, and commission policies on programs the commission administers.

(e) The commission shall:

(1) in consultation with the inspector general, set clear objectives, priorities, and performance standards for the office of inspector general that emphasize:

(A) coordinating investigative efforts to aggressively

recover money;

(B) allocating resources to cases that have the strongest supportive evidence and greatest potential to recover money; and

(C) maximizing opportunities for referral of cases to the office of the attorney general in accordance with Section 544.0051; and

(2) train office of inspector general staff to enable the staff to pursue priority Medicaid and other health and human services fraud and abuse cases as necessary.

(f) The commission may require employees of health and human services agencies to provide assistance to the office of inspector general in connection with its duties relating to the investigation of fraud and abuse in the provision of health and human services. The office of inspector general is entitled to access to any information a health and human services agency maintains that is relevant to the office of inspector general's functions, including internal records.

(g) To the extent permitted by federal law, the executive commissioner, on the office of inspector general's behalf, shall adopt rules establishing:

(1) criteria for:

(A) initiating a full-scale fraud or abuse investigation;

(B) conducting the investigation;

(C) collecting evidence; and

(D) accepting and approving a provider's request to post a surety bond to secure potential recoupments in lieu of a payment hold or other asset or payment guarantee; and

(2) minimum training requirements for Medicaid provider fraud or abuse investigators.

(h) The executive commissioner, in consultation with the office of inspector general, shall adopt rules establishing criteria:

(1) for opening a case;

(2) for prioritizing cases for the efficient management of the office of inspector general's workload, including rules that direct the office to prioritize:

(A) provider cases according to the highest potential for recovery or risk to this state as indicated through:

(i) the provider's volume of billings;

(ii) the provider's history of noncompliance with the law; and

(iii) identified fraud trends;

(B) recipient cases according to the highest potential for recovery and federal timeliness requirements; and

(C) internal affairs investigations according to the seriousness of the threat to recipient safety and the risk to program integrity in terms of the amount or scope of fraud, waste, and abuse the allegation that is the subject of the investigation poses; and

(3) to guide field investigators in closing a case that is not worth pursuing through a full investigation.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0103. OFFICE OF INSPECTOR GENERAL: GENERAL POWERS AND DUTIES. (a) The office of inspector general is responsible for:

(1) preventing, detecting, auditing, inspecting, reviewing, and investigating fraud, waste, and abuse in the provision and delivery of all health and human services in this state, including services provided:

(A) through any state-administered health or human services program that is wholly or partly federally funded; or

(B) by the Department of Family and Protective Services; and

(2) enforcing state law relating to providing those services.

(b) The commission may obtain any information or technology necessary for the office of inspector general to meet its responsibilities under this chapter or other law.

(c) The office of inspector general shall closely coordinate with the executive commissioner and relevant staff of health and human services system programs the office of inspector general oversees in performing functions relating to preventing fraud, waste, and abuse in the delivery of health and human services and enforcing state law relating to the provision of those services, including audits, utilization reviews, provider education, and data analysis.

(d) The office of inspector general shall conduct audits, inspections, and investigations independent of the executive

commissioner and the commission but shall rely on the coordination required by Subsection (c) to ensure that the office of inspector general has a thorough understanding of the health and human services system to knowledgeably and effectively perform its duties.

(e) The office of inspector general may:

(1) assess administrative penalties otherwise authorized by law on behalf of the commission or a health and human services agency;

(2) request that the attorney general obtain an injunction to prevent a person from disposing of an asset the office of inspector general identifies as potentially subject to recovery by the office of inspector general due to the person's fraud or abuse;

(3) provide for coordination between the office of inspector general and special investigative units formed by managed care organizations under Subchapter H or entities with which managed care organizations contract under that subchapter;

(4) audit the use and effectiveness of state or federal funds, including contract and grant funds, administered by a person or state agency receiving the funds from a health and human services agency;

(5) conduct investigations relating to the funds described by Subdivision (4); and

(6) recommend policies to:

(A) promote the economical and efficient administration of the funds described by Subdivision (4); and

(B) prevent and detect fraud and abuse in the administration of those funds.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0104. EMPLOYMENT OF MEDICAL DIRECTOR. (a) The office of inspector general shall employ a medical director who:

(1) is a licensed physician under Subtitle B, Title 3, Occupations Code, and the rules the Texas Medical Board adopts under that subtitle; and

(2) preferably has significant knowledge of Medicaid.

(b) The medical director shall ensure that any investigative findings based on medical necessity or the quality of medical care

have been reviewed by a qualified expert as described by the Texas Rules of Evidence before the office of inspector general imposes a payment hold or seeks recoupment of an overpayment, damages, or penalties.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0105. EMPLOYMENT OF DENTAL DIRECTOR. (a) The office of inspector general shall employ a dental director who:

(1) is a licensed dentist under Subtitle D, Title 3, Occupations Code, and the rules the State Board of Dental Examiners adopts under that subtitle; and

(2) preferably has significant knowledge of Medicaid.

(b) The dental director shall ensure that any investigative findings based on the necessity of dental services or the quality of dental care have been reviewed by a qualified expert as described by the Texas Rules of Evidence before the office of inspector general imposes a payment hold or seeks recoupment of an overpayment, damages, or penalties.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 142, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 544.0106. CONTRACT FOR REVIEW OF INVESTIGATIVE FINDINGS BY QUALIFIED EXPERT. (a) If the commission does not receive any responsive bids under Chapter 2155 on a competitive solicitation for the services of a qualified expert to review investigative findings under Section 544.0104 or 544.0105 and the number of contracts to be awarded under this subsection is not otherwise limited, the commission may negotiate with and award a contract for the services to a qualified expert on the basis of:

(1) the contractor's agreement to a set fee, either as a range or lump-sum amount; and

(2) the contractor's affirmation and the office of

inspector general's verification that the contractor possesses the necessary occupational licenses and experience.

(b) Notwithstanding Sections 2155.083 and 2261.051, a contract awarded under Subsection (a) is not subject to competitive advertising and proposal evaluation requirements.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 502 and H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 544.0107. EMPLOYMENT OF PEACE OFFICERS. (a) The office of inspector general shall employ and commission not more than five peace officers at any given time to assist the office in carrying out the office's duties relating to the investigation of Medicaid fraud, waste, and abuse.

(b) A peace officer the office of inspector general employs and commissions is administratively attached to the Department of Public Safety. The commission shall provide administrative support to the department as necessary to support the assignment of the peace officers.

(c) A peace officer the office of inspector general employs and commissions:

(1) is a peace officer for purposes of Article 2.12, Code of Criminal Procedure; and

(2) shall obtain the office of the attorney general's prior approval before carrying out any duties requiring peace officer status.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0108. INVESTIGATIVE PROCESS REVIEW. (a) Office of inspector general staff who are not directly involved in investigations the office conducts shall review the office's investigative process, including the office's use of sampling and

extrapolation to audit provider records.

(b) The office of inspector general shall arrange for the Association of Inspectors General or a similar third party to conduct a peer review of the office's sampling and extrapolation techniques. Based on the review and generally accepted practices among other offices of inspectors general, the executive commissioner, in consultation with the office, shall by rule adopt sampling and extrapolation standards for the office's use in conducting audits.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0109. PERFORMANCE AUDITS AND COORDINATION OF AUDIT ACTIVITIES. (a) Notwithstanding any other law, the office of inspector general may conduct a performance audit of any program or project administered or agreement entered into by the commission or a health and human services agency, including an audit related to:

(1) the commission's or a health and human services agency's contracting procedures; or

(2) the commission's or a health and human services agency's performance.

(b) The office of inspector general shall coordinate all audit and oversight activities, including those relating to providers and including developing audit plans, risk assessments, and findings, with the commission to minimize duplicative activities. In coordinating the activities, the office shall:

(1) to determine whether to audit a Medicaid managed care organization, annually seek the commission's input and consider previous audits and on-site visits the commission made to determine whether to audit a Medicaid managed care organization; and

(2) request the results of an informal audit or on-site visit the commission performed that could inform the office's risk assessment when determining whether to conduct or the scope of an audit of a Medicaid managed care organization.

(c) In addition to the coordination required by Subsection (b), the office of inspector general shall coordinate the office's other audit activities with those of the commission, including developing audit plans, performing risk assessments, and reporting findings, to minimize duplicative audit activities. In coordinating audit

activities with the commission under this subsection, the office shall:

(1) to determine whether to conduct a performance audit, seek the commission's input and consider previous audits the commission conducted; and

(2) request the results of an audit the commission conducted if those results could inform the office's risk assessment when determining whether to conduct or the scope of a performance audit.

(d) In accordance with Section 540.0057(b), the office of inspector general shall consult with the executive commissioner regarding the adoption of rules defining the office's role in and jurisdiction over, and the frequency of, audits of Medicaid managed care organizations that the office and commission conduct.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0110. REPORTS ON AUDITS, INSPECTIONS, AND INVESTIGATIONS. (a) The office of inspector general shall prepare a final report on each audit, inspection, or investigation conducted under Section 544.0102, 544.0103, 544.0252(b), 544.0254, or 544.0257. The final report must include:

(1) a summary of the activities the office performed in conducting the audit, inspection, or investigation;

(2) a statement on whether the audit, inspection, or investigation resulted in a finding of any wrongdoing; and

(3) a description of any findings of wrongdoing.

(b) A final report on an audit, inspection, or investigation is subject to required disclosure under Chapter 552. All information and materials compiled during the audit, inspection, or investigation remain confidential and not subject to required disclosure in accordance with Section 544.0259(e).

(c) A confidential draft report on an audit, inspection, or investigation that concerns the death of a child may be shared with the Department of Family and Protective Services. A draft report that is shared with the Department of Family and Protective Services remains confidential and is not subject to disclosure under Chapter 552.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0111. COMPLIANCE WITH FEDERAL CODING GUIDELINES. (a) In this section, "federal coding guidelines" means the code sets and guidelines the United States Department of Health and Human Services adopts in accordance with the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.).

(b) The office of inspector general, including office staff and any third party with which the office contracts to perform coding services, and the commission's medical and utilization review appeals unit shall comply with federal coding guidelines, including guidelines for diagnosis-related group (DRG) validation and related audits.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0112. HOSPITAL UTILIZATION REVIEWS AND AUDITS: PROVIDER EDUCATION PROCESS. The executive commissioner, in consultation with the office of inspector general, shall develop by rule a process for the office, including office staff and any third party with which the office contracts to perform coding services, to communicate with and educate providers about the diagnosis-related group (DRG) validation criteria that the office uses in conducting hospital utilization reviews and audits.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0113. PROGRAM EXCLUSIONS. The office of inspector general, in consultation with this state's Medicaid fraud control unit, shall establish guidelines under which program exclusions:

(1) may permissively be imposed on a provider; or

(2) shall automatically be imposed on a provider.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0114. REPORT. (a) At each quarterly meeting of any advisory council responsible for advising the executive commissioner on the commission's operation, the inspector general shall submit to the executive commissioner, the governor, and the legislature a report on:

(1) the office of inspector general's activities;

(2) the office's performance with respect to performance measures the executive commissioner establishes for the office;

(3) fraud trends the office has identified;

(4) any recommendations for policy changes to prevent or address fraud, waste, and abuse in the delivery of health and human services in this state; and

(5) the amount of money recovered during the preceding quarter as a result of investigations involving peace officers employed and commissioned by the office for each program for which the office has investigative authority.

(b) The office of inspector general shall publish each report required under this section on the office's Internet website.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER D. MEDICAID PROVIDER CRIMINAL HISTORY RECORD INFORMATION AND ELIGIBILITY

Sec. 544.0151. DEFINITIONS. In this subchapter:

(1) "Health care professional" means an individual issued a license to engage in a health care profession.

(2) "License" means a license, certificate, registration, permit, or other authorization that:

(A) a licensing authority issues; and

(B) must be obtained before a person may practice or engage in a particular business, occupation, or profession.

(3) "Licensing authority" means a department, commission, board, office, or other state agency that issues a license.

(4) "Participating agency" means:

(A) the Medicaid fraud enforcement divisions of the office of the attorney general;

(B) each licensing authority with authority to issue a license to a health care professional or managed care organization that may participate in Medicaid; and

(C) the office of inspector general.

(5) "Provider" means a person that was or is approved by the commission to provide Medicaid services under a contract or provider agreement with the commission.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0152. EXCHANGE OF CRIMINAL HISTORY RECORD INFORMATION BETWEEN PARTICIPATING AGENCIES. (a) This section applies only to:

(1) criminal history record information a participating agency holds that relates to a health care professional; and

(2) information a participating agency holds that relates to a health care professional or managed care organization that is the subject of an investigation by a participating agency for alleged Medicaid fraud or abuse.

(b) A participating agency may submit to another participating agency a written request for information to which this section applies. The participating agency that receives the request shall provide the requesting agency with the requested information unless releasing the information:

(1) would jeopardize an ongoing investigation or prosecution by the participating agency that possesses the information; or

(2) is prohibited by other law.

(c) Notwithstanding any other law, a participating agency may enter into a memorandum of understanding or agreement with another participating agency for exchanging criminal history record information relating to a health care professional that both participating agencies are authorized access to under Chapter 411. Confidential criminal history record information in a participating agency's possession that is provided to another participating agency remains confidential while in the possession of the participating agency that receives the information.

(d) A participating agency that discovers information that may indicate fraud or abuse by a health care professional or managed care

organization may provide the information to any other participating agency unless the release of the information is prohibited by other law.

(e) If after receiving a request for information under Subsection (b) a participating agency determines that the agency is prohibited from releasing the information, the agency shall, not later than the 30th day after the date the agency received the request, inform the requesting agency of that determination in writing.

(f) Confidential information shared under this section is subject to the same confidentiality requirements and legal restrictions on access to the information that are imposed by law on the participating agency that originally obtained or collected the information. Sharing information under this section does not affect whether the information is subject to disclosure under Chapter 552.

(g) A participating agency that receives information from another participating agency under this section must obtain written permission from the agency that shared the information before using the information in a licensure or enforcement action.

(h) This section does not affect a participating agency's authority to exchange information under other law.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 142, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 544.0153. PROVIDER ELIGIBILITY FOR MEDICAID PARTICIPATION: CRIMINAL HISTORY RECORD INFORMATION. (a) The office of inspector general and each licensing authority that requires the submission of fingerprints to conduct a criminal history record information check of a health care professional shall enter into a memorandum of understanding to ensure that only individuals who are licensed and in good standing as health care professionals participate as Medicaid providers. The memorandum under this section may be combined with a memorandum authorized under Section 544.0152(c) and must include a process by which:

(1) to determine a health care professional's eligibility

to participate in Medicaid, the office may confirm with a licensing authority that the professional is licensed and in good standing; and

(2) the licensing authority immediately notifies the office if:

(A) a provider's license has been revoked or suspended; or

(B) the licensing authority has taken disciplinary action against a provider.

(b) To determine a health care professional's eligibility to participate as a Medicaid provider, the office of inspector general may not conduct a criminal history record information check of a health care professional who the office has confirmed under Subsection (a) is licensed and in good standing. This subsection does not prohibit the office from conducting a criminal history record information check of a provider that is required or appropriate for other reasons, including for conducting an investigation of fraud, waste, or abuse.

(c) To determine a provider's eligibility to participate in Medicaid and subject to Subsection (d), the office of inspector general, after seeking public input, shall establish and the executive commissioner by rule shall adopt guidelines for evaluating criminal history record information of providers and potential providers. The guidelines must outline conduct, by provider type, that may be contained in criminal history record information that will result in excluding a person as a Medicaid provider, taking into consideration:

(1) the extent to which the underlying conduct relates to the services provided through Medicaid;

(2) the degree to which the person would interact with Medicaid recipients as a provider; and

(3) any previous evidence that the person engaged in Medicaid fraud, waste, or abuse.

(d) The guidelines adopted under Subsection (c) may not impose stricter standards for an individual's eligibility to participate in Medicaid than a licensing authority described by Subsection (a) requires for the individual to engage in a health care profession without restriction in this state.

(e) The office of inspector general and the commission shall use the guidelines the executive commissioner adopts under Subsection (c) to determine whether a Medicaid provider continues to be eligible

to participate as a Medicaid provider.

(f) The provider enrollment contractor, if applicable, and a Medicaid managed care organization shall defer to the office of inspector general on whether an individual's criminal history record information precludes the individual from participating as a Medicaid provider.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0154. MONITORING OF CERTAIN FEDERAL DATABASES. The office of inspector general shall routinely check appropriate federal databases, including databases referenced in 42 C.F.R. Section 455.436, to ensure that a person excluded by the federal government from participating in Medicaid or Medicare is not participating as a Medicaid provider.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0155. PERIOD FOR DETERMINING PROVIDER ELIGIBILITY FOR MEDICAID. (a) Not later than the 10th day after the date the office of inspector general receives a health care professional's complete application seeking to participate in Medicaid, the office shall inform the commission or the health care professional, as appropriate, of the office's determination of whether the health care professional should be denied participation in Medicaid based on:

(1) information concerning the health care professional's licensing status obtained as described by Section 544.0153(a);

(2) information contained in the criminal history record information check that is evaluated in accordance with guidelines the executive commissioner adopts under Section 544.0153(c);

(3) a review of federal databases under Section 544.0154;

(4) the pendency of an open investigation by the office; or

(5) any other reason the office determines appropriate.

(b) Completion of an on-site visit of a health care professional during the period prescribed by Subsection (a) is not required.

(c) The office of inspector general shall develop performance

metrics to measure the length of time for conducting a determination described by Subsection (a) with respect to:

(1) applications that are complete when submitted; and

(2) all other applications.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER E. PREVENTION AND DETECTION OF FRAUD, WASTE, AND ABUSE

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 142, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 544.0201. SELECTION AND REVIEW OF MEDICAID CLAIMS TO DETERMINE RESOURCE ALLOCATION. (a) The commission shall annually select and review a random, statistically valid sample of all claims for Medicaid reimbursement, including under the vendor drug program, for potential cases of fraud, waste, or abuse.

(b) In conducting the annual review of claims, the commission may directly contact a recipient by telephone, in person, or both to verify that the services for which a provider submitted a reimbursement claim were actually provided to the recipient.

(c) Based on the results of the annual review of claims, the commission shall determine the types of claims toward which commission resources for fraud and abuse detection should be primarily directed.

(d) Absent an allegation of fraud, waste, or abuse, the commission may conduct an annual review of claims only after the commission completes the prior year's annual review of claims.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 142, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 544.0202. DUTIES RELATED TO FRAUD PREVENTION. (a) The office of inspector general shall compile and disseminate accurate information and statistics relating to:

(1) fraud prevention; and

(2) post-fraud referrals received and accepted or rejected from the commission's or a health and human services agency's case management system.

(b) The commission shall:

(1) aggressively publicize successful fraud prosecutions and fraud-prevention programs through all available means, including the use of statewide press releases; and

(2) ensure that the commission or a health and human services agency maintains and promotes a toll-free telephone hotline for reporting suspected fraud in programs the commission or a health and human services agency administers.

(c) The commission shall develop a cost-effective method to identify applicants for public assistance in counties bordering other states and in metropolitan areas the commission selects who are already receiving benefits in other states. If economically feasible, the commission may develop a computerized matching system.

(d) The commission shall:

(1) verify automobile information that is used as eligibility criteria; and

(2) establish with the Texas Department of Criminal Justice a computerized matching system to prevent an incarcerated individual from illegally receiving public assistance benefits the commission administers.

(e) Not later than October 1 of each year, the commission shall submit to the governor and Legislative Budget Board a report on the results of computerized matching of commission information with information from neighboring states, if any, and information from the Texas Department of Criminal Justice. The commission may consolidate the report with any other report relating to the same subject matter the commission is required to submit under other law.

(f) The commission and each health and human services agency that administers part of Medicaid shall maintain statistics on the number, type, and disposition of fraudulent benefits claims submitted under the part of the program the agency administers.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0203. FRAUD, WASTE, AND ABUSE DETECTION TRAINING. (a) The commission shall develop and implement a program to provide annual training on identifying potential cases of Medicaid fraud, waste, or abuse to:

(1) contractors who process Medicaid claims; and

(2) appropriate health and human services agency staff.

(b) The training must include clear criteria that specify:

(1) the circumstances under which a person should refer a potential case to the commission; and

(2) the time by which a referral should be made.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0204. HEALTH AND HUMAN SERVICES AGENCY MEDICAID FRAUD, WASTE, AND ABUSE DETECTION GOAL. (a) The health and human services agencies, in cooperation with the commission, shall periodically set a goal for the number of potential cases of Medicaid fraud, waste, or abuse that each agency will attempt to identify and refer to the commission.

(b) The commission shall include in the report required by Section 544.0051(f) information on the health and human services agencies' goals and the success of each agency in meeting the agency's goal.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1038, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 544.0205. AWARD FOR REPORTING MEDICAID FRAUD, ABUSE, OR OVERCHARGES. (a) The commission may grant an award to an individual who reports activity that constitutes fraud or abuse of Medicaid funds or who reports Medicaid overcharges if the commission determines that the disclosure results in the recovery of an administrative penalty imposed under Section 32.039, Human Resources Code. The commission may not grant an award to an individual in

connection with a report if the commission or attorney general had independent knowledge of the activity the individual reported.

(b) The commission shall determine the amount of an award. The award may not exceed five percent of the amount of the administrative penalty imposed under Section 32.039, Human Resources Code, that resulted from the individual's disclosure. In determining the award amount, the commission:

(1) shall consider how important the disclosure is in ensuring the fiscal integrity of Medicaid; and

(2) may consider whether the individual participated in the fraud, abuse, or overcharge.

(c) A person who brings an action under Subchapter C, Chapter 36, Human Resources Code, is not eligible for an award under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER F. INVESTIGATION OF FRAUD, WASTE, ABUSE, AND OVERCHARGES

Sec. 544.0251. CLAIMS CRITERIA REQUIRING COMMENCEMENT OF INVESTIGATION. The executive commissioner, in consultation with the inspector general, by rule shall set specific claims criteria that, when met, require the office of inspector general to begin an investigation.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 142, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 544.0252. CIRCUMSTANCES REQUIRING COMMENCEMENT OF PRELIMINARY INVESTIGATION OF ALLEGED FRAUD OR ABUSE. (a) The office of inspector general shall conduct a preliminary investigation of an allegation of fraud or abuse against a provider that the commission receives from any source to determine whether there is a sufficient basis to warrant a full investigation. The office must begin a preliminary investigation not later than the 30th day and complete

the preliminary investigation not later than the 45th day after the date the commission receives or identifies an allegation of fraud or abuse.

(b) The office of inspector general shall conduct a preliminary investigation as provided by Section 544.0253 of a complaint or allegation of Medicaid fraud or abuse that the commission receives from any source to determine whether there is a sufficient basis to warrant a full investigation. The office must begin a preliminary investigation not later than the 30th day and complete the preliminary investigation not later than the 45th day after the date the commission receives a complaint or allegation or has reason to believe that fraud or abuse has occurred.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0253. CONDUCT OF PRELIMINARY INVESTIGATION OF ALLEGED FRAUD OR ABUSE. In conducting a preliminary investigation of an allegation of fraud or abuse and before the allegation may proceed to a full investigation, the office of inspector general must:

(1) review the allegation and all facts and evidence relating to the allegation; and

(2) prepare a preliminary investigation report that documents:

(A) the allegation;

(B) the evidence the office reviewed, if available;

(C) the procedures the office used to conduct the preliminary investigation;

(D) the preliminary investigation findings; and

(E) the office's determination of whether a full investigation is warranted.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0254. FINDING OF CERTAIN MEDICAID FRAUD OR ABUSE FOLLOWING PRELIMINARY INVESTIGATION: CRIMINAL REFERRAL OR FULL INVESTIGATION. If the findings of a preliminary investigation give the office of inspector general reason to believe that an incident of

Medicaid fraud or abuse involving possible criminal conduct has occurred, not later than the 30th day after completing the preliminary investigation, the office, as appropriate:

(1) must refer the case to this state's Medicaid fraud control unit if a provider is suspected of fraud or abuse involving criminal conduct, provided that the criminal referral does not preclude the office from continuing the office's investigation of the provider that may lead to the imposition of appropriate administrative or civil sanctions; or

(2) may conduct a full investigation, subject to Section 544.0253, if there is reason to believe that a recipient has defrauded Medicaid.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0255. IMMEDIATE CRIMINAL REFERRAL UNDER CERTAIN CIRCUMSTANCES. If the office of inspector general learns or has reason to suspect that a provider's records are being withheld, concealed, destroyed, fabricated, or in any way falsified, the office shall immediately refer the case to this state's Medicaid fraud control unit. The criminal referral does not preclude the office from continuing the office's investigation of the provider that may lead to the imposition of appropriate administrative or civil sanctions.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0256. CONTINUATION OF PAYMENT HOLD FOLLOWING REFERRAL TO LAW ENFORCEMENT AGENCY. (a) If this state's Medicaid fraud control unit or another law enforcement agency accepts a fraud referral from the office of inspector general for investigation, a payment hold based on a credible allegation of fraud may be continued until:

(1) the investigation and any associated enforcement proceedings are complete; or

(2) the Medicaid fraud control unit, another law enforcement agency, or another prosecuting authority determines that

there is insufficient evidence of fraud by the provider that is the subject of the investigation.

(b) If this state's Medicaid fraud control unit or another law enforcement agency declines to accept a fraud referral from the office of inspector general for investigation, a payment hold based on a credible allegation of fraud must be discontinued unless:

(1) the commission has alternative federal or state authority under which the commission may impose a payment hold; or

(2) the office makes a fraud referral to another law enforcement agency.

(c) On a quarterly basis, the office of inspector general shall request a certification from this state's Medicaid fraud control unit and other law enforcement agencies as to whether each matter the unit or agency accepted on the basis of a credible allegation of fraud referral continues to be under investigation and that the continuation of a payment hold is warranted.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0257. COMPLETION OF FULL INVESTIGATION OF ALLEGED MEDICAID FRAUD OR ABUSE. (a) The office of inspector general shall complete a full investigation of a complaint or allegation of Medicaid fraud or abuse against a provider not later than the 180th day after the date the full investigation begins unless the office determines that more time is needed to complete the investigation.

(b) Except as otherwise provided by this subsection, if the office of inspector general determines that more time is needed to complete a full investigation, the office shall provide notice to the provider who is the subject of the investigation stating that the length of the investigation will exceed 180 days and specifying the reasons why the office was unable to complete the investigation within the 180-day period. The office is not required to provide notice to the provider under this subsection if the office determines that providing notice would jeopardize the investigation.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0258. MEMORANDUM OF UNDERSTANDING FOR ASSISTING ATTORNEY GENERAL INVESTIGATIONS RELATED TO MEDICAID. (a) The commission and the attorney general shall enter into a memorandum of understanding under which the commission shall:

(1) provide investigative support to the attorney general as required in connection with cases under Subchapter B, Chapter 36, Human Resources Code; and

(2) assist in performing preliminary investigations and ongoing investigations for actions the attorney general prosecutes under Subchapter C, Chapter 36, Human Resources Code.

(b) The memorandum of understanding must specify the type, scope, and format of the investigative support the commission provides to the attorney general.

(c) The memorandum of understanding must ensure that barriers to direct fraud referrals to this state's Medicaid fraud control unit by Medicaid agencies or unreasonable impediments to communication between Medicaid agency employees and the Medicaid fraud control unit are not imposed.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0259. SUBPOENAS. (a) The office of inspector general may issue a subpoena in connection with an investigation the office conducts. The subpoena may be:

(1) issued to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence in this state; and

(2) served personally or by certified mail.

(b) The office of inspector general, acting through the attorney general, may file suit in a district court in this state to enforce a subpoena with which a person fails to comply. On finding that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena. The court may punish a person who fails to obey the court order.

(c) Reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by Section 2001.103.

(d) The office of inspector general shall pay a reasonable fee for subpoenaed photocopies. The fee may not exceed the amount the

office of inspector general may charge for copies of its records.

(e) Except for the disclosure of information to the state auditor's office, law enforcement agencies, and other entities as permitted by other law, all information and materials subpoenaed or compiled by the office of inspector general in connection with an audit, inspection, or investigation or by the office of the attorney general in connection with a Medicaid fraud investigation are:

(1) confidential and not subject to disclosure under Chapter 552; and

(2) not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to anyone other than the office of inspector general, the attorney general, or the office's or attorney general's employees or agents involved in the audit, inspection, or investigation.

(f) A person who receives information under Subsection (e) may disclose the information only in accordance with Subsection (e) and in a manner that is consistent with the authorized purpose for which the person first received the information.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER G. PAYMENT HOLDS

Sec. 544.0301. IMPOSITION OF PAYMENT HOLD. (a) As authorized by state and federal law and except as provided by Subsections (d) and (e), the office of inspector general shall impose, as a serious enforcement tool to mitigate ongoing financial risk to this state, a payment hold on claims for reimbursement submitted by a provider only:

(1) to compel production of records;

(2) when requested by this state's Medicaid fraud control unit; or

(3) on the determination that a credible allegation of fraud exists, subject to Sections 544.0104(b) and 544.0105(b), as applicable.

(b) The office of inspector general shall impose a payment hold under this section without prior notice, and the payment hold takes effect immediately.

(c) The office of inspector general shall, in consultation with

this state's Medicaid fraud control unit, establish guidelines regarding the imposition of payment holds authorized under this section.

(d) On the determination that a credible allegation of fraud exists and in accordance with 42 C.F.R. Sections 455.23(e) and (f), the office of inspector general may find that good cause exists to not impose a payment hold, to not continue a payment hold, to impose a payment hold only in part, or to convert a payment hold imposed in whole to one imposed only in part if:

(1) law enforcement officials specifically requested that a payment hold not be imposed because a payment hold would compromise or jeopardize an investigation;

(2) available remedies implemented by this state other than a payment hold would more effectively or quickly protect Medicaid funds;

(3) the office of inspector general determines, based on the submission of written evidence by the provider who is the subject of the payment hold, that the payment hold should be removed;

(4) Medicaid recipients' access to items or services would be jeopardized by a full or partial payment hold because the provider who is the subject of the payment hold:

(A) is the sole community physician or the sole source of essential specialized services in a community; or

(B) serves a large number of Medicaid recipients within a designated medically underserved area;

(5) the attorney general declines to certify that a matter continues to be under investigation; or

(6) the office of inspector general determines that a full or partial payment hold is not in the best interests of Medicaid.

(e) Unless the office of inspector general has evidence that a provider materially misrepresented documentation relating to medically necessary services, the office of inspector general may not impose a payment hold on claims for reimbursement the provider submits for those services if the provider obtained prior authorization from the commission or a commission contractor.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0302. NOTICE. (a) The office of inspector general shall notify a provider of a payment hold imposed under Section 544.0301(a) in accordance with 42 C.F.R. Section 455.23(b) and, except as provided by that regulation, not later than the fifth day after the date the office imposes the payment hold.

(b) In addition to the requirements of 42 C.F.R. Section 455.23(b), the payment hold notice must also include:

(1) the specific basis for the hold, including:

(A) the claims supporting the allegation at that point in the investigation;

(B) a representative sample of any documents that form the basis for the hold; and

(C) a detailed summary of the office of inspector general's evidence relating to the allegation;

(2) a description of administrative and judicial due process rights and remedies, including:

(A) the provider's option to seek informal resolution;

(B) the provider's right to seek a formal administrative appeal hearing; or

(C) the provider's ability to seek both an informal resolution and a formal administrative appeal hearing; and

(3) a detailed timeline for the provider to pursue the rights and remedies described in Subdivision (2).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0303. EXPEDITED ADMINISTRATIVE HEARING. (a) A provider subject to a payment hold imposed under Section 544.0301(a), other than a hold this state's Medicaid fraud control unit requested, must request an expedited administrative hearing not later than the 10th day after the date the provider receives notice of the hold from the office of inspector general under Section 544.0302.

(b) On a provider's timely written request, the office of inspector general shall, not later than the third day after the date the office of inspector general receives the request, file a request with the State Office of Administrative Hearings for an expedited administrative hearing regarding the payment hold for which the provider submitted the request.

(c) Not later than the 45th day after the date the State Office of Administrative Hearings receives a request from the office of inspector general for an expedited administrative hearing, the State Office of Administrative Hearings shall hold the hearing.

(d) In an expedited administrative hearing held under this section:

(1) the provider and the office of inspector general are each limited to four hours of testimony, excluding time for responding to questions from the administrative law judge;

(2) the provider and the office of inspector general are each entitled to two continuances under reasonable circumstances; and

(3) the office of inspector general is required to show probable cause that:

(A) the credible allegation of fraud that is the basis of the imposed payment hold has an indicia of reliability; and

(B) continuing to pay the provider presents an ongoing significant financial risk to this state and a threat to the integrity of Medicaid.

(e) The office of inspector general is responsible for the costs of the expedited administrative hearing, but a provider is responsible for the provider's own costs incurred in preparing for the hearing.

(f) In the expedited administrative hearing, the administrative law judge shall decide whether the payment hold should continue but may not adjust the amount or percent of the payment hold.

(g) Notwithstanding any other law, including Section 2001.058(e), the administrative law judge's decision in the expedited administrative hearing is final and may not be appealed.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0304. INFORMAL RESOLUTION. (a) The executive commissioner, in consultation with the office of inspector general, shall adopt rules that allow a provider subject to a payment hold imposed under Section 544.0301(a), other than a hold this state's Medicaid fraud control unit requested, to seek an informal resolution of the issues the office identifies in the notice provided under Section 544.0302.

(b) A provider must request an initial informal resolution meeting under this section not later than the deadline prescribed by Section 544.0303(a) for requesting an expedited administrative hearing.

(c) On receipt of a timely request, the office of inspector general shall:

(1) decide whether to grant the provider's request for an initial informal resolution meeting; and

(2) if the office decides to grant the request, schedule the initial informal resolution meeting and give notice to the provider of the time and place of the meeting.

(d) A provider may request a second informal resolution meeting after the date of an initial informal resolution meeting. On receipt of a timely request, the office of inspector general shall:

(1) decide whether to grant the provider's request for a second informal resolution meeting; and

(2) if the office decides to grant the request, schedule the second informal resolution meeting and give notice to the provider of the time and place of the second meeting.

(e) Before a second informal resolution meeting is held, a provider must have an opportunity to provide additional information for the office of inspector general to consider.

(f) A provider's decision to seek an informal resolution under this section does not extend the time by which the provider must request an expedited administrative hearing under Section 544.0303(a). The informal resolution process shall run concurrently with the administrative hearing process, and the informal resolution process shall be discontinued when the State Office of Administrative Hearings issues a final determination on the payment hold.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0305. WEBSITE POSTING. The office of inspector general shall post on the office's publicly available Internet website a description in plain English of, and a video explaining, the processes and procedures the office uses to determine whether to impose a payment hold on a provider under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

SUBCHAPTER H. MANAGED CARE ORGANIZATION PREVENTION AND INVESTIGATION OF FRAUD AND ABUSE

Sec. 544.0351. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a managed care organization that provides or arranges for the provision of health care services to an individual under a government-funded program, including Medicaid and the child health plan program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0352. SPECIAL INVESTIGATIVE UNIT OR CONTRACTED ENTITY TO INVESTIGATE FRAUD AND ABUSE. (a) A managed care organization to which this subchapter applies shall:

(1) establish and maintain a special investigative unit within the organization to investigate fraudulent claims and other types of program abuse by recipients or enrollees, as applicable, and service providers; or

(2) contract with another entity to investigate fraudulent claims and other types of program abuse by recipients or enrollees, as applicable, and service providers.

(b) A managed care organization that contracts for the investigation of fraudulent claims and other types of program abuse by recipients or enrollees, as applicable, and service providers under Subsection (a)(2) shall file with the office of inspector general:

(1) a copy of the written contract;

(2) the names, addresses, telephone numbers, and fax numbers of the principals of the entity with which the organization contracts; and

(3) a description of the qualifications of the principals of the entity with which the organization contracts.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0353. FRAUD AND ABUSE PREVENTION PLAN. (a) A managed care organization to which this subchapter applies shall:

(1) adopt a plan to prevent and reduce fraud and abuse; and

(2) annually file the plan with the office of inspector general for approval.

(b) The plan must include:

(1) a description of the organization's procedures for:

(A) detecting and investigating possible acts of fraud or abuse;

(B) mandatory reporting of possible acts of fraud or abuse to the office of inspector general; and

(C) educating and training personnel to prevent fraud and abuse;

(2) the name, address, telephone number, and fax number of the individual responsible for carrying out the plan;

(3) a description or chart outlining the organizational arrangement of the organization's personnel responsible for investigating and reporting possible acts of fraud or abuse;

(4) a detailed description of the results of fraud and abuse investigations the organization's special investigative unit or the entity with which the organization contracts under Section 544.0352(a)(2) conducts; and

(5) provisions for maintaining the confidentiality of any patient information relevant to a fraud or abuse investigation.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0354. ASSISTANCE AND OVERSIGHT BY OFFICE OF INSPECTOR GENERAL. (a) The office of inspector general may review the records of a managed care organization to which this subchapter applies to determine compliance with this subchapter.

(b) The office of inspector general, in consultation with the commission, shall:

(1) investigate, including by means of regular audits, possible fraud, waste, and abuse by managed care organizations to which this subchapter applies;

(2) establish requirements for providing training to and regular oversight of special investigative units established by

managed care organizations under Section 544.0352(a)(1) and entities with which managed care organizations contract under Section 544.0352(a)(2);

(3) establish requirements for approving plans to prevent and reduce fraud and abuse that managed care organizations adopt under Section 544.0353;

(4) evaluate statewide Medicaid fraud, waste, and abuse trends and communicate those trends to special investigative units and contracted entities to determine the prevalence of those trends;

(5) as needed, assist managed care organizations in discovering or investigating fraud, waste, and abuse; and

(6) provide ongoing, regular training to appropriate commission and office staff concerning fraud, waste, and abuse in a managed care setting, including training relating to fraud, waste, and abuse by service providers, recipients, and enrollees.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0355. RULES. (a) The executive commissioner, in consultation with the office of inspector general, shall adopt rules as necessary to accomplish the purposes of this subchapter, including rules defining the investigative role of the office with respect to the investigative role of special investigative units established by managed care organizations under Section 544.0352(a)(1) and entities with which managed care organizations contract under Section 544.0352(a)(2).

(b) The rules must specify the office of inspector general's role in:

(1) reviewing the findings of special investigative units and contracted entities;

(2) investigating cases in which the overpayment amount sought to be recovered exceeds $100,000; and

(3) investigating providers who are enrolled in more than one managed care organization.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER I. FINANCIAL ASSISTANCE FRAUD

Sec. 544.0401. DEFINITION. In this subchapter, "financial assistance" means assistance provided under the financial assistance program under Chapter 31, Human Resources Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0402. FALSE OR MISLEADING INFORMATION RELATED TO FINANCIAL ASSISTANCE ELIGIBILITY. To establish or maintain the eligibility of an individual and the individual's family for financial assistance or to increase or prevent a reduction in the amount of that assistance, an individual may not intentionally:

(1) make a statement that the individual knows is false or misleading;

(2) misrepresent, conceal, or withhold a fact; or

(3) knowingly misrepresent a statement as being true.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0403. COMMISSION ACTION FOLLOWING DETERMINATION OF VIOLATION. If after an investigation the commission determines that an individual violated Section 544.0402, the commission shall:

(1) notify the individual of the alleged violation not later than the 30th day after the date the commission completes the investigation and provide the individual with an opportunity for a hearing on the matter; or

(2) refer the matter to the appropriate prosecuting attorney for prosecution.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0404. INELIGIBILITY FOR FINANCIAL ASSISTANCE FOLLOWING VIOLATION; RIGHT TO APPEAL. (a) An individual is not eligible to receive financial assistance as provided by Subsection (b) if the individual waives the right to a hearing or a hearing officer at an

administrative hearing held under this subchapter determines that the individual violated Section 544.0402. An individual who a hearing officer determines violated Section 544.0402 may appeal that determination by filing a petition in the district court in the county in which the violation occurred not later than the 30th day after the date the hearing officer makes the determination.

(b) An individual determined under Subsection (a) to have violated Section 544.0402 is not eligible for financial assistance:

(1) before the first anniversary of the date of that determination if the individual has no previous violations; and

(2) permanently if the individual was previously determined to have committed a violation.

(c) An individual who is convicted of a state or federal offense for conduct described by Section 544.0402 or who is granted deferred adjudication or placed on community supervision for that conduct is permanently disqualified from receiving financial assistance.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0405. HOUSEHOLD ELIGIBILITY FOR FINANCIAL ASSISTANCE NOT AFFECTED. This subchapter does not affect the eligibility for financial assistance of any other member of the household of an individual who is ineligible as a result of Section 544.0404(b) or (c).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0406. RULES. The executive commissioner shall adopt rules as necessary to implement this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER J. USE OF TECHNOLOGY TO DETECT, INVESTIGATE, AND PREVENT FRAUD, ABUSE, AND OVERCHARGES

Sec. 544.0451. LEARNING, NEURAL NETWORK, OR OTHER TECHNOLOGY RELATING TO MEDICAID. (a) The commission shall:

(1) use learning, neural network, or other technology to identify and deter Medicaid fraud throughout this state; and

(2) require each health and human services agency that performs any part of Medicaid to participate in implementing and using the technology.

(b) The commission shall contract with a private or public entity to develop and implement the technology. The commission may require the contracted entity to install and operate the technology at locations the commission specifies, including commission offices.

(c) The commission shall maintain all information necessary to apply the technology to claims data covering a period of at least two years. The data used for data processing shall be maintained as an independent subset for security purposes.

(d) The commission shall refer cases the technology identifies to the office of inspector general or the office of the attorney general, as appropriate.

(e) Each month, the technology must match vital statistics unit death records with Medicaid claims filed by a provider. If the commission determines that a provider filed a claim for services provided to an individual after the individual's date of death, as determined by the vital statistics unit death records, the commission shall refer the case to the office of inspector general for investigation.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0452. MEDICAID FRAUD INVESTIGATION TRACKING SYSTEM. (a) The commission shall use an automated fraud investigation tracking system through the office of inspector general to monitor the progress of an investigation of suspected fraud, abuse, or insufficient quality of care in Medicaid.

(b) For each case of suspected fraud, abuse, or insufficient quality of care the technology required under Section 544.0451 identifies, the automated fraud investigation tracking system must:

(1) receive from the technology electronically transferred records relating to the case;

(2) record the details and monitor the status of an investigation of the case, including maintaining a record of the beginning and completion dates for each phase of the case investigation;

(3) generate documents and reports related to the status of the case investigation; and

(4) generate standard letters to a provider regarding the status or outcome of an investigation.

(c) The commission shall require each health and human services agency that performs any part of Medicaid to participate in implementing and using the automated fraud investigation tracking system.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0453. MEDICAID FRAUD DETECTION TECHNOLOGY. The commission may contract with a contractor who specializes in developing technology capable of identifying fraud patterns exhibited by Medicaid recipients to:

(1) develop and implement the fraud detection technology; and

(2) determine whether a fraud pattern by Medicaid recipients is present in the recipients' eligibility files the commission maintains.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0454. DATA MATCHING AGAINST FEDERAL FELON LIST. The commission shall develop and implement a system to cross-reference the list of fugitive felons the federal government maintains with data collected for the following programs:

(1) the child health plan program;

(2) the financial assistance program under Chapter 31, Human Resources Code;

(3) Medicaid;

(4) nutritional assistance programs under Chapter 33, Human Resources Code;

(5) long-term care services, as defined by Section 22.0011, Human Resources Code;

(6) community-based support services identified or provided in accordance with Subchapter D, Chapter 546; and

(7) other health and human services programs, as appropriate.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0455. ELECTRONIC DATA MATCHING. (a) In this section, "public assistance program" includes:

(1) Medicaid;

(2) the financial assistance program under Chapter 31, Human Resources Code; and

(3) a nutritional assistance program under Chapter 33, Human Resources Code, including the supplemental nutrition assistance program under that chapter.

(b) At least quarterly, the commission shall conduct electronic data matches for a recipient of public assistance program benefits to verify the identity, income, employment status, and other factors that affect the recipient's eligibility. To verify a recipient's eligibility, the electronic data matching must match information the recipient provided with information contained in databases appropriate federal and state agencies maintain.

(c) Health and human services agencies shall cooperate with the commission by providing data or any other assistance necessary to conduct the electronic data matches required by this section.

(d) The commission shall enter into a memorandum of understanding with each state agency from which data is required to conduct electronic data matches under this section and Section 544.0456.

(e) The commission may contract with a public or private entity to conduct the electronic data matches required by this section.

(f) The executive commissioner shall establish procedures by which the commission or a health and human services agency the commission designates verifies the electronic data matches the commission conducts under this section. Not later than the 20th day after the date an electronic data match is verified, the commission

shall remove from eligibility a recipient who is determined to be ineligible for a public assistance program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 544.0456. METHODS TO REDUCE FRAUD, WASTE, AND ABUSE IN CERTAIN PUBLIC ASSISTANCE PROGRAMS. (a) In this section:

(1) "Financial assistance benefits" means monetary payments under:

(A) the federal Temporary Assistance for Needy Families program operated under Chapter 31, Human Resources Code; or

(B) this state's temporary assistance and support services program operated under Chapter 34, Human Resources Code.

(2) "Supplemental nutrition assistance benefits" means monetary payments under the supplemental nutrition assistance program operated under Chapter 33, Human Resources Code.

(b) To the extent not otherwise provided by this subtitle or Title 2, Human Resources Code, and in accordance with this section, the commission shall develop and implement methods for reducing fraud, waste, and abuse in public assistance programs.

(c) On a monthly basis, the commission shall:

(1) conduct electronic data matches with the Texas Lottery Commission to determine whether a recipient of supplemental nutrition assistance benefits or a recipient's household member received reportable lottery winnings;

(2) use the database system developed under Section 532.0201 to:

(A) match vital statistics unit death records with a list of individuals eligible for financial assistance or supplemental nutrition assistance benefits; and

(B) ensure that any individual receiving assistance under either program who is discovered to be deceased has the individual's eligibility for assistance promptly terminated; and

(3) review the out-of-state electronic benefit transfer card transactions a recipient of supplemental nutrition assistance

benefits made to determine whether those transactions indicate a possible change in the recipient's residence.

(d) The commission shall immediately review a recipient's eligibility for public assistance benefits if the commission discovers information under this section that affects the recipient's eligibility.

(e) A recipient presumptively commits a program violation if the recipient fails to disclose lottery winnings that are required to be reported to the commission under a public assistance program.

(f) The executive commissioner shall adopt rules necessary to implement this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER K. RECOVERY AND RECOUPMENT IN CASES OF FRAUD, ABUSE, AND OVERCHARGES

Sec. 544.0501. RECOVERY MONITORING SYSTEM. (a) The commission shall use an automated recovery monitoring system to monitor the collections process for a settled case of fraud, abuse, or insufficient quality of care in Medicaid.

(b) The recovery monitoring system must:

(1) monitor the collection of funds resulting from settled cases, including by recording:

(A) monetary payments received from a provider who agreed to a monetary payment plan; and

(B) deductions taken through the recoupment program from subsequent Medicaid claims the provider filed; and

(2) provide immediate notice of a provider who:

(A) agreed to a monetary payment plan or to deductions through the recoupment program from subsequent Medicaid claims; and

(B) fails to comply with the settlement agreement, including by providing notice of a provider who:

(i) does not make a scheduled payment; or

(ii) pays less than a scheduled amount.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0502. PAYMENT RECOVERY EFFORTS BY CERTAIN PERSONS; RETENTION OF RECOVERED AMOUNTS. (a) In this section, "contracted entity" means an entity with which a managed care organization contracts under Section 544.0352(a)(2).

(b) A managed care organization or the organization's contracted entity that discovers Medicaid or child health plan program fraud or abuse shall:

(1) immediately submit written notice to the office of inspector general and the office of the attorney general that:

(A) is in the form and manner the office of inspector general prescribes; and

(B) contains a detailed description of:

(i) the fraud or abuse; and

(ii) each payment made to a provider as a result of the fraud or abuse;

(2) subject to Subsection (c), begin payment recovery efforts; and

(3) ensure that any payment recovery efforts in which the organization engages are in accordance with rules the executive commissioner adopts.

(c) A managed care organization or the organization's contracted entity may not engage in payment recovery efforts if:

(1) the amount sought to be recovered under Subsection (b)(2) exceeds $100,000; and

(2) not later than the 10th business day after the date the organization or entity notifies the office of inspector general and the office of the attorney general under Subsection (b)(1), the organization or entity receives a notice from either office indicating that the organization or entity is not authorized to proceed with recovery efforts.

(d) A managed care organization may retain one-half of any money the organization or the organization's contracted entity recovers under Subsection (b)(2). The organization shall remit the remaining amount of recovered money to the office of inspector general for deposit to the credit of the general revenue fund.

(e) If the office of inspector general notifies a managed care organization in accordance with Subsection (c), proceeds with recovery efforts, and recovers all or part of the payments the organization identified as required by Subsection (b)(1), the organization is entitled to one-half of the amount recovered for each

payment the organization identified after any applicable federal share is deducted. The organization may not receive more than one-half of the total amount recovered after any applicable federal share is deducted.

(f) Notwithstanding this section, if the office of inspector general discovers Medicaid or child health plan program fraud, waste, or abuse in performing the office's duties, the office of inspector general may recover payments made to a provider as a result of the fraud, waste, or abuse as otherwise provided by this chapter. All payments the office of inspector general recovers under this subsection shall be deposited to the credit of the general revenue fund.

(g) The office of inspector general shall coordinate with appropriate managed care organizations to ensure that the office of inspector general and an organization or an organization's contracted entity do not both begin payment recovery efforts under this section for the same case of fraud, waste, or abuse.

(h) A managed care organization shall submit a quarterly report to the office of inspector general detailing the amount of money the organization recovered under Subsection (b)(2).

(i) The executive commissioner shall adopt rules necessary to implement this section, including rules establishing due process procedures that a managed care organization must follow when engaging in payment recovery efforts as provided by this section. In adopting the rules establishing due process procedures, the executive commissioner shall require that a managed care organization or an organization's contracted entity that engages in payment recovery efforts as provided by this section and Section 544.0503 provide to a provider required to use electronic visit verification:

(1) written notice of the organization's intent to recoup overpayments in accordance with Section 544.0503; and

(2) at least 60 days to cure any defect in a claim before the organization may begin efforts to collect overpayments.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0503. PROCESS FOR MANAGED CARE ORGANIZATIONS TO RECOUP OVERPAYMENTS RELATED TO ELECTRONIC VISIT VERIFICATION TRANSACTIONS.

(a) The executive commissioner shall adopt rules that standardize the process by which a managed care organization collects alleged overpayments that are made to a health care provider and discovered through an audit or investigation the organization conducts secondary to missing electronic visit verification information. The rules must require that the organization:

(1) provide written notice to a provider:

(A) of the organization's intent to recoup overpayments not later than the 30th day after the date an audit is complete;

(B) of the specific claims and electronic visit verification transactions that are the basis of the overpayment;

(C) of the process the provider should use to communicate with the organization to provide information about the electronic visit verification transactions;

(D) of the provider's option to seek an informal resolution of the alleged overpayment;

(E) of the process to appeal the determination that an overpayment was made; and

(F) if the provider intends to respond to the notice, that the provider must respond not later than the 30th day after the date the provider receives the notice; and

(2) limit the duration of audits to 24 months.

(b) Notwithstanding any other law, a managed care organization may not attempt to recover an overpayment described by Subsection (a) until the provider exhausts all rights to an appeal.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 142, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 544.0504. RECOVERY AUDIT CONTRACTORS. To the extent required under Section 1902(a)(42), Social Security Act (42 U.S.C. Section 1396a(a)(42)), the commission shall establish a program under which the commission contracts with one or more recovery audit contractors to identify Medicaid underpayments and overpayments and recover the overpayments.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0505. ANNUAL REPORT ON CERTAIN FRAUD AND ABUSE RECOVERIES. Not later than December 1 of each year, the commission shall prepare and submit to the legislature a report on the amount of money recovered during the preceding 12-month period as a result of investigations and recovery efforts made under Subchapter H and Section 544.0502 by special investigative units or entities with which a managed care organization contracts under Section 544.0352(a)(2). The report must specify the amount of money each managed care organization retained under Section 544.0502(d).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0506. NOTICE AND INFORMAL RESOLUTION OF PROPOSED RECOUPMENT OF OVERPAYMENT OR DEBT. (a) The commission or the office of inspector general shall provide a provider with written notice of any proposed recoupment of an overpayment or debt and any damages or penalties relating to a proposed recoupment of an overpayment or debt arising out of a fraud or abuse investigation. The notice must include:

(1) the specific basis for the overpayment or debt;

(2) a description of facts and supporting evidence;

(3) a representative sample of any documents that form the basis for the overpayment or debt;

(4) the extrapolation methodology;

(5) information relating to the extrapolation methodology used as part of the investigation and the methods used to determine the overpayment or debt in sufficient detail so that the extrapolation results may be demonstrated to be statistically valid and are fully reproducible;

(6) the calculation of the overpayment or debt amount;

(7) the amount of damages and penalties, if applicable; and

(8) a description of administrative and judicial due process remedies, including the provider's option to seek informal resolution, the provider's right to seek a formal administrative

appeal hearing, or that the provider may seek both.

(b) A provider may request an informal resolution meeting. On receipt of the request, the office of inspector general shall schedule the meeting and give notice to the provider of the time and place of the meeting. The informal resolution process shall run concurrently with the administrative hearing process, and the administrative hearing process may not be delayed on account of the informal resolution process.

(c) The commission shall provide the notice required by Subsection (a) to a provider that is a hospital not later than the 90th day before the date the overpayment or debt that is the subject of the notice must be paid.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 544.0507. APPEAL OF DETERMINATION TO RECOUP OVERPAYMENT OR DEBT. (a) A provider must request an appeal under this section not later than the 30th day after the date the provider is notified that the commission or the office of inspector general will seek to recover an overpayment or debt from the provider.

(b) On receipt of a timely written request by a provider who is the subject of a recoupment of overpayment or debt arising out of a fraud or abuse investigation, the office of inspector general shall file a docketing request with the State Office of Administrative Hearings or the commission's appeals division, as the provider requests, for an administrative hearing regarding the proposed recoupment amount and any associated damages or penalties. The office of inspector general shall file the docketing request not later than the 60th day after the date of the provider's request or not later than the 60th day after completing the informal resolution process, if applicable.

(c) The office of inspector general is responsible for the costs of an administrative hearing, but a provider is responsible for the provider's own costs incurred in preparing for the hearing.

(d) A provider who is the subject of a recoupment of overpayment or debt arising out of a fraud or abuse investigation may appeal a final administrative order issued after an administrative hearing by filing a petition for judicial review in a district court

in Travis County.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

CHAPTER 545. CERTAIN PUBLIC ASSISTANCE BENEFITS

SUBCHAPTER A. PUBLIC ASSISTANCE BENEFITS PROGRAM ELIGIBILITY DETERMINATION AND SERVICE DELIVERY INTEGRATION

Sec. 545.0001. DEFINITIONS. In this subchapter:

(1) "Integrated system" means the integrated eligibility determination and service delivery system that is implemented under the integration plan.

(2) "Integration plan" means the plan to integrate services and functions relating to eligibility determination and service delivery required by Section 545.0002.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 545.0002. DEVELOPMENT AND IMPLEMENTATION OF INTEGRATION PLAN. (a) The commission, subject to the approval of the governor and the Legislative Budget Board, shall develop and implement a plan to integrate services and functions relating to eligibility determination and service delivery by health and human services agencies, the Texas Workforce Commission, and other agencies. The integration plan must include:

(1) a reengineering of eligibility determination business processes;

(2) streamlined service delivery;

(3) a unified and integrated process for the transition from welfare to work; and

(4) improved access to benefits and services for clients.

(b) In developing and implementing the integration plan, the commission:

(1) shall give priority to the design and development of computer hardware and software for and provide technical support relating to the integrated eligibility determination system;

(2) shall consult with agencies whose programs are included in the plan, including the Department of State Health Services and

the Texas Workforce Commission; and

(3) may contract for appropriate professional and technical assistance.

(c) The commission shall develop and implement the integrated system to achieve:

(1) increased quality of and client access to services; and

(2) savings in the cost of providing administrative and other services and staff as a result of streamlining and eliminating duplication of services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 545.0003. METHODS TO ADDRESS FRAUD AND ELIGIBILITY ERROR RATE. The commission shall examine cost-effective methods to address:

(1) fraud in assistance programs; and

(2) the error rate in eligibility determination.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 545.0004. CONTRACT FOR INTEGRATION PLAN IMPLEMENTATION. (a) On receipt by this state of any necessary federal approval and subject to the approval of the governor and the Legislative Budget Board, the commission may contract to implement all or part of the integration plan if the commission determines that contracting:

(1) may advance the objectives of Sections 545.0002 and 545.0006(b); and

(2) meets the criteria set out in the cost-benefit analysis described by this section.

(b) Before awarding a contract, the commission shall provide to the governor and the Legislative Budget Board a detailed cost-benefit analysis that demonstrates:

(1) the integration plan's cost-effectiveness;

(2) mechanisms for monitoring performance under the plan; and

(3) specific improvements the plan makes to the service delivery system and client access.

(c) The commission shall make the cost-benefit analysis described by Subsection (b) available to the public.

(d) On or before the 10th day after releasing a request for bids, proposals, offers, or other applicable expressions of interest relating to developing or implementing the integration plan, the commission shall hold a public hearing and receive public comment on the request.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 545.0005. USE OF OTHER AGENCIES' STAFF AND RESOURCES. (a) The commission, in developing and implementing the integration plan, may use the staff and resources of agencies whose programs are included in the plan.

(b) The agencies whose programs are included in the integration plan shall cooperate with a commission request to provide available staff and resources that will be subject to the commission's direction.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 545.0006. FUNDING. (a) The design, development, and operation of an automated data processing system to support the integration plan may be financed through the issuance of bonds or other obligations under Chapter 1232.

(b) The commission, subject to any spending limitation prescribed in the General Appropriations Act, may use savings described by Section 545.0002(c)(2) to further develop the integrated system and provide other health and human services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER B. ADMINISTRATION OF CERTAIN PUBLIC ASSISTANCE BENEFITS PROGRAMS

Sec. 545.0051. CONSOLIDATED RECIPIENT IDENTIFICATION AND

BENEFITS ISSUANCE METHOD. (a) If the commission determines that the implementation would be feasible and cost-effective, the commission may develop and implement a method to consolidate, to the extent possible, recipient identification and benefits issuance for the commission and health and human services agencies.

(b) The method may:

(1) provide for the use of a single integrated benefits issuance card or multiple cards capable of integrating benefits issuance or other program functions;

(2) incorporate a fingerprint image identifier to enable personal identity verification at a point of service and reduce fraud;

(3) enable immediate electronic verification of recipient eligibility; and

(4) replace multiple forms, cards, or other methods used for fraud reduction or provision of health and human services benefits, including:

(A) electronic benefits transfer cards; and

(B) smart cards used in Medicaid.

(c) In developing and implementing the method, the commission shall:

(1) to the extent possible, use industry-standard communication, messaging, and electronic benefits transfer protocols;

(2) ensure that all identifying and descriptive information of recipients of each health and human services program included in the method can be accessed only by a provider or other entity participating in the particular program;

(3) ensure that a provider or other entity participating in a health and human services program included in the method cannot identify whether a program recipient is receiving benefits under another program included in the method; and

(4) ensure that the storage and communication of all identifying and descriptive information included in the method comply with existing federal and state privacy laws governing individually identifiable information for recipients of public benefits programs.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 545.0052. EXPANSION OF BILLING COORDINATION AND INFORMATION COLLECTION ACTIVITIES. (a) If cost-effective, the commission may:

(1) contract to expand all or part of the billing coordination system established under Section 532.0058 to process claims for services provided through other benefits programs the commission or a health and human services agency administers;

(2) expand any other billing coordination tools and resources used to process claims for health care services provided through Medicaid to process claims for services provided through other benefits programs the commission or a health and human services agency administers; and

(3) expand the scope of individuals about whom information is collected under Section 32.042, Human Resources Code, to include recipients of services provided through other benefits programs the commission or a health and human services agency administers.

(b) Notwithstanding any other state law, each health and human services agency shall provide the commission with information necessary to allow the commission or the commission's designee to perform the billing coordination and information collection activities authorized by this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 545.0053. SERVICE DELIVERY AREA ALIGNMENT. Notwithstanding Section 540.0701(d) or any other law and to the extent possible, the commission shall align Medicaid and the child health plan program service delivery areas.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 545.0054. PROGRAM TO IMPROVE AND MONITOR CERTAIN OUTCOMES OF MEDICAID RECIPIENTS AND CHILD HEALTH PLAN PROGRAM ENROLLEES. The commission may design and implement a program to improve and monitor

clinical and functional outcomes of a Medicaid recipient or child health plan program enrollee. The program may use financial, clinical, and other criteria based on pharmacy, medical services, and other claims data related to Medicaid or the child health plan program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 545.0055. MINIMUM COLLECTION GOAL FOR RECOVERY OF CERTAIN BENEFITS. (a) Not later than August 30 of each year, the executive commissioner by rule shall set a minimum goal for the commission specifying the percentage of the amount of benefits the commission granted in error under the supplemental nutrition assistance program under Chapter 33, Human Resources Code, or the financial assistance program under Chapter 31, Human Resources Code, that the commission should recover. The executive commissioner shall set the percentage based on:

(1) comparable recovery rates other states reported; or

(2) other appropriate factors the executive commissioner identifies.

(b) If the commission fails to meet the goal set under Subsection (a) for the fiscal year, the executive commissioner shall notify the comptroller, and the comptroller shall reduce the commission's general revenue appropriation by an amount equal to the difference between the amount of state funds the commission would have collected had the commission met the goal and the amount of state funds the commission actually collected.

(c) The executive commissioner, the governor, and the Legislative Budget Board shall monitor the commission's performance in meeting the goal set under Subsection (a). The commission shall cooperate by providing to the governor and the Legislative Budget Board, on request, information concerning the commission's collection efforts.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 545.0056. DISTRIBUTION OF EARNED INCOME TAX CREDIT

INFORMATION. (a) The commission shall ensure that educational materials relating to the federal earned income tax credit are provided in accordance with this section to each individual receiving assistance or benefits under:

(1) the child health plan program;

(2) the financial assistance program under Chapter 31, Human Resources Code;

(3) Medicaid;

(4) the supplemental nutrition assistance program under Chapter 33, Human Resources Code; or

(5) another appropriate health and human services program.

(b) In accordance with Section 526.0002, the commission shall, by mail or through the Internet, provide an individual described by Subsection (a) with access to:

(1) Internal Revenue Service publications relating to the federal earned income tax credit or information the comptroller prepares under Section 403.025 relating to that credit;

(2) federal income tax forms necessary to claim the federal earned income tax credit; and

(3) where feasible, the location of at least one program that:

(A) is in close geographic proximity to the individual; and

(B) provides free federal income tax preparation services to low-income and other eligible persons.

(c) In January of each year, the commission or a commission representative shall mail to each individual described by Subsection (a) information about the federal earned income tax credit that provides the individual with referrals to the resources described by Subsection (b).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 545.0057. APPLICATION ASSISTANCE FOR FINANCIAL ASSISTANCE RECIPIENTS ELIGIBLE FOR FEDERAL PROGRAMS. The commission shall assist recipients of financial assistance under Chapter 31, Human Resources Code, who are eligible for assistance under federal programs to apply for benefits under those federal programs. The

commission may delegate this responsibility to a health and human services agency, contract with a unit of local government, or use any other cost-effective method to assist financial assistance recipients who are eligible for federal programs.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER C. CERTAIN PUBLIC ASSISTANCE BENEFITS PROGRAM ELIGIBILITY

Sec. 545.0101. MEMORANDUM OF UNDERSTANDING REGARDING MEDICAID AND CHILD HEALTH PLAN PROGRAM ELIGIBILITY DETERMINATIONS FOR CERTAIN CHILDREN. (a) The commission shall enter into a memorandum of understanding with the Texas Juvenile Justice Department to ensure that the commission assesses each individual who is committed, placed, or detained under Title 3, Family Code, for Medicaid and child health plan program eligibility before that individual's release from commitment, placement, or detention. A local juvenile probation department is subject to the requirements of the memorandum.

(b) The memorandum of understanding must specify:

(1) the information that must be provided to the commission;

(2) the process by which and time frame within which the information must be provided; and

(3) the roles and responsibilities of all parties to the memorandum, including a requirement that the commission pursue the actions necessary to complete eligibility applications.

(c) The memorandum of understanding must be tailored to:

(1) achieve the goal of ensuring that an individual described by Subsection (a) who the commission determines is eligible for Medicaid or the child health plan program:

(A) is enrolled in the program for which the individual is eligible; and

(B) may begin receiving services through the program as soon as possible after the eligibility determination is made; and

(2) if possible, achieve the goal of ensuring that the individual may begin receiving services through the program on the date of the individual's release from commitment, placement, or detention.

(d) The executive commissioner may adopt rules as necessary to implement this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 545.0102. VERIFICATION OF IMMIGRATION STATUS OF CERTAIN APPLICANTS FOR PUBLIC ASSISTANCE BENEFITS. (a) This section applies only with respect to the following benefits programs:

(1) the child health plan program under Chapter 62, Health and Safety Code;

(2) the financial assistance program under Chapter 31, Human Resources Code;

(3) Medicaid; and

(4) the supplemental nutrition assistance program under Chapter 33, Human Resources Code.

(b) If an individual states at the time of application for benefits under a program to which this section applies that the individual is a qualified alien, as that term is defined by 8 U.S.C. Section 1641(b), the commission shall, to the extent allowed by federal law, verify information regarding the individual's immigration status using an automated system where available.

(c) The executive commissioner shall adopt rules necessary to implement this section.

(d) Nothing in this section adds to or changes the eligibility requirements for a benefits program to which this section applies.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 545.0103. VERIFICATION OF SPONSORSHIP INFORMATION FOR CERTAIN BENEFITS RECIPIENTS OR ENROLLEES; REIMBURSEMENT. (a) In this section, "sponsored alien" means an individual who:

(1) has been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.); and

(2) as a condition of that admission, was sponsored by another individual who executed an affidavit of support on the lawfully admitted individual's behalf.

(b) This section applies only with respect to the following benefits programs:

(1) the child health plan program under Chapter 62, Health and Safety Code;

(2) the financial assistance program under Chapter 31, Human Resources Code;

(3) Medicaid; and

(4) the supplemental nutrition assistance program under Chapter 33, Human Resources Code.

(c) If an individual states at the time of application for benefits under a program to which this section applies that the individual is a sponsored alien, the commission:

(1) shall make a reasonable effort to notify the individual that the commission may seek reimbursement from the individual's sponsor for any program benefits the individual receives; and

(2) may, to the extent allowed by federal law and using an automated system where available, verify information relating to the sponsorship after the individual is determined eligible for and begins receiving program benefits.

(d) If the commission verifies that an individual who receives benefits under a program to which this section applies is a sponsored alien and determines that seeking reimbursement is cost-effective, the commission may seek reimbursement from the individual's sponsor for the program benefits provided to the individual to the extent allowed by federal law.

(e) The executive commissioner shall adopt rules necessary to implement this section, including rules that specify the most cost-effective procedures by which the commission may seek reimbursement under Subsection (d).

(f) Nothing in this section adds to or changes the eligibility requirements for a benefits program to which this section applies.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 545.0104. CALL CENTERS. (a) If cost-effective, the executive commissioner by rule shall establish at least one but not more than four call centers to determine and certify or recertify an individual's eligibility and need for services related to the

following programs:

(1) the child health plan program;

(2) the financial assistance program under Chapter 31, Human Resources Code;

(3) Medicaid;

(4) nutritional assistance programs under Chapter 33, Human Resources Code;

(5) long-term care services, as defined by Section 22.0011, Human Resources Code;

(6) community-based support services identified or provided in accordance with Subchapter D, Chapter 546; and

(7) other health and human services programs, as appropriate.

(b) The commission shall contract with at least one but not more than four private entities to operate the call centers unless the commission determines that contracting would not be cost-effective.

(c) Each call center:

(1) must be located in this state, except that this subdivision does not prohibit a call center located in this state from processing overflow calls through a center located in another state; and

(2) shall provide translation services as required by federal law for consumers who are unable to speak, hear, or comprehend the English language.

(d) The commission shall develop consumer service and performance standards for the operation of each call center and make those standards available to the public. The standards must address a call center's:

(1) ability to serve consumers in a timely manner, including consideration of:

(A) consumers' ability to access the call center;

(B) whether the call center has toll-free telephone access;

(C) the average amount of time a consumer spends on hold;

(D) the frequency of call transfers;

(E) whether a consumer is able to communicate with a live individual at the call center; and

(F) whether the call center makes mail correspondence

available;

(2) staff, including employee courtesy, friendliness, training, and knowledge about the programs listed under Subsection (a); and

(3) complaint handling procedures, including:

(A) the level of difficulty involved in filing a complaint; and

(B) whether the call center's complaint responses are timely.

(e) The commission shall develop:

(1) mechanisms for measuring consumer service satisfaction; and

(2) performance measures to evaluate whether each call center meets the standards the commission develops under Subsection (d).

(f) The commission may inspect a call center and analyze the call center's consumer service performance through a consumer service evaluator posing as a consumer.

(g) Notwithstanding Subsection (a), the executive commissioner shall develop and implement policies that provide an applicant for services related to a program listed under Subsection (a) with an opportunity to appear in person to establish initial eligibility or comply with periodic eligibility recertification requirements if the applicant requests a personal interview. In implementing the policies, the commission shall maintain offices to serve applicants who request a personal interview. This subsection does not affect a law or rule that requires an applicant to appear in person to establish initial eligibility or comply with periodic eligibility recertification requirements.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER D. ADMINISTRATIVE AND JUDICIAL REVIEW OF CERTAIN PUBLIC ASSISTANCE BENEFITS DECISIONS

Sec. 545.0151. DEFINITION. In this subchapter, "public assistance benefits" means benefits provided under a public assistance program under Chapter 31, 32, or 33, Human Resources Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

Sec. 545.0152. ELECTRONIC RECORDING OF HEARING. A hearing conducted by the commission, or by a health and human services agency to which the commission delegates a function related to public assistance benefits, that relates to a decision regarding public assistance benefits that is contested by an applicant for or recipient of the benefits must be recorded electronically.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 545.0153. ADMINISTRATIVE REVIEW. (a) Before an applicant for or recipient of public assistance benefits may appeal a decision of a hearing officer for the commission or a health and human services agency related to those benefits and in accordance with rules of the executive commissioner, the applicant or recipient must request an administrative review by an appropriate attorney of the commission or a health and human services agency, as applicable.

(b) Not later than the 15th business day after the date the appropriate attorney described by Subsection (a) receives the request for administrative review, the attorney shall:

(1) complete an administrative review of the decision; and

(2) notify the applicant or recipient in writing of the results of that review.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 545.0154. JUDICIAL REVIEW. (a) An appeal of a decision made by a hearing officer for the commission or a health and human services agency related to public assistance benefits brought by an applicant for or recipient of the benefits:

(1) is governed by Subchapters G and H, Chapter 2001, except as provided by this subchapter; and

(2) takes precedence over all civil cases except workers' compensation and unemployment compensation cases.

(b) For purposes of Section 2001.171, an applicant for or

recipient of public assistance benefits has exhausted all available administrative remedies and a decision, including a decision under Section 31.034 or 32.035, Human Resources Code, is final and appealable on the date that, after a hearing:

(1) the hearing officer for the commission or a health and human services agency reaches a final decision related to the benefits; and

(2) the appropriate attorney completes an administrative review of the decision and notifies the applicant or recipient in writing of the results of that review.

(c) For purposes of Section 2001.171, an applicant for or recipient of public assistance benefits is not required to file a motion for rehearing with the commission or a health and human services agency, as applicable.

(d) Notwithstanding Section 2001.177, the cost of preparing the record and transcript of a hearing described by Section 545.0152 that is required to be sent to a reviewing court may not be charged to the applicant for or recipient of the public assistance benefits.

(e) Judicial review of a decision described by Subsection (a) is:

(1) instituted by filing a petition with a district court in Travis County, as provided by Subchapter G, Chapter 2001; and

(2) under the substantial evidence rule.

(f) The appellee is the commission.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER E. CERTAIN PUBLIC ASSISTANCE BENEFITS PROGRAM PROVIDERS

Sec. 545.0201. COMPLIANCE WITH SOLICITATION PROHIBITIONS. (a) In this section, "furnish" and "provider" have the meanings assigned by Section 544.0001.

(b) A provider who furnishes Medicaid or child health plan program services is subject to Chapter 102, Occupations Code. The provider's compliance with that chapter is a condition of the provider's eligibility to participate as a provider under those programs.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 545.0202. MARKETING ACTIVITIES BY MEDICAID OR CHILD HEALTH PLAN PROGRAM PROVIDERS. (a) A Medicaid or child health plan program provider, including a provider participating in the network of a managed care organization that contracts with the commission to provide services under Medicaid or the child health plan program, may not engage in any marketing activity, including engaging in the dissemination of material or another attempt to communicate, that:

(1) involves unsolicited personal contact with a Medicaid recipient or a parent whose child is a Medicaid recipient or child health plan program enrollee, including by:

(A) door-to-door solicitation;

(B) solicitation at a child-care facility or other type of facility;

(C) direct mail; or

(D) telephone;

(2) is directed at an individual solely because the individual is a Medicaid recipient or is a parent of a child who is a Medicaid recipient or child health plan program enrollee; and

(3) is intended to influence the Medicaid recipient's or parent's choice of provider.

(b) A provider participating in the network of a managed care organization that contracts with the commission to provide services under Medicaid or the child health plan program must comply with the marketing guidelines the commission establishes under Section 540.0055.

(c) Nothing in this section prohibits:

(1) a Medicaid or child health plan program provider from:

(A) engaging in a marketing activity, including engaging in the dissemination of material or another attempt to communicate, that is intended to influence the choice of provider by a Medicaid recipient or a parent whose child is a Medicaid recipient or child health plan program enrollee, if the marketing activity:

(i) is conducted at a community-sponsored educational event, health fair, outreach activity, or other similar community or nonprofit event in which the provider participates and does not involve unsolicited personal contact or promotion of the provider's practice; or

(ii) involves only the general dissemination of

information, including by television, radio, newspaper, or billboard advertisement, and does not involve unsolicited personal contact;

(B) as permitted under the provider's contract, engaging in the dissemination of material or another attempt to communicate with a Medicaid recipient or a parent whose child is a Medicaid recipient or child health plan program enrollee, including communication in person or by direct mail or telephone, to:

(i) provide an appointment reminder;

(ii) distribute promotional health materials;

(iii) provide information about the types of services the provider offers; or

(iv) coordinate patient care; or

(C) engaging in a marketing activity that the provider has submitted for review and for which the provider has received a notice of prior authorization under Subsection (d); or

(2) a STAR+PLUS Medicaid managed care program provider from, as permitted under the provider's contract, engaging in a marketing activity, including engaging in the dissemination of material or another attempt to communicate, that is intended to educate a Medicaid recipient about available long-term services and supports.

(d) The commission shall establish a process by which a provider may submit a proposed marketing activity for review and prior authorization to ensure that the provider is in compliance with the requirements of this section and, if applicable, Section 540.0055, or to determine whether the provider is exempt from a requirement of this section and, if applicable, Section 540.0055. The commission may grant or deny a provider's request for authorization to engage in a proposed marketing activity.

(e) The executive commissioner shall adopt rules as necessary to implement this section, including rules relating to provider marketing activities that are exempt from the requirements of this section and, if applicable, Section 540.0055.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 545.0203. REIMBURSEMENT CLAIMS FOR CERTAIN MEDICAID OR CHILD HEALTH PLAN SERVICES INVOLVING SUPERVISED PROVIDERS. (a) In

this section, "national provider identifier" means the national provider identifier required under Section 1128J(e), Social Security Act (42 U.S.C. Section 1320a-7k(e)).

(b) If a Medicaid or child health plan program provider, including a nurse practitioner or physician assistant, provides a referral or orders health care services for a Medicaid recipient or child health plan program enrollee at the direction or under the supervision of another provider and the referral or order is based on the supervised provider's evaluation of the recipient or enrollee, the names and associated national provider identifier numbers of the supervised provider and the supervising provider must be included on any claim for reimbursement a provider submits based on the referral or order.

(c) The executive commissioner shall adopt rules necessary to implement this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 545.0204. PARTICIPATION OF DIAGNOSTIC LABORATORY SERVICE PROVIDERS IN CERTAIN PROGRAMS. Notwithstanding any other law, a diagnostic laboratory may participate as an in-state provider under any program a health and human services agency or the commission administers that involves diagnostic laboratory services, regardless of the location where any specific service is performed or where the laboratory's facilities are located, if:

(1) the laboratory or an entity that is a parent, subsidiary, or other affiliate of the laboratory maintains diagnostic laboratory operations in this state;

(2) the laboratory and each entity that is a parent, subsidiary, or other affiliate of the laboratory collectively employ at least 1,000 individuals at places of employment located in this state;

(3) the laboratory is otherwise qualified to provide the services under the program; and

(4) the laboratory is not prohibited from participating as a provider under any benefits program a health and human services agency or the commission administers based on conduct that constitutes fraud, waste, or abuse.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

CHAPTER 546. LONG-TERM CARE AND SUPPORT OPTIONS FOR INDIVIDUALS WITH DISABILITIES AND ELDERLY INDIVIDUALS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 546.0001. DEFINITIONS. In this chapter:

(1) "ICF-IID" and "local intellectual and developmental disability authority" have the meanings assigned by Section 531.002, Health and Safety Code.

(2) "Recipient" means a Medicaid recipient.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0002. LONG-TERM CARE PLAN; COORDINATION OF SERVICES. (a) In this section, "long-term care" means the provision of health care, personal care, and assistance related to health and social services over a sustained period to individuals of all ages and their families, regardless of the setting in which the care is provided.

(b) In conjunction with appropriate state agencies, the executive commissioner shall develop a plan for access to individualized long-term care services for individuals with functional limitations or medical needs and their families that assists those individuals in achieving and maintaining the greatest possible independence, autonomy, and quality of life.

(c) The guiding principles and goals of the plan that focus on the individual and the individual's family must:

(1) recognize that it is the policy of this state that:

(A) children should grow up in families; and

(B) individuals with disabilities and elderly individuals should reside in the setting of their choice; and

(2) ensure that an individual needing assistance and the individual's family will have:

(A) the maximum possible control over their services;

(B) a choice of a broad, comprehensive array of services designed to meet individual needs; and

(C) the easiest possible access to appropriate care and

support, regardless of the area of this state in which they reside.

(d) The guiding principles and goals of the plan that focus on services and delivery of those services by the state must:

(1) emphasize the development of home-based and community-based services and housing alternatives to complement the long-term care services already in existence;

(2) ensure that the services will be of the highest possible quality, with a minimum amount of regulation, structure, and complexity at the service level;

(3) recognize that maximum independence and autonomy represent major goals, and with those comes a certain degree of risk;

(4) maximize resources to the greatest extent possible, with the consumer receiving only the services that the consumer prefers and that are indicated by a functional needs assessment; and

(5) structure the service delivery system to support these goals, ensuring that any necessary system complexity is at the administrative level rather than at the client level.

(e) The commission shall coordinate state services to ensure that:

(1) the roles and responsibilities of agencies providing long-term care are clarified; and

(2) duplication of services and resources is minimized.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0003. EMPLOYMENT-FIRST POLICY. (a) It is the policy of this state that earning a living wage through competitive employment in the general workforce is the priority and preferred outcome for working-age individuals with disabilities who receive public benefits.

(b) The commission, the Texas Education Agency, and the Texas Workforce Commission shall jointly adopt and implement an employment-first policy in accordance with the state's policy under Subsection (a). The policy must:

(1) affirm that an individual with a disability is able to meet the same employment standards as an individual who does not have a disability;

(2) ensure that all working-age individuals with

disabilities, including young adults, are offered factual information regarding employment as an individual with a disability, including the relationship between an individual's earned income and the individual's public benefits;

(3) ensure that individuals with disabilities are given the opportunity to understand and explore options for education or training, including postsecondary, graduate, and postgraduate education, vocational or technical training, or other training, as pathways to employment;

(4) promote the availability and accessibility of individualized training designed to prepare an individual with a disability for the individual's preferred employment;

(5) promote partnerships with employers to overcome barriers in meeting workforce needs with the creative use of technology and innovation;

(6) ensure that staff of public schools, vocational service programs, and community providers are supported and trained to assist in achieving the goal of competitive employment for all individuals with disabilities; and

(7) ensure that competitive employment, while being the priority and preferred outcome, is not required of an individual with a disability to secure or maintain public benefits for which the individual is otherwise eligible.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0004. LONG-TERM CARE INSURANCE AWARENESS AND EDUCATION CAMPAIGN. (a) The commission, in consultation with the Texas Department of Insurance, shall develop and implement a public awareness and education campaign designed to:

(1) educate the public on:

(A) the cost of long-term care, including the limits of Medicaid eligibility and the limits of Medicare benefits; and

(B) the value and availability of long-term care insurance; and

(2) encourage individuals to obtain long-term care insurance.

(b) The Texas Department of Insurance shall cooperate with and

assist the commission in implementing the campaign.

(c) The commission may coordinate the implementation of the campaign with any other state outreach campaign or activity relating to long-term care issues.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER B. CARE SETTINGS AND SERVICE AND SUPPORT OPTIONS

Sec. 546.0051. DEFINITIONS. In this subchapter:

(1) "General residential operation" has the meaning assigned by Section 42.002, Human Resources Code.

(2) "Legally authorized representative" has the meaning assigned by Section 241.151, Health and Safety Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0052. COMPREHENSIVE PLAN FOR ENSURING APPROPRIATE CARE SETTING FOR INDIVIDUALS WITH DISABILITIES; BIENNIAL REPORT. (a) The commission and appropriate health and human services agencies shall implement a comprehensive, effectively working plan that provides a system of services and support to foster independence and productivity and provide meaningful opportunities for an individual with a disability to reside in the most appropriate care setting, considering:

(1) the individual's physical, medical, and behavioral needs;

(2) the least restrictive care setting in which the individual can reside;

(3) the individual's choice of care settings in which to reside;

(4) the availability of state resources; and

(5) the availability of state programs for which the individual qualifies that can assist the individual.

(b) The plan must require appropriate health and human services agencies to:

(1) provide to an individual with a disability residing in an institution or another individual as required by Sections 546.0053

and 546.0054 information regarding care and support options available to the individual with a disability, including community-based services appropriate to that individual's needs;

(2) recognize that certain individuals with disabilities are represented by a legally authorized representative, whom the agencies must include in any decision-making facilitated by the plan's implementation;

(3) facilitate a timely and appropriate transfer of an individual with a disability from an institution to an appropriate community setting if:

(A) the individual chooses to reside in the community;

(B) the individual's treating professionals determine the transfer is appropriate; and

(C) the transfer can be reasonably accommodated, considering this state's available resources and the needs of other individuals with disabilities; and

(4) develop strategies to prevent the unnecessary placement in an institution of an individual with a disability who is:

(A) residing in the community; and

(B) in imminent risk of requiring placement in an institution because of a lack of community services.

(c) In implementing the plan, a health and human services agency may not deny an eligible individual with a disability access to an institution or remove an eligible individual with a disability from an institution if the individual prefers the type and degree of care provided in the institution and that care is appropriate for the individual. A health and human services agency may deny the individual with a disability access to an institution or remove the individual from an institution to protect the individual's health or safety.

(d) Subject to the availability of funds, each appropriate health and human services agency shall implement the strategies and recommendations under the plan.

(e) To determine the appropriateness of transfers under Subsection (b)(3) and develop the strategies described by Subsection (b)(4), a health and human services agency shall presume that a child residing in a general residential operation is eligible for transfer to an appropriate community-based setting.

(f) To develop the strategies described by Subsection (b)(4), an individual with a mental illness who is admitted to a commission

facility for inpatient mental health services three or more times during a 180-day period is presumed to be in imminent risk of requiring placement in an institution. The strategies must be developed in a manner that presumes the individual's eligibility for and the appropriateness of intensive community-based services and support.

(g) Not later than December 1 of each even-numbered year, the executive commissioner shall submit to the governor and the legislature a report on the status of the implementation of the plan. The report must include recommendations on any statutory or other action necessary to implement the plan.

(h) This section does not create a cause of action.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0053. INFORMATION AND ASSISTANCE REGARDING CARE AND SUPPORT OPTIONS FOR INDIVIDUALS WITH DISABILITIES. (a) The executive commissioner by rule shall require each health and human services agency to provide to each patient or client of the agency and to at least one family member of the patient or client, if possible, information regarding all care and support options available to the patient or client, including community-based services appropriate to the patient's or client's needs, before the agency allows the patient or client to be placed in a care setting, including a nursing facility, an intermediate care facility for individuals with an intellectual disability, or a general residential operation for children with an intellectual disability that is licensed by the commission, to receive care or services provided by the agency or by a person under an agreement with the agency.

(b) The rules must require each health and human services agency to provide information about all long-term care and long-term support options available to the patient or client, including community-based options and options available through another agency or a private provider. The information must be provided in a manner designed to maximize the patient's or client's understanding of all available options. If the patient or client has a legally authorized representative, the information must also be provided to that representative. If the patient or client is in the conservatorship

of a health and human services agency or the Department of Family and Protective Services, the information must be provided to the patient's or client's agency caseworker and foster parents, if applicable.

(c) A health and human services agency that provides a patient, client, or other individual with information regarding care and support options available to the patient or client shall assist the patient, client, or other individual in taking advantage of an option selected by the patient, client, or other individual, subject to the availability of funds. If the selected option is not immediately available for any reason, the agency shall provide assistance in placing the patient or client on a waiting list for that option.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0054. COMMUNITY LIVING OPTIONS INFORMATION PROCESS FOR CERTAIN INDIVIDUALS WITH INTELLECTUAL DISABILITY. (a) In this section, "institution" means:

(1) a residential care facility the commission operates or maintains to provide 24-hour services, including residential services, to individuals with an intellectual disability; or

(2) an ICF-IID.

(b) In addition to providing information regarding care and support options as required by Section 546.0053, the commission shall implement a community living options information process in each institution to inform individuals with an intellectual disability who reside in the institution and the individuals' legally authorized representatives of alternative community living options.

(c) The commission shall:

(1) at least annually provide the information required by Subsection (b) through the community living options information process; and

(2) provide the information at any other time on request by an individual with an intellectual disability who resides in an institution or the individual's legally authorized representative.

(d) If an individual with an intellectual disability residing in an institution or the individual's legally authorized representative indicates a desire to pursue an alternative community

living option after receiving the information provided under this section, the commission shall refer the individual or the individual's legally authorized representative to the local intellectual and developmental disability authority. The local authority shall place the individual:

(1) in an alternative community living option, subject to the availability of funds; or

(2) on a waiting list for those options if for any reason the options are not available to the individual on or before the 30th day after the date the individual or the individual's legally authorized representative is referred to the local authority.

(e) The commission shall document in the records of each individual with an intellectual disability who resides in an institution:

(1) the information provided to the individual or the individual's legally authorized representative through the community living options information process; and

(2) the results of that process.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0055. IMPLEMENTATION OF COMMUNITY LIVING OPTIONS INFORMATION PROCESS AT STATE INSTITUTIONS FOR CERTAIN ADULT RESIDENTS. (a) In this section:

(1) "Adult resident" means an individual with an intellectual disability who:

(A) is at least 22 years of age; and

(B) resides in a state supported living center.

(2) "State supported living center" has the meaning assigned by Section 531.002, Health and Safety Code.

(b) This section applies only to the community living options information process for an adult resident.

(c) The commission shall contract with local intellectual and developmental disability authorities to implement the community living options information process required by Section 546.0054 for an adult resident.

(d) The commission's contract with a local intellectual and developmental disability authority must:

(1) delegate to the local authority the commission's duties under Section 546.0054 with regard to implementing the community living options information process at a state supported living center;

(2) include performance measures designed to assist the commission in evaluating the effectiveness of the local authority in implementing the community living options information process; and

(3) ensure that the local authority provides service coordination and relocation services to an adult resident who chooses, is eligible for, and is recommended by the interdisciplinary team for a community living option to facilitate a timely, appropriate, and successful transition from the state supported living center to the community living option.

(e) The commission, with the advice and assistance of representatives of family members or legally authorized representatives of adult residents, individuals with an intellectual disability, state supported living centers, and local intellectual and developmental disability authorities, shall:

(1) develop an effective community living options information process;

(2) create uniform procedures for implementing the community living options information process; and

(3) minimize any potential conflict of interest regarding the community living options information process between a state supported living center and an adult resident, an adult resident's legally authorized representative, or a local intellectual and developmental disability authority.

(f) A state supported living center shall:

(1) allow a local intellectual and developmental disability authority to participate in the interdisciplinary planning process involving the consideration of community living options for an adult resident;

(2) to the extent not otherwise prohibited by state or federal confidentiality laws, provide a local intellectual and developmental disability authority with access to an adult resident and an adult resident's records to assist the authority in implementing the community living options information process; and

(3) provide an adult resident or the adult resident's legally authorized representative with accurate information regarding the risks of moving the adult resident to a community living option.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0056. VOUCHER PROGRAM FOR TRANSITIONAL LIVING ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES. (a) In this section:

(1) "Institutional housing" means:

(A) an ICF-IID;

(B) a nursing facility;

(C) a state hospital, state supported living center, or state center the commission maintains and manages;

(D) a general residential operation for children with an intellectual disability that the commission licenses; or

(E) a general residential operation.

(2) "Integrated housing" means housing in which an individual with a disability resides or may reside that is:

(A) located in the community; and

(B) not exclusively occupied by individuals with disabilities and their care providers.

(b) Subject to the availability of funds, the commission shall coordinate with the Texas Department of Housing and Community Affairs to develop a housing assistance program to assist individuals with disabilities in moving from institutional housing to integrated housing. In developing the program, the agencies shall address:

(1) eligibility requirements for assistance;

(2) the period during which an individual with a disability may receive assistance;

(3) the types of housing expenses the program will cover; and

(4) the locations at which the program will operate.

(c) Subject to the availability of funds, the commission shall administer the housing assistance program. The commission shall coordinate with the Texas Department of Housing and Community Affairs in:

(1) administering the program;

(2) determining the availability of funding from the United States Department of Housing and Urban Development; and

(3) obtaining that funding.

(d) The Texas Department of Housing and Community Affairs shall provide information to the commission as necessary to facilitate the

administration of the housing assistance program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0057. TRANSITION SERVICES FOR YOUTH WITH DISABILITIES. (a) The executive commissioner shall monitor programs and services offered through health and human services agencies designed to assist youth with disabilities to transition from school-oriented living to:

(1) post-schooling activities;

(2) services for adults; or

(3) community living.

(b) In monitoring the programs and services, the executive commissioner shall:

(1) consider whether the programs or services result in positive outcomes in the employment, community integration, health, and quality of life of individuals with disabilities; and

(2) collect information regarding the outcomes of the transition process as necessary to assess the programs and services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0058. TRANSFER OF MONEY FOR COMMUNITY-BASED SERVICES. (a) The commission shall quantify the amount of money the legislature appropriates that would have been spent during the remainder of a state fiscal biennium to care for an individual who resides in a nursing facility but who is leaving that facility before the end of the biennium to reside in the community with the assistance of community-based services.

(b) Notwithstanding any other state law and to the maximum extent allowed by federal law, the executive commissioner shall direct, as appropriate:

(1) the comptroller, at the time an individual described by Subsection (a) leaves a nursing facility, to transfer an amount not to exceed the amount quantified under that subsection among the health and human services agencies and the commission as necessary to comply with this section; or

(2) the commission or a health and human services agency,

at the time an individual described by Subsection (a) leaves a nursing facility, to transfer an amount not to exceed the amount quantified under that subsection within the agency's budget as necessary to comply with this section.

(c) The commission shall ensure that the amount transferred under this section is redirected by the commission or a health and human services agency, as applicable, to one or more community-based programs in the amount necessary to provide community-based services to the individual after the individual leaves a nursing facility.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER C. CONSUMER DIRECTION MODELS

Sec. 546.0101. DEFINITIONS. In this subchapter:

(1) "Consumer" means an individual who receives services through a consumer direction model the commission establishes under this subchapter.

(2) "Consumer direction model" means a service delivery model under which a consumer or the consumer's legally authorized representative exercises control over the development and implementation of the consumer's individual service plan or over the persons delivering the services directly to the consumer. The term includes the consumer-directed service option, the service responsibility option, and other types of service delivery models the commission develops under this subchapter.

(3) "Consumer-directed service option" means a type of consumer direction model in which:

(A) a consumer or the consumer's legally authorized representative, as the employer, exercises control over:

(i) recruiting, hiring, managing, or dismissing persons providing services directly to the consumer; or

(ii) retaining contractors or vendors for other authorized program services; and

(B) the consumer-directed services agency serves as fiscal agent and performs employer-related administrative functions for the consumer or the consumer's legally authorized representative, including payroll and filing tax and related reports.

(4) "Designated representative" means an adult volunteer

appointed by a consumer or the consumer's legally authorized representative, as an employer, to perform all or part of the consumer's or the representative's duties as employer as approved by the consumer or the representative.

(5) "Legally authorized representative":

(A) means:

(i) a parent or legal guardian if the individual is a minor;

(ii) a legal guardian if the individual has been adjudicated as incapacitated to manage the individual's personal affairs; or

(iii) any other person authorized or required by law to act on the individual's behalf with regard to the individual's care; and

(B) does not include a designated representative.

(6) "Service responsibility option" means a type of consumer direction model in which:

(A) a consumer or the consumer's legally authorized representative participates in selecting, training, and managing persons providing services directly to the consumer; and

(B) the provider agency, as the employer, performs employer-related administrative functions for the consumer or the consumer's legally authorized representative, including hiring and dismissing persons providing services directly to the consumer.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0102. IMPLEMENTATION OF CONSUMER DIRECTION MODELS. (a) The commission shall develop and oversee the implementation of consumer direction models under which an individual with a disability or an elderly individual who is receiving certain state-funded or Medicaid-funded services, or the individual's legally authorized representative, exercises control over:

(1) developing and implementing the individual's service plan; or

(2) the persons who directly deliver the services.

(b) The consumer direction models the commission establishes under this subchapter may be implemented in appropriate and suitable

commission or health and human services agency programs.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0103. RULES. In adopting rules for consumer direction models, the executive commissioner shall:

(1) determine which services are appropriate and suitable for delivery through a consumer direction model;

(2) ensure that each consumer direction model is designed to comply with applicable federal and state laws;

(3) maintain procedures to ensure that a potential consumer or the consumer's legally authorized representative has adequate and appropriate information, including the responsibilities of a consumer or representative under each service delivery option, to make an informed choice among the types of consumer direction models;

(4) require each consumer or the consumer's legally authorized representative to sign a statement acknowledging receipt of the information required by Subdivision (3);

(5) maintain procedures to monitor delivery of services through a consumer direction model to ensure:

(A) adherence to existing applicable program standards;

(B) appropriate use of funds; and

(C) consumer satisfaction with the delivery of services;

(6) ensure that authorized program services that are not being delivered to a consumer through a consumer direction model are provided by a provider agency the consumer or the consumer's legally authorized representative chooses; and

(7) set a timetable to complete the implementation of the consumer direction models.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0104. APPLICABILITY OF CERTAIN NURSING LICENSURE REQUIREMENTS. Section 301.251(a), Occupations Code, does not apply to delivery of a service for which payment is provided under the consumer-directed service option developed under this subchapter if:

(1) the individual who delivers the service:

(A) has not been denied a license under Chapter 301, Occupations Code;

(B) has not been issued a license under Chapter 301, Occupations Code, that is revoked or suspended; and

(C) performs a service that is not expressly prohibited from delegation by the Texas Board of Nursing; and

(2) the consumer who receives the service:

(A) has a disability and the service would have been performed by the consumer or the consumer's legally authorized representative except for that disability; and

(B) is:

(i) capable of training the individual to properly perform the service and the consumer directs the individual to deliver the service; or

(ii) not capable of training the individual to properly perform the service, the consumer's legally authorized representative is capable of training the individual to properly perform the service, and the legally authorized representative directs the individual to deliver the service.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0105. LEGALLY AUTHORIZED REPRESENTATIVE SERVICE OVERSIGHT REQUIRED. If an individual delivers a service under Section 546.0104(2)(B)(ii), the legally authorized representative must be present when the service is performed or be immediately accessible to the individual who delivers the service. If the individual will perform the service when the representative is not present, the representative must observe the individual performing the service at least once to assure the representative that the individual can competently perform that service.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0106. PROCEDURE TO PROVIDE NOTICE TO MEDICAID RECIPIENTS. The commission shall:

(1) develop a procedure to:

(A) verify that a recipient or the recipient's parent or legal guardian is informed of the consumer direction model and provided the option to choose to receive care under that model; and

(B) if the individual declines to receive care under the consumer direction model, document the decision to decline; and

(2) ensure that each Medicaid managed care organization implements the procedure.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER D. COMMUNITY-BASED SUPPORT AND SERVICE DELIVERY SYSTEM INITIATIVES AND GRANT PROGRAM

Sec. 546.0151. DEFINITION. In this subchapter, "community-based organization" includes:

(1) an area agency on aging;

(2) an independent living center;

(3) a municipality, county, or other local government;

(4) a nonprofit or for-profit organization; or

(5) a community mental health and intellectual disability center.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0152. COMMUNITY-BASED SUPPORT AND SERVICE DELIVERY SYSTEMS FOR LONG-TERM CARE SERVICES. (a) The commission shall assist communities in this state to develop comprehensive, community-based support and service delivery systems for long-term care services. At a community's request, the commission shall provide resources and assistance to the community to enable the community to:

(1) identify and overcome institutional barriers to developing more comprehensive community support systems, including barriers that result from the policies and procedures of state health and human services agencies;

(2) develop a system of blended funds, consistent with federal law and the General Appropriations Act, to allow the community to customize services to fit individual community needs;

and

(3) develop a local system of access and assistance to aid clients in accessing the full range of long-term care services.

(b) At the request of a community-based organization or a combination of community-based organizations, the commission may provide a grant to the organization or organizations in accordance with this subchapter.

(c) In implementing this subchapter, the commission shall consider models used in other service delivery systems.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0153. AREA AGENCIES ON AGING: MINIMUM NUMBER. The executive commissioner shall assure the maintenance of no fewer than 28 area agencies on aging in order to assure the continuation of a local system of access and assistance that is sensitive to the aging population.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0154. PROPOSALS. A community-based organization or a combination of organizations may make a proposal under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0155. PROPOSAL REVIEW AND APPROVAL. (a) A health and human services agency that receives or develops a proposal for a community initiative shall submit the initiative to the commission for review and approval.

(b) The commission shall review the initiative to ensure that the initiative is:

(1) consistent with other similar programs offered in communities; and

(2) not duplicative of other services provided in the

community.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0156. STANDARD AND PRIORITY OF REVIEW. (a) In making a grant to a community-based organization, the commission shall evaluate the organization's proposal based on demonstrated need and the proposal's merit.

(b) The commission shall give priority to proposals that will use the Internet and related information technologies to provide to clients:

(1) referral services;

(2) other information regarding local long-term care services; and

(3) needs assessments.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0157. COMMUNITY-BASED ORGANIZATION MATCHING CONTRIBUTION REQUIRED. To receive a grant under this subchapter, a community-based organization must at least partially match the state grant with money or other resources obtained from a nongovernmental entity, from a local government, or if the community-based organization is a local government, from fees or taxes collected by the local government. The community-based organization may then combine the money or resources the organization obtains from a variety of federal, state, local, or private sources to accomplish the proposal's purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0158. PROPOSALS INVOLVING MULTIPLE COMMUNITY-BASED ORGANIZATIONS. (a) If a combination of community-based organizations makes a proposal, the organizations must designate a single organization to receive and administer the grant.

(b) If a community-based organization receives a grant on behalf of a combination of community-based organizations or if the community-based organization's proposal involves coordination with other entities to accomplish the proposal's purpose, the commission may condition receipt of the grant on the organization's making a good faith effort to coordinate with other entities in the manner indicated in the proposal.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0159. GUIDELINES. The commission may adopt guidelines for proposals.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0160. CERTAIN AGENCIES' DUTY TO PROVIDE RESOURCES AND ASSISTANCE. At the commission's request, a health and human services agency shall provide resources and assistance to a community as necessary to perform the commission's duties under Section 546.0152(a).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER E. PERMANENCY PLANNING

Sec. 546.0201. DEFINITIONS. In this subchapter:

(1) "Child" means an individual with a developmental disability who is younger than 22 years of age.

(2) "Community resource coordination group" means a coordination group established under the memorandum of understanding adopted under Subchapter D, Chapter 522.

(3) "Department" means the Department of Family and Protective Services.

(4) "Institution" means:

(A) an ICF-IID;

(B) a group home operated under the commission's

authority, including a residential service provider under a Section 1915(c) waiver program that provides services at a residence other than the child's home or agency foster home;

(C) a nursing facility;

(D) a general residential operation for children with an intellectual disability that the commission licenses; or

(E) another residential arrangement other than a foster home that provides care to four or more children who are unrelated to each other.

(5) "Permanency planning" means a philosophy and planning process that focuses on the outcome of family support by facilitating a permanent living arrangement with the primary feature of an enduring and nurturing parental relationship.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0202. POLICY STATEMENT. It is the policy of this state to strive to ensure that the basic needs for safety, security, and stability are met for each child in this state. A successful family is the most efficient and effective way to meet those needs. This state and local communities must work together to provide encouragement and support for well-functioning families and ensure that each child receives the benefits of being a part of a successful permanent family as soon as possible.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0203. DEVELOPMENT OF PERMANENCY PLAN PROCEDURES. (a) To further the policy stated in Section 546.0202 and except as provided by Subsection (b), the commission and each appropriate health and human services agency shall develop procedures to ensure that a permanency plan is developed for each child:

(1) who resides in an institution in this state on a temporary or long-term basis; or

(2) with respect to whom the commission or appropriate health and human services agency is notified in advance that institutional care is sought.

(b) The department shall develop a permanency plan as required by this subchapter for each child who resides in an institution in this state for whom the department has been appointed permanent managing conservator. The department is not required to develop a permanency plan under this subchapter for a child for whom the department has been appointed temporary managing conservator, but may incorporate the requirements of this subchapter in a permanency plan developed for the child under Section 263.3025, Family Code.

(c) In developing procedures under Subsection (a), the commission and other appropriate health and human services agencies shall develop to the extent possible uniform procedures applicable to each of the agencies and each child who is the subject of a permanency plan that promote efficiency for the agencies and stability for each child.

(d) In implementing permanency planning procedures, the commission shall:

(1) delegate the commission's duty to develop a permanency plan to a local intellectual and developmental disability authority or enter into a memorandum of understanding with the local intellectual and developmental disability authority to develop the permanency plan for each child who resides in an institution in this state or with respect to whom the commission is notified in advance that institutional care is sought;

(2) contract with a private entity, other than an entity that provides long-term institutional care, to develop a permanency plan for a child who resides in an institution in this state or with respect to whom the commission is notified in advance that institutional care is sought; or

(3) perform the commission's duties regarding permanency planning procedures using commission personnel.

(e) A contract or memorandum of understanding under Subsection (d) must include performance measures by which the commission may evaluate the effectiveness of permanency planning efforts of a local intellectual and developmental disability authority or a private entity.

(f) In implementing permanency planning procedures, the commission shall engage in appropriate activities in addition to those required by Subsection (d) to minimize the potential conflicts of interest that, in developing the plan, may exist or arise between:

(1) the institution in which the child resides or in which

institutional care is sought for the child; and

(2) the best interest of the child.

(g) The commission and the department may solicit and accept gifts, grants, and donations to support the development of permanency plans for children residing in institutions by individuals or organizations not employed by or affiliated with those institutions.

(h) A health and human services agency that contracts with a private entity under Subsection (d) to develop a permanency plan shall ensure that the entity is provided:

(1) training regarding the permanency planning philosophy described by Section 546.0201; and

(2) available resources that will assist a child residing in an institution in making a successful transition to a community-based residence.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0204. PERMANENCY PLANNING FOR CERTAIN CHILDREN. (a) Notwithstanding Section 546.0201, in this section, "institution" has the meaning assigned by Section 242.002, Health and Safety Code.

(b) The commission and each appropriate health and human services agency shall develop procedures to ensure that permanency planning is provided for each child:

(1) residing in an institution in this state on a temporary or long-term basis; or

(2) for whom institutional care is sought.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0205. INSTITUTION TO ASSIST WITH PERMANENCY PLANNING EFFORTS. An institution in which a child resides shall assist with providing effective permanency planning for the child by:

(1) cooperating with the health and human services agency, local intellectual and developmental disability authority, or private entity responsible for developing the child's permanency plan; and

(2) participating in meetings to review the child's permanency plan as requested by a health and human services agency,

local intellectual and developmental disability authority, or private entity responsible for developing the child's permanency plan.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0206. IMPLEMENTATION SYSTEM: LOCAL PERMANENCY PLANNING SITES. The commission shall develop an implementation system that initially consists of four or more local sites and that is designed to coordinate planning for a permanent living arrangement and relationship for a child with a family. In developing the system, the commission shall:

(1) include criteria to identify children who need permanency plans;

(2) require the establishment of a permanency plan for each child who resides outside the child's family or for whom care or protection is sought in an institution;

(3) include a process to determine the agency or entity responsible for developing and overseeing implementation of a child's permanency plan;

(4) identify, blend, and use funds from all available sources to provide customized services and programs to implement a child's permanency plan;

(5) clarify and expand the role of a local community resource coordination group in ensuring accountability for a child who resides in an institution or who is at risk of being placed in an institution;

(6) require reporting of each placement or potential placement of a child in an institution or other living arrangement outside of the child's home; and

(7) assign in each local permanency planning site area a single gatekeeper for all children in the area for whom placement in an institution through a state-funded program is sought with authority to ensure that:

(A) family members of each child are aware of:

(i) intensive services that could prevent placement of the child in an institution; and

(ii) available placement options; and

(B) permanency planning is initiated for each child.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0207. DESIGNATION OF VOLUNTEER ADVOCATE. (a) The commission shall designate an individual, including a member of a community-based organization, to serve as a volunteer advocate for a child residing in an institution to assist in developing a permanency plan for the child if:

(1) the child's parent or guardian requests the assistance of an advocate;

(2) the institution in which the child is placed cannot locate the child's parent or guardian; or

(3) the child resides in an institution the commission operates.

(b) The individual designated to serve as the child's volunteer advocate may be:

(1) an individual the child's parent or guardian selects, except that the individual may not be employed by or under a contract with the institution in which the child resides;

(2) an adult relative of the child; or

(3) a child advocacy group representative.

(c) The commission shall provide to each individual designated to serve as a child's volunteer advocate information regarding permanency planning under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0208. PREADMISSION NOTICE AND INFORMATION. (a) The requirements of this section do not apply to a request to place a child in an institution if the child:

(1) is involved in an emergency situation, as defined by rules the executive commissioner adopts; or

(2) has been committed to an institution under:

(A) Chapter 46B, Code of Criminal Procedure; or

(B) Chapter 55, Family Code.

(b) The executive commissioner by rule shall develop and implement a system by which the commission ensures that, for each

child with respect to whom the commission or a local intellectual and developmental disability authority is notified of a request for placement in an institution, the child's parent or guardian is fully informed before the child is placed in the institution of all community-based services and any other service and support options for which the child may be eligible. The system must be designed to ensure that the commission provides the information through:

(1) a local intellectual and developmental disability authority;

(2) any private entity that has knowledge and expertise regarding the needs of and full spectrum of care options available to children with disabilities as well as the philosophy and purpose of permanency planning; or

(3) a commission employee.

(c) The commission shall develop comprehensive information consistent with the policy stated in Section 546.0202 to explain to a parent or guardian considering placing a child in an institution:

(1) options for community-based services;

(2) the benefits to the child of residing in a family or community setting;

(3) that the child's placement in an institution is considered temporary in accordance with Section 546.0215; and

(4) that an ongoing permanency planning process is required under this subchapter and other state law.

(d) An institution in which a child's parent or guardian is considering placing the child may provide the information required under Subsection (b), but the information must also be provided by a local intellectual and developmental disability authority, private entity, or employee of the commission as required by that subsection.

(e) Except as otherwise provided by this subsection and Subsection (a), the commission shall ensure that, not later than the 14th working day after the date the commission is notified of a request for a child's placement in an institution, the child's parent or guardian is provided the information described by Subsections (b) and (c). The commission may provide the information after the 14th working day after the date the commission is notified of the request if the child's parent or guardian waives the requirement that the information be provided within the period otherwise required by this subsection.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0209. REQUIREMENTS OF PARENT OR GUARDIAN ON CHILD'S ADMISSION TO CERTAIN INSTITUTIONS. On the admission of a child to an institution described by Section 546.0201(4)(A), (B), or (D), the commission shall require the child's parent or guardian to submit:

(1) an admission form that includes:

(A) the parent's or guardian's:

(i) name, address, and telephone number;

(ii) driver's license number and state of issuance or personal identification card number the Department of Public Safety issued; and

(iii) place of employment and the employer's address and telephone number; and

(B) the name, address, and telephone number of a relative of the child or other individual whom the commission or institution may contact in an emergency, a statement indicating the relation between that individual and the child, and at the parent's or guardian's option:

(i) that individual's driver's license number and state of issuance or personal identification card number the Department of Public Safety issued; and

(ii) the name, address, and telephone number of that individual's employer; and

(2) a signed acknowledgment of responsibility stating that the parent or guardian agrees to:

(A) notify the institution in which the child is placed of any changes to the information submitted under Subdivision (1)(A); and

(B) make reasonable efforts to participate in the child's life and in planning activities for the child.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0210. DUTIES OF CERTAIN INSTITUTIONS: NOTIFICATION REQUIREMENTS AND PARENT OR GUARDIAN ACCOMMODATIONS. (a) This

section applies only to an institution described by Section 546.0201(4)(A), (B), or (D).

(b) An institution described by Section 546.0201(4)(A) or (B) shall notify the local intellectual and developmental disability authority for the region in which the institution is located of a request for a child's placement in the institution. An institution described by Section 546.0201(4)(D) shall notify the commission of a request for a child's placement in the institution.

(c) An institution must make reasonable accommodations to promote the participation of the parent or guardian of a child residing in the institution in all planning and decision-making regarding the child's care, including participation in:

(1) the initial development of the child's permanency plan and periodic review of the plan;

(2) an annual review and reauthorization of the child's service plan;

(3) routine interdisciplinary team meetings;

(4) decision-making regarding the child's medical care; and

(5) decision-making and other activities involving the child's health and safety.

(d) Reasonable accommodations that an institution must make include:

(1) conducting a meeting in person or by telephone, as mutually agreed upon by the institution and the parent or guardian;

(2) conducting a meeting at a time and, if the meeting is in person, at a location that is mutually agreed upon by the institution and the parent or guardian;

(3) if a parent or guardian has a disability, providing reasonable accommodations in accordance with the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.), including providing an accessible meeting location or a sign language interpreter, as applicable; and

(4) providing a language interpreter, if applicable.

(e) Except as otherwise provided by Subsection (f):

(1) an ICF-IID must:

(A) attempt to notify the parent or guardian of a child who resides in the ICF-IID in writing of a periodic permanency planning meeting or annual service plan review and reauthorization meeting not later than the 21st day before the date the meeting is scheduled to be held; and

(B) request a response from the parent or guardian; and

(2) a nursing facility must:

(A) attempt to notify the parent or guardian of a child who resides in the facility in writing of an annual service plan review and reauthorization meeting not later than the 21st day before the date the meeting is scheduled to be held; and

(B) request a response from the parent or guardian.

(f) If an emergency situation involving a child residing in an ICF-IID or nursing facility occurs, the ICF-IID or nursing facility, as applicable, must:

(1) attempt to notify the child's parent or guardian as soon as possible; and

(2) request a response from the parent or guardian.

(g) If a child's parent or guardian does not respond to the notice provided under Subsection (e) or (f), the ICF-IID or nursing facility, as applicable, must attempt to locate the parent or guardian by contacting another individual whose information was provided by the parent or guardian under Section 546.0209(1)(B).

(h) Not later than the 30th day after the date an ICF-IID or nursing facility determines that the ICF-IID or nursing facility is unable to locate a child's parent or guardian for participation in activities listed under Subsection (e)(1) or (2), the ICF-IID or nursing facility must notify the commission of that determination and request that the commission initiate a search for the child's parent or guardian.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0211. NOTIFICATION OF PLACEMENT REQUIRED. (a) Not later than the third day after the date a child is initially placed in an institution, the institution shall notify:

(1) the commission, if the child is placed in a nursing facility;

(2) the local intellectual and developmental disability authority for the region in which the institution is located, if the child:

(A) is placed in an ICF-IID; or

(B) is placed by a child protective services agency in

a general residential operation for children with an intellectual disability that the commission licenses;

(3) the community resource coordination group in the county of residence of the child's parent or guardian;

(4) if the child is at least three years of age, the school district for the area in which the institution is located; and

(5) if the child is less than three years of age, the local early childhood intervention program for the area in which the institution is located.

(b) The commission shall notify the local intellectual and developmental disability authority of a child's placement in a nursing facility if the child is known or suspected to have an intellectual disability or another disability for which the child may receive services through the commission.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0212. NOTICE TO PARENT OR GUARDIAN REGARDING PLACEMENT OPTIONS AND SERVICES. Each entity receiving notice of a child's initial placement in an institution under Section 546.0211 may contact the child's parent or guardian to ensure that the parent or guardian is aware of:

(1) services and support that could provide alternatives to placing the child in the institution;

(2) available placement options; and

(3) opportunities for permanency planning.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0213. PLACEMENT ON WAIVER PROGRAM WAITING LIST. A state agency that receives notice of a child's placement in an institution shall ensure that, on or before the third day after the date the agency is notified of the child's placement in the institution, the child is also placed on a waiting list for Section 1915(c) waiver program services appropriate to the child's needs.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

Sec. 546.0214. INTERFERENCE WITH PERMANENCY PLANNING EFFORTS. An entity that provides information to a child's parent or guardian relating to permanency planning shall refrain from providing the child's parent or guardian with inaccurate or misleading information regarding the risks of moving the child to another facility or community setting.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0215. INITIAL PLACEMENT OF CHILD IN INSTITUTION AND PLACEMENT EXTENSIONS. (a) The chief executive officer of each appropriate health and human services agency or the officer's designee must approve a child's placement in an institution. The child's initial placement in the institution is temporary and may not exceed six months unless the appropriate chief executive officer or the officer's designee approves an extension of an additional six months after conducting a review of documented permanency planning efforts to unite the child with a family in a permanent living arrangement.

(b) After the initial six-month extension of a child's placement in an institution approved under Subsection (a), the chief executive officer or the officer's designee shall conduct a review of the child's placement in the institution at least semiannually to determine whether continuing that placement is warranted. If, based on the review, the chief executive officer or the officer's designee determines that an additional extension is warranted, the officer or the officer's designee shall recommend to the executive commissioner that the child continue residing in the institution.

(c) On receipt of a recommendation made under Subsection (b), the executive commissioner, the executive commissioner's designee, or another person with whom the commission contracts shall conduct a review of the child's placement. Based on the results of the review, the executive commissioner or the executive commissioner's designee may approve a six-month extension of the child's placement if the extension is appropriate.

(d) A child may continue residing in an institution after the six-month extension approved under Subsection (c) only if the chief executive officer of the appropriate health and human services agency or the officer's designee makes subsequent recommendations as provided by Subsection (b) for each additional six-month extension and the executive commissioner or the executive commissioner's designee approves each extension as provided by Subsection (c).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0216. REVIEW OF CERTAIN PLACEMENT DATA. (a) The executive commissioner or the executive commissioner's designee shall conduct a semiannual review of data received from health and human services agencies regarding all children who reside in institutions in this state.

(b) The executive commissioner, the executive commissioner's designee, or a person with whom the commission contracts shall also review the recommendations of the chief executive officer of each appropriate health and human services agency or the officer's designee if the officer or the officer's designee repeatedly recommends that children continue residing in an institution.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0217. PROCEDURES FOR PLACEMENT REVIEWS. The executive commissioner by rule shall develop procedures for conducting the reviews required by Sections 546.0215(c) and (d) and 546.0216.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0218. ANNUAL REAUTHORIZATION OF PLANS OF CARE FOR CERTAIN CHILDREN. (a) The executive commissioner shall adopt rules under which the commission requires a nursing facility in which a child resides to request from the child's parent or guardian a written reauthorization of the child's plan of care.

(b) The rules must require that the written reauthorization be requested annually.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0219. TRANSFER OF CHILD BETWEEN INSTITUTIONS. (a) This section applies only to an institution described by Section 546.0201(4)(A), (B), or (D) in which a child resides.

(b) Before transferring a child who is 17 years of age or younger, or a child who is at least 18 years of age and for whom a guardian has been appointed, from one institution to another institution, the institution in which the child resides must attempt to obtain consent for the transfer from the child's parent or guardian unless the transfer is in response to an emergency situation, as defined by rules the executive commissioner adopts.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0220. COMPLIANCE WITH PERMANENCY PLAN REQUIREMENTS AS PART OF INSPECTION, SURVEY, OR INVESTIGATION. As part of each inspection, survey, or investigation of an institution, including a nursing facility, a general residential operation for children with an intellectual disability that the commission licenses, or an ICF-IID, in which a child resides, the agency or the agency's designee shall determine the extent to which the nursing facility, general residential operation, or ICF-IID is complying with the permanency planning requirements under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0221. SEARCH FOR CHILD'S PARENT OR GUARDIAN. (a) The commission shall develop and implement a process by which the commission, on receipt of notification under Section 546.0210(h) that a child's parent or guardian cannot be located, conducts a search for the parent or guardian. If, on the first anniversary of the date the

commission receives the notification under that subsection, the commission has been unsuccessful in locating the parent or guardian, the commission shall refer the case to:

(1) the department's child protective services division if the child is 17 years of age or younger; or

(2) the department's adult protective services division if the child is 18 years of age or older.

(b) On receipt of a referral under Subsection (a)(1), the department's child protective services division shall exercise intense due diligence in attempting to locate the child's parent or guardian. If the division is unable to locate the child's parent or guardian, the department shall file a suit affecting the parent-child relationship requesting an order appointing the department as the child's temporary managing conservator.

(c) A child is considered abandoned for purposes of the Family Code if the child's parent or guardian cannot be located following the department's exercise of intense due diligence in attempting to locate the parent or guardian.

(d) On receipt of a referral under Subsection (a)(2), the department's adult protective services division shall notify the court that appointed the child's guardian that the guardian cannot be located.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0222. DOCUMENTATION OF ONGOING PERMANENCY PLANNING EFFORTS. The commission and each appropriate health and human services agency shall require a person who develops a permanency plan for a child residing in an institution to identify and document in the child's permanency plan all ongoing permanency planning efforts at least semiannually to ensure that, as soon as possible, the child will benefit from a permanent living arrangement with an enduring and nurturing parental relationship.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0223. ACCESS TO RECORDS. Each institution in which a

child resides shall allow the following to have access to the child's records to assist in complying with the requirements of this subchapter:

(1) the commission;

(2) appropriate health and human services agencies; and

(3) to the extent not otherwise prohibited by state or federal confidentiality laws, a local intellectual and developmental disability authority or private entity that enters into a contract or memorandum of understanding under Section 546.0203(d) to develop a permanency plan for the child.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0224. COLLECTION OF INFORMATION REGARDING INVOLVEMENT OF CERTAIN PARENTS AND GUARDIANS. (a) The commission shall collect and maintain aggregate information regarding the involvement of parents and guardians of children residing in institutions described by Sections 546.0201(4)(A), (B), and (D) in the lives of and planning activities relating to those children. The commission shall obtain input from stakeholders concerning the types of information most useful in assessing the involvement of those parents and guardians.

(b) The commission shall make the aggregate information available to the public on request.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0225. REPORTING SYSTEMS: SEMIANNUAL REPORTING. (a) For each of the local permanency planning sites, the commission shall develop a reporting system under which each appropriate health and human services agency responsible for permanency planning under this subchapter is required to semiannually provide to the commission:

(1) the number of permanency plans the agency develops for children residing in institutions or children at risk of being placed in institutions;

(2) progress achieved in implementing permanency plans;

(3) the number of children the agency serves residing in institutions;

(4) the number of children the agency serves at risk of being placed in an institution served by the local permanency planning sites;

(5) the number of children the agency serves reunited with their families or placed with alternate permanent families; and

(6) cost data related to developing and implementing permanency plans.

(b) The executive commissioner shall submit to the governor and the committees of the senate and the house of representatives having primary jurisdiction over health and human services agencies a semiannual report on:

(1) the number of children residing in institutions in this state and the number of those children for whom a recommendation has been made for a transition to a community-based residence but who have not yet made that transition;

(2) the circumstances of each child described by Subdivision (1), including the type of institution and name of the institution in which the child resides, the child's age, the residence of the child's parents or guardians, and the length of time during which the child has resided in the institution;

(3) the number of permanency plans developed for children residing in institutions in this state, progress achieved in implementing those plans, and barriers to implementing those plans;

(4) the number of children who previously resided in an institution in this state and have made the transition to a community-based residence;

(5) the number of children who previously resided in an institution in this state and have been reunited with their families or placed with alternate families;

(6) the community supports that resulted in the successful placement of children described by Subdivision (5) with alternate families; and

(7) the community supports that are unavailable but necessary to address the needs of children who continue to reside in an institution in this state after being recommended to make a transition from the institution to an alternate family or community-based residence.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0226. EFFECT ON OTHER LAW. This subchapter does not affect responsibilities imposed by federal or other state law on a physician or other professional.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER F. FAMILY-BASED ALTERNATIVES FOR CHILDREN

Sec. 546.0251. DEFINITIONS. In this subchapter:

(1) "Child" means an individual younger than 22 years of age who:

(A) has a physical or developmental disability; or

(B) is medically fragile.

(2) "Family-based alternative" means a family setting in which the family provider or providers are specially trained to provide support and in-home care to children with disabilities or children who are medically fragile.

(3) "Family-based alternatives system" means the system of family-based alternatives required under this subchapter.

(4) "Institution" means any congregate care facility, including:

(A) a nursing facility;

(B) an ICF-IID;

(C) a group home operated by the commission; and

(D) a general residential operation for children with an intellectual disability that the commission licenses.

(5) "Waiver services" means services provided under:

(A) the medically dependent children (MDCP) waiver program;

(B) the community living assistance and support services (CLASS) waiver program;

(C) the home and community-based services (HCS) waiver program;

(D) the deaf-blind with multiple disabilities (DBMD) waiver program; and

(E) any other Section 1915(c) waiver program that provides long-term care services to children.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0252. FAMILY-BASED ALTERNATIVES SYSTEM: PURPOSE, IMPLEMENTATION, AND ADMINISTRATION. (a) The purpose of the family-based alternatives system is to further this state's policy of providing for a child's basic needs for safety, security, and stability by ensuring that a child becomes a part of a successful permanent family as soon as possible.

(b) In achieving the purpose described by Subsection (a), the family-based alternatives system is intended to operate in a manner that recognizes that parents are a valued and integral part of the process established under the system. The system must:

(1) encourage parents to participate in all decisions affecting their children; and

(2) respect the authority of parents, other than parents whose parental rights have been terminated, to make decisions regarding their children.

(c) The commission shall begin implementing the family-based alternatives system in areas of this state with high numbers of children who reside in institutions.

(d) The family-based alternatives system may be administered in cooperation with public and private entities.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0253. FAMILY-BASED ALTERNATIVES SYSTEM DESIGN REQUIREMENTS. (a) The family-based alternatives system must provide for:

(1) recruiting and training alternative families to provide services for children;

(2) comprehensively assessing each child in need of services and each alternative family available to provide services, as necessary to identify the most appropriate alternative family for the child's placement;

(3) providing to a child's parents or guardian information regarding the availability of a family-based alternative;

(4) identifying each child residing in an institution and offering support services, including waiver services, that would enable the child to return to the child's birth family or be placed in a family-based alternative; and

(5) determining through a child's permanency plan other circumstances in which the child must be offered waiver services, including circumstances in which changes in an institution's status affect the child's placement or the quality of services the child receives.

(b) In complying with the requirement imposed by Subsection (a)(3), the commission shall ensure that the procedures for providing information to parents or a guardian permit and encourage the participation of an individual who is not affiliated with the institution in which the child resides or with an institution in which the child could be placed.

(c) In designing the family-based alternatives system, the commission shall consider and, when appropriate, incorporate current research and recommendations developed by other public and private entities involved in analyzing public policy relating to children residing in institutions.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0254. MEDICAID WAIVER PROGRAM ALIGNMENT. As necessary to implement this subchapter, the commission shall:

(1) ensure that an appropriate number of openings for waiver services that become available as a result of funding for transferring individuals with disabilities into community-based services are made available to both children and adults;

(2) ensure that service definitions applicable to waiver services are modified as necessary to permit the provision of waiver services through family-based alternatives;

(3) ensure that procedures are implemented for making a level of care determination for each child and identifying the most appropriate waiver service for the child, including procedures under which the commission's director of long-term care, after considering any preference of the child's birth family or alternative family, resolves disputes among agencies about the most appropriate waiver

service; and

(4) require that the health and human services agency responsible for providing a specific waiver service to a child also assume responsibility for identifying any necessary transition activities or services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0255. COMMUNITY ORGANIZATION ELIGIBILITY; CONTRACT AND REQUIREMENTS. (a) The commission shall contract with a community organization, including a faith-based community organization, or a nonprofit organization to develop and implement a family-based alternatives system under which a child who cannot reside with the child's birth family may receive necessary services in a family-based alternative instead of an institution. For purposes of this subsection, a community organization, including a faith-based community organization, or a nonprofit organization does not include:

(1) a governmental entity; or

(2) a quasi-governmental entity to which a state agency delegates authority and responsibility for planning, supervising, providing, or ensuring the provision of state services.

(b) To be eligible for the contract under Subsection (a), an organization must possess knowledge regarding the support needs of children with disabilities and their families.

(c) The contracted organization may subcontract for one or more components of implementing the family-based alternatives system with:

(1) community organizations, including faith-based community organizations;

(2) nonprofit organizations;

(3) governmental entities; or

(4) quasi-governmental entities described by Subsection (a)(2).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0256. PLACEMENT OPTIONS. (a) In placing a child in a family-based alternative, the family-based alternatives system may

use a variety of placement options, including a shared parenting arrangement between the alternative family and the child's birth family. Regardless of the option used, a family-based alternative placement must be designed as a long-term arrangement, except in cases in which the child's birth family chooses to return the child to their home.

(b) Adoption of the child by the child's alternative family is an available option in cases in which the child's birth family's parental rights have been terminated.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0257. AGENCY COOPERATION. Each affected health and human services agency shall:

(1) cooperate with the contracted organization and any subcontractors; and

(2) take all action necessary to implement the family-based alternatives system and comply with the requirements of this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0258. DISPUTE RESOLUTION. The commission has final authority to make any decisions and resolve any disputes regarding the family-based alternatives system.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0259. GIFTS, GRANTS, AND DONATIONS. The commission or the contracted organization may solicit and accept gifts, grants, and donations to support the family-based alternatives system's functions under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0260. ANNUAL REPORT. Not later than January 1 of each year, the commission shall report to the legislature on the implementation of the family-based alternatives system. The report must include a statement of:

(1) the number of children currently receiving care in an institution;

(2) the number of children placed in a family-based alternative under the system during the preceding year;

(3) the number of children who left an institution during the preceding year under an arrangement other than a family-based alternative under the system or for another reason unrelated to the availability of a family-based alternative under the system;

(4) the number of children waiting for an available placement in a family-based alternative under the system; and

(5) the number of alternative families trained and available to accept placement of a child under the system.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER G. LONG-TERM CARE INSTITUTIONS AND FACILITIES

Sec. 546.0301. PROCEDURES TO REVIEW CONDUCT RELATED TO CERTAIN INSTITUTIONS AND FACILITIES. The commission shall adopt procedures to review:

(1) citations or penalties assessed for a violation of a rule or law against an institution or facility licensed under Chapter 242, 247, or 252, Health and Safety Code, or certified to participate in Medicaid administered in accordance with Chapter 32, Human Resources Code, considering:

(A) the number of violations by geographic region;

(B) the patterns of violations in each region; and

(C) the outcomes following the assessment of a citation or penalty; and

(2) the performance of duties by employees and agents of a state agency responsible for licensing, inspecting, surveying, or investigating institutions and facilities licensed under Chapter 242, 247, or 252, Health and Safety Code, or certified to participate in

Medicaid administered in accordance with Chapter 32, Human Resources Code, related to:

(A) complaints the commission receives; or

(B) any standards or rules violated by an employee or agent of a state agency.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0302. ISSUANCE OF MATERIALS TO CERTAIN LONG-TERM CARE FACILITIES. The executive commissioner shall:

(1) review the commission's methods for issuing informational letters, policy updates, policy clarifications, and other related materials to an entity licensed under Chapter 103, Human Resources Code, or Chapter 242, 247, 248A, or 252, Health and Safety Code; and

(2) develop and implement more efficient methods to issue those materials, as appropriate.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER H. INCENTIVE PAYMENT PROGRAM FOR CERTAIN NURSING FACILITIES

Sec. 546.0351. DEFINITIONS. In this subchapter:

(1) "Incentive payment program" means the program established under this subchapter.

(2) "Nursing facility" means a convalescent or nursing home or related institution licensed under Chapter 242, Health and Safety Code, that provides long-term care services, as defined by Section 22.0011, Human Resources Code, to recipients.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0352. INCENTIVE PAYMENT PROGRAM. (a) If feasible, the executive commissioner by rule may establish an incentive payment program for nursing facilities that choose to participate. The

program must be designed to improve the quality of care and services provided to recipients.

(b) Subject to Section 546.0354, the incentive payment program may provide incentive payments in accordance with this section to encourage facilities to participate in the program.

(c) The executive commissioner may:

(1) determine the amount of any incentive payment under the incentive payment program; and

(2) enter into a contract with a qualified person, as the executive commissioner determines, for the following services related to the program:

(A) data collection;

(B) data analysis; and

(C) technical support.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0353. COMMON PERFORMANCE MEASURES. (a) In establishing an incentive payment program, the executive commissioner shall adopt common performance measures to be used in evaluating nursing facilities that are related to structure, process, and outcomes that positively correlate to nursing facility quality and improvement. The common performance measures:

(1) must be:

(A) recognized by the executive commissioner as valid indicators of the overall quality of care recipients receive; and

(B) designed to encourage and reward evidence-based practices among nursing facilities; and

(2) may include measures of:

(A) quality of care, as determined by clinical performance ratings published by the Centers for Medicare and Medicaid Services, the Agency for Healthcare Research and Quality, or another federal agency;

(B) direct-care staff retention and turnover;

(C) recipient satisfaction, including the satisfaction of recipients who are short-term and long-term facility residents, and family satisfaction, as determined by the Consumer Assessment of Healthcare Providers and Systems Nursing Home Surveys relied on by

the Centers for Medicare and Medicaid Services;

(D) employee satisfaction and engagement;

(E) the incidence of preventable acute care emergency room services use;

(F) regulatory compliance;

(G) level of person-centered care; and

(H) direct-care staff training, including a facility's use of independent distance learning programs for continuously training direct-care staff.

(b) The executive commissioner shall maximize the use of available information technology and limit the number of performance measures adopted under this section to achieve administrative cost efficiency and avoid an unreasonable administrative burden on participating nursing facilities.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0354. SUBJECT TO APPROPRIATIONS. The commission may make incentive payments under an incentive payment program only if money is appropriated for that purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER I. MEDICAID GENERALLY

Sec. 546.0401. MEDICAID LONG-TERM CARE SYSTEM. (a) The commission shall ensure that the Medicaid long-term care system provides the broadest array of choices possible for recipients while ensuring that the services are delivered in a manner that is cost-effective and makes the best use of available funds.

(b) The commission shall also make every effort to improve the quality of care for recipients of Medicaid long-term care services by:

(1) evaluating the need for expanding the provider base for consumer-directed services and, if the commission identifies a demand for that expansion, encouraging area agencies on aging, independent living centers, and other potential long-term care providers to become providers through contracts with the commission;

(2) ensuring that all recipients who reside in a nursing facility are provided information about end-of-life care options and the importance of planning for end-of-life care; and

(3) developing policies to encourage a recipient who resides in a nursing facility to receive treatment at that facility whenever possible, while ensuring that the recipient receives an appropriate continuum of care.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0402. ADMINISTRATION AND DELIVERY OF CERTAIN WAIVER PROGRAMS; PUBLIC INPUT. (a) To the extent authorized by law, the commission shall make uniform the functions relating to the administration and delivery of Section 1915(c) waiver programs, including:

(1) rate-setting;

(2) the applicability and use of service definitions;

(3) quality assurance; and

(4) intake data elements.

(b) Subsection (a) does not apply to functions of a Section 1915(c) waiver program that is operated in conjunction with a federally funded state Medicaid program that is authorized under Section 1915(b) of the Social Security Act (42 U.S.C. Section 1396n(b)).

(c) The commission shall ensure that information on individuals seeking to obtain services from Section 1915(c) waiver programs is maintained in a single computerized database that is accessible to staff of each of the state agencies administering those programs.

(d) In complying with the requirements of this section, the commission shall regularly consult with and obtain input from:

(1) consumers and family members;

(2) providers;

(3) advocacy groups;

(4) state agencies that administer a Section 1915(c) waiver program; and

(5) other interested persons.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0403. RECOVERY OF CERTAIN ASSISTANCE; MEDICAID ACCOUNT. (a) The executive commissioner shall ensure that Section 1917(b)(1) of the Social Security Act (42 U.S.C. Section 1396p(b)(1)) is implemented under Medicaid.

(b) The Medicaid account is an account in the general revenue fund. Any funds recovered by implementing the provisions of Section 1917(b)(1) of the Social Security Act (42 U.S.C. Section 1396p(b)(1)) must be deposited in the Medicaid account. Money in the account may be appropriated only to fund long-term care, including community-based care and facility-based care.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER J. MEDICAID WAIVER PROGRAMS

Sec. 546.0451. COMPETITIVE AND INTEGRATED EMPLOYMENT INITIATIVE FOR CERTAIN RECIPIENTS; BIENNIAL REPORT. (a) This section applies to an individual receiving services under:

(1) any of the following Section 1915(c) waiver programs:

(A) the home and community-based services (HCS) waiver program;

(B) the Texas home living (TxHmL) waiver program;

(C) the deaf-blind with multiple disabilities (DBMD) waiver program; and

(D) the community living assistance and support services (CLASS) waiver program; and

(2) the STAR+PLUS home and community-based services (HCBS) waiver program established under Section 1115, Social Security Act (42 U.S.C. Section 1315).

(b) The executive commissioner by rule shall develop a uniform process that complies with the policy adopted under Section 546.0003 to:

(1) assess the goals of and competitive and integrated employment opportunities and related employment services available to an individual to whom this section applies; and

(2) use the identified goals and available opportunities and services to direct the individual's plan of care at the time the

plan is developed or renewed.

(c) The entity responsible for developing and renewing the plan of care for an individual to whom this section applies shall use the uniform process developed under Subsection (b) to assess the individual's goals, opportunities, and services described by that subsection and incorporate those goals, opportunities, and services into the individual's plan of care.

(d) The executive commissioner by rule shall:

(1) identify strategies to increase the number of individuals receiving employment services from the Texas Workforce Commission or through the waiver program in which an individual is enrolled;

(2) determine a reasonable number of individuals who indicate a desire to work to receive employment services and ensure those individuals:

(A) have received employment services during the state fiscal biennium ending August 31, 2023, or during the period beginning September 1, 2023, and ending December 31, 2023, from the Texas Workforce Commission or through the waiver program in which an individual is enrolled; or

(B) are receiving employment services on December 31, 2023, from the Texas Workforce Commission or through the waiver program in which an individual is enrolled; and

(3) ensure each individual who indicates a desire to work is referred to receive employment services from the Texas Workforce Commission or through the waiver program in which the individual is enrolled.

(e) Not later than December 31 of each even-numbered year, the executive commissioner shall prepare and submit to the governor, lieutenant governor, speaker of the house of representatives, and legislature a written report that outlines:

(1) the number of individuals to whom this section applies who are receiving employment services in accordance with rules adopted under this section;

(2) whether the employment services described by Subdivision (1) are provided by the Texas Workforce Commission, through the waiver program in which an individual is enrolled, or both; and

(3) the number of individuals to whom this section applies who have obtained competitive and integrated employment, categorized

by waiver program and, if applicable, an individual's level of care.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0452. RISK MANAGEMENT CRITERIA FOR CERTAIN WAIVER PROGRAMS. (a) In this section, "legally authorized representative" has the meaning assigned by Section 546.0101.

(b) The commission shall consider developing risk management criteria under home and community-based services waiver programs designed to allow individuals eligible to receive services under the programs to assume greater choice and responsibility over the services and supports the individuals receive.

(c) The commission shall ensure that any risk management criteria developed include:

(1) a requirement that if an individual who will be provided services and supports has a legally authorized representative, the representative is involved in determining which services and supports the individual will receive; and

(2) a requirement that if services or supports are declined, the decision to decline is clearly documented.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0453. PROTOCOL FOR MAINTAINING CONTACT INFORMATION OF INDIVIDUALS INTERESTED IN MEDICAID WAIVER PROGRAMS. The commission shall develop a protocol in the office of the ombudsman to improve the capture and updating of contact information for an individual who contacts the office of the ombudsman regarding Medicaid waiver programs or services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0454. INTEREST LIST MANAGEMENT FOR CERTAIN MEDICAID WAIVER PROGRAMS. (a) This section applies only to the following waiver programs:

(1) the community living assistance and support services (CLASS) waiver program;

(2) the home and community-based services (HCS) waiver program;

(3) the deaf-blind with multiple disabilities (DBMD) waiver program;

(4) the Texas home living (TxHmL) waiver program;

(5) the medically dependent children (MDCP) waiver program; and

(6) the STAR+PLUS home and community-based services (HCBS) program.

(b) The commission, in consultation with the Intellectual and Developmental Disability System Redesign Advisory Committee established under Section 542.0052, the state Medicaid managed care advisory committee, and interested stakeholders, shall develop a questionnaire to be completed by or on behalf of an individual who requests to be placed on or is currently on an interest list for a waiver program.

(c) The questionnaire developed under Subsection (b) must, at a minimum, request the following information about an individual seeking or receiving services under a waiver program:

(1) contact information for the individual or the individual's parent or other legally authorized representative;

(2) the individual's general demographic information;

(3) the individual's living arrangement;

(4) the types of assistance the individual requires;

(5) the individual's current caregiver supports and circumstances that may cause the individual to lose those supports; and

(6) when the delivery of services under a waiver program should begin to ensure the individual's health and welfare and that the individual receives services and supports in the least restrictive setting possible.

(d) If an individual is on a waiver program's interest list and the individual or the individual's parent or other legally authorized representative does not respond to a written or verbal request made by the commission to update information concerning the individual or otherwise fails to maintain contact with the commission, the commission:

(1) shall designate the individual's status on the interest

list as inactive until the individual or the individual's parent or other legally authorized representative notifies the commission that the individual is still interested in receiving services under the waiver program; and

(2) at the time the individual or the individual's parent or other legally authorized representative provides notice to the commission under Subdivision (1), shall designate the individual's status on the interest list as active and restore the individual to the position on the list that corresponds with the date the individual was initially placed on the list.

(e) The commission's designation of an individual's status on an interest list as inactive under Subsection (d) may not result in the removal of the individual from that list or any other waiver program interest list.

(f) Not later than September 1 of each year, the commission shall provide to the Intellectual and Developmental Disability System Redesign Advisory Committee established under Section 542.0052, or, if that advisory committee is abolished, an appropriate stakeholder advisory committee, as determined by the executive commissioner, the number of individuals, including individuals whose status is designated as inactive by the commission, who are on an interest list to receive services under a waiver program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0455. INTEREST LIST MANAGEMENT FOR CERTAIN CHILDREN ENROLLED IN MEDICALLY DEPENDENT CHILDREN (MDCP) WAIVER PROGRAM. (a) This section applies only to a child who is enrolled in the medically dependent children (MDCP) waiver program but becomes ineligible for services under the program because the child no longer meets:

(1) the level of care criteria for medical necessity for nursing facility care; or

(2) the age requirement for the program.

(b) A legally authorized representative of a child who is notified by the commission that the child is no longer eligible for the medically dependent children (MDCP) waiver program following a Medicaid fair hearing, or without a Medicaid fair hearing if the representative opted in writing to forgo the hearing, may request

that the commission:

(1) return the child to the interest list for the program unless the child is ineligible due to the child's age; or

(2) place the child on the interest list for another Section 1915(c) waiver program.

(c) At the time a child's legally authorized representative makes a request under Subsection (b), the commission shall:

(1) for a child who becomes ineligible for the reason described by Subsection (a)(1), place the child:

(A) on the interest list for the medically dependent children (MDCP) waiver program in the first position on the list; or

(B) except as provided by Subdivision (3), on the interest list for another Section 1915(c) waiver program in a position relative to other individuals on the list that is based on the date the child was initially placed on the interest list for the medically dependent children (MDCP) waiver program;

(2) except as provided by Subdivision (3), for a child who becomes ineligible for the reason described by Subsection (a)(2), place the child on the interest list for another Section 1915(c) waiver program in a position relative to other individuals on the list that is based on the date the child was initially placed on the interest list for the medically dependent children (MDCP) waiver program; or

(3) for a child who becomes ineligible for a reason described by Subsection (a) and who is already on an interest list for another Section 1915(c) waiver program, move the child to a position on the interest list relative to other individuals on the list that is based on the date the child was initially placed on the interest list for the medically dependent children (MDCP) waiver program, if that date is earlier than the date the child was initially placed on the interest list for the other waiver program.

(d) Notwithstanding Subsection (c)(1)(B) or (c)(2), a child may be placed on an interest list for a Section 1915(c) waiver program in the position described by those subsections only if the child has previously been placed on the interest list for that waiver program.

(e) At the time the commission provides notice to a legally authorized representative that a child is no longer eligible for the medically dependent children (MDCP) waiver program following a Medicaid fair hearing, or without a Medicaid fair hearing if the representative opted in writing to forgo the hearing, the commission

shall inform the representative in writing about:

(1) the options under this section for placing the child on an interest list; and

(2) the process for applying for the Medicaid buy-in program for children with disabilities implemented under Section 532.0353.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0456. ELIGIBILITY OF CERTAIN CHILDREN FOR MEDICALLY DEPENDENT CHILDREN (MDCP) OR DEAF-BLIND WITH MULTIPLE DISABILITIES (DBMD) WAIVER PROGRAM; INTEREST LIST PLACEMENT. (a) Notwithstanding any other law and to the extent allowed by federal law, in determining a child's eligibility for the medically dependent children (MDCP) waiver program, the deaf-blind with multiple disabilities (DBMD) waiver program, or a "Money Follows the Person" demonstration project, the commission shall consider whether the child:

(1) is diagnosed as having a condition included in the list of compassionate allowances conditions published by the United States Social Security Administration; or

(2) receives Medicaid hospice or palliative care services.

(b) If the commission determines a child is eligible for a waiver program under Subsection (a), the child's enrollment in the applicable program is contingent on the availability of a slot in the program. If a slot is not immediately available, the commission shall place the child in the first position on the interest list for the medically dependent children (MDCP) waiver program or deaf-blind with multiple disabilities (DBMD) waiver program, as applicable.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER K. MEDICALLY DEPENDENT CHILDREN (MDCP) WAIVER PROGRAM

Sec. 546.0501. LIMITATION ON NURSING FACILITY LEVEL OF CARE REQUIREMENT. To the extent allowed by federal law, the commission may not require that a child reside in a nursing facility for an extended period of time to meet the nursing facility level of care

required for the child to be determined eligible for the medically dependent children (MDCP) waiver program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0502. CONSUMER DIRECTION OF SERVICES. Notwithstanding Sections 546.0102(b) and 546.0103(1), a consumer direction model implemented under Subchapter C, including the consumer-directed service option, for the delivery of services under the medically dependent children (MDCP) waiver program must allow for the delivery of all services and supports available under that program through consumer direction.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0503. ASSESSMENTS AND REASSESSMENTS. (a) The commission shall ensure that the care coordinator for a Medicaid managed care organization under the STAR Kids managed care program provides for review the results of the initial assessment or annual reassessment of medical necessity to the parent or legally authorized representative of a recipient receiving benefits under the medically dependent children (MDCP) waiver program. The commission shall ensure that providing the results does not delay the determination of the services to be provided to the recipient or the ability to authorize and initiate services.

(b) The commission shall require the signature of a parent or legally authorized representative to verify the parent's or representative's receipt of the results of the initial assessment or reassessment from the care coordinator. A Medicaid managed care organization may not delay the delivery of care pending the signature.

(c) The commission shall provide to a parent or legally authorized representative who disagrees with the results of the initial assessment or reassessment an opportunity to request to dispute the results with the Medicaid managed care organization through a peer-to-peer review with the treating physician of choice.

(d) This section does not affect any rights of a recipient to

appeal an initial assessment or reassessment determination through the Medicaid managed care organization's internal appeal process, the Medicaid fair hearing process, or the external medical review process.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0504. QUALITY MONITORING BY EXTERNAL QUALITY REVIEW ORGANIZATION. The commission, based on the state's external quality review organization's initial report on the STAR Kids managed care program, shall determine whether the findings of the report necessitate additional data and research to improve the program. If the commission determines additional data and research are needed, the commission, through the external quality review organization, may:

(1) conduct annual surveys of recipients receiving benefits under the medically dependent children (MDCP) waiver program, or their representatives, using the Consumer Assessment of Healthcare Providers and Systems;

(2) conduct annual focus groups with recipients described by Subdivision (1) or their representatives on issues identified through:

(A) the Consumer Assessment of Healthcare Providers and Systems;

(B) other external quality review organization activities; or

(C) stakeholders; and

(3) in consultation with the STAR Kids Managed Care Advisory Committee and as frequently as feasible, calculate Medicaid managed care organizations' performance on performance measures using available data sources such as the collaborative innovation improvement network.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 546.0505. QUARTERLY REPORT. Not later than the 30th day after the last day of each state fiscal quarter, the commission shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, the Legislative Budget Board, and each standing legislative committee with primary jurisdiction over Medicaid a report containing, for the most recent state fiscal quarter, the following information and data related to access to care for recipients receiving benefits under the medically dependent children (MDCP) waiver program:

(1) enrollment in the Medicaid buy-in for children program implemented under Section 532.0353;

(2) requests relating to interest list placements under Section 546.0455;

(3) use of the Medicaid escalation help line established under Subchapter R, Chapter 540, if the help line was operational during the applicable state fiscal quarter;

(4) use of, requests for, and outcomes of the external medical review procedure established under Section 532.0404; and

(5) complaints relating to the medically dependent children (MDCP) waiver program, categorized by disposition.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

For expiration of this subchapter, see Section 546.0555.

SUBCHAPTER L. QUALITY ASSURANCE FEE PROGRAM

Sec. 546.0551. QUALITY ASSURANCE FEE FOR CERTAIN MEDICAID WAIVER PROGRAM SERVICES. (a) In this section, "gross receipts" means money received as compensation for services under an intermediate care facility for individuals with an intellectual disability waiver program, such as a home and community services waiver or a community living assistance and support services waiver. The term does not include:

(1) a charitable contribution;

(2) revenues received for services or goods other than waivers; or

(3) any money received from consumers or their families as

reimbursement for services or goods not normally covered under a waiver program.

(b) The executive commissioner by rule shall modify the quality assurance fee program under Subchapter H, Chapter 252, Health and Safety Code, by providing for a quality assurance fee program that imposes a quality assurance fee on persons providing services under a home and community services waiver or a community living assistance and support services waiver.

(c) The executive commissioner shall establish the fee at an amount that will produce annual revenues of not more than six percent of the total annual gross receipts in this state.

(d) The executive commissioner shall adopt rules governing:

(1) the reporting required to compute and collect the fee and the manner and times of collecting the fee; and

(2) the administration of the fee, including the imposition of penalties for a violation of the rules.

(e) Fees collected under this section must be deposited in the waiver program quality assurance fee account.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0552. WAIVER PROGRAM QUALITY ASSURANCE FEE ACCOUNT. (a) The waiver program quality assurance fee account is a dedicated account in the general revenue fund. The account is exempt from the application of Section 403.095.

(b) The account consists of fees collected under Section 546.0551.

(c) Subject to legislative appropriation and state and federal law, money in the account may be appropriated only to the commission to:

(1) increase reimbursement rates paid under:

(A) the home and community services waiver program; or

(B) the community living assistance and support services (CLASS) waiver program; or

(2) offset allowable expenses under Medicaid.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0553. REIMBURSEMENT UNDER CERTAIN MEDICAID WAIVER PROGRAMS. Subject to legislative appropriation and state and federal law, the commission shall use money from the waiver program quality assurance fee account, together with any federal money available to match money from the account, to increase reimbursement rates paid under:

(1) the home and community services waiver program; or

(2) the community living assistance and support services (CLASS) waiver program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0554. INVALIDITY; FEDERAL MONEY. If any portion of Section 546.0551, 546.0552, or 546.0553 is held invalid by a final order of a court that is not subject to appeal, or if the commission determines that the imposition of the quality assurance fee and the expenditure of the money collected as provided by those sections will not entitle this state to receive additional federal money under Medicaid, the commission shall:

(1) stop collecting the quality assurance fee; and

(2) not later than the 30th day after the date the commission stops collecting the quality assurance fee, return any money collected under Section 546.0551, but not spent under Section 546.0553, to the persons who paid the fees in proportion to the total amount paid by those persons.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0555. EXPIRATION OF QUALITY ASSURANCE FEE PROGRAM. If Subchapter H, Chapter 252, Health and Safety Code, expires, this subchapter expires on the same date.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER M. VOLUNTEER ADVOCATE PROGRAM FOR CERTAIN ELDERLY INDIVIDUALS

Sec. 546.0601. DEFINITIONS. In this subchapter:

(1) "Designated caregiver" means:

(A) a person designated as a caregiver by an elderly individual receiving services from or under the direction of the commission or a health and human services agency; or

(B) a court-appointed guardian of an elderly individual receiving services from or under the direction of the commission or a health and human services agency.

(2) "Elderly individual" means an individual who is at least 60 years of age.

(3) "Program" means the volunteer advocate program created under this subchapter for elderly individuals receiving services from or under the direction of the commission or a health and human services agency.

(4) "Volunteer advocate" means a person who successfully completes the volunteer advocate curriculum described by Section 546.0602(2).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0602. PROGRAM PRINCIPLES. The program must adhere to the following principles:

(1) the intent of the program is to evaluate, through the operation of pilot projects, whether providing the services of a trained volunteer advocate selected by an elderly individual or the individual's designated caregiver is effective in achieving the following goals:

(A) extend the time the elderly individual can remain in an appropriate home setting;

(B) maximize the efficiency of services delivered to the elderly individual by focusing on services needed to sustain family caregiving;

(C) protect the elderly individual by providing a knowledgeable third party to review the quality of care and services delivered to the individual and the care options available to the individual and the individual's family; and

(D) facilitate communication between the elderly individual or the individual's designated caregiver and providers of

health care and other services;

(2) a volunteer advocate curriculum must be maintained that incorporates best practices as determined and recognized by a professional organization recognized in the elder health care field;

(3) the use of pro bono assistance from qualified professionals must be maximized in modifying the volunteer advocate curriculum and the program;

(4) trainers must be certified on the ability to deliver training;

(5) training shall be offered through multiple community-based organizations; and

(6) participation in the program is voluntary and must be initiated by an elderly individual or the individual's designated caregiver.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0603. AGREEMENTS WITH NONPROFIT ORGANIZATIONS; ORGANIZATION ELIGIBILITY. The executive commissioner may enter into agreements with appropriate nonprofit organizations to provide services under the program. A nonprofit organization is eligible to provide services under the program if the organization:

(1) has significant experience in providing services to elderly individuals;

(2) has the capacity to provide training and supervision for individuals interested in serving as volunteer advocates; and

(3) meets any other criteria prescribed by the executive commissioner.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0604. FUNDING. (a) The commission shall fund the program, including the design and evaluation of pilot projects, modification of the volunteer advocate curriculum, and training of volunteers, through existing appropriations to the commission.

(b) Notwithstanding Subsection (a), the commission may accept gifts, grants, or donations for the program from any source to:

(1) carry out the design of the program;

(2) develop criteria for evaluating any proposed pilot projects operated under the program;

(3) modify a volunteer advocate training curriculum;

(4) conduct training for volunteer advocates; and

(5) develop a request for offers to conduct any proposed pilot projects under the program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0605. RULES. The executive commissioner may adopt rules as necessary to implement the program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

For expiration of this subchapter, see Section 546.0655.

SUBCHAPTER N. ADVANCING CARE FOR EXCEPTIONAL KIDS PILOT PROGRAM

Sec. 546.0651. DEFINITION. In this subchapter, "pilot program" means the pilot program established under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0652. PILOT PROGRAM. The commission shall collaborate with the STAR Kids Managed Care Advisory Committee, recipients, family members of children with complex medical conditions, children's health care advocates, Medicaid managed care organizations, and other stakeholders to develop and implement a pilot program that is substantially similar to the program described by Section 3, Medicaid Services Investment and Accountability Act of 2019 (Pub. L. No. 116-16), to provide coordinated care through a health home to children with complex medical conditions.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0653. FEDERAL GUIDANCE AND FUNDING. The commission shall seek guidance from the Centers for Medicare and Medicaid Services and the United States Department of Health and Human Services regarding the design of the program and, based on the guidance, may actively seek and apply for federal funding to implement the program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0654. REPORT. Not later than December 31, 2024, the commission shall prepare and submit to the legislature a report that includes:

(1) a summary of the commission's implementation of the pilot program; and

(2) if the pilot program has been operating for a period sufficient to obtain necessary data:

(A) a summary of the commission's evaluation of the effect of the pilot program on the coordination of care for children with complex medical conditions; and

(B) a recommendation as to whether the pilot program should be continued, expanded, or terminated.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0655. EXPIRATION. The pilot program terminates and this subchapter expires September 1, 2025.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER O. MORTALITY REVIEW FOR CERTAIN INDIVIDUALS WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITY

Sec. 546.0701. DEFINITION. In this subchapter, "contracted organization" means an entity that contracts with the commission to provide the services described by Section 546.0702(b).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0702. MORTALITY REVIEW SYSTEM. (a) The executive commissioner shall establish an independent mortality review system to review the death of an individual with an intellectual or developmental disability who, at the time of the individual's death or at any time during the 24-hour period preceding the individual's death:

(1) resided in or received services from:

(A) an ICF-IID operated or licensed by the commission or a community center; or

(B) the ICF-IID component of the Rio Grande State Center; or

(2) received services through a Section 1915(c) waiver program for individuals who are eligible for ICF-IID services.

(b) The executive commissioner shall contract with an institution of higher education or a health care organization or association with experience in conducting research-based mortality studies to conduct independent mortality reviews of individuals with an intellectual or developmental disability. The contract must require the contracted organization to form a review team consisting of:

(1) a physician with expertise regarding the medical treatment of individuals with an intellectual or developmental disability;

(2) a registered nurse with expertise regarding the medical treatment of individuals with an intellectual or developmental disability;

(3) a clinician or other professional with expertise in the delivery of services and supports for individuals with an intellectual or developmental disability; and

(4) any other appropriate individual as the executive commissioner provides.

(c) A review under this subchapter must be conducted:

(1) in addition to any review conducted by the facility in which the individual resided or the facility, agency, or provider from which the individual received services; and

(2) after any investigation of alleged or suspected abuse,

neglect, or exploitation is completed.

(d) To ensure consistency across mortality review systems, a review under this subchapter must collect information consistent with the information required to be collected by another independent mortality review process established specifically for individuals with an intellectual or developmental disability.

(e) The executive commissioner shall adopt rules regarding the manner in which the death of an individual described by Subsection (a) must be reported to the contracted organization by a facility or waiver program provider described by that subsection.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0703. ACCESS TO INFORMATION AND RECORDS. (a) A contracted organization may request information and records regarding a deceased individual as necessary to carry out the organization's duties. The requested information and records may include:

(1) medical, dental, and mental health care information; and

(2) information and records maintained by any state or local government agency, including:

(A) a birth certificate;

(B) law enforcement investigative data;

(C) medical examiner investigative data;

(D) juvenile court records;

(E) parole and probation information and records; and

(F) adult or child protective services information and records.

(b) On request of the contracted organization, the custodian of the relevant information and records relating to a deceased individual shall provide those records to the organization at no charge.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0704. MORTALITY REVIEW REPORTS. Subject to Section 546.0705, a contracted organization shall submit:

(1) to the commission, the Department of Family and Protective Services, the office of independent ombudsman for state supported living centers, and the commission's office of inspector general a report of the findings of the mortality review; and

(2) semiannually to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees of the senate and house of representatives with primary jurisdiction over the commission, the department, the office of independent ombudsman for state supported living centers, and the commission's office of inspector general a report that contains:

(A) aggregate information regarding the deaths for which the organization performed an independent mortality review;

(B) trends in the causes of death the organization identifies; and

(C) any suggestions for system-wide improvements to address conditions that contributed to deaths reviewed by the organization.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0705. USE AND PUBLICATION RESTRICTIONS; CONFIDENTIALITY. (a) The commission may use or publish information under this subchapter only to advance statewide practices regarding the treatment and care of individuals with an intellectual or developmental disability. A summary of the data in the contracted organization's reports or a statistical compilation of data reports may be released by the commission for general publication if the summary or statistical compilation does not contain any information that would permit the identification of an individual or that is confidential or privileged under this subchapter or other state or federal law.

(b) Information and records acquired by the contracted organization in the exercise of the organization's duties under this subchapter:

(1) are confidential and exempt from disclosure under Chapter 552; and

(2) may be disclosed only as necessary to carry out the organization's duties.

(c) The identity of:

(1) an individual whose death was reviewed in accordance with this subchapter is confidential and may not be revealed; and

(2) a health care provider or the name of a facility or agency that provided services to or was the residence of an individual whose death was reviewed in accordance with this subchapter is confidential and may not be revealed.

(d) Reports, information, statements, memoranda, and other information furnished under this subchapter to the contracted organization and any findings or conclusions resulting from a review by the organization are privileged.

(e) A contracted organization's report of the findings of the independent mortality review conducted under this subchapter and any records the organization develops relating to the review:

(1) are confidential and privileged;

(2) are not subject to discovery or subpoena; and

(3) may not be introduced into evidence in any civil, criminal, or administrative proceeding.

(f) A member of the contracted organization's review team may not testify or be required to testify in a civil, criminal, or administrative proceeding as to observations, factual findings, or conclusions that were made in conducting a review under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0706. LIMITATION ON LIABILITY. A health care provider or other person is not civilly or criminally liable for furnishing information to the contracted organization or to the commission for use by the organization in accordance with this subchapter unless the person acted in bad faith or knowingly provided false information to the organization or the commission.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

CHAPTER 547. MENTAL HEALTH AND SUBSTANCE USE SERVICES

SUBCHAPTER A. DELIVERY OF MENTAL HEALTH AND SUBSTANCE USE SERVICES

Sec. 547.0001. EVALUATION OF CERTAIN CONTRACTORS AND SUBCONTRACTORS. (a) To ensure the appropriate delivery of mental health and substance use services, the commission shall regularly evaluate program contractors and subcontractors that provide or arrange services for individuals enrolled in:

(1) the Medicaid managed care program; and

(2) the child health plan program.

(b) The commission shall monitor:

(1) penetration rates as those rates relate to mental health and substance use services provided by or through contractors and subcontractors;

(2) utilization rates as those rates relate to mental health and substance use services provided by or through contractors and subcontractors; and

(3) provider networks used by contractors and subcontractors to provide mental health or substance use services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 547.0002. OMBUDSMAN FOR BEHAVIORAL HEALTH ACCESS TO CARE. (a) In this section, "ombudsman" means the individual designated under this section by the executive commissioner as the ombudsman for behavioral health access to care unless the context requires otherwise.

(b) The executive commissioner shall designate an ombudsman for behavioral health access to care.

(c) The ombudsman is administratively attached to the commission's office of the ombudsman established under Section 523.0255.

(d) The commission may use an alternate title for the ombudsman in consumer-facing materials if the commission determines that an alternate title would benefit consumer understanding or access.

(e) The ombudsman serves as a neutral party to help consumers, including consumers who are uninsured or have public or private health benefit coverage, and behavioral health care providers

navigate and resolve issues related to consumer access to behavioral health care, including care for mental health conditions and substance use disorders.

(f) The ombudsman shall:

(1) interact with consumers and behavioral health care providers regarding concerns or complaints to help the consumers and providers resolve behavioral health care access issues;

(2) identify, track, and help report potential violations of state or federal rules, regulations, or statutes concerning the availability of, and terms and conditions of, benefits for mental health conditions or substance use disorders, including potential violations related to quantitative and nonquantitative treatment limitations;

(3) report concerns, complaints, and potential violations described by Subdivision (2) to the appropriate regulatory or oversight agency;

(4) receive and report concerns and complaints relating to inappropriate care or mental health commitment;

(5) provide appropriate information to help consumers obtain behavioral health care;

(6) develop appropriate points of contact for referrals to other state and federal agencies; and

(7) provide appropriate information to help consumers or providers file appeals or complaints with the appropriate entities, including insurers and other state and federal agencies.

(g) The Texas Department of Insurance shall appoint a liaison to the ombudsman to receive the reports of concerns, complaints, and potential violations described by Subsection (f)(2) from the ombudsman, consumers, or behavioral health care providers.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0003. RULES GOVERNING PEER SPECIALISTS. (a) With input from mental health and substance use peer specialists, the commission shall develop and the executive commissioner shall adopt:

(1) rules establishing training requirements for peer specialists to provide services to individuals with mental illness or individuals with substance use conditions;

(2) rules establishing certification and supervision requirements for peer specialists;

(3) rules defining the scope of services that peer specialists may provide;

(4) rules distinguishing peer services from other services that a person must hold a license to provide; and

(5) any other rules necessary to protect the health and safety of individuals receiving peer services.

(b) The executive commissioner may not adopt rules under this section that preclude the provision of mental health rehabilitative services under 25 T.A.C. Chapter 416, Subchapter A, as that subchapter existed on January 1, 2017.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 114, 89th Legislature, Regular Session, for amendments affecting the following section.

For expiration of this section, see Subsection (e).

Sec. 547.0004. VETERAN SUICIDE PREVENTION ACTION PLAN. (a) The commission, in collaboration with the Texas Coordinating Council for Veterans Services, the United States Department of Veterans Affairs, the Service Members, Veterans, and their Families Technical Assistance Center Implementation Academy of the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services, veteran advocacy groups, health care providers, and any other organization or interested party the commission considers appropriate, shall develop a comprehensive action plan to increase access to and availability of professional veteran health services to prevent veteran suicides.

(b) The action plan must:

(1) identify opportunities for raising awareness of and providing resources for veteran suicide prevention;

(2) identify opportunities to increase access to veteran mental health services;

(3) identify funding resources to provide accessible, affordable veteran mental health services;

(4) provide measures to expand public-private partnerships

to ensure access to quality, timely mental health services;

(5) provide for proactive outreach measures to reach veterans needing care;

(6) provide for peer-to-peer service coordination, including training, certification, recertification, and continuing education for peer coordinators; and

(7) address suicide prevention awareness, measures, and training regarding veterans involved in the justice system.

(c) The commission shall make specific long-term statutory, administrative, and budget-related recommendations to the legislature and the governor regarding the policy initiatives and reforms necessary to implement the action plan developed under this section. The initiatives and reforms in the long-term plan must be fully implemented by September 1, 2027.

(d) The commission shall include in the commission's strategic plan under Chapter 2056 the plans for implementing the long-term recommendations under Subsection (c).

(e) This section expires September 1, 2027.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0005. LOCAL MENTAL HEALTH AUTHORITY GROUP REGIONAL STRATEGIES; ANNUAL REPORT. (a) In this section, "local mental health authority group" means a group of local mental health authorities established by the commission under Chapter 963 (S.B. 633), Acts of the 86th Legislature, Regular Session, 2019.

(b) The commission shall require each local mental health authority group to meet at least quarterly to collaborate on planning and implementing regional strategies to reduce:

(1) costs to local governments of providing services to individuals experiencing a mental health crisis;

(2) transportation to mental health facilities of individuals served by an authority that is a member of the group;

(3) incarceration of individuals with mental illness in county jails located in an area served by an authority that is a member of the group; and

(4) visits by individuals with mental illness at hospital emergency rooms located in an area served by an authority that is a

member of the group.

(c) The commission shall use federal funds in accordance with state and federal guidelines to implement this section.

(d) The commission, in coordination with each local mental health authority group, shall annually update the mental health services development plan that was initially developed by the commission and each local mental health authority group under Chapter 963 (S.B. 633), Acts of the 86th Legislature, Regular Session, 2019. The commission and each group's updated plan must include a description of:

(1) actions taken by the group to implement regional strategies in the plan; and

(2) new regional strategies identified by the group to reduce the circumstances described by Subsection (b), including the estimated number of outpatient and inpatient beds necessary to meet the goals of each group's regional strategy.

(e) Not later than December 1 of each year, the commission shall produce and publish on the commission's Internet website a report containing the most recent version of each mental health services development plan developed by the commission and a local mental health authority group.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER B. TEXAS SYSTEM OF CARE FRAMEWORK

Sec. 547.0051. DEFINITIONS. In this subchapter:

(1) "Minor" means an individual younger than 18 years of age.

(2) "Serious emotional disturbance" means a mental, behavioral, or emotional disorder of sufficient duration to result in functional impairment that substantially interferes with or limits an individual's role or ability to function in family, school, or community activities.

(3) "System of care framework" means a framework for collaboration among state agencies, minors who have a serious emotional disturbance or are at risk of developing a serious emotional disturbance, and the families of those minors that improves access to services and delivers effective community-based services

that are family-driven, youth- or young adult-guided, and culturally and linguistically competent.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0052. TEXAS SYSTEM OF CARE FRAMEWORK. (a) The commission shall implement a system of care framework to develop local mental health systems of care in communities for minors who:

(1) have or are at risk of developing a serious emotional disturbance;

(2) are receiving residential mental health services and supports or inpatient mental health hospitalization; or

(3) are at risk of being removed from the minor's home and placed in a more restrictive environment to receive mental health services and supports, including:

(A) an inpatient mental health hospital;

(B) a residential treatment facility; or

(C) a facility or program operated by the Department of Family and Protective Services or an agency that is part of the juvenile justice system.

(b) The commission shall:

(1) maintain a comprehensive plan for the delivery of mental health services and supports to a minor and a minor's family using a system of care framework, including best practices in the financing, administration, governance, and delivery of those services;

(2) enter into memoranda of understanding with the Department of State Health Services, the Department of Family and Protective Services, the Texas Education Agency, the Texas Juvenile Justice Department, and the Texas Correctional Office on Offenders with Medical or Mental Impairments that specify the roles and responsibilities of each agency in implementing the comprehensive plan;

(3) identify appropriate local, state, and federal funding sources to finance infrastructure and mental health services and supports necessary to support state and local system of care framework efforts; and

(4) develop an evaluation system to measure cross-system

performance and outcomes of state and local system of care framework efforts.

(c) In implementing this section, the commission shall consult with stakeholders, including:

(1) minors who have or are at risk of developing a serious emotional disturbance or young adults who received mental health services and supports as a minor with or at risk of developing a serious emotional disturbance; and

(2) family members of those minors or young adults.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0053. IMPLEMENTATION. The commission shall:

(1) monitor the implementation of a system of care framework under Section 547.0052; and

(2) adopt rules necessary to facilitate or adjust that implementation.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0054. TECHNICAL ASSISTANCE FOR LOCAL SYSTEMS OF CARE. The commission may provide technical assistance to a community that implements a local system of care.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER C. SERVICES FOR CHILDREN WITH SEVERE EMOTIONAL DISTURBANCES

Sec. 547.0101. DEFINITIONS. In this subchapter:

(1) "Children with severe emotional disturbances" includes children:

(A) who are at risk of incarceration or placement in a residential mental health facility;

(B) who are students in a special education program under Subchapter A, Chapter 29, Education Code;

(C) with a substance use disorder or a developmental disability; and

(D) for whom a court may appoint the Department of Family and Protective Services as managing conservator.

(2) "Community resource coordination group" means a coordination group established under a memorandum of understanding adopted under Subchapter D, Chapter 522.

(3) "Systems of care services" means a comprehensive state system of mental health services and other necessary and related services that is organized as a coordinated network to meet the multiple and changing needs of children with severe emotional disturbances and their families.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0102. EVALUATIONS BY COMMUNITY RESOURCE COORDINATION GROUPS. (a) Each community resource coordination group shall evaluate the provision of systems of care services in the community that the group serves. The evaluation must:

(1) describe and prioritize services needed by children with severe emotional disturbances in the community;

(2) review and assess the available systems of care services in the community to meet those needs;

(3) assess the integration of the provision of those services; and

(4) identify barriers to the effective provision of those services.

(b) Each community resource coordination group shall create a report that includes the evaluation described by Subsection (a) and related recommendations, including:

(1) suggested policy and statutory changes for agencies providing systems of care services; and

(2) recommendations for overcoming barriers to the provision of systems of care services and improving the integration of those services.

(c) Each community resource coordination group shall submit the report described by Subsection (b) to the commission. The commission shall provide to each group a deadline for submitting the report that

is coordinated with any regional reviews by the commission of the delivery of related services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0103. SUMMARY REPORT BY COMMISSION. (a) The commission shall create a summary report based on the evaluations in the reports submitted to the commission by community resource coordination groups under Section 547.0102. The commission's report must include:

(1) recommendations for policy and statutory changes at each agency involved in providing systems of care services; and

(2) the outcome expected from implementing each recommendation.

(b) The commission may include in the report created under this section recommendations for:

(1) the statewide expansion of sites participating in the Texas System of Care; and

(2) the integration of services provided at those sites with services provided by community resource coordination groups.

(c) The commission shall coordinate, where appropriate, the recommendations in the report created under this section with:

(1) recommendations in the assessment developed under Chapter 23 (S.B. 491), Acts of the 78th Legislature, Regular Session, 2003; and

(2) the continuum of care developed under Section 533.040(d), Health and Safety Code.

(d) The commission shall provide a copy of the report created under this section to each agency for which the report makes a recommendation and to other agencies as appropriate.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0104. AGENCY IMPLEMENTATION OF RECOMMENDATIONS. As appropriate, the person responsible for adopting rules for an agency described by Section 547.0103(a) shall implement the recommendations in the report created under Section 547.0103 by:

(1) adopting rules;
(2) implementing policy changes; and
(3) entering into memoranda of understanding with other agencies.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER D. STATEWIDE BEHAVIORAL HEALTH COORDINATING COUNCIL

Sec. 547.0151. DEFINITION. In this subchapter, "council" means the statewide behavioral health coordinating council.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0152. PURPOSE. The council is established to ensure a strategic statewide approach to behavioral health services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0153. COMPOSITION OF COUNCIL. (a) The council is composed of at least one representative designated by each of the following entities:
(1) the governor's office;
(2) the Texas Veterans Commission;
(3) the commission;
(4) the Department of State Health Services;
(5) the Department of Family and Protective Services;
(6) the Texas Civil Commitment Office;
(7) The University of Texas Health Science Center at Houston;
(8) The University of Texas Health Science Center at Tyler;
(9) the Texas Tech University Health Sciences Center;
(10) the Texas Department of Criminal Justice;
(11) the Texas Correctional Office on Offenders with Medical or Mental Impairments;
(12) the Commission on Jail Standards;

(13) the Texas Indigent Defense Commission;
(14) the court of criminal appeals;
(15) the Texas Juvenile Justice Department;
(16) the Texas Military Department;
(17) the Texas Education Agency;
(18) the Texas Workforce Commission;
(19) the Health Professions Council, representing:
(A) the State Board of Dental Examiners;
(B) the Texas State Board of Pharmacy;
(C) the State Board of Veterinary Medical Examiners;
(D) the Texas Optometry Board;
(E) the Texas Board of Nursing; and
(F) the Texas Medical Board; and
(20) the Texas Department of Housing and Community Affairs.

(b) The executive commissioner shall determine the number of representatives that each entity may designate to serve on the council.

(c) The council may authorize another state agency or institution that provides specific behavioral health services with the use of appropriated money to designate a representative to the council.

(d) A council member serves at the pleasure of the designating entity.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0154. PRESIDING OFFICER. The mental health statewide coordinator shall serve as the presiding officer of the council.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0155. MEETINGS. The council shall meet at least once quarterly or more frequently at the call of the presiding officer.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0156. POWERS AND DUTIES. (a) The council:

(1) shall develop and monitor the implementation of a five-year statewide behavioral health strategic plan;

(2) shall develop a biennial coordinated statewide behavioral health expenditure proposal;

(3) shall annually publish an updated inventory of behavioral health programs and services that this state funds that includes a description of how those programs and services further the purpose of the statewide behavioral health strategic plan;

(4) may create subcommittees to carry out the council's duties under this subchapter; and

(5) may facilitate opportunities to increase collaboration for the effective expenditure of available federal and state funds for behavioral and mental health services in this state.

(b) The council shall include statewide suicide prevention efforts in the five-year statewide behavioral health strategic plan the council develops under Subsection (a).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0157. SUICIDE PREVENTION SUBCOMMITTEE; SUICIDE DATA REPORTS. (a) The council shall create a suicide prevention subcommittee to focus on statewide suicide prevention efforts using information collected by the council from available sources of suicide data reports. The suicide prevention subcommittee shall establish guidelines for the frequent use of those reports in carrying out the council's purpose under this subchapter.

(b) The suicide prevention subcommittee shall establish a method for identifying how suicide data reports are used to make policy.

(c) Public or private entities that collect information regarding suicide and suicide prevention may provide suicide data reports to commission staff the executive commissioner designates to receive those reports.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER E. BEHAVIORAL HEALTH GRANT PROGRAMS GENERALLY

Sec. 547.0201. STREAMLINING PROCESS FOR AWARDING BEHAVIORAL HEALTH GRANTS. (a) The commission shall implement a process to better coordinate behavioral health grants the commission administers. The process must:

(1) streamline the administrative processes at the commission; and

(2) decrease the administrative burden on applicants applying for multiple grants.

(b) The process may include developing a standard application for multiple behavioral health grants.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER F. MATCHING GRANT PROGRAM FOR CERTAIN COMMUNITY MENTAL HEALTH PROGRAMS ASSISTING INDIVIDUALS EXPERIENCING MENTAL ILLNESS

Sec. 547.0251. DEFINITION. In this subchapter, "matching grant program" means the matching grant program established under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0252. MATCHING GRANT PROGRAM. To the extent money is appropriated to the commission for that purpose, the commission shall establish a matching grant program to support community mental health programs providing services and treatment to individuals experiencing mental illness.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0253. MATCHING CONTRIBUTIONS REQUIRED; GRANT CONDITIONS. (a) The commission shall:

(1) condition each grant awarded under this subchapter on the grant recipient obtaining and securing funds to match the grant from non-state sources in amounts of money or other consideration as

required by Subsection (c); and

(2) ensure that each grant recipient obtains or secures contributions to match a grant awarded to the recipient in an amount of money or other consideration as required by Subsection (c).

(b) The matching contributions obtained or secured by the grant recipient, as the executive commissioner determines, may include cash or in-kind contributions from any person but may not include money from state or federal funds.

(c) A grant recipient must leverage funds in an amount equal to:

(1) 25 percent of the grant amount if the community mental health program is located in a county with a population of less than 100,000;

(2) 50 percent of the grant amount if the community mental health program is located in a county with a population of 100,000 or more but less than 250,000;

(3) 100 percent of the grant amount if the community mental health program is located in a county with a population of at least 250,000; and

(4) the percentage of the grant amount otherwise required by this subsection for the largest county in which a community mental health program is located if the community mental health program is located in more than one county.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 547.0254. SELECTION OF RECIPIENTS; APPLICATIONS AND PROPOSALS. The commission shall select grant recipients based on the submission of applications or proposals by nonprofit and governmental entities. The executive commissioner shall develop criteria for evaluating those applications or proposals and the selection of grant recipients. The selection criteria must:

(1) evaluate and score:

(A) fiscal controls for the project;

(B) project effectiveness;

(C) project cost; and

(D) an applicant's previous experience with grants and contracts;

(2) address whether the services proposed in the application or proposal would duplicate services already available in the applicant's service area;

(3) address the possibility of and method for making multiple awards; and

(4) include other factors that the executive commissioner considers relevant.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0255. LOCAL MENTAL HEALTH AUTHORITY INVOLVEMENT. (a) A nonprofit or governmental entity that applies for a grant under this subchapter must:

(1) notify each local mental health authority with a local service area covered wholly or partly by the entity's proposed community mental health program; and

(2) provide in the entity's application a letter of support from each of those local mental health authorities.

(b) The commission shall consider a local mental health authority's written input before awarding a grant under this subchapter and may take any recommendations made by the authority.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0256. USE OF GRANTS AND MATCHING AMOUNTS. A grant awarded under the matching grant program and matching amounts must be used for the sole purpose of supporting community mental health programs that:

(1) provide mental health services and treatment to individuals with a mental illness; and

(2) coordinate mental health services for individuals with a mental illness with other transition support services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

Sec. 547.0257. DISTRIBUTING AND ALLOCATING APPROPRIATED MONEY. (a) The commission shall disburse money appropriated to or obtained by the commission for the matching grant program directly to a grant recipient, as the executive commissioner authorizes.

(b) Except as provided by Subsection (c), from money appropriated to the commission for each fiscal year to implement this subchapter, the commission shall reserve 50 percent of that total to be awarded only as grants to a community mental health program located in a county with a population not greater than 250,000.

(c) Without regard to the limitation provided by Subsection (b) and to the extent money appropriated to the commission to implement this subchapter for a fiscal year remains available to the commission after the commission selects grant recipients for the fiscal year, the commission shall make grants available through a competitive request for proposal process using the remaining money for the fiscal year.

(d) The commission may use a reasonable amount not to exceed five percent of the money appropriated by the legislature for the purposes of this subchapter to pay the administrative costs of implementing this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0258. RULES. The executive commissioner shall adopt rules necessary to implement the matching grant program under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0259. BIENNIAL REPORT. Not later than December 1 of each even-numbered year, the executive commissioner shall submit to the governor, the lieutenant governor, and each member of the legislature a report evaluating the success of the matching grant program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER G. MATCHING GRANT PROGRAM FOR COMMUNITY MENTAL HEALTH PROGRAMS ASSISTING VETERANS AND THEIR FAMILIES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 114, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 547.0301. DEFINITION. In this subchapter, "matching grant program" means the matching grant program established under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 114, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 547.0302. MATCHING GRANT PROGRAM. To the extent funds are appropriated to the commission for that purpose, the commission shall establish a matching grant program to support community mental health programs that provide services and treatment to veterans and their families.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 114, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 547.0303. MATCHING CONTRIBUTIONS REQUIRED. (a) The commission shall ensure that each grant recipient obtains or secures contributions to match a grant awarded to the recipient in amounts of money or other consideration as required by Section 547.0304 or 547.0305.

(b) The money or other consideration obtained or secured by the commission may, as the executive commissioner determines, include

cash or in-kind contributions from private contributors or local governments but may not include state or federal funds.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 114 and S.B. 897, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 547.0304. MATCHING GRANT CONDITIONS: SINGLE COUNTIES. For services and treatment provided in a single county, the commission shall condition each grant provided under this subchapter on a potential grant recipient providing funds from non-state sources in a total amount at least equal to:

(1) 25 percent of the grant amount if the community mental health program to be supported by the grant provides services and treatment in a county with a population of less than 100,000;

(2) 50 percent of the grant amount if the community mental health program to be supported by the grant provides services and treatment in a county with a population of 100,000 or more but less than 250,000; or

(3) 100 percent of the grant amount if the community mental health program to be supported by the grant provides services and treatment in a county with a population of 250,000 or more.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 114 and S.B. 897, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 547.0305. MATCHING GRANT CONDITIONS: MULTIPLE COUNTIES. For a community mental health program that provides services and treatment in more than one county, the commission shall condition each grant provided under this subchapter on a potential grant recipient providing funds from non-state sources in a total amount at

least equal to:

(1) 25 percent of the grant amount if the county with the largest population in which the community mental health program to be supported by the grant provides services and treatment has a population of less than 100,000;

(2) 50 percent of the grant amount if the county with the largest population in which the community mental health program to be supported by the grant provides services and treatment has a population of 100,000 or more but less than 250,000; or

(3) 100 percent of the grant amount if the county with the largest population in which the community mental health program to be supported by the grant provides services and treatment has a population of 250,000 or more.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 114, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 547.0306. SELECTION OF RECIPIENTS; APPLICATIONS AND PROPOSALS. (a) The commission shall select grant recipients based on the submission of applications or proposals by nonprofit and governmental entities.

(b) The executive commissioner shall develop criteria for evaluating the applications or proposals and the selection of grant recipients. The selection criteria must:

(1) evaluate and score:

(A) fiscal controls for the project;

(B) project effectiveness;

(C) project cost; and

(D) an applicant's previous experience with grants and contracts;

(2) address the possibility of and method for making multiple awards; and

(3) include other factors that the executive commissioner considers relevant.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 114, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 547.0307. USE OF GRANTS AND MATCHING AMOUNTS. A grant awarded under the matching grant program must be used for the sole purpose of supporting community mental health programs that:

(1) provide mental health services and treatment to veterans and their families; and

(2) coordinate mental health services for veterans and their families with other transition support services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 114, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 547.0308. DISTRIBUTING AND ALLOCATING APPROPRIATED MONEY. (a) As the executive commissioner authorizes, the commission shall disburse money appropriated to or obtained by the commission for the matching grant program directly to grant recipients.

(b) The commission may use a reasonable amount not to exceed five percent of the money appropriated by the legislature for the purposes of this subchapter to pay the administrative costs of implementing this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 114, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 547.0309. RULES. The executive commissioner shall adopt rules necessary to implement the matching grant program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER H. MATCHING GRANT PROGRAM FOR CERTAIN COMMUNITY COLLABORATIVES TO REDUCE INVOLVEMENT OF INDIVIDUALS WITH MENTAL ILLNESS IN CRIMINAL JUSTICE SYSTEM

Sec. 547.0351. DEFINITION. In this subchapter, "matching grant program" means the matching grant program established under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0352. MATCHING GRANT PROGRAM. The commission shall establish a matching grant program to provide grants to county-based community collaboratives to reduce:

(1) recidivism by, the frequency of arrests of, and incarceration of individuals with mental illness; and

(2) the total wait time for forensic commitment of individuals with mental illness to a state hospital.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0353. MATCHING CONTRIBUTIONS REQUIRED; GRANT CONDITIONS. (a) The commission shall condition each grant provided to a community collaborative under this subchapter on the collaborative providing funds from non-state sources in a total amount at least equal to:

(1) 25 percent of the grant amount if the collaborative includes a county with a population of less than 100,000;

(2) 50 percent of the grant amount if the collaborative includes a county with a population of 100,000 or more but less than 250,000;

(3) 100 percent of the grant amount if the collaborative includes a county with a population of 250,000 or more; and

(4) the percentage of the grant amount otherwise required by this subsection for the largest county included in the

collaborative, if the collaborative includes more than one county.

(b) A community collaborative may seek and receive gifts, grants, or donations from any person to raise the required funds from non-state sources.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0354. COMMUNITY COLLABORATIVE ELIGIBILITY; CERTAIN GRANTS PROHIBITED. (a) A community collaborative may petition the commission to receive a grant under the matching grant program only if the collaborative includes:

(1) a county;

(2) a local mental health authority that operates in the county; and

(3) each hospital district, if any, located in the county.

(b) A collaborative may include other local entities designated by the collaborative's members.

(c) The commission may not award a grant under this subchapter for a fiscal year to a community collaborative that includes a county with a population greater than four million if the legislature appropriates money for a mental health jail diversion program in the county for that fiscal year.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0355. PETITION REQUIRED; CONTENTS. In each state fiscal year for which a community collaborative seeks a grant, the collaborative must submit a petition to the commission not later than the 30th day of that fiscal year. The collaborative must include with a petition:

(1) a statement indicating the amount of funds from non-state sources that the collaborative is able to provide; and

(2) a plan that:

(A) is endorsed by each of the collaborative's member entities;

(B) identifies a target population;

(C) describes how the grant money and the funds from

non-state sources will be used;

(D) includes outcome measures to evaluate the success of the plan; and

(E) describes how the success of the plan, in accordance with the outcome measures, would further the state's interest in the grant program's purposes.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0356. REVIEW OF PETITION BY COMMISSION. The commission must review plans submitted with a petition under Section 547.0355 before the commission provides a grant under this subchapter. The commission must fulfill this requirement not later than the 60th day of each fiscal year.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0357. USE OF GRANT MONEY AND MATCHING FUNDS. Acceptable uses of the grant money and matching funds include:

(1) continuing a mental health jail diversion program;

(2) establishing or expanding a mental health jail diversion program;

(3) establishing alternatives to competency restoration in a state hospital, including outpatient competency restoration, inpatient competency restoration in a setting other than a state hospital, or jail-based competency restoration;

(4) providing assertive community treatment or forensic assertive community treatment with an outreach component;

(5) providing intensive mental health services and substance use treatment not readily available in the county;

(6) providing continuity of care services for an individual being released from a state hospital;

(7) establishing interdisciplinary rapid response teams to reduce law enforcement's involvement with mental health emergencies; and

(8) providing local community hospital, crisis, respite, or residential beds.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0358. REPORT BY COMMUNITY COLLABORATIVE. Not later than the 90th day after the last day of the state fiscal year for which the commission distributes a grant under this subchapter, each grant recipient shall prepare and submit a report to the commission describing the effect of the grant money and matching funds in achieving the standard defined by the outcome measures in the plan submitted with a petition under Section 547.0355.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0359. INSPECTIONS. The commission may inspect the operation and provision of mental health services provided by a community collaborative to ensure state money appropriated for the matching grant program is used effectively.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0360. ALLOCATING APPROPRIATED MONEY. (a) Except as provided by Subsection (b), the commission shall reserve at least 20 percent of money appropriated to the commission for each fiscal year to implement the matching grant program to be awarded only as grants to a community collaborative that includes a county with a population of less than 250,000.

(b) Without regard to the limitation provided by Subsection (a) and to the extent money appropriated to the commission for a fiscal year to implement this subchapter remains available to the commission after the commission has selected grant recipients for the fiscal year, the commission shall make grants available through a competitive request for proposal process using the remaining money for the fiscal year.

(c) The commission may use a reasonable amount not to exceed five percent of the money appropriated by the legislature for the purposes of this subchapter to pay the administrative costs of

implementing this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER I. MATCHING GRANT PROGRAM FOR COMMUNITY COLLABORATIVE IN MOST POPULOUS COUNTY TO REDUCE INVOLVEMENT OF INDIVIDUALS WITH MENTAL ILLNESS IN CRIMINAL JUSTICE SYSTEM

Sec. 547.0401. DEFINITION. In this subchapter, "matching grant program" means the matching grant program established under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0402. MATCHING GRANT PROGRAM. The commission shall establish a matching grant program to provide a grant to a county-based community collaborative in the most populous county in this state to reduce:

(1) recidivism by, the frequency of arrests of, and incarceration of individuals with mental illness; and

(2) the total wait time for forensic commitment of individuals with mental illness to a state hospital.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0403. MATCHING CONTRIBUTIONS REQUIRED; GRANT CONDITIONS. (a) The commission shall condition a grant provided to the community collaborative under this subchapter on the collaborative providing funds from non-state sources in a total amount at least equal to the grant amount.

(b) A community collaborative may seek and receive gifts, grants, or donations from any person to raise the required funds from non-state sources.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0404. COMMUNITY COLLABORATIVE ELIGIBILITY. (a) A community collaborative may receive a grant under the matching grant program only if the collaborative includes:

(1) the county;

(2) a local mental health authority operating in the county; and

(3) each hospital district located in the county.

(b) A collaborative may include other local entities designated by the collaborative's members.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0405. DISTRIBUTION OF GRANT. Not later than the 30th day of each fiscal year, the commission shall make available to the community collaborative established in the county described by Section 547.0402 a grant in an amount equal to the lesser of:

(1) the amount appropriated to the commission for that fiscal year for a mental health jail diversion pilot program in that county; or

(2) the collaborative's available matching funds.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0406. USE OF GRANT MONEY AND MATCHING FUNDS. Acceptable uses of the grant money and matching funds include:

(1) continuing a mental health jail diversion program;

(2) establishing or expanding a mental health jail diversion program;

(3) establishing alternatives to competency restoration in a state hospital, including outpatient competency restoration, inpatient competency restoration in a setting other than a state hospital, or jail-based competency restoration;

(4) providing assertive community treatment or forensic assertive community treatment with an outreach component;

(5) providing intensive mental health services and

substance use treatment not readily available in the county;

(6) providing continuity of care services for an individual being released from a state hospital;

(7) establishing interdisciplinary rapid response teams to reduce law enforcement's involvement with mental health emergencies; and

(8) providing local community hospital, crisis, respite, or residential beds.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0407. REPORT BY COMMUNITY COLLABORATIVE. Not later than the 90th day after the last day of the state fiscal year for which the commission distributes a grant under this subchapter, the grant recipient shall prepare and submit a report to the commission describing the effect of the grant money and matching funds in fulfilling the purpose described by Section 547.0402.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547.0408. INSPECTIONS. The commission may inspect the operation and provision of mental health services provided by the community collaborative to ensure state money appropriated for the matching grant program is used effectively.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

CHAPTER 547A. COMMUNITY COLLABORATIVES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 547A.0001. GRANTS FOR ESTABLISHING AND EXPANDING COMMUNITY COLLABORATIVES. (a) To the extent funds are appropriated to the commission for that purpose, the commission shall make grants to entities, including local governmental entities, nonprofit community

organizations, and faith-based community organizations, to establish or expand community collaboratives that bring the public and private sectors together to provide services to individuals experiencing homelessness, substance use issues, or mental illness. In awarding grants, the commission shall give special consideration to entities:

(1) establishing new collaboratives; or

(2) establishing or expanding collaboratives that serve two or more counties, each with a population of less than 100,000.

(b) Except as provided by Subsection (c), the commission shall require each entity awarded a grant under this section to:

(1) leverage additional funding or in-kind contributions from private contributors or local governments, excluding state or federal funds, in an amount that is at least equal to the amount of the grant awarded under this section;

(2) provide evidence of significant coordination and collaboration between the entity, local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in establishing or expanding a community collaborative funded by a grant awarded under this section; and

(3) provide evidence of a local law enforcement policy to divert appropriate individuals from jails or other detention facilities to an entity affiliated with a community collaborative for the purpose of providing services to those individuals.

(c) The commission may award a grant under this section to an entity for the purpose of establishing a community mental health program in a county with a population of less than 250,000, if the entity leverages additional funding or in-kind contributions from private contributors or local governments, excluding state or federal funds, in an amount equal to one-quarter of the grant amount to be awarded under this section, and the entity otherwise meets the requirements of Subsections (b)(2) and (3).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547A.0002. ACCEPTABLE USES OF GRANT MONEY. An entity shall use money received from a grant made by the commission and private funding sources to establish or expand a community collaborative. Acceptable uses for the money include:

(1) developing the infrastructure of the collaborative and the start-up costs of the collaborative;

(2) establishing, operating, or maintaining other community service providers in the community the collaborative serves, including intake centers, detoxification units, sheltering centers for food, workforce training centers, microbusinesses, and educational centers;

(3) providing clothing, hygiene products, and medical services to and arranging transitional and permanent residential housing for individuals the collaborative serves;

(4) providing mental health services and substance use treatment not readily available in the community the collaborative serves;

(5) providing information, tools, and resource referrals to assist individuals the collaborative serves in addressing the needs of their children; and

(6) establishing and operating coordinated intake processes, including triage procedures, to protect public safety in the community the collaborative serves.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547A.0003. ELEMENTS OF COMMUNITY COLLABORATIVES. (a) If appropriate, an entity may incorporate into the community collaborative the entity operates the use of the homeless management information system, transportation plans, and case managers. An entity may also consider incorporating into a collaborative mentoring and volunteering opportunities, strategies to assist homeless youth and homeless families with children, strategies to reintegrate individuals who were recently incarcerated into the community, services for veterans, and strategies for individuals the collaborative serves to participate in the planning, governance, and oversight of the collaborative.

(b) The focus of a community collaborative shall be the eventual successful transition of individuals from receiving services from the collaborative to becoming integrated into the community the collaborative serves through community relationships and family supports.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547A.0004. OUTCOME MEASURES FOR COMMUNITY COLLABORATIVES. Each entity that receives a grant from the commission to establish or expand a community collaborative shall select at least four of the following outcome measures that the entity will focus on meeting through implementing and operating the collaborative:

(1) individuals the collaborative serves finding employment that results in those individuals having incomes that are at or above 100 percent of the federal poverty level;

(2) individuals the collaborative serves finding permanent housing;

(3) individuals the collaborative serves completing alcohol or substance use programs;

(4) the collaborative helping to start social businesses in the community or engaging in job creation, job training, or other workforce development activities;

(5) a decrease in the use of jail beds by individuals the collaborative serves;

(6) a decrease in the need for emergency care by individuals the collaborative serves;

(7) a decrease in the number of children whose families lack adequate housing referred to the Department of Family and Protective Services or a local entity responsible for child welfare; and

(8) any other appropriate outcome measure the commission approves that measures whether a collaborative is meeting a specific need of the community the collaborative serves.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547A.0005. PLAN REQUIRED FOR CERTAIN COMMUNITY COLLABORATIVES. (a) The governing body of a county shall develop and make public a plan detailing the method by which:

(1) local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in the

county may coordinate to establish or expand a community collaborative to accomplish the goals of Section 547A.0001;

(2) entities in the county may leverage funding from private sources to accomplish the goals of Section 547A.0001 through the formation or expansion of a community collaborative; and

(3) the formation or expansion of a community collaborative may establish or support resources or services to help local law enforcement agencies to divert individuals who have been arrested to appropriate mental health care or substance use treatment.

(b) The governing body of a county in which an entity that received a grant under former Section 539.002 before September 1, 2017, is located is not required to develop a plan under Subsection (a).

(c) Two or more counties, each with a population of less than 100,000, may form a joint plan under Subsection (a).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547A.0006. ANNUAL REVIEW OF OUTCOME MEASURES. The commission shall contract with an independent third party to verify annually whether a community collaborative is meeting the outcome measures the entity that operates the collaborative selects under Section 547A.0004.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547A.0007. REDUCTION AND CESSATION OF FUNDING. The commission shall establish processes by which the commission may reduce or cease providing funding to an entity if the community collaborative the entity operates does not meet the outcome measures the entity for the collaborative selects under Section 547A.0004. The commission shall redistribute on a competitive basis any funds withheld from an entity under this section to other entities operating high-performing collaboratives.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547A.0008. RULES. The executive commissioner shall adopt any rules necessary to implement the community collaborative grant program established under this chapter, including rules establishing:

(1) the requirements for an entity to be eligible to receive a grant;

(2) the required elements of a community collaborative an entity operates; and

(3) permissible and prohibited uses of money an entity receives from a grant the commission makes.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 547A.0009. ADMINISTRATIVE COSTS. The commission may use a reasonable amount not to exceed five percent of the money the legislature appropriates for the purposes of this chapter to pay administrative costs of implementing this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

CHAPTER 548. HEALTH CARE SERVICES PROVIDED THROUGH TELE-CONNECTIVE MEANS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 548.0001. PROVISION OF SERVICES THROUGH TELECOMMUNICATIONS AND INFORMATION TECHNOLOGY UNDER MEDICAID AND OTHER PUBLIC BENEFITS PROGRAMS. (a) In this section:

(1) "Behavioral health services" has the meaning assigned by Section 540.0703.

(2) "Case management services" includes service coordination, service management, and care coordination.

(b) To the extent permitted by federal law and to the extent it is cost-effective and clinically effective, as the commission determines, the commission shall ensure that Medicaid recipients, child health plan program enrollees, and other individuals receiving benefits under a public benefits program the commission or a health and human services agency administers, regardless of whether

receiving benefits through a managed care delivery model or another delivery model, have the option to receive services as telemedicine medical services, telehealth services, or otherwise using telecommunications or information technology, including the following services:

(1) preventive health and wellness services;

(2) case management services, including targeted case management services;

(3) subject to Subsection (c), behavioral health services;

(4) occupational, physical, and speech therapy services;

(5) nutritional counseling services; and

(6) assessment services, including nursing assessments under the following Section 1915(c) waiver programs:

(A) the community living assistance and support services (CLASS) waiver program;

(B) the deaf-blind with multiple disabilities (DBMD) waiver program;

(C) the home and community-based services (HCS) waiver program; and

(D) the Texas home living (TxHmL) waiver program.

(c) To the extent permitted by state and federal law and to the extent it is cost-effective and clinically effective, as the commission determines, the executive commissioner by rule shall develop and implement a system that ensures behavioral health services may be provided using an audio-only platform consistent with Section 111.008, Occupations Code, to a Medicaid recipient, a child health plan program enrollee, or another individual receiving those services under another public benefits program the commission or a health and human services agency administers.

(d) If the executive commissioner determines that providing services other than behavioral health services is appropriate using an audio-only platform under a public benefits program the commission or a health and human services agency administers, in accordance with applicable federal and state law, the executive commissioner may by rule authorize the provision of those services under the applicable program using the audio-only platform. In determining whether the use of an audio-only platform in a program is appropriate under this subsection, the executive commissioner shall consider whether using the platform would be cost-effective and clinically effective.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0002. RULES AND PROCEDURES REGARDING REIMBURSING CERTAIN TELEMEDICINE MEDICAL SERVICES. (a) In addition to the authority granted by other law regarding telemedicine medical services, the executive commissioner may review rules and procedures applicable to reimbursement of a telemedicine medical service provided through any government-funded health program subject to the commission's oversight. The executive commissioner may modify the rules and procedures as necessary to ensure that reimbursement for a telemedicine medical service is provided:

(1) in a cost-effective manner; and

(2) only in circumstances in which providing the service is clinically effective.

(b) This section does not affect the commission's authority or duties under other law regarding reimbursing a telemedicine medical service under Medicaid.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER B. TELEMEDICINE MEDICAL, TELEDENTISTRY DENTAL, TELEHEALTH, AND HOME TELEMONITORING SERVICES PROVIDED UNDER MEDICAID IN GENERAL

Sec. 548.0051. MEDICAID REIMBURSEMENT SYSTEM FOR TELEMEDICINE MEDICAL, TELEDENTISTRY DENTAL, AND TELEHEALTH SERVICES. The executive commissioner by rule shall develop and implement a system to reimburse Medicaid providers for telemedicine medical services, teledentistry dental services, or telehealth services performed.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0052. REIMBURSEMENT FOR TELEMEDICINE MEDICAL, TELEDENTISTRY DENTAL, OR TELEHEALTH SERVICE BY MEDICAID MANAGED CARE ORGANIZATION. (a) The commission shall ensure that a Medicaid managed care organization does not:

(1) deny reimbursement for a covered health care service or procedure delivered by a health care provider with whom the organization contracts to a Medicaid recipient as a telemedicine medical service, teledentistry dental service, or telehealth service solely because the covered service or procedure is not provided through an in-person consultation; or

(2) limit, deny, or reduce reimbursement for a covered health care service or procedure delivered by a health care provider with whom the organization contracts to a Medicaid recipient as a telemedicine medical service, teledentistry dental service, or telehealth service based on the provider's choice of platform for providing the health care service or procedure.

(b) In complying with state and federal requirements to provide access to medically necessary services under the Medicaid managed care program, a Medicaid managed care organization determining whether reimbursement for a telemedicine medical service, teledentistry dental service, or telehealth service is appropriate shall continue to consider other factors, including whether:

(1) reimbursement is cost-effective; and

(2) providing the service is clinically effective.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0053. REIMBURSEMENT OF FEDERALLY QUALIFIED HEALTH CENTERS FOR TELEMEDICINE MEDICAL, TELEDENTISTRY DENTAL, OR TELEHEALTH SERVICE. (a) Subject to Subsection (b), the executive commissioner by rule shall ensure that a rural health clinic as defined by 42 U.S.C. Section 1396d(l)(1) and a federally qualified health center as defined by 42 U.S.C. Section 1396d(l)(2)(B) may be reimbursed for the originating site facility fee or the distant site practitioner fee or both, as appropriate, for a covered telemedicine medical service, teledentistry dental service, or telehealth service delivered by a health care provider to a Medicaid recipient.

(b) The commission is required to implement this section only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commission may, but is not required to, implement this section using other money available to the commission for that

purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0054. PROVIDER AND FACILITY PARTICIPATION. (a) The commission shall encourage health care providers and health care facilities to provide telemedicine medical services, teledentistry dental services, and telehealth services in the health care delivery system. The commission may not require that a service be provided to a patient through telemedicine medical services, teledentistry dental services, or telehealth services.

(b) The commission shall explore opportunities to increase STAR Health program providers' use of telemedicine medical services in medically underserved areas of this state.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0055. PROMOTION AND SUPPORT OF MEDICAL HOME AND CARE COORDINATION. (a) The commission shall ensure that a Medicaid managed care organization ensures that using telemedicine medical services, teledentistry dental services, or telehealth services promotes and supports patient-centered medical homes by allowing a Medicaid recipient to receive a telemedicine medical service, teledentistry dental service, or telehealth service from a provider other than the recipient's primary care physician or provider, except as provided by Section 548.0202(b), only if:

(1) the service is provided in accordance with the law and contract requirements applicable to providing the same health care service in an in-person setting, including requirements regarding care coordination; and

(2) subject to Subsection (b), the provider of the service gives notice to the Medicaid recipient's primary care physician or provider regarding the service, including a summary of the service, exam findings, a list of prescribed or administered medications, and patient instructions, for the purpose of sharing medical information.

(b) A provider of a telemedicine medical service, teledentistry dental service, or telehealth service is required to provide notice

under Subsection (a)(2) only if:

(1) the recipient has a primary care physician or provider; and

(2) the recipient or, if appropriate, the recipient's parent or legal guardian, consents to the notice.

(c) The commission shall develop, document, and implement a monitoring process to ensure that a Medicaid managed care organization ensures that using telemedicine medical services, teledentistry dental services, or telehealth services promotes and supports patient-centered medical homes and care coordination in accordance with Subsection (a). The process must include monitoring of the rate at which a telemedicine medical service, teledentistry dental service, or telehealth service provider gives notice in accordance with Subsection (a)(2).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0056. BIENNIAL REPORT. Not later than December 1 of each even-numbered year, the commission shall report to the speaker of the house of representatives and the lieutenant governor on the effects of telemedicine medical services, teledentistry dental services, telehealth services, and home telemonitoring services on Medicaid in this state, including:

(1) the number of physicians, dentists, health professionals, and licensed health care facilities using the services;

(2) the geographic and demographic disposition of the physicians, dentists, and health professionals;

(3) the number of patients receiving the services;

(4) the types of services being provided;

(5) the utilization cost; and

(6) the cost savings to Medicaid from using the services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0057. RULES. Subject to Sections 111.004 and 153.004, Occupations Code, the executive commissioner may adopt rules as

necessary to implement this subchapter. In the rules adopted under this subchapter, the executive commissioner shall refer to:

(1) the site where the patient is physically located as the patient site; and

(2) the site where the physician, dentist, or health professional providing the telemedicine medical service, teledentistry dental service, or telehealth service is physically located as the distant site.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER C. PROVISION OF AND REIMBURSEMENT FOR TELEMEDICINE MEDICAL AND TELEHEALTH SERVICES IN GENERAL

Sec. 548.0101. DEFINITIONS. In this subchapter:

(1) "Health professional" means:

(A) a physician;

(B) an individual who is:

(i) licensed or certified in this state to perform health care services; and

(ii) authorized to assist a physician in providing telemedicine medical services that are delegated and supervised by the physician; or

(C) a licensed or certified health professional acting within the scope of the license or certification who does not perform a telemedicine medical service.

(2) "Physician" means an individual licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0102. MEDICAID REIMBURSEMENT REQUIREMENTS: TELEMEDICINE MEDICAL SERVICES. (a) The executive commissioner by rule shall require each health and human services agency that administers a part of Medicaid to provide Medicaid reimbursement for a telemedicine medical service initiated or provided by a physician.

(b) The commission shall ensure that reimbursement is provided only for a telemedicine medical service a physician initiates or

provides.

(c) The commission shall require reimbursement for a telemedicine medical service at the same rate Medicaid reimburses for the same in-person medical service.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0103. PHYSICIAN'S CHOICE OF PLATFORM. The commission may not limit a physician's choice of platform for providing a telemedicine medical service or telehealth service by requiring that the physician use a particular platform to receive Medicaid reimbursement for the service.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0104. CERTAIN TELEMEDICINE MEDICAL SERVICE REIMBURSEMENT DENIALS PROHIBITED. A request for Medicaid reimbursement for a telemedicine medical service may not be denied solely because an in-person medical service between a physician and a patient did not occur.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0105. PROTOCOLS AND GUIDELINES. A health care facility that receives reimbursement under this subchapter for a telemedicine medical service provided by a physician who practices in that facility or a health professional who participates in a telemedicine medical service under this subchapter shall establish quality of care protocols and patient confidentiality guidelines to ensure that the telemedicine medical service meets legal requirements and acceptable patient care standards.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0106. PROVIDER COORDINATION. If a patient receiving a telemedicine medical service has a primary care physician or provider and the patient or, if appropriate, the patient's parent or legal guardian consents to the notification, the commission shall require that the primary care physician or provider be notified of the telemedicine medical service for the purpose of sharing medical information.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0107. COMPLIANCE. The commission in consultation with the Texas Medical Board shall monitor and regulate the use of telemedicine medical services to ensure compliance with this subchapter. In addition to any other method of enforcement, the commission may use a corrective action plan to ensure compliance with this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0108. TEXAS MEDICAL BOARD RULES. The Texas Medical Board, in consultation with the commission, as appropriate, may adopt rules as necessary to:

(1) ensure that appropriate care, including quality of care, is provided to patients who receive telemedicine medical services; and

(2) prevent abuse and fraud through the use of telemedicine medical services, including rules relating to filing claims and records required to be maintained in connection with telemedicine.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0109. EFFECT ON OTHER REQUIREMENTS. This subchapter does not affect any requirement relating to:

(1) a rural health clinic; or

(2) physician delegation to an advanced practice nurse or

physician assistant of the authority to carry out or sign prescription drug orders.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER D. PROVISION OF AND REIMBURSEMENT FOR TELEDENTISTRY DENTAL SERVICES IN GENERAL

Sec. 548.0151. MEDICAID REIMBURSEMENT REQUIREMENTS. (a) The executive commissioner by rule shall require each health and human services agency that administers a part of Medicaid to provide Medicaid reimbursement for teledentistry dental services provided by a dentist licensed to practice dentistry in this state.

(b) The commission shall require reimbursement for a teledentistry dental service at the same rate as the Medicaid program reimburses for the same in-person dental service.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0152. DENTIST'S CHOICE OF PLATFORM. The commission may not limit a dentist's choice of platform for providing a teledentistry dental service by requiring that the dentist use a particular platform to receive reimbursement for the service.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0153. CERTAIN TELEDENTISTRY DENTAL SERVICES REIMBURSEMENT DENIALS PROHIBITED. A request for reimbursement may not be denied solely because an in-person dental service between a dentist and a patient did not occur.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0154. STATE BOARD OF DENTAL EXAMINERS RULES. The

State Board of Dental Examiners, in consultation with the commission and the commission's office of inspector general, as appropriate, may adopt rules as necessary to:

(1) ensure that appropriate care, including quality of care, is provided to patients who receive teledentistry dental services; and

(2) prevent abuse and fraud through the use of teledentistry dental services, including rules relating to filing claims and the records required to be maintained in connection with teledentistry dental services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER E. REIMBURSEMENT FOR TELEMEDICINE MEDICAL, TELEDENTISTRY DENTAL, AND TELEHEALTH SERVICES PROVIDED TO CERTAIN CHILDREN

Sec. 548.0201. REIMBURSEMENT FOR TELEMEDICINE MEDICAL, TELEDENTISTRY DENTAL, AND TELEHEALTH SERVICES PROVIDED TO CHILDREN WITH SPECIAL HEALTH CARE NEEDS. (a) In this section, "child with special health care needs" has the meaning assigned by Section 35.0022, Health and Safety Code.

(b) The executive commissioner by rule shall establish policies that permit reimbursement under Medicaid and the child health plan program for services provided through telemedicine medical services, teledentistry dental services, and telehealth services to children with special health care needs.

(c) The policies required under this section must:

(1) be designed to:

(A) prevent unnecessary travel and encourage efficient use of telemedicine medical services, teledentistry dental services, and telehealth services for children with special health care needs in all suitable circumstances; and

(B) ensure in a cost-effective manner the availability to a child with special health care needs of services appropriately performed using telemedicine medical services, teledentistry dental services, and telehealth services that are comparable to the same types of services available to that child without using telemedicine medical services, teledentistry dental services, and telehealth services; and

(2) provide for reimbursement of multiple providers of different services who participate in a single session of telemedicine medical services, teledentistry dental services, telehealth services, or any combination of those services for a child with special health care needs, if the commission determines that reimbursing each provider for the session is cost-effective in comparison to the costs that would be involved in obtaining the services from providers without using telemedicine medical services, teledentistry dental services, and telehealth services, including the costs of transportation and lodging and other direct costs.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0202. MEDICAID REIMBURSEMENT FOR TELEMEDICINE MEDICAL SERVICES PROVIDED IN SCHOOL-BASED SETTING. (a) In this section, "physician" means an individual licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code.

(b) The commission shall ensure that Medicaid reimbursement is provided to a physician for a telemedicine medical service provided by the physician, even if the physician is not the patient's primary care physician or provider, if:

(1) the physician is an authorized Medicaid health care provider;

(2) the patient is a child who receives the service in a primary or secondary school-based setting; and

(3) the parent or legal guardian of the patient provides consent before the service is provided.

(c) In the case of a telemedicine medical service provided to a child in a school-based setting as described by Subsection (b), the notification under Section 548.0106, if any, must include a summary of the service, including exam findings, prescribed or administered medications, and patient instructions.

(d) If a patient receiving a telemedicine medical service in a school-based setting as described by Subsection (b) does not have a primary care physician or provider, the commission shall require that the patient's parent or legal guardian receive:

(1) the notification required under Section 548.0106; and

(2) a list of primary care physicians or providers from

which the patient may select the patient's primary care physician or provider.

(e) The commission in consultation with the Texas Medical Board shall monitor and regulate the use of telemedicine medical services to ensure compliance with this section. In addition to any other method of enforcement, the commission may use a corrective action plan to ensure compliance with this section.

(f) The Texas Medical Board, in consultation with the commission, as appropriate, may adopt rules as necessary to:

(1) ensure that appropriate care, including quality of care, is provided to patients who receive telemedicine medical services; and

(2) prevent abuse and fraud through the use of telemedicine medical services, including rules relating to filing of claims and records required to be maintained in connection with telemedicine.

(g) This section does not affect any requirement relating to:

(1) a rural health clinic; or

(2) physician delegation to an advanced practice nurse or physician assistant of the authority to carry out or sign prescription drug orders.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2598, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 548.0203. MEDICAID REIMBURSEMENT FOR TELEHEALTH SERVICES PROVIDED THROUGH SCHOOL DISTRICT OR CHARTER SCHOOL. (a) In this section, "health professional" means an individual who is:

(1) licensed, registered, certified, or otherwise authorized by this state to practice as a social worker, occupational therapist, or speech-language pathologist;

(2) a licensed professional counselor;

(3) a licensed marriage and family therapist; or

(4) a licensed specialist in school psychology.

(b) The commission shall ensure that Medicaid reimbursement is provided to a school district or open-enrollment charter school for telehealth services provided through the school district or charter

school by a health professional, even if the health professional is not the patient's primary care provider, if:

(1) the school district or charter school is an authorized Medicaid health care provider; and

(2) the parent or legal guardian of the patient provides consent before the service is provided.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER F. MEDICAID REIMBURSEMENT FOR HOME TELEMONITORING SERVICES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 548.0251. DEFINITIONS. In this subchapter:

(1) "Home and community support services agency" means a person licensed under Chapter 142, Health and Safety Code, to provide home health, hospice, or personal assistance services as those terms are defined by Section 142.001, Health and Safety Code.

(2) "Hospital" means a hospital licensed under Chapter 241, Health and Safety Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 548.0252. MEDICAID REIMBURSEMENT PROGRAM FOR HOME TELEMONITORING SERVICES AUTHORIZED. If the commission determines that establishing a statewide program that permits Medicaid reimbursement for home telemonitoring services would be cost-effective and feasible, the executive commissioner by rule shall establish the program as provided by this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 548.0253. REIMBURSEMENT PROGRAM REQUIREMENTS. (a) A program established under this subchapter must:

(1) provide that home telemonitoring services are available only to an individual who:

(A) is diagnosed with one or more of the following conditions:

(i) pregnancy;

(ii) diabetes;

(iii) heart disease;

(iv) cancer;

(v) chronic obstructive pulmonary disease;

(vi) hypertension;

(vii) congestive heart failure;

(viii) mental illness or serious emotional disturbance;

(ix) asthma;

(x) myocardial infarction; or

(xi) stroke; and

(B) exhibits two or more of the following risk factors:

(i) two or more hospitalizations in the prior 12-month period;

(ii) frequent or recurrent emergency room admissions;

(iii) a documented history of poor adherence to ordered medication regimens;

(iv) a documented history of falls in the prior six-month period;

(v) limited or absent informal support systems;

(vi) living alone or being home alone for extended periods; and

(vii) a documented history of care access challenges;

(2) ensure that clinical information gathered by a home and community support services agency or hospital while providing home telemonitoring services is shared with the patient's physician; and

(3) ensure that the program does not duplicate disease management program services provided under Section 32.057, Human

Resources Code.

(b) Notwithstanding Subsection (a)(1), a program established under this subchapter must also provide that home telemonitoring services are available to pediatric individuals who:

(1) are diagnosed with end-stage solid organ disease;

(2) have received an organ transplant; or

(3) require mechanical ventilation.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 548.0254. DISCONTINUATION OF REIMBURSEMENT PROGRAM UNDER CERTAIN CIRCUMSTANCES. If, after implementation, the commission determines that the program established under this subchapter is not cost-effective, the commission may discontinue the program and stop providing Medicaid reimbursement for home telemonitoring services, notwithstanding Subchapter B or any other law.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0255. DETERMINATION OF COST SAVINGS FOR MEDICARE PROGRAM. The commission shall determine whether providing home telemonitoring services to individuals who are eligible to receive benefits under both Medicaid and the Medicare program achieves cost savings for the Medicare program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 548.0256. REIMBURSEMENT FOR OTHER CONDITIONS AND RISK

FACTORS. (a) To comply with state and federal requirements to provide access to medically necessary services under the Medicaid managed care program, a Medicaid managed care organization may reimburse providers for home telemonitoring services provided to individuals who have conditions and exhibit risk factors other than those expressly authorized by this subchapter.

(b) In determining whether the Medicaid managed care organization should provide reimbursement for services under this section, the organization shall consider whether reimbursement for the service is cost-effective and providing the service is clinically effective.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER G. MEDICAID REIMBURSEMENT FOR INTERNET MEDICAL CONSULTATIONS

Sec. 548.0301. DEFINITION. In this subchapter, "physician" means an individual licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0302. MEDICAID REIMBURSEMENT FOR INTERNET MEDICAL CONSULTATION AUTHORIZED. (a) The executive commissioner by rule may require the commission and each health and human services agency that administers a part of Medicaid to provide Medicaid reimbursement for a medical consultation that a physician or other health care professional provides using the Internet as a cost-effective alternative to an in-person consultation.

(b) The executive commissioner may require the commission or a health and human services agency to provide the reimbursement described by this section only if the Centers for Medicare and Medicaid Services develops an appropriate Current Procedural Terminology code for medical services provided using the Internet.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0303. PILOT PROGRAM FOR MEDICAID REIMBURSEMENT FOR INTERNET MEDICAL CONSULTATION. (a) The executive commissioner may develop and implement a pilot program in one or more sites the executive commissioner chooses under which Medicaid reimbursements are paid for medical consultations provided by physicians or other health care professionals using the Internet. The pilot program must be designed to test whether an Internet medical consultation is a cost-effective alternative to an in-person consultation under Medicaid.

(b) The executive commissioner may modify the pilot program as necessary throughout the program's implementation to maximize the potential cost-effectiveness of Internet medical consultations.

(c) If the executive commissioner determines from the pilot program that Internet medical consultations are cost-effective, the executive commissioner may expand the pilot program to additional sites or implement Medicaid reimbursements for Internet medical consultations statewide.

(d) The executive commissioner is not required to implement the pilot program authorized under Subsection (a) as a prerequisite to providing Medicaid reimbursement authorized by Section 548.0302 on a statewide basis.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER H. PEDIATRIC TELE-CONNECTIVITY RESOURCE PROGRAM FOR RURAL TEXAS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 18, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 548.0351. DEFINITIONS. In this subchapter:

(1) "Nonurban health care facility" means a hospital licensed under Chapter 241, Health and Safety Code, or other licensed health care facility in this state that is located in a rural area as defined by Section 845.002, Insurance Code.

(2) "Pediatric specialist" means a physician who is certified in general pediatrics by the American Board of Pediatrics

or American Osteopathic Board of Pediatrics.

(3) "Pediatric subspecialist" means a physician who is certified in a pediatric subspecialty by a member board of the American Board of Medical Specialties or American Osteopathic Board of Pediatrics.

(4) "Pediatric tele-specialty provider" means a pediatric health care facility in this state that offers continuous access to telemedicine medical services provided by pediatric subspecialists.

(5) "Physician" means an individual licensed to practice medicine in this state.

(6) "Program" means the pediatric tele-connectivity resource program for rural Texas established under this subchapter.

(7) Notwithstanding Section 521.0001, "telemedicine medical service" means a health care service delivered to a patient:

(A) by a physician acting within the scope of the physician's license or a health professional acting under the delegation and supervision of a physician and within the scope of the health professional's license;

(B) from a physical location that is different from the patient's location; and

(C) using telecommunications or information technology.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 18, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 548.0352. ESTABLISHMENT OF PEDIATRIC TELE-CONNECTIVITY RESOURCE PROGRAM FOR RURAL TEXAS. The commission with any necessary assistance of pediatric tele-specialty providers shall establish a pediatric tele-connectivity resource program for rural Texas to award grants to nonurban health care facilities to connect the facilities with pediatric specialists and pediatric subspecialists who provide telemedicine medical services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 18, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 548.0353. USE OF PROGRAM GRANT. A nonurban health care facility awarded a grant under this subchapter may use grant money to:

(1) purchase equipment necessary for implementing a telemedicine medical service;

(2) modernize the facility's information technology infrastructure and secure information technology support to ensure an uninterrupted two-way video signal that is compliant with the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191);

(3) pay a service fee to a pediatric tele-specialty provider under an annual contract with the provider; or

(4) pay for other activities, services, supplies, facilities, resources, and equipment the commission determines necessary for the facility to use a telemedicine medical service.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 18, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 548.0354. SELECTION OF PROGRAM GRANT RECIPIENTS. (a) The commission with any necessary assistance of pediatric tele-specialty providers may select an eligible nonurban health care facility to receive a grant under this subchapter.

(b) To be eligible for a grant, a nonurban health care facility must have:

(1) a quality assurance program that measures the compliance of the facility's health care providers with the facility's medical protocols;

(2) on staff at least one full-time equivalent physician who has training and experience in pediatrics and one individual who is responsible for ongoing nursery and neonatal support and care;

(3) a designated neonatal intensive care unit or an emergency department;

(4) a commitment to obtaining neonatal or pediatric education from a tertiary facility to expand the facility's depth and breadth of telemedicine medical service capabilities; and

(5) the capability of maintaining records and producing reports that measure the effectiveness of the grant the facility would receive.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0355. GIFTS, GRANTS, AND DONATIONS. (a) The commission may solicit and accept gifts, grants, and donations from any public or private source for the purposes of this subchapter.

(b) A political subdivision that participates in the program may pay part of the costs of the program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 18, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 548.0356. WORK GROUP. (a) The commission may establish a program work group to:

(1) assist the commission with developing, implementing, or evaluating the program; and

(2) prepare a report on the results and outcomes of the grants awarded under this subchapter.

(b) A program work group member is not entitled to compensation for serving on the program work group and may not be reimbursed for travel or other expenses incurred while conducting the business of the program work group.

(c) A program work group is not subject to Chapter 2110.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 18, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 548.0357. BIENNIAL REPORT. Not later than December 1 of each even-numbered year, the commission shall submit a report to the governor and members of the legislature regarding the activities of the program and grant recipients under the program, including the results and outcomes of grants awarded under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0358. RULES. The executive commissioner may adopt rules necessary to implement this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 548.0359. APPROPRIATION REQUIRED. The commission may not spend state funds to accomplish the purposes of this subchapter and is not required to award a grant under this subchapter unless money is appropriated for the purposes of this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER I. TELEHEALTH TREATMENT PROGRAM FOR SUBSTANCE USE DISORDERS

Sec. 548.0401. TELEHEALTH TREATMENT PROGRAM FOR SUBSTANCE USE DISORDERS. The executive commissioner by rule shall establish a program to increase opportunities and expand access to telehealth treatment for substance use disorders in this state.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

CHAPTER 549. PROVISION OF DRUGS AND DRUG INFORMATION

SUBCHAPTER A. GENERAL PROVISIONS APPLICABLE TO PROVISION OF DRUGS UNDER VENDOR DRUG PROGRAM AND CERTAIN OTHER PROGRAMS

Sec. 549.0001. BULK PURCHASING WITH ANOTHER STATE OF PRESCRIPTION DRUGS AND OTHER MEDICATIONS. (a) Subject to Subsection (b), the commission and each health and human services agency the executive commissioner authorizes may enter into an agreement with one or more other states for the joint bulk purchasing of prescription drugs and other medications to be used in Medicaid, the child health plan program, or another program under the commission's authority.

(b) A joint bulk purchasing agreement may not be entered into until:

(1) the commission determines that entering into the agreement would be feasible and cost-effective; and

(2) if appropriated money would be spent under the proposed agreement, the governor and the Legislative Budget Board grant prior approval to spend appropriated money under the proposed agreement.

(c) In determining the feasibility and cost-effectiveness of entering into a joint bulk purchasing agreement, the commission shall identify:

(1) the most cost-effective existing joint bulk purchasing agreement; and

(2) any potential groups of states with which this state could enter into a new cost-effective joint bulk purchasing agreement.

(d) If a joint bulk purchasing agreement is entered into, the commission shall adopt procedures applicable to an agreement and joint purchase described by this section. The procedures must ensure that this state receives:

(1) all prescription drugs and other medications purchased with money provided by this state; and

(2) an equitable share of any price benefits resulting from the joint bulk purchase.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0002. VALUE-BASED ARRANGEMENT IN MEDICAID VENDOR DRUG PROGRAM. (a) In this section, "manufacturer" has the meaning

assigned by Section 549.0101.

(b) Subject to Subchapter D, the commission may enter into a value-based arrangement for the Medicaid vendor drug program by written agreement with a manufacturer based on outcome data or other metrics to which this state and the manufacturer agree in writing. The value-based arrangement may include a rebate, a discount, a price reduction, a contribution, risk sharing, a reimbursement, payment deferral or installment payments, a guarantee, patient care, shared savings payments, withholds, a bonus, or any other thing of value.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0003. PERIOD OF VALIDITY OF PRESCRIPTIONS UNDER MEDICAID. (a) This section does not apply to a prescription for a controlled substance, as defined by Chapter 481, Health and Safety Code.

(b) In the rules and standards governing the vendor drug program, the executive commissioner, to the extent allowed by federal law and laws regulating the writing of prescriptions and dispensing of prescription medications, shall ensure that a prescription written by an authorized health care provider under Medicaid is valid for the lesser of:

(1) the period for which the prescription is written; or

(2) one year.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0004. CERTAIN MEDICATIONS FOR SEX OFFENDERS PROHIBITED. (a) To the maximum extent allowed under federal law, the commission may not provide a sexual performance enhancing medication under the vendor drug program or any other health and human services program to an individual required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(b) The executive commissioner may adopt rules as necessary to implement this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

Sec. 549.0005. PRIOR APPROVAL OF AND PHARMACY PROVIDER ACCESS TO CERTAIN COMMUNICATIONS WITH CERTAIN RECIPIENTS AND ENROLLEES. (a) This section applies to:

(1) the vendor drug program for Medicaid and the child health plan program;

(2) the kidney health care program;

(3) the children with special health care needs program; and

(4) any other state program the commission administers that provides prescription drug benefits.

(b) A managed care organization, including a health maintenance organization, or a pharmacy benefit manager, that administers claims for prescription drug benefits under a program to which this section applies shall, at least 10 days before the date the organization or pharmacy benefit manager intends to deliver a communication to recipients or enrollees collectively under a program:

(1) submit a copy of the communication to the commission for approval; and

(2) if applicable, allow the pharmacy providers of the recipients or enrollees who are to receive the communication access to the communication.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER B. REVIEW AND ANALYSIS OF CERTAIN PRESCRIPTION DRUG PURCHASES AND PATTERNS

Sec. 549.0051. PERIODIC REVIEW OF VENDOR DRUG PROGRAM PURCHASES. (a) The commission shall periodically review all purchases made under the vendor drug program to determine the cost-effectiveness of including a component for prescription drug benefits in any capitation rate paid by this state under a Medicaid managed care program or the child health plan program.

(b) In making the determination required by Subsection (a), the commission shall consider the value of any prescription drug rebates this state receives.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0052. MEDICAID PRESCRIPTION DRUG USE AND EXPENDITURE PATTERNS. The commission shall:

(1) monitor and analyze Medicaid prescription drug use and expenditure patterns;

(2) identify the therapeutic prescription drug classes and individual prescription drugs that are most often prescribed to patients or that represent the greatest expenditures; and

(3) post the data the commission identifies under this section on the commission's Internet website and update the information on a quarterly basis.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER C. SUPPLEMENTAL REBATES OR PROGRAM BENEFITS FOR PRESCRIPTION DRUGS

Sec. 549.0101. DEFINITIONS. In this subchapter:

(1) "Labeler" means a person that:

(A) has a labeler code from the United States Food and Drug Administration under 21 C.F.R. Section 207.33; and

(B) receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale.

(2) "Manufacturer" means a manufacturer of prescription drugs as defined by 42 U.S.C. Section 1396r-8(k)(5), including a subsidiary or affiliate of a manufacturer.

(3) "Supplemental rebate" means a cash rebate a manufacturer pays to this state:

(A) on the basis of appropriate quarterly health and human services program utilization data relating to the manufacturer's products; and

(B) in accordance with a state supplemental rebate agreement negotiated with the manufacturer and, if necessary, approved by the federal government under 42 U.S.C. Section 1396r-8.

(4) "Wholesaler" means a person licensed under Subchapter I, Chapter 431, Health and Safety Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0102. REQUIREMENT TO NEGOTIATE FOR SUPPLEMENTAL REBATES FOR CERTAIN PROGRAMS. (a) Subject to Subsection (b), the commission shall negotiate with manufacturers and labelers, including generic manufacturers and labelers, to obtain supplemental rebates for prescription drugs provided under:

(1) the Medicaid vendor drug program in excess of the Medicaid rebates required by 42 U.S.C. Section 1396r-8;

(2) the child health plan program; and

(3) any other state program the commission or a health and human services agency administers, including a community mental health center or state mental health hospital.

(b) The commission may by contract authorize a private entity to negotiate with manufacturers and labelers on the commission's behalf.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0103. VOLUNTARY NEGOTIATION FOR MANUFACTURER AND LABELER SUPPLEMENTAL REBATES. A manufacturer or labeler that sells prescription drugs in this state may voluntarily negotiate with the commission and enter into an agreement to provide supplemental rebates for prescription drugs provided under:

(1) the Medicaid vendor drug program in excess of the Medicaid rebates required by 42 U.S.C. Section 1396r-8;

(2) the child health plan program; and

(3) any other state program the commission or a health and human services agency administers, including a community mental health center or state mental health hospital.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0104. CONSIDERATIONS IN SUPPLEMENTAL REBATE NEGOTIATIONS. (a) In negotiating terms for a supplemental rebate

amount, the commission shall consider:

(1) rebates calculated under the Medicaid rebate program in accordance with 42 U.S.C. Section 1396r-8;

(2) any other available information on prescription drug prices or rebates; and

(3) other program benefits as specified in Section 549.0106(b).

(b) In negotiating terms for a supplemental rebate, the commission shall use the average manufacturer price as defined in 42 U.S.C. Section 1396r-8(k)(1) as the cost basis for the product.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0105. REQUIRED DISCLOSURES IN NEGOTIATIONS FOR SUPPLEMENTAL REBATES. Before or during supplemental rebate agreement negotiations for a prescription drug being considered for the preferred drug list, the commission shall disclose to pharmaceutical manufacturers any clinical edits or clinical protocols that may be imposed on drugs within a particular drug category that are placed on the preferred drug list during the contract period. Clinical edits may not be imposed for a preferred drug during the contract period unless the disclosure is made.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0106. PROGRAM BENEFITS INSTEAD OF SUPPLEMENTAL REBATES; MONETARY CONTRIBUTION OR DONATION. (a) For purposes of this section, a program benefit may mean a disease management program authorized under this title, a drug product donation program, a drug utilization control program, prescriber and beneficiary counseling and education, a fraud or abuse initiative, and another service or administrative investment with guaranteed savings to a program a health and human services agency operates.

(b) The commission may enter into a written agreement with a manufacturer to accept a program benefit instead of a supplemental rebate only if:

(1) the program benefit yields savings that are at least

equal to the amount the manufacturer would have provided under a state supplemental rebate agreement during the current biennium as determined by the written agreement;

(2) the manufacturer:

(A) posts a performance bond guaranteeing savings to this state; and

(B) agrees that if the savings are not achieved in accordance with the written agreement, the manufacturer will forfeit the bond to this state, less any savings that were achieved; and

(3) the program benefit is in addition to other program benefits the manufacturer currently offers to recipients of Medicaid or related programs.

(c) For purposes of this subchapter, the commission may consider a monetary contribution or donation to the arrangements described in Subsection (b) for the purpose of offsetting expenditures to other state health care programs, but that funding may not be used to offset expenditures for covered outpatient drugs as defined by 42 U.S.C. Section 1396r-8(k)(2) under the vendor drug program. An arrangement under this subsection may not yield less than the amount this state would have benefited under a supplemental rebate. The commission may consider an arrangement under this subchapter as satisfying the requirements of Section 549.0204(a).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0107. LIMITATIONS ON AGREEMENT TO ACCEPT PROGRAM BENEFITS INSTEAD OF SUPPLEMENTAL REBATES. (a) A commission agreement to accept a program benefit described by Section 549.0106:

(1) may not prohibit the commission from entering into a similar agreement with another entity that relates to a different drug class;

(2) must be limited to a period the commission expressly determines; and

(3) subject to Subsection (b), may cover only a product that has received United States Food and Drug Administration approval as of the date the commission enters into the agreement.

(b) A new product the United States Food and Drug Administration approves after the commission enters into the

agreement may be incorporated into the agreement only under an amendment to the agreement.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0108. TREATMENT OF PROGRAM BENEFITS FOR CERTAIN PURPOSES. Other than as required to satisfy the provisions of this subchapter, a program benefit described by Section 549.0106 is considered an alternative to, and not the equivalent of, a supplemental rebate. A program benefit must be treated in this state's submissions to the federal government, including, as appropriate, waiver requests and quarterly Medicaid claims, so as to maximize the availability of federal matching payments.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER D. CONFIDENTIALITY OF INFORMATION RELATING TO PRESCRIPTION DRUG REBATE NEGOTIATIONS AND AGREEMENTS

Sec. 549.0151. CERTAIN PRESCRIPTION DRUG INFORMATION CONFIDENTIAL. (a) Notwithstanding any other state law other than Sections 549.0152 and 549.0153, information the commission obtains or maintains regarding prescription drug rebate negotiations or a supplemental Medicaid or other rebate agreement, including trade secrets, rebate amount, rebate percentage, and manufacturer or labeler pricing, is confidential and not subject to disclosure under Chapter 552.

(b) Information that is confidential under Subsection (a) includes information described by that subsection that the commission obtains or maintains in connection with:

(1) the vendor drug program;

(2) the child health plan program;

(3) the kidney health care program;

(4) the children with special health care needs program; or

(5) another state program the commission or a health and human services agency administers.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

Sec. 549.0152. GENERAL PRESCRIPTION DRUG INFORMATION NOT CONFIDENTIAL; EXCEPTION. General information about the aggregate costs of different classes of prescription drugs is not confidential under Section 549.0151(a), except that a drug name or information that could reveal a drug name is confidential.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0153. EXISTENCE OR NONEXISTENCE OF SUPPLEMENTAL REBATE AGREEMENT NOT CONFIDENTIAL. Information about whether the commission and a manufacturer or labeler reached or did not reach a supplemental rebate agreement under Subchapter C for a particular prescription drug is not confidential under Section 549.0151(a).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER E. PREFERRED DRUG LISTS

Sec. 549.0201. DEFINITION. In this subchapter, "board" means the Drug Utilization Review Board.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0202. PREFERRED DRUG LISTS REQUIRED FOR MEDICAID VENDOR DRUG AND CHILD HEALTH PLAN PROGRAMS. In a manner that complies with state and federal law, the commission shall adopt preferred drug lists for:

(1) the Medicaid vendor drug program; and

(2) prescription drugs purchased through the child health plan program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0203. PREFERRED DRUG LISTS AUTHORIZED FOR CERTAIN PROGRAMS. The commission may adopt preferred drug lists for:

(1) community mental health centers;

(2) state mental health hospitals; and

(3) any state program the commission or a state health and human services agency administers other than a program for which Section 549.0202 requires the adoption of preferred drug lists.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 549.0204. LIMITATION ON DRUGS INCLUDED ON PREFERRED DRUG LISTS; EXCEPTIONS. (a) The preferred drug lists adopted under this subchapter may contain only drugs provided by a manufacturer or labeler that reaches an agreement with the commission on supplemental rebates under Subchapter C.

(b) Notwithstanding Subsection (a), the preferred drug lists may contain:

(1) a drug provided by a manufacturer or labeler that has not reached a supplemental rebate agreement with the commission if the commission determines that including the drug on the preferred drug lists will not have a negative cost impact to this state; or

(2) a drug provided by a manufacturer or labeler that has reached an agreement with the commission to provide program benefits instead of supplemental rebates as described by Subchapter C.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0205. CONSIDERATIONS FOR INCLUDING DRUG ON PREFERRED DRUG LISTS. (a) In making a decision regarding the placement of a drug on each of the preferred drug lists adopted under this subchapter, the commission shall consider:

(1) the board's recommendations under Section 549.0309;

(2) the drug's clinical efficacy;

(3) the price of competing drugs after deducting any federal and state rebate amounts; and

(4) program benefit offerings solely or in conjunction with rebates and other pricing information.

(b) The commission shall consider including on a preferred drug list:

(1) multiple methods of delivery within each drug class, including liquid, capsule, and tablet, including an orally disintegrating tablet; and

(2) all strengths and dosage forms of a drug.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0206. SUBMISSION OF EVIDENCE TO SUPPORT INCLUDING DRUG ON PREFERRED DRUG LISTS. (a) In this section, "labeler" and "manufacturer" have the meanings assigned by Section 549.0101.

(b) The commission shall ensure that a manufacturer or labeler may submit written evidence that supports including a drug on the preferred drug lists before a supplemental rebate agreement is reached with the commission.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0207. PUBLICATION OF INFORMATION RELATING TO AND DISTRIBUTION OF PREFERRED DRUG LISTS. (a) The commission shall publish on the commission's Internet website any decisions on preferred drug list placement, including:

(1) a list of drugs reviewed and the commission's decision for or against placement on a preferred drug list of each reviewed drug;

(2) for each recommendation, whether a supplemental rebate agreement or a program benefit agreement was reached under Subchapter C; and

(3) the rationale for any departure from a board recommendation under Section 549.0309.

(b) The commission shall:

(1) provide for the distribution of current copies of the preferred drug lists adopted under this subchapter by posting the lists on the Internet; and

(2) mail copies of the lists to a health care provider on the provider's request.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER F. PRIOR AUTHORIZATION FOR CERTAIN DRUGS

Sec. 549.0251. DRUGS SUBJECT TO PRIOR AUTHORIZATION REQUIREMENTS. (a) The executive commissioner, in the rules and standards governing the Medicaid vendor drug program and the child health plan program, shall require prior authorization for the reimbursement of a drug that is not included in the appropriate preferred drug list adopted under Subchapter E unless:

(1) the drug is exempt from prior authorization requirements by federal law; or

(2) the executive commissioner is prohibited under Sections 549.0252 and 549.0253(a) from requiring prior authorization for the drug.

(b) The executive commissioner may require prior authorization for the reimbursement of a drug provided through any state program, other than a program described by Subsection (a), that the commission or a state health and human services agency administers, including a community mental health center and a state mental health hospital if the commission adopts a preferred drug list under Subchapter E that applies to that facility and the drug is not included in the appropriate list.

(c) The executive commissioner shall require that the prior authorization be obtained by the prescribing physician or prescribing practitioner.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0252. PRIOR AUTHORIZATION AND CERTAIN PROTOCOL REQUIREMENTS PROHIBITED FOR CERTAIN ANTIRETROVIRAL DRUGS. (a) In

this section, "antiretroviral drug" means a drug that treats human immunodeficiency virus infection or prevents acquired immune deficiency syndrome. The term includes:

(1) protease inhibitors;

(2) non-nucleoside reverse transcriptase inhibitors;

(3) nucleoside reverse transcriptase inhibitors;

(4) integrase inhibitors;

(5) fusion inhibitors;

(6) attachment inhibitors;

(7) CD4 post-attachment inhibitors;

(8) CCR5 receptor antagonists; and

(9) other antiretroviral drugs used to treat human immunodeficiency virus infection or prevent acquired immune deficiency syndrome.

(b) The executive commissioner, in the rules and standards governing the Medicaid vendor drug program, may not require a clinical, nonpreferred, or other prior authorization for an antiretroviral drug, or a step therapy or other protocol, that could restrict or delay the dispensing of the drug except to minimize fraud, waste, or abuse.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0253. PRIOR AUTHORIZATION PROHIBITED FOR CERTAIN NONPREFERRED ANTIPSYCHOTIC DRUGS. (a) The executive commissioner, in the rules and standards governing the vendor drug program, may not require prior authorization for a nonpreferred antipsychotic drug that is included on the vendor drug formulary and prescribed to an adult patient if:

(1) during the preceding year, the patient was prescribed and unsuccessfully treated with a 14-day treatment trial of an antipsychotic drug that is included on the appropriate preferred drug list adopted under Subchapter E and for which a single claim was paid;

(2) the patient has previously been prescribed and obtained prior authorization for the nonpreferred antipsychotic drug and the prescription is for the purpose of drug dosage titration; or

(3) subject to federal law on maximum dosage limits and

commission rules on drug quantity limits, the patient has previously been prescribed and obtained prior authorization for the nonpreferred antipsychotic drug and the prescription modifies the dosage, dosage frequency, or both, of the drug as part of the same treatment for which the drug was previously prescribed.

(b) Subsection (a) does not affect:

(1) a pharmacist's authority to dispense the generic equivalent or interchangeable biological product of a prescription drug in accordance with Subchapter A, Chapter 562, Occupations Code;

(2) any drug utilization review requirements prescribed by state or federal law; or

(3) clinical prior authorization edits to preferred and nonpreferred antipsychotic drug prescriptions.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0254. ADMINISTRATION OF PRIOR AUTHORIZATION REQUIREMENTS. (a) The commission may by contract authorize a private entity to administer the prior authorization requirements imposed by Sections 549.0251 and 549.0255 through 549.0259 on the commission's behalf.

(b) The commission shall ensure that the prior authorization requirements are implemented in a manner that minimizes the cost to this state and any administrative burden placed on providers.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0255. PREREQUISITE TO IMPLEMENTING PRIOR AUTHORIZATION REQUIREMENT FOR CERTAIN DRUGS. Until the commission completes a study evaluating the impact of a prior authorization requirement on recipients of certain drugs, the executive commissioner shall delay requiring prior authorization for drugs that are used to treat patients with illnesses that:

(1) are life-threatening;

(2) are chronic; and

(3) require complex medical management strategies.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0256. NOTICE OF PRIOR AUTHORIZATION REQUIREMENT IMPLEMENTATION AND PROCEDURES. Not later than the 30th day before the date a prior authorization requirement is implemented, the commission shall post on the Internet for consumers and providers:

(1) notice of the implementation date; and

(2) a detailed description of the procedures to be used in obtaining prior authorization.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 549.0257. PRIOR AUTHORIZATION PROCEDURES. (a) The commission shall establish procedures for the prior authorization requirement under the Medicaid vendor drug program to ensure that the requirements of 42 U.S.C. Section 1396r-8(d)(5) are met. The procedures must ensure that:

(1) a prior authorization requirement is not imposed for a drug before the drug has been considered at a meeting of the Drug Utilization Review Board under Subchapter G;

(2) a response to a request for prior authorization is provided by telephone or other telecommunications device within 24 hours after receipt of the request; and

(3) a 72-hour supply of the drug prescribed is provided in an emergency or if the commission does not provide a response within the period required by Subdivision (2).

(b) The commission shall implement procedures to ensure that a recipient or enrollee under Medicaid, the child health plan program, or another state program the commission administers, or an individual who becomes eligible under Medicaid, the child health plan program, or another state program the commission or a health and human services agency administers, receives continuity of care in relation to certain prescriptions the commission identifies.

(c) The commission shall ensure that requests for prior authorization may be submitted by telephone, facsimile, or electronic communications through the Internet.

(d) The commission shall provide an automated process that may be used to assess a Medicaid recipient's medical and drug claim history to determine whether the recipient's medical condition satisfies the applicable criteria for dispensing a drug without an additional prior authorization request.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0258. PRIOR AUTHORIZATION AUTOMATION AND POINT-OF-SALE REQUIREMENTS. The executive commissioner, in the rules and standards governing the vendor drug program and as part of the requirements under a contract between the commission and a Medicaid managed care organization, shall:

(1) require, to the maximum extent possible based on a pharmacy benefit manager's claim system, automation of clinical prior authorization for each drug in the antipsychotic drug class; and

(2) ensure that, at the time a nonpreferred or clinical prior authorization edit is denied, a pharmacist is immediately provided a point-of-sale return message that:

(A) clearly specifies the contact and other information necessary for the pharmacist to submit a prior authorization request for the prescription; and

(B) instructs the pharmacist to dispense, only if clinically appropriate under federal or state law, a 72-hour supply of the prescription.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0259. APPLICABILITY OF PRIOR AUTHORIZATION REQUIREMENTS TO PRIOR PRESCRIPTIONS. The commission shall ensure that a prescription drug prescribed before implementation of a prior authorization requirement for that drug for a recipient or enrollee under Medicaid, the child health plan program, or another state program the commission or a health and human services agency

administers, or for an individual who becomes eligible under Medicaid, the child health plan program, or another state program the commission or a health and human services agency administers, is not subject to any prior authorization requirement under this subchapter until the earlier of:

(1) the date the recipient or enrollee exhausts all the prescription, including any authorized refills; or

(2) the expiration of a period the commission prescribes.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0260. APPEAL OF PRIOR AUTHORIZATION DENIAL UNDER MEDICAID VENDOR DRUG PROGRAM. A recipient of drug benefits under the Medicaid vendor drug program may appeal through the Medicaid fair hearing process a denial of prior authorization under this subchapter for a covered drug or covered dosage.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER G. DRUG UTILIZATION REVIEW BOARD

Sec. 549.0301. DEFINITION. In this subchapter, "board" means the Drug Utilization Review Board.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 549.0302. BOARD COMPOSITION; APPLICATION PROCESS. (a) The composition of the board must comply with federal law, including 42 C.F.R. Section 456.716. The executive commissioner shall determine the board's composition, which must include:

(1) two representatives of managed care organizations, one of whom must be a physician and one of whom must be a pharmacist, as nonvoting members;

(2) at least 17 physicians and pharmacists who:

(A) provide services across the entire population of Medicaid recipients and represent different specialties, including at least one of each of the following types of physicians:

(i) a pediatrician;

(ii) a primary care physician;

(iii) an obstetrician and gynecologist;

(iv) a child and adolescent psychiatrist; and

(v) an adult psychiatrist; and

(B) have experience in either developing or practicing under a preferred drug list; and

(3) a consumer advocate who represents Medicaid recipients.

(b) The executive commissioner by rule shall develop and implement a process by which an individual may apply to become a board member and shall post the application and information regarding the application process on the commission's Internet website.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0303. CONFLICTS OF INTEREST. (a) A voting board member may not have a contractual relationship with, ownership interest in, or other conflict of interest with:

(1) a pharmaceutical manufacturer or labeler; or

(2) an entity the commission engages to assist in developing preferred drug lists or administering the Medicaid Drug Utilization Review Program.

(b) The executive commissioner may implement this section by:

(1) adopting rules that identify prohibited relationships and conflicts; or

(2) requiring the board to develop a conflict-of-interest policy that applies to the board.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0304. BOARD MEMBER TERMS. Board members serve staggered four-year terms.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0305. PRESIDING OFFICER. The voting board members shall elect from among the voting members a presiding officer. The presiding officer must be a physician.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0306. INAPPLICABILITY OF OTHER LAW TO BOARD. Chapter 2110 does not apply to the board.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0307. ADMINISTRATIVE SUPPORT FOR BOARD. The commission shall provide administrative support and resources as necessary for the board to perform the board's duties.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0308. RULES FOR BOARD OPERATION. (a) The executive commissioner shall adopt rules governing the board's operation, including:

(1) rules governing the procedures the board uses to provide notice of a meeting; and

(2) rules prohibiting the board from discussing confidential information described by Subchapter D in a public meeting.

(b) The board shall comply with the rules adopted under this section and Section 549.0311.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0309. GENERAL POWERS AND DUTIES OF BOARD. (a) In addition to performing any other duties required by federal law, the board shall:

(1) develop and submit to the commission recommendations for the preferred drug lists the commission adopts under Subchapter E;

(2) suggest to the commission restrictions or clinical edits on prescription drugs;

(3) recommend to the commission educational interventions for Medicaid providers;

(4) review drug utilization across Medicaid; and

(5) perform other duties that may be specified by law and otherwise make recommendations to the commission.

(b) In developing recommendations for the preferred drug lists, the board shall consider the clinical efficacy, safety, and cost-effectiveness of, and any program benefit associated with, a product.

(c) To the extent feasible, the board:

(1) shall review all drug classes included in the preferred drug lists at least once every 12 months; and

(2) may recommend inclusions in and exclusions from the lists to ensure that the lists provide for a range of clinically effective, safe, cost-effective, and medically appropriate drug therapies for the diverse segments of the Medicaid population, children receiving health benefits coverage under the child health plan program, and any other affected individuals.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 549.0310. BOARD MEETINGS; REVIEW OF CERTAIN PRODUCTS. (a) The board shall hold a public meeting quarterly at the call of the presiding officer and shall permit public comment before voting on any changes in the preferred drug lists the commission adopts under Subchapter E, the adoption of or changes to drug use criteria, or the adoption of prior authorization or drug utilization review proposals. The location of the quarterly public meeting may rotate among

different geographic areas across this state, or allow for public input through teleconferencing centers in various geographic areas across this state.

(b) The board shall hold public meetings at other times at the call of the presiding officer.

(c) Minutes of each meeting shall be made available to the public not later than the 10th business day after the date the minutes are approved.

(d) The board may meet in executive session to discuss confidential information as described by Section 549.0308.

(e) Board members appointed under Section 549.0302(a)(1) may attend quarterly and other regularly scheduled meetings, but may not:

(1) attend executive sessions; or

(2) access confidential drug pricing information.

(f) In this subsection, "labeler" and "manufacturer" have the meanings assigned by Section 549.0101. The commission shall ensure that a drug that has been approved or had any of the drug's particular uses approved by the United States Food and Drug Administration under a priority review classification is reviewed by the board at the next regularly scheduled board meeting. On receiving notice from a manufacturer or labeler of the availability of a new product, the commission, to the extent possible, shall schedule a review for the product at the next regularly scheduled board meeting.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0311. BOARD SUMMARY OF CERTAIN INFORMATION REQUIRED. (a) The executive commissioner by rule shall require the board or the board's designee to present a summary of any clinical efficacy and safety information or analyses regarding a drug under consideration for a preferred drug list the commission adopts under Subchapter E that is provided to the board by a private entity that contracted with the commission to provide the information. Confidential information described by Subchapter D must be omitted from the summary.

(b) The board or the board's designee shall provide the summary in electronic form before the public meeting at which consideration

of the drug occurs.

(c) The summary must be posted on the commission's Internet website.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0312. PUBLIC DISCLOSURE OF CERTAIN BOARD RECOMMENDATIONS REQUIRED. (a) The commission or the commission's agent shall publicly disclose, immediately after the board's deliberations conclude, each specific drug recommended for or against preferred drug list status for each drug class included in the preferred drug list for the Medicaid vendor drug program. The disclosure must include:

(1) the general basis for the recommendation for each drug class; and

(2) for each recommendation, whether a supplemental rebate agreement or program benefit agreement was reached under Subchapter C.

(b) The disclosure must be posted on the commission's Internet website not later than the 10th business day after the date of conclusion of board deliberations that result in recommendations made to the executive commissioner regarding the placement of drugs on the preferred drug list.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER H. MEDICAID DRUG UTILIZATION REVIEW PROGRAM

Sec. 549.0351. DEFINITIONS. In this subchapter:

(1) "Medicaid Drug Utilization Review Program" means the program the vendor drug program operates to improve the quality of pharmaceutical care under Medicaid.

(2) "Prospective drug use review" means the review of a patient's drug therapy and prescription drug order or medication order before dispensing or distributing a drug to the patient.

(3) "Retrospective drug use review" means the review of prescription drug claims data to identify patterns of prescribing.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0352. DRUG USE REVIEWS. (a) The commission shall provide for an increase in the number and types of retrospective drug use reviews performed each year under the Medicaid Drug Utilization Review Program in comparison to the number and types of reviews performed in the state fiscal year ending August 31, 2009.

(b) In determining the number and types of drug use reviews to be performed, the commission shall:

(1) allow for the repeat of retrospective drug use reviews that address ongoing drug therapy problems and that, in previous years, improved client outcomes and reduced Medicaid spending;

(2) consider implementing disease-specific retrospective drug use reviews that:

(A) address ongoing drug therapy problems in this state; and

(B) reduced Medicaid prescription drug use expenditures in another state; and

(3) regularly examine Medicaid prescription drug claims data to identify occurrences of potential drug therapy problems that may be addressed by repeating successful retrospective drug use reviews performed in this state or another state.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0353. ANNUAL REPORT. (a) In addition to any other information required by federal law, the commission shall include the following information in the annual report regarding the Medicaid Drug Utilization Review Program:

(1) a detailed description of the program's activities; and

(2) estimates of cost savings anticipated to result from the program's performance of prospective and retrospective drug use reviews.

(b) The cost-saving estimates for prospective drug use reviews under Subsection (a) must include savings attributed to drug use reviews performed through the vendor drug program's electronic claims

processing system and clinical edits screened through the prior authorization system implemented under Subchapter F.

(c) The commission shall post the annual report regarding the Medicaid Drug Utilization Review Program on the commission's Internet website.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER I. PHARMACEUTICAL PATIENT ASSISTANCE PROGRAM INFORMATION

Sec. 549.0401. DEFINITION. In this subchapter, "patient assistance program" means a program a pharmaceutical company offers under which the company provides a drug to individuals in need of assistance at no charge or at a substantially reduced cost. The term does not include the provision of a drug as part of a clinical trial.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0402. PROVISION OF PROGRAM INFORMATION BY PHARMACEUTICAL COMPANY. Each pharmaceutical company that does business in this state and that offers a patient assistance program shall inform the commission of:

(1) the existence of the program;

(2) the eligibility requirements for the program;

(3) the drugs covered by the program; and

(4) information used for applying for the program, such as a telephone number.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0403. PUBLIC ACCESS TO PROGRAM INFORMATION. (a) The commission shall establish a system under which members of the public can call a toll-free telephone number to obtain information about available patient assistance programs. The commission shall ensure that the system is staffed at least during normal business hours with individuals who can:

(1) determine whether a patient assistance program is offered for a particular drug;

(2) determine whether an individual may be eligible to participate in a program; and

(3) assist an individual who wishes to apply for a program.

(b) The commission shall publicize the telephone number to pharmacies and drug prescribers.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER J. STATE PRESCRIPTION DRUG PROGRAM

Sec. 549.0451. DEVELOPMENT AND IMPLEMENTATION OF STATE PRESCRIPTION DRUG PROGRAM. The commission shall develop and implement a state prescription drug program that operates in the same manner as the vendor drug program operates in providing prescription drug benefits to Medicaid recipients.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0452. PROGRAM ELIGIBILITY. An individual is eligible for prescription drug benefits under the state prescription drug program if the individual is:

(1) a qualified Medicare beneficiary, as defined by 42 U.S.C. Section 1396d(p)(1);

(2) a specified low-income Medicare beneficiary who is eligible for assistance under Medicaid for Medicare cost-sharing payments under 42 U.S.C. Section 1396a(a)(10)(E)(iii);

(3) a qualified disabled and working individual, as defined by 42 U.S.C. Section 1396d(s); or

(4) a qualifying individual who is eligible for assistance under Medicaid under 42 U.S.C. Section 1396a(a)(10)(E)(iv).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0453. RULES. (a) The executive commissioner shall

adopt rules necessary for implementing the state prescription drug program.

(b) In adopting rules for the state prescription drug program, the executive commissioner:

(1) shall consult with an advisory panel composed of an equal number of physicians, pharmacists, and pharmacologists the executive commissioner appoints; and

(2) may:

(A) require an individual who is eligible for prescription drug benefits to pay a cost-sharing payment;

(B) authorize the use of a prescription drug formulary to specify which prescription drugs the state prescription drug program will cover;

(C) to the extent possible, require clinically appropriate prior authorization for prescription drug benefits in the same manner as prior authorization is required under the vendor drug program; and

(D) establish a drug utilization review program to ensure the appropriate use of prescription drugs under the state prescription drug program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0454. GENERIC EQUIVALENT AUTHORIZED. In rules adopted for the state prescription drug program, the executive commissioner may require that, unless the practitioner's signature on a prescription clearly indicates that the prescription must be dispensed as written, a pharmacist may select a generic equivalent of the prescribed drug.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 549.0455. PROGRAM FUNDING AND FUNDING PRIORITIES. (a) Prescription drugs under the state prescription drug program may be funded only with state money unless funds are available under federal law to fund all or part of the program.

(b) If money available for the state prescription drug program

is insufficient to provide prescription drug benefits to all individuals who are eligible under Section 549.0452, the commission shall:

(1) limit the number of enrollees based on available funding; and

(2) provide the prescription drug benefits to eligible individuals in the following order of priority:

(A) individuals eligible under Section 549.0452(1);

(B) individuals eligible under Section 549.0452(2); and

(C) individuals eligible under Sections 549.0452(3) and (4).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

CHAPTER 550. HUMAN SERVICES AND OTHER SOCIAL SERVICES PROVIDED THROUGH FAITH- AND COMMUNITY-BASED ORGANIZATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 550.0001. DEFINITIONS. In this chapter:

(1) "Community-based initiative" includes a social, health, human services, or volunteer income tax assistance initiative a community-based organization operates.

(2) "Community-based organization" means a nonprofit corporation or association that is located in close proximity to the population the organization serves.

(3) "Faith-based initiative" means a social, health, or human services initiative a faith-based organization operates.

(4) "Faith-based organization" means a nonprofit corporation or association that:

(A) operates through a religious or denominational organization, including an organization that is:

(i) operated for a religious, educational, or charitable purpose; and

(ii) operated, supervised, or controlled, wholly or partly, by or in connection with a religious organization; or

(B) clearly demonstrates through the organization's mission statement, policies, or practices that the organization is guided or motivated by religion.

(5) "Interagency coordinating group" means the interagency

coordinating group for faith- and community-based initiatives established under Section 550.0054.

(6) "State Commission on National and Community Service" means the entity used as authorized by 42 U.S.C. Section 12638(a) to carry out a state commission's duties under the National and Community Service Act of 1990 (42 U.S.C. Section 12501 et seq.).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0002. PURPOSE OF CHAPTER. The purpose of this chapter is to strengthen the capacity of faith- and community-based organizations and forge stronger partnerships between those organizations and state government for the legitimate public purpose of providing charitable and social services to persons in this state.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0003. CONSTRUCTION OF CHAPTER. This chapter may not be construed to:

(1) exempt a faith- or community-based organization from any applicable state or federal law; or

(2) be an endorsement or sponsorship by this state of a faith-based organization's religious character, expression, beliefs, doctrines, or practices.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0004. CONSISTENT APPLICATION WITH FEDERAL LAW. A power authorized or duty imposed under this chapter must be performed in a manner consistent with 42 U.S.C. Section 604a.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER B. GOVERNMENTAL LIAISONS FOR FAITH- AND COMMUNITY-BASED ORGANIZATIONS

Sec. 550.0051. DEFINITION. In this subchapter, "council" means the Texas Nonprofit Council.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0052. DESIGNATION OF FAITH- AND COMMUNITY-BASED LIAISONS. (a) The executive commissioner, in consultation with the governor, shall designate one employee from the commission and from each health and human services agency to serve as a liaison for faith- and community-based organizations.

(b) The chief administrative officer of each of the following state agencies, in consultation with the governor, shall designate one employee from the agency to serve as a liaison for faith- and community-based organizations:

(1) the Department of Agriculture;
(2) the Department of Information Resources;
(3) the Department of Public Safety;
(4) the office of the attorney general;
(5) the office of the comptroller;
(6) the office of the governor;
(7) the office of the secretary of state;
(8) the Office of State-Federal Relations;
(9) the Public Utility Commission of Texas;
(10) the Texas Commission on Environmental Quality;
(11) the Texas Department of Criminal Justice;
(12) the Texas Department of Housing and Community Affairs;
(13) the Texas Department of Insurance;
(14) the Texas Juvenile Justice Department;
(15) the Texas Veterans Commission;
(16) the Texas Workforce Commission; and
(17) other state agencies as the governor determines.

(c) The commissioner of higher education, in consultation with the presiding officer of the interagency coordinating group, shall designate one employee from an institution of higher education, as defined by Section 61.003, Education Code, to serve as a liaison for faith- and community-based organizations.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0053. GENERAL POWERS AND DUTIES OF LIAISONS. (a) A faith- and community-based liaison designated under Section 550.0052 shall:

(1) identify and remove unnecessary barriers to partnerships between the state agency the liaison represents and faith- and community-based organizations;

(2) provide any necessary information and training for employees of the represented state agency regarding equal opportunity standards for faith- and community-based organizations seeking to partner with state government;

(3) facilitate the identification of practices with demonstrated effectiveness for faith- and community-based organizations that partner with the represented state agency;

(4) work with the appropriate departments and programs of the represented state agency to conduct outreach efforts to inform and welcome faith- and community-based organizations that have not traditionally formed partnerships with the agency;

(5) coordinate all efforts with the governor's office of faith- and community-based initiatives and provide any requested information, support, and assistance to that office to the extent permitted by law and as feasible; and

(6) attend conferences sponsored by federal agencies and offices and other relevant entities to become and remain informed of issues and developments regarding faith- and community-based initiatives.

(b) A designated faith- and community-based liaison may coordinate and interact with statewide organizations that represent faith- or community-based organizations as necessary to accomplish the purposes of this subchapter and Subchapters A and C.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0054. INTERAGENCY COORDINATING GROUP. (a) The interagency coordinating group for faith- and community-based

initiatives is composed of:

(1) each faith- and community-based liaison designated under Section 550.0052; and

(2) a liaison from the State Commission on National and Community Service.

(b) Service on the interagency coordinating group is an additional duty of the office or position held by each liaison designated under Section 550.0052(b).

(c) The liaison from the State Commission on National and Community Service is the presiding officer of the interagency coordinating group. If the State Commission on National and Community Service is abolished, the liaison from the office of the governor is the presiding officer of the group.

(d) The state agencies described by Section 550.0052(b) shall provide administrative support for the interagency coordinating group as coordinated by the presiding officer.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0055. DUTIES OF INTERAGENCY COORDINATING GROUP. The interagency coordinating group shall:

(1) meet periodically at the call of the presiding officer;

(2) work across state agencies and with the State Commission on National and Community Service to facilitate the removal of unnecessary interagency barriers to partnerships between state agencies and faith- and community-based organizations; and

(3) operate in a manner that promotes effective partnerships between those agencies and organizations to serve residents of this state who need assistance.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0056. INTERAGENCY COORDINATING GROUP ANNUAL REPORT. Not later than December 1 of each year, the interagency coordinating group shall submit to the legislature a report describing in detail the activities, goals, and progress of the group. The report must be made available to the public on the office of the governor's Internet

website.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0057. TEXAS NONPROFIT COUNCIL. (a) The Texas Nonprofit Council is established to help direct the interagency coordinating group in carrying out the group's duties under this subchapter.

(b) The governor, in consultation with the presiding officer of the interagency coordinating group, shall appoint as council members two representatives from each of the following groups and entities to represent each group's and entity's appropriate sector:

(1) community-based groups;

(2) consultants to nonprofit corporations;

(3) faith-based groups, at least one of which must be a statewide interfaith group;

(4) local governments;

(5) statewide associations of nonprofit organizations; and

(6) statewide nonprofit organizations.

(c) A council member serves a three-year term expiring October 1. A council member may not serve more than two consecutive terms.

(d) The council shall:

(1) elect a presiding officer or presiding officers and a secretary from among the council members; and

(2) assist the executive commissioner in identifying an individual to fill a vacancy on the council.

(e) The state agencies described by Section 550.0052(b) shall provide administrative support to the council as coordinated by the presiding officer of the interagency coordinating group.

(f) Chapter 2110 does not apply to the council.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0058. DUTIES OF TEXAS NONPROFIT COUNCIL. The council, in coordination with the interagency coordinating group, shall:

(1) make recommendations for improving contracting relationships between state agencies and faith- and community-based

organizations;

(2) develop best practices for cooperating and collaborating with faith- and community-based organizations; and

(3) identify and address:

(A) duplication of services provided by this state and faith- and community-based organizations; and

(B) gaps in state services that faith- and community-based organizations could fill.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0059. TEXAS NONPROFIT COUNCIL BIENNIAL REPORT. (a) The council shall prepare a biennial report detailing the council's work. The report must include any recommendations relating to legislation necessary to address an issue identified under Section 550.0058.

(b) Not later than December 1 of each even-numbered year, the council shall present the report to:

(1) the House Committee on Human Services or its successor;

(2) the House Committee on Public Health or its successor; and

(3) the Senate Health and Human Services Committee or its successor.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER C. RENEWING OUR COMMUNITIES ACCOUNT

Sec. 550.0101. DEFINITION. In this subchapter, "account" means the renewing our communities account established under Section 550.0103.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0102. PURPOSES OF SUBCHAPTER. Recognizing that faith- and community-based organizations provide a range of vital charitable

services to persons in this state, the purposes of this subchapter are to:

(1) increase the impact and effectiveness of those organizations;

(2) forge stronger partnerships between those organizations and state government so that:

(A) communities are empowered to serve individuals in need; and

(B) community capacity for providing services is strengthened; and

(3) create a funding mechanism that:

(A) builds on the established efforts of those organizations; and

(B) operates to create new partnerships in local communities for the benefit of this state.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0103. RENEWING OUR COMMUNITIES ACCOUNT. (a) The renewing our communities account is an account in the general revenue fund that may be appropriated only to the commission for:

(1) the purposes and activities authorized by this subchapter; and

(2) reasonable administrative expenses under this subchapter.

(b) The purposes of the account are to:

(1) increase the capacity of faith- and community-based organizations to provide charitable services and to manage human resources and funds;

(2) assist local governmental entities in establishing local offices to promote faith- and community-based initiatives; and

(3) foster better partnerships between state government and faith- and community-based organizations.

(c) The account consists of:

(1) all money appropriated for the purposes of this subchapter; and

(2) any gifts, grants, or donations received for the purposes of this subchapter.

(d) The account is exempt from the application of Section 403.095.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0104. COMMISSION POWERS AND DUTIES REGARDING ACCOUNT. (a) The commission shall:

(1) contract with the State Commission on National and Community Service to administer funds appropriated from the account in a manner that:

(A) consolidates the capacity of and strengthens national service and community and faith- and community-based initiatives; and

(B) leverages public and private funds to benefit this state;

(2) develop a competitive process for awarding grants from funds in the account that is consistent with state law and includes objective selection criteria;

(3) oversee the delivery of training and other assistance activities under this subchapter;

(4) develop criteria limiting grant awards under Section 550.0106(a)(1)(A) to small and medium-sized faith- and community-based organizations that provide charitable services to persons in this state;

(5) establish general state priorities for the account;

(6) establish and monitor performance and outcome measures for persons who are awarded grants under this subchapter; and

(7) establish policies and procedures to ensure that any money appropriated from the account to the commission that is allocated to build the capacity of a faith-based organization or for a faith-based initiative is not used to advance a sectarian purpose or to engage in any form of proselytization.

(b) The commission may award money in the account appropriated to the commission to the State Commission on National and Community Service in the form of a grant instead of contracting with that entity under Subsection (a)(1).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0105. ACCEPTABLE USES OF ACCOUNT FUNDS. The commission or the State Commission on National and Community Service, in accordance with the terms of a contract or grant, as applicable, may:

(1) directly, or through agreements with one or more entities serving faith- and community-based organizations that provide charitable services to persons in this state:

(A) assist the organizations with:

(i) writing or managing grants through workshops or other forms of guidance;

(ii) obtaining legal assistance related to forming a corporation or obtaining an exemption from taxation under the Internal Revenue Code; and

(iii) obtaining information about or referrals to entities that provide expertise in accounting, legal, or tax issues, program development matters, or other organizational topics;

(B) provide to the organizations information or assistance related to building the organizations' capacity for providing services;

(C) facilitate the formation of networks, the coordination of services, and the sharing of resources among the organizations;

(D) in cooperation with existing efforts, if possible, conduct needs assessments to identify gaps in services in a community that present a need for developing or expanding services;

(E) work with the organizations to identify the organizations' needs for improvements in their internal capacity for providing services;

(F) provide the organizations with information on and assistance in identifying or using practices with demonstrated effectiveness for delivering charitable services to persons, families, and communities and in replicating charitable services programs that have demonstrated effectiveness; and

(G) encourage research into the impact of organizational capacity on program delivery for the organizations;

(2) assist a local governmental entity in creating a better partnership between government and faith- and community-based organizations to provide charitable services to persons in this

state; and

(3) use funds appropriated from the account to provide matching money for federal or private grant programs that further the purposes of the account as described by Section 550.0103(b).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0106. ADMINISTRATION OF ACCOUNT FUNDS. (a) If under Section 550.0104 the commission contracts with or awards a grant to the State Commission on National and Community Service, that entity:

(1) may award grants from funds appropriated from the account to:

(A) faith- and community-based organizations that provide charitable services to persons in this state for capacity-building purposes; and

(B) local governmental entities to provide seed money for local offices for faith- and community-based initiatives; and

(2) shall monitor performance and outcome measures for persons to whom that entity awards grants using the measures the commission establishes under Section 550.0104(a)(6).

(b) Any funds awarded to the State Commission on National and Community Service under a contract or through a grant under Section 550.0104 must be administered in the manner required by this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0107. ACCOUNT MONITORING. The commission shall monitor the use of the funds administered by the State Commission on National and Community Service under a contract or through a grant under Section 550.0104 to ensure that the funds are used in a manner consistent with the requirements of this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0108. PUBLIC INFORMATION; INTERNET POSTING REQUIREMENT. (a) Records relating to the award of a contract or grant to the State Commission on National and Community Service, or to grants that entity awards, and records relating to other uses of the awarded funds are public information subject to Chapter 552.

(b) If the commission contracts with or awards a grant to the State Commission on National and Community Service under Section 550.0104, the commission shall provide a link on the commission's Internet website to that entity's Internet website. The entity's Internet website must provide:

(1) a list of the names of each person to whom the entity awards a grant from money appropriated from the account and the amount and purpose of the grant; and

(2) information regarding the methods by which the public may request information about those grants.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0109. REPORTS. (a) If the State Commission on National and Community Service is awarded a contract or grant under Section 550.0104, that entity must provide to the commission periodic reports on a schedule the executive commissioner determines. The schedule of periodic reports must include an annual report that provides:

(1) a specific accounting of that entity's use of money appropriated from the account, including the names of persons to whom grants have been awarded and the purposes of those grants; and

(2) a summary of the efforts of the faith- and community-based liaisons designated under Section 550.0052 to comply with the duties imposed by and the purposes of Sections 550.0053 and 550.0055.

(b) The commission shall:

(1) post the annual report submitted under this section on the commission's Internet website; and

(2) provide copies of the report to the governor, the lieutenant governor, and the members of the legislature.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0110. CONSTRUCTION OF SUBCHAPTER. If the commission contracts with or awards a grant to the State Commission on National and Community Service under Section 550.0104, this subchapter may not be construed to:

(1) release that entity from any regulations or reporting or other requirements applicable to a commission contractor or grantee;

(2) impose regulations or reporting or other requirements on that entity that do not apply to other commission contractors or grantees solely because of the entity's status;

(3) alter the nonprofit status of that entity or the requirements for maintaining that status; or

(4) convert that entity into a governmental entity because of the receipt of account funds through the contract or grant.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER D. FAITH- AND COMMUNITY-BASED ORGANIZATION SUPPLEMENTAL ASSISTANCE PROGRAM FOR CERTAIN INDIVIDUALS RECEIVING PUBLIC ASSISTANCE

Sec. 550.0151. PROGRAM ESTABLISHMENT. (a) The commission shall:

(1) establish a program under which faith- and community-based organizations may, on an applicant's request, contact and offer supplemental assistance to the applicant for benefits under:

(A) the financial assistance program under Chapter 31, Human Resources Code;

(B) the medical assistance program under Chapter 32, Human Resources Code;

(C) the supplemental nutrition assistance program under Chapter 33, Human Resources Code; or

(D) the child health plan program under Chapter 62, Health and Safety Code; and

(2) develop a procedure under which faith- and community-based organizations may apply to participate in the program.

(b) At the time an individual applies for benefits described by Subsection (a), the individual must be:

(1) informed about and given the opportunity to enroll in

the program; and

(2) informed that enrolling in the program will not affect the individual's eligibility for benefits.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0152. RULES. The executive commissioner shall adopt rules to implement the program, including rules that:

(1) describe:

(A) the types of faith- and community-based organizations that may apply to participate in the program; and

(B) the qualifications and standards of service required of a participating organization;

(2) facilitate contact between an individual who enrolls in the program and a participating organization that provides supplemental services that may assist the individual;

(3) establish:

(A) processes for suspending, revoking, and periodically renewing an organization's participation in the program, as appropriate; and

(B) methods to ensure the confidentiality and appropriate use of applicant information shared with a participating organization; and

(4) permit an individual to terminate the individual's enrollment in the program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

For expiration of this subchapter, see Section 550.0210.

SUBCHAPTER D-1. PILOT PROGRAM FOR SELF-SUFFICIENCY OF CERTAIN INDIVIDUALS RECEIVING FINANCIAL ASSISTANCE OR SUPPLEMENTAL NUTRITION ASSISTANCE BENEFITS

Sec. 550.0201. DEFINITIONS. In this subchapter:

(1) "Financial assistance benefits" means money payments under:

(A) the federal Temporary Assistance for Needy Families

program operated under Chapter 31, Human Resources Code; or

(B) the state temporary assistance and support services program operated under Chapter 34, Human Resources Code.

(2) "Pilot program" means the pilot program for self-sufficiency of certain individuals receiving financial assistance or supplemental nutrition assistance benefits developed and implemented under this subchapter.

(3) "Self-sufficiency" means:

(A) being employed in a position that pays a sufficient wage;

(B) having financial savings in an amount equal to at least $1,000 per member of a family's household; and

(C) maintaining a debt-to-income ratio that does not exceed 43 percent.

(4) "Slow reduction scale" means a graduated plan for reducing financial assistance or supplemental nutrition assistance benefits that correlates with a phase of the pilot program's progressive stages toward self-sufficiency.

(5) "Sufficient wage" means an amount of money sufficient to meet a family's minimum necessary spending on basic needs, including food, child care, health insurance, housing, and transportation, as determined by a market-based calculation that uses geographically specific expenditure data.

(6) "Supplemental nutrition assistance benefits" means money payments under the supplemental nutrition assistance program operated under Chapter 33, Human Resources Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0202. PILOT PROGRAM DEVELOPMENT AND IMPLEMENTATION. (a) The commission shall develop and implement a pilot program to assist not more than 500 eligible families in gaining permanent self-sufficiency and by eliminating the need for financial assistance, supplemental nutrition assistance, or other means-tested public benefits, notwithstanding the limitations and requirements of Section 31.043, Human Resources Code.

(b) If the commission determines the number of families participating in the pilot program during a year reaches capacity for

that year, the number of families that may be served under the program in the following year may be increased by 20 percent.

(c) The commission shall develop and implement the pilot program with the assistance of:

(1) faith-based and other relevant public or private organizations;

(2) local workforce development boards;

(3) the Texas Workforce Commission; and

(4) any other person the commission determines appropriate.

(d) The pilot program must operate for at least 24 months. The program must also include 16 additional months for:

(1) planning and designing the program before the program begins operation;

(2) recruiting eligible families to participate in the program;

(3) randomly placing each participating family in one of at least three research groups, including:

(A) a control group;

(B) a group consisting of families for whom the application of income, asset, and time limits described by Section 550.0204 is waived; and

(C) a group consisting of families for whom the application of income, asset, and time limits described by Section 550.0204 is waived and who receive wraparound case management services under the program; and

(4) after the program begins operation, collecting and sharing data that allows for:

(A) obtaining participating families' eligibility and identification data before a family is randomly placed in a research group under Subdivision (3);

(B) conducting surveys or interviews of participating families to obtain information that is not contained in records related to a family's eligibility for financial assistance, supplemental nutrition assistance, or other means-tested public benefits;

(C) providing quarterly reports for not more than 60 months after a participating family's enrollment in the program regarding the program's effect on the family's labor market participation, income, and need for means-tested public benefits;

(D) assessing the interaction of the program's

components with the desired outcomes of the program using data collected during the program and data obtained from state agencies concerning means-tested public benefits; and

(E) enlisting a third party to conduct a rigorous experimental impact evaluation of the program.

(e) The pilot program must provide through a community-based provider to each participating family placed in the research group described by Subsection (d)(3)(C) holistic, wraparound case management services that meet all applicable program requirements under 7 C.F.R. Section 273.7(e) or 45 C.F.R. Section 261.10, as applicable. Case management services provided under this subsection must include the strategic use of financial assistance and supplemental nutrition assistance benefits to ensure that the goals included in the family's service plan are achieved.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0203. PILOT PROGRAM DESIGN. (a) The commission shall design the pilot program to allow social services providers, public benefit offices, and other community partners to refer potential participating families to the program.

(b) The commission shall design the pilot program to assist eligible participating families in attaining self-sufficiency by:

(1) identifying eligibility requirements for the continuation of financial assistance or supplemental nutrition assistance benefits and time limits for the benefits, the application of which may be waived for a limited period and that, if applied, would impede self-sufficiency;

(2) implementing strategies, including waiving the application of the eligibility requirements and time limits identified in Subdivision (1), to remove barriers to self-sufficiency; and

(3) moving eligible participating families toward self-sufficiency through progressive stages that include the following phases:

(A) an initial phase in which a family transitions out of an emergent crisis by securing housing, medical care, and financial assistance and supplemental nutrition assistance benefits,

as necessary;

(B) a second phase in which:

(i) the family transitions toward stability by securing employment and any necessary child care and by participating in services that build the financial management skills necessary to meet financial goals; and

(ii) the family's financial assistance and supplemental nutrition assistance benefits are reduced according to the following scale:

(a) on reaching 25 percent of the family's sufficient wage, the amount of benefits is reduced by 10 percent;

(b) on reaching 50 percent of the family's sufficient wage, the amount of benefits is reduced by 25 percent; and

(c) on reaching 75 percent of the family's sufficient wage, the amount of benefits is reduced by 50 percent;

(C) a third phase in which the family:

(i) transitions to self-sufficiency by securing employment that pays a sufficient wage, reducing debt, and building savings; and

(ii) becomes ineligible for financial assistance and supplemental nutrition assistance benefits on reaching 100 percent of the family's sufficient wage; and

(D) a final phase in which the family attains self-sufficiency by retaining employment that pays a sufficient wage, amassing at least $1,000 per member of the family's household, and having manageable debt so that the family will no longer be dependent on financial assistance, supplemental nutrition assistance, or other means-tested public benefits for at least six months following the date the family stops participating in the program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0204. BENEFIT ELIGIBILITY FOR PILOT PROGRAM PARTICIPANTS. (a) To allow for continuation of financial assistance and supplemental nutrition assistance benefits and reduction of the benefits using a slow reduction scale, the pilot program will test extending the benefits for at least 24 months but not more than 60 months by waiving:

(1) the application of income and asset limit eligibility requirements for financial assistance and supplemental nutrition assistance benefits; and

(2) the time limits specified by Section 31.0065, Human Resources Code, for financial assistance benefits.

(b) The commission shall freeze a participating family's eligibility status for financial assistance and supplemental nutrition assistance benefits beginning on the date the participating family enters the pilot program and ending on the date the family ceases participating in the program.

(c) The waiver of the application of any asset limit requirement under this section must allow the participating family to have assets in an amount equal to at least $1,000 per member of the family's household.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0205. FAMILY ELIGIBILITY REQUIREMENTS. A family is eligible to participate in the pilot program if the family:

(1) includes one or more members who are recipients of financial assistance or supplemental nutrition assistance benefits, at least one of whom is:

(A) at least 18 years of age but not older than 62 years of age; and

(B) willing, physically able, and legally able to be employed; and

(2) has a total household income that is less than a sufficient wage based on the family's makeup and geographical area of residence.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0206. CASE MANAGEMENT REQUIREMENTS. (a) An individual from a family that wishes to participate in the pilot program must attend an in-person intake meeting with a program case manager. During the intake meeting the case manager shall:

(1) determine whether:

(A) the individual's family meets the eligibility requirements under Section 550.0205; and

(B) the application of income or asset limit eligibility requirements for continuation of financial assistance and supplemental nutrition assistance benefits and the time limits specified by Section 31.0065, Human Resources Code, for financial assistance benefits may be waived under the program;

(2) review the family's demographic information and household financial budget;

(3) assess the family members' current financial and career situations;

(4) collaborate with the individual to develop and implement strategies for removing barriers to the family attaining self-sufficiency, including waiving the application of income and asset limit eligibility requirements and time limits described by Subdivision (1)(B) to allow for continuation of financial assistance and supplemental nutrition assistance benefits; and

(5) if the individual's family is determined eligible for and chooses to participate in the program, schedule a follow-up meeting to:

(A) further assess the family's crisis;

(B) review available referral services; and

(C) create a service plan.

(b) A participating family must be assigned a program case manager who shall:

(1) if the family is determined eligible, provide the family with a verification of the waived application of asset, income, and time limits described by Section 550.0204, allowing the family to continue receiving financial assistance and supplemental nutrition assistance benefits on a slow reduction scale;

(2) during the initial phase of the program, create medium- and long-term goals consistent with the strategies developed under Subsection (a)(4); and

(3) assess, at the follow-up meeting scheduled under Subsection (a)(5), the family's crisis, review available referral services, and create a service plan.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0207. PILOT PROGRAM MONITORING AND EVALUATION. The commission shall monitor and evaluate the pilot program in a manner that allows for promoting research-informed results of the program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0208. REPORTS. (a) On the conclusion of the pilot program but not later than 48 months following the date of the last participating family's enrollment in the program, the commission shall report to the legislature on the results of the program. The report must include:

(1) an evaluation of the program's effect on participating families in achieving self-sufficiency and eliminating the need for means-tested public benefits;

(2) the impact to this state on the costs of the financial assistance and supplemental nutrition assistance programs and of the child-care services program operated by the Texas Workforce Commission;

(3) a cost-benefit analysis of the program; and

(4) recommendations on the feasibility and continuation of the program.

(b) During the operation of the pilot program, the commission shall provide to the legislature additional reports concerning the program that the commission determines appropriate.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0209. RULES. The executive commissioner and the Texas Workforce Commission may adopt rules to implement this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0210. SUBCHAPTER EXPIRATION. This subchapter expires September 1, 2026.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER E. COMMUNITY-BASED NAVIGATOR PROGRAM

Sec. 550.0251. DEFINITION. In this subchapter, "navigator" means an individual who is:

(1) a volunteer or other representative of a faith- or community-based organization; and

(2) certified by the commission to provide or facilitate the provision of information or assistance through the faith- or community-based organization to individuals applying or seeking to apply online for public assistance benefits administered by the commission through the Texas Integrated Eligibility Redesign System (TIERS) or any other electronic eligibility system that is linked to or made a part of that system.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0252. ESTABLISHMENT OF COMMUNITY-BASED NAVIGATOR PROGRAM. (a) The commission shall establish a statewide community-based navigator program if the executive commissioner determines the program can be established and operated using existing resources and without disrupting other commission functions.

(b) Under the statewide community-based navigator program, the commission will train and certify as navigators volunteers and other representatives of faith- and community-based organizations. The navigators will assist individuals applying or seeking to apply online for public assistance benefits through the Texas Integrated Eligibility Redesign System (TIERS) or any other electronic eligibility system that is linked to or made a part of that system.

(c) In establishing the navigator program, the commission:

(1) shall solicit the expertise and assistance of interested persons, including faith- and community-based organizations; and

(2) may establish a work group or other temporary, informal group of interested persons to provide input and assistance.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01,

eff. April 1, 2025.

Sec. 550.0253. PROGRAM STANDARDS. The executive commissioner shall adopt standards to implement this subchapter, including standards:

(1) subject to Section 550.0254, regarding the qualifications and training required for navigator certification;

(2) regarding the suspension, revocation, and, if appropriate, periodic renewal of a navigator certificate;

(3) to protect the confidentiality of applicant information handled by navigators; and

(4) regarding any other issues the executive commissioner determines are appropriate.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0254. NAVIGATOR TRAINING PROGRAM. The commission shall develop and administer a navigator training program that includes training on:

(1) the manner of completing an online application for public assistance benefits through the Texas Integrated Eligibility Redesign System (TIERS);

(2) the importance of maintaining the confidentiality of information a navigator handles;

(3) the importance of obtaining and submitting complete and accurate information when completing an application for public assistance benefits online through the Texas Integrated Eligibility Redesign System (TIERS);

(4) the financial assistance program, the supplemental nutrition assistance program, Medicaid, the child health plan program, and any other public assistance benefits program for which an individual may complete an online application through the Texas Integrated Eligibility Redesign System (TIERS); and

(5) the method by which an individual may apply for other public assistance benefits for which the individual may not complete an online application through the Texas Integrated Eligibility Redesign System (TIERS).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 550.0255. CERTIFIED NAVIGATOR LIST. The commission shall publish and maintain on the commission's Internet website a list of certified navigators.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

TITLE 5. OPEN GOVERNMENT; ETHICS
SUBTITLE A. OPEN GOVERNMENT
CHAPTER 551. OPEN MEETINGS
SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2520, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 551.001. DEFINITIONS. In this chapter:

(1) "Closed meeting" means a meeting to which the public does not have access.

(2) "Deliberation" means a verbal or written exchange between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body.

(3) "Governmental body" means:

(A) a board, commission, department, committee, or agency within the executive or legislative branch of state government that is directed by one or more elected or appointed members;

(B) a county commissioners court in the state;

(C) a municipal governing body in the state;

(D) a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a county or municipality;

(E) a school district board of trustees;

(F) a county board of school trustees;

(G) a county board of education;

(H) the governing board of a special district created by law;

(I) a local workforce development board created under Section 2308.253;

(J) a nonprofit corporation that is eligible to receive funds under the federal community services block grant program and that is authorized by this state to serve a geographic area of the state;

(K) a nonprofit corporation organized under Chapter 67, Water Code, that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Section 11.30, Tax Code;

(L) a joint board created under Section 22.074, Transportation Code; and

(M) a board of directors of a reinvestment zone created under Chapter 311, Tax Code.

(4) "Meeting" means:

(A) a deliberation between a quorum of a governmental body, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered or during which the governmental body takes formal action; or

(B) except as otherwise provided by this subdivision, a gathering:

(i) that is conducted by the governmental body or for which the governmental body is responsible;

(ii) at which a quorum of members of the governmental body is present;

(iii) that has been called by the governmental body; and

(iv) at which the members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the governmental body, about the public business or public policy over which the governmental body has supervision or control.

The term does not include the gathering of a quorum of a governmental body at a social function unrelated to the public business that is conducted by the body, the attendance by a quorum of a governmental body at a regional, state, or national convention or workshop, ceremonial event, or press conference, or the attendance by a quorum of a governmental body at a candidate forum, appearance, or

debate to inform the electorate, if formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, press conference, forum, appearance, or debate.

The term includes a session of a governmental body.

(5) "Open" means open to the public.

(6) "Quorum" means a majority of a governmental body, unless defined differently by applicable law or rule or the charter of the governmental body.

(7) "Recording" means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed.

(8) "Videoconference call" means a communication conducted between two or more persons in which one or more of the participants communicate with the other participants through duplex audio and video signals transmitted over a telephone network, a data network, or the Internet.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.23, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 647, Sec. 1, eff. Aug. 30, 1999; Acts 2001, 77th Leg., ch. 633, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1004, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 9.012, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 165 (S.B. 1306), Sec. 1, eff. May 22, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 87 (S.B. 471), Sec. 1, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 685 (H.B. 2414), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 115 (S.B. 679), Sec. 1, eff. May 23, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(26), eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 917 (S.B. 1440), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 645 (S.B. 1640), Sec. 1, eff. June 10, 2019.

Acts 2021, 87th Leg., R.S., Ch. 361 (S.B. 244), Sec. 1, eff. September 1, 2021.

Sec. 551.0015. CERTAIN PROPERTY OWNERS' ASSOCIATIONS SUBJECT TO LAW. (a) A property owners' association is subject to this chapter in the same manner as a governmental body:

(1) if:

(A) membership in the property owners' association is mandatory for owners or for a defined class of owners of private real property in a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more;

(B) the property owners' association has the power to make mandatory special assessments for capital improvements or mandatory regular assessments; and

(C) the amount of the mandatory special or regular assessments is or has ever been based in whole or in part on the value at which the state or a local governmental body assesses the property for purposes of ad valorem taxation under Section 20, Article VIII, Texas Constitution; or

(2) if the property owners' association:

(A) provides maintenance, preservation, and architectural control of residential and commercial property within a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more; and

(B) is a corporation that:

(i) is governed by a board of trustees who may employ a general manager to execute the association's bylaws and administer the business of the corporation;

(ii) does not require membership in the corporation by the owners of the property within the defined area; and

(iii) was incorporated before January 1, 2006.

(b) The governing body of the association, a committee of the association, and members of the governing body or of a committee of the association are subject to this chapter in the same manner as the governing body of a governmental body, a committee of a governmental body, and members of the governing body or of a committee of the governmental body.

Added by Acts 1999, 76th Leg., ch. 1084, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1367 (H.B. 3674), Sec. 1, eff. September 1, 2007.

Sec. 551.002. OPEN MEETINGS REQUIREMENT. Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.003. LEGISLATURE. In this chapter, the legislature is exercising its powers to adopt rules to prohibit secret meetings of the legislature, committees of the legislature, and other bodies associated with the legislature, except as specifically permitted in the constitution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.0035. ATTENDANCE BY GOVERNMENTAL BODY AT LEGISLATIVE COMMITTEE OR AGENCY MEETING. (a) This section applies only to the attendance by a quorum of a governmental body at a meeting of a committee or agency of the legislature. This section does not apply to attendance at the meeting by members of the legislative committee or agency holding the meeting.

(b) The attendance by a quorum of a governmental body at a meeting of a committee or agency of the legislature is not considered to be a meeting of that governmental body if the deliberations at the meeting by the members of that governmental body consist only of publicly testifying at the meeting, publicly commenting at the meeting, and publicly responding at the meeting to a question asked by a member of the legislative committee or agency.

Added by Acts 2001, 77th Leg., ch. 447, Sec. 1, eff. June 4, 2001.

Sec. 551.004. OPEN MEETINGS REQUIRED BY CHARTER. This chapter does not authorize a governmental body to close a meeting that a

charter of the governmental body:

(1) prohibits from being closed; or

(2) requires to be open.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.005. OPEN MEETINGS TRAINING. (a) Each elected or appointed public official who is a member of a governmental body subject to this chapter shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the governmental body and its members under this chapter not later than the 90th day after the date the member:

(1) takes the oath of office, if the member is required to take an oath of office to assume the person's duties as a member of the governmental body; or

(2) otherwise assumes responsibilities as a member of the governmental body, if the member is not required to take an oath of office to assume the person's duties as a member of the governmental body.

(b) The attorney general shall ensure that the training is made available. The office of the attorney general may provide the training and may also approve any acceptable course of training offered by a governmental body or other entity. The attorney general shall ensure that at least one course of training approved or provided by the attorney general is available on videotape or a functionally similar and widely available medium at no cost. The training must include instruction in:

(1) the general background of the legal requirements for open meetings;

(2) the applicability of this chapter to governmental bodies;

(3) procedures and requirements regarding quorums, notice, and recordkeeping under this chapter;

(4) procedures and requirements for holding an open meeting and for holding a closed meeting under this chapter; and

(5) penalties and other consequences for failure to comply with this chapter.

(c) The office of the attorney general or other entity providing the training shall provide a certificate of course

completion to persons who complete the training required by this section. A governmental body shall maintain and make available for public inspection the record of its members' completion of the training.

(d) Completing the required training as a member of the governmental body satisfies the requirements of this section with regard to the member's service on a committee or subcommittee of the governmental body and the member's ex officio service on any other governmental body.

(e) The training required by this section may be used to satisfy any corresponding training requirements concerning this chapter or open meetings required by law for the members of a governmental body. The attorney general shall attempt to coordinate the training required by this section with training required by other law to the extent practicable.

(f) The failure of one or more members of a governmental body to complete the training required by this section does not affect the validity of an action taken by the governmental body.

(g) A certificate of course completion is admissible as evidence in a criminal prosecution under this chapter. However, evidence that a defendant completed a course of training offered under this section is not prima facie evidence that the defendant knowingly violated this chapter.

Added by Acts 2005, 79th Leg., Ch. 105 (S.B. 286), Sec. 1, eff. January 1, 2006.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 710, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 551.006. WRITTEN ELECTRONIC COMMUNICATIONS ACCESSIBLE TO PUBLIC. (a) A communication or exchange of information between members of a governmental body about public business or public policy over which the governmental body has supervision or control does not constitute a meeting or deliberation for purposes of this chapter if:

(1) the communication is in writing;

(2) the writing is posted to an online message board or similar Internet application that is viewable and searchable by the public; and

(3) the communication is displayed in real time and displayed on the online message board or similar Internet application for no less than 30 days after the communication is first posted.

(b) A governmental body may have no more than one online message board or similar Internet application to be used for the purposes described in Subsection (a). The online message board or similar Internet application must be owned or controlled by the governmental body, prominently displayed on the governmental body's primary Internet web page, and no more than one click away from the governmental body's primary Internet web page.

(c) The online message board or similar Internet application described in Subsection (a) may only be used by members of the governmental body or staff members of the governmental body who have received specific authorization from a member of the governmental body. In the event that a staff member posts a communication to the online message board or similar Internet application, the name and title of the staff member must be posted along with the communication.

(d) If a governmental body removes from the online message board or similar Internet application a communication that has been posted for at least 30 days, the governmental body shall maintain the posting for a period of six years. This communication is public information and must be disclosed in accordance with Chapter 552.

(e) The governmental body may not vote or take any action that is required to be taken at a meeting under this chapter of the governmental body by posting a communication to the online message board or similar Internet application. In no event shall a communication or posting to the online message board or similar Internet application be construed to be an action of the governmental body.

Added by Acts 2013, 83rd Leg., R.S., Ch. 685 (H.B. 2414), Sec. 3, eff. June 14, 2013.
Added by Acts 2013, 83rd Leg., R.S., Ch. 1201 (S.B. 1297), Sec. 1, eff. September 1, 2013.

Sec. 551.007. PUBLIC TESTIMONY. (a) This section applies only to a governmental body described by Sections 551.001(3)(B)-(L).

(b) A governmental body shall allow each member of the public

who desires to address the body regarding an item on an agenda for an open meeting of the body to address the body regarding the item at the meeting before or during the body's consideration of the item.

(c) A governmental body may adopt reasonable rules regarding the public's right to address the body under this section, including rules that limit the total amount of time that a member of the public may address the body on a given item.

(d) This subsection applies only if a governmental body does not use simultaneous translation equipment in a manner that allows the body to hear the translated public testimony simultaneously. A rule adopted under Subsection (c) that limits the amount of time that a member of the public may address the governmental body must provide that a member of the public who addresses the body through a translator must be given at least twice the amount of time as a member of the public who does not require the assistance of a translator in order to ensure that non-English speakers receive the same opportunity to address the body.

(e) A governmental body may not prohibit public criticism of the governmental body, including criticism of any act, omission, policy, procedure, program, or service. This subsection does not apply to public criticism that is otherwise prohibited by law.

Added by Acts 2019, 86th Leg., R.S., Ch. 861 (H.B. 2840), Sec. 1, eff. September 1, 2019.

SUBCHAPTER B. RECORD OF OPEN MEETING

Sec. 551.021. MINUTES OR RECORDING OF OPEN MEETING REQUIRED. (a) A governmental body shall prepare and keep minutes or make a recording of each open meeting of the body.

(b) The minutes must:

(1) state the subject of each deliberation; and

(2) indicate each vote, order, decision, or other action taken.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 87 (S.B. 471), Sec. 2, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 87 (S.B. 471), Sec. 3, eff. May 18, 2013.

Sec. 551.022. MINUTES AND RECORDINGS OF OPEN MEETING: PUBLIC RECORD. The minutes and recordings of an open meeting are public records and shall be available for public inspection and copying on request to the governmental body's chief administrative officer or the officer's designee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 87 (S.B. 471), Sec. 4, eff. May 18, 2013.

Sec. 551.023. RECORDING OF MEETING BY PERSON IN ATTENDANCE. (a) A person in attendance may record all or any part of an open meeting of a governmental body by means of a recorder, video camera, or other means of aural or visual reproduction.

(b) A governmental body may adopt reasonable rules to maintain order at a meeting, including rules relating to:

(1) the location of recording equipment; and

(2) the manner in which the recording is conducted.

(c) A rule adopted under Subsection (b) may not prevent or unreasonably impair a person from exercising a right granted under Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 87 (S.B. 471), Sec. 5, eff. May 18, 2013.

SUBCHAPTER C. NOTICE OF MEETINGS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2520, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 551.041. NOTICE OF MEETING REQUIRED. A governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.0411. MEETING NOTICE REQUIREMENTS IN CERTAIN CIRCUMSTANCES. (a) Section 551.041 does not require a governmental body that recesses an open meeting to the following regular business day to post notice of the continued meeting if the action is taken in good faith and not to circumvent this chapter. If an open meeting is continued to the following regular business day and, on that following day, the governmental body continues the meeting to another day, the governmental body must give written notice as required by this subchapter of the meeting continued to that other day.

(b) A governmental body that is prevented from convening an open meeting that was otherwise properly posted under Section 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Section 551.045 if the action is taken in good faith and not to circumvent this chapter. If the governmental body is unable to convene the open meeting within those 72 hours, the governmental body may subsequently convene the meeting only if the governmental body gives written notice of the meeting as required by this subchapter.

(c) In this section, "catastrophe" means a condition or occurrence that interferes physically with the ability of a governmental body to conduct a meeting, including:

(1) fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;

(2) power failure, transportation failure, or interruption of communication facilities;

(3) epidemic; or

(4) riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

Added by Acts 2005, 79th Leg., Ch. 325 (S.B. 690), Sec. 1, eff. June 17, 2005.

Sec. 551.0415. GOVERNING BODY OF MUNICIPALITY OR COUNTY: REPORTS ABOUT ITEMS OF COMMUNITY INTEREST REGARDING WHICH NO ACTION WILL BE TAKEN. (a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality or county may receive from staff of the political subdivision and a member of the governing

body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

(b) For purposes of Subsection (a), "items of community interest" includes:

(1) expressions of thanks, congratulations, or condolence;

(2) information regarding holiday schedules;

(3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;

(4) a reminder about an upcoming event organized or sponsored by the governing body;

(5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and

(6) announcements involving an imminent threat to the public health and safety of people in the political subdivision that has arisen after the posting of the agenda.

Added by Acts 2009, 81st Leg., R.S., Ch. 1377 (S.B. 1182), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1007 (H.B. 2313), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 14, eff. June 17, 2011.

Reenacted and amended by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.013, eff. September 1, 2013.

Sec. 551.042. INQUIRY MADE AT MEETING. (a) If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter

do not apply to:

(1) a statement of specific factual information given in response to the inquiry; or

(2) a recitation of existing policy in response to the inquiry.

(b) Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1522, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 551.043. TIME AND ACCESSIBILITY OF NOTICE; GENERAL RULE. (a) The notice of a meeting of a governmental body must be posted in a place readily accessible to the general public at all times for at least 72 hours before the scheduled time of the meeting, except as provided by Sections 551.044-551.046.

(b) If this chapter specifically requires or allows a governmental body to post notice of a meeting on the Internet:

(1) the governmental body satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the Internet during the prescribed period;

(2) the governmental body must still comply with any duty imposed by this chapter to physically post the notice at a particular location; and

(3) if the governmental body makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the notice physically posted at the location prescribed by this chapter must be readily accessible to the general public during normal business hours.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2005, 79th Leg., Ch. 624 (H.B. 2381), Sec. 1, eff. September 1, 2005.

Sec. 551.044. EXCEPTION TO GENERAL RULE: GOVERNMENTAL BODY WITH STATEWIDE JURISDICTION. (a) The secretary of state must post notice on the Internet of a meeting of a state board, commission, department, or officer having statewide jurisdiction for at least seven days before the day of the meeting. The secretary of state shall provide during regular office hours a computer terminal at a place convenient to the public in the office of the secretary of state that members of the public may use to view notices of meetings posted by the secretary of state.

(b) Subsection (a) does not apply to:

(1) the Texas Department of Insurance, as regards proceedings and activities under Title 5, Labor Code, of the department, the commissioner of insurance, or the commissioner of workers' compensation; or

(2) the governing board of an institution of higher education.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 622, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 6.006, eff. September 1, 2005.

Sec. 551.045. EXCEPTION TO GENERAL RULE: NOTICE OF EMERGENCY MEETING OR EMERGENCY ADDITION TO AGENDA. (a) In an emergency or when there is an urgent public necessity, the notice of a meeting to deliberate or take action on the emergency or urgent public necessity, or the supplemental notice to add the deliberation or taking of action on the emergency or urgent public necessity as an item to the agenda for a meeting for which notice has been posted in accordance with this subchapter, is sufficient if the notice or supplemental notice is posted for at least one hour before the meeting is convened.

(a-1) A governmental body may not deliberate or take action on a matter at a meeting for which notice or supplemental notice is posted under Subsection (a) other than:

(1) a matter directly related to responding to the

emergency or urgent public necessity identified in the notice or supplemental notice of the meeting as provided by Subsection (c); or

(2) an agenda item listed on a notice of the meeting before the supplemental notice was posted.

(b) An emergency or an urgent public necessity exists only if immediate action is required of a governmental body because of:

(1) an imminent threat to public health and safety, including a threat described by Subdivision (2) if imminent; or

(2) a reasonably unforeseeable situation, including:

(A) fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;

(B) power failure, transportation failure, or interruption of communication facilities;

(C) epidemic; or

(D) riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

(c) The governmental body shall clearly identify the emergency or urgent public necessity in the notice or supplemental notice under this section.

(d) A person who is designated or authorized to post notice of a meeting by a governmental body under this subchapter shall post the notice taking at face value the governmental body's stated reason for the emergency or urgent public necessity.

(e) For purposes of Subsection (b)(2), the sudden relocation of a large number of residents from the area of a declared disaster to a governmental body's jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 3.06, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1325 (S.B. 1499), Sec. 1, eff. June 15, 2007.

Acts 2019, 86th Leg., R.S., Ch. 462 (S.B. 494), Sec. 1, eff. September 1, 2019.

Sec. 551.046. EXCEPTION TO GENERAL RULE: COMMITTEE OF

LEGISLATURE. The notice of a legislative committee meeting shall be as provided by the rules of the house of representatives or of the senate.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.047. SPECIAL NOTICE TO NEWS MEDIA OF EMERGENCY MEETING OR EMERGENCY ADDITION TO AGENDA. (a) The presiding officer of a governmental body, or the member of a governmental body who calls an emergency meeting of the governmental body or adds an emergency item to the agenda of a meeting of the governmental body, shall notify the news media of the emergency meeting or emergency item as required by this section.

(b) The presiding officer or member is required to notify only those members of the news media that have previously:

(1) filed at the headquarters of the governmental body a request containing all pertinent information for the special notice; and

(2) agreed to reimburse the governmental body for the cost of providing the special notice.

(c) The presiding officer or member shall give the notice by telephone, facsimile transmission, or electronic mail at least one hour before the meeting is convened.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 380 (S.B. 592), Sec. 1, eff. June 15, 2007.

Acts 2019, 86th Leg., R.S., Ch. 462 (S.B. 494), Sec. 2, eff. September 1, 2019.

Sec. 551.048. STATE GOVERNMENTAL BODY: NOTICE TO SECRETARY OF STATE; PLACE OF POSTING NOTICE. (a) A state governmental body shall provide notice of each meeting to the secretary of state.

(b) The secretary of state shall post the notice on the Internet. The secretary of state shall provide during regular office hours a computer terminal at a place convenient to the public in the office of the secretary of state that members of the public may use to view the notice.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 622, Sec. 2, eff. Sept. 1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5534, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 551.049. COUNTY GOVERNMENTAL BODY: PLACE OF POSTING NOTICE. A county governmental body shall post notice of each meeting on a bulletin board at a place convenient to the public in the county courthouse.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.050. MUNICIPAL GOVERNMENTAL BODY: PLACE OF POSTING NOTICE. (a) In this section, "electronic bulletin board" means an electronic communication system that includes a perpetually illuminated screen on which the governmental body can post messages or notices viewable without manipulation by the public.

(b) A municipal governmental body shall post notice of each meeting on a physical or electronic bulletin board at a place convenient to the public in the city hall.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1007 (H.B. 2313), Sec. 2, eff. June 17, 2011.

Sec. 551.0501. JOINT BOARD: PLACE OF POSTING NOTICE. (a) In this section, "electronic bulletin board" means an electronic communication system that includes a perpetually illuminated screen on which the governmental body can post messages or notices viewable without manipulation by the public.

(b) A joint board created under Section 22.074, Transportation Code, shall post notice of each meeting on a physical or electronic bulletin board at a place convenient to the public in the board's administrative offices.

Added by Acts 2015, 84th Leg., R.S., Ch. 115 (S.B. 679), Sec. 2, eff.

May 23, 2015.

Sec. 551.051. SCHOOL DISTRICT: PLACE OF POSTING NOTICE. A school district shall post notice of each meeting on a bulletin board at a place convenient to the public in the central administrative office of the district.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.052. SCHOOL DISTRICT: SPECIAL NOTICE TO NEWS MEDIA. (a) A school district shall provide special notice of each meeting to any news media that has:

(1) requested special notice; and

(2) agreed to reimburse the district for the cost of providing the special notice.

(b) The notice shall be by telephone, facsimile transmission, or electronic mail.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 380 (S.B. 592), Sec. 2, eff. June 15, 2007.

Sec. 551.053. DISTRICT OR POLITICAL SUBDIVISION EXTENDING INTO FOUR OR MORE COUNTIES: NOTICE TO PUBLIC, SECRETARY OF STATE, AND COUNTY CLERK; PLACE OF POSTING NOTICE. (a) The governing body of a water district or other district or political subdivision that extends into four or more counties shall:

(1) post notice of each meeting at a place convenient to the public in the administrative office of the district or political subdivision;

(2) provide notice of each meeting to the secretary of state; and

(3) either provide notice of each meeting to the county clerk of the county in which the administrative office of the district or political subdivision is located or post notice of each meeting on the district's or political subdivision's Internet website.

(b) The secretary of state shall post the notice provided under Subsection (a)(2) on the Internet. The secretary of state shall provide during regular office hours a computer terminal at a place convenient to the public in the office of the secretary of state that members of the public may use to view the notice.

(c) A county clerk shall post a notice provided to the clerk under Subsection (a)(3) on a bulletin board at a place convenient to the public in the county courthouse.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 622, Sec. 3, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 809 (H.B. 3357), Sec. 1, eff. September 1, 2015.

Sec. 551.054. DISTRICT OR POLITICAL SUBDIVISION EXTENDING INTO FEWER THAN FOUR COUNTIES: NOTICE TO PUBLIC AND COUNTY CLERKS; PLACE OF POSTING NOTICE. (a) The governing body of a water district or other district or political subdivision that extends into fewer than four counties shall:

(1) post notice of each meeting at a place convenient to the public in the administrative office of the district or political subdivision; and

(2) either provide notice of each meeting to the county clerk of each county in which the district or political subdivision is located or post notice of each meeting on the district's or political subdivision's Internet website.

(b) A county clerk shall post a notice provided to the clerk under Subsection (a)(2) on a bulletin board at a place convenient to the public in the county courthouse.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 809 (H.B. 3357), Sec. 2, eff. September 1, 2015.

Sec. 551.055. INSTITUTION OF HIGHER EDUCATION. In addition to providing any other notice required by this subchapter, the governing board of a single institution of higher education:

(1) shall post notice of each meeting at the county courthouse of the county in which the meeting will be held;

(2) shall publish notice of a meeting in a student newspaper of the institution if an issue of the newspaper is published between the time of the posting and the time of the meeting; and

(3) may post notice of a meeting at another place convenient to the public.

Added by Acts 1995, 74th Leg., ch. 209, Sec. 1, eff. May 23, 1995.

Sec. 551.056. ADDITIONAL POSTING REQUIREMENTS FOR CERTAIN MUNICIPALITIES, COUNTIES, SCHOOL DISTRICTS, JUNIOR COLLEGE DISTRICTS, DEVELOPMENT CORPORATIONS, AUTHORITIES, AND JOINT BOARDS. (a) This section applies only to a governmental body or economic development corporation that maintains an Internet website or for which an Internet website is maintained. This section does not apply to a governmental body described by Section 551.001(3)(D).

(b) In addition to the other place at which notice or an agenda of a meeting is required to be posted by this subchapter, the following governmental bodies and economic development corporations must also concurrently post notice of a meeting and the agenda for the meeting on the Internet website of the governmental body or economic development corporation:

(1) a municipality;

(2) a county;

(3) a school district;

(4) the governing body of a junior college or junior college district, including a college or district that has changed its name in accordance with Chapter 130, Education Code;

(5) a development corporation organized under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code);

(6) a regional mobility authority included within the meaning of an "authority" as defined by Section 370.003, Transportation Code;

(7) a joint board created under Section 22.074, Transportation Code; and

(8) a district or authority created under Section 52,

Article III, or Section 59, Article XVI, Texas Constitution.

(c) Repealed by Acts 2023, 88th Leg., R.S., Ch. 855 (H.B. 3440), Sec. 2, eff. September 1, 2023.

(d) The validity of a posted notice of a meeting or an agenda by a governmental body or economic development corporation subject to this section that made a good faith attempt to comply with the requirements of this section is not affected by a failure to comply with a requirement of this section that is due to a technical problem beyond the control of the governmental body or economic development corporation.

Added by Acts 2005, 79th Leg., Ch. 340 (S.B. 1133), Sec. 1, eff. January 1, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 814 (S.B. 1548), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.10, eff. April 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 115 (S.B. 679), Sec. 3, eff. May 23, 2015.

Acts 2015, 84th Leg., R.S., Ch. 115 (S.B. 679), Sec. 4, eff. May 23, 2015.

Acts 2023, 88th Leg., R.S., Ch. 855 (H.B. 3440), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 855 (H.B. 3440), Sec. 2, eff. September 1, 2023.

SUBCHAPTER D. EXCEPTIONS TO REQUIREMENT THAT MEETINGS BE OPEN

Sec. 551.071. CONSULTATION WITH ATTORNEY; CLOSED MEETING. A governmental body may not conduct a private consultation with its attorney except:

(1) when the governmental body seeks the advice of its attorney about:

(A) pending or contemplated litigation; or

(B) a settlement offer; or

(2) on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.072. DELIBERATION REGARDING REAL PROPERTY; CLOSED MEETING. A governmental body may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.0725. COMMISSIONERS COURTS: DELIBERATION REGARDING CONTRACT BEING NEGOTIATED; CLOSED MEETING. (a) The commissioners court of a county may conduct a closed meeting to deliberate business and financial issues relating to a contract being negotiated if, before conducting the closed meeting:

(1) the commissioners court votes unanimously that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiations with a third person; and

(2) the attorney advising the commissioners court issues a written determination that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiations with a third person.

(b) Notwithstanding Section 551.103(a), Government Code, the commissioners court must make a recording of the proceedings of a closed meeting to deliberate the information.

Added by Acts 2003, 78th Leg., ch. 1287, Sec. 1, eff. June 21, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 758 (H.B. 1500), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 15, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 87 (S.B. 471), Sec. 6, eff. May 18, 2013.

Sec. 551.0726. TEXAS FACILITIES COMMISSION: DELIBERATION

REGARDING CONTRACT BEING NEGOTIATED; CLOSED MEETING. (a) The Texas Facilities Commission may conduct a closed meeting to deliberate business and financial issues relating to a contract being negotiated if, before conducting the closed meeting:

(1) the commission votes unanimously that deliberation in an open meeting would have a detrimental effect on the position of the state in negotiations with a third person; and

(2) the attorney advising the commission issues a written determination finding that deliberation in an open meeting would have a detrimental effect on the position of the state in negotiations with a third person and setting forth that finding therein.

(b) Notwithstanding Section 551.103(a), the commission must make a recording of the proceedings of a closed meeting held under this section.

Added by Acts 2005, 79th Leg., Ch. 535 (H.B. 976), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 3.05, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 11.011, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 87 (S.B. 471), Sec. 7, eff. May 18, 2013.

Sec. 551.073. DELIBERATION REGARDING PROSPECTIVE GIFT; CLOSED MEETING. A governmental body may conduct a closed meeting to deliberate a negotiated contract for a prospective gift or donation to the state or the governmental body if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2520, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 551.074. PERSONNEL MATTERS; CLOSED MEETING. (a) This

chapter does not require a governmental body to conduct an open meeting:

(1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or

(2) to hear a complaint or charge against an officer or employee.

(b) Subsection (a) does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.0745. PERSONNEL MATTERS AFFECTING COUNTY ADVISORY BODY; CLOSED MEETING. (a) This chapter does not require the commissioners court of a county to conduct an open meeting:

(1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of an advisory body; or

(2) to hear a complaint or charge against a member of an advisory body.

(b) Subsection (a) does not apply if the individual who is the subject of the deliberation or hearing requests a public hearing.

Added by Acts 1997, 75th Leg., ch. 659, Sec. 1, eff. Sept. 1, 1997.

Sec. 551.075. CONFERENCE RELATING TO INVESTMENTS AND POTENTIAL INVESTMENTS ATTENDED BY BOARD OF TRUSTEES OF TEXAS GROWTH FUND; CLOSED MEETING. (a) This chapter does not require the board of trustees of the Texas growth fund to confer with one or more employees of the Texas growth fund or with a third party in an open meeting if the only purpose of the conference is to:

(1) receive information from the employees of the Texas growth fund or the third party relating to an investment or a potential investment by the Texas growth fund in:

(A) a private business entity, if disclosure of the information would give advantage to a competitor; or

(B) a business entity whose securities are publicly traded, if the investment or potential investment is not required to

be registered under the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.), and its subsequent amendments, and if disclosure of the information would give advantage to a competitor; or

(2) question the employees of the Texas growth fund or the third party regarding an investment or potential investment described by Subdivision (1), if disclosure of the information contained in the questions or answers would give advantage to a competitor.

(b) During a conference under Subsection (a), members of the board of trustees of the Texas growth fund may not deliberate public business or agency policy that affects public business.

(c) In this section, "Texas growth fund" means the fund created by Section 70, Article XVI, Texas Constitution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 647, Sec. 2, eff. Aug. 30, 1999.

Sec. 551.076. DELIBERATION REGARDING SECURITY DEVICES OR SECURITY AUDITS; CLOSED MEETING. This chapter does not require a governmental body to conduct an open meeting to deliberate:

(1) the deployment, or specific occasions for implementation, of security personnel or devices; or

(2) a security audit.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 3.07, eff. September 1, 2007.

Sec. 551.077. AGENCY FINANCED BY FEDERAL GOVERNMENT. This chapter does not require an agency financed entirely by federal money to conduct an open meeting.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.078. MEDICAL BOARD OR MEDICAL COMMITTEE. This chapter does not require a medical board or medical committee to conduct an open meeting to deliberate the medical or psychiatric records of an

individual applicant for a disability benefit from a public retirement system.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.0785. DELIBERATIONS INVOLVING MEDICAL OR PSYCHIATRIC RECORDS OF INDIVIDUALS. This chapter does not require a benefits appeals committee for a public self-funded health plan or a governmental body that administers a public insurance, health, or retirement plan to conduct an open meeting to deliberate:

(1) the medical records or psychiatric records of an individual applicant for a benefit from the plan; or

(2) a matter that includes a consideration of information in the medical or psychiatric records of an individual applicant for a benefit from the plan.

Added by Acts 2003, 78th Leg., ch. 158, Sec. 1, eff. May 27, 2003.

Sec. 551.079. TEXAS DEPARTMENT OF INSURANCE. (a) The requirements of this chapter do not apply to a meeting of the commissioner of insurance or the commissioner's designee with the board of directors of a guaranty association established under Chapter 2602, Insurance Code, or Article 21.28-C or 21.28-D, Insurance Code, in the discharge of the commissioner's duties and responsibilities to regulate and maintain the solvency of a person regulated by the Texas Department of Insurance.

(b) The commissioner of insurance may deliberate and determine the appropriate action to be taken concerning the solvency of a person regulated by the Texas Department of Insurance in a closed meeting with persons in one or more of the following categories:

(1) staff of the Texas Department of Insurance;

(2) a regulated person;

(3) representatives of a regulated person; or

(4) members of the board of directors of a guaranty association established under Chapter 2602, Insurance Code, or Article 21.28-C or 21.28-D, Insurance Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 628, Sec. 1, eff. Sept. 1, 2001.

Amended by:
Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.120, eff. September 1, 2005.

Sec. 551.080. BOARD OF PARDONS AND PAROLES. This chapter does not require the Board of Pardons and Paroles to conduct an open meeting to interview or counsel an inmate of the Texas Department of Criminal Justice.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.071, eff. September 1, 2009.

Sec. 551.081. CREDIT UNION COMMISSION. This chapter does not require the Credit Union Commission to conduct an open meeting to deliberate a matter made confidential by law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.0811. THE FINANCE COMMISSION OF TEXAS. This chapter does not require The Finance Commission of Texas to conduct an open meeting to deliberate a matter made confidential by law.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.01(a), eff. Sept. 1, 1995.

Sec. 551.082. SCHOOL CHILDREN; SCHOOL DISTRICT EMPLOYEES; DISCIPLINARY MATTER OR COMPLAINT. (a) This chapter does not require a school board to conduct an open meeting to deliberate in a case:

(1) involving discipline of a public school child; or

(2) in which a complaint or charge is brought against an employee of the school district by another employee and the complaint or charge directly results in a need for a hearing.

(b) Subsection (a) does not apply if an open hearing is requested in writing by a parent or guardian of the child or by the employee against whom the complaint or charge is brought.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.0821. SCHOOL BOARD: PERSONALLY IDENTIFIABLE INFORMATION ABOUT PUBLIC SCHOOL STUDENT. (a) This chapter does not require a school board to conduct an open meeting to deliberate a matter regarding a public school student if personally identifiable information about the student will necessarily be revealed by the deliberation.

(b) Directory information about a public school student is considered to be personally identifiable information about the student for purposes of Subsection (a) only if a parent or guardian of the student, or the student if the student has attained 18 years of age, has informed the school board, the school district, or a school in the school district that the directory information should not be released without prior consent. In this subsection, "directory information" has the meaning assigned by the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), as amended.

(c) Subsection (a) does not apply if an open meeting about the matter is requested in writing by a parent or guardian of the student or by the student if the student has attained 18 years of age.

Added by Acts 2003, 78th Leg., ch. 190, Sec. 1, eff. June 2, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620 and H.B. 2520, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 551.083. CERTAIN SCHOOL BOARDS; CLOSED MEETING REGARDING CONSULTATION WITH REPRESENTATIVE OF EMPLOYEE GROUP. This chapter does not require a school board operating under a consultation agreement authorized by Section 13.901, Education Code, to conduct an open meeting to deliberate the standards, guidelines, terms, or conditions the board will follow, or instruct its representatives to follow, in a consultation with a representative of an employee group.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.084. INVESTIGATION; EXCLUSION OF WITNESS FROM HEARING. A governmental body that is investigating a matter may exclude a witness from a hearing during the examination of another witness in the investigation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.085. GOVERNING BOARD OF CERTAIN PROVIDERS OF HEALTH CARE SERVICES. (a) This chapter does not require the governing board of a municipal hospital, municipal hospital authority, county hospital, county hospital authority, hospital district created under general or special law, or nonprofit health maintenance organization created under Section 534.101, Health and Safety Code, to conduct an open meeting to deliberate:

(1) pricing or financial planning information relating to a bid or negotiation for the arrangement or provision of services or product lines to another person if disclosure of the information would give advantage to competitors of the hospital, hospital district, or nonprofit health maintenance organization; or

(2) information relating to a proposed new service or product line of the hospital, hospital district, or nonprofit health maintenance organization before publicly announcing the service or product line.

(b) The governing board of a health maintenance organization created under Section 281.0515, Health and Safety Code, that is subject to this chapter is not required to conduct an open meeting to deliberate information described by Subsection (a).

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.02(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 778, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1229, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 7, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 342 (H.B. 2978), Sec. 1, eff. September 1, 2011.

Sec. 551.086. CERTAIN PUBLIC POWER UTILITIES: COMPETITIVE MATTERS. (a) Notwithstanding anything in this chapter to the contrary, the rules provided by this section apply to competitive

matters of a public power utility.

(b) In this section:

(1) "Public power utility" means an entity providing electric or gas utility services that is subject to the provisions of this chapter.

(2) "Public power utility governing body" means the board of trustees or other applicable governing body, including a city council, of a public power utility.

(3) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 925, Sec. 3, eff. June 17, 2011.

(c) This chapter does not require a public power utility governing body to conduct an open meeting to deliberate, vote, or take final action on any competitive matter, as that term is defined by Section 552.133. This section does not limit the right of a public power utility governing body to hold a closed session under any other exception provided for in this chapter.

(d) For purposes of Section 551.041, the notice of the subject matter of an item that may be considered as a competitive matter under this section is required to contain no more than a general representation of the subject matter to be considered, such that the competitive activity of the public power utility with respect to the issue in question is not compromised or disclosed.

(e) With respect to municipally owned utilities subject to this section, this section shall apply whether or not the municipally owned utility has adopted customer choice or serves in a multiply certificated service area under the Utilities Code.

(f) Nothing in this section is intended to preclude the application of the enforcement and remedies provisions of Subchapter G.

Added by Acts 1999, 76th Leg., ch. 405, Sec. 45, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 925 (S.B. 1613), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 925 (S.B. 1613), Sec. 3, eff. June 17, 2011.

Sec. 551.087. DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS; CLOSED MEETING. This chapter does not require a

governmental body to conduct an open meeting:

(1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or

(2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).

Added by Acts 1999, 76th Leg., ch. 1319, Sec. 32, eff. Sept. 1, 1999. Renumbered from Sec. 551.086 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(49), eff. Sept. 1, 2001.

Sec. 551.088. DELIBERATION REGARDING TEST ITEM. This chapter does not require a governmental body to conduct an open meeting to deliberate a test item or information related to a test item if the governmental body believes that the test item may be included in a test the governmental body administers to individuals who seek to obtain or renew a license or certificate that is necessary to engage in an activity.

Added by Acts 1999, 76th Leg., ch. 312, Sec. 1, eff. Aug. 30, 1999. Renumbered from Sec. 551.086 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(50), eff. Sept. 1, 2001.

Sec. 551.089. DELIBERATION REGARDING SECURITY DEVICES OR SECURITY AUDITS; CLOSED MEETING. This chapter does not require a governmental body to conduct an open meeting to deliberate:

(1) security assessments or deployments relating to information resources technology;

(2) network security information as described by Section 2059.055(b); or

(3) the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

Added by Acts 2009, 81st Leg., R.S., Ch. 183 (H.B. 1830), Sec. 3, eff. September 1, 2009.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 560 (S.B. 564), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 683 (H.B. 8), Sec. 3, eff. September 1, 2017.

Sec. 551.090. ENFORCEMENT COMMITTEE APPOINTED BY TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY. This chapter does not require an enforcement committee appointed by the Texas State Board of Public Accountancy to conduct an open meeting to investigate and deliberate a disciplinary action under Subchapter K, Chapter 901, Occupations Code, relating to the enforcement of Chapter 901 or the rules of the Texas State Board of Public Accountancy.

Added by Acts 2013, 83rd Leg., R.S., Ch. 36 (S.B. 228), Sec. 3, eff. September 1, 2013.

For expiration of this section, see Subsection (e).

Sec. 551.091. COMMISSIONERS COURTS: DELIBERATION REGARDING DISASTER OR EMERGENCY. (a) This section applies only to the commissioners court of a county:

(1) for which the governor has issued an executive order or proclamation declaring a state of disaster or a state of emergency; and

(2) in which transportation to the meeting location is dangerous or difficult as a result of the disaster or emergency.

(b) Notwithstanding any other provision of this chapter and subject to Subsection (c), a commissioners court to which this section applies may hold an open or closed meeting, including a telephone conference call, solely to deliberate about disaster or emergency conditions and related public safety matters that require an immediate response without complying with the requirements of this chapter, including the requirement to provide notice before the meeting or to first convene in an open meeting.

(c) To the extent practicable under the circumstances, the commissioners court shall provide reasonable public notice of a meeting under this section and if the meeting is an open meeting allow members of the public and the press to observe the meeting.

(d) The commissioners court:

(1) may not vote or take final action on a matter during a meeting under this section; and

(2) shall prepare and keep minutes or a recording of a meeting under this section and make the minutes or recording available to the public as soon as practicable.

(e) This section expires September 1, 2027.

Added by Acts 2021, 87th Leg., R.S., Ch. 104 (S.B. 1343), Sec. 1, eff. September 1, 2021.

SUBCHAPTER E. PROCEDURES RELATING TO CLOSED MEETING

Sec. 551.101. REQUIREMENT TO FIRST CONVENE IN OPEN MEETING. If a closed meeting is allowed under this chapter, a governmental body may not conduct the closed meeting unless a quorum of the governmental body first convenes in an open meeting for which notice has been given as provided by this chapter and during which the presiding officer publicly:

(1) announces that a closed meeting will be held; and

(2) identifies the section or sections of this chapter under which the closed meeting is held.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.102. REQUIREMENT TO VOTE OR TAKE FINAL ACTION IN OPEN MEETING. A final action, decision, or vote on a matter deliberated in a closed meeting under this chapter may only be made in an open meeting that is held in compliance with the notice provisions of this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.103. CERTIFIED AGENDA OR RECORDING REQUIRED. (a) A governmental body shall either keep a certified agenda or make a recording of the proceedings of each closed meeting, except for a private consultation permitted under Section 551.071.

(b) The presiding officer shall certify that an agenda kept under Subsection (a) is a true and correct record of the proceedings.

(c) The certified agenda must include:

(1) a statement of the subject matter of each deliberation;

(2) a record of any further action taken; and

(3) an announcement by the presiding officer at the beginning and the end of the meeting indicating the date and time.

(d) A recording made under Subsection (a) must include announcements by the presiding officer at the beginning and the end of the meeting indicating the date and time.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 87 (S.B. 471), Sec. 8, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 87 (S.B. 471), Sec. 9, eff. May 18, 2013.

Sec. 551.104. CERTIFIED AGENDA OR RECORDING; PRESERVATION; DISCLOSURE. (a) A governmental body shall preserve the certified agenda or recording of a closed meeting for at least two years after the date of the meeting. If an action involving the meeting is brought within that period, the governmental body shall preserve the certified agenda or recording while the action is pending.

(b) In litigation in a district court involving an alleged violation of this chapter, the court:

(1) is entitled to make an in camera inspection of the certified agenda or recording;

(2) may admit all or part of the certified agenda or recording as evidence, on entry of a final judgment; and

(3) may grant legal or equitable relief it considers appropriate, including an order that the governmental body make available to the public the certified agenda or recording of any part of a meeting that was required to be open under this chapter.

(c) The certified agenda or recording of a closed meeting is available for public inspection and copying only under a court order issued under Subsection (b)(3).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 87 (S.B. 471), Sec. 10, eff. May 18, 2013.

SUBCHAPTER F. MEETINGS USING TELEPHONE, VIDEOCONFERENCE, OR INTERNET

Sec. 551.121. GOVERNING BOARD OF INSTITUTION OF HIGHER EDUCATION; BOARD FOR LEASE OF UNIVERSITY LANDS; TEXAS HIGHER EDUCATION COORDINATING BOARD: SPECIAL MEETING FOR IMMEDIATE ACTION. (a) In this section, "governing board," "institution of higher education," and "university system" have the meanings assigned by Section 61.003, Education Code.

(b) This chapter does not prohibit the governing board of an institution of higher education, the Board for Lease of University Lands, or the Texas Higher Education Coordinating Board from holding an open or closed meeting by telephone conference call.

(c) A meeting held by telephone conference call authorized by this section may be held only if:

(1) the meeting is a special called meeting and immediate action is required; and

(2) the convening at one location of a quorum of the governing board, the Board for Lease of University Lands, or the Texas Higher Education Coordinating Board, as applicable, is difficult or impossible.

(d) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(e) The notice of a telephone conference call meeting of a governing board must specify as the location of the meeting the location where meetings of the governing board are usually held. For a meeting of the governing board of a university system, the notice must specify as the location of the meeting the board's conference room at the university system office. For a meeting of the Board for Lease of University Lands, the notice must specify as the location of the meeting a suitable conference or meeting room at The University of Texas System office. For a meeting of the Texas Higher Education Coordinating Board, the notice must specify as the location of the meeting a suitable conference or meeting room at the offices of the Texas Higher Education Coordinating Board or at an institution of higher education.

(f) Each part of the telephone conference call meeting that is required to be open to the public must be:

(1) audible to the public at the location specified in the notice of the meeting as the location of the meeting;

(2) broadcast over the Internet in the manner prescribed by Section 551.128; and

(3) recorded and made available to the public in an online archive located on the Internet website of the entity holding the meeting.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 1266, Sec. 4.05, 4.06, eff. June 20, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 538 (S.B. 1046), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 538 (S.B. 1046), Sec. 3, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 778 (H.B. 3827), Sec. 2, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 778 (H.B. 3827), Sec. 3, eff. June 15, 2007.

Reenacted by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 11.013, eff. September 1, 2009.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 11.014, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 87 (S.B. 471), Sec. 11, eff. May 18, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1127 (S.B. 27), Sec. 1, eff. September 1, 2015.

Sec. 551.122. GOVERNING BOARD OF JUNIOR COLLEGE DISTRICT: QUORUM PRESENT AT ONE LOCATION. (a) This chapter does not prohibit the governing board of a junior college district from holding an open or closed meeting by telephone conference call.

(b) A meeting held by telephone conference call authorized by this section may be held only if a quorum of the governing board is physically present at the location where meetings of the board are usually held.

(c) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(d) Each part of the telephone conference call meeting that is

required to be open to the public shall be audible to the public at the location where the quorum is present and shall be recorded. The recording shall be made available to the public.

(e) The location of the meeting shall provide two-way communication during the entire telephone conference call meeting, and the identification of each party to the telephone conference shall be clearly stated before the party speaks.

(f) The authority provided by this section is in addition to the authority provided by Section 551.121.

(g) A member of a governing board of a junior college district who participates in a board meeting by telephone conference call but is not physically present at the location of the meeting is considered to be absent from the meeting for purposes of Section 130.0845, Education Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 778 (H.B. 3827), Sec. 1, eff. June 15, 2007.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 87 (S.B. 471), Sec. 12, eff. May 18, 2013.

Sec. 551.123. TEXAS BOARD OF CRIMINAL JUSTICE. (a) The Texas Board of Criminal Justice may hold an open or closed emergency meeting by telephone conference call.

(b) The portion of the telephone conference call meeting that is open shall be recorded. The recording shall be made available to be heard by the public at one or more places designated by the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.124. BOARD OF PARDONS AND PAROLES. At the call of the presiding officer of the Board of Pardons and Paroles, the board may hold a hearing on clemency matters by telephone conference call.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.16, eff. Sept. 1, 1997.

Sec. 551.125. OTHER GOVERNMENTAL BODY. (a) Except as otherwise provided by this subchapter, this chapter does not prohibit a governmental body from holding an open or closed meeting by telephone conference call.

(b) A meeting held by telephone conference call may be held only if:

(1) an emergency or public necessity exists within the meaning of Section 551.045 of this chapter; and

(2) the convening at one location of a quorum of the governmental body is difficult or impossible; or

(3) the meeting is held by an advisory board.

(c) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(d) The notice of the telephone conference call meeting must specify as the location of the meeting the location where meetings of the governmental body are usually held.

(e) Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and shall be recorded. The recording shall be made available to the public.

(f) The location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting and the identification of each party to the telephone conference shall be clearly stated prior to speaking.

Added by Acts 1995, 74th Leg., ch. 1046, Sec. 1, eff. Aug. 28, 1995.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 87 (S.B. 471), Sec. 13, eff. May 18, 2013.

Sec. 551.126. HIGHER EDUCATION COORDINATING BOARD. (a) In this section, "board" means the Texas Higher Education Coordinating Board.

(b) The board may hold an open meeting by telephone conference call or video conference call in order to consider a higher education impact statement if the preparation of a higher education impact statement by the board is to be provided under the rules of either

the house of representatives or the senate.

(c) A meeting held by telephone conference call must comply with the procedures described in Section 551.125.

(d) A meeting held by video conference call is subject to the notice requirements applicable to other meetings. In addition, a meeting held by video conference call shall:

(1) be visible and audible to the public at the location specified in the notice of the meeting as the location of the meeting;

(2) be recorded by audio and video; and

(3) have two-way audio and video communications with each participant in the meeting during the entire meeting.

Added by Acts 1997, 75th Leg., ch. 944, Sec. 1, eff. June 18, 1997.

Sec. 551.127. VIDEOCONFERENCE CALL. (a) Except as otherwise provided by this section, this chapter does not prohibit a governmental body from holding an open or closed meeting by videoconference call.

(a-1) A member or employee of a governmental body may participate remotely in a meeting of the governmental body by means of a videoconference call if the video and audio feed of the member's or employee's participation, as applicable, is broadcast live at the meeting and complies with the provisions of this section.

(a-2) A member of a governmental body who participates in a meeting as provided by Subsection (a-1) shall be counted as present at the meeting for all purposes.

(a-3) A member of a governmental body who participates in a meeting by videoconference call shall be considered absent from any portion of the meeting during which audio or video communication with the member is lost or disconnected. The governmental body may continue the meeting only if a quorum of the body remains present at the meeting location or, if applicable, continues to participate in a meeting conducted under Subsection (c).

(b) A meeting may be held by videoconference call only if a quorum of the governmental body is physically present at one location of the meeting, except as provided by Subsection (c).

(c) A meeting of a state governmental body or a governmental body that extends into three or more counties may be held by

videoconference call only if the member of the governmental body presiding over the meeting is physically present at one location of the meeting that is open to the public during the open portions of the meeting.

(d) A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements prescribed by this section.

(e) The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the governmental body will be physically present and specify the intent to have a quorum present at that location, except that the notice of a meeting to be held by videoconference call under Subsection (c) must specify as a location of the meeting the location where the member of the governmental body presiding over the meeting will be physically present and specify the intent to have the member of the governmental body presiding over the meeting present at that location. The location where the member of the governmental body presiding over the meeting is physically present shall be open to the public during the open portions of the meeting.

(f) Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the public at the location specified under Subsection (e). If a problem occurs that causes a meeting to no longer be visible and audible to the public at that location, the meeting must be recessed until the problem is resolved. If the problem is not resolved in six hours or less, the meeting must be adjourned.

(g) The governmental body shall make at least an audio recording of the meeting. The recording shall be made available to the public.

(h) The location specified under Subsection (e), and each remote location from which a member of the governmental body participates, shall have two-way audio and video communication with each other location during the entire meeting. The face of each participant in the videoconference call, while that participant is speaking, shall be clearly visible, and the voice audible, to each other participant and, during the open portion of the meeting, to the members of the public in attendance at the physical location described by Subsection (e) and at any other location of the meeting that is open to the public.

(i) The Department of Information Resources by rule shall

specify minimum standards for audio and video signals at a meeting held by videoconference call. The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed those standards.

(j) The audio and video signals perceptible by members of the public at each location of the meeting described by Subsection (h) must be of sufficient quality so that members of the public at each location can observe the demeanor and hear the voice of each participant in the open portion of the meeting.

(k) Without regard to whether a member of the governmental body is participating in a meeting from a remote location by videoconference call, a governmental body may allow a member of the public to testify at a meeting from a remote location by videoconference call.

Added by Acts 1997, 75th Leg., ch. 1038, Sec. 2, eff. Sept. 1, 1997. Renumbered from Sec. 551.126 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(50), eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 630, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 159 (S.B. 984), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 685 (H.B. 2414), Sec. 2, eff. June 14, 2013.

Reenacted and amended by Acts 2017, 85th Leg., R.S., Ch. 884 (H.B. 3047), Sec. 1, eff. September 1, 2017.

Sec. 551.128. INTERNET BROADCAST OF OPEN MEETING. (a) In this section, "Internet" means the largest nonproprietary cooperative public computer network, popularly known as the Internet.

(b) Except as provided by Subsection (b-1) and subject to the requirements of this section, a governmental body may broadcast an open meeting over the Internet.

(b-1) A transit authority or department subject to Chapter 451, 452, 453, or 460, Transportation Code, an elected school district board of trustees for a school district that has a student enrollment of 10,000 or more, an elected governing body of a home-rule municipality that has a population of 50,000 or more, or a county commissioners court for a county that has a population of 125,000 or

more shall:

(1) make a video and audio recording of reasonable quality of each:

(A) regularly scheduled open meeting that is not a work session or a special called meeting; and

(B) open meeting that is a work session or special called meeting if:

(i) the governmental body is an elected school district board of trustees for a school district that has a student enrollment of 10,000 or more; and

(ii) at the work session or special called meeting, the board of trustees votes on any matter or allows public comment or testimony; and

(2) make available an archived copy of the video and audio recording of each meeting described by Subdivision (1) on the Internet.

(b-2) A governmental body described by Subsection (b-1) may make available the archived recording of a meeting required by Subsection (b-1) on an existing Internet site, including a publicly accessible video-sharing or social networking site. The governmental body is not required to establish a separate Internet site and provide access to archived recordings of meetings from that site.

(b-3) A governmental body described by Subsection (b-1) that maintains an Internet site shall make available on that site, in a conspicuous manner:

(1) the archived recording of each meeting to which Subsection (b-1) applies; or

(2) an accessible link to the archived recording of each such meeting.

(b-4) A governmental body described by Subsection (b-1) shall:

(1) make the archived recording of each meeting to which Subsection (b-1) applies available on the Internet not later than seven days after the date the recording was made; and

(2) maintain the archived recording on the Internet for not less than two years after the date the recording was first made available.

(b-5) A governmental body described by Subsection (b-1) is exempt from the requirements of Subsections (b-2) and (b-4) if the governmental body's failure to make the required recording of a meeting available is the result of a catastrophe, as defined by

Section 551.0411, or a technical breakdown. Following a catastrophe or breakdown, a governmental body must make all reasonable efforts to make the required recording available in a timely manner.

(b-6) A governmental body described by Subsection (b-1) may broadcast a regularly scheduled open meeting of the body on television.

(c) Except as provided by Subsection (b-2), a governmental body that broadcasts a meeting over the Internet shall establish an Internet site and provide access to the broadcast from that site. The governmental body shall provide on the Internet site the same notice of the meeting that the governmental body is required to post under Subchapter C. The notice on the Internet must be posted within the time required for posting notice under Subchapter C.

Added by Acts 1999, 76th Leg., ch. 100, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 681 (H.B. 283), Sec. 1, eff. January 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 1147 (H.B. 523), Sec. 1, eff. September 1, 2017.

Sec. 551.1281. GOVERNING BOARD OF GENERAL ACADEMIC TEACHING INSTITUTION OR UNIVERSITY SYSTEM: INTERNET POSTING OF MEETING MATERIALS AND BROADCAST OF OPEN MEETING. (a) In this section, "general academic teaching institution" and "university system" have the meanings assigned by Section 61.003, Education Code.

(b) The governing board of a general academic teaching institution or of a university system that includes one or more component general academic teaching institutions, for any regularly scheduled meeting of the governing board for which notice is required under this chapter, shall:

(1) post as early as practicable in advance of the meeting on the Internet website of the institution or university system, as applicable, any written agenda and related supplemental written materials provided to the governing board members in advance of the meeting by the institution or system for the members' use during the meeting;

(2) broadcast the meeting, other than any portions of the meeting closed to the public as authorized by law, over the Internet

in the manner prescribed by Section 551.128; and

(3) record the broadcast and make that recording publicly available in an online archive located on the institution's or university system's Internet website.

(c) Subsection (b)(1) does not apply to written materials that the general counsel or other appropriate attorney for the institution or university system certifies are confidential or may be withheld from public disclosure under Chapter 552.

(d) The governing board of a general academic teaching institution or of a university system is not required to comply with the requirements of this section if that compliance is not possible because of an act of God, force majeure, or a similar cause not reasonably within the governing board's control.

Added by Acts 2013, 83rd Leg., R.S., Ch. 842 (H.B. 31), Sec. 1, eff. June 14, 2013.

Sec. 551.1282. GOVERNING BOARD OF JUNIOR COLLEGE DISTRICT: INTERNET POSTING OF MEETING MATERIALS AND BROADCAST OF OPEN MEETING. (a) This section applies only to the governing board of a junior college district with a total student enrollment of more than 20,000 in any semester of the preceding academic year.

(b) A governing board to which this section applies, for any regularly scheduled meeting of the governing board for which notice is required under this chapter, shall:

(1) post as early as practicable in advance of the meeting on the Internet website of the district any written agenda and related supplemental written materials provided by the district to the board members for the members' use during the meeting;

(2) broadcast the meeting, other than any portions of the meeting closed to the public as authorized by law, over the Internet in the manner prescribed by Section 551.128; and

(3) record the broadcast and make that recording publicly available in an online archive located on the district's Internet website.

(c) Subsection (b)(1) does not apply to written materials that the general counsel or other appropriate attorney for the district certifies are confidential or may be withheld from public disclosure under Chapter 552.

(d) The governing board of a junior college district is not required to comply with the requirements of this section if that compliance is not possible because of an act of God, force majeure, or a similar cause not reasonably within the governing board's control.

Added by Acts 2013, 83rd Leg., R.S., Ch. 690 (H.B. 2668), Sec. 1, eff. June 14, 2013.

Sec. 551.1283. GOVERNING BODY OF CERTAIN WATER DISTRICTS: INTERNET POSTING OF MEETING MATERIALS; RECORDING OF CERTAIN HEARINGS. (a) This section only applies to a special purpose district subject to Chapter 51, 53, 54, or 55, Water Code, that has a population of 500 or more.

(b) On written request of a district resident made to the district not later than the third day before a public hearing to consider the adoption of an ad valorem tax rate, the district shall make an audio recording of reasonable quality of the hearing and provide the recording to the resident in an electronic format not later than the fifth business day after the date of the hearing. The district shall maintain a copy of the recording for at least one year after the date of the hearing.

(c) A district shall post the minutes of the meeting of the governing body to the district's Internet website if the district maintains an Internet website.

(d) A district that maintains an Internet website shall post on that website links to any other Internet website or websites the district uses to comply with Section 2051.202 of this code and Section 26.18, Tax Code.

(e) Nothing in this chapter shall prohibit a district from allowing a person to watch or listen to a board meeting by video or telephone conference call.

Added by Acts 2019, 86th Leg., R.S., Ch. 105 (S.B. 239), Sec. 2, eff. September 1, 2019.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 647 (H.B. 1154), Sec. 2, eff. September 1, 2021.

Sec. 551.129. CONSULTATIONS BETWEEN GOVERNMENTAL BODY AND ITS ATTORNEY. (a) A governmental body may use a telephone conference call, video conference call, or communications over the Internet to conduct a public consultation with its attorney in an open meeting of the governmental body or a private consultation with its attorney in a closed meeting of the governmental body.

(b) Each part of a public consultation by a governmental body with its attorney in an open meeting of the governmental body under Subsection (a) must be audible to the public at the location specified in the notice of the meeting as the location of the meeting.

(c) Subsection (a) does not:

(1) authorize the members of a governmental body to conduct a meeting of the governmental body by telephone conference call, video conference call, or communications over the Internet; or

(2) create an exception to the application of this subchapter.

(d) Subsection (a) does not apply to a consultation with an attorney who is an employee of the governmental body.

(e) For purposes of Subsection (d), an attorney who receives compensation for legal services performed, from which employment taxes are deducted by the governmental body, is an employee of the governmental body.

(f) Subsection (d) does not apply to:

(1) the governing board of an institution of higher education as defined by Section 61.003, Education Code; or

(2) the Texas Higher Education Coordinating Board.

Added by Acts 2001, 77th Leg., ch. 50, Sec. 1, eff. May 7, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 538 (S.B. 1046), Sec. 4, eff. September 1, 2007.

Sec. 551.130. BOARD OF TRUSTEES OF TEACHER RETIREMENT SYSTEM OF TEXAS: QUORUM PRESENT AT ONE LOCATION. (a) In this section, "board" means the board of trustees of the Teacher Retirement System of Texas.

(b) This chapter does not prohibit the board or a board committee from holding an open or closed meeting by telephone

conference call.

(c) The board or a board committee may hold a meeting by telephone conference call only if a quorum of the applicable board or board committee is physically present at one location of the meeting.

(d) A telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice must also specify:

(1) the location of the meeting where a quorum of the board or board committee, as applicable, will be physically present; and

(2) the intent to have a quorum present at that location.

(e) The location where a quorum is physically present must be open to the public during the open portions of a telephone conference call meeting. The open portions of the meeting must be audible to the public at the location where the quorum is present and be recorded at that location. The recording shall be made available to the public.

(f) The location of the meeting shall provide two-way communication during the entire telephone conference call meeting, and the identification of each party to the telephone conference call must be clearly stated before the party speaks.

(g) The authority provided by this section is in addition to the authority provided by Section 551.125.

(h) A member of the board who participates in a board or board committee meeting by telephone conference call but is not physically present at the location of the meeting is not considered to be absent from the meeting for any purpose. The vote of a member of the board who participates in a board or board committee meeting by telephone conference call is counted for the purpose of determining the number of votes cast on a motion or other proposition before the board or board committee.

(i) A member of the board may participate remotely by telephone conference call instead of by being physically present at the location of a board meeting for not more than one board meeting per calendar year. A board member who participates remotely in any portion of a board meeting by telephone conference call is considered to have participated in the entire board meeting by telephone conference call. For purposes of the limit provided by this subsection, remote participation by telephone conference call in a meeting of a board committee does not count as remote participation by telephone conference call in a meeting of the board, even if:

(1) a quorum of the full board attends the board committee meeting; or

(2) notice of the board committee meeting is also posted as notice of a board meeting.

(j) A person who is not a member of the board may speak at the meeting from a remote location by telephone conference call.

Added by Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 3, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 87 (S.B. 471), Sec. 14, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 1, eff. June 14, 2013.

Sec. 551.131. WATER DISTRICTS. (a) In this section, "water district" means a river authority, groundwater conservation district, water control and improvement district, or other district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) This section applies only to a water district whose territory includes land in three or more counties.

(c) A meeting held by telephone conference call or video conference call authorized by this section may be held only if:

(1) the meeting is a special called meeting and immediate action is required; and

(2) the convening at one location of a quorum of the governing body of the applicable water district is difficult or impossible.

(d) A meeting held by telephone conference call must otherwise comply with the procedures under Sections 551.125(c), (d), (e), and (f).

(e) A meeting held by video conference call is subject to the notice requirements applicable to other meetings. In addition, a meeting held by video conference call shall:

(1) be visible and audible to the public at the location specified in the notice of the meeting as the location of the meeting;

(2) be recorded by audio and video; and

(3) have two-way audio and video communications with each participant in the meeting during the entire meeting.

Added by Acts 2013, 83rd Leg., R.S., Ch. 20 (S.B. 293), Sec. 1, eff. May 10, 2013.

SUBCHAPTER G. ENFORCEMENT AND REMEDIES; CRIMINAL VIOLATIONS

Sec. 551.141. ACTION VOIDABLE. An action taken by a governmental body in violation of this chapter is voidable.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 551.142. MANDAMUS; INJUNCTION. (a) An interested person, including a member of the news media, may bring an action by mandamus or injunction to stop, prevent, or reverse a violation or threatened violation of this chapter by members of a governmental body.

(b) The court may assess costs of litigation and reasonable attorney fees incurred by a plaintiff or defendant who substantially prevails in an action under Subsection (a). In exercising its discretion, the court shall consider whether the action was brought in good faith and whether the conduct of the governmental body had a reasonable basis in law.

(c) The attorney general may bring an action by mandamus or injunction to stop, prevent, or reverse a violation or threatened violation of Section 551.045(a-1) by members of a governmental body.

(d) A suit filed by the attorney general under Subsection (c) must be filed in a district court of Travis County.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 462 (S.B. 494), Sec. 3, eff. September 1, 2019.

Sec. 551.143. PROHIBITED SERIES OF COMMUNICATIONS; OFFENSE; PENALTY. (a) A member of a governmental body commits an offense if the member:

(1) knowingly engages in at least one communication among a

series of communications that each occur outside of a meeting authorized by this chapter and that concern an issue within the jurisdiction of the governmental body in which the members engaging in the individual communications constitute fewer than a quorum of members but the members engaging in the series of communications constitute a quorum of members; and

(2) knew at the time the member engaged in the communication that the series of communications:

(A) involved or would involve a quorum; and

(B) would constitute a deliberation once a quorum of members engaged in the series of communications.

(b) An offense under Subsection (a) is a misdemeanor punishable by:

(1) a fine of not less than $100 or more than $500;

(2) confinement in the county jail for not less than one month or more than six months; or

(3) both the fine and confinement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 645 (S.B. 1640), Sec. 2, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 645 (S.B. 1640), Sec. 3, eff. June 10, 2019.

Sec. 551.144. CLOSED MEETING; OFFENSE; PENALTY. (a) A member of a governmental body commits an offense if a closed meeting is not permitted under this chapter and the member knowingly:

(1) calls or aids in calling or organizing the closed meeting, whether it is a special or called closed meeting;

(2) closes or aids in closing the meeting to the public, if it is a regular meeting; or

(3) participates in the closed meeting, whether it is a regular, special, or called meeting.

(b) An offense under Subsection (a) is a misdemeanor punishable by:

(1) a fine of not less than $100 or more than $500;

(2) confinement in the county jail for not less than one month or more than six months; or

(3) both the fine and confinement.

(c) It is an affirmative defense to prosecution under Subsection (a) that the member of the governmental body acted in reasonable reliance on a court order or a written interpretation of this chapter contained in an opinion of a court of record, the attorney general, or the attorney for the governmental body.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 647, Sec. 3, eff. Aug. 30, 1999.

Sec. 551.145. CLOSED MEETING WITHOUT CERTIFIED AGENDA OR RECORDING; OFFENSE; PENALTY. (a) A member of a governmental body commits an offense if the member participates in a closed meeting of the governmental body knowing that a certified agenda of the closed meeting is not being kept or that a recording of the closed meeting is not being made.

(b) An offense under Subsection (a) is a Class C misdemeanor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 87 (S.B. 471), Sec. 15, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 87 (S.B. 471), Sec. 16, eff. May 18, 2013.

Sec. 551.146. DISCLOSURE OF CERTIFIED AGENDA OR RECORDING OF CLOSED MEETING; OFFENSE; PENALTY; CIVIL LIABILITY. (a) An individual, corporation, or partnership that without lawful authority knowingly discloses to a member of the public the certified agenda or recording of a meeting that was lawfully closed to the public under this chapter:

(1) commits an offense; and

(2) is liable to a person injured or damaged by the disclosure for:

(A) actual damages, including damages for personal injury or damage, lost wages, defamation, or mental or other emotional distress;

(B) reasonable attorney fees and court costs; and

(C) at the discretion of the trier of fact, exemplary

damages.

(b) An offense under Subsection (a)(1) is a Class B misdemeanor.

(c) It is a defense to prosecution under Subsection (a)(1) and an affirmative defense to a civil action under Subsection (a)(2) that:

(1) the defendant had good reason to believe the disclosure was lawful; or

(2) the disclosure was the result of a mistake of fact concerning the nature or content of the certified agenda or recording.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 87 (S.B. 471), Sec. 17, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 87 (S.B. 471), Sec. 18, eff. May 18, 2013.

CHAPTER 552. PUBLIC INFORMATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 552.001. POLICY; CONSTRUCTION. (a) Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. The provisions of this chapter shall be liberally construed to implement this policy.

(b) This chapter shall be liberally construed in favor of granting a request for information.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 552.002. DEFINITION OF PUBLIC INFORMATION; MEDIA CONTAINING PUBLIC INFORMATION. (a) In this chapter, "public information" means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body;

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

(a-1) Information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.

(a-2) The definition of "public information" provided by Subsection (a) applies to and includes any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business.

(b) The media on which public information is recorded include:

(1) paper;

(2) film;

(3) a magnetic, optical, solid state, or other device that can store an electronic signal;

(4) tape;

(5) Mylar; and

(6) any physical material on which information may be recorded, including linen, silk, and vellum.

(c) The general forms in which the media containing public information exist include a book, paper, letter, document, e-mail, Internet posting, text message, instant message, other electronic communication, printout, photograph, film, tape, microfiche,

microfilm, photostat, sound recording, map, and drawing and a voice, data, or video representation held in computer memory.

(d) "Protected health information" as defined by Section 181.006, Health and Safety Code, is not public information and is not subject to disclosure under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 2, eff. Sept. 1, 1995.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1204 (S.B. 1368), Sec. 1, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1340 (S.B. 944), Sec. 1, eff. September 1, 2019.

Sec. 552.003. DEFINITIONS. In this chapter:

(1) "Governmental body":

(A) means:

(i) a board, commission, department, committee, institution, agency, or office that is within or is created by the executive or legislative branch of state government and that is directed by one or more elected or appointed members;

(ii) a county commissioners court in the state;

(iii) a municipal governing body in the state;

(iv) a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a county or municipality;

(v) a school district board of trustees;

(vi) a county board of school trustees;

(vii) a county board of education;

(viii) the governing board of a special district;

(ix) the governing body of a nonprofit corporation organized under Chapter 67, Water Code, that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Section 11.30, Tax Code;

(x) a local workforce development board created under Section 2308.253;

(xi) a nonprofit corporation that is eligible to receive funds under the federal community services block grant

program and that is authorized by this state to serve a geographic area of the state;

(xii) a confinement facility operated under a contract with any division of the Texas Department of Criminal Justice;

(xiii) a civil commitment housing facility owned, leased, or operated by a vendor under contract with the state as provided by Chapter 841, Health and Safety Code;

(xiv) an entity that receives public funds in the current or preceding state fiscal year to manage the daily operations or restoration of the Alamo, or an entity that oversees such an entity; and

(xv) the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds; and

(B) does not include:

(i) the judiciary; or

(ii) an economic development entity whose mission or purpose is to develop and promote the economic growth of a state agency or political subdivision with which the entity contracts if:

(a) the entity does not receive $1 million or more in public funds from a single state agency or political subdivision in the current or preceding state fiscal year; or

(b) the entity:

(1) either:

(A) does not have the authority to make decisions or recommendations on behalf of a state agency or political subdivision regarding tax abatements or tax incentives; or

(B) does not require an officer of the state agency or political subdivision to hold office as a member of the board of directors of the entity;

(2) does not use staff or office space of the state agency or political subdivision for no or nominal consideration, unless the space is available to the public;

(3) to a reasonable degree, tracks the entity's receipt and expenditure of public funds separately from the entity's receipt and expenditure of private funds; and

(4) provides at least quarterly public reports to the state agency or political subdivision regarding work

performed on behalf of the state agency or political subdivision.

(1-a) "Contracting information" means the following information maintained by a governmental body or sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor:

(A) information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body;

(B) solicitation or bid documents relating to a contract with a governmental body;

(C) communications sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor during the solicitation, evaluation, or negotiation of a contract;

(D) documents, including bid tabulations, showing the criteria by which a governmental body evaluates each vendor, contractor, potential vendor, or potential contractor responding to a solicitation and, if applicable, an explanation of why the vendor or contractor was selected; and

(E) communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body.

(1-b) "Honorably retired" means, with respect to a position, an individual who:

(A) previously served but is not currently serving in the position;

(B) did not retire in lieu of any disciplinary action;

(C) was eligible to retire from the position or was ineligible to retire only as a result of an injury received in the course of the individual's employment in the position; and

(D) is eligible to receive a pension or annuity for service in the position or is ineligible to receive a pension or annuity only because the entity that employed the individual does not offer a pension or annuity to its employees.

(2) "Manipulation" means the process of modifying, reordering, or decoding of information with human intervention.

(2-a) "Official business" means any matter over which a governmental body has any authority, administrative duties, or advisory duties.

(3) "Processing" means the execution of a sequence of coded instructions by a computer producing a result.

(4) "Programming" means the process of producing a sequence of coded instructions that can be executed by a computer.

(5) "Public funds" means funds of the state or of a governmental subdivision of the state.

(6) "Requestor" means a person who submits a request to a governmental body for inspection or copies of public information.

(7) "Temporary custodian" means an officer or employee of a governmental body who, in the transaction of official business, creates or receives public information that the officer or employee has not provided to the officer for public information of the governmental body or the officer's agent. The term includes a former officer or employee of a governmental body who created or received public information in the officer's or employee's official capacity that has not been provided to the officer for public information of the governmental body or the officer's agent.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 2, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 62, Sec. 18.24, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 633, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1004, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 9.014, eff. Sept. 1, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1204 (S.B. 1368), Sec. 2, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1216 (S.B. 943), Sec. 1, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1340 (S.B. 944), Sec. 2, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 590 (S.B. 841), Sec. 1, eff. June 14, 2021.

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(35), eff. September 1, 2021.

Sec. 552.0031. BUSINESS DAYS. (a) Except as provided by this section, in this chapter "business day" means a day other than:

(1) a Saturday or Sunday;

(2) a national holiday under Section 662.003(a); or

(3) a state holiday under Section 662.003(b).

(b) The fact that an employee works from an alternative work site does not affect whether a day is considered a business day under this chapter.

(c) An optional holiday under Section 662.003(c) is not a business day of a governmental body if the officer for public information of the governmental body observes the optional holiday.

(d) A holiday established by the governing body of an institution of higher education under Section 662.011(a) is not a business day of the institution of higher education.

(e) The Friday before or Monday after a holiday described by Subsection (a)(2) or (3) is not a business day of a governmental body if the holiday occurs on a Saturday or Sunday and the governmental body observes the holiday on that Friday or Monday.

(f) Subject to the requirements of this subsection, a governmental body may designate a day on which the governmental body's administrative offices are closed or operating with minimum staffing as a nonbusiness day. The designation of a nonbusiness day for an independent school district must be made by the board of trustees. The designation of a nonbusiness day for a governmental body other than an independent school district must be made by the executive director or other chief administrative officer. A governmental body may designate not more than 10 nonbusiness days under this subsection each calendar year.

Added by Acts 2023, 88th Leg., R.S., Ch. 847 (H.B. 3033), Sec. 1, eff. September 1, 2023.

Sec. 552.0035. ACCESS TO INFORMATION OF JUDICIARY. (a) Access to information collected, assembled, or maintained by or for the judiciary is governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules.

(b) This section does not address whether information is considered to be information collected, assembled, or maintained by or for the judiciary.

Added by Acts 1999, 76th Leg., ch. 1319, Sec. 1, eff. Sept. 1, 1999.

Sec. 552.0036. CERTAIN PROPERTY OWNERS' ASSOCIATIONS SUBJECT TO LAW. A property owners' association is subject to this chapter in

the same manner as a governmental body:

(1) if:

(A) membership in the property owners' association is mandatory for owners or for a defined class of owners of private real property in a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more;

(B) the property owners' association has the power to make mandatory special assessments for capital improvements or mandatory regular assessments; and

(C) the amount of the mandatory special or regular assessments is or has ever been based in whole or in part on the value at which the state or a local governmental body assesses the property for purposes of ad valorem taxation under Section 20, Article VIII, Texas Constitution; or

(2) if the property owners' association:

(A) provides maintenance, preservation, and architectural control of residential and commercial property within a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more; and

(B) is a corporation that:

(i) is governed by a board of trustees who may employ a general manager to execute the association's bylaws and administer the business of the corporation;

(ii) does not require membership in the corporation by the owners of the property within the defined area; and

(iii) was incorporated before January 1, 2006.

Added by Acts 1999, 76th Leg., ch. 1084, Sec. 2, eff. Sept. 1, 1999.
Renumbered from Sec. 552.0035 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(51), eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1367 (H.B. 3674), Sec. 2, eff. September 1, 2007.

Sec. 552.0038. PUBLIC RETIREMENT SYSTEMS SUBJECT TO LAW. (a) In this section, "governing body of a public retirement system" and "public retirement system" have the meanings assigned those terms by

Section 802.001.

(b) Except as provided by Subsections (c) through (i), the governing body of a public retirement system is subject to this chapter in the same manner as a governmental body.

(c) Records of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from a retirement system under a retirement plan or program administered by the retirement system that are in the custody of the system or in the custody of an administering firm, a carrier, or another governmental agency, including the comptroller, acting in cooperation with or on behalf of the retirement system are confidential and not subject to public disclosure. The retirement system, administering firm, carrier, or governmental agency is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general because the records are exempt from the provisions of this chapter, except as otherwise provided by this section.

(d) Records may be released to a member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits from the retirement system or to an authorized attorney, family member, or representative acting on behalf of the member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits. The retirement system may release the records to:

(1) an administering firm, carrier, or agent or attorney acting on behalf of the retirement system;

(2) another governmental entity having a legitimate need for the information to perform the purposes of the retirement system; or

(3) a party in response to a subpoena issued under applicable law.

(e) A record released or received by the retirement system under this section may be transmitted electronically, including through the use of an electronic signature or certification in a form acceptable to the retirement system. An unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information under this section is not a violation by the retirement system of any law, including a law or rule relating to the protection of confidential information.

(f) The records of an individual member, annuitant, retiree,

beneficiary, alternate payee, program participant, or person eligible for benefits from the retirement system remain confidential after release to a person as authorized by this section. The records may become part of the public record of an administrative or judicial proceeding related to a contested case, and the member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits waives the confidentiality of the records, including medical records, unless the records are closed to public access by a protective order issued under applicable law.

(g) The retirement system may require a person to provide the person's social security number as the system considers necessary to ensure the proper administration of all services, benefits, plans, and programs under the retirement system's administration, oversight, or participation or as otherwise required by state or federal law.

(h) The retirement system has sole discretion in determining whether a record is subject to this section. For purposes of this section, a record includes any identifying information about a person, living or deceased, who is or was a member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits from the retirement system under any retirement plan or program administered by the retirement system.

(i) To the extent of a conflict between this section and any other law with respect to the confidential information held by a public retirement system or other entity described by Subsection (c) concerning an individual member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits from the retirement system, the prevailing provision is the provision that provides the greater substantive and procedural protection for the privacy of information concerning that individual member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits.

Added by Acts 2011, 82nd Leg., R.S., Ch. 809 (H.B. 2460), Sec. 1, eff. June 17, 2011.

Sec. 552.004. PRESERVATION OF INFORMATION. (a) A governmental body or, for information of an elective county office, the elected county officer, may determine a time for which information that is not currently in use will be preserved, subject to Subsection (b) and

to any applicable rule or law governing the destruction and other disposition of state and local government records or public information.

(b) A current or former officer or employee of a governmental body who maintains public information on a privately owned device shall:

(1) forward or transfer the public information to the governmental body or a governmental body server to be preserved as provided by Subsection (a); or

(2) preserve the public information in its original form in a backup or archive and on the privately owned device for the time described under Subsection (a).

(c) The provisions of Chapter 441 of this code and Title 6, Local Government Code, governing the preservation, destruction, or other disposition of records or public information apply to records and public information held by a temporary custodian.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 2, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1340 (S.B. 944), Sec. 3, eff. September 1, 2019.

Sec. 552.005. EFFECT OF CHAPTER ON SCOPE OF CIVIL DISCOVERY. (a) This chapter does not affect the scope of civil discovery under the Texas Rules of Civil Procedure.

(b) Exceptions from disclosure under this chapter do not create new privileges from discovery.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 552.0055. SUBPOENA DUCES TECUM OR DISCOVERY REQUEST. A subpoena duces tecum or a request for discovery that is issued in compliance with a statute or a rule of civil or criminal procedure is not considered to be a request for information under this chapter.

Added by Acts 1999, 76th Leg., ch. 1319, Sec. 2, eff. Sept. 1, 1999.

Sec. 552.006. EFFECT OF CHAPTER ON WITHHOLDING PUBLIC INFORMATION. This chapter does not authorize the withholding of public information or limit the availability of public information to the public, except as expressly provided by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 2, eff. Sept. 1, 1995.

Sec. 552.007. VOLUNTARY DISCLOSURE OF CERTAIN INFORMATION WHEN DISCLOSURE NOT REQUIRED. (a) This chapter does not prohibit a governmental body or its officer for public information from voluntarily making part or all of its information available to the public, unless the disclosure is expressly prohibited by law or the information is confidential under law.

(b) Public information made available under Subsection (a) must be made available to any person.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 2, eff. Sept. 1, 1995.

Sec. 552.008. INFORMATION FOR LEGISLATIVE PURPOSES. (a) This chapter does not grant authority to withhold information from individual members, agencies, or committees of the legislature to use for legislative purposes.

(b) A governmental body on request by an individual member, agency, or committee of the legislature shall provide public information, including confidential information, to the requesting member, agency, or committee for inspection or duplication in accordance with this chapter if the requesting member, agency, or committee states that the public information is requested under this chapter for legislative purposes. A governmental body, by providing public information under this section that is confidential or otherwise excepted from required disclosure under law, does not waive or affect the confidentiality of the information for purposes of state or federal law or waive the right to assert exceptions to required disclosure of the information in the future. The governmental body may require the requesting individual member of the

legislature, the requesting legislative agency or committee, or the members or employees of the requesting entity who will view or handle information that is received under this section and that is confidential under law to sign a confidentiality agreement that covers the information and requires that:

(1) the information not be disclosed outside the requesting entity, or within the requesting entity for purposes other than the purpose for which it was received;

(2) the information be labeled as confidential;

(3) the information be kept securely; or

(4) the number of copies made of the information or the notes taken from the information that implicate the confidential nature of the information be controlled, with all copies or notes that are not destroyed or returned to the governmental body remaining confidential and subject to the confidentiality agreement.

(b-1) A member, committee, or agency of the legislature required by a governmental body to sign a confidentiality agreement under Subsection (b) may seek a decision as provided by Subsection (b-2) about whether the information covered by the confidentiality agreement is confidential under law. A confidentiality agreement signed under Subsection (b) is void to the extent that the agreement covers information that is finally determined under Subsection (b-2) to not be confidential under law.

(b-2) The member, committee, or agency of the legislature may seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the information covered by the confidentiality agreement is confidential under law, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court. A person may appeal a decision of the attorney general under this

subsection to a Travis County district court if the person claims a proprietary interest in the information affected by the decision or a privacy interest in the information that a confidentiality law or judicial decision is designed to protect.

(c) This section does not affect:

(1) the right of an individual member, agency, or committee of the legislature to obtain information from a governmental body under other law, including under the rules of either house of the legislature;

(2) the procedures under which the information is obtained under other law; or

(3) the use that may be made of the information obtained under other law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 2, eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1364 (S.B. 671), Sec. 1, eff. September 1, 2010.

Acts 2009, 81st Leg., R.S., Ch. 1377 (S.B. 1182), Sec. 2, eff. September 1, 2010.

Sec. 552.009. OPEN RECORDS STEERING COMMITTEE: ADVICE TO ATTORNEY GENERAL; ELECTRONIC AVAILABILITY OF PUBLIC INFORMATION. (a) The open records steering committee is composed of two representatives of the attorney general's office and:

(1) a representative of each of the following, appointed by its governing entity:

(A) the comptroller's office;

(B) the Department of Public Safety;

(C) the Department of Information Resources; and

(D) the Texas State Library and Archives Commission;

(2) five public members, appointed by the attorney general; and

(3) a representative of each of the following types of local governments, appointed by the attorney general:

(A) a municipality;

(B) a county; and

(C) a school district.

Text of subsection as amended by Acts 2005, 79th Leg., R.S., Ch. 329 (S.B. 727), Sec. 1

(b) The representative of the attorney general designated by the attorney general is the presiding officer of the committee. The committee shall meet as prescribed by committee procedures or at the call of the presiding officer.

Text of subsection as amended by Acts 2005, 79th Leg., R.S., Ch. 716 (S.B. 452), Sec. 1

(b) The representative of the attorney general is the presiding officer of the committee. The committee shall meet as prescribed by committee procedures or at the call of the presiding officer.

(c) The committee shall advise the attorney general regarding the office of the attorney general's performance of its duties under Sections 552.010, 552.205, 552.262, 552.269, and 552.274.

(d) The members of the committee who represent state governmental bodies and the public members of the committee shall periodically study and determine the types of public information for which it would be useful to the public or cost-effective for the government if the type of information were made available by state governmental bodies by means of the Internet or another electronic format. The committee shall report its findings and recommendations to the governor, the presiding officer of each house of the legislature, and the budget committee and state affairs committee of each house of the legislature.

(e) Chapter 2110 does not apply to the size, composition, or duration of the committee. Chapter 2110 applies to the reimbursement of a public member's expenses related to service on the committee. Any reimbursement of the expenses of a member who represents a state or local governmental body may be paid only from funds available to the state or local governmental body the member represents.

Added by Acts 1999, 76th Leg., ch. 1319, Sec. 3, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 329 (S.B. 727), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 716 (S.B. 452), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 3.06, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1377 (S.B. 1182), Sec. 3, eff. September 1, 2009.

Sec. 552.010. STATE GOVERNMENTAL BODIES: FISCAL AND OTHER INFORMATION RELATING TO MAKING INFORMATION ACCESSIBLE. (a) Each state governmental body shall report to the attorney general the information the attorney general requires regarding:

(1) the number and nature of requests for information the state governmental body processes under this chapter in the period covered by the report; and

(2) the cost to the state governmental body in that period in terms of capital expenditures and personnel time of:

(A) responding to requests for information under this chapter; and

(B) making information available to the public by means of the Internet or another electronic format.

(b) The attorney general shall design and phase in the reporting requirements in a way that:

(1) minimizes the reporting burden on state governmental bodies; and

(2) allows the legislature and state governmental bodies to estimate the extent to which it is cost-effective for state government, and if possible the extent to which it is cost-effective or useful for members of the public, to make information available to the public by means of the Internet or another electronic format as a supplement or alternative to publicizing the information only in other ways or making the information available only in response to requests made under this chapter.

(c) The attorney general shall share the information reported under this section with the open records steering committee.

Added by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 27.01, eff. Jan. 11, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 329 (S.B. 727), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 716 (S.B. 452), Sec. 2, eff. September 1, 2005.

Sec. 552.011. UNIFORMITY. The attorney general shall maintain uniformity in the application, operation, and interpretation of this chapter. To perform this duty, the attorney general may prepare, distribute, and publish any materials, including detailed and comprehensive written decisions and opinions, that relate to or are based on this chapter.

Added by Acts 1999, 76th Leg., ch. 1319, Sec. 4, eff. Sept. 1, 1999.

Sec. 552.012. OPEN RECORDS TRAINING. (a) This section applies to an elected or appointed public official who is:

(1) a member of a multimember governmental body;

(2) the governing officer of a governmental body that is headed by a single officer rather than by a multimember governing body; or

(3) the officer for public information of a governmental body, without regard to whether the officer is elected or appointed to a specific term.

(b) Each public official shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the governmental body with which the official serves and its officers and employees under this chapter not later than the 90th day after the date the public official:

(1) takes the oath of office, if the person is required to take an oath of office to assume the person's duties as a public official; or

(2) otherwise assumes the person's duties as a public official, if the person is not required to take an oath of office to assume the person's duties.

(b-1) The attorney general may require each public official of a governmental body to complete the course of training if the attorney general determines that the governmental body has failed to comply with a requirement of this chapter. The attorney general must notify each public official in writing of the attorney general's determination and the requirement to complete the training. A public official who receives notice from the attorney general under this subsection must complete the training not later than the 60th day after the date the official receives the notice.

(c) A public official may designate a public information

coordinator to satisfy the training requirements of this section for the public official if the public information coordinator is primarily responsible for administering the responsibilities of the public official or governmental body under this chapter. Designation of a public information coordinator under this subsection does not relieve a public official from the duty to comply with any other requirement of this chapter that applies to the public official. The designated public information coordinator shall complete the training course regarding the responsibilities of the governmental body with which the coordinator serves and of its officers and employees under this chapter not later than the 90th day after the date the coordinator assumes the person's duties as coordinator.

(d) The attorney general shall ensure that the training is made available. The office of the attorney general may provide the training and may also approve any acceptable course of training offered by a governmental body or other entity. The attorney general shall ensure that at least one course of training approved or provided by the attorney general is available on videotape or a functionally similar and widely available medium at no cost. The training must include instruction in:

(1) the general background of the legal requirements for open records and public information;

(2) the applicability of this chapter to governmental bodies;

(3) procedures and requirements regarding complying with a request for information under this chapter;

(4) the role of the attorney general under this chapter; and

(5) penalties and other consequences for failure to comply with this chapter.

(e) The office of the attorney general or other entity providing the training shall provide a certificate of course completion to persons who complete the training required by this section. A governmental body shall maintain and make available for public inspection the record of its public officials' or, if applicable, the public information coordinator's completion of the training.

(f) Completing the required training as a public official of the governmental body satisfies the requirements of this section with regard to the public official's service on a committee or

subcommittee of the governmental body and the public official's ex officio service on any other governmental body.

(g) The training required by this section may be used to satisfy any corresponding training requirements concerning this chapter or open records required by law for a public official or public information coordinator. The attorney general shall attempt to coordinate the training required by this section with training required by other law to the extent practicable.

(h) A certificate of course completion is admissible as evidence in a criminal prosecution under this chapter. However, evidence that a defendant completed a course of training offered under this section is not prima facie evidence that the defendant knowingly violated this chapter.

Added by Acts 2005, 79th Leg., Ch. 105 (S.B. 286), Sec. 2, eff. January 1, 2006.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 847 (H.B. 3033), Sec. 2, eff. September 1, 2023.

SUBCHAPTER B. RIGHT OF ACCESS TO PUBLIC INFORMATION

Sec. 552.021. AVAILABILITY OF PUBLIC INFORMATION. Public information is available to the public at a minimum during the normal business hours of the governmental body.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 2, eff. Sept. 1, 1995.

Sec. 552.0215. RIGHT OF ACCESS TO CERTAIN INFORMATION AFTER 75 YEARS. (a) Except as provided by Section 552.147, the confidentiality provisions of this chapter, or other law, information that is not confidential but is excepted from required disclosure under Subchapter C is public information and is available to the public on or after the 75th anniversary of the date the information was originally created or received by the governmental body.

(b) This section does not limit the authority of a governmental body to establish retention periods for records under applicable law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 462 (S.B. 1907), Sec. 1, eff. September 1, 2011.

Sec. 552.022. CATEGORIES OF PUBLIC INFORMATION; EXAMPLES. (a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108;

(2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body;

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body;

(4) the name of each official and the final record of voting on all proceedings in a governmental body;

(5) all working papers, research material, and information used to estimate the need for or expenditure of public funds or taxes by a governmental body, on completion of the estimate;

(6) the name, place of business, and the name of the municipality to which local sales and use taxes are credited, if any, for the named person, of a person reporting or paying sales and use taxes under Chapter 151, Tax Code;

(7) a description of an agency's central and field organizations, including:

(A) the established places at which the public may obtain information, submit information or requests, or obtain decisions;

(B) the employees from whom the public may obtain information, submit information or requests, or obtain decisions;

(C) in the case of a uniformed service, the members from whom the public may obtain information, submit information or requests, or obtain decisions; and

(D) the methods by which the public may obtain information, submit information or requests, or obtain decisions;

(8) a statement of the general course and method by which an agency's functions are channeled and determined, including the

nature and requirements of all formal and informal policies and procedures;

(9) a rule of procedure, a description of forms available or the places at which forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations;

(10) a substantive rule of general applicability adopted or issued by an agency as authorized by law, and a statement of general policy or interpretation of general applicability formulated and adopted by an agency;

(11) each amendment, revision, or repeal of information described by Subdivisions (7)-(10);

(12) final opinions, including concurring and dissenting opinions, and orders issued in the adjudication of cases;

(13) a policy statement or interpretation that has been adopted or issued by an agency;

(14) administrative staff manuals and instructions to staff that affect a member of the public;

(15) information regarded as open to the public under an agency's policies;

(16) information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege;

(17) information that is also contained in a public court record; and

(18) a settlement agreement to which a governmental body is a party.

(b) A court in this state may not order a governmental body or an officer for public information to withhold from public inspection any category of public information described by Subsection (a) or to not produce the category of public information for inspection or duplication, unless the category of information is confidential under this chapter or other law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 3, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1319, Sec. 5, eff. Sept. 1, 1999. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 2, eff. September 1, 2011.

Sec. 552.0221. EMPLOYEE OR TRUSTEE OF PUBLIC EMPLOYEE PENSION SYSTEM. (a) Information concerning the employment of an employee of a public employee pension system is public information under the terms of this chapter, including information concerning the income, salary, benefits, and bonuses received from the pension system by the employee in the person's capacity as an employee of the system, and is not removed from the application of this chapter, made confidential, or otherwise excepted from the requirements of Section 552.021 by any statute intended to protect the records of persons as members, beneficiaries, or retirees of a public employee pension system in their capacity as such.

(b) Information concerning the service of a trustee of a public employee pension system is public information under the terms of this chapter, including information concerning the income, salary, benefits, and bonuses received from the pension system by the trustee in the person's capacity as a trustee of the system, and is not removed from the application of this chapter, made confidential, or otherwise excepted from the requirements of Section 552.021 by any statute intended to protect the records of persons as members, beneficiaries, or retirees of a public employee pension system in their capacity as such.

(c) Information subject to Subsections (a) and (b) must be released only to the extent the information is not excepted from required disclosure under this subchapter or Subchapter C.

(d) For purposes of this section, "benefits" does not include pension benefits provided to an individual by a pension system under the statutory plan covering the individual as a member, beneficiary, or retiree of the pension system.

Added by Acts 2009, 81st Leg., R.S., Ch. 58 (S.B. 1071), Sec. 1, eff. May 19, 2009.

Sec. 552.0222. DISCLOSURE OF CONTRACTING INFORMATION. (a) Contracting information is public and must be released unless excepted from disclosure under this chapter.

(b) The exceptions to disclosure provided by Sections 552.110 and 552.1101 do not apply to the following types of contracting information:

(1) a contract described by Section 2261.253(a), excluding

any information that was properly redacted under Subsection (e) of that section;

(2) a contract described by Section 322.020(c), excluding any information that was properly redacted under Subsection (d) of that section;

(3) the following contract or offer terms or their functional equivalent:

(A) any term describing the overall or total price the governmental body will or could potentially pay, including overall or total value, maximum liability, and final price;

(B) a description of the items or services to be delivered with the total price for each if a total price is identified for the item or service in the contract;

(C) the delivery and service deadlines;

(D) the remedies for breach of contract;

(E) the identity of all parties to the contract;

(F) the identity of all subcontractors in a contract;

(G) the affiliate overall or total pricing for a vendor, contractor, potential vendor, or potential contractor;

(H) the execution dates;

(I) the effective dates; and

(J) the contract duration terms, including any extension options; or

(4) information indicating whether a vendor, contractor, potential vendor, or potential contractor performed its duties under a contract, including information regarding:

(A) a breach of contract;

(B) a contract variance or exception;

(C) a remedial action;

(D) an amendment to a contract;

(E) any assessed or paid liquidated damages;

(F) a key measures report;

(G) a progress report; and

(H) a final payment checklist.

(c) Notwithstanding Subsection (b), information described by Subdivisions (3)(A) and (B) of that subsection that relates to a retail electricity contract may not be disclosed until the delivery start date.

Added by Acts 2019, 86th Leg., R.S., Ch. 1216 (S.B. 943), Sec. 2,

eff. January 1, 2020.

Sec. 552.0225. RIGHT OF ACCESS TO INVESTMENT INFORMATION. (a) Under the fundamental philosophy of American government described by Section 552.001, it is the policy of this state that investments of government are investments of and for the people and the people are entitled to information regarding those investments. The provisions of this section shall be liberally construed to implement this policy.

(b) The following categories of information held by a governmental body relating to its investments are public information and not excepted from disclosure under this chapter:

(1) the name of any fund or investment entity the governmental body is or has invested in;

(2) the date that a fund or investment entity described by Subdivision (1) was established;

(3) each date the governmental body invested in a fund or investment entity described by Subdivision (1);

(4) the amount of money, expressed in dollars, the governmental body has committed to a fund or investment entity;

(5) the amount of money, expressed in dollars, the governmental body is investing or has invested in any fund or investment entity;

(6) the total amount of money, expressed in dollars, the governmental body received from any fund or investment entity in connection with an investment;

(7) the internal rate of return or other standard used by a governmental body in connection with each fund or investment entity it is or has invested in and the date on which the return or other standard was calculated;

(8) the remaining value of any fund or investment entity the governmental body is or has invested in;

(9) the total amount of fees, including expenses, charges, and other compensation, assessed against the governmental body by, or paid by the governmental body to, any fund or investment entity or principal of any fund or investment entity in which the governmental body is or has invested;

(10) the names of the principals responsible for managing any fund or investment entity in which the governmental body is or

has invested;

(11) each recusal filed by a member of the governing board in connection with a deliberation or action of the governmental body relating to an investment;

(12) a description of all of the types of businesses a governmental body is or has invested in through a fund or investment entity;

(13) the minutes and audio or video recordings of each open portion of a meeting of the governmental body at which an item described by this subsection was discussed;

(14) the governmental body's percentage ownership interest in a fund or investment entity the governmental body is or has invested in;

(15) any annual ethics disclosure report submitted to the governmental body by a fund or investment entity the governmental body is or has invested in; and

(16) the cash-on-cash return realized by the governmental body for a fund or investment entity the governmental body is or has invested in.

(c) This section does not apply to the Texas Mutual Insurance Company or a successor to the company.

(d) This section does not apply to a private investment fund's investment in restricted securities, as defined in Section 552.143.

Added by Acts 2005, 79th Leg., Ch. 1338 (S.B. 121), Sec. 1, eff. June 18, 2005.

Sec. 552.023. SPECIAL RIGHT OF ACCESS TO CONFIDENTIAL INFORMATION. (a) A person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests.

(b) A governmental body may not deny access to information to the person, or the person's representative, to whom the information relates on the grounds that the information is considered confidential by privacy principles under this chapter but may assert as grounds for denial of access other provisions of this chapter or other law that are not intended to protect the person's privacy

interests.

(c) A release of information under Subsections (a) and (b) is not an offense under Section 552.352.

(d) A person who receives information under this section may disclose the information to others only to the extent consistent with the authorized purposes for which consent to release the information was obtained.

(e) Access to information under this section shall be provided in the manner prescribed by Sections 552.229 and 552.307.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 4, eff. Sept. 1, 1995.

Sec. 552.024. ELECTING TO DISCLOSE ADDRESS AND TELEPHONE NUMBER. (a) Except as provided by Subsection (a-1), each employee or official of a governmental body and each former employee or official of a governmental body shall choose whether to allow public access to the information in the custody of the governmental body that relates to the person's home address, home telephone number, emergency contact information, or social security number, or that reveals whether the person has family members.

(a-1) A school district may not require an employee or former employee of the district to choose whether to allow public access to the employee's or former employee's social security number.

(b) Each employee and official and each former employee and official shall state that person's choice under Subsection (a) to the main personnel officer of the governmental body in a signed writing not later than the 14th day after the date on which:

(1) the employee begins employment with the governmental body;

(2) the official is elected or appointed; or

(3) the former employee or official ends service with the governmental body.

(c) If the employee or official or former employee or official chooses not to allow public access to the information:

(1) the information is protected under Subchapter C; and

(2) the governmental body may redact the information from any information the governmental body discloses under Section 552.021

without the necessity of requesting a decision from the attorney general under Subchapter G.

(c-1) If, under Subsection (c)(2), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(c-2) A governmental body that redacts or withholds information under Subsection (c)(2) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

(d) If an employee or official or a former employee or official fails to state the person's choice within the period established by this section, the information is subject to public access.

(e) An employee or official or former employee or official of a governmental body who wishes to close or open public access to the information may request in writing that the main personnel officer of the governmental body close or open access.

(f) This section does not apply to a person to whom Section 552.1175 applies.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 5, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 119, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 283 (S.B. 1068), Sec. 1, eff. June 4, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 927 (S.B. 1638), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 183 (H.B. 2961), Sec. 1, eff. September 1, 2013.

Sec. 552.025. TAX RULINGS AND OPINIONS. (a) A governmental body with taxing authority that issues a written determination letter, technical advice memorandum, or ruling that concerns a tax matter shall index the letter, memorandum, or ruling by subject matter.

(b) On request, the governmental body shall make the index prepared under Subsection (a) and the document itself available to the public, subject to the provisions of this chapter.

(c) Subchapter C does not authorize withholding from the public or limiting the availability to the public of a written determination letter, technical advice memorandum, or ruling that concerns a tax matter and that is issued by a governmental body with taxing authority.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 552.026. EDUCATION RECORDS. This chapter does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 552.027. EXCEPTION: INFORMATION AVAILABLE COMMERCIALLY; RESOURCE MATERIAL. (a) A governmental body is not required under this chapter to allow the inspection of or to provide a copy of information in a commercial book or publication purchased or acquired

by the governmental body for research purposes if the book or publication is commercially available to the public.

(b) Although information in a book or publication may be made available to the public as a resource material, such as a library book, a governmental body is not required to make a copy of the information in response to a request for public information.

(c) A governmental body shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of a governmental body.

Added by Acts 1995, 74th Leg., ch. 1035, Sec. 12, eff. Sept. 1, 1995.

Sec. 552.028. REQUEST FOR INFORMATION FROM INCARCERATED INDIVIDUAL. (a) A governmental body is not required to accept or comply with a request for information from:

(1) an individual who is imprisoned or confined in a correctional facility; or

(2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under this chapter.

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

(c) In this section, "correctional facility" means:

(1) a secure correctional facility, as defined by Section 1.07, Penal Code;

(2) a secure correctional facility and a secure detention facility, as defined by Section 51.02, Family Code; and

(3) a place designated by the law of this state, another state, or the federal government for the confinement of a person arrested for, charged with, or convicted of a criminal offense.

Added by Acts 1995, 74th Leg., ch. 302, Sec. 1, eff. June 5, 1995. Renumbered from Government Code Sec. 552.027 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(44), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1231, Sec. 6, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 154, Sec. 1, eff. May 21, 1999; Acts 2001, 77th Leg., ch. 735, Sec. 1, eff. June 13, 2001; Acts 2003, 78th Leg., ch. 283, Sec.

45, eff. Sept. 1, 2003.

Sec. 552.029. RIGHT OF ACCESS TO CERTAIN INFORMATION RELATING TO INMATE OF DEPARTMENT OF CRIMINAL JUSTICE. Notwithstanding Section 508.313 or 552.134, the following information about an inmate who is confined in a facility operated by or under a contract with the Texas Department of Criminal Justice is subject to required disclosure under Section 552.021:

(1) the inmate's name, identification number, age, birthplace, department photograph, physical description, or general state of health or the nature of an injury to or critical illness suffered by the inmate;

(2) the inmate's assigned unit or the date on which the unit received the inmate, unless disclosure of the information would violate federal law relating to the confidentiality of substance abuse treatment;

(3) the offense for which the inmate was convicted or the judgment and sentence for that offense;

(4) the county and court in which the inmate was convicted;

(5) the inmate's earliest or latest possible release dates;

(6) the inmate's parole date or earliest possible parole date;

(7) any prior confinement of the inmate by the Texas Department of Criminal Justice or its predecessor; or

(8) basic information regarding the death of an inmate in custody, an incident involving the use of force, or an alleged crime involving the inmate.

Added by Acts 1999, 76th Leg., ch. 783, Sec. 2, eff. Aug. 30, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 21.002(7), eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1271 (H.B. 2197), Sec. 1, eff. June 18, 2005.

SUBCHAPTER C. INFORMATION EXCEPTED FROM REQUIRED DISCLOSURE

Sec. 552.101. EXCEPTION: CONFIDENTIAL INFORMATION. Information is excepted from the requirements of Section 552.021 if it is information considered to be confidential by law, either

constitutional, statutory, or by judicial decision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 552.102. EXCEPTION: CONFIDENTIALITY OF CERTAIN PERSONNEL INFORMATION. (a) Information is excepted from the requirements of Section 552.021 if it is information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, except that all information in the personnel file of an employee of a governmental body is to be made available to that employee or the employee's designated representative as public information is made available under this chapter. The exception to public disclosure created by this subsection is in addition to any exception created by Section 552.024. Public access to personnel information covered by Section 552.024 is denied to the extent provided by that section.

(b) Information is excepted from the requirements of Section 552.021 if it is a transcript from an institution of higher education maintained in the personnel file of a professional public school employee, except that this section does not exempt from disclosure the degree obtained or the curriculum on a transcript in the personnel file of the employee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 6, eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 3, eff. September 1, 2011.

Sec. 552.103. EXCEPTION: LITIGATION OR SETTLEMENT NEGOTIATIONS INVOLVING THE STATE OR A POLITICAL SUBDIVISION. (a) Information is excepted from the requirements of Section 552.021 if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party.

(b) For purposes of this section, the state or a political

subdivision is considered to be a party to litigation of a criminal nature until the applicable statute of limitations has expired or until the defendant has exhausted all appellate and postconviction remedies in state and federal court.

(c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

(d) The exception to disclosure provided by this section does not apply to information requested under this chapter if:

(1) the information relates to a general, primary, or special election, as those terms are defined by Section 1.005, Election Code;

(2) the information is in the possession of a governmental body that administers elections described by Subdivision (1); and

(3) the governmental body described by Subdivision (2) is not a governmental body described by Section 552.003(1)(A)(i).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 1319, Sec. 6, eff. Sept. 1, 1999.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 847 (H.B. 3033), Sec. 3, eff. September 1, 2023.

Sec. 552.104. EXCEPTION: INFORMATION RELATED TO COMPETITION OR BIDDING. (a) Information is excepted from the requirements of Section 552.021 if a governmental body demonstrates that release of the information would harm its interests by providing an advantage to a competitor or bidder in a particular ongoing competitive situation or in a particular competitive situation where the governmental body establishes the situation at issue is set to reoccur or there is a specific and demonstrable intent to enter into the competitive situation again in the future.

(b) Except as provided by Subsection (c), the requirement of Section 552.022 that a category of information listed under Section 552.022(a) is public information and not excepted from required

disclosure under this chapter unless expressly confidential under law does not apply to information that is excepted from required disclosure under this section.

(c) Subsection (b) does not apply to information described by Section 552.022(a) relating to the receipt or expenditure of public or other funds by a governmental body for a parade, concert, or other entertainment event paid for in whole or part with public funds. A person, including a governmental body, may not include a provision in a contract related to an event described by this subsection that prohibits or would otherwise prevent the disclosure of information described by this subsection. A contract provision that violates this subsection is void.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 1272, Sec. 7.01, eff. June 15, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 45 (H.B. 81), Sec. 1, eff. May 17, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1216 (S.B. 943), Sec. 3, eff. January 1, 2020.

Sec. 552.105. EXCEPTION: INFORMATION RELATED TO LOCATION OR PRICE OF PROPERTY. Information is excepted from the requirements of Section 552.021 if it is information relating to:

(1) the location of real or personal property for a public purpose prior to public announcement of the project; or

(2) appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 552.106. EXCEPTION: CERTAIN LEGISLATIVE DOCUMENTS. (a) A draft or working paper involved in the preparation of proposed legislation is excepted from the requirements of Section 552.021.

(b) An internal bill analysis or working paper prepared by the governor's office for the purpose of evaluating proposed legislation is excepted from the requirements of Section 552.021.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1437, Sec. 1, eff. June 20, 1997.

Sec. 552.107. EXCEPTION: CERTAIN LEGAL MATTERS. Information is excepted from the requirements of Section 552.021 if:

(1) it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct; or

(2) a court by order has prohibited disclosure of the information.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 7, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 8.014, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620 and H.B. 1610, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 552.108. EXCEPTION: CERTAIN LAW ENFORCEMENT, CORRECTIONS, AND PROSECUTORIAL INFORMATION. (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;

(3) it is information relating to a threat against a peace officer or detention officer collected or disseminated under Section 411.048; or

(4) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime. A governmental body shall promptly release basic information responsive to a request made under this chapter unless the governmental body seeks to withhold the information as provided by another provision of this chapter, and regardless of whether the governmental body requests an attorney general decision under Subchapter G regarding other information subject to the request.

Text of subsection as added by Acts 2023, 88th Leg., R.S., Ch. 986 (H.B. 30), Sec. 1

(d) The exception to disclosure provided by Subsection (a)(2) does not apply to information, records, or notations if:

(1) a person who is described by or depicted in the information, record, or notation, other than a peace officer, is deceased or incapacitated; or

(2) each person who is described by or depicted in the information, record, or notation, other than a person who is deceased or incapacitated, consents to the release of the information, record,

or notation.

Text of subsection as added by Acts 2023, 88th Leg., R.S., Ch. 195 (S.B. 435), Sec. 1

(d) Notwithstanding other law, a prosecutor may permit a person to view the following evidence of a crime that resulted in the death of a person and that occurred in the prosecutor's jurisdiction:

(1) a medical examiner's report, if the person viewing the report is a family member of the person who is the subject of the report and the person who is the subject of the report was a victim of the crime; and

(2) video evidence of the crime, if the person viewing the video is a victim of the crime or a family member of a victim of the crime.

(e) A person permitted to view a medical examiner's report or video evidence under Subsection (d) may not duplicate, record, capture, or otherwise memorialize the information. A prosecutor may require a person to sign a confidentiality agreement before permitting the person to view the information.

(f) A permitted viewing of a medical examiner's report or video evidence under Subsection (d) is not a voluntary disclosure of information for purposes of Section 552.007(b). A governmental body, by providing information under Subsection (d) that is confidential or otherwise excepted from required disclosure under law, does not waive or affect the confidentiality of the information for purposes of state or federal law or waive the right to assert exceptions to required disclosure of the information in the future.

(g) Subsection (d) does not affect:

(1) the right of a person to obtain a medical examiner's report or video evidence of a crime from a governmental body under other law;

(2) the procedures under which the information is obtained under other law; or

(3) the use that may be made of the information obtained under other law.

(h) In this section:

(1) "Family member" means a person related to a victim of a crime within the first degree of consanguinity or affinity.

(2) "Medical examiner's report" means a report and the contents of such a report created by a medical examiner under Article 49.25, Code of Criminal Procedure, including an autopsy report and

toxicology report. The term does not include a photograph or medical image contained in a report.

(3) "Victim" means an individual who suffered personal injury or death as a result of criminal conduct.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 7, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1231, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 474, Sec. 6, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 557 (H.B. 1262), Sec. 3, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 557 (H.B. 1262), Sec. 4, eff. September 1, 2005.

Acts 2023, 88th Leg., R.S., Ch. 195 (S.B. 435), Sec. 1, eff. May 24, 2023.

Acts 2023, 88th Leg., R.S., Ch. 847 (H.B. 3033), Sec. 4, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 986 (H.B. 30), Sec. 1, eff. September 1, 2023.

Sec. 552.1081. EXCEPTION: CONFIDENTIALITY OF CERTAIN INFORMATION REGARDING EXECUTION OF CONVICT. Information is excepted from the requirements of Section 552.021 if it contains identifying information under Article 43.14, Code of Criminal Procedure, including that of:

(1) any person who participates in an execution procedure, including a person who uses, supplies, or administers a substance during the execution; and

(2) any person or entity that manufactures, transports, tests, procures, compounds, prescribes, dispenses, or provides a substance or supplies used in an execution.

Added by Acts 2015, 84th Leg., R.S., Ch. 209 (S.B. 1697), Sec. 1, eff. September 1, 2015.

Sec. 552.1085. CONFIDENTIALITY OF SENSITIVE CRIME SCENE IMAGE. (a) In this section:

(1) "Deceased person's next of kin" means:

(A) the surviving spouse of the deceased person;

(B) if there is no surviving spouse of the deceased, an adult child of the deceased person; or

(C) if there is no surviving spouse or adult child of the deceased, a parent of the deceased person.

(2) "Defendant" means a person being prosecuted for the death of the deceased person or a person convicted of an offense in relation to that death and appealing that conviction.

(3) "Expressive work" means:

(A) a fictional or nonfictional entertainment, dramatic, literary, or musical work that is a play, book, article, musical composition, audiovisual work, radio or television program, work of art, or work of political, educational, or newsworthy value;

(B) a work the primary function of which is the delivery of news, information, current events, or other matters of public interest or concern; or

(C) an advertisement or commercial announcement of a work described by Paragraph (A) or (B).

(4) "Local governmental entity" means a county, municipality, school district, charter school, junior college district, or other political subdivision of this state.

(5) "Public or private institution of higher education" means:

(A) an institution of higher education, as defined by Section 61.003, Education Code; or

(B) a private or independent institution of higher education, as defined by Section 61.003, Education Code.

(6) "Sensitive crime scene image" means a photograph or video recording taken at a crime scene, contained in or part of a closed criminal case, that depicts a deceased person in a state of dismemberment, decapitation, or similar mutilation or that depicts the deceased person's genitalia.

(7) "State agency" means a department, commission, board, office, or other agency that is a part of state government and that is created by the constitution or a statute of this state. The term includes an institution of higher education as defined by Section 61.003, Education Code.

(b) For purposes of this section, an Internet website, the primary function of which is not the delivery of news, information, current events, or other matters of public interest or concern, is

not an expressive work.

(c) A sensitive crime scene image in the custody of a governmental body is confidential and excepted from the requirements of Section 552.021 and a governmental body may not permit a person to view or copy the image except as provided by this section. This section applies to any sensitive crime scene image regardless of the date that the image was taken or recorded.

(d) Notwithstanding Subsection (c) and subject to Subsection (e), the following persons may view or copy information that constitutes a sensitive crime scene image from a governmental body:

(1) the deceased person's next of kin;

(2) a person authorized in writing by the deceased person's next of kin;

(3) a defendant or the defendant's attorney;

(4) a person who establishes to the governmental body an interest in a sensitive crime scene image that is based on, connected with, or in support of the creation, in any medium, of an expressive work;

(5) a person performing bona fide research sponsored by a public or private institution of higher education with approval of a supervisor of the research or a supervising faculty member;

(6) a state agency;

(7) an agency of the federal government; or

(8) a local governmental entity.

(e) This section does not prohibit a governmental body from asserting an exception to disclosure of a sensitive crime scene image to a person identified in Subsection (d) on the grounds that the image is excepted from the requirements of Section 552.021 under another provision of this chapter or another law.

(f) Not later than the 10th business day after the date a governmental body receives a request for a sensitive crime scene image from a person described by Subsection (d)(4) or (5), the governmental body shall notify the deceased person's next of kin of the request in writing. The notice must be sent to the next of kin's last known address.

(g) A governmental body that receives a request for information that constitutes a sensitive crime scene image shall allow a person described in Subsection (d) to view or copy the image not later than the 10th business day after the date the governmental body receives the request unless the governmental body files a request for an

attorney general decision under Subchapter G regarding whether an exception to public disclosure applies to the information.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1360 (S.B. 1512), Sec. 1, eff. September 1, 2013.

Sec. 552.109. EXCEPTION: CONFIDENTIALITY OF CERTAIN PRIVATE COMMUNICATIONS OF AN ELECTED OFFICE HOLDER. Private correspondence or communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy are excepted from the requirements of Section 552.021.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 4, eff. September 1, 2011.

Sec. 552.110. EXCEPTION: CONFIDENTIALITY OF TRADE SECRETS; CONFIDENTIALITY OF CERTAIN COMMERCIAL OR FINANCIAL INFORMATION. (a) In this section, "trade secret" means all forms and types of information, including business, scientific, technical, economic, or engineering information, and any formula, design, prototype, pattern, plan, compilation, program device, program, code, device, method, technique, process, procedure, financial data, or list of actual or potential customers or suppliers, whether tangible or intangible and whether or however stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if:

(1) the owner of the trade secret has taken reasonable measures under the circumstances to keep the information secret; and

(2) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information.

(b) Except as provided by Section 552.0222, information is excepted from the requirements of Section 552.021 if it is demonstrated based on specific factual evidence that the information is a trade secret.

(c) Except as provided by Section 552.0222, commercial or financial information for which it is demonstrated based on specific

factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained is excepted from the requirements of Section 552.021.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 1319, Sec. 7, eff. Sept. 1, 1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1216 (S.B. 943), Sec. 4, eff. January 1, 2020.

Sec. 552.1101. EXCEPTION: CONFIDENTIALITY OF PROPRIETARY INFORMATION. (a) Except as provided by Section 552.0222, information submitted to a governmental body by a vendor, contractor, potential vendor, or potential contractor in response to a request for a bid, proposal, or qualification is excepted from the requirements of Section 552.021 if the vendor, contractor, potential vendor, or potential contractor that the information relates to demonstrates based on specific factual evidence that disclosure of the information would:

(1) reveal an individual approach to:

(A) work;

(B) organizational structure;

(C) staffing;

(D) internal operations;

(E) processes; or

(F) discounts, pricing methodology, pricing per kilowatt hour, cost data, or other pricing information that will be used in future solicitation or bid documents; and

(2) give advantage to a competitor.

(b) The exception to disclosure provided by Subsection (a) does not apply to:

(1) information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body; or

(2) communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body.

(c) The exception to disclosure provided by Subsection (a) may

be asserted only by a vendor, contractor, potential vendor, or potential contractor in the manner described by Section 552.305(b) for the purpose of protecting the interests of the vendor, contractor, potential vendor, or potential contractor. A governmental body shall decline to release information as provided by Section 552.305(a) to the extent necessary to allow a vendor, contractor, potential vendor, or potential contractor to assert the exception to disclosure provided by Subsection (a).

Added by Acts 2019, 86th Leg., R.S., Ch. 1216 (S.B. 943), Sec. 5, eff. January 1, 2020.

Sec. 552.111. EXCEPTION: AGENCY MEMORANDA. An interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency is excepted from the requirements of Section 552.021.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 552.112. EXCEPTION: CERTAIN INFORMATION RELATING TO REGULATION OF FINANCIAL INSTITUTIONS OR SECURITIES. (a) Information is excepted from the requirements of Section 552.021 if it is information contained in or relating to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both.

(b) In this section, "securities" has the meaning assigned by The Securities Act (Title 12, Government Code).

(c) Information is excepted from the requirements of Section 552.021 if it is information submitted by an individual or other entity to the Texas Legislative Council, or to any state agency or department overseen by the Finance Commission of Texas and the information has been or will be sent to the Texas Legislative Council, for the purpose of performing a statistical or demographic analysis of information subject to Section 323.020. However, this subsection does not except from the requirements of Section 552.021 information that does not identify or tend to identify an individual or other entity and that is subject to required public disclosure under Section 323.020(e).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 918, Sec. 2, eff. June 20, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 2.19, eff. January 1, 2022.

Sec. 552.113. EXCEPTION: CONFIDENTIALITY OF GEOLOGICAL OR GEOPHYSICAL INFORMATION. (a) Information is excepted from the requirements of Section 552.021 if it is:

(1) an electric log confidential under Subchapter M, Chapter 91, Natural Resources Code;

(2) geological or geophysical information or data, including maps concerning wells, except information filed in connection with an application or proceeding before an agency; or

(3) confidential under Subsections (c) through (f).

(b) Information that is shown to or examined by an employee of the General Land Office, but not retained in the land office, is not considered to be filed with the land office.

(c) In this section:

(1) "Confidential material" includes all well logs, geological, geophysical, geochemical, and other similar data, including maps and other interpretations of the material filed in the General Land Office:

(A) in connection with any administrative application or proceeding before the land commissioner, the school land board, any board for lease, or the commissioner's or board's staff; or

(B) in compliance with the requirements of any law, rule, lease, or agreement.

(2) "Electric logs" has the same meaning as it has in Chapter 91, Natural Resources Code.

(3) "Administrative applications" and "administrative proceedings" include applications for pooling or unitization, review of shut-in royalty payments, review of leases or other agreements to determine their validity, review of any plan of operations, review of the obligation to drill offset wells, or an application to pay compensatory royalty.

(d) Confidential material, except electric logs, filed in the General Land Office on or after September 1, 1985, is public information and is available to the public under Section 552.021 on

and after the later of:

(1) five years from the filing date of the confidential material; or

(2) one year from the expiration, termination, or forfeiture of the lease in connection with which the confidential material was filed.

(e) Electric logs filed in the General Land Office on or after September 1, 1985, are either public information or confidential material to the same extent and for the same periods provided for the same logs by Chapter 91, Natural Resources Code. A person may request that an electric log that has been filed in the General Land Office be made confidential by filing with the land office a copy of the written request for confidentiality made to the Railroad Commission of Texas for the same log.

(f) The following are public information:

(1) electric logs filed in the General Land Office before September 1, 1985; and

(2) confidential material, except electric logs, filed in the General Land Office before September 1, 1985, provided, that Subsection (d) governs the disclosure of that confidential material filed in connection with a lease that is a valid and subsisting lease on September 1, 1995.

(g) Confidential material may be disclosed at any time if the person filing the material, or the person's successor in interest in the lease in connection with which the confidential material was filed, consents in writing to its release. A party consenting to the disclosure of confidential material may restrict the manner of disclosure and the person or persons to whom the disclosure may be made.

(h) Notwithstanding the confidential nature of the material described in this section, the material may be used by the General Land Office in the enforcement, by administrative proceeding or litigation, of the laws governing the sale and lease of public lands and minerals, the regulations of the land office, the school land board, or of any board for lease, or the terms of any lease, pooling or unitization agreement, or any other agreement or grant.

(i) An administrative hearings officer may order that confidential material introduced in an administrative proceeding remain confidential until the proceeding is finally concluded, or for the period provided in Subsection (d), whichever is later.

(j) Confidential material examined by an administrative hearings officer during the course of an administrative proceeding for the purpose of determining its admissibility as evidence shall not be considered to have been filed in the General Land Office to the extent that the confidential material is not introduced into evidence at the proceeding.

(k) This section does not prevent a person from asserting that any confidential material is exempt from disclosure as a trade secret or commercial information under Section 552.110 or under any other basis permitted by law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 8, eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 6, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 279 (H.B. 878), Sec. 4, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 279 (H.B. 878), Sec. 5, eff. September 1, 2013.

Sec. 552.114. EXCEPTION: CONFIDENTIALITY OF STUDENT RECORDS. (a) In this section, "student record" means:

(1) information that constitutes education records as that term is defined by the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g(a)(4)); or

(2) information in a record of an applicant for admission to an educational institution, including a transfer applicant.

(b) Information is confidential and excepted from the requirements of Section 552.021 if it is information in a student record at an educational institution funded wholly or partly by state revenue. This subsection does not prohibit the disclosure or provision of information included in an education record if the disclosure or provision is authorized by 20 U.S.C. Section 1232g or other federal law.

(c) A record covered by Subsection (b) shall be made available on the request of:

(1) educational institution personnel;

(2) the student involved or the student's parent, legal guardian, or spouse; or

(3) a person conducting a child abuse investigation required by Subchapter D, Chapter 261, Family Code.

(d) Except as provided by Subsection (e), an educational institution may redact information covered under Subsection (b) from information disclosed under Section 552.021 without requesting a decision from the attorney general.

(e) If an applicant for admission to an educational institution described by Subsection (b) or a parent or legal guardian of a minor applicant to an educational institution described by Subsection (b) requests information in the record of the applicant, the educational institution shall disclose any information that:

(1) is related to the applicant's application for admission; and

(2) was provided to the educational institution by the applicant.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.38, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 828 (H.B. 4046), Sec. 1, eff. September 1, 2015.

Sec. 552.115. EXCEPTION: CONFIDENTIALITY OF BIRTH AND DEATH RECORDS. (a) A birth or death record maintained by the vital statistics unit of the Department of State Health Services or a local registration official is excepted from the requirements of Section 552.021, except that:

(1) a birth record is public information and available to the public on and after the 75th anniversary of the date of birth as shown on the record filed with the vital statistics unit or local registration official;

(2) a death record is public information and available to the public on and after the 25th anniversary of the date of death as shown on the record filed with the vital statistics unit or local registration official, except that if the decedent is unidentified, the death record is public information and available to the public on

and after the first anniversary of the date of death;

(3) a general birth index or a general death index established or maintained by the vital statistics unit or a local registration official is public information and available to the public to the extent the index relates to a birth record or death record that is public information and available to the public under Subdivision (1) or (2);

(4) a summary birth index or a summary death index prepared or maintained by the vital statistics unit or a local registration official is public information and available to the public; and

(5) a birth or death record is available to the chief executive officer of a home-rule municipality or the officer's designee if:

(A) the record is used only to identify a property owner or other person to whom the municipality is required to give notice when enforcing a state statute or an ordinance;

(B) the municipality has exercised due diligence in the manner described by Section 54.035(e), Local Government Code, to identify the person; and

(C) the officer or designee signs a confidentiality agreement that requires that:

(i) the information not be disclosed outside the office of the officer or designee, or within the office for a purpose other than the purpose described by Paragraph (A);

(ii) the information be labeled as confidential;

(iii) the information be kept securely; and

(iv) the number of copies made of the information or the notes taken from the information that implicate the confidential nature of the information be controlled, with all copies or notes that are not destroyed or returned remaining confidential and subject to the confidentiality agreement.

(b) Notwithstanding Subsection (a), a general birth index or a summary birth index is not public information and is not available to the public if:

(1) the fact of an adoption or paternity determination can be revealed by the index; or

(2) the index contains specific identifying information relating to the parents of a child who is the subject of an adoption placement.

(c) Subsection (a)(1) does not apply to the microfilming

agreement entered into by the Genealogical Society of Utah, a nonprofit corporation organized under the laws of the State of Utah, and the Archives and Information Services Division of the Texas State Library and Archives Commission.

(d) For the purposes of fulfilling the terms of the agreement in Subsection (c), the Genealogical Society of Utah shall have access to birth records on and after the 50th anniversary of the date of birth as shown on the record filed with the bureau of vital statistics or local registration official, but such birth records shall not be made available to the public until the 75th anniversary of the date of birth as shown on the record.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 706, Sec. 1, eff. Aug. 30, 1999; Acts 2001, 77th Leg., ch. 413, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1192, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 8, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 311 (S.B. 1485), Sec. 1, eff. June 1, 2015.

Sec. 552.116. EXCEPTION: AUDIT WORKING PAPERS. (a) An audit working paper of an audit of the state auditor or the auditor of a state agency, an institution of higher education as defined by Section 61.003, Education Code, a county, a municipality, a school district, a hospital district, or a joint board operating under Section 22.074, Transportation Code, including any audit relating to the criminal history background check of a public school employee, is excepted from the requirements of Section 552.021. If information in an audit working paper is also maintained in another record, that other record is not excepted from the requirements of Section 552.021 by this section.

(b) In this section:

(1) "Audit" means an audit authorized or required by a statute of this state or the United States, the charter or an ordinance of a municipality, an order of the commissioners court of a county, the bylaws adopted by or other action of the governing board of a hospital district, a resolution or other action of a board of

trustees of a school district, including an audit by the district relating to the criminal history background check of a public school employee, or a resolution or other action of a joint board described by Subsection (a) and includes an investigation.

(2) "Audit working paper" includes all information, documentary or otherwise, prepared or maintained in conducting an audit or preparing an audit report, including:

(A) intra-agency and interagency communications; and

(B) drafts of the audit report or portions of those drafts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1122, Sec. 10, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1319, Sec. 8, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 379, Sec. 1, eff. June 18, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 202 (H.B. 1285), Sec. 1, eff. May 27, 2005.

Acts 2005, 79th Leg., Ch. 202 (H.B. 1285), Sec. 2, eff. May 27, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 24, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 25, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1170 (H.B. 2947), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1170 (H.B. 2947), Sec. 2, eff. June 17, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2878, S.B. 370 and S.B. 1569, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 552.117. EXCEPTION: CONFIDENTIALITY OF CERTAIN ADDRESSES, TELEPHONE NUMBERS, SOCIAL SECURITY NUMBERS, AND PERSONAL FAMILY INFORMATION. (a) Information is excepted from the requirements of Section 552.021 if it is information that relates to the home address, home telephone number, emergency contact information, or social security number of the following person or that reveals

whether the person has family members:

(1) a current or former official or employee of a governmental body, except as otherwise provided by Section 552.024;

(2) a current or honorably retired peace officer as defined by Article 2A.001, Code of Criminal Procedure, or a current or honorably retired security officer commissioned under Section 51.212, Education Code, regardless of whether the officer complies with Section 552.024 or 552.1175, as applicable;

(3) a current or former employee of the Texas Department of Criminal Justice or of the predecessor in function of the department or any division of the department, regardless of whether the current or former employee complies with Section 552.1175;

(4) a peace officer as defined by Article 2A.001, Code of Criminal Procedure, or other law, a reserve law enforcement officer, a commissioned deputy game warden, or a corrections officer in a municipal, county, or state penal institution in this state who was killed in the line of duty, regardless of whether the deceased complied with Section 552.024 or 552.1175;

(5) a commissioned security officer as defined by Section 1702.002, Occupations Code, regardless of whether the officer complies with Section 552.024 or 552.1175, as applicable;

(6) an officer or employee of a community supervision and corrections department established under Chapter 76 who performs a duty described by Section 76.004(b), regardless of whether the officer or employee complies with Section 552.024 or 552.1175;

(7) a current or former employee of the office of the attorney general who is or was assigned to a division of that office the duties of which involve law enforcement or are performed under Chapter 231, Family Code, regardless of whether the current or former employee complies with Section 552.024 or 552.1175;

(8) a current or former employee of the Texas Juvenile Justice Department or of the predecessors in function of the department, regardless of whether the current or former employee complies with Section 552.024 or 552.1175;

(9) a current or former juvenile probation or supervision officer certified by the Texas Juvenile Justice Department, or the predecessors in function of the department, under Title 12, Human Resources Code, regardless of whether the current or former officer complies with Section 552.024 or 552.1175;

(10) a current or former employee of a juvenile justice

program or facility, as those terms are defined by Section 261.405, Family Code, regardless of whether the current or former employee complies with Section 552.024 or 552.1175;

(11) a current or former member of the United States Army, Navy, Air Force, Coast Guard, or Marine Corps, an auxiliary service of one of those branches of the armed forces, or the Texas military forces, as that term is defined by Section 437.001;

(12) a current or former district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters, regardless of whether the current or former attorney complies with Section 552.024 or 552.1175;

(13) a current or former employee of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters, regardless of whether the current or former employee complies with Section 552.024 or 552.1175;

(14) a current or former employee of the Texas Civil Commitment Office or of the predecessor in function of the office or a division of the office, regardless of whether the current or former employee complies with Section 552.024 or 552.1175;

(15) a current or former federal judge or state judge, as those terms are defined by Section 1.005, Election Code, a federal bankruptcy judge, a marshal of the United States Marshals Service, a United States attorney, or a family member of a current or former federal judge, including a federal bankruptcy judge, a marshal of the United States Marshals Service, a United States attorney, or a state judge;

(16) a current or former child protective services caseworker, adult protective services caseworker, or investigator for the Department of Family and Protective Services, regardless of whether the caseworker or investigator complies with Section 552.024 or 552.1175, or a current or former employee of a department contractor performing child protective services caseworker, adult protective services caseworker, or investigator functions for the contractor on behalf of the department;

(17) an elected public officer, regardless of whether the officer complies with Section 552.024 or 552.1175;

(18) a current or former United States attorney, assistant United States attorney, federal public defender, deputy federal

public defender, or assistant federal public defender and the spouse or child of the current or former attorney or public defender, regardless of whether the person complies with Section 552.024 or 552.1175; or

(19) a firefighter or volunteer firefighter or emergency medical services personnel as defined by Section 773.003, Health and Safety Code, regardless of whether the firefighter or volunteer firefighter or emergency medical services personnel comply with Section 552.024 or 552.1175, as applicable.

(b) All documents filed with a county clerk and all documents filed with a district clerk are exempt from this section.

(c) In this section, "family member" has the meaning assigned by Section 31.006, Finance Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 9, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 512, Sec. 1, eff. May 31, 1997; Acts 1999, 76th Leg., ch. 1318, Sec. 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 119, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 947, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 621 (H.B. 455), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 927 (S.B. 1638), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 953 (H.B. 1046), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 9, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1033 (H.B. 2733), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 170 (H.B. 2152), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 527 (H.B. 1311), Sec. 1, eff. June 16, 2015.

Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 12, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 190 (S.B. 42), Sec. 17, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1006 (H.B. 1278), Sec. 1, eff.

June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 367 (H.B. 1351), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 633 (S.B. 1494), Sec. 1, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1146 (H.B. 2910), Sec. 7, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1213 (S.B. 662), Sec. 1, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1245 (H.B. 2446), Sec. 4, eff. June 14, 2019.

Acts 2021, 87th Leg., R.S., Ch. 65 (H.B. 1082), Sec. 1, eff. May 19, 2021.

Acts 2021, 87th Leg., R.S., Ch. 383 (S.B. 1134), Sec. 8, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 383 (S.B. 1134), Sec. 9, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 507 (S.B. 56), Sec. 1, eff. June 14, 2021.

Acts 2021, 87th Leg., R.S., Ch. 590 (S.B. 841), Sec. 2, eff. June 14, 2021.

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.010, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 152 (S.B. 870), Sec. 21, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.097, eff. January 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 370, S.B. 2878, S.B. 1540 and S.B. 1569, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 552.1175. EXCEPTION: CONFIDENTIALITY OF CERTAIN PERSONAL IDENTIFYING INFORMATION OF PEACE OFFICERS AND OTHER OFFICIALS PERFORMING SENSITIVE GOVERNMENTAL FUNCTIONS. (a) This section applies only to:

(1) current or honorably retired peace officers as defined by Article 2A.001, Code of Criminal Procedure, or special investigators as described by Article 2A.002, Code of Criminal

Procedure;

(2) current or honorably retired county jailers as defined by Section 1701.001, Occupations Code;

(3) current or former employees of the Texas Department of Criminal Justice or of the predecessor in function of the department or any division of the department;

(4) commissioned security officers as defined by Section 1702.002, Occupations Code;

(5) a current or former district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters;

(5-a) a current or former employee of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters;

(6) officers and employees of a community supervision and corrections department established under Chapter 76 who perform a duty described by Section 76.004(b);

(7) criminal investigators of the United States as described by Article 2A.002(a), Code of Criminal Procedure;

(8) current or honorably retired police officers and inspectors of the United States Federal Protective Service;

(9) current and former employees of the office of the attorney general who are or were assigned to a division of that office the duties of which involve law enforcement or are performed under Chapter 231, Family Code;

(10) current or former juvenile probation and detention officers certified by the Texas Juvenile Justice Department, or the predecessors in function of the department, under Title 12, Human Resources Code;

(11) current or former employees of a juvenile justice program or facility, as those terms are defined by Section 261.405, Family Code;

(12) current or former employees of the Texas Juvenile Justice Department or the predecessors in function of the department;

(13) federal judges and state judges as defined by Section 1.005, Election Code;

(14) current or former employees of the Texas Civil Commitment Office or of the predecessor in function of the office or a division of the office;

(15) a current or former member of the United States Army, Navy, Air Force, Coast Guard, or Marine Corps, an auxiliary service of one of those branches of the armed forces, or the Texas military forces, as that term is defined by Section 437.001;

(16) a current or former child protective services caseworker, adult protective services caseworker, or investigator for the Department of Family and Protective Services or a current or former employee of a department contractor performing child protective services caseworker, adult protective services caseworker, or investigator functions for the contractor on behalf of the department;

(17) an elected public officer;

(18) a firefighter or volunteer firefighter or emergency medical services personnel as defined by Section 773.003, Health and Safety Code; and

(19) a current or former United States attorney, assistant United States attorney, federal public defender, deputy federal public defender, or assistant federal public defender.

(b) Information that relates to the home address, home telephone number, emergency contact information, date of birth, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

(c) A choice made under Subsection (b) remains valid until rescinded in writing by the individual.

(d) This section does not apply to information in the tax appraisal records of an appraisal district to which Section 25.025, Tax Code, applies.

(e) All documents filed with a county clerk and all documents filed with a district clerk are exempt from this section.

(f) A governmental body may redact information that must be withheld under Subsection (b) from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(g) If, under Subsection (f), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(h) A governmental body that redacts or withholds information under Subsection (f) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

Added by Acts 2001, 77th Leg., ch. 119, Sec. 3, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 947, Sec. 2, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 715 (S.B. 450), Sec. 1, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 715 (S.B. 450), Sec. 2, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 621 (H.B. 455), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 283 (S.B. 1068), Sec. 2, eff. June 4, 2009.

Acts 2009, 81st Leg., R.S., Ch. 732 (S.B. 390), Sec. 2, eff.

September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 927 (S.B. 1638), Sec. 3, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 953 (H.B. 1046), Sec. 2, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 937 (H.B. 1632), Sec. 2, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 937 (H.B. 1632), Sec. 3, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1033 (H.B. 2733), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1033 (H.B. 2733), Sec. 4, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 527 (H.B. 1311), Sec. 2, eff. June 16, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 9.008, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 14, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1006 (H.B. 1278), Sec. 2, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 367 (H.B. 1351), Sec. 3, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 367 (H.B. 1351), Sec. 4, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 633 (S.B. 1494), Sec. 2, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 633 (S.B. 1494), Sec. 3, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1146 (H.B. 2910), Sec. 8, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1213 (S.B. 662), Sec. 2, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1213 (S.B. 662), Sec. 3, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1245 (H.B. 2446), Sec. 5, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1245 (H.B. 2446), Sec. 6, eff. June 14, 2019.

Acts 2021, 87th Leg., R.S., Ch. 65 (H.B. 1082), Sec. 2, eff. May

19, 2021.

Acts 2021, 87th Leg., R.S., Ch. 507 (S.B. 56), Sec. 2, eff. June 14, 2021.

Acts 2021, 87th Leg., R.S., Ch. 590 (S.B. 841), Sec. 3, eff. June 14, 2021.

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.011, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 152 (S.B. 870), Sec. 22, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.098, eff. January 1, 2025.

Sec. 552.1176. CONFIDENTIALITY OF CERTAIN INFORMATION MAINTAINED BY STATE BAR. (a) Information maintained under Chapter 81 is confidential and may not be disclosed to the public under this chapter if the information:

(1) is a license application; or

(2) relates to the home address, home telephone number, electronic mail address, social security number, date of birth, driver's license number, state identification number, passport number, emergency contact information, or payment information of an individual licensed to practice law in this state.

(b) Repealed by Acts 2023, 88th Leg., R.S., Ch. 73 (S.B. 510), Sec. 4, eff. September 1, 2023.

(c) All documents filed with a county clerk and all documents filed with a district clerk are exempt from this section.

(d) Subsection (a) does not make confidential or except from required public disclosure the name, state bar identification number, membership class, or eligibility to practice law of an applicant for a license, a license holder, or an individual who previously held a license.

(e) To the extent of any conflict, this section prevails over another law that authorizes or requires the release of information maintained by the State Bar of Texas.

Added by Acts 2007, 80th Leg., R.S., Ch. 95 (H.B. 1237), Sec. 1, eff. September 1, 2007.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 73 (S.B. 510), Sec. 1, eff.

September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 73 (S.B. 510), Sec. 4, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5093, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 552.11765. CONFIDENTIALITY OF CERTAIN INFORMATION MAINTAINED BY STATE LICENSING AUTHORITY. (a) In this section, "license" means a license, certificate, registration, permit, or other authorization that:

(1) is issued by a governmental body described by Section 552.003(1)(A)(i); and

(2) an individual must obtain to practice or engage in a particular business, occupation, or profession.

(b) Except as provided by Subsections (c) and (d), information maintained by a governmental body described by Section 552.003(1)(A)(i) is confidential and excepted from the requirements of Section 552.021 if the information:

(1) is a license application; or

(2) relates to the home address, home telephone number, electronic mail address, social security number, date of birth, driver's license number, state identification number, passport number, emergency contact information, or payment information of:

(A) an applicant for a license issued by the governmental body;

(B) an individual who holds a license issued by the governmental body; or

(C) an individual who previously held a license issued by the governmental body.

(c) Subsection (b) does not make confidential or except from required public disclosure the name, license number, or license status of an applicant for a license, a license holder, or an individual who previously held a license.

(d) For a license issued under Chapter 42, 43, 103, or 161, Human Resources Code, or Chapter 142, 242, 247, 248A, 250, or 252, Health and Safety Code, Subsection (b) does not prohibit the disclosure of:

(1) the last four digits of the social security number of a

license holder in connection with a verification of employability or an employee misconduct registry search provided by the Health and Human Services Commission;

(2) a home address where activity regulated by the licensing authority occurs; or

(3) an e-mail address or phone number associated with activity regulated by the licensing authority.

(e) To the extent of any conflict, this section prevails over another law that authorizes or requires the release of information maintained by a governmental body.

Added by Acts 2023, 88th Leg., R.S., Ch. 73 (S.B. 510), Sec. 2, eff. September 1, 2023.

Sec. 552.1177. EXCEPTION: CONFIDENTIALITY OF CERTAIN INFORMATION RELATED TO HUMANE DISPOSITION OF ANIMAL. (a) Except as provided by Subsection (b), information is confidential and excepted from the requirements of Section 552.021 if the information relates to the name, address, telephone number, e-mail address, driver's license number, social security number, or other personally identifying information of a person who obtains ownership or control of an animal from a municipality or county making a humane disposition of the animal under a municipal ordinance or an order of the commissioners court.

(b) A governmental body may disclose information made confidential by Subsection (a) to a governmental entity, or to a person who under a contract with a governmental entity provides animal control services, animal registration services, or related services to the governmental entity, for purposes related to the protection of public health and safety.

(c) A governmental entity or other person that receives information under Subsection (b):

(1) must maintain the confidentiality of the information;

(2) may not disclose the information under this chapter; and

(3) may not use the information for a purpose that does not directly relate to the protection of public health and safety.

(d) A governmental body, by providing public information under Subsection (b) that is confidential or otherwise excepted from

required disclosure under law, does not waive or affect the confidentiality of the information for purposes of state or federal law or waive the right to assert exceptions to required disclosure of the information in the future.

Added by Acts 2019, 86th Leg., R.S., Ch. 858 (H.B. 2828), Sec. 1, eff. June 10, 2019.

Sec. 552.118. EXCEPTION: CONFIDENTIALITY OF OFFICIAL PRESCRIPTION PROGRAM INFORMATION. Information is excepted from the requirements of Section 552.021 if it is:

(1) information on or derived from an official prescription form filed with the Texas State Board of Pharmacy under Section 481.0755, Health and Safety Code, or an electronic prescription record filed with the Texas State Board of Pharmacy under Section 481.075, Health and Safety Code; or

(2) other information collected under Section 481.075 or 481.0755 of that code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 745, Sec. 35, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 251, Sec. 30, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1228 (S.B. 594), Sec. 6, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 10, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1268 (S.B. 195), Sec. 1, eff. September 1, 2016.

Acts 2019, 86th Leg., R.S., Ch. 1105 (H.B. 2174), Sec. 1, eff. September 1, 2019.

Sec. 552.119. EXCEPTION: CONFIDENTIALITY OF CERTAIN PHOTOGRAPHS OF PEACE OFFICERS. (a) A photograph that depicts a peace officer as defined by Article 2A.001, Code of Criminal Procedure, the release of which would endanger the life or physical safety of the officer, is excepted from the requirements of Section 552.021 unless:

(1) the officer is under indictment or charged with an

offense by information;

(2) the officer is a party in a civil service hearing or a case in arbitration; or

(3) the photograph is introduced as evidence in a judicial proceeding.

(b) A photograph excepted from disclosure under Subsection (a) may be made public only if the peace officer gives written consent to the disclosure.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2005, 79th Leg., Ch. 8 (S.B. 148), Sec. 1, eff. May 3, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 11, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.099, eff. January 1, 2025.

Sec. 552.120. EXCEPTION: CONFIDENTIALITY OF CERTAIN RARE BOOKS AND ORIGINAL MANUSCRIPTS. A rare book or original manuscript that was not created or maintained in the conduct of official business of a governmental body and that is held by a private or public archival and manuscript repository for the purpose of historical research is excepted from the requirements of Section 552.021.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 12, eff. September 1, 2011.

Sec. 552.121. EXCEPTION: CONFIDENTIALITY OF CERTAIN DOCUMENTS HELD FOR HISTORICAL RESEARCH. An oral history interview, personal paper, unpublished letter, or organizational record of a nongovernmental entity that was not created or maintained in the conduct of official business of a governmental body and that is held by a private or public archival and manuscript repository for the purpose of historical research is excepted from the requirements of Section 552.021 to the extent that the archival and manuscript repository and the donor of the interview, paper, letter, or record agree to limit disclosure of the item.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 13, eff. September 1, 2011.

Sec. 552.122. EXCEPTION: TEST ITEMS. (a) A test item developed by an educational institution that is funded wholly or in part by state revenue is excepted from the requirements of Section 552.021.

(b) A test item developed by a licensing agency or governmental body is excepted from the requirements of Section 552.021.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.05(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1035, Sec. 10, eff. Sept. 1, 1995.

Sec. 552.123. EXCEPTION: CONFIDENTIALITY OF NAME OF APPLICANT FOR CHIEF EXECUTIVE OFFICER OF INSTITUTION OF HIGHER EDUCATION. The name of an applicant for the position of chief executive officer of an institution of higher education, and other information that would tend to identify the applicant, is excepted from the requirements of Section 552.021, except that the governing body of the institution must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which final action or vote is to be taken on the employment of the person.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 5.01, eff. June 17, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 14, eff. September 1, 2011.

Sec. 552.1235. EXCEPTION: CONFIDENTIALITY OF IDENTITY OF PRIVATE DONOR TO INSTITUTION OF HIGHER EDUCATION. (a) The name or other information that would tend to disclose the identity of a person, other than a governmental body, who makes a gift, grant, or

donation of money or property to an institution of higher education or to another person with the intent that the money or property be transferred to an institution of higher education is excepted from the requirements of Section 552.021.

(b) Subsection (a) does not except from required disclosure other information relating to gifts, grants, and donations described by Subsection (a), including the amount or value of an individual gift, grant, or donation.

(c) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

Added by Acts 2003, 78th Leg., ch. 1266, Sec. 4.07, eff. June 20, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 15, eff. September 1, 2011.

Sec. 552.124. EXCEPTION: CONFIDENTIALITY OF RECORDS OF LIBRARY OR LIBRARY SYSTEM. (a) A record of a library or library system, supported in whole or in part by public funds, that identifies or serves to identify a person who requested, obtained, or used a library material or service is excepted from the requirements of Section 552.021 unless the record is disclosed:

(1) because the library or library system determines that disclosure is reasonably necessary for the operation of the library or library system and the record is not confidential under other state or federal law;

(2) under Section 552.023; or

(3) to a law enforcement agency or a prosecutor under a court order or subpoena obtained after a showing to a district court that:

(A) disclosure of the record is necessary to protect the public safety; or

(B) the record is evidence of an offense or constitutes evidence that a particular person committed an offense.

(b) A record of a library or library system that is excepted from required disclosure under this section is confidential.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.03(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1035, Sec. 11, eff. Sept. 1, 1995.

Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 16, eff. September 1, 2011.

Sec. 552.125. EXCEPTION: CERTAIN AUDITS. Any documents or information privileged under Chapter 1101, Health and Safety Code, are excepted from the requirements of Section 552.021.

Added by Acts 1995, 74th Leg., ch. 219, Sec. 14, eff. May 23, 1995. Renumbered from Government Code Sec. 552.124 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(45), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1231, Sec. 7, eff. Sept. 1, 1997.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 20.002(c), eff. September 1, 2017.

Sec. 552.126. EXCEPTION: CONFIDENTIALITY OF NAME OF APPLICANT FOR SUPERINTENDENT OF PUBLIC SCHOOL DISTRICT. The name of an applicant for the position of superintendent of a public school district is excepted from the requirements of Section 552.021, except that the board of trustees must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which a final action or vote is to be taken on the employment of the person.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 31, eff. May 30, 1995. Renumbered from Government Code Sec. 552.124 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(46), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1231, Sec. 8, eff. Sept. 1, 1997.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 17, eff. September 1, 2011.

Sec. 552.127. EXCEPTION: CONFIDENTIALITY OF PERSONAL INFORMATION RELATING TO PARTICIPANTS IN NEIGHBORHOOD CRIME WATCH ORGANIZATION. (a) Information is excepted from the requirements of Section 552.021 if the information identifies a person as a participant in a neighborhood crime watch organization and relates to

the name, home address, business address, home telephone number, or business telephone number of the person.

(b) In this section, "neighborhood crime watch organization" means a group of residents of a neighborhood or part of a neighborhood that is formed in affiliation or association with a law enforcement agency in this state to observe activities within the neighborhood or part of a neighborhood and to take other actions intended to reduce crime in that area.

Added by Acts 1997, 75th Leg., ch. 719, Sec. 1, eff. June 17, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 18, eff. September 1, 2011.

Sec. 552.128. EXCEPTION: CONFIDENTIALITY OF CERTAIN INFORMATION SUBMITTED BY POTENTIAL VENDOR OR CONTRACTOR. (a) Information submitted by a potential vendor or contractor to a governmental body in connection with an application for certification as a historically underutilized or disadvantaged business under a local, state, or federal certification program is excepted from the requirements of Section 552.021, except as provided by this section.

(b) Notwithstanding Section 552.007 and except as provided by Subsection (c), the information may be disclosed only:

(1) to a state or local governmental entity in this state, and the state or local governmental entity may use the information only:

(A) for purposes related to verifying an applicant's status as a historically underutilized or disadvantaged business; or

(B) for the purpose of conducting a study of a public purchasing program established under state law for historically underutilized or disadvantaged businesses; or

(2) with the express written permission of the applicant or the applicant's agent.

(c) Information submitted by a vendor or contractor or a potential vendor or contractor to a governmental body in connection with a specific proposed contractual relationship, a specific contract, or an application to be placed on a bidders list, including information that may also have been submitted in connection with an application for certification as a historically underutilized or

disadvantaged business, is subject to required disclosure, excepted from required disclosure, or confidential in accordance with other law.

Added by Acts 1997, 75th Leg., ch. 1227, Sec. 1, eff. June 30, 1997.
Renumbered from Sec. 552.127 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(51), eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 19, eff. September 1, 2011.

Sec. 552.129. CONFIDENTIALITY OF CERTAIN MOTOR VEHICLE INSPECTION INFORMATION. A record created during a motor vehicle emissions inspection under Subchapter F, Chapter 548, Transportation Code, that relates to an individual vehicle or owner of an individual vehicle is excepted from the requirements of Section 552.021.

Added by Acts 1997, 75th Leg., ch. 1069, Sec. 17, eff. June 19, 1997.
Renumbered from Sec. 552.127 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(52), eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 20, eff. September 1, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1893, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 552.130. EXCEPTION: CONFIDENTIALITY OF CERTAIN MOTOR VEHICLE RECORDS. (a) Information is excepted from the requirements of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;

(2) a motor vehicle title or registration issued by an agency of this state or another state or country; or

(3) a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document.

(b) Information described by Subsection (a) may be released

only if, and in the manner, authorized by Chapter 730, Transportation Code.

(c) Subject to Chapter 730, Transportation Code, a governmental body may redact information described by Subsection (a) from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(d) If, under Subsection (c), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(e) A governmental body that redacts or withholds information under Subsection (c) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

Added by Acts 1997, 75th Leg., ch. 1187, Sec. 4, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 927 (S.B. 1638), Sec. 4, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 21, eff.

September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 22, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 85 (S.B. 458), Sec. 1, eff. May 18, 2013.

Sec. 552.131. EXCEPTION: CONFIDENTIALITY OF CERTAIN ECONOMIC DEVELOPMENT INFORMATION. (a) Information is excepted from the requirements of Section 552.021 if the information relates to economic development negotiations involving a governmental body and a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and the information relates to:

(1) a trade secret of the business prospect; or

(2) commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

(b) Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to the business prospect by the governmental body or by another person is excepted from the requirements of Section 552.021.

(b-1) An economic development entity whose mission or purpose is to develop and promote the economic growth of a state agency or political subdivision with which the entity contracts may assert the exceptions under this section in the manner described by Section 552.305(b) with respect to information that is in the economic development entity's custody or control.

(c) After an agreement is made with the business prospect, this section does not except from the requirements of Section 552.021 information about a financial or other incentive being offered to the business prospect:

(1) by the governmental body; or

(2) by another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by a governmental body or a reduction in revenue received by a governmental body from any source.

Added by Acts 1999, 76th Leg., ch. 1319, Sec. 9, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 23, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1216 (S.B. 943), Sec. 6, eff. January 1, 2020.

Sec. 552.1315. EXCEPTION: CONFIDENTIALITY OF CERTAIN CRIME VICTIM RECORDS. (a) Information is confidential and excepted from the requirements of Section 552.021 if the information identifies an individual as:

(1) a victim of:

(A) an offense under Section 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.021, 43.05, or 43.25, Penal Code; or

(B) an offense that is part of the same criminal episode, as defined by Section 3.01, Penal Code, as an offense described by Paragraph (A); or

(2) a victim of any criminal offense, if the victim was younger than 18 years of age when any element of the offense was committed.

(b) Notwithstanding Subsection (a), information under this section may be disclosed:

(1) to any victim identified by the information, or to the parent or guardian of a victim described by Subsection (a)(2) who is identified by the information;

(2) to a law enforcement agency for investigative purposes; or

(3) in accordance with a court order requiring the disclosure.

Added by Acts 2021, 87th Leg., R.S., Ch. 694 (H.B. 2357), Sec. 2, eff. June 15, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2601, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 552.132. CONFIDENTIALITY OF CRIME VICTIM OR CLAIMANT INFORMATION. (a) Except as provided by Subsection (d), in this section, "crime victim or claimant" means a victim or claimant under

Chapter 56B, Code of Criminal Procedure, who has filed an application for compensation under that chapter.

(b) The following information held by the crime victim's compensation division of the attorney general's office is confidential:

(1) the name, social security number, address, or telephone number of a crime victim or claimant; or

(2) any other information the disclosure of which would identify or tend to identify the crime victim or claimant.

(c) If the crime victim or claimant is awarded compensation under Article 56B.103 or 56B.104, Code of Criminal Procedure, as of the date of the award of compensation, the name of the crime victim or claimant and the amount of compensation awarded to that crime victim or claimant are public information and are not excepted from the requirements of Section 552.021.

(d) An employee of a governmental body who is also a victim under Chapter 56B, Code of Criminal Procedure, regardless of whether the employee has filed an application for compensation under that chapter, may elect whether to allow public access to information held by the attorney general's office or other governmental body that would identify or tend to identify the victim, including a photograph or other visual representation of the victim. An election under this subsection must be made in writing on a form developed by the governmental body, be signed by the employee, and be filed with the governmental body before the third anniversary of the latest to occur of one of the following:

(1) the date the crime was committed;

(2) the date employment begins; or

(3) the date the governmental body develops the form and provides it to employees.

(e) If the employee fails to make an election under Subsection (d), the identifying information is excepted from disclosure until the third anniversary of the date the crime was committed. In case of disability, impairment, or other incapacity of the employee, the election may be made by the guardian of the employee or former employee.

Added by Acts 1999, 76th Leg., ch. 1319, Sec. 10, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1039, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 290 (H.B. 1042), Sec. 1, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.49, eff. January 1, 2021.

Sec. 552.1325. CRIME VICTIM IMPACT STATEMENT: CERTAIN INFORMATION CONFIDENTIAL. (a) In this section:

(1) "Crime victim" means a person who is a victim as defined by Article 56B.003, Code of Criminal Procedure.

(2) "Victim impact statement" means a victim impact statement under Subchapter D, Chapter 56A, Code of Criminal Procedure.

(b) The following information that is held by a governmental body or filed with a court and that is contained in a victim impact statement or was submitted for purposes of preparing a victim impact statement is confidential:

(1) the name, social security number, address, and telephone number of a crime victim; and

(2) any other information the disclosure of which would identify or tend to identify the crime victim.

Added by Acts 2003, 78th Leg., ch. 1303, Sec. 1, eff. June 21, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.50, eff. January 1, 2021.

Sec. 552.133. EXCEPTION: CONFIDENTIALITY OF PUBLIC POWER UTILITY COMPETITIVE MATTERS. (a) In this section:

(1) "Broadband service" has the meaning assigned by Section 181.048, Utilities Code.

(2) "Public power utility" means an entity providing electric or gas utility services that is subject to the provisions of this chapter.

(a-1) For purposes of this section, "competitive matter" means a utility-related matter, including for an entity described by Subdivision (2) a cable, Internet, or broadband service matter, that is related to the public power utility's competitive activity,

including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors. The term:

(1) means a matter that is reasonably related to the following categories of information:

(A) generation unit specific and portfolio fixed and variable costs, including forecasts of those costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling;

(B) bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies;

(C) effective fuel and purchased power agreements and fuel transportation arrangements and contracts;

(D) risk management information, contracts, and strategies, including fuel hedging and storage;

(E) plans, studies, proposals, and analyses for system improvements, additions, or sales, other than transmission and distribution system improvements inside the service area for which the public power utility is the sole certificated retail provider; and

(F) customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies;

(2) means a matter reasonably related to information involving the provision of cable, Internet, or broadband services by a municipally owned utility that provided electricity services and cable, Internet, or broadband services on or before January 1, 2003, including:

(A) a capital improvement plan;

(B) an expense related to the installation of a facility to provide those services;

(C) bidding and pricing information for installation of the facility;

(D) risk management information, contracts, and strategies;

(E) plans, studies, proposals, and analyses for:

(i) system improvements, additions, or sales; or

(ii) establishing pricing for providing those services; and

(F) customer billing, contract, and usage information;

and

(3) does not include the following categories of information:

(A) information relating to the provision of distribution access service, including the terms and conditions of the service and the rates charged for the service but not including information concerning utility-related services or products that are competitive;

(B) information relating to the provision of transmission service that is required to be filed with the Public Utility Commission of Texas, subject to any confidentiality provided for under the rules of the commission;

(C) information for the distribution system pertaining to reliability and continuity of service, to the extent not security-sensitive, that relates to emergency management, identification of critical loads such as hospitals and police, records of interruption, and distribution feeder standards;

(D) any substantive rule or tariff of general applicability regarding rates, service offerings, service regulation, customer protections, or customer service adopted by the public power utility as authorized by law;

(E) aggregate information reflecting receipts or expenditures of funds of the public power utility, of the type that would be included in audited financial statements;

(F) information relating to equal employment opportunities for minority groups, as filed with local, state, or federal agencies;

(G) information relating to the public power utility's performance in contracting with minority business entities;

(H) information relating to nuclear decommissioning trust agreements, of the type required to be included in audited financial statements;

(I) information relating to the amount and timing of any transfer to an owning city's general fund;

(J) information relating to environmental compliance as required to be filed with any local, state, or national environmental authority, subject to any confidentiality provided under the rules of those authorities;

(K) names of public officers of the public power utility and the voting records of those officers for all matters

other than those within the scope of a competitive resolution provided for by this section;

(L) a description of the public power utility's central and field organization, including the established places at which the public may obtain information, submit information and requests, or obtain decisions and the identification of employees from whom the public may obtain information, submit information or requests, or obtain decisions;

(M) information identifying the general course and method by which the public power utility's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures;

(N) salaries and total compensation of all employees of a public power utility;

(O) information publicly released by the Electric Reliability Council of Texas in accordance with a law, rule, or protocol generally applicable to similarly situated market participants;

(P) information related to a chilled water program, as defined by Section 11.003, Utilities Code; or

(Q) information included in the separate books and records required to be kept by an entity described by Subdivision (2) as required by Section 552.915, Local Government Code.

(b) Information or records are excepted from the requirements of Section 552.021 if the information or records are reasonably related to a competitive matter, as defined in this section. Information or records of a municipally owned utility that are reasonably related to a competitive matter are not subject to disclosure under this chapter, whether or not, under the Utilities Code, the municipally owned utility has adopted customer choice or serves in a multiply certificated service area. This section does not limit the right of a public power utility governing body to withhold from disclosure information deemed to be within the scope of any other exception provided for in this chapter, subject to the provisions of this chapter.

(b-1) Notwithstanding any contrary provision of Subsection (b), information or records of a municipally owned utility or municipality that operates a chilled water program are subject to disclosure under this chapter if the information or records are reasonably related to:

(1) a municipally owned utility's rate review process;

(2) the method a municipality or municipally owned utility uses to set rates for retail electric service; or

(3) the method a municipality or municipally owned utility uses to set rates for a chilled water program described by Subsection (a-1)(3)(P).

(c) The requirement of Section 552.022 that a category of information listed under Section 552.022(a) is public information and not excepted from required disclosure under this chapter unless expressly confidential under law does not apply to information that is excepted from required disclosure under this section.

Added by Acts 1999, 76th Leg., ch. 405, Sec. 46, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1272, Sec. 7.02, eff. June 15, 2001. Renumbered from Sec. 552.131 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(52), eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 925 (S.B. 1613), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 24, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 277 (H.B. 3615), Sec. 1, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 1148 (S.B. 983), Sec. 1, eff. September 1, 2023.

Sec. 552.1331. EXCEPTION: CERTAIN GOVERNMENT-OPERATED UTILITY CUSTOMER INFORMATION. (a) In this section:

(1) "Advanced metering system" means a utility metering system that collects data at regular intervals through the use of an automated wireless or radio network.

(2) "Government-operated utility" has the meaning assigned by Section 182.051, Utilities Code.

(b) Except as provided by Subsection (c) of this section and Section 182.052, Utilities Code, information maintained by a government-operated utility is excepted from the requirements of Section 552.021 if it is information that:

(1) is collected as part of an advanced metering system for usage, services, and billing, including amounts billed or collected for utility usage; or

(2) reveals whether:

(A) an account is delinquent or eligible for disconnection; or

(B) services have been discontinued by the government-operated utility.

(c) A government-operated utility must disclose information described by Subsection (b)(1) to a customer of the utility or a representative of the customer if the information directly relates to utility services provided to the customer and is not confidential under law.

Added by Acts 2021, 87th Leg., R.S., Ch. 1025 (H.B. 872), Sec. 1, eff. June 18, 2021.

Sec. 552.134. EXCEPTION: CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO INMATE OF DEPARTMENT OF CRIMINAL JUSTICE. (a) Except as provided by Subsection (b) or by Section 552.029, information obtained or maintained by the Texas Department of Criminal Justice is excepted from the requirements of Section 552.021 if it is information about an inmate who is confined in a facility operated by or under a contract with the department.

(b) Subsection (a) does not apply to:

(1) statistical or other aggregated information relating to inmates confined in one or more facilities operated by or under a contract with the department; or

(2) information about an inmate sentenced to death.

(c) This section does not affect whether information is considered confidential or privileged under Section 508.313.

(d) A release of information described by Subsection (a) to an eligible entity, as defined by Section 508.313(d), for a purpose related to law enforcement, prosecution, corrections, clemency, or treatment is not considered a release of information to the public for purposes of Section 552.007 and does not waive the right to assert in the future that the information is excepted from required disclosure under this section or other law.

Added by Acts 1999, 76th Leg., ch. 783, Sec. 1, eff. Aug. 30, 1999.
Renumbered from Sec. 552.131 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(53), eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 25, eff. September 1, 2011.

Sec. 552.1345. EXCEPTION: CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO CIVILLY COMMITTED SEXUALLY VIOLENT PREDATORS. (a) Except as provided by Subsection (b), information obtained or maintained by the Texas Civil Commitment Office is excepted from the requirements of Section 552.021 if it is information about a person who is civilly committed as a sexually violent predator under Chapter 841, Health and Safety Code.

(b) Subsection (a) does not apply to statistical or other aggregated information relating to persons civilly committed to one or more facilities operated by or under a contract with the office.

Added by Acts 2023, 88th Leg., R.S., Ch. 351 (S.B. 1179), Sec. 15, eff. September 1, 2023.

Sec. 552.135. EXCEPTION: CONFIDENTIALITY OF CERTAIN INFORMATION HELD BY SCHOOL DISTRICT. (a) "Informer" means a student or a former student or an employee or former employee of a school district who has furnished a report of another person's possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

(b) An informer's name or information that would substantially reveal the identity of an informer is excepted from the requirements of Section 552.021.

(c) Subsection (b) does not apply:

(1) if the informer is a student or former student, and the student or former student, or the legal guardian, or spouse of the student or former student consents to disclosure of the student's or former student's name; or

(2) if the informer is an employee or former employee who consents to disclosure of the employee's or former employee's name; or

(3) if the informer planned, initiated, or participated in the possible violation.

(d) Information excepted under Subsection (b) may be made available to a law enforcement agency or prosecutor for official

purposes of the agency or prosecutor upon proper request made in compliance with applicable law and procedure.

(e) This section does not infringe on or impair the confidentiality of information considered to be confidential by law, whether it be constitutional, statutory, or by judicial decision, including information excepted from the requirements of Section 552.021.

Added by Acts 1999, 76th Leg., ch. 1335, Sec. 6, eff. Sept. 1, 1999.
Renumbered from Sec. 552.131 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(54), eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 26, eff. September 1, 2011.

Sec. 552.136. CONFIDENTIALITY OF CREDIT CARD, DEBIT CARD, CHARGE CARD, AND ACCESS DEVICE NUMBERS. (a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

(1) obtain money, goods, services, or another thing of value; or

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

(c) A governmental body may redact information that must be withheld under Subsection (b) from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(d) If, under Subsection (c), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall

establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(e) A governmental body that redacts or withholds information under Subsection (c) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

Added by Acts 2001, 77th Leg., ch. 356, Sec. 1, eff. May 26, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 27, eff. September 1, 2011.

Sec. 552.137. CONFIDENTIALITY OF CERTAIN E-MAIL ADDRESSES. (a) Except as otherwise provided by this section, an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under this chapter.

(b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.

(c) Subsection (a) does not apply to an e-mail address:

(1) provided to a governmental body by a person who has a contractual relationship with the governmental body or by the

contractor's agent;

(2) provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor's agent;

(3) contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a governmental body in the course of negotiating the terms of a contract or potential contract;

(4) provided to a governmental body on a letterhead, coversheet, printed document, or other document made available to the public; or

(5) provided to a governmental body for the purpose of providing public comment on or receiving notices related to an application for a license as defined by Section 2001.003(2) of this code, or receiving orders or decisions from a governmental body.

(d) Subsection (a) does not prevent a governmental body from disclosing an e-mail address for any reason to another governmental body or to a federal agency.

Added by Acts 2001, 77th Leg., ch. 356, Sec. 1, eff. May 26, 2001.
Amended by Acts 2003, 78th Leg., ch. 1089, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 962 (H.B. 3544), Sec. 7, eff. September 1, 2009.

Sec. 552.138. EXCEPTION: CONFIDENTIALITY OF FAMILY VIOLENCE SHELTER CENTER, VICTIMS OF TRAFFICKING SHELTER CENTER, AND SEXUAL ASSAULT PROGRAM INFORMATION. (a) In this section:

(1) "Family violence shelter center" has the meaning assigned by Section 51.002, Human Resources Code.

(1-a) "License" means a license, certificate, registration, permit, or other authorization that:

(A) is issued by a governmental body; and

(B) a person must obtain to practice or engage in a particular business, occupation, or profession.

(2) "Sexual assault program" has the meaning assigned by Section 420.003.

(3) "Victims of trafficking shelter center" means:

(A) a program that:

(i) is operated by a public or private nonprofit organization; and

(ii) provides comprehensive residential and nonresidential services to persons who are victims of trafficking under Section 20A.02, Penal Code; or

(B) a child-placing agency, as defined by Section 42.002, Human Resources Code, that provides services to persons who are victims of trafficking under Section 20A.02, Penal Code.

(b) Information maintained by a family violence shelter center, victims of trafficking shelter center, or sexual assault program is excepted from the requirements of Section 552.021 if it is information that relates to:

(1) the home address, home telephone number, or social security number of an employee or a volunteer worker of a family violence shelter center, victims of trafficking shelter center, or sexual assault program, regardless of whether the employee or worker complies with Section 552.024;

(2) the name, home address, home telephone number, or numeric identifier of a current or former client of a family violence shelter center, victims of trafficking shelter center, or sexual assault program;

(3) the provision of services, including counseling and sheltering, to a current or former client of a family violence shelter center, victims of trafficking shelter center, or sexual assault program;

(4) the name, home address, or home telephone number of a private donor to a family violence shelter center, victims of trafficking shelter center, or sexual assault program; or

(5) the home address or home telephone number of a member of the board of directors or the board of trustees of a family violence shelter center, victims of trafficking shelter center, or sexual assault program, regardless of whether the board member complies with Section 552.024.

(b-1) Information that relates to the location or physical layout of a family violence shelter center or victims of trafficking shelter center is confidential.

(c) A governmental body may redact information maintained by a family violence shelter center, victims of trafficking shelter center, or sexual assault program that may be withheld under

Subsection (b)(1) or (5) or that is confidential under Subsection (b-1) from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(d) If, under Subsection (c), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(e) A governmental body that redacts or withholds information under Subsection (c) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

(f) Notwithstanding any other law, a governmental body may not sell or otherwise release the name, home or business address, place of employment, telephone number, electronic mail address, social security number, date of birth, driver's license or state identification number, passport number, emergency contact information, or numeric identifier of a person who:

(1) holds, previously held, or is an applicant for a license issued by the governmental body; and

(2) notifies the governmental body on a form provided by

the office of the attorney general or the governmental body that the person:

(A) is a current or former client of a family violence shelter center, victims of trafficking shelter center, or sexual assault program or is a survivor of family violence, domestic violence, or sexual assault; and

(B) chooses to restrict public access to the information.

(g) A governmental body may redact information described by Subsection (f) from a response to a request for a list or directory of license holders, former license holders, or license applicants without the necessity of requesting a decision from the attorney general under Subchapter G.

Added by Acts 2001, 77th Leg., ch. 143, Sec. 1, eff. May 16, 2001. Renumbered from Government Code Sec. 552.136 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(75), eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 283 (S.B. 1068), Sec. 3, eff. June 4, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 28, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 365 (H.B. 2725), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 365 (H.B. 2725), Sec. 2, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 365 (H.B. 2725), Sec. 3, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1152 (H.B. 3091), Sec. 1, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 594 (H.B. 3130), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 594 (H.B. 3130), Sec. 2, eff. September 1, 2023.

Sec. 552.139. EXCEPTION: CONFIDENTIALITY OF GOVERNMENT INFORMATION RELATED TO SECURITY OR INFRASTRUCTURE ISSUES FOR COMPUTERS. (a) Information is excepted from the requirements of Section 552.021 if it is information that relates to computer network

security, to restricted information under Section 2059.055, or to the design, operation, or defense of a computer network.

(b) The following information is confidential:

(1) a computer network vulnerability report;

(2) any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use;

(3) a photocopy or other copy of an identification badge issued to an official or employee of a governmental body; and

(4) information directly arising from a governmental body's routine efforts to prevent, detect, investigate, or mitigate a computer security incident, including information contained in or derived from an information security log.

(b-1) Subsection (b)(4) does not affect the notification requirements related to a breach of system security as defined by Section 521.053, Business & Commerce Code.

(c) Notwithstanding the confidential nature of the information described in this section, the information may be disclosed to a bidder if the governmental body determines that providing the information is necessary for the bidder to provide an accurate bid. A disclosure under this subsection is not a voluntary disclosure for purposes of Section 552.007.

(d) A state agency shall redact from a contract posted on the agency's Internet website under Section 2261.253 information that is made confidential by, or excepted from required public disclosure under, this section. The redaction of information under this subsection does not exempt the information from the requirements of Section 552.021 or 552.221.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 4.03, eff. June 15, 2001. Renumbered from Government Code Sec. 552.136 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(76), eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 183 (H.B. 1830), Sec. 4, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 927 (S.B. 1638), Sec. 5, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 29, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 555 (S.B. 532), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 683 (H.B. 8), Sec. 4, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1042 (H.B. 1861), Sec. 1, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 8.015, eff. September 1, 2019.

Sec. 552.140. EXCEPTION: CONFIDENTIALITY OF MILITARY DISCHARGE RECORDS. (a) This section applies only to a military veteran's Department of Defense Form DD-214 or other military discharge record that is first recorded with or that otherwise first comes into the possession of a governmental body on or after September 1, 2003.

(b) The record is confidential for the 75 years following the date it is recorded with or otherwise first comes into the possession of a governmental body. During that period the governmental body may permit inspection or copying of the record or disclose information contained in the record only in accordance with this section or in accordance with a court order.

(c) On request and the presentation of proper identification, the following persons may inspect the military discharge record or obtain from the governmental body free of charge a copy or certified copy of the record:

(1) the veteran who is the subject of the record;

(2) the legal guardian of the veteran;

(3) the spouse or a child or parent of the veteran or, if there is no living spouse, child, or parent, the nearest living relative of the veteran;

(4) the personal representative of the estate of the veteran;

(5) the person named by the veteran, or by a person described by Subdivision (2), (3), or (4), in an appropriate power of attorney executed in accordance with Subchapters A and B, Chapter 752, Estates Code;

(6) another governmental body; or

(7) an authorized representative of the funeral home that assists with the burial of the veteran.

(d) A court that orders the release of information under this section shall limit the further disclosure of the information and the purposes for which the information may be used.

(e) A governmental body that obtains information from the record shall limit the governmental body's use and disclosure of the information to the purpose for which the information was obtained.

Added by Acts 2003, 78th Leg., ch. 438, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 124 (H.B. 18), Sec. 1, eff. May 24, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 30, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.040, eff. September 1, 2017.

Sec. 552.141. CONFIDENTIALITY OF INFORMATION IN APPLICATION FOR MARRIAGE LICENSE.

(a) Information that relates to the social security number of an individual that is maintained by a county clerk and that is on an application for a marriage license, including information in an application on behalf of an absent applicant and the affidavit of an absent applicant, or is on a document submitted with an application for a marriage license is confidential and may not be disclosed by the county clerk to the public under this chapter.

(b) If the county clerk receives a request to make information in a marriage license application available under this chapter, the county clerk shall redact the portion of the application that contains an individual's social security number and release the remainder of the information in the application.

Added by Acts 2003, 78th Leg., ch. 804, Sec. 1, eff. Sept. 1, 2003.

Sec. 552.142. EXCEPTION: CONFIDENTIALITY OF RECORDS SUBJECT TO ORDER OF NONDISCLOSURE. (a) Information is excepted from the

requirements of Section 552.021 if an order of nondisclosure of criminal history record information with respect to the information has been issued under Subchapter E-1, Chapter 411.

(b) A person who is the subject of information that is excepted from the requirements of Section 552.021 under this section may deny the occurrence of the criminal proceeding to which the information relates and the exception of the information under this section, unless the information is being used against the person in a subsequent criminal proceeding.

Added by Acts 2003, 78th Leg., ch. 1236, Sec. 5, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 731 (H.B. 961), Sec. 9, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 731 (H.B. 961), Sec. 10, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1070 (H.B. 2286), Sec. 2.02, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 26, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 27, eff. September 1, 2015.

Sec. 552.1425. CIVIL PENALTY: DISSEMINATION OF CERTAIN CRIMINAL HISTORY INFORMATION. (a) A private entity that compiles and disseminates for compensation criminal history record information may not compile or disseminate information with respect to which the entity has received notice that:

(1) an order of expunction has been issued under Subchapter E or F, Chapter 55A, Code of Criminal Procedure; or

(2) an order of nondisclosure of criminal history record information has been issued under Subchapter E-1, Chapter 411.

(b) A district court may issue a warning to a private entity for a first violation of Subsection (a). After receiving a warning for the first violation, the private entity is liable to the state for a civil penalty not to exceed $1,000 for each subsequent violation.

(c) The attorney general or an appropriate prosecuting attorney may sue to collect a civil penalty under this section.

(d) A civil penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund.

Added by Acts 2003, 78th Leg., ch. 1236, Sec. 5, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1017 (H.B. 1303), Sec. 9, eff. September 1, 2007.
Acts 2007, 80th Leg., R.S., Ch. 1017 (H.B. 1303), Sec. 10, eff. September 1, 2007.
Acts 2009, 81st Leg., R.S., Ch. 780 (S.B. 1056), Sec. 5, eff. June 19, 2009.
Acts 2011, 82nd Leg., R.S., Ch. 731 (H.B. 961), Sec. 11, eff. June 17, 2011.
Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 28, eff. September 1, 2015.
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.100, eff. January 1, 2025.

Sec. 552.143. CONFIDENTIALITY OF CERTAIN INVESTMENT INFORMATION. (a) All information prepared or provided by a private investment fund and held by a governmental body that is not listed in Section 552.0225(b) is confidential and excepted from the requirements of Section 552.021.

(b) Unless the information has been publicly released, pre-investment and post-investment diligence information, including reviews and analyses, prepared or maintained by a governmental body or a private investment fund is confidential and excepted from the requirements of Section 552.021, except to the extent it is subject to disclosure under Subsection (c).

(c) All information regarding a governmental body's direct purchase, holding, or disposal of restricted securities that is not listed in Section 552.0225(b)(2)-(9), (11), or (13)-(16) is confidential and excepted from the requirements of Section 552.021. This subsection does not apply to a governmental body's purchase, holding, or disposal of restricted securities for the purpose of reinvestment nor does it apply to a private investment fund's investment in restricted securities. This subsection applies to information regarding a direct purchase, holding, or disposal of

restricted securities by the Texas growth fund, created under Section 70, Article XVI, Texas Constitution, that is not listed in Section 552.0225(b).

(d) For the purposes of this chapter:

(1) "Private investment fund" means an entity, other than a governmental body, that issues restricted securities to a governmental body to evidence the investment of public funds for the purpose of reinvestment.

(2) "Reinvestment" means investment in a person that makes or will make other investments.

(3) "Restricted securities" has the meaning assigned by 17 C.F.R. Section 230.144(a)(3).

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 4, Sec. 17.05(1), eff. September 28, 2011.

(f) This section does not apply to the Texas Mutual Insurance Company or a successor to the company.

Added by Acts 2005, 79th Leg., Ch. 1338 (S.B. 121), Sec. 2, eff. June 18, 2005.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 17.05(1), eff. September 28, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3516, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 552.144. EXCEPTION: WORKING PAPERS AND ELECTRONIC COMMUNICATIONS OF ADMINISTRATIVE LAW JUDGES AT STATE OFFICE OF ADMINISTRATIVE HEARINGS. The following working papers and electronic communications of an administrative law judge at the State Office of Administrative Hearings are excepted from the requirements of Section 552.021:

(1) notes and electronic communications recording the observations, thoughts, questions, deliberations, or impressions of an administrative law judge;

(2) drafts of a proposal for decision;

(3) drafts of orders made in connection with conducting contested case hearings; and

(4) drafts of orders made in connection with conducting

alternative dispute resolution procedures.

Acts 2003, 78th Leg., ch. 1215, Sec. 1, eff. Sept. 1, 2003.
Renumbered from Government Code, Section 552.141 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(35), eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 350 (S.B. 178), Sec. 1, eff. June 15, 2007.

Sec. 552.145. EXCEPTION: CONFIDENTIALITY OF TEXAS NO-CALL LIST. The Texas no-call list created under Subchapter B, Chapter 304, Business & Commerce Code, and any information provided to or received from the administrator of the national do-not-call registry maintained by the United States government, as provided by Sections 304.051 and 304.056, Business & Commerce Code, are excepted from the requirements of Section 552.021.

Added by Acts 2003, 78th Leg., ch. 401, Sec. 2, eff. June 20, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 171 (H.B. 210), Sec. 2, eff. May 27, 2005.
Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.20, eff. April 1, 2009.
Renumbered from Government Code, Section 552.141 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(39), eff. September 1, 2007.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 32, eff. September 1, 2011.

Sec. 552.146. EXCEPTION: CERTAIN COMMUNICATIONS WITH ASSISTANT OR EMPLOYEE OF LEGISLATIVE BUDGET BOARD. (a) All written or otherwise recorded communications, including conversations, correspondence, and electronic communications, between a member of the legislature or the lieutenant governor and an assistant or employee of the Legislative Budget Board are excepted from the requirements of Section 552.021.

(b) Memoranda of a communication between a member of the legislature or the lieutenant governor and an assistant or employee

of the Legislative Budget Board are excepted from the requirements of Section 552.021 without regard to the method used to store or maintain the memoranda.

(c) This section does not except from required disclosure a record or memoranda of a communication that occurs in public during an open meeting or public hearing conducted by the Legislative Budget Board.

Added by Acts 2005, 79th Leg., Ch. 741 (H.B. 2753), Sec. 9, eff. June 17, 2005.

Sec. 552.147. SOCIAL SECURITY NUMBERS. (a) Except as provided by Subsection (a-1), the social security number of a living person is excepted from the requirements of Section 552.021, but is not confidential under this section and this section does not make the social security number of a living person confidential under another provision of this chapter or other law.

(a-1) The social security number of an employee of a school district in the custody of the district is confidential.

(b) A governmental body may redact the social security number of a living person from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(c) Notwithstanding any other law, a county or district clerk may disclose in the ordinary course of business a social security number that is contained in information held by the clerk's office, and that disclosure is not official misconduct and does not subject the clerk to civil or criminal liability of any kind under the law of this state, including any claim for damages in a lawsuit or the criminal penalty imposed by Section 552.352.

(d) Unless another law requires a social security number to be maintained in a government document, on written request from an individual or the individual's representative the clerk shall redact within a reasonable amount of time all but the last four digits of the individual's social security number from information maintained in the clerk's official public records, including electronically stored information maintained by or under the control of the clerk. The individual or the individual's representative must identify, using a form provided by the clerk, the specific document or

documents from which the partial social security number shall be redacted.

Added by Acts 2005, 79th Leg., Ch. 397 (S.B. 1485), Sec. 1, eff. June 17, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 3 (H.B. 2061), Sec. 1, eff. March 28, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 183 (H.B. 2961), Sec. 2, eff. September 1, 2013.

Sec. 552.148. EXCEPTION: CONFIDENTIALITY OF CERTAIN PERSONAL INFORMATION MAINTAINED BY MUNICIPALITY PERTAINING TO A MINOR. (a) In this section, "minor" means a person younger than 18 years of age.

(b) The following information maintained by a municipality for purposes related to the participation by a minor in a recreational program or activity is excepted from the requirements of Section 552.021:

(1) the name, age, home address, home telephone number, or social security number of the minor;

(2) a photograph of the minor; and

(3) the name of the minor's parent or legal guardian.

Added by Acts 2007, 80th Leg., R.S., Ch. 114 (S.B. 123), Sec. 1, eff. May 17, 2007.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 33, eff. September 1, 2011.

Sec. 552.149. EXCEPTION: CONFIDENTIALITY OF RECORDS OF COMPTROLLER OR APPRAISAL DISTRICT RECEIVED FROM PRIVATE ENTITY. (a) Information relating to real property sales prices, descriptions, characteristics, and other related information received from a private entity by the comptroller or the chief appraiser of an appraisal district under Chapter 6, Tax Code, is excepted from the requirements of Section 552.021.

(b) Notwithstanding Subsection (a), the property owner or the owner's agent may, on request, obtain from the chief appraiser of the applicable appraisal district a copy of each item of information

described by Section 41.461(a)(2), Tax Code, and a copy of each item of information that the chief appraiser took into consideration but does not plan to introduce at the hearing on the protest. In addition, the property owner or agent may, on request, obtain from the chief appraiser comparable sales data from a reasonable number of sales that is relevant to any matter to be determined by the appraisal review board at the hearing on the property owner's protest or by the arbitrator at the hearing on the property owner's appeal under Chapter 41A, Tax Code, of the appraisal review board's order determining the protest. Information obtained under this subsection:

(1) remains confidential in the possession of the property owner or agent; and

(2) may not be disclosed or used for any purpose except as evidence or argument at the hearing on:

(A) the protest; or

(B) the appeal under Chapter 41A, Tax Code.

(c) Notwithstanding Subsection (a) or Section 403.304, so as to assist a property owner or an appraisal district in a protest filed under Section 403.303, the property owner, the district, or an agent of the property owner or district may, on request, obtain from the comptroller any information, including confidential information, obtained by the comptroller in connection with the comptroller's finding that is being protested. Confidential information obtained by a property owner, an appraisal district, or an agent of the property owner or district under this subsection:

(1) remains confidential in the possession of the property owner, district, or agent; and

(2) may not be disclosed to a person who is not authorized to receive or inspect the information.

(d) Notwithstanding Subsection (a) or Section 403.304, so as to assist a school district in the preparation of a protest filed or to be filed under Section 403.303, the school district or an agent of the school district may, on request, obtain from the comptroller or the appraisal district any information, including confidential information, obtained by the comptroller or the appraisal district that relates to the appraisal of property involved in the comptroller's finding that is being protested. Confidential information obtained by a school district or an agent of the school district under this subsection:

(1) remains confidential in the possession of the school

district or agent; and

(2) may not be disclosed to a person who is not authorized to receive or inspect the information.

(e) Repealed by Acts 2021, 87th Leg., R.S., Ch. 557 (S.B. 334), Sec. 2, eff. June 14, 2021.

Added by Acts 2007, 80th Leg., R.S., Ch. 471 (H.B. 2188), Sec. 1, eff. June 16, 2007.
Renumbered from Government Code, Section 552.148 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(39), eff. September 1, 2009.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 555 (S.B. 1813), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1153 (H.B. 2941), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.013, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1079 (S.B. 1130), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 34, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 557 (S.B. 334), Sec. 1, eff. June 14, 2021.

Acts 2021, 87th Leg., R.S., Ch. 557 (S.B. 334), Sec. 2, eff. June 14, 2021.

Sec. 552.150. EXCEPTION: CONFIDENTIALITY OF INFORMATION THAT COULD COMPROMISE SAFETY OF OFFICER OR EMPLOYEE OF HOSPITAL DISTRICT. (a) Information in the custody of a hospital district that relates to an employee or officer of the hospital district is excepted from the requirements of Section 552.021 if:

(1) it is information that, if disclosed under the specific circumstances pertaining to the individual, could reasonably be expected to compromise the safety of the individual, such as information that describes or depicts the likeness of the individual, information stating the times that the individual arrives at or departs from work, a description of the individual's automobile, or the location where the individual works or parks; and

(2) the employee or officer applies in writing to the hospital district's officer for public information to have the information withheld from public disclosure under this section and includes in the application:

(A) a description of the information; and

(B) the specific circumstances pertaining to the individual that demonstrate why disclosure of the information could reasonably be expected to compromise the safety of the individual.

(b) On receiving a written request for information described in an application submitted under Subsection (a)(2), the officer for public information shall:

(1) request a decision from the attorney general in accordance with Section 552.301 regarding withholding the information; and

(2) include a copy of the application submitted under Subsection (a)(2) with the request for the decision.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 609, Sec. 1, eff. June 17, 2011.

Added by Acts 2009, 81st Leg., R.S., Ch. 1377 (S.B. 1182), Sec. 4, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 609 (S.B. 470), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 35, eff. September 1, 2011.

Sec. 552.151. EXCEPTION: CONFIDENTIALITY OF INFORMATION REGARDING SELECT AGENTS. (a) The following information that pertains to a biological agent or toxin identified or listed as a select agent under federal law, including under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Pub. L. No. 107-188) and regulations adopted under that Act, is excepted from the requirements of Section 552.021:

(1) the specific location of a select agent within an approved facility;

(2) personal identifying information of an individual whose name appears in documentation relating to the chain of custody of select agents, including a materials transfer agreement; and

(3) the identity of an individual authorized to possess, use, or access a select agent.

(b) This section does not except from disclosure the identity of the select agents present at a facility.

(c) This section does not except from disclosure the identity of an individual faculty member or employee whose name appears or will appear on published research.

(d) This section does not except from disclosure otherwise public information relating to contracts of a governmental body.

(e) If a resident of another state is present in Texas and is authorized to possess, use, or access a select agent in conducting research or other work at a Texas facility, information relating to the identity of that individual is subject to disclosure under this chapter only to the extent the information would be subject to disclosure under the laws of the state of which the person is a resident.

Added by Acts 2009, 81st Leg., R.S., Ch. 1377 (S.B. 1182), Sec. 5, eff. September 1, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 36, eff. September 1, 2011.

Sec. 552.152. EXCEPTION: CONFIDENTIALITY OF INFORMATION CONCERNING PUBLIC EMPLOYEE OR OFFICER PERSONAL SAFETY. Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Added by Acts 2009, 81st Leg., R.S., Ch. 283 (S.B. 1068), Sec. 4, eff. June 4, 2009.
Redesignated from Government Code, Section 552.151 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(20), eff. September 1, 2011.

Sec. 552.153. PROPRIETARY RECORDS AND TRADE SECRETS INVOLVED IN CERTAIN PARTNERSHIPS. (a) In this section, "affected jurisdiction,"

"comprehensive agreement," "contracting person," "interim agreement," "qualifying project," and "responsible governmental entity" have the meanings assigned those terms by Section 2267.001.

(b) Information in the custody of a responsible governmental entity that relates to a proposal for a qualifying project authorized under Chapter 2267 is excepted from the requirements of Section 552.021 if:

(1) the information consists of memoranda, staff evaluations, or other records prepared by the responsible governmental entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under Chapter 2267 for which:

(A) disclosure to the public before or after the execution of an interim or comprehensive agreement would adversely affect the financial interest or bargaining position of the responsible governmental entity; and

(B) the basis for the determination under Paragraph (A) is documented in writing by the responsible governmental entity; or

(2) the records are provided by a proposer to a responsible governmental entity or affected jurisdiction under Chapter 2267 and contain:

(A) trade secrets of the proposer;

(B) financial records of the proposer, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or other means; or

(C) work product related to a competitive bid or proposal submitted by the proposer that, if made public before the execution of an interim or comprehensive agreement, would provide a competing proposer an unjust advantage or adversely affect the financial interest or bargaining position of the responsible governmental entity or the proposer.

(c) Except as specifically provided by Subsection (b), this section does not authorize the withholding of information concerning:

(1) the terms of any interim or comprehensive agreement, service contract, lease, partnership, or agreement of any kind entered into by the responsible governmental entity and the contracting person or the terms of any financing arrangement that involves the use of any public money; or

(2) the performance of any person developing or operating a

qualifying project under Chapter 2267.

(d) In this section, "proposer" has the meaning assigned by Section 2267.001.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 2, eff. September 1, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 4, eff. June 14, 2013.

Sec. 552.154. EXCEPTION: NAME OF APPLICANT FOR EXECUTIVE DIRECTOR, CHIEF INVESTMENT OFFICER, OR CHIEF AUDIT EXECUTIVE OF TEACHER RETIREMENT SYSTEM OF TEXAS. The name of an applicant for the position of executive director, chief investment officer, or chief audit executive of the Teacher Retirement System of Texas is excepted from the requirements of Section 552.021, except that the board of trustees of the Teacher Retirement System of Texas must give public notice of the names of three finalists being considered for one of those positions at least 21 days before the date of the meeting at which the final action or vote is to be taken on choosing a finalist for employment.

Added by Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 4, eff. September 1, 2011.
Redesignated from Government Code, Section 552.153 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(22), eff. September 1, 2013.

Sec. 552.155. EXCEPTION: CONFIDENTIALITY OF CERTAIN PROPERTY TAX APPRAISAL PHOTOGRAPHS. (a) Except as provided by Subsection (b) or (c), a photograph that is taken by the chief appraiser of an appraisal district or the chief appraiser's authorized representative for property tax appraisal purposes and that shows the interior of an improvement to property is confidential and excepted from the requirements of Section 552.021.

(b) A governmental body shall disclose a photograph described by Subsection (a) to a requestor who had an ownership interest in the improvement to property shown in the photograph on the date the photograph was taken.

(c) A photograph described by Subsection (a) may be used as evidence in and provided to the parties to a protest under Chapter 41, Tax Code, or an appeal of a determination by the appraisal review board under Chapter 42, Tax Code, if it is relevant to the determination of a matter protested or appealed. A photograph that is used as evidence:

(1) remains confidential in the possession of the person to whom it is disclosed; and

(2) may not be disclosed or used for any other purpose.

(c-1) Notwithstanding any other law, a photograph described by Subsection (a) may be used to ascertain the location of equipment used to produce or transmit oil and gas for purposes of taxation if that equipment is located on January 1 in the appraisal district that appraises property for the equipment for the preceding 365 consecutive days.

Added by Acts 2015, 84th Leg., R.S., Ch. 835 (S.B. 46), Sec. 1, eff. September 1, 2015.

Sec. 552.156. EXCEPTION: CONFIDENTIALITY OF CONTINUITY OF OPERATIONS PLAN. (a) Except as otherwise provided by this section, the following information is excepted from disclosure under this chapter:

(1) a continuity of operations plan developed under Section 412.054, Labor Code; and

(2) all records written, produced, collected, assembled, or maintained as part of the development or review of a continuity of operations plan developed under Section 412.054, Labor Code.

(b) Forms, standards, and other instructional, informational, or planning materials adopted by the office to provide guidance or assistance to a state agency in developing a continuity of operations plan under Section 412.054, Labor Code, are public information subject to disclosure under this chapter.

(c) A governmental body may disclose or make available information that is confidential under this section to another governmental body or a federal agency.

(d) Disclosing information to another governmental body or a federal agency under this section does not waive or affect the confidentiality of that information.

Added by Acts 2015, 84th Leg., R.S., Ch. 1045 (H.B. 1832), Sec. 5, eff. June 19, 2015.

Sec. 552.158. EXCEPTION: CONFIDENTIALITY OF PERSONAL INFORMATION REGARDING APPLICANT FOR APPOINTMENT BY GOVERNOR. The following information obtained by the governor or senate in connection with an applicant for an appointment by the governor is excepted from the requirements of Section 552.021:

(1) the applicant's home address;

(2) the applicant's home telephone number; and

(3) the applicant's social security number.

Added by Acts 2017, 85th Leg., R.S., Ch. 303 (S.B. 705), Sec. 1, eff. May 29, 2017.

Sec. 552.159. EXCEPTION: CONFIDENTIALITY OF CERTAIN WORK SCHEDULES. A work schedule or a time sheet of a firefighter or volunteer firefighter or emergency medical services personnel as defined by Section 773.003, Health and Safety Code, is confidential and excepted from the requirements of Section 552.021.

Added by Acts 2019, 86th Leg., R.S., Ch. 1245 (H.B. 2446), Sec. 7, eff. June 14, 2019.

Sec. 552.160. CONFIDENTIALITY OF PERSONAL INFORMATION OF APPLICANT FOR DISASTER RECOVERY FUNDS. (a) In this section, "disaster" has the meaning assigned by Section 418.004.

(b) Except as provided by Subsection (c), the following information maintained by a governmental body is confidential:

(1) the name, social security number, house number, street name, and telephone number of an individual or household that applies for state or federal disaster recovery funds;

(2) the name, tax identification number, address, and telephone number of a business entity or an owner of a business entity that applies for state or federal disaster recovery funds; and

(3) any other information the disclosure of which would identify or tend to identify a person or household that applies for state or federal disaster recovery funds.

(c) The street name and census block group of and the amount of disaster recovery funds awarded to a person or household are not confidential after the date on which disaster recovery funds are awarded to the person or household.

Added by Acts 2019, 86th Leg., R.S., Ch. 883 (H.B. 3175), Sec. 1, eff. September 1, 2019.

Sec. 552.161. EXCEPTION: CERTAIN PERSONAL INFORMATION OBTAINED BY FLOOD CONTROL DISTRICT. The following information obtained by a flood control district located in a county with a population of 3.3 million or more in connection with operations related to a declared disaster or flooding is excepted from the requirements of Section 552.021:

(1) a person's name;
(2) a home address;
(3) a business address;
(4) a home telephone number;
(5) a mobile telephone number;
(6) an electronic mail address;
(7) social media account information; and
(8) a social security number.

Added by Acts 2019, 86th Leg., R.S., Ch. 300 (H.B. 3913), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 552.159 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(36), eff. September 1, 2021.

Sec. 552.162. EXCEPTION: CONFIDENTIALITY OF CERTAIN INFORMATION PROVIDED BY OUT-OF-STATE HEALTH CARE PROVIDER. Information obtained by a governmental body that was provided by an out-of-state health care provider in connection with a quality management, peer review, or best practices program that the out-of-state health care provider pays for is confidential and excepted from the requirements of Section 552.021.

Added by Acts 2019, 86th Leg., R.S., Ch. 1340 (S.B. 944), Sec. 4, eff. September 1, 2019.

Redesignated from Government Code, Section 552.159 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(37), eff. September 1, 2021.

Sec. 552.163. EXCEPTION: CONFIDENTIALITY OF CERTAIN ATTORNEY GENERAL SETTLEMENT NEGOTIATIONS. (a) In this section, "attorney general settlement communication" means documentary materials or information collected, assembled, drafted, developed, used, received, or maintained by or on behalf of the attorney general with respect to an investigation or litigation conducted under Subchapter E, Chapter 17, Business & Commerce Code, and that reflects or is regarding negotiations made for the purpose of achieving a resolution of a matter without the need for continuing with litigation or trial.

(b) An attorney general settlement communication is privileged and not subject to disclosure under this chapter from the date the attorney general's investigation begins, as indicated in the attorney general's case management records, until the earlier of:

(1) the 90th day after the date settlement discussions are terminated; or

(2) the earliest of the date:

(A) the case is reported closed in the attorney general's case management records;

(B) the final judgment, assurance of voluntary compliance, or other settlement agreement is entered by the court, and the period for filing a notice of appeal has passed;

(C) the settlement documents are executed by all parties, if the documents are not filed in court;

(D) the order of dismissal or nonsuit disposing of all parties is entered by the court; or

(E) all appeals are finalized.

(c) For the purpose of this section, a settlement communication does not include a document attached to or referenced in a delivered settlement proposal that is subject to disclosure under this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 847 (H.B. 3033), Sec. 5, eff. September 1, 2023.

SUBCHAPTER D. OFFICER FOR PUBLIC INFORMATION

Sec. 552.201. IDENTITY OF OFFICER FOR PUBLIC INFORMATION. (a) The chief administrative officer of a governmental body is the officer for public information, except as provided by Subsection (b).

(b) Each elected county officer is the officer for public information and the custodian, as defined by Section 201.003, Local Government Code, of the information created or received by that county officer's office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 14, eff. Sept. 1, 1995.

Sec. 552.202. DEPARTMENT HEADS. Each department head is an agent of the officer for public information for the purposes of complying with this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 14, eff. Sept. 1, 1995.

Sec. 552.203. GENERAL DUTIES OF OFFICER FOR PUBLIC INFORMATION. Each officer for public information, subject to penalties provided in this chapter, shall:

(1) make public information available for public inspection and copying;

(2) carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal;

(3) repair, renovate, or rebind public information as necessary to maintain it properly; and

(4) make reasonable efforts to obtain public information from a temporary custodian if:

(A) the information has been requested from the governmental body;

(B) the officer for public information is aware of facts sufficient to warrant a reasonable belief that the temporary custodian has possession, custody, or control of the information;

(C) the officer for public information is unable to comply with the duties imposed by this chapter without obtaining the information from the temporary custodian; and

(D) the temporary custodian has not provided the information to the officer for public information or the officer's agent.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 14, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1340 (S.B. 944), Sec. 5, eff. September 1, 2019.

Sec. 552.204. SCOPE OF RESPONSIBILITY OF OFFICER FOR PUBLIC INFORMATION. An officer for public information is responsible for the release of public information as required by this chapter. The officer is not responsible for:

(1) the use made of the information by the requestor; or

(2) the release of information after it is removed from a record as a result of an update, a correction, or a change of status of the person to whom the information pertains.

Added by Acts 1995, 74th Leg., ch. 1035, Sec. 14, eff. Sept. 1, 1995.

Sec. 552.205. INFORMING PUBLIC OF BASIC RIGHTS AND RESPONSIBILITIES UNDER THIS CHAPTER. (a) An officer for public information shall prominently display a sign in the form prescribed by the attorney general that contains basic information about the rights of a requestor, the responsibilities of a governmental body, and the procedures for inspecting or obtaining a copy of public information under this chapter. The officer shall display the sign at one or more places in the administrative offices of the governmental body where it is plainly visible to:

(1) members of the public who request public information in person under this chapter; and

(2) employees of the governmental body whose duties include receiving or responding to requests under this chapter.

(b) The attorney general by rule shall prescribe the content of the sign and the size, shape, and other physical characteristics of the sign. In prescribing the content of the sign, the attorney general shall include plainly written basic information about the

rights of a requestor, the responsibilities of a governmental body, and the procedures for inspecting or obtaining a copy of public information under this chapter that, in the opinion of the attorney general, is most useful for requestors to know and for employees of governmental bodies who receive or respond to requests for public information to know.

Added by Acts 1999, 76th Leg., ch. 1319, Sec. 11, eff. Sept. 1, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 329 (S.B. 727), Sec. 3, eff. September 1, 2005.
Acts 2005, 79th Leg., Ch. 716 (S.B. 452), Sec. 3, eff. September 1, 2005.

SUBCHAPTER E. PROCEDURES RELATED TO ACCESS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4219, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 552.221. APPLICATION FOR PUBLIC INFORMATION; PRODUCTION OF PUBLIC INFORMATION. (a) An officer for public information of a governmental body shall promptly produce public information for inspection, duplication, or both on application by any person to the officer. In this subsection, "promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay.

(b) An officer for public information complies with Subsection (a) by:

(1) providing the public information for inspection or duplication in the offices of the governmental body; or

(2) sending copies of the public information by first class United States mail if the person requesting the information requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Subchapter F.

(b-1) In addition to the methods of production described by Subsection (b), an officer for public information for a governmental body complies with Subsection (a) by referring a requestor to an exact Internet location or uniform resource locator (URL) address on a website maintained by the governmental body and accessible to the public if the requested information is identifiable and readily

available on that website. If the person requesting the information prefers a manner other than access through the URL, the governmental body must supply the information in the manner required by Subsection (b).

(b-2) If an officer for public information for a governmental body provides by e-mail an Internet location or uniform resource locator (URL) address as permitted by Subsection (b-1), the e-mail must contain a statement in a conspicuous font clearly indicating that the requestor may nonetheless access the requested information by inspection or duplication or by receipt through United States mail, as provided by Subsection (b).

(c) If the requested information is unavailable at the time of the request to examine because it is in active use or in storage, the officer for public information shall certify this fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

(d) If an officer for public information cannot produce public information for inspection or duplication within 10 business days after the date the information is requested under Subsection (a), the officer shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

(e) A request is considered to have been withdrawn if the requestor fails to inspect or duplicate the public information in the offices of the governmental body on or before the 60th day after the date the information is made available or fails to pay the postage and any other applicable charges accrued under Subchapter F on or before the 60th day after the date the requestor is informed of the charges.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 15, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1231, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1319, Sec. 12, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 791, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 692 (H.B. 685), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 520 (S.B. 79), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 894 (H.B. 3107), Sec. 1, eff. September 1, 2017.

Sec. 552.2211. PRODUCTION OF PUBLIC INFORMATION WHEN ADMINISTRATIVE OFFICES CLOSED. (a) Except as provided by Section 552.233, if a governmental body closes its physical offices, but requires staff to work, including remotely, then the governmental body shall make a good faith effort to continue responding to applications for public information, to the extent staff have access to public information responsive to an application, pursuant to this chapter while its administrative offices are closed.

(b) Failure to respond to requests in accordance with Subsection (a) may constitute a refusal to request an attorney general's decision as provided by Subchapter G or a refusal to supply public information or information that the attorney general has determined is public information that is not excepted from disclosure under Subchapter C as described by Section 552.321(a).

Added by Acts 2021, 87th Leg., R.S., Ch. 164 (S.B. 1225), Sec. 2, eff. September 1, 2021.

Sec. 552.222. PERMISSIBLE INQUIRY BY GOVERNMENTAL BODY TO REQUESTOR. (a) The officer for public information and the officer's agent may not make an inquiry of a requestor except to establish proper identification or except as provided by Subsection (b), (c), or (c-1).

(b) If what information is requested is unclear to the governmental body, the governmental body may ask the requestor to clarify the request. If a large amount of information has been requested, the governmental body may discuss with the requestor how the scope of a request might be narrowed, but the governmental body may not inquire into the purpose for which information will be used.

(c) If the information requested relates to a motor vehicle record, the officer for public information or the officer's agent may require the requestor to provide additional identifying information sufficient for the officer or the officer's agent to determine whether the requestor is eligible to receive the information under Chapter 730, Transportation Code. In this subsection, "motor vehicle

record" has the meaning assigned that term by Section 730.003, Transportation Code.

(c-1) If the information requested includes a photograph described by Section 552.155(a), the officer for public information or the officer's agent may require the requestor to provide additional information sufficient for the officer or the officer's agent to determine whether the requestor is eligible to receive the information under Section 552.155(b).

(d) If by the 61st day after the date a governmental body sends a written request for clarification or discussion under Subsection (b) or an officer for public information or agent sends a written request for additional information under Subsection (c) the governmental body, officer for public information, or agent, as applicable, does not receive a written response from the requestor, the underlying request for public information is considered to have been withdrawn by the requestor.

(e) A written request for clarification or discussion under Subsection (b) or a written request for additional information under Subsection (c) must include a statement as to the consequences of the failure by the requestor to timely respond to the request for clarification, discussion, or additional information.

(f) Except as provided by Subsection (g), if the requestor's request for public information included the requestor's physical or mailing address, the request may not be considered to have been withdrawn under Subsection (d) unless the governmental body, officer for public information, or agent, as applicable, sends the request for clarification or discussion under Subsection (b) or the written request for additional information under Subsection (c) to that address by certified mail.

(g) If the requestor's request for public information was sent by electronic mail, the request may be considered to have been withdrawn under Subsection (d) if:

(1) the governmental body, officer for public information, or agent, as applicable, sends the request for clarification or discussion under Subsection (b) or the written request for additional information under Subsection (c) by electronic mail to the same electronic mail address from which the original request was sent or to another electronic mail address provided by the requestor; and

(2) the governmental body, officer for public information, or agent, as applicable, does not receive from the requestor a

written response or response by electronic mail within the period described by Subsection (d).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 15, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1187, Sec. 5, eff. Sept. 1, 1997. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 296 (H.B. 1497), Sec. 1, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 762 (H.B. 2134), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 835 (S.B. 46), Sec. 2, eff. September 1, 2015.

Sec. 552.223. UNIFORM TREATMENT OF REQUESTS FOR INFORMATION. The officer for public information or the officer's agent shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 15, eff. Sept. 1, 1995.

Sec. 552.224. COMFORT AND FACILITY. The officer for public information or the officer's agent shall give to a requestor all reasonable comfort and facility for the full exercise of the right granted by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 15, eff. Sept. 1, 1995.

Sec. 552.225. TIME FOR EXAMINATION. (a) A requestor must complete the examination of the information not later than the 10th business day after the date the custodian of the information makes it available. If the requestor does not complete the examination of the

information within 10 business days after the date the custodian of the information makes the information available and does not file a request for additional time under Subsection (b), the requestor is considered to have withdrawn the request.

(b) The officer for public information shall extend the initial examination period by an additional 10 business days if, within the initial period, the requestor files with the officer for public information a written request for additional time. The officer for public information shall extend an additional examination period by another 10 business days if, within the additional period, the requestor files with the officer for public information a written request for more additional time.

(c) The time during which a person may examine information may be interrupted by the officer for public information if the information is needed for use by the governmental body. The period of interruption is not considered to be a part of the time during which the person may examine the information.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 15, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 329 (S.B. 727), Sec. 4, eff. September 1, 2005.

Sec. 552.226. REMOVAL OF ORIGINAL RECORD. This chapter does not authorize a requestor to remove an original copy of a public record from the office of a governmental body.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 15, eff. Sept. 1, 1995.

Sec. 552.227. RESEARCH OF STATE LIBRARY HOLDINGS NOT REQUIRED. An officer for public information or the officer's agent is not required to perform general research within the reference and research archives and holdings of state libraries.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 15, eff. Sept. 1, 1995.

Sec. 552.228. PROVIDING SUITABLE COPY OF PUBLIC INFORMATION WITHIN REASONABLE TIME. (a) It shall be a policy of a governmental body to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested.

(b) If public information exists in an electronic or magnetic medium, the requestor may request a copy in an electronic medium, such as on diskette or on magnetic tape. A governmental body shall provide a copy in the requested medium if:

(1) the governmental body has the technological ability to produce a copy of the requested information in the requested medium;

(2) the governmental body is not required to purchase any software or hardware to accommodate the request; and

(3) provision of a copy of the information in the requested medium will not violate the terms of any copyright agreement between the governmental body and a third party.

(c) If a governmental body is unable to comply with a request to produce a copy of information in a requested medium for any of the reasons described by this section, the governmental body shall provide a copy in another medium that is acceptable to the requestor. A governmental body is not required to copy information onto a diskette or other material provided by the requestor but may use its own supplies.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 15, eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 962 (H.B. 3544), Sec. 8, eff. September 1, 2009.

Sec. 552.229. CONSENT TO RELEASE INFORMATION UNDER SPECIAL RIGHT OF ACCESS. (a) Consent for the release of information excepted from disclosure to the general public but available to a specific person under Sections 552.023 and 552.307 must be in writing and signed by the specific person or the person's authorized

representative.

(b) An individual under 18 years of age may consent to the release of information under this section only with the additional written authorization of the individual's parent or guardian.

(c) An individual who has been adjudicated incompetent to manage the individual's personal affairs or for whom an attorney ad litem has been appointed may consent to the release of information under this section only by the written authorization of the designated legal guardian or attorney ad litem.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 552.230. RULES OF PROCEDURE FOR INSPECTION AND COPYING OF PUBLIC INFORMATION. (a) A governmental body may promulgate reasonable rules of procedure under which public information may be inspected and copied efficiently, safely, and without delay.

(b) A rule promulgated under Subsection (a) may not be inconsistent with any provision of this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 15, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1231, Sec. 3, eff. Sept. 1, 1997.

Sec. 552.231. RESPONDING TO REQUESTS FOR INFORMATION THAT REQUIRE PROGRAMMING OR MANIPULATION OF DATA. (a) A governmental body shall provide to a requestor the written statement described by Subsection (b) if the governmental body determines:

(1) that responding to a request for public information will require programming or manipulation of data; and

(2) that:

(A) compliance with the request is not feasible or will result in substantial interference with its ongoing operations; or

(B) the information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

(b) The written statement must include:

(1) a statement that the information is not available in the requested form;

(2) a description of the form in which the information is

available;

(3) a description of any contract or services that would be required to provide the information in the requested form;

(4) a statement of the estimated cost of providing the information in the requested form, as determined in accordance with the rules established by the attorney general under Section 552.262; and

(5) a statement of the anticipated time required to provide the information in the requested form.

(c) The governmental body shall provide the written statement to the requestor within 20 days after the date of the governmental body's receipt of the request. The governmental body has an additional 10 days to provide the statement if the governmental body gives written notice to the requestor, within 20 days after the date of receipt of the request, that the additional time is needed.

(d) On providing the written statement to the requestor as required by this section, the governmental body does not have any further obligation to provide the information in the requested form or in the form in which it is available unless within 30 days the requestor states in writing to the governmental body that the requestor:

(1) wants the governmental body to provide the information in the requested form according to the cost and time parameters set out in the statement or according to other terms to which the requestor and the governmental body agree; or

(2) wants the information in the form in which it is available.

(d-1) If a requestor does not make a timely written statement under Subsection (d), the requestor is considered to have withdrawn the request for information.

(e) The officer for public information of a governmental body shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data. A governmental body shall maintain a file containing all written statements issued under this section in a readily accessible location.

Added by Acts 1995, 74th Leg., ch. 1035, Sec. 15, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 329 (S.B. 727), Sec. 5, eff. September

1, 2005.

Acts 2005, 79th Leg., Ch. 716 (S.B. 452), Sec. 4, eff. September 1, 2005.

Sec. 552.232. RESPONDING TO REPETITIOUS OR REDUNDANT REQUESTS. (a) A governmental body that determines that a requestor has made a request for information for which the governmental body has previously furnished copies to the requestor or made copies available to the requestor on payment of applicable charges under Subchapter F, shall respond to the request, in relation to the information for which copies have been already furnished or made available, in accordance with this section, except that:

(1) this section does not prohibit the governmental body from furnishing the information or making the information available to the requestor again in accordance with the request; and

(2) the governmental body is not required to comply with this section in relation to information that the governmental body simply furnishes or makes available to the requestor again in accordance with the request.

(b) The governmental body shall certify to the requestor that copies of all or part of the requested information, as applicable, were previously furnished to the requestor or made available to the requestor on payment of applicable charges under Subchapter F. The certification must include:

(1) a description of the information for which copies have been previously furnished or made available to the requestor;

(2) the date that the governmental body received the requestor's original request for that information;

(3) the date that the governmental body previously furnished copies of or made available copies of the information to the requestor;

(4) a certification that no subsequent additions, deletions, or corrections have been made to that information; and

(5) the name, title, and signature of the officer for public information or the officer's agent making the certification.

(c) A charge may not be imposed for making and furnishing a certification required under Subsection (b).

(d) This section does not apply to information for which the governmental body has not previously furnished copies to the

requestor or made copies available to the requestor on payment of applicable charges under Subchapter F. A request by the requestor for information for which copies have not previously been furnished or made available to the requestor, including information for which copies were not furnished or made available because the information was redacted from other information that was furnished or made available or because the information did not yet exist at the time of an earlier request, shall be treated in the same manner as any other request for information under this chapter.

Added by Acts 1999, 76th Leg., ch. 1319, Sec. 13, eff. Sept. 1, 1999.

Sec. 552.2325. TEMPORARY SUSPENSION OF REQUIREMENTS FOR GOVERNMENTAL BODY IMPACTED BY CATASTROPHE. (a) In this section:

(1) "Catastrophe" means a condition or occurrence that directly interferes with the ability of a governmental body to comply with the requirements of this chapter, including:

(A) fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;

(B) power failure, transportation failure, or interruption of communication facilities;

(C) epidemic; or

(D) riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

(2) "Catastrophe" does not mean a period when staff is required to work remotely and can access information responsive to an application for information electronically, but the physical office of the governmental body is closed.

(3) "Suspension period" means the period of time during which a governmental body may suspend the applicability of the requirements of this chapter to the governmental body under this section.

(b) The requirements of this chapter do not apply to a governmental body during the suspension period determined by the governmental body under Subsections (d) and (e) if the governmental body:

(1) is currently significantly impacted by a catastrophe such that the catastrophe directly causes the inability of a governmental body to comply with the requirements of this chapter;

and

(2) complies with the requirements of this section.

(c) A governmental body that elects to suspend the applicability of the requirements of this chapter to the governmental body must submit notice to the office of the attorney general that the governmental body is currently impacted by a catastrophe and has elected to suspend the applicability of those requirements during the initial suspension period determined under Subsection (d). The notice must be on the form prescribed by the office of the attorney general under Subsection (j).

(d) A governmental body may suspend the applicability of the requirements of this chapter to the governmental body for an initial suspension period. The governmental body may suspend the applicability of the requirements of this chapter under this subsection only once for each catastrophe. The initial suspension period may not exceed seven consecutive days and must occur during the period that:

(1) begins not earlier than the second day before the date the governmental body submits notice to the office of the attorney general under Subsection (c); and

(2) ends not later than the seventh day after the date the governmental body submits that notice.

(e) A governmental body may extend an initial suspension period if the governing body determines that the governing body is still impacted by the catastrophe on which the initial suspension period was based. The initial suspension period may be extended one time for not more than seven consecutive days that begin on the day following the day the initial suspension period ends. The governing body must submit notice of the extension to the office of the attorney general on the form prescribed by the office under Subsection (l).

(f) A governmental body that initiates a suspension period under Subsection (d) may not initiate another suspension period related to the same catastrophe, except for a single extension period as prescribed in Subsection (e).

(g) The combined suspension period for a governmental body filing under Subsections (d) and (e) may not exceed a total of 14 consecutive calendar days with respect to any single catastrophe.

(h) A governmental body that suspends the applicability of the requirements of this chapter to the governmental body under this

section must provide notice to the public of the suspension in a place readily accessible to the public and in each other location the governmental body is required to post a notice under Subchapter C, Chapter 551. The governmental body must maintain the notice of the suspension during the suspension period.

(i) Notwithstanding another provision of this chapter, a request for public information received by a governmental body during a suspension period determined by the governmental body is considered to have been received by the governmental body on the first business day after the date the suspension period ends.

(j) The requirements of this chapter related to a request for public information received by a governmental body before the date an initial suspension period determined by the governmental body begins are tolled until the first business day after the date the suspension period ends.

(k) The office of the attorney general shall continuously post on the Internet website of the office each notice submitted to the office under this section from the date the office receives the notice until the first anniversary of that date.

(l) The office of the attorney general shall prescribe the form of the notice that a governmental body must submit to the office under Subsections (c) and (e). The notice must require the governmental body to:

(1) identify and describe the catastrophe that the governmental body is currently impacted by;

(2) state the date the initial suspension period determined by the governmental body under Subsection (d) begins and the date that period ends;

(3) if the governmental body has determined to extend the initial suspension period under Subsection (e):

(A) state that the governmental body continues to be impacted by the catastrophe identified in Subdivision (1); and

(B) state the date the extension to the initial suspension period begins and the date the period ends; and

(4) provide any other information the office of the attorney general determines necessary.

(m) Upon conclusion of any suspension period initiated pursuant to Subsections (d) or (e), the governmental body shall immediately resume compliance with all requirements of this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 462 (S.B. 494), Sec. 4, eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 164 (S.B. 1225), Sec. 1, eff. September 1, 2021.
Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(38), eff. September 1, 2021.

Sec. 552.233. OWNERSHIP OF PUBLIC INFORMATION. (a) A current or former officer or employee of a governmental body does not have, by virtue of the officer's or employee's position or former position, a personal or property right to public information the officer or employee created or received while acting in an official capacity.

(b) A temporary custodian with possession, custody, or control of public information shall surrender or return the information to the governmental body not later than the 10th day after the date the officer for public information of the governmental body or the officer's agent requests the temporary custodian to surrender or return the information.

(c) A temporary custodian's failure to surrender or return public information as required by Subsection (b) is grounds for disciplinary action by the governmental body that employs the temporary custodian or any other applicable penalties provided by this chapter or other law.

(d) For purposes of the application of Subchapter G to information surrendered or returned to a governmental body by a temporary custodian under Subsection (b), the governmental body is considered to receive the request for that information on the date the information is surrendered or returned to the governmental body.

Added by Acts 2019, 86th Leg., R.S., Ch. 1340 (S.B. 944), Sec. 6, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4214, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 552.234. METHOD OF MAKING WRITTEN REQUEST FOR PUBLIC INFORMATION. (a) A person may make a written request for public

information under this chapter only by delivering the request by one of the following methods to the applicable officer for public information or a person designated by that officer:

(1) United States mail;

(2) electronic mail;

(3) hand delivery; or

(4) any other appropriate method approved by the governmental body, including:

(A) facsimile transmission; and

(B) electronic submission through the governmental body's Internet website.

(b) For the purpose of Subsection (a)(4), a governmental body is considered to have approved a method described by that subdivision only if the governmental body includes a statement that a request for public information may be made by that method on:

(1) the sign required to be displayed by the governmental body under Section 552.205; or

(2) the governmental body's Internet website.

(c) A governmental body may designate one mailing address and one electronic mail address for receiving written requests for public information. The governmental body shall provide the designated mailing address and electronic mailing address to any person on request.

(d) A governmental body that posts the mailing address and electronic mail address designated by the governmental body under Subsection (c) on the governmental body's Internet website or that prints those addresses on the sign required to be displayed by the governmental body under Section 552.205 is not required to respond to a written request for public information unless the request is received:

(1) at one of those addresses;

(2) by hand delivery; or

(3) by a method described by Subsection (a)(4) that has been approved by the governmental body.

Added by Acts 2019, 86th Leg., R.S., Ch. 1340 (S.B. 944), Sec. 6, eff. September 1, 2019.

Sec. 552.235. PUBLIC INFORMATION REQUEST FORM. (a) The

attorney general shall create a public information request form that provides a requestor the option of excluding from a request information that the governmental body determines is:

(1) confidential; or

(2) subject to an exception to disclosure that the governmental body would assert if the information were subject to the request.

(b) A governmental body that allows requestors to use the form described by Subsection (a) and maintains an Internet website shall post the form on its website.

Added by Acts 2019, 86th Leg., R.S., Ch. 1340 (S.B. 944), Sec. 6, eff. September 1, 2019.

SUBCHAPTER F. CHARGES FOR PROVIDING COPIES OF PUBLIC INFORMATION

Sec. 552.261. CHARGE FOR PROVIDING COPIES OF PUBLIC INFORMATION. (a) The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor, and overhead. If a request is for 50 or fewer pages of paper records, the charge for providing the copy of the public information may not include costs of materials, labor, or overhead, but shall be limited to the charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in:

(1) two or more separate buildings that are not physically connected with each other; or

(2) a remote storage facility.

(b) If the charge for providing a copy of public information includes costs of labor, the requestor may require the governmental body's officer for public information or the officer's agent to provide the requestor with a written statement as to the amount of time that was required to produce and provide the copy. The statement must be signed by the officer for public information or the officer's agent and the officer's or the agent's name must be typed or legibly printed below the signature. A charge may not be imposed for providing the written statement to the requestor.

(c) For purposes of Subsection (a), a connection of two buildings by a covered or open sidewalk, an elevated or underground

passageway, or a similar facility is insufficient to cause the buildings to be considered separate buildings.

(d) Charges for providing a copy of public information are considered to accrue at the time the governmental body advises the requestor that the copy is available on payment of the applicable charges.

(e) Except as otherwise provided by this subsection, all requests received in one calendar day from an individual may be treated as a single request for purposes of calculating costs under this chapter. A governmental body may not combine multiple requests under this subsection from separate individuals who submit requests on behalf of an organization.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 16, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1231, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1319, Sec. 14, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 864, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 894 (H.B. 3107), Sec. 2, eff. September 1, 2017.

Sec. 552.2615. REQUIRED ITEMIZED ESTIMATE OF CHARGES. (a) If a request for a copy of public information will result in the imposition of a charge under this subchapter that exceeds $40, or a request to inspect a paper record will result in the imposition of a charge under Section 552.271 that exceeds $40, the governmental body shall provide the requestor with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If an alternative less costly method of viewing the records is available, the statement must include a notice that the requestor may contact the governmental body regarding the alternative method. The governmental body must inform the requestor of the responsibilities imposed on the requestor by this section and of the rights granted by this entire section and give the requestor the information needed to respond, including:

(1) that the requestor must provide the governmental body with a mailing, facsimile transmission, or electronic mail address to receive the itemized statement and that it is the requestor's choice

which type of address to provide;

(2) that the request is considered automatically withdrawn if the requestor does not respond in writing to the itemized statement and any updated itemized statement in the time and manner required by this section; and

(3) that the requestor may respond to the statement by delivering the written response to the governmental body by mail, in person, by facsimile transmission if the governmental body is capable of receiving documents transmitted in that manner, or by electronic mail if the governmental body has an electronic mail address.

(b) A request described by Subsection (a) is considered to have been withdrawn by the requestor if the requestor does not respond in writing to the itemized statement by informing the governmental body within 10 business days after the date the statement is sent to the requestor that:

(1) the requestor will accept the estimated charges;

(2) the requestor is modifying the request in response to the itemized statement; or

(3) the requestor has sent to the attorney general a complaint alleging that the requestor has been overcharged for being provided with a copy of the public information.

(c) If the governmental body later determines, but before it makes the copy or the paper record available, that the estimated charges will exceed the charges detailed in the written itemized statement by 20 percent or more, the governmental body shall send to the requestor a written updated itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If the requestor does not respond in writing to the updated estimate in the time and manner described by Subsection (b), the request is considered to have been withdrawn by the requestor.

(d) If the actual charges that a governmental body imposes for a copy of public information, or for inspecting a paper record under Section 552.271, exceeds $40, the charges may not exceed:

(1) the amount estimated in the updated itemized statement; or

(2) if an updated itemized statement is not sent to the requestor, an amount that exceeds by 20 percent or more the amount estimated in the itemized statement.

(e) An itemized statement or updated itemized statement is

considered to have been sent by the governmental body to the requestor on the date that:

(1) the statement is delivered to the requestor in person;

(2) the governmental body deposits the properly addressed statement in the United States mail; or

(3) the governmental body transmits the properly addressed statement by electronic mail or facsimile transmission, if the requestor agrees to receive the statement by electronic mail or facsimile transmission, as applicable.

(f) A requestor is considered to have responded to the itemized statement or the updated itemized statement on the date that:

(1) the response is delivered to the governmental body in person;

(2) the requestor deposits the properly addressed response in the United States mail; or

(3) the requestor transmits the properly addressed response to the governmental body by electronic mail or facsimile transmission.

(g) The time deadlines imposed by this section do not affect the application of a time deadline imposed on a governmental body under Subchapter G.

Added by Acts 1999, 76th Leg., ch. 1319, Sec. 15, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 864, Sec. 2, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 329 (S.B. 727), Sec. 6, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 716 (S.B. 452), Sec. 5, eff. September 1, 2005.

Sec. 552.262. RULES OF THE ATTORNEY GENERAL. (a) The attorney general shall adopt rules for use by each governmental body in determining charges for providing copies of public information under this subchapter and in determining the charge, deposit, or bond required for making public information that exists in a paper record available for inspection as authorized by Sections 552.271(c) and (d). The rules adopted by the attorney general shall be used by each governmental body in determining charges for providing copies of public information and in determining the charge, deposit, or bond

required for making public information that exists in a paper record available for inspection, except to the extent that other law provides for charges for specific kinds of public information. The charges for providing copies of public information may not be excessive and may not exceed the actual cost of producing the information or for making public information that exists in a paper record available for inspection. A governmental body, other than an agency of state government, may determine its own charges for providing copies of public information and its own charge, deposit, or bond for making public information that exists in a paper record available for inspection but may not charge an amount that is greater than 25 percent more than the amount established by the attorney general unless the governmental body requests an exemption under Subsection (c).

(b) The rules of the attorney general shall prescribe the methods for computing the charges for providing copies of public information in paper, electronic, and other kinds of media and the charge, deposit, or bond required for making public information that exists in a paper record available for inspection. The rules shall establish costs for various components of charges for providing copies of public information that shall be used by each governmental body in providing copies of public information or making public information that exists in a paper record available for inspection.

(c) A governmental body may request that it be exempt from part or all of the rules adopted by the attorney general for determining charges for providing copies of public information or the charge, deposit, or bond required for making public information that exists in a paper record available for inspection. The request must be made in writing to the attorney general and must state the reason for the exemption. If the attorney general determines that good cause exists for exempting a governmental body from a part or all of the rules, the attorney general shall give written notice of the determination to the governmental body within 90 days of the request. On receipt of the determination, the governmental body may amend its charges for providing copies of public information or its charge, deposit, or bond required for making public information that exists in a paper record available for inspection according to the determination of the attorney general.

(d) The attorney general shall publish annually in the Texas Register a list of the governmental bodies that have authorization

from the attorney general to adopt any modified rules for determining the cost of providing copies of public information or making public information that exists in a paper record available for inspection.

(e) The rules of the attorney general do not apply to a state governmental body that is not a state agency for purposes of Subtitle D, Title 10.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 17, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1231, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1319, Sec. 16, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 329 (S.B. 727), Sec. 7, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 716 (S.B. 452), Sec. 6, eff. September 1, 2005.

Sec. 552.263. BOND FOR PAYMENT OF COSTS OR CASH PREPAYMENT FOR PREPARATION OF COPY OF PUBLIC INFORMATION. (a) An officer for public information or the officer's agent may require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information if:

(1) the officer for public information or the officer's agent has provided the requestor with the written itemized statement required under Section 552.2615 detailing the estimated charge for providing the copy; and

(2) the charge for providing the copy of the public information specifically requested by the requestor is estimated by the governmental body to exceed:

(A) $100, if the governmental body has more than 15 full-time employees; or

(B) $50, if the governmental body has fewer than 16 full-time employees.

(b) The officer for public information or the officer's agent may not require a deposit or bond be paid under Subsection (a) as a down payment for copies of public information that the requestor may request in the future.

(c) An officer for public information or the officer's agent may require a deposit or bond for payment of unpaid amounts owing to

the governmental body in relation to previous requests that the requestor has made under this chapter before preparing a copy of public information in response to a new request if those unpaid amounts exceed $100. The officer for public information or the officer's agent may not seek payment of those unpaid amounts through any other means.

(d) The governmental body must fully document the existence and amount of those unpaid amounts or the amount of any anticipated costs, as applicable, before requiring a deposit or bond under this section. The documentation is subject to required public disclosure under this chapter.

(e) For purposes of Subchapters F and G, a request for a copy of public information is considered to have been received by a governmental body on the date the governmental body receives the deposit or bond for payment of anticipated costs or unpaid amounts if the governmental body's officer for public information or the officer's agent requires a deposit or bond in accordance with this section.

(e-1) If a requestor modifies the request in response to the requirement of a deposit or bond authorized by this section, the modified request is considered a separate request for the purposes of this chapter and is considered received on the date the governmental body receives the written modified request.

(f) A requestor who fails to make a deposit or post a bond required under Subsection (a) before the 10th business day after the date the deposit or bond is required is considered to have withdrawn the request for the copy of the public information that precipitated the requirement of the deposit or bond.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 17, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1231, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1319, Sec. 17, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 315 (S.B. 623), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 349 (S.B. 175), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1377 (S.B. 1182), Sec. 6, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 38, eff. September 1, 2011.

Sec. 552.264. COPY OF PUBLIC INFORMATION REQUESTED BY MEMBER OF LEGISLATURE. One copy of public information that is requested from a state agency by a member, agency, or committee of the legislature under Section 552.008 shall be provided without charge.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 17, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1231, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1585, Sec. 1, eff. June 20, 1999.

Sec. 552.265. CHARGE FOR PAPER COPY PROVIDED BY DISTRICT OR COUNTY CLERK. The charge for providing a paper copy made by a district or county clerk's office shall be the charge provided by Chapter 51 of this code, Chapter 118, Local Government Code, or other applicable law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1231, Sec. 4, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1155, Sec. 1, eff. June 15, 2001.

Sec. 552.266. CHARGE FOR COPY OF PUBLIC INFORMATION PROVIDED BY MUNICIPAL COURT CLERK. The charge for providing a copy made by a municipal court clerk shall be the charge provided by municipal ordinance.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 17, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1231, Sec. 4, eff. Sept. 1, 1997.

Sec. 552.2661. CHARGE FOR COPY OF PUBLIC INFORMATION PROVIDED BY SCHOOL DISTRICT. A school district that receives a request to produce public information for inspection or publication or to produce copies of public information in response to a requestor who, within the preceding 180 days, has accepted but failed to pay written

itemized statements of estimated charges from the district as provided under Section 552.261(b) may require the requestor to pay the estimated charges for the request before the request is fulfilled.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 8 (S.B. 8), Sec. 20, eff. September 28, 2011.

Sec. 552.267. WAIVER OR REDUCTION OF CHARGE FOR PROVIDING COPY OF PUBLIC INFORMATION. (a) A governmental body shall provide a copy of public information without charge or at a reduced charge if the governmental body determines that waiver or reduction of the charge is in the public interest because providing the copy of the information primarily benefits the general public.

(b) If the cost to a governmental body of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge, the governmental body may waive the charge.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 17, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1231, Sec. 4, eff. Sept. 1, 1997.

Sec. 552.268. EFFICIENT USE OF PUBLIC RESOURCES. A governmental body shall make reasonably efficient use of supplies and other resources to avoid excessive reproduction costs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 17, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1231, Sec. 4, eff. Sept. 1, 1997.

Sec. 552.269. OVERCHARGE OR OVERPAYMENT FOR COPY OF PUBLIC INFORMATION. (a) A person who believes the person has been overcharged for being provided with a copy of public information may complain to the attorney general in writing of the alleged overcharge, setting forth the reasons why the person believes the charges are excessive. The attorney general shall review the complaint and make a determination in writing as to the appropriate

charge for providing the copy of the requested information. The governmental body shall respond to the attorney general to any written questions asked of the governmental body by the attorney general regarding the charges for providing the copy of the public information. The response must be made to the attorney general within 10 business days after the date the questions are received by the governmental body. If the attorney general determines that a governmental body has overcharged for providing the copy of requested public information, the governmental body shall promptly adjust its charges in accordance with the determination of the attorney general.

(b) A person who overpays for a copy of public information because a governmental body refuses or fails to follow the rules for charges adopted by the attorney general is entitled to recover three times the amount of the overcharge if the governmental body did not act in good faith in computing the costs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 17, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1231, Sec. 4, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 864, Sec. 3, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 329 (S.B. 727), Sec. 8, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 716 (S.B. 452), Sec. 7, eff. September 1, 2005.

Sec. 552.270. CHARGE FOR GOVERNMENT PUBLICATION. (a) This subchapter does not apply to a publication that is compiled and printed by or for a governmental body for public dissemination. If the cost of the publication is not determined by state law, a governmental body may determine the charge for providing the publication.

(b) This section does not prohibit a governmental body from providing a publication free of charge if state law does not require that a certain charge be made.

Added by Acts 1995, 74th Leg., ch. 1035, Sec. 17, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1231, Sec. 4, eff. Sept. 1, 1997.

Sec. 552.271. INSPECTION OF PUBLIC INFORMATION IN PAPER RECORD IF COPY NOT REQUESTED. (a) If the requestor does not request a copy of public information, a charge may not be imposed for making available for inspection any public information that exists in a paper record, except as provided by this section.

(b) If a requested page contains confidential information that must be edited from the record before the information can be made available for inspection, the governmental body may charge for the cost of making a photocopy of the page from which confidential information must be edited. No charge other than the cost of the photocopy may be imposed under this subsection.

(c) Except as provided by Subsection (d), an officer for public information or the officer's agent may require a requestor to pay, or to make a deposit or post a bond for the payment of, anticipated personnel costs for making available for inspection public information that exists in paper records only if:

(1) the public information specifically requested by the requestor:

(A) is older than five years; or

(B) completely fills, or when assembled will completely fill, six or more archival boxes; and

(2) the officer for public information or the officer's agent estimates that more than five hours will be required to make the public information available for inspection.

(d) If the governmental body has fewer than 16 full-time employees, the payment, the deposit, or the bond authorized by Subsection (c) may be required only if:

(1) the public information specifically requested by the requestor:

(A) is older than three years; or

(B) completely fills, or when assembled will completely fill, three or more archival boxes; and

(2) the officer for public information or the officer's agent estimates that more than two hours will be required to make the public information available for inspection.

(e) A requestor who has exceeded a limit established by a governmental body under Section 552.275 may not inspect public information on behalf of another requestor unless the requestor who exceeded the limit has paid each statement issued by the governmental body under Section 552.275(e).

Added by Acts 1995, 74th Leg., ch. 1035, Sec. 17, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1231, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1319, Sec. 18, eff. Sept. 1, 1999. Amended by:

Acts 2023, 88th Leg., R.S., Ch. 847 (H.B. 3033), Sec. 6, eff. September 1, 2023.

Sec. 552.272. INSPECTION OF ELECTRONIC RECORD IF COPY NOT REQUESTED. (a) In response to a request to inspect information that exists in an electronic medium and that is not available directly on-line to the requestor, a charge may not be imposed for access to the information, unless complying with the request will require programming or manipulation of data. If programming or manipulation of data is required, the governmental body shall notify the requestor before assembling the information and provide the requestor with an estimate of charges that will be imposed to make the information available. A charge under this section must be assessed in accordance with this subchapter.

(b) If public information exists in an electronic form on a computer owned or leased by a governmental body and if the public has direct access to that computer through a computer network or other means, the electronic form of the information may be electronically copied from that computer without charge if accessing the information does not require processing, programming, or manipulation on the government-owned or government-leased computer before the information is copied.

(c) If public information exists in an electronic form on a computer owned or leased by a governmental body and if the public has direct access to that computer through a computer network or other means and the information requires processing, programming, or manipulation before it can be electronically copied, a governmental body may impose charges in accordance with this subchapter.

(d) If information is created or kept in an electronic form, a governmental body is encouraged to explore options to separate out confidential information and to make public information available to the public through electronic access through a computer network or by other means.

(e) The provisions of this section that prohibit a governmental entity from imposing a charge for access to information that exists

in an electronic medium do not apply to the collection of a fee set by the supreme court after consultation with the Judicial Committee on Information Technology as authorized by Section 77.031 for the use of a computerized electronic judicial information system.

(f) A requestor who has exceeded a limit established by a governmental body under Section 552.275 may not inspect public information on behalf of another requestor unless the requestor who exceeded the limit has paid each statement issued by the governmental body under Section 552.275(e).

Added by Acts 1995, 74th Leg., ch. 1035, Sec. 17, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1231, Sec. 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1327, Sec. 5, eff. Sept. 1, 1997.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 847 (H.B. 3033), Sec. 7, eff. September 1, 2023.

Sec. 552.274. REPORT BY ATTORNEY GENERAL ON COST OF COPIES. (a) The attorney general shall:

(1) biennially update a report prepared by the attorney general about the charges made by state agencies for providing copies of public information; and

(2) provide a copy of the updated report on the attorney general's open records page on the Internet not later than March 1 of each even-numbered year.

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(62), eff. June 17, 2011.

(c) In this section, "state agency" has the meaning assigned by Sections 2151.002(2)(A) and (C).

Added by Acts 1995, 74th Leg., ch. 693, Sec. 17, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19, eff. Sept. 1, 1997. Renumbered from Government Code Sec. 552.270 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(47), eff. Sept. 1, 1997. Renumbered from Government Code Sec. 552.270 and amended by Acts 1997, 75th Leg., ch. 1231, Sec. 4, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1319, Sec. 19, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 9.008(a), eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 329 (S.B. 727), Sec. 9, eff. September

1, 2005.

Acts 2005, 79th Leg., Ch. 716 (S.B. 452), Sec. 8, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 716 (S.B. 452), Sec. 9, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1377 (S.B. 1182), Sec. 7, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(62), eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.014, eff. September 1, 2013.

Sec. 552.275. REQUESTS THAT REQUIRE LARGE AMOUNTS OF EMPLOYEE OR PERSONNEL TIME. (a) A governmental body may establish reasonable monthly and yearly limits on the amount of time that personnel of the governmental body are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time.

(a-1) For purposes of this section, all county officials who have designated the same officer for public information may calculate the amount of time that personnel are required to spend collectively for purposes of the monthly or yearly limit.

(b) A yearly time limit established under Subsection (a) may not be less than 36 hours for a requestor during the 12-month period that corresponds to the fiscal year of the governmental body. A monthly time limit established under Subsection (a) may not be less than 15 hours for a requestor for a one-month period.

(c) In determining whether a time limit established under Subsection (a) applies, any time spent complying with a request for public information submitted in the name of a minor, as defined by Section 101.003(a), Family Code, is to be included in the calculation of the cumulative amount of time spent complying with a request for public information by a parent, guardian, or other person who has control of the minor under a court order and with whom the minor resides, unless that parent, guardian, or other person establishes that another person submitted that request in the name of the minor.

(d) If a governmental body establishes a time limit under Subsection (a), each time the governmental body complies with a

request for public information, the governmental body shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable monthly or yearly period. The amount of time spent preparing the written statement may not be included in the amount of time included in the statement provided to the requestor under this subsection unless the requestor's time limit for the period has been exceeded.

(e) Subject to Subsection (e-1), if in connection with a request for public information, the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the limit established by the governmental body under Subsection (a), the governmental body shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The written estimate must be provided to the requestor on or before the 10th day after the date on which the public information was requested. The amount of this charge relating to the cost of locating, compiling, and producing the public information shall be established by rules prescribed by the attorney general under Sections 552.262(a) and (b).

(e-1) This subsection applies only to a request made by a requestor who has made a previous request to a governmental body that has not been withdrawn, for which the governmental body has located and compiled documents in response, and for which the governmental body has issued a statement under Subsection (e) that remains unpaid on the date the requestor submits the new request. A governmental body is not required to locate, compile, produce, or provide copies of documents or prepare a statement under Subsection (e) in response to a new request described by this subsection until the date the requestor pays each unpaid statement issued under Subsection (e) in connection with a previous request or withdraws the previous request to which the statement applies.

(f) If the governmental body determines that additional time is required to prepare the written estimate under Subsection (e) and provides the requestor with a written statement of that determination, the governmental body must provide the written statement under that subsection as soon as practicable, but on or before the 10th day after the date the governmental body provided the

statement under this subsection.

(g) If a governmental body provides a requestor with a written statement under Subsection (e) or (o) and the time limits prescribed by Subsection (a) regarding the requestor have been exceeded, the governmental body is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the 10th day after the date the governmental body provided the written statement under that subsection, the requestor submits payment of the amount stated in the written statement provided under Subsection (e) or provides identification or submits payment as required by Subsection (o), as applicable.

(h) If the requestor fails or refuses to provide identification or submit payment under Subsection (g), the requestor is considered to have withdrawn the requestor's pending request for public information.

(i) This section does not prohibit a governmental body from providing a copy of public information without charge or at a reduced rate under Section 552.267 or from waiving a charge for providing a copy of public information under that section.

(j) This section does not apply if the requestor is an individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for:

(1) dissemination by a news medium or communication service provider, including:

(A) an individual who supervises or assists in gathering, preparing, and disseminating the news or information; or

(B) an individual who is or was a journalist, scholar, or researcher employed by an institution of higher education at the time the person made the request for information; or

(2) creation or maintenance of an abstract plant as described by Section 2501.004, Insurance Code.

(k) This section does not apply if the requestor is an elected official of the United States, this state, or a political subdivision of this state.

(l) This section does not apply if the requestor is a representative of a publicly funded legal services organization that

is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code.

(m) In this section:

(1) "Communication service provider" has the meaning assigned by Section 22.021, Civil Practice and Remedies Code.

(2) "News medium" means a newspaper, magazine or periodical, a book publisher, a news agency, a wire service, an FCC-licensed radio or television station or a network of such stations, a cable, satellite, or other transmission system or carrier or channel, or a channel or programming service for a station, network, system, or carrier, or an audio or audiovisual production company or Internet company or provider, or the parent, subsidiary, division, or affiliate of that entity, that disseminates news or information to the public by any means, including:

(A) print;

(B) television;

(C) radio;

(D) photographic;

(E) mechanical;

(F) electronic; and

(G) other means, known or unknown, that are accessible to the public.

(n) A governmental body may request photo identification from a requestor for the sole purpose of establishing that the requestor has not:

(1) exceeded a limit established by the governmental body under Subsection (a); and

(2) concealed the requestor's identity.

(o) A request for photo identification under Subsection (n) must include a statement under Subsection (e) applicable to the requestor who has exceeded a limit established by the governmental body and a statement that describes each specific reason why Subsection (n) may apply to the requestor. The governmental body shall accept as proof of a requestor's identification physical presentment of photo identification or an image of the photo identification that is transmitted electronically or through the mail. A requestor from whom a governmental body has requested photo identification under Subsection (n) may decline to provide identification and obtain the requested information by paying the

charge assessed in the statement.

Added by Acts 2007, 80th Leg., R.S., Ch. 1398 (H.B. 2564), Sec. 1, eff. June 15, 2007.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1383 (S.B. 1629), Sec. 1, eff. September 1, 2009.
Acts 2017, 85th Leg., R.S., Ch. 894 (H.B. 3107), Sec. 3, eff. September 1, 2017.
Acts 2023, 88th Leg., R.S., Ch. 847 (H.B. 3033), Sec. 8, eff. September 1, 2023.

SUBCHAPTER G. ATTORNEY GENERAL DECISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4219, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 552.301. REQUEST FOR ATTORNEY GENERAL DECISION. (a) A governmental body that receives a written request for information that it wishes to withhold from public disclosure and that it considers to be within one of the exceptions under Subchapter C must ask for a decision from the attorney general about whether the information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions.

(a-1) For the purposes of this subchapter, if a governmental body receives a written request by United States mail and cannot adequately establish the actual date on which the governmental body received the request, the written request is considered to have been received by the governmental body on the third business day after the date of the postmark on a properly addressed request.

(b) The governmental body must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10th business day after the date of receiving the written request.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1340 (S.B. 944), Sec. 7, eff. September 1, 2019.

(d) A governmental body that requests an attorney general decision under Subsection (a) must provide to the requestor within a reasonable time but not later than the 10th business day after the

date of receiving the requestor's written request:

(1) a written statement that the governmental body wishes to withhold the requested information and has asked for a decision from the attorney general about whether the information is within an exception to public disclosure; and

(2) a copy of the governmental body's written communication to the attorney general asking for the decision or, if the governmental body's written communication to the attorney general discloses the requested information, a redacted copy of that written communication.

(e) A governmental body that requests an attorney general decision under Subsection (a) must within a reasonable time but not later than the 15th business day after the date of receiving the written request:

(1) submit to the attorney general:

(A) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld;

(B) a copy of the written request for information;

(C) a signed statement as to the date on which the written request for information was received by the governmental body or evidence sufficient to establish that date; and

(D) a copy of the specific information requested, or submit representative samples of the information if a voluminous amount of information was requested; and

(2) label that copy of the specific information, or of the representative samples, to indicate which exceptions apply to which parts of the copy.

(e-1) A governmental body that submits written comments to the attorney general under Subsection (e)(1)(A) shall send a copy of those comments to the person who requested the information from the governmental body not later than the 15th business day after the date of receiving the written request. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the person must be a redacted copy.

(f) A governmental body must release the requested information and is prohibited from asking for a decision from the attorney general about whether information requested under this chapter is within an exception under Subchapter C if:

(1) the governmental body has previously requested and received a determination from the attorney general concerning the

precise information at issue in a pending request; and

(2) the attorney general or a court determined that the information is public information under this chapter that is not excepted by Subchapter C.

(g) A governmental body may ask for another decision from the attorney general concerning the precise information that was at issue in a prior decision made by the attorney general under this subchapter if:

(1) a suit challenging the prior decision was timely filed against the attorney general in accordance with this chapter concerning the precise information at issue;

(2) the attorney general determines that the requestor has voluntarily withdrawn the request for the information in writing or has abandoned the request; and

(3) the parties agree to dismiss the lawsuit.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 18, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1231, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1319, Sec. 20, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 329 (S.B. 727), Sec. 10, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 474 (H.B. 2248), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1377 (S.B. 1182), Sec. 8, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. 602), Sec. 39, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1340 (S.B. 944), Sec. 7, eff. September 1, 2019.

Sec. 552.302. FAILURE TO MAKE TIMELY REQUEST FOR ATTORNEY GENERAL DECISION; PRESUMPTION THAT INFORMATION IS PUBLIC. If a governmental body does not request an attorney general decision as provided by Section 552.301 and provide the requestor with the information required by Sections 552.301(d) and (e-1), the information requested in writing is presumed to be subject to required public disclosure and must be released unless there is a

compelling reason to withhold the information.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 1319, Sec. 21, eff. Sept. 1, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 329 (S.B. 727), Sec. 11, eff. September 1, 2005.

Sec. 552.303. DELIVERY OF REQUESTED INFORMATION TO ATTORNEY GENERAL; DISCLOSURE OF REQUESTED INFORMATION; ATTORNEY GENERAL REQUEST FOR SUBMISSION OF ADDITIONAL INFORMATION. (a) A governmental body that requests an attorney general decision under this subchapter shall supply to the attorney general, in accordance with Section 552.301, the specific information requested. Unless the information requested is confidential by law, the governmental body may disclose the requested information to the public or to the requestor before the attorney general makes a final determination that the requested information is public or, if suit is filed under this chapter, before a final determination that the requested information is public has been made by the court with jurisdiction over the suit, except as otherwise provided by Section 552.322.

(b) The attorney general may determine whether a governmental body's submission of information to the attorney general under Section 552.301 is sufficient to render a decision.

(c) If the attorney general determines that information in addition to that required by Section 552.301 is necessary to render a decision, the attorney general shall give written notice of that fact to the governmental body and the requestor.

(d) A governmental body notified under Subsection (c) shall submit the necessary additional information to the attorney general not later than the seventh calendar day after the date the notice is received.

(e) If a governmental body does not comply with Subsection (d), the information that is the subject of a person's request to the governmental body and regarding which the governmental body fails to comply with Subsection (d) is presumed to be subject to required public disclosure and must be released unless there exists a compelling reason to withhold the information.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 19, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1319, Sec. 22, eff. Sept. 1, 1999.

Sec. 552.3031. ELECTRONIC SUBMISSION OF REQUEST FOR ATTORNEY GENERAL DECISION. (a) This section does not apply to a request for an attorney general decision made under this subchapter if:

(1) the governmental body requesting the decision:

(A) has fewer than 16 full-time employees; or

(B) is located in a county with a population of less than 150,000;

(2) the amount or format of responsive information at issue in a particular request makes use of the attorney general's electronic filing system impractical or impossible; or

(3) the request is hand delivered to the office of the attorney general.

(b) A governmental body that requests an attorney general decision under this subchapter must submit the request through the attorney general's designated electronic filing system.

(c) The attorney general may adopt rules necessary to implement this section, including rules that define the amount or type of formatting of information described by Subsection (a)(2) that makes use of the electronic filing system impractical or impossible.

Added by Acts 2023, 88th Leg., R.S., Ch. 847 (H.B. 3033), Sec. 9, eff. September 1, 2023.

Sec. 552.3035. DISCLOSURE OF REQUESTED INFORMATION BY ATTORNEY GENERAL. The attorney general may not disclose to the requestor or the public any information submitted to the attorney general under Section 552.301(e)(1)(D).

Added by Acts 1999, 76th Leg., ch. 1319, Sec. 23, eff. Sept. 1, 1999.

Sec. 552.304. SUBMISSION OF PUBLIC COMMENTS. (a) A person may submit written comments stating reasons why the information at issue in a request for an attorney general decision should or should not be released.

(b) A person who submits written comments to the attorney general under Subsection (a) shall send a copy of those comments to both the person who requested the information from the governmental body and the governmental body. If the written comments submitted to the attorney general disclose or contain the substance of the information requested from the governmental body, the copy of the comments sent to the person who requested the information must be a redacted copy.

(c) In this section, "written comments" includes a letter, a memorandum, or a brief.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 20, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 329 (S.B. 727), Sec. 12, eff. September 1, 2005.

Sec. 552.305. INFORMATION INVOLVING PRIVACY OR PROPERTY INTERESTS OF THIRD PARTY. (a) In a case in which information is requested under this chapter and a person's privacy or property interests may be involved, including a case under Section 552.101, 552.110, 552.1101, 552.114, 552.131, or 552.143, a governmental body may decline to release the information for the purpose of requesting an attorney general decision.

(b) A person whose interests may be involved under Subsection (a), or any other person, may submit in writing to the attorney general the person's reasons why the information should be withheld or released.

(c) The governmental body may, but is not required to, submit its reasons why the information should be withheld or released.

(d) If release of a person's proprietary information may be subject to exception under Section 552.101, 552.110, 552.1101, 552.113, 552.131, or 552.143, the governmental body that requests an attorney general decision under Section 552.301 shall make a good faith attempt to notify that person of the request for the attorney general decision. Notice under this subsection must:

(1) be in writing and sent within a reasonable time not later than the 10th business day after the date the governmental body

receives the request for the information; and

(2) include:

(A) a copy of the written request for the information, if any, received by the governmental body; and

(B) a statement, in the form prescribed by the attorney general, that the person is entitled to submit in writing to the attorney general within a reasonable time not later than the 10th business day after the date the person receives the notice:

(i) each reason the person has as to why the information should be withheld; and

(ii) a letter, memorandum, or brief in support of that reason.

(e) A person who submits a letter, memorandum, or brief to the attorney general under Subsection (d) shall send a copy of that letter, memorandum, or brief to the person who requested the information from the governmental body. If the letter, memorandum, or brief submitted to the attorney general contains the substance of the information requested, the copy of the letter, memorandum, or brief may be a redacted copy.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 21, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1319, Sec. 24, eff. Sept. 1, 1999. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1216 (S.B. 943), Sec. 7, eff. January 1, 2020.

Sec. 552.306. RENDITION OF ATTORNEY GENERAL DECISION; ISSUANCE OF WRITTEN OPINION. (a) Except as provided by Section 552.011, the attorney general shall promptly render a decision requested under this subchapter, consistent with the standards of due process, determining whether the requested information is within one of the exceptions of Subchapter C. The attorney general shall render the decision not later than the 45th business day after the date the attorney general received the request for a decision. If the attorney general is unable to issue the decision within the 45-day period, the attorney general may extend the period for issuing the decision by an additional 10 business days by informing the governmental body and the requestor, during the original 45-day

period, of the reason for the delay.

(b) The attorney general shall issue a written opinion of the determination and shall provide a copy of the opinion to the requestor.

(c) A governmental body shall as soon as practicable but within a reasonable period of time after the date the attorney general issues an opinion under Subsection (b) regarding information requested under this chapter:

(1) provide the requestor of the information an itemized estimate of charges for production of the information if the estimate is required by Section 552.2615;

(2) if the requested information is voluminous:

(A) take the following actions if the governmental body determines that it is able to disclose the information in a single batch:

(i) provide a written certified notice to the requestor and the attorney general that it is impractical or impossible for the governmental body to produce the information within a reasonable period of time;

(ii) include in the notice the date and hour that the governmental body will disclose the information to the requestor, which may not be later than the 15th business day after the date the governmental body provides the notice; and

(iii) produce the information at the date and time included in the notice; or

(B) take the following actions if the governmental body determines that it is unable to disclose the information in a single batch:

(i) provide a written certified notice to the requestor and the attorney general that it is impractical or impossible for the governmental body to produce the information within a reasonable period of time and in a single batch;

(ii) include in the notice the date and hour that the governmental body will disclose the first batch of information to the requestor, which may not be later than the 15th business day after the date the governmental body provides the notice;

(iii) provide a written certified notice to the requestor and the attorney general when each subsequent batch of information is disclosed to the requestor of the date and hour that the governmental body will disclose the next batch of information to

the requestor, which may not be later than the 15th business day after the date the governmental body provides the notice; and

(iv) produce the requested information at each date and time included in a notice;

(3) produce the information if it is required to be produced;

(4) notify the requestor in writing that the governmental body is withholding the information as authorized by the opinion; or

(5) notify the requestor in writing that the governmental body has filed suit against the attorney general under Section 552.324 regarding the information.

(d) A governmental body is presumed to have complied with the requirements of Subsection (c) if the governmental body takes an action under that subsection regarding information that is the subject of an opinion issued by the attorney general not later than the 30th day after the date the attorney general issues the opinion.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 22, eff. Jan. 1, 1996; Acts 1999, 76th Leg., ch. 1319, Sec. 25, eff. Sept. 1, 1999. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 349 (S.B. 175), Sec. 2, eff. June 15, 2007.

Acts 2023, 88th Leg., R.S., Ch. 847 (H.B. 3033), Sec. 10, eff. September 1, 2023.

Sec. 552.307. SPECIAL RIGHT OF ACCESS; ATTORNEY GENERAL DECISIONS. (a) If a governmental body determines that information subject to a special right of access under Section 552.023 is exempt from disclosure under an exception of Subchapter C, other than an exception intended to protect the privacy interest of the requestor or the person whom the requestor is authorized to represent, the governmental body shall, before disclosing the information, submit a written request for a decision to the attorney general under the procedures of this subchapter.

(b) If a decision is not requested under Subsection (a), the governmental body shall release the information to the person with a special right of access under Section 552.023 not later than the 10th business day after the date of receiving the request for information.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 349 (S.B. 175), Sec. 3, eff. June 15, 2007.

Sec. 552.308. TIMELINESS OF ACTION BY UNITED STATES MAIL, INTERAGENCY MAIL, OR COMMON OR CONTRACT CARRIER. (a) Except as provided by Section 552.3031, when this subchapter requires a request, notice, or other document to be submitted or otherwise given to a person within a specified period, the requirement is met in a timely fashion if the document is sent to the person by first class United States mail or common or contract carrier properly addressed with postage or handling charges prepaid and:

(1) it bears a post office cancellation mark or a receipt mark of a common or contract carrier indicating a time within that period; or

(2) the person required to submit or otherwise give the document furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within that period.

(b) Except as provided by Section 552.3031, when this subchapter requires an agency of this state to submit or otherwise give to the attorney general within a specified period a request, notice, or other writing, the requirement is met in a timely fashion if:

(1) the request, notice, or other writing is sent to the attorney general by interagency mail; and

(2) the agency provides evidence sufficient to establish that the request, notice, or other writing was deposited in the interagency mail within that period.

Added by Acts 1995, 74th Leg., ch. 1035, Sec. 23, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 1319, Sec. 26, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 909, Sec. 1, 2, eff. June 20, 2003.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 847 (H.B. 3033), Sec. 11, eff. September 1, 2023.

Sec. 552.309. TIMELINESS OF ACTION BY ELECTRONIC SUBMISSION.

(a) When this subchapter requires a request, notice, or other document to be submitted or otherwise given to the attorney general within a specified period, the requirement is met in a timely fashion if the document is submitted to the attorney general through the attorney general's designated electronic filing system within that period.

(b) The attorney general may electronically transmit a notice, decision, or other document. When this subchapter requires the attorney general to deliver a notice, decision, or other document within a specified period, the requirement is met in a timely fashion if the document is electronically transmitted by the attorney general within that period.

(c) This section does not affect the right of a person or governmental body to submit information to the attorney general under Section 552.308.

Added by Acts 2011, 82nd Leg., R.S., Ch. 552 (H.B. 2866), Sec. 2, eff. June 17, 2011.

Sec. 552.310. SEARCHABLE DATABASE. (a) The office of the attorney general shall make available on the office's Internet website an easily accessible and searchable database consisting of:

(1) information identifying each request for an attorney general decision made under this subchapter; and

(2) the attorney general's opinion issued for the request.

(b) The database at a minimum must allow a person to search for a request or opinion described by Subsection (a) by:

(1) the name of the governmental body making the request; and

(2) the exception under Subchapter C that a governmental body asserts in the request applies to its request to withhold information from public disclosure.

(c) The database must allow a person to view the current status of a request described by Subsection (a)(1) and an estimated timeline indicating the date each stage of review of the request will be started and completed.

Added by Acts 2023, 88th Leg., R.S., Ch. 847 (H.B. 3033), Sec. 12, eff. September 1, 2023.

SUBCHAPTER H. CIVIL ENFORCEMENT

Sec. 552.321. SUIT FOR WRIT OF MANDAMUS. (a) A requestor or the attorney general may file suit for a writ of mandamus compelling a governmental body to make information available for public inspection if the governmental body refuses to request an attorney general's decision as provided by Subchapter G or refuses to supply public information or information that the attorney general has determined is public information that is not excepted from disclosure under Subchapter C.

(b) A suit filed by a requestor under this section must be filed in a district court for the county in which the main offices of the governmental body are located. A suit filed by the attorney general under this section must be filed in a district court of Travis County, except that a suit against a municipality with a population of 100,000 or less must be filed in a district court for the county in which the main offices of the municipality are located.

(c) A requestor may file suit for a writ of mandamus compelling a governmental body or an entity to comply with the requirements of Subchapter J.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 24, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1319, Sec. 27, eff. Sept. 1, 1999. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1216 (S.B. 943), Sec. 8, eff. January 1, 2020.

Sec. 552.3215. DECLARATORY JUDGMENT OR INJUNCTIVE RELIEF. (a) In this section:

(1) "Complainant" means a person who claims to be the victim of a violation of this chapter.

(2) "State agency" means a board, commission, department, office, or other agency that:

(A) is in the executive branch of state government;

(B) was created by the constitution or a statute of this state; and

(C) has statewide jurisdiction.

(b) An action for a declaratory judgment or injunctive relief may be brought in accordance with this section against a governmental

body that violates this chapter.

(c) The district or county attorney for the county in which a governmental body other than a state agency is located or the attorney general may bring the action in the name of the state only in a district court for that county. If the governmental body extends into more than one county, the action may be brought only in the county in which the administrative offices of the governmental body are located.

(d) If the governmental body is a state agency, the Travis County district attorney or the attorney general may bring the action in the name of the state only in a district court of Travis County.

(e) A complainant may file a complaint alleging a violation of this chapter. The complaint must be filed with the district or county attorney of the county in which the governmental body is located unless the governmental body is the district or county attorney. If the governmental body extends into more than one county, the complaint must be filed with the district or county attorney of the county in which the administrative offices of the governmental body are located. If the governmental body is a state agency, the complaint may be filed with the Travis County district attorney. If the governmental body is the district or county attorney, the complaint must be filed with the attorney general. To be valid, a complaint must:

(1) be in writing and signed by the complainant;

(2) state the name of the governmental body that allegedly committed the violation, as accurately as can be done by the complainant;

(3) state the time and place of the alleged commission of the violation, as definitely as can be done by the complainant; and

(4) in general terms, describe the violation.

(f) A district or county attorney with whom the complaint is filed shall indicate on the face of the written complaint the date the complaint is filed.

(g) Before the 31st day after the date a complaint is filed under Subsection (e), the district or county attorney shall:

(1) determine whether:

(A) the violation alleged in the complaint was committed; and

(B) an action will be brought against the governmental body under this section; and

(2) notify the complainant in writing of those determinations.

(h) Notwithstanding Subsection (g)(1), if the district or county attorney believes that that official has a conflict of interest that would preclude that official from bringing an action under this section against the governmental body complained of, before the 31st day after the date the complaint was filed the county or district attorney shall inform the complainant of that official's belief and of the complainant's right to file the complaint with the attorney general. If the district or county attorney determines not to bring an action under this section, the district or county attorney shall:

(1) include a statement of the basis for that determination; and

(2) return the complaint to the complainant.

(i) If the district or county attorney determines not to bring an action under this section, the complainant is entitled to file the complaint with the attorney general before the 31st day after the date the complaint is returned to the complainant. A complainant is entitled to file a complaint with the attorney general on or after the 90th day after the date the complainant files the complaint with a district or county attorney if the district or county attorney has not brought an action under this section. On receipt of the written complaint, the attorney general shall comply with each requirement in Subsections (g) and (h) in the time required by those subsections. If the attorney general decides to bring an action under this section against a governmental body located only in one county in response to the complaint, the attorney general must comply with Subsection (c).

(j) An action may be brought under this section only if the official proposing to bring the action notifies the governmental body in writing of the official's determination that the alleged violation was committed and the governmental body does not cure the violation before the fourth day after the date the governmental body receives the notice.

(k) An action authorized by this section is in addition to any other civil, administrative, or criminal action provided by this chapter or another law.

Added by Acts 1999, 76th Leg., ch. 1319, Sec. 28, eff. Sept. 1, 1999.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 894 (H.B. 3107), Sec. 4, eff. September 1, 2017.

Sec. 552.322. DISCOVERY OF INFORMATION UNDER PROTECTIVE ORDER PENDING FINAL DETERMINATION. In a suit filed under this chapter, the court may order that the information at issue may be discovered only under a protective order until a final determination is made.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 552.3221. IN CAMERA INSPECTION OF INFORMATION. (a) In any suit filed under this chapter, the information at issue may be filed with the court for in camera inspection as is necessary for the adjudication of the case.

(b) Upon receipt of the information at issue for in camera inspection, the court shall enter an order that prevents release to or access by any person other than the court, a reviewing court of appeals, or parties permitted to inspect the information pursuant to a protective order. The order shall further note the filing date and time.

(c) The information at issue filed with the court for in camera inspection shall be:

(1) appended to the order and transmitted by the court to the clerk for filing as "information at issue";

(2) maintained in a sealed envelope or in a manner that precludes disclosure of the information; and

(3) transmitted by the clerk to any court of appeal as part of the clerk's record.

(d) Information filed with the court under this section does not constitute "court records" within the meaning of Rule 76a, Texas Rules of Civil Procedure, and shall not be made available by the clerk or any custodian of record for public inspection.

(e) For purposes of this section, "information at issue" is defined as information held by a governmental body that forms the basis of a suit under this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 461 (S.B. 983), Sec. 1, eff. September 1, 2013.

Sec. 552.323. ASSESSMENT OF COSTS OF LITIGATION AND REASONABLE ATTORNEY FEES. (a) In an action brought under Section 552.321 or 552.3215, the court shall assess costs of litigation and reasonable attorney fees incurred by a plaintiff who substantially prevails, except that the court may not assess those costs and fees against a governmental body if the court finds that the governmental body acted in reasonable reliance on:

(1) a judgment or an order of a court applicable to the governmental body;

(2) the published opinion of an appellate court; or

(3) a written decision of the attorney general, including a decision issued under Subchapter G or an opinion issued under Section 402.042.

(b) In an action brought under Section 552.324, the court may not assess costs of litigation or reasonable attorney's fees incurred by a plaintiff or defendant who substantially prevails unless the court finds the action or the defense of the action was groundless in fact or law. In exercising its discretion under this subsection, the court shall consider whether the conduct of the governmental body had a reasonable basis in law and whether the litigation was brought in good faith.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 1319, Sec. 29, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1377 (S.B. 1182), Sec. 9, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 616 (S.B. 988), Sec. 1, eff. September 1, 2019.

Sec. 552.324. SUIT BY GOVERNMENTAL BODY. (a) The only suit a governmental body may file seeking to withhold information from a requestor is a suit that:

(1) is filed in a Travis County district court against the attorney general in accordance with Section 552.325; and

(2) seeks declaratory relief from compliance with a decision by the attorney general issued under Subchapter G.

(b) The governmental body must bring the suit not later than

the 30th calendar day after the date the governmental body receives the decision of the attorney general determining that the requested information must be disclosed to the requestor. If the governmental body does not bring suit within that period, the governmental body shall comply with the decision of the attorney general. If a governmental body wishes to preserve an affirmative defense for its officer for public information as provided in Section 552.353(b)(3), suit must be filed within the deadline provided in Section 552.353(b)(3).

Added by Acts 1995, 74th Leg., ch. 578, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 1035, Sec. 24, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 13.01, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1231, Sec. 9, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1319, Sec. 30, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1377 (S.B. 1182), Sec. 10, eff. September 1, 2009.

Sec. 552.325. PARTIES TO SUIT SEEKING TO WITHHOLD INFORMATION. (a) A governmental body, officer for public information, or other person or entity that files a suit seeking to withhold information from a requestor may not file suit against the person requesting the information. The requestor is entitled to intervene in the suit.

(b) The governmental body, officer for public information, or other person or entity that files the suit shall demonstrate to the court that the governmental body, officer for public information, or other person or entity made a timely good faith effort to inform the requestor, by certified mail or by another written method of notice that requires the return of a receipt, of:

(1) the existence of the suit, including the subject matter and cause number of the suit and the court in which the suit is filed;

(2) the requestor's right to intervene in the suit or to choose to not participate in the suit;

(3) the fact that the suit is against the attorney general in Travis County district court; and

(4) the address and phone number of the office of the attorney general.

(c) If the attorney general enters into a proposed settlement that all or part of the information that is the subject of the suit should be withheld, the attorney general shall notify the requestor of that decision and, if the requestor has not intervened in the suit, of the requestor's right to intervene to contest the withholding. The attorney general shall notify the requestor:

(1) in the manner required by the Texas Rules of Civil Procedure, if the requestor has intervened in the suit; or

(2) by certified mail or by another written method of notice that requires the return of a receipt, if the requestor has not intervened in the suit.

(d) The court shall allow the requestor a reasonable period to intervene after the attorney general attempts to give notice under Subsection (c)(2).

Added by Acts 1995, 74th Leg., ch. 578, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 1035, Sec. 24, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 13.01, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1231, Sec. 9, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1377 (S.B. 1182), Sec. 11, eff. September 1, 2009.

Sec. 552.326. FAILURE TO RAISE EXCEPTIONS BEFORE ATTORNEY GENERAL. (a) Except as provided by Subsection (b), the only exceptions to required disclosure within Subchapter C that a governmental body may raise in a suit filed under this chapter are exceptions that the governmental body properly raised before the attorney general in connection with its request for a decision regarding the matter under Subchapter G.

(b) Subsection (a) does not prohibit a governmental body from raising an exception:

(1) based on a requirement of federal law; or

(2) involving the property or privacy interests of another person.

Added by Acts 1999, 76th Leg., ch. 1319, Sec. 31, eff. Sept. 1, 1999.

Sec. 552.327. DISMISSAL OF SUIT DUE TO REQUESTOR'S WITHDRAWAL

OR ABANDONMENT OF REQUEST. A court may dismiss a suit challenging a decision of the attorney general brought in accordance with this chapter if:

(1) all parties to the suit agree to the dismissal; and

(2) the attorney general determines and represents to the court that the requestor has voluntarily withdrawn the request for information in writing or has abandoned the request.

Added by Acts 2007, 80th Leg., R.S., Ch. 474 (H.B. 2248), Sec. 2, eff. September 1, 2007.

SUBCHAPTER I. CRIMINAL VIOLATIONS

Sec. 552.351. DESTRUCTION, REMOVAL, OR ALTERATION OF PUBLIC INFORMATION. (a) A person commits an offense if the person wilfully destroys, mutilates, removes without permission as provided by this chapter, or alters public information.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than $25 or more than $4,000;

(2) confinement in the county jail for not less than three days or more than three months; or

(3) both the fine and confinement.

(c) It is an exception to the application of Subsection (a) that the public information was transferred under Section 441.204.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 25, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 771, Sec. 2, eff. June 13, 2001.

Sec. 552.352. DISTRIBUTION OR MISUSE OF CONFIDENTIAL INFORMATION. (a) A person commits an offense if the person distributes information considered confidential under the terms of this chapter.

(a-1) An officer or employee of a governmental body who obtains access to confidential information under Section 552.008 commits an offense if the officer or employee knowingly:

(1) uses the confidential information for a purpose other than the purpose for which the information was received or for a purpose unrelated to the law that permitted the officer or employee

to obtain access to the information, including solicitation of political contributions or solicitation of clients;

(2) permits inspection of the confidential information by a person who is not authorized to inspect the information; or

(3) discloses the confidential information to a person who is not authorized to receive the information.

(a-2) For purposes of Subsection (a-1), a member of an advisory committee to a governmental body who obtains access to confidential information in that capacity is considered to be an officer or employee of the governmental body.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not more than $1,000;

(2) confinement in the county jail for not more than six months; or

(3) both the fine and confinement.

(c) A violation under this section constitutes official misconduct.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 7.01, 7.02, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1089, Sec. 2, eff. Sept. 1, 2003.

Sec. 552.353. FAILURE OR REFUSAL OF OFFICER FOR PUBLIC INFORMATION TO PROVIDE ACCESS TO OR COPYING OF PUBLIC INFORMATION. (a) An officer for public information, or the officer's agent, commits an offense if, with criminal negligence, the officer or the officer's agent fails or refuses to give access to, or to permit or provide copying of, public information to a requestor as provided by this chapter.

(b) It is an affirmative defense to prosecution under Subsection (a) that the officer for public information reasonably believed that public access to the requested information was not required and that:

(1) the officer acted in reasonable reliance on a court order or a written interpretation of this chapter contained in an opinion of a court of record or of the attorney general issued under Subchapter G;

(2) the officer requested a decision from the attorney

general in accordance with Subchapter G, and the decision is pending; or

(3) not later than the 10th calendar day after the date of receipt of a decision by the attorney general that the information is public, the officer or the governmental body for whom the defendant is the officer for public information filed a petition for a declaratory judgment against the attorney general in a Travis County district court seeking relief from compliance with the decision of the attorney general, as provided by Section 552.324, and the cause is pending.

(c) It is an affirmative defense to prosecution under Subsection (a) that a person or entity has, not later than the 10th calendar day after the date of receipt by a governmental body of a decision by the attorney general that the information is public, filed a cause of action seeking relief from compliance with the decision of the attorney general, as provided by Section 552.325, and the cause is pending.

(d) It is an affirmative defense to prosecution under Subsection (a) that the defendant is the agent of an officer for public information and that the agent reasonably relied on the written instruction of the officer for public information not to disclose the public information requested.

(e) An offense under this section is a misdemeanor punishable by:

(1) a fine of not more than $1,000;

(2) confinement in the county jail for not more than six months; or

(3) both the fine and confinement.

(f) A violation under this section constitutes official misconduct.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 25, eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1377 (S.B. 1182), Sec. 12, eff. September 1, 2009.

SUBCHAPTER J. ADDITIONAL PROVISIONS RELATED TO CONTRACTING INFORMATION

Sec. 552.371. CERTAIN ENTITIES REQUIRED TO PROVIDE CONTRACTING INFORMATION TO GOVERNMENTAL BODY IN CONNECTION WITH REQUEST. (a) This section applies to an entity that is not a governmental body that executes a contract with a governmental body that:

(1) has a stated expenditure of at least $1 million in public funds for the purchase of goods or services by the governmental body; or

(2) results in the expenditure of at least $1 million in public funds for the purchase of goods or services by the governmental body in a fiscal year of the governmental body.

(b) This section applies to a written request for public information received by a governmental body that is a party to a contract described by Subsection (a) for contracting information related to the contract that is in the custody or possession of the entity and not maintained by the governmental body.

(c) A governmental body that receives a written request for information described by Subsection (b) shall request that the entity provide the information to the governmental body. The governmental body must send the request in writing to the entity not later than the third business day after the date the governmental body receives the written request described by Subsection (b).

(d) Notwithstanding Section 552.301:

(1) a request for an attorney general's decision under Section 552.301(b) to determine whether contracting information subject to a written request described by Subsection (b) falls within an exception to disclosure under this chapter is considered timely if made not later than the 13th business day after the date the governmental body receives the written request described by Subsection (b);

(2) the statement and copy described by Section 552.301(d) is considered timely if provided to the requestor not later than the 13th business day after the date the governmental body receives the written request described by Subsection (b);

(3) a submission described by Section 552.301(e) is considered timely if submitted to the attorney general not later than the 18th business day after the date the governmental body receives the written request described by Subsection (b); and

(4) a copy described by Section 552.301(e-1) is considered timely if sent to the requestor not later than the 18th business day after the date the governmental body receives the written request

described by Subsection (b).

(e) Section 552.302 does not apply to information described by Subsection (b) if the governmental body:

(1) complies with the requirements of Subsection (c) in a good faith effort to obtain the information from the contracting entity;

(2) is unable to meet a deadline described by Subsection (d) because the contracting entity failed to provide the information to the governmental body not later than the 13th business day after the date the governmental body received the written request for the information; and

(3) if applicable and notwithstanding the deadlines prescribed by Sections 552.301(b), (d), (e), and (e-1), complies with the requirements of those subsections not later than the eighth business day after the date the governmental body receives the information from the contracting entity.

(f) Nothing in this section affects the deadlines or duties of a governmental body under Section 552.301 regarding information the governmental body maintains, including contracting information.

Added by Acts 2019, 86th Leg., R.S., Ch. 1216 (S.B. 943), Sec. 9, eff. January 1, 2020.

Sec. 552.372. BIDS AND CONTRACTS. (a) A contract described by Section 552.371 must require a contracting entity to:

(1) preserve all contracting information related to the contract as provided by the records retention requirements applicable to the governmental body for the duration of the contract;

(2) promptly provide to the governmental body any contracting information related to the contract that is in the custody or possession of the entity on request of the governmental body; and

(3) on completion of the contract, either:

(A) provide at no cost to the governmental body all contracting information related to the contract that is in the custody or possession of the entity; or

(B) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the governmental body.

(b) Unless Section 552.374(c) applies, a bid for a contract described by Section 552.371 and the contract must include the following statement: "The requirements of Subchapter J, Chapter 552, Government Code, may apply to this (include "bid" or "contract" as applicable) and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter."

(c) A governmental body may not accept a bid for a contract described by Section 552.371 or award the contract to an entity that the governmental body has determined has knowingly or intentionally failed to comply with this subchapter in a previous bid or contract described by that section unless the governmental body determines and documents that the entity has taken adequate steps to ensure future compliance with the requirements of this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 1216 (S.B. 943), Sec. 9, eff. January 1, 2020.

Sec. 552.373. NONCOMPLIANCE WITH PROVISION OF SUBCHAPTER. A governmental body that is the party to a contract described by Section 552.371 shall provide notice to the entity that is a party to the contract if the entity fails to comply with a requirement of this subchapter applicable to the entity. The notice must:

(1) be in writing;

(2) state the requirement of this subchapter that the entity has violated; and

(3) unless Section 552.374(c) applies, advise the entity that the governmental body may terminate the contract without further obligation to the entity if the entity does not cure the violation on or before the 10th business day after the date the governmental body provides the notice.

Added by Acts 2019, 86th Leg., R.S., Ch. 1216 (S.B. 943), Sec. 9, eff. January 1, 2020.

Sec. 552.374. TERMINATION OF CONTRACT FOR NONCOMPLIANCE. (a) Subject to Subsection (c), a governmental body may terminate a contract described by Section 552.371 if:

(1) the governmental body provides notice under Section

552.373 to the entity that is party to the contract;

(2) the contracting entity does not cure the violation in the period prescribed by Section 552.373;

(3) the governmental body determines that the contracting entity has intentionally or knowingly failed to comply with a requirement of this subchapter; and

(4) the governmental body determines that the entity has not taken adequate steps to ensure future compliance with the requirements of this subchapter.

(b) For the purpose of Subsection (a), an entity has taken adequate steps to ensure future compliance with this subchapter if:

(1) the entity produces contracting information requested by the governmental body that is in the custody or possession of the entity not later than the 10th business day after the date the governmental body makes the request; and

(2) the entity establishes a records management program to enable the entity to comply with this subchapter.

(c) A governmental body may not terminate a contract under this section if the contract is related to the purchase or underwriting of a public security, the contract is or may be used as collateral on a loan, or the contract's proceeds are used to pay debt service of a public security or loan.

Added by Acts 2019, 86th Leg., R.S., Ch. 1216 (S.B. 943), Sec. 9, eff. January 1, 2020.

Sec. 552.375. OTHER CONTRACT PROVISIONS. Nothing in this subchapter prevents a governmental body from including and enforcing more stringent requirements in a contract to increase accountability or transparency.

Added by Acts 2019, 86th Leg., R.S., Ch. 1216 (S.B. 943), Sec. 9, eff. January 1, 2020.

Sec. 552.376. CAUSE OF ACTION NOT CREATED. This subchapter does not create a cause of action to contest a bid for or the award of a contract with a governmental body.

Added by Acts 2019, 86th Leg., R.S., Ch. 1216 (S.B. 943), Sec. 9,

eff. January 1, 2020.

CHAPTER 553. PUBLIC DISCLOSURE

SUBCHAPTER A. DISCLOSURE BY PUBLIC SERVANT OF INTEREST IN PROPERTY TO BE ACQUIRED WITH PUBLIC FUNDS

Sec. 553.001. DEFINITIONS. In this subchapter:

(1) "Public funds" includes only funds collected by or through a government.

(2) "Public servant" means a person who is elected, appointed, employed, or designated, even if not yet qualified for or having assumed the duties of office, as:

(A) a candidate for nomination or election to public office; or

(B) an officer of government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 553.002. DISCLOSURE OF INTEREST IN PROPERTY. (a) A public servant who has a legal or equitable interest in property that is to be acquired with public funds shall file an affidavit within 10 days before the date on which the property is to be acquired by purchase or condemnation.

(b) The affidavit must:

(1) state the name of the public servant;

(2) state the public servant's office, public title, or job designation;

(3) fully describe the property;

(4) fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest;

(5) state the date when the person acquired an interest in the property;

(6) include a verification as follows: "I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code"; and

(7) contain an acknowledgement of the same type required for recording a deed in the deed records of the county.

(c) The affidavit must be filed with:

(1) the county clerk of the county in which the public servant resides; and

(2) the county clerk of each county in which the property is located.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 553.003. CRIMINAL PENALTY; PRESUMPTION. (a) A person commits an offense if the person violates Section 553.002 and the person has actual notice of the acquisition or intended acquisition of the legal or equitable interest in the property.

(b) A person who violates Section 553.002 by not filing the affidavit required by that section is presumed to have the intent to commit an offense under this section.

(c) An offense under this section is a Class A misdemeanor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. FAILURE BY PUBLIC OFFICER TO PUBLISH LEGAL NOTICE OR FINANCIAL STATEMENT

Sec. 553.021. DEFINITION. In this subchapter, "public officer" means an officer of the state or of a county, municipality, or school district of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 553.022. FAILURE TO PUBLISH LEGAL NOTICE OR FINANCIAL STATEMENT; CIVIL PENALTY. (a) A public officer who is required by law to publish a legal notice or financial statement commits nonfeasance of office if the officer fails to make the publication.

(b) A public officer who commits nonfeasance of office:

(1) is subject to forfeiture of salary for the month in which the notice or statement is not published; and

(2) may be removed from office if the officer wilfully continues to commit nonfeasance of office under Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 553.023. ENFORCEMENT. (a) The county or district attorney of the county in which a public officer who commits nonfeasance of office under Section 553.022 resides may file an action to enjoin or recover payment of salary or to remove the person from office.

(b) An action under this section must be filed in the appropriate district court.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 554. PROTECTION FOR REPORTING VIOLATIONS OF LAW

Sec. 554.001. DEFINITIONS. In this chapter:

(1) "Law" means:

(A) a state or federal statute;

(B) an ordinance of a local governmental entity; or

(C) a rule adopted under a statute or ordinance.

(2) "Local governmental entity" means a political subdivision of the state, including a:

(A) county;

(B) municipality;

(C) public school district; or

(D) special-purpose district or authority.

(3) "Personnel action" means an action that affects a public employee's compensation, promotion, demotion, transfer, work assignment, or performance evaluation.

(4) "Public employee" means an employee or appointed officer other than an independent contractor who is paid to perform services for a state or local governmental entity.

(5) "State governmental entity" means:

(A) a board, commission, department, office, or other agency in the executive branch of state government, created under the constitution or a statute of the state, including an institution of higher education, as defined by Section 61.003, Education Code;

(B) the legislature or a legislative agency; or

(C) the Texas Supreme Court, the Texas Court of Criminal Appeals, a court of appeals, a state judicial agency, or the State Bar of Texas.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 721, Sec. 1, eff. June 15, 1995.

Sec. 554.002. RETALIATION PROHIBITED FOR REPORTING VIOLATION OF LAW. (a) A state or local governmental entity may not suspend or terminate the employment of, or take other adverse personnel action against, a public employee who in good faith reports a violation of law by the employing governmental entity or another public employee to an appropriate law enforcement authority.

(b) In this section, a report is made to an appropriate law enforcement authority if the authority is a part of a state or local governmental entity or of the federal government that the employee in good faith believes is authorized to:

(1) regulate under or enforce the law alleged to be violated in the report; or

(2) investigate or prosecute a violation of criminal law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 721, Sec. 2, eff. June 15, 1995.

Sec. 554.003. RELIEF AVAILABLE TO PUBLIC EMPLOYEE. (a) A public employee whose employment is suspended or terminated or who is subjected to an adverse personnel action in violation of Section 554.002 is entitled to sue for:

(1) injunctive relief;

(2) actual damages;

(3) court costs; and

(4) reasonable attorney fees.

(b) In addition to relief under Subsection (a), a public employee whose employment is suspended or terminated in violation of this chapter is entitled to:

(1) reinstatement to the employee's former position or an equivalent position;

(2) compensation for wages lost during the period of suspension or termination; and

(3) reinstatement of fringe benefits and seniority rights lost because of the suspension or termination.

(c) In a suit under this chapter against an employing state or local governmental entity, a public employee may not recover compensatory damages for future pecuniary losses, emotional pain,

suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses in an amount that exceeds:

(1) $50,000, if the employing state or local governmental entity has fewer than 101 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year;

(2) $100,000, if the employing state or local governmental entity has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year;

(3) $200,000, if the employing state or local governmental entity has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year; and

(4) $250,000, if the employing state or local governmental entity has more than 500 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year.

(d) If more than one subdivision of Subsection (c) applies to an employing state or local governmental entity, the amount of monetary damages that may be recovered from the entity in a suit brought under this chapter is governed by the applicable provision that provides the highest damage award.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 721, Sec. 3, eff. June 15, 1995.

Sec. 554.0035. WAIVER OF IMMUNITY. A public employee who alleges a violation of this chapter may sue the employing state or local governmental entity for the relief provided by this chapter. Sovereign immunity is waived and abolished to the extent of liability for the relief allowed under this chapter for a violation of this chapter.

Added by Acts 1995, 74th Leg., ch. 721, Sec. 4, eff. June 15, 1995.

Sec. 554.004. BURDEN OF PROOF; PRESUMPTION; AFFIRMATIVE DEFENSE. (a) A public employee who sues under this chapter has the burden of proof, except that if the suspension or termination of, or

adverse personnel action against, a public employee occurs not later than the 90th day after the date on which the employee reports a violation of law, the suspension, termination, or adverse personnel action is presumed, subject to rebuttal, to be because the employee made the report.

(b) It is an affirmative defense to a suit under this chapter that the employing state or local governmental entity would have taken the action against the employee that forms the basis of the suit based solely on information, observation, or evidence that is not related to the fact that the employee made a report protected under this chapter of a violation of law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 721, Sec. 5, eff. June 15, 1995.

Sec. 554.005. LIMITATION PERIOD. Except as provided by Section 554.006, a public employee who seeks relief under this chapter must sue not later than the 90th day after the date on which the alleged violation of this chapter:

(1) occurred; or

(2) was discovered by the employee through reasonable diligence.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 554.006. USE OF GRIEVANCE OR APPEAL PROCEDURES. (a) A public employee must initiate action under the grievance or appeal procedures of the employing state or local governmental entity relating to suspension or termination of employment or adverse personnel action before suing under this chapter.

(b) The employee must invoke the applicable grievance or appeal procedures not later than the 90th day after the date on which the alleged violation of this chapter:

(1) occurred; or

(2) was discovered by the employee through reasonable diligence.

(c) Time used by the employee in acting under the grievance or appeal procedures is excluded, except as provided by Subsection (d), from the period established by Section 554.005.

(d) If a final decision is not rendered before the 61st day after the date procedures are initiated under Subsection (a), the employee may elect to:

(1) exhaust the applicable procedures under Subsection (a), in which event the employee must sue not later than the 30th day after the date those procedures are exhausted to obtain relief under this chapter; or

(2) terminate procedures under Subsection (a), in which event the employee must sue within the time remaining under Section 554.005 to obtain relief under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 721, Sec. 6, eff. June 15, 1995.

Sec. 554.007. WHERE SUIT BROUGHT. (a) A public employee of a state governmental entity may sue under this chapter in a district court of the county in which the cause of action arises or in a district court of Travis County.

(b) A public employee of a local governmental entity may sue under this chapter in a district court of the county in which the cause of action arises or in a district court of any county in the same geographic area that has established with the county in which the cause of action arises a council of governments or other regional commission under Chapter 391, Local Government Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 721, Sec. 7, eff. June 15, 1995.

Sec. 554.008. CIVIL PENALTY. (a) A supervisor who in violation of this chapter suspends or terminates the employment of a public employee or takes an adverse personnel action against the employee is liable for a civil penalty not to exceed $15,000.

(b) The attorney general or appropriate prosecuting attorney may sue to collect a civil penalty under this section.

(c) A civil penalty collected under this section shall be deposited in the state treasury.

(d) A civil penalty assessed under this section shall be paid by the supervisor and may not be paid by the employing governmental entity.

(e) The personal liability of a supervisor or other individual under this chapter is limited to the civil penalty that may be assessed under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 721, Sec. 8, eff. June 15, 1995.

Sec. 554.009. NOTICE TO EMPLOYEES. (a) A state or local governmental entity shall inform its employees of their rights under this chapter by posting a sign in a prominent location in the workplace.

(b) The attorney general shall prescribe the design and content of the sign required by this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 721, Sec. 9, eff. June 15, 1995.

Sec. 554.010. AUDIT OF STATE GOVERNMENTAL ENTITY AFTER SUIT. (a) At the conclusion of a suit that is brought under this chapter against a state governmental entity subject to audit under Section 321.013 and in which the entity is required to pay $10,000 or more under the terms of a settlement agreement or final judgment, the attorney general shall provide to the state auditor's office a brief memorandum describing the facts and disposition of the suit.

(b) Not later than the 90th day after the date on which the state auditor's office receives the memorandum required by Subsection (a), the auditor may audit or investigate the state governmental entity to determine any changes necessary to correct the problems that gave rise to the whistleblower suit and shall recommend such changes to the Legislative Audit Committee, the Legislative Budget Board, and the governing board or chief executive officer of the entity involved. In conducting the audit or investigation, the auditor shall have access to all records pertaining to the suit.

Added by Acts 1995, 74th Leg., ch. 721, Sec. 10, eff. June 15, 1995.

CHAPTER 555. STATE AGENCY RECORDS RELATING TO LICENSE HOLDERS OR OTHER REGULATED PERSONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 555.001. DEFINITIONS. In this chapter, "state agency," "license," and "contested case" have the meanings assigned by Section 2001.003.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 555.002. RULES. A state agency may adopt fair and reasonable rules, minimum standards, and limitations that are appropriate for implementing this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 555.003. EXCEPTION. This chapter does not apply to files that relate to drivers of motor vehicles and that are maintained by the Department of Public Safety under Subchapter C, Chapter 521, Transportation Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.194, eff. Sept. 1, 1997.

SUBCHAPTER B. PROCEDURES RELATING TO LICENSE RECORDS

Sec. 555.021. MAINTENANCE AND ACCESSIBILITY OF LICENSE RECORDS. (a) Each state agency that issues a license shall keep in its files records relating to each license holder regulated by the agency.

(b) The agency shall maintain the files in a manner that permits public access to:

(1) all information in the files relating to a license holder regulated by the agency, including information about a contested case, unless the information is excepted by law from public disclosure; and

(2) notice of information in the file as described by Section 555.022.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 555.022. REMOVAL OF RECORDS FROM FILE. (a) On removal from a state agency file of information relating to the license status of one or more license holders, the agency shall:

(1) describe the content of the removed record;

(2) indicate the reason the particular record is not any longer part of the agency file; and

(3) state the date and time the record was removed.

(b) This section does not apply to a record that is removed for destruction as permitted by law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 555.023. AGENCY FILE DIVERSIFICATION PERMITTED. (a) A state agency is not required to discontinue or convert its records management procedures or systems in existence before June 14, 1989, to comply with this chapter. An agency may continue to use those procedures and systems in conjunction with any changes made to comply with this chapter.

(b) A state agency may not impede public access to records through use of a records management procedure or system that existed before June 14, 1989, if the public is entitled by law to access.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. SHARING CONFIDENTIAL INFORMATION

Sec. 555.051. INFORMATION SHARING AMONG CERTAIN AGENCIES. (a) This section applies only to information held by or for the office of the attorney general, the Texas Department of Insurance, the Texas State Board of Public Accountancy, the Public Utility Commission of Texas, the State Securities Board, the Department of Savings and Mortgage Lending, the Texas Real Estate Commission, the Texas Appraiser Licensing and Certification Board, the Texas Department of Banking, the credit union department, the Office of Consumer Credit Commissioner, or the Texas Department of Housing and Community Affairs that relates to the possible commission of corporate fraud or mortgage fraud by a person who is licensed or otherwise regulated by any of those state agencies. In this subsection, "corporate fraud" means a violation of state or federal law or rules relating to fraud committed by a corporation, limited liability company, or registered

limited liability partnership or an officer, director, or partner of those entities while acting in a representative capacity.

(b) Each of the agencies listed in Subsection (a), on request or on its own initiative, may share confidential information or information to which access is otherwise restricted by law with one or more of the other agencies listed in Subsection (a) for investigative purposes pursuant to Subsection (a). Except as provided by this section, confidential information that is shared under this section remains confidential under law and legal restrictions on access to the information remain in effect.

(c) A state agency that receives shared information under this section:

(1) shall keep the information secure and limit access to the information within the agency to agency personnel who need access for investigative purposes; and

(2) may disclose the information obtained pursuant to Subsection (a) only:

(A) to another agency listed in Subsection (a) in accordance with this section;

(B) to another agency listed in Subsection (a) to the extent necessary to bring or prosecute a contested case or court action to restrain or prevent a violation of law or to impose sanctions or penalties in connection with a violation of law;

(C) to an appropriate law enforcement agency or prosecutor if the state agency determines that the information may be evidence of an offense or evidence that a particular person committed an offense; or

(D) under a court order or subpoena obtained after a showing to a court that disclosure of the information is necessary to protect the public health, safety, or welfare.

(d) This section does not limit or restrict information sharing among agencies as otherwise provided by law.

Added by Acts 2003, 78th Leg., ch. 1090, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 285 (H.B. 716), Sec. 4, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 709 (H.B. 2840), Sec. 3, eff. September 1, 2009.

CHAPTER 556. POLITICAL ACTIVITIES BY CERTAIN PUBLIC ENTITIES AND INDIVIDUALS

Sec. 556.001. DEFINITIONS. In this chapter:

(1) "Appropriated money" means money appropriated by the legislature through the General Appropriations Act or other law.

(2) "State agency" means:

(A) a department, commission, board, office, or other agency in the executive branch of state government, created under the constitution or a statute, with statewide authority;

(B) a university system or an institution of higher education as defined by Section 61.003, Education Code; or

(C) the supreme court, the court of criminal appeals, another entity in the judicial branch of state government with statewide authority, or a court of appeals.

(3) "State employee" means an individual who is employed by a state agency. The term does not include an elected official or an individual appointed to office by the governor or another officer.

(4) "State officer" means an individual appointed to office by the governor or another officer.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1498, Sec. 1, eff. Sept. 1, 1999.

Sec. 556.002. APPLICATION TO CERTAIN ENTITIES AND INDIVIDUALS. (a) This chapter applies to the use of appropriated money by the following public entities and their officers and employees as if the entities were state agencies and their officers and employees were state employees:

(1) a regional planning commission, council of governments, or similar regional planning agency created under Chapter 391, Local Government Code;

(2) a local workforce development board created under Subchapter F, Chapter 2308; and

(3) a community center created under Subchapter A, Chapter 534, Health and Safety Code.

(b) This chapter does not prohibit the payment of reasonable dues to an organization that represents student interests before the legislature or the Congress of the United States from that portion of

mandatory student service fees that is allocated to the student government organization at an institution of higher education. A mandatory student service fee may not be used to influence the outcome of an election.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 85, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 1498, Sec. 1, eff. Sept. 1, 1999.

Sec. 556.003. STATE EMPLOYEES' RIGHTS. A state employee has the rights of freedom of association and political participation guaranteed by the state and federal constitutions except as provided by Section 556.004.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1498, Sec. 1, eff. Sept. 1, 1999.

Sec. 556.004. PROHIBITED ACTS OF AGENCIES AND INDIVIDUALS. (a) A state agency may not use any money under its control, including appropriated money, to finance or otherwise support the candidacy of a person for an office in the legislative, executive, or judicial branch of state government or of the government of the United States. This prohibition extends to the direct or indirect employment of a person to perform an action described by this subsection.

(b) A state officer or employee may not use a state-owned or state-leased motor vehicle for a purpose described by Subsection (a).

(c) A state officer or employee may not use official authority or influence or permit the use of a program administered by the state agency of which the person is an officer or employee to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose.

(d) A state employee may not coerce, attempt to coerce, command, restrict, attempt to restrict, or prevent the payment, loan, or contribution of any thing of value to a person or political organization for a political purpose.

(e) For purposes of Subsection (c), a state officer or employee does not interfere with or affect the results of an election or nomination if the individual's conduct is permitted by a law relating

to the individual's office or employment and is not otherwise unlawful.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1498, Sec. 1, eff. Sept. 1, 1999.

Sec. 556.005. EMPLOYMENT OF LOBBYIST. (a) A state agency may not use appropriated money to employ, as a regular full-time or part-time or contract employee, a person who is required by Chapter 305 to register as a lobbyist. Except for an institution of higher education as defined by Section 61.003, Education Code, a state agency may not use any money under its control to employ or contract with an individual who is required by Chapter 305 to register as a lobbyist.

(b) A state agency may not use appropriated money to pay, on behalf of the agency or an officer or employee of the agency, membership dues to an organization that pays part or all of the salary of a person who is required by Chapter 305 to register as a lobbyist. This subsection does not apply to the payment by a state agency of membership fees under Chapter 81.

(c) A state agency that violates Subsection (a) is subject to a reduction of amounts appropriated for administration by the General Appropriations Act for the biennium following the biennium in which the violation occurs in an amount not to exceed $100,000 for each violation.

(d) A state agency administering a statewide retirement plan may enter into a contract to receive assistance or advice regarding the qualified tax status of the plan or on other federal matters affecting the administration of the state agency or its programs if the contractor is not required by Chapter 305 to register as a lobbyist.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1498, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 249, Sec. 4.11, eff. Sept. 1, 2003.

Sec. 556.0055. RESTRICTIONS ON LOBBYING EXPENDITURES. (a) A political subdivision or private entity that receives state funds may

not use the funds to pay:

(1) lobbying expenses incurred by the recipient of the funds;

(2) a person or entity that is required to register with the Texas Ethics Commission under Chapter 305;

(3) any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by Subdivision (2); or

(4) a person or entity that has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

(b) A political subdivision or private entity that violates Subsection (a) is not eligible to receive additional state funds.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 1, eff. Sept. 1, 1999.

Sec. 556.006. LEGISLATIVE LOBBYING. (a) A state agency may not use appropriated money to attempt to influence the passage or defeat of a legislative measure.

(b) This section does not prohibit a state officer or employee from using state resources to provide public information or to provide information responsive to a request.

Added by Acts 1997, 75th Leg., ch. 1035, Sec. 86, eff. June 19, 1997. Amended by Acts 1999, 76th Leg., ch. 1498, Sec. 1, eff. Sept. 1, 1999.

Sec. 556.007. TERMINATION OF EMPLOYMENT. A state employee who causes an employee to be discharged, demoted, or otherwise discriminated against for providing information under Section 556.006(b) or who violates Section 556.004(c) or (d) is subject to immediate termination of employment.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 1, eff. Sept. 1, 1999.

Sec. 556.008. COMPENSATION PROHIBITION. A state agency may not use appropriated money to compensate a state officer or employee who

violates Section 556.004(a), (b), or (c) or Section 556.005 or 556.006(a), or who is subject to termination under Section 556.007.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 1, eff. Sept. 1, 1999.

Sec. 556.009. NOTICE OF PROHIBITIONS. (a) A state agency shall provide each officer and employee of the agency a copy of Sections 556.004, 556.005, 556.006, 556.007, and 556.008 and require a signed receipt on delivery. A new copy and receipt are required if one of those provisions is changed.

(b) A state agency shall maintain receipts collected from current officers and employees under this section in a manner accessible for public inspection.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 557. SEDITION, SABOTAGE, AND COMMUNISM

SUBCHAPTER A. SEDITION

Sec. 557.001. SEDITION. (a) A person commits an offense if the person knowingly:

(1) commits, attempts to commit, or conspires with one or more persons to commit an act intended to overthrow, destabilize, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force, violence, or a threat of force or violence;

(2) under circumstances that constitute a clear and present danger to the security of this state or a political subdivision of this state, advocates, advises, or teaches or conspires with one or more persons to advocate, advise, or teach a person to commit or attempt to commit an act described in Subdivision (1); or

(3) participates, with knowledge of the nature of the organization, in the management of an organization that engages in or attempts to engage in an act intended to overthrow, destabilize, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence.

(b) An offense under this section is a felony punishable by:

(1) a fine not to exceed $20,000;

(2) confinement in the Texas Department of Criminal Justice for a term of not less than one year or more than 20 years; or

(3) both fine and imprisonment.

(b-1) Notwithstanding Section 15.02(d), Penal Code, a conspiracy to commit an offense under this section is punishable in the same manner as an offense under this section.

(c) A person convicted of an offense under this section may not receive community supervision under Chapter 42A, Code of Criminal Procedure.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.072, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.60, eff. January 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 462 (S.B. 1900), Sec. 17, eff. September 1, 2023.

Sec. 557.002. DISQUALIFICATION. A person who is finally convicted of an offense under Section 557.001 may not hold office or a position of profit, trust, or employment with the state or any political subdivision of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 557.003. SEDITIOUS ORGANIZATIONS. (a) An organization, either incorporated or unincorporated, may not engage in or have as a purpose activities intended to overthrow, destroy, or alter the constitutional form of government of this state or a political subdivision of this state by force or violence.

(b) An organization that violates Subsection (a):

(1) may not lawfully exist, function, or operate in this state; and

(2) is not entitled to the rights, privileges, and immunities granted to organizations under the law of this state.

(c) A district attorney, criminal district attorney, or county attorney may bring an action against an organization in a court of competent jurisdiction. If the court finds that the organization has violated Subsection (a), the court shall order:

(1) the organization dissolved;

(2) if the organization is incorporated in the state or has a permit to do business in the state, the organization's charter or permit revoked;

(3) all funds, records, and property of the organization forfeited to the state; and

(4) all books, records, and files of the organization turned over to the attorney general.

(d) It is prima facie evidence that an organization engages in or has as a purpose engaging in activities intended to overthrow, destroy, or alter the constitutional form of the government of this state or a political subdivision of this state by force or violence if it is shown that the organization has a parent or superior organization that engages in or has as a purpose engaging in activities intended to overthrow, destroy, or alter the constitutional form of the government of this state or a political subdivision of this state by force or violence.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 557.004. ENFORCEMENT. (a) A district court may, on application by a district attorney, criminal district attorney, or county attorney, order injunctive or other equitable relief appropriate to enforce this subchapter.

(b) The procedure for relief sought under Subsection (a) of this section is the same as that for other similar relief in the district court except that the proceeding may not be instituted unless the director of the Department of Public Safety of the State of Texas or the director's assistant in charge is notified by telephone, telegraph, or in person that injunctive or other equitable relief will be sought.

(c) An affidavit that states that the notice described in Subsection (b) was given and that accompanies the application for relief is sufficient to permit filing of the application.

(d) Injunctive or other equitable relief sought to enforce this subchapter may not be granted in a labor dispute.

(e) The internal security section of the Department of Public Safety of the State of Texas shall assist in the enforcement of this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 557.005. JUDICIAL POWERS IN LABOR DISPUTES. This subchapter does not affect the powers of the courts of this state or of the United States under the law of this state in a labor dispute.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. SABOTAGE

Sec. 557.011. SABOTAGE. (a) A person commits an offense if the person, with the intent to injure the United States, this state, or any facility or property used for national defense sabotages or attempts to sabotage any property or facility used or to be used for national defense.

(b) An offense under this section is a felony punishable by confinement in the Texas Department of Criminal Justice for a term of not less than two years or more than 20 years.

(c) If conduct constituting an offense under this section also constitutes an offense under another provision of law, the actor may be prosecuted under both sections.

(d) In this section, "sabotage" means to wilfully and maliciously damage or destroy property.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.073, eff. September 1, 2009.

Sec. 557.012. CAPITAL SABOTAGE. (a) A person commits an offense if the person commits an offense under Section 557.011(a) and the sabotage or attempted sabotage causes the death of an individual.

(b) An offense under this section is punishable by:

(1) death; or

(2) confinement in the Texas Department of Criminal Justice for:

(A) life; or

(B) a term of not less than two years.

(c) If conduct constituting an offense under this section also constitutes an offense under other law, the actor may be prosecuted

under both sections.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.074, eff. September 1, 2009.

Sec. 557.013. ENFORCEMENT. The attorney general, a district or county attorney, the department, and any law enforcement officer of this state shall enforce this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. COMMUNISM

Sec. 557.021. DEFINITIONS. In this subchapter:

(1) "Communist" means a person who commits an act reasonably calculated to further the overthrow of the government:

(A) by force or violence; or

(B) by unlawful or unconstitutional means and replace it with a communist government.

(2) "Department" means the Department of Public Safety of the State of Texas.

(3) "Government" means the government of this state or any of its political subdivisions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 557.022. RESTRICTIONS. (a) The name of a communist may not be printed on the ballot for any primary or general election in this state or a political subdivision of this state.

(b) A person may not hold a nonelected office or position with the state or any political subdivision of the state if:

(1) any of the compensation for the office or position comes from public funds of this state or a political subdivision of this state; and

(2) the employer or superior of the person has reasonable grounds to believe that the person is a communist.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 557.023. ENFORCEMENT. The attorney general, a district or county attorney, the department, and any law enforcement officer of this state shall enforce this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 558. INTERPRETERS FOR DEAF OR HEARING IMPAIRED PERSONS

Sec. 558.001. DEFINITION. In this chapter, "deaf or hearing impaired" means having a hearing impairment, regardless of the existence of a speech impairment, that inhibits:

(1) comprehension of an examination or proceeding; or

(2) communication with others.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 558.002. STATE EXAMINATIONS. (a) A deaf or hearing impaired person taking a state examination required for state employment or issuance of a state license is entitled, on request, to an interpreter.

(b) The interpreter may be paid for not more than eight hours for interpreting in a calendar day and is entitled to $5 for each hour of interpreting in a calendar day, except that the interpreter is entitled to $15 for the first hour.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 558.003. PROCEEDINGS BEFORE POLITICAL SUBDIVISIONS. (a) In a proceeding before the governing body of a political subdivision in which the legal rights, duties, or privileges of a party are to be determined by the governing body after an adjudicative hearing, the governing body shall supply for a party who is deaf or hearing impaired an interpreter who has qualifications approved by the Texas Commission for the Deaf and Hard of Hearing.

(b) In this section, "political subdivision" means a county, municipality, school district, special purpose district, or other

subdivision of state government that has jurisdiction limited to a geographic portion of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 835, Sec. 17, eff. Sept. 1, 1995.

CHAPTER 559. STATE GOVERNMENT PRIVACY POLICIES

Sec. 559.001. DEFINITION. In this chapter, "state governmental body" means a governmental body as defined by Section 552.003 that is part of state government.

Added by Acts 2001, 77th Leg., ch. 1059, Sec. 1, eff. Sept. 1, 2001.

Sec. 559.002. RIGHT TO BE INFORMED ABOUT INFORMATION COLLECTED. It is the policy of this state that an individual is entitled to be informed about information that a state governmental body collects about the individual unless the state governmental body is allowed to withhold the information from the individual under Section 552.023.

Added by Acts 2001, 77th Leg., ch. 1059, Sec. 1, eff. Sept. 1, 2001.

Sec. 559.003. RIGHT TO NOTICE ABOUT CERTAIN INFORMATION LAWS AND PRACTICES. (a) Each state governmental body that collects information about an individual by means of a form that the individual completes and files with the governmental body in a paper format or in an electronic format on an Internet site shall prominently state, on the paper form and prominently post on the Internet site in connection with the electronic form, that:

(1) with few exceptions, the individual is entitled on request to be informed about the information that the state governmental body collects about the individual;

(2) under Sections 552.021 and 552.023 of the Government Code, the individual is entitled to receive and review the information; and

(3) under Section 559.004 of the Government Code, the individual is entitled to have the state governmental body correct information about the individual that is incorrect.

(b) Each state governmental body that collects information about an individual by means of an Internet site or that collects information about the computer network location or identity of a user of the Internet site shall prominently post on the Internet site what information is being collected through the site about the individual or about the computer network location or identity of a user of the site, including what information is being collected by means that are not obvious.

Added by Acts 2001, 77th Leg., ch. 1059, Sec. 1, eff. Sept. 1, 2001.

Sec. 559.004. RIGHT TO CORRECTION OF INCORRECT INFORMATION. Each state governmental body shall establish a reasonable procedure under which an individual is entitled to have the state governmental body correct information about the individual that is possessed by the state governmental body and that is incorrect. The procedure may not unduly burden an individual using the procedure.

Added by Acts 2001, 77th Leg., ch. 1059, Sec. 1, eff. Sept. 1, 2001.

Sec. 559.005. APPLICABILITY OF AND CONSTRUCTION WITH PUBLIC INFORMATION LAW. (a) Chapter 552 governs the charges that a state governmental body may impose on an individual who requests information the governmental body collects about the individual. The governmental body may not charge an individual to correct information about the individual.

(b) To the extent of a conflict between this chapter and the public information law, Chapter 552, Chapter 552 controls.

Added by Acts 2001, 77th Leg., ch. 1059, Sec. 1, eff. Sept. 1, 2001.

CHAPTER 560. BIOMETRIC IDENTIFIER

Sec. 560.001. DEFINITIONS. In this chapter:

(1) "Biometric identifier" means a retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry.

(2) "Governmental body" has the meaning assigned by Section 552.003, except that the term includes each entity within or created by the judicial branch of state government.

Added by Acts 2001, 77th Leg., ch. 634, Sec. 2, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 559.001 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(78), eff. Sept. 1, 2003.

Sec. 560.002. DISCLOSURE OF BIOMETRIC IDENTIFIER. A governmental body that possesses a biometric identifier of an individual:

(1) may not sell, lease, or otherwise disclose the biometric identifier to another person unless:

(A) the individual consents to the disclosure;

(B) the disclosure is required or permitted by a federal statute or by a state statute other than Chapter 552; or

(C) the disclosure is made by or to a law enforcement agency for a law enforcement purpose; and

(2) shall store, transmit, and protect from disclosure the biometric identifier using reasonable care and in a manner that is the same as or more protective than the manner in which the governmental body stores, transmits, and protects its other confidential information.

Added by Acts 2001, 77th Leg., ch. 634, Sec. 2, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 559.002 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(78), eff. Sept. 1, 2003.

Sec. 560.003. APPLICATION OF CHAPTER 552. A biometric identifier in the possession of a governmental body is exempt from disclosure under Chapter 552.

Added by Acts 2001, 77th Leg., ch. 634, Sec. 2, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 559.003 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(78), eff. Sept. 1, 2003.

SUBTITLE B. ETHICS

CHAPTER 571. TEXAS ETHICS COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 571.001. PURPOSE. It is the policy of the legislature to protect the constitutional privilege of free suffrage by regulating elections and prohibiting undue influence while also protecting the

constitutional right of the governed to apply to their government for the redress of grievances. This chapter is intended to achieve those purposes and shall be construed to achieve the following objectives:

(1) to control and reduce the cost of elections;

(2) to eliminate opportunities for undue influence over elections and governmental actions;

(3) to disclose fully information related to expenditures and contributions for elections and for petitioning the government;

(4) to enhance the potential for individual participation in electoral and governmental processes; and

(5) to ensure the public's confidence and trust in its government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.002. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Ethics Commission.

(2) "Complainant" means an individual who files a sworn complaint with the commission.

(2-a) "Executive director" means the executive director of the commission.

(3) "Political party" includes only a political party required to hold a primary election under Section 172.001, Election Code.

(4) "Respondent" means a person who is alleged to have committed a violation of a rule adopted by or a law administered and enforced by the commission.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.01, eff. Sept. 1, 2003.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 571.021. TEXAS ETHICS COMMISSION. This chapter applies to the Texas Ethics Commission created under Article III, Section 24a, of the Texas Constitution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.022. SUNSET PROVISION. The commission is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The commission shall be reviewed during the periods in which state agencies abolished in 2013 and every 12th year after that year are reviewed.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1449, Sec. 2.05, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 249, Sec. 1.02, eff. Sept. 1, 2003. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 1.03, eff. June 17, 2011.

Sec. 571.0221. DISCRIMINATION PROHIBITED. Appointments to the commission shall be made without regard to the race, color, disability, sex, age, national origin, or religion of the appointees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Renumbered from Government Code Sec. 571.033 and amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.07, eff. Sept. 1, 2003.

Sec. 571.023. PRESIDING OFFICER. The members of the commission shall elect annually the presiding officer of the commission.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.0231. RESTRICTION ON COMMISSION MEMBERSHIP. A person may not be a member of the commission if the person is required to register as a lobbyist under Chapter 305.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 1.03, eff. Sept. 1, 2003.

Sec. 571.0232. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the commission that a member:

(1) does not have at the time of taking office the qualifications required by Section 24a, Article III, Texas

Constitution;

(2) does not maintain during service on the commission the qualifications required by Section 24a, Article III, Texas Constitution;

(3) is ineligible for membership under Section 571.0231;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 1.03, eff. Sept. 1, 2003.

Sec. 571.024. EXPENSES. A member of the commission is entitled to travel expenses incurred in performing official duties and to a per diem equal to the maximum amount allowed on January 1 of that year for federal employees per diem for federal income tax purposes, subject to the same limitations for members of state boards and commissions in the General Appropriations Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.025. MEETINGS. The commission shall meet at least once each calendar quarter and at other times at the call of the presiding officer.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.026. QUORUM; VOTE REQUIRED. (a) A majority of the membership of the commission constitutes a quorum.

(b) A vacancy on the commission may not be considered in determining the membership of the commission for the purpose of a quorum.

(c) An action or recommendation of the commission requiring a vote of the commission is not valid unless:

(1) the action or recommendation is approved by a record vote taken at a meeting of the commission with a quorum present; and

(2) except as otherwise provided by this chapter, the action or recommendation receives an affirmative vote of a majority of the membership of the commission.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.04, eff. Sept. 1, 2003.

Sec. 571.027. PROHIBITED PARTICIPATION. (a) A member of the commission may not participate in a commission proceeding relating to any of the following actions if the member is the subject of the action:

(1) a formal investigation by the commission;

(2) a sworn complaint filed with the commission; or

(3) a motion adopted by vote of at least six members of the commission.

(b) A member of the commission may not participate in or vote on any matter before the commission if the matter concerns the member directly or an individual related to the member within the second degree by affinity or consanguinity.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.05, eff. Sept. 1, 2003.

Sec. 571.0271. COMMISSION MEMBER TRAINING. (a) A person who is appointed to and qualifies for office as a member of the

commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the commission;

(2) the programs operated by the commission;

(3) the role and functions of the commission;

(4) the rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the commission;

(6) the results of the most recent formal audit of the commission;

(7) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552;

(C) the administrative procedure law, Chapter 2001; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 1.06, eff. Sept. 1, 2003.

Sec. 571.028. PROHIBITED CANDIDACY. A member of the commission may not be a candidate for an elective public office for 12 months after the date on which the member ends service on the commission.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.029. STAFF. (a) The commission may employ staff, including an executive director and a general counsel, necessary to

administer the commission's functions.

(b) The commission may not employ a person and an employee of the commission may not continue in employment with the commission if the person at the time of employment or while employed by the commission is:

(1) an officer of a political party, a political subdivision, or a political committee;

(2) a person required to be registered under Chapter 305;

(3) a candidate or campaign treasurer subject to Title 15, Election Code; or

(4) a member of the legislature.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.030. SEPARATION OF RESPONSIBILITIES. The commission shall develop and implement policies that clearly separate the policy-making responsibilities of the commission and the management responsibilities of the executive director and the staff of the commission.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 1.06, eff. Sept. 1, 2003.

Sec. 571.0301. INFORMATION TO MEMBERS AND EMPLOYEES. The executive director or the executive director's designee shall provide to members and employees of the commission, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 1.06, eff. Sept. 1, 2003.

Sec. 571.0302. EQUAL EMPLOYMENT POLICY. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions

are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the commission to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the commission's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

(3) be filed with the governor's office.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 1.06, eff. Sept. 1, 2003.

Sec. 571.031. RECORDS. Except as provided by Sections 571.139(a) and 571.140, Chapter 552 applies to all records of the commission.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.032. MAILING OF NOTICES, DECISIONS, AND REPORTS. (a) Except as provided by Subsection (b), each written notice, decision, and report required to be sent under this chapter shall be sent by registered or certified mail, restricted delivery, return receipt requested.

(b) After written notice under Section 571.123(b) regarding the filing of a sworn complaint has been sent to a person in the manner required by Subsection (a), the commission may send the person any additional notices regarding the complaint by regular mail unless the person has notified the commission to send all notices regarding the complaint by registered or certified mail, restricted delivery, return receipt requested.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 554 (S.B. 1807), Sec. 1, eff. June 19, 2009.

SUBCHAPTER C. GENERAL POWERS AND DUTIES

Sec. 571.061. LAWS ADMINISTERED AND ENFORCED BY COMMISSION. (a) The commission shall administer and enforce:

(1) Chapters 302, 303, 305, 572, and 2004;

(2) Subchapter C, Chapter 159, Local Government Code, in connection with a county judicial officer, as defined by Section 159.051, Local Government Code, who elects to file a financial statement with the commission;

(3) Title 15, Election Code; and

(4) Sections 2152.064 and 2155.003.

(b) The commission shall perform any other powers or duties given to the commission under a law listed in Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 506, Sec. 3, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 507, Sec. 3, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1154, Sec. 5, eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 3.07, eff. September 1, 2007.

Sec. 571.062. RULES. (a) The commission, on the affirmative vote of at least six members of the commission, may adopt rules to administer this chapter or any other law administered and enforced by the commission.

(b) Chapter 2001, relating to rules and rulemaking, applies to the commission to the extent consistent with this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.063. RULES CONCERNING GIFTS TO REGULATORY AGENCY OFFICERS AND EMPLOYEES. (a) The commission shall require each regulatory agency in the executive branch to develop rules limiting

the acceptance of gifts or other benefits from persons appearing before or regulated by the agency. The rules must be at least as restrictive as the rules of the commission.

(b) The commission shall provide for the submission of those rules to the commission for approval.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.0631. RULES CONCERNING TECHNICAL AND CLERICAL VIOLATIONS. The commission shall adopt rules prescribing procedures for investigating and resolving technical and clerical violations of laws within the commission's jurisdiction. For registrations and reports filed under Chapter 305, the commission shall consider clerical violations to include obvious typographical errors. A registrant filing a registration or report under Chapter 305 may correct obvious typographical errors without penalty by filing either a corrected registration or report or an updated or amended registration or report.

Added by Acts 2009, 81st Leg., R.S., Ch. 604 (H.B. 677), Sec. 1, eff. September 1, 2009.

Sec. 571.064. REPORTING AND REGISTRATION THRESHOLDS. (a) If a law administered and enforced by the commission authorizes the commission to determine dollar amounts as reporting or registration thresholds, the commission shall set those thresholds in amounts that are reasonable, are in the public interest, and further the purposes of the reporting or registration law involved.

(b) If a law administered and enforced by the commission sets dollar amounts or categories of amounts as reporting thresholds or if the commission sets those amounts, the commission annually shall adjust those thresholds upward to the nearest multiple of $10 in accordance with the percentage increase for the previous year in the Consumer Price Index for Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.0645. FILING DEADLINE FOR ELECTRONIC REPORTS. The commission shall by rule establish that the deadline for any report filed electronically with the commission is midnight on the last day for filing the report under the law requiring the filing of the report.

Added by Acts 2007, 80th Leg., R.S., Ch. 472 (H.B. 2195), Sec. 5, eff. September 1, 2007.

Sec. 571.065. FORMS. (a) The commission shall prescribe forms for statements and reports required to be filed with the commission.

(b) The commission shall provide for the distribution of the forms.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.066. ELECTRONIC DATA BASE. (a) The Department of Information Resources shall study the implementation of the most appropriate electronic data base to enhance the commission's abilities to administer this chapter.

(b) The commission shall:

(1) establish an electronic data base composed of statements and reports filed with the commission;

(2) provide the public with access to that data;

(3) establish a system to provide access by electronic data transmittal processes to that data;

(4) set and charge a fee for electronic access to the data base in an amount reasonable and necessary to cover the costs of access; and

(5) ensure that entries entered on multiple reports may be electronically cross-referenced in the data base.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.067. COMPUTER SOFTWARE. The commission may develop computer software to facilitate the discharge of its statutory duties.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.0671. REQUIREMENTS FOR ELECTRONIC FILING SOFTWARE. (a) Computer software provided or approved by the commission for use under Section 254.036(b), Election Code, or Section 302.013 or 305.0064 must:

(1) use a standardized format for the entry of names, addresses, and zip codes;

(2) provide for secure and encoded transmission of data from the computer of a person filing a report to the computers used by the commission;

(3) be capable of being used by a person with basic computing skills;

(4) provide confirmation to a person filing a report that the report was properly received; and

(5) permit a person using a computer to prepare a report or to retrieve information from a report to import information to the report from a variety of computer software applications that meet commission specifications for a standard file format or export information from the report to a variety of computer software applications that meet commission specifications for a standard file format without the need to reenter information.

(b) Before determining the specifications for computer software developed, purchased, or licensed for use under Section 254.036, Election Code, or Section 302.013 or 305.0064, the commission shall conduct at least one public hearing to discuss the specifications. For at least 10 days following the hearing, the commission shall accept public comments concerning the software specifications.

(c) The commission may provide software for use under Section 254.036(b), Election Code, or Section 302.013 or 305.0064 by making the software available on the Internet. If the commission makes the software available on the Internet, the commission is not required to provide the software on computer diskettes, CD-ROMs, or other storage media without charge to persons required to file reports under that section, but may charge a fee for providing the software on storage media. A fee under this subsection may not exceed the cost to the commission of providing the software.

(d) Electronic report or financial statement data saved in a commission temporary storage location for later retrieval and editing

before the report or financial statement is filed is confidential and may not be disclosed. After the report or financial statement is filed with the commission, the information disclosed in the filed report or financial statement is public information to the extent provided by the law requiring the filing of the report or financial statement.

Added by Acts 1999, 76th Leg., ch. 1434, Sec. 2, eff. Sept. 1, 1999. Renumbered from Election Code Sec. 254.0361 and amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.08, eff. Sept. 1, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 584 (H.B. 3680), Sec. 1, eff. September 1, 2015.

Sec. 571.0672. PROPOSITION OF TECHNOLOGICAL SOLUTIONS. The commission shall develop and implement a policy requiring the executive director and commission employees to research and propose appropriate technological solutions to improve the commission's ability to perform its functions. The technological solutions must:

(1) ensure that the public is able to easily find information about the commission on the Internet;

(2) ensure that persons who want to use the commission's services are able to:

(A) interact with the commission through the Internet; and

(B) access any service that can be provided effectively through the Internet; and

(3) be cost-effective and developed through the commission's planning processes.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 1.09, eff. Sept. 1, 2003.

Sec. 571.068. ACCOUNT NUMBERS. The commission shall assign an account number to each person required to file a statement or report with the commission under a law administered and enforced by the commission.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.069. REVIEW OF STATEMENTS AND REPORTS; AUDITS. (a) The commission shall review for facial compliance randomly selected statements and reports filed with the commission and may review any available documents. The commission shall return for resubmission with corrections or additional documentation a statement or report that does not, in the opinion of the commission, comply with the law requiring the statement or report. A statement or report returned for resubmission is considered to have been filed on the date the statement or report was originally filed if:

(1) the statement or report is resubmitted to the commission not later than the seventh business day after the date the person filing the statement or report receives the returned statement or report; and

(2) the resubmitted statement or report complies with law.

(b) The commission may by a vote of at least six commission members initiate a preliminary review as provided by Section 571.124 or perform a complete audit of a statement or report:

(1) if, before the 31st day after the date the statement or report was originally due, the executive director does not obtain from the person information that permits the executive director to determine that the statement or report complies with law;

(2) if a statement or report returned for resubmission is not resubmitted within the time prescribed by Subsection (a); or

(3) on an affirmative vote of at least six commission members that a statement or report resubmitted under Subsection (a), together with any corrections or additional documentation, does not, in the opinion of the commission, comply with the law requiring the statement or report.

(c) Any audited statement, report, document, or other material is confidential and may not be disclosed unless the statement, report, document, or other material:

(1) was previously public information; or

(2) is entered into the record of a formal hearing or a judicial proceeding.

(d) The party who is the subject of the audit may waive confidentiality by sending written notice to the commission.

(e) The commission may not audit a statement or report filed before January 1, 1992, under a law administered and enforced before

that date by the secretary of state.

(f) This section may not be construed as limiting or affecting the commission's authority to, on the filing of a motion or receipt of a sworn complaint, review or investigate the sufficiency of a statement or report.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.10, eff. Sept. 1, 2003.

Sec. 571.070. MANUAL. The commission shall adopt by rule and publish a manual that establishes uniform methods of accounting and reporting for use by persons required to file statements and reports with the commission and that includes a digest of each advisory opinion issued by the commission under Subchapter D.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.071. TRAINING; GUIDELINES. (a) The commission shall:

(1) provide training by January of each odd-numbered year for members and members-elect of the legislature concerning compliance with the laws administered and enforced by the commission; and

(2) provide, in cooperation with state agencies, a program of ethics training for state employees.

(b) The commission may disseminate, through pamphlets and seminars, explanations and compliance guidelines concerning any law administered and enforced by the commission.

(c) The commission may provide a seminar for persons required to register under Chapter 305 that addresses issues involving lobbying, political contributions and expenditures, and other issues as determined by the commission. The commission may charge a fee for attending the seminar in an amount necessary to cover the costs associated with the seminar, including the cost of providing food or nonalcoholic beverages to attendees.

(d) The commission may provide a seminar that addresses the laws administered and enforced by the commission and any other relevant laws, as determined by the commission. The commission may

charge a fee for attending the seminar in an amount necessary to cover the costs associated with the seminar, including the cost of providing food or nonalcoholic beverages to attendees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.11, eff. Sept. 1, 2003.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 836 (S.B. 62), Sec. 1, eff. June 16, 2021.

Sec. 571.072. PUBLIC ACCESS. (a) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on issues under the general jurisdiction of the commission.

(b) The commission shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to commission proceedings.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.073. REPORT. On or before December 31 of each even-numbered year, the commission shall report to the governor and legislature. The report must include:

(1) each advisory opinion issued by the commission under Subchapter D in the preceding two years;

(2) a summary of commission activities in the preceding two years, including:

(A) the number of sworn complaints filed with the commission;

(B) the number of sworn complaints dismissed for noncompliance with statutory form requirements;

(C) the number of sworn complaints dismissed for lack of jurisdiction;

(D) the number of sworn complaints dismissed after a finding of no credible evidence of a violation;

(E) the number of sworn complaints dismissed after a finding of a lack of sufficient evidence to determine whether a

violation within the jurisdiction of the commission has occurred;

(F) the number of sworn complaints resolved by the commission through an agreed order;

(G) the number of sworn complaints in which the commission issued an order finding a violation and the resulting penalties, if any; and

(H) the number and amount of civil penalties imposed for failure to timely file a statement or report, the number and amount of those civil penalties fully paid, the number and amount of those civil penalties partially paid, and the number and amount of those civil penalties no part of which has been paid, for each of the following category of statements and reports, listed separately:

(i) financial statements required to be filed under Chapter 572;

(ii) political contribution and expenditure reports required to be filed under Section 254.063, 254.093, 254.123, 254.153, or 254.157, Election Code;

(iii) political contribution and expenditure reports required to be filed under Section 254.064(b), 254.124(b), or 254.154(b), Election Code;

(iv) political contribution and expenditure reports required to be filed under Section 254.064(c), 254.124(c), or 254.154(c), Election Code;

(v) political contribution and expenditure reports required to be filed under Section 254.038 or 254.039, Election Code; and

(vi) political contribution and expenditure reports required to be filed under Section 254.0391, Election Code; and

(3) recommendations for any necessary statutory changes.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.12, eff. Sept. 1, 2003.

Sec. 571.074. GIFTS AND GRANTS. The commission may accept gifts and grants for the administration of its duties.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.075. DELEGATION OF AUTHORITY. The commission by rule may delegate a power conferred on it by this chapter or another law administered by the commission, except:

(1) any power requiring a vote of the commission;

(2) rulemaking authority; or

(3) authority to issue an advisory opinion under Subchapter D.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.076. CONTRACT FOR ADMINISTRATION. The commission may contract with persons to administer and carry out this chapter and rules, standards, and orders adopted under this chapter, excluding any enforcement authority.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.077. STATEMENTS, REGISTRATIONS, AND REPORTS CONSIDERED TO BE VERIFIED. (a) A statement, registration, or report that is filed with the commission is considered to be under oath by the person required to file the statement, registration, or report regardless of the absence of or defect in the affidavit of verification, including a signature.

(b) A person required to file a statement, registration, or report with the commission is subject to prosecution under Chapter 37, Penal Code, regardless of the absence of or defect in the affidavit of verification.

(c) This section applies to a statement, registration, or report that is filed with the commission electronically or otherwise.

Added by Acts 1995, 74th Leg., ch. 996, Sec. 6, eff. Sept. 1, 1995.

Sec. 571.0771. CORRECTED STATEMENTS, REGISTRATIONS, AND REPORTS CONSIDERED TIMELY FILED. (a) A statement, registration, or report required that is filed with the commission is not considered to be late for purposes of any applicable civil penalty for late filing of the statement, registration, or report if:

(1) any error or omission in the statement, registration,

or report as originally filed was made in good faith; and

(2) not later than the 14th business day after the date the person filing the statement, registration, or report learns that the statement, registration, or report as originally filed is inaccurate or incomplete, the person files:

(A) a corrected or amended statement, registration, or report; and

(B) an affidavit stating that the error or omission in the original statement, registration, or report was made in good faith.

(b) Subsection (a) does not apply to:

(1) a penalty imposed under Section 571.069 or Subchapter F; or

(2) a report required to be filed under Section 254.064(c), 254.124(c), or 254.154(c), Election Code.

(b-1) Repealed by Acts 2007, 80th Leg., R.S., Ch. 324, Sec. 2, eff. September 1, 2007.

(b-2) Repealed by Acts 2007, 80th Leg., R.S., Ch. 324, Sec. 2, eff. September 1, 2007.

(c) A report required to be filed under Section 254.064(c), 254.124(c), or 254.154(c), Election Code, is not considered to be late for purposes of any applicable civil penalty for late filing of the report if:

(1) the report as originally filed substantially complies with the applicable law, as determined by the commission;

(2) any error or omission in the report as originally filed was made in good faith; and

(3) not later than the 14th business day after the date the person filing the report learns that the report as originally filed is inaccurate or incomplete, the person files:

(A) a corrected or amended report; and

(B) an affidavit stating that the error or omission in the original report was made in good faith.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 1.13, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1250 (H.B. 1800), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 324 (H.B. 2589), Sec. 1, eff.

September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 324 (H.B. 2589), Sec. 2, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 521 (S.B. 548), Sec. 1, eff. September 1, 2019.

Sec. 571.078. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) Subsection (a)(2) does not apply to a preliminary review or preliminary review hearing under Sections 571.124 through 571.126.

(c) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(d) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the commission.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 1.13, eff. Sept. 1, 2003.

Sec. 571.079. POSTING INFORMATION RELATING TO UNPAID PENALTIES ON WEBSITE. (a) Not later than the 15th day after the date on which an application for a place on the general primary election ballot or for nomination by convention is required to be filed, the commission shall post on its Internet website:

(1) the name and address of each candidate for an office

specified by Section 252.005(1), Election Code, who has failed to pay a civil penalty imposed by the commission for failure to file with the commission a required report or statement under Chapter 254, Election Code, or Chapter 572; and

(2) for each candidate listed under Subdivision (1), the amount of the penalty imposed and the amount paid, if any.

(b) The commission may not post information under this section that relates to a civil penalty while the penalty is the subject of an administrative or judicial appeal by the candidate against whom the penalty is imposed.

(c) The commission shall remove from the commission's Internet website information posted under this section as soon as practicable after the candidate pays the civil penalty in full.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 1.13, eff. Sept. 1, 2003.

SUBCHAPTER D. ADVISORY OPINIONS

Sec. 571.091. OPINION TO BE GIVEN ON REQUEST. (a) The commission shall prepare a written opinion answering the request of a person subject to any of the following laws for an opinion about the application of any of these laws to the person in regard to a specified existing or hypothetical factual situation:

(1) Chapter 302;

(2) Chapter 303;

(3) Chapter 305;

(4) Chapter 2004;

(5) Chapter 572;

(6) Subchapter C, Chapter 159, Local Government Code, as provided by Section 571.061(a)(2);

(7) Title 15, Election Code;

(8) Chapter 36, Penal Code;

(9) Chapter 39, Penal Code;

(10) Section 2152.064; or

(11) Section 2155.003.

(b) An opinion request under Subsection (a) must be in writing to the commission.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 506, Sec. 4, eff. Sept. 1, 1997;

Acts 1997, 75th Leg., ch. 507, Sec. 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1154, Sec. 6, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.13, eff. Sept. 1, 1999.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 3.08, eff. September 1, 2007.

Sec. 571.092. DEADLINE FOR OPINION; EXTENSION. (a) The commission shall issue an advisory opinion not later than the 60th day after the date the commission receives the request.
(b) The commission by vote may extend the time available to issue an opinion by 30 days. The commission may not grant more than two extensions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.093. PROTECTION OF IDENTITY OF REQUESTOR OR AFFECTED PERSON. (a) The commission shall maintain the confidentiality of the name of the person requesting an advisory opinion and shall issue opinions in a form necessary to maintain that confidentiality.
(b) The commission may not issue an opinion that includes the name of any person who may be affected by the opinion.
(c) Subsections (a) and (b) do not apply to a person who requests an opinion and files written notice with the commission waiving the confidentiality of the person's identity.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.094. OPINION ISSUED ON INITIATIVE OF COMMISSION. On its own initiative, the commission may issue a written advisory opinion about the application of a law listed in Section 571.091 if a majority of the commission determines that an opinion would be in the public interest or in the interest of any person under the jurisdiction of the commission.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.095. MAINTENANCE OF OPINIONS; SUMMARY. The commission shall number and categorize each advisory opinion issued and annually shall compile a summary of its opinions in a single reference document.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.096. OPINION BY OTHER GOVERNMENTAL ENTITY. (a) The authority of the commission to issue an advisory opinion does not affect the authority of the attorney general to issue an opinion as authorized by law.

(b) In issuing an opinion under this subchapter, the commission shall consider the opinions issued by the State Ethics Advisory Commission and the secretary of state that are not overruled by statute or rule of the commission.

(c) The commission shall rely on opinions issued by the attorney general and the courts of this state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.097. DEFENSES: RELIANCE ON ADVISORY OPINION; COMMISSION'S FAILURE TO ISSUE OPINION. (a) It is a defense to prosecution or to imposition of a civil penalty that the person reasonably relied on a written advisory opinion of the commission relating to the provision of the law the person is alleged to have violated or relating to a fact situation that is substantially similar to the fact situation in which the person is involved.

(b) It is a defense to prosecution or to imposition of a civil penalty for the violation of a law that:

(1) the person requested a written advisory opinion from the commission relating to the application of that law to a specified existing fact situation involving the person that is the same fact situation or substantially similar to the fact situation that forms the basis of the alleged violation; and

(2) the commission did not issue the opinion within the time prescribed by Section 571.092.

(c) The defense to prosecution or imposition of a civil penalty under Subsection (b) applies only to acts giving rise to a potential violation of law occurring in the period beginning on the date the

time prescribed by Section 571.092 expires and ending on the date the commission issues the requested opinion.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 521 (S.B. 548), Sec. 2, eff. September 1, 2019.

Sec. 571.098. CONVERSION OF CONTRIBUTION TO PERSONAL USE. A person involved in a transaction or activity that the commission concludes in an advisory opinion to be a conversion of a contribution to personal use in violation of Section 253.035, Election Code, is not civilly liable to the state if:

(1) before receiving the opinion, the person reasonably believed the transaction or activity did not constitute a conversion, taking into account prior opinions and rules of the commission; and

(2) on or before the 30th day after the date the opinion is published, the person:

(A) returns to the political fund from which it was removed an amount equal to the amount converted; and

(B) notifies the commission by certified mail that the person has returned the converted contribution as required by this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER E. COMPLAINT PROCEDURES AND HEARINGS

Sec. 571.121. GENERAL POWERS. (a) The commission may:

(1) hold hearings, on its own motion adopted by an affirmative vote of at least six commission members or on a sworn complaint, and render decisions on complaints or reports of violations as provided by this chapter; and

(2) agree to the settlement of issues.

(b) The commission may not consider a complaint or vote to investigate a matter outside the commission's jurisdiction.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.14, eff. Sept. 1, 2003.

Sec. 571.1211. DEFINITIONS. In this subchapter:

(1) "Campaign communication" and "political advertising" have the meanings assigned by Section 251.001, Election Code.

(2) "Category One violation" means a violation of a law within jurisdiction of the commission as to which it is generally not difficult to ascertain whether the violation occurred or did not occur, including:

(A) the failure by a person required to file a statement or report to:

(i) file the required statement or report in a manner that complies with applicable requirements; or

(ii) timely file the required statement or report;

(B) a violation of Section 255.001, Election Code;

(C) a misrepresentation in political advertising or a campaign communication relating to the office held by a person in violation of Section 255.006, Election Code;

(D) a failure to include in any written political advertising intended to be seen from a road the right-of-way notice in violation of Section 259.001, Election Code; or

(E) a failure to timely respond to a written notice under Section 571.123(b).

(3) "Category Two violation" means a violation of a law within the jurisdiction of the commission that is not a Category One violation.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 1.15, eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 824 (H.B. 2554), Sec. 6, eff. September 1, 2019.

Sec. 571.1212. CATEGORIZATION OF VIOLATIONS. An allegation of a violation listed as a Category One violation shall be treated as a Category Two violation if the executive director at any time determines that:

(1) the allegation arises out of the same set of facts as those that give rise to an allegation of a Category Two violation,

and the interests of justice or efficiency require resolution of the allegations together; or

(2) the facts and law related to a particular allegation or a defense to the allegation present a level of complexity that prevents resolution through the preliminary review procedures for Category One violations prescribed by Section 571.1242.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 1.15, eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 521 (S.B. 548), Sec. 3, eff. September 1, 2019.

Sec. 571.122. FILING OF COMPLAINT; CONTENTS. (a) An individual may file with the commission a sworn complaint alleging that a person subject to a law administered and enforced by the commission has violated a rule adopted by or a law administered and enforced by the commission. A sworn complaint must be filed on a form prescribed by the commission. The commission shall make the complaint form available on the Internet. The form prescribed by the commission must require the complainant to provide the following information for both the complainant and the respondent:

(1) the person's name;

(2) the person's telephone number;

(3) the person's electronic mail address, if known; and

(4) the physical address of the person's home or business.

(b) A complaint filed under this section must be in writing and under oath and must set forth in simple, concise, and direct statements:

(1) the name of the complainant;

(2) the street or mailing address of the complainant;

(3) the name of each respondent;

(4) the position or title of each respondent;

(5) the nature of the alleged violation, including if possible the specific rule or provision of law alleged to have been violated;

(6) a statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred; and

(7) all documents or other material available to the complainant that are relevant to the allegation, a list of all documents or other material within the knowledge of the complainant and available to the complainant that are relevant to the allegation but that are not in the possession of the complainant, including the location of the documents, if known, and a list of all documents or other material within the knowledge of the complainant that are unavailable to the complainant and that are relevant to the complaint, including the location of the documents, if known.

Text of subsection as added by Acts 2009, 81st Leg., R.S., Ch. 1166 (H.B. 3218), Sec. 1

(b-1) An individual must be a resident of this state to be eligible to file a sworn complaint with the commission. A copy of one of the following documents must be attached to the complaint:

(1) the complainant's driver's license or personal identification certificate issued under Chapter 521, Transportation Code, or commercial driver's license issued under Chapter 522, Transportation Code; or

(2) a utility bill, bank statement, government check, paycheck, or other government document that:

(A) shows the name and address of the complainant; and

(B) is dated not more than 30 days before the date on which the complaint is filed.

Text of subsection as added by Acts 2009, 81st Leg., R.S., Ch. 604 (H.B. 677), Sec. 2

(b-1) To be eligible to file a sworn complaint with the commission, an individual must be a resident of this state or must own real property in this state. A copy of one of the following documents must be attached to the complaint:

(1) the complainant's driver's license or personal identification certificate issued under Chapter 521, Transportation Code, or commercial driver's license issued under Chapter 522, Transportation Code;

(2) a utility bill, bank statement, government check, paycheck, or other government document that:

(A) shows the name and address of the complainant; and

(B) is dated not more than 30 days before the date on which the complaint is filed; or

(3) a property tax bill, notice of appraised value, or

other government document that:

(A) shows the name of the complainant;

(B) shows the address of real property in this state; and

(C) identifies the complainant as the owner of the real property.

(c) The complaint must be accompanied by an affidavit stating that the information contained in the complaint is either correct or that the complainant has good reason to believe and does believe that the violation occurred. If the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief. The complainant may swear to the facts by oath before a notary public or other authorized official.

(d) The complaint must state on its face an allegation that, if true, constitutes a violation of a rule adopted by or a law administered and enforced by the commission.

(e) It is not a valid basis of a complaint to allege that a report required under Chapter 254, Election Code, contains the improper name or address of a person from whom a political contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.16, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 604 (H.B. 677), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1166 (H.B. 3218), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 76.04, eff. September 28, 2011.

Sec. 571.1221. DISMISSAL OF COMPLAINT FILED AT DIRECTION OR URGING OF NONRESIDENT. At any stage of a proceeding under this subchapter, the commission shall dismiss the complaint if the commission determines that the complaint was filed at the direction or urging of a person who is not a resident of this state.

Added by Acts 2009, 81st Leg., R.S., Ch. 1166 (H.B. 3218), Sec. 2, eff. June 19, 2009.

Sec. 571.1222. DISMISSAL OF COMPLAINT CHALLENGING CERTAIN INFORMATION IN POLITICAL REPORT. At any stage of a proceeding under this subchapter, the commission shall dismiss a complaint to the extent the complaint alleges that a report required under Chapter 254, Election Code, contains the improper name or address of a person from whom a political contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 76.05, eff. September 28, 2011.

Sec. 571.1223. DISMISSAL OF COMPLAINT FOLLOWING CORRECTED OR AMENDED STATEMENT, REGISTRATION, OR REPORT. At any stage of a proceeding under this subchapter, the commission shall dismiss a complaint to the extent the complaint alleges a statement, registration, or report violates a law or rule if:

(1) the respondent has filed a corrected or amended statement, registration, or report before the commission accepts jurisdiction over the complaint; and

(2) the corrected or amended statement, registration, or report remedies the alleged violation.

Added by Acts 2019, 86th Leg., R.S., Ch. 521 (S.B. 548), Sec. 4, eff. September 1, 2019.

Sec. 571.123. PROCESSING OF COMPLAINT. (a) The commission shall determine whether a sworn complaint filed with the commission complies with the form requirements of Section 571.122.

(b) After a complaint is filed, the commission shall immediately attempt to contact and notify the respondent of the complaint by telephone or electronic mail. Not later than the fifth business day after the date a complaint is filed, the commission shall send written notice to the complainant and the respondent. The written notice to the complainant and the respondent must:

(1) state whether the complaint complies with the form requirements of Section 571.122;

(2) if the respondent is a candidate or officeholder, state the procedure by which the respondent may designate an agent with whom commission staff may discuss the complaint; and

(3) if applicable, include the information required by Section 571.124(e).

(c) If the commission determines that the complaint does not comply with the form requirements, the commission shall send the complaint to the complainant with the written notice, a statement explaining how the complaint fails to comply, and a copy of the rules for filing sworn complaints. The commission shall send a copy of the rejected complaint to the respondent with the written notice and the statement explaining how the complaint fails to comply. The complainant may resubmit the complaint not later than the 21st day after the date the notice under Subsection (b) is mailed. If the commission determines that the complaint is not resubmitted within the 21-day period, the commission shall:

(1) dismiss the complaint; and

(2) not later than the fifth business day after the date of the dismissal, send written notice to the complainant and the respondent of the dismissal and the grounds for dismissal.

(d) If the commission determines that a complaint is resubmitted under Subsection (c) within the 21-day period but is not in proper form, the commission shall send the notice required under Subsection (c), and the complainant may resubmit the complaint under that subsection.

(e) If the commission determines that a complaint returned to the complainant under Subsection (c) or (d) is resubmitted within the 21-day period and that the complaint complies with the form requirements, the commission shall send the written notice under Subsection (b).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.17, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1165 (H.B. 3216), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1166 (H.B. 3218), Sec. 3, eff.

June 19, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 76.06, eff. September 28, 2011.

Sec. 571.1231. DESIGNATION OF AGENT BY CERTAIN RESPONDENTS. (a) This section applies only to a respondent who is a candidate or officeholder.

(b) A respondent to a complaint filed against the respondent may by writing submitted to the commission designate an agent with whom the commission staff may communicate regarding the complaint.

(c) For purposes of this subchapter, including Section 571.140, communications with the respondent's agent designated under this section are considered communications with the respondent.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 76.07, eff. September 28, 2011.

Sec. 571.124. PRELIMINARY REVIEW: INITIATION. (a) The commission staff shall promptly conduct a preliminary review on receipt of a written complaint that is in compliance with the form requirements of Section 571.122.

(b) On a motion adopted by an affirmative vote of at least six commission members, the commission, without a sworn complaint, may initiate a preliminary review of the matter that is the subject of the motion.

(c) The executive director shall determine in writing whether the commission has jurisdiction over the violation of law alleged in a sworn complaint processed under Section 571.123.

(d) Repealed by Acts 2003, 78th Leg., ch. 249, Sec. 1.33.

(e) If the executive director determines that the commission has jurisdiction, the notice under Section 571.123(b) must include:

(1) a statement that the commission has jurisdiction over the violation of law alleged in the complaint;

(2) a statement of whether the complaint will be processed as a Category One violation or a Category Two violation, subject to reconsideration as provided for by Section 571.1212;

(3) the date by which the respondent is required to respond to the notice;

(4) a copy of the complaint and the rules of procedure of the commission;

(5) a statement of the rights of the respondent;

(6) a statement inviting the respondent to provide to the commission any information relevant to the complaint; and

(7) a statement that a failure to timely respond to the notice will be treated as a separate violation.

(f) If the executive director determines that the commission does not have jurisdiction over the violation alleged in the complaint, the executive director shall:

(1) dismiss the complaint; and

(2) not later than the fifth business day after the date of the dismissal, send to the complainant and the respondent written notice of the dismissal and the grounds for the dismissal.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.18, 1.33, eff. Sept. 1, 2003.

Sec. 571.1241. REVIEW OF EXECUTIVE DIRECTOR'S DETERMINATION OF JURISDICTION. (a) If the executive director determines that the commission does not have jurisdiction over the violation alleged in the complaint, the complainant or respondent may request that the commission review the determination. A request for review under this section must be filed not later than the 30th day after the date the complainant or respondent receives the executive director's determination.

(b) The commission may reverse the executive director's determination only on the affirmative vote of at least six members.

(c) Not later than the fifth business day after the date of the commission's determination under this section, the commission shall send written notice to the complainant and the respondent stating whether the commission has jurisdiction over the violation alleged in the complaint. If the commission determines that the commission has jurisdiction, the notice must include the items listed in Section 571.124(e).

Added by Acts 2003, 78th Leg., ch. 249, Sec. 1.19, eff. Sept. 1, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 521 (S.B. 548), Sec. 5, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 521 (S.B. 548), Sec. 6, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 869, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 571.1242. PRELIMINARY REVIEW. (a) If the alleged violation is a Category One violation, the respondent must respond to the notice required by Section 571.123(b) not later than the 10th business day after the date the respondent receives the notice.

(b) If the alleged violation is a Category Two violation, the respondent must respond to the notice required by Section 571.123(b) not later than the 25th business day after the date the respondent receives the notice under Section 571.123(b).

(c) A respondent's failure to timely respond as required by Subsection (a) or (b) is a Category One violation.

(d) The response required by Subsection (a) or (b) must include any challenge the respondent seeks to raise to the commission's exercise of jurisdiction. In addition, the respondent may:

(1) acknowledge the occurrence or commission of a violation;

(2) deny the allegations contained in the complaint and provide evidence supporting the denial; or

(3) agree to enter into an assurance of voluntary compliance or other agreed order, which may include an agreement to immediately cease and desist.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 521 (S.B. 548), Sec. 13, eff. September 1, 2019.

(f) During a preliminary review, the commission staff may submit to the complainant or respondent written questions reasonably intended to lead to the discovery of matters relevant to the investigation.

(g) Not later than the 120th day after the later of the date the commission receives a respondent's response to notice as required by Subsection (a) or (b) or the respondent's response to written questions as required by Subsection (f), the commission shall:

(1) propose an agreement to the respondent to settle the

complaint without holding a preliminary hearing; or

(2) dismiss the complaint.

(h) The deadline under Subsection (g) is tolled for the duration of any litigation brought by the respondent or the commission regarding the complaint at issue.

(i) If a respondent rejects a proposed settlement under Subsection (g), the matter shall be set for a preliminary review hearing at the next commission meeting for which notice has not yet been posted.

(j) If a complaint is dismissed under Subsection (g), the commission shall deny jurisdiction over any subsequent complaint against the respondent that alleges the respondent violated the same statutes or rules based on the same facts alleged in the dismissed complaint.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 1.19, eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 521 (S.B. 548), Sec. 7, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 521 (S.B. 548), Sec. 8, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 521 (S.B. 548), Sec. 9, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 521 (S.B. 548), Sec. 10, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 521 (S.B. 548), Sec. 13, eff. September 1, 2019.

Sec. 571.1244. PRELIMINARY REVIEW AND PRELIMINARY REVIEW PROCEDURES. The commission shall adopt procedures for the conduct of preliminary reviews and preliminary review hearings. The procedures must include:

(1) a reasonable time for responding to questions submitted by the commission and commission staff and subpoenas issued by the commission; and

(2) the tolling or extension of otherwise applicable deadlines where:

(A) the commission issues a subpoena and the

commission's meeting schedule makes it impossible both to provide a reasonable time for response and to comply with the otherwise applicable deadlines; or

(B) the commission determines that, despite commission staff's diligence and the reasonable cooperation of the respondent, a matter is too complex to resolve within the otherwise applicable deadlines without compromising either the commission staff's investigation or the rights of the respondent.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 1.19, eff. Sept. 1, 2003.

Sec. 571.125. PRELIMINARY REVIEW HEARING: PROCEDURE. (a) The commission shall conduct a preliminary review hearing if:

(1) following the preliminary review, the commission and the respondent cannot agree to the disposition of the complaint or motion; or

(2) the respondent in writing requests a hearing.

(b) The commission shall provide written notice to the complainant, if any, and the respondent of the date, time, and place the commission will conduct the preliminary review hearing.

(c) At or after the time the commission provides notice of a preliminary review hearing, the commission may submit to the complainant and the respondent written questions and require those questions to be answered under oath within a reasonable time.

(d) During a preliminary review hearing, the commission:

(1) may consider all submitted evidence related to the complaint or to the subject matter of a motion under Section 571.124(b);

(2) may review any documents or material related to the complaint or to the motion; and

(3) shall determine whether there is credible evidence that provides cause for the commission to conclude that a violation within the jurisdiction of the commission has occurred.

(e) During a preliminary review hearing, the respondent may appear before the commission with the assistance of counsel, if desired by the respondent, and present any relevant evidence, including a written statement.

(f) Counsel for the respondent may subpoena a witness to a

preliminary review hearing in the same manner as an attorney may issue a subpoena in a proceeding in a county or district court.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.20, eff. Sept. 1, 2003.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 521 (S.B. 548), Sec. 11, eff. September 1, 2019.

Sec. 571.126. PRELIMINARY REVIEW HEARING: RESOLUTION. (a) As soon as practicable after the completion of a preliminary review hearing, the commission by vote shall issue a decision stating:

(1) whether there is credible evidence for the commission to determine that a violation within the jurisdiction of the commission has occurred and whether the violation is technical or de minimis; or

(2) that there is insufficient evidence for the commission to determine whether a violation within the jurisdiction of the commission has occurred.

(b) If the commission determines that there is credible evidence for the commission to determine that a violation has occurred, the commission shall resolve and settle the complaint or motion to the extent possible. If the commission successfully resolves and settles the complaint or motion, not later than the fifth business day after the date of the final resolution of the complaint or motion, the commission shall send to the complainant, if any, and the respondent a copy of the decision stating the commission's determination and written notice of the resolution and the terms of the resolution. If the commission is unsuccessful in resolving and settling the complaint or motion, the commission shall:

(1) order a formal hearing to be held in accordance with Sections 571.129 through 571.132; and

(2) not later than the fifth business day after the date of the decision, send to the complainant, if any, and the respondent:

(A) a copy of the decision;

(B) written notice of the date, time, and place of the formal hearing;

(C) a statement of the nature of the alleged violation;

(D) a description of the evidence of the alleged violation;

(E) a copy of the complaint or motion;

(F) a copy of the commission's rules of procedure; and

(G) a statement of the rights of the respondent.

(c) If the commission determines that there is credible evidence for the commission to determine that a violation within the jurisdiction of the commission has not occurred, the commission shall:

(1) dismiss the complaint or motion; and

(2) not later than the fifth business day after the date of the dismissal, send to the complainant, if any, and the respondent a copy of the decision stating the commission's determination and written notice of the dismissal and the grounds for dismissal.

(d) If the commission determines that there is insufficient credible evidence for the commission to determine that a violation within the jurisdiction of the commission has occurred, the commission may dismiss the complaint or motion or promptly conduct a formal hearing under Sections 571.129 through 571.132. Not later than the fifth business day after the date of the commission's determination under this subsection, the commission shall send to the complainant, if any, and the respondent a copy of the decision stating the commission's determination and written notice of the grounds for the determination.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.21, 1.22, eff. Sept. 1, 2003.

Sec. 571.129. FORMAL HEARING: STANDARD OF EVIDENCE. During a formal hearing, the commission shall determine by a preponderance of the evidence whether a violation within the jurisdiction of the commission has occurred.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.23, eff. Sept. 1, 2003.

Sec. 571.130. FORMAL HEARING: SUBPOENAS AND WITNESSES. (a) A

subpoena or other request to testify shall be served sufficiently in advance of the scheduled appearance at a formal hearing to allow a reasonable period, as determined by the commission, for the person subpoenaed to prepare for the hearing and to employ counsel if desired.

(b) Except as provided by Section 571.131(a)(1), the commission may order that a person may not, except as specifically authorized by the presiding officer, make public the name of a witness subpoenaed by the commission before the date of that witness's scheduled appearance.

(c) A witness may read a written statement or present a brief oral opening statement at a formal hearing.

(d) A person whose name is mentioned or who is identified or referred to in testimony or in statements made by a commission member, staff member, or witness and who reasonably believes that the statement tends to adversely affect the person's reputation may:

(1) request to appear personally before the commission to testify in the person's own behalf; or

(2) file a sworn statement of facts relevant to the testimony or statement that the person believes adversely affects the person's reputation.

(e) A witness who testifies at a formal hearing must be sworn.

(f) Counsel for the respondent may subpoena a witness to a formal hearing in the same manner as an attorney may issue a subpoena in a proceeding in a county or district court.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 521 (S.B. 548), Sec. 12, eff. September 1, 2019.

Sec. 571.131. FORMAL HEARING: PROCEDURE. (a) Not later than the fifth business day before the date of a scheduled formal hearing or on the granting of a motion for discovery by the respondent, the commission shall provide to the complainant, if any, and to the respondent:

(1) a list of proposed witnesses to be called at the hearing;

(2) copies of all documents expected to be introduced as

exhibits at the hearing; and

(3) a brief statement as to the nature of the testimony expected to be given by each witness to be called at the hearing.

(b) The respondent may not be compelled to give evidence or testimony that violates the respondent's right against self-incrimination under the United States Constitution or the Texas Constitution.

(c) The commission shall adopt rules governing discovery, hearings, and related procedures consistent with this chapter and Chapter 2001.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.132. FORMAL HEARING: RESOLUTION. (a) Not later than the 30th business day after the date the State Office of Administrative Hearings issues a proposal for decision, the commission shall convene a meeting and by motion shall issue:

(1) a final decision stating the resolution of the formal hearing; and

(2) a written report stating in detail the commission's findings of fact, conclusions of law, and recommendation of criminal referral or imposition of a civil penalty, if any.

(b) The motion must be adopted by a vote of at least six members if the final decision is that a violation has occurred or by five members if the final decision is that a violation has not occurred.

(c) Not later than the fifth business day after the date the commission issues the final decision and written report, the commission shall:

(1) send a copy of the decision and report to the complainant, if any, and to the respondent; and

(2) make a copy of the decision and report available to the public during reasonable business hours.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.24, eff. Sept. 1, 2003.

Sec. 571.133. APPEAL OF FINAL DECISION. (a) To appeal a final

decision of the commission, the respondent or the respondent's agent may file a petition in a district court in Travis County or in the county in which the respondent resides.

(b) The petition must be filed not later than the 30th business day after the date the respondent received the decision.

(c) Not later than the 30th day after the date on which the petition is filed, the respondent may request that the appeal be transferred to a district court in Travis County or in the county in which the respondent resides, as appropriate. The court in which the appeal is originally filed shall transfer the appeal to a district court in the other county on receipt of the request.

(d) An appeal brought under this section is not limited to questions of law, and the substantial evidence rule does not apply. The action shall be determined by trial de novo. The reviewing court shall try all issues of fact and law in the manner applicable to other civil suits in this state but may not admit in evidence the fact of prior action by the commission or the nature of that action, except to the limited extent necessary to show compliance with statutory provisions that vest jurisdiction in the court. A party is entitled, on demand, to a jury determination of any issue of fact on which a jury determination is available in other civil suits in this state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 857 (H.B. 1290), Sec. 1, eff. September 1, 2007.

Sec. 571.134. DELAY OF REFERRAL. If an alleged violation involves an election in which the alleged violator is a candidate, a candidate's campaign treasurer, or the campaign treasurer of a political committee supporting or opposing a candidate and the complaint is filed within 60 days before the date of the election, the commission shall delay referral until:

(1) the day after election day;

(2) the day after runoff election day if an ensuing runoff involving the alleged violator is held; or

(3) the day after general election day if the election involved in the violation is a primary election and the alleged

violator is involved in the succeeding general election.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.135. PUBLIC INTEREST INFORMATION. (a) The commission shall develop plain-language materials as described by this section. The commission shall distribute the materials to the public and appropriate state agencies.

(b) The materials must include:

(1) a description of:

(A) the commission's responsibilities;

(B) the types of conduct that constitute a violation of a law within the jurisdiction of the commission;

(C) the types of sanctions the commission may impose;

(D) the commission's policies and procedures relating to complaint investigation and resolution; and

(E) the duties of a person filing a complaint with the commission; and

(2) a diagram showing the basic steps in the commission's procedures relating to complaint investigation and resolution.

(c) The commission shall provide the materials described by this section to each complainant and respondent.

(d) The commission shall adopt a policy to effectively distribute materials as required by this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.25, eff. Sept. 1, 2003.

Sec. 571.1351. STATUS OF COMPLAINT. (a) The commission shall keep an information file about each sworn or other complaint filed with the commission. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the commission;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the commission closed the file without taking action other than to investigate the complaint.

(b) The commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.

(c) In addition to the notice required by Sections 571.123 through 571.132, the commission, at least quarterly until final disposition of a complaint, shall notify the person who filed the complaint and each person who is a subject of the complaint, if any, of the status of the sworn or other complaint.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Renumbered from Government Code Sec. 571.135(b) and amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.25, eff. Sept. 1, 2003.

Sec. 571.136. EXTENSION OF DEADLINE. The commission may, on its own motion or on the reasonable request of a respondent, extend any deadline for action relating to a sworn complaint, motion, preliminary review hearing, or formal hearing.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.25, eff. Sept. 1, 2003.

Sec. 571.137. SUBPOENA. (a) In connection with a formal hearing, the commission, as authorized by this chapter, may subpoena and examine witnesses and documents that directly relate to a sworn complaint.

(a-1) In connection with a preliminary review, the commission, for good cause and as authorized by this chapter, may subpoena documents and witnesses on application by the commission staff and a motion adopted by a vote of at least six members of the commission, for the purpose of attempting to obtain from the documents or witnesses specifically identified information, if the commission reasonably believes that the specifically identified information:

(1) is likely to be determinative as to whether the subject of an investigation has violated a law within the jurisdiction of the

commission;

(2) can be determined from the documents or is known by the witnesses; and

(3) is not reasonably available through a less intrusive means.

(a-2) The commission shall adopt procedures for the issuance of subpoenas under this section.

(a-3) A copy of a subpoena issued under this section must be delivered to the respondent.

(b) At the written request of at least six members of the commission, a peace officer shall serve a subpoena of the commission in the manner prescribed for service of a district court subpoena.

(c) If a person to whom a subpoena is directed refuses to appear, refuses to answer inquiries, or fails or refuses to produce books, records, or other documents that were under the person's control when the demand was made, the commission shall report that fact to a district court in Travis County. The district court shall enforce the subpoena by attachment proceedings for contempt in the same manner as the court enforces a subpoena issued by the court.

(d) A respondent has the right to quash a subpoena as provided by law.

(e) A subpoenaed witness who attends a commission hearing is entitled to the same mileage and per diem payments as a witness who appears before a grand jury. A person who provides subpoenaed documents to the commission is entitled to reimbursement from the commission for the person's reasonable cost of producing the documents.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.26, eff. Sept. 1, 2003.

Sec. 571.138. STATUS OF COMPLAINANT. The complainant is not a party to a preliminary review, preliminary review hearing, or formal hearing under this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.27, eff. Sept. 1, 2003.

Sec. 571.139. APPLICABILITY OF OTHER ACTS. (a) Except as provided by Section 571.140(b), Chapter 552 does not apply to documents or any additional evidence relating to the processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint or motion.

(b) Chapter 551 does not apply to the processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint or motion, but does apply to a formal hearing held under Sections 571.129 through 571.131.

(c) Subchapters C through H, Chapter 2001, apply only to a formal hearing under this subchapter, the resolution of a formal hearing, and the appeal of a final order of the commission, and only to the extent consistent with this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.28, eff. Sept. 1, 2003.

Sec. 571.140. CONFIDENTIALITY; OFFENSE. (a) Except as provided by Subsection (b) or (b-1) or by Section 571.171, proceedings at a preliminary review hearing performed by the commission, a sworn complaint, and documents and any additional evidence relating to the processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint or motion are confidential and may not be disclosed unless entered into the record of a formal hearing or a judicial proceeding, except that a document or statement that was previously public information remains public information.

(b) An order issued by the commission after the completion of a preliminary review or hearing determining that a violation other than a technical or de minimis violation has occurred is not confidential.

(b-1) A commission employee may, for the purpose of investigating a sworn complaint or motion, disclose to the complainant, the respondent, or a witness information that is otherwise confidential and relates to the sworn complaint if:

(1) the employee makes a good faith determination that the disclosure is necessary to conduct the investigation;

(2) the employee's determination under Subdivision (1) is objectively reasonable;

(3) the executive director authorizes the disclosure; and

(4) the employee discloses only the information necessary to conduct the investigation.

(c) A person commits an offense if the person discloses information made confidential by this section. An offense under this subsection is a Class C misdemeanor.

(d) In addition to other penalties, a person who discloses information made confidential by this section is civilly liable to the respondent in an amount equal to the greater of $10,000 or the amount of actual damages incurred by the respondent, including court costs and attorney fees.

(e) The commission shall terminate the employment of a commission employee who violates Subsection (a).

(f) A commission employee who discloses confidential information in compliance with Subsection (b-1) is not subject to Subsections (c), (d), and (e).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.29, eff. Sept. 1, 2003.

Sec. 571.141. AVAILABILITY OF COMMISSION ORDERS ON INTERNET. (a) As soon as practicable following a preliminary review, preliminary review hearing, or formal hearing at which the commission determines that a person has committed a violation within the commission's jurisdiction, the commission shall make available on the Internet:

(1) a copy of the commission's order stating the determination; or

(2) a summary of the commission's order.

(b) This section does not apply to a determination of a violation that is technical or de minimis.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 1.30, eff. Sept. 1, 2003.

Sec. 571.142. LIABILITY FOR RESPONDENT'S COSTS. (a) This section applies only to a sworn complaint if:

(1) the complaint was filed after the 30th day before the

date of an election;

(2) the respondent is a candidate in the election; and

(3) the complaint alleges a violation other than a technical or clerical violation.

(b) If, in disposing of a sworn complaint to which this section applies, the commission determines that a violation within the commission's jurisdiction has not occurred, the complainant is liable for the respondent's reasonable and necessary attorney's fees and other costs incurred in defending against the complaint.

(c) This section does not apply to a sworn complaint regarding a reporting omission required by law.

Added by Acts 2009, 81st Leg., R.S., Ch. 604 (H.B. 677), Sec. 3, eff. September 1, 2009.

SUBCHAPTER F. ENFORCEMENT

Sec. 571.171. INITIATION AND REFERRAL. (a) On a motion adopted by an affirmative vote of at least six commission members, the commission may initiate civil enforcement actions and refer matters to the appropriate prosecuting attorney for criminal prosecution.

(b) On receipt of a sworn complaint, if the executive director reasonably believes that the person who is the subject of the complaint has violated Chapter 36 or 39, Penal Code, the executive director may refer the matter to the appropriate prosecuting attorney for criminal prosecution.

(c) In making a referral to a prosecuting attorney under this section, the commission or executive director may disclose confidential information.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 1.31, eff. Sept. 1, 2003.

Sec. 571.172. ORDER. The commission may:

(1) issue and enforce a cease and desist order to stop a violation; and

(2) issue an affirmative order to require compliance with the laws administered and enforced by the commission.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.173. CIVIL PENALTY FOR DELAY OR VIOLATION. The commission may impose a civil penalty of not more than $5,000 or triple the amount at issue under a law administered and enforced by the commission, whichever amount is more, for a delay in complying with a commission order or for a violation of a law administered and enforced by the commission.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.1731. WAIVER OR REDUCTION OF LATE FILING PENALTY. (a) A person may request the waiver or reduction of a civil penalty under Section 305.033(b) or 572.033(b) of this code or Section 254.042(b), Election Code, by submitting an affidavit to the executive director that states the filer's reasons for requesting a waiver or reduction.

(b) The commission may waive or reduce a civil penalty if the commission finds that a waiver or reduction is in the public interest and in the interest of justice. The commission shall consider the following before acting to waive or reduce a civil penalty:

(1) the facts and circumstances supporting the person's request for a waiver or reduction;

(2) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation, and the amount of the penalty;

(3) any history of previous violations by the person;

(4) the demonstrated good faith of the person, including actions taken to rectify the consequences of the violation;

(5) the penalty necessary to deter future violations; and

(6) any other matter that justice may require.

(c) After hearing the waiver request, the commission may affirm, reduce, or waive the civil penalty.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 1.32, eff. Sept. 1, 2003.

Sec. 571.174. DENIAL, SUSPENSION, OR REVOCATION OF LOBBYIST REGISTRATION. After a criminal conviction for an offense under

Chapter 36 of the Penal Code or under Chapter 305, the commission may deny, suspend, or revoke the registration of a person required to be registered under Chapter 305.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.175. NOTIFICATION OF REGULATORY OR SUPERVISORY ENTITY. The commission may notify the appropriate regulatory or supervisory entity, including any agency, the State Commission on Judicial Conduct, the senate, the house of representatives, or the State Bar of Texas, of a violation of a law administered and enforced by the commission.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 571.176. CIVIL PENALTY FOR FRIVOLOUS OR BAD-FAITH COMPLAINT. (a) The commission may impose a civil penalty of not more than $10,000 for the filing of a frivolous or bad-faith complaint. In this subsection, "frivolous complaint" means a complaint that is groundless and brought in bad faith or is groundless and brought for the purpose of harassment.

(b) In addition to other penalties, a person who files a frivolous complaint is civilly liable to the respondent in an amount equal to the greater of $10,000 or the amount of actual damages incurred by the respondent, including court costs and attorney fees.

(c) A person may file a sworn complaint with the commission, in accordance with Section 571.122, alleging that a complaint relating to that person filed with the commission is frivolous or brought in bad faith. A complaint may be filed under this subsection without regard to whether the complaint alleged to be frivolous or brought in bad faith is pending before the commission or has been resolved. The commission shall act on a complaint made under this subsection as provided by Subchapter E.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2005, 79th Leg., Ch. 1141 (H.B. 2826), Sec. 1, eff. June 18, 2005.

Sec. 571.177. FACTORS CONSIDERED FOR ASSESSMENT OF SANCTION. The commission shall consider the following factors in assessing a sanction:

(1) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation;

(2) the history and extent of previous violations;

(3) the demonstrated good faith of the violator, including actions taken to rectify the consequences of the violation;

(4) the penalty necessary to deter future violations; and

(5) any other matters that justice may require.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1993.

CHAPTER 572. PERSONAL FINANCIAL DISCLOSURE, STANDARDS OF CONDUCT, AND CONFLICT OF INTEREST

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 572.001. POLICY; LEGISLATIVE INTENT. (a) It is the policy of this state that a state officer or state employee may not have a direct or indirect interest, including financial and other interests, or engage in a business transaction or professional activity, or incur any obligation of any nature that is in substantial conflict with the proper discharge of the officer's or employee's duties in the public interest.

(b) To implement this policy and to strengthen the faith and confidence of the people of this state in state government, this chapter provides standards of conduct and disclosure requirements to be observed by persons owing a responsibility to the people and government of this state in the performance of their official duties.

(c) It is the intent of the legislature that this chapter serve not only as a guide for official conduct of those persons but also as a basis for discipline of those who refuse to abide by its terms.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 572.002. GENERAL DEFINITIONS. In this chapter:

(1) "Appointed officer" means:

(A) the secretary of state;

(B) an individual appointed with the advice and consent of the senate to the governing board of a state-supported institution

of higher education;

(C) an officer of a state agency who is appointed for a term of office specified by the Texas Constitution or a statute of this state, excluding an appointee to a vacated elective office; or

(D) an individual who is a member of the governing board or commission of a state agency, who is not appointed, and who is not otherwise:

(i) an elected officer;

(ii) an officer described by Paragraphs (A) through (C); or

(iii) an executive head of a state agency.

(2) "Business entity" means any entity recognized by law through which business for profit is conducted, including a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, or trust.

(3) "Commission" means the Texas Ethics Commission.

(4) "Elected officer" means:

(A) a member of the legislature;

(B) an executive or judicial officer elected in a statewide election;

(C) a judge of a court of appeals or of a district court;

(D) a member of the State Board of Education;

(E) a district attorney or criminal district attorney; or

(F) an individual appointed to fill a vacancy in an office or appointed to a newly created office who, if elected to the office instead of appointed, would be an elected officer under this subdivision.

(5) "Executive head of a state agency" means the director, executive director, commissioner, administrator, chief clerk, or other individual who is appointed by the governing body or highest officer of the state agency to act as the chief executive or administrative officer of the agency and who is not an appointed officer. The term includes the chancellor or highest executive officer of a university system and the president of a public senior college or university as defined by Section 61.003, Education Code.

(6) "State party chair" means the state chair of any political party receiving more than two percent of the vote for governor in the most recent general election.

(7) "Person" means an individual or a business entity.

(8) "Regulatory agency" means any department, commission, board, or other agency, except the secretary of state and the comptroller, that:

(A) is in the executive branch of state government;

(B) has authority that is not limited to a geographical portion of the state;

(C) was created by the Texas Constitution or a statute of this state; and

(D) has constitutional or statutory authority to engage in regulation.

(9) "Salaried appointed officer" means an appointed officer who receives or is authorized to receive a salary for state service but not a per diem or other form of compensation.

(10) "State agency" means:

(A) a department, commission, board, office, or other agency that:

(i) is in the executive branch of state government;

(ii) has authority that is not limited to a geographical portion of the state; and

(iii) was created by the Texas Constitution or a statute of this state;

(B) a university system or an institution of higher education as defined by Section 61.003, Education Code, other than a public junior college; or

(C) a river authority created under the Texas Constitution or a statute of this state.

(11) "State employee" means an individual, other than a state officer, who is employed by:

(A) a state agency;

(B) the Supreme Court of Texas, the Court of Criminal Appeals of Texas, a court of appeals, or the Texas Judicial Council; or

(C) either house of the legislature or a legislative agency, council, or committee, including the Legislative Budget Board, the Texas Legislative Council, the State Auditor's Office, and the Legislative Reference Library.

(11-a) "State judge" means:

(A) a judge, former judge, or retired judge of an appellate court, a district court, a constitutional county court, a

county court at law, or a statutory probate court of this state;

(B) an associate judge appointed under Chapter 201, Family Code, or a retired associate judge or former associate judge appointed under that chapter;

(C) a magistrate or associate judge appointed under Chapter 54 or 54A;

(D) a justice of the peace; or

(E) a municipal court judge.

(12) "State officer" means an elected officer, an appointed officer, a salaried appointed officer, an appointed officer of a major state agency, or the executive head of a state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 12, Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 1253 (H.B. 1945), Sec. 1, eff. June 18, 2005.

Acts 2017, 85th Leg., R.S., Ch. 190 (S.B. 42), Sec. 18, eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070 and S.B. 5, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 572.003. DEFINITION: APPOINTED OFFICER OF MAJOR STATE AGENCY. (a) In this chapter, "appointed officer of a major state agency" means an individual listed in Subsection (b) or (c).

(b) The term means:

(1) the Banking Commissioner of The Banking Department of Texas;

(2) the administrative director of the Office of Court Administration of the Texas Judicial System;

(3) the chief executive of the Office of Public Utility Counsel;

(4) the executive director of the State Bar of Texas;

(5) the director of the lottery division of the Texas Lottery Commission;

(6) the deputy in charge of the department of security in the lottery division of the Texas Lottery Commission;

(7) the director of the bingo division of the Texas Lottery Commission; or

(8) the secretary of state.

(c) The term means a member of:

(1) the Public Utility Commission of Texas;

(2) the Texas Commission on Environmental Quality;

(3) the Texas Alcoholic Beverage Commission;

(4) the Finance Commission of Texas;

(5) the Texas Facilities Commission;

(6) the Texas Board of Criminal Justice;

(7) the board of trustees of the Employees Retirement System of Texas;

(8) the Texas Transportation Commission;

(9) the Texas Department of Insurance;

(10) the Parks and Wildlife Commission;

(11) the Public Safety Commission;

(12) the Texas Ethics Commission;

(13) the State Securities Board;

(14) the Texas Water Development Board;

(15) the governing board of a public senior college or university as defined by Section 61.003, Education Code, or of The University of Texas Southwestern Medical Center, The University of Texas Medical Branch at Galveston, The University of Texas Health Science Center at Houston, The University of Texas Health Science Center at San Antonio, The University of Texas M. D. Anderson Cancer Center, The University of Texas Health Science Center at Tyler, University of North Texas Health Science Center at Fort Worth, Texas Tech University Health Sciences Center, Texas State Technical College--Harlingen, Texas State Technical College--Marshall, Texas State Technical College--Sweetwater, or Texas State Technical College--Waco;

(16) the Texas Higher Education Coordinating Board;

(17) the Texas Workforce Commission;

(18) the board of trustees of the Teacher Retirement System of Texas;

(19) the Credit Union Commission;

(20) the School Land Board;

(21) the board of the Texas Department of Housing and Community Affairs;

(22) the Texas Racing Commission;

(23) the State Board of Dental Examiners;
(24) the Texas Medical Board;
(25) the Board of Pardons and Paroles;
(26) the Texas State Board of Pharmacy;
(27) the Department of Information Resources governing board;
(28) the board of the Texas Department of Motor Vehicles;
(29) the Texas Real Estate Commission;
(30) the board of directors of the State Bar of Texas;
(31) the Bond Review Board;
(32) the Health and Human Services Commission;
(33) the Texas Funeral Service Commission;
(34) the board of directors of a river authority created under the Texas Constitution or a statute of this state;
(35) the Texas Lottery Commission; or
(36) the Cancer Prevention and Research Institute of Texas.

(d) The term includes the successor in function as provided by law to an office listed in Subsection (b) or (c) if that office is abolished.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.06(a), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 238, Sec. 3, eff. May 22, 2001; Acts 2003, 78th Leg., ch. 817, Sec. 10.04, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 3.09, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 11.012, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 179 (H.B. 1844), Sec. 13, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 3.02, eff. June 14, 2013.

Acts 2017, 85th Leg., R.S., Ch. 521 (S.B. 81), Sec. 1, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 276 (H.B. 3514), Sec. 2, eff. September 1, 2021.

Sec. 572.004. DEFINITION: REGULATION. In this chapter,

"regulation" means rulemaking, adjudication, or licensing. In this definition:

(1) "Adjudication" means the process of an agency for formulating an order.

(2) "License" includes all or part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption, or other form of permission.

(3) "Licensing" includes the process of an agency concerning the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license.

(4) "Order" means all or part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency in a matter other than rulemaking but including licensing.

(5) "Rule" means all or part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of an agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 572.005. DETERMINATION OF SUBSTANTIAL INTEREST. An individual has a substantial interest in a business entity if the individual:

(1) has a controlling interest in the business entity;

(2) owns more than 10 percent of the voting interest in the business entity;

(3) owns more than $25,000 of the fair market value of the business entity;

(4) has a direct or indirect participating interest by shares, stock, or otherwise, regardless of whether voting rights are included, in more than 10 percent of the profits, proceeds, or capital gains of the business entity;

(5) is a member of the board of directors or other governing board of the business entity;

(6) serves as an elected officer of the business entity; or

(7) is an employee of the business entity.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 572.006. DETERMINATION OF DEPENDENT CHILD. An individual's child, including an adopted child or stepchild, is the individual's dependent during a calendar year in which the individual provides more than 50 percent of the child's support.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 572.007. PENALTIES IMPOSED BY COMMISSION. This chapter does not prohibit the imposition of civil penalties by the commission in addition to criminal penalties or other sanctions imposed by law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 572.008. VENUE. An offense under this chapter, including perjury, may be prosecuted in Travis County or in any other county in which it may be prosecuted under the Code of Criminal Procedure.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. PERSONAL FINANCIAL STATEMENT

Sec. 572.021. FINANCIAL STATEMENT REQUIRED. Except as provided by Section 572.0211, a state officer, a partisan or independent candidate for an office as an elected officer, and a state party chair shall file with the commission a verified financial statement complying with Sections 572.022 through 572.0252.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 249, Sec. 5.01, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 630 (H.B. 2511), Sec. 2, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 1253 (H.B. 1945), Sec. 2, eff. June 18, 2005.

Sec. 572.0211. FILING BY HOLDOVER OFFICER NOT REQUIRED. (a) An appointed officer who resigns from office and who ceases to participate in the state agency's functions is not required to file a financial statement that is due because of service in that office after the effective date of the resignation.

(b) An appointed officer whose term of office expires and who ceases to participate in the functions of the state agency is not required to file a financial statement that is due because of service in that office after the date the term of office expires.

(c) An appointed officer of a state agency that is abolished or whose functions are transferred to another state agency is not required to file a financial statement that is due because of service after the date that the agency is abolished or the functions of the agency are transferred.

(d) An appointed officer who resigns or whose term of office expires who does not intend to participate in the functions of the state agency shall deliver written notice of the officer's intention to the governor and the commission.

Added by Acts 2005, 79th Leg., Ch. 630 (H.B. 2511), Sec. 1, eff. June 17, 2005.

Sec. 572.022. REPORTING CATEGORIES; REQUIRED DESCRIPTIONS. (a) If an amount in a financial statement is required to be reported by category, the individual filing the statement shall report whether the amount is:

(1) less than $5,000;

(2) at least $5,000 but less than $10,000;

(3) at least $10,000 but less than $25,000; or

(4) $25,000 or more.

(b) The individual filing the statement shall report an amount of stock by category of number of shares instead of by category of dollar value and shall report whether the amount is:

(1) less than 100 shares;

(2) at least 100 but less than 500 shares;

(3) at least 500 but less than 1,000 shares;

(4) at least 1,000 but less than 5,000 shares;

(5) at least 5,000 but less than 10,000 shares; or

(6) 10,000 shares or more.

(c) The individual filing the statement shall report a description of real property by reporting:

(1) the street address, if available, or the number of lots or number of acres, as applicable, in each county, and the name of the county, if the street address is not available; and

(2) the names of all persons retaining an interest in the property, excluding an interest that is a severed mineral interest.

(d) For a gift of cash or a cash equivalent such as a negotiable instrument or gift certificate that is reported in accordance with Section 572.023(b)(7), the individual filing the statement shall include in the description of the gift a statement of the value of the gift.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 249, Sec. 5.02, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 342 (S.B. 129), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 342 (S.B. 129), Sec. 2, eff. September 1, 2007.

Sec. 572.023. CONTENTS OF FINANCIAL STATEMENT IN GENERAL. (a) A financial statement must include an account of the financial activity of the individual required by this subchapter to file a financial statement and an account of the financial activity of the individual's spouse and dependent children if the individual had actual control over that activity for the preceding calendar year.

(b) The account of financial activity consists of:

(1) a list of all sources of occupational income, identified by employer, or if self-employed, by the nature of the occupation, including identification of a person or other organization from which the individual or a business in which the individual has a substantial interest received a fee as a retainer for a claim on future services in case of need, as distinguished from a fee for services on a matter specified at the time of contracting for or receiving the fee, if professional or occupational services are not actually performed during the reporting period equal to or in excess of the amount of the retainer, and the category of the amount

of the fee;

(2) identification by name and the category of the number of shares of stock of any business entity held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale;

(3) a list of all bonds, notes, and other commercial paper held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale;

(4) identification of each source and the category of the amount of income in excess of $500 derived from each source from interest, dividends, royalties, and rents;

(5) identification of each guarantor of a loan and identification of each person or financial institution to whom a personal note or notes or lease agreement for a total financial liability in excess of $1,000 existed at any time during the year and the category of the amount of the liability;

(6) identification by description of all beneficial interests in real property and business entities held or acquired, and if sold, the category of the amount of the net gain or loss realized from the sale;

(7) identification of a person or other organization from which the individual or the individual's spouse or dependent children received a gift of anything of value in excess of $250 and a description of each gift, except:

(A) a gift received from an individual related to the individual at any time within the second degree by consanguinity or affinity, as determined under Subchapter B, Chapter 573;

(B) a political contribution that was reported as required by Chapter 254, Election Code; and

(C) an expenditure required to be reported by a person required to be registered under Chapter 305;

(8) identification of the source and the category of the amount of all income received as beneficiary of a trust, other than a blind trust that complies with Subsection (c), and identification of each trust asset, if known to the beneficiary, from which income was received by the beneficiary in excess of $500;

(9) identification:

(A) by description of a corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other

business association in which five percent or more of the outstanding ownership was held, acquired, or sold; and

(B) by description and the category of the amount of all assets and liabilities of a corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association in which 50 percent or more of the outstanding ownership was held, acquired, or sold;

(10) a list of all boards of directors of which the individual is a member and executive positions that the individual holds in corporations, firms, partnerships, limited partnerships, limited liability partnerships, professional corporations, professional associations, joint ventures, or other business associations or proprietorships, stating the name of each corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association or proprietorship and the position held;

(11) identification of any person providing transportation, meals, or lodging expenses permitted under Section 36.07(b), Penal Code, and the amount of those expenses, other than expenditures required to be reported under Chapter 305;

(12) any corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association, excluding a publicly held corporation, in which both the individual and a person registered under Chapter 305 have an interest;

(13) identification by name and the category of the number of shares of any mutual fund held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale;

(14) identification of each blind trust that complies with Subsection (c), including:

(A) the category of the fair market value of the trust;

(B) the date the trust was created;

(C) the name and address of the trustee; and

(D) a statement signed by the trustee, under penalty of perjury, stating that:

(i) the trustee has not revealed any information to the individual, except information that may be disclosed under

Subdivision (8); and

(ii) to the best of the trustee's knowledge, the trust complies with this section;

(15) if the aggregate cost of goods or services sold under one or more written contracts described by this subdivision exceeds $10,000 in the year covered by the report, identification of each written contract, including the name of each party to the contract:

(A) for the sale of goods or services in the amount of $2,500 or more;

(B) to which the individual, the individual's spouse, the individual's dependent child, or any business entity of which the individual, the individual's spouse, or the individual's dependent child, independently or in conjunction with one or more persons described by this subsection, has at least a 50 percent ownership interest is a party; and

(C) with:

(i) a governmental entity; or

(ii) a person who contracts with a governmental entity, if the individual or entity described by Paragraph (B) performs work arising out of the contract, subcontract, or agreement between the person and the governmental entity for a fee; and

(16) if the individual is a member of the legislature and provides bond counsel services to an issuer, as defined by Section 1201.002(1), identification of the following for each issuance for which the individual served as bond counsel:

(A) the amount of the issuance;

(B) the name of the issuer;

(C) the date of the issuance;

(D) the amount of fees paid to the individual, and whether the amount is:

(i) less than $5,000;

(ii) at least $5,000 but less than $10,000;

(iii) at least $10,000 but less than $25,000; or

(iv) $25,000 or more; and

(E) the amount of fees paid to the individual's firm, if applicable, and whether the amount is:

(i) less than $5,000;

(ii) at least $5,000 but less than $10,000;

(iii) at least $10,000 but less than $25,000; or

(iv) $25,000 or more.

(c) For purposes of Subsections (b)(8) and (14), a blind trust is a trust as to which:

(1) the trustee:

(A) is a disinterested party;

(B) is not the individual;

(C) is not required to register as a lobbyist under Chapter 305;

(D) is not a public officer or public employee; and

(E) was not appointed to public office by the individual or by a public officer or public employee the individual supervises; and

(2) the trustee has complete discretion to manage the trust, including the power to dispose of and acquire trust assets without consulting or notifying the individual.

(d) If a blind trust under Subsection (c) is revoked while the individual is subject to this subchapter, the individual must file an amendment to the individual's most recent financial statement, disclosing the date of revocation and the previously unreported value by category of each asset and the income derived from each asset.

(e) In this section, "governmental entity" means this state, a political subdivision of the state, or an agency or department of the state or a political subdivision of the state.

(f) Subsection (b)(15) does not require the disclosure of an employment contract between a school district or open-enrollment charter school and an employee of the district or school.

(g) An individual who complies with any applicable requirements of Sections 51.954 and 51.955, Education Code, and Section 2252.908 of this code, in an individual capacity or as a member or employee of an entity to which those sections apply, is not required to include in the account of financial activity the information described by Subsection (b)(15) unless specifically requested by the commission to include the information.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 249, Sec. 5.03, eff. Sept. 1, 2003.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 439 (H.B. 501), Sec. 1, eff. January 8, 2019.

Sec. 572.024. INFORMATION ABOUT SERVICES FOR LOBBYISTS OR LOBBYIST EMPLOYERS. A state officer who receives a fee for services rendered by the officer to or on behalf of a person required to be registered under Chapter 305, or to or on behalf of a person or entity that the officer actually knows directly compensates or reimburses a person required to be registered under Chapter 305, shall report on the financial statement the name of each person or entity for which the services were rendered and the category of the amount of each fee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 572.025. INFORMATION ABOUT LEGISLATORS' REPRESENTATION BEFORE EXECUTIVE STATE AGENCIES. A member of the legislature who represents another person for compensation before an executive state agency shall report on the financial statement:

(1) the name of the agency;

(2) the person represented by the member; and

(3) the category of the amount of compensation received by the member for that representation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 572.0251. INFORMATION ABOUT LEGISLATIVE CONTINUANCES. A member or member-elect of the legislature licensed to practice law in this state who represents a party to a civil or criminal case for compensation and on that party's behalf applies for or obtains a legislative continuance under Section 30.003, Civil Practice and Remedies Code, or under another law or rule that requires or permits a court to grant a continuance on the grounds that an attorney for a party is a member or member-elect of the legislature shall report on the financial statement:

(1) the name of the party represented;

(2) the date on which the member or member-elect was retained to represent the party;

(3) the style and cause number of the action in which the continuance was sought and the court and jurisdiction in which the action was pending when the continuance was sought;

(4) the date on which the member or member-elect applied

for a continuance; and

(5) whether the continuance was granted.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 5.04, eff. Sept. 1, 2003.

Sec. 572.0252. INFORMATION ABOUT REFERRALS. A state officer who is an attorney shall report on the financial statement:

(1) making or receiving any referral for compensation for legal services; and

(2) the category of the amount of any fee accepted for making a referral for legal services.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 5.04, eff. Sept. 1, 2003.

Sec. 572.026. FILING DATES FOR STATE OFFICERS AND STATE PARTY CHAIRS. (a) Not later than April 30 each year, a state officer or a state party chair shall file the financial statement as required by this subchapter.

(b) An individual who is appointed to serve as a salaried appointed officer or an appointed officer of a major state agency or who is appointed to fill a vacancy in an elective office shall file a financial statement not later than the 30th day after the date of appointment or the date of qualification for the office, or if confirmation by the senate is required, before the first committee hearing on the confirmation, whichever date is earlier.

(c) An individual who is appointed or employed as the executive head of a state agency shall file a financial statement not later than the 45th day after the date on which the individual assumes the duties of the position. A state agency shall immediately notify the commission of the appointment or employment of an executive head of the agency.

(d) An individual required to file a financial statement under Subsection (a) may request the commission to grant an extension of not more than 60 days for filing the statement. The commission shall grant the request if it is received before the filing deadline or if a timely filing or request for extension is prevented because of physical or mental incapacity. The commission may not grant more

than one extension to an individual in one year except for good cause shown.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 249, Sec. 5.05, eff. Sept. 1, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 1253 (H.B. 1945), Sec. 3, eff. June 18, 2005.
Acts 2005, 79th Leg., Ch. 1253 (H.B. 1945), Sec. 4, eff. June 18, 2005.
Acts 2007, 80th Leg., R.S., Ch. 248 (H.B. 2839), Sec. 1, eff. May 25, 2007.

Sec. 572.027. FILING DATES FOR CANDIDATES. (a) An individual who is a partisan or independent candidate for an office as an elected officer shall file the financial statement required by this subchapter not later than the later of:

(1) the 60th day after the date of the regular filing deadline for an application for a place on the ballot in the general primary election; or

(2) February 12.

(b) If the deadline under which a candidate files an application for a place on the ballot, other than the regular filing deadline for an independent candidate, or files a declaration of write-in candidacy falls after the date of the regular filing deadline for candidates in the general primary election, the candidate shall file the financial statement not later than the 30th day after that later deadline. However, if that deadline falls after the 35th day before the date of the election in which the candidate is running, the candidate shall file the statement not later than the fifth day before the date of that election.

(c) An individual who is a candidate in a special election for an office as an elected officer shall file the financial statement not later than the fifth day before the date of that election.

(d) An individual nominated to fill a vacancy in a nomination as a candidate for a position as an elected officer under Chapter 145, Election Code, shall file the financial statement not later than the 15th day after the date the certificate of nomination required by

Section 145.037 or 145.038, Election Code, is filed.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 13, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 239 (S.B. 431), Sec. 1, eff. September 1, 2015.

Sec. 572.028. DUPLICATE STATEMENTS. If an individual has filed a financial statement under one provision of this subchapter covering the preceding calendar year, the individual is not required to file a financial statement required under another provision of this subchapter to cover that same year if, before the deadline for filing the statement under the other provision, the individual notifies the commission in writing that the individual has already filed a financial statement under the provision specified.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 572.029. TIMELINESS OF FILING. (a) The deadline for filing a financial statement required by this subchapter is 5 p.m. of the last day designated in the applicable provision for filing the statement.

(b) If the last day for filing the financial statement is a Saturday, Sunday, or holiday included under Subchapter B, Chapter 662, the statement is timely if filed on the next day that is not a Saturday, Sunday, or listed holiday.

(c) A financial statement is timely filed if it is properly addressed and placed in the United States Post Office or in the hands of a common or contract carrier not later than the last day for filing the financial statement. The post office cancellation mark or the receipt mark of a common or contract carrier is prima facie evidence of the date the statement was deposited with the post office or carrier. The individual filing the statement may show by competent evidence that the actual date of posting was different from that shown by the marks.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 572.0291. ELECTRONIC FILING REQUIRED. (a) Except as provided by Subsection (b), a financial statement filed with the commission must be filed by computer diskette, modem, or other means of electronic transfer, using computer software provided by the commission or computer software that meets commission specifications for a standard file format.

(b) An individual who was appointed to office and who is required to file a financial statement with the commission under this subchapter may file the financial statement by certified mail. The filing by mail must be in compliance with Section 572.029.

Added by Acts 2015, 84th Leg., R.S., Ch. 818 (H.B. 3683), Sec. 1, eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 243 (H.B. 791), Sec. 1, eff. May 29, 2017.

Sec. 572.0295. AMENDMENT OF FINANCIAL STATEMENT. (a) A person who files a financial statement under this chapter may amend the person's statement.

(b) A financial statement that is amended is considered to have been filed on the date on which the original statement was filed if:

(1) the amendment is made on or before the 14th day after the date the person filing the statement learns of an error or omission in the original statement;

(2) the original financial statement was made in good faith and without an intent to mislead or to misrepresent the information contained in the statement; and

(3) the person filing the amendment accompanies the amendment with a declaration that:

(A) the person became aware of the error or omission in the original statement during the preceding 14 days; and

(B) the original statement was made in good faith and without intent to mislead or to misrepresent the information contained in the statement.

Added by Acts 2017, 85th Leg., R.S., Ch. 439 (H.B. 501), Sec. 2, eff. January 8, 2019.

Sec. 572.030. PREPARATION AND MAILING OF FORMS. (a) The commission shall design forms that may be used for filing the financial statement under this subchapter.

(b) The commission shall mail to each individual required to file under this subchapter a notice that:

(1) states that the individual is required to file a financial statement under this subchapter;

(2) identifies the filing dates for the financial statement as provided by Sections 572.026 and 572.027;

(3) describes the manner in which the individual may obtain the financial statement forms and instructions from the commission's Internet website;

(4) states that on request of the individual, the commission will mail to the individual a copy of the financial statement forms and instructions; and

(5) states, if applicable, the fee for mailing the forms and instructions and the manner in which the individual may pay the fee.

(c) The notice required by Subsection (b) must be mailed:

(1) before the 30th day before the deadline for filing the financial statement under Section 572.026(a) or (c), except as otherwise provided by this subsection;

(2) not later than the 15th day after the applicable deadline for filing an application for a place on the ballot or a declaration of write-in candidacy for candidates required to file under Section 572.027(a), (b), or (c);

(3) not later than the seventh day after the date of appointment for individuals required to file under Section 572.026(b), or if the legislature is in session, sooner if possible; and

(4) not later than the fifth day after the date the certificate of nomination is filed for candidates required to file under Section 574.027(d).

(d) The commission shall mail a copy of the financial statement forms and instructions to an individual not later than the third business day after the date the commission receives the individual's request for the forms and instructions.

(e) The commission may charge a fee for mailing the financial

statement forms and instructions to an individual. The amount of the fee may not exceed the reasonable cost of producing and mailing the forms and instructions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 14, eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 299 (H.B. 1652), Sec. 1, eff. June 15, 2007.

Sec. 572.031. DETERMINATION OF COMPLIANCE WITH SUBCHAPTER. (a) The commission shall conduct a continuing survey to determine whether all individuals required to file financial statements under this subchapter have filed statements in compliance with this subchapter.

(b) If the commission determines that an individual has failed to file the statement in compliance with this subchapter, the commission shall send a written statement of the determination to the appropriate prosecuting attorneys of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 572.032. PUBLIC ACCESS TO STATEMENTS. (a) Financial statements filed under this subchapter are public records. The commission shall maintain the statements in separate alphabetical files and in a manner that is accessible to the public during regular office hours.

Text of subsection as amended by Acts 2017, 85th Leg., R.S., Ch. 983 (H.B. 776), Sec. 1

(a-1) The commission shall remove the home address, the telephone number, and the names of the dependent children of an individual from a financial statement filed by the individual under this subchapter before:

(1) permitting a member of the public to view the statement;

(2) providing a copy of the statement to a member of the public; or

(3) making the statement available to the public on the

commission's Internet website, if the commission makes statements filed under this subchapter available on its website.

Text of subsection as amended by Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 15

(a-1) Before permitting a member of the public to view a financial statement filed under this subchapter or providing a copy of the statement to a member of the public, the commission shall remove from the statement, if applicable, the home address of:

(1) a judge or justice; or

(2) a member of the governing board or executive head of the Texas Civil Commitment Office.

(b) During the one-year period following the filing of a financial statement, each time a person requests to see the financial statement, excluding the commission or a commission employee acting on official business, the commission shall place in the file a statement of the person's name and address, whom the person represents, and the date of the request. The commission shall retain that statement in the file for one year after the date the requested financial statement is filed.

(c) After the second anniversary of the date the individual ceases to be a state officer, the commission may and on notification from the former state officer shall destroy each financial statement filed by the state officer.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 638 (H.B. 842), Sec. 1, eff. June 15, 2007.

Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 15, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 983 (H.B. 776), Sec. 1, eff. June 15, 2017.

Sec. 572.033. CIVIL PENALTY. (a) The commission shall determine from any available evidence whether a statement required to be filed under this subchapter is late. On making a determination that the statement is late, the commission shall immediately mail a notice of the determination to the individual responsible for filing the statement and to the appropriate attorney for the state.

(b) If a statement is determined to be late, the individual responsible for filing the statement is liable to the state for a civil penalty of $500. If a statement is more than 30 days late, the commission shall issue a warning of liability by registered mail to the individual responsible for the filing. If the penalty is not paid before the 10th day after the date on which the warning is received, the individual is liable for a civil penalty in an amount determined by commission rule, but not to exceed $10,000.

(c) This section is cumulative of any other available sanction for a late filing of a sworn statement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 5.06, eff. Sept. 1, 2003.

Sec. 572.034. CRIMINAL PENALTY. (a) An individual commits an offense if the individual is a state officer or candidate or state party chair and knowingly and wilfully fails to file a financial statement as required by this subchapter.

(b) An offense under this section is a Class B misdemeanor.

(c) In a prosecution for failure to file a financial statement under this section, it is a defense that the individual did not receive copies of the financial statement form required by this subchapter to be mailed to the individual.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by:

Acts 2005, 79th Leg., Ch. 1253 (H.B. 1945), Sec. 5, eff. June 18, 2005.

Sec. 572.035. REMOVAL OF PERSONAL INFORMATION FOR FEDERAL JUDGES, STATE JUDGES, AND FAMILY MEMBERS. (a) On receiving notice from the Office of Court Administration of the Texas Judicial System of the judge's qualification for the judge's office, the commission shall remove or redact from any financial statement, or information derived from a financial statement, that is available to the public the residence address of a federal judge, including a federal bankruptcy judge, a state judge, or a family member of a federal judge, including a federal bankruptcy judge, or a state judge.

(b) In this section, "family member" has the meaning assigned by Section 31.006, Finance Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 190 (S.B. 42), Sec. 19, eff. September 1, 2017.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 383 (S.B. 1134), Sec. 10, eff. September 1, 2021.

SUBCHAPTER C. STANDARDS OF CONDUCT AND CONFLICT OF INTEREST PROVISIONS

Sec. 572.051. STANDARDS OF CONDUCT; STATE AGENCY ETHICS POLICY. (a) A state officer or employee should not:

(1) accept or solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties or that the officer or employee knows or should know is being offered with the intent to influence the officer's or employee's official conduct;

(2) accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce the officer or employee to disclose confidential information acquired by reason of the official position;

(3) accept other employment or compensation that could reasonably be expected to impair the officer's or employee's independence of judgment in the performance of the officer's or employee's official duties;

(4) make personal investments that could reasonably be expected to create a substantial conflict between the officer's or employee's private interest and the public interest; or

(5) intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the officer's or employee's official powers or performed the officer's or employee's official duties in favor of another.

(b) A state employee who violates Subsection (a) or an ethics policy adopted under Subsection (c) is subject to termination of the employee's state employment or another employment-related sanction. Notwithstanding this subsection, a state officer or employee who violates Subsection (a) is subject to any applicable civil or criminal penalty if the violation also constitutes a violation of

another statute or rule.

(c) Each state agency shall:

(1) adopt a written ethics policy for the agency's employees consistent with the standards prescribed by Subsection (a) and other provisions of this subchapter; and

(2) distribute a copy of the ethics policy and this subchapter to:

(A) each new employee not later than the third business day after the date the person begins employment with the agency; and

(B) each new officer not later than the third business day after the date the person qualifies for office.

(d) The office of the attorney general shall develop, in coordination with the commission, and distribute a model policy that state agencies may use in adopting an agency ethics policy under Subsection (c). A state agency is not required to adopt the model policy developed under this subsection.

(e) Subchapters E and F, Chapter 571, do not apply to a violation of this section.

(f) Notwithstanding Subsection (e), if a person with knowledge of a violation of an agency ethics policy adopted under Subsection (c) that also constitutes a criminal offense under another law of this state reports the violation to an appropriate prosecuting attorney, then, not later than the 60th day after the date a person notifies the prosecuting attorney under this subsection, the prosecuting attorney shall notify the commission of the status of the prosecuting attorney's investigation of the alleged violation. The commission shall, on the request of the prosecuting attorney, assist the prosecuting attorney in investigating the alleged violation. This subsection does not apply to an alleged violation by a member or employee of the commission.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 629 (H.B. 590), Sec. 1, eff. September 1, 2007.

Sec. 572.052. REPRESENTATION BY LEGISLATORS BEFORE STATE AGENCIES; CRIMINAL OFFENSE. (a) A member of the legislature may not, for compensation, represent another person before a state agency

in the executive branch of state government unless the representation:

(1) is pursuant to an attorney-client relationship in a criminal law matter; or

(2) involves the filing of documents that involve only ministerial acts on the part of the commission, agency, board, department, or officer.

(b) A member of the legislature commits an offense if the member violates this section. An offense under this subsection is a Class A misdemeanor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 15, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 249, Sec. 5.07, eff. Sept. 1, 2003.

Sec. 572.053. VOTING BY LEGISLATORS ON CERTAIN MEASURES OR BILLS; CRIMINAL OFFENSE. (a) A member of the legislature may not vote on a measure or a bill, other than a measure that will affect an entire class of business entities, that will directly benefit a specific business transaction of a business entity in which the member has a controlling interest.

(b) In this section, "controlling interest" includes:

(1) an ownership interest or participating interest by virtue of shares, stock, or otherwise that exceeds 10 percent;

(2) membership on the board of directors or other governing body of the business entity; or

(3) service as an officer of the business entity.

(c) A member of the legislature commits an offense if the member violates this section. An offense under this subsection is a Class A misdemeanor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 572.0531. NOTICE REQUIRED FOR INTRODUCTION OR SPONSORSHIP OF OR VOTING ON CERTAIN MEASURES OR BILLS BY LEGISLATORS. (a) A member shall file a notice as required by Subsection (b) before introducing, sponsoring, or voting on a measure or bill if the member's spouse or a person related to the member within the first degree by consanguinity, as determined under Subchapter B, Chapter

573, is registered as a lobbyist under Chapter 305 with respect to the subject matter of the measure or bill.

(b) A member of the house of representatives to whom Subsection (a) applies shall file a written notice of that fact with the chief clerk of the house of representatives. A senator to whom Subsection (a) applies shall file a written notice of that fact with the secretary of the senate. The member shall also file a notice with the commission. A notice filed under this subsection must:

(1) identify:

(A) the member;

(B) the measure, bill, or class of measures or bills with respect to which the notice is required under this section; and

(C) the person registered as a lobbyist; and

(2) be included in the journal of the house to which the member belongs.

(c) A person related to the member to whom Subsection (a) applies shall file a notice with the commission identifying:

(1) the person;

(2) the member; and

(3) the class of measures or bills with respect to which notice is required under this section.

(d) A person related to the member to whom Subsection (a) applies shall file the notice required by Subsection (c) not later than:

(1) the beginning of a regular or special legislative session as to which the person is registered as a lobbyist under Chapter 305 and will communicate directly with a member of the legislative branch with respect to the measure, bill, or class of measures or bills; or

(2) the seventh business day after the day the person agrees to accept reimbursement or compensation to communicate directly with a member of the legislative branch with respect to the measure, bill, or class of measures or bills, if the person agrees to accept the reimbursement or compensation after the beginning of a legislative session.

(e) A member of the legislature who violates this section is subject to discipline by the house to which the member belongs, as provided by Section 11, Article III, Texas Constitution.

(f) In this section, "communicates directly with" and "member of the legislative branch" have the meanings assigned by Section

305.002.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 5.08, eff. Sept. 1, 2003.

Sec. 572.054. REPRESENTATION BY FORMER OFFICER OR EMPLOYEE OF REGULATORY AGENCY RESTRICTED; CRIMINAL OFFENSE. (a) A former member of the governing body or a former executive head of a regulatory agency may not make any communication to or appearance before an officer or employee of the agency in which the member or executive head served before the second anniversary of the date the member or executive head ceased to be a member of the governing body or the executive head of the agency if the communication or appearance is made:

(1) with the intent to influence; and

(2) on behalf of any person in connection with any matter on which the person seeks official action.

(b) A former state officer or employee of a regulatory agency who ceases service or employment with that agency on or after January 1, 1992, may not represent any person or receive compensation for services rendered on behalf of any person regarding a particular matter in which the former officer or employee participated during the period of state service or employment, either through personal involvement or because the case or proceeding was a matter within the officer's or employee's official responsibility.

(c) Subsection (b) applies only to:

(1) a state officer of a regulatory agency; or

(2) a state employee of a regulatory agency who is compensated, as of the last date of state employment, at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule, including an employee who is exempt from the state's position classification plan.

(d) Subsection (b) does not apply to a rulemaking proceeding that was concluded before the officer's or employee's service or employment ceased.

(e) Other law that restricts the representation of a person before a particular state agency by a former state officer or employee of that agency prevails over this section.

(f) An individual commits an offense if the individual violates this section. An offense under this subsection is a Class A misdemeanor.

(g) In this section, the comptroller and the secretary of state are not excluded from the definition of "regulatory agency."

(g-1) For purposes of this section, the Department of Information Resources is a regulatory agency.

(h) In this section:

(1) "Participated" means to have taken action as an officer or employee through decision, approval, disapproval, recommendation, giving advice, investigation, or similar action.

(2) "Particular matter" means a specific investigation, application, request for a ruling or determination, rulemaking proceeding, contract, claim, charge, accusation, arrest, or judicial or other proceeding.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 23.01, eff. September 28, 2011.

Sec. 572.055. CERTAIN SOLICITATIONS OF REGULATED BUSINESS ENTITIES PROHIBITED; CRIMINAL OFFENSE. (a) An association or organization of employees of a regulatory agency may not solicit, accept, or agree to accept anything of value from a business entity regulated by that agency and from which the business entity must obtain a permit to operate that business in this state or from an individual directly or indirectly connected with that business entity.

(b) A business entity regulated by a regulatory agency and from which the business entity must obtain a permit to operate that business in this state or an individual directly or indirectly connected with that business entity may not offer, confer, or agree to confer on an association or organization of employees of that agency anything of value.

(c) This section does not apply to an agency regulating the operation or inspection of motor vehicles or an agency charged with enforcing the parks and wildlife laws of this state.

(d) A person commits an offense if the person intentionally or

knowingly violates this section. An offense under this subsection is a Class A misdemeanor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 572.056. CONTRACTS BY STATE OFFICERS WITH GOVERNMENTAL ENTITIES; CRIMINAL OFFENSE. (a) A state officer may not solicit or accept from a governmental entity a commission, fee, bonus, retainer, or rebate that is compensation for the officer's personal solicitation for the award of a contract for services or sale of goods to a governmental entity.

(b) This section does not apply to:

(1) a contract that is awarded by competitive bid as provided by law and that is not otherwise prohibited by law; or

(2) a court appointment.

(c) In this section, "governmental entity" means the state, a political subdivision of the state, or a governmental entity created under the Texas Constitution or a statute of this state.

(d) A state officer who violates this section commits an offense. An offense under this subsection is a Class A misdemeanor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 572.057. CERTAIN LEASES PROHIBITED. (a) Except as provided by Subsection (d), a member of the legislature, an executive or judicial officer elected in a statewide election, or a business entity in which the legislator or officer has a substantial interest may not lease any office space or other real property to the state, a state agency, the legislature or a legislative agency, the Supreme Court of Texas, the Court of Criminal Appeals, or a state judicial agency.

(b) A lease made in violation of Subsection (a) is void.

(c) This section does not apply to an individual who is an elected officer on June 16, 1989, for as long as the officer holds that office.

(d) A member of the legislature or a business entity in which the legislator has a substantial interest may donate the use of office space that the member or entity owns and that is located in the member's district to the house of the legislature in which the

member serves to be used for the member's official business. Office space donated under this subsection is not a contribution for purposes of Title 15, Election Code. Acceptance of a donation of office space under this subsection is not subject to Section 301.032.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 293 (H.B. 1256), Sec. 1, eff. September 1, 2013.

Sec. 572.058. PRIVATE INTEREST IN MEASURE OR DECISION; DISCLOSURE; REMOVAL FROM OFFICE FOR VIOLATION. (a) An elected or appointed officer, other than an officer subject to impeachment under Article XV, Section 2, of the Texas Constitution, who is a member of a board or commission having policy direction over a state agency and who has a personal or private interest in a measure, proposal, or decision pending before the board or commission shall publicly disclose the fact to the board or commission in a meeting called and held in compliance with Chapter 551. The officer may not vote or otherwise participate in the decision. The disclosure shall be entered in the minutes of the meeting.

(b) An individual who violates this section is subject to removal from office on the petition of the attorney general on the attorney general's own initiative or on the relation of a resident or of any other member of the board or commission. The suit must be brought in a district court of Travis County or of the county where the violation is alleged to have been committed.

(c) If the court or jury finds from a preponderance of the evidence that the defendant violated this section and that an ordinary prudent person would have known the individual's conduct to be a violation of this section, the court shall enter judgment removing the defendant from office.

(d) A suit under this section must be brought before the second anniversary of the date the violation is alleged to have been committed, or the suit is barred.

(e) The remedy provided by this section is cumulative of other methods of removal from office provided by the Texas Constitution or a statute of this state.

(f) In this section, "personal or private interest" has the

same meaning as is given to it under Article III, Section 22, of the Texas Constitution, governing the conduct of members of the legislature. For purposes of this section, an individual does not have a "personal or private interest" in a measure, proposal, or decision if the individual is engaged in a profession, trade, or occupation and the individual's interest is the same as all others similarly engaged in the profession, trade, or occupation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 572.059. INDEPENDENCE OF STATE AND LOCAL OFFICERS ACTING IN LEGISLATIVE CAPACITY. (a) In this section, "legislative measure" includes:

(1) a bill, resolution, order, or other proposal to adopt, enact, amend, or repeal a statute, ordinance, rule, or policy of general application;

(2) a proposal to adopt, enact, amend, or repeal, or to grant a variance or other exception to, a zoning ordinance; or

(3) a proposed constitutional amendment or charter amendment subject to a vote of the electorate.

(b) For purposes of Subsection (a), a measure that is applicable to a class or subset of persons or matters that is defined in general terms without naming the particular persons or matters is a measure of general application.

(c) To protect the independence of state and local officers acting in a legislative capacity, a state or local officer, whether elected or appointed, including a member of the governing body of a school district or other political subdivision of this state, may not be subject to disciplinary action or a sanction, penalty, disability, or liability for:

(1) an action permitted by law that the officer takes in the officer's official capacity regarding a legislative measure;

(2) proposing, endorsing, or expressing support for or opposition to a legislative measure or taking any action permitted by law to support or oppose a legislative measure;

(3) the effect of a legislative measure or of a change in law proposed by a legislative measure on any person; or

(4) a breach of duty, in connection with the member's practice of or employment in a licensed or regulated profession or

occupation, to disclose to any person information, or to obtain a waiver or consent from any person, regarding:

(A) the officer's actions relating to a legislative measure; or

(B) the substance, effects, or potential effects of a legislative measure.

Added by Acts 2003, 78th Leg., ch. 1206, Sec. 1, eff. June 20, 2003.

Sec. 572.060. SOLICITATION OF OR RECOMMENDATIONS REGARDING CONTRIBUTIONS TO CHARITABLE ORGANIZATIONS AND GOVERNMENTAL ENTITIES. (a) Unless otherwise prohibited by the Code of Judicial Conduct, a state officer or state employee may:

(1) solicit from any person a contribution to:

(A) an organization that:

(i) is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code;

(ii) does not attempt to influence legislation as a substantial part of the organization's activities; and

(iii) has not elected under Section 501(h), Internal Revenue Code of 1986, to have that subsection apply to the organization; or

(B) a governmental entity; or

(2) recommend to any person that the person make a contribution to an organization or entity described by Subdivision (1).

(b) A monetary contribution solicited or recommended as provided by Subsection (a) must:

(1) be paid or made directly to the charitable organization or governmental entity by the person making the contribution;

(2) be in the form of a check, money order, or similar instrument payable to the charitable organization or governmental entity; or

(3) be in the form of a deduction from a state employee's salary or wage payment under the state employee charitable campaign under Subchapter I, Chapter 659.

(c) A contribution solicited or recommended as provided by Subsection (a) that is not a monetary contribution must be delivered

directly to the charitable organization or governmental entity by the person making the contribution.

(d) A contribution paid as provided by Subsection (b) or delivered as provided by Subsection (c) is not:

(1) a political contribution to, or political expenditure on behalf of, the state officer or state employee for purposes of Title 15, Election Code;

(2) an expenditure for purposes of Chapter 305; or

(3) a benefit to the state officer or state employee for purposes of Sections 36.08 and 36.09, Penal Code.

Added by Acts 2005, 79th Leg., Ch. 53 (H.B. 762), Sec. 1, eff. September 1, 2005.

Sec. 572.061. CERTAIN GRATUITIES AUTHORIZED. This subchapter does not prohibit the acceptance of a gratuity that is accepted and reported in accordance with Section 11.0262, Parks and Wildlife Code.

Added by Acts 2005, 79th Leg., Ch. 639 (H.B. 2685), Sec. 3, eff. September 1, 2005.

Sec. 572.069. CERTAIN EMPLOYMENT FOR FORMER STATE OFFICER OR EMPLOYEE RESTRICTED. A former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person may not accept employment from that person before the second anniversary of the date the contract is signed or the procurement is terminated or withdrawn.

Added by Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 4, eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. 533), Sec. 1, eff. September 1, 2017.

CHAPTER 573. DEGREES OF RELATIONSHIP; NEPOTISM PROHIBITIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 573.001. DEFINITIONS. In this chapter:

(1) "Candidate" has the meaning assigned by Section 251.001, Election Code.

(2) "Position" includes an office, clerkship, employment, or duty.

(3) "Public official" means:

(A) an officer of this state or of a district, county, municipality, precinct, school district, or other political subdivision of this state;

(B) an officer or member of a board of this state or of a district, county, municipality, school district, or other political subdivision of this state; or

(C) a judge of a court created by or under a statute of this state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 573.002. DEGREES OF RELATIONSHIP. Except as provided by Section 573.043, this chapter applies to relationships within the third degree by consanguinity or within the second degree by affinity.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. RELATIONSHIPS BY CONSANGUINITY OR BY AFFINITY

Sec. 573.021. METHOD OF COMPUTING DEGREE OF RELATIONSHIP. The degree of a relationship is computed by the civil law method.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 573.022. DETERMINATION OF CONSANGUINITY. (a) Two individuals are related to each other by consanguinity if:

(1) one is a descendant of the other; or

(2) they share a common ancestor.

(b) An adopted child is considered to be a child of the adoptive parent for this purpose.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 573.023. COMPUTATION OF DEGREE OF CONSANGUINITY. (a) The degree of relationship by consanguinity between an individual and the individual's descendant is determined by the number of generations that separate them. A parent and child are related in the first degree, a grandparent and grandchild in the second degree, a great-grandparent and great-grandchild in the third degree and so on.

(b) If an individual and the individual's relative are related by consanguinity, but neither is descended from the other, the degree of relationship is determined by adding:

(1) the number of generations between the individual and the nearest common ancestor of the individual and the individual's relative; and

(2) the number of generations between the relative and the nearest common ancestor.

(c) An individual's relatives within the third degree by consanguinity are the individual's:

(1) parent or child (relatives in the first degree);

(2) brother, sister, grandparent, or grandchild (relatives in the second degree); and

(3) great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of the individual (relatives in the third degree).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 573.024. DETERMINATION OF AFFINITY. (a) Two individuals are related to each other by affinity if:

(1) they are married to each other; or

(2) the spouse of one of the individuals is related by consanguinity to the other individual.

(b) The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.

(c) Subsection (b) applies to a member of the board of trustees of or an officer of a school district only until the youngest child of the marriage reaches the age of 21 years.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 260, Sec. 32, eff. May 30, 1995.

Sec. 573.025. COMPUTATION OF DEGREE OF AFFINITY. (a) A husband and wife are related to each other in the first degree by affinity. For other relationships by affinity, the degree of relationship is the same as the degree of the underlying relationship by consanguinity. For example: if two individuals are related to each other in the second degree by consanguinity, the spouse of one of the individuals is related to the other individual in the second degree by affinity.

(b) An individual's relatives within the third degree by affinity are:

(1) anyone related by consanguinity to the individual's spouse in one of the ways named in Section 573.023(c); and

(2) the spouse of anyone related to the individual by consanguinity in one of the ways named in Section 573.023(c).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. NEPOTISM PROHIBITIONS

Sec. 573.041. PROHIBITION APPLICABLE TO PUBLIC OFFICIAL. A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if:

(1) the individual is related to the public official within a degree described by Section 573.002; or

(2) the public official holds the appointment or confirmation authority as a member of a state or local board, the legislature, or a court and the individual is related to another member of that board, legislature, or court within a degree described by Section 573.002.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 573.042. PROHIBITION APPLICABLE TO CANDIDATE. (a) A candidate may not take an affirmative action to influence the

following individuals regarding the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of another individual related to the candidate within a degree described by Section 573.002:

(1) an employee of the office to which the candidate seeks election; or

(2) an employee or another officer of the governmental body to which the candidate seeks election, if the office the candidate seeks is one office of a multimember governmental body.

(b) The prohibition imposed by this section does not apply to a candidate's actions taken regarding a bona fide class or category of employees or prospective employees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 573.043. PROHIBITION APPLICABLE TO DISTRICT JUDGE. A district judge may not appoint as official stenographer of the judge's district an individual related to the judge or to the district attorney of the district within the third degree.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 573.044. PROHIBITION APPLICABLE TO TRADING. A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position in which the individual's services are under the public official's direction or control and that is to be compensated directly or indirectly from public funds or fees of office if:

(1) the individual is related to another public official within a degree described by Section 573.002; and

(2) the appointment, confirmation of the appointment, or vote for appointment or confirmation of the appointment would be carried out in whole or partial consideration for the other public official appointing, confirming the appointment, or voting for the appointment or confirmation of the appointment of an individual who is related to the first public official within a degree described by Section 573.002.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. EXCEPTIONS

Sec. 573.061. GENERAL EXCEPTIONS. Section 573.041 does not apply to:

(1) an appointment to the office of a notary public or to the confirmation of that appointment;

(2) an appointment of a page, secretary, attendant, or other employee by the legislature for attendance on any member of the legislature who, because of physical infirmities, is required to have a personal attendant;

(3) a confirmation of the appointment of an appointee appointed to a first term on a date when no individual related to the appointee within a degree described by Section 573.002 was a member of or a candidate for the legislature, or confirmation on reappointment of the appointee to any subsequent consecutive term;

(4) an appointment or employment of a bus driver by a school district if:

(A) the district is located wholly in a county with a population of less than 35,000;

(B) the district is located in more than one county and the county in which the largest part of the district is located has a population of less than 35,000; or

(C) the board of trustees of the district approves the appointment or employment;

(5) an appointment or employment of a personal attendant by an officer of the state or a political subdivision of the state for attendance on the officer who, because of physical infirmities, is required to have a personal attendant;

(6) an appointment or employment of a substitute teacher by a school district;

(7) an appointment or employment of a person by a municipality that has a population of less than 200; or

(8) an appointment of an election clerk under Section 32.031, Election Code, who is not related in the first degree by consanguinity or affinity to an elected official of the authority that appoints the election judges for that election.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.07(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 260, Sec. 33, eff. May 30, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 31.01(48), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1026, Sec. 1, eff. June 18, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1002 (H.B. 2194), Sec. 14, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 320 (H.B. 1789), Sec. 1, eff. September 1, 2023.

Sec. 573.062. CONTINUOUS EMPLOYMENT. (a) A nepotism prohibition prescribed by Section 573.041 or by a municipal charter or ordinance does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:

(1) the individual is employed in the position immediately before the election or appointment of the public official to whom the individual is related in a prohibited degree; and

(2) that prior employment of the individual is continuous for at least:

(A) 30 days, if the public official is appointed;

(B) six months, if the public official is elected at an election other than the general election for state and county officers; or

(C) one year, if the public official is elected at the general election for state and county officers.

(b) If, under Subsection (a), an individual continues in a position, the public official to whom the individual is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER E. ENFORCEMENT

Sec. 573.081. REMOVAL IN GENERAL. (a) An individual who violates Subchapter C or Section 573.062(b) shall be removed from the individual's position. The removal must be made in accordance with the removal provisions in the constitution of this state, if applicable. If a provision of the constitution does not govern the removal, the removal must be by a quo warranto proceeding.

(b) A removal from a position shall be made immediately and summarily by the original appointing authority if a criminal conviction against the appointee for a violation of Subchapter C or Section 573.062(b) becomes final. If the removal is not made within 30 days after the date the conviction becomes final, the individual holding the position may be removed under Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 573.082. REMOVAL BY QUO WARRANTO PROCEEDING. (a) A quo warranto proceeding under this chapter must be brought by the attorney general in a district court in Travis County or in a district court of the county in which the defendant resides.

(b) The district or county attorney of the county in which a suit is filed under this section shall assist the attorney general at the attorney general's discretion.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 573.083. WITHHOLDING PAYMENT OF COMPENSATION. A public official may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible individual if the official knows the individual is ineligible.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 573.084. CRIMINAL PENALTY. (a) An individual commits an offense involving official misconduct if the individual violates Subchapter C or Section 573.062(b) or 573.083.

(b) An offense under this section is a misdemeanor punishable by a fine not less than $100 or more than $1,000.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 574. DUAL OFFICE HOLDING

Sec. 574.001. FINDING OF CONSTITUTIONAL COMPLIANCE. (a) A nonelective state officer may not accept an offer to serve in another nonelective office unless the officer obtains from the governing body or, if there is not a governing body, the executive head of the agency, division, department, or institution with which the officer is associated a finding that the officer has satisfied Article XVI, Section 40, of the Texas Constitution.

(b) A person may hold the office of municipal judge for more than one municipality at the same time if each office is filled by appointment. The holding of these offices at the same time is of benefit to this state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 37, Sec. 1, eff. May 5, 1997.

Sec. 574.002. RECORD. A governing body or executive head shall make a record of:

(1) a finding under Section 574.001; and

(2) any compensation that the nonelective officer is to receive from holding the additional office, including salary, bonus, or per diem payment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 574.003. RULES. A governing body or executive head shall adopt rules to implement this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 574.004. ASSISTANCE BY ATTORNEY GENERAL. This chapter does not prevent the attorney general from providing assistance to

district attorneys, criminal district attorneys, and county attorneys on request by allowing assistant attorneys general to serve as duly appointed and deputized assistant prosecutors, nor does this chapter prohibit the appointment of an assistant attorney general as an attorney pro tem pursuant to Article 2A.104, Code of Criminal Procedure.

Added by Acts 1995, 74th Leg., ch. 785, Sec. 4, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 580 (S.B. 341), Sec. 3, eff. September 1, 2019.
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.101, eff. January 1, 2025.

Sec. 574.005. LOCAL GOVERNMENT OFFICERS ON STATE GOVERNING BODIES. (a) In this section:

(1) "Local government" means a county, a municipality, a special district or authority, or another political subdivision of this state.

(2) "State agency" means a department, commission, board, office, council, authority, or other agency in the executive branch of state government that is created by the constitution or a statute of this state, including a university system or institution of higher education as defined by Section 61.003, Education Code.

(b) An individual who holds an elected or appointed local government office may be appointed to the governing body of a state agency if otherwise eligible. The individual may not receive compensation for serving on the governing body of the state agency but may be reimbursed as provided by other law for a reasonable and necessary expense incurred in the performance of an official function.

(c) Rules adopted under Section 574.003 are not required to implement this section.

Added by Acts 2003, 78th Leg., ch. 879, Sec. 1, eff. June 20, 2003.

CHAPTER 575. ACCEPTANCE OF GIFT BY STATE AGENCY

Sec. 575.001. DEFINITIONS. In this chapter:

(1) "Gift" means a donation of money or property.

(2) "State agency" means a board, commission, council, committee, department, office, agency, or other governmental entity in the executive or judicial branch of state government. The term does not include an institution of higher education as defined by Section 61.003, Education Code.

Added by Acts 1997, 75th Leg., ch. 336, Sec. 1, eff. Sept. 1, 1997.

Sec. 575.002. GIFTS OF $500 OR MORE. This chapter applies only to a gift that has a value of $500 or more.

Added by Acts 1997, 75th Leg., ch. 336, Sec. 1, eff. Sept. 1, 1997.

Sec. 575.003. ACCEPTANCE OF GIFT BY STATE AGENCY GOVERNING BOARD. A state agency that has a governing board may accept a gift only if the agency has the authority to accept the gift and a majority of the board, in an open meeting, acknowledges the acceptance of the gift not later than the 90th day after the date the gift is accepted.

Added by Acts 1997, 75th Leg., ch. 336, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 143, Sec. 1, eff. Sept. 1, 1999.

Sec. 575.004. RECORD OF GIFT. A state agency that accepts a gift must record the name of the donor, a description of the gift, and a statement of the purpose of the gift in:

(1) the minutes of the governing board of the agency; or

(2) appropriate agency records, if the agency does not have a governing board.

Added by Acts 1997, 75th Leg., ch. 336, Sec. 1, eff. Sept. 1, 1997.

Sec. 575.005. ACCEPTANCE OF GIFT FROM PARTY TO CONTESTED CASE PROHIBITED. A state agency may not accept a gift from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final under Section 2001.144. In this section, "contested case" has the meaning assigned

by Section 2001.003.

Added by Acts 1997, 75th Leg., ch. 336, Sec. 1, eff. Sept. 1, 1997.

CHAPTER 576. PROHIBITION ON APPROPRIATION OF MONEY TO SETTLE OR PAY SEXUAL HARASSMENT CLAIMS

Sec. 576.0001. PROHIBITION ON APPROPRIATION OF MONEY TO SETTLE OR PAY SEXUAL HARASSMENT CLAIMS. The legislature may not appropriate money and a state agency may not use appropriated money to settle or otherwise pay a sexual harassment claim made against a person who:

(1) is an elected member of the executive, legislative, or judicial branch of state government;

(2) is appointed by the governor to serve as a member of a department, commission, board, or other public office within the executive, legislative, or judicial branch of state government; or

(3) serves as staff for a person described by Subdivision (1) or (2).

Added by Acts 2021, 87th Leg., R.S., Ch. 551 (S.B. 282), Sec. 1, eff. September 1, 2021.

TITLE 6. PUBLIC OFFICERS AND EMPLOYEES

SUBTITLE A. PROVISIONS GENERALLY APPLICABLE TO PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 601. ELECTION AND OFFICE HOLDING

Sec. 601.001. DELIVERY OF CERTAIN BOOKS, PAPERS, AND DOCUMENTS TO SUCCESSOR. (a) On leaving office, an officer shall deliver all books, papers, and documents relating to the office to the officer's successor.

(b) In this section, "officer" includes:

(1) each officer selected under the laws of this state; and

(2) a member of a board or commission created by state law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 601.002. PERFORMANCE OF DUTIES BY FIRST ASSISTANT OR CHIEF DEPUTY. (a) The first assistant or chief deputy of a public office

in which a physical vacancy occurs shall conduct the affairs of the office until a successor qualifies for the office.

(b) The authority of a first assistant or chief deputy to discharge the duties of an office under Subsection (a) ceases when the successor to the office qualifies for the office.

(c) If the vacancy occurs during a legislative session and the successor to the office is subject to senate confirmation, the authority of the first assistant or chief deputy to discharge the duties of an office under Subsection (a) ceases on the earlier of:

(1) the end of the last day of the session; or

(2) the end of the 21st day after the day the person began discharging the duties of the office.

(d) This section does not apply to a vacancy on a board or commission.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 62, Sec. 8.14, eff. Sept. 1, 1999.

Sec. 601.003. REGULAR TERM OF STATE, DISTRICT, COUNTY, OR PRECINCT OFFICE. (a) The regular term of an elective state, district, county, or precinct office begins on January 1 of the year following the general election for state and county officers.

(b) A person elected to a regular term of office shall qualify and assume the duties of the office on, or as soon as possible after, January 1 of the year following the person's election.

(c) This section does not apply to the office of governor, lieutenant governor, state senator, or state representative.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 601.004. PERSON ELECTED TO UNEXPIRED TERM OF STATE, DISTRICT, COUNTY, OR PRECINCT OFFICE. A person who receives a certificate of election to an unexpired term of an office is entitled to qualify for and assume the duties of the office immediately and shall take office as soon as possible after the receipt of the certificate of election, subject to Section 212.0331, Election Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 2001, 77th Leg., ch. 1144, Sec. 3, eff. Sept. 1, 2001.

Sec. 601.005. GOVERNOR TO COMMISSION STATE OR COUNTY OFFICERS. (a) The governor shall issue a commission to each state or county officer, other than the governor, the lieutenant governor, a state senator, or a state representative, who qualifies for office.

(b) The secretary of state shall perform ministerial duties incidental to administer this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 601.006. CERTIFIED STATEMENT OF PERSONS ELECTED TO COUNTY OR PRECINCT OFFICES. (a) On or immediately after January 1 after a general election for state and county officers, each county clerk shall deliver to the secretary of state a certified statement that contains for each person elected to a county or precinct office in the election:

(1) the name of the person;

(2) the office to which the person was elected; and

(3) the date the person qualified for the office.

(b) The secretary of state shall prescribe necessary forms for the statement and instructions for delivery of the statement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 601.007. EVIDENCE OF QUALIFICATION FOR OFFICE. On demand of a citizen of this state, the comptroller, a commissioners court, a county treasurer, or any other officer of the state or of a municipality who is authorized by law to make, order, or audit payment to an officer of the state, of a county, or of a municipality of compensation, fees, or perquisites for official services shall, before making, ordering, or auditing the payment, require the officer to produce:

(1) the certificate of election or of appointment to the office that is required by law to be issued to the officer; or

(2) a certified copy of the judgment or decree that:

(A) was issued by a court of competent jurisdiction;

and

(B) determined the officer's claim to the office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.37, eff. Sept. 1, 1997.

Sec. 601.008. UNAUTHORIZED OFFICERS. (a) An officer or court of this state or of a municipality may not make, order, allow, or audit payment of a person's claim for compensation, fees, perquisites, or services as an officer of the state or of the municipality unless the person:

(1) has been:

(A) lawfully elected as the officer and determined to be elected to the office by the canvass conducted of the election for the office;

(B) appointed as the officer by the lawful appointing authority; or

(C) adjudged to be the officer by a state court of competent jurisdiction; and

(2) has qualified as the officer under law.

(b) A person who has not been elected or appointed to an office or has not qualified for office, as prescribed by Subsection (a), is not entitled to:

(1) receive payment for services as the officer; or

(2) exercise the powers or jurisdiction of the office.

(c) The official acts of a person who claims a right to exercise the power or jurisdiction of an office contrary to this section are void.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 601.009. ELECTED OFFICER MUST BE REGISTERED VOTER. (a) A person may not qualify for a public elective office unless the person is a registered voter.

(b) Subsection (a) does not apply to an office for which the federal or state constitution prescribes exclusive qualification requirements.

(c) Subsection (a) does not apply to a member of the governing

body of a district created under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution.

Added by Acts 2015, 84th Leg., R.S., Ch. 504 (H.B. 484), Sec. 2, eff. September 1, 2015.

Sec. 601.011. VACANCY ON FINAL FELONY CONVICTION OF MEMBER OF LEGISLATURE, GOVERNOR, OR STATE ELECTED OFFICIAL. A member of the legislature, the governor, or a state elected official convicted of a felony vacates the member's, governor's, or official's office on the date the conviction becomes final.

Added by Acts 2017, 85th Leg., R.S., Ch. 443 (S.B. 500), Sec. 2, eff. June 6, 2017.

CHAPTER 602. ADMINISTRATION OF OATHS

Sec. 602.001. DEFINITION. In this chapter, "oath" includes the oath in an affidavit.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 602.002. OATH MADE IN TEXAS. An oath made in this state may be administered and a certificate of the fact given by:

(1) a judge, retired judge, or clerk of a municipal court;

(2) a judge, retired judge, senior judge, clerk, or commissioner of a court of record;

(3) a justice of the peace, a retired justice of the peace, or a clerk of a justice court;

(4) an associate judge, magistrate, master, referee, or criminal law hearing officer;

(5) a notary public;

(6) a member of a board or commission created by a law of this state, in a matter pertaining to a duty of the board or commission;

(7) a person employed by the Texas Ethics Commission who has a duty related to a report required by Title 15, Election Code, in a matter pertaining to that duty;

(8) a county tax assessor-collector or an employee of the

county tax assessor-collector if the oath relates to a document that is required or authorized to be filed in the office of the county tax assessor-collector;

(9) the secretary of state or a former secretary of state;

(10) an employee of a personal bond office, or an employee of a county, who is employed to obtain information required to be obtained under oath if the oath is required or authorized by Article 17.04 or by Article 26.04(n) or (o), Code of Criminal Procedure;

(11) the lieutenant governor or a former lieutenant governor;

(12) the speaker of the house of representatives or a former speaker of the house of representatives;

(13) the governor or a former governor;

(14) a legislator or retired legislator;

(14-a) the secretary of the senate or the chief clerk of the house of representatives;

(15) the attorney general or a former attorney general;

(16) the comptroller of public accounts or a former comptroller of public accounts;

(17) the secretary or clerk of a municipality in a matter pertaining to the official business of the municipality;

(18) a peace officer described by Article 2A.001, Code of Criminal Procedure, if:

(A) the oath is administered when the officer is engaged in the performance of the officer's duties; and

(B) the administration of the oath relates to the officer's duties; or

(19) a county treasurer.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 165, Sec. 19, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 325, Sec. 1, eff. May 29, 1999; Acts 1999, 76th Leg., ch. 638, Sec. 1, eff. Aug. 30, 1999; Acts 1999, 76th Leg., ch. 653, Sec. 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 514, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 986, Sec. 1, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 568, Sec. 1, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1171, Sec. 1, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.015, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 372 (S.B. 397), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 907 (H.B. 1285), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 6.05, eff. January 1, 2012.

Acts 2015, 84th Leg., R.S., Ch. 66 (S.B. 435), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1250 (H.B. 4181), Sec. 30, eff. June 14, 2019.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.102, eff. January 1, 2025.

Acts 2023, 88th Leg., R.S., Ch. 837 (H.B. 2559), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 16.001, eff. September 1, 2023.

Sec. 602.003. OATH MADE OUTSIDE TEXAS BUT INSIDE UNITED STATES. An oath made outside this state but inside the United States or its territories may be administered and a certificate of the fact given by:

(1) a clerk of a court of record having a seal;

(2) a commissioner of deeds appointed under a law of this state; or

(3) a notary public.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 602.004. OATH MADE OUTSIDE UNITED STATES. An oath made outside the United States and its territories may be administered and a certificate of the fact given by:

(1) a minister, commissioner, or charge d'affaires of the United States who resides in and is accredited to the country where the oath or affidavit is made;

(2) a consul-general, consul, vice-consul, commercial agent, vice-commercial agent, deputy consul, or consular agent of the United States who resides in the country where the oath or affidavit is made; or

(3) a notary public.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 602.005. OATH MADE BY MEMBER OF ARMED FORCES OR BY MEMBER'S SPOUSE. (a) A commissioned officer of the United States armed forces or of a United States armed forces auxiliary may administer an oath made by a member of the armed forces, a member of an armed forces auxiliary, or a member's spouse and may give a certificate of the fact.

(b) Unless there is pleading or evidence to the contrary, a certificate signed under this section that is offered in evidence establishes that:

(1) the commissioned officer who signed was a commissioned officer on the date the officer signed; and

(2) the person who made the oath or affidavit was a member of the armed forces or an armed forces auxiliary or was a member's spouse when the oath was made.

(c) An oath is not invalid because the commissioned officer who certified the oath did not attach an official seal to the certificate.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 602.006. OATH OF OFFICE. An oath of office may be administered and a certificate of the fact given by a member of the legislature.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 602.007. FILING OF OATH MADE BY CERTAIN JUDICIAL OFFICERS AND JUDICIAL APPOINTEES. The oath made and signed statement executed as required by Section 1, Article XVI, Texas Constitution, by any of the following judicial officers and judicial appointees shall be filed with the secretary of state:

(1) an officer appointed by the supreme court, the court of criminal appeals, or the State Bar of Texas;

(2) an associate judge appointed under Subchapter B or C,

Chapter 201, Family Code; and

(3) a retired or former judge on the list maintained by the presiding judge of an administrative judicial region under Section 74.055.

Added by Acts 2017, 85th Leg., R.S., Ch. 912 (S.B. 1329), Sec. 4.01, eff. September 1, 2017.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 5.008, eff. September 1, 2023.

CHAPTER 603. PROVISION OF DOCUMENTS AND FEES OF OFFICE

Sec. 603.001. DEFINITION. In this chapter, "document" includes any instrument, paper, or other record.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 603.002. COPIES OF DOCUMENTS AVAILABLE TO PUBLIC. The secretary of state, Commissioner of the General Land Office, comptroller, commissioner of agriculture, Banking Commissioner, state librarian, or attorney general:

(1) shall furnish to a person on request a certified copy, under seal, of any document in the officer's office that is available under law to that person; and

(2) may not demand or collect a fee from an officer of the state for a copy of any document in the respective offices or for a certificate in relation to a matter in the respective offices if the copy is required in the performance of an official duty of the office of the state officer requesting the copy.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.38, eff. Sept. 1, 1997.

Sec. 603.003. COPIES FOR CLAIMS RELATING TO MILITARY SERVICE. (a) A county clerk, district clerk, or other public official on request shall furnish without cost to a person or the person's guardian, dependent, or heir one or more certified copies of a

document that is in the custody of or on file in the county clerk's, district clerk's, or other public official's office if:

(1) the person or the person's guardian, dependent, or heir is eligible to make a claim against the United States government because of service in the United States armed forces or an auxiliary service, including the maritime service or the merchant marine; and

(2) the document is necessary to prove the claim.

(b) The issuance of a certified copy under this section may not be considered in determining the maximum fee of the office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 603.004. FEES FOR CERTIFICATES OR COPIES OF DOCUMENTS. (a) Except as otherwise provided by law, the secretary of state, land commissioner, comptroller, commissioner of agriculture, Banking Commissioner, state librarian, attorney general, or other officer of the state or a head of a state department shall collect the following fees for the following services:

(1) a copy, other than a photographic copy, of a document in an office in English, for each page or fraction of a page, $1.50;

(2) a copy, other than a photographic copy, of a document in an office in a language other than English, for each page or fraction of a page, $2;

(3) a translated copy of a document in an office, the greater of $.03 for each word or $5;

(4) a copy of a plat or map in an office, a fee the officer of the office in which the copy is made may establish with reference to the amount of labor, supplies, and materials required; or

(5) a sealed certificate affixed to a copy, including a certificate affixed to a photographic copy, $1.

(b) The state librarian may charge for a photographic copy a fee determined by the Texas State Library and Archives Commission with reference to the amount of labor, supplies, and materials required.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 603.005. FEE FOR ACKNOWLEDGMENT. An officer who is authorized by law to take acknowledgment or proof of a deed or other

written instrument shall receive the same fee a notary public may receive for the same service.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 603.006. FEE BOOK. An officer who by law may charge a fee for a service shall keep a fee book and shall enter in the book all fees charged for services rendered.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 603.007. BILL FOR FEES. A fee under this chapter is not payable to a person until a clerk or officer produces, or is ready to produce, a bill in writing containing the details of the fee to the person who owes the fee. The bill must be signed by the clerk or officer to whom the fee is due or who charges the fee or by the successor in office or legal representative of the clerk or officer.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 603.008. POSTING OF FEES REQUIRED. A county judge, clerk of a district or county court, sheriff, justice of the peace, constable, or notary public shall keep posted at all times in a conspicuous place in the respective offices a complete list of fees the person may charge by law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 603.009. DISPOSITION OF FEES. (a) Except as provided by this section, an officer required to collect a fee under Section 603.004 shall deposit the fee in the state treasury to the credit of the general revenue fund.

(b) Repealed by Acts 1999, 76th Leg., ch. 62, Sec. 7.61, eff. Sept. 1, 1999.

(c) The Texas Employment Commission shall deposit fees in accordance with federal law.

(d) The Texas State Library and Archives Commission shall

retain fees collected under this chapter by the state librarian.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.61, eff. Sept. 1, 1999.

Sec. 603.010. OVERCHARGING OF FEES; PENALTY. An officer named in this chapter who demands and receives a higher fee than authorized under this chapter or a fee that is not authorized under this chapter is liable to the aggrieved person for four times the amount unlawfully demanded and received.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 604. OFFICIAL BONDS

Sec. 604.001. FILING OF OFFICIAL BOND. An officer required by law to give an official bond shall file the bond with the officer's oath of office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 604.002. SURETIES. An officer shall execute the officer's official bond with:

(1) two or more good and sufficient sureties; or

(2) a solvent surety company authorized to do business in this state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 604.003. DEPOSITORY OF BOND OF CERTAIN OFFICERS. (a) Except as provided by Subsection (b) or other law, the officer approving the bond of an officer required by law to give an official bond payable to the governor or the state shall deposit the bond with the comptroller.

(b) The governor shall deposit the official bond of the comptroller with the secretary of state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.08(a), eff. Sept. 1, 1995.

Sec. 604.004. COPY OF CERTAIN BONDS TO BE FILED WITH SECRETARY OF STATE. A member of the governing body of a political subdivision created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution who is required by law to file an official bond shall file a copy of the individual's bond with the secretary of state not later than the 10th day after the date the bond is required by law to be filed.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 604.005. BOND NOT VOID ON FIRST RECOVERY. (a) The official bond of a state, county, or precinct officer is not void on first recovery.

(b) An injured party may sue separately on a bond until the bond is exhausted.

(c) In no event may the surety be liable for more than the penal sum of the surety bond minus any amounts already paid out under the bond.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 421 (S.B. 1269), Sec. 7, eff. September 1, 2007.

Sec. 604.006. BOND INURES TO PERSONS AGGRIEVED. In a suit arising from the defalcation of a public officer or the misapplication or misappropriation of money by a public officer, the official bond of the officer inures to the benefit of a person aggrieved by the defalcation or misapplication or misappropriation occurring in the period covered by the bond.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 604.007. LIMITATION. For purposes of limitation, a suit on an official bond of a public officer arising from the defalcation of the officer or the misapplication or misappropriation of money by the officer is an action for debt founded on a contract in writing governed by Section 16.004, Civil Practice and Remedies Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 605. EIGHT-HOUR WORKDAY

Sec. 605.001. EIGHT-HOUR WORKDAY FOR CERTAIN PUBLIC WORKS. Eight hours of work in a calendar day constitute a day's work for a laborer, worker, or mechanic employed by or on behalf of the state or a political subdivision of the state for the construction, repair, or improvement of a building, bridge, road, highway, stream, or levee or for other similar work.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 605.002. LENGTH OF WORKDAY; EMERGENCY WORK. (a) In a contract for any work made by or on behalf of the state or a legal or political subdivision of the state eight hours constitutes a day's work.

(b) The time spent by a worker in going to and from the workplace is not a part of the hours of work.

(c) A person having a contract with the state or a legal or political subdivision of the state may not require or permit a laborer, worker, or mechanic to work more than eight hours in a calendar day, except:

(1) in employment to which the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) applies;

(2) in an emergency that may arise in a time of war;

(3) to protect property or human life;

(4) for the housing of inmates of a public institution in case of fire or destruction by the elements; or

(5) for work financed in whole or part by the federal government or any of its agencies in which the total number of hours a week required or permitted of a worker does not exceed the number of hours a week allowed by federal regulation.

(d) A laborer, worker, or mechanic who works in an emergency

described by Subsection (c) more than eight hours in a calendar day is entitled to be paid according to the workday provided by Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 605.003. CRIMINAL OFFENSE. (a) A person or officer, agent, or employee of the person commits an offense if the person or officer, agent, or employee of the person violates any provision of this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $50 or more than $1,000 and confinement in jail for not more than six months or both a fine and confinement.

(c) Each day a person violates a provision of this chapter is a separate offense.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 605.004. FEDERAL LABOR STANDARDS ACT EXEMPTION. An employer who complies with the overtime provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. Sec. 201 et seq.) is considered to comply with the eight-hour day requirements of this chapter and is not civilly or criminally liable for a violation of the requirements.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 606. SOCIAL SECURITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 606.001. DEFINITIONS. In this chapter:

(1) "Social security coverage" means federal old-age, survivors, and disability insurance benefits under 42 U.S.C. Chapter 7, Subchapter II.

(2) "Federal Insurance Contributions Act" means 26 U.S.C. Chapter 21.

(3) "Political subdivision" includes:

(A) a county;

(B) a municipality; or

(C) an instrumentality of the state, of another

political subdivision, or of the state and another political subdivision:

(i) that is a juristic entity that is legally separate and distinct from the state or political subdivision; and

(ii) whose employees are not employees of the state or political subdivision.

(4) "Retirement system" means the Employees Retirement System of Texas.

(5) "Secretary" means the United States Secretary of Health and Human Services or an individual designated by the secretary to administer coverage of the Social Security Act to employees of a state and its political subdivisions.

(6) "Social Security Act" means Chapter 7, Title 42, United States Code (42 U.S.C. Section 301 et seq.), including regulations and requirements adopted under that chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.002. ADMINISTRATION OF CHAPTER. The executive director of the retirement system shall direct and administer the functions of the retirement system under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.003. AGREEMENTS WITH SECRETARY. (a) The retirement system may enter into agreements with the secretary to obtain social security coverage for employees of the state or a political subdivision.

(b) An agreement between the retirement system and the secretary may contain any appropriate provision, including a provision relating to coverage, benefits, contributions, effective date, modification, and administration.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. COVERAGE FOR EMPLOYEES OF POLITICAL SUBDIVISIONS

Sec. 606.021. DEFINITIONS. In this subchapter:

(1) "Employee" includes an officer of a political

subdivision.

(2) "Employment" means service performed by an employee of a political subdivision except service:

(A) that in the absence of an agreement under this subchapter would constitute employment under the Social Security Act;

(B) that under the Social Security Act may not be included in an agreement between the retirement system and the secretary; or

(C) as a police officer in a position that, at the time the agreement is made, is subject to another retirement system of a municipality with a population of 250,000 or more, according to the most recent federal census before the date of the agreement.

(3) "Wages" means all remuneration for employment, including the cash value of all remuneration paid other than by cash. The term does not include remuneration that does not constitute "wages" under the Federal Insurance Contributions Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.022. AGREEMENTS WITH POLITICAL SUBDIVISIONS. (a) The retirement system and the governing body of a political subdivision that is eligible under the Social Security Act may enter into an agreement to obtain social security coverage for the employees of the political subdivision.

(b) An agreement between the retirement system and the governing body:

(1) must include a provision that an action of the federal government may not impair or impede a retirement program of this state or a political subdivision; and

(2) may include any other appropriate provision, including a provision relating to coverage benefits, contributions, effective date, modification of the agreement, and administration.

(c) The retirement system shall prescribe the terms of agreements necessary to:

(1) carry out this subchapter; and

(2) insure the financial responsibility of the participating political subdivisions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.023. RULES. The retirement system shall adopt rules that it finds necessary to govern the application for and the eligibility of employees of a political subdivision to obtain social security coverage.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.024. PLAN FOR COVERAGE. (a) To obtain social security coverage for its employees, a political subdivision must submit a plan for approval by the retirement system.

(b) The retirement system shall approve a plan if the retirement system finds that the plan:

(1) conforms to the retirement system's rules;

(2) conforms to federal law and agreements made between the federal government and the states;

(3) specifies the source of funds from which payments will be made and guarantees that this source will be adequate;

(4) provides methods for proper and efficient administration by the political subdivision that are found by the retirement system to be necessary;

(5) provides that the political subdivision will:

(A) report information at a time and in a form required by the retirement system; and

(B) comply with requirements of the retirement system or federal authorities for the receipt, correctness, and verification of reports; and

(6) specifies the personnel of the political subdivision who are responsible for making assessments, collections, and reports.

(c) The retirement system may not refuse to approve a submitted plan unless the retirement system gives the submitting political subdivision reasonable notice and an opportunity for a hearing.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.025. GUARANTEES FOR PAYMENT. The retirement system by rule may require guarantees to create adequate security that a political subdivision will be financially responsible for its payments for at least the minimum period required by federal requirements to precede social security coverage cancellation. The

guarantees may be in the form of:

(1) surety bonds;

(2) advance payments into an escrow account;

(3) detailed representations and assurances of priority dedication; or

(4) another legal undertaking.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.026. CONTRIBUTIONS BY POLITICAL SUBDIVISION. (a) The governing body of a political subdivision may make contributions under an agreement to obtain social security coverage.

(b) The maximum compensation provided by statute for a county employee is not exceeded by the payment of a matching contribution by a political subdivision to obtain social security coverage for the employee.

(c) An instrumentality of the state that receives a direct legislative appropriation may contribute, for employees covered under Subtitle C, Title 8, only funds specifically appropriated for social security coverage.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.027. PROCEDURE FOR MAKING CONTRIBUTIONS. (a) In accordance with state and federal requirements, a political subdivision that has an approved plan for social security coverage shall:

(1) make deductions from wages of employees whose services are covered by the plan; and

(2) pay matching contributions from the funds from which covered employees receive their compensation.

(b) The employment or continued employment of an employee covered by an approved plan of a political subdivision is consideration for the deductions.

(c) An employee or a political subdivision is not relieved from liability for a contribution if the political subdivision fails to deduct the contribution from the employee's wages.

(d) The county treasurer, or the person who acts as treasurer in a political subdivision other than a county, shall assess and

collect the required contributions and transmit the contributions in accordance with federal requirements for the filing of reports and the payment of contributions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.028. ADMINISTRATIVE EXPENSES. (a) As agreed by the retirement system and the governing body of a political subdivision that has an approved plan, the retirement system shall require the political subdivision to pay the subdivision's proportionate share of the state administrative expenses for this subchapter by:

(1) an annual fee for the political subdivision;

(2) an annual fee for each employee covered;

(3) an amount equal to a percentage of the contributions made to federal authorities; or

(4) any other equitable measure.

(b) A political subdivision may make payment for administrative expenses under this section from any available fund not otherwise dedicated.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.029. DELINQUENT PAYMENTS. (a) The retirement system may require in an agreement with a political subdivision that interest be paid on delinquent payments.

(b) The retirement system may bring suit to collect a delinquent payment and interest on the payment.

(c) The retirement system may direct the comptroller to deduct a delinquent payment and interest from funds payable by the state to the delinquent political subdivision that are expressly subject to deduction. The comptroller shall send to the retirement system in trust the amount deducted for the contribution of the delinquent political subdivision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.39, eff. Sept. 1, 1997.

Sec. 606.030. SOCIAL SECURITY ADMINISTRATION FUND. (a) The social security administration fund is outside the treasury. The comptroller is the custodian of the fund and shall administer the fund separately from other funds as directed by the retirement system. Credits of money in the fund are not state funds or subject to legislative appropriation.

(b) The retirement system shall deposit in the fund all money collected for administrative expenses under Section 606.028.

(c) The comptroller shall issue warrants for disbursements from the fund under sworn vouchers executed by the executive director of the retirement system or a person designated by the director.

(d) The fund may be used to pay:

(1) interest assessed as a penalty by the United States secretary of the treasury because of delinquent payment of contributions under this subchapter; or

(2) any expense necessary for the retirement system to administer this subchapter.

(e) A salary or expenditure paid from the fund shall be consistent with a comparable item in and the general provisions of the General Appropriations Act.

(f) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 618, Sec. 26(a)(2), eff. September 1, 2013.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.40, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 26(a)(2), eff. September 1, 2013.

Sec. 606.031. EXPENDITURES. The retirement system may employ personnel, purchase equipment, and make other expenditures as necessary to administer this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. COVERAGE FOR STATE EMPLOYEES

Sec. 606.061. DEFINITIONS. In this subchapter:

(1) "Employee tax" means the tax imposed by Section 3101 of

the Internal Revenue Code of 1986 (26 U.S.C. Section 3101).

(2) "Employment" means service performed by a state employee except service:

(A) that in the absence of an agreement under this subchapter would constitute employment under the Social Security Act; or

(B) that under the Social Security Act may not be included in an agreement between the retirement system and the secretary.

(3) "State agency" means:

(A) a department, commission, board, office, or other agency in the executive or legislative branch created by the constitution or a statute of this state;

(B) the supreme court, the court of criminal appeals, a court of appeals, or the Texas Judicial Council; or

(C) a university system or an institution of higher education as defined by Section 61.003, Education Code.

(4) "State employee" includes an elected or appointed state officer but does not include an individual who:

(A) is compensated by fees; or

(B) is in a position eligible for membership in the Teacher Retirement System of Texas unless the person is employed by a state department, agency, or institution.

(5) "Wages" means all remuneration for employment, including the cash value of all remuneration paid other than by cash, except for remuneration that does not constitute "wages" under the Federal Insurance Contributions Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.062. DUTY OF EXECUTIVE DIRECTOR. The executive director of the retirement system shall negotiate the best possible contract for social security coverage for state employees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.063. CONTRIBUTIONS BY STATE AGENCY. A state agency may pay contributions on social security coverage of the agency's state employees who are paid from the state treasury as required by

an agreement with the secretary from funds appropriated to the comptroller for that purpose. A contribution made under this section is not considered compensation to the employee under any state law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.064. EMPLOYEE CONTRIBUTIONS. (a) Each state employee, including a judge paid by the state, for whom an agreement for social security coverage is in effect under this subchapter shall pay contributions on wages in the amount of the employee tax.

(b) The obligation provided by this section is a condition of employment or of holding office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 417, Sec. 1, eff. Dec. 1, 1995.

Sec. 606.066. COLLECTION OF EMPLOYEE'S CONTRIBUTION. (a) On the authorization of the head of a state agency, the disbursing officer of the department shall deduct from each payroll of a state employee with social security coverage the amount of the employee's contribution paid by the employee under this subchapter. The total amount deducted shall be paid in accordance with federal requirements.

(b) The head of a state agency shall, for each payroll:

(1) certify to the comptroller in the manner prescribed by the comptroller:

(A) the amount of a state employee's contribution to be deducted from the employee's salary; and

(B) the total amount to be deducted from all salaries; and

(2) include the total amount in the payroll voucher.

(c) If an amount less than the amount of the employee's contribution under this subchapter is deducted from a state employee's salary for the employee's contribution, the employee is liable for the difference between the amount deducted and the correct amount of the contribution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.067. COLLECTION OF STATE CONTRIBUTION FOR EMPLOYEES PAID FROM TREASURY. (a) For a state employee who is paid from the state treasury, the legislature shall appropriate, from the same fund from which the employee is paid, an amount equal to the state's contributions under Section 606.063.

(b) The state agency shall certify at the end of each payroll period to the comptroller in a manner prescribed by the comptroller the total amount of the department's state contributions for that period for employees paid from the state treasury.

(c) A state agency having employees paid from the state treasury shall include in the budget information the department submits to the Legislative Budget Board and the budget division of the governor's office a certification of the amount necessary to pay contributions of the state for the following biennium. The governor shall include this amount in the budget that the governor submits to the legislature.

(d) All money appropriated to the comptroller for the contributions of the state shall be allocated to the state agency according to rules adopted by the comptroller.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 417, Sec. 2, eff. Dec. 1, 1995.

Sec. 606.068. COLLECTION OF STATE CONTRIBUTION FOR EMPLOYEES NOT PAID FROM TREASURY. (a) For state employees who are paid from funds not in the state treasury, the head of a state agency shall certify to the department's disbursing officer the total amount of the state's contributions based on compensation paid the employees.

(b) The disbursing officer of a state agency that has state employees who are paid from funds not in the state treasury shall pay the total amount of contributions of the state for employees in accordance with federal requirements.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.069. METHOD OF MAKING CONTRIBUTIONS TO FEDERAL GOVERNMENT. A state agency shall comply with federal requirements for filing reports and paying contributions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.070. RULES AND REPORTS. (a) The retirement system may, as it finds necessary to the efficient administration of this subchapter, adopt rules and require state agencies to file reports.

(b) The retirement system shall certify to the comptroller any state agency that has not filed a required report within the specified time.

(c) The comptroller shall withhold salary or expense reimbursement warrants to the head or an employee of a state agency that the retirement system certifies under Subsection (b). On notification from the retirement system that the report has been filed, the comptroller shall release the warrants.

(d) If a state agency whose employees are not paid from funds in the state treasury is notified that a required report is delinquent, the disbursing officer may not pay a salary or an expense reimbursement. A disbursing officer is liable both personally and on the officer's official bond if the officer pays a salary or an expense reimbursement after notification of a delinquent report by the retirement system.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.071. EXPENDITURES. The retirement system may employ personnel, including accountants and attorneys, purchase equipment, and make other expenditures as necessary to administer this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.072. BENEFITS FOR STATE EMPLOYEES UNDER BOTH STATE AND FEDERAL LAW. A state employee may receive benefits under both Chapters 811 through 815 and the Social Security Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. COVERAGE FOR STATE EMPLOYEES PAID FROM FEDERAL FUNDS

Sec. 606.101. COVERAGE. Subchapter B applies to a state employee or officer who is paid entirely from federal funds but is classified as a state employee by the federal government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 607. BENEFITS RELATING TO CERTAIN DISEASES AND ILLNESSES

SUBCHAPTER A. CONTAGIOUS DISEASES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1306, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 607.001. DEFINITION. In this chapter, "public safety employee" means a peace officer, fire fighter, detention officer, county jailer, or emergency medical services employee of this state or a political subdivision of this state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2005, 79th Leg., Ch. 986 (H.B. 1928), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1306, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 607.002. REIMBURSEMENT. A public safety employee who is exposed to a contagious disease is entitled to reimbursement from the employing governmental entity for reasonable medical expenses incurred in treatment for the prevention of the disease if:

(1) the disease is not an "ordinary disease of life" as that term is used in the context of a workers' compensation claim;

(2) the exposure to the disease occurs during the course of the employment; and

(3) the employee requires preventative medical treatment because of exposure to the disease.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1306, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 607.003. PHYSICIAN OF CHOICE. A public safety employee who is exposed to a disease described by Section 607.002 is entitled to be treated for the prevention of that disease by the physician of the employee's choice.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1306, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 607.004. PREVENTATIVE IMMUNIZATIONS AND VACCINATIONS. (a) A certified fire fighter, peace officer, or other governmental employee who operates an ambulance or who responds to emergency medical calls is entitled to preventative immunization for any disease to which the fire fighter, peace officer, or other governmental employee may be exposed in performing official duties and for which immunization is possible.

(b) The employee and any member of the employee's immediate family are entitled to vaccination for a contagious disease to which the employee is exposed during the course of employment.

(c) The employing governmental entity may satisfy the requirements of this section by:

(1) providing the immunization or vaccination without charge; or

(2) reimbursing the employee for any necessary and reasonable expenses incurred by the employee for the immunization or vaccination.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 993 (S.B. 1582), Sec. 1, eff. September 1, 2019.

SUBCHAPTER B. DISEASES OR ILLNESSES SUFFERED BY DETENTION OFFICERS, CUSTODIAL OFFICERS, FIREFIGHTERS, PEACE OFFICERS, AND EMERGENCY

MEDICAL TECHNICIANS

Sec. 607.051. DEFINITIONS. In this subchapter:

(1) "Custodial officer" means a person who is employed by the Board of Pardons and Paroles or the Texas Department of Criminal Justice as a parole officer or caseworker or who is employed by the correctional institutions division of the Texas Department of Criminal Justice and certified by the department as having a normal job assignment that requires frequent or infrequent regularly planned contact with, and in close proximity to, inmates or defendants of the correctional institutions division without the protection of bars, doors, security screens, or similar devices and includes assignments normally involving supervision or the potential for supervision of inmates in inmate housing areas, educational or recreational facilities, industrial shops, kitchens, laundries, medical areas, agricultural shops or fields, or in other areas on or away from property of the department.

(1-a) "Detention officer" means an individual employed by a state agency or political subdivision of the state to ensure the safekeeping of prisoners and the security of a municipal, county, or state penal institution in this state.

(1-b) "Disability" means partial or total disability.

(2) "Emergency medical technician" means an individual who is certified as an emergency medical technician by the Department of State Health Services as provided by Chapter 773, Health and Safety Code, and who is employed by a political subdivision.

(3) "Firefighter" means:

(A) an individual who is defined as fire protection personnel under Section 419.021; or

(B) an individual who is a volunteer firefighter certified by the Texas Commission on Fire Protection or the State Firemen's and Fire Marshals' Association of Texas.

(4) "Peace officer" means an individual elected, appointed, or employed to serve as a peace officer for a governmental entity under Article 2A.001, Code of Criminal Procedure, or other law.

Added by Acts 2005, 79th Leg., Ch. 695 (S.B. 310), Sec. 3, eff. September 1, 2005.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 993 (S.B. 1582), Sec. 3, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 505 (S.B. 22), Sec. 2, eff. June 14, 2021.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.103, eff. January 1, 2025.

Sec. 607.052. APPLICABILITY. (a) Notwithstanding any other law, this subchapter applies only to a detention officer, custodial officer, firefighter, peace officer, or emergency medical technician who:

(1) on becoming employed or during employment as a detention officer, custodial officer, firefighter, peace officer, or emergency medical technician, received a physical examination that failed to reveal evidence of the illness or disease for which benefits or compensation are sought using a presumption established by this subchapter;

(2) is employed for five or more years as a firefighter, peace officer, or emergency medical technician, except for the presumption under Section 607.0545; and

(3) seeks benefits or compensation for a disease or illness covered by this subchapter that is discovered during employment as a detention officer, custodial officer, firefighter, peace officer, or emergency medical technician.

(b) A presumption under this subchapter does not apply:

(1) to a determination of a survivor's eligibility for benefits under Chapter 615;

(2) in a cause of action brought in a state or federal court except for judicial review of a proceeding in which there has been a grant or denial of employment-related benefits or compensation;

(3) to a determination regarding benefits or compensation under a life or disability insurance policy purchased by or on behalf of the detention officer, custodial officer, firefighter, peace officer, or emergency medical technician that provides coverage in addition to any benefits or compensation required by law; or

(4) if the disease or illness for which benefits or compensation is sought is known to be caused by the use of tobacco and:

(A) the firefighter, peace officer, or emergency medical technician is or has been a user of tobacco; or

(B) the firefighter's, peace officer's, or emergency medical technician's spouse has, during the marriage, been a user of tobacco that is consumed through smoking.

(c) This subchapter does not create a cause of action.

(d) This subchapter does not enlarge or establish a right to any benefit or compensation or eligibility for any benefit or compensation.

(e) A detention officer, custodial officer, firefighter, peace officer, or emergency medical technician who uses a presumption established under this subchapter is entitled only to the benefits or compensation to which the detention officer, custodial officer, firefighter, peace officer, or emergency medical technician would otherwise be entitled to receive at the time the claim for benefits or compensation is filed.

(f) For purposes of this subchapter, an individual described by Section 607.051(3)(B) is considered to have been employed or compensated while the individual actively served as a volunteer firefighter. An individual who actively serves as a volunteer firefighter is one who participates in a minimum of 40 percent of the drills conducted by the individual's department and 25 percent of the fire or other emergency calls received by the department during the time that the volunteer firefighter is on call.

(g) This subchapter applies to a detention officer, custodial officer, firefighter, peace officer, or emergency medical technician who provides services as an employee of an entity created by an interlocal agreement.

(h) Subsection (b)(4) only prevents the application of the presumption authorized by this subchapter and does not affect the right of a firefighter, peace officer, or emergency medical technician to provide proof, without the use of that presumption, that an injury or illness occurred during the course and scope of employment.

Added by Acts 2005, 79th Leg., Ch. 695 (S.B. 310), Sec. 3, eff. September 1, 2005.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 993 (S.B. 1582), Sec. 4, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 505 (S.B. 22), Sec. 3, eff. June 14, 2021.

Sec. 607.053. IMMUNIZATION; SMALLPOX. (a) A firefighter, peace officer, or emergency medical technician is presumed to have suffered a disability or death during the course and scope of employment if the firefighter, peace officer, or emergency medical technician:

(1) received preventative immunization against smallpox, or another disease to which the firefighter, peace officer, or emergency medical technician may be exposed during the course and scope of employment and for which immunization is possible; and

(2) suffered death or total or partial disability as a result of the immunization.

(b) An immunization described by this section is considered preventative whether the immunization occurs before or after exposure to the disease for which the immunization is prescribed.

(c) A presumption established under Subsection (a) may not be rebutted by evidence that the immunization was:

(1) not required by the employer;

(2) not required by law; or

(3) received voluntarily or with the consent of the firefighter, peace officer, or emergency medical technician.

(d) A firefighter, peace officer, or emergency medical technician who suffers from smallpox that results in death or total or partial disability is presumed to have contracted the disease during the course and scope of employment as a firefighter, peace officer, or emergency medical technician.

Added by Acts 2005, 79th Leg., Ch. 695 (S.B. 310), Sec. 3, eff. September 1, 2005.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 993 (S.B. 1582), Sec. 5, eff. September 1, 2019.

Sec. 607.054. TUBERCULOSIS OR OTHER RESPIRATORY ILLNESS. (a) A firefighter, peace officer, or emergency medical technician who suffers from tuberculosis, or any other disease or illness of the lungs or respiratory tract that has a statistically positive correlation with service as a firefighter, peace officer, or

emergency medical technician, that results in death or total or partial disability is presumed to have contracted the disease or illness during the course and scope of employment as a firefighter, peace officer, or emergency medical technician.

(b) This section does not apply to a claim that a firefighter, peace officer, or emergency medical technician suffers from severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) or coronavirus disease 2019 (COVID-19).

Added by Acts 2005, 79th Leg., Ch. 695 (S.B. 310), Sec. 3, eff. September 1, 2005.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 993 (S.B. 1582), Sec. 6, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 505 (S.B. 22), Sec. 4, eff. June 14, 2021.

Sec. 607.055. CANCER. (a) A firefighter or emergency medical technician who suffers from cancer resulting in death or total or partial disability is presumed to have developed the cancer during the course and scope of employment as a firefighter or emergency medical technician if:

(1) the firefighter or emergency medical technician:

(A) regularly responded on the scene to calls involving fires or fire fighting; or

(B) regularly responded to an event involving the documented release of radiation or a known or suspected carcinogen while the person was employed as a firefighter or emergency medical technician; and

(2) the cancer is described by Subsection (b).

(b) This section applies only to:

(1) cancer that originates at the stomach, colon, rectum, skin, prostate, testis, or brain;

(2) non-Hodgkin's lymphoma;

(3) multiple myeloma;

(4) malignant melanoma; and

(5) renal cell carcinoma.

Added by Acts 2005, 79th Leg., Ch. 695 (S.B. 310), Sec. 3, eff. September 1, 2005.

Amended by:
Acts 2019, 86th Leg., R.S., Ch. 701 (S.B. 2551), Sec. 1, eff. June 10, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 331, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 607.056. ACUTE MYOCARDIAL INFARCTION OR STROKE. (a) A firefighter, peace officer, or emergency medical technician who suffers an acute myocardial infarction or stroke resulting in disability or death is presumed to have suffered the disability or death during the course and scope of employment as a firefighter, peace officer, or emergency medical technician if:

(1) while on duty, the firefighter, peace officer, or emergency medical technician:

(A) was engaged in a situation that involved nonroutine stressful or strenuous physical activity involving fire suppression, rescue, hazardous material response, emergency medical services, or other emergency response activity; or

(B) participated in a training exercise that involved nonroutine stressful or strenuous physical activity; and

(2) the acute myocardial infarction or stroke occurred while the firefighter, peace officer, or emergency medical technician was engaging in the activity described under Subdivision (1).

(b) For purposes of this section, "nonroutine stressful or strenuous physical activity" does not include clerical, administrative, or nonmanual activities.

Added by Acts 2005, 79th Leg., Ch. 695 (S.B. 310), Sec. 3, eff. September 1, 2005.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 993 (S.B. 1582), Sec. 7, eff. September 1, 2019.

Sec. 607.057. EFFECT OF PRESUMPTION. Except as provided by Section 607.052(b), a presumption established under this subchapter applies to a determination of whether a detention officer's, custodial officer's, firefighter's, peace officer's, or emergency

medical technician's disability or death resulted from a disease or illness contracted in the course and scope of employment for purposes of benefits or compensation provided under another employee benefit, law, or plan, including a pension plan.

Added by Acts 2005, 79th Leg., Ch. 695 (S.B. 310), Sec. 3, eff. September 1, 2005.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 993 (S.B. 1582), Sec. 8, eff. September 1, 2019.
Acts 2021, 87th Leg., R.S., Ch. 505 (S.B. 22), Sec. 6, eff. June 14, 2021.

Sec. 607.058. PRESUMPTION REBUTTABLE. (a) A presumption under Section 607.053, 607.054, 607.0545, 607.055, or 607.056 may be rebutted through a showing by a preponderance of the evidence that a risk factor, accident, hazard, or other cause not associated with the individual's service as a detention officer, custodial officer, firefighter, peace officer, or emergency medical technician was a substantial factor in bringing about the individual's disease or illness, without which the disease or illness would not have occurred.

(b) A rebuttal offered under this section must include a statement by the person offering the rebuttal that describes, in detail, the evidence that the person reviewed before making the determination that a cause not associated with the individual's service as a detention officer, custodial officer, firefighter, peace officer, or emergency medical technician was a substantial factor in bringing about the individual's disease or illness, without which the disease or illness would not have occurred.

(c) In addressing an argument based on a rebuttal offered under this section, an administrative law judge shall make findings of fact and conclusions of law that consider whether a qualified expert, relying on evidence-based medicine, stated the opinion that, based on reasonable medical probability, an identified risk factor, accident, hazard, or other cause not associated with the individual's service as a detention officer, custodial officer, firefighter, peace officer, or emergency medical technician was a substantial factor in bringing about the individual's disease or illness, without which the

disease or illness would not have occurred.

Added by Acts 2005, 79th Leg., Ch. 695 (S.B. 310), Sec. 3, eff. September 1, 2005.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 224 (H.B. 1388), Sec. 1, eff. May 29, 2015.
Acts 2019, 86th Leg., R.S., Ch. 701 (S.B. 2551), Sec. 2, eff. June 10, 2019.
Acts 2019, 86th Leg., R.S., Ch. 993 (S.B. 1582), Sec. 8, eff. September 1, 2019.
Acts 2021, 87th Leg., R.S., Ch. 505 (S.B. 22), Sec. 7, eff. June 14, 2021.

Sec. 607.059. PROHIBITED PAYMENT. No payment shall be made to the subsequent injury fund under Section 403.007, Labor Code, for any death resulting from a disease or illness presumed to have been contracted in the course and scope of employment under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 695 (S.B. 310), Sec. 3, eff. September 1, 2005.

SUBCHAPTER C. OTHER DISEASES OR ILLNESSES SUFFERED BY FIREFIGHTERS AND EMERGENCY MEDICAL TECHNICIANS

Sec. 607.101. DEFINITIONS. In this subchapter:

(1) "Emergency medical technician" means an individual who is certified as an emergency medical technician by the Department of State Health Services as provided by Chapter 773, Health and Safety Code, and who is a full-time employee of a political subdivision.

(2) "Firefighter" means an individual who is defined as fire protection personnel under Section 419.021 and is a full-time employee of a political subdivision.

Added by Acts 2009, 81st Leg., R.S., Ch. 1049 (H.B. 4560), Sec. 1, eff. September 1, 2009.

Sec. 607.102. NOTIFICATION. An emergency response employee or

volunteer, as defined by Section 81.003, Health and Safety Code, who is exposed to methicillin-resistant Staphylococcus aureus or a disease caused by a select agent or toxin identified or listed under 42 C.F.R. Section 73.3 is entitled to receive notification of the exposure in the manner prescribed by Section 81.048, Health and Safety Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1049 (H.B. 4560), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1278 (S.B. 1574), Sec. 2, eff. September 1, 2015.

CHAPTER 608. PAYROLL DEDUCTION FOR SAVINGS BONDS

Sec. 608.001. DEFINITIONS. In this chapter:

(1) "Department administrator" means the chief administrator of a department of state government of which an individual executing an authorization is an officer or employee.

(2) "Disbursing officer" means the disbursing officer of a political subdivision of which an individual executing an authorization is an officer or employee.

(3) "Political subdivision" means a county, municipality, or other political subdivision of this state.

(4) "Savings bonds" means United States savings bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 608.002. AUTHORIZATION FOR PAYROLL DEDUCTION. (a) An officer or employee of this state or of a political subdivision may voluntarily authorize the individual's department administrator or disbursing officer, as appropriate, to deduct from the individual's compensation an amount to be used to purchase savings bonds.

(b) An authorization must:

(1) be in writing or recorded by electronic means; and

(2) state:

(A) the period for which the authorization is to be in effect;

(B) the amount to be deducted; and

(C) the denomination of the savings bonds to be

purchased.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.09(b), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1467, Sec. 1.22, eff. June 19, 1999.

Sec. 608.003. WITHHOLDING; DEDUCTION FROM PAYROLL. (a) A department administrator or disbursing agent, as appropriate, may withhold the amount authorized under Section 608.002 from an individual's compensation each payday.

(b) If a withholding is made, the department administrator or disbursing officer shall make a deduction when the payroll of a state department or a political subdivision is presented to the comptroller or disbursing officer, as appropriate, for payment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 1.23, eff. June 19, 1999.

Sec. 608.005. PAYMENT TO DEPARTMENT ADMINISTRATOR OR DISBURSING OFFICER. (a) When the payroll of a state department is presented to the comptroller for payment, the comptroller shall pay to the department administrator the full amount deducted from the department's payroll for the payroll period to purchase savings bonds on behalf of department officers and employees.

(b) When the payroll of a political subdivision is presented to the disbursing officer for payment, the disbursing officer shall pay to the disbursing officer the full amount deducted from the political subdivision's payroll for the payroll period to purchase savings bonds on behalf of officers and employees of the political subdivision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 1.24, eff. June 19, 1999.

Sec. 608.006. FORM OF PAYROLL. (a) The comptroller shall prescribe the proper form of payroll for state officers and employees

to comply with this chapter.

(b) A disbursing officer shall prescribe the proper form of payroll for officers and employees of the disbursing officer's political subdivision to comply with this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 608.007. TRUST ACCOUNT. (a) A department administrator shall deposit money received under Section 608.005(a) with the comptroller to be held in trust by the comptroller until disbursed by the department administrator to purchase savings bonds for an individual designated in an authorization under Section 608.002 filed with the department administrator.

(b) A disbursing officer shall deposit money received under Section 608.005(b) with the comptroller of the political subdivision to be held in trust by the comptroller until disbursed by the disbursing officer to purchase savings bonds for an individual designated in an authorization under Section 608.002 filed with the disbursing officer.

(c) Money held in trust under this section shall be deposited in an account designated as the savings bond payroll savings account.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.41, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 1.25, eff. June 19, 1999.

Sec. 608.008. PURCHASE OF SAVINGS BONDS. (a) A department administrator and a disbursing officer shall use money deducted and held in trust under this chapter to purchase savings bonds on behalf of an individual who has executed an authorization under Section 608.002, in the denomination designated and authorized in the individual's authorization, when an amount sufficient to make a purchase has been withheld.

(b) A department administrator or disbursing officer, on receipt of a savings bond purchased under Subsection (a), shall immediately deliver the bond to the individual entitled to it or shall mail the bond to the address designated by the individual in the authorization.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 608.009. RECORDS. A department administrator and disbursing officer shall keep records at all times, itemizing money deducted and disbursed by the department administrator or disbursing officer under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 608.010. TERMINATION OF DEDUCTION. (a) A department administrator or disbursing officer shall stop deducting money under this chapter from the compensation of an officer or employee if:

(1) the individual stops being an officer or employee of the department or political subdivision;

(2) the individual notifies the department administrator or disbursing officer by electronic means or in writing that the individual elects to cancel the authorization; or

(3) the arrangement for deducting money by department administrators or disbursing officers is terminated.

(b) On termination as provided by Subsection (a), any money that has been deducted from an officer's or employee's compensation but has not been used to purchase savings bonds shall be remitted immediately to the individual from whose compensation the money has been deducted.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.09(a), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1467, Sec. 1.26, eff. June 19, 1999.

Sec. 608.011. NO LIABILITY ON OFFICIAL BOND. A department administrator or disbursing officer is not liable on a bond required of the individual as an official because of a duty imposed on the individual by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 609. DEFERRED COMPENSATION PLANS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 609.001. DEFINITIONS. In this chapter:

(1) "Board of trustees" means the board of trustees of the Employees Retirement System of Texas.

(2) "Employee" means an individual who is an officer or employee of a state agency or political subdivision, as appropriate.

(2-a) "Institution of higher education" means an institution of higher education as defined by Section 61.003, Education Code.

(3) "Investment income" means the amount earned from investment in a qualified investment product of compensation deferred under a deferred compensation plan.

(4) "Participating employee" means an employee who contracts to participate in a deferred compensation plan.

(5) "Plan administrator" means the person responsible for administering a deferred compensation plan.

(6) "Political subdivision" means a governmental entity in the state that is not a state agency and includes a county, municipality, school district, river authority, other special purpose district or authority, and junior college district.

(7) "Qualified vendor" means a vendor approved by a plan administrator or with whom a plan administrator has contracted for participation in the deferred compensation plan.

(8) "State agency" means a board, commission, office, department, or other agency in the executive, judicial, or legislative branch of state government, including an institution of higher education.

(9) "Vendor" means a private entity that sells investment products.

(10) "401(k) plan" means an employees' deferred compensation plan, the federal income tax treatment of which is governed by Section 401(k) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401(k)).

(11) "457 plan" means an employees' deferred compensation plan, the federal income tax treatment of which is governed by Section 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 457).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 1266, Sec. 2.01, eff. Jan. 1,

2004.
Amended by:
Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 2, eff. September 1, 2005.

Sec. 609.002. QUALIFICATIONS FOR QUALIFIED VENDOR. A vendor may be a qualified vendor for a 457 plan or a 401(k) plan created by a political subdivision, group of political subdivisions, an institution of higher education, or a group of institutions of higher education only if the vendor satisfies the requirements for participation in the deferred compensation plan provided by:

(1) this chapter; and

(2) the plan administrator.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 1266, Sec. 2.02, eff. Jan. 1, 2004.

Sec. 609.003. QUALIFIED INVESTMENT PRODUCT. (a) To be classified as a qualified investment product for a deferred compensation plan, an investment product must be approved by the plan administrator to receive investments under the plan. The approval of an investment product for a 457 plan must be in writing.

(b) The approval of an investment product for a 401(k) plan of a political subdivision, group of political subdivisions, an institution of higher education, or a group of institutions of higher education, or for a 457 plan of an institution of higher education or group of institutions of higher education, must be in accordance with a contract between the plan administrator and a qualified vendor.

(c) A qualified investment product may be offered only by a qualified vendor of the deferred compensation plan.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 1266, Sec. 2.03, eff. Jan. 1, 2004.

Sec. 609.004. PERMISSIBLE USE OF PUBLIC FUNDS. A deferred compensation plan governed by this chapter is a permissible use of

the funds of a state agency or political subdivision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.005. PLAN AS COMPENSATION. (a) A deferred compensation plan is a part of an employee's compensation and is in addition to a retirement, pension, or benefit system established by law.

(b) The deferral of compensation does not reduce retirement, pension, or other benefits provided by law unless the reduction is required by federal law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.006. CONFORMANCE TO OR CONFLICT WITH FEDERAL LAW. (a) A deferred compensation plan must conform to federal law to provide that deferred amounts and investment income are not includable, for federal income tax purposes, in the gross income of a participating employee until distributed to the employee, subject to the employee's option to designate or convert all or a portion of deferred amounts as or to Roth contributions under Section 609.1025 or 609.5021, as applicable, the federal income tax treatment of which is governed by Section 402A, Internal Revenue Code of 1986.

(b) Federal law controls to the extent that this chapter materially conflicts with:

(1) Section 401(k), Internal Revenue Code of 1986 (26 U.S.C. Section 401(k));

(2) Section 457, Internal Revenue Code of 1986 (26 U.S.C. Section 457); or

(3) other federal law, including a federal rule governing deferred compensation plans.

(c) For the purposes of Subsection (b), a conflict is material only if, for federal income tax purposes, it is reasonably certain to result in the inclusion of an employee's deferred amounts or investment income in the employee's gross income before the amounts or income are distributed to the employee.

(d) The board of trustees of the Employees Retirement System of Texas may adopt rules necessary to make a deferred compensation plan established under Subchapter C a qualified plan under federal law,

including federal rules and regulations.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 444 (H.B. 2283), Sec. 1, eff. September 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 80 (S.B. 366), Sec. 1, eff. May 18, 2013.

Sec. 609.007. CONTRACT FOR DEFERMENT OF COMPENSATION. (a) A political subdivision may contract with an employee of the political subdivision for the deferment of any part of the employee's compensation.

(b) The board of trustees of the Employees Retirement System of Texas may contract with an employee of a state agency participating in a deferred compensation plan for the deferment of any part of the employee's compensation.

(c) Except as provided by Section 609.202 or 609.5025, to participate in a deferred compensation plan, an employee must consent in the contract to automatic payroll deductions in an amount equal to the deferred amount.

(d) A contract created under this section need not be in writing and may be communicated to the plan administrator electronically or by any other means approved by the plan's trustees.

(e) An institution of higher education may contract with an employee of the institution of higher education for the deferment of any part of the employee's compensation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 1541, Sec. 51, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1266, Sec. 2.04, eff. Jan. 1, 2004.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1409 (H.B. 957), Sec. 2, eff. June 15, 2007.
Acts 2019, 86th Leg., R.S., Ch. 1246 (H.B. 2477), Sec. 1, eff. June 14, 2019.

Sec. 609.008. CREDITING TRUST FUND INTEREST. Interest earned on an employee's deferred amounts and investment income deposited in

any of the deferred compensation trust funds, as defined by Section 609.101, or to which Section 609.512 applies is credited to the employee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 1111, Sec. 1, eff. Sept. 1, 2003.

Sec. 609.009. TRUST FOR 457 PLAN. An employee's deferred amounts and investment income under a 457 plan and the qualified investment products in which the amounts are invested are held in trust for the exclusive benefit of participants and their beneficiaries in accordance with Section 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 457). For purposes of this section, custodial accounts and contracts described by Section 457 are treated as trusts. A trust does not have to be established before January 1, 1999, for a 457 plan in existence on August 20, 1996.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 38, eff. Sept. 1, 1997.

Sec. 609.010. LIABILITY; RESPONSIBILITY FOR MONITORING. (a) The board of trustees, a state agency, a political subdivision, a plan administrator, or an employee of any of those persons is not liable to a participating employee for the diminution in value or loss of all or part of the participating employee's deferred amounts or investment income because of market conditions or the failure, insolvency, or bankruptcy of a qualified vendor.

(b) A participating employee is responsible for monitoring:

(1) the financial status of the qualified vendor in whose products the employee's deferred amounts and investment income are invested;

(2) market conditions; and

(3) the amount of the employee's deferred amounts and investment income that is invested in the qualified vendor's product.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.011. NOTIFICATION BY PLAN ADMINISTRATOR. (a) The plan administrator of a plan established under this chapter may notify an employee participating in the plan that the administrator believes that:

(1) a qualified vendor is having significant financial difficulties; or

(2) the amount of the employee's deferred amounts and investment income invested with a qualified vendor exceeds an insured or guaranteed level.

(b) A plan administrator is not liable to a participating employee for a loss resulting from the failure to notify the employee under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 1111, Sec. 2, eff. Sept. 1, 2003.

Sec. 609.012. TRANSFER FROM A PLAN VENDOR. The plan administrator of a plan established under this chapter may immediately transfer to the plan's deferred compensation trust fund all deferred amounts and investment income from a vendor who at any time fails to satisfy the requirements of this chapter or the plan administrator. A vendor may not charge a fee or penalty as the result of a plan administrator's transfer under this section. Immediately after making the transfer, the plan administrator shall give to each employee whose deferred amounts and investment income were transferred a notice that states that:

(1) the vendor's investment products are ineligible to receive additional deferred amounts;

(2) the amounts have been transferred from the vendor to the deferred compensation trust fund; and

(3) the employee is required to promptly designate another qualified investment product to receive the transferred amount.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 1111, Sec. 2, eff. Sept. 1, 2003.

Sec. 609.013. INABILITY TO DISTRIBUTE. If a plan administrator

cannot distribute promptly an employee's deferred amounts and investment income when a distribution is due and permissible under federal law, the plan administrator shall deposit the amount to be distributed in the deferred compensation trust fund defined by Section 609.101 or described by Section 609.512, as appropriate.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.014. COORDINATION OF PLANS. Notwithstanding any other provision of this chapter, an institution of higher education, as defined by Section 61.003, Education Code, participating in a group benefits program under Chapter 1551, Insurance Code, may participate under this chapter only in a deferred compensation plan described by Subchapter C.

Added by Acts 2003, 78th Leg., ch. 1310, Sec. 30, eff. June 20, 2003.

Sec. 609.015. BENEFICIARY CAUSING DEATH OF PARTICIPATING EMPLOYEE. (a) Any benefits, funds, or account balances payable on the death of a participating employee may not be paid to a person convicted of or adjudicated as having caused that death but instead are payable as if the convicted person had predeceased the decedent.

(b) The plan is not required to change the recipient of any benefits, funds, or account balances under this section unless it receives actual notice of the conviction or adjudication of a beneficiary. However, the plan may delay payment of any benefits, funds, or account balances payable on the death of a participating employee pending the results of a criminal investigation or civil proceeding and other legal proceedings relating to the cause of death.

(c) For the purposes of this section, a person has been convicted of or adjudicated as having caused the death of a participating employee if the person:

(1) pleads guilty or nolo contendere to, or is found guilty by a court or jury in a criminal proceeding of, causing the death of the participating employee, regardless of whether sentence is imposed or probated, and no appeal of the conviction is pending and the time provided for appeal has expired; or

(2) is found liable by a court or jury in a civil

proceeding for causing the death of the participating employee and no appeal of the judgment is pending and the time provided for appeal has expired.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. 1664), Sec. 1, eff. September 1, 2011.

SUBCHAPTER B. DEFERRED COMPENSATION PLANS FOR EMPLOYEES OF POLITICAL SUBDIVISIONS

Sec. 609.101. DEFINITIONS. In this subchapter:

(1) "Deferred compensation plan" means a plan established under this subchapter.

(2) "Deferred compensation trust fund" means the fund in which deferred amounts and investment income of participating employees are temporarily held.

(3) "Investment product" includes a life insurance policy, fixed or variable rate annuity, mutual fund, certificate of deposit, money market account, passbook savings account, stock, bond, obligation, and any other investment product not prohibited under Section 457 or 401(k), Internal Revenue Code of 1986, as amended.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 890, Sec. 1, eff. Sept. 1, 2001.

Sec. 609.102. CREATION OF PLAN. (a) A political subdivision may create and administer for its employees a 401(k) plan under this subchapter.

(b) A political subdivision may create and administer for its employees a 457 plan under this subchapter.

(c) A political subdivision may contract with other political subdivisions to create a single deferred compensation plan for their employees under Subsection (a) or (b).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.1025. ROTH CONTRIBUTION PROGRAMS. A political subdivision may:

(1) establish a qualified Roth contribution program in

accordance with Section 402A, Internal Revenue Code of 1986, under which an employee may:

(A) designate all or a portion of the employee's contribution under a 401(k) plan as a Roth contribution at the time the contribution is made; or

(B) convert all or a portion of the employee's previous contribution under the plan to a Roth contribution; and

(2) if authorized by federal law, establish a program in accordance with the applicable federal law under which an employee may:

(A) designate all or a portion of the employee's contribution under a 457 plan as a Roth contribution at the time the contribution is made; or

(B) convert all or a portion of the employee's previous contribution under the plan to a Roth contribution.

Added by Acts 2013, 83rd Leg., R.S., Ch. 80 (S.B. 366), Sec. 2, eff. May 18, 2013.

Sec. 609.103. DESIGNATION OF PLAN ADMINISTRATOR. (a) A political subdivision that creates a deferred compensation plan shall designate a plan administrator for the plan.

(b) Political subdivisions that create a single plan shall designate jointly a plan administrator for the plan.

(c) A plan administrator may be an employee, a nonprofit corporation, an individual, a trustee, a private entity, another political subdivision, or an association of political subdivisions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.104. REMOVAL OF PLAN ADMINISTRATOR. A political subdivision or group of political subdivisions that designates a plan administrator may remove the plan administrator at any time unless specifically provided otherwise by contract.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.105. DELEGATION OF 401(K) PLAN ADMINISTRATOR'S

AUTHORITY AND RESPONSIBILITIES. A plan administrator of a 401(k) plan may delegate the administrator's authority and responsibilities under this subchapter to another person.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.106. OVERSIGHT COMMITTEE. (a) A political subdivision or group of political subdivisions that creates a deferred compensation plan may direct and supervise the activities of the plan administrator through an oversight committee.

(b) The political subdivision or group shall determine the authority, activities, and composition of an oversight committee created under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.107. AUTHORITY OF PLAN ADMINISTRATOR. (a) A plan administrator shall execute necessary contracts for the administration of the deferred compensation plan, subject to any prior approval required by the political subdivision or group of political subdivisions that created the plan.

(b) A plan administrator shall develop and implement criteria and procedures for any matter not covered by this subchapter that the plan administrator considers appropriate for the operation of the deferred compensation plan.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.108. INVESTMENT AND TRANSFER OF DEFERRED AMOUNTS AND INCOME. The plan administrator shall:

(1) invest the deferred amounts and investment income of a participating employee in the qualified investment products designated by the employee; and

(2) transfer the deferred amounts and investment income of a participating employee from one qualified investment product to another on the employee's request.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.109. PARTICIPATION OF INDEPENDENT CONTRACTORS. (a) The plan administrator shall determine whether a person who provides services as an independent contractor to a political subdivision that created the plan may participate in the deferred compensation plan.

(b) For the purposes of Subchapter A and this subchapter, an independent contractor that is authorized to participate in a deferred compensation plan is treated as an employee of the political subdivision creating the plan.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.110. CHANGING AMOUNT DEFERRED. An employee may change the amount to be deferred by notifying the plan administrator of the change in accordance with the requirements of the administrator.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.111. DISTRIBUTION. A plan administrator shall develop and implement procedures for:

(1) the designation by a participating employee of a beneficiary to receive the employee's deferred amounts and investment income after the employee's death; and

(2) the distribution of a participating employee's deferred amounts and investment income to the employee or the employee's beneficiary, as appropriate, because of the employee's death or termination of employment, a financial hardship, or another reason permissible under federal law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.112. FEE. (a) A political subdivision or group of political subdivisions that creates a deferred compensation plan may assess a fee for the administration of the plan against each participating employee.

(b) The political subdivision or group of political subdivisions shall determine the method for computing and assessing

the fee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.113. EVALUATION AND APPROVAL OF QUALIFIED VENDOR. (a) A plan administrator shall develop and implement criteria and procedures for evaluating a vendor's application to become a qualified vendor.

(b) A plan administrator may not approve a vendor's application if the vendor is:

(1) a state or national bank or savings and loan association, the deposits of which are not insured by the Federal Deposit Insurance Corporation;

(2) a credit union, the deposits of which are not insured by the National Credit Union Administration Board or the Texas Share Guaranty Credit Union; or

(3) an insurance company that:

(A) is not a member of the Texas Life and Health Insurance Guaranty Association; or

(B) is an impaired or insolvent insurer under Chapter 463, Insurance Code.

(c) On written request, the Texas Department of Insurance shall certify in writing to a plan administrator whether an insurance company is prohibited from being approved as a qualified vendor under Subsection (b)(3). The plan administrator may rely on the certification.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 14 (S.B. 567), Sec. 12, eff. September 1, 2011.

Sec. 609.114. NUMBER OF VENDORS UNDER 457 PLAN. The plan administrator of a 457 plan shall determine the minimum and maximum number of vendors that may be qualified vendors for the plan at any given time.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.115. CONTRACT WITH QUALIFIED VENDOR. (a) After a plan administrator approves an application of a vendor to become a qualified vendor or, under a 401(k) plan, after the plan administrator approves an application of a vendor to become a qualified vendor and approves the vendor's investment products, the plan administrator shall execute a written contract with the vendor to participate in the deferred compensation plan.

(b) A plan administrator shall develop and implement criteria and procedures for evaluating a qualified vendor's investment products to determine whether those products are acceptable as qualified investment products.

(c) A qualified vendor may offer to employees participating in a 457 plan only qualified investment products.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.116. REGULATION OF QUALIFIED VENDORS. A plan administrator shall develop and implement requirements for qualified vendors and their employees concerning disclosure, reporting, standards of conduct, solicitation, advertising, relationships with participating employees, the nature and quality of services provided to those employees, and other matters.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.117. LOANS UNDER 401(K) PLAN. The plan administrator of a 401(k) plan shall develop and implement procedures to efficiently administer a program that allows a qualified vendor to lend money to a participating employee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.1175. LOANS UNDER 457 PLAN. The plan administrator of a 457 plan may develop and implement procedures to efficiently administer a program under the plan that allows a qualified vendor to lend money to a participating employee.

Added by Acts 2013, 83rd Leg., R.S., Ch. 80 (S.B. 366), Sec. 3, eff.

May 18, 2013.

Sec. 609.118. TRUST FOR 401(K) PLAN. A political subdivision or group of political subdivisions that creates a 401(k) plan may:

(1) establish a trust to hold deferred amounts and investment income for the benefit of participating employees; and

(2) act as trustee of the trust.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.119. TRANSFER ON VENDOR'S FAILURE. A political subdivision or group of subdivisions that creates a deferred compensation plan may authorize or require as a part of the plan that the plan administrator immediately transfer to the deferred compensation trust fund all deferred amounts and investment income from a vendor who fails to satisfy the requirements of this subchapter or the plan administrator.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B-1. PARTICIPATION IN DEFERRED COMPENSATION PLAN BY CERTAIN HOSPITAL DISTRICT EMPLOYEES

Sec. 609.201. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies only to a hospital district created under general or special law if the district offers a deferred compensation plan to the district's employees under Subchapter B.

(b) A hospital district subject to this subchapter may, at the district's option, elect to require automatic employee participation in a deferred compensation plan under Section 609.202.

Added by Acts 2019, 86th Leg., R.S., Ch. 1246 (H.B. 2477), Sec. 2, eff. June 14, 2019.

Sec. 609.202. AUTOMATIC PARTICIPATION; DEFAULT INVESTMENT PRODUCT. (a) This section applies only to an employee of a hospital district that elects under Section 609.201(b) to require automatic employee participation in a deferred compensation plan under this

section.

(b) An employee automatically participates in a deferred compensation plan provided by the hospital district unless the employee affirmatively elects not to participate in the plan. Notwithstanding Sections 609.007(a) and (c), an employee is not required to affirmatively contract for and consent to participation in a plan under this section.

(c) An employee participating in a deferred compensation plan under this section makes a contribution of three percent of the compensation earned by the employee to a default investment product selected by the plan administrator based on the criteria established under Section 609.113 and the rules adopted under Subsection (f). The contribution is made by automatic payroll deduction.

(d) At any time, an employee participating in a deferred compensation plan under this section may, in accordance with rules adopted by the board of the hospital district, or its designee, elect to end participation in the plan, to contribute to a different investment product, to contribute a different amount to the plan, or to designate all or a portion of the employee's contribution as a Roth contribution subject to the availability of a Roth contribution program.

(e) A hospital district to which this subchapter applies shall ensure that, at the time of employment, each employee is informed of:

(1) the elections the employee may make under this section; and

(2) the responsibilities of the employee under Section 609.010.

(f) The board of the hospital district, or its designee, shall adopt rules to implement the requirements of this section. The rules must ensure that the operation of a deferred compensation plan under this section conforms to the applicable requirements of any federal rule that provides fiduciary relief for investments in qualified default investment alternatives or otherwise governs default investment alternatives under participant-directed individual account plans.

(g) The amount deducted under this section from an employee's compensation is not deducted for payment of a debt and the automatic payroll deduction is not garnishment or assignment of wages.

(h) Using existing resources, the hospital district shall inform new employees of their automatic enrollment in a deferred

compensation plan and their right to opt out of enrollment. Using existing resources, this information must be included as part of the new employee orientation process. The district shall maintain a record of a new employee's acknowledgment of receipt of information regarding the ability to opt out of enrollment in a deferred compensation plan.

Added by Acts 2019, 86th Leg., R.S., Ch. 1246 (H.B. 2477), Sec. 2, eff. June 14, 2019.

Sec. 609.203. DISCRETIONARY TRANSFER. (a) A hospital district may transfer an employee's deferred amounts and investment income from a qualified investment product to the trust fund of the deferred compensation plan in which the employee participates if the district determines that the transfer is in the best interest of the plan and the employee.

(b) The hospital district is not required to give notice of a transfer under Subsection (a) to the employee before the transfer occurs.

(c) Promptly after a transfer under Subsection (a) occurs, the hospital district shall give to the employee a notice that:

(1) states the reason for the transfer; and

(2) requests that the employee promptly designate another qualified investment product to receive the transferred amount.

Added by Acts 2019, 86th Leg., R.S., Ch. 1246 (H.B. 2477), Sec. 2, eff. June 14, 2019.

Sec. 609.204. ALTERNATIVE TO FUND DEPOSIT. Instead of depositing deferred amounts and investment income in the trust fund of the deferred compensation plan, a hospital district may invest deferred amounts and investment income in a qualified investment product specifically designated by the district for that purpose.

Added by Acts 2019, 86th Leg., R.S., Ch. 1246 (H.B. 2477), Sec. 2, eff. June 14, 2019.

Sec. 609.205. CONTRACTS FOR GOODS AND SERVICES. (a) A

hospital district may contract for necessary goods and consolidated billing, accounting, and other services to be provided in connection with a deferred compensation plan.

(b) In a contract under Subsection (a), the hospital district may provide for periodic audits of the person with whom the contract is made. An audit may cover:

(1) the proper handling and accounting of public or trust funds; and

(2) other matters related to the proper performance of the contract.

(c) The hospital district may contract with a private entity to conduct an audit under Subsection (b).

Added by Acts 2019, 86th Leg., R.S., Ch. 1246 (H.B. 2477), Sec. 2, eff. June 14, 2019.

SUBCHAPTER C. DEFERRED COMPENSATION PLANS FOR EMPLOYEES OF STATE AGENCIES

Sec. 609.501. DEFINITION. In this subchapter, "deferred compensation plan" means a plan established under this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.502. CREATION OF PLAN; PARTICIPATION. (a) The board of trustees of the Employees Retirement System of Texas is the trustee and the plan administrator of a 401(k) plan and a 457 plan, collectively known as the TexaSaver program, established under this subchapter.

(b) The board of trustees shall administer all aspects of each plan.

(c) The board of trustees may designate a person to assist in the execution of the board's authority and responsibilities as plan administrator.

(d) A state agency may participate in either or both plans.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 39, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1111, Sec. 3, eff. Sept. 1, 2003.

Sec. 609.5021. ROTH CONTRIBUTION PROGRAMS. The board of trustees may:

(1) establish a qualified Roth contribution program in accordance with Section 402A, Internal Revenue Code of 1986, under which an employee may designate all or a portion of the employee's contribution under a 401(k) plan as a Roth contribution at the time the contribution is made; and

(2) if authorized by federal law, establish a program in accordance with the applicable federal law under which an employee may designate all or a portion of the employee's contribution under a 457 plan as a Roth contribution at the time the contribution is made.

Added by Acts 2009, 81st Leg., R.S., Ch. 444 (H.B. 2283), Sec. 2, eff. September 1, 2009.

Sec. 609.5025. AUTOMATIC PARTICIPATION; DEFAULT INVESTMENT PRODUCT. (a) This section applies only to an employee of a state agency participating in a 401(k) plan.

(b) An employee participates in a 401(k) plan unless the employee affirmatively elects not to participate in the plan. Notwithstanding Sections 609.007(b) and (c), an employee is not required to affirmatively contract for and consent to participation in a plan under this section.

(c) An employee participating in a 401(k) plan under this section makes a contribution of one percent of the compensation earned by the employee to a default investment product selected by the board of trustees based on the criteria established under Section 609.505(d) and the rules adopted under Subsection (f). The contribution is made by automatic payroll deduction.

(d) At any time, an employee participating in a 401(k) plan under this section may, in accordance with rules adopted by the board of trustees, elect to end participation in the 401(k) plan, to contribute to a different investment product, to contribute a different amount to the plan, or to designate all or a portion of the employee's contribution as a Roth contribution subject to the availability of a Roth contribution program under Section 609.5021.

(e) The board of trustees shall ensure that, at the time of employment, each employee is informed of:

(1) the elections the employee may make under this section;

and

(2) the responsibilities of the employee under Section 609.010.

(f) The board of trustees shall adopt rules to implement the requirements of this section. The rules must ensure that the operation of the 401(k) plan under this section conforms to the applicable requirements of any federal rule that provides fiduciary relief for investments in qualified default investment alternatives or otherwise governs default investment alternatives under participant-directed individual account plans.

(g) The amount deducted under this section from an employee's compensation is not deducted for payment of a debt and the automatic payroll deduction is not garnishment or assignment of wages.

(h) Within existing resources, a state agency participating in a 401(k) plan shall inform new hires of their automatic enrollment in a 401(k) account and their right to opt-out of enrollment. Within existing resources, this information shall be included as part of the new employee orientation process. State agencies participating in a 401(k) plan shall maintain a record of a new hire's acknowledgement of receipt of information regarding the ability to opt-out of enrollment in a 401(k) plan.

Added by Acts 2007, 80th Leg., R.S., Ch. 1409 (H.B. 957), Sec. 1, eff. June 15, 2007.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 444 (H.B. 2283), Sec. 3, eff. September 1, 2009.

Sec. 609.5026. STATE MATCHING CONTRIBUTIONS. Subject to a separate legislative appropriation for that purpose, the Employees Retirement System of Texas may make matching contributions to a 401(k) plan on behalf of employees participating in the plan solely from, and in an amount specified by, the appropriation.

Added by Acts 2009, 81st Leg., R.S., Ch. 444 (H.B. 2283), Sec. 4, eff. September 1, 2009.

Sec. 609.503. CHANGING AMOUNT DEFERRED. An employee may change the amount to be deferred by notifying the board of trustees in

accordance with the requirements of the board of trustees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.10(a), eff. Sept. 1, 1995.

Sec. 609.504. INVESTMENT AND TRANSFER OF DEFERRED AMOUNTS AND INCOME. After execution of a contract under Section 609.007, the board of trustees shall:

(1) invest the deferred amounts and investment income of the employee in the qualified investment products designated by the employee; and

(2) promptly transfer the deferred amounts and investment income of the employee from one qualified investment product to another in accordance with the requirements of the board of trustees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.10(a), eff. Sept. 1, 1995.

Sec. 609.505. QUALIFIED VENDOR. (a) The board of trustees or a third party administrator approved by the board, in accordance with rules adopted under this subchapter, may contract with a vendor qualified to participate in a deferred compensation plan.

(b) In a contract under Subsection (a), the board of trustees may require the vendor to be audited annually by an independent auditor paid by the vendor.

(c) A vendor or investment product having an ownership or other financial interest in the contractor selected by the board of trustees to administer a deferred compensation plan is not qualified to participate in that plan.

(d) The board of trustees shall select vendors or investment products based on the quality of investment performance, proven ability to manage institutional assets, minimum net worth requirements, fee structure, compliance with applicable federal and state laws, and other criteria established by the board. The board of trustees shall determine the minimum and maximum number of vendors and investment products that may be offered by a plan at any particular time.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1541, Sec. 52, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1111, Sec. 4, eff. Sept. 1, 2003.

Sec. 609.506. INSURANCE COMPANY AS QUALIFIED VENDOR. On written request, the Texas Department of Insurance shall certify in writing to the board of trustees whether an insurance company is eligible to be a qualified vendor under rules adopted by the board. The board is entitled to rely on the certification.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.507. FINANCIAL INSTITUTION AS QUALIFIED VENDOR. Each bank or savings and loan association that is a qualified vendor is not required to comply with Chapter 404 with regard to deferrals and investment income, but shall comply with plan rules that deal with vendors and investment products.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 44, eff. Aug. 28, 1995.

Sec. 609.508. RULES. (a) The board of trustees may adopt rules, including plans and procedures, and orders necessary to carry out the purposes of this subchapter, including rules or orders relating to:

(1) the selection and regulation of vendors for a deferred compensation plan;

(2) the regulation of the practices of agents employed by vendors and a participating employee's use and reimbursement of investment advisors participating in the program;

(3) the disclosure of information concerning investment products;

(4) the regulation of advertising materials to be used by vendors;

(5) the submission of financial information by a vendor; and

(6) the development of a system to facilitate electronic

authorization, distribution, transfer, and investment of deferrals.

(b) The plan administrator of the TexaSaver 401(k) or the TexaSaver 457 plan may adopt rules and procedures to allow a participating employee, subject to applicable requirements of the Internal Revenue Code of 1986, to obtain a loan from the employee's account.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.10(a), eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1111, Sec. 5, eff. Sept. 1, 2003.

Sec. 609.509. CONTRACTS FOR GOODS AND SERVICES. (a) The board of trustees may contract for necessary goods and consolidated billing, accounting, and other services to be provided in connection with a deferred compensation plan.

(b) In a contract under Subsection (a), the board of trustees may provide for the board to audit periodically the person with whom the contract is made. The audit may cover:

(1) the proper handling and accounting of state or trust funds; and

(2) other matters related to the proper performance of the contract.

(c) The board of trustees may contract with a private entity to conduct the audit under Subsection (b).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 40, eff. Sept. 1, 1997.

Sec. 609.510. EXEMPTION FOR CERTAIN CONTRACTS. A contract authorized by Section 609.505 or by Section 609.509 for either deferred compensation plan is exempt from:

(1) Subtitle D, Title 10;

(2) Chapter 463; and

(3) Chapter 2254.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19(5), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1541, Sec. 53, eff. Sept. 1,

1999.

Sec. 609.511. FEE. (a) The board of trustees may assess a fee against participating employees or qualified vendors, or both the employees and the qualified vendors, in the manner and to the extent it determines necessary to cover the costs of administering the plan.

(b) The board of trustees shall determine the method for computing and assessing a fee under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.512. DEFERRED COMPENSATION PLAN TRUST FUNDS. (a) The TexaSaver 401(k) trust fund is in the state treasury. The fund is for the benefit of the program described by Section 609.001(10).

(b) The TexaSaver 457 trust fund is in the state treasury. The fund is for the benefit of the program described by Section 609.001(11).

(c) The board of trustees shall administer each trust fund.

(d) Deferred amounts, fees collected under Section 609.511, and state appropriations for the administration of a deferred compensation plan shall be credited to the appropriate trust fund.

(e) The interest on and earnings of amounts in a trust fund and the proceeds from the sale of investments shall be credited to the fund.

(f) The amounts credited to a trust fund are available without fiscal year limitation:

(1) to pay expenses for administering the deferred compensation plan for which the trust fund was established; and

(2) to purchase qualified investment products for participants of the appropriate plan.

(g) The board of trustees may establish accounts in a trust fund that it considers necessary, including an account for the administration of the deferred compensation plan for which the trust fund was established.

(h) The board of trustees may transfer assets from one account of a trust fund to another account of the fund for financial management purposes if adequate arrangements are made to:

(1) reimburse the account from which the transfer is made;

and

(2) pay administrative expenses.

(i) The board of trustees may invest and reinvest money in a trust fund subject only to the duty of care provided by Section 815.307 that would apply if the investments were being made for the Employees Retirement System of Texas.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 41, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1111, Sec. 6, eff. Sept. 1, 2003.

Sec. 609.513. DISCRETIONARY TRANSFER. (a) The board of trustees may transfer an employee's deferred amounts and investment income from a qualified investment product to the trust fund of the deferred compensation plan in which the employee participates if the board of trustees determines that the transfer is in the best interest of the plan and the employee.

(b) The board of trustees is not required to give notice of a transfer under Subsection (a) to the employee before the transfer occurs.

(c) Promptly after a transfer under Subsection (a) occurs, the board of trustees shall give to the employee a notice that:

(1) states the reason for the transfer; and

(2) requests that the employee promptly designate another qualified investment product to receive the transferred amount.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.514. ALTERNATIVE TO FUND DEPOSIT. Instead of depositing deferred amounts and investment income in the trust fund of the deferred compensation plan, the board of trustees may invest them in a qualified investment product specifically designated by the board for that purpose.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 609.515. TRANSFER TO 457 PLAN OF INSTITUTION OF HIGHER EDUCATION. (a) The board of trustees, as authorized by 26 C.F.R.

Section 1.457-10(b)(1) and (3), shall allow the transfer from its TexaSaver 457 plan to the plan administrator of a 457 plan created by an institution of higher education under Subchapter D of all deferred amounts and investment income administered by the TexaSaver 457 plan for employees of the institution of higher education who are participating in or eligible to participate in the institution's 457 plan at the time of the transfer.

(b) The institution of higher education must make a request to the board of trustees to begin a transfer under this section.

(c) The board of trustees and the institution of higher education requesting the transfer under this section shall cooperate to ensure that the transfer is accomplished as expeditiously as possible.

(d) After the transfer:

(1) the plan administrator for the 457 plan created by an institution of higher education is responsible for all fiduciary duties, plan administration duties, and other responsibilities regarding the deferred amounts and investment income transferred; and

(2) the board of trustees is relieved of all fiduciary duties, plan administration duties, and any other responsibility or liability regarding the deferred amounts and investment income transferred.

Added by Acts 2007, 80th Leg., R.S., Ch. 336 (H.B. 3322), Sec. 1, eff. June 15, 2007.

SUBCHAPTER D. DEFERRED COMPENSATION PLANS FOR EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION

Sec. 609.701. DEFINITIONS. In this subchapter:

(1) "Deferred compensation plan" means a plan established under this subchapter.

(2) "Deferred compensation trust fund" means the fund in which deferred amounts and investment income of participating employees are temporarily held.

(3) "Investment product" includes a fixed or variable rate annuity, mutual fund, certificate of deposit, money market account, passbook savings account, stock, bond, obligation, and any other investment product not prohibited under Section 457, Internal Revenue Code of 1986, as amended.

Added by Acts 2003, 78th Leg., ch. 1266, Sec. 2.05, eff. Jan. 1, 2004.

Sec. 609.702. CREATION OF PLAN. (a) An institution of higher education may create and administer for its employees a 457 plan under this subchapter.

(b) An institution of higher education may contract with other institutions of higher education to create a single deferred compensation plan for their employees under Subsection (a).

Added by Acts 2003, 78th Leg., ch. 1266, Sec. 2.05, eff. Jan. 1, 2004.

Sec. 609.703. DESIGNATION OF PLAN ADMINISTRATOR. (a) An institution of higher education that creates a deferred compensation plan shall designate a plan administrator for the plan.

(b) Institutions of higher education that create a single plan shall designate jointly a plan administrator for the plan.

(c) A plan administrator may be an employee, a nonprofit corporation, an individual, a trustee, a private entity, another institution of higher education, or an association of institutions of higher education.

Added by Acts 2003, 78th Leg., ch. 1266, Sec. 2.05, eff. Jan. 1, 2004.

Sec. 609.704. REMOVAL OF PLAN ADMINISTRATOR. An institution of higher education or group of institutions of higher education that designates a plan administrator may remove the plan administrator at any time unless specifically provided otherwise by contract.

Added by Acts 2003, 78th Leg., ch. 1266, Sec. 2.05, eff. Jan. 1, 2004.

Sec. 609.705. OVERSIGHT COMMITTEE. (a) An institution of higher education or group of institutions of higher education that creates a deferred compensation plan may direct and supervise the

activities of the plan administrator through an oversight committee.

(b) The institution of higher education or group shall determine the authority, activities, and composition of an oversight committee created under this section.

Added by Acts 2003, 78th Leg., ch. 1266, Sec. 2.05, eff. Jan. 1, 2004.

Sec. 609.706. AUTHORITY OF PLAN ADMINISTRATOR. (a) A plan administrator shall execute necessary contracts for the administration of the deferred compensation plan, subject to any prior approval required by the institution of higher education or group of institutions of higher education that created the plan.

(b) A plan administrator shall develop and implement criteria and procedures for any matter not covered by this subchapter that the plan administrator considers appropriate for the operation of the deferred compensation plan.

Added by Acts 2003, 78th Leg., ch. 1266, Sec. 2.05, eff. Jan. 1, 2004.

Sec. 609.707. INVESTMENT AND TRANSFER OF DEFERRED AMOUNTS AND INCOME. The plan administrator shall:

(1) invest the deferred amounts and investment income of a participating employee in the qualified investment products designated by the employee; and

(2) transfer the deferred amounts and investment income of a participating employee from one qualified investment product to another on the employee's request.

Added by Acts 2003, 78th Leg., ch. 1266, Sec. 2.05, eff. Jan. 1, 2004.

Sec. 609.708. PARTICIPATION OF INDEPENDENT CONTRACTORS. (a) The plan administrator shall determine whether a person who provides services as an independent contractor to an institution of higher education that created the plan may participate in the deferred compensation plan.

(b) For the purposes of Subchapter A and this subchapter, an independent contractor that is authorized to participate in a deferred compensation plan is treated as an employee of the institution of higher education creating the plan.

Added by Acts 2003, 78th Leg., ch. 1266, Sec. 2.05, eff. Jan. 1, 2004.

Sec. 609.709. CHANGING AMOUNT DEFERRED. An employee may change the amount to be deferred by notifying the plan administrator of the change in accordance with the requirements of the administrator.

Added by Acts 2003, 78th Leg., ch. 1266, Sec. 2.05, eff. Jan. 1, 2004.

Sec. 609.710. DISTRIBUTION. A plan administrator shall develop and implement procedures for:

(1) the designation by a participating employee of a beneficiary to receive the employee's deferred amounts and investment income after the employee's death; and

(2) the distribution of a participating employee's deferred amounts and investment income to the employee or the employee's beneficiary, as appropriate, because of the employee's death or termination of employment, a financial hardship, or another reason permissible under federal law.

Added by Acts 2003, 78th Leg., ch. 1266, Sec. 2.05, eff. Jan. 1, 2004.

Sec. 609.711. FEE. (a) An institution of higher education or group of institutions of higher education that creates a deferred compensation plan may assess a fee for the administration of the plan against each participating employee.

(b) The institution of higher education or group of institutions of higher education shall determine the method for computing and assessing the fee.

Added by Acts 2003, 78th Leg., ch. 1266, Sec. 2.05, eff. Jan. 1,

2004.

Sec. 609.712. EVALUATION AND APPROVAL OF QUALIFIED VENDOR. (a) A plan administrator shall develop and implement criteria and procedures for evaluating a vendor's application to become a qualified vendor.

(b) A plan administrator may not approve a vendor's application if the vendor is:

(1) a state or national bank or savings and loan association, the deposits of which are not insured by the Federal Deposit Insurance Corporation;

(2) a credit union, the deposits of which are not insured by the National Credit Union Administration Board; or

(3) an insurance company that:

(A) is not a member of the Texas Life and Health Insurance Guaranty Association; or

(B) is an impaired or insolvent insurer under Chapter 463, Insurance Code.

(c) On written request, the Texas Department of Insurance shall certify in writing to a plan administrator whether an insurance company is prohibited from being approved as a qualified vendor under Subsection (b)(3). The plan administrator may rely on the certification.

Added by Acts 2003, 78th Leg., ch. 1266, Sec. 2.05, eff. Jan. 1, 2004.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 14 (S.B. 567), Sec. 13, eff. September 1, 2011.

Sec. 609.713. NUMBER OF VENDORS UNDER 457 PLAN. The plan administrator of a 457 plan shall determine the minimum and maximum number of vendors that may be qualified vendors for the plan at any given time.

Added by Acts 2003, 78th Leg., ch. 1266, Sec. 2.05, eff. Jan. 1, 2004.

Sec. 609.714. CONTRACT WITH QUALIFIED VENDOR. (a) After a plan administrator approves an application of a vendor to become a qualified vendor, the plan administrator shall execute a written contract with the vendor to participate in the deferred compensation plan.

(b) A plan administrator shall develop and implement criteria and procedures for evaluating a qualified vendor's investment products to determine whether those products are acceptable as qualified investment products.

(c) A qualified vendor may offer to employees participating in a 457 plan only qualified investment products.

Added by Acts 2003, 78th Leg., ch. 1266, Sec. 2.05, eff. Jan. 1, 2004.

Sec. 609.715. REGULATION OF QUALIFIED VENDORS. A plan administrator shall develop and implement requirements for qualified vendors and their employees concerning disclosure, reporting, standards of conduct, solicitation, advertising, relationships with participating employees, the nature and quality of services provided to those employees, and other matters.

Added by Acts 2003, 78th Leg., ch. 1266, Sec. 2.05, eff. Jan. 1, 2004.

Sec. 609.716. TRANSFER ON VENDOR'S FAILURE. An institution of higher education or group of institutions of higher education that creates a deferred compensation plan may authorize or require as a part of the plan that the plan administrator immediately transfer to the deferred compensation trust fund all deferred amounts and investment income from a vendor who fails to satisfy the requirements of this subchapter or the plan administrator.

Added by Acts 2003, 78th Leg., ch. 1266, Sec. 2.05, eff. Jan. 1, 2004.

CHAPTER 610. CHILD CARE EXPENSE SALARY REDUCTIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 610.001. DEFINITIONS. In this chapter:

(1) "Program administrator" means:

(A) for a state employee employed by The University of Texas System or The Texas A&M University System, the applicable system; or

(B) for every other state employee, the Employees Retirement System of Texas.

(2) "School district" has the meaning assigned by Section 11.13, Tax Code.

(3) "School district employee" means a person who receives compensation for service performed, other than as an independent contractor, for a school district.

(4) "State agency" means:

(A) a board, commission, department, office, or other agency that is in the executive branch of state government and that was created by the constitution or a statute of the state, including an institution of higher education as defined by Section 61.003, Education Code;

(B) the legislature or a legislative agency; or

(C) the Supreme Court of Texas, the Texas Court of Criminal Appeals, a court of appeals, or a state judicial agency.

(5) "State employee" means:

(A) a person who receives compensation for service performed, other than as an independent contractor, for a state agency; or

(B) a district judge.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 610.002. ELIGIBLE EXPENSES. Child care expenses are eligible for payment under a salary reduction agreement entered into under this chapter only if the expenses meet the requirements for exclusion from gross income as provided by Section 129 of the federal Internal Revenue Code of 1986 (26 U.S.C. Section 129).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. STATE EMPLOYEES

Sec. 610.011. SALARY REDUCTION AGREEMENTS FOR STATE EMPLOYEES.

(a) The state may enter into an agreement with a state employee to reduce the employee's periodic compensation paid by the state by an amount to be paid for child care expenses.

(b) A state employee may request the salary reduction agreement by filing a written request for the reduction, on a form prescribed by the program administrator, with the payroll officer of the state agency with which the employee is employed.

(c) A state employee is entitled to select the recipient of payments under the salary reduction agreement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 610.012. STATE EMPLOYEES PAID THROUGH COMPTROLLER. (a) The payroll officer of a state agency having employees who are paid by warrant issued by the comptroller shall send to the program administrator a copy of each request filed by an employee of the agency under Section 610.011.

(b) If the program administrator determines that an employee's request meets the applicable requirements for exclusion from gross income for federal tax purposes, the program administrator, on the state's behalf, shall enter into a salary reduction agreement with the requesting employee.

(c) The comptroller shall make payments in the amount by which an employee's compensation is reduced in the manner specified by the employee's salary reduction agreement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 610.013. STATE EMPLOYEES NOT PAID THROUGH COMPTROLLER. (a) The payroll officer of a state agency having employees who are not paid by warrant issued by the comptroller may enter into a salary reduction agreement with a requesting employee of the agency.

(b) A payroll officer who enters into the salary reduction agreement shall make payments in the amount by which an employee's compensation is reduced in the manner specified by the agreement.

(c) A payroll officer's actions under this section are subject to applicable rules adopted by the program administrator under this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 610.014. RULES. The program administrator shall adopt rules for administering the program authorized by Section 610.011, including rules for determining eligibility for exclusion from gross income for federal tax purposes of amounts by which a state employee's salary may be reduced.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. OTHER PUBLIC EMPLOYEES

Sec. 610.021. SALARY REDUCTION AGREEMENTS FOR SCHOOL DISTRICT EMPLOYEES. (a) The governing body of a school district may authorize a school district employee to enter into an agreement with the school district to reduce the periodic compensation paid the employee by the school district by an amount to be paid for child care expenses.

(b) The governing body of a school district may adopt rules for participating in and administering the program authorized by this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 611. LODGING, MEAL, AND TRAVEL REIMBURSEMENT

Sec. 611.001. LODGING AND MEAL EXPENSES. (a) An officer or employee of the state or of a political subdivision, including any special-purpose district or authority, may be reimbursed with public funds for lodging or meal expenses only to the extent the expenses are reasonable and necessary under guidelines issued by the Texas Ethics Commission.

(b) This section does not apply if the expenses are restricted by other law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 611.002. COMMON CARRIER FARES. An officer or employee described by Section 611.001 may not be reimbursed for transportation

expenses on a common carrier in an amount exceeding the lowest available fare.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 612. LIABILITY INSURANCE

Sec. 612.001. MOTOR VEHICLE LIABILITY INSURANCE FOR PEACE OFFICERS AND FIRE FIGHTERS. (a) The state shall provide for insuring each peace officer and fire fighter in its employ against liability to third persons arising out of the operation, maintenance, or use of a motor vehicle owned or leased by the state.

(b) The liability coverage provided under this section must be in amounts not less than those required by Chapter 601, Transportation Code, to provide evidence of financial responsibility.

(c) The state may elect to be self-insured or to reimburse the actual cost of an extended automobile liability insurance endorsement obtained by a peace officer or fire fighter on an individually owned automobile liability insurance policy. The extended endorsement must:

(1) be in the amount required by Subsection (b); and

(2) extend the coverage to include the operation and use of vehicles by a peace officer or fire fighter in the scope of the officer's or fire fighter's employment.

(d) If the reimbursement method is used, the state may require a peace officer or fire fighter who operates and uses a motor vehicle to present proof that an extended coverage endorsement has been purchased and is in effect for the period of reimbursement.

(e) In this section, "motor vehicle" means any motor vehicle for which motor vehicle automobile insurance may be written under Subchapter A, Chapter 5, Insurance Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.195, eff. Sept. 1, 1997.

Sec. 612.002. LIABILITY INSURANCE FOR CERTAIN STATE EMPLOYEES. (a) A state agency that owns and operates a motor vehicle, an item of power equipment, an aircraft, or a motorboat or other watercraft of any type or size may insure its employees against liability

arising out of the operation, maintenance, or use of the motor vehicle, item of power equipment, aircraft, or motorboat or other watercraft.

(b) A state agency that elects to provide insurance under this section shall purchase one or more policies from a liability insurance company authorized to transact business in this state. The liability insurance purchased under this section must be provided on policy forms approved by the State Board of Insurance as to form and by the attorney general as to liability coverage.

(c) An employee of a state agency that elects not to insure its employees against liability under Subsection (a) is entitled to reimbursement, in addition to any compensation provided in the General Appropriations Act, from maintenance funds of the agency, for any amount spent by the employee for liability insurance that is required by the agency.

(d) The comptroller shall provide forms for claims of employee reimbursement under Subsection (c). The forms shall require a certification from the head of the state agency that:

(1) a regular part of the employee's duties is the operation of a state-owned motor vehicle, item of power equipment, aircraft, or motorboat or other watercraft; and

(2) the agency requires the employee to maintain liability insurance as a prerequisite to the operation of a state-owned motor vehicle, item of power equipment, aircraft, or motorboat or other watercraft.

(e) This section does not waive state immunity from liability for the torts of negligence of its employees.

(f) In this section:

(1) "Employee" includes an officer of a state agency.

(2) "State agency" means an agency, a department, board, commission, or other entity in the executive, legislative, or judicial branch of state government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 612.003. LIABILITY INSURANCE FOR CERTAIN STATE PROGRAMS. (a) A state agency that receives federal grant funds for a foster grandparent program may spend those funds to insure the persons and property of the foster grandparents as required by the grant.

(b) A state agency that operates an integrated day-care program that serves children with mental illness or developmental disabilities or who participate in an early childhood intervention program, as well as other children, may purchase insurance to cover liability arising from the operation of the program.

(c) A state agency that operates a habilitative or rehabilitative work program for individuals who are mentally ill or developmentally disabled may purchase from the proceeds of the program insurance to cover liability arising from the operation of the program if a contractor under the program does not accept indemnification provisions by the state as sufficient.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.11(a), eff. Sept. 1, 1995.

Sec. 612.004. LIABILITY INSURANCE FOR CERTAIN BOARD MEMBERS, OFFICIALS, AND EXECUTIVE MANAGEMENT STAFF. (a) A state agency governed by a board may purchase or acquire liability insurance to protect members of the board and the agency's executive management staff.

(b) A state agency governed by an appointed or elected official may purchase or acquire liability insurance to protect the official and the agency's executive management staff.

(c) Insurance purchased or acquired by a state agency under this section may:

(1) protect against any type of liability to third persons that may be incurred while conducting agency business; and

(2) provide for all costs of defending against that liability, including court costs and attorney's fees.

(d) This section does not authorize the purchase or acquisition of insurance to protect against liability other than liability described by Subsection (c).

(e) A state agency may use any available funds to purchase or acquire insurance under this section. A specific statement by the legislature that a particular appropriation of funds may be used to purchase or acquire insurance is not a prerequisite to using funds to purchase or acquire insurance under this section.

(f) In this section:

(1) "Board" includes a board, commission, council, committee, or other group of individuals.

(2) "State agency" means:

(A) a department, board, commission, committee, council, agency, office, or other entity in the executive, legislative, or judicial branch of state government, the jurisdiction of which is not limited to a geographical portion of the state;

(B) an institution of higher education as defined by Section 61.003, Education Code; and

(C) a court of appeals as described by Section 22.201.

(g) For purposes of Section 659.012, the cost of insurance purchased or acquired by a court of appeals under this section is not included in determining the salary of a justice serving on the court.

Added by Acts 1997, 75th Leg., ch. 1035, Sec. 78, eff. June 19, 1997. Amended by Acts 1999, 76th Leg., ch. 1251, Sec. 1, 2, eff. Sept. 1, 1999.

Sec. 612.005. LIABILITY INSURANCE FOR LAW ENFORCEMENT MOTOR VEHICLES OF POLITICAL SUBDIVISION. (a) In this section, "law enforcement officer" means a peace officer as defined by Article 2A.001, Code of Criminal Procedure, or other law.

(b) The governing body of a political subdivision shall provide for insuring each law enforcement officer appointed or employed by the political subdivision against liability to third persons arising out of the officer's operation of a motor vehicle owned, leased, or otherwise controlled by the political subdivision at any time that the officer is authorized to operate the vehicle, including times that the officer is authorized to operate the vehicle while off duty.

(c) The motor vehicle liability coverage must be in amounts not less than those required by Subchapter D, Chapter 601, Transportation Code, to establish financial responsibility.

(d) A political subdivision may satisfy this section by:

(1) electing to be self-insured under Chapter 2259;

(2) entering into a risk retention group, risk management pool, or interlocal contract with other political subdivisions under Chapter 119, Local Government Code, or Chapter 791 or 2259; or

(3) providing for coverage by an insurance company authorized to write motor vehicle liability insurance coverage.

(e) The policy may exclude coverage for operation of a motor vehicle in the commission of a criminal offense other than a traffic offense.

Added by Acts 1997, 75th Leg., ch. 760, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 612.004 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(53), eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.239, eff. Sept. 1, 2001.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.104, eff. January 1, 2025.

CHAPTER 613. REEMPLOYMENT FOLLOWING MILITARY SERVICE

SUBCHAPTER A. REEMPLOYMENT

Sec. 613.001. DEFINITIONS. In this subchapter:

(1) "Local governmental entity" means a county, municipality, or other political subdivision of this state.

(2) "Military service" means service as a member of:

(A) the Armed Forces of the United States;

(B) the Texas National Guard;

(C) the Texas State Guard; or

(D) a reserve component of the Armed Forces of the United States.

(3) "Public employee" means an employee of the state, a state institution, or a local governmental entity. The term does not include a temporary employee, an elected official, or an individual serving under an appointment that requires confirmation by the senate.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 613.002. REEMPLOYMENT TO SAME POSITION FOLLOWING MILITARY SERVICE. (a) A public employee who leaves a state position or a position with a local governmental entity to enter active military service is entitled to be reemployed:

(1) by the state or the local governmental entity;

(2) in the same department, office, commission, or board of this state, a state institution, or local governmental entity in which the employee was employed at the time of the employee's

induction or enlistment in, or order to, active military service; and

(3) in:

(A) the same position held at the time of the induction, enlistment, or order; or

(B) a position of similar seniority, status, and pay.

(b) To be entitled to reemployment under Subsection (a), the employee must be:

(1) discharged, separated, or released from active military service under honorable conditions not later than the fifth anniversary of the date of induction, enlistment, or call to active military service; and

(2) physically and mentally qualified to perform the duties of that position.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 613.003. REEMPLOYMENT TO ANOTHER POSITION FOLLOWING MILITARY SERVICE. A public employee who cannot perform the duties of a position to which the employee is otherwise entitled under Section 613.002 because of a disability the employee sustained during military service is entitled to be reemployed in the department, office, commission, or board of the state, a state institution, or a local governmental entity in a position that the employee can perform and that has:

(1) like seniority, status, and pay as the former position; or

(2) the nearest possible seniority, status, and pay to the former position.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 613.004. APPLICATION FOR REEMPLOYMENT. (a) A veteran eligible for reemployment under this chapter must apply for reemployment not later than the 90th day after the date the veteran is discharged or released from active military service.

(b) An application for reemployment must:

(1) be made to the head of the department, office, commission, or board of this state, the state institution, or the

local governmental entity that employed the veteran before the veteran entered military service;

(2) be in writing; and

(3) have attached to it evidence of the veteran's discharge, separation, or release from military service under honorable conditions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 613.005. DISCHARGE FOLLOWING REEMPLOYMENT. An individual reemployed under this chapter may not be discharged from the position without cause before the first anniversary of the date of reemployment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 613.006. ENTITLEMENT TO RETIREMENT OR OTHER BENEFITS. An individual reemployed under this chapter is considered to have been on furlough or leave of absence during the time the individual was in military service and may participate in retirement or other benefits to which a public employee is or may be entitled.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. ENFORCEMENT

Sec. 613.021. COMPLIANCE WITH LAW; HEARING. (a) If a public official fails to comply with a provision of Subchapter A, a district court in the district in which the individual is a public official may require the public official to comply with the provision on the filing of a motion, petition, or other appropriate pleading by an individual entitled to a benefit under the provision.

(b) The court shall order a speedy hearing and shall advance the hearing on the calendar.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 613.022. DISTRICT ATTORNEY. On application to the

district attorney of the appropriate district by an individual who the district attorney reasonably believes is entitled to the benefit of a provision of Subchapter A, the district attorney shall:

(1) appear and act as attorney for the individual in an amicable adjustment of the claim; or

(2) file or prosecute a motion, petition, or other appropriate pleading to specifically require compliance with the provision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 613.023. COURT COSTS AND FEES. A person applying for benefits under Subchapter A may not be charged court costs or fees for a claim, motion, petition, or other pleading filed under Section 613.021.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 614. PEACE OFFICERS AND FIRE FIGHTERS

SUBCHAPTER A. LEGISLATIVE LEAVE FOR PEACE OFFICER OR FIRE FIGHTER

Sec. 614.001. DEFINITIONS. In this subchapter:

(1) "Employer" means the governmental entity that employs or appoints a peace officer or fire fighter or that the peace officer or fire fighter is elected to serve.

(2) "Fire fighter" means a member of a fire department who performs a function listed in Section 143.003(4), Local Government Code, without regard to whether the individual is subject to a civil service system or program.

(3) "Peace officer" means an individual elected, appointed, or employed to serve as a peace officer for a governmental entity under Article 2A.001, Code of Criminal Procedure, or other law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.105, eff. January 1, 2025.

Sec. 614.002. APPLICABILITY OF SUBCHAPTER. This subchapter

applies only to a peace officer or fire fighter employed by:

(1) the state;

(2) a municipality with a population of 50,000 or more; or

(3) a county with a population of 190,000 or more.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 352 (H.B. 1177), Sec. 1, eff. September 1, 2009.

Sec. 614.003. ENTITLEMENT TO LEGISLATIVE LEAVE. A peace officer or fire fighter is entitled as provided by this subchapter to legislative leave to serve in, appear before, or petition a governmental body during a regular or special session of the body.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 614.004. ELIGIBILITY FOR LEGISLATIVE LEAVE. (a) To be eligible for legislative leave, a peace officer or fire fighter must submit a written application to the individual's employer on or before the 30th day before the date the individual intends to begin the legislative leave.

(b) The application must state the length of the requested leave and that the peace officer or fire fighter is willing to reimburse the employer for any wages, pension, or other costs the employer will incur as a result of the leave.

(c) The length of requested leave may not exceed the length of the session.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 614.005. MONEY REQUIRED TO OFFSET COSTS OF LEGISLATIVE LEAVE. (a) An employer may require reimbursement of all costs associated with legislative leave under this subchapter.

(b) Within 30 days after the date an employer receives an application, the employer shall notify the peace officer or fire fighter in writing of the actual amount of money required to offset the costs the employer will incur.

(c) An employer may require a peace officer or fire fighter to post the money before granting the leave.

(d) A peace officer or fire fighter shall give to the employer a sworn statement identifying the source of the money posted.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 614.006. EMPLOYER TO GRANT LEGISLATIVE LEAVE; EXCEPTIONS. An employer shall grant legislative leave to a peace officer or fire fighter who submits an application as prescribed by this subchapter and who complies with any requirement relating to payment of costs:

(1) except in an emergency; or

(2) unless granting the leave will result in having an insufficient number of employees to carry out the normal functions of the employer.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 614.007. INSUFFICIENCY IN NUMBER OF EMPLOYEES; EXCHANGE OF TIME BY OTHER EMPLOYEES. (a) If an employer determines that granting a legislative leave will result in having an insufficient number of employees to carry out the normal functions of the employer, another peace officer or fire fighter of equal rank may volunteer to exchange time of work with the applicant if overtime does not result.

(b) The employer shall allow a volunteer under Subsection (a) to work for the applicant and shall grant the legislative leave, if overtime will not result and if the volunteer work will result in having a sufficient number of employees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 614.008. LEGISLATIVE LEAVE NOT A BREAK IN SERVICE. Legislative leave under this subchapter is not a break in service for any purpose and is treated as any other paid leave, except as provided by Section 614.005.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 614.009. LEGISLATIVE LEAVE TO ATTEND SESSION OF CONGRESS. Legislative leave granted under this subchapter to a peace officer or fire fighter to attend a session of the Congress of the United States shall be granted for not longer than 30 percent of the applicant's total annual working days during each year in which leave is requested.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 614.010. EMPLOYEES' ASSOCIATION MAY NOT REIMBURSE CERTAIN COSTS. A peace officers' or fire fighters' association may not reimburse a member of the legislature or an employer of a peace officer or fire fighter who serves as a member of the legislature for wages, pension contributions, or other costs incurred as a result of legislative leave taken under this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER A-1. MENTAL HEALTH LEAVE

Sec. 614.015. MENTAL HEALTH LEAVE FOR PEACE OFFICERS AND TELECOMMUNICATORS. (a) In this section:

(1) "Law enforcement agency" means an agency of the state or of a political subdivision of the state authorized by law to employ peace officers.

(2) "Telecommunicator" means a person authorized to act as a telecommunicator under Section 1701.405, Occupations Code.

(b) Each law enforcement agency, and each agency of the state or of a political subdivision of the state that employs a full-time telecommunicator, shall develop and adopt a policy allowing the use of mental health leave by the peace officers and full-time telecommunicators, as applicable, employed by the agency who experience a traumatic event in the scope of that employment.

(c) A mental health leave policy adopted under this section must:

(1) provide clear and objective guidelines establishing the circumstances under which a peace officer or telecommunicator is granted and may use mental health leave;

(2) entitle a peace officer or telecommunicator to mental health leave without a deduction in salary or other compensation;

(3) enumerate the number of mental health leave days available to a peace officer or telecommunicator; and

(4) detail the level of anonymity for a peace officer or telecommunicator who takes mental health leave.

(d) A mental health leave policy adopted under this section may provide a list of mental health services available to peace officers and telecommunicators in the area of the law enforcement or employing agency.

Added by Acts 2021, 87th Leg., R.S., Ch. 396 (S.B. 1359), Sec. 1, eff. September 1, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1119 (H.B. 1486), Sec. 1, eff. September 1, 2023.

SUBCHAPTER B. COMPLAINT AGAINST LAW ENFORCEMENT OFFICER OR FIRE FIGHTER

Sec. 614.021. APPLICABILITY OF SUBCHAPTER. (a) Except as provided by Subsection (b), this subchapter applies only to a complaint against:

(1) a law enforcement officer of the State of Texas, including an officer of the Department of Public Safety or of the Texas Alcoholic Beverage Commission;

(2) a fire fighter who is employed by this state or a political subdivision of this state;

(3) a peace officer under Article 2A.001, Code of Criminal Procedure, or other law who is appointed or employed by a political subdivision of this state; or

(4) a detention officer or county jailer who is appointed or employed by a political subdivision of this state.

(b) This subchapter does not apply to a peace officer or fire fighter appointed or employed by a political subdivision that is covered by a meet and confer or collective bargaining agreement under Chapter 143 or 174, Local Government Code, if that agreement includes provisions relating to the investigation of, and disciplinary action resulting from, a complaint against a peace officer or fire fighter, as applicable.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2005, 79th Leg., Ch. 507 (H.B. 639), Sec. 1, eff. September 1, 2005.
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.106, eff. January 1, 2025.

Sec. 614.022. COMPLAINT TO BE IN WRITING AND SIGNED BY COMPLAINANT. To be considered by the head of a state agency or by the head of a fire department or local law enforcement agency, the complaint must be:

(1) in writing; and

(2) signed by the person making the complaint.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2005, 79th Leg., Ch. 507 (H.B. 639), Sec. 1, eff. September 1, 2005.

Sec. 614.023. COPY OF COMPLAINT TO BE GIVEN TO OFFICER OR EMPLOYEE. (a) A copy of a signed complaint against a law enforcement officer of this state or a fire fighter, detention officer, county jailer, or peace officer appointed or employed by a political subdivision of this state shall be given to the officer or employee within a reasonable time after the complaint is filed.

(b) Disciplinary action may not be taken against the officer or employee unless a copy of the signed complaint is given to the officer or employee.

(c) In addition to the requirement of Subsection (b), the officer or employee may not be indefinitely suspended or terminated from employment based on the subject matter of the complaint unless:

(1) the complaint is investigated; and

(2) there is evidence to prove the allegation of misconduct.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2005, 79th Leg., Ch. 507 (H.B. 639), Sec. 1, eff. September 1, 2005.

SUBCHAPTER C. PROHIBITION AGAINST COLLECTING DEBT FOR ANOTHER

Sec. 614.041. COLLECTING DEBT FOR ANOTHER; OFFENSE. (a) A peace officer commits an offense if the officer:

(1) accepts for collection or undertakes the collection of a claim for debt for another, unless the officer acts under a law that prescribes the duties of the officer; or

(2) accepts compensation not prescribed by law for accepting for collection or undertaking the collection of a claim for debt for another.

(b) An offense under Subsection (a) is a misdemeanor punishable by a fine of not less than $200 or more than $500.

(c) In addition to the fine, the peace officer may be removed from office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. PURCHASE OF FIREARM OR UNIFORM OF HONORABLY RETIRED, MEDICALLY DISCHARGED, OR DECEASED PEACE OFFICER

Sec. 614.0505. DEFINITION. In this subchapter, "governmental entity" means a state agency, a county, a municipality, or a joint board for which the constituent agencies are populous home-rule municipalities.

Added by Acts 2015, 84th Leg., R.S., Ch. 359 (H.B. 2135), Sec. 2, eff. September 1, 2015.

Sec. 614.051. PURCHASE OF FIREARM BY HONORABLY RETIRED PEACE OFFICER. (a) An individual may purchase a firearm from a governmental entity if:

(1) the individual was a peace officer commissioned by the entity;

(2) the individual was honorably retired from the individual's commission by the entity;

(3) the firearm had been previously issued to the individual by the entity; and

(4) the firearm is not a prohibited weapon under Section 46.05, Penal Code.

(b) An individual may purchase only one firearm from a governmental entity under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.37, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 359 (H.B. 2135), Sec. 3, eff. September 1, 2015.

Sec. 614.052. PURCHASE OF FIREARM BY SURVIVING SPOUSE, CHILD, OR PARENT OF DECEASED PEACE OFFICER. (a) An individual listed under Subsection (b) may purchase a firearm from a governmental entity if:

(1) the firearm had been previously issued by the entity to a peace officer commissioned by the entity who died while commissioned, without regard to whether the officer died while discharging the officer's official duties; and

(2) the firearm is not a prohibited weapon under Section 46.05, Penal Code.

(b) Individuals who may purchase the firearm under Subsection (a) are, in order of precedence:

(1) the surviving spouse of the deceased peace officer;

(2) a child of the deceased peace officer; and

(3) a parent of the deceased peace officer.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.38, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 359 (H.B. 2135), Sec. 4, eff. September 1, 2015.

Sec. 614.053. PURCHASE PRICE OF FIREARM. A governmental entity shall establish the amount, which may not exceed fair market value, for which a firearm may be purchased under this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 359 (H.B. 2135), Sec. 5, eff.

September 1, 2015.

Sec. 614.054. WHEN FIREARM MAY BE PURCHASED; DELAY OF SALE BY GOVERNMENTAL ENTITY. (a) Except as provided by Subsection (b), an individual must purchase a firearm under Section 614.051 before the second anniversary of the date of the person's retirement or under Section 614.052 before the second anniversary of the date of the officer's death.

(b) A governmental entity that cannot immediately replace the firearm may delay the sale of the firearm until the entity can replace the firearm.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 359 (H.B. 2135), Sec. 6, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 359 (H.B. 2135), Sec. 7, eff. September 1, 2015.

Sec. 614.055. PURCHASE OF UNIFORM ISSUED TO HONORABLY RETIRED AND CERTAIN MEDICALLY DISCHARGED STATE PEACE OFFICERS. (a) An individual may purchase a uniform from a state agency if:

(1) the individual was a peace officer commissioned by the agency;

(2) the individual was honorably retired or medically discharged under conditions other than dishonorable from the individual's commission by the agency; and

(3) the uniform had been previously issued to the individual by the agency.

(b) The nearest surviving relative of an individual described by Subsection (a) may purchase the individual's uniform from the state agency.

(c) A state agency shall establish the amount, which may not exceed fair market value, for which a uniform may be purchased under this section.

(d) An individual who purchases a uniform or on whose behalf a uniform is purchased under this section may be buried in the uniform.

Added by Acts 2021, 87th Leg., R.S., Ch. 218 (H.B. 315), Sec. 2, eff.

September 1, 2021.

SUBCHAPTER E. POLYGRAPH EXAMINATIONS

Sec. 614.061. DEFINITION. In this subchapter, "peace officer" means a person who:

(1) is elected, appointed, or employed by a governmental entity; and

(2) is a peace officer under Article 2A.001, Code of Criminal Procedure, or other law.

Added by Acts 1997, 75th Leg., ch. 1303, Sec. 1, eff. June 20, 1997.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.107, eff. January 1, 2025.

Sec. 614.062. APPLICABILITY OF SUBCHAPTER. This subchapter does not apply to a peace officer to whom Section 411.007 applies.

Added by Acts 1997, 75th Leg., ch. 1303, Sec. 1, eff. June 20, 1997.

Sec. 614.063. POLYGRAPH EXAMINATION. (a) A peace officer may not be suspended, discharged, or subjected to any other form of employment discrimination by the organization employing or appointing the peace officer because the peace officer refuses to submit to a polygraph examination as part of an internal investigation regarding the conduct of the peace officer unless:

(1) the complainant submits to and passes a polygraph examination; or

(2) the peace officer is ordered to take an examination under Subsection (d) or (e).

(b) Subsection (a)(1) does not apply if the complainant is physically or mentally incapable of being polygraphed.

(c) For the purposes of this section, a person passes a polygraph examination if, in the opinion of the polygraph examiner, no deception is indicated regarding matters critical to the matter under investigation.

(d) The head of the law enforcement organization that employs or appoints a peace officer may require the peace officer to submit

to a polygraph examination under this subsection if:

(1) the subject matter of the complaint is confined to the internal operations of the organization employing or appointing the peace officer;

(2) the complainant is an employee or appointee of the organization employing or appointing the peace officer; and

(3) the complaint does not appear to be invalid based on the information available when the polygraph is ordered.

(e) The head of the law enforcement organization that employs or appoints a peace officer may require the peace officer to submit to a polygraph examination under this subsection if the head of the law enforcement organization considers the circumstances to be extraordinary and the head of the law enforcement organization believes that the integrity of a peace officer or the law enforcement organization is in question. The head of the law enforcement organization shall provide the peace officer with a written explanation of the nature of the extraordinary circumstances and how the integrity of a peace officer or the law enforcement organization is in question.

Added by Acts 1997, 75th Leg., ch. 1303, Sec. 1, eff. June 20, 1997.

SUBCHAPTER F. RURAL VOLUNTEER FIRE DEPARTMENT INSURANCE PROGRAM

Sec. 614.071. DEFINITIONS. In this subchapter:

(1) "Director" means the director of the Texas Forest Service.

(2) "Fund" means the rural volunteer fire department insurance fund.

(3) "Partially paid fire department" means a fire department operated by its members that includes:

(A) some volunteer members; and

(B) not more than 20 paid members.

(4) "Program" means the rural volunteer fire department insurance program.

(5) "Service" means the Texas Forest Service, an agency of The Texas A&M University System.

(6) "Volunteer fire department" means a fire department operated by its members, including a partially paid fire department, that:

(A) is operated on a not-for-profit basis, including a department exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization in Section 501(c)(3) of that code; and

(B) participates in a firefighter certification program administered:

(i) under Section 419.071;

(ii) by the State Firemen's and Fire Marshals' Association of Texas; or

(iii) by the National Wildfire Coordinating Group.

Added by Acts 2001, 77th Leg., ch. 1363, Sec. 1, eff. Oct. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 472, Sec. 1, eff. Sept. 1, 2003.

Sec. 614.072. ADMINISTRATION OF PROGRAM. (a) The Texas Forest Service shall administer the rural volunteer fire department insurance program established under this subchapter.

(b) The director may adopt rules necessary to assist rural volunteer fire departments in the payment of:

(1) workers' compensation insurance;

(2) audit costs for workers' compensation claims in any year in which there is an abnormally high number of wildfires; and

(3) accidental death and disability insurance.

(c) The service may employ staff to administer the program.

(d) The director shall, in consultation with the advisory committee appointed under Section 614.073:

(1) determine reasonable criteria and qualifications for the distribution of money from the fund; and

(2) establish a procedure for reporting and processing requests for money from the fund.

(e) In developing the criteria and qualifications for the distribution of money from the fund under Subsection (d), the director may not prohibit a volunteer fire department from receiving funds from a political subdivision.

(f) The director shall prepare an annual written report on the activity, status, and effectiveness of the fund and shall submit the report to the lieutenant governor and the speaker of the house of representatives before September 1 of each year.

(g) Any assistance provided under this subchapter to a

volunteer fire department or a firefighter who is a member of a volunteer fire department may not be considered compensation, and a firefighter receiving assistance under this subchapter may not be considered to be in the paid service of any governing body.

(h) Administration costs associated with the program during a state fiscal year may not exceed seven percent of the total deposited to the credit of the fund as required by Section 151.801(c-2), Tax Code, during the previous fiscal year.

Added by Acts 2001, 77th Leg., ch. 1363, Sec. 1, eff. Oct. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1248 (H.B. 2667), Sec. 1, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 471 (S.B. 761), Sec. 3, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1203 (S.B. 1455), Sec. 10, eff. September 1, 2015.

Sec. 614.073. ADVISORY COMMITTEE. (a) The director shall appoint an advisory committee to advise the director in regard to the administration of the program.

(b) The advisory committee consists of five members with one member appointed from each of the following geographic regions of the state: north, south, east, west, and central.

(c) A member of the advisory committee is entitled to reimbursement of reasonable travel expenses incurred by the member in performing duties as a member of the advisory committee, subject to any applicable limitation on reimbursement provided by general law or the General Appropriations Act. A member may not receive compensation for services.

Added by Acts 2001, 77th Leg., ch. 1363, Sec. 1, eff. Oct. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 472, Sec. 2, eff. Sept. 1, 2003.

Sec. 614.074. REQUESTS FOR ASSISTANCE. (a) A request for assistance from the fund shall be submitted to the director.

(b) On receiving a request for assistance, the director shall determine whether to provide assistance and the amount of the assistance to be provided, if any, based on the criteria developed in

consultation with the advisory committee under Section 614.072. A written copy of the decision shall be sent to the requestor and each member of the advisory committee.

Added by Acts 2001, 77th Leg., ch. 1363, Sec. 1, eff. Oct. 1, 2001.

Sec. 614.075. FUND. (a) The rural volunteer fire department insurance fund is an account in the general revenue fund and is composed of money deposited as required by Section 151.801(c-2), Tax Code, and contributions to the fund from any other source.

(b) Money in the fund may be used only for a purpose under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1363, Sec. 1, eff. Oct. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 471 (S.B. 761), Sec. 4, eff. September 1, 2015.

SUBCHAPTER G. RURAL VOLUNTEER FIRE DEPARTMENT ASSISTANCE PROGRAM

Sec. 614.101. DEFINITIONS. In this subchapter:

(1) "Director" means the director of the Texas Forest Service of The Texas A&M University System.

(2) "Fund" means the volunteer fire department assistance fund.

(3) "Program" means the Rural Volunteer Fire Department Assistance Program.

(4) "Service" means the Texas Forest Service of The Texas A&M University System.

(5) "Part-paid fire department" means a fire department operated by its members, some of whom are volunteers and not more than 20 of whom are paid.

(6) "Volunteer fire department" means a fire department operated by its members, including a part-paid fire department, that is operated on a not-for-profit basis, including a department that is exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization in Section 501(c)(3) of that code.

Added by Acts 2001, 77th Leg., ch. 1129, Sec. 1, eff. Sept. 1, 2001.

Renumbered from Government Code Sec. 614.071 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(79), eff. Sept. 1, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 34 and S.B. 868, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 614.102. ADMINISTRATION OF PROGRAM. (a) The Texas A&M Forest Service shall administer the program established under this subchapter, and the director may adopt rules necessary to assist volunteer fire departments in paying for equipment, including the replacement or repair of equipment, and training of personnel, including by providing emergency assistance under Section 614.103(a-1).

(b) The service may employ staff to administer the program.

(c) The director shall:

(1) determine reasonable criteria and qualifications for the distribution of money from the volunteer fire department assistance fund, including:

(A) the frequency, size, and severity of past wildfires in a volunteer fire department's jurisdiction;

(B) the potential for loss or damage to property resulting from future wildfires in the department's jurisdiction;

(C) the age of the equipment used by the department; and

(D) the department's need for emergency assistance under Section 614.103(a-1); and

(2) establish a procedure for reporting and processing requests for money from the fund.

(c-1) In determining criteria and qualifications for the distribution of money under Subsection (c), the director shall consider the state's most recent Southern Wildfire Risk Assessment issued by the Southern Group of State Foresters and other applicable information.

(c-2) The service may designate a portion of the fund to be used to assist volunteer fire departments in meeting cost share requirements for federal grants for which the departments qualify. The director shall determine a set of needs-based criteria for determining a department's eligibility to apply for a grant under

this subsection. The criteria must include:

(1) the size of the department;

(2) the department's annual budget and source of revenue; and

(3) the amount by which the department would benefit from the grant.

(d) A volunteer fire department may not be denied assistance from the fund solely because the department receives funds from a political subdivision.

(e) The director shall prepare an annual written report on the activity, status, and effectiveness of the fund and shall submit the report to the lieutenant governor and the speaker of the house of representatives before November 1 of each year.

(f) Any assistance or benefits provided under this subchapter to a volunteer fire department or a firefighter who is a member of a volunteer fire department may not be considered compensation, and a firefighter receiving assistance under this subchapter may not be considered to be in the paid service of any governing body.

(g) Administration costs associated with the program during a state fiscal year may not exceed seven percent of the total revenue collected from the assessment under Article 5.102, Insurance Code, during the previous fiscal year.

(h) Except as otherwise provided by this subsection, at least 10 percent of appropriations for a state fiscal year from the fund for the purpose of providing assistance to volunteer fire departments under the program is allocated for providing emergency assistance under Section 614.103(a-1). If the amount of assistance requested under Section 614.103(a-1) in a state fiscal year is less than the amount allocated under this subsection, the remaining amount may be used for other types of requests for assistance.

Added by Acts 2001, 77th Leg., ch. 1129, Sec. 1, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 614.072 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(79), eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 52 (S.B. 646), Sec. 11, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 39, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 877 (H.B. 3070), Sec. 1, eff.

September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 470 (H.B. 430), Sec. 1, eff. June 10, 2023.

Sec. 614.103. REQUESTS FOR ASSISTANCE. (a) A request for assistance from the fund shall be submitted to the director.

(a-1) A volunteer fire department whose equipment is damaged or lost in responding to a declared state of disaster under Section 418.014 in an area subject to the declaration may submit a request for emergency assistance from the fund for:

(1) the replacement or repair of damaged or lost personal protective equipment or other firefighting equipment; and

(2) the purchase of a machine to clean personal protective equipment.

(b) On receiving a request for assistance, the director shall determine whether to provide assistance and the amount of the assistance to be provided, if any, based on the criteria developed under Section 614.102. A written copy of the decision shall be sent to the requestor.

Added by Acts 2001, 77th Leg., ch. 1129, Sec. 1, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 614.073 and amended by Acts 2003, 78th Leg., ch. 1275, Sec. 2(79), 3(27), eff. Sept. 1, 2003. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 877 (H.B. 3070), Sec. 2, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2065, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 614.104. FUND. (a) The volunteer fire department assistance fund is an account in the general revenue fund and is composed of money collected under Chapter 2007, Insurance Code, and contributions to the fund from any other source.

(b) Except as provided by Subsections (c) and (d), money in the fund may be used only for a purpose under this subchapter.

(c) The service may expend an amount not to exceed $5 million each year from the fund for staffing and operating costs associated

with the preparation and delivery of the service's statewide wildfire protection plan.

(d) Money in the fund may be appropriated for a contribution to the Texas Emergency Services Retirement System subject to Section 865.015.

Added by Acts 2001, 77th Leg., ch. 1129, Sec. 1, eff. Sept. 1, 2001.
Renumbered from Government Code Sec. 614.074 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(79), eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1000 (H.B. 4002), Sec. 1, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 18, eff. September 1, 2015.

Sec. 614.105. SEPARATE ACCOUNT FOR MONEY FROM TEXAS COMMISSION ON FIRE PROTECTION. (a) The service shall maintain a separate account within the volunteer fire department assistance fund.

(b) The account shall contain money:

(1) previously appropriated to the Texas Commission on Fire Protection for the administration of the fire department emergency program and transferred to the service;

(2) received from the repayment of outstanding loans transferred to the service from the Texas Commission on Fire Protection fire department emergency program; and

(3) from any legislative appropriations for the purposes of Subsection (c).

(c) The money in the account may be used only to award grants for scholarships for the education and training of firefighters or for purchasing necessary firefighting equipment and facilities for:

(1) a municipal fire department with any number of paid personnel;

(2) a fire department operated by its members, some of whom are volunteers and some of whom are paid; or

(3) a volunteer fire department.

(d) The service shall administer all outstanding loans transferred from the Texas Commission on Fire Protection fire department emergency program and deposit money obtained as repayment of those loans to the credit of the account created under this

section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1216 (S.B. 1011), Sec. 25, eff. January 1, 2010.

Sec. 614.106. RULES; APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT. The director shall adopt rules for the administration of the program authorized by this chapter in accordance with Chapter 2001. The rules must ensure public participation, transparency, and accountability in administration of the program.

Added by Acts 2011, 82nd Leg., R.S., Ch. 52 (S.B. 646), Sec. 12, eff. September 1, 2011.

SUBCHAPTER H. PEACE OFFICER IDENTIFICATION CARDS

Sec. 614.121. DEFINITIONS. In this subchapter:

(1) "Full-time peace officer" means a person elected, employed, or appointed as a peace officer under Article 2A.001, Code of Criminal Procedure, or other law, who:

(A) works as a peace officer on average at least 32 hours per week, exclusive of paid vacation; and

(B) is compensated by this state or a political subdivision of this state at least at the federal minimum wage and is entitled to all employee benefits offered to a peace officer by the state or political subdivision.

(2) "Honorably retired peace officer" means a former peace officer who:

(A) previously served but is not currently serving as an elected, appointed, or employed peace officer under Article 2A.001, Code of Criminal Procedure, or other law;

(B) did not retire in lieu of any disciplinary action;

(C) was eligible to retire from a law enforcement agency in this state or was ineligible to retire only as a result of an injury received in the course of the officer's employment with the agency; and

(D) is eligible to receive a pension or annuity for service as a law enforcement officer in this state or is ineligible to receive a pension or annuity only because the law enforcement agency that employed the officer does not offer a pension or annuity

to its employees.

(3) "Part-time peace officer" means a person elected, employed, or appointed as a peace officer under Article 2A.001, Code of Criminal Procedure, or other law, who:

(A) works as a peace officer on average less than 32 hours per week, exclusive of paid vacation; and

(B) is compensated by this state or a political subdivision of this state at least at the federal minimum wage and is entitled to all employee benefits offered to a peace officer by the state or political subdivision.

(3-a) "Qualified retired law enforcement officer" has the meaning assigned by 18 U.S.C. Section 926C.

(4) "Reserve law enforcement officer" has the meaning assigned by Section 1701.001, Occupations Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 938 (H.B. 3613), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1109 (H.B. 3212), Sec. 1, eff. September 1, 2015.
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.108, eff. January 1, 2025.

Sec. 614.122. PEACE OFFICERS. (a) The law enforcement agency or other governmental entity that appoints or employs a peace officer shall issue an identification card to its full-time or part-time peace officers.

(b) The identification card must include:

(1) the full name of the peace officer;

(2) a photograph of the peace officer consistent with the peace officer's appearance;

(3) the name of the law enforcement agency or other governmental entity that appointed or employs the peace officer or that the peace officer was elected to serve;

(4) if applicable, the signature of the person appointing or employing the person as a peace officer on behalf of the law enforcement agency or other governmental entity;

(5) a brief description of the peace officer, including the peace officer's height, weight, and eye color;

(6) the thumbprint of the peace officer or a bar code with a unique identification label for the peace officer;

(7) the date the law enforcement agency or other governmental entity appointed or employed the peace officer;

(8) the date the law enforcement agency or other governmental entity issued the card to the peace officer; and

(9) a phone number operational 24 hours a day, seven days a week that a person may call to verify the validity of the identification card.

(c) On the identification card, the law enforcement agency or other governmental entity that issues the card shall print:

(1) "State of Texas" and the state seal; and

(2) "This identification card certifies that (insert name of peace officer) is commissioned by (insert name of law enforcement agency or other governmental entity that appoints or employs the peace officer) as a (insert "full-time peace officer" or "part-time peace officer")."

(d) The head of a law enforcement agency or other governmental entity that appoints or employs a peace officer shall recover the identification card at the time of the peace officer's resignation or termination.

Added by Acts 2007, 80th Leg., R.S., Ch. 938 (H.B. 3613), Sec. 1, eff. September 1, 2007.

Sec. 614.123. RESERVE LAW ENFORCEMENT OFFICER. (a) The law enforcement agency or other governmental entity that appoints or employs a reserve law enforcement officer shall issue an identification card to its reserve law enforcement officers.

(b) The identification card must include:

(1) the full name of the reserve law enforcement officer;

(2) a photograph of the reserve law enforcement officer consistent with the reserve law enforcement officer's appearance;

(3) the name of the law enforcement agency or other governmental entity that appointed or employs the reserve law enforcement officer;

(4) if applicable, the signature of the person appointing or employing the person as a reserve law enforcement officer on behalf of the law enforcement agency or other governmental entity;

(5) a brief description of the reserve law enforcement officer, including the reserve law enforcement officer's height, weight, and eye color;

(6) the thumbprint of the reserve law enforcement officer or a bar code with a unique identification label for the reserve law enforcement officer;

(7) the date the law enforcement agency or other governmental entity appointed or employed the reserve law enforcement officer;

(8) the date the law enforcement agency or other governmental entity issued the card to the reserve law enforcement officer; and

(9) a phone number operational 24 hours a day, seven days a week that a person may call to verify the validity of the identification card.

(c) On the identification card, the law enforcement agency or other governmental entity that issues the card shall print:

(1) "State of Texas" and the state seal; and

(2) "This identification card certifies that (insert name of reserve law enforcement officer) is commissioned by (insert name of law enforcement agency or other governmental entity that appoints or employs the reserve law enforcement officer) as a reserve law enforcement officer."

(d) The head of a law enforcement agency or other governmental entity that appoints or employs a reserve law enforcement officer shall recover the identification card at the time of the reserve law enforcement officer's resignation or termination.

Added by Acts 2007, 80th Leg., R.S., Ch. 938 (H.B. 3613), Sec. 1, eff. September 1, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3686, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 614.124. HONORABLY RETIRED PEACE OFFICER. (a) On request of an honorably retired peace officer who holds a certificate of proficiency under Section 1701.357, Occupations Code, the law enforcement agency or other governmental entity that was the last entity to appoint or employ the honorably retired peace officer as a

peace officer shall issue an identification card to the honorably retired peace officer.

(b) The identification card must include:

(1) the full name of the honorably retired peace officer;

(2) a photograph of the honorably retired peace officer consistent with the honorably retired peace officer's appearance;

(3) the name of the law enforcement agency or other governmental entity that issued the card to the honorably retired peace officer;

(4) if applicable, the signature of the person authorizing the issuance of the card on behalf of the law enforcement agency or other governmental entity to the honorably retired peace officer;

(5) a brief description of the honorably retired peace officer, including the honorably retired peace officer's height, weight, and eye color;

(6) the thumbprint of the honorably retired peace officer or a bar code with a unique identification label for the honorably retired peace officer;

(7) the date the honorably retired peace officer last served as a peace officer for the law enforcement agency or other governmental entity;

(8) the date the law enforcement agency or other governmental entity issued the card to the honorably retired peace officer; and

(9) a phone number operational 24 hours a day, seven days a week that a person may call to verify the validity of the identification card.

(c) On the identification card, the law enforcement agency or other governmental entity that issues the card shall print:

(1) "State of Texas" and the state seal; and

(2) "This identification card certifies that (insert name of honorably retired peace officer) is an honorably retired peace officer of (insert name of law enforcement agency or other governmental entity that last appointed or employed the honorably retired peace officer)."

(d) The head of a law enforcement agency or other governmental entity that issued the identification card shall recover the identification card on the date the identification card expires.

Added by Acts 2007, 80th Leg., R.S., Ch. 938 (H.B. 3613), Sec. 1, eff.

September 1, 2007.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 738 (H.B. 1083), Sec. 1, eff. June 17, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3686, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 614.1241. QUALIFIED RETIRED LAW ENFORCEMENT OFFICER. (a) On request of a qualified retired law enforcement officer who holds a certificate of proficiency under Section 1701.357, Occupations Code, a law enforcement agency or other governmental entity in this state shall issue an identification card to the qualified retired law enforcement officer if the law enforcement agency or other governmental entity:

(1) was the last entity to appoint or employ the qualified retired law enforcement officer as a peace officer; or

(2) appointed or employed the qualified retired law enforcement officer for 20 years or more and the officer is receiving retirement or pension benefits as a result of that service.

(b) The identification card must include:

(1) the full name of the qualified retired law enforcement officer;

(2) a photograph of the qualified retired law enforcement officer consistent with the qualified retired law enforcement officer's appearance;

(3) the name of the law enforcement agency or other governmental entity that issued the card to the qualified retired law enforcement officer;

(4) if applicable, the signature of the person authorizing the issuance of the card on behalf of the law enforcement agency or other governmental entity to the qualified retired law enforcement officer;

(5) a brief description of the qualified retired law enforcement officer, including the qualified retired law enforcement officer's height, weight, and eye color;

(6) the thumbprint of the qualified retired law enforcement officer or a bar code with a unique identification label for the qualified retired law enforcement officer;

(7) the date the qualified retired law enforcement officer last served as a peace officer for the law enforcement agency or other governmental entity;

(8) the date the law enforcement agency or other governmental entity issued the card to the qualified retired law enforcement officer; and

(9) a phone number operational 24 hours a day, seven days a week, that a person may call to verify the validity of the identification card.

(c) On the identification card, the law enforcement agency or other governmental entity that issues the card shall print:

(1) "State of Texas" and the state seal; and

(2) "This identification card certifies that (insert name of qualified retired law enforcement officer) is a qualified retired law enforcement officer of (insert name of law enforcement agency or other governmental entity that last appointed or employed the qualified retired law enforcement officer)."

(d) The head of a law enforcement agency or other governmental entity that issued the identification card shall recover the identification card on the date the identification card expires.

Added by Acts 2015, 84th Leg., R.S., Ch. 1109 (H.B. 3212), Sec. 2, eff. September 1, 2015.

Sec. 614.125. EXPIRATION DATE. An identification card issued under this subchapter expires on a date specified by the law enforcement agency or other governmental entity issuing the card.

Added by Acts 2007, 80th Leg., R.S., Ch. 938 (H.B. 3613), Sec. 1, eff. September 1, 2007.

Sec. 614.126. TAMPER-PROOF CARDS. An identification card issued under this subchapter must be, to the extent practicable, tamper-proof.

Added by Acts 2007, 80th Leg., R.S., Ch. 938 (H.B. 3613), Sec. 1, eff. September 1, 2007.

Sec. 614.127. LOST OR STOLEN CARDS. If an identification card issued under this subchapter is lost or stolen, the law enforcement agency or other governmental entity that issued the card to the peace officer, reserve law enforcement officer, honorably retired peace officer, or qualified retired law enforcement officer shall issue a duplicate identification card to the officer if the officer submits an affidavit executed by the officer to the law enforcement agency or other governmental entity stating that the identification card was lost or stolen.

Added by Acts 2007, 80th Leg., R.S., Ch. 938 (H.B. 3613), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 288 (H.B. 1417), Sec. 1, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1109 (H.B. 3212), Sec. 3, eff. September 1, 2015.

SUBCHAPTER I. FIRE DEPARTMENT LISTING

Sec. 614.151. PURPOSES OF SUBCHAPTER. The purposes of this subchapter are to:

(1) develop a complete list of fire departments and firefighting resources within this state;

(2) prepare for the prompt and efficient response to a disaster or incident of catastrophic proportions; and

(3) provide support to the statewide mutual aid program for fire emergencies as provided by Section 418.110.

Added by Acts 2007, 80th Leg., R.S., Ch. 1215 (H.B. 1915), Sec. 1, eff. September 1, 2007.

Sec. 614.152. DEFINITIONS. In this subchapter:

(1) "Fire department" means an entity that provides fire protection to an area within the state that has 9-1-1 service as determined by the Commission on State Emergency Communications.

(2) "Service" means the Texas Forest Service of The Texas A&M University System.

(3) "State fire agency" means the:

(A) Office of Rural Affairs established in the

Department of Agriculture;

(B) service;

(C) Texas Commission on Fire Protection;

(D) Texas A&M Engineering Extension Service; and

(E) Texas State Fire Marshal's Office of the Texas Department of Insurance.

(4) "State fire association" means the:

(A) State Firemen's and Fire Marshals' Association of Texas;

(B) Texas Fire Chiefs Association;

(C) Texas Fire Marshals Association;

(D) Texas State Association of Fire and Emergency Districts; and

(E) Texas State Association of Fire Fighters.

Added by Acts 2007, 80th Leg., R.S., Ch. 1215 (H.B. 1915), Sec. 1, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 94, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 3.03, eff. June 14, 2013.

Sec. 614.153. ADMINISTRATION OF FIRE DEPARTMENT LISTING. The service shall:

(1) establish and maintain a listing of fire departments located in this state that is accessible to each state fire agency to assist the agency in carrying out its responsibilities; and

(2) prescribe procedures necessary to implement this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1215 (H.B. 1915), Sec. 1, eff. September 1, 2007.

Sec. 614.154. LISTING REQUIRED. (a) Each fire department in this state must be listed with the service. Each fire department shall provide to the service information described by Section 614.155 in a manner prescribed by the service.

(b) State fire agencies and state fire associations shall

coordinate and cooperate with the service in the development of the listing.

Added by Acts 2007, 80th Leg., R.S., Ch. 1215 (H.B. 1915), Sec. 1, eff. September 1, 2007.

Sec. 614.155. LISTING COMPONENTS. The listing must contain for each fire department in this state:

(1) the name of the fire department;

(2) the physical address of the fire department;

(3) the mailing address of the fire department;

(4) the number of firefighters and any other personnel affiliated with the fire department whose duties involve responding to an emergency incident; and

(5) an itemized list, using National Incident Management System guidelines, of all firefighting equipment used by the fire department for fire protection purposes.

Added by Acts 2007, 80th Leg., R.S., Ch. 1215 (H.B. 1915), Sec. 1, eff. September 1, 2007.

Sec. 614.156. RENEWAL OF LISTING. The service shall renew a fire department's listing annually.

Added by Acts 2007, 80th Leg., R.S., Ch. 1215 (H.B. 1915), Sec. 1, eff. September 1, 2007.

SUBCHAPTER J. STANDARDS FOR CERTAIN LAW ENFORCEMENT OFFICERS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1171, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 614.171. DEFINITIONS.In this subchapter:

(1) "Law enforcement agency" means the Department of Public Safety, Texas Alcoholic Beverage Commission, Texas Department of Criminal Justice, Parks and Wildlife Department, and the office of the attorney general.

(2) "Law enforcement officer" means a person who is a commissioned peace officer employed by a law enforcement agency.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 13, eff. September 1, 2007.
Renumbered from Government Code, Section 614.151 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(41), eff. September 1, 2009.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 6.04, eff. September 1, 2009.

Acts 2023, 88th Leg., R.S., Ch. 497 (H.B. 2154), Sec. 1, eff. June 10, 2023.

Sec. 614.172. PHYSICAL FITNESS PROGRAMS AND STANDARDS. (a) Each law enforcement agency shall adopt physical fitness programs that a law enforcement officer must participate in and physical fitness standards that a law enforcement officer must meet. The standards as applied to an officer must directly relate to the officer's job duties and shall include individual fitness goals specific to the officer's age and gender. A law enforcement agency shall use the services of a consultant to aid the agency in developing the standards.

(a-1) Each law enforcement agency shall adopt a reward policy that provides for reward incentives to officers who participate in the program and meet the standards adopted under Subsection (a). The reward incentives under the policy must be an amount of administrative leave of not more than four days per year.

(a-2) An agency may adopt physical readiness standards independent of other law enforcement agencies.

(b) Except as provided by Subsection (c), a violation of a standard adopted under Subsection (a) is just cause to discharge an officer or:

(1) transfer an officer to a position that is not compensated according to Schedule C of the position classification salary schedule prescribed by the General Appropriations Act; or

(2) for a law enforcement officer employed by the Parks and Wildlife Department and compensated according to Schedule B of the position classification salary schedule prescribed by the General Appropriations Act, transfer the officer to a position that does not require the employee to be a commissioned peace officer.

(c) A law enforcement agency may exempt a law enforcement

officer from participating in a program or meeting a standard under Subsection (a) based on the facts and circumstances of the individual case, including whether an officer was injured in the line of duty.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 13, eff. September 1, 2007.
Renumbered from Government Code, Section 614.152 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(41), eff. September 1, 2009.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 6.05, eff. September 1, 2009.

SUBCHAPTER K. INSURANCE COVERAGE REQUIRED FOR VOLUNTEER POLICE FORCE MEMBERS

Sec. 614.191. DEFINITION. In this subchapter, "volunteer police force member" means:

(1) a person summoned under Section 341.011, Local Government Code, to serve on a special police force;

(2) a police reserve force member appointed under Section 341.012, Local Government Code; and

(3) any other person assigned by a state agency or political subdivision to perform, without compensation, any duties typically performed by a peace officer.

Added by Acts 2007, 80th Leg., R.S., Ch. 1248 (H.B. 2667), Sec. 2, eff. September 1, 2007.
Renumbered from Government Code, Section 614.121 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(42), eff. September 1, 2009.

Sec. 614.192. INSURANCE COVERAGE REQUIRED. (a) Each volunteer police force member must be insured or covered by the applicable state agency or political subdivision against any injury suffered by the police force member in the course and scope of performing the person's assigned duties at the request of or under a contract with a state agency or political subdivision.

(b) The applicable state agency or political subdivision may satisfy the requirements of Subsection (a) by:

(1) providing insurance coverage; or

(2) entering into an interlocal agreement with another political subdivision providing for self-insurance.

Added by Acts 2007, 80th Leg., R.S., Ch. 1248 (H.B. 2667), Sec. 2, eff. September 1, 2007.
Renumbered from Government Code, Section 614.122 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(42), eff. September 1, 2009.

SUBCHAPTER L. RETIREMENT OF LAW ENFORCEMENT ANIMAL

Sec. 614.211. DEFINITIONS. In this subchapter:

(1) "Head of a law enforcement agency" means the highest-ranking peace officer in a law enforcement agency, including the director, sheriff, constable, or police chief, as applicable.

(2) "Law enforcement agency" means an office, department, or other division of this state or a political subdivision of this state, including a county, municipality, school district, or hospital district, that is authorized by law to employ peace officers.

Added by Acts 2019, 86th Leg., R.S., Ch. 36 (S.B. 2100), Sec. 1, eff. May 14, 2019.

Sec. 614.212. SUITABILITY AND ELIGIBILITY OF ANIMAL. (a) The governing body of a state agency or political subdivision may enter into a contract with a person for the transfer of a law enforcement dog, horse, or other animal that has been determined by the applicable head of a law enforcement agency or that person's designee to be:

(1) suitable for transfer, after consulting with the animal's veterinarian, handlers, and other caretakers; and

(2) surplus to the needs of the state agency or political subdivision because the animal is:

(A) at the end of the animal's working life; or

(B) subject to circumstances that justify making the animal available for transfer before the end of the animal's working life, including:

(i) the death of the animal's handler in the line of duty or as a result of injuries sustained in the line of duty; or

(ii) the medical retirement of the animal's handler as a result of injuries sustained in the line of duty.

(b) The head of a state law enforcement agency may execute a contract under this subchapter on behalf of the state agency.

Added by Acts 2019, 86th Leg., R.S., Ch. 36 (S.B. 2100), Sec. 1, eff. May 14, 2019.

Sec. 614.213. TRANSFEREE. (a) A law enforcement animal determined to be suitable and eligible for transfer under Section 614.212 may be transferred only to a person who is:

(1) capable of humanely caring for the animal; and

(2) selected by the applicable head of a law enforcement agency or that person's designee in the following order of priority, as applicable:

(A) the animal's former handler who medically retired as a result of injuries sustained in the line of duty;

(B) the parent, child, spouse, or sibling of the animal's former handler if the handler was killed in the line of duty or died from injuries sustained in the line of duty;

(C) a former handler not described by Paragraph (A);

(D) a peace officer, county jailer, or telecommunicator other than the animal's handler; or

(E) another person.

(b) If more than one person in a category of authorized transferees under Subsection (a)(2) requests to receive the animal, the applicable head of a law enforcement agency or that person's designee shall determine which of the potential transferees would best serve the best interest of the animal and the applicable state agency or political subdivision.

Added by Acts 2019, 86th Leg., R.S., Ch. 36 (S.B. 2100), Sec. 1, eff. May 14, 2019.

Sec. 614.214. CONTRACT. A contract for a transfer under this subchapter:

(1) may provide for the transfer without charge to the transferee;

(2) must require the transferee to:

(A) humanely care for the animal, including providing food, shelter, and regular and appropriate veterinary care, including medication, to properly provide for the animal's health;

(B) comply with all state and local laws applicable to keeping domestic animals; and

(C) notify the applicable state agency or political subdivision if the transferee is no longer able to humanely care for the animal; and

(3) must require the applicable state agency or political subdivision to take possession of the animal on:

(A) receipt of the notice under Subdivision (2)(C); or

(B) a finding by the governing body of the state agency or political subdivision that the transferee is no longer able to humanely care for the animal.

Added by Acts 2019, 86th Leg., R.S., Ch. 36 (S.B. 2100), Sec. 1, eff. May 14, 2019.

Sec. 614.215. LIABILITY. A state agency or political subdivision that transfers an animal under this subchapter:

(1) is not liable in a civil action for any damages arising from the transfer, including damages arising from the animal's law enforcement training; and

(2) is not liable for veterinary expenses of the transferred animal, including expenses associated with care for a condition of the animal that existed before or at the time of transfer, regardless of whether the applicable law enforcement agency, state agency, or political subdivision was aware of the condition.

Added by Acts 2019, 86th Leg., R.S., Ch. 36 (S.B. 2100), Sec. 1, eff. May 14, 2019.

Sec. 614.216. EFFECT OF SUBCHAPTER. This subchapter does not:

(1) require an animal to be transferred under this subchapter;

(2) affect a state agency's or political subdivision's authority to care for retired law enforcement animals; or

(3) waive sovereign or governmental immunity to suit and

from liability of the state agency or political subdivision transferring an animal.

Added by Acts 2019, 86th Leg., R.S., Ch. 36 (S.B. 2100), Sec. 1, eff. May 14, 2019.

Sec. 614.217. EFFECT OF SURPLUS OR SALVAGE LAW. Subchapter D, Chapter 2175, of this code, Subchapter D, Chapter 263, Local Government Code, and other similar laws regarding the disposition of surplus or salvage property do not apply to the transfer of a law enforcement animal under this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 36 (S.B. 2100), Sec. 1, eff. May 14, 2019.

SUBCHAPTER M. ACCOMPANYING OR FILMING OF PEACE OFFICERS

Sec. 614.231. DEFINITIONS. In this subchapter:

(1) "Law enforcement agency" means an agency of this state or a political subdivision of this state that employs peace officers other than game wardens.

(2) "Reality television program" means a nonfictional television program that features the same live subjects over the course of more than one episode primarily for entertainment purposes, but does not include reporting on a matter of public concern by a journalist as defined by Article 38.11, Code of Criminal Procedure.

Added by Acts 2021, 87th Leg., R.S., Ch. 134 (H.B. 54), Sec. 2, eff. May 26, 2021.

Sec. 614.232. ACCOMPANYING AND FILMING PEACE OFFICERS FOR REALITY TELEVISION PROGRAM PROHIBITED. A law enforcement agency may not authorize a person to accompany and film a peace officer acting in the line of duty for the purpose of producing a reality television program.

Added by Acts 2021, 87th Leg., R.S., Ch. 134 (H.B. 54), Sec. 2, eff. May 26, 2021.

CHAPTER 615. FINANCIAL ASSISTANCE TO SURVIVORS OF CERTAIN LAW ENFORCEMENT OFFICERS, FIRE FIGHTERS, AND OTHERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 615.001. DEFINITION. In this chapter, "minor child" means a child who:

(1) on the date of the death of an individual listed under Section 615.003, is younger than 18 years of age; and

(2) if the child is not a biological or adopted child, was claimed as a dependent on the federal income tax return of an individual listed under Section 615.003 for the year preceding the year of the individual's death.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1541, Sec. 54, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1231, Sec. 36, eff. Sept. 1, 2001.

Sec. 615.002. ADMINISTRATION OF CHAPTER. The board of trustees of the Employees Retirement System of Texas shall administer this chapter under rules adopted by the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1306, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 615.003. APPLICABILITY. This chapter applies only to eligible survivors of the following individuals:

(1) an individual:

(A) elected, appointed, or employed as a peace officer by the state or a political subdivision of the state under Article 2A.001, Code of Criminal Procedure, or other law; or

(B) employed as a peace officer by a private institution of higher education, including a private junior college, that is located in this state under Section 51.212, Education Code;

(2) a paid probation officer appointed by the director of a community supervision and corrections department who has the duties set out in Section 76.002 and the qualifications set out in Section 76.005, or who was appointed in accordance with prior law;

(3) a parole officer employed by the Texas Department of Criminal Justice who has the duties set out in Section 508.001 and the qualifications set out in Section 508.113 or in prior law;

(4) a paid jailer;

(5) a member of an organized police reserve or auxiliary unit who regularly assists peace officers in enforcing criminal laws;

(6) a member of the class of employees of the correctional institutions division formally designated as custodial personnel under Section 615.006 by the Texas Board of Criminal Justice or its predecessor in function;

(7) a jailer or guard of a county jail who is appointed by the sheriff and who:

(A) performs a security, custodial, or supervisory function over the admittance, confinement, or discharge of prisoners; and

(B) is certified by the Texas Commission on Law Enforcement;

(8) a juvenile correctional employee of the Texas Juvenile Justice Department;

(9) an employee of the Department of Aging and Disability Services or Department of State Health Services who:

(A) works at the department's maximum security unit; or

(B) performs on-site services for the Texas Department of Criminal Justice;

(10) an individual who is employed by the state or a political or legal subdivision and is subject to certification by the Texas Commission on Fire Protection;

(11) an individual employed by the state or a political or legal subdivision whose principal duties are aircraft crash and rescue fire fighting;

(12) a member of an organized volunteer fire-fighting unit that:

(A) renders fire-fighting services without remuneration; and

(B) conducts a minimum of two drills each month, each two hours long;

(13) an individual who:

(A) performs emergency medical services or operates an ambulance;

(B) is employed by a political subdivision of the state

or is an emergency medical services volunteer as defined by Section 773.003, Health and Safety Code; and

(C) is qualified as an emergency care attendant or at a higher level of training under Section 773.046, 773.047, 773.048, 773.049, or 773.0495, Health and Safety Code;

(14) an individual who is employed or formally designated as a chaplain for:

(A) an organized volunteer fire-fighting unit or other fire department of this state or of a political subdivision of this state;

(B) a law enforcement agency of this state or of a political subdivision of this state; or

(C) the Texas Department of Criminal Justice;

(15) an individual who is employed by the state or a political subdivision of the state and who is considered by the governmental employer to be a trainee for a position otherwise described by this section;

(16) an individual who is employed by the Department of Public Safety and, as certified by the director, is:

(A) deployed into the field in direct support of a law enforcement operation, including patrol, investigative, search and rescue, crime scene, on-site communications, or special operations; and

(B) given a special assignment in direct support of operations relating to organized crime, criminal interdiction, border security, counterterrorism, intelligence, traffic enforcement, emergency management, regulatory services, or special investigations; or

(17) an individual who is employed by the Parks and Wildlife Department and, as certified by the executive director of the Parks and Wildlife Department, is:

(A) deployed into the field in direct support of a law enforcement operation, including patrol, investigative, search and rescue, crime scene, on-site communications, or special operations; and

(B) given a special assignment in direct support of operations relating to organized crime, criminal interdiction, border security, counterterrorism, intelligence, traffic enforcement, emergency management, regulatory services, or special investigations.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.12(b), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 12.17, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1049, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 874, Sec. 8, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 842, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1111, Sec. 43, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 55 (S.B. 872), Sec. 1, eff. May 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.075, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.31, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1163 (S.B. 396), Sec. 1, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 346 (H.B. 1526), Sec. 1, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.109, eff. January 1, 2025.

Sec. 615.004. EFFECT OF AWARD. (a) A finding that assistance is payable to an eligible survivor of an individual listed under Section 615.003 or 615.024 is not a declaration of the cause, nature, or effect of a death for any other purpose.

(b) A finding that a death is within the provisions of this chapter does not affect another claim or cause of action arising from or connected to the death.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 660 (H.B. 90), Sec. 3, eff. September 1, 2023.

Sec. 615.005. ASSISTANCE NOT ASSIGNABLE; PAYMENTS EXEMPT. (a) Assistance payable under this chapter is not transferable or assignable at law or in equity.

(b) Money paid or payable under this chapter is not subject to

execution, levy, attachment, garnishment, or other legal process or to the operation of any insolvency law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 615.006. DESIGNATION OF CUSTODIAL PERSONNEL. The Texas Board of Criminal Justice shall adopt and include in its minutes a formal designation identifying the classes of persons who are custodial personnel of the agency so that there is no uncertainty about which persons are custodial personnel.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 615.007. CERTAIN VOLUNTEER FIRE-FIGHTING UNITS CONSIDERED AGENTS OF POLITICAL SUBDIVISION. For the purposes of this chapter, an organized volunteer fire-fighting unit described by Section 615.003(12) is considered an agent of a political subdivision, including a municipality, county, or district, that the unit serves if:

(1) the unit receives any financial aid from the political subdivision for the maintenance, upkeep, or storage of equipment; or

(2) the governing body of the political subdivision designates the unit as an agent of the political subdivision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 615.008. CERTAIN POLICE RESERVE OR AUXILIARY UNITS CONSIDERED AGENTS OF POLITICAL SUBDIVISION. For the purposes of this chapter, an organized police reserve or auxiliary unit is considered an agent of a political subdivision, including a municipality, county, or district, that the unit serves if the governing body of the political subdivision designates the unit as an agent of the political subdivision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. PAYMENTS TO ELIGIBLE SURVIVORS

Sec. 615.021. ELIGIBLE SURVIVORS. (a) A survivor of an individual listed under Section 615.003 is eligible for the payment of assistance under this chapter if:

(1) the listed individual died as a result of a personal injury sustained in the line of duty in the individual's position as described by Section 615.003; and

(2) the survivor is:

(A) the surviving spouse of the listed individual;

(B) a surviving child of the listed individual, if there is no surviving spouse; or

(C) a surviving parent of the listed individual, if there is no surviving spouse or child.

(b) Payment of assistance may not occur under this subchapter unless an individual is eligible under Subsection (a) or Section 615.024.

(c) An individual employed by the state or a political or legal subdivision who is subject to certification by the Texas Commission on Fire Protection or whose principal duties are aircraft crash and rescue fire fighting is considered to have died as a result of a personal injury sustained in the line of duty in the individual's position as described by Section 615.003 if the individual died while actually performing an activity that the individual was certified to perform by the Texas Commission on Fire Protection, without regard to whether the individual was actually performing the activity during the individual's compensable hours at work.

(d) In a determination of whether the survivor of an individual listed under Section 615.003 is eligible for the payment of assistance under this chapter, any reasonable doubt arising from the circumstances of the individual's death shall be resolved in favor of the payment of assistance to the survivor.

(e) In this section:

(1) "Personal injury" means an injury resulting from an external force, an activity, or a disease caused by or resulting from:

(A) a line-of-duty accident; or

(B) an illness caused by line-of-duty work under hazardous conditions.

(2) "Line of duty" means an action an individual listed under Section 615.003 is required or authorized by rule, condition of employment, or law to perform. The term includes:

(A) an action by the individual at a social, ceremonial, athletic, or other function to which the individual is assigned by the individual's employer; and

(B) an action performed as part of a training program the individual is required or authorized by rule, condition of employment, or law to undertake.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.12(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1049, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1438, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 842, Sec. 2, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 55 (S.B. 872), Sec. 2, eff. May 19, 2009.

Acts 2023, 88th Leg., R.S., Ch. 660 (H.B. 90), Sec. 4, eff. September 1, 2023.

Sec. 615.022. PAYMENT TO SURVIVORS. (a) If there is an eligible surviving spouse, the state shall pay the benefits described by Subsection (d) to the eligible surviving spouse.

(b) If there is no eligible surviving spouse, the state shall pay the benefits described by Subsection (d) in equal shares to surviving children.

(c) If there is no eligible surviving spouse or child, the state shall pay the benefits described by Subsection (d) in equal shares to surviving parents.

(d) An eligible survivor, or eligible survivors in equal shares, are entitled to receive a lump sum payment in the amount provided by this subsection. The lump sum payment amount payable to an eligible survivor during the 12 months beginning September 1, 2019, is $500,000. Effective September 1 of each following year, the board of trustees of the Employees Retirement System of Texas by rule shall adjust the amount of the lump sum payment required under this subsection by an amount equal to the percentage change in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor for the preceding year. The amount paid to an eligible survivor or survivors as adjusted under this subsection is calculated based on the date of

the decedent's death and not on the date the eligible survivor or survivors file a claim under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.12(c), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1438, Sec. 2, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 718 (H.B. 1278), Sec. 1, eff. September 1, 2015.
Acts 2019, 86th Leg., R.S., Ch. 1181 (H.B. 3635), Sec. 1, eff. September 1, 2019.

Sec. 615.023. PAYMENT TO SURVIVING MINOR CHILD. (a) The state shall pay to the duly appointed or qualified guardian or other legal representative of an eligible surviving minor child:

(1) $400 each month, if there is one surviving child;

(2) $600 each month, if there are two surviving children; or

(3) $800 each month, if there are three or more surviving children.

(b) A child's entitlement to assistance payable under this section ends on the last day of the month that includes the child's 18th birthday. At that time, payments to any other surviving minor children shall be adjusted, as necessary, to conform to the amounts payable under Subsection (a).

(c) A payment under this section is in addition to any payment made under Section 615.022.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1231, Sec. 37, eff. Sept. 1, 2001. Reenacted by Acts 2003, 78th Leg., ch. 1111, Sec. 7, eff. Sept. 1, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 718 (H.B. 1278), Sec. 2, eff. September 1, 2015.

Sec. 615.024. PAYMENT TO SURVIVORS OF MEMBERS OF TEXAS MILITARY FORCES. (a) In this section, "state active duty," "Texas military forces," and "Texas National Guard" have the meanings assigned by

Section 437.001.

(b) Notwithstanding Section 615.003 or 615.021, a survivor of an individual who is a member of the Texas military forces is eligible to receive a lump sum payment described by Section 615.022 and monthly assistance described by Section 615.023, as applicable, which are the exclusive benefits available under this chapter, if:

(1) the individual died while on state active duty;

(2) the Texas Military Department certifies to the Employees Retirement System of Texas that the circumstances of the individual's death entitle an eligible survivor to the payment of assistance under this chapter; and

(3) the survivor is:

(A) if the individual is a member of the Texas National Guard, a beneficiary designated by the individual on the individual's United States Department of Defense Form DD-93; or

(B) if the individual is not a member of the Texas National Guard or there is no beneficiary described by Paragraph (A):

(i) the surviving spouse of the individual;

(ii) a surviving child of the individual, if there is no surviving spouse; or

(iii) the surviving parent of the individual, if there is no surviving spouse or child.

(c) The Texas Military Department shall adopt rules providing the circumstances under which the death of an individual described by Subsection (b) entitles an eligible survivor to the payment of assistance under this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 660 (H.B. 90), Sec. 5, eff. September 1, 2023.

SUBCHAPTER C. ADMINISTRATION AND PROCEDURE

Sec. 615.041. CONSIDERATION AND DETERMINATION OF CLAIM; COMPELLED COMPLIANCE. (a) Not later than the 30th day after the date of the death of an individual listed under Section 615.003 that occurs in the performance of duties in the individual's position as described by Section 615.003 or as a result of an action that occurs while the individual is performing those duties, the individual's employing entity shall furnish to the board of trustees of the Employees Retirement System of Texas proof of the death in the form

and with additional evidence and information required by the board. The employing entity shall furnish the evidence and information required under this subsection regardless of whether the employing entity believes the individual's death satisfies the eligibility requirements established under Section 615.021(a)(1).

(b) The board of trustees shall consider the proof, evidence, and information provided under Subsection (a), and any additional information required by the rules adopted in accordance with Section 615.002, to determine whether the individual's death satisfies the eligibility requirements established under Section 615.021(a)(1) and justifies the payment of assistance to the individual's eligible survivors under this chapter.

(c) If the individual's employing entity fails to comply with Subsection (a), the attorney general may use any means authorized by law, including filing suit for a writ of mandamus against the employer, to compel the employer's compliance with this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 50 (S.B. 423), Sec. 1, eff. May 12, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1049 (H.B. 872), Sec. 1, eff. September 1, 2019.

Sec. 615.042. AWARD AND PAYMENT OF ASSISTANCE. (a) The Employees Retirement System of Texas shall notify the comptroller of the retirement system's determination that a claim under this chapter is valid and justifies payment.

(b) On receipt of the notice, the comptroller shall issue a warrant to each claimant in the proper amount from the fund appropriated for that purpose.

(c) Payments under this chapter on behalf of a surviving child are payable beginning on the first day of the first month after the death of the individual listed in Section 615.003.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 1231, Sec. 38, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1438, Sec. 4, eff. Sept. 1, 2001.

Sec. 615.043. DENIAL OF CLAIM. If the Employees Retirement System of Texas denies a claim, the retirement system shall send a notice of the denial to:

(1) the person making the claim; or

(2) the duly qualified guardian or legal representative of a surviving minor child, if a claim is being made on behalf of the child.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1231, Sec. 39, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1438, Sec. 5, eff. Sept. 1, 2001.

Sec. 615.044. APPEALS. (a) An eligible survivor or the eligible survivor's legal representative whose claim for payment is denied may appeal the denial to the board of trustees of the Employees Retirement System of Texas.

(b) An appeal under this section is considered to be an appeal of a contested case under Chapter 2001 and shall be conducted as provided by Section 815.511.

(c) Judicial review of a decision under this section is under the substantial evidence rule as provided by Chapter 2001.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1231, Sec. 40, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1438, Sec. 6, eff. Sept. 1, 2001.

Sec. 615.045. RECORDS. (a) Records of individuals listed by Section 615.003 or described by Section 615.024 and of survivors eligible for benefits under this chapter that are in the custody of the Employees Retirement System of Texas, an administering firm as defined by Section 1551.003, Insurance Code, a carrier as defined by Section 1551.007, Insurance Code, or another governmental agency acting with or on behalf of the retirement system are confidential and not subject to public disclosure, and the retirement system, administering firm, carrier, or governmental agency is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general, because the records are exempt from the provisions of Chapter 552, except as otherwise provided by this section.

(b) Records may be released to an eligible survivor or to an authorized attorney, family member, or representative acting on behalf of the eligible survivor. The Employees Retirement System of Texas may release the records to an administering firm, carrier, agent, or attorney acting on behalf of the retirement system, to another governmental entity having a legitimate need for the information to perform the purposes of the retirement system, or to a party in response to a subpoena issued under applicable law.

(b-1) A record released or received by the retirement system under this section may be transmitted electronically, including through the use of an electronic signature or certification in a form acceptable to the retirement system. An unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information under this section is not a violation by the retirement system of any law, including a law or rule relating to the protection of confidential information.

(c) The records of individuals listed by Section 615.003 or described by Section 615.024 and of eligible survivors remain confidential after release to a person as authorized by this section. The records of individuals listed by Section 615.003 or described by Section 615.024 and of eligible survivors may become part of the public record of an administrative or judicial proceeding related to an appeal filed under this chapter, unless the records are closed to public access by a protective order issued under applicable law.

(d) The retirement system has sole discretion in determining whether a record is subject to this section. For purposes of this section, a record includes any identifying information about any person, living or deceased, who is or was:

(1) an individual listed in Section 615.003 or described by Section 615.024; or

(2) a survivor, heir, or beneficiary of an individual listed in Section 615.003 or described by Section 615.024.

Added by Acts 2001, 77th Leg., ch. 1231, Sec. 41, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 1111, Sec. 8, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 1, eff. September 1, 2009.

Acts 2023, 88th Leg., R.S., Ch. 660 (H.B. 90), Sec. 6, eff.

September 1, 2023.

SUBCHAPTER D. HEALTH INSURANCE COVERAGE FOR ELIGIBLE SURVIVORS

Sec. 615.071. APPLICABILITY. This subchapter applies only to eligible survivors of:

(1) an individual listed in Section 615.003(1), (6), or (7);

(2) an individual listed in Section 615.003(10) or (11) who is employed by a political subdivision of the state; or

(3) an individual who is:

(A) described by Section 615.003(15); and

(B) employed as a trainee for a position otherwise described by this section.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 50 (S.B. 423), Sec. 3, eff. May 12, 2011.

Sec. 615.072. ELIGIBLE SURVIVORS. (a) A survivor of an individual listed under Section 615.071 is eligible for the health insurance benefits provided under this subchapter if:

(1) the listed individual died as a result of a personal injury sustained in the line of duty in the individual's position as described by Section 615.071; and

(2) the survivor is:

(A) the surviving spouse of the listed individual; or

(B) a dependent of the listed individual.

(b) In a determination of whether the survivor of an individual listed under Section 615.071 is eligible for the payment of assistance under this subchapter, any reasonable doubt arising from the circumstances of the individual's death shall be resolved in favor of the payment of assistance to the survivor.

(b-1) A survivor of an individual listed under Section 615.071 who would have been eligible for health insurance benefits during the life of the individual may not be denied health insurance benefits on the ground that the survivor was enrolled in group health insurance

with another employer as of the date of the individual's death.

(c) In this section:

(1) "Personal injury" means an injury resulting from an external force, an activity, or a disease caused by or resulting from:

(A) a line-of-duty accident; or

(B) an illness caused by line-of-duty work under hazardous conditions.

(2) "Line of duty" means an action an individual listed under Section 615.071 is required or authorized by rule, condition of employment, or law to perform. The term includes an action by the individual at a social, ceremonial, athletic, or other function to which the individual is assigned by the individual's employer.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 842, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 50 (S.B. 423), Sec. 4, eff. May 12, 2011.

Sec. 615.073. BENEFIT TO SURVIVING SPOUSE. (a) An eligible surviving spouse of a deceased individual listed in Section 615.071 who was employed by the state is entitled to purchase or continue to purchase health insurance benefits under Chapter 1551, Insurance Code, as provided by this subchapter.

(b) An eligible surviving spouse of a deceased individual listed in Section 615.071 who was employed by a political subdivision of the state is entitled to purchase or continue to purchase health insurance benefits from the political subdivision that employed the deceased individual, including health coverage:

(1) provided by or through a political subdivision under:

(A) a health insurance policy or health benefit plan written by a health insurer; or

(B) a self-insured health benefits plan; or

(2) under Chapter 172, Local Government Code.

(c) The surviving spouse is entitled to purchase or continue to purchase health insurance coverage until the date the surviving spouse becomes eligible for federal Medicare benefits.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 103, Sec. 1, eff. May 20, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 10A.518, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 55 (S.B. 872), Sec. 3, eff. May 19, 2009.
Acts 2011, 82nd Leg., R.S., Ch. 50 (S.B. 423), Sec. 5, eff. May 12, 2011.

Sec. 615.074. BENEFIT TO DEPENDENT. (a) An eligible surviving dependent who is a minor child is entitled to purchase or continue to purchase health insurance coverage until the date the dependent reaches the age of 18 or a later date to the extent required by state or federal law.

(b) An eligible surviving dependent who is not a minor child is entitled to purchase or continue to purchase health insurance coverage until the earlier of:

(1) the date the dependent becomes eligible for group health insurance through another employer; or

(2) the date the dependent becomes eligible for federal Medicare benefits.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1231, Sec. 42, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 55 (S.B. 872), Sec. 4, eff. May 19, 2009.
Acts 2011, 82nd Leg., R.S., Ch. 50 (S.B. 423), Sec. 6, eff. May 12, 2011.

Sec. 615.075. NOTICE. (a) An employing entity shall provide written notice to an eligible survivor to whom this subchapter may apply of the survivor's rights under this subchapter not later than the 10th day after the date of the decedent's death. Not later than the 150th day after the date of the decedent's death, the employing entity shall send a subsequent written notice under this subsection

by certified mail to any eligible survivor who has not already elected to purchase or continue to purchase coverage on or before that date.

(b) If an eligible survivor is a minor child, the employing entity shall also, at the same time, provide the notice to the child's parent or guardian, unless, after reasonable effort, the parent or guardian cannot be located.

(c) To receive coverage under this subchapter, the employing entity must be informed not later than the 180th day after the date the decedent died that the eligible survivor elects to purchase or continue to purchase coverage.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 55 (S.B. 872), Sec. 5, eff. May 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 50 (S.B. 423), Sec. 7, eff. May 12, 2011.

Sec. 615.076. LEVEL OF COVERAGE. (a) An eligible survivor may elect to purchase or continue to purchase coverage at any level of benefits currently offered by the employing entity to dependents of an active employee.

(b) An eligible survivor may elect to purchase or continue to purchase coverage at a reduced level of benefits if the employing entity offers that option.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 50 (S.B. 423), Sec. 8, eff. May 12, 2011.

Sec. 615.077. PAYMENTS; RATE. An eligible survivor who is entitled to coverage under this subchapter:

(1) is entitled to:

(A) make payments for the coverage or have payments made on the survivor's behalf at the same time and to the same entity

that payments for coverage are made by current employees of the employing entity; and

(B) obtain the coverage at the rate paid by current employees of the employing entity for that coverage; and

(2) may not be required to pay a premium amount for the coverage that is greater than the premium amount that a current employee of the employing entity without a spouse is required to pay to cover the employee alone or to cover the employee and the employee's dependent children, as applicable to the eligible survivor.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 55 (S.B. 872), Sec. 6, eff. May 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 50 (S.B. 423), Sec. 9, eff. May 12, 2011.

Sec. 615.078. CERTAIN PRACTICES NOT PROHIBITED OR AFFECTED. This subchapter does not:

(1) prohibit an employing entity from uniformly changing the group health insurance plan or group health coverage plan provided for its employees and employees' dependents;

(2) affect the definition of a dependent or the eligibility requirements for a dependent under a plan;

(3) prohibit an employing entity from increasing the cost of group health coverage to its employees and to eligible survivors covered under this subchapter to reflect any increased cost attributable to compliance with this subchapter; or

(4) affect the right of a political subdivision to self-insure or provide coverage under Chapter 172, Local Government Code.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.

Sec. 615.079. BENEFITS ADDITIONAL. The benefits provided by this subchapter are in addition to any other benefits provided by this chapter.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.

Sec. 615.080. GRACE PERIOD. Health insurance benefits coverage in force on the date of the decedent's death under which a deceased individual listed under Section 615.071 covered one or more other persons may not lapse before the 181st day after the date of the decedent's death for failure to pay the premium.

Added by Acts 2009, 81st Leg., R.S., Ch. 55 (S.B. 872), Sec. 7, eff. May 19, 2009.

SUBCHAPTER E. ADDITIONAL BENEFITS FOR ELIGIBLE SURVIVORS

Sec. 615.101. DEFINITION. In this subchapter, "governmental entity" includes the state, an agency or institution of the state, or a political subdivision of the state.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.

Sec. 615.102. DUTY WEAPON AND BADGE. (a) This section applies only to:

(1) an individual listed in Section 615.003(1) who is employed by a political subdivision of the state;

(2) a peace officer under Article 2A.001, Code of Criminal Procedure, or other law who is employed by the state, including any state agency or any institution of higher education under Section 61.003, Education Code; or

(3) an individual listed in Section 615.003(7).

(b) On the death of an individual listed in Subsection (a), the employing governmental entity shall provide, at no cost, the deceased individual's duty weapon, if any, and badge to the individual's:

(1) designated beneficiary; or

(2) estate if the individual did not designate a beneficiary.

(c) A governmental entity that employs an individual listed in Subsection (a) shall provide the individual a form on which the individual may designate the individual's beneficiaries for purposes

of this section.

(d) A governmental entity is not liable for damages caused by the use or misuse of a duty weapon provided to a designated beneficiary or estate under this section.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.110, eff. January 1, 2025.

Sec. 615.103. BURIAL WITH UNIFORM. (a) This section applies only to:

(1) an individual listed in Section 615.003(1) who is employed by a political subdivision of the state;

(2) a peace officer under Article 2A.001, Code of Criminal Procedure, or other law who is employed by the state, including any state agency or any institution of higher education under Section 61.003, Education Code;

(3) an individual listed in Section 615.003(7); or

(4) an individual listed in Section 615.003(10) or (11) who is employed by a political subdivision of the state.

(b) If an individual listed in Subsection (a) dies and is to be buried in the individual's uniform, the employing governmental entity shall provide the uniform at no cost.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.111, eff. January 1, 2025.

Sec. 615.104. BENEFITS ADDITIONAL. The benefits provided by this subchapter are in addition to any other benefits provided by this chapter.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.13(a), eff. Sept. 1, 1995.

Sec. 615.105. PROVISION OF STATE FLAG. (a) This section applies only to:

(1) an individual elected, appointed, or employed as a peace officer by the state or a political subdivision of the state under Article 2A.001, Code of Criminal Procedure, or other law; or

(2) an honorably retired peace officer who formerly held a position described by Subdivision (1) and voluntarily terminated employment with a law enforcement agency of this state or a political subdivision of this state.

(b) On the death of an individual listed in Subsection (a), regardless of whether the individual died as a result of a personal injury sustained in the line of duty as a peace officer, the individual's next of kin may receive on request a state flag from the Texas Commission on Law Enforcement.

(c) If the office of the governor is notified of the death of an individual listed in Subsection (a) by the Texas Commission on Law Enforcement under Section 1701.161, Occupations Code, the office of the governor shall send to the individual's next of kin a certificate that expresses condolences and gratitude on behalf of the governor and the people of Texas for the individual's service as a Texas peace officer.

Added by Acts 2001, 77th Leg., ch. 476, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 842, Sec. 4, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 744 (H.B. 2769), Sec. 1, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.32, eff. May 18, 2013.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.112, eff. January 1, 2025.

SUBCHAPTER F. ADDITIONAL BENEFITS FOR SURVIVOR OF PEACE OFFICER

Sec. 615.121. PAYMENT TO SURVIVING SPOUSE. (a) The state shall pay the following benefits to an eligible surviving spouse of a peace officer, a jailer, a county jailer or guard, or an employee of the Texas Department of Criminal Justice, as described by Section 615.003(1), (4), (6), or (7), who was killed in the line of duty and who had not qualified for an annuity under an employees' retirement

plan:

(1) funeral expenses related to the deceased person; and

(2) monthly payments that equal the greater of:

(A) the monthly annuity payment the deceased person would have received if the deceased person had survived, had retired on the last day of the month in which the person died, and had been eligible to receive an annuity under an employees' retirement plan; or

(B) the minimum monthly annuity payment the deceased person would have received if the person had been employed by the state for 10 years, had been paid a salary at the lowest amount provided by the General Appropriations Act for a position of peace officer, jailer, county jailer or guard, or employee of the Texas Department of Criminal Justice, as described by Section 615.003(1), (4), (6), or (7), and had been eligible to retire under the Employees Retirement System of Texas.

(b) The surviving spouse is entitled to continue to receive monthly payments under Subsection (a) until the earlier of:

(1) the date the surviving spouse remarries;

(2) the date the surviving spouse becomes eligible for retirement under an employees' retirement plan; or

(3) the date the surviving spouse becomes eligible for Social Security benefits.

(c) The Employees Retirement System of Texas may require the surviving spouse to provide information as necessary to administer this section.

(d) The Employees Retirement System of Texas may adopt rules necessary to administer this section including rules:

(1) setting the maximum amount of funeral expenses payable under this subchapter; and

(2) calculating the survivor benefits payable under this subchapter.

(e) The Employees Retirement System of Texas shall apply reduction factors, as applicable to an annuity payable under this section, in the same manner the factors are applied to a death benefit plan administered by the system.

(f) In this section, "line of duty" has the meaning assigned by Section 615.021.

Added by Acts 2001, 77th Leg., ch. 1438, Sec. 7, eff. Sept. 1, 2001.

Amended by Acts 2003, 78th Leg., ch. 842, Sec. 5, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.076, eff. September 1, 2009.
Acts 2019, 86th Leg., R.S., Ch. 1049 (H.B. 872), Sec. 2, eff. September 1, 2019.

Sec. 615.122. PAYMENT TO SURVIVING MINOR CHILDREN. If an eligible surviving spouse who would be entitled to benefits under Section 615.121 does not exist but one or more eligible surviving minor children of the deceased peace officer or employee of the Texas Department of Criminal Justice, as described by Section 615.003(1) or (6), do exist, the state shall pay to the guardian or other legal representative of those children the funeral expenses of the deceased officer or employee.

Added by Acts 2001, 77th Leg., ch. 1438, Sec. 7, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.077, eff. September 1, 2009.

Sec. 615.123. BENEFITS ADDITIONAL. The benefits provided by this subchapter are in addition to any other benefits provided by this chapter.

Added by Acts 2001, 77th Leg., ch. 1438, Sec. 7, eff. Sept. 1, 2001.

CHAPTER 616. EMERGENCY INTERIM PUBLIC OFFICE SUCCESSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 616.001. SHORT TITLE. This chapter may be cited as the Emergency Interim Public Office Succession Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 616.002. DEFINITIONS. In this chapter:

(1) "Emergency interim successor" means an individual designated under this chapter to exercise the powers and perform the

duties of an office.

(2) "Office" includes:

(A) a state office, the powers and duties of which are defined by the constitution or laws of this state, except the governor, a member of the judiciary, and a member of the legislature; and

(B) a local office, the powers and duties of which are defined by the constitution or laws of this state or by a charter or an ordinance.

(3) "Political subdivision" includes a municipality, a county, and a fire, power, or drainage district that is not included under Section 616.023.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 616.003. DISPUTES. (a) A dispute of fact under this chapter that relates to an office in the executive branch of state government, except a dispute of fact relating to the governor, shall be resolved by the governor or other official authorized to exercise the powers and perform the duties of the governor.

(b) A decision made by the governor or the official under this section is final.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. EMERGENCY INTERIM SUCCESSORS

Sec. 616.021. POWERS AND DUTIES OF EMERGENCY INTERIM SUCCESSOR. (a) The powers and duties of an office of the state or of a political subdivision may be exercised by an emergency interim successor under this chapter only if there has been an attack or series of attacks on the United States by an enemy of the United States that causes or may cause substantial damage or injury to civilian property or individuals in the United States by:

(1) sabotage;

(2) the use of bombs, missiles, shell fire, or atomic, radiological, chemical, bacteriological, or biological means; or

(3) the use of other weapons or processes.

(b) The designated emergency interim successor to an officer of the state or of a political subdivision, in the order specified,

shall exercise the powers and perform the duties of the office if:

(1) the officer and the officer's deputy are absent or unable to exercise the powers and perform the duties of the office; or

(2) the office is vacant and a deputy is not authorized to perform the duties of the office.

(c) The emergency interim successor to a state officer shall exercise the powers and perform the duties of the office until:

(1) the governor or other official authorized to exercise the powers and perform the duties of the governor appoints a successor to fill the vacancy;

(2) a successor is otherwise appointed or elected and qualifies; or

(3) the officer, the officer's deputy, or a preceding named emergency interim successor is available to exercise the powers and perform the duties of the office.

(d) The emergency interim successor to an officer of a political subdivision shall exercise the powers and perform the duties of the office until:

(1) the vacancy is filled; or

(2) the officer, the officer's deputy, or a preceding emergency interim successor is available to exercise the powers and perform the duties of the office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 616.022. DESIGNATION OF EMERGENCY INTERIM SUCCESSOR TO STATE OR POLITICAL SUBDIVISION OFFICER. (a) An officer of the state or of a political subdivision shall:

(1) designate by title emergency interim successors, if the officer is a state officer;

(2) designate by title or, if designation by title is not feasible, by name emergency interim successors, if the officer is an officer of a political subdivision;

(3) specify the order of succession; and

(4) review and revise, as necessary, the designations to ensure their current status.

(b) The officer shall designate a sufficient number of emergency interim successors, in addition to deputies authorized by

law to exercise the powers and perform the duties of the office, so that there is a total of at least three and not more than seven emergency interim successors and deputies.

(c) The governor or an official authorized to exercise the powers and perform the duties of governor may adopt regulations governing designations made by state officers under this section.

(d) The chief executive of a political subdivision may adopt regulations governing designations made by officers of the subdivision under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 616.023. DESIGNATION OF EMERGENCY INTERIM SUCCESSOR TO LOCAL OFFICER. (a) This section applies only to a local office for which the governing body of the local governmental entity may determine by ordinance or resolution the manner in which a vacancy is filled or temporary appointment is made.

(b) The governing body of the local governmental entity may enact a resolution or an ordinance providing for the designation under this chapter of emergency interim successors to local officers.

(c) In this section, "local governmental entity" includes a municipality or county.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 616.024. TERM OF DESIGNATION. The designation of an individual as an emergency interim successor continues at the pleasure of the designating authority and may be terminated with or without cause until the individual is authorized to exercise the powers and perform the duties of office in accordance with this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 616.025. OATH; BOND. (a) An emergency interim successor at the time of designation shall take the oath required to exercise the powers and perform the duties of office.

(b) An individual, before exercising the powers or performing

the duties of an office to which that individual succeeds, shall comply with the law relating to taking office, including provisions for a bond and an oath.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 616.026. TERMINATION OF POWERS AND DUTIES BY LEGISLATURE. The legislature, by concurrent resolution, may terminate the authority of emergency interim successors to exercise the powers and perform the duties of office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 617. COLLECTIVE BARGAINING AND STRIKES

Sec. 617.001. DEFINITION. In this chapter, "labor organization" means any organization in which employees participate and that exists in whole or in part to deal with one or more employers concerning grievances, labor disputes, wages, hours of employment, or working conditions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 617.002. COLLECTIVE BARGAINING BY PUBLIC EMPLOYEES PROHIBITED. (a) An official of the state or of a political subdivision of the state may not enter into a collective bargaining contract with a labor organization regarding wages, hours, or conditions of employment of public employees.

(b) A contract entered into in violation of Subsection (a) is void.

(c) An official of the state or of a political subdivision of the state may not recognize a labor organization as the bargaining agent for a group of public employees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 617.0025. APPLICABILITY OF CHAPTER TO OPEN-ENROLLMENT CHARTER SCHOOL. (a) An open-enrollment charter school established

under Subchapter D, Chapter 12, Education Code, is a political subdivision for purposes of this chapter.

(b) A member of the governing body of a charter holder, a member of the governing body of an open-enrollment charter school, and an officer of an open-enrollment charter school are considered to be officials of a political subdivision and an employee of an open-enrollment charter school is considered to be a public employee under this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 691 (S.B. 2293), Sec. 5, eff. September 1, 2019.

Sec. 617.003. PROHIBITION ON STRIKES BY PUBLIC EMPLOYEES. (a) Public employees may not strike or engage in an organized work stoppage against the state or a political subdivision of the state.

(b) A public employee who violates Subsection (a) forfeits all civil service rights, reemployment rights, and any other rights, benefits, and privileges the employee enjoys as a result of public employment or former public employment.

(c) The right of an individual to cease work may not be abridged if the individual is not acting in concert with others in an organized work stoppage.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 617.004. RIGHT TO WORK. An individual may not be denied public employment because of the individual's membership or nonmembership in a labor organization.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 617.005. EFFECT OF CHAPTER. This chapter does not impair the right of public employees to present grievances concerning their wages, hours of employment, or conditions of work either individually or through a representative that does not claim the right to strike.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 618. UNIFORM FACSIMILE SIGNATURE OF PUBLIC OFFICIALS ACT

Sec. 618.001. SHORT TITLE. This chapter may be cited as the Uniform Facsimile Signature of Public Officials Act.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 4, eff. Sept. 1, 1999.

Sec. 618.002. DEFINITIONS. In this chapter:

(1) "Authorized officer" means any official of this state, a political subdivision of this state, or a department, agency, or instrumentality of this state or of a political subdivision of this state whose signature is required or permitted to be placed on a public security, eligible contract, instrument of payment, or certificate of assessment.

(2) "Certificate of assessment" means a certificate or instrument evidencing a special assessment that is issued by an agency or political subdivision of this state.

(3) "Eligible contract" means a written evidence of agreement, including a contract, purchase order, and surety bond, and any related document, including an application, certificate, and approval, other than a public security or instrument of payment, that is executed, authenticated, certified, or endorsed for or on behalf of a home-rule municipality with a population of 200,000 or more.

(4) "Facsimile signature" means a reproduction of the manual signature of an authorized officer that is made by any method, including engraving, imprinting, lithographing, and stamping.

(5) "Instrument of payment" means a check, draft, warrant, or order for the payment, delivery, or transfer of money.

(6) "Public security" means an obligation for the payment of money, including a bond, note, and certificate of indebtedness, that is issued by this state, a political subdivision of this state, or a department, agency, or instrumentality of this state or of a political subdivision of this state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 4, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 669, Sec. 20, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1226 (S.B. 577), Sec. 1, eff. June 17, 2011.

Sec. 618.003. AUTHORITY FOR FACSIMILE SIGNATURE. (a) An authorized officer may execute, authenticate, certify, or endorse or authorize to be executed, authenticated, certified, or endorsed with the officer's facsimile signature instead of the officer's manual signature:

(1) a public security, instrument of payment, or certificate of assessment, if the use of the facsimile signature is authorized by the board, body, or officer empowered to authorize the issuance of the security, instrument, or certificate; or

(2) an eligible contract, if the use of the facsimile signature is authorized by the governing body of the municipality.

(b) A facsimile signature of the comptroller, or of a deputy designated in writing to act for the comptroller, may be placed on a public security required to be registered by the comptroller or a certificate on that security.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 4, eff. Sept. 1, 1999.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 181 (H.B. 1748), Sec. 1, eff. September 1, 2023.

Sec. 618.005. EFFECT OF FACSIMILE SIGNATURE. A facsimile signature placed in compliance with this chapter has the same legal effect as the authorized officer's manual signature.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 4, eff. Sept. 1, 1999.

Sec. 618.006. LACK OF AUTHORITY NOT DEFENSE. In a suit or other legal action against an authorized officer whose facsimile signature is placed under this chapter on a public security, instrument of payment, certificate of assessment, or eligible contract, the placement of the facsimile signature without the officer's authority or consent is not a defense.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 4, eff. Sept. 1, 1999.

Sec. 618.007. AUTHORITY FOR FACSIMILE SEAL. If the seal of this state, a political subdivision of this state, or a department,

agency, or instrumentality of this state or of a political subdivision of this state is required in the execution, authentication, certification, or endorsement of a public security, instrument of payment, certificate of assessment, or eligible contract, an appropriate authorized officer may authorize the printing, engraving, lithographing, stamping, or other placement of a facsimile of the seal on the document.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 4, eff. Sept. 1, 1999.

Sec. 618.008. EFFECT OF FACSIMILE SEAL. A facsimile seal placed in compliance with this chapter has the same legal effect as an impression of the seal.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 4, eff. Sept. 1, 1999.

Sec. 618.009. FRAUDULENT PLACEMENT OF FACSIMILE SIGNATURE OR SEAL; OFFENSE. (a) A person commits an offense if, with intent to defraud, the person places on a public security, instrument of payment, certificate of assessment or eligible contract:

(1) a facsimile signature or a reproduction of a facsimile signature; or

(2) a facsimile seal, or a reproduction of a facsimile seal, of this state, a political subdivision of this state, or a department, agency, or instrumentality of this state or a political subdivision of this state.

(b) An offense under this section is a felony punishable by imprisonment in the Texas Department of Criminal Justice for any term of not more than seven years or less than two years.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 4, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.078, eff. September 1, 2009.

CHAPTER 619. RIGHT TO EXPRESS BREAST MILK IN THE WORKPLACE

Sec. 619.001. DEFINITION. In this chapter, "public employer"

means:

(1) a county, a municipality, or another political subdivision of this state, including a school district; or

(2) a board, a commission, an office, a department, or another agency in the executive, judicial, or legislative branch of state government, including an institution of higher education.

Added by Acts 2015, 84th Leg., R.S., Ch. 921 (H.B. 786), Sec. 1, eff. September 1, 2015.

Sec. 619.002. RIGHT TO EXPRESS BREAST MILK. An employee of a public employer is entitled to express breast milk at the employee's workplace.

Added by Acts 2015, 84th Leg., R.S., Ch. 921 (H.B. 786), Sec. 1, eff. September 1, 2015.

Sec. 619.003. POLICY ON EXPRESSING BREAST MILK. (a) A public employer shall develop a written policy on the expression of breast milk by employees under this chapter.

(b) A policy developed under Subsection (a) must state that the public employer shall:

(1) support the practice of expressing breast milk; and

(2) make reasonable accommodations for the needs of employees who express breast milk.

Added by Acts 2015, 84th Leg., R.S., Ch. 921 (H.B. 786), Sec. 1, eff. September 1, 2015.

Sec. 619.004. PUBLIC EMPLOYER RESPONSIBILITIES. A public employer shall:

(1) provide a reasonable amount of break time for an employee to express breast milk each time the employee has need to express the milk; and

(2) provide a place, other than a multiple user bathroom, that is shielded from view and free from intrusion from other employees and the public where the employee can express breast milk.

Added by Acts 2015, 84th Leg., R.S., Ch. 921 (H.B. 786), Sec. 1, eff. September 1, 2015.

Sec. 619.005. DISCRIMINATION PROHIBITED. A public employer may not suspend or terminate the employment of, or otherwise discriminate against, an employee because the employee has asserted the employee's rights under this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 921 (H.B. 786), Sec. 1, eff. September 1, 2015.

Sec. 619.006. NO CAUSE OF ACTION CREATED. This chapter does not create a private or state cause of action against a public employer.

Added by Acts 2015, 84th Leg., R.S., Ch. 921 (H.B. 786), Sec. 1, eff. September 1, 2015.

CHAPTER 620. USE OF CERTAIN SOCIAL MEDIA APPLICATIONS AND SERVICES ON GOVERNMENTAL ENTITY DEVICES PROHIBITED

Sec. 620.001. DEFINITIONS. In this chapter:

(1) "Covered application" means:

(A) the social media service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited; or

(B) a social media application or service specified by proclamation of the governor under Section 620.005.

(2) "Governmental entity" means:

(A) a department, commission, board, office, or other agency that is in the executive or legislative branch of state government and that was created by the constitution or a statute, including an institution of higher education as defined by Section 61.003, Education Code;

(B) the supreme court, the court of criminal appeals, a court of appeals, a district court, or the Texas Judicial Council or another agency in the judicial branch of state government; or

(C) a political subdivision of this state, including a municipality, county, or special purpose district.

Added by Acts 2023, 88th Leg., R.S., Ch. 903 (S.B. 1893), Sec. 1, eff. June 14, 2023.

Sec. 620.002. DEFINING SECURITY RISK TO THIS STATE. For purposes of this chapter, a social media application or service poses a risk to this state if:

(1) the provider of the application or service may be required by a foreign government, or an entity associated with a foreign government, to provide confidential or private personal information collected by the provider through the application or service to the foreign government or associated entity without substantial due process rights or similar legal protections; or

(2) the application or service poses a similar risk to the security of this state's sensitive information, critical infrastructure, or both, as an application or service described by Section 620.001(1)(A).

Added by Acts 2023, 88th Leg., R.S., Ch. 903 (S.B. 1893), Sec. 1, eff. June 14, 2023.

Sec. 620.003. PROHIBITION; MODEL POLICY. (a) Subject to Section 620.004, a governmental entity shall adopt a policy prohibiting the installation or use of a covered application on any device owned or leased by the governmental entity and requiring the removal of covered applications from those devices.

(b) The Department of Information Resources and the Department of Public Safety shall jointly develop a model policy for governmental entities to use in developing the policy required by Subsection (a).

Added by Acts 2023, 88th Leg., R.S., Ch. 903 (S.B. 1893), Sec. 1, eff. June 14, 2023.

Sec. 620.004. EXCEPTIONS; MITIGATING MEASURES. (a) A policy adopted under Section 620.003 may provide for the installation and use of a covered application to the extent necessary for:

(1) providing law enforcement; or

(2) developing or implementing information security

measures.

(b) A policy allowing the installation and use of a covered application under Subsection (a) must require:

(1) the use of measures to mitigate risks posed to this state during the use of the covered application; and

(2) the documentation of those measures.

Added by Acts 2023, 88th Leg., R.S., Ch. 903 (S.B. 1893), Sec. 1, eff. June 14, 2023.

Sec. 620.005. APPLICATIONS IDENTIFIED BY GOVERNOR'S PROCLAMATION. The governor by proclamation may identify social media applications or services that pose a risk to this state as described by Section 620.002.

Added by Acts 2023, 88th Leg., R.S., Ch. 903 (S.B. 1893), Sec. 1, eff. June 14, 2023.

Sec. 620.006. APPLICATION IDENTIFIED BY DEPARTMENT OF INFORMATION RESOURCES AND DEPARTMENT OF PUBLIC SAFETY. (a) The Department of Information Resources and the Department of Public Safety shall jointly identify social media applications or services that pose a risk to this state as described by Section 620.002.

(b) The Department of Information Resources shall:

(1) annually submit a list of applications and services identified under Subsection (a) to the governor;

(2) publish the list on the department's publicly accessible Internet website; and

(3) periodically update the list on that website.

Added by Acts 2023, 88th Leg., R.S., Ch. 903 (S.B. 1893), Sec. 1, eff. June 14, 2023.

SUBTITLE B. STATE OFFICERS AND EMPLOYEES

CHAPTER 651. GENERAL PROVISIONS

Sec. 651.001. DEFINITION. In any state statute, "officer" means an officer of this state unless otherwise expressly provided.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 651.002. BENEFITS OF AND RESTRICTIONS ON STATE EMPLOYEES WORKING OUT OF STATE. A state employee who is required to work outside of this state is entitled to the same benefits and is subject to the same restrictions provided by law for other state employees, including vacation, leave from employment, and the employment policies and restrictions provided by the General Appropriations Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 651.003. WRITTEN STATEMENT OF DISSENTING BOARD MEMBER. A member of the governing board of an agency in the executive branch of state government may dissent from an action taken by the board and is entitled to enter a written statement of dissent into the minutes of the meeting.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 651.004. MANAGEMENT-TO-STAFF RATIOS. (a) A state agency shall develop procedures for use in achieving a management-to-staff ratio of one manager for each 11 staff members.

(b) In this section, "state agency" has the meaning assigned by Section 2052.101.

(c) A state agency in the executive branch of state government that employs more than 100 full-time equivalent employees may not employ more than one full-time equivalent employee in a management position for every 11 full-time equivalent employees that the agency employs in nonmanagerial staff positions.

(d) A state agency that believes that the minimum management-to-staff ratios required by this section are inappropriate for that agency may appeal to the Legislative Budget Board. The Legislative Budget Board by rule shall adopt appeal procedures.

(e) The Department of Family and Protective Services is not required to comply with management-to-staff ratio requirements of this section with respect to caseworker supervisors, program directors, and program administrators.

(f) The Parks and Wildlife Department is not required to comply

with management-to-staff ratio requirements of this section with respect to employees located in field-based operations.

(g) The Texas Historical Commission is not required to comply with management-to-staff ratio requirements of this section with respect to employees located in field-based operations.

Added by Acts 1997, 75th Leg., ch. 1035, Sec. 88, eff. June 19, 1997. Amended by Acts 2003, 78th Leg., ch. 200, Sec. 16(a), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 200, Sec. 16(b), eff. Sept. 1, 2004; Acts 2003, 78th Leg., ch. 200, Sec. 16(c), eff. Sept. 1, 2005; Acts 2003, 78th Leg., ch. 200, Sec. 16(d), eff. Sept. 1, 2006.
Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.71, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 14, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 6, eff. June 17, 2011.

Sec. 651.005. REQUIREMENT OF SELECTIVE SERVICE REGISTRATION OR EXEMPTION. (a) An agency in any branch of state government may not hire a person as an employee if the person is of the age and gender that would require a person residing in the United States to register with the selective service system under federal law, unless the person presents proof of the person's:

(1) registration with the selective service system as required by federal law; or

(2) exemption from registration with the selective service system.

(b) This section does not apply to a person employed by a state agency before September 1, 1999, as long as the person's employment by the agency is continuous.

Added by Acts 1999, 76th Leg., ch. 171, Sec. 1, eff. Sept. 1, 1999.

Sec. 651.006. REDUCTIONS IN FORCE. A state governmental entity undergoing a reorganization mandated by statute may institute a reduction in force as a direct result of the reorganization, notwithstanding a rule, personnel handbook, or policy of the entity

to the contrary.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 1, eff. Sept. 1, 1999. Renumbered from Sec. 651.005 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(56), eff. Sept. 1, 2001.

Sec. 651.007. EXIT INTERVIEWS. (a) In this section, "state agency" means a board, commission, council, committee, department, office, agency, or other governmental entity in the executive, legislative, or judicial branch of state government. The term does not include an institution of higher education as defined by Section 61.003, Education Code.

(b) Each state agency shall conduct an exit interview with an employee who leaves employment with the agency. The state agency shall conduct the exit interview by having the employee access the questionnaire posted on the state auditor's Internet site and electronically submit the completed questionnaire to the state auditor. The questionnaire must state that the employee has the option of having the employee's questionnaire furnished to the head of the agency or the governor's office.

(c) The state agency shall conduct the exit interview in a manner that allows the employee alone to describe the employee's reason for leaving employment. The state agency may not alter the description stated by the employee. The state agency may not have access to the questionnaire unless it is provided by the employee under Subsection (b).

(d) Subject to Subsection (j), the state auditor shall develop the exit interview questionnaire. In developing the questionnaire under this subsection, the state auditor shall consult with the comptroller and representatives designated by the comptroller from small, medium, and large state agencies.

(e) Not later than the 15th day following the end of the calendar quarter, the state auditor shall submit, subject to Subsection (j), a report to each state agency containing the responses to the exit interview questionnaire submitted by each former employee of the agency during the preceding quarter. The state auditor's report may not contain the name of an employee or any other information identifying the employee.

(f) A state agency may not share the responses to an exit

interview questionnaire with another state agency.

(g) The responses to an exit interview questionnaire are confidential and not subject to disclosure under Chapter 552, including responses to a questionnaire furnished to an entity listed under Subsection (b). The responses may be disclosed only to a law enforcement agency in a criminal investigation or on order of a court.

(h) Subject to Subsection (j), the state auditor may audit each state agency's records to determine whether the agency is complying with the requirements of this section.

(i) Not later than December 15 of each year before a regular session of the legislature, the state auditor shall submit a report summarizing the findings of the exit interviews to the governor, lieutenant governor, speaker of the house of representatives, and members of the Senate Committee on Finance and House Committee on Appropriations.

(j) Work performed under this section by the state auditor is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c).

Added by Acts 2001, 77th Leg., ch. 733, Sec. 1, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 17, eff. Sept. 1, 2003.

Sec. 651.008. UNCONSTITUTIONALLY COMPOSED GOVERNING BODY WITH SIX-YEAR TERMS. (a) This section applies to the governing body of a state board or commission or other state agency only if:

(1) by statute the governing body is composed of an even number of voting members, the appointed members of whom serve staggered six-year terms; and

(2) there is no provision of the Texas Constitution under which the governing body is allowed to be composed in that manner and serve staggered six-year terms.

(b) Notwithstanding the terms of the statute that prescribes the composition and terms of the governing body, the appointed members of the governing body serve two-year terms.

(c) The terms of the members of the governing body who have served less than two years since the date their current terms began expire on the second anniversary of the date their current terms

began. The members of the governing body who have served two or more years since the date their current terms began are considered to be performing the duties of their office in a holdover capacity until their successors are qualified in accordance with Section 17, Article XVI, Texas Constitution.

(d) As soon as possible after it is determined that this section applies to the governing body, the administrative head of the state board or commission or other state agency shall inform of that fact:

(1) each state officer or other entity that by statute appoints one or more members to the governing body;

(2) the governor and the presiding officer of each house of the legislature;

(3) each standing committee of each house of the legislature that under the rules of either house has jurisdiction over legislative matters pertaining to the board, commission, or other agency; and

(4) the Legislative Reference Library for purposes of including current information in the Texas Appointment System database.

(e) As soon as possible after an appointing officer or entity is informed under Subsection (d), the appointing authority shall make any necessary appointments or reappointments to the governing body to fill the positions of members described by Subsection (c) who are serving in a holdover capacity. If a member whose position is being filled has served two or more years but less than four years of a term, the appointment made under this subsection is for a term expiring on the fourth anniversary of the date the term began. If a member whose position is being filled has served four or more years but less than six years of a term, the appointment made under this subsection is for a term expiring on the sixth anniversary of the date the term began.

Added by Acts 2003, 78th Leg., ch. 1170, Sec. 50.01, eff. June 20, 2003.

Sec. 651.0085. CERTAIN UNCONSTITUTIONALLY COMPOSED DISTRICTS AND AUTHORITIES WITH SIX-YEAR TERMS. (a) This section applies only to the governing body of a district or authority created under

Section 52(b), Article III, Texas Constitution, or Section 59, Article XVI, Texas Constitution, and only if:

(1) by law the governing body is composed of an even number of voting members; and

(2) the elected or appointed members of the governing body serve staggered six-year terms and the only provision of the Texas Constitution under which the members of the governing body are allowed to serve staggered six-year terms is Section 30a, Article XVI.

(b) Section 651.008 does not apply to a district or authority to which this section applies.

(c) Notwithstanding the terms of the enabling statute of the district or authority that prescribes the number of members of the governing body:

(1) if some or all of the members of the governing body are appointed, the governor shall appoint an additional public or at-large member, as applicable, to the governing body for an initial term expiring on the date on which the terms of members of the governing body whose terms are scheduled to expire between four and six years after the date of the governor's appointment under this subdivision expire; and

(2) if all of the members of the governing body are elected, an additional public or at-large elected position, as applicable, is created on the governing body and the governor shall appoint the initial member to fill that position for an initial term expiring on the first date on which members' terms expire following the next election for members of the governing body.

(d) As soon as possible after it is determined that this section applies to the governing body, the administrative head of the district or authority shall inform of that fact:

(1) each appointing authority that by statute appoints one or more members to the governing body;

(2) the governor and the presiding officer of each house of the legislature;

(3) each standing committee of each house of the legislature that under the rules of either house has jurisdiction over legislative matters pertaining to the district or authority;

(4) the secretary of state, if the governing body is subject to Subsection (c)(2), for purposes of allowing the secretary of state to advise the district or authority on matters relating to

preclearance under the federal Voting Rights Act (42 U.S.C. Section 1973c et seq.); and

(5) the Legislative Reference Library for purposes of including current information in the Texas Appointment System database.

(e) If the governor appoints a member to the governing body of the district or authority under Subsection (c)(1) and the legislature does not, by law, make other arrangements for electing or appointing a person to fill the position, the governor shall continue to appoint a member to fill the position as vacancies in the position occur and as a member's term in the position expires. If the governor appoints a member to the governing body of the district or authority under Subsection (c)(2) and the legislature does not, by law, make other arrangements for electing or appointing a person to fill the position, the position shall be filled by election as vacancies in the position occur and as a member's term in the position expires, except to the extent that the enabling statute for the district or authority provides a different method for filling vacancies on the governing body.

(f) After the initial term of a position created under this section expires, the term of the position is six years.

Added by Acts 2003, 78th Leg., ch. 1170, Sec. 50.01, eff. June 20, 2003.

Sec. 651.009. DIVERSITY ON GOVERNING BODY. (a) In each case in which the governing body of a state board, commission, or other state agency that has statewide jurisdiction is appointed by the governor or another appointing authority, the governor or appointing authority shall ensure that, to the extent possible, the membership of the governing body reflects the racial, ethnic, and geographic diversity of this state.

(b) In the case of a governing body the membership of which is appointed by two or more appointing authorities, the appointing authorities shall coordinate their appointments, to the extent possible, as necessary to comply with Subsection (a).

Added by Acts 2003, 78th Leg., ch. 1170, Sec. 50.01, eff. June 20, 2003.

Sec. 651.010. ENTREPRENEUR-IN-RESIDENCE. (a) In this section, "state agency" means a board, commission, department, office, or other agency in the executive branch of state government created under the constitution or a statute of this state, including an institution of higher education as defined by Section 61.003, Education Code.

(b) From available funds, a state agency may hire an entrepreneur-in-residence or contract with an individual, chamber of commerce, or nonprofit entity to:

(1) improve outreach by state government to the private sector, including historically underutilized businesses;

(2) strengthen coordination and interaction between state government and the private sector;

(3) facilitate the understanding and use of technological advances to make state government more transparent and interactive; and

(4) implement the best private sector practices to make state government programs simpler, easier to access, more efficient, and more responsive to users.

(c) An individual hired or contracted with under this section must be successful in the individual's field.

Added by Acts 2013, 83rd Leg., R.S., Ch. 409 (S.B. 328), Sec. 1, eff. September 1, 2013.

CHAPTER 652. VACANCIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 652.001. TERM OF APPOINTMENT TO VACANCY. An appointment made by the governor to a vacancy in the office of a commissioner, commission, or board created by law is for the unexpired term, unless otherwise provided by law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. PROHIBITIONS ON FILLING VACANCIES

Sec. 652.021. SCOPE OF SUBCHAPTER. (a) This subchapter applies to a vacancy in a state or district office that is to be filled by appointment by the governor.

(b) For purposes of this subchapter, the expiration of a state

or district officer's term of office creates a vacancy in the office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 652.022. DEFINITION. In this subchapter, "transition period" means the period beginning on November 1 preceding the day of a general election for the office of governor and ending on the day the individual elected governor, or the individual's successor if the individual elected governor is unable to serve, takes office as governor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 652.023. PROHIBITION AGAINST FILLING CERTAIN VACANCIES. An incumbent governor may not, during the transition period, appoint an individual to fill a vacancy that occurred before the beginning of the transition period.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 652.024. EXCEPTIONS. Section 652.023 does not apply to:

(1) an incumbent governor if the secretary of state proclaims that, according to the secretary's count of returns from the general election, the governor is reelected; or

(2) a vacancy that:

(A) first occurs after October 1 preceding the transition period and before the transition period begins;

(B) is caused by the death of the officeholder; and

(C) would not have occurred during the period described by Paragraph (A) by the expiration of the officeholder's term of office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 652.025. APPOINTMENT VOID. An appointment made in violation of Section 652.023 is void.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 652.026. VACANCY DURING TRANSITION PERIOD. (a) If a vacancy first occurs during the transition period, the incumbent governor may appoint an individual to fill the vacancy only for a partial term expiring February 1 following the occurrence of the vacancy.

(b) This section does not apply to:

(1) a vacancy for which Article V of the Texas Constitution prescribes a different term; or

(2) an appointee of an incumbent governor if the secretary of state proclaims that, according to the secretary's count of the returns from the general election, the governor is reelected.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 653. BONDS COVERING CERTAIN STATE OFFICERS AND EMPLOYEES

Sec. 653.001. SHORT TITLE. This chapter may be cited as the State Employee Bonding Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 653.002. LEGISLATIVE INTENT. The intent of the legislature in enacting this chapter is to limit the purchase of surety bonds by state agencies in order that the state, to the greatest extent practicable, shall self-insure for such purposes. This chapter does not affect the purchase by a state agency of any form of insurance other than a surety bond.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 1017, Sec. 1.10, eff. Sept. 1, 2002.

Sec. 653.003. DEFINITIONS. In this chapter:

(1) "Surety bond" means any bond, including a bond for a notary public under Section 406.010, that obligates a surety to pay within certain limits a loss caused by a:

(A) dishonest act of an officer or employee of a state agency; or

(B) failure of an officer or employee of a state agency to faithfully perform a duty of the officer's or employee's office or position.

(2) "Office" means the State Office of Risk Management.

(3) "State agency" means a state department, commission, board, institution, court, or institution of higher education. The term also includes a soil conservation district of the state but does not include any other political subdivision of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1017, Sec. 1.11, eff. Sept. 1, 2002.

Sec. 653.004. AUTHORITY TO PURCHASE BONDS. (a) Notwithstanding any other law that authorizes or requires a state officer or employee to obtain a surety bond, a state agency may purchase a surety bond for a state officer or employee only if:

(1) required by the constitution of the state or by federal law or regulation;

(2) required by court order; or

(3) approved by the office.

(b) The office may approve the purchase of a surety bond if:

(1) the office finds that the surety bond is warranted by a substantial or unusual risk of loss; or

(2) the office otherwise determines that the purchase of a surety bond is necessary to protect the interests of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.42, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1017, Sec. 1.12, eff. Sept. 1, 2002.

Sec. 653.005. SCOPE AND AMOUNT OF BOND COVERAGE. Unless the amount of bond coverage is established as provided by Subsections (a)(1) and (a)(2) of Section 653.004, the office shall determine the necessary scope and amount of bond coverage for a state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 2001, 77th Leg., ch. 1017, Sec. 1.13, eff. Sept. 1, 2002.

Sec. 653.006. TERMS OF BONDS. A bond may be purchased for three-year coverage.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 653.007. WRITING OF BONDS. (a) Only an insurance company authorized to act as surety in this state may write a bond under this chapter.

(b) A bond under this chapter must be written in triplicate originals on a form approved by the State Board of Insurance.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 653.008. FILING AND CUSTODY OF BONDS. (a) One original of each bond shall be filed with the secretary of state.

(b) One original of each bond shall be filed with the comptroller.

(c) One original of each bond shall be filed with the state agency covered by the bond.

(d) Each state agency is responsible for custody of the bond.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 653.009. PAYMENT OF PREMIUMS. The state, as beneficiary, shall pay premiums on bonds under this chapter from:

(1) money appropriated by the legislature for that purpose;

(2) money appropriated by the legislature to a state agency that may be used for:

(A) administration or administration expense;

(B) operation expense;

(C) general operation expense;

(D) maintenance;

(E) miscellaneous expense; or

(F) contingencies; or

(3) money of a state agency that:

(A) is outside the state treasury; and

(B) may be used by the agency for operational expenses of the agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1498, Sec. 2, eff. Sept. 1, 1999.

Sec. 653.010. ATTORNEY GENERAL AUTHORIZED TO RECOVER LOSS. The attorney general, on notice by an agency of a loss covered by a bond under this chapter, may:

(1) immediately bring or cause to be brought an action to recover the loss; and

(2) take any action necessary for recovery of the obligation of the surety.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 653.011. DEPOSIT OF RECOVERY. A recovery of a loss or a recovery on a bond under this chapter shall be deposited to the credit of the fund from which the loss occurred.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 653.012. QUALIFICATION FOR OFFICE OR EMPLOYMENT. Notwithstanding any other law that requires a state officer or employee to obtain a surety bond, a state officer or employee otherwise qualified to hold office, employment, or to serve as a notary public shall not be disqualified because a surety bond has not been obtained for such officer or employee.

Added by Acts 2001, 77th Leg., ch. 1017, Sec. 1.14, eff. Sept. 1, 2002.

CHAPTER 654. POSITION CLASSIFICATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 654.001. SHORT TITLE. This chapter may be cited as the Position Classification Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 654.002. POSITION CLASSIFICATION PLAN. In this chapter, the position classification plan is the Texas Position Classification Plan, 1961, that was filed with the governor, as changed under this chapter, and that provides the salary structure for specified state employments.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. POSITION CLASSIFICATION PLAN

Sec. 654.011. APPLICATION OF POSITION CLASSIFICATION PLAN. (a) The position classification plan and the salary rates and provisions in the General Appropriations Act apply to all hourly, part-time, temporary, and regular, full-time salaried employments in the state departments, agencies, or judicial entities specified in the articles of the General Appropriations Act that appropriate money to:

(1) general government agencies;

(2) health and human services agencies;

(3) the judiciary, except for judges, district attorneys, and assistant district attorneys;

(4) public safety and criminal justice agencies;

(5) natural resources agencies;

(6) business and economic development agencies;

(7) regulatory agencies; and

(8) agencies of public education, but only the Texas Education Agency, the Texas School for the Blind and Visually Impaired, the State Board for Educator Certification, and the Texas School for the Deaf.

(b) Except as provided by this chapter, the position classification plan and the salary rates and provisions in the General Appropriations Act apply to all hourly, part-time, temporary, and regular, full-time salaried employments in executive and administrative agencies of the state without regard to whether the money of the agency is kept in the state treasury.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.19, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1140, Sec. 1, eff. Sept. 1, 1997. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 831 (H.B. 735), Sec. 9, eff. September 1, 2008.

Sec. 654.012. EXCEPTIONS FROM POSITION CLASSIFICATION PLAN. The position classification plan does not apply to:

(1) a constitutional officer or official;

(2) an elected officer or official;

(3) an officer appointed by the governor;

(4) the chief executive of a state agency;

(5) a teacher in a public school, special school of the state, or state institution of higher education;

(6) personnel in state institutions of higher education;

(7) a professional compensated for services on a fee basis; and

(8) an employment excluded from the plan:

(A) by executive order of the governor; or

(B) at the direction of the legislature.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1140, Sec. 2, eff. Sept. 1, 1997.

Sec. 654.0125. EXEMPTION OF POSITIONS BY GOVERNOR. (a) Appropriated money may not be used to pay the salary of a person in a position exempted from the position classification plan by the governor under Section 654.012(8)(A) unless the position is a bona fide new position established to accomplish duties related to programs or functions that were not anticipated, and for that reason not funded, under the General Appropriations Act.

(b) A new position may not be created under Section 654.012(8)(A) for the sole purpose of adjusting the salary of an existing position.

(c) The governor's exemption of a position from the position classification plan under Section 654.012(8)(A) must contain a

certification that the exemption is for a bona fide new position. The comptroller may not pay compensation for the position until formal notification of the action of the governor to exempt the position is filed with the classification officer and the Legislative Budget Board.

(d) A position exempted by the governor under Section 654.012(8)(A) in the first year of a state fiscal biennium may continue into the second year. The salary rate established for the position may be adjusted for the second year of the biennium by a rate not to exceed the rate by which the salary schedule for classified positions in the General Appropriations Act is adjusted from the first to the second year of the biennium.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 2, eff. Sept. 1, 1999.

Sec. 654.013. DEFERRAL FROM POSITION CLASSIFICATION PLAN. Nonacademic employments in state institutions of higher education are deferred from the application of the position classification plan until the governor orders or the legislature directs otherwise.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 654.014. APPOINTMENTS TO CONFORM WITH POSITION CLASSIFICATION PLAN AND GENERAL APPROPRIATIONS ACT. (a) Each employment to which this subchapter applies shall conform to:

(1) the classes of work described in the position classification plan;

(2) the titles authorized by the plan; and

(3) the salary rates and provisions in the General Appropriations Act.

(b) Each state agency or other state entity subject to this chapter may determine, at the time an individual is initially employed by the entity in a classified position, the individual's salary rate within the applicable salary group for the individual's classified position.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 279, Sec. 3, eff. Sept. 1, 1999.

Sec. 654.015. QUALIFICATION GUIDELINES AND SPECIFICATIONS IN POSITION CLASSIFICATION PLAN. General qualification guidelines in the position classification plan, including specifications for experience, training, education, knowledge, skills, abilities, and physical conditions:

(1) are only meant to represent the qualifications commonly wanted by employing officers of the state; and

(2) do not have the force of law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1140, Sec. 3, eff. Sept. 1, 1997.

Sec. 654.0155. PERIODIC REVIEW OF POSITIONS. To ensure that each position is properly classified, each employing state entity subject to this chapter:

(1) shall annually review individual job assignments within the entity; and

(2) may perform a monthly review of job assignments.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 4, eff. Sept. 1, 1999.

Sec. 654.0156. RECLASSIFICATION. (a) An employing state entity subject to this chapter may reclassify a position to another title in the position classification plan:

(1) in response to a classification review; or

(2) as a result of a program reorganization by the administrative head of the employing state entity.

(b) The sole purpose of a reclassification is to properly classify a position and define its duties under this chapter based on the duties currently performed by an employee holding the reclassified position. A reclassification therefore does not indicate that the employee's assigned duties should or will be changed.

(c) A reclassification may take effect at any time.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 4, eff. Sept. 1, 1999.

Sec. 654.016. NEW CLASS OR KIND OF WORK. (a) A governing board or a chief executive of an agency needing to employ a person in a class or kind of work that is subject to but not described in the position classification plan shall notify the classification officer of the situation.

(b) The classification officer shall, to permit the needed employment, promptly:

(1) include the employment in an existing class description of work or provide a new class description of work for the employment; and

(2) set a salary range for the class.

(c) The classification officer shall notify the comptroller of the actions.

(d) An action of the classification officer under this section is subject to:

(1) any limitation established for the agency in the General Appropriations Act, including limitations on the number of positions and amount of appropriations; and

(2) the approval of the state auditor with advice from the Legislative Audit Committee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. CLASSIFICATION OFFICER

Sec. 654.031. POSITION OF CLASSIFICATION OFFICER. The position of classification officer is in the office of the state auditor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 654.032. APPOINTMENT OF CLASSIFICATION OFFICER. The state auditor shall appoint the classification officer, subject to the advice and approval of the Legislative Audit Committee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 654.033. QUALIFICATIONS OF CLASSIFICATION OFFICER. To be eligible for appointment as classification officer, an individual must have:

(1) at least six years' experience in position classification or human resource management; or

(2) a period of experience equivalent to that described in Subdivision (1) in related work in state employment that specially qualifies the person for the position.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1140, Sec. 4, eff. Sept. 1, 1997.

Sec. 654.034. SALARY OF CLASSIFICATION OFFICER. The classification officer is entitled to the salary set by the General Appropriations Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 654.035. FIRST ASSISTANT CLASSIFICATION OFFICER. The classification officer, subject to the approval of the state auditor and the Legislative Audit Committee, may appoint a first assistant classification officer to whom the classification officer may delegate the statutory powers and duties of the classification officer when the classification officer is absent.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 654.036. GENERAL DUTIES OF CLASSIFICATION OFFICER. The classification officer shall:

(1) maintain and keep current the position classification plan;

(2) advise and assist state agencies in equitably and uniformly applying the plan;

(3) conduct classification compliance audits to ensure conformity with the plan; and

(4) make recommendations that the classification officer finds necessary and desirable about the operation and for improvement of the plan to the governor and the legislature.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 1140, Sec. 5, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3923, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 654.037. SALARY STUDIES AND RECOMMENDATIONS. (a) The classification officer shall:

(1) make periodic studies of salary rates in other governmental units and in industry for similar work performed in state government; and

(2) report the classification officer's findings from the studies made under Subdivision (1) to the governor's budget office and the Legislative Budget Board not later than October 1 preceding each regular session of the legislature.

(b) The classification officer shall conduct, before September 1 of each even-numbered year, a survey of local law enforcement departments that employ more than 1,000 commissioned law enforcement officers to gather information about the total compensation provided by the departments to law enforcement officers. Before January 1 of each odd-numbered year, the classification officer shall analyze the findings of the most recent survey conducted in accordance with this subsection and shall submit to the legislature a report on the findings of the survey and analysis. The report must identify the five local law enforcement departments that provide the highest average total compensation to local law enforcement officers who have been employed by the local law enforcement departments at the maximum salary level.

(c) To improve the ability of the state to recruit and retain qualified law enforcement officers, the legislature may consider the report submitted under Subsection (b) in determining the salaries of all state law enforcement officers who hold a position classified under the state employee classification system and are compensated under Salary Schedule C of the General Appropriations Act.

(d) Each state fiscal biennium the classification officer shall:

(1) identify each state agency that experienced an employee turnover rate of more than 17 percent during the preceding state fiscal biennium;

(2) with respect to each state agency described by Subdivision (1), conduct a comparative study of salary rates at the agency that compares the salaries paid at the agency with:

(A) the market average maximum salary in other governmental units and in the private sector for similar work performed; and

(B) the market average mid-range salary in other governmental units and in the private sector for similar work performed; and

(3) report the findings of the study in the manner provided by Subsection (a)(2).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 785, Sec. 18, eff. Sept. 1, 2003.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 40, eff. September 1, 2013.

Sec. 654.0375. MILITARY OCCUPATIONAL SPECIALTY CODE IDENTIFICATION; REPORT. (a) Each state fiscal biennium the classification officer shall research and identify the military occupational specialty code for each branch of the armed forces of the United States that corresponds to each position contained in the state's position classification plan.

(b) The classification officer shall report the findings under Subsection (a) in the manner provided by Section 654.037(a)(2).

(c) The classification officer may request the assistance of the Texas Veterans Commission in performing a duty required under this section. The Texas Veterans Commission shall provide the requested assistance.

Added by Acts 2015, 84th Leg., R.S., Ch. 111 (S.B. 389), Sec. 1, eff. September 1, 2015.

Sec. 654.038. CLASSIFICATION COMPLIANCE AUDITS; NOTIFICATION AND VOLUNTARY CORRECTION OF NONCONFORMITY. (a) The classification officer shall notify the governor, the comptroller, the Legislative Audit Committee, and the chief executive of the agency in writing

when a classification compliance audit reveals nonconformity with the position classification plan or with prescribed salary ranges. The notification shall specify the points of nonconformity.

(b) The chief executive is entitled to a reasonable opportunity to resolve the nonconformity by:

(1) reclassifying the employee to a position title or class consistent with the work performed;

(2) changing the employee's duties to conform to the assigned class; or

(3) obtaining a new class description of work and salary range.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1140, Sec. 6, eff. Sept. 1, 1997.

Sec. 654.039. REPORT OF INACTION. The classification officer shall make a written report of the facts to the governor and the Legislative Budget Board if the chief executive of an agency does not comply with Section 654.038(b) before the 21st day after the date of the classification officer's written notification.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 654.040. ACTION BY GOVERNOR. In response to a report under Section 654.039, the governor may determine, after consultation with the Legislative Audit Committee, the action to be taken to resolve a nonconformity.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1140, Sec. 7, eff. Sept. 1, 1997.

Sec. 654.041. EXAMINATION FOR COMPLIANCE BY STATE AUDITOR; REPORTS. The state auditor, subject to a risk assessment and to the Legislative Audit Committee's approval of including the examination in the audit plan under Section 321.013, may:

(1) examine or cause to be examined, in periodic postaudits

of their expenditures and by methods the auditor considers appropriate and adequate, whether departments and agencies are in compliance with this chapter; and

(2) report the findings to the governor, the comptroller, and the Legislative Audit Committee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 19, eff. Sept. 1, 2003.

Sec. 654.042. ASSISTANCE FROM STATE AUDITOR. The state auditor may provide assistance to the classification officer using money appropriated for that purpose.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 654.043. FREE USE OF COMPTROLLER'S DATA PROCESSING CENTER. The classification officer may use, without charge, the comptroller's data processing center to process position classification information when the center is available.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. OTHER LAWS

Sec. 654.061. CONSTRUCTION WITH OTHER LAWS. (a) This chapter does not affect the authority of a governing body or a chief executive of an agency under another law to employ persons or promote or dismiss employees.

(b) This chapter does not authorize an increase in the number of positions in an agency or the amount of appropriations to an agency set by the General Appropriations Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 654.062. CONFLICT WITH LAWS RELATING TO EMPLOYEE MERIT SYSTEMS IN CERTAIN AGENCIES. Sections 654.015 and 654.061 do not abrogate statutory authorization for a state agency to operate under

an employee merit system as a condition for qualifying for federal grants-in-aid. A merit system agreed to by a state agency and an agency of the federal government shall continue in effect, subject to applicable state law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 655. MERIT SELECTION

Sec. 655.001. APPLICABILITY. This chapter applies only to a state agency that is required by federal law or regulation to use a merit system of personnel administration for the agency or for a program administered under the agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 655.002. MERIT SELECTION PRINCIPLES. (a) A state agency by rule shall establish intraagency policies and procedures to ensure:

(1) compliance with the federal requirements; and

(2) the recruitment, selection, and advancement of highly competent agency personnel.

(b) A rule adopted under this section must ensure that the state agency:

(1) recruits, selects, and promotes its employees according to the relative abilities, knowledge, and skills of the applicants or employees;

(2) provides equitable and adequate compensation to an employee;

(3) provides any employee training necessary to ensure performance of a high quality;

(4) uses the adequacy of an employee's job performance to determine whether the employee will be retained;

(5) treats a job applicant or employee fairly in all aspects of personnel administration;

(6) complies fully with state and federal equal opportunity and nondiscrimination laws; and

(7) protects an employee against coercion for partisan political purposes and prohibits the employee from using employment status to interfere with or affect the result of an election or

nomination for office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 655.003. ADDITIONAL MERIT SELECTION PRINCIPLES. A state agency shall implement any additional merit principles required by federal law or regulation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 655.004. ADMINISTRATION OF MERIT SELECTION. A state agency may create a separate division within the agency to administer merit selection policies and procedures if the chief executive of the agency considers the creation necessary.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 656. JOB NOTICES AND TRAINING

SUBCHAPTER A. EMPLOYMENT OPENINGS

Sec. 656.001. STATE AGENCY EMPLOYMENT OPENING. Any agency, board, bureau, commission, committee, council, court, department, institution, or office in the executive or judicial branch of state government that has an employment opening for which persons from outside the agency will be considered shall list the opening with the Texas Workforce Commission.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 817, Sec. 10.05, eff. Sept. 1, 2003.

Sec. 656.002. ONLINE STATE AGENCY EMPLOYMENT APPLICATIONS. (a) In this section, "state agency" does not include an institution of higher education or university system as defined by Section 61.003, Education Code.

(b) The online system for listing state agency employment openings maintained by the Texas Workforce Commission must allow an applicant for employment to complete a single state application

online and enter the application into an online database from which the applicant may electronically send the application to multiple state agencies.

(c) The Texas Workforce Commission shall:

(1) prescribe a standard electronic format for the online application described by Subsection (b); and

(2) ensure that the commission's online system allows an applicant to submit and a state agency to receive an online application for state agency employment.

(d) A state agency shall accept an application for an employment opening from the online system maintained by the Texas Workforce Commission.

(e) This section does not prohibit a state agency from accepting an application for an employment opening in a manner other than the manner described by this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 273 (H.B. 426), Sec. 1, eff. September 1, 2015.

Sec. 656.003. MILITARY OCCUPATIONAL SPECIALTY CODES ON NOTICES OF EMPLOYMENT OPENINGS. A state agency shall include on all forms and notices related to a state agency employment opening the military occupational specialty code for each branch of the armed forces of the United States, identified as provided by Section 654.0375, that corresponds to the employment opening if the duties of the available position correlate with a military occupational specialty.

Added by Acts 2015, 84th Leg., R.S., Ch. 111 (S.B. 389), Sec. 2, eff. September 1, 2015.
Redesignated from Government Code, Section 656.002 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(19), eff. September 1, 2017.

SUBCHAPTER B. JOB NOTICES

Sec. 656.021. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Workforce Commission.

(2) "State agency" means:

(A) a department, commission, board, office, or other agency that:

(i) is in the executive branch of state government;

(ii) has authority that is not limited to a geographical portion of this state; and

(iii) was created by the constitution or a statute of this state; or

(B) a university system or an institution of higher education as defined by Section 61.003, Education Code, other than a public junior college.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 817, Sec. 10.06, eff. Sept. 1, 2003.

Sec. 656.022. SUBMISSION OF JOB INFORMATION FORMS. As soon as possible after a job vacancy occurs or is filled in Travis County in a state agency, the agency shall complete and deliver to the commission the appropriate information form prescribed by the commission and pertaining to the job vacancy or placement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 760, Sec. 1, eff. Sept. 1, 2001.

Sec. 656.023. JOB INFORMATION FORMS. (a) The commission shall prescribe the forms for information from state agencies necessary for the commission to serve as a central processing agency for state agency job opportunities in Travis County.

(b) A form prescribed by the commission under Subsection (a) must include a space for a state agency to list a military occupational specialty code as provided by Section 656.003.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 111 (S.B. 389), Sec. 3, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.002(9), eff. September 1, 2017.

Sec. 656.024. PUBLIC NOTICE OF JOB VACANCIES. The commission

shall publicly list, in accordance with the commission's procedures, for at least 10 working days, each notice of a job vacancy delivered under Section 656.022 unless the commission is sooner notified by the state agency having the vacancy that the vacancy has been filled.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 656.025. OTHER EFFORTS TO INFORM SOURCES OF VACANCIES. A state agency is encouraged to continue other efforts used to inform outside applicant recruitment sources of job vacancies.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 656.026. JOB NOTICE POSTING WAIVER. A state agency is not required to comply with the requirements of this subchapter or Subchapter A when the agency transfers or reassigns an employee as part of a reorganization or merger mandated by the legislature if the executive head of the agency certifies that the transfer or reassignment is necessary for the proper implementation of the reorganization or merger.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 5, eff. Sept. 1, 1999.

Sec. 656.027. MILITARY EMPLOYMENT PREFERENCE ON STATE EMPLOYMENT FORMS. The commission shall include on all forms relating to state agency employment that are prescribed by the commission under this subchapter or other law a statement regarding the requirement prescribed by Chapter 657 that each state agency give a military employment preference until the agency workforce is composed of at least 20 percent individuals who qualify for a military employment preference under Section 657.002.

Added by Acts 2003, 78th Leg., ch. 69, Sec. 2, eff. May 16, 2003.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1100 (S.B. 1376), Sec. 1, eff. September 1, 2023.

SUBCHAPTER C. TRAINING

Sec. 656.041. SHORT TITLE. This subchapter may be cited as the State Employees Training Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 656.042. FINDINGS AND PURPOSE. Programs for the training and education of state administrators and employees materially aid effective state administration, and public money spent on those programs serves an important public purpose.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 656.043. DEFINITION. In this subchapter, "state agency" means a department, agency, or institution of the executive, legislative, or judicial branch of state government, including an institution of higher education as defined by Section 61.003, Education Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 366 (H.B. 3337), Sec. 1, eff. September 1, 2015.

Sec. 656.044. PUBLIC FUNDS FOR TRAINING AND EDUCATION. A state agency may use public funds to provide training and education for its administrators and employees. The training or education must be related to the duties or prospective duties of the administrator or employee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 656.045. REQUIRED ATTENDANCE AT PROGRAM. A state agency may require an administrator or employee of the agency to attend, as all or part of the administrator's or employee's duties, a training or education program if the training or education is related to the administrator's or employee's duties or prospective duties.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 656.046. PURPOSES OF PROGRAM. A state agency's training and educational program may include:

(1) preparing for technological and legal developments;

(2) increasing work capabilities;

(3) increasing the number of qualified employees in areas designated by institutions of higher education as having an acute faculty shortage; and

(4) increasing the competence of state employees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 656.047. PAYMENT OF PROGRAM AND CERTIFICATION EXAMINATION EXPENSES. (a) Except as provided by this section or other law, a state agency may spend public funds as appropriate to pay the salary, tuition and other fees, travel and living expenses, training stipend, expense of training materials, and other necessary expenses of an instructor, student, or other participant in a training or education program.

(a-1) A state agency may spend public funds as appropriate to reimburse a state agency employee or administrator who serves in an information technology, cybersecurity, or other cyber-related position for fees associated with industry-recognized certification examinations.

(b) For an administrator or employee of a state agency who seeks reimbursement for a training or education program offered by an institution of higher education or private or independent institution of higher education as defined by Section 61.003, Education Code, the agency may only pay the tuition expenses for a program course successfully completed by the administrator or employee at an accredited institution of higher education.

(c) A state agency that spends more than $5,000 in a state fiscal year for a training or education program for any individual administrator or employee shall, not later than August 31 of that year, submit to the Legislative Budget Board a report including:

(1) a list of the administrators and employees participating in a training or education program;

(2) the amount spent on each administrator or employee; and

(3) the certification earned by each administrator or employee through the training or education program.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 366 (H.B. 3337), Sec. 2, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 526 (S.B. 255), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 4, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 5, eff. September 1, 2019.

Sec. 656.048. RULES RELATING TO TRAINING AND EDUCATION. (a) A state agency shall adopt rules relating to:

(1) the eligibility of the agency's administrators and employees for training and education supported by the agency; and

(2) the obligations assumed by the administrators and employees on receiving the training and education.

(b) A state agency shall adopt rules requiring that before an administrator or employee of the agency may be reimbursed under Section 656.047(b), the executive head of the agency must authorize the tuition reimbursement payment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 200, Sec. 16(g), eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 366 (H.B. 3337), Sec. 3, eff. September 1, 2015.

Sec. 656.049. AUTHORITY TO CONTRACT. A state agency may contract with another state, local, or federal department, agency, or institution, including a state-supported college or university, to train or educate its administrators and employees or may join in presenting a training or educational program.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 656.050. TRAINING IN CONTRACT NEGOTIATION FOR PURCHASES OF INFORMATION RESOURCES TECHNOLOGIES. (a) In this section:

(1) "Department" means the Department of Information Resources.

(2) "Information resources technologies" has the meaning assigned by Section 2054.003.

(a-1) The department, with the cooperation of the comptroller and other appropriate state agencies, shall develop and implement a program to train state agency personnel in effectively negotiating contracts for the purchase of information resources technologies.

(b) The department shall make the training available to state agency personnel who are directly or indirectly involved in contract negotiations, such as senior or operational management, purchasers, users of the purchased technologies, and personnel with relevant technical, legal, or financial knowledge. State agency personnel directly involved in contract negotiations for the purchase of information resources technologies shall complete the training developed by the department.

(c) The department shall include in the training:

(1) information on developing a structured purchasing method that meets an agency's needs;

(2) information drawn from the state's previous procurement experience about what is or is not advantageous for the state;

(3) the perspective of state agencies with oversight responsibilities related to the state's procurement of information resources technologies;

(4) information on how to use contracts entered into by the department under Section 2157.068; and

(5) other information that the department considers to be useful.

(d) The department may use its own staff or contract with private entities or other state agencies to conduct the training.

Added by Acts 1997, 75th Leg., ch. 538, Sec. 1, eff. Sept. 1, 1997.
Renumbered from Government Code Sec. 2054.060 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(56), eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.65, eff. September 1, 2007.
Transferred, redesignated and amended from Government Code, Section 2054.057 by Acts 2017, 85th Leg., R.S., Ch. 526 (S.B. 255), Sec. 3, eff. September 1, 2017.

Sec. 656.051. TRAINING AND CERTIFICATION OF STATE AGENCY PURCHASING PERSONNEL AND VENDORS. (a) The comptroller shall establish and administer a system of training, continuing education, and certification for state agency purchasing personnel. The training and continuing education for state agency purchasing personnel must include ethics training. The comptroller may establish and offer appropriate training to vendors on a cost recovery basis. The comptroller may adopt rules to administer this section.

(b) The training, continuing education, and certification required under Subsection (a) must include:

(1) training on the selection of an appropriate procurement method by project type; and

(2) training conducted by the Department of Information Resources on purchasing technologies.

(c) Notwithstanding Subsection (i), all state agency purchasing personnel, including agencies exempted from the purchasing authority of the comptroller, must receive the training and continuing education to the extent required by the comptroller. A state agency employee who is required to receive the training may not participate in purchases by the employing agency unless the employee has received the required training or received equivalent training from a national association recognized by the comptroller.

(d) The comptroller may provide training, continuing education, and certification under this section to purchasing personnel employed by a political subdivision or other public entity of the state. Political subdivision purchasing personnel may receive, but are not required to receive, the training, continuing education, or certification provided under this section.

(e) The training provided by the comptroller must include instruction in:

(1) contract purchasing methods;

(2) ethical issues affecting purchasing decisions;

(3) negotiation methods;

(4) writing specifications;

(5) the criteria for determining which product or service offers the best value for the state;

(6) developing evaluation criteria;

(7) formal and informal bidding methods;

(8) complex negotiations; and

(9) any other processes and issues that the comptroller considers appropriate for purchasing training.

(f) The comptroller may prescribe the circumstances under which a state agency may delegate to a certified purchaser signature purchasing authority to approve purchase orders.

(g) The comptroller shall require a reasonable number of hours of continuing education to maintain certification. The comptroller may allow attendance at equivalent certification training recognized by the comptroller to count toward the required number of hours. Maintenance of certification may be by yearly renewal or another reasonable renewal period comparable to nationally recognized certification requirements. The comptroller shall adopt rules to monitor compliance with this subsection.

(h) The comptroller shall certify a state agency employee as a state agency purchaser when the employee has:

(1) completed the training required by this section or as prescribed by rule; and

(2) passed a written examination.

(i) This section does not apply to an institution to which Section 51.9335, Education Code, applies or to an institution to which Section 73.115, Education Code, applies.

Added by Acts 1997, 75th Leg., ch. 1206, Sec. 6, eff. Sept. 1, 1997.
Amended by Acts 1997, 75th Leg., ch. 165, Sec.31.01(21), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 426, Sec. 1, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 309, Sec. 7.05, eff. June 18, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 2.07, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 12, eff. September 1, 2015.
Transferred, redesignated and amended from Government Code, Section 2155.078 by Acts 2017, 85th Leg., R.S., Ch. 526 (S.B. 255), Sec. 3,

eff. September 1, 2017.

Sec. 656.052. TRAINING AND CERTIFICATION FOR CONTRACT MANAGERS. (a) In this section:

(1) "Contract management guide" means the guide developed under Section 2262.051.

(2) "Contract manager" has the meaning assigned by Section 2262.001.

(a-1) In coordination with the Department of Information Resources, state auditor, and Health and Human Services Commission, the comptroller shall develop a training program for contract managers.

(b) The training must provide the contract manager with information regarding how to:

(1) fairly and objectively select and negotiate with the most qualified contractor;

(2) establish prices that are cost-effective and that reflect the cost of providing the service;

(3) include provisions in a contract that hold the contractor accountable for results;

(4) monitor and enforce a contract;

(5) make payments consistent with the contract;

(6) comply with any requirements or goals contained in the contract management guide;

(7) use and apply advanced sourcing strategies, techniques, and tools;

(8) maintain required documentation for contracting decisions, changes to a contract, and problems with a contract;

(9) create a risk evaluation and mitigation strategy;

(10) create a plan for potential problems with the contract;

(11) develop an accurate and comprehensive statement of work; and

(12) complete the contract and evaluate performance under the contract.

(c) Each state agency shall ensure that the agency's contract managers complete the training developed under this section.

(d) The comptroller shall administer training under this section and may assess a fee for the training in an amount sufficient

to recover the comptroller's costs under this section.

(e) The comptroller shall certify contract managers who have completed the contract management training required under this section.

(f) A state agency may develop qualified contract manager training to supplement the training required under this section. The comptroller may incorporate the training developed by the agency into the training program under this section.

(g) The comptroller shall adapt the training required under this section and administer an abbreviated training program meeting the relevant training requirements under this section for state agency employees, other than contract managers, with contract management duties.

(h) This section does not apply to:

(1) an institution of higher education as defined by Section 61.003, Education Code; or

(2) a contract manager whose contract management duties relate primarily to contracts described by Section 2262.002(b).

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 5.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.22, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 785, Sec. 47, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1081 (H.B. 2918), Sec. 14, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. 1681), Sec. 3, eff. November 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 19, eff. September 1, 2015.

Transferred, redesignated and amended from Government Code, Section 2262.053 by Acts 2017, 85th Leg., R.S., Ch. 526 (S.B. 255), Sec. 3, eff. September 1, 2017.

Sec. 656.053. TRAINING FOR GOVERNING BODIES. (a) In this section, "state agency" has the meaning assigned by Section 2056.001.

(a-1) The comptroller shall adapt the program developed under Section 656.052 to provide an abbreviated program for training the members of the governing bodies of state agencies. The training may

be provided together with other required training for members of state agency governing bodies.

(b) All members of the governing body of a state agency shall complete at least one course of the training provided under this section. This subsection does not apply to a state agency that does not enter into any contracts.

(c) The comptroller may assess a fee for the training provided under this section in an amount sufficient to recover the comptroller's costs under this section.

(d) This section does not apply to the Texas Transportation Commission.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. 1681), Sec. 4, eff. November 1, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 20, eff. September 1, 2015.
Transferred, redesignated and amended from Government Code, Section 2262.0535 by Acts 2017, 85th Leg., R.S., Ch. 526 (S.B. 255), Sec. 3, eff. September 1, 2017.

Sec. 656.054. PURCHASING AND CONTRACT MANAGEMENT TRAINING BY COMPTROLLER. (a) The comptroller shall develop training programs provided by the comptroller under this subchapter to meet the needs of state agencies.

(b) Each year a state agency shall estimate the number of employees requiring purchasing or contract management training and report the anticipated training needs of the state agency to the comptroller in the manner and form prescribed by the comptroller.

(c) On an annual basis the comptroller shall assess the number of employees requiring purchasing or contract management training and shall maintain a regular schedule of classes to accommodate that number.

(d) The comptroller may use staff or contract with private or public entities, including state agencies, to conduct the training.

(e) The comptroller may assess a fee for a training program, including continuing education and certification, in an amount sufficient to recover the costs incurred by the comptroller to provide the training program under this subchapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 526 (S.B. 255), Sec. 2, eff. September 1, 2017.

Sec. 656.055. PURCHASING AND CONTRACT MANAGEMENT TRAINING BY AGENCY. (a) A state agency, in consultation with the comptroller, may develop agency-specific purchasing and contract management training programs to be administered by the agency to the agency's employees instead of or as a supplement to training programs developed by the comptroller under this subchapter.

(b) An employee who participates in an agency-specific training program under this section remains subject to any other applicable certification requirements established for training programs under this subchapter, including written or oral examinations administered by the comptroller.

Added by Acts 2017, 85th Leg., R.S., Ch. 526 (S.B. 255), Sec. 2, eff. September 1, 2017.

SUBCHAPTER D. RESTRICTIONS ON CERTAIN TRAINING

Sec. 656.101. DEFINITIONS. In this subchapter:

(1) "State agency" has the meaning assigned by Section 656.043.

(1-a) "State employee" has the meaning assigned by Section 572.002.

(2) "Training" means instruction, teaching, or other education received by a state employee that is not normally received by other state employees and that is designed to enhance the ability of the employee to perform the employee's job. The term includes a course of study at an institution of higher education or a private or independent institution of higher education as defined by Section 61.003, Education Code, if the employing state agency spends money to assist the state employee to meet the expense of the course of study or pays salary to the employee to undertake the course of study as an assigned duty. The term does not include training required either by state or federal law or that is determined necessary by the agency and offered to all employees of the agency performing similar jobs.

Added by Acts 1999, 76th Leg., ch. 1178, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 366 (H.B. 3337), Sec. 4, eff. September 1, 2015.

Sec. 656.102. AGENCY POLICY. (a) Before a state agency spends any money on training for a state employee, the state agency must adopt a policy governing the training of employees, in addition to the rules required by Section 656.048, that requires training to relate to an employee's duties following the training.

(b) The policy must:

(1) provide clear and objective guidelines to govern tuition reimbursement for an administrator or employee of a state agency who is enrolled in training for which the administrator or employee seeks reimbursement from this state; and

(2) address tuition reimbursement for nontraditional training, including online courses or courses not credited towards a degree.

(c) The state agency shall post the policy adopted under this section on the employment section of the agency's Internet website.

Added by Acts 1999, 76th Leg., ch. 1178, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 366 (H.B. 3337), Sec. 5, eff. September 1, 2015.

Sec. 656.103. RESTRICTIONS. (a) If a state employee receives training that is paid for by a state agency, and during the training period the employee does not perform the employee's regular duties for three or more months as a result of the training, a policy adopted under Section 656.102 must include a requirement that the employee:

(1) work for the agency following the training for at least one month for each month of the training period; or

(2) pay the agency for all the costs associated with the training that were paid during the training period, including any amounts of the employee's salary that were paid and that were not accounted for as paid vacation or compensatory leave.

(b) Before a state employee receives training that will be paid for by a state agency and during which the employee will not be

performing the employee's regular duties for three months or more, the agency shall require the employee to agree in writing, before the training begins, to comply with the requirements prescribed under Subsection (a).

(c) By an order adopted in a public meeting, the governing body of a state agency may waive the requirements prescribed under Subsection (a) and release a state employee from the obligation to meet those requirements if the governing body finds that such action is in the best interest of the agency or is warranted because of an extreme personal hardship suffered by the employee.

Added by Acts 1999, 76th Leg., ch. 1178, Sec. 1, eff. Sept. 1, 1999.

Sec. 656.104. LIABILITY. If a state employee does not provide the services required in accordance with Section 656.103(a)(1), provides those services for less than the required term, or fails to make payments required in accordance with Section 656.103(a)(2) and the employee is not released from the obligation to provide the services or to make the payments under Section 656.103(c), the employee is liable to the state agency for any costs described by Section 656.103(a)(2) and for the agency's reasonable expenses incurred in obtaining payment, including reasonable attorney's fees.

Added by Acts 1999, 76th Leg., ch. 1178, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 657. MILITARY EMPLOYMENT PREFERENCES

Sec. 657.001. DEFINITIONS. In this chapter:

(1) "State agency" means a board, commission, council, committee, department, office, agency, or other governmental entity in the executive, legislative, or judicial branch of state government, including an institution of higher education as defined by Section 61.003, Education Code.

(2) "Veteran" has the meaning assigned by Section 2308.251.

(3) "Veteran with a disability" means a veteran who is classified as disabled by the United States Department of Veterans Affairs or its successor or the branch of the service in which the veteran served and whose disability is service-connected.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Added by Acts 2015, 84th Leg., R.S., Ch. 195 (S.B. 805), Sec. 2, eff. September 1, 2015.

Sec. 657.002. INDIVIDUALS QUALIFIED FOR MILITARY EMPLOYMENT PREFERENCE. The following individuals qualify for a military employment preference:

(1) a veteran, including a veteran with a disability;

(2) a veteran's surviving spouse who has not remarried;

(3) an orphan of a veteran if the veteran was killed while on active duty;

(4) the spouse of a member of the United States armed forces or Texas National Guard serving on active duty; and

(5) the spouse of a veteran if the spouse is the primary source of income for the household and the veteran has a total disability rating based either on having a service-connected disability with a disability rating of at least 70 percent or on individual unemployability.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 854, Sec. 1, eff. Sept. 1, 1995.
Added by Acts 2015, 84th Leg., R.S., Ch. 195 (S.B. 805), Sec. 2, eff. September 1, 2015.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1100 (S.B. 1376), Sec. 3, eff. September 1, 2023.

Sec. 657.003. MILITARY EMPLOYMENT PREFERENCE. (a) An individual who qualifies for a military employment preference is entitled to a preference in employment with or appointment to a state agency over other applicants for the same position who do not have a greater qualification.

(b) A state agency shall provide to an individual entitled to a military employment preference for employment or appointment over other applicants for the same position who do not have a greater qualification a military employment preference, in the following order of priority:

(1) a veteran with a disability;

(2) a veteran;

(3) a spouse described by Section 657.002(4) or (5);

(4) a veteran's surviving spouse who has not remarried; and

(5) an orphan of a veteran if the veteran was killed while on active duty.

(c) If a state agency requires a competitive examination under a merit system or civil service plan for selecting or promoting employees, an individual entitled to a military employment preference who otherwise is qualified for that position and who has received at least the minimum required score for the test is entitled to have a service credit of 10 points added to the test score. A veteran with a disability is entitled to have a service credit of five additional points added to the individual's test score.

(d) An individual entitled to a military employment preference is not disqualified from holding a position with a state agency because of age or an established service-connected disability if the age or disability does not make the individual incompetent to perform the duties of the position.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Added by Acts 2015, 84th Leg., R.S., Ch. 195 (S.B. 805), Sec. 2, eff. September 1, 2015.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1100 (S.B. 1376), Sec. 4, eff. September 1, 2023.

Sec. 657.004. VETERAN EMPLOYMENT GOAL FOR STATE AGENCIES. (a) Each state agency shall establish a goal of hiring, in full-time positions at the agency, a number of veterans equal to at least 20 percent of the total number of employees of the state agency.

(b) A state agency may establish a veteran employment goal that is greater than the percentage required under Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 854, Sec. 2, eff. Sept. 1, 1995.
Added by Acts 2015, 84th Leg., R.S., Ch. 195 (S.B. 805), Sec. 2, eff. September 1, 2015.

Sec. 657.0045. DESIGNATION OF OPEN POSITION FOR AND IMMEDIATE HIRING OF INDIVIDUAL ENTITLED TO MILITARY EMPLOYMENT PREFERENCE. (a)

A state agency may designate an open position as a military preference position and only accept applications for that position from individuals who are entitled to a military employment preference under Section 657.003.

(b) Notwithstanding any other law, a state agency may hire or appoint for an open position within the agency an individual entitled to a military employment preference under Section 657.003 without announcing or advertising the position if the agency:

(1) uses the automated labor exchange system administered by the Texas Workforce Commission to identify an individual who qualifies for a military employment preference under this chapter; and

(2) determines the individual meets the qualifications required for the position.

Added by Acts 2015, 84th Leg., R.S., Ch. 195 (S.B. 805), Sec. 2, eff. September 1, 2015.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1100 (S.B. 1376), Sec. 5, eff. September 1, 2023.

Sec. 657.0046. STATE AGENCY LIAISON FOR VETERANS, MILITARY MEMBERS, AND THEIR DEPENDENTS. (a) Each state agency that has at least 500 full-time equivalent positions shall designate an individual from the agency to serve as a liaison for veterans, military members, and their dependents.

(b) A state agency that has fewer than 500 full-time equivalent positions may designate an individual from the agency to serve as the liaison described by Subsection (a).

(c) Each state agency that designates a liaison under this section shall make available on the agency's Internet website the liaison's individual work contact information.

Added by Acts 2015, 84th Leg., R.S., Ch. 195 (S.B. 805), Sec. 2, eff. September 1, 2015.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1100 (S.B. 1376), Sec. 6, eff. September 1, 2023.

Sec. 657.0047. INTERVIEWS AT STATE AGENCIES. (a) For each announced open position at a state agency, the state agency shall interview:

(1) if the total number of individuals interviewed for the position is six or fewer, at least one individual qualified for a military employment preference under Section 657.003; or

(2) if the total number of individuals interviewed for the position is more than six, a number of individuals qualified for a military employment preference under Section 657.003 equal to at least 20 percent of the total number interviewed.

(b) A state agency that does not receive any applications from individuals who qualify for a military employment preference under Section 657.003 is not required to comply with Subsection (a).

Added by Acts 2015, 84th Leg., R.S., Ch. 195 (S.B. 805), Sec. 2, eff. September 1, 2015.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1100 (S.B. 1376), Sec. 7, eff. September 1, 2023.

Sec. 657.005. EMPLOYMENT INVESTIGATION. (a) The individual whose duty is to appoint or employ an applicant for a position with a state agency or an officer or the chief administrator of the agency who receives an application for appointment or employment by an individual entitled to a military employment preference, before appointing or employing any individual, shall investigate the qualifications of the applicant for the position.

(b) An applicant who is a veteran with a disability shall furnish the official records to the individual whose duty is to fill the position.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Added by Acts 2015, 84th Leg., R.S., Ch. 195 (S.B. 805), Sec. 2, eff. September 1, 2015.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1100 (S.B. 1376), Sec. 8, eff. September 1, 2023.

Sec. 657.006. FEDERAL LAW AND GRANTS. To the extent that this

chapter conflicts with federal law or a limitation provided by a federal grant to a state agency, this chapter shall be construed to operate in harmony with the federal law or limitation of the federal grant.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Added by Acts 2015, 84th Leg., R.S., Ch. 195 (S.B. 805), Sec. 2, eff. September 1, 2015.

Sec. 657.007. PREFERENCE APPLICABLE TO REDUCTION IN WORKFORCE. (a) An individual entitled to a hiring or appointment preference under this chapter is also entitled to a preference in retaining employment if the state agency that employs or appoints the individual reduces its workforce.

(b) The preference granted under this section applies only to the extent that a reduction in workforce by an employing state agency involves other employees of a similar type or classification.

Added by Acts 1995, 74th Leg., ch. 854, Sec. 3, eff. Sept. 1, 1995.
Added by Acts 2015, 84th Leg., R.S., Ch. 195 (S.B. 805), Sec. 2, eff. September 1, 2015.

Sec. 657.008. REPORTING REQUIREMENTS. (a) A state agency shall file quarterly with the comptroller a report that states:

(1) the percentage of the total number of employees hired or appointed by the agency during the reporting period who are persons entitled to a preference under this chapter;

(2) the percentage of the total number of the agency's employees who are persons entitled to a preference under this chapter; and

(3) the number of complaints filed with the executive director of the agency under Section 657.010 during that quarter and the number of those complaints resolved by the executive director.

(b) The comptroller shall make each quarterly report filed under Subsection (a) available to the public on the comptroller's Internet website.

(c) Not later than December 1 of each year, the comptroller shall file with the legislature a report that compiles and analyzes information that the comptroller receives from state agencies under

Subsection (a).

Added by Acts 1995, 74th Leg., ch. 854, Sec. 3, eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1016 (H.B. 1275), Sec. 2, eff. September 1, 2007.
Added by Acts 2015, 84th Leg., R.S., Ch. 195 (S.B. 805), Sec. 2, eff. September 1, 2015.

Sec. 657.009. STATE AGENCIES TO LIST POSITIONS WITH TEXAS WORKFORCE COMMISSION. (a) A state agency shall provide to the Texas Workforce Commission, under rules adopted under this section by the commission, information regarding an open position that is subject to the hiring or appointment preference required by this chapter.

(b) The Texas Workforce Commission shall make available to the public the information provided by a state agency under Subsection (a).

(c) To promote the purposes of this chapter, the Texas Workforce Commission shall adopt rules under this section that facilitate the exchange of employment information between state agencies and individuals entitled to a preference under this chapter.

(d) The Texas Workforce Commission shall adopt forms and procedures necessary to administer this section.

Added by Acts 1995, 74th Leg., ch. 854, Sec. 3. Amended by Acts 2003, 78th Leg., ch. 817, Sec. 10.07, eff. Sept. 1, 2003.
Added by Acts 2015, 84th Leg., R.S., Ch. 195 (S.B. 805), Sec. 2, eff. September 1, 2015.

Sec. 657.010. COMPLAINT REGARDING EMPLOYMENT DECISION OF STATE AGENCY. (a) An individual entitled to a military employment preference under this chapter who is aggrieved by a decision of a state agency to which this chapter applies relating to hiring or appointing the individual, or relating to retaining the individual if the state agency reduces its workforce, may appeal the decision by filing a written complaint with the executive director of the state agency under this section.

(b) The executive director of a state agency that receives a written complaint under Subsection (a) shall respond to the complaint

not later than the 15th business day after the date the executive director receives the complaint. The executive director may render a different hiring or appointment decision than the decision that is the subject of the complaint if the executive director determines that the military preference was not applied.

Added by Acts 2007, 80th Leg., R.S., Ch. 1016 (H.B. 1275), Sec. 1, eff. September 1, 2007.
Added by Acts 2015, 84th Leg., R.S., Ch. 195 (S.B. 805), Sec. 2, eff. September 1, 2015.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1100 (S.B. 1376), Sec. 9, eff. September 1, 2023.

CHAPTER 658. HOURS OF LABOR

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5196, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 658.001. DEFINITIONS. In this chapter:

(1) "Full-time state employee" means a person employed by a state agency who, if not participating in a voluntary work reduction program under Section 658.003, is required to work for the agency not less than 40 hours a week.

(2) "State agency" means:

(A) a board, commission, department, institution, office, or other agency in the executive branch of state government that is created by the constitution or a statute of this state, including an institution of higher education as defined by Section 61.003, Education Code, other than a public junior college; or

(B) the Supreme Court of Texas, the Texas Court of Criminal Appeals, a court of appeals, or other agency in the judicial branch.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 279, Sec. 7, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 118, Sec. 2.11, eff. Sept. 1, 2001.

Sec. 658.002. WORK HOURS REQUIRED FOR SALARIED EMPLOYEES. (a)

A state employee paid a full-time salary shall work not less than 40 hours a week.

(b) The chief administrator of a state agency that must maintain certain services 24 hours a day may require essential employees who perform those services to be on duty for a workweek that exceeds 40 hours in necessary or emergency situations.

(c) This section does not apply to a houseparent who is employed by and lives at a Texas Juvenile Justice Department facility.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 102, eff. September 1, 2015.

Sec. 658.003. VOLUNTARY WORK REDUCTION PROGRAM. (a) To increase state efficiency while reducing the cost of state government, a state agency may create a work reduction program in which a full-time state employee of the agency agrees to accept reduced wages and benefits for a proportionate reduction in work hours.

(b) Employee participation in a work reduction program created under this section is voluntary.

(c) An employee who elects to participate in a work reduction program must agree to participate in the program for at least six calendar months. The agreement must be in writing and signed by the employee.

(d) A temporary or exempt employee is not eligible to participate in the program.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 658.004. NOTICE OF WORK REDUCTION PROGRAM. (a) The chief administrator of a state agency that has created a work reduction program under Section 658.003 shall place notice of the program's availability in common areas of the agency.

(b) The chief administrator of a state agency may not discuss, initiate discussion of, or orally inform an employee of the work reduction program unless the employee first approaches the chief

administrator about the availability of the program.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 658.005. REGULAR OFFICE HOURS FOR STATE EMPLOYEES. (a) Normal office hours of a state agency are from 8 a.m. to 5 p.m., Monday through Friday. These hours are the regular working hours for a full-time state employee. The offices of a state agency shall remain open during the noon hour each working day with at least one person on duty to accept calls, receive visitors, or transact business.

(b) If a chief administrator of a state agency considers it necessary or advisable, offices also may be kept open during other hours and on other days, and the time worked counts toward the 40 hours a week that are required under Section 658.002.

(c) The chief administrator of a state agency may make exceptions to the minimum length of the workweek established by this chapter to take care of any emergency or public necessity that the chief administrator finds to exist.

(d) This section does not apply to an employee paid by the hour.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 279, Sec. 6, eff. Sept. 1, 1999.

Sec. 658.006. STAGGERED WORKING HOURS. Normal working hours for employees of a state agency may be staggered for traffic regulation or public safety.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 279, Sec. 7, eff. Sept. 1, 1999.

Sec. 658.007. WORKING HOURS FOR EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION. (a) The governing board of an institution of higher education or a university system, as those terms are defined in Section 61.003, Education Code, may make exceptions to the minimum length of the workweek and the maximum length of a workday established by this chapter to achieve and maintain operational

efficiency at the institution of higher education, university system, or an office, department, or division of either.

(b) A full-time salaried employee may not be authorized under this section to work less than 40 hours in a calendar week.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 658.008. MEMBERS OF NATIONAL GUARD OR RESERVE. To facilitate participation in military duties by state employees, each state agency shall adjust the work schedule of any employee who is a member of the Texas National Guard or the United States Armed Forces Reserve so that two of the employee's days off work each month coincide with two days of military duty to be performed by the employee.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 8, eff. Sept. 1, 1999.

Sec. 658.009. PART-TIME EMPLOYMENT. A state agency may fill a regular full-time position with one or more part-time employees:

(1) without regard to whether the position is subject to or exempt from the state's position classification plan; and

(2) subject to Section 659.019.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 8, eff. Sept. 1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5196, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 658.010. PLACE WHERE WORK PERFORMED. (a) An employee of a state agency shall, during normal office hours, conduct agency business only at the employee's regular or assigned temporary place of employment unless the employee:

(1) is travelling; or

(2) received prior written authorization from the administrative head of the employing state agency to perform work elsewhere.

(b) The employee's personal residence may not be considered the employee's regular or assigned temporary place of employment without

prior written authorization from the administrative head of the employing state agency.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 8, eff. Sept. 1, 1999.

CHAPTER 659. COMPENSATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 659.001. EQUAL WORK, EQUAL PAY. A woman who performs public service for this state is entitled to be paid the same compensation for her service as is paid to a man who performs the same kind, grade, and quantity of service, and a distinction in compensation may not be made because of sex.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 659.002. DEDUCTIONS. (a) A state agency may not make a deduction from the compensation paid to an officer or employee whose compensation is paid in full or in part from state funds unless the deduction is authorized by law.

(b) In this section "state agency" means:

(1) a board, commission, department, office, or other agency that is in the executive branch of state government and that was created by the constitution or a statute of this state, including an institution of higher education as defined by Section 61.003, Education Code, other than a public junior college;

(2) the legislature or a legislative agency; or

(3) the supreme court, the court of criminal appeals, a court of appeals, the state bar, or another state judicial agency.

(c) To the extent that the laws, regulations, and rules of this state or the United States do not specify the priority of deductions, the comptroller by rule may determine the priority for compensation paid by a state governmental body.

(d) The state shall withhold money from salaries and wages paid to state officers and employees in accordance with applicable federal law, including federal law relating to withholding for purposes of the federal income tax. The state shall make any required employer contributions in accordance with applicable federal law. The comptroller shall make payments in accordance with this subsection.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.14(a), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 279, Sec. 9, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 118, Sec. 2.12, eff. Sept. 1, 2001.

Sec. 659.003. OFFICER MAY DECLINE REMUNERATION. (a) In this section:

(1) "Officer" means an elected officer or appointed officer, as those terms are defined by Chapter 572. The term includes a person who has received a certificate of election to such an office or who has been appointed or nominated to such an office but has not been confirmed.

(2) "Remuneration" includes salary, compensatory per diem, expense per diem, reimbursement for expenses, longevity pay, and fees.

(b) An officer may decline remuneration associated with the office. To decline remuneration, the officer shall execute a declination form prescribed by the secretary of state. The form shall be designed to permit the person to decline all remuneration or to decline particular remuneration from among various types associated with the office. The form shall be filed with the secretary of state.

(c) A declination is effective on the date it is filed with the secretary of state.

(d) A declination filed after an officer has qualified for office may be revoked at any time. A declination filed before a person has qualified for office may not be revoked during the term of office to which the person is appointed or elected.

(e) A person who has irrevocably declined remuneration under this section is not considered to be compensated directly or indirectly for purposes of state law, except that declination of remuneration under this section does not change the character of an office as an office of emolument or a lucrative office for purposes of a provision of the Texas Constitution.

Added by Acts 1995, 74th Leg., ch. 49, Sec. 1, eff. May 8, 1995.

Sec. 659.004. PAYROLL AND PERSONNEL REPORTING. (a) In this

section, "state agency" has the meaning assigned by Section 658.001.

(b) The comptroller, in consultation with the state auditor, shall adopt rules that prescribe uniform procedures for payroll and personnel reporting for all state agencies and that are designed to:

(1) facilitate the auditing of payrolls;

(2) facilitate a classification compliance audit under Chapter 654;

(3) assure conformity with this chapter and the General Appropriations Act; and

(4) provide the legislative audit committee with current information on employment and wage rate practices in state government.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 10, eff. Sept. 1, 1999.

Sec. 659.005. WITNESS FEES; JURY SERVICE. (a) A deduction may not be made from the salary or wages of a state employee because the employee is called for jury service, including a deduction for any fee or compensation the employee receives for the jury service.

(b) A state officer or employee who appears as a witness in an official capacity in a judicial proceeding or legislative hearing may not accept or receive a witness fee for the appearance.

(c) A state officer or employee who appears as a witness, in a capacity other than as a state officer or employee, in a judicial proceeding or legislative hearing to testify from personal knowledge concerning matters related to the proceeding or hearing is entitled to receive any customary witness fees for the appearance.

(d) A state officer or employee who appears as an expert witness in a judicial proceeding or legislative hearing may accept compensation for the appearance only if the person is not also compensated by the state for the person's time in making the appearance and may accept reimbursement for travel expenses only if the expenses are not reimbursed by the state. For purposes of this subsection, paid leave is not considered time compensated by the state.

(e) A state officer or employee may receive reimbursement for travel and a per diem or reimbursement for expenses connected to an appearance in an official capacity as a witness in a judicial proceeding or legislative hearing only from the state or the judicial

body, but not from both the state and the judicial body.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 10, eff. Sept. 1, 1999.

Sec. 659.006. ADJUSTMENT FOR INACCURATE PAYMENT. The comptroller by rule shall prescribe procedures for state agencies to follow in making adjustments to payrolls for the pay period immediately following the period in which an inaccurate payment or deduction is made or in which other error occurs.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 10, eff. Sept. 1, 1999.

SUBCHAPTER B. SALARY AMOUNTS; OVERTIME AND COMPENSATORY TIME

Sec. 659.011. SALARIES SET IN APPROPRIATIONS ACT. The salaries of all state officers and employees are in the amounts provided by the biennial appropriations act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 40, S.B. 293 and S.B. 2878, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 659.012. JUDICIAL SALARIES. (a) Notwithstanding Section 659.011 and subject to Subsections (b) and (b-1):

(1) a judge of a district court or a division of the business court is entitled to an annual base salary from the state as set by the General Appropriations Act in an amount equal to at least $140,000, except that the combined base salary of a district judge or judge of a division of the business court from all state and county sources, including compensation for any extrajudicial services performed on behalf of the county, may not exceed the amount that is $5,000 less than the maximum combined base salary from all state and county sources for a justice of a court of appeals other than a chief justice as determined under this subsection;

(2) except as provided by Subdivision (3), a justice of a court of appeals other than the chief justice is entitled to an annual base salary from the state in the amount equal to 110 percent

of the state base salary of a district judge as set by the General Appropriations Act, except that the combined base salary of a justice of the court of appeals other than the chief justice from all state and county sources, including compensation for any extrajudicial services performed on behalf of the county, may not exceed the amount that is $5,000 less than the base salary for a justice of the supreme court as determined under this subsection;

(3) a justice of the Court of Appeals for the Fifteenth Court of Appeals District other than the chief justice is entitled to an annual base salary from the state in the amount equal to $5,000 less than 120 percent of the state base salary of a district judge as set by the General Appropriations Act;

(4) a justice of the supreme court other than the chief justice or a judge of the court of criminal appeals other than the presiding judge is entitled to an annual base salary from the state in the amount equal to 120 percent of the state base salary of a district judge as set by the General Appropriations Act; and

(5) the chief justice or presiding judge of an appellate court is entitled to an annual base salary from the state in the amount equal to $2,500 more than the state base salary provided for the other justices or judges of the court, except that the combined base salary of the chief justice of a court of appeals from all state and county sources may not exceed the amount equal to $2,500 less than the base salary for a justice of the supreme court as determined under this subsection.

(b) A judge or justice for whom the amount of a state base salary is prescribed by Subsection (a) is entitled to an annual salary from the state in the amount equal to:

(1) 110 percent of the state base salary paid in accordance with Subsection (a) for the judge's or justice's position, beginning with the pay period that begins after the judge or justice accrues four years of:

(A) contributing service credit in the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two;

(B) service as a judge or a full-time associate judge of a district court, statutory county court, multicounty statutory county court, or statutory probate court or as a district attorney, criminal district attorney, or county attorney; or

(C) combined contributing service credit and service as

provided by Paragraphs (A) and (B); and

(2) 120 percent of the state base salary paid in accordance with Subsection (a) for the judge's or justice's position, beginning with the pay period that begins after the judge or justice accrues eight years of:

(A) contributing service credit in the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two;

(B) service as a judge or a full-time associate judge of a district court, statutory county court, multicounty statutory county court, or statutory probate court or as a district attorney, criminal district attorney, or county attorney; or

(C) combined contributing service credit and service as provided by Paragraphs (A) and (B).

(b-1) A limitation on the combined base salary from all state and county sources prescribed by Subsection (a)(1) or (2) applies to a judge or justice to whom Subsection (b) applies, except that the amount by which the annual salary from the state paid to the judge or justice in accordance with Subsection (b) exceeds the amount of the state base salary for the judge's or justice's position set by the General Appropriations Act in accordance with Subsection (a) is not included as part of the judge's or justice's combined base salary from all state and county sources for purposes of determining whether the judge's or justice's salary exceeds the limitation.

(c) To the extent of any conflict, the salary limitations provided by Subsection (a) for the combined base salary of a state judge or justice from state and local sources prevail over any provision of Chapter 31 or 32 that authorizes the payment of additional compensation to a state judge or justice.

(d) Notwithstanding any other provision in this section or other law, in a county with more than five district courts, a district judge who serves as a local administrative district judge under Section 74.091 is entitled to an annual base salary from the state in the amount equal to $5,000 more than the maximum salary from the state to which the judge is otherwise entitled under Subsection (a) or (b).

(e) For the purpose of salary payments by the state, the comptroller shall determine from sworn statements filed by the justices of the courts of appeals, district judges, and business court judges that the required salary limitations provided by

Subsection (a) are maintained. If the state base salary for a judge or justice prescribed by Subsection (a) combined with additional compensation from a county would exceed the limitations provided by Subsection (a), the comptroller shall reduce the salary payment made by the state by the amount of the excess.

(f) For purposes of Subsection (b), "contributing service credit" means service credit established in the:

(1) Judicial Retirement System of Texas Plan One under Section 833.101 or 833.106 for each month of service in which the member held a judicial office described by Section 832.001(a), including service credit established under either section that was previously canceled but reestablished under Section 833.102; or

(2) Judicial Retirement System of Texas Plan Two under Section 838.101 or 838.106 for each month of service in which the member held a judicial office described by Section 837.001(a), including service credit established under either section that was previously canceled but reestablished under Section 838.102.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1993, 73rd Leg., ch. 268, Sec. 21, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1113, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1166, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., 2nd C.S., Ch. 3 (H.B. 11), Sec. 1, eff. December 1, 2005.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 3.12, eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 17, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 2, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 459 (S.B. 1045), Sec. 1.09, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. 3474), Sec. 1.024, eff. September 1, 2023.

Sec. 659.0125. SALARY FOR DISTRICT JUDGE OR RETIRED JUDGE PRESIDING OVER MULTIDISTRICT LITIGATION. (a) Notwithstanding Section 659.012 or any other law, a district judge who presides over

multidistrict litigation involving claims for asbestos-related or silica-related injuries is entitled to receive, in addition to all other compensation, expenses, and perquisites authorized by law, the maximum amount of compensation set by the Texas Judicial Council for a presiding judge under Section 74.051(b). The annual amount must be apportioned over 12 equal monthly payments and be paid to the judge by the comptroller's judiciary section for each month during which the judge retains jurisdiction over the claims.

(b) Notwithstanding any other law, supplemental compensation paid to a district judge under this section is not included as part of the district judge's total annual salary for the purpose of computing another salary that is based on the salary of the district judge.

(c) A retired judge appointed to an MDL pretrial court, as defined by Section 90.001, Civil Practice and Remedies Code, is entitled to receive the same compensation and benefits to which a district judge is entitled from the state. For purposes of this subsection, the compensation to which a district judge is entitled from the state is the amount equal to the state base salary paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a).

(d) A former or retired judge or justice assigned under Chapter 74 or 75 to a matter referred to an MDL pretrial court, as defined by Section 90.001, Civil Practice and Remedies Code, is entitled to receive the same compensation and benefits to which a former or retired judge or justice assigned under Chapter 74 is entitled under Section 74.061.

Added by Acts 2007, 80th Leg., R.S., Ch. 393 (S.B. 749), Sec. 3, eff. June 15, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1241 (S.B. 2298), Sec. 2, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1241 (S.B. 2298), Sec. 3, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1353 (S.B. 497), Sec. 2, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 18, eff. September 1, 2019.

Sec. 659.013. STATUTORY SALARIES SUSPENDED. (a) Except as provided by this section, a law setting the salary of a state officer or employee is suspended to the extent that the law conflicts with this subchapter.

(b) The suspension does not apply to:

(1) a law specifying or regulating the salary or compensation of an officer or employee for whom the biennial appropriations act does not specify or regulate the salary or compensation; and

(2) Chapter 654.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 659.014. SUSPENDED LAWS CONTINUED IN EFFECT. Those laws suspended by the operation of Section 659.013 are continued in effect, although suspended, as those laws existed September 1, 1993, including:

(1) Article 6813, Revised Statutes (setting annual salaries for named officers and employees);

(2) Chapter 277, Acts of the 40th Legislature, Regular Session, 1927 (Article 6813a, Vernon's Texas Civil Statutes) (setting and regulating the salary of members of the Railroad Commission of Texas); and

(3) Article 6824, Revised Statutes (prohibiting an increase or decrease of salary during an officer's term of office).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 659.015. OVERTIME COMPENSATION FOR EMPLOYEES SUBJECT TO FAIR LABOR STANDARDS ACT. (a) This section applies only to a state employee who is subject to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and who is not an employee of the legislature, including an employee of the lieutenant governor, or of a legislative agency.

(b) The employee is entitled to compensation for overtime as

provided by federal law and this section. To the extent that this section and federal law prescribe a different rule for the same circumstance, federal law controls without regard to whether this section or federal law prescribes a stricter rule.

(c) An employee who is required to work hours in excess of 40 hours in a workweek is entitled to compensation for the excess hours either by:

(1) the agency allowing or requiring the employee to take compensatory time off at the rate of 1-1/2 hours off for each hour of overtime; or

(2) at the discretion of the employing agency, in cases in which granting compensatory time off is impractical, the employee receiving pay for the overtime at the rate equal to 1-1/2 times the employee's regular rate of pay.

(d) Holidays or other paid leave taken during a workweek are not counted as hours worked in computing the number of overtime hours under Subsection (c) or (e).

(e) An employee may not accumulate more than 240 hours of overtime credit that may be taken as compensatory leave under Subsection (c)(1), except that an employee engaged in a public safety activity, an emergency response activity, or a seasonal activity may accumulate, in accordance with 29 U.S.C. Section 207(o)(3)(A), not more than 480 hours of overtime credit that may be taken as compensatory leave under Subsection (c)(1). An employee must be paid at the rate prescribed by Subsection (c)(2) for the number of overtime hours the employee works that cause the employee to exceed the amount of overtime credit the employee may accumulate. In this subsection, "overtime credit" means the number of hours that is computed by multiplying the number of overtime hours worked by 1-1/2.

(f) When an employee does not work more than 40 hours in a workweek but the number of hours worked plus the number of hours of holiday or other paid leave taken during the workweek exceeds 40 hours, the employee is entitled to compensatory time off at the rate of one hour off for each of the excess hours. When an employee does work 40 or more hours in a workweek and in addition takes holiday or other paid leave during the workweek, and the total number of hours worked still exceeds 40 after subtracting the hours compensable under Subsections (c)-(e), the employee is entitled to compensatory time off at the rate of one hour off for each of the remaining hours in excess of 40. When an employee does not work more than 40 hours in a

workweek and the number of hours worked plus the number of hours of holiday or other paid leave taken during the week does not exceed 40 hours, the employee may not accrue compensatory time for the week under this section.

(g) Except as provided by Subsection (k), compensatory time off to which an employee is entitled under Subsection (f) must be taken during the 12-month period following the end of the workweek in which the compensatory time was accrued or it lapses. An employee may not be paid for that compensatory time, except as provided by this subsection and Subsections (i) and (j). An employee of an institution of higher education as defined by Section 61.003, Education Code, or an employee engaged in a public safety activity, including highway construction and maintenance or an emergency response activity, may be paid at the employee's regular rate of pay for that compensatory time if the employer determines that taking the compensatory time off would disrupt normal teaching, research, or other critical functions.

(h) Exceptions to the workweek overtime computation for public safety, emergency response, or seasonal situations shall be made in accordance with the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.).

(i) With authorization from the administrative head of the agency for which an employee works, or that person's designee, an employee may be paid for the hours of compensatory time the employee earns for work directly related to a disaster or emergency declared by the appropriate officer of the state or federal government.

(j) With authorization from the administrative head of the agency for which an employee works, or that person's designee, an employee employed by a state mental health facility or an intellectual disability facility may be paid for any unused compensatory time if the employing agency determines that taking the compensatory time off would disrupt the normal business functions of the agency.

(k) Compensatory time off to which an employee of the Texas Department of Criminal Justice is entitled under Subsection (f) must be taken during the 24-month period following the end of the workweek in which the compensatory time was accrued or it lapses.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 12, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1241 (S.B. 2298), Sec. 4, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 488 (H.B. 988), Sec. 1, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.19, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 432 (H.B. 1914), Sec. 1, eff. September 1, 2023.

Sec. 659.0155. PAYMENT TO EMPLOYEES OF TEXAS DEPARTMENT OF CRIMINAL JUSTICE FOR OVERTIME. The Texas Department of Criminal Justice shall compensate a person employed by the department for any overtime accrued by the employee for which the employee is entitled to compensation under Section 659.015 in the same month the department compensates employees at the regular rate of pay for the period in which the employee accrued the overtime.

Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 43, eff. June 15, 2007.

Sec. 659.016. OVERTIME COMPENSATION FOR EMPLOYEES NOT SUBJECT TO FAIR LABOR STANDARDS ACT; REDUCTIONS IN PAY. (a) This section applies only to a state employee who is not subject to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and who is not an employee of the legislature, including an employee of the lieutenant governor, or of a legislative agency.

(b) When the sum of hours worked plus holiday or other paid leave taken by a full-time employee during a workweek exceeds 40 hours, and not otherwise, the employee may be allowed to accrue compensatory time for the number of hours that exceeds 40 hours. When the sum of hours worked plus holiday or other paid leave taken by a part-time employee during a workweek exceeds the number of hours that the part-time employee is designated to work during the workweek, and not otherwise, the employee may be allowed to accrue compensatory time for the number of hours that exceeds the number of hours that the employee is designated to work during the workweek.

(c) An employee who is exempt as an executive, professional, or

administrative employee under 29 U.S.C. Section 213(a)(1) may be allowed compensatory time off during the 12-month period following the end of the workweek in which the time that exceeds 40 hours under Subsection (b) was accrued, at a rate not to exceed one hour of compensatory time off for each hour of time that exceeds 40 hours under Subsection (b) accrued.

(d) In accordance with 29 C.F.R. Section 541.118 and subject to that section's exceptions as described by this section, an employee who is exempt as an executive, professional, or administrative employee under 29 U.S.C. Section 213(a)(1) is entitled to receive full salary for any week in which the employee performs work without regard to the number of days and hours worked. This is also subject to the general rule that an employee need not be paid for any workweek in which the employee performs no work.

(e) A deduction may be made from the salary of an employee who is exempt as an executive, professional, or administrative employee under 29 U.S.C. Section 213(a)(1) if:

(1) the employee is not at work for a full day or longer for personal reasons other than sickness, accident, jury duty, attendance as a witness at a judicial proceeding, or temporary military leave;

(2) the employee is not at work for a full day or longer because of sickness or disability, including sickness or disability covered by workers' compensation benefits, and the employee's paid sick leave or workers' compensation benefits have been exhausted;

(3) the deduction is a penalty imposed for a violation of a significant safety rule relating to prevention of serious danger in the workplace to other persons, including other employees; or

(4) in accordance with the special provisions applicable to executive, professional, or administrative employees of public agencies set forth in 29 C.F.R. Section 541.710, the employee is not at work for less than one day for personal reasons or because of illness or injury and accrued leave is not used by the employee because:

(A) permission to use accrued leave was not sought or was denied;

(B) accrued leave has been exhausted; or

(C) the employee chooses to use leave without pay.

(f) In accordance with 29 C.F.R. Section 541.710, a deduction from the pay of an executive, professional, or administrative

employee because of an absence from work caused by a furlough related to the budget does not affect the employee's status as an employee paid on a salary basis, except for any workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

(g) If a deduction is made from an employee's salary in violation of United States Department of Labor regulations, the employee is entitled to reimbursement of the amount that should not have been deducted.

(h) An employee who is not subject to the federal Fair Labor Standards Act of 1938 under 29 U.S.C. Section 203(e)(2)(C) because the employee is a staff member, appointee, or immediate adviser of an elected officeholder may be allowed compensatory time off under the terms and conditions determined by the officeholder.

(i) Except as provided by this subsection and Subsection (j), an employee covered by this section may not be paid for any unused compensatory time. With authorization from the administrative head of the agency for which a state employee works, or that person's designee, an employee may be paid for the hours of compensatory time the employee earns for work directly related to a disaster or emergency declared by the appropriate officer of the state or federal government.

(j) With authorization from the administrative head of the agency for which an employee works, or that person's designee, an employee employed by a state mental health facility or an intellectual disability facility may be paid for any unused compensatory time if the employing agency determines that taking the compensatory time off would disrupt the normal business functions of the agency.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 12, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1241 (S.B. 2298), Sec. 5, eff. June 19, 2009.

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.012, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.20, eff. September 1, 2023.

Sec. 659.017. OVERTIME COMPENSATION FOR LEGISLATIVE EMPLOYEES.

Consistent with the requirements of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), overtime pay and compensatory time off for employees of the legislative branch, including employees of the lieutenant governor, are determined:

(1) for employees of the house of representatives or the senate, by the presiding officer of the appropriate house of the legislature;

(2) for employees of an elected officeholder, by the employing officeholder; and

(3) for employees of a legislative agency, by the administrative head of the agency.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 12, eff. Sept. 1, 1999.

Sec. 659.018. COMPENSATORY TIME: PLACE WHERE WORK PERFORMED. (a) Except under circumstances specified in the General Appropriations Act or as provided by Subsection (b), an employee of a state agency as defined by Section 658.001 may not, for hours worked during any calendar week, accumulate compensatory time off under Section 659.015(f) or 659.016 to the extent that the hours are attributable to work performed at a location other than the employee's regular or temporarily assigned place of employment.

(b) An employee may accumulate compensatory time off for hours worked during any calendar week at the employee's personal residence if the employee obtains the advance approval of the administrative head of the agency for which the employee works or that person's designee.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 12, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1241 (S.B. 2298), Sec. 6, eff. June 19, 2009.

Sec. 659.019. PART-TIME AND HOURLY EMPLOYMENT. (a) In computing the salary of a part-time or hourly employee, the rate of pay must be proportional to the rate authorized by the General Appropriations Act for full-time employment in the same classified position, or if the position is not under the state's position classification plan, for full-time employment in the applicable

exempt position.

(b) A part-time employee is subject to Subchapter K and to the leave without pay provisions of Section 659.085.

(c) The comptroller may adopt rules to determine the hourly rate of an employee paid on an hourly basis.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 12, eff. Sept. 1, 1999.

Sec. 659.020. SALARY SUPPLEMENTATION. A state employee employed by a state agency as defined by Section 658.001 whose position is classified under Chapter 654 or whose exempt position is funded by the General Appropriations Act may not receive a salary supplement from any source unless a specific grant of authority to do so is provided by the General Appropriations Act or other law.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 12, eff. Sept. 1, 1999.

Sec. 659.0201. GIFTS, GRANTS, AND DONATIONS FOR SALARY SUPPLEMENT; REPORTING. (a) In this section, "state agency" means a board, commission, department, institute, office, or other agency in the executive branch of state government that is created by the constitution or a statute of this state, including an institution of higher education as defined by Section 61.003, Education Code.

(b) A state agency that accepts a gift, grant, donation, or other consideration from a person that the person designates to be used as a salary supplement for an employee of the agency shall post on the agency's Internet website the amount of each gift, grant, donation, or other consideration provided by the person that is designated to be used as a salary supplement for an employee of the agency. The agency may not post the name of the person.

(c) A state agency described by Subsection (b) by rule shall adopt conflict of interest provisions regarding the acceptance by the agency of a gift, grant, donation, or other consideration to be used as a salary supplement for an employee of the agency. The governing board of an institution of higher education shall adopt the conflict of interest provisions required by this subsection in the same manner as the board adopts other policies applicable to the institution. The agency shall post the conflict of interest provisions on the agency's Internet website.

(d) If the person making a gift, grant, or donation or providing other consideration to the state agency for the purpose of a salary supplement is an entity created solely to provide support for the state agency, the entity shall report to the agency:

(1) the name of each person who makes gifts, grants, or donations, or provides other consideration to the entity, in an amount or having a value that exceeds $10,000, unless the person has made a request to the entity to remain anonymous; and

(2) the amount or value of each specific gift, grant, donation, or other consideration.

(e) A state agency that receives a gift, grant, donation, or other consideration described by Subsection (d) shall compile the information the agency receives under Subsection (d) into a report and submit the report to the state auditor and the legislature.

(f) Information provided to an institution of higher education under Subsection (d) is confidential and is not subject to disclosure under Chapter 552.

(g) The state auditor may review the report submitted under Subsection (e) to identify any conflicts of interest or any other areas of risk. The state auditor shall report the results of an audit performed under this section to the legislature.

(h) The state auditor shall adopt a schedule and format for reporting information required by this section that does not require the release of information that identifies an anonymous donor.

(i) Each state agency receiving a gift, grant, donation, or other consideration from a person that is designated to be used as a salary supplement for a named person, position, or endowment shall report the following information to the state auditor in the form determined by the state auditor:

(1) whether the person making the gift, grant, or donation or providing other consideration to the state agency is an individual or an entity;

(2) if the person is an entity, the type of entity;

(3) if the entity is a nonprofit entity or organization, whether the entity is classified as a supporting organization by the Internal Revenue Service;

(4) if the entity is classified as a supporting organization by the Internal Revenue Service, the type of supporting organization, the name of the supported organization, and any other information relating to that classification;

(5) any internal or external oversight procedures the state agency has established to monitor the use of any gift, grant, donation, or other consideration the agency receives; and

(6) how the state agency uses gifts, grants, donations, and other consideration the agency receives, including whether they are used to provide salary supplements for agency employees.

(j) The state auditor shall compile the information received under Subsection (i) into a report and submit the report to the legislature.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1128 (H.B. 12), Sec. 1, eff. June 14, 2013.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 407 (S.B. 1677), Sec. 3, eff. September 1, 2021.

Sec. 659.021. ADMINISTRATIVE HEAD OF AGENCY. The administrative head of a state agency as defined by Section 658.001 whose salary as administrative head is established by the General Appropriations Act may not receive a salary higher than that established salary, even if the administrative head performs duties assigned to a position title classified in the state's position classification plan that is assigned to a salary group that would pay a higher salary, unless the General Appropriations Act specifically provides that a higher salary may be received.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 12, eff. Sept. 1, 1999.

Sec. 659.022. USE OF COMPENSATORY TIME BEFORE LAPSING. (a) If an employee of a state agency as defined by Section 658.001 who wishes to use accrued compensatory time that is subject to lapsing submits a written request for permission to use the accrued compensatory time to the employing state agency not later than the 90th day before the date on which the accrued compensatory time will lapse, the employing state agency shall:

(1) approve in writing the employee's request; or

(2) provide the employee with an alternate date on which the employee may use the compensatory time.

(b) The employee may request permission to use the accrued

compensatory time within 90 days of the date on which it will lapse, and the employing agency is encouraged to reasonably accommodate the employee's use of the accrued compensatory time before it lapses.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 12, eff. Sept. 1, 1999.

Sec. 659.023. COMPENSATORY TIME POLICY. (a) A state agency shall notify its employees annually of the state's policy on compensatory time.

(b) A state agency shall accommodate to the extent practicable an employee's request to use accrued compensatory time.

(c) A state agency shall:

(1) provide an employee activated to military service as a member of the reserve component of the armed forces with a statement containing the balance of the employee's accrued state compensatory time; and

(2) accommodate an employee's request to use the balance of the employee's accrued state compensatory time before the compensatory time expires.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 12, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 175, Sec. 3, eff. Sept. 1, 2003.

Sec. 659.024. COMPENSATORY TIME FOR PERSONS GOVERNING STATE AGENCIES. (a) In this section, "state agency" has the meaning assigned by Section 658.001.

(b) This section does not apply to an employee who acts as the administrative head of a state agency, including an executive director.

(c) A member of the governing body of a state agency or a single state officer who governs a state agency may not accrue compensatory time under this subchapter or another state statute.

Added by Acts 2003, 78th Leg., ch. 793, Sec. 1, eff. Sept. 1, 2003.

Sec. 659.025. USE OF COMPENSATORY TIME BY CERTAIN EMERGENCY SERVICES PERSONNEL; OPTIONAL OVERTIME PAYMENT. (a) In this section, "emergency services personnel" includes firefighters, police officers

and other peace officers, emergency medical technicians, emergency management personnel, and other individuals who are required, in the course and scope of their employment, to provide services for the benefit of the general public during emergency situations.

(b) This section applies only to a state employee who is emergency services personnel, who is not subject to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and who is not an employee of the legislature, including an employee of the lieutenant governor or of a legislative agency.

(c) Notwithstanding Section 659.016 or any other law, an employee to whom this section applies may be allowed to take compensatory time off during the 18-month period following the end of the workweek in which the compensatory time was accrued.

(d) Notwithstanding Section 659.016 or any other law, the administrative head of a state agency that employs an employee to whom this section applies may pay the employee overtime at the employee's regular hourly salary rate for all or part of the hours of compensatory time off accrued by the employee during a declared disaster in the preceding 18-month period. The administrative head shall reduce the employee's compensatory time balance by one hour for each hour the employee is paid overtime under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 534 (S.B. 1474), Sec. 1, eff. September 1, 2009.
Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 4.01, eff. September 1, 2009.

SUBCHAPTER C. PER DIEM

Sec. 659.031. DEFINITION. In this subchapter, "state board" means a board, commission, committee, council, or similar agency in the executive or judicial branch of state government that is composed of two or more members. The term does not include a board, commission, committee, council, or similar agency whose membership is elected by vote of the people.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1300, Sec. 11, eff. Sept. 1, 1997.

Sec. 659.032. PER DIEM ENTITLEMENT. (a) A member of a state board is entitled to a per diem in an amount set by the General Appropriations Act for the member's service on the board.

(b) This section does not apply to a member of the legislature who serves on a board by virtue of the member's office as a legislator.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 659.033. STATUTORY PER DIEM SUSPENDED. (a) A law setting the amount of per diem for members of a state board is suspended to the extent of conflict with this subchapter.

(b) The law setting the amount of per diem for a member of a state board is not suspended if the General Appropriations Act does not set the amount of per diem to which the member is entitled.

(c) A law setting a limit on the number of days for which a state board member is entitled to a per diem is not suspended by this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. LONGEVITY PAY

Sec. 659.041. DEFINITIONS. In this subchapter:

(1) "Appointment" means a job title.

(2) "Full-time state employee" means:

(A) a state employee who works in the executive or judicial branch of state government, other than a state institution of higher education, and who is normally scheduled to work a total of at least 40 hours a week for a single state agency;

(B) a state employee who works for a state institution of higher education and who is normally scheduled to work a total of at least 40 hours a week in one position, as determined under Section 659.0411; or

(C) a state employee who works in the legislative branch of state government and who is normally scheduled to work a total of 40 or more hours a week in all positions held in the legislative branch.

(3) "Part-time state employee" means a state employee who is not a full-time state employee.

(4) "State employee" means an individual who:

(A) is covered by Chapter 654;

(B) holds a line item or exempt position;

(C) works in a nonacademic position at a state institution of higher education at least 20 hours a week for at least 4.5 consecutive months; or

(D) is an hourly employee of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 33, eff. June 19, 1997.

Sec. 659.0411. APPOINTMENTS AT STATE INSTITUTIONS OF HIGHER EDUCATION. (a) A state institution of higher education shall determine whether a state employee who has more than one appointment with the institution holds only one position or holds one position for each appointment.

(b) A board of regents shall determine whether a state employee who has an appointment with at least two state institutions of higher education under the board's jurisdiction holds only one position or holds one position for each appointment.

(c) A state employee who has an appointment with at least two state institutions of higher education holds more than one position if those institutions are not governed by the same board of regents.

Added by Acts 1997, 75th Leg., ch. 1035, Sec. 34, eff. June 19, 1997.

Sec. 659.042. EXCLUSIONS. The following are not entitled to longevity pay under this subchapter:

(1) a member of the legislature;

(2) an individual who holds a statewide office that is normally filled by vote of the people, except as provided by Section 659.0445;

(3) an independent contractor or an employee of an independent contractor;

(4) a temporary employee;

(5) an officer or employee of a public junior college;

(6) an academic employee of a state institution of higher education; or

(7) a state employee who retired from state employment on or after June 1, 2005, and who receives an annuity based wholly or partly on service as a state officer or state employee in a public retirement system, as defined by Section 802.001, that was credited to the state employee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 13.01, eff. September 1, 2005.
Acts 2007, 80th Leg., R.S., Ch. 1328 (S.B. 1519), Sec. 1, eff. September 1, 2007.

Sec. 659.043. ENTITLEMENT. (a) A state employee is entitled to longevity pay to be included in the employee's monthly compensation if the employee:

(1) is a full-time state employee on the first workday of the month;

(2) is not on leave without pay on the first workday of the month; and

(3) has accrued at least two years of lifetime service credit not later than the last day of the preceding month.

(b) Notwithstanding Subsection (a)(2), an employee of the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf who is otherwise eligible for longevity pay is entitled to longevity pay for each month that the employee is in a full-time paid status on the first workday for which the school has work scheduled for the employee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 1277, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1158, Sec. 31, eff. June 15, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 13.02, eff. September 1, 2005.

Sec. 659.044. AMOUNT. (a) Except as provided by Subsections (e) and (f) and Section 659.0445, the monthly amount of longevity pay is $20 for every two years of lifetime service credit.

(b) The amount increases when the 4th, 6th, 8th, 10th, 12th, 14th, 16th, 18th, 20th, 22nd, 24th, 26th, 28th, 30th, 32nd, 34th, 36th, 38th, 40th, and 42nd years of lifetime service credit are accrued.

(c) An increase is effective beginning with the month following the month in which the 4th, 6th, 8th, 10th, 12th, 14th, 16th, 18th, 20th, 22nd, 24th, 26th, 28th, 30th, 32nd, 34th, 36th, 38th, 40th, and 42nd years of lifetime service credit are accrued.

(d) An employee may not receive from the state as longevity pay more than the amount determined under Subsection (a) or (e), as applicable, regardless of the number of positions the employee holds or the number of hours the employee works each week.

(e) This subsection applies only to an employee of the Texas Juvenile Justice Department who is receiving less than the maximum amount of hazardous duty pay that the department may pay to the employee under Section 659.303. The employee's monthly amount of longevity pay is the sum of:

(1) $4 for each year of lifetime service credit, which may not include any period served in a hazardous duty position; and

(2) the lesser of:

(A) $4 for each year served in a hazardous duty position; or

(B) the difference between:

(i) $7 for each year served in a hazardous duty position; and

(ii) the amount paid by the department for each year served in a hazardous duty position.

(f) A state employee who retired from state employment before June 1, 2005, and who returned to state employment before September 1, 2005, is entitled to receive longevity pay. The monthly amount of longevity pay the employee is entitled to receive equals the amount of longevity pay the employee was entitled to receive immediately before September 1, 2005. A state employee who retired from state employment before June 1, 2005, and who returns to state employment on or after September 1, 2005, is not entitled to receive longevity pay.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 35, eff. June 19, 1997, except as provided in Sec. 91; Acts 2001, 77th Leg., ch. 1158,

Sec. 32, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 104, eff. June 15, 2001.
Reenacted and amended by Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 13.03, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1328 (S.B. 1519), Sec. 2, eff. September 1, 2007.
Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 103, eff. September 1, 2015.

Sec. 659.0445. LONGEVITY PAY FOR STATE JUDGES AND JUSTICES. (a) A judge or justice who receives a salary paid by the state, is a member of the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two, and is an active judge, as defined by Section 74.041, is entitled to longevity pay as provided by this section.

(b) The monthly amount of longevity pay under this section to which a judge or justice described by Subsection (a) is entitled:

(1) is equal to the product of 0.05 multiplied by the amount of the judge's or justice's current monthly state salary; and

(2) becomes payable beginning with the month following the month in which the judge or justice completes 12 years of service for which credit is established in the applicable retirement system.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1353, Sec. 4, eff. September 1, 2009.

(d) The commissioners court of a county may provide longevity pay calculated in accordance with this section to a judge or justice described by Subsection (a) who:

(1) previously served as a statutory county court judge in the county;

(2) is not otherwise eligible for longevity pay under Subsection (b); and

(3) would be entitled to longevity pay under this section if the service credit the judge or justice earned as a statutory county court judge was established in the applicable retirement system.

(e) Notwithstanding any other law, longevity pay that is paid to a judge or justice under this section is not included as part of the judge's or justice's combined salary from state and county

sources for purposes of the salary limitations provided by Section 659.012.

Added by Acts 2007, 80th Leg., R.S., Ch. 1328 (S.B. 1519), Sec. 3, eff. September 1, 2007.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1353 (S.B. 497), Sec. 3, eff. September 1, 2009.
Acts 2009, 81st Leg., R.S., Ch. 1353 (S.B. 497), Sec. 4, eff. September 1, 2009.
Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 19, eff. September 1, 2019.

Sec. 659.045. CHANGE IN STATUS. If a state employee ceases being a full-time state employee after the first workday of a month but otherwise qualifies for longevity pay, the employee's compensation for the month includes full longevity pay.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 659.046. ACCRUAL OF LIFETIME SERVICE CREDIT. (a) An employee accrues lifetime service credit for the period in which the employee:

(1) serves as a full-time, part-time, or temporary state employee or otherwise serves as an employee of the state;

(2) serves as a member of the legislature;

(3) holds a statewide office that is normally filled by vote of the people; or

(4) serves as an academic employee of a state institution of higher education.

(b) An employee who is on leave without pay for an entire calendar month does not accrue lifetime service credit for the month. An employee who is on leave without pay for less than an entire calendar month accrues lifetime service credit for the month if the employee otherwise qualifies to accrue credit under Subsection (a).

(c) An employee who simultaneously holds two or more positions that each accrue lifetime service credit accrues credit for only one of the positions.

(d) An employee who begins working on the first workday of a

month in a position that accrues lifetime service credit is considered to have begun working on the first day of the month.

(e) An employee does not accrue lifetime service credit for a period in which the employee serves as an officer or employee of a public junior college.

(f) The amount of an employee's lifetime service credit does not include the period served in a hazardous duty position if the employee is:

(1) entitled to receive hazardous duty pay under Section 659.302; or

(2) receiving the maximum amount of hazardous duty pay that the Texas Juvenile Justice Department may pay to the employee under Section 659.303.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 33, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 104, eff. September 1, 2015.

Sec. 659.047. COMPTROLLER RULES. The comptroller shall adopt rules to administer this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER E. ADDITIONAL COMPENSATION AND EXPENSES

Sec. 659.061. EXPENSES OF EMPLOYEES INJURED OR KILLED WHILE ON DUTY. In addition to other benefits of employment provided by law, a state agency may, to the extent authorized by an appropriation for the purpose, spend appropriated funds to pay for drugs and medical, hospital, laboratory, and funeral expenses of an employee under the jurisdiction and control of the agency:

(1) who is injured or killed while engaged in the performance of a necessary governmental function assigned to the employee; or

(2) whose duties require the employee to be exposed to unavoidable dangers peculiar to the performance of a necessary governmental function.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER F. METHOD AND FREQUENCY OF PAYMENT

Sec. 659.081. PAYMENT ONCE A MONTH. Except as provided by this subchapter or the General Appropriations Act, annual salaries for state officers and employees shall be paid once a month.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 279, Sec. 13, eff. Sept. 1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 252, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 659.082. PAYMENT TWICE A MONTH. (a) An employee is entitled to be paid employment compensation twice a month if:

(1) the employee is employed by:

(A) the Texas Department of Mental Health and Mental Retardation;

(B) the Texas Department of Transportation;

(C) the Texas Department of Human Services;

(D) the Texas Workforce Commission;

(E) the Department of Public Safety; or

(F) any other state agency designated by the comptroller;

(2) the employee holds a classified position under the state's position classification plan;

(3) the employee's position is classified below salary group A12 under classification salary Schedule A in the General Appropriations Act;

(4) the employing state agency satisfies the comptroller's requirements relating to the payment of compensation twice a month; and

(5) at least 30 percent of the eligible employees of the agency choose to be paid twice a month.

(b) Employees of an institution of higher education as defined by Section 61.003, Education Code, may be paid twice a month at the election of the employing institution of higher education.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 734, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 279, Sec. 14, eff. Sept. 1, 1999.

Sec. 659.083. PAYDAY. (a) Except as provided by Subsection (b), the comptroller may not pay the salary of a state officer or employee before the first working day of the month following the payroll period.

(b) The comptroller shall pay an employee who is paid twice a month under Section 659.082 on:

(1) the first working day of the month following the payroll period that covers the last half of the preceding month; and

(2) the 15th day of the month or the first working day after the 15th for the payroll period that covers the first half of the month.

(c) In this section, "working day" means a day other than Saturday, Sunday, or a national holiday as listed in the General Appropriations Act or Chapter 662. A day does not cease to be a national holiday because a state agency maintains or is required to maintain a minimum working staff on the holiday.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.43, eff. Sept. 1, 1997.

Sec. 659.084. ELECTRONIC FUNDS TRANSFER. Salaries for state officers and employees paid once a month shall be paid through electronic funds transfer under Section 403.016 unless paid on warrant as permitted under that section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 659.085. DETERMINING AMOUNT OF MONTHLY OR HOURLY PAY; PROPORTIONATE REQUIREMENT FOR PART-TIME PAY. (a) The amount of monthly salary for an annual employee who maintains a 40-hour workweek and is covered under Chapter 658 is computed in accordance with the General Appropriations Act and equitable rules adopted by the comptroller.

(b) For purposes of partial payment or other applicable situations, an employee's equivalent hourly rate of pay for a given month is computed in accordance with the General Appropriations Act and equitable rules adopted by the comptroller. Alternatively, an institution of higher education as defined by Section 61.003, Education Code, may compute an employee's equivalent hourly rate of pay for a given month by dividing the employee's annual salary by 2080, which is the number of working hours in the standard work year. This subsection applies only to full-time employees described by Subsection (a) and to part-time salaried employees.

(c) When an employee is on leave without pay, compensation for the pay period will be reduced by an amount computed in accordance with the General Appropriations Act and equitable rules adopted by the comptroller.

(d) An agency that may contract with its employees for employment for less than a 12-month period may make equal monthly salary payments under the contract during the contract period or during the fiscal year in accordance with the General Appropriations Act and equitable rules adopted by the comptroller.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 15, eff. Sept. 1, 1999.

SUBCHAPTER G. SUPPLEMENTAL DEDUCTIONS

Sec. 659.101. DEFINITION. In this subchapter, "state agency" means a department, commission, board, office, or other agency of any branch of state government, including an institution of higher education as defined by Section 61.003, Education Code.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.16(a), eff. Sept. 1, 1995.

Sec. 659.102. DEDUCTION FOR SUPPLEMENTAL OPTIONAL BENEFITS PROGRAM. (a) An employee of a state agency may authorize in writing a deduction each pay period from the employee's salary or wage payment for coverage of the employee under an eligible supplemental optional benefits program. A deduction may be made each pay period from the employee's salary or wage payment without authorization in writing from the employee for participation in a 401(k) plan as provided by Section 609.5025.

(b) The Employees Retirement System of Texas shall designate supplemental optional benefits programs that are eligible under this section and that promote the interests of the state and state agency employees.

(c) The supplemental optional benefits program may include permanent life insurance, catastrophic illness insurance, disability insurance, prepaid legal services, or a qualified transportation benefit.

(d) A qualified transportation benefit is a transportation benefit meeting the requirements of Section 132(f), Internal Revenue Code of 1986. The Employees Retirement System of Texas shall determine a fee or charge that may be paid as a qualified transportation benefit.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.16(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1111, Sec. 9, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1310, Sec. 31, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1409 (H.B. 957), Sec. 3, eff. June 15, 2007.

Sec. 659.103. DEDUCTION TO CREDIT UNION. (a) An employee of a state agency may authorize in writing a deduction each pay period from the employee's salary or wage payment for payment to a credit union to be credited to a share or deposit account of the employee.

(b) A designation by the Employees Retirement System of Texas is not necessary for a deduction under this section.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.16(a), eff. Sept. 1, 1995.

Sec. 659.1031. DEDUCTION OF MEMBERSHIP FEES FOR ELIGIBLE STATE EMPLOYEE ORGANIZATIONS. (a) An employee of a state agency may authorize in writing a deduction each pay period from the employee's salary or wage payment for payment to an eligible state employee organization of a membership fee in the organization.

(b) In this section, "eligible state employee organization" means a state employee organization with a membership of at least

2,000 active or retired state employees who hold or who have held certification from the Texas Commission on Law Enforcement.

Added by Acts 2003, 78th Leg., ch. 1310, Sec. 32, eff. June 20, 2003.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.33, eff. May 18, 2013.

Sec. 659.104. AUTHORIZATION. (a) An authorization for a deduction under this subchapter must direct the comptroller or, if applicable, the appropriate financial officer of an institution of higher education to transfer the withheld funds to the program, eligible state employee organization, or credit union designated by the employee.

(b) The comptroller or financial officer shall comply with the direction.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.16(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 33, eff. June 20, 2003.

Sec. 659.105. FORM AND MANNER. A deduction under this subchapter must be made in a form and manner prescribed by the comptroller or the appropriate financial officer of an institution of higher education.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.16(a), eff. Sept. 1, 1995.

Sec. 659.106. DURATION. (a) An employee authorizing a deduction under this subchapter or a person designated by the employee may change or revoke the authorization by delivering written notice of the change or revocation to the comptroller or the appropriate financial officer of an institution of higher education.

(b) An authorization is effective until the comptroller or financial officer receives the notice.

(c) The notice must be given in the form and manner prescribed by the comptroller or financial officer.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.16(a), eff. Sept. 1, 1995.

Sec. 659.107. AUTHORIZATION VOLUNTARY. The making of an authorization for a deduction under this subchapter by the employee is voluntary.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.16(a), eff. Sept. 1, 1995.

Sec. 659.108. WITHHOLDING OF ADMINISTRATIVE FEE. (a) The state may withhold from the employee's salary or wage payment an administrative fee for making a deduction under this subchapter.

(b) An institution of higher education that is authorized to operate a payroll system reimbursable from the state treasury may withhold from the employee's salary or wage payment an administrative fee for making the deduction under this subchapter.

(c) The administrative fee may not exceed the lower of the actual administrative cost of making the deduction or the highest fee charged by the state or institution, as appropriate, for making another similar deduction.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.16(a), eff. Sept. 1, 1995.

Sec. 659.109. ALLOCATION OF ADMINISTRATIVE FEES. The state shall allocate and pay to each state agency that incurs costs in administering this subchapter the agency's proportional amount of the administrative fees collected by the state under this subchapter.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.16(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 40, eff. June 19, 1997.

Sec. 659.110. RULES. The comptroller may establish procedures and adopt rules to administer the credit union and the eligible state employee organization membership fee deduction programs authorized by

this subchapter.

Added by Acts 1997, 75th Leg., ch. 1035, Sec. 16, eff. June 19, 1997. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 34, eff. June 20, 2003.

SUBCHAPTER H. BENEFIT REPLACEMENT PAY

Sec. 659.121. DEFINITIONS. In this subchapter:

(1) "Compensation" means, except as provided by Section 659.124, salary or wages subject to tax under the Federal Insurance Contributions Act.

(2) "Eligible state employee" means an individual who was on August 31, 1995:

(A) employed by a state agency and eligible for state payment of the employee tax under Section 606.064 as that section existed on that date;

(B) using unpaid leave from a position with a state agency, if the individual would have been eligible for state payment of the employee tax under Section 606.064 as that section existed on that date had the individual not been using unpaid leave from the position; or

(C) not working for a state agency if:

(i) the individual was not working on that date solely because the individual's employment with the agency customarily does not include the summer months;

(ii) the individual had contracted with the agency not later than that date for the individual to resume working for the agency not later than September 2, 1995; and

(iii) the position held by the individual on September 2, 1995, would have made the individual eligible for state payment of the employee tax under Section 606.064 as that section existed on August 31, 1995, if the employee had held the position on that date.

(3) "Eligible state-paid judge" means an individual who on August 31, 1995:

(A) held office; and

(B) was eligible for state payment of the employee tax under Section 606.065 as that section existed on that date.

(4) "Employee tax" means the tax that state employees and

state-paid judges pay under the Federal Insurance Contributions Act.

(5) "Retirement contribution" means a mandatory contribution by an eligible state employee or eligible state-paid judge to a retirement system.

(6) "Retirement system" means the Teacher Retirement System of Texas, the Employees Retirement System of Texas, the optional retirement program governed by Chapter 830, the Judicial Retirement System of Texas Plan One, or the Judicial Retirement System of Texas Plan Two.

(7) "State agency" has the meaning assigned by Section 606.061.

Added by Acts 1995, 74th Leg., ch. 417, Sec. 3, eff. Sept. 1, 1995.

Sec. 659.122. INCLUSION OF BENEFIT REPLACEMENT PAY. The salary or wages paid after December 31, 1995, to an eligible state employee or an eligible state-paid judge includes benefit replacement pay in the amount provided by Section 659.123.

Added by Acts 1995, 74th Leg., ch. 417, Sec. 3, eff. Sept. 1, 1995.

Sec. 659.123. AMOUNT OF BENEFIT REPLACEMENT PAY. (a) Except as provided by Section 659.124, the benefit replacement pay of an eligible state employee or an eligible state-paid judge for a pay period is equal to the sum of:

(1) 5.85 percent of the compensation earned by the employee or judge during the pay period, subject to the limit provided by Subsection (b); and

(2) an additional amount equal to the retirement contribution paid by the employee or judge because of the benefit replacement pay provided by this subsection.

(b) The amount paid to an eligible state employee or an eligible state-paid judge under Subsection (a)(1) may not exceed $965.25 each calendar year.

Added by Acts 1995, 74th Leg., ch. 417, Sec. 3, eff. Sept. 1, 1995.

Sec. 659.124. AMOUNT OF BENEFIT REPLACEMENT PAY FOR HIGHER

EDUCATION EMPLOYEES. (a) For a state employee employed by an institution of higher education, the benefit replacement pay is an increase in compensation equal to the sum of:

(1) 5.85 percent of the employee's compensation as of October 31, 1995, subject to the limit provided by Subsection (b); and

(2) an additional amount equal to the retirement contribution paid by the employee because of the benefit replacement pay provided by this subsection.

(b) The amount paid to an eligible state employee of an institution of higher education under Subsection (a)(1) may not exceed $965.25.

(c) In this section, "compensation" means annualized base salary or wages, including longevity and hazardous duty pay.

Added by Acts 1995, 74th Leg., ch. 417, Sec. 3, eff. Sept. 1, 1995.

Sec. 659.125. PAYING BENEFIT REPLACEMENT PAY IN EQUAL INSTALLMENTS. (a) Unless prohibited by a state agency under Subsection (b), an eligible state employee or an eligible state-paid judge may choose for the benefit replacement pay that the employee or judge is eligible to receive in a calendar year to be paid in equal installments in that year. The employee or judge must exercise this option before the beginning of the year. This subsection applies only to an eligible state employee or an eligible state-paid judge whose benefit replacement pay under Section 659.123(a)(1) will be $965.25 during that year if the employee or judge remains in the position at the same compensation during the year.

(b) A state agency may prohibit an eligible state employee or an eligible state-paid judge from exercising the option described by Subsection (a) if the agency pays the employee's or judge's compensation.

(c) An eligible state employee or an eligible state-paid judge who exercises the option described by Subsection (a) for a calendar year and who terminates employment or leaves office before the end of that year is ineligible to be paid the difference between the benefit replacement pay received by the employee or judge and the benefit replacement pay the employee or judge would have received had the employee or judge not exercised the option described by Subsection

(a).

Added by Acts 1995, 74th Leg., ch. 417, Sec. 3, eff. Sept. 1, 1995.

Sec. 659.126. LOSS OF ELIGIBILITY TO RECEIVE BENEFIT REPLACEMENT PAY. (a) An eligible state employee who leaves state employment after August 31, 1995, for at least 30 consecutive days, on returning to state employment or on assuming a state office, is ineligible to receive benefit replacement pay.

(b) An eligible state-paid judge who leaves office after August 31, 1995, for at least 30 consecutive days, on return to state office or on accepting a state employment, is ineligible to receive benefit replacement pay.

(c) For purposes of Subsection (a), a state employee is not considered to have left state employment:

(1) while the state employee is on an unpaid leave of absence as provided by Section 661.909; or

(2) during a period of time the employee is not working for the state because the employee's employment with the state customarily does not include that period of time, such as a teacher whose employment does not invariably include the summer months.

(d) An eligible state employee who retired from state employment on or after June 1, 2005, and who receives an annuity based wholly or partly on service as a state officer or state employee in a public retirement system, as defined by Section 802.001, that was credited to the state employee is ineligible to receive benefit replacement pay.

Added by Acts 1995, 74th Leg., ch. 417, Sec. 3, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 13.04, eff. September 1, 2005.

Sec. 659.127. ADMINISTRATION. The comptroller may adopt rules and establish procedures and reporting requirements to administer this subchapter.

Added by Acts 1995, 74th Leg., ch. 417, Sec. 3, eff. Sept. 1, 1995.

SUBCHAPTER I. CHARITABLE CONTRIBUTIONS

Sec. 659.131. DEFINITIONS. In this subchapter:

(1) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1315, Sec. 15, eff. September 1, 2013.

(2) "Charitable organization" means an organization that:

(A) is organized for charitable purposes under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) or holds a certificate of authority issued under that Act;

(B) is exempt from taxation under Section 501(a) of the Internal Revenue Code of 1986 as an organization described in Section 501(c)(3) of that code and to which contributions are deductible for income tax purposes under Section 170 of that code;

(C) complies with all applicable federal nondiscrimination law, including Chapter 21, Title 42, United States Code;

(D) complies with all state statutes and rules relating to charitable organizations; and

(E) is not a private foundation.

(3) "Direct services" means providing funds or programs for health and human services that directly benefit the recipients.

(4) "Eligible charitable organization" means a charitable organization eligible to participate in the state employee charitable contribution campaign as provided by Section 659.146.

(5) "Federated community campaign organization" means a federation or fund that:

(A) has demonstrated expertise in conducting workplace charitable campaigns; and

(B) distributes funds raised through a cooperative community campaign to at least five agencies that provide direct services to residents of the campaign area.

(6) "Federation or fund" means a fund-raising entity that:

(A) is a charitable organization;

(B) acts as an agent for at least five charitable organizations;

(C) is not organized exclusively to solicit contributions from state employees; and

(D) is supported by voluntary contributions by the public and is:

(i) incorporated in this state and has an

established physical presence in this state in the form of an office or service facility that is staffed at least 20 hours a week; or

(ii) incorporated outside this state, includes at least 10 affiliated charitable organizations, has existed at least three years, and participates in state employee charitable campaigns in at least 10 other states.

(7) "Health and human services" means services provided by a charitable organization that:

(A) benefit residents of this state, including children, youth, adults, elderly individuals, ill or infirm individuals, or individuals with a mental or physical disability; and

(B) consist of:

(i) human care, medical or other research in the field of human health, education, social adjustment, or rehabilitation;

(ii) relief for victims of natural disaster or other emergencies; or

(iii) assistance to impoverished individuals in need of food, shelter, clothing, or other basic needs.

(8) "Indirect services" means services that:

(A) enable, augment, or otherwise support the direct delivery of health and human services; and

(B) demonstrably benefit residents of this state.

(9) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(10) Repealed by Acts 2003, 78th Leg., ch. 1310, Sec. 121(9).

(11) "Local campaign area" means an area established by the state policy committee under Section 659.140(e)(1)(A) in which a local campaign is conducted as part of the state employee charitable campaign.

(12) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1315, Sec. 15, eff. September 1, 2013.

(13) "Local charitable organization" means a charitable organization that:

(A) provides direct or indirect health and human services; and

(B) is accessible to state employees in the local campaign area by maintaining:

(i) a publicly identified office with a professional or volunteer staff within the local campaign area that is open at least 20 hours a week during normal working hours; and

(ii) a locally listed telephone number.

(14) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1315, Sec. 15, eff. September 1, 2013.

(15) "State advisory committee" means the state employee charitable campaign advisory committee appointed under Section 659.142.

(16) "State agency" means a department, commission, board, office, institution of higher education, or other agency of state government.

(17) "State campaign manager" means the state campaign manager selected by the state policy committee under Section 659.140(e)(2).

(18) "State employee" means an employee of a state agency.

(19) "State employee charitable campaign" means an annual campaign conducted in communities or areas in which state employees solicit contributions to an eligible charitable organization.

(20) "State policy committee" means the state employee charitable campaign policy committee appointed under Section 659.140.

(21) "Statewide charitable organization" means a federation or fund and its affiliated agencies that:

(A) provide direct or indirect health and human services to residents of two or more noncontiguous standard metropolitan statistical areas of this state; and

(B) have demonstrated the federation or fund is accessible to state employees by maintaining:

(i) a staff or volunteer representative residing in this state who is accessible at least 20 hours a week during normal working hours; and

(ii) a toll-free long-distance telephone number.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 35, 121(9), eff. June 20, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1315 (S.B. 217), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1315 (S.B. 217), Sec. 15, eff.

September 1, 2013.

Sec. 659.1311. PUBLIC JUNIOR COLLEGES. (a) For purposes of this subchapter, a public junior college is considered to be an institution of higher education and employees of the public junior college are considered to be state employees during a state fiscal year unless an affirmative decision not to participate under this subchapter is made by the governing board of the public junior college not later than April 1 of the preceding state fiscal year.

(b) An employee of a public junior college that elects not to participate in the state employee charitable contribution program may authorize a deduction from the employee's salary or wage payment for a charitable contribution as provided by the policy of the governing board of the public junior college.

(c) Participation by an employee of a public junior college under this section is voluntary.

Added by Acts 1997, 75th Leg., ch. 1253, Sec. 1, eff. Sept. 1, 1997.

Sec. 659.132. DEDUCTION AUTHORIZED. (a) A state employee may authorize a deduction each pay period from the employee's salary or wage payment for a charitable contribution as provided by this subchapter.

(b) Except as provided by Subsections (c), (d), and (e), a state employee may authorize a deduction only during a state employee charitable campaign.

(c) A state employee who begins working for the state when a campaign is not being conducted may authorize a deduction according to the comptroller's requirements.

(d) A state employee who works for a state agency that does not allow deduction authorizations under Subsection (i) may authorize a deduction that is effective with the first full payroll period after the agency is converted to a system in which uniform statewide payroll procedures are followed.

(e) A state employee who works for a state agency that does not allow deduction authorizations under Subsection (i) may authorize a deduction after transferring from that agency to:

(1) a state agency that allows deduction authorizations

even though it may prohibit them under Subsection (i); or

(2) a state agency not covered by Subsection (i).

(f) A state employee who authorized a deduction while working for a state agency may continue the deduction after transferring to another state agency if the comptroller's rules for continuing the deduction are followed.

(g) An authorization must direct the comptroller to distribute the deducted funds to a participating federation or fund or a local charitable organization selected by the state policy committee as prescribed by rule.

(h) A deduction under this subchapter must be in the form prescribed by the comptroller.

(i) A state agency other than an institution of higher education is not required to permit an employee to authorize a deduction under this subchapter until the first full payroll period after the agency converts to a system in which uniform statewide payroll procedures are followed.

(j) The comptroller by rule may establish a reasonable minimum deduction for each pay period.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 36, eff. June 19, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1315 (S.B. 217), Sec. 2, eff. September 1, 2013.

Sec. 659.133. VOLUNTARY PARTICIPATION. (a) Participation by a state employee in a state employee charitable campaign is voluntary. The state campaign manager, any local employee committee or local campaign manager appointed by the state policy committee, each charitable organization, each state employee, and each state agency shall inform state employees that deductions are voluntary.

(b) The comptroller shall adopt rules establishing a process for hearing employee complaints regarding coercive activity in a state employee charitable campaign.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1315 (S.B. 217), Sec. 3, eff. September 1, 2013.

Sec. 659.134. DESIGNATION OF AN ELIGIBLE CHARITABLE ORGANIZATION. (a) A state employee or retired state employee receiving benefits under Chapter 814 who chooses to make a deduction must designate in the authorization an eligible charitable organization to receive the deductions.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1015 (H.B. 2549), Sec. 2, eff. September 1, 2011.

Sec. 659.135. CONFIDENTIALITY. (a) Except as necessary to administer this subchapter or on written authorization of the employee, the following information is confidential:

(1) whether a state employee has authorized a deduction under this subchapter;

(2) the amount of the deduction; and

(3) the name of a federation or fund or local charitable organization that a state employee has designated to receive contributions.

(b) The designation of a charitable organization by a state employee is not confidential if the employee executes a written pledge card or other document indicating that the employee wishes to receive an acknowledgement from the charitable organization.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995.

Sec. 659.136. REVOCATION OR CHANGE OF AUTHORIZATION. (a) A state employee may revoke or change an authorization by giving notice to the employing state agency. A state employee may not change the eligible charitable organization designated to receive the employee's deductions.

(b) The notice must be in the form and manner prescribed by the

comptroller.

(c) A revocation or change takes effect on the date designated by the comptroller by rule.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 37, eff. June 19, 1997.

Sec. 659.137. DURATION OF DEDUCTION. (a) A deduction under this subchapter begins on the date designated by the comptroller by rule.

(b) A deduction under this subchapter is effective for a maximum of one campaign year and, unless revoked or changed under Section 659.136, ends on the date designated by the comptroller by rule.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 38, eff. June 19, 1997.

Sec. 659.138. TIME OF CAMPAIGN. A state employee charitable campaign shall be conducted each autumn.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995.

Sec. 659.139. FAIR AND EQUITABLE MANAGEMENT OF CAMPAIGN. A state employee charitable campaign must be managed fairly and equitably in accordance with this subchapter and the policies and procedures established by the state policy committee.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995.

Sec. 659.140. STATE EMPLOYEE CHARITABLE CAMPAIGN POLICY COMMITTEE. (a) The state employee charitable campaign policy committee shall consist of nine members.

(b) The governor with the advice and consent of the senate shall appoint two members who are state employees at the time of their appointment and one member who is a retired state employee receiving benefits under Chapter 814. The lieutenant governor and the comptroller shall appoint three members each. An appointment to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee. The state policy committee shall elect a chair biennially from its own membership.

(c) The state policy committee must:

(1) be composed of employees and retired state employees receiving benefits under Chapter 814; and

(2) in its membership, represent employees at different levels of employee classification.

(c-1) The governor, lieutenant governor, and comptroller shall attempt to appoint members to the state policy committee from institutions of higher education and a range of small, medium, and large state agencies.

(d) A person may not be a member of the committee if the person or the person's spouse is employed by or participates in the management or sits on the board of any entity or organization including any federation or fund that receives money through the state employee charitable campaign.

(e) The state policy committee shall:

(1) establish the organization and structure of the state employee charitable campaign at the state and local levels, including:

(A) establishing local campaign areas;

(B) appointing any local employee committees the state policy committee considers necessary to assist the state policy committee with evaluating applications from organizations that seek to participate in the state employee charitable campaign only in a local campaign area; and

(C) appointing any local campaign managers the state policy committee considers necessary to administer the state employee charitable campaign in a local campaign area;

(2) develop a strategic plan for the state employee charitable campaign and make changes to improve the campaign as necessary;

(3) in coordination with the state campaign manager, post

on the state employee charitable campaign Internet website annual summary information regarding the state employee charitable campaign's performance, including information about:

(A) state employee participation;

(B) the amount of donations pledged and collected;

(C) the amount of donations pledged to and received by each charitable organization;

(D) the total cost to administer the state employee charitable campaign; and

(E) the balance of any surplus account maintained by the state policy committee;

(4) select as the state campaign manager:

(A) a federated community campaign organization; or

(B) a charitable organization determined by the state policy committee to have demonstrated the capacity to conduct a state campaign;

(5) enter into a contract with the state campaign manager selected under Subdivision (4) for the administration of the state employee charitable campaign;

(6) determine the eligibility of:

(A) a federation or fund and its affiliated agencies for statewide participation in the state employee charitable campaign; and

(B) if the state policy committee does not appoint a local employee committee, a charitable organization for participation in the state employee charitable campaign in a local campaign area;

(7) develop in coordination with the state campaign manager, review, and approve:

(A) an annual campaign plan;

(B) an annual budget, including:

(i) costs related to contracting for the administration of the state employee charitable campaign at the state and local levels;

(ii) costs related to changes or improvements to the state employee charitable campaign; and

(iii) other costs determined and prioritized by the state policy committee; and

(C) generic materials to be used for the campaign;

(8) oversee the state employee charitable campaign to ensure that all:

(A) campaign activities are conducted fairly and equitably to promote unified solicitation on behalf of all participants; and

(B) donations are appropriately distributed by a federation or fund or a charitable organization that receives money from the state employee charitable campaign; and

(9) perform other duties prescribed by the comptroller's rules.

(e-1) The comptroller shall provide administrative support to the state policy committee, including assistance in:

(1) developing and overseeing contracts; and

(2) developing the budget of the state employee charitable campaign.

(f) The state employee charitable campaign policy committee is subject to the open meetings law, Chapter 551, Government Code.

(g) The state employee charitable campaign policy committee is subject to the public information law, Chapter 552, Government Code.

(h) Any contract entered into under Chapter 659, Subchapter I must require the contracting vendor, institution, individual, corporation, or other business or charitable entity to provide all information maintained by the entity related to the expenditure of public funds to the state employee charitable campaign policy committee upon request.

(i) The state employee charitable campaign policy committee is subject to the Texas Sunset Act. Unless continued in existence as provided by that chapter, the committee is abolished and this subchapter and Sections 814.0095 and 814.0096 expire on September 1, 2029.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1319, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 280 (H.B. 1608), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1015 (H.B. 2549), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. 1664), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1315 (S.B. 217), Sec. 4, eff.

September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1315 (S.B. 217), Sec. 5, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 938 (H.B. 3123), Sec. 3.02, eff. June 18, 2015.

Acts 2023, 88th Leg., R.S., Ch. 1120 (H.B. 1620), Sec. 4, eff. September 1, 2023.

Sec. 659.1401. GROUNDS FOR REMOVAL FROM STATE POLICY COMMITTEE. (a) It is a ground for removal from the state policy committee that a member:

(1) does not have at the time of taking office the qualifications required by Section 659.140;

(2) does not maintain during service on the state policy committee the qualifications required by Section 659.140;

(3) is ineligible for membership under Section 659.140;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled state policy committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the state policy committee.

(b) The validity of an action of the state policy committee is not affected by the fact that it is taken when a ground for removal of a state policy committee member exists.

(c) If the chair of the state policy committee has knowledge that a potential ground for removal exists, the chair shall notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the chair, another member of the state policy committee shall notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1315 (S.B. 217), Sec. 6, eff. September 1, 2013.

Sec. 659.1402. TRAINING FOR STATE POLICY COMMITTEE MEMBERS. (a) A person who is appointed to and qualifies for office as a

member of the state policy committee may not vote, deliberate, or be counted as a member in attendance at a meeting of the state policy committee until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the state employee charitable campaign;

(2) the programs, functions, rules, and budget of the state employee charitable campaign;

(3) the results of the most recent formal audit of the state employee charitable campaign;

(4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(5) any applicable ethics policies adopted by the Texas Ethics Commission or adopted for the state employee charitable campaign by the state policy committee.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1315 (S.B. 217), Sec. 6, eff. September 1, 2013.

Sec. 659.141. STATE CAMPAIGN MANAGER. The state campaign manager shall:

(1) assist the state policy committee to:

(A) develop a campaign plan;

(B) develop a campaign budget; and

(C) prepare generic materials to be used for the campaign;

(2) coordinate and facilitate campaign services to state employees throughout the state;

(3) ensure that all state employee charitable campaign activities are conducted fairly and equitably to promote unified solicitation on behalf of all participants;

(4) perform other duties prescribed by the comptroller's rules; and

(5) perform other duties required by the contract with the state policy committee.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1,

1995.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1315 (S.B. 217), Sec. 7, eff. September 1, 2013.

Sec. 659.142. STATE EMPLOYEE CHARITABLE CAMPAIGN ADVISORY COMMITTEE. (a) The state employee charitable campaign advisory committee consists of eight members appointed by the governor.

(b) Four members must represent statewide or local federations or funds. Four members must represent other charitable organizations participating in the state employee charitable campaign.

(c) The governor shall appoint members to the state advisory committee to ensure that the committee reflects the race, ethnicity, and national origin of the residents of this state.

(d) With the advice of the state advisory committee, the comptroller shall adopt rules for the administration of this subchapter.

(e) The state advisory committee shall:

(1) advise the comptroller and state policy committee in adopting rules and establishing procedures for the operation and management of the state employee charitable campaign; and

(2) provide input from charitable organizations participating in the state employee charitable campaign to the state policy committee.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1315 (S.B. 217), Sec. 8, eff. September 1, 2013.

Sec. 659.145. TERMS OF COMMITTEE MEMBERS; COMPENSATION. (a) A member of the state advisory committee serves a two-year term.

(a-1) Members of the state policy committee serve staggered terms of two years, with the terms of four or five members expiring September 1 of each year.

(b) A member of the state advisory committee, the state policy committee, or a local employee committee appointed by the state

policy committee may not receive compensation for serving on the committee and is not entitled to reimbursement from state funds for expenses incurred in performing functions as a member of the committee.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1319, Sec. 3, eff. Sept. 1, 1997.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1315 (S.B. 217), Sec. 9, eff. September 1, 2013.

Sec. 659.146. ELIGIBILITY OF CHARITABLE ORGANIZATIONS IN GENERAL; ELIGIBILITY OF FEDERATIONS AND FUNDS FOR STATEWIDE PARTICIPATION. (a) To be eligible to participate in a state employee charitable campaign, a charitable organization must:

(1) be governed by a voluntary board of citizens that meets at least twice each year to set policy and manage the affairs of the organization;

(2) if the organization's annual budget:

(A) does not exceed $250,000, provide a completed Internal Revenue Service Form 990 and an accountant's review that offers full and open disclosure of the organization's internal operations; or

(B) exceeds $250,000, be audited annually in accordance with generally accepted auditing standards of the American Institute of Certified Public Accountants; and

(3) not spend more than 25 percent of its annual revenue for administrative and fund-raising expenses.

(b) Repealed by Acts 2003, 78th Leg., ch. 1310, Sec. 121(10).

(c) A federation or fund that seeks statewide participation in a state employee charitable campaign must apply on behalf of itself and its affiliated agencies to the state policy committee during the annual eligibility determination period specified by the committee. The state policy committee shall review each application and may approve a federation or fund for statewide participation only if the federation or fund qualifies as a statewide charitable organization. The state policy committee may approve an affiliated charitable organization for statewide participation only if the organization

qualifies as a statewide charitable organization.

(d) The state policy committee may use outside expertise and resources available to it to assess the eligibility of a charitable organization that seeks to participate in a state employee charitable campaign.

(e) An appeal from a decision of the state policy committee shall be conducted in the manner prescribed by the committee. The appeals process must permit a charitable organization that is not approved for statewide participation to apply for participation in the state employee charitable campaign only in a local campaign area.

(f) The state policy committee shall develop guidelines for evaluation of applications based on eligibility criteria under this section and Section 659.150. The state policy committee shall make the guidelines publicly available.

(g) A federation or organization that participated in the state employee charitable campaign before June 20, 2003, is not barred from participation in the program, both in terms of actual participation and the purposes for which the contributions are used, solely as a result of changes made by Sections 35, 36, 37, and 121(9) and (11), Chapter 1310 (H.B. 2425), Acts of the 78th Legislature, Regular Session, 2003. This subsection does not excuse a federation or organization from compliance with any other law, rule, or state policy.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 41, eff. June 19, 1997; Acts 2003, 78th Leg., ch. 1310, Sec. 36, 121(10), eff. June 20, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 347 (H.B. 2252), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1315 (S.B. 217), Sec. 10, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1315 (S.B. 217), Sec. 10, eff. January 1, 2014.

Sec. 659.147. ELIGIBILITY OF CHARITABLE ORGANIZATIONS FOR LOCAL PARTICIPATION. (a) A charitable organization that seeks to participate in the state employee charitable campaign only in a local

campaign area must apply to the state policy committee during the annual eligibility determination period specified by the state policy committee.

(b) The state policy committee, with assistance of any applicable local employee committee appointed by the state policy committee, shall review each application and may approve a charitable organization for participation only in a local campaign area only if the organization qualifies as a local charitable organization and is:

(1) an unaffiliated local organization; or

(2) a federation or fund or an affiliate of a federation or fund that is not approved for statewide participation.

(c) An affiliated organization of an eligible federation or fund that does not qualify as a statewide charitable organization under Section 659.146 because it does not provide services in two or more noncontiguous standard metropolitan statistical areas may apply to the state policy committee for participation in the state employee charitable campaign only in a local campaign area.

(d) An appeal from a decision of the state policy committee regarding the eligibility of an organization to participate in the state employee charitable campaign only in a local campaign area shall be conducted in the manner prescribed by the state policy committee.

(e) The state policy committee shall develop guidelines for evaluation of applications based on eligibility criteria under this section and Section 659.150. The state policy committee shall make the guidelines publicly available.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1315 (S.B. 217), Sec. 11, eff. September 1, 2013.

Sec. 659.148. FEES. (a) The state campaign manager or any local campaign manager appointed by the state policy committee may not charge a fee to the comptroller, a state agency, or a state employee for the services the state campaign manager or local campaign manager provides in connection with a state employee charitable campaign.

(b) The state campaign manager may charge a reasonable and necessary fee for actual campaign expenses in an amount authorized by the state policy committee to the participating charitable organizations in the same proportion that the contributions to that charitable organization bear to the total of contributions in the state employee charitable campaign.

(b-1) If the state policy committee appoints a local campaign manager to administer the state employee charitable campaign in a local campaign area, the state policy committee may authorize the local campaign manager to charge a reasonable and necessary fee in an amount authorized by the state policy committee in the same manner provided for the state campaign manager under Subsection (b).

(c) Fees under Subsections (b) and (b-1) must be based on the combined expenses of the state campaign manager and any local campaign managers appointed by the state policy committee and may not exceed 10 percent of the total amount collected in the state employee charitable campaign.

(d) Except as provided by this subsection, the comptroller shall charge an administrative fee to cover costs incurred by the comptroller and employing state agencies in the implementation of this subchapter to the charitable organizations participating in the first state employee charitable campaign conducted under this subchapter in the same proportion that the contributions to that charitable organization bear to the total of contributions in that campaign. Except as provided by this subsection, the comptroller shall charge an administrative fee to cover costs incurred by the comptroller and employing state agencies in the administration of this subchapter to the charitable organizations in each subsequent state employee charitable campaign in the same proportion that the contributions to that charitable organization bear to the total of contributions in that campaign. The comptroller may decline to charge an administrative fee if the comptroller determines the costs that would be covered by the fee are insignificant. The comptroller shall determine the most efficient and effective method of collecting the administrative fee and shall adopt rules for the implementation of this section.

(e) An institution of higher education that is authorized to operate a payroll system reimbursable from the state treasury shall charge an administrative fee to the participating charitable organizations to cover the actual costs incurred in the

administration of this subchapter. The fee shall be assessed and collected annually and shall be charged in the same proportion that the contributions to the charitable organization bear to the total contributions in that campaign.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 39, eff. June 19, 1997.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1315 (S.B. 217), Sec. 12, eff. September 1, 2013.

Sec. 659.149. FUND-RAISING PRACTICES. The fund-raising practices of a participating charitable organization must:
(1) be truthful and consumer-oriented;
(2) clearly identify and distinguish community-based organizations from statewide and international organizations; and
(3) ensure protection against:
(A) unauthorized use of a list of contributors to the organization;
(B) payment of commissions, kickbacks, finder fees, percentages, bonuses, or overrides for fund-raising;
(C) mailing of unordered merchandise or tickets with a request for money in return; and
(D) general telephone solicitation of the public.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995.

Sec. 659.150. LIMITATION ON THE USE OF CONTRIBUTIONS. (a) A participating charitable organization may use contributions under this subchapter only to provide health and human services or to fund a charitable organization that provides health and human services.
(b) A participating charitable organization may not use contributions under this subchapter to:
(1) directly or indirectly fund litigation; or
(2) make expenditures that would require the organization to register under Chapter 305 if the organization were not an entity exempt from registration under that chapter.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 37, eff. June 20, 2003.

Sec. 659.151. MISAPPLICATION OF CONTRIBUTIONS; AUDIT. (a) The state policy committee may request the comptroller or state auditor to audit a participating charitable organization, the state campaign manager, or a local employee committee or local campaign manager appointed by the state policy committee that the state policy committee reasonably believes has misapplied contributions under this subchapter.

(b) If an audit under this section reveals gross negligence or intentional misconduct on the part of the state campaign manager or a local employee committee or local campaign manager appointed by the state policy committee, the state policy committee shall remove the campaign manager or local employee committee. A person removed under this subsection is not eligible to serve in the capacity from which the person was removed before the fifth anniversary of the date the person was removed.

(c) If an audit under this section reveals intentional misconduct on the part of the state campaign manager, a local employee committee or local campaign manager appointed by the state policy committee, or a participating charitable organization that has distributed money received from the state employee charitable campaign, the state policy committee shall forward its findings to the appropriate law enforcement agency.

(d) The attorney general may bring an action to recover misapplied contributions.

(e) If an investigation or lawsuit results in a recovery of misapplied contributions and there is not a judgment distributing the amounts recovered, the state policy committee shall instruct the comptroller as to the manner of refunding contributions to the appropriate state employees.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 15.01, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1315 (S.B. 217), Sec. 13, eff.

September 1, 2013.

Sec. 659.153. LEGAL REPRESENTATION. The attorney general shall represent the state policy committee and any local employee committee appointed by the state policy committee in all legal matters.

Added by Acts 1997, 75th Leg., ch. 1319, Sec. 4, eff. Sept. 1, 1997.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1315 (S.B. 217), Sec. 14, eff. September 1, 2013.

SUBCHAPTER J. PAYROLL REDUCTION OR DEDUCTION FOR CERTAIN EMPLOYEE BENEFITS AT INSTITUTIONS OF HIGHER EDUCATION

Sec. 659.201. DEFINITION. In this subchapter, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

Added by Acts 1997, 75th Leg., ch. 808, Sec. 1, eff. June 17, 1997.

Sec. 659.202. PAYROLL REDUCTION OR DEDUCTION AUTHORIZED; USE OF FUNDS. (a) An employee of an institution of higher education may authorize in writing a reduction each pay period from the employee's salary or wage payment for the payment of any fee or charge for parking, a parking permit, a transportation pass, or other qualified transportation benefit authorized under section 132(f), Internal Revenue Code of 1986, as amended. An authorization for a reduction under this subchapter by the employee must be voluntary. The institution shall determine which fee or charge an employee may pay under this subsection.

(b) An employee of an institution of higher education may authorize in writing a deduction each pay period from the employee's salary or wage payment for the payment of any fee or charge for parking or for a club membership, recreational sports membership, or similar activity or program. An authorization for a deduction under this subchapter by the employee must be voluntary. The institution shall determine which fee or charge an employee may pay under this subsection.

Added by Acts 1997, 75th Leg., ch. 808, Sec. 1, eff. June 17, 1997. Amended by Acts 2001, 77th Leg., ch. 118, Sec. 2.08, eff. Sept. 1, 2001.

Sec. 659.203. FORM AND MANNER. A deduction under this subchapter must be made in a form and manner prescribed by the appropriate financial officer of the institution of higher education.

Added by Acts 1997, 75th Leg., ch. 808, Sec. 1, eff. June 17, 1997.

Sec. 659.204. CHANGE; DURATION. (a) An employee authorizing a deduction under this subchapter may change or revoke the authorization by delivering written notice of the change or revocation to the financial officer of the institution of higher education.

(b) An authorization under this subchapter is effective until the financial officer receives a notice under Subsection (a) changing or revoking the authorization.

(c) The notice given under Subsection (a) must be in the form and manner prescribed by the appropriate financial officer of the institution of higher education.

Added by Acts 1997, 75th Leg., ch. 808, Sec. 1, eff. June 17, 1997.

Sec. 659.205. STATUS OF DEDUCTION OR SALARY REDUCTION. (a) If so designated by the employing institution of higher education, a salary deduction made by an employee under this subchapter shall be considered compensation under this chapter and salary and wages and member compensation under Title 8.

(b) If authorized by federal law, a salary deduction or salary reduction under this subchapter may be made on a pretax basis.

Added by Acts 2001, 77th Leg., ch. 118, Sec. 2.09, eff. Sept. 1, 2001.

SUBCHAPTER K. PROMOTIONS, RECLASSIFICATIONS, AND OTHER ADJUSTMENTS TO SALARY

Sec. 659.251. APPLICABILITY. (a) This subchapter applies only to a state employee employed in the executive or judicial branch of state government.

(b) The policies for promotions, demotions, and other adjustments to salary for employees of the legislative branch, including employees of the lieutenant governor, are determined as follows:

(1) for employees of either house of the legislature, a member of the legislature, or the lieutenant governor, by the presiding officer of the appropriate house of the legislature; and

(2) for employees of a legislative agency, by the administrative head of the agency.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 16, eff. Sept. 1, 1999.

Sec. 659.252. DEFINITION. In this subchapter, "state agency" means the state department, institution, entity, or other agency in the executive or judicial branch of state government that employs a state employee.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 16, eff. Sept. 1, 1999.

Sec. 659.253. TRANSFER WITHIN AGENCY FROM EXEMPT TO CLASSIFIED POSITION. (a) Except as provided by Subsection (b), a state employee who transfers within a state agency from an exempt position to a classified position is entitled to receive an annual salary in the salary group to which the classified position is allocated.

(b) During the fiscal biennium in which a state employee transfers within a state agency from an exempt position to a classified position, the employee's annual salary rate after the transfer may not exceed:

(1) the rate for the salary step equal to the rate received by the employee when holding the exempt position or the rate for the next higher salary step, if the classified position is allocated to a salary group that is divided into steps; or

(2) the rate received by the employee when holding the exempt position or the maximum rate of the salary group to which the classified position is allocated, whichever is lower, if the classified position is allocated to a salary group that is not

divided into steps.

(c) A merit salary increase for a state employee who transfers to a classified position from an exempt position for which the salary is specifically established in the General Appropriations Act may not take effect if:

(1) the employee has spent less than six months in the classified position; or

(2) the increase would cause the salary limitation prescribed by Subsection (b) to be exceeded.

(d) The Legislative Budget Board and the governor together may approve an exception to the salary limitations prescribed by Subsection (b) for a state employee:

(1) on receiving the employing state agency's application for the exception; and

(2) if the employee's job responsibilities with the state agency have changed substantially during the biennium.

(e) In this section:

(1) "Classified position" means a position classified under the state's position classification plan.

(2) "Exempt position" means a position exempt from the state's position classification plan.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 16, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 38, eff. Sept. 1, 2003.

Sec. 659.2531. TRANSFER WITHIN AGENCY BETWEEN CLASSIFIED POSITIONS ALLOCATED TO SAME SALARY GROUP. (a) In this section:

(1) "Classified position" means a position classified under the state's position classification plan.

(2) "Transfer" means the transfer of a state employee within a state agency between two classified positions that:

(A) are allocated to the same salary group; and

(B) have different position titles as listed in the General Appropriations Act.

(b) Except as provided by Subsection (c), a state employee's annual salary rate immediately after a transfer may not exceed:

(1) the rate for the salary step that is one step higher than the salary step at which the employee was paid immediately

before the transfer, if the classified position to which the employee transfers is allocated to a salary group that is divided into steps; or

(2) 103.4 percent of the employee's annual salary rate immediately before the transfer, if the classified position to which the employee transfers is allocated to a salary group that is not divided into steps.

(c) A state employee's annual salary rate immediately after a transfer may not exceed the maximum rate for the appropriate salary group.

Added by Acts 2003, 78th Leg., ch. 1310, Sec. 39, eff. Sept. 1, 2003.

Sec. 659.2532. TRANSFER WITHIN AGENCY BETWEEN CLASSIFIED POSITIONS WITH SAME POSITION TITLE WHEN EMPLOYEE IS COMPETITIVELY SELECTED. (a) In this section, "classified position" means a position classified under the state's position classification plan.

(b) A state employee's annual salary rate immediately after a transfer may be set at any rate in the appropriate salary group if the employee:

(1) transfers within a state agency between two classified positions that:

(A) are allocated to the same salary group; and

(B) have the same position title as listed in the General Appropriations Act;

(2) transfers to a position for which the employment opening is publicly listed in accordance with Chapter 656;

(3) voluntarily applies for the position to which the employee transfers; and

(4) agrees to accept the position to which the employee transfers at the publicly listed salary.

Added by Acts 2023, 88th Leg., R.S., Ch. 498 (H.B. 2157), Sec. 1, eff. September 1, 2023.

Sec. 659.254. CLASSIFIED POSITION REALLOCATED OR RECLASSIFIED TO DIFFERENT SALARY GROUP. (a) This section applies only to positions classified under the state's position classification plan.

(b) In this section:

(1) "higher salary group" means a salary group with a higher minimum salary rate; and

(2) "lower salary group" means a salary group with a lower minimum salary rate.

(c) An employee whose classified position is reallocated by the General Appropriations Act or reclassified under Chapter 654 to a higher salary group will be paid at the minimum salary rate in the higher salary group or at the salary rate the employee would have received without the reallocation or reclassification, whichever rate is higher, except to maintain desirable salary relationships among employees in the affected positions, the salary may be adjusted not more than:

(1) two steps higher, if the employee's salary group is divided into steps by the General Appropriations Act; or

(2) 6.8 percent higher, if the employee's salary group is not divided into steps by the General Appropriations Act.

(d) An employee whose classified position is reallocated by the General Appropriations Act or reclassified under Chapter 654 to a lower salary group will be paid at the salary rate that the employee would have received had the position not been reallocated or reclassified, not to exceed the maximum rate of the lower salary group.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 16, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 34, eff. Sept. 1, 2001.

Sec. 659.255. MERIT SALARY INCREASES; ONE-TIME MERIT PAYMENTS. (a) In this section:

(1) "Classified employee" means a state employee who holds a classified position.

(2) "Classified position" means a position classified under the state's position classification plan.

(3) "Merit salary increase" means an increase in compensation to:

(A) a higher step rate in the same classified salary group, if the classified employee is compensated under Salary Schedule A of the General Appropriations Act; or

(B) a higher rate within the range of the same

classified salary group, if the classified employee is compensated under Salary Schedule B of the General Appropriations Act.

(b) The comptroller shall prescribe accounting and reporting procedures as necessary to ensure the availability of information reflecting each state agency's use of merit salary increases, including one-time merit payments.

(c) Each state agency shall establish:

(1) a procedure for determining the eligibility of a classified employee to receive a merit salary increase or a one-time merit payment from the agency; and

(2) requirements for substantiating the eligibility of a classified employee who receives a merit salary increase or a one-time merit payment from the agency.

(d) Merit salary increases and one-time merit payments shall be applied throughout the range of classified salary groups used by each state agency.

(e) A state agency may award a merit salary increase to a classified employee in relation to the employee's performance in the current classified position held by the employee if:

(1) the employee has been employed by the agency in that position for at least six continuous months before the effective date of the increase;

(2) the effective date of the increase is at least six months after the effective date of the employee's last:

(A) promotion; or

(B) merit salary increase for performance in that position;

(3) the agency has complied with Subsection (c);

(4) the employee's job performance and productivity in that position are consistently above that normally expected or required; and

(5) the effective date of the increase is at least six months after the effective date of the agency's last:

(A) payment to the employee of an enhanced compensation award authorized by the General Appropriations Act; or

(B) one-time merit payment for performance in that position.

(f) A state agency may make a one-time merit payment to a classified employee in relation to the employee's performance in the current classified position held by the employee if:

(1) the employee has been employed by the agency in that position for at least six continuous months before the effective date of the payment;

(2) the effective date of the payment is at least six months after the effective date of the employee's last:

(A) promotion; or

(B) merit salary increase for performance in that position;

(3) the agency has complied with Subsection (c);

(4) the employee's job performance and productivity in that position are consistently above that normally expected or required; and

(5) the effective date of the payment is at least six months after the effective date of the agency's last:

(A) payment to the employee of an enhanced compensation award authorized by the General Appropriations Act; or

(B) one-time merit payment for performance in that position.

(g) The six-month limitations prescribed by Subsections (f)(2) and (5) do not apply if the administrative head of the agency determines in writing that the merit payment is made in relation to the employee's performance during a natural disaster or other extraordinary circumstance.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 16, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 40, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1241 (S.B. 2298), Sec. 7, eff. June 19, 2009.

Sec. 659.2551. PERFORMANCE LINKED TO AGENCY GOALS. Each state agency shall adopt policies to ensure that an employee's performance expectations are linked to the goals in the agency's strategic plan adopted under Chapter 2056.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 35, eff. June 15, 2001.

Sec. 659.256. PROMOTIONS. (a) This section applies only to

positions classified under the state's position classification plan.

(b) A promotion is an employee's change in duty assignment within a state agency from one classified position to another classified position that:

(1) is in a salary group with a higher minimum salary rate;

(2) requires higher qualifications, such as greater skill or longer experience; and

(3) involves a higher level of responsibility.

(c) When an employee is promoted to a position in a higher salary group in Salary Schedule A of the General Appropriations Act, the employee shall receive a salary rate at least one step higher than the employee's salary rate before promotion or the minimum rate of the new salary range, whichever is higher, and may, at the discretion of the state agency administrator, receive an annual salary rate up to and including the maximum rate of the new salary range. When an employee is promoted from a position in Salary Schedule B or C of the General Appropriations Act to a position in Salary Schedule A of the General Appropriations Act, the employee shall receive a step rate that is at least one step above the rate the employee received before promotion or the minimum rate of the new salary range, whichever is higher, and may, at the discretion of the state agency administrator, receive an annual rate up to and including the maximum rate of the new salary range.

(d) When an employee is promoted in Salary Schedule B of the General Appropriations Act or from Salary Schedule A or C of the General Appropriations Act to Salary Schedule B of the General Appropriations Act, the employee shall receive a salary rate that is at least 3.4 percent higher than the employee's salary before promotion or the minimum rate of the new salary range, whichever is higher, and may, at the discretion of the state agency administrator, receive an annual rate up to and including the maximum rate of the new salary range.

(e) When an employee is promoted in Salary Schedule C of the General Appropriations Act or from Salary Schedule A or B of the General Appropriations Act to Salary Schedule C of the General Appropriations Act, the employee shall receive the rate set in the schedule for that salary group.

(f) Notwithstanding the other provisions of this section, an employee whose salary prior to promotion exceeds the maximum rate of the employee's assigned salary group may not receive more than the

maximum rate of the new salary group, even if the increase is less than one step in Salary Schedule A of the General Appropriations Act or 3.4 percent in Salary Schedule B of the General Appropriations Act.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 16, eff. Sept. 1, 1999.

Sec. 659.257. DEMOTIONS. (a) This section applies only to positions classified under the state's position classification plan.

(b) A demotion is an employee's change in duty assignment within a state agency from one classified position to another classified position that is in a salary group with a lower minimum salary rate.

(c) When an employee is demoted to a position in a lower salary group in Salary Schedule A of the General Appropriations Act, the employee will receive a salary rate at least one step below the rate the employee received before demotion. When an employee is demoted from a position in Salary Schedule B or C of the General Appropriations Act to a position in Salary Schedule A of the General Appropriations Act, the employee shall receive a step rate that is at least 3.4 percent below the rate the employee received before demotion.

(d) When an employee is demoted within Salary Schedule B of the General Appropriations Act or from Salary Schedule A or C of the General Appropriations Act to Salary Schedule B of the General Appropriations Act, the employee will receive a salary rate of at least 3.4 percent below the rate the employee received before demotion.

(e) When an employee is demoted to a position in a lower salary group in Salary Schedule C of the General Appropriations Act or from Salary Schedule A or B of the General Appropriations Act to Salary Schedule C of the General Appropriations Act, the employee will receive the rate set in the schedule for that salary group.

(f) As exceptions to the other provisions in this section, an agency is not required to reduce an employee's salary if:

(1) the employee accepts a position in another classification in a lower salary group in lieu of a layoff under a reduction in force; or

(2) the employee is selected for another position in a

classification in a lower salary group as a result of applying for the position.

(g) An employee demoted in the manner described by Subsection (f) may not receive a salary rate that exceeds the maximum rate of the lower salary group. In addition, an employee demoted as described by Subsection (f)(1) may not receive a salary rate that exceeds the employee's salary rate before the demotion.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 16, eff. Sept. 1, 1999.

Sec. 659.258. SALARY REDUCTION FOR DISCIPLINARY REASONS. (a) This section applies only to positions classified under the state's position classification plan.

(b) The administrative head of a state agency may reduce an employee's salary for disciplinary reasons, if warranted by the employee's performance, to a rate in the employee's designated salary group not lower than the minimum rate. The agency may, as the employee's performance improves, restore the employee's pay to any rate that does not exceed the employee's prior salary rate without accounting for the restoration as a merit salary increase.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 16, eff. Sept. 1, 1999.

Sec. 659.259. SALARY LIMITED TO MAXIMUM GROUP RATE. (a) This section applies only to positions classified under the state's position classification plan.

(b) A salary adjustment authorized by this subchapter may not result in an employee's receiving an annual salary that exceeds the maximum rate of the salary group to which the employee's position is allocated.

(c) Employees who are paid above the maximum of their job class' designated salary group on August 1, 1999, will be allowed to maintain their salaries. However, in no case may they be allowed to receive additional salary increases, including across-the-board increases and merit increases, including one-time merit payments, until the salary maximum for their designated salary group encompasses their salary. These employees must be paid in the salary range if they are promoted, demoted, or reclassified.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 16, eff. Sept. 1, 1999.

Sec. 659.260. TEMPORARY ASSIGNMENT. (a) To facilitate a state agency's work during an emergency or other special circumstance, an employee may be temporarily assigned to other duties for a period not to exceed six months. The employee is entitled to receive during the period of reassignment at least the same rate of pay that the employee received immediately before the reassignment. An employee may not be temporarily assigned under this subsection to a position classified in a salary group with a lower minimum salary rate.

(b) An employee may not be assigned temporary duties under this section for more than six months during a twelve-month period.

(c) An employee temporarily designated to act as the administrative head of a state agency may continue to receive a salary for a classified position in an amount not to exceed the amount established by the General Appropriations Act for the administrative head of the agency.

(d) While the employee is temporarily assigned under this section, the state agency may not:

(1) award a merit salary increase to the employee; or

(2) promote or demote the employee.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 16, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 36, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 41, eff. June 20, 2003.

Sec. 659.261. SALARY CAP. (a) The maximum amount a state agency spends for merit salary increases in and promotions to classified positions during a fiscal year may not exceed, without the written approval of the budget division of the governor's office and the Legislative Budget Board, the amount computed by multiplying the total amount spent by the agency in the preceding fiscal year for classified salaries times the percentage set by the General Appropriations Act for purposes of this computation.

(b) The maximum amount that may be spent for merit salary increases in and promotions to classified positions shall be computed separately for each year of the state fiscal biennium. Merit salary increases and promotions awarded in the first fiscal year of a

biennium do not count against the maximum amount that may be spent for those increases in the second fiscal year of that biennium.

(c) Money spent to pay a salary increase for an employee who is promoted to a classified position title counts against the limitation prescribed by this section only if, as a result of the promotion, the number of agency employees in that position title exceeds the maximum number of agency employees who have been in that position title at any time during the preceding six-month period.

(d) A request to exceed the limitation prescribed by this section must be submitted by the governing body of the agency, or by the head of the agency if the agency is not governed by a multimember governing body, and must include at least:

(1) the date on which the governing body or the head of the agency approved the request;

(2) a statement justifying the need to exceed the limitation; and

(3) the source of funds to be used to pay the salary increases.

(e) The comptroller shall prescribe accounting and reporting procedures necessary to ensure that the amount spent for merit salary increases and promotions does not exceed the limitations established by this section.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 16, eff. Sept. 1, 1999.

Sec. 659.262. ADDITIONAL COMPENSATION FOR CERTAIN CLASSIFIED STATE EMPLOYEES. (a) In this section, "state agency" means an agency of any branch of state government that employs individuals who are classified under Chapter 654.

(b) To enhance the recruitment of competent personnel for certain classified employee positions, a state agency may provide to a state employee, at the time of the employee's hiring for a classified position, additional compensation in the form of a one-time recruitment payment not to exceed $5,000. If the employee discontinues employment with the state agency for any reason less than three months after the date of receiving the recruitment payment, the employee shall refund to the state agency the full amount of the recruitment payment. If the employee discontinues employment with the state agency for any reason three months or

longer but less than 12 months after the date of receiving the recruitment payment, the employee shall refund to the state agency an amount computed by:

(1) subtracting from 12 months the number of complete calendar months the employee worked after the date of receiving the recruitment payment;

(2) dividing the number of months computed under Subdivision (1) by 12 months; and

(3) multiplying the fraction computed under Subdivision (2) by the amount of the recruitment payment.

(c) To enhance the retention of employees who are employed in certain classified positions that are identified by the chief administrator of a state agency as essential for the state agency's operations, a state agency may enter into a deferred compensation contract with a classified employee to provide to the employee a one-time additional compensation payment not to exceed $5,000 to be added to the employee's salary payment the month after the conclusion of the 12-month period of service under the deferred compensation contract.

(d) To be eligible to enter into a contract for deferred compensation under Subsection (c), a state employee must have already completed at least 12 months of service in a classified position.

(e) The chief administrator of a state agency shall determine whether additional compensation is necessary under this section on a case-by-case basis, considering:

(1) the criticality of the employee position in the operations of the state agency;

(2) evidence of high turnover rates among employees filling the position or an extended period during which the position is or has in the past been vacant;

(3) evidence of a shortage of employees qualified to fill the position or a shortage of qualified applicants; and

(4) other relevant factors.

(f) Before an agency provides or enters into a contract to provide additional compensation to an employee under this section, the chief administrator of the state agency must certify to the comptroller in writing the reasons why the additional compensation is necessary.

(g) Additional compensation paid to an employee under this section is specifically exempted from any limitation on salary or

salary increases prescribed by this chapter.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 16(f), eff. Sept. 1, 2003.

Sec. 659.263. ADMINISTRATION. The comptroller may establish procedures and adopt rules to administer this subchapter.

Added by Acts 2003, 78th Leg., ch. 1310, Sec. 42, eff. Sept. 1, 2003. Renumbered from Government Code, Section 659.262 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(36), eff. September 1, 2005.

SUBCHAPTER L. HAZARDOUS DUTY PAY

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2467, S.B. 502 and S.B. 1321, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 659.301. DEFINITIONS. In this subchapter:

(1) "Full-time state employee" means a state employee who normally works at least 40 hours each week.

(2) "Hazardous duty position" means a position in the service of this state that:

(A) renders any individual holding that position a state employee; or

(B) requires the performance of hazardous duty.

(3) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(4) "Part-time state employee" means a state employee who is not a full-time state employee.

(5) "State employee" means an individual who:

(A) is a commissioned law enforcement officer of the Department of Public Safety, the Texas Facilities Commission, the Texas Alcoholic Beverage Commission, the Texas Department of Criminal Justice, the attorney general, or the insurance fraud unit of the Texas Department of Insurance;

(B) is a commissioned security officer of the comptroller;

(C) is a law enforcement officer commissioned by the

Parks and Wildlife Commission;

(D) is a commissioned peace officer of an institution of higher education;

(E) is an employee or official of the Board of Pardons and Paroles or the parole division of the Texas Department of Criminal Justice if the employee or official has routine direct contact with inmates of any penal or correctional institution or with administratively released prisoners subject to the board's jurisdiction;

(F) has been certified to the Employees Retirement System of Texas under Section 815.505 as having begun employment as a law enforcement officer or custodial officer, unless the individual has been certified to the system as having ceased employment as a law enforcement officer or custodial officer;

(G) before May 29, 1987, received hazardous duty pay based on the terms of any state law if the individual holds a position designated under that law as eligible for the pay; or

(H) is a security officer employed by the Texas Military Department.

(6) "Workday" means any day that is not a Saturday, a Sunday, or a state or national holiday under Section 662.003. The term includes a state or national holiday that the General Appropriations Act prohibits state agencies from observing.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 37, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.079, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1055 (H.B. 2037), Sec. 2, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 86 (S.B. 1598), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1143 (H.B. 2816), Sec. 1, eff. September 1, 2019.

Sec. 659.302. ENTITLEMENT TO RECEIVE HAZARDOUS DUTY PAY. (a) Hazardous duty pay is included in the compensation paid to an individual for services rendered during a month if the individual:

(1) is a state employee for any portion of the first

workday of the month; and

(2) has completed at least 12 months of lifetime service credit not later than the last day of the preceding month.

(b) This section does not apply to an employee of the Texas Juvenile Justice Department.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 37, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 105, eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1171, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 659.303. TEXAS JUVENILE JUSTICE DEPARTMENT EMPLOYEES. (a) The department may include hazardous duty pay in the compensation paid to an individual for services rendered during a month if the individual:

(1) has:

(A) routine direct contact with youth:

(i) placed in a residential facility of the department; or

(ii) released under the department's supervision; and

(B) completed at least 12 months of lifetime service credit not later than the last day of the preceding month; or

(2) is an investigator, inspector general, security officer, or apprehension specialist employed by the office of the inspector general of the department.

(b) For purposes of Subsection (a)(1), an individual who is having routine direct contact with youth on any portion of the first workday of a month is considered to have routine direct contact with youth for the entire month.

(c) The department's authority under Subsection (a) is subject to any conditions or limitations in the General Appropriations Act.

(d) Except for the inclusion of hazardous duty pay in the compensation paid to an individual described by Subsection (a)(2), the department may not pay hazardous duty pay:

(1) from funds authorized for payment of an across-the-

board employee salary increase; or

(2) to an employee who works at the department's central office.

(e) In this section, "department" means the Texas Juvenile Justice Department.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 37, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 106, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 907 (H.B. 3689), Sec. 1, eff. September 1, 2019.

Sec. 659.304. INELIGIBILITY TO RECEIVE HAZARDOUS DUTY PAY. Hazardous duty pay may be paid only to an individual who is:

(1) entitled to receive the pay under Section 659.302; or

(2) eligible to receive the pay under Section 659.303.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 37, eff. Sept. 1, 2001.

Sec. 659.305. AMOUNT OF HAZARDOUS DUTY PAY. (a) Except as provided by Subsections (b) and (h), the amount of a full-time state employee's hazardous duty pay for a particular month is $10 for each 12-month period of lifetime service credit accrued by the employee.

(b) This subsection applies only to a state employee whose compensation for services provided to the state during any month before August 1987 included hazardous duty pay that was based on total state service performed before May 29, 1987. The amount of a full-time state employee's hazardous duty pay for a particular month is the sum of:

(1) $10 for each 12-month period of state service credit the employee finished accruing before May 29, 1987; and

(2) $10 for each 12-month period of lifetime service credit that the employee accrued after the date, which must be before May 29, 1987, on which the employee finished accruing the last 12-month period of state service credit.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1234, Sec. 2, eff. September 1, 2007.

(d) For purposes of Subsections (a), (b)(2), and (h), the

number of 12-month periods of lifetime service credit that the employee has accrued must be determined as of the last day of the preceding month.

(e) A state employee is considered to be a full-time state employee for purposes of Subsection (a), (b), or (h) if the employee is a full-time state employee for any portion of the first workday of the month.

(f) The amount of a part-time state employee's hazardous duty pay is proportional to the amount of a full-time state employee's pay under Subsection (a), (b), or (h).

(g) A state employee may not receive more than $10 or $12, as applicable, for each 12-month period of lifetime service credit, regardless of:

(1) the number of positions the employee holds; or

(2) the number of hours the employee works each week.

(h) The amount of hazardous duty pay for a particular month for a full-time correctional officer employed by the Texas Department of Criminal Justice is the lesser of:

(1) $12 for each 12-month period of lifetime service credit accrued by the employee; or

(2) $300.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 37, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 13.06, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1234 (H.B. 2498), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1234 (H.B. 2498), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1303 (S.B. 737), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1303 (S.B. 737), Sec. 2, eff. September 1, 2007.

Sec. 659.306. RESPONSIBILITY FOR PAYING HAZARDOUS DUTY PAY. The state agency that employs an individual at the beginning of the first workday of a month must pay any hazardous duty pay that is included in the compensation paid to the individual for services

rendered during that month. If the individual transfers to a second state agency during that month, the first agency remains responsible for paying the full amount of hazardous duty pay for that month.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 37, eff. Sept. 1, 2001.

Sec. 659.307. SERVICE CREDIT. (a) The amount of an individual's lifetime service credit equals the number of months the individual has served in a hazardous duty position during the individual's lifetime.

(b) The amount of an individual's state service credit equals the sum of:

(1) the amount of the individual's lifetime service credit, as determined under Subsection (a); and

(2) the number of months during the individual's lifetime that the individual has provided services to the state in a position that is not a hazardous duty position.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 37, eff. Sept. 1, 2001.

Sec. 659.308. ADMINISTRATION. The comptroller may establish procedures and adopt rules to administer this subchapter.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 37, eff. Sept. 1, 2001.

CHAPTER 660. TRAVEL EXPENSES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 660.001. SHORT TITLE. This chapter may be cited as the Travel Regulations Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 660.002. DEFINITIONS. In this chapter:

(1) "Appropriated funds" means funds appropriated under the General Appropriations Act.

(2) "Board" means a board, commission, committee, council, governing body, or similar entity in the executive, legislative, or

judicial branch of state government that is composed of two or more members.

(3) "Cancellation charge" means a fee, charge, or payment that a provider of travel services assesses or retains because of the cancellation of a travel reservation or other travel plan.

(4) "Chief administrator of a state agency" means:

(A) an elected state official, including a member of a board whose membership is elected by vote of the people but excluding a member of the legislature;

(B) an appointed state official, including an individual whose appointment as a state official has not yet been confirmed by the senate;

(C) the director of a legislative interim committee or board;

(D) the chief administrator of a state hospital or special school;

(E) the chief administrator of an institution of higher education;

(F) a first assistant, chief deputy, chief clerk, or similar individual employed by a state agency who is specifically authorized by law to act for the individual's superior; and

(G) the individual who has the daily responsibility for managing the operations of a state agency that is governed by a part-time board.

(5) "Commercial lodging establishment" means:

(A) a motel, hotel, inn, apartment, house, or similar establishment that provides lodging to the public for pay; or

(B) a person or establishment that provides lodging for pay that the comptroller determines to have a sufficient number of the characteristics of a commercial lodging establishment for purposes of this chapter.

(6) "Commercial transportation company" means a person that offers to the public to transport people or goods for pay.

(7) "Designated headquarters" means:

(A) the area within:

(i) the boundaries of the incorporated municipality in which the state employee's place of employment is located; or

(ii) a five-mile radius of the state employee's place of employment, if the state employee's place of employment is located within an unincorporated area; and

(B) any area completely surrounded by the incorporated municipality in which the state employee's place of employment is located.

(8) "Disability" means a physical or mental impairment of an individual that substantially limits one or more major life activities of the individual.

(9) "Duty point" means the destination, other than a place of employment, to which a state employee travels to conduct official state business. If the destination is outside the employee's designated headquarters, the duty point is:

(A) the incorporated municipality in which the destination is located; or

(B) the area within a five-mile radius of the destination if the destination is located in an unincorporated area.

(10) "Incidental expense" means an expense incurred while traveling on official state business. The term includes a mandatory insurance or service charge and an applicable tax. The term does not include:

(A) a meal, lodging, or transportation expense, including a tax on a meal;

(B) a personal expense;

(C) an expense that a person would incur regardless of whether the person is traveling on official state business; or

(D) a tip or gratuity.

(11) "Institutional funds" has the meaning assigned by Section 51.009, Education Code.

(12) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(13) "Key official" means a chief administrator of a state agency or a person holding a position that has been designated as exempt from the position classification plan in accordance with the General Appropriations Act or by the governor under Chapter 654.

(14) "Lease" means a contract with a term of at least one month that gives the lessee possession and use of property or equipment while the lessor retains ownership of the property or equipment.

(15) "Place of employment" means the office or other location at which a state employee most frequently conducts official state business.

(16) "Prospective state employee" means an individual that

a state agency considers for employment with the agency. The term includes a state employee of a state agency who is considered for employment by another state agency.

(17) "Receipt" means the tangible or electronically stored version of an invoice, ticket, bill, document, or other item that the comptroller accepts as proof that a travel expense has been incurred by a state employee.

(18) "Rented or public conveyance" means a motor vehicle, train, aircraft, boat, or bicycle that a state employee rents or pays a fare to use for a period of less than one month.

(19) "State agency" means:

(A) a unit of state government that uses appropriated funds to pay or reimburse a travel expense of a state employee;

(B) the Teacher Retirement System of Texas; or

(C) the Employees Retirement System of Texas.

(20) "State employee" means a person employed by a state agency. The term includes a key official unless this chapter specifically provides otherwise.

(21) "Travel expense" means a meal, lodging, transportation, or incidental expense.

(22) "Unit of state government" includes an institution of higher education.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1300, Sec. 1, eff. Sept. 1, 1997.

Sec. 660.003. APPLICABILITY. (a) This chapter, the General Appropriations Act, and the rules adopted by the comptroller under this chapter govern the procedures, amounts, timing, limits, required documentation, permissible payees, distinctions among different types of state employees, and all other details concerning travel expense payments or reimbursements by a state agency.

(b) Except as provided by Subsections (c) and (d), this chapter and the travel provisions of the General Appropriations Act apply to a travel expense only to the extent that appropriated funds are used to pay or reimburse the expense.

(c) This chapter and the travel provisions of the General Appropriations Act apply to a travel expense paid or reimbursed by

the Employees Retirement System of Texas or the Teacher Retirement System of Texas, regardless of whether the funds used to make the payment or reimbursement are appropriated funds.

(d) A law outside this chapter that states that this chapter, the travel provisions of the General Appropriations Act, or both, apply to a travel expense prevails over a provision to the contrary in this chapter.

(e) A state agency may pay or reimburse a travel expense only if:

(1) the expense is reasonable and necessary;

(2) the purpose of the travel clearly involves official state business and is consistent with the agency's legal authority;

(3) the expense and the travel during which the expense is incurred comply with:

(A) this chapter;

(B) the rules adopted by the comptroller under this chapter; and

(C) the travel provisions of the General Appropriations Act; and

(4) for travel outside the state, the travel is approved in advance in accordance with the policy of the state agency that proposes to pay or reimburse the expense.

(f) A travel expense may be paid or reimbursed according to the requirements of an applicable federal law or regulation, and this chapter does not apply to the extent necessary to avoid conflict with an applicable federal law or regulation.

(g) A state agency may pay or reimburse a travel expense for the rental, lease, or operation of aircraft only if the transportation under the rental, lease, or operation meets the criteria provided by Section 2205.036.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1300, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 280, Sec. 1, eff. Sept. 1, 1999.

Sec. 660.004. TRAVEL EXPENSES PAID OR REIMBURSED BY INSTITUTIONS OF HIGHER EDUCATION. (a) This chapter does not apply to a travel expense to the extent an institution of higher education pays or reimburses the expense from institutional funds.

(b) The governing board of an institution of higher education shall adopt rules as necessary to administer and control travel expense payments and reimbursements that are exempt from this chapter under Subsection (a).

(c) Funds appropriated for the John Ben Shepperd Public Leadership Institute of The University of Texas of the Permian Basin may be used to pay for costs associated with the institute's educational programs for public secondary and university-level students, including registration fees, ground or air transportation, lodging, meals, training costs, and related expenses.

(d) Funds appropriated for Prairie View A&M University may be used to pay for costs associated with the university's Academy for Collegiate Excellence and Student Success program and Research Apprentice Program and the Prairie View A&M Undergraduate Medical Academy, including participant and employee travel expenses and related expenses.

(e) Funds appropriated for the education of university students at The University of Texas Health Science Center at San Antonio may be used to pay for costs associated with the educational programs for the campus's university-level students attending the Laredo Regional Campus and receiving clinical training in Webb County and the surrounding communities, including ground or air transportation, lodging, and related expenses.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1300, Sec. 3, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 585 (S.B. 2465), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 454 (S.B. 1662), Sec. 1, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 650 (S.B. 1788), Sec. 1, eff. June 10, 2019.

Sec. 660.005. MAXIMUM TRAVEL EXPENSES. The maximum amount a state agency spends for travel expenses during a fiscal year may not exceed any limitation on total agency travel expenses provided by the General Appropriations Act.

Added by Acts 1999, 76th Leg., ch. 280, Sec. 2, eff. Sept. 1, 1999.

Sec. 660.006. TRAVEL OF PROSPECTIVE STATE EMPLOYEES. (a) A state agency that provides advance authorization to a prospective state employee to visit the agency for an interview or other employment evaluation may:

(1) reimburse the prospective state employee for a travel expense incurred as a result of visiting the agency; or

(2) pay a vendor for a travel expense incurred by the prospective state employee as a result of visiting the agency.

(b) A state agency shall treat a prospective state employee as a state employee for the purposes of reimbursing or paying a travel expense of the prospective state employee. The amount of the payment or reimbursement is limited to the amount that may be paid or reimbursed for travel expenses incurred by an individual who holds the position for which the prospective state employee is being considered.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 4, eff. Sept. 1, 1997.

Sec. 660.007. CONSERVATION OF FUNDS. (a) A state agency shall minimize the amount of travel expenses paid or reimbursed by the agency. The agency shall ensure that each travel arrangement is the most cost effective considering all relevant circumstances.

(b) A state agency may specify a travel expense payment or reimbursement rate that is less than the maximum rate specified in this chapter or the travel provisions of the General Appropriations Act. The lower rate applies only to a travel expense incurred after the agency has notified the affected individuals in writing about the rate. The agency is solely responsible for enforcing the rate.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 4, eff. Sept. 1, 1997.

Sec. 660.008. TRAVEL EXPENSES INCURRED WHILE ON LEAVE. A state agency may pay or reimburse a state employee for a travel expense the employee incurs while using personal or compensatory leave if:

(1) the leave is used while the employee is away from the employee's designated headquarters;

(2) the primary purpose of the employee's being away is to conduct official state business; and

(3) the agency determines that returning the employee to the employee's designated headquarters while using the leave would not be cost effective or would be impracticable.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 4, eff. Sept. 1, 1997.

Sec. 660.009. INABILITY TO PERFORM OFFICIAL STATE BUSINESS. A state agency may pay or reimburse a state employee for a travel expense the employee incurs as a result of attempting to conduct official state business if:

(1) the employee is unable to conduct the business because of a natural disaster or other natural occurrence; and

(2) the expense would be payable or reimbursable had the official state business been conducted.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 4, eff. Sept. 1, 1997.

Sec. 660.010. TRAVEL EXPENSES INCURRED TO OBTAIN MEDICAL CARE. As additional compensation to a state employee, a state agency may pay or reimburse the employee for a travel expense the employee incurs while obtaining medical care for the employee if:

(1) the expense is incurred outside the employee's designated headquarters;

(2) the purpose of the employee traveling outside the employee's designated headquarters was to conduct official state business;

(3) waiting to receive the care until the employee returns to the employee's designated headquarters would be unreasonable; and

(4) the expense is paid or reimbursed only to the extent it would have been paid or reimbursed had it been incurred while conducting official state business.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 4, eff. Sept. 1, 1997.

Sec. 660.011. TRAVEL EXPENSES INCURRED TO ATTEND FUNERAL. As additional compensation to a state employee, a state agency may

reimburse the employee for or pay a travel expense the employee incurs while attending the funeral of an individual who was a state employee, a board member, or a member of the legislature if:

(1) the agency determines that the employee's attendance at the funeral is appropriate under the circumstances; and

(2) the expense is paid or reimbursed only to the extent it could have been paid or reimbursed had it been incurred while conducting official state business.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 4, eff. Sept. 1, 1997.

Sec. 660.012. TRAVEL EXPENSES INCURRED RETURNING TO DESIGNATED HEADQUARTERS. (a) A state agency that requires a state employee on personal or compensatory leave to return to the employee's designated headquarters from another location may pay or reimburse the employee for a travel expense incurred by the employee while traveling to the headquarters. The agency may pay or reimburse a travel expense incurred by the employee while traveling back to the location at which the employee was staying while on leave or, when appropriate, to the proper location on the employee's itinerary, if the employee resumes the leave.

(b) A state agency may pay or reimburse a state employee for a travel expense incurred when the employee returns, before official state business is completed, from a duty point to the employee's designated headquarters because of an illness or a personal emergency.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 4, eff. Sept. 1, 1997.

Sec. 660.013. TRAVEL EXPENSES INCURRED BY EMPLOYEES OF OTHER AGENCIES. A state agency may pay or reimburse a travel expense incurred by another state agency's employee if the employee incurred the expense while providing services to the paying or reimbursing agency.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 4, eff. Sept. 1, 1997.

Sec. 660.014. PAYMENTS TO CREDIT CARD ISSUERS AND TRAVEL

AGENTS. (a) If a state agency may directly pay a commercial lodging establishment or a commercial transportation company under this chapter, the agency may instead pay a credit card issuer or a travel agency for the lodging or transportation.

(b) The documentation required for direct payment to a commercial lodging establishment or commercial transportation company is also required for payment to a credit card issuer or a travel agency.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 4, eff. Sept. 1, 1997.

Sec. 660.015. CANCELLATION CHARGES. A state agency may pay or reimburse a state employee for a cancellation charge if:

(1) the charge is incurred for a reason related to official state business or to official state business that could not be conducted because of a natural disaster or other natural occurrence; or

(2) the charge is:

(A) related to a transportation expense that was paid in advance to obtain lower rates; and

(B) incurred because the employee was unable to use the transportation because of an illness or a personal emergency.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 4, eff. Sept. 1, 1997.

Sec. 660.016. PROHIBITION AGAINST ACCEPTING MONEY OR TRAVEL EXPENSE REIMBURSEMENTS FROM CERTAIN PERSONS. (a) Unless authorized by law, a state employee may not accept money for wages or for a travel expense reimbursement from a person that the employee's employing state agency intends to audit, examine, or investigate or is auditing, examining, or investigating.

(b) A state employee who violates Subsection (a) shall forfeit the money or travel expense reimbursement to the state.

(c) Subsections (a) and (b) are in addition to any other prohibitions, penalties, and forfeitures imposed or required by other law.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 4, eff. Sept. 1, 1997.

Sec. 660.017. EXCESS REIMBURSEMENTS. A state employee who receives a reimbursement for a travel expense that exceeds the amount the employee may receive under this chapter or the travel provisions of the General Appropriations Act shall immediately return the amount of the excess.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 4, eff. Sept. 1, 1997.

Sec. 660.018. MULTIPLE ADVANCES OR REIMBURSEMENTS FOR A TRAVEL EXPENSE. A state employee may not accept a reimbursement or advance for a travel expense from more than one source. A state employee who anticipates receiving or actually receives a reimbursement or advance for a travel expense from a person other than a state agency may seek an advance or reimbursement for the expense from a state agency only to the extent that the amount of the employee's advance or reimbursement from the other source is less than the amount of the total expense incurred.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 4, eff. Sept. 1, 1997.

Sec. 660.019. DEADLINE FOR REIMBURSING EXPENSES. (a) Except as provided by Subsection (b), not later than the 45th day after the date a state employee submits a request for reimbursement of travel expenses, a state agency shall reimburse the state employee for reimbursable travel expenses incurred by the state employee if the state employee submits the request for reimbursement in accordance with:

(1) the state agency's policies and procedures for travel expense reimbursement; and

(2) state travel rules.

(b) If there is a bona fide dispute between the state agency and the state employee relating to the travel expenses, the state agency shall reimburse the state employee for reimbursable travel expenses incurred by the state employee not later than the 30th day after the date the dispute is resolved.

Added by Acts 2007, 80th Leg., R.S., Ch. 551 (S.B. 1310), Sec. 1, eff. June 16, 2007.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 660.021. RULES. The comptroller shall adopt rules for the effective and efficient administration of this chapter and the travel provisions of the General Appropriations Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1300, Sec. 5, eff. Sept. 1, 1997.

Sec. 660.024. ADVANCE APPROVAL FOR CERTAIN INTERNATIONAL TRAVEL. (a) The chief administrator of a state agency must give advance written approval for any travel related to official state business for which a reimbursement for travel expenses is claimed or for which an advance for travel expenses to be incurred is sought. The advance written approval may be communicated electronically.

(b) Subsection (a) applies to a travel expense only if it is incurred while traveling to, in, or from a destination that is not in:

(1) the United States;
(2) a possession of the United States;
(3) Mexico; or
(4) Canada.

(c) The chief administrator of a state agency may designate an employee of the agency to provide the approval required by this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1300, Sec. 6, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1367 (S.B. 745), Sec. 1, eff. September 1, 2009.

Sec. 660.025. ADVANCE PAYMENT PROCEDURE. (a) The comptroller by rule shall establish a procedure by which travel expense money may be advanced to a state employee. The procedures must be consistent with Section 403.248.

(b) Money may not be advanced to a state employee for a travel expense unless the expense is payable or reimbursable under this

chapter, the travel provisions of the General Appropriations Act, and the rules adopted by the comptroller under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1300, Sec. 7, eff. Sept. 1, 1997.

Sec. 660.027. VOUCHERS. (a) The comptroller may issue a warrant or initiate an electronic funds transfer to pay or reimburse a travel expense only if a state agency submits to the comptroller a voucher that requests the payment or reimbursement.

(b) A voucher submitted under Subsection (a) is valid only if:

(1) the state agency submitting the voucher approves it in accordance with Chapter 2103 and, if required by law, certifies the voucher; and

(2) the state employee who incurred the travel expense or, if the employee is unavailable, another individual acceptable to the comptroller approves the description, information, and documentation required by Subsection (d) in writing or electronically, except that the employee's approval is not required if another person is required by law to provide the approval.

(c) A voucher must be submitted in the manner required and on the form adopted by the comptroller. The comptroller may require the voucher to be submitted electronically as authorized by Chapter 2103.

(d) A voucher must be supported by:

(1) a description of the official state business performed; and

(2) the information and documentation that the comptroller considers necessary for the comptroller to determine compliance with this chapter, the travel provisions of the General Appropriations Act, and the rules adopted by the comptroller under this chapter.

(e) The comptroller may require a state agency to provide to the comptroller the description, information, and documentation required under Subsection (d):

(1) on the form adopted by the comptroller under Subsection (c);

(2) electronically;

(3) by submitting receipts or other documents; or

(4) by any combination of Subdivisions (1), (2), and (3).

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 8, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1367 (S.B. 745), Sec. 2, eff. September 1, 2009.

Sec. 660.028. AUDITS. (a) The comptroller shall audit a voucher either before or after the comptroller issues a warrant or initiates an electronic funds transfer in response to the voucher. The audit must be conducted in accordance with Sections 403.011(12), 403.071, and 403.079.

(b) If the comptroller audits a state agency's voucher after the comptroller issues a warrant or initiates an electronic funds transfer in response to the voucher, the comptroller may require the agency to maintain in its files the description, information, and documentation relating to the travel expense paid or reimbursed by the voucher until the comptroller audits the voucher.

(c) If a state agency pays or reimburses a travel expense without first submitting a voucher to the comptroller, the comptroller may audit the payment or reimbursement for compliance with this chapter and the travel provisions of the General Appropriations Act. The comptroller may report the results of the audit to the governor, the lieutenant governor, the speaker of the house of representatives, the state auditor, and the Legislative Budget Board. The state agency shall cooperate with the comptroller and make available the description, information, and documentation required by the comptroller at the time and in the manner required by the comptroller.

(d) The comptroller may require a state agency to maintain in its files the description, information, and documentation regarding a travel expense payment or reimbursement for the period required by the comptroller.

(e) The comptroller may require or authorize the description, information, and documentation relating to a travel expense payment or reimbursement to be maintained in paper form or electronically.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 8, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1367 (S.B. 745), Sec. 3, eff. September 1, 2009.

Sec. 660.029. KNOWLEDGE OF TRAVEL PROCEDURES. (a) A state agency shall instruct its state employees about this chapter, the travel provisions of the General Appropriations Act, and the rules adopted by the comptroller under this chapter.

(b) A state agency's failure or inability to instruct a state employee as required by Subsection (a) does not excuse or justify the employee's failure to comply with applicable laws or rules.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 8, eff. Sept. 1, 1997.

Sec. 660.030. EXAMINATION OF VOUCHERS AND EXPENSE REIMBURSEMENT FORMS. (a) In this section, "travel expense" includes tuition and fees for training, seminars, and conferences.

(b) The comptroller periodically shall examine the vouchers and other expense reimbursement forms submitted by a state agency for payment of a travel expense payable under this chapter to determine compliance with Section 660.003(e) and:

(1) whether the travel expenses were incurred in the conduct of official state business;

(2) whether the state-business-related activities conducted during the travel were necessary to perform the state business;

(3) whether the travel was necessary to perform the state business conducted; and

(4) in a case in which vouchers or other expense reimbursement forms have been submitted for more than one individual for the same or similar travel, whether the number of individuals traveling was necessary to perform the state business.

(c) The comptroller shall develop procedures for examining travel vouchers and other expense reimbursement forms.

(d) This section does not apply to a travel expense described by Subchapter H. This subsection does not exempt a travel expense under Subchapter H from an audit required by Section 660.028.

Added by Acts 1999, 76th Leg., ch. 280, Sec. 3, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 20, eff. Sept. 1, 2003.

SUBCHAPTER C. TRANSPORTATION BY PERSONAL MOTOR VEHICLE

Sec. 660.041. REIMBURSEMENT REQUIREMENT. (a) A state employee is entitled to be reimbursed as provided by this subchapter for the employee's use of a personally owned or leased motor vehicle.

(b) A state employee may not be reimbursed under this subchapter for an expense other than mileage, tolls, and parking.

(c) A state employee may not be reimbursed for mileage incurred in traveling between the employee's residence and place of employment in a personally owned or leased motor vehicle unless the travel:

(1) is necessitated by extraordinary circumstances; and

(2) occurs outside the hours the employee is working.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1300, Sec. 9, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 280, Sec. 4, eff. Sept. 1, 1999.

Sec. 660.042. AMOUNT OF REIMBURSEMENT. A mileage reimbursement may not exceed the product of:

(1) the applicable mileage reimbursement rate as established by the legislature in the travel provisions of the General Appropriations Act; and

(2) the number of miles traveled as limited by this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1300, Sec. 9, eff. Sept. 1, 1997.

Sec. 660.043. DETERMINATION OF REIMBURSABLE MILEAGE. (a) The number of miles traveled that are eligible for reimbursement under this subchapter may not exceed the number of miles of the most cost-effective reasonably safe route between the origin of the state employee's travel and the final duty point of the state employee. If a state employee conducts official state business at duty points between the origin of the state employee's travel and the final duty point, the most cost-effective reasonably safe route between the origin and the final duty point shall include the intermediate duty points.

Text of subsection as amended by Acts 2009, 81st Leg., R.S., Ch. 317 (H.B. 605), Sec. 1

(b) In determining the most cost-effective reasonably safe route for purposes of Subsection (a), a state agency may consider:

(1) the route that provides the shortest distance between the origin of the state employee's travel and the final duty point;

(2) the route that provides the quickest drive time between the origin of the state employee's travel and the final duty point; and

(3) the route that provides the safest road conditions between the origin of the state employee's travel and the final duty point.

Text of subsection as amended by Acts 2009, 81st Leg., R.S., Ch. 1367 (S.B. 745), Sec. 4

(b) For the purpose of Subsection (a), the shortest route between two points is presumed to be the most cost-effective route. A longer route may be considered the most cost-effective route only if:

(1) the documentation states that the longer route is more cost effective;

(2) the documentation provides a reasonable justification for that statement; and

(3) the statement and justification are made by the chief administrator of the state agency making the reimbursement or by the chief administrator's designee.

(c) The number of miles traveled that are eligible for reimbursement under this subchapter may be determined by an employee's vehicle odometer reading or by a readily available electronic mapping service.

Without reference to the amendment of this subsection, this subsection was repealed by Acts 2009, 81st Leg., R.S., Ch. 317 (H.B. 605), Sec. 3, eff. September 1, 2009.

(d) If the number of miles between points is not shown in the guide, the mileage incurred while traveling between those points is not reimbursable unless:

(1) the documentation itemizes the mileage on a point-to-point basis; and

(2) the mileage is reasonable.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 1300, Sec. 9, eff. Sept. 1, 1997.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 317 (H.B. 605), Sec. 1, eff. September 1, 2009.
Acts 2009, 81st Leg., R.S., Ch. 317 (H.B. 605), Sec. 3, eff. September 1, 2009.
Acts 2009, 81st Leg., R.S., Ch. 1367 (S.B. 745), Sec. 4, eff. September 1, 2009.

Sec. 660.044. USE OF SINGLE MOTOR VEHICLE BY MULTIPLE EMPLOYEES. (a) If two, three, or four state employees who are employed by the same state agency travel on the same dates with the same itinerary to conduct the same official state business, only one of the employees may be reimbursed for mileage.

(b) If more than four state employees who are employed by the same state agency travel on the same dates with the same itinerary to conduct the same official state business, a state agency may reimburse for mileage only on the basis of one motor vehicle for each four employees and for any fraction in excess of a multiple of four employees.

(c) Subsections (a) and (b) do not apply to a group of state employees if the chief administrative officer of the state agency that employs the employees determines before travel that it is not feasible for the employees to travel together in the same motor vehicle. This determination may be made only for reasons related to official state business.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1300, Sec. 9, eff. Sept. 1, 1997.

SUBCHAPTER D. TRANSPORTATION BY PERSONAL AIRCRAFT

Sec. 660.071. REIMBURSEMENT REQUIREMENT. A state employee, a key official, a member of a board, or a member of the legislature is entitled to be reimbursed as provided by this subchapter for use of an aircraft owned or leased by the employee, official, or member.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 280, Sec. 5, eff. Sept. 1, 1999.

Sec. 660.072. AMOUNT OF REIMBURSEMENT. A reimbursement under this subchapter may not exceed the product of:

(1) the aircraft mileage reimbursement rate established in the travel provisions of the General Appropriations Act; and

(2) the highway mileage between the designated headquarters and duty point of the state employee, key official, or member of a board.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

Sec. 660.073. AIRCRAFT MILEAGE REIMBURSEMENT RATE. The travel provisions of the General Appropriations Act may establish different aircraft mileage rates:

(1) for travel in:

(A) a single-engine aircraft;

(B) a twin-engine aircraft; and

(C) a turbine-powered aircraft; and

(2) for travel by:

(A) a state employee;

(B) a key official;

(C) a member of a board; and

(D) a member of the legislature.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

Sec. 660.074. GROUP TRAVEL. (a) This section applies only if a key official, member of a board, or member of the legislature travels with another official or member in an aircraft owned or leased by the other official or member.

(b) In addition to the amount entitled to be reimbursed under Section 660.071, the key official, member of a board, or member of the legislature who owns or leases the aircraft is entitled to an amount equal to the amount that would have been paid or reimbursed to each passenger had the passenger incurred the contract airfare, if the passenger's agency is subject to rules adopted under Section 2171.055, or the average coach airfare, if the passenger's agency is

not subject to those rules, instead of traveling on the aircraft. The total reimbursement to the official or member may not exceed the total cost of the trip.

(c) The lessee of the aircraft may require the reimbursement to be paid to the vendor providing the leased aircraft instead of the lessee.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 280, Sec. 5, eff. Sept. 1, 1999.

Sec. 660.075. AIRCRAFT LEASED FROM CERTAIN PERSONS. A key official, member of a board, or member of the legislature is entitled to reimbursement under this subchapter for use of an aircraft leased from a proprietorship, partnership, or corporation in which the official or member has an interest.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 280, Sec. 5, eff. Sept. 1, 1999.

SUBCHAPTER E. TRANSPORTATION BY RENTED OR PUBLIC CONVEYANCE

Sec. 660.091. GENERAL PROVISION. A state agency shall pay as provided by this subchapter the expense of transporting a state employee by rented or public conveyance in the course of conducting state business.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

Sec. 660.092. PAYMENT AND REIMBURSEMENT METHODS. (a) A state agency may pay an expense under this subchapter by:

(1) reimbursing the employee as provided by Subsection (b);

(2) directly paying the expense as provided by Subsection (c); or

(3) directly paying the expense in advance of travel as provided by Subsection (d).

(b) If a state agency reimburses a state employee, the agency shall submit receipts to the comptroller on request in the manner required by the comptroller. A state agency is not required to submit receipts for mass transit, taxi, or limousine fares.

(c) A state agency may request a commercial transportation company to furnish transportation to the agency's state employees and to bill the agency monthly for that transportation. The state agency shall require the company to submit an invoice to the agency listing the points of origin and destination for each trip and the taxes charged. The agency shall submit those invoices to the comptroller on request and in the manner required by the comptroller.

(d) A state agency may directly pay a commercial transportation company before the travel of a state employee if the payment would result in a lower transportation expense. The comptroller may adopt rules that authorize advance payments in other circumstances.

(e) If a reimbursement to a state employee for a transportation expense would not be authorized, a direct payment to a commercial transportation company for the same expense is prohibited.

(f) A state agency may not pay or reimburse the expense of transporting a state employee by rented or public conveyance if the transportation is provided by a person who is not a commercial transportation company.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

Sec. 660.093. COMMERCIAL AIR TRANSPORTATION. The amount that a state agency pays or reimburses for a state employee to travel between points by commercial airline may not exceed the lowest rate available. First class airfare may be paid or reimbursed only if it is the only available airfare. Business class airfare may be paid or reimbursed only if a lower airfare is not available.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

Sec. 660.094. LIMOUSINE TRANSPORTATION. A state agency may pay for or reimburse a state employee for travel by limousine only if it is the least costly transportation available considering all relevant circumstances.

Added by Acts 1999, 76th Leg., ch. 280, Sec. 6, eff. Sept. 1, 1999.

SUBCHAPTER F. MEAL, LODGING, AND INCIDENTAL EXPENSES

Sec. 660.111. REIMBURSEMENT REQUIREMENT. A state employee is entitled to be reimbursed as provided by this subchapter for a meal, lodging, or incidental expense incurred by the employee.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

Sec. 660.112. AMOUNT OF REIMBURSEMENT. A reimbursement under this subchapter may not exceed:

(1) the limits established by the travel provisions of the General Appropriations Act for meal and lodging expenses; and

(2) the amount of incidental expenses actually incurred by the state employee.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

Sec. 660.113. RESTRICTED REIMBURSEMENTS. (a) A state agency may not reimburse a state employee for a lodging expense incurred at a place that is not a commercial lodging establishment.

(b) A state agency may not reimburse a state employee for a meal or lodging expense the employee incurs while traveling outside the employee's designated headquarters for less than six consecutive hours unless the employee is a chief administrator of a state agency or the travel provisions of the General Appropriations Act authorize the reimbursement.

(c) A state agency may not reimburse a state employee for a meal expense incurred within the employee's designated headquarters unless the expense is:

(1) mandatory; and

(2) connected with training, a seminar, or a conference.

(d) A state agency may reimburse a state employee for a meal expense incurred while traveling without an overnight stay away from the employee's designated headquarters only if the chief administrator of the agency authorizes the reimbursement.

(e) A state agency may not reimburse a state employee for the purchase of an alcoholic beverage, unless the employee is a peace officer who purchased the beverage as a purchase of evidence in an administrative or criminal case.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

Sec. 660.114. DIRECT PAYMENTS TO COMMERCIAL LODGING ESTABLISHMENTS. (a) A state agency may request that a commercial lodging establishment bill the agency directly for a lodging expense. A state agency shall submit receipts regarding the expense to the comptroller on request in the manner required by the comptroller.

(b) If a direct payment to a commercial lodging establishment is authorized under this section, any meal expenses incurred at the establishment may be paid directly to the establishment. A state agency shall submit receipts about the expenses to the comptroller on request in the manner required by the comptroller.

(c) If a reimbursement to a state employee for a lodging or meal expense would not be authorized, a direct payment to a commercial lodging establishment for the expense is prohibited.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

Sec. 660.115. RECEIPTS. (a) Except as provided by Subsections (b) and (c), a state employee who requests reimbursement for a lodging expense must submit a lodging receipt to the comptroller at the time and in the manner required by the comptroller.

(b) A chief administrator of a state agency who is not a member of a board is not required to submit a lodging receipt to the comptroller.

(c) A member of a board is not required to submit a lodging receipt to the comptroller if:

(1) the membership of the board is elected by vote of the people; or

(2) the member serves on the board full-time and is paid a salary for that service.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

Sec. 660.116. HOTEL OCCUPANCY AND SIMILAR TAXES. (a) A state employee is entitled to be reimbursed for a state, county, or local hotel occupancy tax or any similar tax imposed by a law of this state, another state, or a foreign nation.

(b) A state employee is entitled to be reimbursed for a hotel

occupancy or similar tax from which the employee is legally exempt only if the employee properly claims the exemption and the commercial lodging establishment refuses to honor the exemption.

(c) If a state agency directly pays a commercial lodging establishment under Section 660.114, the agency may directly pay a hotel occupancy or similar tax to the establishment.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

Sec. 660.117. APARTMENT OR HOUSE RENTAL EXPENSES. An apartment or house rental expense may be reimbursed or paid only if:

(1) the purpose of the rental is the conservation of funds; and

(2) the reimbursement or payment and the rental comply with the rules adopted by the comptroller under this chapter.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

Sec. 660.118. INCIDENTAL EXPENSES. A state agency may reimburse a state employee for an incidental expense incurred by the employee only in accordance with rules adopted by the comptroller under this chapter.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

SUBCHAPTER G. SPECIAL TRAVEL EXPENSE PROVISIONS

Sec. 660.141. REIMBURSEMENT IN CERTAIN CIRCUMSTANCES INVOLVING LOWER AIRFARES. The comptroller by rule shall allow extra travel time to be claimed for computation of reimbursable travel expenses if a state employee obtains an airfare that is lower than the fare that would have been paid for travel for the same purpose but for a shorter period pursuant to this chapter, the result is a cost saving to the state, and the employee's additional absence is determined by the employing agency not to be detrimental.

Amended by Acts 1999, 76th Leg., ch. 280, Sec. 7, eff. Sept. 1, 1999.

Sec. 660.142. BOARD MEMBERS. This chapter applies to a payment or reimbursement of a travel expense incurred by a member of a board only if Subchapter C, Chapter 659, or other applicable law authorizes the payment or reimbursement.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

Sec. 660.143. TRAVEL BY PERSONS WITH DISABILITIES. (a) Notwithstanding any other provision of this chapter, a state agency may reimburse a state employee with a disability for attendant care and other necessary expenses incurred when the employee travels inside or outside the employee's designated headquarters. An expense incurred when traveling between a residence and a place of employment may be reimbursed only as provided by law for state employees without disabilities.

(b) If the airfare is medically necessary, a state agency may reimburse a state employee with a disability for the first or business class airfare of:

(1) the employee; and

(2) the attendant of the employee.

(c) Instead of reimbursing a state employee for attendant care and other necessary expenses, a state agency may:

(1) reimburse the attendant for those expenses; or

(2) pay a commercial transportation company or commercial lodging establishment directly if the expenses are for transportation or lodging.

(d) If this chapter, the travel provisions of the General Appropriations Act, or a rule adopted by the comptroller under this chapter conflicts with a requirement of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), a federal regulation adopted under that Act, or another applicable federal law or regulation, the federal law or regulation controls to the extent of the conflict.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

Sec. 660.144. DEATH OF STATE EMPLOYEES. (a) A state agency may pay or reimburse the expense of preparing and transporting the remains and personal property of a state employee who dies while

conducting official state business outside the employee's designated headquarters.

(b) The agency may pay or reimburse the expense of transporting the remains and personal property either to the employee's designated headquarters or to another location designated by the executor or administrator of the employee's estate. If the remains and personal property are transported to a location other than the employee's designated headquarters, the amount of the agency's payment or reimbursement may not exceed the amount that would have been paid had the remains and personal property been transported to the designated headquarters.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

Sec. 660.145. TRAVEL EXPENSES OF THREATENED STATE EMPLOYEES AND THEIR FAMILIES. (a) A state agency may pay or reimburse a travel expense incurred by a state employee who serves in a law enforcement, investigative, or similar capacity if the employee is threatened as a result of the employee's official duties.

(b) A state agency may pay or reimburse a travel expense incurred by the family of a state employee who serves in a law enforcement, investigative, or similar capacity if the family is threatened as a result of the employee's official duties.

(c) A travel expense is payable or reimbursable under this section even if it is incurred within a state employee's designated headquarters.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

Sec. 660.146. CONFLICTS WITH OTHER SUBCHAPTERS. In the event of a conflict between this subchapter and another provision of this chapter, this subchapter controls.

Added by Acts 1997, 75th Leg., ch. 1300, Sec. 10, eff. Sept. 1, 1997.

Sec. 660.147. TRAINING SEMINARS. (a) To reduce travel expenditures, each state agency shall use interactive television, video conference technology, and telephone conferences to the

greatest extent possible.

(b) A state agency may not pay or reimburse a state employee for a travel expense associated with a training seminar conducted by the agency for its employees unless the chief administrator of the agency or the administrator's designee certifies in the supporting documentation that the agency:

(1) does not possess interactive television or video conference facilities at the designated headquarters of the employees attending the seminar;

(2) cannot purchase or lease such facilities at a cost less than the total travel expenses associated with the seminar; and

(3) does not have access to another agency's facilities at the same location.

Added by Acts 1999, 76th Leg., ch. 280, Sec. 8, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1367 (S.B. 745), Sec. 5, eff. September 1, 2009.

SUBCHAPTER H. TRAVEL BY CERTAIN PERSONS

Sec. 660.201. APPLICABILITY. This subchapter applies to the extent it is inconsistent with or supplementary to a provision in another part of this chapter. Sections 660.003(e)(4) and (g) do not apply to travel by members and employees of the legislature.

Added by Acts 1999, 76th Leg., ch. 280, Sec. 9, eff. Sept. 1, 1999.

Sec. 660.202. MEMBERS OF THE LEGISLATURE. (a) A member of the legislature is entitled to be reimbursed for meal, lodging, and incidental expenses incurred while traveling on legislative business or on the business of a board, council, committee, or commission on which the member sits. The rate of reimbursement is determined by resolution of each house as either:

(1) the maximum out-of-state meals and lodging rate under rules issued by the comptroller based on federal travel regulations for the location at which the expenses are incurred; or

(2) the actual amount of the expenses incurred.

(b) If expenses for meals, lodging, or incidentals are incurred in a location for which the federal travel regulations have not

established a maximum per diem rate, the rate for purposes of Subsection (a)(1) is the lowest maximum per diem rate for the state or country in which the expenses are incurred.

(c) A member of the legislature is entitled to be reimbursed for the member's use of personally owned or leased motor vehicles and the use of rented or public conveyances at the same rate as is provided in the General Appropriations Act for state employees, except that the member may only receive mileage reimbursement for the most cost-effective route between the origin of the member's travel and the final duty point.

(d) Rates of reimbursement for a member of the legislature's use of personally owned or leased motor vehicles, rented or public conveyances, or personally owned or leased aircraft apply whether a trip includes travel to or from the city of Austin.

(e) During a legislative session, a member of the legislature is entitled to be reimbursed for transportation expenses, including mileage, at the same rate that is provided by the General Appropriations Act for state employees.

Added by Acts 1999, 76th Leg., ch. 280, Sec. 9, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 317 (H.B. 605), Sec. 2, eff. September 1, 2009.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 766, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 660.203. TRAVEL BY CERTAIN OFFICERS AND EMPLOYEES. (a) An individual is entitled to reimbursement for the actual expense of meals and lodging incurred while performing the duties of the individual's office or employment if the individual is:

(1) a judicial officer;

(2) a chief administrative officer of a state agency, subject to Subsection (c);

(3) the executive director of the Texas Legislative Council;

(4) the secretary of the senate;

(5) a member of the Texas Natural Resource Conservation Commission, the Texas Workforce Commission, the Public Utility

Commission of Texas, the Board of Pardons and Paroles, or the Sabine River Compact Administration; or

(6) a full-time member of a board and receives a salary from the state for service on that board.

(b) The governor's spouse is entitled to reimbursement for actual travel expenses incurred while performing duties at the direction of the governor.

(c) A member of a board whose membership is not elected by vote of the people is not a chief administrative officer for the purposes of this section.

Added by Acts 1999, 76th Leg., ch. 280, Sec. 9, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 38, eff. Sept. 1, 2001.

Sec. 660.2035. CONFIDENTIALITY OF CERTAIN PEACE OFFICER VOUCHERS; QUARTERLY SUMMARIES. (a) A voucher or other expense reimbursement form, and any receipt or other document supporting that voucher or other expense reimbursement form, that is submitted or to be submitted under Section 660.027 is confidential under Chapter 552 for a period of 18 months following the date of travel if the voucher or other expense reimbursement form is submitted or is to be submitted for payment or reimbursement of a travel expense incurred by a peace officer while assigned to provide protection for an elected official of this state or a member of the elected official's family.

(b) At the expiration of the period provided by Subsection (a), the voucher or other expense reimbursement form and any supporting documents become subject to disclosure under Chapter 552 and are not excepted from public disclosure or confidential under that chapter or other law, except that the following provisions of that chapter apply to the information in the voucher, reimbursement form, or supporting documents:

(1) Section 552.117;

(2) Section 552.1175;

(3) Section 552.119;

(4) Section 552.136;

(5) Section 552.137;

(6) Section 552.147; and

(7) Section 552.152.

(c) A state agency that submits vouchers or other expense reimbursement forms described by Subsection (a) shall prepare quarterly a summary of the amounts paid or reimbursed by the comptroller based on those vouchers or other expense reimbursement forms. Each summary must:

(1) list separately for each elected official the final travel destinations and the total amounts paid or reimbursed in connection with protection provided to each elected official and that elected official's family members; and

(2) itemize the amounts listed under Subdivision (1) by the categories of travel, fuel, food, lodging or rent, and other operating expenses.

(d) The itemized amounts under Subsection (c)(2) must equal the total amount listed under Subsection (c)(1) for each elected official for the applicable quarter.

(e) A summary prepared under Subsection (c) may not include:

(1) the number or names of the peace officers or elected official's family members identified in the vouchers, expense reimbursement forms, or supporting documents;

(2) the name of any business or vendor identified in the vouchers, expense reimbursement forms, or supporting documents; or

(3) the locations in which expenses were incurred, other than the city, state, and country in which incurred.

(f) A summary prepared under Subsection (c) is subject to disclosure under Chapter 552, except as otherwise excepted from disclosure under that chapter.

(g) A state agency that receives a request for information described by Subsection (a) during the period provided by that subsection may withhold that information without the necessity of requesting a decision from the attorney general under Subchapter G, Chapter 552. The Supreme Court of Texas has original and exclusive mandamus jurisdiction over any dispute regarding the construction, applicability, or constitutionality of Subsection (a). The supreme court may appoint a master to assist in the resolution of any such dispute as provided by Rule 171, Texas Rules of Civil Procedure, and may adopt additional rules as necessary to govern the procedures for the resolution of any such dispute.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 79A.01,

eff. September 28, 2011.

Sec. 660.204. TRAVEL BY LEGISLATIVE EMPLOYEES. A state employee employed by the legislature or an agency in the legislative branch of state government may be reimbursed for the actual expense of meals and lodging as determined by the employing house of the legislature or agency.

Added by Acts 1999, 76th Leg., ch. 280, Sec. 9, eff. Sept. 1, 1999.

Sec. 660.205. REPRESENTATION OF STATE. (a) A state employee who is designated by the governor to represent the state at a governmental meeting or conference held outside the state is entitled to reimbursement for the actual expense of meals, lodging, and incidentals during the trip.

(b) A travel expense described by Subsection (a) is reimbursable from appropriations to the state agency by which the designee is employed.

Added by Acts 1999, 76th Leg., ch. 280, Sec. 9, eff. Sept. 1, 1999.

Sec. 660.206. REPRESENTATION OF CERTAIN OFFICERS AND EMPLOYEES. (a) A state employee who is designated by a member of the legislature, a judicial officer, a chief administrator of a state agency, the executive director of the Texas Legislative Council, the secretary of the senate, or a board member to represent the designating party at a particular meeting or conference is entitled to reimbursement for the actual expense of meals and lodging on the trip.

(b) A member of the legislature, a judicial officer, a chief administrator of a state agency, the executive director of the Texas Legislative Council, the secretary of the senate, and a board member may authorize a state employee traveling with the authorizing party to a particular meeting or conference to receive reimbursement for the actual expense of the employee's meals and lodging on the trip.

Added by Acts 1999, 76th Leg., ch. 280, Sec. 9, eff. Sept. 1, 1999.

Sec. 660.207. AIRCRAFT PILOTS. An aircraft pilot who conveys state officers or employees on official business is entitled to reimbursement for the actual expense of meals and lodging on the trip in accordance with Section 660.206(b). The pilot is not subject to Section 660.113(b).

Added by Acts 1999, 76th Leg., ch. 280, Sec. 9, eff. Sept. 1, 1999.

Sec. 660.208. ADVANCE APPROVAL REQUIRED. Reimbursement of actual expenses under Section 660.205 or 660.206 may not be made unless the chief administrator of the appropriate state agency gives advance written approval of the reimbursement and estimates the approximate cost of the travel.

Added by Acts 1999, 76th Leg., ch. 280, Sec. 9, eff. Sept. 1, 1999.

Sec. 660.209. STATE EMERGENCY SERVICES PERSONNEL. (a) In this section, "emergency services personnel" includes firefighters, police officers and other peace officers, emergency medical technicians, emergency management personnel, and other individuals who are required, in the course and scope of their employment, to provide services for the benefit of the general public during emergency situations.

(b) Notwithstanding any other provision of this chapter or the General Appropriations Act, a state employee who is emergency services personnel and who is deployed to a temporary duty station to conduct emergency or disaster response activities is entitled to reimbursement for the actual expense of lodging when there is no room available at the state rate within reasonable proximity to the employee's temporary duty station.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 4.02, eff. September 1, 2009.

CHAPTER 661. LEAVE

SUBCHAPTER A. STATE EMPLOYEE SICK LEAVE POOL

Sec. 661.001. DEFINITIONS. In this subchapter:

(1) "Employee" means an individual, other than a state

officer, employed by a state agency.

(2) "Executive director" means the individual appointed by the governing body of a state agency as chief administrative officer of the agency and includes the chancellor or highest executive officer of a university system and the president of a public senior college or university as defined by Section 61.003, Education Code.

(3) "Pool administrator" means the individual appointed by the governing body of a state agency to administer the agency's sick leave pool.

(4) "State agency" means:

(A) a board, commission, department, or other agency in the executive branch of state government created by the constitution or a statute of the state;

(B) an institution of higher education as defined by Section 61.003, Education Code;

(C) a legislative agency, but not either house or a member of the legislature; or

(D) the supreme court, the court of criminal appeals, a court of appeals, or a state judicial agency.

(5) "State officer" means an elected or appointed officer of a state agency or an executive director.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 1354, Sec. 14, eff. Sept. 1, 1999.

Sec. 661.002. SICK LEAVE POOL. (a) The governing body of a state agency shall, through the establishment of a program, allow an agency employee to voluntarily transfer to a sick leave pool sick leave earned by the employee.

(b) The executive director of the agency or another individual appointed by the governing body shall administer the sick leave pool.

(c) The governing body of the state agency shall adopt rules and prescribe procedures relating to the operation of the agency sick leave pool.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 661.003. CONTRIBUTION TO POOL. (a) An employee may

contribute to the sick leave pool one or more days of the employee's accrued sick leave.

(b) The pool administrator shall credit the sick leave pool with the amount of time contributed by an employee and deduct a corresponding amount of time from the employee's earned sick leave as if the employee had used the time for personal purposes.

(c) A retiring employee may designate the number of the retiring employee's accrued sick leave hours to be used for retirement credit and the number of the retiring employee's accrued sick leave hours to be donated on retirement to the sick leave pool.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 288, Sec. 1, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 387, Sec. 1, eff. Sept. 1, 2001.

Sec. 661.004. USE OF TIME IN POOL. (a) An employee is eligible to use time contributed to the sick leave pool of the agency if the employee has exhausted the employee's sick leave because of:

(1) a catastrophic illness or injury; or

(2) a previous donation of time to the pool.

(b) The board of trustees of the state employee group benefits program established under Chapter 1551, Insurance Code, shall:

(1) classify, for the purposes of this subchapter, those injuries and illnesses that are catastrophic; and

(2) provide a written statement of the classification to the governing body of each state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 10A.519, eff. Sept. 1, 2003.

Sec. 661.005. WITHDRAWAL OF TIME FROM POOL. (a) An employee may apply to the pool administrator for permission to withdraw time from the sick leave pool.

(b) If the employee is seeking permission to withdraw time because of a catastrophic illness or injury, the employee must provide the pool administrator with a written statement from the licensed practitioner who is treating the employee or the employee's immediate family member. The statement must provide sufficient

information regarding the illness or injury to enable the pool administrator to evaluate the employee's eligibility.

(c) If the pool administrator determines that the employee is eligible, the administrator shall:

(1) approve the transfer of time from the pool to the employee; and

(2) credit the time to the employee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1334, Sec. 1, eff. Sept. 1, 1997.

Sec. 661.006. LIMITATION ON WITHDRAWALS. (a) An employee may not withdraw time from the sick leave pool except in the case of catastrophic illness or injury of the employee or the employee's immediate family.

(b) An employee may not withdraw time from the sick leave pool in an amount that exceeds the lesser of:

(1) one-third of the total time in the pool; or

(2) 90 days.

(c) The pool administrator shall determine the amount of time that an employee may withdraw from the pool.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1334, Sec. 2, eff. Sept. 1, 1997.

Sec. 661.007. EQUAL TREATMENT. An employee absent on time withdrawn from the sick leave pool may use the time as sick leave earned by the employee, and the employee is treated for all purposes as if the employee were absent on earned sick leave.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 661.008. NO ENTITLEMENT TO ESTATE. The estate of a deceased employee is not entitled to payment for unused time withdrawn by the employee from the sick leave pool.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER A-1. STATE EMPLOYEE FAMILY LEAVE POOL

Sec. 661.021. PURPOSE. The purpose of the state employee family leave program is to:

(1) provide eligible state employees more flexibility in:

(A) bonding with and caring for children during a child's first year following birth, adoption, or foster placement; and

(B) caring for a seriously ill family member or the employee, including pandemic-related illnesses or complications caused by a pandemic; and

(2) allow employees to apply for leave time under the family leave pool.

Added by Acts 2021, 87th Leg., R.S., Ch. 684 (H.B. 2063), Sec. 1, eff. September 1, 2021.

Sec. 661.022. GUIDELINES. (a) The governing body of a state agency shall, through the establishment of a program, allow an agency employee to voluntarily transfer sick or vacation leave earned by the employee to a family leave pool.

(b) The executive head of the state agency or another individual appointed by the governing body shall administer the family leave pool.

(c) The governing body of the state agency shall adopt rules and prescribe procedures relating to the operation of the agency family leave pool.

Added by Acts 2021, 87th Leg., R.S., Ch. 684 (H.B. 2063), Sec. 1, eff. September 1, 2021.

Sec. 661.023. CONTRIBUTION TO FAMILY LEAVE POOL. (a) A state employee may contribute to the family leave pool one or more days of the employee's accrued sick or vacation leave.

(b) The pool administrator shall credit the family leave pool with the amount of time contributed by a state employee and deduct a corresponding amount of time from the employee's earned sick or

vacation leave as if the employee had used the time for personal purposes.

(c) A retiring state employee may designate the number of the retiring employee's accrued sick or vacation leave hours to be used for retirement credit and the number of the retiring employee's accrued sick or vacation leave hours to be donated on retirement to the sick or family leave pool.

Added by Acts 2021, 87th Leg., R.S., Ch. 684 (H.B. 2063), Sec. 1, eff. September 1, 2021.

Sec. 661.024. USE OF TIME IN POOL. (a) A state employee is eligible to use time contributed to the family leave pool of the state agency that employs the employee if the employee has exhausted the employee's eligible compensatory, discretionary, sick, and vacation leave because of:

(1) the birth of a child;

(2) the placement of a foster child or adoption of a child under 18 years of age;

(3) the placement of any person 18 years of age or older requiring guardianship;

(4) a serious illness to an immediate family member or the employee, including a pandemic-related illness;

(5) an extenuating circumstance created by an ongoing pandemic, including providing essential care to a family member; or

(6) a previous donation of time to the pool.

(b) A state employee who applies to use time under Subsection (a) to care for another person must submit and be listed on the other person's birth certificate, birth facts, or adoption or foster paperwork for a child under 18 years of age, including being listed as the mother, father, adoptive parent, foster parent, or partner of the child's mother, adoptive parent, or foster parent, or provide documentation that the employee is the guardian of a person who is 18 years of age or older and requiring guardianship.

Added by Acts 2021, 87th Leg., R.S., Ch. 684 (H.B. 2063), Sec. 1, eff. September 1, 2021.

Sec. 661.025. WITHDRAWAL OF TIME FROM POOL. (a) A state

employee may apply to the pool administrator for permission to withdraw time from the family leave pool.

(b) If the state employee is seeking permission to withdraw time because of a serious illness, including a pandemic-related illness, of an immediate family member or the employee and does not qualify for or has exhausted time available in the sick leave pool, the employee must provide the pool administrator with a written statement from the licensed practitioner who is treating the employee or the employee's immediate family member.

(c) If the state employee is seeking permission to withdraw time because of an extenuating circumstance created by an ongoing pandemic, including providing essential care to a family member, the employee must provide any applicable documentation, including an essential caregiver designation, proof of closure of a school or daycare, or other appropriate documentation.

(d) If the pool administrator determines the state employee is eligible, the administrator shall:

(1) approve the transfer of time from the pool to the employee; and

(2) credit the time to the employee.

Added by Acts 2021, 87th Leg., R.S., Ch. 684 (H.B. 2063), Sec. 1, eff. September 1, 2021.

Sec. 661.026. LIMITATION ON WITHDRAWALS. (a) A state employee may not withdraw time from the family leave pool in an amount that exceeds the lesser of:

(1) one-third of the total time in the pool; or

(2) 90 days.

(b) Subject to Subsection (a), the pool administrator shall determine the amount of time that an employee may withdraw from the pool.

Added by Acts 2021, 87th Leg., R.S., Ch. 684 (H.B. 2063), Sec. 1, eff. September 1, 2021.

Sec. 661.027. EQUAL TREATMENT. A state employee absent while using time withdrawn from the family leave pool may use the time as sick leave earned by the employee. The employee shall be treated for

all purposes as if the employee is absent on earned sick leave.

Added by Acts 2021, 87th Leg., R.S., Ch. 684 (H.B. 2063), Sec. 1, eff. September 1, 2021.

Sec. 661.028. NO ENTITLEMENT TO ESTATE. The estate of a deceased state employee is not entitled to payment for unused time withdrawn by the employee from the family leave pool.

Added by Acts 2021, 87th Leg., R.S., Ch. 684 (H.B. 2063), Sec. 1, eff. September 1, 2021.

SUBCHAPTER B. PAYMENT FOR VACATION AND SICK LEAVE TO ESTATES OF DECEASED STATE EMPLOYEES

Sec. 661.031. DEFINITIONS. In this subchapter:

(1) "National holiday" includes only those days listed under Section 662.003(a).

(2) "State employee" means an individual who is an appointed officer or employee of a state agency and who normally works 900 hours or more a year. The term includes:

(A) an hourly employee;

(B) a temporary employee;

(C) a person employed by:

(i) the Teacher Retirement System of Texas;

(ii) the Texas Education Agency;

(iii) the Texas Higher Education Coordinating Board;

(iv) the Texas School for the Blind and Visually Impaired;

(v) the Texas School for the Deaf;

(vi) the Texas Juvenile Justice Department;

(vii) the Windham School District; or

(viii) the Department of Assistive and Rehabilitative Services; and

(D) a classified, administrative, faculty, or professional employee of a state institution or agency of higher education who has accumulated vacation leave, sick leave, or both, during the employment.

(3) "State holiday" includes only those days listed under

Section 662.003(b).

(4) "Workday" includes a state or national holiday.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.20, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 609 (H.B. 387), Sec. 3, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 107, eff. September 1, 2015.

Sec. 661.032. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies only to a state employee who, at any time during the employee's lifetime, has accrued six months of continuous state employment. State employment is continuous while the employee is entitled to be paid a regular salary, except that the continuity of state employment is not interrupted while the employee is on a leave of absence without pay for less than one calendar month.

(b) The estates of the following are not entitled to payments under this subchapter:

(1) an individual employed on a piecework basis;

(2) an individual who holds an office that is normally filled by vote of the people;

(3) an independent contractor or an employee of an independent contractor;

(4) an operator of equipment or a driver of a team whose wages are included in the rental paid by a state agency to the owner of the equipment or team; or

(5) an individual covered by:

(A) the Judicial Retirement System of Texas Plan One;

(B) the Judicial Retirement System of Texas Plan Two; or

(C) the Teacher Retirement System of Texas, other than an individual described by Section 661.031(2)(C) or (D).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.18, eff. Sept. 1, 1995.

Sec. 661.033. PAYMENT FOR VACATION AND SICK LEAVE. (a) When a state employee dies, the state shall pay the employee's estate for the balances of the employee's:

(1) vacation leave; and

(2) sick leave.

(b) Payment under this section shall comply with any limits in the General Appropriations Act, except as provided by Subsection (c).

(c) Payment under this section may not be for more than:

(1) all of the state employee's accumulated vacation leave; and

(2) one-half of the state employee's accumulated sick leave or 336 hours of sick leave, whichever is less.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 279, Sec. 17, eff. Sept. 1, 1999.

Sec. 661.034. COMPUTATION OF PAYMENT. (a) The payment to the estate of the deceased state employee shall be computed by multiplying the employee's hourly rate of compensation at the time of death by the total number of leave hours determined under Section 661.035.

(b) Under this section, rate of compensation:

(1) includes an emolument in lieu of base pay for which the state employee was eligible on the last day of employment; and

(2) does not include longevity or hazardous duty pay.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 661.035. COMPUTATION OF TOTAL ACCUMULATED LEAVE; HOLIDAY TIME. (a) For a state employee who at the time of death is normally scheduled to work at least 40 hours a week, eight hours is to be added to the employee's sick and vacation leave under Section 661.034 for each state or national holiday that is scheduled to fall within the period after the date of death and during which the employee could have used leave. To determine the period during which leave could have been used and the number of state or national holidays, the employee's leave is allocated over the workdays after the employee's death and eight hours is added as a state or national

holiday occurs during the period.

(b) For a state employee who at the time of death is normally scheduled to work fewer than 40 hours a week, the number of hours that is to be added to the employee's accumulated sick and vacation leave for each state or national holiday is computed as provided by Subsection (a), but is to be proportionally reduced according to the lesser number of the employee's normally scheduled weekly work hours.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 661.036. PAYMENT CHARGED TO CERTAIN FISCAL YEAR. A state agency shall charge a payment required by Section 661.033 to the fiscal year in which the state employee dies.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 661.037. PAYMENT WITH FUNDS APPROPRIATED FOR SALARIES. A state agency shall use funds appropriated to the agency for salaries to make a payment required by Section 661.033.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 661.038. RULES. The comptroller may establish procedures and adopt rules to administer this subchapter.

Added by Acts 1997, 75th Leg., ch. 1035, Sec. 17, eff. June 19, 1997.

SUBCHAPTER C. PAYMENT FOR VACATION TIME TO STATE EMPLOYEES WHO SEPARATE FROM STATE EMPLOYMENT

Sec. 661.061. DEFINITIONS. In this subchapter:

(1) "National holiday" includes only those days listed under Section 662.003(a). The term does not include a national holiday on which a state employee is not entitled to a paid day off from work under Section 662.005.

(2) "State employee" means an employee or appointed officer of a state agency. The term includes:

(A) a full-time employee or officer;

(B) a part-time employee or officer;
(C) an hourly employee;
(D) a temporary employee;
(E) a person employed by:
(i) the Teacher Retirement System of Texas;
(ii) the Texas Education Agency;
(iii) the Texas Higher Education Coordinating Board;
(iv) the Texas School for the Blind and Visually Impaired;
(v) the Texas School for the Deaf;
(vi) the Texas Juvenile Justice Department;
(vii) the Windham School District; or
(viii) the Department of Assistive and Rehabilitative Services; or
(F) a classified, administrative, faculty, or professional employee of a state institution or agency of higher education who has accumulated vacation leave during the employment.

(3) "State holiday" includes only those days listed under Section 662.003(b). The term does not include a state holiday on which a state employee is not entitled to a paid day off from work under Section 662.005.

(4) "Workday" includes a state or national holiday.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.21, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1035, Sec. 42, eff. Sept. 1, 1997. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 609 (H.B. 387), Sec. 4, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 108, eff. September 1, 2015.

Sec. 661.062. ENTITLEMENT TO PAYMENT FOR VACATION TIME. (a) A state employee who, at any time during the employee's lifetime, has accrued six months of continuous state employment and who resigns, is dismissed, or otherwise separates from state employment by a state agency other than an institution of higher education is entitled to be paid for the accrued balance of the employee's vacation time as of

the date of separation, if the individual is not reemployed by the state in a position under which the employee accrues vacation leave during the 30-day period immediately following the date of separation from state employment. A state employee who, at any time during the employee's lifetime, has accrued six months of continuous state employment and who resigns, is dismissed, or otherwise separates from state employment by an institution of higher education is entitled to be paid for the accrued balance of the employee's vacation time as of the date of separation.

(b) A separation from state employment includes a separation in which the employee:

(1) leaves one state agency to begin working for another state agency, if one or more workdays occur between the two employments and the individual is not reemployed by the state in a position under which the employee accrues vacation leave during the 30-day period immediately following the date of separation from state employment;

(2) moves from a position in a state agency that accrues vacation time to a position in that agency that does not accrue vacation time, if the agency agrees to pay the employee for the accrued balance of the employee's vacation time;

(3) moves from a position in a state agency that accrues vacation time to a position in another state agency that does not accrue vacation time, if the other state agency refuses to credit the employee for the balance of the employee's vacation time as of the date of the move;

(4) moves from a position in a state agency that does not accrue vacation time to a position in another state agency that does not accrue vacation time, if the other state agency is not authorized or refuses to credit the employee for the balance of the employee's vacation time as of the date of the move; or

(5) holds two or more positions, and separates from one that accrues vacation time, if the agency agrees to pay the employee for the accrued balance of the employee's vacation time.

(c) A separation under Subsection (b)(4) applies only with respect to the position from which the separation occurs.

(d) State employment is continuous for purposes of Subsection (a) while the employee is entitled to be paid a regular state salary, except that continuity of state employment is not interrupted while the employee is on a leave of absence without pay for less than one

calendar month.

(e) The following are not entitled to payments under this subchapter:

(1) an individual who holds an office that is normally filled by vote of the people;

(2) an independent contractor or an employee of an independent contractor;

(3) an operator of equipment or a driver of a team whose wages are included in the rental paid by a state agency to the owner of the equipment or team;

(4) an individual employed on a piecework basis; or

(5) an individual covered by:

(A) the Judicial Retirement System of Texas Plan One;

(B) the Judicial Retirement System of Texas Plan Two; or

(C) the Teacher Retirement System of Texas, other than an individual described by Section 661.061(2)(E) or (F).

(f) Payment for accrued vacation leave for employees of the legislative branch, including employees of the lieutenant governor, is determined as follows:

(1) for employees of either house of the legislature, a member of the legislature, or the lieutenant governor, by the presiding officer of the appropriate house of the legislature; and

(2) for employees of a legislative agency, by the administrative head of the agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.19, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1035, Sec. 43, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 279, Sec. 18, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 118, Sec. 2.06, eff. Sept. 1, 2001.

Sec. 661.063. COMPUTATION OF PAYMENT. (a) Except as provided by Subsection (b), the payment to a state employee under this subchapter shall be computed by multiplying the employee's rate of compensation on the date of separation from state employment by the total number of hours of vacation time determined under Section 661.064.

(b) The payment under this subchapter to a state employee who

separates from state employment while holding a position that does not accrue vacation time shall be computed according to this subsection. The employee's final rate of compensation in the last position held that accrues vacation time shall be multiplied by the employee's total number of hours of vacation time determined under Section 661.064.

(c) Under this section, rate of compensation:

(1) includes an emolument in lieu of base pay for which the state employee was eligible; and

(2) does not include longevity or hazardous duty pay.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 44, eff. Sept. 1, 1997.

Sec. 661.064. COMPUTATION OF TOTAL ACCUMULATED LEAVE; HOLIDAY TIME. (a) This subsection applies except as provided by Subsection (c). For a state employee who on the date of separation is normally scheduled to work at least 40 hours a week, eight hours are to be added to the employee's accrued vacation time for each state or national holiday that is scheduled to fall within the period after the date of separation and during which the employee could have used the time. To determine the period during which vacation time could have been used and the number of state or national holidays, the employee's vacation time is allocated over the workdays after the employee's separation and eight hours are added as a state or national holiday occurs during the period.

(b) For a state employee who on the date of separation is normally scheduled to work less than 40 hours a week, the number of hours that is to be added to the employee's accrued vacation time for each state or national holiday is computed as provided by Subsection (a), but is to be proportionally reduced according to the lesser number of the employee's normally scheduled weekly work hours.

(c) For a state employee who is paid under this subchapter because the separation from state employment involves a move to a position in a state agency that does not accrue vacation time, no hours may be added to the employee's accrued vacation time for a state or national holiday which is scheduled to fall within the period after the date of separation and during which the employee

could have used the time.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 45, eff. Sept. 1, 1997.

Sec. 661.065. LUMP-SUM PAYMENT. A state agency shall make a payment required by this subchapter in a lump sum, except as provided by Section 661.067.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 661.066. PAYMENT CHARGED TO CERTAIN FISCAL YEAR. A state agency shall charge a lump-sum payment required by this subchapter to the fiscal year in which the state employee's separation from state employment becomes effective.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 661.067. AGREEMENT FOR STATE EMPLOYEE TO REMAIN ON AGENCY PAYROLL. (a) A state agency may agree to permit an employee entitled to payment under this subchapter to remain on the agency's payroll to exhaust the employee's accrued vacation time.

(b) A state employee who remains on the payroll of a state agency under this section:

(1) is entitled to continue to receive all compensation and benefits that the state employee was receiving on the employee's last day of duty, including paid holidays, longevity pay, and hazardous duty pay;

(2) is entitled to a general salary increase for state employees that takes effect before the employee's accrued vacation time is exhausted; and

(3) may not use sick leave or accrue sick leave or vacation time.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 661.068. RULES. The comptroller may establish procedures and adopt rules to administer this subchapter.

Added by Acts 1997, 75th Leg., ch. 1035, Sec. 18, eff. June 19, 1997.

SUBCHAPTER D. PAYMENTS FOR VACATION TIME TO CONTRIBUTING MEMBERS OF EMPLOYEES RETIREMENT SYSTEM WHO RETIRE

Sec. 661.091. PAYMENT FOR VACATION TIME ON RETIREMENT. (a) A contributing member of the Employees Retirement System of Texas who retires is entitled to a lump-sum payment, from funds of the agency or department from which the member retires, for the member's accrued vacation time as of the date of retirement, unless the member opts to receive for that accrued vacation time service credit under Section 813.511(a).

(b) A payment required by this section is payable on the date of retirement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 2, eff. September 1, 2013.

Sec. 661.092. COMPUTATION OF PAYMENT. A payment required by this subchapter shall be computed as if the member had taken vacation time, using the member's rate of compensation as of the date of retirement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 661.093. CONFLICT WITH OTHER SUBCHAPTER. Subchapter C of this chapter controls if there is a conflict between Subchapter C and this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 661.094. RULES. The comptroller may establish procedures and adopt rules to administer this subchapter.

Added by Acts 1997, 75th Leg., ch. 1035, Sec. 19, eff. June 19, 1997.

SUBCHAPTER E. VACATION FOR HOURLY OR DAILY STATE EMPLOYEE

Sec. 661.121. VACATION FOR HOURLY OR DAILY EMPLOYEE. (a) A state department, institution, or agency may grant a vacation with full pay to an employee:

(1) whose pay is computed by the hour or by the day; and

(2) who has been continuously employed by the state for six months.

(b) The vacation authorized by this section is for the same time as that granted to employees whose pay is computed monthly.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER F. GENERAL PROVISIONS FOR VACATION LEAVE FOR STATE EMPLOYEES

Sec. 661.151. STATE AUDITOR INTERPRETATION. (a) The state auditor shall provide a uniform interpretation of this subchapter and Subchapters G and Z.

(b) The state auditor shall report to the governor and the legislature any state agency or institution of higher education that practices exceptions to those laws.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 661.152. ENTITLEMENT TO ANNUAL VACATION LEAVE. (a) A state employee is entitled to a vacation in each fiscal year without a deduction in salary, except for a state employee who is:

(1) an employee of an institution of higher education as defined by Section 61.003, Education Code, who:

(A) is not employed to work at least 20 hours per week for a period of at least four and one-half months; or

(B) is employed in a position for which the employee is required to be a student as a condition of the employment;

(2) a faculty member employed for a period of fewer than 12 months by an institution of higher education as defined by Section 61.003, Education Code; or

(3) an instructional employee employed for a period of fewer than 12 months by the Texas School for the Blind and Visually Impaired, the Texas School for the Deaf, or the Texas Juvenile Justice Department.

(b) The amount of vacation accrues and may be taken in accordance with this subchapter.

(c) A part-time employee accrues vacation leave on a proportionate basis. The maximum amount of vacation leave a part-time employee may carry forward from one fiscal year to the next is also on a proportionate basis.

(d) An employee accrues vacation leave and may carry vacation leave forward from one fiscal year to the next in accordance with the following schedule:

Employees With Total State Employment of:	Hours Accrued Per Month for Full-time Employment	Maximum Hours Carried Forward From One Fiscal Year to the Next for a Full-time Employee
less than 2 years	8	180
at least 2 but less than 5 years	9	244
at least 5 but less than 10 years	10	268
at least 10 but less than 15 years	11	292
at least 15 but less than 20 years	13	340
at least 20 but less than 25 years	15	388
at least 25 but less than 30 years	17	436
at least 30 but less than 35 years	19	484
at least 35 years or more	21	532

(e) In this subsection, "duty day" means an employee's last

physical day on the job. An employee accrues vacation leave at the applicable rate beginning on the first day of state employment and ending on the last duty day of state employment. An employee accrues and is entitled to be credited for one month's vacation leave for each month of employment with the state beginning on the first day of employment with the state and on the first calendar day of each succeeding month of state employment. An employee who is employed by the state during any part of a calendar month accrues vacation leave entitlement for the entire calendar month.

(f) An employee may not take vacation leave until the employee has six months of continuous employment with the state, although the employee accrues vacation leave during that period.

(g) If an employee's state employment anniversary date occurs on the first calendar day of a month, the employee begins to accrue vacation leave at a higher rate in accordance with Subsection (d) on the first calendar day of the appropriate month. Otherwise, the employee begins to accrue vacation leave at the higher rate on the first calendar day of the month following the anniversary date. An employee who begins working on the first workday of a month in a position that accrues vacation leave is considered to have begun working on the first calendar day of the month for purposes of this subsection.

(h) An employee is entitled to carry forward from one fiscal year to the next the net balance of unused accumulated vacation leave that does not exceed the maximum number of hours allowed under Subsection (d). All hours of unused accumulated vacation leave that may not be carried forward at the end of a fiscal year under this subsection and Subsection (d) shall be credited to the employee's sick leave balance on the first day of the next fiscal year.

(i) In computing the amount of vacation leave taken, time during which an employee is excused from work because of a holiday is not charged against the employee's vacation leave.

(j) An employee who is on paid leave on the first workday of a month may not take vacation leave accrued for that month until the employee has returned to duty.

(k) An individual who is reemployed by any state agency in a position under which the employee accrues vacation leave within 30 days after the individual's date of separation from state employment is entitled to reinstatement of the unused balance of the employee's previously accrued vacation leave.

(l) For purposes of computing vacation leave under Subsection (d) for a state employee who retired from state employment on or after June 1, 2005, and who receives an annuity based wholly or partly on service as a state officer or state employee in a public retirement system, as defined by Section 802.001, that was credited to the state employee, years of total state employment includes only the length of state employment after the date the state employee retired.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 43, 44, eff. June 20, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 13.05, eff. September 1, 2005.
Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 109, eff. September 1, 2015.

Sec. 661.153. TRANSFER OF VACATION LEAVE BALANCE. A state employee who transfers directly from one state agency to another is entitled to credit by the agency to which the employee transfers for the unused balance of the employee's accumulated vacation leave, if the employee's employment with the state is uninterrupted and if the employee is not paid for the leave under Section 661.062.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.

Sec. 661.154. VACATION LEAVE FOR LEGISLATIVE EMPLOYEES. Vacation leave for employees of the legislative branch, including employees of the lieutenant governor, is determined as follows:

(1) for employees of either house of the legislature, a member of the legislature, or the lieutenant governor, by the presiding officer of the appropriate house of the legislature; and

(2) for employees of a legislative agency, by the administrative head of the agency.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.

SUBCHAPTER G. GENERAL PROVISIONS FOR SICK LEAVE FOR STATE EMPLOYEES

Sec. 661.201. APPLICABILITY. (a) Sick leave for employees of the legislative branch, including employees of the lieutenant governor, is determined as follows:

(1) for employees of either house of the legislature, a member of the legislature, or the lieutenant governor, by the presiding officer of the appropriate house of the legislature; and

(2) for employees of a legislative agency, by the administrative head of the agency.

(b) An employee of an institution of higher education as defined by Section 61.003, Education Code, is eligible to accrue or take paid sick leave under this subchapter only if the employee:

(1) is employed to work at least 20 hours per week for a period of at least four and one-half months; and

(2) is not employed in a position for which the employee is required to be a student as a condition of the employment.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.

Sec. 661.202. ENTITLEMENT TO SICK LEAVE; GENERAL PROVISIONS AND PROCEDURES. (a) A state employee is entitled to sick leave without a deduction in salary in accordance with this subchapter.

(b) In this subsection, duty day means an employee's last physical day on the job. An employee accrues sick leave beginning on the first day of state employment and ending on the last duty day of state employment. An employee is entitled to be credited for one month's accrual of sick leave at the rate specified by Subsection (c) for each month of employment with the state beginning on the first day of employment with the state and on the first calendar day of each succeeding month of state employment.

(c) Sick leave entitlement for a full-time employee accrues at the rate of eight hours for each month of state employment. A part-time employee accrues sick leave on a proportionate basis. An employee who is employed by the state during any part of a calendar month accrues sick leave entitlement for the entire calendar month. Sick leave accumulates with the unused amount of sick leave carried forward each month.

(d) Sick leave with pay may be taken when sickness, injury, or pregnancy and confinement prevent the employee's performance of duty

or when the employee is needed to care for and assist a member of the employee's immediate family who is sick. For purposes of taking regular sick leave with pay, the following persons are considered to be members of the employee's immediate family:

(1) an individual who resides in the same household as the employee and is related to the employee by kinship, adoption, or marriage;

(2) a foster child of the employee who resides in the same household as the employee and who is under the conservatorship of the Department of Protective and Regulatory Services; and

(3) a minor child of the employee, regardless of whether the child lives in the same household.

(e) An employee's use of sick leave to care for and assist members of the employee's family who are not described by Subsection (d) is strictly limited to the time necessary to provide care and assistance to a spouse, child, or parent of the employee who needs the care and assistance as a direct result of a documented medical condition.

(f) An employee who must be absent from duty because of sickness, injury, or pregnancy and confinement shall notify the employee's supervisor or have the supervisor notified of that fact at the earliest practicable time.

(g) To be eligible to take accumulated sick leave without a deduction in salary during a continuous period of more than three working days, an employee absent due to sickness, injury, or pregnancy and confinement shall send to the administrative head of the employing agency a doctor's certificate showing the cause or nature of the condition or another written statement of the facts concerning the condition that is acceptable to the administrative head. The administrative head of an agency may require a doctor's certificate or other written statement of the facts for sick leave without a deduction in salary taken during a continuous period of three or fewer working days.

(h) On returning to duty after taking sick leave, the employee shall without delay complete the prescribed application for sick leave and send the application in the manner prescribed by the agency to the appropriate authority for approving the application.

(i) The administrative head of an agency that is in compliance with Subsection (j) may authorize an exception to the amount of sick leave an employee may take after a review of the individual's

particular circumstances. A statement of all authorized exceptions and the reasons for the exceptions shall be attached to the state agency's duplicate payroll voucher for the payroll period affected by the authorized exceptions.

(j) A state agency shall maintain a written statement covering the policies and procedures for an extension of leave under Subsection (i) and shall make the statement available to all agency employees. The state agency shall provide a copy of the statement to the state auditor on request.

(k) An employee who is on leave on the first day of a month may not use the sick leave that the employee accrues for that month until after the employee returns to duty.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 45, eff. June 20, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 41, eff. September 1, 2013.

Sec. 661.203. FACULTY AT INSTITUTIONS OF HIGHER EDUCATION. A faculty member at an institution of higher education as defined by Section 61.003, Education Code, must submit prescribed leave forms for all sick leave the faculty member takes if the absence occurs during the normal workday for regular employees, even if no classes are missed.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.

Sec. 661.204. TRANSFER OF SICK LEAVE BALANCE. A state employee who transfers directly from one state agency to another is entitled to credit by the agency to which the employee transfers for the unused balance of the employee's accumulated sick leave, if the employee's employment with the state is uninterrupted.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.

Sec. 661.205. RESTORATION OF SICK LEAVE ON REEMPLOYMENT IN

CERTAIN CIRCUMSTANCES. (a) An employee who separates from employment with the state under a formal reduction in force is entitled to have the employee's sick leave balance restored if the employee is reemployed by the state within 12 months after the end of the month in which the employee separates from state employment.

(b) An employee who separates from employment with the state for a reason other than that described by Subsection (a) is entitled to have the employee's sick leave balance restored if:

(1) the employee is reemployed by the same state agency or institution of higher education within 12 months after the end of the month in which the employee separates from state employment, but only if there has been a break in employment with the state of at least 30 calendar days; or

(2) the employee is reemployed by a different state agency or institution of higher education within 12 months after the end of the month in which the employee separates from state employment.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.

Sec. 661.206. EDUCATIONAL ACTIVITIES: USE OF SICK LEAVE. (a) This section applies to an employee who is a parent of a child who is a student attending a grade from prekindergarten through 12th grade.

(b) An employee may use up to eight hours of sick leave each fiscal year to attend educational activities of the employee's children.

(c) An employee shall give reasonable advance notice of the employee's intention to use the sick leave to attend an educational activity.

(d) In this section:

(1) "Educational activity" means a school-sponsored activity, including a parent-teacher conference, tutoring, a volunteer program, a field trip, a classroom program, a school committee meeting, an academic competition, and an athletic, music, or theater program.

(2) "Employee" has the meaning assigned by Section 661.001.

(3) "Parent" means a person standing in parental relation.

Added by Acts 1997, 75th Leg., ch. 430, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 661.151 and amended by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1310,

Sec. 46, eff. June 20, 2003.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 250 (H.B. 480), Sec. 1, eff. June 14, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 250 (H.B. 480), Sec. 2, eff. June 14, 2013.

Sec. 661.207. DONATION OF SICK LEAVE. (a) An employee may donate any amount of the employee's accrued sick leave to another employee who:

(1) is employed in the same state agency as the donor employee; and

(2) has exhausted the employee's sick leave, including any time the individual may be eligible to withdraw from a sick leave pool.

(b) An employee may not provide or receive remuneration or a gift in exchange for a sick leave donation under this section.

(c) An employee who receives donated sick leave under this section may not:

(1) use sick leave donated to the employee under this section except as provided by Sections 661.202(d) and (e); or

(2) notwithstanding any other law, receive service credit in the Employees Retirement System of Texas for any sick leave donated to the employee under this section that is unused on the last day of that employee's employment.

(d) In this section, "employee" and "state agency" have the meanings assigned by Section 661.001.

Added by Acts 2015, 84th Leg., R.S., Ch. 398 (H.B. 1771), Sec. 1, eff. September 1, 2015.

SUBCHAPTER H. STATE AGENCY LEAVE POLICY

Sec. 661.251. DEFINITION. In this subchapter, "state agency" has the meaning assigned by Section 661.001.

Added by Acts 2017, 85th Leg., R.S., Ch. 518 (S.B. 73), Sec. 1, eff. September 1, 2017.

Sec. 661.252. AGENCY POLICY. (a) A state agency shall adopt a policy governing leave for employees under this chapter.

(b) The policy must provide clear and objective guidelines to establish under what circumstances an employee of the agency may be entitled to or granted each type of leave provided by this chapter.

(c) The state agency shall post the policy adopted under this section on the agency's Internet website in a location easily accessible by the agency's employees and the public.

Added by Acts 2017, 85th Leg., R.S., Ch. 518 (S.B. 73), Sec. 1, eff. September 1, 2017.

SUBCHAPTER Z. MISCELLANEOUS LEAVE PROVISIONS FOR STATE EMPLOYEES

Sec. 661.901. APPLICABILITY. (a) This subchapter applies only to a state employee employed in the executive or judicial branch of state government.

(b) The leave policies for employees of the legislative branch, including employees of the lieutenant governor, are determined as follows:

(1) for employees of either house of the legislature, a member of the legislature, or the lieutenant governor, by the presiding officer of the appropriate house of the legislature; and

(2) for employees of a legislative agency, by the administrative head of the agency.

(c) An employee of an institution of higher education as defined by Section 61.003, Education Code, is eligible to accrue or take paid leave under this subchapter only if the employee:

(1) is employed to work at least 20 hours per week for a period of at least four and one-half months; and

(2) is not employed in a position for which the employee is required to be a student as a condition of the employment.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.

Sec. 661.902. EMERGENCY LEAVE. (a) A state employee is entitled to emergency leave without a deduction in salary because of a death in the employee's family. The death of the employee's spouse or of a parent, brother, sister, grandparent, grandchild, or child of the employee or of the employee's spouse is considered to be a death

in the employee's family for purposes of this subsection.

(b) The administrative head of an agency may determine that a reason other than a reason described by Subsection (a) is sufficient for granting emergency leave. Subject to the provisions of this subsection and except as provided by Subsection (c), the administrative head shall grant an emergency leave to an employee if the employee requests the leave and the administrative head determines that the employee has shown good cause for taking emergency leave. The administrative head may not grant an emergency leave to an employee under this subsection unless the administrative head believes in good faith that the employee being granted the emergency leave intends to return to the employee's position with the agency on expiration of the period of emergency leave.

(c) An employee is not required to request an emergency leave if the administrative head of the employing agency grants the emergency leave under Subsection (b) because the agency is closed due to weather conditions or in observance of a holiday.

(d) Not later than October 1 of each year, the administrative head of an agency shall report to the comptroller the name and position of each employee of the agency who was granted more than 32 hours of emergency leave during the previous state fiscal year, the reason for which the employee was granted the emergency leave, and the total number of hours of emergency leave granted to the employee in that state fiscal year.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 518 (S.B. 73), Sec. 2, eff. September 1, 2017.

Sec. 661.903. NATIONAL GUARD EMERGENCY. A state employee who is called to state active duty as a member of the Texas military forces by the governor because of an emergency is entitled to a leave of absence without a deduction in salary in accordance with Section 437.254. A state employee who is called to federal active duty as a member of the Texas military forces may not receive the employee's state salary except as provided by Sections 661.904(d) and (f) and 661.9041.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.

Amended by Acts 2003, 78th Leg., ch. 175, Sec. 4, eff. Sept. 1, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 3.08, eff. September 1, 2013.

Sec. 661.904. MILITARY LEAVE DURING NATIONAL EMERGENCY. (a) An employee called to active duty during a national emergency to serve in a reserve component of the armed forces of the United States under Title 10 or 32, United States Code, is entitled to an unpaid leave of absence.

(b) The employee on an unpaid leave of absence during military duty described by Subsection (a) continues to accrue:

(1) state service credit for purposes of longevity pay;

(2) vacation leave; and

(3) sick leave.

(c) The employee may retain any accrued vacation or sick leave and is entitled to be credited with those balances on return to state employment from military duty described by Subsection (a). Leave earned while on an unpaid leave of absence during military duty described by Subsection (a) is credited to the employee's balance when the employee returns to active state employment.

(d) The employee may use any accrued vacation leave, earned compensatory leave, or overtime leave under the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), as amended, in whole or in part, to maintain benefits for the employee or the employee's dependents while the employee is on military duty described by Subsection (a).

(e) Before a state employee leaves for military service, the state agency employing the employee shall review with the employee any issues relating to maintaining state health insurance coverage during the employee's military duty, including what the employee needs to do to maintain state health insurance coverage, how health insurance coverage is affected by paid or unpaid leave, and how to pay any premium required for the insurance coverage.

(f) A state employee activated for military service may continue to accrue service credit with the Employees Retirement System of Texas by receiving at least one hour of state pay during each month of active military service. The employee may use any combination of paid leave, including state compensatory leave,

overtime leave under the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), as amended, annual leave, military leave, or approved agency differential pay, to qualify for the state pay.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 175, Sec. 5, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 764 (S.B. 833), Sec. 1, eff. June 19, 2009.

Sec. 661.9041. DIFFERENTIAL PAY. (a) The administrative head of a state agency shall grant sufficient emergency leave as differential pay to a state employee on unpaid military leave if the employee's military pay is less than the employee's state gross pay. The combination of emergency leave and military pay may not exceed the employee's actual state gross pay.

(b) For purposes of Subsection (a), military pay does not include money the employee receives:

(1) for service in a combat zone;

(2) as hardship pay; or

(3) for being separated from the employee's family.

(c) The state auditor shall adopt guidelines to assist state agencies in determining the amount of emergency leave to grant to an employee under this section as differential pay.

Added by Acts 2003, 78th Leg., ch. 175, Sec. 6, eff. Sept. 1, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 371 (S.B. 1345), Sec. 1, eff. June 17, 2005.

Sec. 661.905. VOLUNTEER FIREFIGHTERS, EMERGENCY MEDICAL SERVICES VOLUNTEERS, AND SEARCH AND RESCUE VOLUNTEERS. (a) In this section:

(1) "Emergency medical services volunteer" has the meaning assigned by Section 773.003, Health and Safety Code.

(2) "Search and rescue volunteer" means an individual who without remuneration, except reimbursement for expenses, provides services for or on behalf of an organization that conducts search and

rescue activities.

(b) A state employee who is a volunteer firefighter, an emergency medical services volunteer, or a search and rescue volunteer is entitled to a leave of absence without a deduction in salary to attend fire service, emergency medical services, or search and rescue training conducted by a state agency or institution of higher education. Leave without a deduction in salary under this subsection may not exceed five working days in a fiscal year.

(c) A state agency or institution of higher education may grant leave without a deduction in salary to a volunteer firefighter, an emergency medical services volunteer, or a search and rescue volunteer for the purpose of allowing the firefighter, emergency medical services volunteer, or search and rescue volunteer to respond to emergency fire, medical, or search and rescue situations if the agency or institution has an established policy for granting that leave.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 343, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 10 (H.B. 41), Sec. 1, eff. September 1, 2019.

Sec. 661.906. FOSTER PARENTS. A state employee who is a foster parent to a child under the conservatorship of the Department of Protective and Regulatory Services is entitled to a leave of absence without a deduction in salary for the purpose of attending:

(1) meetings held by the Department of Protective and Regulatory Services regarding the child under the foster care of the employee; or

(2) an admission, review, and dismissal meeting held by a school district regarding the child under the foster care of the employee.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.

Sec. 661.9075. VOLUNTEERS OF TEXAS VOLUNTARY ORGANIZATIONS ACTIVE IN DISASTER. (a) A state employee who is a volunteer of an organization that is a member of the Texas Voluntary Organizations

Active in Disaster may be granted leave to participate in disaster relief services without a deduction in salary or loss of vacation time, sick leave, earned overtime credit, or state compensatory time if:

(1) the employee's supervisor authorizes the leave;

(2) the services in which the employee participates are provided for a state of disaster declared by the governor under Chapter 418; and

(3) the executive director of the employee's state agency approves the leave.

(b) Leave granted to a state employee under Subsection (a) may not exceed 10 days each fiscal year.

Added by Acts 2021, 87th Leg., R.S., Ch. 77 (S.B. 44), Sec. 1, eff. September 1, 2021.

Sec. 661.908. LEAVE RECORDS; TIME AND ATTENDANCE RECORDS. The administrative head or governing body of each state agency shall require for each employee:

(1) time and attendance records;

(2) a record of the accrual and taking of vacation and sick leave;

(3) a record of the reason an employee takes leave if other law requires the employee to inform the agency of the reason; and

(4) a record that shows whether any leave taken is accounted for as sick leave, vacation leave, other paid leave, leave without pay, or other absence.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.

Sec. 661.909. LEAVE WITHOUT PAY; LEAVE OF ABSENCE. (a) A state agency or institution of higher education may grant employees leave without pay, including a leave of absence without pay, in accordance with this section.

(b) The duration of the leave may not exceed 12 months.

(c) Except for disciplinary suspensions, active military duty, and leave covered by workers' compensation benefits, all accumulated paid leave entitlements must be used before going on leave without pay status. Sick leave must first be used only if the employee is

taking leave for a reason for which the employee is eligible to take sick leave under Subchapter G.

(d) Subject to fiscal constraints, approval of the leave constitutes a guarantee of employment at the conclusion of the specified leave period.

(e) The administrative head of a state agency or institution of higher education may grant exceptions to the limitations of this section if the employee is taking the leave for a reason such as:

(1) to work for another state governmental entity under an interagency agreement; or

(2) educational purposes.

(f) Except for an employee who returns to state employment from military leave without pay under Section 661.904, a full calendar month during which an employee is on leave without pay is not counted in computing:

(1) total state service for purposes related to longevity pay or to the rate of accrual of vacation leave; or

(2) continuous state service for purposes related to merit salary provisions or vacation leave.

(g) An employee does not accrue vacation or sick leave for a full calendar month during which the employee is on leave without pay.

(h) A full or partial calendar month during which an employee is on leave without pay does not constitute a break in continuity of employment.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.

Sec. 661.910. ASSISTANCE DOG TRAINING FOR EMPLOYEES WITH A DISABILITY. (a) A state employee who is a person with a disability, as defined by Section 121.002, Human Resources Code, is entitled to a leave of absence without a deduction in salary for the purpose of attending a training program to acquaint the employee with an assistance dog to be used by the employee.

(b) The leave of absence provided by this section may not exceed 10 working days in a fiscal year.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.

Sec. 661.911. ADMINISTRATIVE LEAVE WITH PAY. (a) In addition to employee leave authorized elsewhere in this chapter, the administrative head of an agency may grant administrative leave without a deduction in salary to an employee as a reward for outstanding performance as documented by employee performance appraisals.

(b) The total amount of administrative leave an employee may be granted under this section may not exceed 32 hours during a fiscal year.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.

Sec. 661.912. FAMILY AND MEDICAL LEAVE ACT. (a) Except as provided by Section 661.9125, to the extent required by federal law, a state employee who has a total of at least 12 months of state service and who has worked at least 1,250 hours during the 12-month period preceding the beginning of leave under this section is entitled to leave under the federal Family and Medical Leave Act of 1993 (29 U.S.C. Section 2601 et seq.).

(b) The employee must first use all available and applicable paid vacation and sick leave while taking leave under this section, except that an employee who is receiving temporary disability benefits or workers' compensation benefits or is taking paid leave under Section 661.9125 is not required to first use applicable paid vacation or sick leave while receiving those benefits or taking paid leave under Section 661.9125.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1047 (S.B. 222), Sec. 1, eff. September 1, 2023.

Sec. 661.9125. PAID PARENTAL LEAVE FOR CERTAIN EMPLOYEES. (a) This section applies only to a state employee who:

(1) is a member of the Employees Retirement System of Texas or is employed by a board, commission, department, or other agency in the executive branch of state government created by the constitution or a statute of this state, except for an institution of higher education as defined by Section 61.003, Education Code; and

(2) takes leave under Section 661.912 for the:
(A) birth of a child;
(B) birth of a child by the employee's spouse;
(C) birth of a child by a gestational surrogate; or
(D) adoption of a child.

(b) Except as provided by Subsection (c), a state employee who takes leave under Section 661.912 for the purpose of Subsection (a)(2)(A) is entitled to 40 days of paid leave during leave taken under that section.

(c) A state employee who takes leave under Section 661.912 for the purpose of Subsection (a)(2)(B), (C), or (D) is entitled to 20 days of paid leave during leave taken under Section 661.912.

(d) This section does not entitle an employee to any leave in addition to leave taken under Section 661.912.

(e) A state employee is not required to use all available paid vacation and sick leave before the employee is entitled to take paid leave under this section.

(f) This section may not be construed to:
(1) create an employment right;
(2) confer a protected status; or
(3) create a cause of action against this state.

Added by Acts 2023, 88th Leg., R.S., Ch. 1047 (S.B. 222), Sec. 2, eff. September 1, 2023.

Sec. 661.913. PARENTAL LEAVE FOR CERTAIN EMPLOYEES. (a) A state employee who has been employed for fewer than 12 months by the state or who worked fewer than 1,250 hours during the 12-month period preceding the beginning of leave under this section is eligible to take a parental leave of absence not to exceed 12 weeks in accordance with this section.

(b) The employee must first use all available and applicable paid vacation and sick leave while taking the leave, and the remainder of the leave is unpaid.

(c) The leave authorized by this section is limited to, and begins on the date of, the birth of a natural child of the employee or the adoption by or foster care placement with the employee of a child younger than three years of age.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.

Sec. 661.914. VOTING BY STATE EMPLOYEES. A state agency shall allow each agency employee sufficient time off, without a deduction in salary or accrued leave, to vote in each national, state, or local election.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 19, eff. Sept. 1, 1999.

Sec. 661.915. APPLICABILITY TO JUNIOR COLLEGES. The provisions of this chapter do not apply to a public junior college as defined by Section 61.003, Education Code.

Added by Acts 2001, 77th Leg., ch. 118, Sec. 2.13, eff. Sept. 1, 2001.

Sec. 661.916. LEAVE FOR ORGAN OR BONE MARROW DONORS. (a) A state employee is entitled to a leave of absence without a deduction in salary for the time necessary to permit the employee to serve as a bone marrow or organ donor.

(b) The leave of absence provided by this section may not exceed:

(1) five working days in a fiscal year to serve as a bone marrow donor; or

(2) 30 working days in a fiscal year to serve as an organ donor.

Added by Acts 2003, 78th Leg., ch. 177, Sec. 1, eff. Sept. 1, 2003.

Sec. 661.917. DONATION OF BLOOD. (a) A state agency shall allow each agency employee sufficient time off, without a deduction in salary or accrued leave, to donate blood.

(b) An employee may not receive time off under this section unless the employee obtains approval from the employee's supervisor before taking time off.

(c) On returning to work after taking time off under this section, an employee shall provide the employee's supervisor with proof that the employee donated blood during the time off. If an

employee fails to provide proof that the employee donated blood during the time off, the state agency shall deduct the period for which the employee was granted time off from the employee's salary or accrued leave, whichever the employee chooses.

(d) An employee may receive time off under this section not more than four times in a fiscal year.

Added by Acts 2003, 78th Leg., ch. 177, Sec. 1, eff. Sept. 1, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2467, S.B. 502, S.B. 1171 and S.B. 1321, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 661.918. INJURY LEAVE FOR CERTAIN PEACE OFFICERS. (a) This section applies to a peace officer under Article 2A.001, Code of Criminal Procedure, who is commissioned as a law enforcement officer or agent, including a ranger, by:

(1) the Public Safety Commission and the director of the Department of Public Safety;

(2) the Parks and Wildlife Commission;

(3) the Texas Alcoholic Beverage Commission;

(4) the attorney general;

(5) the insurance fraud unit of the Texas Department of Insurance; or

(6) the comptroller.

(b) A peace officer to whom this section applies is entitled to injury leave, without a deduction in salary, without being required to use compensatory time off accrued under Chapter 659, and without being required to use any other type of leave allowable under this chapter, for an injury sustained due to the nature of the officer's duties and that occurs during the course of the officer's performance of duty, except an officer is not entitled to injury leave under this subsection if:

(1) the officer's own gross negligence contributed to the officer's injury; or

(2) the injury was related to the performance of routine office duties.

(c) To be eligible for injury leave under this section, a person must submit to the person's employer evidence of a medical

examination and a recommendation for a specific period of leave from a physician licensed to practice in this state.

(d) The maximum amount of leave available under this section for all injuries occurring at one time is one year.

(e) A person may simultaneously be on injury leave under this section and receive workers' compensation medical benefits under Title 5, Labor Code, but is not eligible for disability retirement benefits under Chapter 814 during the leave period. A person is entitled to workers' compensation indemnity benefits which accrue pursuant to Title 5, Labor Code, after the discontinuation or exhaustion of injury leave under this section.

Added by Acts 2005, 79th Leg., Ch. 571 (H.B. 1428), Sec. 2, eff. June 17, 2005.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 81 (S.B. 687), Sec. 1, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1055 (H.B. 2037), Sec. 3, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1143 (H.B. 2816), Sec. 2, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 283 (S.B. 1237), Sec. 2, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.113, eff. January 1, 2025.

Sec. 661.919. AMATEUR RADIO OPERATORS. (a) A state employee who holds an amateur radio station license issued by the Federal Communications Commission may be granted leave not to exceed 10 days each fiscal year to participate in specialized disaster relief services without a deduction in salary or loss of vacation time, sick leave, earned overtime credit, or state compensatory time if the leave is taken:

(1) with the authorization of the employee's supervisor; and

(2) with the approval of the governor.

(b) The number of amateur radio operators who are eligible for leave under this section may not exceed 350 state employees at any one time during a state fiscal year. The Texas Division of Emergency

Management shall coordinate the establishment and maintenance of the list of eligible employees.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 2.01, eff. September 1, 2007.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 2B.08, eff. September 1, 2009.

Sec. 661.921. COURT APPOINTED SPECIAL ADVOCATES VOLUNTEER. A state employee may be granted leave not to exceed five hours each month to participate in mandatory training or perform volunteer services for Court Appointed Special Advocates without a deduction in salary or loss of vacation time, sick leave, earned overtime credit, or state compensatory time.

Added by Acts 2009, 81st Leg., R.S., Ch. 1274 (H.B. 1462), Sec. 1, eff. September 1, 2009.

Sec. 661.922. RESERVE LAW ENFORCEMENT OFFICERS. (a) In this section, "reserve law enforcement officer" has the meaning assigned by Section 1701.001, Occupations Code.

(b) A state employee who is a reserve law enforcement officer is entitled to a leave of absence without a deduction in salary to attend training required under Section 1701.351, Occupations Code. Leave without deduction in salary under this section may not exceed five working days every fiscal biennium.

Added by Acts 2013, 83rd Leg., R.S., Ch. 631 (S.B. 443), Sec. 1, eff. June 14, 2013.

Sec. 661.923. LEAVE DURING AGENCY INVESTIGATION. (a) The administrative head of an agency may grant leave without a deduction in salary to a state employee who is:

(1) the subject of an investigation being conducted by the agency; or

(2) a victim of, or witness to, an act or event that is the subject of an investigation being conducted by the agency.

(b) A state employee who is the subject of an investigation being conducted by the employing agency is ineligible to receive leave for that reason under any other provision of this subchapter.

(c) Not later than the last day of each quarter of a state fiscal year, an agency shall submit a report to the state auditor's office and the Legislative Budget Board that includes the name of each agency employee described by Subsection (a)(1) who has been granted 168 hours or more of leave under this section during that fiscal quarter. The report must include, for each employee, a brief statement as to the reason the employee remains on leave.

Added by Acts 2017, 85th Leg., R.S., Ch. 518 (S.B. 73), Sec. 3, eff. September 1, 2017.

Sec. 661.924. MEDICAL AND MENTAL HEALTH CARE LEAVE FOR CERTAIN VETERANS. (a) This section applies to a state employee who is:

(1) a veteran, as defined by Section 434.023(a); and

(2) eligible for health benefits under a program administered by the Veterans Health Administration of the United States Department of Veterans Affairs.

(b) A state employee described by Subsection (a) may be granted leave without a deduction in salary or loss of vacation time, sick leave, earned overtime credit, or state compensatory time to obtain medical or mental health care administered by the Veterans Health Administration of the United States Department of Veterans Affairs, including physical rehabilitation.

(c) Except as provided by Subsection (d), leave granted under Subsection (b) may not exceed 15 days each fiscal year.

(d) The administrative head of a state agency may annually grant additional days of leave described by Subsection (b) as the administrative head determines appropriate for the employee.

Added by Acts 2017, 85th Leg., R.S., Ch. 518 (S.B. 73), Sec. 4, eff. September 1, 2017.

CHAPTER 662. HOLIDAYS AND RECOGNITION DAYS, WEEKS, AND MONTHS

SUBCHAPTER A. HOLIDAYS FOR STATE EMPLOYEES

Sec. 662.001. DEFINITIONS. In this subchapter:

(1) "Part-time state employee" means a state employee who

normally works fewer than 40 hours each week.

(2) "State agency" means a unit of state government, including a state board, commission, council, department, committee, agency, or office that was created by the constitution or a statute of this state and is in any branch of state government. The term does not include a local government, a river authority, a special district, any other political subdivision, or an institution of higher education as defined by Section 61.003, Education Code.

(3) "State employee" means an employee of a state agency or an appointed officer of a state agency whose office is not created by the state constitution. The term includes a part-time, hourly, or temporary state employee.

(4) "Workday" means a day on which a state employee is normally scheduled to work. The term does not include a national or state holiday.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 27, eff. June 19, 1997.

Sec. 662.002. APPLICABILITY TO EMPLOYEE OF THE HOUSE OR SENATE. This subchapter applies to a state employee of the house of representatives or the senate only at the discretion of the presiding officer or the administration committee of each respective house.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 662.003. DATES AND DESCRIPTIONS OF HOLIDAYS. (a) A national holiday includes only the following days:

(1) the first day of January, "New Year's Day";

(2) the third Monday in January, "Martin Luther King, Jr., Day" in observance of the birthday of Dr. Martin Luther King, Jr.;

(3) the third Monday in February, "Presidents' Day";

(4) the last Monday in May, "Memorial Day";

(5) the fourth day of July, "Independence Day";

(6) the first Monday in September, "Labor Day";

(7) the 11th day of November, "Veterans Day," dedicated to the cause of world peace and to honoring the veterans of all wars in which Texans and other Americans have fought;

(8) the fourth Thursday in November, "Thanksgiving Day"; and

(9) the 25th day of December, "Christmas Day."

(b) A state holiday includes only the following days:

(1) the 19th day of January, "Confederate Heroes Day," in honor of Jefferson Davis, Robert E. Lee, and other Confederate heroes;

(2) the second day of March, "Texas Independence Day";

(3) the 21st day of April, "San Jacinto Day";

(4) the 19th day of June, "Emancipation Day in Texas," in honor of the emancipation of the slaves in Texas in 1865;

(5) the 27th day of August, "Lyndon Baines Johnson Day," in observance of the birthday of Lyndon Baines Johnson;

(6) the Friday after Thanksgiving Day;

(7) the 24th day of December; and

(8) the 26th day of December.

(c) An "optional holiday" includes only the days on which Rosh Hashanah, Yom Kippur, or Good Friday falls.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 279, Sec. 20, eff. Sept. 1, 1999.

Sec. 662.004. MINIMUM NUMBER OF EMPLOYEES NEEDED TO CONDUCT BUSINESS. (a) A state agency and an institution of higher education as defined by Section 61.003, Education Code, shall have enough employees on duty during a state holiday to conduct the public business of the agency or institution.

(b) This section does not apply to a state holiday that falls on a Saturday or Sunday, the Friday after Thanksgiving Day, or the 24th or 26th day of December.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 279, Sec. 21, eff. Sept. 1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature,

Regular Session, for amendments affecting the following section.

Sec. 662.005. ENTITLEMENT TO PAID DAY OFF. (a) An individual who is a state employee on the last workday before or the first workday after a national or state holiday, or on both workdays, is entitled, except as provided by Section 662.010, to a paid day off from working for a state agency on the holiday if:

(1) the holiday does not fall on a Saturday or Sunday; and

(2) the General Appropriations Act does not prohibit state agencies from observing the holiday.

Text of subsection as amended by Acts 2023, 88th Leg., R.S., Ch. 109 (S.B. 2214), Sec. 1

(b) Except as provided by Section 662.010, and notwithstanding Section 659.015 or another law, each of the following state employees who is required to work on a national or state holiday that falls on a Saturday or Sunday is entitled to compensatory time off at the rate of one hour for each hour worked on the holiday:

(1) an employee of the Department of Family and Protective Services in the statewide intake division who receives reports of abuse or neglect;

(2) a peace officer commissioned by a state officer or state agency listed under Article 2A.001, Code of Criminal Procedure;

(3) an employee of the Department of Public Safety who:

(A) performs communications or dispatch services related to traffic law enforcement; or

(B) is a public security officer, as that term is defined by Section 1701.001, Occupations Code; or

(4) an employee of the Parks and Wildlife Department who performs communications and dispatch services to assist law enforcement officers commissioned by the Parks and Wildlife Commission in performing law enforcement duties.

Text of subsection as amended by Acts 2023, 88th Leg., R.S., Ch. 950 (S.B. 1727), Sec. 13

(b) Except as provided by Section 662.010, and notwithstanding Section 659.015 or another law, a state employee who is a peace officer commissioned or appointed, as applicable, by a state officer or state agency listed under Article 2A.001, Code of Criminal Procedure, or who is employed by the Department of Public Safety either to perform communications or dispatch services related to traffic law enforcement or as a public security officer, as that term

is defined by Section 1701.001, Occupations Code, or who is employed by the Parks and Wildlife Department to perform communications and dispatch services to assist law enforcement officers commissioned by the Parks and Wildlife Commission in performing law enforcement duties, or who is employed by the Texas Juvenile Justice Department to perform communication service duties for the incident reporting center and to assist law enforcement officers appointed by the office of inspector general of the Texas Juvenile Justice Department in performing investigative duties, or who is employed as a security officer providing security and entry searches for secure correctional facilities operated by the Texas Juvenile Justice Department, and who is required to work on a national or state holiday that falls on a Saturday or Sunday is entitled to compensatory time off at the rate of one hour for each hour worked on the holiday.

(c) In this section, "state employee":

(1) includes an individual who uses paid leave from a state agency; and

(2) does not include an individual who uses unpaid leave from a state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 28, eff. June 19, 1997; Acts 2001, 77th Leg., ch. 717, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 459, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 811, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 868, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.14, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 74 (H.B. 46), Sec. 1, eff. May 19, 2011.

Acts 2023, 88th Leg., R.S., Ch. 109 (S.B. 2214), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.114, eff. January 1, 2025.

Acts 2023, 88th Leg., R.S., Ch. 950 (S.B. 1727), Sec. 13, eff. September 1, 2023.

Sec. 662.006. OPTIONAL HOLIDAY. (a) An individual who is a

state employee on the last workday before or the first workday after an optional holiday, or on both workdays, is entitled, except as provided by Section 662.010, to a paid day off from working for a state agency on the holiday if:

(1) the holiday does not fall on a Saturday or Sunday;

(2) the employee agrees to give up, during the same fiscal year, a state holiday that:

(A) does not fall on a Saturday or Sunday; and

(B) the General Appropriations Act does not prohibit state agencies from observing; and

(3) the General Appropriations Act does not prohibit state agencies from observing the optional holiday.

(b) A state employee is entitled to a paid day off from working for a state agency on each day of an optional holiday that extends for more than one day if the employee:

(1) qualifies for the paid day off under Subsection (a); and

(2) agrees to give up during the same fiscal year an equivalent number of state holidays that:

(A) do not fall on a Saturday or Sunday; and

(B) the General Appropriations Act does not prohibit state agencies from observing.

(c) A state employee may not agree to give up the Friday after Thanksgiving Day or the 24th or 26th day of December.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 29, eff. June 19, 1997.

Sec. 662.007. COMPENSATORY TIME. (a) A state employee who is required to work on a national or state holiday is entitled to compensatory time off during the 12 months after the holiday if the state employee is entitled to a paid day off from working for a state agency on the holiday under Section 662.005.

(b) A state employee must give reasonable notice of the employee's intention to use the compensatory time but is not required to say how the compensatory time will be used.

(c) An institution of higher education as defined by Section 61.003, Education Code, may allow an employee who is required to work

on a national or state holiday that does not fall on a Saturday or Sunday to take compensatory time off in accordance with this section or may instead pay the employee at the employee's regular rate of pay for that time if the institution determines that allowing compensatory time off would disrupt normal teaching, research, or other critical functions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 30, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 279, Sec. 22, eff. Sept. 1, 1999.

Sec. 662.0071. TRANSFERS OF COMPENSATORY TIME BALANCES. (a) A state agency shall accept the balance of compensatory time accrued under Section 662.007 by a state employee who transfers to that agency from another state agency if the employee transfers as a direct result of the legislature's transfer of legal authority or duties from the agency that formerly employed the employee to the agency that currently employs the employee.

(b) Subsection (a) does not apply if the transferring state employee is required to apply for the new position.

Added by Acts 1997, 75th Leg., ch. 1035, Sec. 46, eff. Sept. 1, 1997. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 24 (S.B. 706), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 24 (S.B. 706), Sec. 7(3), eff. September 1, 2017.

Sec. 662.0072. TRANSFERRING EMPLOYEE: PAYMENT FOR HOLIDAY. If a state or national holiday occurs between the dates that a state employee separates from one state agency and begins employment with another state agency or an institution of higher education without a break in service, the agency or institution of higher education to which the employee transfers is responsible for paying the employee for the holiday regardless of whether the agency or institution of higher education that receives the new employee recognizes the holiday.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 23, eff. Sept. 1, 1999.

Sec. 662.008. PART-TIME STATE EMPLOYEES. The pay of a part-time state employee for a paid day off to which the employee is entitled under this subchapter must be proportionally reduced to account for the fewer hours the employee normally works.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 662.009. EMPLOYEE WORKING OTHER THAN MONDAY THROUGH FRIDAY. (a) A state employee who normally works 40 hours a week on a schedule other than Monday through Friday is entitled to paid holiday time off during the fiscal year equal to eight hours multiplied by the number of national and state holidays in the fiscal year as determined under Section 662.005.

(b) A state employee to whom Subsection (a) applies who works less than the entire fiscal year is entitled to paid holiday time off during the fiscal year equal to eight hours multiplied by the number of national and state holidays that occur during the period worked by the employee under Section 662.005.

(c) The paid holiday time off of a part-time state employee who works on a schedule other than Monday through Friday must be proportionally reduced to account for the fewer hours the employee normally works.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 662.010. HOLIDAY BEFORE WORK BEGINS OR AFTER WORK ENDS. (a) An individual must be a state employee on the workday before and after a state or national holiday in order to be paid for that holiday, unless the holiday falls on the employee's first or last workday of the month.

(b) In this section, "state employee":

(1) includes an individual who uses paid leave from a state agency; and

(2) does not include an individual who uses unpaid leave from a state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 31, eff. June 19, 1997; Acts 2003, 78th Leg., ch. 1310, Sec. 47, eff. June 20, 2003.

Sec. 662.011. HOLIDAYS FOR INSTITUTIONS OF HIGHER EDUCATION. (a) The governing body of an institution of higher education, as defined by Section 61.003, Education Code, other than a public junior college as defined by that section, may establish the holiday schedule for the institution, subject to any applicable limitation on the observance of holidays prescribed by the General Appropriations Act.

(b) The number of holidays to be observed by the institution may not exceed the number of holidays on which an employee of a state agency is entitled to a day off.

(c) An employee of the institution is eligible to take paid holiday leave only if the employee:

(1) is scheduled to work at least 20 hours per week for a period of at least four and one-half months; and

(2) is not employed in a position for which the employee is required to be a student as a condition of the employment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 279, Sec. 24, eff. Sept. 1, 1999.

Sec. 662.012. RULES. The comptroller may establish procedures and adopt rules to administer Sections 662.001-662.010.

Added by Acts 1997, 75th Leg., ch. 1035, Sec. 20, eff. June 19, 1997.

Sec. 662.013. OPTIONAL HOLIDAY FOR CESAR CHAVEZ DAY. (a) The 31st day of March shall be designated "Cesar Chavez Day" in observance of the birthday of Cesar Chavez.

(b) The administrative head of a state agency may allow an employee of the agency to have a day off with pay on Cesar Chavez Day in lieu of any other state holiday that occurs on a weekday, other than a weekday on which an election is held throughout the state, on which the state agency is required to be open but on which the operations of the agency are required to be maintained at only a

minimum level.

(c) On Cesar Chavez Day, each state agency shall remain open and conduct the operations of the agency at a minimum level.

(d) A holiday allowed under this section is in lieu of another holiday prescribed by law. The total number of holidays in a year to which an employee of a state agency is entitled is not changed by this section.

Added by Acts 1999, 76th Leg., ch. 521, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. LEGAL HOLIDAYS

Sec. 662.021. DATES OF HOLIDAYS. A legal holiday includes only the following days:

(1) a national holiday under Section 662.003(a); and

(2) a state holiday under Sections 662.003(b)(1) through (6).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 662.022. CLOSURE OF PUBLIC OFFICES. A public office of this state may be closed on a legal holiday, except as provided by Section 662.004.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 662.023. PRESENTMENT, NOTICE OF DISHONOR, AND PROTEST OF CERTAIN COMMERCIAL PAPER. A legal holiday is treated as a Sunday for presenting for payment or acceptance, protesting, and giving notice of the dishonor of a draft or promissory note.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. RECOGNITION DAYS

Sec. 662.041. SAM RAYBURN DAY. (a) January 6 is Sam Rayburn Day in memory of that great Texas and American statesman, Sam Rayburn.

(b) Sam Rayburn Day shall be regularly observed by appropriate

programs in the public schools and other places to commemorate the birthday of Sam Rayburn.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 662.042. FORMER PRISONERS OF WAR RECOGNITION DAY. (a) April 9 is Former Prisoners of War Recognition Day in honor of the courage of those Americans who suffered sacrifices and tribulations as prisoners of war in the course of their military service on behalf of this nation.

(b) Former Prisoners of War Recognition Day shall be regularly observed by appropriate ceremonies.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 662.043. INTERNATIONAL TRADE AWARENESS WEEK. (a) May 22 through May 26 is International Trade Awareness Week to encourage Texas businesses to engage effectively in the promotion and development of international trade.

(b) International Trade Awareness Week shall be observed by appropriate ceremonies and activities.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 662.044. COLUMBUS DAY. (a) The second Monday of October is Columbus Day in honor of Christopher Columbus.

(b) Columbus Day shall be regularly observed by appropriate ceremonies.

(c) Public offices of this state shall remain open on Columbus Day.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 662.045. FATHER OF TEXAS DAY. (a) November 3 is Father of Texas Day in memory of Stephen F. Austin, the great pioneer patriot and the real and true Father of Texas.

(b) Father of Texas Day shall be regularly observed by

appropriate and patriotic programs in the public schools and other places to properly commemorate the birthday of Stephen F. Austin and to inspire a greater love for this beloved state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 662.046. TEXAS PARENTS DAY. The second Sunday in August of each year is Texas Parents Day to celebrate the Texas family and to emphasize the importance of parents taking an active role in the raising and future of their children.

Added by Acts 1999, 76th Leg., ch. 758, Sec. 1, eff. June 18, 1999.

Sec. 662.047. STATE OF TEXAS ANNIVERSARY REMEMBRANCE DAY (STAR DAY). (a) February 19 is State of Texas Anniversary Remembrance Day (STAR Day) in honor of Texas joining the Union and the day that James Pinckney Henderson became the first governor of the State of Texas in 1846.

(b) State of Texas Anniversary Remembrance Day (STAR Day) shall be regularly observed by appropriate and patriotic programs in the public schools and other places to properly commemorate the annexation of this state and to inspire a greater appreciation for the history of this state.

Added by Acts 1999, 76th Leg., ch. 502, Sec. 1, eff. June 18, 1999, and Acts 1999, 76th Leg., ch. 1453, Sec. 7, eff. Aug. 30, 1999. Renumbered from Government Code Sec. 662.046, 662.050 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(58), eff. Sept. 1, 2001.

Sec. 662.048. TEXAS FLAG DAY. Texas Flag Day shall be celebrated each March 2, Texas Independence Day.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.103, eff. Sept. 1, 2001.

Sec. 662.049. PUBLIC SCHOOL PARAPROFESSIONAL DAY. (a) The second Wednesday in May of each year is Public School

Paraprofessional Day in recognition of education paraprofessionals including teacher assistants, instructional aides, educational trainers, library attendants, bilingual assistants, special education associates, mentors, and tutors.

(b) Public School Paraprofessional Day shall be regularly observed by appropriate ceremonies and activities in the public schools and other places to properly recognize the paraprofessionals who have made tremendous contributions to the educational process.

Added by Acts 2001, 77th Leg., ch. 287, Sec. 1, eff. May 23, 2001.

Sec. 662.050. TEXAS FIRST RESPONDERS DAY. (a) September 11 is Texas First Responders Day in honor of the bravery, courage, and determination of Texas men and women who assist others in emergencies.

(b) Texas First Responders Day shall be regularly observed by appropriate ceremonies in the public schools and other places to honor Texas first responders. Each governmental entity may determine the appropriate ceremonies by which Texas observes Texas First Responders Day.

Added by Acts 2003, 78th Leg., ch. 614, Sec. 1, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1312, Sec. 6, eff. June 21, 2003.

Sec. 662.051. WOMEN'S INDEPENDENCE DAY. (a) August 26 is Women's Independence Day to commemorate the ratification in 1920 of the Nineteenth Amendment to the United States Constitution, which guaranteed women the right to vote.

(b) Women's Independence Day shall be regularly observed by appropriate programs in the public schools and other places to inspire a greater appreciation of the importance of women's suffrage.

Added by Acts 2005, 79th Leg., Ch. 19 (H.B. 67), Sec. 1, eff. May 9, 2005.

Sec. 662.052. TEXIAN NAVY DAY. (a) The third Saturday in September of each year is Texian Navy Day in remembrance of the Texian Navy.

(b) Texian Navy Day shall be regularly observed by appropriate ceremonies and activities.

Added by Acts 2005, 79th Leg., Ch. 697 (S.B. 318), Sec. 1, eff. June 17, 2005.
Renumbered from Government Code, Section 662.051 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(40), eff. September 1, 2007.

Sec. 662.053. VOLUNTEERS FOR DEMOCRACY DAY. (a) The second Tuesday in January of each year is Volunteers for Democracy Day in honor of the precinct chairs and other election volunteers who make valuable contributions to the nation's democratic system.

(b) Volunteers for Democracy Day shall be regularly observed by appropriate ceremonies.

Added by Acts 2007, 80th Leg., R.S., Ch. 64 (S.B. 393), Sec. 1, eff. September 1, 2007.

Sec. 662.054. TEXAS ADOPTION DAY. (a) The Saturday before Thanksgiving Day of each year is Texas Adoption Day to celebrate and encourage adoption, adoptive families, and adoption workers in Texas.

(b) Texas Adoption Day shall be regularly observed by appropriate ceremonies and activities that encourage participation in and raise awareness about the adoption process and that honor adoptive families and adoption workers in Texas.

(c) The Department of Family and Protective Services shall create a statewide awareness campaign to promote Texas Adoption Day and shall coordinate ceremonies and activities held throughout the state.

Added by Acts 2007, 80th Leg., R.S., Ch. 386 (S.B. 640), Sec. 1, eff. June 15, 2007.
Renumbered from Government Code, Section 662.053 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(43), eff. September 1, 2009.

Sec. 662.055. DR. HECTOR P. GARCIA DAY. (a) The third

Wednesday of September is Dr. Hector P. Garcia Day in memory of the significant contributions to the Mexican American civil rights movement of Dr. Hector P. Garcia, a distinguished physician and a recipient of the Presidential Medal of Freedom and the founder of the American GI Forum, which promotes civil rights protection of Hispanic veterans and all Americans. Dr. Garcia, a World War II hero, was awarded a Bronze Star Medal with six battle stars in recognition of his meritorious service to the United States.

(b) Dr. Hector P. Garcia Day may be regularly observed by appropriate ceremonies and activities in the public schools and other places to properly commemorate the importance of the contributions made by Dr. Garcia.

Added by Acts 2009, 81st Leg., R.S., Ch. 274 (S.B. 495), Sec. 1, eff. September 1, 2009.

Sec. 662.056. AMERICAN INDIAN HERITAGE DAY. (a) The last Friday in September is American Indian Heritage Day in recognition of the historic, cultural, and social contributions American Indian communities and leaders have made to this state.

(b) American Indian Heritage Day shall be regularly observed by appropriate ceremonies, activities, and programs in the public schools and other places to honor American Indians in this state and to celebrate the rich traditional and contemporary American Indian culture.

Added by Acts 2013, 83rd Leg., R.S., Ch. 11 (H.B. 174), Sec. 1, eff. May 10, 2013.

Sec. 662.057. TEXAS ARBOR DAY. (a) The first Friday in November of each year is Texas Arbor Day to encourage the planting and cultivation of forest, shade, and ornamental trees throughout the state.

(b) Texas Arbor Day shall be regularly observed by appropriate ceremonies and activities.

Added by Acts 2013, 83rd Leg., R.S., Ch. 51 (H.B. 419), Sec. 1, eff. May 18, 2013.
Redesignated from Government Code, Section 662.056 by Acts 2015, 84th

Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(27), eff. September 1, 2015.

Sec. 662.058. VIETNAM VETERANS DAY. (a) March 29 is Vietnam Veterans Day in honor of the men and women who served in the Vietnam War on behalf of this nation.

(b) Vietnam Veterans Day shall be regularly observed by appropriate ceremonies.

Added by Acts 2009, 81st Leg., R.S., Ch. 558 (S.B. 1903), Sec. 1, eff. June 19, 2009.

Sec. 662.059. INFLUENZA AWARENESS DAY. (a) October 1 is Influenza Awareness Day to raise awareness of the health risks associated with influenza and encourage Texans to take proactive measures to reduce exposure to those risks.

(b) Influenza Awareness Day shall be regularly observed by appropriate programs and activities.

Added by Acts 2013, 83rd Leg., R.S., Ch. 289 (H.B. 1204), Sec. 1, eff. September 1, 2013.

Sec. 662.060. WILLIE VELASQUEZ DAY. (a) May 9 is Willie Velasquez Day in observance of the birthday of William "Willie" Cardenas Velasquez.

(b) Willie Velasquez Day shall be regularly observed by appropriate ceremonies and activities.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1303 (H.B. 3209), Sec. 1, eff. September 1, 2013.

Sec. 662.061. NATIONAL DAY OF THE COWBOY. (a) The fourth Saturday in July of each year is National Day of the Cowboy in recognition of the historic, cultural, and social contributions of the cowboy.

(b) National Day of the Cowboy shall be regularly observed by appropriate ceremonies and activities.

Added by Acts 2015, 84th Leg., R.S., Ch. 125 (S.B. 1522), Sec. 1, eff. May 23, 2015.

Sec. 662.062. IWO JIMA DAY. (a) February 19 is Iwo Jima Day in memory of the heroism and courage of the men and women of the armed forces of the United States who participated in the successful capture of the island of Iwo Jima beginning February 19, 1945.

(b) Iwo Jima Day may be regularly observed through appropriate activities in public schools and other places.

Added by Acts 2015, 84th Leg., R.S., Ch. 618 (S.B. 961), Sec. 1, eff. September 1, 2015.

Sec. 662.063. LUNG CANCER AWARENESS DAY. (a) May 24 is Lung Cancer Awareness Day to encourage residents of this state to learn about:

(1) the prevalence of lung cancer;

(2) the statistical risks of developing the disease, including behaviors that increase the risk of developing the disease;

(3) ways to increase early diagnosis and treatment of the disease; and

(4) ways to reduce the prevalence of the disease.

(b) Lung Cancer Awareness Day shall be regularly observed by appropriate programs and activities.

Added by Acts 2015, 84th Leg., R.S., Ch. 272 (H.B. 369), Sec. 1, eff. June 1, 2015.
Redesignated from Government Code, Section 662.061 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(20), eff. September 1, 2017.

Sec. 662.064. GOLD STAR MOTHER'S DAY. (a) The last Sunday in September of each year is Gold Star Mother's Day in recognition of mothers whose sons and daughters died while serving in the United States armed forces.

(b) Gold Star Mother's Day shall be regularly observed by appropriate ceremonies.

Added by Acts 2015, 84th Leg., R.S., Ch. 503 (H.B. 194), Sec. 1, eff. June 16, 2015.
Redesignated from Government Code, Section 662.061 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(21), eff. September 1, 2017.

Sec. 662.065. WOMEN VETERANS DAY. (a) June 12 is Women Veterans Day to recognize the role of women in the military forces and to commemorate the sacrifices of and valor displayed by Texas women veterans.

(b) Women Veterans Day shall be regularly observed by appropriate programs and activities.

Added by Acts 2017, 85th Leg., R.S., Ch. 579 (S.B. 805), Sec. 4, eff. September 1, 2017.

Sec. 662.066. FALLEN LAW ENFORCEMENT OFFICER DAY. (a) July 7 is Fallen Law Enforcement Officer Day in recognition of the ultimate sacrifice made by Texas law enforcement officers killed in the line of duty.

(b) Fallen Law Enforcement Officer Day shall be regularly observed by appropriate ceremonies.

Added by Acts 2017, 85th Leg., R.S., Ch. 881 (H.B. 3042), Sec. 1, eff. June 15, 2017.

Sec. 662.067. LAW ENFORCEMENT APPRECIATION DAY. (a) January 9 is Law Enforcement Appreciation Day.

(b) Law Enforcement Appreciation Day may be regularly observed in public schools and other places. The Texas Education Agency shall develop recommendations for the observation of Law Enforcement Appreciation Day through appropriate activities in the public schools.

Added by Acts 2017, 85th Leg., R.S., Ch. 1139 (H.B. 297), Sec. 1, eff. September 1, 2017.
Redesignated from Government Code, Section 662.065 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(26), eff. September 1,

2019.

Sec. 662.068. BREAST RECONSTRUCTION AWARENESS DAY. (a) The third Wednesday in October of each year is Breast Reconstruction Awareness Day to promote education, awareness, and access for women considering postmastectomy breast reconstruction.

(b) Breast Reconstruction Awareness Day shall be regularly observed by appropriate programs and activities.

Added by Acts 2017, 85th Leg., R.S., Ch. 692 (H.B. 208), Sec. 1, eff. June 12, 2017.
Redesignated from Government Code, Section 662.065 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(27), eff. September 1, 2019.

Sec. 662.069. BRAVE DAY. (a) March 21 is Breast Reconstruction Advocacy and Education Day, or BRAVE Day, to promote breast reconstruction advocacy and education, and the rights and choices women have for prevention of, treatment for, and recovery from breast cancer.

(b) BRAVE Day shall be regularly observed by appropriate programs and activities.

Added by Acts 2017, 85th Leg., R.S., Ch. 1133 (H.B. 210), Sec. 1, eff. June 15, 2017.
Redesignated from Government Code, Section 662.065 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(28), eff. September 1, 2019.

Sec. 662.070. WAXAHACHIE CHAUTAUQUA DAY. (a) July 26 is Waxahachie Chautauqua Day in recognition of the Waxahachie Chautauqua auditorium and to promote the history of Chautauqua, the role Chautauqua plays in preserving communities, and the educational and cultural opportunities Chautauqua offers through community programs.

(b) Waxahachie Chautauqua Day shall be regularly observed by appropriate programs and activities.

Added by Acts 2017, 85th Leg., R.S., Ch. 1002 (H.B. 1254), Sec. 1,

eff. September 1, 2017.
Redesignated from Government Code, Section 662.065 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(29), eff. September 1, 2019.

Sec. 662.071. MILITARY SPOUSE APPRECIATION DAY. (a) May 8 is Military Spouse Appreciation Day to recognize the role of the wives and husbands of the brave individuals who serve in the United States armed forces or state military forces. This day commemorates:

(1) the sacrifices military spouses make during the weeks, months, and years a loved one is away from home protecting our freedom; and

(2) the vital support military spouses provide to veterans returning home from military service.

(b) Military Spouse Appreciation Day shall be regularly observed by appropriate programs and activities coordinated by the Texas Veterans Commission.

Added by Acts 2019, 86th Leg., R.S., Ch. 118 (S.B. 1819), Sec. 1, eff. May 22, 2019.

Sec. 662.072. SPACE EXPLORATION DAY. (a) July 20 is Space Exploration Day in honor of the heroes of Apollo 11 and those who continue to pursue innovation and exploration.

(b) Space Exploration Day may be regularly observed by appropriate ceremonies and activities.

Added by Acts 2019, 86th Leg., R.S., Ch. 879 (H.B. 3084), Sec. 1, eff. June 10, 2019.
Redesignated from Government Code, Section 662.071 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(39), eff. September 1, 2021.

Sec. 662.073. TEXAS GIRLS IN STEM DAY. (a) March 1 is designated as Texas Girls in STEM Day to celebrate and encourage the participation of girls in this state in fields related to science, technology, engineering, and mathematics.

(b) Texas Girls in STEM Day shall be regularly observed by

appropriate ceremonies, activities, and programs in public schools, public institutions of higher education, and other places to:

(1) encourage girls in this state to consider career fields in science, technology, engineering, and mathematics; and

(2) celebrate and honor the women of this state who have excelled in those fields.

Added by Acts 2019, 86th Leg., R.S., Ch. 890 (H.B. 3435), Sec. 1, eff. June 10, 2019.
Redesignated from Government Code, Section 662.071 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(40), eff. September 1, 2021.

Sec. 662.074. TEXAS FIREFIGHTERS DAY. (a) May 4 is Texas Firefighters Day in honor of the bravery, determination, and service of Texas firefighters, many of whom are volunteers.

(b) Texas Firefighters Day may be regularly observed by appropriate ceremonies and activities.

Added by Acts 2019, 86th Leg., R.S., Ch. 171 (H.B. 1064), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 662.071 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(41), eff. September 1, 2021.

Sec. 662.075. SEXUAL ASSAULT SURVIVORS DAY. (a) January 28 is Sexual Assault Survivors Day to bring awareness to the issue of sexual assault and to recognize the courage of survivors throughout this state.

(b) Sexual Assault Survivors Day may be regularly observed by appropriate ceremonies and activities.

Added by Acts 2019, 86th Leg., R.S., Ch. 193 (H.B. 2298), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 662.071 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(42), eff. September 1, 2021.

Sec. 662.076. DIFFUSE INTRINSIC PONTINE GLIOMA AWARENESS DAY. (a) May 17 is Diffuse Intrinsic Pontine Glioma Awareness Day to raise awareness about the prevalence and deadliness of diffuse intrinsic pontine glioma, a pediatric brain tumor.

(b) Diffuse Intrinsic Pontine Glioma Awareness Day shall be regularly observed by appropriate programs and activities.

Added by Acts 2019, 86th Leg., R.S., Ch. 202 (H.B. 2597), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 662.071 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(43), eff. September 1, 2021.

Sec. 662.077. MASTER SERGEANT JONATHAN J. DUNBAR DAY. (a) March 30 is Master Sergeant Jonathan J. Dunbar Day in honor of Master Sergeant Jonathan J. Dunbar, who served in the United States Army and gave his life in defense of this nation.

(b) Master Sergeant Jonathan J. Dunbar Day shall be regularly observed by appropriate ceremonies.

Added by Acts 2019, 86th Leg., R.S., Ch. 354 (H.B. 295), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 662.071 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(44), eff. September 1, 2021.

Sec. 662.078. BLUE TIE DAY. (a) June 13 is Blue Tie Day to promote men's health awareness and encourage men to live healthier, longer lives through early detection and treatment of common diseases.

(b) Blue Tie Day shall be regularly observed by appropriate ceremonies and activities.

Added by Acts 2019, 86th Leg., R.S., Ch. 421 (S.B. 430), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 662.071 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(45), eff. September 1, 2021.

Sec. 662.079. INTERNATIONAL HOLOCAUST REMEMBRANCE DAY. (a) January 27 is International Holocaust Remembrance Day to commemorate the anniversary of the liberation of Auschwitz-Birkenau and to honor the millions of victims of the Holocaust.

(b) International Holocaust Remembrance Day may be regularly observed by appropriate ceremonies and activities.

Added by Acts 2021, 87th Leg., R.S., Ch. 825 (H.B. 2728), Sec. 1, eff. September 1, 2021.

Sec. 662.080. VICTIMS OF COMMUNISM DAY. (a) November 7 is Victims of Communism Day in memory of the more than 100 million people who died and countless others who suffered under communist regimes.

(b) Victims of Communism Day may be regularly observed by appropriate ceremonies and activities.

Added by Acts 2021, 87th Leg., R.S., Ch. 139 (H.B. 1057), Sec. 1, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Text of section as added by Acts 2023, 88th Leg., R.S., Ch. 12 (S.B. 464), Sec. 2

For text of section as added by Acts 2023, 88th Leg., R.S., Ch. 1141 (S.B. 739), Sec. 1, see other Sec. 662.081.

Sec. 662.081. ENTREPRENEURS WITH DISABILITIES DAY. (a) October 17 is Entrepreneurs with Disabilities Day to recognize entrepreneurship as a career path for all people with disabilities and bring awareness and inclusion to every aspect of the workforce.

(b) Entrepreneurs with Disabilities Day may be regularly observed by appropriate ceremonies, activities, and programs.

Added by Acts 2023, 88th Leg., R.S., Ch. 12 (S.B. 464), Sec. 2, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Text of section as added by Acts 2023, 88th Leg., R.S., Ch. 1141 (S.B. 739), Sec. 1

For text of section as added by Acts 2023, 88th Leg., R.S., Ch. 12 (S.B. 464), Sec. 2, see other Sec. 662.081.

Sec. 662.081. SUPPORTIVE PALLIATIVE CARE AWARENESS DAY. (a) October 10 is Supportive Palliative Care Awareness Day to raise awareness about supportive palliative care optimizing the quality of life for seriously ill patients and their families.

(b) Supportive Palliative Care Awareness Day may be regularly observed by appropriate ceremonies and activities.

Added by Acts 2023, 88th Leg., R.S., Ch. 1141 (S.B. 739), Sec. 1, eff. September 1, 2023.

Sec. 662.082. VANESSA GUILLÉN DAY. (a) September 30 is Vanessa Guillén Day in memory of the life and tragic death of Vanessa Guillén and to increase awareness of and the military's response to missing persons, sexual assault, and sexual harassment cases for service members.

(b) Vanessa Guillén Day shall be regularly observed by appropriate programs and activities.

Added by Acts 2023, 88th Leg., R.S., Ch. 449 (H.B. 2248), Sec. 1, eff. September 1, 2023.

Sec. 662.083. BUDDY CHECK DAY. (a) The 11th day of each month is Buddy Check Day to encourage veterans to contact other veterans, including those with whom they served, who may need assistance.

(b) Buddy Check Day may be regularly observed by appropriate programs and activities coordinated by the Texas Veterans Commission to promote assistance and other services available to veterans and promote education and awareness of issues facing veterans.

Added by Acts 2021, 87th Leg., R.S., Ch. 177 (S.B. 460), Sec. 1, eff. September 1, 2021.

Sec. 662.084. ROSA PARKS DAY. (a) December 1 is Rosa Parks Day in honor of Rosa Louise McCauley Parks for her courageous act of refusing to give up her seat on a Montgomery, Alabama, bus to protest segregation which helped launch the civil rights movement in the United States.

(b) Rosa Parks Day may be regularly observed by appropriate programs and activities.

Added by Acts 2021, 87th Leg., R.S., Ch. 490 (H.B. 3481), Sec. 1, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Text of section as added by Acts 2023, 88th Leg., R.S., Ch. 505 (H.B. 2499), Sec. 1

For text of section as added by Acts 2023, 88th Leg., R.S., Ch. 900 (H.B. 2166), Sec. 1, see other Sec. 662.085.

Sec. 662.085. SPECIAL FORCES DAY. (a) June 28 is Special Forces Day in honor of the men and women who have served in the special operations forces of the United States armed forces.

(b) Special Forces Day shall be regularly observed by appropriate ceremonies.

Added by Acts 2023, 88th Leg., R.S., Ch. 505 (H.B. 2499), Sec. 1, eff. June 10, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Text of section as added by Acts 2023, 88th Leg., R.S., Ch. 900 (H.B. 2166), Sec. 1

For text of section as added by Acts 2023, 88th Leg., R.S., Ch. 505 (H.B. 2499), Sec. 1, see other Sec. 662.085.

Sec. 662.085. COVID-19 HEROES AND MEMORIAL DAY. (a) March 4 is COVID-19 Heroes and Memorial Day in honor of people who lost their lives to COVID-19 and in honor of health care workers, first responders, and other essential workers who kept working during the COVID-19 pandemic so the public could stay safe.

(b) COVID-19 Heroes and Memorial Day shall be regularly observed by appropriate ceremonies and activities.

Added by Acts 2023, 88th Leg., R.S., Ch. 900 (H.B. 2166), Sec. 1, eff. September 1, 2023.

SUBCHAPTER D. RECOGNITION MONTHS

Sec. 662.101. BUFFALO SOLDIERS HERITAGE MONTH. (a) July is Buffalo Soldiers Heritage Month in honor of the bravery and dedication of Texas' Buffalo Soldiers and in recognition of their contribution to the legendary history of the Lone Star State.

(b) Buffalo Soldiers Heritage Month shall be regularly observed by appropriate ceremonies and activities.

Added by Acts 1999, 76th Leg., ch. 478, Sec. 2, eff. June 18, 1999.

Sec. 662.102. TEXAS HISTORY MONTH. (a) March is Texas History Month in honor of those Texans who helped shape the history of the State of Texas and in recognition of events throughout Texas' history.

(b) Texas History Month shall be regularly observed by appropriate celebrations and activities in public schools and other places to promote interest in and knowledge of Texas history.

Added by Acts 2003, 78th Leg., ch. 423, Sec. 1, eff. June 20, 2003.

Sec. 662.103. TEXAS FRUIT AND VEGETABLE MONTH. (a) April is Texas Fruit and Vegetable Month to promote awareness of the health benefits of fruits and vegetables and to encourage Texans to consume more fruits and vegetables.

(b) Texas Fruit and Vegetable Month shall be regularly observed by appropriate celebrations and activities.

Added by Acts 2007, 80th Leg., R.S., Ch. 377 (S.B. 555), Sec. 1, eff. June 15, 2007.

Sec. 662.104. LUNG CANCER AWARENESS MONTH. (a) November is Lung Cancer Awareness Month to increase awareness of lung cancer and encourage funding of research and more effective treatments.

(b) Lung Cancer Awareness Month may be regularly observed by appropriate activities in public schools and other places to increase the awareness of lung cancer and support for lung cancer research.

Added by Acts 2007, 80th Leg., R.S., Ch. 224 (H.B. 1449), Sec. 1, eff. September 1, 2007.

Sec. 662.105. CHILD SAFETY MONTH. (a) April is Child Safety Month in recognition of the children of this state as this state's most precious resource. By establishing April as Child Safety Month, this state seeks to ensure that the children of this state grow up in a safe and supportive environment by promoting their protection and care through increased public awareness of:

(1) ways to reduce accidental injury and death through the use of bicycle helmets, seat belts, safety and booster seats, and smoke alarms; and

(2) the dangers presented to children by unattended and unlocked vehicles and by being left in closed vehicles during hot or sunny weather.

(b) Child Safety Month may be regularly observed by appropriate celebrations and activities in public schools and other places to promote the protection and care of children in this state.

Added by Acts 2007, 80th Leg., R.S., Ch. 651 (H.B. 1045), Sec. 1, eff. June 15, 2007.
Renumbered from Government Code, Section 662.103 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(44), eff. September 1, 2009.

Sec. 662.106. HYDROCEPHALUS AWARENESS MONTH. (a) September is Hydrocephalus Awareness Month to:

(1) increase public awareness of hydrocephalus, a serious

neurological condition characterized by the abnormal buildup of cerebrospinal fluids in the ventricles of the brain; and

(2) encourage the development of partnerships between the federal government, health care professionals, and patient advocacy groups to advance the public's understanding of the condition, improve the diagnosis and treatment of the condition, and support research for a cure.

(b) Hydrocephalus Awareness Month shall be regularly observed by appropriate activities in public schools and other places to increase awareness of hydrocephalus.

Added by Acts 2009, 81st Leg., R.S., Ch. 966 (H.B. 3597), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 285 (H.B. 1052), Sec. 1, eff. June 1, 2015.

Sec. 662.107. HUMAN TRAFFICKING PREVENTION MONTH. (a) January is Human Trafficking Prevention Month to increase awareness of human trafficking in an effort to encourage people to alert authorities to any suspected incidents involving human trafficking.

(b) Human Trafficking Prevention Month may be regularly observed through appropriate activities in public schools and other places to increase awareness and prevention of human trafficking.

Added by Acts 2015, 84th Leg., R.S., Ch. 769 (H.B. 2290), Sec. 1, eff. September 1, 2015.

Sec. 662.108. MINORITY CANCER AWARENESS MONTH. (a) April is Minority Cancer Awareness Month to increase awareness of cancer in minority populations and encourage funding of education and earlier and more effective diagnosis and treatment of cancer.

(b) Minority Cancer Awareness Month shall be regularly observed by appropriate activities in public locations to increase cancer awareness, including the specific effects, incidences, and impact of cancer on minority populations, and encourage support for minority cancer education, diagnosis, treatment, and prevention.

Added by Acts 2011, 82nd Leg., R.S., Ch. 202 (H.B. 114), Sec. 1, eff.

September 1, 2011.

Sec. 662.109. PERSONS WITH DISABILITIES HISTORY AND AWARENESS MONTH. (a) October is Persons with Disabilities History and Awareness Month to:

(1) increase public awareness of the many achievements of people with disabilities;

(2) encourage public understanding of the disability rights movement; and

(3) reaffirm the local, state, and federal commitment to providing equality and inclusion for people with disabilities.

(b) Persons with Disabilities History and Awareness Month shall be regularly observed by appropriate celebration and activities to promote respect for and better treatment of people with disabilities in this state.

(c) Each public school may:

(1) elect to observe Persons with Disabilities History and Awareness Month; and

(2) determine the appropriate activities by which the school observes Persons with Disabilities History and Awareness Month.

Added by Acts 2011, 82nd Leg., R.S., Ch. 582 (H.B. 3616), Sec. 1, eff. September 1, 2011.

Sec. 662.110. POSTPARTUM DEPRESSION AWARENESS MONTH. (a) May is Postpartum Depression Awareness Month to increase awareness of postpartum depression and to encourage:

(1) the identification of signs, symptoms, and treatment options for postpartum depression;

(2) the creation and update of lists of recommended materials for perinatal mental health available through the Department of State Health Services and the Health and Human Services Commission;

(3) electronic circulation of and posting on state and local agency websites of recommended postpartum depression resources;

(4) mothers-to-be and new mothers to be screened for postpartum depression using validated survey instruments; and

(5) collaboration between governmental agencies, educational institutions, hospitals, private health care practices, health insurance providers, Medicaid providers, and mental health agencies to increase awareness of postpartum affective illness.

(b) Postpartum Depression Awareness Month shall be regularly observed through appropriate programs and activities to increase awareness of postpartum depression.

Added by Acts 2015, 84th Leg., R.S., Ch. 552 (H.B. 2079), Sec. 1, eff. September 1, 2015.

Sec. 662.111. SEXUAL ASSAULT AWARENESS MONTH. (a) April is Sexual Assault Awareness Month to increase awareness and prevention of sexual assault.

(b) Sexual Assault Awareness Month may be regularly observed through appropriate activities in public schools and other places to increase awareness and prevention of sexual assault.

Added by Acts 2017, 85th Leg., R.S., Ch. 984 (H.B. 822), Sec. 1, eff. September 1, 2017.

Sec. 662.112. BLEEDING DISORDERS AWARENESS MONTH. (a) March is Bleeding Disorders Awareness Month to increase awareness of genetic disorders that prevent a person's blood from clotting properly and to encourage:

(1) research for treatments and cures of bleeding disorders; and

(2) advocacy on behalf of persons with bleeding disorders.

(b) Bleeding Disorders Awareness Month may be regularly observed through appropriate activities in communities to increase awareness of bleeding disorders.

Added by Acts 2019, 86th Leg., R.S., Ch. 180 (H.B. 1508), Sec. 1, eff. September 1, 2019.

Sec. 662.113. NEONATAL ABSTINENCE SYNDROME AWARENESS MONTH. June is Neonatal Abstinence Syndrome Awareness Month to increase awareness of neonatal abstinence syndrome and to encourage:

(1) awareness of the dangers of opioid and substance abuse during pregnancy to prevent neonatal abstinence syndrome;

(2) the creation and update of lists of recommended materials to address neonatal abstinence syndrome available through the Department of State Health Services and the Health and Human Services Commission;

(3) electronic circulation of and posting on state and local agency websites of recommended treatment and recovery resources;

(4) the availability of resources for mothers-to-be and new mothers with substance abuse disorders, including health care services and recovery support services; and

(5) collaboration between state and federal governmental agencies, hospitals, private health care practices, health insurance providers, Medicaid providers, and mental health agencies to increase awareness.

Added by Acts 2019, 86th Leg., R.S., Ch. 160 (H.B. 405), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 662.112 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(46), eff. September 1, 2021.

Sec. 662.114. UTERINE FIBROIDS AWARENESS MONTH. (a) July is Uterine Fibroids Awareness Month to increase awareness of uterine fibroids and to:

(1) encourage education and research on uterine fibroids;

(2) improve methods for identifying signs and symptoms of uterine fibroids;

(3) improve methods for preventing, diagnosing, and treating uterine fibroids; and

(4) encourage the establishment of a public education campaign that includes health seminars, medical information panels, community programs, and funding opportunities.

(b) Uterine Fibroids Awareness Month shall be regularly observed through appropriate programs and activities to increase awareness of uterine fibroids.

Added by Acts 2021, 87th Leg., R.S., Ch. 680 (H.B. 1966), Sec. 1, eff. September 1, 2021.

Sec. 662.115. MENTAL HEALTH CONDITION AND SUBSTANCE USE DISORDER PARITY AWARENESS MONTH. (a) October is Mental Health Condition and Substance Use Disorder Parity Awareness Month to increase awareness of and compliance with state and federal rules, regulations, and statutes concerning the availability of, and terms and conditions of, benefits for mental health conditions and substance use disorders.

(b) Mental Health Condition and Substance Use Disorder Parity Awareness Month may be regularly observed through appropriate activities in communities to increase awareness of and education on the available benefits for mental health conditions and substance use disorders.

Added by Acts 2021, 87th Leg., R.S., Ch. 703 (H.B. 2595), Sec. 1, eff. September 1, 2021.

Sec. 662.116. FENTANYL POISONING AWARENESS MONTH. (a) October is Fentanyl Poisoning Awareness Month to increase awareness of the dangers of fentanyl and potential overdoses.

(b) Fentanyl Poisoning Awareness Month may be regularly observed through appropriate activities in communities to increase awareness of the dangers of fentanyl and potential overdoses.

Added by Acts 2023, 88th Leg., R.S., Ch. 914 (H.B. 3144), Sec. 1, eff. September 1, 2023.

SUBCHAPTER E. RECOGNITION WEEKS

Sec. 662.151. TRANSPORTATION WEEK. The week that includes the third Friday in May is Transportation Week in recognition of National Transportation Week and the contributions of the transportation industry to the State of Texas.

Added by Acts 2003, 78th Leg., ch. 462, Sec. 1, eff. June 20, 2003.

Sec. 662.152. OBESITY AWARENESS WEEK. The second full week in September is obesity awareness week to raise awareness of the health

risks associated with obesity and to encourage Texans to achieve and maintain a healthy lifestyle.

Added by Acts 2007, 80th Leg., R.S., Ch. 1063 (H.B. 2313), Sec. 1, eff. June 15, 2007.

Sec. 662.153. MONARCH BUTTERFLY WEEK. (a) The first seven days of October are Monarch Butterfly Week to encourage Texas residents and visitors to study, observe, and promote the life of the state insect, the monarch butterfly.

(b) Through participation in the Texas Monarch Watch program sponsored by the Parks and Wildlife Department, Texas residents and visitors may help scientists answer research questions about monarch biology and migration.

Added by Acts 2009, 81st Leg., R.S., Ch. 501 (S.B. 909), Sec. 1, eff. June 19, 2009.

Sec. 662.154. TEXAS NATIVE PLANT WEEK. (a) The third full week in October is Texas Native Plant Week to celebrate the native plants of Texas.

(b) Texas Native Plant Week may be regularly observed in public schools and other places with programs to appreciate, explore, and study Texas native plants.

Added by Acts 2009, 81st Leg., R.S., Ch. 1403 (H.B. 1739), Sec. 1, eff. September 1, 2009.

Sec. 662.155. JURY APPRECIATION WEEK. The first seven days in May are Jury Appreciation Week in recognition of the outstanding and important contributions made by Texas citizens who serve as jurors.

Added by Acts 2015, 84th Leg., R.S., Ch. 605 (S.B. 565), Sec. 1, eff. June 16, 2015.

Sec. 662.156. DIRECT SUPPORT PROFESSIONALS WEEK. The second full week in September is Direct Support Professionals Week to honor

the work of direct support professionals as an integral part of the long-term support system for individuals with physical and mental disabilities.

Added by Acts 2015, 84th Leg., R.S., Ch. 686 (H.B. 504), Sec. 1, eff. June 17, 2015.
Redesignated from Government Code, Section 662.155 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(22), eff. September 1, 2017.

Sec. 662.157. VETERINARY TECHNICIAN WEEK. The week that includes the third Saturday in October is Veterinary Technician Week in recognition of the critical role veterinary technicians play in the day-to-day functions of veterinary practices and for their vital role in preserving animal health and welfare.

Added by Acts 2019, 86th Leg., R.S., Ch. 199 (H.B. 2471), Sec. 1, eff. September 1, 2019.

CHAPTER 663. CHILD CARE SERVICES FOR STATE EMPLOYEES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 663.001. DEFINITIONS. In this chapter:

(1) "Child care facility" includes only a child care facility established under this chapter.

(2) "Child care program" means the program developed by the commission to provide child care services for state employees.

(3) "Commission" means the Texas Facilities Commission.

(4) "Committee" means the Child Care Advisory Committee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 761, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.61, eff. September 1, 2007.

Sec. 663.002. DUTIES AND RESPONSIBILITIES NOT AFFECTED. Sections 663.003, 663.103, 663.104, and 663.105 do not affect the duties or responsibilities of the commission under Section 2166.551.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19(15), eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 761, Sec. 1, eff. Sept. 1, 2001.

Sec. 663.003. GOOD FAITH STANDARD. The commission and the executive director of the commission shall carry out their responsibilities under this chapter in good faith.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. CHILD CARE DEVELOPMENT BOARD

Sec. 663.052. REPORT OF COMMISSION. (a) The commission shall report to the legislature not later than December 1 of each even-numbered year.

(b) The report must:

(1) summarize the development and progress of the child care program; and

(2) describe additional child care services needed by state employees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 761, Sec. 2, eff. Sept. 1, 2001. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 42, eff. September 1, 2013.

SUBCHAPTER C. CHILD CARE PROGRAM AND FACILITIES

Sec. 663.101. ADMINISTRATION OF CHILD CARE PROGRAM. (a) The commission shall provide child care services for state employees by the development and administration of the child care program.

(b) The commission by rule may establish methods to administer and supervise the child care program.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 761, Sec. 3, eff. Sept. 1, 2001.

Sec. 663.102. STANDARDS OF CHILD CARE PROGRAM. The commission

shall set specific performance standards for child care services under the child care program that conform to the standards of quality child care set by the National Association for the Education of Young Children or the National Child Care Association.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 761, Sec. 3, eff. Sept. 1, 2001.

Sec. 663.103. SPECIFICATIONS FOR CHILD CARE FACILITY SITES. The commission shall set specifications for each child care facility site, including the location, size, and design for the facility.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 761, Sec. 3, eff. Sept. 1, 2001.

Sec. 663.104. ESTABLISHMENT OF CHILD CARE FACILITIES. To establish a child care facility, the commission shall:

(1) acquire necessary real and personal property, including mobile and prefabricated buildings; or

(2) build, renovate, repair, or equip a building, including constructing or placing a new building on real property the state owns.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 761, Sec. 3, eff. Sept. 1, 2001.

Sec. 663.105. CONTRACTS. (a) The commission shall make any contract necessary to establish a child care facility.

(b) The contract must comply with Subtitle D, Title 10.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19(5), eff. Sept. 1, 1997.

Sec. 663.106. LEASE TO CHILD CARE PROVIDER. The commission shall lease to a child care provider selected by the commission a site for a child care facility at a reasonable rate.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 761, Sec. 4, eff. Sept. 1, 2001.

Sec. 663.107. NUMBER OF CHILDREN SERVED BY CHILD CARE FACILITY. The commission shall set the number of children a child care facility may serve.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 761, Sec. 4, eff. Sept. 1, 2001.

Sec. 663.108. DUTIES OF CHILD CARE PROVIDER. A provider for a child care facility shall:

(1) obtain for the facility a license under Chapter 42, Human Resources Code;

(2) maintain liability insurance coverage by an insurance company approved by the State Board of Insurance in an amount approved by the commission;

(3) indemnify the state and the commission from:

(A) a claim, demand, or cause of action asserted by a person as a result of the facility's operation; and

(B) an act or omission of the provider or the facility's personnel;

(4) provide furniture, equipment, toys, or other materials necessary for the facility;

(5) keep a list of child care applicants who are waiting for enrollment in the facility; and

(6) pay salaries and provide insurance for the employees of the facility.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 761, Sec. 4, eff. Sept. 1, 2001.

Sec. 663.109. MONITORING OF CHILD CARE FACILITIES. The commission shall monitor the activities and operations of a child care facility by conducting regular visits to the facility during operating hours to investigate, inspect, and evaluate the services provided.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 761, Sec. 4, eff. Sept. 1, 2001.

Sec. 663.110. ENROLLMENT IN CHILD CARE FACILITY. (a) The commission shall establish procedures for application for enrollment in a child care facility established under this chapter.

(b) A provider for a child care facility shall give preference in enrollment to the individual whose application date is the earliest, except that the commission may permit enrollment because of a special circumstance as defined by the commission, including financial need or other hardship.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 761, Sec. 4, eff. Sept. 1, 2001.

Sec. 663.111. ADDITIONAL CHILD CARE FACILITIES. (a) The commission may begin procedures to establish another child care facility when the number of applicants on a waiting list to enroll in a facility is 50 or more.

(b) After a site has been selected, the commission shall give priority to implementing the plan to prepare the child care facility over other building construction, repairs, or renovations.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 761, Sec. 4, eff. Sept. 1, 2001.

Sec. 663.112. CHILD CARE FACILITY ACCOUNT. (a) The legislature may appropriate money from the Texas capital trust fund established under Chapter 2201 to establish and operate a child care facility under this chapter.

(b) On the first day of each biennium or from the first amounts deposited to the credit of the Texas capital trust fund during each biennium, the comptroller shall set aside in a special account within the fund the amount of an appropriation for this chapter.

(c) An unexpended and unobligated portion of an appropriation made from the fund for this chapter remains in the special account at the end of the period for which it is appropriated.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 663.113. PRIVATE DONATIONS. (a) The commission may solicit private donations of property or money for renovations, equipment, or other items necessary to provide child care services.

(b) The commission shall accept and use the donations only for the child care program.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 761, Sec. 5, eff. Sept. 1, 2001.

CHAPTER 664. STATE EMPLOYEES HEALTH FITNESS AND EDUCATION

SUBCHAPTER A. STATE EMPLOYEES HEALTH FITNESS AND EDUCATION PROGRAMS

Sec. 664.001. SHORT TITLE. This subchapter may be cited as the State Employees Health Fitness and Education Act of 1983.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 665 (H.B. 1297), Sec. 2, eff. September 1, 2007.

Sec. 664.002. FINDINGS AND PURPOSE. Effective state administration is materially enhanced by programs designed to encourage and create a condition of health fitness in state administrators and employees and public money spent for these programs serves important public purposes, including:

(1) an understanding and diminution of the risk factors associated with society's most debilitating diseases;

(2) the development of greater work productivity and capacity;

(3) a reduction in absenteeism;

(4) a reduction of health insurance costs; and

(5) an increase in the general level of fitness.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 664.003. DEFINITION. In this subchapter, "state agency" means a department, institution, commission, or other agency of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 665 (H.B. 1297), Sec. 3, eff. September 1, 2007.

Sec. 664.004. FUNDS AND FACILITIES FOR HEALTH FITNESS PROGRAMS. (a) A state agency may use available public funds for:

(1) health fitness education and activities; or

(2) other costs related to health fitness.

(b) A state agency may use available facilities for health fitness programs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 664.005. AGREEMENTS WITH OTHER STATE, LOCAL, OR FEDERAL AGENCIES. A state agency may, and is encouraged to, enter into an agreement with another state agency, including a state-supported college or university, or with a local or federal department, institution, commission, or agency, to present, join in presenting, or participate jointly in health fitness education or activity programs for the state agency's administrators and employees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. STATE EMPLOYEE WELLNESS PROGRAM

Sec. 664.051. DEFINITIONS. In this subchapter:

(1) Repealed by Acts 2015, 84th Leg., R.S., Ch. 946 , Sec. 1.06(e), eff. September 1, 2015.

(2) "Department" means the Department of State Health Services.

(3) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(4) "State agency" means a department, institution, commission, or other agency that is in the executive, judicial, or

legislative branch of state government.

(5) "State employee" means a state employee who participates in a health benefits program administered under Chapter 1551, Insurance Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 665 (H.B. 1297), Sec. 4, eff. September 1, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 946 (S.B. 277), Sec. 1.06(e), eff. September 1, 2015.

Sec. 664.052. RULES. The executive commissioner shall adopt rules for the administration of this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 665 (H.B. 1297), Sec. 4, eff. September 1, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 946 (S.B. 277), Sec. 1.06(b), eff. September 1, 2015.

Sec. 664.053. CREATION OF MODEL PROGRAM; DESIGNATION OF COORDINATOR. (a) The department shall designate a statewide wellness coordinator to create and develop for use by state agencies a model statewide wellness program to improve the health and wellness of state employees. The wellness program may include:

(1) education that targets the most costly or prevalent health care claims, including information addressing stress management, nutrition, healthy eating habits, alcohol and drug abuse, physical activity, disease prevention, and smoking cessation;

(2) the dissemination or use of available health risk assessment tools and programs, including surveys that identify an employee's risk level for health-related problems and programs that suggest to employees methods for minimizing risks;

(3) the development of strategies for the promotion of health, nutritional, and fitness-related resources in state agencies;

(4) the development and promotion of environmental change strategies that integrate healthy behaviors and physical activity, including recommending healthy food choices in snack bars, vending machines, and state-run cafeterias located in state buildings; and

(5) optional incentives to encourage participation in the wellness program, including providing flexibility in employee scheduling to allow for physical activity and participation in the wellness program and coordinating discounts with gyms and fitness centers across the state.

(b) The statewide wellness coordinator shall:

(1) coordinate with other agencies that administer a health benefits program under Chapter 1551, Insurance Code, as necessary to develop the model wellness program, prevent duplication of efforts, provide information and resources to employees, and encourage the use of wellness benefits included in the health benefits program;

(2) maintain a set of Internet links to health resources for use by state employees;

(3) design an outreach campaign to educate state employees about health and fitness-related resources, including available exercise facilities, online tools, and health and fitness-related organizations;

(4) study the implementation and participation rates of state agency worksite wellness programs and report the findings to the legislature biennially; and

(5) organize an annual conference hosted by the department for all state agency wellness councils.

(c) The statewide wellness coordinator may consult with a state agency operating health care programs on matters relating to wellness promotion.

(d) A state agency shall designate an employee to serve as the wellness liaison between the agency and the statewide wellness coordinator.

(e) A state agency may:

(1) develop a wellness program designed to increase work productivity and capacity and reduce health insurance costs; or

(2) implement a wellness program based on the model program or components of the model program developed under this section.

(f) The statewide wellness coordinator may assist a state agency in establishing employee wellness demonstration projects that incorporate best practices for encouraging employee participation and the achievement of wellness benefits. A wellness program demonstration project may implement strategies to optimize the return of state investment in employee wellness, including savings in direct health care costs and savings from preventing conditions and

diagnoses through better employee wellness.

Added by Acts 2007, 80th Leg., R.S., Ch. 665 (H.B. 1297), Sec. 4, eff. September 1, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 975 (H.B. 2020), Sec. 1, eff. June 14, 2013.

Sec. 664.058. DONATIONS. The department may receive in-kind and monetary gifts, grants, and donations from public and private donors to be used for the purposes of this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 665 (H.B. 1297), Sec. 4, eff. September 1, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 946 (S.B. 277), Sec. 1.06(c), eff. September 1, 2015.

Sec. 664.060. STATE AGENCY WELLNESS COUNCILS. (a) A state agency may facilitate the development of a wellness council composed of employees and managers of the agency to promote worksite wellness in the agency.

(b) A wellness council may work to:

(1) increase employee interest in worksite wellness;

(2) develop and implement policies to improve agency infrastructure to allow for increased worksite wellness; and

(3) involve employees in worksite wellness programs.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 946 , Sec. 1.06(e), eff. September 1, 2015.

(d) A state agency may allow its employees to participate in wellness council activities for two or more hours each month.

(e) The department shall provide technical support to each state agency wellness council and shall provide financial support to councils if funds are available.

(f) Repealed by Acts 2015, 84th Leg., R.S., Ch. 946 , Sec. 1.06(e), eff. September 1, 2015.

Added by Acts 2007, 80th Leg., R.S., Ch. 665 (H.B. 1297), Sec. 4, eff. September 1, 2007.

Amended by:
Acts 2015, 84th Leg., R.S., Ch. 946 (S.B. 277), Sec. 1.06(e), eff. September 1, 2015.

Sec. 664.061. AGENCY WELLNESS POLICIES. (a) A state agency may:

(1) allow each employee 30 minutes during normal working hours for exercise three times each week;

(2) allow all employees to attend on-site wellness seminars when offered;

(3) provide eight hours of additional leave time each year to an employee who:

(A) receives a physical examination; and

(B) completes either an online health risk assessment tool provided by the department or a similar health risk assessment conducted in person by a worksite wellness coordinator;

(4) provide financial incentives, notwithstanding Section 2113.201, for participation in a wellness program developed under Section 664.053(e) after the agency establishes a written policy with objective criteria for providing the incentives;

(5) offer on-site clinic or pharmacy services in accordance with Subtitles B and J, Title 3, Occupations Code, including the requirements regarding delegation of certain medical acts under Chapter 157, Occupations Code; and

(6) adopt additional wellness policies, as determined by the agency.

(b) In addition to the requirements of Section 2254.003, in awarding a contract for on-site clinic services as provided by Subsection (a)(5), a state agency may consider whether the on-site clinic services will be provided by a physician-led organization that has its principal place of business in this state.

Added by Acts 2007, 80th Leg., R.S., Ch. 665 (H.B. 1297), Sec. 4, eff. September 1, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 975 (H.B. 2020), Sec. 2, eff. June 14, 2013.
Acts 2015, 84th Leg., R.S., Ch. 946 (S.B. 277), Sec. 1.06(d), eff. September 1, 2015.

CHAPTER 665. IMPEACHMENT AND REMOVAL

SUBCHAPTER A. IMPEACHMENT BY HOUSE

Sec. 665.001. IMPEACHMENT PROCEEDING. In this subchapter, "impeachment proceeding" includes:

(1) presenting an article of impeachment;

(2) investigating a matter relating to a contemplated impeachment; and

(3) acting on an article of impeachment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.002. INDIVIDUALS WHO MAY BE IMPEACHED. An individual may be removed from an office or a position by impeachment in the manner provided by the constitution and this chapter if the individual is:

(1) a state officer;

(2) a head of a state department or state institution; or

(3) a member, regent, trustee, or commissioner having control or management of a state institution or enterprise.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.003. IMPEACHMENT WHEN HOUSE IS IN SESSION. (a) The house of representatives may conduct an impeachment proceeding at a regular or called session at its pleasure without further call or action.

(b) If the house is conducting an impeachment proceeding at the time a session expires or ends by house or senate adjournment on legislative matters, the house may:

(1) continue in session to conduct the impeachment proceeding; or

(2) adjourn to a later time to conclude the impeachment proceeding.

(c) If the house adjourns under Subsection (b)(2), it may continue the impeachment proceeding through committees or agents.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.004. CONVENING HOUSE FOR IMPEACHMENT PURPOSES WHEN HOUSE IS NOT IN SESSION. (a) When the house is not in session it may be convened to conduct an impeachment proceeding:

(1) by proclamation of the governor;

(2) by proclamation of the speaker of the house if the speaker is petitioned in writing by 50 or more members of the house; or

(3) by proclamation in writing signed by a majority of the members of the house.

(b) Each member of the house who is in the state and accessible must be given a copy of the proclamation in person or by registered mail:

(1) by the speaker of the house or under the direction of the speaker; or

(2) by the members signing the proclamation or one or more individuals who signed the proclamation designated by the members that signed the proclamation if the proclamation was issued under Subsection (a)(3).

(c) The proclamation must:

(1) state in general terms the reason for convening the house;

(2) state a time for the house to convene; and

(3) be published in at least three daily newspapers of general circulation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.005. POWERS OF HOUSE DURING IMPEACHMENT PROCEEDING. When conducting an impeachment proceeding, the house or a house committee may:

(1) send for persons or papers;

(2) compel the giving of testimony; and

(3) punish for contempt to the same extent as a district court of this state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.006. PER DIEM AND MILEAGE DURING IMPEACHMENT PROCEEDING. (a) A member of the house is entitled to a per diem when the house is in session for an impeachment proceeding but not for legislative purposes.

(b) A member of a house committee is entitled to a per diem when the committee is meeting for an impeachment proceeding and the house is not in session.

(c) A member of the house is entitled to mileage when the house is convened by proclamation under Section 665.004.

(d) The amount of a per diem and the mileage authorized by this section is the same as the amounts for those items fixed for members of the legislature when in legislative session.

(e) The house may pay agents to assist in conducting an impeachment proceeding.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.007. CUMULATIVE REMEDY. The remedy of impeachment as provided in this chapter is cumulative of all other remedies regarding the impeachment or removal of public officers.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. REMOVAL AFTER IMPEACHMENT

Sec. 665.021. SENATE MEETS AS COURT OF IMPEACHMENT. If the house prefers articles of impeachment against an individual, the senate shall meet as a court of impeachment in a trial of the individual in the manner provided by Article XV of the Texas Constitution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.022. PROCEDURE WHEN SENATE IS IN SESSION. (a) If the senate is in a regular or called session when articles of impeachment are preferred by the house, the senate shall receive the articles when they are presented. The senate shall set a day and time to resolve into a court of impeachment to consider the articles.

(b) The senate may continue in session as a court of

impeachment beyond the end of the session for legislative purposes or may adjourn as a court of impeachment to a day and time set by the senate.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.023. PROCEDURE WHEN SENATE IS NOT IN SESSION. (a) If the senate is not in a regular or called session when articles of impeachment are preferred by the house, the house shall deliver by personal messenger or certified or registered mail a certified copy of the articles of impeachment to the governor, lieutenant governor, and each member of the senate. A record of the deliveries and a copy of the record shall be delivered to the lieutenant governor and the president pro tempore of the senate.

(b) After the deliveries are made as required by Subsection (a), the senate shall be convened to consider the articles of impeachment:

(1) by proclamation of the governor; or

(2) if the governor fails to issue the proclamation within 10 days from the date the articles of impeachment are preferred by the house, by proclamation of the lieutenant governor; or

(3) if the lieutenant governor fails to issue the proclamation within 15 days from the date the articles of impeachment are preferred by the house, by proclamation of the president pro tempore of the senate; or

(4) if the president pro tempore of the senate fails to issue the proclamation within 20 days from the date the articles of impeachment are preferred by the house, by proclamation signed by a majority of the members of the senate.

(c) A proclamation issued under Subsection (b) must:

(1) be in writing;

(2) state the purposes for which the senate is to be convened;

(3) fix a date not later than the 20th day after the date of the issuance of the proclamation for convening the senate; and

(4) be published in at least three daily newspapers of general circulation.

(d) A copy of the proclamation shall be sent by registered or certified mail to each member of the senate and the lieutenant

governor.

(e) The senate shall convene on the day set in the proclamation and receive the articles of impeachment. The senate shall then act as a court of impeachment to consider the articles of impeachment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.024. ADOPTION OF RULES. The senate shall adopt rules of procedure when it resolves into a court of impeachment. After the senate has adopted the rules it shall consider the articles of impeachment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.025. CONVENING AND ADJOURNING SENATE. The senate may recess or adjourn during the impeachment trial to a time to be set by the senate. The senate may condition reconvening on the occurrence of an event specified in the motion.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.026. ATTENDANCE OF SENATORS. Each member of the senate shall be in attendance when the senate is meeting as a court of impeachment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.027. POWERS OF SENATE MEETING AS A COURT OF IMPEACHMENT. (a) The senate may:

(1) send for persons, papers, books, and other documents;

(2) compel the giving of testimony;

(3) punish for contempt to the same extent as a district court;

(4) meet in closed session for purposes of deliberation; and

(5) exercise any other power necessary to carry out its duties under Article XV of the Texas Constitution.

(b) The senate may employ assistance to enforce and execute the lawful orders, mandates, writs, process, and precepts of the senate meeting as a court of impeachment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.028. PER DIEM WHILE SENATE IS MEETING AS A COURT OF IMPEACHMENT. (a) When meeting as a court of impeachment the members of the senate and the lieutenant governor receive the same mileage and per diem as is provided for members of the legislature when it is in legislative session.

(b) If the senate is not in session as a court of impeachment for more than four consecutive days because of recess or adjournment, the members of the senate and the lieutenant governor are not entitled to the per diem for those days.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. REMOVAL BY ADDRESS

Sec. 665.051. INDIVIDUALS SUBJECT TO REMOVAL. Only the following individuals are subject to removal from office by address under this subchapter:

(1) a justice of the supreme court;
(2) a judge of the court of criminal appeals;
(3) a justice of a court of appeals;
(4) a judge of a district court;
(5) a judge of a criminal district court;
(6) the commissioner of agriculture;
(7) the commissioner of insurance; and
(8) the banking commissioner.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 665.052. CAUSES FOR REMOVAL. (a) An individual may be removed from office by address for:

(1) wilful neglect of duty;
(2) incompetency;
(3) habitual drunkenness;
(4) oppression in office;
(5) breach of trust; or
(6) any other reasonable cause that is not a sufficient ground for impeachment.

(b) In this section, "incompetency" means:
(1) gross ignorance of official duties;
(2) gross carelessness in the discharge of official duties; or
(3) inability or unfitness to discharge promptly and properly official duties because of a serious physical or mental defect that did not exist at the time of the officer's election.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.053. NOTICE AND HEARING. (a) Notice of the reason for removal by address must be given to the officer who is to be removed.

(b) The officer must be allowed to appear at a hearing in the officer's defense before the vote for removal by address is taken.

(c) The cause for removal shall be stated at length in the address and entered in the journal of each house.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.054. REMOVAL VOTE. (a) The governor shall remove from office a person on the address of two-thirds of each house of the legislature.

(b) The vote of each member shall be recorded in the journal of each house.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. OTHER REMOVAL PROVISIONS

Sec. 665.081. NO REMOVAL FOR ACTS COMMITTED BEFORE ELECTION TO OFFICE. (a) An officer in this state may not be removed from office

for an act the officer may have committed before the officer's election to office.

(b) The prohibition against the removal from office for an act the officer commits before the officer's election is covered by:

(1) Section 21.002, Local Government Code, for a mayor or alderman of a general law municipality; or

(2) Chapter 87, Local Government Code, for a county or precinct officer.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 666. RECOVERING EXCESS COMPENSATION PAID TO A STATE OFFICER OR EMPLOYEE

Sec. 666.001. DEFINITIONS. In this chapter:

(1) "Compensation" includes:

(A) base salary or wages;

(B) longevity or hazardous duty pay;

(C) benefit replacement pay;

(D) a payment for the balance of vacation and sick leave under Subchapter B, Chapter 661;

(E) a payment for the accrued balance of vacation time under Subchapter C, Chapter 661; and

(F) an emolument provided in lieu of base salary or wages.

(2) "Indebtedness" means the amount of compensation paid to a state employee that exceeds the amount the employee is eligible to receive under law because at the time the compensation was paid:

(A) the employee was ineligible to receive the entire amount paid; or

(B) the employee's eligibility to receive the entire amount paid was conditioned on:

(i) the occurrence of an event that did not occur; or

(ii) the employee's fulfillment of a promise that the employee did not fulfill.

(3) "State agency" means a board, commission, council, committee, department, office, agency, or other governmental entity in the executive, legislative, or judicial branch of state government. The term includes:

(A) the Texas Guaranteed Student Loan Corporation; and

(B) an institution of higher education as defined by Section 61.003, Education Code, other than a public junior or community college.

(4) "State employee" means an officer or employee of a state agency.

(5) "Successor" means:

(A) the estate of a deceased state employee;

(B) the surviving spouse of a deceased state employee; or

(C) the distributees of the estate of a deceased state employee.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.27, eff. Jan. 1, 2000. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 39, eff. Sept. 1, 2001.

Sec. 666.002. RECOVERY AUTHORIZATION. (a) A state agency may recover in accordance with this chapter the amount of a state employee's indebtedness to the agency if:

(1) the agency provides a notice to the employee or successor that complies with Section 666.003;

(2) the agency provides the employee or successor with an opportunity to exercise any due process or other constitutional or statutory protection that must be accommodated before the agency may begin a collection action or procedure;

(3) the agency determines that the recovery would not violate any applicable law or rule of this state or the United States; and

(4) the comptroller is not responsible under Section 404.046, 404.069, or 2103.003 for paying the amount owed by the agency to the employee or successor through the issuance of a warrant or initiation of an electronic funds transfer.

(b) The comptroller may recover in accordance with this chapter the amount of a state employee's indebtedness to a state agency if:

(1) the agency provides a notice to the employee or successor that complies with Section 666.003;

(2) the agency's request for the comptroller to recover the indebtedness complies with Section 666.005; and

(3) the comptroller is responsible under Section 404.046, 404.069, or 2103.003 for paying the amount owed by the agency to the employee or the successor through the issuance of a warrant or initiation of an electronic funds transfer.

(c) A state agency may recover the amount of a state employee's indebtedness to the agency under this chapter by:

(1) deducting the amount of the indebtedness from any amount of compensation the agency owes the employee or the employee's successor; or

(2) reducing the gross amount of base salary or wages that the agency owes the employee or the employee's successor for services provided by the employee during any pay period after the pay period in which the indebtedness was incurred.

(d) The comptroller may recover the amount of a state employee's indebtedness to a state agency under this chapter by:

(1) deducting the amount of the indebtedness from any amount of compensation the agency owes the employee or the employee's successor; or

(2) reducing the gross amount of base salary or wages that the agency owes the employee or the employee's successor for services provided by the employee during any pay period after the pay period in which the indebtedness was incurred.

(e) For the purposes of Subsections (c)(2) and (d)(2), an indebtedness is incurred during the pay period the compensation is earned by the employee. For purposes of this subsection, compensation is earned without regard to whether the amount of that compensation exceeds the amount the employee was eligible to receive.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.27, eff. Jan. 1, 2000. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 39, eff. Sept. 1, 2001.

Sec. 666.003. NOTICE. (a) A state agency shall provide notice to a state employee or the employee's successor before the agency:

(1) recovers the amount of the employee's indebtedness to the agency under Section 666.002(a); or

(2) requests the comptroller to recover the amount of the employee's indebtedness to the agency under Section 666.002(b).

(b) The notice must:

(1) be given in a manner reasonably calculated to give actual notice to the employee or successor;

(2) state the:

(A) amount of the indebtedness; and

(B) name of the indebted employee;

(3) specify the date by which the indebtedness must be paid; and

(4) inform the employee or successor that unless the indebtedness is paid on or before the date specified, the amount of the indebtedness may be recovered by:

(A) deducting it from any amount of compensation the agency owes the employee or successor; or

(B) reducing the gross amount of base salary or wages that the agency owes the employee or successor for services provided by the employee during any pay period after the pay period in which the indebtedness was incurred.

(c) For purposes of Subsection (b)(4)(B), an indebtedness is incurred during the pay period the compensation is earned by the employee. For purposes of this subsection, compensation is earned without regard to whether the amount of that compensation exceeds the amount the employee was eligible to receive.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.27, eff. Jan. 1, 2000. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 39, eff. Sept. 1, 2001.

Sec. 666.004. PAYMENT OF AMOUNT REMAINING. Any amount that remains owed after a recovery under Section 666.002 shall be paid to the state employee or successor.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.27, eff. Jan. 1, 2000. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 39, eff. Sept. 1, 2001.

Sec. 666.005. RECOVERY REQUESTS TO THE COMPTROLLER. (a) A state agency may not request the comptroller to make a recovery under Section 666.002(b) before the agency:

(1) provides the employee or successor the opportunity to exercise any due process or other constitutional or statutory

protection that must be accommodated before a collection action or procedure may begin; and

(2) determines that the recovery would not violate any applicable law or rule of this state or the United States.

(b) The comptroller may not investigate or determine whether the agency has complied with Subsection (a)(1). The comptroller may rely on a determination made under Subsection (a)(2).

(c) A state agency's request to the comptroller to make a recovery under Section 666.002(b) must comply with the comptroller's requirements for format, content, and frequency.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.27, eff. Jan. 1, 2000. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 39, eff. Sept. 1, 2001.

Sec. 666.006. ASSIGNEES. (a) The assignee of a state employee or the employee's successor is considered to be a successor for the purposes of this chapter, except that a recovery under this chapter from the compensation or base salary or wages owed to the assignee of a state employee or the employee's successor may not be made if the assignment became effective before the employee incurred the indebtedness.

(b) For purposes of Subsection (a), an indebtedness is incurred on:

(1) the date the compensation is paid, if eligibility to receive the entire amount of the compensation was not conditioned on a state employee fulfilling a promise; or

(2) the day after the deadline for a state employee to fulfill a promise, if eligibility to receive the entire amount of the compensation was conditioned on the employee fulfilling the promise.

(c) This chapter neither authorizes nor prohibits a state employee or the employee's successor from assigning the employee's or successor's right or eligibility to receive compensation.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.27, eff. Jan. 1, 2000. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 39, eff. Sept. 1, 2001.

Sec. 666.007. OTHER METHODS OF RECOVERY NOT PROHIBITED. This

chapter does not prohibit the comptroller or a state agency from recovering an indebtedness in any manner authorized by a law other than this chapter.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 39, eff. Sept. 1, 2001.

Sec. 666.008. ADMINISTRATION. The comptroller may adopt rules and establish procedures to administer this chapter.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.27, eff. Jan 1, 2000. Renumbered from Government Code Sec. 666.007 by Acts 2001, 77th Leg., ch. 1158, Sec. 39, eff. Sept. 1, 2001.

CHAPTER 667. MULTIPLE EMPLOYMENTS WITH STATE

Sec. 667.001. GENERAL PROVISIONS. (a) This chapter applies to a person who is or may become employed by more than one state agency or institution of higher education.

(b) A person who is employed by more than one state agency or institution of higher education may not receive benefits from the state that exceed the benefits provided for one full-time employee.

(c) The person must be informed of the requirements of this chapter before the person is employed by more than one agency or institution.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 25, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 666.001 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(60), eff. Sept. 1, 2001.

Sec. 667.002. SEPARATE RECORDS REQUIRED. Separate vacation and sick leave records must be maintained for each employment.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 25, eff. Sept. 1, 1999. Renumbered from Sec. 666.002 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(60), eff. Sept. 1, 2001.

Sec. 667.003. TRANSFER OF LEAVE BALANCES PROHIBITED. If the person separates from one employment, the person's leave balances

that were accrued under that employment may not be transferred to the remaining employments.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 25, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 666.003 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(60), eff. Sept. 1, 2001.

Sec. 667.004. ACCRUAL OF STATE SERVICE CREDIT. The person accrues state service credit for all purposes as if the person had only one employment.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 25, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 666.004 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(60), eff. Sept. 1, 2001.

Sec. 667.005. GROUP INSURANCE CONTRIBUTION. The total state contribution toward the person's group insurance is limited to the amount specified in the General Appropriations Act for a full-time active employee.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 25, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 666.005 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(60), eff. Sept. 1, 2001.

Sec. 667.006. OVERTIME COMPENSATION. (a) Overtime compensation accrues for each employment independently of every other employment, except as provided by Subsection (b).

(b) If the person is subject to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) in an employment, the employing agencies and institutions of higher education shall ensure that the person is compensated for all combined time actually worked that exceeds 40 hours per week in accordance with the overtime provisions of the federal law. The agencies and institutions shall cooperate to determine which agency or institution is responsible for ensuring that the employee is properly compensated according to those provisions.

(c) An employing agency or institution may not use multiple employments of an employee within the same agency or institution for

the purpose of:

(1) paying the employee for working more than 40 hours in a week instead of earning compensatory time in accordance with state law; or

(2) paying the employee a greater salary than is allowed for either of the employee's positions.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 25, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 666.006 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(60), eff. Sept. 1, 2001.

Sec. 667.007. INFORMING EMPLOYER ABOUT MULTIPLE EMPLOYMENT. The person must inform the person's employing state agencies or institutions of higher education before accepting an additional employment with another agency or institution.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 25, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 666.007 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(60), eff. Sept. 1, 2001.

Sec. 667.008. SPECIAL PROVISIONS FOR LEGISLATIVE AGENCIES. If a person's multiple employment involves only legislative agencies and all employments are less than full-time, the person may use paid leave from leave balances in all employments, and on separating from one employment, leave balances accrued under that employment will be transferred to the remaining employments.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 25, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 666.008 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(60), eff. Sept. 1, 2001.

Sec. 667.009. SPECIAL PROVISIONS FOR UNIVERSITY SYSTEMS. (a) A university system as defined by Section 61.003, Education Code, may establish a policy that defines a person's employment as the total hours the person is assigned:

(1) to one component of the system; or

(2) to all components of the system.

(b) The policy may apply to a person only if the person is

employed by more than one institution of higher education and all the employing institutions are within the same university system.

Added by Acts 1999, 76th Leg., ch. 279, Sec. 25, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 666.009 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(60), eff. Sept. 1, 2001.

CHAPTER 668. MEMBERSHIP DUES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4559, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 668.001. DEFINITION. In this chapter, "state agency" has the meaning assigned by Section 572.002 except that the term does not include a river authority.

Added by Acts 1999, 76th Leg., ch. 1178, Sec. 2, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 666.001 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(60), eff. Sept. 1, 2001.

CHAPTER 669. RESTRICTIONS ON CERTAIN ACTIONS INVOLVING EXECUTIVE HEAD OF STATE AGENCY

Sec. 669.001. DEFINITIONS. In this chapter:

(1) "Executive head of a state agency" means the director, executive director, commissioner, administrator, chief clerk, or other individual who is appointed by the governing body of the state agency or by another state or local officer to act as the chief executive or administrative officer of the agency and who is not an appointed officer. The term includes the chancellor or highest-ranking executive officer of a university system and the president of a public senior college or university as defined by Section 61.003, Education Code.

(2) "State agency" has the meaning assigned by Section 572.002.

Added by Acts 1999, 76th Leg., ch. 1174, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 618.001 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(55), eff. Sept. 1, 2001.

Sec. 669.002. REASSIGNMENT OF EXECUTIVE HEAD OF STATE AGENCY. The executive head of a state agency may not be reassigned to another position in the agency or at another agency that is also controlled by the same governing body unless the governing body, in an open meeting, votes to approve the proposed reassignment.

Added by Acts 1999, 76th Leg., ch. 1174, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 618.002 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(55), eff. Sept. 1, 2001.

Sec. 669.003. CONTRACTING WITH EXECUTIVE HEAD OF STATE AGENCY. A state agency may not enter into a contract with the executive head of the state agency, with a person who at any time during the four years before the date of the contract was the executive head of the state agency, or with a person who employs a current or former executive head of a state agency affected by this section, unless the governing body:

(1) votes, in an open meeting, to approve the contract; and

(2) notifies the Legislative Budget Board, not later than the fifth day before the date of the vote, of the terms of the proposed contract.

Added by Acts 1999, 76th Leg., ch. 1174, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 618.003 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(55), eff. Sept. 1, 2001.

Sec. 669.004. ACTIONS INVOLVING EXECUTIVE HEAD ARE OPEN RECORDS. (a) The terms of the reassignment of an executive head of a state agency and the terms of a contract with a current or former executive head of a state agency are subject to disclosure under Chapter 552 and may not be considered to be excepted from required disclosure under that chapter.

(b) A record that pertains to the reassignment of an executive head of a state agency, the terms of a consulting service contract with a current or former executive head of a state agency, or an agreement under which a state agency has paid or will pay or extend any monetary or other consideration to an executive head of a state agency in connection with the settlement, compromise, or other

resolution of any difference between the state agency or the governing body and a current or former executive head of the state agency may not be withheld from public disclosure. A person that attempts to withhold from public disclosure a record under this subsection commits an offense. An offense under this subsection is a Class A misdemeanor.

Added by Acts 1999, 76th Leg., ch. 1174, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 618.004 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(55), eff. Sept. 1, 2001.

CHAPTER 670. HUMAN RESOURCES STAFFING AND FUNCTIONS

Sec. 670.001. DEFINITIONS. In this chapter:

(1) "Human resources employee" does not include an employee whose primary job function is enforcement of Title VI or Title VII of the Civil Rights Act of 1964.

(2) "State agency" means a department, commission, board, office, authority, council, or other governmental entity in the executive branch of government that is created by the constitution or a statute of this state and has authority not limited to a geographical portion of the state. The term does not include a university system or institution of higher education as defined by Section 61.003, Education Code.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 15(a), eff. Sept. 1, 2003.

Sec. 670.002. HUMAN RESOURCES STAFFING FOR LARGE STATE AGENCIES. A state agency with 500 or more full-time equivalent employees shall adjust the agency's human resources staff to achieve a human resources employee-to-staff ratio of not more than one human resources employee for every 85 staff members.

Added by Acts 2003, 78th Leg., ch. 200, Sec. 15(a), eff. Sept. 1, 2003.

CHAPTER 671. HEALTH SERVICES IN STATE OFFICE COMPLEXES

Sec. 671.001. NURSE PRACTITIONER OR PHYSICIAN ASSISTANT IN

STATE OFFICE COMPLEXES; PILOT PROGRAM. (a) To reduce the cost of health care and increase the wellness and productivity of state employees, the Employees Retirement System of Texas shall develop and implement a pilot program to make available a licensed advanced practice nurse or a licensed physician assistant to provide authorized on-site health services at a selected location to state employees who choose to make use of the services.

(b) The pilot program must provide for the following:

(1) a licensed advanced practice registered nurse as defined by Section 301.152, Occupations Code, or a licensed physician assistant as described by Chapter 204, Occupations Code, who is employed by the state or whose services are acquired by contract, who will be located at a state office complex;

(2) a licensed physician, who is employed by a state governmental entity for purposes other than the pilot program or whose services are acquired by contract, who will delegate to and supervise the advanced practice registered nurse or physician assistant under a prescriptive authority agreement under Chapter 157, Occupations Code;

(3) appropriate office space and equipment for the advanced practice registered nurse or physician assistant to provide basic medical care to employees at the state office complex where the nurse or physician assistant is located; and

(4) professional liability insurance covering services provided by the advanced practice registered nurse or the physician assistant.

(c) The board of trustees of the Employees Retirement System of Texas shall adopt rules necessary for implementation of this section and shall seek the assistance of state agencies as necessary for the implementation of this chapter.

(d) The Employees Retirement System of Texas shall determine whether it is more efficient to pay directly for some or all of the expenses associated with implementing this chapter or to reimburse expenses through an interagency agreement as the expenses are incurred by an agency participating in the program.

(e) The Employees Retirement System of Texas may order the pilot program continued or expanded to cover more state office complexes on finding:

(1) the pilot program has proven beneficial in meeting the health care needs of state employees; and

(2) continuation or expansion of the pilot program is economically beneficial.

Added by Acts 2005, 79th Leg., Ch. 1217 (H.B. 952), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 433 (S.B. 1761), Sec. 1, eff. September 1, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 418 (S.B. 406), Sec. 21, eff. November 1, 2013.

CHAPTER 672. EMPLOYMENT PREFERENCE FOR FORMER FOSTER CHILDREN

Sec. 672.001. DEFINITION. In this chapter, "state agency" means a department, commission, board, office, or other agency in the executive branch of state government created by the state constitution or a state statute, including an institution of higher education as defined by Section 61.003, Education Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1116 (H.B. 1043), Sec. 1, eff. September 1, 2009.

Sec. 672.002. EMPLOYMENT PREFERENCE. (a) An individual who was under the permanent managing conservatorship of the Department of Family and Protective Services on the day preceding the individual's 18th birthday is entitled to a preference in employment with a state agency over other applicants for the same position who do not have a greater qualification.

(b) This chapter does not apply to:

(1) the position of private secretary or deputy of an official or department; or

(2) an individual holding a strictly confidential relation to the employing officer.

Added by Acts 2009, 81st Leg., R.S., Ch. 1116 (H.B. 1043), Sec. 1, eff. September 1, 2009.

Sec. 672.003. FEDERAL LAW AND GRANTS. To the extent that this chapter conflicts with federal law or a limitation provided by a

federal grant to a state agency, this chapter shall be construed to operate in harmony with the federal law or limitation of the federal grant.

Added by Acts 2009, 81st Leg., R.S., Ch. 1116 (H.B. 1043), Sec. 1, eff. September 1, 2009.

Sec. 672.004. COMPLAINT REGARDING EMPLOYMENT DECISION OF STATE AGENCY. (a) An individual entitled to an employment preference under this chapter who is aggrieved by a decision of a state agency to which this chapter applies relating to hiring the individual, or relating to retaining the individual if the state agency reduces its workforce, may appeal the decision by filing a written complaint with the governing body of the state agency under this section.

(b) The governing body of a state agency that receives a written complaint under Subsection (a) shall respond to the complaint not later than the 15th business day after the date the governing body receives the complaint. The governing body may render a different hiring decision than the decision that is the subject of the complaint if the governing body determines that the employment preference under this chapter was not applied.

Added by Acts 2009, 81st Leg., R.S., Ch. 1116 (H.B. 1043), Sec. 1, eff. September 1, 2009.

Sec. 672.005. AGE LIMIT. An individual is entitled to an employment preference under this chapter only if the individual is 25 years of age or younger.

Added by Acts 2009, 81st Leg., R.S., Ch. 1116 (H.B. 1043), Sec. 1, eff. September 1, 2009.

CHAPTER 673. VERIFICATION OF EMPLOYEE INFORMATION

Sec. 673.001. DEFINITIONS. In this chapter:

(1) "E-verify program" means the electronic verification of employment authorization program of the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Pub. L. No. 104-208, reprinted in note, 8 U.S.C. Section 1324a), operated by the United

States Department of Homeland Security, or a successor employment authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the employment authorization status of newly hired employees under the federal Immigration Reform and Control Act of 1986 (8 U.S.C. Section 1101 et seq.).

(2) "State agency" has the meaning assigned by Section 659.101.

Added by Acts 2015, 84th Leg., R.S., Ch. 425 (S.B. 374), Sec. 1, eff. September 1, 2015.

Sec. 673.002. VERIFICATION. A state agency shall register and participate in the E-verify program to verify information of all new employees.

Added by Acts 2015, 84th Leg., R.S., Ch. 425 (S.B. 374), Sec. 1, eff. September 1, 2015.

Sec. 673.003. RULES. The Texas Workforce Commission shall adopt rules and prescribe forms to implement this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 425 (S.B. 374), Sec. 1, eff. September 1, 2015.

TITLE 7. INTERGOVERNMENTAL RELATIONS

CHAPTER 742. COORDINATING RELATIONSHIPS BETWEEN LOCAL GOVERNMENTS AND FEDERAL AGENCIES

Sec. 742.001. STATE POLICY. It is the policy of this state to provide technical assistance and to coordinate relationships between local governments and federal agencies regarding federal financial assistance programs.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 742.002. DEFINITIONS. In this chapter:

(1) "Designated state agency" means a state agency either

designated or established by state law or designated by the governor to coordinate the actions of a local government participating in a federal financial assistance program.

(2) "Federal financial assistance" means a grant or loan provided by a federal financial assistance program.

(3) "Federal financial assistance program" means a program established by federal law or rule that provides a grant or loan to a local government.

(4) "Local government" means a municipality, county, school district, hospital district, or any other political subdivision of a county or the state.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 742.003. COORDINATING ACTIONS OF LOCAL GOVERNMENTS. (a) The governor or a state agency designated by the governor shall coordinate the actions of a local government participating in a federal financial assistance program unless other state law designates or establishes a particular state agency to perform that duty.

(b) The governor or the designated state agency shall adopt rules to coordinate the actions of local governments participating in federal financial assistance programs.

(c) A rule adopted under this section must be approved by the attorney general and filed with the secretary of state.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 742.004. FEDERAL FINANCIAL ASSISTANCE REQUESTS. (a) The governing body of a local government by order or resolution may request that the governor or the designated state agency act on behalf of the local government in any matter relating to:

(1) a request for federal financial assistance; or

(2) an agreement, assurance of compliance, requirement, or enforcement action relating to the request.

(b) The governing body of a local government by order or resolution may revoke the request and the authority delegated by the request to the governor or designated state agency.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 742.005. APPLICATIONS FOR FEDERAL FINANCIAL ASSISTANCE. (a) A governing body of a local government that has requested that the governor or the designated state agency act on behalf of the local government under Section 742.004(a) shall submit to the governor or the designated state agency each application for federal financial assistance.

(b) The governor or the designated state agency shall approve or disapprove the application.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 742.006. ACTION IF ASSISTANCE WITHHELD OR DEFERRED. The governor or the designated state agency shall take any action that the governor or the agency considers necessary or appropriate to meet the needs of a local government if:

(1) any federal financial assistance is withheld from the local government;

(2) a contract that a local government would otherwise receive under a federal financial assistance program is withheld from the local government; or

(3) a payment is deferred because of an action by a federal government agency relating to the program.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

CHAPTER 751. OFFICE OF STATE-FEDERAL RELATIONS

Sec. 751.001. DEFINITIONS. In this chapter:

(1) "Board" means the Office of State-Federal Relations Advisory Policy Board.

(2) "Director" means the director of the Office of State-Federal Relations.

(3) "Office" means the Office of State-Federal Relations.

(4) "State agency" means a state board, commission, department, institution, or officer having statewide jurisdiction, including a state college or university.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 8.01, eff. Aug. 22, 1991.

Sec. 751.002. OFFICE OF STATE-FEDERAL RELATIONS. (a) The Office of State-Federal Relations is an agency of the state and operates within the executive department. The office is administratively attached to the office of the governor. The governor's office shall provide human resources and other administrative support for the office. The office is funded by appropriations made to the office of the governor.

(b) The office is subject to the administrative procedure law, Chapter 2001.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 8.01, eff. Aug. 22, 1991; Acts 1995, 74th Leg., ch. 306, Sec. 2, eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1214 (S.B. 1003), Sec. 1, eff. September 1, 2009.

Sec. 751.003. SUNSET PROVISION. The Office of State-Federal Relations is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished September 1, 2035.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 8.01, eff. Aug. 22, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 2.24, eff. Nov. 12, 1991; Acts 1995, 74th Leg., ch. 306, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 2.08(a), eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1214 (S.B. 1003), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 5.05, eff. June 17, 2011.

Acts 2021, 87th Leg., R.S., Ch. 850 (S.B. 713), Sec. 1.02, eff. June 16, 2021.

Acts 2023, 88th Leg., R.S., Ch. 225 (H.B. 1550), Sec. 1, eff. September 1, 2023.

Sec. 751.004. APPOINTMENT AND TERM OF DIRECTOR. (a) The governor, with the advice and consent of the senate, shall appoint a director of the office.

(b) The director serves at the pleasure of the governor.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 8.01, eff. Aug. 22, 1991.

Sec. 751.005. GENERAL POWERS AND DUTIES OF OFFICE. (a) The office shall exercise the powers and carry out the duties prescribed by this section in order to act as a liaison from the state to the federal government.

(b) The office shall:

(1) help coordinate state and federal programs dealing with the same subject;

(2) inform the governor and the legislature of federal programs that may be carried out in the state or that affect state programs;

(3) provide federal agencies and the United States Congress with information about state policy and state conditions on matters that concern the federal government;

(4) provide the legislature with information useful in measuring the effect of federal actions on the state and local programs;

(5) prepare and supply to the governor and all members of the legislature an annual report that:

(A) describes the office's operations;

(B) contains the office's priorities and strategies for the following year;

(C) details projects and legislation pursued by the office; and

(D) discusses issues in the following congressional

session of interest to this state;

(6) notify the governor, the lieutenant governor, the speaker of the house of representatives, and the legislative standing committees in each house with primary jurisdiction over intergovernmental affairs of federal activities relevant to the state and inform the Texas congressional delegation of state activities;

(7) conduct frequent conference calls with the lieutenant governor and the speaker of the house of representatives or their designees regarding state-federal relations and programs;

(8) respond to requests for information from the legislature, the United States Congress, and federal agencies;

(9) coordinate with the Legislative Budget Board regarding the effects of federal funding on the state budget; and

(10) report to, and on request send appropriate representatives to appear before, the legislative standing committees in each house with primary jurisdiction over intergovernmental affairs.

(c) The office may maintain office space at locations inside and outside the state as chosen by the office.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(63), eff. June 17, 2011.

(e) The report required under Subsection (b)(5) must include an evaluation of the performance of the office based on performance measures that are developed by the board.

(f) The office shall post the report required under Subsection (b)(5) to the office's publicly accessible Internet website.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 8.01, eff. Aug. 22, 1991; Acts 1995, 74th Leg., ch. 306, Sec. 3, eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1214 (S.B. 1003), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1214 (S.B. 1003), Sec. 4, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 11, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(63), eff. June 17, 2011.

Acts 2023, 88th Leg., R.S., Ch. 225 (H.B. 1550), Sec. 2, eff. September 1, 2023.

Sec. 751.006. STAFF; PERSONNEL POLICIES. (a) The director may employ staff necessary to carry out the director's powers and duties under this chapter. The director or the director's designee shall provide to office employees, as often as necessary, information regarding their qualification for employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state employees.

(b) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1214, Sec. 7(1), eff. September 1, 2009.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1214, Sec. 7(1), eff. September 1, 2009.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1214, Sec. 7(1), eff. September 1, 2009.

(e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1214, Sec. 7(1), eff. September 1, 2009.

(f) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1214, Sec. 7(1), eff. September 1, 2009.

(g) The director and the staff of the office working in Washington, D.C., may receive a cost-of-living salary adjustment.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 8.01, eff. Aug. 22, 1991; Acts 1995, 74th Leg., ch. 306, Sec. 4, eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1214 (S.B. 1003), Sec. 5, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1214 (S.B. 1003), Sec. 7(1), eff. September 1, 2009.

Sec. 751.007. LOBBYIST RESTRICTION. A person required to register as a lobbyist under Chapter 305 may not act as general counsel of the office.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 8.01, eff.

Aug. 22, 1991.

Sec. 751.008. PUBLIC INFORMATION AND COMPLAINTS. (a) The director shall:

(1) prepare information of public interest describing the functions of the office and the procedures by which complaints are filed with and resolved by the office and make the information available to the public and appropriate state agencies; and

(2) establish methods by which consumers and service recipients are notified of the name, mailing address, and a telephone number of the office for the purpose of directing complaints to the office.

(b) The office shall keep information about each complaint filed with the office. The information shall include:

(1) the date the complaint is received;

(2) the name of the complainant;

(3) the subject matter of the complaint;

(4) a record of all persons contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) for complaints for which the office took no action, an explanation of the reason the complaint was closed without action.

(c) The office shall keep a file about each written complaint filed with the office that the office has authority to resolve. The office shall provide to the person filing the complaint and the persons or entities complained about the office's policies and procedures pertaining to complaint investigation and resolution. The office, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and the persons or entities complained about of the status of the complaint unless the notice would jeopardize an undercover investigation.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 8.01, eff. Aug. 22, 1991; Acts 1995, 74th Leg., ch. 306, Sec. 5, eff. Sept. 1, 1995.

Sec. 751.009. CONTRIBUTIONS. (a) The office may accept contributions that the office determines will further the objectives of the office.

(b) A contribution may not be used to pay any part of the compensation of a person who is an officer or employee of the office on the date the office receives the contribution.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 8.01, eff. Aug. 22, 1991.

Sec. 751.010. OFFICE OF STATE-FEDERAL RELATIONS ADVISORY POLICY BOARD. (a) The Office of State-Federal Relations Advisory Policy Board consists of:

(1) the governor;

(2) the lieutenant governor; and

(3) the speaker of the house of representatives.

(b) A member of the board may designate a person to perform the member's duties on the board.

(c) The board, by majority vote, shall select a presiding officer of the board.

(d) A majority of the members of the board constitutes a quorum to transact business.

(e) The board shall meet before the beginning of each congressional session and at the call of the presiding officer.

(f) The board shall work with the director to hold periodic meetings in the city of Austin at times determined by the presiding officer to discuss upcoming federal activities and issues with state agency representatives.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 8.01, eff. Aug. 22, 1991. Amended by Acts 1995, 74th Leg., ch. 306, Sec. 6, eff. Sept. 1, 1995.

Sec. 751.011. BOARD DUTIES. The board shall review the office's priorities and strategies set forth in the annual report and deliver to the director any suggested modifications.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 8.01, eff. Aug.

22, 1991. Amended by Acts 1995, 74th Leg., ch. 306, Sec. 7, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 785, Sec. 21, eff. Sept. 1, 2003.

Sec. 751.012. INTERAGENCY CONTRACTS. (a) The office may enter into interagency contracts with other state agencies to locate staff of the other state agency in Washington, D.C., to work under the supervision of the director and shall coordinate activities conducted on behalf of the other agency with those of the office.

(b) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1214, Sec. 7(2), eff. September 1, 2009.

(c) A contract under this section must include provisions under which staff of the other state agency:

(1) report directly to that agency's administrative head or the presiding officer of that agency's governing body;

(2) have an officially recognized role in that agency's budget planning process; and

(3) provide periodic updates of activities at meetings of that agency's governing body.

(d) Repealed by Acts 2003, 78th Leg., ch. 785, Sec. 75(1).

(e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1214, Sec. 7(2), eff. September 1, 2009.

(f) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1214, Sec. 7(2), eff. September 1, 2009.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 8.01, eff. Aug. 22, 1991. Amended by Acts 1995, 74th Leg., ch. 306, Sec. 8, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 785, Sec. 22, 75(1), eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1214 (S.B. 1003), Sec. 7(2), eff. September 1, 2009.

Sec. 751.015. CONTRACTS BETWEEN OFFICE AND CONSULTANTS. (a) If the office elects to contract with federal-level government relations consultants, the office shall adopt written procedures for those contracts. The procedures must include:

(1) guidelines regarding contract management;

(2) a competitive procurement process and method to assess the effectiveness of a prospective consultant;

(3) a technique for assigning a value to a prospective consultant's ability to provide services at a reasonable price and level of experience;

(4) a process for determining a prospective consultant's ability to work with influential members of the United States Congress and serve as an effective advocate on behalf of the state; and

(5) a method to verify that the interests of a prospective consultant or the consultant's other clients do not create a conflict of interest that may jeopardize the state's interest.

(b) A contract between the office and a federal-level government relations consultant must include:

(1) an agreement regarding the goals of the service to be provided by the consultant and targeted performance measures;

(2) a provision governing the manner in which the contract may be terminated by the parties to the contract; and

(3) a provision allowing the office, the state auditor's office as provided by Section 2262.003, and other specified oversight entities to audit the contractor's performance under the contract.

(c) All three members of the board must sign any contract between the office and a federal-level government relations consultant.

Added by Acts 2009, 81st Leg., R.S., Ch. 1214 (S.B. 1003), Sec. 6, eff. September 1, 2009.

Sec. 751.016. CONTRACTS BY STATE AGENCIES OR POLITICAL SUBDIVISIONS. (a) In this section, "political subdivision" includes a river authority.

(b) An agency or political subdivision of the state shall report to the office on any contract between the agency or subdivision and a federal-level government relations consultant. A state agency or political subdivision shall submit one report under this section not later than the 30th day after the date the contract is executed and a second report not later than the 30th day after the date the contract is terminated. The report must include:

(1) the name of the consultant or consulting firm;

(2) the issue on which the consultant was hired to consult; and

(3) the amount of compensation paid or to be paid to the consultant under the contract.

(c) If a state agency contracts with a federal-level government relations consultant and the consultant subcontracts the work to another firm or individual, the state agency shall report the subcontract to the office.

(d) This section does not apply to a political subdivision whose federal-level government relations consultant is required by other law to disclose, report, and make available the information required by Subsection (b) to:

(1) the public; and

(2) a federal or state entity.

Added by Acts 2009, 81st Leg., R.S., Ch. 1214 (S.B. 1003), Sec. 6, eff. September 1, 2009.

CHAPTER 752. IMMIGRATION

SUBCHAPTER A. OFFICE OF IMMIGRATION AND REFUGEE AFFAIRS

Sec. 752.001. OFFICE OF IMMIGRATION AND REFUGEE AFFAIRS. The Office of Immigration and Refugee Affairs is created within the Texas Department of Human Services.

Added by Acts 1991, 72nd Leg., ch. 627, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 526, Sec. 1, eff. Sept. 1, 1995.

Sec. 752.003. REFUGEE COORDINATOR. The governor shall appoint a refugee coordinator for the office to serve at the pleasure of the governor. The refugee coordinator shall serve as chief administrative officer of the office and shall ensure coordination of public and private resources in refugee resettlement.

Added by Acts 1991, 72nd Leg., ch. 627, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 526, Sec. 1, eff. Sept. 1, 1995.

Sec. 752.004. APPLICATION FOR AND DISTRIBUTION OF FEDERAL FUNDS. The office shall apply for the maximum amount of federal

funds available through the Immigration Reform and Control Act of 1986 (8 U.S.C. Section 1101 et seq.) and the Refugee Act of 1980 (8 U.S.C. Section 1521 et seq.). The office shall apply for those funds and shall distribute the funds to agencies responsible for providing services to newly legalized aliens and refugees in accordance with federal law. The office may retain a portion of the federal funds to cover reasonable costs incurred in securing and administering the funds. The office may delegate to an appropriate state agency the administration of funds under this section.

Added by Acts 1991, 72nd Leg., ch. 627, Sec. 2, eff. Sept. 1, 1991.

Sec. 752.007. OTHER FUNCTIONS OF OFFICE. In addition to other duties prescribed by this subchapter, the office shall:

(1) coordinate public and private programs for the benefit of immigrants and refugees;

(2) receive and address inquiries relating to the services available to immigrants or refugees at the local, state, and federal levels; and

(3) assist local communities with the development of programs to address the needs of immigrants and refugees at the local level.

Added by Acts 1991, 72nd Leg., ch. 627, Sec. 2, eff. Sept. 1, 1991.

Sec. 752.008. GIFTS, GRANTS, AND DONATIONS. The office may solicit and accept gifts, grants, and donations for the benefit of immigrant or refugee programs within the state.

Added by Acts 1991, 72nd Leg., ch. 627, Sec. 2, eff. Sept. 1, 1991.

Sec. 752.009. FUNDING. Except for any unspent appropriations transferred under this Act or any gifts, grants, or donations accepted under this Act, the Office of Immigration and Refugee Affairs may use only federal funds to perform the duties prescribed by this Act.

Added by Acts 1991, 72nd Leg., ch. 627, Sec. 2, eff. Sept. 1, 1991.

SUBCHAPTER B. GOVERNOR'S ADVISORY COMMITTEE ON IMMIGRATION AND REFUGEES

Sec. 752.021. GOVERNOR'S ADVISORY COMMITTEE ON IMMIGRATION AND REFUGEES. The Governor's Advisory Committee on Immigration and Refugees is created within the office of the governor. The committee shall advise and make recommendations to the Office of Immigration and Refugee Affairs on immigration and refugee issues, including the SLIAG program authorized by the Immigration Reform and Control Act of 1986 (8 U.S.C. Section 1101 et seq.) and the refugee assistance programs authorized by the Refugee Act of 1980 (8 U.S.C. Section 1521 et seq.).

Added by Acts 1991, 72nd Leg., ch. 627, Sec. 2, eff. Sept. 1, 1991.

Sec. 752.022. COMPOSITION OF COMMITTEE; TERMS; PRESIDING OFFICER. (a) The committee is composed of 12 members appointed by the governor with the advice and consent of the senate as follows:

(1) two representatives of the refugee population;

(2) two representatives of the immigrant population;

(3) three representatives of local provider programs that serve immigrants or refugees and that receive federal funds, with one each from a public health program, a public assistance program, and an education program;

(4) three representatives from voluntary resettlement agencies that receive state or federal funds;

(5) one representative from a legal organization that is involved in issues relating to immigrants or refugees; and

(6) one representative from a service organization that works with immigrants or refugees.

(b) Committee members serve for terms of two years that expire February 1 of each odd-numbered year.

(c) The governor shall appoint a member of the committee to serve as the chair of the committee for a one-year term.

Added by Acts 1991, 72nd Leg., ch. 627, Sec. 2, eff. Sept. 1, 1991.

Sec. 752.023. COMPENSATION AND REIMBURSEMENT OF COMMITTEE

MEMBERS. A member of the committee may not receive compensation for service on the committee but is entitled to reimbursement for actual and necessary expenses incurred in performing the member's duties subject to any applicable limitation on reimbursement provided by the General Appropriations Act for a state employee.

Added by Acts 1991, 72nd Leg., ch. 627, Sec. 2, eff. Sept. 1, 1991.

Sec. 752.024. FUNCTIONS OF COMMITTEE. The committee shall:

(1) advise and make recommendations to the Office of Immigration and Refugee Affairs regarding policy, planning, and priorities for the SLIAG program and refugee assistance programs;

(2) advise and make recommendations to the Office of Immigration and Refugee Affairs regarding coordination of the efforts of all public agencies involved in health, human services, and education matters that relate to federal immigration and refugee laws and rules or implementation of the SLIAG program or refugee assistance programs;

(3) encourage communication and cooperation among local agencies and programs, state agencies, immigration-related and refugee-related legal and service agencies, and the federal government;

(4) assist the Office of Immigration and Refugee Affairs in applying for the maximum amount of federal funds available for SLIAG-related programs and activities and refugee-related programs and activities and in identifying local programs and costs relating to immigration or refugees for which the state or a political subdivision may receive reimbursement;

(5) provide information to programs and activities that serve and encourage legalization and education of residents of this state;

(6) review federal issues regarding the SLIAG program and refugee assistance programs and make recommendations to the Office of Immigration and Refugee Affairs to encourage the development of a state response to federal issues;

(7) review and make recommendations to the Office of Immigration and Refugee Affairs and state agencies to ensure that the system of fiscal and program operations for the SLIAG program and refugee assistance programs is consistent with existing state and

federal requirements;

(8) assist the Office of Immigration and Refugee Affairs in the development of an annual report on the status of the SLIAG program and refugee assistance programs in the state;

(9) advise and make recommendations to the Office of Immigration and Refugee Affairs on other related matters as directed by the governor; and

(10) assist the Office of Immigration and Refugee Affairs in the development of a spending plan for fiscal years 1993 and 1994 proposing spending priorities for SLIAG funds for services to eligible legalized aliens and for other federal funds available to benefit immigrants or refugees in the state.

Added by Acts 1991, 72nd Leg., ch. 627, Sec. 2, eff. Sept. 1, 1991.

Sec. 752.026. FUNDING. Except for any unspent appropriations transferred under this subchapter or gifts, grants, or donations accepted under this subchapter, the Governor's Advisory Committee on Immigration and Refugees may use only federal funds to perform the duties prescribed by this subchapter.

Added by Acts 1991, 72nd Leg., ch. 627, Sec. 2, eff. Sept. 1, 1991.

SUBCHAPTER C. ENFORCEMENT OF STATE AND FEDERAL IMMIGRATION LAWS BY LOCAL ENTITIES AND CAMPUS POLICE DEPARTMENTS

Sec. 752.051. DEFINITIONS. In this subchapter:

(1) "Campus police department" means a law enforcement agency of an institution of higher education.

(2) "Immigration laws" means the laws of this state or federal law relating to aliens, immigrants, or immigration, including the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.).

(3) "Institution of higher education" means:

(A) an institution of higher education as defined by Section 61.003, Education Code; or

(B) a private or independent institution of higher education as defined by Section 61.003, Education Code.

(4) "Lawful detention" means the detention of an individual by a local entity, state criminal justice agency, or campus police

department for the investigation of a criminal offense. The term excludes a detention if the sole reason for the detention is that the individual:

(A) is a victim of or witness to a criminal offense; or

(B) is reporting a criminal offense.

(5) "Local entity" means:

(A) the governing body of a municipality, county, or special district or authority, subject to Section 752.052;

(B) an officer or employee of or a division, department, or other body that is part of a municipality, county, or special district or authority, including a sheriff, municipal police department, municipal attorney, or county attorney; and

(C) a district attorney or criminal district attorney.

(6) "Policy" includes a formal, written rule, order, ordinance, or policy and an informal, unwritten policy.

Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. 4), Sec. 1.01, eff. September 1, 2017.

Sec. 752.052. APPLICABILITY OF SUBCHAPTER. (a) This subchapter does not apply to a hospital or hospital district created under Subtitle C or D, Title 4, Health and Safety Code, a federally qualified health center as defined in Section 31.017, Health and Safety Code, a hospital owned or operated by an institution of higher education, or a hospital district created under a general or special law authorized by Article IX, Texas Constitution, to the extent that the hospital or hospital district is providing access to or delivering medical or health care services as required under the following applicable federal or state laws:

(1) 42 U.S.C. Section 1395dd;

(2) 42 U.S.C. Section 1396b(v);

(3) Subchapter C, Chapter 61, Health and Safety Code;

(4) Chapter 81, Health and Safety Code; and

(5) Section 311.022, Health and Safety Code.

(b) Subsection (a) excludes the application of this subchapter to a commissioned peace officer:

(1) employed by a hospital or hospital district during the officer's employment; or

(2) commissioned by a hospital or hospital district.

(c) This subchapter does not apply to a commissioned peace officer employed or contracted by a religious organization during the officer's employment with the organization or while the officer is performing the contract.

(d) This subchapter does not apply to a school district or open-enrollment charter school, including a peace officer employed or contracted by a district or charter school during the officer's employment with the district or charter school or while the officer is performing the contract. This subchapter does not apply to the release of information contained in educational records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

(e) This subchapter does not apply to the public health department of a local entity.

(f) This subchapter does not apply to:

(1) a community center as defined by Section 571.003, Health and Safety Code; or

(2) a local mental health authority as defined by Section 531.002, Health and Safety Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. 4), Sec. 1.01, eff. September 1, 2017.

Sec. 752.053. POLICIES AND ACTIONS REGARDING IMMIGRATION ENFORCEMENT. (a) A local entity or campus police department may not:

(1) adopt, enforce, or endorse a policy under which the entity or department prohibits or materially limits the enforcement of immigration laws;

(2) as demonstrated by pattern or practice, prohibit or materially limit the enforcement of immigration laws; or

(3) for an entity that is a law enforcement agency or for a department, as demonstrated by pattern or practice, intentionally violate Article 2A.060, Code of Criminal Procedure.

(b) In compliance with Subsection (a), a local entity or campus police department may not prohibit or materially limit a person who is a commissioned peace officer described by Article 2A.001, Code of Criminal Procedure, a corrections officer, a booking clerk, a

magistrate, or a district attorney, criminal district attorney, or other prosecuting attorney and who is employed by or otherwise under the direction or control of the entity or department from doing any of the following:

(1) inquiring into the immigration status of a person under a lawful detention or under arrest;

(2) with respect to information relating to the immigration status, lawful or unlawful, of any person under a lawful detention or under arrest, including information regarding the person's place of birth:

(A) sending the information to or requesting or receiving the information from United States Citizenship and Immigration Services, United States Immigration and Customs Enforcement, or another relevant federal agency;

(B) maintaining the information; or

(C) exchanging the information with another local entity or campus police department or a federal or state governmental entity;

(3) assisting or cooperating with a federal immigration officer as reasonable or necessary, including providing enforcement assistance; or

(4) permitting a federal immigration officer to enter and conduct enforcement activities at a jail to enforce federal immigration laws.

(c) Notwithstanding Subsection (b)(3), a local entity or campus police department may prohibit persons who are employed by or otherwise under the direction or control of the entity or department from assisting or cooperating with a federal immigration officer if the assistance or cooperation occurs at a place of worship.

Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. 4), Sec. 1.01, eff. September 1, 2017.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.115, eff. January 1, 2025.

Sec. 752.054. DISCRIMINATION PROHIBITED. A local entity, campus police department, or a person employed by or otherwise under the direction or control of the entity or department may not consider

race, color, religion, language, or national origin while enforcing immigration laws except to the extent permitted by the United States Constitution or Texas Constitution.

Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. 4), Sec. 1.01, eff. September 1, 2017.

Sec. 752.055. COMPLAINT; EQUITABLE RELIEF. (a) Any citizen residing in the jurisdiction of a local entity or any citizen enrolled at or employed by an institution of higher education may file a complaint with the attorney general if the person asserts facts supporting an allegation that the entity or the institution's campus police department has violated Section 752.053. The citizen must include a sworn statement with the complaint stating that to the best of the citizen's knowledge, all of the facts asserted in the complaint are true and correct.

(b) If the attorney general determines that a complaint filed under Subsection (a) against a local entity or campus police department is valid, the attorney general may file a petition for a writ of mandamus or apply for other appropriate equitable relief in a district court in Travis County or in a county in which the principal office of the entity or department is located to compel the entity or department that is suspected of violating Section 752.053 to comply with that section.

(c) An appeal of a suit brought under Subsection (b) is governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure. The appellate court shall render its final order or judgment with the least possible delay.

Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. 4), Sec. 1.01, eff. September 1, 2017.

Sec. 752.056. CIVIL PENALTY. (a) A local entity or campus police department that is found by a court of law as having intentionally violated Section 752.053 is subject to a civil penalty in an amount:

(1) not less than $1,000 and not more than $1,500 for the first violation; and

(2) not less than $25,000 and not more than $25,500 for each subsequent violation.

(b) Each day of a continuing violation of Section 752.053 constitutes a separate violation for the civil penalty under this section.

(c) The court that hears an action brought under Section 752.055 against the local entity or campus police department shall determine the amount of the civil penalty under this section.

(d) A civil penalty collected under this section shall be deposited to the credit of the compensation to victims of crime fund established under Subchapter J, Chapter 56B, Code of Criminal Procedure.

(e) Sovereign immunity of this state and governmental immunity of a county and municipality to suit is waived and abolished to the extent of liability created by this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. 4), Sec. 1.01, eff. September 1, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.51, eff. January 1, 2021.

Sec. 752.0565. REMOVAL FROM OFFICE. (a) For purposes of Section 66.001, Civil Practice and Remedies Code, a person holding an elective or appointive office of a political subdivision of this state does an act that causes the forfeiture of the person's office if the person violates Section 752.053.

(b) The attorney general shall file a petition under Section 66.002, Civil Practice and Remedies Code, against a public officer to which Subsection (a) applies if presented with evidence, including evidence of a statement by the public officer, establishing probable grounds that the public officer engaged in conduct described by Subsection (a). The court in which the petition is filed shall give precedence to proceedings relating to the petition in the same manner as provided for an election contest under Section 23.101.

(c) If the person against whom an information is filed based on conduct described by Subsection (a) is found guilty as charged, the court shall enter judgment removing the person from office.

Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. 4), Sec. 1.01, eff.

September 1, 2017.

Sec. 752.057. COMMUNITY OUTREACH POLICY. (a) Each law enforcement agency that is subject to the requirements of this subchapter may adopt a written policy requiring the agency to perform community outreach activities to educate the public that a peace officer may not inquire into the immigration status of a victim of or witness to an alleged criminal offense unless, as provided by Article 2A.059, Code of Criminal Procedure, the officer determines that the inquiry is necessary to:

(1) investigate the offense; or

(2) provide the victim or witness with information about federal visas designed to protect individuals providing assistance to law enforcement.

(b) A policy adopted under this section must include outreach to victims of:

(1) family violence, as that term is defined by Section 71.004, Family Code, including those receiving services at family violence centers under Chapter 51, Human Resources Code; and

(2) sexual assault, including those receiving services under a sexual assault program, as those terms are defined by Section 420.003.

Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. 4), Sec. 1.01, eff. September 1, 2017.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.116, eff. January 1, 2025.

CHAPTER 761. SOUTHERN STATES ENERGY COMPACT

Sec. 761.001. ENACTMENT; TERMS OF COMPACT. The Southern States Energy Compact is enacted and entered into as follows:

SOUTHERN STATES ENERGY COMPACT

ARTICLE I--POLICY AND PURPOSE

The party states recognize that the proper employment and conservation of energy, and employment of energy-related facilities, materials, and products, within the context of a responsible regard for the environment, can assist substantially in the

industrialization of the South and the development of a balanced economy for the region. They also recognize that optimum benefit from an acquisition of energy resources and facilities require systematic encouragement, guidance, and assistance from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis; it is the purpose of this compact to provide the instruments and the framework for such a cooperative effort to improve the economy of the South and contribute to the individual and community well-being of the people of this region.

ARTICLE II--THE BOARD

(a) There is hereby created an agency of the party states to be known as the "Southern States Energy Board" (hereinafter referred to as the Board). The Board shall be composed of three members from each party state, one of whom shall be appointed or designated to represent the Governor and one to represent each house of the state legislature. Each member shall be designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the Board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any less period of time) by a deputy or assistant, if the laws of his state make specific provision therefor. The Federal Government may be represented on the Board without vote, if provision is made by Federal law for such representation.

(b) Each party state shall be entitled to one vote on the Board, to be determined by majority vote of each member or member's representative from the party state present and voting on any question. No action of the Board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes by states are cast in favor thereof.

(c) The Board shall have a seal.

(d) The Board shall elect annually, from among its members, a chairman, a vice-chairman, and a treasurer. The Board shall appoint an Executive Director who shall serve at its pleasure and who shall also act as secretary, and who, together with the treasurer, shall be bonded in such amounts as the Board may require.

(e) The Executive Director, with the approval of the Board, shall appoint and remove or discharge such personnel as may be

necessary for the performance of the Board's functions irrespective of the civil service, personnel, or other merit system laws of any of the party states.

(f) The Board may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. Employees of the Board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the Board takes such steps as may be necessary pursuant to Federal law to participate in such program of insurance as a governmental agency or unit. The Board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The Board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm, or corporation.

(h) The Board may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation and may receive, utilize, and dispose of the same.

(i) The Board may establish and maintain such facilities as may be necessary for the transacting of its business. The Board may acquire, hold, and convey real and personal property and any interest therein.

(j) The Board shall adopt bylaws, rules, and regulations in convenient form and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The Board annually shall make to the Governor of each party state a report covering the activities of the Board for the preceding year, and embodying such recommendations as may have been adopted by the Board, which report shall be transmitted to the legislature of said State. The Board may issue such additional reports as it may deem desirable.

ARTICLE III--FINANCES

(a) The Board shall submit to the executive head or designated officer or officers of each state a budget of its estimated expenditures for such period as may be required by the laws of that

jurisdiction for presentation to the legislature thereof.

(b) Each of the Board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. One-half of the total amount of each budget of estimated expenditures shall be apportioned among the party states in equal shares; one-quarter of each such budget shall be apportioned among the party states in accordance with the ratio of their populations to the total population of the entire group of party states based on the last decennial census; and one-quarter of each such budget shall be apportioned among the party states on the basis of the relative average per capita income of the inhabitants in each of the party states based on the latest computations published by the Federal census-taking agency. Subject to appropriation by their respective legislatures, the Board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff or personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the Board.

(c) The Board may meet any of its obligations in whole or in part with funds available to it under Article II(h) of this compact, provided that the Board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Board makes use of funds available to it under Article II(h), the Board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

(d) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Board shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the Board.

(e) The accounts of the Board shall be open at any reasonable time for inspection.

ARTICLE IV--ADVISORY COMMITTEES

The Board may establish such advisory and technical committees as it may deem necessary, membership on which to include but not be limited to private citizens, expert and lay personnel,

representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, state, and Federal Government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

ARTICLE V--POWERS

The Board shall have power to:

(a) Ascertain and analyze on a continuing basis the position of the South with respect to energy and energy-related industries and environmental concerns.

(b) Encourage the development, conservation, and responsible use of energy and energy-related facilities, installations, and products as part of a balanced economy and a healthy environment.

(c) Collect, correlate, and disseminate information relating to civilian uses of energy and energy-related materials and products.

(d) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspect of:

(1) Energy, environment, and application of energy, environmental, and related concerns to industry, medicine, education, or the promotion or regulation thereof.

(2) The formulation or administration of measures designed to promote safety in any manner related to the development, use, or disposal of energy and energy-related materials, products, installations, or wastes.

(e) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations of energy product, material, or equipment use and disposal and of proper techniques or processes for the application of energy resources to the civilian economy or general welfare.

(f) Undertake such non-regulatory functions with respect to resources of radiation as may promote the economic development and general welfare of the region.

(g) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to energy and environmental fields.

(h) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures,

and practices or ordinances of the party states in any of the fields of its interest and competence as in its judgment may be appropriate. Any such recommendation shall be made through the appropriate state agency with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.

(i) Prepare, publish, and distribute (with or without charge) such reports, bulletins, newsletters or other material as it deems appropriate.

(j) Cooperate with the United States Department of Energy or any agency successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest.

(k) Act as licensee of the United States Government or any party state with respect to the conduct of any research activity requiring such license and operate such research facility or undertake any program pursuant thereto.

(l)(1) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of energy and environmental incidents in the area comprising the party states, to coordinate the environmental and other energy-related incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with energy and environmental incidents.

(2) The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with energy and environmental incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

ARTICLE VI--SUPPLEMENTARY AGREEMENTS

(a) To the extent that the Board has not undertaken any activity or project which would be within its power under the provisions of Article V of this compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify its purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing

and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate. No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary agreement or the activity or project contemplated thereby is inconsistent with the provisions of this compact or a program of activity conducted by or participated in by the Board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the Board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

ARTICLE VII--OTHER LAWS AND RELATIONSHIPS

Nothing in this compact shall be construed to:

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order, or ordinance of a party state or subdivision thereof now or hereafter made, enacted, or in force.

(b) Limit, diminish, or otherwise impair jurisdiction exercised by the United States Department of Energy, any agency successor thereto, or any other Federal department, agency, or officer pursuant to and in conformity with any valid and operative Act of Congress.

(c) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

(d) Permit or authorize the Board to exercise any regulatory authority or to own or operate any nuclear reactor for the generation of electric energy; nor shall the Board own or operate any facility or installation for industrial or commercial purposes.

ARTICLE VIII--ELIGIBLE PARTIES, ENTRY INTO FORCE AND WITHDRAWAL

(a) Any or all of the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi,

Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, any state contiguous to any of the foregoing states, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law; Provided, that it shall not become initially effective until enacted into law by seven states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall become effective until the governor of the withdrawing state shall have sent formal notice in writing to the governor of each other party state informing said governors of the action of the legislature in repealing the compact and declaring an intention to withdraw.

ARTICLE IX--SEVERABILITY AND CONSTRUCTION

The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence, or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 761.002. MEMBERS OF BOARD. (a) The governor, lieutenant governor, and speaker shall each make one appointment to the Southern States Energy Board.

(b) The lieutenant governor shall appoint a member of the senate.

(c) The speaker shall appoint a member of the house of representatives.

(d) A member serves at the pleasure of the officer who appointed the member.

(e) A member who is a member of the legislature or the head of a state department or agency may designate a subordinate officer or employee of the department, agency, or legislative house to serve instead of the member as permitted by Article II(a) of the compact and in conformity with the bylaws of the board.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 761.003. COORDINATION OF ENERGY ACTIVITIES. (a) Each board member shall assist in the coordination of energy activities in this state.

(b) A board member may assist in the orderly development of energy knowledge in this state.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 761.004. MEMBERSHIP DUES. Membership dues to the board shall be paid from appropriations made to the office of the governor.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 761.007. COOPERATION WITH BOARD. The departments, agencies, and officers of this state and its subdivisions may cooperate with the board in any of its activities.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

CHAPTER 763. AGREEMENTS BETWEEN BORDER MUNICIPALITIES

Sec. 763.001. DEFINITIONS. In this chapter:

(1) "Adjoining municipality" means a municipality in an adjoining state that is contiguous to a border municipality.

(2) "Border municipality" means a municipality in this state that borders the state line and that is separated from a municipality in an adjoining state only by the state line.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 763.002. AGREEMENT BETWEEN MUNICIPALITIES. A border municipality may agree with an adjoining municipality to:

(1) furnish to, or receive from, the adjoining municipality services or facilities;

(2) jointly or cooperatively furnish a governmental service or facility; or

(3) exercise any authority of the border municipality, to the extent that the adjoining municipality may cooperate or act jointly.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 763.003. TERMS OF AGREEMENT OR CONTRACT. (a) An agreement or contract authorized by this chapter must specify:

(1) the purpose and duration of the agreement or contract;

(2) the manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget for the undertaking;

(3) any financial arrangement under the agreement or contract in which one municipality agrees to furnish specified services or facilities to another municipality;

(4) the precise organization, composition, nature, and powers of any separate legal or administrative entity created under the agreement or contract;

(5) appropriate methods of enforcement;

(6) the method for terminating the agreement or contract, in whole or in part, and for disposing of property on termination; and

(7) any other necessary and proper matters.

(b) A separate legal or administrative entity may not be created under an agreement or contract authorized by this chapter if the creation of the entity violates any other law.

(c) If the agreement between the municipalities does not

establish a separate entity to conduct the joint or cooperative undertaking, the agreement must provide for:

(1) an administrator or joint board to administer the undertaking; and

(2) the manner of acquiring, holding, and disposing of any property used in the undertaking.

(d) If the agreement provides for a joint board, each municipality that is a party to the agreement must be represented.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 763.004. PERFORMANCE OF PUBLIC AGENCY OBLIGATION. (a) An agreement under this chapter does not relieve a public agency of any legal obligation.

(b) Actual and timely performance of a legal obligation of a public agency by an adjoining municipality or an entity created by an agreement or contract under this chapter may be offered in satisfaction of the obligation.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 763.005. FILING WITH COUNTY REQUIRED. An agreement under this chapter is not effective until a copy of the agreement is filed with the county clerk of the county in which the border municipality is located.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

CHAPTER 764. TRI-STATE CORRIDOR COMMISSION

Sec. 764.001. TRI-STATE CORRIDOR COMMISSION MEMBERSHIP. (a) The Tri-State Corridor Commission consists of 12 members.

(b) The political subdivisions in the area the commission serves shall jointly appoint nine voting members to the commission. The state highway departments of Texas, Arkansas, and Louisiana shall each appoint one nonvoting member to the commission.

(c) Members of the commission serve without compensation.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.12(a), eff. Aug. 30,

1993.

Sec. 764.002. POWERS AND DUTIES. (a) The commission shall make recommendations to the municipal, county, and state governments on the promotion of the economic, industrial, tourist, and highway development of the following area:

(1) Marion, Cass, and Bowie counties in Texas;

(2) Miller and Little River counties in Arkansas; and

(3) Caddo Parish in Louisiana.

(b) The commission may accept gifts or grants from any source to pay operating expenses of the commission.

(c) The commission has all powers necessary and may adopt rules to carry out the purposes of this chapter.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.12(a), eff. Aug. 30, 1993.

Sec. 764.003. APPLICABLE LAW. The commission is subject to the law of Texas, Arkansas, Louisiana, and the United States relating to open meetings and public records.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.12(a), eff. Aug. 30, 1993.

Sec. 764.004. APPROPRIATIONS. The legislature may not appropriate money to the commission.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.12(a), eff. Aug. 30, 1993.

CHAPTER 771. INTERAGENCY COOPERATION ACT

Sec. 771.001. SHORT TITLE. This chapter may be cited as the Interagency Cooperation Act.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 771.002. DEFINITIONS. In this chapter:

(1) "Agency" includes:

(A) a department, board, bureau, commission, court, office, authority, council, or institution of state government;

(B) a state university or college, a junior college district, or any service or part of a state institution of higher education;

(C) a local workforce development board created under Section 2308.253; and

(D) any statewide job or employment training program for disadvantaged youth that is substantially financed by federal funds and that was created by executive order not later than December 30, 1986.

(2) "Resources" means materials and equipment.

(3) "Services" means special or technical services, including the services of employees.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 4.11(a), eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 684, Sec. 53, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 1004, Sec. 3, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 564 (H.B. 1331), Sec. 1, eff. June 17, 2005.

Sec. 771.003. AUTHORITY TO CONTRACT; EXCEPTIONS. (a) An agency may agree or contract with another agency for the provision of necessary and authorized services and resources.

(b) An agency may not construct a highway, road, building, or other structure for another agency under this chapter, except that the Texas Department of Transportation may enter into an interagency agreement with a state college, university, or public junior college for the maintenance, improvement, relocation, or extension of existing on-campus streets, parking lots, and access-ways.

(c) An agency may not provide services or resources to another agency that are required by Article XVI, Section 21, of the Texas Constitution to be provided under a contract awarded to the lowest responsible bidder.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 4.11(b), eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 165, Sec. 22(40), eff. Sept. 1, 1995.
Amended by:
Acts 2005, 79th Leg., Ch. 564 (H.B. 1331), Sec. 2, eff. June 17, 2005.

Sec. 771.004. CONTRACT REQUIREMENTS; EXCEPTIONS. (a) Before an agency may provide or receive a service or resource under this chapter, the agency must have entered into a written agreement or contract that has been approved by the administrator of each agency that is a party to the agreement or contract.

(b) The agreement or contract must specify:

(1) the kind and amount of services or resources to be provided;

(2) the basis for computing reimbursable costs; and

(3) the maximum cost during the period of the agreement or contract.

(c) A written agreement or contract is not required:

(1) in an emergency for the defense or safety of the civil population or in the planning and preparation for those emergencies;

(2) in cooperative efforts, proposed by the governor, for the economic development of the state; or

(3) in a situation in which the amount involved is less than $50,000.

(d) In an interagency exchange that is exempt from the requirements of a written agreement or contract, the agencies involved shall document the exchange through informal letters of agreement or memoranda.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 4.11(b), eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 684, Sec. 54, 55, eff. Sept. 1, 1993.
Amended by:
Acts 2005, 79th Leg., Ch. 564 (H.B. 1331), Sec. 3, eff. June 17, 2005.

Sec. 771.006. PURCHASES AND SUBCONTRACTS OF SERVICES AND RESOURCES. A contract under this chapter may authorize an agency providing services and resources to subcontract and purchase the services and resources.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 4.11(b), eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 684, Sec. 56, eff. Sept. 1, 1993.

Sec. 771.007. REIMBURSEMENT AND ADVANCEMENT OF COSTS. (a) An agency that receives services or resources under this chapter shall reimburse each agency providing the services or resources the actual cost of providing the services or resources, or the nearest practicable estimate of that cost. Reimbursement is not required if the services or resources are provided:

(1) for national defense or disaster relief; or

(2) in cooperative efforts, proposed by the governor, to promote the economic development of the state.

(b) An agency that receives services or resources under this chapter may advance federal funds to an agency providing the services or resources if the agency receiving the services or resources determines that the advance would facilitate the implementation of a federally funded program.

(c) An agency that receives services or resources under this chapter may advance funds to the agency providing the services or resources if an advance is necessary to enable the providing agency to provide the services or resources. If an advance is made under this section, the agencies shall ensure after the services or resources are provided that the providing agency has received only sufficient funds to reimburse its total costs. An advance of funds is a reimbursement for the purpose of Section 771.008.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 4.11(b), eff. Aug. 30, 1993.
Amended by:

Acts 2005, 79th Leg., Ch. 564 (H.B. 1331), Sec. 4, eff. June 17, 2005.

Sec. 771.008. REIMBURSEMENT PROCEDURES. (a) An agency shall reimburse an agency for the services or resources provided with a voucher payable to the providing agency or electronically as prescribed by the uniform statewide accounting system. The voucher or electronic transfer must be drawn on the appropriation item or account of the receiving agency from which the agency would ordinarily make expenditures for similar services or resources. A receiving agency may authorize a providing agency to gain access to the receiving agency's appropriation items or accounts for reimbursements under this chapter.

(b) A reimbursement received by an agency for services or resources provided under this chapter shall be credited to the appropriation items or accounts from which the agency's expenditures for the services or resources were made.

(c) A payment for an intraagency transaction is accounted for in the same manner as an interagency transaction or an interdivisional transfer of money on the records of the agency, subject to the applicable provisions of the General Appropriations Act.

(d) This subsection applies only if the services or resources are provided under a written contract or agreement. The receiving agency shall reimburse the providing agency within 30 days after the date by which the services or resources are provided and an invoice is received. If the receiving agency does not accept the services or resources or finds an error in the invoice, it shall notify the providing agency of the fact in writing as soon as possible within the 30-day period and make payment within 10 days after the date the agencies agree the problems are corrected or the error resolved. If the agencies cannot agree on the amount of the reimbursement, the comptroller shall determine the appropriate amount. If the receiving agency does not, within the 30-day period, reimburse the providing agency or give the providing agency written notice of a problem or error, the comptroller on request of the providing agency may transfer from amounts appropriated to the receiving agency the appropriate amount in accordance with this section.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 4.11(b), eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 684, Sec. 68(b)(1), eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1499, Sec. 1.09, eff. Sept. 1, 1999.

Sec. 771.010. EXCEEDING AUTHORITY PROHIBITED. An agency may not enter into an agreement or contract that requires or permits the agency to exceed its duties and responsibilities or the limitations of its appropriated funds.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by:
Acts 2005, 79th Leg., Ch. 564 (H.B. 1331), Sec. 5, eff. June 17, 2005.

CHAPTER 772. GOVERNMENTAL PLANNING

SUBCHAPTER A. PLANNING ENTITIES

Sec. 772.001. PLANNING AS GOVERNMENTAL PURPOSE AND FUNCTION. Planning is a governmental purpose and function of the state and agencies and political subdivisions of the state.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 772.002. CHIEF PLANNING OFFICER. The governor is the chief planning officer of the state.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 772.003. INTERAGENCY PLANNING COUNCILS. (a) The governor shall appoint interagency planning councils in functional areas of government, including natural resources, health, education, and other areas that may require coordinated planning efforts.

(b) Each council shall coordinate joint planning efforts in its functional area.

(c) Each council is composed of:

(1) a member of the governor's office; and

(2) the administrative head of each state agency, department, or institution of higher education that is represented on that council.

(d) Two or more councils may participate jointly in studies that provide information common to their planning efforts.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 772.004. GOVERNOR'S DIVISION OF PLANNING COORDINATION. (a) The governor shall establish a division of planning coordination within the governor's office.

(b) The division shall coordinate the activities of the interagency planning councils.

(c) The division is the state clearinghouse for all state agency applications for federal grant or loan assistance.

(d) The division may provide for the review of and comment on:

(1) any state plan of a state agency that is required as a condition of federal assistance; and

(2) any application by a state agency for federal grant or loan assistance.

(e) The division shall establish policies and guidelines for an effective review and comment process under this section and cooperate with the Legislative Budget Board in developing the information requirements relating to the review and comment process.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 772.005. NOTIFICATION OF PLANNING COORDINATION DIVISION BY STATE AGENCY. A state agency shall notify the division of planning coordination of each application for federal grant or loan assistance before the agency submits the application.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 772.006. GOVERNOR'S CRIMINAL JUSTICE DIVISION. (a) The governor shall establish a criminal justice division in the governor's office to:

(1) advise and assist the governor in developing policies, plans, programs, and proposed legislation for improving the coordination, administration, and effectiveness of the criminal justice system;

(2) administer the criminal justice planning fund;

(3) prepare a state comprehensive criminal justice plan, to update the plan annually based on an analysis of the state's criminal

justice problems and needs, and to encourage identical or substantially similar local and regional comprehensive criminal justice planning efforts;

(4) establish goals, priorities, and standards for programs and projects to improve the administration of justice and the efficiency of law enforcement, the judicial system, prosecution, criminal defense, and adult and juvenile corrections and rehabilitation;

(5) award grants to state agencies, units of local government, school districts, and private, nonprofit corporations from the criminal justice planning fund for programs and projects on consideration of the goals, priorities, and standards recommended by the Criminal Justice Policy Council;

(6) apply for, obtain, and allocate for the purposes of this section any federal or other funds which may be made available for programs and projects that address the goals, priorities, and standards established in local and regional comprehensive criminal justice planning efforts or assist those efforts;

(7) administer the funds provided by this section in such a manner as to ensure that grants received under this section do not supplant state or local funds;

(8) monitor and evaluate programs and projects funded under this section, cooperate with and render technical assistance to state agencies and local governments seeking to reduce crime or enhance the performance and operation of the criminal justice system, and collect from any state or local government entity information, data, statistics, or other material necessary to carry out the purposes of this section;

(9) submit a biennial report to the legislature reporting the division's activities during the preceding biennium including the comprehensive state criminal justice plans and other studies, evaluations, crime data analyses, reports, or proposed legislation that the governor determines appropriate or the legislature requests; and

(10) perform other duties as necessary to carry out the duties listed in this subsection and adopt rules and procedures as necessary.

(b) The governor shall appoint a director for the division to serve at the pleasure of the governor.

(c) The criminal justice division and any project funded by the

division is subject to examination, inspection, and audit by the State Auditor's Office, the Legislative Budget Board, and the division of planning coordination to determine compliance with this section and the approved annual comprehensive criminal justice plans.

(d) The trafficking of persons investigation and prosecution account is created in the general revenue fund. The account is composed of legislative appropriations and other money required by law to be deposited in the account. Income from money in the account shall be credited to the account. Sections 403.095 and 404.071 do not apply to the account.

(e) The legislature may appropriate money from the trafficking of persons investigation and prosecution account created under Subsection (d) only to the criminal justice division for the purposes of this subsection. The division may use the appropriated money solely to distribute grants to qualified applicants, as determined by the division, that:

(1) have dedicated full-time or part-time personnel to identify, prevent, investigate, or prosecute offenses under Chapter 20A, Penal Code; or

(2) provide comprehensive services in this state to prevent the commission of offenses under Chapter 20A, Penal Code, or to address the needs of victims of those offenses, including public awareness activities, community outreach and training, victim identification services, legal services, and other services designed to assist victims.

(f) The total amount of grants that may be distributed under this section from the trafficking of persons investigation and prosecution account during each state fiscal year may not exceed $10 million.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 2001, 77th Leg., ch. 998, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1002 (H.B. 4009), Sec. 3, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. 2014), Sec. 3.04, eff. September 1, 2011.

Sec. 772.0061. SPECIALTY COURTS ADVISORY COUNCIL. (a) In this

section:

(1) "Council" means the Specialty Courts Advisory Council.

(2) "Specialty court" means:

(A) a commercially sexually exploited persons court program established under Chapter 126 or former law;

(B) a family drug court program established under Chapter 122 or former law;

(C) a drug court program established under Chapter 123 or former law;

(D) a veterans treatment court program established under Chapter 124 or former law;

(E) a mental health court program established under Chapter 125 or former law;

(F) a public safety employees treatment court program established under Chapter 129; and

(G) a juvenile family drug court program established under Chapter 130.

(b) The governor shall establish the Specialty Courts Advisory Council within the criminal justice division established under Section 772.006 to:

(1) evaluate applications for grant funding for specialty courts in this state and to make funding recommendations to the criminal justice division; and

(2) make recommendations to the Texas Judicial Council, the Office of Court Administration of the Texas Judicial System, and the criminal justice division regarding best practices for specialty courts established under Chapter 122, 123, 124, 125, 129, or 130, or former law.

(c) The council is composed of nine members appointed by the governor as follows:

(1) four members, each of whom has experience as the judge of at least one specialty court described by Subsection (a)(2); and

(2) five members who represent the public.

(d) The members appointed under Subsection (c)(5) must:

(1) reside in various geographic regions of the state; and

(2) have experience practicing law in a specialty court or possess knowledge and expertise in a field relating to behavioral or mental health issues or to substance abuse treatment.

(e) Members are appointed for staggered six-year terms, with the terms of three members expiring February 1 of each odd-numbered

year.

(f) A person may not be a member of the council if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the council.

(g) If a vacancy occurs on the council, the governor shall appoint a person to serve for the remainder of the unexpired term.

(h) The council shall select a presiding officer.

(i) The council shall meet at the call of its presiding officer or at the request of the governor.

(j) A member of the council may not receive compensation for service on the council. The member may receive reimbursement from the criminal justice division for actual and necessary expenses incurred in performing council functions as provided by Section 2110.004.

Added by Acts 2011, 82nd Leg., R.S., Ch. 287 (H.B. 1771), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.08, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 747 (S.B. 462), Sec. 1.09, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1167 (S.B. 484), Sec. 3, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 604 (S.B. 536), Sec. 3, eff. June 16, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1205 (S.B. 1474), Sec. 11, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 9.009, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 369 (H.B. 3391), Sec. 5, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 369 (H.B. 3391), Sec. 6, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 842 (H.B. 2741), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 842 (H.B. 2741), Sec. 2, eff. September 1, 2023.

Sec. 772.0062. CHILD SEX TRAFFICKING PREVENTION UNIT. (a) In this section:

(1) "Child sex trafficking" means conduct constituting an offense under Section 20A.02(a)(7) or (8), Penal Code, that is committed against a child.

(2) "Unit" means the Child Sex Trafficking Prevention Unit.

(b) The governor shall establish the Child Sex Trafficking Prevention Unit within the criminal justice division established under Section 772.006.

(c) The governor shall appoint a director for the unit to serve at the pleasure of the governor.

(d) The unit shall:

(1) assist the following agencies in leveraging and coordinating state resources directed toward child sex trafficking prevention:

(A) the office of the attorney general;

(B) the Health and Human Services Commission;

(C) the Department of Family and Protective Services;

(D) the Texas Juvenile Justice Department;

(E) the Department of State Health Services;

(F) the Texas Alcoholic Beverage Commission; and

(G) the Department of Public Safety;

(2) facilitate collaborative efforts among the agencies under Subdivision (1) to:

(A) prevent child sex trafficking;

(B) recover victims of child sex trafficking; and

(C) place victims of child sex trafficking in suitable short-term and long-term housing;

(3) collect and analyze research and information in all areas related to child sex trafficking, and distribute the research, information, and analyses to the agencies and to relevant nonprofit organizations;

(4) refer victims of child sex trafficking to available rehabilitation programs and other resources;

(5) provide support for child sex trafficking prosecutions; and

(6) develop recommendations for improving state efforts to prevent child sex trafficking, to be submitted to the legislature as part of the criminal justice division's biennial report required under Section 772.006(a)(9).

Added by Acts 2015, 84th Leg., R.S., Ch. 332 (H.B. 10), Sec. 11, eff. September 1, 2015.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 93 (S.B. 1527), Sec. 2.10, eff. September 1, 2023.

Sec. 772.0063. GOVERNOR'S PROGRAM FOR VICTIMS OF CHILD SEX TRAFFICKING. (a) The governor shall establish and implement a program to provide comprehensive, individualized services to address the rehabilitation and treatment needs of child victims of an offense under Section 20A.02(a)(7) or (8), Penal Code.

(b) The governor shall appoint a director of the program to serve at the pleasure of the governor.

(c) The director of the program shall coordinate with state and local law enforcement agencies, state agencies, and service providers to identify victims of child sex trafficking who are eligible to receive services under the program.

(d) For each victim of child sex trafficking identified by the director, the program shall immediately facilitate the assignment of a caseworker to the victim to coordinate with local service providers to create a customized package of services to fit the victim's immediate and long-term rehabilitation and treatment needs. Services provided under the program must address all aspects of the medical, psychiatric, psychological, safety, and housing needs of victims.

Added by Acts 2015, 84th Leg., R.S., Ch. 924 (H.B. 1446), Sec. 7, eff. September 1, 2015.

Sec. 772.0064. SEXUAL ASSAULT SURVIVORS' TASK FORCE. (a) In this section:

(1) "Sexual assault," "sexual assault nurse examiner," and "survivor" have the meanings assigned by Section 420.003.

(2) "Task force" means the Sexual Assault Survivors' Task Force.

(b) The governor shall establish the Sexual Assault Survivors' Task Force within the criminal justice division established under Section 772.006.

(c) The task force shall include a steering committee composed of the following members:

(1) the governor or the governor's designee;

(2) the president of the state sexual assault coalition, as defined by Section 420.003, or the president's designee; and

(3) the president of the statewide organization described by Section 264.409, Family Code, or the president's designee.

(d) The task force is composed of the following members:

(1) the governor or the governor's designee;

(2) a representative of each state agency that has duties relating to the prevention, investigation, or prosecution of sexual assault or other sex offenses or provides services to survivors, including:

(A) the office of the attorney general;

(B) the Health and Human Services Commission; and

(C) the Department of Family and Protective Services;

(3) the executive director of the Texas Commission on Law Enforcement or the executive director's designee;

(4) the presiding officer of the Texas Forensic Science Commission or the presiding officer's designee;

(5) the division director of the law enforcement support division of the Texas Department of Public Safety with authority over the Crime Laboratory Service or the division director's designee;

(6) the president of the Texas Association of Crime Laboratory Directors or the president's designee;

(7) the president of the Texas District and County Attorney's Association or the president's designee;

(8) the president of the International Association of Forensic Nurses Texas Chapter or the president's designee;

(9) the president of the statewide organization described by Section 264.409, Family Code, or the president's designee;

(10) the president of the state sexual assault coalition, as defined by Section 420.003, or the president's designee;

(11) a representative from a law enforcement agency appointed by the steering committee described by Subsection (c);

(12) a sexual assault nurse examiner appointed by the steering committee described by Subsection (c) to represent the interests of health care facilities that perform sexual assault forensic exams;

(13) an adult survivor of child sexual abuse or the parent

or guardian of a survivor of child sexual abuse;

(14) a survivor of adult sexual assault; and

(15) other members considered appropriate by the steering committee described by Subsection (c).

(e) An appointed member serves at the pleasure of the appointing official.

(f) The governor is the presiding officer of the task force.

(g) The task force shall meet at the call of the governor.

(h) The steering committee shall:

(1) create within the task force:

(A) a working group focusing on survivors who are children; and

(B) a working group focusing on survivors who are adults;

(2) ensure that the task force identifies systemic issues and solutions pertaining to survivors of all ages;

(3) ensure that the task force does not unnecessarily duplicate existing standards, information, and protocol in preventing, investigating, prosecuting, and responding to sexual assault and other sex offenses; and

(4) review and approve all task force reports, recommendations, resources, protocols, advice, and other information before release.

(i) The task force shall:

(1) develop policy recommendations to allow the state to:

(A) effectively coordinate funding for services to child and adult survivors; and

(B) better prevent, investigate, and prosecute incidents of sexual assault and other sex offenses;

(2) facilitate communication and cooperation between state agencies that have duties relating to the prevention, investigation, or prosecution of sexual assault or other sex offenses or services provided to survivors in order to identify and coordinate state resources available for assisting survivors;

(3) collect, analyze, and make publicly available information, organized by region, regarding the prevention, investigation, and prosecution of sexual assault and other sex offenses and services provided to survivors, including a list of SAFE-ready facilities designated under Section 323.0015, Health and Safety Code;

(4) make and periodically update recommendations regarding the collection, preservation, tracking, analysis, and destruction of evidence in cases of sexual assault or other sex offenses, including recommendations:

(A) to the attorney general regarding:

(i) evidence collection kits for use in the collection and preservation of evidence of sexual assault or other sex offenses;

(ii) protocols for the collection and preservation of evidence of sexual assault or other sex offenses;

(iii) the curriculum for training programs on collecting and preserving evidence of sexual assault and other sex offenses; and

(iv) the requirements for certification of sexual assault nurse examiners; and

(B) to other appropriate individuals or organizations, regarding:

(i) the procedures for obtaining patient authorization for forensic medical examinations of child and adult survivors under Subchapters F and G, Chapter 56A, Code of Criminal Procedure;

(ii) the requirements for maintaining an appropriate evidentiary chain of custody;

(iii) the identification and reporting of untested evidence throughout the state; and

(iv) standards for the submission of evidence to forensic laboratories for analysis, including procedures for submitting evidence in cases for which no evidence has been previously submitted or tested;

(5) advise and provide resources to the Texas Commission on Law Enforcement and other law enforcement organizations to improve law enforcement officer training related to the investigation and documentation of cases involving sexual assault and other sex offenses, with a focus on the interactions between law enforcement officers and survivors;

(6) provide to law enforcement agencies, prosecutors, and judges with jurisdiction over sexual assault or other sex offense cases information and resources to maximize effective and empathetic investigation, prosecution, and hearings, including information and resources:

(A) regarding trauma-informed practices and the dynamics and effects of sexual assault and other sex offenses on child and adult survivors;

(B) intended to improve the understanding of and the response to sexual assault or other sex offenses;

(C) regarding best practices in the investigation and prosecution of sexual assault or other sex offenses; and

(D) for judges regarding common issues in the criminal trials of sexual assault and other sex offenses;

(7) biennially contract for a survey of the resources provided to survivors by nonprofit organizations, health care facilities, institutions of higher education, sexual assault response teams, and other governmental entities in each region of the state;

(8) make recommendations as necessary to improve the collecting and reporting of data on the investigation and prosecution of sexual assault and other sex offenses; and

(9) develop a statewide standard for best practices in the funding and provision of services to survivors by nonprofit organizations, health care facilities, institutions of higher education, sexual assault response teams, and other governmental entities.

(j) Not later than November 1 of each even-numbered year, the task force shall analyze the data from the survey performed under Subsection (i), prepare a report, or contract with a private entity for the preparation of a report, and submit to the legislature the report, which must include:

(1) a description of the resources provided to child and adult survivors by nonprofit organizations, health care facilities, institutions of higher education, sexual assault response teams, and governmental entities in each region of the state;

(2) a description of the differences between the resources provided to both child and adult survivors and the statewide standard, comparable by region and by year;

(3) recommendations on measures the state and each region could take to better comply with the statewide standard;

(4) a description of potential sources and mechanisms of funding available to implement the recommendations; and

(5) recommendations for accomplishing policy goals.

(k) To the extent possible, all recommendations, standards, and resource information provided by the task force must be evidence-

based and consistent with standards of practice and care in this state and throughout the country.

(l) The task force shall use any available federal or state funding for the purposes of this section.

(m) Chapter 2110 does not apply to the composition or duration of the task force or to the designation of the task force's presiding officer.

(n) A task force member who is not employed by a state agency or an individual invited by the governor to participate in scheduled task force meetings is entitled to:

(1) a per diem in the amount provided by the General Appropriations Act for each day the member performs duties as a task force member or the individual attends a task force meeting; and

(2) reimbursement for actual and necessary expenses incurred in performing duties as a member or participant of the task force, as applicable.

Added by Acts 2019, 86th Leg., R.S., Ch. 411 (H.B. 1590), Sec. 3, eff. June 4, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.013, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 460 (S.B. 1402), Sec. 1, eff. September 1, 2023.

Sec. 772.007. TEXAS ANTI-GANG GRANT PROGRAM. (a) The criminal justice division established under Section 772.006 shall administer a competitive grant program to support regional, multidisciplinary approaches to combat gang violence through the coordination of gang prevention, intervention, and suppression activities.

(b) The grant program administered under this section must be directed toward regions of this state that have demonstrably high levels of gang violence.

(c) The criminal justice division shall award grants to qualified applicants, as determined by the division, that demonstrate a comprehensive approach that balances gang prevention, intervention, and suppression activities to reduce gang violence.

(d) The criminal justice division shall include in the biennial report required by Section 772.006(a)(9) detailed reporting of the

results and performance of the grant program administered under this section.

(e) The criminal justice division may use any revenue available for purposes of this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. 2086), Sec. 42, eff. September 1, 2009.
Reenacted by Acts 2015, 84th Leg., R.S., Ch. 333 (H.B. 11), Sec. 12, eff. September 1, 2015.

Sec. 772.0071. PROSECUTION OF BORDER CRIME GRANT PROGRAM. (a) In this section:

(1) "Border crime" means any crime involving transnational criminal activity that undermines public safety or security, including an offense:

(A) during the prosecution of which an affirmative finding may be requested under Article 42A.054(c) or (d), Code of Criminal Procedure;

(B) under Chapter 19, 20, 20A, 21, 22, 46, 47, or 71, Penal Code;

(C) under Title 7 or 8, Penal Code;

(D) under Chapter 481, Health and Safety Code;

(E) committed by a person who is not a citizen or national of the United States and is not lawfully present in the United States; or

(F) that is coordinated with or related to activities or crimes that occur or are committed in the United Mexican States.

(2) "Border region" means the portion of this state that is located in a county that:

(A) is adjacent to an international border;

(B) is adjacent to a county described by Paragraph (A); or

(C) is served by a prosecuting attorney whose jurisdiction includes a county described by Paragraph (A) or (B).

(3) "Criminal justice division" means the criminal justice division established under Section 772.006.

(4) "Eligible prosecuting attorney" means an attorney who represents the state in the prosecution of felonies and who:

(A) serves a county located in the border region; or

(B) serves a county or counties that the criminal justice division determines to be significantly affected by border crime.

(b) The criminal justice division shall establish and administer a grant program through which an eligible prosecuting attorney or the attorney's office may apply for a grant to support the prosecution of border crime in a county or counties under the jurisdiction of the attorney.

(c) The criminal justice division shall establish:

(1) additional eligibility criteria for grant applicants;

(2) grant application procedures;

(3) guidelines relating to grant amounts;

(4) procedures for evaluating grant applications; and

(5) procedures for monitoring the use of a grant awarded under the program and ensuring compliance with any conditions of a grant.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 334 , Sec. 4, eff. September 1, 2015.

(e) The criminal justice division shall include in the biennial report required by Section 772.006(a)(9) a detailed reporting of the results and performance of the grant program administered under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1106 (S.B. 1649), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 334 (H.B. 12), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 334 (H.B. 12), Sec. 4, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.61, eff. January 1, 2017.

Sec. 772.00715. EVIDENCE TESTING GRANT PROGRAM. (a) In this section:

(1) "Accredited crime laboratory" has the meaning assigned by Section 420.003.

(2) "Criminal justice division" means the criminal justice division established under Section 772.006.

(3) "Grant program" means the evidence testing grant program established under this section.

(4) "Law enforcement agency" means:

(A) the police department of a municipality;

(B) the sheriff's office of a county; or

(C) a constable's office of a county.

(b) The criminal justice division shall establish and administer a grant program and shall disburse funds to assist law enforcement agencies or counties in testing evidence collected in relation to a sexual assault or other sex offense.

(c) Grant funds may be used only for the testing by an accredited crime laboratory of evidence that was collected in relation to a sexual assault or other sex offense.

(d) The criminal justice division:

(1) may establish additional eligibility criteria for grant applicants; and

(2) shall establish:

(A) grant application procedures;

(B) guidelines relating to grant amounts; and

(C) criteria for evaluating grant applications.

(e) The criminal justice division shall include in the biennial report required by Section 772.006(a)(9) detailed reporting of the results and performance of the grant program.

Added by Acts 2017, 85th Leg., R.S., Ch. 265 (H.B. 1729), Sec. 3, eff. September 1, 2017.
Added by Acts 2017, 85th Leg., R.S., Ch. 1109 (H.B. 4102), Sec. 3, eff. September 1, 2017.

Sec. 772.00716. EVIDENCE TESTING ACCOUNT. (a) The evidence testing account is created as a dedicated account in the general revenue fund of the state treasury.

(b) Money in the account may be appropriated only to the criminal justice division established under Section 772.006 for purposes of the evidence testing grant program established under Section 772.00715.

(c) Funds distributed under Section 772.00715 are subject to audit by the comptroller.

Added by Acts 2017, 85th Leg., R.S., Ch. 265 (H.B. 1729), Sec. 3, eff.

September 1, 2017.
Added by Acts 2017, 85th Leg., R.S., Ch. 1109 (H.B. 4102), Sec. 3, eff. September 1, 2017.

Sec. 772.0072. MISSING OR EXPLOITED CHILDREN PREVENTION GRANTS. (a) In this section, "nonprofit organization" means an organization exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code.

(b) This section applies to a nonprofit organization that is formed to offer programs and provide information to parents or other legal custodians, children, schools, public officials, organizations serving youths, nonprofit organizations, and the general public concerning child safety and Internet safety and the prevention of child abductions and child sexual exploitation.

(c) The criminal justice division established under Section 772.006 may award a grant to a nonprofit organization described by Subsection (b) that is operating in this state to provide programs and information described by that subsection to assist the Department of Public Safety in the performance of its duties related to missing or exploited children, including any duty related to the missing children and missing persons information clearinghouse under Chapter 63, Code of Criminal Procedure.

Added by Acts 2013, 83rd Leg., R.S., Ch. 571 (S.B. 742), Sec. 8, eff. September 1, 2013.
Transferred, redesignated and amended from Government Code, Section 411.0133 by Acts 2015, 84th Leg., R.S., Ch. 745 (H.B. 1793), Sec. 4, eff. September 1, 2015.

Sec. 772.0073. PEACE OFFICER MENTAL HEALTH GRANT PROGRAM. (a) In this section:

(1) "Law enforcement agency" means an agency of the state or an agency of a political subdivision of the state authorized by law to employ peace officers.

(2) "Criminal justice division" means the criminal justice division established under Section 772.006.

(b) The criminal justice division shall establish and

administer a grant program through which a law enforcement agency may apply for a grant to implement programs, practices, and services designed to address the direct or indirect emotional harm suffered by peace officers employed by the law enforcement agency in the course of the officers' duties or as the result of the commission of crimes by other persons.

(c) Grant money awarded under this section may be used to pay for:

(1) mental health counseling and other mental health care;

(2) personnel costs incurred by the department as a result of providing direct services and supporting activities under an implemented program, practice, or service;

(3) skills training for department personnel related to providing direct services under an implemented program, practice, or service; and

(4) evaluation of an implemented program, practice, or service to determine its effectiveness.

(d) Information obtained in the administration of a program, practice, or service funded by a grant made under this section is confidential and is not subject to disclosure under Chapter 552.

(e) A law enforcement agency may not use against a peace officer in a departmental proceeding any information obtained in the administration of a program, practice, or service funded by a grant made under this section.

(f) The criminal justice division shall establish:

(1) eligibility criteria for grant applicants;

(2) grant application procedures;

(3) guidelines relating to grant amounts;

(4) procedures for evaluating grant applications; and

(5) procedures for monitoring the use of a grant awarded under the program and ensuring compliance with any conditions of a grant.

(g) The criminal justice division shall evaluate and compare the programs, practices, and services implemented by each law enforcement agency that receives a grant under this section to determine the most successful programs, practices, and services for maintaining the mental health of peace officers.

(h) The criminal justice division may contract with a third party to conduct the evaluations and comparison described by Subsection (g).

(i) The criminal justice division shall include in the biennial report required by Section 772.006(a)(9) a detailed reporting of the results and performance of the grant program administered under this section.

(j) The criminal justice division may use any available funds to implement this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 488 (H.B. 2619), Sec. 1, eff. September 1, 2017.

Sec. 772.0074. CRITICAL INCIDENT STRESS DEBRIEFING GRANT PROGRAM. (a) In this section:

(1) "Criminal justice division" means the criminal justice division established under Section 772.006.

(2) "Critical incident" means an incident involving a peace officer that occurs while the officer is performing official duties and that results in serious bodily injury to the officer or poses a substantial risk of serious bodily injury or death to the officer or of serious harm to the officer's mental health or well-being.

(3) "Law enforcement agency" means an agency of the state or an agency of a political subdivision of the state that is authorized by law to employ peace officers.

(4) "Peace officer" has the meaning assigned by Article 2A.001, Code of Criminal Procedure.

(b) The criminal justice division shall establish and administer a grant program to assist law enforcement agencies in providing critical incident stress debriefing to peace officers who experience critical incidents while performing official duties.

(c) The criminal justice division may award a grant under this section to:

(1) a law enforcement agency for the agency to provide critical incident stress debriefing to peace officers employed by the agency; or

(2) any other agency, organization with a focus on mental health or trauma-related issues, or university with relevant expertise and experience to assist in providing support for the grant program, including support related to the development, implementation, management, or evaluation of the grant program, as determined necessary by the division.

(d) A law enforcement agency that receives a grant under this section must:

(1) inform each peace officer employed by the agency about:

(A) the program, including opportunities to participate in the program; and

(B) if the officer participates in the program, the confidentiality protections described by Subsection (e); and

(2) certify in writing that the agency will not use disciplinary action or any other form of punishment, including the refusal of a promotion, to discourage or prohibit an officer's participation in the critical incident stress debriefing offered by the agency.

(e) Critical incident stress debriefing provided using money distributed under the grant program is subject to the confidentiality protections provided under Section 784.003, Health and Safety Code.

(f) The criminal justice division shall establish:

(1) eligibility criteria for grant applicants;

(2) grant application procedures;

(3) procedures for evaluating grant applications;

(4) the minimum qualifications necessary for a person to conduct critical incident stress debriefing that is provided using money distributed under the grant program; and

(5) guidance for the development of critical incident stress debriefing curricula, materials, and best practices.

(g) The criminal justice division shall include in the biennial report required by Section 772.006(a)(9) a detailed reporting of the results and performance of the grant program administered under this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 488 (H.B. 2619), Sec. 2, eff. September 1, 2017.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.117, eff. January 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1858, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 772.0075. BULLETPROOF VEST AND BODY ARMOR GRANT PROGRAM.

(a) In this section, "criminal justice division" means the criminal justice division established under Section 772.006.

(b) The criminal justice division shall establish and administer a grant program to provide financial assistance to a law enforcement agency in this state that seeks to equip its peace officers with bulletproof vests, ballistic plates, and plate carriers.

(c) A vest or plate purchased with a grant received under this section must comply with a National Institute of Justice standard for rifle protection.

(d) A law enforcement agency may apply for a grant under this section only if the agency first adopts a policy addressing the:

(1) deployment and allocation of vests or plates to its officers; and

(2) usage of vests or plates by its officers.

(e) A law enforcement agency receiving a grant under this section must, as soon as practicable after receiving the grant, provide to the criminal justice division proof of purchase of bulletproof vests, ballistic plates, and plate carriers, including the price of each item and the number of each type of item purchased.

(f) Not later than December 1 of each year, the criminal justice division shall submit to the Legislative Budget Board a report that provides the following information for the preceding state fiscal year:

(1) the name of each law enforcement agency that applied for a grant under this section;

(2) the amount of money distributed to each law enforcement agency that received a grant under this section; and

(3) as reported under Subsection (e), the number of vests, plates, and carriers purchased by each agency described by Subdivision (2).

(g) The criminal justice division may use any revenue available for purposes of this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 188 (S.B. 12), Sec. 1, eff. May 27, 2017.
Redesignated from Government Code, Section 772.0073 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(30), eff. September 1, 2019.

Sec. 772.0076. ENFORCEMENT OF IMMIGRATION LAW GRANT PROGRAM. (a) In this section:

(1) "Criminal justice division" means the criminal justice division established under Section 772.006.

(2) "Immigration detainer request" means a federal government request to a local entity to maintain temporary custody of an alien, including a United States Department of Homeland Security Form I-247 document or a similar or successor form.

(3) "Immigration laws" means the laws of this state or federal law relating to aliens, immigrants, or immigration, including the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.).

(4) "Local entity" means a municipality or county.

(b) The criminal justice division shall establish and administer a competitive grant program to provide financial assistance to local entities to offset costs related to:

(1) enforcing immigration laws; or

(2) complying with, honoring, or fulfilling immigration detainer requests.

(c) The criminal justice division shall establish:

(1) eligibility criteria for grant applicants;

(2) grant application procedures;

(3) criteria for evaluating grant applications and awarding grants;

(4) guidelines related to grant amounts; and

(5) procedures for monitoring the use of a grant awarded under this section and ensuring compliance with any conditions of the grant.

(d) The criminal justice division may use any revenue available for purposes of this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. 4), Sec. 1.02, eff. September 1, 2017.
Redesignated from Government Code, Section 772.0073 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(31), eff. September 1, 2019.

Sec. 772.0077. GRANT PROGRAM FOR MONITORING DEFENDANTS AND VICTIMS IN FAMILY VIOLENCE CASES. (a) In this section:

(1) "Criminal justice division" means the criminal justice division established under Section 772.006.

(2) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(b) The criminal justice division shall establish and administer a grant program to reimburse counties for all or part of the costs incurred by counties as a result of monitoring in cases involving family violence defendants and victims who participate in a global positioning monitoring system under Article 17.292 or 17.49, Code of Criminal Procedure. A grant recipient may use funds from a grant awarded under the program only for monitoring conducted for the purpose of restoring a measure of security and safety for a victim of family violence.

(c) The criminal justice division shall establish:

(1) additional eligibility criteria for grant applicants;

(2) grant application procedures;

(3) guidelines relating to grant amounts;

(4) procedures for evaluating grant applications; and

(5) procedures for monitoring the use of a grant awarded under the program and ensuring compliance with any conditions of a grant.

(d) The criminal justice division shall include in the biennial report required by Section 772.006(a)(9) a detailed reporting of the results and performance of the grant program administered under this section.

(e) The criminal justice division may use any revenue available for purposes of this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 675 (H.B. 1906), Sec. 1, eff. June 15, 2021.

Sec. 772.0078. OPIOID ANTAGONIST GRANT PROGRAM. (a) In this section:

(1) "Criminal justice division" means the criminal justice division established under Section 772.006.

(2) "Opioid antagonist" and "opioid-related drug overdose" have the meanings assigned by Section 483.101, Health and Safety Code.

(b) The criminal justice division shall establish and

administer a grant program to provide financial assistance to a law enforcement agency in this state that seeks to provide opioid antagonists to peace officers, evidence technicians, and related personnel who, in the course of performing their duties, are likely to come into contact with opioids or encounter persons suffering from an apparent opioid-related drug overdose.

(c) A law enforcement agency may apply for a grant under this section only if the agency first adopts a policy addressing the usage of an opioid antagonist for a person suffering from an apparent opioid-related drug overdose.

(d) In an application for a grant under this section, the law enforcement agency shall provide information to the criminal justice division about the frequency and nature of:

(1) interactions between peace officers and persons suffering from an apparent opioid-related drug overdose;

(2) calls for assistance based on an apparent opioid-related drug overdose; and

(3) any exposure of peace officers, evidence technicians, or related personnel to opioids or suspected opioids in the course of performing their duties and any reactions by those persons to those substances.

(e) A law enforcement agency receiving a grant under this section shall, as soon as practicable after receiving the grant, provide to the criminal justice division proof of purchase of the opioid antagonists.

(f) The criminal justice division may use any money available for purposes of this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 579 (S.B. 340), Sec. 1, eff. June 10, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 1167 (H.B. 3285), Sec. 4, eff. September 1, 2019.

Sec. 772.0079. GRANT PROGRAM FOR CRIME VICTIM NOTIFICATION SYSTEMS. (a) In this section:

(1) "Criminal justice division" means the criminal justice division established under Section 772.006.

(2) "Law enforcement agency" means an agency of the state or an agency of a political subdivision of the state authorized by

law to employ peace officers.

(3) "Victim" means a person who has suffered personal injury or death as a result of the criminal conduct of another.

(b) The criminal justice division shall establish and administer a grant program to provide financial assistance to a law enforcement agency for purposes of purchasing or developing a crime victim notification system.

(c) The criminal justice division shall establish:

(1) eligibility criteria for grant applicants;

(2) grant application procedures;

(3) criteria for evaluating grant applications and awarding grants;

(4) guidelines related to grant amounts; and

(5) procedures for monitoring the use of a grant awarded under this section and ensuring compliance with any conditions of the grant.

(d) A crime victim notification system for which a law enforcement agency seeks a grant under this section must:

(1) notify a victim or relative of a deceased victim by e-mail or text message of all of the following regarding a victim's case:

(A) the date on which the incident report is created;

(B) the case number;

(C) the names of investigators who are assigned to the case;

(D) the date:

(i) an arrest is made; and

(ii) an affidavit alleging probable cause is presented to the attorney representing the state; and

(E) any other information relevant to the case;

(2) interface with the law enforcement agency's system of records;

(3) provide configurable triggers to directly send messages;

(4) provide the capability:

(A) to attach informational brochures or other electronic attachments to the messages; and

(B) for a person to check the status of the case with the law enforcement agency;

(5) monitor the number and types of messages sent and

enable the law enforcement agency to visualize that data; and

(6) provide a survey tool so the law enforcement agency can solicit feedback on victims services.

(e) Information in the crime victim notification system is confidential and not subject to disclosure under Chapter 552.

(f) The criminal justice division may use any available revenue for purposes of this section.

(g) As a condition of receiving a grant under this section, a law enforcement agency shall periodically report to the criminal justice division the number and types of notifications sent using the crime victim notification system.

(h) Not later than December 30 of each year, the criminal justice division shall compile the information described by Subsection (g) into a written report provided to the legislature.

Added by Acts 2023, 88th Leg., R.S., Ch. 212 (S.B. 2085), Sec. 1, eff. September 1, 2023.

Sec. 772.008. PLANNING ASSISTANCE FOR POLITICAL SUBDIVISIONS. (a) The governor may, on request of the governing body of a political subdivision or the authorized agency of a group of political subdivisions:

(1) arrange planning assistance, including surveys, community renewal plans, technical services, and other planning; and

(2) arrange for a study or report on a planning problem submitted to the governor.

(b) The governor and the governing body may agree on the amount, if any, to be paid to the governor's office for planning services.

(c) The governor may apply for and accept grants from, and contract with, the federal government or other sources for any planning assistance, study, or report under this section.

(d) The governor may use the regular functions of the office of the governor or another state agency in providing planning assistance under this section.

(e) The governor may exercise powers under this section through a designated representative.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.13(a), eff. Aug. 30, 1993.

Sec. 772.009. GRANT ASSISTANCE. (a) The director of the Governor's Office of Budget and Planning shall establish a state grant writing team. The grant writing team shall:

(1) develop a plan for increased state access to available federal funds;

(2) coordinate with state agencies to develop a plan for the use of federal grant funds;

(3) monitor the federal register, the Texas Register, and other federal or state publications to identify federal and state funding opportunities, with special emphasis on discretionary grants or other funding opportunities that the state is not pursuing;

(4) develop procedures to formally notify appropriate state and local agencies of the availability of discretionary federal funds and coordinate the application process; and

(5) periodically review the funding strategies and methods of those states that rank significantly above the national average in the per capita receipt of federal funds to determine whether those strategies and methods could be successfully employed by this state.

(b) The grant writing team may:

(1) establish a clearinghouse of information relating to the availability of state, federal, and private grants;

(2) establish an automated information system database for grant information and make it available for use by state agencies and political subdivisions;

(3) provide counseling to state agencies, political subdivisions of the state, nonprofit charitable institutions, educational institutions, and residents of the state concerning the availability and means of obtaining state, federal, and private grants;

(4) provide grant writing assistance and training to state agencies, political subdivisions of the state, individuals, and other entities either directly or through interagency contracts, cooperative agreements, or contracts with third-party providers;

(5) publicize the services and activities of the grant writing team through chambers of commerce, councils of government, department newsletters, local governments, state agencies, institutions of higher education, business organizations, private philanthropic organizations, and other appropriate entities and

methods;

(6) establish and maintain a database of state agencies designated under state and federal law to receive federal categorical and block grant funds; and

(7) analyze the criteria for grants for which state agencies are denied access because of state law or rules or agency organization and suggest changes in agency rules or organization that would increase the probability of the agency's receiving federal or other grants.

(c) When appropriate, the grant writing team shall charge and collect fees from a person who uses the grant writing team's services. The fee shall be set in an amount necessary to cover all or a part of the costs of the services.

(d) The grant writing team shall monitor and identify federal grants that are available to state and local criminal justice agencies and assist the agencies in applying for and obtaining those grants.

(e) The grant writing team may initiate negotiations for and enter into a memorandum of understanding with other state agencies to cooperate with the grant writing team in providing:

(1) information on federal and state funding opportunities;

(2) technical assistance; or

(3) assistance in writing grant proposals for political subdivisions of the state, nonprofit charitable institutions, educational institutions, and residents of the state.

(f) Each state agency shall designate an employee on the management or senior staff level to serve as the agency's federal funds coordinator. An agency may not create a staff position for a federal funds coordinator. The coordinator's duties are additional duties of an employee of the agency. Each federal funds coordinator shall:

(1) oversee and coordinate the agency's efforts in acquiring discretionary federal funds;

(2) send the grant writing team an annual report listing the grants for which the agency has applied and the catalogue of federal domestic assistance number and giving a short description of the grant; and

(3) notify the grant writing team of an award or denial of a federal grant to the agency.

(g) Each state agency other than an institution of higher

education shall file an annual report with the grant writing team concerning the agency's efforts to acquire available discretionary federal funds during the preceding state fiscal year. The grant writing team shall establish guidelines for information included in the annual report required by this subsection.

(g-1) The grant writing team shall:

(1) evaluate the effectiveness of each agency in acquiring discretionary federal funds during the preceding state fiscal year;

(2) report the findings of the evaluation to the governor and the Legislative Budget Board; and

(3) publish the report on the office of the governor's Internet website.

(h) After reviewing the reports under Subsection (g), if the governor or Legislative Budget Board determines that an agency's efforts were unsatisfactory, either entity may, without a finding of an existing emergency, take action under Chapter 317 to affect the agency's appropriation.

(i) In this section:

(1) "Earned federal funds" means funds that are received or earned in connection with a federally funded program but that are not required by the governing agreement to be distributed on that program. The term includes indirect cost receipts and interest earned on advances of federal funds.

(2) "Federal funds" means all assistance provided or potentially available to state agencies from the federal government in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, direct appropriations, or any other method of disbursement.

(3) "Indirect costs" means costs, as defined by Federal Management Circular A-87 or subsequent revisions of that circular, that are incurred by state agencies in support of federally funded programs and that are eligible for reimbursement from the federal government.

(4) "Local governmental entity" means a county, municipality, special purpose district, including a school district, or any other political subdivision of this state.

Added by Acts 1995, 74th Leg., ch. 306, Sec. 15, eff. Sept. 1, 1995.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 43, eff.

September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1203 (S.B. 1455), Sec. 11, eff. September 1, 2015.

Sec. 772.010. BORDER COMMERCE COORDINATOR. (a) The governor shall designate a border commerce coordinator in the governor's office or the office of the secretary of state as determined by the governor. The coordinator shall:

(1) examine trade issues between the United States, Mexico, and Canada;

(2) act as an ombudsman for government agencies within the Texas and Mexico border region to help reduce regulations by improving communication and cooperation between federal, state, and local governments;

(3) work with federal officials to resolve transportation issues involving infrastructure, including roads and bridges, to allow for the efficient movement of goods and people across the border between Texas and Mexico;

(4) work with federal officials to create a unified federal agency process to streamline border crossing needs;

(5) work to increase funding for the North American Development Bank to assist in the financing of water and wastewater facilities;

(6) explore the sale of excess electric power from Texas to Mexico;

(7) study the flow of commerce at ports of entry between this state and Mexico, including the movement of commercial vehicles across the border, and establish a plan to aid that commerce and improve the movement of those vehicles;

(8) work to identify problems associated with border truck inspections and related trade and transportation infrastructure and develop recommendations for addressing those problems;

(9) work with the appropriate state and federal agencies to develop initiatives to mitigate congestion at ports of entry; and

(10) develop recommendations designed to:

(A) increase trade by attracting new business ventures;

(B) support expansion of existing and new industries; and

(C) address workforce training needs.

(b) The governor shall appoint a border commerce coordinator to serve at the will of the governor in the governor's office or in the office of the secretary of state and may select the secretary of state as the coordinator.

(c) The coordinator shall work with the interagency work group established under Section 772.011, with local governments, metropolitan planning organizations, and other appropriate community organizations adjacent to the border of this state with Mexico, and with comparable entities in Mexican states adjacent to that border to address the unique planning and capacity needs of those areas. The coordinator shall assist those governments, organizations, and entities to identify and develop initiatives to address those needs. Before January 1 of each year, the coordinator shall submit to the presiding officer of each house of the legislature a report of the coordinator's activities under this subsection during the preceding year.

(d) The coordinator shall:

(1) work with private industry and appropriate entities of Texas and the United States to require that low-sulfur fuel be sold along highways in Texas carrying increased traffic related to activities under the North American Free Trade Agreement; and

(2) work with representatives of the government of Mexico and the governments of Mexican states bordering Texas to increase the use of low-sulfur fuel.

(e) The coordinator shall appoint a border mayor task force, to be named the Texas Good Neighbor Committee, consisting of the mayors from every municipality located in this state along the border between Texas and Mexico that has an adjoining sister city in Mexico. The task force shall:

(1) advise the coordinator on key trade, security, and transportation-related issues important to the municipalities appointed to the task force;

(2) hold quarterly meetings with mayors from Mexico to:

(A) increase:

(i) cooperation;

(ii) communication; and

(iii) the flow of information;

(B) identify problems; and

(C) recommend solutions;

(3) seek assistance and input from private sector

stakeholders involved in commerce to identify issues to address; and

(4) provide recommendations to assist the coordinator in carrying out the coordinator's statutory duties.

Added by Acts 1999, 76th Leg., ch. 429, Sec. 1, eff. Sept. 1, 1999.
Added by Acts 1999, 76th Leg., ch. 1339, Sec. 1, eff. June 19, 1999.
Reenacted and amended by Acts 2005, 79th Leg., Ch. 1215 (H.B. 925), Sec. 3(a), eff. September 1, 2005.
Reenacted and amended by Acts 2015, 84th Leg., R.S., Ch. 429 (S.B. 1389), Sec. 1, eff. September 1, 2015.

Text of section effective if a specific appropriation is provided in the General Appropriations Act (S.B. 1, 79R)

Sec. 772.0101. BORDER INSPECTION, TRADE, AND TRANSPORTATION ADVISORY COMMITTEE. (a) The border commerce coordinator shall establish and appoint the members of the Border Inspection, Trade, and Transportation Advisory Committee. The members must include representatives of the Texas Department of Transportation, the Department of Public Safety of the State of Texas, the Office of State-Federal Relations, the United States Department of Transportation, the Federal Motor Carrier Safety Administration, and other representatives of state and federal agencies involved in border crossing issues. Chapter 2110 does not apply to the size, composition, or duration of the Border Inspection, Trade, and Transportation Advisory Committee.

(b) The coordinator shall work with the advisory committee and the interagency work group established under Section 772.011 to:

(1) identify problems involved with border truck inspections and related trade and transportation infrastructure; and

(2) develop recommendations for addressing those problems.

(c) The coordinator shall work with the advisory committee and appropriate agencies of Texas, the United States, and Mexico to develop initiatives to mitigate congestion at ports of entry at the Mexican border by conducting in Mexico inspections of trucks entering Texas. In developing the initiatives, the coordinator shall give consideration to similar initiatives proposed or implemented at the border of the United States and Canada.

(d) The coordinator shall report quarterly to the presiding officer of each house of the legislature on the findings and

recommendations of the advisory committee.

Added by Acts 2005, 79th Leg., Ch. 1215 (H.B. 925), Sec. 3(b), eff. September 1, 2005.

Text of section effective if a specific appropriation is provided in the General Appropriations Act (S.B. 1, 79R)

Sec. 772.0102. TRADE AND COMMERCE PLAN. (a) The border commerce coordinator shall develop, in conjunction with representatives of chambers of commerce, metropolitan planning organizations adjacent to the United Mexican States, and private industry groups, and with the advice of the interagency work group established under Section 772.011, a comprehensive trade and commerce plan for the region designed to:

(1) increase trade by attracting new business ventures;

(2) support expansion of existing industries; and

(3) address workforce training needs.

(b) The plan must cover five-year, 10-year, and 15-year periods.

(c) The coordinator shall work with industries and communities on both sides of the border to develop international industry cluster initiatives to capitalize on resources available in communities located adjacent to each other across the border.

(d) The coordinator shall conduct annual conferences of interested persons, working with chambers of commerce and universities of this state along the Texas and Mexico border region, and shall host those conferences at no cost to the coordinator. The purposes of the conferences are to:

(1) make the trade and commerce plan public;

(2) report on updated findings and progress of implementation of the plan; and

(3) develop new international industry cluster initiatives.

Added by Acts 2005, 79th Leg., Ch. 1215 (H.B. 925), Sec. 3(b), eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1240, 89th Legislature,

Regular Session, for amendments affecting the following section.

Sec. 772.011. INTERAGENCY WORK GROUP ON BORDER ISSUES. (a) An interagency work group is created to:

(1) develop or update a process to allow agencies to work together on issues that face border communities;

(2) discuss and coordinate programs and services offered to border communities and residents of border communities; and

(3) develop regulatory and legislative recommendations to eliminate duplication and combine program services.

(b) The work group is composed of the heads of the following agencies or their designees:

(1) the Texas Department of Rural Affairs;

(2) the Texas Department of Housing and Community Affairs;

(3) the Texas Water Development Board;

(4) the Texas Department of Transportation;

(5) the Texas Commission on Environmental Quality;

(6) the Texas Workforce Commission;

(7) the Department of State Health Services;

(8) the Health and Human Services Commission;

(9) the General Land Office;

(10) the Texas Economic Development and Tourism Office;

(11) the Office of State-Federal Relations;

(12) the Texas Higher Education Coordinating Board;

(13) the attorney general's office;

(14) the secretary of state's office;

(15) the Department of Public Safety; and

(16) the Railroad Commission of Texas.

(c) The work group shall meet at least once each year in Austin to discuss border issues and to provide information showing the impact each agency has on border communities for use in developing border policy.

(d) In this section, "border region" means the portion of this state located within 100 kilometers of this state's international border.

(e) In fulfilling its duties, the work group shall consider the effect of policies instituted by the federal government impacting the border region.

Added by Acts 2005, 79th Leg., Ch. 1215 (H.B. 925), Sec. 4, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 95, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1176 (H.B. 3278), Sec. 3, eff. June 17, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3512 and H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 772.012. COMPLIANCE WITH CYBERSECURITY TRAINING REQUIREMENTS. (a) In this section, "local government" has the meaning assigned by Section 2054.003.

(b) To apply for a grant under this chapter, a local government must submit with the grant application a written certification of the local government's compliance with the cybersecurity training required by Section 2054.5191.

(c) On a determination by the criminal justice division established under Section 772.006 that a local government awarded a grant under this chapter has not complied with the cybersecurity training required by Section 2054.5191, the local government shall pay to this state an amount equal to the amount of the grant award. A local government that is the subject of a determination described by this subsection is ineligible for another grant under this chapter until the second anniversary of the date the local government is determined ineligible.

Added by Acts 2021, 87th Leg., R.S., Ch. 51 (H.B. 1118), Sec. 1, eff. May 18, 2021.

SUBCHAPTER B. BORDER PROSECUTION UNIT

Sec. 772.051. DEFINITIONS. In this subchapter:

(1) "Border crime" and "border region" have the meanings assigned by Section 772.0071.

(2) "Border prosecuting attorney" means a prosecuting attorney in a border region who represents the state in the prosecution of felony border crimes.

(3) "Criminal justice division" means the criminal justice

division established under Section 772.006.

(4) "Prosecuting attorney" means a district attorney, criminal district attorney, or county attorney with felony criminal jurisdiction.

(5) "Unit" means the border prosecution unit.

Added by Acts 2015, 84th Leg., R.S., Ch. 334 (H.B. 12), Sec. 3, eff. September 1, 2015.

Sec. 772.052. GENERAL FUNCTION OF BORDER PROSECUTION UNIT. The governor shall establish the border prosecution unit within the criminal justice division to cooperate with and support members of the unit in prosecuting border crime.

Added by Acts 2015, 84th Leg., R.S., Ch. 334 (H.B. 12), Sec. 3, eff. September 1, 2015.

Sec. 772.053. MEMBERSHIP. (a) The unit is composed of the following prosecuting attorneys:

(1) the district attorney for the 34th Judicial District;

(2) the district attorney for the 38th Judicial District;

(3) the district attorney for the 49th Judicial District;

(4) the district attorney for the 63rd Judicial District;

(5) the district attorney for the 79th Judicial District;

(6) the district attorney for the 81st Judicial District;

(7) the district attorney for the 83rd Judicial District;

(8) the district attorney for the 112th Judicial District;

(9) the district attorney for the 143rd Judicial District;

(10) the district attorney for the 156th Judicial District;

(11) the district attorney for the 229th Judicial District;

(12) the district attorney for the 293rd Judicial District;

(13) the district attorney for the 452nd Judicial District;

(14) the criminal district attorney for Hidalgo County;

(15) the county attorney with felony criminal jurisdiction for Cameron County;

(16) the district attorney for Kleberg and Kenedy Counties;

(17) the county attorney with felony criminal jurisdiction for Willacy County; and

(18) any other prosecuting attorney who represents the

state in the prosecution of felonies for a judicial district that is created by the legislature in the border region or who receives a grant under the prosecution of border crime grant program established under Section 772.0071.

(b) A prosecuting attorney described by Subsection (a) shall serve on the unit in addition to the other duties of the prosecuting attorney assigned by law.

(c) Each member of the unit shall enter into a memorandum of understanding with the criminal justice division to collaborate and cooperate in the prosecution of border crime.

Added by Acts 2015, 84th Leg., R.S., Ch. 334 (H.B. 12), Sec. 3, eff. September 1, 2015.

Sec. 772.054. OFFICERS. (a) The unit, on a majority vote, shall elect from among its membership a presiding officer and an assistant presiding officer.

(b) The presiding officer and the assistant presiding officer serve terms of one year.

(c) The assistant presiding officer serves as presiding officer in the presiding officer's absence or if a vacancy occurs in that office until a new presiding officer is elected as provided by Subsection (d).

(d) If a vacancy occurs in the office of presiding officer or assistant presiding officer before the end of the vacating officer's term, the unit shall elect a person to serve the remainder of the term.

Added by Acts 2015, 84th Leg., R.S., Ch. 334 (H.B. 12), Sec. 3, eff. September 1, 2015.

Sec. 772.055. REIMBURSEMENT FOR EXPENSES. A member of the unit is not entitled to compensation for service on the unit but is entitled to be reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a member of the unit as provided by the General Appropriations Act.

Added by Acts 2015, 84th Leg., R.S., Ch. 334 (H.B. 12), Sec. 3, eff. September 1, 2015.

Sec. 772.056. DUTIES OF UNIT. (a) The unit shall meet at least once annually to provide the governor, the lieutenant governor, the speaker of the house of representatives, and the members of the legislature with information regarding:

(1) the status of border crime and its effect on prosecutorial resources;

(2) the border crimes prosecuted by members of the unit; and

(3) the number of border crimes that are committed by a person who is not lawfully present in the United States.

(b) The unit shall advise the criminal justice division on:

(1) the allocation of grants under the prosecution of border crime grant program established under Section 772.0071;

(2) the division of the border region into two or more subregions for training purposes; and

(3) any additional prosecutorial needs of the border prosecuting attorneys, including a need for the employment of regional counsel described by Section 772.057 to assist with the prosecution of border crimes.

(c) The unit shall facilitate the coordination and collaboration of the border prosecuting attorneys with any regional counsel described by Section 772.057 and with other law enforcement agencies, including the Department of Public Safety, in the investigation and prosecution of border crime.

(d) The unit shall develop a nonexclusive list of offenses not otherwise described by Section 772.0071(a)(1) that constitute border crime to provide guidance and enhance uniformity in the investigation and prosecution of border crime.

(e) The unit shall serve as a clearinghouse for information related to the investigation and prosecution of border crime and shall develop best practices and guidelines, including best practices for the collection and protection of confidential law enforcement information.

(f) The unit shall assist in developing a training program and providing training to members of the unit and law enforcement agencies in the border region on specific issues and techniques relating to the investigation and prosecution of border crime.

(g) The unit shall develop accountability and performance

measures for members of the unit who receive a grant under the prosecution of border crime grant program established under Section 772.0071.

Added by Acts 2015, 84th Leg., R.S., Ch. 334 (H.B. 12), Sec. 3, eff. September 1, 2015.

Sec. 772.057. DUTIES OF REGIONAL COUNSEL. (a) An attorney employed by a border prosecuting attorney as regional counsel shall assist the border prosecuting attorneys and other regional counsel, as needed, in:

(1) the prosecution of border crime;

(2) the screening of cases involving border crime;

(3) the presenting of cases involving border crime to a grand jury; and

(4) the preparation and trial of cases involving border crime.

(b) The regional counsel shall serve as a liaison between the unit and other criminal justice entities, including the Department of Public Safety and federal, state, and local prosecutors and law enforcement agencies located in the border region, by:

(1) working closely with those entities, as needed, to coordinate and assist in the investigation and prosecution of border crime; and

(2) attending multiagency task force hearings and meetings held by federal, state, and local prosecutors and law enforcement agencies on the investigation and prosecution of border crime.

(c) The regional counsel shall provide legal and technical assistance to law enforcement agencies investigating border crime, including by:

(1) providing legal advice and recommendations regarding Fourth Amendment search and seizure issues, relevant statutes, and case law;

(2) drafting and reviewing affidavits requesting the issuance of search warrants, wiretap orders, pen register and trap and trace orders, mobile tracking device orders, and similar court orders; and

(3) drafting requests for court orders authorizing:

(A) the interception of oral, wire, and electronic

communications;

(B) the installation and use of a pen register or trap and trace device;

(C) the disclosure of subscriber or customer records and information; and

(D) other similar court orders that are required to be filed by a prosecutor.

(d) The regional counsel shall coordinate training with the unit for border prosecuting attorneys and law enforcement agencies, including by:

(1) assisting in identifying training needs in the county or subregion, if any is created, in which the border prosecuting attorney's office or the agency is located;

(2) assisting in the development of training curricula and guidelines for the investigation and prosecution of border crime; and

(3) participating in and hosting training presentations and sessions in each subregion, if any is created.

(e) The regional counsel shall provide legal and technical assistance to border prosecuting attorneys, including by:

(1) performing legal research relating to investigating and prosecuting border crime, if requested; and

(2) coordinating with border prosecuting attorneys and law enforcement agencies to identify experts in the investigation and prosecution of complex, long-term cases against organized criminal enterprises.

Added by Acts 2015, 84th Leg., R.S., Ch. 334 (H.B. 12), Sec. 3, eff. September 1, 2015.

Sec. 772.058. GIFTS AND GRANTS. The criminal justice division may apply for and accept gifts, grants, and donations from any organization described in Section 501(c)(3) or (4) of the Internal Revenue Code of 1986 for the purposes of funding any activity of the unit under this subchapter. The criminal justice division may apply for and accept grants under federal and state programs.

Added by Acts 2015, 84th Leg., R.S., Ch. 334 (H.B. 12), Sec. 3, eff. September 1, 2015.

CHAPTER 773. COORDINATION OF REGULATORY AGENCY INFORMATION GATHERING

Sec. 773.001. DEFINITION. In this chapter, "regulatory agency" means an agency, including a department, commission, board, or office that:

(1) is created by the constitution or by statute;

(2) is in the executive branch of state government;

(3) has statewide authority; and

(4) has authority to grant, deny, renew, suspend, or revoke a license, permit, certificate, registration, or other form of permission to engage in an occupation or to operate a business.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 773.002. PROCEDURE BEFORE GATHERING NEW INFORMATION. A regulatory agency may inspect, survey, or investigate a person regulated by the agency or require the person to file a report only if the executive head of the agency determines that the agency's need for the information concerning the person is not substantially satisfied by information previously gathered by the agency or another regulatory agency.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 773.003. DUTY TO RELEASE INFORMATION. The executive head of a regulatory agency, on request, shall release to the executive head of another regulatory agency any information about a regulated person that the agency gathers in an inspection, survey, or investigation of the person or in a report filed by the person if the information is:

(1) not made confidential by statute; and

(2) within the requesting regulatory agency's jurisdiction.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 773.004. COORDINATION OF INFORMATION GATHERING. The executive head of a regulatory agency shall coordinate the agency's inspections, surveys, investigations, and reporting requirements within the agency and with other regulatory agencies to avoid the

duplication of those functions.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

CHAPTER 774. EXCHANGE OF INFORMATION BETWEEN REGULATORY AGENCIES

Sec. 774.001. DEFINITIONS. In this chapter:

(1) "Health care provider" means a person who has been issued a license by a health care regulatory agency.

(2) "Health care regulatory agency" means a regulatory agency that:

(A) appoints a member of the Health Professions Council; or

(B) is supervised by the health licensing division of the Texas Department of Health.

(3) "License" includes a license, certificate, registration, permit, or other authorization, required by law or state agency rule, that a person must obtain to practice or engage in a particular business or occupation.

(4) "Regulatory agency" means an agency, including a department, commission, board, or office, that:

(A) is created by the constitution or by statute;

(B) is in the executive branch of state government;

(C) has statewide authority; and

(D) has authority to deny, grant, renew, revoke, or suspend a license.

Added by Acts 1997, 75th Leg., ch. 630, Sec. 1, eff. Sept. 1, 1997.

Sec. 774.002. DUTY TO EXCHANGE INFORMATION. (a) A health care regulatory agency that, in the course of an audit, review, investigation, or examination of a complaint, obtains information pertaining to the complaint that it believes may be grounds for another health care regulatory agency to conduct an investigation of or institute a disciplinary proceeding against a health care provider shall forward the information and any subsequently obtained information or final determination regarding the health care provider to the other health care regulatory agency.

(b) Information that may be grounds for investigative or disciplinary action by another health care regulatory agency includes

information:

(1) that relates to a violation of a rule or statute enforced by the other health care regulatory agency; or

(2) that, in the good faith belief of the agency obtaining the information, is likely to lead to the discovery of a violation of a rule or statute enforced by the other health care regulatory agency.

(c) Information forwarded by a health care regulatory agency under this section that is privileged or confidential retains its privileged or confidential nature following the receipt by another health care regulatory agency. The privilege or confidentiality extends to any agency communication concerning the information forwarded, regardless of the form, manner, or content of the communication.

(d) The forwarding of privileged or confidential information by a health care regulatory agency does not waive a privilege in or create an exception to the confidentiality of the information.

(e) An agency's provision of information or failure to provide information under this section does not give rise to a cause of action against the agency.

Added by Acts 1997, 75th Leg., ch. 630, Sec. 1, eff. Sept. 1, 1997.

Sec. 774.003. PROCEDURE FOR EXCHANGE OF INFORMATION. (a) A health care regulatory agency shall establish and implement written procedures to ensure that information obtained that is required to be forwarded under Section 774.002 is forwarded to the appropriate health care regulatory agency not later than the 15th day after the date the agency determines that the information is information that it believes may be grounds for another health care regulatory agency to conduct an investigation of or institute a disciplinary proceeding against a health care provider under Section 774.002.

(b) A procedure adopted under this section must provide that the executive head of a health care regulatory agency or the executive head's designee may forward information under this section only to the executive head or the executive head's designee of the appropriate health care regulatory agency.

(c) In this section, "executive head" means the director, executive director, commissioner, administrator, chief clerk, or

other individual who is appointed by the governing body or highest officer of a health care regulatory agency to act as the chief executive or administrative officer of the agency and who is not an appointed officer.

Added by Acts 1997, 75th Leg., ch. 630, Sec. 1, eff. Sept. 1, 1997.

CHAPTER 775. COORDINATION OF COLONIA INITIATIVES

Sec. 775.001. DEFINITIONS. In this chapter:

(1) "Agency" means a state office, institution, or other state governmental entity.

(2) "Colonia" means a geographic area that:

(A) is an economically distressed area as defined by Section 17.921, Water Code, and consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood; and

(B) is:

(i) located in a county any part of which is within 50 miles of an international border; or

(ii) located in a county:

(a) any part of which is within 100 miles of an international border; and

(b) that contains the majority of the area of a municipality with a population of more than 250,000.

(3) "Nonborder colonia" has the meaning assigned by Section 15.001, Water Code.

Added by Acts 1999, 76th Leg., ch. 404, Sec. 44, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 11.05, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 708 (S.B. 425), Sec. 11, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 341 (S.B. 99), Sec. 4, eff. June 15, 2007.

Sec. 775.002. INTERAGENCY COORDINATION OF COLONIA INITIATIVES. (a) The governor may designate an agency to act as the state's colonia initiatives coordinator.

(b) If appointed under Subsection (a), the colonia initiatives coordinator shall coordinate colonia initiatives within the agency and with the other agencies and local officials involved in colonia projects in the state.

(c) The colonia initiatives coordinator shall work with the other agencies and local officials involved in colonia projects in the state to:

(1) coordinate efforts to address colonia issues;

(2) identify nonprofit self-help groups to help with colonia initiatives;

(3) set goals for each state fiscal year for colonia initiatives in the state, including goals to:

(A) address easement problems; and

(B) ensure that water and wastewater connections are extended from distribution lines to houses located in colonias;

(4) ensure that the goals set under this subsection are met each state fiscal year; and

(5) coordinate state outreach efforts to nonborder colonias and to political subdivisions capable of providing water and wastewater services to nonborder colonias.

(d) The following agencies shall designate an officer or employee of the agency to serve as the agency's liaison for colonia initiatives:

(1) the office of the attorney general;

(2) the Department of State Health Services;

(3) the Texas Department of Housing and Community Affairs;

(4) the Texas Commission on Environmental Quality;

(5) the Texas Water Development Board;

(6) the Texas Department of Rural Affairs;

(7) the Office of State-Federal Relations;

(8) the Texas Department of Insurance; and

(9) the Texas Department of Transportation.

(e) Each agency's liaison for colonia initiatives under Subsection (d) must be a deputy executive director or a person of equivalent or higher authority at the agency. This subsection does not authorize the creation of a new position for colonia coordination at a state agency.

(f) In coordinating colonia initiatives under this section, the coordinator shall consider the advice and recommendations of the Colonia Resident Advisory Committee established under Section

2306.584.

Added by Acts 1999, 76th Leg., ch. 404, Sec. 44, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 11.06, eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 351 (S.B. 1202), Sec. 1, eff. June 17, 2005.
Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. 1918), Sec. 96, eff. September 1, 2009.

Sec. 775.003. COLONIA OMBUDSPERSON PROGRAM. The colonia initiatives coordinator shall appoint a colonia ombudsperson in:

(1) each of the six border counties that the coordinator determines have the largest colonia populations; and

(2) each additional county any part of which is within 100 miles of an international border and that contains the majority of the area of a municipality with a population of more than 250,000.

Added by Acts 1999, 76th Leg., ch. 404, Sec. 44, eff. Sept. 1, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 708 (S.B. 425), Sec. 12, eff. September 1, 2005.
Acts 2007, 80th Leg., R.S., Ch. 341 (S.B. 99), Sec. 5, eff. June 15, 2007.

Sec. 775.004. INFORMATION ON COLONIAS. (a) The colonia ombudspersons shall gather information about the colonias in the counties for which the ombudspersons were appointed and provide the information to the secretary of state, to assist the secretary of state in preparing the report required under Section 405.021.

(b) To the extent possible, the ombudspersons shall gather information regarding:

(1) the platting of each colonia;

(2) the infrastructure of each colonia;

(3) the availability of health care services;

(4) the availability of financial assistance; and

(5) any other appropriate topic as requested by the secretary of state.

(c) The ombudspersons shall provide the information to the secretary of state not later than September 1 of each even-numbered year.

Added by Acts 2005, 79th Leg., Ch. 828 (S.B. 827), Sec. 3, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 341 (S.B. 99), Sec. 6, eff. June 15, 2007.

Sec. 775.005. DEVELOPMENT OF STRATEGY TO ASSIST COLONIA RESIDENTS. (a) To improve services delivered to colonia residents, the colonia initiatives coordinator shall work with the Colonia Resident Advisory Committee established under Section 2306.584.

(b) The coordinator may establish an advisory committee similar to the Colonia Resident Advisory Committee to supplement the efforts of the Colonia Resident Advisory Committee by providing representation for colonia residents in counties that are not represented by a member of the Colonia Resident Advisory Committee.

(c) The coordinator shall consider the advice of the Colonia Resident Advisory Committee and any committee established under Subsection (b) regarding the needs of colonia residents.

(d) Based on the advice received under Subsection (c) and any recommendations received from the agencies listed in Section 775.002(d), the coordinator shall define and develop a strategy to address the needs of colonia residents and make recommendations to the legislature based on that strategy. The coordinator shall recommend appropriate programs, grants, and activities to the legislature.

Added by Acts 2005, 79th Leg., Ch. 351 (S.B. 1202), Sec. 2, eff. June 17, 2005.
Renumbered from Government Code, Section 775.004 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(41), eff. September 1, 2007.

CHAPTER 776. TEXAS INVASIVE SPECIES COORDINATING COMMITTEE

Sec. 776.001. DEFINITIONS.In this chapter:

(1) "Committee" means the Texas Invasive Species

Coordinating Committee.

(2) "Invasive species" means a species that is not native to an ecosystem and whose introduction to the ecosystem causes or has been demonstrated to cause economic harm, environmental harm, or harm to human health. Humans, domestic and exotic livestock, and non-harmful exotic organisms are not invasive species.

Added by Acts 2009, 81st Leg., R.S., Ch. 98 (H.B. 865), Sec. 1, eff. September 1, 2009.

Sec. 776.002. MEMBER AGENCIES. (a) The member agencies of the committee are:

(1) the Department of Agriculture;

(2) the Parks and Wildlife Department;

(3) the State Soil and Water Conservation Board;

(4) the Texas AgriLife Extension Service;

(5) the Texas Forest Service;

(6) the Texas Water Development Board; and

(7) any other state agency added to the committee under Subsection (b).

(b) On the request of a state agency that has an interest in controlling invasive species, the member agencies listed in Subsections (a)(1)-(6) by unanimous agreement may add the agency to the committee.

Added by Acts 2009, 81st Leg., R.S., Ch. 98 (H.B. 865), Sec. 1, eff. September 1, 2009.

Sec. 776.003. REPRESENTATIVES. (a) The committee is composed of one representative of each member agency. If an agency's representative is unable to attend a committee meeting or otherwise perform the representative's duties, the agency's alternate representative shall serve in the representative's place.

(b) The administrative head of each member agency:

(1) shall designate one individual to serve as the agency's representative on the committee and one individual to serve as alternate representative;

(2) may change the designated representative or alternate representative at will; and

(3) after designating or changing the representative or alternate representative, shall promptly notify the committee in writing of the name and position of the new representative or alternate representative.

(c) Service on the committee by a state officer or employee is an additional duty of the representative's office or employment.

Added by Acts 2009, 81st Leg., R.S., Ch. 98 (H.B. 865), Sec. 1, eff. September 1, 2009.

Sec. 776.004. DUTIES. (a) The committee shall:

(1) facilitate the exchange of information so that each member agency is informed of committee plans, recommendations, and proposals for research, education, and implementation of activities to:

(A) prevent, detect, assess, monitor, contain, and control or eradicate invasive species; and

(B) reduce environmental and economic threats and threats to human health from invasive species; and

(2) provide a forum for developing coordinated interagency strategies and policies for invasive species control.

(a-1) The committee may:

(1) serve as a catalyst for cooperation between state agencies in the area of invasive species control;

(2) facilitate governmental efforts, including efforts of local governments and special districts, to prevent and manage invasive species;

(3) make recommendations to state agencies regarding research, technology transfer, and management actions related to invasive species control;

(4) provide technical information and input to regional and national invasive species control coordination efforts, including the National Invasive Species Management Plan;

(5) facilitate the review of committee technical decisions and work product by specialists and interested persons; and

(6) report as needed to the governor, lieutenant governor, and speaker of the house of representatives on committee plans, work product, and accomplishments.

(b) Each member agency of the committee shall:

(1) coordinate the agency's invasive species control activities with the committee and relevant coordinating bodies, including the National Invasive Species Council;

(2) share with the committee the agency's technical expertise related to invasive species;

(3) advise the committee of known invasive species threats to natural and agricultural resources; and

(4) cooperate, to the extent allowed by law, in initiatives to obtain appropriations and grants for invasive species control.

Added by Acts 2009, 81st Leg., R.S., Ch. 98 (H.B. 865), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 358 (S.B. 1424), Sec. 7, eff. September 1, 2023.

Sec. 776.005. BYLAWS. (a) The committee shall adopt bylaws governing the committee's operations.

(b) The bylaws:

(1) must provide a procedure to periodically elect one representative as committee chair;

(2) must provide a procedure to call committee meetings;

(3) must require the committee to meet at least annually; and

(4) may provide for the creation of subcommittees and advisory committees.

Added by Acts 2009, 81st Leg., R.S., Ch. 98 (H.B. 865), Sec. 1, eff. September 1, 2009.

Sec. 776.0051. MEETINGS. (a) The committee shall meet at least annually at the call of the committee chair or the State Soil and Water Conservation Board's representative on the committee.

(b) The State Soil and Water Conservation Board shall ensure the committee meets at least annually.

Added by Acts 2023, 88th Leg., R.S., Ch. 358 (S.B. 1424), Sec. 8, eff. September 1, 2023.

Sec. 776.006. STAFF; ATTACHMENT. (a) The committee is administratively attached to the State Soil and Water Conservation Board.

(b) Repealed by Acts 2023, 88th Leg., R.S., Ch. 358 (S.B. 1424), Sec. 10, eff. September 1, 2023.

(c) The State Soil and Water Conservation Board may accept and administer conditional or other loans, grants, gifts, or other funds from the state or federal government or other sources to carry out its functions under this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 98 (H.B. 865), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 61 (H.B. 1808), Sec. 29, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 358 (S.B. 1424), Sec. 10, eff. September 1, 2023.

Sec. 776.007. SUNSET PROVISION. (a) The committee is subject to Chapter 325 (Texas Sunset Act).

(b) To the extent that Chapter 325 (Texas Sunset Act) places a duty on a state agency subject to review under that chapter, the State Soil and Water Conservation Board shall perform the duty as it relates to the committee.

(c) The committee shall be reviewed during each period in which the State Soil and Water Conservation Board is reviewed.

Added by Acts 2009, 81st Leg., R.S., Ch. 98 (H.B. 865), Sec. 1, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 6.01, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1279 (H.B. 1675), Sec. 4.01, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 2.03, eff. June 10, 2019.

Acts 2023, 88th Leg., R.S., Ch. 358 (S.B. 1424), Sec. 9, eff. September 1, 2023.

CHAPTER 782. CULTURAL BASIN ACT

Sec. 782.001. SHORT TITLE. This chapter may be cited as the Cultural Basin Act of 1973.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 782.002. PURPOSE. The purpose of this chapter is to improve the quality of life for the residents of Texas by:

(1) stimulating orderly economic and socially desirable development; and

(2) conserving and utilizing the state's human and natural resources.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 782.003. DEFINITIONS. In this chapter:

(1) "Commission" means a cultural basin commission.

(2) "Council of government" means a regional planning commission or similar regional planning agency created under Chapter 391, Local Government Code.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 782.004. CREATION. (a) The governor shall designate a geographical area in the state as a cultural basin if:

(1) there is a commonality within the area, based on cultural, historical, and economic factors;

(2) the areas of commonality within the proposed cultural basin are contiguous; and

(3) state planning regions may be used as building blocks for the formation of the cultural basin.

(b) The governor shall designate no fewer than four and no more than seven cultural basins.

(c) Each of three major metropolitan areas should be in separate cultural basins.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 782.005. GREATER SOUTH TEXAS CULTURAL BASIN. (a) The Greater South Texas Cultural Basin is designated as the first cultural basin.

(b) The experience of the Greater South Texas Cultural Basin Commission shall be used in the formulation and development of additional cultural basin commissions.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 782.006. COMMISSION. (a) The governor shall appoint a commission for each cultural basin the governor designates.

(b) A commission shall meet quarterly and at other times as called by a majority of the commission members or the commission chairman.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 782.007. COMMISSION MEMBERSHIP. (a) A commission is composed of the following members appointed by the governor:

(1) five local citizens;

(2) the presiding officer of each council of government in the cultural basin;

(3) six administrative heads of state agencies; and

(4) five representatives of federal agencies.

(b) Members of a commission serve for terms of two years.

(c) The governor serves as the chairman of each cultural basin commission.

(d) A member of the commission is entitled to reimbursement for actual expenses incurred in the performance of the member's duties if the expenses are not reimbursed from another source.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 782.008. DUTIES OF CERTAIN COMMISSION MEMBERS. (a) Members of the commission who are citizen representatives or local officials shall:

(1) establish local and basin-wide goals and priorities; and

(2) make management and policy decisions.

(b) The members of a commission who are presiding officers of councils of government shall:

(1) coordinate the efforts, programs, goals, and projects of the council with those of the cultural basin commission; and

(2) make management and policy decisions.

(c) The members of a commission who are state and federal agency representatives shall design programs and allocate funds to implement the goals set by the commission.

(d) The administrative heads of state agencies shall coordinate activities of the commission with all state agencies.

(e) A commission, in setting its local goals, shall:

(1) consult existing groups, including local human resource councils; and

(2) utilize information, studies, and proposed solutions to problems from citizen commissions, including the Rural Development Commission.

(f) The governor shall present plans and proposals of the commission for review to the appropriate state agencies and, along with the recommendations of the agencies, recommend to the legislature actions to be taken regarding the cultural basins.

(g) The governor shall provide an effective and continuing liaison between the federal government, state agencies, and all commissions.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 782.009. FUNCTIONS OF COMMISSION. (a) A commission shall, with respect to its cultural basin:

(1) foster surveys and studies to provide information for the preparation of plans and programs for the development of the cultural basin;

(2) advise and assist the governor in coordinating councils of government to maximize benefits from the expenditure of federal, state, and local funds;

(3) promote increased private investment in the cultural basin;

(4) prepare legislative and other recommendations for short-range and long-range programs and projects;

(5) develop, on a continuing basis, comprehensive and coordinated plans and programs for the cultural basin and establish priorities among these plans and programs, considering other federal, state, regional, and local plans;

(6) conduct and sponsor investigations, research, and studies, including an inventory and analysis of the resources of the cultural basin;

(7) in cooperation with federal, state, regional, and local agencies, sponsor demonstration projects to foster cultural basin productivity and growth;

(8) in cooperation with the agency involved, review and study federal, state, regional, and local public and private programs and recommend modifications or additions that increase the programs' effectiveness in the cultural basin;

(9) formulate and recommend interstate compacts and other forms of interstate cooperation;

(10) formulate and recommend international agreements between the United States and Mexico that have significant impact on the economy or delivery of services to the people of this state; and

(11) establish and use citizen input, advisory councils, and public conferences for the consideration of problems and solutions for the cultural basin.

(b) A commission may make recommendations to the legislature and to appropriate local officials regarding:

(1) the expenditure of funds by federal, state, and local agencies in the cultural basin in the areas of:

(A) natural resources;

(B) agriculture;

(C) education;

(D) training;

(E) health and welfare;

(F) transportation;

(G) recreation;

(H) public works; and

(I) other areas related to the purposes of this chapter; and

(2) additional state legislation or administrative actions necessary to further the purposes of this chapter.

(c) This chapter does not authorize a commission to approve or disapprove funding to a county, city, or council of government.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 782.010. ASSISTANCE BY GOVERNOR'S OFFICE AND STATE AGENCIES. (a) The governor's office shall provide technical assistance and staff support to assist a commission in the performance of its duties and to develop its recommendations and programs.

(b) Assistance must include:

(1) studies and plans evaluating the needs of and developing the potential for the economic growth of the cultural basin; and

(2) research on improving the conservation and use of human and natural resources in the basin.

(c) The governor's office may provide assistance to a commission through:

(1) members of the governor's staff;

(2) the payment of funds authorized by this section;

(3) contracts with private individuals, partnerships, firms, corporations, or suitable institutions; and

(4) grants to the commission.

(d) A state agency shall assist a commission in performing its functions.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 782.011. COORDINATION BY STATE AND FEDERAL AGENCIES. State and federal agencies shall coordinate existing programs and design state and federal programs through contact and communications with the members of a commission.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 782.012. BUDGETARY CONSIDERATIONS; FUNDS. (a) A commission is within the governor's office for budgetary purposes, with necessary expenses of operations financed by line-item appropriations to the governor's office.

(b) A commission may accept gifts and grants from a person. The funds received shall be deposited in the state treasury and may

be used as appropriated by the legislature, subject to the limitations in the gift or grant and in accordance with the annual report or other recommendations of a commission.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 782.013. DEVELOPMENT GRANT. (a) The legislature shall appropriate a development grant fund. On receipt of a report under Section 782.008(f), the legislature may release appropriate development grant funds in block grant form to be used by a commission in accordance with the commission's report.

(b) The governor shall encourage each commission and reviewing state agency to follow procedures that consider the following factors when developing recommendations and funding for recommendations, setting priorities, and taking other appropriate actions:

(1) the relationship of the project to the overall cultural basin development, including its location in an area determined to have a significant potential for growth;

(2) the population and area to be served by the project and the relative per capita income and the unemployment rates in the area;

(3) the relative financial resources available to the state or political subdivision that will undertake the project;

(4) the importance of the project in relation to other projects that may be in competition for the same funds;

(5) the prospects that the project, on a continuing rather than a temporary basis, will improve the opportunities for employment, the average level of income, or the economic and social development of the area served by the project; and

(6) any possible environmental impact of the project.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

CHAPTER 783. UNIFORM GRANT AND CONTRACT MANAGEMENT

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 783.001. SHORT TITLE. This chapter may be cited as the

Uniform Grant and Contract Management Act.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 783.002. POLICY. It is the policy of the state to promote the efficient use of public funds in local government and in programs requiring cooperation among local, state, and federal agencies.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 783.003. DEFINITIONS. In this chapter:

(1) "Assurance" means a statement of compliance with federal or state law that is required of a local government as a condition for the receipt of grant or contract funds.

(2) "Financial management conditions" means generally applicable policies and procedures for the accounting, reporting, and management of funds that state agencies require local governments to follow in the administration of grants and contracts.

(3) "Local government" means a municipality, county, or other political subdivision of the state, but does not include a school district or other special-purpose district.

(4) "State agency" means a state board, commission, or department, or office having statewide jurisdiction, but does not include a state college or university.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 783.004. OFFICE OF THE COMPTROLLER. The office of the

comptroller is the state agency for uniform grant and contract management.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 44.01, eff. September 28, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 783.005. UNIFORM ASSURANCES. (a) The comptroller shall develop uniform and concise language for any assurances that a local government is required to make to a state agency.

(b) The comptroller may:

(1) categorize assurances according to the type of grant or contract;

(2) designate programs to which the assurances are applicable; and

(3) revise the assurances.

(c) The standards for assurances developed under this chapter may not affect methods of distribution or amounts of federal funds received by a state agency or a local government.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 44.02, eff. September 28, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 783.006. STANDARD FINANCIAL MANAGEMENT CONDITIONS. (a) The comptroller shall compile and distribute to each state agency an official compilation of standard financial management conditions.

(b) The comptroller shall develop the compilation from Federal Management Circular A-102 or from a revision of that circular and from other applicable statutes and regulations.

(c) The comptroller shall include in the compilation official commentary regarding administrative or judicial interpretations that affect the application of financial management standards.

(d) The comptroller may:

(1) categorize the financial management conditions according to the type of grant or contract;

(2) designate programs to which the conditions are applicable; and

(3) revise the conditions.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 44.03, eff. September 28, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 783.007. UNIFORM ASSURANCES AND STANDARD CONDITIONS REQUIRED; VARIATIONS. (a) A state agency shall use the uniform assurances developed under Section 783.005 and the standard financial management conditions developed under Section 783.006 applicable to a local government receiving financial assistance from the agency unless a federal statute or regulation or a state statute requires or specifically authorizes a variation in the assurances or conditions.

(b) An agency may establish a variation from uniform assurances or standard conditions only by rule in accordance with Chapter 2001.

(c) The agency shall state a reason for the variation along with the proposed rule, and the reason must be based on the applicable federal statute or regulation or state statute.

(d) The agency shall file a notice of each proposed rule that establishes a variation from uniform assurances or standard conditions with the comptroller.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 44.04, eff.

September 28, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 783.008. AUDIT COORDINATION. (a) A local government receiving state-administered financial assistance may request by action of its governing body a single audit or coordinated audits by all state agencies from which it receives funds.

(b) On receipt of a request for a single audit or audit coordination, the comptroller in consultation with the state auditor shall not later than the 30th day after the date of the request designate a single state agency to coordinate state audits of the local government.

(c) The designated agency shall, to the extent practicable, assure single or coordinated state audits of the local government for as long as the designation remains in effect or until the local government by action of its governing body withdraws its request for audit coordination.

(d) This section does not apply to an audit performed by the comptroller or state auditor.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 44.05, eff. September 28, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 783.009. MATCHING FUND WAIVER FOR ECONOMICALLY DISADVANTAGED COUNTY OR CENSUS TRACT. (a) In this section, "economically disadvantaged county" means a county that has a per capita taxable property tax value that is less than one-half the average per capita taxable property value of counties in the state or, in comparison to other counties in the state, has:

(1) below average per capita taxable property value;

(2) below average per capita income; and

(3) above average unemployment.

(b) In this section, "economically disadvantaged census tract" means a census tract delineated by the U.S. Bureau of the Census in the most recent decennial census in which the median family income is reported by the U.S. Bureau of the Census to be less than 80 percent of the area median family income.

(c) Except as provided by Subsection (d), a state agency may, for an economically disadvantaged county or economically disadvantaged census tract, adjust any matching funds requirement that is otherwise a condition for a county to receive a grant or other form of financial assistance from the agency.

(d) This section does not apply to the Texas Transportation Commission or to waivers or adjustments of matching funds requirements granted by the Texas Department of Transportation or governed by Section 222.053(a), Transportation Code.

(e) Each agency shall include information about its use of waivers or adjustments to matching funds requirements in its annual report. The information shall include the disposition of each instance where a waiver or adjustment is requested or considered.

(f) Each agency that adjusts a matching funds requirement under this section shall prepare and submit an annual report describing each adjustment made by the agency during the preceding state fiscal year and the effects of each adjustment on the agency's programs. The agency shall state the amount of each adjustment, the program under which the adjustment was made, and the name of each county or the location of each census tract, as appropriate, that benefited from the adjustment. The agency shall send a copy of the annual report to the governor, lieutenant governor, speaker of the house of representatives, Legislative Budget Board, and to each member of the legislature who requests a copy. The agency may include the annual report in the annual financial report submitted under Section 2101.011.

Added by Acts 1999, 76th Leg., ch. 1486, Sec. 1, eff. June 19, 1999.
Amended by Acts 2001, 77th Leg., ch. 101, Sec. 1, eff. Sept. 1, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 783.010. STATE AGENCY REPORTING AND AUDITING COORDINATION. (a) A state agency that requires reports of local governments shall, during the second year of each state biennium, conduct a zero-based review of reporting requirements imposed on local governments and shall simplify the reporting requirements and determine and eliminate unnecessary, duplicative, or overly burdensome reporting requirements.

(b) Based on the results of these reviews, the state agency shall recommend to the legislature statutory changes to minimize cost, duplication, and paperwork and to maximize the efficient and effective use of public funds.

(c) A state agency may not require local governments to submit reports on items not required by law, rule, or performance measures.

(d) To achieve greater efficiency in the use of governmental funds expended on governmental audits, a state agency, except as shown necessary to further protect public funds, shall:

(1) accept, and not duplicate with state resources, an independent audit of a local government if it is performed by a certified public accountant in accordance with generally accepted governmental auditing standards and the standards of the Governmental Accounting Standards Board;

(2) at the time of approval of a contract with or a grant to a local government, specify any special or unique auditing requirements that must be performed by the local government's independent auditors; and

(3) as may be allowed by law or rule, provide in the contract or grant award for the payment of costs incurred by the local government in complying with any special or unique auditing requirements not required by generally accepted governmental auditing standards or the standards of the Governmental Accounting Standards Board.

(e) Nothing in this section shall be construed to limit the authority of a state agency to monitor or audit a local government's expenditure of state or federal funds received via contract or grant.

(f) The state auditor may audit for compliance with these provisions.

Added by Acts 2003, 78th Leg., ch. 723, Sec. 1, eff. June 20, 2003.

CHAPTER 791. INTERLOCAL COOPERATION CONTRACTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 791.001. PURPOSE. The purpose of this chapter is to increase the efficiency and effectiveness of local governments by authorizing them to contract, to the greatest possible extent, with one another and with agencies of the state.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 791.002. SHORT TITLE. This chapter may be cited as the Interlocal Cooperation Act.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 791.003. DEFINITIONS. In this chapter:

(1) "Administrative functions" means functions normally associated with the routine operation of government, including tax assessment and collection, personnel services, purchasing, records management services, data processing, warehousing, equipment repair, and printing.

(2) "Interlocal contract" means a contract or agreement made under this chapter.

(3) "Governmental functions and services" means all or part of a function or service in any of the following areas:

(A) police protection and detention services;

(B) fire protection;

(C) streets, roads, and drainage;

(D) public health and welfare;

(E) parks and recreation;

(F) library and museum services;

(G) records center services;

(H) waste disposal;

(I) planning;

(J) engineering;

(K) administrative functions;

(L) public funds investment;

(M) comprehensive health care and hospital services; or

(N) other governmental functions in which the

contracting parties are mutually interested.

(4) "Local government" means a:

(A) county, municipality, special district, junior college district, or other political subdivision of this state or another state;

(B) local government corporation created under Subchapter D, Chapter 431, Transportation Code;

(C) political subdivision corporation created under Chapter 304, Local Government Code;

(D) local workforce development board created under Section 2308.253; or

(E) combination of two or more entities described by Paragraph (A), (B), (C), or (D).

(5) "Political subdivision" includes any corporate and political entity organized under state law.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 823, Sec. 1, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 98, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 301, Sec. 2, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1317 (H.B. 3384), Sec. 1, eff. June 18, 2005.

Sec. 791.004. INTERLOCAL CONTRACT; DUAL OFFICE HOLDING. A person acting under an interlocal contract does not, because of that action, hold more than one civil office of emolument or more than one office of honor, trust, or profit.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 791.005. EFFECT OF CHAPTER. This chapter does not affect an act done or a right, duty, or penalty existing before May 31, 1971.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 791.006. LIABILITY IN FIRE PROTECTION CONTRACT OR

PROVISION OF LAW ENFORCEMENT SERVICES. (a) If governmental units contract under this chapter to furnish or obtain services of a fire department, such as training, fire suppression, fire fighting, ambulance services, hazardous materials response services, fire and rescue services, or paramedic services, the governmental unit that would have been responsible for furnishing the services in the absence of the contract is responsible for any civil liability that arises from the furnishing of those services.

(a-1) Notwithstanding Subsection (a), if a municipality, county, rural fire prevention district, emergency services district, fire protection agency, regional planning commission, or joint board enters into a contract with a governmental unit under this chapter to furnish or obtain fire or emergency services, the parties to the contract may agree to assign responsibility for civil liability that arises from the furnishing or obtaining of services under the contract in any manner agreed to by the parties. To assign responsibility for civil liability under this subsection, the parties to the contract must assign responsibility in a written provision of the contract that specifically references this subsection and states that the assignment of liability is intended to be different than liability otherwise assigned under Subsection (a).

(b) In the absence of a contract, if a municipality or county furnishes law enforcement services to another municipality or county, the governmental unit that requests and obtains the services is responsible for any civil liability that arises from the furnishing of those services.

(c) Nothing in this section adds to or changes the liability limits and immunities for a governmental unit provided by the Texas Tort Claims Act, Chapter 101, Civil Practice and Remedies Code, or other law.

(d) Notwithstanding any other provision of this chapter, a contract under this chapter is not a joint enterprise for the purpose of assigning or determining liability.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 2001, 77th Leg., ch. 811, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 16, eff. June 18, 2005.

SUBCHAPTER B. GENERAL INTERLOCAL CONTRACTING AUTHORITY

Sec. 791.011. CONTRACTING AUTHORITY; TERMS. (a) A local government may contract or agree with another local government or a federally recognized Indian tribe, as listed by the United States secretary of the interior under 25 U.S.C. Section 479a-1, whose reservation is located within the boundaries of this state to perform governmental functions and services in accordance with this chapter.

(b) A party to an interlocal contract may contract with a:

(1) state agency, as that term is defined by Section 771.002; or

(2) similar agency of another state.

(b-1) A local government that is authorized to enter into an interlocal contract under this section may not contract with an Indian tribe that is not federally recognized or whose reservation is not located within the boundaries of this state.

(c) An interlocal contract may be to:

(1) study the feasibility of the performance of a governmental function or service by an interlocal contract; or

(2) provide a governmental function or service that each party to the contract is authorized to perform individually.

(d) An interlocal contract must:

(1) be authorized by the governing body of each party to the contract unless a party to the contract is a municipally owned electric utility, in which event the governing body may establish procedures for entering into interlocal contracts that do not exceed $100,000 without requiring the approval of the governing body;

(2) state the purpose, terms, rights, and duties of the contracting parties; and

(3) specify that each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

(e) An interlocal contractual payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract.

(f) An interlocal contract may be renewed.

(g) A governmental entity of this state or another state that makes purchases or provides purchasing services under an interlocal contract for a state agency, as that term is defined by Section 771.002, must comply with Chapter 2161 in making the purchases or providing the services.

(h) An interlocal contract between a governmental entity and a purchasing cooperative may not be used to purchase engineering or architectural services.

(i) Notwithstanding Subsection (d), an interlocal contract may have a specified term of years.

(j) For the purposes of this subsection, the term "purchasing cooperative" means a group purchasing organization that governmental entities join as members and the managing entity of which receives fees from members or vendors. A local government may not enter into a contract to purchase construction-related goods or services through a purchasing cooperative under this chapter in an amount greater than $50,000 unless a person designated by the local government certifies in writing that:

(1) the project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications under Chapter 1001 or 1051, Occupations Code; or

(2) the plans and specifications required under Chapters 1001 and 1051, Occupations Code, have been prepared.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1999, 76th Leg., ch. 405, Sec. 47, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 98, Sec. 2, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 257 (H.B. 1562), Sec. 1, eff. May 30, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1213 (H.B. 1886), Sec. 12, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1065 (S.B. 760), Sec. 1.

Acts 2013, 83rd Leg., R.S., Ch. 1127 (H.B. 1050), Sec. 1, eff. September 1, 2013.

Sec. 791.012. LAW APPLICABLE TO CONTRACTING PARTIES. Local governments that are parties to an interlocal contract for the performance of a service may, in performing the service, apply the law applicable to a party as agreed by the parties.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1997, 75th Leg., ch. 176, Sec. 1, eff. May 21, 1997.

Sec. 791.013. CONTRACT SUPERVISION AND ADMINISTRATION. (a) To supervise the performance of an interlocal contract, the parties to the contract may:

(1) create an administrative agency;

(2) designate an existing local government; or

(3) contract with an organization that qualifies for exemption from federal income tax under Section 501(c), Internal Revenue Code of 1986, as amended, that provides services on behalf of political subdivisions or combinations of political subdivisions and derives more than 50 percent of its gross revenues from grants, funding, or other income from political subdivisions or combinations of subdivisions.

(b) The agency, designated local government, or organization described by Subsection (a)(3) may employ personnel, perform administrative activities, and provide administrative services necessary to perform the interlocal contract.

(c) All property that is held and used for a public purpose by the administrative agency or designated local government is exempt from or subject to taxation in the same manner as if the property were held and used by the participating political subdivisions.

(d) An administrative agency created under this section may acquire, apply for, register, secure, hold, protect, and renew under the laws of this state, another state, the United States, or any other nation:

(1) a patent for the invention or discovery of:

(A) any new and useful process, machine, manufacture, composition of matter, art, or method;

(B) any new use of a known process, machine, manufacture, composition of matter, art, or method; or

(C) any new and useful improvement on a known process, machine, manufacture, composition of matter, art, or method;

(2) a copyright of an original work of authorship fixed in any tangible medium of expression, now known or later developed, from which the work may be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device;

(3) a trademark, service mark, collective mark, or certification mark for a word, name, symbol, device, or slogan that the agency uses to identify and distinguish the agency's goods and services from other goods and services; and

(4) other evidence of protection of exclusivity issued for

intellectual property.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 481, Sec. 1, eff. Aug. 28, 1995; Acts 2003, 78th Leg., ch. 301, Sec. 3, eff. Sept. 1, 2003.

Sec. 791.014. APPROVAL REQUIREMENT FOR COUNTIES. (a) Before beginning a project to construct, improve, or repair a building, road, or other facility under an interlocal contract, the commissioners court of a county must give specific written approval for the project.

(b) The approval must:

(1) be given in a document other than the interlocal contract;

(2) describe the type of project to be undertaken; and

(3) identify the project's location.

(c) The county may not accept and another local government may not offer payment for a project undertaken without approval required by this section.

(d) A county is liable to another local government for the amount paid by the local government to the county for a project requiring approval under this section if:

(1) the county begins the project without the approval required by this section; and

(2) the local government makes the payment before the project is begun by the county.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 791.015. SUBMISSION OF DISPUTES TO ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. Local governments that are parties to an interlocal contract may provide in the contract for the submission of disputes arising under the contract to the alternative dispute resolution procedures authorized by Chapter 2009.

Added by Acts 2001, 77th Leg., ch. 666, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER C. SPECIFIC INTERLOCAL CONTRACTING AUTHORITY

Sec. 791.021. CONTRACTS FOR REGIONAL CORRECTIONAL FACILITIES. The parties to an interlocal contract may contract with the Texas Department of Criminal Justice for the construction, operation, and maintenance of a regional correctional facility if:

(1) title to the land on which the facility is to be constructed is deeded to the department; and

(2) the parties execute a contract relating to the payment of costs for housing, maintenance, and rehabilitative treatment of persons held in jails who cannot otherwise be transferred under authority of existing statutes to the direct responsibility of the department.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.080, eff. September 1, 2009.

Sec. 791.022. CONTRACTS FOR REGIONAL JAIL FACILITIES. (a) In this section:

(1) "Facility" means a regional jail facility constructed or acquired under this section.

(2) "Jailer" means a person with authority to supervise the operation and maintenance of a facility as provided by this section.

(b) A political subdivision of the state, by resolution of its governing body, may contract with one or more political subdivisions of the state to participate in the ownership, construction, and operation of a regional jail facility.

(c) The facility must be located within the geographic boundaries of one of the participating political subdivisions. The facility is not required to be located in a county seat.

(d) Before acquiring and constructing the facility, the participating political subdivisions shall issue bonds to finance the facility's acquisition and construction. The bonds must be issued in the manner prescribed by law for issuance of permanent improvement bonds.

(e) To supervise the operation and maintenance of a facility, the participating political subdivisions may agree to:

(1) appoint as jailer of the facility the police chief or sheriff of the political subdivision in which the facility is

located;

(2) form a committee composed of the sheriff or police chief of each participating political subdivision to appoint a jailer of the facility; or

(3) authorize the police chief or sheriff of each participating political subdivision to continue to supervise and manage those prisoners incarcerated in the facility under the authority of that officer.

(f) If participating political subdivisions provide for facility supervision under Subsection (e), the person designated to supervise operation and maintenance of the facility shall supervise the prisoners incarcerated in the facility.

(g) When a prisoner is transferred from the facility to the originating political subdivision, the appropriate law enforcement officer of the originating political subdivision shall assume supervision and responsibility for the prisoner.

(h) While a prisoner is incarcerated in a facility, a police chief or sheriff not assigned to supervise the facility is not liable for the escape of the prisoner or for any injury or damage caused by or to the prisoner unless the escape, injury, or damage is directly caused by the police chief or sheriff.

(i) The political subdivisions may employ or authorize the jailer of the facility to employ personnel necessary to operate and maintain the facility.

(j) The jailer of the facility and any assistant jailers must be commissioned peace officers.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 791.023. CONTRACTS FOR STATE CRIMINAL JUSTICE FACILITIES. The state or an agency of the state may contract with one or more entities to finance, construct, operate, maintain, or manage a criminal justice facility provided, in the exercise of the governmental power, for the benefit of the state in accordance with this chapter and:

(1) Subchapter A, Chapter 494, Government Code;

(2) Subchapter D, Chapter 361, Local Government Code; or

(3) the Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271, Local Government Code).

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 791.024. CONTRACTS FOR COMMUNITY CORRECTIONS FACILITIES. A community supervision and corrections department established under Section 76.002 may agree with the state, an agency of the state, or a local government to finance, construct, operate, maintain, or manage a community corrections facility under Section 76.010(b) or a county correctional center under Subchapter H, Chapter 351, Local Government Code.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 7.18, eff. Sept. 1, 1995.

Sec. 791.025. CONTRACTS FOR PURCHASES. (a) A local government, including a council of governments, may agree with another local government or with the state or a state agency, including the comptroller, to purchase goods and services.

(b) A local government, including a council of governments, may agree with another local government, including a nonprofit corporation that is created and operated to provide one or more governmental functions and services, or with the state or a state agency, including the comptroller, to purchase goods and any services reasonably required for the installation, operation, or maintenance of the goods. This subsection does not apply to services provided by firefighters, police officers, or emergency medical personnel.

(c) A local government that purchases goods and services under this section satisfies the requirement of the local government to seek competitive bids for the purchase of the goods and services.

(d) In this section, "council of governments" means a regional planning commission created under Chapter 391, Local Government Code.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 1995, 74th Leg., ch. 28, Sec. 1, eff. April 27, 1995; Acts 1997, 75th Leg., ch. 826, Sec. 1, eff. June 18, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.62, eff. September 1, 2007.

Sec. 791.026. CONTRACTS FOR WATER SUPPLY AND WASTEWATER TREATMENT FACILITIES. (a) A municipality, district, or river authority of this state may contract with another municipality, district, or river authority of this state to obtain or provide part or all of:

(1) water supply or wastewater treatment facilities; or

(2) a lease or operation of water supply facilities or wastewater treatment facilities.

(b) The contract may provide that the municipality, district, or river authority obtaining one of the services may not obtain those services from a source other than a contracting party, except as provided by the contract.

(c) If a contract includes a term described by Subsection (b), payments made under the contract are the paying party's operating expenses for its water supply system, wastewater treatment facilities, or both.

(d) The contract may:

(1) contain terms and extend for any period on which the parties agree;

(2) require the purchaser to develop alternative or replacement supplies prior to the expiration date of the contract and may provide for enforcement of such terms by court order; and

(3) provide that it will continue in effect until bonds specified by the contract and any refunding bonds issued to pay those bonds are paid.

(e) Where a contract sets forth explicit expiration provisions, no continuation of the service obligation will be implied.

(f) Tax revenue may not be pledged to the payment of amounts agreed to be paid under the contract.

(g) The powers granted by this section prevail over a limitation contained in another law.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 2.01, eff. Sept. 1, 1997.

Sec. 791.027. EMERGENCY ASSISTANCE. (a) A local government may provide emergency assistance to another local government, whether or not the local governments have previously agreed or contracted to

provide that kind of assistance, if:

(1) in the opinion of the presiding officer of the governing body of the local government desiring emergency assistance, a state of civil emergency exists in the local government that requires assistance from another local government and the presiding officer requests the assistance; and

(2) before the emergency assistance is provided, the governing body of the local government that is to provide the assistance authorizes that local government to provide the assistance by resolution or other official action.

(b) This section does not apply to emergency assistance provided by law enforcement officers under Chapter 362, Local Government Code.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 791.028. CONTRACTS FOR JOINT PAYMENT OF ROAD CONSTRUCTION AND IMPROVEMENTS. (a) In this section:

(1) "Highway project" means the acquisition, design, construction, improvement, or beautification of a state or local highway, turnpike, or road project.

(2) "Transportation corporation" means a corporation created under Chapter 431, Transportation Code.

(b) A local government may contract with another local government, a state agency, or a transportation corporation to pay jointly all or part of the costs of a highway project, including the cost of an easement or interest in land required for or beneficial to the project.

(c) A local government and a transportation corporation, in accordance with a contract executed under this section, may:

(1) jointly undertake a highway project;

(2) acquire an easement, land, or an interest in land, in or outside a right-of-way of a highway project, as necessary for or beneficial to a highway project; or

(3) adjust utilities for the project.

(d) If a contract under this section provides for payments over a term of years, a local government may levy ad valorem taxes in an amount necessary to make the payments required by the contract as they become due.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.196, eff. Sept. 1, 1997.

Sec. 791.029. CONTRACTS FOR REGIONAL RECORDS CENTERS. (a) By resolution of its governing body, a political subdivision of the state may contract with another political subdivision of the state to participate in the ownership, construction, and operation of a regional records center.

(b) Before acquiring or constructing the records center, a participating political subdivision may issue bonds to finance the acquisition and construction of the records center in the manner prescribed by law for the issuance of permanent improvement bonds.

(c) The records center may not be used to store a record whose retention period is listed as permanent on a records retention schedule issued by the Texas State Library and Archives Commission under Section 441.158, unless the center meets standards for the care and storage of records of permanent value established by rules adopted by the commission under Section 203.048, Local Government Code.

(d) The Texas State Library and Archives Commission shall provide assistance and advice to local governments in the establishment and design of regional records centers.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991.

Sec. 791.030. HEALTH CARE AND HOSPITAL SERVICES. A local government may contract with another local government authorized to provide health care and hospital services to provide those services for the local government's officers and employees and their dependents.

Added by Acts 1993, 73rd Leg., ch. 823, Sec. 2, eff. Sept. 1, 1993.

Sec. 791.031. TRANSPORTATION INFRASTRUCTURE. (a) This section applies only to a local government, other than a school district, that is authorized to impose ad valorem taxes on real property.

(b) The Texas Department of Transportation may enter into an

interlocal contract with a local government for the financing of transportation infrastructure that is constructed or that is to be constructed in the territory of the local government by the department in a corridor of land on which no existing state or federal highway is located.

(c) The agreement must include:

(1) the duration of the agreement, which may not exceed 12 years;

(2) a description of each transportation infrastructure project or proposed project;

(3) a map showing the location of each project and property included in the contract; and

(4) an estimate of the cost of each project.

(d) The agreement may establish one or more transportation infrastructure zones. The Texas Department of Transportation and the local government may agree that at one or more specified times, the local government will pay to the Texas Department of Transportation an amount that is calculated on the basis of increased ad valorem tax collections in a zone that are attributable to increased values of property located in the zone resulting from an infrastructure project. The amount may not exceed an amount that is equal to 30 percent of the increase in ad valorem tax collections for the specified period.

(e) Money received by the Texas Department of Transportation under this section may be used:

(1) to provide a local match for the acquisition of right-of-way in the territory of the local government; or

(2) for design, construction, operation, or maintenance of transportation facilities in the territory of the local government.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.33, eff. Sept. 1, 1997.

Sec. 791.032. CONSTRUCTION, IMPROVEMENT, AND REPAIR OF STREETS IN MUNICIPALITIES. With the approval of the governing body of a municipality, a local government may enter into an interlocal contract with the municipality to finance the construction, improvement, maintenance, or repair of streets or alleys in the municipality, including portions of the municipality's streets or

alleys that are not an integral part of or a connecting link to other roads or highways.

Added by Acts 1999, 76th Leg., ch. 671, Sec. 1, eff. Sept. 1, 1999.

Sec. 791.033. CONTRACTS TO CONSTRUCT, MAINTAIN, OR OPERATE FACILITIES ON STATE HIGHWAY SYSTEM. (a) In this section, "state highway system" means the highways in this state included in the plan providing for a system of state highways prepared under Section 201.103, Transportation Code.

(b) A local government may enter into and make payments under an agreement with another local government for the design, development, financing, construction, maintenance, operation, extension, expansion, or improvement of a toll or nontoll project or facility on the state highway system located within the boundaries of the local government or, as a continuation of the project or facility, within the boundaries of an adjacent local government.

(c) An agreement under this section must be approved by the Texas Department of Transportation.

(d) Notwithstanding Section 791.011(d), to make payments under an agreement under this section, a local government may:

(1) pledge revenue from any available source, including payments received under an agreement with the Texas Department of Transportation under Section 222.104, Transportation Code;

(2) pledge, levy, and collect taxes to the extent permitted by law; or

(3) provide for a combination of Subdivisions (1) and (2).

(e) The term of an agreement under this section may not exceed 40 years.

(f) Any election required to permit action under this section must be held in conformance with the Election Code or other law applicable to the local government.

(g) In connection with an agreement under this section, a county or municipality may exercise any of the rights and powers granted to the governing body of an issuer under Chapter 1371.

(h) This section is wholly sufficient authority for the execution of agreements, the pledge of revenues, taxes, or any combination of revenues and taxes, and the performance of other acts and procedures authorized by this section by a local government

without reference to any other provision of law or any restriction or limitation contained in those provisions, except as specifically provided by this section. To the extent of any conflict or inconsistency between this section and any other law, this section shall prevail and control. A local government may use any law not in conflict with this section to the extent convenient or necessary to carry out any power or authority, expressed or implied, granted by this section.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.89, eff. June 14, 2005.

Sec. 791.034. INTERLOCAL CONTRACT FOR RELIEF HIGHWAY ROUTE AROUND CERTAIN MUNICIPALITIES. (a) The governing body of a municipality located in a county in which is located a facility licensed to dispose of low-level radioactive waste under Chapter 401, Health and Safety Code, may enter into an interlocal contract with the county for the construction and maintenance of a relief highway route around and outside the boundaries of the municipality that the governing body determines will serve a public purpose of the municipality.

(b) The municipality may expend municipal funds and may issue certificates of obligation or bonds to pay for expenses associated with a relief highway route under Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 357 (H.B. 1255), Sec. 1, eff. June 19, 2009.

Sec. 791.035. CONTRACTS WITH INSTITUTIONS OF HIGHER EDUCATION OR UNIVERSITY SYSTEMS. (a) A local government and an institution of higher education or university system may contract with one another to perform any governmental functions and services. If the terms of the contract provide for payment based on cost recovery, any law otherwise requiring competitive procurement does not apply to the functions and services covered by the contract.

(b) In this section, "institution of higher education" and "university system" have the meanings assigned by Section 61.003, Education Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 2.05, eff. June 17, 2011.

Sec. 791.036. REGULATION OF TRAFFIC IN SPECIAL DISTRICTS. The commissioners court of a county may enter into an interlocal contract with the board of a special district for the county to:

(1) apply the county's traffic regulations to a public road in the county that is owned, operated, and maintained by the district if the commissioners court finds that it is in the county's interest to regulate traffic on the public road; and

(2) enforce the regulations.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1211 (S.B. 1411), Sec. 1, eff. June 14, 2013.
Redesignated from Government Code, Section 791.035 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(28), eff. September 1, 2015.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 119 (S.B. 2245), Sec. 1, eff. May 22, 2019.

Sec. 791.037. SOLID WASTE DISPOSAL SERVICES IN CERTAIN COUNTIES. (a) In this section, "solid waste" has the meaning assigned by Section 361.003, Health and Safety Code.

(b) This section applies only to a county with a population of more than 1.7 million in which more than 70 percent of the population resides in a single municipality.

(c) A county may contract with a municipality to provide, directly or through a contract with another entity, a mandatory program under Section 364.034, Health and Safety Code, for solid waste disposal services in an area of the county located within the extraterritorial jurisdiction of the municipality if the municipality does not provide solid waste disposal services in that area.

(d) A contract under this section must include provisions regarding the termination of the county's provision of service on the occurrence of certain contingencies, including the annexation of the area covered by the contract by the municipality or the provision of service to the area by the municipality.

Added by Acts 2017, 85th Leg., R.S., Ch. 70 (S.B. 1229), Sec. 4, eff. May 22, 2017.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 46, eff. September 1, 2023.

CHAPTER 792. INTERNATIONAL COOPERATION AGREEMENTS

Sec. 792.001. DEFINITIONS. In this chapter:

(1) "Political subdivision" has the meaning assigned by Section 791.003.

(2) "State agency" has the meaning assigned by Section 783.003.

Added by Acts 1999, 76th Leg., ch. 1165, Sec. 1, eff. Aug. 30, 1999.

Sec. 792.002. AGREEMENTS WITH MEXICO. A state agency or a political subdivision may, to the extent permitted under federal law, enter into an agreement under this chapter with:

(1) the United Mexican States or a political subdivision of the United Mexican States;

(2) an agency of the United States; or

(3) an agency or entity that is created under a treaty or executive agreement between the United States and the United Mexican States.

Added by Acts 1999, 76th Leg., ch. 1165, Sec. 1, eff. Aug. 30, 1999.

Sec. 792.003. SCOPE OF AGREEMENT. A state agency or a political subdivision may enter into an agreement under this chapter only if the agreement is for the accomplishment of a function that the agency or political subdivision is authorized to perform under other law.

Added by Acts 1999, 76th Leg., ch. 1165, Sec. 1, eff. Aug. 30, 1999.

Sec. 792.004. TERMS. (a) Under an agreement authorized by this chapter, a political subdivision or a state agency may:

(1) acquire or dispose of in any manner available to the state agency or political subdivision under other law an interest in real property in this state or the United Mexican States;

(2) use any funds of the state agency or political subdivision that are not otherwise dedicated by law for another purpose to accomplish the purposes of the agreement;

(3) use any equipment, facilities, or other property of the state agency or political subdivision to carry out the agreement; or

(4) agree to any other terms that are not prohibited under state or federal law.

(b) An agreement made under this chapter may not provide for the liability of this state or a political subdivision on a bond or other obligation issued by the United Mexican States or a political subdivision of the United Mexican States.

Added by Acts 1999, 76th Leg., ch. 1165, Sec. 1, eff. Aug. 30, 1999.

Sec. 792.005. BONDS. (a) A state agency described by Subsection (b) or a political subdivision may issue bonds or other evidence of indebtedness to provide financing for an agreement under this chapter to the same extent and in the same manner that the agency or political subdivision is authorized to issue the bonds or other evidence of indebtedness to perform the activity on its own behalf.

(b) Only the following state agencies may issue bonds under this section:

(1) the Department of Agriculture;

(2) the Texas Department of Economic Development;

(3) the Texas Department of Housing and Community Affairs;

(4) the Texas Public Finance Authority;

(5) the Texas Turnpike Authority; or

(6) the Texas Water Development Board.

Added by Acts 1999, 76th Leg., ch. 1165, Sec. 1, eff. Aug. 30, 1999.

Sec. 792.006. APPROVAL OF GOVERNOR AND LEGISLATIVE BUDGET BOARD. An agreement made by a state agency under this chapter that involves the use of money appropriated from the state treasury is not valid unless it is approved by the governor and the Legislative

Budget Board.

Added by Acts 1999, 76th Leg., ch. 1165, Sec. 1, eff. Aug. 30, 1999.

CHAPTER 793. INTERGOVERNMENTAL SUPPORT AGREEMENTS

Sec. 793.001. DEFINITION. In this chapter, "local government" has the meaning assigned by Section 791.003.

Added by Acts 2021, 87th Leg., R.S., Ch. 89 (S.B. 780), Sec. 1, eff. May 24, 2021.

Sec. 793.002. AUTHORITY TO ENTER AGREEMENT. In accordance with the provisions that apply to an interlocal contract under Chapter 791, a local government may enter into an intergovernmental support agreement with a branch of the armed forces of the United States under the National Defense Authorization Act (10 U.S.C. Section 2679) to provide installation-support services to a military installation located in this state.

Added by Acts 2021, 87th Leg., R.S., Ch. 89 (S.B. 780), Sec. 1, eff. May 24, 2021.

CHAPTER 794. INTERSTATE COMPACT FOR BORDER SECURITY

Sec. 794.001. AUTHORITY TO DEVELOP AND EXECUTE COMPACT. On behalf of this state, the governor may develop and execute an interstate compact for border security among interested states.

Added by Acts 2023, 88th Leg., R.S., Ch. 285 (S.B. 1403), Sec. 1, eff. September 1, 2023.

Sec. 794.002. CONGRESSIONAL APPROVAL NOT REQUIRED. (a) It is the intent of the legislature that the compact developed and executed under this chapter not require congressional approval.

(b) The compact may not increase the political power of the compacting states in relation to the federal government.

Added by Acts 2023, 88th Leg., R.S., Ch. 285 (S.B. 1403), Sec. 1, eff.

September 1, 2023.

Sec. 794.003. INTERSTATE COMPACT PROVISIONS. The compact authorized by this chapter must provide for joint action among compacting states on matters that include:

(1) sharing law enforcement intelligence on illegal activity occurring at the border with Mexico;

(2) sharing state resources in order to build a physical barrier, a comprehensive technological surveillance system, or both, on state land to deter or detect illegal activity occurring at the border with Mexico; and

(3) sharing other law enforcement resources to ensure the protection of personnel and property.

Added by Acts 2023, 88th Leg., R.S., Ch. 285 (S.B. 1403), Sec. 1, eff. September 1, 2023.

TITLE 8. PUBLIC RETIREMENT SYSTEMS

SUBTITLE A. PROVISIONS GENERALLY APPLICABLE TO PUBLIC RETIREMENT SYSTEMS

CHAPTER 801. STATE PENSION REVIEW BOARD

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 801.001. DEFINITIONS. In this chapter:

(1) "Board" means the State Pension Review Board.

(1-a) "Governing body of a public retirement system" has the meaning assigned by Section 802.001.

(2) "Public retirement system" means a continuing, organized program of service retirement, disability retirement, or death benefits for officers or employees of the state or a political subdivision, or of an agency or instrumentality of the state or a political subdivision, and includes the optional retirement program governed by Chapter 830, but does not include:

(A) a program, other than the optional retirement program, for which benefits are administered by a life insurance company;

(B) a program providing only workers' compensation benefits;

(C) a program administered by the federal government;

(D) an individual retirement account or individual retirement annuity within the meaning of Section 408, or a retirement bond within the meaning of Section 409, of the Internal Revenue Code of 1986 (26 U.S.C. Section 409);

(E) a plan described by Section 401(d) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401);

(F) an individual account plan consisting of an annuity contract described by Section 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403); or

(G) an eligible state deferred compensation plan described by Section 457(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 457).

(3) "System administrator" means a person designated by the governing body of a public retirement system to supervise the day-to-day affairs of the public retirement system.

(4) "Trustee" means a member of the governing body of a public retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 143, Sec. 1, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 11.001 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 140 (H.B. 13), Sec. 1, eff. May 24, 2013.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 801.101. PENSION REVIEW BOARD. The State Pension Review Board is an agency of the state.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 11.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 801.102. COMPOSITION OF BOARD. (a) The board is composed of seven members.

(b) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 11.102 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 624, Sec. 1, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 18, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. 200), Sec. 1, eff. September 1, 2013.

Sec. 801.1021. CONFLICT PROVISIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person is not eligible for appointment as a member of the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the board;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the board; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(c) A person may not serve as a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the board.

(d) A person may not be a member of the board and may not be a board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of pensions; or

(2) the person's spouse is an officer, manager, or paid

consultant of a Texas trade association in the field of pensions.

Added by Acts 1991, 72nd Leg., ch. 624, Sec. 2, eff. Sept. 1, 1991.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. 200), Sec. 2, eff. September 1, 2013.

Sec. 801.103. MEMBERS APPOINTED BY GOVERNOR. (a) The governor shall appoint, with the advice and consent of the senate, seven members to the board.

(b) The governor shall appoint to the board:

(1) three persons who have experience in the fields of securities investment, pension administration, or pension law but who are not members or retirees of a public retirement system;

(2) one person who is a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1001 et seq.);

(3) one person who has experience in the field of governmental finance;

(4) one person who is a contributing member of a public retirement system; and

(5) one person who is receiving retirement benefits from a public retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Amended by Acts 1989, 71st Leg., ch. 164, Sec. 1, eff. Aug. 28, 1989.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 11.103 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989 and by Acts 1989, 71st Leg., ch. 1100, Sec. 4.03(a), eff. Sept. 1, 1989.

Sec. 801.106. TERMS OF OFFICE. Members of the board hold office for staggered terms of six years, with the terms of two or three members, as appropriate, expiring on January 31 of each odd-numbered year.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 11.106 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. 200), Sec. 3, eff. September 1, 2013.

Sec. 801.1061. REMOVAL. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of taking office the qualifications required by Section 801.103;

(2) does not maintain during service on the board the qualifications required by Section 801.103;

(3) is ineligible for membership under Section 801.1021;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1991, 72nd Leg., ch. 624, Sec. 3, eff. Sept. 1, 1991.
Amended by Acts 2001, 77th Leg., ch. 18, Sec. 2, eff. Sept. 1, 2001.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. 200), Sec. 4, eff. September 1, 2013.

Sec. 801.1062. TRAINING PROGRAM. (a) A person who is appointed to and qualifies for office as a member of the board may

not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter;

(2) the programs operated by the board;

(3) the role and functions of the board;

(4) the rules of the board, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the board;

(6) the results of the most recent formal audit of the board;

(7) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552;

(C) the administrative procedure law, Chapter 2001; and

(D) other laws relating to public officials, including conflict of interest laws; and

(8) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2001, 77th Leg., ch. 18, Sec. 3, eff. Sept. 1, 2001.

Sec. 801.107. SUNSET PROVISION. The State Pension Review Board is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2029.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 479, Sec. 217, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 11.107 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 624, Sec. 4, eff. Sept.

1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 5.18, eff. Nov. 12, 1991; Acts 2001, 77th Leg., ch. 18, Sec. 4, eff. Sept. 1, 2001.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. 200), Sec. 5, eff. September 1, 2013.
Acts 2023, 88th Leg., R.S., Ch. 941 (S.B. 1659), Sec. 1.07, eff. June 18, 2023.

Sec. 801.108. COMPENSATION; EXPENSES. A member of the board is entitled to reimbursement by the state for actual and necessary expenses incurred in performing the functions of the board. A member of the board who also is a member of the legislature is ineligible to receive compensation for service performed as a board member.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 58, Sec. 1, eff. Sept. 1, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 11.108 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 801.109. MEETINGS. The board shall meet at least three times each year and may meet at other times at the call of the presiding officer or as provided by board rule.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 11.109 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 801.110. PRESIDING OFFICERS. The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the will of the governor.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 11.110 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 18, Sec. 5, eff. Sept. 1, 2001.

Sec. 801.111. EXECUTIVE DIRECTOR; EMPLOYEES. (a) The board shall employ an executive director to be the executive head of the board and perform its administrative duties.

(b) The executive director may employ staff members necessary for administering the functions of the board.

(c) The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the executive director and the staff of the board.

(d) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for board employees must be based on the system established under this subsection.

(e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 614, Sec. 4(13), eff. June 19, 2009.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 11.111 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 624, Sec. 5, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 18, Sec. 6, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 614 (H.B. 874), Sec. 4(13), eff. June 19, 2009.

Sec. 801.1111. EQUAL EMPLOYMENT OPPORTUNITY. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the board to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the board's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state

and federal law.

(c) A policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

(3) be filed with the governor's office.

(d) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (c). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1991, 72nd Leg., ch. 624, Sec. 6, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 18, Sec. 7, eff. Sept. 1, 2001.

Sec. 801.112. FINANCES AND EQUIPMENT. (a) The executive director may set staff salaries, within the limits of appropriated funds and subject to the approval of the board.

(b) The board may request and use staff assistance, equipment, and office space from the Employees Retirement System of Texas.

(c) The legislature may appropriate funds from the general revenue fund to the board for the payment of staff salaries and operating expenses of the board.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 11.112 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 801.113. FUND. (a) The State Pension Review Board fund is created in the state treasury. Money in the fund may be appropriated only to assist in paying staff salaries, operating and actuarial expenses of the board, and for such activities as defined by Subsection (e) of this section.

(b) In this section:

(1) "Active member" means a person who is on the payroll of an employing entity included in the coverage of a public retirement system and who receives credit in the retirement system for service performed in the position for which the person is paid.

(2) "Annuitant" means a person who receives periodic payments from a public retirement system that are based on service

that was credited in the retirement system to a person who was an active member.

(c) The governing board of any public retirement system may vote to make an annual contribution to the State Pension Review Board not to exceed 50 cents for each active member and annuitant of the retirement system as of September 1 of the year for which the contribution is made. The contribution is payable in a lump sum.

(d) Each public retirement system shall certify to the board and to the comptroller of public accounts the amount of the annual contribution to be made under Subsection (c) of this section. The comptroller by rule may prescribe the form and content of certifications. The comptroller shall deposit remittances received under this subsection in the State Pension Review Board fund.

(e) The board is authorized to conduct training sessions, schools, or other educational activities for trustees and administrators of public retirement systems. The board may also furnish other appropriate services such as actuarial studies or other requirements of systems and may establish appropriate fees for these activities and services. The fees may be based on whether or not the trustees, administrators, or systems contribute to the State Pension Review Board fund under Subsection (c) of this section. The net proceeds of these fees shall be deposited in the fund.

(f) Under the provisions of Sections 403.094 and 403.095, the dedication of the State Pension Review Board fund is reenacted, and the fund is established as a special account within the state treasury dedicated for the purposes defined by Subsections (a) and (e).

Added by Acts 1989, 71st Leg., ch. 893, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 624, Sec. 7, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 628, Sec. 1, eff. Aug. 30, 1993.

Sec. 801.114. QUALIFICATIONS AND STANDARDS OF CONDUCT. The executive director or the executive director's designee shall provide to members of the board and to board employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 1991, 72nd Leg., ch. 624, Sec. 8, eff. Sept. 1, 1991.
Amended by Acts 2001, 77th Leg., ch. 18, Sec. 8, eff. Sept. 1, 2001.

SUBCHAPTER C. POWERS AND DUTIES OF BOARD

Sec. 801.201. RULEMAKING. (a) The board shall adopt rules for the conduct of its business.

(b) For the purpose of performing its duties under Section 801.202(1) or (2), the board by rule may require clarification of information provided by a public retirement system in a report that is required by law and is required to be filed with the board. A rule adopted under this subsection may not be enforced against a public retirement system if compliance with the rule would cause the system to incur a major expense.

(c) The board by rule shall:

(1) adopt a brief standard form that will assist the board in efficiently determining the actuarial soundness and current financial condition of a public retirement system; and

(2) require that a retirement system submitting information required for the review or study described under Section 801.202(1) or (2) include the form with the submission.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Amended by Acts 1985, 69th Leg., ch. 800, Sec. 1, eff. June 15, 1985.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 11.201 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 2001, 77th Leg., ch. 18, Sec. 9, eff. Sept. 1, 2001.

Sec. 801.2012. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) The board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for

the use of alternative dispute resolution by state agencies.

(c) The board shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. 200), Sec. 6, eff. September 1, 2013.

Sec. 801.202. GENERAL DUTIES. The board shall:

(1) conduct a continuing review of public retirement systems, compiling and comparing information about benefits, creditable service, financing, and administration of systems;

(2) conduct intensive studies of potential or existing problems that threaten the actuarial soundness of or inhibit an equitable distribution of benefits in one or more public retirement systems;

(3) provide information and technical assistance on pension planning to public retirement systems on request; and

(4) recommend policies, practices, and legislation to public retirement systems and appropriate governmental entities.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 11.202 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 801.203. REPORTS TO LEGISLATURE AND GOVERNOR. (a) The board shall present to the legislature and the governor, in November of each even-numbered year, a public report explaining the work and findings of the board during the preceding two-year period and including drafts or recommendations of any legislation relating to public retirement systems that the board finds advisable.

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(67), eff. June 17, 2011.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 11.203 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 624, Sec. 9, eff. Sept. 1, 1991.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(67), eff. June 17, 2011.

Sec. 801.204. INSPECTION OF RECORDS. In performing its functions, the board may inspect the books, records, or accounts of a public retirement system during business hours of the system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 11.204 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 801.205. SUBPOENA. (a) The board, if reasonably necessary in the course of performing a board function, may subpoena witnesses or books, records, or other documents. The presiding officer of the board shall issue, in the name of the board, only such subpoenas as a majority of the board may direct.

(b) A peace officer shall serve a subpoena issued by the board. If the person to whom a subpoena is directed fails to comply, the board may bring suit to enforce the subpoena in a district court of the county in which the witness resides or in the county in which the books, records, or other documents are located. If the district court determines that good cause exists for issuance of the subpoena, the court shall order compliance. The district court may modify the requirements of a subpoena that the court determines are unreasonable. Failure to obey the order of the district court is punishable as contempt.

(c) The attorney general shall represent the board in a suit to enforce a subpoena.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 11.205 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 801.206. PUBLIC ACCESS AND TESTIMONY. (a) The board

shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to the board's programs.

(b) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

Added by Acts 1991, 72nd Leg., ch. 624, Sec. 10, eff. Sept. 1, 1991.

Sec. 801.207. COMPLAINTS. (a) The board shall maintain a file on each written complaint filed with the board. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the board;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the board closed the file without taking action other than to investigate the complaint.

(b) The board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the board's policies and procedures relating to complaint investigation and resolution.

(c) The board, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Added by Acts 2001, 77th Leg., ch. 18, Sec. 10, eff. Sept. 1, 2001.

Sec. 801.208. EDUCATION AND TRAINING. As authorized by Section 801.113(e), the board may develop and conduct training sessions and other educational activities for trustees and administrators of public retirement systems. In exercising the board's authority under

this section, the board may:

(1) conduct live training seminars on an Internet website at intervals the board considers necessary to keep trustees and administrators reasonably informed;

(2) maintain archives of previous seminars reasonably accessible to trustees and administrators on the Internet website; and

(3) use technologies and innovations the board considers appropriate to educate the greatest practicable number of trustees and administrators.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. 200), Sec. 7, eff. September 1, 2013.

Sec. 801.209. PUBLIC RETIREMENT SYSTEM REPORTS AND INFORMATION. (a) For each public retirement system, the board shall post on the board's Internet website, or on a publicly available website that is linked to the board's website, the most recent data from reports received under Sections 802.101, 802.103, 802.104, 802.105, 802.108, 802.109, 802.2015, and 802.2016.

(b) On the 60th day after the date a report or information required by this chapter or Chapter 802 is due to the board, the board shall post on the board's website a list of public retirement systems that have not submitted the required reports or information.

(c) For each public retirement system included on the list posted under Subsection (b), the board shall notify:

(1) the governor and the Legislative Budget Board regarding the lack of a timely submission by the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Texas County and District Retirement System, the Texas Municipal Retirement System, the Texas Emergency Services Retirement System, or the Judicial Retirement System of Texas Plan Two; or

(2) the governing body of the political subdivision of which members of the public retirement system are employees regarding the lack of a timely submission by a public retirement system other than a system listed in Subdivision (1).

Added by Acts 2013, 83rd Leg., R.S., Ch. 140 (H.B. 13), Sec. 2, eff. May 24, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 940 (H.B. 3310), Sec. 1, eff. June 18, 2015.

Acts 2019, 86th Leg., R.S., Ch. 578 (S.B. 322), Sec. 1, eff. June 10, 2019.

Sec. 801.210. MODEL ETHICAL STANDARDS AND CONFLICT-OF-INTEREST POLICIES. (a) The board shall develop and make reasonably accessible on the board's Internet website model ethical standards and model conflict-of-interest policies, including disclosure requirements, for voluntary use by a public retirement system.

(b) A public retirement system is not required to adopt a standard or policy based on the model developed under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 140 (H.B. 13), Sec. 2, eff. May 24, 2013.

Sec. 801.211. PUBLIC RETIREMENT SYSTEM EDUCATIONAL TRAINING PROGRAM. (a) The board shall develop and administer an educational training program for trustees and system administrators.

(b) The curriculum of the educational training program must include minimum training requirements for trustees and system administrators. The board shall develop a system to track compliance with the minimum training requirements by trustees and system administrators and shall report the level of compliance in the biennial report required by Section 801.203.

(c) The curriculum of the educational training program under this section may include optional training classes for trustees, system administrators, and other employees of public retirement systems.

(d) To the extent practicable, the board shall make training classes reasonably accessible to trustees and system administrators of public retirement systems on an Internet website maintained for that purpose.

(e) The board may adopt rules and appropriate fees to administer and provide educational training programs under this section. The fees set by the board must be reasonable to pay the actual costs incurred by the board to conduct the training classes. The fees must be paid from a source considered appropriate by the

governing body of the public retirement system. A public retirement system may provide its own educational training to its trustees and system administrators if the board determines that the system's training meets or exceeds the minimum training requirements established by the board. A trustee or system administrator who participates in that approved educational training fulfills the minimum training requirements established by the board.

Added by Acts 2013, 83rd Leg., R.S., Ch. 140 (H.B. 13), Sec. 2, eff. May 24, 2013.

CHAPTER 802. ADMINISTRATIVE REQUIREMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 802.001. DEFINITIONS. In this chapter:

(1) "Board" means the State Pension Review Board.

(1-a) "Defined contribution plan" means a plan provided by the governing body of a public retirement system that provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant's account, and any income, expenses, gains and losses, and any forfeitures of accounts of other participants that may be allocated to the participant's account.

(2) "Governing body of a public retirement system" means the board of trustees, pension board, or other public retirement system governing body that has the fiduciary responsibility for assets of the system and has the duties of overseeing the investment and expenditure of funds of the system and the administration of benefits of the system.

(3) "Public retirement system" means a continuing, organized program of service retirement, disability retirement, or death benefits for officers or employees of the state or a political subdivision, or of an agency or instrumentality of the state or a political subdivision, other than:

(A) a program providing only workers' compensation benefits;

(B) a program administered by the federal government;

(C) an individual retirement account or individual retirement annuity within the meaning of Section 408, or a retirement bond within the meaning of Section 409, of the Internal Revenue Code

of 1986 (26 U.S.C. Sections 408, 409);

(D) a plan described by Section 401(d) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401);

(E) an individual account plan consisting of an annuity contract described by Section 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403);

(F) an eligible state deferred compensation plan described by Section 457(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 457); or

(G)(i) in Sections 802.104 and 802.105 of this chapter, a program for which benefits are administered by a life insurance company; and

(ii) in the rest of this chapter, a program for which the only funding agency is a life insurance company.

(4) "System administrator" means a person designated by the governing body of a public retirement system to supervise the day-to-day affairs of the public retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 195, ch. 18, Sec. 1, eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 143, Sec. 2, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.001 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 624, Sec. 11, eff. Sept. 1, 1991.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 140 (H.B. 13), Sec. 3, eff. May 24, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. 200), Sec. 8, eff. September 1, 2013.

Sec. 802.002. EXEMPTIONS. (a) Except as provided by Subsection (b), the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Texas County and District Retirement System, the Texas Municipal Retirement System, and the Judicial Retirement System of Texas Plan Two are exempt from Sections 802.101(a), 802.101(b), 802.101(d), 802.102, 802.103(a), 802.103(b), 802.2015, 802.2016, 802.202, 802.203, 802.204, 802.205, 802.206, and 802.207. The Judicial Retirement System of Texas Plan One is exempt

from all of Subchapters B and C except Sections 802.104 and 802.105. The optional retirement program governed by Chapter 830 is exempt from all of Subchapters B and C except Section 802.106.

(b) If a public retirement system or program that is exempt under Subsection (a) is required by law to make an actuarial valuation of the assets of the system or program and publish actuarial information about the system or program, the actuary making the valuation and the governing body publishing the information must include the information required by Section 802.101(b).

(c) Notwithstanding any other law, a defined contribution plan is exempt from Sections 802.101, 802.1012, 802.1014, 802.103, 802.104, and 802.202(d). This subsection may not be construed to exempt any plan from Section 802.105 or 802.106(h).

(d) Notwithstanding any other law, a retirement system that is organized under the Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes) for a fire department consisting exclusively of volunteers as defined by that Act is exempt from Sections 802.101, 802.1012, 802.1014, 802.102, 802.103, 802.104, and 802.202(d). This subsection may not be construed to exempt any plan from Section 802.105 or 802.106(h).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 196, ch. 18, Sec. 2, eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 143, Sec. 3, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 602, Sec. 2, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.002 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. 200), Sec. 9, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 940 (H.B. 3310), Sec. 2, eff. June 18, 2015.

Sec. 802.003. WRIT OF MANDAMUS. (a) Except as provided by Subsection (b), if the governing body of a public retirement system fails or refuses to comply with a requirement of this chapter that applies to it, a person residing in the political subdivision in which the members of the governing body are officers may file a motion, petition, or other appropriate pleading in a district court

having jurisdiction in a county in which the political subdivision is located in whole or in part, for a writ of mandamus to compel the governing body to comply with the applicable requirement.

(b) If the governing body of the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Texas Municipal Retirement System, or the Texas County and District Retirement System fails or refuses to comply with a requirement of this chapter that applies to it, any resident of the state may file a pleading in a district court in Travis County to compel the governing body to comply with the applicable requirement.

(c) If the prevailing party in an action under this section is other than the governing body of a public retirement system, the court may award reasonable attorney's fees and costs of suit.

(d) The State Pension Review Board may file an appropriate pleading, in the manner provided by this section for filing by an individual, for the purpose of enforcing a requirement of Subchapter B or C, other than a requirement of Section 802.101(a), 802.101(d), 802.102, 802.103(a), or 802.104.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 196, ch. 18, Sec. 3, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. STUDIES AND REPORTS

Sec. 802.101. ACTUARIAL VALUATION. (a) The governing body of a public retirement system shall employ an actuary, as a full-time or part-time employee or as a consultant, to make a valuation at least once every three years of the assets and liabilities of the system on the basis of assumptions and methods that are reasonable in the aggregate, considering the experience of the program and reasonable expectations, and that, in combination, offer the actuary's best estimate of anticipated experience under the program. The valuation must include a recommended contribution rate needed for the system to achieve and maintain an amortization period that does not exceed 30 years.

(b) On the basis of the valuation, the actuary shall make recommendations to the governing body of the public retirement system

to ensure the actuarial soundness of the system. The actuary shall define each actuarial term and enumerate and explain each actuarial assumption used in making the valuation. This information must be included either in the actuarial study or in a separate report made available as a public record.

(c) The governing body of a public retirement system shall file with the State Pension Review Board a copy of each actuarial study and each separate report made as required by law.

(d) An actuary employed under this section must be a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 196, ch. 18, Sec. 4, eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 143, Sec. 4, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 940 (H.B. 3310), Sec. 3, eff. June 18, 2015.

Sec. 802.1012. AUDITS OF ACTUARIAL VALUATIONS, STUDIES, AND REPORTS. (a) In this section, "governmental entity" means a unit of government that is the employer of active members of a public retirement system.

(b) Except as provided by Subsection (k), this section applies only to a public retirement system with total assets the book value of which, as of the last day of the preceding fiscal year, is at least $100 million.

(c) Every five years, the actuarial valuations, studies, and reports of a public retirement system most recently prepared for the retirement system as required by Section 802.101 or other law under this title or under Title 109, Revised Statutes, must be audited by an independent actuary who:

(1) is engaged for the purpose of the audit by the governmental entity; and

(2) has the credentials required for an actuary under

Section 802.101(d).

(d) Before beginning an audit under this section, the governmental entity and the independent actuary must agree in writing to maintain the confidentiality of any nonpublic information provided by the public retirement system for the audit.

(e) Before beginning an audit under this section, the independent actuary must meet with the manager of the pension fund for the public retirement system to discuss the appropriate assumptions to use in conducting the audit.

(f) Not later than the 30th day after completing the audit under Subsection (c), the independent actuary shall submit to the public retirement system for purposes of discussion and clarification a preliminary draft of the audit report that is substantially complete.

(g) The independent actuary shall:

(1) discuss the preliminary draft of the audit report with the governing body of the public retirement system; and

(2) request in writing that the retirement system, on or before the 30th day after the date of receiving the preliminary draft, submit to the independent actuary any response that the retirement system wants to accompany the final audit report.

(h) The independent actuary shall submit to the governmental entity the final audit report that includes the audit results and any response received from the public retirement system:

(1) not earlier than the 31st day after the date on which the preliminary draft is submitted to the retirement system; and

(2) not later than the 60th day after the date on which the preliminary draft is submitted to the retirement system.

(i) At the first regularly scheduled open meeting after receiving the final audit report, the governing body of the governmental entity shall:

(1) include on the posted agenda for the meeting the presentation of the audit results;

(2) present the final audit report and any response from the public retirement system; and

(3) provide printed copies of the final audit report and the response from the public retirement system for individuals attending the meeting.

(j) The governmental entity shall:

(1) maintain a copy of the final audit report at its main

office for public inspection;

(2) submit a copy of the final audit report to the public retirement system and the State Pension Review Board not later than the 30th day after the date the final audit report is received by the governmental entity; and

(3) pay all costs associated with conducting the audit and preparing and distributing the report under this section.

(k) This section does not apply to the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Texas County and District Retirement System, the Texas Municipal Retirement System, or the Judicial Retirement System of Texas Plan Two.

Added by Acts 2007, 80th Leg., R.S., Ch. 733 (H.B. 2664), Sec. 1, eff. September 1, 2007.

Sec. 802.1014. ACTUARIAL EXPERIENCE STUDY. (a) In this section, "actuarial experience study" means a study in which actuarial assumptions are reviewed in light of relevant experience factors, important trends, and economic projections with the purpose of determining whether actuarial assumptions require adjustment.

(b) Except as provided by Subsection (c), a public retirement system that conducts an actuarial experience study shall submit to the board a copy of the actuarial experience study before the 31st day after the date of the study's adoption.

(b-1) Except as provided by Subsection (c), a public retirement system that has assets of at least $100 million shall conduct once every five years an actuarial experience study and shall submit to the board a copy of the actuarial experience study before the 31st day after the date of the study's adoption.

(c) This section does not apply to the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Texas County and District Retirement System, the Texas Municipal Retirement System, or the Judicial Retirement System of Texas Plan Two.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. 200), Sec. 10, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 940 (H.B. 3310), Sec. 4, eff. June 18, 2015.

Sec. 802.102. AUDIT. The governing body of a public retirement system shall have the accounts of the system audited at least annually by a certified public accountant in accordance with generally accepted auditing standards. A general audit of a governmental entity, as defined by Section 802.1012, does not satisfy the requirement of this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Amended by Acts 1985, 69th Leg., ch. 143, Sec. 5, eff. Sept. 1, 1985.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.102 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. 200), Sec. 11, eff. September 1, 2013.

Sec. 802.1024. CORRECTION OF ERRORS. (a) Except as provided by Subsection (b), if an error in the records of a public retirement system results in a person receiving more or less money than the person is entitled to receive under this subtitle, the retirement system shall correct the error and so far as practicable adjust any future payments so that the actuarial equivalent of the benefit to which the person is entitled is paid. If no future payments are due, the retirement system may recover the overpayment in any manner that would be permitted for the collection of any other debt.

(a-1) On discovery of an error described by Subsection (a), the public retirement system shall as soon as practicable, but not later than the 90th day after the date of discovery, give written notice of the error to the person receiving an incorrect amount of money. The notice must include:

(1) the amount of the correction in overpayment or underpayment;

(2) how the amount of the correction was calculated;

(3) a brief explanation of the reason for the correction;

(4) a statement that the notice recipient may file a written complaint with the retirement system if the recipient does not agree with the correction;

(5) instructions for filing a written complaint; and

(6) a payment plan option if no future payments are due.

(a-2) Except as provided by this subsection and Section

802.1025, the public retirement system shall begin to adjust future payments or, if no future payments are due, institute recovery of an overpayment of benefits under Subsection (a) not later than the 90th day after the date the notice required by Subsection (a-1) is delivered by certified mail, return receipt requested. If the system does not receive a signed receipt evidencing delivery of the notice on or before the 30th day after the date the notice is mailed, the system shall mail the notice a second time by certified mail, return receipt requested. Except as provided by Section 802.1025, not later than the 90th day after the date the second notice is mailed, the system shall begin to adjust future payments or, if no future payments are due, institute recovery of an overpayment of benefits.

(b) Except as provided by Subsection (c), a public retirement system:

(1) may correct the overpayment of benefits to a person entitled to receive payments from the system by the method described by Subsection (a) only for an overpayment made during the three years preceding the date the system discovers or discovered the overpayment;

(2) may not recover from the recipient any overpayment made more than three years before the discovery of the overpayment; and

(3) may not recover an overpayment if the system did not adjust future payments or, if no future payments are due, institute recovery of the overpayment within the time prescribed by Subsection (a-2) or Section 802.1025.

(c) Subsection (b) does not apply to an overpayment a reasonable person should know the person is not entitled to receive.

Added by Acts 2003, 78th Leg., ch. 416, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1164 (H.B. 155), Sec. 1, eff. June 15, 2007.

Sec. 802.1025. COMPLAINT PROCEDURE. (a) Not later than the 20th day after the date of receiving notice under Section 802.1024(a-1) or, if applicable, the second notice under Section 802.1024(a-2), the notice recipient may file a written complaint with the retirement system. The recipient shall include any available supporting documentation with the complaint.

(b) Not later than the 30th day after the date of receiving a complaint under Subsection (a), the retirement system shall respond in writing to the complaint by confirming the amount of the proposed correction or, if the retirement system determines the amount of the proposed correction is incorrect, by modifying the amount of the correction. If the retirement system modifies the amount of the correction, the response must include:

(1) how the modified correction was calculated;

(2) a brief explanation of the reason for the modification; and

(3) a payment plan option if no future payments are due.

(c) Subject to Subsection (d), if a complaint is filed under this section, the retirement system may not adjust future payments or recover an overpayment under Section 802.1024 until:

(1) the 20th day after the date the notice recipient receives the response under Subsection (b), if the recipient does not file an administrative appeal by that date; or

(2) the date a final decision by the retirement system is issued, if the recipient files an administrative appeal before the date described by Subdivision (1).

(d) If the retirement system has begun the adjustment of future payments or the recovery of an overpayment under Section 802.1024(a-2), the system shall discontinue the adjustment of future payments or the recovery of the overpayment beginning with the first pay cycle occurring after the date the complaint is received by the system. The system may not recommence the adjustment of future payments or the recovery of an overpayment until the date described by Subsection (c)(1) or (2), as applicable. If a complaint is resolved in favor of the person filing the complaint, not later than the 30th day after the date of the resolution, the system shall pay the person the appropriate amount.

(e) A person whose complaint is not resolved under this section must exhaust all administrative procedures provided by the retirement system. Not later than the 30th day after the date a final administrative decision is issued by the retirement system, a person aggrieved by the decision may appeal the decision to an appropriate district court.

Added by Acts 2007, 80th Leg., R.S., Ch. 1164 (H.B. 155), Sec. 2, eff. June 15, 2007.

Sec. 802.103. ANNUAL FINANCIAL REPORT. (a) The governing body of a public retirement system shall publish an annual financial report showing the financial condition of the system as of the last day of the fiscal year covered in the report. The report must include:

(1) the financial statements and schedules examined in the most recent audit performed as required by Section 802.102;

(2) a statement of opinion by the certified public accountant as to whether or not the financial statements and schedules are presented fairly and in accordance with generally accepted accounting principles;

(3) a listing, by asset class, of all direct and indirect commissions and fees paid by the retirement system during the system's previous fiscal year for the sale, purchase, or management of system assets; and

(4) the names of investment managers engaged by the retirement system.

(b) The governing body of a public retirement system shall, before the 211th day after the last day of the fiscal year under which the system operates, file with the State Pension Review Board a copy of each annual financial report it makes as required by law.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. 200), Sec. 17, eff. September 1, 2013, and Ch. 1316 (S.B. 220), Sec. 4.01(1), eff. June 14, 2013.

(d) A general audit of a governmental entity, as defined by Section 802.1012, does not satisfy the requirement of this section.

(e) The board may adopt rules necessary to implement this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 196, ch. 18, Sec. 5, 6, eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 143, Sec. 5, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 126, Sec. 1, eff. May 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.103 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. 200), Sec. 12, eff.

September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. 200), Sec. 17, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 4.01(1), eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 578 (S.B. 322), Sec. 2, eff. June 10, 2019.

Sec. 802.104. REPORT OF MEMBERS AND RETIREES. Each public retirement system annually shall, before the 211th day after the last day of the fiscal year under which the system operates, submit to the board a report containing the number of members and number of retirees of the system as of the last day of the immediately preceding fiscal year.

Added by Acts 1981, 67th Leg., 1st C.S., p. 196, ch. 18, Sec. 7, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 143, Sec. 5, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.104 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 624, Sec. 12, eff. Sept. 1, 1991.

Sec. 802.105. REGISTRATION. (a) Each public retirement system shall, before the 91st day after the date of its creation, register with the State Pension Review Board.

(b) A registration form submitted to the board must include:

(1) the name, mailing address, and telephone number of the public retirement system;

(2) the names and occupations of the chairman and other members of its governing body;

(3) a citation of the law under which the system was created;

(4) the beginning and ending dates of its fiscal year; and

(5) the name of the administrator of the system and the person's business mailing address and telephone number if different from those of the retirement system.

(c) A public retirement system shall notify the board of changes in information required under Subsection (b) before the 31st

day after the day the change occurs.

Added by Acts 1981, 67th Leg., 1st C.S., p. 196, ch. 18, Sec. 7, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 143, Sec. 5, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.105 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 802.106. INFORMATION TO MEMBER OR ANNUITANT. (a) When a person becomes a member of a public retirement system, the system shall provide the person:

(1) a summary of the benefits from the retirement system available to or on behalf of a person who retires or dies while a member or retiree of the system;

(2) a summary of procedures for claiming or choosing the benefits available from the retirement system; and

(3) a summary of the provisions for employer and employee contributions, withdrawal of contributions, and eligibility for benefits, including any right to terminate employment and retain eligibility.

(b) A public retirement system shall distribute to each active member and retiree a summary of any significant change that is made in statutes or ordinances governing the retirement system and that affects contributions, benefits, or eligibility. A distribution must be made before the 271st day after the day the change is adopted.

(c) A public retirement system annually shall provide to each active member a statement of the amounts of the member's accumulated contributions and total accumulated service credit on which benefits may be based and to each annuitant a statement of the amount of payments made to the annuitant by the system during the preceding 12 months.

(d) A public retirement system shall provide to each active member and annuitant a summary of the financial condition of the retirement system, if the actuary of the system determines, based on a computation of advanced funding of actuarial costs, that the financing arrangement of the system is inadequate. The actuarial determination must be disclosed to members and annuitants at the time annual statements are next provided under Subsection (c) after the determination is made. An actuary who makes a determination under

this subsection must have at least five years of experience working with one or more public retirement systems and be a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the Employees Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

(e) A member not currently contributing to a particular public retirement system is entitled on written request to receive from that system a copy of any document required by this section to be furnished to a member who is actively contributing.

(f) The governing body of a public retirement system composed of participating subdivisions or municipalities may provide one copy of any document it prepares under this section to each affected participating subdivision or municipality. Each participating subdivision or municipality shall distribute the information contained in the document to its employee members and annuitants, as applicable.

(g) Information required by this section may be contained, at the discretion of the public retirement system providing the information, in one or more separate documents. The information must be stated to the greatest extent practicable in terms understandable to a typical member of the public retirement system.

(h) A public retirement system shall submit to the board copies of the summarized information required by Subsections (a) and (b) before the 31st day after the date of publication or the date a change is adopted, as appropriate.

Added by Acts 1981, 67th Leg., 1st C.S., p. 196, ch. 18, Sec. 7, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 143, Sec. 6, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.106 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1152 (S.B. 200), Sec. 13, eff. September 1, 2013.

Sec. 802.107. GENERAL PROVISIONS RELATING TO REPORTS AND CONTACT INFORMATION. (a) A public retirement system shall maintain for public review at its main office and at such other locations as the retirement system considers appropriate copies of the most recent

edition of each type of report or other information required by this chapter to be submitted to the State Pension Review Board.

(b) Information required by this chapter to be submitted to the State Pension Review Board may be contained in one or more documents but must be submitted within the period provided by the provision requiring the information.

(c) A public retirement system shall post on a publicly available Internet website:

(1) the name, business address, and business telephone number of a system administrator of the public retirement system; and

(2) a copy of the most recent edition of each report and other written information that is required by this chapter or Chapter 801 to be submitted to the board.

(d) A public retirement system that maintains a website or for which a website is maintained shall prominently post a link on that website to the information required by Subsection (c). All other public retirement systems shall:

(1) prominently post the information required by Subsection (c) on a website that is maintained by the governing body of the political subdivision of which members of the public retirement system are officers or employees; or

(2) post the information required by Subsection (c) on a publicly available website that is maintained by a state agency.

(e) A report or other information posted under Subsection (c) must remain posted until replaced with a more recently submitted edition of the report or information.

Added by Acts 1985, 69th Leg., ch. 143, Sec. 7, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.1061 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 140 (H.B. 13), Sec. 4, eff. May 24, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 140 (H.B. 13), Sec. 5, eff. May 24, 2013.

Sec. 802.108. REPORT OF INVESTMENT RETURNS AND ASSUMPTIONS. (a) A public retirement system shall, before the 211th day after the last day of its fiscal year, submit to the board an investment

returns and actuarial assumptions report that includes:

(1) gross investment returns and net investment returns for each of the most recent 10 fiscal years;

(2) the rolling gross and rolling net investment returns for the most recent 1-year, 3-year, and 10-year periods;

(3) the rolling gross and rolling net investment return for the most recent 30-year period or the gross and net investment return since inception of the system, whichever period is shorter;

(4) the assumed rate of return used in the most recent actuarial valuation; and

(5) the assumed rate of return used in each of the most recent 10 actuarial valuations.

(b) For purposes of this section, "net investment return" means the gross investment return minus investment expenses. The net investment return may be calculated as the money-weighted rate of return as required by generally accepted accounting principles. The period basis for each report of investment returns under this section must be the fiscal year of the public retirement system submitting the report.

(c) If any information required to be reported by a public retirement system under Subsection (a) is unavailable, the governing body of the public retirement system shall, before the 211th day after the last day of the public retirement system's fiscal year, submit to the board a letter certifying that the information is unavailable, providing a reason for the unavailability of the information, and agreeing to timely submit the information to the board if it becomes available.

Added by Acts 2013, 83rd Leg., R.S., Ch. 140 (H.B. 13), Sec. 6, eff. May 24, 2013.

Sec. 802.1085. BIENNIAL REPORT ON INVESTMENT RETURNS OF CERTAIN PUBLIC RETIREMENT SYSTEMS. (a) This section applies only to the:

(1) Employees Retirement System of Texas; and

(2) Teacher Retirement System of Texas.

(b) Not later than December 31 of each even-numbered year, the governing body of a public retirement system shall submit to the governor, the lieutenant governor, and each member of the legislature a report that details and compares the assumed rate of return and the

annualized actual time-weighted rate of return achieved by the system for the most recent 1-year, 5-year, 10-year, and 20-year fiscal periods. The report must include:

(1) for each period, an estimate of what the market value of the invested assets of the fund would have been as of the most recent fiscal year end had the system achieved the applicable assumed rate of return; and

(2) a comparison of each estimate described by Subdivision (1) and the actual market value of the invested assets in the fund as of the most recent fiscal year end.

(c) The report required by this section may be combined with any other report required by law.

Added by Acts 2021, 87th Leg., R.S., Ch. 570 (S.B. 483), Sec. 1, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3474, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 802.109. INVESTMENT PRACTICES AND PERFORMANCE REPORTS. (a) Except as provided by Subsection (e) and subject to Subsections (c) and (k), a public retirement system shall select an independent firm with substantial experience in evaluating institutional investment practices and performance to evaluate the appropriateness, adequacy, and effectiveness of the retirement system's investment practices and performance and to make recommendations for improving the retirement system's investment policies, procedures, and practices. Each evaluation must include:

(1) a summary of the independent firm's experience in evaluating institutional investment practices and performance and a statement that the firm's experience meets the experience required by this subsection;

(2) a statement indicating the nature of any existing relationship between the independent firm and the public retirement system and confirming that the firm and any related entity are not involved in directly or indirectly managing the investments of the system;

(3) a list of the types of remuneration received by the independent firm from sources other than the public retirement system

for services provided to the system;

(4) a statement identifying any potential conflict of interest or any appearance of a conflict of interest that could impact the analysis included in the evaluation due to an existing relationship between the independent firm and:

(A) the public retirement system; or

(B) any current or former member of the governing body of the system; and

(5) an explanation of the firm's determination regarding whether to include a recommendation for each of the following evaluated matters:

(A) an analysis of any investment policy or strategic investment plan adopted by the retirement system and the retirement system's compliance with that policy or plan;

(B) a detailed review of the retirement system's investment asset allocation, including:

(i) the process for determining target allocations;

(ii) the expected risk and expected rate of return, categorized by asset class;

(iii) the appropriateness of selection and valuation methodologies of alternative and illiquid assets; and

(iv) future cash flow and liquidity needs;

(C) a review of the appropriateness of investment fees and commissions paid by the retirement system;

(D) a review of the retirement system's governance processes related to investment activities, including investment decision-making processes, delegation of investment authority, and board investment expertise and education; and

(E) a review of the retirement system's investment manager selection and monitoring process.

(b) The governing body of a public retirement system may determine additional specific areas to be evaluated under Subsection (a) and may select particular asset classes on which to focus, but the first evaluation must be a comprehensive analysis of the retirement system's investment program that covers all asset classes.

(c) In selecting an independent firm to conduct the evaluation described by Subsection (a), a public retirement system:

(1) subject to Subdivision (2), may select a firm regardless of whether the firm has an existing relationship with the retirement system; and

(2) may not select a firm that directly or indirectly manages investments of the retirement system.

(d) A public retirement system shall conduct the evaluation described by Subsection (a):

(1) once every three years, if the total assets of the retirement system as of the last day of the preceding fiscal year were at least $100 million; or

(2) once every six years, if the total assets of the retirement system as of the last day of the preceding fiscal year were at least $30 million and less than $100 million.

(e) A public retirement system is not required to conduct the evaluation described by Subsection (a) if the total assets of the retirement system as of the last day of the preceding fiscal year were less than $30 million.

(e-1) Not later than the 30th day after the date an independent firm completes an evaluation described by Subsection (a), the independent firm shall:

(1) submit to the public retirement system for purposes of discussion and clarification a substantially completed preliminary draft of the evaluation report; and

(2) request in writing that the system, on or before the 30th day after the date the system receives the preliminary draft, submit to the firm:

(A) a description of any action taken or expected to be taken in response to a recommendation made in the evaluation; and

(B) any written response of the system that the system wants to accompany the final evaluation report.

(f) The independent firm shall file the final evaluation report, including the evaluation results and any response received from the public retirement system, with the governing body of the system:

(1) not earlier than the 31st day after the date on which the preliminary draft is submitted to the system; and

(2) not later than the later of:

(A) the 60th day after the date on which the preliminary draft is submitted to the system; or

(B) May 1 in the year following the year in which the system is evaluated under Subsection (a).

(g) Not later than the 31st day after the date the governing body of a public retirement system receives a report of an evaluation

under this section, the governing body shall submit the report to the board.

(h) A governmental entity that is the employer of active members of a public retirement system evaluated under Subsection (a) may pay all or part of the costs of the evaluation. The public retirement system shall pay any remaining unpaid costs of the evaluation.

(i) The board shall submit an investment performance report to the governor, the lieutenant governor, the speaker of the house of representatives, and the legislative committees having principal jurisdiction over legislation governing public retirement systems in the biennial report required by Section 801.203. The report must compile and summarize the information received under this section by the board during the preceding two fiscal years.

(j) Repealed by Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 20(1), eff. May 26, 2021.

(k) The following reports may be used by the applicable public retirement systems to satisfy the requirement for a report of an evaluation under this section:

(1) an investment report under Section 10A, Article 6243g-4, Revised Statutes;

(2) an investment report under Section 2D, Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes); and

(3) a report on a review conducted on the retirement system's investments under Section 2B, Article 6243e.2(1), Revised Statutes.

(l) The board may adopt rules necessary to implement this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 578 (S.B. 322), Sec. 3, eff. June 10, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 20(1), eff. May 26, 2021.

Acts 2021, 87th Leg., R.S., Ch. 1033 (H.B. 3898), Sec. 2, eff. September 1, 2021.

SUBCHAPTER C. ADMINISTRATION OF ASSETS

Sec. 802.201. ASSETS IN TRUST. The governing body of a public retirement system shall hold or cause to be held in trust the assets appropriated or dedicated to the system, for the benefit of the members and retirees of the system and their beneficiaries.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.201 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 802.2011. FUNDING POLICY. (a) In this section:

(1) "Funded ratio" means the ratio of a public retirement system's actuarial value of assets divided by the system's actuarial accrued liability.

(2) "Governmental entity" has the meaning assigned by Section 802.1012.

(3) "Statewide retirement system" means:

(A) the Employees Retirement System of Texas, including a retirement system administered by that system;

(B) the Teacher Retirement System of Texas;

(C) the Texas County and District Retirement System;

(D) the Texas Emergency Services Retirement System; and

(E) the Texas Municipal Retirement System.

(b) The governing body of a public retirement system and, if the system is not a statewide retirement system, its associated governmental entity shall:

(1) jointly, if applicable:

(A) develop and adopt a written funding policy that details a plan for achieving a funded ratio of the system that is equal to or greater than 100 percent; and

(B) timely revise the policy to reflect any significant changes to the policy, including changes required as a result of formulating and implementing a funding soundness restoration plan, including a revised funding soundness restoration plan, under Section 802.2015 or 802.2016;

(2) maintain for public review at its main office a copy of the policy;

(3) file a copy of the policy and each change to the policy with the board not later than the 31st day after the date the policy or change, as applicable, is adopted; and

(4) post a copy of the most recent edition of the policy on a publicly available Internet website in accordance with Section 802.107(c)(2).

(c) For purposes of Subsection (b)(1)(B), the written funding policy must outline any automatic contribution or benefit changes designed to prevent having to formulate a revised funding soundness restoration plan under Section 802.2015(d), including any automatic risk-sharing mechanisms that have been implemented, the adoption of an actuarially determined contribution structure, and other adjustable benefit or contribution mechanisms.

(d) The board may adopt rules necessary to implement this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 453 (S.B. 2224), Sec. 1, eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 1033 (H.B. 3898), Sec. 3, eff. September 1, 2021.

Sec. 802.2015. FUNDING SOUNDNESS RESTORATION PLAN. (a) In this section:

(1) "Funded ratio" has the meaning assigned by Section 802.2011.

(2) "Governmental entity" has the meaning assigned by Section 802.1012.

(b) This section applies to a public retirement system and its associated governmental entity other than a public retirement system and its associated governmental entity subject to Section 802.2016.

(c) A public retirement system shall notify the associated governmental entity in writing if the system receives an actuarial valuation indicating that the system's actual contributions are not sufficient to amortize the unfunded actuarial accrued liability within 30 years. The governing body of the public retirement system and the governing body of the associated governmental entity shall jointly formulate a funding soundness restoration plan under Subsection (e) if the system's actuarial valuation shows that the system's expected funding period:

(1) has exceeded 30 years for three consecutive annual actuarial valuations, or two consecutive annual actuarial valuations

in the case of a system that conducts the valuations every two or three years; or

(2) effective September 1, 2025:

(A) exceeds 40 years; or

(B) exceeds 30 years and the funded ratio of the system is less than 65 percent.

(d) Except as provided by Subsection (d-1), the governing body of a public retirement system and the governing body of the associated governmental entity that have an existing funding soundness restoration plan under Subsection (e) shall formulate a revised funding soundness restoration plan under Subsection (e-1) if the system becomes subject to Subsection (c) before the 10th anniversary of the date prescribed by Subsection (e)(2)(A) or (B), as applicable.

(d-1) The governing body of a public retirement system and the governing body of the associated governmental entity are not subject to Subsection (d) if:

(1) the system's actuarial valuation shows that the system's expected funding period exceeds 30 years but is less than or equal to 40 years; and

(2) the system is:

(A) adhering to an existing funding soundness restoration plan that was formulated before September 1, 2025; or

(B) implementing a contribution rate structure that uses or will ultimately use an actuarially determined contribution structure and the system's actuarial valuation shows that the system is expected to achieve full funding.

(e) A funding soundness restoration plan formulated under this section must:

(1) be developed by the public retirement system and the associated governmental entity in accordance with the system's governing statute;

(2) be designed to achieve a contribution rate that will be sufficient to amortize the unfunded actuarial accrued liability within 30 years not later than the later of:

(A) the second anniversary of the valuation date stated in the actuarial valuation that required formulation of the plan under this subsection; or

(B) September 1, 2025;

(3) be based on actions agreed to be taken by the system

and entity that were approved by the respective governing bodies of both the system and the entity before the plan was adopted; and

(4) be adopted at open meetings of the respective governing bodies of the system and the entity not later than the second anniversary of the date the actuarial valuation that required application of this subsection was adopted by the governing body of the system.

(e-1) A revised funding soundness restoration plan formulated under this section must:

(1) be developed by the public retirement system and the associated governmental entity in accordance with the system's governing statute;

(2) be designed to achieve a contribution rate that will be sufficient to amortize the unfunded actuarial accrued liability within 25 years not later than the second anniversary of the valuation date stated in the actuarial valuation that required formulation of a revised plan under this subsection;

(3) be based on actions, including automatic risk-sharing mechanisms, an actuarially determined contribution structure, and other adjustable benefit or contribution mechanisms, agreed to be taken by the system and entity that were approved by the respective governing bodies of both the system and the entity before the plan was adopted; and

(4) be adopted at open meetings by the respective governing bodies of the system and the entity not later than the second anniversary of the date the actuarial valuation that required application of this subsection was adopted by the governing body of the system.

(e-2) Not later than the 90th day after the date on which the plan is adopted by both the governing body of the system and the governing body of the associated governmental entity, a system may submit to the board an actuarial valuation required under Section 802.101(a) or other law that shows the combined impact of all changes to a funding soundness restoration plan adopted under this section, including a revised funding soundness restoration plan adopted under Subsection (e-1). If a system does not provide an actuarial valuation to the board in accordance with this subsection, the board may request that the system provide a separate analysis of the combined impact of all changes to a funding soundness restoration plan adopted under this section not later than the 90th day after the

date the board makes the request. An actuarial valuation or separate analysis conducted under this subsection must include:

(1) an actuarial projection of the public retirement system's expected future assets and liabilities between the valuation date described by Subsection (e)(2)(A) or (e-1)(2), as applicable, and the date at which the plan is expected to achieve full funding; and

(2) a description of all assumptions and methods used to perform the analysis which must comply with actuarial standards of practice.

(e-3) The associated governmental entity may pay all or part of the costs of the separate analysis required under Subsection (e-2). The public retirement system shall pay any costs for the analysis not paid by the associated governmental entity.

(e-4) A funding soundness restoration plan adopted under this section, including a revised funding soundness restoration plan adopted under Subsection (e-1), may not include actions that are subject to future approval by the governing bodies of either the public retirement system or the associated governmental entity.

(f) A public retirement system and the associated governmental entity required to formulate a funding soundness restoration plan under this section, including a revised funding soundness restoration plan, shall provide a report to the board on progress made by the system and entity in formulating the plan, including a draft of any plan and a description of any changes under consideration for inclusion in a plan, not later than the first anniversary of the date of the actuarial valuation that required formulation of the plan under Subsection (e) or (e-1) and each subsequent six-month period until the plan is submitted to the board under this section.

(g) Each public retirement system that formulates a funding soundness restoration plan as provided by this section shall submit a copy of that plan to the board and any change to the plan not later than the 31st day after the date on which the plan is adopted by both the governing body of the system and the governing body of the associated governmental entity or the date the change is agreed to.

(h) The board may adopt rules necessary to implement this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 940 (H.B. 3310), Sec. 5, eff. June 18, 2015.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 1033 (H.B. 3898), Sec. 4, eff. September 1, 2021.

Sec. 802.2016. FUNDING SOUNDNESS RESTORATION PLAN FOR CERTAIN PUBLIC RETIREMENT SYSTEMS. (a) In this section:

(1) "Funded ratio" has the meaning assigned by Section 802.2011.

(2) "Governmental entity" has the meaning assigned by Section 802.1012.

(b) This section applies only to a public retirement system that is governed by Article 6243i, Revised Statutes, and its associated governmental entity.

(c) A public retirement system shall notify the associated governmental entity in writing if the system receives an actuarial valuation indicating that the system's actual contributions are not sufficient to amortize the unfunded actuarial accrued liability within 30 years. The governing body of the associated governmental entity shall formulate a funding soundness restoration plan under Subsection (e) if the system's actuarial valuation shows that the system's expected funding period:

(1) has exceeded 30 years for three consecutive annual actuarial valuations, or two consecutive annual actuarial valuations in the case of a system that conducts the valuations every two or three years; or

(2) effective September 1, 2025:

(A) exceeds 40 years; or

(B) exceeds 30 years and the funded ratio of the system is less than 65 percent.

(d) Except as provided by Subsection (d-1), the governing body of an associated governmental entity that has an existing funding soundness restoration plan under Subsection (e) shall formulate a revised funding soundness restoration plan under Subsection (e-1) if the system becomes subject to Subsection (c) before the 10th anniversary of the date prescribed by Subsection (e)(2)(A) or (B), as applicable.

(d-1) The associated governmental entity is not subject to Subsection (d) if:

(1) the system's actuarial valuation shows that the

system's expected funding period exceeds 30 years but is less than or equal to 40 years; and

(2) the system is:

(A) adhering to an existing funding soundness restoration plan that was formulated before September 1, 2025; or

(B) implementing a contribution rate structure that uses or will ultimately use an actuarially determined contribution structure and the system's actuarial valuation shows that the system is expected to achieve full funding.

(e) A funding soundness restoration plan formulated under this section must:

(1) be developed in accordance with the public retirement system's governing statute by the associated governmental entity;

(2) be designed to achieve a contribution rate that will be sufficient to amortize the unfunded actuarial accrued liability within 30 years not later than the later of:

(A) the second anniversary of the valuation date stated in the actuarial valuation that required formulation of the plan under this subsection; or

(B) September 1, 2025;

(3) be based on actions, including automatic risk-sharing mechanisms, an actuarially determined contribution structure, and other adjustable benefit or contribution mechanisms, agreed to be taken by the system and entity that were approved by the governing body of the associated governmental entity before the plan was adopted; and

(4) be adopted at an open meeting of the governing body of the associated governmental entity not later than the second anniversary of the date the actuarial valuation that required application of this subsection was adopted by the governing body of the system.

(e-1) A revised funding soundness restoration plan formulated under this section must:

(1) be developed by the associated governmental entity in accordance with the system's governing statute;

(2) be designed to achieve a contribution rate that will be sufficient to amortize the unfunded actuarial accrued liability within 25 years not later than the second anniversary of the valuation date stated in the actuarial valuation that required formulation of a revised plan under this subsection;

(3) be based on actions agreed to be taken by the system and entity that were approved by the governing body of the associated governmental entity before the plan was adopted; and

(4) be adopted at an open meeting of the governing body of the associated governmental entity not later than the second anniversary of the date the actuarial valuation that required application of this subsection was adopted by the governing body of the system.

(e-2) Not later than the 90th day after the date on which the plan is adopted by the governing body of the associated governmental entity, a system may submit to the board an actuarial valuation required under Section 802.101(a) or other law that shows the combined impact of all changes to a funding soundness restoration plan adopted under this section, including a revised funding soundness restoration plan adopted under Subsection (e-1). If a system does not provide an actuarial valuation to the board in accordance with this subsection, the board may request that the system provide a separate analysis of the combined impact of all changes to a funding soundness restoration plan adopted under this section not later than the 90th day after the date the board makes the request. An actuarial valuation or the separate analysis conducted under this subsection must include:

(1) an actuarial projection of the public retirement system's expected future assets and liabilities between the valuation date described by Subsection (e)(2)(A) or (e-1)(2), as applicable, and the date at which the plan is expected to achieve full funding; and

(2) a description of all assumptions and methods used to perform the analysis which must comply with actuarial standards of practice.

(e-3) The associated governmental entity may pay all or part of the costs of the separate analysis required under Subsection (e-2). The public retirement system shall pay any costs for the analysis not paid by the associated governmental entity.

(e-4) A funding soundness restoration plan adopted under this section, including a revised funding soundness restoration plan adopted under Subsection (e-1), may not include actions that are subject to future approval by the governing body of the associated governmental entity.

(f) An associated governmental entity required to formulate a

funding soundness restoration plan under this section, including a revised funding soundness restoration plan, shall provide a report to the board on progress made by the associated governmental entity in formulating the plan, including a draft of any plan and a description of any changes under consideration for inclusion in a plan, not later than the first anniversary of the date of the actuarial valuation that required formulation of the plan under Subsection (e) or (e-1) and each subsequent six-month period until the plan is submitted to the board under this section.

(g) An associated governmental entity that formulates a funding soundness restoration plan as provided by this section shall submit a copy of that plan to the board and any change to the plan not later than the 31st day after the date on which the plan is adopted by the governing body of the associated governmental entity or the date the change is formulated.

(h) The board may adopt rules necessary to implement this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 940 (H.B. 3310), Sec. 5, eff. June 18, 2015.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 1033 (H.B. 3898), Sec. 5, eff. September 1, 2021.

Sec. 802.202. INVESTMENT OF SURPLUS. (a) The governing body of a public retirement system is responsible for the management and administration of the funds of the system.

(b) When, in the opinion of the governing body, a surplus of funds exists in accounts of a public retirement system over the amount needed to make payments as they become due within the next year, the governing body shall deposit all or as much of the surplus as the governing body considers prudent in a reserve fund for investment.

(c) The governing body shall determine the procedure it finds most efficient and beneficial for the management of the reserve fund of the system. The governing body may directly manage the investments of the system or may choose and contract for professional investment management services.

(d) The governing body of a public retirement system shall:

(1) develop and adopt a written investment policy;

(2) maintain for public review at its main office a copy of the policy;

(3) file a copy of the policy with the State Pension Review Board not later than the 90th day after the date the policy is adopted; and

(4) file a copy of each change to the policy with the State Pension Review Board not later than the 90th day after the change is adopted.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.202 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 373, Sec. 1, eff. Aug. 30, 1993.

Sec. 802.203. FIDUCIARY RESPONSIBILITY. (a) In making and supervising investments of the reserve fund of a public retirement system, an investment manager or the governing body shall discharge its duties solely in the interest of the participants and beneficiaries:

(1) for the exclusive purposes of:

(A) providing benefits to participants and their beneficiaries; and

(B) defraying reasonable expenses of administering the system;

(2) with the care, skill, prudence, and diligence under the prevailing circumstances that a prudent person acting in a like capacity and familiar with matters of the type would use in the conduct of an enterprise with a like character and like aims;

(3) by diversifying the investments of the system to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(4) in accordance with the documents and instruments governing the system to the extent that the documents and instruments are consistent with this subchapter.

(b) In choosing and contracting for professional investment management services and in continuing the use of an investment manager, the governing body must act prudently and in the interest of the participants and beneficiaries of the public retirement system.

(c) A trustee is not liable for the acts or omissions of an investment manager appointed under Section 802.204, nor is a trustee obligated to invest or otherwise manage any asset of the system subject to management by the investment manager.

(d) An investment manager appointed under Section 802.204 shall acknowledge in writing the manager's fiduciary responsibilities to the fund the manager is appointed to serve.

(e) The investment standards provided by Subsection (a) and the policies, requirements, and restrictions adopted under Section 802.204(c) are the only standards, policies, or requirements for, or restrictions on, the investment of funds of a public retirement system by an investment manager or by a governing body during a 90-day interim between professional investment management services. Any other standard, policy, requirement, or restriction provided by law is suspended and not applicable during a time, and for 90 days after a time, in which an investment manager is responsible for investment of a reserve fund. If an investment manager has not begun managing investments of a reserve fund before the 91st day after the date of termination of the services of a previous investment manager, the standards, policies, requirements, and restrictions otherwise provided by law are applicable until the date professional investment management services are resumed.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 198, ch. 18, Sec. 8, 9, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.203 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 802.204. INVESTMENT MANAGER. (a) The governing body of a public retirement system may appoint investment managers for the system by contracting for professional investment management services with one or more organizations, which may include a bank if it has a trust department, that are in the business of managing investments.

(b) To be eligible for appointment under this section, an investment manager must be:

(1) registered under the Investment Advisors Act of 1940 (15 U.S.C. Section 80b-1 et seq.);

(2) a bank as defined by that Act; or

(3) an insurance company qualified to perform investment services under the laws of more than one state.

(c) In a contract made under this section, the governing body shall specify any policies, requirements, or restrictions, including criteria for determining the quality of investments and for the use of standard rating services, that the governing body adopts for investments of the system.

(d) A political subdivision of which members of the public retirement system are officers or employees may pay all or part of the cost of professional investment management services under a contract under this section. Any cost not paid directly by a political subdivision is payable from funds of the public retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 199, ch. 18, Sec. 10, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.204 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 802.205. INVESTMENT CUSTODY ACCOUNT. (a) If the governing body of a public retirement system contracts for professional investment management services, it also shall enter into an investment custody account agreement designating a bank, depository trust company, or brokerage firm to serve as custodian for all assets allocated to or generated under the contract.

(b) Under a custody account agreement, the governing body of a public retirement system shall require the designated custodian to perform the duties and assume the responsibilities for funds under the contract for which the agreement is established that are performed and assumed, in the absence of a contract, by the custodian of system funds.

(c) A political subdivision of which members of the retirement system are officers or employees may pay all or part of the cost of custodial services under a custody account agreement under this section. Any cost not paid directly by a political subdivision is payable from funds of the public retirement system.

(d) If the governing body enters into a contract under Subsection (a) with a brokerage firm, the firm must:

(1) be a broker-dealer registered with the Securities and Exchange Commission;

(2) be a member of a national securities exchange;

(3) be a member of the Securities Investor Protection Corporation;

(4) be registered with the State Securities Board; and

(5) maintain net regulatory capital of at least $200 million.

(e) A brokerage firm contracted with for custodial services under this section may not have discretionary authority over the retirement system's assets in the firm's custody.

(f) A brokerage firm that provides custodial services under Subsection (a) must provide insurance against errors, omissions, mysterious disappearance, or fraud in an amount equal to the amount of the assets the firm holds in custody.

(g) A brokerage firm that provides consulting advice, custody of assets, or other services to a public retirement system under this chapter shall discharge its duties solely in the interest of the public retirement system in accordance with Section 802.203.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.205 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 621, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 916, Sec. 1, eff. June 20, 2003.

Sec. 802.206. EVALUATION OF INVESTMENT SERVICES. (a) The governing body of a public retirement system may at any time and shall at frequent intervals monitor the investments made by any investment manager for the system. The governing body may contract for professional evaluation services to fulfill this requirement.

(b) A political subdivision of which members of the retirement system are officers or employees may pay all or part of the cost of professional evaluation services under a contract under this section. Any cost not paid directly by a political subdivision is payable from funds of the public retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.206 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 802.207. CUSTODY AND USE OF FUNDS. (a) An investment manager other than a bank having a contract with a public retirement system under Section 802.204 may not be a custodian of any assets of the reserve fund of the system.

(b) When demands of the public retirement system require, the governing body shall withdraw from a custodian of system funds money for use in paying benefits to members and other beneficiaries of the system and for other uses authorized by this subchapter and approved by the governing body.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.207 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER D. ACTUARIAL ANALYSIS OF LEGISLATION

Sec. 802.301. ACTUARIAL IMPACT STATEMENTS. (a) Except as provided by Subsection (g), a bill or resolution that proposes to change the amount or number of benefits or participation in benefits of a public retirement system or that proposes to change a fund liability of a public retirement system is required to have attached to it an actuarial impact statement as provided by this section.

(b) An actuarial impact statement required by this section must:

(1) summarize the actuarial analysis prepared under Section 802.302 for the bill or resolution accompanying the actuarial impact statement;

(2) identify and comment on the reasonableness of each actuarial assumption used in the actuarial analysis under Subdivision (1); and

(3) include other information determined necessary by board rule.

(c) The board is primarily responsible for preparing a required actuarial impact statement under this section.

(d) A required actuarial impact statement must be attached to the bill or resolution:

(1) before a committee hearing on the bill or resolution is held; and

(2) at the time it is reported from a legislative committee of either house for consideration by the full membership of a house of the legislature.

(e) An actuarial impact statement must remain with the bill or resolution to which it is attached throughout the legislative process, including the process of submission to the governor.

(f) A bill or resolution for which an actuarial impact statement is required is exempt from the requirement of a fiscal note as provided by Chapter 314.

(g) An actuarial impact statement is not required for a bill or resolution that proposes to have an economic effect on a public retirement system only by providing new or increased administrative duties.

(h) The board shall provide to the Legislative Budget Board a copy of any actuarial impact statement required under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.301 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 624, Sec. 13, eff. Sept. 1, 1991.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 44, eff. September 1, 2013.

Sec. 802.302. PREPARATION OF ACTUARIAL ANALYSIS. (a) The board shall request a public retirement system affected by a bill or resolution as described by Section 802.301(a) to provide the board with an actuarial analysis.

(b) An actuarial analysis required by this section must be prepared by an actuary who is a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the Employees Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

(c) A public retirement system that receives a request under Subsection (a) must provide the board with an actuarial analysis on or before the 21st day after the date of the request, if the request relates to a bill or resolution introduced for consideration during a regular legislative session.

(d) The board shall adopt deadlines for the provision under this section of an actuarial analysis that relates to a bill or resolution introduced for consideration during a called legislative session. The deadlines must be designed to provide the most complete information practicable in a timely manner.

(e) The board may prepare an actuarial analysis for a public retirement system that receives a request under Subsection (a) and does not provide the board with an actuarial analysis within the required period under Subsection (c) or (d).

(f) The public retirement system may reimburse the board's costs incurred in preparing an actuarial analysis under Subsection (e).

(g) For each actuarial analysis that a public retirement system prepares, the board shall have a second actuary:

(1) review the actuarial analysis accompanying the bill or resolution; and

(2) comment on the reasonableness of each actuarial assumption used in the public retirement system's actuarial analysis.

(h) Even if a public retirement system prepares an actuarial analysis under Subsection (c) or (d), the board may have a second actuary prepare a separate actuarial analysis.

(i) A public retirement system is not prohibited from providing to the legislature any actuarial analysis or information that the system determines necessary or proper.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.302 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 624, Sec. 14, eff. Sept. 1, 1991.

Sec. 802.3021. STATE PENSION REVIEW BOARD ACTUARY. An actuary who reviews or prepares an actuarial analysis for the board must have at least five years of experience as an actuary working with one or more public retirement systems and must be a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the Employees Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.207 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Redesignated from Sec. 802.302(c) and amended by Acts 1991, 72nd Leg., ch. 624, Sec. 14, eff. Sept. 1, 1991.

Sec. 802.303. CONTENTS OF ACTUARIAL ANALYSIS. (a) An actuarial analysis must show the economic effect of the bill or resolution on the public retirement system affected, including a projection of the annual cost to the system of implementing the legislation for at least 10 years. If the bill or resolution applies to more than one public retirement system, the cost estimates in the analysis may be limited to each affected state-financed public retirement system and each affected public retirement system in a city having a population of 200,000 or more.

(b) An actuarial analysis must include a statement of the actuarial assumptions and methods of computation used in the analysis and a statement of whether or not the bill or resolution, if enacted, will make the affected public retirement system actuarially unsound or, in the case of a system already actuarially unsound, more unsound.

(c) The projection of the effect of the bill or resolution on the actuarial soundness of the system must be based on a computation of advanced funding of actuarial costs.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.303 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 802.304. COST OF ACTUARIAL ANALYSIS. The state may not pay the cost of a required actuarial analysis that is prepared for a public retirement system not financed by the state, except that a sponsor of the bill or resolution for which the analysis is prepared may pay the cost of preparation out of funds available for the sponsor's personal or office expenses.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 12.304 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 802.305. REPORTS, ANALYSES, AND ACTUARIAL IMPACT STATEMENTS FOR CERTAIN BILLS AND RESOLUTIONS. (a) The board may request a state-financed public retirement system to provide the board with:

(1) a report listing and totalling the actuarial effect of all public retirement bills and resolutions that have been presented in public hearings in either house of the legislature during the current legislative session and that affect the state-financed public retirement system; or

(2) an analysis of the actuarial effect of all public retirement bills and resolutions that have been passed by at least one house of the legislature during the current legislative session and that affect the state-financed public retirement system, assuming that each bill and resolution becomes law.

(b) A state-financed public retirement system that receives a request under Subsection (a) must provide the board with the requested report or analysis on or before the 21st day after the date of the request, if the request is made during a regular legislative session. If the state-financed public retirement system does not provide the board with the requested report or analysis within the 21-day period, the board may prepare the requested report or analysis.

(c) If the board prepares a requested report or analysis under Subsection (b), the state-financed public retirement system may reimburse the board's costs incurred in preparing the requested report or analysis.

(d) Even if a public retirement system prepares a required report or analysis under Subsection (b), the board may have a second actuary prepare a separate report or analysis.

(e) On or before the 70th day before the last possible day of each regular session of the legislature, the board shall provide the presiding officer of the committee responsible for retirement legislation in each house of the legislature an actuarial impact statement listing and totalling for each state-financed public retirement system the actuarial effect of all public retirement bills and resolutions that have been presented in public hearings in either house of the legislature during that legislative session and that affect that state-financed public retirement system.

(f) On or before the 30th day before the last possible day of each regular session of the legislature, the board shall provide the

presiding officer of the committee responsible for retirement legislation in each house of the legislature an actuarial impact statement analyzing for each state-financed public retirement system the actuarial effect of all public retirement bills and resolutions that have been passed by at least one house of the legislature during that legislative session and that affect that state-financed public retirement system, assuming that each of the bills and resolutions becomes law.

(g) The board also shall provide the statements required by Subsections (e) and (f) during a called legislative session.

(h) The board shall adopt deadlines for the provision under this section of a report, analysis, or actuarial impact statement that relates to a bill or resolution introduced for consideration during a called legislative session. The deadlines must be designed to provide the most complete information practicable in a timely manner.

(i) In this section:

(1) "Public retirement bill or resolution" means a bill or resolution that proposes to change the amount or number of benefits or participation in benefits of a state-financed public retirement system or that proposes to change a fund liability of a state-financed public retirement system.

(2) "State-financed public retirement system" means the Employees Retirement System of Texas, including the law enforcement and custodial officer supplemental retirement fund, or the Teacher Retirement System of Texas.

Added by Acts 1991, 72nd Leg., ch. 624, Sec. 15, eff. Sept. 1, 1991.

CHAPTER 803. PROPORTIONATE RETIREMENT PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 803.001. DEFINITIONS. In this chapter:

(1) "Combined service credit" means the total of a person's service credit in only those retirement systems to which this chapter applies for which the total satisfies the length-of-service requirements for service retirement at the person's attained age, and does not include:

(A) any service credit in a retirement system for which the total of a person's service credit does not satisfy the length-

of-service requirements for service retirement at the person's attained age; or

(B) service credit earned with or allowed by a subdivision or municipality not participating in the program provided by this chapter or, as applicable, a subdivision or municipality whose participation is limited as provided by Section 803.103.

(2) "Service credit" means service that is in a person's account in a retirement system to which this chapter applies and that may be used to meet length-of-service requirements for service retirement in that system.

(3) Repealed by Acts 1991, 72nd Leg., ch. 131, Sec. 9, eff. Sept. 1, 1991.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 602, Sec. 3, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 13.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 131, Sec. 2, 9, eff. Sept. 1, 1991.

Sec. 803.002. PURPOSE OF CHAPTER. The purpose of this chapter is to implement the authority granted the legislature by Article XVI, Section 67, of the Texas Constitution to provide a program of proportionate benefits to qualified members of more than one retirement system to which this chapter applies. It is contrary to the purpose of this chapter for a person or class of persons to receive, because of service in more than one retirement system to which this chapter applies, proportionately greater benefits from a particular system than a person who has rendered faithful career service under that one system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 13.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 131, Sec. 3, eff. Sept. 1, 1991.

Sec. 803.0021. APPLICATION OF CHAPTER. This chapter applies only to:

(1) a retirement system for general municipal employees in a municipality with a population of not less than 950,000 nor more

than 1,050,000;

(2) the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Judicial Retirement System of Texas Plan One, the Judicial Retirement System of Texas Plan Two, the Texas County and District Retirement System, and the Texas Municipal Retirement System; and

(3) a retirement system that makes an election under Section 803.101(f).

Added by Acts 1991, 72nd Leg., ch. 131, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 669, Sec. 21, eff. Sept. 1, 2001. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 21, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 47, eff. September 1, 2023.

Sec. 803.003. CONSTRUCTION OF CHAPTER. (a) The provisions of this chapter are exceptions to the other laws governing retirement systems to which this chapter applies and prevail over those laws to the extent of explicit conflict, but this chapter must be construed strictly as against those laws.

(b) Notwithstanding any other law, a person who is involuntarily transferred to a position included in the coverage of a retirement system governed by Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's Texas Civil Statutes), from a position included in a retirement system operated by a municipality that does not participate in a statewide retirement system governed by Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's Texas Civil Statutes), may make an irrevocable election at the time of the transfer to continue membership in the municipal retirement system. An involuntary transfer is determined by the employment rules that apply to the person immediately before the time of the involuntary transfer.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 13.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by

Acts 1991, 72nd Leg., ch. 131, Sec. 3, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 1296, Sec. 2, eff. Sept. 1, 1999.

SUBCHAPTER B. PARTICIPATION AND MEMBERSHIP

Sec. 803.101. PARTICIPATION BY RETIREMENT SYSTEMS. (a) Except as provided by Subsections (b) and (f), each retirement system to which this chapter applies is required to participate in the program of proportionate retirement benefits provided by this chapter.

(b) A subdivision participating in the Texas County and District Retirement System or a municipality participating in the Texas Municipal Retirement System is not required to participate in the proportionate retirement program if the subdivision or municipality elected not to participate under the authority of former law and has not revoked the election under Subsection (c).

(c) A subdivision or municipality that elected not to participate in the proportionate retirement program may revoke the election and elect to participate. An election to participate may be made by vote of the governing body of the subdivision or municipality in the manner required for official actions of the governing body. The governing body shall send notice of an election to participate to the board of trustees of the retirement system in which the subdivision or municipality participates.

(d) The effective date of participation in the proportionate retirement program by a subdivision or municipality electing to participate under Subsection (c) is the first day of the month after the month in which the appropriate board of trustees receives notice of an election.

(e) Participation in the proportionate retirement program includes all persons who are members of a retirement system to which this chapter applies and, in the case of members of the Texas County and District Retirement System or the Texas Municipal Retirement System, who are also employees or former employees of a subdivision or municipality participating in the proportionate retirement program.

(f) The governing body of a public retirement system in this state for municipal employees that is a qualified plan under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401) may elect to participate in the proportionate retirement program by adopting a resolution to that effect. A resolution may not be

adopted under this subsection without the approval of the governing body of the municipality that finances the retirement system. The governing body of the retirement system shall notify all other participating retirement systems of the election. The effective date of participation in the proportionate retirement program by a retirement system for which an election is made under this subsection is the first day of the third month after the month in which notice is given under this subsection. An election under this subsection does not require the approval of the participants in the public retirement system making the election.

(g) The governing body of a municipality described by Section 803.0021(1) that finances a public retirement system for police officers or firefighters may not approve the retirement system's election under Subsection (f) to participate in the proportionate retirement program unless an actuary acting on behalf of the municipality reviews the initial cost to the municipality of making the election.

(h) If the governing body of a public retirement system under Subsection (g) adopts a resolution to participate in the proportionate retirement program, the governing body of the municipality that finances the retirement system shall appropriate and pay to the retirement system, at the same time the municipality makes the municipality's monthly contribution to the retirement system, the additional amount necessary, as determined by the retirement system's actuary, to fund the additional liabilities incurred by the retirement system as a result of participating in the proportionate retirement program.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 13.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 131, Sec. 4, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1190, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1296, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1427 (S.B. 1626), Sec. 1, eff. June 15, 2007.

Sec. 803.102. RETIREMENT SYSTEM MEMBERSHIP. (a) Membership in

a retirement system to which this chapter applies does not terminate because of absence from service covered by that system during a period for which the member earns service credit in another retirement system to which this chapter applies for service performed for an employer other than a subdivision or municipality not participating in the program provided by this chapter.

(b) A person may continue membership in a retirement system to which this chapter applies while absent from service with all retirement systems to which this chapter applies if the person would be eligible, under the laws governing that system, to continue membership if the person's combined service credit had been earned in that system.

(c) In this section, a person's absence from service begins on the day after the last day of service covered by any retirement system to which this chapter applies.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 13.102 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 131, Sec. 5, eff. Sept. 1, 1991.

Sec. 803.103. LIMITATION OF PARTICIPATION BY RETIREMENT SYSTEMS. (a) Participation in the proportionate retirement program by a subdivision participating in the Texas County and District Retirement System or a municipality participating in the Texas Municipal Retirement System does not include:

(1) participation with a retirement system described by Section 803.0021(1) if the subdivision or municipality has elected to so limit its participation and has not revoked the election under Subsection (b); or

(2) participation with a retirement system described by Section 803.0021(3).

(b) A subdivision or municipality that has elected to limit its participation in the proportionate retirement program may revoke the election and remove the limitation on participation. An election under this subsection may be made by vote of the governing body of the subdivision or municipality in the manner required for official actions of the governing body. The governing body shall send notice of an election under this subsection to the board of trustees of the

retirement system in which the subdivision or municipality participates.

(c) The effective date of a removal of a limitation on participation in the proportionate retirement program by a subdivision or municipality electing under Subsection (b) is the first day of the month after the month in which the appropriate board of trustees receives notice of the election.

Added by Acts 1991, 72nd Leg., ch. 131, Sec. 6, eff. Jan. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 1190, Sec. 3, eff. Sept. 1, 1997.

SUBCHAPTER C. CREDITABLE SERVICE

Sec. 803.201. RETIREMENT ELIGIBILITY BASED ON COMBINED SERVICE CREDIT. (a) A person who has membership in two or more retirement systems to which this chapter applies is subject to the laws governing each of those systems for determination of the person's eligibility for service retirement benefits from each system, except that, for the purpose of determining whether a person meets the length-of-service requirements for service retirement of a system, the person's combined service credit must be considered as if it were all credited in each system.

(b) A person's combined service credit is useable only in determining eligibility for service retirement benefits and may not be used in determining:

(1) eligibility for disability retirement benefits, death benefits, or any type of benefit other than service retirement benefits; nor

(2) the amount of any type of benefit.

(c) A person receiving service retirement or lifetime disability retirement benefits from one or more retirement systems to which this chapter applies may use the program provided by this chapter to qualify for subsequent service retirement under another retirement system to which this chapter applies in which the person has service credit, if the person was not eligible to retire under the latter system at the time of previous service retirement, or qualification for lifetime disability retirement benefits from a retirement system to which this chapter applies, or if the person's previous retirement was not based on combined service credit.

(d) Service credit earned with or allowed by more than one retirement system to which this chapter applies for the same service may be counted only once in determining the amount of a person's combined service credit.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 13.201 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 616, Sec. 2, eff. June 14, 1989; Acts 1991, 72nd Leg., ch. 131, Sec. 7, eff. Sept. 1, 1991.

Sec. 803.202. SERVICE IN CERTAIN RETIREMENT SYSTEMS. (a) The board of trustees of the Employees Retirement System of Texas by rule may:

(1) consider the classes of service in the Employees Retirement System of Texas as if they were, for purposes of this chapter, classes in separate statewide retirement systems; or

(2) permit a person who is retiring exclusively from retirement systems administered by the board to use the shortest length-of-service requirement provided for retirement in any class in which the person has service credit.

(b) A member of a retirement system administered by the board of trustees of the Employees Retirement System of Texas may reestablish service credit previously canceled in another retirement system administered by the board if the member holds a position included in the system of which the person is a member and has held the position for at least 12 months. The method of reestablishment and the amount to be deposited are as provided by the applicable law providing for reestablishment of service credit generally in the particular retirement system.

(c) A member of the Employees Retirement System of Texas who is subject to Chapter 820 is eligible to participate in the program provided by this chapter.

(d) A member of the Judicial Retirement System of Texas Plan Two who is subject to Chapter 840A is eligible to participate in the program provided by this chapter.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 13.202 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by

Acts 1993, 73rd Leg., ch. 791, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 1, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 1, eff. June 18, 2023.

Sec. 803.203. REESTABLISHMENT OF SERVICE CREDIT BY FORMER MEMBER. (a) Except as provided by Subsection (g), a person who is a member of a retirement system participating in the program provided by this chapter may reestablish service credit, including prior service credit if applicable, previously canceled in another retirement system that is participating in the program provided by this chapter if the person:

(1) is not a current member of the system under which the service was performed;

(2) in the case of the Texas County and District Retirement System, does not have an open account with the subdivision for which the person performed the service for which the credit is sought; or

(3) in the case of an employee to whom Section 803.204 applies, does not have an open account with the employing hospital district, charitable organization, or administrative agency, as applicable, for which the person performed the service for which the credit is sought.

(b) A person may apply to reestablish service credit under this section by filing an application with the retirement system in which the service was originally credited and a certification that the applicant is currently a member of the certifying system.

(c) Except as provided by Subsection (f), the retirement system in which the service credit was originally credited shall grant the service credit after receiving an application and a certification required by Subsection (b) and:

(1) to reestablish service credit other than in the Texas County and District Retirement System, the Texas Municipal Retirement System, or the retirement system in which a hospital district, charitable organization, or administrative agency described by Section 803.204 participates, a contribution in the amount generally required to reestablish service credit in the system, including any applicable interest and membership fees;

(2) to reestablish service credit in the Texas County and District Retirement System, the Texas Municipal Retirement System, or the retirement system in which a hospital district, charitable organization, or administrative agency described by Section 803.204 participates, a statement that the applicant does not wish to make a contribution for the service credit; or

(3) at the applicant's option, to reestablish current service credit in the Texas County and District Retirement System, the actuarial present value of the additional standard service benefits that would be attributable to the credit based on rates and tables recommended by the actuary and adopted by the board of trustees of the system.

(d) A subdivision participating in the Texas County and District Retirement System under Subchapter H, Chapter 844, or a municipality participating in the Texas Municipal Retirement System may make a one-time election to authorize the reestablishment of service credit under this section by payment by an applicant of a contribution in the amount provided by Section 843.003 or 853.003, as applicable, for reestablishment of service credit generally in the particular system. If a subdivision or municipality makes an election under this subsection, the applicant has the choice of reestablishing service credit under Subsection (c)(2), (c)(3), if applicable, or this subsection.

(e) Service credit in the Texas County and District Retirement System, the Texas Municipal Retirement System, or the retirement system in which a hospital district, charitable organization, or administrative agency described by Section 803.204 participates that is reestablished under Subsection (c)(2) may be used only to meet eligibility requirements for benefits. Service credit reestablished in the Texas County and District Retirement System or the Texas Municipal Retirement System under Subsection (c)(3) or (d) has the same value as service credit performed for the particular subdivision or municipality at the time of deposit. The credit is creditable to the member's and employer's accounts in each subdivision or municipality for which the service was performed.

(f) To reestablish service credit in a public retirement system for municipal employees that has elected under Section 803.101(f) to participate in the program provided by this chapter, a person must pay the actuarial present value, as determined by the appropriate system, of the additional standard service retirement benefits that

would be attributable to the credit. A person who is a member only of a system that has made an election under Section 803.101(f) must pay the actuarial present value, as determined by the appropriate system, of the additional standard service retirement benefits that would be attributable to the service credit to be reestablished in any other public retirement system participating in the program provided by this chapter.

(g) Service credit may not be reestablished under this section:

(1) if it is subject to Section 805.002(e); or

(2) in a subdivision participating in the Texas County and District Retirement System or a municipality participating in the Texas Municipal Retirement System if the person who seeks to reestablish the credit is a member only of a retirement system that the subdivision or municipality excludes from participation in the proportionate retirement program under Section 803.103.

(h) This section applies to an employee described by Section 803.204 on the date the federal government establishes as the effective date of the transfer of federally qualified health center status from a municipality described by Section 803.0021(1) to a hospital district, charitable organization, or administrative agency described by Section 803.204.

Added by Acts 2001, 77th Leg., ch. 501, Sec. 1, eff. Jan. 1, 2002, Acts 2001, 77th Leg., ch. 1240, Sec. 1, eff. Jan. 1, 2002.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 217 (S.B. 1063), Sec. 1, eff. May 27, 2009.

Sec. 803.204. COMBINED SERVICE CREDIT IN CERTAIN SYSTEMS. (a) This section applies only to an employee who:

(1) is a member of a municipal retirement system described by Section 803.0021(1);

(2) is employed by a hospital district, a charitable organization supervised, overseen, and effectively controlled by the hospital district, or an administrative agency created under Section 791.013, either before or after being employed by the employing municipality located in the same county as the hospital district, charitable organization, or administrative agency; and

(3) participates in a public retirement system:

(A) that is determined to be a qualified plan under Section 401(a), Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)), of a hospital district, charitable organization, or administrative agency that is determined to be a governmental unit, or an agency or an instrumentality of a governmental unit; and

(B) that records and reports service credit as defined by Section 803.001.

(b) Any service credit earned by an employee described by Subsection (a) with a retirement system established by the hospital district, charitable organization, or administrative agency will be combined under Section 803.201 to determine whether the employee meets the length-of-service requirements for service retirement under the municipal retirement system.

(c) On retirement, an employee described by Subsection (a) will receive a benefit from the municipal retirement system as determined by Subchapter D, and if the hospital district or administrative agency has established or participates in a retirement program or the charitable organization has a retirement plan, will receive a benefit from the hospital district, administrative agency, or charitable organization as determined by the terms of the district's, agency's, or organization's retirement plan.

(d) For purposes of this section, a charitable organization supervised, overseen, and effectively controlled by a hospital district or an administrative agency created under Section 791.013 is an agency or instrumentality of a governmental unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 164 (S.B. 1107), Sec. 1, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 217 (S.B. 1063), Sec. 2, eff. May 27, 2009.

SUBCHAPTER D. BENEFITS

Sec. 803.301. COMPUTATION OF BENEFITS GENERALLY. The amount of a benefit payable by a retirement system to which this chapter applies is determined according to and in the manner prescribed by laws governing that system and is based solely on a person's service credit in that system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 13.301 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 131, Sec. 8, eff. Sept. 1, 1991.

Sec. 803.302. COMPUTATION OF CERTAIN BENEFITS. (a) If payable to or on behalf of a person who has used combined service credit to qualify for benefits from at least one retirement system to which this chapter applies, each of the following types of benefits must be computed as provided by Subsection (b):

(1) a base retirement annuity that does not vary in amount directly with the amount of a person's service credit;

(2) a fixed lump-sum death benefit payable on the death of a retiree;

(3) any death benefit payable on the death of a retiree who received service retirement benefits; and

(4) a survivor benefit payable to a beneficiary of a deceased retiree of the Teacher Retirement System of Texas.

(b) The amount of a benefit payable under Subsection (a) by a retirement system to which this chapter applies is a percentage, but not more than 100 percent, of the benefit that would be or would have been payable if the person retired or had retired on the basis of only the service that is credited in that system. The percentage applied is equal to the amount of service credit in that system, divided by the amount of service credit that would be or would have been required for the benefit if the person retired or had retired on the basis of only the service that is credited in that system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 13.302 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 131, Sec. 8, eff. Sept. 1, 1991.

SUBCHAPTER E. ADMINISTRATION

Sec. 803.401. ADMINISTRATION OF PROGRAM. (a) The board of trustees of each retirement system to which this chapter applies may adopt rules it finds necessary to implement the proportionate retirement program provided by this chapter.

(b) Each retirement system to which this chapter applies, under

this chapter and other laws governing the particular system, is responsible for determining:

(1) the eligibility of its members for benefits, including whether sufficient combined service credit exists to qualify members for proportionate retirement benefits from that system; and

(2) the amount and duration of proportionate retirement benefits payable by that system.

(c) Each retirement system to which this chapter applies shall cooperate with the other retirement systems to which this chapter applies in the implementation of the proportionate retirement program.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 13.401 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 131, Sec. 8, eff. Sept. 1, 1991.

Sec. 803.402. RECORDS. Except as provided by other law, records of members and beneficiaries of a retirement system to which this chapter applies that are in the custody of any retirement system to which this chapter applies are confidential and not subject to disclosure and are exempt from the public access provisions of Chapter 552. The records or information in the records may be transferred between retirement systems to which this chapter applies to the extent necessary to administer the proportionate retirement program provided by this chapter.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 835, Sec. 11, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 13.402 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.05(k), eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 131, Sec. 8, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(96), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1541, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1229, Sec. 1, eff. Sept. 1, 2001.

CHAPTER 804. DOMESTIC RELATIONS ORDERS AND SPOUSAL CONSENT

SUBCHAPTER A. QUALIFIED DOMESTIC RELATIONS ORDERS

Sec. 804.001. DEFINITIONS. In this chapter:

(1) "Alternate payee" means a spouse, former spouse, child, or other dependent of a member or retiree who is recognized by a domestic relations order as having a right to receive all or a portion of the benefits payable by a public retirement system with respect to such member or retiree.

(2) "Domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a member or retiree, and is made pursuant to a domestic relations law, including a community property law of the State of Texas or of another state.

(3) "Public retirement system" means the Employees Retirement System of Texas, the Judicial Retirement System of Texas Plan One, the Judicial Retirement System of Texas Plan Two, the Teacher Retirement System of Texas, the Texas County and District Retirement System, the Texas Municipal Retirement System, and any other continuing, organized program of service retirement, disability retirement, or death benefits for officers or employees of the state or a political subdivision or of an agency or instrumentality of the state or a political subdivision and includes the optional retirement program governed by Chapter 830. Public retirement system does not include:

(A) a program, other than the optional retirement program, for which benefits are administered by a life insurance company;

(B) a program providing only workers' compensation benefits;

(C) a program administered by the federal government;

(D) an individual retirement account or individual retirement annuity within the meaning of Section 408, or a retirement bond within the meaning of Section 409, of the Internal Revenue Code of 1986;

(E) a plan described by Subsection (d) of Section 401 of the Internal Revenue Code of 1986;

(F) a group or an individual account plan consisting of an annuity contract described by Subsection (b) of Section 403 of the Internal Revenue Code of 1986, other than a 403(b) contract or plan under the optional retirement program;

(G) an eligible state deferred compensation plan described by Subsection (b) of Section 457 of the Internal Revenue Code of 1986; or

(H) the program established by Chapter 615.

(4) "Qualified domestic relations order" means a domestic relations order which creates or recognizes the existence of an alternate payee's right or assigns to an alternate payee the right to receive all or a portion of the benefits payable with respect to a member or retiree under a public retirement system, which directs the public retirement system to disburse benefits to the alternate payee, and which meets the requirements of Section 804.003.

(5) "Statewide retirement system" means the Employees Retirement System of Texas, the Judicial Retirement System of Texas Plan One, the Judicial Retirement System of Texas Plan Two, the Teacher Retirement System of Texas, the Texas County and District Retirement System, or the Texas Municipal Retirement System.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 11.02(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(32), eff. Sept. 1, 1995.

Sec. 804.002. APPLICATION OF CHAPTERS. This subchapter and Subchapter C apply to each statewide retirement system and to the optional retirement program governed by Chapter 830. This subchapter and Subchapter C also apply to each other public retirement system for which the board of trustees of the system elects to adopt the provisions of this subchapter and Subchapter C. An election under this section must be by order or resolution and need not set out the text of this subchapter or Subchapter C. A board of trustees may not elect to adopt only this subchapter or Subchapter C.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 11.02(a), eff. Aug. 26, 1991.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 804.003. QUALIFIED DOMESTIC RELATIONS ORDERS. (a)

Sections 811.005, 821.005, 831.004, 836.004, 841.006, and 851.006 and any similar antialienation provisions contained in any other public retirement system shall apply to the creation, assignment, recognition, or enforcement of a right to any benefit payable with respect to a member or retiree of a public retirement system to which the section applies pursuant to a domestic relations order unless the order is determined to be a qualified domestic relations order.

(b) Except as provided in Subsection (d), the administrative head of a public retirement system to which this chapter applies and to which a domestic relations order is submitted or his designee has exclusive authority to determine whether a domestic relations order is a qualified domestic relations order. A determination by the administrative head or his designee under this section may be appealed only to the board of trustees of the public retirement system. An appeal to the board of trustees of a statewide retirement system is a contested case under Chapter 2001. However, the board of a statewide retirement system by rule may waive the requirement of an appeal to the board. On appeal of a decision made by the board of trustees or by the administrative head if there is no appeal to the board under this section, the standard of review is by substantial evidence.

(c) Except as provided in Subsection (d), a court does not have jurisdiction over a public retirement system to which this chapter applies with respect to a divorce or other domestic relations action in which an alternate payee's right to receive all or a portion of the benefits payable to a member or retiree under the public retirement system is created or established. A party to such an action who attempts to make a public retirement system a party to the action contrary to the provision of this subsection shall be liable to the public retirement system for its costs and attorney's fees.

(d) Under the optional retirement program, applicable carriers shall determine whether a domestic relations order is a qualified domestic relations order. If a dispute arises over the determination of whether a domestic relations order is a qualified domestic relations order which cannot be resolved by the procedure described in Subsection (g), the court which issued the order or which otherwise has jurisdiction over the matter shall resolve the dispute with respect to a divorce or other domestic relations action in which an alternate payee's right to receive all or a portion of the benefits payable to a member or retiree under the optional retirement

program is created or established.

(e) For the purposes of this section, benefits payable with respect to a member or retiree under the retirement system include the types of benefits payable by a public retirement system and a withdrawal of contributions from a public retirement system.

(f) A domestic relations order is a qualified domestic relations order only if such order:

(1) clearly specifies the:

(A) name and last known mailing address of:

(i) the member or retiree; and

(ii) each alternate payee covered by the order; and

(B) social security number, or an express authorization for the parties to use an alternate method acceptable to the public retirement system to verify the social security number, of the member or retiree and each alternate payee covered by the order;

(2) clearly specifies the amount or percentage of the member's or retiree's benefits to be paid by a public retirement system to each such alternate payee or the manner in which such amount or percentage is to be determined;

(3) clearly specifies the number of payments or the period to which such order applies;

(4) clearly specifies that such order applies to a designated public retirement system;

(5) does not require the public retirement system to provide any type or form of benefit or any option not otherwise provided under the plan;

(6) does not require the public retirement system to provide increased benefits determined on the basis of actuarial value;

(7) does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order; and

(8) does not require the payment of benefits to an alternate payee before the retirement of a member, the distribution of a withdrawal of contributions to a member, or other distribution to a member required by law.

(g) A public retirement system may reject a domestic relations order as a qualified domestic relations order unless the order:

(1) provides for a proportional reduction of the amount

awarded to an alternate payee in the event of the retirement of the member before normal retirement age;

(2) does not purport to require the designation of a particular person as the recipient of benefits in the event of a member's or annuitant's death;

(3) does not purport to require the selection of a particular benefit payment plan or option;

(4) provides clearly for each possible benefit distribution under plan provisions;

(5) does not require any action on the part of the retirement system contrary to its governing statutes or plan provision other than the direct payment of the benefit awarded to an alternate payee;

(6) does not make the award of an interest contingent on any condition other than those conditions resulting in the liability of a retirement system for payments under its plan provisions;

(7) does not purport to award any future benefit increases that are provided or required by the legislature;

(8) provides for a proportional reduction of the amount awarded to an alternate payee in the event that benefits available to the retiree or member are reduced by law; and

(9) if required by the retirement system, conforms to a model order adopted by the retirement system.

(h) The administrative head of a public retirement system to which this chapter applies or his designee (or applicable carrier, if under the optional retirement program), upon receipt of a certified copy of a domestic relations order, shall determine whether such order is a qualified domestic relations order and shall notify the member or retiree and each alternate payee of such determination. If the order is determined to be a qualified domestic relations order, the public retirement system (or applicable carrier, if under the optional retirement program), shall pay benefits in accordance with the order. If the order is determined not to be a qualified domestic relations order, the member or retiree or any alternate payee named in the order may appeal the administrative head's determination in the manner specified in Subsection (b) or the optional retirement program carrier's determination in the manner specified in Subsection (d) and may petition the court which issued the order to amend the order so that it will be qualified. The court which issued the order or which would otherwise have jurisdiction over the matter has

jurisdiction to amend the order so that it will be qualified even though all other matters incident to the action or proceeding have been fully and finally adjudicated.

(i) During any period in which the issue of whether a domestic relations order is a qualified domestic relations order is being determined by the agency administrative head, his designee, the board of trustees, a court of competent jurisdiction, optional retirement program carrier, or otherwise, the public retirement system shall separately account for the amounts, in this section referred to as the "segregated amounts," which would have been payable to the alternate payee during such period if the order had been determined to be a qualified domestic relations order.

Text of subsection as amended by Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 1

(j) Except as provided by Subsection (k-1), if a domestic relations order is determined to be a qualified domestic relations order, then the public retirement system (or applicable carrier, if under the optional retirement program) shall pay the segregated amounts without interest to the person or persons entitled thereto and shall thereafter pay benefits pursuant to the order.

Text of subsection as amended by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 2

(j) Except as provided by Subsection (k-2), if a domestic relations order is determined to be a qualified domestic relations order, then the public retirement system (or applicable carrier, if under the optional retirement program) shall pay the segregated amounts without interest to the person or persons entitled thereto and shall thereafter pay benefits pursuant to the order.

Text of subsection as amended by Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 1

(k) Except as provided by Subsection (k-1), if a domestic relations order is determined not to be a qualified domestic relations order or if within 18 months of the date a domestic relations order is received by the public retirement system (or applicable carrier, if under the optional retirement program) the issue as to whether such order is a qualified domestic relations order is not resolved, then the public retirement system (or applicable carrier, if under the optional retirement program) shall pay the segregated amounts without interest and shall thereafter pay

benefits to the person or persons who would have been entitled to such amounts if there had been no order. This subsection shall not be construed to limit or otherwise affect any liability, responsibility, or duty of a party with respect to any other party to the action out of which the order arose.

Text of subsection as amended by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 2

(k) Except as provided by Subsection (k-2), if a domestic relations order is determined not to be a qualified domestic relations order or if within 18 months of the date a domestic relations order is received by the public retirement system (or applicable carrier, if under the optional retirement program) the issue as to whether such order is a qualified domestic relations order is not resolved, then the public retirement system (or applicable carrier, if under the optional retirement program) shall pay the segregated amounts without interest and shall thereafter pay benefits to the person or persons who would have been entitled to such amounts if there had been no order. This subsection shall not be construed to limit or otherwise affect any liability, responsibility, or duty of a party with respect to any other party to the action out of which the order arose.

(k-1) Payment of segregated amounts by a public retirement system, or applicable carrier if under the optional retirement program, under Subsections (j) and (k) related to a benefit payable with respect to a member or retiree subject to Chapter 820 must include annual interest provided by Section 820.102 and gain sharing interest provided by Section 820.103.

(k-2) Payment of segregated amounts by a public retirement system, or applicable carrier if under the optional retirement program, under Subsections (j) and (k) related to a benefit payable with respect to a member or retiree subject to Chapter 840A must include annual interest provided by Section 840A.103 and gain sharing interest provided by Section 840A.104.

(l) Any determination that an order is a qualified domestic relations order which is made after the close of the 18-month period shall be applied prospectively only.

(m) The public retirement system, the board of trustees, and officers and employees of the public retirement system (or applicable carrier, if under the optional retirement program) shall not be liable to any person for making payments of any benefits in

accordance with a domestic relations order in a cause in which a member or a retiree was a party or for making payments in accordance with Subsection (k).

(n) The board of trustees of a public retirement system may promulgate rules it deems necessary to implement the provisions of this section.

(o) Except as specifically provided in this subtitle or by any other statute, public employment does not confer special privileges or immunities on a public employee. An ownership or beneficial interest in any retirement, pension, or other financial plan not included in the definition of "public retirement system" as set forth in Section 804.001 held in whole or in part by an officer or employee of the state or a political subdivision or of an agency or an instrumentality of either, whether obtained in connection with that employment or otherwise, shall be subject to the requirements of the federal laws governing qualified domestic relations orders.

(p) A public retirement system may assess administrative fees on a party who is subject to a domestic relations order for the review of the order under this subchapter and, as applicable, for the administration of payments under an order that is determined to be qualified. In addition to other methods of collecting fees that a retirement system may establish, the retirement system may deduct fees from payments made under the order.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 11.02(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 5, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 1, eff. May 19, 2023.

Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 2, eff. June 18, 2023.

Sec. 804.004. LIFE ANNUITY OR LUMP-SUM PAYMENT IN LIEU OF BENEFITS AWARDED BY A QUALIFIED DOMESTIC RELATIONS ORDER. (a) The board of trustees of a public retirement system to which this chapter applies may by rule provide that, in lieu of paying an alternate

beneficiary the interest awarded by a qualified domestic relations order, the system may pay the alternate beneficiary an amount that is the actuarial equivalent of such interest in the form of:

(1) an annuity payable in equal monthly installments for the life of the alternate payee; or

(2) a lump sum.

(b) The determination of whether to pay an amount authorized by this section in lieu of the interest awarded by the qualified domestic relations order shall be at the sole discretion of the public retirement system.

(c) If a public retirement system elects to pay the alternate payee pursuant to this section, the benefit payable by the system to the member, retiree, or beneficiary shall be reduced by the interest in the benefit awarded to the alternate payee by the qualified domestic relations order.

(d) If the public retirement system pays the alternate payee pursuant to this section, the retirement system shall be entitled to rely on a beneficiary designation or benefit option selection made or changed pursuant to its plan without regard to any domestic relations order.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 11.02(a), eff. Aug. 26, 1991.

Sec. 804.005. PAYMENT IN CERTAIN CIRCUMSTANCES IN LIEU OF BENEFITS AWARDED BY QUALIFIED DOMESTIC RELATIONS ORDER. (a) This section applies only to the Employees Retirement System of Texas and the Teacher Retirement System of Texas.

(b) A public retirement system to which this section applies shall pay an alternate payee of a member of the retirement system who is described by Subsection (c), if the alternate payee so elects and in lieu of the interest awarded by a qualified domestic relations order on or after January 1, 1985, an amount that is the alternate payee's portion of the actuarial equivalent of the accrued retirement benefit of the member of the retirement system, determined as if the member retired on the date of the alternate payee's election. The amount becomes payable at the time the actuarial equivalent is determined, and the amount is payable in the form of an annuity payable in equal monthly installments for the life of the alternate

payee.

(c) A member whose benefits are subject to partial payment under this section is one who has not retired from the retirement system, has attained the greater of the age of 62 or normal retirement age and the service requirements for service retirement, and retains credit and contributions in the retirement system attributable to that service.

(d) If an alternate payee elects to be paid under this section, the retirement system shall reduce the benefit payable by the system to the member or the member's beneficiary by the alternate payee's portion of the actuarial equivalent determined under Subsection (b).

(e) In determining under Subsection (b) the actuarial equivalent of an accrued retirement benefit, the system shall consider the member's benefit as a normal age standard service retirement annuity, without regard to any optional annuity chosen or beneficiary designated by the member.

(f) The beginning of monthly payments under this section terminates any interest that the alternate payee who receives the payment might otherwise have in benefits that accrue to the account of the member after the date the initial payment to the alternate payee is made.

(g) A public retirement system may adopt rules for administration of this section.

Added by Acts 1993, 73rd Leg., ch. 867, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. SPOUSAL CONSENT REQUIREMENTS

Sec. 804.051. AUTHORITY TO REQUIRE SPOUSAL CONSENT. A public retirement system may adopt rules to require spousal consent for the selection of a service retirement annuity other than a joint and survivor annuity that pays benefits to the member's spouse on the death of the member or for the selection of a death benefits plan that pays benefits in the form of an annuity to a person other than the member's spouse on the death of the member.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 11.02(a), eff. Aug. 26, 1991.

SUBCHAPTER C. TERMINATION OF INTEREST IN PUBLIC RETIREMENT SYSTEM

Sec. 804.101. TERMINATION OF INTEREST IN PUBLIC RETIREMENT SYSTEM. The death of an alternate payee as defined in Section 804.001 or the death of a spouse of a member or retiree of a public retirement system to which this chapter applies shall terminate the interest of the alternate payee or spouse in that public retirement system. This section shall not affect an interest in a public retirement system accrued to an individual as a member of the public retirement system.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 11.02(a), eff. Aug. 26, 1991.

CHAPTER 805. CREDIT TRANSFER BETWEEN EMPLOYEES RETIREMENT SYSTEM OF TEXAS AND TEACHER RETIREMENT SYSTEM OF TEXAS

Sec. 805.001. DEFINITIONS. In this chapter:

(1) "Employees retirement system" means the Employees Retirement System of Texas.

(2) "Member" means a person having membership in the employees retirement system or the teacher retirement system under statutes and rules governing membership in the respective systems.

(3) "Service credit" has the meaning assigned, as applicable, by Section 811.001 or Section 821.001.

(4) "System" means the employees retirement system or the teacher retirement system.

(5) "Teacher retirement system" means the Teacher Retirement System of Texas.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 2, eff. June 18, 1993.

Sec. 805.0015. APPLICABILITY. This chapter does not apply to a member of the employees retirement system who is subject to Chapter 820.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 2, eff. September 1, 2021.

Sec. 805.002. ELIGIBILITY TO TRANSFER SERVICE CREDIT. (a) Except as provided by Subsection (h), a member of both the employees

retirement system and the teacher retirement system who applies for service or disability retirement from either system may transfer to that system service credit established in the other system if the member has at least three years of service credit in the system from which the member is retiring. If a person whose membership was transferred from the teacher retirement system to the employees retirement system pursuant to Section 43(a), Chapter 812, Acts of the 73rd Legislature, 1993, ceases to hold any position included in the membership of the employees retirement system before the earlier of the date the person retires or dies, the person's service credit accrued in the teacher retirement system before the date the membership was transferred remains credited in that system, unless the person has withdrawn contributions made for the service.

(b) Except as provided by Subsection (h), a member of both the employees retirement system and the teacher retirement system who has less than three years of service credit in the system in which the person most recently received service credit and at least three years of service credit in the other system may, at the time the person applies for service or disability retirement, transfer service credit to the other system from the system in which the person most recently received service credit.

(c) Except as provided by Subsections (e) and (f), a member of the employees retirement system or the teacher retirement system who formerly was a member of the other system may reinstate or purchase service credit in the other system for the purpose of making a transfer under Subsection (a) if the member has at least three years of service credit in the system in which the person currently is a member. Except as provided by Subsections (e) and (f), a member of the employees retirement system or the teacher retirement system who formerly was a member of the other system, who before September 1, 1993, transferred at least three years of service credit to the system in which the person currently is a member, and who has at least three years of service credit other than the transferred credit in the system in which the person currently is a member may reinstate or purchase service credit in the other system for the purpose of making a transfer of all service credit to that other system.

(d) Except as provided by Subsections (e) and (f), the designated beneficiary of a member of the employees retirement system or the teacher retirement system who dies while holding a position included in the membership of the system may make a transfer under

Subsection (a) and a reinstatement or purchase under Subsection (c) if the deceased member had at least three years of service credit in the system in which the member was performing service at the time of death. The designated beneficiary may make a transfer under Subsection (b) if the deceased member had less than three years of service credit in the system in which the member was performing service at the time of death. If a member is not survived by a designated beneficiary, an alternate beneficiary, or a beneficiary provided by law or has failed to designate a beneficiary after becoming a member or resuming membership, the personal representative of the member's estate has the same right under this subsection as a designated beneficiary. A transfer of service by the beneficiary or personal representative of a deceased member's estate is not permitted unless the transfer will result in the payment of a death benefit annuity.

(e) Repealed by Acts 2003, 78th Leg., ch. 1111, Sec. 46(2), eff. Sept. 1, 2003.

(f) A person who is receiving retirement benefits based on the person's service credited in one system and who applies for service or disability retirement from the other system is not eligible to transfer service credit under this chapter. The designated beneficiary, or the personal representative of the estate, of a person who at the time of death was receiving benefits based on the person's service credited in one system and who held a position included in the other system is not eligible to transfer service credit under this chapter.

(g) To be eligible to make a transfer pursuant to Subsection (d), a person must be the same beneficiary under both retirement systems, except that if the only service credited in the system from which service is being transferred is reinstated service and no beneficiary designation was made at or after the time of reinstatement, the beneficiary in the receiving system may make the election.

(h) A member applying for occupational disability retirement from the employees retirement system may transfer service credit from the teacher retirement system only if the member was contributing to the employees retirement system at the time the disabling condition occurred.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 2, eff. June 18, 1993.

Amended by Acts 1995, 74th Leg., ch. 586, Sec. 1, 5, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 1048, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1111, Sec. 46(2), eff. Sept. 1, 2003.

Sec. 805.003. PAYMENTS TO REINSTATE OR PURCHASE SERVICE CREDIT. The cost of reinstating or purchasing service credit under Section 805.002 is determined according to the statutes that govern the reinstatement or purchase of the type of service credit in the system in which it is to be reinstated or purchased. All payments for service credit reinstated or purchased under Section 805.002 must be made before retirement or the first payment of a death benefit annuity, as applicable, or before a later date if allowed for members of the retirement system in which the credit is to be reinstated or purchased.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 2, eff. June 18, 1993. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 2, eff. Aug. 28, 1995.

Sec. 805.004. TRANSFER OF SERVICE CREDIT. (a) A person who elects to transfer service credit under Section 805.002 shall notify, in the manner required by the system to which the credit will be transferred, the system of the election. The system shall notify the other system of the election.

(b) The systems by rule or agreement shall determine the manner in which the service credit is transferred.

(c) A transfer of service credit under this chapter cancels service credit and, if applicable, membership in the system from which it is transferred.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 2, eff. June 18, 1993.

Sec. 805.005. APPLICABILITY OF PROPORTIONATE RETIREMENT PROGRAM. An election to transfer service credit under Section 805.002 is an alternative to participation in the program provided by Chapter 803, except that a person having service credit in the employees retirement system, the teacher retirement system, and another public retirement system participating in that program may transfer service credit under this chapter, if eligible, and use the

combined service credit for purposes of the program provided by Chapter 803.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 2, eff. June 18, 1993.

Sec. 805.006. CREDITING OF TRANSFERRED SERVICE CREDIT; REFUND. (a) Except as provided by Subsections (b) and (c), service credit transferred under this chapter is credited in the system to which it is transferred according to rules of the teacher retirement system determining the amount of service creditable.

(b) Not more than one month of service credit may be granted for service during that month.

(c) A person who transfers service credit under this chapter may not receive service credit for all military service performed in an amount that exceeds the maximum amount creditable in the system to which credit is transferred. A person is eligible for a refund from the system from which credit is transferred under this section of contributions made for military service credit, other than any amount that represents a fee, that exceeds the maximum amount creditable.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 2, eff. June 18, 1993.

Sec. 805.007. EFFECT OF TRANSFER OF SERVICE CREDIT. (a) A person who transfers service credit under this chapter forfeits all rights to benefits payable by the system from which it is transferred and is not an annuitant of that system for any purpose, including the payment of postretirement increases to annuitants of that system. This subsection does not preclude a person from receiving benefits as a beneficiary of an account not related to the transferred service credit.

(b) Service credit transferred under this chapter is considered as if it had been granted for service performed under the system to which it has been transferred and is used in satisfying minimum service requirements for retirement and in determining the amount of benefits that are based on the amount of a person's service credit:

(1) except that a person's average salary for the purpose of computing an annuity may be determined only from service credit that was originally established in one system and that results in the higher average salary;

(2) except as provided by Section 805.006; and

(3) except service credit transferred by a member applying for occupational disability retirement.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 2, eff. June 18, 1993.
Amended by Acts 1995, 74th Leg., ch. 586, Sec. 3, eff. Aug. 28, 1995.

Sec. 805.008. RESPONSIBILITY FOR BENEFIT PAYMENTS. (a) Except as provided by Subsection (c), the system from which a person's service credit is transferred under this chapter shall transfer to the other system, at the time the annuity based on the service credit becomes payable, an amount equal to the portion of the actuarial value of the annuity that represents the percentage of the total amount of the person's service credited in both systems that was credited in the system from which the credit is being transferred.

(b) Except as provided by Subsection (c), the systems jointly by rule shall adopt actuarial tables and investment assumptions to be used in computing actuarial values under this section.

(c) As an alternative to Subsections (a) and (b) and except as provided by Subsection (h), the systems by rule may require the system from which service credit is transferred to pay monthly an amount equal to the portion of the actual value of the monthly payment of the annuity that represents the percentage of the total amount of service credit that is transferred.

(d) For the purpose of computing an amount to be transferred under this section, service credit in either system must be considered as if it were credited under rules of the teacher retirement system determining the amount of service creditable.

(e) An amount transferred under this section is payable from amounts credited to the person's individual account and amounts credited to the account in which the system places state contributions. Except as provided by Subsection (g), an amount received under this section shall be deposited in the account from which the system receiving the amount pays annuities.

(f) The system to which a transfer is made under this section is responsible for paying the annuity for which the transfer was made, including the entire amount of any increase in the annuity granted after the transfer.

(g) At the time of the death of a person whose membership was

transferred from the teacher retirement system to the employees retirement system pursuant to Section 43(a), Chapter 812, Acts of the 73rd Legislature, 1993, the teacher retirement system shall transfer to the employees retirement system the person's service credit in the teacher retirement system and, if employment with the transferring agency was continuous from the date of transfer to the date of death:

(1) an amount determined under Subsections (a) and (b) or under Subsection (c), if an annuity is paid under Chapter 814; or

(2) the amount of money in the member savings account plus an amount equal to five percent of the person's account balance for each full year of service credited in the teacher retirement system, if a death benefit other than an annuity is paid under Chapter 814.

(h) If a person elects to receive a partial lump-sum payment under the law governing the system from which the person is retiring, a transfer of an amount equal to the portion of the actual value of a lump-sum payment that represents the percentage of the amount of service credit transferred shall be made at the time the lump-sum payment is made.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 2, eff. June 18, 1993. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 4, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 1541, Sec. 2, eff. Sept. 1, 1999.

Sec. 805.009. RULES. In addition to the rules specifically required by this chapter, a system may adopt other rules for the administration of this chapter.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 2, eff. June 18, 1993.

CHAPTER 808. PROHIBITION ON INVESTMENT IN COMPANIES THAT BOYCOTT ISRAEL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 808.001. DEFINITIONS. In this chapter:

(1) "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business

purposes.

(2) "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.

(3) "Direct holdings" means, with respect to a company, all securities of that company held directly by a state governmental entity in an account or fund in which a state governmental entity owns all shares or interests.

(4) "Indirect holdings" means, with respect to a company, all securities of that company held in an account or fund, such as a mutual fund, managed by one or more persons not employed by a state governmental entity, in which the state governmental entity owns shares or interests together with other investors not subject to the provisions of this chapter. The term does not include money invested under a plan described by Section 401(k) or 457 of the Internal Revenue Code of 1986.

(5) "Listed company" means a company listed by the comptroller under Section 808.051.

(6) "State governmental entity" means:

(A) the Employees Retirement System of Texas, including a retirement system administered by that system;

(B) the Teacher Retirement System of Texas;

(C) the Texas Municipal Retirement System;

(D) the Texas County and District Retirement System;

(E) the Texas Emergency Services Retirement System; and

(F) the permanent school fund.

Added by Acts 2017, 85th Leg., R.S., Ch. 1 (H.B. 89), Sec. 2, eff. September 1, 2017.

Sec. 808.002. OTHER LEGAL OBLIGATIONS. With respect to actions taken in compliance with this chapter, including all good faith determinations regarding companies as required by this chapter, a state governmental entity and the comptroller are exempt from any conflicting statutory or common law obligations, including any obligations with respect to making investments, divesting from any

investment, preparing or maintaining any list of companies, or choosing asset managers, investment funds, or investments for the state governmental entity's securities portfolios.

Added by Acts 2017, 85th Leg., R.S., Ch. 1 (H.B. 89), Sec. 2, eff. September 1, 2017.

Sec. 808.003. INDEMNIFICATION OF STATE GOVERNMENTAL ENTITIES, EMPLOYEES, AND OTHERS. In a cause of action based on an action, inaction, decision, divestment, investment, company communication, report, or other determination made or taken in connection with this chapter, the state shall, without regard to whether the person performed services for compensation, indemnify and hold harmless for actual damages, court costs, and attorney's fees adjudged against, and defend:

(1) an employee, a member of the governing body, or any other officer of a state governmental entity;

(2) a contractor of a state governmental entity;

(3) a former employee, a former member of the governing body, or any other former officer of a state governmental entity who was an employee, member of the governing body, or other officer when the act or omission on which the damages are based occurred;

(4) a former contractor of a state governmental entity who was a contractor when the act or omission on which the damages are based occurred; and

(5) a state governmental entity.

Added by Acts 2017, 85th Leg., R.S., Ch. 1 (H.B. 89), Sec. 2, eff. September 1, 2017.

Sec. 808.004. NO PRIVATE CAUSE OF ACTION. (a) A person, including a member, retiree, or beneficiary of a retirement system to which this chapter applies, an association, a research firm, a company, or any other person may not sue or pursue a private cause of action against the state, a state governmental entity, a current or former employee, a member of the governing body, or any other officer of a state governmental entity, or a contractor of a state governmental entity, for any claim or cause of action, including breach of fiduciary duty, or for violation of any constitutional,

statutory, or regulatory requirement in connection with any action, inaction, decision, divestment, investment, company communication, report, or other determination made or taken in connection with this chapter.

(b) A person who files suit against the state, a state governmental entity, an employee, a member of the governing body, or any other officer of a state governmental entity, or a contractor of a state governmental entity, is liable for paying the costs and attorney's fees of a person sued in violation of this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 1 (H.B. 89), Sec. 2, eff. September 1, 2017.

Sec. 808.005. INAPPLICABILITY OF REQUIREMENTS INCONSISTENT WITH FIDUCIARY RESPONSIBILITIES AND RELATED DUTIES. A state governmental entity is not subject to a requirement of this chapter if the state governmental entity determines that the requirement would be inconsistent with its fiduciary responsibility with respect to the investment of entity assets or other duties imposed by law relating to the investment of entity assets, including the duty of care established under Section 67, Article XVI, Texas Constitution.

Added by Acts 2017, 85th Leg., R.S., Ch. 1 (H.B. 89), Sec. 2, eff. September 1, 2017.

Sec. 808.006. RELIANCE ON COMPANY RESPONSE. The comptroller and a state governmental entity may rely on a company's response to a notice or communication made under this chapter without conducting any further investigation, research, or inquiry.

Added by Acts 2017, 85th Leg., R.S., Ch. 1 (H.B. 89), Sec. 2, eff. September 1, 2017.

SUBCHAPTER B. DUTIES REGARDING INVESTMENTS

Sec. 808.051. LISTED COMPANIES. (a) The comptroller shall prepare and maintain, and provide to each state governmental entity, a list of all companies that boycott Israel. In maintaining the list, the comptroller may review and rely, as appropriate in the

comptroller's judgment, on publicly available information regarding companies, including information provided by the state, nonprofit organizations, research firms, international organizations, and governmental entities.

(b) The comptroller shall update the list annually or more often as the comptroller considers necessary, but not more often than quarterly, based on information from, among other sources, those listed in Subsection (a).

(c) Not later than the 30th day after the date the list of companies that boycott Israel is first provided or updated, the comptroller shall file the list with the presiding officer of each house of the legislature and the attorney general and post the list on a publicly available website.

Added by Acts 2017, 85th Leg., R.S., Ch. 1 (H.B. 89), Sec. 2, eff. September 1, 2017.

Sec. 808.052. IDENTIFICATION OF INVESTMENT IN LISTED COMPANIES. Not later than the 30th day after the date a state governmental entity receives the list provided under Section 808.051, the state governmental entity shall notify the comptroller of the listed companies in which the state governmental entity owns direct holdings or indirect holdings.

Added by Acts 2017, 85th Leg., R.S., Ch. 1 (H.B. 89), Sec. 2, eff. September 1, 2017.

Sec. 808.053. ACTIONS RELATING TO LISTED COMPANY. (a) For each listed company identified under Section 808.052, the state governmental entity shall send a written notice:

(1) informing the company of its status as a listed company;

(2) warning the company that it may become subject to divestment by state governmental entities after the expiration of the period described by Subsection (b); and

(3) offering the company the opportunity to clarify its Israel-related activities.

(b) Not later than the 90th day after the date the company receives notice under Subsection (a), the company must cease

boycotting Israel in order to avoid qualifying for divestment by state governmental entities.

(c) If, during the time provided by Subsection (b), the company ceases boycotting Israel, the comptroller shall remove the company from the list maintained under Section 808.051 and this chapter will no longer apply to the company unless it resumes boycotting Israel.

(d) If, after the time provided by Subsection (b) expires, the company continues to boycott Israel, the state governmental entity shall sell, redeem, divest, or withdraw all publicly traded securities of the company, except securities described by Section 808.055, according to the schedule provided by Section 808.054.

Added by Acts 2017, 85th Leg., R.S., Ch. 1 (H.B. 89), Sec. 2, eff. September 1, 2017.

Sec. 808.054. DIVESTMENT OF ASSETS. (a) A state governmental entity required to sell, redeem, divest, or withdraw all publicly traded securities of a listed company shall comply with the following schedule:

(1) at least 50 percent of those assets must be removed from the state governmental entity's assets under management not later than the 180th day after the date the company receives notice under Section 808.053 or Subsection (b) unless the state governmental entity determines, based on a good faith exercise of its fiduciary discretion and subject to Subdivision (2), that a later date is more prudent; and

(2) 100 percent of those assets must be removed from the state governmental entity's assets under management not later than the 360th day after the date the company receives notice under Section 808.053 or Subsection (b).

(b) If a company that ceased boycotting Israel after receiving notice under Section 808.053 resumes its boycott, the state governmental entity shall send a written notice to the company informing it that the state governmental entity will sell, redeem, divest, or withdraw all publicly traded securities of the company according to the schedule in Subsection (a).

(c) Except as provided by Subsection (a), a state governmental entity may delay the schedule for divestment under that subsection only to the extent that the state governmental entity determines, in

the state governmental entity's good faith judgment, and consistent with the entity's fiduciary duty, that divestment from listed companies will likely result in a loss in value or a benchmark deviation described by Section 808.056(a). If a state governmental entity delays the schedule for divestment, the state governmental entity shall submit a report to the presiding officer of each house of the legislature and the attorney general stating the reasons and justification for the state governmental entity's delay in divestment from listed companies. The report must include documentation supporting its determination that the divestment would result in a loss in value or a benchmark deviation described by Section 808.056(a), including objective numerical estimates. The state governmental entity shall update the report every six months.

Added by Acts 2017, 85th Leg., R.S., Ch. 1 (H.B. 89), Sec. 2, eff. September 1, 2017.

Sec. 808.055. INVESTMENTS EXEMPTED FROM DIVESTMENT. A state governmental entity is not required to divest from any indirect holdings in actively or passively managed investment funds or private equity funds. The state governmental entity shall submit letters to the managers of each investment fund containing listed companies requesting that they remove those companies from the fund or create a similar actively or passively managed fund with indirect holdings devoid of listed companies. If a manager creates a similar fund with substantially the same management fees and same level of investment risk and anticipated return, the state governmental entity may replace all applicable investments with investments in the similar fund in a time frame consistent with prudent fiduciary standards but not later than the 450th day after the date the fund is created.

Added by Acts 2017, 85th Leg., R.S., Ch. 1 (H.B. 89), Sec. 2, eff. September 1, 2017.

Sec. 808.056. AUTHORIZED INVESTMENT IN LISTED COMPANIES. (a) A state governmental entity may cease divesting from one or more listed companies only if clear and convincing evidence shows that:

(1) the state governmental entity has suffered or will suffer a loss in the hypothetical value of all assets under

management by the state governmental entity as a result of having to divest from listed companies under this chapter; or

(2) an individual portfolio that uses a benchmark-aware strategy would be subject to an aggregate expected deviation from its benchmark as a result of having to divest from listed companies under this chapter.

(b) A state governmental entity may cease divesting from a listed company as provided by this section only to the extent necessary to ensure that the state governmental entity does not suffer a loss in value or deviate from its benchmark as described by Subsection (a).

(c) Before a state governmental entity may cease divesting from a listed company under this section, the state governmental entity must provide a written report to the comptroller, the presiding officer of each house of the legislature, and the attorney general setting forth the reason and justification, supported by clear and convincing evidence, for deciding to cease divestment or to remain invested in a listed company.

(d) The state governmental entity shall update the report required by Subsection (c) semiannually, as applicable.

(e) This section does not apply to reinvestment in a company that is no longer a listed company.

Added by Acts 2017, 85th Leg., R.S., Ch. 1 (H.B. 89), Sec. 2, eff. September 1, 2017.

Sec. 808.057. PROHIBITED INVESTMENTS. Except as provided by Section 808.056, a state governmental entity may not acquire securities of a listed company.

Added by Acts 2017, 85th Leg., R.S., Ch. 1 (H.B. 89), Sec. 2, eff. September 1, 2017.

SUBCHAPTER C. REPORT; ENFORCEMENT

Sec. 808.101. REPORT. Not later than January 5 of each year, each state governmental entity shall file a publicly available report with the presiding officer of each house of the legislature and the attorney general that:

(1) identifies all securities sold, redeemed, divested, or

withdrawn in compliance with Section 808.054;

(2) identifies all prohibited investments under Section 808.057; and

(3) summarizes any changes made under Section 808.055.

Added by Acts 2017, 85th Leg., R.S., Ch. 1 (H.B. 89), Sec. 2, eff. September 1, 2017.

Sec. 808.102. ENFORCEMENT. The attorney general may bring any action necessary to enforce this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 1 (H.B. 89), Sec. 2, eff. September 1, 2017.

CHAPTER 809. PROHIBITION ON INVESTMENT IN FINANCIAL COMPANIES THAT BOYCOTT CERTAIN ENERGY COMPANIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 809.001. DEFINITIONS. In this chapter:

(1) "Boycott energy company" means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company:

(A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or

(B) does business with a company described by Paragraph (A).

(2) "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit.

(3) "Direct holdings" means, with respect to a financial company, all securities of that financial company held directly by a state governmental entity in an account or fund in which a state governmental entity owns all shares or interests.

(4) "Financial company" means a publicly traded financial services, banking, or investment company.

(5) "Indirect holdings" means, with respect to a financial company, all securities of that financial company held in an account or fund, such as a mutual fund, managed by one or more persons not employed by a state governmental entity, in which the state governmental entity owns shares or interests together with other investors not subject to the provisions of this chapter. The term does not include money invested under a plan described by Section 401(k) or 457 of the Internal Revenue Code of 1986.

(6) "Listed financial company" means a financial company listed by the comptroller under Section 809.051.

(7) "State governmental entity" means:

(A) the Employees Retirement System of Texas, including a retirement system administered by that system;

(B) the Teacher Retirement System of Texas;

(C) the Texas Municipal Retirement System;

(D) the Texas County and District Retirement System;

(E) the Texas Emergency Services Retirement System; and

(F) the permanent school fund.

Added by Acts 2021, 87th Leg., R.S., Ch. 529 (S.B. 13), Sec. 1, eff. September 1, 2021.

Sec. 809.002. OTHER LEGAL OBLIGATIONS. With respect to actions taken in compliance with this chapter, including all good faith determinations regarding financial companies as required by this chapter, a state governmental entity and the comptroller are exempt from any conflicting statutory or common law obligations, including any obligations with respect to making investments, divesting from any investment, preparing or maintaining any list of financial companies, or choosing asset managers, investment funds, or investments for the state governmental entity's securities portfolios.

Added by Acts 2021, 87th Leg., R.S., Ch. 529 (S.B. 13), Sec. 1, eff. September 1, 2021.

Sec. 809.003. INDEMNIFICATION OF STATE GOVERNMENTAL ENTITIES,

EMPLOYEES, AND OTHERS. In a cause of action based on an action, inaction, decision, divestment, investment, financial company communication, report, or other determination made or taken in connection with this chapter, the state shall, without regard to whether the person performed services for compensation, indemnify and hold harmless for actual damages, court costs, and attorney's fees adjudged against, and defend:

(1) an employee, a member of the governing body, or any other officer of a state governmental entity;

(2) a contractor of a state governmental entity;

(3) a former employee, a former member of the governing body, or any other former officer of a state governmental entity who was an employee, member of the governing body, or other officer when the act or omission on which the damages are based occurred;

(4) a former contractor of a state governmental entity who was a contractor when the act or omission on which the damages are based occurred; and

(5) a state governmental entity.

Added by Acts 2021, 87th Leg., R.S., Ch. 529 (S.B. 13), Sec. 1, eff. September 1, 2021.

Sec. 809.004. NO PRIVATE CAUSE OF ACTION. (a) A person, including a member, retiree, or beneficiary of a retirement system to which this chapter applies, an association, a research firm, a financial company, or any other person may not sue or pursue a private cause of action against the state, a state governmental entity, a current or former employee, a member of the governing body, or any other officer of a state governmental entity, or a contractor of a state governmental entity, for any claim or cause of action, including breach of fiduciary duty, or for violation of any constitutional, statutory, or regulatory requirement in connection with any action, inaction, decision, divestment, investment, financial company communication, report, or other determination made or taken in connection with this chapter.

(b) A person who files suit against the state, a state governmental entity, an employee, a member of the governing body, or any other officer of a state governmental entity, or a contractor of a state governmental entity, is liable for paying the costs and

attorney's fees of a person sued in violation of this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 529 (S.B. 13), Sec. 1, eff. September 1, 2021.

Sec. 809.005. INAPPLICABILITY OF REQUIREMENTS INCONSISTENT WITH FIDUCIARY RESPONSIBILITIES AND RELATED DUTIES. A state governmental entity is not subject to a requirement of this chapter if the state governmental entity determines that the requirement would be inconsistent with its fiduciary responsibility with respect to the investment of entity assets or other duties imposed by law relating to the investment of entity assets, including the duty of care established under Section 67, Article XVI, Texas Constitution.

Added by Acts 2021, 87th Leg., R.S., Ch. 529 (S.B. 13), Sec. 1, eff. September 1, 2021.

Sec. 809.006. RELIANCE ON FINANCIAL COMPANY RESPONSE. The comptroller and a state governmental entity may rely on a financial company's response to a notice or communication made under this chapter without conducting any further investigation, research, or inquiry.

Added by Acts 2021, 87th Leg., R.S., Ch. 529 (S.B. 13), Sec. 1, eff. September 1, 2021.

SUBCHAPTER B. DUTIES REGARDING INVESTMENTS

Sec. 809.051. LISTED FINANCIAL COMPANIES. (a) The comptroller shall prepare and maintain, and provide to each state governmental entity, a list of all financial companies that boycott energy companies. In maintaining the list, the comptroller may:

(1) review and rely, as appropriate in the comptroller's judgment, on publicly available information regarding financial companies, including information provided by the state, nonprofit organizations, research firms, international organizations, and governmental entities; and

(2) request written verification from a financial company that it does not boycott energy companies and rely, as appropriate in

the comptroller's judgment and without conducting further investigation, research, or inquiry, on a financial company's written response to the request.

(b) A financial company that fails to provide to the comptroller a written verification under Subsection (a)(2) before the 61st day after receiving the request from the comptroller is presumed to be boycotting energy companies.

(c) The comptroller shall update the list annually or more often as the comptroller considers necessary, but not more often than quarterly, based on information from, among other sources, those listed in Subsection (a).

(d) Not later than the 30th day after the date the list of financial companies that boycott energy companies is first provided or updated, the comptroller shall file the list with the presiding officer of each house of the legislature and the attorney general and post the list on a publicly available Internet website.

Added by Acts 2021, 87th Leg., R.S., Ch. 529 (S.B. 13), Sec. 1, eff. September 1, 2021.

Sec. 809.052. IDENTIFICATION OF INVESTMENT IN LISTED FINANCIAL COMPANIES. Not later than the 30th day after the date a state governmental entity receives the list provided under Section 809.051, the state governmental entity shall notify the comptroller of the listed financial companies in which the state governmental entity owns direct holdings or indirect holdings.

Added by Acts 2021, 87th Leg., R.S., Ch. 529 (S.B. 13), Sec. 1, eff. September 1, 2021.

Sec. 809.053. ACTIONS RELATING TO LISTED FINANCIAL COMPANY. (a) For each listed financial company identified under Section 809.052, the state governmental entity shall send a written notice:

(1) informing the financial company of its status as a listed financial company;

(2) warning the financial company that it may become subject to divestment by state governmental entities after the expiration of the period described by Subsection (b); and

(3) offering the financial company the opportunity to

clarify its activities related to companies described by Sections 809.001(1)(A) and (B).

(b) Not later than the 90th day after the date the financial company receives notice under Subsection (a), the financial company must cease boycotting energy companies in order to avoid qualifying for divestment by state governmental entities.

(c) If, during the time provided by Subsection (b), the financial company ceases boycotting energy companies, the comptroller shall remove the financial company from the list maintained under Section 809.051 and this chapter will no longer apply to the financial company unless it resumes boycotting energy companies.

(d) If, after the time provided by Subsection (b) expires, the financial company continues to boycott energy companies, the state governmental entity shall sell, redeem, divest, or withdraw all publicly traded securities of the financial company, except securities described by Section 809.055, according to the schedule provided by Section 809.054.

Added by Acts 2021, 87th Leg., R.S., Ch. 529 (S.B. 13), Sec. 1, eff. September 1, 2021.

Sec. 809.054. DIVESTMENT OF ASSETS. (a) A state governmental entity required to sell, redeem, divest, or withdraw all publicly traded securities of a listed financial company shall comply with the following schedule:

(1) at least 50 percent of those assets must be removed from the state governmental entity's assets under management not later than the 180th day after the date the financial company receives notice under Section 809.053 or Subsection (b) unless the state governmental entity determines, based on a good faith exercise of its fiduciary discretion and subject to Subdivision (2), that a later date is more prudent; and

(2) 100 percent of those assets must be removed from the state governmental entity's assets under management not later than the 360th day after the date the financial company receives notice under Section 809.053 or Subsection (b).

(b) If a financial company that ceased boycotting energy companies after receiving notice under Section 809.053 resumes its boycott, the state governmental entity shall send a written notice to

the financial company informing it that the state governmental entity will sell, redeem, divest, or withdraw all publicly traded securities of the financial company according to the schedule in Subsection (a).

(c) Except as provided by Subsection (a), a state governmental entity may delay the schedule for divestment under that subsection only to the extent that the state governmental entity determines, in the state governmental entity's good faith judgment, and consistent with the entity's fiduciary duty, that divestment from listed financial companies will likely result in a loss in value or a benchmark deviation described by Section 809.056(a). If a state governmental entity delays the schedule for divestment, the state governmental entity shall submit a report to the presiding officer of each house of the legislature and the attorney general stating the reasons and justification for the state governmental entity's delay in divestment from listed financial companies. The report must include documentation supporting its determination that the divestment would result in a loss in value or a benchmark deviation described by Section 809.056(a), including objective numerical estimates. The state governmental entity shall update the report every six months.

Added by Acts 2021, 87th Leg., R.S., Ch. 529 (S.B. 13), Sec. 1, eff. September 1, 2021.

Sec. 809.055. INVESTMENTS EXEMPTED FROM DIVESTMENT. A state governmental entity is not required to divest from any indirect holdings in actively or passively managed investment funds or private equity funds. The state governmental entity shall submit letters to the managers of each investment fund containing listed financial companies requesting that they remove those financial companies from the fund or create a similar actively or passively managed fund with indirect holdings devoid of listed financial companies. If a manager creates a similar fund with substantially the same management fees and same level of investment risk and anticipated return, the state governmental entity may replace all applicable investments with investments in the similar fund in a time frame consistent with prudent fiduciary standards but not later than the 450th day after the date the fund is created.

Added by Acts 2021, 87th Leg., R.S., Ch. 529 (S.B. 13), Sec. 1, eff.

September 1, 2021.

Sec. 809.056. AUTHORIZED INVESTMENT IN LISTED FINANCIAL COMPANIES. (a) A state governmental entity may cease divesting from one or more listed financial companies only if clear and convincing evidence shows that:

(1) the state governmental entity has suffered or will suffer a loss in the hypothetical value of all assets under management by the state governmental entity as a result of having to divest from listed financial companies under this chapter; or

(2) an individual portfolio that uses a benchmark-aware strategy would be subject to an aggregate expected deviation from its benchmark as a result of having to divest from listed financial companies under this chapter.

(b) A state governmental entity may cease divesting from a listed financial company as provided by this section only to the extent necessary to ensure that the state governmental entity does not suffer a loss in value or deviate from its benchmark as described by Subsection (a).

(c) Before a state governmental entity may cease divesting from a listed financial company under this section, the state governmental entity must provide a written report to the comptroller, the presiding officer of each house of the legislature, and the attorney general setting forth the reason and justification, supported by clear and convincing evidence, for deciding to cease divestment or to remain invested in a listed financial company.

(d) The state governmental entity shall update the report required by Subsection (c) semiannually, as applicable.

(e) This section does not apply to reinvestment in a financial company that is no longer a listed financial company.

Added by Acts 2021, 87th Leg., R.S., Ch. 529 (S.B. 13), Sec. 1, eff. September 1, 2021.

Sec. 809.057. PROHIBITED INVESTMENTS. Except as provided by Section 809.056, a state governmental entity may not acquire securities of a listed financial company.

Added by Acts 2021, 87th Leg., R.S., Ch. 529 (S.B. 13), Sec. 1, eff.

September 1, 2021.

SUBCHAPTER C. REPORT; ENFORCEMENT

Sec. 809.101. REPORT. Not later than January 5 of each year, each state governmental entity shall file a publicly available report with the presiding officer of each house of the legislature and the attorney general that:

(1) identifies all securities sold, redeemed, divested, or withdrawn in compliance with Section 809.054;

(2) identifies all prohibited investments under Section 809.057; and

(3) summarizes any changes made under Section 809.055.

Added by Acts 2021, 87th Leg., R.S., Ch. 529 (S.B. 13), Sec. 1, eff. September 1, 2021.

Sec. 809.102. ENFORCEMENT. The attorney general may bring any action necessary to enforce this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 529 (S.B. 13), Sec. 1, eff. September 1, 2021.

CHAPTER 810. MISCELLANEOUS PROVISIONS

Sec. 810.001. ESTABLISHMENT OF PUBLIC RETIREMENT SYSTEM. (a) In this section:

(1) "Political entity" means a municipality or any agency thereof, a junior college district, river authority, water district, appraisal district, or other special purpose district or authority that is created pursuant to state law and that is not an agency of the state.

(2) "Public retirement system" means a continuing, organized program or plan (including a plan qualified under Section 401(a) of the Internal Revenue Code of 1986) of service retirement, disability retirement, or death benefits for officers or employees of a political entity, other than:

(A) a program providing only workers' compensation benefits;

(B) a program administered by the federal government;

(C) an individual retirement account or individual retirement annuity within the meaning of Section 408 or a retirement bond within the meaning of Section 409 of the Internal Revenue Code of 1986 (26 U.S.C. Sections 408, 409);

(D) an individual account plan consisting of an annuity contract described by Section 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403); or

(E) an eligible state deferred compensation plan described by Section 457(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 457).

(b) Except as provided by Subsection (d), the governing body of a political entity may establish and maintain a public retirement system for its appointive officers and employees and determine the benefits, funding source and amount, and administration of the system. Each active member of a public retirement system established under the authority provided by this section shall contribute to the system an amount, if any, determined by the political entity. The political entity shall contribute for each active member in a defined contribution plan or a defined benefit plan an amount determined by the political entity to be required to meet the system's benefit plan.

(c) The governing body of the political entity may arrange for administration of the system by a private provider of public retirement benefits, whether or not the provider is also a source of benefits provided for under the system.

(d) The authority granted by Subsections (b) and (c) does not apply to a political entity to the extent that the entity, by specific statute, is:

(1) required to establish or participate exclusively in a particular public retirement system; or

(2) prohibited from establishing or participating in any public retirement system or in a particular retirement system.

(e) The authority granted by Subsections (b) and (c) is in addition to any other statutory authority to provide a public retirement system or programs specifically excluded from the definition of a public retirement system.

(f) Every political entity which establishes or maintains a public retirement system covered under this Act shall file all reports with the State Pension Review Board required by Chapter 802. If a political subdivision establishes a retirement program that

would be a "public retirement system" within the meaning ascribed to that term by Section 801.001, but for the fact that the program is administered by a life insurance company, the subdivision shall notify the State Pension Review Board of the establishment of the program and the name of the administering company.

(g) "Civil union" means any relationship status that grants to the parties of the relationship the same legal protections, benefits, and responsibilities as are granted to the spouses of a marriage.

(h) For purposes of this title, the state may not give effect to a:

(1) public act, record, or judicial proceeding that recognizes or validates a marriage or civil union between persons of the same sex; or

(2) right or claim asserted as a result of the purported marriage or civil union.

(i) Subsection (h) does not preclude the enforcement in this state of an order issued in another state relating to child custody, child support, or property division, including a qualified domestic relations order.

(j) A single governmental employer is not considered to be permitting a person who is a public employee, officer, or retiree of that employer to be receiving benefits from more than one system or program of retirement for the same service if:

(1) the employer participates in the Texas Municipal Retirement System or the Texas County and District Retirement System and also sponsors one or more supplemental plans:

(A) funded by the employer, the employee, or a combination of the employer and the employee; and

(B) established before January 1, 2005; and

(2) the amount of the combined benefits paid to the person by the Texas Municipal Retirement System or the Texas County and District Retirement System and all of the supplemental plans described by Subdivision (1) is in compliance with Section 415, Internal Revenue Code of 1986.

Added by Acts 1991, 72nd Leg., ch. 589, Sec. 1, eff. June 16, 1991.
Amended by Acts 2001, 77th Leg., ch. 1231, Sec. 46, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1157 (H.B. 3200), Sec. 1, eff. June 18,

2005.

Sec. 810.002. ALTERNATIVE BENEFIT PLAN FOR CERTAIN MUNICIPALITIES. (a) In this section, "alternative benefit plan" means a continuing, organized benefit plan, including a plan qualified under Section 401(a) of the Internal Revenue Code of 1986, of service retirement, disability retirement, or death benefits for officers or employees of a municipality.

(b) This section applies only to a municipality subject to Article 6243a-1, Revised Statutes.

(c) Notwithstanding any other law and subject to Subsection (f), the governing body of a municipality subject to this section may by ordinance:

(1) establish an alternative benefit plan and determine the benefits, funding source and amount, and administration of the alternative benefit plan; and

(2) require an employee first hired by the municipality on or after the date the alternative benefit plan is implemented to participate in the alternative benefit plan instead of participating in the pension system provided under Article 6243a-1, Revised Statutes.

(d) Each active participant of an alternative benefit plan established under this section shall contribute to the plan an amount, if any, determined by the municipality. The municipality shall contribute for each active participant in an alternative benefit plan established under Subsection (c) an amount determined by the municipality.

(e) A municipality that establishes an alternative benefit plan under this section shall file all reports with the State Pension Review Board required by Chapter 802.

(f) The governing body of a municipality may only establish an alternative benefit plan under this section if:

(1) the qualified actuary of the pension system established under Article 6243a-1, Revised Statutes, determines that after establishment and implementation of the alternative benefit plan, the pension system would continue to comply with funding and amortization period requirements applicable to the pension system under Subchapter C, Chapter 802; and

(2) the State Pension Review Board conducts a review of and

validates the determination made under Subdivision (1).

Added by Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.51, eff. September 1, 2017.

Sec. 810.003. CERTAIN ELECTED OFFICIALS INELIGIBLE FOR RETIREMENT ANNUITY. (a) In this section:

(1) "Governing body of a public retirement system" and "public retirement system" have the meanings assigned by Section 802.001.

(2) "Qualifying felony" means any felony involving:

(A) bribery;

(B) the embezzlement, extortion, or other theft of public money;

(C) perjury;

(D) coercion of public servant or voter;

(E) tampering with governmental record;

(F) misuse of official information;

(G) conspiracy or the attempt to commit any of the offenses described by Paragraphs (A)-(F); or

(H) abuse of official capacity.

(b) This section applies only to a person who is:

(1) a member of the elected class of the Employees Retirement System of Texas as described by Section 812.002(a)(1) or (2); or

(2) otherwise eligible for membership in a public retirement system wholly or partly because the person was elected or appointed to an elected office.

(c) Except as provided by Subsection (d), a member of a public retirement system is not eligible to receive a service retirement annuity under the retirement system if the member is convicted of a qualifying felony committed while in office and arising directly from the official duties of that elected office.

(d) The retirement system, on receipt of notice of a conviction under Subsection (e) or (k), any similar notice of a conviction of a qualifying felony from a United States district court or United States attorney, or any other information that the retirement system determines by rule is sufficient to establish a conviction of a qualifying felony, shall suspend payments of a service retirement

annuity to a person the system determines is ineligible to receive the annuity under Subsection (c). A person whose conviction is overturned on appeal or who meets the requirements for innocence under Section 103.001(a)(2), Civil Practice and Remedies Code:

(1) is entitled to receive an amount equal to the accrued total of payments and interest earned on the payments withheld during the suspension period; and

(2) may resume receipt of annuity payments on payment to the retirement system of an amount equal to the contributions refunded to the person under Subsection (f).

(e) Not later than the 30th day after the conviction of a person of a qualifying felony, the governmental entity to which the person was elected or appointed must provide written notice of the conviction to the public retirement system in which the person is enrolled. The notice must comply with the administrative rules adopted by the public retirement system under Subsection (j).

(f) A member who is ineligible to receive a service retirement annuity under Subsection (c) is entitled to a refund of the member's service retirement annuity contributions, including interest earned on those contributions. A refund under this subsection is subject to an award of all or part of the member's service retirement annuity contributions to a former spouse, including as a just and right division of the contributions on divorce, payment of child support, or payment of spousal maintenance or contractual alimony or other order of a court.

(g) Benefits payable to an alternate payee under Chapter 804 who is recognized by a qualified domestic relations order established before the effective date of this subsection are not affected by a member's ineligibility to receive a service retirement annuity under Subsection (c).

(h) On conviction of a member for a qualifying felony:

(1) a court may, in the same manner as in a divorce or annulment proceeding, make a just and right division of the member's service retirement annuity by awarding to the member's spouse all or part of the community property interest in the annuity forfeited by the member; and

(2) a court shall, if the member's service retirement annuity was partitioned or exchanged by written agreement of the spouses as provided by Subchapter B, Chapter 4, Family Code, before the member's commission of the offense, award the annuity forfeited

by the member to the member's spouse as provided in the agreement.

(i) Ineligibility for a service retirement annuity under this section does not impair a person's right to any other retirement benefit for which the person is eligible.

(j) The governing body of a public retirement system shall adopt rules and procedures to implement this section.

(k) A court shall notify the retirement system of the terms of a conviction of a person convicted of an offense described by Subsection (c).

(l) Notwithstanding any other provision of this section, if the spouse of a member convicted of a qualifying felony is convicted of the felony as a party to the offense as defined by Section 7.01, Penal Code, or of another qualifying offense arising out of the same criminal episode as defined by Section 3.01, Penal Code, the spouse forfeits the member's service retirement annuity and service retirement contributions to the same extent as the member.

Added by Acts 2017, 85th Leg., R.S., Ch. 443 (S.B. 500), Sec. 1, eff. June 6, 2017.
Redesignated from Government Code, Section 810.002 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(32), eff. September 1, 2019.
Redesignated from Government Code, Section 810.002 by Acts 2019, 86th Leg., R.S., Ch. 641 (S.B. 1570), Sec. 4, eff. June 10, 2019.

Sec. 810.004. CERTAIN CORRECTIONS EMPLOYEES INELIGIBLE FOR RETIREMENT ANNUITY. (a) In this section:

(1) "Governing body of a public retirement system" and "public retirement system" have the meanings assigned by Section 802.001.

(2) "Qualifying felony" means any felony involving an incarcerated member of a criminal street gang as defined by Section 71.01, Penal Code, including:

(A) bribery;

(B) the embezzlement, extortion, or other theft of public money;

(C) perjury;

(D) engaging in organized criminal activity;

(E) tampering with governmental record;

(F) misuse of official information;

(G) abuse of official capacity; or

(H) conspiracy or the attempt to commit any of the offenses described by Paragraphs (A)-(G).

(b) This section applies only to a person who is:

(1) a member of the employee class of the Employees Retirement System of Texas as described by Section 812.003 because the person serves as a corrections officer for the Texas Department of Criminal Justice or the Texas Juvenile Justice Department; or

(2) otherwise eligible for membership in a public retirement system wholly or partly because the person served as a corrections officer for the Texas Department of Criminal Justice or the Texas Juvenile Justice Department.

(c) Except as provided by Subsection (d), a member of a public retirement system is not eligible to receive a service retirement annuity under the retirement system if the member is convicted of a qualifying felony for conduct arising directly from the member's service as a corrections officer.

(d) The retirement system, on receipt of notice of a conviction under Subsection (j), any similar notice of a conviction of a qualifying felony from a United States district court or United States attorney, or any other information that the retirement system determines by rule is sufficient to establish a conviction of a qualifying felony, shall suspend payments of a service retirement annuity to a person the system determines is ineligible to receive the annuity under Subsection (c). A person whose conviction is overturned on appeal or who meets the requirements for innocence under Section 103.001(a)(2), Civil Practice and Remedies Code:

(1) is entitled to receive an amount equal to the accrued total of payments and interest earned on the payments withheld during the suspension period; and

(2) may resume receipt of annuity payments on payment to the retirement system of an amount equal to the contributions refunded to the person under Subsection (e).

(e) A member who is ineligible to receive a service retirement annuity under Subsection (c) is entitled to a refund of the member's service retirement annuity contributions, including interest earned on those contributions. A refund under this subsection is subject to an award of all or part of the member's service retirement annuity contributions to a former spouse, including as a just and right

division of the contributions on divorce, payment of child support, or payment of spousal maintenance or contractual alimony or other order of a court.

(f) Benefits payable to an alternate payee under Chapter 804 who is recognized by a qualified domestic relations order established before the effective date of this subsection are not affected by a member's ineligibility to receive a service retirement annuity under Subsection (c).

(g) On conviction of a member for a qualifying felony:

(1) a court may, in the same manner as in a divorce or annulment proceeding, make a just and right division of the member's service retirement annuity by awarding to the member's spouse all or part of the community property interest in the annuity forfeited by the member; and

(2) a court shall, if the member's service retirement annuity was partitioned or exchanged by written agreement of the spouses as provided by Subchapter B, Chapter 4, Family Code, before the member's commission of the offense, award the annuity forfeited by the member to the member's spouse as provided in the agreement.

(h) Ineligibility for a service retirement annuity under this section does not impair a person's right to any other retirement benefit for which the person is eligible.

(i) The governing body of a public retirement system shall adopt rules and procedures to implement this section.

(j) A court shall notify the retirement system of the terms of a conviction of a person convicted of an offense described by Subsection (c).

(k) Notwithstanding any other provision of this section, if the spouse of a member convicted of a qualifying felony is convicted of the felony as a party to the offense as defined by Section 7.01, Penal Code, or of another qualifying offense arising out of the same criminal episode as defined by Section 3.01, Penal Code, the spouse forfeits the member's service retirement annuity and service retirement contributions to the same extent as the member.

Added by Acts 2019, 86th Leg., R.S., Ch. 641 (S.B. 1570), Sec. 1, eff. June 10, 2019.

Sec. 810.006. MINIMUM RETIREMENT FUNDING REQUIREMENTS FOR

DEFUNDING MUNICIPALITIES. (a) In this section:

(1) "Defunding municipality" means a municipality that is considered to be a defunding municipality under Chapter 109, Local Government Code.

(2) "Public retirement system" has the meaning assigned by Section 802.001.

(b) This section applies only to a municipality that is:

(1) an employer of active members of a public retirement system administering a defined benefit plan; and

(2) a defunding municipality.

(c) Notwithstanding any other law and as soon as practicable after the date the criminal justice division of the office of the governor issues a written determination under Section 109.003(2), Local Government Code, with respect to a municipality, the municipality shall for the purpose of funding retirement benefits increase municipal contributions to a public retirement system in which its employees participate as members in a manner that ensures that the total amount the municipality and members contribute to the system for the fiscal year on which the determination is based is not less than the total amount the municipality and members of the system contributed to the system for the fiscal year immediately preceding the fiscal year on which the determination is based.

(d) A municipality subject to this section shall increase contributions in the manner provided by Subsection (c) for each fiscal year for which the municipality is considered a defunding municipality.

Added by Acts 2021, 87th Leg., R.S., Ch. 199 (H.B. 1900), Sec. 4.01, eff. September 1, 2021.

SUBTITLE B. EMPLOYEES RETIREMENT SYSTEM OF TEXAS
CHAPTER 811. GENERAL PROVISIONS
SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1737 and S.B. 2405, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 811.001. DEFINITIONS. In this subtitle:

(1) "Accumulated contributions" means the total of amounts

in a member's individual account in the employees saving account, including:

(A) amounts deducted from the compensation of the member;

(B) other member deposits required to be placed in the member's individual account; and

(C) interest credited to amounts in the member's individual account.

(2) "Actuarially reduced annuity" means an annuity payable on retirement or death occurring before a normal retirement age, the amount of which is determined by computing, using the amount of the member's service credit, the standard service retirement annuity payable at a normal retirement age and reducing it, under tables adopted by the board, by the factor applicable because of the attained age of the member.

(3) "Annuity" means an amount of money payable in monthly installments for a guaranteed period or for life, as determined by this subtitle.

(4) "Appointed officer or employee" means a person who holds a position that requires adherence to laws and rules of the state applicable to its employees, and who is paid a salary from state funds.

(5) "Board of trustees" means the persons appointed or elected under Subchapter A of Chapter 815 to administer the retirement system.

(5-a) "Cash balance group member" means a member subject to Chapter 820.

(6) "Combined retirement annuity" means the amount payable on retirement for service credited as a member of the employee class of membership plus any supplemental amount payable from the law enforcement and custodial officer supplemental retirement fund.

(7) "Compensation" means the base salary of a person; amounts that would otherwise qualify as compensation but are not received directly by a person pursuant to a good faith, voluntary, written salary reduction agreement in order to finance payments to a deferred compensation or tax sheltered annuity program specifically authorized by state law or to finance benefit options under a cafeteria plan qualifying under Section 125 of the Internal Revenue Code of 1986 (26 U.S.C. Section 125); longevity and hazardous duty pay; nonmonetary compensation, the value of which is determined by

the retirement system; amounts by which a person's salary is reduced under a salary reduction agreement authorized by Chapter 610; and the benefit replacement pay a person earns under Subchapter H, Chapter 659, as added by Chapter 417, Acts of the 74th Legislature, 1995, except for the benefit replacement pay a person earns as a result of a payment made under Subchapter B, C, or D, Chapter 661. The term excludes overtime pay and a cleaning or clothing allowance.

(8) "Custodial officer" means a member of the retirement system who is employed by the Board of Pardons and Paroles or the Texas Department of Criminal Justice as a parole officer or caseworker or who is employed by the correctional institutions division of the Texas Department of Criminal Justice and certified by the department as having a normal job assignment that requires frequent or infrequent regularly planned contact with, and in close proximity to, inmates or defendants of the correctional institutions division without the protection of bars, doors, security screens, or similar devices and includes assignments normally involving supervision or the potential for supervision of inmates in inmate housing areas, educational or recreational facilities, industrial shops, kitchens, laundries, medical areas, agricultural shops or fields, or in other areas on or away from property of the department. The term includes a member who transfers from the Texas Department of Criminal Justice to the managed health care unit of The University of Texas Medical Branch or the Texas Tech University Health Sciences Center pursuant to Section 9.01, Chapter 238, Acts of the 73rd Legislature, 1993, elects at the time of transfer to retain membership in the retirement system, and is certified by the managed health care unit or the health sciences center as having a normal job assignment described by this subdivision.

(8-a) "Good cause" means that a person's failure to act was not because of a lack of due diligence the exercise of which would have caused a reasonable person to take prompt and timely action. A failure to act based on ignorance of the law or facts reasonably discoverable through the exercise of due diligence does not constitute good cause.

(9) "Law enforcement officer" means a member of the retirement system who:

(A) has been commissioned as a law enforcement officer by the Department of Public Safety, the Texas Alcoholic Beverage Commission, the Parks and Wildlife Department, or the office of

inspector general at the Texas Juvenile Justice Department; and

(B) is recognized as a commissioned law enforcement officer by the Texas Commission on Law Enforcement.

(10) "Membership service" means service in a position included in a class of membership, including service performed in the position before holders of the position were eligible or required to be members of the retirement system.

(11) "Normal retirement age" means an age at which a member is entitled to receive a service retirement annuity without reduction because of age.

(12) "Occupational disability" means disability from a sudden and unexpected injury or disease that results solely from a specific act or occurrence determinable by a definite time and place and solely from an extremely dangerous risk of severe physical or mental trauma or disease that is not common to the public at large and that is peculiar to and inherent in a dangerous duty that arises from the nature and in the course of a person's state employment.

(12-a) "Occupational death" means death from an injury resulting from an external force, an activity, or a disease caused by or resulting from a line-of-duty accident or from an illness caused by line-of-duty work under hazardous conditions. The term includes death from accidents or illnesses that directly result from an action a person is required or authorized by rule, condition of employment, or law to perform, including an action performed by the person at a social, ceremonial, athletic, or other function to which the person is assigned by the person's employer.

(13) "Position" means an office held by an elected or appointed officer or a job or other regular employment held by an employee, which office, job, or employment is included in a class of membership.

(14) "Retiree" means a person who, except as provided by Section 812.203, receives an annuity based on service that was credited to the person in a class of membership.

(15) "Retirement system" means the Employees Retirement System of Texas.

(16) "Service credit" means the amount of membership and, if applicable, military service ascribed to a person's account in the retirement system for which all required contributions have been made to, and are being held by, the retirement system.

(17) "Temporary employee" means a person who has a position

only until another person can be hired, only for the duration of a project scheduled to end less than six months after the date of hiring, only until a specific date less than six months after the date of hiring, or only until a volume of work is completed that is estimated to be completed in less than six months after the date of hiring.

(18) "Parole officer" has the meaning assigned by Section 508.001.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 3, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 828, Sec. 1, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 204, Sec. 8, eff. Aug. 31, 1987; Acts 1987, 70th Leg., ch. 944, Sec. 2, eff. June 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 21.001 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 988, Sec. 1.11, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(34), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 688, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1035, Sec. 53, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1048, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1499, Sec. 1.10, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1541, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1231, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 842, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1111, Sec. 10, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 74 (S.B. 262), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 21, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.081, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.34, eff. May 18, 2013.

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 3, eff. September 1, 2021.

Sec. 811.002. PURPOSE OF SUBTITLE. The purpose of this subtitle is to establish a program of benefits for members, retirees, and other beneficiaries of the retirement system and to establish rules for the management and operation of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 21.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 811.003. RETIREMENT SYSTEM. The retirement system is a public entity. Except as provided by Section 815.304, the Employees Retirement System of Texas is the name by which all its business shall be transacted, all its funds invested, and all its cash, securities, and other property held.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 77, Sec. 1, eff. Oct. 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 21.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 811.004. POWERS AND PRIVILEGES. The retirement system has the powers, privileges, and immunities of a corporation, as well as the powers, privileges, and immunities conferred by this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 21.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 811.005. EXEMPTION FROM EXECUTION. All retirement annuity payments, optional benefit payments, member contributions, money in the various retirement system funds, and rights accrued or accruing under this subtitle to any person are exempt from garnishment, attachment, state and local taxation, levies, sales, and any other process, and are unassignable except as provided by Section 813.103.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 21.005 and

amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 811.006. ACTION INCREASING AMORTIZATION PERIOD. (a) A rate of member or state contributions to or a rate of interest required for the establishment of credit in the retirement system may not be reduced or eliminated, a type of service may not be made creditable in the retirement system, a limit on the maximum permissible amount of a type of creditable service may not be removed or raised, a new monetary benefit payable by the retirement system may not be established, and the determination of the amount of a monetary benefit from the system may not be increased, if, as a result of the particular action, the time, as determined by an actuarial valuation, required to amortize the unfunded actuarial liabilities of the retirement system would be increased to a period that exceeds 30 years by one or more years.

(b) If the amortization period for the unfunded actuarial liabilities of the retirement system exceeds 30 years by one or more years at the time an action described by Subsection (a) is proposed, the proposal may not be adopted if, as a result of the adoption, the amortization period would be increased, as determined by an actuarial valuation.

Added by Acts 1985, 69th Leg., ch. 228, Sec. 6, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 21.006 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 811.007. IMMUNITY FROM LIABILITY. The board of trustees, executive director, members of an advisory committee appointed by the board of trustees, and employees of the retirement system are not liable for any action taken or omission made or suffered by them in good faith in the performance of any duty in connection with any program or system administered by the retirement system.

Added by Acts 2003, 78th Leg., ch. 1111, Sec. 11, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1310, Sec. 48, eff. June 20, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 3, eff. September 1, 2013.

Sec. 811.008. INSURANCE. Notwithstanding any other law, the board of trustees may self-insure or purchase any insurance in amounts the board considers reasonable and prudent.

Added by Acts 2003, 78th Leg., ch. 1111, Sec. 11, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1310, Sec. 48, eff. June 20, 2003.

Sec. 811.009. CERTAIN CONTRACTS FOR HEALTH CARE PURPOSES; REVIEW BY ATTORNEY GENERAL. (a) This section applies to any contract with a contract amount of $250 million or more:

(1) under which a person provides goods or services in connection with the provision of medical or health care services, coverage, or benefits; and

(2) entered into by the person and the retirement system.

(b) Notwithstanding any other law, before a contract described by Subsection (a) may be entered into by the retirement system, a representative of the office of the attorney general shall review the form and terms of the contract and may make recommendations to the retirement system for changes to the contract if the attorney general determines that the office of the attorney general has sufficient subject matter expertise and resources available to provide this service.

(c) The retirement system must notify the office of the attorney general at the time the system initiates the planning phase of the contracting process. A representative of the office of the attorney general or another attorney advising the agency under Subsection (d) may participate in negotiations or discussions with proposed contractors and may be physically present during those negotiations or discussions.

(d) If the attorney general determines that the office of the attorney general does not have sufficient subject matter expertise or resources available to provide the services described by this section, the office of the attorney general may require the retirement system to enter into an interagency agreement or to obtain outside legal services under Section 402.0212 for the provision of services described by this section.

(e) The retirement system shall provide to the office of the attorney general any information the office of the attorney general determines is necessary to administer this section.

Added by Acts 2005, 79th Leg., Ch. 1011 (H.B. 880), Sec. 2, eff. September 1, 2005.

Sec. 811.010. VENUE. Subject to and without waiving the retirement system's sovereign immunity or the official immunity of the trustees, officers, and employees of the retirement system, the venue for any action by or against the retirement system, the trustees, officers, or employees of the retirement system, or an administering firm, carrier, or other governmental agency acting in cooperation with or on behalf of the retirement system is in Travis County.

Added by Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 2, eff. September 1, 2009.

Sec. 811.011. STATUTE OF LIMITATIONS. Subject to and without waiving the retirement system's sovereign immunity or the official immunity of the trustees, officers, and employees of the retirement system, unless specifically provided otherwise by another statute, the statute of limitations for a claim against the retirement system or a trustee, officer, or employee of the retirement system is two years.

Added by Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 2, eff. September 1, 2009.

Sec. 811.012. PROVISION OF CERTAIN INFORMATION TO COMPTROLLER. (a) Not later than June 1, 2016, and once every five years after that date, the retirement system shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each member, retiree, and beneficiary from the retirement system's records.

(b) Information provided to the comptroller under this section is confidential and may not be disclosed to the public.

(c) The retirement system shall provide the information in the format prescribed by rule of the comptroller.

Redesignated from Government Code, Section 811.010 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(21), eff. September 1, 2011.
Redesignated and amended from Government Code, Section 811.010 by Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. 1664), Sec. 4, eff. September 1, 2011.

SUBCHAPTER B. PENAL PROVISIONS

Sec. 811.101. CONVERSION OF FUNDS; FRAUD. (a) A person commits an offense if the person knowingly or intentionally confiscates, misappropriates, or converts funds representing deductions from a member's salary either before or after the funds are received by the retirement system.

(b) A person commits an offense if the person knowingly or intentionally makes a false statement or falsifies or permits to be falsified any record of the retirement system in an attempt to defraud the retirement system.

(c) A member commits an offense if the member knowingly receives as a salary money that should have been deducted as provided by this subtitle from the member's salary.

(d) A person commits an offense if the person knowingly or intentionally violates an applicable requirement of this subtitle other than one described by Subsection (a), (b), or (c).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 21.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 811.102. PENALTIES. (a) An offense under Section 811.101(a) or 811.101(b) is a felony punishable by imprisonment in the Texas Department of Criminal Justice for not less than one nor more than five years.

(b) An offense under Section 811.101(c) is a misdemeanor punishable by a fine of not less than $100 nor more than $5,000.

(c) An offense under Section 811.101(d) is a misdemeanor punishable by a fine of not less than $100 nor more than $1,000.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 21.102 and

amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.082, eff. September 1, 2009.

CHAPTER 812. MEMBERSHIP

SUBCHAPTER A. MEMBERSHIP

Sec. 812.001. MEMBERSHIP CLASSES. The two classes of membership in the retirement system are the elected class and the employee class.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 22.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 812.002. MEMBERSHIP IN ELECTED CLASS. (a) Membership in the elected class of the retirement system is limited to:

(1) persons who hold state offices that are normally filled by statewide election and that are not included in the coverage of the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two;

(2) members of the legislature; and

(3) district and criminal district attorneys, to the extent that they receive salaries from the state general revenue fund.

(b) Membership in the elected class is optional.

(c) An eligible person becomes a member of the elected class by filing a notice of intention to become a member with the board of trustees on a form prescribed by the board.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Amended by Acts 1985, 69th Leg., ch. 602, Sec. 4, Sept. 1, 1985.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 22.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 812.003. MEMBERSHIP IN EMPLOYEE CLASS. (a) Except as provided by Subsection (b), membership in the employee class of the retirement system includes all employees and appointed officers of every department, commission, board, agency, or institution of the

state except:

(1) independent contractors and their employees performing work for the state; and

(2) persons disqualified from membership under Section 812.201.

(b) An office or employment that is included in the coverage of the Teacher Retirement System of Texas, the Judicial Retirement System of Texas Plan One, or the Judicial Retirement System of Texas Plan Two or, except as provided by Section 9.01, Chapter 238 (S.B. 378), Acts of the 73rd Legislature, Regular Session, 1993, is with a university system or institution of higher education, as defined by Section 61.003, Education Code, is not a position with a department, commission, board, agency, or institution of the state for purposes of this subtitle.

(c) Membership in the employee class is mandatory for eligible persons.

(d) Membership in the employee class begins on the first day a person is employed or holds office.

(e) A person who is reemployed or who again holds office after withdrawing contributions under Subchapter B for previous service credited in the employee class begins membership in the employee class on the first day the person is reemployed or again holds office.

(f) Repealed by Acts 2015, 84th Leg., R.S., Ch. 331 , Sec. 4, eff. September 1, 2015.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 602, Sec. 5, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 22.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989; Acts 2003, 78th Leg., ch. 1111, Sec. 12, 41, eff. Sept. 1, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 4, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 4, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 331 (H.B. 9), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 331 (H.B. 9), Sec. 4, eff. September 1, 2015.

Sec. 812.005. TERMINATION OF MEMBERSHIP. (a) A person's membership in the retirement system is terminated by:

(1) death of the person;

(2) retirement based on service credited in all classes of membership in which the person has service credit; or

(3) withdrawal of all of the person's accumulated contributions.

(b) A person terminates membership in one class of membership by:

(1) retirement based on service credited in the class; or

(2) withdrawal of the person's accumulated contributions for service credited in the class.

(c) A person may terminate membership in one class and retain membership in the other.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 332, ch. 75, Sec. 2, eff. Sept. 1, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 22.005 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 1, eff. Sept. 1, 1991.

Amended by:

Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 5, eff. September 1, 2005.

Sec. 812.006. OPTIONAL MEMBERSHIP. (a) In this section, "qualified employee" means a person who:

(1) has at least three years of service credit in the retirement system in the legislative branch that was accrued before June 18, 1993;

(2) was employed by an institution of higher education, as defined by Section 61.003, Education Code, before December 31, 1998, and elected to participate in the optional retirement program under Chapter 830; and

(3) is actively participating in the optional retirement program.

(b) A qualified employee may make a one-time, irrevocable

election in a manner provided by the retirement system to renew active participation in the system and cease participation in the optional retirement program.

(c) An employee who makes an election under this section is not eligible to establish service credit in the retirement system for service performed while participating in the optional retirement program.

(d) This section is contingent upon the receipt of a favorable Internal Revenue Service ruling addressing all tax issues.

(e) An election authorized by this section must be made within 90 days of the Internal Revenue Service ruling.

Added by Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 6, eff. September 1, 2005.

SUBCHAPTER B. WITHDRAWAL OF CONTRIBUTIONS

Sec. 812.101. CRITERIA FOR WITHDRAWAL. (a) A member of the retirement system may withdraw all of the member's accumulated contributions for service credited in the employee class of membership if:

(1) the member does not hold a position included in that class;

(2) the member does not assume or resume, during the 30 days after the date on which the member terminates employment, a position included in that class; and

(3) the member's application for withdrawal is filed before the member assumes or resumes a position included in that class.

(b) A member of the retirement system currently contributing in the elected class of membership may at any time stop contributing and withdraw the person's contributions made for service credited in that class.

(c) For a law enforcement or custodial officer, the withdrawal of accumulated contributions under Subsection (a) includes all of the officer's contributions made under Section 815.402(h) or 820.101(b), as applicable.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 22.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1541, Sec. 4, eff. Sept. 1,

1999.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 3, eff. September 1, 2009.
Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 4, eff. September 1, 2021.

Sec. 812.102. PROCEDURE FOR WITHDRAWAL. A member initiates a withdrawal of contributions by filing an application for a refund with the retirement system or the agency or department with which the member holds or most recently held a position.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 22.102 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 812.103. EFFECT OF WITHDRAWAL. A withdrawal of contributions cancels a member's service credit and terminates the person's membership in, and all rights to benefits from, each class from which the withdrawal is made.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 22.103 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 812.104. DEPOSITS REFUNDABLE. (a) Except as provided by Subsection (c), deposits representing interest or membership fees that are required of a member to establish service credit under Section 813.202, 813.302, 813.402, or 813.502 are not refundable.
(b) Deposits representing accumulated contributions are refundable to the member on application for a refund made as provided by Section 812.102.
(c) At the time a service retirement, disability retirement, or death benefit annuity becomes payable, the retirement system shall refund any contributions, interest, or membership fees used to establish service credit that is not used in computing the amount of the annuity.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 22.104 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1541, Sec. 5, eff. Sept. 1, 1999.

SUBCHAPTER C. RESUMPTION OF STATE SERVICE BY A RETIREE

Sec. 812.201. ELIGIBILITY FOR RETIREMENT SYSTEM MEMBERSHIP. (a) Except as provided by Subsection (c), a retiree may not rejoin the retirement system as a member of the class from which the person retired.

(b) A retiree who takes a position not included in a membership class from which the retiree receives retirement benefit payments:

(1) is required to become or remain a member if the position is included in the employee class; or

(2) may elect to become or remain a member if the position is included in the elected class.

(c) A person who is retired from the elected class of membership and who again holds a position included in that class may elect to become a member again by filing notice with the retirement system. Except as provided by Section 812.203(c), when benefit payments are resumed, the retirement system shall recompute the annuity selected at the time of the person's original retirement to include the additional service established during membership under this subsection.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 2092, ch. 383, Sec. 1, eff. June 17, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 22.201 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 2, eff. Sept. 1, 1991.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 4, eff. September 1, 2009.

Sec. 812.202. BENEFITS NOT AFFECTED. (a) The payment of benefits to a retiree is not affected by:

(1) the retiree's taking a position included in a class of membership other than a class from which the person retired; or

(2) the retiree's serving the state as an independent contractor.

(b) The payment of benefits to a retiree for service credited in the employee class of membership is not affected by the retiree's taking a position included in the employee class.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 22.202 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 3, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 715, Sec. 1, eff. Sept. 1, 2001.

Sec. 812.203. BENEFITS AFFECTED. (a) If a retiree takes the oath for a position included in the elected class of membership, the retirement system shall suspend annuity payments to the person for service that was credited in that class, until the person no longer holds that position.

(b) Time during which annuity payments are suspended as provided by this section does not reduce the number of months payments are to be made under an optional benefit selection providing for a specific amount of benefits for a guaranteed number of months after retirement.

(c) If a member who originally retired with service credited at the time of that retirement only in the elected class of membership again retires, the person at the time of subsequent retirement may select an annuity based on service in the elected class as if the person were retiring for the first time. If the person selects an annuity under Section 814.108(c)(3) or (c)(4), the retirement system shall reduce the number of months of guaranteed payment by the number of months for which an annuity was paid under the person's original retirement.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 199, ch. 18, Sec. 11, eff. Nov. 10, 1981; Acts 1983, 68th Leg., p. 2092, ch. 383, Sec. 2, eff. June 17, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 22.203 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec.

4, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 715, Sec. 3(2), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1111, Sec. 13, eff. Sept. 1, 2003.

Sec. 812.204. NOTICE. (a) Before a retiree begins work in a position included in the employee class of membership, the retiree and the head of the department, commission, board, agency, or institution at which the retiree will resume state service each shall notify the retirement system in writing of the retiree's name, the taking of a position, and the projected dates of service.

(b) Before a retiree from the elected class of membership takes the oath of office for a position included in that class, the retiree shall notify the retirement system in writing of the taking of a position and the projected dates of service.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 22.204 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 812.205. WAITING PERIOD. A member who retires from the employee class on or after May 31, 2009, may not return to work in a position included in the employee class of membership before the 90th day after the date of the retiree's original retirement.

Added by Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 5, eff. September 1, 2009.

Sec. 812.206. RETURN TO WORK SURCHARGE. (a) This section applies only to a person who, on or after September 1, 2009:

(1) retires from the employee class; and

(2) is rehired as a retiree into a position that would otherwise include membership in the employee class.

(b) For each month that a department or agency of this state employs a person described by Subsection (a), the department or agency shall remit to the retirement system an amount equal to the amount of the state contribution that the department or agency would remit for an active member employed in the person's position. The amount remitted shall be deposited as provided by Section 815.309.

Added by Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 6, eff. September 1, 2009.

CHAPTER 813. CREDITABLE SERVICE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 813.001. TYPES OF CREDITABLE SERVICE. The types of service creditable in the retirement system are membership service and, if applicable, military service and equivalent membership service.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 297, Sec. 2, eff. Sept. 1, 1995.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 5, eff. September 1, 2021.

Sec. 813.0015. PROVISIONS APPLICABLE TO CASH BALANCE GROUP MEMBERS. The following provisions of this chapter do not apply to a cash balance group member:

(1) Sections 813.102, 813.104, 813.106, 813.202, 813.402, 813.403, 813.404, 813.502, 813.504, 813.505, 813.509, 813.511, 813.513, and 813.514; and

(2) Subchapter D.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 6, eff. September 1, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 2, eff. May 19, 2023.

Sec. 813.002. SERVICE CREDITABLE IN A YEAR. The board of trustees by rule shall determine how much service in any year is equivalent to one year of creditable service, but in no case may all of a person's service in one year be creditable as more than one year of service.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO ESTABLISHMENT OF SERVICE

Sec. 813.101. DETERMINATION OF REQUIRED DEPOSITS. The retirement system shall determine in each case the amount of money to be deposited by a member claiming credit for membership or military service previously canceled or not previously established. The system may not provide benefits based on the claimed service until the determined amount has been fully paid.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 813.102. SERVICE CREDIT PREVIOUSLY CANCELED. (a) A member who has withdrawn contributions and canceled service credit in a class of membership may, if eligible as provided by Section 813.403 or 813.504, reestablish the canceled service credit in the retirement system.

(b) A member may reestablish credit by depositing with the retirement system in a lump sum the amount withdrawn from a membership class, plus interest computed on the basis of the state fiscal year at an annual rate of 10 percent from the date of withdrawal to the date of redeposit.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1541, Sec. 6, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 7, eff. September 1, 2006.

Sec. 813.104. ALTERNATIVE PAYMENTS AND METHODS TO ESTABLISH OR

REESTABLISH SERVICE CREDIT. (a) The board of trustees may adopt rules to provide procedures for making installment payments to establish or reestablish credit in the retirement system as alternatives to lump-sum payments otherwise authorized or required by this subtitle. The methods may include payment by payroll deduction.

(b) Except as provided by Subsection (c), payments may not be made under a rule adopted under this section:

(1) to establish or reestablish service credit of a person who is currently retired or has died; or

(2) to establish current service under Section 813.201.

(c) Under a rule adopted under this section, the designated beneficiary of a deceased member or, if none exists, the personal representative of the decedent's estate may establish or reestablish service for which the member was eligible at the time of death if the establishment of the service would result in the payment of a death benefit annuity or an increase in the amount of a death benefit annuity.

(d) The payment for the establishment or reestablishment of service under Subsection (c) must be made in a lump sum and completed before the first payment of a death benefit annuity, but not later than the 60th day after the date the retirement system receives notice of the death.

(e) The retirement system may provide for the electronic filing of agreements to establish or reestablish service credit. In this subsection, "electronic filing" has the meaning assigned by Section 814.010(a).

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 3, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 6, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 964, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1048, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1541, Sec. 7, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1111, Sec. 14, 15, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1310, Sec. 49, 50, eff. June 20, 2003.

Sec. 813.106. SERVICE NOT PREVIOUSLY ESTABLISHED. The state shall make contributions for service not previously established that is established under Section 813.104 in the amount provided by Section 813.202(c) for membership service or the amount provided by

Section 813.302(d) for military service, as applicable. The state contributions will be made at the time the service credit is granted.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 5, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 964, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1048, Sec. 4, eff. Sept. 1, 1997.

SUBCHAPTER C. ESTABLISHMENT OF MEMBERSHIP SERVICE

Sec. 813.201. CURRENT SERVICE. (a) Except as otherwise provided by this section, service is credited in the applicable membership class for each month in which a member holds a position and for which the required contributions are made by the member and the state.

(b) A member may not accrue or establish service credit in the employee class of membership when the total amount of service credit, multiplied by the percentage in effect for computing annuities under Section 814.103, 814.105, or 814.107 would exceed the number 100. When the maximum amount of service credit is accrued or established by a member in the employee or elected class, member and state contributions cease, although the member retains membership subject to Section 812.005.

(c) Service may not be credited in both membership classes for the same period unless one of the credits is for service established under Section 813.402 of this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.201 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 616, Sec. 3, eff. June 14, 1989; Acts 1991, 72nd Leg., ch. 850, Sec. 5, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 1541, Sec. 8, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1231, Sec. 2, eff. Sept. 1, 2001.

Sec. 813.202. MEMBERSHIP SERVICE NOT PREVIOUSLY ESTABLISHED. (a) Except as provided by Section 813.402, any member may establish service credit in the retirement system for membership service not previously established.

(b) A member may establish credit under this section by depositing with the retirement system in a lump sum a contribution

computed as provided by Section 813.404 or 813.505, plus interest computed on the basis of the state fiscal year at an annual rate of 10 percent from the date the service was performed to the date of deposit.

(c) The state shall contribute for service established under this section an amount in the same ratio to the member's contribution and interest paid under Subsection (b) for the service as the state's contribution bears to the contribution for current service required of a member of the employee class at the time the service is established under this section. The state's contribution and interest must be paid from the fund or account from which the member receives compensation at the time the service is established or, if the member does not hold a position at the time the service is established, from the fund or account from which the member received compensation when the member most recently held a position.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1110, ch. 252, Sec. 1, eff. Aug. 29, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.202 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1541, Sec. 9, eff. Sept. 1, 1999.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 5, eff. September 1, 2013.

SUBCHAPTER D. ESTABLISHMENT OF MILITARY SERVICE

Sec. 813.301. CREDITABLE MILITARY SERVICE. (a) Military service creditable in the retirement system is active federal duty as a member of the armed forces of the United States.

(b) A member may establish one month of service credit for each month or fraction of a month of duty, but not more than 60 months of service credit in the retirement system for military service.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.301 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 5, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1048, Sec. 6, eff. Sept. 1, 1997.

Sec. 813.302. MILITARY SERVICE NOT PREVIOUSLY ESTABLISHED. (a) An eligible member may establish service credit in the retirement system for military service performed that is creditable as provided by Section 813.301.

(b) A member eligible to establish military service credit is one who:

(1) does not receive and is not eligible to receive federal retirement payments based on 20 years or more of active federal military duty;

(2) has been released from military duty under conditions not dishonorable; and

(3) has credit in the retirement system for membership service performed after the member's date of release from active military duty.

(c) A member may establish credit under this section by depositing with the retirement system in a lump sum a contribution computed as provided by Section 813.404 or 813.505, plus, if the member does not establish the credit before the first anniversary of the date of first eligibility, interest computed on the basis of the state fiscal year at an annual rate of 10 percent from the date of first eligibility to the date of deposit.

(d) The state shall contribute for service established under this section an amount in the same ratio to the member's contribution for the service as the state's contribution bears to the contribution for current service required of a member of the employee class at the time the service is established under this section. The state's contribution shall be paid from the fund from which the member receives compensation at the time the service is established or, if the member does not hold a position at the time the service is established, from the fund from which the member received compensation when the member most recently held a position.

(e) The board of trustees may require members applying for credit under this section to submit any information the board finds necessary to enable it to determine eligibility for or amount of service or amounts of required contributions.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1110, ch. 252, Sec. 2, eff. Aug.

29, 1983; Acts 1985, 69th Leg., ch. 90, Sec. 1, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.302 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 6, eff. September 1, 2013.

Sec. 813.303. SERVICE CREDITED TO MEMBERSHIP CLASS. (a) Except as provided by Subsection (b) or Section 813.304(d), military service is creditable in a class of membership that includes a position held by the member who performed the service after the date of release from active military duty.

(b) Military service performed by a person who was a contributing member immediately before the date the member began military duty may be credited, at the option of the member, in the class of membership that includes the position held by the member immediately before the date the member began the military duty.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.303 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 813.304. USE OF MILITARY SERVICE CREDIT. (a) The retirement system shall use military service credit in computing occupational disability retirement benefits and death benefits and in determining eligibility to select an optional death benefit plan.

(b) The retirement system shall use military service credit in computing service retirement or nonoccupational disability retirement benefits of a member of the employee class only if the member has, without military service credit, at least five years of service credit in that class.

(c) The retirement system shall use military service credit in computing service retirement or nonoccupational disability retirement benefits of a member of the elected class:

(1) only if the member has, without military service credit, at least six years of service credit in that class, if the military service credit was established before January 1, 1978; or

(2) only if the member has enough service credit, exclusive

of the military service credit, to be eligible for service retirement benefits at age 60, if the military service credit was established on or after January 1, 1978.

(d) The board of trustees by rule may permit a person who retires with at least 10 years of service credit, excluding military service credit, to receive service retirement benefits as an elected officer for the percentage of the person's military service credit, but not more than 100 percent, that is derived by dividing the number of months served as an elected officer by 96 months.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.304 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 6, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 791, Sec. 6, eff. Sept. 1, 1993.

Sec. 813.305. MILITARY SERVICE CREDIT GOVERNED BY UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT. The retirement system may adopt rules to comply with the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. Section 4301 et seq.) and other federal laws affecting the crediting of military service.

Added by Acts 1995, 74th Leg., ch. 586, Sec. 7, eff. Aug. 28, 1995.

SUBCHAPTER E. PROVISIONS APPLICABLE TO ELECTED CLASS

Sec. 813.401. SERVICE CREDITABLE IN ELECTED CLASS. Service creditable in the elected class of membership is:

(1) membership service in an office included in that class; and

(2) for members other than cash balance group members:

(A) military service established as provided by Subchapter D; and

(B) equivalent membership service specifically made creditable in that class.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.401 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 1995, 74th Leg., ch. 297, Sec. 3, eff. Sept. 1, 1995. Amended by:

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 7, eff. September 1, 2021.

Sec. 813.402. CREDIT FOR YEAR IN WHICH ELIGIBLE FOR OFFICE. (a) A member may establish service credit in the elected class for any calendar year during any part of which:

(1) the member held an office included in that class; or

(2) the member was eligible to take the oath for an office included in that class.

(b) A member may establish credit under this section by depositing with the retirement system in a lump sum a contribution computed as provided by Section 813.404, plus interest computed at an annual rate of 10 percent from the fiscal year in which the service was performed to the date of deposit.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1110, ch. 252, Sec. 3, eff. Aug. 29, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.402 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 7, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1541, Sec. 10, eff. Sept. 1, 1999.

Sec. 813.403. ELIGIBILITY FOR SERVICE CREDIT PREVIOUSLY CANCELED. A member may, under Section 813.102(b), reestablish service credit previously canceled if the member, after cancellation of the credit, takes an oath of office for a position included in the elected class.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.403 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 813.404. CONTRIBUTIONS FOR SERVICE NOT PREVIOUSLY ESTABLISHED. For each month of membership, military, or equivalent membership service not previously credited in the retirement system,

a member claiming credit in the elected class shall pay a contribution in an amount equal to the greater of:

(1) eight percent of the monthly salary paid to members of the legislature at the time the credit is established; or

(2) the appropriate member contribution provided by Section 815.402 for a person who holds, at the time the credit is established, the office for which credit is sought.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.404 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 297, Sec. 4, eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. 1664), Sec. 5, eff. September 1, 2011.

SUBCHAPTER F. PROVISIONS APPLICABLE TO EMPLOYEE CLASS

Sec. 813.501. SERVICE CREDITABLE IN EMPLOYEE CLASS. Service creditable in the employee class of membership is:

(1) membership service in a position included in that class;

(2) military service established as provided by Subchapter D;

(3) service creditable in or transferred from the elected class as provided by Section 813.503; and

(4) administrative board service established as provided by Section 813.502.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.501 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 813.502. ADMINISTRATIVE BOARD SERVICE. (a) A member who established during December, 1977, service credit for administrative board service performed during that month, may:

(1) remain a contributing member of the retirement system accruing service credit in the employee class for continuous service on an eligible board; and

(2) establish service credit for previous service on an

eligible board.

(b) Contributions for administrative board service are computed on the basis of the highest salary paid during the time for which credit is sought to an officer or employee of the agency, commission, or department on whose board the member serves.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.502 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 813.503. CREDIT TRANSFERABLE BETWEEN ELECTED AND EMPLOYEE CLASS. (a) Subject to Subsection (a-1), a member may establish in, or have transferred to, the employee class all service credited in the elected class, if the contributions made to establish the service in the elected class equal or exceed contributions required of a member of the employee class for the same amount of service during the same time and at the same rate of compensation. Subject to Subsection (a-1), a member or retiree who has, or had at the time of retirement, at least eight years of service credit in the elected class of membership, exclusive of military service, may transfer service credit between classes before or after retirement.

(a-1) A member or retiree who takes the oath of office for a position included in the elected class of membership, other than a district attorney or criminal district attorney, may not transfer service to the employee class under Subsection (a) until the person no longer holds that position.

(b) A member or retiree who has, or had at the time of retirement, at least 20 years of service credit in the retirement system, including the sum of at least 10 years of service credit as a person who has been elected or appointed to two or more offices of a house of the legislature, as recorded in the journals of the senate and the house of representatives, may transfer the person's service credit to the elected class. A person who makes a transfer under this subsection may continue to transfer the credit between classes before or after retirement.

(c) A retiree, or the designated beneficiary of a deceased retiree, who retired from the employee class and was eligible to have retired from the elected class may elect to have the annuity recomputed as if the retirement had been from the elected class.

(d) A person may make a transfer or election under this section by notifying the retirement system. If the person making the transfer or election is a retiree or the designated beneficiary of a deceased retiree, payment of benefits under the recomputed annuity begins with the payment that becomes due in the month following the month in which the retirement system receives the notice.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 199, ch. 18, Sec. 12, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.503 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 8, eff. Sept. 1, 1991.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 998 (H.B. 408), Sec. 1, eff. June 19, 2015.

Sec. 813.504. ELIGIBILITY FOR SERVICE CREDIT PREVIOUSLY CANCELED. A person may reestablish service credit previously canceled in the retirement system if the person is a member of the employee class and at least six months have elapsed since the end of the month in which the cancellation became effective.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.504 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 7, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1048, Sec. 8, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1231, Sec. 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1111, Sec. 46(4), eff. Sept. 1, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 8, eff. September 1, 2005.

Sec. 813.505. CONTRIBUTIONS FOR SERVICE NOT PREVIOUSLY ESTABLISHED. (a) A member claiming credit in the employee class for membership service not previously established shall, for each month of the service, pay a contribution in an amount equal to the greater of:

(1) the appropriate member contribution provided by Section 815.402 for the service during the time for which credit is sought; or

(2) $18.

(b) A member claiming credit in the employee class for military service not previously established shall, for each month of the service, pay a contribution in an amount equal to the greater of:

(1) the amount that the member contributed for the first full month of membership service that is after the member's date of release from active military duty and that is credited in the retirement system; or

(2) $18.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1111, ch. 252, Sec. 4, eff. Aug. 29, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.505 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. 1664), Sec. 6, eff. September 1, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1737, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 813.506. CUSTODIAL OFFICER SERVICE. (a) The Texas Department of Criminal Justice, the managed health care unit of The University of Texas Medical Branch, and the Texas Tech University Health Sciences Center by rule shall adopt standards for determining eligibility for service credit as a custodial officer, based on the need to encourage early retirement of persons whose duties are hazardous and require them to have routine contact with inmates of or defendants confined in the Texas Department of Criminal Justice on a regular basis.

(b) To be creditable as custodial officer service, service performed must be performed as a parole officer or caseworker or must meet the requirements of the rules adopted under Subsection (a) and be performed by persons in one of the following job categories:

(1) all persons classified as Correctional Officer I through warden, including training officers and special operations

reaction team officers;

(2) all other employees assigned to work on a unit and whose jobs require routine contact with inmates or defendants, including but not limited to farm managers, livestock supervisors, maintenance foremen, shop foremen, medical assistants, food service supervisors, stewards, education consultants, commodity specialists, and correctional counselors;

(3) employees assigned to administrative offices whose jobs require routine contact with inmates or defendants at least 50 percent of the time, including but not limited to investigators, compliance monitors, accountants routinely required to audit unit operations, sociologists, interviewers, classification officers, and supervising counselors; and

(4) administrative positions whose jobs require response to emergency situations involving inmates or defendants, including but except as specified not limited to the director, deputy directors, assistant directors, and not more than 25 administrative duty officers.

(c) The Texas Department of Criminal Justice, the managed health care unit of The University of Texas Medical Branch or the Texas Tech University Health Sciences Center, or the Board of Pardons and Paroles, as applicable, shall determine a person's eligibility to receive credit as a custodial officer. A determination of the department, unit, or board may not be appealed by an employee but is subject to change by the retirement system.

(d) As part of the audit of the Texas Department of Criminal Justice by the state auditor in accordance with Chapter 321, the state auditor may verify the accuracy of reports submitted to the retirement system under this section.

Added by Acts 1985, 69th Leg., ch. 828, Sec. 2, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 23.506 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 80, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 599, Sec. 13, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 791, Sec. 56(7), eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 791, Sec. 56(7), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 586, Sec. 8, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1048, Sec. 9, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1541, Sec. 11, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch.

785, Sec. 23, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.083, eff. September 1, 2009.

Sec. 813.509. CREDIT FOR ACCUMULATED SICK LEAVE. (a) A member who holds a position included in the employee class of membership during the month that includes the effective date of the member's retirement and who retires based on service or a disability is entitled to service credit in the retirement system for the member's sick leave that has accumulated and is unused on the last day of employment.

(b) A death benefit designee under Section 814.301 or 814.302 of a member who holds a position included in the employee class of membership during the month that includes the member's date of death is entitled to service credit in the retirement system for the member's sick leave that has accumulated and is unused on the member's date of death.

(c) Sick leave is creditable in the retirement system at the rate of one month of service credit for each 20 days, or 160 hours, of accumulated sick leave and one month for each fraction of days or hours remaining after division of the total hours of accumulated sick leave by 160.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 618, Sec. 26(a)(3), eff. September 1, 2013.

(e) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 618, Sec. 26(a)(3), eff. September 1, 2013.

(f) Except as provided by Subsection (g), the disbursing officer of each department or agency shall, before the 11th day after the effective date of retirement or date of death of one or more employees of the department or agency, certify to the retirement system:

(1) the name of each person:

(A) whose retirement from the department or agency, and from state service, became effective during the preceding month; or

(B) who died during the preceding month; and

(2) the amount of the person's accumulated sick leave on the last day of employment or date of death.

(g) The disbursing officer of a department or agency that

employs a member who applies for retirement under Subsection (d) shall, not more than 90 or less than 30 days before the effective date of the member's retirement, certify to the retirement system the amount of the member's accumulated and unused sick leave. The officer shall immediately notify the retirement system if the member uses sick leave after the date of certification.

(h) On receipt of a certification under Subsection (f) or (g), the retirement system shall grant any credit to which a retiring member or retiree who is a subject of the certification is entitled. An increase in the computation of an annuity because of credit provided by this section after a certification under Subsection (f) begins with the first payment that becomes due after certification.

(i) The retirement system shall cancel the retirement of a person who used sick leave creditable under this section to qualify for service retirement if the sick leave is otherwise used by the person before the effective date of retirement.

(j) In this section, "sick leave" does not include credit granted under an agency sick-leave pool or under the Family and Medical Leave Act of 1993 (Pub. L. 103-3) and its subsequent amendments.

(k) A member or a death benefit beneficiary of that member may use sick leave creditable under this section only for purposes of calculating the member's or beneficiary's annuity.

Added by Acts 1989, 71st Leg., ch. 1165, Sec. 1, eff. Sept. 1, 1989. Renumbered from Title 110B, Sec. 23.509 and amended by Acts 1989, 71st Leg., ch. 1100, Sec. 4.10(a), eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 8, 56(1), eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 586, Sec. 9, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 1048, Sec. 10, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1231, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 7, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 7, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 26(a)(3), eff. September 1, 2013.

Sec. 813.511. CREDIT FOR ACCUMULATED ANNUAL LEAVE. (a) A member who holds a position included in the employee class of membership during the month that includes the effective date of the member's retirement and who retires based on service or a disability is entitled to service credit in the retirement system for the member's annual leave that has accumulated and is unused on the last day of employment, unless the member opts to receive for that accumulated leave a lump-sum payment under Section 661.091.

(b) A death benefit designee under Section 814.301 or 814.302 of a member who holds a position included in the employee class of membership during the month that includes the member's date of death is entitled to service credit in the retirement system for the member's annual leave that has accumulated and is unused on the member's date of death.

(c) Annual leave is creditable in the retirement system at the rate of one month of service credit for each 20 days, or 160 hours, of accumulated annual leave and one month for each fraction of days or hours remaining after division of the total hours of accumulated annual leave by 160.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 618, Sec. 26(a)(4), eff. September 1, 2013.

(e) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 618, Sec. 26(a)(4), eff. September 1, 2013.

(f) Except as provided by Subsection (g), the disbursing officer of each department or agency shall, before the 11th day after the effective date of retirement or date of death of one or more employees of the department or agency, certify to the retirement system:

(1) the name of each person:

(A) whose retirement from the department or agency, and from state service, became effective during the preceding month; or

(B) who died during the preceding month; and

(2) the amount of the person's accumulated annual leave on the last day of employment or date of death.

(g) The disbursing officer of a department or agency that employs a member who applies for retirement under Subsection (d) shall, not more than 90 or less than 30 days before the effective date of the member's retirement, certify to the retirement system the amount of the member's accumulated and unused annual leave. The officer shall immediately notify the retirement system if the member

uses annual leave after the date of certification.

(h) On receipt of a certification under Subsection (f) or (g), the retirement system shall grant any credit to which a retiring member or retiree who is a subject of the certification is entitled. An increase in the computation of an annuity because of credit provided by this section after a certification under Subsection (f) begins with the first payment that becomes due after certification.

(i) The retirement system shall cancel the retirement of a person who used annual leave creditable under this section to qualify for service retirement if the annual leave is otherwise used by the person before the effective date of retirement.

(j) A member or a death benefit beneficiary of that member may use annual leave creditable under this section only for purposes of calculating the member's or beneficiary's annuity.

Added by Acts 1999, 76th Leg., ch. 1541, Sec. 12, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1231, Sec. 5, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 8, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 8, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 26(a)(4), eff. September 1, 2013.

Sec. 813.513. CREDIT PURCHASE OPTION. (a) An eligible member may establish not more than 36 months of equivalent membership service credit, including law enforcement or custodial officer service, in either the elected class or the employee class.

(b) A member is eligible to establish service credit under this section if the member has at least 120 months of actual membership service of the type of service that the member seeks to establish.

(c) A member may establish service credit under this section by depositing with the retirement system, for each month of service credit, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the retirement

system's actuary and adopted by the board of trustees.

(d) After a member makes the deposits required by this section, the retirement system shall grant the member one month of equivalent membership service credit for each month of credit approved.

(e) The retirement system shall deposit the amount of the actuarial present value of the service credit purchased in the member's individual account in the employees saving account.

(f) The board of trustees may adopt rules to administer this section, including rules that impose restrictions on the application of this section as necessary to cost-effectively administer this section.

Added by Acts 2001, 77th Leg., ch. 1231, Sec. 6, eff. Jan. 1, 2002.
Amended by:

Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 9, eff. January 1, 2006.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2434, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 813.514. CREDIT PURCHASE OPTION FOR CERTAIN SERVICE. (a) This section applies only to a member who became a member before September 1, 2015.

(a-1) A member may establish service credit under this section in the employee class only for service performed during a 90-day waiting period to become a member after beginning employment or holding office.

(b) A member may establish service credit under this section by depositing with the retirement system, for each month of service credit, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees.

(c) After a member makes the deposits required by this section, the retirement system shall grant the member one month of equivalent membership service credit for each month of credit approved.

(d) The retirement system shall deposit the amount of the actuarial present value of the service credit purchased in the

member's individual account in the employees saving account.

(e) The board of trustees may adopt rules to administer this section, including rules that impose restrictions on the application of this section as necessary to cost-effectively administer this section.

Added by Acts 2003, 78th Leg., ch. 1111, Sec. 42, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 10, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 331 (H.B. 9), Sec. 2, eff. September 1, 2015.

CHAPTER 814. BENEFITS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 814.001. TYPES OF BENEFITS. The types of benefits payable by the retirement system are:

(1) service retirement benefits;

(2) occupational disability retirement benefits;

(3) nonoccupational disability retirement benefits; and

(4) death benefits.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 814.002. BENEFITS FROM BOTH MEMBERSHIP CLASSES. (a) If a member has service credit in both classes of membership, is eligible to retire from one class, and does not hold a position included in the other class, the member may retire from both classes and receive benefits based on all service credited in the retirement system.

(b) If a member is retiring and uses service credited in a class of membership to meet a length-of-service requirement for retirement, the member must retire from that class.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 814.003. EFFECTIVE DATE OF RETIREMENT. (a) The effective date of a member's service retirement is the date the member designates at the time the member applies for retirement as provided by Section 814.101, but the date must be the last day of a calendar month.

(b) If a person elects to receive a standard service retirement annuity and dies during the first calendar month that begins after the effective date of the person's retirement, the person is considered to have been a contributing member at the time of death.

(c) The retirement system may allow an applicant for retirement time after the effective date of the person's retirement to make a selection of a retirement annuity. If the applicant dies within the time allowed without having given the retirement system notice of a selection, the person is considered to have been a contributing member at the time of death.

(d) The effective date of a member's disability retirement is the date designated on the application for retirement filed by or for the member as provided by Section 814.201, but the date must be the last day of a calendar month.

(e) If a person elects to receive a standard disability retirement annuity and dies during the first calendar month that begins after the effective date of the person's retirement, the person is considered to have been a contributing member at the time of death.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 11, eff. Aug. 28, 1995.

Sec. 814.004. WHEN BENEFITS ARE PAYABLE. A monthly annuity payable to a retiree or beneficiary is payable to that person through the month in which the person dies. A continuation of an optional annuity or the payment of a death or survivor benefit annuity begins with payment for the month following the month in which the death occurs.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.004 by Acts

1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 12, eff. Aug. 28, 1995.

Sec. 814.005. WAIVER OF BENEFITS. (a) A person may, on a form prescribed by and filed with the retirement system, waive all or a portion of any benefits from the retirement system to which the person is entitled. The retirement system also shall give effect as a waiver to a full or partial disclaimer executed in accordance with Chapter 240, Property Code, unless the benefit to be disclaimed is a lifetime annuity. A person may revoke a waiver of benefits in the same manner as the original waiver was made, unless the original waiver by its terms was made irrevocable.

(b) A waiver or a revocation of a waiver applies only to benefits that become payable on or after the date the document is filed.

(c) The retirement system shall transfer to the state accumulation account amounts from the appropriate benefit payment accounts not used to pay benefits because of a waiver executed under this section.

(d) The board of trustees may adopt rules for the administration of waivers under this section.

Added by Acts 1983, 68th Leg., p. 1147, ch. 257, Sec. 1, eff. May 27, 1983. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 4, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.005 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 11, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 9, eff. September 1, 2015.

Sec. 814.006. SIMULTANEOUS DEATH OF MEMBER AND BENEFICIARY. When a member or annuitant and the beneficiary of the member or annuitant have died within a period of less than 120 hours, the member or annuitant is considered to have survived the beneficiary for the purpose of determining the rights to amounts payable under this subtitle on the death of the member or annuitant.

Added by Acts 1995, 74th Leg., ch. 586, Sec. 13, eff. Aug. 28, 1995.

Sec. 814.007. BENEFICIARY CAUSING DEATH OF MEMBER OR ANNUITANT. (a) Any benefits, funds, or account balances payable on the death of a member or annuitant may not be paid to a person convicted of or adjudicated as having caused that death but instead are payable as if the convicted person had predeceased the decedent.

(b) A person who becomes eligible under this section to select death or survivor benefits may select benefits as if the person were the designated beneficiary.

(c) The retirement system shall reduce any annuity computed in part on the age of the convicted or adjudicated person to a lump sum equal to the present value of the remainder of the annuity. The reduced amount is payable to a person entitled as provided by this section to receive the benefit.

(d) The retirement system is not required to change the recipient of any benefits, funds, or account balances under this section unless it receives actual notice of the conviction or adjudication of a beneficiary. However, the retirement system may delay payment of any benefits, funds, or account balances payable on the death of a member or annuitant pending the results of a criminal investigation or civil proceeding and other legal proceedings relating to the cause of death.

(e) For the purposes of this section, a person has been convicted of or adjudicated as having caused the death of a member or annuitant if the person:

(1) pleads guilty or nolo contendere to, or is found guilty by a court or jury in a criminal proceeding of, causing the death of the member or annuitant, regardless of whether sentence is imposed or probated, and no appeal of the conviction is pending and the time provided for appeal has expired; or

(2) is found liable by a court or jury in a civil proceeding for causing the death of the member or annuitant and no appeal of the judgment is pending and the time provided for appeal has expired.

Added by Acts 1995, 74th Leg., ch. 586, Sec. 13, eff. Aug. 28, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. 1664), Sec. 7, eff.

September 1, 2011.

Sec. 814.008. CHANGE OF BENEFICIARY AFTER RETIREMENT. (a) A retiree receiving an optional service or disability retirement annuity approved by the board of trustees or described by Section 814.108(c)(1), (c)(2), or (c)(5) or receiving an optional cash balance annuity described by Section 820.0535(c)(1), (c)(2), or (c)(5) may change the designated beneficiary as provided by this section for the benefits payable after the retiree's death.

(b) If the beneficiary designated at the time of the retiree's retirement is the spouse or former spouse of the retiree:

(1) the spouse or former spouse must give written, notarized consent to the change; or

(2) a court with jurisdiction over the marriage must have ordered the change.

(c) A beneficiary designated under this section is entitled on the retiree's death to receive monthly payments of the survivor's portion of the retiree's optional retirement annuity for the shorter of:

(1) the remainder of the life expectancy of the beneficiary designated as of the effective date of the retiree's retirement; or

(2) the remainder of the new beneficiary's life.

(d) A retiree may not change a beneficiary under this section after retirement if the retiree has previously changed after retirement a beneficiary for optional retirement annuity payments under this subtitle.

Added by Acts 1999, 76th Leg., ch. 168, Sec. 1, eff. May 21, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 9, eff. September 1, 2009.

Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 3, eff. May 19, 2023.

Sec. 814.009. DEDUCTION FROM ANNUITY FOR STATE EMPLOYEE ORGANIZATION. (a) A person who receives an annuity under this subtitle may, on a form prescribed by and filed with the retirement system, authorize the retirement system to deduct from the person's

monthly annuity payment the amount of a fee for the person's membership in a state employee organization that:

(1) is a certified eligible state employee organization under Section 403.0165; or

(2) has at least 2,500 retirees as members on January 1 preceding the fiscal year for which the deduction is made.

(b) An authorization made under this section remains in effect until:

(1) the person who receives the annuity modifies or revokes the authorization; or

(2) the state employee organization fails to meet the requirements of Subsection (a).

(c) The retirement system shall adopt rules to administer this section.

Added by Acts 2001, 77th Leg., ch. 1231, Sec. 7, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 280 (H.B. 1608), Sec. 3, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. 1664), Sec. 8, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 8, eff. September 1, 2021.

Sec. 814.0095. CHARITABLE DEDUCTION FROM ANNUITY. (a) Except as provided by Section 814.0096(c), a person who receives an annuity under this subtitle may, on a printed or electronic form filed with the retirement system, authorize the retirement system to deduct from the person's monthly annuity payment the amount of a contribution to the state employee charitable campaign in the manner and for the same purposes for which a state employee may authorize deductions to that campaign under Subchapter I, Chapter 659.

(b) An authorization under this section must direct the board of trustees to deposit the deducted funds with the comptroller for distribution as required by Section 659.132(g) in the same manner in which a state employee's deduction is distributed.

(c) An authorization under this section remains in effect for the period described by Section 659.137 unless the person revokes the authorization by giving notice to the board of trustees.

(d) The board of trustees may adopt rules to administer this section. Any rules adopted must be consistent with the comptroller's rules related to the state employee charitable campaign.

Added by Acts 2011, 82nd Leg., R.S., Ch. 280 (H.B. 1608), Sec. 4, eff. June 17, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. 1664), Sec. 9, eff. September 1, 2011.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 9, eff. September 1, 2021.

Sec. 814.0096. COORDINATION WITH STATE EMPLOYEE CHARITABLE CAMPAIGN POLICY COMMITTEE. (a) The board of trustees and the state employee charitable campaign policy committee established under Section 659.140 shall coordinate responsibility for the administration of charitable deductions from annuity payments to the state employee charitable campaign under Section 814.0095.

(b) The state employee charitable campaign policy committee is authorized to approve a budget that includes funding for as many of the expenses incurred by the retirement system associated with the implementation and administration of annuitants' participation in the state employee charitable campaign as is practicable, including notification of annuitants.

(c) Except as provided by this subsection, the board of trustees shall charge an administrative fee to cover any costs not paid under Subsection (b) in the implementation of Section 814.0095 to the charitable organizations participating in the state employee charitable campaign conducted under that section in the same proportion that the contributions to that charitable organization bear to the total of contributions in that campaign. The board of trustees shall determine the most efficient and effective method of collecting the administrative fee and shall adopt rules for the implementation of this subsection.

(d) If necessary, the board of trustees and the state employee charitable campaign policy committee may make the annuity deduction authorization under Section 814.0095(a) available in stages to subgroups of the retirement system's annuity recipients as money becomes available to cover the expenses under Subsection (b) of this

section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 280 (H.B. 1608), Sec. 4, eff. June 17, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. 1664), Sec. 9, eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.015, eff. September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.016, eff. September 1, 2013.

Sec. 814.010. ELECTRONIC FILING OF BENEFICIARY DESIGNATION. (a) In this section, "electronic filing" means the filing of data in the form of digital electronic signals transformed by computer and stored on magnetic tape, optical disks, or any other medium.

(b) A person entitled to designate a beneficiary under any system or program administered by the retirement system may make the designation by electronic filing under procedures adopted by the retirement system.

Added by Acts 2003, 78th Leg., ch. 1111, Sec. 16, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1310, Sec. 51, eff. June 20, 2003.

Sec. 814.011. LUMP-SUM PAYMENTS IN LIEU OF ANNUITIES. The retirement system may elect to make a lump-sum payment to a retiree or beneficiary in lieu of annuity payments if the actuarial present value of the annuity at the time of retirement or death does not exceed $20,000. Payment of a lump sum under this section does not affect eligibility for any other program administered by the retirement system.

Added by Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 11, eff. September 1, 2005.

Sec. 814.012. DISPOSITION OF UNCLAIMED BENEFICIARY BENEFITS. If, as of the fourth anniversary of the death of a member or annuitant, the retirement system has not paid benefits and a claim

for benefits is not pending with the retirement system based on the death of the member or annuitant, the accumulated contributions of the deceased member or the balance of the reserve for the deceased annuitant reverts to the benefit of the retirement system. The retirement system shall transfer funds reverted under this section to the state accumulation account.

Added by Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 10, eff. September 1, 2009.

SUBCHAPTER B. SERVICE RETIREMENT BENEFITS

Sec. 814.1005. INAPPLICABILITY OF SUBCHAPTER TO CASH BALANCE GROUP MEMBERS. This subchapter does not apply to a cash balance group member.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 10, eff. September 1, 2021.

Sec. 814.101. APPLICATION FOR SERVICE RETIREMENT BENEFITS. (a) A member may apply for a service retirement annuity by filing an application for retirement with the board of trustees.

(b) An application for a service retirement annuity may not be made:

(1) after the date the member wishes to retire; or

(2) more than 90 days before the date the member wishes to retire.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 814.102. ELIGIBILITY OF ELECTED MEMBERS FOR SERVICE RETIREMENT. Except as provided by rule adopted under Section 813.304(d) or Section 803.202(a)(2), a member who has service credit in the elected class of membership, is eligible to retire and receive a service retirement annuity if the member:

(1) is at least 60 years old and has 8 years of service credit in that class; or

(2) is at least 50 years old and has 12 years of service credit in that class.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1978, ch. 361, Sec. 1, eff. Sept. 1, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 9, eff. Sept. 1, 1991.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.014, eff. September 1, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 814.103. SERVICE RETIREMENT BENEFITS FOR ELECTED CLASS SERVICE. (a) Except as provided by Subsection (a-1) or (b), the standard service retirement annuity for service credited in the elected class of membership is an amount equal to the number of years of service credit in that class, times 2.3 percent of the state base salary, excluding longevity pay payable under Section 659.0445 and as adjusted from time to time, being paid to a district judge as set by the General Appropriations Act in accordance with Section 659.012(a).

(a-1) Except as provided by Subsection (b), the standard service retirement annuity for service credited in the elected class of membership for a member of the class under Section 812.002(a)(3) whose effective date of retirement is on or after September 1, 2019, is an amount equal to the number of years of service credit in that class, times 2.3 percent of the state salary, excluding longevity pay payable under Section 659.0445 and as adjusted from time to time, being paid in accordance with Section 659.012 to a district judge who has the same number of years of contributing service credit as the member on the member's last day of service as a district or criminal district attorney, as applicable.

(b) The standard service retirement annuity for service credited in the elected class may not exceed at any time 100 percent of the state salary of a district judge on which the annuity is based under Subsection (a) or (a-1), as applicable.

(c) For purposes of this section, "contributing service credit" with respect to:

(1) a member means service credit established in the elected class under Section 813.201 or 813.402 for each month of service in which the member held a position described by Section 812.002(a)(3), including service credit established under either section that was previously canceled but reestablished under Section 813.102; and

(2) a district judge has the meaning assigned by Section 659.012(f).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1979, ch. 361, Sec. 2, eff. Sept. 1, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.103 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 10, eff. Sept. 1, 1991.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1328 (S.B. 1519), Sec. 4, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 20, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1737, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 814.104. ELIGIBILITY OF MEMBER FOR SERVICE RETIREMENT. (a) Except as provided by Subsections (d) and (e) of this section, Section 814.102, or by rule adopted under Section 813.304(d) or 803.202(a)(2), a member who has service credit in the retirement system is eligible to retire and receive a service retirement annuity if the member:

(1) is at least 60 years old and has at least 5 years of service credit in the employee class; or

(2) has at least 5 years of service credit in the employee class and the sum of the member's age and amount of service credit in the employee class, including months of age and credit, equals or exceeds the number 80.

(b) A member who is at least 55 years old and who has at least

10 years of service credit as a commissioned peace officer engaged in criminal law enforcement activities of the Department of Public Safety, the Texas Alcoholic Beverage Commission, the Parks and Wildlife Department, or the office of inspector general at the Texas Juvenile Justice Department, or as a custodial officer, is eligible to retire and receive a service retirement annuity.

(c) For the sole purpose of determining eligibility to receive a service retirement annuity, the retirement system shall consider service performed as a participant in the optional retirement program under Chapter 830 as if it were service for which credit is established in the retirement system.

(d) Except as provided by Subsection (e) of this section, Section 814.102, or by rule adopted under Section 813.304(d) or 803.202(a)(2), a member who was not a member on the date hired, was hired on or after September 1, 2009, and has service credit in the retirement system is eligible to retire and receive a service retirement annuity if the member:

(1) is at least 65 years old and has at least 10 years of service credit in the employee class; or

(2) has at least 10 years of service credit in the employee class and the sum of the member's age and amount of service credit in the employee class, including months of age and credit, equals or exceeds the number 80.

(e) A member who takes the oath of office for a position included in the elected class of membership, other than a district attorney or criminal district attorney, is not eligible to retire and receive a service retirement annuity under this section that is based on service credit transferred to the employee class from the elected class under Section 813.503 until the member no longer holds that position. This provision does not prohibit a member from retiring and receiving a service retirement annuity under this section that is based on service credit earned in a position included in the employee class of membership under Section 812.003.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1979, ch. 361, Sec. 3, eff. Sept. 1, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.104 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 11, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 297, Sec. 1, eff.

Sept. 1, 1995; Acts 1995, 74th Leg., ch. 688, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1048, Sec. 12, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1541, Sec. 13, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1111, Sec. 17, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 74 (S.B. 262), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 22, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 11, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. 1664), Sec. 10, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 110, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 998 (H.B. 408), Sec. 2, eff. June 19, 2015.

Sec. 814.105. SERVICE RETIREMENT BENEFITS FOR EMPLOYEE CLASS SERVICE. (a) The standard service retirement annuity for service credited in the employee class of membership is an amount computed as the member's average monthly compensation for service in that class for the 60 highest months of compensation multiplied by 2.3 percent for each year of service credit in that class.

(b) The standard service retirement annuity for service credited in the employee class may not be less than $150 a month nor more than 100 percent of the average monthly compensation computed under Subsection (a).

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 618, Sec. 26(a)(5), eff. September 1, 2013.

(d) The standard service retirement annuity computed under this section is reduced by five percent for each year the member retires before the member reaches age 62.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1986, 69th Leg., 2nd C.S., ch. 15, Sec. 1, eff. Sept. 23, 1986; Acts 1987, 70th Leg., ch. 577, Sec. 1, eff. Aug. 31, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 4, Sec. 3, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 602, Sec. 4, eff. Sept. 1, 1989.

Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.105 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 4.09(a), eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 850, Sec. 11, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1048, Sec. 14, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1231, Sec. 8, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 12, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 9, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 26(a)(5), eff. September 1, 2013.

Sec. 814.107. SERVICE RETIREMENT BENEFITS FOR CERTAIN PEACE OFFICERS. (a) A member who has at least 20 years of service credit as a law enforcement or custodial officer is eligible to retire regardless of age and receive a standard service retirement annuity in an amount and to be funded as provided by this section.

(b) The standard service retirement annuity payable for at least 20 years of service credit as a law enforcement or custodial officer is an amount computed on the basis of the member's average monthly compensation for the 60 highest months of compensation in the employee class, times the sum of the percentage factor used in the computation of a standard service retirement annuity under Section 814.105 plus .5 percent.

(c) The standard combined service retirement annuity that is payable under this section is based on retirement on or after the attainment of the normal retirement age, which for purposes of this section is the earlier of either the age of 57 or the age at which the sum of the member's age and amount of service credit in the employee class equals the number 80. The annuity of a law enforcement or custodial officer who retires before reaching the age of 57 under any eligibility criteria is actuarially reduced by five percent for each year of difference between the member's age at retirement and 57. The actuarial reduction described by this section is in addition to any other actuarial reduction required by law.

(c-1) A law enforcement or custodial officer who retires before attaining the age of 50 is entitled only to an annuity that is

actuarially reduced from the annuity available at the age of 50 to the law enforcement or custodial officer whose service credit annuity amount is based on the sum of the member's age and amount of law enforcement or custodial officer service credit and employee class service credit, and is not entitled to have the annuity recalculated at normal retirement age. The standard or reduced annuity under this section is payable from the trust fund established by Section 815.310 and the law enforcement and custodial officer supplemental retirement fund in a ratio determined by the retirement system.

(d) A member who retires under this section retires simultaneously from the employee class of membership. Optional retirement annuities provided by Section 814.108 are available to a member eligible to receive a service retirement annuity under this section, but the same optional plan and beneficiary must be selected for the portion of the annuity payable from the law enforcement and custodial officer supplemental retirement fund and the portion payable from the trust fund established by Section 815.310.

(e) The amount payable from the law enforcement and custodial officer supplemental retirement fund is reducible by the amount paid from the trust fund established by Section 815.310 for service as a law enforcement or custodial officer. The total combined amount of an annuity under this section may not be less than the authorized benefit under Subsection (b) subtracted by any amount necessary because of selection of an optional annuity, because of retirement before the normal retirement age, or as provided by Subsection (f).

(f) The standard combined service retirement annuity payable for at least 20 years of service credit as a law enforcement or custodial officer may not exceed 100 percent of the average compensation computed under Subsection (b).

(g) For purposes of this section, service as a law enforcement or custodial officer is creditable as provided by rule of the board of trustees or on a month-to-month basis, whichever is greater.

(h) Repealed by Acts 1995, 74th Leg., ch. 586, Sec. 45(1), eff. Aug. 28, 1995.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 199, ch. 18, Sec. 13, 14, eff. Nov. 10, 1981; Acts 1989, 71st Leg., ch. 1227, Sec. 1, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.107 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff.

Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.08(a), eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 850, Sec. 12, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 586, Sec. 15, 45(1), eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 1541, Sec. 16, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1231, Sec. 9, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 13, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 10, eff. September 1, 2013.

Sec. 814.108. OPTIONAL SERVICE RETIREMENT BENEFITS. (a) Instead of the standard service retirement annuity payable under Section 814.103 or 814.105, the standard combined service retirement annuity payable under Section 814.107, or an annuity actuarially reduced because of age under Section 814.107, a retiring member may elect to receive an optional service retirement annuity under this section.

(b) A person who selects an optional lifetime retirement annuity must designate before the selection becomes effective one person to receive the annuity on the death of the person making the selection. A person who selects an optional retirement annuity payable for a guaranteed period may designate, before or after retirement, one or more persons to receive the annuity on the death of the person making the selection.

(c) An eligible person may select one of the following options, which provides that:

(1) after the retiree's death, the reduced annuity is payable in the same amount throughout the life of the person designated by the retiree before retirement;

(2) after the retiree's death, one-half of the reduced annuity is payable throughout the life of the person designated by the retiree before retirement;

(3) if the retiree dies before 60 monthly annuity payments have been made, the remainder of the 60 payments are payable to one or more beneficiaries or, if one does not exist, to the retiree's estate;

(4) if the retiree dies before 120 monthly annuity payments

have been made, the remainder of the 120 payments are payable to one or more beneficiaries or, if one does not exist, to the retiree's estate; or

(5) after the retiree's death, three-fourths of the reduced annuity is payable throughout the life of the person designated by the retiree before retirement.

(d) If a person who is nominated by a retiree in the written designation under Subsection (b) predeceases the retiree, the reduced annuity of a retiree who has elected an optional lifetime retirement annuity shall be increased to the standard service retirement annuity that the retiree would otherwise be entitled to receive if the retiree had not selected that annuity option. The standard service retirement annuity shall be adjusted as appropriate for:

(1) early retirement as permitted by law; and

(2) postretirement increases in retirement benefits authorized by law after the date of retirement.

(e) The increase in the annuity under Subsection (d) begins with the monthly payment made to the retiree for the month following the month in which the person nominated dies or the September 30, 1991, payment, whichever is later, and is payable to the retiree for the remainder of the retiree's life.

(f) The computation of an optional annuity must be made without regard to the gender of the annuitant or designee involved.

(g) Except as provided by Section 814.008 or 814.1081, a person who selected an optional service retirement annuity approved by the board of trustees or an optional service retirement annuity described by Subsection (c)(1), (c)(2), or (c)(5) may not change or revoke a beneficiary designation after the person's effective date of retirement.

(h) A beneficiary designation that names a former spouse as beneficiary for a guaranteed optional annuity described by Subsection (c)(3) or (c)(4) is invalid unless the designation is made after the date of the divorce.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.108 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 13, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 586, Sec. 16, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 168, Sec. 2, eff. May 21, 1999; Acts 2001,

77th Leg., ch. 1231, Sec. 10, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1111, Sec. 18, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 15, eff. September 1, 2009.

Sec. 814.1081. CHANGE IN ANNUITY SELECTION. (a) A person who retired and selected an optional service retirement annuity described by Section 814.108(c)(1), (c)(2), or (c)(5) may change the optional annuity selection to the selection of a standard service retirement annuity if:

(1) pursuant to a divorce decree, a court orders the change in the annuity selection to a standard service retirement annuity; or

(2) the retiree files with the retirement system a request to change the annuity selection, if the retiree designated a person as beneficiary who:

(A) was not at the time of designation and is not currently the retiree's spouse or dependent child; or

(B) is not currently the retiree's spouse or dependent child and has executed since the designation a written, notarized instrument that releases the retirement system from any claim to the annuity by the beneficiary and that transfers all of the beneficiary's interest in the annuity to the retiree.

(b) If a retiree files a request as provided by Subsection (a), the retirement system shall recompute the annuity as a standard service retirement annuity. The increase in the annuity under this section begins with the monthly payment made to the retiree for the month following the month in which a request is filed as provided by Subsection (a).

(c) Expired.

Added by Acts 1991, 72nd Leg., ch. 850, Sec. 14, eff. Sept. 1, 1991.
Amended by Acts 1995, 74th Leg., ch. 586, Sec. 17, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 1048, Sec. 15, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1231, Sec. 11, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 16, eff. September 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 11, eff.

September 1, 2013.

Sec. 814.1082. PARTIAL LUMP-SUM OPTION. (a) A member who is eligible for an unreduced service retirement annuity may select a standard retirement annuity or an optional retirement annuity described by Section 814.108 together with a partial lump-sum distribution.

(b) The amount of the lump-sum distribution under this section may not exceed the sum of 36 months of a standard service retirement annuity computed without regard to this section.

(c) The service retirement annuity selected by the member shall be actuarially reduced to reflect the lump-sum option selected by the member and shall be actuarially equivalent to a standard or optional service retirement annuity, as applicable, without the partial lump-sum distribution. The annuity and lump sum shall be computed to result in no actuarial loss to the retirement system.

(d) Unless otherwise specified in rules adopted by the board of trustees, the lump-sum distribution will be made as a single payment payable at the time that the first monthly annuity payment is paid to the retiree.

(e) The amount of the lump-sum distribution will be deducted from any amount otherwise payable under Section 814.505.

(f) The partial lump-sum option under this section may be elected only once by a member and may not be elected by a retiree. A member retiring under the proportionate retirement program under Chapter 803 is not eligible for the partial lump-sum option.

(g) Before a retiring member selects a partial lump-sum distribution under this section, the retirement system shall provide a written notice to the member of the amount by which the member's annuity will be reduced because of the selection. The member shall be asked to sign a copy of or a receipt for the notice, and the retirement system shall maintain the signed copy or receipt.

(h) The board of trustees may adopt rules for the implementation of this section and may authorize the option to be used for a death benefit annuity. This section does not apply to a disability retirement annuity.

Added by Acts 1999, 76th Leg., ch. 1541, Sec. 17, eff. Sept. 1, 1999.

Sec. 814.110. INCREASING ANNUITY OPTION. (a) A member who is eligible for a service retirement annuity not reduced because of age may select a standard retirement annuity or an optional service retirement annuity described by Section 814.108 together with the option for an increasing annuity as described by this section.

(b) The retirement system shall provide the increasing annuity option by reducing the member's annuity for an appropriate implementation period beginning immediately after the member's retirement and annually increasing the amount of the annuity by two percent or by another percentage rate, as determined by the system under Subsection (c), for each year during the applicable implementation period.

(c) The retirement system may offer other increasing annuity options similar to the option described by Subsection (b), including increasing annuity options providing a different percentage rate of increase or a different implementation period.

(d) If a member elects to receive an increasing annuity option under this section, the member's annuity must be calculated to reflect the option selected and be actuarially equivalent to a standard or optional service retirement annuity, as applicable, that the member would have been entitled to had the member not elected to receive the option. The annuity must be computed to result in no actuarial loss to the retirement system.

(e) The increasing annuity option under this section may be elected only once by a member and may not be elected by a retiree. A member retiring under the proportionate retirement program under Chapter 803 is not eligible for the option.

(f) This section does not apply to:

(1) a disability retirement annuity; or

(2) an annuity based on service credited in the elected class.

(g) Before a retiring member selects an increasing annuity option under this section, the retirement system must provide a written notice to the member of the amount by which the member's annuity will be reduced and the implementation period applicable because of that selection. The retirement system shall maintain a copy of the notice required under this subsection that is signed by the member.

(h) The board of trustees may adopt rules for the implementation of this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 403 (H.B. 1393), Sec. 1, eff. September 1, 2023.

SUBCHAPTER C. DISABILITY RETIREMENT BENEFITS

Sec. 814.201. APPLICATION FOR DISABILITY RETIREMENT BENEFITS. (a) A member may apply for a disability retirement annuity by:

(1) filing an application for retirement with the board of trustees; or

(2) having an application filed with the board by the member's spouse, employer, or legal representative.

(b) An application for a disability retirement annuity may not be made:

(1) after the date the disability retirement is to become effective; or

(2) more than 90 days before the date the disability retirement is to become effective.

(c) An application for an occupational disability retirement annuity may not be made after the second anniversary of the date the injury or disease that causes the disability occurs unless the executive director permits the application after that date because of a showing of good cause for delay.

(d) An applicant must submit to medical examination and provide other pertinent information as required by the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1111, ch. 252, Sec. 5, eff. Aug. 29, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.201 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1231, Sec. 12, eff. Sept. 1, 2001.

Sec. 814.202. ELIGIBILITY FOR DISABILITY RETIREMENT. (a) A member who was contributing to the retirement system at the time the member became permanently disabled for the further performance of duty is eligible to retire for a nonoccupational disability if the member has at least:

(1) 8 years of membership service credit in the elected class of membership;

(2) 6 years of membership service credit in the elected class plus 2 years of military service credit established before January 1, 1978; or

(3) 10 years of membership service credit in the employee class of membership.

(b) A member who was contributing to the retirement system at the time the member became permanently incapacitated for the further performance of duty, who meets the requirements provided by Section 811.001(12), and who has service credit in either membership class is eligible to retire for an occupational disability regardless of age or amount of service credit.

(c) A member otherwise eligible may not receive a disability retirement annuity unless the member is the subject of a certification issued as provided by Section 814.203.

(d) Repealed by Acts 2005, 79th Leg., Ch. 347, Sec. 36(6), eff. September 1, 2005.

(e) A member otherwise eligible may not apply for or receive a nonoccupational disability annuity if the member is eligible for a service retirement annuity under Section 814.102 or 814.104(a)(2) or (b).

(f) An application for a nonoccupational disability retirement may not be made after the second anniversary of the date the member ceased making contributions to the retirement system.

(g) A member otherwise eligible to receive a disability retirement annuity may not receive the annuity if the member is:

(1) still earning a salary or wage from the employment for which the member is claiming disability; or

(2) on leave without pay from the employment for which the member is claiming disability.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1980, ch. 361, Sec. 4, eff. Sept. 1, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.202 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 15, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 1541, Sec. 18, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1231, Sec. 13, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 12, eff.

September 1, 2005.

Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 36(6), eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 17, eff. September 1, 2009.

Sec. 814.203. CERTIFICATION OF DISABILITY. (a) As soon as practicable after an application for disability retirement is filed, the medical board shall evaluate the medical and other pertinent information regarding the member's application. If the medical board finds that the member is mentally or physically incapacitated for the further performance of duty, as supported by substantial, objective, medical evidence, and that the incapacity is likely to be permanent, the medical board shall issue a certification of disability and submit it to the executive director. A certification under this section is admissible in a contested case under Section 815.511 without proving the medical board as experts.

(b) For purposes of this subchapter, a member is incapacitated for the further performance of duty if the member has demonstrably sought and been denied workplace accommodation of the disability in accordance with applicable law, and the member is physically or mentally unable to continue to hold the position occupied or to hold any other position offering comparable pay. The employee's education, training, and experience must be considered when making a determination of incapacity under this subchapter.

(c) For the purposes of this section, "comparable pay" means 80 percent or more of the member's final state employment base pay before deductions for taxes or deferred compensation under state and federal law, including any longevity or hazardous duty pay, but excluding the monetary value of any insurance or retirement benefits. Comparable pay may be adjusted by the retirement system to account for adjustments in state pay rates.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.203 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 1111, Sec. 19, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 13, eff.

September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 18, eff. September 1, 2009.

Sec. 814.204. INFORMATION ABOUT OCCUPATIONAL DISABILITY. (a) A member who applies for retirement for an occupational disability shall furnish the retirement system all information and other data requested by the retirement system and relating to the disability.

(b) The retirement system may require information and other data relating to an occupational disability retirement application to be furnished by any officer or employee of the agency with which the applicant holds a position.

(c) If a person who is requested to submit information or other data under this section withholds the requested material, the retirement system may elect to treat the application as one for nonoccupational disability retirement benefits.

(d) After receiving information and other data the retirement system considers necessary, the executive director shall determine, subject to review by the board of trustees, whether or not the disability is occupational.

(e) A contributing member who is also a member of the Texas National Guard or the Texas State Guard is eligible for retirement for an occupational disability if the person:

(1) is injured while on active duty with the national or state guard;

(2) is discharged from that entity because of the injury; and

(3) ceases state employment.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.204 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1245, Sec. 1, eff. Sept. 1, 1997.

Sec. 814.205. DISABILITY RETIREMENT BENEFITS FOR ELECTED CLASS SERVICE. (a) Except as provided by Subsection (b), a disability retirement annuity for service credited in the elected class of membership is an amount computed in the same manner as the standard

service retirement annuity, not reduced because of age, for service credited in the elected class.

(b) An occupational disability retirement annuity for service credited in the elected class is computed on the basis of the amount of the member's service credit or eight years, whichever is greater.

(c) A person who retires under this section may select an optional retirement plan instead of the standard retirement annuity.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.205 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 16, eff. Sept. 1, 1991.

Sec. 814.2055. AVERAGE MONTHLY COMPENSATION. For purposes of Sections 814.206 and 814.207, "average monthly compensation" means:

(1) a member's average monthly compensation for service in the employee class for the 36 highest months of compensation; or

(2) a member's average monthly compensation for service in the employee class if a member retires with less than 36 months of service.

Added by Acts 2001, 77th Leg., ch. 1231, Sec. 14, eff. Sept. 1, 2001.

Sec. 814.206. DISABILITY RETIREMENT BENEFITS FOR EMPLOYEE CLASS SERVICE. (a) Except as provided by Subsection (b) and Section 814.207, a standard disability retirement annuity for service credited in the employee class of membership is an amount computed at the rate of 2.3 percent for each year of service credit in that class, times the member's average monthly compensation.

(b) A standard disability retirement annuity under this section may not be more than 100 percent of the average monthly compensation or, if occupational, not less than 35 percent of the average monthly compensation or $150 a month, whichever is greater.

(c) A standard disability retirement annuity computed under this section is payable throughout the life of the retiree, except as provided by Section 814.210.

(d) Instead of the standard disability retirement annuity payable under this section, a retiring member may elect to receive an

optional disability retirement annuity payable throughout the life of the retiree and actuarially reduced, under tables adopted by the board of trustees, from the standard disability retirement annuity.

(e) Optional disability retirement annuities available to a disabled retiring member are those available to members retiring from regular service under Section 814.108(c).

(f) A standard nonoccupational disability retirement annuity under this section is reducible, under actuarial tables adopted by the board of trustees, for a member who retires before reaching an applicable age provided by Section 814.102 or 814.104.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.206 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 17, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 1231, Sec. 15, eff. Sept. 1, 2001. Amended by:

Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 14, eff. September 1, 2005.

Sec. 814.207. DISABILITY RETIREMENT BENEFITS FOR CERTAIN PEACE OFFICERS. (a) An annuity payable for an occupational disability resulting from a risk to which law enforcement or custodial officers are exposed because of the nature of law enforcement or custodial duties is payable under the same terms and conditions that apply to other occupational disability retirement annuities under this subtitle, except that the source and amount of the annuity are as provided by this section.

(b) Except as provided by Subsection (c), an occupational disability retirement annuity under this section is an amount, but not more than 100 percent, computed on the basis of the officer's average monthly compensation, times a percentage derived by application of Section 814.107(b).

(c) A disability retirement annuity under this section is not reducible because of age and may not be less than 50 percent of the officer's average monthly compensation regardless of the amount of service credited to the officer in the employee class.

(d) The portions of the annuity under this section payable from the law enforcement and custodial officer supplemental retirement

fund are the amount remaining after deduction of any amount payable under Section 814.206, except the portion of an amount that exceeds the minimum payments provided by Section 814.206(b) and that is made for service other than as a law enforcement or custodial officer and any amount by which an annuity is increased under Subsection (e).

(e) If a retiring member or retiree under this section presents evidence satisfactory to the retirement system that the person's occupational disability makes the person incapable of substantial gainful activity solely because of the disability and is considered a total disability under federal social security law, the retirement system shall, notwithstanding Section 811.006, increase the person's occupational disability retirement annuity to a monthly amount computed based on the maximum salary authorized under the position classification salary schedule prescribed by the General Appropriations Act, as adjusted from time to time, applicable to the position from which the person retired.

(f) An annuity increase under Subsection (e) is not payable before the first month following the month in which the satisfactory evidence is received by the retirement system under Subsection (e).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 200, ch. 18, Sec. 15, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.207 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 18, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 1231, Sec. 16, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1111, Sec. 20, eff. Sept. 1, 2003.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 868 (S.B. 1071), Sec. 1, eff. September 1, 2021.

Sec. 814.208. MEDICAL EXAMINATION OF DISABILITY RETIREE. (a) Once each year during the first five years after a member retires for disability, and once in each three-year period after that, the retirement system may require a disability retiree to undergo a medical examination.

(b) An examination under this section may be held at the retiree's residence or at any place mutually agreed to by the

retirement system and the retiree. The retirement system may designate a physician to perform the examination. The retiree shall pay the expense of the examination.

(c) If a disability retiree refuses to submit to a medical examination as provided by this section, the executive director shall discontinue the retiree's annuity payments until the retiree submits to an examination. If a retiree has not submitted to an examination as provided by this section before the first anniversary of the date of first refusal, the executive director shall revoke all rights of the retiree to an annuity.

(d) If the medical board finds that a disability retiree is no longer mentally or physically incapacitated for the performance of duty, it shall certify its findings and submit them to the executive director. If the executive director concurs in this certification, the annuity terminates and membership is restored as provided by Section 814.210.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.208 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 17, eff. Sept. 1, 1991.

Sec. 814.210. RESTORATION OF DISABILITY RETIREE TO ACTIVE SERVICE. (a) If a retiree who is receiving a disability retirement annuity returns to state service or if the retiree is found to be no longer incapacitated for the further performance of duty, the person must again become a member of the retirement system or, if the person holds a position included in the elected class of membership, may elect to become a member. If a person becomes a member under this section, the executive director shall terminate the person's annuity payments.

(b) A person who becomes a member under this section is entitled to service credit for all service previously established and not canceled by a withdrawal of contributions.

(c) If a person's disability retirement annuity is discontinued under this section, the person's selection of any optional annuity becomes void.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.210 by Acts

1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 17, eff. Sept. 1, 1991.

Sec. 814.211. REFUND AT ANNUITY DISCONTINUANCE. (a) Except as provided by Subsection (b), if a disability retirement annuity is discontinued, the member is entitled to a lump-sum payment from the retirement annuity reserve account in an amount, if any, by which the amount in the member's individual account in the employees saving account at the time of disability retirement exceeds the amount of payments payable before the date the annuity was discontinued.

(b) The benefit provided by this section is not payable to a member who, after discontinuance of a disability retirement annuity, returns to state service or elects a service retirement annuity.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 5, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.211 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 17, eff. Sept. 1, 1991.

SUBCHAPTER D. DEATH BENEFIT ANNUITIES

Sec. 814.301. SELECTION OF DEATH BENEFIT PLAN BY MEMBER. (a) A contributing member who has at least 10 years of service credit in the elected or employee class of membership may select a death benefit plan for the payment, if the member dies while the member is eligible to select a plan, of a death benefit annuity to a person designated by the member. Death benefit annuities available for selection by a member described in this subsection are the optional annuities provided by Sections 814.108(c)(1) and (c)(4), payable as if the member had retired at the time of death.

(b) If a member of a retirement system administered by the board of trustees selects death benefit plans under more than one board-administered retirement system, each plan selected may take effect. If a member selects a death benefit plan under only one retirement system administered by the board of trustees, the plan applies to service credit in other board-administered retirement systems.

(c) The computation of a death benefit annuity selected under this section must include the ages of the member and the member's designated beneficiary at the time of the member's death.

(d) A member may select a death benefit plan by filing an application for a plan with the retirement system on a form prescribed by the retirement system. After selection, a death benefit plan takes effect at death unless the member amends the plan, selects a retirement annuity at the time of retirement, has chosen a plan that cannot take effect, or becomes ineligible to select a plan.

(e) A beneficiary designation that names a former spouse as beneficiary is invalid for purposes of this section unless the designation is made after the date of the divorce.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.301 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 18, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 586, Sec. 19, eff. Aug. 28, 1995. Amended by:

Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 15, eff. September 1, 2005.

Sec. 814.302. SELECTION OF DEATH BENEFIT PLAN BY SURVIVOR OF MEMBER. (a) If a contributing member eligible to select a death benefit plan under Section 814.301 dies without having made a selection, or if a selection cannot be made effective, the member's designated beneficiary may select a plan in the same manner as if the member had made the selection. If there is no designated beneficiary, the personal representative of the decedent's estate may make the selection for the benefit of the decedent's heirs or devisees. In lieu of selecting a death benefit plan, the designated beneficiary or, if there is none, the personal representative of the decedent's estate, may elect to receive a refund of contributions and any applicable payment under Section 814.401.

(b) If a person dies who, at the time of death, was a contributing member of a retirement program administered by the board of trustees and was eligible, having met the requirements of service credit and attained age, for a service retirement annuity based on service in one or more board-administered programs or was a

contributing member of the employee class, had at least three years of service credit in that class, and would have been eligible to retire under the proportionate retirement program under Chapter 803, but was not eligible to select a death benefit plan, the person's surviving spouse may select a plan in the same manner that the decedent could have made the selection if the decedent had retired on the last day of the month in which the person died. If there is no surviving spouse, the guardian of the decedent's surviving minor children may select a plan. If the decedent is not survived by a spouse or minor children, an annuity may not be paid under this subsection.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.302 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 19, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 586, Sec. 20, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 1541, Sec. 19, eff. Sept. 1, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 16, eff. September 1, 2005.

Sec. 814.304. ANNUITY FOR SURVIVOR OF ELECTED MEMBER. (a) Except as provided by Subsections (b) and (c), if a member who has at least eight years of service credit in the elected class of membership dies, a death benefit annuity is payable in an amount computed at the rate of one-half of the standard service retirement annuity to which the member would have been entitled at the member's age at the time of death or at the age of 60, whichever is later.

(b) The annuity provided by this section is payable only to the member's surviving spouse. If the member is not survived by a spouse, a benefit may not be paid under this section.

(c) An annuity may not be paid under this section if, at the time of death, the member was eligible to select a death benefit annuity under Section 814.301.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.304 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 814.305. ANNUITY FOR SURVIVOR OF LAW ENFORCEMENT OR CUSTODIAL OFFICER. If a member who has at least 20 years of service credit as a law enforcement or custodial officer dies, the amount of the death benefit annuity payable for the member's service as a law enforcement or custodial officer is an amount computed and funded as provided by Section 814.107, including any applicable reduction factors.

Added by Acts 1983, 68th Leg., p. 1977, ch. 360, Sec. 1, eff. Sept. 1, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.305 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 20, eff. Sept. 1, 1991.

SUBCHAPTER E. MEMBER DEATH BENEFITS

Sec. 814.401. MEMBER DEATH BENEFITS GENERALLY. (a) Except as provided by Subsection (d), if a member dies under a circumstance described in Subsection (c), a lump-sum death benefit is payable from the state accumulation account in an amount computed at the rate of five percent of the amount in the member's individual account in the employees saving account at the time of death, times the number of full years of service credit the member had at the time of death, but not more than 100 percent of the amount in the member's individual account.

(b) The benefit provided by this section is payable to the beneficiary designated by the member under Section 814.403(b). If a member does not designate a beneficiary or if the beneficiary designation cannot be made effective, the benefit is payable to the member's estate.

(c) A benefit is payable under this section only if the member at the time of death was:

(1) actively employed by the state;

(2) receiving workers' compensation benefits for an injury sustained while employed by the state; or

(3) on authorized sick leave.

(d) A death benefit may not be paid under this section if, at the time of death, a death benefit annuity became effective.

(e) A beneficiary designation that names a former spouse as beneficiary is invalid unless the designation is made after the date

of the divorce.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 6, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.401 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 21, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 586, Sec. 21, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 1231, Sec. 17, eff. Sept. 1, 2001.

Sec. 814.402. MEMBER OCCUPATIONAL DEATH BENEFITS. (a) Except as provided by Subsection (b), if a member dies and the executive director determines that the death was an occupational death, a lump-sum death benefit is payable from the state accumulation account in an amount equal to one year's salary, computed on the basis of the member's rate of compensation at the time of death.

(b) The benefit provided by this section is payable only to the member's surviving spouse or, if there is no surviving spouse, to the guardian of the member's surviving dependent minor children. If the member is not survived by a spouse or dependent minor children, a benefit may not be paid under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 7, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.402 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 814.403. RETURN OF CONTRIBUTIONS. (a) Except as provided by Subsection (d), if a member dies before retirement, the amount in the member's individual account in the employees saving account at the time of death is payable as a lump-sum death benefit.

(b) Except as provided by Subsection (c), the benefit provided by this section is payable to a person designated by the member in a signed and witnessed document filed with the retirement system before the member's death. A designation, change, or revocation of a beneficiary in a will or other document not filed with the retirement system is not effective. If a member does not designate a beneficiary or if the beneficiary designation cannot be made effective, the benefit is payable to the member's estate.

(c) A beneficiary designation that names a former spouse as beneficiary is invalid for purposes of this section unless the designation is made after the date of the divorce.

(d) A death benefit may not be paid under this section if, at the time of death, a death benefit annuity became effective.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 8, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.403 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 22, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 586, Sec. 22, eff. Aug. 28, 1995.

Sec. 814.404. ASSIGNMENT OF DEATH BENEFIT FOR FUNERAL SERVICES. (a) A beneficiary to whom a benefit is payable under this subchapter may by assignment provide that part or all of the benefit be paid in consideration for services provided in connection with the death of the member directly to a funeral director or funeral establishment licensed under:

(1) Chapter 651, Occupations Code; or

(2) the comparable law of another state.

(b) The board of trustees by rule may establish requirements for forms, documentation, and procedures necessary for an effective assignment under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 1178 (H.B. 3522), Sec. 1, eff. January 1, 2020.

SUBCHAPTER F. RETIREE DEATH BENEFITS

Sec. 814.501. RETIREE DEATH BENEFITS GENERALLY. (a) A lump-sum death benefit in the amount of $5,000 is payable if the board of trustees receives proof satisfactory to it of the death, on or after September 1, 1975, of a person retired under a retirement system administered by the board. The board by rule shall adopt procedures to provide for the payment of this benefit not later than the seventh day after the date the board receives the required proof of death.

(b) The benefit provided by this section is payable to a person designated by the retiree in a signed and witnessed document filed with the retirement system before the retiree's death. A

designation, change, or revocation of a beneficiary in a will or other document not filed with the retirement system is not effective. If a retiree does not designate a beneficiary or if the beneficiary designation cannot be made effective, the benefit is payable to the retiree's estate.

(c) A beneficiary designation that names a former spouse as beneficiary is invalid for purposes of this section unless the designation is made after the date of the divorce.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.501 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 23, eff. Aug. 28, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 242 (H.B. 70), Sec. 1, eff. May 30, 2005.

Sec. 814.503. OCCUPATIONAL DISABILITY RETIREE DEATH BENEFITS. (a) Except as provided by Subsection (b), if a person who receives an occupational disability retirement annuity dies and the executive director determines that the death was an occupational death, a lump-sum death benefit is payable from the state accumulation account in an amount equal to one year's salary, computed on the basis of the retiree's rate of compensation at the time of disability retirement.

(b) The benefit provided by this section is payable only to the retiree's surviving spouse or, if there is no surviving spouse, to the guardian of the retiree's surviving dependent minor children. If the retiree is not survived by a spouse or dependent minor children, a benefit may not be paid under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 10, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.503 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 814.504. ASSIGNMENT OF DEATH BENEFIT FOR FUNERAL SERVICES. (a) A beneficiary to whom a benefit is payable under this subchapter may by assignment provide that part or all of the benefit be paid in consideration for services provided in connection with the death of

the retiree directly to a funeral director or funeral establishment licensed under:

(1) Chapter 651, Occupations Code; or

(2) the comparable law of another state.

(b) The board of trustees by rule may establish requirements for forms, documentation, and procedures necessary for an effective assignment under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 1178 (H.B. 3522), Sec. 2, eff. January 1, 2020.

Sec. 814.505. RETURN OF EXCESS CONTRIBUTIONS IN OTHER CIRCUMSTANCES. (a) Except as provided by Subsection (c), when a person who receives a service or disability retirement annuity dies, a lump-sum death benefit is payable from the retirement annuity reserve account in the amount, if any, by which the balance in the retiree's individual account in the employees saving account at the time of service retirement exceeds the total of annuity payments payable before the retiree's death.

(b) The benefit provided by Subsection (a) is payable to a person designated by the retiree at the time of retirement in a signed and witnessed document filed with the retirement system. If a retiree does not designate a beneficiary or if the beneficiary does not survive the retiree, the benefit is payable to the retiree's estate.

(c) A death benefit may not be paid under Subsections (a) and (b) if the retiree selected an optional service retirement annuity under Section 814.108.

(d) If the person designated as the beneficiary of an optional service retirement annuity, other than one selected under Section 814.108(c)(3) or 814.108(c)(4), predeceases the retiree, a lump-sum death benefit is payable from the retirement annuity reserve account in the amount, if any, by which the balance in the retiree's individual account in the employees saving account at the time of service retirement exceeds the sum of annuity payments payable to the retiree before death.

(e) The benefit provided by Subsection (d) is payable to the deceased retiree's estate.

(f) If a beneficiary dies while receiving an optional service

retirement annuity, other than one selected under Section 814.108(c)(3) or 814.108(c)(4), a lump-sum death benefit is payable from the retirement annuity reserve account in the amount, if any, by which the balance in the retiree's individual account in the employees saving account at the time of service retirement exceeds the sum of annuity payments payable to the retiree and the beneficiary before the beneficiary's death.

(g) If a beneficiary dies while receiving an optional service retirement annuity selected under Section 814.302 as described in Section 814.108(c)(1) or Section 814.304(a), a lump-sum death benefit is payable from the retirement annuity reserve account in the amount, if any, by which the balance in the member's individual account in the employees saving account at the time of death exceeds the sum of annuity payments payable to the beneficiary before the beneficiary's death.

(h) The benefits provided by Subsections (f) and (g) are payable to the deceased beneficiary's estate.

(i) A beneficiary designation that names a former spouse as beneficiary is invalid unless the designation is made after the date of the divorce.

Added by Acts 1989, 71st Leg., ch. 81, Sec. 1, eff. Sept. 1, 1989. Renumbered from Title 110B, Sec. 24.505 and amended by Acts 1989, 71st Leg., ch. 1100, Sec. 4.04(a)(1) to (4), eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 23, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 1231, Sec. 18, eff. Sept. 1, 2001.

SUBCHAPTER G. INCREASES IN BENEFITS

Sec. 814.601. ANNUITY INCREASE AFTER DEATH OR RETIREMENT. (a) Except as provided by Subsections (b) and (e), on the first day of each fiscal year, the retirement system shall increase the amounts of annuities that are:

(1) computed as provided by Section 814.105 or a predecessor to that section, Section 814.1051, Section 814.206 or a predecessor to that section, or if the standard annuity is derived from Section 814.105 or a predecessor, as provided by Section 814.108 or a predecessor to that section;

(2) based on service that was credited in the retirement system as employee class service; and

(3) payable to a retiree of the retirement system, to the survivor of a retiree of the retirement system, or to the survivor of a deceased member of the retirement system.

(b) The retirement system may not increase under this section the amount of an annuity unless the retirement or death on which the annuity is based occurred before the first day of the preceding fiscal year.

(c) The legislature may appropriate money from the general revenue fund to pay the costs of increasing the amounts of annuities under this section. On the first day of each fiscal year, the state comptroller of public accounts shall transfer to the retirement system any money appropriated for the fiscal year for the purpose of this section.

(d) If the amount of money appropriated for a fiscal year is insufficient to finance the rate of increase in annuities specified in the Act making the appropriation or if the Act fails to specify a rate of increase, the board of trustees shall set the rate as the rate that the amount of money appropriated will finance for the duration of the annuities payable to those persons entitled to receive an increase in annuities under this section.

(e) If an appropriation is not made for a fiscal year for the purpose of this section, the retirement system may not increase under this section the amount of annuities for that year.

Added by Acts 1981, 67th Leg., 1st C.S., p. 201, ch. 18, Sec. 16, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.601 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 39, Sec. 3, eff. April 22, 1993.

Sec. 814.602. ADJUSTMENT TO ANNUITIES. (a) Except as provided by Subsection (b), the board of trustees may adopt rules that adjust or modify annuities to the extent necessary to be consistent with changes in plan design. Any adjustment or modification must be made applicable to all members and annuitants who are similarly situated. Any rule adopted under this section supersedes conflicting portions of existing plan provisions and must be in compliance with Section 401(a) of the Internal Revenue Code of 1986 and Section 811.006.

(b) A rule adopted under this section may not result in a

reduction in any existing annuity.

Added by Acts 1991, 72nd Leg., ch. 850, Sec. 24, eff. Sept. 1, 1991.

Sec. 814.603. SUPPLEMENTAL PAYMENTS. (a) The retirement system may make a supplemental payment as provided by this section to persons whose annuities are described by Section 814.107, 814.207, 814.305, or 814.601(a) and that are based on service retirements, disability retirements, or deaths. A supplemental payment made under this section is in addition to the regular monthly annuity payment. Supplemental payments under this section must comply with Section 811.006.

(b) The board of trustees shall determine the amount and timing of a supplemental payment and the manner in which the payment is made.

(c) The retirement system shall pay any supplemental payment made under this section from the retirement annuity reserve account and may transfer to that account from the state accumulation account any portion of the amount that exceeds the amount in the retirement annuity reserve account available to finance this supplemental payment and that is actuarially determined to be necessary to finance the supplemental payment.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 10, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 24, eff. Aug. 28, 1995; Acts 2003, 78th Leg., ch. 1111, Sec. 21, eff. Sept. 1, 2003.

Sec. 814.604. COST-OF-LIVING ADJUSTMENT. (a) The retirement system shall grant a one-time cost-of-living adjustment as provided by Subsections (b) and (c) on a finding by the board of trustees that, as determined by an actuarial valuation:

(1) the amortization period for the unfunded actuarial liabilities of the retirement system does not exceed 30 years by one or more years; and

(2) as a result of paying the adjustment, the time required to amortize the unfunded actuarial liabilities of the retirement system would not be increased to a period that exceeds 30 years by one or more years.

(b) The retirement system shall pay the cost-of-living

adjustment under this section to a retiree who has been retired for 20 years or more on the date the board of trustees makes the finding in Subsection (a), or to a beneficiary of the retiree, as an increase to a monthly service retirement benefit, disability retirement benefit, or death benefit, as applicable, paid under this chapter for service credited in the employee class.

(c) A cost-of-living adjustment under this section is limited to the lesser of:

(1) an amount equal to three percent of the monthly benefit subject to the increase; or

(2) $100 a month.

Added by Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 12, eff. September 1, 2013.

CHAPTER 815. ADMINISTRATION

SUBCHAPTER A. BOARD OF TRUSTEES

Sec. 815.001. COMPOSITION OF BOARD OF TRUSTEES. The board of trustees is composed of six members.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.002. APPOINTED TRUSTEES. (a) Three members of the board of trustees are appointed with the advice and consent of the senate, one each by:

(1) the governor;

(2) the chief justice of the Supreme Court of Texas; and

(3) the speaker of the house of representatives.

(b) Appointed trustees hold office for staggered terms of six years, with the term of one trustee expiring on August 31 of each even-numbered year.

(c) Before the 11th day after the day on which an appointment is made, the person appointed to the board shall subscribe to the constitutional oath and the oath of office provided by Section 815.004.

(d) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin

of the appointees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.002 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 11, eff. Sept. 1, 1993.

Sec. 815.003. ELECTED TRUSTEES. (a) Three members of the board of trustees are nominated and elected by members of the retirement system and retirees under rules adopted by the board.

(b) Two of the elected members of the board must be members of the retirement system and must hold positions that:

(1) are included in the employee class of membership; and

(2) are not with an agency or department with which another trustee holds a position.

(b-1) The third elected member of the board must:

(1) meet the requirements of Subsection (b); or

(2) be a retiree.

(c) Elected trustees hold office for staggered terms of six years, with the term of one trustee expiring on August 31 of each odd-numbered year.

(d) The board shall hold elections for the members and retirees to nominate and elect a trustee before August 31 of each odd-numbered year. The board shall make ballots available to members of the retirement system and retirees and all votes must be cast on those ballots.

(e) A person elected to the board of trustees must subscribe to the constitutional oath and the oath of office provided by Section 815.004 before beginning his or her term.

(f) The board shall fill vacancies of elected positions on the board for the unexpired terms.

(g) A person elected to the board as provided by this section is required to serve on the board.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 65, Sec. 1, eff. Aug. 26, 1991; Acts 1997, 75th Leg., ch. 1048, Sec. 16, eff. Sept. 1, 1997.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 16 (H.B. 917), Sec. 1, eff. September 1, 2021.

Sec. 815.0031. INELIGIBILITY FOR BOARD AND OF CERTAIN EMPLOYEES. (a) A person is not eligible for appointment or election to the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the retirement system; or

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the retirement system.

(b) A paid officer, employee, or consultant of a Texas trade association in the field of insurance or investment may not be a trustee or an employee of the retirement system who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(c) A person who is the spouse of a paid officer, manager, or consultant of a Texas trade association in the field of insurance or investment may not be a trustee and may not be an employee of the retirement system who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(d) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(e) A person may not serve as a trustee or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business or an association related to the operation of the board.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 12, eff. Sept. 1, 1993.

Sec. 815.004. OATH OF OFFICE. (a) Before taking office as a member of the board of trustees, a person shall subscribe to the following oath of office:

I do solemnly swear that I will, to the best of my ability, discharge the duties of a trustee of the employees retirement system, that I will diligently and honestly administer the affairs of the board of trustees of the retirement system, and that I will not knowingly violate or willingly permit to be violated any of the laws applicable to the retirement system.

(b) A person may subscribe to the oath of office before any officer qualified to administer oaths in the state and shall file the subscribed oath in the office of the secretary of state.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.005. SUNSET PROVISION. The board of trustees of the Employees Retirement System of Texas is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The board shall be reviewed during the period in which state agencies abolished in 2029, and every 12th year after that year, are reviewed.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1279 (H.B. 1675), Sec. 2.02, eff. June 14, 2013.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. 301), Sec. 1, eff. September 1, 2017.

Sec. 815.006. COMPENSATION; EXPENSES. (a) Notwithstanding Subchapter C of Chapter 659, trustees who are contributing members of the retirement system serve without compensation but are entitled to reimbursement for all actual and necessary expenses that they incur in the performance of official board duties.

(b) Notwithstanding Subchapter C of Chapter 659, subject to the

approval of the board of trustees, trustees who are not contributing members of the retirement system may receive:

(1) compensation; and

(2) reimbursement for all actual and necessary expenses that they incur in the performance of official board duties.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.006 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 25, eff. Aug. 28, 1995.

Sec. 815.007. VOTING. (a) Each trustee is entitled to one vote.

(b) At any meeting of the board, a majority of the members present is necessary for a decision by the trustees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.007 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.008. GROUNDS FOR REMOVAL OF TRUSTEE. (a) It is a ground for removal from the board if a trustee:

(1) violates a prohibition established by Section 815.0031;

(2) cannot discharge the person's duties for a substantial part of the term for which the person is appointed or elected because of illness or disability; or

(3) is absent from more than half of the regularly scheduled board meetings that the person is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a trustee exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the ground. The presiding officer shall then notify the appropriate appointing officer, if any, that a potential ground for removal exists.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 13, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 1111, Sec. 22, eff. Sept. 1, 2003.

Sec. 815.009. BOARD MEMBER TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board of trustees may not vote, deliberate, or be counted as a member in attendance at a meeting of the board of trustees until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing the retirement system's operations;

(2) the programs, functions, rules, and budget of the retirement system;

(3) the scope of and limitations on the rulemaking authority of the board of trustees;

(4) the results of the most recent formal audit of the retirement system;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of the board of trustees in performing their duties; and

(6) any applicable ethics policies adopted by the retirement system or the Texas Ethics Commission.

(c) A person appointed to the board of trustees is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) The executive director shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each member of the board of trustees. On receipt of the training manual, each member of the board of trustees shall sign and submit to the executive director a statement acknowledging receipt of the training manual.

Added by Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. 301), Sec. 2, eff.

September 1, 2017.

SUBCHAPTER B. POWERS AND DUTIES OF BOARD OF TRUSTEES

Sec. 815.101. GENERAL ADMINISTRATION. The board of trustees is responsible for the general administration and operation of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.102. RULEMAKING. (a) Subject to the limitations of this subtitle, the board of trustees may adopt rules for:

(1) eligibility of membership;

(2) the administration of the funds of the retirement system;

(3) the program of supplemental benefits for law enforcement and custodial officers;

(4) hearings on contested cases or disputed claims; and

(5) the transaction of any other business of the board.

(b) Rules adopted under this section related to a hearing on a contested case or disputed claim control over rules adopted under Section 2003.050.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.102 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1231, Sec. 19, eff. Sept. 1, 2001.

Sec. 815.1025. USE OF ALTERNATIVE RULEMAKING AND DISPUTE RESOLUTION. (a) The board of trustees shall develop a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of the retirement system's rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the retirement system's jurisdiction.

(b) The retirement system's procedures relating to alternative

dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The retirement system shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

(d) The board of trustees shall ensure that the implementation of this section and the negotiated rulemaking procedures and alternative dispute resolution procedures adopted under this section are consistent with the fiduciary responsibility imposed on the board by law.

Added by Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. 301), Sec. 3, eff. September 1, 2017.

Sec. 815.103. ADMINISTERING SYSTEM ASSETS. (a) The board of trustees shall administer all assets of the retirement system. The board is the trustee of the system's assets. The board of trustees shall hold all retirement system assets in trust for the exclusive benefit of the members and annuitants of the system and administer all operations funded by trust assets for the same purpose.

(b) The board of trustees may acquire, hold, manage, purchase, sell, assign, trade, transfer, and dispose of any security, evidence of debt, or other investment in which the retirement system's assets may be invested.

(c) The board of trustees may authorize the executive director to acquire, hold, manage, purchase, sell, assign, trade, transfer, and dispose of any security, evidence of debt, or other investment in which assets of the law enforcement and custodial officer supplemental retirement fund may be invested.

(d) The board of trustees may accept on behalf of the retirement system gifts of money or other property from any public or private source.

(e) Subchapter C, Chapter 2260, does not apply to the retirement system. The acceptance of benefits by the retirement

system under a contract does not waive immunity from suit or immunity from liability.

(f) Chapter 412, Labor Code, does not apply to the retirement system. The board of trustees may acquire services described by that chapter in any manner or amount the board considers reasonable.

(g) The retirement system shall comply with cybersecurity and information security standards established by the Department of Information Resources under Chapter 2054.

(h) Notwithstanding any other law, the retirement system has exclusive authority over all aspects of the purchase of goods and services, if the purchase is:

(1) made using money other than money appropriated from the general revenue fund; and

(2) related to the operation of home office facilities used in administering the system, including a purchase related to the administration of tenant leases in the facilities.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.103 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1541, Sec. 20, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1231, Sec. 20, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1111, Sec. 23, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1310, Sec. 52, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 17, eff. September 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 6, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 100 (S.B. 1831), Sec. 1, eff. May 19, 2023.

Sec. 815.104. DESIGNATION OF AUTHORITY TO SIGN VOUCHERS. The board of trustees shall file with the comptroller of public accounts a duly attested copy of a board resolution that designates the authorized representatives, as provided by this chapter, who have authority to sign vouchers for payment from the funds administered by the board of trustees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.104 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.105. ADOPTING TABLES. At least once every four years, the board of trustees shall adopt mortality, service, and other tables the board considers necessary for the retirement system after considering the results of the actuary's investigation of the mortality, service, and compensation experience of the system's members and beneficiaries under Section 815.206.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.105 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. 301), Sec. 4, eff. September 1, 2017.

Sec. 815.106. INFORMATION TO LEGISLATURE. (a) The retirement system may not use any money under its control to influence the outcome of an election or to support the passage or defeat of legislation.

(b) This section does not prohibit the board of trustees, as fiduciaries of the trust fund and as trustees of other programs administered by the board, or the officers or employees of the retirement system, as designees of the board, from making recommendations to the legislature concerning the actuarial soundness of a retirement system administered by the board, the fiscal or legal implications of proposed legislation, or statutory changes designed to more efficiently administer and effectuate the purposes of a retirement system or other program administered by the board. In addition, the board or an officer or employee of the retirement system may provide to a member of the legislature or a legislative committee, at the request of the member or committee, any factual information that is not made confidential by law.

Added by Acts 1997, 75th Leg., ch. 1048, Sec. 17, eff. Sept. 1, 1997.

Sec. 815.107. RECORDS OF BOARD OF TRUSTEES. The board shall

keep a record of all of its proceedings. Records of the board are open to public inspection.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.107 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.109. CORRECTION OF ERRORS. If an error in the records of the retirement system results in a person receiving more or less money than the person is entitled to receive under this subtitle, the retirement system shall correct the error in accordance with Section 802.1024 and so far as practicable shall adjust future payments so that the actuarial equivalent of the benefit to which the person is entitled is paid.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 201, ch. 18, Sec. 17, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.109 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 18, eff. September 1, 2005.

Sec. 815.110. AUDITS. (a) The legislative audit committee may contract with an independent and internationally recognized accounting firm with substantial experience in auditing retirement or pension plans to conduct a managerial audit of the retirement system.

(b) The state auditor shall pay the costs of each management audit under this section from money appropriated to the state auditor and approved for that purpose by the legislative audit committee. Not later than the 30th day after the date the retirement system receives a statement of audit costs paid by the state auditor under this subsection, the retirement system shall reimburse the state auditor for the costs from money in the expense account.

(c) The legislative audit committee may determine the frequency of the audits authorized by this section and may determine the programs and operations to be covered by the audits. The accounting firm selected to conduct the audits shall report the results of those

audits directly to the committee.

(d) No later than 30 days after the legislative audit committee receives an audit report, the committee shall file a copy of the report with the retirement system, the governor, the lieutenant governor, the speaker of the house of representatives, the State Pension Review Board, the state auditor, and the secretary of state for publication in the Texas Register.

(e) The board of trustees shall select an independent auditor to perform an annual financial audit of the retirement system. The selection shall be in accordance with the requirements of Chapter 2254 for obtaining the services of a certified public accountant.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 11.06(b), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 26, 27, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 1541, Sec. 21, eff. Sept. 1, 1999.

Sec. 815.111. MISCELLANEOUS BOARD DUTIES. (a) The board shall provide to its trustees and employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(b) The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the retirement system.

(c) The board shall prepare information of interest to the retirement system's members describing the functions of the system and the system's procedures by which complaints are filed with and resolved by the system. The system shall make the information available to the system's members and appropriate state agencies.

(d) The board by rule shall establish methods by which members are notified of the name, mailing address, and telephone number of the retirement system for the purpose of directing complaints to the system.

(e) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

(f) The board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided

reasonable access to the board's programs. The board shall also comply with federal and state laws for program and facility accessibility.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 14, eff. Sept. 1, 1993.

SUBCHAPTER C. OFFICERS AND EMPLOYEES OF BOARD OF TRUSTEES

Sec. 815.201. PRESIDING OFFICER. The board of trustees shall elect a presiding officer from the membership of the board.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.201 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 1111, Sec. 24, eff. Sept. 1, 2003.

Sec. 815.202. EXECUTIVE DIRECTOR. (a) The board of trustees, by a majority vote of all members, shall appoint a person other than a member of the board to serve at the board's will as executive director.

(b) The executive director is not a member of the board of trustees.

(c) To be eligible to serve as the executive director, a person must:

(1) be a citizen of the United States and have been a resident of the state for the three years immediately preceding the person's appointment; and

(2) have executive ability and experience to carry out the duties of the office.

(d) The executive director shall recommend to the board of trustees actuarial and other services required to transact the business of the retirement system.

(e) Annually, the executive director shall prepare an itemized budget showing the amount required to pay the retirement system's expenses for the following fiscal year and shall submit the budget to the board of trustees for review and adoption.

(f) Subject to Section 815.3016, the board of trustees may specifically delegate any right, power, or duty imposed or conferred on the executive director by law to another employee of the retirement system. If not so specifically delegated and subject to

Section 815.3016, the executive director may delegate to another employee of the retirement system any right, power, or duty assigned to the executive director.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 174, Sec. 1, eff. May 25, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.202 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 4.05(a), eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 1541, Sec. 22, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1111, Sec. 25, eff. Sept. 1, 2003. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. 301), Sec. 5, eff. September 1, 2017.

Sec. 815.203. LEGAL ADVISER. The attorney general of the state is the legal adviser of the board of trustees. The attorney general shall represent the board in all litigation.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.203 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.204. MEDICAL BOARD. (a) The board of trustees shall designate a medical board composed of three physicians.

(b) To be eligible to serve as a member of the medical board, a physician must be licensed to practice medicine in the state and be of good standing in the medical profession. A physician who is eligible to participate in the retirement system may not be a member of the medical board.

(c) The medical board shall:

(1) review all medical examinations required by this subtitle and Subtitle D;

(2) investigate essential statements and certificates made by or on behalf of a member of the retirement system in connection with an application for disability retirement; and

(3) report in writing to the executive director its conclusions and recommendations on all matters referred to it.

(d) The medical board is not subject to subpoena regarding

findings it makes in assisting the executive director under this section, and its members may not be held liable for any opinions, conclusions, or recommendations made under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.204 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 19, eff. September 1, 2005.
Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 21, eff. September 1, 2019.

Sec. 815.205. OTHER PHYSICIANS. The board of trustees may employ physicians in addition to the medical board to report on special cases.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.205 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.206. ACTUARY. (a) The board of trustees shall designate an actuary.
(b) The actuary must be thoroughly qualified to be the technical adviser of the board of trustees on matters concerning operation of the funds of the retirement system.
(c) At least once every four years, the actuary, under the direction of the board of trustees, shall:
(1) make an actuarial investigation of the mortality, service, and compensation experience of the members and beneficiaries of the retirement system; and
(2) make a valuation of the assets and liabilities of the retirement system's funds.
(d) On the basis of tables adopted by the board of trustees under Section 815.105, the actuary shall make a valuation of the assets and liabilities of the retirement system's funds annually.
(e) The actuary shall perform such other duties as are required by the board of trustees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.206 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. 301), Sec. 6, eff. September 1, 2017.

Sec. 815.207. COMPTROLLER. (a) Except as provided by Section 815.302 or 815.303, the comptroller is the custodian of the securities, bonds, and funds of the retirement system.

(b) The comptroller shall pay money from the funds of the retirement system on warrants drawn by the comptroller supported only on vouchers signed by the executive director and the presiding officer of the board of trustees or their authorized representatives.

(c) The comptroller annually shall furnish to the board of trustees a sworn statement of the amount of the retirement system's assets in the comptroller's custody.

(d) The board of trustees may, in the exercise of its constitutional discretion to manage the assets of the retirement system, select one or more commercial banks, depository trust companies, or other entities to serve as custodian of all or part of the retirement system's assets.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 77, Sec. 2, eff. Oct. 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.207 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 251, Sec. 1, eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 8.45, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1111, Sec. 26, eff. Sept. 1, 2003.

Sec. 815.208. COMPENSATION OF EMPLOYEES; PAYMENT OF EXPENSES. (a) The board of trustees shall compensate all persons whom it employs and shall pay all expenses necessary to operate the retirement system at rates and in amounts approved by the board. Those rates and amounts may not exceed those paid for the same or similar service for the state.

(b) Except as provided by Subsection (c), the board of trustees shall pay compensation and expenses required by Subsection (a) from the expense account.

(c) The board of trustees shall make payments from the law enforcement and custodial officer supplemental retirement fund for services rendered by the actuary for that fund and approved by the board.

(d) The board of trustees may compensate employees of the retirement system, whether subject to or exempt from the overtime provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), at the rate equal to the employees' regular rate of pay for work performed on a legal holiday or for other compensatory time accrued, when taking compensatory time off would be disruptive to the system's normal business functions.

(e) The retirement system is exempt from Subchapter K, Chapter 659, and Chapter 660, to the extent the board of trustees determines an exemption is necessary for the performance of fiduciary duties.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 13, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.208 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1541, Sec. 23, eff. Sept. 1, 1999.

Sec. 815.210. INTEREST IN INVESTMENT PROFITS PROHIBITED. Except for an interest in retirement funds as a member of the retirement system, a trustee or employee of the board of trustees may not have a direct or indirect interest in the gains or profits of any investment made by the board and may not receive any pay or emolument for services other than the person's designated compensation and authorized expenses.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.210 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.212. EMPLOYMENT PRACTICES. (a) The executive director or the executive director's designee shall develop an intra-

agency career ladder program. The program shall require intra-agency posting of all non-entry-level positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for retirement system employees must be based on the system established under this subsection.

(c) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the retirement system's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the retirement system's work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(d) A policy statement prepared under Subsection (c) must cover an annual period, be updated at least annually, and be filed with the governor's office.

(e) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (d). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 15, eff. Sept. 1, 1993.

Sec. 815.213. ETHICS AND DISCLOSURE REQUIREMENTS. The board of trustees shall adopt an investment policy that includes a code of ethics. The code of ethics must contain standards of ethical conduct and disclosure requirements applicable to the members of the board of trustees and employees of the retirement system in the administration

of this subtitle.

Added by Acts 2001, 77th Leg., ch. 1231, Sec. 21, eff. Sept. 1, 2001.

Sec. 815.214. SUBPOENA. Notwithstanding any other law, the retirement system may issue a subpoena that conforms to Rule 176, Texas Rules of Civil Procedure, including a preappeal investigative subpoena or any subpoena otherwise authorized by the Texas Rules of Civil Procedure, that the retirement system determines necessary to protect the interests of a program or system administered by the retirement system.

Added by Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 19, eff. September 1, 2009.

SUBCHAPTER D. MANAGEMENT OF ASSETS

Sec. 815.301. INVESTMENT OF ASSETS. (a) The board of trustees shall:

(1) invest the assets of the retirement system as a single fund without distinction as to their source; and

(2) hold securities purchased with the assets described by Subsection (a)(1) collectively for the proportionate benefit of:

(A) all accounts in the trust fund that are listed in Section 815.310(b); and

(B) the law enforcement and custodial officer supplemental retirement fund.

(b) Except as provided by Section 815.3016, the board of trustees may delegate its authority under Subsection (a) to the executive director. Subject to Section 815.3016, the board of trustees or the executive director may, under the standard of care provided by Section 815.307, invest and reinvest any of the retirement system's assets and may commingle assets of the trust fund and the law enforcement and custodial officer supplemental retirement fund with the assets of the Judicial Retirement System of Texas Plan Two for investment purposes, as long as proportionate ownership records are maintained and credited. Investments may include home office facilities, including land, equipment, and office building, used in administering the retirement system.

(c) Subject to Section 815.3016, the board of trustees may

contract with private professional investment managers to assist the board in investing the assets of the retirement system.

(d) The board of trustees shall employ one or more well-recognized performance measurement services to evaluate and analyze the investment results of those assets of the retirement system. Each service shall compare investment results with the written investment objectives developed by the board, and shall also compare the investment of the assets of the retirement system with the investment of other public and private funds.

(e) The board of trustees shall develop written investment objectives concerning the investment of assets of the retirement system. The objectives may address desired rates of return, risks involved, investment time frames, and any other relevant considerations.

(f) For purposes of the investment authority of the board of trustees under Section 67, Article XVI, Texas Constitution, "securities" means any investment instrument within the meaning of the term as defined by Section 4001.068, 15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10).

(g) In awarding contracts to private professional investment managers under Subsection (c) or otherwise acquiring private financial services, the board of trustees shall make a good faith effort to award contracts to or acquire services from qualified emerging fund managers.

(h) For purposes of Subsection (g):

(1) "Emerging fund manager" means a private professional investment manager that manages assets of not more than $2 billion.

(2) "Private financial services" includes pension fund management, consulting, investment advising, brokerage services, hedge fund management, private equity fund management, and real estate investment.

(i) The retirement system shall report to the board of trustees on the methods and results of the system's efforts to hire emerging fund managers, including data disaggregated by race, ethnicity, gender, and fund size.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 5098, ch. 925, Sec. 3, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 5100, ch. 926, Sec. 3, eff. Aug. 29, 1983; Acts 1985, 69th Leg., ch. 91, Sec. 15, eff. Sept. 1, 1985;

Acts 1985, 69th Leg., ch. 542, Sec. 5, eff. Aug. 26, 1985; Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(63), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 138, Sec. 1, eff. May 25, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.301 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 4.06(a), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 791, Sec. 16, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 586, Sec. 28, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 1541, Sec. 24, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 20, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. 301), Sec. 7, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 2.20, eff. January 1, 2022.

Sec. 815.3015. TRACKING AND REPORTING OF PROFIT SHARE. (a) In this section:

(1) "Alternative investment" means an investment in a private equity fund, private real estate fund, hedge fund, infrastructure fund, or another asset as further defined by rule of the board of trustees.

(2) "Profit share" means an amount received by a private professional investment manager either in consideration for achieving certain investment returns or as part of the negotiated division of investment returns between the private professional investment manager and an investor. The term includes a performance fee, incentive fee, and carried interest.

(b) The board of trustees shall develop a consistent method, guided by best industry practices and standards, to collect or calculate profit share data in connection with alternative investments of the retirement system.

(c) The board of trustees shall consistently track profit share data collected or calculated in accordance with Subsection (b) and the amount of realized gains for the retirement system from the associated alternative investments.

(d) The board of trustees shall report, at a minimum, the aggregate amount of profit shares received by private professional

investment managers in connection with alternative investments of the retirement system, categorized by asset class, in the annual financial report required under Section 2101.011 and in other appropriate investment reports and board presentations.

(e) The board of trustees may adopt rules necessary to implement this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. 301), Sec. 8, eff. September 1, 2017.

Sec. 815.3016. APPROVAL OF CERTAIN ALTERNATIVE INVESTMENTS. (a) In this section, "alternative investment" has the meaning assigned by Section 815.3015.

(b) The executive director, a private professional investment manager, or any other person delegated authority to invest or reinvest retirement system assets under Section 815.202(f) or 815.301 may not invest retirement system assets in a single alternative investment that exceeds 0.6 percent of the total market value of the trust fund established by Section 815.310 as reported in the most recent annual financial report required under Section 2101.011 unless the board of trustees votes to approve the investment.

(c) The board of trustees may hold a closed meeting by telephone conference call or video conference call to consider and discuss an alternative investment or a potential alternative investment under this section, regardless of whether a quorum is physically present at one location of the meeting.

(d) Chapter 551 does not require the board of trustees to confer with one or more employees, consultants, or legal counsel of the retirement system or with a third party in an open meeting if the only purpose of the conference is to receive information from or question the employees, consultants, or legal counsel of the retirement system or the third party relating to an alternative investment or a potential alternative investment under this section.

(e) During a closed meeting held under this section, members of the board of trustees may not deliberate public business or agency policy that affects public business.

(f) A final action, decision, or vote on a matter considered or discussed in a closed meeting held under this section may only be made in an open meeting that is held in compliance with the notice

provisions of Chapter 551.

(g) The board of trustees may adopt rules necessary to implement this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. 301), Sec. 8, eff. September 1, 2017.

Sec. 815.302. CUSTODY AND INVESTMENT OF ASSETS PENDING TRANSACTIONS. The retirement system may, in the exercise of its constitutional discretion to manage the assets of the retirement system, select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the system's cash or securities pending completion of an investment transaction and may authorize such custodian to invest the cash so held in such short-term securities as the board of trustees determines, subject only to the provisions of Section 815.301.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 77, Sec. 3, eff. Oct. 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.3011 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 251, Sec. 2, eff. Aug. 28, 1989.

Sec. 815.303. SECURITIES LENDING. (a) The retirement system may, in the exercise of its constitutional discretion to manage the assets of the retirement system, select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the system's securities and to lend the securities under rules or policies adopted by the board of trustees and as required by this section.

(b) To be eligible to lend securities under this section, a bank or brokerage firm must:

(1) be experienced in the operation of a fully secured securities loan program;

(2) maintain adequate capital in the prudent judgment of the retirement system to assure the safety of the securities;

(3) execute an indemnification agreement satisfactory in form and content to the retirement system fully indemnifying the retirement system against loss resulting from borrower default in its

operation of a securities loan program for the system's securities; and

(4) require any securities broker or dealer to whom it lends securities belonging to the retirement system to deliver to and maintain with the custodian or securities lending agent collateral in the form of cash or securities that are obligations of the United States or agencies or instrumentalities of the United States in an amount equal to but not less than 100 percent of the market value, from time to time, as determined by the retirement system, of the loaned securities.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 77, Sec. 3, eff. Oct. 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.3012 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 251, Sec. 3, eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 1048, Sec. 18, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. 1664), Sec. 12, eff. September 1, 2011.

Sec. 815.304. NOMINEE TO HOLD SECURITIES. (a) The assets of the retirement system may be held in the name of agents, nominees, depository trust companies, or other entities designated by the board of trustees.

(b) The records and all relevant reports or accounts of the retirement system must show the ownership interest of the retirement system in these assets and the facts regarding the system's holdings.

(c) A trustee or employee of the retirement system shall have no personal economic interest in any entity listed in Subsection (a), but shall undertake such action and duties with respect to these entities as the board of trustees determines to be in the interest of the retirement system. This subsection does not prohibit:

(1) an interest in the assets as a member of the retirement system;

(2) the right to receive expense reimbursements at the same rate that the board member or employee would have received as a board member or employee; and

(3) such indemnification as is authorized by the board of trustees.

(d) The records of an agent, nominee, or other entity that are maintained by the retirement system are subject to audit by the state auditor.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 77, Sec. 3, eff. Oct. 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.3013 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 251, Sec. 4, eff. Aug. 28, 1989.

Sec. 815.307. DUTY OF CARE. The assets of the retirement system shall be invested and reinvested without distinction as to their source in accordance with Section 67, Article XVI, Texas Constitution. A determination of whether the board of trustees has exercised prudence with respect to an investment decision must be made taking into consideration the investment of all assets of the trust or all assets of the collective investment vehicle, as applicable, over which the board has management and control, rather than considering the prudence of a single investment of the trust or the collective investment vehicle, as applicable.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.304 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 19, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1111, Sec. 27, eff. Sept. 1, 2003. Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.304 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 19, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1103, Sec. 10, eff. Jan. 1, 2004. Reenacted by Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 21, eff. September 1, 2009.

Sec. 815.308. CASH ON HAND. (a) The board of trustees shall keep a sufficient amount of cash on hand to make payments as they become due each year under the retirement system.

(b) The amount of cash on hand may not exceed 10 percent of the total amount in the funds of the retirement system on deposit with the comptroller, excluding the assets of the law enforcement and

custodial officer supplemental retirement fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.305 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.47, eff. Sept. 1, 1997.

Sec. 815.309. CREDITING SYSTEM ASSETS. All assets of the retirement system, except assets of the law enforcement and custodial officer supplemental retirement fund, shall be credited to the trust fund established by Section 815.310.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 1, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.306 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.310. TRUST FUND. (a) A trust fund for the Employees Retirement System of Texas is established with the comptroller.

(b) All assets of the trust fund shall be credited, according to the purpose for which they are held, to one of the following accounts:

(1) employees saving account;

(2) state accumulation account;

(3) retirement annuity reserve account;

(4) interest account; or

(5) expense account.

Added by Acts 1985, 69th Leg., ch. 91, Sec. 2, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.3061 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 17, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1423, Sec. 8.48, eff. Sept. 1, 1997.

Sec. 815.311. EMPLOYEES SAVING ACCOUNT. (a) The retirement system shall deposit in a member's individual account in the employees saving account the following amounts, as applicable:

(1) the amount of contributions to the retirement system

that is deducted from the member's compensation;

(2) the portion of a deposit required to reinstate service credit previously canceled that represents only the amount withdrawn;

(3) the portion of a deposit required to establish service credit not previously established that represents only the required contribution;

(4) the portion of a deposit required to establish military service credit that represents only the member's contribution for that credit; and

(5) interest and gain sharing interest in accordance with Sections 820.102 and 820.103, respectively.

(b) Except as provided by Section 820.102 or 820.103, interest on money in an individual account in the employees saving account is earned monthly and is computed at the rate of two percent a year on the mean balance of the member's account for the fiscal year.

(c) Unless an account is closed before the last day of the fiscal year, interest is computed for the fiscal year and is credited to the member's account as of the last day of the fiscal year.

(d) If a member's account is closed before the last day of the fiscal year, interest is computed for the following period:

(1) if the account is closed because of death, from the first day of the fiscal year through the last day of the month that preceded the month in which the member's death occurred;

(2) if the account is closed by withdrawal of contributions, from the first day of the fiscal year through the last day of the month that precedes the month in which the withdrawal request is validated by the retirement system; or

(3) if the account is closed because of retirement, from the first day of the fiscal year through the effective date of retirement.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Amended by Acts 1985, 69th Leg., ch. 91, Sec. 16, eff. Sept. 1, 1985.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.307 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 13, eff. January 1, 2014.

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 12, eff. September 1, 2021.

Sec. 815.312. STATE ACCUMULATION ACCOUNT. (a) The retirement system shall deposit in the state accumulation account all contributions for retirement made by the state to the retirement system and transfer to the account the amounts required by Section 815.318 or 815.502.

(b) The retirement system also shall deposit in the state accumulation account the interest portion of the following deposits made by members:

(1) deposits required to reinstate service previously canceled;

(2) deposits required to establish service credit not previously established; and

(3) deposits required to establish military service credit.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 16, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.308 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.313. RETIREMENT ANNUITY RESERVE ACCOUNT. (a) The retirement system shall transfer to the retirement annuity reserve account money as required by Section 815.318, 815.319, or 815.321.

(b) The retirement system shall use the money in the account to pay annuities as provided by this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1111, ch. 252, Sec. 6, eff. Aug. 29, 1983; Acts 1985, 69th Leg., ch. 91, Sec. 16, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.309 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 18, eff. Sept. 1, 1993.

Sec. 815.314. INTEREST ACCOUNT. Except as provided by Section 815.317, 820.102, or 820.103, the retirement system shall deposit in the interest account all income, interest, and dividends from deposits and investments of assets of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 16, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.310 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 13, eff. September 1, 2021.

Sec. 815.315. EXPENSE ACCOUNT. (a) The retirement system shall deposit in the expense account membership fees, money required to be transferred to the account under Section 815.318, and any appropriations made by the legislature to the account.

(b) The retirement system shall pay from the expense account administration and maintenance expenses of the retirement system except those expenses the payment of which is provided for by Section 815.208(c) or 815.317(b).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 16, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.311 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.317. LAW ENFORCEMENT AND CUSTODIAL OFFICER SUPPLEMENTAL RETIREMENT FUND. (a) The retirement system shall deposit in the law enforcement and custodial officer supplemental retirement fund state contributions and other appropriations made by the legislature to the fund and proceeds from investment of the fund.

(a-1) The comptroller shall deposit fees collected under Section 133.102(e)(7), Local Government Code, to the credit of the law enforcement and custodial officer supplemental retirement fund.

(b) The retirement system may use money from the fund only to pay supplemental retirement and death benefits to law enforcement and custodial officers as provided by this subtitle and to pay for the administration of the fund.

(c) Money appropriated to pay benefits from the fund as provided by this subtitle may not be diverted or used to pay any other benefits.

(d) Member contributions to the fund deducted under Section

815.402(h) or 820.101(b), as applicable:

(1) earn interest at the same rate as money in an individual account in the employees saving account under Section 815.311; and

(2) are subject to the same computations and limitations that apply to member contributions under Section 815.311.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1977, ch. 360, Sec. 2, eff. Sept. 1, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.313 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 797, Sec. 4, eff. June 16, 1991; Acts 1993, 73rd Leg., ch. 791, Sec. 19, eff. Sept. 1, 1993.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. 1664), Sec. 13(a), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 14, eff. September 1, 2013.

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 14, eff. September 1, 2021.

Sec. 815.318. TRANSFER OF ASSETS FROM INTEREST ACCOUNT. (a) The retirement system shall transfer from the interest account to the employees saving account amounts of interest computed under Section 815.311 at the following times:

(1) as required during the fiscal year for a member's account in the retirement system that is closed before the last day of the fiscal year; and

(2) as of the last day of the fiscal year for a member's account that is not closed before the last day of the fiscal year.

(b) As required during the year, the retirement system shall transfer from the interest account to the expense account amounts it determines necessary for the payment of the retirement system's expenses that exceed the amount of money available for those expenses.

(c) As of the last day of each fiscal year, the retirement system shall transfer from the interest account to the retirement annuity reserve account an amount equal to:

(1) five percent of the mean amount in the retirement annuity reserve account for that fiscal year; or

(2) an amount computed at a greater rate if the actuary recommends the greater rate to finance adequately the annuities payable from the retirement annuity reserve account.

(d) After making the transfers required by this section, the retirement system, as of the last day of each fiscal year, shall transfer the amount remaining in the interest account to the state accumulation account.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 16, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 3, Sec. 1, eff. March 12, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.314 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 20, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 1231, Sec. 22, eff. Sept. 1, 2001.

Sec. 815.319. TRANSFER OF ASSETS ON RETIREMENT AND RESTORATION TO ACTIVE SERVICE. (a) When a member retires, the retirement system shall transfer:

(1) from the employees saving account to the retirement annuity reserve account, an amount equal to the member's accumulated contributions; and

(2) from the state accumulation account to the retirement annuity reserve account, an amount equal to the difference between the total reserve at present worth reserve value of the member's retirement annuity and the amount credited to the member's individual account as of the day of retirement.

(b) If a person who receives disability benefits has those benefits terminated under Section 814.210, the retirement system shall transfer the balance of the person's retirement reserve from the retirement annuity reserve account to the employees saving account and to the state accumulation account in proportion to the original amount transferred to the retirement annuity reserve account from those accounts.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 16, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.315 and

amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.321. TRANSFER OF ASSETS FOR DEATH BENEFIT ANNUITIES. (a) When a member dies who selected or was eligible to select a death benefit plan, or whose beneficiary is eligible to receive an annuity under Section 814.302(b) or 814.304, the retirement system shall transfer:

(1) from the employees saving account to the retirement annuity reserve account, an amount equal to the member's accumulated contributions; and

(2) from the state accumulation account to the retirement annuity reserve account, an amount equal to the difference between the total reserve, at present worth reserve value, of the death benefit annuity and the amount credited to the member's individual account as of the day of the member's death.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 16, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.317 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.322. TRANSFER OF ASSETS TO ADJUST AMOUNT IN RETIREMENT ANNUITY RESERVE ACCOUNT. After making the transfers required by Section 815.318, the executive director shall make a transfer to make the amount in the retirement annuity reserve account equal, as of the last day of each fiscal year, to the actuarial present value of the annuities for which a transfer of assets has been made as required by Section 815.319. The transfer shall be:

(1) a transfer from the retirement annuity reserve account to the state accumulation account of the amount by which the amount in the retirement annuity reserve account exceeds the actuarial present value of the annuities; or

(2) a transfer from the state accumulation account to the retirement annuity reserve account of the amount by which the actuarial present value of the annuities exceeds the amount in the retirement annuity reserve account.

Added by Acts 1987, 70th Leg., ch. 3, Sec. 2, eff. March 12, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.318 and

amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1541, Sec. 25, eff. Sept. 1, 1999.

SUBCHAPTER E. COLLECTION OF MEMBERSHIP FEES AND CONTRIBUTIONS

Sec. 815.401. COLLECTION OF MEMBERSHIP FEES. (a) Each member annually shall pay a membership fee of $2. A contributing member shall pay the fee with the member's first contribution to the retirement system in each fiscal year in the manner provided by Section 815.402 or 820.101, as applicable, for payment of the member's contribution to the retirement system.

(b) If the membership fee is not paid with the member's first contribution of the year to the retirement system, the board of trustees may deduct the amount of the fee from that contribution or from any benefit to which the member becomes entitled.

(c) If the legislature appropriates, on behalf of each contributing member for any fiscal year, a membership fee to be deposited in the expense account in an amount equal to or greater than the membership fee required by Subsection (a), the members are not required to pay the membership fee for that year. The retirement system may apply the membership fee to the administration of any program administered by the board of trustees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 17, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.401 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 21, eff. Sept. 1, 1993.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 15, eff. September 1, 2021.

Sec. 815.402. COLLECTION OF CERTAIN MEMBER CONTRIBUTIONS. (a) Except as provided by Section 813.201, each payroll period, each department or agency of the state shall cause to be deducted from the compensation of each member, other than a cash balance group member, a contribution of:

(1) 9.5 percent of the compensation if the member is not a member of the legislature, for service rendered after August 31, 2015, and before September 1, 2017;

(2) for service by a member who is not a member of the legislature rendered on or after September 1, 2017, the lesser of:

(A) 9.5 percent of the compensation; or

(B) a percentage of the compensation equal to 9.5 percent reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution rate for the fiscal year to which the service relates is less than the state contribution rate established for the 2017 fiscal year; or

(3) 9.5 percent of the compensation if the member is a member of the legislature.

(b) To facilitate the making of deductions, the board of trustees may modify a member's required deductions by an amount that does not exceed one-tenth of one percent of the annual compensation on which the deduction is made.

(c) Each department or agency head shall certify to the board of trustees and to the disbursing officer of the department or agency on each payroll, or in another manner prescribed by the board, the amounts to be deducted from each member's compensation.

(d) The disbursing officer of each department or agency on authority from the department or agency head shall:

(1) make deductions from each member's compensation for contributions to the retirement system;

(2) transmit monthly, or at the time designated by the board of trustees, a certified copy of the payroll or report to the retirement system; and

(3) pay the amount deducted to the retirement system for deposit in the employees saving account.

(e) The retirement system shall record all receipts of member contributions and shall deliver the receipts to the comptroller. The comptroller shall credit the receipts to the employees saving account.

(f) The deductions required by this section shall be made even if the member's compensation is reduced below the amount equal to the minimum compensation provided by law.

(g) By becoming a member of the retirement system, a member consents to the deductions required by this section. The payment of compensation less those deductions is a complete release of all

claims, except benefits provided by this subtitle, for services rendered by the member during the payment period.

(h) In addition to the contribution under Subsection (a)(1), each department or agency of the state that employs a law enforcement or custodial officer shall deduct an additional 0.5 percent contribution from that member's compensation, to be deposited in the law enforcement and custodial officer supplemental retirement fund, provided that, if the state contribution to the law enforcement and custodial officer supplemental retirement fund is computed using a percentage less than 0.5 percent, the member's contribution is computed using a percentage equal to the percentage used to compute the state contribution.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 18, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.402 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.49, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1231, Sec. 23, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 22, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. 1664), Sec. 14, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 15, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 331 (H.B. 9), Sec. 3, eff. September 1, 2015.

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 16, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 17, eff. September 1, 2021.

Sec. 815.403. COLLECTION OF STATE CONTRIBUTIONS. (a) During each fiscal year, the state shall contribute to the retirement system:

(1) an amount equal to 9.5 percent of the total compensation of all members of the retirement system for that year;

(2) money to pay lump-sum death benefits for retirees under

Section 814.501;

(3) an amount for the law enforcement and custodial officer supplemental retirement fund equal to 2.13 percent of the aggregate state compensation of all custodial and law enforcement officers for that year;

(4) money necessary for the administration of the law enforcement and custodial officer supplemental retirement fund; and

(5) money for service credit not previously established, as provided by Section 813.202(c) or 813.302(d).

(b) Before November 2 of each even-numbered year, the retirement system shall certify to the Legislative Budget Board and to the budget division of the governor's office for review:

(1) an estimate of the amount necessary to pay the state's contribution under Subsections (a)(1), (a)(2), (a)(3), and (a)(5) for the following biennium; and

(2) as a separate item, an estimate of the amount required to administer the law enforcement and custodial officer supplemental retirement fund for the following biennium.

(c) The amounts certified under Subsection (b) shall be included in the budget of the state that the governor submits to the legislature.

(d) Before September 1 of each year, the retirement system shall certify to the state comptroller of public accounts:

(1) an estimate of the amount necessary to pay the state's contribution under Subsection (a)(1) for the following fiscal year;

(2) an estimate of the amount necessary to pay membership fees for the following fiscal year, if the legislature has appropriated money for that purpose; and

(3) an estimate of the amount required to pay lump-sum death benefits for retirees under Section 814.501 for the following fiscal year.

(e) All money allocated and appropriated by the state to the retirement system for benefits provided by the retirement system, except money for the payment of lump-sum death benefits and for the payment of benefits from the law enforcement and custodial officer supplemental retirement fund, shall be paid, based on the annual estimate of the retirement system, in monthly installments to the state accumulation fund. The money required for state contributions and membership fees shall be from respective funds appropriated to pay the compensation of the member for whose benefit the contribution

or fee is paid. If the total of the estimated required payments is not equal to the total of the actual payments required for a fiscal year, the retirement system shall certify to the state comptroller of public accounts at the end of that year the amount required for necessary adjustments, and the comptroller shall make the required adjustments.

(f) On certification by the retirement system, the comptroller of public accounts shall transfer from the general revenue fund to the state accumulation account of the retirement system the amount then required for the payment of lump-sum death benefits for retirees under Section 814.501.

(g) Repealed by Acts 1995, 74th Leg., ch. 586, Sec. 45(3), eff. Aug. 28, 1995.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Amended by Acts 1985, 69th Leg., ch. 91, Sec. 19, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 228, Sec. 1, eff. Sept. 1, 1985.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.403 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 22, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 586, Sec. 45(3), eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 1048, Sec. 20, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.50, eff. Sept. 1, 1997.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 18, eff. September 1, 2021.

Sec. 815.4035. COLLECTION OF STATE RETIREMENT CONTRIBUTION. (a) Except as provided by Section 813.201, the board of trustees shall assess each employer whose employees are members of the retirement system a state retirement contribution in an amount equal to 0.5 percent of the employer's total payroll, as determined by the General Appropriations Act.

(b) The board of trustees shall deposit the state retirement contribution to the credit of the trust fund established by Section 815.310 to be used for the purposes specified by Section 815.103.

Added by Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 16, eff. September 1, 2013.

Sec. 815.404. USE OF FEDERAL MONEY. If federal regulations prohibit an agency's use of money provided under federal job training laws as state contributions, an agency shall use other money available to it to make state contributions to the retirement system for affected employees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.404 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.406. EMPLOYER PICKUP OF MEMBER CONTRIBUTIONS. (a) The state shall pick up the employee contribution required of each of its employees by Section 815.402 or 820.101, as applicable, for all compensation earned. The state shall pay to the retirement system the picked-up contributions from the same source of funds that is used in paying earnings to the employees. Such payments shall be in lieu of contributions by the employees. The state shall pick up these contributions by a corresponding reduction in the cash salary of the employees, by an offset against a future salary increase, or by a combination of a salary reduction and offset against a future salary increase. Employees do not have the option of choosing to receive the contributed amounts directly instead of having them paid by the state to the retirement system.

(b) Contributions picked up as provided by Subsection (a) shall be treated as employer contributions in determining tax treatment of the amounts under the United States Internal Revenue Code; however, the state shall continue to withhold federal income taxes on these picked-up contributions until the Internal Revenue Service determines or the federal courts rule that pursuant to Section 414(h) of the Internal Revenue Code of 1986 (26 U.S.C. Section 414) these picked-up contributions may not be included as gross income of the employee until such time as they are distributed or made available.

(c) Employee contributions picked up as provided by Subsection (a) shall be transmitted to the retirement system in the manner required by Section 815.402 or 820.101, as applicable. Employee contributions picked up by the state and credited to the employee's account shall be treated for all other purposes as if the amount were a part of the member's compensation and had been deducted pursuant to Section 815.403(a).

Added by Acts 1987, 70th Leg., ch. 642, Sec. 3, eff. June 19, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.406 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 19, eff. September 1, 2021.

Sec. 815.407. LEGACY PAYMENTS. (a) In addition to the state contributions required by this subtitle, each fiscal year the state shall make an actuarially determined payment in the amount necessary to amortize the system's unfunded actuarial liabilities by not later than the fiscal year ending August 31, 2054.

(b) Before each regular legislative session, the retirement system shall provide the Legislative Budget Board with the amount necessary to make the actuarially determined payment required under Subsection (a). The director of the Legislative Budget Board, under the direction of the Legislative Budget Board, shall include that payment in the general appropriations bill prepared for introduction at each regular legislative session under Section 322.008. This subsection expires September 1, 2055.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 20, eff. September 1, 2021.

SUBCHAPTER F. MISCELLANEOUS ADMINISTRATIVE PROCEDURES

Sec. 815.501. STATEMENT OF AMOUNT IN INDIVIDUAL ACCOUNTS. (a) No later than December 1 of each year, the retirement system shall furnish to each member a statement of the amount credited to the member's individual account as of August 31 of the preceding fiscal year.

(b) In addition to the statement required by Subsection (a), the retirement system shall furnish to a member, on written request, a statement of the amount credited to the member's individual account. The board is not required to furnish more than four of these statements to each member in a fiscal year.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 929, Sec. 3, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.501 by Acts

1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.06(c), (g), eff. Aug. 26, 1991.

Sec. 815.5021. PAYMENT TO ALTERNATE BENEFICIARY. If the retirement system through diligence has not located a primary beneficiary before the expiration of two years after the date benefits became payable to the beneficiary under this subtitle, the retirement system may pay the benefits to an alternate beneficiary or, if there is none, to the estate of the deceased member or annuitant.

Added by Acts 1991, 72nd Leg., ch. 850, Sec. 27, eff. Sept. 1, 1991.

Sec. 815.503. RECORDS. (a) Records of members, annuitants, retirees, beneficiaries, and alternate payees under retirement plans administered by the retirement system that are in the custody of the system or of an administering firm, carrier, or other governmental agency acting in cooperation with or on behalf of the retirement system are confidential and not subject to public disclosure, and the retirement system, administering firm, carrier, or governmental agency is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general, because the records are exempt from the provisions of Chapter 552, except as otherwise provided by this section.

(b) Records may be released to a member, annuitant, retiree, beneficiary, or alternate payee or to an authorized attorney, family member, or representative acting on behalf of the member, annuitant, retiree, beneficiary, or alternate payee. The retirement system may release the records to an administering firm, carrier, or agent or attorney acting on behalf of the retirement system, to another governmental entity having a legitimate need for the information to perform the purposes of the retirement system, or to a party in response to a subpoena issued under applicable law.

(b-1) A record released or received by the retirement system under this section may be transmitted electronically, including through the use of an electronic signature or certification in a form acceptable to the retirement system. An unintentional disclosure to, or unauthorized access by, a third party related to the transmission

or receipt of information under this section is not a violation by the retirement system of any law, including a law or rule relating to the protection of confidential information.

(c) The records of a member, annuitant, retiree, beneficiary, or alternate payee remain confidential after release to a person as authorized by this section. The records of a member, annuitant, retiree, beneficiary, or alternate payee may become part of the public record of an administrative or judicial proceeding related to a contested case under Subtitle D or E or this subtitle, and the member, annuitant, retiree, beneficiary, or alternate payee waives the confidentiality of the records, including medical records unless the records are closed to public access by a protective order issued under applicable law.

(d) The retirement system may require a person to provide the person's social security number as the system considers necessary to ensure the proper administration of all services, benefits, plans, and programs under the retirement system's administration, oversight, or participation, or as otherwise required by state or federal law.

(e) The retirement system has sole discretion in determining if a record is subject to this section. For purposes of this section, a record includes any identifying information about a person, living or deceased, who is or was a member, annuitant, retiree, beneficiary, or alternate payee, under any retirement plan or program administered by the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.503 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(97), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1541, Sec. 27, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1231, Sec. 24, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1111, Sec. 28, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 23, eff. September 1, 2009.

Sec. 815.504. REPRODUCTION AND PRESERVATION OF RECORDS. (a) The retirement system may photograph, microphotograph, or film any record in its possession or preserve the record through electronic

document imaging.

(b) If a record is reproduced under Subsection (a), the retirement system may destroy or dispose of the original record if the system first:

(1) places the reproduction in a conveniently accessible file; and

(2) provides for the preservation, examination, and use of the reproduction.

(c) A photograph, microphotograph, film, or electronic document image of a record reproduced under Subsection (a) is equivalent to the original record for all purposes, including introduction as evidence in all courts and administrative agency proceedings. A certified or authenticated copy of such a record is admissible as evidence equally with the original.

(d) The executive director or an authorized representative may certify the authenticity of a record reproduced under this section and shall charge a fee for the certified copy as provided by law.

(e) Certified records shall be furnished to any person who is authorized by law to receive them.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.504 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 20, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1737, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 815.505. CERTIFICATION OF NAMES OF LAW ENFORCEMENT AND CUSTODIAL OFFICERS. Not later than the 12th day of the month following the month in which a person begins or ceases employment as a law enforcement officer or custodial officer, the Public Safety Commission, the Texas Alcoholic Beverage Commission, the Parks and Wildlife Commission, the office of inspector general at the Texas Juvenile Justice Department, the Board of Pardons and Paroles, or the Texas Board of Criminal Justice, as applicable, shall certify to the retirement system, in the manner prescribed by the system, the name

of the employee and such other information as the system determines is necessary for the crediting of service and financing of benefits under this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.505 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 23, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 688, Sec. 3, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1541, Sec. 28, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 74 (S.B. 262), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 23, eff. June 8, 2007.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 111, eff. September 1, 2015.

Sec. 815.506. BUDGET AND ACTUARIAL INFORMATION. The retirement system shall keep, in convenient form, data necessary for actuarial valuation of the funds of the retirement system and for checking the system's expenses.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.506 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.507. PLAN QUALIFICATION. (a) It is intended that the provisions of this subtitle be construed and administered in a manner that the retirement system's benefit plan will be considered a qualified plan under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401). The board of trustees may adopt rules that modify the plan by adding, deleting, or changing a plan provision, including rules that modify benefits available under the plan.

(b) A rule reducing a benefit provision may not be adopted unless the modification is necessary for the retirement system to be a qualified plan.

(c) A rule adopted under this section, other than a rule

adopted under Subsection (b), must be made applicable to all members and annuitants whose credit or benefits are based on similar service. A rule adopted under this section may include the making or revocation of any election permitted under Section 401(a) or any other provision of the Internal Revenue Code of 1986 (26 U.S.C. Section 401). A rule adopted under this section must comply with Section 811.006 and Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401). Rules adopted by the board of trustees are to be considered a part of the plan and supersede conflicting portions of existing plan provisions.

(d) In determining qualification status under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401), the retirement system's benefit plan shall be considered the primary retirement plan for members of the retirement system.

Added by Acts 1987, 70th Leg., ch. 642, Sec. 4, eff. June 19, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.507 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 28, eff. Aug. 26, 1991.

Sec. 815.5071. TRUSTEE-TO-TRUSTEE TRANSFER. Notwithstanding Section 811.005 and to the extent required as a condition of plan qualification under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401), the retirement system shall, in accordance with Section 401(a)(31) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)(31)) and related regulations, permit the distributee of an eligible rollover distribution to elect to have the distribution paid directly to an eligible retirement plan specified by the distributee in the form of a direct trustee-to-trustee transfer. The board of trustees may adopt rules to carry out this section. Terms used in this section have the meanings assigned by the Internal Revenue Code of 1986 (Title 26, United States Code).

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 24, eff. Sept. 1, 1993.

Sec. 815.5072. EXCESS BENEFIT ARRANGEMENT. (a) A separate, nonqualified, unfunded excess benefit arrangement is created outside the trust fund of the retirement system. This excess benefit

arrangement shall be administered as a governmental excess benefit arrangement under Section 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(m)). The purpose of the excess benefit arrangement is to pay to annuitants of the retirement system benefits otherwise payable by the retirement system that exceed the limitations on benefits imposed by Section 415(b)(1)(A) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(b)(1)(A)).

(b) The board of trustees is responsible for the administration of this arrangement. Except as otherwise provided by this section, the board has the same rights, duties, and responsibilities concerning the excess benefit arrangement as it has to the trust fund.

(c) Benefits under this section are exempt from execution to the same extent as provided by Section 811.005, except that the benefits are completely unassignable. Contributions to this arrangement are not held in trust and may not be commingled with other funds of the retirement system.

(d) An annuitant is entitled to a monthly benefit under this section in an amount equal to the amount by which the benefit otherwise payable by the retirement system has been reduced by the limitation on benefits imposed by Section 415(b)(1)(A) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(b)(1)(A)). The benefit payable by this arrangement is payable at the times and in the form that the benefit payable under the trust fund is paid.

(e) The benefit payable under this section shall be paid from state contributions that otherwise would be made to the trust fund under Section 815.403. In lieu of deposit in the state accumulation account, an amount determined by the retirement system to be necessary to pay benefits under this section shall be paid monthly to the credit of a dedicated account in the general revenue fund maintained only for the excess benefit arrangement. The account may include amounts needed to pay reasonable and necessary expenses of administering this arrangement. The monthly amount to be paid to the credit of the account shall be transferred to the account at least 15 days before the date of a monthly disbursement under this section.

(f) The board of trustees may adopt rules governing the excess benefit arrangement that are necessary for the efficient administration of the arrangement in compliance with Section 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(m)).

Added by Acts 1997, 75th Leg., ch. 1048, Sec. 21, eff. Sept. 1, 1997.

Sec. 815.508. COMPLAINT FILES. (a) The retirement system shall keep an information file about each complaint filed with the system that the system has authority to resolve.

(b) If a written complaint is filed with the retirement system that the system has authority to resolve, the system, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 25, eff. Sept. 1, 1993.

Sec. 815.509. ADVISORY COMMITTEES. (a) The board of trustees may establish advisory committees as it considers necessary to assist it in performing its duties. Members of advisory committees established under this section serve at the pleasure of the board.

(b) Notwithstanding any other law to the contrary, the board of trustees by rule shall determine the amount and manner of any compensation or expense reimbursement to be paid members of an advisory committee performing service for the retirement system for performing the work of the advisory committee. All compensation and expense reimbursements for an advisory committee established under this section are payable from the expense account.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 26, eff. Sept. 1, 1993.

Sec. 815.5091. MEMBERSHIP ON ADVISORY COMMITTEE ON INVESTMENTS. (a) The board of trustees may, under the investment duties delegated to the board by Section 67, Article XVI, Texas Constitution, establish an investment advisory committee as the board considers necessary to assist the board in its investment duties.

(b) A person appointed to serve as a member of an advisory committee established by the board of trustees to provide advice to the board on investments and investment-related issues must be:

(1) a person with expertise in the management of a financial institution or other business in which investment decisions are made; or

(2) a prominent educator in the field of economics, finance, or another investment-related area.

(c) A person appointed to serve as a member of a committee described by Subsection (b) shall assist the board of trustees in carrying out the board's fiduciary duties with regard to the investment of the assets of the retirement system and related duties under this chapter and Chapter 609.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1001 (H.B. 2193), Sec. 1, eff. September 1, 2011.

Sec. 815.5092. INELIGIBILITY FOR MEMBERSHIP ON ADVISORY COMMITTEE ON INVESTMENTS. (a) A person is not eligible for appointment to an advisory committee established by the board of trustees to provide advice to the board on investments and investment-related issues if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the retirement system;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the retirement system; or

(3) is a paid officer, employee, or consultant of a Texas trade association in the field of insurance or investment.

(b) A person is not eligible for appointment to a committee described by Subsection (a) if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business or an association related to the investment of the assets of this state or of the retirement system.

(c) In this section, "Texas trade association" has the meaning assigned by Section 815.0031.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1001 (H.B. 2193), Sec. 1, eff. September 1, 2011.

Sec. 815.5093. REVIEW OF AND REMOVAL FROM ADVISORY COMMITTEE ON INVESTMENTS. (a) The board of trustees shall at least annually review the eligibility status of members serving on an advisory committee established to provide advice to the board on investments

and investment-related issues.

(b) It is a ground for removal from a committee described by Subsection (a) that a person is:

(1) not qualified for appointment to the committee under Section 815.5091 or 815.5092;

(2) unable to discharge the person's duties on the committee because of illness, disability, or other personal circumstances; or

(3) absent from more than half of the scheduled meetings of the committee that the person is eligible to attend during a calendar year.

(c) If the executive director or a member of the advisory committee has knowledge that a potential ground for removal exists, the executive director or committee member shall notify the presiding officer of the board of trustees of the potential ground for removal.

(d) This section does not limit the power of the board of trustees to remove a person from the advisory committee under Section 815.509(a).

(e) The board of trustees may prescribe the process for removal from a committee described by Subsection (a).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1001 (H.B. 2193), Sec. 1, eff. September 1, 2011.

Sec. 815.510. ANNUAL REPORT. (a) The Employees Retirement System of Texas shall submit a report not later than the 25th day of the month following the end of each fiscal year to the governor, the lieutenant governor, the speaker of the house of representatives, the executive director of the State Pension Review Board, the appropriate oversight committees of the house and senate, and the Legislative Budget Board. The report shall include the following:

(1) the current end-of-fiscal-year market value of the trust fund;

(2) the asset allocations of the trust fund expressed in percentages of stocks, fixed income, cash, or other financial investments; and

(3) the investment performance of the trust fund utilizing accepted industry measurement standards.

(b) The report required by this section is the only periodic

report of investments required to be made by the retirement system other than a report required by Section 815.108 or the General Appropriations Act.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 26, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 22, eff. Sept. 1, 1997.

Sec. 815.511. ADMINISTRATIVE DECISION; APPEAL AND NEGOTIATION. (a) A person aggrieved by a decision of the retirement system relating to any program or system administered by the system under this code denying or limiting membership, service credit, or eligibility for or the amount of benefits payable under the program or system may appeal the decision to the board of trustees.

(b) The executive director or the executive director's designee may refer an appeal made under Subsection (a) to the State Office of Administrative Hearings for a hearing or employ, select, or contract for the services of an administrative law judge or hearing examiner not affiliated with the State Office of Administrative Hearings to conduct a hearing. This subsection prevails over any other law to the extent of any conflict.

(c) An appeal under this section is considered to be a contested case under Chapter 2001. The appellant in a contested case under this section has the burden of proof on all issues, including issues in the nature of an affirmative defense.

(d) The board of trustees may in its sole discretion make a final decision on a contested case under this section. Notwithstanding any other law, the board of trustees may in its sole discretion modify, refuse to accept, or delete any proposed finding of fact or conclusion of law contained in a proposal for decision submitted by an administrative law judge or other hearing examiner, or make alternative findings of fact and conclusions of law, in a proceeding considered to be a contested case under Chapter 2001. The board of trustees shall state in writing the specific reason for its determination and may adopt rules for the implementation of this subsection. The board of trustees may delegate its authority under this subsection to the executive director, and the executive director may delegate the authority to another employee of the retirement system.

(e) Notwithstanding Subsections (c) and (d), the retirement system and a person aggrieved by a decision of the system may at any time informally negotiate an award of benefits. Negotiated benefits may not exceed the maximum benefits otherwise available or required by law.

(f) A person aggrieved by a final decision of the retirement system in a contested case under this section is entitled to judicial review under Chapter 2001. Venue of the appeal is only in a district court in Travis County. On judicial appeal the standard of review is by substantial evidence.

Added by Acts 1995, 74th Leg., ch. 586, Sec. 29, eff. Aug. 28, 1995. Amended by Acts 1999, 76th Leg., ch. 1541, Sec. 29, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1111, Sec. 29, eff. Sept. 1, 2003.

Sec. 815.5111. DILIGENT PROSECUTION OF SUIT. The plaintiff shall prosecute with reasonable diligence any suit brought under Section 815.511(f). If the plaintiff does not secure proper service of process or does not prosecute the suit within one year after it is filed, the court shall presume that the suit has been abandoned. The court shall dismiss the suit on a motion for dismissal made by or on behalf of the retirement system unless the plaintiff, after receiving appropriate notice, shows good cause for the delay.

Added by Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 21, eff. September 1, 2005.

Sec. 815.512. PROTECTION FROM DOUBLE OR MULTIPLE LIABILITY. (a) The executive director may cause an action for interpleader concerning a claim to be filed on behalf of the retirement system in a district court in Travis County to protect the system from double or multiple liability if the executive director determines that a claim may expose the retirement system to such liability.

(b) A person may not pursue a counterclaim or other cause of action against the retirement system, a trustee, officer, or employee of the retirement system, or a carrier or administering firm for the retirement system in connection with a transaction or occurrence related to the interpleader action.

(c) A person who violates Subsection (b) is liable for the

costs and attorney's fees incurred by the retirement system, a trustee, officer, or employee of the retirement system, or a carrier or administering firm for the retirement system as a result of the violation.

Added by Acts 1997, 75th Leg., ch. 1048, Sec. 23, eff. Sept. 1, 1997.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 24, eff. September 1, 2009.

Sec. 815.513. EXCLUSIVE REMEDIES. The remedies provided under this chapter are the exclusive remedies available to a member, retiree, beneficiary, or alternate payee.

Added by Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 21, eff. September 1, 2005.

Sec. 815.514. MAILINGS ON BEHALF OF NONPROFIT ASSOCIATION. The retirement system may make mailings on behalf of a nonprofit association of active or retired state employees described by Section 814.009, for purposes of association membership and research only, to annuitants identified in information contained in records that are in the custody of the system. The nonprofit association requesting a mailing shall pay the expenses of the mailing.

Added by Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 21, eff. September 1, 2005.

Sec. 815.515. DISPOSITION OF UNCLAIMED CONTRIBUTIONS OF FORMER MEMBERS. (a) Subject to Chapters 803 and 805, if the retirement system has not received a request for a refund of the accumulated contributions of a member in accordance with Subchapter B, Chapter 812, before the seventh anniversary of the member's last day of service, the retirement system may refund the accumulated contributions to the member or the member's heirs. If the member or the member's heirs cannot be found, the member's accumulated contributions revert to the retirement system.

(b) The retirement system shall credit any amounts that revert

to the retirement system under Subsection (a) to the state accumulation account.

(c) The board of trustees may adopt rules to implement and administer this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 25, eff. September 1, 2009.

CHAPTER 820. CASH BALANCE BENEFIT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 820.001. DEFINITION. In this chapter, "accumulated account balance" means the total of amounts in a member's individual account in the employees saving account, including:

(1) amounts deducted from the compensation of the member;

(2) other member deposits required to be placed in the member's individual account; and

(3) interest credited to amounts in the member's individual account, including interest and gain sharing interest credited in accordance with Sections 820.102 and 820.103, respectively.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 21, eff. September 1, 2021.

Sec. 820.002. APPLICABILITY. This chapter applies only to a member of the employee or elected class of membership who:

(1) was hired or took office on or after September 1, 2022; and

(2) was not a member on the date the member was hired or took office.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 21, eff. September 1, 2021.

Sec. 820.003. CONFLICT OF LAW. To the extent of a conflict between this chapter, including a rule adopted by the retirement system under authority of this chapter, and any other law, this chapter prevails.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 21, eff. September 1, 2021.

Sec. 820.004. RULES. The board of trustees may adopt rules necessary to implement this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 21, eff. September 1, 2021.

SUBCHAPTER A-1. MILITARY SERVICE CREDIT

Sec. 820.021. CREDITABLE MILITARY SERVICE. The board of trustees shall adopt rules to comply with the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), including rules governing how a member subject to this chapter may establish military service credit under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 4, eff. May 19, 2023.

Sec. 820.022. STATE CONTRIBUTIONS FOR MILITARY SERVICE. (a) The state shall contribute for military service established under this subchapter an amount in the same ratio to the member's contribution for the service as the state's contribution bears to the contribution for current service required of a member of the employee class who is subject to this chapter at the time the service is established under this subchapter.

(b) The state's contribution under Subsection (a) shall be paid from the fund from which the member receives compensation at the time the service is established or, if the member does not hold a position at the time the service is established, from the fund from which the member received compensation when the member most recently held a position.

Added by Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 4, eff. May 19, 2023.

SUBCHAPTER A-2. REESTABLISHING PREVIOUSLY CANCELED SERVICE CREDIT

Sec. 820.031. REESTABLISHING PREVIOUSLY CANCELED SERVICE CREDIT WITHOUT PURCHASE. (a) A cash balance group member who has withdrawn contributions and canceled service credit in a class of membership may reestablish the canceled service credit in the retirement system for the purposes described by Subsection (c) by submitting a request to the system in a form and manner prescribed by the system.

(b) The retirement system shall grant the canceled service credit of a member who submits a request as provided by Subsection (a) after the system verifies that the member is a cash balance group member.

(c) Service credit established under this section may be used only to determine whether the cash balance group member is eligible to retire and receive a cash balance annuity under this chapter. The service credit does not affect eligibility for any other purpose, including for purposes of determining eligibility to participate in the group benefits program established under Chapter 1551, Insurance Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 5, eff. May 19, 2023.

Sec. 820.032. PURCHASE OF PREVIOUSLY CANCELED SERVICE CREDIT. (a) A cash balance group member who has withdrawn contributions and canceled service credit in a class of membership may purchase the canceled service credit in the retirement system for the purposes described by Subsection (c) by:

(1) submitting a request to the system in a form and manner prescribed by the system; and

(2) depositing with the retirement system in a lump sum the total amount of money withdrawn from a membership class not later than the first day of the 24th month after the month in which the person is reemployed or again holds office.

(b) On receipt of the cash balance group member's deposit, the retirement system shall credit the member's individual account in the employees saving account with that amount and apply annual and gain sharing interest beginning the first day of the month following the date of the deposit, as provided by Sections 820.102 and 820.103.

(c) Service credit purchased under this section may be used only:

(1) to determine whether the cash balance group member is eligible to retire and receive a cash balance annuity; and

(2) for purposes of determining eligibility to participate in the group benefits program established under Chapter 1551, Insurance Code.

(d) The retirement system may charge a reasonable administrative fee to purchase service credit under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 5, eff. May 19, 2023.

SUBCHAPTER B. CASH BALANCE BENEFITS

Sec. 820.051. APPLICATION FOR CASH BALANCE BENEFIT. (a) A member may apply for a cash balance annuity by filing an application for retirement with the board of trustees.

(b) An application for a cash balance annuity may not be made:

(1) after the date the member wishes to retire; or

(2) more than 90 days before the date the member wishes to retire.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 21, eff. September 1, 2021.

Sec. 820.052. ELIGIBILITY FOR CASH BALANCE BENEFIT. A member:

(1) who has service credit in the employee class of membership is eligible to retire and receive a cash balance annuity if the member:

(A) is at least 65 years old and has five years of service credit in that class; or

(B) has at least five years of service credit in that class and the sum of the member's age and amount of service credit in that class, including months of age and credit, equals or exceeds the number 80;

(2) who:

(A) has at least 20 years of service credit as a law enforcement or custodial officer is eligible to retire regardless of age and receive a cash balance annuity in an amount computed and funded as provided by this subchapter; or

(B) is at least 55 years old and has at least 10 years

of service credit as a law enforcement or custodial officer is eligible to retire and receive a cash balance annuity in an amount computed and funded as provided by this subchapter, provided that the member is only entitled to the enhanced benefit described by Section 820.053(a)(2)(B) if the member has at least 20 years of service as a law enforcement or custodial officer; or

(3) who has service credit in the elected class of membership is eligible to retire and receive a cash balance annuity if the member:

(A) is at least 60 years old and has eight years of service credit in that class; or

(B) is at least 50 years old and has 12 years of service credit in that class.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 21, eff. September 1, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 6, eff. May 19, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 820.053. CASH BALANCE BENEFITS FOR MEMBERS. (a) The state match for the cash balance benefit for:

(1) service credited to the employee class of membership is an amount computed by multiplying the member's accumulated account balance by 150 percent;

(2) service credited to the employee class of membership by a member eligible to retire under this chapter as a law enforcement or custodial officer is an amount computed by multiplying the member's accumulated account balance by:

(A) except as provided by Paragraph (B), 150 percent; and

(B) for the portion of the accumulated account balance based on the member's additional two percent contribution under Section 820.101(b), including interest, attributable to service as a law enforcement or custodial officer, 300 percent, paid from the law enforcement and custodial officer supplemental retirement fund; and

(3) subject to Subsection (c), service credited to the elected class of membership is an amount computed by multiplying the member's accumulated account balance by 150 percent.

(b) The retirement system shall compute a member's cash balance annuity under this section by taking the sum of the member's accumulated account balance and the state match computed under Subsection (a) and annuitizing that amount over the life expectancy of the member as of the effective date of the member's retirement using mortality and other tables adopted by the board for that purpose under Section 815.105.

(c) For purposes of this section, a member of the elected class of membership under Section 812.002(a)(2) shall have the member's accumulated account balance computed as if the contributions to the account were based on the state base salary, excluding longevity pay payable under Section 659.0445, being paid a district judge as set by the General Appropriations Act in accordance with Section 659.012(a).

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 21, eff. September 1, 2021.

Sec. 820.0535. OPTIONAL CASH BALANCE BENEFITS. (a) Instead of the standard cash balance annuity payable under Section 820.053, a retiring member may elect to receive an optional cash balance annuity under this section.

(b) A person who selects an optional lifetime cash balance annuity must designate, before the selection becomes effective, one beneficiary to receive the annuity on the death of the person making the selection. A person who selects an optional cash balance annuity payable for a guaranteed period may designate, before or after retirement, one or more beneficiaries to receive the annuity on the death of the person making the selection.

(c) A person eligible to select an optional cash balance annuity under this section may select an option that provides that:

(1) after the retiree's death, the reduced annuity is payable in the same amount throughout the life of the beneficiary designated by the retiree before retirement;

(2) after the retiree's death, one-half of the reduced annuity is payable throughout the life of the beneficiary designated by the retiree before retirement;

(3) if the retiree dies before 60 monthly annuity payments have been made, the remainder of the 60 payments are payable to one or more beneficiaries or, if one does not exist, to the retiree's estate;

(4) if the retiree dies before 120 monthly annuity payments have been made, the remainder of the 120 payments are payable to one or more beneficiaries or, if one does not exist, to the retiree's estate; or

(5) after the retiree's death, three-fourths of the reduced annuity is payable throughout the life of the beneficiary designated by the retiree before retirement.

(d) If a beneficiary designated by a retiree under Subsection (b) predeceases the retiree and the retiree has elected an optional lifetime annuity, the reduced annuity shall be increased to the standard cash balance annuity that the retiree would have been entitled to receive if the retiree had not selected the optional annuity. The standard cash balance annuity shall be adjusted as appropriate for post-retirement increases in retirement benefits authorized by law since the date of retirement.

(e) Any increase in an annuity under Subsection (d) begins with the payment for the month following the month in which the designated beneficiary dies, and the increased annuity is payable to the retiree for the remainder of the retiree's life.

(f) The computation of an optional cash balance annuity must be made without regard to the gender of the annuitant or designated beneficiary.

(g) Except as provided by Section 814.008 or 820.0536, a person who selected an optional cash balance annuity described by Subsection (c)(1), (c)(2), or (c)(5) of this section may not change or revoke a beneficiary designation after the person's effective date of retirement.

(h) A beneficiary designation that names a former spouse as a beneficiary for a guaranteed optional cash balance annuity described by Subsection (c)(3) or (c)(4) is invalid unless the designation is made after the date of the divorce.

(i) An optional retirement annuity provided by this section is available to a member eligible to receive an enhanced service retirement annuity described by Section 820.053(a)(2)(B), but the same optional plan and beneficiary must be selected for the portion of the annuity payable from the law enforcement and custodial officer

supplemental retirement fund and the portion payable from the member's individual account in the employees saving account.

Added by Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 7, eff. May 19, 2023.

Sec. 820.0536. CHANGE IN OPTIONAL CASH BALANCE ANNUITY SELECTION. (a) A person who retired and selected an optional cash balance annuity described by Section 820.0535(c)(1), (c)(2), or (c)(5) may change the optional annuity to a standard cash balance annuity only if:

(1) pursuant to a divorce decree, a court orders the change in the annuity to a standard cash balance annuity; or

(2) the retiree files with the retirement system a request to change the annuity and, in connection with a divorce between the retiree and the beneficiary designated by the retiree under Section 820.0535(b), the beneficiary has executed a written, notarized instrument that:

(A) releases the system from any claim to the annuity by the beneficiary; and

(B) transfers all of the beneficiary's interest in the annuity to the retiree.

(b) If a retiree files a request as provided by Subsection (a), the retirement system shall recompute the annuity as a standard cash balance annuity. The increase in the annuity under this section begins with the monthly payment made to the retiree for the month following the month in which a request is filed as provided by Subsection (a).

Added by Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 7, eff. May 19, 2023.

Sec. 820.0537. PARTIAL LUMP-SUM CASH BALANCE OPTION. (a) A member who is eligible for a cash balance annuity may select a standard cash balance annuity under Section 820.053 or an optional cash balance annuity under Section 820.0535, together with a partial lump-sum distribution.

(b) The amount of the lump-sum distribution under this section may not exceed the sum of 36 months of a standard cash balance

annuity computed without regard to this section.

(c) The cash balance annuity selected by the member shall be actuarially reduced to reflect the lump-sum option selected by the member and shall be actuarially equivalent to a standard or optional cash balance annuity, as applicable, without the partial lump-sum distribution. The annuity and lump sum shall be computed to result in no actuarial loss to the retirement system.

(d) The lump-sum distribution shall be made as a single payment payable at the time that the first monthly annuity payment is paid.

(e) The amount of the lump-sum distribution shall be deducted from any amount otherwise payable under this chapter.

(f) The partial lump-sum option under this section may be elected only once by a member and may not be elected by a retiree. A member retiring under the proportionate retirement program under Chapter 803 is not eligible for the partial lump-sum option.

(g) Before a retiring member selects a partial lump-sum distribution under this section:

(1) the retirement system shall provide written notice to the member of the amount by which the member's annuity will be reduced because of the selection; and

(2) the member must acknowledge receipt of the notice in writing.

(h) The board of trustees may adopt rules for the implementation of this section and may authorize the option to be used for a death benefit annuity. This section does not apply to a disability retirement annuity.

Added by Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 7, eff. May 19, 2023.

Sec. 820.054. DEATH AND DISABILITY BENEFITS. (a) Notwithstanding any other law, a member subject to this chapter, a retiree receiving a cash balance annuity under this chapter, or the beneficiary of a member or retiree described by this subsection, who qualifies for a death or survivor benefit annuity or a disability retirement annuity under Chapter 814 is entitled to a cash balance annuity under this subchapter instead of the annuity otherwise provided under Chapter 814.

(b) The board of trustees may enter into contracts to provide

additional death and disability benefits under this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 21, eff. September 1, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 8, eff. May 19, 2023.

SUBCHAPTER C. CONTRIBUTIONS AND INTEREST

Sec. 820.101. COLLECTION OF MEMBER CONTRIBUTIONS. (a) Each payroll period, each department or agency of the state shall cause to be deducted from the compensation of a member subject to this chapter a contribution of six percent of the compensation of the member.

(b) In addition to the contribution under Subsection (a), each department or agency of the state that employs a law enforcement or custodial officer who is a member subject to this chapter shall deduct an additional two percent contribution from the member's compensation, to be deposited in the law enforcement and custodial officer supplemental retirement fund.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 21, eff. September 1, 2021.

Sec. 820.102. ANNUAL INTEREST ADJUSTMENT. Each fiscal year, the retirement system shall deposit for a member subject to this chapter an amount equal to four percent of the member's accumulated account balance deposited into the member's individual account in the employees saving account.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 21, eff. September 1, 2021.

Sec. 820.103. GAIN SHARING INTEREST ADJUSTMENT. (a) Each fiscal year and subject to Subsection (b), the retirement system shall compute the gain sharing interest rate by:

(1) determining the average return on the investment of the system's cash and securities during the preceding five fiscal years, expressed as a percentage rate;

(2) subtracting four percentage points from the percentage rate determined under Subdivision (1); and

(3) multiplying the resulting difference under Subdivision (2) by 50 percent.

(b) Subject to Subsection (c), each fiscal year, the retirement system shall:

(1) in addition to the amount deposited under Section 820.102, deposit into each member's individual account in the employees saving account an amount equal to the gain sharing interest rate determined under Subsection (a) for the fiscal year multiplied by the member's accumulated account balance as of the end of the preceding fiscal year; and

(2) recalculate the annuity payment of a retiree or annuitant under this chapter by:

(A) multiplying the annuity payment amount as of the end of the preceding fiscal year by the gain sharing interest rate determined under Subsection (a); or

(B) if the retiree or annuitant was not entitled to an annuity payment as of the end of the preceding fiscal year, multiplying the retiree's or annuitant's first annuity payment amount by the gain sharing interest rate determined under Subsection (a).

(c) The gain sharing interest rate applied under Subsection (b) may not be less than zero or more than three percent.

(d) Subsection (b) applies only to a retiree or annuitant who is receiving a cash balance annuity under Section 820.053 or 820.0535, including an alternate payee under Section 804.005.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 21, eff. September 1, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 9, eff. May 19, 2023.

SUBTITLE C. TEACHER RETIREMENT SYSTEM OF TEXAS
CHAPTER 821. GENERAL PROVISIONS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 821.001. DEFINITIONS. In this subtitle:

(1) "Accumulated contributions" means the total of amounts in a member's individual account in the member savings account,

including:

(A) amounts deducted from the compensation of the member;

(B) other member deposits required to be placed in the member's individual account; and

(C) interest credited to amounts in the member's individual account.

(2) "Actuarial equivalent" of a benefit means a benefit of equal monetary value computed on the basis of annuity or mortality tables and on an interest or discount rate that is adopted by the board of trustees for the purpose from time to time and that is in force on the effective date of the benefit.

(3) "Actuarially reduced" means reduced to the actuarial equivalent.

(4) "Annual compensation" means the compensation to a member of the retirement system for service during a 12-month period determined by the retirement system that is reportable and subject to contributions as provided by Section 822.201.

(5) "Board of trustees" means the board appointed under this subtitle to administer the retirement system.

(6) "Employee" means a person who is employed, as determined by the retirement system, on other than a temporary basis by a single employer for at least one-half time at a regular rate of pay comparable to that of other persons employed in similar positions.

(7) "Employer" means any agents or agencies in the state responsible for public education, including the governing board of any school district created under the laws of this state, any county school board, the board of trustees, the board of regents of any college or university, or any other legally constituted board or agency of any public school, but excluding the State Board of Education, the Texas Education Agency, and the State Board for Educator Certification.

(8) "Faculty member" means a person who is employed by an institution of higher education on a full-time basis as:

(A) a member of the faculty whose duties include teaching or research;

(B) an administrator responsible for teaching and research faculty;

(C) a member of the administrative staff of the Texas

Higher Education Coordinating Board; or

(D) a professional librarian, a president, a chancellor, a vice-president, a vice-chancellor, or other professional staff person whose national mobility requirements are similar to those of faculty members and who fills a position that is the subject of nationwide searches in the academic community.

(9) "Governing board" means the body responsible for policy direction of an institution of higher education.

(10) "Institution of higher education" has the meaning provided for that term in Section 61.003, Education Code.

(11) "Membership service" means service during a time that a person is both an employee and a member of the retirement system.

(12) "Public school" means an educational institution or organization in this state that is entitled by law to be supported in whole or in part by state, county, school district, or other municipal corporation funds.

(13) "Retirement" means the withdrawal from service with a retirement benefit granted under this subtitle.

(14) "Retirement system" means the Teacher Retirement System of Texas.

(15) "School year" means a 12-month period beginning September 1 and ending August 31 of the next calendar year.

(16) "Service" means the time a person is an employee.

(17) "Service credit" means the amount of prior, membership, military, or equivalent membership service credited to a person's account in the retirement system.

(18) "Alternate payee" has the meaning assigned that term by Section 804.001.

(19) "Beneficiary" means the person or entity who, under a valid written designation or by law, is entitled to receive benefits payable by the retirement system on the death of a member or annuitant.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 202, ch. 18, Sec. 18, eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 556, Sec. 1, eff. Aug. 26, 1985; Acts 1985, 69th Leg., ch. 832, Sec. 1, eff. June 15, 1985; Acts 1987, 70th Leg., 2nd C.S., ch. 58, Sec. 1, eff. Oct. 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 31.001 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 260, Sec. 34, eff. May 30, 1995; Acts 1995, 74th Leg., ch. 555, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 62, Sec. 8.15, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 80 (H.B. 2561), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1102 (H.B. 2974), Sec. 1, eff. September 1, 2015.

Sec. 821.0011. DETERMINATION OF EMPLOYEE OR INDEPENDENT CONTRACTOR STATUS. In determining whether an individual is an employee or independent contractor of an employer, the retirement system shall use the test applied under common law and any guidance issued by the Internal Revenue Service regarding factors to consider when determining an individual's employment status.

Added by Acts 2017, 85th Leg., R.S., Ch. 931 (S.B. 1664), Sec. 2, eff. September 1, 2017.

Sec. 821.002. PURPOSE OF SUBTITLE. The purpose of this subtitle is to establish a program of benefits for members, retirees, and other beneficiaries of the retirement system and to establish rules for membership in and the management and operation of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 31.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 821.003. RETIREMENT SYSTEM. The retirement system is a public entity. Except as provided by Section 825.304, the Teacher Retirement System of Texas is the name by which all business of the retirement system shall be transacted, all its funds invested, and all its cash, securities, and other property held.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 202, ch. 18, Sec. 19,

eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 31.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 7, eff. September 1, 2005.

Sec. 821.004. POWERS AND PRIVILEGES. The retirement system has the powers, privileges, and immunities of a corporation, as well as the powers, privileges, and immunities conferred by this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 31.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 821.005. EXEMPTION FROM EXECUTION. All retirement allowances, annuities, refunded contributions, optional benefits, money in the various retirement system accounts, and rights accrued or accruing under this subtitle to any person are exempt from garnishment, attachment, state and municipal taxation, sale, levy, and any other process, and are unassignable.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 31.005 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 821.006. ACTION INCREASING AMORTIZATION PERIOD. (a) A rate of member or state contributions to or a rate of interest or the rate of a fee required for the establishment of credit in the retirement system may not be reduced or eliminated, a type of service may not be made creditable in the retirement system, a limit on the maximum permissible amount of a type of creditable service may not be removed or raised, a new monetary benefit payable by the retirement system may not be established, and the determination of the amount of a monetary benefit from the system may not be increased, if, as a result of the particular action, the time, as determined by an actuarial valuation, required to amortize the unfunded actuarial liabilities of the retirement system would be increased to a period

that exceeds 30 years by one or more years.

(b) If the amortization period for the unfunded actuarial liabilities of the retirement system exceeds 30 years by one or more years at the time an action described by Subsection (a) is proposed, the proposal may not be adopted if, as a result of the adoption, the amortization period would be increased, as determined by an actuarial valuation.

Added by Acts 1985, 69th Leg., ch. 228, Sec. 7, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 31.006 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 821.007. CONTROL OF HOME OFFICE FACILITIES. The buildings comprising the home office of the retirement system are under the control and custodianship of the retirement system, but the retirement system shall:

(1) comply with space use regulations provided by Section 2165.104; the General Appropriations Act; or other state law; and

(2) lease to other persons at fair market value all significant unused space in the buildings.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19(20), eff. Sept. 1, 1997.

Sec. 821.008. PURPOSE OF RETIREMENT SYSTEM. (a) The purpose of the retirement system is to invest and protect funds of the retirement system and to deliver the benefits provided by statute, not to advocate or influence legislative action or inaction or to advocate higher benefits.

(b) This section does not prohibit comments by an employee of the retirement system on federal laws, regulations, or other official actions or proposed actions affecting or potentially affecting the retirement system that are made in accordance with policies adopted by the board.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 3, eff. Sept. 1, 1995. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 6, eff.

September 1, 2011.

Sec. 821.009. CERTAIN CONTRACTS FOR HEALTH CARE PURPOSES; REVIEW BY ATTORNEY GENERAL. (a) This section applies to any contract with a contract amount of $250 million or more:

(1) under which a person provides goods or services in connection with the provision of medical or health care services, coverage, or benefits; and

(2) entered into by the person and the retirement system.

(b) Notwithstanding any other law, before a contract described by Subsection (a) may be entered into by the retirement system, a representative of the office of the attorney general shall review the form and terms of the contract and may make recommendations to the retirement system for changes to the contract if the attorney general determines that the office of the attorney general has sufficient subject matter expertise and resources available to provide this service.

(c) The retirement system must notify the office of the attorney general at the time the system initiates the planning phase of the contracting process. A representative of the office of the attorney general or another attorney advising the agency under Subsection (d) may participate in negotiations or discussions with proposed contractors and may be physically present during those negotiations or discussions.

(d) If the attorney general determines that the office of the attorney general does not have sufficient subject matter expertise or resources available to provide the services described by this section, the office of the attorney general may require the retirement system to enter into an interagency agreement or to obtain outside legal services under Section 402.0212 for the provision of services described by this section.

(e) The retirement system shall provide to the office of the attorney general any information the office of the attorney general determines is necessary to administer this section.

Added by Acts 2005, 79th Leg., Ch. 1011 (H.B. 880), Sec. 3, eff. September 1, 2005.

Sec. 821.010. PROVISION OF CERTAIN INFORMATION TO COMPTROLLER. (a) Not later than June 1 of every fifth year, the retirement system shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each member, retiree, and beneficiary from the retirement system's records.

(b) Information provided to the comptroller under this section is confidential and may not be disclosed to the public.

(c) The retirement system shall provide the information in the format prescribed by rule of the comptroller.

Added by Acts 2009, 81st Leg., R.S., Ch. 232 (S.B. 1589), Sec. 7, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 47.02, eff. September 28, 2011.

SUBCHAPTER B. PENAL PROVISIONS

Sec. 821.101. CONVERSION OF FUNDS; FRAUD. (a) A person commits an offense if the person knowingly or intentionally confiscates, misappropriates, or converts funds that represent deductions from a member's salary or that belong to the retirement system.

(b) A person commits an offense if the person knowingly or intentionally makes or permits the making of a false record for or statement to the retirement system in an attempt to defraud the retirement system.

(c) A member commits an offense if the member intentionally receives as a salary money that should have been deducted as provided by this subtitle from the member's salary.

(d) A person commits an offense if the person knowingly or intentionally violates a requirement of this subtitle other than ones described by Subsection (a), (b), or (c).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 31.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 821.102. PENALTIES. (a) An offense under Section 821.101(a) or 821.101(b) is a felony punishable by imprisonment in the Texas Department of Criminal Justice for not less than one nor more than five years.

(b) An offense under Section 821.101(c) is a misdemeanor punishable by a fine of not less than $100 nor more than $500.

(c) An offense under Section 821.101(d) is a misdemeanor punishable by a fine of not less than $100 nor more than $1,000.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 31.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.084, eff. September 1, 2009.

Sec. 821.103. CANCELLATION OF TEACHER CERTIFICATE. (a) After receiving notice from the board of trustees of an offense under Section 821.101 and after complying with Chapter 2001 and rules adopted by the State Board for Educator Certification, the State Board for Educator Certification may cancel the teacher certificate of a person if the State Board for Educator Certification determines that the person committed the offense.

(b) The executive director of the State Board for Educator Certification may enter into an agreed sanction.

(c) A criminal prosecution of an offender under Section 821.101 is not a prerequisite to action by the State Board for Educator Certification or its executive director.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 31.103 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1229, Sec. 2, eff. Sept. 1, 2001.

CHAPTER 822. MEMBERSHIP

SUBCHAPTER A. MEMBERSHIP

Sec. 822.001. MEMBERSHIP REQUIREMENT. (a) Membership in the retirement system includes:

(1) all persons who were members of the retirement system on the day before the effective date of this subtitle; and

(2) all employees of the public school system.

(b) Membership in the retirement system is a condition of employment for employees of the public school system unless an employee is excluded from membership under Section 822.002.

(c) Membership in the retirement system may only be established through employment with a single employer on at least a half-time basis.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 32.001 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989; Acts 2003, 78th Leg., ch. 201, Sec. 43, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1102 (H.B. 2974), Sec. 2, eff. September 1, 2015.

Sec. 822.0015. OPTIONAL MEMBERSHIP FOR CERTAIN OFFICIALS. (a) In lieu of participating in the Employees Retirement System of Texas, the commissioner of education may elect to participate in the retirement system in the same manner and under the same conditions as a member who is an employee of the public school system.

(b) An election by the commissioner of education to participate in the retirement system must be on a form prescribed by the retirement system for that purpose.

(c) Notwithstanding Section 821.001, if the commissioner of education elects to participate in the retirement system, the State Board of Education is the employer of the commissioner for purposes of this subtitle.

Added by Acts 2003, 78th Leg., ch. 655, Sec. 1, eff. June 20, 2003.

Sec. 822.002. EXCEPTIONS TO MEMBERSHIP REQUIREMENT. (a) An employee of the public school system is not permitted to be a member of the retirement system if the employee:

(1) is eligible and elects to participate in the optional retirement program under Chapter 830; or

(2) has retired under the retirement system and has not

been reinstated to membership pursuant to Section 824.005 or 824.307.

(b) An employee of a public institution of higher education who is required to be enrolled as a student in the institution as a condition of employment is not permitted to be a member of the retirement system based on that student employment, and compensation paid to the employee for work performed as a student employee is not compensation subject to report and deduction for member contributions or to credit in benefit computations under Section 822.201.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 832, Sec. 2, eff. June 15, 1985; Acts 1987, 70th Leg., ch. 61, Sec. 1, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 32.002 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.22, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1229, Sec. 3, eff. Sept. 1, 2001.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 930 (S.B. 1663), Sec. 2, eff. September 1, 2017.

Sec. 822.003. TERMINATION OF MEMBERSHIP. (a) A person terminates membership in the retirement system by:

(1) death;

(2) retirement;

(3) withdrawal of all of the person's contributions while the person is absent from service; or

(4) not qualifying for service credit for five consecutive years.

(b) Termination of membership under Subsection (a)(4) is effective on the first September 1 that occurs after the non-qualifying years. If a person, regardless of age, has five or more years of service credit, failure to qualify for additional service credit does not terminate membership in the retirement system unless all of the person's contributions are withdrawn.

(c) A person does not terminate membership under Subsection (a)(4) if the person:

(1) is performing military service creditable in the retirement system;

(2) is on leave of absence from employment in a public

school;

(3) is earning service credit in another retirement system covered by Chapter 803 or 805; or

(4) is employed by an employer covered by the retirement system and is not eligible for membership in the retirement system because the person is employed on less than a half-time basis.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 835, Sec. 2, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 32.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.05(b), (m), eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 555, Sec. 4, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1102 (H.B. 2974), Sec. 3, eff. September 1, 2015.

Sec. 822.004. EFFECT OF TERMINATION. If a person terminates membership in the retirement system under Section 822.003(a)(3) or (a)(4), the retirement system shall cancel all of the person's service credit in the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 32.004 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 822.005. WITHDRAWAL OF CONTRIBUTIONS. (a) A person who is absent from service except by death or retirement may withdraw all of the accumulated contributions credited to the person in the member savings account.

(b) An application to withdraw contributions under this section must be in writing and on a form prescribed by the board of trustees.

(c) A person is not entitled to withdraw contributions if the person is employed, has applied for employment, or has received a promise of employment with an employer covered by the retirement system.

(d) The retirement system shall adopt procedures to track and compile information of all applications filed under this section from the time an application is made until any warrant for the refund is

issued by the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 32.005 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1416, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1118, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1102 (H.B. 2974), Sec. 4, eff. September 1, 2015.

Sec. 822.006. RESUMPTION OF MEMBERSHIP AFTER TERMINATION. A person whose membership in the retirement system has been terminated and who resumes membership must enter the retirement system on the same terms as a person entering service for the first time and is not entitled to credit for previous or other terminated service unless it is reinstated under Section 823.501.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 32.006 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1229, Sec. 4, eff. Sept. 1, 2001.

SUBCHAPTER B. MEMBER COMPENSATION SUBJECT TO CONTRIBUTIONS AND CREDIT

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 822.201. MEMBER COMPENSATION. (a) Unless otherwise provided by this subtitle, compensation subject to report and deduction for member contributions and to credit in benefit computations is:

(1) beginning with the 1981-82 school year, only a member's salary and wages for service, less any amounts excluded by rules of the board of trustees adopted pursuant to Section 825.110; and

(2) in school years before the 1981-82 school year, all compensation for service that was or should have been reported under laws and rules governing the retirement system when the compensation

was paid but excluding compensation greater than $25,000 for a school year beginning after August 31, 1969, but before September 1, 1979, and compensation greater than $8,400 for a school year beginning before September 1, 1969.

(b) "Salary and wages" as used in Subsection (a) means:

(1) normal periodic payments of money for service the right to which accrues on a regular basis in proportion to the service performed;

(2) amounts by which the member's salary is reduced under a salary reduction agreement authorized by Chapter 610;

(3) amounts that would otherwise qualify as salary and wages under Subdivision (1) but are not received directly by the member pursuant to a good faith, voluntary written salary reduction agreement in order to finance payments to a deferred compensation or tax sheltered annuity program specifically authorized by state law or to finance benefit options under a cafeteria plan qualifying under Section 125 of the Internal Revenue Code of 1986, if:

(A) the program or benefit options are made available to all employees of the employer; and

(B) the benefit options in the cafeteria plan are limited to one or more options that provide deferred compensation, group health and disability insurance, group term life insurance, dependent care assistance programs, or group legal services plans;

(4) performance pay awarded to an employee by a school district as part of a total compensation plan approved by the board of trustees of the district and meeting the requirements of Subsection (e);

(5) the benefit replacement pay a person earns under Subchapter H, Chapter 659, except as provided by Subsection (c);

(6) stipends paid to teachers in accordance with former Section 21.410, 21.411, 21.412, or 21.413, Education Code;

(7) amounts by which the member's salary is reduced or that are deducted from the member's salary as authorized by Subchapter J, Chapter 659;

(8) a merit salary increase made under Section 51.962, Education Code;

(9) amounts received under the relevant parts of the educator excellence awards program under Subchapter O, Chapter 21, Education Code, or a mentoring program under Section 21.458, Education Code, that authorize compensation for service;

(10) salary amounts designated as health care supplementation by an employee under Subchapter D, Chapter 22, Education Code;

(11) to the extent required by Sections 3401(h) and 414(u)(12), Internal Revenue Code of 1986, differential wage payments received by an individual from an employer on or after January 1, 2009, while the individual is performing qualified military service as defined by Section 414(u), Internal Revenue Code of 1986; and

(12) increased compensation paid to a teacher by a school district using funds received by the district under the teacher incentive allotment under Section 48.112, Education Code.

(b-1) An individual receiving wages to which Subsection (b)(11) applies is considered employed by the employer for purposes of this section, and the differential wage payment is considered earned compensation. The retirement system shall determine how contributions attributable to differential wage payments are made.

(c) Excluded from salary and wages are:

(1) expense payments;

(2) allowances;

(3) payments for unused vacation or sick leave;

(4) maintenance or other nonmonetary compensation;

(5) fringe benefits;

(6) deferred compensation other than as provided by Subsection (b)(3);

(7) compensation that is not made pursuant to a valid employment agreement;

(8) payments received by an employee in a school year that exceed $5,000 for teaching a driver education and traffic safety course that is conducted outside regular classroom hours;

(9) the benefit replacement pay a person earns as a result of a payment made under Subchapter B or C, Chapter 661;

(10) any amount received by an employee under:

(A) former Article 3.50-8, Insurance Code;

(B) former Chapter 1580, Insurance Code;

(C) Subchapter D, Chapter 22, Education Code, as that subchapter existed January 1, 2006; or

(D) Rider 9, Page III-39, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act); and

(11) any compensation not described in Subsection (b).

(d) For a person who first becomes a member of the retirement system after August 31, 1996, the person's annual compensation for purposes of the retirement system may not exceed the limit imposed by Section 401(a)(17) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)(17)), as adjusted by the commissioner of internal revenue for cost-of-living increases in accordance with that provision. This limit does not apply to a person who first became a member of the retirement system before September 1, 1996.

(e) For purposes of Subsection (b)(4), a total compensation plan must:

(1) describe all elements of compensation received by or available to all employees of the employer;

(2) provide for the availability of at least one type of performance pay to classroom teachers employed by the employer;

(3) identify each type of performance pay, the performance criteria for each type of performance pay, and the classes of employees eligible for each type of performance pay;

(4) contain sufficient information concerning the plan to ascertain the amount of each qualifying employee's pay under the plan;

(5) contain performance criteria for earning performance pay that preclude the exercise of discretion for awarding the pay on any basis other than an evaluation of employee or group performance or availability of funding; and

(6) satisfy any other requirements adopted by the retirement system.

Added by Acts 1985, 69th Leg., ch. 556, Sec. 2, eff. Aug. 26, 1985. Amended by Acts 1987, 70th Leg., ch. 944, Sec. 3, eff. June 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 32.201 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 347, Sec. 8.18, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(34), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 260, Sec. 35, eff. May 30, 1995; Acts 1995, 74th Leg., ch. 555, Sec. 5, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 330, Sec. 1, eff. May 26, 1997; Acts 1997, 75th Leg., ch. 1035, Sec. 54, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1416, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.16, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 931, Sec. 5, eff. Aug. 30, 1999; Acts 1999, 76th Leg., ch. 1540, Sec. 1, eff.

Sept. 1, 1999; Acts 2001, 77th Leg., ch. 118, Sec. 2.10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 834, Sec. 16, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1187, Sec. 3.19, eff. Sept. 1, 2002; Acts 2001, 77th Leg., ch. 1301, Sec. 3, eff. June 16, 2001; Acts 2003, 78th Leg., ch. 313, Sec. 2.01, eff. Sept. 1, 2004; Acts 2003, 78th Leg., ch. 430, Sec. 6(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 18.03, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 8, eff. September 1, 2005.

Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 4.11, eff. May 31, 2006.

Acts 2007, 80th Leg., R.S., Ch. 1152 (S.B. 1877), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1171 (H.B. 3347), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 81, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 931 (S.B. 1664), Sec. 3, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.079, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 806 (H.B. 1525), Sec. 45, eff. September 1, 2021.

CHAPTER 823. CREDITABLE SERVICE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 823.001. TYPES OF CREDITABLE SERVICE. The types of service creditable in the retirement system are:

(1) prior service;

(2) membership service;

(3) military service; and

(4) equivalent membership service.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 823.002. SERVICE CREDITABLE IN A YEAR. (a) The board of trustees by rule shall determine how much service in any year is equivalent to one year of service credit, but in no case may all of a person's service in one school year be creditable as more than one year of service. Service that has been credited by the retirement system on annual statements for a period of five or more years may not be deleted or corrected because of an error in crediting unless the error concerns three or more years of service credit or was caused by fraud.

(b) A member shall notify the retirement system in writing of membership service that has not been properly credited by the retirement system on an annual statement. The member must provide verification and make deposits as required by the retirement system before the service may be credited. A member must notify the retirement system of the service in writing on or before the last day of the fifth school year after the end of the school year in which the service was rendered for the service to be credited.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 6, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 201, Sec. 44, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 7, eff. September 1, 2011.

Sec. 823.003. BENEFITS BASED ON SERVICE CREDIT. Except as otherwise provided under the optional retirement program, years of service on which the amount of a benefit is based consist of the number of years of service credit to which a member is entitled.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 823.004. COMPUTATION OF AND PAYMENT FOR CREDIT. (a) All credit for military service, out-of-state service, developmental leave, work experience in a career or technological field, and

service transferred to the retirement system under Chapter 805 shall be computed on a September 1 through August 31 school year. Payments for service described by this section must be completed:

(1) not later than two calendar months after the later of the member's retirement date or the last day of the month in which the member submits a retirement application; and

(2) before the later of the due date for the member's first monthly annuity payment or the date on which the retirement system issues the first monthly annuity payment to the member.

(b) The retirement system by rule may establish an irrevocable employer pick-up of member contributions as described by Section 414(h)(2) of the Internal Revenue Code of 1986 (26 U.S.C. Section 414(h)(2)) for the purchase of any service credit authorized by law.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 7, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1416, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1122, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1229, Sec. 5, eff. Sept. 1, 2001.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 931 (S.B. 1664), Sec. 4, eff. September 1, 2017.

Sec. 823.005. ACCEPTANCE OF ROLLOVERS AND TRANSFERS FROM OTHER PLANS. Subject to rules adopted by the board of trustees, the retirement system shall accept an eligible rollover distribution or a direct transfer of funds from another qualified plan in payment of all or a portion of any deposit a member is permitted to make with the system for credit for service. The rules adopted by the board shall condition the acceptance of a rollover or transfer from another plan on the receipt from the other plan of information necessary to enable the retirement system to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 7, eff. Sept. 1, 1995.

Sec. 823.006. LIMITS ON ANNUAL CONTRIBUTIONS FOR PURCHASE OF SERVICE CREDIT. Notwithstanding any other provision of this subtitle, the retirement system may limit the purchase of service

credit to the extent required by applicable limits on the amount of annual contributions a participant may make to a qualified plan under Sections 401(a) and 415(c), Internal Revenue Code of 1986.

Added by Acts 1999, 76th Leg., ch. 1540, Sec. 2, eff. Sept. 1, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 9, eff. September 1, 2005.

SUBCHAPTER C. ESTABLISHMENT OF MEMBERSHIP SERVICE

Sec. 823.201. CURRENT MEMBERSHIP SERVICE. (a) Membership service is credited in the retirement system for each year in which a member is an employee and for which the member renders sufficient service for credit under Section 823.002 and makes and maintains with the retirement system the deposits required by this subtitle or prior law.

(b) The board of trustees may adopt rules for the granting of membership service credit.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Amended by Acts 1981, 67th Leg., 1st C.S., p. 202, ch. 18, Sec. 21, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.201 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 823.203. MEMBERSHIP SERVICE FOR OPTIONAL RETIREMENT PROGRAM. A member may not establish service credit in the retirement system for any period when the member was participating in the optional retirement program under Chapter 830.

Added by Acts 1999, 76th Leg., ch. 1540, Sec. 3, eff. Sept. 1, 1999.

SUBCHAPTER D. ESTABLISHMENT OF MILITARY SERVICE

Sec. 823.301. CREDITABLE MILITARY SERVICE. (a) Except as provided by Section 823.101(2), military service creditable in the retirement system is active federal duty in the armed forces of the United States, other than as a student at a service academy, that was performed:

(1) as a direct result of being inducted or of first enlisting for duty on a date when the federal government was actively inducting persons into the armed forces under federal draft laws;

(2) as a reservist or member of the national guard who was ordered to duty under the authority of federal law;

(3) during a time when the federal government was actively inducting persons into the armed forces under federal draft laws; or

(4) as a result of voluntarily entering on active duty.

(b) A member may not establish more than five years of service credit in the retirement system under this subchapter for military service. Service may be established in one-year increments except as otherwise provided by this subchapter.

(c) The board of trustees may adopt rules expanding the military service creditable in the retirement system in order to comply with the requirements of federal law.

(d) Military service that is terminated by sentence of a court-martial is not creditable under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 61, Sec. 3, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.301 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 1, eff. Nov. 12, 1991; Acts 1997, 75th Leg., ch. 1416, Sec. 5, eff. Sept. 1, 1997.

Sec. 823.302. MILITARY SERVICE CREDIT. (a) An eligible member may establish service credit in the retirement system for military service performed that is creditable as provided by Section 823.301.

(b) A member eligible to establish military service credit is one who has at least five years of service credit in the retirement system for actual service in public schools, except that a member meeting this condition does not qualify for insurance coverage under Chapter 1575, Insurance Code, until the member has 10 or more years of membership service credit.

(c) A member may establish credit under this section by depositing with the retirement system for each year of military service claimed a contribution in an amount equal to:

(1) the member's contributions to the retirement system

during the most recent full year of membership service that preceded the military service, if the military service was performed while the person was a member of the retirement system; or

(2) the member's contributions to the retirement system during the first full year of membership service, if the military service was performed before the person became a member of the retirement system.

(d) In addition to the contribution required by Subsection (c), a member claiming credit for military service must pay a fee of eight percent, compounded annually, of the required contribution from the date of first eligibility to the date of deposit.

(e) After a member makes the deposits required by this section, the retirement system shall grant the member one year of military service credit for each year of military service approved.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 203, ch. 18, Sec. 22, eff. Sept. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.302 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 2, eff. Nov. 12, 1991; Acts 1995, 74th Leg., ch. 555, Sec. 8, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1276, Sec. 10A.521, eff. Sept. 1, 2003.

Sec. 823.303. MILITARY LEAVE CREDIT. A member who performs military service creditable in the retirement system but who does not establish credit for the service by making the deposits required by Section 823.302 is entitled to credit of a year for each year of military service performed, if the member requests the credit in writing before the later of the date of application for retirement or the effective date of retirement. The credit is usable only in determining eligibility for, but not the amount of, benefits under Section 824.406.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.303 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1416, Sec. 7, eff. Sept. 1, 1997.

Sec. 823.304. USERRA CREDIT. (a) A person eligible to establish USERRA credit is one who qualifies under the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. Section 4301 et seq., for the benefits of reemployment in a position included within the membership of the retirement system and who is entitled under that Act to additional credit and benefits from the retirement system because of the person's active duty in the armed forces of the United States.

(b) A person who receives credit under this section may not receive military service credit under Sections 823.301 and 823.302 for the same service.

(c) A person may establish credit under this section by depositing with the retirement system for each year of service claimed an amount equal to the member contributions to the retirement system, as determined by the retirement system, that the person would have made had the person continued to be employed in the person's former position covered by the retirement system during the entire period of active duty in the armed forces for which the person is to receive retirement credit.

(d) To the extent required by the Uniformed Services Employment and Reemployment Rights Act of 1994 and permitted by Sections 401(a) and 415 of the Internal Revenue Code of 1986 (26 U.S.C. Sections 401 and 415), the retirement system may:

(1) grant the person service credit for the period of active duty in the armed forces as if the person had been employed in a position eligible for membership and credit with the retirement system if the person establishes credit by making the required deposits, or, if the person has not made the required deposits, consider the period of active duty for the purpose of determining whether the person meets the length-of-service eligibility requirements for retirement or other benefits administered by the retirement system as if the person had established the credit; and

(2) include in relevant benefit computations under this subtitle the annual compensation, as determined by the retirement system, that would have been otherwise received by the person for service covered by the retirement system during any year in which the person had active duty in the armed forces.

(e) The state shall deposit with the retirement system an amount equal to the state contributions, as determined by the retirement system, that the state would have made had the person

continued to be employed in the person's former position covered by the retirement system during the entire period of active duty in the armed forces for which the person has received service credit under this section. The state shall deposit the required amount with the retirement system not later than the 30th day after the date the state receives notice from the retirement system of the amount of state contributions required for service credit established by a person under this section.

(f) The board of trustees may adopt rules that modify the terms of this section for the purpose of compliance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.).

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 3, eff. Nov. 12, 1991. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 9, eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 456 (S.B. 1668), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 456 (S.B. 1668), Sec. 2, eff. September 1, 2011.

SUBCHAPTER E. ESTABLISHMENT OF EQUIVALENT MEMBERSHIP SERVICE

Sec. 823.401. OUT-OF-STATE SERVICE. (a) Except as provided by Subsection (b), an eligible member may establish equivalent membership service credit for employment with a public school system maintained wholly or partly by another state or territory of the United States or by the United States for children of its citizens. A school receiving funds under 22 U.S.C. Section 2701 is considered a public school for the purposes of this section.

(b) A member may not establish credit under this section for service performed for a public school while a member of the armed forces, for which service the member was compensated by the United States.

(c) A member eligible to establish credit under this section is one who has at least five years of service credit in the retirement system for actual service in public schools, including at least one year completed after the relevant out-of-state service.

(d) A member may establish credit under this section by

depositing with the retirement system for each year of service credit the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees.

(e) A deposit for at least one year of credit must be made with an initial application for credit, and all payments for service claimed under this section must be made before retirement.

(f) Except as provided by Subsection (f-1), the amount of service credit a member may establish under this section may not exceed the lesser of the number of years of membership service credit the member has in the retirement system for actual service in public schools or 15 years.

(f-1) A member may not purchase more than five years of service credit under this section for service credit considered nonqualified service credit under Section 415(n)(3), Internal Revenue Code of 1986.

(g) After a member makes the deposits required by this section, the retirement system shall grant the member one year of equivalent membership service credit for each year of service approved. The retirement system may not use service credit granted under this section in computing a member's annual average compensation.

(h) Repealed by Acts 2003, 78th Leg., ch. 201, Sec. 61(2) and Acts 2003, 78th Leg., ch. 1231, Sec. 9(2).

(i) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 456, Sec. 7(a), eff. September 1, 2011.

(j) The board of trustees may adopt rules providing for the adoption of a reciprocal agreement with a state or territory of a member's previous employment for the payment for service credit established under this section through the transfer from the state or territory to the retirement system of contributions made on behalf of the member in the form of an eligible rollover distribution as provided by Section 401(a)(31), Internal Revenue Code of 1986, and its subsequent amendments.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 203, ch. 18, Sec. 23, eff. Sept. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.401 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1,

eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 84, Sec. 1, eff. May 15, 1995; Acts 1995, 74th Leg., ch. 555, Sec. 10, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1416, Sec. 8, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1540, Sec. 4, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 454, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 201, Sec. 61(2), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1231, Sec. 9(2), eff. Sept. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 10, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 456 (S.B. 1668), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 456 (S.B. 1668), Sec. 7(a), eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1102 (H.B. 2974), Sec. 5, eff. September 1, 2015.

Sec. 823.402. DEVELOPMENTAL LEAVE. (a) An eligible member may establish equivalent membership service credit for developmental leave that is creditable in the retirement system.

(b) Developmental leave creditable in the retirement system is absence from membership service for a school year that is approved by the member's employer for study, research, travel, or another purpose designed, as determined by the employer, to improve the member's professional competence.

(c) A member eligible to establish credit under this section is one who:

(1) has at least five years of service credited in the retirement system before the developmental leave occurs;

(2) has, at the time the required deposits for the credit are paid, at least one year of membership service credit in the retirement system following the developmental leave; and

(3) has at least five years of service credited in the retirement system at the time the required deposits for the credit are paid.

(d) On or before the date a member takes developmental leave, the member must file with the retirement system a notice of intent to take developmental leave, and the member's employer must file with

the retirement system a certification that the leave meets the requirements of Subsection (b). The notice of intent and the certification must be in the form required by the retirement system. Leave is not creditable in the retirement system if the member does not submit notice of intent and obtain the certification required by this subsection.

(e) A member may establish credit under this section by depositing with the retirement system for each year of developmental leave certified the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees.

(f) A member may not establish more than two years of equivalent membership service credit under this section.

(g) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 456, Sec. 7(a), eff. September 1, 2011.

(h) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 456, Sec. 7(a), eff. September 1, 2011.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.402 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 3, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1416, Sec. 9, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 456 (S.B. 1668), Sec. 4, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 456 (S.B. 1668), Sec. 7(a), eff. September 1, 2011.

Sec. 823.403. CREDIT FOR ACCUMULATED PERSONAL OR SICK LEAVE. (a) A member who retires from an employer as defined by Section 821.001(7) based on service or a disability is entitled to membership service credit in the retirement system for the member's state personal or sick leave that has accumulated and is unused on the last day of employment pursuant to the terms of this section. State personal or sick leave is creditable in the retirement system in the amount of one year of service credit for 50 days or more, or 400

hours or more, of accumulated state personal or sick leave. An accumulation of less than 50 days is not creditable. Not more than five days of unused state personal or sick leave may be accumulated per year. Credit established under this section may be used only for the purpose of calculating benefits under Section 824.203.

(b) The employer shall, under rules adopted by the retirement system, certify the amount of a member's accumulated state personal or sick leave on the last day of employment before retirement.

(c) On receipt of a certification under Subsection (b) and payment under Subsection (d) of this section, the retirement system shall grant any credit to which a retiree who is a subject of the certification is entitled. Unless a member declines to purchase service credit under this section as provided by Subsection (d-1), an annuity payment may not begin until the retirement system is paid the full cost of the service credit.

(d) In order to receive credit, the member shall pay to the retirement system at the time service credit is granted under this section the actuarial present value of the additional standard retirement annuity benefits under the option selected by the member that would be attributable to the conversion of the unused state personal or sick leave into the service credit based on rates and tables recommended by the actuary and adopted by the board of trustees. Except as provided by this subsection, the retirement system must receive the payment for service credit under this section not later than the 90th day after the date the retirement system issues a cost statement for the purchase of service credit under this section. The retirement system may grant a member a one-time extension of not more than 30 days to complete the purchase of the service credit if the purchase is made by:

(1) a rollover distribution from another eligible retirement plan; or

(2) a direct trustee-to-trustee transfer of funds from:

(A) an eligible deferred compensation plan described by Section 457(b), Internal Revenue Code of 1986, that is maintained by an eligible governmental employer; or

(B) an annuity contract described by Section 403(b), Internal Revenue Code of 1986, that is purchased under a governmental plan.

(d-1) A member who fails to make the payment described by Subsection (d) within the time prescribed by that subsection may:

(1) decline to purchase service credit under this section and maintain the member's effective date of retirement; or

(2) revoke the member's retirement as provided by Section 824.005(a) and select a later retirement date that provides the member with sufficient time to complete the purchase of the service credit under this section.

(e) In accordance with local policy, the employer from which the retiring member was compensated on the member's last day of employment may reimburse an employee for all or part of the cost of purchasing service credit under this section.

Added by Acts 1991, 72nd Leg., ch. 882, Sec. 1, eff. Sept. 1, 1992.
Amended by Acts 1995, 74th Leg., ch. 260, Sec. 36, eff. May 30, 1995.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 931 (S.B. 1664), Sec. 5, eff. September 1, 2017.

Sec. 823.404. WORK EXPERIENCE BY CAREER OR TECHNOLOGY TEACHER. (a) An eligible member may establish equivalent membership service credit for one or two years of work experience for which the member is entitled to salary step credit under Section 21.403(b), Education Code.

(b) A member is eligible to establish equivalent membership service credit under this section if the member has at least five years of membership service credit.

(c) A member may establish credit under this section by depositing with the retirement system, for each year of service, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the conversion of the work experience into service credit based on rates and tables recommended by the actuary and adopted by the board of trustees.

(d) After a member makes the deposits required by this section, the retirement system shall grant the member one year of equivalent membership service credit for each year of service approved.

Added by Acts 1999, 76th Leg., ch. 1122, Sec. 1, eff. Sept. 1, 1999.

Sec. 823.406. CREDIT PURCHASE OPTION FOR CERTAIN SERVICE. (a)

A member may establish membership service credit under this section only for service performed during a 90-day waiting period to become a member after beginning employment.

(b) A member may establish service credit under this section by depositing with the retirement system, for each month of service credit, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees.

(c) After a member makes the deposits required by this section, the retirement system shall grant the member one month of equivalent membership service credit for each month of credit approved.

(d) The retirement system shall deposit the amount of the actuarial present value of the service credit purchased in the member's individual account in the employees saving account.

(e) The board of trustees may adopt rules to administer this section.

Added by Acts 2003, 78th Leg., ch. 201, Sec. 45, eff. Sept. 1, 2003.

SUBCHAPTER F. REINSTATEMENT OF SERVICE CREDIT

Sec. 823.501. CREDIT CANCELED BY MEMBERSHIP TERMINATION. (a) An eligible person who has terminated membership in the retirement system by withdrawal of contributions or absence from service may reinstate in the system the service credit canceled by the termination.

(b) A person eligible to reinstate service credit under this section is one who is a member of the retirement system at the time the service is reinstated.

(c) A member may reinstate canceled credit under this section by depositing with the retirement system:

(1) the amount withdrawn or refunded; plus

(2) a reinstatement fee of eight percent, compounded annually, of the amount withdrawn or refunded from the date of withdrawal or refund to the date of redeposit.

(d) The retirement system shall determine in each case the amount of money to be deposited by a member reinstating service credit under this section. The system may not provide benefits based

on the service until the determined amount has been fully paid.

(e) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 456, Sec. 7(a), eff. September 1, 2011.

(f) A member may have an account that was terminated by absence from service reactivated by requesting the reactivation in writing. The beneficiary of a decedent who was a member at the time of death may have an account that was terminated by the decedent's absence from service reactivated by requesting the reactivation in writing before the first payment of a death benefit.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 203, ch. 18, Sec. 24, eff. Sept. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.501 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 4, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1416, Sec. 10, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1540, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 456 (S.B. 1668), Sec. 5, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 456 (S.B. 1668), Sec. 7(a), eff. September 1, 2011.

CHAPTER 824. BENEFITS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 824.001. TYPES OF BENEFITS. The types of benefits payable by the retirement system are:

(1) service retirement benefits;

(2) disability retirement benefits; and

(3) death benefits.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 824.002. EFFECTIVE DATE OF RETIREMENT. (a) The effective date of a member's service retirement is the last day of the later of the following months:

(1) any month in a three-month period in which the third month is the month in which the member applies for retirement as provided by Section 824.201;

(2) the month in which the member satisfies age and service requirements for service retirement as provided by Section 824.202; or

(3) the month in which the member's employment in a position included in the coverage of the retirement system ends.

(b) The effective date of a member's disability retirement is the last day of the later of the following months:

(1) any month in a three-month period in which the third month is the month in which the member applies for retirement as provided by Section 824.301; or

(2) the month in which the member's employment in a position included in the coverage of the retirement system ends.

(c) For the purposes of this section, a member's employment in a position covered by the retirement system does not end if the member is on leave of absence or has a contract for future employment in a public school, other than a contract for employment that would, if the retiring member and the employer were to comply with all procedural requirements, qualify under Section 824.602 for an exception to the loss of monthly benefits required by Section 824.601.

(d) A person who works not later than June 15 of a year in order to complete all work required for the school year may be considered to have ended employment on May 31 of that year for the purposes of Subsections (a)(3) and (b)(2).

(e) Except as provided by Section 823.403(d), if applicable, not later than two months after the later of a member's retirement date or the last day of the month in which the member's application for retirement is submitted, and before the later of the due date for the first monthly annuity payment or the date on which the retirement system issues the first monthly annuity payment, a member applying for service retirement may, after providing notice to the retirement system, reinstate withdrawn contributions, make deposits for military service and equivalent membership service, and receive service credit as provided by this subtitle.

(f) An effective retirement date may not be changed after it is established except by revocation of retirement under Section 824.005.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 832, Sec. 4, eff. June 15, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.002 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 4, eff. Sept. 1, 1992; Acts 1995, 74th Leg., ch. 555, Sec. 11, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1229, Sec. 7, eff. Sept. 1, 2001.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 931 (S.B. 1664), Sec. 6, eff. September 1, 2017.

Sec. 824.003. WHEN BENEFITS ARE PAYABLE. Except as otherwise provided by this chapter, an annuity provided by this chapter is payable for the month in which the person who receives the annuity dies. Monthly annuity payments are generally due to be paid on the last working day of the month for which the payment accrues.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 12, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 763 (H.B. 2168), Sec. 1, eff. September 1, 2015.

Sec. 824.004. WAIVER OF BENEFITS. (a) A person may, on a form prescribed by and filed with the retirement system, waive all or a portion of any benefits from the retirement system to which the person is entitled. A person may revoke a waiver of benefits in the same manner as the original waiver was made.

(b) A revocable waiver may be revoked only as to benefits payable after the date the revocation is filed. If a waiver is made irrevocable and is filed with the retirement system before the first benefit payment is made to the person executing the waiver, Section 824.103 applies to determine alternative beneficiaries.

(c) The retirement system shall transfer to the state contribution account from the appropriate benefit reserve accounts amounts not used to pay benefits because of a waiver executed under

this section.

(d) The board of trustees may provide rules for administration of waivers under this section.

(e) The retirement system may not require a person filing a waiver of benefits under this section to submit a sworn affidavit in order to receive the accumulated contributions.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.004 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1118, Sec. 2, eff. Sept. 1, 1999.

Sec. 824.005. REVOCATION OF RETIREMENT. (a) A person who has retired under the retirement system may revoke that retirement by filing with the system a written revocation in a form prescribed by the system. For a revocation to be effective, the retirement system must receive the written revocation before the later of the due date for the first payment of the annuity or the date on which the retirement system makes the first payment. After the later of those dates, a retiree may not revoke the retirement. For purposes of this subtitle, the retirement system makes a payment by depositing a check in the mail or sending payment by electronic fund transfer.

(b) A person who has retired under the retirement system revokes that retirement if the person becomes employed in any position in a public school during the first month following that person's effective date of retirement, or during the first two months following an effective date of retirement established by reliance on Section 824.002(d), and must return any retirement benefits received under the original retirement.

(c) A person who revokes a retirement under this section is restored to membership in the retirement system as if that person had never retired.

Added by Acts 1981, 67th Leg., 1st C.S., p. 204, ch. 18, Sec. 26, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 832, Sec. 5, eff. June 15, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.005 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 13, eff. Sept. 1, 1995.

Sec. 824.006. PAYMENT OF ANNUITY ON DEATH OF MEMBER OR RETIREE. (a) A monthly annuity payable to a retiree or beneficiary is payable to that person through the month in which the person dies. A continuation of an optional annuity or the payment of a death or survivor benefit annuity begins with payment for the month following the month in which the death occurs.

(b) The effective date of death of a member who dies before retirement is, for the purpose of a death or survivor benefit annuity, the last day of the month preceding the month in which the member dies. The first payment of the annuity becomes due at the end of the month in which the member's death occurs.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 14, eff. Sept. 1, 1995.

Sec. 824.007. DEDUCTIONS FROM SERVICE OR DISABILITY RETIREMENT ANNUITY. (a) In this section, "program administrator" means the person who administers the uniform program under Section 1601.102, Insurance Code.

(b) An individual eligible to participate in the uniform program under Section 1601.102, Insurance Code, may authorize the retirement system to deduct the amount of the contribution and any other qualified health insurance premium from the individual's regular monthly service or disability retirement annuity payment if the individual is:

(1) eligible to receive a monthly annuity from the retirement system greater than the amount of the authorized deduction; and

(2) eligible under Section 402(l), Internal Revenue Code of 1986, or a similar law, to elect to exclude from annual gross income up to $3,000 of distributions from an eligible retirement plan used for qualified health insurance premiums.

(c) An individual may authorize the deduction described by Subsection (b) on a form provided by the program administrator. The program administrator shall coordinate the implementation of an authorization under Subsection (b) with the retirement system.

(d) After making the deductions, the retirement system shall pay to the program administrator an aggregate amount for all

individuals who authorize annuity deductions under Subsection (b).

(e) If an individual no longer receives a monthly annuity greater than the amount of the authorized deduction, the retirement system:

(1) shall inform the program administrator; and

(2) is not required to make any deduction under this section for the individual.

(f) The retirement system is not required to accept an authorization for a deduction under this section if payment of qualified health insurance premiums by deduction from a retirement plan annuity is not required for an eligible retiree to elect the gross income exclusion described by Subsection (b)(2).

Added by Acts 2009, 81st Leg., R.S., Ch. 1171 (H.B. 3347), Sec. 2, eff. September 1, 2009.

Sec. 824.0071. DEDUCTIONS FROM SERVICE OR DISABILITY RETIREMENT ANNUITY FOR CERTAIN UNIVERSITY INSURANCE PROGRAM CONTRIBUTIONS. (a) In this section, "program administrator" means the person who administers the uniform program under Section 1601.051, Insurance Code.

(b) A retiree who is participating in the uniform program under Chapter 1601, Insurance Code, may authorize the retirement system to deduct the amount of the contribution and any other qualified health insurance premium from the retiree's regular monthly service or disability retirement annuity payment if the amount of the monthly annuity is greater than or equal to the amount of the authorized deduction.

(c) A retiree may authorize the deduction described by Subsection (b) on a form provided by the program administrator. The program administrator shall maintain the record of the authorization made under this section.

(d) The program administrator shall:

(1) notify the retirement system of the authorization under Subsection (b); and

(2) in the manner and form prescribed by the retirement system, provide the retirement system with the names of the retirees and other relevant information needed by the retirement system to administer the deduction.

(e) After making the deduction, the retirement system shall pay to the program administrator an aggregate amount for all retirees who authorize annuity deductions under Subsection (b).

(f) If a retiree no longer receives a monthly annuity greater than or equal to the amount of the authorized deduction, the retirement system:

(1) shall inform the program administrator; and

(2) is not required to make a deduction under this section for the retiree.

(g) The retirement system shall make the authorized deduction each month until:

(1) the date the annuity is no longer payable by the retirement system;

(2) the retirement system is notified by the program administrator that the retiree has canceled the authorization to make the deduction; or

(3) the amount of the monthly annuity is no longer greater than or equal to the amount of the authorized deduction as described by Subsection (f).

(h) The program administrator shall reimburse the retirement system the cost, as determined by the retirement system, incurred by the retirement system in implementing this section.

(i) This section does not apply to an individual described by Section 824.007(b).

Added by Acts 2017, 85th Leg., R.S., Ch. 1106 (H.B. 4035), Sec. 1, eff. January 1, 2018.

Sec. 824.008. DEDUCTIONS FROM AMOUNTS PAYABLE BY THE RETIREMENT SYSTEM. (a) Notwithstanding Section 821.005, the retirement system may deduct the amount of a person's indebtedness to the retirement system from an amount payable by the retirement system to the person or the person's estate and the distributees of the estate.

(b) If the retirement system makes a payment to a participant who is deceased and the payment is not payable, the retirement system may deduct the amount of the payment from any amount payable by the retirement system to a person who received the payment or to that person's estate and distributees of the estate.

Added by Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 8, eff.

September 1, 2011.

Sec. 824.009. CERTAIN EMPLOYEES AND ANNUITANTS INELIGIBLE FOR RETIREMENT ANNUITY; RESUMPTION OR RESTORATION OF ELIGIBILITY. (a) In this section, "qualifying felony" means an offense that is punishable as a felony under the following sections of the Penal Code:

(1) Section 21.02 (continuous sexual abuse of young child or disabled individual);

(2) Section 21.12 (improper relationship between educator and student);

(3) Section 22.011 (sexual assault) or Section 22.021 (aggravated sexual assault); or

(4) Section 43.24 (sale, distribution, or display of harmful material to minor).

(a-1) In this section, a "qualifying felony" includes any federal offense that contains elements that are substantially similar to the elements of a felony offense described in Subsection (a).

(b) This section applies only to a person who is a member or an annuitant of the retirement system and is or was an employee of the public school system.

(c) Except as provided by Subsection (e), a person is not eligible to receive a service retirement annuity from the retirement system if the person is convicted of a qualifying felony the victim of which is a student.

(d) The retirement system shall suspend payments of an annuity to a person who is not eligible to receive a service retirement annuity under Subsection (c), as determined by the retirement system, on receipt by the retirement system of:

(1) notice of a conviction for a qualifying felony under Subsection (f) or (l);

(2) notice of a conviction for a qualifying felony from a district court or district attorney; or

(3) any other information the retirement system determines by rule is sufficient to establish a conviction for a qualifying felony.

(e) A person whose conviction is overturned on appeal or who meets the requirements for innocence under Section 103.001(a)(2), Civil Practice and Remedies Code:

(1) is entitled to receive an amount equal to the accrued total of payments and interest earned on the payments withheld during the suspension period; and

(2) may resume receipt of annuity payments on payment to the retirement system of an amount equal to the contributions refunded to the person under Subsection (g).

(f) Not later than the 30th day after the date of a person's conviction for a qualifying felony, the school at which the person was employed shall provide written notice of the conviction to the retirement system. The notice must comply with rules adopted by the board of trustees under Subsection (k).

(g) A person who is not eligible to receive a service retirement annuity under Subsection (c) is entitled to a refund of the person's retirement annuity contributions, including interest earned on those contributions.

(h) Benefits payable to an alternate payee under Chapter 804 who is recognized by a domestic relations order established before September 1, 2017, are not affected by a person's ineligibility to receive a retirement annuity under Subsection (c).

(i) On conviction of a person for a qualifying felony, a court may, in the interest of justice and in the same manner as in a divorce proceeding, award any portion or all of the service retirement annuity forfeited by the person as the separate property of an innocent spouse if the annuity is partitioned or exchanged by written agreement of the spouses as provided by Subchapter B, Chapter 4, Family Code. The amount awarded to the innocent spouse may not be converted to community property.

(j) Ineligibility for a retirement annuity under this section does not impair a person's right to any other retirement benefit for which the person is eligible.

(k) The board of trustees of the retirement system shall adopt rules and procedures to implement this section.

(l) A court shall notify the retirement system of the terms of a person's conviction of a qualifying felony.

Added by Acts 2017, 85th Leg., R.S., Ch. 178 (S.B. 7), Sec. 17, eff. September 1, 2017.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 221 (H.B. 375), Sec. 2.21, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 1129 (H.B. 4520), Sec. 3, eff. September 1, 2023.

SUBCHAPTER B. BENEFICIARIES

Sec. 824.101. DESIGNATION OF BENEFICIARY. (a) Except as provided by Subsection (c), any member or annuitant may, on a form prescribed by and filed with the retirement system, designate one or more beneficiaries to receive benefits payable by the retirement system on the death of the member or annuitant.

(b) Except as provided by Subsection (c), a member or annuitant may change or revoke a designation of beneficiary in the same manner as the original designation was made.

(c) Only one person may be designated as beneficiary of an optional retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5), and a designation of beneficiary under any of those options may not be made, changed, or revoked, except as provided by Sections 824.1011, 824.1012, and 824.1013, after the later of the date on which the retirement system makes the first annuity payment to the retiree or the date the first payment becomes due. For purposes of this section, the term "makes payment" includes the depositing in the mail of a payment warrant or the crediting of an account with payment through electronic funds transfer.

(d) Unless a contrary intention is clearly indicated by a written designation of beneficiary and except as otherwise provided by this section, the most recent designation of beneficiary by a member or annuitant applies to all benefits payable on the death of the member or annuitant.

(e) The retirement system by rule may provide for the designation of alternate beneficiaries and may adopt other rules to administer this section.

(f) A beneficiary designation, change in beneficiary, or revocation of beneficiary is not effective unless it is authorized by this subchapter. Except as provided by Subsection (g), any authorized beneficiary designation, change in beneficiary, or revocation of beneficiary, including any modification ordered by a court or contemplated in a trust or testamentary document, must be executed by the member or annuitant in a form prescribed by the retirement system and must be received by the retirement system before the member's or annuitant's death or, for a beneficiary named

to receive continued optional service or disability retirement payments, not later than the deadline established elsewhere in this subtitle.

(g) Receipt by the retirement system of a certified copy of a divorce decree between a member or annuitant and a designated beneficiary revokes any designation of the former spouse as beneficiary of any death benefits payable under Subchapter E or F of this chapter that was effective before the date of divorce, if the decree is received by the retirement system before the payment of any part of the death benefit to any beneficiary.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 5, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 555, Sec. 15, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1416, Sec. 12, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1540, Sec. 6, eff. Sept. 1, 1999.

Sec. 824.1011. DESIGNATION OF BENEFICIARY AFTER RETIREMENT. (a) A retiree who is receiving a standard service or disability retirement annuity under Section 824.203 or 824.304(b) and who marries after the date of the person's retirement may replace the annuity by selecting an optional retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5) or under Section 824.308(c)(1), (c)(2), or (c)(5), as applicable, and designating the person's spouse as beneficiary before the second anniversary of the marriage in the same manner as an annuity selection and designation of beneficiary may be made before retirement.

(b) The selection of an optional annuity and designation of a beneficiary under this section do not take effect until the first payment of the annuity that becomes due two years after the date the selection and designation are filed with the retirement system.

(c) The retirement system shall recompute the annuity of a retiree who selects an optional annuity and designates a beneficiary under this section to reflect that change and shall adjust the annuity as appropriate for early retirement and postretirement increases provided after the date of the retiree's retirement. The retirement system shall by rule provide for the adjustment of the

monthly payments of the annuity under the option selected to an amount which is the actuarial equivalent of the annuity being paid immediately before the change in benefit option and beneficiary selection.

(d) If a retiree who selects an optional annuity and designates a beneficiary under this section dies before the change takes effect or if the designated beneficiary dies before the change takes effect, the selection of an optional annuity and designation of beneficiary have no effect.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 16, eff. Sept. 1, 1995; Amended by Acts 1997, 75th Leg., ch. 1416, Sec. 13, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1540, Sec. 7, eff. Sept. 1, 1999.

Sec. 824.1012. POST-RETIREMENT CHANGE IN RETIREMENT PAYMENT PLAN FOR CERTAIN RETIREMENT BENEFIT OPTIONS. (a) As an exception to Section 824.101(c), a retiree who selected an optional service retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5) or an optional disability retirement annuity under Section 824.308(c)(1), (c)(2), or (c)(5) and who has received at least one payment under the plan selected may change the optional annuity selection made by the retiree to a standard service or disability retirement annuity as provided for in this section. If the beneficiary of the optional annuity was the spouse of the retiree when the retiree designated the spouse as beneficiary of the optional annuity, to change from the optional annuity to a standard retirement annuity under this subsection, the spouse or former spouse, as applicable, who was designated the beneficiary of the optional annuity must sign a notarized consent to the change or a court with jurisdiction over the marriage of the retiree and beneficiary must approve or order the change. The change in plan selection takes effect when the retirement system receives the request to change the plan, provided the signed consent form or court order, as applicable, is subsequently received by the retirement system.

(a-1) The executive director or the executive director's designee has exclusive authority to determine whether the language in a court order described by Subsection (a) is sufficient to indicate that the court has approved or ordered the change in plan selection. A determination by the executive director or the executive director's

designee under this subsection may be appealed only to the board of trustees, except that the board by rule may waive the requirement that an appeal be to the board. An appeal to the board is a contested case under Chapter 2001. The standard of review of an appeal brought under this subsection is by substantial evidence.

(b) A change described by Subsection (a) cancels the optional annuity selection made by the retiree, effective with the beginning of payments of the annuity as recomputed under this subsection. The retiree is entitled to receive payments of a standard service or disability retirement annuity, as applicable, reduced for early retirement, if applicable, beginning with the payment for the month after the month in which the retirement system receives the notice of change and ending on the death of the retiree. The change also cancels the designation of beneficiary with respect to the optional annuity benefit but does not cancel a designation with respect to any other benefit payable by the retirement system on the death of the retiree.

(c) The retirement system by rule may establish requirements for forms, documentation, and procedures necessary for the administration of this section.

Added by Acts 1997, 75th Leg., ch. 401, Sec. 1, eff. May 28, 1997. Amended by Acts 1999, 76th Leg., ch. 1540, Sec. 8, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1229, Sec. 8, eff. Sept. 1, 2001. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 3, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 930 (S.B. 1663), Sec. 3, eff. September 1, 2017.

Sec. 824.1013. CHANGE OF BENEFICIARY AFTER RETIREMENT. (a) A retiree receiving an optional retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5) or Section 824.308(c)(1), (c)(2), or (c)(5) may change the designated beneficiary as provided by this section for the benefits payable after the retiree's death under those sections.

(b) If the beneficiary designated at the time of the retiree's

retirement is the spouse of the retiree at the time of the designation:

(1) the spouse must give written, notarized consent to the change;

(2) if the parties divorce after the designation, the former spouse who was designated beneficiary must give written, notarized consent to the change; or

(3) a court with jurisdiction over the marriage must approve or order the change.

(c) A beneficiary designated under this section is entitled on the retiree's death to receive monthly payments of the survivor's portion of the retiree's optional retirement annuity for the shorter of:

(1) the remainder of the life expectancy of the beneficiary designated as of the effective date of the retiree's retirement; or

(2) the remainder of the new beneficiary's life.

(c-1) Notwithstanding Subsection (c), a beneficiary designated under this section is entitled on the retiree's death to receive monthly payments of the survivor's portion of the retiree's optional retirement annuity for the remainder of the beneficiary's life if the beneficiary designated at the time of the retiree's retirement is a trust and the beneficiary designated under this section is:

(1) the sole beneficiary of that trust; or

(2) an individual who at the time of the retiree's death is the sole beneficiary of that trust.

(c-2) The executive director or the executive director's designee has exclusive authority to determine whether the language in a court order described by Subsection (b) is sufficient to indicate that the court has approved or ordered the change in the designated beneficiary. A determination by the executive director or the executive director's designee under this subsection may be appealed only to the board of trustees, except that the board by rule may waive the requirement that an appeal be to the board. An appeal to the board is a contested case under Chapter 2001. The standard of review of an appeal brought under this subsection is by substantial evidence.

(d) A retiree may not change a beneficiary under this section after retirement if the retiree has previously changed or designated after retirement a beneficiary for optional retirement annuity payments under this subtitle.

Acts 1997, 75th Leg., ch. 1416, Sec. 14, eff. Sept. 1, 1997.
Renumbered as Sec. 824.1013 by Acts, 1999, 76th Leg., ch. 1540, Sec. 9, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 9, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 4, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 930 (S.B. 1663), Sec. 4, eff. September 1, 2017.

Sec. 824.102. TRUST AS BENEFICIARY. (a) Except as provided by Subsection (b), a member or annuitant may designate a trust as beneficiary for the payment of benefits from the retirement system. If a trust is designated beneficiary, the beneficiary of the trust is considered the designated beneficiary for the purposes of determining eligibility for and the amount and duration of benefits. The trustee is entitled to exercise any rights to elect benefit options and name subsequent beneficiaries.

(b) A trust having more than one beneficiary may not receive benefits to which multiple designated beneficiaries are not entitled under this chapter.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 824.103. ABSENCE OF BENEFICIARY. (a) Benefits payable on the death of a member or annuitant, except an optional retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5), are payable, and rights to elect survivor benefits, if applicable, are available, to one of the classes of persons described in Subsection (b), if:

(1) the member or annuitant fails to designate a beneficiary before death;

(2) a designated beneficiary does not survive the member or annuitant;

(3) a designated beneficiary, under Section 824.004, waives claims to benefits payable on the death of the member or annuitant;

(4) a beneficiary designation is revoked under Section 824.101(g); or

(5) a person is not eligible to receive a benefit under Section 824.105.

(b) The following classes of persons, in descending order of precedence, are eligible to receive benefits in a situation described in Subsection (a):

(1) any surviving joint designated beneficiaries;

(2) any alternate beneficiaries;

(3) the surviving spouse of the decedent;

(4) any children of the decedent or their descendants by representation;

(5) the parents of the decedent;

(6) the executor or administrator of the decedent's estate; or

(7) the persons entitled by law to distribution of the decedent's estate.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.103 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 17, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 10, eff. September 1, 2011.

Sec. 824.104. FAILURE OF BENEFICIARY TO CLAIM BENEFITS. (a) If, before the first anniversary of the death of a member or annuitant, the retirement system does not receive a claim for payment of benefits from a designated beneficiary or a person entitled to benefits under Section 824.103, the retirement system may pay benefits, except an optional retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5), under the order of precedence in Section 824.103(b), as if the person failing to claim benefits had predeceased the decedent.

(b) Payment under Subsection (a) bars recovery by any other person of the benefits distributed.

(c) If, before the fourth anniversary of the death of a member

or annuitant, payment of benefits based on the death has not been made and no claim for benefits is pending with the retirement system, the accumulated contributions of the deceased member or the balance of the reserve for the deceased annuitant is forfeited to the benefit of the retirement system. The retirement system shall transfer funds forfeited under this subsection to the state contribution account.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.104 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 18, eff. Sept. 1, 1995.

Sec. 824.105. BENEFICIARY CAUSING DEATH OF MEMBER OR ANNUITANT. (a) A benefit payable on the death of a member or annuitant may not be paid to a person who has been convicted of causing that death or who is otherwise ineligible under Subsection (f) but instead is payable to a person who would be entitled to the benefit had the convicted or otherwise ineligible person predeceased the decedent.

(b) A person who becomes eligible under this section to select death or survivor benefits may select benefits as if the person were the designated beneficiary.

(c) The retirement system shall reduce any annuity computed in part on the age of the convicted or otherwise ineligible person to a lump sum equal to the present value of the remainder of the annuity. The reduced amount is payable to a person entitled as provided by this section to receive the benefit.

(d) The retirement system is not required to pay benefits under this section unless it receives actual notice of the conviction or other ground of ineligibility of a beneficiary. However, the retirement system may delay payment of a benefit payable on the death of a member or annuitant pending the results of a criminal investigation and of legal proceedings relating to the cause of death.

(e) For the purposes of this section, a person has been convicted of causing the death of a member or annuitant if the person:

(1) pleads guilty or nolo contendere to, or is found guilty by a court of, causing the death of the member or annuitant,

regardless of whether sentence is imposed or probated; and

(2) has no appeal of the conviction pending and the time provided for appeal has expired.

(f) A person is ineligible to receive a benefit payable on the death of a member or annuitant if the person is:

(1) found not guilty by reason of insanity under Chapter 46C, Code of Criminal Procedure, of causing the death of the member or annuitant; or

(2) the subject of an indictment, information, complaint, or other charging instrument alleging that the person caused the death of the member or annuitant and the person is determined to be incompetent to stand trial under Chapter 46B, Code of Criminal Procedure.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.105 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 11, eff. September 1, 2011.

Sec. 824.106. SIMULTANEOUS DEATH OF MEMBER AND BENEFICIARY. When a member or annuitant and the beneficiary of the member or annuitant have died within a period of less than 120 hours, the member or annuitant is considered to have survived the beneficiary for the purpose of determining the rights to amounts payable under this subtitle on the death of the member or annuitant.

Added by Acts 1987, 70th Leg., ch. 61, Sec. 4, eff. Aug. 31, 1987.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.106 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER C. SERVICE RETIREMENT BENEFITS

Sec. 824.201. APPLICATION FOR SERVICE RETIREMENT BENEFITS. (a) A member may apply for a service retirement annuity by filing a written application for retirement with the board of trustees.

(b) At any time before the retirement system makes the first annuity payment or the first annuity payment becomes due, a member may, by filing written notice with the board of trustees, revoke the

member's application for retirement or make, revoke, or change a selection of an optional service retirement annuity available as provided by Section 824.204.

(c) Except as specifically provided by this subtitle, a retiree may not revoke a retirement nor make, revoke, or change a selection of an optional service retirement annuity.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.201 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 19, eff. Sept. 1, 1995.

Sec. 824.202. ELIGIBILITY FOR SERVICE RETIREMENT. (a) Except as provided by Subsections (a-1) and (a-2), a member is eligible to retire and receive a standard service retirement annuity if:

(1) the member is at least 65 years old and has at least five years of service credit in the retirement system;

(2) the member is at least 60 years old and has at least 20 years of service credit in the retirement system;

(3) the member is at least 50 years old and has at least 30 years of service credit in the retirement system; or

(4) the member has at least five years of service credit in the retirement system and the sum of the member's age and amount of service credit in the retirement system equals the number 80.

(a-1) This subsection applies only to a person who becomes a member of the retirement system on or after September 1, 2007, and who is not subject to Subsection (a-2). A member subject to this subsection is eligible to retire and receive a standard service retirement annuity if:

(1) the member is at least 65 years old and has at least five years of service credit in the retirement system; or

(2) the member is at least 60 years old and has at least five years of service credit in the retirement system and the sum of the member's age and amount of service credit in the retirement system equals the number 80.

(a-2) This subsection applies only to a person who does not have at least five years of service credit in the retirement system on or before August 31, 2014, or who becomes a member of the

retirement system on or after September 1, 2014. A member subject to this subsection is eligible to retire and receive a standard service retirement annuity if:

(1) the member is at least 65 years old and has at least five years of service credit in the retirement system; or

(2) the member is at least 62 years old and has at least five years of service credit in the retirement system and the sum of the member's age and amount of service credit in the retirement system equals the number 80.

(b) This subsection applies only to a person who is not subject to Subsection (b-1), (b-2), (d), (d-1), or (d-2). If a member subject to this subsection is at least 55 years old and has at least five years of service credit in the retirement system, the member is eligible to retire and receive a service retirement annuity reduced from the standard service retirement annuity available under Subsection (a)(1), to a percentage derived from the following table:

Age at date of retirement	55	56	57	58	59	60	61	62	63	64	65
Percentage of standard annuity receivable	47%	51%	55%	59%	63%	67%	73%	80%	87%	93%	100%

(b-1) This subsection applies only to a person who becomes a member of the retirement system on or after September 1, 2007, and who is not subject to Subsection (b-2). If a member subject to this subsection is at least 55 years old and has at least five years of service credit in the retirement system, but does not meet the requirements under Subsection (d-1), the member is eligible to retire and receive a service retirement annuity reduced from the standard service retirement annuity available under Subsection (a-1)(1), to a percentage derived from the following table:

Age at date of retirement	55	56	57	58	59	60	61	62	63	64	65
Percentage of standard annuity receivable	47%	51%	55%	59%	63%	67%	73%	80%	87%	93%	100%

(b-2) This subsection applies only to a person who does not

have at least five years of service credit in the retirement system on or before August 31, 2014, or who becomes a member of the retirement system on or after September 1, 2014. If a member subject to this subsection is at least 55 years old and has at least five years of service credit in the retirement system, but does not meet the requirements under Subsection (d-2), the member is eligible to retire and receive a service retirement annuity reduced from the standard service retirement annuity available under Subsection (a-2)(1), to a percentage derived from the following table:

Age at date of retirement	55	56	57	58	59	60	61	62	63	64	65
Percentage of standard annuity receivable	47%	51%	55%	59%	63%	67%	73%	80%	87%	93%	100%

(c) Repealed by Acts 2005, 79th Leg., Ch. 1359, Sec. 55(a)(1), eff. September 1, 2005.

(d) This subsection applies only to a person who is not subject to Subsection (d-1) or (d-2). If a member subject to this subsection has at least 30 years of service credit in the retirement system, the member is eligible to retire regardless of age and receive a service retirement annuity consisting of the standard service retirement annuity available under Subsection (a) decreased by two percent for each year of age under 50 years.

(d-1) This subsection applies only to a person who becomes a member of the retirement system on or after September 1, 2007, and who is not subject to Subsection (d-2). If the sum of the member's age and amount of service credit in the retirement system equals the number 80, with at least five years of service credit, or if the member has at least 30 years of service credit in the retirement system, the member is eligible to retire regardless of age and receive a service retirement annuity consisting of the standard service retirement annuity available under Subsection (a-1)(2) decreased by five percent for each year of age under 60 years.

(d-2) This subsection applies only to a person who does not have at least five years of service credit in the retirement system on or before August 31, 2014, or who becomes a member of the retirement system on or after September 1, 2014. If the sum of the member's age and amount of service credit in the retirement system

equals the number 80, with at least five years of service credit, or if the member has at least 30 years of service credit in the retirement system, the member is eligible to retire regardless of age and receive a service retirement annuity consisting of the standard service retirement annuity available under Subsection (a-2)(2) decreased by five percent for each year of age under 62 years.

(e) The board of trustees may adopt tables for reduction of benefits for early retirement by each month of age, but the range of percentages in the tables within a year must be limited to the range provided between two years of age by this section.

(f) Except as provided by Chapter 803 or 805, a member is not eligible to receive service retirement benefits from the retirement system unless the member has at least five years of service credit in the retirement system for actual service in public schools.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 25, Sec. 1, eff. Oct. 15, 1986; Acts 1989, 71st Leg., ch. 222, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 835, Sec. 3(a), (b), eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.202 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 4.11(a), eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 11.05(c), eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 555, Sec. 20, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1416, Sec. 15, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 11, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 55(a)(1), eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 12, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1214 (S.B. 1458), Sec. 1, eff. September 1, 2014.

Sec. 824.203. STANDARD SERVICE RETIREMENT BENEFITS. (a) Except as provided by Subsections (c) and (d), the standard service retirement annuity is an amount computed on the basis of the member's average annual compensation for the five years of service, whether or

not consecutive, in which the member received the highest annual compensation, times 2.3 percent for each year of service credit in the retirement system.

(b) In the case of a person who retired before August 27, 1979, ceilings in the definition of "annual compensation" apply to the computation of average annual compensation under Subsection (a). In the case of a person who retires on or after that date, those ceilings do not apply and the computation shall be based on actual compensation paid or payable for services as an employee to the extent that the computation includes compensation for school years before the 1981-82 school year.

(c) Except as provided by Subsection (d), for benefits payable because of the death or retirement of a member that occurred before September 1, 1982, the standard service retirement annuity is computed in accordance with applicable prior law.

(d) In no case may the standard service retirement annuity be less than $150 a month. The minimum benefits provided by this section are subject to reduction in the same manner as other benefits because of early retirement or selection of an optional retirement annuity.

(e) Repealed by Acts 2001, 77th Leg., ch. 1229, Sec. 29(4), eff. Sept. 1, 2001.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 204, ch. 18, Sec. 27, eff. Sept. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.203 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 5, eff. Nov. 12, 1991; Acts 1995, 74th Leg., ch. 555, Sec. 21, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1416, Sec. 16, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1540, Sec. 10, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1229, Sec. 9, 29(4), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 12, eff. September 1, 2005.

Sec. 824.2031. BENEFIT IMPROVEMENTS. (a) Each regular legislative session, the legislature shall determine whether the

performance of the retirement system trust fund makes the fund capable of supporting improvements in the plan of benefits.

(b) A determination under this section shall be founded on the information in the most recent report of an investment practices and performance evaluation conducted under Section 802.109 and the application of that information to:

(1) the present amortization period for liabilities of the retirement system;

(2) the rate of return on retirement system investments over and above the rate of inflation of the investment portfolio as a whole, of the portion of the investment portfolio entrusted to private investment entities, and of the portion of the investment portfolio entrusted to investment officers who are employees of the retirement system;

(3) economic projections of market conditions and future investment rates of return as reflected in the comptroller's most recent economic forecast and revenue estimate;

(4) the costs, including changes in the amortization period for liabilities of the retirement system, of providing cost-of-living or other increases in benefits to current annuitants; and

(5) an evaluation of the diversity of retirement system investments and whether the portfolio provides low-risk, long-term growth.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 22, eff. Sept. 1, 1995.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 1, eff. May 26, 2021.

Sec. 824.204. OPTIONAL SERVICE RETIREMENT BENEFITS. (a) Instead of the standard service retirement annuity payable under Section 824.203 or an annuity reduced because of age under Section 824.202, a retiring member may elect to receive an optional service retirement annuity, reduced for early retirement if applicable, under this section. An election to receive an optional service retirement annuity must be filed with the board of trustees not later than the effective date of retirement.

(b) An optional service retirement annuity is an annuity payable throughout the life of the retiree and is actuarially reduced

from the annuity otherwise payable under this subtitle to its actuarial equivalent under the option selected under Subsection (c).

(c) An eligible member may select one of the following options, which provide that:

(1) after the retiree's death, the reduced annuity is payable to and throughout the life of the person nominated by the retiree's written designation filed prior to retirement;

(2) after the retiree's death, one-half of the reduced annuity is payable to and throughout the life of the person nominated by the retiree's written designation filed prior to retirement;

(3) if the retiree dies before 60 monthly annuity payments have been made, the remainder of the 60 payments are payable to the designated beneficiary;

(4) if the retiree dies before 120 monthly annuity payments have been made, the remainder of the 120 payments are payable to the designated beneficiary; or

(5) after the retiree's death, three-fourths of the reduced annuity is payable to and throughout the life of the person nominated by the retiree's written designation filed prior to retirement.

(d) If a person who is nominated by a retiree in the written designation under Section 824.101 predeceases the retiree, the reduced annuity of a retiree who has elected an optional service retirement annuity under Subsection (c)(1), (c)(2), or (c)(5) shall be increased to the standard service retirement annuity that the retiree would otherwise be entitled to receive if the retiree had not selected that annuity option. The standard service retirement annuity shall be adjusted as appropriate for:

(1) early retirement as provided by Section 824.202; and

(2) postretirement increases in retirement benefits authorized by law after the date of retirement.

(e) The increase in the annuity under Subsection (d) begins with the payment due at the end of September, 1995, or the first monthly payment made to the retiree following the date of death of the person nominated, whichever is later, and is payable to the retiree for the remainder of the retiree's life.

(f) The board of trustees shall adopt separate tables to be used to reduce an optional service retirement annuity under Subsection (d) to the actuarial equivalent of the standard service retirement annuity.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 835, Sec. 4, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.204 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.05(d), eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 812, Sec. 6, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 555, Sec. 23, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1416, Sec. 17, eff. Sept. 1, 1997.

Sec. 824.2045. PARTIAL LUMP-SUM OPTION. (a) A member may select a standard service retirement annuity or an optional service retirement annuity described by Section 824.204, reduced for early age as applicable under Section 824.202, together with a partial lump-sum distribution, if:

(1) the member is eligible for a service retirement annuity;

(2) the sum of the member's age and amount of service credit in the retirement system equals the number 90; and

(3) the member is not participating in the deferred retirement option plan under Subchapter I.

(b) The amount of the lump-sum distribution under this section may not exceed the sum of 36 months of a standard service retirement annuity reduced for early age as applicable under Section 824.202 computed without regard to this section.

(c) The service retirement annuity selected by the member shall be actuarially reduced to reflect the lump-sum option selected by the member and shall be actuarially equivalent to a standard or optional service retirement annuity, as applicable, reduced for early age as applicable under Section 824.202, without the partial lump-sum distribution. The annuity and lump sum shall be computed to result in no actuarial loss to the retirement system.

(d) The retiring member may choose a lump sum equal to 12 months of a standard service retirement annuity and payable at the same time that the first monthly payment of the annuity is paid, a lump sum equal to 24 months of a standard annuity and payable in one or two annual payments, or a lump sum equal to 36 months of a standard annuity and payable in one, two, or three annual payments. At the option of the member, a payment under this subsection may be made as provided by Section 825.509. The amount of the lump sum

shall be computed based on a standard service retirement annuity reduced for early age as applicable under Section 824.202.

(e) The amount of the lump-sum distribution will be deducted from any amounts otherwise payable under Section 824.503.

(f) The partial lump-sum option under this section may be elected only once by a member and may not be elected by a retiree. A member retiring under the proportionate retirement program under Chapter 803 is not eligible for the partial lump-sum option.

(g) Before a retiring member selects a partial lump-sum distribution under this section, the retirement system shall provide a written notice to the member of the amount by which the member's annuity will be reduced because of the selection. The member shall be asked to sign a copy of or receipt for the notice, and the retirement system shall maintain the signed copy or receipt.

(h) The board of trustees may adopt rules for the implementation of this section.

Added by Acts 1999, 76th Leg., ch. 1540, Sec. 11, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 13, eff. September 1, 2005.

Sec. 824.205. DEDUCTIONS FROM SERVICE RETIREMENT ANNUITY. (a) A person who receives a service retirement annuity under Section 824.202, 824.203, or 824.204 may, on a form satisfactory to and filed with the retirement system, authorize the retirement system to deduct from the person's monthly annuity payment the amount required as a monthly premium for:

(1) hospital insurance benefits provided to uninsured individuals not otherwise eligible for medical insurance for the aged, as provided by Part A of Title XVIII of the federal Social Security Act (42 U.S.C. Section 1395c et seq.); and

(2) supplementary medical insurance benefits for the aged, as provided by Part B of Title XVIII of the federal Social Security Act (42 U.S.C. Section 1395j et seq.).

(b) After making deductions authorized under Subsection (a), the retirement system shall pay the required premiums to the treasury of the United States, subject to applicable laws relating to the time and manner of payment.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.205 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 824.206. CHANGE OF SERVICE RETIREMENT ANNUITY PAYMENT PLAN. (a) A retiree may change the retiree's choice of service retirement annuity payment plans after the retiree's effective date of retirement by filing written notice with the board of trustees before the later of the date on which the retirement system makes the first annuity payment or the date the first payment becomes due. After the first payment has been made by the retirement system or has become due, a retiree may not change the annuity payment plan selected.

(b) For purposes of this section, the term "makes payment" includes the depositing in the mail of a payment warrant or the crediting of an account with payment through electronic funds transfer.

(c) The retirement system may adopt rules to administer this section.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 7, eff. Sept. 1, 1993.

SUBCHAPTER D. DISABILITY RETIREMENT BENEFITS

Sec. 824.301. APPLICATION FOR DISABILITY RETIREMENT BENEFITS. (a) A member may apply for a disability retirement annuity by:

(1) filing a written application for retirement with the board of trustees; or

(2) having an application filed with the board by the member's legal representative.

(b) In addition to an application for retirement, a member shall file with the board of trustees the results of a medical examination of the member.

(c) The board of trustees by rule may require the submission to it of additional information about a disability. The retirement system shall prescribe forms for the information required by this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.301 by Acts

1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 824.302. ELIGIBILITY FOR DISABILITY RETIREMENT. Subject to Section 824.310, a member is eligible to retire and receive a disability retirement annuity if the member:

(1) is mentally or physically disabled from the further performance of duty; and

(2) has a disability that is probably permanent.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.302 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 6, eff. Sept. 1, 1992.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 1, eff. September 1, 2007.

Sec. 824.303. CERTIFICATION OF DISABILITY. (a) After a member applies for disability retirement, the medical board may require the member to submit additional information about the disability.

(b) If the medical board finds that the member is mentally or physically disabled from the further performance of duty and that the disability is probably permanent, the medical board shall certify disability, and the member shall be retired.

(c) The medical board may rule on an application for disability retirement at a regular or special meeting or by mail, telephone, telegraph, or other suitable means of communication.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.303 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 824.304. DISABILITY RETIREMENT BENEFITS. (a) Subject to Section 824.310, if a member has a total of less than 10 years of service credit in the retirement system on the date of disability retirement, the retirement system shall pay the person a disability retirement annuity of $150 a month for the shortest of the following

periods:

(1) the duration of the disability;

(2) the number of months of creditable service the person has at retirement; or

(3) the duration of the person's life.

(b) Subject to Section 824.310, if a member has a total of at least 10 years of service credit in the retirement system on the date of disability retirement, the retirement system shall pay the person for the duration of the disability a disability retirement annuity in an amount equal to the greater of:

(1) a standard service retirement annuity computed under Section 824.203; or

(2) $150 a month.

(c) Before the 31st day after the date on which the medical board certifies a member's disability, the member may reinstate withdrawn contributions and make deposits for military service and equivalent membership service and receive service credit as provided by this subtitle.

(d) The minimum benefits provided by this section are subject to reduction under rules adopted under Section 824.310 and are also subject to reduction in the same manner as other benefits because of the selection of an optional retirement annuity.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.304 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 7, eff. Sept. 1, 1992; Acts 1993, 73rd Leg., ch. 812, Sec. 8, 38, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 555, Sec. 24, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1416, Sec. 18, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1229, Sec. 10, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 2, eff. September 1, 2007.

Sec. 824.305. MEDICAL EXAMINATION OF DISABILITY RETIREE. (a) Once each year during the first five years after a member retires for disability, and once in each three-year period after that, the board of trustees may require a disability retiree who is less than 60

years old to undergo a medical examination by one or more physicians the board designates.

(b) If a disability retiree refuses to submit to a medical examination as provided by this section, the board of trustees shall discontinue the retiree's annuity payments until the retiree submits to an examination.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.305 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 824.307. RESTORATION OF DISABILITY RETIREE TO MEMBERSHIP. (a) If the medical board finds that a disability retiree is no longer mentally or physically incapacitated for the performance of duty, it shall certify its findings and submit them to the board of trustees.

(b) If a disability retiree is restored to active service, other than service described by Section 824.602(a)(1), or refuses for more than one year to submit to a required medical examination, or if the board of trustees concurs in a certification issued under Subsection (a), the board shall discontinue the retiree's annuity payments and the retiree must again become a member of the retirement system.

(c) When a person becomes a member under this section, an amount equal to the sum in the person's individual account in the member savings account at the time of retirement, minus the amount of annuity payments made since retirement, shall be transferred from the retired reserve account to the person's individual account in the member savings account. The member is entitled to service credit for all service credit used to compute the member's disability retirement annuity at the time of retirement.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.307 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 8, eff. Sept. 1, 1992.

Sec. 824.308. OPTIONAL DISABILITY RETIREMENT BENEFITS. (a)

Instead of an annuity payable under Section 824.304(b), a member retiring under that section may elect to receive an optional disability retirement annuity under this section. An election to receive an optional disability retirement annuity must be filed with the board of trustees not later than the later of the effective date of retirement or the date the member applies for retirement.

(b) An optional disability retirement annuity is an annuity payable throughout the disability of the disability retiree and is actuarially reduced from the annuity otherwise payable under Section 824.304(b), after any reduction under rules adopted under Section 824.310, to its actuarial equivalent under the option selected under Subsection (c).

(c) An eligible member may select one of the following options:

(1) after the disability retiree's death, the reduced annuity is payable throughout the life of a person nominated by the retiree's written designation under Section 824.101 filed before retirement;

(2) after the disability retiree's death, one-half of the reduced annuity is payable throughout the life of the retiree's designated beneficiary;

(3) if the disability retiree dies before 60 monthly annuity payments have been made, the remainder of the 60 payments are payable to the designated beneficiary;

(4) if the disability retiree dies before 120 monthly annuity payments have been made, the remainder of the 120 payments are payable to the designated beneficiary; or

(5) after the disability retiree's death, three-fourths of the reduced annuity is payable throughout the life of the retiree's designated beneficiary.

(d) If the person nominated by the disability retiree's written designation under Section 824.101 filed before or at the time of retirement predeceases the disability retiree, the reduced annuity of a disability retiree who has elected an optional retirement annuity under Subsection (c)(1), (c)(2), or (c)(5) is increased to the standard retirement annuity that the disability retiree would otherwise be entitled to receive if the disability retiree had not selected an annuity option. The standard retirement annuity shall be adjusted as appropriate for postretirement increases in retirement benefits authorized by law after the date of retirement.

(e) The increase in the annuity under Subsection (d) begins

with the first monthly payment made to the disability retiree after the date of death of the designated beneficiary and is payable to the disability retiree for the remainder of the disability retiree's disability.

(f) The board of trustees shall adopt separate tables to be used to reduce an optional disability retirement annuity under this section to the actuarial equivalent of the standard retirement annuity.

(g) The continued payment to a disability retiree and the future payment to the retiree's designated beneficiary of any disability benefit, including an optional payment elected under Subsection (c), are conditioned on the continuation of the retiree's disabled status until the date of the retiree's death.

(h) The same requirements and limitations that apply to the designation or changing of beneficiaries for service retirement annuity options, including Section 824.101, apply to the designation of beneficiaries for disability retirement options.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 9, eff. Sept. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 9, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 555, Sec. 25, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 3, eff. September 1, 2007.

Sec. 824.309. CHANGE OF DISABILITY RETIREMENT PAYMENT PLAN. (a) A retiree may change the retiree's choice of disability retirement payment plans after the retiree's effective date of retirement by filing written notice with the board of trustees before the later of the date on which the retirement system makes the first annuity payment or the date the first payment becomes due. After the first payment has been made by the retirement system or has become due, a retiree may not change the annuity payment plan selected.

(b) For purposes of this section, the term "makes payment" includes the depositing in the mail of a payment warrant or the crediting of an account with payment through electronic funds transfer.

(c) The retirement system may adopt rules to administer this

section.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 10, eff. Sept. 1, 1993.

Sec. 824.310. PURPOSE OF DISABILITY BENEFIT; LIMIT ON SUPPLEMENTAL INCOME. (a) The purpose of a disability retirement annuity paid under this subchapter is to lessen the financial hardships faced by a member with a disability.

(b) The board of trustees shall adopt rules under which the disability retirement annuity paid to a disability retiree under this subchapter is reduced on a sliding-scale basis or is suspended for a period in which the compensation earned by the retiree for work performed in a 12-month period during the disability retirement, as determined under the rules of the board of trustees, exceeds the compensation earned by the retiree during the 12-month period in which the retiree earned the highest compensation for actual service as a member of the retirement system.

(c) The rules adopted under Subsection (b) must provide for the partial or full reinstatement of a disability retirement annuity that is reduced or suspended if the compensation earned by the retiree for work performed during the disability retirement is reduced or suspended.

(d) The board of trustees by rule shall require a disability retiree to report to the board the amount of compensation earned by the disability retiree that exceeds the amount established by the board by rule for work performed during the disability.

Added by Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 4, eff. September 1, 2007.

SUBCHAPTER E. MEMBER DEATH BENEFITS

Sec. 824.401. AVAILABILITY OF ANNUITY. (a) A death benefit annuity under this chapter is payable only if the decedent had, at the time of death, at least the minimum amount of service credit in the retirement system necessary for a service retirement annuity at an attained age.

(b) Multiple beneficiaries are not eligible to receive a death benefit annuity under Section 824.402(a)(4) or an equivalent annuity under Section 824.403.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.401 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 824.402. BENEFITS ON DEATH OF ACTIVE MEMBER. (a) Except as provided by Section 824.401, the designated beneficiary of a member who dies during a school year in which the member has performed service is eligible to receive at the beneficiary's election the greatest of the following amounts:

(1) an amount equal to twice the member's annual compensation for the school year immediately preceding the school year in which the member dies, or $80,000, whichever is less;

(2) an amount equal to twice the member's rate of annual compensation for the school year in which the member dies, or $80,000, whichever is less;

(3) 60 monthly payments of a standard service retirement annuity, computed as provided by Section 824.203;

(4) an optional retirement annuity for the designated beneficiary's life in an amount computed as provided by Section 824.204(c)(1) as if the member had retired on the last day of the month immediately preceding the month in which the member dies; or

(5) an amount equal to the amount of accumulated contributions in the member's individual account in the member savings account.

(a-1) In determining under Subsection (a)(4) whether to reduce the optional retirement annuity amount because of early retirement and in determining the amount of that reduction, if applicable, the retirement system shall make the determination as if the member had retired with an additional five years of service credit on the last day of the month preceding the month in which the member dies. The additional five years of service credit used in making a determination under this subsection may not be used to determine the amount of the benefit under Section 824.203 or whether the benefit under this subsection is authorized under Section 824.401.

(b) In addition to the benefits provided under Subsection (a), the designated beneficiary of a member who is an employee of a school district and who dies as the result of a physical assault during the performance of the employee's regular duties is eligible to receive a lump-sum death benefit payment in the amount of $160,000.

(c) The board of trustees by rule may prescribe the manner of payment of benefits under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 413, Sec. 4, eff. Sept. 1, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.402 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 26, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1540, Sec. 12, eff. Sept. 1, 1999. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 930 (S.B. 1663), Sec. 5, eff. September 1, 2017.

Sec. 824.403. BENEFITS ON DEATH OF INACTIVE MEMBER. (a) Except as provided by Section 824.401, the designated beneficiary of a member who dies while absent from service is eligible to receive:

(1) the same benefits payable under Section 824.402 or 824.404 if the member's absence from service was:

(A) because of sickness, accident, or other cause the board of trustees determines involuntary;

(B) in furtherance of the objectives or welfare of the public school system; or

(C) during a time when the member was eligible to retire or would become eligible without further service before the fifth anniversary of the member's last day of service as a member; or

(2) an amount equal to the accumulated contributions in the member's individual account in the member savings account, if the member's absence from service does not satisfy a requirement of Subdivision (1).

(b) To the extent required by Section 401(a)(37), Internal Revenue Code of 1986, the designated beneficiary of a member who died on or after January 1, 2007, while the member was performing qualified military service as defined by Section 414(u), Internal Revenue Code of 1986, is eligible to receive additional benefits to the same extent as if the member had resumed employment and been employed at the time of death.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.403 and

amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1171 (H.B. 3347), Sec. 3, eff. September 1, 2009.

Sec. 824.404. SURVIVOR BENEFITS. (a) The designated beneficiary of a member who dies may, if entitled to a death benefit other than the accumulated contributions of the member, elect to receive, instead of a benefit payable under Section 824.402 or 824.403, a lump-sum payment of $2,500 plus an applicable monthly benefit described in this section.

(b) If the designated beneficiary is the spouse or a dependent parent of the decedent, the beneficiary may elect to receive for life a monthly benefit of $250, beginning immediately or on the date the beneficiary becomes 65 years old, whichever is later.

(c) If the designated beneficiary is the spouse of the decedent and has one or more children less than 18 years old or has custody of one or more children of the decedent who are less than 18 years old, the designated beneficiary may elect to receive:

(1) a monthly benefit of $350 payable until the youngest child becomes 18 years old; and

(2) when the youngest child has attained the age of 18, a monthly benefit for life of $250, beginning on the date the beneficiary becomes 65 years old.

(d) If the designated beneficiary or beneficiaries are the decedent's dependent children who are less than 18 years old, their guardian may elect to receive for them:

(1) a monthly benefit of $350, payable as long as two or more children are less than 18 years old; and

(2) a monthly benefit of $250, payable as long as only one child is less than 18 years old.

(e) If the designated beneficiary is the spouse or a dependent parent of the decedent, benefits under Subsection (d) are payable, if a dependent child less than 18 years old exists, on the death of the beneficiary.

(f) A person who qualifies to receive survivor benefits from more than one deceased member as a spouse or a spouse with a dependent child is entitled to be paid only benefits based on the death of one of the decedents.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 699, Sec. 1, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.404 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 11, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1416, Sec. 19, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1229, Sec. 11, eff. Sept. 1, 2001.

Sec. 824.4041. BENEFITS FOR CERTAIN SURVIVING SPOUSES. (a) A person is eligible to receive benefits under this section if the person:

(1) is the designated beneficiary of a deceased member;

(2) elected before September 1, 1980, to receive for life a monthly benefit of $75 beginning at the age of 65;

(3) became ineligible for the benefits because the person remarried before September 1, 1980; and

(4) reapplies for benefits under this section.

(b) The retirement system shall:

(1) verify whether a person is eligible to receive benefits under this section; and

(2) if the person is eligible, make payments to the person of a monthly benefit in the amount specified in Section 824.404.

(c) The retirement system shall make payment to a person eligible to receive benefits under this section beginning with the month after the month in which the person reapplies for benefits under this section.

Added by Acts 1993, 73rd Leg., ch. 792, Sec. 1, eff. Sept. 1, 1993.

Sec. 824.405. TABLES FOR DETERMINATION OF DEATH BENEFIT ANNUITY. For the purpose of computing a death benefit annuity under Section 824.402(a)(4) or Section 824.403, the board of trustees shall extend the tables in Section 824.202 to ages earlier than indicated in the tables by actuarially reducing the benefit available under the applicable table to the actuarial equivalent at the attained age of the member.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.405 and

amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 14, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 13, eff. September 1, 2011.

Sec. 824.406. BENEFITS FOR SURVIVORS OF CERTAIN MEMBERS. (a) Except as provided by Subsection (c), an eligible surviving spouse who is the designated beneficiary of a person who died before April 8, 1957, and who had at the time of death a total of at least 25 years of service credit and military leave credit in the retirement system, is eligible to receive an applicable survivor benefit available under Section 824.404.

(b) A surviving spouse eligible under this section to receive a benefit is one who has not received from the retirement system a benefit based on the member's death, other than a return of the member's accumulated contributions.

(c) A surviving spouse who qualifies under this section for a survivor benefit is not eligible to receive a lump-sum benefit under Section 824.404(a).

(d) A benefit under this section is payable beginning on the last day of the month in which an eligible person applies for the benefit on a form prescribed by and filed with the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.406 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 824.407. GUARANTEED RETURN OF AMOUNT EQUAL TO CONTRIBUTIONS. If a beneficiary selects a life annuity death benefit under Section 824.402, the retirement system shall pay a lump-sum death benefit in an amount, if any, by which the amount of the deceased member's accumulated contributions at the time of death exceeds the amount of annuity payments made to the beneficiary before the beneficiary's death. This lump-sum benefit will be paid to the person designated by the beneficiary of the annuity or, if no person is designated, to the estate of the beneficiary.

Added by Acts 1987, 70th Leg., ch. 61, Sec. 6, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.407 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER F. RETIREE DEATH BENEFITS

Sec. 824.501. SURVIVOR BENEFITS. (a) The designated beneficiary of a service or disability retiree who dies while receiving a service or disability retirement benefit may elect to receive:

(1) a lump-sum payment of $2,500, plus an applicable monthly benefit under Section 824.404; or

(2) a lump-sum benefit of $10,000.

(b) An eligible person may receive benefits under this section, Section 824.204, and Section 824.308.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 835, Sec. 5, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.501 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 10, eff. Sept. 1, 1992.

Sec. 824.502. BENEFITS ON DEATH OF DISABILITY RETIREE. The designated beneficiary of a disability retiree who retires before September 1, 1992, who has not selected an optional annuity under Section 824.308, and who dies while receiving a retirement benefit may elect to receive, instead of survivor benefits provided by Section 824.501, a benefit available under Section 824.402, computed as if the decedent had been in service at the time of death.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.502 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 11, eff. Sept. 1, 1992; Acts 1999, 76th Leg., ch. 1540, Sec. 13, eff. Sept. 1, 1999.

Sec. 824.503. RETURN OF EXCESS CONTRIBUTIONS. (a) If a

retiree dies while receiving a standard or reduced service retirement annuity as provided by Section 824.202 or an optional service retirement annuity as provided by Section 824.204(c)(1), (c)(2), or (c)(5) and, in the case of a retiree receiving an optional service retirement annuity, if the retiree's designated beneficiary of the annuity has predeceased the retiree, the retirement system shall pay a lump-sum death benefit in an amount, if any, by which the amount of the deceased retiree's accumulated contributions at the time of retirement exceeds the amount of annuity payments made before the retiree's death.

(b) A benefit under Subsection (a) is payable to any existing designated beneficiary or, if none exists, in the manner provided by Section 824.103.

(c) If a retiree's designated beneficiary dies while receiving an optional annuity under Section 824.204(c)(1), (c)(2), or (c)(5), the retirement system shall pay a lump-sum death benefit in an amount, if any, by which the amount of the retiree's accumulated contributions at the time of retirement exceeds the amount of annuity payments made to the retiree and the designated beneficiary before the beneficiary's death.

(d) A benefit under Subsection (c) is payable to the person or persons designated as the beneficiary of the beneficiary and, if such person has not been designated or does not survive, then to the persons entitled to distribution of the deceased beneficiary's estate.

(e) An eligible person may receive benefits under both this section and Section 824.501.

(f) The designated beneficiary of a disability retiree is eligible to receive the benefits described by this section if the retiree:

(1) retires on or after September 1, 1992; and

(2) dies while receiving disability retirement benefits under Section 824.304.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.503 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 12, eff. Sept. 1, 1992; Acts 1995, 74th Leg., ch. 555, Sec. 27, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 15, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 930 (S.B. 1663), Sec. 6, eff. September 1, 2017.

Sec. 824.504. BENEFITS FOR SURVIVORS OF CERTAIN RETIREES. (a) Except as provided by Subsection (b), a surviving spouse who is the designated beneficiary of a retiree who did not perform a year of service after November 23, 1956, that was credited in the retirement system and who died before August 23, 1963, while receiving a retirement benefit, is eligible to receive an applicable survivor benefit available under Section 824.404.

(b) A surviving spouse who qualifies under this section for a survivor benefit is not eligible to receive a lump-sum benefit under Section 824.404(a).

(c) A benefit under this section is payable beginning on the last day of the month in which an eligible person applies for the benefit on a form prescribed by and filed with the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.504 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 824.505. OTHER AMOUNTS PAYABLE ON DEATH OF RETIREE. (a) Amounts payable by the retirement system to an annuitant that are not received by that annuitant or the annuitant's bank, as determined by the retirement system, before the annuitant's death may be paid to the person named to receive benefits in the event of the annuitant's death, in accordance with rules adopted by the board of trustees. The retirement system may send a final monthly payment of an annuity to a bank or another address previously indicated by the annuitant or beneficiary.

(b) The board of trustees may adopt rules necessary to administer this section.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 11.05(f), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 28, eff. Sept. 1, 1995.

SUBCHAPTER G. LOSS OF BENEFITS ON RESUMPTION OF SERVICE

Sec. 824.601. LOSS OF MONTHLY BENEFITS. (a) In this section, "third-party entity" means an entity retained by a Texas public educational institution to provide personnel to the institution that perform duties or provide services that employees of the institution would otherwise perform or provide.

(b) Except as provided by Subsection (b-1) or (b-4), or Section 824.602 and subject to Subsection (b-2) and, if applicable, Subsection (b-3), a retiree is not entitled to service or disability retirement benefit payments, as applicable, for any month in which the retiree is employed in any position by a Texas public educational institution.

(b-1) Subsection (b) does not apply to a retiree under Section 824.202 whose effective date of retirement is on or before January 1, 2021.

(b-2) A retiree is considered to be employed by a Texas public educational institution for purposes of Subsection (b) if the retiree performs duties or provides services for or on behalf of the institution that an employee of the institution would otherwise perform or provide and:

(1) the retiree waives, defers, or forgoes compensation from the institution for the performance of the duties or provision of the services at any time during the 12 consecutive calendar months after the retiree's effective date of retirement, notwithstanding any other law, including Sections 824.602(a)(1), (a)(2), and (a)(4);

(2) the retiree performs the duties or provides the services for or on behalf of the institution as an independent contractor at any time during the 12 consecutive calendar months after the retiree's effective date of retirement; or

(3) the retiree, as a volunteer without compensation, performs the same duties or provides the same services for an institution that the retiree performed or provided immediately before retiring and the retiree has an agreement to perform those duties or provide those services after the 12 consecutive calendar months after the retiree's effective date of retirement.

(b-3) A retiree under Section 824.202 is subject to Subsection (b) only if the retirement system first issues the following notices to the retiree:

(1) with respect to the first occurrence of the retiree's employment that does not qualify for an exception under Section 824.602, the system issued a written warning notifying the retiree of that fact; and

(2) in a month following the month in which the system issued the warning described by Subdivision (1) and with respect to a subsequent occurrence of the retiree's continued employment that does not qualify for an exception under Section 824.602, the system issued a written notice:

(A) warning the retiree of the fact described by this subdivision; and

(B) requiring the retiree to pay to the system, in a form and manner prescribed by the system, an amount, as elected by the retiree, that equals the total sum the retiree:

(i) earned for all employment by Texas public educational institutions for each month occurring after the issuance of the warning under Subdivision (1) for which the retiree did not qualify for an exception under Section 824.602 and before the month the system issued the written notice described by this subdivision; or

(ii) received in retirement benefit payments for each month occurring after the issuance of the warning under Subdivision (1) for which the retiree did not qualify for an exception under Section 824.602 and before the month the system issued the written notice described by this subdivision.

(b-4) A retiree under Section 824.302 who is employed in any position by a Texas public educational institution for more than 90 days in a school year is not entitled to disability retirement benefit payments for the remaining months of the school year during which the retiree continues to be employed by an institution unless the retiree qualifies for the exception described by Section 824.602(g).

(c) A Texas public educational institution, for the purposes of this subchapter, is any entity included in the definition of "employer" or "public school" in Section 821.001 or any entity in whose employment the retiree has earned credit as a member of the retirement system.

(d) A retiree who is an employee of a third-party entity is considered to be employed by a Texas public educational institution for purposes of this subchapter unless the retiree does not perform

duties or provide services on behalf of or for the benefit of the institution.

(e) Loss of benefits under this section does not extend any period of guaranteed benefits elected pursuant to Section 824.204.

(f) Redesignated by Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 3, eff. May 26, 2021.

Added by Acts 1985, 69th Leg., ch. 832, Sec. 6, eff. June 15, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.601 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989; Acts 2003, 78th Leg., ch. 655, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 928 (S.B. 1669), Sec. 1, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 930 (S.B. 1663), Sec. 7, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 2, eff. May 26, 2021.

Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 3, eff. May 26, 2021.

Acts 2021, 87th Leg., R.S., Ch. 511 (S.B. 288), Sec. 1, eff. September 1, 2021.

Sec. 824.602. EXCEPTIONS. (a) Subject to Section 825.506, the retirement system may not, under Section 824.601, withhold a monthly benefit payment if the retiree is employed in a Texas public educational institution:

(1) as a substitute only with pay not more than the daily rate of substitute pay established by the employer and, if the retiree is a disability retiree, the employment has not exceeded a total of 90 days in the school year;

(2) in a position, other than as a substitute, on no more than a one-half time basis for the month;

(3) in one or more positions on as much as a full-time basis, if the retiree has been separated from service with all Texas public educational institutions for at least 12 full consecutive months after the retiree's effective date of retirement;

(4) in a position, other than as a substitute, on no more than a one-half time basis for no more than 90 days in the school

year, if the retiree is a disability retiree; or

(5) as a tutor under Section 33.913, Education Code.

(b) Working any portion of a day counts as working a full day for the purposes of Subsection (a)(1) or (a)(4).

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 928, Sec. 5, eff. June 17, 2011.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 928, Sec. 5, eff. June 17, 2011.

(e) Except as provided by Subsections (n) and (o), the exception provided by Subsection (a) does not apply to a retiree working as a substitute under Subsection (a)(1) who also works in another position described by Subsection (a) in the same month.

(f) The retirement system shall include any employment during the school year, including any employment that relied on the exemption provided by Subsection (a)(1) or (a)(4), in determining whether and when a disability retiree has exceeded 90 days of employment in the school year.

(g) The exceptions provided by Subsections (a)(2) and (a)(3) do not apply to disability retirees. The retirement system nevertheless may not withhold a monthly benefit payment under Section 824.601 if:

(1) a disability retiree is employed in a Texas public educational institution in a position, other than as a substitute, for a period not to exceed three consecutive months;

(2) the work occurs in a period, designated by the disability retiree, of no more than three consecutive months;

(3) the disability retiree executes on a form and at a time prescribed by the retirement system a written election to have this exception apply on a one-time trial basis in determining whether benefits are to be suspended for the months of employment after retirement and in determining whether a disability retiree is no longer mentally or physically incapacitated for the performance of duty; and

(4) the disability retiree has not previously elected to avoid loss of monthly benefits under this subsection.

(h) A disability retiree is not entitled to service credit for service during a trial period under Subsection (g) if the retiree is restored to active service.

(i) Section 824.005(b), concerning revocation of retirement on certain reemployment, applies to employment described in Subsection (a) or (g).

(j) The board of trustees shall adopt rules governing the employment of a substitute and defining "one-half time basis."

(k) The actuary designated by the board of trustees shall, in investigating the experience of the members of the system, note any significant increase in early age retirements and determine the extent to which any increase has been caused by the exception to loss of benefits for employment after retirement provided by Subsection (a)(3). If the actuary certifies in writing to the retirement system that sound actuarial funding of the retirement system's benefits is endangered by continuation of this exception, the board of trustees may determine that no further elections of the exception will be accepted from retirees, other than from those who have previously relied on the exception in retiring under this subtitle. A retiree may be considered to have relied on this exception only if retirement occurred on or after May 31, 1985, but before the date the board of trustees acknowledges receipt of such certification and if the retiree has first elected to receive benefits under the exception not later than two years after the retiree's effective date of retirement.

(l) This subchapter does not apply to payments under Section 824.804(b).

(m) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 928, Sec. 5, eff. June 17, 2011.

(n) The exception provided by Subsection (a) applies to a retiree employed in positions under Subsections (a)(1) and (a)(2) in the same month only if the total number of days that the retiree works in those positions in that month do not exceed the number of days per month for work on a one-half-time basis.

(o) The exception provided by Subsection (a) applies to a disability retiree employed in positions under Subsections (a)(1) and (a)(4) in the same month only if the total number of days that the disability retiree works in those positions in that month do not exceed the number of days per month for work on a one-half-time basis.

(p) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 928, Sec. 5, eff. June 17, 2011.

(q) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 928, Sec. 5, eff. June 17, 2011.

Added by Acts 1985, 69th Leg., ch. 832, Sec. 6, eff. June 15, 1985.

Amended by Acts 1987, 70th Leg., ch. 61, Sec. 7, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.602 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 13, eff. Nov. 12, 1991; Acts 1993, 73rd Leg., ch. 113, Sec. 1, eff. May 9, 1993; Acts 1995, 74th Leg., ch. 555, Sec. 29, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1416, Sec. 20, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1540, Sec. 14, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 567, Sec. 1, eff. June 11, 2001; Acts 2001, 77th Leg., ch. 1229, Sec. 12, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 738, Sec. 1, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.017, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 674 (S.B. 132), Sec. 8, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 16, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 537 (S.B. 1039), Sec. 1, eff. June 16, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 359 (S.B. 32), Sec. 14, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 928 (S.B. 1669), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 928 (S.B. 1669), Sec. 3, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 928 (S.B. 1669), Sec. 5, eff. June 17, 2011.

Acts 2021, 87th Leg., R.S., Ch. 806 (H.B. 1525), Sec. 46, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 880 (S.B. 1356), Sec. 3, eff. June 16, 2021.

For expiration of this section, see Subsection (c).

Sec. 824.6021. TEMPORARY EXCEPTION TO MITIGATE LEARNING LOSS ATTRIBUTABLE TO COVID-19 PANDEMIC. (a) Subject to Section 825.506, the retirement system may not, under Section 824.601, withhold a monthly benefit payment if the retiree is employed in a Texas public educational institution, other than an institution of higher education, in a position performing duties related to the mitigation

of student learning loss attributable to the coronavirus disease (COVID-19) pandemic, if the position:

(1) is in addition to the normal staffing level at the Texas public educational institution;

(2) is funded wholly by federal funds provided under federal law enacted for the purpose of providing relief related to the coronavirus disease (COVID-19) pandemic, including the Coronavirus Aid, Relief, and Economic Security (CARES) Act (15 U.S.C. Section 9001 et seq.), Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (Div. M, Pub. L. No. 116-260), or American Rescue Plan Act of 2021 (Pub. L. No. 117-2); and

(3) ends on or before December 31, 2024.

(b) The exception provided by this section:

(1) is in addition to the exceptions otherwise provided by Sections 824.601 and 824.602; and

(2) does not apply to disability retirees.

(c) This section expires February 1, 2025.

Added by Acts 2021, 87th Leg., R.S., Ch. 511 (S.B. 288), Sec. 2, eff. September 1, 2021.

Sec. 824.6022. REQUIRED REPORTS; OFFENSE. (a) An employer shall file a monthly certified statement of employment of a retiree in the form and manner required by the retirement system.

(b) A person commits an offense if the person is an administrator of an employer, is responsible for filing a statement under Subsection (a), and knowingly fails to file the statement as required.

Added by Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 17, eff. September 1, 2005.

Sec. 824.603. EXCLUSION FROM CREDIT. Employment of a retiree described by Section 824.601(b-1) or 824.602(a) does not entitle the retiree to additional service credit, and the retiree so employed is not required to make contributions to the system from compensation for that employment.

Added by Acts 1985, 69th Leg., ch. 832, Sec. 6, eff. June 15, 1985.

Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 34.603 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1229, Sec. 13, eff. Sept. 1, 2001.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 928 (S.B. 1669), Sec. 4, eff. June 17, 2011.

Sec. 824.604. RULES. The board of trustees may adopt rules necessary for administering this subchapter.

Redesignated and amended by Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 3, eff. May 26, 2021.

SUBCHAPTER H. INCREASES IN ANNUITIES

Sec. 824.701. APPLICATION OF ANNUITY INCREASES TO CERTAIN ANNUITIES. (a) An increase that is provided by law in the amount of an annuity being paid by the retirement system and that is applicable to retirements occurring before, or not later than, a date specified in the law also applies to an annuity based on the service of a member who, before October 1, 1989:

(1) accepted, under Subchapter C, service retirement that became effective on a date that is within the period specified for eligibility for the increase;

(2) subsequently revoked the person's service retirement as provided by Section 824.005;

(3) subsequently applied for disability retirement under Section 824.301 to be effective at the end of the month in which the revocation of service retirement occurred;

(4) did not receive a disability retirement annuity under Subchapter D;

(5) subsequently accepted service retirement that became effective at the end of the month in which the earlier revocation of service retirement occurred; and

(6) applies to the retirement system in writing for recomputation of the person's annuity.

(b) As soon as practicable after a person applies under this section, the retirement system shall verify whether an applicant

meets the requirements of this section and is entitled to any increases in annuities provided by existing law.

(c) The retirement system shall increase the amount of an annuity payable to a retiree who applies and is verified as eligible for an increase in annuities provided by law, by the amount or rate of the increase. The first payment of an annuity as increased by this section is due on the later of:

(1) the end of the month in which the retiree is verified under this section as eligible for the increase; or

(2) a date of first payment specified in the law providing for the increase.

(d) For the sole purpose of determining eligibility for or the amount of increases in annuities provided by law after the date a retiree has been verified as eligible for an increase under this section, the date of retirement of the person on whose service the annuity is based will be considered the date of original service retirement that was subsequently revoked, if the retiree has not terminated the subsequent service retirement as provided by this subtitle.

Added by Acts 1989, 71st Leg., ch. 222, Sec. 5, eff. May 26, 1989. Renumbered from Title 110B, Sec. 34.701 by Acts 1989, 71st Leg., ch. 1100, Sec. 4.11(b), eff. Sept. 1, 1989.

Sec. 824.702. COST-OF-LIVING ADJUSTMENT. (a) The retirement system shall make a one-time cost-of-living adjustment payable to annuitants receiving a monthly death or retirement benefit annuity, as provided by this section.

(b) Subject to Subsections (c) and (d), to be eligible for the adjustment, a person must be, on the effective date of the adjustment and disregarding any forfeiture of benefits under Section 824.601, an annuitant eligible to receive:

(1) a standard service or disability retirement annuity payment;

(2) an optional service or disability retirement annuity payment as either a retiree or beneficiary;

(3) an annuity payment under Section 824.402(a)(3) or (4);

(4) an annuity payment under Section 824.502; or

(5) an alternate payee annuity payment under Section

804.005.

(c) If the annuitant:

(1) is a retiree, or is a beneficiary under an optional retirement payment plan, to be eligible for the adjustment under this section:

(A) the annuitant must be living on the effective date of the adjustment; and

(B) the effective date of the retirement of the member of the Teacher Retirement System of Texas must have been on or before August 31, 2004;

(2) is a beneficiary under Section 824.402(a)(3) or (4) or 824.502, to be eligible for the adjustment:

(A) the annuitant must be living on the effective date of the adjustment; and

(B) the date of death of the member of the retirement system must have been on or before August 31, 2004; or

(3) is an alternate payee under Section 804.005, the annuitant is eligible for the adjustment only if the effective date of the election to receive the annuity payment was on or before August 31, 2004.

(d) An adjustment made under this section does not apply to payments under:

(1) Section 824.203(d), relating to retirees who receive a standard service retirement annuity in an amount fixed by statute;

(2) Section 824.304(a), relating to disability retirees with less than 10 years of service credit;

(3) Section 824.304(b)(2), relating to disability retirees who receive a disability annuity in an amount fixed by statute;

(4) Section 824.404(a), relating to active member survivor beneficiaries who receive a survivor annuity in an amount fixed by statute;

(5) Section 824.501(a), relating to retiree survivor beneficiaries who receive a survivor annuity in an amount fixed by statute; or

(6) Section 824.804(b), relating to participants in the deferred retirement option plan with regard to payments from their deferred retirement option plan accounts.

(e) An adjustment under this section:

(1) must be made beginning with an annuity payable for the month of September 2013; and

(2) is limited to the lesser of:

(A) an amount equal to three percent of the monthly benefit subject to the increase; or

(B) $100 a month.

(f) The board of trustees shall determine the eligibility for and the amount of any adjustment in monthly annuities in accordance with this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1214 (S.B. 1458), Sec. 2, eff. September 1, 2013.

Sec. 824.703. COST-OF-LIVING ADJUSTMENT: JANUARY 2024. (a) The retirement system shall make a one-time cost-of-living adjustment payable to annuitants receiving a monthly death or retirement benefit annuity, as provided by this section.

(b) Subject to Subsection (c) and except as provided by Subsection (d), to be eligible for the adjustment, a person must be, on the effective date of the adjustment and disregarding any forfeiture of benefits under Section 824.601, an annuitant eligible to receive:

(1) a standard service or disability retirement annuity payment;

(2) an optional service or disability retirement annuity payment as either a retiree or beneficiary;

(3) an annuity payment under Section 824.402(a)(3) or (4);

(4) an annuity payment under Section 824.502; or

(5) an alternate payee annuity payment under Section 804.005.

(c) If the annuitant:

(1) is a retiree, or is a beneficiary under an optional service or disability retirement payment plan, to be eligible for the adjustment under this section:

(A) the annuitant must be living on the effective date of the adjustment; and

(B) the effective date of the retirement of the member of the retirement system on whose service the annuity is based must have been on or before August 31, 2020;

(2) is a beneficiary under Section 824.402(a)(3) or (4) or 824.502, to be eligible for the adjustment:

(A) the annuitant must be living on the effective date of the adjustment; and

(B) the date of death of the member of the retirement system on whose service the annuity is based must have been on or before August 31, 2020; or

(3) is an alternate payee under Section 804.005, to be eligible for the adjustment:

(A) the annuitant must be living on the effective date of the adjustment; and

(B) the effective date of the annuitant's election to receive the annuity payment was on or before August 31, 2020.

(d) An adjustment made under this section does not apply to payments under:

(1) Section 824.203(d), relating to retirees who receive a standard service retirement annuity in an amount fixed by statute;

(2) Section 824.304(a), relating to disability retirees with less than 10 years of service credit;

(3) Section 824.304(b)(2), relating to disability retirees who receive a disability annuity in an amount fixed by statute;

(4) Section 824.404(a), relating to active member survivor beneficiaries who receive a survivor annuity in an amount fixed by statute;

(5) Section 824.501(a), relating to retiree survivor beneficiaries who receive a survivor annuity in an amount fixed by statute; or

(6) Section 824.804(b), relating to participants in the deferred retirement option plan with regard to payments from their deferred retirement option plan accounts.

(e) An adjustment under this section must be made beginning with an annuity payable for the month of January 2024.

(f) The amount of the adjustment provided under this section is calculated by multiplying the amount of the monthly benefit subject to the adjustment by the following percentage rate, as applicable:

(1) for annuitants described by Subsection (c)(1):

(A) if the retiree's effective date of retirement was on or before August 31, 2001, six percent;

(B) if the retiree's effective date of retirement was after August 31, 2001, but on or before August 31, 2013, four percent; and

(C) if the retiree's effective date of retirement was

after August 31, 2013, but on or before August 31, 2020, two percent;

(2) for annuitants described by Subsection (c)(2):

(A) if the member's date of death was on or before August 31, 2001, six percent;

(B) if the member's date of death was after August 31, 2001, but on or before August 31, 2013, four percent; and

(C) if the member's date of death was after August 31, 2013, but on or before August 31, 2020, two percent; and

(3) for annuitants described by Subsection (c)(3):

(A) if the effective date of the annuitant's election was on or before August 31, 2001, six percent;

(B) if the effective date of the annuitant's election was after August 31, 2001, but on or before August 31, 2013, four percent; and

(C) if the effective date of the annuitant's election was after August 31, 2013, but on or before August 31, 2020, two percent.

(g) The board of trustees shall determine the eligibility for and the amount of any adjustment in monthly annuities in accordance with this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 902 (S.B. 10), Sec. 1, eff. January 1, 2024.

SUBCHAPTER I. DEFERRED RETIREMENT OPTION PLAN

Sec. 824.801. DEFINITION. In this subchapter, "plan" means the deferred retirement option plan provided by this subchapter.

Added by Acts 1997, 75th Leg., ch. 1416, Sec. 21, eff. Sept. 1, 1997.

Sec. 824.8011. DEADLINE TO ELECT TO PARTICIPATE. A person must make an election to participate in the plan not later than December 31, 2005.

Added by Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 18, eff. September 1, 2005.

Sec. 824.802. PARTICIPATION IN PLAN. (a) A contributing

member who is eligible under Section 824.202 to retire and receive a standard service retirement annuity that is not reduced for retirement at an early age and who has at least 25 years of service credit in the retirement system may, if the member remains an employee, elect to participate in the deferred retirement option plan.

(b) An election to participate in the plan must be on a form prescribed by and filed with the retirement system. An election may be made only once and must state the period that the member wishes to participate in the plan. The period must be a minimum of 12 consecutive months and be in 12-month increments. The maximum period a member may participate in the plan is 60 consecutive months. An election under this section is irrevocable after filing. The filing of an election under this section is not considered for any purpose an application for retirement, and a person is not considered a retiree for any purpose because of the filing.

(c) The effective date of a member's participation in the plan is the first day of the month after the month in which an election is received and approved by the retirement system. The retirement system shall approve the election filed by a member who is eligible to make the election.

Added by Acts 1997, 75th Leg., ch. 1416, Sec. 21, eff. Sept. 1, 1997.

Sec. 824.803. COMPUTATION OF PARTICIPANT'S SERVICE AND ANNUITY. (a) A person participating in the plan remains a member of the retirement system during the period of participation, unless the member terminates membership under Section 822.003, but the member may not, during participation, accrue additional service credit. The member shall make employee contributions to the retirement system, and the state and the member's employing district, if applicable, shall make contributions for the member's service performed during the member's participation in the plan. Member contributions made during the period of participation in the plan are not eligible for withdrawal by the participant and are deposited in the retired reserve account. The member and the state retain the obligation to contribute under Sections 1575.202 and 1575.203, Insurance Code, during the member's participation in this plan.

(b) For purposes of the plan, the computation of the service

retirement annuity of a member participating in the plan is determined as of the effective date of participation. A participating member is not eligible to receive a postretirement increase made applicable to annuitants during the member's participation in the plan.

(c) An election to participate in the plan constitutes a deadline for the purchase of special service credit.

Added by Acts 1997, 75th Leg., ch. 1416, Sec. 21, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 10A.522, eff. Sept. 1, 2003.

Sec. 824.804. BENEFITS UNDER PLAN. (a) On the effective date of a member's participation in the plan, the retirement system shall make the transfers required by Section 825.309 to the retired reserve account as if the member had retired on that date. The retirement system shall transfer monthly, during the period of the member's participation in the plan, from the retired reserve account to an account for the member in the deferred retirement option account an amount equal to:

(1) 60 percent of the amount the member would have received that month under a standard service retirement annuity if the member had retired under the multiplier currently in effect; or

(2) if the member began participation in the plan before September 1, 1999, 79 percent of the amount the member would have received that month under a standard service retirement annuity if the member had retired under the multiplier currently in effect.

(b) When a member who has participated in the plan retires from the retirement system, the person is entitled to the accumulated amount in the member's account in the deferred retirement option account, including creditable interest. The amount is payable in a lump sum, in periodic installments, or as provided by Section 825.509, at the option of the member. The board of trustees by rule shall determine the number and frequency of installment payments.

(c) If a member dies during participation in the plan or after participation but before retirement, the decedent's designated beneficiary is entitled to the accumulated amount in the decedent's account in the deferred retirement option account, including creditable interest. The beneficiary is also entitled to a death

benefit based on compensation and years of service on the effective date of participation in the plan and on age on the date of death.

(d) Payment of the benefit provided under the plan is in addition to any annuity otherwise payable under this subtitle. The retiring member may choose a DROP payment in accordance with the provisions of Section 825.509.

Added by Acts 1997, 75th Leg., ch. 1416, Sec. 21, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1540, Sec. 15, eff. Sept. 1, 1999.

Sec. 824.805. TERMINATION OF PARTICIPATION IN PLAN. (a) Except as provided by Subsection (b), a member terminates participation in the plan by:

(1) retirement;

(2) death; or

(3) expiration of the period for which participation was approved.

(b) This subsection applies only to a member participating in the plan on September 1, 2005, or to a member whose period of participation in the plan expired on or before September 1, 2005, but who has not retired on or before that date. A member described by this subsection may, before December 31, 2005, revoke the member's decision to participate in the plan on a form prescribed by and filed with the retirement system. The retirement system shall make account transfers and change records for a member who revokes the member's decision to participate in the plan under this subsection as if the member had never participated in the plan.

(c) A member or beneficiary described by Subsection (d) may, on or before December 31, 2015, revoke the member's decision to participate in the plan on a form prescribed by and received by the retirement system not later than that date. The retirement system shall make account transfers and change records for a member whose decision to participate in the plan is revoked under this subsection, as if the member had never participated in the plan.

(d) Subsection (c) applies only to:

(1) a member:

(A) whose approved period of participation in the plan has expired; and

(B) who has not retired on or before December 31, 2015; or

(2) a beneficiary of a member whose approved period of participation in the plan has expired and who has not retired before death if:

(A) the beneficiary is eligible to receive both a distribution of benefits payable on the death of the member and the distributions from the plan; and

(B) the member dies on or after September 1, 2015.

Added by Acts 1997, 75th Leg., ch. 1416, Sec. 21, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1540, Sec. 16, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1229, Sec. 14, eff. Sept. 1, 2001. Amended by:

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 19, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 164 (H.B. 1937), Sec. 1, eff. September 1, 2015.

Sec. 824.806. BENEFITS FOR SERVICE AFTER PLAN PARTICIPATION. (a) Any eligible service credit accrued after termination of participation in the plan and before retirement shall be credited in the retirement system.

(b) At the time a member retires or dies, the retirement system shall compute the value of the additional service credit at the rate provided under Section 824.203, based on the lesser of the three years of service after the member's termination of plan participation, or the member's actual years of service after the termination, in which the member received the highest annual compensation. The retirement system shall add the amount computed under this subsection to the amount determined on the effective date of plan participation, and the sum is payable, subject to actuarial reduction if applicable, as the monthly annuity payment.

Added by Acts 1997, 75th Leg., ch. 1416, Sec. 21, eff. Sept. 1, 1997.

Sec. 824.807. INTEREST. Interest is creditable to a member's account in the deferred retirement option account at an annual, prorated rate equal to two percent during the period of participation

in the plan and until all benefits are distributed.

Added by Acts 1997, 75th Leg., ch. 1416, Sec. 21, eff. Sept. 1, 1997.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1214 (S.B. 1458), Sec. 3, eff. September 1, 2014.

CHAPTER 825. ADMINISTRATION

SUBCHAPTER A. BOARD OF TRUSTEES

Sec. 825.001. COMPOSITION OF BOARD OF TRUSTEES. The board of trustees is composed of nine members.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.002. TRUSTEES APPOINTED BY GOVERNOR. (a) The governor shall appoint, with the advice and consent of the senate and as provided by this section, seven members of the board of trustees.

(b) The governor shall appoint three members of the board to hold office for staggered terms, with the term of one trustee expiring on August 31 of each odd-numbered year. These members must be persons who have demonstrated financial expertise, who have worked in private business or industry, and who have broad investment experience, preferably in investment of pension funds. None of the members appointed under this subsection may be a member or annuitant of the retirement system.

(c) The governor shall appoint two members of the board from a slate of three members of the retirement system who are currently employed by a public school district, charter school, or regional education service center and who have been nominated in accordance with Subsection (f) by the members of the retirement system whose most recent credited service was performed for a public school district, charter school, or regional education service center. The two members hold office for staggered terms.

(d) The governor shall appoint one member of the board from a slate of three former members of the retirement system who have retired and are receiving benefits from the retirement system and who have been nominated in accordance with Subsections (f) and (g) by the

persons who have retired and are receiving benefits from the retirement system.

(e) The governor shall appoint one member of the board from a slate of three persons who have been nominated in accordance with Subsection (f) by the following groups collectively:

(1) members of the retirement system whose most recent credited service was performed for an institution of higher education;

(2) members of the retirement system whose most recent credited service was performed for a public school district, charter school, or regional education service center; and

(3) persons who have retired and are receiving benefits from the retirement system.

(e-1) A person may be nominated for appointment to the board under Subsection (e) if the person is:

(1) a member of the retirement system who is currently employed by an institution of higher education;

(2) a member of the retirement system who is currently employed by a public school district, charter school, or regional education service center; or

(3) a former member of the retirement system who has retired and is receiving benefits from the system.

(f) Persons considered for nomination under Subsection (c), (d), or (e) must have been nominated at an election conducted under rules adopted by the board of trustees.

(g) To provide for the nomination of persons for appointment under Subsection (d), the board shall send to each retiree of the retirement system:

(1) notice of the deadline for filing as a candidate for nomination;

(2) information on procedures to follow in filing as a candidate; and

(3) instructions on how to request a paper ballot or vote in another manner established by the board, including by telephone or other electronic means.

(h) If only two persons are nominated under Subsection (c), (d), or (e), the governor shall appoint a member of the board to the applicable trustee position from the slate of two nominated persons. If only one person is nominated under Subsection (c), (d), or (e), the governor shall appoint that person to the applicable trustee

position. If no member or retiree is nominated for a position under Subsection (c), (d), or (e), the governor shall appoint to the applicable trustee position a person who otherwise meets the qualifications required for the position.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 5101, ch. 927, Sec. 1, eff. Sept. 1, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.002 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 30, eff. Sept. 1, 1995.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 14, eff. September 1, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 786 (H.B. 2120), Sec. 1, eff. September 1, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 5, eff. June 14, 2013.

Sec. 825.003. TRUSTEES APPOINTED BY GOVERNOR FROM NOMINEES OF BOARD OF EDUCATION. The governor shall appoint two members of the board of trustees, subject to confirmation by two-thirds of the senate, from lists of nominees submitted by the State Board of Education. These members must be persons who have demonstrated financial expertise, have worked in private business or industry, and have broad investment experience, preferably in investment of pension funds.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 31, eff. Sept. 1, 1995.

Sec. 825.0031. NONDISCRIMINATION IN APPOINTMENTS. Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 12, eff. Sept. 1, 1993.

Sec. 825.0032. INELIGIBILITY FOR BOARD AND OF CERTAIN EMPLOYEES. (a) Except as provided by Subsection (b), a person is not eligible for appointment to the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the retirement system;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the retirement system; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the retirement system, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(b) Subsection (a) does not apply to employment by, participation in the management of, or ownership or control of an interest in a business entity or other organization on behalf of the retirement system. Subsection (a)(3) does not apply to a person who is nominated for appointment under Section 825.002(c), (d), or (e).

(c) A person may not be a trustee or an employee of the retirement system employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the person is a paid officer, employee, or consultant of a Texas trade association in the field of investment or insurance; or

(2) the person's spouse is a paid officer, employee, or consultant of a Texas trade association in the field of investment or insurance.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1230, Sec. 27, eff. September 1, 2007.

(e) In this section, a Texas trade association means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(f) A person may not serve as a trustee or act as the general counsel to the board or the retirement system if the person is required to register as a lobbyist under Chapter 305 because of the

person's activities for compensation on behalf of a business or an association related to the operation of the board.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 12, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 555, Sec. 32, eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 5, eff. September 1, 2007.
Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 27, eff. September 1, 2007.

Sec. 825.004. TERMS OF OFFICE; FILLING VACANCIES. (a) Members of the board of trustees hold office for terms of six years.
(b) A vacancy in the office of a trustee shall be filled for the unexpired term in the same manner that the office was previously filled.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.0041. BOARD MEMBER TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board of trustees may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.
(b) The training program must provide the person with information regarding:
(1) the law governing retirement system operations;
(2) the programs, functions, rules, and budget of the system;
(3) the scope of and limitations on the rulemaking authority of the board of trustees;
(4) the results of the most recent formal audit of the system;
(5) the requirements of:
(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts-of-interest; and

(B) other laws applicable to members of a state policy-making body in performing their duties; and

(6) any applicable ethics policies adopted by the system or the Texas Ethics Commission.

(c) A person appointed to the board of trustees is entitled to reimbursement under Section 825.007 for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) The executive director of the retirement system shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each member of the board of trustees. Each member of the board of trustees shall sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 33, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 6, eff. September 1, 2007.

Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 4, eff. May 26, 2021.

Sec. 825.005. OATH OF OFFICE. Before taking office as a trustee, a person shall take the constitutional oath prescribed for officers of the state.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.005 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.006. SUNSET PROVISION. The board of trustees of the Teacher Retirement System of Texas is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The board shall be reviewed during the period in which state agencies abolished in 2035, and every 12th year after that year, are reviewed.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1985, 69th Leg., ch. 479, Sec. 219, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 729, Sec. 27, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.006 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 580, Sec. 3, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 889, Sec. 4, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 1.26, eff. Nov. 12, 1991; Acts 1993, 73rd Leg., ch. 812, Sec. 13, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 555, Sec. 34, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 7, eff. September 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 930 (S.B. 1663), Sec. 8, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 1.01, eff. June 10, 2019.

Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 5, eff. May 26, 2021.

Acts 2023, 88th Leg., R.S., Ch. 941 (S.B. 1659), Sec. 3.08, eff. June 18, 2023.

Sec. 825.007. COMPENSATION; EXPENSES. Trustees serve without compensation but are entitled to reimbursement from the expense account of the retirement system for all necessary expenses that they incur in the performance of official board duties.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.007 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.008. VOTING. Each trustee is entitled to one vote.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.008 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.009. LEAVE FOR MEMBER TRUSTEES. (a) A trustee appointed from a slate of members nominated by members of the

retirement system under Section 825.002 is entitled to leave with pay from the trustee's public school employer to attend to the official business of the retirement system.

(b) The retirement system may enter into an agreement with the public school employer to adequately compensate the employer for the loss of services of the trustee.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 14, eff. Nov. 12, 1991.

Sec. 825.010. GROUNDS FOR REMOVAL OF TRUSTEE. (a) It is a ground for removal from the board of trustees that a trustee:

(1) does not have at the time of taking office the qualifications required for the trustee's position;

(2) does not maintain during service on the board the qualifications required for the trustee's position;

(3) violates a prohibition established by Section 825.002(b) or 825.0032 applicable to the trustee;

(4) cannot because of illness or disability discharge the trustee's duties for a substantial part of the term for which the trustee is appointed; or

(5) is absent from more than half of the regularly scheduled board meetings that the person is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a trustee exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of trustees of the ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest officer of the board, who shall notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 14, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 35, eff. Sept. 1,

1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 9, eff. September 1, 2007.
Acts 2011, 82nd Leg., R.S., Ch. 786 (H.B. 2120), Sec. 2, eff. September 1, 2011.

SUBCHAPTER B. POWERS AND DUTIES OF BOARD OF TRUSTEES

Sec. 825.101. GENERAL ADMINISTRATION. The board of trustees is responsible for the general administration and operation of the retirement system. Notwithstanding any other law, the board of trustees has exclusive control over all assets held in trust by the retirement system and all operations funded by trust assets and shall administer the retirement system for the sole and exclusive benefit of the members and participants.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 20, eff. September 1, 2005.

Sec. 825.102. RULEMAKING. Subject to the limitations of this subtitle, the board of trustees may adopt rules for:

(1) eligibility for membership;

(2) the administration of the funds of the retirement system; and

(3) the transaction of business of the board.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.102 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.1025. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The board of trustees shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for

the adoption of the retirement system's rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the retirement system's jurisdiction.

(b) Subject to Subsection (d), the retirement system's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board of trustees shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the retirement system.

(d) The board of trustees shall ensure that the implementation of this section and the negotiated rulemaking procedures and alternative dispute resolution procedures adopted under this section are consistent with the fiduciary responsibility imposed on the board by law.

Added by Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 10, eff. September 1, 2007.

Sec. 825.103. ADMINISTERING SYSTEM ASSETS. (a) The board of trustees is the trustee of all assets of the retirement system.

(b) The board may invest and reinvest the retirement system's assets as authorized by Article XVI, Section 67, of the Texas Constitution.

(c) Except as provided herein, Chapter 412, Labor Code, does not apply to the retirement system. The board of trustees may acquire services described by that chapter in any manner or amount the board considers reasonable. The State Office of Risk Management shall provide services for the retirement system as requested by the retirement system, and the retirement system may use the services of the State Office of Risk Management to obtain insurance and perform risk management and workers' compensation claim services. In

accordance with terms mutually agreed upon by both parties, the retirement system shall be subject to the relevant requirements of Chapter 412, Labor Code, only for the specific programs or services the board elects to obtain from or through the State Office of Risk Management. The State Office of Risk Management shall pay to the retirement system any amounts collected on behalf of the system through subrogation of claims, regardless of the budget biennium in which the office receives the amounts. The State Office of Risk Management shall pay these amounts directly to the retirement system instead of to the general revenue fund.

(d) Notwithstanding any other law, the retirement system has exclusive authority over the purchase of goods and services using money other than money appropriated from the general revenue fund, including specifically money from trusts under the administration of the retirement system, and Subtitles D and F, Title 10, do not apply to the retirement system with respect to that money. The retirement system shall acquire goods or services by procurement methods approved by the board of trustees or the board's designee. For purposes of this subsection, goods and services include all professional and consulting services and utilities as well as supplies, materials, equipment, skilled or unskilled labor, and insurance. The comptroller shall procure goods or services for the retirement system at the request of the retirement system, and the retirement system may use the services of the comptroller in procuring goods or services.

(e) Except as provided by Subsection (e-1), Chapters 2054 and 2055 do not apply to the retirement system. The board of trustees shall control all aspects of information technology and associated resources relating to the retirement system, including computer, data management, and telecommunication operations, procurement of hardware, software, and middleware, and telecommunication equipment and systems, location, operation, and replacement of computers, computer systems, and telecommunication systems, data processing, security, disaster recovery, and storage. The Department of Information Resources shall assist the retirement system at the request of the retirement system, and the retirement system may use any service that is available through that department.

(e-1) The retirement system shall comply with cybersecurity and information security standards established by the Department of Information Resources under Chapter 2054.

(f) Subchapter C, Chapter 2260, does not apply to the retirement system. The acceptance of benefits by the retirement system under a contract does not waive immunity from suit or immunity from liability.

(g) Repealed by Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 30(1), eff. September 1, 2019.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.103 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 21, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.63, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 7, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 30(1), eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 1093 (S.B. 1246), Sec. 3, eff. June 18, 2023.

Sec. 825.104. DESIGNATION OF AUTHORITY TO SIGN VOUCHERS. (a) The board of trustees shall file with the comptroller of public accounts an attested copy of a board resolution that designates the persons authorized to sign vouchers for payment from accounts of the retirement system.

(b) A filed copy of the resolution required by Subsection (a) evidences the comptroller's authority to issue warrants for payment from funds of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.104 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.105. ADOPTING RATES AND TABLES. The board of trustees shall adopt rates and mortality, service, and other tables the board considers necessary for the retirement system after considering the results of the actuary's investigation of the mortality, service, and

compensation experience of the system's members and beneficiaries.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.105 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.107. RECORDS OF BOARD OF TRUSTEES. (a) The board of trustees shall keep, in convenient form, data necessary for:

(1) actuarial valuation of the accounts of the retirement system; and

(2) checking the system's expenses.

(b) The board shall keep a record of all of its proceedings.

(c) Except as otherwise provided by this title, records of the board are open to public inspection.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.107 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.108. REPORTS. (a) No later than December 15 of each year, the board of trustees shall publish a report in the Texas Register containing the following information:

(1) the retirement system's fiscal transactions for the preceding fiscal year;

(2) the amount of the system's accumulated cash and securities; and

(3) the rate of return on the investment of the system's cash and securities during the preceding fiscal year.

(b) No later than March 1 of each year, the board of trustees shall publish a report in the Texas Register containing the balance sheet of the retirement system as of August 31 of the preceding fiscal year. The report must contain an actuarial valuation of the system's assets and liabilities, including the extent to which the system's liabilities are unfunded.

(c) A copy of the report required by Subsection (a) must be filed with the governor, the lieutenant governor, the speaker of the house of representatives, the State Pension Review Board, and the legislative audit committee no later than December 15 of each year.

(d) A copy of the report required by Subsection (b) must be

filed with the governor, the lieutenant governor, the speaker of the house of representatives, the State Pension Review Board, and the legislative audit committee no later than March 1 of each year.

(e) The board shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the retirement system during the preceding fiscal year. The annual report must meet the reporting requirements applicable to financial reporting provided in the General Appropriations Act.

(f) The board shall prepare biennially a complete and detailed written report describing and explaining any use of appropriated amounts, retirement system assets, or other resources for governmental relations, member counseling, or official publications. The report must be filed with the committees of the senate and the house of representatives having jurisdiction over appropriations, with the committees of the senate and the house of representatives having principal jurisdiction over legislation governing the retirement system, and with the Legislative Budget Board at the time the retirement system submits its budget request for the next state fiscal biennium.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 929, Sec. 4, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.108 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.06(d), eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 555, Sec. 36, eff. Sept. 1, 1995.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 45, eff. September 1, 2013.

For expiration of this section, see Subsection (f).

Sec. 825.1085. STUDY AND REPORT ON ALTERNATIVE SERVICE RETIREMENT BENEFITS FOR PEACE OFFICERS. (a) The retirement system shall conduct a study on the feasibility of offering members who are peace officers alternative service retirement benefits under the system.

(b) In conducting the study, the retirement system shall assess the costs to and impact on the retirement system associated with offering members who are peace officers the following alternative

service retirement benefits:

(1) a service retirement benefit under the existing benefit plan that:

(A) includes a supplemental benefit for peace officers that is substantially similar in design and cost structure to the supplemental retirement benefit payable from the law enforcement and custodial officer supplemental retirement fund established under Section 815.317; and

(B) provides retirement eligibility at any age after the member attains 20 or 25 years of service;

(2) a service retirement benefit under a cash balance benefit plan that:

(A) is substantially similar in design and cost structure to the cash balance benefit plan established under Chapter 820, except that the plan considered under this subdivision may not offer a supplemental retirement benefit for peace officers similar to the supplemental retirement benefit for law enforcement and custodial officers provided under Chapter 820; and

(B) provides retirement eligibility at any age after the member attains 20 or 25 years of service; and

(3) a cash balance benefit plan that:

(A) is substantially similar in design and cost structure to the cash balance benefit plan established under Chapter 820, including by providing a supplemental retirement benefit for peace officers similar to the supplemental retirement benefit provided to law enforcement and custodial officers provided under Chapter 820; and

(B) provides retirement eligibility at any age after the member attains 20 or 25 years of service.

(c) Not later than March 1, 2024, an employer who employs peace officers shall submit the following information to the retirement system:

(1) the number of peace officers employed by the employer on December 31, 2023;

(2) the number of unfilled peace officer positions on December 31, 2023;

(3) for the 10-year period before December 31, 2023, the average years of service earned by peace officers who resigned before retirement; and

(4) the compensation or salary scale for peace officers

employed by the employer.

(d) Not later than December 31, 2024, the retirement system shall prepare and submit a report to the legislature that contains the findings of the study and the information submitted to the retirement system under Subsection (c).

(e) The Legislative Budget Board and the State Pension Review Board shall, as necessary:

(1) assist the retirement system in conducting the study; and

(2) provide the retirement system with any information needed to complete the report required under Subsection (d).

(f) This section expires on September 1, 2025.

Added by Acts 2023, 88th Leg., R.S., Ch. 547 (H.B. 4141), Sec. 1, eff. June 10, 2023.

Sec. 825.109. CORRECTION OF ERRORS. If an error in the records of the retirement system results in a person's receiving more or less money than the person is entitled to receive under this subtitle, the board of trustees shall correct the error and so far as practicable shall adjust future payments so that the actuarial equivalent of the benefit to which the person is entitled is paid.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.109 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.110. DETERMINATION OF ANNUAL COMPENSATION. The board of trustees shall adopt rules to exclude from annual compensation all or part of salary and wages in the final years of a member's employment that reasonably can be presumed to have been derived from a conversion of fringe benefits, maintenance, or other payments not includable in annual compensation to salary and wages. The board of trustees shall adopt rules that include a percentage limitation on the amount of increases in annual compensation that may be subject to credit and deposit during a member's final years of employment.

Added by Acts 1981, 67th Leg., 1st C.S., p. 205, ch. 18, Sec. 29, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 556, Sec.

3, eff. Aug. 26, 1985; Acts 1989, 71st Leg., ch. 835, Sec. 7, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.110 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.05(g), eff. Aug. 26, 1991.

Amended by:

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 22, eff. September 1, 2005.

Sec. 825.111. MANAGEMENT AUDIT. (a) The legislative audit committee may contract with an independent and internationally recognized accounting firm with substantial experience in auditing retirement or pension plans to conduct a managerial audit of the retirement system.

(b) The state auditor shall pay the costs of each management audit under this section from money appropriated to the state auditor and approved for that purpose by the legislative audit committee. Not later than the 30th day after the date the retirement system receives a statement of audit costs paid by the state auditor under this subsection, the retirement system shall reimburse the state auditor for the costs from money in the expense account.

(c) The legislative audit committee may determine the frequency of the audits authorized by this section and may determine the programs and operations to be covered by the audits. The accounting firm selected to conduct the audits shall report the results of those audits directly to the committee.

(d) No later than 30 days after the legislative audit committee receives an audit report, the committee shall file a copy of the report with the retirement system, the governor, the lieutenant governor, the speaker of the house of representatives, the State Pension Review Board, the state auditor, and the secretary of state for publication in the Texas Register.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 11.06(e), eff. Aug. 26, 1991.

Sec. 825.112. INSURANCE. Notwithstanding any other law, the board of trustees may self-insure or purchase any insurance,

including fiduciary and liability coverage for trust assets or for the trustees, employees, and agents of the board of trustees, in amounts the board of trustees considers reasonable and prudent.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 15, eff. Nov. 12, 1991.
Amended by:
Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 23, eff. September 1, 2005.

Sec. 825.113. MISCELLANEOUS BOARD DUTIES. (a) The executive director or the executive director's designee shall provide to its trustees and employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(b) The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the executive director and the staff of the retirement system.

(c) The board shall prepare information of interest to the retirement system's members describing the functions of the system and the system's procedures by which complaints are filed with and resolved by the system. The system shall make the information available to the system's members and appropriate state agencies.

(d) The board by rule shall establish methods by which members are notified of the name, mailing address, and telephone number of the retirement system for the purpose of directing complaints to the system.

(e) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

(f) The retirement system shall comply with federal and state laws related to program and facility accessibility. The executive director shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs. The board shall also comply with federal and state laws for program and facility accessibility.

(g) The board of trustees shall implement a policy requiring

the retirement system to use appropriate technological solutions to improve the retirement system's ability to perform its functions. The policy must ensure that the public is able to interact with the retirement system on the Internet.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 15, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 555, Sec. 37, eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 11, eff. September 1, 2007.

Sec. 825.114. ADVISORY COMMITTEES. (a) The board of trustees may establish advisory committees as it considers necessary to assist it in performing its duties. Members of advisory committees established under this section serve at the pleasure of the board.

(b) Notwithstanding any other law to the contrary, the board of trustees by rule shall determine the amount and manner of any compensation or expense reimbursement to be paid members of an advisory committee performing service for the retirement system for performing the work of the advisory committee. All compensation and expense reimbursements for an advisory committee established under this section are payable from the expense account or the retired school employees group insurance fund, as applicable.

(c) Notwithstanding any other law to the contrary, the size and composition of advisory committees created by statute for the retirement system or required by statute to be created by the retirement system are as provided by the statute creating or providing for the creation of the particular committee.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 15, eff. Sept. 1, 1993.

Sec. 825.115. APPLICABILITY OF CERTAIN LAWS. (a) Except as provided by this section, the board of trustees is subject to the open meetings law, Chapter 551, and the administrative procedure law, Chapter 2001.

(b) The board of trustees may in its sole discretion make a final decision on a contested case. Notwithstanding any other law, the board of trustees may in its sole discretion modify, refuse to

accept, or delete any proposed finding of fact or conclusion of law contained in a proposal for decision submitted by an administrative law judge or other hearing examiner, or make alternative findings of fact and conclusions of law, in a proceeding considered to be a contested case under Chapter 2001. The board of trustees shall state in writing the specific reason for its determination and may adopt rules for the implementation of this subsection. The board of trustees may delegate its authority under this subsection to the executive director, and the executive director may delegate the authority to another employee of the retirement system.

(c) The executive director or the executive director's designee under Subsection (b) may refer an appeal relating to the pension plan to the State Office of Administrative Hearings for a hearing or may employ, select, or contract for the services of an administrative law judge or hearing examiner not affiliated with the State Office of Administrative Hearings to conduct a hearing. This subsection prevails over any other law to the extent of any conflict.

(d) The board of trustees or its audit committee may conduct a closed meeting in accordance with Subchapter E, Chapter 551, with the retirement system's internal or external auditors to discuss:

(1) governance, risk management or internal control weaknesses, known or suspected compliance violations or fraud, status of regulatory reviews or investigations, or identification of potential fraud risk areas and audits for the annual internal audit plan; or

(2) the auditors' ability to perform duties in accordance with the Internal Audit Charter, relevant auditing standards, and Chapter 2102.

(e) The board of trustees may conduct a closed meeting in accordance with Subchapter E, Chapter 551, to deliberate or confer with one or more employees, consultants, or legal counsel of the retirement system or a third party regarding a procurement to be awarded by the board of trustees if, before conducting the closed meeting, a majority of the trustees in an open meeting vote that deliberating or conferring in an open meeting would have a detrimental effect on the position of the retirement system in negotiations with a third person. The board of trustees is required to vote or take final action on the procurement in an open meeting.

(f) Notwithstanding any other law, Chapter 551 does not apply to an assembly of the board of trustees or one of the board's

committees while attending a summit, conference, convention, workshop, or other event held for educational purposes if the assembly or committee does not deliberate, vote, or take action on a specific matter of public business or public policy over which the board of trustees or a committee of the board has supervision or control. This subsection does not apply to a regular, special, or emergency meeting of the board of trustees scheduled or called under the board's bylaws.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 38, eff. Sept. 1, 1995.
Amended by:
Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 24, eff. September 1, 2005.
Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 6, eff. June 14, 2013.
Acts 2015, 84th Leg., R.S., Ch. 1102 (H.B. 2974), Sec. 6, eff. September 1, 2015.

SUBCHAPTER C. OFFICERS AND EMPLOYEES OF BOARD OF TRUSTEES

Sec. 825.201. PRESIDING OFFICER. The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the governor.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.201 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 39, eff. Sept. 1, 1995.

Sec. 825.202. EXECUTIVE DIRECTOR. (a) The board of trustees, by a majority vote of all members, shall appoint an executive director.

(b) The executive director may not be a member of the board of trustees.

(c) To be eligible to serve as the executive director, a person must:

(1) be a citizen of the United States; and

(2) have executive ability and experience to carry out the duties of the office.

(d) The executive director shall recommend to the board

actuarial and other services necessary to administer the retirement system.

(e) Annually, the executive director shall prepare an itemized expense budget for the following fiscal year and shall submit the budget to the board for review and adoption.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.202 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 16, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1055 (H.B. 2190), Sec. 1, eff. June 15, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 992, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 825.203. LEGAL REPRESENTATION. (a) The attorney general of the state is the legal adviser of the board of trustees. The attorney general shall represent the board in all litigation.

(b) The board may not employ outside legal counsel to provide legal services to the retirement system except as provided by this section and Section 402.0212, regardless of the source of funds to be used to pay the outside counsel. For purposes of this section, "legal services" includes services provided by an attorney regarding ethics and fiduciary responsibilities.

(c) The attorney general shall timely act on a request to approve a contract for outside legal services under Section 402.0212. If the attorney general denies the board's request for approval of a contract for outside legal services:

(1) the attorney general shall provide the board with the reason for the denial; and

(2) the board may select alternative outside legal counsel, subject to approval by the attorney general in accordance with this section and Section 402.0212.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.203 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:
Acts 2009, 81st Leg., R.S., Ch. 906 (H.B. 1259), Sec. 1, eff. June 19, 2009.

Sec. 825.204. MEDICAL BOARD. (a) The board of trustees shall appoint a medical board composed of three physicians.

(b) To be eligible to serve as a member of the medical board, a physician must be licensed to practice medicine in this state and be of good standing in the medical profession. A physician who is eligible to participate in the retirement system may not be a member of the medical board.

(c) The medical board shall:

(1) review all medical examinations required by this subtitle;

(2) investigate essential statements and certificates made by or on behalf of a member of the retirement system in connection with an application for disability retirement; and

(3) report in writing to the board of trustees its conclusions and recommendations on all matters referred to it.

(d) The medical board is not subject to subpoena regarding findings it makes in assisting the executive director or board of trustees under this section, and its members may not be held liable for any opinions, conclusions, or recommendations made under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.204 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 7, eff. June 14, 2013.

Sec. 825.205. OTHER PHYSICIANS. The board of trustees may employ physicians in addition to the medical board to report on special cases.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.205 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.206. ACTUARY. (a) The board of trustees shall designate an actuary as its technical adviser.

(b) At least once every five years the actuary, on authorization of the board of trustees, shall:

(1) investigate the mortality, service, and compensation experience of the members and beneficiaries of the retirement system;

(2) on the basis of the investigation made under Subdivision (1), recommend to the board of trustees tables and rates that are required; and

(3) on the basis of tables and rates adopted by the board of trustees under Section 825.105, evaluate the assets and liabilities of the retirement system.

(c) The board of trustees annually shall evaluate the performance of the actuary during the previous year. At least once every four years, the board shall redesignate its actuary after advertising for and reviewing proposals from providers of actuarial services.

(d) Each actuarial experience study must include a review of all actuarial assumptions in light of relevant experience, important trends, and economic projections. Interrelated actuarial assumptions shall be reviewed carefully to ensure that adjustments in one assumption are reflected appropriately in related assumptions.

(e) Each actuarial valuation must include a detailed analysis comparing experience factors to their actuarial assumptions. The analysis shall be developed and reported to identify significant variations in actual experience from what was assumed. A material variation should be the focus of an actuarial experience study.

(f) An actuarial audit shall be performed in conjunction with an actuarial experience study or at least once every five years. The audit must include:

(1) an analysis of the appropriateness of the actuarial assumptions;

(2) a review of the assumptions and methodology for compliance with the funding standards;

(3) verification of demographic data; and

(4) confirmation of the valuation results, including a determination of actuarial accrued liability, normal cost, expected employee contributions, and the effects of any recent legislation.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.206 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 17, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 555, Sec. 40, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1416, Sec. 22, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 15, eff. September 1, 2011.

Sec. 825.207. COMPTROLLER. (a) Except as provided by Section 825.302 or 825.303 or by Subsection (e) of this section, the comptroller is the custodian of all securities and cash of the retirement system, including securities held in the name of a nominee of the retirement system.

(b) The comptroller shall pay money from the accounts of the retirement system on warrants drawn by the comptroller and authorized by vouchers signed by the executive director or other persons designated by the board of trustees.

(c) The comptroller annually shall furnish to the board of trustees a sworn statement of the amount of the retirement system's assets in the comptroller's custody.

(d) The comptroller is not responsible, under either civil or criminal law, for any action or losses with respect to assets of the retirement system while the assets are in the custody of a commercial bank as provided by Section 825.302 or 825.303 or by Subsection (e) of this section.

(e) The board of trustees may, in the exercise of its constitutional discretion to manage the assets of the retirement system, select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of all or part of the retirement system's assets.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 205, ch. 18, Sec. 30, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.207 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 251, Sec. 5, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 812, Sec. 18, eff.

Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1416, Sec. 23, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.51, eff. Sept. 1, 1997.

Sec. 825.208. COMPENSATION OF EMPLOYEES; PAYMENT OF EXPENSES. (a) Notwithstanding any other law, the board of trustees shall approve the rate of compensation of all persons it employs and the amounts necessary for other expenses for operation of the retirement system. If expenditures are paid from money appropriated from the general revenue fund rather than from trust funds, the rates and amounts may not exceed those paid for similar services for the state.

(b) The retirement system is exempt from Section 651.002, Chapter 660, and Subchapter K, Chapter 659, to the extent the board of trustees determines an exemption is necessary for the performance of fiduciary duties.

(c) The board of trustees may compensate employees of the retirement system, whether subject to or exempt from the overtime provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), at the rate equal to the employees' regular rate of pay for work performed on a legal holiday or for other compensatory time accrued, when taking compensatory time off would be disruptive to the system's normal business functions.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.208 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 25, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 930 (S.B. 1663), Sec. 9, eff. September 1, 2017.

Sec. 825.210. INTEREST IN INVESTMENT PROFITS PROHIBITED. Except for an interest in the retirement assets as a member of the retirement system, a trustee or employee of the board of trustees may not have a direct or indirect interest in the gains from investments made with the system's assets and may not receive any compensation for service other than designated salary and authorized expenses.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.210 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.212. RETIREMENT SYSTEM ETHICS POLICY. (a) The board of trustees shall adopt a code or codes of ethics, including standards of ethical conduct and disclosure requirements, applicable to:

(1) trustees;

(2) employees; and

(3) any contractors or any categories of contractors that the board of trustees determines provide:

(A) advice or opinion to the retirement system that is the basis for a significant decision or action by or on behalf of the retirement system; or

(B) significant services to the retirement system that relate to the administration and operation of the retirement system.

(b) In any code of ethics adopted under this section, the board of trustees may:

(1) impose enhanced disclosure requirements on employees that the board of trustees determines exercise significant fiduciary authority;

(2) impose disclosure requirements on contractors for expenditures on behalf of retirement system trustees or employees in amounts equal to or greater than a minimum amount considered material by the board of trustees; or

(3) address topics related to ethical conduct, including prohibited conduct, conflicts of interest, waivers of conflicts of interest, remedies for conflicts of interest, and sanctions.

(c) This chapter modifies the common law of conflict of interests as applied to trustees, employees, and contracts of the retirement system to the extent that violations of the common law of conflict of interests do not void retirement system contracts. The retirement system shall by rule or policy adopt procedures for disclosing and curing violations of the common law of conflict of interests and any such rule or policy may specify time periods in which disclosures and cures must be completed.

(d) Notwithstanding any other law, all personal financial disclosures made by employees of the retirement system under this

section, including a rule or policy adopted under this section, are confidential and excepted from the requirements of Section 552.021.

(e) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1078, Sec. 23(2), eff. June 14, 2013.

(f) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1078, Sec. 23(2), eff. June 14, 2013.

(g) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1078, Sec. 23(2), eff. June 14, 2013.

(h) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1078, Sec. 23(2), eff. June 14, 2013.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 20, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(43), (79), eff. Sept. 1, 1995.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 8, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 23(2), eff. June 14, 2013.

Acts 2017, 85th Leg., R.S., Ch. 930 (S.B. 1663), Sec. 10, eff. June 15, 2017.

Sec. 825.213. EMPLOYMENT PRACTICES. (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the retirement system. The program shall require intra-agency posting of all positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for system employees must be based on the system established under this subsection.

(c) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the retirement system's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made about the extent of underuse in the retirement system's work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(d) A policy statement prepared under Subsection (c) must cover an annual period, be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (c), and be filed with the governor's office.

(e) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (d). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 20, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 41, eff. Sept. 1, 1995.

Sec. 825.214. FINANCIAL AUDITOR. A person employed to perform a financial audit of the retirement system must be selected by and report to the board of trustees.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 20, eff. Sept. 1, 1993.

Sec. 825.215. ADVOCACY PROHIBITED. (a) An employee of the retirement system may not advocate increased benefits or engage in activities to advocate or influence legislative action or inaction. Advocacy or activity of this nature is grounds for dismissal of an employee.

(b) This section does not prohibit comments by an employee of the retirement system on federal laws, regulations, or other official actions or proposed actions affecting or potentially affecting the

retirement system that are made in accordance with policies adopted by the board.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 42, eff. Sept. 1, 1995.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 16, eff. September 1, 2011.

Sec. 825.216. OMBUDSMAN. (a) Subject to Section 825.506, the board of trustees shall designate an ombudsman within the retirement system to assist members and retirees by performing member and retiree protection and advocacy functions, including:

(1) monitoring the system's interactions with members and retirees;

(2) receiving and reviewing complaints from members or retirees;

(3) taking appropriate action regarding complaints, including conducting investigations of complaints or escalating or reporting complaints to the board;

(4) informing a member or retiree and the board of the results of the ombudsman's review or investigation of the member's or retiree's complaint; and

(5) recommending corrective actions to the board as determined necessary by the ombudsman to resolve complaints.

(b) The ombudsman designated under this section shall regularly submit a report to the board of trustees recommending changes to the retirement system's operations that would benefit members and retirees and increase opportunities for the members and retirees to participate in the system's decisions.

Added by Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 6, eff. May 26, 2021.

SUBCHAPTER D. MANAGEMENT OF ASSETS

Sec. 825.301. INVESTMENT OF ASSETS. (a) The board of trustees shall invest and reinvest assets of the retirement system without distinction as to their source in accordance with Section 67, Article XVI, Texas Constitution. For purposes of the investment authority of the board of trustees under Section 67, Article XVI, Texas

Constitution, "securities" includes any investment instrument within the meaning of the term as defined by Section 4001.068, 15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10), any derivative instrument, and any other instrument commonly used by institutional investors to manage institutional investment portfolios. An interest in a limited partnership or investment contract is considered a security without regard to the number of investors or the control, access to information, or rights granted to or retained by the retirement system. Any instrument or contract intended to manage transaction or currency exchange risk in purchasing, selling, or holding securities is considered to be a security. Subject to Section 825.3013, an interest in a title-holding entity that is wholly owned, organized, and controlled by the retirement system is considered a security. Investment decisions are subject to the standard provided in the Texas Trust Code by Section 117.004(b), Property Code.

(a-1) Repealed by Acts 2017, 85th Leg., R.S., Ch. 932 (S.B. 1665), Sec. 2, eff. June 15, 2017.

(a-2) Repealed by Acts 2017, 85th Leg., R.S., Ch. 932 (S.B. 1665), Sec. 2, eff. June 15, 2017.

(a-3) For the purpose of carrying out policy decisions made by the board of trustees, the board may delegate investment authority with respect to assets held by the retirement system to the executive director or the staff of the retirement system.

(b) The board of trustees may delegate discretionary investment authority to external investment managers to invest and manage not more than 30 percent of the total assets held in trust by the retirement system and may contract with external investment advisors and consultants to assist and advise the board and the staff of the retirement system.

(b-1) By accepting a delegation of discretionary investment authority or an engagement to assist or advise the board or the staff of the retirement system under Subsection (b), an external investment manager, advisor, or consultant submits to the jurisdiction of the courts of this state in all proceedings arising from or related to performance of the delegated authority or engagement. An action relating to services rendered under this section shall be brought only in a state district court sitting in Travis County, Texas. Chapter 2260 does not apply to a contract under this section. This subsection does not waive any immunity of the retirement system.

(c) The board of trustees shall employ one or more performance measurement services to evaluate and analyze the investment results of those assets of the retirement system for which reliable and appropriate measurement methodology and procedures exist. Each service shall compare investment results with the written investment objectives developed by the board, and shall also compare the investment of the assets being evaluated and analyzed with the investment of other public funds.

(d) The board of trustees may invest assets of the retirement system in obligations issued, assumed, or guaranteed by the Inter-American Development Bank, the International Bank for Reconstruction and Development (the World Bank), the African Development Bank, the Asian Development Bank, and the International Finance Corporation.

(e) The board of trustees shall develop written investment objectives concerning the investment of the assets of the retirement system. The objectives may address desired rates of return, risks involved, investment time frames, and any other relevant considerations.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 5098, ch. 925, Sec. 4, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 5100, ch. 926, Sec. 4, eff. Aug. 29, 1983; Acts 1985, 69th Leg., ch. 542, Sec. 6, eff. Aug. 26, 1985; Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(64), eff. Sept. 1, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.301 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 408, Sec. 3, eff. Aug. 26, 1991; Acts 1997, 75th Leg., ch. 1416, Sec. 25, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1540, Sec. 17, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1103, Sec. 11, eff. Jan. 1, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 124 (S.B. 1447), Sec. 1, eff. May 17, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 492 (H.B. 1061), Sec. 1, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 932 (S.B. 1665), Sec. 1, eff. June 15, 2017.

Acts 2017, 85th Leg., R.S., Ch. 932 (S.B. 1665), Sec. 2, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 2.21, eff.

January 1, 2022.

Acts 2023, 88th Leg., R.S., Ch. 1093 (S.B. 1246), Sec. 4, eff. June 18, 2023.

Sec. 825.3011. CERTAIN CONSULTATIONS CONCERNING INVESTMENTS. (a) In this section, "private investment fund," "reinvestment," and "restricted securities" have the meanings assigned by Section 552.143.

(b) Chapter 551 does not require the board of trustees to confer with one or more employees, consultants, or legal counsel of the retirement system or with a third party, including representatives of an issuer of restricted securities or a private investment fund, in an open meeting if the only purpose of the conference is to receive information from or question the employees, consultants, or legal counsel of the retirement system or the third party relating to:

(1) investment transactions or potential investment transactions if, before conducting the closed meeting, a majority of the board of trustees in an open meeting vote that deliberating or conferring in an open meeting would have a detrimental effect on the position of the retirement system in negotiations with third parties or put the retirement system at a competitive disadvantage in the market; or

(2) the purchase, holding, or disposal of restricted securities or a private investment fund's investment in restricted securities if, under Section 552.143, the information discussed would be confidential and excepted from the requirements of Section 552.021 if the information was included in the records of a governmental body.

(c) This section applies notwithstanding Section 825.115.

Added by Acts 2007, 80th Leg., R.S., Ch. 124 (S.B. 1447), Sec. 2, eff. May 17, 2007.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 930 (S.B. 1663), Sec. 11, eff. September 1, 2017.

Sec. 825.3012. INVESTMENT IN CERTAIN HEDGE FUNDS LIMITED. (a)

For the purposes of this section, "hedge fund" means a private investment vehicle that:

(1) is not registered as an investment company;

(2) issues securities only to accredited investors or qualified purchasers under an exemption from registration; and

(3) engages primarily in the strategic trading of securities and other financial instruments.

(b) Notwithstanding any provision of Section 825.301, the board of trustees shall determine the maximum percentage of the value of the total investment portfolio of the retirement system that may be invested in hedge funds.

(b-1) Repealed by Acts 2019, 86th Leg., R.S., Ch. 126 (H.B. 1612), Sec. 2, eff. May 23, 2019.

(c) The percentage of the value described by Subsection (b) is determined by reference to the value of the total investment portfolio of the retirement system as of the date the retirement system executes the subscription documents for each hedge fund investment.

Added by Acts 2007, 80th Leg., R.S., Ch. 124 (S.B. 1447), Sec. 3, eff. May 17, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 492 (H.B. 1061), Sec. 2, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 126 (H.B. 1612), Sec. 1, eff. May 23, 2019.

Acts 2019, 86th Leg., R.S., Ch. 126 (H.B. 1612), Sec. 2, eff. May 23, 2019.

Acts 2023, 88th Leg., R.S., Ch. 1093 (S.B. 1246), Sec. 5, eff. June 18, 2023.

Sec. 825.3013. TITLE-HOLDING ENTITIES; INVESTMENTS IN REAL PROPERTY. (a) The retirement system may form a title-holding entity for the purpose of investing the retirement system's assets in real property. The title-holding entity must be:

(1) wholly owned, organized, and controlled by the system; and

(2) exempt from taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)

of that code.

(b) Subject to Subsection (a)(2), a title-holding entity formed under this section may hold title to real property jointly with another person.

(c) The board of trustees shall adopt policies for the governance, management, and reporting for a title-holding entity formed under this section.

(d) The following persons may not be employed by, receive compensation from, be a party to a contract with or a direct or indirect financial beneficiary of a contract with, or hold a direct or indirect interest in a title-holding entity formed by the retirement system under this section:

(1) a trustee or employee of the system; or

(2) a relative of a trustee or employee of the system within the second degree of consanguinity or affinity, as determined under Chapter 573.

(e) Chapter 551 and Subtitles D and F, Title 10, do not apply to a title-holding entity formed under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 1093 (S.B. 1246), Sec. 6, eff. June 18, 2023.

Sec. 825.3014. CONFIDENTIALITY OF RECORDS RELATED TO TITLE-HOLDING ENTITIES. (a) Notwithstanding any other law other than this section, information that relates to a title-holding entity formed under Section 825.3013 is confidential and excepted from disclosure under Section 552.021, including information relating to:

(1) a pre-due diligence or post-due diligence review, audit, or investigation;

(2) the formation of a title-holding entity under Section 825.3013; or

(3) a potential purchase of real property by a title-holding entity, regardless of whether the purchase is completed.

(b) The following information as it relates to a title-holding entity formed under Section 825.3013 is public information under Chapter 552:

(1) the title-holding entity's certificate of formation or comparable instrument;

(2) the date or dates on which the title-holding entity

purchased or sold an ownership interest in real property;

(3) information relating to the title-holding entity's qualification for the federal income tax exemption required under Section 825.3013(a)(2);

(4) the name and location, including the physical address, city, state, and country, of any real property in which the title-holding entity has an ownership interest;

(5) as shown in the meeting minutes of the board of trustees, each recusal by a member of the board in connection with a deliberation or action relating to the title-holding entity, any real property in which the entity has an ownership interest, or a lease or contract with the title-holding entity;

(6) the name of each business entity or employer owned wholly or partly by the relative of a member of the board of trustees or a retirement system employee, within the second degree of consanguinity or affinity under Chapter 573, that is a prospective party to a transaction or contract with the title-holding entity, including a contract that is:

(A) a real property purchase and sale agreement;

(B) for goods or services; or

(C) a lease agreement, including a ground lease agreement;

(7) the name of the business entity or employer described by Subdivision (6) as stated in the business entity's or employer's certificate of formation or comparable instrument;

(8) copies of income tax returns filed by the title-holding entity, except information in the returns relating to indebtedness, tax basis, and gains or losses realized on the sale or other disposition of real property by the title-holding entity;

(9) if the system or a state agency is a tenant of real property owned by the title-holding entity:

(A) the name of that tenant;

(B) the name and address of the property; and

(C) the financial returns to the system from investing in the property; and

(10) if applicable, the name of any joint owner of real property a title-holding entity has an ownership interest in and the percentage of the property owned by a joint owner.

(c) This section applies to information regardless of whether the title-holding entity disposes of the entity's interest in real

property or an asset if the information is inextricably intertwined with another interest in real property or other assets owned by the title-holding entity.

(d) This section does not prohibit the retirement system or any person from asserting that any information described by this section is confidential or exempt from disclosure under Section 552.021 or other law. Notwithstanding any other law, if the retirement system discloses information described by Subsection (a) to a person, the disclosure does not:

(1) waive or affect the confidentiality of information relating to any other title-holding entity; or

(2) waive the retirement system's right to assert exceptions to disclosure of the information in the future.

Added by Acts 2023, 88th Leg., R.S., Ch. 1093 (S.B. 1246), Sec. 6, eff. June 18, 2023.

Sec. 825.302. CUSTODY AND INVESTMENT OF ASSETS PENDING TRANSACTIONS. The retirement system may, in the exercise of its constitutional discretion to manage the assets of the retirement system, select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the system's cash or securities pending completion of an investment transaction and may authorize such custodian to invest the cash so held in such short-term securities as the board of trustees determines.

Added by Acts 1981, 67th Leg., 1st C.S., p. 205, ch. 18, Sec. 31, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.3011 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 251, Sec. 6, eff. Aug. 28, 1989.

Sec. 825.3021. APPRAISAL AND SALE OF REAL PROPERTY. If the retirement system acquires, through foreclosure or conveyance of deed in lieu of foreclosure, real property assets or stock in an entity the major asset of which is real property, the retirement system shall, not later than the 90th day after the date of acquisition:

(1) have the real property appraised by an appraiser who is

not a trustee or employee of the retirement system and who has received MAI or SRA;

(2) acquire a foreclosure endorsement to the mortgagee's title insurance policy; and

(3) if the real property contains improvements, employ an individual who is not, or a property management company that is not owned by, a trustee or employee of the retirement system and who is, or that employs, a CPM, CAM, or RAM to manage the property.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 21, eff. Sept. 1, 1993.

Sec. 825.303. SECURITIES CUSTODY AND SECURITIES LENDING. (a) The retirement system may, in the exercise of its constitutional discretion to manage the assets of the retirement system, select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the system's securities and to lend the securities under rules adopted by the board of trustees and as required by this section. The retirement system may select one or more commercial banks, depository trust companies, or other entities to act independently of the custodian and lend the securities under board rules and as required by this section.

(b) To be eligible to lend securities under this section, a bank or brokerage firm must:

(1) be experienced in the operation of a fully secured securities loan program;

(2) maintain adequate capital in the prudent judgment of the retirement system to assure the safety of the securities;

(3) execute an indemnification agreement satisfactory in form and content to the retirement system fully indemnifying the retirement system against loss resulting from borrower default or the failure of the bank or brokerage firm to properly execute the responsibilities of the bank or brokerage firm under the applicable securities lending agreement;

(4) require any securities broker or dealer to whom it lends securities belonging to the retirement system to deliver to and maintain with the custodian collateral in the form of cash or government securities eligible for book entry in either the Federal Reserve System or the Participants Trust Company, in an amount equal

to not less than 100 percent of the market value, from time to time, of the loaned securities; and

(5) comply with guidelines the board of trustees may adopt concerning the investment of cash collateral, borrower limits, and other items.

Added by Acts 1981, 67th Leg., 1st C.S., p. 205, ch. 18, Sec. 31, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.3012 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 251, Sec. 7, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 812, Sec. 22, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1540, Sec. 18, 19, eff. Sept. 1, 1999.

Sec. 825.304. NOMINEE TO HOLD SECURITIES. (a) The assets of the retirement system may be held in the name of agents, nominees, depository trust companies, or other entities designated by the board of trustees.

(b) The records and all relevant reports or accounts of the retirement system must show the ownership interest of the retirement system in these assets and the facts regarding the system's holdings.

(c) A trustee or employee of the retirement system shall have no personal economic interest in any entity listed in Subsection (a), but shall undertake such action and duties with respect to these entities as the board of trustees determines to be in the interest of the retirement system. This subsection does not prohibit:

(1) an interest in the assets as a member of the retirement system;

(2) the right to receive expense reimbursements at the same rate that the board member or employee would have received as a board member or employee; and

(3) such indemnification as is authorized by the board of trustees.

(d) The records of an agent, nominee, or other entity that are maintained by the retirement system are subject to audit by the state auditor.

Added by Acts 1981, 67th Leg., 1st C.S., p. 205, ch. 18, Sec. 31, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.3013 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1,

1989. Amended by Acts 1989, 71st Leg., ch. 251, Sec. 8, eff. Aug. 28, 1989.

Sec. 825.305. AVAILABLE CASH. The board of trustees may keep on deposit with the comptroller available cash not exceeding 10 percent of the total assets of the retirement system, to pay annuity and other disbursements.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.302 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.53, eff. Sept. 1, 1997.

Sec. 825.306. CREDITING SYSTEM ASSETS. (a) The assets of the retirement system shall be maintained and reported in a manner that reflects the source of the assets or the purpose for which the assets are held, using appropriate ledgers and subledgers, in accordance with generally accepted accounting principles prescribed by the Governmental Accounting Standards Board or its successor. In addition, the maintenance and reporting of the assets must be in compliance with applicable tax law and consistent with any fiduciary duty owed with respect to the trust. In the alternative, the assets may be credited, according to the purpose for which they are held, to one of the following accounts:

(1) member savings account;
(2) state contribution account;
(3) retired reserve account;
(4) interest account;
(5) expense account; or
(6) deferred retirement option account.

(b) Notwithstanding any other law, a requirement to deposit in or transfer assets from one of the accounts described under Subsection (a) is satisfied by maintaining and reporting the assets in accordance with that subsection.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.303 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 43, eff. Sept. 1, 1995; Acts

1997, 75th Leg., ch. 1416, Sec. 26, eff. Sept. 1, 1997.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 930 (S.B. 1663), Sec. 12, eff. September 1, 2017.

Sec. 825.307. MEMBER SAVINGS ACCOUNT. (a) The retirement system shall deposit in a member's individual account in the member savings account:

(1) the amount of contributions to the retirement system that is deducted from the member's compensation;

(2) the portion of a deposit made on or after resumption of membership that represents the amount of retirement benefits received;

(3) the portion of a deposit to reinstate service credit previously canceled that represents the amount withdrawn or refunded;

(4) the portion of a deposit to establish military service credit required by Section 823.302(c);

(5) the portion of a deposit to establish USERRA credit required by Section 823.304(c);

(6) the portion of a deposit to establish:

(A) equivalent membership service credit required by Section 823.401(d), 823.402(e), 823.403(d), 823.404(c), or 823.406(b) or former Section 823.405; or

(B) unreported service credit or compensation required by Section 825.403(h); and

(7) interest earned on money in the account as provided by Subsections (b) and (c) and Section 825.313(c).

(b) Interest on a member's contribution is earned monthly and computed at the rate of two percent a year. Except as provided by Subsection (c), interest is computed based on the mean balance in the member's account during that fiscal year and shall be credited on August 31 of each year.

(c) If a person's membership in the retirement system is terminated during a fiscal year, the interest on the member's account is computed based on the mean balance in the account from September 1 of the fiscal year until:

(1) the last day of the month that preceded the month in which the membership termination occurred if termination was caused by the member's death or the withdrawal of contributions; or

(2) the effective date of retirement if membership termination was caused by retirement.

(d) Accumulated contributions in an individual's account on the date that the individual's membership in the retirement system is terminated do not earn interest after that date.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Amended by Acts 1989, 71st Leg., ch. 835, Sec. 8, eff. Sept. 1, 1989.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.304 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.05(h), eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 785, Sec. 2, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 1118, Sec. 3, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1122, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1229, Sec. 15, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1312 (H.B. 3169), Sec. 1, eff. January 1, 2009.

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 26, eff. January 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1214 (S.B. 1458), Sec. 4, eff. September 1, 2014.

Acts 2017, 85th Leg., R.S., Ch. 931 (S.B. 1664), Sec. 7, eff. September 1, 2017.

Sec. 825.308. STATE CONTRIBUTION ACCOUNT. The retirement system shall deposit in the state contribution account:

(1) all state contributions to the retirement system required by Section 825.404;

(2) amounts from the interest account as provided by Section 825.313(b)(2);

(3) retirement annuities waived or forfeited in accordance with Section 824.601 or 824.004;

(3-a) retiree earnings described by Section 824.601(b-3)(2)(B)(i) that have been paid to the system;

(4) fees collected under Section 825.403(h);

(5) fees and interest for reinstatement of service credit or establishment of membership service credit as provided by Section 823.501;

(6) the portion of a deposit required by Section 823.302 to establish military service credit that represents a fee; and

(7) employer contributions required under Section 825.4092.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 207, ch. 18, Sec. 32, eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 832, Sec. 7, eff. June 15, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.305 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1229, Sec. 16, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 27, eff. September 1, 2005.

Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 7, eff. May 26, 2021.

Acts 2021, 87th Leg., R.S., Ch. 511 (S.B. 288), Sec. 3, eff. September 1, 2021.

Sec. 825.309. RETIRED RESERVE ACCOUNT. (a) The retirement system shall transfer to the retired reserve account:

(1) from the member savings account, an amount equal to the accumulated contributions in a member's individual account when the member retires or when the retirement system approves the payment of any benefit authorized under this subtitle on the member's retirement or death;

(2) from the state contribution account, an amount certified by the actuary or determined under actuarial tables adopted by the board of trustees pursuant to Section 825.105 as necessary to provide for the payment of the benefit as it becomes due; and

(3) from the interest account, the amount required by Section 825.313(b)(1).

(b) The retirement system shall use money in the retired reserve account to pay all retirement annuities and all death or survivor benefits, including postretirement benefit increases and other adjustments to annuities.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 61, Sec. 8, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.306 and

amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 44, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1118, Sec. 4, eff. Sept. 1, 1999.

Sec. 825.311. INTEREST ACCOUNT. In the interest account the retirement system shall:

(1) deposit all income, interest, and dividends from deposits and investments of assets of the retirement system;

(2) accumulate net capital gains and losses resulting from the sale, call, maturity, conversion, or recognition of changes in carrying values of investments of the retirement system; and

(3) accumulate net income or losses from other investments.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.308 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 23, eff. Sept. 1, 1993.

Sec. 825.312. EXPENSE ACCOUNT. (a) The retirement system shall deposit in the expense account:

(1) money transferred from the interest account under Section 825.313(d) and

(2) money received from the Texas Public School Employees Group Insurance Program for service performed for the program by the retirement system.

(b) The retirement system shall pay from the account all administrative expenses of the retirement system that are required to perform the fiduciary duties of the board.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 207, ch. 18, Sec. 33, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.309 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 785, Sec. 3, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 812, Sec. 24, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 555, Sec. 45, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1118, Sec. 5, eff. Sept. 1, 1999. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 9, eff.

June 14, 2013.

Sec. 825.3121. DEFERRED RETIREMENT OPTION ACCOUNT. (a) The retirement system shall deposit in the deferred retirement option account the amounts required to be deposited in the account by Section 824.804(a) and interest as required by Section 824.807.

(b) The retirement system shall pay from the account all benefits accrued during participation in the deferred retirement option plan.

Added by Acts 1997, 75th Leg., ch. 1416, Sec. 27, eff. Sept. 1, 1997.

Sec. 825.313. TRANSFERS FROM INTEREST ACCOUNT. (a) Annually, the retirement system shall transfer from the interest account to the state contribution account amounts accumulated under Section 825.311(2).

(b) On August 31 of each year, the retirement system shall make the following transfers from the interest account:

(1) to the retired reserve account, an amount equal to 4-3/4 percent of the average balance of the retired reserve account for that fiscal year or, if the transfer is authorized by resolution of the board, an amount computed at a greater rate if the actuary recommends the greater rate to adequately fund the retired reserve account; and

(2) to the state contribution account, the amount remaining in the interest account after the other transfers required or authorized by this section are made.

(c) On August 31 of each year, the retirement system shall transfer from the interest account to the member savings account an amount computed under Section 825.307(b) unless membership is terminated in that fiscal year. If membership is terminated during the fiscal year, the retirement system shall transfer from the interest account to the member savings account an amount computed under Section 825.307(c).

(d) The board of trustees, by resolution recorded in its minutes, may transfer from the interest account to the expense account an amount necessary to cover the expenses of the retirement system for the fiscal year that are required to perform the fiduciary

duties of the board.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.310 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 45, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1118, Sec. 6, eff. Sept. 1, 1999.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 10, eff. June 14, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 11, eff. June 14, 2013.

Sec. 825.314. USE OF STATE CONTRIBUTIONS. The retirement system shall use all assets contributed by the state to pay benefits authorized by this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.311 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 45, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1118, Sec. 7, eff. Sept. 1, 1999.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 12, eff. June 14, 2013.

Sec. 825.315. PROHIBITED USE OF ASSETS. (a) Assets of the retirement system may not be used to advocate or influence the outcome of an election or the passage or defeat of any legislative measure. This prohibition may not be construed to prevent any trustee or employee from furnishing information in the hands of the trustee or employee that is not considered confidential under law to a member or committee of the legislature, to any other state officer or employee, or to any private citizen, at the request of the person or entity to whom the information is furnished. This prohibition does not apply to the incidental use of retirement system facilities by groups of members or retirees or by officers or employees of state agencies.

(b) This section does not prohibit the use of system assets by

an employee of the retirement system to comment on federal laws, regulations, or other official actions or proposed actions affecting or potentially affecting the retirement system that are made in accordance with policies adopted by the board.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 46, eff. Sept. 1, 1995.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 17, eff. September 1, 2011.

SUBCHAPTER E. COLLECTION OF MEMBERSHIP FEES AND CONTRIBUTIONS

Sec. 825.402. RATE OF MEMBER CONTRIBUTIONS. The rate of contributions for each member of the retirement system is:

(1) five percent of the member's annual compensation or $180, whichever is less, for service rendered after August 31, 1937, and before September 1, 1957;

(2) six percent of the first $8,400 of the member's annual compensation for service rendered after August 31, 1957, and before September 1, 1969;

(3) six percent of the member's annual compensation for service rendered after August 31, 1969, and before the first day of the 1977-78 school year;

(4) 6.65 percent of the member's annual compensation for service rendered after the last day of the period described by Subdivision (3) and before September 1, 1985;

(5) 6.4 percent of the member's annual compensation for service rendered after August 31, 1985, and before September 1, 2014;

(6) 6.7 percent of the member's annual compensation for service rendered after August 31, 2014, and before September 1, 2015;

(7) 7.2 percent of the member's annual compensation for service rendered after August 31, 2015, and before September 1, 2016;

(8) 7.7 percent of the member's annual compensation for service rendered after August 31, 2016, and before September 1, 2017;

(9) for compensation paid on or after September 1, 2017, and before September 1, 2019, the lesser of:

(A) 7.7 percent of the member's annual compensation; or

(B) a percentage of the member's annual compensation equal to 7.7 percent reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution rate for the

fiscal year to which the compensation relates is less than the state contribution rate established for the 2015 fiscal year;

(10) for compensation paid on or after September 1, 2019, and before September 1, 2021, the lesser of:

(A) 7.7 percent of the member's annual compensation; or

(B) a percentage of the member's annual compensation equal to 7.7 percent reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution rate for the fiscal year to which the compensation relates is less than the state contribution rate established for that fiscal year under Section 825.404(a-2);

(11) for compensation paid on or after September 1, 2021, and before September 1, 2023, the lesser of:

(A) eight percent of the member's annual compensation; or

(B) a percentage of the member's annual compensation equal to eight percent reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution rate for the fiscal year to which the compensation relates is less than the state contribution rate established for that fiscal year under Section 825.404(a-2); and

(12) for compensation paid on or after September 1, 2023, the lesser of:

(A) 8.25 percent of the member's annual compensation; or

(B) a percentage of the member's annual compensation equal to 8.25 percent reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution rate for the fiscal year to which the compensation relates is less than the state contribution rate established for that fiscal year under Section 825.404(a-2).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 228, Sec. 2, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.402 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1389 (S.B. 1846), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 23(3),

eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1214 (S.B. 1458), Sec. 5, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 566 (S.B. 12), Sec. 1, eff. June 10, 2019.

Sec. 825.403. COLLECTION OF MEMBER'S CONTRIBUTIONS. (a) Each payroll period, each employer shall deduct from the compensation of each member employed by the employer the amount required by Section 825.402.

(b) Each employer or the employer's designated disbursing officer, at a time and in a form prescribed by the retirement system, shall send to the executive director all deductions and a certification of earnings of each member employed by the employer. An employer shall use electronic fund transfer to send deductions required by this section or shall certify to the retirement system either that the employer is unable to establish a qualifying account at a financial institution or that payment by electronic fund transfer would be impractical or more costly than payment by paper check.

(c) The executive director shall deposit with the comptroller all deductions received by the executive director.

(d) After the deductions are deposited with the comptroller, the money shall be used as provided by this subtitle.

(e) The county superintendent or ex officio county superintendent, in accordance with this section, shall collect contributions of members employed in common school or other school districts under the superintendent's jurisdiction.

(f) Employers shall make the deductions required by this section even if the member's compensation is reduced below the amount equal to the minimum compensation provided by law.

(g) By becoming a member of the retirement system, a member consents to the deductions required by this section. The payment of compensation less those deductions is a complete release of all claims, except benefits provided by this subtitle, for services rendered by the member during the payment period.

(h) If deductions were previously required but not paid, the retirement system may not provide benefits based on the service or compensation unless the deposits required by this section have been

fully paid. The person's employer at the time the unreported service was rendered or compensation was paid must verify the service or compensation as required by Subsection (j) and the person must submit the verification to the retirement system not later than five years after the end of the school year in which the service was rendered or compensation was paid. To establish the service or compensation credit, the person must deposit with the retirement system the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of service or compensation credit under this section, based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees. The board of trustees shall:

(1) prescribe terms for payments under this subsection; and

(2) credit the person for prior service to which the person is entitled under this subtitle.

(i) Contributions required by Section 825.402 shall be deducted from the funds regularly appropriated by the state for the current maintenance of any educational institution supported in whole or part by the state and not otherwise covered by this section.

(j) If deductions were previously required but not paid, proof of service satisfactory to the retirement system must be made before service credit is granted or payment for the credit is required. Proof of service is sufficient if the person's employer documents that the employer has records made at or near the time of service that establish the amount of time worked and salary earned. An affidavit based on memory without written records made at or near the time of service is not sufficient documentation for the establishment of service credit. The retirement system may audit records used for documentation under this subsection. A person who does not obtain proof of service as required by this section may not establish the service or compensation credit.

(k) Reporting entities and the commissioner of education shall inform the retirement system of changes in status of a school district or charter school that affect the reporting responsibilities of the entity.

(l) The commissioner of education shall notify the retirement system in writing:

(1) of the revocation, denial of renewal, or surrender of a charter issued by the State Board of Education, within 10 business

days of the date of the event;

(2) that an open-enrollment charter school or other reporting entity no longer is receiving state funds, within 10 business days of the date on which funding ceases; and

(3) when an open-enrollment charter school or other reporting entity resumes receiving state funds, within 10 business days of the date on which funding resumes.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 228, Sec. 3, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.403 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 25, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 555, Sec. 47, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.54, eff. Sept. 1, 1997. Amended by:

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 28, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 456 (S.B. 1668), Sec. 6, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1214 (S.B. 1458), Sec. 6, eff. September 1, 2014.

Sec. 825.4035. EMPLOYER CONTRIBUTIONS FOR CERTAIN EMPLOYED MEMBERS. (a) This section:

(1) except as provided by Subdivision (2), applies only to an employer that is a public school or regional education service center that reports to the retirement system under Section 825.403 the employment of a member; and

(2) does not apply to an employer that is an institution of higher education.

(b) Except as provided in Subsection (c), for each member an employer reports to the retirement system, the employer shall contribute monthly to the retirement system for each such member:

(1) for the period beginning with the report month of September 2014 and ending with the report month of August 2015, an amount equal to 1.5 percent of the member's compensation;

(2) beginning with the report month for September 2015 and ending with the report month of August 2019, an amount equal to the

lesser of:

(A) 1.5 percent of the member's compensation; or

(B) a percentage of the member's compensation equal to 1.5 percent reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution rate for the fiscal year to which the report month relates is less than the state contribution rate established for the 2015 fiscal year; and

(3) beginning with the report month of September 2019 and for each subsequent report month, an amount equal to the lesser of:

(A) a percentage of the member's compensation equal to the rate of contribution provided for the applicable fiscal year under Subsection (e); or

(B) a percentage of the member's compensation equal to the percentage provided by Paragraph (A) reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution rate for the fiscal year to which the report month relates is less than the state contribution rate established for that fiscal year under Section 825.404(a-2).

(c) If a member is entitled to the minimum salary for certain school personnel under Section 21.402, Education Code, or if a member would have been entitled to the minimum salary for certain school personnel under former Section 16.056, Education Code, as that section existed on January 1, 1995, the employer shall, in addition to any contributions required under Section 825.405, contribute monthly to the retirement system for each such member:

(1) for the period beginning with the report month of September 2014 and ending with the report month of August 2015, an amount equal to 1.5 percent of the statutory minimum salary determined under Section 825.405(b);

(2) beginning with the report month for September 2015 and ending with the report month of August 2019, an amount equal to the lesser of:

(A) 1.5 percent of the statutory minimum salary determined under Section 825.405(b); or

(B) a percentage of the statutory minimum salary determined under Section 825.405(b) equal to 1.5 percent reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution rate for the fiscal year to which the report month relates is less than the state contribution rate established for the 2015 fiscal year; and

(3) beginning with the report month of September 2019 and for each subsequent report month, an amount equal to the lesser of:

(A) a percentage of the statutory minimum salary determined under Section 825.405(b) equal to the rate of contribution provided for the applicable fiscal year under Subsection (e); or

(B) a percentage of the statutory minimum salary determined under Section 825.405(b) equal to the percentage provided by Paragraph (A) reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution rate for the fiscal year to which the report month relates is less than the state contribution rate established for that fiscal year under Section 825.404(a-2).

(d) Contributions under this section:

(1) are subject to the requirements of Section 825.408; and

(2) must be used to fund the normal cost of the retirement system.

(e) For purposes of Subsections (b)(3)(A) and (c)(3)(A), the rate of contribution is:

(1) 1.5 percent beginning with the report month of September 2019 and ending with the report month of August 2020;

(2) 1.6 percent beginning with the report month of September 2020 and ending with the report month of August 2021;

(3) 1.7 percent beginning with the report month of September 2021 and ending with the report month of August 2022;

(4) 1.8 percent beginning with the report month of September 2022 and ending with the report month of August 2023;

(5) 1.9 percent beginning with the report month of September 2023 and ending with the report month of August 2024; and

(6) two percent beginning with the report month of September 2024 and for each subsequent report month.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1214 (S.B. 1458), Sec. 7, eff. September 1, 2014.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 566 (S.B. 12), Sec. 2, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 566 (S.B. 12), Sec. 3, eff. June 10, 2019.

Sec. 825.404. COLLECTION OF STATE CONTRIBUTIONS. (a) Except as provided by Subsection (a-1) and subject to Subsection (a-2), during each fiscal year, the state shall contribute to the retirement system an amount equal to at least six and not more than 10 percent of the aggregate annual compensation of all members of the retirement system during that fiscal year.

(a-1) In computing the amount owed by the state under this section, the compensation of members who are employed by public junior colleges or public junior college districts shall be included in the aggregate annual compensation as follows:

(1) 50 percent of the eligible creditable compensation of employees who:

(A) otherwise are eligible for membership in the retirement system; and

(B) are instructional or administrative employees whose salaries may be fully paid from funds appropriated under the General Appropriations Act, regardless of whether such salaries are actually paid from appropriated funds; and

(2) none of the eligible creditable compensation of all other employees who:

(A) do not meet the requirements of Subdivision (1)(B) but are otherwise eligible for membership in the retirement system; or

(B) cannot be included as a qualifying employee under Subdivision (1) by application of Subsection (b-1).

(a-2) The state contribution required by Subsection (a) is:

(1) for the fiscal years beginning on September 1, 2019, and September 1, 2020, 7.5 percent of the aggregate annual compensation of all members of the retirement system during the applicable fiscal year;

(2) for the fiscal year beginning on September 1, 2021, 7.75 percent of the aggregate annual compensation of all members of the retirement system during that fiscal year;

(3) for the fiscal year beginning on September 1, 2022, eight percent of the aggregate annual compensation of all members of the retirement system during that fiscal year; and

(4) for the fiscal year beginning on September 1, 2023, and each subsequent fiscal year, 8.25 percent of the aggregate annual compensation of all members of the retirement system during that fiscal year.

(b) Before November 2 of each even-numbered year, the board of trustees, in coordination with the Legislative Budget Board, shall certify to the comptroller of public accounts for review and adoption an estimate of the amount necessary to pay the state's contributions to the retirement system for the following biennium. For qualifying employees under Subsection (a-1)(1), the board of trustees shall include only the amount payable by the state under Subsection (a-1)(1) in determining the amount to be certified.

(b-1) In determining the amount described by Subsection (b), the number of qualifying employees under Subsection (a-1)(1) whose compensation may be included for each public junior college or public junior college district in each biennium may not be adjusted in a proportion greater than the change in student enrollment at each college during the reporting period except that a college that experiences a decline in student enrollment may petition the Legislative Budget Board to maintain the number of eligible employees up to 98 percent of the level of the prior biennium.

(c) The amount certified under Subsection (b) shall be included in the state budget that the governor submits to the legislature.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1078, Sec. 23(4), eff. June 14, 2013.

(e) All money appropriated by the state to the retirement system shall be paid to the state contribution account in equal monthly installments as provided by Section 403.093(c).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 207, ch. 18, Sec. 34, eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 228, Sec. 4, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 61, Sec. 10, eff. Aug. 31, 1987; Acts 1989, 71st Leg., ch. 16, Sec. 6, eff. Aug. 31, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.404 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 48, 49, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 17.01, eff. August 29, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1389 (S.B. 1846), Sec. 2, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 812 (S.B. 1812), Sec. 1, eff.

June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 13, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 14, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 23(4), eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1214 (S.B. 1458), Sec. 8, eff. September 1, 2014.

Acts 2019, 86th Leg., R.S., Ch. 566 (S.B. 12), Sec. 4, eff. June 10, 2019.

Sec. 825.4041. EMPLOYER PAYMENTS. (a) For purposes of this section, a new member is a person first employed on or after September 1, 2005, including a former member who withdrew retirement contributions under Section 822.003 and is reemployed on or after September 1, 2005.

(b) During each fiscal year, an employer shall pay an amount equal to the state contribution rate, as established by the General Appropriations Act for the fiscal year, applied to the aggregate compensation of new members of the retirement system, as described by Subsection (a), during their first 90 days of employment.

(c) On a monthly basis an employer shall:

(1) report to the retirement system, in a form prescribed by the system, a certification of the total amount of salary paid during the first 90 days of employment of a new member and the total amount of employer payments due under this section for the payroll periods; and

(2) retain information, as determined by the retirement system, sufficient to allow administration of this section, including information for each employee showing the applicable salary as well as aggregate compensation for the first 90 days of employment for new employees.

(d) A person who was hired before September 1, 2005, and was subject to a 90-day waiting period for membership in the retirement system becomes eligible to participate in the retirement system as a member starting September 1, 2005. For the purpose of this section, the member shall be treated as a new member for the remainder of the waiting period.

(e) The employer must remit the amount required under this section to the retirement system at the same time the employer remits the member's contribution. In computing the amount required to be remitted, the employer shall include compensation paid to an employee for the entire pay period that contains the 90th calendar day of new employment.

(f) At the end of each school year, the retirement system shall certify to the state auditor:

(1) the name of each employer that is an institution of higher education and has failed to remit, within the period required by Section 825.408, all payments required under this section for the school year; and

(2) the amounts of the unpaid required payments.

(g) If the commissioner of education or the state auditor receives a certification under Subsection (f), the commissioner or the state auditor shall direct the comptroller to withhold the amount certified, plus interest computed at the rate and in the manner provided by Section 825.408, from the first state money payable to the employer. The amount withheld shall be deposited to the credit of the appropriate accounts of the retirement system.

(h) The board of trustees shall take this section into consideration in adopting the biennial estimate of the amount necessary to pay the state's contributions to the retirement system.

Added by Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 19.01, eff. September 1, 2005.
Added by Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 29, eff. September 1, 2005.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 8, eff. May 26, 2021.

Sec. 825.405. CONTRIBUTIONS BASED ON COMPENSATION ABOVE STATUTORY MINIMUM. (a) An employing school district or an open-enrollment charter school, as applicable, shall pay the state's contribution on the portion of a member's salary that exceeds the statutory minimum salary for members:

(1) entitled to the minimum salary for certain school personnel under Section 21.402, Education Code;

(2) who would have been entitled to the minimum salary for certain school personnel under former Section 16.056, Education Code, as that section existed on January 1, 1995; and

(3) who would be entitled to the minimum salary for certain school personnel under Section 21.402, Education Code, if the member was employed by a school district subject to that section instead of being employed by:

(A) an open-enrollment charter school; or

(B) a school district that has adopted a local innovation plan under Chapter 12A, Education Code, that exempts the district's employees from the minimum salary schedule under that section.

(b) For purposes of this section, the statutory minimum salary for a member described by:

(1) Subsection (a)(1) is the salary provided by Section 21.402, Education Code;

(2) Subsection (a)(2) is a minimum salary computed in the same manner as the minimum salary for certain school personnel under Section 21.402, Education Code; and

(3) Subsection (a)(3) is the minimum salary the member would have been entitled to if the member was subject to Section 21.402, Education Code.

(c) Monthly, employers shall:

(1) report to the retirement system in a form prescribed by the system a certification of the total amount of salary paid above the statutory minimum salary and the total amount of employer contributions due under this section for the payroll period; and

(2) retain information, as determined by the retirement system, sufficient to allow administration of this section, including information for each employee showing the applicable minimum salary as well as aggregate annual compensation.

(d) The employer must remit the amount required under this section to the executive director at the same time that the employer remits the member's contribution.

(e) Repealed by Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 20(2), eff. May 26, 2021.

(f) If the commissioner of education receives a certification from the retirement system regarding unpaid contributions, the commissioner shall direct the comptroller of public accounts to withhold the amount certified, plus interest computed at the rate and

in the manner provided by Section 825.408, from the first state money payable to the employer. The amount withheld shall be deposited to the credit of the appropriate accounts of the retirement system.

(g) The board of trustees shall take this section into consideration in adopting the biennial estimate of the amount necessary to pay the state's contributions to the system.

(h) This section does not apply to state contributions for members employed by a school district in a school year if the district's no-new-revenue tax rate for maintenance and operation revenues for the tax year that ended in the preceding school year equals or exceeds 125 percent of the statewide average no-new-revenue tax rate for school district maintenance and operation revenues for that tax year. For a tax year, the statewide average no-new-revenue tax rate for school district maintenance and operation revenues is the tax rate that, if applied to the statewide total appraised value of taxable property for every school district in the state determined under Section 403.302, would produce an amount equal to the statewide total amount of maintenance and operation taxes imposed in the tax year for every school district in the state.

(i) Not later than the seventh day after the final date the comptroller certifies to the commissioner of education changes to the property value study conducted under Subchapter M, Chapter 403, the comptroller shall certify to the Teacher Retirement System of Texas:

(1) the no-new-revenue tax rate for school district maintenance and operation revenues for each school district in the state for the immediately preceding tax year; and

(2) the statewide average no-new-revenue tax rate for school district maintenance and operation revenues for the immediately preceding tax year.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. 2, Sec. 19, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.4041 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 722, Sec. 1 to 3, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 65, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 347, Sec. 8.19, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 812, Sec. 26, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 260, Sec. 37, eff. May 30, 1995; Acts 1995, 74th Leg., ch. 579, Sec. 3, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 165, Sec. 6.23, eff. Sept. 1, 1997; Acts

1999, 76th Leg., ch. 1540, Sec. 20, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 82, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 1.062, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.080, eff. January 1, 2020.

Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 9, eff. May 26, 2021.

Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 20(2), eff. May 26, 2021.

Sec. 825.406. COLLECTION OF CONTRIBUTIONS FROM FEDERAL OR PRIVATE SOURCES; OFFENSE; PENALTY. (a) If an employer applies for money provided by the United States, an agency of the United States, or a privately sponsored source, and if any of the money will pay part or all of an employee's salary, the employer shall apply for any legally available money to pay state contributions required by Section 825.404 or 830.201.

(b) When an employer receives money for state contributions from an application made in accordance with Subsection (a), the employer shall immediately send the money to the retirement system for deposit in the state contribution account.

(c) Monthly, employers shall:

(1) report to the retirement system in a form prescribed by the system a certification of the total amount of salary paid from federal funds and private grants and the total amounts provided by the funds and grants for state contributions for the employees; and

(2) retain the following information:

(A) the name of each employee paid in whole or part from a grant;

(B) the source of the grant;

(C) the amount of the employee's salary paid from the grant;

(D) the amount of the money provided by the grant for state contributions for the employee; and

(E) any other information the retirement system determines is necessary to enforce this section.

(d) The retirement system may:

(1) require from employers reports of applications for money;

(2) require evidence that the applications include requests for funds available to pay state contributions to the retirement system for employees paid from the grant; and

(3) examine the records of any employer to determine compliance with this section and rules promulgated under it.

(e) A person commits an offense if the person is an administrator of an employer and knowingly fails to comply with this section.

(f) An offense under Subsection (e) is a Class C misdemeanor.

(g) An employer who fails to comply with this section may not, after the failure, apply for or spend any money from a federal or private grant. The retirement system shall report alleged noncompliance to the attorney general, the Legislative Budget Board, the comptroller of public accounts, and the governor. The attorney general shall bring a writ of mandamus against the employer to compel compliance with this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.405 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.55, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1540, Sec. 21, eff. Sept. 1, 1999. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1223 (H.B. 2358), Sec. 1, eff. September 1, 2007.

Sec. 825.407. COLLECTION OF CONTRIBUTIONS FROM NONEDUCATIONAL AND GENERAL FUNDS. (a) In this section:

(1) "General academic teaching institution" has the meaning assigned by Section 61.003, Education Code.

(2) "Medical and dental unit" has the meaning assigned by Section 61.003, Education Code.

(3) "Noneducational and general funds" means all funds of an institution of higher education except those funds used as a method of financing for an institutional appropriation in the General Appropriations Act or dedicated by the Constitution of the State of

Texas.

(b) The governing board of each general academic teaching institution and the governing board of each medical and dental unit shall reimburse the state, from noneducational and general funds of the institution or unit, for state contributions that are made based on any portion of a member's salary that is paid from the noneducational and general funds.

(c) The designated disbursing officer of each general academic teaching institution and the designated disbursing officer of each medical and dental unit shall:

(1) submit to the retirement system, at a time and in the manner prescribed by the retirement system, a monthly report containing a certification of the total amount of salary paid from noneducational and general funds and the total amount of employer contributions due under this section for the payroll period; and

(2) maintain and retain the following information:

(A) the name of each member employed by the institution or unit who, for the most recent payroll period, was paid wholly or partly from noneducational and general funds;

(B) the amount of the employee's salary for the most recent payroll period that was paid from noneducational and general funds; and

(C) any other information the retirement system determines is necessary to administer this section.

(d) A monthly report required under Subsection (c) shall be accompanied by payment of the amount certified under Subdivision (3) of that subsection.

(e) After the end of each fiscal year, the retirement system shall report to the comptroller of public accounts the name of any general academic teaching institution and any medical and dental unit delinquent in the reimbursement of contributions under this section for the preceding fiscal year and the amount by which each reported institution or unit is delinquent.

(f) Any portion of the reimbursement required under this section to be made for a fiscal year by a general academic teaching institution or a medical and dental unit that remains unpaid on the first day of the next fiscal year accrues interest, beginning on that day or the due date for the portion, whichever is later, at an annual rate, compounded monthly, equal to the rate established under Section 825.313(b)(1), plus two percent.

(g) The retirement system shall deposit all money it receives under this section in the state contribution account.

Added by Acts 1985, 69th Leg., ch. 99, Sec. 1, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.4051 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1118, Sec. 8, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1540, Sec. 22, eff. Sept. 1, 1999. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1223 (H.B. 2358), Sec. 2, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 46, eff. September 1, 2013.

Sec. 825.4071. COLLECTION OF CONTRIBUTIONS FROM EMPLOYERS THAT ARE PUBLIC JUNIOR COLLEGES OR PUBLIC JUNIOR COLLEGE DISTRICTS. (a) This section applies to an employer that is a public junior college or a public junior college district.

(b) An employer described by Subsection (a) shall contribute monthly to the retirement system:

(1) an amount equal to the state contribution rate then in effect multiplied by 50 percent of the aggregate eligible creditable compensation of members who are qualifying employees under Section 825.404(a-1)(1) that the employer reports to the retirement system; and

(2) an amount equal to the state contribution rate then in effect multiplied by 100 percent of the aggregate eligible creditable compensation of all other members under Section 825.404(a-1)(2) that the employer reports to the retirement system.

(c) The designated disbursing officer of each public junior college and each public junior college district shall:

(1) submit to the retirement system, at a time and in the manner prescribed by the retirement system, a monthly report containing a certification that includes:

(A) the total amount of compensation paid;

(B) the total amount of employer contributions due under this section for the payroll period; and

(C) any other information the retirement system determines is necessary to administer this section; and

(2) maintain and retain the following information:

(A) the name of each member employed by the public junior college or public junior college district;

(B) the amount of the member's salary for the most recent payroll period;

(C) whether the member is a qualifying employee under Section 825.404(a-1)(1); and

(D) any other information the retirement system determines is necessary to administer this section.

(d) A monthly report required under Subsection (c) shall be accompanied by payment of the amount of employer contributions certified in Subsection (c)(1).

(e) Not later than the 90th day after the date each school year ends, the retirement system shall certify to the comptroller the names of any public junior colleges or public junior college districts that have failed to remit, within the period required by Section 825.408, all contributions required under this section for the school year and the amounts of the unpaid contributions.

(f) If the comptroller receives a certification under Subsection (e), the comptroller shall withhold the amount certified, plus interest computed at the rate and in the manner provided by Section 825.408, from the first state money payable to the public junior college or public junior college district. The amount withheld shall be deposited to the credit of the appropriate accounts of the retirement system.

(g) The retirement system shall deposit all money it receives under this section in the state contribution account.

Added by Acts 2013, 83rd Leg., R.S., Ch. 812 (S.B. 1812), Sec. 2, eff. June 14, 2013.

Sec. 825.408. INTEREST ON CONTRIBUTIONS AND FEES; DEPOSITS IN TRUST. (a) Except as provided by Subsection (a-1), an employer that fails to remit, before the seventh day after the last day of a month, all member and employer deposits and documentation of the deposits required by this subchapter to be remitted by the employer for the month shall pay to the retirement system, in addition to the deposits, interest on the unpaid amounts at an annual rate compounded monthly and a late fee in an amount determined by the retirement

system that is based on the size of the employer and may not exceed $1,000 for each business day after the deadline imposed by this subsection that the employer fails to submit the documentation of the deposits. The cumulative amount of late fees assessed against an employer under this subsection may not exceed $25,000 per reporting period. The rate of interest is the rate established under Section 825.313(b)(1), plus two percent. Interest and late fees required under this section are creditable to the interest account. On request, the retirement system may grant a waiver of the deadline imposed by this subsection based on an employer's financial or technological resources. The retirement system may establish a process for filing an appeal to reduce or waive a late fee imposed under this subsection.

(a-1) This subsection applies only to an employer who reports the employment of a retiree to the retirement system. Subject to Subsection (a-2), an employer that fails to remit, before the 11th day after the last day of a calendar month in which a retiree is employed, the employer deposits required by Section 825.4092(b), documentation of those deposits as required by this section, and the certified statement of employment required by Section 824.6022 shall pay to the retirement system, in addition to the deposits, interest on the unpaid amounts at the annual rate established under Subsection (a), compounded monthly, and a late fee in an amount determined by the retirement system for each business day after the deadline imposed by this subsection that the employer fails to file the documentation of the deposits and the certified statement of employment.

(a-2) If a retiree described by Subsection (a-1) performs work in the month of August, the employer must remit the employer deposits, documentation of those deposits, and the certified statement of employment before the seventh day of September.

(b) An employer and its trustees or other governing body hold amounts due to the retirement system under this subtitle in trust for the retirement system and its members and may not divert the amounts to any other purpose.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. 2, Sec. 20, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.406 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1118, Sec.

9, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1540, Sec. 23, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1229, Sec. 17, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 18, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 930 (S.B. 1663), Sec. 13, eff. September 1, 2017.

Sec. 825.409. EMPLOYER PICKUP OF MEMBER CONTRIBUTIONS. (a) Each employer shall pick up the employee contribution required of each of its employees by Section 825.403 for all compensation earned after December 31, 1987. Employers shall pay to the retirement system the picked-up contributions from the same source of funds that is used in paying earnings to the employees. Such payments shall be in lieu of contributions by the employees. An employer shall pick up these contributions by a corresponding reduction in the cash salary of the employees, by an offset against a future salary increase, or by a combination of a salary reduction and offset against a future salary increase. Employees do not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the retirement system.

(b) Contributions picked up as provided by Subsection (a) shall be treated as employer contributions in determining tax treatment of the amounts under the United States Internal Revenue Code; however, each employer shall continue to withhold federal income taxes on these picked-up contributions until the Internal Revenue Service determines or the federal courts rule that pursuant to Section 414(h) of the Internal Revenue Code of 1986 (26 U.S.C. Section 414) these picked-up contributions may not be included as gross income of the employee until such time as they are distributed or made available.

(c) Employee contributions picked up as provided by Subsection (a) shall be transmitted to the retirement system in the manner required by Section 825.403. Employee contributions picked up by an employer and credited to the employee's account shall be treated for all other purposes as if the amount were a part of the member's annual compensation and had been deducted pursuant to Section 825.403(a).

Added by Acts 1987, 70th Leg., ch. 642, Sec. 1, eff. June 19, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.407 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 825.4092. EMPLOYER CONTRIBUTIONS FOR EMPLOYED RETIREES. (a) This section applies to an employer who reports to the retirement system the employment of a retiree.

(b) Except as provided by Subsection (e), during each payroll period for which a retiree is reported, the employer shall contribute to the retirement system for each retiree reported an amount based on the retiree's salary equal to the sum of:

(1) the current contribution amount that would be contributed by the retiree if the retiree were an active, contributing member; and

(2) the current contribution amount authorized by the General Appropriations Act that the state would contribute for that retiree if the retiree were an active, contributing member.

(c) Except as provided by Subsection (e), each payroll period, for each retiree who is enrolled in the Texas Public School Employees Group Insurance Program under Chapter 1575, Insurance Code, the employer who reports the employment of a retiree shall contribute to the trust fund established under that chapter an amount established by the retirement system. In determining the amount to be contributed by the employer under this subsection, the retirement system shall consider the amount a retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the cost of the retiree's and enrolled dependents' participation in the group program. If more than one employer reports the retiree to the retirement system during a month, the amount of the required payment shall be prorated among the employers.

(d) Contributions under this section are subject to the requirements of Section 825.408.

(e) The amounts required to be paid under Subsections (b) and (c) are not required to be paid by a reporting employer for a retiree who retired from the retirement system before September 1, 2005.

(f) A reporting employer is ultimately responsible for payment

of the amounts required to be contributed under Subsections (b) and (c). The employer may not directly or indirectly pass that cost on to the retiree through payroll deduction, by imposition of a fee, or by any other means designed to recover the cost.

(g) Notwithstanding any other provision of this section, the amounts required to be paid under Subsections (b) and (c) are not required to be paid by a reporting employer for a retiree who retired from the retirement system on or after September 1, 2005, and is employed in a position described by Section 824.6021(a). This subsection expires February 1, 2025.

Added by Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 30, eff. September 1, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1389 (S.B. 1846), Sec. 3, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1102 (H.B. 2974), Sec. 7, eff. September 1, 2015.

Acts 2021, 87th Leg., R.S., Ch. 511 (S.B. 288), Sec. 4, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 546 (S.B. 202), Sec. 1, eff. June 14, 2021.

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(20), eff. September 1, 2023.

Sec. 825.410. PAYROLL DEDUCTIONS OR INSTALLMENT PAYMENTS FOR SPECIAL SERVICE CREDIT. (a) Payments to establish special service credit as authorized under this subtitle, other than service credit that may only be determined and paid for at the time of retirement such as unused leave as authorized by Section 823.403, may be made in a lump sum by a monthly payroll deduction in an amount not less than one-twelfth of the contribution required to establish at least one year of service credit, or in equal monthly installments over a period not to exceed the lesser of the number of years of credit to be purchased or 60 months. Installment and payroll deduction payments are due on the first day of each calendar month in the payment period. If an installment or payroll deduction payment is not made in full within 60 days after the due date, the retirement system may refund all installment or payroll deduction payments less

fees paid on the lump sum due when installment or payroll deduction payments began. Partial payment of an installment or payroll deduction payment may be treated as nonpayment. A check returned for insufficient funds or a closed account shall be treated as nonpayment. When two or more consecutive monthly payments have a returned check, a refund may be made.

(b) Service credit shall be established pursuant to the following provisions:

(1) The retirement system shall credit a member's payments made under this section to a suspense account in the trust fund until the sum of the payments equals the amount required for one year of service credit, at which time the retirement system shall deposit the payments in the appropriate accounts in the trust fund and grant the applicable amount of service credit. No credit shall be established for service pursuant to Section 823.501 until a lump sum has been paid or all payroll deduction or installment payments have been completed.

(2) No credit shall be established for other service when the cost of establishing the service has been determined by using withdrawn service to be reinstated pursuant to Section 823.501 until a lump sum or all payroll deductions or installments for the withdrawn service have been paid.

(3) All other service shall be credited when sufficient payroll deductions or installments have been completed to satisfy the cost requirements for a year of service.

(c) All installment and payroll deduction payments must be made on or before the service retirement date or the last day of the month in which the member's application for service retirement is submitted, whichever is later, or before the 31st day following the date on which the medical board certifies a member's disability. The installment payment method or payroll deduction method may not be used to establish service credit after retirement.

(d) If a member who has made at least one payroll deduction or installment payment and who is using the payroll deduction or installment method of payment dies before completing the payments, the retirement system may:

(1) return to the beneficiary determined under Sections 824.101 and 824.103 the payments less fees paid on the lump sum due when payments began and less payments which have resulted in credited service being established; or

(2) permit the beneficiary determined under Sections 824.101 and 824.103 to complete payment of the unpaid balance remaining at the time of the member's death.

(e) If the beneficiary requests a return of the installment or payroll deduction payments under Subsection (d)(1), the retirement system shall return the payments in a lump sum. No additional service credit shall be established that has not been established in compliance with this section. If service credit has been established by installment or payroll deduction payments, the retirement system shall not refund the payments, less any applicable fees, used to establish such credit unless a refund of total accumulated contributions is made to a member or beneficiary.

(f) If the beneficiary elects to complete the payments under Subsection (d)(2), the beneficiary shall make full payment in a lump sum of the unpaid balance before the issuance of any warrant to him in full or partial payment of death or survivor benefits.

(g) A member seeking to establish service credit by using the installment or payroll deduction payment method shall pay an additional fee of nine percent per annum calculated on a declining balance method on the lump sum due at the time the payment process begins. For purposes of this subsection, the installment or payroll deduction payment process begins on the first business day of the month in which the first payment becomes due. None of the additional fees shall be returned to the member or a beneficiary.

(h) The board of trustees has authority to adopt rules to implement this section, including rules establishing a minimum amount for monthly installment or payroll deduction payments and rules establishing payment under Section 823.004(b).

(i) The actuary designated by the board of trustees shall, in investigating the experience of the members of the system, note any significant increase in the establishment of special service credit and determine the extent to which any increase has been caused by the installment or payroll deduction payment method. If the actuary certifies in writing to the retirement system that sound actuarial funding of the retirement system's benefits is endangered by continuation of the installment or payroll deduction payment method, the board of trustees may determine that the payment method will not be available, other than to those who are using the method at the time of the determination.

(j) Payments to establish service credit by a member who plans

to retire in less than a year may be made by payroll deduction for a period determined by the retirement system.

(k) Each employer shall establish a payroll deduction plan to facilitate the payroll deductions authorized by this section and shall cooperate with the retirement system in implementing the payroll deduction method of payment for service credit.

Added by Acts 1991, 72nd Leg., ch. 882, Sec. 2, eff. Sept. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 27, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1416, Sec. 28, eff. Sept. 1, 1997. Amended by:

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 32, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 15, eff. June 14, 2013.

Acts 2017, 85th Leg., R.S., Ch. 930 (S.B. 1663), Sec. 14, eff. September 1, 2017.

SUBCHAPTER F. MISCELLANEOUS ADMINISTRATIVE PROCEDURES

Sec. 825.501. STATEMENT OF AMOUNT IN INDIVIDUAL ACCOUNTS. (a) No later than December 1 of each year, the board of trustees shall furnish to each member a statement of the amount credited to the member's individual account as of August 31 of the preceding fiscal year.

(b) In addition to the statement required by Subsection (a) of this section, the board of trustees shall furnish, on written request, to a member of the retirement system a statement of the amount credited to the member's individual account. The board is not required to furnish more than four of these statements to each member a calendar year.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 929, Sec. 6, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.501 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.06(f), eff. Aug. 26, 1991.

Sec. 825.502. PAYMENT OF CONTRIBUTIONS TO A MEMBER ABSENT FROM SERVICE. (a) If a demand for the accumulated contributions of a

member with fewer than five years of service has not been made in accordance with Section 822.005 before the seventh anniversary of the member's last day of service, the retirement system shall return to the member or to the member's heirs all accumulated contributions of the member.

(b) If the member or the member's heirs cannot be found after complying with the policy adopted under Subsection (c), the member's accumulated contributions are forfeited to the retirement system. The retirement system shall credit the amount forfeited to the retired reserve account.

(c) The board of trustees shall adopt a policy requiring the retirement system to make all reasonable efforts to locate and notify a member or, if appropriate, the member's heirs of their entitlement to a return of accumulated contributions under this section. The policy must ensure that the:

(1) notice:

(A) provides information on how a member or the member's heirs, as appropriate, may withdraw the accumulated contributions, including information on how to effectuate a withdrawal through an election to receive a direct rollover of the contributions to an eligible retirement plan; and

(B) is initially sent to the member by certified mail, return receipt requested, at the last known address of the member according to the system's records; and

(2) procedure used to locate a member or the member's heirs:

(A) requires, at a minimum, that the system conduct Internet searches to determine a current and accurate mailing address of the member or the member's heir and send a notice that complies with Subdivision (1) to the member or the member's heir, as applicable, by certified mail, return receipt requested; and

(B) employs a matrix based on defined factors for determining on a graduated scale the degree and type of additional effort required, and those efforts must include:

(i) contacting the member's designated beneficiary;

(ii) obtaining information from consumer reporting agencies; and

(iii) using commercial locating services.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1989, 71st Leg., ch. 835, Sec. 9, eff. Sept. 1, 1989.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.502 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.05(i), eff. Aug. 26, 1991.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 10, eff. May 26, 2021.

Sec. 825.503. REPRODUCTION AND PRESERVATION OF RECORDS. (a) The retirement system may photograph, microphotograph, or film, or use electronic storage for, all records pertaining to a member's individual file, accounting records, district report records, and investment records. The retirement system may receive any record or report on paper or film or in an electronic storage format.

(b) If a record is reproduced under Subsection (a), the retirement system may destroy or dispose of the original record if the system first:

(1) places the reproduction or electronic record in a file conveniently accessible to retirement system personnel; and

(2) provides for the preservation, examination, and use of the reproduction or stored electronic record.

(c) A photograph, microphotograph, film, or electronic record of a record received or reproduced under Subsection (a) is equivalent to the original record for all purposes, including introduction as evidence in all courts and administrative agency proceedings. A duly certified or authenticated copy of such a photograph, microphotograph, film, or electronic record is admissible as evidence equally with the original photograph, microphotograph, film, or electronic record.

(d) The executive director or an authorized representative may certify the authenticity of a photograph, microphotograph, film, or electronic record of a record reproduced under this section and shall charge a fee for the certified photograph, microphotograph, film, or electronic record as provided by law.

(e) Certified records shall be furnished to any person who is authorized by law to receive them.

(f) In this section:

(1) "Electronic storage" means the maintenance of record

data in the form of digital electronic signals on a computer hard disk, magnetic tape, optical disk, or similar medium readable by machine.

(2) "Electronic record" means any information that is recorded in a form for computer processing.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.503 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 28, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 555, Sec. 50, eff. Sept. 1, 1995.

Sec. 825.504. EMPLOYER CERTIFICATION TO BOARD. (a) An employer annually shall certify to the board of trustees the beginning date of the contract of each member whose contract year begins after June 30 and continues after August 31 of the same calendar year.

(b) For school years after the 1994-1995 school year, an employer annually shall certify to the board of trustees the beginning date of an oral or written work agreement that begins after June 30 and continues after August 31 of the same calendar year.

(c) Each reporting district shall cooperate with the retirement system in ascertaining a member's annual earnings during any year. The board of trustees by rule may prescribe the form of and procedures for filing certifications required by this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.504 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 51, eff. Sept. 1, 1995.

Sec. 825.505. AUDITS. For the purpose of determining the propriety of contributions or credits, the records of an employer concerning the employment and compensation of its personnel are subject to examination, in the offices of the employer during regular working hours, by representatives of the retirement system designated to conduct the examination.

Added by Acts 1985, 69th Leg., ch. 556, Sec. 4, eff. Aug. 26, 1985.

Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.505 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.506. PLAN QUALIFICATION. (a) It is intended that the provisions of this subtitle be construed and administered in a manner that the retirement system's benefit plan will be considered a qualified plan under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401). Notwithstanding any other provision of this subtitle, benefits provided to a retiree, or based on the service of a member or retiree, may not exceed benefits permitted to be provided by a qualified plan by Section 415 of the Internal Revenue Code of 1986 (26 U.S.C. Section 415). The board of trustees may adopt rules that modify the plan to the extent necessary for the retirement system to be a qualified plan and shall adopt rules to ensure that benefits paid to a retiree, or to a beneficiary of a member or retiree, do not exceed the limits provided by Section 415 of the Internal Revenue Code of 1986 (26 U.S.C. Section 415). Rules adopted by the board of trustees are to be considered a part of the plan.

(b) In determining qualification status under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401), the retirement system's benefit plan shall be considered primary. An employer may not provide employee retirement or deferred benefits to the extent that, when considered together with the benefits authorized by this subtitle as required by federal law, would result in the retirement system's plan failing to meet federal qualification standards as applied to public pension plans.

(c) It is intended that the retirement system administer the plan in a manner that satisfies the required minimum distribution provisions of Section 401(a)(9), Internal Revenue Code of 1986. The board of trustees may adopt rules to administer the distribution requirements, including distribution when a participant dies before the entire interest is distributed.

Added by Acts 1987, 70th Leg., ch. 642, Sec. 2, eff. June 19, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.506 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 52, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 33, eff. September 1, 2005.

Sec. 825.507. RECORD CONFIDENTIALITY. (a) Records of a participant and information about the records of a participant that are in the custody of the retirement system or of an administrator, carrier, attorney, consultant, or governmental agency, including the comptroller, acting in cooperation with or on behalf of the retirement system are confidential and not subject to public disclosure. Because the records and information described by this section are exempt from the public access provisions of Chapter 552, the retirement system or an administering firm, carrier, attorney, consultant, or governmental agency, including the comptroller, acting in cooperation with or on behalf of the retirement system, is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general, except as otherwise provided by this section.

(b) The retirement system may release records of a participant, or information about the records of a participant, including a participant to which Chapter 803 applies, to:

(1) the participant or the participant's attorney or guardian or another person who the executive director determines is acting on behalf of the participant;

(2) the executor or administrator of the deceased participant's estate, including information relating to the deceased participant's beneficiary, or if an executor or administrator of the deceased participant's estate has not been named, a person or entity who the executive director determines is acting in the interest of the deceased participant's estate, or an heir, legatee, or devisee of the deceased participant;

(3) a spouse or former spouse of the participant if the executive director determines that the information is relevant to the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the retirement system;

(4) an administrator, carrier, consultant, attorney, or agent acting on behalf of the retirement system;

(5) a governmental entity, an employer, or the designated agent of an employer, only to the extent the retirement system needs

to share the information to perform the purposes of the retirement system, as determined by the executive director;

(6) a person authorized by the participant in writing to receive the information;

(7) a federal, state, or local criminal law enforcement agency that requests a record for a law enforcement purpose;

(8) the attorney general to the extent necessary to enforce child support; or

(9) a party in response to a subpoena issued under applicable law if the executive director determines that the participant will have a reasonable opportunity to contest the subpoena.

(c) The records of a participant and information about the records remain confidential after release to a person as authorized by this section. This section does not prevent the retirement system or administering firm or carrier acting in cooperation with or on behalf of the retirement system from disclosing or confirming, on an individual basis, the status or identity of a participant as a member, former member, retiree, deceased member or retiree, beneficiary, or alternate payee of the retirement system.

(d) The executive director may designate other employees of the retirement system to make the necessary determinations under this section. A determination and disclosure under this section may be made without notice to the participant.

(e) The retirement system may make not more than two mailings a year on behalf of a nonprofit association of active or retired school employees, for purposes of association membership and research only, to persons identified in information contained in records that are in the custody of the retirement system. The nonprofit association requesting a mailing shall pay the expenses of the mailing.

(f) This section does not authorize the retirement system to compile or disclose a list of participants' names, addresses, including e-mail addresses, or social security numbers unless the executive director determines that a compilation or disclosure is necessary to administer the retirement system.

(g) In this section, "participant" means a member, former member, retiree, annuitant, beneficiary, or alternate payee of the retirement system, or an employee or contractor of an employer covered by the retirement system for whom records were received by the retirement system for the purpose of administering the terms of

the plan, including for audit or investigative purposes.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 11.05(j), eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 29, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(97), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1229, Sec. 18, 19 eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 34, eff. September 1, 2005.
Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 19, eff. September 1, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 16, eff. June 14, 2013.

Sec. 825.508. POWERS OF ATTORNEY. (a) A person entitled to payment of an annuity or other benefits administered by the retirement system may direct the retirement system to treat as the authorized representative of the person concerning the disposition of the benefits an attorney-in-fact under a power of attorney that complies with Subsection (b).
(b) The system must honor a power of attorney executed in accordance with Subchapters A and B, Chapter 752, Estates Code.
(c) If the power of attorney is revoked, the retirement system is not liable for payments made to or actions taken at the request of the attorney-in-fact before the date the system receives written notice that the power of attorney has been revoked.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 29, eff. Nov. 12, 1991. Renumbered from Sec. 825.507 by Acts 1993, 73rd Leg., ch. 107, Sec. 10.01(8), eff. Aug. 30, 1993, and Acts 1993, 73rd Leg., ch. 812, Sec. 30, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 53, eff. Sept. 1, 1995.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.041, eff. September 1, 2017.

Sec. 825.509. DIRECT ROLLOVERS. (a) This section applies to distributions made on or after January 1, 1993. Notwithstanding any

law governing the retirement system that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the executive director or the executive director's designee, to have any portion of an eligible rollover distribution from the retirement system paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) An eligible rollover distribution under this section is any distribution of all or a portion of the balance to the credit of the distributee, other than:

(1) a distribution that is one of a series of substantially equal periodic payments made not less frequently than annually for:

(A) the life or life expectancy of the distributee;

(B) the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary; or

(C) a specified period of 10 years or more;

(2) a distribution to the extent the distribution is required under Section 401(a)(9), Internal Revenue Code of 1986; or

(3) the portion of a distribution that is not includable in gross income for federal income tax purposes.

(b-1) Notwithstanding Subsection (b)(3), with respect to a distribution made on or after January 1, 2002, an otherwise eligible portion of a rollover distribution that consists of after-tax employee contributions not includable in gross income is an eligible rollover distribution for purposes of this section. The eligible portion may be transferred only:

(1) to an individual retirement account or annuity described by Section 408(a) or (b), Internal Revenue Code of 1986;

(2) to a qualified plan described by Section 403(a), Internal Revenue Code of 1986;

(3) for distributions occurring on or after January 1, 2007, to a qualified plan described by Section 401(a), Internal Revenue Code of 1986, if the plan agrees to separately account for:

(A) the amounts transferred and the earnings on the amounts transferred; and

(B) the portion of the distribution that is includable in gross income and the portion of the distribution that is not includable in gross income; or

(4) to an annuity contract described by Section 403(b), Internal Revenue Code of 1986, that agrees to separately account for

amounts transferred and earnings on amounts transferred, including for the portion of the distribution that is includable in gross income and the portion of the distribution that is not includable in gross income.

(c) An eligible retirement plan under this section includes:

(1) an individual retirement account described by Section 408(a), Internal Revenue Code of 1986;

(2) an individual retirement annuity described by Section 408(b), Internal Revenue Code of 1986;

(3) an annuity plan described by Section 403(a), Internal Revenue Code of 1986;

(4) a qualified trust described by Section 401(a), Internal Revenue Code of 1986, that accepts the distributee's eligible rollover distribution;

(5) with respect to a distribution made on or after January 1, 2002, a plan eligible under Section 457(b), Internal Revenue Code of 1986, that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state that agrees to separately account for amounts transferred into the plan from the retirement system;

(6) with respect to a distribution made on or after January 1, 2002, an annuity contract described by Section 403(b), Internal Revenue Code of 1986; or

(7) with respect to a distribution made on or after January 1, 2008, a Roth IRA described by Section 408A, Internal Revenue Code of 1986.

(d) In this section:

(1) "Direct rollover" means a payment by the retirement system to the eligible retirement plan specified by a distributee.

(2) "Distributee" means a person who receives an eligible rollover distribution from the retirement system and includes an employee or former employee and, regarding the interest of an employee or former employee, the person's surviving spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined by Section 414(p), Internal Revenue Code of 1986. With respect to a distribution made on or after January 1, 2007, a distributee includes a beneficiary who:

(A) is a designated beneficiary, as defined by Section 401(a)(9)(E), Internal Revenue Code of 1986, of an employee or former employee; and

(B) is not the spouse, surviving spouse, or alternate payee of an employee or former employee.

(e) A direct trustee-to-trustee transfer on behalf of a distributee beneficiary who is not a spouse is an eligible rollover distribution. A distributee beneficiary who is not a spouse may roll over the distribution only to an individual retirement account or individual retirement annuity that:

(1) is established for the purpose of receiving the distribution; and

(2) is considered an inherited account or annuity to which Section 401(a)(9)(B), Internal Revenue Code of 1986, applies, except for Section 401(a)(9)(B)(iv).

(f) To the extent provided by federal law, a trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a trust maintained for a designated beneficiary.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 31, eff. Sept. 1, 1993.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1171 (H.B. 3347), Sec. 4, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 931 (S.B. 1664), Sec. 8, eff. September 1, 2017.

Sec. 825.511. COMPLAINT FILES. (a) The retirement system shall maintain a system to promptly and efficiently act on complaints filed with the retirement system. The retirement system shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The retirement system shall make information available describing its procedures for complaint investigation and resolution.

(c) The retirement system shall periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize an investigation.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 31, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 555, Sec. 54, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 12, eff. September 1, 2007.

Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 11, eff. May 26, 2021.

Sec. 825.513. INFORMATION FOR PUBLICATION. The retirement system shall verify with the State Pension Review Board the accuracy of information about the effects of proposed legislation on benefits and the trust fund before including the information in an official publication of the retirement system.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 55, eff. Sept. 1, 1995.

Sec. 825.514. HISTORICALLY UNDERUTILIZED BUSINESS. The retirement system is subject to the provisions, including Chapter 2161, that relate to historically underutilized businesses.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 55, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19(21), eff. Sept. 1, 1997.

Sec. 825.515. INFORMATION ABOUT MEMBER POSITIONS. (a) At least annually, the retirement system shall acquire and maintain records identifying members and specifying the types of positions they hold as members. Employers shall provide to the retirement system information specifying the type of position held by each member as Administrative/Professional, Teacher/Full-Time Librarian, Support, Bus Driver, or Peace Officer. Employers shall also provide to the retirement system the work e-mail address for each member. For each member identified as a Peace Officer, the records must specify whether the member is an employee of an institution of higher education or of a public school that is not an institution of higher education. An employer shall provide the information required by this section in the form and manner specified by the retirement system.

(b) Information contained in records of the retirement system maintained under this section is confidential within the limits prescribed by Section 825.507.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 55, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 1540, Sec. 24, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 20, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1078 (H.B. 3357), Sec. 17, eff. June 14, 2013.

Sec. 825.516. NONPROFIT ASSOCIATION DUES. (a) A retiree who is receiving an annuity from the retirement system may request the system to withhold from the retiree's monthly annuity payment membership dues for a nonprofit association of retired school employees in this state, if the association is statewide and its membership includes at least five percent of all retirees of the retirement system. The request for withholding must be on a form provided by the retirement system.

(b) After the retirement system receives a request authorized by this section, the system may make the requested deductions until the earlier of:

(1) the date the annuity is terminated; or

(2) the first payment of the annuity after the date the system receives a written request signed by the retiree canceling the request for the withholding.

(c) The retirement system shall send all dues withheld under this section to the nonprofit association after each monthly payment of annuities.

Added by Acts 1997, 75th Leg., ch. 1416, Sec. 30, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 1540, Sec. 25, eff. Sept. 1, 1999.

Sec. 825.517. EXCESS BENEFIT ARRANGEMENT. (a) A separate, nonqualified, unfunded excess benefit arrangement is created outside the trust fund of the retirement system. This excess benefit arrangement shall be administered as a governmental excess benefit arrangement under Section 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(m)). The purpose of the excess benefit

arrangement is to pay to annuitants of the retirement system benefits otherwise payable by the retirement system that exceed the limitations on benefits imposed by Section 415(b)(1)(A) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(b)(1)(A)).

(b) The board of trustees is responsible for the administration of this arrangement. Except as otherwise provided by this section, the board has the same rights, duties, and responsibilities concerning the excess benefit arrangement as it has to the trust fund.

(c) Benefits under this section are exempt from execution to the same extent as provided by Section 821.005. Contributions to this arrangement are not held in trust and may not be commingled with other funds of the retirement system.

(d) An annuitant is entitled to a monthly benefit under this section in an amount equal to the amount by which the benefit otherwise payable by the retirement system has been reduced by the limitation on benefits imposed by Section 415(b)(1)(A) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(b)(1)(A)). The benefit payable by this arrangement is payable at the times and in the form that the benefit payable under the trust fund is paid.

(e) The benefit payable under this section shall be paid from state contributions that otherwise would be made to the trust fund under Section 825.404. In lieu of deposit in the state contribution account, an amount determined by the retirement system to be necessary to pay benefits under this section shall be paid monthly to the credit of a dedicated account in the general revenue fund maintained only for the excess benefit arrangement. The account may include amounts needed to pay reasonable and necessary expenses of administering this arrangement. The monthly amount to be paid to the credit of the account shall be transferred to the account at least 15 days before the date of a monthly disbursement under this section.

(f) The board of trustees may adopt rules governing the excess benefit arrangement that are necessary for the efficient administration of the arrangement in compliance with Section 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(m)).

Added by Acts 1997, 75th Leg., ch. 1416, Sec. 31, eff. Sept. 1, 1997.

Sec. 825.519. ELECTRONIC INFORMATION. (a) The retirement

system may provide confidential information electronically to members or other participants or employers and receive information electronically from those persons, including by use of an electronic signature or certification in a form acceptable to the retirement system. An unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information under this section is not a violation by the retirement system of any law, including a rule relating to the protection of confidential information.

(b) The retirement system may provide to a member or retiree any information that is required to be provided, distributed, or furnished under Section 802.106(a), (b), (d), or (e) by:

(1) sending the information to an e-mail address of the member or retiree furnished to the retirement system by an employer covered by the retirement system; or

(2) directing the member or retiree through a written notice or e-mail to an Internet website address to access the information.

(c) The retirement system may provide to an active member of the retirement system the information that is required to be provided under Section 802.106(c) by sending the information to an e-mail address specified by the member for the purpose of receiving confidential information.

Added by Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 37, eff. September 1, 2005.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 930 (S.B. 1663), Sec. 15, eff. September 1, 2017.

Sec. 825.520. IMMUNITY FROM LIABILITY. The trustees, executive director, and employees of the retirement system are not liable for any action taken or omission made or suffered by them in good faith in the performance of any duty in connection with any program or system administered by the retirement system.

Added by Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 37, eff. September 1, 2005.

Sec. 825.521. DEADLINE TO APPEAL ADMINISTRATIVE DECISION. In adopting rules governing an appeal authorized by law or rule of a determination or decision of the retirement system by the system's staff, including a final administrative decision of the system, the board of trustees shall ensure that rules establishing deadlines for filing the appeal afford a member or retiree at least the same amount of time to file the appeal as the retirement system has to issue the determination or decision.

Added by Acts 2019, 86th Leg., R.S., Ch. 833 (H.B. 2629), Sec. 1, eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 12, eff. May 26, 2021.

SUBCHAPTER G. OUTREACH TO MEMBERS AND EMPLOYERS

Sec. 825.601. OUTREACH PLAN. (a) The board of trustees shall develop and adopt an outreach plan designed to assist each member of the system, and as appropriate the members' employers, in effectively planning for the member's retirement. The plan must require the retirement system to:

(1) identify and implement ways to improve communication between the system and the system's members and employers;

(2) update and develop outreach materials and other information distributed by the system, including handbooks, brochures, presentations, and handouts, in a manner that complies with Section 802.106(g);

(3) update and develop policies governing retirement benefits counseling provided to members by the system, including policies that:

(A) subject to Section 825.602, ensure the system makes group and individual member retirement benefits counseling available throughout the state; and

(B) clarify that the retirement system does not provide financial or legal advice;

(4) provide at least annually to each member of the system, regardless of whether the member is vested in the system, an estimate of the member's retirement benefits;

(5) enhance employer training and establish an Internet

portal designed to assist employers to:

(A) satisfy applicable reporting requirements;

(B) provide general information to individual members on:

(i) employment after retirement;

(ii) enrollment in health insurance benefit plans; and

(iii) retirement benefits and retirement planning; and

(C) facilitate other communications or exchanges involving members and the retirement system; and

(6) design and implement methods for maintaining up-to-date contact information for members and beneficiaries based on best practices for outreach.

(b) In developing the outreach plan, the board of trustees shall solicit input through surveys or other means from members of the system, employers, and other stakeholders, including appropriate advisory groups.

(c) Once every five years, the retirement system shall review and update the outreach plan adopted under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 13, eff. September 1, 2007.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 14, eff. May 26, 2021.

Sec. 825.602. RETIREMENT BENEFITS COUNSELING FOR INDIVIDUALS. (a) To the extent feasible, the retirement system shall make retirement benefits counseling for individual members available in conjunction with informational or educational programs concerning retirement planning that the system provides for groups.

(b) The retirement system shall provide retirement benefits counseling for individual members:

(1) in different geographic regions of this state, including regions outside of Austin; and

(2) in person or by phone, at the election of the member.

Added by Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 13, eff. September 1, 2007.

Amended by:
Acts 2021, 87th Leg., R.S., Ch. 141 (H.B. 1585), Sec. 15, eff. May 26, 2021.

Sec. 825.604. INFORMATION PROVIDED TO MEMBERS. The retirement system shall regularly provide information in an electronic format to members and retirees regarding the tutoring program established under Section 33.913, Education Code, that includes:

(1) general information regarding the tutoring program; and

(2) a statement directing members and retirees who want to participate in the tutoring program to contact their local school districts or open-enrollment charter schools for further guidance.

Added by Acts 2021, 87th Leg., R.S., Ch. 806 (H.B. 1525), Sec. 47, eff. September 1, 2021.
Added by Acts 2021, 87th Leg., R.S., Ch. 880 (S.B. 1356), Sec. 4, eff. June 16, 2021.

CHAPTER 830. OPTIONAL RETIREMENT PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 830.001. PURPOSE OF CHAPTER. The purpose of this chapter is to establish a complete retirement program for faculty members employed in state-supported institutions of higher education as an incentive that will attract high quality faculties and thereby improve the level of education at state-supported colleges and universities.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 36.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 830.0011. DEFINITION. Notwithstanding Section 821.001, in this chapter "retirement system" means the Teacher Retirement System of Texas or the Employees Retirement System of Texas, as the context requires.

Added by Acts 1995, 74th Leg., ch. 586, Sec. 33, eff. Aug. 28. 1995.

Sec. 830.002. OPTIONAL RETIREMENT PROGRAM. (a) The optional retirement program established as provided by this subtitle shall provide for contributions to any type of investment authorized by Section 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403), as it existed on January 1, 1981, and for the purchase of fixed or variable retirement annuities that meet the requirements of that section and Section 401(g) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401).

(b) Participation in the optional retirement program is an alternative to active membership in the retirement system.

(c) The Texas Higher Education Coordinating Board shall develop policies, practices, and procedures as necessary in accordance with applicable statutes to provide greater uniformity in the administration of the retirement annuity insurance program available to employees of Texas state colleges and universities through the optional retirement program.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 207, ch. 18, Sec. 35, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 36.002 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 11.117, eff. Sept. 1, 1991.

Sec. 830.003. APPLICATION. In this chapter, the term "institution of higher education" includes the Texas Higher Education Coordinating Board, the Texas State Technical College System, and the institutions defined in Section 821.001(10), but excludes the Rodent and Predatory Animal Control Service.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 36.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 287, Sec. 31, eff. Sept. 1, 1991.

Sec. 830.004. ADMINISTRATION. (a) A governing board may provide for contributions to any type of investment authorized by Section 403(b) of the Internal Revenue Code of 1986 (26 U.S.C.

Section 403), as it existed on January 1, 1981, and may arrange the purchase of annuity contracts from any insurance or annuity company that is qualified to do business in this state.

(b) If a governing board has more than one component institution, agency, or unit under its jurisdiction, the governing board may provide a separate optional retirement program for each component or may place two or more components under a single program.

(c) An institution of higher education may establish a governmental excess benefit arrangement as provided by Section 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(m)) for the purpose of providing to participants in the optional retirement program any portion of a participant's benefits that would otherwise be payable under the terms of the program except for the limitation on benefits imposed by Section 415 of the Internal Revenue Code of 1986 (26 U.S.C. Section 415). The governing board of an institution of higher education may take any action necessary to establish and implement a governmental excess benefit arrangement authorized in accordance with this subsection.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 208, ch. 18, Sec. 36, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 36.004 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 697, Sec. 1, eff. June 17, 1997.

Sec. 830.005. EXEMPTION FROM TAXES. If qualified to do business in this state, a life insurance or annuity company is exempt from the payment of franchise or premium taxes on annuity or group insurance policies issued under a benefit program authorized and at least partly paid for by the governing board of an institution of higher education or the Texas Education Agency.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 36.005 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 391, Sec. 73, eff. July 1, 1991; Acts 1997, 75th Leg., ch. 165, Sec. 6.24, eff. Sept. 1, 1997.

Sec. 830.006. REPORTS FROM INSTITUTIONS. (a) The governing board of each institution of higher education, other than the Texas Higher Education Coordinating Board, shall annually submit a report to the coordinating board that includes information concerning the number of participants and eligible positions and the amount of contributions.

(b) The governing board of each institution required to file a report under Subsection (a) shall keep records, make certifications, and furnish to the Texas Higher Education Coordinating Board information and reports as required by the coordinating board to enable it to carry out its functions under this subtitle.

(c) The Texas Higher Education Coordinating Board shall prepare the report required by Subsection (a) and shall maintain the information required by Subsection (b) with respect to its own employees.

Added by Acts 1991, 72nd Leg., ch. 242, Sec. 11.118, eff. Sept. 1, 1991.

SUBCHAPTER B. PARTICIPATION

Sec. 830.101. ELIGIBILITY TO PARTICIPATE. (a) The governing board of each institution of higher education shall provide an opportunity to participate in the optional retirement program to all faculty members in the component institutions governed by the board. The State Board of Education shall provide an opportunity to participate in the optional retirement program to the commissioner of education.

(b) Eligibility to participate in the optional retirement program is subject to rules adopted by the Texas Higher Education Coordinating Board.

(c) A person who before September 1, 1987, had chosen to participate in the optional retirement program and who was participating in the program on September 1, 1987, is entitled to continue to participate in the program until the person terminates participation as provided by Section 830.105(a).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 58, Sec. 2, eff. Oct. 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 36.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff.

Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 391, Sec. 74, eff. July 1, 1991.

Sec. 830.102. OPTION TO PARTICIPATE. (a) A member of the retirement system who is eligible to participate in the optional retirement program may elect to continue as a member of the retirement system or to participate in the optional retirement program.

(b) A person eligible to participate in the optional retirement program on the date the program becomes available at the person's place of employment must elect to participate in the program no later than August 1 of the calendar year after the year in which the program becomes available.

(c) Except as provided by Subsections (c-1) and (c-2), a person who becomes eligible to participate in the optional retirement program after the date the program becomes available at the person's place of employment must elect to participate before the 91st day after becoming eligible.

(c-1) A person who becomes eligible to participate in the optional retirement program and is notified by the person's employer of the opportunity to participate in the program after the first day and before the 91st day after the date the person becomes eligible must elect to participate in the program before the later of:

(1) the 91st day after the date the person becomes eligible; or

(2) the 31st day after the date the person receives notice of the opportunity to participate in the program.

(c-2) A person who becomes eligible to participate in the optional retirement program and is notified by the person's employer of the opportunity to participate in the program on or after the 91st day after the date the person becomes eligible must be notified by the employer before the 151st day after the date the person becomes eligible. The person must elect to participate in the program before the later of:

(1) the 151st day after the date the person becomes eligible; or

(2) the 31st day after the date the person receives notice of the opportunity to participate in the program.

(d) An eligible person who does not elect to participate in the

optional retirement program is considered to have chosen to continue membership in the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 36.102 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 186 (S.B. 1954), Sec. 1, eff. September 1, 2017.

Sec. 830.103. EFFECT OF TRANSFERS AND CHANGES IN EMPLOYMENT STATUS. (a) An institution of higher education shall accept the transfer of a participant's optional retirement program from another institution of higher education or from the Texas Education Agency. The Texas Education Agency shall accept the transfer of a participant's optional retirement program from an institution of higher education if the participant becomes commissioner of education.

(b) If, after participating in the optional retirement program for at least one year, a person becomes employed in an institution of higher education in a position normally covered by the retirement system, the person shall continue participation in the optional retirement program if the person has had no intervening employment in the public schools other than as commissioner of education or a position in an institution of higher education.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 36.103 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 391, Sec. 75, eff. July 1, 1991; Acts 1997, 75th Leg., ch. 165, Sec. 6.25, eff. Sept. 1, 1997.

Sec. 830.104. WITHDRAWAL OF CONTRIBUTIONS TO THE RETIREMENT SYSTEM. (a) A person who is a participant in the optional retirement program may withdraw accumulated contributions from the retirement system.

(b) An application to withdraw contributions under this section must be in writing and on a form prescribed by the board of trustees.

(c) Before the first anniversary of the date an application is

received, the retirement system shall pay a withdrawing member the member's accumulated contributions.

(d) A person who withdraws contributions under this section relinquishes all accrued rights in the retirement system.

(e) Nothing in Section 830.105 precludes the election by a participant to withdraw accumulated contributions under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 36.104 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 830.105. TERMINATION OF PARTICIPATION. (a) A person terminates participation in the optional retirement program, without losing any accrued benefits, by:

(1) death;

(2) retirement; or

(3) termination of employment in all institutions of higher education.

(b) A change of company providing optional retirement program benefits or a participant's transfer between institutions of higher education is not a termination of employment.

(c) The benefits of an annuity purchased under the optional retirement program are available only if the participant obtains the age of 70-1/2 years or terminates participation in the program as provided by Subsection (a).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 208, ch. 18, Sec. 37, eff. Nov. 10, 1981; Acts 1987, 70th Leg., ch. 173, Sec. 1, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 36.105 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 830.106. ELIGIBILITY FOR RESUMPTION OF MEMBERSHIP. A participant in the optional retirement program is not eligible for membership in the retirement system unless the person:

(1) terminates employment covered by the optional retirement program; and

(2) becomes employed in the public school system or with a

state agency in a position that is not eligible for participation in the optional retirement program.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 36.106 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 34, eff. Aug. 28, 1995.

Sec. 830.107. INVESTMENT ADVISORY FEES. (a) A participant in the optional retirement program may authorize the payment of investment advisory fees from the amount in the participant's custodial account or annuity if:

(1) the investment advisory fees for each fiscal year do not exceed two percent of the annual value of the participant's custodial account or annuity as of the last day of that fiscal year;

(2) the fees are paid directly to a registered investment advisor that provides investment advice to the participant;

(3) the investment advisor to whom the fees are paid is registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) and is engaged full-time in the business of providing investment advice;

(4) the participant and the investment advisor enter into a contract, for a term of no more than one year, for services that provides for the payment of fees as provided by this section; and

(5) the attorney general has received an official determination from the Internal Revenue Service that payment of investment advisory fees as prescribed by this section is not a distribution of funds that is prohibited or subject to taxation and penalty under the Internal Revenue Code.

(b) The attorney general shall request an official determination from the Internal Revenue Service concerning whether the payment of investment advisory fees as prescribed by this section is a distribution of funds that is prohibited or subject to taxation and penalty under the Internal Revenue Code. If the attorney general receives an official determination from the Internal Revenue Service as specified by this subsection, the attorney general shall file the official determination with the secretary of state's office for publication in the Texas Register.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 11.07(a), eff. Aug. 26,

1991.

Sec. 830.108. CORRECTION OF CERTAIN REPORTING ERRORS. (a) For purposes of this section, an employer submits a member contribution to the retirement system on behalf of a person in error if the person:

(1) previously elected to participate in the optional retirement program;

(2) participated in the program for at least one year; and

(3) is or was employed by an institution of higher education in a position normally covered by the retirement system and is or was at the time of that employment not eligible for membership in the retirement system under Section 830.106.

(b) If an employer commits an error described by Subsection (a) and the person on whose behalf the member contribution is erroneously made is a participant in the optional retirement program:

(1) the person's participation in the program shall be immediately restored; and

(2) in accordance with this section and as soon as practicable, funds shall be deposited in the person's participant account in the program or otherwise remitted to the person.

(c) Subject to Subsection (d), on discovery of an error described by this section, the retirement system shall, on certification by an employer that the employer committed the error:

(1) make a direct trustee-to-trustee transfer to the trustee of the optional retirement program for deposit in the person's participant account in an amount equal to the participant contribution that would have been paid for the benefit of the person to the program under Section 830.201 during the period in which member contributions were submitted to the retirement system in error, plus an amount representing earnings on the member contribution at the assumed rate of return provided by Subsection (g);

(2) credit the employer through the retirement system's employer reporting system an amount equal to the amount of any employer contributions made under Section 825.4041, 825.406, 825.407, or 825.4071 in error on compensation paid to the person; and

(3) remit to the person:

(A) the amount of any member contribution made to the

retirement system in error that exceeds the amount of the participant contribution that would have been paid for the benefit of the person to the program during the period in which member contributions were submitted to the retirement system in error;

(B) the amount of any member contribution made to the retirement system in error that was made on an after-tax basis and that the retirement system could not transfer via a direct trustee-to-trustee transfer under applicable provisions of the Internal Revenue Code, including regulations adopted under the Internal Revenue Code, or under the terms of the program established by the employer; and

(C) any amount paid by the person to the retirement system to purchase or reinstate service credit during the period the person was not eligible for membership in the retirement system, including any administrative, reinstatement, and installment fees paid in connection with the purchase.

(d) A transfer described by Subsection (c) may not include the amount of any member contribution made to the retirement system in error that:

(1) exceeds the amount of the participant contribution that would have been paid for the benefit of the person to the optional retirement program under Section 830.201; or

(2) was made on an after-tax basis unless the plan document for each employer program:

(A) permits the employer program to receive direct trustee-to-trustee transfers of after-tax amounts; and

(B) provides that the trustee of the employer program agrees to separately account for amounts transferred and earnings on amounts transferred, including accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not includable in gross income.

(e) On certification by an employer that the employer committed an error described by this section, the comptroller shall transfer to or credit the employer an amount equal to the state contribution that would have been paid for the benefit of the person under Section 830.201 plus an amount representing earnings on the state contribution at the assumed rate of return provided by Subsection (g).

(f) An employer that commits an error described by this section shall deposit in the person's participant account in the program:

(1) in accordance with Subsection (c), the amount of the employer contribution that would have been paid for the benefit of the person as a participant under Section 830.201 and under any other law, rule, or employer policy;

(2) an amount representing earnings on the employer contribution at the assumed rate of return determined by the employer in accordance with applicable Internal Revenue Code correction requirements; and

(3) an amount equal to the state contribution that would have been paid for the benefit of the person under Section 830.201 plus the amount representing earnings credited to the employer under Subsection (e).

(g) The assumed rate of return is earned monthly and computed at the rate of four percent per year. Except as provided by this subsection, the amount of earnings based on the assumed rate of return is credited annually at the end of each 12-month period. The first 12-month period begins with the month the first deposit was submitted in error. The amount of assumed earnings is prorated to the month of payment.

(h) Amounts paid, transferred, or credited under this section are reduced by any amount required to be withheld by law or court order.

Added by Acts 2017, 85th Leg., R.S., Ch. 186 (S.B. 1954), Sec. 2, eff. September 1, 2017.

SUBCHAPTER C. CONTRIBUTIONS AND BENEFITS

Sec. 830.201. CONTRIBUTIONS. (a) Each fiscal year the state shall contribute to the optional retirement program an amount equal to 8-1/2 percent of the aggregate annual compensation of all participants in the program during that year. A participant in the optional retirement program shall contribute to the program 6.65 percent of the person's annual compensation.

(b) Contributions required by this section shall be credited to the benefit of the participant.

(c) In this section, "annual compensation" has the meaning assigned to that term by Section 821.001(4).

(d) For a person who first became a participant in the optional retirement program beginning after August 31, 1996, the compensation

limitation of Section 401(a)(17), Internal Revenue Code of 1986 (26 U.S.C. Section 401), applies.

(e) For a person who first became a participant in the optional retirement program before September 1, 1996, the compensation limitation under Section 401(a)(17), Internal Revenue Code (26 U.S.C. Section 401), does not apply. For these persons, the amount of compensation allowed to be taken into account under the plan shall be the amount allowed to be taken into account as of July 1, 1993.

(f) Subsection (e) of this section does not apply to a person whose compensation in excess of the compensation limitation of Section 401(a)(17), Internal Revenue Code (26 U.S.C. Section 401), or whose state retirement contribution under this subchapter, is paid from general revenue funds or any student tuition or fee assessed under Chapters 54 or 55, Education Code.

(g) In computing the amount owed by the state under Subsection (a), the compensation of members who are employed by public junior colleges or public junior college districts shall be included in the aggregate annual compensation as follows:

(1) 50 percent of the eligible creditable compensation of employees who:

(A) otherwise are eligible for membership in the retirement system; and

(B) are instructional or administrative employees whose salaries may be fully paid from funds appropriated under the General Appropriations Act, regardless of whether such salaries are actually paid from appropriated funds; and

(2) none of the eligible creditable compensation of all other employees who:

(A) do not meet the requirements of Subdivision (1)(B) but are otherwise eligible for membership in the retirement system; or

(B) cannot be included as a qualifying employee under Subdivision (1) by application of Subsection (i).

(h) Before November 2 of each even-numbered year, the Texas Higher Education Coordinating Board, in coordination with the Legislative Budget Board, shall certify to the comptroller for review and adoption an estimate of the amount necessary to pay the state's contributions to the retirement system for the following biennium. For qualifying employees under Subsection (g)(1), the Texas Higher Education Coordinating Board shall include only the amount payable by

the state under Subsection (g)(1) in determining the amount to be certified.

(i) In determining the amount described by Subsection (h), the number of qualifying employees under Subsection (g)(1) whose compensation may be included for each public junior college or public junior college district in each biennium may not be adjusted in a proportion greater than the change in student enrollment at each college during the reporting period except that a college that experiences a decline in student enrollment may petition the Legislative Budget Board to maintain the number of eligible employees up to 98 percent of the level of the prior biennium.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 228, Sec. 5, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 36.201 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 736, Sec. 2, eff. June 15, 1995. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 812 (S.B. 1812), Sec. 3, eff. June 14, 2013.

Acts 2017, 85th Leg., R.S., Ch. 931 (S.B. 1664), Sec. 9, eff. September 1, 2017.

Sec. 830.2015. SUPPLEMENTAL CONTRIBUTIONS FROM INSTITUTIONS OF HIGHER EDUCATION. (a) Each fiscal year, the governing board of an institution of higher education may make a contribution to the optional retirement program as provided by this section. The governing board may use any source of funds for the contribution.

(b) A contribution under this section may be any amount that is equal to or less than the difference between the amount the state is required to contribute under Section 830.201 to the benefit of each participant employed by the institution of higher education and the amount the state appropriates for that purpose.

(c) The governing board of an institution of higher education may contribute an amount under this section to the benefit of a participant employed by an institution of higher education on or before August 31, 1995, that is different from the amount the governing board contributes to the benefit of a participant employed by an institution of higher education after that date.

Added by Acts 2003, 78th Leg., ch. 418, Sec. 1, eff. June 20, 2003.

Sec. 830.202. COLLECTION AND DISBURSEMENT OF CONTRIBUTIONS. (a) The contributions of participants in the optional retirement program shall be made by salary reduction pursuant to an agreement made under Section 830.204.

(b) The comptroller of public accounts shall pay the state's contributions to the optional retirement program to the appropriate institutions of higher education and, if applicable, to the Texas Education Agency.

(c) The disbursing officer of an institution of higher education and, if applicable, of the Texas Education Agency shall pay the contributions collected under this section to a company providing an optional retirement program for that institution not later than the third business day after the date the funds become legally available. If possible, the disbursing officer shall send the state's contributions and the participants' contributions together, and otherwise shall send the participants' contributions at the time of withholding and the state's contributions on receipt from the comptroller. This subsection does not apply to a supplemental payroll. This subsection applies only to a currently authorized company or a company with at least 50 participants at the institution.

(d) An institution of higher education and, if applicable, the Texas Education Agency shall certify to the comptroller, in the manner provided for estimate of state contributions to the retirement system, estimates of funds required for the payments by the state under this section.

(e) The disbursing officer of an institution of higher education and, if applicable, of the Texas Education Agency, shall:

(1) send contributions to a company providing an optional retirement program for the institution by electronic transfer if the institution is currently able to send funds by electronic transfer; or

(2) certify to the Texas Higher Education Coordinating Board that the company is unable to receive funds by electronic transfer and send contributions by paper check.

(f) The company shall allocate and credit the contemporaneous deposit to each participant's account on the receipt of the

electronic funds transfer and the electronic information on the amount to be allocated and credited to each participant's account. A company who violates this section shall become ineligible for certification as a company eligible to provide an optional retirement program.

(g) At least once each fiscal year, an institution of higher education and the Texas Education Agency shall give notice to each participant in the optional retirement program at the institution or agency indicating which companies are unable to receive funds by electronic transfer.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 173, Sec. 2, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 36.202 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 391, Sec. 76, eff. July 1, 1991; Acts 1997, 75th Leg., ch. 165, Sec. 6.26, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1359, Sec. 1, eff. Sept. 1, 1997.

Sec. 830.203. COLLECTION OF CONTRIBUTIONS FROM NONEDUCATIONAL AND GENERAL FUNDS. (a) In this section:

(1) "General academic teaching institution" has the meaning assigned by Section 61.003, Education Code.

(2) "Medical and dental unit" has the meaning assigned by Section 61.003, Education Code.

(3) "Noneducational and general funds" means all funds of an institution of higher education except those funds used as a method of financing for an institutional appropriation in the General Appropriations Act or dedicated by the Constitution of the State of Texas.

(b) The governing board of each general academic teaching institution and the governing board of each medical and dental unit shall reimburse the state, from noneducational and general funds of the institution or unit, for state contributions that are made based on any portion of an optional retirement program participant's salary that is paid from the noneducational and general funds.

(c) The designated disbursing officer of each general academic teaching institution and the designated disbursing officer of each medical and dental unit shall submit to the retirement system, at a

time and in the manner prescribed by the retirement system, a monthly report containing:

(1) the name of each optional retirement program participant employed by the institution or unit who, for the most recent payroll period, was paid wholly or partly from noneducational and general funds;

(2) the amount of the employee's salary for the most recent payroll period that was paid from noneducational and general funds;

(3) a certification of the total amount of employer contributions due under this section for the payroll period; and

(4) any other information the retirement system determines is necessary to administer this section.

(d) A monthly report required under Subsection (c) shall be accompanied by payment of the amount certified under Subdivision (3) of that subsection.

(e) After the end of each fiscal year, the retirement system shall report to the comptroller of public accounts and the State Auditor the name of any general academic teaching institution and any medical and dental unit delinquent in the reimbursement of contributions under this section for the preceding fiscal year and the amount by which each reported institution or unit is delinquent.

(f) Any portion of the reimbursement required under this section to be made for a fiscal year by a general academic teaching institution or a medical and dental unit that remains unpaid on the first day of the next fiscal year accrues interest, beginning on that day or the due date for the portion, whichever is later, at an annual rate, compounded monthly, equal to the rate established under Section 825.313(b)(1), plus two percent.

(g) The retirement system shall submit all money it receives under this section to the comptroller of public accounts for deposit in the general revenue fund.

Added by Acts 1985, 69th Leg., ch. 99, Sec. 2, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 36.2021 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1118, Sec. 11, eff. Sept. 1, 1999.

Sec. 830.204. SALARY REDUCTION AGREEMENT. (a) A participant

in the optional retirement program and either the employing institution of higher education or, as applicable, the Texas Education Agency, acting through its governing board, shall execute an agreement under which the salary of the participant is reduced by the amount of the contribution required under Section 830.201 and under which the employer or agency contributes an amount equal to the reduction for any type of investment authorized in Section 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403) or toward the purchase of an annuity under the program.

(b) An agreement under this section is irrevocable until the earlier of the time:

(1) the participant ceases participation in the optional retirement program; or

(2) it is determined by the Internal Revenue Service or by legislative enactment that the contributions of participants to the optional retirement program are elective deferrals within the meaning of Section 402 of the Internal Revenue Code of 1986 (26 U.S.C. Section 402).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 208, ch. 18, Sec. 38, eff. Nov. 10, 1981; Acts 1987, 70th Leg., ch. 173, Sec. 3, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 36.203 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 391, Sec. 77, eff. July 1, 1991; Acts 1997, 75th Leg., ch. 165, Sec. 6.27, eff. Sept. 1, 1997.

Sec. 830.205. BENEFITS. Benefits in the optional retirement program vest in a participant after one year of participation in one or more optional retirement plans operating under this chapter.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 36.204 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 391, Sec. 78, eff. July 1, 1991.

SUBTITLE D. JUDICIAL RETIREMENT SYSTEM OF TEXAS PLAN ONE
CHAPTER 831. GENERAL PROVISIONS

Sec. 831.001. DEFINITIONS. In this subtitle:

(1) "Annuity" means an amount of money payable in monthly installments for life or for another period as provided by this subtitle.

(2) "Board of trustees" means the entity given responsibility under Section 835.001 for the administration of the retirement system.

(3) "Judicial officer" means a person who presides over a court or a commission to a court named in Section 832.001 and who has never been a member of the Judicial Retirement System of Texas Plan Two.

(4) "Retiree" means a person who receives an annuity based on service that was credited to the person.

(5) "Retirement system" means the Judicial Retirement System of Texas Plan One or, as to periods before September 1, 1985, the Judicial Retirement System of Texas.

(6) "Service credit" means the amount of membership, military, and equivalent membership service ascribed by the retirement system to a person and for which the person has made required contributions.

(6-a) "State salary" does not include the amount of any longevity pay payable under Section 659.0445.

(7) "Supreme court" means the Supreme Court of Texas.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 602, Sec. 7, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 41.001 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1328 (S.B. 1519), Sec. 5, eff. September 1, 2007.

Sec. 831.002. PURPOSE OF SUBTITLE. The purpose of this subtitle is to establish a program of benefits for members, retirees, and other beneficiaries of the retirement system and to establish rules for the management and operation of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 41.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 831.003. RETIREMENT SYSTEM. The retirement system is an entity of the state. The Judicial Retirement System of Texas Plan One is the name by which all business of the retirement system shall be transacted and all its property held. Unless the context clearly indicates otherwise, a reference in law to the Judicial Retirement System of Texas is a reference to the Judicial Retirement System of Texas Plan One.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 602, Sec. 8, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 41.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 831.004. EXEMPTION FROM EXECUTION. All annuity and other benefit payments from the retirement system, contribution refunds, and rights accrued or accruing under this subtitle to any person are exempt from garnishment, attachment, state and local taxation, levy, sale, and any other process, and are unassignable.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 41.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

CHAPTER 832. MEMBERSHIP

SUBCHAPTER A. MEMBERSHIP

Sec. 832.001. ELIGIBILITY FOR MEMBERSHIP. (a) Except as provided by Subsection (b), membership in the retirement system is limited to persons who have never been eligible for membership in the Judicial Retirement System of Texas Plan Two and who, before the date the Judicial Retirement System of Texas Plan Two began operation, became judges, justices, and commissioners of:

(1) the supreme court;

(2) the court of criminal appeals;

(3) courts of appeals;

(4) district courts; and

(5) commissions to a court specified in this subsection.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891

), Sec. 15.03(4), eff. September 1, 2019.

(c) Membership in the retirement system is mandatory for eligible persons.

(d) Membership in the retirement system begins on the first day an eligible person holds a judicial office specified in Subsection (a).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 602, Sec. 9, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 42.001 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 15.03(4), eff. September 1, 2019.

Sec. 832.002. MEMBERSHIP FEE. (a) Each member of the retirement system annually shall pay the system a membership fee of $10. A contributing member shall pay the fee with the member's first contribution to the retirement system in each fiscal year in the manner provided by Section 835.101 for payment of the member's contribution to the retirement system.

(b) If the membership fee is not paid with the member's first contribution of the fiscal year to the retirement system, the board of trustees may deduct the amount of the fee from that contribution or from any benefit to which the member becomes entitled.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 602, Sec. 10, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 42.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989; Acts 2003, 78th Leg., ch. 1310, Sec. 53, eff. June 20, 2003.

Sec. 832.003. TERMINATION OF MEMBERSHIP. A person terminates membership in the retirement system by:

(1) death;

(2) retirement based on service credited in the retirement system; or

(3) withdrawal of the person's contributions to the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 42.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 832.004. WITHDRAWAL OF CONTRIBUTIONS. (a) If a member resigns a judicial office or otherwise ceases to be a judicial officer, the member may withdraw all of the member's contributions to the retirement system.

(b) A withdrawal of contributions cancels the person's service credit in the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 42.004 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. RESUMPTION OF JUDICIAL SERVICE BY RETIREE

Sec. 832.101. INELIGIBILITY FOR MEMBERSHIP. A retiree who makes an election under Subchapter C of Chapter 74 may not rejoin the retirement system or receive credit in the retirement system for the period of an appointment or for any service performed under assignment.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 480, Sec. 10, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 602, Sec. 11, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 42.103 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 4.01, eff. September 1, 2019.

Sec. 832.102. RESUMPTION OF FULL-TIME JUDICIAL SERVICE. (a) A retiree who resumes service as a judicial officer other than by appointment or assignment described in Section 832.101 may not rejoin or receive credit in the retirement system for the resumed service.

(b) The retirement system shall suspend annuity payments to a retiree who resumes service described by this section. A suspension of payments begins on the date a retiree takes the oath of office and

ends on a date when:

(1) the retiree no longer holds the office; and

(2) the retiree, or the retiree's beneficiary if the retiree has died, has applied to the retirement system for resumption of payments.

(c) Time during which annuity payments are suspended as provided by this section does not reduce the number of months payments are to be made under an optional benefit plan providing for a specific amount of benefits for a guaranteed number of months after retirement.

(d) Before a retiree takes the oath of office for a position as a judicial officer other than under appointment or assignment described by Section 832.101, the retiree shall notify the retirement system in writing of the resumption of office and the projected dates of service.

Added by Acts 1995, 74th Leg., ch. 586, Sec. 35, eff. Aug. 28, 1995.

CHAPTER 833. CREDITABLE SERVICE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 833.001. TYPES OF CREDITABLE SERVICE. The types of service creditable in the retirement system are:

(1) membership service;

(2) military service; and

(3) equivalent membership service.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 43.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. ESTABLISHMENT OF SERVICE

Sec. 833.101. CURRENT SERVICE. Membership service is credited in the retirement system for each month in which a member holds a judicial office and for which the member makes the required contribution.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 43.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 833.102. SERVICE CREDIT PREVIOUSLY CANCELED. If a person who has withdrawn contributions to the retirement system and canceled service credit under Section 832.004 subsequently rejoins the retirement system, the member may not become eligible for retirement benefits from the retirement system unless the person redeposits with the system the amount withdrawn. Payment under this section reestablishes the service credit canceled by the refund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 43.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 833.103. MILITARY SERVICE. (a) An eligible member may establish service credit in the retirement system for military service performed that is creditable in the retirement system.

(b) A member eligible to establish military service credit is one who:

(1) currently contributes to the retirement system;

(2) has at least 8 years of service credit in the retirement system; and

(3) does not receive and is not eligible to receive federal retirement payments based on 20 years or more of active federal military duty or its equivalent.

(c) Military service creditable in the retirement system is active duty federal military service.

(d) A member may establish one month of service credit for each month or fraction of a month of duty, but not more than 48 months of service credit in the retirement system for military service.

(e) A member may establish credit under this section by depositing with the retirement system a contribution computed for each month of military service claimed at the rate of six percent of the member's current monthly state salary.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 43.103 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 29, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1048, Sec. 26, eff. Sept. 1, 1997.

Sec. 833.1031. MILITARY SERVICE CREDIT GOVERNED BY UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT. The retirement system may adopt rules to comply with the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. Section 4301 et seq.) and other federal laws affecting the crediting of military service.

Added by Acts 1995, 74th Leg., ch. 586, Sec. 36, eff. Aug. 28, 1995.

Sec. 833.1035. SERVICE IN EXCESS OF 20 YEARS. (a) Subject to the limitation on the amount of a retirement annuity under Section 834.102(c), an eligible member may establish service credit in the retirement system for service in excess of 20 years performed before September 1, 2005.

(b) A member eligible to establish credit under Subsection (a) is one who elects to make contributions under Section 835.1015.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1308, Sec. 41(1), eff. September 1, 2009.

(d) A member may establish credit under this section by depositing with the retirement system a contribution computed for each month of qualifying service claimed at the rate of six percent of the member's current monthly state salary.

(e) The board of trustees may adopt rules to administer this section.

Added by Acts 2005, 79th Leg., Ch. 1033 (H.B. 1114), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 41(1), eff. September 1, 2009.

Sec. 833.105. ALTERNATIVE PAYMENTS TO ESTABLISH OR REESTABLISH SERVICE CREDIT. (a) The board of trustees may adopt rules to provide procedures for making installment payments to establish or reestablish credit in the retirement system as alternatives to lump-sum payments otherwise authorized or required by this subtitle. The methods may include payment by payroll deduction.

(b) Except as provided by Subsection (c), payments may not be made under a rule adopted under this section:

(1) to establish or reestablish service credit of a person who has retired or died; or

(2) to establish current service under Section 833.101.

(c) Under a rule adopted under this section, the designated beneficiary of a deceased member or, if none exists, the personal representative of the decedent's estate may establish or reestablish service for which the member was eligible at the time of death if the establishment or reestablishment of the service would result in the payment of a death benefit annuity.

(d) The payment for the establishment or reestablishment of service under Subsection (c) must be made in a lump sum and completed before the first payment of a death benefit annuity but not later than the 60th day after the date the retirement system receives notice of the death.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 31, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 27, eff. Sept. 1, 1997.

Sec. 833.106. CREDIT FOR YEAR IN WHICH ELIGIBLE FOR OFFICE. (a) A member who has not retired may establish service credit in the retirement system for any calendar year during which the member:

(1) held an office included in the membership of the retirement system; or

(2) was eligible to take the oath for an office included in the membership of the retirement system.

(b) A member may establish service credit under this section by depositing with the retirement system a contribution computed for each month of credit claimed at the rate of six percent of the member's current monthly salary, plus, if the member does not establish credit before the first anniversary of the date of first eligibility, interest computed on the basis of the state fiscal year at an annual rate of 10 percent from the date of first eligibility to the date of deposit.

Added by Acts 2001, 77th Leg., ch. 1240, Sec. 2, eff. Jan. 1, 2002.

CHAPTER 834. BENEFITS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 834.001. TYPES OF BENEFITS. The types of benefits payable by the retirement system are:

(1) service retirement benefits; and

(2) death benefits.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 22, eff. September 1, 2019.

Sec. 834.002. APPLICATION FOR RETIREMENT. A member may apply for service retirement by filing an application for retirement with the board of trustees before the date the member wishes to retire.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 23, eff. September 1, 2019.

Sec. 834.004. INELIGIBILITY FOR BENEFITS. An annuity that is based on service of a member who is removed from judicial office by impeachment, or otherwise for official misconduct, may not be paid under this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 834.005. DISCLAIMER OF BENEFITS. The retirement system shall give effect to a full or partial disclaimer of benefits executed in accordance with Chapter 240, Property Code, unless the benefit to be disclaimed is a lifetime annuity.

Added by Acts 1997, 75th Leg., ch. 1048, Sec. 28, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 10, eff. September 1, 2015.

SUBCHAPTER B. SERVICE RETIREMENT BENEFITS

Sec. 834.101. ELIGIBILITY FOR SERVICE RETIREMENT ANNUITY. (a) A member is eligible to retire and receive a base service retirement annuity if the member:

(1) is at least 65 years old, currently holds a judicial office, and has at least 10 years of service credited in the retirement system;

(2) is at least 65 years old and has at least 12 years of service credited in the retirement system, regardless of whether the member currently holds a judicial office;

(3) has at least 20 years of service credited in the retirement system, regardless of whether the member currently holds a judicial office; or

(4) has served at least 12 years on an appellate court and the sum of the member's age and amount of service credited in the retirement system equals or exceeds the number 70, regardless of whether the member currently holds a judicial office.

(b) A member who meets service requirements provided by Subsection (a)(1) or (a)(2) is eligible to retire and receive a service retirement annuity actuarially reduced as provided by Section 834.102(d) from the standard service retirement annuity, if the member is at least 60 years old.

(c) A member's resignation from a judicial office before applying for an annuity does not make the member ineligible for the annuity unless the member applies for an annuity under Subsection (a)(1).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 29, eff. Sept. 1, 1997.
Amended by:
Acts 2005, 79th Leg., Ch. 942 (H.B. 831), Sec. 2, eff. September

1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 834.102. SERVICE RETIREMENT ANNUITY. (a) The base service retirement annuity for a person whose effective date of retirement is:

(1) before September 1, 2019, is an amount equal to 50 percent of the state base salary, as adjusted from time to time, being paid in accordance with Section 659.012(a) to a judge of a court of the same classification as the court on which the retiree last served before retirement; or

(2) on or after September 1, 2019, is an amount equal to 50 percent of the state salary, as adjusted from time to time, being paid in accordance with Section 659.012(b)(2) to a judge of a court of the same classification as the court on which the retiree last served before retirement.

(b) The retirement system shall increase by 10 percent of the amount of the applicable state salary under Subsection (a) or (d) the annuity of a member who on the effective date of retirement:

(1) has not been out of judicial office for more than one year; or

(2) has served as a visiting judge in this state and the first anniversary of the last day of that service has not occurred.

(c) The service retirement annuity of a member qualifying for retirement under Section 834.101(a) is the applicable state salary under Subsection (a), multiplied by a percentage amount that is the sum of 50 percent plus the product of 2.3 percent multiplied by the number of years of subsequent service credit the member accrues under Section 835.1015(a). After including any increase under Subsection (b), the service retirement annuity under this subsection may not be an amount that is greater than 90 percent of the applicable salary under Subsection (a).

(d) The service retirement annuity of a person qualifying for retirement under Section 834.101(b) whose effective date of retirement is:

(1) before September 1, 2019, is an amount computed as a percentage of the state base salary, as adjusted from time to time,

being paid in accordance with Section 659.012(a) to a judge of a court of the same classification as the court on which the retiree last served before retirement, according to the following schedule:

age at retirement	percentage of state salary
at least 60 but less than 61	40 percent
at least 61 but less than 62	41.7 percent
at least 62 but less than 63	43.6 percent
at least 63 but less than 64	45.6 percent
at least 64 but less than 65	47.7 percent; or

(2) on or after September 1, 2019, is an amount computed as a percentage of the state salary, as adjusted from time to time, being paid in accordance with Section 659.012(b)(2) to a judge of a court of the same classification as the court on which the retiree last served before retirement, according to the following schedule:

age at retirement	percentage of state salary
at least 60 but less than 61	40 percent
at least 61 but less than 62	41.7 percent
at least 62 but less than 63	43.6 percent
at least 63 but less than 64	45.6 percent
at least 64 but less than 65	47.7 percent

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 208, ch. 18, Sec. 39, eff. Nov. 10, 1981; Acts 1987, 70th Leg., ch. 740, Sec. 1, 2, eff. June 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1240, Sec. 3, eff. Jan. 1, 2002.

Amended by:

Acts 2005, 79th Leg., Ch. 1033 (H.B. 1114), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1258 (H.B. 2882), Sec. 1, eff.

September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 24, eff. September 1, 2019.

Sec. 834.103. OPTIONAL SERVICE RETIREMENT ANNUITY. (a) Instead of a service retirement annuity payable under Section 834.102, a retiring member may elect to receive an optional service retirement annuity, payable throughout the life of the retiree and actuarially reduced, under tables adopted by the board of trustees, from the annuity otherwise payable to its actuarial equivalent.

(b) Optional service retirement annuities available to a retiring member are those available to retiring members of the Employees Retirement System of Texas under Section 814.108(c).

(c) A person may apply for an optional service retirement annuity by filing an application for the annuity with the retirement system before the 31st day after the date of the person's retirement.

(d) If a person who is nominated by a retiree in the written designation under Subsection (b) predeceases the retiree, the reduced annuity of a retiree who has elected an optional lifetime retirement annuity under Section 814.108(c) shall be increased to the standard service retirement annuity that the retiree would otherwise be entitled to receive if the retiree had not selected that annuity option. The standard service retirement annuity shall be adjusted as appropriate for:

(1) early retirement as permitted by law; and

(2) postretirement increases in retirement benefits authorized by law after the date of retirement.

(e) The increase in the annuity under Subsection (d) begins with the monthly payment made to the retiree for the month following the month in which the person nominated dies or the September 30, 1991, payment, whichever is later, and is payable to the retiree for the remainder of the retiree's life.

(f) The computation of an optional service retirement annuity must include the ages of the retiring member and the member's designated beneficiary at the time of the member's retirement.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.103 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 30, eff. Sept. 1, 1991.

SUBCHAPTER D. DEATH BENEFITS

Sec. 834.301. SELECTION OF DEATH BENEFIT PLAN BY MEMBER. (a) A member who has at least 10 years of service credit in the retirement system may select a death benefit plan for the payment, if the member dies before retirement, of a death benefit annuity to one or more persons designated by the member. Death benefit annuities available for selection by a member described in this subsection are the optional annuities provided by Sections 814.108(c)(1) and (c)(4).

(b) Section 814.301(b) applies to a death benefit plan selected by a member in applicable circumstances.

(c) The computation of a death benefit annuity must include the ages of the member and of the member's designated beneficiary at the time of the member's death.

(d) A member may select a death benefit plan by filing an application for a plan with the board of trustees on a form prescribed by the board. After selection, a death benefit plan may take effect at death unless the member amends the plan, selects a retirement annuity at the time of the member's retirement, or becomes ineligible to select a plan.

(e) A death benefit annuity is payable beginning on the day after the date the member dies.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.301 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 31, eff. Sept. 1, 1991.

Sec. 834.302. SELECTION OF DEATH BENEFIT PLAN BY SURVIVOR OF MEMBER. (a) If a member eligible to select a death benefit plan under Section 834.301(a) dies without having made a selection or if a selection cannot be made effective, the member's designated beneficiary may select a plan in the same manner as if the member had made the selection. If there is no designated beneficiary, the personal representative of the decedent's estate may make the

selection.

(b) If a person dies who meets the description in Section 814.302(b), the person's designated beneficiary or the guardian of surviving minor children may select a death benefit plan under that subsection.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.302 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 30, eff. Sept. 1, 1997.

Sec. 834.303. RETURN OF CONTRIBUTIONS. (a) Except as provided by Subsection (c), if a member dies before retirement, the amount of the member's contributions to the retirement system is payable as a lump-sum death benefit.

(b) The benefit provided by this section is payable to a person designated by the member in a signed document filed with the board of trustees. If a member does not designate a beneficiary, the benefit is payable to the member's estate.

(c) A death benefit may not be paid under this section if a death benefit annuity has been selected as provided by Section 834.301 or 834.302.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.303 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 834.304. RETURN OF EXCESS CONTRIBUTIONS. (a) Except as provided by Subsection (c), if a person dies after retirement, a lump-sum death benefit is payable in an amount, if any, by which the retiree's contributions to the retirement system on the date of retirement exceed the amount of annuity payments made before the retiree's death.

(b) The benefit provided by this section is payable to the retiree's designated beneficiary. If a retiree dies without having designated a beneficiary, the benefit is payable to the person entitled to distribution of the decedent's estate, if that person or the personal representative of the decedent's estate claims the

benefit before the second anniversary of the decedent's death.

(c) A death benefit may not be paid under this section if an optional retirement annuity has been selected as provided by Section 834.103.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.304 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 25, eff. September 1, 2019.

Sec. 834.305. BENEFICIARY CAUSING DEATH OF MEMBER OR ANNUITANT. (a) Any benefits, funds, or account balances payable on the death of a member or annuitant may not be paid to a person convicted of or adjudicated as having caused that death but instead are payable as if the convicted person had predeceased the decedent.

(b) A person who becomes eligible under this section to select death or survivor benefits may select benefits as if the person were the designated beneficiary.

(c) The retirement system shall reduce any annuity computed in part on the age of the convicted or adjudicated person to a lump sum equal to the present value of the remainder of the annuity. The reduced amount is payable to a person entitled as provided by this section to receive the benefit.

(d) The retirement system is not required to change the recipient of any benefits, funds, or account balances under this section unless it receives actual notice of the conviction or adjudication of a beneficiary. However, the retirement system may delay payment of any benefits, funds, or account balances payable on the death of a member or annuitant pending the results of a criminal investigation or civil proceeding and other legal proceedings relating to the cause of death.

(e) For the purposes of this section, a person has been convicted of or adjudicated as having caused the death of a member or annuitant if the person:

(1) pleads guilty or nolo contendere to, or is found guilty by a court or jury in a criminal proceeding of, causing the death of the member or annuitant, regardless of whether sentence is imposed or

probated, and no appeal of the conviction is pending and the time provided for appeal has expired; or

(2) is found liable by a court or jury in a civil proceeding for causing the death of the member or annuitant and no appeal of the judgment is pending and the time provided for appeal has expired.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. 1664), Sec. 15, eff. September 1, 2011.

CHAPTER 835. ADMINISTRATION

SUBCHAPTER A. POWERS AND DUTIES

Sec. 835.001. GENERAL ADMINISTRATION. The board of trustees of the Employees Retirement System of Texas is responsible for the general administration and operation of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 45.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 835.002. RULEMAKING. Subject to the limitations of this subtitle, the board of trustees may adopt rules and provide for forms as it finds necessary for the administration of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 45.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 835.003. DEPOSIT OF CERTAIN FUNDS. (a) The retirement system shall deposit membership fees paid as required by Section 832.002 in the expense fund of the Employees Retirement System of Texas, to compensate for the costs of administering this retirement system.

(b) The retirement system shall deposit in the general revenue fund all other amounts paid to the system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 45.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. CONTRIBUTIONS

Sec. 835.101. MEMBER CONTRIBUTIONS. (a) Except as provided by Subsection (c), each month the payroll officer responsible for paying the state compensation of a judicial officer who is a member of the retirement system shall deduct from the state compensation of the judicial officer a contribution computed at the rate required of a member of the employee class of the Employees Retirement System of Texas.

(b) Contributions deducted as provided by this section are deposited in the general revenue fund, where they are subject to appropriation as are other amounts in the fund.

(c) Except as provided by Section 835.1015, a member who accrues 20 years of service credit in the retirement system ceases making contributions under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 602, Sec. 12, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 45.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1240, Sec. 4, eff. Jan. 1, 2002.
Amended by:

Acts 2005, 79th Leg., Ch. 1033 (H.B. 1114), Sec. 3, eff. September 1, 2005.

Sec. 835.1015. CONTRIBUTIONS AFTER 20 YEARS OF SERVICE CREDIT. (a) A judicial officer who is a member of the retirement system and who accrues 20 years of service credit in the retirement system may elect to make contributions for each subsequent year of service credit that the member accrues by filing an application with the retirement system.

(b) A member who elects to make contributions under Subsection (a) shall contribute at the member contribution rate required under Section 840.102(a) multiplied by the member's state compensation for each payroll period in the manner provided by Sections 835.101(a) and (b).

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1308, Sec. 41(3), eff. September 1, 2009.

Added by Acts 2005, 79th Leg., Ch. 1033 (H.B. 1114), Sec. 4, eff. September 1, 2005.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 41(3), eff. September 1, 2009.
Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 26, eff. September 1, 2019.

Sec. 835.102. STATE CONTRIBUTIONS. The legislature is obligated to appropriate the amount of money necessary to administer this subtitle for each fiscal year.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 45.102 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBTITLE E. JUDICIAL RETIREMENT SYSTEM OF TEXAS PLAN TWO
CHAPTER 836. GENERAL PROVISIONS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 836.001. DEFINITIONS. In this subtitle:

(1) "Accumulated contributions" means the total of amounts in a member's individual account in the retirement system, including:

(A) amounts deducted from the compensation of the member;

(B) other member deposits required to be placed in the member's individual account; and

(C) interest credited to amounts in the member's individual account.

(2) "Annuity" means an amount of money payable in monthly installments for life or for another period as provided by this subtitle.

(3) "Board of trustees" means the entity given responsibility under Section 840.001 for the administration of the retirement system.

(3-a) "Cash balance group member" means a member subject to Chapter 840A.

(4) "Executive director" means the person appointed under Section 815.202.

(5) "Judicial officer" means a person who presides over a court or a commission to a court named in Section 837.001 and who has never been a member of the Judicial Retirement System of Texas or the Judicial Retirement System of Texas Plan One.

(6) "Medical board" means the entity designated under Section 840.202.

(7) "Retiree" means a person who receives from the retirement system an annuity based on service that was credited to the person.

(8) "Retirement system" means the Judicial Retirement System of Texas Plan Two.

(9) "Service credit" means the amount of membership and, if applicable, military and equivalent membership service ascribed by the retirement system to a person and for which the person has made required contributions.

(9-a) "State salary" does not include the amount of any longevity pay payable under Section 659.0445.

(10) "Supreme court" means the Supreme Court of Texas.

(11) "Compensation" includes amounts by which a member's salary is reduced under a salary reduction agreement authorized by Chapter 610.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1. Amended by Acts 1987, 70th Leg., ch. 944, Sec. 4, eff. June 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 71.001 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(34), eff. Sept. 1, 1995. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1328 (S.B. 1519), Sec. 6, eff. September 1, 2007.

Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 3, eff. June 18, 2023.

Sec. 836.002. PURPOSE OF SUBTITLE. The purpose of this subtitle is to establish a program of benefits for members, retirees, and other beneficiaries of the retirement system and to establish rules for the management and operation of the retirement system.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 71.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 836.003. RETIREMENT SYSTEM. The retirement system is an entity of the state. The Judicial Retirement System of Texas Plan Two is the name in which all its business shall be transacted and all its property held.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 71.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 836.004. EXEMPTION FROM EXECUTION. All annuity and other benefit payments from the retirement system, contribution refunds, and rights accrued or accruing under this subtitle to any person are exempt from garnishment, attachment, state and local taxation, levy, sale, and any other process and are unassignable.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 71.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 836.005. POWERS AND PRIVILEGES. The retirement system has the powers, privileges, and immunities of a corporation, as well as the powers, privileges, and immunities conferred by this subtitle.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 71.005 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 836.006. DIVERSION OF MONEY PROHIBITED. Except as provided by Section 840.305(c), no part of the money contributed to the retirement system under Section 840.102 and no part of the contribution described by Section 840.103(b)(2) may be used for or diverted to any purpose other than the exclusive benefit of members, their beneficiaries, and annuitants of the retirement system.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 71.006 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 4.02, eff. September 1, 2019.

SUBCHAPTER B. PENAL PROVISIONS

Sec. 836.101. CONVERSION OF MONEY; FRAUD. (a) A person commits an offense if the person knowingly or intentionally confiscates, misappropriates, or converts money representing deductions from a member's salary either before or after the money is received by the retirement system.

(b) A person commits an offense if the person knowingly or intentionally makes a false statement or falsifies or permits to be falsified any record of the retirement system in an attempt to defraud the retirement system.

(c) A member commits an offense if the member accepts as a salary money that the member knows should have been deducted as provided by this subtitle from the member's salary.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 71.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 836.102. PENALTIES. (a) An offense under Section 836.101(a) or (c) is punishable in the manner provided by Section 31.03, Penal Code, for the punishment of the offenses included in that section.

(b) An offense under Section 836.101(b) is punishable in the manner provided by Section 37.10, Penal Code, for the punishment of the offenses included in that section.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 71.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

CHAPTER 837. MEMBERSHIP

SUBCHAPTER A. MEMBERSHIP

Sec. 837.001. ELIGIBILITY FOR MEMBERSHIP. (a) Membership in the retirement system is limited to persons who have never been eligible for membership in the Judicial Retirement System of Texas or the Judicial Retirement System of Texas Plan One and who at any time on or after the effective date of this Act are judges, justices, or commissioners of:

(1) the supreme court;

(2) the court of criminal appeals;

(3) a court of appeals;

(4) the business court;

(5) a district court; or

(6) a commission to a court specified in this subsection.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 15.03(6), eff. September 1, 2019.

(c) Membership in the retirement system is mandatory for eligible persons.

(d) Membership in the retirement system begins on the first day an eligible person holds a judicial office specified in Subsection (a).

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 72.001 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 15.03(6), eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 380 (H.B. 19), Sec. 3, eff. September 1, 2023.

Sec. 837.002. TERMINATION OF MEMBERSHIP. A person's membership in the retirement system is terminated by:

(1) death of the person;

(2) retirement based on service credited in the retirement system; or

(3) withdrawal of all of the person's accumulated contributions.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 72.002 and

amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 17, eff. September 1, 2013.

Sec. 837.003. WITHDRAWAL OF CONTRIBUTIONS. (a) If a member resigns a judicial office or otherwise ceases to be a judicial officer, the member may withdraw all of the member's accumulated contributions in the retirement system.

(b) A withdrawal of contributions cancels the person's service credit in the retirement system and terminates the person's rights to benefits based on the credit.

(c) A member initiates a withdrawal of contributions by filing an application for a refund with the retirement system.

(d) Deposits representing interest or membership fees that are required of a member to establish service credit under Section 838.102 or 838.103 are not refundable.

(e) At the time a service retirement, disability retirement, or death benefit annuity becomes payable, the retirement system shall refund any contributions, interest, or membership fees used to establish service credit that is not used in computing the amount of the annuity.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 72.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 26, eff. September 1, 2009.

SUBCHAPTER B. RESUMPTION OF JUDICIAL SERVICE BY RETIREE

Sec. 837.101. JUDICIAL ASSIGNMENT. A retiree who makes an election under Subchapter C of Chapter 74 may not rejoin or receive credit in the retirement system for the period of an appointment or for any service performed under assignment.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 72.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 4.03, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293 and S.B. 1738, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 837.102. RESUMPTION OF FULL-TIME JUDICIAL SERVICE. (a) A retiree who resumes service as a judicial officer other than by assignment described in Section 837.101 may not rejoin or receive credit in the retirement system for the resumed service, unless an election is made as provided by Section 837.103.

(b) The retirement system shall suspend annuity payments to a retiree who resumes service described by this section. A suspension of payments begins on the date a retiree takes the oath of office and ends on a date when:

(1) the retiree no longer holds the office; and

(2) the retiree, or the retiree's beneficiary if the retiree has died, has applied to the retirement system for resumption of payments.

(c) Time during which annuity payments are suspended as provided by this section does not reduce the number of months payments are to be made under an optional benefit plan providing for a specific amount of benefits for a guaranteed number of months after retirement.

(d) Before a retiree takes the oath of office for a position as a judicial officer other than under appointment or assignment described by Section 837.101, the retiree shall notify the retirement system in writing of the resumption of office and the projected dates of service.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 72.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 4, eff. June 18, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293 and S.B. 1738, 89th Legislature, Regular Session, for amendments affecting the following section.

For expiration of this section, see Subsection (e).

Sec. 837.103. RESUMPTION OF FULL-TIME JUDICIAL SERVICE BY CERTAIN RETIREES; OPTIONAL ELECTION TO REJOIN SYSTEM. (a) This section does not apply to a retiree receiving a cash balance annuity under Chapter 840A.

(b) Notwithstanding Sections 837.001(c) and 837.002(2) and subject to Subsection (d), a retiree described by Section 837.102(a) may elect to rejoin the retirement system as a member and receive service credit in the system for resuming service as a judicial officer if, before taking the oath of office, the retiree has been separated from judicial service for at least six full consecutive months. The retiree shall provide notice of the election to the system in the manner prescribed by the system.

(c) For a person who makes an election under this section, on the resumption of annuity payments that have been suspended under Section 837.102, the retirement system shall recompute the annuity selected at the time of the person's original retirement to include the person's additional service credit established during membership under this section. If, at the time of the person's original retirement, the person selected an optional retirement annuity payable under Section 839.103(a)(3) or (4), the retirement system shall reduce the number of months of payments by the number of months for which the annuity was paid before the person resumed service.

(d) A person may make an election under this section only once.

(e) The retirement system shall implement this section only if the system is considered actuarially sound. For purposes of this subsection, the system is considered actuarially sound if, based on an actuarial valuation of the system prepared under Section 840.204(d) on or after September 1, 2023, the amount of contributions to the system are sufficient to cover the normal cost of the system and to amortize the unfunded actuarial accrued liability of the system within 30 years. Not later than the 30th day after the date an actuarial valuation is prepared showing the system is actuarially sound, the system shall implement this section. On September 1, 2025:

(1) if this section is implemented, this subsection

expires; or

(2) if this section is not implemented, this section expires.

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 5, eff. June 18, 2023.

CHAPTER 838. CREDITABLE SERVICE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 838.001. TYPES OF CREDITABLE SERVICE. The types of service creditable in the retirement system are membership service and, as applicable:

(1) military service; and

(2) equivalent membership service.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 73.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 6, eff. June 18, 2023.

Sec. 838.002. PROVISIONS INAPPLICABLE TO CASH BALANCE GROUP MEMBERS. Sections 838.102, 838.103, 838.1035, 838.105, 838.106, 838.107, and 838.108 of this chapter do not apply to a cash balance group member.

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 7, eff. June 18, 2023.

SUBCHAPTER B. ESTABLISHMENT OF SERVICE

Sec. 838.101. CURRENT SERVICE. Membership service is credited in the retirement system for each month in which a member holds a judicial office and for which the member makes the required contribution.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 73.101 by Acts

1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 838.102. SERVICE CREDIT PREVIOUSLY CANCELED. If a person who has withdrawn contributions to the retirement system and canceled service credit under Section 837.003 subsequently rejoins the retirement system, the member may not become eligible for retirement benefits from the retirement system unless the person redeposits with the system the amount withdrawn, plus all membership fees due, plus interest computed on the basis of the state fiscal year at an annual rate of five percent from the date of withdrawal to the date of redeposit. Payment under this section reestablishes the service credit canceled by the refund.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 73.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 838.103. MILITARY SERVICE. (a) An eligible member may establish service credit in the retirement system for military service performed that is creditable in the retirement system.

(b) A member eligible to establish military service credit is one who:

(1) has at least eight years of service credit in the retirement system;

(2) does not receive and is not eligible to receive federal retirement payments based on 20 years or more of active federal military duty; and

(3) has been released from military duty under conditions not dishonorable.

(c) Military service creditable in the retirement system is active duty federal military service.

(d) A member may establish one month of service credit for each month or fraction of a month of duty, but not more than 48 months of service credit in the retirement system for military service.

(e) A member may establish credit under this section by depositing with the retirement system in a lump sum a contribution computed for each month of military service claimed at the rate of six percent of the member's current monthly state compensation, plus,

if the member does not establish the credit before the first anniversary of the date of first eligibility, interest computed on the basis of the state fiscal year at an annual rate of 10 percent from the date of first eligibility to the date of deposit.

(f) The state shall contribute for each month of military service established under this section an amount computed on the basis of the member's current monthly state compensation at the rate of state contribution, as provided by Section 840.103(a), for the fiscal year in which the credit is established.

(g) The board of trustees may require members applying for credit under this section to submit any information the board considers necessary to enable it to determine eligibility for credit, amount of service, or amounts of required contributions.

(h) The retirement system shall use military service credit in computing death benefits and in determining eligibility to select an optional death benefit plan.

(i) Repealed by Acts 1997, 75th Leg., ch. 1048, Sec. 56(a), eff. Sept. 1, 1997.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 73.103 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 32, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1048, Sec. 31, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1111, Sec. 30, eff. Sept. 1, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 18, eff. September 1, 2013.

Sec. 838.1031. MILITARY SERVICE CREDIT GOVERNED BY UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT. The retirement system may adopt rules to comply with the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. Section 4301 et seq.) and other federal laws affecting the crediting of military service.

Added by Acts 1995, 74th Leg., ch. 586, Sec. 37, eff. Aug. 28, 1995.

Sec. 838.1035. SERVICE IN EXCESS OF 20 YEARS. (a) Subject to

the limitation on the amount of a retirement annuity under Section 839.102(d), an eligible member may establish service credit in the retirement system for service in excess of 20 years performed before September 1, 2005.

(b) A member eligible to establish credit under Subsection (a) is one who elects to make contributions under Section 840.1025.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1308, Sec. 41(4), eff. September 1, 2009.

(d) A member may establish credit under this section by depositing with the retirement system a contribution computed for each month of qualifying service claimed at the rate of six percent of the member's current monthly state salary.

(e) The board of trustees may adopt rules to administer this section.

Added by Acts 2005, 79th Leg., Ch. 1033 (H.B. 1114), Sec. 5, eff. September 1, 2005.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 41(4), eff. September 1, 2009.

Sec. 838.105. ALTERNATIVE PAYMENTS TO ESTABLISH OR REESTABLISH SERVICE CREDIT. (a) The board of trustees may adopt rules to provide procedures for making installment payments to establish or reestablish credit in the retirement system as alternatives to lump-sum payments otherwise authorized or required by this subtitle. The methods may include payment by payroll deduction.

(b) Except as provided by Subsection (c), payments may not be made under a rule adopted under this section:

(1) to establish or reestablish service credit of a person who has retired or died; or

(2) to establish current service under Section 838.101.

(c) Under a rule adopted under this section, the designated beneficiary of a deceased member or, if none exists, the personal representative of the decedent's estate may establish or reestablish service for which the member was eligible at the time of death if the establishment or reestablishment of the service would result in the payment of a death benefit annuity.

(d) The payment for the establishment or reestablishment of

service under Subsection (c) must be made in a lump sum and completed before the first payment of a death benefit annuity, but not later than the 60th day after the date the retirement system receives notice of the death.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 33, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 32, eff. Sept. 1, 1997.

Sec. 838.106. CREDIT FOR YEAR IN WHICH ELIGIBLE FOR OFFICE. (a) A member may establish service credit in the retirement system for any calendar year during which the member held an office included in the membership of the retirement system.

(b) A member may establish service credit under this section by depositing with the retirement system a contribution computed for each month of credit claimed at the rate of six percent of the member's current monthly salary, plus, if the member does not establish credit before the first anniversary of the date of first eligibility, interest computed on the basis of the state fiscal year at an annual rate of 10 percent from the date of first eligibility to the date of deposit.

(c) For the purpose of Subsection (a), the term of a member leaving judicial office ends not later than December 31 regardless of the date on which the member's successor takes the oath of office.

Added by Acts 2001, 77th Leg., ch. 1240, Sec. 5, eff. Jan. 1, 2002.
Amended by Acts 2003, 78th Leg., ch. 1111, Sec. 31, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 27, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 19, eff. September 1, 2013.

Sec. 838.107. SERVICE NOT PREVIOUSLY ESTABLISHED. The state shall make contributions for service not previously established that is established under Section 838.105 or 838.106 in the amount provided by Section 838.103(f) for military service. The state contributions will be made at the time the service credit is granted.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 35, eff. Sept. 1, 1993.

Sec. 838.108. CREDIT PURCHASE OPTION. (a) An eligible member may establish not more than 60 months of equivalent membership service credit.

(b) A member is eligible to establish service credit under this section only for the purpose of becoming eligible to retire, or retiring, under Section 839.101(a)(3).

(c) A member may establish service credit under this section by depositing with the retirement system, for each month of service credit, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees.

(d) After a member makes the deposits required by this section, the retirement system shall grant the member one month of equivalent membership service credit for each month of credit approved.

(e) The retirement system shall deposit the amount of the actuarial present value of the service credit purchased in the member's individual account in the retirement system.

(f) The board of trustees may adopt rules to administer this section, including rules that impose restrictions on the application of this section as necessary to cost-effectively administer this section.

Added by Acts 2003, 78th Leg., ch. 714, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 22, eff. September 1, 2005.

CHAPTER 839. BENEFITS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 839.001. TYPES OF BENEFITS. The types of benefits payable by the retirement system are:

(1) service retirement benefits;

(2) disability retirement benefits; and

(3) death benefits.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 839.002. APPLICATION FOR RETIREMENT. (a) A member may apply for service or disability retirement by filing an application for retirement with the board of trustees.

(b) An application for a service retirement annuity may not be made:

(1) after the date the member wishes to retire; or

(2) more than 90 days before the date the member wishes to retire.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 839.003. INELIGIBILITY FOR BENEFITS. An annuity that is based on service of a member who is removed from judicial office by impeachment, or otherwise for official misconduct, may not be paid under this subtitle.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 839.004. DISCLAIMER OF BENEFITS. The retirement system shall give effect to a full or partial disclaimer of benefits executed in accordance with Chapter 240, Property Code, unless the benefit to be disclaimed is a lifetime annuity.

Added by Acts 1997, 75th Leg., ch. 1048, Sec. 33, eff. Sept. 1, 1997. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 562 (H.B. 2428), Sec. 11, eff. September 1, 2015.

Sec. 839.005. PROVISIONS INAPPLICABLE TO CASH BALANCE GROUP

MEMBERS. The following provisions of this chapter do not apply to a cash balance group member:

(1) Section 839.002; and

(2) Subchapters B and E.

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 8, eff. June 18, 2023.

SUBCHAPTER B. SERVICE RETIREMENT BENEFITS

Sec. 839.101. ELIGIBILITY FOR SERVICE RETIREMENT ANNUITY. (a) A member is eligible to retire and receive a service retirement annuity if the member:

(1) is at least 65 years old, currently holds a judicial office, and has at least 10 years of service credited in the retirement system;

(2) is at least 65 years old and has at least 12 years of service credited in the retirement system, regardless of whether the member currently holds a judicial office;

(3) has at least 20 years of service credited in the retirement system, regardless of whether the member currently holds a judicial office; or

(4) has served at least 12 years on an appellate court and the sum of the member's age and amount of service credited in the retirement system equals or exceeds the number 70, regardless of whether the member currently holds a judicial office.

(b) A member who meets service requirements provided by Subsection (a)(1) or (a)(2) is eligible to retire and receive a service retirement annuity actuarially reduced as provided by Section 839.102(c) from the standard service retirement annuity, if the member is at least 60 years old.

(c) A member's resignation from a judicial office before applying for an annuity does not make the member ineligible for the annuity unless the member applies for an annuity under Subsection (a)(1).

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 36, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1048, Sec. 34, eff. Sept. 1, 1997;

Acts 2003, 78th Leg., ch. 463, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 942 (H.B. 831), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1029 (H.B. 1079), Sec. 1, eff. September 1, 2005.

Sec. 839.102. SERVICE RETIREMENT ANNUITY. (a) Except as provided by Subsections (b), (c), (d), and (f), the standard service retirement annuity is an amount equal to 50 percent of the state annual salary as set by the General Appropriations Act in accordance with Section 659.012 being paid to a judge of a court of the same classification as the last court to which the retiring member held judicial office who has the same number of years of contributing service credit as the member on the member's last day of service on the court.

(b) The retirement system shall increase by 10 percent of the amount of the applicable state salary under Subsection (a) or (c) the annuity of a member who on the effective date of retirement:

(1) has not been out of judicial office for more than one year; or

(2) has served as a visiting judge in this state and the first anniversary of the last day of that service has not occurred.

(c) The standard service retirement annuity of a person qualifying for retirement under Section 839.101(b) is an amount computed, according to the following schedule, as a percentage of the state annual salary as set by the General Appropriations Act in accordance with Section 659.012 being paid to a judge of a court of the same classification as the last court to which the retiring member held judicial office who has the same number of years of contributing service credit as the member on the member's last day of service on the court:

age at retirement	percentage of state salary
at least 60 but less than 61	40 percent
at least 61 but less than 62	41.7 percent
at least 62 but less than 63	43.6 percent
at least 63 but less than 64	45.6 percent
at least 64 but less than 65	47.7 percent.

(d) The service retirement annuity of a member qualifying for retirement under Section 839.101(a) is the applicable state salary under Subsection (a) multiplied by a percentage amount that is the sum of 50 percent plus the product of 2.3 percent multiplied by the number of years of subsequent service credit the member accrues under Section 840.1025(a). After including any increase under Subsection (b), the service retirement annuity under this subsection may not be an amount that is greater than 90 percent of the applicable salary under Subsection (a).

(f) The service retirement annuity of a member qualifying for retirement under Section 839.101(a)(4) is the applicable state salary under Subsection (a) multiplied by a percentage amount that is the sum of 50 percent plus the product of 2.3 percent multiplied by the number of years of subsequent service credit the member accrues under Section 840.1027. After including any increase under Subsection (b), the service retirement annuity under this subsection may not be an amount that is greater than 90 percent of the applicable salary under Subsection (a).

(g) The salary earned by a person as a visiting judge under Chapter 74 may not be used to determine the person's service retirement annuity under this section.

(h) For purposes of this section, "contributing service credit" has the meaning assigned by Section 659.012(f).

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 740, Sec. 3, eff. June 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 37, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 1240, Sec. 6, eff. Jan. 1, 2002. Amended by:

Acts 2005, 79th Leg., Ch. 1033 (H.B. 1114), Sec. 6, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1203 (H.B. 617), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1258 (H.B. 2882), Sec. 2, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 27, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 28, eff.

September 1, 2019.

Sec. 839.103. OPTIONAL SERVICE RETIREMENT ANNUITY. (a) Instead of a service retirement annuity payable under Section 839.102, a retiring member may elect to receive one of the following optional service retirement annuities, actuarially reduced to an actuarially equivalent value and consisting of:

(1) an annuity payable during the retiring member's life and continuing after death in the same amount, throughout the life of one person designated by the retiring member before retirement;

(2) an annuity payable during the retiring member's life and continuing after death in an amount equal to one-half of the amount payable during the retiring member's life, throughout the life of one person designated by the retiring member before retirement;

(3) an annuity payable for the greater of the rest of the retiring member's life or 60 months;

(4) an annuity payable for the greater of the rest of the retiring member's life or 120 months; or

(5) an annuity payable during the retiring member's life and continuing after death in an amount equal to three-fourths of the amount payable during the retiring member's life, throughout the life of one person designated by the retiring member before retirement.

(b) An annuity selected under Subsection (a)(3) or (a)(4) that is payable after the retiring member's death shall be paid to one or more persons designated by the retiring member before or after retirement or, if no person has been designated or all designees die before all payments are made, to the retiree's estate.

(c) A person may apply for an optional service retirement annuity by filing an application for the annuity with the retirement system before the date of the person's retirement.

(d) If a person who is nominated by a retiree in the written designation under Subsection (a) predeceases the retiree, the reduced annuity of a retiree who has elected an optional lifetime retirement annuity under Subsection (a) shall be increased to the standard service retirement annuity that the retiree would otherwise be entitled to receive if the retiree had not selected that annuity option. The standard service retirement annuity shall be adjusted as appropriate for:

(1) early retirement as permitted by law; and

(2) postretirement increases in retirement benefits authorized by law after the date of retirement.

(e) The increase in the annuity under Subsection (d) begins with the monthly payment made to the retiree for the month following the month in which the person nominated dies and is payable to the retiree for the remainder of the retiree's life.

(f) The computation of an optional service retirement annuity payable throughout the life of a named individual must include the age of that individual.

(g) An optional service retirement annuity may not provide that more than 50 percent of the value of the annuity, as determined at the time of retirement, be used to provide a benefit to a person other than the person on whose service the annuity is based.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.103 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 33, eff. Sept. 1, 1991.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 28, eff. September 1, 2009.

SUBCHAPTER C. DISABILITY RETIREMENT BENEFITS

Sec. 839.201. ELIGIBILITY FOR DISABILITY RETIREMENT ANNUITY. (a) A member, other than a member who is eligible to receive a service retirement annuity under Section 839.101 or a cash balance annuity under Section 840A.052, is eligible, regardless of age, to retire from regular active service for disability and receive a disability retirement annuity if the member has at least seven years of service credit in the retirement system.

(b) A member otherwise eligible may not receive a disability retirement annuity if the member is an active judge, as defined by Section 74.041.

(c) A disability retirement annuity may be denied on the ground that a claimed physical incapacity is caused by or results from an intemperate use of alcohol or narcotic drugs.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.201 by Acts

1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 29, eff. September 1, 2019.
Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 9, eff. June 18, 2023.

Sec. 839.202. APPLICATION FOR DISABILITY RETIREMENT ANNUITY. (a) A member may apply for a disability retirement annuity by:

(1) filing an application for retirement with the board of trustees; or

(2) having an application filed with the board of trustees by the member's spouse, employer, or legal representative.

(b) An application for a disability retirement annuity may not be made:

(1) after the earlier of:

(A) the date the retirement is to become effective; or

(B) the second anniversary of the date the member ceased making contributions to the retirement system; or

(2) earlier than the 90th day before the date the retirement is to become effective.

(c) An applicant for a disability retirement annuity must submit to a medical examination and provide other pertinent information as may be required by the retirement system.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.202 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 30, eff. September 1, 2019.

Sec. 839.2025. DETERMINATION OF DISABILITY. (a) In determining whether a member is mentally or physically incapacitated for the further performance of regular judicial duties, the medical board designated under Section 840.202 may apply the standard prescribed by Section 814.203.

(b) A retiree who receives a disability retirement annuity

under this subchapter is subject to Section 814.208 to the same extent as a disability retiree under that subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 31, eff. September 1, 2019.

Sec. 839.203. DISABILITY RETIREMENT ANNUITY. (a) Except as provided by Subsection (b) or (c), a disability retirement annuity is an amount computed as provided by Section 839.102.

(b) The amount of a disability retirement annuity is not reducible because of the age of the retiring member.

(c) Instead of a disability retirement annuity computed as provided by Section 839.102, a retiring member may elect to receive an optional disability retirement annuity payable as provided by Section 839.103.

(d) A disability retirement annuity is payable for the duration of the retiree's disability. If a retiree who has selected an optional disability retirement annuity dies while receiving the annuity, the annuity is payable throughout the life of the retiree's designated beneficiary or for a guaranteed period after the date of retirement, depending on the option selected.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.203 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER D. DEATH BENEFITS

Sec. 839.301. SELECTION OF DEATH BENEFIT PLAN BY MEMBER. (a) An eligible member may select a death benefit plan for the payment of a death benefit annuity, to be paid if the member dies before retirement. Except as provided by Subsections (c) and (d), a death benefit annuity is an amount computed, in the manner provided under Sections 839.102(a) and (b) for computation of a standard service retirement annuity, as if the member had retired on the date of death and payable, beginning on the day after the date of the member's death, in one of the following ways:

(1) throughout the life of one person designated by the member; or

(2) to one or more persons designated by the member, for a

period of 120 months.

(b) A member eligible to select a death benefit plan is one who is a member and has at least 10 years of service credit in the retirement system.

(c) The retirement system shall, under tables adopted by the board of trustees as provided by Section 840.005, actuarially reduce the amount of a death benefit annuity payable under this section for the difference between the member's age on the date of death and age 65, if the member dies before attaining that age.

(d) The computation of a death benefit annuity selected under Subsection (a)(1) must include the age of the designated recipient.

(e) A member may select a death benefit plan by filing an application for a plan with the board of trustees on a form prescribed by the board. After selection, a death benefit plan takes effect at death unless the member amends the plan, selects a retirement annuity at the time of retirement, or has chosen a plan that cannot take effect.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.301 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 33, eff. Sept. 1, 1991.

Sec. 839.302. SELECTION OF DEATH BENEFIT PLAN BY SURVIVOR OF MEMBER. If a member eligible to select a death benefit plan under Section 839.301 dies without having made a selection or if a plan selected cannot be made effective, the member's designated beneficiary may select a plan in the same manner as if the member had made the selection. If there is no designated beneficiary, the personal representative of the decedent's estate may make the selection.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.202 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 35, eff. Sept. 1, 1997.

Sec. 839.303. MEMBER DEATH BENEFITS GENERALLY. (a) Except as provided by Subsection (c), if a contributing member dies, a lump-sum death benefit is payable from the retirement system in an amount computed at the rate of five percent of the amount in the member's individual account at the time of death times the number of full years of service credit the member had at the time of death.

(b) The benefit provided by this section is payable to a person designated by the member in a signed document filed with the retirement system. If a member does not designate a beneficiary or if the beneficiary does not survive the member, the benefit is payable to the member's estate.

(c) A death benefit may not be paid under this section if, at the time of death, the member was eligible to select a death benefit annuity under Section 839.301.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.303 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 839.304. RETURN OF CONTRIBUTIONS. (a) Except as provided by Subsection (c), if a member dies before retirement, the amount of the member's accumulated contributions is payable as a lump-sum death benefit.

(b) The benefit provided by this section is payable to a person designated by the member in a signed document filed with the board of trustees. If a member does not designate a beneficiary, the benefit is payable to the member's estate.

(c) A death benefit may not be paid under this section if, at the time of death, the member was eligible to select a death benefit annuity under Section 839.301.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.304 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 839.305. RETURN OF EXCESS CONTRIBUTIONS. (a) Except as provided by Subsection (c), if a person dies after retirement, a lump-sum death benefit is payable in an amount, if any, by which the retiree's contributions to the retirement system on the date of

retirement exceed the amount of annuity payments made before the retiree's death.

(b) The benefit provided by this section is payable to the retiree's designated beneficiary. If a retiree dies without having designated a beneficiary, the benefit is payable to the person entitled to distribution of the decedent's estate if that person or the personal representative of the decedent's estate claims the benefit before the second anniversary of the decedent's death.

(c) A death benefit may not be paid under this section if an optional retirement annuity has been selected as provided by Section 839.103 or 839.203(c).

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.305 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 839.306. BENEFICIARY CAUSING DEATH OF MEMBER OR ANNUITANT. (a) Any benefits, funds, or account balances payable on the death of a member or annuitant may not be paid to a person convicted of or adjudicated as having caused that death but instead are payable as if the convicted person had predeceased the decedent.

(b) A person who becomes eligible under this section to select death or survivor benefits may select benefits as if the person were the designated beneficiary.

(c) The retirement system shall reduce any annuity computed in part on the age of the convicted or adjudicated person to a lump sum equal to the present value of the remainder of the annuity. The reduced amount is payable to a person entitled as provided by this section to receive the benefit.

(d) The retirement system is not required to change the recipient of any benefits, funds, or account balances under this section unless it receives actual notice of the conviction or adjudication of a beneficiary. However, the retirement system may delay payment of any benefits, funds, or account balances payable on the death of a member or annuitant pending the results of a criminal investigation or civil proceeding and other legal proceedings relating to the cause of death.

(e) For the purposes of this section, a person has been convicted of or adjudicated as having caused the death of a member or

annuitant if the person:

(1) pleads guilty or nolo contendere to, or is found guilty by a court or jury in a criminal proceeding of, causing the death of the member or annuitant, regardless of whether sentence is imposed or probated, and no appeal of the conviction is pending and the time provided for appeal has expired; or

(2) is found liable by a court or jury in a civil proceeding for causing the death of the member or annuitant and no appeal of the judgment is pending and the time provided for appeal has expired.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. 1664), Sec. 16, eff. September 1, 2011.

SUBCHAPTER E. INCREASES IN BENEFITS

Sec. 839.401. ANNUITY INCREASE AFTER DEATH OR RETIREMENT. (a) Except as provided by Subsections (b) and (e), on the first day of each fiscal year, the retirement system shall increase the amounts of annuities that are payable by the system to a retiree, to the survivor of a retiree, or to the survivor of a deceased member.

(b) The retirement system may not increase under this section the amount of an annuity unless the retirement or death on which the annuity is based occurred before the first day of the preceding fiscal year.

(c) The legislature may appropriate money from the general revenue fund to pay the costs of increasing the amounts of annuities under this section. On the first day of each fiscal year, the state comptroller of public accounts shall transfer to the retirement system any money appropriated for the fiscal year for the purpose of this section.

(d) If the amount of money appropriated for a fiscal year is insufficient to finance the rate of increase in annuities specified in the Act making the appropriation or if the Act fails to specify a rate of increase, the board of trustees shall set the rate as the rate that the amount of money appropriated will finance for the duration of the annuities payable to those persons entitled to receive an increase in annuities under this section.

(e) If an appropriation is not made for a fiscal year for the purpose of this section, the retirement system may not increase under

this section the amount of annuities for that year.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.401 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

CHAPTER 840. ADMINISTRATION

SUBCHAPTER A. POWERS AND DUTIES

Sec. 840.001. GENERAL ADMINISTRATION. (a) The board of trustees of the Employees Retirement System of Texas, as provided by Subchapter A of Chapter 815, is responsible for the general administration and operation of the retirement system. The board of trustees shall hold all retirement system assets in trust for the exclusive benefit of the members and annuitants of the system and administer all operations funded by trust assets for the same purpose.

(b) The executive director shall recommend to the board of trustees actuarial and other services required to transact the business of the retirement system.

(c) Annually, the executive director shall prepare an itemized budget showing the amount required to pay the retirement system's expenses for the following fiscal year and shall submit the budget to the board of trustees for review and adoption.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.001 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 23, eff. September 1, 2005.

Sec. 840.002. RULEMAKING. Subject to the limitations of this subtitle, the board of trustees may adopt rules and provide for forms it considers necessary for the administration of the retirement system.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 840.003. ADMINISTERING SYSTEM ASSETS. (a) All assets of the retirement system shall be credited to the trust fund provided by Section 840.305. The board of trustees shall administer all assets of the retirement system. The board is the trustee of the system's assets.

(b) The board of trustees may acquire, hold, manage, purchase, sell, assign, trade, transfer, and dispose of any security, evidence of debt, or other investment in which the retirement system's assets may be invested.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 840.004. DESIGNATION OF AUTHORITY TO SIGN VOUCHERS. The board of trustees shall file with the state comptroller of public accounts a duly attested copy of a board resolution that designates the authorized representatives, as provided by this chapter, who have authority to sign vouchers for payment from the funds administered by the board of trustees.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 840.005. ADOPTING TABLES AND RATES. At least once every four years, the board of trustees by rule shall adopt interest rates and mortality, service, and other tables the board considers necessary for the retirement system after considering the results of the actuary's investigation of the mortality, service, and compensation experience of the system's members and beneficiaries under Section 815.206.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.005 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. 301), Sec. 9, eff. September 1, 2017.

Sec. 840.006. RECORDS OF BOARD OF TRUSTEES. The board shall keep a record of all of its proceedings. Records of the board are open to public inspection.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.006 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 840.007. REPORT. Annually, the retirement system shall publish a report containing the following information:

(1) the retirement system's fiscal transactions of the preceding fiscal year;

(2) the amount of the system's accumulated cash and securities; and

(3) the balance sheet showing the financial condition of the system for the preceding fiscal year.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.007 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 840.008. CORRECTION OF ERRORS. If an error in the records of the retirement system results in a person receiving more or less money than the person is entitled to receive under this subtitle, the retirement system shall correct the error and so far as practicable shall adjust future payments so that the actuarial equivalent of the benefit to which the person is entitled is paid.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.008 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 840.009. PROVISIONS INAPPLICABLE TO CASH BALANCE GROUP MEMBERS. Sections 840.102(g) and (h), 840.1025, and 840.1027 of this

chapter do not apply to a cash balance group member.

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 10, eff. June 18, 2023.

SUBCHAPTER B. COLLECTION OF MEMBERSHIP FEES AND CONTRIBUTIONS; APPROPRIATIONS

Sec. 840.102. COLLECTION OF CERTAIN MEMBER CONTRIBUTIONS. (a) Except as provided by Subsections (g) and (h), each payroll period, a judicial officer who is a member of the retirement system other than a cash balance group member is required to contribute 9.5 percent of the officer's state compensation for service rendered after September 1, 2019.

(b) The payroll officer responsible for paying the state compensation of a member of the retirement system required by this section to make a contribution shall:

(1) make the required deductions from the member's state compensation;

(2) certify to the board of trustees the amounts deducted from the member's state compensation;

(3) transmit monthly, or at the time designated by the board of trustees, a certified copy of the payroll or report to the retirement system; and

(4) pay the deducted amounts to the retirement system for deposit in the trust fund of the system.

(c) To facilitate the making of deductions, the board of trustees may modify a member's required deductions by an amount that does not exceed one-tenth of one percent of the annual compensation on which the deductions are made.

(d) The retirement system shall record all receipts of member contributions and shall credit the receipts to the appropriate account.

(e) The deductions required by this section shall be made even if the member's state compensation is reduced below the amount equal to the minimum compensation provided by law.

(f) By becoming a member of the retirement system, a member consents to the deductions required by this section. The payment of state compensation less those deductions is a complete release of all claims, except benefits provided by this subtitle, for services

rendered by the member during the payment period.

(g) Except as provided by Section 840.1025, a member who accrues 20 years of service credit in the retirement system ceases making contributions under this section but is considered a contributing member for all other purposes under this subtitle.

(h) If a member has served at least 12 years on an appellate court and the sum of the member's age and amount of service credited in the retirement system equals or exceeds the number 70, the member ceases making contributions under this section. A member described by this subsection is considered a contributing member for all other purposes under this subtitle.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.102 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1541, Sec. 30, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 1033 (H.B. 1114), Sec. 7, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1203 (H.B. 617), Sec. 1, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. 1459), Sec. 20, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 32, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 11, eff. June 18, 2023.

Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 12, eff. June 18, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293 and S.B. 1738, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 840.1025. CONTRIBUTIONS AFTER 20 YEARS OF SERVICE CREDIT. (a) A judicial officer who is a member of the retirement system and who accrues 20 years of service credit in the retirement system may elect to make contributions for each subsequent year of service credit that the member accrues by filing an application with the

retirement system.

(b) A member who elects to make contributions under Subsection (a) shall contribute six percent of the member's state compensation for each payroll period in the manner provided by Sections 840.102(b)-(f).

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1308, Sec. 41(6), eff. September 1, 2009.

Added by Acts 2005, 79th Leg., Ch. 1033 (H.B. 1114), Sec. 8, eff. September 1, 2005.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 41(6), eff. September 1, 2009.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293 and S.B. 1738, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 840.1027. CONTRIBUTIONS AFTER ATTAINING RULE OF 70. (a) Notwithstanding Section 840.102(h), a judicial officer who is a member of the retirement system and who has served at least 12 years on an appellate court and the sum of the member's age and amount of service credited in the retirement system equals or exceeds the number 70 may elect to make contributions for each subsequent year of service credit that the member accrues by filing an application with the retirement system.

(b) A member who elects to make contributions under Subsection (a) shall contribute six percent of the member's state compensation for each payroll period in the manner provided by Sections 840.102(b)-(f).

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1308, Sec. 41(7), eff. September 1, 2009.

Added by Acts 2005, 79th Leg., Ch. 1203 (H.B. 617), Sec. 2, eff. September 1, 2005.
Amended by:

Acts 2005, 79th Leg., 2nd C.S., Ch. 3 (H.B. 11), Sec. 9, eff. December 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 41(7),

eff. September 1, 2009.

Sec. 840.103. COLLECTION OF STATE CONTRIBUTIONS. (a) During each fiscal year, the state shall contribute to the retirement system an amount equal to a percentage of the aggregate state compensation of all contributing members of the retirement system for that year, as provided by Subsection (b)(1).

(b) Not later than December 31 of each even-numbered year, the retirement system shall certify to the Legislative Budget Board and to the budget division of the governor's office for review:

(1) an actuarial valuation of the retirement system to determine the percentage of annual payroll required from the state to finance fully the retirement system as provided by Section 840.106;

(2) an estimate of the amount necessary to pay the state's contribution under Subdivision (1) for the following biennium; and

(3) as a separate item, an estimate of the amount, in addition to anticipated receipts from membership fees, required to administer the retirement system for the following biennium.

(c) The amount certified under Subsection (b)(2) shall be included in the budget of the state that the governor submits to the legislature. The legislature may appropriate money to pay administrative costs of the retirement system.

(d) Before September 1 of each year, the retirement system shall certify to the state comptroller of public accounts an estimate of the amount necessary to pay the state's contribution under Subsection (a) for the following fiscal year.

(e) All money allocated and appropriated by the state to the retirement system for benefits provided by the retirement system shall be paid, based on the annual estimate of the retirement system, in monthly installments to the retirement system. The money required for state contributions shall be from money appropriated to pay the compensation of the member for whose benefit the contribution or fee is paid. If the total of the estimated required payments is not equal to the total of the actual payments required for a fiscal year, the retirement system shall certify to the state comptroller of public accounts at the end of that year the amount required for necessary adjustments, and the comptroller shall make the required adjustments.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.103 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 38, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1423, Sec. 8.56, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1541, Sec. 31, eff. Sept. 1, 1999.

Sec. 840.105. EMPLOYER PICKUP OF MEMBER CONTRIBUTIONS. (a) For all state compensation earned by judicial officers who are members of the retirement system, the state shall pick up the member contributions required by Section 840.102 or 840A.101, as applicable. The state shall pay the picked-up contributions to the retirement system from the same source that is used in paying state compensation to the judicial officer members. These payments are in lieu of contributions by the members. The state shall pick up these contributions by a corresponding reduction in the cash salaries of the members, by an offset against a future salary increase, or by a combination of a salary reduction and offset against a future salary increase. Members do not have the option of choosing to receive the contributed amounts directly instead of having them paid by the state to the retirement system.

(b) Contributions picked up as provided by Subsection (a) shall be treated as employer contributions in determining tax treatment of the amounts under the United States Internal Revenue Code; however, the state shall continue to withhold federal income taxes on these picked-up contributions until the Internal Revenue Service determines or the federal courts rule that pursuant to Section 414(h) of the Internal Revenue Code of 1986 (26 U.S.C. Section 414(h)) these picked-up contributions are not includable as gross income of the member until the time that they are distributed or made available.

(c) Member contributions picked up as provided by Subsection (a) shall be transmitted to the retirement system in the manner required by Section 840.102. Member contributions picked up by the state shall be credited to the members' individual accounts and treated for all other purposes as if the amounts were a part of the members' compensation and had been deducted as provided by Section 840.102 or 840A.101, as applicable.

Added by Acts 1989, 71st Leg., ch. 56, Sec. 1, eff. May 3, 1989.

Renumbered from Title 110B, Sec. 75.105 by Acts 1989, 71st Leg., ch. 1100, Sec. 4.07, eff. Sept. 1, 1989.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 13, eff. June 18, 2023.

Sec. 840.106. ACTION INCREASING AMORTIZATION PERIOD. (a) A rate of member or state contributions to or a rate of interest required for the establishment of credit in the retirement system may not be reduced or eliminated, a type of service may not be made creditable in the retirement system, a limit on the maximum permissible amount of a type of creditable service may not be removed or raised, a new monetary benefit payable by the retirement system may not be established, and the determination of the amount of a monetary benefit from the system may not be increased, if, as a result of the particular action, the time, as determined by an actuarial valuation, required to amortize the unfunded actuarial liabilities of the retirement system would be increased to a period that exceeds 30 years by one or more years.

(b) If the amortization period for the unfunded actuarial liabilities of the retirement system exceeds 30 years by one or more years at the time an action described by Subsection (a) is proposed, the proposal may not be adopted if, as a result of the adoption, the amortization period would be increased, as determined by an actuarial valuation.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 39, eff. Sept. 1, 1993.

SUBCHAPTER C. OFFICERS AND EMPLOYEES OF BOARD OF TRUSTEES

Sec. 840.201. LEGAL ADVISER. The attorney general of the state is the legal adviser of the board of trustees. The attorney general shall represent the board in all litigation.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.201 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 840.202. MEDICAL BOARD. (a) The board of trustees shall

designate a medical board composed of three physicians.

(b) To be eligible to serve as a member of the medical board, a physician must be licensed to practice medicine in the state and be of good standing in the medical profession. A physician who is eligible to participate in the retirement system may not be a member of the medical board.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 34(4), eff. September 1, 2019.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.202 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. 2384), Sec. 34(4), eff. September 1, 2019.

Sec. 840.203. OTHER PHYSICIANS. The board of trustees may employ physicians in addition to the medical board to report on special cases.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.203 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 840.204. ACTUARY. (a) The board of trustees shall designate an actuary.

(b) An actuary employed under this section must be a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

(c) At least once every five years the actuary, under the direction of the board of trustees, shall make an actuarial investigation of the mortality, service, and compensation experience of the members and beneficiaries of the retirement system.

(d) On the basis of tables adopted by the board of trustees under Section 840.005, the actuary shall make a valuation of the assets and liabilities of the retirement system's funds annually.

(e) The actuary shall perform such other duties as are required by the board of trustees.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.204 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 840.205. FINANCIAL AND INVESTMENT SERVICES. The board of trustees may employ persons, either as full-time employees or as independent contractors, to assist the board in investing assets of the retirement system, in evaluating investments or investment services, or in otherwise managing financial operations of the retirement system.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.205 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 840.206. COMPTROLLER. (a) The comptroller is the custodian of the securities, bonds, and funds of the retirement system, except as provided by Section 840.3011 or 840.3012 of this subtitle.

(b) The comptroller shall pay money from the trust fund of the retirement system on warrants drawn by the state comptroller supported on vouchers signed by the executive director and the chairman of the board of trustees or their authorized representatives.

(c) The comptroller annually shall furnish to the board of trustees a sworn statement of the amount of the retirement system's assets in the comptroller's custody.

(d) The board of trustees may, in the exercise of its constitutional discretion to manage the funds of the retirement system, select one or more commercial banks, depository trust companies, or other entities to serve as custodian of all or part of the retirement system's assets.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.206 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 251, Sec. 9, 10, eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 8.57, eff. Sept. 1, 1997.

Sec. 840.207. COMPENSATION OF EMPLOYEES; PAYMENT OF EXPENSES. (a) The board of trustees shall compensate all persons whom it employs and shall pay all expenses necessary to operate the retirement system at rates and in amounts approved by the board. Those rates and amounts may not exceed those paid for the same or similar service for the state.

(b) The board of trustees shall pay compensation and expenses required by Subsection (a) from an appropriate account of the retirement system.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.207 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 840.209. INTEREST IN INVESTMENT PROFITS PROHIBITED. Except for an interest in retirement funds as a member of the retirement system, a trustee or employee of the board of trustees may not have a direct or indirect interest in the gains or profits of any investment made by the board and may not receive any pay or emolument for services other than the person's designated compensation and authorized expenses.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.209 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER D. MANAGEMENT OF ASSETS

Sec. 840.301. INVESTMENT OF ASSETS. (a) The board of trustees may, under the standard of care provided by Section 840.303, invest and reinvest the retirement system's assets and may commingle assets of the trust fund with the assets of the Employees Retirement System of Texas, including its trust fund and the law enforcement and custodial officer supplemental retirement fund, for investment purposes, as long as proportionate ownership records are maintained and credited.

(b) The board of trustees shall:

(1) invest the assets of the retirement system as a single fund without distinction as to their source; and

(2) hold securities purchased with the assets collectively

for the proportionate benefit of all accounts of the system established under Section 840.305(b).

(c) For purposes of the investment authority of the board of trustees under Section 67, Article XVI, Texas Constitution, "securities" means any investment instrument within the meaning of the term as defined by Section 4001.068, 15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10).

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985.
Amended by Acts 1989, 71st Leg., ch. 138, Sec. 2, eff. May 25, 1989.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.301 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 4.06(a), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 791, Sec. 40, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1541, Sec. 32, eff. Sept. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 2.22, eff. January 1, 2022.

Sec. 840.3011. CUSTODY AND INVESTMENT OF ASSETS PENDING TRANSACTIONS. The retirement system may, in the exercise of its constitutional discretion to manage the assets of the retirement system, select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the system's cash or securities pending completion of an investment transaction and may authorize such custodian to invest the cash so held in such short-term securities as the board of trustees determines, subject only to the provisions of Section 840.301 of this subtitle.

Added by Acts 1989, 71st Leg., ch. 251, Sec. 11, eff. Aug. 28, 1989.

Sec. 840.3012. SECURITIES LENDING. (a) The retirement system may, in the exercise of its constitutional discretion to manage the assets of the retirement system, select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the system's securities and to lend the securities under rules adopted by the board of trustees and as required by this section.

(b) To be eligible to lend securities under this section, a bank or brokerage firm must:

(1) be experienced in the operation of a fully secured securities loan program;

(2) maintain adequate capital in the prudent judgment of the retirement system to assure the safety of the securities;

(3) execute an indemnification agreement satisfactory in form and content to the retirement system fully indemnifying the retirement system against loss resulting from borrower default in its operation of a securities loan program for the system's securities; and

(4) require any securities broker or dealer to whom it lends securities belonging to the retirement system to deliver to and maintain with the custodian collateral in the form of cash or United States government securities in an amount equal to not less than 100 percent of the market value, from time to time, of the loaned securities.

Added by Acts 1989, 71st Leg., ch. 251, Sec. 11, eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 36, eff. Sept. 1, 1997.

Sec. 840.3013. NOMINEE TO HOLD SECURITIES. (a) The assets of the retirement system may be held in the name of agents, nominees, depository trust companies, or other entities designated by the board of trustees.

(b) The records and all relevant reports or accounts of the retirement system must show the ownership interest of the retirement system in these assets and the facts regarding the system's holdings.

(c) A trustee or employee of the retirement system shall have no personal economic interest in any entity listed in Subsection (a), but shall undertake such action and duties with respect to these entities as the board of trustees determines to be in the interest of the retirement system. This subsection does not prohibit:

(1) an interest in the assets as a member of the retirement system;

(2) the right to receive expense reimbursements at the same rate that the board member or employee would have received as a board member or employee; and

(3) such indemnification as is authorized by the board of trustees.

(d) The records of an agent, nominee, or other entity that are maintained by the retirement system are subject to audit by the state auditor.

Added by Acts 1989, 71st Leg., ch. 251, Sec. 12, eff. Aug. 28, 1989.

Sec. 840.303. DUTY OF CARE. The assets of the retirement system shall be invested and reinvested without distinction as to their source in accordance with Section 67, Article XVI, Texas Constitution. A determination of whether the board of trustees has exercised prudence with respect to an investment decision must be made taking into consideration the investment of all assets of the trust or all assets of the collective investment vehicle, as applicable, over which the board has management and control, rather than considering the prudence of a single investment of the trust or the collective investment vehicle, as applicable.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.303 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 37, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1111, Sec. 32, eff. Sept. 1, 2003.
Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.303 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 37, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1103, Sec. 12, eff. Jan. 1, 2004.
Reenacted by Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 29, eff. September 1, 2009.

Sec. 840.304. CASH ON HAND. (a) The board of trustees shall keep a sufficient amount of cash on hand to make payments as they become due each year under the retirement system.

(b) The amount of cash on hand may not exceed 10 percent of the total amount in the funds of the retirement system on deposit with the comptroller.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.304 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.59, eff. Sept. 1, 1997.

Sec. 840.305. ESTABLISHMENT OF FUND AND ACCOUNTS. (a) A trust fund for the Judicial Retirement System of Texas Plan Two is established in the state treasury.

(b) The board of trustees may establish such accounts for money in the trust fund of the retirement system as it considers necessary, in addition to members' individual accounts, for the administration of the system. All assets of the retirement system are creditable, according to the purpose for which they are held, to an appropriate account.

(c) The retirement system may transfer assets from one account to another, except from one member's individual account to another's, to pay benefits and administrative expenses as needed.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.305 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 840.306. INTEREST RATE. (a) Except as provided by Section 840A.103 or 840A.104, interest on money in a member's individual account in the retirement system is earned monthly and is computed at the rate of five percent a year on the mean balance of the member's account for the fiscal year.

(b) Unless an account is closed before the last day of the fiscal year, interest is computed for the fiscal year and is credited to the member's account as of the last day of the fiscal year.

(c) If an account is closed before the last day of the fiscal year, interest is computed for the following period:

(1) if the account is closed because of death, from the first day of the fiscal year through the last day of the month that preceded the month in which the member's death occurred;

(2) if the account is closed by withdrawal of accumulated contributions, from the first day of the fiscal year through the last

day of the month that precedes the month in which the withdrawal request is validated by the retirement system; or

(3) if the account is closed because of retirement, from the first day of the fiscal year through the effective date of retirement.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.306 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 14, eff. June 18, 2023.

SUBCHAPTER E. MISCELLANEOUS ADMINISTRATIVE PROCEDURES

Sec. 840.402. RETIREMENT SYSTEM RECORDS. Records of members, annuitants, retirees, beneficiaries, and alternate payees of the retirement system are confidential and are not subject to public disclosure and are exempt from the provisions of Chapter 552. Records maintained as confidential under this section may be released or received in the manner provided by Section 815.503.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.402 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(98), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1541, Sec. 33, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1231, Sec. 25, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 30, eff. September 1, 2009.

Sec. 840.403. REPRODUCTION AND PRESERVATION OF RECORDS. (a) The retirement system may photograph, microphotograph, or film any record in its possession.

(b) If a record is reproduced under Subsection (a), the retirement system may destroy or dispose of the original record if the system first:

(1) places the reproduction in a conveniently accessible file; and

(2) provides for the preservation, examination, and use of the reproduction.

(c) A photograph, microphotograph, or film of a record reproduced under Subsection (a) is equivalent to the original record for all purposes, including introduction as evidence in all courts and administrative agency proceedings. A duly certified or authenticated copy of such a photograph, microphotograph, or film is admissible as evidence equally with the original photograph, microphotograph, or film.

(d) The executive director or an authorized representative may certify the authenticity of a photograph, microphotograph, or film of a record reproduced under this section and shall charge a fee for the certified photograph, microphotograph, or film as provided by law.

(e) Certified records shall be furnished to any person who is authorized by law to receive them.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.403 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 840.404. BUDGET AND ACTUARIAL INFORMATION. The retirement system shall keep, in convenient form, data necessary for actuarial valuation of the funds of the retirement system and for checking the system's expenses.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 75.404 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 840.405. TRUSTEE-TO-TRUSTEE TRANSFER. Notwithstanding Section 836.004 and to the extent required as a condition of plan qualification under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401), the retirement system shall, in accordance with Section 401(a)(31) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)(31)) and related regulations, permit the distributee of an eligible rollover distribution to elect to have the distribution paid directly to an eligible retirement plan specified by the distributee in the form of a direct trustee-to-trustee transfer. The board of trustees may adopt rules to carry out

this section. Terms used in this section have the meanings assigned by the Internal Revenue Code of 1986 (Title 26, United States Code).

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 41, eff. Sept. 1, 1993.

Sec. 840.406. PLAN QUALIFICATION. (a) The provisions of this subtitle shall be interpreted and administered in a manner that permits the retirement system's benefit plan to be considered a qualified plan under Section 401, Internal Revenue Code of 1986 (26 U.S.C. Section 401). The board of trustees may adopt rules necessary to accomplish that purpose, and those rules are considered a part of the plan.

(b) The retirement system's benefit plan shall be considered the primary retirement plan for members of the retirement system in determining qualification status under Section 401(a), Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)).

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 42, eff. Sept. 1, 1993.

Sec. 840.407. EXCESS BENEFIT ARRANGEMENT. (a) A separate, nonqualified, unfunded excess benefit arrangement is created outside the trust fund of the retirement system. This excess benefit arrangement shall be administered as a governmental excess benefit arrangement under Section 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(m)). The purpose of the excess benefit arrangement is to pay to annuitants of the retirement system benefits otherwise payable by the retirement system that exceed the limitations on benefits imposed by Section 415(b)(1)(A) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(b)(1)(A)).

(b) The board of trustees is responsible for the administration of this arrangement. Except as otherwise provided by this section, the board has the same rights, duties, and responsibilities concerning the excess benefit arrangement as it has to the trust fund.

(c) Benefits under this section are exempt from execution to the same extent as provided by Section 836.004, except that the benefits are completely unassignable. Contributions to this arrangement are not held in trust and may not be commingled with other funds of the retirement system.

(d) An annuitant is entitled to a monthly benefit under this section in an amount equal to the amount by which the benefit otherwise payable by the retirement system has been reduced by the limitation on benefits imposed by Section 415(b)(1)(A) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(b)(1)(A)). The benefit payable by this arrangement is payable at the times and in the form that the benefit payable under the trust fund is paid.

(e) The benefit payable under this section shall be paid from state contributions that otherwise would be made to the trust fund under Section 840.103. In lieu of deposit in the state accumulation account, an amount determined by the retirement system to be necessary to pay benefits under this section shall be paid monthly to the credit of a dedicated account in the general revenue fund maintained only for the excess benefit arrangement. The account may include amounts needed to pay reasonable and necessary expenses of administering this arrangement. The monthly amount to be paid to the credit of the account shall be transferred to the account at least 15 days before the date of a monthly disbursement under this section.

(f) The board of trustees may adopt rules governing the excess benefit arrangement that are necessary for the efficient administration of the arrangement in compliance with Section 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(m)).

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 15, eff. June 18, 2023.

CHAPTER 840A. CASH BALANCE BENEFIT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 840A.001. DEFINITION. In this chapter, "accumulated account balance" means the total of amounts in a member's individual account in the retirement system, including:

(1) amounts deducted from the compensation of the member;

(2) other member deposits required to be placed in the member's individual account; and

(3) interest credited to amounts in the member's individual account, including interest and gain sharing interest credited in accordance with Sections 840A.103 and 840A.104, respectively.

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 16, eff. June 18, 2023.

Sec. 840A.002. APPLICABILITY. This chapter applies only to a member who:

(1) took office on or after September 1, 2024; and

(2) was not a member on the date the member took office.

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 16, eff. June 18, 2023.

Sec. 840A.003. CONFLICT OF LAW. To the extent of a conflict between this chapter, including a rule adopted by the retirement system under authority of this chapter, and any other law, this chapter prevails.

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 16, eff. June 18, 2023.

Sec. 840A.004. RULES. The board of trustees may adopt rules necessary to implement this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 16, eff. June 18, 2023.

SUBCHAPTER B. CASH BALANCE BENEFITS

Sec. 840A.051. APPLICATION FOR CASH BALANCE BENEFIT. (a) A member may apply for a cash balance annuity by filing an application for retirement with the board of trustees.

(b) An application for a cash balance annuity may not be made:

(1) after the date the member wishes to retire; or

(2) more than 90 days before the date the member wishes to retire.

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 16, eff. June 18, 2023.

Sec. 840A.052. ELIGIBILITY FOR CASH BALANCE BENEFIT. A member

is eligible to retire and receive a cash balance annuity if the member:

(1) is at least 60 years old and has at least eight years of service credited in the retirement system; or

(2) is at least 50 years old and has at least 12 years of service credited in the retirement system.

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 16, eff. June 18, 2023.

Sec. 840A.053. STANDARD CASH BALANCE BENEFITS FOR MEMBERS. (a) The state match for the cash balance benefit is an amount computed by multiplying the member's accumulated account balance by 150 percent.

(b) The retirement system shall compute a member's standard cash balance annuity under this section by taking the sum of the member's accumulated account balance and the state match computed under Subsection (a) and annuitizing that amount over the life expectancy of the member as of the effective date of the member's retirement using mortality and other tables adopted by the board of trustees for that purpose under Section 840.005.

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 16, eff. June 18, 2023.

Sec. 840A.054. OPTIONAL CASH BALANCE BENEFITS. (a) Instead of the standard cash balance annuity payable under Section 840A.053, a retiring member may elect to receive an optional cash balance annuity under this section.

(b) A person who selects an optional lifetime cash balance annuity must designate, before the selection becomes effective, one beneficiary to receive the annuity on the death of the person making the selection. A person who selects an optional cash balance annuity payable for a guaranteed period may designate, before or after retirement, one or more beneficiaries to receive the annuity on the death of the person making the selection.

(c) A person eligible to select an optional cash balance annuity under this section may select an option which provides that:

(1) after the retiree's death, the reduced annuity is payable in the same amount throughout the life of the beneficiary

designated by the retiree before retirement;

(2) after the retiree's death, one-half of the reduced annuity is payable throughout the life of the beneficiary designated by the retiree before retirement;

(3) if the retiree dies before 60 monthly annuity payments have been made, the remainder of the 60 payments are payable to one or more beneficiaries or, if one does not exist, to the retiree's estate;

(4) if the retiree dies before 120 monthly annuity payments have been made, the remainder of the 120 payments are payable to one or more beneficiaries or, if one does not exist, to the retiree's estate; or

(5) after the retiree's death, three-fourths of the reduced annuity is payable throughout the life of the beneficiary designated by the retiree before retirement.

(d) If a beneficiary designated by a retiree under Subsection (b) predeceases the retiree and the retiree has elected an optional lifetime annuity, the reduced annuity shall be increased to the standard cash balance annuity that the retiree would have been entitled to receive if the retiree had not selected the optional annuity. The standard cash balance annuity shall be adjusted as appropriate for post-retirement increases in retirement benefits authorized by law since the date of retirement.

(e) Any increase in an annuity under Subsection (d) begins with the payment for the month following the month in which the designated beneficiary dies, and the increased annuity is payable to the retiree for the remainder of the retiree's life.

(f) The computation of an optional cash balance annuity must be made without regard to the gender of the annuitant or designated beneficiary.

(g) Except as provided by Section 840A.055, a person who selected an optional cash balance annuity described by Subsection (c)(1), (2), or (5) may not change or revoke a beneficiary designation after the person's effective date of retirement.

(h) A beneficiary designation that names a former spouse as a beneficiary for a guaranteed optional cash balance annuity described by Subsection (c)(3) or (4) is invalid unless the designation is made after the date of the divorce.

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 16,

eff. June 18, 2023.

Sec. 840A.055. CHANGE IN OPTIONAL CASH BALANCE ANNUITY SELECTION. (a) A person who retired and selected an optional cash balance annuity described by Section 840A.054(c)(1), (2), or (5) may change the optional annuity to a standard cash balance annuity only if:

(1) pursuant to a divorce decree, a court orders the change in the annuity to a standard cash balance annuity; or

(2) the retiree files with the retirement system a request to change the annuity and, in connection with a divorce between the retiree and the beneficiary designated by the retiree under Section 840A.054(b), the beneficiary has executed a written, notarized instrument that:

(A) releases the system from any claim to the annuity by the beneficiary; and

(B) transfers all of the beneficiary's interest in the annuity to the retiree.

(b) If a retiree files a request as provided by Subsection (a), the retirement system shall recompute the annuity as a standard cash balance annuity. The increase in the annuity under this section begins with the monthly payment made to the retiree for the month following the month in which a request is filed as provided by Subsection (a).

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 16, eff. June 18, 2023.

Sec. 840A.056. PARTIAL LUMP-SUM CASH BALANCE OPTION. (a) A member who is eligible for a cash balance annuity may select a standard cash balance annuity under Section 840A.053 or an optional cash balance annuity under Section 840A.054, together with a partial lump-sum distribution.

(b) The amount of the lump-sum distribution under this section may not exceed the sum of 36 months of a standard cash balance annuity computed without regard to this section.

(c) The cash balance annuity selected by the member shall be actuarially reduced to reflect the lump-sum option selected by the

member and shall be actuarially equivalent to a standard or optional cash balance annuity, as applicable, without the partial lump-sum distribution. The annuity and lump sum shall be computed to result in no actuarial loss to the retirement system.

(d) The lump-sum distribution shall be made as a single payment payable at the time that the first monthly annuity payment is paid.

(e) The amount of the lump-sum distribution shall be deducted from any amount otherwise payable under this chapter.

(f) The partial lump-sum option under this section may be elected only once by a member and may not be elected by a retiree. A member retiring under the proportionate retirement program under Chapter 803 is not eligible for the partial lump-sum option.

(g) Before a retiring member selects a partial lump-sum distribution under this section:

(1) the retirement system shall provide written notice to the member of the amount by which the member's annuity will be reduced because of the selection; and

(2) the member must acknowledge receipt of the notice in writing.

(h) The board of trustees may adopt rules for the implementation of this section and may authorize the option to be used for a death benefit annuity. This section does not apply to a disability retirement annuity.

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 16, eff. June 18, 2023.

Sec. 840A.057. DEATH AND DISABILITY BENEFITS. (a) Notwithstanding any other law, a member subject to this chapter, a retiree receiving a cash balance annuity under this chapter, or the beneficiary of a member or retiree described by this subsection, who qualifies for a death or survivor benefit annuity or a disability retirement annuity under Chapter 839 is entitled to a cash balance annuity under this subchapter instead of the annuity otherwise provided under Chapter 839.

(b) The board of trustees may enter into contracts to provide additional death and disability benefits under this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 16, eff. June 18, 2023.

SUBCHAPTER C. CONTRIBUTIONS AND INTEREST

Sec. 840A.101. COLLECTION OF MEMBER CONTRIBUTIONS. Each payroll period, each department or agency of the state shall cause to be deducted from the compensation of a member subject to this chapter a contribution of six percent of the compensation of the member.

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 16, eff. June 18, 2023.

Sec. 840A.102. STATE CONTRIBUTIONS FOR MILITARY SERVICE. (a) The state shall contribute for military service established under Section 838.1031 an amount in the same ratio to the member's contribution for the service as the state's contribution bears to the contribution for current service required of a member of the retirement system who is subject to this chapter at the time the service is established under this subchapter.

(b) The state's contribution under Subsection (a) shall be paid from the fund from which the member receives compensation at the time the service is established or, if the member does not hold a position at the time the service is established, from the fund from which the member received compensation when the member most recently held a position.

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 16, eff. June 18, 2023.

Sec. 840A.103. ANNUAL INTEREST ADJUSTMENT. Each fiscal year, the retirement system shall deposit for a member subject to this chapter an amount equal to four percent of the member's accumulated account balance deposited into the member's individual account in the retirement system.

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 16, eff. June 18, 2023.

Sec. 840A.104. GAIN SHARING INTEREST ADJUSTMENT. (a) Each

fiscal year and subject to Subsection (b), the retirement system shall compute the gain sharing interest rate by:

(1) determining the average return on the investment of the system's cash and securities during the preceding five fiscal years, expressed as a percentage rate;

(2) subtracting four percentage points from the percentage rate determined under Subdivision (1); and

(3) multiplying the resulting difference under Subdivision (2) by 50 percent.

(b) Subject to Subsection (c), each fiscal year, the retirement system shall:

(1) in addition to the amount deposited under Section 840A.103, deposit into each member's individual account in the retirement system an amount equal to the gain sharing interest rate determined under Subsection (a) for the fiscal year multiplied by the member's accumulated account balance as of the end of the preceding fiscal year; and

(2) recalculate the annuity payment of a retiree or annuitant under this chapter by:

(A) multiplying the annuity payment amount as of the end of the preceding fiscal year by the gain sharing interest rate determined under Subsection (a); or

(B) if the retiree or annuitant was not entitled to an annuity payment as of the end of the preceding fiscal year, multiplying the retiree's or annuitant's first annuity payment amount by the gain sharing interest rate determined under Subsection (a).

(c) The gain sharing interest rate applied under Subsection (b) may not be less than zero or more than three percent.

(d) Subsection (b) applies only to a retiree or annuitant who is receiving a cash balance annuity under Section 840A.053 or 840A.054, including an alternate payee under Section 804.005.

Added by Acts 2023, 88th Leg., R.S., Ch. 1092 (S.B. 1245), Sec. 16, eff. June 18, 2023.

SUBTITLE F. TEXAS COUNTY AND DISTRICT RETIREMENT SYSTEM

CHAPTER 841. GENERAL PROVISIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 841.001. DEFINITIONS. In this subtitle:

(1) "Actuarial equivalent" means a benefit that, at the time it is begun, has the same present value as the benefit it replaces, based on seven percent annual interest and either:

(A) the mortality table published by the Conference of Actuaries in Public Practice and known as the UP-1984 table with an age setback of five years for retired or disabled annuitants and an age setback of 10 years for beneficiaries, with a 30-percent reserve refund assumption for the standard benefit; or

(B) a mortality basis adopted under Section 845.110(c).

(1-a) "Accrued benefit" means the sum of a member's accumulated contributions and service credit calculated as of a specified date.

(2) "Accumulated contributions" means the contributions, other member deposits, and interest credited to a member's individual account in the employees saving fund.

(3) "Annuity" means an amount of money payable in equal monthly installments at the end of each month for a period determined under this subtitle.

(4) "Beneficiary" means an individual or entity designated by a member or annuitant or by statute to receive a benefit payable under this subtitle because of the death of a member or an annuitant. The term does not include an "alternate payee" as defined by Section 804.001.

(5) "Board of trustees" means the persons appointed under this subtitle to administer the retirement system.

(6) "Compensation" means the sum of payments that are made to an employee for performance of personal services as certified by a participating subdivision, including nonmonetary compensation, the value of which is determined by the governing body of the subdivision, on which contributions by an employee to the retirement system are based, which may not exceed either the limit provided by Section 401(a)(17) of the Internal Revenue Code of 1986, as indexed in the manner provided by that section, or a lesser amount established by rule of the board of trustees. The term includes amounts by which payment for earnings is reduced because of employer pick-up of employee contributions to the retirement system under Section 845.403, deferral of compensation under benefit plans or tax-sheltered annuity programs adopted by the subdivision under Section 401(k), 403(b), or 457 of the Internal Revenue Code of 1986, the costs of benefits furnished under qualified cafeteria plans adopted

by the subdivision under Section 125 of the Internal Revenue Code of 1986, and deductions for Federal Insurance Contribution Act taxes, federal income taxes, or other obligations of the employee. The term does not include workers' compensation benefits received by a member under Section 504.011, Labor Code.

(7) "Credited service" means the number of months of prior, current, and optional service ascribed to a member in the retirement system.

(7-a) "Director" means the person appointed as director under Section 845.202.

(8) "Employee" means a person, other than a person determined by a subdivision to be a temporary employee, who is certified by a subdivision as being employed in, or elected or appointed to, a position or office in the subdivision for which the person is compensated by the subdivision. The term includes a person described by Section 842.107 only as provided by that section.

(9) "Governing body" means the commissioners court of a county or, in any other subdivision, the body that is authorized to raise and expend revenue.

(10) "Initial deposit rate" means the percentage of the annual compensation of an employee of a participating subdivision that is required by the subdivision on the effective date of subdivision participation in the retirement system as the rate for employee contributions to the retirement system.

(11) "Local pension system" means a public retirement benefit program of less than statewide scope.

(12) "Retirement" means the withdrawal from service with a retirement benefit granted under this subtitle.

(13) "Retirement annuity" means the service, disability, or survivor benefit paid under this subtitle in the form of an annuity.

(14) "Retirement system" means the Texas County and District Retirement System.

(15) "Service" means the time a person is an employee.

(16) "Service credit" means the monetary credits allowed a member for service for a participating subdivision.

(17) "Subdivision" means a political subdivision of the state that is not eligible to participate in any other statewide retirement system or that is not currently participating in a retirement system established by the legislature. The term includes the Texas Association of Counties, the retirement system, and a city-

county hospital jointly managed under Subchapter B, Chapter 265, Health and Safety Code. The term does not include a branch, division, department, employee classification group, or other separately identified component of a political subdivision.

(18) "Optional group term life program" means the voluntary, employer-funded optional death benefit program established under Subchapter F, Chapter 844.

(19) "Vested member" means a member who may withdraw from employment with all participating subdivisions, leave the member's accumulated contributions on deposit with the retirement system, and, on meeting the age and length-of-service requirements for service retirement, file an application for retirement and begin to receive a service retirement annuity.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 63, Sec. 1, eff. May 6, 1987; Acts 1989, 71st Leg., ch. 664, Sec. 3, eff. June 14, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.001 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(85), eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 16, Sec. 11.03(a), eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 245, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 309, Sec. 1, eff. Dec. 1, 1997; Acts 1997, 75th Leg., ch. 703, Sec. 2, eff. June 17, 1997; Acts 1999, 76th Leg., ch. 427, Sec. 1, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 1, eff. Dec. 31, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 1, eff. Jan. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 2, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 1, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 1, eff. January 1, 2010.

Sec. 841.002. PURPOSE OF SUBTITLE. The purpose of this subtitle is to establish a program of benefits for members, retirees, and their beneficiaries and to establish rules for the management and operation of the retirement system. The assets of the retirement

system are held in trust for the exclusive benefit of the members, the retirees, and their beneficiaries and may not be diverted. Forfeitures may not be applied to increase the benefits any person would otherwise receive under this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 309, Sec. 2, eff. Dec. 1, 1997.

Sec. 841.003. RETIREMENT SYSTEM. The Texas County and District Retirement System is continued in existence and is the name by which the business of the retirement system shall be transacted, all its funds invested, and all its cash and other property held.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 841.004. POWERS, PRIVILEGES, AND IMMUNITIES. (a) The retirement system is a governmental entity and has the powers, privileges, and immunities of a corporation, as well as the powers, privileges, and immunities conferred by this subtitle.

(b) The board of trustees, director, investment officer, and employees of the retirement system are not liable for any action taken or omission made or suffered by them in the good faith performance of any duty in connection with any program or benefit administered by the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 2, eff. January 1, 2008.

Sec. 841.005. ACTIONS FOR ACCOUNTING. (a) The retirement system or the board of trustees may initiate, or cause to be

initiated on its behalf, an action against a participating subdivision, a board of the subdivision, or individual officers of the subdivision, to compel an accounting of sums due to the retirement system or to require the withholding and accounting of sums due from members.

(b) The venue of an action brought under this section is in either Travis County or a county in which the subdivision is situated.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.005 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 841.0051. VENUE. (a) The venue of any action brought against the retirement system in a state court or before the State Office of Administrative Hearings is in Travis County.

(b) The venue of any action brought in a state court by the retirement system is in Travis County or in the county in which the defendant is situated, domiciled, or does business.

Added by Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 3, eff. January 1, 2006.

Sec. 841.006. EXEMPTION FROM EXECUTION.(a) All retirement annuity payments, other benefit payments, and a member's accumulated contributions are unassignable and are exempt from execution, garnishment, attachment, and state and local taxation.

(b) Notwithstanding Subsection (a), the board of trustees by rule may authorize the retirement system, in accordance with a retiree's voluntary election, to:

(1) deduct qualified health insurance premiums from the retirement annuity otherwise distributable to a retiree who is an eligible public safety officer or a retiree who meets any expanded eligibility provision for a similar tax exemption under subsequent federal legislation; and

(2) pay the deducted amount directly to the health plan provider, subject to the requirements of Section 402(l), Internal Revenue Code of 1986, or other applicable federal law, and the rules adopted by the board.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.006 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 2, eff. January 1, 2010.

Sec. 841.007. REDUCTION OF ANNUITY PAYMENTS ON REQUEST. (a) An annuitant by written request may authorize the retirement system to reduce the annuitant's monthly payment to an amount specified in the request. In writing, the annuitant may subsequently request the retirement system to increase the annuitant's monthly payment to any specified amount that does not exceed the amount payable if a reduction had never been requested.

(b) If the retirement system receives a request under Subsection (a), the director may cause the monthly annuity payment of the requesting annuitant to be reduced or increased as specified in the request.

(c) Any amounts by which an annuity is reduced under this section are forfeited to the retirement system and are not recoverable by any person.

Added by Acts 1985, 69th Leg., ch. 491, Sec. 1, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.007 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 841.008. APPLICATIONS BY, AND PAYMENTS TO, PERSONS OTHER THAN MEMBERS, BENEFICIARIES, AND ANNUITANTS. (a) The board of trustees may accept an application for any benefit under this subtitle that is signed on behalf of a person entitled to the benefit by:

(1) an appointed guardian of the person and estate of the person; or

(2) an attorney in fact authorized to act on behalf of the person by a written power of attorney that provides that the power is not revoked by disability of the person, except that an attorney in fact who is not the person's spouse may not select a benefit in which the attorney in fact or a direct ancestor or lineal descendant of the

attorney in fact is a named beneficiary, unless the attorney in fact designates as the person's beneficiary:

(A) the same individuals, with the same share of the benefit that each would have received if the person had died immediately before the beneficiary designation by the attorney in fact; or

(B) all individuals who bear the same relationship to the attorney in fact, with the same share of the benefit that each would have received if the person had died intestate.

(b) If it is made to appear to the director by affidavit of a licensed physician that a person entitled to a benefit is not mentally capable of managing the person's own affairs, and if the director reasonably believes that the estate of the person is insufficient to justify the expense of establishing a guardianship, or continuing a guardianship after letters of guardianship have expired, then until current letters of guardianship are filed with the retirement system, the director may make payment of any annuity or other benefit:

(1) to the spouse of the person, as trustee for the person;

(2) to an individual or entity actually providing for the needs of and caring for the person, as trustee for the person; or

(3) to a public agency or private charitable organization providing assistance or services to the aged or incapacitated that agrees to accept and manage the payment for the benefit of the person as a trustee.

(c) If requested by the person entitled to the benefit or the guardian, attorney in fact, or trustee of the person, the director may, if the director determines that it is in the best interest of the person entitled to the benefit, make payments directly to the trustee of:

(1) a trust described by Subchapter B, Chapter 1301, Estates Code, that has been created for the management of guardianship funds for the benefit of the person; or

(2) a trust described by 42 U.S.C. Section 1396p(d)(4)(A), (B), or (C) that has been established to qualify the person for benefits or other assistance under a state or federal program or to supplement the benefits or other assistance provided under the program.

(c-1) If the director reasonably believes that the individual or entity accepting benefits for the person has breached a fiduciary

duty owed to the person or is failing to act in the interest of or for the benefit of the person and the person may suffer personal or financial harm as a result, the retirement system, on giving notice to the individual or entity receiving payments on behalf of the person, may cease making payments to the individual or entity. Thereafter, the system may make payment of any annuity or other benefit in a manner provided by Subsection (b). This subsection does not apply if a court of competent jurisdiction has appointed the individual or entity accepting benefits for the person.

(d) The director may require proof of facts used to establish a right under this section by evidence the director determines is satisfactory.

Added by Acts 1985, 69th Leg., ch. 491, Sec. 2, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.008 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 2, eff. Dec. 31, 2001. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 3, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.042, eff. September 1, 2017.

Sec. 841.009. DIVORCE-DECREE PAYMENTS PROTECTED. The system and officials of the system are not liable to any person for making payments of any benefits in accordance with the provisions of a decree of divorce in a cause in which the member or annuitant was a party.

Added by Acts 1985, 69th Leg., ch. 291, Sec. 3, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.009 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 841.0091. DIVISION OF BENEFITS ON DIVORCE OF MEMBER. (a) On receipt of a qualified domestic relations order incident to a divorce that awards a portion of a member's accrued benefit to a former spouse of the member and that strictly follows the terms and format of the model qualified domestic relations order, as well as any other requirements, adopted by the board of trustees for this

purpose, the retirement system shall divide the accrued benefit into two separate benefits that, in combination at the time of division, are actuarially equivalent to the undivided accrued benefit.

(b) Following a division described by Subsection (a), the portion of the accrued benefit awarded the alternate payee is considered the alternate payee's sole and separate property in which the member has no interest. The board of trustees by rule shall define and specify the rights and responsibilities of the alternate payee and the terms and features of the benefit awarded the alternate payee under the order, but in no event may the alternate payee vest in the accrued benefit before the member vests or attain greater rights than are attained by the member or the member's beneficiary.

(c) Notwithstanding Section 804.101, the board of trustees by rule may prescribe terms on which the interest awarded the alternate payee under a qualified domestic relations order described by this section may be transferred at the alternate payee's death.

(d) The board of trustees has sole authority and discretion to:

(1) specify the terms and format that are required for a qualified domestic relations order to be acceptable for purposes of Subsection (a);

(2) require strict compliance for qualification;

(3) specify the dates on which a distribution to an alternate payee may or must begin; and

(4) establish rules for the administration of this section.

(e) This section applies to all domestic relations orders described by this section that the retirement system first determines to be qualified on or after September 1, 2009, and to those domestic relations orders determined to be qualified before September 1, 2009, that the system further determines can be construed to allow a division described by this section without harm or injury to the member's interest awarded under the original qualified order. The actuarial equivalent value of the accrued benefit payable to an alternate payee may not be greater than the actuarial equivalent value of the accrued benefit as if there had been no division and the accrued benefit had been payable to the member in the form of an annuity.

Added by Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 3, eff. September 1, 2009.

Sec. 841.010. DISTRIBUTION REQUIREMENTS. (a) Notwithstanding any other provision of this subtitle, all distributions under this subtitle must be determined and made in accordance with Section 401(a)(9) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401) and the regulations adopted under that provision, including the minimum incidental death benefit distribution requirement of Section 401(a)(9)(G) of that code. The board of trustees may adopt rules relating to the selection, payment, and distribution of benefits to ensure compliance with federal statutes and regulations.

(b) The entire vested interest of a participant must be distributed or begin to be distributed not later than the required beginning date as determined in accordance with Section 401(a)(9) of the Internal Revenue Code of 1986 and the regulations adopted under that provision. If the participant dies after distribution of the participant's interest has begun, the remaining portion of the interest will continue to be distributed at least as rapidly as the method of distribution being used before the participant's death. If the participant dies before distribution of the participant's interest begins, distribution of the participant's entire interest must be made in a manner complying with Section 401(a)(9)(B) of the code.

Added by Acts 1997, 75th Leg., ch. 309, Sec. 3, eff. Dec. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 122, Sec. 3, eff. Dec. 31, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 4, eff. January 1, 2006.

Sec. 841.011. FULL VESTING OF ACCRUED BENEFITS AT TERMINATION. If the retirement system is terminated or if there is a complete discontinuance of contributions to the retirement system, each member will become fully vested in that member's accrued benefit to the extent funded as of the date of termination or contribution discontinuance.

Added by Acts 1997, 75th Leg., ch. 309, Sec. 3, eff. Dec. 1, 1997.

SUBCHAPTER B. PENAL PROVISIONS

Sec. 841.101. OFFENSES; PENALTY. (a) A person commits an

offense if the person knowingly makes a false statement in a report or application to the retirement system in an attempt to defraud the retirement system.

(b) A person commits an offense if the person knowingly makes a false certificate of an official report to the retirement system.

(c) A person commits an offense if the person knowingly fails to return money received from the retirement system to which the person is not entitled.

(d) An offense under this section is a misdemeanor punishable by a fine of not less than $100 nor more than $1,000, by confinement in jail for not less than 30 days nor more than one year, or both.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 4, eff. Dec. 31, 2001.

CHAPTER 842. MEMBERSHIP

SUBCHAPTER A. SUBDIVISION PARTICIPATION

Sec. 842.001. SUBDIVISION PARTICIPATION. (a) A subdivision, in the manner required for official actions of the subdivision, may elect to join the retirement system and be subject to the provisions of this subtitle.

(b) Repealed by Acts 2007, 80th Leg., R.S., Ch. 873, Sec. 92(1), eff. January 1, 2008.

(c) A political subdivision other than a county may participate in the retirement system only upon approval of the board of trustees of the system.

(d) Subject to the approval of the board of trustees, an electing subdivision under this section may begin participation in the retirement system on the date specified by the subdivision's governing body.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 491, Sec. 4, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 4, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 92(1), eff. January 1, 2008.

Sec. 842.002. RULES FOR PARTICIPATING SUBDIVISIONS. The board of trustees may adopt rules concerning:

(1) notices, information, and reports the board of trustees requires from a subdivision that elects to participate in the retirement system;

(2) the time that a subdivision that elects to participate in the retirement system may begin participation and the actions that subdivision may take in anticipation of board approval under Section 842.001; and

(3) the powers and duties of a participating subdivision to adopt orders or resolutions, make elections, and otherwise exercise decision-making authority concerning the rights and benefits of the members and annuitants under a plan adopted or assumed by the subdivision.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 5, eff. Dec. 31, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 5, eff. January 1, 2008.

Sec. 842.004. OPTIONAL GROUP TERM LIFE PROGRAM. (a) A subdivision participating in the retirement system may elect to participate in the optional group term life program.

(b) A subdivision that elects to participate in the program may elect coverage providing postretirement death benefits in addition to coverage providing in-service death benefits.

(c) A subdivision that elects to participate in the program may begin participation on the first day of any month after the month in which the subdivision gives notice of its election to the board of trustees.

(d) If before November 1 of any year a subdivision gives written notice of its intention to the retirement system, the

subdivision may terminate coverage under and discontinue participation in the program. A termination under this subsection is effective on January 1 of the year following the year in which notice is given.

(e) If a subdivision has previously discontinued participation in the program, the board of trustees in its discretion may restrict the right of the subdivision to participate again.

Added by Acts 1981, 67th Leg., 1st C.S., p. 208, ch. 18, Sec. 40, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.0031 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 1, eff. Jan. 1, 1992; Acts 1999, 76th Leg., ch. 427, Sec. 2, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 6, eff. Dec. 31, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 6, eff. January 1, 2008.

Sec. 842.007. SUBDIVISION NOT AGENT OF SYSTEM. Neither a subdivision that participates in the retirement system nor any employee or officer of a participating subdivision has authority to act as an agent of the retirement system. An action or inaction on the part of a participating subdivision or its employee or officer is not binding on the retirement system.

Added by Acts 1993, 73rd Leg., ch. 175, Sec. 2, eff. Jan. 1, 1994.

Sec. 842.0075. ASSUMPTION BY SUCCESSOR SUBDIVISION. (a) The governing body of a participating subdivision may, with the consent of the board of trustees and on terms approved by the board, assume the subdivision account and pension liabilities of a subdivision that no longer exists, is in the process of dissolution, is changing its operational form, or no longer has employees. The account and pension liabilities of a subdivision described by this subsection may not be assumed if the subdivision has executed a voluntary termination agreement under Section 842.052 or if the board has specified a date under Section 842.053 for the involuntary termination of the subdivision's participation in the retirement system.

(b) Subject to any limitation set by the board of trustees, the governing body of the assuming subdivision may exercise any authority with respect to plan provisions applicable to members and annuitants of the subdivision plan being assumed that the governing body of that subdivision could have exercised.

(c) Except as otherwise provided by this section, all retirement plan provisions in effect on the assumption date remain in effect until changed by the governing body of the assuming subdivision.

(d) As of the assumption date, the account in the subdivision accumulation fund being assumed and the account of the assuming subdivision will be treated as one account for the purposes of receiving allocations under this subtitle and paying benefits accrued with respect to either subdivision.

(e) The retirement system is not liable to any person for any claim or loss of benefits resulting from the assumption by another participating subdivision of the account and pension liabilities of a subdivision described by Subsection (a).

(f) The board of trustees by rule may establish standards, definitions, and procedures it considers necessary to administer this section and shall take reasonable actions and exercise its discretion in a fair and equitable manner on a case-by-case basis to preserve accrued benefits.

Added by Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 5, eff. January 1, 2006.

Sec. 842.008. PARTIAL ASSUMPTION BY TRANSFEREE SUBDIVISION. If a function or activity previously performed by employees of a participating subdivision is transferred to or otherwise taken over by another participating subdivision and any of the employees performing the function or activity transfer to and become employees of the subdivision taking over the function or activity, with the consent of and on terms approved by the board of trustees, the pension liabilities accrued by the transferring employees for service with the transferring subdivision, together with an appropriate portion of trust assets in the account of the transferring subdivision, may be treated as and considered to be a separate account and pension liabilities of the subdivision taking over the

function or activity.

Added by Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 7, eff. January 1, 2008.

SUBCHAPTER A-1. TERMINATION OF PARTICIPATION BY SUBDIVISIONS

Sec. 842.051. GENERAL PROVISIONS. (a) Notwithstanding any provision of this subchapter to the contrary, to the extent required by applicable provisions of the Internal Revenue Code of 1986, on termination of a subdivision's participation in the retirement system or on complete discontinuance of contributions, each member becomes fully vested in the member's accrued benefit with respect to the subdivision to the extent funded as of the date of termination or contribution discontinuance.

(b) The retirement system is not liable to any person for any claim or loss of benefits resulting from the termination of a subdivision's participation in the system or the failure of a subdivision to make required contributions or payments under a termination agreement.

(c) The board of trustees by rule may establish standards, definitions, and procedures it considers necessary to administer this subchapter and shall take reasonable actions and exercise its discretion in a fair and equitable manner on a case-by-case basis to preserve accrued benefits.

Added by Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 6, eff. January 1, 2006.

Sec. 842.052. VOLUNTARY TERMINATION OF PARTICIPATION. (a) With the consent of the board of trustees, a subdivision other than a county may voluntarily terminate its participation in the retirement system if the subdivision agrees to be contractually and legally bound, on terms approved by the board, to fund:

(1) all benefits accrued before the date specified in the termination agreement and payable on or after that date in accordance with Subsection (e); and

(2) all supplemental annuities.

(b) Beginning with the date specified in the termination agreement, additional employee contributions or deposits may not be

made to a member's account and additional service with the subdivision may not be credited to a member, except as authorized by the board. Except as otherwise provided by this section, all other retirement plan provisions then in effect remain in effect.

(c) Beginning with the date specified in the termination agreement, the subdivision's account in the subdivision accumulation fund ceases to receive allocations under this subtitle for any prior, current, or future plan year, except as authorized by the board.

(d) On full performance of the termination agreement, the subdivision is released from all liability for its accrued benefits and supplemental annuities. The retirement system shall make transfers from the subdivision's account to the appropriate funds within the system in amounts actuarially equivalent to the accrued benefits and supplemental annuities. The retirement system shall pay any amounts remaining in the subdivision's account after satisfaction of all the subdivision's pension liabilities to the subdivision or its governmental successor in interest in accordance with Section 845.317(b).

(e) On full performance of the termination agreement, each member who has not received a refund of accumulated contributions becomes fully vested in the member's accrued benefits with respect to the subdivision and is immediately eligible to retire with a service retirement annuity or to take a distribution of the accrued benefits in a lump sum, regardless of age, service, or employment.

(f) A member vested under Subsection (e) or Section 842.051(a) is an eligible member under Section 844.407. For the purpose of determining any death benefit payable under Section 844.402, the member's individual account consists only of the deposits and contributions made by the member and the accumulated interest attributable to those amounts.

Added by Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 6, eff. January 1, 2006.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 8, eff. January 1, 2008.

Sec. 842.053. INVOLUNTARY TERMINATION OF PARTICIPATION. (a) The board of trustees by order may terminate the participation of a

subdivision other than a county if the board determines that:

(1) the subdivision has failed to perform in accordance with a termination agreement under Section 842.052;

(2) the subdivision has ceased to exist, is in the process of dissolving, or is changing its operational form;

(3) benefits accrued for service with the subdivision may be at risk of forfeiture;

(4) the retirement system no longer serves as an effective program for providing retirement, disability, and death benefits to the employees of the subdivision because of the action or inaction of the subdivision or because of a significant change in covered payroll, number of contributing members, workforce composition, general revenues, or other circumstances of the subdivision; or

(5) the continued participation of the subdivision is not in the best interest of the retirement system, the subdivision, the employees of the subdivision, or the other participating subdivisions.

(b) Beginning with a date specified by the board, additional employee deposits or contributions may not be made to a member's account with the subdivision and additional service with the subdivision may not be credited to a member, except as authorized by the board. Except as otherwise provided by this subchapter, all other retirement plan provisions then in effect remain in effect.

(c) Beginning with a date specified by the board, the subdivision's account in the subdivision accumulation fund ceases to receive allocations under this subtitle for any prior, current, or future plan year except as authorized by the board.

(d) Beginning with a date specified by the board, the retirement system shall value the accrued benefits and supplemental annuities with respect to the subdivision's participation as immediately payable under this subchapter. If the assets in the subdivision's account exceed the actuarial equivalent value of pension benefits, the subdivision is released from all liability with respect to the accrued benefits and supplemental annuities. The retirement system shall make transfers from the subdivision's account to the appropriate funds within the system in amounts actuarially equivalent to all accrued benefits and supplemental annuities. The retirement system shall pay any amount remaining in the subdivision's account after satisfaction of all the subdivision's pension liabilities to the subdivision or its governmental successor in

interest in accordance with Section 845.317(b).

(e) If the actuarial equivalent value of pension benefits exceeds the assets in the subdivision's account, the subdivision or its governmental successor in interest may make a contribution in any amount to the subdivision's account. The retirement system shall transfer the assets of the subdivision's account in the subdivision accumulation fund to appropriate funds within the system and allocate the assets as provided by Sections 842.054-842.057.

Added by Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 6, eff. January 1, 2006.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 9, eff. January 1, 2008.

Sec. 842.054. CLASS A. In a case of involuntary termination under Section 842.053, the retirement system shall make a proportionate transfer to the individual account of each member of the subdivision eligible to retire based on the ratio that the member's current service credit bears to the total current service credit of the class. The transfer to a member's individual account may not exceed 100 percent of the member's current service credit.

Added by Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 6, eff. January 1, 2006.

Sec. 842.055. CLASS B. If any assets remain after the transfers are made under Section 842.054, the retirement system shall make a proportionate transfer to the individual account of each member of the subdivision not eligible to retire based on the ratio that the member's current service credit bears to the total current service credit of the class. The transfer to a member's individual account may not exceed 100 percent of the member's current service credit.

Added by Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 6, eff. January 1, 2006.

Sec. 842.056. CLASS C. If any assets remain after the transfers are made under Sections 842.054 and 842.055, the retirement system shall make a transfer to the closed subdivision annuity reserve fund in an amount computed as necessary to fund the basic and supplemental annuities of the annuitants of the subdivision and a transfer to the individual account of each member of the class eligible to retire in an amount that equals the multiple matching credits and prior service credits of the member. If necessary, the retirement system shall proportionately reduce an individual's total credits or supplemental annuity, as applicable, based on the ratio that the individual's total actuarial equivalent of benefits described by this section bears to the aggregate total actuarial equivalent of all those benefits of the class.

Added by Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 6, eff. January 1, 2006.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 303 (S.B. 463), Sec. 1, eff. June 1, 2015.

Sec. 842.057. CLASS D. If any assets remain after the transfers are made under Sections 842.054, 842.055, and 842.056, the retirement system shall make a proportionate transfer to the individual account of each member not eligible to retire based on the ratio that the sum of the member's multiple matching credits and prior service credits bears to the total multiple matching credits and prior service credits of the class. The transfer to a member's individual account may not exceed 100 percent of the member's multiple matching credits and prior service credits.

Added by Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 6, eff. January 1, 2006.

Sec. 842.058. BENEFITS. (a) After the transfers, allocations, and any necessary reductions described by Sections 842.054-842.057 have been made, each member who has not received a refund of accumulated contributions becomes fully vested in the member's accrued benefits with respect to the subdivision to the extent funded and is immediately eligible to retire with a service retirement

annuity or to take a distribution of the accrued benefits in a lump sum, regardless of age, service, or employment.

(b) A member vested under this section or Section 842.051(a) is an eligible member under Section 844.407. For the purpose of determining any death benefit payable under Section 844.402, the member's individual account consists only of the deposits and contributions made by the member and the accumulated interest attributable to those amounts.

Added by Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 6, eff. January 1, 2006.

SUBCHAPTER B. MEMBERSHIP

Sec. 842.101. GENERAL MEMBERSHIP REQUIREMENT. (a) Except as otherwise provided by this subchapter, a person who is not a member becomes a member of the retirement system on the latest of:

(1) the date the subdivision's participation in the retirement system becomes effective, if the person is a subdivision employee on that date;

(2) the date the person becomes a subdivision employee; or

(3) January 1, 2006, if the person is an employee of a participating subdivision on that date and was previously excluded from retirement system membership.

(b) Except as otherwise provided by this subtitle or by rules adopted by the board of trustees, the rights and benefits of a member are determined separately with respect to each subdivision with which the member has credited service.

(c) If a person's status as a temporary employee ceases, and the person becomes an employee within the meaning of this subtitle, the subdivision shall certify the change to the retirement system, and the person becomes a member effective on the date of the certification, but without credit for the period during which the person was a temporary employee.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 209, ch. 18, Sec. 42, eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 491, Sec. 6, eff. June 12, 1985; Acts 1987, 70th Leg., ch. 63, Sec. 3, eff. May 6, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 1995, 74th Leg., ch. 245, Sec. 2, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 621, Sec. 5, eff. Jan. 1, 2004.
Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 7, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 10, eff. January 1, 2008.

Sec. 842.104. COUNTY HOSPITAL EMPLOYEES. (a) If a county elects to participate in the retirement system, the commissioners court of the county may elect to deny membership to the employees of a county hospital governed by Chapter 263, Health and Safety Code.

(b) After making an election under this section, the commissioners court may at any time reverse its decision and require that county hospital employees become members on a date fixed by order of the commissioners court.

(c) If the commissioners court reverses an election under this section and requires the employees of a county hospital to become members of the retirement system, for the purposes of this subtitle the employees of the county hospital comprise a separate subdivision from other county employees.

(d) If on the effective date of participation in the retirement system a county is not operating a county hospital, the order or resolution of the commissioners court electing to participate in the system does not include employees of a hospital later established or operated by the county. The commissioners court may elect to have the employees of a hospital later established or operated by the county participate in the retirement system as a unit, which for purposes of this subtitle comprises a subdivision separate from other county employees.

(e) The commissioners court is the governing body of a county hospital for the purposes of this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.104 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 2, eff. Jan. 1, 1992; Acts 2001, 77th Leg., ch. 122, Sec. 7, eff. Dec. 31, 2001.

Sec. 842.105. STATUS AS AN EMPLOYEE. For the purposes of this subtitle, a person has the standing of an employee in a participating subdivision if the person is an employee, other than a temporary employee, of a community supervision and corrections department that has executed a contract with the participating subdivision under Section 76.006, Government Code.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.105 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 6, eff. Dec. 31, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 8, eff. January 1, 2006.

Sec. 842.106. MULTIPLE RETIREMENT SYSTEM MEMBERSHIP. A person who is a member of this retirement system and another state or local retirement system authorized under Section 67, Article XVI, Texas Constitution, may receive a benefit from this system only to the extent that the amount of the benefit is computed solely on the member's accumulated contributions and service credit in this system. Service credited by another retirement system may not be used to determine eligibility for a benefit in this retirement system except as provided by Chapter 803.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 602, Sec. 14, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.106 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 709, Sec. 1, eff. Aug. 26, 1991; Acts 1999, 76th Leg., ch. 427, Sec. 7, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 8, eff. Dec. 31, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 11, eff. January 1, 2008.

Sec. 842.107. OPTIONAL MEMBERSHIP. (a) A subdivision may authorize to be a member of the retirement system a person who is accruing benefits in another statewide retirement system for service

in an elected or appointed judicial or district office or as an employee of the state or a governmental unit of the state during the same period the person is receiving supplemental compensation from the subdivision. A person described by this subsection who is first included for optional membership after December 31, 2005, may not contribute to the employees saving fund or receive any service credit for any supplemental compensation received before the date the subdivision makes the person eligible to become a member.

(b) The board by rule may establish reasonable restrictions and limitations on the granting of membership and service credit under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 209, ch. 18, Sec. 44, eff. Nov. 10, 1981; Acts 1987, 70th Leg., ch. 63, Sec. 4, eff. May 6, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.107 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 8, eff. Dec. 31, 2001. Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 9, eff. January 1, 2006.

Sec. 842.108. WITHDRAWAL OF ACCUMULATED CONTRIBUTIONS. (a) A member who has separated from employment with a participating subdivision may submit an application to withdraw the member's accumulated contributions attributable to service with that subdivision. A withdrawal cancels the person's service credit attributable to service with that subdivision on the date the retirement system makes payment of any portion of the member's accumulated contributions.

(b) Except for a membership terminated under prior law or in accordance with Section 842.109(b), interest is computed on the balance in the member's individual account in the employees saving fund on January 1 of the year of withdrawal through the month before the month in which the withdrawal occurs.

(c) If a person eligible to receive a withdrawal or another non-periodic distribution elects to have all or a portion of the distribution paid directly to an eligible retirement plan and specifies the plan to which the distribution is to be paid on forms

approved by the board of trustees, the retirement system shall make the payment in the form of a direct trustee-to-trustee transfer but is under no obligation to determine whether the other plan in fact is an eligible retirement plan for that purpose.

(d) Notwithstanding Subsection (c), the board of trustees shall adopt rules to administer this section as necessary to maintain the retirement system as a qualified plan under Section 401(a) of the Internal Revenue Code of 1986. The rules may include the adoption of definitions and limitations relating to distributions, eligible recipients, and eligible retirement plans.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.108 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 4, eff. Jan. 1, 1994; Acts 1999, 76th Leg., ch. 427, Sec. 8, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 8, eff. Dec. 31, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 6, eff. Jan. 1, 2004.
Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 10, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 92(3), eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 4, eff. January 1, 2010.

Sec. 842.109. TERMINATION OF MEMBERSHIP. (a) A person terminates membership in the retirement system by:

(1) retirement from all participating subdivisions with which the person has service credit; or

(2) withdrawal of all of the person's accumulated contributions.

(b) Unless terminated under Subsection (a), a person's membership in the retirement system terminates on the earlier of the date of the person's death or the last day of the month ending before the person's required beginning date determined in accordance with Section 841.010.

(c) A member of the retirement system who leaves employment with a participating subdivision to perform and does perform

qualified military service in the uniformed services, as that term is defined in the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), that meets the requirements of that Act is not absent from service and continues to accumulate credited service with that subdivision if:

(1) the person applies for reemployment with the same subdivision not later than the 90th day after the date the person is discharged from military service under honorable conditions or released from hospitalization continuing after being discharged under honorable conditions for a period of not more than two years; and

(2) the person is reemployed by the same participating subdivision.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 873, Sec. 92(4), eff. January 1, 2008.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.109 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 3, eff. Jan. 1, 1992; Acts 1999, 76th Leg., ch. 427, Sec. 9, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 8, eff. Dec. 31, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 11, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 12, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 92(4), eff. January 1, 2008.

Sec. 842.110. RESUMPTION OF SERVICE AFTER WITHDRAWAL OR RETIREMENT. (a) Except as provided by Subsection (b), a person who has withdrawn the person's accumulated contributions or who has retired from a participating subdivision with a service retirement annuity based on a bona fide termination of employment and with a break in service of not less than one calendar month resumes membership in the retirement system without repayment of the amount distributed or cancellation of the person's annuity if the person becomes an employee of any participating subdivision.

(b) A person who resumes employment with the same subdivision

from which the person was previously employed and does not meet the requirements of Subsection (a) is considered not to have been eligible for a withdrawal and not to have retired with respect to that subdivision. The person's membership will be restored, the person's service retirement annuity will be canceled, and the person must return any amounts distributed and payments received. Appropriate adjustments will be made for any amounts not returned.

(c) A membership established under the requirements of Subsection (a) is considered to be a new membership for the purposes of beneficiary determinations and benefit selections.

(d) After terminating employment with a participating subdivision, a member who has previously retired with a service retirement annuity under this subtitle and who meets the requirements of Subsection (a) is eligible to apply for and receive an additional standard or optional service retirement annuity or a refund of the member's accumulated contributions for service with the subdivision, without regard to any age or credited service requirement, except as provided by Subsection (f).

(e) On the death of a member who meets the requirement of Subsection (d), a person may apply for and receive an optional service retirement annuity or a refund of the decedent's accumulated contributions in the manner provided by Subsection (d), except as provided by Subsection (f).

(f) The waiver of an age or credited service requirement under this section does not apply to a person who becomes eligible to retire solely as a result of a subdivision's termination of participation under Subchapter A-1, Chapter 842.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 491, Sec. 7, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.110 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 5, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 245, Sec. 3, 4, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 427, Sec. 10, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 8, eff. Dec. 31, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 12, eff. January 1, 2006.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 5, eff.

January 1, 2010.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 6, eff. January 1, 2010.

Sec. 842.112. CORRECTION OF ERRORS. (a) The retirement system may correct an error caused by an act or omission of the retirement system by any appropriate means.

(b) If an act or omission of a participating subdivision causes a person to receive more or less credited service, service credit, or benefits than the person is entitled to receive, the correction of the error is the responsibility of the subdivision.

(c) An error caused by an act or omission of a participating subdivision may be corrected:

(1) by the subdivision on its own motion if approved by the retirement system and if satisfactory proof of the error is submitted to the retirement system; or

(2) through a judicial or quasi-judicial proceeding between the person and the participating subdivision resulting in a judgment, order, or settlement agreement that meets the requirements of Section 842.113.

(d) A person seeking the correction of an error relating to membership, rights, benefits, or benefit payments under the retirement system must timely provide to the appropriate subdivision or the retirement system written notice specifically describing the error. The written notice must be received before the first anniversary of the earlier of the date the person discovers the error or the date a reasonable, diligent person should have discovered the error.

(e) If the act of a third person causes the retirement system to make a payment of a survivor benefit or death benefit to someone other than the person entitled to the payment, the system shall, after receiving credible evidence of an erroneous payment, determine the beneficiary entitled to the benefit and, if necessary, adjust future payments to the extent practicable to ensure that the present value of the remainder of the benefit will be paid to the person entitled to it.

(f) The retirement system is not liable to any person for any payments described by Subsection (e) made before the date the system receives credible evidence of an erroneous payment. Any payments

made before that date are a complete discharge of the system's responsibility for those payments and benefits.

(f-1) If, pursuant to a valid application for a withdrawal or for retirement, the retirement system issues a check made payable to the applicant, properly addressed as directed on the application and sent by first-class mail, and the check is negotiated by any person, the system is not liable to any person with respect to the payment after the first anniversary of the date the check was mailed.

(f-2) If, pursuant to a valid application for a withdrawal or for retirement, the retirement system causes funds to be electronically transferred to the account specified on the application, the system is not liable to any person for that payment or any claim relating to the payment beginning on the date of the transfer.

(g) A recipient who receives a payment to which the recipient is not entitled holds the payment in constructive trust for the person entitled to the payment.

Added by Acts 1995, 74th Leg., ch. 245, Sec. 5, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 12, eff. Dec. 31, 1999; Acts 1999, 76th Leg., ch. 427, Sec. 13, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 9, eff. Dec. 31, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 7, eff. Jan. 1, 2004.
Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 13, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 13, eff. January 1, 2008.

Sec. 842.113. JUDGMENTS, ORDERS, AND SETTLEMENT AGREEMENTS. (a) If, as a result of a suit against a participating subdivision in a court of competent jurisdiction or as a result of a complaint or grievance against a participating subdivision filed with the United States Equal Employment Opportunity Commission, the civil rights division of the Texas Workforce Commission, or a county civil service commission, a judgment or order is issued or a settlement agreement is executed, the terms of which require that a person's membership record be adjusted with respect to the person's account balance, service credit, or credited service, the retirement system shall make

appropriate adjustments if:

(1) the judgment or order has become final and is no longer subject to appeal;

(2) a certified copy of the judgment, order, or settlement agreement accompanies the application; and

(3) the retirement system receives payment on behalf of the person in an amount equal to the contributions the person would have made to the system if the acts or omissions that resulted in the order, judgment, or settlement agreement requiring an adjustment to the person's membership record had not occurred or, if restoration of a refunded account is required, the system receives payment on behalf of the person in an amount equal to the amount withdrawn.

(b) The retirement system may not implement an order, judgment, or settlement agreement in a manner that would grant a person a status, right, or benefit not otherwise available under this subtitle.

(c) The retirement system may seek, or require the parties to seek, clarification or modification of any judgment or order, or may require the parties to provide a binding agreement as to the interpretation of any settlement if the director determines that the terms of the judgment, order, or agreement are unclear or cannot be feasibly implemented by the system.

Added by Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 13, eff. January 1, 2006.

Sec. 842.114. BURDEN OF PROOF. (a) A person disputing the validity of a form, application, or other document filed with the retirement system has the burden of proving the document to be false, fraudulent, or otherwise invalid.

(b) A person seeking a correction based on an error caused by an act or omission of the retirement system or a subdivision has the burden of proving the error and the act or omission causing the error.

(c) A person described by Subsection (a) or (b) has the burden of showing:

(1) reasonableness and diligence in discovering the invalidity or error; and

(2) timeliness in notifying the retirement system or the

appropriate subdivision.

Added by Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 14, eff. January 1, 2008.

CHAPTER 843. CREDITABLE SERVICE
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 843.001. TYPES OF CREDITABLE SERVICE. The types of service creditable as credited service in the retirement system are prior service, current service, and optional service. A member may not be credited in this system with more than one month of credited service for a specific calendar month, regardless of the number of employers of the member, the positions held, or the types of service.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 53.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 15, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 7, eff. January 1, 2010.

Sec. 843.002. BENEFIT ELIGIBILITY AND AMOUNT. A member's eligibility to receive a benefit is based on the member's amount of credited service and attained age on the effective date of retirement. The monthly amount of a standard retirement annuity is based on the sum of the member's service credit and accumulated contributions and is computed using the member's attained age and the actuarial assumptions described by Section 841.001(1).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 53.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 11, eff. Dec. 31, 2001.

Sec. 843.003. AUTHORIZATION TO REESTABLISH SERVICE CREDIT PREVIOUSLY FORFEITED. (a) An eligible member who has withdrawn

contributions from the retirement system may reestablish the forfeited service credit in the system if the current service on which the credit was based was performed for a participating subdivision the governing body of which by order authorizes reestablishment of the credit by eligible employee members of the subdivision.

(b) A member eligible to reestablish service credit under this section is one who is a member as an employee of the subdivision on the effective date of an order authorized by the subdivision under Subsection (a).

(c) A member eligible under this section may reestablish service credit by depositing with the retirement system in a lump sum the amount withdrawn from the system, plus a withdrawal charge computed at an annual rate of five percent from the date of withdrawal to the date of redeposit.

(d) Prior service credit forfeited because of a withdrawal of contributions may not be reestablished under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 491, Sec. 8, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 53.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 4, eff. Jan. 1, 1992; Acts 2003, 78th Leg., ch. 621, Sec. 8, 9, eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 16, eff. January 1, 2008.

Sec. 843.0031. OPTION TO PAY LUMP-SUM AMOUNT. (a) Repealed by Acts 2009, 81st Leg., R.S., Ch. 300, Sec. 38(1), eff. January 1, 2010.

(b) A member who has withdrawn accumulated contributions from the retirement system and who subsequently resumes employment with a subdivision may at any time before retirement pay to the system a lump sum in any amount that does not exceed the actuarial present value of the additional benefits that would have been attributable to the withdrawn contributions. Any amount paid under this subsection and interest accrued on the amount may not be considered in the computation of service credit.

(c) With respect to the account with the subdivision for which contributions had been withdrawn, after the date an amount is deposited under Subsection (b), the member is ineligible to reestablish any service credit with the subdivision that had been forfeited before the date of redeposit, even if the member would otherwise be eligible under an order adopted under Section 843.003.

Added by Acts 2003, 78th Leg., ch. 621, Sec. 10, eff. Jan. 1, 2004.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 16, eff. January 1, 2008.
Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 8, eff. January 1, 2010.
Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 9, eff. January 1, 2010.
Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 38(1), eff. January 1, 2010.

Sec. 843.004. COMPOSITION OF SERVICE CREDIT. Service credit consists of allocated prior service credit, current service credit, and multiple matching credit as authorized by a participating subdivision.

Added by Acts 2001, 77th Leg., ch. 122, Sec. 12, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 10, eff. January 1, 2010.

SUBCHAPTER B. ESTABLISHMENT OF PRIOR SERVICE GENERALLY

Sec. 843.101. CREDITABLE PRIOR SERVICE. Prior service creditable in the retirement system is service performed as an employee of a participating subdivision before the date the subdivision's participation in the retirement system became effective.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 53.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 843.102. ELIGIBILITY FOR PRIOR SERVICE CREDIT. (a) A member is eligible to receive service credit in the retirement system for prior service if the member became a member as an employee of a subdivision:

(1) on the effective date of the subdivision's participation in the retirement system; or

(2) before the second anniversary of the effective date of its participation and continues as an employee of the subdivision for at least six months after reemployment.

(b) The board of trustees may adopt rules concerning eligibility for prior service credit under Subsection (a).

(c) A person who has withdrawn contributions from an account for service for a subdivision and who subsequently resumes employment with the subdivision is not eligible to receive service credit under this section for prior service for the subdivision.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 53.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 5, eff. Jan. 1, 1992; Acts 2003, 78th Leg., ch. 621, Sec. 11, eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 17, eff. January 1, 2008.

Sec. 843.104. CERTIFICATION OF SERVICE AND AVERAGE COMPENSATION. (a) A member eligible to receive prior service credit may claim the credit by filing a detailed statement of the service with the subdivision for which the service was performed. After the statement is filed, the subdivision shall certify the amount of the member's prior service and the member's average prior service compensation.

(b) Repealed by Acts 2007, 80th Leg., R.S., Ch. 873, Sec. 92(6), eff. January 1, 2008.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 873, Sec. 92(6), eff. January 1, 2008.

(d) The board of trustees may adopt rules concerning certification of service and the definition and computation of average prior service compensation under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 53.104 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 18, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 92(6), eff. January 1, 2008.

Sec. 843.105. DETERMINATION OF MAXIMUM AND ALLOCATED PRIOR SERVICE CREDIT. (a) After receiving a certification of prior service and average prior service compensation under Section 843.104, the retirement system shall credit to the member the prior service certified and determine the member's maximum and allocated prior service credits.

(b) The maximum prior service credit is an amount equal to the accumulation at interest of a series of equal monthly amounts for the number of months of certified prior service. Each monthly amount equals twice the subdivision's initial deposit rate, times the member's average prior service compensation. Interest is allowed at the end of each 12-month period on an accumulated amount at the beginning of each period and is credited only for each whole 12-month period. The rate of interest allowed on a maximum prior service credit is three percent a year.

(c) Allocated prior service credit is a monetary credit granted by a subdivision to be computed at a member's retirement date and, together with any multiple matching credit, used in determining a member's supplemental annuity. The allocated prior service credit of a member is an amount equal to a percentage of the maximum prior service credit, increased from the subdivision's effective date of participation to the member's effective date of retirement at the applicable rate of interest provided under this subtitle or prior law for the period.

(d) The governing body of a subdivision may adopt a percentage to be used to determine allocated prior service credits. The rate may be limited to zero or any multiple of five percent.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 209, ch. 18, Sec. 45,

eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 491, Sec. 10, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 53.105 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 6, eff. Jan. 1, 1992; Acts 1999, 76th Leg., ch. 427, Sec. 14, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 14, eff. Dec. 31, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 19, eff. January 1, 2008.

SUBCHAPTER C. OPTIONAL PRIOR SERVICE

Sec. 843.201. SERVICE CREDIT FOR CERTAIN PUBLIC EMPLOYMENT. In accordance with rules adopted by the board of trustees, the governing body of a participating subdivision by order may authorize the establishment of credited service and prior service credit in the retirement system for service performed in a public hospital, utility, or other public facility or governmental function during a time the facility was operated or function was performed by a unit of government other than the subdivision and before the date that the public hospital, utility, or other public facility or governmental function was taken over by the subdivision.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 769, Sec. 2, eff. Aug. 28, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 53.201 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989; Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.04(b), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 8, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 427, Sec. 15, eff. Dec. 31, 1999; Acts 2003, 78th Leg., ch. 621, Sec. 13, eff. Jan. 1, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 20, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 92(8), eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 11, eff. January 1, 2010.

SUBCHAPTER E. ESTABLISHMENT OF CURRENT SERVICE

Sec. 843.401. CURRENT SERVICE GENERALLY. Current service is service performed by an employee of a participating subdivision while a member of the retirement system and credited as provided under this subtitle and in accordance with rules adopted by the board of trustees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 53.401 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 621, Sec. 16, eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 21, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 12, eff. January 1, 2010.

Sec. 843.402. CURRENT SERVICE CREDIT AND MULTIPLE MATCHING CREDIT. (a) Current service credit is a monetary amount credited by a subdivision to be computed at a member's effective retirement date and used in determining the member's basic annuity. At the determination date, a member's current service credit is an amount equal to the sum of the employee contributions in the member's individual account and the interest accumulated on those contributions as provided by this subtitle.

(b) Multiple matching credit is a monetary amount credited by the governing body of a subdivision to be computed at a member's effective retirement date and, together with any prior service credit, used in determining a member's supplemental annuity. Multiple matching credit is an amount equal to a percentage of the sum of employee contributions in a member's individual account that were made for a particular calendar year and the interest accumulated on those contributions as provided under this subtitle. At the determination date, the multiple matching credit of a member is equal to the sum of the multiple matching credit for all years of the person's membership.

(c) The percentage to be used in the computation of the multiple matching credit for a particular year is adopted by the governing body of a subdivision and applied in accordance with this

subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 22, eff. January 1, 2008.

SUBCHAPTER F. OPTIONAL CREDITED SERVICE

Sec. 843.501. CREDITED SERVICE FOR LEGISLATIVE SERVICE. A member may establish credited service in the retirement system for service performed as a member of the legislature. A member claiming credited service for previous legislative service shall file with the retirement system a detailed statement of the service.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 53.501 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 18, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 17, eff. Dec. 31, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 24, eff. January 1, 2008.

Sec. 843.502. CREDITED SERVICE FOR QUALIFIED MILITARY SERVICE. (a) In this section:

(1) "Qualified military service" means service in the uniformed services, as that term is defined in the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), that meets the requirements of that Act as it now exists or is amended as to the character of service performed.

(2) "USERRA" means the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.).

(b) All members of the retirement system are entitled to be credited with service for qualified military service that is subject to USERRA. Notwithstanding any provision of this subtitle to the contrary, contributions, benefits, credited service, and service credit for qualified military service will be provided in accordance with USERRA and Section 414(u) of the Internal Revenue Code of 1986. The board of trustees may adopt rules for the administration of this section, including rules that modify the terms of this subtitle for the purpose of compliance with the provisions of USERRA.

(c) An eligible member may establish credited service in the retirement system for qualified active duty military service not creditable under Subsection (b). Qualified military service includes military service before becoming an employee of the subdivision. A member eligible to establish credited service under this subsection is one who is vested, based on credited service only in this system and without regard to service that may be established under this subsection, in a service retirement annuity that may begin at the age of 60. An eligible member may establish not more than five years of credited service under this subsection by filing an application with the retirement system.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 300, Sec. 38(2), eff. January 1, 2010.

(e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 300, Sec. 38(2), eff. January 1, 2010.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Formerly Sec. 53.602. Renumbered by Acts 1981, 67th Leg., 1st C.S., p. 210, ch. 18, Sec. 47, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 491, Sec. 12, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 53.601 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 19, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 18, eff. Dec. 31, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 18, 37(4), eff. Jan. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 15, eff. January 1, 2006.

Renumbered from Government Code, Section 843.601 and amended by Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 25, eff. January 1, 2008.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 13, eff. January 1, 2010.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 38(2), eff. January 1, 2010.

Sec. 843.503. CREDITED SERVICE FOR SERVICE WITH SUBDIVISION PREDECESSOR. The governing body of a participating subdivision may,

with the consent of and on terms approved by the board of trustees, authorize the establishment of credited service in the retirement system for service performed as an employee of the immediate predecessor entity of the subdivision.

Added by Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 26, eff. January 1, 2008.

Sec. 843.504. NO DOUBLE CREDITING OF SERVICE. Except as provided by Chapter 803, only one month of credited service may be established in the retirement system for any calendar month for all service that is creditable under this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 26, eff. January 1, 2008.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 14, eff. January 1, 2010.

Sec. 843.505. CREDITED SERVICE PREVIOUSLY ELIGIBLE FOR RECOGNITION UNDER PROPORTIONATE RETIREMENT PROGRAM. The board of trustees by rule may authorize the retirement system, on application by a member and for the sole purpose of determining eligibility for retirement from this system, to recognize service performed under another system participating under Chapter 803 that would have been recognized by this system under that chapter if the service had not been canceled by a withdrawal of contributions.

Added by Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 15, eff. January 1, 2010.

CHAPTER 844. BENEFITS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 844.001. TYPES OF BENEFITS. (a) Pension benefits payable from the retirement plan and trust are:

(1) retirement annuities payable on service retirements;

(2) retirement annuities payable on disability retirements;

(3) survivor annuities payable on the deaths of members;

and

(4) refunds of accumulated contributions.

(b) Nonpension group term life coverage may be provided by an electing subdivision for its employees and retirees under the optional group term life program. The board of trustees shall administer the program, and insurance proceeds are payable from the optional group term life fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 20, eff. Dec. 31, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 27, eff. January 1, 2008.

Sec. 844.002. COMPOSITION OF RETIREMENT ANNUITY. (a) Each retirement annuity payable under this subtitle consists of a basic annuity and a supplemental annuity.

(b) A basic annuity is an amount payable from the subdivision accumulation fund and is actuarially determined from the sum of a member's:

(1) accumulated contributions; and

(2) current service credit.

(c) A supplemental annuity is an amount payable from the subdivision accumulation fund, subject to limitation under Section 844.008, and is actuarially determined from the sum of:

(1) a member's allocated prior service credit; and

(2) a member's multiple matching credit.

(d) Any increase in the annuity granted by a participating subdivision is payable from the subdivision accumulation fund as part of the supplemental annuity.

(e) A separate retirement annuity is payable with respect to each subdivision from which a person retires under this subtitle or is considered to have retired.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 491, Sec. 15, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.002 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1,

1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 22, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 21, eff. Dec. 31, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 16, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 28, eff. January 1, 2008.

Acts 2015, 84th Leg., R.S., Ch. 303 (S.B. 463), Sec. 2, eff. June 1, 2015.

Sec. 844.003. EFFECTIVE DATE OF RETIREMENT. (a) Except as otherwise provided by this section, the effective date of a member's service retirement is the date the member designates at the time the member applies for retirement under Section 844.101, but the date must be the last day of a calendar month and may not precede the date the member terminates employment with the subdivision from which the member seeks to retire.

(b) If a member who is an eligible member under Section 844.407 dies before retirement, the member is considered to have retired on the last day of the month before the month in which death occurred.

(b-1) A vested member who has not retired before the member's required beginning date determined under Section 841.010 is considered to have retired on the last day of the month preceding the member's required beginning date.

(c) The effective date of a member's disability retirement is the date the member designates at the time the member applies for retirement under Section 844.301, but the date must be the last day of a calendar month and may not precede the later of the date the member became disabled or the date the member terminated employment with all participating subdivisions.

(d) A member who is eligible for service retirement and who terminates employment with a participating subdivision may apply for and receive a service retirement annuity based on service for that subdivision despite the fact that the member is or becomes an employee of another participating subdivision.

(e) Notwithstanding Subsections (a), (b), (b-1), (c), and (f), the effective retirement date of a member may not precede the first anniversary of the effective date of participation of the

subdivision.

(f) The board of trustees by rule may authorize a retiring member to designate an effective service or disability retirement date that is not more than six months before the date the retirement system receives the retirement application. A rule adopted under this section may not suspend another requirement provided by this section for retirement.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 63, Sec. 7, eff. May 6, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 8, eff. Jan. 1, 1994; Acts 1993, 73rd Leg., ch. 536, Sec. 1, Jan. 1, 1994; Acts 1995, 74th Leg., ch. 245, Sec. 9, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 309, Sec. 8, 33, eff. Dec. 1, 1997; Acts 1999, 76th Leg., ch. 65, Sec. 1, eff. May 10, 1999; Acts 1999, 76th Leg., ch. 427, Sec. 23, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 22, eff. Dec. 31, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 17, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 29, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 16, eff. January 1, 2010.

Sec. 844.004. STANDARD RETIREMENT ANNUITY. (a) The standard retirement annuity payable under this subtitle is computed with an allowance for the possible payment of a benefit under Section 844.402 and is the actuarial equivalent of the sum of a member's:

(1) accumulated contributions;

(2) current service credit;

(3) allocated prior service credit; and

(4) multiple matching credit.

(b) A standard retirement annuity is payable throughout the life of a retiree.

Added by Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 30, eff. January 1, 2008.

Sec. 844.0041. OPTIONAL RETIREMENT ANNUITIES. (a) Instead of the standard retirement annuity payable under Section 844.004, a retiring member may receive an optional retirement annuity under this section or an optional retirement annuity in another form authorized by the board of trustees.

(b) At a member's effective retirement date, an optional retirement annuity is actuarially equivalent to the standard retirement annuity to which the member is entitled.

(c) An optional retirement annuity under this section is:

(1) a retirement annuity that is payable monthly throughout the life of a retiree, and after the retiree's death, throughout the life of an individual designated by the retiree; or

(2) a monthly retirement annuity that is payable throughout the life of a retiree and, if the retiree dies before 180 monthly payments have been made, the remainder of the 180 monthly payments are payable to the retiree's beneficiary or, if a beneficiary does not exist, to the retiree's spouse or, if no surviving spouse exists, to the retiree's estate.

(d) The board of trustees by rule may authorize additional forms of optional retirement annuities, each of which must be actuarially equivalent to the standard retirement annuity to which the retiree is entitled as of the effective retirement date.

Added by Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 30, eff. January 1, 2008.

Sec. 844.0042. AUTHORITY TO PAY BENEFITS UNDER ALTERNATE FORMS. (a) The board of trustees may authorize the payment of the benefit that is due a recipient to be made as a lump sum or in another alternate form that is actuarially equivalent to the benefit that would otherwise be payable to the recipient at the time payments to the recipient would begin. An authorization under this subsection may be made as a policy of general application or may be made on a case-by-case basis considering the particular facts and circumstances.

(b) Payment to a retiree in a lump sum or other alternate form may not be made without the retiree's consent if the payment is to be

sent to an address in the United States and the present value of the retiree's benefit exceeds a minimum amount set by the board of trustees. A retiree who receives payment in a lump sum or other alternate form under this section continues as a retiree for purposes of a benefit provided by the subdivision under the optional group term life program.

(c) Except as otherwise limited under Subsection (b), payment under this section is within the exclusive discretion of the board of trustees, and payment in a lump sum or other alternate form constitutes full satisfaction of the retirement benefit otherwise owed to the recipient.

(d) The board of trustees may adopt rules for the administration of this section, including rules for the payment of benefits internationally and for the verification of a continuing right to receive payments.

Added by Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 30, eff. January 1, 2008.

Sec. 844.005. WHEN ANNUITY IS PAYABLE; CHANGES BEFORE FIRST PAYMENT. (a) A retiree may revoke an application for retirement, change the retiree's choice of retirement annuity payment plans, or change the designation of beneficiary after the retiree's effective date of retirement by filing written notice with the retirement system not later than the last day of the month a benefit payment is first made. After that day, a retiree may not revoke the application for retirement, change the annuity payment plan selected, or change the designated beneficiary except under Section 844.006.

(b) If an applicant for retirement dies on or before the last day that the application for retirement could have been revoked under Subsection (a), the decedent's application for retirement is considered canceled, except that the valid beneficiary designations made in connection with the retirement application remain in effect. The beneficiary of a decedent who had been an eligible member under Section 844.407 may receive an annuity in accordance with that section.

(b-1) Under rules established by the board of trustees, the retirement system may cancel an application for retirement if the applicant fails to timely provide all information and forms necessary

to put the retirement into effect.

(c) An annuity under this subtitle is payable to a retiree or beneficiary through the month in which the retiree or beneficiary dies. A continuation of an optional annuity begins with payment for the month following the month in which death occurs.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.005 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 10, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 122, Sec. 23, eff. Dec. 31, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 31, eff. January 1, 2008.

Sec. 844.006. CHANGE OF BENEFICIARY OR DIVISION OF BENEFIT FOR CERTAIN PERSONS RECEIVING MONTHLY BENEFITS. (a) A retiree who is receiving payments under a retirement annuity computed on the life of the retiree only may revoke any existing selection and designation of beneficiary nominated to receive any payments that may become due under the annuity after the retiree's death and may select a new beneficiary to whom payments may be made.

(b) A person who, as beneficiary of a deceased retiree, is receiving monthly payments of any fixed-term annuity described by Subsection (a) may select and designate a person to whom shall be paid any monthly payments that may become due under the annuity after the death of the beneficiary making the designation. If a valid beneficiary designation is not on file with the retirement system, any monthly payments that become due after the death of the beneficiary are payable to the beneficiary's spouse or, if no surviving spouse exists, to the beneficiary's estate.

(c) A retiree who is receiving payments under a retirement annuity computed on the joint lives of the retiree and the retiree's designated beneficiary may revoke the designation of the beneficiary to receive the annuity on the death of the retiree, if a court of competent jurisdiction in a divorce proceeding involving the retiree and beneficiary awards to the retiree the entire retirement benefit earned by the retiree. The order awarding the retirement benefit may be set forth in the divorce decree or in an order approving the terms

of a property settlement agreement incident to the divorce of the retiree and beneficiary but must be dated on or after December 31, 1999. The revocation takes effect when the retirement system receives it and cancels the optional annuity selection made by the retiree. Beginning with the month following the month in which the retirement system receives the notice of revocation, the retiree is entitled to receive a standard retirement annuity in the same amount that the retiree would receive for the same month if the retiree had originally retired with a standard retirement annuity.

(d) The benefit payable to a retiree who is receiving payments of a standard or optional retirement annuity may be divided by the retirement system into two annuities in accordance with the terms of a model qualified domestic relations order adopted by the board of trustees by rule.

(e) The division of an annuity under Subsection (d) is effective when the order is determined by the retirement system to be a qualified domestic relations order, and the amount of each of the two annuities shall be computed by the retirement system at that time, based on tables that have been adopted by the retirement system and in effect at that time, so that the two annuities are actuarially equivalent at the time of division to the annuity being divided.

(f) The board of trustees has sole authority and discretion to specify the terms and format that are required for a domestic relations order to be acceptable for purposes of this section, to require strict compliance for qualification, and to define the terms and features of the benefit awarded an alternate payee under the order. The board by rule may establish requirements for forms, documentation, and procedures necessary or desirable for the administration of this section.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 11, eff. Jan. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 9, 10, eff. Jan. 1, 1994; Acts 1999, 76th Leg., ch. 427, Sec. 24, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 24, eff. Dec. 31, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 32, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 17, eff. January 1, 2010.

Sec. 844.007. INTEREST CREDIT FOR OTHER THAN DECEMBER RETIREMENTS. A member who retires with an effective retirement date other than December 31 will be credited interest on the beginning balance in the member's individual account from January 1 of the year of retirement to the effective date of retirement.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 11, eff. Jan. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 11, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 427, Sec. 25, 64(6), eff. Dec. 31, 1999.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 33, eff. January 1, 2008.

Sec. 844.008. LIMITATION ON PAYMENT OF BENEFITS. (a) Notwithstanding any other provision of this subtitle, the benefit payable to a retiree of the retirement system may not exceed the maximum benefit permitted under Section 415(b) of the Internal Revenue Code of 1986 as adjusted in accordance with Section 415(d) of that code. Any adjustments are applicable to the postretirement benefits of retirees as well as to the benefits of retiring members. For the purpose of determining whether the benefit of a retiring member or retiree exceeds the limitations provided in this section, all defined benefit plans of the employer and of entities required to be aggregated with the employer for purposes of Section 415 of the Internal Revenue Code of 1986 are to be treated as one defined benefit plan for purposes of Section 415 of that code. The limitation year for determining maximum benefits is the calendar year.

(b) An employer may not provide employee retirement benefits under a defined benefit plan other than the retirement system to the extent that the provision of the benefits, when considered together with the benefits provided under the retirement system, would result in the failure of the retirement system to meet any of the limitation requirements of Section 415 of the Internal Revenue Code of 1986, and the benefits of the other plan will automatically be reduced, eliminated, or adjusted to the extent necessary to prevent the failure.

Added by Acts 1993, 73rd Leg., ch. 175, Sec. 11, eff. Jan. 1, 1994.

Amended by Acts 1995, 74th Leg., ch. 245, Sec. 12 to 14, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 309, Sec. 9, eff. Dec. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 18, eff. January 1, 2010.

Sec. 844.009. PARTIAL LUMP-SUM DISTRIBUTION ON SERVICE RETIREMENT. (a) With the consent of the board of trustees, the governing body of a subdivision may authorize partial lump-sum distributions under this section.

(b) A member who is eligible and applies for service retirement may simultaneously apply for a partial lump-sum distribution under this section.

(c) The amount of a lump-sum distribution under this section may not exceed 100 percent of the total accumulated contributions in the member's individual account in the employees saving fund attributable to service with the subdivision for which the member has applied for retirement.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 873, Sec. 92(12), eff. January 1, 2008.

(e) For all purposes, the member's basic annuity is the annuity actuarially determined from the sum remaining under Section 844.002(b) after deducting the amount of the lump-sum distribution.

(f) The amount of a lump-sum distribution made under this section is considered to be an annuity payment for the purpose of determining whether the amount in the retiree's individual account in the employees saving fund available for distribution at the time of retirement exceeds the total amount of annuity payments made.

(g) Repealed by Acts 2007, 80th Leg., R.S., Ch. 873, Sec. 92(12), eff. January 1, 2008.

(h) No portion of a benefit awarded to an alternate payee under a qualified domestic relations order may be distributed in the form of a lump sum under this section, unless the member and the alternate payee agree in writing that the alternate payee will receive all or a portion of the lump-sum distribution payable under this section instead of or as part of the benefits awarded under the qualified domestic relations order.

(i) Repealed by Acts 2001, 77th Leg., ch. 122, Sec. 56(2), eff, Dec. 31, 2001.

Added by Acts 1999, 76th Leg., ch. 901, Sec. 1, eff. Dec. 31, 1999; Amended by Acts 2001, 77th Leg., ch. 122, Sec. 25, 56(2), eff. Dec. 31, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 19, eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 34, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 92(12), eff. January 1, 2008.

Sec. 844.010. CERTAIN BENEFICIARY DESIGNATIONS. (a) A beneficiary designation that names a former spouse as beneficiary is invalid for purposes of this subtitle unless the designation:

(1) is made or confirmed in writing after the date of divorce; or

(2) was made by a retiree who, at the time of divorce, is receiving payments under an optional service or disability retirement with payments to continue to the beneficiary for the beneficiary's life.

(b) In addition to the authority provided by Section 804.051, the board of trustees may adopt rules to require consent of a member's spouse to:

(1) the member's designation of a beneficiary who is not the member's spouse;

(2) the member's selection of an optional form of retirement benefit; or

(3) the member's election of a withdrawal of contributions.

(c) A benefit payable under this subtitle is not subject to a will, other testamentary document, or the law of intestacy to the extent that the member, retiree, or other former member has a different beneficiary under the retirement system than under the testamentary document or law of intestacy.

(d) The board of trustees may adopt rules concerning the designation, validity, cancellation, revocation, and eligibility of beneficiaries under this subtitle.

Added by Acts 2003, 78th Leg., ch. 621, Sec. 20, eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 35, eff. January 1, 2008.

SUBCHAPTER B. SERVICE RETIREMENT BENEFITS

Sec. 844.101. APPLICATION FOR SERVICE RETIREMENT ANNUITY. To receive a retirement annuity for service, an eligible member must apply by filing a valid application with the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.102 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 15, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 427, Sec. 26, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 26, eff. Dec. 31, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 36, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 19, eff. January 1, 2010.

Sec. 844.102. SYSTEMWIDE ELIGIBILITY FOR SERVICE RETIREMENT ANNUITY. (a) A member is eligible to apply for and receive a service retirement annuity if the member:

(1) is at least 60 years old and has at least 10 years of credited service in the retirement system;

(2) has at least 30 years of credited service in the retirement system; or

(3) has at least 10 years of credited service in the retirement system and the sum of the member's credited service and attained age equals or exceeds the number 80.

(b) A person who has retired under this section with a service retirement annuity is eligible, without regard to any age or credited service requirement, to apply for and receive a service retirement annuity based on the member's accumulated contributions and service credit with any participating subdivision from which the person has terminated employment.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 27, eff. Dec. 31,

1999; Acts 2001, 77th Leg., ch. 122, Sec. 26, eff. Dec. 31, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 37, eff. January 1, 2008.

Sec. 844.1021. OPTIONAL ELIGIBILITY PROVISIONS FOR SERVICE RETIREMENT. (a) In accordance with this subtitle, a subdivision may adopt any optional service retirement eligibility provision described by this section or authorized by the board of trustees.

(b) A subdivision may not revoke its adoption of an optional service retirement eligibility provision described by this section. A subdivision may adopt an optional service retirement eligibility provision providing less restrictive eligibility requirements.

(c) An optional service retirement eligibility provision may provide that a member who has at least 10 years of credited service is eligible to apply for retirement if the member has attained age 60 or an age at which the sum of the member's credited service and attained age equals or exceeds the number 75.

(d) An optional service retirement eligibility provision may provide that a member who has at least eight years of credited service is eligible to apply for retirement if the member has attained age 60.

(e) An optional service retirement eligibility provision may provide that a member who has at least five years of credited service is eligible to apply for retirement if the member has attained age 60.

(f) An optional service retirement eligibility provision may provide that a member who has at least 20 years of credited service is eligible to apply for retirement.

(g) The board of trustees may authorize additional optional service retirement eligibility provisions for adoption by participating subdivisions.

(h) The board of trustees shall establish rules for recognizing and combining a member's service credited under dissimilar retirement eligibility provisions for purposes of meeting the retirement eligibility provisions of the respective subdivisions.

Added by Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 38, eff. January 1, 2008.

Sec. 844.1022. SPECIAL ELIGIBILITY PROVISIONS FOR SERVICE RETIREMENT. (a) Subject to the consent of the board of trustees and effective for the period and on terms that the board approves, a subdivision may adopt a special service retirement eligibility provision that relates to a singular, identifiable event or action particular to the subdivision and that applies only to its members who satisfy the specific terms of the special eligibility provision.

(b) A special service retirement eligibility provision must bear a rational relationship to the operation, management, and function of the subdivision.

(c) A special service retirement eligibility provision may not be adopted or implemented under this section in a manner that has the effect of establishing a separate, ongoing retirement program for a branch, department, division, employee occupational group, or other separately identifiable component of the subdivision.

Added by Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 38, eff. January 1, 2008.

SUBCHAPTER C. OPTIONAL RETIREMENT BENEFITS

Sec. 844.208. OPTIONAL INCREASE IN RETIREMENT ANNUITIES. (a) The governing body of a participating subdivision, from time to time but not more frequently than once in each 12-month period, may provide for increased annuities to be paid to retirees and beneficiaries of deceased retirees of the subdivision. An annuity increased under this section replaces any annuity or increased annuity previously granted to the same person.

(b) The amount of annuity increase under this section is computed as the sum of the basic and supplemental annuities on the effective date of retirement of the person on whose service the annuities are based and is computed as if the person had selected a standard retirement annuity on the person's effective date of retirement, multiplied by:

(1) the percentage change in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor, from December of the year immediately preceding the effective date of the person's retirement

to the December that is 13 months before the month in which the effective date of the order or resolution providing the increase occurs; and

(2) a fraction, specified by the governing body in the order or resolution, that is not less than 10 percent nor more than 100 percent and is a multiple of 10 percent.

(c) The effective date of an order or resolution under this section is January 1 of the year that begins after the year in which the governing body adopts and notifies the retirement system of the order or resolution.

(d) An increase in an annuity that was reduced because of an option selection or partial lump-sum distribution is reducible in the same proportion and in the same manner that the original annuity was reduced.

(e) If a computation under Subsection (b) does not result in an increase in the amount of annuity, the amount of the annuity may not be changed under this section.

(f) The amount by which an increase under this section exceeds all previously granted increases to an annuitant is payable as a supplemental annuity, is an obligation of the subdivision's account in the subdivision accumulation fund, and is subject to reduction under Section 845.307(c).

(g) Repealed by Acts 2007, 80th Leg., R.S., Ch. 873, Sec. 92(17), eff. January 1, 2008.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 14, eff. Jan. 1, 1992.
Amended by Acts 2003, 78th Leg., ch. 621, Sec. 22, eff. Jan. 1, 2004.
Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 18, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 39, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 92(17), eff. January 1, 2008.

Sec. 844.209. ALTERNATIVE OPTIONAL INCREASE IN RETIREMENT ANNUITIES. (a) The governing body of a participating subdivision, from time to time but not more frequently than once in each 12-month period, may provide for increased annuities to be paid to retirees

and beneficiaries of deceased retirees of the subdivision. The governing body of the subdivision may not elect an increase in retirement annuities under Section 844.208 and under this section in the same 12-month period.

(b) An increase under this section applies to all annuities for which the effective retirement date is at least twelve months before the effective date of the increase.

(c) The amount of annuity increase under this section is computed as the sum of the person's basic and supplemental annuities on the effective date of the increase multiplied by the integer percentage increase specified by the governing body for all annuitants in the order or resolution adopting the increase. The specified percentage increase may not exceed the percentage established by the board of trustees as the maximum allowable percentage increase.

(d) Except as provided by Subsection (g), the effective date of an order or resolution under this section is January 1 of the year that begins after the year in which the governing body adopts and notifies the retirement system of the order or resolution.

(e) An increase in an annuity that was reduced because of an option selection or partial lump-sum distribution is reducible in the same proportion and in the same manner that the original annuity was reduced.

(f) The amount of an increase under this section is payable as a supplemental annuity, is an obligation of the subdivision's account in the subdivision accumulation fund, and is subject to reduction under Section 845.307(c).

(g) Repealed by Acts 2007, 80th Leg., R.S., Ch. 873, Sec. 92(18), eff. January 1, 2008.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 14, eff. Jan. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 13, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 245, Sec. 18, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 309, Sec. 10, eff. Dec. 1, 1997; Acts 1999, 76th Leg., ch. 427, Sec. 31, eff. Dec. 31, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 19, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 40, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 92(18), eff. January 1, 2008.

SUBCHAPTER D. DISABILITY RETIREMENT BENEFITS

Sec. 844.301. APPLICATION FOR DISABILITY RETIREMENT. (a) A member may apply for disability retirement by filing a valid application for retirement with the retirement system.

(b) An applicant must provide medical and other pertinent information for evaluation by the medical board and submit to medical examination as required by the medical board.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.301 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 19, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 427, Sec. 34, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 30, eff. Dec. 31, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 41, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 20, eff. January 1, 2010.

Sec. 844.3011. ANNUITY PAYABLE ON DISABILITY RETIREMENT. Except for eligibility requirements and as otherwise provided by this subtitle, a retirement annuity payable on the disability retirement of a member is equal in amount and equivalent in all respects under this subtitle to a retirement annuity payable on the service retirement of the member at the same age.

Added by Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 42, eff. January 1, 2008.

Sec. 844.302. ELIGIBILITY FOR DISABILITY RETIREMENT ANNUITY. (a) A member who is not vested for service retirement beginning on or before the date the member attains age 60 and who has applied for disability retirement is eligible to receive a disability retirement annuity if the member is the subject of a certification issued as

provided by Section 844.303(b)(1).

(b) A member who is vested for service retirement based on service in this system alone beginning on or before the date the member attains age 60 and who has applied for disability retirement is eligible to receive a retirement annuity if the member is the subject of a certification issued as provided by Section 844.303(b)(2).

(c) If a member who has filed an application for disability retirement under this subchapter is eligible for service retirement, an evaluation by the medical board under Section 844.303 will not be made and the retirement system shall consider the retirement application as an application filed for service retirement.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.302 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 15, eff. Jan. 1, 1992; Acts 1999, 76th Leg., ch. 427, Sec. 35, eff. Dec. 31, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 43, eff. January 1, 2008.

Sec. 844.303. CERTIFICATION OF DISABILITY. (a) Except as provided by Section 844.302(c) and Subsection (c) of this section, as soon as practicable after an application for disability retirement is filed, the medical board shall evaluate the medical and other pertinent information concerning the member's application.

(b) The medical board shall issue a certification of disability and submit it to the board of trustees, if the medical board finds:

(1) in the case of a member described by Section 844.302(a), that:

(A) the member is mentally or physically incapacitated for any gainful occupation;

(B) the incapacity is the direct result of injuries sustained during membership by external and violent means as a direct and proximate result of the performance of duty; and

(C) the incapacity is likely to be permanent; or

(2) in the case of a member described by Section 844.302(b), that:

(A) the member is mentally or physically incapacitated for any gainful occupation; and

(B) the incapacity is likely to be permanent.

(c) The board of trustees may establish a procedure for summary disposition of disability retirement applications without medical board review under facts and circumstances that the board has determined cause a review by the medical board to be unnecessary. The board may delegate to the director the authority and discretion to make determinations under the summary disposition procedure and, if appropriate, to issue a certification of disability described by Subsection (b) or refer the matter to the medical board. The director is not authorized under this section to make a finding that an applicant is not permanently incapacitated.

(d) The board of trustees may define terms and standards to be applied by the medical board in making its determinations and shall establish such other rules as the board considers necessary to administer this subchapter.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 491, Sec. 22, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.303 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 16, eff. Jan. 1, 1992; Acts 1999, 76th Leg., ch. 427, Sec. 36, eff. Dec. 31, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 44, eff. January 1, 2008.

Sec. 844.3051. DISABILITY RETIREMENT CONSIDERED SERVICE RETIREMENT. (a) The retirement annuity of a disability retiree may not be terminated under this subchapter after the earlier of:

(1) the date a disability retiree attains age 60; or

(2) the date the disability retiree would otherwise be eligible for service retirement under this subtitle.

(b) The disability retirement of a disability retiree described by Subsection (a) is considered for all purposes under this subtitle as a service retirement.

Added by Acts 2001, 77th Leg., ch. 122, Sec. 33, eff. Dec. 31, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 45, eff. January 1, 2008.

Sec. 844.306. MEDICAL EXAMINATION OF DISABILITY RETIREE. (a) Until the date a disability retirement is considered a service retirement under Section 844.3051, once each year during the first five years after a person retires for disability, and once in each three-year period after that, the board of trustees may, in accordance with rules and procedures established by the board, require a disability retiree to undergo a medical examination and provide current medical and other information reaffirming the status of the retiree as disabled within the meaning of this subchapter.

(b) Repealed by Acts 2007, 80th Leg., R.S., Ch. 873, Sec. 92(24), eff. January 1, 2008.

(c) If a disability retiree refuses to submit to medical examination or fails to provide current medical or other information confirming the status of the retiree as disabled, the board of trustees may cancel the disability retirement and terminate the retirement annuity.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.305 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 34, eff. Dec. 31, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 46, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 92(24), eff. January 1, 2008.

Sec. 844.307. CANCELLATION OF DISABILITY RETIREMENT. (a) If the medical board finds that a disability retiree has experienced medical improvement to the extent that the retiree is no longer mentally or physically incapacitated, it shall certify its findings and submit them to the board of trustees.

(b) In accordance with rules and procedures adopted by the board, the board of trustees may adopt the findings of the medical board and cancel the disability retirement and terminate annuity

payments to the retiree.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.306 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 17, eff. Jan. 1, 1992; Acts 2001, 77th Leg., ch. 122, Sec. 35, eff. Dec. 31, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 47, eff. January 1, 2008.

Sec. 844.309. ADJUSTMENTS AT ANNUITY TERMINATION. (a) If a disability retirement is canceled and the retirement annuity terminated under this subchapter, the person automatically resumes membership in the retirement system and the retirement system shall transfer from the subdivision accumulation fund and credit to the person's individual account in the employees saving fund an amount equal to the amount of accumulated contributions transferred to the subdivision accumulation fund at the time of retirement reduced by one percent for each year or part of a year during which disability annuity payments were made.

(b) If a person whose membership resumes under this section was receiving a supplemental annuity based in whole or in part on prior service credit, the retirement system shall restore to effect as the person's maximum prior service credit an amount equal to the person's maximum prior service credit at the time of disability retirement reduced by one percent for each year or part of a year during which disability annuity payments were made.

(c) A person who resumes membership under this section is entitled to restoration of credited service in the number of months accumulated and allowed before disability retirement.

(d) The board of trustees may adopt rules for the computation and transfer of amounts and credits for a membership resumed under this subchapter.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.308 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 18, eff. Jan. 1, 1992; Acts 2001, 77th Leg., ch. 122, Sec. 36, eff. Dec. 31, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 48, eff. January 1, 2008.

Acts 2015, 84th Leg., R.S., Ch. 303 (S.B. 463), Sec. 3, eff. June 1, 2015.

SUBCHAPTER E. DEATH BENEFITS

Sec. 844.401. RETURN OF ACCUMULATED CONTRIBUTIONS. (a) Except as provided by Subsection (c), if a member dies before retirement, a lump-sum death benefit is payable from the employees saving fund in the amount of:

(1) the decedent's accumulated contributions; plus

(2) interest computed on the decedent's accumulated contributions on January 1 of the year of death from the beginning of that year through the end of the month before the month in which death occurs.

(b) The benefit provided by this section is payable to the decedent's beneficiary or, if no surviving beneficiary exists, to the decedent's spouse or, if no surviving spouse exists, to the decedent's estate.

(c) A benefit is not payable under this section if an annuity based on the same service with the subdivision is payable under this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.401 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 309, Sec. 11, eff. Dec. 1, 1997; Acts 2001, 77th Leg., ch. 122, Sec. 38, eff. Dec. 31, 2001.

Sec. 844.402. RETURN OF EXCESS CONTRIBUTIONS. (a) After the death of a member or former member and after the final payment has been made under any service, disability, or survivor annuity, a lump-sum death benefit is payable in an amount, if any, by which the amount in the person's individual account in the employees saving fund on which the annuity was computed exceeds the amount of annuity payments made.

(b) The benefit provided by this section is payable to the

person entitled to receive the final monthly payment of the annuity. If that person is deceased, the benefit provided by this section is payable to the person's beneficiary or, if no surviving beneficiary exists, to the person's spouse or, if no surviving spouse exists, to the person's estate.

(c) The benefit provided by this section is payable from the subdivision accumulation fund.

(d) For plans terminated under Subchapter A-1, Chapter 842, the benefit provided by this section is payable from the closed subdivision annuity reserve fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.402 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 38, eff. Dec. 31, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 303 (S.B. 463), Sec. 4, eff. June 1, 2015.

Sec. 844.404. PERSON CAUSING DEATH OF MEMBER OR ANNUITANT. (a) A benefit, including any optional group term life benefit, payable on the death of a member or annuitant may not be paid to a person convicted of causing that death but instead is payable to a person who would be entitled under this subtitle to the benefit had the convicted person predeceased the decedent. If no person would be entitled to the benefit, the benefit is payable to the decedent's estate.

(b) The retirement system is not required to change the recipient of benefits under this section unless it receives actual notice of the conviction of a beneficiary. However, the retirement system may delay payment of a benefit payable on the death of a member or annuitant pending the results of a criminal investigation and of legal proceedings relating to the cause of death.

(c) The retirement system is not liable for any benefit paid to a convicted person before the date the system receives actual notice of the conviction, and any payment made before that date is a complete discharge of the system's obligation with regard to that benefit payment. The convicted person holds all payments received in constructive trust for the rightful recipient.

(d) If an annuity is in pay status, the retirement system shall pay in a lump sum the actuarial equivalent of the remainder of any annuity or payments that would otherwise have been payable to the convicted person to the person entitled to the benefit under Subsection (a) or to the decedent's estate. The time of the actuarial equivalence is the earlier of the time the retirement system receives the notice of the conviction under Subsection (b) or the time the retirement system begins the delay in payment of a benefit under Subsection (b).

(e) For the purposes of this section, a person has been convicted of causing the death of a member or annuitant if the person:

(1) has pleaded guilty or nolo contendere to or has been found guilty by a court of competent jurisdiction of an offense at the trial of which it is established that the person's intentional, knowing, or reckless act or omission resulted in the death of a person who was a member or annuitant, regardless of whether sentence is imposed or probated; and

(2) has no appeal of the conviction pending and the time provided for appeal has expired.

Added by Acts 1995, 74th Leg., ch. 245, Sec. 22, eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 21, eff. January 1, 2010.

Sec. 844.405. TRUST AS BENEFICIARY. (a) Except as limited by Subsection (b), a member or retiree may designate a trust as beneficiary for the payment of benefits from the retirement system or may designate multiple trusts as beneficiaries for the payment of benefits from the system in the same manner and with the same limitations that apply to the designation of multiple beneficiaries. If a trust is designated beneficiary, the beneficiary of the trust is considered the designated beneficiary for the purpose of determining eligibility for and the amount and duration of benefits. The trustee is entitled to exercise any rights granted a designated beneficiary to elect benefit options and name subsequent beneficiaries.

(b) Multiple trusts or a single trust having multiple beneficiaries may not receive benefits to which multiple designated

beneficiaries are not eligible under this chapter.

Added by Acts 1995, 74th Leg., ch. 245, Sec. 23, eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 49, eff. January 1, 2008.

Sec. 844.406. SIMULTANEOUS DEATH OF MEMBER AND BENEFICIARY. When a member or retiree and the spouse or beneficiary of the member or retiree have died within a period of less than 120 hours of each other, the member or retiree is considered to have survived the spouse or beneficiary for the purpose of determining the rights to amounts payable under this subtitle on the death of the member or retiree.

Added by Acts 1995, 74th Leg., ch. 245, Sec. 24, eff. Sept. 1, 1995.

Sec. 844.407. SURVIVOR ANNUITY. (a) In this section "eligible member" means a member who has four or more years of credited service with one or more subdivisions that are participating in the retirement system.

(b) Instead of any other benefit allowed under this subtitle other than an optional group term life benefit, an annuity described by this section may be paid on the death of an eligible member who had not filed an application for retirement or whose application for retirement had been revoked or canceled under Section 844.005.

(c) An annuity under this section is payable to the valid beneficiary designated on the unrevoked form most recently executed by the member and filed with the system naming a beneficiary. If no valid beneficiary exists or if the member died without having designated a valid beneficiary, the annuity is payable to the deceased member's surviving spouse or, if no surviving spouse exists, to the deceased member's estate.

(d) Any annuity payable under this section must be actuarially equivalent to the deceased member's benefit accrued under this subtitle determined as of the last day of the month preceding the month of the member's death. The annuity is payable in the form and manner authorized by the board of trustees.

(e) An annuity under this section is payable from the same

accounts and is subject to the same conditions that are applicable to a service retirement benefit for the same member.

(f) Repealed by Acts 2007, 80th Leg., R.S., Ch. 873, Sec. 92(27), eff. January 1, 2008.

(g) Repealed by Acts 2007, 80th Leg., R.S., Ch. 873, Sec. 92(27), eff. January 1, 2008.

(h) Repealed by Acts 2007, 80th Leg., R.S., Ch. 873, Sec. 92(27), eff. January 1, 2008.

(i) Repealed by Acts 2007, 80th Leg., R.S., Ch. 873, Sec. 92(27), eff. January 1, 2008.

(j) Repealed by Acts 2007, 80th Leg., R.S., Ch. 873, Sec. 92(27), eff. January 1, 2008.

Added by Acts 1999, 76th Leg., ch. 427, Sec. 38, eff. Dec. 31, 1999.
Amended by Acts 2001, 77th Leg., ch. 122, Sec. 39, eff. Dec. 31, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 50, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 51, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 92(27), eff. January 1, 2008.

Sec. 844.408. NO SURVIVING SPOUSE, EXECUTOR, OR ADMINISTRATOR. (a) In this section "heirs" has the meaning assigned by Chapter 22, Estates Code, except that the term excludes any person who has filed a proper disclaimer or renunciation with the retirement system.

(b) If the administrator of a deceased member's estate would be entitled to a refund or an annuity because of the death of the member, the heirs of the deceased member may apply for and receive the benefit if:

(1) no petition for the appointment of a personal representative of the member is pending or has been granted;

(2) 30 days have elapsed since the date of death of the member;

(3) the value of the entire assets of the member's probate estate, excluding homestead and exempt property, does not exceed $50,000; and

(4) on file with the retirement system is a certified copy of a small estates affidavit that has been approved and filed in accordance with Chapter 205, Estates Code, or an original affidavit described by Subsection (c).

(c) If no affidavit has been filed with the clerk of the court having jurisdiction and venue as provided by Chapter 205, Estates Code, the retirement system may accept instead an affidavit sworn to by two disinterested witnesses and by those heirs who have legal capacity and, if the facts warrant, by the natural guardian or next of kin of any minor or incompetent who is also an heir. The affidavit must include the names and addresses of the heirs and witnesses, establish the facts listed in Subsection (b), include a list of the assets and liabilities of the estate, show the facts that constitute the basis for the right of the heirs to receive the estate, and show the fractional interests of the heirs in the estate as a result of those facts.

(d) If the retirement system, acting through the director or a person designated by the director, approves the affidavit, the heirs may make the election if each heir agrees to it.

Added by Acts 1999, 76th Leg., ch. 427, Sec. 39, eff. Dec. 31, 1999.
Amended by Acts 2001, 77th Leg., ch. 122, Sec. 40, eff. Dec. 31, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 20, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 52, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.043, eff. September 1, 2017.

SUBCHAPTER F. OPTIONAL GROUP TERM LIFE PROGRAM

Sec. 844.501. COVERAGE IN OPTIONAL GROUP TERM LIFE PROGRAM. (a) An employee of a participating subdivision is included within the coverage of the optional group term life program on that day in the first month in which:

(1) the employing subdivision is participating in the program for coverage of all members it employs;

(2) the employee is a member of the retirement system; and

(3) the employee is required to make a contribution to the retirement system.

(b) Once established, coverage of a person in the program continues until the last day of a month in which a requirement of Subsection (a) is not met.

(c) The optional group term life program constitutes "group term life insurance purchased for employees" as described by Section 79, Internal Revenue Code of 1986.

Added by Acts 1981, 67th Leg., 1st C.S., p. 212, ch. 18, Sec. 53, eff. Nov. 10, 1981. Amended by Acts 1987, 70th Leg., ch. 63, Sec. 10, eff. May 6, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.501 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 41, eff. Dec. 31, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 54, eff. January 1, 2008.

Sec. 844.502. EXTENDED OPTIONAL GROUP TERM LIFE COVERAGE. (a) A member included in the coverage of the optional group term life program who fails to earn compensation in a month for service to a subdivision participating in the program may be eligible to receive extended coverage in the program under this section.

(b) A member who dies within 24 months after the date the member last made a required contribution to the retirement system is considered to have received extended program coverage if the retirement system receives at its office after the member's death:

(1) evidence that the retirement system considers satisfactory to establish that, as a result of illness or injury, the member was unable to engage in gainful employment throughout the period beginning with the date of the last required contribution and ending on the date of death;

(2) a statement from the subdivision, on a form approved by the board of trustees, that the member was on leave of absence under the Family and Medical Leave Act of 1993 (Pub. L. 103-3) throughout the period beginning with the date of the last required contribution and ending on the date of death; or

(3) a statement from the subdivision, on a form approved by

the board of trustees, that the member was on leave of absence under the Family and Medical Leave Act of 1993 (Pub. L. 103-3) during part of the period beginning with the date of the last required contribution and ending on the date of death, with evidence that the retirement system considers satisfactory to establish that, throughout the rest of the period, the member was unable to engage in gainful employment as a result of illness or injury.

(c) Repealed by Acts 2001, 77th Leg., ch. 122, Sec. 56(6), eff. Dec. 31, 2001.

(e), (f) Repealed by Acts 1999, 76th Leg., ch. 427, Sec. 64(16), eff. Dec. 31, 1999.

Added by Acts 1981, 67th Leg., 1st C.S., p. 212, ch. 18, Sec. 53, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 491, Sec. 23, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.502 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 25, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 427, Sec. 40, 64(16), eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 56(6), eff. Dec. 31, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 55, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 56, eff. January 1, 2008.

Sec. 844.503. MEMBER OPTIONAL GROUP TERM LIFE. (a) In this section, the terms "regular rate of pay," "hours worked," "salary basis," and "regular salary" have meanings that are consistent with the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.).

(b) If a person included in the coverage or extended coverage of the optional group term life program dies, a lump-sum supplemental death benefit is payable from the optional group term life fund in an amount equal to the current annual compensation of the member at the time of death.

(c) The current annual compensation of a member who is not exempt from the minimum wage and maximum hour requirements of the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) is computed by converting to an annual basis the regular rate of pay of

the member for the most recent hour worked and proportionately reducing that annual basis if the member is not employed in a full-time position. The current annual compensation of a member who is exempt from those minimum wage and maximum hour requirements and who is paid on a salary basis is computed by converting to an annual basis the regular salary paid to the member for the most recent pay period of active employment.

(d) If a member, because of a change in employment, makes contributions to the retirement system during the same month as an employee of more than one subdivision participating in the optional group term life program, a death benefit is payable only on the basis of the member's most recent employment. If a member, because of simultaneous employment by more than one subdivision, makes contributions to the retirement system during the same month as an employee of more than one subdivision participating in the program, a death benefit is payable on the basis of the member's employment by each subdivision participating in the program.

(e) The board of trustees by rule may require such proof of compensation and periods of employment as it finds necessary.

Added by Acts 1981, 67th Leg., 1st C.S., p. 212, ch. 18, Sec. 53, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.503 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 42, eff. Dec. 31, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 57, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 58, eff. January 1, 2008.

Sec. 844.504. RETIREE OPTIONAL GROUP TERM LIFE BENEFIT. If a retiree dies who was receiving a retirement annuity based on service for a subdivision that has elected to provide, and continues to provide, postretirement optional group term life coverage, a lump-sum death benefit is payable from the optional group term life fund in the amount of $5,000.

Added by Acts 1981, 67th Leg., 1st C.S., p. 212, ch. 18, Sec. 53, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B,

Sec. 54.504 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 26, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 122, Sec. 43, eff. Dec. 31, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 24, eff. Jan. 1, 2004.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 59, eff. January 1, 2008.

Sec. 844.505. BENEFICIARY OF OPTIONAL GROUP TERM LIFE BENEFIT. (a) Unless a member has directed otherwise on a form prescribed by the board of trustees and filed with the retirement system:

(1) an optional group term life benefit under Section 844.503 is payable to the person entitled to receive the decedent's accumulated contributions, unless the decedent was an eligible member under Section 844.407, in which case the benefit is payable to the beneficiary designated by the decedent or, if no designation was made, to the person entitled under that section to receive a survivor annuity; and

(2) an optional group term life benefit under Section 844.504 is payable to a person entitled to receive any remaining payments of the decedent's annuity.

(b) If a person entitled under this section to receive an optional group term life benefit does not survive the member or retiree covered by the optional group term life program, the benefit is payable to the person to whom a benefit under Subchapter B or D is payable, or if no benefit is payable under those subchapters, to the person to whom a benefit under Subchapter E is or would be payable.

Added by Acts 1981, 67th Leg., 1st C.S., p. 212, ch. 18, Sec. 53, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.505 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 41, eff. Dec. 31, 1999.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 59, eff. January 1, 2008.

SUBCHAPTER G. FIXED CONTRIBUTION RATE PLAN

Sec. 844.601. PLAN FUNDING BY NON-ADOPTING COUNTY. (a) This section applies only to a county that began participation in the retirement system before January 1, 1992, and has not adopted the provisions of Subchapter H.

(b) Except as provided by Subsections (c) and (d), the county shall contribute to its account in the subdivision accumulation fund at the same rate of current service compensation as the employee contribution rate for the county.

(c) If in any year the retirement system's actuary determines that the contributions of the county to the subdivision accumulation fund under Subsection (b) will not finance the county's obligations to the fund within the closed or open amortization period recommended by the actuary and adopted by the board of trustees for all subdivisions, the governing body of the county shall adopt an order to reduce the amortization period to the maximum period established by the board. The actuary shall determine appropriate remedies for review and adoption by the county. An order adopted under this subsection must first be approved by the board of trustees and must require:

(1) a reduction in the employee contribution rate to a rate not less than four percent of current service compensation;

(2) additional employer contributions under a supplemental contribution rate as provided by Subsection (e);

(3) a reduction in the percentage for determining multiple matching credits in five percent increments for contributions made after the effective date of the reduction; or

(4) any combination of these actions.

(d) An order adopted under Subsection (c) takes effect on the first day of the calendar year that begins after the date the retirement system's actuary makes a determination described by Subsection (c).

(e) A supplemental contribution rate under this section is the rate of contribution by the county to its account in the subdivision accumulation fund, in addition to the contributions required under Subsection (b), that the retirement system's actuary determines and certifies is required to amortize the obligations of the county to the subdivision accumulation fund within the established amortization period.

(f) A county that has not adopted the provisions of Subchapter H may not adopt additional options and may not increase service

credits or benefits otherwise allowable under this subtitle except for an increase in the rate of employee contributions or an increase in the percentage of multiple matching credits to a rate or percentage that does not exceed the rate or percentage in effect on January 1, 2010.

Added by Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 22, eff. September 1, 2009.

SUBCHAPTER H. ANNUALLY DETERMINED CONTRIBUTION RATE PLAN

Sec. 844.701. APPLICABILITY.
Except for a county described by Section 844.601, this subchapter applies to each subdivision that participates in the retirement system.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 21, eff. Jan. 1, 1992.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 23, eff. January 1, 2010.

Sec. 844.702. MEMBER CONTRIBUTIONS. (a) The governing body of the subdivision may designate the rate of member contributions for employees of the subdivision to take effect beginning on the effective date of adoption of the plan provisions of this subchapter. The subdivision may elect a rate of four, five, six, or seven percent of the current service compensation of its employees. The governing body of the subdivision may thereafter increase or decrease the contribution rate to take effect on the next January 1 after the date of adoption of the increase or decrease, in accordance with the provisions of Sections 845.402(b) and (c).

(b) If necessary under Section 844.703(h), a subdivision's member contribution rate may be reduced to one, two, three, four, five, or six percent of the current service compensation of its employees.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 21, eff. Jan. 1, 1992.
Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 16, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 245, Sec. 29, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 427, Sec. 45, eff. Dec. 31, 1999.

Sec. 844.703. SUBDIVISION CONTRIBUTIONS. (a) Each participating subdivision adopting the plan provisions of this subchapter shall pay to the subdivision accumulation fund as its normal contribution an amount equal to a percentage of the compensation of members employed by the subdivision for that month. The rate of contribution is the normal contribution rate determined annually by the actuary and approved by the board of trustees.

(b) Each subdivision adopting the plan provisions of this subchapter shall pay to the subdivision accumulation fund, as its prior service contribution, an amount equal to a percentage of the compensation of members employed by the subdivision for that month. The rate of contribution is the rate determined annually by the actuary and approved by the board of trustees as being the rate required to fund all unfunded obligations charged against the subdivision's account in the subdivision accumulation fund within the subdivision's amortization period without probable future depletion of that account or, if there are no unfunded obligations, the rate required to amortize any overfunded obligations within a period of 30 years.

(c) The combined rates of a subdivision's normal contributions and prior service contributions under this subchapter may not exceed 11 percent unless the governing body of the subdivision elects to waive this limitation. A waiver under this subsection becomes effective on January 1 of the year after the year in which it is adopted and remains effective until January 1 of the year following a repeal of the waiver by the subdivision's governing body.

(d) The actuary annually shall determine the subdivision normal contribution rate and the prior service contribution rate for subdivisions adopting the plan provisions of this subchapter from the most recent data available at the time of determination. Before January 1 of each year, the board of trustees shall certify the rates of each subdivision that has adopted the plan provisions of this subchapter. If the combined rates of the subdivision's normal contributions and prior service contributions under this subchapter exceed the rate prescribed by Subsection (c), and if the governing body of the subdivision has not waived that maximum rate, the rate for prior service contributions must be reduced to the rate that equals the difference between the maximum rate prescribed by

Subsection (c) and the normal contribution rate. The governing body may elect to contribute at a rate that is greater than the sum of the subdivision's normal contribution rate and prior service contribution rate as determined under Subsections (a) and (b). An elected rate may not exceed the maximum rate prescribed by Subsection (c), unless the governing body has elected to waive that maximum rate. An elected rate remains in effect for each subsequent calendar year until it is rescinded by the governing body. For years in which the sum of the rates determined under Subsections (a) and (b) exceeds the elected rate, the governing body must contribute the sum of the rates determined under Subsections (a) and (b). For years in which the elected rate exceeds the sum of the rates determined under Subsections (a) and (b), the prior service contribution rate is increased to the rate that equals the difference between the elected rate and the normal contribution rate prescribed by Subsection (a).

(e) In addition to the normal contributions and prior service contributions under this subchapter, the subdivision shall make the picked-up employee contributions provided by Section 845.403(i), and those contributions, along with optional group term life contributions, are not subject to the maximum subdivision contribution rates prescribed by Subsection (c).

(f) The prior service contribution rate prescribed by Subsection (b) must be based on an open or closed amortization period as recommended by the actuary and adopted by the board of trustees but may not exceed 30 years. The board of trustees may establish criteria for the circumstances under which a subdivision's amortization period, if closed, will be renewed, extended, or shortened.

(g) If the combined rates of the subdivision's normal contributions and prior service contributions under this subchapter exceed the maximum rate prescribed by Subsection (c) before the adjustment prescribed by Subsection (d), and if the governing body of the subdivision has not waived that maximum rate, the actuary shall determine what lower percentage for determining multiple matching credits of future member contributions is necessary to make the combined rates of the subdivision not exceed the maximum rate prescribed by Subsection (c). The actuary shall give written notice of the determination to the director, who shall give written notice to the governing body of the subdivision. The lower percentage determined by the actuary and specified in the notice to the

governing body becomes effective as to all members who perform current service for the affected subdivision on or after the first day of the first calendar year that begins after the date of the notice, unless before the effective date, the governing body of the subdivision adopts an order or resolution, approved by the board of trustees, authorizing a reduction in the percentage used in determining multiple matching credits in accordance with Section 844.704(a) or authorizing a reduction in the rate of member contributions in accordance with Section 844.702, or authorizing both a reduction in the percentage used in determining multiple matching credits and a reduction in the rate of member contributions.

(h) If the combined rates of the subdivision's normal contributions and prior service contributions under this subchapter exceed the maximum rate prescribed by Subsection (c), and if the governing body of the subdivision has not waived that maximum rate, and if all reductions under Subsection (g), in the opinion of the actuary, result in the combined rates of the subdivision remaining in excess of the maximum rate prescribed by Subsection (c), the retirement system shall reduce the rate of member contributions to a lower rate authorized by Section 844.702 that, in the opinion of the actuary, is required to produce a combined rate that does not exceed the rate prescribed by Subsection (c). At the time the actuary determines that the rate of employee contributions that was in existence before a reduction under this subsection no longer would result in a combined rate in excess of the maximum rate prescribed by Subsection (c), the retirement system shall reinstate the employee contribution to the rate that was in effect at the time of the reduction, unless the governing body of the subdivision has elected to change to some other rate authorized by Section 844.702(a). Any change under this section shall be made on January 1 of the year following the applicable determination by the actuary. During the time that the member contribution rate is reduced, the combined rates of the subdivision's normal contributions and prior service contributions shall be equal to the maximum rate prescribed by Subsection 844.703(c).

(i) Notwithstanding any provision in this section to the contrary and if approved by the board of trustees, a participating subdivision that has experienced or is anticipating circumstances that cause employer contributions based on covered payroll to be an unreasonable method of funding shall contribute in an actuarially

approved method that is reasonable to regularly and consistently fund all of its pension liabilities in the retirement system.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 21, eff. Jan. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 17, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 245, Sec. 30, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 309, Sec. 17, eff. Dec. 1, 1997; Acts 1999, 76th Leg., ch. 427, Sec. 46, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 44, eff. Dec. 31, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 21, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 63, eff. January 1, 2008.

Sec. 844.704. BENEFITS. (a) The governing body of a subdivision shall select a percentage for determining multiple matching credits of zero or any percentage that is a multiple of five percent and that does not exceed 150 percent. The governing body may later increase the percentage used in determining multiple matching credits under Section 843.402 to any percentage that is a multiple of five percent and that does not exceed 150 percent, to take effect on the next January 1 after the date the increase is adopted. In its order or resolution, the governing body may provide that the increased percentage will be used in determining multiple matching credits only for employee contributions made after the effective date of the increase or that the increased percentage will be used both prospectively and retroactively in determining the multiple matching credits for all employee contributions not otherwise matched at a higher percentage. The governing body may thereafter reduce the percentage used in determining multiple matching credits for contributions made after the effective date of the reduction to zero or any percentage that is a multiple of five percent, to take effect on the next January 1 after the date of the reduction.

(b) The governing body shall select a percentage for determining allocated prior service credits of zero or any percentage that is a multiple of five percent. The governing body may increase the percentage used in determining allocated prior service credits, to take effect on the next January 1 after the date of the increase.

The percentage may not exceed one-half of the percentage that results from adding 200 percent to the lowest percentage for determining multiple matching credit currently applicable to any employee contribution with respect to the subdivision.

(c) The subdivision shall provide current service credits in accordance with Section 843.402.

(d) With the approval of the board of trustees, the governing body of a subdivision may adopt any benefit increase or additional benefit, option, right, or feature as authorized under this subtitle.

(e) The governing body may not adopt an increase or addition to the subdivision's plan if the adoption would result in the combined rates of the subdivision's normal contributions and prior service contributions for the first calendar year following the adoption exceeding the maximum rate prescribed by Section 844.703(c), unless a waiver under that section is in effect.

(f) Other than an order or resolution of initial participation in the retirement system and except as otherwise authorized by the board of trustees, an order or resolution under this section must be filed with the retirement system not later than December 15 of the year preceding the year in which it will take effect and may not take effect until the order or resolution is approved by the board of trustees as meeting the requirements of this section. An order or resolution adopted after participation begins may take effect only on January 1 of a year.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 21, eff. Jan. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 18, eff. Jan. 1, 1994; Acts 1993, 73rd Leg., ch. 536, Sec. 6, eff. Jan. 1, 1994; Acts 1999, 76th Leg., ch. 427, Sec. 47, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 45, eff. Dec. 31, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 28, eff. Jan. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 22, eff. January 1, 2006.

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 22, eff. December 31, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 64, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 92(28), eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 24, eff. January 1, 2010.

CHAPTER 845. ADMINISTRATION

SUBCHAPTER A. BOARD OF TRUSTEES

Sec. 845.001. COMPOSITION OF BOARD OF TRUSTEES. The board of trustees is composed of nine members.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.002. APPOINTMENT. The governor shall appoint the members of the board of trustees with the advice and consent of the senate.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.003. ELIGIBILITY. (a) To be eligible to serve as a trustee a person must be:

(1) a member of the retirement system and an employee of a participating subdivision; or

(2) a retiree of the retirement system.

(b) If a person serving as a trustee ceases to meet an eligibility requirement under Subsection (a), the person shall vacate the office of trustee.

(c) A person serving as trustee who fails to attend four consecutive regular meetings of the board of trustees may not act as a trustee and is considered to have vacated the office of trustee.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 214, ch. 18, Sec. 54, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989; Acts 2003, 78th Leg., ch. 621, Sec. 29, eff. Jan. 1, 2004. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 65, eff. January 1, 2008.

Sec. 845.004. TERM OF OFFICE. Trustees hold office for staggered terms of six years, with the terms of three trustees expiring December 31 of each odd-numbered year.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.005. OATH OF OFFICE. Before taking office as a trustee, a person shall take the constitutional oath prescribed for officers of the state.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.005 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.007. MEETINGS. (a) The board of trustees shall hold four regular meetings each year and special meetings when called by the director.

(b) Before the fifth day preceding the day of a special meeting, the director shall give written notice of the meeting to each trustee unless notice is waived.

(c) Except as otherwise permitted by Section 845.301(a-1), Chapter 551, or other law, all meetings of the board must be open to the public.

(d) The board shall hold its meetings in the office of the board or in a place specified by the notice of the meeting.

(e) Notwithstanding Chapter 551 or any other law, the board of trustees may hold an open or closed meeting by telephone conference call, videoconference, or other similar telecommunication method. The board may use a telephone conference call, videoconference, or other similar telecommunication method for purposes of establishing a quorum or voting or for any other meeting purpose in accordance with Subsection (f) and this subsection. This subsection applies without regard to the subject matter discussed or considered by the board at

the meeting.

(f) A meeting held by telephone conference call, videoconference, or other similar telecommunication method:

(1) is subject to the notice requirements applicable to other board meetings;

(2) may not be held unless notice of the meeting specifies the location of the meeting at which at least one trustee of the board will be physically present; and

(3) must be open and audible to the public at the location specified in the notice under Subdivision (2) during the open portions of the meeting.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.007 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 621, Sec. 30, eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 66, eff. January 1, 2008.

Sec. 845.008. COMPENSATION; EXPENSES. Each trustee serves without compensation but is entitled to:

(1) reimbursement for reasonable traveling expenses incurred in attending board meetings or authorized committee and association meetings or incurred in the performance of other official board duties; and

(2) payment of an amount equal to any compensation withheld by the trustee's employing subdivision because of the trustee's attendance at board meetings.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.008 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.009. VOTING. (a) Each trustee is entitled to one vote.

(b) At any meeting of the board, five or more concurring votes are necessary for a decision or action by the board.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.009 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. POWERS AND DUTIES OF BOARD OF TRUSTEES

Sec. 845.101. ADMINISTRATION. (a) The retirement system is a trust.

(b) The board of trustees is responsible for the administration of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.102. RULES AND STANDARDS. (a) The board of trustees shall adopt rules and perform reasonable activities necessary or desirable for efficient administration of the system.

(b) Subject to the provisions of this subtitle, the board of trustees may establish systemwide standards to which all subdivisions are subject and that apply to all members of the retirement system or to all members similarly situated in a class. The board may establish or modify a systemwide standard at a time and in a manner the board determines to be appropriate and in the best interests of the system, the members, or their beneficiaries.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.102 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 67, eff. January 1, 2008.

Sec. 845.103. ADMINISTERING SYSTEM ASSETS. (a) The board of trustees may sell, assign, exchange, or trade and transfer any security in which the retirement system's assets are invested. The board may use or reinvest the proceeds as the board determines that the system's needs require.

(b) In handling the funds of the retirement system, the board

of trustees has all powers and duties granted to the comptroller that formerly were granted to the State Depository Board.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.103 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.14, eff. Sept. 1, 1997.

Sec. 845.104. ACCEPTING GIFT, GRANT, OR BEQUEST. The board of trustees shall accept a gift, grant, or bequest of money or securities:

(1) for the purpose designated by the grantor if the purpose provides an endowment or retirement benefits to some or all participating employees or annuitants of the retirement system; or

(2) otherwise, for deposit in the endowment fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.104 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.105. INDEBTEDNESS; PAYMENT. (a) The board of trustees may:

(1) incur indebtedness;

(2) on the credit of the retirement system, borrow money to pay expenses incident to the system's operation;

(3) renew, extend, or refund its indebtedness; or

(4) issue and sell negotiable promissory notes or negotiable bonds of the system.

(b) A note or bond issued under this section must expressly state that the note or bond is not an obligation of this state.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.105 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 48, eff. Dec. 31, 1999.

Sec. 845.106. GRANTS AND PAYMENT OF BENEFITS. The board of trustees, in accordance with this subtitle, shall consider all

applications for annuities and benefits and shall decide whether to grant the annuities and benefits. The board may suspend one or more payments in accordance with this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.106 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.107. AUDITS AND REVIEWS.(a) In this section:

(1) "Audit" means an audit authorized or required by a statute of this state or of the United States or initiated or commissioned by the board of trustees. The term includes a financial audit, compliance audit, economy and efficiency audit, effectiveness audit, performance audit, risk audit, and investigation.

(2) "Audit working paper" includes all information, documentary or otherwise, prepared or maintained in conducting an audit or preparing an audit report, including:

(A) internal or external communications relating to the audit that are made or received in the course of the audit; and

(B) drafts of an audit report or portions of those drafts.

(b) Annually, or more often, the board of trustees shall have the accounts of the retirement system audited by a certified public accountant.

(c) In addition to the financial audit required by Subsection (b), the board of trustees may initiate or commission an audit or investigation of activities, functions, or operations of the retirement system as the board determines appropriate.

(d) Audit working papers prepared, maintained, or assembled by the retirement system or an agent of the system are not a record of the board of trustees for purposes of Section 845.112, and are confidential and excepted from the disclosure requirements of Chapter 552.

(e) Unless made confidential under other law, an audit report, when accepted by the board of trustees in its final form, is a record of the board and public information.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.107 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:
Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 25, eff. January 1, 2010.

Sec. 845.108. DESIGNATION OF AUTHORITY TO DISBURSE FUNDS. The director is authorized to sign checks and authorize fund transfers for payments from the assets of the retirement system. The director may designate in writing additional persons to have authority to sign checks and authorize fund transfers for payments from the assets of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.108 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 309, Sec. 18, eff. Dec. 1, 1997.

Sec. 845.109. DEPOSITORIES. The board of trustees shall designate financial institutions to qualify and serve the retirement system as depositories in accordance with Subchapter C of Chapter 404.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.109 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.110. ADOPTING RATES AND TABLES. (a) The board of trustees shall adopt rates and tables that the board considers necessary for the retirement system after considering the results of the actuary's investigation of the mortality and service experience of the system's members and annuitants.

(b) Based on recommendations of the actuary, the board of trustees shall adopt rates and tables necessary to determine the supplemental death benefits contribution rates for each subdivision participating in the supplemental death benefits fund. The initial rates and tables become effective on the date that the fund and coverage become operative.

(c) On recommendation of the retirement system's actuary, the board of trustees by rule may adopt a mortality basis to be used in

determining actuarial equivalents. A mortality basis adopted under this subsection may not be applied in a manner that would reduce a participant's monthly benefit that has accrued before the later of the date the mortality basis is adopted or the date the mortality basis is implemented.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 214, ch. 18, Sec. 55, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.110 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 26, eff. January 1, 2010.

Sec. 845.111. INSURANCE. Notwithstanding any other law, the board of trustees may self-insure or purchase any insurance the board considers reasonable and prudent for the performance of board duties and prerogatives.

Added by Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 68, eff. January 1, 2008.

Sec. 845.112. RECORDS OF BOARD OF TRUSTEES. (a) The board of trustees shall keep, in convenient form, data necessary for required computations and valuations by the actuary.
(b) The board shall keep a permanent record of all of its proceedings.
(c) Records of the board are open to the public.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.112 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.113. OFFICE. (a) The board of trustees shall maintain the offices of the retirement system in Austin and may, but is not required to:
(1) cause the system to own real estate on or in which

those offices are located;

(2) contract for and construct a building or buildings to house those offices, along with related structures such as parking garages;

(3) lease office space from others;

(4) lease space in its offices, or in a building that previously has been its offices, to other persons or entities;

(5) maintain, modify, or construct improvements on any real estate, whether for the retirement system or a tenant; or

(6) sell real estate that previously has been the retirement system's offices.

(b) The board shall keep the books and records of the retirement system in those offices.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 215, ch. 18, Sec. 56, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.113 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 31, eff. Sept. 1, 1995.

Sec. 845.114. DEFINITION OF PARTICIPANT; OBTAINING INFORMATION. (a) In this chapter, "participant" means a member, former member, retiree, annuitant, beneficiary, or alternate payee of the retirement system.

(b) The retirement system shall obtain from participants and subdivisions information necessary for the proper operation and administration of the system.

(c) Each participant and subdivision shall timely provide to the retirement system in the form and manner specified by the system information the board of trustees determines to be necessary for the proper operation and administration of the system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.114 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 23, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 69, eff.

January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 27, eff. January 1, 2010.

Sec. 845.115. CONFIDENTIALITY OF PARTICIPANT INFORMATION. (a) Information contained in records in the custody of the retirement system or maintained in the custody of another governmental entity or an administrator or carrier acting in cooperation with or on behalf of the retirement system concerning a participant is confidential. Except as otherwise provided by this section, the retirement system is not required to accept or comply with a request for a record or information about a record of a participant or to seek an opinion from the attorney general because the records of a participant are exempt from the public information provisions of Chapter 552. The information may not be disclosed in a form identifiable with a specific individual unless:

(1) the information is disclosed to:

(A) the participant or the participant's attorney, guardian, executor, administrator, conservator, or other person who the director determines is acting in the interest of the participant or the participant's estate;

(B) a spouse or former spouse of the participant and the director determines that the information is relevant to the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the retirement system;

(C) a governmental official or employee and the director determines that disclosure of the information requested is reasonably necessary to the performance of the duties of the official or employee; or

(D) a person authorized by the participant in writing to receive the information; or

(2) the information is disclosed pursuant to a subpoena and the director determines that the participant will have a reasonable opportunity to contest the subpoena.

(b) This section does not prevent the disclosure of the status or identity of an individual as a member, former member, retiree, deceased member or retiree, or beneficiary of the retirement system.

(b-1) This section does not require the retirement system to compile or disclose a list of participants' names, addresses, social

security numbers, or other descriptive or demographic information.

(c) The director may designate other employees of the retirement system to make the necessary determinations under Subsection (a).

(d) A determination and disclosure under Subsection (a) may be made without notice to the participant.

(e) The records of a participant remain confidential after release to a person as authorized by this section. The records of the participant may become part of a public record of an administrative or judicial proceeding, and the participant waives the confidentiality of the records, including medical records, unless the records are closed to public access by a protective order issued under applicable law.

(f) Repealed by Acts 2009, 81st Leg., R.S., Ch. 300, Sec. 38(4), eff. January 1, 2010.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 22, eff. Aug. 26, 1991.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(97), eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 574 (H.B. 1474), Sec. 1, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 70, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 71, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 38(4), eff. January 1, 2010.

Sec. 845.1151. ELECTRONIC INFORMATION. The retirement system may provide confidential information electronically to a participant and to a subdivision and receive information electronically from those persons, including by use of an electronic signature or certification in a form acceptable to the retirement system. An unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information under this section is not a violation by the retirement system of any law, including a rule relating to the protection of confidential information.

Added by Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 72, eff. January 1, 2008.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 28, eff. January 1, 2010.

Sec. 845.116. ELECTRONIC TRANSFER OF FUNDS AND ELECTRONIC FILING OF DOCUMENTS. (a) In this section:

(1) "Electronic filing" means the filing of data transmitted to the retirement system by the communication of information by facsimile or in the form of digital electronic signals transformed by computer and stored on microfilm, magnetic tape, optical disks, or any other medium.

(2) "Electronic transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone instrument, computer, or magnetic media to order, instruct, or authorize a financial institution to debit or credit an account.

(b) The board of trustees may adopt rules and procedures relating to the electronic transfer of funds and the electronic filing of documents and required reports.

(c) Funds that are electronically transferred in accordance with those rules and procedures are considered to have been timely received by the retirement system. Documents and required reports that are electronically filed in accordance with those rules and procedures are considered to have been properly filed with the retirement system.

Added by Acts 1999, 76th Leg., ch. 427, Sec. 49, eff. Dec. 31, 1999.

SUBCHAPTER C. OFFICERS AND EMPLOYEES OF BOARD OF TRUSTEES

Sec. 845.201. OFFICERS. (a) The board of trustees annually shall elect from members of the board:

(1) a chairman; and

(2) a vice-chairman.

(b) The board may appoint the director or a member of the board as secretary.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.201 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.202. DIRECTOR. (a) The board of trustees shall appoint a director.

(b) The director shall manage and administer the retirement system under the supervision and direction of the board.

(c) The board of trustees may delegate to the director powers and duties in addition to those stated by Subsection (b).

(d) The director annually shall:

(1) prepare an itemized budget showing the amount required to pay the retirement system's administrative expenses for the following fiscal year; and

(2) submit the administrative budget to the board for review, amendment, and adoption.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.202 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 32, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 309, Sec. 19, eff. Dec. 1, 1997.

Sec. 845.203. LEGAL ADVISER. (a) The board of trustees shall appoint an attorney.

(b) The attorney shall act as the legal adviser to the board.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.203 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 73, eff. January 1, 2008.

Sec. 845.204. MEDICAL BOARD. (a) The board of trustees shall designate a medical board composed of three physicians.

(b) To be eligible to serve as a member of the medical board, a physician must be licensed to practice medicine in the state and be of good standing in the medical profession. A physician who is

eligible to participate in the retirement system may not be a member of the medical board.

(c) The medical board shall:

(1) review all medical examinations required by this subtitle;

(2) investigate essential statements and certificates made by or on behalf of a member of the retirement system in connection with an application for disability retirement; and

(3) report in writing to the board of trustees its conclusions and recommendations on all matters referred to it.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.204 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.205. OTHER PHYSICIANS. The board of trustees may employ physicians in addition to the medical board to report on special cases.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.205 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.206. ACTUARY. (a) The board of trustees shall appoint an actuary.

(b) The actuary shall perform duties in connection with advising the board concerning operation of the system's funds.

(c) At least once every five years the actuary shall:

(1) make a general investigation of the mortality and service experience of the members and annuitants of the system; and

(2) on the basis of the results of the investigation, recommend for adoption by the board required tables and rates.

(d) On the basis of tables and rates adopted by the board, the actuary shall make an annual valuation of the assets and liabilities of the retirement system and of each participating subdivision with regard to the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.206 and

amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 19, eff. Jan. 1, 1994; Acts 1997, 75th Leg., ch. 309, Sec. 20, eff. Dec. 1, 1997.

Sec. 845.207. OTHER EMPLOYEES. The board of trustees shall employ actuarial, clerical, legal, medical, and other assistants required for the efficient administration of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.207 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.208. COMPENSATION OF EMPLOYEES. The board of trustees shall determine the amount of compensation that employees of the retirement system receive.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.208 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER D. MANAGEMENT OF ASSETS

Sec. 845.301. INVESTMENT OF ASSETS. (a) The assets of the retirement system shall be invested and reinvested without distinction as to their source in accordance with Section 67, Article XVI, Texas Constitution. For purposes of the investment authority of the board of trustees under Section 67, Article XVI, Texas Constitution, "securities" means any investment instrument within the meaning of the term as defined by Section 4001.068, 15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10). An interest in a limited partnership or investment contract is considered a security without regard to the number of investors or the control, access to information, or rights granted to or retained by the retirement system. Any instrument or contract intended to manage transaction, currency exchange, or interest rate risk in purchasing, selling, or holding securities, or that derives all or substantially all of its value from the value or performance of one or more securities, including an index or group of securities, is considered to be a security. Investment decisions are subject to the standard provided

in the Texas Trust Code by Section 117.004(b), Property Code.

(a-1) Notwithstanding any provision of Chapter 551 or any other law, the board of trustees may discuss an investment or potential investment with one or more employees of the retirement system or with a third party to the extent permitted to the board of trustees of the Texas growth fund under Section 551.075.

(b) The board of trustees shall exercise control of the investment operations by employing an investment officer, who shall supervise the investment operations for the board of trustees. The investment officer shall prepare and submit to the board for review, amendment, and adoption an itemized budget showing the amount required to pay the investment expenses of the retirement system for the following fiscal year.

(c) The board of trustees, acting on the recommendations of the investment officer, may contract with private professional investment managers to assist in investing the assets of the retirement system. The board of trustees also has the authority set forth in Section 802.204 to appoint investment managers for the retirement system, with the effect described by Section 802.203(c).

(d) The board of trustees shall employ one or more performance measurement services to evaluate and analyze the investment results of those assets of the retirement system for which reliable and appropriate measurement methodology and procedures exist. Each service shall compare investment results with the written investment objectives developed by the board of trustees and shall also compare the investment of assets being evaluated and analyzed with the investment of other public funds.

(e) The assets of the retirement system may be held in the name of agents, nominees, depository trust companies, or other entities designated by the board of trustees. The records and all relevant reports or accounts of the retirement system must show the ownership interests of the retirement system in these assets and the facts regarding the system's holdings.

(f) The board of trustees shall establish written investment objectives concerning the investment of assets of the retirement system.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 542, Sec. 7, eff. Aug. 26, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec.

55.301 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 408, Sec. 4, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 175, Sec. 20, eff. Jan. 1, 1994; Acts 1993, 73rd Leg., ch. 858, Sec. 3, eff. June 18, 1993; Acts 1995, 74th Leg., ch. 245, Sec. 33, eff. May 27, 1995; Acts 1997, 75th Leg., ch. 309, Sec. 21, eff. Dec. 1, 1997; Acts 1999, 76th Leg., ch. 427, Sec. 50, eff. Dec. 31, 1999; Acts 2003, 78th Leg., ch. 1103, Sec. 13, eff. Jan. 1, 2004; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 15.01, eff. Jan. 11, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 74, eff. January 1, 2008.

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 2.23, eff. January 1, 2022.

Sec. 845.302. CUSTODY AND INVESTMENT OF ASSETS PENDING TRANSACTIONS. The board of trustees, in the exercise of its discretion to manage the assets of the retirement system, may select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the system's cash or securities pending completion of an investment transaction and may authorize the custodian to invest the cash so held in such short-term securities as the board of trustees determines.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.302 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 34, eff. May 27, 1995.

Sec. 845.303. SECURITIES LENDING. (a) The board of trustees, in the exercise of its discretion to manage the assets of the retirement system, may select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the system's securities and to lend the securities under rules adopted by the board of trustees and as required by this section.

(b) To be eligible to lend securities under this section, a bank or brokerage firm must:

(1) be experienced in the operations of a fully secured securities lending program;

(2) maintain capital adequate in the prudent judgment of the retirement system to assure the safety of the securities;

(3) execute an indemnification agreement satisfactory in form and content to the retirement system; and

(4) require any securities broker or dealer to whom it lends securities belonging to the retirement system to deliver to and maintain with the custodian collateral in the form of cash or United States government securities, the market value of which must equal not less than 100 percent of the market value, from time to time, of the loaned securities.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.303 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 35, eff. May 27, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 75, eff. January 1, 2008.

Sec. 845.305. CREDITING SYSTEM ASSETS. (a) The retirement system shall deposit all receipts with a depository designated under Section 845.109 or a custodian designated under Section 845.302.

(b) All assets of the pension trust of the retirement system shall be credited according to the purpose for which they are held to one of the following funds:

(1) employees saving fund;

(2) subdivision accumulation fund;

(3) closed subdivision annuity reserve fund;

(4) income fund;

(5) endowment fund; or

(6) expense fund.

(c) Amounts contributed by a subdivision to provide benefits under the optional group term life program for its participating employees and retirees shall be deposited to the optional group term life fund and maintained by the board of trustees as the optional group term life trust.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1981, 67th Leg., 1st C.S., p. 215, ch. 18, Sec. 57, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.305 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 309, Sec. 22, eff. Dec. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 24, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 76, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 29, eff. January 1, 2010.

Acts 2015, 84th Leg., R.S., Ch. 303 (S.B. 463), Sec. 5, eff. June 1, 2015.

Sec. 845.306. EMPLOYEES SAVING FUND. (a) The retirement system shall deposit in a member's individual account in the employees saving fund:

(1) the amount of contributions to the retirement system deducted from the member's compensation;

(2) interest allowed in accordance with this subtitle;

(3) the contribution made by a member in an amount equal to the amount withdrawn to reinstate service credit under Section 843.003;

(4) the amount deposited by a member in accordance with Section 843.0031; and

(5) the amount contributed by a member in accordance with Section 843.601(b) to establish current service credit for military service under the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.).

(b) The retirement system shall establish and maintain a separate member individual account for each subdivision with which the member has credited service.

(c) On December 31 of each year, the retirement system shall credit to each member's individual account interest as allowed by this subtitle on the amount of accumulated contributions credited to the member's account on January 1 of that year.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1981, 67th Leg., 1st C.S., p. 215, ch. 18, Sec. 58, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.306 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 24, eff. Aug. 26, 1991; Acts 1999, 76th Leg., ch. 427, Sec. 51, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 46, eff. Dec. 31, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 25, eff. January 1, 2006.

Sec. 845.307. SUBDIVISION ACCUMULATION FUND. (a) The retirement system shall credit or charge to the account of a participating subdivision in the subdivision accumulation fund:

(1) all benefit contributions made by the subdivision to the system pursuant to Section 845.404(a)(2);

(2) net investment income or loss allocated to the fund under Section 845.315;

(3) amounts deposited by the subdivision under Section 845.408;

(4) the withdrawal charge for reinstatement of service credit as provided by Section 843.003; and

(5) other credits and charges that may be authorized under this subtitle.

(b) Subject to Subsection (c), the retirement system shall pay from the subdivision accumulation fund all payments for annuities and other benefit payments granted by a participating subdivision.

(c) The board of trustees may proportionately reduce all payments under prior service annuities and supplemental annuities at any time and for a period necessary to prevent payments under those annuities for a year from exceeding the amount available in the participating subdivision's account.

(d) If credited service previously forfeited is reinstated in accordance with Section 843.003, the retirement system shall charge the subdivision's account in the subdivision accumulation fund with the necessary reserves to fund the credits restored to the member.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 216, ch. 18, Sec. 59,

eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 491, Sec. 25, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.307 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 25, eff. Jan. 1, 1992; Acts 1997, 75th Leg., ch. 309, Sec. 23, eff. Dec. 1, 1997; Acts 1999, 76th Leg., ch. 427, Sec. 52, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 47, eff. Dec. 31, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 26, eff. January 1, 2006.

Acts 2015, 84th Leg., R.S., Ch. 303 (S.B. 463), Sec. 6, eff. June 1, 2015.

Sec. 845.308. CLOSED SUBDIVISION ANNUITY RESERVE FUND. (a) The retirement system shall deposit and hold in the closed subdivision annuity reserve fund all reserves for annuities payable to annuitants who were members of subdivisions that terminated participation with the retirement system under Subchapter A-1, Chapter 842.

(b) The retirement system shall pay from the closed subdivision annuity reserve fund annuities described by Subsection (a) and all benefits in lieu of those annuities as provided by this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.308 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 303 (S.B. 463), Sec. 7, eff. June 1, 2015.

Sec. 845.309. INCOME FUND. (a) The income fund shall account for the determination and allocation of net investment income or loss.

(b) Net investment income or loss will be determined annually as of December 31.

(c) Net investment income or loss will be allocated each year in accordance with Section 845.315.

(d) Repealed by Acts 2005, 79th Leg., Ch. 506, Sec. 33(14),

eff. January 1, 2006.

(e) Repealed by Acts 2005, 79th Leg., Ch. 506, Sec. 33(14), eff. January 1, 2006.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.309 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 309, Sec. 24, eff. Dec. 1, 1997; Acts 2003, 78th Leg., ch. 621, Sec. 31, eff. Jan. 1, 2004.
Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 27, eff. January 1, 2006.

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 33(14), eff. January 1, 2006.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 30, eff. January 1, 2010.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 31, eff. January 1, 2010.

Sec. 845.310. ENDOWMENT FUND. (a) The endowment fund consists of the general reserves account and other accounts as necessary.

(b) Repealed by Acts 2005, 79th Leg., Ch. 506, Sec. 33(15), eff. January 1, 2006.

(c) The retirement system shall credit or charge to the general reserves account amounts allocated to the endowment fund in accordance with Section 845.315.

(c-1) As of December 31, the board of trustees shall provide from the general reserves account the amount needed to pay the retirement system's estimated operating expenses for the next fiscal year.

(d) The board of trustees may allocate any amount in the endowment fund to any other account or fund in the pension trust.

(e) Any allocation of reserves to an account of a subdivision to which Section 842.052, 842.053, or 845.317 applies must be specifically authorized by board resolution.

(f) Repealed by Acts 2005, 79th Leg., Ch. 506, Sec. 33(15), eff. January 1, 2006.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.310 and

amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 23, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 245, Sec. 36, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 309, Sec. 25, eff. Dec. 1, 1997; Acts 1999, 76th Leg., ch. 427, Sec. 53, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 48, eff. Dec. 31, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 28, eff. January 1, 2006.

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 33(15), eff. January 1, 2006.

Sec. 845.311. EXPENSE FUND. The expense fund shall account for the administrative revenues and expenses of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.311 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 309, Sec. 26, eff. Dec. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 29, eff. January 1, 2006.

Sec. 845.312. OPTIONAL GROUP TERM LIFE FUND. (a) The retirement system shall deposit in the optional group term life fund contributions paid by subdivisions to the retirement system to provide optional group term life benefits in accordance with Section 845.406. The retirement system may not establish separate accounts in the fund for subdivisions participating in the optional group term life program but shall credit contributions to a single account.

(b) The retirement system shall pay benefits under the optional group term life program only from money in the optional group term life fund, and the benefits are not an obligation of other funds of the system.

(c) The effective participation date of a subdivision is the first day of any calendar month after the month in which the subdivision notifies the board of its election to enter the fund.

Added by Acts 1981, 67th Leg., 1st C.S., p. 216, ch. 18, Sec. 60,

eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.3111 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 54, eff. Dec. 31, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 77, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 78, eff. January 1, 2008.

Sec. 845.313. DISBURSEMENTS. (a) Disbursements from the assets of the retirement system may be made by check, electronic funds transfer, or any other means generally available within the banking industry and must be signed or otherwise authorized by a person designated for that purpose in accordance with Section 845.108.

(b) When a check or fund transfer is properly signed or otherwise authorized, a depository with which assets of the system are deposited shall accept and pay the check or complete the fund transfer. The depository is released from liability for payment made on the check or authorized fund transfer.

(c) The retirement system shall make payments by electronic funds transfer to annuitants whose first annuity payment under this subtitle occurs after January 1, 2002, except that the system may make payment by check to an annuitant if making the payment by electronic funds transfer would be impractical for the system or if the annuitant properly notifies the system that:

(1) receiving the payment by electronic funds transfer would be impractical for the person;

(2) receiving the payment by electronic funds transfer would be more costly to the person than receiving the payment by check; or

(3) the person is unable to establish a qualifying account at a financial institution to receive electronic funds transfers.

(d) If payment by check to an individual would be, or has become, impractical, insecure, or proportionally more costly for the retirement system than payment by check to other persons, the system may hold or suspend any payment and require the individual to accept payment by another means or method that is practical, secure, and

cost-effective.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.312 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 309, Sec. 27, eff. Dec. 1, 1997; Acts 2001, 77th Leg., ch. 122, Sec. 49, eff. Dec. 31, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 79, eff. January 1, 2008.

Sec. 845.314. INTEREST RATES. Unless this subtitle expressly states another specified rate of interest, for periods beginning after December 31, 1996, the annual rate of interest is seven percent.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 217, ch. 18, Sec. 61, eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 491, Sec. 26, 27, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.313 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 26, eff. Jan. 1, 1992; Acts 1995, 74th Leg., ch. 245, Sec. 37, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 309, Sec. 28, eff. Dec. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 80, eff. January 1, 2008.

Sec. 845.315. ANNUAL ALLOCATION OF NET INVESTMENT INCOME OR LOSS. (a) As of December 31 of each year, the board of trustees shall make the following allocations that in the aggregate equal the net investment income or loss for the year:

(1) to the closed subdivision annuity reserve fund, interest as allowed under this subtitle on the mean amount in the closed subdivision annuity reserve fund during that year;

(2) to the optional group term life fund, interest as allowed under this subtitle on the mean amount in the optional group term life fund during that year;

(3) to the general reserves account of the endowment fund, a positive or negative amount determined by the board;

(4) to the employees saving fund, current interest as allowed under this subtitle on the member account balances on January 1 of that year of all persons who are members on December 31 of that year;

(5) to the accounts of subdivisions, other than subdivisions otherwise described by this section, positive or negative amounts as determined under rules adopted by the board prescribing the allocation methodology for the accounts; and

(6) to the accounts of subdivisions to which Section 842.052 or 842.053 applies, positive or negative amounts as determined by the board, and if a subdivision terminates participation before December 31 of that year, the board shall determine the allocation amount and transfer date before December 31 of that year.

(b) The account of a subdivision that has ceased participation according to Section 845.317(a) will not receive an allocation under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 217, ch. 18, Sec. 62, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.314 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 27, eff. Jan. 1, 1992; Acts 1997, 75th Leg., ch. 309, Sec. 29, 33, eff. Dec. 1, 1997; Acts 1999, 76th Leg., ch. 427, Sec. 55, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 50, eff. Dec. 31, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 32, eff. Jan. 1, 2004. Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 30, eff. January 1, 2006.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 32, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 303 (S.B. 463), Sec. 8, eff. June 1, 2015.

Sec. 845.316. TRANSFER OF ASSETS ON RETIREMENT. (a) When a member retires, the retirement system shall transfer from the

employees saving fund to the subdivision accumulation fund, the member's accumulated contributions.

(b) When a member retires from a subdivision that has terminated participation with the retirement system under Subchapter A-1, Chapter 842, the retirement system shall transfer the member's individual account to the closed subdivision annuity reserve fund.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 873, Sec. 92(30), eff. January 1, 2008.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 217, ch. 18, Sec. 63, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.315 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 28, eff. Aug. 26, 1992; Acts 2001, 77th Leg., ch. 122, Sec. 51, eff. Dec. 31, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 81, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 82, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 92(30), eff. January 1, 2008.

Acts 2015, 84th Leg., R.S., Ch. 303 (S.B. 463), Sec. 9, eff. June 1, 2015.

Sec. 845.317. PAYMENT TO FORMERLY PARTICIPATING SUBDIVISION. (a) If a participating subdivision, other than a subdivision described by Subsection (b), has no employees who are members of the retirement system and has no present or potential liabilities resulting from the participation of former employees, the subdivision's participation in the system stops and the system shall repay to the subdivision on application any amount in the subdivision accumulation fund that is credited to the subdivision.

(b) If the participation of a subdivision has terminated under Section 842.052 or 842.053 and the subdivision has no present or potential liabilities resulting from the participation of current or former employees, the retirement system, after application by the subdivision or its governmental successor in interest, shall pay to

the subdivision or its governmental successor any remaining credit to the account of the subdivision in the subdivision accumulation fund.

(c) A subdivision that has terminated participation in the retirement system has no right or claim to any amounts in the system, except as provided by this section.

(d) If a participating subdivision has ceased to exist and diligent efforts by the retirement system to identify a governmental entity as the successor in interest to the subdivision have been unsuccessful, the board of trustees may close the subdivision's account and transfer the remaining credit to the endowment fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.316 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 30, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 83, eff. January 1, 2008.

Sec. 845.318. CONSOLIDATION OF COUNTY'S ACCOUNTS IN SUBDIVISION ACCUMULATION FUND; RETURN OF EXCESS FUNDS. (a) If a county that has provided for participation of county hospital employees separately from other county employees stops operating a county hospital, the commissioners court of the county, by order, may direct the retirement system to consolidate the separate accounts of the county in the subdivision accumulation fund.

(b) The retirement system shall consolidate the accounts and after consolidation shall charge each obligation of the county arising under this subtitle because of service performed by employees of the county against the consolidated account.

(c) If the participation of a county hospital as a subdivision separate from other county employees is terminated under this subtitle, the retirement system shall pay to the county any excess funds remaining in the subdivision accumulation fund to the credit of the account of the county hospital.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.317 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 84, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 85, eff. January 1, 2008.

SUBCHAPTER E. COLLECTION OF CONTRIBUTIONS

Sec. 845.402. MEMBER CONTRIBUTIONS. (a) Each participating subdivision, by order or resolution of its governing body, shall designate the rate of member contributions for its employees. The subdivision may elect a rate of four, five, six, or seven percent of the current service compensation of its employees.

(b) After timely notice to the board of trustees, the governing body of a participating subdivision may increase the rate of its member contributions effective with the first pay period beginning in the following calendar year.

(c) After timely notice to the board of trustees, the governing body of a participating subdivision may reduce the rate of its member contributions effective with the first pay period beginning in the following calendar year.

(d) to (f) Repealed by Acts 1997, 75th Leg., ch. 309, Sec. 33, eff. Dec. 31, 1997.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 491, Sec. 28, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.402 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 29, eff. Aug. 26, 1991; Acts 1997, 75th Leg., ch. 309, Sec. 30, 33, eff. Dec. 1, 1997; Acts 2003, 78th Leg., ch. 621, Sec. 33, eff. Jan. 1, 2004. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 33, eff. January 1, 2010.

Sec. 845.403. COLLECTION OF MEMBER CONTRIBUTIONS. (a) Each payroll period after the effective date of a subdivision's participation, the subdivision shall cause the contribution for that period to be deducted from the compensation of each member that it

employs.

(b) Repealed by Acts 1991, 72nd Leg., ch. 460, Sec. 30, eff. August 26, 1991.

(c) Repealed by Acts 2005, 79th Leg., Ch. 506, Sec. 33(16), eff. January 1, 2006.

(d) A participating subdivision shall certify to the board of trustees on each payroll, or in another manner prescribed by the board, the amount to be deducted from the compensation of each member that it employs.

(e) Each participating subdivision shall:

(1) make deductions from each member's compensation for contributions to the retirement system;

(2) transmit monthly, or at the time designated by the board of trustees, the payroll and other pertinent information prescribed by the board; and

(3) pay the deductions to the board of trustees at the board's home office.

(f) After the deductions for member contributions are paid, the board of trustees shall:

(1) record all receipts; and

(2) deposit the receipts to the credit of the employees saving fund.

(g) The participating subdivision shall make the deductions required by this section even if the member's compensation is reduced below the amount equal to the minimum compensation provided by law.

(h) By becoming a member of the retirement system, a member consents to the deductions required by this section. The payment of compensation less those deductions is a complete release of all claims, except benefits provided by this subtitle, for services rendered by the member during the payroll period.

(i) Each participating subdivision shall pick up the employee contributions required of each member by Section 845.402 and this section for all compensation earned after December 31, 1985, and shall pay these picked-up employee contributions from the same source of funds used in paying earnings to the employee. The participating subdivision may pick up these contributions by a reduction in the cash salary of the employee or by an offset against a future salary increase or by a combination of a reduction in salary and offset against a future salary increase; unless it is otherwise determined by the governing body of the participating subdivision, the pick-up

shall be accomplished by a corresponding reduction in the cash salary of the employee.

(j) Contributions picked up as provided by Subsection (i) shall be treated as employer contributions in determining tax treatment of the amounts under Section 414(h) of the United States Internal Revenue Code of 1986. Each employee contribution that is picked up shall be deposited as provided in Section 845.306 to the individual account of the member, on whose behalf the contribution is made, and shall be treated for all other purposes of this subtitle in the same manner as if the amount had been deducted from the compensation of and made by the employee pursuant to Sections 845.402 and this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 491, Sec. 29, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.403 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 30, eff. Aug. 26, 1991; Acts 1999, 76th Leg., ch. 427, Sec. 57, eff. Dec. 31, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 31, eff. January 1, 2006.

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 33(16), eff. January 1, 2006.

Sec. 845.4031. CONTRIBUTIONS IN ANTICIPATION OF PARTICIPATION. (a) After a subdivision has officially elected to join the retirement system and has specified the date for its participation to begin, and before the board of trustees has approved its participation, the subdivision may, with the consent of the director, begin deducting from an employee's compensation for each payroll period beginning on or after the specified participation date the contribution that would be deducted if the subdivision were then participating.

(b) The subdivision shall collect and segregate the amounts deducted from its employees' compensation and the contributions that the subdivision would be required to make under this subtitle if it were then participating.

(c) The period during which contributions may be deducted from an employee's compensation in anticipation of board approval of participation may not exceed six months and may not extend into a subsequent calendar year without consent of the board of trustees. During the period that board approval is pending, the subdivision may not participate in, and the subdivision's employees may not be covered by, the optional group term life program.

(d) On approval of participation, the subdivision shall immediately transfer to the retirement system, for credit to the appropriate funds within the system, the amounts collected and segregated under Subsection (b). If the subdivision previously elected to participate in the optional group term life program, participation in that program begins on the first day of the month following the month in which the board of trustees approves participation in the system.

(e) If the board of trustees disapproves the subdivision's participation in the retirement system, the subdivision shall pay all employee contributions collected and segregated in anticipation of board approval to the employees from whom the contributions were withheld.

Added by Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 86, eff. September 1, 2007.

Sec. 845.404. COLLECTION OF SUBDIVISION CONTRIBUTIONS. (a) Before the 16th day of each month, each participating subdivision shall pay or cause to be paid to the retirement system at the system's office:

(1) the member contributions, or "picked-up" member contributions, provided for by Sections 845.402 and 845.403, which shall be deposited to the individual accounts of the members; and

(2) the contributions that a subdivision is required to make under this subtitle, which shall be deposited to the account of the subdivision in the subdivision accumulation fund.

(b) Unless otherwise provided for and paid by a subdivision, a subdivision shall pay its contributions to the retirement system from:

(1) the fund from which compensation is paid to members; or

(2) the general fund of the subdivision.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 491, Sec. 30, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.404 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 58, eff. Dec. 31, 1999.

Sec. 845.405. ALTERNATIVE PERIODS FOR ADMINISTRATIVE COMPLIANCE. (a) Notwithstanding any other provision of this subtitle, the board of trustees may authorize a subdivision to remit to the retirement system contributions, deposits, and other payments on the basis of a period that is less than a month, including a weekly, biweekly, or other semimonthly period. A subdivision authorized to remit amounts more frequently than monthly shall make reports and filings and perform other actions accordingly, and the retirement system shall credit payments accordingly.

(b) The board of trustees may make an authorization under Subsection (a) by rule applicable to all subdivisions similarly situated or by order applicable to designated subdivisions. A rule adopted under this subsection is amendable or revocable in the manner provided for adoption, amendment, or repeal of rules generally. An order adopted under this subsection is revocable wholly or partly by subsequent board order.

(c) If the board of trustees adopts a rule or order under Subsection (b), the board shall also adopt rules, applicable to a subdivision electing or designated to take actions described by this section more frequently than monthly, to alter the periods required for submission of payments and reports, including the period when a late penalty begins to accrue or is deducted from a subdivision's account in the subdivision accumulation fund, in a manner consistent with the periods provided by this subtitle.

(d) A participant may not receive less credited service, service credit, or benefits due to an authorization under this section than the participant would have received on a monthly basis.

Added by Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 34, eff. January 1, 2010.

Sec. 845.406. OPTIONAL GROUP TERM LIFE PROGRAM. (a) In addition to other contributions to the retirement system required by this subtitle, each subdivision participating in the optional group term life program monthly shall pay to the optional group term life fund an amount equal to the rate of contribution computed in accordance with this section, multiplied by the total compensation for the month of the members employed by the subdivision.

(b) A limitation on subdivision contribution rates provided by this subtitle does not apply to the rate of the contribution to the optional group term life fund.

(c) At the time of each investigation of members' mortality and service experience required by Section 845.110, the actuary shall investigate the mortality experience of the members and eligible annuitants participating in the program. On the basis of the result of that investigation, the actuary shall recommend to the board of trustees rates and tables necessary to determine optional group term life program contribution rates. The rates and tables may provide for the anticipated mortality experience of the persons covered under the program and for a contingency reserve.

(d) Before a subdivision's participation date in the program and before January 1 of each subsequent year, the actuary shall compute, on the basis of rates and tables adopted by the board of trustees, the contribution rate of a subdivision participating in the program. The rate must be expressed as a percentage of the compensation of members employed by the subdivision. When the rate is approved by the board of trustees, the rate is effective for the calendar year for which it was approved.

(e) The board of trustees, in the exercise of its discretion to manage the assets of the retirement system, may lend money to the optional group term life fund if the amount in the fund is insufficient to pay the benefits due. Any loan is an investment of the retirement system and must be repaid solely from future contributions to the fund and its share of trust earnings. The terms of the loan shall be set by the board of trustees, but the loan must bear a commercially reasonable interest rate. The board may adjust future contributions to the fund for purposes of repayment of the loan.

(f) To protect against adverse claim experience, the board of trustees may secure reinsurance from one or more stock insurance companies doing business in this state if the board determines that

reinsurance is necessary. The retirement system shall pay the premiums for reinsurance from the optional group term life fund.

Added by Acts 1981, 67th Leg., 1st C.S., p. 217, ch. 18, Sec. 64, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.406 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 59, eff. Dec. 31, 1999.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 87, eff. January 1, 2008.

Sec. 845.407. PENALTY FOR LATE CONTRIBUTIONS. (a) Except as provided by Subsections (c), (d), and (e), a participating subdivision that fails to provide the information required by Section 845.403 or to pay all contributions required by this subchapter to be made and remitted to the retirement system not later than the 15th day of the month in which they become due shall pay a penalty under this section. The penalty for a past-due monthly remission is equal to interest on the past-due amounts for each day past due at a nominal interest rate of 12 percent, plus a $500 administrative fee. If the penalty is not paid within three months after the date notice of the penalty has been sent to the subdivision, the retirement system shall deduct the penalty from the subdivision's account in the subdivision accumulation fund. The interest portion of the penalty shall be deposited by the retirement system in the distributable income account of the income fund. The administrative fee portion of the penalty shall be deposited by the retirement system in the expense fund.

(b) Payments and required reports are considered to be made when received by the retirement system.

(c) A penalty will not be assessed under this section for a late payment or report made in a document sent to the correct address:

(1) by certified mail, return receipt requested, not later than the 10th day of the month in which the payment or report becomes due; or

(2) using a same-day or overnight delivery method, approved by the board of trustees, not later than the 14th day of the month in

which the payment or report becomes due.

(d) If the retirement system does not receive a payment or report, a penalty will not be assessed under this section if the subdivision provides proof satisfactory to the system that the document containing the payment or report was sent in accordance with Subsection (c).

(e) The retirement system may extend the due date provided by this section if a subdivision applies for an extension before the due date and the director determines that good cause exists for the extension and that the need for the extension is not caused by neglect, indifference, or lack of diligence.

Added by Acts 1999, 76th Leg., ch. 427, Sec. 60, eff. Dec. 31, 1999. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 52, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 34, eff. Jan. 1, 2004. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 35, eff. January 1, 2010.

Sec. 845.408. ADDITIONAL OPTIONAL DEPOSITS BY SUBDIVISIONS. In addition to the deposits that a subdivision is required to make under this subtitle, the governing body of a participating subdivision may elect to deposit to the subdivision's account in the subdivision accumulation fund one or more lump-sum payments. Once a payment is deposited, it cannot be withdrawn from that fund by the subdivision.

Added by Acts 1999, 76th Leg., ch. 427, Sec. 61, eff. Dec. 31, 1999.

SUBCHAPTER F. MISCELLANEOUS ADMINISTRATIVE PROCEDURES

Sec. 845.501. STATEMENT OF AMOUNT IN ACCOUNT. (a) As soon as possible after the end of each calendar year, the board of trustees shall send to the governing body of each subdivision and to each requesting member an annual statement that contains the basic financial statements of the retirement system.

(b) The board of trustees shall furnish to a member, on written request, a statement of the amount credited to the member's individual account. During a calendar year, the board is not required to furnish to a member more than one statement requested under this subsection.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.501 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 309, Sec. 31, eff. Dec. 1, 1997.

Sec. 845.502. INTEREST IN ASSETS. A particular person or subdivision has no right in a specific security or in an item of cash other than an undivided interest in the assets of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.502 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.503. AUTHORITY TO RECOUP OR MAKE ADJUSTMENTS FOR PAYMENTS MADE IN ERROR. (a) The retirement system may reduce future payments of benefits based on the account of a member, a retiree, or other former member to recoup an amount overpaid or otherwise paid in error to or on the behalf of a participant. If no future payments are due, the retirement system may recover the overpayment in any manner that is permitted for the collection of any other debt.

(b) The retirement system may not recover from a participant any overpayment made more than three years before the date the overpayment is discovered. This subsection does not apply to an overpayment a reasonable person should know the person is not entitled to receive.

(c) The retirement system may adjust amounts in a subdivision's account in the subdivision accumulation fund to correct an error caused by an act or omission of the subdivision.

Added by Acts 2003, 78th Leg., ch. 621, Sec. 35, eff. Jan. 1, 2004. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 88, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 36, eff. January 1, 2010.

Sec. 845.504. EXCESS BENEFIT PROGRAM. (a) If the board of

trustees determines that it is in the interest of the retirement system and will benefit members and annuitants, the board by rule may establish an excess benefits program for the payment of benefits under Section 415(m) of the Internal Revenue Code of 1986, and its subsequent amendments, that would otherwise be barred by the limitation on benefits imposed by Section 415 of that code.

(b) Notwithstanding any other provision of this subtitle, the board of trustees by rule may provide for the transfer of contributions as part of the excess benefits program in a manner consistent with a governmental excess benefit arrangement.

Added by Acts 2003, 78th Leg., ch. 621, Sec. 35, eff. Jan. 1, 2004.

Sec. 845.505. UNDISTRIBUTED BENEFITS. (a) If a person's membership in the retirement system has terminated and a valid application for a retirement annuity or a refund of accumulated contributions has not been filed with the retirement system, the retirement system shall mail the notice described by Subsection (b) to the most recent address of the former member as shown on system records and make reasonable efforts to locate any person entitled to apply for the benefit.

(b) A notice under this section must include the name of the former member, the name of each subdivision with which the former member has an individual account, a statement that no additional interest is credited after a membership has terminated, a statement that a benefit is payable, and a statement of the procedure for obtaining payment of that benefit.

(c) If a person files with the retirement system a valid application for an annuity based on a membership that terminated under Section 842.109(b), the retirement system shall pay an annuity computed as of the former member's effective retirement date as determined under that section.

(d) An applicant who is a former member may select the standard retirement annuity or an optional retirement annuity under Section 844.0041(c) or (d). An applicant who is the surviving beneficiary or the personal representative of a deceased former member may select an annuity payable in a form authorized by the board of trustees under Section 844.407. All annuity payments that previously would have been paid if the annuity had begun on the effective retirement date

will be paid to the applicant.

(e) If a person files with the retirement system a valid application for a refund of a former member's accumulated contributions or a valid application for a benefit payable under the optional group term life program, the retirement system shall pay to the applicant the portion of the former member's accumulated contributions or the portion of the optional group term life benefits to which the applicant is entitled.

(f) If a person eligible to receive a benefit fails to provide accurate and verifiable information regarding the identity, age, taxpayer identification number, or residential address of the person or the person's beneficiary, the retirement system may hold or delay payment of any benefit until the information is provided. If a person receiving an annuity fails to negotiate two or more annuity payments, fails to respond to a written request for information relevant to the annuitant's continuing right to receive benefits or relevant to the responsibility of the system to report accurately the distribution under federal or state law, fails to provide the system with an address for the delivery of a benefit that is safe and secure from loss, theft, or misdelivery, or fails in any other manner that interferes with or impedes the efficient administration of the system, the system may suspend and hold all benefit payments until the failure is corrected.

(f-1) If there is a continuation of an optional annuity, the retirement system shall pay to the person receiving the continuing annuity any amount held by the system to which the deceased person was entitled. If the annuity terminates with the death of the person, any amount held by the retirement system to which a deceased person was entitled is payable under rules and procedures adopted by the board of trustees.

(g) If a benefit becomes payable as the result of the death of a person receiving an annuity, the retirement system shall mail a notice similar to the notice described by Subsection (b) to the most recent address of the decedent's beneficiary as shown on system records and make reasonable efforts to locate each person to whom the benefit is payable. After receipt of a valid application, the retirement system shall pay the applicant the benefit to which the applicant is entitled. All annuity payments that would previously have been paid if the annuity had begun on the date required under this subtitle will be paid to the applicant.

(h) A person entitled to a benefit under this section is solely responsible for a tax or penalty relating to the distribution of the benefit without regard to whether the person received notice from the retirement system.

(i) The board of trustees may adopt rules concerning the notice, distribution, management, transfer, and administration of unclaimed, held, delayed, and suspended benefits, the authority of an applicant to act as trustee of an absent beneficiary in the selection of a payment option or receipt of an absent beneficiary's benefit under this section, and the distribution of benefits to an alternate payee under a qualified domestic relations order with respect to a terminated membership.

Added by Acts 1997, 75th Leg., ch. 309, Sec. 32, eff. Dec. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 62, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 53, eff. Dec. 31, 2001. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 89, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 90, eff. January 1, 2008.

Sec. 845.506. APPEAL OF ADMINISTRATIVE DECISION. (a) A decision of the retirement system is final and conclusive unless an appeal is filed in writing with the system by regular mail or electronic filing, as that term is defined by Section 845.116(a)(1), not later than the 90th day after the earlier of the date the person subject to the decision receives notice of the decision by any means or the date the system files notice of its decision with the person by regular mail or electronic means.

(b) A person may appeal a decision to the board of trustees if the person is aggrieved by a decision of the retirement system relating to the system or any program administered by the system under this subtitle:

(1) denying or limiting membership, service credit, or eligibility for or the amount of benefits payable by the system; or

(2) regarding to whom benefits should be paid under the system or program.

(c) The director or the director's designee may refer an appeal

made under Subsection (a) to the State Office of Administrative Hearings for a hearing or employ, select, or contract for the services of an administrative law judge or hearing examiner not affiliated with the State Office of Administrative Hearings to conduct a hearing. This subsection prevails over any other law to the extent of any conflict.

(d) An appeal under this section is considered to be a contested case under Chapter 2001. The appellant in a contested case under this section has the burden of proof on all issues, including issues in the nature of an affirmative defense.

(e) The board of trustees may in its sole discretion make a final decision on a contested case under this section. Notwithstanding any other law, the board may in its sole discretion modify, refuse to accept, or delete any proposed finding of fact or conclusion of law contained in a proposal for decision submitted by an administrative law judge or other hearing examiner, or make alternative findings of fact and conclusions of law, in a proceeding considered to be a contested case under Chapter 2001. The board shall state in writing the specific reason for its determination and may adopt rules for the implementation of this subsection. The board may delegate its authority under this subsection to the director.

(f) Notwithstanding Subsections (d) and (e), the retirement system and a person aggrieved by a decision of the system may at any time informally negotiate an award of benefits. Negotiated benefits may not exceed the maximum benefits otherwise available or required by law.

(g) A final decision of the board of trustees in a contested case under this section is subject to judicial review under Chapter 2001. The standard of review is by substantial evidence. Venue of the appeal is only in a district court in Travis County.

Added by Acts 1997, 75th Leg., ch. 309, Sec. 32, eff. Dec. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 91, eff. January 1, 2008.

Sec. 845.507. QUALIFICATION. It is intended that this subtitle be construed and administered in a manner that the retirement system will be considered qualified under Section 401(a) of the Internal

Revenue Code of 1986 (26 U.S.C. Section 401). The board of trustees may adopt rules that it determines necessary for the retirement system to be considered qualified. Rules adopted by the board of trustees relating to qualification issues are considered a part of the plan.

Added by Acts 1997, 75th Leg., ch. 309, Sec. 32, eff. Dec. 1, 1997.

SUBTITLE G. TEXAS MUNICIPAL RETIREMENT SYSTEM
CHAPTER 851. GENERAL PROVISIONS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 851.001. DEFINITIONS. In this subtitle:

(1) "Accumulated contributions" means the sum of all contributions made by a member and credited to the member's individual account, plus interest allowed on the account as provided by this subtitle.

(2) "Actuarial equivalent" means a benefit that, at the time it is entered upon, has the same present value as the benefit it replaces, based on interest and on a mortality table recommended by the actuary and adopted by the board of trustees.

(3) "Annuity" means an amount of money payable in equal monthly installments at the end of each month for a period determined under this subtitle.

(4) "Annuity reserve" means the present value, computed on the basis of annuity or mortality tables adopted by the board of trustees, with interest, of all payments to be made under an annuity.

(5) "Board of trustees" means the persons appointed under this subtitle to administer the retirement system.

(6) "Compensation" means the sum of payments made to an employee for performance of personal services, as certified on a written payroll of an employing department, that does not exceed any rate of compensation fixed by a governing body as the maximum salary on which member contributions to the retirement system may be based and does not exceed the amount established by board rule, which may not exceed the limit provided by Section 401(a)(17) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401), as indexed in the manner provided by that section, and includes amounts by which payment for earnings is reduced by reason of:

(A) employer pick-up of employee contributions to the

retirement system under Section 855.402(j);

(B) deferral of compensation under benefit plans adopted by the employer pursuant to Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U. S.C. Sections 401, 457);

(C) cost of benefits furnished under qualified cafeteria plans adopted by the employer pursuant to Section 125 of the Internal Revenue Code of 1986 (26 U.S.C. Section 125);

(D) cost of tax-sheltered annuities acquired for the employee under Section 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403); and

(E) deductions for Federal Insurance Contribution Act taxes, federal income taxes, or other obligations of the employee.

(7) "Department" means a recognized division performing a governmental or proprietary function of a municipality.

(8) "Employee" means a person, including a person serving a period of probationary employment, who receives compensation from and is certified by a municipality as being regularly engaged in the performance of duties of:

(A) an appointive office or position that normally requires services from the person for not less than 1,000 hours a year; or

(B) an elective office that normally requires services from the person for not less than 1,000 hours a year, in a municipality that began participating in the retirement system after December 31, 1981, or that has adopted a membership requirement under Section 852.107.

(8-a) "Excluded prior service credit" means prior service credit described by Section 853.0015 and:

(A) adopted under Section 853.105(d-1); or

(B) required by Section 853.303(a-1), (a-2), or (a-3).

(9) "Municipality" means any incorporated city or town in this state.

(10) "Rate of compensation" means the rate at which payments to an employee are computed, as certified by the employing municipality, converted into compensation for any period on the assumption that 2,400 hours, 300 days, 52 weeks, 12 months, and 1 year are equivalents.

(11) "Retirement" means withdrawal from service with a retirement benefit granted under this subtitle.

(12) "Retirement system" means the Texas Municipal

Retirement System.

(13) "Service" means the time a person is an employee.

(14) "Credited service" means the number of months of prior and current service ascribed to a member in the retirement system or included in a prior service certificate in effect for the member.

(15) "Amortization period" means, as to a particular municipality, the expiration of the maximum number of years, not to exceed 30 years, after the most recent actuarial valuation date for the municipality.

(16) "Member" means a person for whom an individual account has been established in the retirement system and whose membership has not terminated under Section 852.104.

(17) "Beneficiary" means a person designated by a member, annuitant, or by statute to receive a benefit payable under this subtitle as a result of the death of a member or annuitant.

(18) "Director" means the person appointed executive director under Section 855.201.

(19) "Vested member" means a member who may withdraw from employment with all participating municipalities, leave the member's accumulated contributions on deposit with the retirement system and, on meeting the age and length of service requirements, file an application for retirement and begin to receive a service retirement benefit.

(20) "Individual account" means an individual account for a member in the benefit accumulation fund, as established under Section 855.306(a).

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 218, ch. 18, Sec. 65, 66, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 183, Sec. 1, eff. Aug. 31, 1987; Acts 1989, 71st Leg., ch. 462, Sec. 1, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 61.001 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.01(a), eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 57, Sec. 1, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 514, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 76, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 83, Sec. 1, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 121, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 599, Sec. 1, eff. Jan. 1, 2004.

Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 1, eff. June 17, 2011.
Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 1, eff. January 1, 2020.

For contingent expiration of this section, see Subsection (c).

Sec. 851.0011. ALTERNATIVE DEFINITION OF DEPARTMENT. (a) This section applies only with respect to a municipality:

(1) with a population of less than 200,000;

(2) that is located in a county with a population of not less than 2.5 million and not more than 4 million;

(3) that has a regularly organized fire department for which a retirement system and fund have been established under Section 4, Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes); and

(4) that before January 1, 2017, has one or more departments participating in the retirement system.

(b) Notwithstanding Section 851.001(7), "department" in this subtitle includes employees of a municipality described by Subsection (a) who are allowed to participate in the retirement system under Section 31A, Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), because the municipality completed all actions authorized or required by that section within the time prescribed by that section.

(c) If a municipality fails to complete all actions authorized or required by Section 31A, Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), before October 1, 2018, this section expires on October 1, 2018, in accordance with Section 31A(g), Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes).

Added by Acts 2017, 85th Leg., R.S., Ch. 886 (H.B. 3056), Sec. 2, eff. September 1, 2017.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 48, eff. September 1, 2023.

Sec. 851.002. PURPOSE OF SUBTITLE. The purpose of this subtitle is to establish a program of benefits for members, retirees, and their beneficiaries and to establish rules for the management and operation of the retirement system. The assets of the retirement system are held in trust for the exclusive benefit of the members, the retirees, and their beneficiaries and may not be diverted. The retirement system may not apply a forfeiture to increase a benefit that any person would otherwise receive under this subtitle.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 61.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 599, Sec. 2, eff. Jan. 1, 2004.

Sec. 851.003. RETIREMENT SYSTEM. The Texas Municipal Retirement System is continued in existence and is the name by which the business of the retirement system shall be transacted, all its funds invested, and all its cash and other property held.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 61.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 851.004. POWERS, PRIVILEGES, AND IMMUNITIES. (a) The retirement system has the powers, privileges, and immunities of a corporation, as well as the powers, privileges, and immunities conferred by this subtitle.

(b) The board of trustees, director, members of an advisory committee or medical board appointed by the board of trustees, and staff of the retirement system are not liable for any action taken or omission made or suffered by them in good faith in the performance of any duty in connection with any program, system, or benefit administered by the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 61.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 2, eff.

January 1, 2020.

Sec. 851.005. ACTION FOR ACCOUNTING. (a) The retirement system or the board of trustees may initiate, or cause to be initiated on its behalf, an action against a participating municipality, a board of the municipality, or individual officers of the municipality, to compel an accounting of sums due to the retirement system or to require the withholding and accounting of sums due from members.

(b) The venue of an action brought under this section is in either Travis County or a county in which the municipality is situated.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 61.005 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 851.006. EXEMPTION FROM EXECUTION. (a) Except as provided by Subsection (b), all retirement annuity payments, other benefit payments, and a member's accumulated contributions are unassignable and are exempt from execution, garnishment, attachment, and state and local taxation.

(b) The board of trustees by rule may authorize the retirement system to make distributions to pay the qualified health insurance premiums of a public safety officer in accordance with the provisions of Section 845, Pension Protection Act of 2006, Pub. L. No. 109-280.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 61.006 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 293 (H.B. 1244), Sec. 1, eff. January 1, 2008.

SUBCHAPTER B. PENAL PROVISIONS

Sec. 851.101. OFFENSES; PENALTY. (a) A person commits an offense if the person knowingly makes a false statement in a report or application to the retirement system in an attempt to defraud the

retirement system.

(b) A person commits an offense if the person knowingly makes a false certificate of an official report to the retirement system.

(c) An offense under this section is a misdemeanor punishable by a fine of not less than $100 nor more than $1,000, confinement in jail for not less than 30 days nor more than one year, or both.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 61.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

CHAPTER 852. MEMBERSHIP

SUBCHAPTER A. MUNICIPAL PARTICIPATION

Sec. 852.001. ELECTION TO PARTICIPATE. (a) By vote of its governing body in the manner required for other official actions, a municipality may elect to have one or more of its departments participate in the retirement system and be subject to the provisions of this subtitle.

(b) The governing body of a municipality shall notify the board of trustees of an election under this section and shall identify the participating departments before the 11th day after the date of election.

(c) A department begins participation in the retirement system on the first day of the second month after the month the board of trustees receives notice of an election to participate.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 62.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 852.002. REFERENDUM ON PARTICIPATION. (a) If qualified voters representing at least 10 percent of the total votes cast at the most recent regular municipal election petition the governing body of a municipality for an election on the issue of participation in the retirement system by the municipality or specified departments of the municipality, the governing body shall make arrangements for an election to be held before the 61st day after the day the petition is filed.

(b) If a majority of the votes cast in an election under this

section favor municipal or departmental participation in the retirement system, the governing body of the municipality immediately shall elect to participate.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 62.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 852.003. SUPPLEMENTAL DISABILITY BENEFITS FUND. (a) A municipality may not elect to participate in the supplemental disability benefits fund after August 31, 1987.

(b) Each municipality that elected to participate in the supplemental disability benefits fund before September 1, 1987 ceases participation in that fund at midnight on December 31, 1987, and its employees shall cease to be covered for supplemental disability benefits as to any injuries subsequently sustained. Each municipality participating in the supplemental disability fund on December 31, 1987, is entitled to participate in any distributions and transfers authorized by the board of trustees pursuant to Section 855.313.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 183, Sec. 2, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 62.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 852.004. SUPPLEMENTAL DEATH BENEFITS FUND. (a) If a municipality has one or more departments participating in the retirement system on a full-salary basis, the municipality may elect to participate in the supplemental death benefits fund.

(b) A municipality that elects to participate in the fund may elect coverage providing postretirement death benefits in addition to coverage providing in-service death benefits.

(c) Repealed by Acts 1997, 75th Leg., ch. 76, Sec. 15, eff. Sept. 1, 1997.

(d) A municipality that elects to participate in the fund after the operative date of the fund may begin participation on the first day of any month after the month in which the municipality gives notice of its election to the board of trustees.

(e) If a municipality has previously discontinued participation in the fund, the board of trustees in its discretion may restrict the right of the municipality to participate again.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 219, ch. 18, Sec. 67, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 62.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 514, Sec. 2, eff. Sept. 1, 1995.

Sec. 852.005. STATUS AS A MUNICIPALITY. (a) For the purposes of this subtitle, the Texas Municipal Retirement System, the pension system provided under Article 6243a-1, Revised Statutes, and the Texas Municipal League, have the standing of municipalities.

(b) The standing of the pension system provided under Article 6243a-1, Revised Statutes, as a municipality under Subsection (a) applies only with respect to the system and the system's employees. Subsection (a) does not require or authorize:

(1) a person who is a member, pensioner, alternate payee, or other beneficiary of the pension system provided under Article 6243a-1, Revised Statutes, to participate in the Texas Municipal Retirement System; and

(2) the consolidation of both public retirement systems or the transfer of a fund or any plan created or maintained under former Article 6243a, Revised Statutes, or Article 6243a-1, Revised Statutes, to the Texas Municipal Retirement System.

(c) For the purposes of this subtitle, a fire or police department has the standing of a municipality if:

(1) the department:

(A) was created and is operating under an interlocal cooperation agreement that has existed at least 15 years and was executed by two or more municipalities located in a county with a population of at least 3.3 million;

(B) is supervised by an administrative agency appointed by the contracting municipalities; and

(C) provides common fire protection or law enforcement services to the contracting municipalities; and

(2) the governing body of each municipality that is a party

to the agreement has voted by ordinance or resolution to accept responsibility, in a manner to be determined by the participating municipalities, for all payments required of and obligations incurred by the department under this subtitle in the event that the interlocal cooperation agreement is dissolved or expires; and

(3) all ordinances adopted by the participating municipalities with regard to the participation are approved by the board of trustees.

(d) The governing board of the supervising administrative agency by order may take an action for a department described by Subsection (c) that is required or authorized by this subtitle to be made by municipal ordinance.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 219, ch. 18, Sec. 68, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 62.005 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 514, Sec. 3, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1006, Sec. 1, eff. June 17, 1995; Acts 2001, 77th Leg., ch. 669, Sec. 22, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 28, eff. January 1, 2020.

Acts 2021, 87th Leg., R.S., Ch. 735 (H.B. 4068), Sec. 1, eff. September 1, 2021.

Sec. 852.006. TERMINATION OF PARTICIPATION. (a) Except as provided by this section, a municipality may not terminate participation in the retirement system if the municipality has employees who are members of the system, but the municipality may elect to discontinue the participation in the system of persons employed or reemployed after the date of an election to discontinue.

(b) If before November 1 of any year a municipality gives written notice of its intention to the retirement system, the municipality may terminate coverage under, and discontinue participation in, the supplemental death benefits fund. A termination under this subsection is effective on January 1 of the year following the year in which notice is given.

(c) If a municipality participating in the retirement system has no employees who are members of the system and has no present or potential liabilities as a result of the participation of former employees, the municipality, on receiving a refund under Section 855.319, ceases participation in the system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 62.006 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 57, Sec. 2, eff. Jan. 1, 1994.

Sec. 852.007. MUNICIPALITY NOT AGENT OF SYSTEM. Neither a municipality that participates in the retirement system nor any employee or officer of a participating municipality has authority to act as an agent of the retirement system. An action of or inaction on the part of a participating municipality or its employee or officer is not binding on the retirement system.

Added by Acts 1993, 73rd Leg., ch. 57, Sec. 3, eff. Jan. 1, 1994.

SUBCHAPTER B. MEMBERSHIP

Sec. 852.101. GENERAL MEMBERSHIP REQUIREMENT. (a) Except as otherwise provided by this subchapter, a person who is not a member becomes a member of the retirement system if:

(1) on the date a municipal department's participation in the retirement system becomes effective, the person is an employee of the department;

(2) after August 31, 1987, the person becomes an employee of a participating department; or

(3) the person on August 31, 1987, is an employee of a participating department but is not a member because at the time of employment the person's age exceeded the maximum age for becoming a member.

(b) Any person to whom Subsection (a)(1) applies becomes a member of the retirement system on the date the department's participation becomes effective, and any person to whom Subsection (a)(2) applies becomes a member of the retirement system on the date the person is employed. A person to whom Subsection (a)(3) applies becomes a member of the retirement system on September 1, 1987.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 183, Sec. 3, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 62.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 852.102. EXCEPTION TO GENERAL MEMBERSHIP REQUIREMENT. (a) If on the effective date of participation of the employing department, a person had with a municipality an employment contract that is violated by the membership requirement of Section 852.101(a)(1), the person is not required, but may elect, to become a member of the retirement system.

(b) If a person who is qualified to make an election under this section has been notified that the municipality has elected to participate in the retirement system, or if the person makes contributions to the retirement system, the person is considered to have elected membership in the retirement system unless before the date the municipality's participation becomes effective the person files with the board of trustees written notice of an election not to become a member.

(c) A person who elects under this section not to become a member may never become a member of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 62.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 852.103. WITHDRAWAL OF CONTRIBUTIONS; ROLLOVER DISTRIBUTIONS. (a) A living person who is not an employee of a participating department and who has not retired may, after application, withdraw all of the accumulated contributions credited to the person's individual account, and the retirement system shall close the account.

(b) The retirement system shall, in accordance with Section 401(a)(31) of the Internal Revenue Code of 1986 and its subsequent amendments and related regulations, permit the distributee of an eligible rollover distribution to elect to have the distribution paid directly to an eligible retirement plan specified by the distributee in the form of a direct trustee-to-trustee transfer. The board of

trustees may adopt rules to implement this subsection.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 62.103 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 57, Sec. 4, eff. Jan. 1, 1994; Acts 2003, 78th Leg., ch. 599, Sec. 3, 4, eff. Jan. 1, 2004.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 2, eff. June 17, 2011.

Sec. 852.104. TERMINATION OF MEMBERSHIP. (a) Except as otherwise provided by this section, a person terminates membership in the retirement system by:

(1) death;

(2) retirement;

(3) withdrawal of all of the person's contributions while the person is absent from service; or

(4) absence from service for more than 60 consecutive months.

(b) A member of the retirement system is not absent from service during periods of military or war-related service for which the member is allowed credited service under Section 853.501.

(c) If a member of the retirement system is an employee of a participating department of a municipality that, as provided by this subtitle, allows a person to terminate employment and remain eligible for retirement after accumulating a specified amount of credited service, and if the person meets the requirement, the person may terminate employment and is not subject to loss of membership because of absence from service.

(d) Termination of membership in the retirement system terminates membership in the supplemental disability benefits fund.

(e) A member of the retirement system is not absent from service during any leave of absence granted by the employing municipality under the Family and Medical Leave Act of 1993 (29 U.S.C. Section 2601 et seq.), and its subsequent amendments, to the extent that the leave does not exceed 12 weeks in duration.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 462, Sec. 3, eff.

Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 62.104 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.01(c), eff. Aug. 26, 1991; Acts 2003, 78th Leg., ch. 599, Sec. 5, eff. Jan. 1, 2004.

Sec. 852.105. OPTIONAL PRIOR SERVICE CREDITS. (a) The governing body of a municipality that has an effective date of participation in the retirement system before September 1, 1987, and that allows service retirement of a member at age 60 or older with at least 10 years of credited service may by ordinance allow prior service credit for service performed for the municipality before September 1, 1987, by any person who at the time of performing the service was not a member because at the time of employment the person's age exceeded the maximum age for becoming a member.

(b) A governing body may not adopt an ordinance under this section unless the actuary first determines, on the basis of mortality and other tables adopted by the board of trustees, that all obligations of the municipality to the benefit accumulation fund, including obligations proposed under the ordinance, can be funded by the municipality within its maximum contribution rate and within its amortization period.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 219, ch. 18, Sec. 69, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 183, Sec. 4, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 62.105 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 3, eff. June 17, 2011.

Sec. 852.106. INELIGIBILITY FOR MEMBERSHIP; MULTIPLE RETIREMENT SYSTEM MEMBERSHIP. (a) Except as provided by this section, a person who is elected to public office is not an employee eligible for membership in the retirement system.

(b) A person may simultaneously receive credit or benefits for service performed during the same period in the retirement system and the federal program providing old age and survivors insurance.

(c) If a volunteer firefighter or an elected officer is employed by a participating municipality in another capacity that satisfies the definition of "employee" under this subtitle, the person may be a member of, and receive service credit in, the retirement system for service performed in the other capacity.

(d) If a person is elected to an office of a municipality that began participating in the retirement system after December 31, 1981, the person is required to become a member of the retirement system as of the date the person takes office or the effective date of participation, whichever is later. If a person is elected to an office of a municipality that has adopted an ordinance under Section 852.107, the person is required to become a member of the retirement system as of the date the person takes office or the effective date of the ordinance, whichever is later.

(e) A person may simultaneously be a member of this retirement system and another state or local retirement system authorized or established under Section 67, Article XVI, Texas Constitution. However, a person may receive a benefit from this system only to the extent that the amount of the benefit is computed solely with respect to the member's compensation and accumulated contributions as those terms are defined in this subtitle. Service credited with or allowed by another retirement system may not be counted for purposes of retirement eligibility in this retirement system except in accordance with the provisions of the proportionate retirement program described by Chapter 803.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 219, ch. 18, Sec. 70, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 62.106 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 121, Sec. 2, eff. Jan. 1, 2002.

Sec. 852.107. OPTIONAL MEMBERSHIP REQUIREMENT FOR ELECTED OFFICERS. (a) The governing body of a municipality that began participation in the retirement system before January 1, 1982, by ordinance may provide that persons who hold and are regularly engaged in the performance of duties of an elective office that normally requires actual performance of services in a participating department

of the municipality for not less than 1,000 hours a year are employees required to become members of the retirement system.

(b) An ordinance under this section takes effect on the first day of any calendar month after adoption that is designated by the governing body adopting the ordinance.

(c) A person required to become a member under an ordinance adopted under this section becomes a member on the effective date of the ordinance or the date the person takes office, whichever is later, unless the date the person takes office is after the effective date of the ordinance and the person is then ineligible for membership under applicable age restrictions of this subtitle.

(d) A person who becomes a member as provided by this section is entitled to prior service credit as provided by Section 853.302.

Added by Acts 1981, 67th Leg., 1st C.S., p. 220, ch. 18, Sec. 71, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 62.107 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 852.108. RESUMPTION OF SERVICE WITH SAME EMPLOYER BY RETIREE. (a) In this section and Sections 852.1085 and 852.109, a person's reemploying municipality is the municipality for which the person most recently performed creditable service before the person's retirement with respect to the person's particular individual account under this subtitle.

(b) Except as provided by Section 852.1085, a person who has retired with a service retirement benefit under this subtitle and later becomes an employee of the person's reemploying municipality also becomes a member of the system on the date of employment, but credits and benefits allowable to the person under this subtitle are limited as provided by this section.

(b-1) Unless subject to Subsection (c), the retirement annuity of a person subject to this section is not suspended.

(c) If a person becomes an employee of the person's reemploying municipality at any time during the 12 consecutive months after the effective date of the person's last retirement from the reemploying municipality, the retirement system shall discontinue and suspend the full amount of the monthly payments of the service retirement annuity that is allowed because of the person's previous retirement from the

reemploying municipality beginning with the month the retirement system determines that the person has again become an employee of the reemploying municipality. After the suspension and except as provided by Subsection (j), the retirement system may not make payments of the annuity for any month during which the person remains an employee of the reemploying municipality. The suspension of a benefit under this section does not suspend payment of a benefit to an alternate payee under a qualified domestic relations order.

(d) Member contributions under Section 855.402 shall be made on all compensation paid to the employee by the reemploying municipality at the same rate as is required of other employees of the department. The retirement system shall credit the contributions on receipt to the member's individual account and shall credit the account with interest annually at the same rate and manner as the accounts of other members are credited. The compensation paid to the employee by the reemploying municipality shall be included in computing the monthly contributions the municipality makes to the benefit accumulation fund.

(e) After termination of employment with the reemploying municipality and after filing of an application for resumption of retirement with the board of trustees, a person described by Subsection (c) is entitled to receive future payments of the suspended annuity, as provided by Subsection (f), and to the additional benefits as provided by Subsections (g), (h), (i), and (j).

(f) Monthly payments of an annuity suspended under Subsection (c) shall resume effective beginning with the month following the month in which employment is terminated with the reemploying municipality, without change in the amount except for any increase allowed under Section 854.203 or the duration of or another condition pertaining to the suspended benefit. Except as provided by Subsection (j), payment of the resumed benefit may not be made for any month during which the payment was suspended under this section.

(g) If a person with credited service under this section dies before a payment under Subsection (i) is made, the person's beneficiary, or if there is no beneficiary surviving, the executor or administrator of the person's estate, may elect payment as provided by Section 854.105.

(h) The additional service retirement benefit allowable to a person to whom this section applies is, at the option of that person,

either:

(1) a refund of accumulated contributions made since reemployment plus any accrued interest on the accumulated contributions allowed by the retirement system; or

(2) a benefit consisting of:

(A) a basic annuity actuarially determined from the sum of the member's contributions made and accumulated since the date the person last became a member, together with interest accumulated on that amount since the person last became a member and an amount from the benefit accumulation fund equal to the amount of the member's contributions credited to the member's individual account since the person last became a member together with interest accrued on that amount since the person last became a member; or

(B) a greater amount authorized by the municipality under Section 855.501.

(i) The additional benefit described by Subsection (h)(2) is payable as a standard service retirement benefit or, at the election of the member, any optional benefit authorized under this subtitle that is the actuarial equivalent of the standard retirement benefit. The first benefit payment date under this subsection is the later of the end of the month following the last month of employment or the end of the month following the month in which the person files an application for payment. The first payment may not be made if the person has resumed employment with the reemploying municipality in a position that would make the person an employee.

(j) Subject to Subsection (m), a person who resumed employment with the person's reemploying municipality before September 1, 2021, shall receive a lump-sum payment in an amount equal to the sum of the service retirement annuity payments the person would have received had the person's annuity payments not been discontinued and suspended under this section as it existed on the date the person resumed employment with the reemploying municipality, if the person:

(1) initially retired based on a bona fide termination of employment; and

(2) resumed employment with the person's reemploying municipality at least eight years after the effective date of the person's retirement.

(k) If the annuity payments of a person who resumed employment with the person's reemploying municipality before September 1, 2021, were discontinued and suspended under this section as it existed on

the date the person resumed employment with the reemploying municipality and the person has not terminated employment with the reemploying municipality, then on filing of a written application with the retirement system, the retirement system shall, subject to Subsection (l), resume making the annuity payments to the person, provided:

(1) the person's retirement that preceded the resumption of employment was based on a bona fide termination of employment; and

(2) the person did not become an employee of the person's reemploying municipality at any time during the 12 consecutive months after the effective date of the person's retirement described by Subdivision (1).

(l) Monthly payments of an annuity resumed under Subsection (k) shall resume effective beginning with the month following the month in which the written application is approved by the retirement system, without change in the amount except for any increase allowed under Section 854.203 or the duration of or another condition pertaining to the suspended benefit. Except as provided by Subsection (j), payment of the resumed benefit may not be made for any month during which the payment was suspended under this section as it existed on the date the person resumed employment with the reemploying municipality.

(m) At the time a person resumes receiving payment of an annuity under Subsection (k), the retirement system shall pay the person any lump-sum payment owed to the person under Subsection (j).

(n) The board of trustees may adopt rules to implement this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Formerly Sec. 62.107. Renumbered by Acts 1981, 67th Leg., 1st C.S., p. 220, ch. 18, Sec. 71, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., ch. 183, Sec. 5, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 62.108 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 514, Sec. 4, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 121, Sec. 3, eff. Jan. 1, 2002.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1099 (H.B. 3392), Sec. 1, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 218 (H.B. 159), Sec. 1, eff.

September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 412 (S.B. 812), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 4, eff. June 17, 2011.

Acts 2021, 87th Leg., R.S., Ch. 161 (S.B. 1105), Sec. 1, eff. September 1, 2021.

Sec. 852.1085. RESUMPTION OF SERVICE WITH SAME EMPLOYER BY CERTAIN RETIREES. Notwithstanding Section 852.108, a person who retired because the department in the municipality in which the person worked was privatized and who later resumes employment in the same department or a successor department in the person's reemploying municipality again becomes a member of the retirement system and the person's retirement annuity is not suspended in the same manner provided by Section 852.109 for a person who resumes employment with a different municipality.

Added by Acts 2007, 80th Leg., R.S., Ch. 1099 (H.B. 3392), Sec. 2, eff. June 15, 2007.

Sec. 852.109. RESUMPTION OF SERVICE WITH DIFFERENT EMPLOYER BY RETIREE. (a) If a person becomes an employee of a municipality after the effective date of the person's retirement from a participating municipality, and the municipality is not the person's reemploying municipality, the person again becomes a member of the retirement system, and the person's retirement annuity is not suspended.

(b) Member contributions under Section 855.402 shall be made on all compensation paid to the employee by the municipality at the same rate as is required of other employees of the department. The retirement system shall credit the contributions on receipt to the member's individual account and shall credit the account with interest at the same rate and in the same manner as the accounts of other members are credited. The compensation paid to the employee by the municipality shall be included in computing the monthly contributions the municipality makes to the benefit accumulation fund.

(c) If a person with credited service under this section dies before a payment under Subsection (e) is made, the person's beneficiary, or if there is no beneficiary surviving, the executor or administrator of the person's estate, may elect payment as provided by Section 854.105.

(d) The additional service retirement benefit allowable to a person to whom this section applies is, at the option of that person, either:

(1) a refund of accumulated contributions made since reemployment plus any accrued interest on the accumulated contributions allowed by the retirement system; or

(2) a benefit consisting of:

(A) a basic annuity actuarially determined from the sum of the member's contributions made and accumulated since the date the person last became a member together with interest accrued on that amount since the person last became a member and an amount from the benefit accumulation fund equal to the amount of the member's contributions credited to the member's individual account since the person last became a member together with interest accrued on that amount since the person last became a member; or

(B) a greater amount authorized by the municipality under Section 855.501.

(e) The additional benefit described by Subsection (d)(2) is payable as a standard service retirement benefit or, at the election of the member, any optional benefit authorized under this subtitle that is the actuarial equivalent of the standard retirement benefit. The first benefit payment date under this subsection is the later of the end of the month following the last month of employment or the end of the month following the month in which the person files an application for payment. The first payment may not be made if the person has resumed employment that would result in suspension of a benefit.

(f) If a person became an employee of a municipality other than the person's reemploying municipality after the effective date of the person's retirement from a participating municipality, and the person's service retirement annuity was suspended under Section 852.108 as it existed at the time of reemployment, the person may, on written application to the retirement system, resume receiving the suspended annuity.

Added by Acts 1995, 74th Leg., ch. 514, Sec. 5, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 121, Sec. 4, eff. Jan. 1, 2002.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 5, eff. June 17, 2011.

Acts 2021, 87th Leg., R.S., Ch. 161 (S.B. 1105), Sec. 2, eff. September 1, 2021.

Sec. 852.110. CORRECTION OF ERRORS. (a) The retirement system, under rules adopted by the board of trustees, shall correct an error in current service performed, or current service credit that should have been received, not more than four years before the date an application for the correction, on a form approved by the board of trustees, is received by the retirement system.

(b) The retirement system shall correct an error in prior service credit if the retirement system receives the person's written application for the correction not later than the fourth anniversary of the later of the date the municipality began participation in, or the person first became a member of, the retirement system.

Added by Acts 1999, 76th Leg., ch. 83, Sec. 2, eff. Dec. 31, 1999.
Amended by Acts 2003, 78th Leg., ch. 599, Sec. 6, eff. Jan. 1, 2004.

CHAPTER 853. CREDITABLE SERVICE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 853.001. TYPES OF CREDITABLE SERVICE. The types of service creditable as credited service in the retirement system are prior service and current service.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 853.0015. EXCLUDED PRIOR SERVICE CREDIT. If a member is entitled to receive excluded prior service credit under this chapter, the excluded prior service credit certified to the member:

(1) may only be used to satisfy length of service requirements for vesting and retirement eligibility; and

(2) may not be used to determine eligibility for or computation of updated service credits.

Added by Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 4, eff. January 1, 2020.

Sec. 853.002. BENEFIT ELIGIBILITY BASED ON CREDITED SERVICE. A member's eligibility to receive a benefit is based on credited service at the time of retirement.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 853.003. BUY BACK OF CREDITED SERVICE PREVIOUSLY CANCELED. (a) An eligible member who has withdrawn contributions and canceled credited service in the retirement system may reestablish the canceled credit in the system if the governing body of the municipality that currently employs the member by ordinance authorizes reestablishment of the credit by eligible employee members.

(b) A member eligible to reestablish credit under this section is one who has, since resuming membership, at least 24 consecutive months of credited service as an employee of the municipality for which the ordinance was adopted.

(c) A member may reestablish credit by depositing with the retirement system in a lump sum the amount withdrawn from the system, plus a withdrawal charge computed at an annual rate of five percent from the date of withdrawal to the date of redeposit.

(d) Credit reestablished under this section is treated as if all service on which the credit is based were performed for the municipality authorizing the reestablishment.

(e) A governing body may not adopt an ordinance under Subsection (a) unless the actuary first determines that all obligations charged against the municipality's account in the benefit accumulation fund, including the obligations proposed in the ordinance, can be funded by the municipality within its maximum contribution rate and within its amortization period.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 220, ch. 18, Sec. 72, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 6, eff. June 17, 2011.
Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 3, eff. January 1, 2020.

Sec. 853.004. RULES FOR CREDITABLE SERVICE. The board of trustees may adopt rules necessary or desirable to implement this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 4, eff. January 1, 2020.

SUBCHAPTER B. ESTABLISHMENT OF PRIOR SERVICE

Sec. 853.101. CREDITABLE PRIOR SERVICE. Prior service creditable in the retirement system is:

(1) service performed as an employee of a participating department of a municipality before the date the department's participation in the retirement system became effective;

(2) for a person who becomes a member of the retirement system under Section 852.105, service performed as an employee of a participating department during a time the person was ineligible for membership because of age; or

(3) for a person entitled to prior service credit under Section 853.102(a)(3), service for which current service credit has not been granted that was performed as an employee of a participating department during a time the person was ineligible to participate because of age.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 220, ch. 18, Sec. 73, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 853.102. ELIGIBILITY FOR PRIOR SERVICE. (a) A member is eligible to receive credit in the retirement system for prior service if the member:

(1) became a member as an employee of a department of a municipality on the effective date of the department's participation in the retirement system;

(2) became a member as an employee of a department of a municipality before the fifth anniversary of the effective date of the department's participation and continued as an employee of a participating department of the municipality for at least five consecutive years after reemployment; or

(3) became a member September 1, 1987, by virtue of Sections 852.101(a)(3) and (b) and has service before that date with a municipality that has adopted the provisions of Section 852.105.

(b) The board of trustees may adopt rules concerning eligibility for prior service under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 221, ch. 18, Sec. 74, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 183, Sec. 6, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 853.103. STATEMENT OF PRIOR SERVICE. A member may claim credit for prior service by filing a detailed statement of the service with the city clerk or city secretary of the municipality for which the service was performed.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.103 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 853.104. CERTIFICATION OF SERVICE AND AVERAGE COMPENSATION. (a) As soon as practicable after a member files a statement of prior service under Section 853.103, the municipality that employs the person who receives the statement shall verify the

prior service claimed and certify to the board of trustees the amount of service approved and the member's average prior service compensation.

(b) The average prior service compensation of a member is computed as the average monthly compensation for service performed for a participating department of the municipality:

(1) for the 36 months immediately preceding the effective date of the department's participation in the retirement system; or

(2) if the member did not perform service in each of the 36 months immediately preceding participation, for the number of months of service within the 36-month period.

(c) The board of trustees may adopt rules concerning verification and certification of service and compensation under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.104 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 853.105. DETERMINATION OF PRIOR SERVICE CREDIT.

(a) After receiving a certification of prior service and average prior service compensation under Section 853.104, the retirement system shall determine the member's prior service credit.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 28, eff. January 1, 2020.

(c) The prior service credit is an amount computed as a percentage determined as provided by Subsection (d) or, if applicable, Subsection (d-1), times a base credit equal to the accumulation at three percent interest of a series of monthly amounts for the number of months of approved prior service, times the sum of:

(1) the rate of contributions required of employees of the municipality for current service; plus

(2) the rate described in Subdivision (1) times the municipal current service matching ratio.

(d) The governing body of a municipality shall determine in the ordinance providing for participation the percentage to be applied against the base credit in computing a prior service credit under Subsection (c). Except as provided by Subsection (d-1), the percentage adopted may be any multiple of 10 percent that does not

exceed 100 percent of the base credit, with 10 percent being the minimum percentage a municipality may adopt. A governing body may not adopt a percentage under this subsection until the actuary first determines, and the retirement system concurs in the determination, that the municipality is able to fund, before the 30th anniversary of the effective date of its participation in the retirement system, all prior service obligations that the municipality proposes to assume under this section.

(d-1) The governing body of a municipality shall adopt, by ordinance, a zero percent prior service credit if, before joining the retirement system, the municipality provided retirement benefits to its employees that were funded partly or wholly by the municipality. Prior service credit adopted under this subsection is excluded prior service credit.

(e) The prior service credit of a person who becomes a member of the retirement system under Section 852.105 or who is entitled to prior service credit under Section 853.102(a)(3) is computed on the percentage of the base prior service credit that was most recently used by the person's employing municipality in computing prior or updated service credits for current employees.

(f) Interest on a prior service credit is earned for each whole calendar year beginning on the effective date of membership and ending on the effective date of retirement. If a person retires under this subtitle on a date other than December 31, interest on a prior service credit is earned for the partial year in which the retirement occurs, prorated from January 1 of the year in which the retirement occurs to the effective date of retirement.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 221, ch. 18, Sec. 75, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.105 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 121, Sec. 5, eff. Jan. 1, 2002.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 5, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 28, eff. January 1, 2020.

Sec. 853.106. PRIOR SERVICE CERTIFICATE. (a) After determining a member's prior service credit under Section 853.105, the retirement system shall issue to the member a prior service certificate stating:

(1) the number of months of prior service credited;

(2) the average prior service compensation; and

(3) the prior service credit.

(b) As long as a person remains a member, the person's prior service certificate is, for purposes of retirement, conclusive evidence of the information it contains, except that a member or participating municipality may request that the retirement system correct an error in the prior service certificate in accordance with Section 852.110.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.106 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 6, eff. January 1, 2020.

Sec. 853.107. VOID PRIOR SERVICE CERTIFICATE. (a) When a person's membership in the retirement system is terminated, any prior service certificate issued to the person becomes void.

(b) A person whose membership has terminated and who subsequently resumes membership in the retirement system is not entitled to credit for prior service.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.107 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER C. ESTABLISHMENT OF CURRENT SERVICE

Sec. 853.201. CREDITABLE CURRENT SERVICE. Service performed as an employee member of a participating department of a municipality is credited in the retirement system for each month for which the required contributions are made by the member.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.201 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER D. OPTIONAL SERVICE

Sec. 853.301. SERVICE FOR CERTAIN PUBLIC FACILITIES. (a) The governing body of a participating municipality by ordinance may authorize the granting of prior service credit in the retirement system for service performed in a public hospital, utility, or other public facility currently operated by the municipality, during a time the facility was operated by a unit of government other than the municipality and before:

(1) the effective date of the municipality's participation in the retirement system, if the facility was acquired by the municipality before that date; or

(2) the date of acquisition of the facility, if the facility was acquired after the effective date of the municipality's participation in the retirement system.

(b) A member eligible to receive credit under this section after an ordinance is adopted under Subsection (a) is one who was employed by the municipality at a public facility:

(1) on the effective date of the municipality's participation, for service under Subsection (a)(1); or

(2) on the date of acquisition of the facility, for service under Subsection (a)(2).

(c) All credit authorized by a municipality under this section is treated as if it were performed for the municipality.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.301 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 853.302. SERVICE FOR ELECTED OFFICERS. An elected officer who becomes a member of the retirement system on the effective date of an ordinance adopted under Section 852.107 is entitled to prior service credit computed as provided by Section 853.105, except that if the employing municipality has granted updated service credits, the percentage to be used in computing a prior service credit under this section is the percentage of the base updated service credit

that was most recently used by the municipality in computing updated service credits.

Added by Acts 1981, 67th Leg., 1st C.S., p. 221, ch. 18, Sec. 76, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.302 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 853.303. PRIOR SERVICE CREDIT FOR SERVICE FOR NONPARTICIPATING DEPARTMENT. (a) The governing body of a participating municipality by ordinance may authorize the granting of prior service credit in the retirement system to an employee who is a member of the retirement system and who became a member as an employee of a participating department of the municipality, for service performed, before the person's date of membership, as an employee of a department of the same municipality that was not participating in the retirement system at the time of the service but later became a participating department.

(a-1) This subsection applies to a participating municipality that is required to adopt a zero percent prior service credit under Section 853.105(d-1). If the governing body of a participating municipality subject to this subsection authorizes the granting of prior service credit to an employee under Subsection (a), the employee is only entitled to receive excluded prior service credit.

(a-2) This subsection applies to a participating municipality that, before having a department of the municipality begin participating in the retirement system, provided other retirement benefits to its employees in that department funded partly or wholly by the municipality. If, on or after January 1, 2020, the governing body of a participating municipality subject to this subsection authorizes the granting of prior service credit to an employee under Subsection (a), the employee is only entitled to receive excluded prior service credit.

(a-3) This subsection applies to a participating municipality that elected to discontinue the participation in the retirement system of persons employed or reemployed after the date of an election to discontinue under Section 852.006(a), provided other retirement benefits to those persons funded partly or wholly by the municipality, and subsequently elects, by ordinance, to have those

persons resume participating in the retirement system as employees. If, on or after January 1, 2020, the governing body of a participating municipality subject to this subsection authorizes prior service credit under Subsection (a) to an employee described by this subsection, the employee is only entitled to excluded prior service credit.

(b) A member may claim prior service credit under this section by filing, not later than one year after the effective date of the ordinance authorizing the credit, a detailed statement of the service with the clerk or secretary of the municipality.

(c) As soon as practicable after a member has filed a statement of prior service under this section, the municipality shall verify the prior service claimed and certify to the retirement system the creditable prior service approved and the average monthly compensation paid to the member during the period of the service.

(d) After receiving a certification of prior service and average monthly compensation under this section, the retirement system shall:

(1) determine the prior service credit allowable to the member in the manner provided by Section 853.105; and

(2) issue to the member a prior service certificate as provided by Section 853.106.

Added by Acts 1989, 71st Leg., ch. 136, Sec. 1, eff. May 25, 1989. Renumbered from Title 110B, Sec. 63.303 and amended by Acts 1989, 71st Leg., ch. 1100, Sec. 4.08(a)(1) to (3), eff. Sept. 1, 1989. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 7, eff. January 1, 2020.

Sec. 853.304. PRIOR SERVICE CREDIT FOR PROBATIONARY EMPLOYMENT. (a) The governing body of a participating municipality which prior to September 1, 1989, engaged persons beginning work with the municipality on a probationary basis for a specified period and consequently did not enroll the person as a member of the system until the probationary period expired may by ordinance allow prior service credit for service performed during the period of probationary employment (not exceeding six months) with the municipality.

(b) After the retirement system receives a copy of a municipality's ordinance described by Subsection (a), the retirement system shall furnish to the municipality a report containing the names of employees who, according to the retirement system's records, are eligible to receive prior service credit for probationary employment.

(c) As soon as practicable after the municipality receives a report under Subsection (b), the municipality shall verify the information in the report and certify to the retirement system the number of months of probationary employment to which each employee listed on the report appears to be entitled and the average monthly compensation paid to the member during the period of probationary employment.

(d) The certification by the municipality must be received by the retirement system not later than the first anniversary of the effective date of the ordinance allowing the credit. After receiving the certification from the municipality described by Subsection (c), the board of trustees shall determine the prior service credit allowable to the member in the manner provided in Section 853.105.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 11.01(b), eff. Aug. 26, 1991. Amended by Acts 2001, 77th Leg., ch. 121, Sec. 6, eff. Jan. 1, 2002.

Sec. 853.305. CREDIT FOR SERVICE WITH NONPARTICIPATING MUNICIPALITY, AIRPORT AUTHORITY, OR COUNCIL OF GOVERNMENTS, OR CERTAIN SERVICE PREVIOUSLY CANCELED. (a) The governing body of a participating municipality by ordinance may authorize the granting of restricted prior service credit to an employee who is a member of the retirement system for service previously performed:

(1) as a full-time, paid employee of the United States, of any public authority or agency created by the United States, of any state or territory of the United States, of any political subdivision of any state of the United States, of any public agency or authority created by a state or territory of the United States, or of an institution of higher education at which the person is commissioned as a campus security personnel employee under Section 51.212, Education Code, and for which service the person has not otherwise received credited service in this system, including combined service

credit under Chapter 803; or

(2) as an employee of the state or any branch, agency, or subdivision of the state for which the person received credited service under the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Judicial Retirement System of Texas Plan One, the Judicial Retirement System of Texas Plan Two, the Texas County and District Retirement System, or this retirement system, and the credit for which was canceled because of withdrawal of contributions and has not been reinstated.

(b) Restricted prior service credit may be used only to satisfy length-of-service requirements for retirement eligibility, has no monetary value in computing the annuity payments allowable to the member, and may not be used in other computations, including computation of updated service credits.

(c) A member seeking to establish restricted prior service credit under Subsection (a)(1) must obtain from the official custodian of personnel records of the entity for which the previous service was performed a detailed statement of the service, verified by that official, and file the statement with the clerk or secretary of the participating municipality by which the member is employed. A member seeking to establish restricted prior service credit under Subsection (a)(2) must obtain from the public retirement system in which the canceled service was credited a detailed statement of the service, verified by an official of that retirement system, and file that statement with the clerk or secretary of the participating municipality by which the member is employed.

(d) As soon as practicable after the member has filed the verified statement, the clerk or secretary of the participating municipality authorizing the credit shall examine the statement. If satisfied that the claim is correct, the clerk or secretary shall endorse the statement as approved, file the original in the appropriate files of the granting municipality, and prepare and transmit to the director of the retirement system a certified copy of the approved claim.

(e) On receipt of a certified copy of an approved claim, the retirement system, if satisfied that credit for service claimed under Subsection (a)(1) has not previously been granted the member, or that credit claimed under Subsection (a)(2) previously existed but has been canceled and not reinstated, shall enter the credit in the member's records.

(f) In this section, "full-time, paid employee" has the meaning assigned "employee" by Section 851.001, except that the services do not have to be performed for a municipality.

(g) An ordinance adopted under this section applies to the granting of restricted prior service credit to a member who is or has been an employee of the authorizing municipality at any time on or after the effective date of the ordinance.

Added by Acts 1991, 72nd Leg., ch. 466, Sec. 1, eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 57, Sec. 5, 6, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 514, Sec. 6, 7, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 76, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 121, Sec. 7, eff. Jan. 1, 2002; Acts 2003, 78th Leg., ch. 599, Sec. 7, eff. Jan. 1, 2004.

SUBCHAPTER E. OPTIONAL INCREASES IN SERVICE CREDITS

Sec. 853.401. ORDINANCE AUTHORIZING UPDATED SERVICE CREDITS. (a) Except as provided by Subsection (b) and Section 853.0015, the governing body of a participating municipality by ordinance may authorize the crediting in the retirement system of updated service credits for service performed for the municipality by members. Beginning January 1, 2022, a member must be a contributing employee of the municipality on the date prescribed by Section 853.402(e) to be eligible to receive an updated service credit authorized under this section. An updated service credit authorized under this section replaces any updated service credit or prior service credit previously authorized for part of the same service.

(b) A municipality may not authorize updated service credits for members who had less than 36 months of credited service on the date prescribed by Section 853.402(e).

(c) In adopting an ordinance under this section, a governing body shall specify the percentage of base updated service credits to be used in computing updated service credits for employees of the municipality and shall specify the date the updated service credits will take effect. The percentage adopted may be 50 percent, 75 percent, or 100 percent of a base updated service credit. The effective date must be January 1 of a year specified by the governing body. If the governing body of a municipality has specified a different percentage in an ordinance adopted under Section 853.404(a)

and in effect on December 31, 1999, the percentage used in computing updated service credits for employees of that municipality remains in effect until changed or discontinued under Section 853.404.

(d) A governing body that adopts an ordinance under this section shall send it to the retirement system, and the system must receive it before the effective date of the updated service credits authorized in the ordinance.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 221, ch. 18, Sec. 77, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.401 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 57, Sec. 7, eff. Jan. 1, 1994; Acts 1999, 76th Leg., ch. 83, Sec. 3, eff. Dec. 31, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 8, eff. January 1, 2020.

Sec. 853.402. DETERMINATION OF UPDATED SERVICE CREDITS. (a) If a governing body sends the retirement system an ordinance adopted under Section 853.401, the retirement system shall determine for each affected member the average updated service compensation, base updated service credit, and updated service credit.

(a-1) The board of trustees by rule may limit the increase in a member's average updated service compensation from year to year.

(b) The average updated service compensation of a member is computed as the monthly average compensation:

(1) for the 36 months immediately preceding the date prescribed by Subsection (e); or

(2) if the member did not perform service in each of the 36 months described in Subdivision (1) or did not perform any service within the 36-month period, for the most recent 36 months before the date prescribed by Subsection (e) in which the member performed service.

(c) The base updated service credit of a member is an amount computed as the number 1.03, times the difference by which the amount computed under Subdivision (1) exceeds the amount computed under Subdivision (2), where:

(1) "(1)" is an amount equal to the accumulation at three percent interest of a series of monthly amounts for the number of months of credited service on the date prescribed by Subsection (e), each amount of which equals the member's average updated service compensation, times the sum of:

(A) the rate of contributions required of the member for current service; plus

(B) the member's contribution rate, times the municipal current service ratio in effect on the effective date of the ordinance adopted under Section 853.401; and where

(2) "(2)" is an amount equal to the sum of:

(A) the amount credited to the member's individual account on the date prescribed by Subsection (e), subject to a 1 to 1 matching ratio, times 2; plus

(B) the amount credited to the member's individual account, subject to a 1.5 to 1 matching ratio, times 2.5; plus

(C) the amount credited to the member's individual account, subject to a 2 to 1 matching ratio, times 3.

(d) The updated service credit of a member is an amount equal to the greatest of the following:

(1) the percentage determined under Section 853.401(c), times the member's base updated service credit; or

(2) any updated service credit previously authorized by the municipality and in effect for the member, accumulated at interest as provided by Subsection (f) from the date it took effect to the date prescribed by Subsection (e); or

(3) prior service credit previously authorized by the municipality and in effect for the member, accumulated at interest as provided by Subsection (f) from the date the credit took effect to the date prescribed by Subsection (e).

(e) The date used in computing updated service compensation and updated service credits under this section is January 1 of the year immediately preceding the January 1 on which the updated service credits will take effect.

(f) Interest on an updated service credit is earned for each whole calendar year beginning on the date the updated service credit takes effect and ending on the effective date of retirement. If a person retires under this subtitle on a date other than December 31, interest on an updated service credit is earned for the partial year in which the retirement occurs, prorated from January 1 of the year

in which the retirement occurs to the effective date of retirement.

(g) The retirement system may recalculate updated service credit for purposes of determining a member's retirement annuity if:

(1) the member reestablishes credited service in accordance with Section 853.003 and retires in the same calendar year; and

(2) any municipality for which the member performed creditable service adopts an ordinance authorizing updated service credits under Section 853.401, 853.404, or 853.601 with an effective date of January 1 of the same calendar year.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.402 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 57, Sec. 8, eff. Jan. 1, 1994. Amended by Acts 1999, 76th Leg., ch. 83, Sec. 4, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 121, Sec. 8, eff. Jan. 1, 2002.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 293 (H.B. 1244), Sec. 2, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 293 (H.B. 1244), Sec. 5, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 7, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 9, eff. January 1, 2020.

Sec. 853.403. APPROVAL OF ORDINANCE. (a) An ordinance adopted under Section 853.401 may not take effect unless the board of trustees approves the ordinance as meeting the requirements of this section. The board may not approve an ordinance unless the actuary first determines, and the board concurs in the determination, that all obligations charged against the municipality's account in the benefit accumulation fund, including obligations proposed in the ordinance, can be funded by the municipality within its maximum total contribution rate and within its amortization period as in effect on the date the updated service credits take effect.

(b) The board of trustees may adopt rules it finds necessary to ensure that the retirement system receives in a timely manner from a municipality the certified information the actuary requires to make

the necessary determinations before the date the updated service credits take effect.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 222, ch. 18, Sec. 78, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.403 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 76, Sec. 3, eff. Sept. 1, 1997.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 8, eff. June 17, 2011.

Sec. 853.404. ALLOWANCE OF UPDATED SERVICE CREDIT AND ANNUITY INCREASES. (a) The governing body of a participating municipality that adopts an ordinance authorizing the crediting in the retirement system of updated service credits under Sections 853.401, 853.402, and 853.403, to be effective January 1 of a designated year, may further provide in the ordinance that updated service credits will be credited effective January 1 of each year following the designated year, using the same percentage of the base updated service credit specified in the ordinance in computing updated service credits for each future year, until changed or discontinued as provided by this section.

(b) The governing body of a participating municipality that adopts an ordinance under Section 853.601, authorizing the crediting of updated service credits for transferred service effective January 1 of a designated year, may further provide in the ordinance that updated service credits will be credited effective January 1 of each year following the designated year, using the same percentage of the base updated service credit specified in the ordinance in computing updated service credits for each future year, until changed or discontinued as provided by this section.

(c) The governing body of a participating municipality that adopts an ordinance under Section 854.203 providing for increased annuities effective January 1 of a designated year may further provide in the ordinance that increases in annuities will be credited effective January 1 of each year following the designated year based on recomputations made as provided by Section 854.203(b)(1) for each

year following the initial computation, and using the fraction specified in the ordinance as required under Section 854.203(b)(2) in the recomputations.

(d) Except as provided by Subsection (e), an ordinance under this section continues in effect for each year that the actuary determines that all obligations charged against the municipality's account in the benefit accumulation fund, including the obligations to become effective the next January 1, can be funded by the municipality within its maximum contribution rate and within its amortization period as in effect on the next January 1. An ordinance under this section will cease to be in effect for future years if the actuary cannot make that determination, but shall again take effect for future years beginning January 1 of the first year after the actuary can make that determination.

(e) An ordinance under this section ceases to be in effect for future years if the municipality:

(1) adopts a new ordinance under this section;

(2) adopts a new matching ratio for matching a member's future contributions and earnings on those contributions at the time of retirement under Section 855.501;

(3) adopts a new rate of member contributions under Section 855.401; or

(4) adopts an ordinance stating that the ordinance in effect under this section will cease to be in effect for future years.

(f) Subject to Subsection (f-1) and notwithstanding conflicting provisions of Subsection (c) or Section 854.203, the governing body of a participating municipality that adopts an ordinance under Section 854.203 providing for increased annuities effective January 1 of 2024, 2025, or 2026 may elect to compute the annuity increase, including an annual annuity increase authorized under Subsection (c), as the sum of prior and current service annuities, as increased in subsequent years under Section 854.203 or Subsection (c), of the person on whose service the annuities are based on the effective date of the annuity increase, multiplied by:

(1) the percentage change in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor, during the 12-month period ending in December of the year that is 13 months before the effective date of the ordinance providing the increase; and

(2) 30 percent, 50 percent, or 70 percent, as specified by the governing body in the ordinance.

(f-1) Subsection (f) applies only with respect to:

(1) a participating municipality that as of January 1, 2023:

(A) does not provide by ordinance an annual annuity increase under Subsection (c) because the municipality:

(i) passed an ordinance before January 1, 2023, that rescinded a previous ordinance authorizing annual increases under Subsection (c); or

(ii) has not passed an ordinance authorizing annual increases under Subsection (c); or

(B) does provide by ordinance an annual annuity increase under Subsection (c) if the governing body of the municipality elects to provide increased annuities recomputed in accordance with Subsection (f) for purposes of maintaining or increasing the amount of the annuity increase otherwise authorized by the ordinance; and

(2) the annuity of:

(A) a retiree who retired not later than the last day of December of the year that is 13 months before the effective date of the ordinance providing the increase; or

(B) a beneficiary of a deceased retiree whose death occurred not later than the last day of December of the year that is 13 months before the effective date of the ordinance providing the increase.

Added by Acts 1991, 72nd Leg., ch. 466, Sec. 2, eff. Aug. 26, 1991.
Amended by Acts 1995, 74th Leg., ch. 514, Sec. 8, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 76, Sec. 4, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 9, eff. June 17, 2011.

Acts 2023, 88th Leg., R.S., Ch. 234 (H.B. 2464), Sec. 1, eff. May 27, 2023.

SUBCHAPTER F. MILITARY SERVICE

Sec. 853.501. MILITARY SERVICE BY MEMBER. (a) A member of the retirement system is allowed credited service as provided in this

subchapter if at any time the person:

(1) leaves employment with a participating municipality to perform and performs active duty service in the armed forces or the armed forces reserves of the United States or their auxiliaries, provided that:

(A) the person makes application for reemployment with the same municipality within 90 days after the person is released from active duty or discharged from such military service or from hospitalization continuing after discharge for a period of not more than one year; and

(B) the person is reemployed by the same participating municipality; or

(2) is conscripted and leaves employment with a participating municipality to perform and performs war-related service during a state of war or during a conflict between the armed forces of the United States and the armed forces of a foreign country, provided that the person is reemployed by the same municipality within 90 days after the end of such service.

(b) Credit for service under this section may only be used as set forth in Section 853.505.

Added by Acts 1989, 71st Leg., ch. 462, Sec. 4, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.01(d), eff. Aug. 26, 1991.

Sec. 853.502. OTHER MILITARY SERVICE CREDIT. (a) The governing body of a participating municipality by ordinance may authorize eligible members in its employment to establish credit in the retirement system for active military service performed as a member of the armed forces or armed forces reserves of the United States or their auxiliaries, for which service the members do not receive credit under Section 853.501.

(b) A member eligible to establish credit for military service creditable as provided by this section is one who is an employee of a municipality that has adopted an ordinance under this section and who:

(1) was an employee of a participating municipality immediately prior to the military service, but terminated employment with the municipality and membership in the retirement system during

the period of service, and applied for reemployment with the municipality not later than the 90th day after the date the person was released from active duty or discharged or from hospitalization continuing after discharge for a period of not more than one year, and was reemployed by that municipality; or

(2) has at least five years of credited service in the retirement system and has been an employee of one or more participating municipalities for at least five years.

Added by Acts 1981, 67th Leg., 1st C.S., p. 222, ch. 18, Sec. 79, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 462, Sec. 4, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.501 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Renumbered from Government Code, Sec. 853.501 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.01(d), eff. Aug. 26, 1991; Acts 2003, 78th Leg., ch. 599, Sec. 8, eff. Jan. 1, 2004.

Sec. 853.503. CONDITIONS FOR RECEIVING MILITARY SERVICE CREDIT. No person can receive credit for service under this subchapter unless:

(1) the person's military service was terminated by release from active duty or discharge on terms not dishonorable;

(2) the person does not receive and is not eligible to receive federal retirement payments based on 20 years or more of active military service or its equivalent; and

(3) the person does not have and does not receive credit for the service in any other public retirement system or program established under laws of this state.

Added by Acts 1989, 71st Leg., ch. 462, Sec. 4, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.01(d), eff. Aug. 26, 1991.

Sec. 853.504. ESTABLISHMENT OF MILITARY SERVICE CREDIT. (a) An eligible member may establish credit under Section 853.501 by filing written application therefor with the retirement system, accompanied by satisfactory evidence of the member's military service.

(b) An eligible member seeking military service credit under

Section 853.502 must file with the retirement system a written application for the credit, together with satisfactory evidence of the member's military service.

(c) No person may obtain credit under this subchapter for more than 60 months of military service.

Added by Acts 1981, 67th Leg., 1st C.S., p. 222, ch. 18, Sec. 79, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 462, Sec. 4, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.502 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Renumbered from Government Code, Sec. 853.502 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.01(d), eff. Aug. 26, 1991; Acts 2003, 78th Leg., ch. 599, Sec. 9, eff. Jan. 1, 2004.

Sec. 853.505. USE OF MILITARY SERVICE CREDIT. (a) The retirement system shall use military service credit established under this subchapter in determining length-of-service requirements for benefits.

(b) Except as provided by Section 853.506, military service credit allowed under Section 853.501 shall have no monetary value in calculating the annuity payments allowable to the member and shall not be used in other computations, including computation of updated service credits or prior service credits.

(c) When a person who has military service credit under Section 853.502 retires and has paid for military service credit under former law, the retirement system shall compute an amount equal to the sum of any accumulated amount paid by the person for the military service credit under former law, plus an equal amount multiplied by the municipality's current service matching percent in effect on the date the member applied for the military service credit. The retirement system shall use the sum derived from that computation to make annuity payments to the person that are computed in the same manner as is the person's current service annuity, but the military service credit and the sum may not be used in other computations, including computations of updated service credits or prior service credits.

Added by Acts 1981, 67th Leg., 1st C.S., p. 222, ch. 18, Sec. 79, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 462, Sec. 4, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.503 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1,

eff. Sept. 1, 1989. Renumbered from Government Code, Sec. 853.503 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.01(d), eff. Aug. 26, 1991. Amended by Acts 1997, 75th Leg., ch. 76, Sec. 5, eff. Sept. 1, 1997.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 10, eff. June 17, 2011.

Sec. 853.506. CURRENT SERVICE FOR REEMPLOYED VETERANS. Notwithstanding any provision of this subtitle to the contrary, contributions, benefits, and service credit for qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986 (26 U.S.C. Section 414). The board of trustees may adopt rules that modify the terms of this subtitle for the purpose of compliance with the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. Section 4301 et seq.).

Added by Acts 1997, 75th Leg., ch. 76, Sec. 6, eff. Sept. 1, 1997.

SUBCHAPTER G. OPTIONAL UPDATED SERVICE CREDIT FOR TRANSFERRED SERVICE

Sec. 853.601. ORDINANCE AUTHORIZING UPDATED SERVICE CREDIT FOR TRANSFERRED SERVICE. (a) The governing body of a participating municipality in ordinances authorizing updated service credits under Section 853.401 may provide that those members who are eligible for such credits on the basis of service with the granting municipality, who have unforfeited credit for prior service or current service with another participating municipality or municipalities by reason of previous employment, and who are contributing members on the date prescribed by Section 853.402(e), shall be credited in the retirement system with updated service credit calculated in the manner prescribed by Sections 853.401 and 853.402, except that in determining the base updated service credit of the member under Section 853.402(c)(1), all unforfeited credited service performed by the member by reason of previous employment in other participating municipalities prior to the date prescribed by Section 853.402(e) shall be treated as if performed in the service of the municipality adopting the ordinance, and that amount shall be reduced by an amount equal to the sum of:

(1) 2 times the amount credited to the member's individual account on the date prescribed in Section 853.402(e), which any participating municipality has undertaken to match on a 1 to 1 ratio; plus

(2) 2.5 times the amount credited to the member's individual account, subject to a 1.5 to 1 matching ratio by any participating municipality; plus

(3) 3 times the amount credited to the member's individual account, subject to a 2 to 1 matching ratio by any participating municipality; and plus

(4) the sum of all updated service credits, prior service credits, special prior service credits, and antecedent service credits allowed to the member by any other participating municipality by which the member was previously employed and to which the member is entitled.

(b) If the member is granted an updated service credit by a previously employing municipality on or after the granting of an updated service credit under Subsection (a), the updated service credit granted under Subsection (a) shall be reduced by the amount of increase in credits resulting from the granting of updated service credits by the previous employer.

Added by Acts 1983, 68th Leg., p. 2977, ch. 512, Sec. 1, eff. Aug. 29, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.601 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 11, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 10, eff. January 1, 2020.

CHAPTER 854. BENEFITS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 854.001. TYPES OF BENEFITS. The types of benefits payable by the retirement system are:

(1) service retirement benefits;

(2) disability retirement benefits; and

(3) death benefits.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 854.002. COMPOSITION OF RETIREMENT ANNUITY. (a) Each retirement annuity payable under this subtitle consists of a prior service annuity and a current service annuity.

(b) A prior service annuity is actuarially determined from any updated service credit or any prior service, special prior service, or antecedent service credit in effect for a member on the date of retirement, plus accumulated interest.

(c) A current service annuity is actuarially determined on the date of a member's retirement from the sum of:

(1) the amount credited to the member's individual account; and

(2) an additional amount from the benefit accumulation fund equal to the amount in the member's individual account or a greater amount authorized by a participating municipality under Section 855.501.

(d) Notwithstanding any other provision of this subtitle, instead of an annuity, a person will receive from the retirement system a single payment equal to the sum of the following if on the date of that person's retirement that sum is $10,000 or less:

(1) any updated service credit or any prior service, special prior service, or antecedent service credit for that person on the date of retirement, plus accumulated interest;

(2) the amount credited to the person's individual account; and

(3) an additional amount from the benefit accumulation fund equal to the amount in the member's individual account or a greater amount authorized by a participating municipality under Section 855.501.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 223, ch. 18, Sec. 80, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.002 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 83, Sec. 5, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 121, Sec. 9, eff. Jan.

1, 2002.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 12, eff. June 17, 2011.

Sec. 854.003. EFFECTIVE DATE OF RETIREMENT. (a) Except as provided by Subsections (b) and (d), the effective date of a member's service retirement is the date the member designates at the time the member applies for retirement under Section 854.101, but the date must be the last day of a calendar month and may not precede the date the member terminates employment with all participating municipalities.

(b) If a member dies before retirement and an annuity becomes payable under Section 854.105, the member is considered to have retired on the last day of the month immediately preceding the month in which death occurred, except as provided by Subsection (e).

(c) Except as provided by Subsections (b) and (d), the effective date of a member's disability retirement is the date designated on the application for retirement filed by or for the member as provided by Section 854.301, but the date must be the last day of a calendar month and may not precede the date the member terminates employment with all participating municipalities.

(d) Notwithstanding any other provision of this subtitle, each distribution of a benefit under this subtitle must be determined and made in accordance with Section 401(a)(9) of the Internal Revenue Code of 1986, and its subsequent amendments, including the minimum incidental death benefit requirements of Section 401(a)(9)(G) of that code. The board of trustees may adopt rules it determines necessary to comply with the distribution requirements, including rules under which a person is considered to have retired as a result of those requirements.

(e) If the person who is eligible to receive an annuity under Subsection (b) is the member's surviving spouse, the person may elect, by notifying the retirement system not later than the 180th day after the date of the member's death, to leave the member's accumulated contributions on deposit with the retirement system until the date the member would have been eligible for service retirement. If a surviving spouse makes an election under this subsection, the deceased member is considered to have retired on the last day of the

month in which the member would have attained an age for service retirement eligibility. An election under this subsection is revocable before the payment of the first annuity payment by filing a written application approved by the board of trustees to receive the member's accumulated contributions.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 57, Sec. 9, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 514, Sec. 9, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 121, Sec. 10, eff. Jan. 1, 2002; Acts 2003, 78th Leg., ch. 599, Sec. 10, eff. Jan. 1, 2004.

Sec. 854.004. WHEN ANNUITY IS PAYABLE; CHANGES BEFORE FIRST PAYMENT. (a) A retiree may change the retiree's choice of retirement annuity payment plans or the designation of beneficiary after the retiree's effective date of retirement by filing written notice with the board of trustees before the later of the date on which the retirement system makes the first payment or the date the first annuity payment becomes due. After the first payment has been made by the retirement system or has become due, a retiree may not change the annuity payment plan selected and may not change the designated beneficiary except under Section 854.006.

(b) For purposes of this section, the term "makes payment" includes the depositing in the mail of a payment or the crediting of an account with payment through electronic funds transfer.

(c) An annuity under this subtitle is payable for a period beginning on the last day of the first month following the month in which retirement occurs and ending, except as otherwise provided by this subtitle, on the last day of the month in which death occurs.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 514, Sec. 10, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 83, Sec. 6, eff. Dec. 31, 1999.

Sec. 854.005. REDUCTION OF ANNUITY PAYMENTS ON REQUEST. (a)

An annuitant by written request may authorize the retirement system to cease the annuitant's monthly payment or reduce the annuitant's monthly payment to an amount specified in the request. In writing, the annuitant may subsequently request the retirement system to reinitiate or increase the annuitant's monthly payment at or to any specified amount that does not exceed the amount originally payable.

(b) If the retirement system receives a request under Subsection (a), the director may cause the monthly annuity payment of the requesting annuitant to be reduced or increased as specified in the request.

(c) Any amounts by which an annuity is reduced under this section are forfeited to the retirement system and are not recoverable by any person.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.005 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 514, Sec. 11, eff. Sept. 1, 1995.

Sec. 854.006. CHANGE OF BENEFICIARY OR DIVISION OF BENEFIT FOR CERTAIN PERSONS RECEIVING MONTHLY BENEFITS. (a) A retiree who is receiving payments of an annuity for the retiree's life but with payments to continue if the retiree dies until a determined number of payments have been made may, with the consent of the retiree's spouse if there is one, revoke any existing selection and designation of beneficiary nominated to receive any monthly payments that may become due under the annuity after the retiree's death and may select a new beneficiary to whom the monthly payments are to be made.

(b) A person who, as beneficiary of a deceased retiree, is receiving monthly payments of any fixed-term annuity described by Subsection (a) may select and designate a person to whom will be paid any monthly payments that may be due under the annuity after the death of the beneficiary making the designation.

(c) Any selection and designation of beneficiary under Subsection (a) or (b) must be in writing, on forms prescribed by the board of trustees, and will become effective on filing with the director.

(d) If a qualified domestic relations order, as that term is

defined by Section 804.001, so provides, the benefit payable to a retiree who is receiving payments of an annuity for the retiree's life with payments to continue after the retiree's death until the death of another person under Section 854.104(c)(1), (2), or (5) may be divided by the retirement system into two annuities if:

(1) the person who was designated to receive the continued payment after the retiree's death is the same person as the alternate payee;

(2) the domestic relations order specifies that one of the two annuities is payable over the remaining life of the retiree, with no payments to be made under that annuity after the death of the retiree;

(3) the domestic relations order specifies that the annuity payable to the alternate payee is payable over the remaining life of that person, with no payments to be made under that annuity after the death of the alternate payee named in the order; and

(4) the domestic relations order specifies that the portion of the benefit payable to the alternate payee is stated as a fixed percentage of the present benefit payable to the retiree, which percentage may not exceed 50 percent of a benefit provided under Section 854.104(c)(2) and may not exceed 75 percent of a benefit provided under Section 854.104(c)(5) .

(e) The division of an annuity under Subsection (d) is effective when the order is determined by the retirement system to be a qualified domestic relations order, and the amount of each of the two annuities shall be computed by the retirement system at that time, based on tables that have been adopted by the retirement system and in effect at that time, so that the two annuities are actuarially equivalent at the time of division to the annuity being divided.

(f) If a divorce decree or a qualified domestic relations order, as that term is defined by Section 804.001, so provides, the benefit payable to a retiree who is receiving payments of an annuity for the retiree's life with payments to continue after the retiree's death until the death of another person under Section 854.104(c)(1), (2), or (5), 854.305(c), or 854.410(c) may be increased to the amount that would have been payable if the retiree had selected an annuity payable only during the retiree's lifetime if:

(1) the proceeding in which the decree or order is entered terminates the marriage between the retiree and the person who was designated to receive the continued payment after the retiree's

death;

(2) the decree or order awards the retiree all benefits resulting from the retiree's participation in the retirement system; and

(3) the decree or order is signed after December 31, 1999.

(g) A decree or order under Subsection (f) applies only to annuity payments made after the date the retirement system receives and approves the decree or order as complying with Subsection (f).

Added by Acts 1991, 72nd Leg., ch. 466, Sec. 3, eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 57, Sec. 10, 11, eff. Jan. 1, 1994; Acts 1999, 76th Leg., ch. 83, Sec. 7, eff. Dec. 31, 1999; Acts 2003, 78th Leg., ch. 599, Sec. 11, eff. Jan. 1, 2004.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 11, eff. January 1, 2020.

Sec. 854.007. LIMITATION ON PAYMENT OF BENEFITS. If the amount of a benefit payment under this subtitle would exceed the limitations provided by Section 415, Internal Revenue Code of 1986, and its subsequent amendments, and the regulations adopted under that section, the retirement system shall reduce the amount of the benefit to comply with that section.

Added by Acts 1993, 73rd Leg., ch. 57, Sec. 12, eff. Jan. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 514, Sec. 12 to 14, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 76, Sec. 7, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 121, Sec. 11, eff. Jan. 1, 2002.

Sec. 854.008. PARTIAL LUMP-SUM DISTRIBUTION ON RETIREMENT. (a) A member who is eligible for service retirement and who terminates employment with all participating municipalities may apply for a partial lump-sum distribution under this section. The board of trustees may adopt rules to allow the beneficiary of a deceased member who at the time of death was eligible for service retirement but had not retired to make the same election that the member could have made under this section at the time of retirement.

(b) The amount of a lump-sum distribution under this section may not exceed three-fourths of the total contributions and

accumulated interest in the member's individual account at the time of the member's retirement.

(c) Subject to the limitation in Subsection (b), the member may elect to have the lump-sum distribution be equal to the monthly annuity payments, excluding any distributive benefit payments, that the member would have received if the member had selected the standard service retirement annuity described in Section 854.103 over a period of:

(1) 12 months after the effective date of the member's retirement;

(2) 24 months after the effective date of the member's retirement; or

(3) 36 months after the effective date of the member's retirement.

(d) The lump-sum distribution will be made as a single payment, payable at the same time as the first monthly annuity payment that is paid to the member.

(e) The amount of the lump-sum distribution will be deducted from the sum used in computing the member's current service annuity under Section 854.002(c). If a payment is made under Section 854.502, the amount of the lump-sum distribution will be considered to be included in the payments made by reason of the annuity.

(f) If a benefit payable under this section is subject to a domestic relations order that the retirement system determines is qualified under Section 804.003, the alternate payee under that order may elect to receive a partial lump-sum distribution under Subsection (g).

(g) The partial lump-sum distribution under Subsection (f) shall be paid as a single payment, payable at the same time as the first monthly annuity payment paid to the alternate payee, and shall be deducted from the sum used in computing the alternate payee's annuity. The amount of the lump-sum distribution shall be equal to the monthly payments, excluding any distributive benefit payments that the alternate payee would otherwise have received, during the:

(1) 12 months after the effective date of the member's retirement;

(2) 24 months after the effective date of the member's retirement; or

(3) 36 months after the effective date of the member's retirement.

Added by Acts 1997, 75th Leg., ch. 76, Sec. 8, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 83, Sec. 8, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 121, Sec. 12, eff. Jan. 1, 2002.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 13, eff. June 17, 2011.

SUBCHAPTER B. SERVICE RETIREMENT BENEFITS

Sec. 854.101. APPLICATION FOR SERVICE RETIREMENT. A member may apply for service retirement by filing a retirement application with the board of trustees not later than the date specified by the member for retirement or, if the member has not previously selected an optional service retirement annuity under Section 854.105, not earlier than the 90th day before that date.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989; Acts 2003, 78th Leg., ch. 599, Sec. 12, eff. Jan. 1, 2004.

Sec. 854.102. ELIGIBILITY FOR SERVICE RETIREMENT ANNUITY. (a) A member is eligible to retire and receive a service retirement annuity, if the member:

(1) is at least 60 years old and has at least 15 years of credited service in the retirement system; or

(2) has at least 28 years of credited service in the retirement system.

(b) A member is eligible to retire and receive a service retirement annuity, if the member is at least 50 years old and has at least 25 years of credited service in the retirement system performed for one or more municipalities that:

(1) have effective dates of participation in the retirement system after May 28, 1969; or

(2) have adopted a like provision under Section 854.201 or 854.202.

(c) A member is eligible to retire and receive a service retirement annuity, if the member is at least 60 years old and has at

least 10 years of credited service in the retirement system performed for one or more municipalities that either have an effective date of participation in the retirement system after August 26, 1979, or have adopted a like provision under Section 854.202.

(d) A member employed by a municipality having an effective date of participation in the retirement system after May 28, 1969, may terminate employment and remain eligible to retire and receive a service retirement annuity at any time after the member attains an applicable age provided by law for service retirement of employees of the municipality, if the member has at least 20 years of credited service performed for one or more municipalities that are either subject to this subsection or have adopted a like provision under Section 854.201(c).

(e) A member employed by a municipality having an effective date of participation in the retirement system after August 26, 1979, may terminate employment and remain eligible to retire and receive a service retirement annuity at any time after the member attains an applicable age and service requirement, if the member has at least 10 years of credited service performed for one or more municipalities that are either subject to this subsection or have adopted a like provision under Section 854.202.

(f) A member is eligible to retire and receive a service retirement annuity if the member has at least 25 years of credited service in the retirement system performed for one or more municipalities that have participation dates after September 1, 1987, or that have adopted a like provision under Section 854.202(f).

(g) A member is eligible to retire and receive a service retirement annuity if the member has at least 20 years of credited service in the retirement system performed for one or more municipalities that have adopted a like provision under Section 854.202(g).

(h) A member is eligible to retire and receive a service retirement annuity if the member is at least 60 years old and has at least five years of credited service in the retirement system that is performed for one or more municipalities to which the five-year vesting provision under Section 854.205 applies.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 223, ch. 18, Sec. 81, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 183, Sec. 7, eff. Aug.

31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 514, Sec. 22, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 712, Sec. 1, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 121, Sec. 13, eff. Jan. 1, 2002.

Sec. 854.103. STANDARD SERVICE RETIREMENT ANNUITY. (a) The standard service retirement annuity payable under this subtitle is the sum of a member's prior service annuity and current service annuity.

(b) A standard service retirement annuity is payable throughout the life of a retiree.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.103 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 121, Sec. 14, eff. Jan. 1, 2002.

Sec. 854.104. OPTIONAL SERVICE RETIREMENT ANNUITY. (a) Instead of the standard service retirement annuity payable under Section 854.103, a retiring member may elect to receive an optional service retirement annuity under this section.

(b) An optional service retirement annuity is payable throughout the life of the retiree and is actuarially adjusted from the standard service retirement annuity to its actuarial equivalent under the option selected under Subsection (c).

(c) An eligible person may select an optional annuity that provides that:

(1) after the retiree's death, the reduced annuity is payable throughout the life of a person designated by the retiree;

(2) after the retiree's death, one-half of the reduced annuity is payable throughout the life of a person designated by the retiree;

(3) if the retiree dies before 120 monthly annuity payments have been made, the remainder of the 120 payments are payable to the retiree's beneficiary or, if one does not exist, to the retiree's estate;

(4) if the retiree dies before 180 monthly annuity payments have been made, the remainder of the 180 payments are payable to the retiree's beneficiary or, if one does not exist, to the retiree's estate;

(5) after the retiree's death, three-fourths of the reduced annuity is payable throughout the life of a person designated by the retiree; or

(6) if the retiree dies before 60 monthly payments have been made, the remainder of the 60 payments are payable to the retiree's beneficiary or, if one does not exist, to the retiree's estate.

(d) An option under Subsection (c) applies to both prior and current service annuities, except that prior service annuities are subject to reduction under Section 855.308(f).

(e) To select an optional service retirement annuity, a member or retiree must make the selection and designate a beneficiary on a form prescribed by and filed with the board of trustees before the 31st day after the effective date of retirement.

(f) Notwithstanding any other provision of this subtitle, each distribution to any person or estate under this subtitle must be made in accordance with Section 401(a)(9) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)(9)).

(g) If a person who retires after August 31, 1997, elects a reduced retirement annuity that is payable until the death of the last to die of the retiree and a person designated under Subsection (e), and if the retiree survives the other person, the monthly payments to the retiree will be increased to the amounts that would have been payable if the retiree at the time of retirement had elected to receive an annuity payable only during the retiree's life, and adjustments had been made for any applicable postretirement increases in that benefit. The increased benefit becomes payable the month after the month in which the person designated under Subsection (e) dies and continues until the retiree dies.

(h) Subsection (i) applies only to a person who retired before September 1, 1997, and who elected, at retirement, to receive a reduced annuity that is payable until the death of the last to die of the retiree and a person designated as a beneficiary under Subsection (e).

(i) If both the retiree and the beneficiary described in Subsection (h) are alive, they may jointly elect in the manner

provided by Subsection (j) to modify the annuity being received. An annuity modified under this subsection:

(1) begins with the first payment after one calendar month has passed since the date the form under Subsection (j) is filed, with the amount of the monthly payments, while the beneficiary is alive, being the actuarial equivalent of the previous annuity; and

(2) increases to the amount of the standard service retirement annuity that the retiree would otherwise be entitled to receive if the retiree had not selected the optional annuity with adjustments made for any postretirement increase in that benefit and becomes payable the month following the month in which the beneficiary dies and continues until the retiree dies.

(j) To make the election under Subsection (i), the retiree and beneficiary must execute and acknowledge, as provided by this subsection, a form stating that they are requesting a modification under Subsection (i) and that they understand that the modified annuity will be smaller than the standard service annuity while they are both living and if the beneficiary survives the member. The acknowledgment must be on a form prescribed by the board of trustees and be made before a notary public or other officer authorized to take acknowledgments. The retiree and beneficiary must file the executed form with the retirement system before January 1, 2003.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.104 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 57, Sec. 13, eff. Jan. 1, 1994; Acts 1997, 75th Leg., ch. 76, Sec. 9, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 121, Sec. 15, eff. Jan. 1, 2002.

Sec. 854.105. SELECTION OF OPTIONAL SERVICE RETIREMENT ANNUITY. (a) A vested member may, while continuing to perform service for a participating municipality or after terminating all service, file with the board of trustees, on a form prescribed by the board, a selection of an optional service retirement annuity available under Section 854.104 and a designation of beneficiary or a designation of beneficiary without selecting a retirement option. An annuity selected as provided by this section is payable on the member's death before retirement.

(b) A member may change a selection of an optional annuity or a designation of beneficiary at any time before the member's retirement or death in the same manner that the original selection or designation was made.

(c) If a member eligible under this section to select an optional service retirement annuity dies before retirement without having made a selection, the beneficiary designated under Subsection (a) may select an optional annuity in the same manner as if the member had made the selection, subject only to the requirements of the Internal Revenue Code of 1986, and its subsequent amendments, as to the length of time over which the payments can be made.

(d) If a beneficiary has not been designated under Subsection (a), the member's surviving spouse may elect to receive a refund of the member's accumulated contributions or an optional annuity in the same manner as if the member had made the selection.

(e) If a beneficiary has not been designated under Subsection (a) and no surviving spouse exists, the member's surviving children jointly may elect to receive:

(1) a refund of the member's accumulated contributions; or

(2) an optional annuity in the same manner as if the member had made the selection, subject only to the requirements of the Internal Revenue Code of 1986, and its subsequent amendments, as to the length of time over which the payments can be made.

(f) If there is no surviving spouse or surviving child and no beneficiary designated under Subsection (a) exists, the last person designated by the member as a beneficiary on a form filed with the retirement system may elect to receive:

(1) a refund of the member's accumulated contributions; or

(2) an optional annuity in the same manner as if the member had made the selection, subject only to the requirements of the Internal Revenue Code of 1986, and its subsequent amendments, as to the length of time over which the payments can be made.

(g) If there is not a person who is eligible to make a selection under Subsections (c)-(f), the executor or administrator of the member's estate may elect:

(1) for an estate beneficiary to receive the optional annuity under Section 854.104(c)(4), in which case the member will be considered to have retired on the last day of the month immediately preceding the month in which death occurred; or

(2) for the estate to receive a refund of the member's

accumulated contributions under Section 854.501, in which case the member will be considered to have been a contributing member at the time of death.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.105 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 121, Sec. 16, eff. Jan. 1, 2002.

Sec. 854.106. NO SURVIVING SPOUSE, EXECUTOR, OR ADMINISTRATOR. (a) If a surviving spouse, or the executor or administrator of a member's estate, would be entitled to make an election under Section 854.105 because of the death of the member, the heirs of the deceased member may make that election if:

(1) no surviving spouse exists;

(2) no petition for the appointment of a personal representative of the member is pending or has been granted;

(3) 30 days have elapsed since the death of the member;

(4) the value of the entire assets of the member's estate, excluding homestead and exempt property, does not exceed $50,000;

(5) there are not more than three heirs; and

(6) on file with the retirement system is a certified copy of a small estates affidavit that has been approved and filed in accordance with Chapter 205, Estates Code, or an original affidavit as described by Subsection (b).

(b) If no affidavit has been filed with the clerk of the court having jurisdiction and venue as provided by Chapter 205, Estates Code, the retirement system may accept instead an affidavit sworn to by two disinterested witnesses, by the heirs who have legal capacity, and, if the facts warrant, by the natural guardian or next of kin of any minor or incompetent who is also an heir. The affidavit shall include the names and addresses of the heirs and witnesses, establish the facts listed in Subsection (a), include a list of the assets and liabilities of the estate, show the facts that constitute the basis for the right of the heirs to receive the estate, and show the fractional interests of the heirs in the estate as a result of those facts.

(c) If the retirement system, acting through the director or a person designated by the director, approves the affidavit, the heirs

can make the election if each heir agrees to the election.

(d) In this section, "heirs" has the meaning assigned by Chapter 22, Estates Code, except that the term excludes any persons who have filed with the retirement system a proper disclaimer or renunciation.

Added by Acts 1995, 74th Leg., ch. 514, Sec. 15, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 121, Sec. 17, eff. Jan. 1, 2002.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.044, eff. September 1, 2017.

Sec. 854.107. DESIGNATION OF BENEFICIARY AFTER RETIREMENT UNDER STRAIGHT LIFE OR GUARANTEED TERM ANNUITY. (a) This section applies only to a retiree who marries after the date of the person's retirement and who at the time of retirement selected either:

(1) a service or disability retirement annuity that would be payable throughout the retiree's life and would not be paid after the retiree's death, except as provided by Section 854.502; or

(2) a service or disability retirement annuity that would be payable throughout the retiree's life and, if the retiree dies before 60, 120, or 180 monthly annuity payments, as appropriate, have been made, would be payable for the remainder of those months.

(b) A retiree described under Subsection (a) may replace the annuity by selecting an optional retirement annuity under Section 854.104(c)(1), (2), or (5) and by designating the person's spouse as beneficiary in the same manner as an annuity selection and designation of beneficiary may be made before retirement.

(c) The selection under Subsection (b) must be filed with the retirement system before the first anniversary of the date of the marriage unless the postretirement marriage occurred before January 1, 2002, in which case the selection must be filed with the retirement system before January 1, 2003.

(d) A person may make a postretirement designation of a beneficiary under this section only once.

(e) The retirement system shall adjust the monthly payments of the annuity under the option selected to an actuarial equivalent amount of the annuity being paid immediately before the change in benefit option and beneficiary selection.

(f) The selection of an optional annuity and designation of a beneficiary under this section is not effective if the retiree or beneficiary dies before the date the change is to take effect.

Added by Acts 2001, 77th Leg., ch. 121, Sec. 18, eff. Jan. 1, 2002.

Sec. 854.108. DESIGNATION OF BENEFICIARY AFTER RETIREMENT UNDER JOINT AND SURVIVOR ANNUITY. (a) This section applies only to a retiree who:

(1) at the time of retirement selected an optional annuity providing that, after the retiree's death, payments would be made to a beneficiary throughout the remaining life of the beneficiary and the beneficiary predeceases the retiree;

(2) marries after the date of the person's retirement; and

(3) has not previously replaced an annuity under this section.

(b) A retiree described by Subsection (a) may replace an annuity by selecting an optional annuity under Section 854.104(c)(1), (2), or (5) and designating the person's spouse as beneficiary in the same manner as an annuity selection and designation of beneficiary may be made before retirement.

(c) The selection under Subsection (b) must be filed with the retirement system before the first anniversary of the date of the marriage unless the postretirement marriage occurred before January 1, 2002, in which case the selection must be filed with the retirement system before January 1, 2003.

(d) The retirement system shall adjust the monthly payments of the annuity under the option selected to an actuarial equivalent amount of the annuity being paid immediately before the change in benefit option and beneficiary selection.

(e) The selection of an optional annuity and designation of a beneficiary under this section is not effective if the retiree or beneficiary dies before the date the change is to take effect.

Added by Acts 2001, 77th Leg., ch. 121, Sec. 18, eff. Jan. 1, 2002.

SUBCHAPTER C. OPTIONAL SERVICE RETIREMENT BENEFITS

Sec. 854.201. OPTIONAL SERVICE RETIREMENT ELIGIBILITY. (a) The governing body of a municipality having an effective date of

participation in the retirement system before May 29, 1969, by ordinance may authorize eligibility for a service retirement annuity as provided by this section.

(b) The governing body may authorize a member who is an employee of the municipality to be eligible for service retirement who is at least 50 years old and has at least 25 years of credited service performed for one or more municipalities that either have authorized eligibility under this section or are subject to Section 854.102(d), or to terminate employment and remain eligible to retire and receive a service retirement annuity at any time after the member attains an applicable age provided by law for service retirement of employees of the municipality, if the member has at least 20 years of credited service performed for one or more municipalities that either have authorized eligibility under this section or are subject to Section 854.102(d).

(c) A governing body may not adopt an ordinance under this section unless the actuary first determines that all obligations charged against the municipality's account in the benefit accumulation fund, including the obligations proposed in the ordinance, can be funded by the municipality within its maximum contribution rate and within its amortization period.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 224, ch. 18, Sec. 82, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.201 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 14, eff. June 17, 2011.

Sec. 854.202. ADDITIONAL OPTIONAL SERVICE RETIREMENT ELIGIBILITY. (a) The governing body of a municipality that has an effective date of participation in the retirement system after December 31, 1975, or that has previously authorized updated service credits, by ordinance may authorize eligibility for a service retirement annuity as provided by this section for a member who is or was an employee of any participating department of the municipality.

(b) The governing body may authorize a member to retire and

receive a service retirement annuity, if the member:

(1) is at least 50 years old and has at least 25 years of credited service performed for one or more municipalities that have authorized eligibility under this subdivision; or

(2) is at least 60 years old and has at least 10 years of credited service performed for one or more municipalities that either have authorized eligibility under this subdivision or have a participation date in the retirement system after August 26, 1979.

(c) The governing body may authorize a member who is or was an employee of the municipality to terminate employment and remain eligible to retire and receive a service retirement annuity at any time after the member attains an applicable age and service requirement, if the member has at least 10 years of credited service performed for one or more municipalities that either have authorized eligibility under this subsection or are subject to Section 854.102(e).

(d) An ordinance adopted under this section must also include the provisions specified in Section 852.105. A governing body may not adopt an ordinance under this section unless the actuary first determines, on the basis of mortality and other tables adopted by the board of trustees, that all obligations of the municipality to the benefit accumulation fund, including obligations proposed under the ordinance, can be funded by the municipality within its maximum contribution rate and within its amortization period.

(e) The governing body shall specify the effective date of an ordinance under this section, which may be the first day of any month after the month in which the actuary makes the determination required by Subsection (d).

(f) The governing body may authorize a member to retire and receive a service retirement benefit if the member has at least 25 years of credited service performed for one or more municipalities that either have authorized eligibility under this subdivision or have a participation date in the retirement system after September 1, 1987.

(g) The governing body may authorize a member to retire and receive a service retirement benefit if the member has at least 20 years of credited service performed for one or more municipalities that have authorized eligibility under this subsection.

(h) Before a governing body may elect to authorize a member to retire pursuant to Subsection (g), the governing body shall:

(1) prepare an actuarial analysis of member retirement annuities at 20 years of service; and

(2) hold a public hearing.

(i) The public hearing required under Subsection (h) shall be held pursuant to the notice provisions of the Texas Open Meetings Act, Chapter 551, Texas Government Code.

(j) A member is eligible to retire and receive a service retirement annuity if the member:

(1) is at least 60 years of age; and

(2) has at least five years of credited service performed for one or more municipalities to which the five-year vesting provision under Section 854.205 applies.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 224, ch. 18, Sec. 83, 84, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 183, Sec. 8, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.202 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 514, Sec. 23, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 712, Sec. 2, 3, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 121, Sec. 19, eff. Jan. 1, 2002.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 15, eff. June 17, 2011.

Sec. 854.203. OPTIONAL INCREASE IN RETIREMENT ANNUITIES. (a) The governing body of a participating municipality by ordinance, from time to time but not more frequently than once in each 12-month period, may authorize and provide for increased annuities to be paid to retirees and beneficiaries of deceased retirees of the municipality. An annuity increased under this section replaces any annuity or increased annuity previously granted to the same person.

(b) The amount of annuity increase under this section is computed as the sum of the prior and current service annuities on the effective date of retirement of the person on whose service the annuities are based, multiplied by:

(1) the percentage change in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of

the United States Department of Labor, from December of the year immediately preceding the effective date of the person's retirement to the December that is 13 months before the effective date of the ordinance providing the increase; and

(2) 30 percent, 50 percent, or 70 percent, as specified by the governing body in the ordinance, except that if the governing body has specified a different percentage in an ordinance adopted under Section 853.404(c) and in effect on December 31, 1999, the percentage used in computing annuity increases for retirees of that municipality remains in effect until changed or discontinued under Section 853.404.

(c) Except as provided by Subsection (g), the effective date of an ordinance under this section is January 1 of the year that begins after the year in which the governing body adopts and notifies the retirement system of the ordinance.

(d) An increase in an annuity that was reduced because of an option selection is reducible in the same proportion and in the same manner that the original annuity was reduced.

(e) If a computation under Subsection (b) does not result in an increase in the amount of an annuity, the amount of the annuity may not be changed under this section.

(f) The amount by which an increase under this section exceeds all previously granted increases to an annuitant is payable as a prior service annuity, is an obligation of the municipality's account in the benefit accumulation fund, and is subject to reduction under Section 855.308(f).

(g) An ordinance under this section may not take effect until it is approved by the board of trustees as meeting the requirements of this section. The board may not approve an ordinance unless the actuary first determines that all obligations charged against the municipality's account in the benefit accumulation fund, including the obligations proposed in the ordinance, can be funded by the municipality within its maximum contribution rate and within its amortization period as in effect on the effective date of the increases.

(h) A governing body may not authorize and provide for annuity increases under this section unless it simultaneously provides for updated service credits under Subchapter E of Chapter 853.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1981, 67th Leg., 1st C.S., p. 225, ch. 18, Sec. 85, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.203 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 76, Sec. 10, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 83, Sec. 9, eff. Dec. 31, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 16, eff. June 17, 2011.

Sec. 854.205. FIVE-YEAR VESTING. (a) This section applies to each municipality unless the municipality's governing board files with the board of trustees before December 31, 2001, an election to not provide for five-year vesting. A governing board that elects to not provide five-year vesting may revoke that election by sending notice to the board of trustees to provide for five-year vesting.

(b) After December 31, 2001, a member may terminate covered employment and remain eligible to retire and receive a service retirement annuity at any time after the member attains an applicable age as provided by law if the member has at least five years of credited service performed for one or more municipalities to which the five-year vesting provision under this section applies.

Added by Acts 2001, 77th Leg., ch. 121, Sec. 20, eff. Sept. 1, 2001.

SUBCHAPTER D. DISABILITY RETIREMENT BENEFITS

Sec. 854.301. APPLICATION FOR DISABILITY RETIREMENT ANNUITY. (a) A member may apply for a disability retirement annuity by:

(1) filing an application for retirement with the board of trustees; or

(2) having an application filed with the board by the member's employer or legal representative.

(b) An application for a disability retirement annuity may not be filed later than the date specified by the member for retirement or earlier than the 90th day before that date.

(c) An applicant must submit to medical examination as required by the medical board.

(d) A member may not apply for a disability retirement annuity

under this subchapter after the date the member's participating municipality begins participation in the occupational disability benefits program under Subchapter E.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.301 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 599, Sec. 13, eff. Jan. 1, 2004. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 12, eff. January 1, 2020.

Sec. 854.302. ELIGIBILITY FOR DISABILITY RETIREMENT ANNUITY. (a) A member who has less than 10 years of credited service in the retirement system is eligible to retire and receive a disability retirement annuity if the member is the subject of a certification issued as provided by Section 854.303(b)(1).

(b) A member who has at least 10 years of credited service in the retirement system is eligible to retire and receive a disability retirement annuity if the member is the subject of a certification issued as provided by Section 854.303(b)(2). A member eligible to retire and receive a disability retirement annuity under this subsection may elect to retire and receive instead a service retirement benefit but may not receive both types of benefits.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 183, Sec. 10, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.302 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 466, Sec. 4, eff. Aug. 26, 1991.

Sec. 854.303. CERTIFICATION OF DISABILITY. (a) As soon as practicable after an application for disability retirement is filed, the medical board shall evaluate the medical and other pertinent information concerning the member's application.

(b) The medical board shall issue a certification of disability and send it to the board of trustees if the medical board finds:

(1) in the case of a member who has less than 10 years of

credited service in the retirement system, that:

(A) the member is mentally or physically incapacitated for the further performance of duty;

(B) the incapacity is the direct result of injuries sustained during membership by external and violent means as a direct and proximate result of the performance of duty;

(C) the incapacity is likely to be permanent; and

(D) the member should be retired; or

(2) in the case of a member who has at least 10 years of credited service in the retirement system, that:

(A) the member is mentally or physically incapacitated for the further performance of duty;

(B) the incapacity is likely to be permanent; and

(C) the member should be retired.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.303 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 466, Sec. 5, eff. Aug. 26, 1991.

Sec. 854.304. STANDARD DISABILITY RETIREMENT ANNUITY. (a) The standard disability retirement annuity payable under this subtitle is the sum of a member's prior service annuity and current service annuity.

(b) A prior service annuity is subject to reduction as provided by Section 855.308(f).

(c) A standard disability retirement annuity is payable throughout the life of a retiree. When a retiree who receives an annuity under this section dies, an additional benefit may be payable under Section 854.502.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 226, ch. 18, Sec. 86, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.304 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 83, Sec. 11, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 121, Sec. 21, eff. Jan. 1, 2002.

Sec. 854.305. OPTIONAL DISABILITY RETIREMENT ANNUITY. (a) Instead of the standard disability retirement annuity payable under Section 854.304, a member retiring for disability may elect to receive an optional disability retirement annuity under this section.

(b) An optional disability retirement annuity is payable throughout the life of the retiree and is actuarially adjusted from the standard disability retirement annuity to its actuarial equivalent under the option selected under Subsection (c).

(c) An eligible person may select an optional annuity under Section 854.104(c).

(d) An option under Subsection (c) applies to both prior and current service annuities, except that prior service annuities are subject to reduction under Section 855.308(f).

(e) To select an optional disability retirement annuity, a member or retiree must make the selection and designate a beneficiary on a form prescribed by and filed with the board of trustees before the 31st day after the effective date of retirement.

(f) If a disability retirement annuity is discontinued under Section 854.308, any selection of an option that applies to the annuity becomes void.

(g) If a person who retires after August 31, 1997, elects a reduced retirement annuity that is payable until the death of the last to die of the retiree and a person designated under Subsection (e), and if the retiree survives the other person, the monthly payments to the retiree will be increased to the amounts that would have been payable if the retiree had elected to receive an annuity payable only during the retiree's life, and adjustments had been made for any applicable postretirement increases in that benefit. The increased benefit becomes payable the month after the month in which the person designated under Subsection (e) dies and continues until the retiree dies.

Added by Acts 1981, 67th Leg., 1st C.S., p. 226, ch. 18, Sec. 87, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.3041 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 76, Sec. 11, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 83, Sec. 12, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 121, Sec. 22, eff. Jan. 1, 2002.

Sec. 854.306. MEDICAL EXAMINATION OF DISABILITY RETIREE. (a) Once each year during the first five years after a person retires for disability, and once in each three-year period after that, the board of trustees may require a disability retiree who is less than 60 years old to undergo a medical examination by one or more physicians designated by the board.

(b) If a disability retiree refuses to submit to a medical examination as provided by this section, the board of trustees shall suspend the retiree's annuity payments until the retiree submits to an examination. If a retiree has not submitted to an examination as provided by this section before the first anniversary of the date of first refusal, the board shall revoke all rights of the retiree to an annuity.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.305 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 466, Sec. 6, eff. Aug. 26, 1991.

Sec. 854.307. CERTIFICATION OF END OF DISABILITY. (a) If the medical board finds that a disability retiree is no longer mentally or physically incapacitated for the performance of duty or is able to engage in gainful occupation, it shall certify its findings and submit them to the board of trustees.

(b) If the board of trustees concurs in a certification under this section, it shall discontinue annuity payments to the retiree.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 227, ch. 18, Sec. 88, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.306 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 854.308. RETURN OF DISABILITY RETIREE TO ACTIVE SERVICE OR EMPLOYMENT. (a) If a retiree who is less than 60 years old and who is receiving a disability retirement annuity resumes employment with a participating municipality or otherwise becomes gainfully employed, the person automatically resumes membership in the retirement system, and the board of trustees shall terminate the person's annuity

payments.

(b) If a person resumes membership under this section, the retirement system shall restore to effect any prior service credit, special prior service credit, antecedent service credit, or updated service credit used in determining the amount of the person's annuity at the time of disability retirement. If the person subsequently retires, the retirement system shall allow the person credit for all current service for which required contributions have been made and not withdrawn.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 227, ch. 18, Sec. 89, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.307 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 854.309. REFUND AT ANNUITY DISCONTINUANCE. (a) Except as provided by Subsection (b), if a disability retirement annuity is discontinued under Section 854.307 or the right to an annuity revoked under Section 854.306(b), the retiree is entitled to a lump-sum payment in an amount, if any, by which the amount in the retiree's individual account at the time of disability retirement exceeds the amount of current service annuity payments made before the date the annuity was discontinued or the right to an annuity revoked.

(b) The benefit provided by this section is not payable to a retiree who resumes employment with a participating subdivision or otherwise becomes gainfully employed.

(c) The benefit provided by this section is payable from the benefit accumulation fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 227, ch. 18, Sec. 90, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.308 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 17, eff. June 17, 2011.

SUBCHAPTER E. OPTIONAL DISABILITY RETIREMENT BENEFITS

Sec. 854.401. ELIGIBILITY FOR SUPPLEMENTAL DISABILITY RETIREMENT ANNUITY. (a) A member as an employee of a municipal department included, as provided by Section 852.003, in the coverage of the supplemental disability benefits fund is eligible to retire and receive a supplemental disability retirement annuity if the member:

(1) is eligible to receive a disability retirement annuity under Section 854.302;

(2) is the subject of a certification and finding under Section 854.402, as well as a certification under the applicable finding provided by Section 854.303; and

(3) filed an application for the benefits before January 1, 1989.

(b) Any claim for supplemental disability benefits not filed with the board of trustees before January 1, 1989, is barred.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 183, Sec. 11, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.401 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 854.402. CERTIFICATION AND FINDING OF DISABILITY. (a) The medical board shall issue and send to the board of trustees a certification of disability for a member included in the coverage of the supplemental disability benefits fund if, after a medical examination of the member, the medical board finds that the member is mentally or physically incapacitated and is unable to engage in gainful occupation.

(b) A member is entitled to a supplemental disability retirement annuity if the board of trustees, after receiving a certification of disability for the member under this section, finds that the member's incapacity:

(1) is the direct result of injuries sustained after the effective date of coverage of the member in the supplemental disability benefits fund and before January 1, 1988, as a direct and proximate result of the performance of the duties of the member's employment; and

(2) is likely to be permanent.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 183, Sec. 12, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.402 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 854.403. SUPPLEMENTAL DISABILITY RETIREMENT ANNUITY. (a) A supplemental disability retirement annuity payable under this subtitle is an amount that, when added to a member's standard disability retirement annuity or, if the member is eligible for service retirement, to the member's standard service retirement annuity, equals one-half of the member's average monthly compensation for service as an employee of a participating department of a municipality:

(1) for the 60 months immediately preceding the month in which the injury occurred; or

(2) if the member did not perform service in each of the 60 months immediately preceding the month in which the injury occurred, for the number of months of service within the 60-month period.

(b) In a computation of average monthly compensation under this section, compensation is excluded that exceeds the maximum amount on which the member was required to make contributions to the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.403 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 854.404. CONDITIONS FOR BENEFITS. (a) Supplemental disability benefits payable from the supplemental disability benefits fund cease on the death of the disability retiree and are, except as provided by this subchapter, subject to the same terms of issuance as are standard disability retirement benefits. The suspension or discontinuance of a disability retirement annuity automatically suspends or discontinues, as applicable, a supplemental disability retirement annuity based on the same service.

(b) The board of trustees may reduce proportionally all supplemental disability benefits payable from the supplemental

benefits fund at any time and for a period that the board finds necessary to prevent payments from the fund in a year from exceeding available assets in the fund in that year.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 227, ch. 18, Sec. 91, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.404 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 854.405. OPTIONAL OCCUPATIONAL DISABILITY BENEFITS PROGRAM. (a) This section and Sections 854.406, 854.407, 854.408, 854.409, and 854.410, providing for an occupational disability benefits program, apply to municipalities having a participation date in the retirement system after August 31, 1987. The governing body of any municipality having an earlier effective date of participation may by ordinance adopt the provisions of this section and Sections 854.406, 854.407, 854.408, 854.409, and 854.410 in lieu of the disability program provided for under Subchapter D.

(b) A governing body may not adopt an ordinance under this section unless the actuary first determines, on the basis of mortality and other tables adopted by the board of trustees, that all obligations of the municipality to the benefit accumulation fund, including obligations proposed under the ordinance, can be funded by the municipality within its maximum contribution rate and within its amortization period.

Added by Acts 1987, 70th Leg., ch. 183, Sec. 13, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.405 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 18, eff. June 17, 2011.

Sec. 854.406. APPLICATION FOR OCCUPATIONAL DISABILITY BENEFITS. A member who is employed by a municipality that has adopted or is subject to the occupational disability benefits program may apply for an occupational disability retirement benefit in the same form and manner as that prescribed by Section 854.301.

Added by Acts 1987, 70th Leg., ch. 183, Sec. 13, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.406 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 854.407. ELIGIBILITY FOR BENEFITS AND DETERMINATION OF DISABILITY. (a) As soon as practicable after an application for occupational disability benefits has been filed, the medical board shall evaluate the medical and other pertinent information concerning the member's application. The medical board may require the member to be examined by one or more physicians designated by it.

(b) The medical board shall issue a certification of occupational disability and send it to the board of trustees if the medical board finds:

(1) that the member is physically or mentally disabled for further performance of the duties of the member's employment;

(2) that the disability is likely to be permanent; and

(3) that the member should be retired.

(c) A member who is issued a certificate by the medical board as provided by this section is eligible to receive a standard occupational disability retirement annuity on the terms prescribed by Section 854.408.

Added by Acts 1987, 70th Leg., ch. 183, Sec. 13, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.407 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 854.408. STANDARD OCCUPATIONAL DISABILITY RETIREMENT ANNUITY. (a) The standard occupational disability retirement annuity payable under this subchapter is the sum of the member's prior service annuity and current service annuity. A prior service annuity is subject to reduction under Section 855.308(f). A standard occupational disability retirement annuity is payable throughout the life of the retiree except as otherwise provided by this subchapter.

(b) The occupational disability retirement annuity of a disability retiree may not be suspended under this subchapter after the date the disability retiree attains 60 years of age.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 28, eff. January 1, 2020.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 28, eff. January 1, 2020.

Added by Acts 1987, 70th Leg., ch. 183, Sec. 13, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.408 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 57, Sec. 14, eff. Jan. 1, 1994; Acts 1999, 76th Leg., ch. 83, Sec. 13, eff. Dec. 31, 1999; Acts 2003, 78th Leg., ch. 599, Sec. 14, eff. Jan. 1, 2004.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 13, eff. January 1, 2020.
Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 28, eff. January 1, 2020.

Sec. 854.409. MEDICAL EXAMINATION OF RETIREES. (a) The retirement system may require, by written request, a disability retiree under this subchapter who is younger than 60 years of age to undergo a medical examination and provide current medical and other relevant information reaffirming the status of the retiree as meeting the requirements for certification of occupational disability under Section 854.407(b). The retirement system or medical board may designate a physician to perform the examination. The retiree shall pay the cost of the examination, unless the director, at the director's discretion, waives that requirement and has the retirement system pay the cost of the examination.

(b) If a disability retiree refuses to submit to a medical examination or fails to provide current medical or other information requested under Subsection (a), the retirement system may suspend payments of the disability annuity as provided by this section.

(c) If a disability retiree refuses to submit to a medical examination or fails to provide current medical or other information requested under Subsection (a) by the first anniversary of the date the retirement system requested the medical examination or information, the retirement system may suspend payments of the disability annuity until the earlier of the date the retiree:

(1) attains 60 years of age; or

(2) submits to a medical examination and provides the requested information.

(d) If a disability retiree submits to a medical examination and provides the requested information before the fourth anniversary of the date the retirement system requested the medical examination or information, the retirement system may pay the suspended payments of the disability annuity in a lump sum.

(e) If the medical board finds that a disability retiree under this subchapter has experienced medical improvement to the extent that the disability retiree no longer meets the requirements for certification of occupational disability under Section 854.407(b), the medical board shall certify the medical board's findings and submit the findings to the director. If the director concurs in the medical board's findings under this section, the director may adopt the findings, and the retirement system may suspend payments of the disability annuity and take other action as the retirement system, in the retirement system's discretion, considers equitable and appropriate to address the situation, until the disability retiree attains 60 years of age.

(f) The suspension of a benefit under this section does not suspend payment of a benefit to an alternate payee under a qualified domestic relations order.

Added by Acts 1987, 70th Leg., ch. 183, Sec. 13, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.409 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 14, eff. January 1, 2020.

Sec. 854.410. OPTIONAL OCCUPATIONAL DISABILITY RETIREMENT ANNUITY. (a) Instead of the standard occupational disability retirement annuity payable under Section 854.408, a member retiring for disability may elect to receive an optional occupational disability retirement annuity under this section.

(b) An optional occupational disability retirement annuity is payable throughout the life of the retiree and is actuarially adjusted from the standard occupational disability retirement annuity to its actuarial equivalent under the option selected under Subsection (c).

(c) An eligible person may select an optional annuity under

Section 854.104(c).

(d) An option under Subsection (c) applies to both prior and current service annuities, except that prior service annuities are subject to reduction under Section 855.308(f).

(e) To select an optional occupational disability retirement annuity, a member or retiree must make the selection and designate a beneficiary on a form prescribed by and filed with the retirement system before the 31st day after the effective date of retirement.

(f) Repealed by Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 28, eff. January 1, 2020.

(g) If a person who retires after August 31, 1997, elects a reduced retirement annuity that is payable until the death of the last to die of the retiree and a person designated under Subsection (e), and if the retiree survives the other person, the monthly payments to the retiree will be increased to the amounts that would have been payable if the retiree at the time of retirement had elected to receive an annuity payable only during the retiree's life, and adjustments had been made for any applicable postretirement increases in that benefit. The increased benefit becomes payable the month after the month in which the person designated under Subsection (e) dies and continues until the retiree dies.

Added by Acts 1987, 70th Leg., ch. 183, Sec. 13, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.410 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 76, Sec. 12, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 83, Sec. 14, eff. Dec. 31, 1999; Acts 2003, 78th Leg., ch. 599, Sec. 15, eff. Jan. 1, 2004.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 15, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 28, eff. January 1, 2020.

Sec. 854.411. RULES FOR OPTIONAL DISABILITY RETIREMENT ANNUITIES. The board of trustees may adopt rules necessary or desirable to implement this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 16, eff. January 1, 2020.

SUBCHAPTER F. DEATH BENEFITS

Sec. 854.501. RETURN OF CONTRIBUTIONS. (a) Except as provided by Subsection (c), if a member dies before retirement, a lump-sum death benefit is payable from the benefit accumulation fund in the amount of:

(1) the amount credited to the member's individual account; plus

(2) interest computed from the beginning of the year in which death occurs through the end of the month immediately preceding the month in which death occurs at the rate allowed on member contributions during the preceding year.

(b) The benefit provided by this section is payable to the decedent's estate unless the decedent has directed that the benefit be paid otherwise.

(c) A benefit is not payable under this section if an annuity based on the decedent's service is payable under this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.501 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 19, eff. June 17, 2011.

Sec. 854.502. REFUND OF UNRECOVERED CONTRIBUTIONS. (a) If monthly payments of any standard service retirement annuity under Section 854.103, optional service retirement annuity under Section 854.104, standard disability retirement annuity under Section 854.304, optional disability retirement annuity under Section 854.305, standard occupational disability retirement annuity under Section 854.408, or optional occupational disability retirement annuity under Section 854.410 cease before the sum of all payments of the annuity equals or exceeds the amount of accumulated contributions credited to the member's individual account at the time of retirement of the member on whose service the annuity was based, a lump-sum benefit equal to the amount by which the amount of the accumulated contributions exceeds the sum of all payments made by reason of the

annuity is payable:

(1) to the designated beneficiary, if living, or if not living, to the estate of the designated beneficiary, if the designated beneficiary survived the retiree; or

(2) to the estate of the retiree, if the designated beneficiary predeceased the retiree.

(b) The benefit provided by this section is payable from the benefit accumulation fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 228, ch. 18, Sec. 92, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.502 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 466, Sec. 7, eff. Aug. 26, 1991.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 20, eff. June 17, 2011.

Sec. 854.503. TRUST AS BENEFICIARY. (a) Except as provided by Subsection (b), a member or retiree may designate a trust as beneficiary for the payment of benefits from the retirement system. If a trust is designated beneficiary, the beneficiary of the trust is considered the designated beneficiary for the purpose of determining eligibility for and the amount and duration of benefits. The trustee is entitled to exercise any rights to elect benefit options and name subsequent beneficiaries.

(b) A trust having more than one beneficiary may not receive benefits to which multiple designated beneficiaries are not eligible under this chapter.

Added by Acts 1995, 74th Leg., ch. 514, Sec. 16, eff. Sept. 1, 1995.

Sec. 854.504. PERSON CAUSING DEATH OF MEMBER OR ANNUITANT. (a) A benefit payable on the death of a member or annuitant may not be paid to a person convicted of causing that death but instead is payable to a person who would be entitled to the benefit had the convicted person predeceased the decedent. If no person would be entitled to the benefit, the benefit is payable to the decedent's

estate.

(b) The retirement system is not required to pay a benefit under Subsection (a) of this section unless it receives actual notice of the conviction of the person who would have been entitled to the benefits. However, the retirement system may delay payment of a benefit payable on the death of a member or annuitant pending the results of a criminal investigation and of legal proceedings relating to the cause of death.

(c) The retirement system shall convert the remainder of any annuity that would otherwise have been payable throughout the life of the convicted person to an actuarially equivalent annuity payable to the decedent's estate in 60 monthly annuity payments. The time of the actuarial equivalence is the earlier of the time the retirement system receives the notice of the conviction under Subsection (b) or the time the retirement system begins the delay in payment of a benefit according to Subsection (b).

(d) For the purposes of this section, a person has been convicted of causing the death of a member or annuitant if the person:

(1) has pleaded guilty or nolo contendere to or has been found guilty by a court of an offense at the trial of which it is established that the person's intentional, knowing, or reckless act or omission resulted in the death of a person who was a member or annuitant, regardless of whether sentence is imposed or probated; and

(2) has no appeal of the conviction pending and the time provided for appeal has expired.

Added by Acts 1995, 74th Leg., ch. 514, Sec. 17, eff. Sept. 1, 1995.

Sec. 854.505. SIMULTANEOUS DEATH OF MEMBER AND BENEFICIARY. When a member or retiree and the spouse or beneficiary of the member or retiree have died within a period of less than 120 hours of each other, the member or retiree is considered to have survived the spouse or beneficiary for the purpose of determining the rights to amounts payable under this subtitle on the death of the member or retiree.

Added by Acts 1995, 74th Leg., ch. 514, Sec. 18, eff. Sept. 1, 1995.

SUBCHAPTER G. OPTIONAL DEATH BENEFITS

Sec. 854.601. COVERAGE IN SUPPLEMENTAL DEATH BENEFIT PROGRAM. (a) An employee of a participating municipality is included within the coverage of the supplemental death benefit program on the first day of the first month in which:

(1) the employing municipality is participating in the supplemental death benefits fund for coverage of all members it employs;

(2) the employee is a member of the retirement system; and

(3) the employee is required to make a contribution to the retirement system.

(b) Once established, coverage of a person in the supplemental death benefit program continues until the last day of a month in which a requirement of Subsection (a) is not met.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.601 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 854.602. EXTENDED SUPPLEMENTAL DEATH BENEFIT COVERAGE. (a) A member included in the coverage of the supplemental death benefit program who fails to earn compensation in a month for service to a municipality participating in the supplemental death benefits fund is eligible to receive extended coverage in the program on complying with this section.

(b) A member may apply to the retirement system for extended program coverage and submit evidence of eligibility for extended coverage.

(c) The board of trustees shall grant extended coverage in the supplemental death benefit program to an applicant, if the board finds:

(1) that as a result of illness or injury, the member is unable to engage in gainful occupation; and

(2) that the member made a required contribution to the retirement system as an employee of a municipality participating in the supplemental death benefits fund for the month immediately preceding the first full month in which the member was unable to engage in gainful occupation.

(d) Once established, extended coverage of a person in the

supplemental death benefit program continues until the last day of the month in which:

(1) the member returns to work as an employee of a participating municipality;

(2) the board of trustees finds that the member is able to engage in gainful occupation;

(3) the person's membership in the retirement system is terminated; or

(4) the member retires under this subtitle.

(e) The board of trustees by rule may require a member to submit to it annual proof of continued inability to engage in gainful occupation. The board may require a member to undergo a medical examination by a physician designated by the board. Failure of a member to undergo a medical examination as required by this subsection is a ground for the board's finding that the member has become able to engage in gainful occupation.

(f) If a member included in the coverage of the supplemental death benefit program becomes eligible to apply for the extended coverage but fails to comply with Subsections (b) and (c) before the member's death, the member will be considered to have had the extended coverage if proof is furnished that the member could have qualified for extended coverage if application for the coverage had been made according to Subsections (b) and (c) and that the death occurred within six months after the date the coverage of the supplemental death benefit program was discontinued under Section 854.601.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 228, ch. 18, Sec. 93, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.602 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 514, Sec. 19, eff. Sept. 1, 1995.

Sec. 854.603. MEMBER SUPPLEMENTAL DEATH BENEFIT. (a) If a person included in the coverage or extended coverage of the supplemental death benefit program dies, a lump-sum supplemental death benefit is payable from the supplemental death benefits fund in an amount equal to the current annual salary of the member at the

time of death.

(b) Except as provided by Subsection (c), the current annual salary of a member is computed as the amount paid to the member for service on which contributions were made to the retirement system during the 12 months immediately preceding the month of death. If a member did not receive compensation for service in each of the 12 months immediately preceding the month of death, the member's current annual salary is computed by converting to an annual basis the amount paid to the member on which contributions were made to the system during the period of employment within the 12-month period. If a member did not receive compensation for service in any of the 12 months immediately preceding the month of death, the member's current annual salary is computed by converting to an annual basis the rate of compensation payable to the member during the month of death.

(c) The current annual salary of a member included in the extended coverage of the supplemental death benefit program is computed in the manner provided by Subsection (b) but as if the member had died during the first month of extended coverage.

(d) If a member makes contributions to the retirement system during the same month as an employee of more than one municipality participating in the supplemental death benefits fund, a death benefit is payable only on the basis of the member's most recent employment.

(e) The board of trustees by rule may require such proof of compensation and periods of employment as it finds necessary.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 228, ch. 18, Sec. 94, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.603 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 854.604. RETIREE SUPPLEMENTAL DEATH BENEFIT. If a retiree dies whose most recent employment as a member of the retirement system was with a municipality that has elected to provide, and continues to provide, postretirement supplemental death benefits, a lump-sum supplemental death benefit is payable from the fund in the amount of $7,500.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept.

1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 229, ch. 18, Sec. 95, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.604 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 57, Sec. 15, eff. Jan. 1, 1994; Acts 2003, 78th Leg., ch. 599, Sec. 16, eff. Jan. 1, 2004.

Sec. 854.605. BENEFICIARY OF SUPPLEMENTAL DEATH BENEFIT. (a) Unless a member has directed otherwise on a form prescribed by the board of trustees and filed with the retirement system:

(1) a supplemental death benefit under Section 854.603 is payable to the person entitled to receive the decedent's accumulated contributions; and

(2) a supplemental death benefit under Section 854.604 is payable to a person entitled to receive any remaining payments of the decedent's annuity.

(b) If a person entitled under this section to receive a supplemental death benefit does not survive the member or retiree covered by the supplemental death benefit program, the benefit is payable to the estate of the covered member or retiree.

(c) If a member or retiree who has designated a beneficiary to receive supplemental death benefits under Section 854.603 or 854.604 subsequently designates a different beneficiary to receive other benefits under this subtitle in the event of the death of the member or retiree, the supplemental death benefits shall be paid to the subsequently designated beneficiary unless the member or retiree contemporaneously or subsequently designates another beneficiary to receive the supplemental death benefit.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 64.605 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 121, Sec. 23, eff. Jan. 1, 2002.

CHAPTER 855. ADMINISTRATION

SUBCHAPTER A. BOARD OF TRUSTEES

Sec. 855.001. COMPOSITION OF BOARD OF TRUSTEES. The board of trustees is composed of six trustees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.002. APPOINTMENT. The governor, with the advice and consent of the senate, shall appoint three executive trustees and three employee trustees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.003. ELIGIBILITY. (a) To be eligible to serve as an executive trustee a person must be a chief executive officer, chief finance officer, or other officer, executive, or department head of a participating municipality.

(b) To be eligible to serve as an employee trustee a person must be an employee of a participating municipality.

(c) Two or more trustees serving concurrently may not be employed by or serve the same municipality.

(d) A trustee is immediately disqualified from serving as a trustee if the trustee ceases to satisfy the requirements of this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.004. TERM OF OFFICE. (a) The trustees hold office for staggered terms of six years, with the terms of two trustees expiring February 1 of each odd-numbered year.

(b) The governor shall fill a vacancy in the office of a trustee for the unexpired term by appointing a successor from a participating municipality.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 2836, ch. 484, art. II, Sec. 11, eff. June 19, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B,

Sec. 65.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.005. OATH OF OFFICE. Before taking office as a trustee, a person shall present to the board of trustees a certified copy of an oath of office subscribed before the clerk of the municipality that the person serves.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.005 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.007. MEETINGS. (a) The board of trustees shall hold at least four meetings each year and additional meetings when called by the director.

(b) Before the fifth day preceding the day of a meeting, the director shall give written notice of the meeting to each trustee unless notice is waived.

(c) Except as otherwise provided by this subtitle, Chapter 551, or other law, all meetings of the board must be open to the public.

(d) The board shall hold its meetings in the office of the board or in a place specified by the notice of the meeting.

(e) Notwithstanding Chapter 551 or any other law, the board of trustees may hold an open or closed meeting by telephone conference call, videoconference, or other similar telecommunication method. The board may use a telephone conference call, videoconference, or other similar telecommunication method for purposes of establishing a quorum or voting or for any other meeting purpose in accordance with Subsection (f) and this subsection. This subsection applies without regard to the subject matter discussed or considered by the board at a meeting.

(f) A meeting of the board of trustees held by telephone conference call, videoconference, or other similar telecommunication method:

(1) is subject to the notice requirements applicable to other board meetings;

(2) may not be held unless notice of the meeting specifies the location of the meeting at which at least one trustee of the

board will be physically present; and

(3) must be open and audible to the public at the location specified in the notice under Subdivision (2) during the open portions of the meeting.

(g) Chapter 551 does not require the board of trustees to confer with one or more employees, consultants, or legal counsel of the retirement system or with a third party, including representatives of an issuer of restricted securities or a private investment fund, in an open meeting if the only purpose of the conference is to receive information from or question the employees, consultants, or legal counsel of the retirement system or the third party relating to an investment or a potential investment.

(h) The board of trustees or a committee of the board may conduct a closed meeting in accordance with Subchapter E, Chapter 551, with the retirement system's internal or external auditors to discuss:

(1) governance, risk management or internal control weaknesses, known or suspected compliance violations or fraud, status of regulatory reviews or investigations, or identification of potential fraud risk areas and audits for the annual internal audit plan; or

(2) the auditors' ability to perform duties in accordance with the Internal Audit Charter and relevant auditing standards.

(i) Notwithstanding Chapter 551 or any other law, the board of trustees may conduct a closed meeting to consider and discuss:

(1) evaluations or duties of trustees or board consultants; and

(2) self-evaluations of the board as a whole.

(j) Notwithstanding any other law, Chapter 551 does not apply to an assembly of the board of trustees or one of the board's committees while attending a summit, conference, convention, workshop, or other event held for educational purposes if the assembly or committee does not deliberate, vote, or take action on a specific matter of public business or public policy over which the board of trustees or a committee of the board has supervision or control. This subsection does not apply to a meeting of the board of trustees scheduled or called under the board's bylaws.

(k) The board of trustees may adopt rules necessary or desirable to implement this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.007 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 17, eff. January 1, 2020.

Sec. 855.008. COMPENSATION; EXPENSES. Each trustee serves without compensation but is entitled to:

(1) reimbursement for reasonable traveling expenses incurred in attending board meetings and authorized committee and association meetings or incurred in the performance of other official board duties; and

(2) payment of an amount equal to any compensation withheld by the trustee's employing municipality because of the trustee's attendance at board meetings.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.008 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 57, Sec. 16, eff. Jan. 1, 1994.

Sec. 855.009. VOTING. (a) Each trustee is entitled to one vote.

(b) At any meeting of the board, four or more concurring votes are necessary for a decision or action by the board.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.009 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. POWERS AND DUTIES OF BOARD OF TRUSTEES

Sec. 855.101. ADMINISTRATION. (a) The retirement system is a trust.

(b) The board of trustees is responsible for the administration of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.102. RULEMAKING. (a) The board of trustees shall adopt rules and perform reasonable activities it finds necessary or desirable for efficient administration of the system.

(b) The board may adopt and enforce rules concerning:

(1) the time that a municipality electing to participate in the system begins its participation; or

(2) notice, information, and reports required of municipalities electing to participate in the system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.102 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.103. ADMINISTERING SYSTEM ASSETS. (a) The board of trustees may sell, assign, exchange, or trade and transfer any security in which the retirement system's assets are invested. The board may use or reinvest the proceeds as the board determines that the system's needs require.

(b) In handling the funds of the retirement system, the board of trustees has all powers and duties granted to the comptroller that formerly were granted to the State Depository Board.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.103 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.15, eff. Sept. 1, 1997.

Sec. 855.104. ACCEPTING GIFT, GRANT, OR BEQUEST. The board of trustees shall accept a gift, grant, or bequest of money or securities:

(1) for the purpose designated by the grantor if the purpose provides an endowment or retirement benefits to some or all participating employees or annuitants of the retirement system; or

(2) if no purpose is designated, for deposit in the endowment fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.104 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.105. INDEBTEDNESS; PAYMENT. (a) The board of trustees may:

(1) incur indebtedness;

(2) on the credit of the retirement system, borrow money to pay expenses incident to the system's operation;

(3) renew, extend, or refund its indebtedness; or

(4) issue and sell negotiable promissory notes or negotiable bonds of the retirement system.

(b) A note or bond issued under this section must mature before the 20th anniversary of the issuance of the note or bond. The rate of interest on the note or bond may not exceed six percent a year.

(c) The board shall charge a note or bond issued under this section against the system's expense fund and shall pay the note or bond from that fund. The total indebtedness against the expense fund may not exceed $75,000 at any time.

(d) A note or bond issued under this section must expressly state that the note or bond is not an obligation of this state.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.105 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.106. GRANTS AND PAYMENT OF BENEFITS. The board of trustees, in accordance with this subtitle, shall consider all applications for annuities and benefits and shall decide whether to grant the annuities and benefits. The board may suspend one or more payments in accordance with this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.106 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.107. AUDIT. (a) In this section:

(1) "Audit" means an internal or independent external audit

authorized or required by this section or initiated or commissioned by the board of trustees or a committee of the board of trustees. The term includes a financial audit, compliance audit, economy and efficiency audit, effectiveness audit, performance audit, security or risk audit, attestation, management-directed engagement, or investigation.

(2) "Audit working paper" includes all information, documentary or otherwise, prepared or maintained in conducting an audit or preparing an audit report, including:

(A) internal or external communications relating to the audit that are made or received in the course of the audit;

(B) drafts of an audit report or portions of those drafts;

(C) drafts of audit plans; and

(D) records of risk assessments.

(b) Annually, or more often, the board of trustees shall have the accounts of the retirement system audited by a certified public accountant.

(c) In addition to the financial audit required by Subsection (b), the board of trustees may initiate or commission an audit or investigation of activities, functions, or operations of the retirement system as the board determines appropriate.

(d) Audit working papers prepared, maintained, or assembled by the retirement system or an agent of the retirement system are not a record of the board of trustees for purposes of Section 855.112, and are confidential and excepted from the disclosure requirements of Chapter 552.

(e) Unless made confidential under other law, an audit report, when received by the board of trustees in its final form, is public information not excepted from the requirements of Section 552.021.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.107 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 18, eff. January 1, 2020.

Sec. 855.108. DESIGNATION OF AUTHORITY TO SIGN VOUCHERS. The

board of trustees by resolution shall designate one or more representatives who have authority to sign vouchers for payments from the assets of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.108 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.109. DEPOSITORIES. The board of trustees shall designate financial institutions to qualify and serve the retirement system as depositories.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.109 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 57, Sec. 17, eff. Jan. 1, 1994.

Sec. 855.110. ADOPTING RATES AND TABLES. (a) The board of trustees shall adopt rates and tables that the board considers necessary for the retirement system after considering the results of the actuary's investigation of the mortality and service experience of the system's members and annuitants. In adopting rates and tables, the board of trustees shall adopt a discount rate that is not less than five percent in developing an annuity purchase rate.

(b) Based on recommendations of the actuary, the board of trustees shall adopt rates and tables necessary to determine the supplemental death benefits contribution rates for each municipality participating in the supplemental death benefits fund.

(c) The board of trustees, after consultation with the actuary, by rule or by funding policy adopted by the board of trustees, may:

(1) set open or closed amortization periods not to exceed 30 years;

(2) change the period for amortizing a municipality's unfunded actuarial accrued liabilities from an open period to a closed period or from a closed period to an open period;

(3) decrease or increase the amortization period, provided the amortization period may not exceed 30 years; and

(4) set different amortization periods for unfunded actuarial accrued liabilities arising from different types of events

giving rise to liabilities and ladder the amortization of the liabilities.

(d) In this section:

(1) "Annuity purchase rate" means the present value factor used to convert reserves to a monthly annuity based on the post-retirement discount rate assumption and the life expectancy of the retiree or beneficiary or both the retiree and the beneficiary at retirement under the selected form of payment.

(2) "Discount rate" means the interest rate used in determining the present value of future cash flows.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 229, ch. 18, Sec. 96, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.110 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 293 (H.B. 1244), Sec. 3, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 154 (H.B. 360), Sec. 1, eff. May 26, 2009.

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 19, eff. January 1, 2020.

Sec. 855.111. CERTIFICATION OF RATES. (a) The board of trustees shall certify all current service contribution rates and all prior service contribution rates.

(b) The board shall notify each participating municipality of the rates certified in accordance with this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.111 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 154 (H.B. 360), Sec. 2, eff. May 26, 2009.

Sec. 855.112. RECORDS. (a) The retirement system shall keep, in convenient form, data necessary for required computations and

valuations by the actuary.

(b) The board of trustees shall keep a permanent record of all of its proceedings.

(c) Records of the board of trustees are open to the public.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.112 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 20, eff. January 1, 2020.

Sec. 855.113. OFFICE. (a) The board of trustees shall establish an office in Austin or in one of the participating municipalities.

(b) The board shall keep the books and records of the retirement system in that office.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.113 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.114. OBTAINING INFORMATION. (a) In this section, "participant" means a member, former member, retiree, annuitant, beneficiary, or alternate payee of the retirement system.

(b) The board of trustees shall obtain from participants or participating municipalities information necessary for the proper operation of the retirement system.

(c) Each participant and participating municipality shall timely provide, in the form and manner specified by the retirement system, information necessary for the proper operation and administration of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.114 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 21, eff. January 1, 2020.

Sec. 855.115. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS, RETIREES, ANNUITANTS, OR BENEFICIARIES. (a) In this section, "participant" has the meaning assigned by Section 855.114.

(a-1) Information contained in records that are in the custody of the retirement system or maintained in the custody of another governmental entity or an administrator or carrier acting in cooperation with or on behalf of the retirement system concerning a participant is confidential and not subject to public disclosure. Except as otherwise provided by this section, the retirement system is not required to accept or comply with a request for a record or information about a record of a participant, or to seek an opinion from the attorney general because the records of a participant are not public records and are exempt from disclosure and the public information provisions of Chapter 552. Participant information may not be disclosed unless:

(1) the information is disclosed to:

(A) the participant or the participant's attorney, guardian, executor, administrator, conservator, or other person who the director determines is acting in the interest of the participant or the participant's estate;

(B) a spouse or former spouse of a participant after the director determines that the information is relevant to the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the retirement system;

(C) a governmental official or employee after the director determines that disclosure of the information requested is reasonably necessary to:

(i) the performance of the duties of the official or employee; or

(ii) perform the purposes of the retirement system; or

(D) a person authorized by the participant in writing to receive the information; or

(2) the information is disclosed pursuant to a subpoena and the director determines that the participant will have a reasonable opportunity to contest the subpoena.

(b) This section does not prevent the disclosure of the status or identity of an individual as a member, former member, retiree,

deceased member or retiree, or beneficiary of the retirement system.

(b-1) This section does not require the retirement system to compile or disclose a list of participants' names, addresses, social security numbers, or other descriptive or demographic information.

(c) The director may designate other employees of the retirement system to make the necessary determinations under Subsection (a-1).

(d) A determination and disclosure under Subsection (a-1) may be made without notice to the participant.

(e) A record released or received by the retirement system under this section may be transmitted electronically, including through the use of an electronic signature or certification in a form acceptable to the retirement system. An unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information under this section is not a violation by the retirement system of any law, including any law or rule relating to the protection of confidential information.

(f) The records of a participant remain confidential after release to a person, including a governmental official or employee, as authorized by this section. The records of the participant may become part of a public record of an administrative or judicial proceeding, and the participant waives the confidentiality of the records, including medical records, unless the records are closed to public access by a protective order issued under applicable law.

(g) The retirement system may require a participant to provide the participant's social security number as the retirement system considers necessary to ensure the proper administration of all services, benefits, plans, and programs under the retirement system's administration or as otherwise required by state or federal law.

(h) The retirement system has sole discretion in determining if a record is subject to this section. For purposes of this section, a record includes any record of the retirement system containing information about a participant, living or deceased.

Added by Acts 1991, 72nd Leg., ch. 466, Sec. 8, eff. Aug. 26, 1991.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(97), eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 22, eff. January 1, 2020.

Sec. 855.116. ELECTRONIC INFORMATION. (a) In this section:

(1) "Electronic filing" means the filing of data by the communication of information by facsimile or in the form of digital electronic signals transformed by computer and stored on microfilm, magnetic tape, magnetic or solid state disk, or any other electronic storage or other medium.

(2) "Electronic record" means any information that is recorded in a form for computer processing.

(b) The board of trustees may adopt rules and procedures relating to the electronic filing of documents with the retirement system and the delivery of information electronically by the retirement system. A document that is electronically filed in accordance with those rules and procedures is considered to have been properly filed with the retirement system.

(c) The retirement system may provide confidential information electronically to participating municipalities, members, retirees, beneficiaries, annuitants, alternate payees, and other persons authorized to receive the information and may receive information electronically from the individuals or entities, as applicable, including by use of an electronic signature or certification in a form acceptable to the retirement system. An unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information under this section is not a violation by the retirement system of any law, including a rule relating to the protection of confidential information.

(d) Subject to Subsection (f), the retirement system may provide to a member, retiree, or annuitant any information that is required to be provided, distributed, or furnished under Section 802.106(a), (b), (d), or (e) by:

(1) sending the information to an e-mail address or other electronic address furnished to the retirement system by the member, retiree, or annuitant; or

(2) directing the member, retiree, or annuitant through a written notice, e-mail, or other electronic notice to an Internet website address to access the information.

(e) Subject to Subsection (f), the retirement system may provide to a member, retiree, or annuitant the information that is required to be provided under Section 802.106(c) by directing the

member, retiree, or annuitant through a written notice, e-mail, or other electronic notice to an Internet website address to access the information.

(f) Electronic notice sent under this section by e-mail or other electronic means may only be sent to an e-mail address or other electronic address furnished to the retirement system by the member, retiree, or annuitant.

(g) The retirement system may:

(1) photograph, microphotograph, film, or make an electronic record of any record in the retirement system's possession; or

(2) preserve the record through electronic document imaging.

(h) If a record is reproduced under Subsection (g), the retirement system may destroy or dispose of the original record if the system first:

(1) places the reproduction or electronic record in a file that is conveniently accessible to retirement system personnel; and

(2) provides for the preservation, examination, and use of the reproduction or stored electronic record.

(i) A photograph, microphotograph, film, electronic record, or electronic document image of a record received by the retirement system or reproduced under Subsection (g) is equivalent to the original record for all purposes, including introduction as evidence in all courts and administrative agency proceedings. A certified or authenticated copy of the photograph, microphotograph, film, electronic record, or electronic document image is admissible as evidence to the same extent as the original record.

(j) The director or an authorized representative may certify the authenticity of a record reproduced under this section and may charge a fee for the certified copy as provided by law.

(k) Certified records shall be furnished to any person who is authorized by law to receive them.

Added by Acts 1999, 76th Leg., ch. 83, Sec. 15, eff. Dec. 31, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 23, eff. January 1, 2020.

SUBCHAPTER C. OFFICERS AND EMPLOYEES OF BOARD OF TRUSTEES

Sec. 855.201. EXECUTIVE DIRECTOR. (a) The board of trustees shall appoint an executive director.

(b) The executive director shall:

(1) manage and administer the retirement system under the supervision and direction of the board; and

(2) invest the assets of the system.

(c) The board of trustees may delegate to the executive director powers and duties in addition to those stated by Subsection (b).

(d) The executive director annually shall:

(1) prepare an itemized budget showing the amount required to pay the retirement system's expenses for the following fiscal year; and

(2) submit the report to the board for review, amendment, and adoption.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.201 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 2001, 77th Leg., ch. 121, Sec. 24, eff. Jan. 1, 2002.

Sec. 855.202. LEGAL REPRESENTATION. (a) The board of trustees shall appoint an attorney.

(b) The attorney shall act as the legal adviser to the board of trustees.

(c) The board of trustees, the director, or the director's designee may employ or obtain the services of other attorneys or outside legal counsel to represent the retirement system in litigation or advise the retirement system on fiduciary or legal matters.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.202 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 24, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 25, eff. January 1, 2020.

Sec. 855.203. MEDICAL BOARD. (a) The board of trustees shall designate a medical board composed of three physicians.

(b) To be eligible to serve as a member of the medical board, a physician must be licensed to practice medicine in the state and be of good standing in the medical profession. A physician who is eligible to participate in the retirement system may not be a member of the medical board.

(c) The medical board shall:

(1) review all medical examinations required by this subtitle;

(2) investigate essential statements and certificates made by or on behalf of a member of the retirement system in connection with an application for disability retirement; and

(3) report in writing to the board of trustees its conclusions and recommendations on all matters referred to it.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.203 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.204. OTHER PHYSICIANS. The board of trustees may employ physicians in addition to the medical board to report on special cases.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.204 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.205. ACTUARY. (a) The board of trustees shall appoint an actuary.

(b) The actuary shall perform duties in connection with advising the board concerning operation of the retirement system's funds.

(c) At least once every five years the actuary shall:

(1) make a general investigation of the mortality and service experience of the members and annuitants of the retirement system; and

(2) on the basis of the results of the investigation, recommend for adoption by the board tables and rates that are required.

(d) On the basis of rates and tables adopted by the board, the actuary shall:

(1) annually compute the normal contribution rate for each participating municipality;

(2) annually compute the prior service contribution rate for each participating municipality;

(3) compute the supplemental death benefits rate and the supplemental disability benefits rate for each participating municipality; and

(4) make an annual valuation of the assets and liabilities of the funds of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.205 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 83, Sec. 16, eff. Dec. 31, 1999. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 154 (H.B. 360), Sec. 3, eff. May 26, 2009.

Sec. 855.206. OTHER EMPLOYEES. The board of trustees shall employ actuarial, clerical, legal, medical, and other assistants required for the efficient administration of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.206 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.207. COMPENSATION OF EMPLOYEES. The board of trustees shall determine the amount of compensation that employees of the retirement system receive.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.207 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER D. MANAGEMENT OF ASSETS

Sec. 855.301. INVESTMENT OF ASSETS. (a) The board of trustees shall invest and reinvest the assets of the retirement system without distinction as to their source in accordance with Section 67, Article XVI, Texas Constitution. For purposes of the investment authority of the board of trustees under Section 67, Article XVI, Texas Constitution, "security" or "securities" means any investment instrument within the meaning of the term as defined by Section 4001.068, 15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10). An interest in a limited partnership or investment contract is considered a security without regard to the number of investors or the control, access to information, or rights granted to or retained by the retirement system. Any instrument or contract intended to manage transaction, currency exchange, or interest rate risk in purchasing, selling, or holding securities, or that derives all or substantially all of its value from the value or performance of one or more securities, including an index or group of securities, is considered to be a security.

(b) The assets of the retirement system may be held in the name of agents, nominees, depository trust companies, or other entities designated by the board of trustees. The records and all relevant reports or accounts of the retirement system must show the ownership interests of the retirement system in these assets and the facts regarding the system's holdings.

(c) The board of trustees, in the exercise of its discretion to manage the assets of the retirement system, may select one or more commercial banks or other entities experienced in short-term cash management to invest the system's cash balances through its short-term investment fund or funds and in such short-term securities as the board of trustees determines and as authorized by this section.

(d) The board of trustees may:

(1) delegate discretionary investment authority to and contract with external investment managers to invest and manage the assets held in trust by the retirement system; and

(2) contract with external investment advisors and consultants to assist and advise the board and the staff of the retirement system.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 542, Sec. 8, eff. Aug.

26, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.301 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 408, Sec. 5, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 858, Sec. 4, eff. June 18, 1993; Acts 1995, 74th Leg., ch. 514, Sec. 20, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 121, Sec. 25, eff. Jan. 1, 2002; Acts 2003, 78th Leg., ch. 599, Sec. 17, eff. Jan. 1, 2004.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 2.24, eff. January 1, 2022.

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 26, eff. January 1, 2020.

Sec. 855.3011. SECURITIES LENDING. (a) The board of trustees, in the exercise of its discretion to manage the assets of the retirement system, may select a person, including a commercial bank or depository trust company, to lend retirement system securities as provided by this section and rules adopted by the board of trustees.

(b) To be eligible to lend securities under this section, a person must:

(1) be experienced in the operations of a fully secured securities lending program;

(2) maintain capital adequate in the prudent judgment of the retirement system to assure the safety of the securities;

(3) execute an indemnification agreement, satisfactory in form and content to the retirement system, fully indemnifying the retirement system against any loss resulting from borrower default or the failure of the securities lending agent to properly execute the agent's responsibilities under the applicable securities lending agreement;

(4) require any securities broker or dealer to whom the agent lends securities belonging to the retirement system to deliver and maintain with the custodian collateral in the form of cash or United States government securities eligible for book entry, the market value of which must equal not less than 100 percent of the market value, from time to time, of the loaned securities; and

(5) comply with the guidelines adopted by the board of trustees relating to the investment of cash collateral, borrower limits, and other items.

Added by Acts 2001, 77th Leg., ch. 121, Sec. 26, eff. Jan. 1, 2002.

Sec. 855.303. PRUDENCE REGARDING INVESTMENTS. A determination of whether the board of trustees has exercised prudence in an investment decision must be made by considering the investment of all of the assets of the trust over which the board has management and control, rather than by considering the prudence of a single investment. In making investments for the retirement system, the board of trustees shall exercise the judgment and care, under the circumstances, that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, considering the probable income from the securities and probable safety of their capital.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.303 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 599, Sec. 18, eff. Jan. 1, 2004.

Sec. 855.304. CASH ON HAND. The board of trustees shall determine the amount of cash on hand required to pay benefits and the expenses of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.304 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.305. CREDITING SYSTEM ASSETS. (a) The retirement system shall immediately deposit all money received by the system with a depository designated under Section 855.109.

(b) When securities of the retirement system are received, the system shall deposit the securities in trust with a depository designated under Section 855.109. The depository shall provide adequate safe deposit facilities for the preservation of the securities.

(c) All assets of the retirement system shall be credited, according to the purpose for which they are held, to one of the following funds:

(1) benefit accumulation fund;
(2) interest fund;
(3) endowment fund;
(4) expense fund;
(5) supplemental disability benefits fund; or
(6) supplemental death benefits fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 229, ch. 18, Sec. 97, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.305 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 21, eff. June 17, 2011.

Sec. 855.306. MEMBER'S INDIVIDUAL ACCOUNT. (a) The retirement system shall establish in the participating municipality's account in the benefit accumulation fund an individual account for each person who is a member of the system through employment in that municipality. The retirement system shall credit to a member's individual account:

(1) the amount of contributions to the retirement system deducted from the member's compensation;

(2) interest allowed on amounts credited to the account in accordance with this subtitle; and

(3) the portion of a deposit required by Section 853.003 to reinstate credited service previously canceled that represents the amount withdrawn.

(b) On December 31 of each year the retirement system shall credit to each member's individual account interest as allowed by this subtitle on the amount of accumulated contributions credited to the member's account on January 1 of that year. On a person's retirement under this subtitle on a date other than December 31, the retirement system shall credit to that person's individual account interest and supplemental interest, if any, at the rate credited on members' accounts for the preceding year. The interest must be:

(1) on the amount of accumulated contributions credited to the member's account on January 1 of the year in which retirement

occurs; and

(2) prorated from January 1 of the year in which retirement occurs to the effective date of retirement.

(c) The retirement system may not pay interest on money in a person's individual account:

(1) for a part of a year except as provided by Subsection (b); or

(2) after the person's membership has been terminated in accordance with Section 852.104 because of absence from service.

(d) If a retiree resumes employment under Section 854.308, the retirement system shall reestablish an individual account for the member in the participating municipality's account in the benefit accumulation fund and credit to that account the portion of the balance of the person's retirement reserve that is attributable to the person's prior accumulated contributions.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 229, ch. 18, Sec. 98, eff. Jan. 1, 1982; Acts 1989, 71st Leg., Ch. 462, Sec. 5, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.306 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.01(e), eff. Aug. 26, 1991; Acts 1999, 76th Leg., ch. 83, Sec. 17, eff. Dec. 31, 1999; Acts 2003, 78th Leg., ch. 599, Sec. 19, eff. Jan. 1, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 22, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 23, eff. June 17, 2011.

Sec. 855.307. BENEFIT ACCUMULATION FUND: CURRENT SERVICE. (a) The retirement system shall credit or charge to the account of a participating municipality in the benefit accumulation fund:

(1) all current service contributions made by the municipality to the retirement system;

(2) net investment income or loss allocated to the fund under Section 855.317; and

(3) the withdrawal charge for reinstatement of credited

service as provided by Section 853.003.

(b) The retirement system shall pay from the account of a participating municipality in the benefit accumulation fund:

(1) all payments under annuities arising from current service credits; and

(2) refunds to certain municipalities in accordance with Section 855.319.

(c) If credited service previously canceled is reinstated in accordance with Section 853.003, the retirement system shall charge the municipality's account in the benefit accumulation fund with the necessary reserves to fund the credits based on current service that are restored to the member.

(d) The annuities payable as provided by this section are liabilities and obligations of the participating municipality for which the service was performed on which the annuities are based and are payable from the municipality's account in the benefit accumulation fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 230, ch. 18, Sec. 99, eff. Jan. 1, 1982; Acts 1989, 71st Leg., ch. 462, Sec. 6, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.307 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.01(f), eff. Aug. 26, 1991.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 154 (H.B. 360), Sec. 4, eff. May 26, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 24, eff. June 17, 2011.

Sec. 855.308. BENEFIT ACCUMULATION FUND: PRIOR SERVICE. (a) In addition to amounts credited or charged as provided by Section 855.307, the retirement system shall credit to the account of a participating municipality in the benefit accumulation fund all prior service contributions made by the municipality to the retirement system.

(b) In addition to amounts paid as provided by Section 855.307, the retirement system shall pay from the account of a participating

municipality in the benefit accumulation fund:

(1) all payments under annuities arising from prior service credits, special prior service credits, antecedent service credits, or updated service credits authorized by a participating municipality; and

(2) optional increased payments authorized by a participating municipality under Section 854.203.

(c) The retirement system shall charge municipal liabilities from updated service credits against the account of the municipality that authorized the credits.

(d) If credited service previously canceled is reinstated in accordance with Section 853.003, the retirement system shall charge the municipality's account in the benefit accumulation fund with the necessary reserves to fund credits based on prior service that are restored to the member.

(e) The retirement system shall charge reserves required to fund optional benefit increases authorized under Section 854.203 against the account of the municipality allowing the increases.

(f) The board of trustees may proportionately reduce all payments under annuities payable under this section, at any time and for a period necessary, to prevent those payments for a year from exceeding the amount available in the participating municipality's account for prior service.

(g) The annuities payable as provided by this section are liabilities and obligations of the participating municipality for which the service was performed, or granted as the result of reinstated service previously canceled, on which the annuities are based and are payable from the municipality's account in the benefit accumulation fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 230, ch. 18, Sec. 99, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.308 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 154 (H.B. 360), Sec. 5, eff. May 26, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 25, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 26, eff. June 17, 2011.

Sec. 855.310. INTEREST FUND. (a) The amount in the interest fund must accurately reflect the determination and allocation of net investment income or loss.

(b) The retirement system shall determine net investment income or loss annually as of December 31 in accordance with generally accepted accounting principles and shall allocate that amount each year in accordance with Section 855.317.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.310 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 154 (H.B. 360), Sec. 6, eff. May 26, 2009.

Sec. 855.311. ENDOWMENT FUND. (a) The retirement system shall deposit in the endowment fund gifts, awards, funds, and assets delivered to the retirement system that are not specifically required by the system's other funds.

(b) The endowment fund consists of:

(1) the interest reserve account;

(2) the general reserves account;

(3) the distributive benefits account;

(4) the perpetual endowment account; and

(5) other special accounts that the board of trustees by resolution establishes.

(c) The retirement system shall credit or charge to the interest reserve account, general reserves account, and distributive benefits account amounts allocated in accordance with Section 855.317.

(d) The board of trustees shall transfer money from the interest reserve account to the expense fund in accordance with Section 855.312.

(e) If the board of trustees determines that the amount credited to the distributive benefits account on December 31 of any

year is sufficient to do so, the board by resolution may:

(1) authorize the distribution and payment of all or part of the money credited to the account to persons who were annuitants on that day in the ratio of the rate of the monthly benefit of each annuitant to the total of all annuity payments made by the system for the final month of the year; or

(2) authorize the distribution of all or part of the amount credited to the account to each member's individual account as supplemental interest in the ratio of the amount of interest paid on the individual's account to the interest paid to all individual accounts for the year.

(f) The retirement system shall deposit and hold in the perpetual endowment account:

(1) funds, gifts, and awards that the grantors designate as perpetual endowments for the retirement system; and

(2) money forfeited to the retirement system as provided by Section 855.603.

(g) Distribution and payment to an annuitant under Subsection (e) must be based on the ratio that the number of months elapsing since the effective date of the person's retirement bears to the number 12 if that person retired under this subtitle during the year for which the distribution and payment is made.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 231, ch. 18, Sec. 100, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.311 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 83, Sec. 18, eff. Dec. 31, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 154 (H.B. 360), Sec. 7, eff. May 26, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 27, eff. June 17, 2011.

Sec. 855.312. EXPENSE FUND. (a) The board of trustees shall deposit in the expense fund municipality contributions for expenses of the retirement system paid in accordance with Section 855.404.

(b) The board of trustees by resolution recorded in its minutes

shall transfer from the interest reserve account of the endowment fund to the expense fund the amount that exceeds the amount needed to provide adequate reserves as provided by Section 855.317 and that is needed to pay the system's estimated expenses for the fiscal year.

(c) The retirement system shall pay from the expense fund:

(1) administrative and maintenance expenses of the system; and

(2) notes and bonds issued in accordance with Section 855.105.

(d) If the amount of the system's estimated expenses exceeds the amount in the interest reserve account of the endowment fund available for administrative expenses, the board of trustees, by a resolution recorded in its minutes, shall assess an amount equal to the difference against each participating municipality in proportion to the number of its members in the retirement system. The board shall collect the assessments and deposit the amount collected in the expense fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.312 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 154 (H.B. 360), Sec. 8, eff. May 26, 2009.

Sec. 855.313. SUPPLEMENTAL DISABILITY BENEFITS FUND. (a) The retirement system shall deposit in the supplemental disability benefits fund contributions made to provide supplemental disability benefits in accordance with previous law. The retirement system may not establish separate accounts in the fund for municipalities participating in the fund but shall credit contributions to a single account.

(b) The retirement system shall pay supplemental disability benefits only from money in the supplemental disability benefits fund, and the benefits are not an obligation of other funds of the system.

(c) The beginning date of participation of each municipality participating in the supplemental disability benefits fund is that determined by the board of trustees. Participation terminates

January 1, 1988.

(d) When all annuities payable from the supplemental disability benefits fund have been finally paid and discharged, the board of trustees shall direct that the money remaining in the supplemental disability benefits fund shall be transferred and credited to the accounts of the respective participating municipalities in the benefit accumulation fund in proportion to the same ratios of their contributions to the total of all contributions to the supplemental disability benefits fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 231, ch. 18, Sec. 101, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 183, Sec. 14, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.313 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 28, eff. June 17, 2011.

Sec. 855.314. SUPPLEMENTAL DEATH BENEFITS FUND. (a) The retirement system shall deposit in the supplemental death benefits fund contributions paid by municipalities to the retirement system to provide supplemental death benefits in accordance with Section 855.408. The retirement system may not establish separate accounts in the fund for municipalities participating in the fund but shall credit contributions to a single account.

(b) The retirement system shall pay supplemental death benefits only from money in the supplemental death benefits fund, and the benefits are not an obligation of other funds of the system.

(c) The supplemental death benefits fund may become operative only after a sufficient number of municipalities elect to participate in the fund so that 4,000 members or more are covered by the fund.

(d) The board of trustees shall determine the operative date of the fund.

(e) The effective participation date of a municipality is:

(1) the operative date of the fund if the municipality elected to participate in the fund on or before the fund's operative date; or

(2) the first day of any calendar month after the month in which the municipality notifies the board of its election to enter the fund.

(f) The board of trustees shall notify each municipality of its effective participation date.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 231, ch. 18, Sec. 102, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.314 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.315. DISBURSEMENTS. (a) Disbursements from the assets of the retirement system may be made only on vouchers signed by the person designated for that purpose in accordance with Section 855.108.

(b) A person designated to sign vouchers may draw checks or warrants only on proper authorization from the board of trustees recorded in the official minutes of the board.

(c) When a voucher is properly signed, a depository with which assets of the system are deposited shall accept and pay the voucher. The depository is released from liability for payment made on the voucher.

(d) The retirement system shall make payments by electronic funds transfer to annuitants whose first annuity payment under this subtitle occurs after January 1, 2000. The retirement system may use electronic funds transfers to make other payments.

(e) Notwithstanding any requirement to make a payment by electronic funds transfer, the retirement system may make payment by vouchers, checks, or warrants to an annuitant if making the payment by electronic funds transfer would be impractical for the retirement system or if the annuitant properly notifies the retirement system that:

(1) receiving the payment by electronic funds transfer would be impractical to the person;

(2) receiving the payment by electronic funds transfer would be more costly to the person than receiving the payment by check or warrant; or

(3) the person is unable to establish a qualifying account

at a financial institution to receive electronic funds transfers.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.315 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 83, Sec. 19, eff. Dec. 31, 1999.

Sec. 855.316. INTEREST RATES AND CREDITING. (a) Unless this subtitle expressly specifies another rate of interest, for periods after December 31, 2008, the rate of interest is five percent compounded annually, plus any other amounts the board of trustees is expressly authorized to provide. Notwithstanding any other provision in this chapter, the interest credited to a member's individual account in a calendar year may not be less than five percent.

(b) Effective as of December 31 of each year, the board of trustees shall credit interest on the accumulated contributions in a member's individual account as of January 1 of that year in accordance with Subsection (a) and Section 855.306.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 232, ch. 18, Sec. 103, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.316 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 154 (H.B. 360), Sec. 9, eff. May 26, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 29, eff. June 17, 2011.

Sec. 855.317. ANNUAL ALLOCATION OF NET INVESTMENT INCOME OR LOSS FROM INTEREST FUND. (a) Effective as of December 31 of each year, the board of trustees shall make the following allocations from the interest fund that in the aggregate equal the net investment income or loss for the year:

(1) to the supplemental disability benefits fund, interest on the mean amount in the supplemental disability benefits fund during that year;

(2) to the supplemental death benefits fund, interest on

the mean amount in the supplemental death benefits fund during that year;

(3) to the accounts in the benefit accumulation fund, an amount derived by applying a positive or negative rate, as determined by the board of trustees in its sole discretion to the January 1 balances of that year for each of those accounts; and

(4) to the interest reserve account of the endowment fund, a positive or negative amount as determined by the board of trustees in its sole discretion.

(b) In making allocations under this section, the board of trustees shall, without regard to the amount of net investment income or loss for the calendar year, first allocate interest as specified in Section 855.316(a) to those funds or accounts referenced in Subsections (a)(1) and (2) of this section. The board shall then allocate the remaining net investment income or loss between the funds or accounts referenced in Subsections (a)(3) and (4) of this section in rates or amounts determined by the board in its sole discretion. The board of trustees shall accumulate the amount of assets in the interest reserve account of the endowment fund that the board in its sole discretion determines is necessary:

(1) to provide adequate reserves to:

(A) mitigate the effects of future investment return volatility and insufficient net investment income; and

(B) provide reasonable rate stabilization for participating municipalities;

(2) to provide adequate reserves against special and contingency requirements of other funds of the system; and

(3) to provide the amount required for the administration expenses of the system for the following year.

(c) After the requirements of the interest reserve account of the endowment fund have been satisfied, the board of trustees may transfer any of the amount remaining in the interest fund to the general reserves account of the endowment fund to maintain adequate reserves against special requirements of other funds of the retirement system.

(d) After the requirements of the interest reserve account and the general reserves account of the endowment fund have been satisfied, the board of trustees shall transfer any amount remaining in the interest fund to the distributive benefits account of the endowment fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 232, ch. 18, Sec. 104, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.317 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 154 (H.B. 360), Sec. 10, eff. May 26, 2009.
Acts 2009, 81st Leg., R.S., Ch. 154 (H.B. 360), Sec. 11, eff. May 26, 2009.
Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 30, eff. June 17, 2011.

Sec. 855.319. PAYMENT TO FORMERLY PARTICIPATING MUNICIPALITY. If a participating municipality has no employees who are members of the retirement system and has no present or potential liabilities resulting from the participation of former employees, the municipality's participation in the system stops and the system shall repay to the municipality on application any amount in the benefit accumulation fund that is credited to the municipality.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 233, ch. 18, Sec. 105, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.319 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 31, eff. June 17, 2011.

SUBCHAPTER E. COLLECTION OF CONTRIBUTIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3161, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 855.401. MEMBER CONTRIBUTIONS. (a) Each municipality that has one or more departments participating in the retirement system by ordinance shall designate the rate of member contributions for employees. The municipality shall elect a rate of five, six, or

seven percent of the employees' compensation. All departments of a participating municipality must have the same employee contribution rate, except that any municipality that before September 1, 1991, has elected to have different rates of member contributions in different departments may continue member contributions in accordance with its existing ordinances until the municipality elects to equalize the rates.

(b) A participating municipality by ordinance may increase the rate of member contributions.

(c) A participating municipality may reduce the rate of member contributions if:

(1) at an election by secret ballot conducted under rules adopted by the board of trustees, the proposal to reduce the rate is passed by an affirmative vote of two-thirds of all members employed by the municipality; and

(2) the municipality by ordinance provides for the reduction.

(d) A reduction in a member contribution rate may become effective only on the first day of a calendar month. The effective date of the reduction must be after the 90th day after the day on which the election required by Subsection (c) is held or the day on which the ordinance required by Subsection (c) is adopted, whichever is later. The municipality shall give written notice of a reduction in the deposit rate to the director before the 60th day preceding the effective date of the reduction.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 183, Sec. 15, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.401 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 466, Sec. 9, eff. Aug. 26, 1991.

Sec. 855.402. COLLECTION OF MEMBER CONTRIBUTIONS. (a) Each payroll period each participating municipality shall cause the contribution for the period to be deducted from the compensation of each member that it employs.

(b) In determining the amount of a member's compensation for a payroll period, the board of trustees may use the rate of annual

compensation payable to a member on the first day of the payroll period as the rate for the entire period and may omit deductions from compensation for less than a full payroll period if the employee was not a member on the first day of the period.

(c) The board of trustees may modify a member's required deduction by an amount that does not exceed one-tenth of one percent of the annual compensation on which the deduction is made.

(d) A participating municipality shall certify to the board of trustees on each payroll, or in another manner prescribed by the board, the amount to be deducted from the compensation of each member that it employs.

(e) The treasurer or disbursing officer of each participating municipality shall:

(1) make deductions from each member's compensation for contributions to the retirement system;

(2) transmit monthly, or at the time designated by the board of trustees, a certified copy of the payroll; and

(3) pay the deductions in cash to the board of trustees at the board's home office before the 16th day of the month following that for which the deductions are required to be made.

(f) To facilitate the collection of member contributions, the city clerk or city secretary of each participating municipality, before January 31 of each year, shall file with the director a certified list that states the name and monthly and annual salaries of each employee of the municipality who is a member of the retirement system. Any addition to or deletion from the list must be certified.

(g) After the deductions for member contributions are paid, the board of trustees shall:

(1) record all receipts; and

(2) deposit the receipts in the benefit accumulation fund and credit the appropriate amounts to the members' individual accounts.

(h) The treasurer or disbursing officer of a participating municipality shall make the deductions required by this section even if the member's compensation is reduced below the amount equal to the minimum compensation provided by law.

(i) By becoming a member of the retirement system, a member consents to the deductions required by this section. The payment of compensation less those deductions is a complete release of all

claims, except benefits provided by this subtitle, for services rendered by the member during the payroll period.

Text of subsec. (j) added effective upon I.R.S. determination

(j) Each participating municipality shall pick up the employee contributions required by Section 855.401 and this section for all compensation earned after December 31, 1983, and shall pay these picked-up employee contributions from the same source of funds used in paying earnings to the employee. The participating municipality may pick up these contributions by a reduction in the cash salary of the employee or by an offset against a future salary increase or by a combination of a reduction in salary and offset against a future salary increase; unless it is otherwise determined by the governing body of the participating municipality, the pick-up shall be accomplished by a corresponding reduction in the cash salary of the employee.

(k) Contributions picked up as provided by Subsection (j) shall be treated as employer contributions in determining tax treatment of the amounts under the United States Internal Revenue Code; however, each participating municipality shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service determines or the federal courts rule that pursuant to Section 414(h) of the Internal Revenue Code of 1986 (26 U.S.C. Section 414), these picked-up contributions are not included as gross income of the employee until such time as they are distributed or made available. Employee contributions that are picked up as above provided shall be deposited to the individual account of the member and shall be treated for all other purposes of this subtitle in the same manner and with like effect as if the amount had been deducted from the compensation of the employee pursuant to Sections 855.401 and 855.402(a) through (h); and picked-up contributions may not be included in calculating the limitations on municipality contribution rates prescribed by Section 855.407 or other provisions of this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 2978, ch. 512, Sec. 2; Acts 1987, 70th Leg., ch. 183, Sec. 16, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.402 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 32, eff. June 17, 2011.

Sec. 855.403. COLLECTION OF MUNICIPALITY CONTRIBUTIONS. (a) Before the 16th day of each month, each participating municipality shall pay or cause to be paid to the retirement system at the system's office expense contributions in accordance with Section 855.404, current service contributions in accordance with Section 855.405, and prior service contributions in accordance with Section 855.406.

(b) Unless otherwise provided for and paid by a municipality, a municipality shall pay its contributions to the retirement system from:

(1) the fund from which earnings are paid to members; or

(2) the general fund of the municipality.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.403 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.404. MUNICIPALITY EXPENSE CONTRIBUTION. (a) Each participating municipality shall pay to the retirement system an expense contribution prescribed in accordance with this section.

(b) The board of trustees, before January 1 of each year, shall set the rate of the contribution necessary to provide an amount required to pay the difference between:

(1) the estimated administrative expenses for the following year; and

(2) the anticipated revenue, from sources other than municipality contributions, to be used for the expenses of the year as adjusted for a surplus or deficiency existing on January 1 of that year.

(c) The rate set by the board of trustees under Subsection (b) may not exceed 50 cents a month for each member.

(d) The board of trustees shall certify the rate set under Subsection (b) to each participating municipality before January 1 of the year for which the rate is set.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.404 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.405. MUNICIPALITY NORMAL CONTRIBUTION. Each participating municipality shall pay to the benefit accumulation fund, as its normal contribution, an amount equal to a percentage of the compensation of members employed by the municipality for that month. The rate of contribution is the normal contribution rate determined annually by the actuary and approved by the board of trustees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 233, ch. 18, Sec. 106, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.405 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 33, eff. June 17, 2011.

Sec. 855.406. MUNICIPALITY PRIOR SERVICE CONTRIBUTION. (a) Each participating municipality shall pay to the benefit accumulation fund, as its prior service contribution, an amount equal to a percentage of the compensation of members employed by the municipality for that month.

(b) The rate of contribution is the rate determined annually by the actuary and approved by the board of trustees as being the rate required to fund all obligations charged against the municipality's account in the benefit accumulation fund within the municipality's amortization period without resulting in a probable future depletion of that account.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 233, ch. 18, Sec. 106, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.406 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 33, eff.

June 17, 2011.

Sec. 855.4065. ADDITIONAL EMPLOYER CONTRIBUTIONS. (a) In addition to the contributions a participating municipality is required to make under this subtitle, the board of trustees, after consultation with the actuary, by rule may authorize a participating municipality to make lump-sum or periodic employer contributions to the retirement system to be deposited in the municipality's account in the benefit accumulation fund.

(b) A contribution made under this section is not subject to the maximum contribution rates under Sections 855.407 and 855.501.

Added by Acts 2007, 80th Leg., R.S., Ch. 293 (H.B. 1244), Sec. 4, eff. January 1, 2008.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 34, eff. June 17, 2011.

Sec. 855.407. LIMITATION ON MUNICIPALITY CONTRIBUTION RATES. (a) The combined rates of a municipality's normal contributions and prior service contributions may not exceed:

(1) 9-1/2 percent of the total compensation paid by the municipality to the employees of its participating departments if the rate of member contributions of the employees of its participating departments is 7 percent of their compensation;

(2) 8-1/2 percent of the total compensation paid by the municipality to the employees of its participating departments if the rate of member contributions of the employees of its participating departments is 6 percent of their compensation;

(3) 7-1/2 percent of the total compensation paid by the municipality to the employees of its participating departments if the rate of member contributions of the employees of its participating departments is 5 percent of their compensation; or

(4) 5-1/2 percent of the total compensation paid by the municipality to the employees of its participating departments if the rate of member contributions of the employees of its participating departments is 3 percent of their compensation.

(b) The actuary annually shall determine the municipality

normal contribution rate and the prior service contribution rate from the most recent data available at the time of the determination. Before January 1 of each year, the board of trustees shall certify the rates to each participating municipality. If a participating municipality has different rates of contribution for employees of different departments, the actuary shall determine the maximum rate for the municipality using the average rate of contribution prescribed for contributions of employees of its participating departments. To compute the average rate the actuary shall consider the number of employees in each participating department of the municipality.

(c) A reduction in the member contribution rate for employees of a participating municipality or in the municipality's matching rate does not reduce the maximum rate of contribution of the municipality.

(d) If the dates of participation of each department of a municipality are not the same, the governing body of the municipality may request that, to determine the municipality normal contribution rate and prior service contribution rate and to determine the period during which the municipality must fund the obligations charged against its account in the benefit accumulation fund, all of its departments have a single composite participation date. The actuary shall determine the composite participation date by computing an average weighted according to the number of members entering the retirement system on the actual dates of participation of the departments involved.

(e) If the combined rates of a municipality's normal contributions and prior service contributions exceed the rate prescribed by Subsection (a), the rate for prior service contributions shall be reduced to the rate that equals the difference between the maximum rate prescribed by Subsection (a) and under Section 855.501, if applicable, and the normal contribution rate for the municipality.

(f) The governing body of a municipality that is determined by the actuary to be unable to finance all obligations charged against its account in the benefit accumulation fund within the municipality's current amortization period may elect to have the municipality contribute to its account in the benefit accumulation fund at a rate that does not exceed in any year the sum of two percent and the maximum contribution rate specified by Subsection (a)

and by Section 855.501, if applicable, and that the actuary annually may determine as necessary to finance the existing levels of benefits before the expiration of the municipality's current amortization period.

(g) A municipality that begins participation in the retirement system on or after December 31, 1999, and any municipality already participating in the retirement system on that date whose governing body elects to have the municipality do so shall contribute to its account in the benefit accumulation fund at the combined rate of total compensation paid to its employees as the actuary determines is necessary to fund all obligations chargeable to its account in the fund within the municipality's amortization period, regardless of other provisions of this subtitle.

(h) Subject to Subsection (i), if the board of trustees adopts any actuarial changes, including changes in actuarial assumptions or in actuarial method, that would result in any municipality having an increase in its combined contribution rate of more than one-half of one percent of the total compensation paid to its employees based on its current amortization period, the board may, after consultation with the actuary, take any or all of the following actions:

(1) phase in the increase in the contribution rate for the municipality over a reasonable period of time;

(2) increase the period for amortizing the municipality's unfunded actuarial accrued liabilities for a period that does not exceed 30 years; or

(3) allow the municipality to request in writing an increase in the municipality's amortization period, provided that the new amortization period the municipality may be assigned equals the lesser of:

(A) the number of years required to limit the increase in the combined rate to one-half of one percent of the total compensation paid to its employees; or

(B) the maximum number of years, not to exceed 30 years, specified by the board of trustees.

(i) A municipality may decline to phase in the increase in the municipality's contribution rate or increase the municipality's amortization period under Subsection (h).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 234, ch. 18, Sec. 107,

eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.407 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 466, Sec. 10, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 57, Sec. 18, eff. Jan. 1, 1994; Acts 1997, 75th Leg., ch. 76, Sec. 13, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 83, Sec. 20, eff. Dec. 31, 1999. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 35, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 991 (S.B. 1337), Sec. 27, eff. January 1, 2020.

Sec. 855.408. MUNICIPALITY SUPPLEMENTAL DEATH BENEFITS CONTRIBUTION. (a) In addition to other contributions to the retirement system required by this subtitle, each municipality participating in the supplemental death benefits fund monthly shall pay to the supplemental death benefits fund an amount equal to the rate of contribution computed in accordance with Section 855.502, multiplied by the total compensation for the month of the members employed by the municipality.

(b) The limitation of Section 855.407(e) does not apply to the rate of the contribution to the supplemental death benefits fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.409 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.410. INTEREST ON LATE CONTRIBUTIONS. (a) A participating municipality that fails to remit before the 16th day of the month all contributions required by this subchapter to be made and remitted to the retirement system by that date shall pay to the retirement system, in addition to the contributions, interest on the past-due amounts at an annual rate that is the total of the system's investment return assumption for the preceding calendar year, plus two percent. The retirement system shall notify participating municipalities of the rate of interest that will be due on late payments.

(b) Payment is considered timely made if transmitted by first-

class United States mail, postage prepaid, and postmarked not later than the 15th day of the month in which the payment is due.

Added by Acts 1987, 70th Leg., ch. 183, Sec. 18, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.411 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 36, eff. June 17, 2011.

SUBCHAPTER F. OPTIONAL PROGRAMS

Sec. 855.501. INCREASED CURRENT SERVICE ANNUITIES. (a) A participating municipality may elect to provide for an increased current service annuity reserve on the retirement of each of its employees who are members.

(b) The governing body of a municipality electing to provide for increased reserves by ordinance shall provide that for each month of current service rendered by a participating employee of the municipality after the date of its election the municipality will provide a contribution equal to 150 or 200 percent of the member's accumulated contribution to the retirement system for that month.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1208, Sec. 39(3), eff. June 17, 2011.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1208, Sec. 39(3), eff. June 17, 2011.

(e) A participating municipality electing to provide an increased current service annuity reserve and electing a contribution rate of 150 percent for a year is liable for total contributions at a rate that does not exceed a rate equal to the maximum rate prescribed for the municipality by Section 855.407, plus two percent a year. A municipality electing a rate of 200 percent a year is liable for contributions at a rate that does not exceed a rate equal to the maximum rate prescribed for the municipality by Section 855.407, plus four percent a year.

(f) Except as provided by Subsection (g), an increased rate of contribution authorized under this section may become effective only on January 1 of a calendar year.

(g) A municipality that begins participation in the retirement system after December 31, 1975, may elect to provide for an increased

current service annuity reserve beginning on its effective date of participation. That election remains in effect until the municipality elects to pay contributions at another rate.

(h) A municipality electing to provide for an increased current service annuity reserve may reduce its rate of contribution to 150 percent of the member contributions or to a rate equal to the member contributions. The reduction becomes effective on January 1 of the calendar year following the date on which the municipality's governing body adopts an ordinance reducing the rate of contribution.

(i) A participating municipality electing to provide an increased service annuity reserve and electing a contribution rate of 150 percent for a year may, by ordinance, agree to be liable for total contributions at a rate that does not exceed a rate equal to the maximum rate prescribed for the municipality by Section 855.407 plus two and one-half percent if the contribution rate for its employees is six percent, or a rate that does not exceed a rate equal to the maximum rate prescribed for the municipality by Section 855.407 plus three percent if the contribution rate for its employees is seven percent.

(j) A participating municipality electing to provide an increased service annuity reserve and electing a contribution rate of 200 percent for a year may, by ordinance, agree to be liable for total contributions at a rate that does not exceed a rate equal to the maximum rate prescribed for the municipality by Section 855.407 plus five percent if the contribution rate for its employees is six percent, or a rate that does not exceed a rate equal to the maximum rate prescribed for the municipality by Section 855.407 plus six percent if the contribution rate for its employees is seven percent.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 235, ch. 18, Sec. 108, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.501 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 514, Sec. 21, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 37, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 39(3), eff. June 17, 2011.

Sec. 855.502. SUPPLEMENTAL DEATH BENEFITS PROGRAM. (a) As soon as practical after the supplemental death benefits program is established and at the time of each investigation of members' mortality and service experience required by Section 855.110, the actuary shall investigate the mortality experience of the members and eligible annuitants participating in the supplemental death benefits program. On the basis of the result of that investigation, the actuary shall recommend to the board of trustees rates and tables necessary to determine supplemental death benefits contribution rates. The rates and tables may provide for the anticipated mortality experience of the persons covered under the supplemental death benefits fund and for a contingency reserve.

(b) Before a municipality's participation date in the supplemental death benefits fund and before January 1 of each subsequent year, the actuary shall compute, on the basis of rates and tables adopted by the board of trustees, the supplemental death benefits contribution rate of a municipality participating in the supplemental death benefits contribution fund. The rate must be expressed as a percentage of the compensation of members employed by the municipality. When the rate is approved by the board of trustees, the rate is effective for the calendar year for which it was approved.

(c) If the balance in the supplemental death benefits fund is insufficient to pay the supplemental death benefits due, the board of trustees may direct that, to the extent available, an amount equal to the amount of the deficiency be transferred from the general reserves account of the endowment fund to the supplemental death benefits fund. The board may adjust future contributions to the supplemental death benefits fund to repay to the general reserves account the transferred amount.

(d) If the total number of members covered by the supplemental death benefits fund becomes fewer than 4,000, the board of trustees may order that the fund be discontinued and all coverage terminated. The termination date must be December 31 of a year designated by the board and may not be before the expiration of six months after the date on which the order of termination was adopted.

(e) To protect against adverse claim experience, the board of trustees may secure reinsurance from one or more stock insurance

companies doing business in this state if the board determines that reinsurance is necessary. The retirement system shall pay the premiums for reinsurance from the supplemental death benefits fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 235, ch. 18, Sec. 109, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.502 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER G. MISCELLANEOUS ADMINISTRATIVE PROCEDURES

Sec. 855.601. STATEMENT OF AMOUNT IN ACCOUNT. (a) As soon as possible after the end of each calendar year, the board of trustees shall send to the governing body of each municipality and to each requesting member an annual statement that contains:

(1) a balance sheet showing the financial and actuarial condition of the retirement system on December 31 of that year;

(2) a statement showing the receipts and disbursements made during the calendar year;

(3) a statement showing changes in the asset, liability, reserve, and surplus accounts during the calendar year; and

(4) additional statistics necessary for proper interpretation of the condition of the retirement system.

(b) The board of trustees shall furnish to a member, on written request, a statement of the amount credited to the member's individual account. During a calendar year, the board is not required to furnish to a member more than one statement requested under this subsection.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.601 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.602. INTEREST IN ASSETS. A particular person, group of persons, municipality, or other entity has no right in a specific security, item of cash, or other property of the retirement system other than an undivided interest in the assets of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.602 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.603. FORFEITURE OF CONTRIBUTIONS. (a) If an application under Section 852.103 for the accumulated contributions of a person who has ceased to be employed by a participating department for a reason other than death or retirement has not been made before the seventh anniversary of the person's last day of service, the retirement system shall return to the person or the person's estate all accumulated contributions of the person.

(b) If the person or the administrator of the person's estate cannot be found, the person's accumulated contributions are forfeited to the retirement system. The retirement system shall credit the amount forfeited to the perpetual endowment account of the endowment fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.603 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.604. MERGER. A pension system for municipal employees may merge into the retirement system only on conditions that the board of trustees in its sole discretion determines in an individual case are consistent with the fiduciary responsibilities of the board.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.604 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 599, Sec. 20, eff. Jan. 1, 2004.

Sec. 855.605. PARTICIPATION OF MEMBERS OF FIRE DEPARTMENT. (a) If the employees of the fire department of a municipality, with the consent of the municipality, elect to become members of the retirement system, the funds of the municipality's firemen's relief and retirement fund, if any, and future payments to the fund may be transferred to the board of trustees on the voluntary application of the municipality.

(b) A participating municipality shall pay to the board of trustees money that could have been paid annually to the firemen's relief and retirement fund if the fire department were not covered by the retirement system or another pension system or if the municipality had taken the proper steps to secure the money. The retirement system shall credit amounts paid under this subsection for the benefit of fire fighters as the board of trustees directs.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.605 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.606. APPEAL OF ADMINISTRATIVE DECISION. A decision of the board of trustees denying or limiting membership, service credit, eligibility for or the amount of benefits payable by the retirement system, or regarding to whom benefits should be paid is a decision in a contested case as defined by the administrative procedure law, Chapter 2001, and is subject to judicial review under the substantial evidence rule in accordance with Sections 2001.174-2001.177.

Added by Acts 1997, 75th Leg., ch. 76, Sec. 14, eff. Sept. 1, 1997.

Sec. 855.607. PLAN QUALIFICATION. It is intended that the provisions of this subtitle be construed and administered in a manner that the retirement system's benefit plan will be considered a qualified plan under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401). The board of trustees may adopt rules that modify the plan to the extent the board considers necessary for the retirement system to be considered a qualified plan. Rules adopted by the board of trustees relating to plan qualification issues are considered a part of the plan.

Added by Acts 1997, 75th Leg., ch. 76, Sec. 14, eff. Sept. 1, 1997.

Sec. 855.608. FULL BENEFIT ARRANGEMENT. (a) A separate fund for the payment of benefits under Section 415(m), Internal Revenue Code of 1986, and its subsequent amendments, is created outside the retirement system trust fund solely for the purpose of providing

benefits to participants equal to the amount by which the participant's annual benefit otherwise payable under this subtitle exceeds the limitation on benefits imposed by Section 415, Internal Revenue Code of 1986, and its subsequent amendments.

(b) The board of trustees shall administer this section. Except as otherwise provided by this section, the board of trustees has the same rights, duties, and responsibilities concerning the full benefits arrangement as it has for the trust fund.

(c) Money for the payment of benefits to a participant under this section shall be paid to the separate fund created by this section from the contributions that otherwise would be deposited in the benefit accumulation fund account of the municipality that employed the member. If the benefit is payable as a result of service with more than one participating municipality, there shall be paid from the contributions that otherwise would be deposited in the benefit accumulation fund account of each affected municipality the amount chargeable to that municipality for the member. When feasible, the monthly amount to pay benefits under this section shall be paid not later than the 15th day before the date of a monthly payment to a person receiving annuity benefits under this section.

(d) The full benefits arrangement shall be administered as an unfunded governmental excess benefit arrangement. Benefits under this section are unassignable and are exempt from execution, garnishment, attachment, and state and local taxation to the same extent as provided by Section 851.006. Contributions to this arrangement are not held in trust and may not be commingled with other retirement system assets. The board of trustees may adopt rules for the efficient administration of this section and to maintain compliance with Section 415(m), Internal Revenue Code of 1986, and its subsequent amendments.

(e) The retirement system may transfer amounts among accounts and funds to balance the accounts and funds affected by the arrangement required by this section.

Added by Acts 2001, 77th Leg., ch. 121, Sec. 27, eff. Jan. 1, 2002.
Amended by Acts 2003, 78th Leg., ch. 599, Sec. 21, eff. Jan. 1, 2004.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 38, eff. June 17, 2011.

SUBTITLE H. TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM
CHAPTER 861. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2065, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 861.001. DEFINITIONS. In this subtitle:

(1) "Actuarially sound pension system" means a system in which the amount of contributions is sufficient to cover the normal cost and amortize the unfunded accrued actuarial liability in a period that does not exceed 30 years.

(2) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 38(1), eff. September 1, 2019.

(3) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1316, Sec. 4.01(2), eff. June 14, 2013.

(4) "Dependent" means an unmarried child, natural or adopted, who:

(A) is less than 18 years of age;

(B) is less than 19 years of age and a full-time student at an elementary or secondary school; or

(C) became permanently disabled before the child's 22nd birthday, as determined by the executive director.

(5) "Emergency services" means only those services relating to fire, rescue, emergency medical services, and emergency response services.

(5-a) "Executive director" means the person appointed executive director under Section 865.0095.

(6) "Fund" means the Texas emergency services retirement fund.

(6-a) "Governing body of a department" or "governing body of a participating department" means:

(A) the board of trustees or other governing body of the department; or

(B) if the department does not have a governing body, the governing body of the political subdivision.

(6-b) "Governing body of a political subdivision" means the governing body of the political subdivision or unit of government of which the department is a part.

(7) "Local board" means a local board of trustees established under Section 865.012.

(8) "Member" means a person having membership in the

pension system under Section 862.002.

(8-a) "Participating department" means a department that elects to participate in the pension system under Section 862.001.

(8-b) "Participating department head" means the person designated as a participating department head under Section 865.0115.

(9) "Pension system" means the Texas Emergency Services Retirement System.

(10) "Qualified service" means service performed:

(A) for a participating department that conducts at least 48 hours of training in a calendar year; and

(B) by a member in good standing in the department who:

(i) attends at least 20 hours of annual training and at least 25 percent of the department's emergencies in a calendar year;

(ii) attends at least 20 hours of annual training and provides support services for at least 25 percent of the department's emergencies in a calendar year; or

(iii) does not attend because the member is absent because of military duty.

(10-a) "Retiree" means a person who receives a service or disability retirement benefit from the pension system.

(11) "State board" means the state board of trustees established under Section 865.001.

(11-a) "Support services" means services that directly assist in the delivery of emergency services. The term includes:

(A) directing traffic at an emergency scene;

(B) dispatching emergency services personnel;

(C) driving an emergency services vehicle;

(D) supplying or maintaining equipment at an emergency scene;

(E) providing essential recordkeeping for a participating department; and

(F) other similar services as determined by a participating department.

(12) "Volunteer" means a person who performs emergency services for civic, charitable, or humanitarian reasons, receives no monetary compensation from a participating department, and is not subject to the compensation requirements provided for employees by the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.).

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 697 (H.B. 2751), Sec. 1, eff. September 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.01, eff. June 14, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 4.01(2), eff. June 14, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 1, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 38(1), eff. September 1, 2019.

Sec. 861.002. PENSION SYSTEM. The pension system is a public entity. The Texas Emergency Services Retirement System is the name by which all its business shall be transacted, all its funds invested, and all its cash, securities, and other property held.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Sec. 861.003. POWERS AND PRIVILEGES. The pension system has the powers, privileges, and immunities of a corporation as well as the powers, privileges, and immunities conferred by this subtitle.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Sec. 861.004. EXEMPTION FROM EXECUTION. All benefit payments, contributions, money in the pension system fund, and rights accrued or accruing under this subtitle to any person are exempt from garnishment, attachment, state and local taxation, levies, and any other process and are unassignable.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Sec. 861.005. NO DIVERSION OF ASSETS. The fund must be maintained for the exclusive benefit of members, retirees, and their beneficiaries. At no time before the termination of the fund and the satisfaction of all liabilities with respect to members, retirees, and their beneficiaries may any part of the principal of or interest from fund assets be used for or diverted to a purpose other than the exclusive benefit of the members, retirees, and their beneficiaries.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Sec. 861.006. PLAN QUALIFICATION AND DISTRIBUTIONS. (a) The legislature intends that this subtitle be construed and administered in a manner so that the pension system's benefit plan will be considered a qualified plan under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401). The state board may adopt rules that modify the plan as necessary to meet those qualification requirements.

(b) Notwithstanding any other provision of this subtitle, all distributions under this subtitle must be made in accordance with applicable provisions of the Internal Revenue Code of 1986 and regulations adopted under that code.

(c) The state board by rule may authorize an eligible rollover distribution to be made in the form of a direct trustee-to-trustee transfer.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Sec. 861.007. FORFEITURE NOT TO INCREASE BENEFITS. A forfeiture that occurs under this subtitle may not be used to increase the benefits that any member would otherwise receive under this subtitle.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Sec. 861.008. IMMUNITY FROM LIABILITY. The state board, the

executive director, a local board, each participating department head, and employees of the pension system are not liable for any action taken or omission made or suffered by them in good faith in the performance of any duty or prerogative in connection with the administration of the pension system.

Added by Acts 2007, 80th Leg., R.S., Ch. 321 (H.B. 2400), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.02, eff. June 14, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 2, eff. September 1, 2019.

Sec. 861.009. VENUE. An action in state court by or against the pension system shall be brought in Travis County.

Added by Acts 2007, 80th Leg., R.S., Ch. 321 (H.B. 2400), Sec. 1, eff. September 1, 2007.

CHAPTER 862. MEMBERSHIP

Sec. 862.001. PARTICIPATION BY DEPARTMENT. (a) For purposes of this section, "department" means a department or other organization that:

(1) performs emergency services, including a volunteer fire department, as defined by Section 614.101; and

(2) is not a for-profit entity.

(a-1) The governing body of a department may, in the manner provided for taking official action by the body, elect to participate in the pension system. The governing body of a department shall notify the executive director as soon as practicable of an election made under this subsection. Except as provided by Subsection (b), an election to participate under this subsection is irrevocable.

(b) The state board may adopt rules that allow the governing body of a participating department to revoke its election to participate in the pension system under Subsection (a-1) in a manner that maintains an actuarially sound pension system.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff.

September 1, 2005.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.03, eff. June 14, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 3, eff. September 1, 2019.

Sec. 862.002. MEMBERSHIP BY INDIVIDUAL. (a) Except as otherwise provided by this section and Section 862.0021, each person who performs emergency services or, subject to Section 862.0025, support services as a volunteer or employee of a participating department, regardless of whether the person receives compensation from the participating department for the services, is a member of the pension system.

(b) A person is not a member of the pension system if the person:

(1) is less than 18 years of age;

(2) is subject to a waiting period under Section 862.0021 for which the governing body of the political subdivision is not making contributions during the waiting period;

(3) does not receive a certification of physical fitness or assignment to perform support services under Section 862.003; or

(4) is a retiree, regardless of whether the person continues to perform emergency or support services for a department.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 321 (H.B. 2400), Sec. 2, eff. September 1, 2007.
Acts 2009, 81st Leg., R.S., Ch. 697 (H.B. 2751), Sec. 2, eff. September 1, 2009.
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 4, eff. September 1, 2019.

Sec. 862.0021. WAITING PERIOD BEFORE MEMBERSHIP. (a) A participating department may impose a waiting period for a person who is eligible to perform or who is training to perform emergency

services or, subject to Section 862.0025, support services as a volunteer or employee of the department during which time the department is not required to enroll the person as a member of the pension system.

(b) A waiting period imposed under this section must end not later than six months after the date the person begins service or training with the participating department.

(c) The governing body of a political subdivision may, but is not required to, pay contributions for the person during the waiting period.

(d) A person's membership in the pension system begins on the date that the governing body of a political subdivision begins payment of contributions for that person, without regard to whether the:

(1) person's membership in the pension system is subject to a waiting period under this section; or

(2) person is subject to a probationary period imposed by a participating department for other purposes.

Added by Acts 2007, 80th Leg., R.S., Ch. 321 (H.B. 2400), Sec. 3, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 5, eff. September 1, 2019.

Sec. 862.0025. MEMBERSHIP BY SUPPORT STAFF. (a) Except as provided by Subsection (b), the governing body of a participating department may, at any time, make an election to include all persons who provide support services for the department as members of the pension system. An election under this section takes effect on the first day of the calendar month that begins after the month in which the election is made and communicated to the executive director. Once made, an election under this section is irrevocable.

(b) If a participating department has, before September 1, 2009, enrolled persons who perform support services for the department as members of the pension system, all persons who perform those services for the department are members of the system.

(c) After an election under this section, a participating department that previously did not enroll its support staff as

members of the pension system may purchase service credit for service performed before the date of the election under the terms required for prior service credit for service before departmental participation under Section 863.004.

Added by Acts 2009, 81st Leg., R.S., Ch. 697 (H.B. 2751), Sec. 3, eff. September 1, 2009.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.04, eff. June 14, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 6, eff. September 1, 2019.

Sec. 862.003. CERTIFICATION OF PHYSICAL FITNESS. (a) A person who performs emergency services for a participating department shall present to the participating department head a certification of physical fitness by a qualified physician.

(b) If a participating department provides membership to a person who performs support services under Section 862.0025, the participating department head shall assign a person to perform support services if the person:

(1) does not present an acceptable certification under Subsection (a); or

(2) will only perform support services for the department.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 697 (H.B. 2751), Sec. 4, eff. September 1, 2009.
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 7, eff. September 1, 2019.

Sec. 862.004. DEPARTMENTAL ELECTIONS AND MERGERS. The state board may adopt rules for governing body elections under Section 862.001 or for the merger of existing pension plans into the pension system.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff.

September 1, 2005.

CHAPTER 863. CREDITABLE SERVICE

Sec. 863.001. CREDIT FOR CURRENT SERVICE. A member is entitled to receive credit in the pension system for each month of qualified service for which the system receives the contributions required by this subtitle.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Sec. 863.002. CREDIT FOR MILITARY SERVICE. The pension system shall grant credit for qualified service for military duty in accordance with Section 414(u) of the Internal Revenue Code of 1986 (26 U.S.C. Section 414(u)) and other applicable federal law.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Sec. 863.003. RECOGNITION OF PRIOR SERVICE CREDIT. A member who terminates service, except by service retirement under Chapter 864, and later resumes service with the same participating department or begins service with another participating department may receive service credit for all previously accrued service credit in the pension system earned for service with any participating department.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 8, eff. September 1, 2019.

Sec. 863.004. PRIOR SERVICE OF MEMBER BEFORE DEPARTMENTAL PARTICIPATION. The state board by rule may authorize the granting of credit for service with a participating department that was performed before the date the department began participation in the pension system. The costs of granting prior service credit under this

section must be determined on a basis that maintains the pension system as actuarially sound.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Sec. 863.0045. SERVICE CREDIT AND MEMBERSHIP IN MULTIPLE PUBLIC RETIREMENT SYSTEMS. In accordance with Section 67(a)(2), Article XVI, Texas Constitution, a person may not earn service credit for the same service with the pension system and another public retirement system.

Added by Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 9, eff. September 1, 2019.

Sec. 863.005. CHARGE FOR CERTAIN PAST DUE CONTRIBUTIONS. The state board by rule may impose an interest charge on contributions due because of a correction of an error related to enrollment or qualified service. The charge must be based on the pension system's current assumed rate of return. Charges collected shall be deposited in the fund.

Added by Acts 2009, 81st Leg., R.S., Ch. 697 (H.B. 2751), Sec. 5, eff. September 1, 2009.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 10, eff. September 1, 2019.

CHAPTER 864. BENEFITS

Sec. 864.001. ELIGIBILITY FOR SERVICE RETIREMENT ANNUITY. (a) The state board by rule shall determine the period of qualified service and, if appropriate, the age required for a member to receive a service retirement annuity with full benefits after the member terminates service with a participating department. The state board by rule may provide for partial vesting of benefits after a particular period.

(b) The state board may change the benefit formula for any person who is not a retiree of the pension system.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 11, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2065, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 864.002. SERVICE RETIREMENT ANNUITY. (a) A service retirement annuity is payable in monthly installments based on:

(1) the average monthly contribution during the member's term of qualified service with all participating departments under this subtitle, not including a contribution to reduce the unfunded accrued actuarial liability of the pension system; and

(2) a formula adopted by the state board by rule that allows the pension system, assuming maximum state contributions are provided under Section 865.015, to be maintained as actuarially sound.

(b) The state board by rule may provide, for each year of qualified service in excess of the period provided under Section 864.001 for full benefits, an additional amount that is a percentage of the person's monthly pension, compounded annually. A person may receive a proportional credit for months of qualified service that make up less than a year.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 12, eff. September 1, 2019.

Sec. 864.004. TEMPORARY DISABILITY RETIREMENT BENEFITS. (a) A member is entitled to disability retirement benefits from the pension system only if a local board determines that the member became disabled during the performance of emergency services or support services and is unable to return to work at the member's regular occupation or, if the member is a student, is unable to return to the

member's scholastic studies. A disabled member must, at the time of disability, elect between a service retirement annuity or disability retirement benefits, if eligible for both.

(b) Subject to Subsection (c), a member described by Subsection (a) who does not elect to receive a service retirement annuity is entitled to a temporary disability retirement benefit of:

(1) $300 per month; or

(2) a greater amount that the state board by rule adopts based on the monthly contributions made for the members by the governing body of the political subdivision.

(c) Except as provided by Section 864.005, a temporary disability retirement benefit under Subsection (b) must cease on the expiration of a period, not to exceed one year, determined to be the likely duration of the disability by a physician in a written statement to the local board. The local board shall select the physician making a determination under this subsection.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 321 (H.B. 2400), Sec. 4, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 13, eff. September 1, 2019.

Sec. 864.005. CERTIFICATION AND CONTINUANCE OF DISABILITY.

(a) A local board may require a member who is receiving a temporary disability retirement benefit to file a disability rating report every three months from a physician chosen by the local board. If a report indicates a significant improvement in condition, the local board, after notice and a hearing, may adopt an order to terminate temporary disability retirement benefit payments. The local board shall send a copy of each order adopted under this subsection to the executive director.

(b) Temporary disability benefits cease if:

(1) the recipient returns to work at the person's regular occupation, resumes scholastic studies, or performs emergency services or support services for any participating department or other entity; or

(2) the local board adopts an order under Subsection (d).

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 38(3), eff. September 1, 2019.

(d) If the local board has reason to believe that a ground for termination of temporary disability retirement benefits exists, the local board may set a date for a hearing on the matter. The local board, after notice and a hearing, may adopt an order terminating temporary disability retirement benefits if the local board determines that a ground for termination exists. The local board may not adopt an order under this subsection on the basis of a physician's previously submitted statement as to the likely duration of the disability if the local board determines, after a hearing, that the disability continues. The local board shall send a copy of each order adopted under this subsection to the executive director.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 38(3), eff. September 1, 2019.

(f) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 38(3), eff. September 1, 2019.

(g) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 38(3), eff. September 1, 2019.

(h) A local board may require financial information from a person as a condition to the continued receipt of temporary disability retirement benefits, including federal income tax returns and wage earning forms. Failure to timely provide requested information is a ground for terminating benefits.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 321 (H.B. 2400), Sec. 4, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.05, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 14, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 38(3), eff. September 1, 2019.

Sec. 864.0051. CONTINUING DISABILITY RETIREMENT BENEFITS. (a)

To receive disability retirement benefits in the form of a continuing annuity provided beyond the time prescribed under Section 864.005, a person who has been determined by a local board to be temporarily disabled must:

(1) not later than the first anniversary of the date the person was determined to be temporarily disabled, apply to the state board in the manner and form prescribed by the state board; and

(2) be certified by the medical board designated by the state board under Section 865.020 as permanently disabled for the performance of the duties of any occupation:

(A) for which the person is reasonably suited by education, training, and experience; and

(B) that could reasonably be expected to provide the person with at least 75 percent of the salary the person was earning at the time the disability occurred.

(b) The amount of a continuing disability retirement annuity under this section is determined in the same manner as for a temporary disability retirement benefit under Section 864.004(b).

(c) Except as otherwise provided by this section, a continuing disability retirement annuity terminates on the fifth anniversary of the date that payment of the continuing disability retirement annuity begins following the certification of the continuation of the disability under Subsection (a).

(d) To continue receiving payments of a continuing disability retirement annuity after the fifth anniversary, the retiree must be recertified as permanently disabled by the medical board every five years using the same standard prescribed by Subsection (a)(2).

(e) Payments of a continuing disability retirement annuity to a retiree certified by the medical board as permanently disabled under Subsection (a) or (d) shall cease if the retiree:

(1) returns to work at any occupation that provides the person with at least 75 percent of the salary the person was earning at the time the disability occurred;

(2) performs emergency services or support services for any participating department; or

(3) rejects a suitable offer of employment, as determined by the local board.

(f) If the state board has reason to believe that a ground for termination of a continuing disability retirement annuity exists, the state board shall set a date for a hearing on the continuation or

termination of the annuity. If the state board determines that a ground for termination exists, the state board, after notice and a hearing, shall adopt an order terminating the continuing disability retirement annuity.

(g) The state board may require financial information, including federal income tax returns and wage earning forms, from a retiree as a condition of the continued receipt of continuing disability retirement benefits. Failure to timely provide requested information is a ground for terminating benefits.

Added by Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 15, eff. September 1, 2019.

Sec. 864.006. MEMBER SERVICE DEATH BENEFITS. (a) The surviving spouse and dependents of a member who dies as a result of performing emergency services or support services are entitled to receive in equal shares a death benefit annuity equal to the service retirement annuity that the decedent would have been entitled to receive if the decedent had been able to retire, vested at 100 percent, on the date of the decedent's death.

(b) The beneficiary of a member who dies as a result of performing emergency services or support services is entitled to a lump-sum benefit of $5,000 or a greater amount that the state board provides by rule.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 321 (H.B. 2400), Sec. 5, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 16, eff. September 1, 2019.

Sec. 864.007. MEMBER NONSERVICE DEATH BENEFIT. (a) The state board by rule may provide one or more beneficiaries of a deceased member whose death did not result from the performance of emergency services or support services a benefit, which may be a lump-sum amount or an annuity.

(b) A rule adopted under this section must include the type of

eligible recipient of the benefit, including any service or age requirement, and the method of calculating the amount of the benefit. A rule may include any other terms the state board considers appropriate.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 321 (H.B. 2400), Sec. 6, eff. September 1, 2007.
Acts 2009, 81st Leg., R.S., Ch. 697 (H.B. 2751), Sec. 6, eff. September 1, 2009.
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 17, eff. September 1, 2019.

Sec. 864.009. RETIREE DEATH BENEFIT ANNUITY. The surviving spouse of a person who dies after retirement is entitled to two-thirds of the monthly annuity the decedent was receiving at the time of death.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Sec. 864.010. BENEFITS FOR MEMBERS AND RETIREES OF DEPARTMENT THAT WITHDRAWS FROM PARTICIPATION OR CEASES TO EXIST. (a) The executive director shall continue to administer benefits of the pension system for members and retirees who performed emergency services or support services for a formerly participating department that has withdrawn from participation in the pension system or has ceased to exist.

(b) The governing body of a political subdivision shall perform the duties required of a local board for the members and retirees who served for the formerly participating department. The state board may by rule:

(1) provide a procedure under which the governing body of a department may delegate its duties under this subsection to the executive director; or

(2) appoint the executive director to perform the duties of a governing body of a political subdivision if the governing body

fails to perform or delegate its duties under this subsection within a prescribed period of time.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.06, eff. June 14, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 18, eff. September 1, 2019.

Sec. 864.011. FIRST PAYMENT OF RETIREMENT OR DEATH BENEFIT ANNUITY. The cashing or depositing of the first payment of a service retirement annuity, disability retirement annuity, or death benefit annuity by a person entitled to it, or the receipt by a financial institution for credit to that person's account of a transfer of funds by the pension system through electronic means, is considered acceptance of the amount of the annuity and of the amount of qualified service of the person on whose service the annuity is based.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 321 (H.B. 2400), Sec. 6, eff. September 1, 2007.
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 19, eff. September 1, 2019.

Sec. 864.012. CERTAIN BENEFICIARIES. (a) If a member names more than one beneficiary for a lump-sum death benefit, the pension system shall divide the benefit equally among the named beneficiaries or, if the member has designated a proportional division, each beneficiary is entitled to the proportion designated.
(b) Except as provided by Subsection (a), lump-sum death benefits are subject to the laws of descent and distribution if the decedent has not provided for testamentary disposition.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff.

September 1, 2005.

Sec. 864.013. COST-OF-LIVING INCREASE. The state board by rule may provide a cost-of-living increase for any benefit provided by the pension system. If benefits are increased, the state board shall require an increase in monthly contributions if necessary to maintain an actuarially sound pension system.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 20, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2065, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 864.0135. OPTIONAL ANNUITY INCREASE OR SUPPLEMENTAL PAYMENTS. (a) The state board by rule may authorize the governing body of a participating department to:

(1) make one or more supplemental payments to its retirees and beneficiaries of the pension system; or

(2) provide an increase in the amount of annuities paid to retirees and beneficiaries of the pension system.

(b) The governing body of a participating department that elects an option under a rule adopted under this section shall fund all increased benefits that are provided to its retirees and beneficiaries of the pension system under the option.

Added by Acts 2007, 80th Leg., R.S., Ch. 321 (H.B. 2400), Sec. 7, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 21, eff. September 1, 2019.

Sec. 864.014. STATE BOARD AUTHORITY FOR LUMP-SUM PAYMENTS. In lieu of any annuity otherwise payable under this subtitle, the state

board by rule may provide for a lump-sum payment if the board determines that a lump-sum payment is cost-efficient or is necessary for the pension system to remain actuarially sound.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Sec. 864.015. BENEFICIARY CAUSING DEATH OF MEMBER OR RETIREE. (a) A benefit payable on the death of a member or retiree may not be paid to a person convicted of causing that death but instead is payable as if the convicted person had predeceased the decedent.

(b) The pension system is not required to change the recipient of benefits under this section unless it receives actual notice of the conviction of a beneficiary. The system may delay payment of a benefit payable on the death of a member or retiree pending the results of a criminal investigation and of legal proceedings relating to the cause of death.

(c) The pension system is not liable for any benefit paid to a convicted person before the date the system receives actual notice of the conviction, and any payment made before that date is a complete discharge of the system's obligation with regard to that benefit payment. The convicted person holds all payments received in constructive trust for the rightful recipient.

(d) For the purposes of this section, a person has been convicted of causing the death of a member or retiree if the person:

(1) pleads guilty or nolo contendere to, or is found guilty by a court of, an offense at the trial of which it is established that the person's intentional, knowing, or reckless act or omission resulted in the death of a person who was a member or retiree, regardless of whether sentence is imposed or probated; and

(2) has no appeal of the conviction pending and the time provided for appeal has expired.

Added by Acts 2009, 81st Leg., R.S., Ch. 697 (H.B. 2751), Sec. 7, eff. September 1, 2009.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 22, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 23, eff. September 1, 2019.

Sec. 864.016. CLAIM AND APPEAL PROCEDURE. (a) An application for disability retirement benefits or a death benefit must be filed with the local board. On receiving an application under this subsection, the local board shall hold a hearing to decide the merits of the application and whether to approve or deny the application. The local board shall send a written copy of its decision to the claimant, the applicant, and the executive director.

(a-1) A claim for a service retirement annuity must be filed with the executive director.

(b) A person aggrieved by a decision of a local board or of the executive director relating to eligibility for or the amount of benefits under this subtitle may appeal the decision to the state board.

(c) An appeal of a local board or executive director decision under this section is begun by delivering a notice of appeal to the presiding officer or secretary of the local board that made the decision or to the executive director, as applicable. The notice must be delivered not later than the 20th day after the date of the decision and contain a brief description of the reasons for the appeal. The aggrieved person must file a copy of the notice with the state board.

(d) An appeal of a local board or executive director decision under this section is held in Austin and is a contested case under Chapter 2001, conducted as a de novo hearing by the State Office of Administrative Hearings.

(e) After a hearing under Subsection (d), the state board shall decide each appeal from a local board or executive director decision, issue a written opinion, and notify the local board or executive director, as applicable, and the claimant if the state board overrules the decision.

(f) A final decision of the state board under this section is subject to judicial review under Chapter 2001. The standard of review is by substantial evidence. Venue of the appeal is only in a district court in Travis County.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 321 (H.B. 2400), Sec. 8, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.07, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 24, eff. September 1, 2019.

CHAPTER 865. ADMINISTRATION

Sec. 865.001. COMPOSITION OF STATE BOARD. (a) The state board of the pension system is composed of nine members appointed by the governor for staggered terms of six years, with the terms of three trustees expiring on September 1 of each odd-numbered year.

(b) Except as provided by Subsection (b-1), at least five trustees must be active members of the pension system, one of whom must represent emergency medical services personnel.

(b-1) If there are no participating departments in the pension system that provide emergency medical services, the governor is not required to appoint a trustee to represent emergency medical services personnel.

(c) One trustee may be a retiree of the pension system.

(d) Three trustees must be persons who have experience in the fields of finance, securities investment, or pension administration.

(e) Appointments to the state board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 697 (H.B. 2751), Sec. 9, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.08, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 25, eff. September 1, 2019.

Sec. 865.0011. SUNSET REVIEW. The state board of the pension system is subject to review under Chapter 325 (Texas Sunset Act) but

is not abolished under that chapter. The state board shall be reviewed during the period in which state agencies scheduled to be abolished in 2029, and every 12th year after that year, are reviewed.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.09, eff. June 14, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 5.01, eff. June 10, 2019.

Sec. 865.002. INELIGIBILITY OF CERTAIN EMPLOYEES FOR STATE BOARD. (a) A person is not eligible for appointment to the state board if the person or the person's spouse is employed by or participates in the management of a business entity or other organization regulated by or receiving funds from the state board or the fund.

(b) A person may not serve as a trustee of the state board or act as the general counsel to the state board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business or an association related to the operation of the state board.

(c) A person may not be a trustee or an employee of the pension system employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of emergency services, including firefighting, or public retirement systems; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of emergency services, including firefighting, or public retirement systems.

(d) In this section, a Texas trade association means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(e) A person may not serve as a trustee or act as the general

counsel to the state board or the pension system if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business or an association related to the operation of the state board.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.10, eff. June 14, 2013.

Sec. 865.003. COMPENSATION; EXPENSES. Trustees of the state board serve without compensation but may be reimbursed for actual and necessary expenses incurred in performing state board functions.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Sec. 865.0035. STATE BOARD MEMBER TRAINING. (a) A person who is appointed to and qualifies for office as a member of the state board may not vote, deliberate, or be counted as a member in attendance at a meeting of the state board until the person completes a training program that complies with this section.

(b) A training program must provide the person with information regarding:

(1) this subtitle;

(2) the programs, functions, rules, and budget of the pension system;

(3) the results of the most recent formal audit of the system;

(4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(5) any applicable ethics policies adopted by the system or the Texas Ethics Commission.

(c) A person appointed to the state board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the

person qualifies for office.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.11, eff. June 14, 2013.

Sec. 865.004. VOTING. (a) Each trustee of the state board is entitled to one vote. Except as provided by Subsection (b), at any meeting of the state board, a vote by a majority of the trustees present is necessary for a decision by the trustees.

(b) The concurrence of a majority of the members of the state board is required for a vote regarding:

(1) eligibility for service retirement described by Section 864.001;

(2) the computation of a service retirement annuity described by Section 864.002;

(3) a cost-of-living increase described by Section 864.013; or

(4) a lump-sum payment adopted under Section 864.014.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Sec. 865.005. GROUNDS FOR REMOVAL OF TRUSTEES. (a) It is a ground for removal from the state board that a trustee:

(1) does not have at the time of appointment the qualifications required by Section 865.001;

(2) does not maintain during service on the state board the qualifications required by Section 865.001;

(3) violates a prohibition established by Section 865.002;

(4) cannot discharge the person's duties for a substantial part of the term for which the person is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled state board meetings that the trustee is eligible to attend during a calendar year unless the absence is excused by a majority vote of the state board.

(b) The validity of an action of the state board is not affected by the fact that it is taken when a ground for removal of a trustee exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the state board of the ground. The presiding officer shall then notify the governor that a potential ground for removal exists.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.12, eff. June 14, 2013.

Sec. 865.006. GENERAL DUTIES OF STATE BOARD. (a) The state board shall employ a certified public accountant, an actuary, and an investment consultant for the fund and may acquire computer, custodial, or investment management services for the fund. The costs of accounting, actuarial, investment consulting, computer, custodial, or investment management services and other administrative expenses may be paid from income earned by investment of the fund. No portion of the corpus or income of the fund may be used for purposes other than the benefit of members, retirees, and their beneficiaries.

(b) The state board shall adopt rules necessary for the administration of the fund. The state board shall adopt rules to provide a proration of the requirements for qualified service for a member who performs service for only a portion of a calendar year and may provide by rule for the manner in which member attendance or training hours are to be computed.

(c) The state board shall develop and implement policies that:

(1) clearly separate the policy-making responsibilities of the state board and the management responsibilities of the executive director and the staff of the pension system; and

(2) provide the public with a reasonable opportunity to appear before the state board and to speak on any issue under the jurisdiction of the state board.

(d) The state board is responsible for seeking and recovering any benefits fraudulently acquired from the pension system. If the state board suspects fraud has occurred, the state board shall notify the appropriate local board and the benefit recipient and hold a hearing to determine whether fraud has occurred. If, after the

hearing, the state board determines that benefits from the pension system have been or are being fraudulently acquired, the state board shall seek appropriate relief.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.13, eff. June 14, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 26, eff. September 1, 2019.

Sec. 865.0061. WRITTEN POLICY ON MANAGING AND ADMINISTERING CONTRACTS. The state board shall adopt a written policy, including procedures, to guide staff in managing and administering contracts entered into by or on behalf of the pension system. The written policy adopted under this section must, at a minimum:

(1) address how the pension system:

(A) plans for contracting needs and develops solicitation documents;

(B) reviews, evaluates, and awards contract proposals;

(C) manages and approves contract changes;

(D) identifies performance issues and resolves contract disputes;

(E) monitors contract expenditures; and

(F) closes out contracts; and

(2) require the pension system to maintain a central location for filing contracts and information related to contracts entered into by or on behalf of the pension system.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.14, eff. June 14, 2013.

Sec. 865.007. ADMINISTERING SYSTEM ASSETS. (a) The state board shall administer all assets of the pension system. The state board is the trustee of the pension system's assets.

(b) The state board may acquire, hold, manage, purchase, sell, assign, trade, transfer, and dispose of any security, evidence of debt, or other investment in which the pension system's assets may be

invested.

(c) The state board or the executive director may accept on behalf of the pension system gifts of money or other property from any public or private source. Money received under this subsection shall be deposited into the fund.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.15, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 27, eff. September 1, 2019.

Sec. 865.008. INVESTMENT OF ASSETS. (a) If a surplus exists in the fund over the amount necessary to pay benefits due for a reasonable period of time, the state board shall invest the surplus.

(b) The assets of the pension system shall be invested and reinvested in accordance with Section 67, Article XVI, Texas Constitution. A determination of whether the state board has exercised prudence with respect to an investment decision must be made, taking into consideration the investment of all assets of the trust over which the state board has management and control rather than considering the prudence of a single investment.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Sec. 865.009. TRUST FUND. The Texas emergency services retirement fund is a trust fund established with the comptroller.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Sec. 865.0095. EXECUTIVE DIRECTOR. (a) The state board, by a majority vote of all members, shall appoint a person other than a member of the state board to serve at the state board's will as executive director.

(b) To be eligible to serve as the executive director, a person must:

(1) be a citizen of the United States; and

(2) have executive ability and experience necessary to conduct the duties of executive director.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.16, eff. June 14, 2013.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 28, eff. September 1, 2019.

Sec. 865.010. EXECUTIVE DIRECTOR'S DUTIES. (a) The executive director shall oversee the distribution of all benefits.

(b) The executive director shall collect the revenues for the fund from the governing bodies of participating departments.

(c) The executive director may request and administer state funds appropriated by the legislature in addition to those required by this subtitle.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 38(4), eff. September 1, 2019.

(e) Not later than the 30th day after the date the executive director receives from a participating department head notice of a change in the membership records of the participating department, the executive director shall notify the presiding officer of the local board of the participating department of the change.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 321 (H.B. 2400), Sec. 9, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.17, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 29, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 38(4), eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2065, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 865.011. RECORDS AND REPORTS. (a) The executive director may at any reasonable time examine the:

(1) records and accounts of a local board; and

(2) membership records of a participating department head.

(b) The executive director shall:

(1) require in a timely manner periodic reports from participating department heads and local boards; and

(2) prepare necessary forms for use by participating departments and local boards.

(c) The executive director shall prepare an annual report on the activity and status of the fund and submit the report to the governor, the lieutenant governor, and the speaker of the house of representatives.

(d) The state board shall electronically submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, the Legislative Budget Board, and the State Pension Review Board if:

(1) as a result of an event or action, there is a significant change to the actuarial valuation of the pension system's assets or liabilities, including the extent to which the system's liabilities are unfunded;

(2) there is any change to the contributions made to or benefits paid from the system; or

(3) an actuarial valuation must be corrected or repeated because of the use of erroneous information or assumptions used in the valuation.

(e) A report submitted under Subsection (d)(1) must include and consider the effect alternative contributions and benefit structures would have on the actuarial valuation of the system, including changes in the state's contribution under Section 865.015, as well as state funding of administrative expenses.

(f) The state board shall determine the meaning of "significant change" for purposes of Subsection (d)(1), which must include circumstances in which there is an increase in the time required to amortize the unfunded liabilities of the pension system to a period that exceeds 30 years, assuming a maximum state contribution under Section 865.015.

(g) A report required under Subsection (d) may be combined with any other report required by this chapter or other law.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.17, eff. June 14, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 30, eff. September 1, 2019.

Sec. 865.0115. PARTICIPATING DEPARTMENT HEAD. (a) Except as provided by Subsection (b), the chief, designated leader, or other executive head of a participating department is the participating department head.
(b) Subject to the approval of the executive director, the governing body of a participating department may designate a participating department head.

Added by Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 31, eff. September 1, 2019.

Sec. 865.0116. PARTICIPATING DEPARTMENT HEAD'S DUTIES. The participating department head:
(1) is responsible for:
(A) enrolling new members in the pension system; and
(B) maintaining current and accurate membership records; and
(2) shall provide information to the pension system related to changes in the membership records of the participating department in the time and manner prescribed by the pension system.

Added by Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 31, eff. September 1, 2019.

Sec. 865.012. LOCAL BOARD. (a) A local board is composed of:
(1) one trustee selected by the governing body of the political subdivision;

(2) except as provided by Subsection (a-1), three trustees who are active members representing a participating department chosen by a majority of the members in the department; and

(3) two trustees who are representatives of the political subdivision or unit of government who are chosen by the other members of the local board.

(a-1) If a participating department does not have a sufficient number of active members to serve on a local board under Subsection (a)(2), the other members of the local board, or if there are no other members of the local board, the governing body of the political subdivision shall select one or more trustees to serve under that subsection. A person selected under this subsection to serve as a trustee must be:

(1) a retiree of the pension system; or

(2) a beneficiary of the pension system who is the surviving spouse of a former member or retiree.

(b) Trustees of a local board serve staggered two-year terms. At the first meeting of a local board, the trustees shall draw lots to determine the length of the term to be served, with the terms of two trustees to be two years and the terms of two trustees to be one year. The first appointments of trustees appointed by other members of the local board are to be one trustee for a two-year term and one trustee for a one-year term.

(c) A local board shall hold not fewer than two meetings a year under Chapter 551.

(d) A vacancy on a local board is filled for the remainder of the unexpired term by the procedure by which the position was originally filled.

(e) A local board shall elect a presiding officer from the trustees at its first meeting.

(f) At any meeting of a local board, a vote by a majority of the trustees present is necessary for a decision by the trustees.

(g) A trustee of a local board may not receive compensation for service as a trustee but may be reimbursed by the governing body of a participating department for actual and necessary expenses incurred in performing local board functions.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 291 (H.B. 1725), Sec. 1, eff. June 1, 2015.
Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 32, eff. September 1, 2019.

Sec. 865.0121. DELEGATION OF LOCAL BOARD DUTIES. The state board by rule may adopt a procedure by which the duties of a local board may be delegated to the executive director if:

(1) trustees of the local board have not been appointed under Section 865.012(a) or (a-1); or

(2) the local board fails to perform its duties under this subtitle within a reasonable time, as determined by the board, including failure to hold the minimum number of meetings each year required by Section 865.012(c).

Added by Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 33, eff. September 1, 2019.

Sec. 865.013. MONITORING OF CONTRIBUTION SUBMISSION. A local board shall monitor the timely submission of required contributions to the executive director.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.17, eff. June 14, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2065, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 865.014. LOCAL CONTRIBUTIONS. (a) The governing body of a political subdivision shall contribute for each member performing emergency services or support services for the participating department for each month of service beginning on the date that the member enters the pension system at a rate determined in accordance with Subsection (b) and may make additional contributions as

determined by the governing body of the political subdivision. The pension system may collect from the governing body of the political subdivision any contributions the governing body fails to make under this section and associated interest accrued in accordance with Subsection (c). The pension system shall deposit interest collected under this section into the fund.

(b) The state board by rule shall determine the minimum, and may determine a maximum, contribution for each member of a participating department for each month of qualified service at a rate the state board determines necessary, after consultation with the actuary, to make the pension system actuarially sound.

(c) Contributions required as provided by this section shall be paid at the times and in the manner that the state board prescribes by rule. Contributions required by this section shall be submitted by electronic funds transfer, by wire transfer, or as an automated clearinghouse withdrawal (ACH debit) unless the executive director grants an exception based on the difficulty of the use of those payment methods. Contributions that are not paid within the time required by the state board accrue interest at the most recent assumed actuarial rate of return on investments of the fund.

(d) The state board may by rule require a monthly contribution be made by the governing bodies of political subdivisions that do not participate in the pension system but whose employees or former employees are members or retirees of the pension system in an amount necessary to pay the expenses of administering benefits for those persons.

(e) The attorney general may file suit to collect unpaid accrued interest. Interest recovered shall be deposited in the fund.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.18, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 290 (H.B. 1707), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 34, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2065, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 865.015. STATE CONTRIBUTIONS. The state shall contribute the amount necessary to make the pension system actuarially sound each year, except that the state's contribution may not exceed one-third of the total of all contributions by governing bodies in a particular year.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Sec. 865.016. ADMINISTRATIVE PENALTY. (a) The state board may impose an administrative penalty on a local board that fails to file a required report in a timely manner.

(b) The amount of the penalty may not exceed $5,000. The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the history of previous violations;

(3) the amount necessary to deter a future violation;

(4) efforts to correct the violation; and

(5) any other matter that justice may require.

(c) The state board may adopt rules for determining the amount of a penalty.

(d) The enforcement of the penalty may be stayed during the time the order is under judicial review if the person pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A person who cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the state board to contest the affidavit as provided by those rules.

(e) The attorney general may file suit to collect the penalty. Penalties recovered will be deposited in the fund.

(f) A proceeding to impose the penalty is considered to be a contested case under Chapter 2001.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff.

September 1, 2005.

Sec. 865.017. INTERRUPTION OF PAYMENTS. (a) The pension system shall withhold payment of a monthly retirement annuity if a participating department attempts to provide information to the executive director relating to continued eligibility to receive the payments and the recipient fails to cooperate or provide the requested information. The state board may adopt rules to enforce this subsection.

(b) The pension system may not begin service or disability retirement annuity or death benefit payments based on the service of a person whose local board or participating department head is not current in its filing of a required periodic report.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.19, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 35, eff. September 1, 2019.

Sec. 865.018. CERTIFICATION OF FUND. (a) In this section, "qualified actuary" means a fellow of the Society of Actuaries or a member of the American Academy of Actuaries who has at least five years of experience with public retirement systems.

(b) The executive director and the state board shall certify the actuarial and financial soundness of the fund every two years with the assistance of a qualified actuary.

(c) An actuarial valuation conducted under this section must include:

(1) an analysis clearly shown in the valuation based on each of the following assumptions:

(A) no state contribution to the fund, including no state funding of administrative expenses; and

(B) a maximum state contribution to the fund, including state funding of administrative expenses; and

(2) the number of years required to amortize the unfunded

actuarial liabilities of the pension system under each assumption under Subdivision (1).

(d) At least once every five years, the state board, with the assistance of the actuary, shall:

(1) audit the actuarial valuation required under this section; and

(2) conduct an actuarial experience study, the contents of which are determined by the state board in consultation with the actuary.

(e) The actuarial valuation and experience study required under Subsection (d) are not required to be conducted concurrently.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.20, eff. June 14, 2013.

Sec. 865.019. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS, RETIREES, AND BENEFICIARIES. (a) Information contained in records that are in the custody of the pension system concerning an individual member, retiree, or beneficiary is confidential under Section 552.101 and may not be disclosed in a form identifiable with a specific individual unless:

(1) the information is disclosed to:

(A) the individual or the individual's attorney, guardian, executor, administrator, conservator, or other person who the executive director determines is acting in the interest of the individual or the individual's estate;

(B) a spouse or former spouse of the individual after the executive director determines that the information is relevant to the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the pension system;

(C) a governmental official or employee after the executive director determines that disclosure of the information requested is reasonably necessary to the performance of the duties of the official or employee; or

(D) a person authorized by the individual in writing to receive the information; or

(2) the information is disclosed under a subpoena and the executive director determines that the individual will have a reasonable opportunity to contest the subpoena.

(b) This section does not prevent the disclosure of the status or identity of an individual as a member, former member, retiree, deceased member or retiree, or beneficiary of the pension system.

(c) The executive director may designate other employees of the pension system to make the necessary determinations under Subsection (a).

(d) A determination and disclosure under Subsection (a) may be made without notice to the individual member, retiree, or beneficiary.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.21, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 36, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 37, eff. September 1, 2019.

Sec. 865.020. MEDICAL BOARD. (a) The state board shall designate a medical board composed of three physicians.

(b) To be eligible to serve as a member of the medical board, a physician must be licensed to practice medicine in the state and be of good standing in the medical profession. A physician who is eligible to participate in the pension system may not be a member of the medical board.

(c) The medical board shall:

(1) investigate essential statements and certificates made by or on behalf of a member of the pension system in connection with an application for disability retirement or, as requested by the executive director, with an application for an on-duty death benefit; and

(2) report in writing to the executive director its conclusions and recommendations on all matters referred to it.

(d) The medical board is not subject to subpoena regarding

findings it makes in assisting the executive director under this section, and its members may not be held liable for any opinions, conclusions, or recommendations made under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 697 (H.B. 2751), Sec. 8, eff. September 1, 2009.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.22, eff. June 14, 2013.

Sec. 865.021. COMPLAINT FILES. (a) The pension system shall maintain a system to promptly and efficiently act on complaints filed with the system. The system shall maintain information about:

(1) parties to the complaint;

(2) the subject matter of the complaint;

(3) a summary of the results of the review or investigation of the complaint; and

(4) the disposition of the complaint.

(b) The pension system shall make information available describing its procedures for complaint investigation and resolution.

(c) The pension system shall periodically notify the complaint parties of the status of the complaint until final disposition.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.23, eff. June 14, 2013.

TITLE 9. PUBLIC SECURITIES
SUBTITLE A. GENERAL PROVISIONS
CHAPTER 1201. PUBLIC SECURITY PROCEDURES ACT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1201.001. SHORT TITLE. This chapter may be cited as the Public Security Procedures Act.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.002. DEFINITIONS. In this chapter:

(1) "Issuer" means:

(A) an agency, authority, board, body politic,

department, district, instrumentality, municipal corporation, political subdivision, public corporation, or subdivision of this state; or

(B) a nonprofit corporation acting for or on behalf of an entity described by Paragraph (A).

(2) "Public security" means an instrument, including a bond, certificate, note, or other type of obligation authorized to be issued by an issuer under a statute, a municipal home-rule charter, or the constitution of this state.

(3) "Public security authorization" means a resolution, order, or ordinance that is approved or adopted, or any other action taken in a proceeding, by the governing body of an issuer in authorizing the issuance of a public security.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.003. APPLICABILITY. This chapter applies to:

(1) an original public security;

(2) a refunding public security;

(3) an exchanged or converted public security; or

(4) any combination of those securities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.004. CONSTRUCTION. This chapter shall be liberally construed to achieve the legislative intent and purposes of this chapter. A power granted by this chapter shall be broadly interpreted to achieve that intent and those purposes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.005. CONTENTS OF PUBLIC SECURITY AUTHORIZATION. To the extent applicable to an authorized public security, the public security authorization for the public security must contain each item or other matter authorized or described by Subchapter B and Sections 1201.061 and 1201.063.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. ISSUANCE AND APPROVAL OF PUBLIC SECURITY

Sec. 1201.021. CHARACTERISTICS OF PUBLIC SECURITY. A public security may:

(1) be issued in any denomination;

(2) bear no interest or bear interest at one or more specified rates;

(3) be issued with one or more interest coupons or without a coupon;

(4) be issued as redeemable before maturity at one or more specified times; and

(5) be payable:

(A) at one or more times;

(B) in installments or a specified amount or amounts;

(C) at a specified place or places;

(D) under specified terms; and

(E) in a specified form or manner.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.022. TERMS OF ISSUANCE. (a) A public security may be:

(1) issued singly or in a series;

(2) made payable in a specified amount or amounts or installments to:

(A) the bearer;

(B) a registered or named person;

(C) the order of a registered or named person; or

(D) a successor or assign of a registered or named person;

(3) issued to be sold:

(A) at a public or private sale; and

(B) under the terms determined by the governing body of the issuer to be in the issuer's best interests; and

(4) issued with other specified characteristics, on additional specified terms, or in a specified manner.

(b) The governing body of a county or municipality that issues bonds that are to be paid from ad valorem taxes may provide that the

bonds are to mature serially over a specified number of years, not to exceed 40.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 769, Sec. 1, eff. Sept. 1, 2001.

Sec. 1201.023. UNCERTIFICATED BOOK-ENTRY ISSUANCE. (a) The governing body of an issuer may provide for a book-entry record of ownership of a public security issued by the issuer. A public security may be issued in uncertificated book-entry form.

(b) The record of ownership of a public security issued in uncertificated book-entry form may be kept by the issuer or an agent of the issuer.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.024. FORM OF PUBLIC SECURITY. (a) A public security may be:

(1) issued in a specified form or forms;

(2) issued with one or more interest coupons;

(3) registrable as to principal and interest or only as to principal; and

(4) changed in form in a specific manner.

(b) A public security issued with one or more interest coupons may have:

(1) a specified form of a coupon; and

(2) a form of a coupon that may be changed in a specified manner.

(c) An issuer may provide that a public security:

(1) has a coupon and is not registrable;

(2) has a coupon and is registrable only as to principal;

(3) is fully registrable; or

(4) initially has a coupon but may become a fully registrable security under Section 1203.041.

(d) An issuer may provide that public securities of the same issue or series are:

(1) of one or more types described by Subsection (c); and

(2) exchangeable in whole or in part for one or more of those types.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.0245. CAPITAL APPRECIATION BONDS BY POLITICAL SUBDIVISIONS. (a) In this section, "capital appreciation bond" means a bond that accrues and compounds interest from its date of delivery, the interest on which by its terms is payable only upon maturity or prior redemption.

(b) A county, municipality, special district, school district, junior college district, or other political subdivision may not issue capital appreciation bonds that are secured by ad valorem taxes unless:

(1) the bonds have a scheduled maturity date that is not later than 20 years after the date of issuance;

(2) the governing body of the political subdivision has received a written estimate of the cost of the issuance, including:

(A) the amount of principal and interest to be paid until maturity;

(B) the amount of fees to be paid to outside vendors, including vendors who sell products to be financed by the bond issuance;

(C) the amount of fees to be paid to each financing team member; and

(D) the projected tax impact of the bonds and the assumptions on which the calculation of the projected tax impact is based;

(3) the governing body of the political subdivision has determined in writing whether any personal or financial relationship exists between the members of the governing body and any financial advisor, bond counsel, bond underwriter, or other professional associated with the bond issuance; and

(4) the governing body of the political subdivision posts prominently on the political subdivision's Internet website and enters in the minutes of the governing body:

(A) the total amount of the proposed bonds;

(B) the length of maturity of the proposed bonds;

(C) the projects to be financed with bond proceeds;

(D) the intended use of bond proceeds not spent after completion of the projects identified in Paragraph (C);

(E) the total amount of the political subdivision's

outstanding bonded indebtedness at the time of the election on the bonds, including the amount of principal and interest to be paid on existing bond indebtedness until maturity;

(F) the total amount of the political subdivision's outstanding bonded indebtedness, including the amount of principal and interest to be paid until maturity; and

(G) the information received under Subdivision (2) and determined under Subdivision (3).

(c) The governing body of a political subdivision that makes a determination that a personal or financial relationship described by Subsection (b)(3) exists shall submit the determination to the Texas Ethics Commission.

(d) The governing body of a political subdivision shall regularly update the debt information posted on the political subdivision's Internet website under Subsection (b)(4)(F) to ensure that the information is current and accurate.

(e) Capital appreciation bond proceeds may not be used to purchase the following items, unless an item has an expected useful life, determined based on the depreciable life of the asset under the Internal Revenue Code of 1986, that exceeds the bond's maturity date:

(1) items more regularly considered maintenance items, including replacement HVAC units, upgraded plumbing, or similar items; or

(2) transportation-related items, including buses.

(f) Capital appreciation bond proceeds unspent after completion of the project identified as the proceeds' intended use may be used only for a use identified on the political subdivision's website under Subsection (b)(4)(D), unless another use is approved by the voters of the political subdivision at an election held for that purpose.

(g) The total amount of capital appreciation bonds may not exceed 25 percent of the political subdivision's total outstanding bonded indebtedness at the time of the issuance, including the amount of principal and interest to be paid on the outstanding bonds until maturity.

(h) Except as provided by Subsection (i), a county, municipality, special district, school district, junior college district, or other political subdivision may not extend the maturity date of an issued capital appreciation bond, including through the issuance of refunding bonds that extend the maturity date.

(i) A political subdivision may extend the maturity date of an issued capital appreciation bond only if:

(1) the extension of the maturity date will decrease the total amount of projected principal and interest to maturity; or

(2) the political subdivision is a school district and:

(A) the maximum legally allowable tax rate for indebtedness has been adopted; and

(B) the Texas Education Agency certifies in writing that the solvency of the permanent school fund's bond guarantee program would be threatened without the extension.

(j) This section does not apply to the issuance of:

(1) refunding bonds under Chapter 1207; or

(2) capital appreciation bonds for the purpose of financing transportation projects.

Added by Acts 2015, 84th Leg., R.S., Ch. 991 (H.B. 114), Sec. 1, eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 529 (S.B. 295), Sec. 1, eff. September 1, 2017.

Sec. 1201.025. RATE OF INTEREST. (a) An interest rate on a public security that bears interest may be fixed, variable, floating, adjustable, or computed by another method.

(b) If an interest rate is not specified by the governing body of an issuer issuing a public security, the interest rate is determined by a formula or contractual arrangement for the periodic determination of the rate.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.001, eff. Sept. 1, 2001.

Sec. 1201.026. EXECUTION OF PUBLIC SECURITY OR INTEREST COUPON. (a) A public security or an interest coupon may be executed, with or without a seal, with a manual or facsimile signature.

(b) The signature on a public security or on an interest coupon of a person who is no longer an officer when the security or coupon is delivered to a purchaser is valid and sufficient for all purposes.

(c) A person's successor in office may complete the execution, authentication, or delivery of the public security or interest coupon.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.027. AUTHORITY OF ISSUER TO CONTRACT FOR SERVICES. (a) An issuer has exclusive authority to select, contract with, and determine the basis for compensation of a person to provide legal and other services as may be determined by the issuer to be necessary in connection with the issuer's issuance of public securities or administration of its affairs that pertain to the issuance of public securities. The selection of legal counsel shall be made in accordance with the provisions of Subchapter A, Chapter 2254, applicable to the selection by a governmental entity of a provider of professional engineering services.

(b) Subsection (a) does not impair the authority of the attorney general under Section 402.0212 to approve a contract for legal services entered into by a state agency.

(c) Except as provided by Subsection (b), to the extent of a conflict between this section and another law or a municipal charter, this section controls.

(d) An issuer of a state security, as defined by Section 1231.001, that selects or contracts with a person to provide services under Subsection (a) shall, on request, submit to the Bond Review Board:

(1) the request for proposals to provide the services not later than the date the request for proposals is published;

(2) each final proposal received to provide the services before a contract for the services is entered into by the issuer; and

(3) an executed contract entered into by an issuer for services under Subsection (a).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 991 (S.B. 1332), Sec. 1, eff. September 1, 2007.

Sec. 1201.028. SINGLE MEETING OF GOVERNING BODY SUFFICIENT. Notwithstanding any other law, including a provision in a municipal charter, the following actions taken at a meeting of the governing body of an issuer are effective immediately and a subsequent meeting is not required:

(1) a resolution, order, or ordinance calling an election to:

(A) authorize the issuance and sale of a public security; or

(B) approve the resources, revenue, or income of the issuer that may be pledged as security for a public security;

(2) a resolution, order, or ordinance canvassing the results of an election described by Subdivision (1); or

(3) a public security authorization.

Added by Acts 2001, 77th Leg., ch. 769, Sec. 2, eff. Sept. 1, 2001.

Sec. 1201.029. COMMISSIONS NOT TO BE PAID FROM PRINCIPAL. In a public or private sale of public securities the principal amount of which is limited by law, by voted authorization, or by other means, for purposes of determining whether the principal amount of the public securities that are issued exceeds the limitation, amounts produced by the initial purchaser through market pricing of the public securities when the public securities are resold by the initial purchaser are not considered proceeds of the issuer if the amounts constitute all or part of the compensation of the initial purchaser.

Added by Acts 2003, 78th Leg., ch. 1193, Sec. 1, eff. June 20, 2003.

SUBCHAPTER C. FINANCIAL ASPECTS OF PUBLIC SECURITY

Sec. 1201.041. PUBLIC SECURITY AS NEGOTIABLE INSTRUMENT AND INVESTMENT SECURITY. A public security is:

(1) a negotiable instrument;

(2) an investment security to which Chapter 8, Business & Commerce Code, applies; and

(3) a legal and authorized investment for:

(A) an insurance company;

(B) a fiduciary or trustee; or

(C) a sinking fund of a municipality or other political subdivision or public agency of this state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.042. USE OF CERTAIN PROCEEDS. (a) An issuer may use the proceeds of a public security issued to finance the acquisition, construction, or improvement of a project or facility to:

(1) pay interest on the public security while the project or facility is being acquired, constructed, or improved and for the year after it is acquired, constructed, or improved;

(2) operate and maintain the project or facility during the estimated period of acquisition, construction, or improvement of the project or facility and for one year after it is acquired, constructed, or improved;

(3) finance other funds relating to the public security, including debt service reserve and contingency; and

(4) pay the cost or expense of the issuance of the public security.

(b) To the extent and in the manner provided in a public security authorization, until the proceeds from a public security described by Subsection (a) are needed the proceeds may be:

(1) placed on time deposit; or

(2) invested in an obligation authorized for the investment of money of the issuer.

(c) Proceeds from the sale of a public security issued to finance the acquisition, construction, equipping, or furnishing of a project or facility may be used to reimburse the issuer for a cost that is:

(1) attributable to the project or facility; and

(2) paid or incurred before the date of the public security's issuance.

(d) An issuer may spend a premium received by the issuer as part of the purchase price of public securities sold at a public or private sale:

(1) to provide for payment of debt service on the public securities sold;

(2) to contribute to an escrow established to provide for payment of debt service on obligations being refunded through the

sale of the public securities;

(3) to pay the cost or expense of issuing the public securities; or

(4) to pay any other cost related to the purpose for which the public securities were issued, as specified in the public security authorization.

(e) Subsection (d)(4) does not authorize an issuer to spend money in an amount that exceeds limitations provided by other law or by the public security authorization.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 270, Sec. 1, eff. June 18, 2003.

Sec. 1201.043. USE OF INVESTMENT INCOME. An issuer authorized to invest proceeds from the sale of a public security, including by placing the proceeds on time deposit, may use money earned from the investment for the purpose for which the public security was issued.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.044. PLEDGE OR LIEN ON RESOURCES, ASSETS, OR FUND OF ISSUER. (a) A pledge or lien provided for in a public security authorization on a resource of an issuer, including revenue or income, on an asset of an issuer, or on a fund maintained by an issuer:

(1) is valid without further action by the issuer according to its terms and without being filed or recorded, except in the records of the issuer;

(2) is effective from the time of payment for and delivery of the public security until the public security is paid or payment of the public security has been provided for; and

(3) is effective as to an item on hand or later received, and the item is subject to the lien or pledge without physical delivery of the item or other act.

(b) This section does not exempt an issuer from a duty to:

(1) record a lien on real property; or

(2) submit a public security to the attorney general for approval and registration by the comptroller.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. CHANGE OR CONVERSION OF PUBLIC SECURITIES

Sec. 1201.061. CONVERSION, RECONVERSION, TRANSFER, OR EXCHANGE OF PUBLIC SECURITY. (a) The governing body of an issuer may:

(1) provide and covenant for:

(A) conversion of one form of a public security or an interest coupon to another form or forms; and

(B) reconversion of the public security or interest coupon to another form or forms; and

(2) provide procedures for transferring or exchanging a public security for a previously issued public security.

(b) A public security or an interest coupon may be converted, on request of a bearer or owner, in an aggregate principal amount equal to the unpaid principal amount of the public security being converted, bearing interest at the same rate or rates as the security being converted, to:

(1) a public security with interest coupons, payable to the bearer, and registrable as to principal and interest or only as to principal;

(2) a fully registered public security without interest coupons; or

(3) any other form, in any denomination.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.062. CHANGE OR CONVERSION OF PUBLIC SECURITY. If a public security authorization provides a procedure for changing or converting a public security, an additional resolution, order, or ordinance is not required to change or convert the security.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.063. EXECUTION AND EXCHANGE OF NEW PUBLIC SECURITY. (a) On request of the bearer or owner of a public security, if required or necessary, an appropriate officer of the issuer shall execute and exchange an appropriate new public security for the changed or converted public security.

(b) If a public security that is changed or converted has interest coupons, appropriate new coupons shall also be executed and exchanged.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.064. SUBMISSION OF NEW PUBLIC SECURITY TO ATTORNEY GENERAL. Except as provided by Section 1201.067, an issuer that changes or converts a public security that has been registered by the comptroller shall submit the new public security to the attorney general for approval.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.065. APPROVAL OF NEW PUBLIC SECURITY BY ATTORNEY GENERAL. The attorney general shall approve a new public security if the attorney general finds that the new public security has been printed or entered on the books of the registrar and executed and issued as provided by law and a public security authorization relating to the public security being changed or converted.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.066. REGISTRATION OF NEW PUBLIC SECURITY BY COMPTROLLER. (a) The comptroller shall register and deliver a new public security after:

(1) approval of the new public security by the attorney general; and

(2) the surrender to and the cancellation by the comptroller of each changed or converted public security.

(b) On registration the new public security is valid and incontestable for all purposes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.067. EXCEPTION TO APPROVAL REQUIREMENT. (a) If the duty to convert or reconvert a public security or interest coupon or

to transfer or exchange a public security is imposed on a corporate trustee under a trust agreement or indenture securing the public security or on a paying agent for the public security, the attorney general is not required to approve and the comptroller is not required to register:

(1) the converted or reconverted public security or interest coupon; or

(2) the public security delivered on transfer or exchange of the previously issued public security.

(b) A converted or reconverted public security or interest coupon, or a transferred or exchanged public security, is valid and incontestable in the same manner and with the same effect as the previously issued public security.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1202. EXAMINATION AND REGISTRATION OF PUBLIC SECURITIES

Sec. 1202.001. DEFINITIONS. In this chapter:

(1) "Issuance" means the initial delivery by an issuer of evidence of an obligation of a public security issued by the issuer to the initial purchaser in exchange for the purchase price of the public security.

(2) "Issuer" means:

(A) an agency, authority, board, body politic, department, district, instrumentality, municipal corporation, political subdivision, public corporation, or subdivision of this state; or

(B) a nonprofit corporation acting for or on behalf of an entity described by Paragraph (A).

(3) "Public security" means an instrument, including a bond, note, certificate of obligation, certificate of participation or other instrument evidencing a proportionate interest in payments due to be paid by an issuer, or other type of obligation that:

(A) is issued or incurred by an issuer under the issuer's borrowing power, without regard to whether it is subject to annual appropriation; and

(B) is represented by an instrument issued in bearer or registered form or is not represented by an instrument but the transfer of which is registered on books maintained for that purpose

by or on behalf of the issuer.

(4) "Record of proceedings" means the record of an issuer's proceedings relating to the authorization of a public security or a credit agreement relating to a public security.

(5) "Credit agreement" means a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitment to purchase a public security, purchase or sale agreement, interest rate swap agreement, or commitment or other agreement authorized by an issuer in connection with the authorization, issuance, sale, resale, security, exchange, payment, purchase, remarketing, or redemption of a public security, interest on a public security, or both.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 802 (S.B. 495), Sec. 1, eff. September 1, 2005.

Sec. 1202.002. AUTHORITY TO DEFINE TERMS. The attorney general may determine, by application of accepted legal principles, the meaning of a term used in this chapter, other than "issuance," "issuer," or "public security," and by rule define that term.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1202.003. REVIEW AND APPROVAL OF PUBLIC SECURITIES. (a) Before the issuance of a public security, the issuer shall submit the public security and the record of proceedings to the attorney general.

(b) If the attorney general finds that the public security has been authorized to be issued in conformity with law, the attorney general shall:

(1) approve the public security; and

(2) deliver to the comptroller:

(A) a copy of the attorney general's legal opinion stating that approval; and

(B) the record of proceedings.

(b-1) Notwithstanding Subsection (b), if Section 1372.037(b) applies with respect to the issuance of qualified residential rental

project bonds in a program year, the attorney general must certify the issuer's compliance with that subsection before approving the issuance of those bonds. A certification made under this subsection may be based solely on a written verification provided by the issuer on request of the attorney general.

(c) Unless exempted by Section 1202.007, the issuance of a public security except in compliance with this chapter is prohibited.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1006 (H.B. 1766), Sec. 1, eff. June 18, 2023.

Sec. 1202.004. FEE FOR EXAMINATION BY ATTORNEY GENERAL. (a) When an issuer submits a record of proceedings to the attorney general for examination and approval as provided by law, the issuer shall pay a nonrefundable examination fee to the attorney general in accordance with this section.

(b) If the issuer is issuing multiple series of a single public security issue, the issuer shall pay the fee prescribed by this section for each series.

(c) Except as provided by Subsection (d), the nonrefundable examination fee required by this section is equal to the lesser of:

(1) one-tenth of one percent of the principal amount of the public security to which the record of proceedings relates; or

(2) $9,500.

(d) The minimum examination fee required by this section is $750.

(e) The attorney general may adopt rules necessary to administer this section.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 802 (S.B. 495), Sec. 2, eff. September 1, 2005.

Sec. 1202.005. REGISTRATION. On receipt of documents required by Section 1202.003(b)(2) from the attorney general, the comptroller shall register:

(1) the public security; and
(2) the record of proceedings.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1202.006. VALIDITY AND INCONTESTABILITY. (a) A public security and any contract the proceeds of which are pledged to the payment of the public security are valid and incontestable in a court or other forum and are binding obligations for all purposes according to their terms:

(1) after the public security is approved by the attorney general and registered by the comptroller; and
(2) on issuance of the public security.

(b) In any action brought to enforce the collection of county or municipal bonds that are payable from ad valorem taxes and that have been approved by the attorney general and registered by the comptroller, the certificate of the attorney general shall be admitted as evidence of the validity of the bonds and the interest coupons pertaining to the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1202.007. EXEMPTIONS; CONSTRUCTION OF EXEMPTIONS. (a) The following are exempt from the approval and registration requirements of this chapter:

(1) a public security that is:
(A) not subject to mandatory renewal or renewal at the option of any person, including the issuer, a holder, or a bearer; and
(B) payable only out of:
(i) current revenues or taxes collected in the year the public security is issued; or
(ii) the proceeds of other public securities;
(2) a certificate in evidence of benefit assessments;
(3) a certificate of obligation, including a claim or account that represents an undivided interest in a certificate of obligation, that under Subchapter C, Chapter 271, Local Government Code, an issuer is authorized to deliver to a contractor;
(4) a time warrant issued under Chapter 252 or 262, Local

Government Code;

(5) a public security authorized by Chapter 1371;

(6) a lease, lease-purchase, or installment sale obligation, except as provided by other law;

(7) a public security that by rule the attorney general exempts because it is not practical to require approval before the public security's issuance; and

(8) a nonnegotiable note issued under Section 45.108, Education Code, in a principal amount that does not exceed $1 million.

(b) The exemptions provided by Subsection (a) shall be narrowly construed.

(c) An issuer that issues a public security that is exempt under Subsection (a) may submit the public security to the attorney general as provided by this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.002, eff. Sept. 1, 2001.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1018 (H.B. 2610), Sec. 3, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3526, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 1202.008. COLLECTION AND REPORT OF INFORMATION ON PUBLIC SECURITIES OF POLITICAL SUBDIVISIONS. (a) In reviewing public securities under this chapter, the attorney general may collect, in the form required by the Bond Review Board, information on public securities issued by a municipal corporation or political subdivision of this state.

(b) The information must include:

(1) the terms of the public securities;

(2) the debt service payable on the public securities; and

(3) other information required by the Bond Review Board.

(c) The attorney general shall send the information to the Bond Review Board for inclusion in the board's report of debt statistics under Section 1231.062.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1203. REGISTRAR FOR PUBLIC SECURITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1203.001. DEFINITIONS. In this chapter:

(1) "Fully registrable," with respect to a public security, means that:

(A) the principal of and interest on the public security are payable only to the registered owner of the public security;

(B) the principal of the public security is payable on presentation of the public security at the place of payment; and

(C) the interest on the public security is payable to the registered owner of the public security at the most recent address of that owner as shown on the books of the registrar.

(2) "Issuer" means this state or a department, board, authority, agency, district, municipal corporation, political subdivision, instrumentality, or other political corporation of this state that is authorized to issue public securities.

(3) "Public security" means a bond, note, certificate of obligation, certificate of indebtedness, or other obligation for the payment of money lawfully issued by an issuer.

(4) "Public security authorization" means the resolution, order, or ordinance authorizing the issuance of a public security.

(5) "Registered owner" means:

(A) the payee named in a fully registrable public security; or

(B) the legal representative of or successor to that payee.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1203.002. EFFECT ON UNIFORM COMMERCIAL CODE. This chapter does not:

(1) qualify Title 1, Business & Commerce Code; or

(2) limit the negotiability of a public security as provided by that title.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1203.003. CONFLICT WITH MUNICIPAL CHARTER. To the extent of a conflict between this chapter and a municipal charter, this chapter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. REGISTRATION OF PUBLIC SECURITY

Sec. 1203.021. REGISTRAR FOR PUBLIC SECURITY; DESIGNATION IN PROCEEDINGS. (a) The public security authorization that authorizes a fully registrable public security shall designate the registrar for the security.

(b) The registrar may be:

(1) the comptroller;

(2) a home-rule municipality with a population of more than 100,000, as to a security of the municipality;

(3) a county with a population of more than 100,000, as to a security of the county;

(4) a bank, including a commercial bank, at which the principal of the security is payable; or

(5) a trust company organized under a law of this state.

(c) Designation of a county as registrar for a public security issued by the county is effective only if the commissioners court of the county makes the designation with regard to an issuance of debt.

(d) The county treasurer or the county officer who has the powers and duties of the county treasurer shall perform the registration duties for a county that is designated a registrar.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1203.022. REGISTRATION OF PUBLIC SECURITY; CONFLICT WITH PUBLIC SECURITY AUTHORIZATION. (a) A fully registrable public security may be registered as provided by the public security authorization relating to the security.

(b) To the extent of a conflict between this chapter and a public security authorization that provides that a public security is fully registrable, this chapter prevails.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1203.023. MAINTENANCE OF REGISTRAR RECORDS BY TRUST COMPANY OR COMMERCIAL BANK. At the direction of the issuer, a trust company or a commercial bank acting as a registrar under this chapter shall maintain the registrar records in this state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 769, Sec. 3, eff. Sept. 1, 2001.

Sec. 1203.024. CHANGE OF NAME OR ADDRESS OF REGISTERED OWNER. If the comptroller is designated under this chapter as registrar of a public security and the comptroller's registration book reflects the change of name or address of a registered owner of the security, the comptroller shall notify each paying agent of the change.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1203.025. COST AND EXPENSES FOR REGISTRATION OR EXCHANGE OF PUBLIC SECURITY. A public security authorization that authorizes the issuance of a public security that is, initially or by exchange or conversion, fully registrable shall state the part of the cost and expense of registering or exchanging the security that the issuer will pay, including fees of the registrar named in the public security authorization.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1203.026. COMPTROLLER'S RULES AND FEE SCHEDULE. The comptroller shall:

(1) adopt rules for the comptroller's performance of services under this chapter; and

(2) publish a schedule of fees for performing those services.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. CONVERSION OR EXCHANGE OF PUBLIC SECURITY

Sec. 1203.041. CONVERSION OF PUBLIC SECURITY. (a) This section applies to a public security only if the public security authorization relating to the security:

(1) provides for conversion of the security; and

(2) names the comptroller as registrar.

(b) A public security that is issued with one or more coupons becomes fully registrable if:

(1) the security is presented to the comptroller; and

(2) the comptroller removes each coupon.

(c) A public security that is issued as a fully registrable security becomes a security with one or more coupons if:

(1) the security is presented to the comptroller; and

(2) the comptroller attaches an unmatured coupon or coupons to the security.

(d) Attachment and removal of a coupon or coupons may occur successively from time to time.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1203.042. APPROVAL AND REGISTRATION OF CONVERTED OR EXCHANGED PUBLIC SECURITY. (a) This section applies to a public security only if:

(1) the public security authorization relating to the security provides that the security is fully registrable or is of the type that has one or more coupons and that the security may be exchanged; or

(2) the security has been converted under Section 1203.041.

(b) If the public security was initially approved by the attorney general and registered by the comptroller, on exchange or conversion of the security:

(1) a public security that results from the exchange or conversion is considered to have been approved by the attorney general and registered by the comptroller;

(2) the attorney general is not required to approve the resulting security; and

(3) the comptroller is not required to register the resulting security.

(c) If a public security is exchanged, the registrar shall have

an appropriate inscription placed on the public security received in exchange verifying that the security received in exchange is in place of the security presented for exchange. The inscription must be manually signed.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1204. INTEREST RATE

Sec. 1204.001. DEFINITIONS. In this chapter:

(1) "Floating rate public security" means a public security or a portion of a public security that bears a rate of interest determined in accordance with a clearly stated formula, computation, or method, under which the net interest cost of the security or portion at any future date cannot be determined on the date of delivery of the security or portion.

(2) "Public agency" means:

(A) this state or a department, board, agency, district, municipal corporation, political subdivision, body politic and corporate, or instrumentality of this state; or

(B) a nonprofit corporation or not-for-profit entity that is an instrumentality of or is acting on behalf of an entity described by Paragraph (A).

(3) "Public security" means a bond, note, or other obligation that a public agency is authorized to issue.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1204.002. APPLICABILITY. (a) A provision of this chapter concerning the sale price of a public security or the maximum rate of interest that a public security may bear applies to any public security without regard to a contrary provision in another law or a charter.

(b) A provision of this chapter concerning the sale price of a public security does not apply to a public security whose maximum rate of interest or maximum net effective interest rate is, at the time the public security is issued, specifically set by the constitution of this state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1204.003. COMPUTATION OF PUBLIC SECURITY YEARS. (a) Public security years are computed for each separate public security that is part of an issue or series of public securities by dividing the principal amount at par value of the public security by 100 and multiplying the resulting quotient by:

(1) the number of years from the date interest begins to accrue on the public security to the date the security is scheduled to mature; or

(2) for a floating rate public security, the number of years from the date net interest cost begins to accrue on the public security to the earlier of:

(A) the date the security is scheduled to mature; or

(B) any date interest on the security is computed.

(b) If any portion of an issue or series of public securities is subject to a mandatory redemption before the scheduled maturity that at the time of delivery of the public securities is scheduled to occur on a specific date or dates, the public security years are computed as if the face amount of public securities required to be redeemed on each earlier date were scheduled to mature on that earlier date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1204.004. COMPUTATION OF NET INTEREST COST. (a) In this section:

(1) "Discount" means an amount equal to the principal amount at par value of an issue or series of public securities plus any accrued interest to the date of delivery minus the total sum of money paid to the public agency.

(2) "Premium" means an amount equal to the total amount of money paid to the public agency for an issue or series of public securities minus:

(A) the principal amount at par value of the issue or series; and

(B) any accrued interest to the date of delivery.

(b) The net interest cost of an issue or series of public securities is the total of all interest to become payable on the

issue or series through the final scheduled maturity date of the issue or series, plus any discount or minus any premium included in the price paid for the issue or series.

(c) The net interest cost of an issue or series of floating rate public securities is the total of all interest to accrue from the date of delivery and become payable on the issue or series through any date net interest cost is computed on the issue or series:

(1) plus, in the case of a discount, the figure obtained by multiplying the dollar amount of the discount by a fraction, the numerator of which is the aggregate number of public security years to the date of the net interest cost computation and the denominator of which is the aggregate number of public security years to the scheduled final maturity date of the floating rate public securities; or

(2) minus, in the case of a premium, the figure obtained by multiplying the dollar amount of the premium by a fraction, the numerator of which is the aggregate number of public security years to the date of the net interest cost computation and the denominator of which is the aggregate number of public security years to the scheduled final maturity date of the floating rate public securities.

(d) If any portion of an issue or series of public securities is subject to a mandatory redemption before the scheduled maturity that at the time of delivery of the public securities is scheduled to occur on a specific date or dates:

(1) the net interest cost is computed as if the face amount of public securities required to be redeemed on each earlier date were scheduled to mature on that earlier date;

(2) the net interest cost includes any redemption premium required to be paid on any mandatory redemption date; and

(3) any other form of compensation, whether due on an optional or mandatory prepayment or redemption, may not be included in the net interest cost.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1204.005. COMPUTATION OF NET EFFECTIVE INTEREST RATE. (a) The net effective interest rate of an issue or series of public securities is computed by dividing the net interest cost of the issue

or series by the aggregate total number of public security years of all public securities that comprise the issue or series and expressing the result as a rate of interest in percent per year.

(b) In computing the net effective interest rate of an issue or series of public securities that includes one or more public securities on which interest accruing before the maturity of the public security is compounded, the public security years with reference to each separate compounding public security are increased by an amount obtained by dividing the amount of interest that is periodically compounded by 100 and multiplying the resulting quotient by the number of years from the date on which interest begins to accrue on the amount that is being compounded to:

(1) the scheduled date for payment of the amount that is being compounded; or

(2) with respect to a floating rate public security, the date interest on the public security is next computed, if that date is earlier than the scheduled date for payment of the amount that is being compounded.

(c) For purposes of this chapter, interest compounded under Subsection (b) is considered as principal.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1204.006. MAXIMUM INTEREST RATE. (a) The maximum rate of interest for any issue or series of public securities, including an issue or series that is issued in exchange for property, labor, services, materials, or equipment under another law, is a net effective interest rate of 15 percent.

(b) Except as provided by Section 1204.007, a public agency may issue and sell any issue or series of its public securities at any price and bearing interest at any rate or rates determined by the agency's governing body that does not exceed the maximum rate under Subsection (a).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1204.007. MAXIMUM INTEREST RATE FOR CERTAIN PUBLIC SECURITIES. (a) Public securities authorized by an election held before April 15, 1981, may be issued, may be sold, and may bear

interest as provided by Section 1204.006, except that public securities authorized by an election required by the constitution of this state may not be issued at an interest rate greater than the rate authorized at that election unless an additional election is held at which the issuance of the public securities at a price and at a rate authorized by Section 1204.006 is approved.

(b) A public agency shall hold and give notice of an additional election under Subsection (a) in the manner provided by law applicable to the election that authorized the public securities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1205. PUBLIC SECURITY DECLARATORY JUDGMENT ACTIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1205.001. DEFINITIONS. In this chapter:

(1) "Issuer" means an agency, authority, board, body politic, commission, department, district, instrumentality, municipality or other political subdivision, or public corporation of this state. The term includes a state-supported institution of higher education and any other type of political or governmental entity of this state.

(2) "Public security" means an interest-bearing obligation, including a bond, bond anticipation note, certificate, note, warrant, or other evidence of indebtedness, regardless of whether the obligation is:

(A) general or special;

(B) negotiable;

(C) in bearer or registered form;

(D) in temporary or permanent form;

(E) issued with interest coupons; or

(F) to be repaid from taxes, revenue, both taxes and revenue, or in another manner.

(3) "Public security authorization" means an action or proceeding by an issuer taken, made, or proposed to be taken or made in connection with or affecting a public security.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1205.002. CONFLICT OR INCONSISTENCY WITH OTHER LAWS. (a)

To the extent of a conflict or inconsistency between this chapter and another law, this chapter controls.

(b) This chapter does not prohibit an issuer from applying to the Texas Supreme Court for a writ of mandamus to the attorney general for the approval of a bond, and the court is authorized to issue the writ.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. DECLARATORY JUDGMENT ACTION

Sec. 1205.021. AUTHORITY TO BRING ACTION. An issuer may bring an action under this chapter to obtain a declaratory judgment as to:

(1) the authority of the issuer to issue the public securities;

(2) the legality and validity of each public security authorization relating to the public securities, including if appropriate:

(A) the election at which the public securities were authorized;

(B) the organization or boundaries of the issuer;

(C) the imposition of an assessment, a tax, or a tax lien;

(D) the execution or proposed execution of a contract;

(E) the imposition of a rate, fee, charge, or toll or the enforcement of a remedy relating to the imposition of that rate, fee, charge, or toll; and

(F) the pledge or encumbrance of a tax, revenue, receipts, or property to secure the public securities;

(3) the legality and validity of each expenditure or proposed expenditure of money relating to the public securities; and

(4) the legality and validity of the public securities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1205.022. VENUE. An issuer may bring an action under this chapter in a district court of Travis County or of the county in which the issuer has its principal office.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1205.023. PROCEEDING IN REM; CLASS ACTION. An action under this chapter is:

(1) a proceeding in rem; and

(2) a class action binding on all persons who:

(A) reside in the territory of the issuer;

(B) own property located within the boundaries of the issuer;

(C) are taxpayers of the issuer; or

(D) have or claim a right, title, or interest in any property or money to be affected by the public security authorization or the issuance of the public securities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 3, eff. Sept. 1, 1999.

Sec. 1205.024. PLEADING CONTENTS. The petition in an action under this chapter must briefly set out, by allegation, reference, or exhibit:

(1) the issuer's authority to issue the public securities;

(2) the purpose of the public securities;

(3) the holding and result of any required election;

(4) a copy of or a pertinent excerpt from each public security authorization, including any essential action or expenditure of money;

(5) the amount or proposed maximum amount of the public securities;

(6) the interest rate or rates or the proposed maximum interest rate of the public securities;

(7) in a suit relating to the validity or organization of an issuer, the authority for and the proceedings relating to the creation of the issuer or a boundary change; and

(8) any other pertinent matter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1205.025. TIME FOR BRINGING ACTION; PENDENCY OF OTHER

PROCEEDINGS. An issuer may bring an action under this chapter:

(1) concurrently with or after the use of another procedure to obtain a declaratory judgment, approval, or validation;

(2) before or after the public securities are authorized, issued, or delivered;

(3) before or after the attorney general approves the public securities; and

(4) regardless of whether another proceeding is pending in any court relating to a matter to be adjudicated in the suit.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. NOTICE OF DECLARATORY JUDGMENT ACTION

Sec. 1205.041. NOTICE TO INTERESTED PARTIES. (a) The court in which an action under this chapter is brought shall, on receipt of the petition, immediately issue an order, in the form of a notice, directed to all persons who:

(1) reside in the territory of the issuer;

(2) own property located within the boundaries of the issuer;

(3) are taxpayers of the issuer; or

(4) have or claim a right, title, or interest in any property or money to be affected by a public security authorization or the issuance of the public securities.

(b) The order must, in general terms and without naming them, advise the persons described by Subsection (a) and the attorney general of their right to:

(1) appear for trial at 10 a.m. on the first Monday after the 20th day after the date of the order; and

(2) show cause why the petition should not be granted and the public securities or the public security authorization validated and confirmed.

(c) The order must give a general description of the petition but is not required to contain the entire petition or any exhibit attached to the petition.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 4, eff. Sept. 1, 1999.

Sec. 1205.042. SERVICE OF NOTICE ON ATTORNEY GENERAL; WAIVER OF SERVICE. (a) A copy of the issuer's petition with all attached exhibits and a copy of the order issued under Section 1205.041(a) shall be served on the attorney general before the 20th day before the trial date.

(b) The attorney general may waive the service if the attorney general has been provided a certified copy of the petition, order, and a transcript of each pertinent public security authorization relating to the matters described in the petition.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1205.043. PUBLICATION OF NOTICE. (a) The clerk of the court shall give notice by publishing a substantial copy of the order issued under Section 1205.041(a) in a newspaper of general circulation in:

(1) Travis County;

(2) the county where the issuer has its principal office; and

(3) if the issuer has defined boundaries, each county in which the issuer has territory.

(b) The notice shall be published once in each of two consecutive calendar weeks, with the date of the first publication before the 14th day before the trial date.

(c) If the issuer is this state, Subsection (a)(3) does not apply.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1205.044. EFFECT OF PUBLICATION. The effect of notice given under Sections 1205.041 and 1205.043 is that:

(1) each person described by Section 1205.041(a) is a party to the action; and

(2) the court has jurisdiction over each person to the same extent as if that person were individually named and personally served in the action.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 5, eff. Sept. 1,

1999.

SUBCHAPTER D. TRIAL AND APPEAL PROCEEDINGS

Sec. 1205.061. COURT'S POWER TO ENJOIN OTHER PROCEEDINGS. (a) On the issuer's motion, before or after the trial date set under Section 1205.041, the court may enjoin the commencement, prosecution, or maintenance of any proceeding by any person that contests the validity of:

(1) any organizational proceeding or boundary change of the issuer;

(2) public securities that are described in the petition for declaratory judgment action;

(3) a public security authorization relating to the public securities;

(4) an action or expenditure of money relating to the public securities, a proposed action or expenditure, or both;

(5) a tax, assessment, toll, fee, rate, or other charge authorized to be imposed or made for the payment of the public securities or interest on the public securities; or

(6) a pledge of any revenue, receipt, or property, or an encumbrance on a tax, assessment, toll, fee, rate, or other charge, to secure that payment.

(b) The court may:

(1) order a joint trial on all issues pending in any other proceeding in a court in this state and the consolidation of the proceeding with the action under this chapter; and

(2) issue necessary or proper orders to effect the consolidation that will avoid unnecessary costs or delays or a multiplicity of proceedings.

(c) An interlocutory order issued under this section is final and may not be appealed.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1205.062. ANSWER OR INTERVENTION BY INTERESTED PARTIES. A person described by Section 1205.041(a) may become a named party to an action brought under this chapter by:

(1) filing an answer with the court at or before the time

set for trial under Section 1205.041; or

(2) intervening, with leave of court, after the trial date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1205.063. DUTIES OF ATTORNEY GENERAL. (a) The attorney general shall examine a petition filed under Section 1205.021, and shall raise appropriate defenses if the attorney general believes that:

(1) the petition is defective, insufficient, or untrue; or

(2) the public securities are, or the public security authorization or an expenditure of money relating to the public securities is, or will be invalid or unauthorized.

(b) If the attorney general does not question the validity of the public securities, the public security authorization, or an expenditure of money relating to the public securities or the security or provisions for the payment of the public securities, the attorney general may:

(1) state that belief; and

(2) on a finding by the court to that effect, be dismissed as a party.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1205.064. INSPECTION OF RECORDS OF ISSUER. (a) Each record of an issuer relating to the public securities, a public security authorization, or an expenditure of money relating to the public securities is open to inspection at reasonable times to any party to an action under this chapter.

(b) Each officer, agent, or employee with possession, custody, or control of any book, paper, or record of the issuer shall, on demand of the attorney general:

(1) allow examination of the book, paper, or record; and

(2) without cost, provide an authenticated copy that pertains to or may affect the legality of the public securities, public security authorization, or an expenditure of money relating to the public securities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1205.065. TRIAL OF ACTION. (a) The court shall with the least possible delay:

(1) hear and determine each legal or factual question in the declaratory judgment action; and

(2) render a final judgment.

(b) Regardless of the pendency of an appeal from an order entered under Subchapter E, on motion of the issuer, the trial judge shall proceed under Subsection (a).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1205.066. COURT COSTS AND OTHER EXPENSES. (a) An issuer that brings an action under this chapter shall pay costs of the action, except as provided by Subsection (b).

(b) The court may require a person other than the attorney general who appears and contests or intervenes in the action to pay all or part of the costs as the court determines equitable and just.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1205.067. MILEAGE AND TRAVEL EXPENSES OF ATTORNEY GENERAL. (a) If an action under this chapter is brought in a county other than Travis County, the issuer shall pay any mileage or travel expense of the attorney general or an assistant attorney general in the amount this state allows to an official of this state for travel on official business.

(b) A claim for an expense under Subsection (a):

(1) must be filed in duplicate with the clerk of the court in which the action is pending; and

(2) shall be taxed as a cost against the issuer.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1205.068. APPEALS. (a) Any party to an action under this chapter may appeal to the appropriate court of appeals:

(1) an order entered by the trial court under Section

1205.103 or 1205.104; or

(2) the judgment rendered by the trial court.

(b) A party may take a direct appeal to the supreme court as provided by Section 22.001(c).

(c) An order or judgment from which an appeal is not taken is final.

(d) An order or judgment of a court of appeals may be appealed to the supreme court.

(e) An appeal under this section is governed by the rules of the supreme court for accelerated appeals in civil cases and takes priority over any other matter, other than writs of habeas corpus, pending in the appellate court. The appellate court shall render its final order or judgment with the least possible delay.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 6, eff. Sept. 1, 1999.

Sec. 1205.069. LEGISLATIVE CONTINUANCES. Rule 254, Texas Rules of Civil Procedure, and Section 30.003, Civil Practice and Remedies Code, do not apply to a suit or an appeal under this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER E. SECURITY FOR ISSUER

Sec. 1205.101. SECURITY AGAINST SUIT. (a) Before the entry of final judgment in an action under this chapter, the issuer may file a motion with the court for an order that any opposing party or intervenor, other than the attorney general, be dismissed unless that person posts a bond with sufficient surety, approved by the court, and payable to the issuer for any damage or cost that may occur because of the delay caused by the continued participation of the opposing party or intervenor in the action if the issuer finally prevails and obtains substantially the judgment requested in its petition.

(b) On receipt of a motion under Subsection (a), the court shall issue an order directed to the opposing party or intervenor, with a copy of the motion, to be served on the opposing party, the intervenor, or the party's attorney, personally or by registered

mail, requiring the opposing party or intervenor to:

(1) appear at the time and place directed by the court, not sooner than five nor later than 10 days after the date the order is entered; and

(2) show cause why the motion should not be granted.

(c) The court may direct that motions relating to more than one party or intervenor be heard together.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1205.102. STANDARD FOR GRANTING OF MOTION. The court shall grant an issuer's motion for security under Section 1205.101 unless, at the hearing on the motion, the opposing party or intervenor establishes that the person is entitled to a temporary injunction against the issuance of the public securities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1205.103. AMOUNT OF BOND. (a) The court that grants a motion under this subchapter as to a particular opposing party or intervenor shall in the order set the amount of the bond to be posted by that person.

(b) The bond must be in an amount determined by the court to be sufficient to cover any damage or cost, including an anticipated increase in interest rates or in a construction or financing cost, that may occur because of the delay caused by the continued participation of the opposing party or intervenor in the acts if the issuer finally prevails and obtains substantially the judgment requested in its petition.

(c) The court may receive evidence at the hearing or during any adjournment relating to the amount of the potential damage or cost.

(d) The court may allocate the amount of the bond among opposing parties and intervenors according to the extent of their participation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1205.104. FAILURE TO FILE BOND. (a) The court shall

dismiss an opposing party or intervenor who does not file a required bond before the 11th day after the date of the entry of the order setting the amount of the bond.

(b) A dismissal under this section is a final judgment of the court, unless appealed under Section 1205.068.

(c) No court has further jurisdiction over any action to the extent that action involves any issue that was or could have been raised in the action under this chapter, other than an issue that may have been raised by an opposing party or intervenor who was not subject to the motion.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1205.105. APPEAL. (a) An order setting the amount of a bond denying the motion of an issuer for a bond, or dismissing a party for failure to file a bond may be appealed under Section 1205.068.

(b) An appellate court may:

(1) modify an order of a lower court; and

(2) enter the modified order as the final order.

(c) If an appeal is not taken or if the appeal is taken and the order of the lower court is affirmed or affirmed as modified, and the required bond is not posted before the 11th day after the date of the entry of the appropriate order, no court has further jurisdiction over any action to the extent it involves an issue that was or could have been raised in the action under this chapter, other than an issue that may have been raised by an opposing party or intervenor who was not subject to the motion.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER F. EFFECT OF DECLARATORY JUDGMENT

Sec. 1205.151. EFFECT OF JUDGMENT. (a) This section applies to a final judgment of a district court in an action under this chapter that holds that:

(1) the issuer had or has the authority on the terms set out in the issuer's petition to:

(A) issue the public securities; or

(B) take each public security authorization; and

(2) each public security authorization and expenditure of money relating to the public securities was legal.

(b) The judgment, as to each adjudicated matter and each matter that could have been raised, is binding and conclusive against:

(1) the issuer;

(2) the attorney general;

(3) the comptroller; and

(4) any party to the action, whether:

(A) named and served with the notice of the proceedings; or

(B) described by Section 1205.041(a).

(c) The judgment is a permanent injunction against the filing by any person of any proceeding contesting the validity of:

(1) the public securities, a public security authorization, or an expenditure of money relating to the public securities described in the petition;

(2) each provision made for the payment of the public securities or of any interest on the public securities; and

(3) any adjudicated matter and any matter that could have been raised in the action.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1205.152. STATEMENT ON VALIDATED PUBLIC SECURITY. (a) The issuer of a public security validated under this chapter may have written on the public security the following certificate:

"This obligation was validated and confirmed by a judgment entered _____ (date when the judgment was entered; the court entering the judgment; and the style and number of the declaratory judgment action), which perpetually enjoins the commencement of any suit, action, or proceeding involving the validity of this obligation, or the provision made for the payment of the principal and interest of the obligation."

(b) The clerk, secretary, or other official of the issuer may sign the certificate.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1206. REPLACEMENT FOR DAMAGED, DESTROYED, LOST, OR STOLEN

PUBLIC SECURITIES

SUBCHAPTER A. REPLACEMENT PROCEDURES IN ABSENCE OF PROCEDURES PRESCRIBED IN ORIGINAL BOND RESOLUTION, ORDER, OR ORDINANCE

Sec. 1206.001. DEFINITION. In this subchapter, "issuer" means this state, a department, agency, or instrumentality of this state, or a municipal corporation or other political subdivision of this state that is authorized to borrow money and issue bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1206.002. ISSUANCE OF REPLACEMENT BOND. (a) An issuer may, without an election, issue a bond:

(1) to be exchanged for a damaged bond; or

(2) to replace a destroyed, lost, or stolen bond.

(b) A replacement bond may be issued under this subchapter only for a bond that is outstanding and that was lawfully issued.

(c) A replacement bond issued under Subsection (a)(2) must be issued on indemnity satisfactory to:

(1) the issuer; and

(2) the trustee if the bond being replaced is secured by a trust indenture.

(d) An issuer may require an affidavit or another form of evidence satisfactory to the issuer to establish ownership and the circumstances of the damage, destruction, loss, or theft of the bond.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1206.003. EFFECT AND FORM OF REPLACEMENT BOND. (a) A replacement bond issued under this subchapter must be of like tenor and effect as the bond that it is issued to replace.

(b) A replacement bond issued under this subchapter must bear a date specified by the issuer and must be signed as provided by law by the officers of the issuer holding office when the replacement bond is issued.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1206.004. ATTORNEY GENERAL APPROVAL. (a) A replacement

bond issued under this subchapter must be submitted to the attorney general for approval.

(b) If the attorney general finds that the replacement bond has been issued in accordance with this subchapter, the attorney general shall:

(1) approve the bond; and

(2) send the bond to the comptroller for registration.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1206.005. REGISTRATION. (a) The comptroller shall register a replacement bond received under Section 1206.004 in the same manner as the original bond was registered, giving it the same registration number as the original bond, except that the registration number must be preceded by the letter "R."

(b) The comptroller shall date the registration certificate as of the date of registration of the replacement bond.

(c) Before registering a bond issued to replace a damaged bond, the comptroller shall cancel the bond being replaced and return that bond to the issuer. The comptroller shall register another bond authorized under this subchapter on certification from the attorney general that the bond is being issued to replace a lost, stolen, or destroyed bond.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1206.006. FORM AND IDENTITY CHANGES. (a) An applicant to the comptroller for replacement under this subchapter of a bond that is damaged, destroyed, lost, or stolen and that, as described in the application, does not appear in the comptroller's records in the form and bear the identity originally registered by the comptroller must provide to the comptroller a chronology of the changes from the original, registered form and identity.

(b) The chronology must enable the comptroller, under the comptroller's rules, to trace the changes in form and identity of the bond to the original, registered form and identity.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. REPLACEMENT PROCEDURES AS PRESCRIBED IN ORIGINAL PUBLIC SECURITY AUTHORIZATION

Sec. 1206.021. DEFINITIONS. In this subchapter, "issuer," "public security," and "public security authorization" have the meanings assigned by Section 1201.002.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1206.022. PRESCRIPTION OF PROCEDURES IN ORIGINAL PUBLIC SECURITY AUTHORIZATION. The governing body of an issuer may provide procedures for the replacement of lost, stolen, destroyed, or mutilated public securities or interest coupons in the manner prescribed in the public security authorization.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1206.023. EXCEPTION TO APPROVAL REQUIREMENT. (a) If the duty to replace a public security or interest coupon is imposed on a corporate trustee under a trust agreement or indenture or on a paying agent for the public security, the attorney general is not required to approve and the comptroller is not required to register:

(1) the replacement public security or interest coupon; or

(2) the public security delivered on exchange of the previously issued public security.

(b) A replacement public security or interest coupon is valid and incontestable in the same manner and with the same effect as the previously issued public security.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1207. REFUNDING BONDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1207.001. DEFINITIONS. In this chapter:

(1) "Issuer" means this state or any department, board, authority, agency, subdivision, municipal corporation, district, public corporation, body politic, or instrumentality of this state which has the power to borrow money and issue bonds, notes, or other evidences of indebtedness. The term includes a county, municipality,

state-supported institution of higher education, junior college district, regional college district, school district, hospital district, water district, road district, navigation district, conservation district, and any other kind or type of political or governmental entity.

(2) "Paying agent" means the person, including the bank or trust company, at whose location payment of refunded obligations is to be made.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1207.002. AUTHORITY TO ISSUE. An issuer may issue refunding bonds under this chapter to refund all or any part of the issuer's outstanding bonds, notes, or other general or special obligations.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1207.003. ELECTION. (a) Refunding bonds may be issued without an election in connection with the issuance of the refunding bonds or the creation of an encumbrance in connection with the refunding bonds, except as provided by Subsection (b).

(b) If the constitution of this state requires an election to permit a procedure, action, or matter pertaining to refunding bonds, an election to authorize the procedure, action, or matter shall be held substantially in accordance, to the extent appropriate, with Chapter 1251.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1207.004. COMBINATION ISSUANCE. Under the terms and with the security set forth in the proceedings that authorize the issuance of the refunding bonds, a governmental entity may issue refunding bonds:

(1) in combination with new bonds;

(2) with provision for the subsequent issuance of additional parity bonds or subordinate lien bonds; or

(3) both in combination with new bonds and with provision

for the subsequent issuance of additional bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1207.005. SOURCES AVAILABLE FOR PAYMENT. Except as provided by Section 1207.0621, a refunding bond may be secured by and made payable from taxes, revenue, or both, another source, or a combination of sources to the extent the issuer is otherwise authorized to secure or pay any type of bond by or from that source or those sources.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.003, eff. Sept. 1, 2001.

Sec. 1207.006. MATURITY. A refunding bond issued under this chapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1207.007. DELEGATION OF AUTHORITY. (a) In connection with the issuance of refunding bonds, the governing body of an issuer may:

(1) authorize the maximum principal amount of refunding bonds that may be issued and the maximum rate of interest to be borne by the bonds;

(2) identify the potential bonds, notes, or other general or special obligations that may be refunded;

(3) recite the public purpose for which the refunding bonds are to be issued; and

(4) delegate to any officer or employee of the issuer the authority to:

(A) select any specific maturities or series of bonds, notes, or other general or special obligations to be refunded; and

(B) effect the sale of the refunding bonds.

(b) In exercising the authority delegated by the governing body of the issuer to the officer or employee, the officer or employee may establish the terms and details related to the issuance and sale or

exchange of the refunding bonds, including:

(1) the form and designation of the refunding bonds;

(2) the principal amount of the refunding bonds and the amount of the refunding bonds to mature in each year;

(3) the dates, price, interest rates, interest payment dates, principal payment dates, and redemption features of the refunding bonds;

(4) the form of escrow agreement described by Section 1207.062; and

(5) any other details relating to the issuance and sale or exchange of the refunding bonds as specified by the governing body of the issuer in the proceedings authorizing the issuance of the refunding bonds.

(c) A finding or determination made by an officer or employee acting under the authority delegated to the officer or employee has the same force and effect as a finding or determination made by the governing body of the issuer.

Added by Acts 1999, 76th Leg., ch. 1064, Sec. 7, eff. Sept. 1, 1999.

Sec. 1207.008. LIMITATION. (a) An issuer may not issue refunding bonds if the aggregate amount of payments to be made under the refunding bonds exceeds the aggregate amount of payments that would have been made under the terms of the obligations being refunded unless:

(1) the governing body of the issuer, in the proceedings authorizing the issuance of the refunding bonds, finds that the issuance is in the best interests of the issuer; and

(2) the maximum amount by which the aggregate amount of payments to be made under the refunding bonds exceeds the aggregate amount of payments that would have been made under the terms of the obligations being refunded is specified in the proceedings.

(b) An issuer is not required to comply with Subsection (a)(2) if the governing body of the issuer determines and states in the proceedings authorizing the issuance of the refunding bonds that the manner in which the refunding is being executed does not make it practicable to make the determination required by that subsection.

Added by Acts 1999, 76th Leg., ch. 1064, Sec. 7, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 769, Sec. 4, eff. Sept. 1, 2001.

SUBCHAPTER B. ADVANCE REFUNDING PROCEDURES

Sec. 1207.021. AUTHORITY TO DEPOSIT WITH COMPTROLLER. (a) An issuer is entitled to deposit with the comptroller an amount of money equal to the sum of:

(1) the principal amount of the bonds, notes, or other obligations to be refunded;

(2) the interest that will accrue on those bonds, notes, or other obligations computed to the due date or redemption date; and

(3) any required redemption premium.

(b) At the time a deposit is made under Subsection (a), the issuer shall deliver to the comptroller a certified copy of the proceedings that authorize the issuance of the obligations to be refunded, or a certified excerpt from those proceedings, that clearly shows:

(1) each amount of interest and the date on which that amount of interest is due on the obligations to be refunded;

(2) the date the principal is subject to redemption; and

(3) the name and address of the paying agent.

(c) The comptroller may rely on a certificate by the issuer as to the amount of the charges made by the paying agent.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1207.022. LIMITATION. An issuer may issue refunding bonds to make a deposit under this subchapter or Subchapter C only in connection with refunding bonds issued to refund obligations that are:

(1) scheduled to mature not later than the 20th anniversary of the date of the refunding bonds; or

(2) subject to redemption before maturity not later than the 20th anniversary of the date of the refunding bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 8, eff. Sept. 1, 1999.

Sec. 1207.023. AMOUNT OF PRINCIPAL. Refunding bonds for which

a deposit is made under this subchapter or Subchapter C may be issued in an additional amount sufficient to:

(1) pay the cost and expense of issuing the bonds; or

(2) finance a debt service reserve, contingency, or other similar fund the issuer considers necessary or advisable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1207.024. METHODS AND TERMS OF SALE. (a) Refunding bonds issued to make a deposit under this subchapter or Subchapter C shall be sold for cash in a principal amount necessary to provide all or part of the money required to:

(1) pay the principal of the obligations to be refunded and the interest to accrue on those obligations to their maturity; or

(2) redeem the obligations to be refunded, before maturity, on the date or dates the obligations are subject to redemption, including the principal, interest to accrue on the obligations to their redemption date or dates, and any required redemption premium.

(b) The refunding bonds:

(1) shall be sold under the terms and procedures for the sale as determined by the governing body of the issuer; and

(2) may be sold at public or private sale.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1207.025. REGISTRATION BEFORE DEPOSIT; REGISTRATION WITHOUT CANCELLATION OF OBLIGATIONS TO BE REFUNDED. (a) The comptroller may register refunding bonds as provided by Chapter 1202 before a deposit required by this subchapter or Subchapter C is made.

(b) If the issuer has complied with each applicable requirement of this chapter, the comptroller shall register refunding bonds issued to make a deposit under this subchapter without the surrender, exchange, or cancellation of the obligations to be refunded.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 9, eff. Sept. 1, 1999.

Sec. 1207.026. USE OF SALE PROCEEDS TO MAKE DEPOSIT; RIGHTS NOT DEPENDENT ON CANCELLATION OF OBLIGATIONS TO BE REFUNDED. (a) An issuer may sell and deliver refunding bonds that have been registered with the comptroller so as to permit the issuer, in a timely manner determined by the issuer, to use proceeds from the sale to make all or any part of a deposit under this chapter.

(b) An issuer that has complied with this chapter may issue, register, sell, or deliver a refunding bond in lieu of the obligation to be refunded regardless of whether:

(1) the holder of the obligation to be refunded has surrendered or presented the obligation for payment and cancellation; or

(2) the obligation to be refunded has been canceled.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1207.027. COMPTROLLER TO ACCEPT AND KEEP SAFE DEPOSITS. (a) The comptroller shall:

(1) accept each deposit, payment, or instrument received under this subchapter; and

(2) safely keep and use the money only for a purpose specified in this subchapter.

(b) Money deposited with the comptroller under this subchapter may not be:

(1) used by or for the benefit of this state or for the benefit of a creditor of this state, except as provided by Section 1207.032; or

(2) commingled with other money.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1207.028. COMPTROLLER TO SEND AND RECORD DEPOSIT OR PAYMENT. (a) After receipt of a deposit or payment under this subchapter, the comptroller shall immediately and by the most expeditious means send to the paying agent for the obligation being refunded an amount equal to the deposit or payment less the amount of any fee charged under Section 1207.032.

(b) The comptroller shall notify the paying agent to send to the comptroller the obligation being refunded.

(c) After the comptroller has made a record of its payment and cancellation, the comptroller shall send the obligation being refunded and any interest coupon to the issuer.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1207.029. SELECTION OF PAYING AGENT. If there is more than one paying agent for an obligation being refunded, the comptroller shall send the money directly to:

(1) the paying agent located in this state, if only one paying agent is located in this state;

(2) the paying agent located in this state having the largest capital and surplus, if more than one paying agent is located in this state; or

(3) the paying agent having the largest capital and surplus, if no paying agent is located in this state and more than one paying agent is located in another state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1207.030. ESTABLISHMENT AND USE OF TRUST FUND. (a) The paying agent shall deposit the money received from the comptroller, except that amount representing the charges of the paying agent, in an interest and sinking fund to be established and maintained as a trust fund for the payment of the obligation being refunded.

(b) The paying agent shall, from the interest and sinking fund, pay or redeem the obligations to be refunded when properly presented for payment or redemption.

(c) If there is more than one paying agent, the agent to whom the comptroller sent the money under Section 1207.029 shall make appropriate financial arrangements to ensure that the necessary money will be available to any other paying agent to pay or redeem an obligation to be refunded when presented for payment or redemption.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1207.031. WITHDRAWAL OF DEPOSIT. (a) An issuer that has made the deposit and payments required by this subchapter may apply

to the comptroller to withdraw from the paying agent the amount of money deposited to the credit of the account of an obligation that has been refunded, including interest and premium, if any, by exhibiting the canceled obligation to the comptroller. The comptroller shall make a proper record of payment and cancellation of that obligation.

(b) An issuer may withdraw money deposited under this subchapter only if:

(1) the conditions stated in Subsection (a) are met; or

(2) the attorney general certifies to the comptroller that the issuer's payment of the obligation as to which the deposit was made is barred by limitation and forbidden by law.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1207.032. COMPTROLLER FEES. The comptroller may charge a reasonable fee for a service performed under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1207.033. DISCHARGE. (a) A deposit of money made under this chapter is considered to be the making of firm banking and financial arrangements for the discharge and final payment or redemption of the obligations to be refunded or to be paid or redeemed wholly or partly without the issuance of refunding bonds if the deposit is made on or before the payment or redemption date or dates of the obligations.

(b) An issuer may provide in the proceedings authorizing the issuance of the refunding bonds that the refunding bonds are subordinate to the obligations to be refunded. The subordination may be made only in the manner and to the extent specifically provided by those proceedings.

(c) After firm banking and financial arrangements for the discharge and final payment or redemption of the obligations have been made under Subsection (a), all rights of an issuer to initiate proceedings to call the obligations for redemption or take any other action amending the terms of the obligations are extinguished. The right to call the obligations for redemption is not extinguished if the issuer:

(1) in the proceedings providing for the firm banking and financial arrangements, expressly reserves the right to call the obligations for redemption;

(2) gives notice of the reservation of that right to the owners of the obligations immediately following the making of the firm banking and financial arrangements; and

(3) directs that notice of the reservation be included in any redemption notices that it authorizes.

(d) Subsection (c) applies only to firm banking and financial arrangements made on or after September 1, 1999, and has no effect on the validity or legality of any such arrangements made before that date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 10, eff. Sept. 1, 1999.

Sec. 1207.034. RIGHT TO DEMAND OR RECEIVE EARLY PAYMENT. The holder of an obligation to be refunded by refunding bonds may not demand or receive payment of the obligation to be refunded before its scheduled maturity date, due date, or redemption date unless the proceedings authorizing the refunding bonds specifically provide for the earlier payment.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1207.035. CONFLICT OR INCONSISTENCY WITH OTHER LAWS. To the extent of a conflict or inconsistency between this subchapter and another law, this subchapter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. DIRECT DEPOSIT WITH PAYING AGENT

Sec. 1207.061. AUTHORITY TO DEPOSIT DIRECTLY. (a) An issuer may, in lieu of making a deposit with the comptroller under Subchapter B, deposit an amount of money sufficient to provide for the payment or redemption of the obligations, including assumed obligations, to be refunded or to be paid or redeemed in whole or in

part without issuing refunding bonds, directly with:

(1) a paying agent for any of the obligations to be refunded, paid, or redeemed;

(2) the trustee under a trust indenture, deed of trust, or similar instrument providing security for the obligations to be refunded, paid, or redeemed; or

(3) a trust company or commercial bank other than one described by Subdivision (1) or (2) that:

(A) does not act as a depository for the issuer; and

(B) is named in the proceedings of the issuer authorizing execution of an agreement under Section 1207.062.

(b) An issuer may make a deposit under this section from any source, including the proceeds from the sale of the refunding bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 769, Sec. 5, eff. Sept. 1, 2001.

Sec. 1207.062. ESCROW AGREEMENT. (a) An issuer may enter into an escrow or similar agreement with a person described by Section 1207.061(a) with respect to the safekeeping, investment, administration, and disposition of a deposit made under Section 1207.061.

(b) A deposit under Section 1207.061 may be invested only in:

(1) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by the United States;

(2) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent; and

(3) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its

equivalent.

(c) A deposit under Section 1207.061 may be invested only in obligations that mature and bear interest payable at times and in amounts sufficient to provide for the scheduled payment or redemption of the obligation to be refunded. The obligations may be in book-entry form.

(d) An issuer shall enter into an agreement under Subsection (a) if an obligation to be refunded is scheduled to be paid or redeemed on a date later than the next scheduled interest payment date on the obligation.

(e) Notwithstanding Subsection (b), a deposit under an escrow agreement entered into under Subsection (a) before September 1, 1999, may not be invested in an investment described by Subsection (b)(2) or (3).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 11, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 769, Sec. 6, eff. Sept. 1, 2001.

Sec. 1207.0621. SOURCES AVAILABLE FOR PAYMENT. An issuer may pledge to the payment of a refunding bond issued to make a deposit under this subchapter:

(1) any surplus income to be earned from the investment of a deposit made under this subchapter;

(2) any other available revenue, income, or resource; or

(3) both surplus income described by Subdivision (1) and any other available revenue, income, or resource.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 8.003, eff. Sept. 1, 2001.

Sec. 1207.063. DUTY TO COMPLY. A person described by Section 1201.061(a) that enters into an agreement under Section 1207.062 shall comply with each term of that agreement and, from the deposited money and in the manner and to the extent provided by the agreement, make available to any other paying agent or trustee for an obligation of the same or a different series of obligations to be refunded, paid, or redeemed, the amounts required by the terms of the obligation to pay or redeem the principal of and interest on the

obligation when due.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 769, Sec. 7, eff. Sept. 1, 2001.

Sec. 1207.064. INCONTESTABILITY OF CERTAIN ESCROW AGREEMENTS AND CONTRACTS. After the registration of a refunding bond and the sale and delivery of the bond to the purchaser, the proceedings that authorize the refunding bond, any escrow agreement relating to the refunding bond, and any contract providing security or payments with respect to the refunding bond are:

(1) incontestable in any court or other forum for any reason; and

(2) valid and binding obligations in accordance with their terms for any purpose.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. EXCHANGE REFUNDING PROCEDURES

Sec. 1207.081. ISSUANCE IN EXCHANGE FOR OBLIGATION TO BE REFUNDED; LIMITATION. (a) Refunding bonds may be issued to be exchanged under this subchapter for, and on the surrender and cancellation of, the obligations to be refunded.

(b) The comptroller shall register a refunding bond and deliver it to the holder of the obligation to be refunded, in accordance with the proceedings authorizing the refunding bond. The exchange may be made in one delivery or in installment deliveries.

(c) Repealed by Acts 1999, 76th Leg., ch. 1064, Sec. 47(1), eff. Sept. 1, 1999.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 47(1), eff. Sept. 1, 1999.

Sec. 1207.082. LIMITATION ON AUTHORITY TO PARTIALLY REFUND. An issuer may issue refunding bonds to be exchanged under this subchapter to refund part of an outstanding issue of bonds, notes, or other obligations only if the issuer demonstrates to the attorney

general at the time of the refunding that, based on then current conditions, the issuer will have adequate resources available at the times required to provide for the payment of the unrefunded part of the outstanding issue when due.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1207.083. OTHER POWERS OF ISSUER. To the extent necessary or convenient in carrying out a power under this subchapter, an issuer may use the provisions of any other law that does not conflict with this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1207.084. CONFLICT OR INCONSISTENCY WITH OTHER LAWS. When bonds are being issued to be exchanged under this subchapter, to the extent of a conflict or inconsistency between this subchapter and another law, this subchapter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1208. SECURITY FOR PUBLIC SECURITIES

Sec. 1208.001. DEFINITIONS. In this chapter:

(1) "Credit agreement" means any agreement authorized by a governing body of an issuer in connection with or related to the authorization, issuance, sale, resale, security, exchange, payment, purchase, remarketing, or redemption of a public security, interest on a public security, or both. The term includes any agreement relating to public securities that is defined or described in state law as a "credit agreement" or a "bond enhancement agreement."

(2) "Issuer" and "public security" have the meanings assigned by Section 1202.001.

(3) "Security agreement" means a resolution, order, ordinance, or agreement that creates a security interest with respect to a public security or a credit agreement.

(4) "Security interest" means a pledge of, lien on, or other interest in taxes, revenue, receipts, funds, or other personal property or fixtures that secures payment or performance of public

securities or a credit agreement.

Added by Acts 2001, 77th Leg., ch. 24, Sec. 1, eff. July 1, 2001.

Sec. 1208.002. PLEDGE OF SECURITY. (a) A security interest created by an issuer by means of a security agreement:

(1) is valid and effective according to the terms of the security agreement as to all property of the governmental unit stated to be covered by the security agreement, whether:

(A) held at the time the security agreement is entered into or adopted; or

(B) later acquired or received;

(2) except as provided by Subsection (c), is perfected from the time the security agreement is entered into or adopted continuously through the termination of the security interest, in accordance with its terms, without physical delivery or transfer of control of the property, filing of a document, or another act;

(3) ranks as to priority in order of the time of perfection, except as otherwise provided by the security agreement; and

(4) may be enforced as provided by the security agreement or the law that authorizes the security agreement.

(b) The rights of a lien creditor as defined by Section 9.102(a), Business & Commerce Code, are subordinate to a perfected security interest described by Subsection (a).

(c) A security interest in real property is perfected when the security agreement, a memorandum of the security agreement, or other instrument creating the security interest is duly recorded in the real property records of the county in which the property is located.

(d) This section does not:

(1) create or exempt an issuer from a duty to submit public securities to the attorney general for approval and registration by the comptroller; or

(2) authorize an issuer to enter into or adopt a security agreement.

Added by Acts 2001, 77th Leg., ch. 24, Sec. 1, eff. July 1, 2001.

Sec. 1208.003. PREEMPTION. This chapter is a statute described

by Section 9.109(c)(2), Business & Commerce Code, and an issuer is considered to be a governmental unit for purposes of that section.

Added by Acts 2001, 77th Leg., ch. 24, Sec. 1, eff. July 1, 2001.

SUBTITLE B. PROVISIONS APPLICABLE TO SECURITIES ISSUED BY STATE GOVERNMENT

CHAPTER 1231. BOND REVIEW BOARD

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1231.001. DEFINITIONS. In this chapter:

(1) "Board" means the Bond Review Board.

(1-a) "Interest rate management agreement" means an agreement that provides for an interest rate transaction, including a swap, basis, forward, option, cap, collar, floor, lock, or hedge transaction, for a transaction similar to those types of transactions, or for a combination of any of those types of transactions. The term includes:

(A) a master agreement that provides standard terms for transactions;

(B) an agreement to transfer collateral as security for transactions; and

(C) a confirmation of transactions.

(2) "State security" means:

(A) an obligation, including a bond, issued by:

(i) a state agency;

(ii) an entity that is expressly created by statute and has statewide jurisdiction; or

(iii) an entity issuing the obligation on behalf of this state or on behalf of an entity described by Subparagraph (i) or (ii);

(B) an installment sale or lease-purchase obligation that is issued by or on behalf of an entity described by Paragraph (A) and that has:

(i) a stated term of more than five years; or

(ii) an initial principal amount of more than $250,000; or

(C) an obligation, including a bond, that is issued under Chapter 53, Education Code, at the request of or for the benefit of an institution of higher education other than a public

junior college.

(3) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 991 (S.B. 1332), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 991 (S.B. 1332), Sec. 3, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 1.05, eff. June 17, 2011.

Sec. 1231.002. CERTAIN RIGHTS OF ISSUERS NOT AFFECTED. This chapter does not affect the right of an issuer of state securities to select its own bond counsel, underwriter, financial advisor, or other service provider in connection with the issuance of state securities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. BOND REVIEW BOARD

Sec. 1231.021. BOND REVIEW BOARD; PRESIDING OFFICER. (a) The board is composed of:

(1) the governor;

(2) the lieutenant governor;

(3) the speaker of the house of representatives; and

(4) the comptroller.

(b) The governor is the presiding officer of the board.

(c) A member of the board may designate another person to act on the member's behalf.

(d) If the speaker of the house of representatives is prohibited by the constitution of this state from serving as a voting member, the speaker serves as a nonvoting member.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.0031, eff. Sept. 1, 2001.

Sec. 1231.022. RULES. The board may adopt rules:

(1) relating to applications for review, the review process, and reporting requirements;

(2) exempting certain state securities from the application of Subchapter C if the board finds that review of the securities is unnecessary or impractical; and

(3) delegating to the director of the bond finance office the authority to approve a state security on behalf of the board.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.023. DEBT ISSUANCE POLICIES AND GUIDELINES. (a) The board shall adopt debt issuance policies to guide issuers of state securities and to ensure that state debt is prudently managed. The policies must be sufficiently flexible to allow the state and issuers of state securities to respond to changing economic conditions.

(b) The board shall consult with issuers of state securities in developing the policies.

(c) The board shall adopt policies that:

(1) provide a mechanism for evaluating the amount of state debt that can be managed prudently;

(2) address opportunities to consolidate debt authority;

(3) include guidelines for:

(A) appropriate levels of reserves;

(B) the types of state security that should be issued under various circumstances; and

(C) the terms or structure of a state security;

(4) help the board and issuers of state securities to evaluate:

(A) the potential risks involved in the issuance of a state security or in the execution of an interest rate management agreement; and

(B) the effect that the issuance of a state security or that the execution of an interest rate management agreement will have on the finances and on the overall debt position of the issuer and of the state; and

(5) recommend other advisable practices related to the issuance of a state security.

Added by Acts 2001, 77th Leg., ch. 530, Sec. 1, eff. June 11, 2001.

Amended by:
Acts 2007, 80th Leg., R.S., Ch. 991 (S.B. 1332), Sec. 4, eff. September 1, 2007.

SUBCHAPTER C. BOARD APPROVAL OF ISSUANCE OF STATE SECURITY

Sec. 1231.041. APPROVAL OF STATE SECURITY. (a) Except as otherwise provided by this section, an entity, including a state agency, may not issue a state security unless:

(1) the board approves the issuance; or

(2) the security is exempted under law, including a board rule adopted under Section 1231.022(2).

(b) A state security issued by an institution of higher education, or issued at the request of or for the benefit of an institution of higher education, is not subject to board approval if:

(1) the institution or the university system of which the institution is a component has an unenhanced long-term debt rating of at least AA- or its equivalent; and

(2) the general revenue of this state is not pledged to the payment of the security.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 1.06, eff. June 17, 2011.

Sec. 1231.042. APPLICATION FOR APPROVAL OF ISSUANCE OF STATE SECURITY. To obtain the approval of the board to issue a state security, a state agency or other entity must:

(1) apply to the board, in the manner prescribed by the board; and

(2) file with the application any information, including documents, required by the board.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.043. APPROVAL OF ISSUANCE. The board shall approve the issuance of a state security if, after examining the application and documents or items of information required by the board, the

board determines that the issuance is advisable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.044. STATE AUDITOR REVIEW OF STATE SECURITY PROCEEDS; REPORT. (a) On the board's request, the state auditor shall review the disposition of state security proceeds.

(b) The state auditor shall prepare a report of the review and file a copy of the report with:

(1) the board;
(2) the governor;
(3) the lieutenant governor;
(4) the speaker of the house of representatives;
(5) the secretary of state; and
(6) each member of the legislature.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 12, eff. Sept. 1, 1999.

SUBCHAPTER D. REPORTS TO LEGISLATURE

Sec. 1231.061. REVIEW OF CERTAIN UNISSUED STATE SECURITIES; BIENNIAL REPORT TO LEGISLATURE. (a) The board shall review all state securities, including general obligation and revenue bonds, that have been authorized but are unissued.

(b) Not later than October 31 of each even-numbered year, the board shall submit to the legislature a report that recommends whether the authorization for a state security should be revoked.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.004, eff. Sept. 1, 2001.

Sec. 1231.062. BIENNIAL DEBT STATISTICS REPORT. (a) Not later than December 31 of each even-numbered year, the board shall submit to the legislature a statistical report relating to:

(1) state securities; and
(2) bonds and other debt obligations issued by local

governments.

(b) A report must include:

(1) total debt service as a percentage of total expenditures;

(2) tax-supported debt service as a percentage of general revenue expenditure;

(3) per capita total debt;

(4) per capita tax-supported debt;

(5) total debt and tax-supported debt as a percentage of personal income;

(6) total personal income per capita;

(7) total debt per capita as a percentage of total personal income per capita;

(8) total debt and tax-supported debt as a percentage of real property valuations;

(9) total debt and tax-supported debt as a percentage of annual revenues and expenditures;

(10) principal required to be repaid in five years and principal required to be repaid in 10 years;

(11) growth rates of total debt per capita and total debt per dollar of personal income;

(12) recent trends in the issuance of short-term notes;

(13) recent trends in issuance costs;

(14) savings from recent refundings;

(15) recent trends in capitalized interest use;

(16) debt service coverage ratios, if applicable; and

(17) other information the board considers relevant.

(c) The attorney general, each state agency, and each local government shall provide to the board, at the times required by the board, information that the board determines to be necessary to prepare the statistical report.

(d) The board may enter into a contract for the procurement of services related to the collection and maintenance of information on the indebtedness of local governments and state agencies necessary to prepare the statistical report.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 1, eff. June 19, 2009.

Sec. 1231.063. DEBT AFFORDABILITY STUDY. (a) The board, in consultation with the Legislative Budget Board, shall annually prepare a study regarding the state's current debt burden by:

(1) analyzing the state's historical debt use and financial and economic resources to determine the amount of additional not self-supporting debt the state can accommodate; and

(2) monitoring how annual changes and new debt authorizations affect the mechanism described in Subsection (b).

(b) The study must include a mechanism that can be used to determine, at a minimum, the state's debt affordability and serve as a guideline for debt authorizations and debt service appropriations. The mechanism must be designed to calculate:

(1) the not self-supporting debt service as a percentage of unrestricted revenues;

(2) the ratio of not self-supporting debt to personal income;

(3) the amount of not self-supporting debt per capita;

(4) the rate of debt retirement; and

(5) the ratio of not self-supporting debt service to budgeted or expended general revenue.

(c) Not later than February 15 of each year, the board shall submit the annual study to:

(1) the governor;

(2) the comptroller;

(3) the presiding officer of each house of the legislature; and

(4) the Senate Committee on Finance and House Appropriations Committee.

(d) The annual study submitted under Subsection (c) must include a target and limit ratio for not self-supporting debt service as a percentage of unrestricted revenues.

Added by Acts 2007, 80th Leg., R.S., Ch. 991 (S.B. 1332), Sec. 5, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 2, eff. June 19, 2009.

Sec. 1231.064. BIENNIAL REPORT ON STATE LENDING AND CREDIT SUPPORT PROGRAMS. (a) In this section:

(1) "Credit support program" means a program under which this state guarantees or provides credit enhancements for the debt of any public or private entity, including providing support for interest or principal payments, in a manner that obligates this state to pay any part of the principal or interest on that debt if the entity defaults.

(2) "Lending program" means a program through which state money is loaned, or otherwise provided with the expectation of repayment, to a public or private entity.

(b) Not later than December 31 of each even-numbered year, the board shall submit to the legislature and post on the board's Internet website a report on all lending programs and credit support programs in this state. The report must include:

(1) the total amount of state money lent through lending programs;

(2) the total amount of debt supported by credit support programs; and

(3) for each lending program or credit support program:

(A) the total amount of state money lent through or debt supported by the program, as applicable;

(B) a citation to the law authorizing the program; and

(C) a reasonable estimate of the costs of default associated with the program, computed in accordance with private-sector accounting standards for credit or other losses.

(c) A state agency or political subdivision of this state shall provide to the board in the manner provided by board rule any information necessary for the board to prepare the report required by this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 176 (H.B. 1038), Sec. 1, eff. September 1, 2023.

SUBCHAPTER E. SECURITY TRANSACTION REPORTS

Sec. 1231.081. GENERAL REQUIREMENTS. (a) Each entity that issues a state security shall report to the board its security transactions.

(b) A report must:

(1) be itemized;

(2) state in dollars the information required by Subsection (c) or Sections 1231.082-1231.085 for money paid to each business and classify each of the businesses that money was paid to according to:

(A) the race, ethnicity, and gender of the controlling ownership of each business; and

(B) whether the business is domestic or foreign; and

(3) be made in compliance with board rule.

(c) For any security transaction, the report must state each issuance cost, including the cost of:

(1) bond counsel;

(2) financial advisor;

(3) rating agencies;

(4) official statement preparation;

(5) official statement printing;

(6) bond printing;

(7) paying agent or registrar;

(8) escrow agent;

(9) escrow verification agent;

(10) trustee;

(11) attorney general;

(12) dealer fee;

(13) remarketing fee; and

(14) credit enhancement.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.082. REPORT OF STATE SECURITY SOLD COMPETITIVELY. A report concerning a state security that is sold competitively must state:

(1) the components of the gross spread, including:

(A) gross takedown;

(B) expenses; and

(C) syndicate profit and loss;

(2) a summary of obligation orders and allotments by maturity, firm, and order type; and

(3) each syndicate firm's gross takedown and share of syndicate profit or loss.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.083. REPORT OF STATE SECURITY SOLD THROUGH NEGOTIATION. A report concerning a state security sold through negotiation must state:

(1) the components of the spread, including:

(A) management fee;

(B) structuring fee;

(C) underwriting risk;

(D) takedown; and

(E) spread expenses;

(2) each firm's share of underwriting risk;

(3) the underwriter's counsel;

(4) a summary of obligation orders and allotments by maturity, firm, and order type; and

(5) each syndicate firm's share of management fee, structuring fee, underwriting risk fee, and takedown.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.084. REPORT OF STATE SECURITY SOLD THROUGH PRIVATE PLACEMENT. A report concerning a state security sold through private placement must state:

(1) each component of the private placement fee, including the:

(A) management fee;

(B) placement agent fee; and

(C) expenses; and

(2) the placement agent's counsel's fee.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.085. REPORT OF REFUNDING OR ESCROW-RELATED TRANSACTION. A report concerning a refunding or escrow-related transaction must state the spread paid on the purchase or sale of an escrow security.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.086. ANNUAL BOARD REPORTS. (a) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(68), eff. June 17, 2011.

(b) On November 15 of each year, the board shall send to the lieutenant governor, the speaker of the house, and each member of the legislature a report of the information received under this subchapter for the fiscal year ending August 31 of that year.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(68), eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 47, eff. September 1, 2013.

SUBCHAPTER F. BOND FINANCE OFFICE

Sec. 1231.101. BOND FINANCE OFFICE. (a) The board shall appoint a director to:

(1) manage the bond finance office; and

(2) select the staff of the office.

(b) When practical, the office shall make use of:

(1) the resources of the Legislative Budget Board; and

(2) the offices of the governor and the comptroller.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.102. ANNUAL REPORT. Not later than 90 days after the end of each state fiscal year, the bond finance office shall publish a report listing:

(1) the amount of state securities outstanding;

(2) applicable repayment schedules; and

(3) other information the office considers relevant.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1231.103. PROVISION OF INFORMATION RELATING TO OTHER BONDS. The bond finance office may provide information for inclusion in a prospectus related to any bond issued under authority of state law or municipal ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1232. TEXAS PUBLIC FINANCE AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1232.001. SHORT TITLE. This chapter may be cited as the Texas Public Finance Authority Act.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.002. PURPOSE. The purpose of this chapter is to provide a method of financing for:

(1) the acquisition or construction of buildings;

(2) the purchase or lease of equipment by executive or judicial branch state agencies; and

(3) customer rate relief bonds authorized by the Railroad Commission of Texas in accordance with Subchapter I, Chapter 104, Utilities Code.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 646, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 805 (H.B. 1520), Sec. 1, eff. June 16, 2021.

Sec. 1232.003. DEFINITIONS. In this chapter:

(1) "Authority" means the Texas Public Finance Authority.

(2) "Board" means the board of directors of the authority.

(3) "Building" means:

(A) a structure used by a state agency to conduct state business; and

(B) the major equipment or personal property related functionally to a structure used by a state agency to conduct state business.

(4) "Commission" means the Texas Facilities Commission.

(5) "Computer equipment" means a telecommunications device or system, an automated information system, a computer on which an information system is automated, and computer software.

(6) "Construction" means the erection, improvement, repair,

renovation, or remodeling of a building.

(7) "Equipment" means a fixed asset, other than land or a building, used by a state agency to conduct state business. The term includes computer equipment.

(8) "Obligation" means a bond, note, certificate of participation, certificate of obligation, or interest in a contract.

(9) "State agency" means a board, commission, department, office, agency, institution of higher education, or other governmental entity in the executive, judicial, or legislative branch of state government.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 1.01, eff. Sept. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 4, eff. September 1, 2019.

Sec. 1232.004. STATE LEASE FUND ACCOUNT. (a) The state lease fund account is an account in the general revenue fund and may be used only for a purpose designated by law.

(b) The state lease fund account may be used to finance an appropriation to the commission or a state agency or directly to the authority on behalf of a state agency to pay required rents, fees, and installments to the authority.

(c) After all obligations have been paid or provided for, the legislature may transfer money deposited in the state lease fund account to the Texas capital trust fund account for other purposes.

(d) The amount in the state lease fund account that is in excess of amounts needed for debt service and is unencumbered shall be transferred at the end of each biennium to the undedicated portion of the general revenue fund.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.005. APPLICATION OF STATE FUNDS REFORM ACT. All money paid to the authority under this chapter is subject to Subchapter F, Chapter 404.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. TEXAS PUBLIC FINANCE AUTHORITY

Sec. 1232.051. TEXAS PUBLIC FINANCE AUTHORITY. The Texas Public Finance Authority is a public authority and a body politic and corporate.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.052. COMPOSITION OF GOVERNING BOARD. (a) The authority is governed by a board of directors composed of seven members appointed by the governor with the advice and consent of the senate.

(b) A person is not eligible for appointment as a member of the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the authority;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the authority; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the authority, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(c) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 646, Sec. 2, eff. Sept. 1, 2001.

Sec. 1232.053. TERMS. Members of the board are appointed for staggered terms of six years, with two or three members' terms expiring February 1 of each odd-numbered year.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 646, Sec. 3, eff. Sept. 1, 2001.

Sec. 1232.054. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board that a member:

(1) violates a prohibition established by Section 1232.060;

(2) cannot because of illness or disability discharge the member's duties for a substantial part of the term for which the member is appointed; or

(3) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the executive director of the authority has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the assistant presiding officer, who shall notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.055. BOARD MEMBER TRAINING. (a) To be eligible to take office as a member of the board, a person appointed to the board must complete at least one course of a training program that complies with this section.

(b) The training program must provide information to the person regarding:

(1) the enabling legislation that created the authority and the board;

(2) the programs operated by the authority;

(3) the role and functions of the authority;

(4) the rules of the authority, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the authority;

(6) the results of the most recent formal audit of the authority;

(7) the requirements of the:

(A) open meetings law, Chapter 551;

(B) public information law, Chapter 552; and

(C) administrative procedure law, Chapter 2001;

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the authority or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the board.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.056. OFFICERS; MEETINGS. (a) The governor shall designate a member of the board as the presiding officer to serve in that capacity at the pleasure of the governor. The board biennially shall elect an assistant presiding officer from its members.

(b) The board shall meet at least once in each calendar quarter and shall meet at other times at the call of the presiding officer or as prescribed by board rule.

(c) A subcommittee of the board, appointed by the board as provided by Section 1371.053(c)(2), is not subject to Chapter 551 when it is acting to price and sell the obligations of the authority in accordance with parameters for the issuance established by the board.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.005(a), eff. Sept. 1, 2001.

Sec. 1232.057. PUBLIC TESTIMONY AT BOARD MEETINGS. The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the authority.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.058. COMPENSATION AND EXPENSES. A board member is entitled to:

(1) a per diem of $50, unless otherwise specified in the General Appropriations Act, for each day the member performs functions as a board member; and

(2) reimbursement for actual and necessary expenses that the member incurs in performing board functions.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.059. STAFF; CONSULTANTS. (a) The board shall employ persons and contract with consultants necessary for the board to perform its functions.

(b) Employees of the authority are considered to be state employees.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.060. CONFLICT OF INTEREST. (a) An officer, employee, or paid consultant of a Texas trade association in the field of public finance may not be a member of the board or an employee of the authority who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.

(b) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of public finance may not be a member of the board and may not be an employee of the authority who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.

(c) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual

business or professional problems and in promoting their common interest.

(d) A person may not serve as a member of the board or act as the general counsel to the board or the authority if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the authority.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.061. INFORMATION ON RESPONSIBILITIES OF BOARD MEMBERS AND EMPLOYEES. The executive director of the authority or the executive director's designee shall provide to members of the board and to authority employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.062. SEPARATION OF POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of the authority.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.063. EQUAL EMPLOYMENT OPPORTUNITY. (a) The executive director of the authority or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with requirements of

Chapter 21, Labor Code;

(2) a comprehensive analysis of the authority workforce that meets federal and state guidelines;

(3) procedures by which a determination can be made about the extent of underuse in the authority workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(b) A policy statement prepared under Subsection (a) must cover an annual period, be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (a)(1), and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.064. CAREER LADDER; EMPLOYEE PERFORMANCE EVALUATIONS. (a) The executive director of the authority or the executive director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the authority. The program shall require intra-agency posting of all positions concurrently with any public posting.

(b) The executive director of the authority or the executive director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for authority employees must be based on the system established under this subsection.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.065. COMPLIANCE WITH LAWS RELATING TO ACCESSIBILITY. The authority shall comply with federal and state laws related to program and facility accessibility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.066. BOARD AUTHORITY. (a) The board's authority under this chapter is limited to the financing of:

(1) the acquisition or construction of a building;

(2) the purchase or lease of equipment;

(3) stranded costs of a municipal power agency; or

(4) customer rate relief bonds approved by the Railroad Commission of Texas in accordance with Subchapter I, Chapter 104, Utilities Code.

(b) The board's authority does not affect the authority of the commission or any other state agency.

(c) Buildings and equipment financed by the authority under this chapter do not become part of other property to which they may be attached or into which they may be incorporated, without regard to whether the other property is real or personal.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.006(a), eff. Sept. 1, 2001.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 805 (H.B. 1520), Sec. 2, eff. June 16, 2021.

Sec. 1232.067. GENERAL POWERS. The board may:

(1) exercise, to the extent practicable, all powers given to a corporation under the general laws of the state;

(2) have perpetual succession by its corporate name;

(3) sue and be sued in its corporate name;

(4) adopt a seal for use as the board considers appropriate;

(5) accept gifts; and

(6) adopt rules and perform all functions reasonably necessary for the board to administer its functions prescribed by this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.068. EMINENT DOMAIN. The authority may exercise the power of eminent domain for the purposes set forth in this chapter in connection with the acquisition or construction of a building that is authorized as provided by Section 1232.108.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.070. INFORMATION ON COMPLAINTS. (a) The authority shall keep a file about each written complaint filed with the authority that the authority has authority to resolve. The authority shall provide to the person filing the complaint and the persons complained about the authority's policies and procedures relating to complaint investigation and resolution. The authority, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and the persons complained about of the status of the complaint unless the notice would jeopardize an undercover investigation.

(b) The authority shall keep information about each complaint filed with the authority. The information must include:

(1) the date the complaint is received;

(2) the name of the complainant;

(3) the subject matter of the complaint;

(4) a record of all persons contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) for complaints for which the authority took no action, an explanation of the reason the complaint was closed without action.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.071. RELATIONSHIP TO PREVIOUS BOARD. (a) The Texas Public Finance Authority owns the property formerly owned by, and is the successor to each lease or rental contract entered into by, the Texas Public Building Authority created by Chapter 700, Acts of the 68th Legislature, Regular Session, 1983.

(b) An obligation contracted or assumed by the Texas Public Building Authority with respect to a property or contract described by Subsection (a) is an obligation of the Texas Public Finance

Authority.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.072. SUNSET PROVISION. The Texas Public Finance Authority is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the authority is abolished and this chapter expires September 1, 2029.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 3.13, eff. June 15, 2007.
Acts 2011, 82nd Leg., R.S., Ch. 521 (H.B. 2251), Sec. 1, eff. June 17, 2011.
Acts 2021, 87th Leg., R.S., Ch. 850 (S.B. 713), Sec. 3.01, eff. June 16, 2021.
Acts 2023, 88th Leg., R.S., Ch. 941 (S.B. 1659), Sec. 1.08, eff. June 18, 2023.

Sec. 1232.073. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of authority rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the authority's jurisdiction.

(b) The authority's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The authority shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Added by Acts 2011, 82nd Leg., R.S., Ch. 521 (H.B. 2251), Sec. 2, eff. June 17, 2011.

SUBCHAPTER C. OBLIGATIONS

Sec. 1232.101. ISSUANCE OF BONDS FOR CERTAIN STATE AGENCIES. (a) With respect to all bonds authorized to be issued by or on behalf of the Texas Military Department, Parks and Wildlife Department, Texas Agricultural Finance Authority, Texas Low-Level Radioactive Waste Disposal Authority, and Texas Southern University, the authority has the exclusive authority to act on behalf of those entities in issuing bonds on their behalf. In connection with those issuances and with the issuance of refunding bonds on behalf of those entities, the authority is subject to all rights, duties, and conditions surrounding issuance previously applicable to the issuing entity under the statute authorizing the issuance. A reference in an authorizing statute to the entity on whose behalf the bonds are being issued applies equally to the authority in its capacity as issuer on behalf of the entity.

(b) Except as provided by Subsection (a), the authority may, under an agreement entered into with Texas State Technical College System or a general academic teaching institution as defined by Section 61.003, Education Code, act on behalf of Texas State Technical College System or a general academic teaching institution in issuing bonds on the system's or institution's behalf. In connection with those issuances and with the issuance of refunding bonds on behalf of the system or those institutions, the authority is subject to all rights, duties, and conditions surrounding issuance previously applicable to the issuing system or institution under the statute authorizing the issuance. A reference in an authorizing statute to the system or institution on whose behalf the bonds are being issued applies equally to the authority in its capacity as issuer on behalf of the system or institution. An agreement under this subsection may provide for reimbursement to the authority for costs incurred in issuing bonds under the agreement.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 646, Sec. 4, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1335 (S.B. 1724), Sec. 13, eff.

September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 1.18, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 521 (H.B. 2251), Sec. 3, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 2.09, eff. September 1, 2013.

Acts 2021, 87th Leg., R.S., Ch. 417 (H.B. 1522), Sec. 15, eff. September 1, 2021.

Sec. 1232.102. ISSUANCE OF BONDS FOR STATE OFFICE BUILDINGS. (a) The board may issue and sell bonds in the name of the authority to finance the acquisition or construction of buildings. After receiving a request described by Section 2166.452, the board may issue bonds in amounts not exceeding the previously authorized amount of bonds plus five percent of the acquisition cost of the property, as described in the request.

(b) The board shall promptly issue and sell bonds in the name of the authority under this chapter to finance the acquisition or construction of a building that has been authorized in accordance with this chapter or under Section 2166.452 or 2166.453.

(c) The commission or other state agency involved in acquiring or constructing a building financed by bonds issued under this chapter shall accomplish its statutory authority as if the building were financed by legislative appropriation. The board and the commission or other state agency involved in the acquisition or construction of a building shall adopt a memorandum of understanding that defines the division of authority between the board and the commission or other agency.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 646, Sec. 5, eff. Sept. 1, 2001.

Sec. 1232.1025. ISSUANCE OF BONDS FOR MILITARY FACILITIES. (a) The board may issue and sell bonds in the name of the authority to finance the acquisition or construction of buildings to be used as state military forces facilities.

(b) After receiving a request under Section 437.153, the board

shall promptly issue and sell bonds in the name of the authority to provide the requested financing.

(c) The adjutant general shall accomplish its statutory authority as if the property or building were financed by legislative appropriation. The board and the adjutant general shall adopt a memorandum of understanding that defines the division of authority between the board and adjutant general.

(d) On completion of the acquisition or construction, the adjutant general shall lease the building from the authority.

Added by Acts 2007, 80th Leg., R.S., Ch. 1335 (S.B. 1724), Sec. 14, eff. September 1, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 3.09, eff. September 1, 2013.

Sec. 1232.1026. ISSUANCE OF BONDS FOR TEXAS BULLION DEPOSITORY BUILDINGS. (a) The board may issue and sell bonds in the name of the authority to finance the acquisition or construction of buildings to be used to operate the Texas Bullion Depository, including the acquisition of real property for that purpose.

(b) The comptroller shall accomplish its statutory authority as if the property or building acquired or constructed under this section were funded by legislative appropriation. The board and the comptroller shall adopt a memorandum of understanding that defines the division of authority between the board and comptroller regarding the property or building.

(c) To accomplish the bond financing of the acquisition or construction of property or a building under this section, the comptroller shall contract with the authority to purchase the property or building from the authority under a lease-to-purchase agreement or other comparable financing agreement, as determined by the board and the comptroller to be in the best interest of the state.

Added by Acts 2021, 87th Leg., R.S., Ch. 981 (S.B. 2230), Sec. 1, eff. June 18, 2021.

Sec. 1232.103. ISSUANCE OF OBLIGATIONS FOR EQUIPMENT. (a) The

authority may issue and sell obligations for the financing of:

(1) a lease or other agreement that concerns equipment that an executive or judicial branch state agency has purchased or leased or intends to purchase or lease; or

(2) a package of agreements described by Subdivision (1) that involves one or more state agencies.

(b) An obligation issued by the authority is payable under an agreement that may be in the nature of:

(1) a lease under which the authority leases equipment from a vendor for sublease to the commission or another state agency;

(2) a purchase by the authority of equipment and the lease of that equipment to either:

(A) the commission for the benefit of a state agency; or

(B) a state agency other than the commission;

(3) a purchase by the authority of equipment and the sale of that equipment to a state agency on an installment payment basis; or

(4) any similar agreement.

(c) If an agreement is between the authority and a state agency or between a vendor and a state agency, the commission shall nevertheless perform its functions as purchasing agent for the state, with the funds obtained under this section used solely to finance the agreement. The board and the commission shall adopt a memorandum of understanding that defines the division of authority between the board and the commission.

(d) A state agency may enter into a type of agreement described by this section to purchase or lease necessary equipment.

(e) If a law requires a state agency to obtain the approval of another state agency or perform any other act before the agency may purchase or lease computer equipment, those requirements must be satisfied before the agency may enter into an agreement under this chapter. The authority shall adopt rules so that computer equipment may not be financed before the authority receives written proof that the requirements have been satisfied.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.104. ISSUANCE OF OBLIGATIONS FOR ALTERNATIVE FUEL

PROJECTS. (a) If the authority determines that a project is financially viable and sufficient revenue is or will be available, the authority may issue and sell obligations the proceeds of which shall be used for the financing of:

(1) the conversion of state agency vehicles and other sources of substantial energy output to an alternative fuel under Subchapter A, Chapter 2158;

(2) the construction, acquisition, or maintenance by the commission of fueling stations supplying alternative fuels or equipment enhancing the use of engine-driven technology to support state agency vehicles and other energy applications that use an alternative fuel;

(3) the conversion of school district motor vehicles and other sources of substantial energy output to an alternative fuel;

(4) the construction, acquisition, or maintenance by a school district of fueling stations supplying alternative fuels or equipment enhancing the use of engine-driven technology to support school district motor vehicles and other energy applications that use an alternative fuel;

(5) the conversion of local mass transit authority or department motor vehicles and other sources of substantial energy output to an alternative fuel;

(6) the construction, acquisition, or maintenance of fueling stations supplying alternative fuels or equipment enhancing the use of engine-driven technology by a local mass transit authority or department to support transit authority or department vehicles and other energy applications that use an alternative fuel;

(7) the conversion of motor vehicles and other sources of substantial energy output of a local government to an alternative fuel;

(8) the conversion of motor vehicles and other sources of substantial energy output of a hospital district or authority, a housing authority, or a district or authority created under Section 52, Article III, Texas Constitution, or Section 59, Article XVI, Texas Constitution, to an alternative fuel;

(9) the construction, acquisition, or maintenance of fueling stations supplying alternative fuels or equipment enhancing the use of engine-driven technology to support motor vehicles and other energy applications that use an alternative fuel by a county, a municipality, or an entity described by Subdivision (8); or

(10) a joint venture between the private sector and a state agency or political subdivision that is required under law to use an alternative fuel in the agency's or subdivision's vehicles or other energy applications to:

(A) convert vehicles or other sources of substantial energy output to an alternative fuel;

(B) develop fueling stations and resources for the supply of alternative fuels and engine-driven applications;

(C) aid in the distribution of alternative fuels; and

(D) engage in other projects to facilitate the use of alternative fuels.

(b) The board may provide for the payment of the principal of or interest on an obligation issued under this section:

(1) by pledging all or a part of the revenue the state derives from the sale of alternative fuel, alternative fuel equipment or technology, or vehicles powered by an alternative fuel;

(2) by contracting with a political subdivision or a private entity to pledge revenue the political subdivision or private entity derives from the sale of alternative fuel, alternative fuel equipment or technology, or vehicles powered by an alternative fuel in an amount sufficient to ensure that the obligations are paid;

(3) by pledging appropriated general revenues of the state or other appropriated money in the state treasury; or

(4) from any other source of funds available to the board.

(c) The authority shall attempt to:

(1) include minority-owned businesses in the issuance and underwriting of at least 20 percent of the obligations issued under this section; and

(2) include women-owned businesses in the issuance and underwriting of at least 10 percent of the obligations issued under this section.

(d) Costs of administering the alternative fuel finance program shall be considered a part of project costs and shall be funded with proceeds of the obligations.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 864 (S.B. 1032), Sec. 4, eff. September 1, 2005.

Sec. 1232.105. AGGREGATE LIMIT ON ISSUANCE OF OBLIGATIONS FOR ALTERNATIVE FUEL PROJECTS. The authority may not issue and sell more than $50 million in obligations for projects under Section 1232.104.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.106. EVALUATION OF APPLICATION FOR ASSISTANCE WITH ALTERNATIVE FUEL PROJECTS. (a) The comptroller shall evaluate an application by an eligible entity for the financing under Section 1232.104 of the acquisition, construction, or improvement of alternative fuels infrastructure and shall determine whether the proposed project will increase energy or cost savings to the applicant.

(b) The authority may not issue an obligation under Section 1232.104 unless the comptroller certifies that the proposed project will increase energy or cost savings to the applicant.

(c) The comptroller by rule may adopt procedures and standards for the evaluation of an application for the financing of a proposed project under Section 1232.104.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 553 (S.B. 526), Sec. 9(d), eff. September 1, 2017.

Sec. 1232.107. PURCHASE OF OBLIGATIONS FOR ALTERNATIVE FUEL PROJECTS. (a) The authority may use the proceeds of obligations issued under Section 1232.104 to purchase, at a price determined by the authority, an obligation of an entity described by Section 1232.104(a) that evidences the entity's obligation to repay the authority. Notwithstanding any other law, the authority may acquire an obligation of an entity described by Section 1232.104(a) in a private sale as provided by resolution or order of the governing body of the entity.

(b) An entity described by Section 1232.104(a) may borrow from the authority by selling an obligation to the authority.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.1071. ISSUANCE OF OBLIGATIONS FOR FINANCING STRANDED COSTS OF MUNICIPAL POWER AGENCY. (a) The authority may, either directly or by means of a trust or trusts established by it, issue obligations or other evidences of indebtedness for financing stranded costs of a municipal power agency created by concurrent resolution by its member cities on or before November 1, 1979, pursuant to Chapter 163, Utilities Code, or a predecessor statute to that chapter. The stranded costs of the municipal power agency are set forth as allocated to the member cities in the "Potentially Strandable Investment (ECOM) Report: 1998 Update" issued by the Public Utility Commission of Texas.

(b) At the request of any member city of a municipal power agency, the authority shall issue obligations or other evidences of indebtedness in the amount of the requesting member city's stranded costs, plus the sum of the costs described in Subdivision (1) and the issuance costs, and shall make a grant of the proceeds of the obligations or evidences of indebtedness to the municipal power agency. A member city's request under this subsection must include a statement of the payment terms for recovering stranded costs. A grant of the proceeds of obligations or evidences of indebtedness is subject to the following conditions:

(1) the municipal power agency shall use the grant to reduce the outstanding principal of the agency's debts allocable to stranded costs of the requesting member city for federal income tax purposes, whether by redemption, defeasance, or tender offer, together with any interest expenses, call premium, tender premium, or administrative expenses associated with the principal payment; and

(2) the municipal power agency shall reduce the amount payable by the requesting member city under its power sales contract with the agency to reflect the reduced debt service on the agency's debt as a result of the payments made under Subdivision (1).

(c) Obligations or evidences of indebtedness issued by the authority under this section must be secured by nonbypassable charges imposed by the authority on retail customers receiving transmission and distribution services provided by the requesting member city, which must be consistent with the stranded cost recovery terms stated in the member city's request unless otherwise approved by the member city. Obligations or evidences of indebtedness issued by the authority under this section are not a debt of this state, the municipal power agency, or any member of the municipal power agency.

(d) The Public Utility Commission of Texas shall provide necessary assistance to the authority to ensure the collection and enforcement of the nonbypassable charges, whether directly or by using the assistance and powers of the requesting member city.

(e) The authority and the Public Utility Commission of Texas have all powers necessary to perform the duties and responsibilities described by this section. This section shall be interpreted broadly in a manner consistent with the most cost-effective financing of stranded costs. To the extent possible, obligations or evidences of indebtedness issued by the authority under this section must be structured so that any interest on the obligations or evidences of indebtedness is excluded from gross income for federal income tax purposes. Any interest on the obligations or evidences of indebtedness is not subject to taxation by and may not be included as part of the measurement of a tax by this state or a political subdivision of this state.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 8.007(a), eff. Sept. 1, 2001.

Sec. 1232.1072. ISSUANCE OF OBLIGATIONS FOR FINANCING CUSTOMER RATE RELIEF PROPERTY. (a) The definitions in Section 104.362, Utilities Code, apply to terms used in this section.

(b) The authority may create an issuing financing entity for the purpose of issuing customer rate relief bonds approved by the Railroad Commission of Texas in a financing order, as provided by Subchapter I, Chapter 104, Utilities Code.

(c) An issuing financing entity created under this section is a duly constituted public authority and instrumentality of the state and is authorized to issue customer rate relief bonds on behalf of the state for the purposes of Section 103, Internal Revenue Code of 1986 (26 U.S.C. Section 103).

(d) The issuing financing entity must be governed by a governing board of three members appointed by the authority. A member of the governing board may be a current or former director of the authority. A member of the governing board serves without compensation but is entitled to reimbursement for travel expenses incurred in attending board meetings.

(e) The issuing financing entity must be formed in accordance

with, be governed by, and have the powers, rights, and privileges provided for a nonprofit corporation organized under the Business Organizations Code, including Chapter 22 of that code, subject to the express exceptions and limitations provided by this section and Subchapter I, Chapter 104, Utilities Code. A single organizer selected by the executive director of the authority shall prepare the certificate of formation of the issuing financing entity under Chapters 3 and 22, Business Organizations Code. The certificate of formation must be consistent with the provisions of this section.

(f) The authority shall establish the issuing financing entity to act on behalf of the state as its duly constituted authority and instrumentality to issue customer rate relief bonds approved under Subchapter I, Chapter 104, Utilities Code.

(g) On a request to the authority from the Railroad Commission of Texas, the authority shall direct an issuing financing entity to issue customer rate relief bonds in accordance with a financing order issued by the railroad commission as provided in Subchapter I, Chapter 104, Utilities Code.

(h) Before the issuance of any customer rate relief bonds, the authority and the Railroad Commission of Texas shall ensure that adequate provision is made in any financing order for the recovery of all issuance costs and all other fees, costs, and expenses of the authority, the issuing financing entity, and any advisors or counsel hired by the authority or the entity for the purposes of this section during the life of the customer rate relief bonds.

(i) Customer rate relief bonds are limited obligations of the issuing financing entity payable solely from customer rate relief property and any other money pledged by the issuing financing entity to the payment of the bonds and are not a debt of this state, the Railroad Commission of Texas, the authority, or a gas utility.

(j) The Railroad Commission of Texas shall ensure that customer rate relief charges are imposed, collected, and enforced in an amount sufficient to pay on a timely basis all bond obligations, financing costs, and bond administrative expenses associated with any issuance of customer rate relief bonds.

(k) The authority and the Railroad Commission of Texas have all the powers necessary to perform the duties and responsibilities described by this section. This section shall be interpreted broadly in a manner consistent with the most cost-effective financing of customer rate relief property, including regulatory assets,

extraordinary costs, and related financing costs approved by the Railroad Commission of Texas in accordance with Subchapter I, Chapter 104, Utilities Code.

(l) Any interest on the customer rate relief bonds is not subject to taxation by and may not be included as part of the measurement of a tax by this state or a political subdivision of this state.

(m) The authority shall make periodic reports to the Railroad Commission of Texas and the public regarding each financing made in accordance with Section 104.373(b), Utilities Code, and if required by the applicable financing order.

(n) The issuing financing entity shall issue customer rate relief bonds in accordance with and subject to other provisions of Title 9 applicable to the authority.

(o) The issuing financing entity may exercise the powers granted to the governing body of an issuer with regard to the issuance of obligations and the execution of credit agreements under Chapter 1371. A purpose for which bonds, obligations, or other evidences of indebtedness are issued under this section and Subchapter I, Chapter 104, Utilities Code, constitutes an eligible project for purposes of Chapter 1371 of this code.

(p) Assets of an issuing financing entity may not be considered part of any state fund and must be held outside the state treasury. The liabilities of the issuing financing entity may not be considered to be a debt of the state or a pledge of the state's credit. An issuing financing entity must be self-funded from customer rate relief property and established in accordance with Subchapter I, Chapter 104, Utilities Code. A state agency may provide money appropriated for the purpose to the issuing financing entity to provide for initial operational expenses of the issuing financing entity.

Added by Acts 2021, 87th Leg., R.S., Ch. 805 (H.B. 1520), Sec. 3, eff. June 16, 2021.

Sec. 1232.108. LEGISLATIVE AUTHORIZATION REQUIRED. Except as permitted by Section 1232.1072, 1232.109, 2166.452, or 2166.453, before the board may issue and sell bonds, the legislature by the General Appropriations Act or other law must have authorized:

(1) the specific project for which the bonds are to be issued and sold; and

(2) the estimated cost of the project or the maximum amount of bonded indebtedness that may be incurred by the issuance and sale of bonds for the project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 805 (H.B. 1520), Sec. 4, eff. June 16, 2021.

Sec. 1232.109. AUTHORIZATION TO PURCHASE CERTAIN REAL PROPERTY. (a) Because there is a continued need to acquire real property in or in the immediate vicinity of state office building complexes for the continued operation of state government, because prices and values of real property periodically fluctuate, and because the state must be able to respond to rapidly changing market conditions to acquire real property at substantial savings to taxpayers, the commission may purchase and renovate real property located, in whole or in part, within 1,000 feet of:

(1) the Capitol Complex in Travis County; or

(2) the John H. Winters Human Services Complex in Travis County.

(b) The commission may contract as necessary to accomplish the purposes stated in Subsection (a). The estimated cost of the project is $10 million. Before purchasing property under this section, the commission must determine that the purchase would be in the state's best interest.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.110. SPECIFIC PROJECTS. The board may issue bonds under Section 1232.102 for the following projects:

Project	Estimated Cost

State Board of Insurance Building in Travis County; facilities associated with relocation of the State Aircraft Pooling Board (not to exceed an estimated amount of $7,000,000); and the acquisition and development of acreage at Robert Mueller Municipal Airport for a state complex (not to exceed an estimated amount of $41,000,000)	$59,937,000
Laboratory and Office Facilities for the Texas Department of Health	$42,300,000
Parking facilities for state officers and employees to be built on state parking Lot 20 and for visitors to the Capitol Complex to be built on state parking Lot 17	$29,500,000
Construction or purchase and renovation of a building or buildings by the commission in Tarrant County	$10,000,000
Construction or purchase and renovation of a building or buildings by the commission in Harris County	$20,000,000

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 646, Sec. 6, eff. Sept. 1, 2001.

Sec. 1232.111. CERTAIN PROJECTS BY TEXAS DEPARTMENT OF TRANSPORTATION. (a) The authority may issue and sell obligations to finance one or more projects described by Section 201.1055(a), Transportation Code. Notwithstanding Section 1232.108(2), the estimated cost of the project must be specified in the General Appropriations Act or other law.

(b) Any provision of this chapter that relates to the issuance or sale of obligations to finance the acquisition or construction of a building, including provisions relating to form, procedure, repayment, actions that may be taken to ensure that the payment of the principal of and interest on the obligations is continued without

interruption, and other relevant matters, applies to the issuance or sale of obligations under this section to the extent that the provision may be appropriately made applicable.

(c) The legislature may appropriate money from any available source, including the state highway fund, to the Texas Department of Transportation to make lease payments to the authority for space occupied by the department in a building acquired or constructed under Section 201.1055(a), Transportation Code.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.90, eff. June 14, 2005.

Sec. 1232.1115. CERTAIN CONSTRUCTION AND REPAIR PROJECTS AND EQUIPMENT PURCHASES; GENERAL OBLIGATION BONDS. (a) The authority has the exclusive power to issue general obligation bonds under Section 50-f, Article III, Texas Constitution. The board shall issue the bonds in a cumulative amount not to exceed $850 million for:

(1) construction or repair projects in or outside Travis County that are administered by or on behalf of a state agency listed in Section 50-f, Article III, Texas Constitution, and authorized by the legislature in accordance with Section 1232.108; or

(2) the purchase of needed equipment by or on behalf of such an agency, and authorized by the legislature by the General Appropriations Act or other law.

(b) The board shall provide for, issue, and sell the bonds in accordance with Section 50-f, Article III, Texas Constitution, and this chapter. Proceeds from the sale of the bonds shall be invested as provided by this chapter.

(c) Proceeds from the sale of the bonds may be spent on an authorized project or for the purchase of needed equipment only in accordance with the legislative appropriation of the proceeds.

Added by Acts 2001, 77th Leg., ch. 565, Sec. 1, eff. Nov. 6, 2001.

Text of section effective on Passage of SJR 65.

Sec. 1232.1116. CERTAIN MAINTENANCE, IMPROVEMENT, REPAIR, AND CONSTRUCTION PROJECTS; GENERAL OBLIGATION BONDS. (a) The authority has the exclusive power to issue general obligation bonds under

Section 50-g, Article III, Texas Constitution. The board shall issue the bonds in a cumulative amount not to exceed $1 billion for:

(1) maintenance, improvement, repair, and construction projects in or outside Travis County that are administered by or on behalf of a state agency listed in Section 50-g, Article III, Texas Constitution, and authorized by the legislature in accordance with Section 1232.108; or

(2) the purchase of needed equipment by or on behalf of such an agency, and authorized by the legislature by the General Appropriations Act or other law.

(b) The board shall provide for, issue, and sell the bonds in accordance with Section 50-g, Article III, Texas Constitution, and this chapter. Proceeds from the sale of the bonds shall be invested as provided by this chapter.

(c) Proceeds from the sale of the bonds may be spent on an authorized project or for the purchase of needed equipment only in accordance with the legislative appropriation of the proceeds.

Added by Acts 2007, 80th Leg., R.S., Ch. 1392 (S.B. 2033), Sec. 1.

Sec. 1232.112. BOND REVIEW BOARD APPROVAL. (a) The authority may not issue obligations until the Bond Review Board has approved the issuance under Chapter 1231.

(b) The Bond Review Board may not approve a bond issue unless a project analysis is submitted for approval as provided by Section 1232.114.

(c) Refunding obligations of the authority must be approved by the Bond Review Board.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.113. OBLIGATION ISSUANCE ORIENTATION; INFORMATION TO AND FROM CLIENT AGENCIES. (a) In this section, "client agency" means a state agency on whose behalf the board may issue obligations.

(b) The authority shall develop an orientation to the obligation issuance process for the authority's client agencies.

(c) The orientation must include:

(1) information explaining the obligation issuance process in plain language; and

(2) an orientation meeting to be held before the issuance process begins.

(d) As part of the orientation, a client agency shall provide to the authority:

(1) detailed information concerning the project for which obligations are to be issued;

(2) a description of the legislative authority for the issuance of the obligations; and

(3) the names of employees of the client agency who are designated to work with the authority in connection with the project.

(e) The authority shall prepare information of interest to the authority's client agencies describing the functions of the authority and the procedures by which complaints are filed with and resolved by the authority. The authority shall make the information available to its client agencies.

(f) The board by rule shall establish methods by which client agencies are notified of the name, mailing address, and telephone number of the authority for the purpose of directing complaints to the authority. The board may provide for that notification on a form provided to a client agency during the orientation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.114. PROJECT ANALYSIS. (a) When the authority submits its application for approval of a bond issue to the Bond Review Board, the agency or institution that will use the project to be financed by the bonds shall submit to the Bond Review Board a project analysis of the project. The project analysis must be in the form required for a project analysis requested from the commission under Sections 2166.151-2166.155.

(b) This section does not apply to a minor renovation, repair, or construction project at a facility operated by the Texas Department of Criminal Justice for the imprisonment of individuals convicted of felonies other than state jail felonies, as defined by the department in cooperation with the commission. Instead of submitting a project analysis, the department may substitute the master plan required to be submitted by Section 1401.121 if the master plan contains information substantially equivalent to the information required to be in a project analysis under Sections

2166.151-2166.155.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.085, eff. September 1, 2009.

Sec. 1232.115. EXPENSES INCLUDED IN PRINCIPAL AMOUNT. (a) The principal amount of obligations may include amounts required to pay required reserve funds, capitalized interest, the authority's administrative costs, issuing expenses, and other expenses associated with the authority's issuance and sale of the obligations.

(b) The principal amount of obligations issued to finance the purchase of computer equipment that is the subject of a contingent appropriation under Subchapter B, Chapter 317, must be sufficient to cover any payments of principal and interest that must occur during the remainder of the biennium after the obligations are issued.

(c) Because of the expenses specified by Subsection (a) and because the cost estimates for acquisition, construction, repair, or renovation of a project cannot be finally determined at the time the project is authorized for financing, the principal amount of any issuance of obligations may be an amount not to exceed 150 percent of the amount of the estimated cost for the project being financed.

(d) Costs and expenses authorized by this section may not be included in the principal amount unless the board finds that those costs and expenses are necessary and reasonable at the time the obligations are issued.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.008, eff. Sept. 1, 2001.

Sec. 1232.116. MANNER OF REPAYMENT. (a) The board may provide for the payment of the principal of and interest on obligations issued under this chapter:

(1) by pledging all or part of the revenue derived from:

(A) leasing a building or equipment to a state agency either directly or through the commission; or

(B) selling equipment on an installment basis to a

state agency either directly or through the commission; or

(2) from any other funds lawfully available to the board.

(b) From funds appropriated for paying rental charges or making installment payments on buildings or equipment, the commission or an occupying or using state agency shall pay to the board a rental or make installment payments on the buildings or equipment.

(c) The board shall determine the amount of the rental or installment payments. The amount must be sufficient to:

(1) pay the principal of and interest on the obligations;

(2) maintain any reserve fund required for servicing the obligations; and

(3) reimburse the authority for other costs incurred by it with respect to the obligations.

(d) When the commission or another state agency is required by Subsection (b) to pay a rental to the authority and the commission or other state agency depends on receiving a rental from an occupying or using state agency to pay the authority, the commission or other state agency shall set the rental in an amount that is sufficient to pay the rental required by the board.

(e) In addition to other sources of repayment provided by this section, the legislature by law may direct that money in the Texas capital trust fund account be used to pay the principal of and interest on bonds issued under this chapter for the acquisition or construction of a building.

(f) The legislature may require the deposit into the Texas capital trust fund account of all or part of the proceeds of a transaction concerning a building.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.117. STATE DEBT NOT CREATED. (a) An obligation issued under this chapter is not a debt of the state or any state agency, political corporation, or political subdivision of the state and is not a pledge of the faith and credit of any of them. A bond is payable solely from revenue as provided by this chapter.

(b) An obligation issued under this chapter must contain on its face a statement to the effect that:

(1) neither the state nor a state agency, political corporation, or political subdivision of the state is obligated to

pay the principal of or interest on the obligation except as provided by this chapter; and

(2) neither the faith and credit nor the taxing power of the state or any state agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or interest on the obligation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.118. ORDER OR RESOLUTION AUTHORIZING ISSUANCE OF OBLIGATIONS. (a) An order or resolution of the board authorizing the issuance of obligations, including refunding obligations, may provide for the flow of funds and the establishment and maintenance of the interest and sinking fund, the reserve fund, and other funds.

(b) The order or resolution may:

(1) prohibit the issuance of additional obligations payable from the pledged revenues; or

(2) preserve the right of the board to issue additional obligations that are on a parity with or subordinate to the lien and pledge on the revenue being used to support the obligations being issued pursuant to the order or resolution.

(c) The order or resolution may contain any other provision or covenant determined by the board.

(d) The board may make covenants with respect to the obligations, the pledged revenues, and the operation and maintenance of the buildings or equipment financed under this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.119. ADOPTION AND EXECUTION OF INSTRUMENTS. The board may adopt and have executed any other proceeding or instrument necessary and convenient in the issuance of obligations.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.1191. DELEGATION OF AUTHORITY. (a) The board may delegate authority to negotiate contracts required for issuance of obligations to one or more of its employees or members.

(b) The negotiation of a contract described by Subsection (a), including oral discussions with contractors, is not considered to be a meeting or a deliberation.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 8.009(a), eff. Sept. 1, 2001.

Sec. 1232.120. EXEMPTION FROM TAXATION. An obligation issued by the board, any transaction relating to the obligation, and profits made from the sale of the obligation are exempt from taxation by this state or by a municipality or other political subdivision of this state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.121. CERTIFICATION AND DEPOSIT OF PROCEEDS OF OBLIGATIONS. (a) After issuing obligations, the board shall certify to the commission or the appropriate state agency and to the comptroller that the proceeds from the issuance are available. The board shall deposit the proceeds in the state treasury.

(b) The proceeds shall be credited to the account of the state agency that is responsible under an agreement for making rental or installment payments to the authority.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.122. COMMENCEMENT OF CONSTRUCTION, PURCHASE, OR LEASE. The acquisition or construction of a building or the purchase or lease of equipment may begin after:

(1) the authority has certified that obligations in an amount sufficient to pay the construction or purchase price of the project have been authorized for issuance by the authority and approved by the Bond Review Board; or

(2) the proceeds have been deposited into the state treasury and:

(A) the comptroller has certified that the proceeds are available;

(B) the reserve funds and capitalized interest, as

certified by the authority as reasonably required, have been paid; and

(C) the costs of issuing the obligations, as certified by the authority, have been paid.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.010(a), eff. Sept. 1, 2001.

Sec. 1232.1221. COMMENCEMENT OF CERTAIN MULTIYEAR CANCER-RELATED PROJECTS. (a) Funds may be distributed to a grant recipient for a multiyear project for which an award is granted by the Cancer Prevention and Research Institute of Texas Oversight Committee as authorized by Section 102.257, Health and Safety Code, after the authority has certified that obligations in an amount sufficient to pay the money needed to fund the project have been authorized for issuance by the authority and approved by the Bond Review Board.

(b) After issuing the obligations, the board shall:

(1) pay the costs of the issuance and any related bond administrative costs of the authority;

(2) certify to the Cancer Prevention and Research Institute of Texas and to the comptroller that the proceeds from the issuance are available; and

(3) deposit the proceeds into the state treasury to be credited to the account of the Cancer Prevention and Research Institute of Texas.

Added by Acts 2011, 82nd Leg., R.S., Ch. 521 (H.B. 2251), Sec. 4, eff. June 17, 2011.

Sec. 1232.123. INVESTMENT OF BOND PROCEEDS. (a) With the board's concurrence, the comptroller shall invest the unexpended bond proceeds and investment income on bond proceeds in investments approved by law for the investment of state funds.

(b) Investment income that the board determines is needed to finance the acquisition, construction, purchase, or lease of buildings or equipment and that is not required to be rebated to the federal government shall be credited to the account of the appropriate state agency.

(c) Investment income that the board determines is not needed to finance the acquisition, construction, purchase, or lease of buildings or equipment and that is not required to be rebated to the federal government shall be credited to and accounted for in the state lease fund account.

(d) Notwithstanding Section 404.071, the interest earned on the investment income that is deposited in the state lease fund account shall be credited to and accounted for in that account.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.124. PREFERENCE FOR TEXAS BUSINESSES. If the authority contracts with a private entity to issue bonds under this chapter, the authority shall consider contracting with:

(1) an entity that has a place of business in this state; and

(2) a historically underutilized business as defined by Section 2161.001.

Added by Acts 2007, 80th Leg., R.S., Ch. 991 (S.B. 1332), Sec. 6, eff. September 1, 2007.

SUBCHAPTER D. LEASE AND CONVEYANCE OF PROPERTY BY AUTHORITY

Sec. 1232.201. RENT AND FEES. (a) The commission or the appropriate state agency shall establish schedules necessary to properly charge occupying state agencies for the expenses incurred in financing the acquisition or construction of buildings in accordance with this chapter.

(b) An occupying state agency shall, when the payments are due, pay to the commission, the appropriate state agency, or directly into the state lease fund account the amount determined by the commission. Instead of payments by an occupying state agency, the legislature may appropriate money on the agency's behalf directly to the state lease fund account.

(c) Payments received by the commission or another state agency under this section shall be deposited to the credit of the state lease fund account.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.202. CONTRACTS CONTINGENT ON LEGISLATIVE APPROPRIATIONS. (a) Each lease or installment sale contract entered into under this chapter is contingent on the legislature's appropriation of sufficient funds.

(b) The board may act as necessary to ensure that the payment of the principal of and interest on obligations is continued without interruption if:

(1) sufficient appropriated funds are unavailable;

(2) the commission or another state agency fails to pay a rental or installment; or

(3) the commission or another state agency fails to renew a lease contract.

(c) Permissible actions under Subsection (b) include:

(1) the re-leasing or subleasing of buildings or equipment to any entity; and

(2) the repossession and resale of equipment to any entity.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.203. LEASE OF SPACE FOR CHILD CARE FACILITY. (a) The commission, when acting under Chapter 663, is not an occupying state agency for purposes of Section 1232.201.

(b) The commission or the appropriate state agency shall include in the schedules developed under Section 1232.201(a) the method of charging state agencies that occupy all or part of a building to which Section 1232.201 applies for the space in the building that is used for a child-care facility under Chapters 663, 2165, and 2166.

(c) An occupying agency's share shall be determined at least in part on the ratio of the number of the occupying agency's employees who work in the building to the total number of state employees who work in the building.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 761, Sec. 6, eff. Sept. 1, 2001.

Sec. 1232.204. LEASING PREFERENCE. A building owned by the

authority is considered state-owned space for the purposes of:

(1) Section 2165.107; and

(2) child-care facility sites located in state-owned buildings under Chapters 663, 2165, and 2166.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.205. LEASE OF SPACE TO OUTSIDE ENTITIES. The board may lease all or part of a building, the acquisition or construction of which was financed under this chapter, to any person if the building cannot be leased to the commission or another state agency.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1232.206. PROPERTY CONVEYANCE. (a) When the principal of and interest on obligations relating to equipment or a building financed under this chapter are fully paid and the equipment or building is free of all liens, the board shall certify to the commission or the appropriate state agency that rentals, payments, or installments are no longer required to pay the principal of and interest on the obligations.

(b) When making the certification required by Subsection (a), the board shall, if necessary and for $1, convey the title of the equipment or building, including any real property, to the commission or the appropriate state agency.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBTITLE C. PROVISIONS APPLICABLE TO SECURITIES ISSUED BY MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 1251. BOND ELECTIONS

SUBCHAPTER A. PROVISIONS RELATING GENERALLY TO COUNTY AND MUNICIPAL BOND ELECTIONS

Sec. 1251.001. BOND ELECTION REQUIRED. A county or municipality may not issue bonds that are to be paid from ad valorem taxes unless the issuance is first approved by the qualified voters of the county or municipality in an election.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1251.003. CONDUCT OF ELECTION. (a) The general election laws govern the election except as provided by this section.

(b) The order for the election must include the location of each polling place and the hours that the polls will be open.

(c) The election shall be held not less than 15 days nor more than 90 days from the date of the election order, subject to Section 41.001(b), Election Code.

(d) In addition to the notice required by Section 4.003(c), Election Code, notice of the election shall be given by:

(1) posting a substantial copy of the election order at:

(A) three public places in the county or municipality holding the election; and

(B) the county courthouse, if the election is a county election, or the city hall, if the election is a municipal election; and

(2) publishing notice of the election in a newspaper of general circulation published in the county or municipality holding the election.

(e) The notice required by Subsection (d)(2) must be published on the same day in each of two successive weeks. The first publication must be not less than 14 days before the date of the election.

(f) To the extent of a conflict between this section and a municipal charter, this section controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1251.004. IMPOSITION OF TAX. At an election ordered on the issuance of bonds of a county or municipality, or of a political subdivision or defined district of a county or municipality, the governing body of the county or municipality shall also submit the question of whether to impose a tax on property in the county, municipality, political subdivision, or defined district to pay interest on the bonds and to provide a sinking fund to redeem the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1251.005. BALLOT PROPOSITION. At the election, the ballots shall be printed to permit voting for or against the proposition: "The issuance of bonds."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1251.006. CERTAIN BONDS EXEMPTED. (a) Sections 1251.001, 1251.002, and 1251.004 do not apply to:

(1) refunding bonds of a county or municipality; or

(2) bonds issued in an amount less than $2,000 to repair a building or structure that may be built using the proceeds of bonds.

(b) If bonds described by Subsection (a)(2) are issued, the aggregate principal amount of those bonds may not exceed $2,000 in a calendar year.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

This Subchapter B, consisting of Secs. 1251.051 to 1251.052, was added by Acts 2019, 86th Leg., R.S., Ch. 505 (S.B. 30), Sec. 4.

See also another Subchapter B, consisting of Secs. 1251.051 to 1251.052, as added by Acts 2019, 86th Leg., R.S., Ch. 728 (H.B. 477), Sec. 4.

SUBCHAPTER B. BALLOT FOR DEBT OBLIGATIONS ISSUED BY POLITICAL SUBDIVISION

Sec. 1251.051. DEFINITIONS. In this subchapter:

(1) "Debt obligation" means a public security, as defined by Section 1201.002, secured by and payable from ad valorem taxes. The term does not include public securities that are designated as self-supporting by the political subdivision issuing the securities.

(2) "Political subdivision" means a municipality, county, school district, or special taxing district.

Added by Acts 2019, 86th Leg., R.S., Ch. 505 (S.B. 30), Sec. 4, eff. September 1, 2019.

Sec. 1251.052. FORM. (a) The ballot for a measure seeking voter approval of the issuance of debt obligations by a political subdivision shall specifically state:

(1) a plain language description of the single specific purposes for which the debt obligations are to be authorized;

(2) the total principal amount of the debt obligations to be authorized; and

(3) that taxes sufficient to pay the principal of and interest on the debt obligations will be imposed.

(a-1) Each single specific purpose for which debt obligations requiring voter approval are to be issued must be printed on the ballot as a separate proposition. A proposition may include as a specific purpose one or more structures or improvements serving the substantially same purpose and may include related improvements and equipment necessary to accomplish the specific purpose.

Added by Acts 2019, 86th Leg., R.S., Ch. 505 (S.B. 30), Sec. 4, eff. September 1, 2019.

This Subchapter B, consisting of Secs. 1251.051 to 1251.052, was added by Acts 2019, 86th Leg., R.S., Ch. 728 (H.B. 477), Sec. 4.

See also another Subchapter B, consisting of Secs. 1251.051 to 1251.052, as added by Acts 2019, 86th Leg., R.S., Ch. 505 (S.B. 30), Sec. 4.

SUBCHAPTER B. BALLOT FOR DEBT OBLIGATIONS ISSUED BY POLITICAL SUBDIVISION

Sec. 1251.051. DEFINITIONS. In this subchapter:

(1) "Debt obligation" means a public security, as defined by Section 1201.002, secured by and payable from ad valorem taxes. The term does not include public securities that are designated as self-supporting by the political subdivision issuing the securities.

(2) "Debt obligation election order" means the order, ordinance, or resolution ordering an election to authorize the issuance of debt obligations.

(3) "Political subdivision" means a municipality, county, school district, or special taxing district.

Added by Acts 2019, 86th Leg., R.S., Ch. 728 (H.B. 477), Sec. 4, eff. September 1, 2019.

Sec. 1251.052. FORM. (a) The ballot for a measure seeking voter approval of the issuance of debt obligations by a political subdivision shall specifically state:

(1) a general description of the purposes for which the debt obligations are to be authorized;

(2) the total principal amount of the debt obligations to be authorized; and

(3) that taxes sufficient to pay the principal of and interest on the debt obligations will be imposed.

(b) A political subdivision with at least 250 registered voters on the date the governing body of the political subdivision adopts the debt obligation election order must prepare a voter information document for each proposition to be voted on at the election. The political subdivision shall post the voter information document in the same manner as a debt obligation election order is required to be posted under Section 4.003(f), Election Code, and may include the voter information document in the debt obligation election order. The voter information document must distinctly state:

(1) the language that will appear on the ballot;

(2) the following information formatted as a table:

(A) the principal of the debt obligations to be authorized;

(B) the estimated interest for the debt obligations to be authorized;

(C) the estimated combined principal and interest required to pay on time and in full the debt obligations to be authorized; and

(D) as of the date the political subdivision adopts the debt obligation election order:

(i) the principal of all outstanding debt obligations of the political subdivision;

(ii) the estimated remaining interest on all outstanding debt obligations of the political subdivision, which may be based on the political subdivision's expectations relative to the interest due on any variable rate debt obligations; and

(iii) the estimated combined principal and interest required to pay on time and in full all outstanding debt obligations of the political subdivision, which may be based on the political

subdivision's expectations relative to the interest due on any variable rate debt obligations;

(3) the estimated maximum annual increase in the amount of taxes that would be imposed on a residence homestead in the political subdivision with an appraised value of $100,000 to repay the debt obligations to be authorized, if approved, based upon assumptions made by the governing body of the political subdivision; and

(4) any other information that the political subdivision considers relevant or necessary to explain the information required by this subsection.

(c) The governing body of the political subdivision shall identify in the voter information document the major assumptions made in connection with the statement required by Subsection (b)(3), including:

(1) the amortization of the political subdivision's debt obligations, including outstanding debt obligations and the proposed debt obligations;

(2) changes in estimated future appraised values within the political subdivision; and

(3) the assumed interest rate on the proposed debt obligations.

(d) A political subdivision that maintains an Internet website shall provide the information described by Subsection (b) on its website in an easily accessible manner beginning not later than the 21st day before election day and ending on the day after the date of the debt obligation election.

(e) This section provides the ballot proposition language for an election to authorize the issuance of debt obligations by a political subdivision. To the extent of a conflict between this section and another law, this section controls.

Added by Acts 2019, 86th Leg., R.S., Ch. 728 (H.B. 477), Sec. 4, eff. September 1, 2019.

CHAPTER 1252. REVOCATION OF AUTHORITY TO ISSUE BONDS

Sec. 1252.001. ELECTION TO REVOKE AUTHORITY. The commissioners court of a county or the governing body of a municipality may order an election to determine whether to revoke the authority to issue bonds that:

(1) compose all or part of an issue authorized by an earlier election; and

(2) have not as of the date of the order been sold or delivered.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1252.002. ELECTION PROCEDURE. (a) An election to revoke bonds under this chapter shall be held in the same manner as the election originally authorizing the bonds.

(b) In an election held under Subsection (a), the ballot shall be printed to permit voting for or against the proposition: "The revocation of bonds."

(c) If a revocation election covers bonds of more than one voted issue, there shall be a separate proposition for each voted issue.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1252.003. REVOCATION AND CANCELLATION OF BONDS. (a) If the proposition to revoke the bonds receives the number of votes required by the statute under which the bonds were originally voted, the authority to issue the bonds is revoked.

(b) If the bonds have not been printed, a certified copy of the order or resolution showing that the authority to issue the bonds has been revoked and the minutes relating to the order or resolution shall be sent to the attorney general.

(c) If the bonds have been approved by the attorney general and registered by the comptroller, a certified copy of the order or resolution and the minutes relating to the order or resolution shall be sent to the attorney general and comptroller.

(d) If the bonds have been printed, the commissioners court or municipal governing body shall destroy the bonds by canceling and burning the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1253. GENERAL OBLIGATION BONDS ISSUED BY POLITICAL SUBDIVISIONS

Sec. 1253.001. DEFINITION. In this chapter, "political subdivision" means a county, municipality, school district, junior college district, other special district, or other subdivision of state government.

Added by Acts 2019, 86th Leg., R.S., Ch. 726 (H.B. 440), Sec. 3, eff. September 1, 2019.

Sec. 1253.002. LIMITATION ON AUTHORITY TO ISSUE GENERAL OBLIGATION BONDS. (a) In this section, "personal property" has the meaning assigned by Section 1.04, Tax Code.

(b) Notwithstanding any other provision of law, a political subdivision may not issue general obligation bonds to purchase, improve, or construct one or more improvements to real property, to purchase one or more items of personal property, or to do both, if the weighted average maturity of the issue of bonds exceeds 120 percent of the reasonably expected weighted average economic life of the improvements and personal property financed with the issue of bonds.

Added by Acts 2019, 86th Leg., R.S., Ch. 726 (H.B. 440), Sec. 3, eff. September 1, 2019.

Sec. 1253.003. USE OF UNSPENT GENERAL OBLIGATION BOND PROCEEDS. (a) A political subdivision other than a school district may use the unspent proceeds of issued general obligation bonds only:

(1) for the specific purposes for which the bonds were authorized;

(2) to retire the bonds; or

(3) for a purpose other than the specific purposes for which the bonds were authorized if:

(A) the specific purposes are accomplished or abandoned; and

(B) a majority of the votes cast in an election held in the political subdivision approve the use of the proceeds for the proposed purpose.

(b) The election order and the notice of election for an election described by Subsection (a)(3)(B) must state the proposed purpose for which the bond proceeds are to be used.

(c) A political subdivision must hold an election described by Subsection (a)(3)(B) in the same manner as an election to issue bonds in the political subdivision.

Added by Acts 2019, 86th Leg., R.S., Ch. 726 (H.B. 440), Sec. 3, eff. September 1, 2019.

SUBTITLE D. PROVISIONS APPLICABLE TO SECURITIES ISSUED BY COUNTIES

CHAPTER 1301. COUNTY BONDS

Sec. 1301.001. ISSUANCE AND AUTHORIZATION. (a) The commissioners court of a county may issue bonds authorized under Subtitle A and Chapter 1251 to:

(1) build a county courthouse or jail;

(2) purchase suitable sites in the county and to construct buildings on the sites for homes or schools for dependent or delinquent children;

(3) establish county facilities for needy or indigent persons in the county;

(4) purchase and construct bridges for public purposes in the county or to cross a stream serving as the county's boundary line;

(5) improve and maintain the public roads in the county; or

(6) restore or maintain a county courthouse.

(b) The commissioners court may issue bonds only if a majority of the voters at an election to authorize bonds vote in favor of the proposition to authorize the bonds.

(c) Bonds to purchase or construct a bridge and to improve and maintain a public road may be submitted by the commissioners court and voted on as one proposition.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 358 (S.B. 186), Sec. 1, eff. June 7, 2021.

Sec. 1301.002. SIGNATURES; REGISTRATION BY COUNTY TREASURER. (a) Before delivery, a bond issued under this chapter must be:

(1) signed by the county judge;

(2) countersigned by the county clerk; and

(3) registered by the county treasurer.

(b) The county treasurer shall keep an account of the amount of principal and interest paid on each bond.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1301.003. LIMITS ON ISSUANCE OF BONDS. (a) The amounts of bonds issued under this chapter may not exceed:

(1) for courthouse bonds, two percent of the county's taxable values;

(2) for jail bonds, 1-1/2 percent of the county's taxable values;

(3) for joint courthouse and jail bonds, 3-1/2 percent of the county's taxable values; and

(4) for bridge bonds, 1-1/2 percent of the county's taxable values.

(b) In determining the amount of the respective type of bonds to be issued, previous debt incurred for the same purpose as the bonds shall be considered.

(c) A county's total indebtedness for the purposes described by this chapter may not be increased by the issuance of bonds to an amount that exceeds five percent of the county's taxable values.

(d) The county's taxable values are according to the most recent appraisal roll.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1301.004. PAYMENT OF INTEREST AND CREATION OF SINKING FUND. (a) Taxes imposed to pay the interest on bonds issued under this chapter and to create a sinking fund for the redemption of those bonds may not exceed:

(1) 25 cents per $100 valuation for courthouse or jail bonds; and

(2) 15 cents per $100 valuation for bridge or road and bridge bonds.

(b) If the principal of and all interest on bonds issued under this chapter are fully paid and a surplus not exceeding $1,000 remains in the sinking fund, the surplus may be used by the county to maintain and repair the courthouse, jail, roads, or bridges of the

county, as determined by the commissioners court.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1302. DESTRUCTION OF COUNTY SECURITY

Sec. 1302.001. DEFINITION. In this chapter, "county security" means a certificate, bond, interest coupon, or other evidence of indebtedness issued by a county.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1302.002. AUTHORIZATION. The commissioners court of a county may contract with the county's depository or another entity that acts as the registrar or paying agent for a county security issued by the county for the destruction of a county security that has been issued and paid by the county.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1302.003. LIMITATION. A contract under Section 1302.002 may not authorize the destruction of a county security before:

(1) the first anniversary of the date the county security is paid; or

(2) the end of the third month after the date the depository, registrar, or paying agent files a list identifying the county security to be destroyed with the commissioners court or county treasurer.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1303. OTHER USE OF COUNTY BOND PROCEEDS

Sec. 1303.001. USE OF BOND PROCEEDS FOR OWNER-CONTROLLED INSURANCE PROGRAM. A county may use the proceeds of bonds or certificates of obligation issued to pay for a county construction project to pay for an owner-controlled insurance program under which the county establishes and administers a consolidated insurance program for the project if the county's order authorizing the

issuance of the bonds or other certificates of obligation authorizes the establishment of the program.

Added by Acts 2001, 77th Leg., ch. 564, Sec. 1, eff. Sept. 1, 2001.

SUBTITLE E. PROVISIONS APPLICABLE TO SECURITIES ISSUED BY MUNICIPALITIES

CHAPTER 1331. MUNICIPAL BONDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1331.001. AUTHORITY OF MUNICIPALITY TO ISSUE BONDS. A municipality may issue bonds payable from ad valorem taxes in the amount it considers expedient to:

(1) construct or purchase permanent improvements inside the municipal boundaries, including public buildings, waterworks, or sewers;

(2) construct or improve the streets and bridges of the municipality; or

(3) construct or purchase building sites or buildings for the public schools and other institutions of learning inside the municipality, if the municipality has assumed exclusive control of those schools and institutions.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 13, eff. Sept. 1, 1999.

Sec. 1331.002. SIGNATURES. Bonds issued by a municipality under Section 1331.001 must be signed in the manner provided by the proceedings authorizing the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 14, eff. Sept. 1, 1999.

SUBCHAPTER B. PROVISIONS APPLICABLE TO CERTAIN MUNICIPALITIES

Sec. 1331.051. LIMITATION ON BONDED DEBT: MUNICIPALITY WITH POPULATION OF 950,000 OR MORE. (a) This section applies only to a municipality with a population of 950,000 or more.

(b) The municipality, through the issuance of bonds payable from taxes, may incur total bonded debt in an amount not to exceed 10 percent of the total appraised value of property listed on the most recent appraisal roll for the municipality notwithstanding that the municipal charter limits the total dollar amount of bonded debt to a lesser amount.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 23, eff. September 1, 2011.
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 49, eff. September 1, 2023.
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 50, eff. September 1, 2023.

Sec. 1331.052. AUTHORITY OF HOME-RULE MUNICIPALITY TO ISSUE BONDS. (a) A home-rule municipality may issue bonds on the credit of the municipality to make permanent public improvements or for another public purpose in the amount and to the extent provided by its charter.

(b) A home-rule municipality may not issue bonds under this section unless the bonds have been authorized by a majority of the qualified voters of the municipality voting at an election held for that purpose.

(c) If a municipality was authorized under a special charter granted before June 30, 1913, to issue bonds, this section may not be construed as interfering with the issuance of bonds under that charter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1331.053. BOND SALE ADVERTISEMENT BY CERTAIN HOME-RULE MUNICIPALITIES. To receive competitive bids on the interest rate paid and the amount of the premium, the governing body of a municipality the charter of which requires that municipal bonds be advertised for sale after the bonds have been authorized and issued must advertise the bonds for sale and receive bids for the sale before adopting an ordinance authorizing the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1333. REVOCATION OF UNSOLD MUNICIPAL BONDS BY PETITION

Sec. 1333.001. BOND REVOCATION ELECTION REQUIRED. (a) The governing body of a municipality shall order an election to determine whether to revoke bonds unsold for 10 years or more after the date the bonds are authorized to be issued if the governing body receives a petition signed by a number of registered property tax paying voters equal to 10 percent of the property tax paying voters voting in the most recent municipal election.

(b) The election shall be held on the first authorized uniform election date prescribed by Chapter 41, Election Code, that allows sufficient time for compliance with any requirements established by law.

(c) A municipality shall hold the election in the same manner as an election to issue bonds in the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1333.002. BALLOT FORM. At the election, the ballots shall be printed to permit voting for or against the following proposition: "The revocation of the bonds."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1333.003. ELECTION RESULTS; DESTRUCTION OF BONDS. (a) The governing body of the municipality shall record the results of an election held under this chapter in its minutes.

(b) If a majority of the qualified voters voting at the election vote in favor of the proposition, the governing body of the municipality shall revoke and burn the unsold bonds.

(c) The municipality shall send to the comptroller a certified copy of the minutes of the municipality showing the revocation and destruction of the bonds.

(d) On receipt of notice under Subsection (c), the comptroller shall cancel the registration of the bonds in the records of the comptroller.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1333.004. TAX ADJUSTMENT FOLLOWING REVOCATION. (a) The governing body of a municipality that revokes bonds under this chapter shall adjust the tax rate in the municipality to account for any change caused by the revocation.

(b) The municipality by order shall refund taxes collected for payment of bonds revoked under this chapter, less any properly chargeable claims, ratably to the taxpayers.

(c) The treasurer of the municipality shall keep a receipt of taxes refunded under Subsection (b).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBTITLE F. SPECIFIC AUTHORITY FOR STATE OR LOCAL GOVERNMENT TO ISSUE SECURITIES

CHAPTER 1371. OBLIGATIONS FOR CERTAIN PUBLIC IMPROVEMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1371.001. DEFINITIONS. In this chapter:

(1) "Credit agreement" means a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitment to purchase obligations, purchase or sale agreement, interest rate management agreement, or other commitment or agreement authorized by a governing body in anticipation of, related to, or in connection with the authorization, issuance, sale, resale, security, exchange, payment, purchase, remarketing, or redemption of some or all of an issuer's obligations or interest on obligations, or both, or as otherwise authorized by this chapter.

(2) "Eligible project" means:

(A) the acquisition or construction of or an improvement, addition, or extension to a public works, including a capital asset or facility incident and related to the operation, maintenance, or administration of the public works, and:

(i) with respect to a property or a facility for the generation of electric power and energy, fuel acquisition or the development or transportation of power, energy, or fuel;

(ii) with respect to a property or a facility for a

public transportation system:

(a) a building, terminal, garage, shop, or other structure, rolling stock, equipment, or another facility for mass public transportation; or

(b) a vehicle parking area or a facility necessary or convenient for the beneficial use and access of persons and vehicles to a station, terminal, yard, car, or bus, or for the protection or environmental enhancement of a facility for mass public transportation; and

(iii) with respect to a property or a facility for a port facility, a wharf or dock, a warehouse, grain elevator, or other storage facility, a bunkering facility, port-related railroad or bridge, floating plant or facility, lightering facility, cargo handling facility, towing facility, or any other facility or aid incident to or useful in the operation of a port facility;

(B) a causeway, bridge, tunnel, turnpike, highway, or combination of those facilities, including:

(i) a necessary overpass, underpass, interchange, entrance plaza, tollhouse, service station, approach, fixture, accessory, or item of equipment, or a storage, administration, or other necessary building; and

(ii) a property right or other interest acquired in connection with those facilities;

(C) a public improvement owned by a county that serves the purpose of attracting visitors and tourists to the county, including a civic center, auditorium, exhibition hall, coliseum, stadium, or parking area;

(D) a project for which there exists authorized but unissued obligations approved by a majority of the voters of the issuer or for which the issuer is authorized to issue other indebtedness payable from ad valorem taxes;

(E) a project for which an issuer is authorized to issue revenue bonds secured, in whole or in part, by revenue derived from or related to student loans; or

(F) an approved venue project under Chapter 334 or 335, Local Government Code.

(3) "Governing body" means the board, council, commission, commissioners court, or other designated body, acting individually or jointly as authorized by law, that is authorized by law to issue public securities for or on behalf of an issuer.

(3-a) "Interest rate management agreement" means an agreement that provides for an interest rate transaction, including a swap, basis, forward, option, cap, collar, floor, lock, or hedge transaction, a similar transaction, or any combination of those types of transactions. The term includes:

(A) a master agreement that provides standard terms for transactions;

(B) an agreement to transfer collateral as security for transactions; or

(C) a confirmation of transactions.

(4) "Issuer" means:

(A) a home-rule municipality that:

(i) adopted its charter under Section 5, Article XI, Texas Constitution;

(ii) has a population of 50,000 or more; and

(iii) has outstanding long-term indebtedness that is rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for a long-term obligation;

(B) a conservation and reclamation district created and organized as a river authority under Section 52, Article III, or Section 59, Article XVI, Texas Constitution;

(C) a joint powers agency organized and operating under Chapter 163, Utilities Code;

(D) a metropolitan rapid transit authority, regional transportation authority, or coordinated county transportation authority created, organized, or operating under Chapter 451, 452, or 460, Transportation Code;

(E) a conservation and reclamation district organized or operating as a navigation district under Section 52, Article III, or Section 59, Article XVI, Texas Constitution;

(F) a district organized or operating under Section 59, Article XVI, Texas Constitution, that has all or part of two or more municipalities within its boundaries;

(G) a state agency, including a state institution of higher education;

(H) a hospital authority created or operating under Chapter 262 or 264, Health and Safety Code, in a county that:

(i) has a population of more than 3.3 million; or

(ii) is included, in whole or in part, in a

standard metropolitan statistical area of this state that includes a county with a population of more than 2.5 million;

(I) a hospital district in a county that has a population of more than 2.5 million;

(J) a nonprofit corporation organized to exercise the powers of a higher education loan authority under Section 53B.47(e), Education Code;

(K) a county:

(i) that has a population of more than 3.3 million; or

(ii) that, on the date of issuance of obligations under this chapter, has authorized, outstanding, or any combination of authorized and outstanding, indebtedness of at least $100 million secured by and payable from the county's ad valorem taxes and the authorized long-term indebtedness of which is rated by a nationally recognized rating agency of securities issued by local governments in one of the four highest rating categories for a long-term obligation;

(L) an independent school district that has an average daily attendance of 50,000 or more as determined under Section 48.005, Education Code;

(M) a municipality or county operating under Chapter 334, Local Government Code;

(N) a district created under Chapter 335, Local Government Code;

(O) a junior college district that has a total headcount enrollment of 40,000 or more based on enrollment in the most recent regular semester; or

(P) an issuer, as defined by Section 1201.002, that has:

(i) a principal amount of at least $100 million in outstanding long-term indebtedness, in long-term indebtedness proposed to be issued, or in a combination of outstanding or proposed long-term indebtedness; and

(ii) some amount of long-term indebtedness outstanding or proposed to be issued that is rated in one of the four highest rating categories for long-term debt instruments by a nationally recognized rating agency for municipal securities, without regard to the effect of any credit agreement or other form of credit enhancement entered into in connection with the obligation.

(5) "Obligation" means a public security as defined by

Section 1201.002 or other obligation that may be issued by an issuer and that is expected to be rated, and before delivery is rated, by a nationally recognized rating agency for municipal securities in one of the three highest rating categories for a short-term debt instrument or one of the four highest rating categories for a long-term debt instrument. The term does not include an obligation payable wholly or partly from ad valorem taxes unless:

(A) issuance of the obligation or an obligation refunded by the obligation has been approved by the voters of the issuer in an election held for that purpose; or

(B) the issuer:

(i) is authorized by law to issue public securities payable wholly or partly from ad valorem taxes for the purpose for which the obligation is to be issued; and

(ii) has complied with any conditions imposed by law before its pledge of ad valorem taxes to pay the principal of or interest on the obligation.

(6) "Obligation authorization" means a resolution, order, or ordinance of a governing body authorizing the issuance of an obligation.

(7) "Project cost" means a cost or expense incurred in relation to an eligible project. The term includes:

(A) design, planning, engineering, and legal cost;

(B) acquisition cost of land or an interest in land;

(C) construction cost;

(D) cost of machinery, equipment, and other capital assets incident and related to the operation, maintenance, and administration of an eligible project; and

(E) financing cost, including:

(i) interest on obligations and payments on credit agreements during and after construction;

(ii) underwriter's discount or fee; and

(iii) cost of legal, financial, and other professional services.

(8) "Public works" means property or a facility for:

(A) the conservation, storage, supply, treatment, or transmission of water;

(B) the treatment, collection, or disposal of water-carried wastes or solid wastes;

(C) the generation, transmission, or distribution of

electric power and energy;

(D) the acquisition, distribution, or storage of gas;

(E) a transit authority system, as defined by Section 451.001, Transportation Code, or a public transportation system, as defined by Section 452.001, Transportation Code;

(F) an airport as defined by Section 22.001, Transportation Code;

(G) a port facility, including a facility for the operation or development of a port or waterway or in aid of navigation or navigation-related commerce in a port or on a waterway;

(H) a project as defined by Section 284.001, Transportation Code; or

(I) the carrying out of a purpose or function for which an issuer may issue public securities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 15, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 23, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 769, Sec. 8, 9, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 8.011(a), eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 641 (H.B. 2701), Sec. 4, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1005 (H.B. 647), Sec. 1, eff. June 18, 2005.

Acts 2006, 79th Leg., 3rd C.S., Ch. 9 (H.B. 153), Sec. 5, eff. May 31, 2006.

Acts 2007, 80th Leg., R.S., Ch. 1310 (S.B. 968), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 557 (S.B. 1876), Sec. 4, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 928 (H.B. 3070), Sec. 4, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.081, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 51, eff. September 1, 2023.

Sec. 1371.002. CONSTRUCTION. This chapter shall be liberally

construed to achieve the legislative intent and purposes of this chapter. A power granted by this chapter shall be broadly interpreted to achieve that intent and those purposes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1371.003. RELATIONSHIP TO OTHER LAW. (a) This chapter is wholly sufficient authority within itself for the issuance of obligations, the execution of a credit agreement, and the performance of the other acts and procedures authorized by this chapter or under any agreement, without reference to any other laws or any restrictions or limitations contained in those laws. Any restrictions or limitations contained in other laws do not apply to the procedures prescribed by this chapter or to the issuance of obligations, the execution of credit agreements, or the performance of other acts authorized by this chapter.

(b) To the extent of any conflict or inconsistency between this chapter and another law or a municipal charter, this chapter controls.

(c) An issuer may use a provision of another law that does not conflict with this chapter to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1310 (S.B. 968), Sec. 2, eff. June 15, 2007.

Sec. 1371.004. EFFECT OF FINDING OR DETERMINATION UNDER DELEGATION OF AUTHORITY. A finding or determination made by an officer or employee acting under the authority delegated to the officer or employee under this chapter has the same force and effect as a finding or determination made by the governing body.

Added by Acts 1999, 76th Leg., ch. 1064, Sec. 16, eff. Sept. 1, 1999.

SUBCHAPTER B. ISSUANCE AND APPROVAL OF OBLIGATION

Sec. 1371.051. AUTHORITY TO ISSUE OBLIGATION. As authorized and approved by the governing body of an issuer, the governing body may issue, sell, and deliver an obligation to:

(1) finance a project cost;

(2) refund an obligation issued in connection with an eligible project; or

(3) finance all or part of a payment owed or to be owed on:

(A) the establishment of a credit agreement; or

(B) the settlement or termination, at maturity or otherwise, of a credit agreement, whether the settlement or termination occurs:

(i) at the option of the issuer or the other party to the credit agreement; or

(ii) by operation of the terms of the credit agreement.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 769, Sec. 10, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1310 (S.B. 968), Sec. 3, eff. June 15, 2007.

Sec. 1371.052. TRANSPORTATION AUTHORITY OBLIGATION; ELECTION. (a) A transportation authority created, organized, and operating under Chapter 452, Transportation Code, may not issue an obligation, other than a refunding obligation, that is payable in whole or in part from its sales and use tax revenue and has a maturity longer than five years unless an election required by Section 452.352(b), Transportation Code, has been held and the proposition has been approved.

(b) An obligation that is exempt from the election requirement of Section 452.352(b), Transportation Code, by the terms of Chapter 452, Transportation Code, is also exempt from the election requirement of this section.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1371.0521. INDEPENDENT SCHOOL DISTRICT OBLIGATION. An

independent school district may not issue an obligation under this chapter unless the obligation is authorized in accordance with Section 45.003, Education Code.

Added by Acts 2001, 77th Leg., ch. 769, Sec. 11, eff. Sept. 1, 2001.

Sec. 1371.053. OBLIGATION AUTHORIZATION. (a) A governing body must adopt or approve an obligation authorization before an obligation may be issued.

(b) The obligation authorization must establish:

(1) the maximum amount of the obligation to be issued or, if applicable, the maximum principal amount that may be outstanding at any time;

(2) the maximum term for which obligations issued under the authorization may be outstanding;

(3) the maximum interest rate the obligation will bear;

(4) subject to Subsection (c)(2), the manner of sale of the obligation, which may be by public or private sale, the price of the obligation, the form of the obligation, and the terms and covenants of the obligation; and

(5) each source securing payment of the obligation.

(c) The obligation authorization may:

(1) provide for the designation of a paying agent and registrar for the obligation; and

(2) authorize one or more designated officers or employees of the issuer to act on behalf of the issuer from time to time in selling and delivering the obligation and setting the dates, price, interest rates, interest payment periods, and other procedures relating to the obligation, as specified in the obligation authorization.

(d) An obligation may:

(1) be issued in a specified form or denomination;

(2) be payable:

(A) at one or more times;

(B) in installments or a specified amount or amounts;

(C) at a specified place or places;

(D) in a specified form;

(E) under specified terms and details; and

(F) in a specified manner; and

(3) be issued as redeemable before maturity at one or more specified times.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 17, eff. Sept. 1, 1999.

Sec. 1371.054. RATE OF INTEREST. (a) An obligation may bear no interest or bear interest at any rate or rates not to exceed the maximum net effective interest rate allowed by law, whether fixed, variable, floating, adjustable, or otherwise, as determined in accordance with the obligation authorization.

(b) The obligation authorization may provide a formula, index, contract, or other arrangement for the periodic determination of interest rates.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1371.055. EXECUTION OF OBLIGATION. (a) An obligation may be executed, with or without a seal, with a manual or facsimile signature, as specified in the obligation authorization.

(b) The signature on an obligation of a person who is no longer an officer when the obligation is delivered to the purchaser is valid and sufficient for all purposes.

(c) A person's successor in office may complete the execution, authentication, or delivery of the obligation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1371.056. AUTHORITY TO ENTER INTO AND EXECUTE CREDIT AGREEMENTS. (a) An issuer may execute and deliver any number of credit agreements in anticipation of, related to, or in connection with the authorization, issuance, security, purchase, payment, sale, resale, redemption, remarketing, or exchange of some or all of the issuer's obligations or interest on obligations, or both, at any time, without regard to whether the:

(1) obligations have been authorized or issued; or

(2) credit agreement was contemplated, authorized, or

executed in relation to the initial issuance, sale, or delivery of the obligations.

(b) Except as provided by this section, a credit agreement must substantially contain the terms and be for the period the governing body approves. A credit agreement may provide that it:

(1) may be terminated with or without cause; or

(2) becomes effective at the option of another party to the credit agreement, if the governing body first finds that the option serves best the interests of the issuer.

(c) The governing body may delegate to any number of officers or employees of the issuer the authority to approve specific terms of, to execute and deliver, or to terminate or amend in accordance with its terms, a credit agreement or transactions under a credit agreement on the behalf of the issuer, subject to any condition the governing body specifies. The delegation must include limits on:

(1) the principal amount or the notional amount;

(2) the term;

(3) the rate;

(4) the source of payment;

(5) the security;

(6) the identity or credit rating of an authorized counterparty;

(7) the duration of the authorization; and

(8) for an interest rate management agreement, the:

(A) fixed or floating rates;

(B) economic consequences;

(C) early termination provisions;

(D) type;

(E) provider; and

(F) costs of credit enhancement.

(d) The cost to the issuer of a credit agreement or payments owed by an issuer under a credit agreement may be paid from and secured by any source, including:

(1) the proceeds from the sale of the obligation to which the credit agreement relates;

(2) any revenue and money of the issuer that is available to pay the obligation;

(3) any interest on the obligation or that may otherwise be legally used; or

(4) ad valorem taxes if the credit agreement is authorized

in anticipation of, in relation to, or in connection with an obligation that is wholly or partly payable from or is to be wholly or partly payable from ad valorem taxes.

(e) A credit agreement is an agreement for professional services but is not a contract subject to Subchapter I, Chapter 271, Local Government Code.

(f) If a credit agreement is authorized and is executed in anticipation of the issuance of an obligation described by Section 1371.001(5)(B) because the issuer is authorized by Subchapter C, Chapter 271, Local Government Code, to issue certificates of obligation:

(1) notice required by Section 271.049, Local Government Code, in addition to the other requirements for the notice, must describe the time and place tentatively set for the adoption of the order or ordinance authorizing the credit agreement, the maximum amount and term of the obligations and credit agreement, and the manner in which the certificates of obligation and credit agreement will be paid; and

(2) the issuer may enter into the credit agreement and issue the certificates of obligation only if:

(A) the municipal secretary or clerk or person with similar authority does not receive a petition signed by at least five percent of the registered voters of the issuer that protests the issuance of the certificates of obligation or the execution of the credit agreement before the later of the date tentatively set for the adoption of the order or ordinance to authorize the credit agreement or the date the order or ordinance is adopted;

(B) the issuance and execution are approved at an election held for that purpose conducted as provided for a bond election under Chapter 1251; or

(C) notice is not required by Section 271.049, Local Government Code, before the certificates of obligation are authorized.

(g) Payments received by an issuer under a credit agreement or on termination of all or part of a credit agreement may be used to:

(1) pay the obligations in anticipation of which, in relation to which, or in connection with which the credit agreement was entered into or pay the costs to be financed by the obligations in anticipation of which, in relation to which, or in connection with which the credit agreement was entered into;

(2) pay other liabilities or expenses that are secured on parity with or senior to the obligations in anticipation of which, in relation to which, or in connection with which the credit agreement was entered into; or

(3) after the satisfaction of the obligations or costs described by Subdivision (1) and of the liabilities and expenses described by Subdivision (2) that are due, make payments for any other purpose for which the issuer may issue obligations under this subchapter or that is otherwise authorized by law, unless the credit agreement is paid primarily from ad valorem taxes.

(h) An issuer may agree to pay or receive a payment on early termination of an interest rate management agreement due to a breach or for another reason as provided by the interest rate management agreement. The agreement may specify the payment by a specific amount, by a formula, or by a process or algorithm.

(i) A credit agreement secured in the manner described by Subsection (d)(4) may be executed without an election or the imposition of an ad valorem tax for the credit agreement unless required by the Texas Constitution. If the Texas Constitution requires an election for the credit agreement, the election must be held substantially in the manner provided for an election under Chapter 1251.

(j) An issuer may enter into an interest rate management agreement transaction only:

(1) if the issuer has either entered into at least three interest rate management transactions before November 1, 2006, or has entered into one or more interest rate management transactions with notional amounts totaling at least $400 million before that date; or

(2) as provided by Subsection (k).

(k) An issuer may enter into an interest rate management transaction if:

(1) the governing body has adopted, amended, or ratified during the preceding two years a risk management policy governing entering into and managing interest rate management agreements and transactions that addresses:

(A) conditions, if any, under which the issuer may enter into an interest rate management agreement transaction without independent advice from a financial advisor or swap advisor who has experience in interest rate management transactions; and

(B) authorized purposes, permitted types and

creditworthiness of counterparties, credit risks and other risks, liquidity, methods of selection of counterparties, and limits concerning awarding a transaction, monitoring, and exposure;

(2) the issuer has received from the counterparty:

(A) if the transaction was not awarded through a competitive bidding process:

(i) a statement that, in the counterparty's judgment, the difference in basis points between the rate of the transaction and the mid-market rate for a comparable transaction falls within the commonly occurring range for comparable transactions;

(ii) a statement of the amount of the difference as determined by the counterparty; or

(iii) if the counterparty does not know of a comparable transaction or mid-market rate, a statement of another suitable measure of pricing acceptable to the counterparty; and

(B) the counterparty's disclosure of any payments the counterparty made to another person to procure the transaction; and

(3) the governing body or an authorized officer or employee of the issuer has determined that the transaction will conform to the issuer's interest rate management agreement policy after reviewing a report of the chief financial officer of the issuer that identifies with respect to the transaction:

(A) its purpose;

(B) the anticipated economic benefit and the method used to determine the anticipated benefit;

(C) the use of the receipts of the transaction;

(D) the notional amount, amortization, and average life compared to the related obligation;

(E) any floating indices;

(F) its effective date and duration;

(G) the identity and credit rating of the counterparties;

(H) the cost and anticipated benefit of transaction insurance;

(I) the financial advisors and the legal advisors and their fees;

(J) any security for scheduled and early termination payments;

(K) any associated risks and risk mitigation features;

and

(L) early termination provisions.

(l) While an interest rate management agreement transaction is outstanding, the governing body of the issuer shall review and ratify or modify its related risk management policy at least biennially.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 18, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1310 (S.B. 968), Sec. 4, eff. June 15, 2007.

Sec. 1371.057. REVIEW AND APPROVAL OF OBLIGATION, CREDIT AGREEMENT, AND CONTRACT BY ATTORNEY GENERAL. (a) Before an obligation may be issued or a credit agreement executed, a record of the proceedings of the issuer authorizing the issuance, execution, and delivery of the obligation or credit agreement and any contract providing revenue or security to pay the obligation or credit agreement must be submitted to the attorney general for review.

(b) If the attorney general finds that the proceedings authorizing an obligation or credit agreement conform to the requirements of the Texas Constitution and this chapter, the attorney general shall approve them and deliver to the comptroller a copy of the attorney general's legal opinion stating that approval and the record of proceedings. After approval, the obligation or credit agreement may be executed and delivered, exchanged, or refinanced from time to time in accordance with those authorizing proceedings.

(c) If the authorization of an obligation or of a credit agreement provides that the issuer intends to refinance the obligation or a payment under the credit agreement with refunding bonds issued under Chapter 1207, then the obligation or payment shall be treated, for purposes of attorney general review and approval, as having the intended term and payment schedule of the refunding bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 19, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 1005 (H.B. 647), Sec. 2, eff. June 18,

2005.

Acts 2007, 80th Leg., R.S., Ch. 1310 (S.B. 968), Sec. 5, eff. June 15, 2007.

Sec. 1371.058. REGISTRATION. On receipt of the documents required by Section 1371.057(b), the comptroller shall register the record of the proceedings relating to the issuance of obligations or the execution of a credit agreement.

Added by Acts 1999, 76th Leg., ch. 1064, Sec. 19, eff. Sept. 1, 1999.

Sec. 1371.059. VALIDITY AND INCONTESTABILITY. (a) If proceedings to authorize an obligation or credit agreement are approved by the attorney general and registered by the comptroller, each obligation or credit agreement, as applicable, or a contract providing revenue or security included in or executed and delivered according to the authorizing proceedings is incontestable in a court or other forum and is valid, binding, and enforceable according to its terms.

(b) Notwithstanding Subsection (a) and Section 1371.003, and except as provided by this subsection, an obligation authorized by this chapter is not valid, binding, or enforceable unless the obligation is approved by the attorney general and registered by the comptroller in accordance with Chapter 1202. The attorney general's approval and registration by the comptroller is not required for an obligation:

(1) to which Chapter 1202 does not apply or that is exempt from approval and registration as provided by Section 1202.007(a)(1), (2), (3), (4), (6), or (7); or

(2) that matures within one year after the issuer receives payment for the obligation, regardless of whether the obligation is evidenced by an instrument with a nominal term of longer than one year.

(c) An issuer in the proceedings to authorize obligations or a credit agreement, or in a credit agreement, may agree to waive sovereign immunity from suit or liability for the purpose of adjudicating a claim to enforce the credit agreement or obligation or for damages for breach of the credit agreement or obligation. This

subsection does not apply to an issuer that is:

(1) a state agency, including a state institution of higher education; or

(2) a county with a population of 1.5 million or more.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Redesignated from Government Code Sec. 1371.057(c) and amended by Acts 1999, 76th Leg., ch. 1064, Sec. 19, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1310 (S.B. 968), Sec. 6, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 24, eff. September 1, 2011.

Sec. 1371.060. REFINANCING, RENEWAL, OR REFUNDING OF OBLIGATION OR CREDIT AGREEMENT. An obligation, including accrued interest, or a credit agreement may from time to time be refinanced, renewed, or refunded by the issuance of another obligation or credit agreement.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 1371.058 by Acts 1999, 76th Leg., ch. 1064, Sec. 19, eff. Sept. 1, 1999.

Sec. 1371.061. MANAGEMENT REPORTS. (a) If a governing body authorizes an interest rate management agreement transaction, the governing body shall designate an officer of the issuer to monitor and report on the transaction. At least annually, the designated officer shall present to the governing body a written report, signed by the designated officer, on all outstanding interest rate management agreement transactions conducted for the issuer. The report must:

(1) describe the terms of the transactions;

(2) contain a statement:

(A) of the fair value of each transaction;

(B) of the value of any collateral posted to or by the issuer under the transactions with each counterparty at the year's end; and

(C) reviewing the transactions' cash flows;

(3) identify with respect to each transaction the

counterparty, any guarantor of the counterparty's obligations under the transaction, and the credit ratings of the counterparty and the guarantor; and

(4) state whether the continuation of the transactions under the agreement would comply with the issuer's interest rate management agreement policy.

(b) This section does not apply to an issuer that has entered into:

(1) at least three interest rate management agreement transactions before November 1, 2006; or

(2) one or more interest rate management agreement transactions with notional amounts totaling at least $400 million before November 1, 2006.

Added by Acts 2007, 80th Leg., R.S., Ch. 1310 (S.B. 968), Sec. 7, eff. June 15, 2007.

SUBCHAPTER C. FINANCIAL ASPECTS OF OBLIGATION

Sec. 1371.101. OBLIGATION AS NEGOTIABLE INSTRUMENT AND INVESTMENT SECURITY. An obligation is:

(1) a negotiable instrument; and

(2) an investment security to which Chapter 8, Business & Commerce Code, applies.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1371.102. USE OF CERTAIN PROCEEDS. (a) The proceeds from the sale of an obligation may be deposited or invested in any manner and in any obligation specified in the obligation authorization.

(b) A project cost incurred before the issuance of an obligation issued to finance the related eligible project may be reimbursed from the proceeds from the sale of the obligation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1371.103. SECURITY FOR OBLIGATION. (a) An obligation must be secured solely by:

(1) the proceeds from the sale of other obligations;

(2) the proceeds from the sale of revenue bonds payable from the revenue to be received from a public works or a specified user of a public works;

(3) any revenue that the issuer is authorized by the constitution, a statute, or the charter of a home-rule municipality to pledge to the payment of an obligation;

(4) a credit agreement; or

(5) any combination of those sources.

(b) A governing body may secure an obligation and pay the cost of a credit agreement executed and delivered in connection with the financing of a project cost with:

(1) the sources permitted by this chapter; and

(2) ad valorem taxes to the extent the project cost relates to an eligible project financed or to be financed with obligations payable from ad valorem taxes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 20, eff. Sept. 1, 1999.

Sec. 1371.104. SOURCE OF REPAYMENT OF OBLIGATION. An obligation must be repaid from:

(1) a source of security for the payment of the obligation;

(2) money received from a credit agreement; or

(3) any other revenue legally available for the payment of the obligation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1371.105. PLEDGE OR LIEN ON RESOURCES, ASSETS, OR FUND OF ISSUER. (a) A pledge or lien provided for in the resolution, order, ordinance, or other proceedings authorizing a public security, a credit agreement, or another agreement on a resource of the issuer, including revenue or income, on an asset of the issuer, or on a fund maintained by the issuer to secure payment of the public security or to secure a payment required by a credit agreement or other agreement:

(1) is valid and binding without further action by the issuer according to its terms and without being filed or recorded,

except in the records of the issuer;

(2) is effective from the time of payment for and delivery of the public security or execution of the credit agreement or other agreement until:

(A) the public security or other payment has been paid;

(B) payment of the public security has been provided for; or

(C) each term of the credit agreement or other agreement has been satisfied; and

(3) is effective as to an item on hand or later received, and the item is subject to the lien or pledge without physical delivery of the item or other action.

(b) This section does not exempt an issuer from a duty to:

(1) record a lien on real property; or

(2) submit a public security issue for approval by the attorney general and registration by the comptroller.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1371.106. PLEDGE OF OR LIEN ON SALES OR USE TAX REVENUE. This chapter does not affect a restriction imposed by Chapter 321, Tax Code, on a pledge of or lien on sales and use tax revenue.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. ADVISERS RETAINED FOR THE ISSUANCE OF PUBLIC SECURITIES AND RELATED MATTERS

Sec. 1371.151. DEFINITIONS. In this subchapter:

(1) "Advice" means the advice provided by an adviser regarding activities described by Sections 1371.154(b)(2)(A)-(C).

(2) "Adviser" means a person who provides advice regarding activities described by Sections 1371.154(b)(2)(A)-(C).

(3) "Interest rate management agreement" means an agreement that provides for an interest rate transaction, including:

(A) a swap, basis, forward, option, cap, collar, floor, lock, or hedge; or

(B) any combination of these types of agreements or transactions.

(4) "Municipal finance professional" means an individual,

other than an individual whose functions are solely clerical or ministerial, whose activities include:

(A) underwriting, trading, or the sale of municipal securities;

(B) financial advisory or consultant services for issuers in connection with the issuance of public securities, the execution and delivery of interest rate management agreements, or the investment of the proceeds of public securities;

(C) research or investment advice with respect to municipal securities, provided that the research or advice relates to an activity described by Paragraph (A) or (B); or

(D) any other activity that involves direct or indirect communication with public investors regarding public securities, provided that the activity relates to an activity described by Paragraph (A) or (B).

(5) "Public security" has the meaning assigned by Section 1202.001.

Added by Acts 2007, 80th Leg., R.S., Ch. 991 (S.B. 1332), Sec. 7, eff. September 1, 2007.

Sec. 1371.152. EXEMPTIONS. This subchapter does not apply to:

(1) an issuer who has more than $3 billion in outstanding obligations as of September 1, 2007, or to a nonprofit corporation investing funds on behalf of such an issuer;

(2) a person acting as a financial adviser with respect to an issuance of public securities by an issuer created under Chapter 8503, Special District Local Laws Code, delivered before January 1, 2010, under a contract that was in effect on September 1, 2007, and that has not been modified since that date;

(3) an employee of an issuer providing advice to the issuer or to another issuer;

(4) a state agency:

(A) created by Section 49-b, Article III, Texas Constitution; or

(B) the head of which is an officer in the executive department under Section 1, Article IV, Texas Constitution; or

(5) a corporation created under Chapter 505, Local Government Code, by a municipality located in a county bordering the

Rio Grande River.

Added by Acts 2007, 80th Leg., R.S., Ch. 991 (S.B. 1332), Sec. 7, eff. September 1, 2007.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 11.015, eff. September 1, 2009.

Sec. 1371.153. EXEMPTIONS FOR CERTAIN ADVICE. This subchapter does not apply to advice to an issuer regarding:

(1) a loan or a line of credit by a depository institution to an issuer in a transaction not involving the issuance of a public security offered to a third party or parties; or

(2) a deposit of funds with a depository institution in compliance with another statute of this state.

Added by Acts 2007, 80th Leg., R.S., Ch. 991 (S.B. 1332), Sec. 7, eff. September 1, 2007.

Sec. 1371.154. FINANCIAL ADVISER OR INVESTMENT ADVISER QUALIFICATIONS AND REQUIREMENTS FOR CERTAIN AGREEMENTS AND TRANSACTIONS. (a) This section applies to a financial adviser or an investment adviser who advises the issuer in connection with:

(1) an interest rate management agreement;

(2) the execution or delivery of a public security; or

(3) the investment of the public security proceeds.

(b) To be eligible to be a financial adviser or an investment adviser under this subchapter, the adviser must:

(1) be registered:

(A) as a dealer or investment adviser in accordance with Section 4004.051, 4004.052, or 4004.302;

(B) with the United States Securities and Exchange Commission under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.), if the adviser is providing advice on the investment of bond proceeds and not on the issuance of a public security or an interest rate management agreement; or

(C) with the United States Securities and Exchange Commission as a municipal advisor under Section 15B, Securities Exchange Act of 1934 (15 U.S.C. Section 78o-4);

(2) have relevant experience in providing advice to issuers in connection with:

(A) the issuance of public securities;

(B) the valuation of interest rate management agreements; or

(C) the investment of public security proceeds; and

(3) acknowledge in writing to the issuer that in connection with the transaction for which the adviser is providing advice the adviser:

(A) is acting as the issuer's agent; and

(B) has complied with the requirements of this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 991 (S.B. 1332), Sec. 7, eff. September 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 575 (H.B. 3132), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 2.25, eff. January 1, 2022.

Sec. 1371.155. REQUIREMENTS. (a) An adviser, including an adviser that is not required to be registered under Section 1371.154(b)(1)(A), shall comply with the following with respect to all services contemplated under this subchapter to be provided in this state:

(1) in conducting services as an adviser of the issuer, the adviser shall deal fairly with all persons and may not engage in any deceptive, dishonest, or unfair practice;

(2) in recommending to an issuer any transaction involving the issuance of public securities, the execution and delivery of interest rate management agreements, or the investment of proceeds of securities, the adviser shall have reasonable grounds for making the recommendation based on the information made available by the issuer or information the adviser otherwise knows about the issuer;

(3) the adviser may not in any year, directly or indirectly, give or permit to be given to an employee or an elected or appointed official of an issuer gifts or services of value, including gratuities, that have a total cumulative value of more than

$100;

(4) the adviser may not, directly or indirectly, provide or agree to provide payment to a person who is not affiliated with the adviser for a solicitation of advisory business for the adviser; and

(5) the adviser may not act as adviser to an issuer before the second anniversary of the date of making a contribution to an official of the issuer if the contribution is made by:

(A) the adviser;

(B) a municipal finance professional associated with the adviser; or

(C) a political action committee controlled by the adviser or by a municipal finance profession associated with the adviser.

(b) Notwithstanding Subsection (a)(3), this section does not prohibit an adviser, including an adviser that is not required to be registered under Section 1371.154(b)(1)(A), from:

(1) giving an employee or an elected or appointed official of an issuer occasional gifts of meals or tickets to theatrical, sporting, or other entertainments hosted by the adviser;

(2) sponsoring legitimate business functions for the issuer that are recognized by the Internal Revenue Service as deductible business expenses; or

(3) providing to the issuer or an employee or elected or appointed official of the issuer gifts of reminder advertising.

(c) A gift or sponsorship given or provided by an adviser, including an adviser that is not required to be registered under Section 1371.154(b)(1)(A), to an issuer under Subsection (b) may not be so frequent or so extensive that a question of impropriety is raised.

(d) Notwithstanding Subsection (a)(5), this section does not prohibit an adviser, including an adviser that is not required to be registered under Section 1371.154(b)(1)(A), from acting as an adviser to an issuer if the only contributions made to an official of the issuer before the second anniversary of the date of making a contribution described by Subsection (a)(5):

(1) were made by municipal finance professionals who were entitled to vote; and

(2) were not in excess of $250 for each election.

Added by Acts 2007, 80th Leg., R.S., Ch. 991 (S.B. 1332), Sec. 7, eff.

September 1, 2007.

CHAPTER 1372. PRIVATE ACTIVITY BONDS AND CERTAIN OTHER BONDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1372.001. DEFINITIONS. In this chapter:

(1) "Additional state ceiling" means authorization under federal law for the issuance of bonds that are tax-exempt private activity bonds subject to the limits imposed by Section 146, Internal Revenue Code (26 U.S.C. Section 146), in an amount in addition to the state ceiling.

(1-a) "Applicable official" means the state official or state agency designated by federal law to allocate a miscellaneous bond ceiling or designate bonds entitled to the federal subsidy limited by a miscellaneous bond ceiling or, in the absence of designation by federal law, the governor.

(1-b) "Board" means the Bond Review Board.

(2) "Bonds" means all obligations, including bonds, certificates, or notes, that are:

(A) authorized to be issued by:

(i) the constitution or a statute of this state; or

(ii) the charter of a home-rule municipality; and

(B) either:

(i) subject to the limitations of Section 146, Internal Revenue Code (26 U.S.C. Section 146); or

(ii) with respect to Subchapter D, otherwise entitled to a federal subsidy only if designated for the exemption, credit, or other subsidy, or allocated a portion of a limited amount of obligations for which the exemption, credit, or other subsidy is authorized, by this state or an applicable official or by an issuer to which this state or the applicable official has made an allocation, including exemptions, credits, and other subsidies authorized by any federal law authorizing a federal subsidy.

(3) "Closing" means the issuance and delivery of a bond by an issuer in exchange for the required payment for the bond. The term does not include a delivery of a bond if expenditure of the proceeds of the bond is conditioned on obtaining credit enhancement in support of the bond.

(4) "Enterprise zone facility bond" means an enterprise zone facility bond under Section 1394, Internal Revenue Code (26

U.S.C. Section 1394).

(4-a) "Federal subsidy" means an exclusion of interest on a bond from gross income for federal income tax purposes, a federal income tax credit associated with a bond, a direct federal subsidy of interest on a bond, or any other federally authorized financial benefit associated with a bond.

(5) "Housing finance corporation" has the meaning assigned by Section 394.003, Local Government Code.

(6) "Internal Revenue Code" means the Internal Revenue Code of 1986 and its subsequent amendments.

(7) "Issuer" means:

(A) a department, board, authority, agency, subdivision, political subdivision, body politic, or instrumentality of this state; or

(B) a nonprofit corporation acting for or on behalf of an entity described by Paragraph (A).

(8) "Local government" has the meaning assigned by Section 394.003, Local Government Code.

(8-a) "Miscellaneous bond ceiling" means the maximum amount of bonds of any type that may be issued by issuers in this state during a calendar year, or cumulatively, that are entitled to a federal subsidy only if designated for the federal subsidy, or allocated a portion of a limited amount of bonds other than bonds subject to the limits imposed by Section 146, Internal Revenue Code (26 U.S.C. Section 146), for which the federal subsidy is authorized, by:

(A) this state or the applicable official; or

(B) an issuer to which this state or the applicable official has made an allocation.

(9) "Mortgage credit certificate" means a certificate of the type described by Section 25, Internal Revenue Code (26 U.S.C. Section 25).

(10) "Private activity bond" has the meaning assigned by Section 141(a), Internal Revenue Code (26 U.S.C. Section 141(a)).

(11) "Qualified mortgage bond" has the meaning assigned by Section 143(a), Internal Revenue Code (26 U.S.C. Section 143(a)). The term includes a mortgage credit certificate.

(12) "Qualified residential rental project bond" means a bond issued for a qualified residential rental project as defined by Section 142(d), Internal Revenue Code (26 U.S.C. Section 142(d)).

(13) "Qualified small issue bond" has the meaning assigned by Section 144(a), Internal Revenue Code (26 U.S.C. Section 144(a)).

(14) "Qualified student loan bond" has the meaning assigned by Section 144(b), Internal Revenue Code (26 U.S.C. Section 144(b)).

(15) "Reservation" means a reservation of a portion of the state ceiling for a specific bond issue.

(16) "State-voted issue" means an issue of bonds approved by the voters of this state in a statewide election.

(17) "State ceiling" means the maximum amount of tax-exempt private activity bonds that may be issued by all issuers in this state during a calendar year, as computed under Section 146(d), Internal Revenue Code (26 U.S.C. Section 146(d)).

(18) Repealed by Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 21(1), eff. September 1, 2019.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 1329, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 4, eff. June 19, 2009.

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 21(1), eff. September 1, 2019.

Sec. 1372.002. "PROJECT". (a) For purposes of this chapter, a project is:

(1) an eligible facility or facilities that are proposed to be financed, in whole or in part, by an issue of qualified residential rental project bonds;

(2) in connection with an issue of qualified mortgage bonds, the providing of financial assistance to qualified mortgagors located in all or any part of the jurisdiction of the issuer;

(3) in connection with an issue of qualified student loan bonds:

(A) if the issuer is the Texas Higher Education Coordinating Board, the provision of financial assistance to students; or

(B) if an issuer is authorized by Section 53B.47, Education Code, the provision of guaranteed student loans or alternative education loans that satisfy the requirements of Section 53B.47(b), Education Code; or

(4) an eligible facility or facilities that are proposed to be financed, in whole or in part, by an issue of bonds other than bonds described by Subdivision (1), (2), or (3).

(b) For purposes of Subsection (a)(2), the jurisdiction of an issuer is determined on the date the issuer's application for reservation is delivered to the board.

(c) For purposes of Subsection (a)(1), an application under this chapter may include either the rehabilitation or new construction, or both the rehabilitation and new construction, of qualified residential rental facilities located at multiple sites and with respect to which 51 percent or more of the residential units are located:

(1) in a county with a population of less than 100,000; or

(2) in a county in which the median income is less than the median income for the state, provided that the units are located in that portion of the county that is not included in a metropolitan statistical area containing one or more projects that are proposed to be financed, in whole or in part, by an issuance of bonds.

(d) For purposes of Subsection (c), in an application for a reservation, the number of sites may be reduced as needed without affecting their status as a project for purposes of the application, provided that the final application for a reservation contains at least two sites.

(e) For purposes of Subsection (a)(3), and only for applications for the financing of sewage facilities, solid waste disposal facilities, and qualified hazardous waste facilities, an application under this chapter may include multiple facilities in multiple jurisdictions. In such an application, the number of facilities may be reduced as needed without affecting their status as a project for purposes of the application.

(f) Notwithstanding Subsection (c), an applicant to which this subsection applies may aggregate more than one qualified residential rental project into a single, combined project as part of the participation of the housing authority for the applicable municipality in the Rental Assistance Demonstration program administered by the United States Department of Housing and Urban

Development, as specified by the Consolidated and Further Continuing Appropriations Act of 2012 (Pub. L. No. 112-55) and its subsequent amendments, if the combined project is related to the municipal housing authority's conversion of public housing units as permitted under that program.

(g) Subsection (f) applies only to an applicant created by a municipal housing authority established by a municipality that is:

(1) adjacent to an international boundary of this state; and

(2) located in a county that contains a municipality with a population of more than 500,000.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1108 (H.B. 3552), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 5, eff. June 19, 2009.

Acts 2015, 84th Leg., R.S., Ch. 233 (H.B. 2878), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 2, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 52, eff. September 1, 2023.

Sec. 1372.003. "CLOSING" IN CONNECTION WITH MORTGAGE CREDIT CERTIFICATES. The closing of mortgage credit certificates occurs on the date on which an issuer elects not to issue qualified mortgage bonds and to establish a mortgage credit certificate program under Section 25, Internal Revenue Code (26 U.S.C. Section 25).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1372.004. RULES. The board may adopt rules necessary to accomplish the purposes of this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1372.005. DELIVERY OF REQUIRED SUBMISSIONS TO BOARD; ISSUANCE OF RECEIPTS. (a) A submission required by this chapter must be delivered to the board at its Austin office during normal business hours.

(b) The board shall:

(1) note on the face of the document delivered the date and time of delivery; and

(2) provide the submitting issuer with a receipt that:

(A) describes the document delivered; and

(B) states the date and time of delivery.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1372.006. FEES. (a) An application for a reservation under Subchapter B or a carryforward designation under Subchapter C must be accompanied by a nonrefundable fee in the amount of $500, except that:

(1) for projects that include multiple facilities authorized under Section 1372.002(e), the application must be accompanied by a nonrefundable fee in an amount of $500 for each facility included in the application for the project;

(2) for issuers of qualified residential rental project bonds the application must be accompanied by a nonrefundable fee of $5,000, of which the board shall retain $1,000 to offset the costs of the private activity bond allocation program and the administration of that program and of which the board shall transfer $4,000 through an interagency agreement to the Texas Department of Housing and Community Affairs for use in the affordable housing research and information program as provided by Section 2306.259; and

(3) for a project that includes multiple qualified residential rental projects authorized under Section 1372.002(f), the application must be accompanied by a nonrefundable fee in an amount of $5,000 for each qualified residential rental project included in the application for the project, with a maximum total fee of $25,000. The board shall retain 20 percent to offset the costs of the private activity bond allocation program and the administration of that program. The board shall transfer 80 percent through an interagency agreement to the Texas Department of Housing and Community Affairs for use in the affordable housing research and information program as

provided by Section 2306.259.

(b) An issuer, other than an issuer under Section 1372.022(a)(2), shall submit to the board a closing fee in an amount that is equal to the greater of:

(1) $1,000; or

(2) 0.025 percent of the principal amount of the bonds certified as provided by Section 1372.039(a)(1).

(c) An issuer exchanging a portion of the state ceiling for mortgage credit certificates shall submit to the board a closing fee in an amount that is equal to the greater of:

(1) $1,000; or

(2) 0.0125 percent of the amount of the state ceiling exchanged.

(d) Of each fee required by Subsection (b) or (c):

(1) one-third must be submitted not later than the 35th day after the reservation date for the issue; and

(2) the remainder must be submitted at the time of closing.

(e) An issuer receiving a carryforward designation shall submit to the board a fee in an amount that is equal to the greater of:

(1) $1,000; or

(2) 0.025 percent of the amount of the carryforward designation.

(f) A fee required by Subsection (e) must be submitted not later than the fifth business day following the date of receipt of the carryforward designation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.012(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1329, Sec. 2, eff. Sept. 1, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 951 (H.B. 1582), Sec. 2, eff. June 18, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 6, eff. June 19, 2009.

Acts 2015, 84th Leg., R.S., Ch. 233 (H.B. 2878), Sec. 2, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 3, eff. September 1, 2019.

SUBCHAPTER B. ALLOCATION AND RESERVATION OF STATE CEILING

Sec. 1372.021. ANNUAL ALLOCATION OF STATE CEILING. The state ceiling for each calendar year is allocated to issuers of private activity bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1372.022. AVAILABILITY OF STATE CEILING TO ISSUERS. (a) If the state ceiling is computed on the basis of $75 per capita or a greater amount, before August 15 of each year:

(1) 32.25 percent of the state ceiling is available exclusively for reservations by issuers of qualified mortgage bonds;

(2) 10.0 percent of the state ceiling is available exclusively for reservations by issuers of state-voted issues;

(3) 2.0 percent of the state ceiling is available exclusively for reservations by issuers of qualified small issue bonds and enterprise zone facility bonds;

(4) 26.25 percent of the state ceiling is available exclusively for reservations by issuers of qualified residential rental project bonds; and

(5) 29.5 percent of the state ceiling is available exclusively for reservations by any other issuer of bonds that require an allocation.

(b) On and after August 15, that portion of the state ceiling available for reservations becomes available for all applications for reservations in the order determined by the board by lot. If all applicants for a reservation have been offered a portion of the available state ceiling, then the board shall grant reservations in the order in which the applications for those reservations are received.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 10.01, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 8.013(a), eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1468, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1329, Sec. 3, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 7, eff. June 19, 2009.

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 4, eff.

September 1, 2019.

Sec. 1372.0223. DEDICATION OF PORTION OF STATE CEILING TO CERTAIN ISSUERS OF QUALIFIED MORTGAGE BONDS. Until August 7, out of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified mortgage bonds under Section 1372.022:

(1) 10 percent is available exclusively to the Texas State Affordable Housing Corporation for the purpose of issuing qualified mortgage bonds; and

(2) 56.66 percent is available exclusively to housing finance corporations for the purpose of issuing qualified mortgage bonds.

Added by Acts 2005, 79th Leg., Ch. 674 (S.B. 132), Sec. 9, eff. June 17, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 544 (S.B. 1185), Sec. 3, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1108 (H.B. 3552), Sec. 4, eff. September 1, 2007.

Sec. 1372.023. DEDICATION OF PORTIONS OF STATE CEILING TO TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS. (a) Until August 7, of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified mortgage bonds, 33.34 percent is available exclusively to the Texas Department of Housing and Community Affairs for the purpose of issuing qualified mortgage bonds.

(b) Until August 15, of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified residential rental project bonds, one-fifth is available exclusively to the Texas Department of Housing and Community Affairs in the manner described by Section 1372.0231.

(c) The Texas Department of Housing and Community Affairs may not reserve a portion of the state ceiling that is available exclusively for reservations by issuers of qualified residential rental project bonds other than the portion dedicated to the

department under Subsection (b).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.32, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 332, Sec. 2, eff. Sept. 1, 2003. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 544 (S.B. 1185), Sec. 4, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1108 (H.B. 3552), Sec. 5, eff. September 1, 2007.

Sec. 1372.0231. DEDICATION OF PORTION OF STATE CEILING AVAILABLE FOR QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS. (a) Until August 15, of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified residential rental project bonds:

(1) 20 percent is available exclusively to the Texas Department of Housing and Community Affairs in the manner described by Subsection (b);

(2) 70 percent is available exclusively to housing finance corporations in the manner described by Subsections (c)-(f); and

(3) 10 percent is available exclusively to the Texas State Affordable Housing Corporation in the manner described by Subsection (b-1).

(b) With respect to the amount of the state ceiling set aside under Subsection (a)(1), the board shall grant reservations at the direction of the Texas Department of Housing and Community Affairs as provided by Section 2306.359 and in a manner that ensures that the set-aside amount is used for proposed projects that are located throughout the state.

(b-1) With respect to the amount of the state ceiling set aside under Subsection (a)(3), the board shall issue qualified residential rental project bonds and allocate bond funds at the direction of the Texas State Affordable Housing Corporation as provided by Section 2306.565. Issuances made by the board under this subsection are subject to review and approval by the board under Section 1231.041.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 21(2), eff. September 1, 2019.

(d) Except as provided by Subsection (i), before March 1, the

board shall apportion the amount of the state ceiling set aside under Subsection (a)(2) among the uniform state service regions according to the percentage of the state's population that resides in each of those regions.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 21(2), eff. September 1, 2019.

(f) In each area described by Subsection (d), the board shall grant reservations based on the priority levels of proposed projects as described by Section 1372.0321.

(g) On or after March 1, the board may not grant available reservations to housing finance corporations described by Subsection (a) based on uniform state service regions or any segments of those regions.

(h) Allocations by the board at the direction of the Texas Department of Housing and Community Affairs under Subsection (b) are subject to review and approval by the board as provided by Section 1231.041.

(i) Before March 1, the board shall apportion the amount of the state ceiling set aside under Subsection (a)(2) only among uniform state service regions with respect to which an issuer has submitted an application for a reservation of the state ceiling before March 1.

(j) An application by an issuer of qualified residential rental project bonds that is submitted after the deadline for eligibility to participate in the lottery has a priority lower than that of every application submitted before that date.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 10.02, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 27, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 332, Sec. 3, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 969, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1329, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(37), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1108 (H.B. 3552), Sec. 6, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 5, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 6, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 21(2), eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 1006 (H.B. 1766), Sec. 2, eff. June 18, 2023.

Sec. 1372.024. INCREASE IN AMOUNT OF STATE CEILING AVAILABLE TO ISSUERS OF STATE-VOTED ISSUES. (a) If, before January 2, applications received for reservations for state-voted issues total more than 10 percent of the available state ceiling for that program year, the percentage of state-voted ceiling requested that is more than 10 percent of the state ceiling:

(1) is removed from the state ceiling available to other issuers on January 2; and

(2) is available for those applications for reservations for state-voted issues.

(b) The amount removed under Subsection (a) may not exceed 10 percent of the state ceiling.

(c) The remaining portion of the state ceiling is available in accordance with Section 1372.022(a).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 969, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1329, Sec. 5, eff. Sept. 1, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 7, eff. September 1, 2019.

Sec. 1372.025. REALLOCATION OF STATE CEILING ON FAILURE OF BONDS TO QUALIFY AS TAX-EXEMPT OBLIGATIONS. (a) If a type of bond listed in Section 1372.022(a) does not qualify on January 2 of any year for treatment as a tax-exempt obligation under the Internal Revenue Code:

(1) Section 1372.022(a) has no effect for that year for that type of bond; and

(2) by March 1, the portion of the state ceiling that but for Subdivision (1) would have been available exclusively for reservations by issuers of that type of bond shall be reallocated proportionately for reservation by each other category of issuer

listed in that section.

(b) Subsection (a) does not apply to qualified mortgage bonds or qualified residential rental project bonds made available exclusively to the Texas Department of Housing and Community Affairs under Section 1372.023 or the Texas State Affordable Housing Corporation under Section 1372.0223(1).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.33, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 196 (H.B. 1007), Sec. 3, eff. May 27, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 405 (S.B. 286), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1219 (S.B. 1553), Sec. 1, eff. June 14, 2013.

Sec. 1372.026. LIMITATION ON AMOUNT OF STATE CEILING AVAILABLE TO HOUSING FINANCE CORPORATIONS. (a) The maximum amount of the state ceiling that may be reserved before August 15 by a housing finance corporation for the issuance of qualified mortgage bonds may not exceed the amount computed as follows:

(1) if the local population of the housing finance corporation is 300,000 or more, $36 million plus the product of the amount by which the local population exceeds 300,000 multiplied by $40;

(2) if the local population of the housing finance corporation is 200,000 or more but less than 300,000, $32 million plus the product of the amount by which the local population exceeds 200,000 multiplied by $40;

(3) if the local population of the housing finance corporation is 100,000 or more but less than 200,000, $24 million plus the product of the amount by which the local population exceeds 100,000 multiplied by $80; or

(4) if the local population of the housing finance corporation is less than 100,000, the product of the local population multiplied by $240.

(b) A housing finance corporation may not receive an allocation

for the issuance of qualified mortgage bonds in an amount that exceeds the greater of:

(1) $50 million; or

(2) 1.70 percent of the state ceiling.

(c) For purposes of this section, the local population of a housing finance corporation is the population of the local government or local governments on whose behalf a housing finance corporation is created. If two local governments that have a population of at least 50,000 each and that have overlapping territory have created housing finance corporations that have the power to issue bonds to provide financing for home mortgages, the population of the housing finance corporation created on behalf of the larger local government is computed by subtracting from the population of the larger local government the population of the part of the smaller local government that is located in the larger local government. The reduction of population provided by this subsection is not required if the smaller local government assigns its authority to issue bonds, based on its population, to the larger local government.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 10.03, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 8, eff. June 19, 2009.

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 8, eff. September 1, 2019.

Sec. 1372.0261. FAILURE OF HOUSING FINANCE CORPORATION TO USE AMOUNT OF STATE CEILING ALLOCATED. (a) In this section, "utilization percentage" means that portion of the amount of the state ceiling allocated to a housing finance corporation with respect to which the corporation issues private activity bonds that result in mortgage loans or mortgage credit certificates. A housing finance corporation's utilization percentage for an allocation of the state ceiling is the quotient of:

(1) the amount of the state ceiling:

(A) with respect to which mortgage loans have been originated, considering only the original principal balance of those

loans;

(B) that is used to purchase mortgages or mortgage-backed securities; or

(C) that is used to issue mortgage credit certificates; divided by

(2) the amount of the state ceiling allocated, minus any amounts of the state ceiling required for debt service reserve funds.

(b) If a housing finance corporation's issue of bonds uses a new allocation of the state ceiling in combination with taxable bond proceeds or with bond proceeds recycled from previous allocations of the state ceiling, the first loans or certificates financed are considered in computing the utilization percentage of the new allocation of the state ceiling.

(c) If a housing finance corporation's utilization percentage is less than 80 percent but at least 25 percent, the next time the corporation becomes eligible for a reservation of the state ceiling, the maximum amount of the state ceiling that may be reserved for the corporation is equal to the amount for which the corporation would otherwise be eligible under Section 1372.026 multiplied by the utilization percentage of the corporation's last bond issue that used an allocation of the state ceiling.

(d) A housing finance corporation may not be penalized under Subsection (c) if:

(1) the corporation fails to use:

(A) bond proceeds recycled from previous allocations of the state ceiling; or

(B) taxable bond proceeds;

(2) as the result of an issuance of bonds, the corporation's utilization percentage is 80 percent or greater; or

(3) the application is received after July 14.

(e) If a housing finance corporation's utilization percentage is less than 25 percent, the next time the corporation becomes eligible for a reservation of the state ceiling, the maximum amount of the state ceiling that may be reserved for the corporation is equal to the amount for which the corporation would otherwise be eligible under Section 1372.026 multiplied by 25 percent.

(f) A housing finance corporation may not be penalized under Subsection (c) in a program year if, by December 31 of the preceding program year, an amount equal to or less than 50 percent of the aggregate state ceiling available for reservations by issuers of

qualified mortgage bonds under Section 1372.022(a)(1):

(1) has been used in connection with bond issues that have closed on or before that date; or

(2) has had carryforward elections filed on or before that date.

(g) An issuer that has carryforward available from the additional state ceiling is not restricted by project limits for the state ceiling. An issuer who uses the carryforward to issue qualified mortgage bonds or mortgage credit certificates is not subject to the utilization percentage calculation in determining the amount of the issuer's reservation request.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 10.04, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1108 (H.B. 3552), Sec. 7, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 9, eff. June 19, 2009.

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 9, eff. September 1, 2019.

Sec. 1372.027. PUBLICATION OF AVAILABLE STATE CEILING. The board shall publish at least weekly on its Internet site:

(1) a statement of the amount of the available state ceiling;

(2) a list of the issues that have received a reservation since the preceding publication, including the amount of each reservation; and

(3) a list of the issues that had previously received a reservation that have closed since the preceding publication.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 969, Sec. 3, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1329, Sec. 6, eff. Sept. 1, 2003.

Sec. 1372.028. APPLICATION FOR RESERVATION; FORM AND CONTENT. (a) In this section, "qualified bond" has the meaning assigned by Section 141(e), Internal Revenue Code (26 U.S.C. Section 141(e)).

(b) An issuer may apply for a reservation for a program year not earlier than October 5 of the preceding year. An issuer may not submit an application for a program year after November 15 of that year.

(c) The application must:

(1) be on a form prescribed by the board;

(2) be signed by a member or officer of the issuer; and

(3) state:

(A) the maximum amount of the bonds in the issue that require an allocation under Section 146, Internal Revenue Code (26 U.S.C. Section 146);

(B) the project or, with respect to an eligible facility, a functional description of the project to be financed by the proceeds, including the identification of the user of the proceeds or project;

(C) whether the bonds are qualified bonds;

(D) if the bonds are qualified bonds:

(i) the subparagraph of Section 141(e)(1), Internal Revenue Code (26 U.S. C. Section 141(e)(1)), that applies; and

(ii) if Section 141(e)(1)(A) of that code (26 U.S.C. Section 141(e)(1)(A)) applies, the paragraph of Section 142(a) of that code (26 U.S.C. Section 142(a)) that applies;

(E) if the bonds are not qualified bonds:

(i) that Section 141(b)(5), Internal Revenue Code (26 U.S.C. Section 141(b)(5)), applies; or

(ii) for a transition rule project, the paragraph of the Tax Reform Act of 1986 that applies;

(F) that bonds are not being issued for the same stated project for which the issuer has received sufficient carryforward during a previous year or for which there exists unexpended proceeds from, including transferred proceeds representing unexpended proceeds from, one or more prior issues of bonds issued by the same issuer or based on the issuer's population; and

(G) other information that the board may require.

(d) An issuer is not required to provide the statement required by Subsection (c)(3)(F) if the issuer:

(1) is an issuer of a state-voted issue;

(2) is the Texas Department of Housing and Community Affairs or the Texas State Affordable Housing Corporation; or

(3) provides evidence that one or more binding contracts

have been entered into, or other evidence acceptable to the board as described by program rule, to spend the unexpended proceeds by the later of:

(A) 12 months after the date the board receives the application; or

(B) December 31 of the program year for which the application is filed.

(e) If an issuer applied the previous year for a reservation for qualified mortgage bonds and has not received the reservation at the time of application for the lottery, the issuer, instead of filing a complete application under Subsection (c), may file a statement explaining whether there are any changes in information from the application information filed the previous year. If there are changes, the statement must specify the current information. An issuer that files a statement under this subsection must pay the same application fee required for a complete application.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.014(a), eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1468, Sec. 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 969, Sec. 4, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1329, Sec. 7, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 196 (H.B. 1007), Sec. 4, eff. May 27, 2005.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 1.19, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 10, eff. June 19, 2009.

Sec. 1372.0281. INFORMATION REQUIRED OF ISSUERS OF CERTAIN QUALIFIED STUDENT LOAN BONDS. (a) An issuer of qualified student loan bonds authorized by Section 53B.47, Education Code, shall provide to the board together with its application for a reservation information required by board rule.

(b) The board may require an issuer described by Subsection (a) to provide information with its application, or to supplement the application with information, that includes:

(1) financial statements;

(2) portfolio amounts;
(3) default rates;
(4) descriptions of how bond proceeds are being used or spent; and
(5) other information required by the board.

Added by Acts 2003, 78th Leg., ch. 1329, Sec. 8, eff. Sept. 1, 2003.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 10, eff. September 1, 2019.

Sec. 1372.029. APPLICATIONS FOR MULTIPLE PROJECTS AT SAME SITE PROHIBITED. The board may not accept applications for reservations for more than one project located at, or related to, a business operation at a particular site for any one program year.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1372.030. GRANTING OF CERTAIN RESERVATIONS PROHIBITED; EXCEPTIONS. (a) The board may not grant a reservation to an issuer to whom proceeds are available from other bonds issued by or on behalf of that issuer for the project stated in the issuer's application for the reservation.
(b) Subsection (a) does not apply to an issuer to which Section 1372.028(d) applies.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1372.031. PRIORITIES FOR RESERVATIONS AMONG CERTAIN ISSUERS. (a) Except as provided by Subsection (b) and subject to Sections 1372.0321, 1372.0231, and 1372.035(c), if, on or before October 20, more than one issuer in a category described by Section 1372.022(a)(2), (3), (4), or (5) applies for a reservation of the state ceiling for the next program year, the board shall grant reservations in that category in the order determined by the board by lot.
(b) Until August 1 of the program year, within the category described by Section 1372.022(a)(5), the board shall grant priority

to the Texas Economic Development Bank for projects that the Texas Economic Development and Tourism Office determines meet the governor's criteria for funding from the Texas Enterprise Fund. Notwithstanding the priority, the Texas Economic Development Bank may not receive an amount greater than one-sixth of the portion of the state ceiling available under Section 1372.022(a)(5) on January 1 of the program year.

(c) In selecting projects for reservations of the state ceiling for a program year under Subsection (b), among those projects the Texas Economic Development and Tourism Office determines meet the governor's criteria for funding from the Texas Enterprise Fund the office shall give priority to obtaining reservations for those projects located or to be located in an economically depressed or blighted area, as defined by Section 2306.004, or in an enterprise zone designated under Chapter 2303.

(d) This section and Section 1372.063 do not give a priority to any project described by Subsection (b) for the purpose of selecting projects for reservations under Section 1372.022(b).

(e) The Texas Economic Development Bank is subject to Section 1201.027(d).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 10.05, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 8.015(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 969, Sec. 5, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1329, Sec. 9, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 991 (S.B. 1332), Sec. 8, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1108 (H.B. 3552), Sec. 8, eff. September 1, 2007.

Reenacted by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 11.017, eff. September 1, 2009.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 11, eff. September 1, 2019.

Sec. 1372.032. PRIORITIES FOR RESERVATIONS AMONG ISSUERS OF QUALIFIED MORTGAGE BONDS. (a) If, on or before October 20, more

than one housing finance corporation applies for a reservation of the state ceiling for qualified mortgage bonds for the next program year, the board shall give priority in granting reservations in that category to issuers that:

(1) applied before September 1 of the preceding year for a reservation on behalf of the same local population for that year; but

(2) were not granted a reservation during that year.

(b) The priority of an issuer under Subsection (a) that is composed of more than one jurisdiction is not affected by the issuer's loss of a sponsoring local government and that government's population if the dollar amount of the application has not increased.

(c) Within the group of issuers given priority and within the group not given priority, the board shall grant reservations in reverse order of the date of the most recent closing of qualified mortgage bonds applicable to the housing finance corporations, with a corporation that has never received a reservation for mortgage revenue bonds being the first to receive a reservation and the corporation that had the most recent closing being the last to receive a reservation. If closings occurred on the same date, the board shall grant reservations in the order determined by the board by lot.

(d) For purposes of Subsection (c), the most recent closing applicable to a newly created housing finance corporation sponsored by one or more local governments that had previously sponsored another housing finance corporation, whether existing or not, or to a housing finance corporation sponsored by a local government that has participated in the program of another housing finance corporation is the most recent closing of qualified mortgage bonds the proceeds of which were available to the population of the corporation.

(e) A housing finance corporation or its sponsoring local government may not achieve an advantage in the determination of its most recent closing by creating, dissolving, or withdrawing from a housing finance corporation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 10.06, eff. Sept. 1, 2001.

Sec. 1372.0321. PRIORITIES FOR RESERVATIONS AMONG ISSUERS OF QUALIFIED RESIDENTIAL RENTAL PROJECT ISSUES. (a) In granting reservations to issuers of qualified residential rental project issues, the board shall give first priority to projects that:

(1) during the four-year period preceding the date of the application, have:

(A) filed an application for a low-income housing tax credit with the Texas Department of Housing and Community Affairs; and

(B) closed on a previous reservation of bonds in accordance with Section 1372.042, as determined based on the date of allocation of those bonds;

(2) require a subsequent issuance of bonds to maintain compliance with the percentage requirement described by Subsection (e); and

(3) have not previously applied for a subsequent issuance of bonds under this subsection.

(b) In granting reservations to issuers of qualified residential rental project issues, the board shall give second priority to:

(1) projects in which:

(A) 50 percent of the residential units in the project are:

(i) under the restriction that the maximum allowable rents are an amount equal to 30 percent of 50 percent of the area median family income minus an allowance for utility costs authorized under the federal low-income housing tax credit program; and

(ii) reserved for families and individuals earning not more than 50 percent of the area median income; and

(B) the remaining 50 percent of the residential units in the project are:

(i) under the restriction that the maximum allowable rents are an amount equal to 30 percent of 60 percent of the area median family income minus an allowance for utility costs authorized under the federal low-income housing tax credit program; and

(ii) reserved for families and individuals earning not more than 60 percent of the area median income;

(2) projects in which:

(A) 15 percent of the residential units in the project are:

(i) under the restriction that the maximum allowable rents are an amount equal to 30 percent of 30 percent of the area median family income minus an allowance for utility costs authorized under the federal low-income housing tax credit program; and

(ii) reserved for families and individuals earning not more than 30 percent of the area median income; and

(B) the remaining 85 percent of the residential units in the project are:

(i) under the restriction that the maximum allowable rents are an amount equal to 30 percent of 60 percent of the area median family income minus an allowance for utility costs authorized under the federal low-income housing tax credit program; and

(ii) reserved for families and individuals earning not more than 60 percent of the area median income;

(3) projects:

(A) in which 100 percent of the residential units in the project are:

(i) under the restriction that the maximum allowable rents are an amount equal to 30 percent of 60 percent of the area median family income minus an allowance for utility costs authorized under the federal low-income housing tax credit program; and

(ii) reserved for families and individuals earning not more than 60 percent of the area median income; and

(B) which are located in a census tract in which the median income, based on the most recent information published by the United States Bureau of the Census, is higher than the median income for the county, metropolitan statistical area, or primary metropolitan statistical area in which the census tract is located as established by the United States Department of Housing and Urban Development; or

(4) on or after June 1, projects that are located in counties, metropolitan statistical areas, or primary metropolitan statistical areas with area median family incomes at or below the statewide median family income established by the United States Department of Housing and Urban Development.

(c) In granting reservations to issuers of qualified residential rental project issues, the board shall give third priority to projects in which 80 percent or more of the residential units in the project are:

(1) under the restriction that the maximum allowable rents are an amount equal to 30 percent of 60 percent of the area median family income minus an allowance for utility costs authorized under the federal low-income housing tax credit program; and

(2) reserved for families and individuals earning not more than 60 percent of the area median income.

(d) In granting reservations to issuers of qualified residential rental project issues, the board shall give fourth priority to any other qualified residential rental project.

(e) The board may not reserve a portion of the state ceiling for a first, second, or third priority project described by this section unless the board receives evidence that an application has been filed with the Texas Department of Housing and Community Affairs for the low-income housing tax credit that is available for multifamily transactions that are at least 51 percent financed by tax-exempt private activity bonds.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 8.015(a), eff. Sept. 1, 2001 and Acts 2001, 77th Leg., ch. 1367, Sec. 10.07(a), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 28, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1329, Sec. 10, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1108 (H.B. 3552), Sec. 9, eff. September 1, 2007.

Acts 2023, 88th Leg., R.S., Ch. 1006 (H.B. 1766), Sec. 3, eff. June 18, 2023.

Sec. 1372.033. PRIORITIES FOR RESERVATIONS AMONG CERTAIN ISSUERS OF QUALIFIED STUDENT LOAN BONDS. (a) In this section, "qualified nonprofit corporation" has the meaning assigned by Section 53B.02(11), Education Code.

(b) Only a qualified nonprofit corporation may apply for a student loan bond allocation.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1304, Sec. 4,

eff. June 17, 2011.

(d) Each qualified nonprofit corporation that applies for a student loan bond allocation in compliance with all applicable application requirements for a program year is entitled to receive a student loan bond allocation prioritized in the order that the application was received by the board for that year.

(e) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1304, Sec. 4, eff. June 17, 2011.

(f) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1304, Sec. 4, eff. June 17, 2011.

(g) A qualified nonprofit corporation that receives a student loan bond allocation may not:

(1) transfer the allocation to another entity; or

(2) loan to another entity, other than a qualified borrower, proceeds of bonds issued under the allocation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 10.08, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1329, Sec. 11, eff. Sept. 1, 2003. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1304 (H.B. 2911), Sec. 3, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1304 (H.B. 2911), Sec. 4, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 12, eff. September 1, 2019.

Sec. 1372.034. ORDER OF ACCEPTANCE OF CERTAIN APPLICATIONS FOR RESERVATION. The board shall accept applications for a reservation submitted after October 20 in the order in which they are received.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1372.035. GRANTING OF RESERVATIONS; ORDER. (a) The board may not grant a reservation of a portion of the state ceiling for a program year before January 2 or after November 15 of that year.

(b) Except as provided by Sections 1372.031-1372.033 and Subsection (c), the board shall grant reservations in the order in

which the applications for those reservations are received, regardless of the amounts of the related bond issues.

(c) If, with respect to an application, an issuer receives a carryforward designation under Section 1372.061(b), the board shall grant a reservation with respect to the issuer's next available application on the earlier of the following:

(1) the date of receipt of notice from the issuer that the application for which the issuer received the carryforward designation is being withdrawn; or

(2) if the amount of the carryforward is sufficient to satisfy fully the issuer's next available application, the date of expiration of the period specified by Section 1372.042(a-1).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1108 (H.B. 3552), Sec. 10, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 11, eff. June 19, 2009.

Sec. 1372.036. RESERVATIONS FROM PORTION OF STATE CEILING SUBSEQUENTLY BECOMING AVAILABLE. (a) If, before June 1, any portion of the state ceiling in a category described by Section 1372.022(a) from which issuers were granted reservations becomes available in that category:

(1) those amounts of the state ceiling shall be aggregated; and

(2) the board shall grant reservations from that category on June 1.

(b) Beginning June 1, partial reservations may be offered once to each applicant in each category described by Section 1372.022(a) until an applicant in the category accepts the partial reservation or until additional volume is returned in an amount sufficient to grant a full reservation.

(c) After January 1, the board may grant a reservation to an issuer if the amount of state ceiling available in a category is greater than the amount of state ceiling applied for in that category.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2003, 78th Leg., ch. 969, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1329, Sec. 12, eff. Sept. 1, 2003.

Sec. 1372.037. LIMITATIONS ON GRANTING OF RESERVATIONS FOR INDIVIDUAL PROJECTS. (a) Before August 15 the board may not grant for any single project a reservation for that year that is greater than:

(1) if the issuer is an issuer of qualified mortgage bonds, other than the Texas Department of Housing and Community Affairs or the Texas State Affordable Housing Corporation, the greater of:

(A) $50 million; or

(B) 1.70 percent of the available state ceiling;

(2) if the issuer is an issuer of a state-voted issue, other than the Texas Higher Education Coordinating Board, the greater of:

(A) $100 million; or

(B) 3.40 percent of the available state ceiling;

(3) if the issuer of a state-voted issue is the Texas Higher Education Coordinating Board, the greater of:

(A) $200 million; or

(B) 6.80 percent of the available state ceiling;

(4) if the issuer is an issuer of qualified small issue bonds and enterprise zone facility bonds, the amount to which the Internal Revenue Code limits issuers of those bonds;

(5) if the issuer is an issuer of qualified residential rental project bonds, the greater of:

(A) $50 million; or

(B) 1.70 percent of the available state ceiling; or

(6) if the issuer is any other issuer of bonds that require an allocation, the greater of:

(A) $100 million; or

(B) 3.40 percent of the available state ceiling.

(b) This subsection applies only to projects that are granted a reservation of a portion of the available state ceiling for a program year under Subsection (a)(5). If for a program year the total amount of qualified residential rental project bonds for which reservations are sought exceeds, as of October 20 of the preceding year, 55.75 percent of the state ceiling, the amount of bonds issued to each project may not exceed 55 percent of the reasonably expected

aggregate basis of the project and the land on which the project is or will be located.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 1329, Sec. 13, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 600 (H.B. 1901), Sec. 1, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 544 (S.B. 1185), Sec. 5, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1108 (H.B. 3552), Sec. 11, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 12, eff. June 19, 2009.

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 13, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 21(3), eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 1006 (H.B. 1766), Sec. 4, eff. June 18, 2023.

Sec. 1372.038. RESERVATION DATE. The reservation date for an issue is the date on which the board notifies an issuer whose application for the reservation has been accepted for filing by the board that a portion of the state ceiling is available to that issue.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1372.039. CERTIFICATION REQUIRED OF ISSUER; CANCELLATION ON FAILURE. (a) Not later than the 35th day after an issuer's reservation date, the issuer shall submit to the board:

(1) a certificate signed by an authorized representative of the issuer that certifies the principal amount of the bonds to be issued; and

(2) a list of finance team members and their addresses and telephone numbers.

(b) If the principal amount certified by the issuer is less than the amount stated in the issuer's application for the

reservation, the amount of the issuer's reservation is reduced to the amount certified.

(c) If an issuer does not submit the documents as required by this section and the fee as required by Section 1372.006(d)(1):

(1) the reservation is canceled; and

(2) from the reservation date of the canceled reservation until the expiration of the applicable period described by Section 1372.042(a) or (b):

(A) no issuer may submit an application for a reservation for the same project; and

(B) the issuer is eligible for a carryforward designation for the project only as provided by Subchapter C.

(d) If an issuer does not submit the documents during the period provided by Subsection (a), the issuer may submit the documents not later than the third day after the end of the 35-day period together with a statement and evidence regarding extenuating circumstances that prevented a timely filing. The board shall review the statement and the evidence and may, based on the statement and evidence, permit the late filing.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1329, Sec. 14, eff. Sept. 1, 2003.

Sec. 1372.040. RESERVATION BY CERTAIN ISSUERS OF QUALIFIED MORTGAGE BONDS OF MONEY FOR MORTGAGES FOR CERTAIN PERSONS. An issuer of qualified mortgage bonds, other than the Texas Department of Housing and Community Affairs or the Texas State Affordable Housing Corporation, shall reserve for six months 50 percent of the funds available for loans outside the federally designated target areas to provide mortgages to individuals and families with incomes below 80 percent of the applicable median family income, as defined by Section 143(f)(4), Internal Revenue Code (26 U.S.C. Section 143(f)(4)).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 969, Sec. 7, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1329, Sec. 15, eff. Sept. 1, 2003.

Sec. 1372.041. REFUSAL TO ACCEPT RESERVATION BY ISSUER. (a)

An issuer may:

(1) refuse to accept a reservation if the amount of state ceiling available is less than the amount for which the issuer applied; or

(2) refuse to accept a reservation for any amount if the reservation is granted after September 23.

(b) The amount of available state ceiling is subject to the grant of a reservation to each succeeding issuer eligible to be granted a reservation of that available state ceiling in the order of priority under this subchapter.

(c) An issuer's refusal to accept a reservation does not affect the issuer's order of priority for a subsequent grant of a reservation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1372.042. DEADLINE FOR CLOSING ON BONDS BY ISSUER. (a) An issuer other than an issuer of qualified residential rental project bonds, an issuer of state-voted issues, a qualified nonprofit corporation issuer of qualified student loan bonds, or an issuer of qualified mortgage bonds shall close on the bonds for which the reservation was granted not later than the 150th day after the reservation date.

(a-1) An issuer of qualified residential rental project bonds shall close on the bonds for which the reservation was granted not later than the 180th day after the reservation date. If an issuer of qualified residential rental project bonds fails to close on the bonds for which a reservation was granted, the issuer shall pay the full closing fee provided by Section 1372.006(b) if the application is not withdrawn before the 150th day after the reservation date.

(b) An issuer of state-voted issues, a qualified nonprofit corporation issuer of qualified student loan bonds, or an issuer of qualified mortgage revenue bonds shall close on the bonds for which the reservation was granted not later than the 210th day after the reservation date.

(c) Notwithstanding Subsections (a), (a-1), and (b), if the 150-day period, the 180-day period, or the 210-day period, as applicable, expires on or after December 24 of the year in which the reservation was granted, the issuer shall close on the bonds before

December 24, except that if the applicable period expires after December 31 of that year, the issuer may notify the board in writing before December 24 of the issuer's election to carry forward the reservation and of the issuer's expected bond closing date. In compliance with the requirements of Section 146(f), Internal Revenue Code of 1986, the board shall file in a timely manner a carryforward election with respect to any bonds expected to close after December 31 to permit the bonds to close by the expected date, except that the board may not file the carryforward election after February 15 of the year following the year in which the reservation was granted. The grant of the reservation for the balance of the 150-day period, the 180-day period, or the 210-day period, as applicable, is automatically and immediately reinstated on the board's filing of a carryforward election with respect to the reservation.

(d) Not later than the fifth business day after the date on which the bonds are closed, the issuer shall submit to the board:

(1) a written notice stating the delivery date of the bonds and the principal amount of the bonds issued;

(2) if the project is a project entitled to first, second, or third priority under Section 1372.0321, evidence from the Texas Department of Housing and Community Affairs that an award of low-income housing tax credits has been approved for the project; and

(3) a certified copy of the document authorizing the bonds and any other document relating to the issuance of the bonds, including a statement of the bonds':

(A) principal amount;

(B) interest rate or formula by which the interest rate is computed;

(C) maturity schedule; and

(D) purchaser or purchasers.

(e) In addition to any other fees required by this chapter, an issuer shall submit to the board a nonrefundable fee in the amount of $500 before receiving a carryforward designation under Subsection (c).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 10.09, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 8.016(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1329, Sec. 16, eff. Sept. 1, 2003. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 13, eff. June 19, 2009.

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 14, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 1006 (H.B. 1766), Sec. 5, eff. June 18, 2023.

Sec. 1372.043. CANCELLATION OF RESERVATION ON ISSUER'S FAILURE TO TIMELY CLOSE ON BONDS. If an issuer does not close on the issuer's bonds as required by Section 1372.042:

(1) the reservation for the issue is canceled; and

(2) for the period beginning on the reservation date and ending on the 150th day, the 180th day, or the 210th day after the reservation date, as applicable under Section 1372.042, or on the 210th day after the reservation date if the issuer is an issuer of qualified mortgage bonds:

(A) no issuer may submit an application for a reservation for the same project; and

(B) the issuer is eligible for a carryforward designation for the project only as provided by Subchapter C.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 15, eff. September 1, 2019.

Sec. 1372.044. ASSIGNMENT OF RESERVATION. A reservation may be assigned only between a governmental unit and an issuer that is authorized to issue private activity bonds on behalf of that governmental unit.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1372.045. RESERVATION, ALLOCATION, AND CARRYFORWARD DESIGNATION BY BOARD OF ADDITIONAL STATE CEILING. (a) The board is authorized to establish and administer programs for the reservation, allocation, and carryforward designation of additional state ceiling in accordance with the federal law that establishes the additional

state ceiling and, to the extent consistent with the federal law, as the board determines will achieve the purposes for which the additional state ceiling is authorized by federal law.

(b) The board may adopt rules and procedures the board considers necessary to effectively administer programs authorized under this section.

(c) The board may prescribe forms and applications as needed to effectively implement and administer programs authorized under this section.

(d) The board may adopt emergency rules in connection with the programs authorized under this section when the board determines that the emergency rules are necessary for the state to obtain the full benefits of the additional state ceiling.

Added by Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 14, eff. June 19, 2009.

SUBCHAPTER C. CARRYFORWARD OF STATE CEILING

Sec. 1372.061. DESIGNATION BY BOARD OF CERTAIN AMOUNTS OF STATE CEILING AS CARRYFORWARD. (a) The board may designate as carryforward:

(1) the amount of the state ceiling that is not reserved before December 15; and

(2) any amount of the state ceiling that:

(A) was reserved before December 15; and

(B) becomes available on or after that date because of the cancellation of a reservation.

(b) The board shall designate as carryforward:

(1) a reservation amount for which the board receives written notice from an issuer of an election to carry forward the reservation under Section 1372.042(c) if the bonds relating to the reservation are not required to close by December 31 of the year in which the reservation was granted; or

(2) an amount previously designated as carryforward under Subsection (a) for which the board receives written notice from an issuer of an election to reassign the carryforward designation under Section 1372.074.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 10.10, eff. Sept. 1,

2001.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 969 (S.B. 1984), Sec. 1, eff. September 1, 2021.

Sec. 1372.062. PRIORITY CLASSIFICATIONS OF CARRYFORWARD DESIGNATIONS. (a) The board shall:

(1) designate amounts as carryforward in accordance with the system of priority classifications specified in Sections 1372.063-1372.068; and

(2) in each classification, make the designations in order of the application for those designations.

(b) Notwithstanding Subsection (a), the board shall designate in compliance with the requirements of Section 146(f), Internal Revenue Code of 1986, a carryforward relating to an issuer's written election under Section 1372.042(c) according to the category of bonds to which the reservation subject to the carryforward relates.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 10.10, eff. Sept. 1, 2001.

Sec. 1372.063. PRIORITY 1 CARRYFORWARD CLASSIFICATION. The priority 1 carryforward classification applies to:

(1) an issuer of a state-voted issue; and

(2) a state agency, other than an issuer of a state-voted issue, that applies for a carryforward designation for a project that:

(A) is described by Section 1372.067(a)(2); and

(B) the Texas Economic Development and Tourism Office determines meets the governor's criteria for funding from the Texas Enterprise Fund.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 991 (S.B. 1332), Sec. 9, eff. September 1, 2007.

Sec. 1372.064. PRIORITY 2 CARRYFORWARD CLASSIFICATION. The priority 2 carryforward classification applies to an issuer of bonds approved by the voters of a political subdivision of this state if:

(1) the bonds will be private activity bonds for which an allocation will be required for the bonds to be tax exempt under the Internal Revenue Code; or

(2) the excess private use of a governmental bond will require allocation so that the bond may retain its tax exempt status under the Internal Revenue Code.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1372.065. PRIORITY 3 CARRYFORWARD CLASSIFICATION. The priority 3 carryforward classification applies to:

(1) a state agency, other than an issuer of a state-voted issue; and

(2) a political subdivision whose board of directors holds office under Section 30a, Article XVI, Texas Constitution.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1372.066. PRIORITY 4 CARRYFORWARD CLASSIFICATION. (a) The priority 4 carryforward classification applies to any political subdivision:

(1) that is authorized to issue bonds; and

(2) to which priority carryforward classifications 1-3 do not apply.

(b) A project that is the subject of an application for a priority 4 carryforward classification must be owned by a governmental unit in accordance with applicable provisions of the Internal Revenue Code.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1372.067. PRIORITY 5 CARRYFORWARD CLASSIFICATION. (a) The priority 5 carryforward classification applies to an issuer that:

(1) was created to act on behalf of this state or one or more political subdivisions of this state; and

(2) is applying for carryforward for a project:

(A) for which there has been an inducement resolution or other comparable preliminary approval; and

(B) with respect to which:

(i) a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into before submission of the application;

(ii) significant expenditures for construction, reconstruction, or rehabilitation were readily identifiable with and necessary to carry out a binding contract for the supply of property or services or the sale of output; or

(iii) significant expenditures were paid or incurred before submission of the application.

(b) In this section, "significant expenditures" means expenditures that are greater than the lesser of:

(1) $1 million; or

(2) 10 percent of the reasonably anticipated cost of the project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1372.068. PRIORITY 6 CARRYFORWARD CLASSIFICATION. The priority 6 carryforward classification applies to an issuer that:

(1) was created to act on behalf of this state or one or more political subdivisions of this state; and

(2) is applying for carryforward for a project that is not eligible for another priority carryforward classification.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1372.069. APPLICATION FOR CARRYFORWARD DESIGNATION; LIMITATIONS. (a) An issuer may apply for a carryforward designation at any time during the year in which the designation is sought.

(b) An issuer that applies for a carryforward designation may not apply later in the same year for a reservation for the same project.

(c) An issuer may apply for the carryforward designation of an amount that is not more than the greater of:

(1) $50 million; or

(2) 1.70 percent of the available state ceiling.

(d) The board by rule shall prevent an issuer from applying for a carryforward designation in an amount that is greater than the amount needed.

(e) A carryforward designation granted under this section must comply with the Internal Revenue Code of 1986.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 16, eff. September 1, 2019.

Sec. 1372.070. FORM AND CONTENTS OF APPLICATION FOR CARRYFORWARD APPLICATION. An application for a carryforward designation must:

(1) be on a form prescribed by the board;

(2) be signed by a member or officer of the issuer and by the governor, if the issuer was created to act on behalf of this state;

(3) state the amount of carryforward sought;

(4) describe the project;

(5) state which priority classification is applicable to the applicant;

(6) include evidence satisfactory to the board that that priority classification is correct; and

(7) contain any other information that the board by rule requires.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1108 (H.B. 3552), Sec. 12, eff. September 1, 2007.

Sec. 1372.071. ACTION ON APPLICATION FOR CARRYFORWARD DESIGNATION. On receipt of an application for a carryforward designation, the board shall:

(1) determine whether the application complies with the requirements of this chapter and board rules; and

(2) note its determination on the application.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1372.072. AMENDMENT OR WITHDRAWAL OF APPLICATION FOR CARRYFORWARD DESIGNATION. (a) An issuer may amend or withdraw an application for a carryforward designation by submitting to the board a notice of the amendment or withdrawal.

(b) If an application is amended, the application's place in the order of eligibility for a carryforward designation in a priority classification is determined using the date of the amendment instead of the date of the original application.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1372.073. DESIGNATION BY BOARD OF UNENCUMBERED STATE CEILING. Notwithstanding any other provision of this chapter, the board on the last business day of the year may assign as carryforward to a state agency or to an issuer that was created to act on behalf of this state at the request of the issuer and in the order received any state ceiling that is not reserved or designated as carryforward and for which no application for carryforward is pending.

Added by Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 15, eff. June 19, 2009.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 17, eff. September 1, 2019.

Sec. 1372.074. REASSIGNMENT OF CARRYFORWARD DESIGNATION. (a) After one year from the initial carryforward designation, an issuer may elect to reassign all or part of the carryforward designation in accordance with Section 1372.061(b) to the issuer's next available application for a project if the issuer provides:

(1) a written withdrawal request signed by an authorized representative of the issuer;

(2) the issuing board resolution authorizing the carryforward designation reassignment with an original signature by an officer of the issuer;

(3) applicable fees under Section 1372.006;

(4) an opinion of legal counsel stating that the carryforward designation reassignment does not conflict with Section 146, Internal Revenue Code of 1986; and

(5) any other information required by the board.

(b) A project that is reassigned a carryforward designation under this section must close within the time period allowed by the Internal Revenue Code of 1986.

(c) An unutilized carryforward designation available after a project closes on a carryforward designation under Section 1372.069 may be used by the issuer for other projects subject to Subsection (b) and Section 1372.061(b).

Added by Acts 2019, 86th Leg., R.S., Ch. 992 (S.B. 1474), Sec. 18, eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 969 (S.B. 1984), Sec. 2, eff. September 1, 2021.

SUBCHAPTER D. ALLOCATION OF MISCELLANEOUS BOND CEILING

Sec. 1372.101. PROGRAM ADMINISTRATION. (a) The applicable official may designate bonds as entitled to a portion of a miscellaneous bond ceiling or allocate a portion of a miscellaneous bond ceiling to an issuer of bonds:

(1) in accordance with the federal law that establishes the federal subsidy for which the miscellaneous bond ceiling is established; and

(2) to the extent consistent with the federal law, as the applicable official determines will achieve the purposes for which the federal subsidy is authorized by federal law.

(b) The board is authorized to administer programs established by the applicable official for the allocation of a miscellaneous bond ceiling or the designation of bonds entitled to the federal subsidy limited by a miscellaneous bond ceiling.

Added by Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 16, eff. June 19, 2009.

Sec. 1372.102. RULES AND PROCEDURES. (a) Unless otherwise provided by law, the board may adopt rules and procedures the board

considers necessary to effectively administer programs established by the applicable official for allocation of a miscellaneous bond ceiling or for designating bonds as entitled to the federal subsidy limited by the miscellaneous bond ceiling.

(b) The board may adopt emergency rules in connection with the programs described in Subsection (a) when the board determines that the emergency rules are necessary for the state to obtain the full benefits of the federal subsidy that is limited by the miscellaneous bond ceiling.

(c) The board may prescribe forms and applications as needed to effectively implement and administer programs described in Subsection (a).

(d) This section does not prevent an applicable official from adopting rules and procedures in connection with the allocations and designations when required by federal or state law or from administering a program independently of the board.

Added by Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 16, eff. June 19, 2009.

Sec. 1372.103. APPLICATION FEES. In connection with programs established by the applicable official for the allocation of a miscellaneous bond ceiling or the designation of bonds entitled to the federal subsidy limited by a miscellaneous bond ceiling, the board may charge an application fee for each application it receives under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 16, eff. June 19, 2009.

SUBTITLE G. SPECIFIC AUTHORITY FOR STATE GOVERNMENT TO ISSUE SECURITIES

CHAPTER 1401. BONDS FOR CERTAIN CRIMINAL JUSTICE, MENTAL HEALTH, OR INTELLECTUAL DISABILITY FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1401.001. DEFINITIONS. In this chapter:

(1) "Authority" means the Texas Public Finance Authority.

(2) "Board" means the board of directors of the authority.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1401.002. BOND REVIEW BOARD MEMBER IMMUNITY. A Bond Review Board member is not liable for damages that result from performing a function of the member under this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1401.003. LEGISLATIVE AUTHORITY. The authority may not issue or sell a bond under this chapter for a project unless the legislature has authorized the specific project by:

(1) this chapter;

(2) the General Appropriations Act; or

(3) Chapter 1232.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. BOND REVIEW BOARD OVERSIGHT

Sec. 1401.021. BOND REVIEW BOARD APPROVAL OF BOND ISSUANCE. The authority may not issue a bond under this chapter unless the Bond Review Board has reviewed and approved the issuance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1401.022. BOND REVIEW BOARD APPROVAL OF PROJECT. The proceeds of a bond issued under this chapter may not be used to finance a project unless the Bond Review Board has reviewed and approved the project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. GENERAL OBLIGATION BONDS AND PROCEEDS

Sec. 1401.041. GENERAL OBLIGATION BONDS. (a) As provided by Section 49-h(a), Article III, Texas Constitution, as that section existed September 1, 1999, the authority may:

(1) issue general obligation bonds in an amount not to

exceed $500 million; and

(2) distribute the bond proceeds as provided by that section.

(b) As provided by Section 49-h(c), Article III, Texas Constitution, as that section existed September 1, 1999, the authority may:

(1) issue general obligation bonds in an amount not to exceed $400 million; and

(2) distribute the bond proceeds to any appropriate agency to:

(A) acquire, construct, or equip a new facility; or

(B) make a major repair of or renovate a facility, corrections institution, youth corrections institution, mental health institution, or intellectual disability institution.

(c) As provided by Section 49-h(d), Article III, Texas Constitution, as that section existed September 1, 1999, the authority may:

(1) issue general obligation bonds in an amount not to exceed $1.055 billion and distribute the bond proceeds to any appropriate agency to:

(A) acquire, construct, or equip a:

(i) new prison or substance abuse felony punishment facility to confine criminals; or

(ii) youth corrections institution;

(B) make a major repair of or renovate a prison facility or youth corrections institution; or

(C) acquire, make a major repair of, or renovate a facility for use as a state prison, a substance abuse felony punishment facility, or a facility in which a pilot program established as provided by Section 614.011, Health and Safety Code, is conducted;

(2) issue general obligation bonds in an amount not to exceed $45 million and distribute the bond proceeds to any appropriate agency to:

(A) acquire, construct, or equip a new mental health facility or intellectual disability facility, including a community-based mental health facility or community-based intellectual disability facility; or

(B) make a major repair of or renovate a mental health facility or intellectual disability facility; and

(3) issue general obligation bonds in an amount not to exceed $50 million and distribute the bond proceeds to any appropriate agency to:

(A) acquire, construct, or equip a new youth corrections facility; or

(B) make a major repair of or renovate a youth corrections facility.

(d) As provided by Section 49-h(e), Article III, Texas Constitution, as that section existed September 1, 1999, the authority may:

(1) issue general obligation bonds in an amount not to exceed $1 billion; and

(2) distribute the bond proceeds as provided by that section.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.017, eff. Sept. 1, 2001.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.22, eff. September 1, 2023.

Sec. 1401.042. REFUNDING BONDS. The authority may issue a general obligation bond authorized under Section 1401.041 to refund a revenue bond issued under Subchapter D.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1401.043. REFINANCING CERTAIN OBLIGATIONS. (a) The proceeds of a bond issued under Section 1401.041(a), (b), (c)(1), or (d) may be used to refinance an existing obligation for a purpose described by those subsections.

(b) The proceeds of a bond issued under Section 1401.041(c)(2) may be used to refinance an existing obligation for a purpose described by that subdivision.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1401.044. DISTRIBUTION OF PROCEEDS. The authority by rule shall establish guidelines, criteria, and procedures for distributions of general obligation bond proceeds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1401.045. INTEREST AND SINKING FUND BALANCE REPORT. (a) The authority shall report to the Legislative Budget Board and the Governor's Office of Budget and Planning an accurate estimate of interest and sinking fund balances available for payment of debt service on general obligation bonds.

(b) The report must be made not later than January 1 of each odd-numbered year.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. REVENUE BONDS AND PROCEEDS

Sec. 1401.061. REVENUE BONDS. (a) The authority may:

(1) issue revenue bonds; and

(2) distribute the bond proceeds to any appropriate agency to:

(A) acquire, construct, or equip a new facility; or

(B) make a major repair of or renovate a:

(i) facility;

(ii) corrections institution, including a facility authorized by Section 495.001(a) or 495.021(a);

(iii) criminal justice facility for the Texas Department of Criminal Justice;

(iv) youth corrections institution; or

(v) mental health institution or intellectual disability institution.

(b) The bond proceeds may be used to refinance an existing obligation for a purpose described by Subsection (a).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.23, eff. September 1, 2023.

Sec. 1401.062. REVENUE BOND PROCEEDS. On issuing bonds under Section 1401.061, the board shall:

(1) certify to the appropriate agency and to the comptroller that the funds are available; and

(2) deposit the bond proceeds in the state treasury to the account of the appropriate agency.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1401.063. INVESTMENT OF PROCEEDS. (a) With the board's concurrence, the comptroller shall invest the unexpended revenue bond proceeds and the investment income of those unexpended proceeds in investments approved by law for the investment of state funds.

(b) The investment income required for project costs, and not required to be rebated to the federal government or used for debt service, as determined by the board, shall be credited to the appropriate agency. The investment income not required for project costs, not required to be rebated to the federal government, and not required for debt service shall be allocated as provided by Section 404.071.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1401.064. PAYMENT OF PRINCIPAL OR INTEREST. The board may provide that the principal of and interest on revenue bonds issued under this subchapter be paid from any source of funds lawfully available to the board.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1401.065. BOND REQUIREMENTS. Revenue bonds issued under this subchapter are subject to Sections 1232.117 and 1232.118.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER E. REVENUE BOND PROJECTS

Sec. 1401.081. CONDITIONS FOR BEGINNING PROJECT. The

appropriate agency may begin an approved project financed under Subchapter D after:

(1) the authority has certified that the authority has authorized obligations in an amount sufficient to pay the construction or purchase price of the project under an interim construction finance agreement established by the authority in accordance with Chapter 1371; or

(2) the following conditions are met:

(A) the revenue bond proceeds are deposited;

(B) the comptroller has certified that the funds are available;

(C) any reserve funds or capitalized interest certified to be reasonably required by the authority has been transferred; and

(D) according to the authority's statement that specifies those costs, the costs of issuance of the bonds have been paid.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1401.082. REVENUE BOND REPAYMENT AND LEASE AGREEMENT. (a) In accordance with a lease agreement, the appropriate agency, with money appropriated for the purpose, shall pay to the board an amount the board determines to be sufficient to:

(1) pay the principal of and interest on the bonds issued under Section 1401.061;

(2) maintain a reserve fund necessary to service the debt; and

(3) reimburse the authority for other costs and expenses relating to:

(A) a project; or

(B) the outstanding bonds.

(b) For purposes of this section, a state agency may enter into a lease agreement in the name of and on behalf of the state.

(c) A state agency shall include in its biennial appropriation request an amount sufficient to pay the principal of and interest on outstanding bonds issued under Section 1401.061 for the agency.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1401.083. RIGHTS TO FINANCED PROPERTY. (a) Property financed by the authority under Subchapter D does not become part of other property to which it is attached or affixed or into which it is incorporated, regardless of whether the other property is real or personal.

(b) A state agency has the rights of a lessee in property financed by the authority under Subchapter D. A person who claims under or through the agency may not acquire any greater rights with respect to the property.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER F. FINANCIAL PROVISIONS

Sec. 1401.101. EXEMPTION FROM TAXATION. A bond issued under this chapter, any transaction related to the bond, and profits made in the sale of the bond are exempt from taxation by this state, a state agency, or a municipality or other political subdivision of this state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER G. MISCELLANEOUS PROVISIONS

Sec. 1401.121. TEXAS DEPARTMENT OF CRIMINAL JUSTICE MASTER PLAN. (a) Unless the Texas Department of Criminal Justice has submitted to the Bond Review Board a master plan for the construction of corrections facilities, the proceeds of bonds issued under this chapter may not be:

(1) distributed to the department; or

(2) used to finance a project of the correctional institutions division of the department.

(b) The master plan must:

(1) be in the form, contain the information, and cover the period prescribed by the Bond Review Board; and

(2) be revised annually.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.086, eff. September 1, 2009.

CHAPTER 1403. GENERAL OBLIGATION BONDS FOR CERTAIN BORDER COLONIA PROJECTS

Sec. 1403.001. DEFINITIONS. In this chapter:

(1) "Authority" means the Texas Public Finance Authority.

(2) "Commission" means the Texas Transportation Commission.

Added by Acts 2001, 77th Leg., ch. 950, Sec. 1, eff. Nov. 6, 2001.

Sec. 1403.002. GENERAL OBLIGATION BONDS AND NOTES FOR BORDER COLONIA ROADWAY PROJECTS. (a) As provided by Section 49-l, Article III, Texas Constitution, the authority shall, in accordance with requests from the office of the governor:

(1) issue general obligation bonds and notes in an aggregate amount not to exceed $175 million, as authorized by the office of the governor under Subsection (b); and

(2) as directed by the Texas Department of Transportation, distribute the proceeds from the sale of the bonds and notes to counties to provide financial assistance for colonia access roadway projects to serve border colonias.

(b) The office of the governor shall determine the amount of bonds or notes to be issued at any one time by the authority under Subsection (a)(1) and the times at which the bonds or notes are issued.

(c) The commission shall establish a program to administer the use of the proceeds of the bonds and notes. The Texas Department of Transportation shall administer the program in cooperation with the office of the governor, the secretary of state, and the Texas A&M University Center for Housing and Urban Development.

(d) The commission, in cooperation with the office of the governor, shall:

(1) define by rule "border colonia" as a geographic area that consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood and subject to any other criteria considered appropriate by the commission and the office of the governor;

(2) establish by rule criteria for selecting which areas

and which colonia access roadway projects are eligible for assistance under this chapter;

(3) determine the counties and the colonia access roadway projects that are to receive financial assistance and the amount of assistance given to a county or project;

(4) establish by rule minimum road standards a county's colonia access roadway proposal must meet to be awarded a grant;

(5) establish by rule grant application procedures; and

(6) establish by rule financial reporting requirements for counties that receive assistance for colonia access roadway projects to serve border colonias.

(e) The issuance of general obligation bonds under this chapter shall comply with and is subject to Subtitle A, of this title, Chapter 1231, and applicable provisions of Chapters 1232 and 1371.

(f) In connection with bonds or notes issued under this section, the authority may enter into one or more credit agreements at any time for a period and on conditions the authority approves. For purposes of this subsection, "credit agreement" includes:

(1) an interest rate swap agreement;

(2) an interest rate lock agreement;

(3) a currency swap agreement;

(4) a forward payment conversion agreement;

(5) an agreement to provide payments based on levels of or changes in interest rates or currency exchange rates;

(6) an agreement to exchange cash flows or a series of payments;

(7) an option, put, or call to hedge payment, currency, rate, spread, or other exposure; or

(8) another agreement that enhances the marketability, security, or creditworthiness of bonds or notes.

Added by Acts 2001, 77th Leg., ch. 950, Sec. 1, eff. Nov. 6, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 341 (S.B. 99), Sec. 7, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.016, eff. September 1, 2011.

Sec. 1403.003. SET-ASIDE FOR COLONIAS LOCATED IN RURAL BORDER

COUNTIES. (a) In this section:

(1) "Border colonia" means a border colonia as defined by commission rule under Section 1403.002.

(2) "Rural border county" means a county that:

(A) has a population of less than 55,000; and

(B) is adjacent to an international border.

(3) "Set-aside" means a reservation of a portion of the proceeds from the sale of general obligation bonds and notes under this chapter to provide financial assistance for specific colonia access roadway projects proposed by rural border counties.

(b) The authority shall set aside an amount equal to 10 percent of the proceeds from each sale of general obligation bonds and notes under this chapter to provide financial assistance for colonia access roadway projects designed to pave roads serving border colonias located in rural border counties.

(c) The authority, as directed by the Texas Department of Transportation, shall provide a grant from the set-aside on a priority basis to a rural border county that proposes to pave for the first time a road serving a border colonia located in that county.

Added by Acts 2003, 78th Leg., ch. 320, Sec. 1, eff. June 18, 2003.

Sec. 1403.004. USE OF GRANTS FOR PROJECT MATERIALS OR EQUIPMENT. A grant under this chapter may be used to purchase any materials or to lease any equipment as reasonably necessary to accomplish the goal of the project. Materials purchased as permitted by this section must be used solely in connection with the project. Equipment leased as permitted by this section must be used substantially in connection with the project throughout the period of the applicable lease.

Added by Acts 2003, 78th Leg., ch. 320, Sec. 1, eff. June 18, 2003.

SUBTITLE H. SPECIFIC AUTHORITY FOR MORE THAN ONE TYPE OF LOCAL GOVERNMENT TO ISSUE SECURITIES

CHAPTER 1431. ANTICIPATION NOTES

Sec. 1431.001. DEFINITIONS. In this chapter:

(1) "Anticipation note" means a note issued under this chapter.

(2) "Eligible countywide district" means a flood control district or a hospital district the boundaries of which are substantially coterminous with the boundaries of a county with a population of three million or more or a hospital district created in a county with a population of more than 1.2 million that was not included in the boundaries of a hospital district before September 1, 2003.

(3) "Eligible school district" means an independent school district that has an average daily attendance of 190,000 or more as determined under Section 48.005, Education Code.

(4) "Governing body" means the commissioners court of a county or the governing body of a municipality, eligible school district, or eligible countywide district authorized to issue anticipation notes on behalf of an issuer.

(5) "Issuer" means a county, municipality, eligible school district, or eligible countywide district issuing an anticipation note.

(6) "Public work" for an issuer that is a municipality or county has the meaning assigned by Section 271.043, Local Government Code.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 164 (S.B. 1107), Sec. 2, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.082, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 53, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 1126 (H.B. 4082), Sec. 1, eff. September 1, 2023.

Sec. 1431.002. AUTHORITY TO ISSUE ANTICIPATION NOTES. (a) The commissioners court of a county by order, on the recommendation of the county auditor or the county budget officer, as applicable, or the governing body of an eligible countywide district may authorize the issuance of an anticipation note.

(b) The governing body of a municipality by ordinance may authorize the issuance of an anticipation note.

(c) The governing body of an eligible school district by order may authorize the issuance of an anticipation note.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 2, eff. Sept. 1, 2001.

Sec. 1431.003. ADDITIONAL AUTHORITY OF COUNTIES AND CERTAIN MUNICIPALITIES. (a) This section applies only to an issuer that is:

(1) a county;

(2) a municipality with a population of 80,000 or more;

(3) an eligible school district; or

(4) an eligible countywide district.

(b) Notwithstanding anything in this chapter to the contrary, the governing body may exercise the authority granted to the governing body of an issuer with regard to issuance of obligations under Chapter 1371, except that the prohibition in that chapter on the repayment of an obligation with ad valorem taxes does not apply to an issuer exercising the authority granted by this section.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 3, eff. Sept. 1, 2001.

Sec. 1431.004. USES OF ANTICIPATION NOTE PROCEEDS. (a) An issuer, other than an eligible school district, may use the proceeds of an anticipation note to pay:

(1) a contractual obligation incurred or to be incurred for:

(A) the construction of a public work;

(B) the purchase of materials, supplies, equipment, machinery, buildings, lands, and rights-of-way for the issuer's authorized needs and purposes; or

(C) a professional service, including a service by a tax appraisal engineer, engineer, architect, attorney, mapmaker, auditor, financial advisor, or fiscal agent;

(2) operating or current expenses; or

(3) the issuer's cumulative cash flow deficit.

(b) The governing body of an eligible school district may use the proceeds of an anticipation note to pay an obligation incurred or to be incurred for:

(1) a purpose described by Subsection(a)(1)(C), (2), or (3); or

(2) the purchase of materials, supplies, equipment, or machinery for an issuer's authorized needs and purposes.

(c) For the purposes of this section, the cumulative cash flow deficit is the amount by which the sum of an issuer's anticipated expenditures and cash reserve reasonably required to pay unanticipated expenditures exceeds the amount of the issuer's cash, marketable securities, and money in an account that may be used to pay an issuer's anticipated expenditures, other than:

(1) money in an account the use of which is subject to legislative or judicial action or that is subject to a legislative, judicial, or contractual requirement that the account be reimbursed; or

(2) the proceeds of an anticipation note.

(d) For the purposes of Subsection (c), an amount equal to one month's anticipated expenditures is presumed to be reasonably required as a cash reserve.

(e) An issuer, other than an eligible school district, may use the proceeds of an anticipation note or other obligation issued under Section 1431.015:

(1) for purposes described by Subsection (a); or

(2) to pay for:

(A) employee salaries;

(B) the lease of materials, supplies, equipment, machinery, buildings, lands, and rights-of-way for the issuer's authorized needs and purposes;

(C) the demolition of dangerous structures or the restoration of historic structures;

(D) economic development grants made under Chapter 380, Local Government Code; or

(E) the accomplishment of any other purpose the issuer considers necessary in relation to preserving or protecting the public health and safety.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 4, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 929 (H.B. 3270), Sec. 1, eff. June 15, 2007.

Sec. 1431.005. GENERAL LIMITATION. An issuer may not use proceeds of an anticipation note to repay interfund or other borrowing that occurred earlier than 24 months before the date of the ordinance or order authorizing the issuance of the note.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1431.006. LIMITATION ON NOTES TO PAY EXPENSES. (a) Anticipation notes issued for the purposes described by Section 1431.004(a)(2) may not, in the fiscal year in which the attorney general approves the notes:

(1) for a municipality, exceed 75 percent of the revenue or taxes anticipated to be collected in that year;

(2) for a county or an eligible countywide district, exceed 50 percent of the revenue or taxes anticipated to be collected in that year; or

(3) for an eligible school district, exceed 75 percent of the income of the district for the fiscal year preceding that year.

(b) This section does not apply to an anticipation note or other obligation issued under Section 1431.015.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 5, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 929 (H.B. 3270), Sec. 2, eff. June 15, 2007.

Sec. 1431.007. GENERAL SOURCES OF PAYMENT. (a) Except as provided by Subsection (b), a governing body may:

(1) provide that anticipation notes be paid from and secured by revenue, taxes, a combination of revenue and taxes, or the

proceeds of bonds to be issued by the issuer; and

(2) pledge to the payment of anticipation notes revenue, taxes, a combination of revenue and taxes, or the proceeds of bonds to be issued by the issuer.

(b) The governing body of a flood control district operating as a conservation and reclamation district that issues anticipation notes for one or more purposes described in Section 1431.004(a)(1) may:

(1) provide that the anticipation notes be paid from and secured by revenue or the proceeds of bonds to be issued by the issuer; and

(2) pledge to the payment of the anticipation notes revenues or the proceeds of bonds to be issued by the issuer.

(c) A governing body issuing an anticipation note or other obligation under Section 1431.015 may:

(1) provide that the anticipation note or other obligation be paid from and secured by any revenue, including sales taxes, other taxes, a combination of nontax and tax revenue, the proceeds of bonds to be issued by the issuer, and reimbursements or other funds to be received from the Federal Emergency Management Agency or any other state or federal agency reimbursing or providing funds to the issuer for costs incurred as a result of the emergency; and

(2) pledge to the payment of the anticipation note or other obligation any revenue, including sales taxes, other taxes, a combination of nontax and tax revenue, the proceeds of bonds to be issued by the issuer, and reimbursements or other funds to be received from the Federal Emergency Management Agency or any other state or federal agency reimbursing or providing funds to the issuer for costs incurred as a result of the emergency.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 6, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 270, Sec. 2, eff. June 18, 2003. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 929 (H.B. 3270), Sec. 3, eff. June 15, 2007.

Sec. 1431.008. AD VALOREM TAXES AS SOURCE OF PAYMENT. (a) A governing body may not issue anticipation notes that are payable from

bonds secured by an ad valorem tax unless the proposition authorizing the issuance of the bonds:

(1) is approved by a majority of the votes cast in an election held by the issuer; and

(2) states that anticipation notes may be issued.

(b) A governing body that pledges to the payment of anticipation notes an ad valorem tax to be imposed in a subsequent fiscal year shall impose the tax in the ordinance or order that authorizes the issuance of the notes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1431.009. MATURITY. (a) Except as provided by Subsection (b) or (e), an anticipation note issued for a purpose described by Section 1431.004(a)(1) or (b)(2) must mature before the seventh anniversary of the date that the attorney general approves the note.

(b) An anticipation note issued by a county with a population of three million or more, an eligible countywide district, or an eligible school district for a purpose described by Section 1431.004(a)(1) or (b)(2) must mature before the 15th anniversary of the date that the attorney general approves the note.

(c) Except as provided by Subsection (e), an anticipation note issued for a purpose described by Section 1431.004(a)(2) or (3) must mature before the first anniversary of the date that the attorney general approves the note.

(d) A bond issued under Chapter 1207 to refund an anticipation note issued by a county, municipality, or eligible countywide district for a purpose described by Section 1431.004(a)(1) or by an eligible school district for a purpose described by Section 1431.004(a)(1)(C) or (b)(2) is subject to the limitation on maturity provided by Section 1207.006 and not the limitation provided by Subsection (a).

(e) An anticipation note or other obligation issued under Section 1431.015 for any authorized purpose must mature before the 10th anniversary of the date the attorney general approves the note or other obligation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1183, Sec. 7, eff. Sept. 1, 2001.

Amended by:
Acts 2007, 80th Leg., R.S., Ch. 929 (H.B. 3270), Sec. 4, eff. June 15, 2007.

Sec. 1431.010. SALE OF NOTES. A governing body may sell an anticipation note at public or private sale for cash.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1431.011. ATTORNEY GENERAL APPROVAL OF CERTAIN NOTES. Chapter 1371 governs approval by the attorney general of anticipation notes issued under Section 1431.003.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1431.012. RESTRICTION ON CERTAIN CONTRACTS PAYABLE FROM PROCEEDS OF NOTES. (a) Except as provided by Subsection (b), a county must comply with the competitive bidding requirements of Subchapter C, Chapter 271, Local Government Code, in connection with a contract to be paid from the proceeds of anticipation notes issued for a purpose described by Section 1431.004(a)(1)(A).

(b) Competitive bidding requirements do not apply to an anticipation note or other obligation issued under Section 1431.015 for any authorized purpose.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 929 (H.B. 3270), Sec. 5, eff. June 15, 2007.

Sec. 1431.013. CONFLICT WITH OTHER LAWS. If there is a conflict between this chapter and another statute:

(1) an issuer may act under either; and

(2) the governing body is not required to specify the law under which the action is taken.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1431.014. CERTAIN NOTES FOR RURAL ECONOMIC DEVELOPMENT. (a) Notwithstanding any other provision of this chapter, an issuer participating in a rural economic development program established by the Texas Agricultural Finance Authority may sell to the authority an anticipation note issued for a purpose described by Section 1431.004(a)(1), provided that the note matures before the 30th anniversary of the date the note is issued.

(b) Anticipation notes issued by a single issuer under this section in an aggregate original principal amount of not more than $500,000 are not subject to the approval requirements of Section 1431.011 or Chapter 1202.

(c) An issuer may issue anticipation notes under this section for the same purpose not more than once in any 12-month period.

Added by Acts 2001, 77th Leg., ch. 152, Sec. 1, eff. May 16, 2001.

Sec. 1431.015. CERTAIN NOTES OR OTHER OBLIGATIONS FOR EMERGENCY FINANCING. (a) In this section, "emergency" means the occurrence of widespread or severe damage, injury, or loss of life or property affecting an area in the jurisdiction of an issuer and resulting from a hurricane or tropical storm, including wind damage, fire damage, damage from wave action, or flood damage resulting from the hurricane or tropical storm.

(b) Notwithstanding any other provision of this chapter or a rating requirement prescribed by Chapter 1371, an issuer located within 70 miles of the Gulf of Mexico or of a bay or inlet of the gulf may authorize the issuance of an anticipation note or other obligation in the event of an emergency. An anticipation note or other obligation issued under this section is an obligation under Chapter 1371, but is not required to be rated as required by that chapter.

(c) The issuer shall deliver to the attorney general, in accordance with Section 1431.017, a transcript of proceedings related to the issuance of an anticipation note or other obligation issued under this section. However, before delivery of an anticipation note or other obligation issued under this section:

(1) the governor must have issued an executive order or

proclamation under Chapter 418 declaring a state of disaster and designating the area affected by the emergency;

(2) the governing body acting through its presiding officer under Chapter 418 must have declared a local state of disaster designating the area affected by the emergency; or

(3) the governor must have proclaimed under Chapter 433 a state of emergency designating the area affected by the emergency.

Added by Acts 2007, 80th Leg., R.S., Ch. 929 (H.B. 3270), Sec. 6, eff. June 15, 2007.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1013 (H.B. 3097), Sec. 1, eff. June 18, 2023.

Sec. 1431.016. CONFLICTS WITH MUNICIPAL CHARTER. To the extent of a conflict between a municipal charter and any provision of this chapter relating to an anticipation note or other obligation issued under Section 1431.015, this chapter controls.

Added by Acts 2007, 80th Leg., R.S., Ch. 929 (H.B. 3270), Sec. 6, eff. June 15, 2007.

Sec. 1431.017. ATTORNEY GENERAL REVIEW. Following authorization of an anticipation note or other obligation under Section 1431.015, the issuer shall submit to the attorney general a transcript of proceedings related to issuance of the anticipation note or other obligation and provide preliminary approval and fulfill other requirements relating to the issuance of the anticipation note or other obligation. On the occurrence of an emergency affecting the issuer, the attorney general shall expeditiously review and approve delivery of the anticipation note or other obligation subject to the issuer's compliance with preliminary approval requirements.

Added by Acts 2007, 80th Leg., R.S., Ch. 929 (H.B. 3270), Sec. 6, eff. June 15, 2007.

CHAPTER 1432. BONDS FOR LOCAL GOVERNMENT SPORTS CENTERS

Sec. 1432.001. APPLICABILITY OF CHAPTER. (a) This chapter

applies only to a local government that has all or most of its territory located in a county with a population of more than 1.3 million.

(b) Two or more local governments may act jointly under this chapter if:

(1) each local government is individually authorized to act under this chapter;

(2) all or most of the territory of each local government is located in the same county or in adjacent counties; and

(3) the local governments act jointly to perform each official act.

(c) Local governments acting jointly may perform any act that a single local government may perform under this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 24, eff. Sept. 1, 2001.

Sec. 1432.002. DEFINITIONS. In this chapter:

(1) "Bond authorization" means an ordinance of the governing body of a municipality, a resolution of the board of trustees of an independent school district, or an order of the commissioners court of a county that authorizes the issuance of bonds.

(2) "Local government" means a county, a municipality, or an independent school district.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1432.003. AUTHORITY FOR SPORTS CENTERS. (a) A local government may construct, acquire, lease, improve, enlarge, and operate one or more facilities used for sporting activities or events, including auxiliary facilities such as parking areas or restaurants.

(b) A local government may contract with any public or private entity, including a coliseum advisory board or similar body, to perform any function authorized under this chapter other than an official governmental act that must be performed by the governing body of a local government.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1432.004. AUTHORITY TO ISSUE REVENUE BONDS. The governing body of a local government may issue revenue bonds for a purpose authorized by Section 1432.003.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1432.005. PLEDGE OF REVENUE. A local government may pledge all or part of the revenue, income, or receipts from a facility authorized by this chapter to the payment of bonds, including principal, interest, and any other amounts required or permitted in connection with the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1432.006. ADDITIONAL SECURITY. (a) Bonds issued under this chapter may be additionally secured by:

(1) an encumbrance on any real property relating to a facility authorized by this chapter owned or to be acquired by the local government;

(2) an encumbrance on any personal property appurtenant to that real property; or

(3) a pledge of any portion of any grant, donation, revenue, or income received or to be received from the United States or any other public or private source.

(b) The governing body of the local government may authorize the execution of a trust indenture, mortgage, deed of trust, or other instrument as evidence of the encumbrance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1432.007. BONDS NOT PAYABLE FROM TAXES. A holder of a bond issued under this chapter is not entitled to demand payment of the bond from money raised by taxation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1432.008. MATURITY. A bond issued under this chapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1432.009. ADDITIONAL BONDS. The bond authorization may provide for the subsequent issuance of additional parity bonds or subordinate lien bonds under terms specified in the authorization.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1432.010. SALE OF BONDS. A local government may sell bonds issued under this chapter in the manner and under the terms provided by the bond authorization.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1432.011. REVIEW AND APPROVAL OF CONTRACTS RELATING TO BONDS. (a) If bonds issued under this chapter state that they are secured by a pledge of revenue or rents from a contract, including a lease contract, a copy of the contract and the proceedings related to it must be submitted to the attorney general.

(b) If the attorney general finds that the bonds have been authorized and the contract has been made in accordance with law, the attorney general shall approve the contract.

(c) After the bonds are approved and registered as provided by Chapter 1202 and the contract is approved under Subsection (b), the contract is incontestable in a court or other forum for any reason and is a valid and binding obligation for all purposes in accordance with its terms.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1432.012. CHARGES. (a) The governing body of a local government may impose and collect charges for the use or availability

of a facility authorized by this chapter.

(b) A local government shall impose and collect pledged charges in an amount that will be at least sufficient, with any other pledged resources, to provide for the payment of:

(1) the principal of, interest on, and any other amounts required in connection with the bonds; and

(2) to the extent required by the bond authorization:

(A) expenses incurred in connection with the bonds; and

(B) operation, maintenance, and other expenses incurred in connection with the facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1432.013. REFUNDING BONDS. (a) A local government may refund or otherwise refinance bonds issued under this chapter by issuing refunding bonds under any terms provided by a bond authorization.

(b) All appropriate provisions of this chapter apply to the refunding bonds. The refunding bonds shall be issued in the manner provided by this chapter for other bonds.

(c) The refunding bonds may be sold and delivered in amounts sufficient to pay the principal of and interest and any redemption premium on the bonds to be refunded, at maturity or on any redemption date.

(d) The refunding bonds may be issued to be exchanged for the bonds to be refunded by them. In that case, the comptroller shall register the refunding bonds and deliver them to the holder of the bonds to be refunded as provided by the bond authorization. The exchange may be made in one delivery or in installment deliveries.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1432.014. PUBLIC PURPOSE. The acquisition, construction, improvement, enlargement, equipment, operation, and maintenance of a facility authorized by this chapter is a public purpose and a proper function of a local government.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1432.015. CONFLICT OR INCONSISTENCY WITH OTHER LAW. When bonds are issued under this subchapter, to the extent of any conflict or inconsistency between this chapter and another law, this chapter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1433. BONDS FOR DEVELOPMENT OF EMPLOYMENT, INDUSTRIAL, AND HEALTH RESOURCES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1433.001. SHORT TITLE. This chapter may be cited as the Act for Development of Employment, Industrial, and Health Resources.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.002. DEFINITIONS. In this chapter:

(1) "Department" means the Texas Department of Economic Development.

(2) "District" means a conservation and reclamation district established under Section 59, Article XVI, or Section 52, Article III, Texas Constitution.

(3) "Governing body" means the commissioners court of a county or the governing body of a municipality or district.

(4) "Industrial project" means the land, buildings, equipment, facilities, and improvements found by the governing body to be required or suitable for the promotion of industrial development and for use by manufacturing or industrial enterprise, regardless of whether the land, buildings, equipment, facilities, and improvements are in existence when or are to be acquired or constructed after the finding is made.

(5) "Issuer" means a municipality, county, or district.

(6) "Medical project" means the land, buildings, equipment, facilities, and improvements found by the governing body to be required for public health, research, and medical facilities located in this state, regardless of whether the land, buildings, equipment, facilities, and improvements are in existence when or are to be acquired or constructed after the finding is made.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.003. APPLICABILITY OF CHAPTER TO MUNICIPALITIES. This chapter applies to a municipality only if the municipality:

(1) has the power to impose an ad valorem tax of not less than $1.50 on each $100 valuation of taxable property in the municipality; or

(2) is a home-rule municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.004. COST OF PROJECT. For purposes of this chapter, the cost of an industrial project or medical project is:

(1) the cost of acquisitions for the project, including the cost of the acquisition of all land, rights-of-way, property rights, easements, and interests acquired for the construction;

(2) the cost of all machinery and equipment;

(3) financing charges;

(4) interest accruing before and during construction and until the first anniversary of the date on which the construction is completed;

(5) the cost of estimates, including estimates of revenue, engineering and legal services, plans, specifications, surveys, and other expenses necessary or incident to determining the feasibility and practicability of constructing the project;

(6) administrative expenses; and

(7) other expenses that are necessary or incident to the acquisition of the project, the financing of the acquisition, and the placing of the project in operation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.005. ULTIMATE LESSEE. For purposes of this chapter, an ultimate lessee is the person, firm, corporation, or company that leases an industrial project or medical project from the lessee of the project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.006. CORRECTION OF INVALID PROCEDURES. If a court holds that any procedure under this chapter violates the constitution of this state or the United States, the issuer by resolution may provide an alternative procedure that conforms with the constitution.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.007. RELOCATION OR ALTERATION EXPENSE. If a municipality, county, district, or other political subdivision, in the exercise of a power under this chapter, including the power of relocation, makes necessary the relocation or rerouting of, or alteration of the construction of, a highway, railroad, electric transmission line, telegraph or telephone property or facility, or pipeline, the relocation or rerouting or alteration of construction must be accomplished at the sole expense of the political subdivision. In this section, "sole expense" means the actual cost of the relocation or rerouting or alteration of construction to provide comparable replacement without enhancement of the facility, after deduction of the net salvage value derived from the old facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.008. USE OF STATE MONEY. (a) The legislature may not appropriate money to pay all or a part of the obligation of an issuer under this chapter.

(b) The department shall pay any expense it incurs under this chapter from money appropriated to the department.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. POWERS OF ISSUER

Sec. 1433.021. ACQUISITION OF PROJECT; DISPOSITION. (a) An issuer may acquire, by construction, purchase, devise, gift, or lease or by more than one of those methods, an industrial project or medical project that is located in this state and at least a part of

which is located within the issuer's territorial limits.

(b) For an issuer that is a municipality, an industrial project or medical project may be located outside the municipality's territorial limits if the project is within the municipality's extraterritorial jurisdiction as determined under Subchapter B, Chapter 42, Local Government Code.

(c) An issuer may sell and convey all or any part of property acquired under this section and make an order relating to the sale or conveyance that the issuer considers conducive to the best interest of the issuer.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.022. LIMITATIONS ON ACQUISITIONS. (a) An issuer may not acquire an industrial project, or any part of an industrial project, by eminent domain.

(b) Land previously acquired by an issuer by eminent domain may be sold, leased, or otherwise used in accordance with this chapter, if the governing body determines that:

(1) the use will not interfere with the purpose for which that land was originally acquired or that the land is no longer needed for that purpose;

(2) at least seven years have elapsed since the land was acquired by eminent domain; and

(3) the land was not acquired for park purposes unless the sale or lease of that land has been approved at an election held under Section 1502.055.

(c) An issuer may not acquire or construct an industrial project or medical project for an individual, firm, partnership, or corporation, or make or authorize a lease to an individual, firm, partnership, or corporation if the effect of the lease of that project is to remove the lessee's business from existing facilities in this state.

(d) An issuer may not issue bonds to acquire existing facilities for the purpose of leasing those facilities to the industrial concern from which the facilities are acquired or to another person controlled by the industrial concern.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 31, eff. Sept. 1,

1999.

Sec. 1433.023. AUTHORITY TO ISSUE REVENUE BONDS. (a) Except as provided by Subsection (b), an issuer may issue revenue bonds to pay all or a part of the cost of acquiring, constructing, enlarging, or improving an industrial project, including a project in an enterprise zone designated under Chapter 2303, or a medical project.

(b) A district may not authorize revenue bonds for a medical project.

(c) An issuer may secure the payment of the bonds as provided by this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.024. LEASE OF PROJECT. (a) An issuer may, in accordance with this chapter, lease any or all of the issuer's industrial projects and medical projects.

(b) An issuer may lease property under this chapter only to a corporation organized under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.025. ADVERTISING FOR CERTAIN CONTRACTS; PERFORMANCE AND PAYMENT BONDS. (a) A contract for construction or purchase under this chapter involving the expenditure of more than $2,000 may be made only after advertising in the manner provided by Chapter 252, Local Government Code, or Subchapter C, Chapter 262, Local Government Code, as applicable.

(b) The provisions of Chapter 2253 relating to performance and payment bonds apply to construction contracts let by the issuer.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.026. PROHIBITED OPERATIONS. An issuer may not operate an industrial project as a business or in any manner other than as the lessor of the project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. PROCEDURE FOR ISSUING BONDS

Sec. 1433.041. DEPARTMENT APPROVAL OF LEASE; APPEAL. (a) An issuer may not begin proceedings to authorize bonds under Section 1433.044 or 1433.061 until the department has given tentative approval to the suggested contents of the lease agreement, and if a lessee is allowed to sublease, the department has tentatively approved the financial responsibility of the ultimate lessee. The department shall investigate a proposed acquisition of existing facilities for compliance with Section 1433.022(d) before tentatively approving an industrial project or medical project.

(b) The department may not give final approval to any agreement unless the department affirmatively finds that the lessee and ultimate lessee have the business experience, financial resources, and responsibility to provide reasonable assurance that all bonds and interest on the bonds to be paid from or because of that agreement will be paid as they become due.

(c) The attorney general may not approve bonds to be issued under this chapter until the department has given final approval to the lease agreement and may not approve the bonds if the provisions for security and payment of lease payments do not conform with this chapter.

(d) An issuer may appeal any adverse ruling or decision of the department under this section to a district court in Travis County. The substantial evidence rule applies to an appeal under this subsection.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.042. REGULATION OF LEASES. The department by rule shall adopt minimum standards for lease agreements and guidelines relating to financial responsibilities of the lessee and any ultimate lessee.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.043. ISSUER'S AUTHORITY. (a) An issuer may issue

bonds under this chapter without obtaining the consent of any department, division, commission, board, bureau, or agency of the state, other than the attorney general under Chapter 1202 or the department, and without any proceedings or satisfying any condition precedent other than the proceedings and conditions required by:

(1) this chapter;

(2) Subchapter B or D, Chapter 1201; or

(3) Chapter 1204.

(b) Except as provided by this chapter or by department rule, each governing body has complete authority with respect to bonds and lease agreements governed by this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.044. BOND RESOLUTION; CALLING ELECTION; PUBLICATION OF RESOLUTION. (a) Before issuing bonds under this chapter, a governing body shall adopt a resolution declaring its intention to issue the bonds.

(b) The resolution must specify:

(1) the amount of bonds proposed to be issued;

(2) the purpose for which the bonds are to be issued; and

(3) the date on which the governing body proposes to authorize the issuance of the bonds.

(c) The governing body may call an election on the issuance of the bonds.

(d) If an election is not called under Subsection (c), the governing body shall publish the resolution once a week for at least two consecutive weeks in at least one newspaper of general circulation in the territorial limits of the issuer. The first publication must be not less than 14 days before the date specified in the resolution for the authorization of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.045. PROTEST. (a) If at least 10 percent of the registered voters of the issuer file a written protest against the issuance of the bonds on or before the date specified for the authorization of the bonds, the governing body shall hold an election on the issuance of the bonds.

(b) If a written protest is not filed, the bonds may be issued without an election at any time before the second anniversary of the date specified in the resolution.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.046. ELECTION ORDER. In addition to the requirements provided by Chapter 3, Election Code, an order calling an election under this subchapter must include the location of each polling place and the election judges and clerks appointed for each polling place.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.047. NOTICE OF ELECTION. Notice of an election under this subchapter shall be published once a week for at least two consecutive weeks, in at least one newspaper of general circulation within the territorial limits of the issuer. The first publication must be not less than 14 days before the date of the election.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.048. BALLOT PROPOSITION; ELECTION PROCEDURES. (a) The ballot for an election held under this subchapter shall be printed to permit voting for or against the proposition: "The issuance of revenue bonds for the (medical project or industrial project)."

(b) The election shall be conducted in accordance with the general laws of this state relating to general elections, except as modified by this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.049. RESULTS OF ELECTION. (a) Within 10 days after the election, or as soon after that as possible, the governing body of the issuer shall convene and canvass the returns of the election.

(b) If a majority of the voters voting in a bond election vote in favor of the proposition, the governing body shall find and

declare that the results favor the proposition, and subject to Section 1433.041, the governing body may proceed with the authorization of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. BONDS

Sec. 1433.061. ISSUANCE OF BONDS. (a) A series of bonds may be issued for each industrial project or medical project. Any projects may be combined in a single series of bonds if the governing body considers the combination to be in the best interest of the issuer, but each project shall be considered separately with respect to this subsection and Subchapter C.

(b) Bonds must be issued and delivered before the third anniversary of the later of the date of the tentative approval of the department or the date of the final judgment of any litigation affecting the validity of the bonds or the provision made for their payment. This subsection does not prohibit the department from conditioning its approval of an industrial project or medical project on the completion of the financing of the project within a shorter period.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.062. MONEY USED TO PAY BONDS; PROHIBITION ON CERTAIN OBLIGATIONS. (a) The principal of and the interest on bonds authorized under this chapter are payable only from the money provided for that payment and from the revenue of the industrial project or medical project for which the bonds were authorized.

(b) An issuer may not incur financial obligations that cannot be paid from revenue from the lease of an industrial project or medical project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.063. BONDS NOT DEBT OF STATE OR ISSUER. (a) A bond issued under this chapter is not a debt or a pledge of the faith and credit of this state, the issuer, or any other political subdivision

or agency of this state.

(b) A bond issued under this chapter must contain on its face a statement that:

(1) this state, the issuer, or any other political subdivision or agency of this state is not obligated to pay the principal of or the interest on the bond except from revenue of the industrial project or medical project for which the bond is issued; and

(2) the faith and credit and the taxing power of this state, the issuer, or any other political subdivision or agency of this state are not pledged to the payment of the principal of or the interest on the bond.

(c) Each bond issued under this chapter must contain substantially the following language: "No pecuniary obligation is or may be imposed on the issuer of this bond in the event of a failure to pay all or part of the principal or interest on the bond, except that the issuer is obligated to apply rental income it receives from the (industrial project or medical project) to those purposes."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.064. MATURITY. A bond issued under this chapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.065. SALE OF BONDS. Bonds issued under this chapter shall be sold to the highest bidder for cash and may not be exchanged for property.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.066. INTERIM RECEIPTS; TEMPORARY BONDS. Before the preparation of definitive bonds, an issuer may, under the restrictions applicable to the definitive bonds, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the definitive bonds are executed and available for delivery.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.067. USE OF BOND PROCEEDS. The proceeds of the bonds of each issue may be used only for the payment of the cost of the industrial project or medical project for which the bonds were issued, and shall be disbursed in the manner and under any restrictions provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds. Any proceeds of the bonds of an issue that exceed the cost of the project for which the bonds were issued shall be deposited to the credit of the sinking fund for those bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.068. REFUNDING BONDS. (a) An issuer by resolution may provide for the issuance of revenue refunding bonds to:

(1) refund any outstanding bonds issued under this chapter; and

(2) construct improvements, extensions, or enlargements to the industrial project or medical project in connection with which the bonds being refunded were issued.

(b) An issuer may issue revenue refunding bonds in exchange for outstanding bonds, notwithstanding Section 1433.065, or the issuer may use the proceeds from the sale of the revenue refunding bonds to redeem outstanding bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.069. EXEMPTIONS FROM TAXATION AND SECURITIES ACT. (a) A bond issued under this chapter and the issuance and transfer of the bond, including any profit made in the sale of the bond, are exempt from taxation by this state or by a political subdivision of this state.

(b) A bond issued under this chapter and any coupon representing interest on the bond are exempt securities under The Securities Act (Title 12, Government Code).

(c) A lease agreement under this chapter is not a security under The Securities Act (Title 12, Government Code).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 2.26, eff. January 1, 2022.

SUBCHAPTER E. AGREEMENTS RELATING TO BONDS

Sec. 1433.101. SECURITY FOR BOND; TRUST AGREEMENT. (a) A bond issued under this chapter may be secured by a trust agreement between the issuer and a trust company or a bank having the powers of a trust company in this state.

(b) A trust agreement may:

(1) assign the lease revenue to be received from the lessee or the ultimate lessee of the industrial project or medical project for which the bond proceeds are used; or

(2) pledge the lease revenue for the payment of principal of and interest on the bond as they become due and payable and may provide for the creation and maintenance of reserves for that purpose.

(c) A trust agreement or a resolution providing for the issuance of the bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants that state the duties of the issuer or lessee relating to:

(1) the acquisition of property for the industrial project or medical project in connection with which the bonds were authorized;

(2) the construction, improvement, maintenance, repair, operation, and insurance of the project; and

(3) the custody, protection, and application of all money related to the project.

(d) An issuer may require a bank or trust company incorporated under the laws of this state that acts as depository of the proceeds of the bonds or of revenue of the issuer to furnish indemnifying bonds or to pledge securities.

(e) A trust agreement may state the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. A trust agreement may contain additional provisions for the security of the bondholders.

(f) All expenses incurred in carrying out a trust agreement may be treated as a part of the cost of the operation of the industrial project or medical project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.102. DEFAULT IN LEASE AGREEMENT OR MORTGAGE; ENFORCEMENT. (a) An agreement relating to an industrial project or medical project between the issuer and the lessee or between a lessee and ultimate lessee must be for the benefit of the issuer. The agreement must provide that, in the event of a default in the payment of the principal of or the interest on the bonds or in the performance of any agreement contained in a proceeding, mortgage, or instrument, the payment or performance may be enforced by mandamus or by the appointment of a receiver with the power to charge rents and to apply the revenue from the project in accordance with the resolution, mortgage, or instrument.

(b) A mortgage to secure bonds issued under this chapter may also provide that, in the event of a default in the payment of the mortgage or a violation of an agreement contained in the mortgage, the mortgage may be foreclosed and the property securing the bonds may be sold in any manner permitted by law. The mortgage may provide that a trustee under the mortgage or the holder of any of the bonds secured by the mortgage may purchase the property at a foreclosure sale if the person is the highest bidder.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1433.103. PURCHASE OPTION. (a) An issuer may grant a lessee or ultimate lessee an option to purchase all or a part of an industrial project or medical project when all bonds of the issuer delivered to provide those facilities have been paid or provision has been made for their final payment, if, while the bonds or interest on the bonds remains unpaid, the lease rentals are paid in the manner required and when the rentals become due.

(b) For purposes of this section, a payment is considered to be paid in the manner required and when it becomes due if no event of default is declared and the payment is made within 15 calendar days of the date it is scheduled to become due.

(c) This section is the exclusive authority to convey or grant an option to purchase an industrial project or medical project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1434. COUNTY AND MUNICIPAL HIGHER EDUCATION IMPROVEMENT BONDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1434.001. APPLICABILITY OF CHAPTER. This chapter applies only to:

(1) a home-rule municipality with a population of 25,000 or more that has an institution of higher education located within its boundaries or has entered into an agreement with an institution of higher education relating to the provision of services in furtherance of the completion of certificate programs, degree programs, or other higher education programs within the municipality by the institution of higher education; or

(2) a county within which a municipality described by Subdivision (1) is located.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 237 (S.B. 1952), Sec. 1, eff. May 27, 2009.

Sec. 1434.002. DEFINITIONS. In this chapter:

(1) "Agreement" includes a lease, contract, or lease-purchase agreement.

(2) "Institution of higher education" means:

(A) an institution of higher education as defined by Section 61.003, Education Code, other than a public junior college; or

(B) a private, nonprofit institution of higher education that is accredited by the recognized accrediting agency and is located and authorized to operate in this state, other than a private institution of higher education operated exclusively for sectarian purposes.

(3) "Public security" has the meaning assigned by Section 1201.002.

(4) "Recognized accrediting agency" has the meaning

assigned by Section 61.003, Education Code.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 237 (S.B. 1952), Sec. 2, eff. May 27, 2009.

Sec. 1434.003. LEGISLATIVE FINDING. The legislature finds:

(1) that the assistance provided by counties and municipalities in promoting and providing higher education opportunities for residents of this state will benefit and enhance the general welfare of their residents by providing new and alternative higher education resources and enhanced access to those resources, improving and enhancing the educational opportunities of their residents, and allowing the completion of certificate programs, degree programs, and other higher education programs locally; and

(2) that those benefits and enhancements constitute public purposes for counties and municipalities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 237 (S.B. 1952), Sec. 3, eff. May 27, 2009.

SUBCHAPTER B. ISSUANCE OF BONDS

Sec. 1434.051. FINANCING OF PERMANENT IMPROVEMENTS BY COUNTY OR MUNICIPALITY. (a) A county or a municipality may:

(1) issue public securities, including certificates of obligation, to acquire, construct, or improve land, buildings, or other permanent improvements for use by an institution of higher education located within a county to which this chapter applies; and

(2) impose ad valorem taxes to pay the principal of and interest on those securities and to provide a sinking fund.

(a-1) A municipality that has entered into an agreement described by Section 1434.001(1) may:

(1) issue public securities, including certificates of obligation, to acquire, construct, or improve land, buildings, or other permanent improvements for use by an institution of higher education;

(2) impose ad valorem taxes to pay and secure payment of the principal of and interest on those securities and to provide a sinking fund; and

(3) pledge those taxes, any portion of the revenues received in connection with the agreement, or any combination of the taxes and revenue to secure payment of any portion of the public securities issued to acquire, construct, or improve the land, buildings, or other permanent improvements for use by the institution of higher education.

(b) The county or municipality shall:

(1) issue any public securities and impose the taxes in accordance with the applicable provisions of Subtitles A, C, D, and E; and

(2) if the securities are certificates of obligation, issue any certificates and impose the taxes in accordance with Subchapter C, Chapter 271, Local Government Code.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 237 (S.B. 1952), Sec. 4, eff. May 27, 2009.

Sec. 1434.052. JOINT FINANCING BY COUNTY AND MUNICIPALITY. (a) A county and a municipality may jointly issue public securities and impose ad valorem taxes for a purpose described by Section 1434.051.

(b) The commissioners court of the county and the governing body of the municipality shall determine the appropriate proportion of the ad valorem taxes to be imposed by the county and by the municipality.

(c) A public security proposition that is submitted must distinctly specify the proportion of ad valorem taxes to be imposed by the county and by the municipality.

(d) The county and municipality shall issue the public securities and impose the taxes in accordance with the applicable provisions of Subtitles A, C, D, and E.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1434.053. LIMIT ON TAXES. The only limits on the amount

of taxes that may be imposed to pay the principal of and interest on public securities, including certificates of obligation, issued under this chapter are those provided by the Texas Constitution.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. DONATION OR USE OF PERMANENT IMPROVEMENTS

Sec. 1434.101. DONATION OF PERMANENT IMPROVEMENTS. (a) A county or municipality may donate to a general academic teaching institution a permanent improvement acquired, constructed, or improved by the county, by the municipality, or by the county and the municipality jointly.

(b) The donation is not subject to any law of this state governing the disposition of property owned by a county or municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1434.102. USE OF PERMANENT IMPROVEMENTS. (a) A municipality may allow a state four-year institution of higher education or a university system to use land or buildings acquired by the municipality.

(b) This section does not apply to an institution of higher education that is supported in any way by revenue from a local tax base.

(c) A use under this section is a municipal purpose and a public use for the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1435. BONDS FOR PARKS AND FAIRGROUND FACILITIES IN CERTAIN MUNICIPALITIES AND COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1435.001. APPLICABILITY OF CHAPTER; JOINT MUNICIPAL AND COUNTY ACTION. (a) This chapter applies only to:

(1) a municipality with a population greater than 550,000;

(2) a county with a population greater than 550,000; or

(3) a municipality described by Subdivision (1) and a

county described by Subdivision (2) acting together.

(b) A provision of this chapter that applies to a municipality or county also applies to a municipality and county acting together.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1435.002. DEFINITION. In this chapter, "park facility" means a building, improvement, or structure owned by a municipality or county and used in a municipal or county park or fairground for exhibits, concessions, or entertainment.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1435.003. AUTHORITY FOR PARK FACILITIES. A municipality or county may:

(1) construct, acquire, repair, improve, or enlarge a park facility; or

(2) acquire additional land, if needed, for a park facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1435.004. LEASE OR CONTRACT FOR OPERATION OF PARK FACILITIES. A municipality or county may enter a lease or contract for the operation of one or more of its park facilities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. BONDS

Sec. 1435.051. AUTHORITY TO ISSUE REVENUE BONDS. (a) To obtain money for a purpose described by Section 1435.003, the governing body of a municipality or county may, without an election, issue revenue bonds payable from and secured by a pledge of the net revenue from one or more of its park facilities or from leases of or contracts for the operation of the park facilities.

(b) A bond issued under this chapter must state on its face substantially the following: "The holder of this bond is not

entitled to demand payment of this bond out of money raised by taxation."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1435.052. MATURITY. A bond issued under this chapter must mature within 40 years.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1435.053. DUTY OF GOVERNING BODY. While the bonds are outstanding, the governing body of the municipality or county shall:

(1) enforce each lease or contract entered under Section 1435.004 and impose adequate fees, charges, and rentals to assure payment of the principal of and interest on the bonds as they become due; and

(2) establish and maintain the funds as provided by the ordinance authorizing the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1435.054. EXECUTION OF BONDS. The bonds shall be executed as provided by law for municipal bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBTITLE I. SPECIFIC AUTHORITY FOR COUNTIES TO ISSUE SECURITIES

CHAPTER 1471. BONDS FOR COUNTY ROADS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1471.001. APPLICABILITY OF CHAPTER. This chapter applies only to the following political subdivisions:

(1) a county, including a county operating under a special road tax law;

(2) a commissioners precinct or a justice precinct of a county; and

(3) a road district.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.002. CONFLICTS OF LAW. To the extent of a conflict between this chapter and Chapter 1204, Chapter 1204 controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. ISSUANCE OF BONDS

Sec. 1471.011. AUTHORITY TO ISSUE ROAD BONDS. (a) In this section, "bonds" includes tax anticipation notes, bond anticipation notes, and other obligations.

(b) A political subdivision may issue bonds in the manner provided by this chapter and Section 52, Article III, Texas Constitution, to:

(1) construct, purchase, maintain, or operate a macadamized, graveled, or paved road or turnpike; or

(2) aid a purpose described by Subdivision (1).

(c) An issuer of bonds under Subsection (b) may impose ad valorem taxes to pay the interest on the bonds and provide a sinking fund for the redemption of the bonds.

(d) The total amount of bonds issued under this chapter may not exceed one-fourth of the assessed value of real property of the political subdivision issuing the bonds.

(e) In determining the limitation imposed by Subsection (d), the assessed value of property of the political subdivision is the market value of the property as recorded by the chief appraiser of the appraisal district that appraises property for the political subdivision.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.012. EMERGENCY NOTES. (a) If money is not available, a political subdivision may:

(1) declare an emergency to:

(A) pay the principal of and interest on bonds issued under this chapter any part of which is payable from taxes; or

(B) meet any other need of the political subdivision; and

(2) issue tax or bond anticipation notes to borrow the money needed.

(b) Notes issued under this section must mature not later than one year after their date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.013. TAX ANTICIPATION NOTES. (a) A political subdivision may issue tax anticipation notes authorized by Section 1471.012 for any purpose for which the political subdivision is authorized to impose taxes under Subtitle C, Title 6, Transportation Code.

(b) Tax anticipation notes must be secured by the proceeds of taxes to be imposed in the succeeding 12 months.

(c) The commissioners court may covenant with purchasers of the notes to impose a tax sufficient to pay:

(1) the principal of and interest on the notes; and

(2) the costs of collecting the taxes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.014. BOND ANTICIPATION NOTES. (a) A political subdivision may issue bond anticipation notes authorized by Section 1471.012 for:

(1) any purpose for which bonds of the political subdivision have been previously approved at an election; or

(2) refunding previously issued bond anticipation notes.

(b) A political subdivision may covenant with the purchasers of the bond anticipation notes to use the proceeds of sale of any bonds in the process of being issued to refund the bond anticipation notes. An issuer making a covenant under this subsection shall apply the proceeds received from the sale of the bonds in the process of being issued to pay the principal of, interest on, or redemption price of the bond anticipation notes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.015. ELECTION ON ISSUANCE OF BONDS: COUNTY. (a) On

the motion of the commissioners court or on receipt of a petition signed by a number of registered voters of the county equal to at least one percent of the total votes cast in the county in the most recent general election for governor, the court at a regular or special session shall order an election to be held in the county to determine whether the county shall:

(1) issue bonds to:

(A) construct, maintain, or operate a macadamized, graveled, or paved road or turnpike; or

(B) aid a purpose described by Paragraph (A); and

(2) impose taxes on all property in the county subject to taxation to pay the interest on the bonds and to provide a sinking fund for the redemption of the bonds at maturity.

(b) A petition submitted under Subsection (a) that designates a particular road or project or a portion of a road or project must be accompanied by a written estimate of the cost of the road or project prepared by the county engineer at the expense of the county.

(c) In addition to the requirements provided by Chapters 3 and 4, Election Code, the election order and notice of election under this section must state:

(1) the purpose for which the bonds are to be issued;

(2) the amount of the bonds;

(3) the rate of interest; and

(4) that ad valorem taxes will be imposed annually on all taxable property in the county in amounts sufficient to pay the bonds at maturity.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.016. PETITION FOR ELECTION ON ISSUANCE OF BONDS: PRECINCT OR ROAD DISTRICT. (a) A commissioners or justice precinct or a road district may not issue bonds under this chapter unless a petition is submitted to the commissioners court of the county and an election is ordered under Section 1471.017.

(b) A petition under this section must:

(1) request the commissioners court of the county in which the precinct or district is located to order an election to determine whether:

(A) bonds of the precinct or district shall be issued

in an amount stated to:

(i) construct, maintain, or operate a macadamized, graveled, or paved road or turnpike; or

(ii) aid an activity described in Subparagraph (i); and

(B) taxes shall be imposed on all taxable property in the precinct or district in payment of the bonds; and

(2) be signed by:

(A) 50 or a majority of the registered voters of the precinct or district; or

(B) all of the owners of property in the precinct or district as determined by the county tax roll.

(c) On receipt of the petition, the commissioners court by order shall set the time and place for a hearing. The date of the hearing may not be less than 15 days or more than 90 days after the date the commissioners court orders the hearing. The county clerk shall immediately issue a notice of the time and place of the hearing.

(d) The notice of the hearing must:

(1) inform all interested persons of their right to appear at the hearing and contend for or protest the ordering of the bond election;

(2) state the amount of bonds proposed to be issued and describe the precinct or district by its name or number;

(3) for a district:

(A) include a description of the property comprising the district, including the district's estimated acreage and boundaries, described in a manner reasonably calculated to inform interested persons of the area comprising the district; and

(B) include a map or diagram of the area reasonably calculated to show the boundaries of the district and the major roadways in or adjacent to the district; and

(4) designate a county officer or employee from whom further details may be obtained.

(e) The clerk shall execute notice under this section in the same manner as required for an election under Section 1471.018.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.017. HEARING ON AND DETERMINATION OF PETITION: PRECINCT OR ROAD DISTRICT. (a) At the hearing on a petition submitted under Section 1471.016, the commissioners court shall hear all matters pertaining to the proposed bond election. Any interested person may appear before the court in person or by attorney and contend for or protest the calling of the proposed bond election.

(b) The commissioners court may order that an election be held in the commissioners or justice precinct or road district on the issue submitted in the petition if the court finds that:

(1) the petition is signed by the proper number of qualified persons;

(2) the required notice has been given; and

(3) the proposed improvements would benefit all taxable property in the precinct or district.

(c) The commissioners court may change the amount of bonds proposed to be issued if at the hearing the court finds the change is necessary or desirable.

(d) The proposition submitted at the election must specify:

(1) the purpose for which the bonds are to be issued;

(2) the amount of the bonds;

(3) the rate of interest; and

(4) that ad valorem taxes are to be imposed annually on all taxable property in the precinct or district in an amount sufficient to pay the annual interest and provide a sinking fund to pay the bonds at maturity.

(e) A proposition meets the requirements of this chapter if it is in the following form:

"Authorizing the (name of precinct or district) to issue its bonds in the total sum of $_____ and to impose annually ad valorem taxes on all taxable property in the (precinct or district) to pay the interest on the bonds and create a sinking fund to redeem the principal at maturity for the purposes of the purchase or acquisition of roads and the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes or in aid of those purposes inside or outside the boundaries of the (precinct or district)."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.018. NOTICE OF ELECTION. (a) Notice for all elections held under this chapter must be given as required by Chapter 4, Election Code. The commissioners court shall give notice of an election to be held for a commissioners or justice precinct or a road district by posting notice in at least three public places in the precinct or district and at the county courthouse door.

(b) The commissioners court may, in addition to the notice required by Subsection (a), prescribe that notice of an election or hearing for bonds to be issued for a precinct or district be given by mail to:

(1) each registered voter in the precinct or district;

(2) each owner of property in the precinct or district as shown on the tax roll of the county; and

(3) each person having an interest in property in the precinct or district as may reasonably be ascertained.

(c) Notice given under Subsection (b) is effective when properly addressed and mailed.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.019. RESULTS OF ELECTION. The commissioners court may issue bonds on the faith and credit of the applicable political subdivision if two-thirds of the voters voting in the election approve the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.020. EFFECT OF LACK OF NOTICE. Notice under Section 1471.016(d) or 1471.018(a) is not a prerequisite to and does not affect the validity of a hearing or election to which the notice relates.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.021. MATURITY. A bond issued under this chapter must mature not later than 30 years after its date except as otherwise provided by this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.022. DESIGNATION OF BONDS. (a) Bonds issued under this chapter by the county as a whole must be designated as "_____ (name of county) County Road Bonds."

(b) Bonds issued under this chapter for a commissioners or justice precinct or a road district must:

(1) be designated as "Road Bonds"; and

(2) state on their face "The State of Texas," the name of the county, and the number or corporate name of the precinct or district issuing the bonds.

(c) Bonds issued under this chapter must state on their face that the bonds are issued under Section 52, Article III, Texas Constitution, and laws enacted under the constitution.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.023. DISPOSITION OF BOND PROCEEDS. (a) The commissioners court has the custody and control of bonds or bond anticipation notes issued under this chapter until sold under Chapter 1201.

(b) The portion of the proceeds that represents capitalized interest shall be placed in the county treasury to the credit of the applicable political subdivision and may be used only to pay interest due on the bonds or bond anticipation notes.

(c) Money remaining from the proceeds after the amounts described in Subsection (b) are deposited and after the costs of the issuance of the bonds or bond anticipation notes are paid shall be placed in the county treasury to the credit of the available road fund of the applicable political subdivision to be used for the purposes for which the bonds were issued, including:

(1) payment of the following costs as approved by the commissioners court:

(A) surveying;

(B) creation;

(C) construction or acquisition; or

(D) operation or maintenance; and

(2) payment or establishment of a reasonable reserve to pay

an amount equal to not more than three years' interest on the notes and bonds of the political subdivision, as provided in the bond order or resolution.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.024. DUTIES OF COUNTY TREASURER. (a) The county treasurer is the custodian of:

(1) all money collected under this chapter; and

(2) all taxes collected to pay principal of and interest on bonds issued under this chapter.

(b) The county treasurer shall:

(1) deposit the money collected with the county depository in the same manner as other money of the county; and

(2) promptly pay the principal of and interest on the bonds as they become due from the money collected and deposited for that purpose.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.025. DISBURSEMENT OF BOND PROCEEDS BY COUNTY TREASURER. (a) The proceeds of county bonds may be paid out only by the county treasurer on warrants:

(1) drawn on the available road fund;

(2) issued by the county clerk;

(3) countersigned by the county judge; and

(4) on certified accounts approved by the commissioners court.

(b) The proceeds of bonds issued on the faith and credit of a commissioners or justice precinct or a road district may be paid out only by the county treasurer on warrants:

(1) drawn on the available road fund of the applicable political subdivision;

(2) issued by the county clerk;

(3) countersigned by the county judge; and

(4) approved by the commissioners court.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.026. INVESTMENT OF SINKING FUNDS. (a) The commissioners court may invest money in a sinking fund accumulated for the redemption and payment of any bonds issued under this chapter in:

(1) bonds of the United States, this state, or a county, municipality, school district, or road district of this state;

(2) bonds of the federal Farm Credit System; or

(3) certificates of indebtedness issued by the secretary of the treasury of the United States.

(b) Sinking funds accumulated for the redemption and payment of bonds issued under this chapter may not be invested in bonds the terms of which provide for a maturity date after the date of maturity of the bonds for which the sinking fund was created.

(c) Interest on an investment shall be applied to the sinking fund associated with the investment.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.027. USE OF BOND PROCEEDS OUTSIDE ROAD DISTRICT. A road district may use the proceeds of bonds issued under this chapter for road improvements located outside the district if the commissioners court finds that the improvements are reasonable, necessary, and beneficial to all taxable property in the district.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.028. USE OF SURPLUS SINKING FUND. An amount remaining in the sinking fund after the principal of and interest on the bonds are fully paid may be used by a political subdivision:

(1) for the construction, maintenance, and operation of macadamized, graveled, or paved roads or turnpikes;

(2) to aid a purpose described by Subdivision (1); or

(3) for a permanent improvement authorized by law as determined by the officials of the political subdivision.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.029. ELECTION FOR REPURCHASE AND CANCELLATION OF

BONDS. (a) On receipt of a petition signed by at least 50 registered voters of the political subdivision issuing the bonds, the commissioners court shall order an election to determine whether road bonds in an amount equal to the unexpended and unpledged proceeds remaining from the sale of bonds issued under this chapter shall be repurchased, canceled, and revoked.

(b) The commissioners court shall hold an election ordered under Subsection (a) in the same manner as the election at which the bonds were originally authorized.

(c) The commissioners court may advertise for and repurchase the outstanding bonds from the holders if two-thirds of the voters voting in the election approve the repurchase, cancellation, and revocation.

(d) After repurchasing the bonds, the commissioners court shall:

(1) cancel and burn the bonds; and

(2) forward to the comptroller a certified copy of the minutes of the commissioners court showing the repurchase, cancellation, and destruction of the bonds.

(e) On receipt of a copy under Subsection (d)(2), the comptroller shall promptly cancel the registration of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. REFINANCING ROAD DISTRICT BONDS THROUGH ASSESSMENTS

Sec. 1471.051. ALTERNATE REFUNDING BONDS AND CERTIFICATES OF ASSESSMENT AUTHORIZED. A road district may issue refunding bonds or certificates of assessment under this subchapter to refinance any portion of any outstanding bonded indebtedness if:

(1) the district receives a petition that:

(A) requests the issuance of the bonds or certificates; and

(B) is signed by persons who own taxable real property in the district that in total is valued at an amount at least equal to 66 percent of the appraised value of all taxable real property in the district, as determined by the most recent certified appraisal roll of the appraisal district in which the property is located; and

(2) the district determines, after notice and public hearing held in accordance with this subchapter, that the property in

the district will benefit from the refinancing.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.052. ASSESSMENT AS SECURITY. Bonds or certificates issued under this subchapter must be secured by a pledge of all or part of the money received by the road district from an assessment made against all taxable real property in the district under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.053. MATURITY. A bond or certificate issued under this subchapter must mature not later than 30 years after its date of issuance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.054. PREPARATION OF ASSESSMENT. Before issuing bonds or certificates under this subchapter, the road district by order shall:

(1) determine, as appropriate, the amount necessary to pay all or a part of the principal of and interest on:

(A) the refunding bonds on maturity; or

(B) the outstanding bonded indebtedness of the district;

(2) prepare a plan the district determines is equitable for apportioning the amount determined under Subdivision (1) among the record owners of real property in the district based on the ratio that the appraised value of each lot or parcel in the district bears to the total appraised value of real property in the district; and

(3) hold a public hearing on the district's intention to issue bonds or certificates.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.055. NOTICE OF HEARING. (a) Notice of the hearing

ordered under Section 1471.054 must provide:

(1) the date, time, place, and subject matter of the hearing;

(2) that refunding bonds or certificates of assessment are proposed to be issued by the road district;

(3) the purpose for which the bonds or certificates are to be issued;

(4) the amount determined under Section 1471.054(1); and

(5) the plan prepared by the district under Section 1471.054(2).

(b) Notice containing the information required by Subsection (a) must be published in a newspaper of general circulation in the county not later than the 30th day before the date of the hearing.

(c) Not later than the 14th day before the date of the hearing, the district shall mail to each owner of real property in the district as determined from the most recent certified appraisal roll of the appraisal district in which the property is located notice containing:

(1) the information required by Subsection (a)(1); and

(2) an estimate of the amount of the assessment to be apportioned to that owner's property.

(d) The failure of a property owner to receive notice of the hearing and of the estimated assessment does not affect the validity of the hearing or a subsequent assessment.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.056. IMPOSITION OF ASSESSMENT. (a) If, at the conclusion of the hearing, the road district by order determines that the property in the district will benefit from refinancing under this subchapter, the district may:

(1) issue refunding bonds or certificates of assessment to pay all or part of the district's bonded indebtedness; and

(2) impose the assessments as special assessments on the property in the district.

(b) For assessments imposed under Subsection (a), the district:

(1) shall specify the method of payment and rate of interest of the assessments; and

(2) may provide for payment in periodic installments in

amounts necessary to pay the principal of and interest on the refunding bonds or certificates of assessment as accrued.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.057. APPEAL OF ASSESSMENT. (a) A property owner may appeal an assessment under this subchapter by filing a notice of appeal with the road district not later than the 30th day after the date the assessment is adopted. After receiving notice of appeal under this subsection, the district shall set a date to hear the appeal.

(b) A property owner may appeal a district's decision on an assessment made under this subchapter to a court by filing notice of the appeal with the court not later than the 30th day after the date of the district's final decision on the assessment.

(c) A property owner who fails to file notice in the time required by Subsection (a) or (b) loses the right to appeal the assessment.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.058. REASSESSMENT. (a) A road district may make a new assessment of property assessed under this subchapter if an assessment of the property is:

(1) set aside by a court;

(2) found excessive by the district; or

(3) determined invalid by the district.

(b) A district may reassess property if:

(1) at the time the bonds or certificates are issued under this subchapter, the property is exempt from taxation under Subchapter B, Chapter 11, Tax Code, or appraised under Subchapter C, D, or E, Chapter 23, Tax Code; and

(2) the property subsequently loses its exemption or is not eligible for appraisal under Subchapter C, D, or E, Chapter 23, Tax Code.

(c) A district may make a supplemental assessment to correct an omission or mistake in an assessment.

(d) Before making an assessment under Subsection (b) or (c), a district must give notice and conduct a hearing in the manner

required for an original assessment.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.059. ADJUSTMENT OF VALUES FOLLOWING REASSESSMENT. (a) In making a reassessment under Section 1471.058(b), the road district shall assess the property using the property's market value for the year preceding the year in which the bonds or certificates are issued.

(b) The district shall proportionately reduce the assessment of the other property in the district to reflect the value of the reassessed property. The district shall refund to a property owner the difference between the amount of the original assessment and a new assessment under this subsection if the property owner has paid the entire amount of the original assessment.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.060. LIEN FOR UNPAID ASSESSMENT. (a) An assessment under this subchapter, any interest, and any expenses of collection or reasonable attorney's fees incurred are a lien against the assessed property until paid.

(b) A lien under Subsection (a):

(1) is superior to any other lien except an ad valorem tax lien; and

(2) is effective from the date the assessment is imposed until the date the total amount of the assessment for the property is paid.

(c) A road district may enforce a lien under Subsection (a) in the same manner as the commissioners court enforces an ad valorem tax lien.

(d) The owner of assessed property is personally liable for the payment of an assessment under this subchapter and may pay at any time the entire amount of the assessment and accrued interest on any lot or parcel. Liability for an assessment passes with the property on a transfer of ownership.

(e) A lien for a supplemental assessment or reassessment is effective even if the property has been released from a prior lien under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.061. ISSUANCE AND FORM OF CERTIFICATES. (a) A road district may issue and transfer, on terms determined by the district, a certificate of assessment for each assessed lot or parcel. A certificate of assessment may be issued under Chapter 1207 as if it were a bond. On making a supplemental assessment or reassessment, the district shall provide a certificate of assessment reflecting any change in the value of the original assessment.

(b) A certificate must state:

(1) the amount of the lien on the assessed property;

(2) the liability of the property owner for the lien;

(3) the terms of transfer of the certificate;

(4) that the assessment was imposed and the certificate was issued under this subchapter; and

(5) that the certificate is not an obligation of or secured by a pledge of the faith or credit of a county in which the district is located.

(c) A certificate is prima facie evidence of all the matters shown on the certificate.

(d) A holder of the certificate may enforce the assessment in the same manner as the district may enforce assessments made under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.062. ASSESSMENTS CONSIDERED TAXES. For purposes of a title insurance policy issued under Title 11, Insurance Code, an assessment under this subchapter and any interest on or expenses or attorney's fees related to the assessment are considered taxes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.121, eff. September 1, 2005.

SUBCHAPTER D. COMPENSATION BONDS

Sec. 1471.081. ELECTION AUTHORIZED. (a) On receipt of a

petition signed by 250 registered voters residing anywhere in the county, the commissioners court shall order an election in the county to determine whether bonds of the county shall be issued to fully compensate a commissioners or justice precinct or a road district for bonds authorized to be issued under a general or special law adopted under Section 52, Article III, Texas Constitution.

(b) At the election, the ballot proposition must include:

(1) the purpose for which the bonds are to be issued; and

(2) the question as to whether a tax shall be imposed on the taxable property in the county to pay the interest on the bonds and to provide a sinking fund for the redemption of the bonds.

(c) If the bonds of the precinct or district have been authorized but not issued and sold or if the bonds have been sold but the proceeds have not been spent, the ballot proposition must state: "The issuance of county bonds for the construction of district roads and the further construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid of these purposes, throughout the county."

(d) If the bonds of the precinct or district have been issued and the proceeds have been applied to the construction of roads in the precinct or district, the ballot proposition must state: "The issuance of county bonds for the purchase of district roads and the further construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid of these purposes, throughout the county."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.082. ISSUANCE OF COUNTY BONDS. (a) If the proposition to issue county bonds receives the required favorable vote, the county shall issue the bonds in the amount stated in the election order, but not in an amount that exceeds a limitation imposed by the constitution or a statute.

(b) After the county issues the bonds, the commissioners court shall set aside the amount necessary to fully compensate the commissioners or justice precinct or road district for the purpose for which the bonds were issued.

(c) If the bonds are approved for the purpose described by Section 1471.081(c) and the precinct or district bonds have not been

issued and sold, the commissioners court shall:

(1) apply the proceeds of the county bonds to the construction, maintenance, and operation of the roads in the precinct or district as contemplated by the election approving the precinct or district bonds; and

(2) immediately cancel and destroy the unsold precinct or district bonds.

(d) If the bonds are approved for the purpose described by Section 1471.081(d), the roads of the precinct or district may become a part of the county road system.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.083. EXCHANGE OF BONDS. (a) If county bonds are authorized for commissioners or justice precinct or road district bonds that have been issued and sold, an exchange of a like amount of the county bonds may be made with the holder of any outstanding bonds of the precinct or district.

(b) An agreement for an exchange under this section must:

(1) be by order of the commissioners court authorizing the exchange; and

(2) contain the signed and acknowledged written consent of the holder of the bonds in the form required by law for written instruments.

(c) A copy of the order authorizing the exchange, the agreement, and the county bonds to be given in exchange shall be submitted to the attorney general for approval. The exchange is not effective until the attorney general issues a certificate approving the exchange.

(d) If the exchange takes effect under this section:

(1) the commissioners court shall cancel and destroy the bonds of the precinct or district;

(2) the county may not impose the tax approved at the election of the precinct or district authorizing the bonds; and

(3) the sinking fund associated with the bonds of the precinct or district shall be transferred to the sinking fund account of the county.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.084. DEPOSIT OF COUNTY BONDS AS GUARANTEE. (a) If the commissioners court determines that an exchange cannot be made under Section 1471.083, the court as soon as practicable shall deposit with the county treasurer to the credit of the interest and sinking fund account of the commissioners or justice precinct or road district an amount of county bonds equal to the amount of outstanding bonds of the precinct or district.

(b) Before depositing the county bonds under Subsection (a), the commissioners court shall submit to the attorney general a copy of the order authorizing the deposit and the county bonds to be deposited. The county bonds may be deposited only if the attorney general issues a certificate of approval.

(c) To be deposited under this section, county bonds must:

(1) have the word "nonnegotiable" written across the face of the bond; and

(2) state that the bonds are deposited to the credit of the interest and sinking fund account of the precinct or district named in the bonds as a guarantee of the payment of the outstanding bonds of the precinct or district that have not been exchanged.

(d) Coupons attached to county bonds to be deposited must have the word "nonnegotiable" written on the coupons.

(e) After deposit of the county bonds:

(1) the sinking fund associated with the bonds of the precinct or district shall be transferred to the sinking fund account of the county; and

(2) the commissioners court may not impose the tax approved at the election of the precinct or district authorizing the bonds.

(f) The commissioners court shall pay annually the interest on the county bonds deposited under this section from taxes imposed to pay interest on the county bonds and detach the coupon used for payment. The payment shall be credited to the interest account of the precinct or district, and the court shall use that money to pay the interest on the outstanding bonds of the precinct or district.

(g) From the taxes imposed to provide the sinking fund for the county bonds, the commissioners court shall set aside annually in the sinking fund the amount necessary for the retirement of the county bonds. On maturity of the county bonds, the court shall pay the bonds in full. The payment shall be credited to the sinking fund of the precinct or district, and the court shall use that money to pay in full all outstanding bonds of the precinct or district.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.085. TERMS AND FORM OF COMPENSATION BONDS; USE OF SURPLUS BONDS. (a) County bonds issued for a purpose described by Section 1471.081(c) or (d) shall:

(1) be issued in similar denominations, bear the same rate of interest, and have the same date of maturity and similar payment options as the outstanding bonds of the commissioners or justice precinct or road district; and

(2) in all respects be similar to the outstanding precinct or district bonds except that the bonds:

(A) are county obligations instead of precinct or district obligations; and

(B) shall be dated after the election at which the county bonds were authorized.

(b) County bonds issued in excess of the amount required to exchange, offset, and retire the outstanding precinct or district bonds must mature within 40 years.

(c) The proceeds of county bonds issued in excess of the amount required to exchange, offset, and retire the outstanding precinct or district bonds shall be credited to the available road fund of the county. The commissioners court may spend the proceeds throughout the county only:

(1) to construct, maintain, or operate a macadamized, graveled, or paved road or turnpike; or

(2) in aid of a purpose described by Subdivision (1).

(d) Except as provided by this subchapter, the issuance and sale of bonds authorized by this subchapter and the imposition of taxes for the bonds shall be as required by law for other county bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.086. CREATION OF ROAD DISTRICT CONTAINING ENTIRE TERRITORY OF EXISTING DISTRICT. (a) If a road district is created that contains all of the territory of an existing commissioners or justice precinct or road district that has outstanding road bonds, the newly created district:

(1) shall fully compensate the existing precinct or district in an amount equal to the amount of outstanding road bonds; and

(2) may issue bonds to:

(A) purchase or construct roads in the existing precinct or district;

(B) further construct, maintain, or operate macadamized, graveled, or paved roads or turnpikes in the new district; or

(C) aid in a purpose described by Paragraph (A) or (B).

(b) The compensation shall be made and the bonds issued in the form and manner for county bonds under Sections 1471.081-1471.085 except that the petition must be signed by 50 or a majority of the registered voters of the new district.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1471.087. CREATION OF ROAD DISTRICT CONTAINING PORTION OF TERRITORY OF EXISTING DISTRICT. (a) If a road district is created that contains a portion of the territory of an existing precinct or district that has outstanding road bonds, the newly created district may issue bonds to:

(1) purchase roads in the existing precinct or district; or

(2) further construct macadamized, graveled, or paved roads or turnpikes in the new district.

(b) The bonds shall be issued in the form and manner prescribed for county bonds under Sections 1471.081-1471.086.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1472. REFUNDING OF COUNTY BONDS FOR CAUSEWAYS

Sec. 1472.001. APPLICABILITY OF CHAPTER. This chapter applies only to a county that has outstanding bonds:

(1) issued to construct, acquire, improve, operate, or maintain a causeway; and

(2) the principal of and interest on which are payable from revenue derived from the operation of the causeway.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1472.002. AUTHORITY TO ISSUE REFUNDING BONDS. (a) The commissioners court of the county may issue bonds to refund the outstanding bonds described by Section 1472.001 and may impose ad valorem taxes to pay the interest on and to provide a sinking fund for the redemption of the refunding bonds only if the issuance of the bonds is approved by a majority of the qualified voters voting at an election held in the county in the manner provided by Chapter 1251.

(b) The aggregate principal amount of outstanding refunding bonds issued under this section may not exceed an amount that, for the payment of the principal of and interest on the bonds, would require the county to impose ad valorem taxes at a rate greater than the 80-cent limitation established by Section 9, Article VIII, Texas Constitution.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1472.003. MATURITY. A bond issued under this chapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1472.004. SALE OF BONDS. The commissioners court may determine the manner of sale of bonds issued under this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1472.005. EXCHANGE OR REPAYMENT OF BONDS BEING REFUNDED. The commissioners court may:

(1) exchange bonds issued under this chapter for the bonds being refunded; or

(2) use the proceeds of bonds issued under this chapter to pay the principal amount of the bonds being refunded and any required redemption premium and cancel those bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1472.006. USE OF FUNDS ESTABLISHED FOR BONDS BEING REFUNDED. On cancellation of the bonds being refunded, the commissioners court may use money in any fund established by the resolution or order authorizing the issuance of the bonds to be refunded:

(1) to pay the principal of and accrued interest on the bonds to be refunded;

(2) to pay any required redemption premium;

(3) to make a payment into the road and bridge fund of the county; or

(4) for any other lawful purpose.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1472.007. CONTINUED IMPOSITION OF TAXES. A county issuing bonds under this chapter shall continue to impose ad valorem taxes to pay the interest on those bonds and to provide a sinking fund for the redemption of those bonds even if the facilities constructed with the proceeds of the bonds being refunded become a part of the state highway system.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1472.008. REFUNDING OF REFUNDING BONDS. Subject to Section 1472.002(b), the commissioners court may refund bonds issued under this chapter on the terms, including the maturity, as determined by the court.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1473. OBLIGATIONS FOR COUNTY BUILDINGS

SUBCHAPTER A. BONDS FOR PUBLIC LIBRARIES

Sec. 1473.001. AUTHORITY TO ISSUE PUBLIC LIBRARY BONDS. The commissioners court of a county by order may authorize the issuance of county bonds to finance all or part of the acquisition, construction, improvement, enlargement, equipment, or repair of a

public library building.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.002. PLEDGE OF REVENUE. The commissioners court shall provide for the payment of the principal of and interest on bonds issued under this subchapter by pledging all or part of the revenue derived from:

(1) the operation of the library building; or

(2) the lease of space in the library building.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.003. BONDS NOT PAYABLE FROM TAXES. An owner of a bond issued under this subchapter is not entitled to demand payment of the principal of or interest on the bond from money raised by taxation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.004. CONTENTS OF ORDER AUTHORIZING BONDS. (a) The order of the commissioners court authorizing the issuance of bonds under this subchapter may provide for the flow of funds and the establishment and maintenance of an interest and sinking fund, a reserve fund, or another fund.

(b) The order may:

(1) prohibit the issuance of additional bonds or other obligations payable from the pledged revenue; or

(2) reserve the right of the commissioners court to issue additional bonds payable from the pledged revenue that are on a parity with or subordinate to the lien and pledge on the revenue that supports the bonds issued under the order.

(c) The commissioners court may include in the order any other provision or covenant, including a covenant with respect to the bonds, the pledge of revenue, or the operation or maintenance of the library building.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.005. ADOPTION AND EXECUTION OF DOCUMENTS. The commissioners court may adopt and have executed any other proceeding or instrument necessary or convenient to the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.006. MATURITY. A bond issued under this subchapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.007. OPERATING AND LEASING CHARGES. (a) The commissioners court shall:

(1) establish fees related to the operation of the library building; and

(2) charge rent for the lease of space in the library building.

(b) The court shall establish the fees and rents in amounts to provide revenue sufficient to pay all expenses related to the ownership and operation of the library building, including:

(1) payment of the principal of and interest on bonds issued under this subchapter; and

(2) the creation and maintenance of any required bond reserve fund.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.008. REFUNDING BONDS. (a) A county may issue refunding bonds to refund all or any part of its outstanding bonds issued under this subchapter, including matured but unpaid interest coupons. The comptroller shall register the refunding bonds on the surrender and cancellation of the bonds being refunded. The refunding may take place in one delivery or in installment deliveries.

(b) The refunding bonds may be payable from the same sources as the bonds to be refunded or from other additional sources.

(c) A county may, in the order authorizing the issuance of the refunding bonds, provide for the sale of the refunding bonds and the deposit of the proceeds in the place at which the bonds to be refunded are payable. In that case, the refunding bonds may be issued before the cancellation of the bonds to be refunded.

(d) If refunding bonds are issued before cancellation of the bonds to be refunded, the county shall deposit an amount sufficient to pay the principal of and interest on the bonds to be refunded to their maturity dates, or to their option dates if the bonds have been called for payment before maturity according to their terms, in each place at which the bonds to be refunded are payable. The comptroller shall register the refunding bonds without the surrender and cancellation of bonds to be refunded.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.009. EXEMPTION FROM TAXATION. A bond issued under this subchapter, any transaction related to the bond, and profits made in the sale of the bond are exempt from taxation by this state or by a municipality or other political subdivision of this state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. BONDS FOR AUDITORIUMS, COLISEUMS, AND EXHIBIT BUILDINGS

Sec. 1473.021. AUTHORITY FOR AUDITORIUM, COLISEUM, OR EXHIBIT BUILDING. The commissioners court of a county may purchase or construct a building or other permanent improvement to be used for:

(1) a coliseum;

(2) an auditorium; or

(3) an annual exhibit of livestock or agricultural, horticultural, or mineral products of the county.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.022. AUTHORITY TO ISSUE BONDS AND IMPOSE TAX. (a) The commissioners court of a county may:

(1) issue bonds to finance the purchase or construction of a building or improvement described by Section 1473.021; and

(2) impose a tax to pay the bonds.

(b) The commissioners court shall issue any bonds under this subchapter and impose the tax in compliance with the applicable provisions of Subtitles A and C.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.023. PAYMENT FOR BUILDINGS OR IMPROVEMENTS. A county that maintains a permanent improvement fund shall pay for each building or improvement described by Section 1473.021 from that fund.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.024. LOCATION OF BUILDINGS OR IMPROVEMENTS. The commissioners court may determine the location in the county for a building or improvement described by Section 1473.021.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. SECURITIES TO IMPROVE OR REPAIR CERTAIN BUILDINGS

Sec. 1473.051. DEFINITION. In this subchapter, "security" means a bond, note, warrant, obligation, or other evidence of indebtedness.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.052. AUTHORITY TO ISSUE OBLIGATIONS. (a) The commissioners court of a county may issue securities to finance the enlargement, alteration, improvement, or repair of a building if:

(1) the building:

(A) is not the courthouse;

(B) is located at the county seat;

(C) is partly used for public business and partly rented for private use; and

(D) was acquired by the county in settlement of an obligation owed the county; and

(2) money is not available for the enlargement, alteration,

improvement, or repair.

(b) In issuing a security under this subchapter, the commissioners court may pledge, assign, or encumber the net income and revenue from that part of the building that the court finds is not, and will not later be, necessary for a public purpose.

(c) Repealed by Acts 1999, 76th Leg., ch. 1064, Sec. 47(4), eff. Sept. 1, 1999.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 47(4), eff. Sept. 1, 1999.

Sec. 1473.053. OBLIGATIONS NOT PAYABLE FROM TAXES. (a) A security issued under this subchapter:

(1) is not a debt of the county;

(2) may be a charge only on the revenue that is pledged, assigned, or encumbered; and

(3) may not be included in determining the power of the county to issue bonds for any purpose authorized by law.

(b) Each security issued under this subchapter must include the following provision: "The holder of this obligation is not entitled to demand payment of this obligation out of any money raised by taxation."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.054. RENT. For each part of a building described by Section 1473.052(a) that is not used for a public purpose, the county shall charge and collect rent in an amount sufficient to:

(1) pay all operating, maintenance, depreciation, replacement, improvement, and interest charges and expenses for the building; and

(2) create an interest and sinking fund sufficient to pay any securities issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.055. LIENS ON AND USE OF REVENUE FROM BUILDING. (a)

Except as provided by Subsections (b) and (c), the income or revenue of a building described by Section 1473.052(a) may not be used to pay another debt, expense, or obligation of the county until the securities secured by the revenue have been finally paid.

(b) Each expense of operation and maintenance, including all salaries, labor, materials, interest, improvements, repairs, and extensions necessary to provide efficient service, and each proper item of expense, is a first lien against the building's revenue.

(c) An expense for a repair or extension is a first lien only if the commissioners court finds the repair or extension is necessary to:

(1) keep the building in operation and provide adequate service; or

(2) respond to a physical accident or condition that would otherwise impair a security issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.056. ELECTION NOT REQUIRED. The commissioners court may issue securities under this subchapter without holding an election to approve the issuance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. BONDS FOR JAILS OR OTHER BUILDINGS

Sec. 1473.101. AUTHORITY TO ISSUE BONDS AND IMPOSE TAX. (a) The commissioners court of a county may:

(1) issue bonds to pay for the purchase, construction, improvement, or equipment of a building or jail under Section 292.001, Local Government Code, including the purchase or improvement of a site for the building or jail; and

(2) impose a tax under Section 9, Article VIII, Texas Constitution, to pay for the bonds.

(b) The commissioners court of a county that has a population of more than 1.5 million may:

(1) issue bonds to pay for the construction and equipment of a courthouse or county branch office building, including the acquisition of a site for the courthouse or branch office building; and

(2) impose a tax to pay for the bonds.

(c) Except as otherwise provided by this subchapter, the commissioners court shall issue any bonds and impose the tax in compliance with the applicable provisions of Subtitles A and C.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 25, eff. September 1, 2011.

Sec. 1473.102. ELECTION PROPOSITIONS. The commissioners court may submit one or more bond propositions at an election relating to the issuance of bonds under this subchapter. Each proposition may include one or more of the purposes provided by Section 1473.101.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER E. BONDS FOR PARKING FACILITIES

Sec. 1473.131. DEFINITIONS. In this subchapter:

(1) "Bond order" means an order authorizing the issuance of bonds under this subchapter.

(2) "Parking facility" means:

(A) a lot, area, or structure used primarily to park motor vehicles;

(B) the site for the lot, area, or structure; and

(C) equipment used in connection with the maintenance and operation of the lot, area, or structure.

(3) "Trust indenture" means an instrument, including a mortgage or deed of trust, that secures bonds issued under this subchapter by:

(A) a pledge of revenue; or

(B) a pledge of revenue and a mortgage lien on property.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.132. AUTHORITY FOR PARKING FACILITIES. The commissioners court of a county may construct, enlarge, furnish,

equip, or operate a parking facility in the vicinity of any county-owned facility or building if the court finds the action to be in the best interest of the county and the county's residents.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.133. OTHER FACILITIES WITHIN PARKING FACILITY. The commissioners court may incorporate into a parking facility authorized by Section 1473.132:

(1) a jury assembly room;
(2) office space;
(3) a nursery;
(4) toilet facilities;
(5) a snack bar; or
(6) a related facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.134. LEASE OF PARKING FACILITY. The commissioners court may lease the parking facility to any person or corporation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.135. AUTHORITY TO ISSUE BONDS. The commissioners court by order may issue bonds to provide money to construct, enlarge, furnish, or equip a parking facility authorized by this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.136. PLEDGE OF REVENUE; TAX. (a) Bonds issued under this subchapter must be payable from and secured by a pledge of:

(1) the net revenue of the parking facility; and
(2) any other revenue incident to the ownership of the parking facility, including money received from a lease of the facility.

(b) The commissioners court may also provide for the bonds to be payable from and secured by the imposition of an ad valorem tax. The tax may not exceed two and one-half cents on each $100 valuation of taxable property in the county.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.137. BONDS NOT PAYABLE FROM TAXES. (a) Except as provided by Subsection (b), each bond issued under this subchapter must include the following provision: "The holder of this obligation is not entitled to demand payment of this obligation from money raised by taxation."

(b) A bond may not contain the provision specified by Subsection (a) if the commissioners court has provided for the payment of the bond from tax revenue under Section 1473.136(b).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.138. MATURITY. A bond issued under this subchapter must mature within 40 years.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.139. SIGNATURES; REGISTRATION BY COUNTY TREASURER. A bond issued under this subchapter must be:

(1) signed by the county judge;

(2) countersigned by the county clerk; and

(3) registered by the county treasurer.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.140. ADDITIONAL BONDS. (a) The commissioners court may issue bonds under this subchapter that are a junior lien on the net revenue or property unless the bond order or trust indenture prohibits their issuance.

(b) The commissioners court may issue parity bonds under conditions in the bond order or trust indenture.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.141. SALE OF BONDS. The county may sell the bonds under terms the commissioners court determines to be the most advantageous and reasonably obtainable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.142. USE OF BOND PROCEEDS. The commissioners court may set aside from the bond proceeds:

(1) money to pay interest on the bonds; and

(2) money in the amount the commissioners court estimates to be required for operating expenses until the parking facility becomes sufficiently operational.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.143. RENTS AND RATES FOR SERVICES. The commissioners court shall charge rents or rates for services of the parking facility and shall use any other revenue generated by the parking facility so that the revenues of the facility are sufficient to:

(1) pay the expenses of owning, operating, and maintaining the facility;

(2) pay when due the principal of and interest on the bonds; and

(3) create and maintain a bond reserve fund and other funds as provided by the bond order or trust indenture.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.144. REFUNDING BONDS. (a) The commissioners court may issue bonds to refund outstanding bonds issued under this subchapter.

(b) The refunding bonds may be issued in the manner provided by this subchapter for other bonds.

(c) The refunding bonds may be issued to be exchanged by the comptroller or to be sold, with the bond proceeds applied to the

payment of outstanding bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.145. PROVISIONS FOR OPERATION OF PARKING FACILITY. The bond order or trust indenture may prescribe systems, methods, routines, or procedures for the operation of the parking facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.146. ELECTION NOT REQUIRED. The commissioners court may issue bonds under this subchapter without holding an election to approve the issuance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER F. BONDS FOR PUBLIC HEALTH ADMINISTRATION BUILDINGS IN CERTAIN COUNTIES

Sec. 1473.171. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county that:

(1) contains a municipality with a population of more than 275,000; and

(2) before April 27, 1965, ordered an election for the issuance of bonds for:

(A) erecting a public health administration building; and

(B) acquiring a site and equipment for a public health administration building.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.172. AUTHORITY FOR PUBLIC HEALTH ADMINISTRATION BUILDING. If the bonds were approved at an election ordered before April 27, 1965, the county alone or jointly with a municipality located in the county, may:

(1) erect, maintain, expand, or repair a public health administration building; or

(2) acquire a site or equipment for a public health administration building.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.173. AUTHORITY TO ISSUE BONDS. (a) If the bonds were approved at an election ordered before April 27, 1965, the county may issue general obligation bonds to finance:

(1) the erection, maintenance, expansion, and repair of a building authorized by Section 1473.172; and

(2) the acquisition of a site and equipment for the building.

(b) The commissioners court shall issue any bonds under this subchapter in compliance with the applicable provisions of Subtitles A and C.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.174. COST SHARING AND INTEREST IN JOINT PROJECTS. A county and a municipality that jointly erect a public health administration building under this subchapter shall share the cost of, and shall each have an undivided interest in, the building:

(1) as agreed by the governing bodies of the county and the municipality; and

(2) as authorized by orders or ordinances adopted by the governing bodies of the county and the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.175. USE OF JOINT PROJECT BUILDING. (a) Except as provided by Subsection (b), a public health administration building erected jointly by a county and a municipality under this subchapter may be:

(1) used for any purpose that will contribute to the health of the residents of the county and municipality; and

(2) occupied and used by the county and municipality jointly.

(b) The public health administration building may not be used

for hospital purposes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER G. BONDS FOR WORKHOUSES AND FARMS IN COUNTIES WITH A POPULATION OF MORE THAN 1.5 MILLION

Sec. 1473.191. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county with a population of more than 1.5 million.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 26, eff. September 1, 2011.

Sec. 1473.192. AUTHORITY TO ISSUE BONDS AND IMPOSE TAX. (a) The commissioners court of a county may:

(1) issue bonds to pay for the acquisition, construction, or equipment of a county workhouse or county farm to be used to confine or to use the labor of county prisoners, including the acquisition of a site for the workhouse or farm; and

(2) impose a tax to pay the bonds.

(b) A county that maintains a permanent improvement fund shall deposit the tax to the credit of that fund to pay for an action taken under Subsection (a)(1).

(c) The commissioners court shall issue any bonds under this subchapter and impose the tax in compliance with the applicable provisions of Subtitles A and C.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.193. ELECTION. (a) The commissioners court may issue bonds under this subchapter only if more than a majority of the qualified voters voting at an election held for that purpose approve the bonds.

(b) Subsection (a) does not apply to refunding bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.194. ELECTION PROPOSITION. Bonds to be issued under this subchapter may be submitted in a single proposition at the bond election.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.195. NOTICE OF ELECTION. (a) In addition to the notice required by Section 4.003(c), Election Code, notice of an election under this subchapter shall be given by publication in a newspaper of general circulation in the county.

(b) The notice must contain a substantial copy of the election order.

(c) The notice must be published on the same day in each of two consecutive weeks. The first publication must be at least 14 days before the election.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER H. CERTIFICATES OF INDEBTEDNESS FOR CRIME DETECTION FACILITIES IN COUNTIES WITH POPULATION OF MORE THAN 1.5 MILLION

Sec. 1473.231. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county with a population of more than 1.5 million.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 27, eff. September 1, 2011.

Sec. 1473.232. AUTHORITY TO OPERATE CRIME DETECTION FACILITIES; FEES, CHARGES, AND EXPENSES. (a) The commissioners court of a county may:

(1) operate and maintain the county's crime detection facilities; and

(2) impose and collect fees or charges for services performed or information provided to others in the use of the facilities.

(b) The commissioners court shall pay the operation and maintenance expenses of the facilities from the fees or charges or

other available county funds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.233. AUTHORITY TO ISSUE CERTIFICATES OF INDEBTEDNESS AND IMPOSE TAX. (a) The commissioners court by order may issue certificates of indebtedness to finance the acquisition, construction, repair, improvement, or equipment of a crime detection facility, including the acquisition of any property in connection with the facility.

(b) The commissioners court annually shall impose and pledge to the payment of the certificates an ad valorem tax sufficient to pay when due the principal of and interest on the certificates.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.234. MATURITY. A certificate of indebtedness issued under this subchapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.235. ELECTION NOT REQUIRED. The commissioners court may issue certificates of indebtedness under this subchapter without holding an election to approve the issuance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.236. LIMIT ON AMOUNT OF CERTIFICATES. The aggregate principal amount of certificates of indebtedness issued under this subchapter may not exceed $1.5 million.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER I. BONDS FOR AUDITORIUM OR COLISEUM PARKING FACILITIES IN COUNTIES WITH POPULATION OF MORE THAN ONE MILLION

Sec. 1473.261. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county that:

(1) has a population of more than one million; and

(2) has issued bonds to construct buildings or other permanent improvements for a coliseum or auditorium in the county.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.262. DEFINITIONS. In this subchapter:

(1) "Bond order" means an order authorizing the issuance of revenue bonds under this subchapter.

(2) "Parking facility" means:

(A) a lot, area, or structure used to park motor vehicles;

(B) the site for the lot, area, or structure; and

(C) equipment used in connection with maintenance and operation of the lot, area, or structure.

(3) "Trust indenture" means an instrument, including a mortgage or deed of trust, that secures bonds issued under this subchapter by:

(A) a pledge of revenue; or

(B) a pledge of revenue and a mortgage lien on property.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.263. AUTHORITY FOR PARKING FACILITY. The commissioners court of the county may construct, enlarge, furnish, equip, and operate a parking facility in the vicinity of a coliseum or auditorium if the court finds the action to be in the best interest of the county and the county's residents.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.264. LEASE OF PARKING FACILITY. The commissioners court may lease the parking facility to any person or corporation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.265. AUTHORITY TO ISSUE REVENUE BONDS. The commissioners court by order or trust indenture may issue revenue bonds to provide money to construct, enlarge, furnish, or equip a parking facility authorized by this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.266. PLEDGE OF REVENUE. Bonds issued under this subchapter must be payable from, and secured by a pledge of, the net revenue of the county's operation of the parking facility. The bonds may be payable from any other revenue incident to the ownership of the parking facility, including money received from a lease of the facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.267. BONDS NOT PAYABLE FROM TAXES. Each bond issued under this subchapter must include the following provision: "The holder of this obligation is not entitled to demand payment of this obligation from money raised by taxation."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.268. MATURITY. A bond issued under this subchapter must mature within 40 years.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.269. SIGNATURES; REGISTRATION BY COUNTY TREASURER. A bond issued under this subchapter must be:

(1) signed by the county judge;
(2) countersigned by the county clerk; and
(3) registered by the county treasurer.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.270. ADDITIONAL BONDS. (a) The commissioners court may issue bonds under this subchapter that are a junior lien on the net revenue or property unless the bond order or trust indenture prohibits their issuance.

(b) The commissioners court may issue parity bonds under conditions in the bond order or trust indenture.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.271. SALE OF BONDS. The county may sell the bonds under terms the commissioners court determines to be the most advantageous and reasonably obtainable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.272. USE OF BOND PROCEEDS. (a) The commissioners court may set aside from the bond proceeds:

(1) money to pay interest on the bonds; and

(2) money in the amount the commissioners court estimates to be required for operating expenses until the parking facility becomes sufficiently operational.

(b) The commissioners court may not set aside money under this section in an amount that exceeds the amount of money necessary to cover interest and operating expenses for the estimated period of construction and the first two years of operation, less any earnings during that time.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.273. RENTS AND RATES FOR SERVICES. (a) The commissioners court shall charge rates for services of the facility, including rents under a lease, and shall use any other revenue generated by the facility so that the revenues of the facility are sufficient to:

(1) pay the expenses of owning, operating, and maintaining the facility;

(2) pay the principal of and interest on the bonds when due; and

(3) create and maintain a bond reserve fund and other funds as provided by the bond order or trust indenture.

(b) The county may not provide free use of the parking facility to any person, firm, or corporation, except that the county and any county agency or department may make free use of the facility after bonds issued under this subchapter have been fully paid.

(c) The commissioners court may provide, in an order authorizing the bonds or in a lease of the parking facility, for minimum periodic payments from any county resource to the bond interest and sinking fund or to the lessee for county or county agency or department use of any part of the parking facility designated for county or county agency or department use.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.274. REFUNDING BONDS. (a) The commissioners court may issue bonds to refund outstanding bonds issued under this subchapter.

(b) The refunding bonds may be issued in the manner provided by this subchapter for other bonds.

(c) The refunding bonds may be issued to be exchanged by the comptroller or to be sold, with the bond proceeds applied to the payment of outstanding bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.275. PROVISIONS FOR OPERATION OF PARKING FACILITY. The bond order or trust indenture may prescribe systems, methods, routines, or procedures for the operation of the parking facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1473.276. ELECTION NOT REQUIRED. The commissioners court may issue bonds under this subchapter without holding an election to approve the issuance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1474. BONDS FOR COUNTY WATER IMPROVEMENTS

SUBCHAPTER A. PURPOSES FOR WHICH BONDS AND NOTES MAY BE ISSUED

Sec. 1474.001. AUTHORITY TO ISSUE BONDS FOR IRRIGATION PURPOSES. A county may issue bonds in an amount not to exceed one-fourth of the assessed value of the real property in the county for:

(1) constructing, purchasing, or maintaining a pool, lake, reservoir, dam, canal, or waterway for irrigation purposes or to aid in irrigation;

(2) enlarging an improvement described by Subdivision (1); or

(3) paying expenses incidental to the construction, purchase, maintenance, or enlargement.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1474.002. AUTHORITY TO ISSUE ADDITIONAL BONDS FOR IRRIGATION PURPOSES. (a) The commissioners court may order additional bonds to be issued in accordance with this chapter if:

(1) bonds have been authorized or issued under this chapter;

(2) the commissioners court considers it necessary to issue additional bonds to change the proposed improvement, to purchase or construct further improvements, to purchase additional property to implement the purposes of the project, or to best serve the interests of the county; and

(3) the additional bonds are approved at an election.

(b) The commissioners court shall enter its findings under Subsection (a) in the record of the court's proceedings.

(c) The commissioners court shall hold the election on the additional bonds in accordance with this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1474.003. AUTHORITY TO ISSUE BONDS OR NOTES FOR REPAIR PURPOSES. (a) If a county has constructed or purchased an improvement under this chapter that has been damaged and it is

necessary to raise money to repair the damage, the county may issue bonds or notes under this chapter to raise the money.

(b) The term of a note issued under this chapter may not exceed 20 years.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1474.004. AUTHORITY TO ISSUE BONDS FOR OTHER WATER-RELATED IMPROVEMENTS. A county may issue bonds for the improvement of a river, creek, or stream to prevent overflow and for all necessary drainage purposes in connection with that purpose.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. ELECTION PROVISIONS

Sec. 1474.051. BONDS FOR MORE THAN ONE PURPOSE. Bonds proposed to be issued for any two or more of the purposes stated in this chapter shall be treated as being for one purpose and may be voted on as one proposition.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1474.052. PETITION FOR BOND ELECTION. If at least 50 voters who reside in and own taxable property in a county petition the commissioners court for an election on the question of issuing bonds under Section 1474.001 and either Section 52, Article III, or Section 59, Article XVI, Texas Constitution, the commissioners court shall, at a regular or special session of the court, order an election to determine whether the county shall:

(1) issue bonds for the purposes stated in Section 1474.001; and

(2) impose a tax on the property in the county for the purpose of paying the interest on the bonds and providing a sinking fund for the redemption of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1474.053. REQUIREMENT TO STATE CHARACTERISTICS OF BONDS. (a) Except as provided by Subsection (b), the petition for the election, the election order, and the notice of the election must state:

(1) the amount of bonds to be issued;

(2) the rate of interest of the bonds;

(3) the times at which interest on the bonds is payable; and

(4) the date of maturity of the bonds.

(b) The election order and the notice of the election may provide that:

(1) the bonds may bear interest at a rate to be set by the commissioners court;

(2) any interest may be paid at times set by the commissioners court; and

(3) the bonds may mature at the times set by the commissioners court.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1474.054. ELECTION FOR ISSUING BONDS. (a) The general election laws of this state govern the election except as provided by this section.

(b) A two-thirds vote of the qualified voters of the county voting in the election is necessary to approve the proposition.

(c) The commissioners court shall furnish the ballots for each polling place. The ballots shall be printed to permit voting for or against the proposition: "The issuance of bonds for (purpose of the bonds) and the imposition of a tax to pay for the bonds."

(d) In addition to the requirements provided by Chapter 3, Election Code, the election order shall:

(1) designate one or more polling places in each voting precinct in the county where the election will be held; and

(2) name a presiding judge, a judge, and two clerks for each polling place or, if the court considers it necessary, name more election officers for any polling place.

(e) A copy of the election order signed by the county judge serves as proper notice of the election.

(f) In addition to the notice required by Section 4.003(c),

Election Code, a copy of the election order shall be:

(1) posted at each polling place and at the courthouse door before the 20th day before the date of the election; and

(2) published in a newspaper published in the county for three consecutive weeks before the date of the election, with the first publication before the 21st day before the date of the election.

(g) After preparing the returns of the election, the presiding judge at each polling place shall deliver the returns to the county clerk, who shall keep them in a safe place and deliver them to the commissioners court. After canvassing the returns, the commissioners court shall declare the result of the election by an order entered in the minutes of the court.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1474.055. ORDER ISSUING BONDS AND IMPOSING TAX. (a) If the issuance of the bonds and imposition of the tax are approved at the election, the commissioners court by order entered at a regular term of the court shall:

(1) direct the issuance of the bonds;

(2) provide for the annual imposition of a tax sufficient to pay the current interest on the bonds and to pay the principal of the bonds at maturity; and

(3) state the place or places at which the interest is payable.

(b) The commissioners court shall annually impose a tax sufficient to pay the current interest on the bonds and to pay the principal of the bonds at maturity.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1474.056. ELECTION FOR ISSUING NOTES: ORDER AND NOTICE. (a) Before notes are issued under Section 1474.003, the commissioners court shall order and give notice of an election in the manner required for an election on a bond issue.

(b) In addition to the requirements provided by Chapters 3 and 4, Election Code, the order and notice shall state:

(1) the purpose for which the notes are to be issued;

(2) the duration of the notes;
(3) the rate of interest; and
(4) the polling places for the election.

(c) The order and notice may state the manner in which the notes mature.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1474.057. ELECTION FOR ISSUING NOTES: BALLOT AND RETURNS. (a) At an election to issue notes, the ballot shall be printed to permit voting for or against the proposition: "The issuance of notes for (purpose of the notes)."

(b) The commissioners court shall hold the election in the manner provided by this chapter for a bond election.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1474.058. APPROVAL AND ISSUANCE OF NOTES. (a) If at least two-thirds of the votes received at the election favor issuing the notes, the commissioners court may issue and sell the notes for the benefit of the county and for the purposes authorized.

(b) The commissioners court by order shall:
(1) direct the issuance of the notes; and
(2) provide for the annual imposition of a tax sufficient to pay the current interest and provide a sinking fund for the payment of the principal of the notes at maturity.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. LIMITATIONS AND PROCEDURES

Sec. 1474.101. LIMIT ON DEBT. (a) If a county contains one or more districts organized under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, the ratio of the debt of a district to the assessed value of real property in the district, expressed as a percentage, together with the ratio of the proposed county debt to the assessed value of real property in the county, expressed as a percentage, may not exceed one-fourth of the assessed value of real property in the county or in the district.

(b) The assessed value of real property in a county or in a district is computed according to the most recent appraisal roll of the county or district, as appropriate.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1474.102. COURT ACTION TO DETERMINE VALIDITY OF BONDS. (a) A county that proposes to issue bonds under this chapter shall bring an action in a district court in the county or in a district court in Travis County to determine the validity of the bonds.

(b) The action shall be brought in the manner provided by Subchapter L, Chapter 55, Water Code, for the validation of water improvement district bonds. Each provision of that subchapter that is applicable to the action, including provisions applicable to the duties of the attorney general and comptroller, the judgment to be rendered, the effect of the judgment, and other matters connected to the action, applies to the validation of the county bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1474.103. FORM OF BONDS AND NOTES; SIGNATURES; REGISTRATION BY COUNTY CLERK. (a) Each bond or note issued under this chapter shall be issued in the name of the county.

(b) A bond shall be designated "_____ County Water Improvement Bond." A note shall be designated "_____ County Water Improvement Note."

(c) Each bond or note issued under this chapter must be:

(1) signed by the county judge;

(2) countersigned by the county clerk; and

(3) registered by the county treasurer.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1474.104. EXCHANGING BONDS FOR PROPERTY OR WORK. The commissioners court may exchange bonds issued under this chapter:

(1) for property; or

(2) in payment of the contract price for work to be done in the construction of the improvements.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1474.105. SALE OR EXCHANGE OF BONDS AND NOTES; DELIVERY OF PROCEEDS. (a) The commissioners court shall sell or exchange the bonds or notes issued under this chapter on the best terms.

(b) When the bonds or notes are sold, the proceeds shall immediately be delivered to the county treasurer.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1474.106. IMPOSITION OF TAX; SEPARATE FUND. (a) A tax imposed under Section 1474.055(b) shall be imposed as other county taxes.

(b) The proceeds of the tax are a separate fund that may not be used for a purpose other than a purpose specified by Section 1474.055(b).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. RELATED IRRIGATION POWERS OF COUNTIES

Sec. 1474.151. COUNTY POWERS. A county acting under this chapter may:

(1) own or construct a reservoir, dam, levee, well, canal, or other improvement;

(2) acquire a necessary right-of-way or other land by purchase or by condemnation in the manner provided by Chapter 21, Property Code; or

(3) perform any other work or construct or acquire any other improvement required for the proper and efficient irrigation of land in the county.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1474.152. CONTROL OF COUNTY IRRIGATION SYSTEM. (a) The commissioners court shall control and manage the affairs and operation of the county's irrigation system to the same extent and in the manner as the board of directors of a water improvement district

controls and manages a water improvement district under Chapter 49, Water Code.

(b) The provisions of Chapter 49, Water Code, that apply to the control and management of the affairs and operation of a water improvement district also apply to the control and management of the affairs and operation of the county's irrigation system.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1475. COUNTY BONDS AND WARRANTS FOR NAVIGATION PURPOSES

SUBCHAPTER A. RIGHT-OF-WAY FOR FEDERAL NAVIGATION PROJECTS

Sec. 1475.001. PURPOSE; LIBERAL CONSTRUCTION. (a) The only purpose of this subchapter is to grant counties in this state the authority to issue bonds or warrants or to otherwise lend their credit for the acquisition and conveyance to the United States of the necessary right-of-way for waterways or navigable canals:

(1) the construction of which is authorized by federal legislation; and

(2) the cost of construction and maintenance of which is to be paid by the United States.

(b) This subchapter shall be liberally construed to accomplish that purpose.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1475.002. AUTHORITY TO ACQUIRE RIGHT-OF-WAY AND DUMPING PRIVILEGES. (a) For the purpose of navigation or to aid in navigation, a county may, in accordance with Section 1475.003, acquire right-of-way and necessary dumping privileges for a canal or waterway the construction of which is authorized by federal legislation.

(b) The county may:

(1) acquire the right-of-way and necessary dumping privileges by purchase, through donation, or by exercising the county's power of eminent domain; and

(2) convey the right-of-way and dumping privileges to the United States by a deed executed in the manner that other deeds by a county must be executed.

(c) In lieu of exercising its power of eminent domain, the

county may:

(1) allow the United States to acquire the right-of-way and necessary dumping privileges through the United States' power of eminent domain; and

(2) lend the county's credit by guaranteeing the United States that the county will pay the resulting judgment or assessment of damages for the value of the condemned property.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1475.003. AUTHORITY TO ISSUE BONDS AND IMPOSE TAXES. To pay for an action authorized by Section 1475.002, a county may, on the approval of at least two-thirds of the qualified voters of the county who vote on the measure:

(1) issue bonds or warrants or otherwise lend its credit in addition to its other debt and in an amount not to exceed one-fourth of the taxable value of the real property in the county; and

(2) impose taxes to pay the interest on and to provide a sinking fund for the redemption of the debt.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1475.004. ELECTION. (a) The commissioners court of a county:

(1) may, on its own motion, order an election to determine whether the county will issue bonds or warrants or otherwise lend its credit to take an action under Section 1475.002; and

(2) shall order such an election if a petition signed by at least 25 of the resident owners of taxable property in the county that calls for the election is filed with the commissioners court.

(b) The election order must include as close a description as possible of:

(1) the proposed navigation purposes, aid to navigation, or right-of-way and necessary dumping privileges to be acquired;

(2) the amount of the proposed bonds or warrants or the extent of the credit proposed to be authorized for those purposes;

(3) if the commissioners court proposes to issue bonds or warrants, the maturity dates and rate of interest of the bonds or warrants; and

(4) if the commissioners court proposes to lend the credit of the county, the manner in which the credit is to be used and the terms of the credit to be authorized.

(c) Subject to Section 4.003(c), Election Code, the commissioners court shall give 20 days notice of the election:

(1) by publication in a newspaper published at the county seat; and

(2) by posting in three public places in the county, one of which must be at the county seat.

(d) The ballot shall be printed to permit voting for or against the proposition: "The issuance of bonds (or, if appropriate, 'the issuance of warrants' or 'the lending of credit') and the imposition of a tax in payment of the bonds (or, if appropriate, 'in payment of the warrants' or 'in payment of the lending of credit')."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1475.005. DUTIES OF COMMISSIONERS COURT AFTER VOTER APPROVAL. If the voters approve the proposition, the commissioners court shall enter in its minutes:

(1) the date of the election, the notice of the election, the ballot proposition, and the result of the election; and

(2) an order that, as appropriate:

(A) provides for the issuance of the bonds or warrants and states the amount, dates of maturity, and rate of interest of the bonds or warrants; or

(B) authorizes the use of the county's credit, specifies the extent to which the county will lend its credit, and specifies the manner by and conditions under which the county will lend its credit.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1475.006. INVESTMENT OF SINKING FUND. Money deposited to the credit of the sinking fund of bonds or warrants issued under this subchapter shall be invested as money deposited to the credit of the sinking funds of other county bonds is invested.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1475.007. ISSUANCE OF BONDS AND WARRANTS; USE OF PROCEEDS. (a) A bond or warrant issued under this subchapter shall be:

(1) issued in the name of the county;

(2) signed by the county judge; and

(3) attested by the county clerk under the seal of the commissioners court.

(b) The commissioners court shall sell the bond or warrant on the best terms possible.

(c) All money received from the sale of the bond or warrant shall be paid to the county treasurer. The county treasurer shall:

(1) deposit the money to the credit of the county's navigation fund account; and

(2) pay out the money on warrants in the manner that other county funds are disbursed.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. PROPERTY FOR INTRACOASTAL CANAL PURPOSES

Sec. 1475.051. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county adjacent to the Gulf of Mexico.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1475.052. AUTHORITY TO ACQUIRE LAND AND CERTAIN INTERESTS IN LAND FOR CANAL PURPOSES. (a) If the acquisition is necessary for the construction of an intracoastal canal, a county may, by purchase or by exercising the county's power of eminent domain, acquire public or private land, a right-of-way, an easement, or dumping ground privileges.

(b) The county must exercise the power of eminent domain in the manner provided by Chapter 21, Property Code. A county may not condemn land under Subsection (a) if the land is used for cemetery purposes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1475.053. AUTHORITY TO ISSUE TIME WARRANTS. The commissioners court of a county may issue time warrants to pay for an acquisition under Section 1475.052.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1475.054. APPLICABILITY OF OTHER LAWS TO CONDEMNATION PROCEEDINGS. Sections 261.002 and 261.003, Local Government Code, apply to a condemnation proceeding brought under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1475.055. EFFECT OF APPEAL. An appeal from a finding and assessment of damages made as described by Chapter 21, Property Code, does not suspend work by the United States that relates to the property or property right sought to be acquired.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1476. CERTIFICATES OF INDEBTEDNESS IN COUNTIES WITH POPULATION OF MORE THAN 2.5 MILLION

Sec. 1476.001. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a county with a population of more than 2.5 million.

(b) If certificates of indebtedness were not issued under this chapter by January 1, 1980, this chapter has no effect.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 29, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 55, eff. September 1, 2023.

Sec. 1476.002. AUTHORITY TO ISSUE CERTIFICATES OF INDEBTEDNESS FOR CERTAIN PURPOSES. A county may issue certificates of indebtedness:

(1) in an amount not to exceed $2 million to construct,

enlarge, furnish, equip, or repair a county building or other permanent improvement; or

(2) in an amount not to exceed $3.5 million to:

(A) purchase right-of-way in participation with the Texas Department of Transportation in connection with a designated state highway; or

(B) construct a curb, gutter, or drainage facility for a designated state highway.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1476.003. AUTHORIZATION OF CERTIFICATES OF INDEBTEDNESS BY COMMISSIONERS COURT. Certificates of indebtedness issued under this chapter must be authorized by order of the commissioners court of the county.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1476.004. EXECUTION; REGISTRATION BY COUNTY TREASURER. A certificate of indebtedness issued under this chapter must be:

(1) signed by the county judge;

(2) attested by the county clerk; and

(3) registered by the county treasurer.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1476.005. CASH SALE. A county shall sell certificates of indebtedness issued under this chapter for cash.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1476.006. MATURITY. A certificate of indebtedness issued under this chapter must mature not later than 35 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1477. OBLIGATIONS FOR OTHER COUNTY PURPOSES

SUBCHAPTER A. BONDS FOR FACILITIES TO BE LEASED TO PUBLIC OR PRIVATE ENTITIES

Sec. 1477.001. AUTHORITY TO ACQUIRE PROPERTY FOR LEASE TO PUBLIC OR PRIVATE ENTITY. (a) The commissioners court of a county may acquire real property and may construct or acquire a building or other facility for the purpose of leasing the real property, building, or other facility to:

(1) a political subdivision or state agency for public use; or

(2) an individual, private corporation, or other private entity for use in manufacturing or another commercial activity.

(b) The commissioners court may not acquire real property under Subsection (a) by eminent domain.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.002. AUTHORITY TO ISSUE BONDS. To develop and diversify the economy of this state and eliminate unemployment or underemployment in this state under the authority granted by Section 52-a, Article III, Texas Constitution, the commissioners court may issue and sell bonds to finance an action taken under Section 1477.001.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.003. BOND PAYMENTS FROM REVENUE OR TAXES. The commissioners court may provide for payment of the principal of and interest on bonds issued under this subchapter by:

(1) pledging all or part of the revenue from a lease of all or part of the real property, building, or other facility financed by the bonds, after deduction of reasonable operation and maintenance costs;

(2) imposing an annual ad valorem tax; or

(3) combining those sources.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.004. ELECTION REQUIRED TO SECURE BONDS WITH TAXES. A county may not issue bonds under this subchapter that are payable in whole or in part from ad valorem taxes unless the bonds are authorized by a majority of the registered voters of the county voting on the issue.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.005. CONTENTS OF ORDINANCE, ORDER, OR RESOLUTION AUTHORIZING BONDS. In the ordinance, order, or resolution authorizing the issuance of bonds under this subchapter, the commissioners court may:

(1) provide for the deposit and accounting of funds and the establishment and maintenance of an interest and sinking fund, a reserve fund, or other fund; and

(2) make additional covenants relating to the:

(A) bonds;

(B) pledged revenue; or

(C) operation and maintenance of any real property, building, or other facility, the revenue of which is pledged for bond payments.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.006. ADOPTION AND EXECUTION OF DOCUMENTS. The commissioners court may adopt and have executed any proceeding or instrument necessary and convenient:

(1) in the issuance of a bond under this subchapter; or

(2) in the acquisition and lease of any real property, building, or other facility under Section 1477.001.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.007. MATURITY. A bond issued under this subchapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.008. IMPOSITION OF TAX. (a) The commissioners court may annually impose ad valorem taxes to pay the principal of and interest on bonds issued under this subchapter that are payable in whole or in part from ad valorem taxes only if the taxes are approved at an election held under Section 1477.004.

(b) The commissioners court may not impose ad valorem taxes to pay the principal of or interest on bonds issued under this subchapter payable wholly from revenue from one or more leases or other contracts made under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.009. GRANTS FOR PRISONS OR LAW ENFORCEMENT FACILITIES NOT PROHIBITED. This subchapter does not prohibit a county from making a grant of money or property to an agency of the state to assist the agency in acquiring or developing a site for a:

(1) prison;

(2) law enforcement detention facility; or

(3) community corrections facility as defined by Section 509.001.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. BONDS FOR WATER SUPPLY FOR COUNTY PURPOSES

Sec. 1477.051. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county that adopted the law codified by this subchapter by a unanimous vote of the members of the commissioners court before September 2, 1963.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.052. DEFINITION. In this subchapter, "project" means any acquisition, construction, repair, or maintenance authorized and undertaken under Section 1477.053.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.053. AUTHORITY TO ACQUIRE WATER SUPPLY. (a) The commissioners court of the county may acquire by purchase, construction, or otherwise an adequate source of surface or subterranean fresh water for supplying water to the county's courthouse or for other county purposes.

(b) To further an acquisition under Subsection (a), the commissioners court may purchase, construct, repair, and maintain:

(1) a pool, lake, or reservoir;

(2) a well;

(3) a dam; and

(4) any water treatment and distribution facility as may be required.

(c) The county must comply with the applicable water permit provisions of Title 2, Water Code.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.054. LIMITATION ON COST. (a) The total cost of projects undertaken by the county under this subchapter may not exceed $250,000, excluding interest.

(b) The par value of bonds issued under this subchapter for a project may not exceed $250,000.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.055. AUTHORITY TO ISSUE BONDS AND IMPOSE AD VALOREM TAXES. (a) To pay the costs of a project, the county may issue bonds payable from and secured by a pledge of the net revenue of the project. The cost of a project may include:

(1) legal, fiscal, and engineering expenses; and

(2) interest during the construction of the project.

(b) If provided in the order issuing a bond, bonds issued under Subsection (a) may be additionally secured by an ad valorem tax imposed under Section 9, Article VIII, Texas Constitution. If the county places any part of the ad valorem tax in a permanent improvement fund, only the ad valorem taxes in that fund may be used as the additional security.

(c) Before a county may issue bonds under Subsection (a) to pay for a project, the bonds must be approved in an election held under

Section 1477.057. If an ad valorem tax is to be imposed under Subsection (b) to secure bonds, the tax must also be approved at the election held to approve the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.056. AMOUNT OF TAX. (a) If bonds issued under this subchapter are to be secured by a tax, the commissioners court shall impose a tax sufficient to pay the interest on the bonds as the interest accrues and the principal as the principal matures.

(b) The order authorizing the issuance of bonds may provide that the amount of tax to be collected each year may be reduced to the extent money is available from pledged project revenue for the payment of interest and principal.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.057. ELECTION. (a) Before construction of a project may begin and before a project may be improved, repaired, or extended under Section 1477.063, the commissioners court by resolution must order an election.

(b) In addition to the requirements provided by Chapter 3, Election Code, the election order must:

(1) describe the proposed project;

(2) state the amount, rate of interest, and maturity dates of bonds to be issued to pay for the proposed project;

(3) state whether a tax will be imposed to redeem the bonds; and

(4) state the amount of any tax to be imposed to redeem the bonds.

(c) If a majority of the voters in the county approve the issuance of bonds under this subchapter, the commissioners court shall issue the bonds as provided by this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.058. CONTENTS OF ORDER AUTHORIZING BONDS. The order authorizing issuance of bonds under this subchapter to pay for a

project may contain:

(1) reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants that state the duties of the county relating to:

(A) the acquisition of property for the project;

(B) the construction, maintenance, operation, repair, and insurance of the project; and

(C) the custody, protection, and application of all money related to the project;

(2) a statement of the rights and remedies of the bondholders; and

(3) other provisions that the commissioners court considers reasonable and proper for the security of the bondholders, including covenants prescribing:

(A) each event that constitutes a default; and

(B) the rights, liabilities, powers, and duties that arise on breach by the county of a duty or obligation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.059. MATURITY. A bond issued under this subchapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.060. SIGNATURES; REGISTRATION BY COUNTY TREASURER. (a) A bond issued under this subchapter must be:

(1) signed by the county judge; and

(2) attested by the county clerk.

(b) The county treasurer shall register a bond issued under this subchapter but is not required to sign the bond.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.061. SALE OF BONDS. The commissioners court shall determine the manner of sale of bonds issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.062. USE OF BOND PROCEEDS. (a) The proceeds of bonds issued under this subchapter may only be used to pay the cost of the project for which the bonds were issued.

(b) The county shall disburse the proceeds of the bonds in accordance with any restrictions provided in the order authorizing the bonds.

(c) The bondholders have a lien on the proceeds until the proceeds are applied.

(d) The bond proceeds, pending their use for the construction of the project, may be invested in direct obligations of the United States having maturities not more than 91 days from the date of investment.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.063. ADDITIONAL BONDS. (a) Unless otherwise provided in the bond order, if the proceeds of bonds issued to pay for a project are not sufficient to pay the cost of the project, the county may issue additional bonds under this subchapter not to exceed the amount of the deficit.

(b) If permitted by the order originally authorizing bonds to pay for a project, the county may issue additional bonds for improving, repairing, or extending the project.

(c) Bonds issued under Subsection (b):

(1) may be payable:

(A) solely from a pledge of the net revenue of the project; or

(B) from the net revenue of the project and the imposition of an ad valorem tax; and

(2) must be approved at an election in the same manner as bonds originally issued to pay the costs of the project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.064. RATES AND CHARGES. (a) If bonds issued under this subchapter are secured solely by a pledge of net revenue of the project, the commissioners court shall contract for and impose rates

and charges for water supplied by the project that will be sufficient to:

(1) operate and maintain the project;

(2) pay when due the principal of and interest on the bonds; and

(3) establish any reserves provided in the order authorizing the issuance of the bonds.

(b) A bond secured solely by a pledge of net revenue:

(1) is not a debt of the county issuing the bond;

(2) may be a charge only on pledged revenue of a project;

(3) may not be included in determining the power of the county to issue bonds or incur other debt for any purpose authorized by law; and

(4) must contain the following provision: "The holder of this bond is not entitled to demand payment of this obligation out of any money raised by taxation."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.065. TAXES PLEDGED TO PAY BONDS. A bond issued under this subchapter that is secured wholly or partially by a pledge of a tax imposed under Section 9, Article VIII, Texas Constitution, is considered to be payable wholly from that tax for the purpose of determining the availability of taxing power of the county to pay an obligation that is payable from that tax.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.066. BONDHOLDER'S RIGHT TO MANDAMUS. (a) The holder of a bond issued under this subchapter is entitled, by mandamus or other proceedings in court, to enforce the holder's rights against:

(1) the county;

(2) the county's employees and agents; and

(3) the employees of the county's agents.

(b) A bondholder's rights include the right to require the county to:

(1) impose and collect sufficient rates and charges to carry out the agreements contained in the bond order; and

(2) perform all agreements and covenants contained in the

bond order and the duties arising from those agreements and covenants.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.067. REFUNDING BONDS. Bonds issued to refund bonds issued under this subchapter may only be:

(1) exchanged for bonds being refunded; or

(2) sold and delivered to provide money to pay matured or redeemable bonds maturing or redeemable not later than six months after the date of issuance of the refunding bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.068. EXEMPTION FROM ASSESSMENT OR TAXATION. (a) A county is not required to pay any assessment on a project or any part of a project.

(b) A bond issued under this subchapter, the transfer of the bond, and the income from the bond, including any profit made from the sale of the bond, are exempt from taxation by this state or by a political subdivision of this state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.069. COUNTY USE OF WATER. A county shall pay for water used by the county for its own facilities from general funds of the county legally available for that purpose, and free service is prohibited.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.070. SALE OF WATER NOT NEEDED FOR COUNTY PURPOSES. (a) The commissioners court may sell, deliver, and distribute any water of the project that is not needed for county purposes to a municipal corporation or political subdivision of this state, or an individual, corporation, or company under terms that the court determines are in the best interests of the county.

(b) The cost of supplying water from a project under Subsection (a), including any increase in the cost of acquisition, storage, treatment, and distribution facilities, is considered a cost of the project.

(c) The commissioners court may not sell water under Subsection (a):

(1) if an adequate public water supply is available to the municipal corporation, political subdivision, individual, corporation, or company at the time the law codified by this subchapter was adopted by the county; or

(2) for irrigation purposes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.071. EMINENT DOMAIN. (a) In exercising any power granted by this subchapter, a county may acquire real property and easements by the exercise of the power of eminent domain in accordance with Chapter 21, Property Code.

(b) The commissioners court shall determine the amount and character of interest in real property and easements to be acquired by the exercise of the power of eminent domain.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.072. RELOCATION OR ALTERATION EXPENSE. If a county, in the exercise of a power granted by this subchapter, including the power of eminent domain or the power of relocation, makes necessary the relocation, rerouting, or alteration of the construction of a highway, railroad, electric transmission line, pipeline, or telephone or telegraph property or facility, the relocation, rerouting, or alteration of construction must be accomplished at the sole expense of the county. In this section, "sole expense" means the actual cost of the relocation, rerouting, or alteration of construction to provide comparable replacement without enhancement of the facility, after deduction of the net salvage value derived from the old facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.073. ESSENTIAL GOVERNMENTAL FUNCTION. A county, in accomplishing the purposes of this subchapter, is performing an essential governmental function.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. NATURAL GAS SYSTEM FOR COUNTY BUILDINGS IN CERTAIN COUNTIES

Sec. 1477.101. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county in which:

(1) the commissioners court adopts this subchapter by an order approved by a majority vote of the court's members; and

(2) the county seat is an unincorporated community or city with a population of more than 5,000, according to the most recent federal census, on the date on which the order is adopted.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.102. AUTHORITY TO ACQUIRE NATURAL GAS SYSTEM. The commissioners court of the county may purchase or construct a natural gas system for supplying natural gas to county buildings adequately and dependably.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.103. NATURAL GAS SYSTEM FACILITIES. The county may construct, repair, and maintain natural gas supply or distribution facilities as required to supply natural gas to county buildings.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.104. AUTHORITY TO ISSUE BONDS. To pay the cost of purchasing or constructing a natural gas system under this subchapter, the county may issue bonds payable from and secured by a pledge of the net revenue of the system. The cost of the system may include:

(1) legal, fiscal, and engineering expenses;

(2) interest that accrues during the construction of the system; and

(3) the cost of supplying gas under Section 1477.119, including any increase in the cost of distribution lines or facilities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.105. BONDS NOT PAYABLE FROM TAXES. (a) A bond issued under this subchapter:

(1) is not a debt of the county;

(2) may be a charge only on the revenue pledged for the payment of the bond; and

(3) may not be included in determining the power of the county to issue bonds or incur other indebtedness for any purpose authorized by law.

(b) Each bond issued under this subchapter must contain the following provision: "The holder of this obligation is not entitled to demand payment of this obligation from any money raised by taxation."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.106. NOTICE OF INTENTION TO ISSUE BONDS. (a) The commissioners court of the county may not authorize bonds under this subchapter until the court gives notice of its intention to issue the bonds.

(b) The notice must state, as to the proposed bonds:

(1) the maximum amount of the issue;

(2) the maximum interest rate;

(3) the maximum maturity; and

(4) the time and place at which the court intends to authorize the bonds.

(c) The notice must be published in a newspaper of general circulation in the county once a week for two consecutive weeks, with the first publication being at least 14 full days before the date set for authorization of the bonds.

(d) The commissioners court may authorize the bonds at the time and place specified in the notice except as provided by Section

1477.107.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.107. ELECTION. (a) If, before the bonds are authorized, the commissioners court receives a petition requesting an election on the issuance of the bonds that is signed by more than 10 percent of the county's registered voters who are resident owners of taxable property in the county, the court may not proceed unless a proposition for the issuance of the bonds is approved at an election held for that purpose.

(b) The Election Code applies to an election under this subchapter except as otherwise provided by this subchapter.

(c) In addition to the notice required by Section 4.003, Election Code, a substantial copy of the resolution calling the election shall be published in a newspaper of general circulation in the county once a week for two consecutive weeks, with the first publication being at least 14 full days before the election.

(d) The election returns shall be made to the court within five days of the election.

(e) The court may authorize the bonds only if the issuance is approved by a majority of the qualified voters of the county voting in the election.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.108. CONTENTS OF ORDER AUTHORIZING BONDS. An order authorizing the issuance of bonds under this subchapter may contain:

(1) reasonable and proper provisions for protecting and enforcing the rights or remedies of the bondholders, including covenants that state the duties of the county relating to:

(A) the acquisition of property for the natural gas system;

(B) the construction, maintenance, operation, repair, and insurance of the system; and

(C) the custody, protection, and application of all money related to the system;

(2) a statement of the rights and remedies of the bondholders; and

(3) other provisions that the commissioners court considers reasonable and proper for the security of the bondholders, including covenants prescribing:

(A) each event that constitutes a default; and

(B) the rights, liabilities, powers, and duties that arise on the breach by the county of a duty or obligation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.109. MATURITY. A bond issued under this subchapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.110. SIGNATURES; REGISTRATION BY COUNTY TREASURER. (a) A bond issued under this subchapter must be signed by the county judge and attested by the county clerk.

(b) The county treasurer shall register a bond issued under this subchapter but is not required to sign the bond.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.111. SALE OF BONDS. The commissioners court shall determine the manner of sale of bonds issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.112. USE OF BOND PROCEEDS. (a) The county shall disburse the proceeds of bonds issued under this subchapter in accordance with any restrictions provided in the order authorizing the bonds.

(b) The bondholders have a lien on the proceeds until the proceeds are applied.

(c) The bond proceeds, pending their use for the construction of the project, may be invested in direct obligations of the United States having maturities not more than 91 days from the date of investment.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.113. ADDITIONAL BONDS. (a) Unless otherwise provided by the order authorizing the bonds, if the proceeds of bonds issued to pay for a natural gas system are not sufficient to pay the cost of the system, the county may issue additional bonds under this subchapter not to exceed the amount of the deficit.

(b) If permitted by the order originally authorizing bonds to pay for a natural gas system, the county may issue additional bonds for improving, repairing, or extending the system.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.114. GAS RATES AND CHARGES. The commissioners court shall contract for and impose rates and charges for gas supplied by the natural gas system that will be sufficient to:

(1) operate and maintain the system;

(2) pay when due the principal of and interest on any bonds issued under this subchapter; and

(3) establish any reserves provided for in the order authorizing the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.115. BONDHOLDER'S RIGHT TO MANDAMUS. (a) A holder of a bond issued under this subchapter is entitled, by mandamus or other proceedings in court, to enforce the holder's rights against:

(1) the county;

(2) county employees and agents; and

(3) the employees of the county's agents.

(b) A bondholder's rights include the right to require the county to:

(1) impose and collect sufficient rates and charges to carry out the agreements contained in the bond order; and

(2) perform all agreements and covenants contained in the bond order and the duties arising from those agreements or covenants.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.116. REFUNDING BONDS. Bonds issued to refund bonds issued under this subchapter may only be:

(1) exchanged for bonds being refunded; or

(2) sold and delivered to provide money to pay matured or redeemable bonds maturing or redeemable not later than six months after the date of issuance of the refunding bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.117. EXEMPTION FROM ASSESSMENT OR TAXATION. (a) A county is not required to pay any assessment on a natural gas system or any part of a natural gas system acquired or constructed under this subchapter.

(b) A bond issued under this subchapter, a transfer of the bond, and the income from the bond, including any profit made from the sale of the bond, are exempt from taxation by this state or a political subdivision of this state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.118. COUNTY USE OF GAS. The county shall pay for gas used by the county for its own facilities from general funds of the county legally available for that purpose, and free service is prohibited.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.119. SALE OF GAS NOT NEEDED FOR COUNTY PURPOSES. The commissioners court may sell, deliver, and distribute natural gas of a natural gas system purchased or constructed under this subchapter that is not needed for county purposes to a municipal corporation or political subdivision of this state, or an individual, corporation, or company under terms that the court determines are in the best interests of the county.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.120. EMINENT DOMAIN. (a) The county may not acquire a natural gas system or a facility of a natural gas system under this subchapter by the exercise of the power of eminent domain or exercise the power of eminent domain under this subchapter outside the county's boundaries. The county may acquire land or an easement for a purpose authorized by this subchapter by the exercise of the power of eminent domain in the manner provided by Chapter 21, Property Code.

(b) The commissioners court shall determine the amount of and character of interest in the land or easement to be acquired by the exercise of the power of eminent domain.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.121. RELOCATION OR ALTERATION EXPENSE. If a county, in the exercise of a power under this subchapter, including the power of eminent domain or the power of relocation, makes necessary the relocation or rerouting of, or alteration of the construction of, a highway, railroad, electric transmission line or pipeline, or telegraph or telephone property or facility, the relocation or rerouting or alteration of construction must be accomplished at the sole expense of the county.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.122. ESSENTIAL GOVERNMENTAL FUNCTION. A county, in accomplishing the purposes of this subchapter, is performing an essential governmental function.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. OBLIGATIONS FOR FIRE-FIGHTING EQUIPMENT

Sec. 1477.151. AUTHORITY TO PURCHASE FIRE-FIGHTING EQUIPMENT. The commissioners court of a county may purchase fire trucks and other fire-fighting equipment to be used for the protection and preservation of bridges, county shops, county warehouses, and other

county property located in the county but outside the boundaries of municipalities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.152. AUTHORITY TO ISSUE OBLIGATIONS AND IMPOSE TAXES. (a) The county may issue time warrants and bonds of the county for a purchase under Section 1477.151 and may impose taxes for the payment of those time warrants or bonds. The county shall deposit the taxes in the general fund of the county.

(b) The time warrants or bonds must be authorized by a majority of the qualified voters voting at an election held for that purpose by the commissioners court.

(c) The county must issue the time warrants or bonds and impose taxes in compliance with Subtitles A and C.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.153. LIMIT ON AMOUNT OF OBLIGATIONS. A county may issue time warrants or bonds under this subchapter only in an amount that will at all times leave unencumbered taxes in an amount sufficient to pay all current expenses from the county's general fund.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER E. CERTIFICATES OF INDEBTEDNESS FOR FIREFIGHTER TRAINING FACILITIES

Sec. 1477.201. AUTHORITY TO ISSUE CERTIFICATES OF INDEBTEDNESS. The commissioners court of a county may issue certificates of indebtedness to acquire, construct, repair, renovate, improve, or equip firefighter training facilities for the county and to acquire property in connection with that purpose.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.202. AUTHORITY TO IMPOSE AND PLEDGE AD VALOREM TAX.

The commissioners court shall impose and pledge annual county ad valorem taxes under Section 9, Article VIII, Texas Constitution, in an amount sufficient to pay the principal of and interest on certificates of indebtedness as they become due.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.203. LIMIT ON AMOUNT OF INDEBTEDNESS. The aggregate principal amount of certificates of indebtedness issued by a county under this subchapter may not exceed $5 million.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.204. ELECTION. (a) The commissioners court may issue certificates of indebtedness under this subchapter only if the certificates are approved by a majority of the qualified voters voting at an election held for that purpose by the commissioners court.

(b) An election under this subchapter shall be held on the next uniform election date authorized by Section 41.001, Election Code, that occurs not earlier than the 20th day after the date on which the election is called.

(c) The commissioners court shall order the ballot at the election to be printed to permit voting for or against the proposition: "Issuing certificates of indebtedness by the county to acquire, purchase, construct, repair, renovate, improve, or equip firefighter training facilities or to purchase real or personal property in connection with those facilities."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.205. MATURITY. A certificate of indebtedness issued under this subchapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.206. OPERATION OF FIREFIGHTER TRAINING FACILITIES. (a) The commissioners court may:

(1) operate and maintain the county's firefighter training facilities; and

(2) set and collect charges for:

(A) services performed at those facilities; and

(B) information furnished to others by the use of those facilities.

(b) The commissioners court shall pay the expenses of operating and maintaining the county's firefighter training facilities from:

(1) charges collected under Subsection (a); and

(2) any other available county funds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER F. BONDS FOR SURVEYS, MAPS, AND PLATS IN COUNTIES WITH POPULATION OF 500,000 OR MORE

Sec. 1477.251. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county with a population of 500,000 or more.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.252. AUTHORITY TO ISSUE BONDS AND IMPOSE TAXES. (a) If the subdivisions of surveys in a county are irregularly numbered or if the blocks and subdivisions of municipalities in the county are not numbered or are irregularly numbered, causing difficulties for the county tax assessor-collector, the commissioners court of the county may:

(1) make a survey and acquire related maps and plats of blocks and subdivisions in the county; and

(2) furnish to the county tax assessor-collector:

(A) block books showing the description of each block and subdivision in the county;

(B) the names of the record owners of each parcel of property in each block book, if known; and

(C) other information relating to Paragraphs (A) and (B) that will assist in the performance of the duties of the tax assessor-collector.

(b) The commissioners court may issue bonds to pay the cost of

taking an action under Subsection (a).

(c) The commissioners court may impose taxes under Section 9, Article VIII, Texas Constitution, to pay for bonds issued under Subsection (b).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.253. ELECTION PROPOSITION. (a) At an election to approve the issuance of bonds under this subchapter, the commissioners court may submit one or more separate propositions for the issuance of bonds.

(b) Each proposition submitted at a bond election under this subchapter may include one or more of the purposes authorized by Section 1477.252.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.254. BONDS OBLIGATION OF COUNTY. (a) A bond issued under this subchapter is an obligation of and a charge against the county issuing the bond.

(b) Except as provided by this subchapter, a county must issue bonds under this subchapter and impose taxes in compliance with applicable provisions of Subtitles A, C, and D.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER G. REVENUE BONDS FOR IMPROVEMENTS TO ATTRACT VISITORS OR TOURISTS IN CERTAIN COUNTIES

Sec. 1477.301. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county:

(1) with a population of more than 3.3 million; or

(2) with a population of more than 90,000 that borders the United Mexican States other than a county that contains three or more municipalities that each have a population of more than 23,000.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 25, eff. Sept. 1, 2001.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 56, eff. September 1, 2023.

Sec. 1477.302. AUTHORITY FOR VISITOR OR TOURIST ATTRACTIONS. A county may establish, acquire, lease as lessor or lessee, construct, improve, enlarge, equip, repair, operate, or maintain:

(1) a public improvement or facility to attract visitors or tourists to the county, including a civic center, a civic center building, an auditorium, an exhibition hall, a coliseum, stadium, or other sports facility; or

(2) a parking facility located at or in the immediate vicinity of an improvement or facility described by Subdivision (1) to be used in connection with the improvement or facility for off-street parking or storage of motor vehicles or other conveyances.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.303. AUTHORITY TO ISSUE REVENUE BONDS. The commissioners court of the county by order may issue revenue bonds to provide all or part of the money to establish, acquire, construct, improve, enlarge, equip, or repair a facility described by Section 1477.302.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.304. PLEDGE OF REVENUE. (a) Bonds issued under this subchapter must be secured by a pledge of and be payable from all or a designated part of the revenue from the improvement or facility for which the bonds are issued, as provided in the order authorizing the bonds.

(b) The pledge securing the bonds is inferior to any previous pledge of the revenue for the payment of revenue bonds or revenue refunding bonds that are outstanding.

(c) A county that leases a facility described by Section 1477.302 as lessee may pledge all or part of the revenue from the facility to the lease payments.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.305. LIEN ON FACILITY. Subject to any limitations contained in previous pledges, in addition to pledging the revenue from the improvement or facility, the commissioners court may give a lien on the physical property acquired with the bond proceeds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.306. BONDS NOT PAYABLE FROM TAXATION; EXCEPTION. (a) The owner or holder of a bond issued under this subchapter is not entitled to demand payment of the principal of or interest on the bond from money raised by taxation.

(b) Subsection (a) does not apply to a demand for payment from hotel occupancy taxes that are pledged under Chapter 352, Tax Code, to the payment of the bond.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.307. CONTENTS OF ORDER AUTHORIZING BONDS. (a) The order of the commissioners court authorizing the issuance of bonds under this subchapter may provide for the flow of funds and the establishment and maintenance of an interest and sinking fund, a reserve fund, or other fund.

(b) The order may:

(1) prohibit the issuance of additional bonds or other obligations payable from the pledged revenue; or

(2) reserve the right of the commissioners court, subject to any condition in the order, to issue additional bonds payable from the pledged revenue that are on a parity with or subordinate to the lien and pledge on the revenue that supports the bonds issued under the order.

(c) The commissioners court may include in the order any other provision or covenant, including a covenant with respect to the bonds, the use or pledge of revenue, or the operation, lease, or maintenance of the improvement or facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.308. ADOPTION AND EXECUTION OF DOCUMENTS. The commissioners court may adopt and have executed any other proceeding or instrument necessary or convenient to the issuance of bonds under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.309. MATURITY. A bond issued under this subchapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.310. SIGNATURES. A bond issued under this subchapter must be:

(1) signed by the county judge; and

(2) countersigned by the county clerk.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.311. SALE OF BONDS. The commissioners court may sell bonds issued under this subchapter under terms the court determines to be the most advantageous and reasonably obtainable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.312. USE OF BOND PROCEEDS. (a) From the proceeds of bonds issued under this subchapter, the county may appropriate or set aside amounts to:

(1) pay interest expected to accrue during the construction period;

(2) deposit into a reserve fund, as provided in the order authorizing the bonds; and

(3) pay all expenses incurred in the issuance, sale, and delivery of the bonds.

(b) The bond proceeds, until they are needed to implement the

purpose for which the bonds were issued, may be invested in direct obligations of the United States, placed on time deposit, or both.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.313. INVESTMENT OF FUNDS. Money in an interest and sinking fund, reserve fund, or any other fund established or provided for in the bond order may be invested in the manner and in the securities as provided in the bond order.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.314. CHARGES FOR SERVICES. The commissioners court shall impose and collect charges for the use of an improvement or facility the revenue of which is pledged to secure bonds issued under this subchapter, and for services provided in connection with that use, in amounts at least sufficient to comply with each covenant or provision in the order authorizing the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.315. REFUNDING BONDS. (a) A county by order may issue revenue refunding bonds similarly secured to refund either original bonds or revenue refunding bonds previously issued by the county under this subchapter.

(b) The refunding bonds shall be executed as provided by this subchapter for original bonds.

(c) The comptroller shall register the refunding bonds on the surrender and cancellation of the bonds to be refunded.

(d) In lieu of issuing bonds to be registered on the surrender and cancellation of the bonds to be refunded, the county, in the order authorizing the issuance of the refunding bonds, may provide for the sale of the refunding bonds and the deposit of the proceeds in the place bonds to be refunded are payable. In that case, the refunding bonds may be issued in an amount sufficient to pay the principal of and interest on the bonds to be refunded to their option or maturity date, and the comptroller shall register the refunding bonds without the surrender and cancellation of the bonds to be

refunded.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER H. REVENUE ANTICIPATION NOTES IN CERTAIN COUNTIES

Sec. 1477.351. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county that has a county auditor.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.352. AUTHORITY TO ISSUE REVENUE ANTICIPATION NOTES. The county may issue revenue anticipation notes to pay for current expenses of the county only if the county auditor:

(1) recommends that action; and

(2) identifies the revenue anticipated to be used for repayment of the notes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.353. LIMIT ON AMOUNT OF NOTES. (a) The total amount of revenue anticipation notes issued by the county under this subchapter may not exceed 50 percent of the amount of taxes levied by the county for the year in which the notes are issued.

(b) For purposes of Subsection (a), the total amount of revenue anticipation notes includes the:

(1) principal of the notes;

(2) interest to be paid on the notes; and

(3) cost of issuance of the notes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.354. MATURITY. (a) A revenue anticipation note issued under this subchapter must mature not later than the last day of the fiscal year in which the note is issued, except as provided by Subsection (b).

(b) A revenue anticipation note issued under this subchapter may mature not later than the last day of the first quarter of the

fiscal year following the fiscal year in which the note is issued if the revenue dedicated to retire the note has accrued but has not been received by the county in the fiscal year in which the note is issued.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.355. REVENUE AVAILABLE FOR PAYMENT OF NOTES. A county may use any revenue of the county not otherwise dedicated or restricted, including ad valorem taxes, for the payment of a revenue anticipation note issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER I. OBLIGATIONS IN COUNTIES WITH POPULATION OF LESS THAN 8,600

Sec. 1477.401. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county with a population of less than 8,600.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.402. AUTHORITY TO BORROW. (a) The county may borrow money under this subchapter from any source.

(b) The total combined principal amount borrowed under this subchapter may not exceed $200,000.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.403. AUTHORITY TO ISSUE OBLIGATIONS. The commissioners court of the county may issue time warrants or other obligations of the county in evidence of money borrowed under Section 1477.402.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.404. AUTHORITY TO IMPOSE AND PLEDGE TAXES AND

REVENUES. The county may impose taxes and may pledge taxes and other revenue of the county for the payment of money borrowed under Section 1477.402.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.405. MATURITY. A time warrant or obligation issued under this subchapter must be payable within 10 years.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.406. SIGNATURES. A time warrant or obligation issued under this subchapter must be signed by the county judge and the county clerk.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1477.407. VALIDITY OF OBLIGATION. A time warrant or other obligation that is issued and signed in compliance with this subchapter is a valid obligation of the county.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1478. ADDITIONAL AUTHORITY FOR CERTAIN COASTAL COUNTIES TO ISSUE ROAD BONDS

Sec. 1478.001. APPLICABILITY OF CHAPTER. This chapter applies only to a county that:

(1) is located on the Gulf of Mexico; and

(2) has within its boundaries an island susceptible to development for recreational purposes for the use and benefit of the residents of the county.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 8.0211(a), eff. Sept. 1, 2001.

Sec. 1478.002. AUTHORITY TO ISSUE ROAD BONDS. A county may

issue and secure bonds in the manner provided by Chapter 284, Transportation Code, to construct, improve, and operate roads on an island described by Section 1478.001(2).

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 8.0211(a), eff. Sept. 1, 2001.

Sec. 1478.003. BOND PAYMENTS FROM REVENUE AND TAXES. Bonds issued as provided by this chapter may be payable from:

(1) tolls charged for use of the road;

(2) taxes; or

(3) a combination of tolls and taxes.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 8.0211(a), eff. Sept. 1, 2001.

Sec. 1478.004. ELECTION. Unless the action is authorized by an election at which the question is submitted to the voters, a county may not:

(1) issue bonds under this chapter, whether payable from taxes or revenue; or

(2) spend county money in any manner in connection with or on a road project under this chapter.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 8.0211(a), eff. Sept. 1, 2001.

Sec. 1478.005. LIMITATION ON DECLARING CERTAIN FACILITIES PART OF STATE HIGHWAY SYSTEM. (a) Except as provided by Subsection (b), the Texas Transportation Commission may not declare to be a part of the state highway system and maintain and operate free of tolls a facility as to which a county has:

(1) issued bonds under Chapter 284, Transportation Code, for a purpose authorized by that chapter and has secured the payment of those bonds by:

(A) a pledge of the revenue to be derived from the operation of the facility; and

(B) the levy of ad valorem taxes authorized by Section

52, Article III, Texas Constitution; and

(2) issued bonds under this chapter for a purpose authorized by Section 1478.002 that are payable in whole or part from revenue.

(b) Subsection (a) does not apply if:

(1) the bonds issued under this chapter have been paid; or

(2) an amount sufficient to pay the bonds issued under this chapter and interest on those bonds to maturity has been set aside for that purpose in a trust fund for the benefit of the bondholders.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 8.0211(a), eff. Sept. 1, 2001.

CHAPTER 1479. COUNTY BONDS FOR FACILITIES ON STATE HIGHWAY SYSTEM

Sec. 1479.001. DEFINITION. In this chapter, "state highway system" means the highways in this state included in the plan providing for a system of state highways prepared under Section 201.103, Transportation Code.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.91, eff. June 14, 2005.

Sec. 1479.002. AUTHORITY TO ISSUE BONDS. (a) A county may issue bonds to provide funds for the design, development, financing, construction, maintenance, operation, extension, expansion, or improvement of a toll or nontoll project or facility on the state highway system located in the county or, as a continuation of the project or facility, in an adjacent county.

(b) To provide for the payment of bonds issued under this section, a county may:

(1) pledge revenue from any available source, including payments received under an agreement with the Texas Department of Transportation under Section 222.104, Transportation Code;

(2) pledge, levy, and collect taxes subject to any constitutional limitation; or

(3) provide for a combination of Subdivisions (1) and (2).

(c) Any election required to permit action under Subsection (b) must be held in conformance with the Election Code or other law

applicable to the county.

(d) A county that issues bonds under this section may exercise any of the rights and powers granted to the governing body of an issuer under Chapter 1371.

(e) A bond issued under this section must mature not later than 40 years after its date of issuance.

(f) This section is wholly sufficient authority for the issuance of bonds, the pledge of revenues, taxes, or any combination of revenues and taxes, and the performance of other acts and procedures authorized by this section by a county without reference to any other provision of law or any restriction or limitation contained in those provisions, except as specifically provided by this section. To the extent of any conflict or inconsistency between this section and any other law, this section shall prevail and control. A county may use any law not in conflict with this section to the extent convenient or necessary to carry out any power or authority, expressed or implied, granted by this section.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.91, eff. June 14, 2005.

SUBTITLE J. SPECIFIC AUTHORITY FOR MUNICIPALITIES TO ISSUE SECURITIES

CHAPTER 1501. OBLIGATIONS FOR MUNICIPAL UTILITIES

SUBCHAPTER A. REVENUE BONDS FOR CERTAIN SEWAGE DISPOSAL FACILITIES

Sec. 1501.001. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality that owns a sewer system and disposal plant that serves:

(1) other municipalities; and

(2) territory and military establishments outside the municipal boundaries.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.002. AUTHORITY TO ISSUE BONDS. A municipality by ordinance may issue bonds to finance the purchase or construction of an additional sewage disposal facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.003. PLEDGE OF REVENUE. (a) A municipality may secure bonds issued under this subchapter by a pledge of the net revenue from sewer service provided outside the municipal boundaries.

(b) Bonds issued under this subchapter may be additionally secured by a pledge of all or part of the net revenue from sewer service provided inside the municipal boundaries.

(c) In the ordinance authorizing the issuance of bonds secured only by the net revenue from sewer service provided outside the municipal boundaries, the municipality may:

(1) specify each item of expense or portion of the item to be deducted to compute that net revenue; or

(2) prescribe another formula the governing body of the municipality considers appropriate to compute that net revenue.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.004. AUTHORITY TO ISSUE ADDITIONAL BONDS. In issuing bonds under this subchapter, the municipality may reserve the right to issue additional bonds to the extent and subject to any condition included in the ordinance authorizing the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.005. CONTRACTS. A municipality may contract with another municipality, a person or corporation, or the United States to provide sewer service.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.006. RATES FOR SERVICE. (a) The governing body of a municipality that issues bonds under this subchapter shall establish rates for sewer service in amounts sufficient to:

(1) pay:

(A) maintenance and operation expenses;

(B) the bonds as they are scheduled to mature; and

(C) interest on the bonds as it accrues; and

(2) establish and maintain any fund provided in the ordinance authorizing the bonds.

(b) Notwithstanding Subsection (a), the municipality may not, during the term of a contract for sewer service, increase the amount of the consideration for that service specified in the contract except:

(1) as the contract provides; or

(2) as the parties to the contract agree.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.007. OTHER LAW APPLICABLE; ELECTION NOT REQUIRED. (a) Subtitles A and C and Subchapter B, Chapter 1502, apply to the issuance of bonds under this subchapter except as provided by this subchapter.

(b) An election is not required to authorize the issuance of bonds under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. APPLICATION OF UTILITY SYSTEM REVENUE TO BONDED DEBT ON SYSTEM

Sec. 1501.051. AUTHORITY TO USE UTILITY REVENUE FOR SINKING FUND OR INTEREST PAYMENTS. (a) The governing body of a municipality may appropriate the net revenue from any municipal public utility system, service, or enterprise, in the amount that the governing body determines is in the best interest of the municipality, to:

(1) the credit of the sinking fund for any bonded debt incurred because of the utility system, service, or enterprise; or

(2) the payment of any interest on the bonded debt incurred because of that utility system, service, or enterprise.

(b) A governing body that makes an appropriation under Subsection (a) must make the appropriation:

(1) at the end of the municipality's fiscal year; and

(2) before the governing body adopts a tax rate for that fiscal year.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.052. EFFECT ON TAXES. (a) If in any fiscal year the

amount of revenue appropriated under Section 1501.051 is at least equal to the amount needed for the sinking fund and to pay interest on the bonded indebtedness in that fiscal year, the governing body of the municipality is not required to impose a tax for that purpose.

(b) If the amount of revenue appropriated under Section 1501.051 is less than the amount needed for the sinking fund and to pay interest in the fiscal year, the governing body shall adopt a tax rate for that year sufficient to generate the amount of taxes necessary to credit or pay the deficiency in that year.

(c) This section does not authorize a municipality to exceed a limitation on taxes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. REVENUE BONDS TO FINANCE CERTAIN TEXAS-NEW MEXICO ELECTRIC PROPERTIES

Sec. 1501.101. AUTHORITY TO ACQUIRE AND OPERATE TEXAS-NEW MEXICO ELECTRIC PLANT AND SYSTEM. A municipality that receives electricity from a privately owned electric plant and system, part of which is located in New Mexico, including a facility for the generation or transmission of electricity distributed in part to residents of the municipality, may acquire, own, and operate all or any part of that electric plant and system.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.102. AUTHORITY TO ISSUE REVENUE BONDS. A municipality may issue revenue bonds in the manner provided by general law to finance the acquisition of any part of the electric plant and system under Section 1501.101.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.103. AUTHORITY TO SELL ELECTRICITY OF PLANT AND SYSTEM. A municipality that acquires an electric plant and system under Section 1501.101 may:

(1) sell electricity either at retail or wholesale for distribution in New Mexico; and

(2) enter into a sales agreement for the electricity as the governing body of the municipality provides.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. CERTIFICATES OF INDEBTEDNESS TO FINANCE JUDGMENTS OR SETTLEMENTS RELATED TO MUNICIPAL NATURAL GAS SYSTEM

Sec. 1501.151. AUTHORITY TO ISSUE CERTIFICATES OF INDEBTEDNESS. The governing body of a general-law municipality may authorize the issuance of certificates of indebtedness to pay:

(1) a final judgment of a court in a lawsuit arising from the municipality's operation of a natural gas system the municipality owns; or

(2) a settlement of such a lawsuit.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.152. NOTICE OF INTENTION TO ISSUE CERTIFICATES OF INDEBTEDNESS. (a) The governing body of the municipality may not authorize the issuance of certificates of indebtedness under this subchapter until the municipality gives notice of the municipality's intention to issue the certificates.

(b) The notice must:

(1) be published in a newspaper of general circulation in the municipality once each week for two consecutive weeks, with the first publication being before the 14th day before the date the governing body proposes to adopt the ordinance authorizing the issuance of the certificates of indebtedness; and

(2) state:

(A) the time and place the governing body of the municipality proposes to authorize the issuance;

(B) the maximum amount of the certificates to be issued; and

(C) the purpose for which the certificates are to be issued.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.153. PETITION; ELECTION. (a) If, before the certificates of indebtedness are authorized, a petition is filed with the secretary or clerk of the municipality protesting the issuance of the certificates that is signed by at least five percent of the registered voters of the municipality, the municipality may not issue the certificates unless a proposition for the issuance of the certificates is approved at an election held for that purpose.

(b) The governing body shall hold the election in the manner provided by Chapter 1251 for a bond election.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.154. MATURITY. A certificate of indebtedness issued under this subchapter must mature not later than 20 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.155. SIGNATURES; SEAL. A certificate of indebtedness issued under this subchapter must:

(1) be signed by the mayor and the secretary or clerk of the municipality; and

(2) bear the seal of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.156. SALE OF CERTIFICATES. (a) A municipality may sell certificates of indebtedness issued under this subchapter:

(1) at a public or private sale;

(2) on terms the governing body of the municipality determines; and

(3) with an option to prepay principal as the governing body of the municipality considers advisable.

(b) A municipality shall sell the certificates for cash.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.157. USE OF PROCEEDS. A municipality shall use the proceeds from the sale of certificates of indebtedness issued under this subchapter for a purpose authorized by this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.158. IMPOSITION OF AD VALOREM TAX. The governing body of the municipality shall impose an annual ad valorem tax sufficient to pay when due the principal of and interest on each certificate of indebtedness issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER E. BONDS FOR IMPROVEMENT OF WATER AND SEWER SYSTEMS IN MUNICIPALITIES WITH POPULATION OF MORE THAN 275,000

Sec. 1501.201. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to:

(1) a municipality that has:

(A) a population of more than 275,000; and

(B) a municipal water and sewer system operated by a water board; and

(2) a water control and improvement district that:

(A) is located in whole or in part within the boundaries of a municipality described by Subdivision (1); and

(B) owns district property that is operated, under a contract between a municipality described by Subdivision (1) and the district, by a water board established by the charter of the municipality or by ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.202. DEFINITIONS. In this subchapter:

(1) "District property" means water or sewer property owned by a water control and improvement district that a municipality can use as, or use as an improvement or extension of, the water and sewer system of the municipality.

(2) "Water board" means a board of trustees or public service board.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.203. AUTHORITY TO ISSUE BONDS. A municipality may issue bonds to pay for the purchase of district property to improve or extend the municipal water and sewer system.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.204. PLEDGE OF REVENUE. Bonds issued under this subchapter must be secured by a pledge of and be payable from the net revenue of the municipal water and sewer system, including any district property purchased with the bond proceeds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.205. NOTICE OF INTENTION TO ISSUE BONDS. (a) A municipality may not issue bonds under this subchapter until the mayor of the municipality gives notice of the municipality's intention to issue the bonds.

(b) The notice must:

(1) be published in a newspaper of general circulation in the municipality once each week for two consecutive weeks, with the first publication being before the 14th day before the date the governing body of the municipality proposes to adopt an ordinance authorizing the issuance of the bonds; and

(2) state the maximum:

(A) amount of bonds to be issued;

(B) interest rate of the bonds; and

(C) maturity of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.206. PETITION; ELECTION. (a) If, before the date the governing body of the municipality proposes to adopt the ordinance authorizing the issuance of the bonds, a petition is filed with the secretary or clerk of the municipality requesting an election on the issuance of the bonds that is signed by at least 10

percent of the registered voters of the municipality, the municipality may not issue the bonds unless a proposition for the issuance of the bonds is approved by a majority of the qualified voters of the municipality voting at an election held for that purpose.

(b) The governing body shall hold the election in the manner provided by Chapter 1251.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.207. SALE OF DISTRICT PROPERTY. A district may sell to a municipality, and the municipality may buy, district property only if the purchase price paid, when added to other applicable money of the district, is sufficient to provide for the payment of:

(1) all outstanding district bonds, including interest on the bonds to:

(A) the maturity dates of the bonds; or

(B) the dates the district sets for redemption of the bonds;

(2) any required redemption premium; and

(3) any applicable fee of the bank of payment.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.208. INTEREST AND SINKING FUND OF DISTRICT. (a) The interest and sinking fund of a district must be permanently maintained in the bank where bonds of the district are payable.

(b) A district to which money is paid under Section 1501.207 shall promptly deposit that money, as well as other applicable money and investments of the district, to the credit of the interest and sinking fund of the district.

(c) A bank of payment that receives a deposit of money or an investment shall hold that money or investment in trust for the benefit of the holders of outstanding bonds of the district.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.209. INVESTMENT OF MONEY IN INTEREST AND SINKING

FUND. (a) The district's interest and sinking fund must be:

(1) immediately invested in direct obligations of the United States;

(2) deposited in a bank or savings and loan association, to the extent that the deposit is insured by an agency of the United States; or

(3) placed in a combination of investments described by Subdivision (1) and deposits described by Subdivision (2).

(b) An investment of the district's interest and sinking fund must mature and produce income, without reinvestment, at times and in amounts sufficient to pay:

(1) the principal of the district's bonds as it becomes due;

(2) interest on the district's bonds as it becomes due;

(3) any redemption premium on the redemption date; and

(4) any applicable fee of the bank of payment.

(c) The district shall apply money that exceeds the amount needed under Subsection (b) to the payment of other debts of the district.

(d) On request of the water board that operates property purchased under this subchapter, the bank in which the interest and sinking fund of the district is maintained shall pay to the water board any money or investment in that fund that exceeds the amount needed under Subsection (b).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.210. PAYMENT OF OUTSTANDING BONDS. After money has been deposited with the bank where the outstanding district bonds are payable, the district or the municipality may pay off any outstanding district bonds if the money and investments that would remain to the credit of the interest and sinking fund are sufficient to provide for the payment of:

(1) all of the remaining outstanding bonds of the district;

(2) the interest on the remaining outstanding bonds of the district to:

(A) the maturity dates of the bonds; or

(B) the date set by the district for redemption of its bonds; and

(3) any required redemption premium.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.211. ORDINANCE SPECIFYING DATE OF PASSAGE OF TITLE; ABOLITION OF DISTRICT. (a) After a municipality pays the purchase money for district property and that money is invested in compliance with Section 1501.209, the governing body of the municipality by ordinance shall specify the date on which title to that property passed or will pass to the municipality. The date specified may be the first day of the fiscal year in which the municipality purchases the district property.

(b) Title to the district property vests in the municipality for all purposes on the date specified in the ordinance.

(c) The governing body of the municipality shall abolish the district by the ordinance required by Subsection (a) or a subsequent ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.212. OPERATION AND MANAGEMENT OF PROPERTIES. After the governing body of a municipality abolishes a district under Section 1501.211, the water board that manages the other water and sewer properties of the municipality:

(1) shall operate and manage the district property purchased under this subchapter; and

(2) may integrate that property into the municipal water and sewer system to any extent.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.213. SEGREGATION OF PROPERTIES. (a) Notwithstanding Section 1501.212(2), the payment or security of the district's outstanding bonds may not be impaired.

(b) If money is not available at the bank of payment for the district's bonds to pay the principal of or the interest on the bonds as it becomes due, the water board shall segregate from the municipal water and sewer system all district property purchased under this

subchapter, including any replacement, renewal, or improvements of that property.

(c) The segregation of property must be accomplished so that the district property:

(1) is a complete and operating system; and

(2) serves substantially the same area as the district property served when title to the property vested in the municipality.

(d) After segregation, the water board:

(1) shall maintain and operate the district system separately;

(2) shall comply with the resolutions authorizing the district's outstanding bonds; and

(3) has each power, duty, and obligation previously held by the district's board of directors regarding the:

(A) maintenance and operation of the system;

(B) handling of the district's funds; and

(C) payment of the district's outstanding bonds.

(e) For purposes of Subsection (d), the water board is a body corporate and occupies the same position as the district's board of directors.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER F. ALTERNATIVE WATER SUPPLY FINANCING PROCEDURE FOR MUNICIPALITIES WITH POPULATION OF MORE THAN 275,000

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 766, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 1501.251. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality:

(1) that has a population of more than 275,000;

(2) in which a majority of the qualified voters voting in an election have voted to authorize the municipality to contract with a river authority created under Section 59, Article XVI, Texas Constitution, to acquire a water supply project from that authority; and

(3) that holds a permit issued by the Texas Natural Resource Conservation Commission for the municipality to use the

water supply.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.252. ALTERNATIVE FINANCING PROCEDURE. (a) This subchapter does not affect the right of a municipality or a river authority to finance all of the cost of a water supply project, or any part of the cost of the project that is not payable by the municipality, by revenue bonds issued by the river authority and based on the contract described by Section 1501.251(2).

(b) The municipality and river authority may amend the contract described by Section 1501.251(2) to implement the financing procedure provided by this subchapter, including amending the contract to:

(1) define the extent of the municipality's rights in the water supply project;

(2) prescribe arrangements for auditing the funds and accounts used in the construction program; and

(3) provide procedures under which the municipality will make available to the river authority proceeds from revenue bonds issued under this subchapter, as necessary to pay construction costs, including:

(A) the cost of the municipality's intake structures and pumping and filtration equipment; and

(B) the portion of costs that, under the contract, the river authority is not required to pay by the proceeds of the authority's revenue bonds.

(c) The municipality may:

(1) issue its revenue bonds, payable from the revenues of the municipality's:

(A) waterworks system; or

(B) waterworks and sanitary sewer system, if the systems are combined in the municipality; and

(2) use the proceeds of the bonds as provided by this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.253. WATER SUPPLY PROJECT OWNERSHIP AND RESPONSIBILITIES. (a) The water supply project of the river

authority may consist of:

(1) a dam;

(2) a reservoir;

(3) related outlet facilities; and

(4) land, easements, or flowage rights.

(b) The river authority shall construct and operate the water supply project.

(c) The river authority shall own the property and each facility of the water supply project except for any part of the water supply project property that the municipality owns under the contract between the municipality and the river authority.

(d) Except for the water supply project and any facility the contract between the municipality and the river authority specifies, the municipality shall own, construct, and operate any other facility needed to deliver to the municipality treated water from the water supply project, including:

(1) the intake structure;

(2) pumping stations, pipelines, and equipment;

(3) treatment and filtration plants;

(4) all intermediate and terminal reservoirs, including intermediate reservoirs used to store water from the water supply project; and

(5) pumping and pipeline facilities to convey water to and from intermediate reservoirs.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.254. ORDINANCE AUTHORIZING AND ISSUANCE OF BONDS. (a) When the designs, plans, and specifications of the water supply project of the river authority are complete to the extent that they have been approved by the governing bodies of the authority and the municipality, the governing body of the municipality by ordinance may authorize the issuance of revenue bonds in the amount estimated to be sufficient to pay:

(1) the entire cost of the water supply project to be incurred by the river authority, including interest during construction; or

(2) the portion of the cost of the water supply project the municipality has contracted to pay.

(b) The governing body of the municipality may issue the bonds in an amount sufficient to pay:

(1) the cost of providing the facilities described by Section 1501.253(d), including any land, easement, or right-of-way needed for a facility; and

(2) interest during construction.

(c) The ordinance may reserve the right, and specify the conditions under which the right may be exercised, to issue additional revenue bonds on a parity with or subordinate to the original bonds.

(d) The ordinance must provide that all deposits to the credit of the interest and sinking fund, the reserve fund, or another fund must be made from the revenue from the waterworks system of the municipality, or the waterworks and sanitary sewer system of the municipality if those systems are combined.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.255. NOTICE OF INTENTION TO ISSUE BONDS. (a) The governing body of the municipality may not adopt an ordinance authorizing the issuance of bonds under this subchapter until the governing body gives notice of the time it proposes to adopt the ordinance.

(b) The notice must be published in at least two issues of a newspaper of general circulation in the municipality, with the first publication being not less than 14 days before the date the governing body proposes to adopt the ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.022, eff. Sept. 1, 2001.

Sec. 1501.256. PETITION; ELECTION. (a) If, before the governing body of the municipality is scheduled to adopt the ordinance authorizing the bonds, a petition is filed with the secretary of the municipality requesting an election on the issuance of the bonds that is signed by at least 10 percent of the registered voters who are resident owners of taxable property in the municipality, the municipality may not issue the bonds unless a

proposition for the issuance of the bonds is approved by a majority of the qualified voters of the municipality voting at an election held for that purpose.

(b) The governing body may hold an election on the issuance of the bonds regardless of whether a petition is filed.

(c) The governing body shall hold the election in the manner provided by Chapter 1251.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.257. MATURITY. Bonds issued under this subchapter must mature within 40 years, as provided by the ordinance authorizing the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.258. SIGNATURES. A bond issued under this subchapter must be signed by:

(1) the mayor; and

(2) another designated officer of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.259. SALE OF BONDS. A municipality may sell bonds issued under this subchapter under terms the governing body of the municipality determines to be the most advantageous and reasonably obtainable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.260. INTERIM BONDS. Pending the issuance of definitive bonds under this subchapter, the municipality may authorize the delivery of negotiable interim bonds exchangeable for definitive bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.261. RATES, TOLLS, AND CHARGES. After bonds are issued under this subchapter, the governing body of the municipality shall establish the rates, tolls, and charges for service provided by the municipality's waterworks system, or combined waterworks and sanitary sewer system if appropriate, in amounts sufficient to:

(1) pay the cost of operating and maintaining the system;

(2) pay when due the principal of and interest on the bonds; and

(3) establish and maintain the reserve fund and other funds prescribed by the ordinance authorizing the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.262. DEPOSIT AND USE OF BOND PROCEEDS. (a) The governing body of the municipality:

(1) shall provide for the deposit of money to the credit of the interest and sinking fund, the reserve fund, and other funds as prescribed by the ordinance authorizing the bonds; and

(2) may provide for all or part of the bond proceeds to be deposited to the credit of those funds as necessary to pay interest during construction and for an additional period not to exceed two years.

(b) The municipality shall deposit the bond proceeds to the credit of a fund to be used solely to pay:

(1) the cost of issuing and selling the bonds;

(2) the construction cost of any part of the water supply project that the contract between the municipality and the river authority obligates the municipality to provide; and

(3) the construction cost of any part of the facilities to be constructed, owned, and operated by the municipality as provided by Section 1501.253.

(c) Before the use of the bond proceeds for construction or during the period of construction, the municipality may:

(1) invest the proceeds in bonds or other direct obligations of the United States; and

(2) sell the investments as directed by the governing body for construction purposes when necessary.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.263. REFUNDING BONDS. (a) A municipality may issue refunding bonds to refund outstanding bonds issued under this subchapter and interest on the outstanding bonds. The municipality may issue refunding bonds without holding an election to approve the issuance.

(b) The municipality may provide additional security for the refunding bonds.

(c) The comptroller shall register the refunding bonds on the surrender and cancellation of the bonds to be refunded.

(d) In lieu of issuing bonds to be registered on the surrender and cancellation of the bonds to be refunded, the municipality, in the ordinance authorizing the issuance of the refunding bonds, may provide for the sale of the refunding bonds and the deposit of the proceeds in a bank at which the bonds to be refunded are payable. In that case, the refunding bonds may be issued in an amount sufficient to pay the interest on the bonds to be refunded to their maturity date or redemption date and the amount of any call premium, and the comptroller shall register the refunding bonds without the surrender and cancellation of the bonds to be refunded.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1501.264. CONFLICT WITH OTHER LAW. To the extent of a conflict or inconsistency between this subchapter and another law or a special or home-rule charter, this subchapter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1502. PUBLIC SECURITIES FOR MUNICIPAL UTILITIES, PARKS, OR POOLS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1502.001. DEFINITIONS. In this chapter:

(1) "Combined system" means any combination of one or more of the following:

(A) an electric system;

(B) a water system;

(C) a sewer system;

(D) a solid waste disposal system;

(E) a drainage utility system; and

(F) a natural gas system.

(2) "Public security" has the meaning assigned by Section 1201.002.

(3) "Utility system" means an electric, water, sewer, solid waste disposal, drainage utility, or natural gas system. The term includes one or more combined systems.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.002. GENERAL AUTHORITY FOR UTILITY SYSTEMS, PARKS, AND POOLS. (a) A municipality may acquire, purchase, construct, improve, enlarge, equip, operate, or maintain any property, including channels or bodies of water known as resacas, interests in property, buildings, structures, activities, services, operations, or other facilities, with respect to:

(1) a utility system;

(2) a park; or

(3) a swimming pool.

(b) The governing body of a municipality may authorize the execution and delivery of contracts between the municipality and any person to accomplish any purpose described by Subsection (a).

Added by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 341 (H.B. 2105), Sec. 1, eff. June 14, 2013.

Sec. 1502.003. CREATION AND MAINTENANCE OF COMBINED SYSTEM. Notwithstanding any law or municipal charter provision to the contrary, the governing body of a municipality may create and maintain one or more combined systems on a finding by the governing body that it is in the best interests of the municipality to create and maintain the combined system. A finding by a governing body under this section is conclusive and incontestable.

Added by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.004. CONFLICT WITH MUNICIPAL CHARTER. To the extent of a conflict between this chapter and a municipal charter, this chapter controls.

Added by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

SUBCHAPTER B. PUBLIC SECURITIES FOR UTILITY SYSTEMS, PARKS, OR POOLS

Sec. 1502.051. AUTHORITY TO ISSUE PUBLIC SECURITIES. (a) The governing body of a municipality may provide funds to acquire, purchase, construct, improve, renovate, enlarge, or equip property, buildings, structures, facilities, or related infrastructure for:

(1) a utility system;

(2) a park; or

(3) a swimming pool.

(b) In connection with exercising the authority to provide funds for the purposes described by Subsection (a)(1), the governing body of a municipality may provide funds to acquire, purchase, or otherwise obtain any interest in property, including additional water or riparian rights.

(c) The governing body of a municipality may issue public securities and incur obligations under contracts in accordance with this chapter for any purpose authorized by law in connection with providing funds for a purpose described by Subsection (a) or (b).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.052. PLEDGE OF REVENUE. (a) The governing body of a municipality may pledge to the payment of any public securities issued or any obligations incurred under Section 1502.051(c) all or any part of the revenue of:

(1) a utility system;

(2) a park; or

(3) a swimming pool.

(b) The governing body of a municipality may grant a lien on the revenue pledged under Subsection (a). The lien has the priority determined by the governing body, subject to the provisions of Section 1502.056.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 1502.054 and amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.053. GRANT OF FRANCHISE. As additional security for public securities issued or obligations incurred under this chapter, the municipality by the terms of the encumbrance may grant a purchaser under sale or foreclosure a franchise to operate the encumbered utility system, park, or pool for a term not to exceed 20 years from the date of purchase, subject to all laws regulating the operation of the utility system, park, or pool in force at the time of the sale or foreclosure.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 1502.055 and amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.054. OBLIGATIONS NOT PAYABLE FROM TAXES. (a) A public security issued or an obligation incurred under this chapter:

(1) is not a debt of the municipality;

(2) may be a charge only on the encumbered utility system, park, or pool; and

(3) may not be included in determining the municipality's power to issue public securities for any purpose authorized by law.

(b) Each public security or other evidence of indebtedness issued or included under this chapter must contain the following provision: "The holder of this obligation is not entitled to demand payment of this obligation out of any money raised by taxation."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 1502.056 and amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.055. ELECTION. (a) Unless authorized by a majority vote of the qualified voters of the municipality, a municipality may not sell a utility system, park, or pool.

(b) The governing body of the municipality shall hold an election under this section in the manner provided for bond elections

in the municipality.

(c) This section does not apply to the sale of an unencumbered natural gas system owned by a municipality with a population of more than 100,000.

(d) Notwithstanding Subsection (a) or other law, a municipality is not required to hold an election to authorize the sale of a municipal retail water or sewer utility system if the Texas Commission on Environmental Quality has issued a notice of violation to the utility system and the governing body of the municipality finds by official action that the municipality is either financially or technically unable to restore the system to compliance with the applicable law or regulations.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 1502.057 and amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 769, Sec. 12, eff. Sept. 1, 2001.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 932 (H.B. 3717), Sec. 1, eff. September 1, 2021.

Sec. 1502.056. OPERATING EXPENSES AS FIRST LIEN. (a) If the revenue of a utility system, park, or swimming pool secures the payment of public securities issued or obligations incurred under this chapter, each expense of operation and maintenance, including all salaries, labor, materials, interest, repairs and extensions necessary to provide efficient service, and each proper item of expense, is a first lien against that revenue. For a municipality with a population of more than one million but less than two million, the first lien against the revenue of a municipally owned utility system that secures the payment of public securities issued or obligations incurred under this chapter also applies to funding, as a necessary operations expense, for a bill payment assistance program for utility system customers who:

(1) have been determined by the municipality to be low-income customers; or

(2) are military veterans who have significantly decreased abilities to regulate their bodies' core temperatures because of severe burns received in combat.

(b) An expense for a repair or extension is a first lien only if, in the judgment of the governing body of the municipality, the repair or extension is necessary to:

(1) keep the plant or utility system in operation and provide adequate service to the municipality and its residents; or

(2) respond to a physical accident or condition that would otherwise impair the original securities.

(c) A contract between a municipality and an issuer, as defined by Section 1201.002, under which the municipality obtains from the issuer or the issuer provides part or all of the facilities or services of a utility system to the municipality may provide that payments made by the municipality from the revenue of the utility system are an operating expense of the municipality's utility system.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 1502.058 and amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 166 (S.B. 1430), Sec. 1, eff. May 22, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 429 (S.B. 1002), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1003 (H.B. 2207), Sec. 1(a), eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 25 (S.B. 758), Sec. 1, eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1991, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 1502.057. CHARGES FOR SERVICES. (a) A municipality shall impose and collect charges for services provided by a utility system in amounts at least sufficient to pay:

(1) all operating, maintenance, depreciation, replacement, improvement, and interest charges in connection with the utility system;

(2) for an interest and sinking fund sufficient to pay any public securities issued or obligations incurred for any purpose described by Section 1502.002 relating to the utility system; and

(3) any outstanding debt against the system.

(b) The rates charged for services provided by a utility system must be equal and uniform. A municipality may not allow any free service except for:

(1) municipal public schools; or

(2) buildings and institutions operated by the municipality.

(c) The board of trustees having management and control of a utility system located in a county contiguous to the Gulf of Mexico and bordering the United Mexican States may impose and collect the charges authorized under this section for services provided by the utility system.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 1502.059 and amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 341 (H.B. 2105), Sec. 2, eff. June 14, 2013.

Sec. 1502.058. LIMITATION ON USE OF REVENUE. (a) Except as provided by Subsection (b) or (c), by Section 1502.059, or by Section 271.052, Local Government Code, a municipality may not use the revenue of a utility system, park, or swimming pool to pay any other debt, expense, or obligation of the municipality until the debt secured by the revenue is finally paid.

(b) This section does not apply to a payment made in lieu of ad valorem taxes previously paid by a private owner of a utility system.

(c) This section does not apply to a payment made from surplus revenue of a utility system, park, or swimming pool, as provided by the proceedings authorizing the issuance of public securities under this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 1502.060 and amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.059. TRANSFER OF REVENUE TO GENERAL FUND. Notwithstanding Section 1502.058(a) or a similar law or municipal

charter provision, a municipality and its officers and utility trustees may transfer to the municipality's general fund and may use for general or special purposes revenue of any municipally owned utility system in the amount and to the extent authorized in the indenture, deed of trust, or ordinance providing for and securing payment of public securities issued under this chapter or similar law.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 1502.061 and amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.060. USE AND INVESTMENT OF PROCEEDS. (a) To the extent provided by the proceedings authorizing the issuance of the public securities issued under this chapter, a municipality may:

(1) use proceeds from the sale of public securities issued to provide funds for a utility system under this chapter for any purpose authorized by Section 1502.051(a)(1) or (b);

(2) use proceeds from the sale of public securities issued to provide funds for a park under this chapter for any purpose authorized by Section 1502.051(a)(2); or

(3) use proceeds from the sale of public securities to provide funds for a swimming pool under this chapter for any purpose authorized by Section 1502.051(a)(3).

(b) A municipality may use proceeds from the sale of public securities issued under this chapter to pay interest on the public securities during the period of the acquisition or construction of any facilities to be provided through the issuance of the public securities, and for one year after completion of the acquisition or construction of the facilities.

(c) A municipality may use proceeds from the sale of public securities issued under this chapter to:

(1) provide a reserve for the payment of debt service on the public securities;

(2) provide a reserve for extraordinary repairs and replacements; or

(3) obtain a credit agreement as provided by Section 1502.064.

(d) A municipality may invest proceeds from the sale of public

securities issued under this chapter to the extent and in the manner provided in the proceedings authorizing the issuance of the public securities.

Added by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.061. ADDITIONAL OBLIGATIONS TO IMPROVE OR EXTEND UTILITY SYSTEM. (a) A municipality that has outstanding public securities secured by the net revenue of a utility system may issue additional public securities or incur other obligations for a purpose described by Section 1502.051(a)(1) or (b).

(b) Except as provided by Subsection (c), public securities issued under Subsection (a) constitute a lien on the revenue of the affected system:

(1) in the order of issuance; and

(2) inferior to a lien securing payment of outstanding public securities, as determined by the governing body of the municipality.

(c) A municipality may issue additional public securities under this section on a parity and of equal dignity with the outstanding public securities if the ordinance, deed of trust, or indenture of trust authorizing or securing the outstanding public securities provides for the subsequent issuance of additional parity public securities, subject to that ordinance, deed of trust, or indenture of trust.

(d) To the extent of a conflict or inconsistency between this section and another law, this section controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 1502.064 and amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.062. MATURITY. A public security issued under this chapter must mature not later than 50 years after its date.

Added by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.063. ADDITIONAL AUTHORITY OF MUNICIPALITY WITH A

POPULATION OF 50,000 OR MORE. Notwithstanding any other provision of this chapter, in connection with the issuance of public securities under this chapter, the governing body of a municipality with a population of 50,000 or more may exercise any authority granted to a governing body under Chapter 1371 in connection with the issuance of obligations under that chapter.

Added by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.064. CREDIT AGREEMENT FOR RESERVE FUND. (a) The governing body of a municipality may provide that in lieu of or in addition to providing a cash reserve, a credit agreement, as defined by Section 1371.001, may be used to provide the reserve.

(b) A credit agreement obtained to provide a reserve must be submitted to the attorney general for examination and approval. After approval by the attorney general, the credit agreement is incontestable in any court or other forum for any reason and is a valid and binding obligation of the municipality in accordance with its terms for all purposes.

Added by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.065. REFUNDING BONDS. A municipality may issue public securities in the manner provided by applicable law to refund or otherwise refinance any obligation incurred under this chapter to which revenue has been pledged.

Added by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.066. RECORDS. The mayor of the municipality shall establish and maintain a complete system of records for a utility system, park, or swimming pool the revenue of which is encumbered under this chapter that:

(1) shows any free service provided and the value of the free service; and

(2) shows separately the amounts spent and the amounts set aside for operation, salaries, labor, materials, repairs, maintenance, depreciation, replacements, extensions, interest, and

the creation of a sinking fund to pay the public securities and debt.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff Sept. 1, 1999. Renumbered from Government Code Sec. 1502.067 and amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.067. RECORDS: NONCASH BASIS. (a) A municipality may maintain its records on facilities under this chapter or any other municipal records on a basis other than a cash basis to the extent permitted or required under generally accepted accounting principles for a governmental entity.

(b) A change in accounting methods does not affect the terms of an existing contract with respect to the power to issue additional obligations payable from the facilities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 1502.068 and amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.068. ANNUAL REPORT. (a) Annually, on the date determined by the governing body of the municipality, the superintendent or manager of a utility system, park, or pool or another person designated by the governing body shall file with the mayor and governing body of the municipality a detailed report of the operation of the system, park, or pool for the preceding 12-month period specified by the governing body.

(b) The report must show the total amount of money collected and the balance due, and the total disbursements made and the amounts remaining unpaid, resulting from the operation of the utility system, park, or pool during that year.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 1502.069 and amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.069. OFFENSES; PENALTY. (a) A mayor commits an offense if the mayor fails to:

(1) establish the system of records required by Section

1502.066 before the 91st day after the date the utility system, park, or pool is completed; or

(2) maintain the system of records required by Section 1502.066.

(b) The person responsible for filing a report required by Section 1502.068 commits an offense if the person fails to timely file the report.

(c) An offense under this section is a misdemeanor punishable by a fine of not less than $100 or more than $1,000.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 1502.070 and amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.070. MANAGEMENT AND CONTROL OF UTILITY SYSTEM. (a) Management and control of a utility system may be vested in:

(1) the municipality's governing body; or

(2) a board of trustees named in the proceedings adopted by the municipality and consisting of not more than:

(A) five members, one of whom must be the mayor of the municipality;

(B) seven members, one of whom must be the mayor of the municipality, if the municipality is located in a county that:

(i) contains a municipality with a population of at least 500,000; and

(ii) is located on an international border; or

(C) seven members, one of whom must be the mayor of the municipality, if the municipality is located in a county:

(i) with a population of at least 375,000;

(ii) that is located on an international border; and

(iii) that borders the Gulf of Mexico.

(b) The compensation of the trustees shall be specified by the proceedings. The compensation may not exceed five percent of the gross receipts of the utility system in any year.

(c) The proceedings of the municipality may specify the terms of office of the board of trustees, their powers and duties, the manner of exercising those powers and duties, the election of successor trustees, and any matter relating to the organization and

duties of the board. On any matter not covered by the proceedings, the board of trustees is governed by the laws and rules governing the municipality's governing body, to the extent applicable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 1502.071 and amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 124 (H.B. 4004), Sec. 1, eff. May 23, 2009.
Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 30, eff. September 1, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 98 (S.B. 795), Sec. 1, eff. May 18, 2013.
Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 57, eff. September 1, 2023.

Sec. 1502.071. RULES. (a) The governing body or board of trustees having management and control of a utility system may adopt rules to:
(1) govern the provision of and payment for service; and
(2) provide for the discontinuance of service for failure to pay when due until payment is made.
(b) The governing body may provide penalties for:
(1) the violation of a rule adopted under this section;
(2) the use of service without the consent or knowledge of the authorities in charge; or
(3) any interference with, trespass on, or injury to a system or appliance or the premises on which the system or appliance is located.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 1502.072 and amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.072. TRUSTEE. The proceedings adopted by the governing body of a municipality may provide for:
(1) the selection of a trustee to sell the encumbered facility on default in the payment of principal or interest under the

contract;

(2) the selection of a successor trustee if the original trustee is disqualified or fails to act; and

(3) the collection by the trustee of a fee of not more than five percent of the principal.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Renumbered from Sec. 1502.073 and amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.073. NOTICE TO GOVERNING BODY BEFORE FORECLOSURE OR OTHER ACTION. (a) Unless written notice is given to the governing body of the municipality and to any board of trustees in accordance with this section that there is a default in payment of any installment of principal of or interest on an obligation issued under this subchapter and that payment has been demanded:

(1) a collection fee may not accrue;

(2) a foreclosure proceeding may not be begun in a court or through a trustee; and

(3) an option to mature any part of the obligation because of the default may not be exercised.

(b) A notice under Subsection (a) must be sent by prepaid registered mail to each member of the governing body and each member of any board of trustees, addressed to the member at the post office in the municipality.

(c) An action described by Subsection (a) may not be taken before the 91st day after the date the notice is mailed.

(d) A payment of a delinquent installment of principal and interest that is paid before the expiration of the period prescribed by Subsection (c) and that is accompanied by a payment of interest as prescribed in the contract, at a rate not to exceed 10 percent per year, from the date of default until the date of payment, has the same effect as if paid on the date the installment was originally due.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 1502.074 by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

Sec. 1502.074. CIVIL ENFORCEMENT. A person who resides in a municipality and is a taxpayer or holder of a public security issued or an obligation incurred under this chapter and secured by the revenue of the municipality's utility system, park, or swimming pool as provided by this chapter is entitled to enforce this chapter by appropriate civil action in a district court in the county in which the municipality is located.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Renumbered from Government Code Sec. 1502.076 and amended by Acts 1999, 76th Leg., ch. 1064, Sec. 22, eff. Sept. 1, 1999.

CHAPTER 1503. OBLIGATIONS FOR MUNICIPAL AIRPORTS

SUBCHAPTER A. REVENUE BONDS FOR AIRPORTS

Sec. 1503.001. AUTHORITY TO ISSUE REVENUE BONDS. (a) A municipality by ordinance may issue revenue bonds to:

(1) establish, improve, enlarge, extend, or repair:

(A) an airport of the municipality; or

(B) a building, improvement, landing field, or other facility or service the municipality considers necessary, desirable, or convenient for the efficient operation and maintenance of an airport; or

(2) acquire land for an airport.

(b) The municipality shall issue the bonds in the manner provided by Subchapter C.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.002. BONDS PAYABLE FROM REVENUE. Bonds issued under this subchapter must be payable from all or a designated part of the revenue from the airport for which the bonds are issued, as provided in the ordinance authorizing the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.003. PLEDGE OF TAX FOR OPERATION AND MAINTENANCE EXPENSES; PROCEEDS. (a) In addition to or instead of the pledge of revenue and income of the airport authorized by Subchapter C, a

municipality may impose and pledge to the payment of the operation and maintenance expenses of the airport a continuing annual ad valorem tax at a rate sufficient for that purpose, as provided in the ordinance authorizing the issuance of bonds under this subchapter.

(b) A tax under this section:

(1) must be imposed at a rate within any limit contained in the municipal charter; and

(2) may not be used for the payment of the principal of or interest on the bonds.

(c) The proceeds of a tax pledged under this section shall be used annually, to the extent required by or provided in the ordinance authorizing the bonds, for the operation and maintenance of the airport.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.004. CONTENTS OF ORDINANCE AUTHORIZING BONDS. (a) The ordinance authorizing the issuance of bonds under this subchapter may:

(1) provide for the flow of funds and the establishment and maintenance of an interest and sinking fund, reserve fund, or other fund;

(2) make additional covenants relating to the bonds and pledged revenue and the operation and maintenance of the improvement or facility the revenue of which is pledged, including providing for the operation or lease of all or part of the improvement or facility and the use or pledge of money derived from operation contracts and leases; or

(3) provide that the municipality will pay all or certain costs of operating and maintaining the airport from the proceeds of a tax imposed under Section 1503.003.

(b) The ordinance may:

(1) prohibit the further issuance of additional bonds or other obligations payable from the pledged revenue; or

(2) reserve the right to issue additional bonds secured by a pledge of and payable from the revenue on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to any condition provided by the ordinance.

(c) The ordinance may contain other provisions and covenants.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.005. ADOPTION AND EXECUTION OF DOCUMENTS. A municipality may adopt or have executed any other proceeding or instrument necessary or convenient for the issuance of bonds under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.006. MATURITY. A bond issued under this subchapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.007. SIGNATURES. A bond issued under this subchapter must be signed by the mayor of the municipality and countersigned by the secretary or clerk of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.008. SALE OF BONDS. A municipality may sell bonds issued under this subchapter under the terms determined by the governing body of the municipality to be the most advantageous and reasonably obtainable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.009. INVESTMENT OF BOND PROCEEDS AND FUNDS. (a) The bond proceeds, until they are needed for the purpose for which the bonds were issued, may be invested in direct obligations of the United States, placed on time deposit, or both.

(b) Money in an interest and sinking fund, reserve fund, or any other fund established or provided for in the ordinance authorizing the bonds may be invested in the manner and in the securities as provided in that ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.010. REFUNDING BONDS. (a) A municipality by ordinance may issue revenue refunding bonds to refund original bonds or refunding bonds issued under this subchapter or Subchapter C.

(b) The comptroller shall register the refunding bonds on the surrender and cancellation of the bonds to be refunded.

(c) In lieu of issuing bonds to be registered on the surrender and cancellation of the bonds to be refunded, the municipality, in the ordinance authorizing the issuance of the refunding bonds, may provide for the sale of the refunding bonds and the deposit of the proceeds at a place at which the bonds to be refunded are payable. In that case, the refunding bonds may be issued in an amount sufficient to pay the interest on the bonds to be refunded to their maturity date or option date, and the comptroller shall register the refunding bonds without the surrender and cancellation of the bonds to be refunded.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.011. APPLICABILITY OF OTHER LAW. Except to the extent of a conflict or inconsistency with this subchapter, Subchapter C applies to bonds issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. BONDS AND WARRANTS FOR AIRPORTS IN MUNICIPALITIES WITH POPULATION OF MORE THAN 40,000

Sec. 1503.051. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality with a population of more than 40,000.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.052. DEFINITION. In this subchapter, "airport" includes all land and any building or other improvement necessary or convenient to establish or operate an airport, including land or an improvement necessary to:

(1) assemble or manufacture aircraft for military use or another governmental purpose; or

(2) provide housing or office space for employees necessary or incidental to such purposes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.053. AUTHORITY TO ISSUE BONDS AND WARRANTS. (a) A municipality may borrow money and may issue bonds and warrants to finance all or part of the cost of acquiring, constructing, improving, enlarging, extending, or repairing an airport.

(b) Warrants may be authorized under this subchapter by ordinance. A majority of all of the members of the governing body of the municipality, at the meeting at which the ordinance is introduced, may adopt the ordinance. The ordinance takes effect immediately.

(c) A municipality that issues warrants under this subchapter must comply with the provisions of Chapter 252, Local Government Code, relating to bidders, notice of intention to issue the warrants, and the right to a referendum. Except as provided by that chapter, an election is not necessary to authorize the issuance of warrants under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.054. PLEDGE OF REVENUE. In addition to taxes, a municipality may pledge to the timely payment of the principal of and interest on warrants issued under this subchapter all or part of the receipts derived from the operation of the airport, including income, rent, revenue, and tolls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.055. MATURITY. Warrants issued under this subchapter must mature annually in such amounts so that the aggregate amount of principal and interest due in each year is substantially equal over a period not to exceed 30 years after their date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.056. LIMIT ON AMOUNT OF WARRANTS. A municipality may not issue warrants under this Subchapter in an aggregate amount in excess of $125,000.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.057. SALE OF WARRANTS. A municipality may sell warrants issued under this subchapter at a public or private sale.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.058. ACTION TO COLLECT WARRANTS; EVIDENCE. In any action brought to enforce the collection of warrants issued under this subchapter that have been approved by the attorney general and registered by the comptroller, the certificate of the attorney general or a certified copy of the certificate shall be admitted as evidence of the validity of the warrants and the coupons attached to the warrants.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.059. AUTHORITY TO IMPOSE TAX. (a) A municipality that issues warrants under this subchapter shall annually impose a tax in an amount sufficient to pay when due the principal of and interest on the warrants. The tax shall be imposed and paid in the same manner as other taxes of the municipality.

(b) If the warrants are additionally secured by a pledge of the receipts derived from the operation of the airport for which the warrants are issued, the municipality may reduce the tax imposed under this section by the amount of money available that is pledged to the payment of the principal of and interest on the warrants.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.060. CHARGES FOR SERVICE OR FACILITY. (a) The governing body of a municipality that issues warrants under this subchapter shall prescribe by ordinance and collect a reasonable rate, rent, or other charge for the service or facility furnished by the airport for which the warrants are issued.

(b) The charges under Subsection (a) must be in an amount that will produce revenue sufficient to:

(1) pay when due the principal of and interest on all warrants for which the revenue has been pledged, including reserves; and

(2) provide for all expenses of operation and maintenance of the airport for which the warrants were issued, including reserves.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.061. INCONSISTENCY WITH OTHER LAW OR MUNICIPAL CHARTER. To the extent of an inconsistency between this subchapter and another law or a municipal charter, this subchapter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. REVENUE BONDS FOR AIRPORTS IN MUNICIPALITIES WITH POPULATION OF MORE THAN 70,000

Sec. 1503.101. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality with a population of more than 70,000.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.102. AUTHORITY TO ISSUE REVENUE BONDS. (a) In this section, "improvement" includes the construction or enlargement of a hangar or a related building for use by a tenant or concessionaire of an airport, including a person, firm, or corporation who furnishes repairs or other services to air carriers.

(b) The governing body of a municipality by ordinance may issue revenue bonds for improving, enlarging, extending, or repairing its airport.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.103. PLEDGE OF REVENUE. (a) Bonds issued under this subchapter must be secured by a pledge of all or a designated part of the revenue from the operation of the airport for which the bonds are issued, including rents for any hangar or building, as prescribed in the ordinance authorizing the bonds.

(b) To the extent that the revenue from the airport is pledged for the payment of outstanding revenue bonds, the pledge securing the bonds is inferior to the previous pledge.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.104. LIEN ON AIRPORT. Subject to a limitation contained in a previous pledge, if any, and in addition to the pledge of revenue under Section 1503.103, the governing body of the municipality may give a lien on all or part of the physical property of the airport.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.105. BONDS NOT PAYABLE FROM TAXES. A municipality may not use proceeds of a tax to pay the principal of or interest on:

(1) bonds issued under this subchapter; or

(2) bonds issued to refund bonds issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.106. MATURITY. A bond issued under this subchapter must mature not later than 30 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.107. CHARGES FOR SERVICES; RESERVES. If the governing body of a municipality pledges the revenue of a property or

facility of an airport to the payment of bonds issued under this subchapter, the governing body shall impose and collect a charge for services rendered in connection with the use of the property or facility in an amount at least sufficient to:

(1) provide for the maintenance and operation expenses of the property or facility;

(2) pay the principal of and interest on the bonds as required by the ordinance authorizing the bonds; and

(3) provide any reserve fund required by the ordinance authorizing the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.108. REFUNDING BONDS. A municipality may issue refunding bonds to be exchanged for or to provide money to redeem bonds issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.109. PLEDGE AND USE OF PROCEEDS OF TAX BY MUNICIPALITIES WITH POPULATION OF 125,000 OR MORE. (a) This section applies only to a home-rule municipality that:

(1) has a population of 125,000 or more; and

(2) operates for airport purposes real property that is owned, leased, or controlled by the municipality.

(b) A municipality that issues bonds under this subchapter or that issues bonds to refund bonds issued under this subchapter may impose and pledge to the payment of the operation and maintenance expenses of the airport all or part of the proceeds of an ad valorem tax authorized by Section 22.051, Transportation Code, to supplement the pledge of revenue for payment of the operation and maintenance expenses and principal of and interest on the bonds.

(c) A municipality shall use annually the proceeds of a tax pledged under Subsection (b) to the extent required by the ordinance authorizing the issuance of the bonds to assure the efficient operation and maintenance of the airport.

(d) In the proceedings authorizing the issuance of bonds, a municipality may covenant that the municipality will pay certain costs of operating and maintaining the airport for which the bonds

were issued, as specified in the proceedings, from the proceeds of the tax prescribed by Subsection (b).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.110. PLEDGE AND USE OF PROCEEDS OF TAX BY MUNICIPALITIES WITH POPULATION OF 200,000 OR MORE. (a) This section applies only to a home-rule municipality that:

(1) has a population of 200,000 or more; and

(2) owns real property acquired for airport purposes that is leased, wholly or partly, to an airport operating company or corporation.

(b) A municipality that issues bonds under this subchapter to acquire improvements constructed by an airport operating company or corporation or to further improve its airport, or that issues bonds to refund bonds issued under this subchapter for those purposes, may impose and pledge to the payment of the operation and maintenance expenses of the airport all or part of the proceeds of an ad valorem tax authorized by Section 22.051, Transportation Code, in the manner provided by Section 1503.109.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. ENCUMBRANCE OF AIRPORTS IN MUNICIPALITIES WITH POPULATION OF MORE THAN 160,000

Sec. 1503.151. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality with a population of more than 160,000.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.152. PLEDGE OF INCOME. A municipality may pledge the income from its airport and anything the municipality acquires relating to the airport to secure the payment of money to:

(1) purchase the airport; or

(2) construct, improve, enlarge, extend, or repair a permanent improvement, including a building, repair shop, or other structure.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.153. ENCUMBRANCE OF AIRPORT. A municipality may encumber its airport and anything the municipality acquires relating to the airport to secure the payment of money to:

(1) purchase the airport; or

(2) construct, improve, enlarge, extend, or repair a permanent improvement, including a building, repair shop, or other structure.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.154. GRANT OF FRANCHISE. As additional security for the encumbrance, a municipality that encumbers an airport under Section 1503.153 may provide in the encumbrance for a grant, to the purchaser under sale or foreclosure, of a franchise to operate the airport and the improvements situated on the airport for a term not to exceed 30 years from the date of the purchase, subject to all laws regulating same then in force.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.023, eff. Sept. 1, 2001.

Sec. 1503.155. OBLIGATION NOT DEBT. An obligation described by Section 1503.152 or 1503.153:

(1) may be a charge only on the property encumbered;

(2) is not a debt of the municipality; and

(3) may not be included in determining the power of the municipality to issue bonds for any purpose authorized by law.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.156. AUTHORITY TO ISSUE NOTES AND WARRANTS WITHOUT ELECTION. (a) A municipality may issue notes or warrants in an amount not to exceed $100,000 for the purposes described by this subchapter without an election.

(b) To the extent of a conflict between this section and a municipal charter, this section controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER E. ADDITIONAL POWERS OF MUNICIPALITIES WITH POPULATION OF 1.9 MILLION OR MORE

Sec. 1503.201. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality with a population of 1.9 million or more.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 27, eff. Sept. 1, 2001.

Sec. 1503.202. COMPETITIVE BIDS AND PAYMENT OR PERFORMANCE BONDS NOT REQUIRED. (a) A municipality that issues revenue bonds to finance the construction or acquisition of a building, improvement, or facility at an airport owned and operated by the municipality may spend all or part of the bond proceeds without inviting, advertising for, or otherwise requiring competitive bids for constructing or acquiring the building, improvement, or facility or requiring or obtaining payment bonds or performance bonds in connection with the construction or acquisition of the building, improvement, or facility if:

(1) the building, improvement, or facility is leased by the municipality to a private entity under a lease agreement under which the lessee is:

(A) obligated to maintain the building, improvement, or facility solely at the lessee's expense; and

(B) unconditionally obligated, for the term of the bonds, to make payments of net rent that are pledged to the payment of the bonds in an amount and at a time that is sufficient to provide for the timely payment of principal, interest, redemption premiums, and other expenses arising in connection with the payment of the bonds; and

(2) the bonds:

(A) provide by their terms that the bonds:

(i) are payable solely from net rent as prescribed

by Subsection (a)(1)(B); and

(ii) may not be repaid under any circumstances from proceeds of a tax; and

(B) do not create or provide for the creation of a lien on real property owned by the municipality.

(b) This subchapter does not affect the obligation of a municipality to obtain competitive bids or require a payment bond or performance bond in connection with a contract for the construction of a building, improvement, or facility if the contract is awarded by the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1503.203. PAYMENT OF PREVAILING WAGE RATES. An expenditure of or agreement to spend bond proceeds covered by this subchapter for the construction of a building, improvement, or facility must be conditioned on the payment of not less than the rate of per diem wages for work of a similar character in the municipality as determined by the governing body of the municipality under Chapter 2258.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1504. OBLIGATIONS FOR MUNICIPAL BUILDINGS

SUBCHAPTER A. REVENUE BONDS FOR CERTAIN FACILITIES

Sec. 1504.001. AUTHORITY FOR CERTAIN FACILITIES. (a) A municipality may establish, acquire, lease as lessee or lessor, construct, improve, enlarge, equip, repair, operate, or maintain a facility such as:

(1) a civic center, auditorium, opera house, music hall, exhibition hall, coliseum, museum, library, or other municipal building;

(2) a golf course, tennis court, or other similar recreational facility;

(3) a hotel owned by a municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, that is located not more than 1,000 feet from a convention center owned by a municipality with a population of 1,500,000 or more;

(4) a historic hotel owned by a municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, that is located not more than one mile from a convention center owned by a municipality with a population of 1,500,000 or more; or

(5) a parking facility at or in the immediate vicinity of a facility described by Subdivisions (1)-(4) for use in connection with that facility for off-street parking or storage of motor vehicles or other conveyances.

(b) An eligible central municipality, as defined by Section 351.001, Tax Code, or a municipality with a population of 173,000 or more that is located within two counties may establish, acquire, lease as lessee or lessor, construct, improve, enlarge, equip, repair, operate, or maintain a hotel, and any facilities ancillary to the hotel, including convention center entertainment-related facilities, restaurants, shops, and parking facilities, that are owned by or located on land owned by the municipality or by a nonprofit corporation acting on behalf of the municipality, and that are located within 1,000 feet of a hotel or a convention center facility owned by the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.024(a), eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 519 (S.B. 1207), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1087 (H.B. 4781), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1220 (S.B. 1247), Sec. 5, eff. September 1, 2009.

Sec. 1504.002. AUTHORITY TO ISSUE REVENUE BONDS. (a) The governing body of a municipality by ordinance may issue revenue bonds to provide all or part of the money to establish, acquire, construct, improve, enlarge, equip, or repair a facility described by Section 1504.001(a).

(b) An eligible central municipality, as defined by Section 351.001, Tax Code, or a municipality with a population of 173,000 or

more that is located within two counties by ordinance may issue bonds or incur other obligations to acquire, lease, construct, or equip a facility described by Section 1504.001(b).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.024(a), eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 519 (S.B. 1207), Sec. 3, eff. September 1, 2009.
Acts 2009, 81st Leg., R.S., Ch. 1087 (H.B. 4781), Sec. 2, eff. June 19, 2009.

Sec. 1504.003. PLEDGE OF REVENUE. (a) Bonds issued under this subchapter must be secured by a pledge of and be payable from all or a designated part of the revenue from the facility for which the bonds are issued or from additional sources made available by the municipality for that purpose, as provided in the ordinance authorizing or approving the issuance of the bonds.

(b) The pledge securing the bonds is inferior to any previous pledge of the revenue for the payment of revenue bonds or revenue refunding bonds that are outstanding.

(c) A municipality that leases as lessee a facility described by Section 1504.001 may pledge all or part of the revenue from the facility to the lease payments the municipality must make.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 264 (H.B. 2032), Sec. 4, eff. May 30, 2009.

Sec. 1504.004. LIEN ON FACILITY. Subject to any limitation contained in any previous pledge, the governing body of the municipality may, in addition to pledging the revenue from a facility, give a lien on all or part of the physical property of the facility acquired with the proceeds of bonds issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.005. BONDS NOT PAYABLE FROM TAXES; EXCEPTION. (a) The owner or holder of a bond issued under this subchapter is not entitled to demand payment of the principal of or interest on the bond from money raised by taxation.

(b) Subsection (a) does not apply to a demand for payment from hotel occupancy taxes that are pledged under Chapter 351, Tax Code, to the payment of the bond.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.006. CONTENTS OF ORDINANCE AUTHORIZING BONDS. (a) The ordinance authorizing the issuance of bonds under this subchapter may provide for the flow of funds and the establishment and maintenance of an interest and sinking fund, reserve fund, or other fund.

(b) The ordinance may:

(1) prohibit the issuance of additional bonds or other obligations payable from the pledged revenue; or

(2) reserve the right to issue additional bonds to be secured by a pledge of and payable from the revenue on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to the conditions prescribed by the ordinance.

(c) The ordinance may contain any other provision or covenant, including a covenant with respect to the bonds, the pledged revenue, or the operation or maintenance of the facility the revenue of which is pledged. The ordinance may provide for the operation or lease of all or part of the facility and the use or pledge of money derived from operation contracts and leases.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.007. ADOPTION AND EXECUTION OF DOCUMENTS. The municipality may adopt and have executed any other proceeding or instrument necessary or convenient to the issuance of bonds under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.008. MATURITY. A bond issued under this subchapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.009. SIGNATURES. A bond issued under this subchapter must be signed by the mayor of the municipality and countersigned by the secretary or clerk of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.010. SALE OF BONDS. A municipality may sell bonds issued under this subchapter under the terms the governing body of the municipality determines to be the most advantageous and reasonably obtainable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.011. INVESTMENT OF BOND PROCEEDS AND FUNDS. (a) The bond proceeds, until they are needed to implement the purpose for which the bonds were issued, may be invested in direct obligations of the United States, placed on time deposit, or both.

(b) Money in an interest and sinking fund, reserve fund, or any other fund established or provided for in the bond ordinance may be invested in the manner and in the securities as provided in the bond ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.012. TERM OF CERTAIN LEASES. In a municipality with a population of one million or more, a lease entered into under Section 1504.001 may have a term not to exceed 60 years if:

(1) the lessee proposes to invest more than $20 million:

(A) to renovate or redevelop an existing civic center building and facilities that are used in connection with and are

located at or in the immediate vicinity of that building; or

(B) to develop a new building or facilities on land administered, operated, or used as a civic center property; and

(2) the governing body of the municipality finds that:

(A) the renovated or redeveloped building and facilities or the new building or facilities will generate additional revenue for the municipality; and

(B) a term that exceeds 30 years is necessary to enable the lessee to recoup its investment or to obtain financing for the project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1253, Sec. 1, eff. June 20, 2003.

Sec. 1504.013. CHARGES FOR SERVICES. The governing body of the municipality shall impose and collect charges for the use of a facility the revenue of which is pledged to secure bonds issued under this subchapter, and for services provided in connection with that use, in amounts at least sufficient to comply with each covenant or provision in the ordinance authorizing the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.014. REFUNDING BONDS. (a) A municipality by ordinance may issue revenue refunding bonds similarly secured to refund either original bonds or revenue refunding bonds previously issued by the municipality under this subchapter.

(b) The refunding bonds shall be executed as provided by this subchapter for original bonds.

(c) The comptroller shall register the refunding bonds on the surrender and cancellation of the bonds to be refunded.

(d) In lieu of issuing bonds to be registered on the surrender and cancellation of the bonds to be refunded, the municipality, in the ordinance authorizing the issuance of the refunding bonds, may provide for the sale of the refunding bonds and the deposit of the proceeds in the place the bonds to be refunded are payable. In that case, the refunding bonds may be issued in an amount sufficient to pay the principal of and interest on the bonds to be refunded to

their option or maturity date, and the comptroller shall register the refunding bonds without the surrender and cancellation of the bonds to be refunded.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.015. CONFLICT OR INCONSISTENCY WITH MUNICIPAL CHARTER. To the extent of a conflict or inconsistency between this subchapter and a municipal charter, this subchapter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. OBLIGATIONS FOR AUDITORIUMS AND EXHIBITION FACILITIES IN MUNICIPALITIES WITH POPULATION OF MORE THAN 125,000

Sec. 1504.101. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality with a population of more than 125,000.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.102. AUTHORITY FOR AUDITORIUMS AND EXHIBITION FACILITIES. A municipality may:

(1) construct, purchase, or encumber a municipal auditorium, exhibition hall, coliseum, or other building or structure used for public gatherings;

(2) encumber anything acquired or to be acquired that relates to a building or structure described by Subdivision (1);

(3) purchase additional real property and facilities for a building or structure described by Subdivision (1);

(4) improve, enlarge, extend, or repair a building or structure described by Subdivision (1); or

(5) purchase equipment and appliances necessary in the operation of a building or structure described by Subdivision (1).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.103. AUTHORITY TO ISSUE BONDS, NOTES, AND WARRANTS.

A municipality may issue bonds, notes, or warrants to provide the money to purchase, construct, improve, enlarge, extend, repair, or equip a building or structure described by Section 1504.102.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.104. PLEDGE OF REVENUE. A municipality may pledge the revenue from a building or structure described by Section 1504.102 to the payment of an obligation issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.105. OBLIGATIONS NOT PAYABLE FROM TAXES. (a) An obligation issued under this subchapter:

(1) is not a debt of the municipality;

(2) may be a charge only on the revenue pledged for the payment of the obligation; and

(3) may not be included in determining the power of the municipality to issue bonds for any purpose authorized by law.

(b) Each contract, bond, note, or other evidence of indebtedness issued or included under this subchapter must contain the following provision: "The holder of this obligation is not entitled to demand payment of this obligation out of any money raised by taxation."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.106. ELECTION. (a) Unless authorized by a majority vote of the qualified voters of the municipality, a municipality may not:

(1) encumber a building or structure described by Section 1504.102 for more than $5,000, except for purchase money or to refund existing debt that was authorized by law; or

(2) sell a building or structure described by Section 1504.102.

(b) The governing body shall hold an election under this section in the manner provided for other bond elections in the

municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.107. OPERATING EXPENSES AS FIRST LIEN. (a) If the revenue from a building or structure described by Section 1504.102 is encumbered under this subchapter, each expense of operation and maintenance, including all salaries, labor, materials, interest, repairs and additions necessary to provide efficient service, and each proper item of expense, is a first lien against that revenue.

(b) An expense for a repair or addition is a first lien only if, in the judgment of the governing body of the municipality, the repair or addition is necessary to:

(1) keep the building or structure in operation and provide adequate service to the municipality and its residents; or

(2) respond to a physical accident or condition that would otherwise impair the original security.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.108. CHARGES FOR SERVICES. (a) A municipality shall impose and collect charges for the use of a building or structure described by Section 1504.102 and for services provided in connection with that use in amounts at least sufficient to pay:

(1) all operating, maintenance, depreciation, replacement, improvement, and interest charges in connection with the building or structure;

(2) for an interest and sinking fund sufficient to pay any bonds issued to purchase, construct, or improve the building or structure; and

(3) any outstanding debt against the building or structure.

(b) The rates charged for the use of and for services provided in connection with the use of a building or structure described by Section 1504.102 must be equal and uniform. A municipality may not allow any free use of or free service in connection with the building or structure except for an activity or institution operated by the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.109. USE OF REVENUE FOR OTHER PURPOSES PROHIBITED. A municipality may not use the revenue from a building or structure described by Section 1504.102 to pay any other debt, expense, or obligation of the municipality until the debt secured by the revenue is fully paid.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.110. RECORDS. The chief executive officer of the municipality shall establish and maintain a complete system of records that:

(1) shows each free use of and free service provided in connection with the use of a building or structure described by Section 1504.102 and the value of the use or service; and

(2) shows separately the amounts spent and the amounts set aside for operation, salaries, labor, materials, repairs, maintenance, depreciation, replacements, additions, interest, and the creation of a sinking fund to pay the bonds and debt.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.111. ANNUAL REPORT. (a) Not later than February 1 of each year, the superintendent or manager of a building or structure described by Section 1504.102 shall file with the chief executive officer of the municipality a detailed report of the operation of the building or structure for the year ending on the preceding January 1.

(b) The report must show the total amount of money collected and the balance due, and the total disbursements made and the amounts remaining unpaid, resulting from the operation of the building or structure during that year.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.112. OFFENSE. (a) A chief executive officer of a municipality commits an offense if the chief executive officer fails

to:

(1) establish the system of records required by Section 1504.110 before the 91st day after the date the building or structure is completed; or

(2) maintain the system of records required by Section 1504.110.

(b) A superintendent or manager of a building or structure described by Section 1504.102 commits an offense if the superintendent or manager fails to file a report required by Section 1504.111.

(c) An offense under this section is a misdemeanor punishable by a fine of not less than $100 or more than $1,000.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.113. CIVIL ENFORCEMENT. A person who resides in a municipality and is a taxpayer or holder of an obligation issued under this subchapter and secured by the encumbered income of a building or structure described by Section 1504.102 is entitled to enforce the provisions of this subchapter by appropriate civil action in a district court in the county in which the municipality is located.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER E. OBLIGATIONS FOR EXPOSITION AND CONVENTION HALLS IN MUNICIPALITIES WITH POPULATION OF 290,000 OR MORE

Sec. 1504.201. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality with a population of 290,000 or more.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.202. AUTHORITY FOR EXPOSITION AND CONVENTION HALLS. A municipality may purchase, construct, encumber, renovate, or repair an exposition or convention hall.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.203. AUTHORITY TO ISSUE BONDS, NOTES, AND WARRANTS. A municipality may issue bonds, notes, or warrants to evidence an obligation incurred to purchase, construct, renovate, or repair an exposition or convention hall.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.204. PLEDGE OF INCOME. A municipality may pledge the income from an exposition or convention hall to the payment of an obligation issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.205. OBLIGATIONS NOT PAYABLE FROM TAXES. (a) An obligation issued under this subchapter:

(1) is not a debt of the municipality;

(2) may be a charge only on the property of the exposition or convention hall encumbered; and

(3) may not be included in determining the power of the municipality to issue bonds for any purpose authorized by law.

(b) Each contract, bond, or note issued or executed under this subchapter must contain the following provision: "The holder of this obligation is not entitled to demand payment of this obligation out of any money raised by taxation."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.206. OPERATING EXPENSES AS FIRST LIEN. If the income from an exposition or convention hall is encumbered under this subchapter, each expense of operation and maintenance, including all salaries, labor, materials, interest, repairs, and additions necessary to properly maintain the exposition or convention hall, and each proper item of expense, is a first lien against that income.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.207. CHARGES FOR SERVICES. (a) A municipality shall

impose and collect charges for the use of an encumbered exposition or convention hall in amounts determined by the governing body to be sufficient to pay:

(1) all operating, maintenance, depreciation, replacement, improvement, and interest charges in connection with the hall;

(2) for an interest and sinking fund sufficient to pay any bonds issued to purchase, construct, or improve the hall; and

(3) any outstanding debt against the hall.

(b) A municipality may not allow any free use of or free service in connection with the exposition or convention hall.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.208. USE OF INCOME FOR OTHER PURPOSES PROHIBITED. A municipality may not use the income from the exposition or convention hall to pay any other debt, expense, or obligation of the municipality until the debt secured by the income is fully paid.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.209. MANAGEMENT AND CONTROL. (a) The contract under which an exposition or convention hall is encumbered must provide that the governing body of the municipality shall manage and control the hall during the time the hall is encumbered.

(b) The governing body may:

(1) adopt rules governing the use and rental of the exposition or convention hall and for the payment of those rents; and

(2) provide penalties for:

(A) the violation of rules adopted under Subdivision (1);

(B) the use of the hall without the consent or knowledge of the authorities in charge of the hall; or

(C) any interference with, trespass on, or injury to the hall or the property on which the hall is located.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.210. TRUSTEE. A contract under which an exposition or convention hall is encumbered may provide for:

(1) the selection of a trustee to sell the hall on a default in the payment of principal or interest or another default under the contract;

(2) the selection of a successor trustee, if the original trustee is disqualified or fails to act; and

(3) the collection by the trustee of a fee of not more than five percent of the principal.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.211. RECEIVER. (a) The trustee may apply to a court for the appointment of a receiver if:

(1) the contract under which the exposition or convention hall is encumbered provides for the appointment of a receiver; and

(2) there is a default in the payment of principal and interest or another default under the contract that continues for at least 30 days.

(b) A receiver appointed under this section may, subject to the order of the court:

(1) enter and take possession of the exposition or convention hall; and

(2) operate and maintain the hall and apply the net revenue to the liquidation of the debt.

(c) The receiver may use or rent any part of the hall for any purpose consistent with the continued use of the major part of the hall as an exposition or convention hall, or, if authorized by the court, rent the hall for any lawful use.

(d) The receiver may rent all or any part of the exposition or convention hall to the municipality, and the municipality may lease the hall from the receiver.

(e) An exposition or convention hall that is operated by a receiver under this section is free from taxation until the debt secured by the hall is fully paid.

(f) All rights of the receiver and of any lessee or other person holding under the receiver end when the debt is paid or the trustee, in the exercise of the trustee's powers, sells the exposition or convention hall. The trustee may agree with a person

leasing the hall from the receiver not to sell the hall during the term of the person's lease.

(g) If the principal of all the bonds has not been declared due or if a declaration that the principal of all the bonds is due is annulled under the contract under which the exposition or convention hall is encumbered:

(1) on application to the court, the rights of the receiver may be terminated and the receiver discharged by remedy or waiver of the default; and

(2) the rights of a person leasing the hall from the receiver are subject to adjudication and may be terminated or adjusted by the court.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.212. NOTICE TO GOVERNING BODY BEFORE FORECLOSURE OR OTHER ACTION. (a) Unless written notice is given to the governing body of the municipality in accordance with this section that there is a default in payment of any installment of principal of or interest on an obligation issued under this subchapter and that payment has been demanded:

(1) a collection fee may not accrue;

(2) a foreclosure proceeding may not be begun in a court or through a trustee; and

(3) an option to mature any part of the obligation because of the default may not be exercised.

(b) A notice under Subsection (a) must be sent by prepaid registered mail to each member of the governing body of the municipality, addressed to the member at the post office in the municipality.

(c) An action described by Subsection (a) may not be taken before the 91st day after the date the notice is mailed.

(d) A payment of a delinquent installment of principal and interest that is paid before the expiration of the period prescribed by Subsection (c) and that is accompanied by a payment of interest as prescribed in the contract, at a rate not to exceed 10 percent per year, from the date of default until the date of payment, has the same effect as if paid on the date the installment was originally due.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER F. REVENUE BONDS FOR CULTURAL FACILITIES IN HOME-RULE MUNICIPALITIES WITH POPULATION OF 1.9 MILLION OR MORE

Sec. 1504.251. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a home-rule municipality with a population of 1.9 million or more.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 28, eff. Sept. 1, 2001.

Sec. 1504.252. AUTHORITY FOR CULTURAL AND PARKING FACILITIES. A municipality may acquire sites for and establish, acquire, lease as lessee or lessor, construct, improve, enlarge, equip, repair, operate, or maintain:

(1) a cultural facility, such as an opera house, ballet or symphony hall, theater, or similar building;

(2) a building combining cultural facilities listed in Subdivision (1); or

(3) a parking facility at or in the immediate vicinity of a cultural facility listed in Subdivision (1) for use in connection with that facility and otherwise for off-street parking or storage of motor vehicles or other conveyances.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.253. AUTHORITY TO ISSUE REVENUE BONDS. The governing body of a municipality by ordinance may issue revenue bonds to provide all or part of the money to accomplish any purpose described by Section 1504.252.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.254. PLEDGE OF REVENUE. (a) Bonds issued under this subchapter must be secured by a pledge of and be payable from all or a designated part of the revenue from the cultural or parking

facility for which the bonds are issued, as provided in the ordinance authorizing the issuance of the bonds.

(b) The pledge securing the bonds is inferior to any previous pledge of the revenue for the payment of revenue bonds or refunding bonds that are outstanding.

(c) A municipality that leases as lessee a cultural or parking facility described by Section 1504.252 may pledge all or part of the revenue from the facility to the lease payments the municipality must make.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.255. LIEN ON FACILITY. Subject to any limitation contained in any previous pledge, the governing body of the municipality may, in addition to pledging the revenue from a cultural or parking facility, give a lien on all or part of the physical property and facilities constructed or acquired with the proceeds of bonds issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.256. PLEDGE OF MIXED BEVERAGE TAX RECEIPTS. (a) The governing body of a municipality by official action may pledge for the purposes provided by this subchapter a portion of the mixed beverage tax that is remitted to the municipality under Section 183.051, Tax Code.

(b) The total amount of mixed beverage tax receipts pledged under Subsection (a) may not exceed an amount equal to 1-1/2 percent of the gross receipts subject to taxation under Chapter 183, Tax Code, from permittees within the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.257. SHORTAGE OF MIXED BEVERAGE TAX RECEIPTS. If at the time of a remittance of mixed beverage tax receipts by the comptroller under Section 183.051, Tax Code, the amount collected by the comptroller from permittees in a municipality that has pledged a portion of its mixed beverage tax receipts under Section 1504.256 is

less than the total amount required to be collected from those permittees by Chapter 183, Tax Code, then the amount to be pledged under Section 1504.256 is an amount equal to the total amount actually collected from permittees in the municipality multiplied by a fraction, the numerator of which is the amount of mixed beverage tax receipts pledged under Section 1504.256 for the quarterly period and the denominator of which is the total amount required to be collected from permittees in the municipality during that period.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.258. ADDITIONAL USE OF MIXED BEVERAGE TAX RECEIPTS. A municipality may spend money derived from the portion of the mixed beverage tax receipts authorized to be pledged under Section 1504.256 for:

(1) advertising and promotion of events to take place in a cultural facility described by Section 1504.252;

(2) the attraction of events to a cultural facility described by Section 1504.252, either by the municipality or through a contract with a person or organization selected by the municipality; and

(3) the encouragement, promotion, improvement, and application of the cultural arts, including opera, ballet, symphony, and theater, and the arts related to the presentation, performance, execution, and exhibition of those major art forms.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.259. BONDS NOT PAYABLE FROM TAXES; EXCEPTION. (a) The owner or holder of a bond issued under this subchapter is not entitled to demand payment of the principal of or interest on the bond from money raised by taxation.

(b) Subsection (a) does not apply to a demand for payment from mixed beverage tax receipts that are pledged under Section 1504.256.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.260. CONTENTS OF ORDINANCE AUTHORIZING BONDS. (a)

The ordinance authorizing the issuance of bonds under this subchapter may provide for the flow of funds and the establishment and maintenance of an interest and sinking fund, reserve fund, or other fund.

(b) The ordinance may:

(1) prohibit the issuance of additional bonds or other obligations payable from the pledged revenue; or

(2) reserve the right to issue additional bonds to be secured by a pledge of and payable from the revenue on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to the conditions prescribed by the ordinance.

(c) The ordinance may contain any other provision or covenant, including a covenant with respect to the bonds, the pledged revenue, or the operation or maintenance of the cultural or parking facility the revenue of which is pledged. The ordinance may provide for the operation or lease of all or part of the facility and the use or pledge of money derived from operation contracts and leases.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.261. ADOPTION AND EXECUTION OF DOCUMENTS. The municipality may adopt and have executed any other proceeding or instrument necessary or convenient to the issuance of bonds under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.262. SIGNATURES. A bond issued under this subchapter must be signed by the mayor of the municipality and countersigned by the secretary or clerk of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.263. SALE OF BONDS. A municipality may sell bonds issued under this subchapter at public or private sale in the manner and on the terms provided by the ordinance under which the bonds are issued.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.264. INTERIM RECEIPTS. Pending the preparation of a definitive bond, a municipality may provide to the purchaser of a bond sold under this subchapter an interim receipt or certificate in the form and with the provisions specified in the ordinance authorizing the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.265. USE OF BOND PROCEEDS. From the proceeds of bonds issued under this subchapter, a municipality may appropriate or set aside amounts:

(1) to pay interest and administrative and operating expenses expected to accrue during the period of construction;

(2) to be deposited into the reserve fund as provided in the ordinance authorizing the issuance of the bonds; and

(3) to pay all expenses incurred in the issuance, sale, and delivery of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.266. CHARGES FOR SERVICES. The governing body of the municipality shall impose and collect charges for the use of a cultural or parking facility the revenue of which is pledged to secure bonds issued under this subchapter, and for services provided in connection with that use, in amounts at least sufficient to comply with each covenant or provision in the ordinance authorizing the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.267. USE OF REVENUE. (a) A municipality shall use revenue derived from that portion of mixed beverage tax receipts authorized to be pledged under Section 1504.256 for the purposes described by Sections 1504.252 and 1504.258, including the pledge of that revenue to the payment of bonds issued for a purpose described

by Section 1504.252.

(b) Amounts received by a municipality from that portion of the mixed beverage tax receipts authorized to be pledged under Section 1504.256 and pledged to the payment of bonds as provided by Subsection (a) that exceed the amounts required by the ordinance under which the bonds are issued may be used for any other purpose described by Section 1504.252 or 1504.258. The governing body of the municipality may determine that any remaining amounts are excess money and may use those amounts for any lawful purpose if that use does not violate an ordinance adopted by the governing body in connection with the issued bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1504.268. CONFLICT OR INCONSISTENCY WITH MUNICIPAL CHARTER. To the extent of a conflict or inconsistency between this subchapter and a municipal charter, this subchapter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1505. OBLIGATIONS FOR COASTAL MUNICIPALITIES FOR COASTAL MATTERS

SUBCHAPTER A. BONDS FOR HARBOR IMPROVEMENTS IN MUNICIPALITIES BORDERING GULF OF MEXICO

Sec. 1505.001. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality that borders the Gulf of Mexico.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.002. AUTHORITY TO ISSUE BONDS FOR HARBOR IMPROVEMENTS. A municipality may issue bonds necessary to improve or aid the improvement of a harbor of the municipality or a bar at the entrance of the harbor.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.003. AMOUNT OF BONDS. A municipality may issue bonds

under this subchapter in an amount:

(1) the municipality considers necessary; and

(2) that does not exceed a limit on debt set by the municipal charter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.004. SURPLUS BONDS. A municipality may sell any available bonds not needed for the purpose for which the bonds were issued to improve or aid the improvement of a harbor of the municipality or a bar at the entrance of the harbor.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. BONDS FOR NAVIGATIONAL FACILITIES IN CERTAIN COASTAL MUNICIPALITIES

Sec. 1505.051. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality that:

(1) is located in a navigation district organized under the general laws of this state; and

(2) has a deepwater port located in the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.052. DEFINITION. In this subchapter, "project" means:

(1) a facility purchased, constructed, improved, enlarged, or repaired by a municipality as described by Section 1505.053; and

(2) land acquired or improved by a municipality as described by Section 1505.053.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.053. AUTHORITY FOR NAVIGATIONAL FACILITIES. A municipality may:

(1) own, purchase, construct, operate, improve, enlarge, repair, or maintain a bridge over or across any stream, inlet, or arm

of the Gulf of Mexico or entrance canal to the deepwater port of the municipality that connects any of the public streets, highways, or thoroughfares of the municipality;

(2) own, purchase, construct, repair, maintain, operate, or lease:

(A) a wharf, pier, pavilion, or boathouse; or

(B) a dam, dyke, or spillway with a road or bridge on or over it to create a freshwater supply basin for domestic, irrigation, and other purposes in the navigation district in which the municipality is located or in a county adjacent to the freshwater basin;

(3) acquire, reclaim, reconstruct, or fill in any submerged land along the waterfront of the municipality and construct, operate, or maintain a water main, gas main, storm sewer, sanitary sewer, sidewalk, street, or similar improvement in connection with that land;

(4) construct a seawall, breakwater, or other shore protection to protect the waterfront of the municipality; and

(5) construct, reconstruct, maintain, operate, or dredge a channel in connection with a deepwater port in aid of navigation within the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.054. AUTHORITY TO ISSUE BONDS. A municipality may borrow money and by ordinance may issue bonds for a purpose described by Section 1505.053.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.055. AUTHORITY TO BORROW FROM UNITED STATES. (a) To construct and maintain a project, a municipality may borrow money from the United States or an agency of the United States created for the purpose of making such a loan.

(b) To obtain the loan, a municipality may encumber:

(1) the property and facilities of the project acquired or to be acquired;

(2) the revenue and income from the operation of the project acquired or to be acquired; and

(3) anything relating to the project acquired or to be acquired.

(c) As additional security for the loan, the municipality may:

(1) encumber the net revenue and income from the operation of all projects; and

(2) provide in the encumbrance for a grant, to a purchaser under sale or foreclosure, of a franchise to operate the encumbered project for a term not to exceed 20 years from the date of purchase, subject to all laws regulating the same then in force.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.056. PAYMENT OF BONDS. The principal of and interest on bonds issued under this subchapter are payable solely from revenue, including rents and other charges received from any reclaimed or reconstructed land, derived from the project for which the bonds were issued.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.057. ENCUMBRANCE AS ADDITIONAL SECURITY. (a) As additional security for the payment of the principal of and interest on bonds issued under this subchapter, a municipality may encumber any part or all of a project undertaken with funds derived from the bonds.

(b) An encumbrance entered into under this section:

(1) may provide for a grant, to a purchaser under sale or foreclosure, of a franchise to operate the encumbered project for a term not to exceed 20 years from the date of purchase, subject to all laws regulating the same then in force; and

(2) shall:

(A) provide for a trustee to enforce foreclosure; and

(B) provide the municipality with the option at any five-year period within the 20-year term after purchase to repurchase a project, other than reclaimed land acquired by an individual purchaser, under reasonable terms and at a reasonable price stated in the encumbrance.

(c) Subject to Section 1505.076, the governing body of the municipality shall manage and control a project while it is

encumbered under this section.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.058. ADDITIONAL SECURITY FOR PROJECT RELATED TO ACQUISITION OR CONSTRUCTION OF BRIDGE. As additional security, a municipality that acquires or constructs a bridge using bonds issued under this subchapter may pledge revenue from any project carried out in connection with the acquisition or construction of the bridge, including revenue or income from any submerged land reclaimed or reconstructed and any improvement built on the land, including a water main, gas main, storm sewer, sanitary sewer, sidewalk, or street.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.059. BONDS NOT PAYABLE FROM TAXES. (a) A bond issued under this subchapter:

(1) is not a debt of the municipality within the meaning of any state constitutional or statutory limitation; and

(2) may not be included in determining the power of the municipality to issue bonds for any purpose authorized by law.

(b) Each bond and coupon issued under this subchapter must state on its face that:

(1) the bond or coupon is issued under this subchapter;

(2) the bond or coupon is not a debt of the municipality within the meaning of any state constitutional or statutory limitation; and

(3) the holder of the bond or coupon is not entitled to demand payment of the bond or coupon from any money raised by taxation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.060. ESTIMATE OF PROJECT COST; NOTICE OF INTENTION TO APPROVE PROJECT AND ISSUE BONDS. (a) Before approving a project under this subchapter, the governing body of the municipality shall:

(1) obtain an estimate of the cost of the project; and

(2) give notice of its intention to approve the project.

(b) The notice must:

(1) describe the proposed project;

(2) state the estimated cost of the proposed project;

(3) state the amount, location, and use or disposition of any land to be reclaimed;

(4) state the time the governing body proposes to adopt the ordinance authorizing the proposed project and the issuance of the bonds; and

(5) refer to the right to petition for an election as authorized by Section 1505.061.

(c) The notice must be published in a newspaper of general circulation in the municipality once a week for four consecutive weeks, with the last publication being before the 20th day before the date set for authorization of the proposed project and issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.061. ELECTION. (a) If, before the time set for action on the ordinance authorizing the proposed project and the issuance of the bonds, a petition is filed with the municipal secretary or municipal clerk requesting an election on the approval of the project and the issuance of the bonds that is signed by at least 100 registered voters of the municipality who are listed on the most recent tax roll of the municipality as owning property, the governing body of the municipality may not approve the project or issue the bonds unless a proposition for the approval of the project and the issuance of the bonds is approved by a majority of the votes cast at an election held for that purpose.

(b) The governing body shall conduct the election in the manner provided by Chapter 1251.

(c) The governing body may hold an election on approval of the project and issuance of the bonds regardless of whether a petition is filed.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.062. CONTENTS OF ORDINANCE AUTHORIZING ISSUANCE OF

BONDS. (a) An ordinance authorizing the issuance of bonds for a project under this subchapter must:

(1) briefly describe the proposed project;

(2) state the estimated cost of the project;

(3) include the amount, maximum rate of interest, time and place of payment, and other details in connection with the issuance;

(4) specify:

(A) whether the project is to be operated on the basis of a calendar, operating, or fiscal year; and

(B) the beginning and ending dates of that year;

(5) provide for:

(A) an operation and maintenance account; and

(B) a bond and interest redemption fund; and

(6) contain a substantial description of any franchise provided in an encumbrance entered into under Section 1505.057.

(b) The governing body of the municipality shall covenant in the ordinance, and on the face of each bond issued under this subchapter, to at all times maintain charges for services provided by the project in amounts sufficient to:

(1) pay:

(A) the principal of and interest on the bonds when payable;

(B) administration and operation expenses; and

(C) expenses necessary to maintain the project;

(2) create the bond and interest redemption fund; and

(3) fund:

(A) a reserve for depreciation of the project; and

(B) a reserve for improvements and extensions of the project other than those necessary to maintain the project.

(c) In the ordinance, the municipality may provide for additional bonds for extensions and permanent improvements to the project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.063. MATURITY. A bond issued under this subchapter must mature not later than 45 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.064. MEDIUM OF PAYMENT. A bond or coupon issued under this subchapter after October 27, 1977, may be made payable in:

(1) United States currency; or

(2) gold coin of or equal to the standard of weight and fineness existing on its date of payment.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.065. ADDITIONAL BONDS. (a) As provided in the ordinance authorizing the issuance of bonds under this subchapter, the municipality may issue and negotiate additional bonds as necessary.

(b) Additional bonds that are sold are on a parity with bonds of the same issue.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.066. SALE OF BONDS. (a) A municipality shall sell bonds issued under this subchapter in the manner and under the terms that the governing body of the municipality considers to be in the best interest of the municipality.

(b) A municipality may make payments under a contract for a project in bonds issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.067. DEPOSIT OF BOND PROCEEDS. The governing body of a municipality that issues bonds under this subchapter shall:

(1) if practicable, require that:

(A) the bond proceeds be deposited in an account in a bank that is a member of the Federal Reserve System; and

(B) each deposit be secured by direct obligations of the United States that have an aggregate market value at least equal to the amount of proceeds then on deposit; or

(2) if it is not practicable for the bond proceeds to be deposited as provided by Subdivision (1), deposit the proceeds in a bank or other depository that will secure the deposit to the governing body's satisfaction.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.068. OPERATING EXPENSES AS FIRST LIEN. The reasonable costs of administering and operating and the reasonable expense of maintaining the project are a first lien against the revenue and income from the operation of a project, superior to the lien of any encumbrance on the project. From the revenue and income of a project, the municipality shall, monthly or more frequently if necessary, first deposit to the credit of the operation and maintenance account an amount sufficient to pay those expenses.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.025(a), eff. Sept. 1, 2001.

Sec. 1505.069. SALE OR LEASE OF RECLAIMED OR RECONSTRUCTED LAND. A municipality that reclaims or reconstructs submerged land under this subchapter may:

(1) sell, lease, or grant a franchise for the use of the land; and

(2) use revenue from the sale, lease, or franchise as provided by this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.070. CHARGES. (a) The governing body of a municipality shall set and at all times maintain charges for services and facilities of the project, and for the sale of reclaimed land, in amounts sufficient to pay, create, or fund, as appropriate, each item listed in Section 1505.062(b).

(b) A state bureau, board, commission, agency, or instrumentality may not supervise or regulate the amount of a charge of the municipality. This subchapter does not affect a power or duty of the Texas Board of Health.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.071. DEPOSITS TO BOND AND INTEREST REDEMPTION FUND. (a) The municipality shall, monthly or more frequently if necessary, deposit to the credit of the bond and interest redemption fund an amount of money from the gross income and revenue of the project sufficient to pay, when due, the principal of and interest on the bonds.

(b) The governing body of the municipality may deposit a reasonable amount to the credit of the bond and interest redemption fund in excess of the amount required to pay bonds maturing during the earlier years of maturities of the bonds to provide a reserve fund to prevent a deficiency in payment of bonds maturing in later years.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.072. DISPOSITION OF CERTAIN SURPLUS MONEY. The governing body of the municipality may provide for the disposition of surplus money in the operation and maintenance account or a depreciation account by having the money:

(1) transferred to the bond and interest redemption fund;

(2) invested; or

(3) otherwise disposed of.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.073. SEPARATE RECORDS. (a) A municipality that issues bonds under this subchapter shall establish and maintain proper records into which full and correct entries shall be made of all dealings or transactions of or in relation to the property, business, or affairs of the project.

(b) The records:

(1) must be separate from other records of the municipality; and

(2) shall be open for examination and inspection by any:

(A) taxpayer;

(B) user of a service furnished by the project;

(C) holder of a bond issued under this subchapter; or

(D) person acting for or on behalf of the taxpayer, user, or holder.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.074. REQUIRED PAYMENT FOR SERVICES RENDERED TO MUNICIPALITY. (a) A municipality shall be charged the reasonable cost or value of a service rendered to the municipality by a project.

(b) The municipality shall pay the charges, as the service accrues, from:

(1) current funds of the municipality; or

(2) the proceeds of taxes imposed at a rate sufficient for that purpose.

(c) Money received by the project under this section must be accounted for in the same manner as other revenue of the project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.075. AUTHORITY TO REGULATE OPERATION OF BRIDGES AND TRAFFIC ON BRIDGES. Except as provided by Section 1505.076, a municipality may adopt reasonable and necessary ordinances to regulate:

(1) the operation of a bridge that is constructed, maintained, or operated under this subchapter; and

(2) traffic on the bridge.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.076. COMMISSIONERS OF NAVIGATION DISTRICT. (a) A municipality may not construct, maintain, or operate a bridge over or across an entrance channel to a deepwater port operated by a navigation district without a permit issued by the commissioners of the district. Plans and specifications for the bridge must be jointly approved by the commissioners and the governing body of the municipality.

(b) If a bridge over or across the entrance channel to the port is constructed, maintained, or operated under this subchapter, the commissioners of the navigation district:

(1) may prescribe reasonable rules for the operation of the bridge in aid of navigation;

(2) shall exercise direct control over the maintenance and

operation of the mechanical facilities of the bridge that provide clearance of the channel for vessels to enter or leave the port;

(3) may employ and direct all agencies in the management and operation of those facilities; and

(4) may appropriate and use any available revenue of the district to defray the cost of maintaining or operating the bridge.

(c) A municipality may not construct, maintain, or operate a bridge over or across an entrance channel to a deepwater port operated by a navigation district except as provided by this section.

(d) This section does not apply after land or a facility mortgaged by a municipality is sold on foreclosure.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.077. AUTHORITY FOR COUNTY APPROPRIATIONS. A county in which is located a municipality to which this chapter applies may:

(1) appropriate any available revenue of the county to the municipality for use in:

(A) constructing a bridge;

(B) reclaiming or reconstructing submerged land; or

(C) constructing seawall or breakwater protection for its waterfront; or

(2) appropriate and apply any available revenue to the operation or maintenance of any such project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.078. AUTHORITY FOR TEXAS DEPARTMENT OF TRANSPORTATION EXPENDITURES. The Texas Department of Transportation, with the approval of the governor, may apply any of the available revenue of the department to aid in:

(1) the construction, operation, or maintenance of a bridge acquired or constructed under this subchapter, including any approach to the bridge; or

(2) the acquisition of any property in connection with or in furtherance of those activities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.079. CERTAIN COUNTY AND MUNICIPAL EXPENDITURES NOT PROHIBITED. This subchapter does not prohibit a county or municipality from appropriating or using any available income and revenue of the county or municipality derived from any source, other than from the operation of the project by a municipality, to:

(1) pay an immediate expense of maintaining or operating a project; or

(2) aid in financing any part of constructing a bridge or reclaiming any submerged land.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.080. UNEXPENDED BALANCE. (a) Any proceeds of the sale of bonds issued under this subchapter that are unspent after completion of the project for which the bonds were issued:

(1) shall be deposited to the credit of the bond and interest redemption fund for the bonds; and

(2) may be used only to:

(A) pay the principal of the bonds; or

(B) purchase outstanding bonds of the issue from which the proceeds were derived.

(b) A bond may not be purchased under Subsection (a)(2)(B) for a price that exceeds, excluding accrued interest, the face amount of the bond.

(c) A bond purchased under Subsection (a)(2)(B) must be canceled and may not be reissued.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.081. EXEMPTION FROM TAXATION. (a) A bond or interest coupon issued under this subchapter is exempt from taxation under any law of this state.

(b) In addition to the provisions required by Section 1505.059(b), each bond issued under this subchapter must state on its face the following provision: "The principal of and interest on this bond are exempt from taxation under any law of the State of Texas."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. OBLIGATIONS FOR TOLL BRIDGES AND OTHER FACILITIES IN CERTAIN COASTAL MUNICIPALITIES

Sec. 1505.101. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality that:

(1) is located in a navigation district organized under the general laws of this state; and

(2) has a deepwater port located in the district.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.102. DEFINITIONS. In this subchapter:

(1) "Bridge or tunnel" means a bridge over, or a tube, underpass, or tunnel under, any stream, inlet, or arm of the Gulf of Mexico or entrance channel to the deepwater port of a municipality that connects any public streets or thoroughfares of, in, or to the municipality.

(2) "Obligation" means a bond, note, or warrant.

(3) "Project" means:

(A) a facility constructed, maintained, operated, extended, improved, or replaced by a municipality as described by Section 1505.103; and

(B) land acquired or improved by a municipality as described by Section 1505.103.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.103. AUTHORITY TO ISSUE OBLIGATIONS FOR CERTAIN FACILITIES. A municipality may issue revenue obligations to:

(1) construct, maintain, or operate a toll bridge or tunnel;

(2) construct, maintain, operate, or extend a sewage disposal plant, without regard to whether the plant is inside or outside the municipality;

(3) construct, maintain, extend, or improve a sanitary sewer line or storm sewer line, without regard to whether the line is inside or outside the municipality;

(4) if found necessary by the governing body of the municipality, construct, maintain, extend, or improve a water main or water line from the source of water supply of the municipality to any

location inside the municipality;

(5) acquire, reclaim, reconstruct, elevate, or fill in any submerged land or lowland along a waterfront of the municipality and construct a sidewalk, street, or gas line on the land;

(6) construct, maintain, extend, or improve a seawall, breakwater, or other shore protection to protect the waterfront of the municipality;

(7) construct, reconstruct, maintain, operate, or dredge a channel or boat basin in connection with any deepwater port of the municipality; or

(8) construct, maintain, replace, or operate:

(A) a boat basin or boat slip; or

(B) a structure in connection with the basin or slip, including a dry dock, boat service station, wall, pier, or wharf.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.104. AUTHORITY TO BORROW MONEY. (a) In the amount and under the terms that are agreed to by the municipality and the lender, a municipality may borrow money for a project from:

(1) the United States;

(2) an agency of the United States authorized to make a loan to a municipality; or

(3) any person, firm, or corporation.

(b) The loan shall be evidenced by obligations issued under this subchapter if the project is financed under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.105. SECURITY FOR PAYMENT OF OBLIGATIONS. (a) An obligation issued under this subchapter, and interest on the obligation, must be paid by an appropriation or pledge of all revenue derived from:

(1) one or more projects;

(2) any tolls authorized under Section 1505.113 and collected from the operation of an existing bridge or tunnel; or

(3) both the project and the tolls.

(b) Payment of the obligation may additionally be secured by a mortgage on any project, including a toll bridge or tunnel or

reclaimed land.

(c) Any revenue or income derived from one project may be pledged to the payment of an obligation issued to provide for a different project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.106. OBLIGATIONS NOT PAYABLE FROM TAXES. (a) An obligation issued under this subchapter:

(1) is not a debt of the municipality;

(2) may be a charge only against the revenue, property, or improvement pledged for the payment of the obligation; and

(3) may not be included in determining the power of the municipality to issue bonds or lend its credit for any purpose authorized by law.

(b) Each obligation issued under this subchapter must contain the following provision: "The holder of this obligation is not entitled to demand payment of this obligation from any money raised by taxation."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.107. ELECTION. (a) A municipality may not issue an obligation under this subchapter unless the issuance is authorized by a majority vote of the qualified voters voting at an election held for that purpose under Chapter 1251.

(b) On approval by the voters, the municipality shall issue the approved obligations as soon as practicable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.108. MATURITY. An obligation issued under this subchapter must mature not later than 30 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.109. ACCOUNTS REQUIRED TO BE CREATED BY ORDINANCE.

An ordinance authorizing the issuance of obligations under this subchapter must provide for:

(1) an operation and maintenance account; and

(2) an interest and sinking fund account.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.110. OPERATING EXPENSES AS FIRST LIEN. (a) The reasonable costs of administering and operating and the reasonable expense of maintaining the project are a first lien against the revenue and income from the operation of the project, superior to the lien of any indenture or deed of trust on the project.

(b) From the revenue and income of the project, the municipality shall, monthly or more frequently if necessary:

(1) first deposit to the credit of the operation and maintenance account an amount sufficient to pay the costs and expense described in Subsection (a); and

(2) deposit to the credit of the interest and sinking fund account an amount sufficient to pay when due the principal of and interest on the obligation.

(c) Revenue or income from a project may not be used except as provided by this section while an obligation related to the project remains outstanding.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.111. EXECUTION OF INDENTURE OR DEED OF TRUST. (a) Before an obligation issued under this subchapter is offered for sale, the mayor and the municipal treasurer or finance commissioner, if authorized by an ordinance adopted by the governing body of the municipality, may execute an indenture or deed of trust that:

(1) makes effective the mortgage lien on any property pledged to secure payment of the principal of and interest on the obligation; and

(2) names a bank or banking institution with trust powers.

(b) The indenture or deed of trust may provide for a grant to a purchaser, under sale or foreclosure, of a franchise to operate the encumbered property for a term not to exceed 20 years from the date of purchase, subject to Subsection (c) and to all laws regulating the

same then in force.

(c) The municipality may, at any five-year period within the 20-year term, repurchase the property designated in the franchise under reasonable terms and at a reasonable price, as stated in the encumbrance. This subsection does not apply to any land or property in a reclaimed area that is acquired from the municipality by an individual purchaser.

(d) The indenture or deed of trust shall be recorded in the deed of trust and mortgage records of each county in which any of the indentured property is located.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.112. AUTHORITY TO REMOVE OR DEMOLISH BRIDGE OR TUNNEL. The governing body of a municipality may remove or demolish any structure owned and operated by the municipality, including a bridge or tunnel, if the removal or demolition is necessary to complete a project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.113. CONVERSION OF BRIDGE OR TUNNEL TO TOLL BRIDGE OR TUNNEL. (a) The governing body of a municipality by ordinance may convert a bridge or tunnel to a toll bridge or tunnel if:

(1) the bridge or tunnel is owned or operated by the municipality; and

(2) the governing body finds that it is not necessary or practicable to construct a toll bridge or tunnel under this subchapter.

(b) The governing body, if authorized at the election ordered by the governing body on the issuance of the obligations:

(1) may set and collect tolls for the use of the toll bridge or tunnel in amounts determined by the governing body to be reasonable and sufficient, when combined with other revenue and income from a project, to pay the principal of and interest on obligations issued under this subchapter as they mature; and

(2) shall deposit money received under Subdivision (1) to the credit of the interest and sinking fund account and shall use the money only to pay the principal of and interest on the obligations.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.114. EMINENT DOMAIN. (a) A municipality may exercise the power of eminent domain to acquire the fee simple title to, an easement in, or a right-of-way over or through any property, including water or land under water, that the governing body of the municipality determines necessary to accomplish a purpose provided by Section 1505.103 without regard to whether the property is inside or outside the municipality.

(b) A municipality may not condemn property under Subsection (a) if the property is used for cemetery purposes.

(c) A municipality shall pay adequate compensation to the owner of property that is taken, damaged, or destroyed in the accomplishment of a purpose provided by Section 1505.103.

(d) A municipality shall pay compensation and damages adjudicated in a condemnation proceeding or damage to the property of a person or corporation in the accomplishment of a purpose provided by Section 1505.103 from the proceeds of obligations issued under this subchapter.

(e) Chapter 21, Property Code, governs the procedure for the exercise of the power of eminent domain under this section.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.115. COMMISSIONERS OF NAVIGATION DISTRICT. (a) A municipality may not construct, maintain, or operate a toll bridge or tunnel over, across, or under an entrance channel to a deepwater port operated by a navigation district without a permit issued by the commissioners of the district. Plans and specifications for the bridge or tunnel must be jointly approved by the commissioners and the governing body of the municipality.

(b) If a toll bridge or tunnel over, across, or under the entrance channel to the port is constructed, maintained, or operated under this subchapter, the commissioners of the navigation district:

(1) may prescribe reasonable rules for the operation of the bridge or tunnel in aid of navigation;

(2) shall exercise direct control over the maintenance and operation of the mechanical facilities of the bridge or tunnel that

provide clearance of the channel for vessels to enter or leave the port; and

(3) may employ and direct all agencies in the management and operation of those facilities.

(c) The municipality shall bear the cost of maintaining and operating the facilities described by Subsection (b)(2).

(d) A municipality may not construct, maintain, or operate a toll bridge over or across, or a tunnel under, an entrance channel to a deepwater port operated by a navigation district except as provided by this section.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. OBLIGATIONS FOR FISH MARKETS BY CERTAIN COASTAL MUNICIPALITIES

Sec. 1505.151. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality:

(1) that has a population of more than 1,000;

(2) that is located within five miles of the coast or of any gulf, bay, or inlet of the coast; and

(3) in which commercial fishing and shrimping is an established industry.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.152. AUTHORITY TO ACQUIRE OR CONSTRUCT FISH MARKET. (a) A municipality may:

(1) acquire or construct a municipal fish market to encourage, develop, and standardize the fishing and shrimping industry; and

(2) acquire any real property necessary for the site of the fish market.

(b) The fish market must provide sanitary facilities and equipment for cleaning, packing, shucking, canning, and cold storage of shrimp, oysters, and other seafood.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.153. AUTHORITY TO ISSUE OBLIGATIONS. A municipality may issue bonds or revenue notes to acquire or construct a municipal fish market.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.154. AUTHORITY TO ACCEPT LOANS AND GRANTS FROM UNITED STATES. (a) A municipality may accept a loan or a grant from the United States to acquire or construct a municipal fish market, including the necessary real property on which it is located, only if the acquisition or construction of the market is approved:

(1) by the Texas Department of Health on a determination that the market is conducive to the health of the people of this state who consume food products from the coastal waters of this state; and

(2) by the Parks and Wildlife Department on a determination that:

(A) the market is feasible and of economic importance to the fishing industry generally in the entire district to be served by the market, as distinguished from the local or civic benefits to be derived from the market by the municipality; and

(B) the economic need for the market is not adequately met by a similar existing facility accessible to the district to be served.

(b) Any such market is subject to all applicable health and sanitation rules adopted by the Texas Department of Health.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.155. SECURITY FOR PAYMENT OF OBLIGATIONS. (a) A municipality may secure the payment of an obligation issued under this subchapter by:

(1) mortgaging the physical property acquired or constructed or to be acquired or constructed and pledging the net revenue derived from the property; or

(2) pledging the net revenue derived from the property without a mortgage on the property.

(b) A municipality that mortgages the property may provide in the encumbrance for a grant, to a purchaser under sale or

foreclosure, of a permit to operate the fish market, subject to all laws then in force regulating the operation of such an industry.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.156. OBLIGATIONS NOT PAYABLE FROM TAXES. (a) An obligation issued under this subchapter:

(1) is not a debt of the municipality;

(2) may be a charge only against the revenue or property pledged for the payment of the obligation; and

(3) may not be included in determining the power of the municipality to issue bonds for any purpose authorized by law.

(b) Each obligation issued under this subchapter must contain the following provision: "The holder of this obligation is not entitled to demand payment of this obligation from any money raised by taxation."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.157. MATURITY. An obligation issued under this subchapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.158. OPERATING EXPENSES AS FIRST LIEN. The expenses of operating and maintaining a fish market acquired or constructed under this subchapter, including all salaries, labor, materials, and repairs necessary to permit the market to provide efficient service, are a first lien on the revenue from the operation of the market.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.159. USE OF REVENUE. Except as provided by Section 1505.160, a municipality may only use the gross revenue of a fish market acquired or constructed under this subchapter:

(1) to pay the expenses of operating and maintaining the market;

(2) after payment of operating and maintenance expenses, to pay the principal of and interest on any obligation issued to acquire or construct the market; and

(3) after payment of operating and maintenance expenses and debt service, to:

(A) redeem any obligation issued to acquire or construct the market before maturity; or

(B) invest in any security specified in a contract under which money for the acquisition or construction of the market is provided to the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.160. SUBORDINATE OBLIGATIONS. (a) If the governing body of a municipality considers it necessary to extend or enlarge the fish market, the governing body may:

(1) issue subordinate bonds or notes; and

(2) pledge the revenue of the fish market to the payment of those bonds or notes.

(b) A pledge of the revenue for subordinate bonds or notes is inferior to any prior pledge.

(c) The municipality shall establish, deposit, and secure the funds to facilitate the payment of the principal of and interest on the bonds or notes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.161. LEASE AND SALE OF FACILITIES. Subject to any prior covenant or agreement relating to an outstanding revenue bond issued to acquire or construct a fish market under this subchapter, the governing body of a municipality may:

(1) lease all or part of the facilities of the market and property associated with the market for a period not longer than 20 years to any person, firm, or corporation; and

(2) sell all or part of the facilities of the market and property associated with the market to any person, firm, or corporation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER E. BONDS FOR HARBOR IMPROVEMENTS AND FACILITIES IN COASTAL MUNICIPALITIES WITH POPULATION OF LESS THAN 12,000

Sec. 1505.201. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality that:

(1) has a population of less than 12,000; and

(2) is located on the Gulf of Mexico or a channel, canal, bay, or inlet connected with that gulf.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.202. DEFINITIONS. In this subchapter:

(1) "Bond authorization" means an ordinance or resolution authorizing the issuance of bonds.

(2) "Harbor improvement or facility" means a harbor, port, or navigational facility described by Section 1505.203.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.203. AUTHORITY TO ISSUE REVENUE BONDS. (a) A municipality may issue revenue bonds to construct, acquire, lease, improve, enlarge, extend, repair, maintain, replace, develop, operate, regulate, or encumber a harbor or port of the municipality or a navigational facility that pertains or is an aid to the harbor or port, including:

(1) land or fill;

(2) a boathouse or boat piling;

(3) a seawall, breakwater, or shore protection;

(4) a wharf, dock, or pier;

(5) a walk or way;

(6) a wall or bulkhead;

(7) a canal, channel, slip, pool, waterway, or turning basin;

(8) a dry dock, service facility, floating plant, loading device, lightering facility, bunkering facility, or towing facility;

(9) a bridge, tube, underpass, tunnel, or ferry;

(10) equipment;

(11) a pavilion, building, warehouse, or structure;

(12) an aid to navigation; and

(13) any other facility, improvement, or aid incident to or necessary or desirable in connection with the harbor or port.

(b) This subchapter does not authorize a municipality to issue bonds that are payable from taxes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.204. AUTHORITY TO ACCEPT LOANS AND GRANTS. For a purpose described by Section 1505.203, a municipality may accept a loan or grant from any source, including:

(1) the United States, a state, or a county; and

(2) an agency of a state or county.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.205. LOCATION OF HARBOR IMPROVEMENT OR FACILITY. A harbor improvement or facility financed by bonds or a loan or grant authorized under this subchapter must be located inside municipal boundaries.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.206. PLEDGE OF REVENUE. (a) In this section, "net revenue" means the gross revenue derived from a harbor improvement or facility less the amount necessary to pay the cost of maintaining and operating the harbor improvement or facility.

(b) A bond issued under this subchapter is payable from revenue pledged by the governing body of the municipality to the payment of the bond.

(c) To secure payment of principal of and interest on bonds issued under this subchapter, the governing body of the municipality may pledge:

(1) the gross or net revenue of:

(A) a harbor improvement or facility to be financed by the bonds; or

(B) a harbor improvement or facility in existence before the issuance of the bonds, if that revenue may be pledged;

(2) unless the bond authorization specifies a different amount, the entire amount of revenue due the municipality under a contract in existence before the issuance of the bonds or to be entered into after the issuance, if that revenue may be pledged; or

(3) any other revenue specified by the bond authorization that may be pledged.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.207. GRANT OF FRANCHISE. As additional security for the encumbrance, a municipality that encumbers a harbor improvement or facility under Section 1505.203 may provide in the encumbrance for a grant, to a purchaser under sale or foreclosure, of a franchise to operate the harbor improvement or facility, including any improvement, for a term not to exceed 30 years from the date of purchase, subject to all laws regulating the same then in force.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.208. BONDS NOT PAYABLE FROM TAXES. (a) A bond issued under this subchapter:

(1) is not a debt of the municipality; and

(2) may be a charge only against the property, facilities, and contracts authorized by the bond authorization.

(b) Each bond issued under this subchapter must state on its face the following provision: "The holder of this obligation is not entitled to demand payment of this obligation from any money raised by taxation."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.209. ELECTION. (a) A municipality may not issue bonds under this subchapter unless the issuance is authorized by a majority of the qualified voters voting at an election held for that purpose under Chapter 1251.

(b) The governing body of the municipality shall hold the election in the manner provided for the issuance of other bonds of the municipality.

(c) This section does not apply to refunding bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.026, eff. Sept. 1, 2001.

Sec. 1505.210. ADDITIONAL BONDS. The bond authorization may reserve the right to issue additional bonds on a parity with, or subordinate to, the bond being issued, subject to the conditions prescribed by the bond authorization.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.211. TRANSFER OF PLEDGED REVENUE. (a) A municipality may, in the bond authorization, transfer pledged revenue from the harbor improvement or facility to the general fund of the municipality.

(b) The transferred revenue:

(1) must be in the amount authorized in the bond authorization; and

(2) to the extent authorized in the bond authorization, may be used for general or special purposes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.212. RATES. The governing body of the municipality shall set the rates for municipal charges, rents, and leases and for services rendered by the municipality in connection with a harbor improvement or facility, the revenue of which is pledged, in an amount sufficient to:

(1) pay the expense of operating and maintaining the improvement or facility;

(2) pay the interest on the bond as it accrues;

(3) pay the principal of the bond as it matures; and

(4) maintain the reserve and other funds as provided in the bond authorization, unless otherwise specifically provided for in the bond authorization.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.213. APPOINTMENT OF RECEIVER. (a) On default or threatened default in the payment of principal of or interest on an issue of bonds under this subchapter, a court may, on petition of the holders of 25 percent of the outstanding bonds, appoint a receiver with authority to:

(1) collect and receive the income from a harbor improvement or facility or a contract the revenue of which is pledged;

(2) employ an agent or employee;

(3) take charge of money on hand; and

(4) manage without consent or hindrance by the governing body of the municipality the proprietary affairs of the harbor improvement or facility or the contract the revenue of which is pledged.

(b) The court may also:

(1) authorize the receiver to lease the harbor improvement or facility the revenue of which is pledged and renew the contract with the approval of the court; and

(2) vest the receiver with any other power or duty the court finds necessary for the protection of the bondholders.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.214. EXEMPTION FROM ASSESSMENT OR TAXATION. (a) A municipality is not required to pay any assessment on a harbor improvement or facility.

(b) A bond issued under this subchapter, the transfer of the bond, and the income from the bond, including any profit made from the sale of the bond, are exempt from taxation by this state or a political subdivision of this state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.215. AUTHORITY TO ISSUE REFUNDING BONDS. A municipality by resolution may issue refunding bonds to refund outstanding bonds, and the interest on those bonds, issued by the

municipality under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.216. TERMS OF ISSUANCE OF REFUNDING BONDS. (a) Refunding bonds may:

(1) be issued under this subchapter to refund bonds of:

(A) a single issue or two or more consecutive issues; or

(B) a single series or two or more consecutive series;

(2) combine the pledges related to bonds to be refunded to secure the refunding bonds; or

(3) be secured by a pledge of other or additional revenue.

(b) Refunding bonds issued under this subchapter have the same priority of lien on the revenue pledged to their payment as is pledged to the bonds to be refunded.

(c) If two or more consecutive series or issues of bonds are refunded in a single issue of refunding bonds, the lien on all the refunding bonds is equal if all bonds of the several series or issues of bonds to be refunded are surrendered in exchange for the refunding bonds.

(d) Refunding bonds issued under this subchapter may not have a priority of lien greater than the highest priority of lien of a series or issue of bonds to be refunded.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.217. REGISTRATION OF REFUNDING BONDS BY COMPTROLLER. (a) The comptroller shall register the refunding bonds on the surrender and cancellation of the bonds to be refunded.

(b) In lieu of issuing bonds to be registered on the surrender and cancellation of the bonds to be refunded, the municipality, in the resolution authorizing the issuance of the refunding bonds, may provide for the sale of the refunding bonds and the deposit of the proceeds in the bank where the bonds to be refunded are payable. In that case, the refunding bonds may be issued in an amount sufficient to pay the interest on the bonds to be refunded to their option or maturity date, and the comptroller shall register the refunding bonds without the surrender and cancellation of the bonds to be refunded.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER F. BONDS FOR HARBOR, WHARF, AND DOCK FACILITIES IN COASTAL MUNICIPALITIES WITH POPULATION OF 5,000 OR LESS

Sec. 1505.251. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a general-law municipality that:

(1) has a population of 5,000 or less; and

(2) is located on the Gulf of Mexico or a channel, canal, bay, or inlet connected with that gulf.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.252. AUTHORITY FOR HARBOR, WHARF, AND DOCK FACILITIES. A municipality may purchase, condemn, construct, own, maintain, improve, repair, operate, or lease:

(1) a wharf, pier, pavilion, dock, harbor, or boat basin; and

(2) another facility associated with a facility listed in Subdivision (1) that the municipality considers advisable, including a ferry, marina, elevated platform, parking facility, restaurant, hotel, motel, club, or other commercial establishment or municipal building.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.253. AUTHORITY TO ISSUE BONDS. A municipality may:

(1) issue bonds for a purpose described by Section 1505.252 and provide for the payment of the principal of and interest on the bonds from the income of the facility, including income from leasing the facility, less the reasonable cost of the operation and maintenance of the facility; or

(2) issue bonds for that purpose in the manner provided for the issuance of other municipal bonds payable from an ad valorem tax imposed on taxable property in the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1505.254. ELECTION. (a) The governing body of a municipality may not issue bonds under this subchapter that are payable from ad valorem taxes unless authorized by a majority of the qualified voters voting at an election.

(b) The governing body of a municipality may issue bonds under this subchapter that are payable from the income of a facility without notice or an election in connection with the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1506. BONDS FOR MUNICIPAL PARKING AND TRANSPORTATION FACILITIES

SUBCHAPTER A. REVENUE BONDS FOR PARKING FACILITIES IN HOME-RULE MUNICIPALITIES WITH POPULATION OF LESS THAN 60,000

Sec. 1506.001. APPLICABILITY OF SUBCHAPTER. This Subchapter applies only to a home-rule municipality that:

(1) has a population of less than 60,000; and

(2) on January 1, 1949, owned and operated a public parking lot.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.002. AUTHORITY TO ISSUE REVENUE BONDS. The governing body of a municipality by ordinance may issue revenue bonds to construct a building or other permanent improvement on a parking lot owned and operated by the municipality on January 1, 1949, for public parking or storage of motor vehicles.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.003. PLEDGE OF REVENUE. (a) In this section, "net revenue" means gross revenue minus all operation and maintenance expenses.

(b) Bonds issued under this subchapter may be secured only by a pledge of and be payable from the net revenue from the building or other improvement for which the bonds are issued and the parking lot on which the building or improvement is located.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.004. BONDS NOT PAYABLE FROM TAXES. (a) A bond issued under this subchapter:

(1) is not a debt of the municipality;

(2) may be a charge only on the revenue pledged for the payment of the bond; and

(3) may not be included in determining the power of the municipality to issue bonds payable from taxation.

(b) A bond issued under this subchapter must contain on its face the following provision: "The holder of this obligation is not entitled to demand payment of this obligation out of any money raised by taxation."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.005. ELECTION. A municipality may issue bonds under this subchapter without an election, but the governing body of the municipality may hold an election in compliance with Chapter 1251 to determine whether a majority of the qualified voters of the municipality voting in the election approve the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.006. MATURITY. A bond issued under this subchapter must:

(1) be payable serially; and

(2) mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.007. SIGNATURES. A bond issued under this subchapter must be signed by the mayor of the municipality and countersigned by the secretary of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.008. EXEMPTION FROM TAXATION. A bond issued under this subchapter is exempt from taxation by this state or by a municipal corporation or any other political subdivision of this state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.009. PERSONNEL; OPERATION AND MAINTENANCE EXPENSES. A municipality may employ personnel necessary to operate a building or other improvement financed under this subchapter. The costs of operation and maintenance of the building or other improvement and the parking lot on which the building or other improvement is located are a first lien against the income from the operation of the facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.010. FEES FOR SERVICES; RESERVES. (a) A municipality may establish and enforce fees for the use of a building or other improvement financed under this subchapter and the parking lot on which the building or other improvement is located.

(b) While the principal of or interest on a bond issued under this subchapter is outstanding, the municipality shall charge the fees in amounts at least sufficient to:

(1) pay all operating and maintenance expenses in connection with the building or other improvement and the parking lot;

(2) pay the principal of and interest on the outstanding bonds as the principal matures and as the interest accrues; and

(3) establish and maintain any reserves prescribed in the ordinance authorizing the issuance of the bonds.

(c) Fees charged under this section must be equal and uniform within classes defined by the governing body of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.011. ADDITIONAL BONDS. While any bonds issued under this subchapter are outstanding, the municipality may not issue additional bonds of equal dignity against the pledged revenue, except to the extent and in the manner expressly permitted in the ordinance authorizing the issuance of the outstanding bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. BONDS FOR PARKING FACILITIES IN HOME-RULE MUNICIPALITIES

Sec. 1506.051. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a home-rule municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.052. AUTHORITY FOR PARKING FACILITIES. (a) A municipality may establish, acquire, lease as lessor or lessee, construct, improve, enlarge, equip, repair, operate, or maintain a structure, parking area, parking garage, or facility for off-street parking or storage of motor vehicles or other conveyances.

(b) The municipality may:

(1) regulate the use of a facility authorized by Subsection (a); and

(2) establish charges for use of the facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.053. AUTHORITY TO ESTABLISH IMPROVEMENT DISTRICTS AND ISSUE BONDS. The governing body of a municipality may:

(1) designate by clearly defined boundaries one or more improvement districts within the municipality; and

(2) borrow money on the credit of the municipality by issuing bonds as provided by this subchapter to acquire or construct a facility authorized by Section 1506.052.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.054. ELECTION. (a) A municipality may not issue bonds to acquire or construct a facility in an improvement district under this subchapter unless a majority of the qualified voters of the improvement district voting at an election held for that purpose approve the issuance of the bonds.

(b) Each proposition to issue bonds in an improvement district under this subchapter must distinctly specify the purpose for which the bonds are to be issued and the facility to be acquired or constructed.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.055. FORM OF BOND. A bond issued under this subchapter must specify the purpose for which it is issued.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.056. SALE OF BONDS. A municipality may sell bonds issued under this subchapter in lots as the governing body of the municipality directs.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.057. INTEREST AND SINKING FUND TAX. (a) A municipality may not issue bonds under this subchapter creating a debt against the municipality or an improvement district unless the municipality provides for the imposition of an annual ad valorem tax on property in the improvement district at a rate sufficient to:

(1) pay the interest on the bonds; and

(2) create a sinking fund of at least two percent on the bonds.

(b) The rate of the tax may not exceed 50 cents on the $100 valuation of property taxable by the municipality.

(c) The tax is in addition to other taxes imposed by the municipality or authorized to be imposed by the municipal charter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.058. PROCEEDS OF TAX. The municipal treasurer shall keep money from the tax imposed under Section 1506.057 in a fund separate from other funds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.059. INVESTMENT OF SINKING FUND. The sinking fund for bonds issued under this subchapter may be invested in securities that are permitted by law for the investment of sinking funds for other municipal bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.060. EMINENT DOMAIN. A municipality may exercise the power of eminent domain to acquire the fee simple title to property to provide a site for a facility authorized by Section 1506.052.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.061. RELOCATION OR ALTERATION EXPENSE. If a municipality, in the exercise of a power under this subchapter, including the power of relocation, makes necessary the relocation or rerouting of, or alteration of the construction of, a highway, railroad, electric transmission line, telegraph or telephone property or facility, or pipeline, the relocation or rerouting or alteration of construction must be accomplished at the sole expense of the municipality. In this section, "sole expense" means the actual cost of the relocation or rerouting or alteration of construction to provide comparable replacement without enhancement of the facility, after deduction of the net salvage value derived from the old facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. REVENUE BONDS FOR PARKING IMPROVEMENTS IN CERTAIN COASTAL MUNICIPALITIES

Sec. 1506.101. APPLICABILITY OF SUBCHAPTER. This subchapter

applies only to a municipality that:

(1) is located on the Gulf of Mexico or on a channel, canal, bay, or inlet connected to the Gulf of Mexico; and

(2) has a population of:

(A) more than 53,000 and less than 84,000; or

(B) more than 115,000 and less than 160,000.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 669, Sec. 29, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 31, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 60, eff. September 1, 2023.

Sec. 1506.102. DEFINITION. In this subchapter, "parking improvement" means a permanent public improvement consisting of a structure, parking area, or facility for off-street parking or storage of motor vehicles or other conveyances.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.103. AUTHORITY FOR PARKING IMPROVEMENTS. A municipality may establish, acquire, lease as lessor or lessee, construct, improve, enlarge, equip, repair, operate, or maintain a parking improvement.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.104. AUTHORITY TO ISSUE REVENUE BONDS. The governing body of a municipality by ordinance may issue revenue bonds to provide all or part of the money to establish, acquire, lease, construct, improve, enlarge, equip, or repair a parking improvement.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.105. PLEDGE OF REVENUE. (a) Bonds issued under this subchapter must be secured by a pledge of and be payable from all or a designated part of the revenue from the parking improvement for which the bonds are issued, as provided in the ordinance authorizing the issuance of the bonds.

(b) The pledge securing the bonds is inferior to any previous pledge of the revenue for the payment of revenue bonds or revenue refunding bonds that are outstanding.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.106. LIEN ON PARKING IMPROVEMENT. Subject to any limitation contained in any previous pledge, the governing body of a municipality may, in addition to pledging the revenue from a parking improvement, give a lien on all or part of the physical property acquired with the proceeds from the sale of bonds issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.107. BONDS NOT PAYABLE FROM TAXES. The owner or holder of a bond issued under this subchapter is not entitled to demand payment of the principal of or interest on the bond from money raised by taxation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.108. CONTENTS OF ORDINANCE AUTHORIZING BONDS. (a) The ordinance authorizing the issuance of bonds under this subchapter may provide for the flow of funds and the establishment and maintenance of an interest and sinking fund, reserve fund, or other fund.

(b) The ordinance may:

(1) prohibit the issuance of additional bonds or other obligations payable from the pledged revenue; or

(2) reserve the right to issue additional bonds to be secured by a pledge of and payable from the revenue on a parity with, or subordinate to, the lien and pledge in support of the bonds being

issued, subject to the conditions prescribed by the ordinance.

(c) The ordinance may contain any other provision or covenant, including a covenant with respect to the bonds, the pledged revenue, or the operation and maintenance of the parking improvement the revenue of which is pledged. The ordinance may provide for the operation or lease, as lessor or lessee, of all or part of the parking improvement and the use or pledge of money derived from operation contracts and leases.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.109. ADOPTION AND EXECUTION OF DOCUMENTS. The municipality may adopt and have executed any other proceeding or instrument necessary or convenient to the issuance of bonds under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.110. MATURITY. A bond issued under this subchapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.111. SIGNATURES. A bond issued under this subchapter must be signed by the mayor of the municipality and countersigned by the secretary or clerk of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.112. SALE OF BONDS. A municipality may sell bonds issued under this subchapter under the terms determined by the governing body of the municipality to be the most advantageous and reasonably obtainable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.113. INVESTMENT OF BOND PROCEEDS AND FUNDS. (a) The bond proceeds, until they are needed to implement the purpose for which the bonds were issued, may be invested in direct obligations of the United States, placed on time deposit, or both.

(b) Money in an interest and sinking fund, reserve fund, or any other fund established or provided for in the bond ordinance may be invested in the manner and in the securities as provided in the bond ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.114. CHARGES FOR SERVICES. The governing body of a municipality shall impose and collect charges for services provided in connection with a parking improvement the revenue of which is pledged to secure bonds issued under this subchapter in amounts at least sufficient to comply with each covenant or provision in the ordinance authorizing the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.115. REFUNDING BONDS. (a) The governing body of a municipality by ordinance may issue revenue refunding bonds to refund bonds, including revenue refunding bonds, issued under this subchapter.

(b) Refunding bonds issued under this section must be executed and mature as provided by this subchapter for original bonds.

(c) The comptroller shall register refunding bonds on surrender and cancellation of the bonds to be refunded.

(d) The comptroller shall register refunding bonds without the surrender and cancellation of the bonds to be refunded if the ordinance authorizing the issuance of the refunding bonds requires the obligation to be sold and the proceeds from the sale to be deposited in a place where the bonds to be refunded are payable.

(e) Refunding bonds to which Subsection (d) applies may be issued in an amount sufficient to pay:

(1) the principal of the bonds to be refunded; and

(2) the interest on the bonds to be refunded to the option or maturity date of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.116. CONFLICT OR INCONSISTENCY WITH MUNICIPAL CHARTER. To the extent of a conflict or inconsistency between this subchapter and a municipal charter, this subchapter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. REVENUE BONDS FOR PARKING AND TRANSPORTATION FACILITIES IN MUNICIPALITIES WITH POPULATION OF MORE THAN 1.1 MILLION

Sec. 1506.151. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality with a population of more than 1.1 million.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 669, Sec. 30, eff. Sept. 1, 2001.

Sec. 1506.152. AUTHORITY FOR PARKING AND TRANSPORTATION FACILITIES. (a) A municipality may acquire, lease as lessor or lessee, construct, improve, enlarge, equip, and operate:

(1) an off-street parking facility; or

(2) a terminal or station and related properties and facilities for use by:

(A) passengers, commuters, travelers, shippers, and other members of the public; and

(B) companies or individuals engaged in the business of transporting the public or freight by bus, truck, or rail.

(b) A municipality may create an off-street parking system by combining one or more parking facilities established under Subsection (a) with one or more other parking facilities previously owned by the municipality or acquired under a law other than this subchapter that authorizes the municipality to own and operate parking facilities, whether or not the other facility or facilities are operated in connection with any other municipally owned facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.153. CONTRACTS AND LEASES; JOINT DEVELOPMENT. (a) A municipality may contract with any person to perform any function related to a facility described by Section 1506.152(a).

(b) A municipality may lease a facility or other property described by Section 1506.152(a) to any person on the terms approved by the governing body of the municipality, including the amounts of rental, revenue, and payments and the period of years.

(c) A facility or other property described by Section 1506.152(a) may be developed with another public or private development under an agreement with the owner of the development on the terms approved by the municipality. The municipality may include as a part of an agreement the provisions the municipality determines are appropriate for the use, lease, or sale of any part of the subsurface, or airspace above the surface, of the municipality's property that the municipality determines is not necessary for the purposes of the facility or other property.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.154. AUTHORITY TO ISSUE REVENUE BONDS. (a) The governing body of a municipality by ordinance may issue revenue bonds for a purpose authorized by Section 1506.152(a).

(b) A municipality that proposes to create an off-street parking system under Section 1506.152(b) may by ordinance issue bonds for the purposes of creating, extending, or improving the system to the same extent otherwise provided by this subchapter for bonds issued for a single parking facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.155. PLEDGE OF REVENUE. (a) A municipality may pledge all or part of the revenue, income, or receipts from the charges authorized by Section 1506.161 to the payment of bonds issued under Section 1506.154(a), including principal, interest, and any other amounts required or permitted in connection with the bonds.

(b) A municipality may pledge to the payment of bonds issued under Section 1506.154(b) all or part of the revenue, income, or receipts from:

(1) the ownership or operation of any facility included in

the municipality's parking system established under Section 1506.152(b); or

(2) parking meters on or adjacent to the public streets of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.156. ADDITIONAL SECURITY. (a) Bonds issued under this subchapter may be additionally secured by:

(1) an encumbrance on any real property relating to a facility authorized by this subchapter owned or to be acquired by the municipality;

(2) an encumbrance on any personal property appurtenant to that real property; or

(3) a pledge of any portion of a grant, donation, revenue, or income received or to be received from the United States or any other public or private source.

(b) The governing body of the municipality may authorize the execution of a trust indenture, mortgage, deed of trust, or other instrument as evidence of the encumbrance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.157. MATURITY. A bond issued under this subchapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.158. ADDITIONAL BONDS. The ordinance authorizing the issuance of bonds under this subchapter may provide for the subsequent issuance of additional parity bonds or subordinate lien bonds under terms specified in the ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.159. SALE OF BONDS. A municipality may sell bonds issued under this subchapter in the manner and under the terms

provided by the ordinance authorizing the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.160. REVIEW AND APPROVAL OF CONTRACTS RELATING TO BONDS. (a) If bonds issued under this subchapter state that they are secured by a pledge of revenue or rents from a contract, including a lease contract, a copy of the contract and the proceedings related to it must be submitted to the attorney general.

(b) If the attorney general finds that the bonds have been authorized and the contract has been made in accordance with law, the attorney general shall approve the contract.

(c) After the bonds are approved and registered as provided by Chapter 1202 and the contract is approved as provided by Subsection (b), the contract is incontestable in a court or other forum for any reason and is a valid and binding obligation for all purposes in accordance with its terms.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.161. CHARGES. (a) The governing body of a municipality may impose and collect charges for the use or availability of a facility or other property described by Section 1506.152(a) in the amounts and manner determined by the governing body.

(b) A municipality shall impose pledged charges in amounts that will be at least sufficient, with any other pledged resources, to provide for the payment of:

(1) the principal of, interest on, and any other amounts required in connection with the bonds to which the charges are pledged; and

(2) to the extent required by the ordinance authorizing the issuance of the bonds:

(A) expenses incurred in connection with the bonds; and

(B) operation, maintenance, and other expenses incurred in connection with the facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.162. REFUNDING BONDS. (a) A municipality may refund or otherwise refinance bonds issued under this subchapter by issuing refunding bonds under any terms provided by ordinance of the governing body of the municipality.

(b) All appropriate provisions of this subchapter apply to the refunding bonds. The refunding bonds shall be issued in the manner provided by this subchapter for other bonds.

(c) The refunding bonds may be sold and delivered in amounts sufficient to pay the principal of and interest and any redemption premium on the bonds to be refunded, at maturity or on any redemption date.

(d) The refunding bonds may be issued to be exchanged for the bonds being refunded by them. In that case, the comptroller shall register the refunding bonds and deliver them to the holder of the bonds being refunded as provided by the ordinance authorizing the refunding bonds. The exchange may be made in one delivery or in installment deliveries.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.163. PUBLIC PURPOSE. The acquisition, construction, improvement, enlargement, equipment, operation, and maintenance of a facility or other property described by Section 1506.152(a) is a public purpose and proper municipal function.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1506.164. CONFLICT OR INCONSISTENCY WITH OTHER LAW. (a) When bonds are issued under this subchapter, to the extent of any conflict or inconsistency between this subchapter and another law, this subchapter controls.

(b) This subchapter is cumulative of all other law on the subject, but this subchapter is wholly sufficient authority within itself for the issuance of bonds and the performance of the other acts and procedures authorized by this subchapter without reference to any other law or any restrictions or limitations contained in that law, except as specifically provided by this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 23, eff. Sept. 1, 1999.

CHAPTER 1507. OBLIGATIONS RELATING TO MUNICIPAL DEBT AND EXPENSES

SUBCHAPTER A. BONDS FOR PAYMENT OF JUDGMENTS

Sec. 1507.001. AUTHORITY TO ISSUE BONDS. A municipality may issue, sell, and deliver bonds in an amount sufficient to pay a final judgment of a court, plus the interest and the costs and expenses connected with the judgment, if:

(1) the judgment is against the municipality or the payment of the judgment is the legal responsibility of the municipality;

(2) the judgment awards the plaintiff an amount in cash; and

(3) the municipality does not have money available to pay the amount of the judgment plus the interest and the cost and expenses connected with the judgment or decree.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.002. ELECTION. (a) A municipality may not issue bonds under this subchapter unless the bonds are authorized by a majority vote of the qualified voters of the municipality voting at an election held for that purpose.

(b) A municipality shall hold an election to issue bonds under this subchapter in the manner provided for other bond elections in the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.003. MATURITY. A bond issued under this subchapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. REFUNDING OF REFUNDING BONDS ISSUED UNDER BANKRUPTCY PLAN

Sec. 1507.051. AUTHORITY TO ISSUE REFUNDING BONDS. (a) The governing body of a municipality by ordinance may issue refunding bonds in accordance with Subchapters A and D, Chapter 1207, to refund outstanding refunding bonds if:

(1) the bonds to be refunded were issued under a plan for the adjustment of the municipality's debts confirmed by a bankruptcy court under Title 11, United States Code; and

(2) the bonds do not mature in annual installments.

(b) The governing body of a municipality that issues bonds under this subchapter to refund revenue bonds may secure the bonds issued under this subchapter by a deed of trust on the municipality's utility system or by a pledge of the net revenue of the system if the bonds being refunded provide for that pledge.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.052. SALE OF BONDS. (a) Instead of exchanging refunding bonds issued under this subchapter for the bonds being refunded, a municipality may, at any time after calling the bonds being refunded for redemption in the manner provided in those bonds, sell the refunding bonds or the unexchanged portion of the refunding bonds.

(b) The municipality shall deposit the principal amount received from the sale of the refunding bonds, and the additional amount necessary to pay the interest to the call date, with the bank at which the bonds being refunded are payable.

(c) The municipality shall send to the comptroller a certified copy of the ordinance authorizing the refunding bonds. The comptroller shall register the refunding bonds without the cancellation of the bonds being refunded and shall deliver the refunding bonds as provided in the ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.053. SIGNATURES. A bond issued under this subchapter must be signed by the mayor of the municipality and the secretary or clerk of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.054. APPLICABILITY OF MUNICIPAL CHARTER. A provision of a municipal charter relating to the terms, issuance, sale, or delivery of bonds does not apply to a bond issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. REFUNDING OF REFUNDING BONDS ADJUDICATED AS VALID OR ISSUED UNDER BANKRUPTCY PLAN

Sec. 1507.101. AUTHORITY TO ISSUE REFUNDING BONDS. The governing body of a municipality by ordinance may issue refunding bonds in accordance with Subchapters A and D, Chapter 1207, to refund outstanding refunding bonds:

(1) that:

(A) a federal court by decree adjudicated to be valid; or

(B) were issued under a plan for the adjustment of the municipality's debts confirmed by a bankruptcy court under Title 11, United States Code; and

(2) that were issued under the authority of an ordinance specifying a minimum fixed tax rate to be imposed in each year during which any of those bonds or interest on those bonds is outstanding.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.102. SALE OF BONDS. (a) Instead of exchanging refunding bonds issued under this subchapter for the bonds being refunded, a municipality may sell the refunding bonds or the unexchanged portion of the refunding bonds.

(b) The municipality shall deposit the principal amount received from the sale of the refunding bonds, and the additional amount necessary to pay the interest to the call date or maturity dates, with the bank at which the original refunding bonds are payable.

(c) The municipality shall send to the comptroller a certified copy of the ordinance authorizing the refunding bonds. The comptroller shall register the refunding bonds without the

cancellation of the bonds being refunded and shall deliver the refunding bonds as provided in the ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.103. SIGNATURES. A bond issued under this subchapter must be signed by the mayor of the municipality and the secretary or clerk of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.104. APPLICABILITY OF MUNICIPAL CHARTER. A provision of a municipal charter relating to the terms, issuance, sale, or delivery of bonds does not apply to a bond issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. TAX BONDS FOR PAYMENT OF CURRENT EXPENSES

Sec. 1507.151. AUTHORITY TO ISSUE BONDS. (a) The governing body of a municipality by ordinance may issue bonds secured by and payable from ad valorem taxes to provide for the payment of all or part of the municipality's current expenses for a fiscal year if:

(1) in that fiscal year the municipality has lost or is likely to lose an amount that is:

(A) more than $15 million; and

(B) more than 15 percent of the municipality's budget for the fiscal year, not including the amount necessary for debt service; and

(2) the loss or potential loss is the result of a person who received municipal funds seeking or acceding to protection under Title 11, United States Code.

(b) A determination by the municipality's governing body that a loss has occurred or is likely to occur, or of the amount of a loss or anticipated loss, is conclusive.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.152. PLEDGE OF TAX. The governing body may pledge to the payment of the bonds issued under this subchapter an ad valorem tax sufficient to pay when due the principal of and interest on the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.153. ELECTION. The governing body of a municipality may issue bonds under this subchapter without an election.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.154. LIMITATION. A municipality may not issue bonds under this subchapter in a principal amount that:

(1) exceeds the amount of loss sustained or anticipated by the municipality and the cost of issuing the bonds; or

(2) would result in the outstanding aggregate principal amount of tax bond indebtedness of the municipality exceeding 10 percent of the assessed valuation of taxable property in the municipality according to the most recent ad valorem tax roll of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.155. MATURITY. Bonds issued under this subchapter must mature not later than five years after their date of issuance as provided by the ordinance authorizing the issuance and sale of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.156. SALE OF BONDS. A municipality may sell bonds issued under this subchapter at a public or private sale as provided by the ordinance authorizing the issuance and sale of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.157. NO WAIVER OF CLAIMS. (a) A municipality's action under this subchapter does not affect or abrogate any claim the municipality may have with respect to a loss described by Section 1507.151.

(b) A municipality that issues bonds under this subchapter:

(1) does not waive any claim of the municipality;

(2) is not estopped from recovering on a claim of the municipality; and

(3) does not ratify any prior action by the municipality in connection with the loss.

(c) A municipality may reserve any claim the municipality may have in its action authorizing the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.158. REDEMPTION OF BONDS. After the recovery of a loss described by Section 1507.151 or the failure of an anticipated loss described by Section 1507.151 to occur, the governing body shall promptly redeem bonds issued to cover the loss or anticipated loss in a principal amount equal to the amount recovered or the amount of anticipated loss that did not occur.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.159. CONFLICT WITH MUNICIPAL CHARTER. To the extent of a conflict between this subchapter and a municipal charter, this subchapter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.160. CONSTRUCTION. This subchapter shall be liberally construed to achieve the legislative intent and purposes of this subchapter. A power granted by this subchapter shall be broadly interpreted to achieve that intent and those purposes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER E. NOTES TO FUND OR REFUND GENERAL OPERATING EXPENSES IN MUNICIPALITIES WITH A POPULATION OF 35,000 TO 45,000

Sec. 1507.201. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a home-rule or special-law municipality with a population of 35,000 to 45,000.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.202. AUTHORITY TO ISSUE NOTES. A municipality may issue notes to fund or refund outstanding warrants that were drawn against the municipality's general fund for general operating expenses and issued during the calendar year preceding the calendar year in which the notes are issued.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.203. ELECTION. (a) Before a municipality may issue notes under this subchapter, the governing body of the municipality shall order an election on the question of authorizing the governing body to issue the notes.

(b) The governing body shall hold, give notice of, and declare the results of an election under this section in the manner provided by general law for bond elections in the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.204. AUTHORITY TO PASS ORDINANCES AND RESOLUTIONS. If the issuance of the notes is authorized at the election, the governing body of the municipality may pass ordinances and resolutions for the issuance of the notes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.205. MATURITY. A note issued under this subchapter must mature not later than 10 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.206. PLEDGE. A municipality may pledge the full faith and credit of the municipality to the payment of a note issued under this subchapter and the interest on the note.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.207. PAYMENT OF WARRANTS WHILE NOTES ARE OUTSTANDING. If a warrant is drawn against the municipality's general fund during a calendar year in which a note issued under this subchapter is outstanding, the municipality shall pay the warrant from current funds appropriated for the purpose for which the warrant is drawn. The municipality may not fund or refund the warrant.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER F. BONDS FOR PAYMENT OF CURRENT EXPENSES IN MUNICIPALITIES WITH A POPULATION OF 161,000 OR MORE

Sec. 1507.251. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality with a population of 161,000 or more.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.252. AUTHORITY TO ISSUE WARRANTS OR NOTES. (a) The governing body of a municipality may issue warrants or notes drawn against the current revenues of the municipality for the fiscal year to:

(1) provide for the payment of the municipality's expenses for the fiscal year in which the warrants or notes are issued or for any portion of that fiscal year; or

(2) refund the principal of and interest on warrants and notes issued under this subchapter.

(b) Warrants and notes issued under this subchapter must be dated and numbered consecutively as issued.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.253. PLEDGE OF REVENUE; PAYMENT. (a) A warrant or note issued under this subchapter is a lien on:

(1) the revenue of the municipality for the fiscal year during which the warrant or note is issued that is available for payment of the warrant or note; or

(2) a designated portion of that revenue.

(b) A municipality shall pay a warrant or note:

(1) consecutively according to its respective date and number as money for payment becomes available; or

(2) on a date during the fiscal year on which, in the estimate of the governing body, sufficient revenue will be available for payment of the warrant or note.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.254. LIMITATION ON AMOUNT OF WARRANTS AND NOTES ISSUED. (a) The governing body may not issue warrants or notes under this subchapter in an amount exceeding 80 percent of the difference between:

(1) the estimated revenue of the municipality for the fiscal year; and

(2) the sum of:

(A) the interest on the bonded indebtedness of the municipality to be paid from that revenue; and

(B) any amount that the municipality is required to pay from that revenue into a sinking fund, special fund, or special trust fund of the municipality.

(b) The limitation prescribed by Subsection (a) does not apply to warrants or notes issued for refunding purposes.

(c) The aggregate principal amount of warrants or notes issued under this subchapter and outstanding at any time in a fiscal year may not exceed the greatest amount by which the proposed expenditures for the fiscal year are estimated by the governing body to exceed the estimated revenue available for payment of warrants and notes during the fiscal year, as computed under Subsection (a).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1507.255. SALE OF WARRANTS OR NOTES. A municipality may

sell warrants or notes issued under this subchapter at a public or private sale as provided in the ordinance authorizing the issuance and sale of the warrants or notes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1508. OBLIGATIONS FOR MUNICIPAL PARKS, RECREATIONAL FACILITIES, AND AIRPORTS

SUBCHAPTER A. OBLIGATIONS FOR PARKS, RECREATIONAL FACILITIES, AND AIRPORTS

Sec. 1508.001. AUTHORITY FOR PARKS, RECREATIONAL FACILITIES, AND AIRPORTS. (a) A municipality may:

(1) construct, purchase, or encumber:

(A) a park, swimming pool, golf course, golf course clubhouse, or ballpark;

(B) a fairground or an exposition building;

(C) an airport; or

(D) land on which a facility described by Paragraphs (A)-(C) is located; or

(2) encumber anything acquired or to be acquired that relates to a facility or land constructed or purchased under Subdivision (1).

(b) A municipality may secure the payment of funds to construct, purchase, or equip a facility or land described by Subsection (a)(1).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.002. AUTHORITY TO ISSUE BONDS, NOTES, AND WARRANTS. A municipality may issue bonds, notes, or warrants to provide the money to construct or purchase a facility or land described by Section 1508.001.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.003. PLEDGE OF INCOME. A municipality may pledge the income from a facility or land described by Section 1508.001 to the payment of obligations issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.004. AUTHORITY TO GRANT FRANCHISE. As additional security for an obligation described by Section 1508.002, a municipality may, under the terms of the encumbrance, grant to the purchaser under sale or foreclosure a franchise to operate the facility or land for a term not to exceed 20 years from the date of purchase, subject to all laws regulating same then in force.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.005. OBLIGATIONS NOT DEBT OF MUNICIPALITY. An obligation issued under this subchapter:

(1) is not a debt of the municipality;

(2) may be a charge only on the facility or land pledged for the payment of the obligation; and

(3) may not be included in determining the power of the municipality to issue bonds for any purpose authorized by law.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.006. ELECTION. (a) Unless authorized at an election by a majority vote of the qualified voters of the municipality, a municipality may not:

(1) encumber a facility or land described by Section 1508.001 for more than $5,000 except:

(A) for purchase money;

(B) for funds to construct and equip the facility; or

(C) to refund existing debt that was authorized by law; or

(2) sell a facility or land described by Section 1508.001.

(b) The governing body of the municipality shall hold an election under this section in the manner provided for other bond elections in the municipality.

(c) If approved by a majority vote of the qualified voters at an election held for that purpose before November 14, 1935, an election is not required to encumber:

(1) a golf course or golf course clubhouse;

(2) a fairground or an exposition building;
(3) an airport; or
(4) land for a facility described by Subdivisions (1)-(3).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.007. RECORDS. The mayor of a municipality that has a facility or land described by Section 1508.001 shall establish and maintain a complete system of records that:

(1) show each free service provided in connection with the facility or land and the value of the service; and

(2) show separately the amounts spent and amounts set aside for operation, salaries, labor, materials, repairs, maintenance, depreciation, replacements, extensions, interest, and the creation of a sinking fund to pay the bonds or debt.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.008. ANNUAL REPORT. (a) Not later than February 1 of each year, the superintendent or manager of a facility or land described by Section 1508.001 shall file with the mayor of the municipality a detailed report of the operation of the facility or land for the year ending the preceding January 1.

(b) The report must show the total amount of money collected and the balance due, and the total disbursements made and the amounts remaining unpaid, resulting from the operation of the facility or land during that year.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.009. OFFENSE. (a) A mayor commits an offense if the mayor fails to:

(1) establish the system of records required by Section 1508.007 before the 91st day after the date the construction or purchase of the facility or land is completed; or

(2) maintain the system of records required by Section 1508.007.

(b) A superintendent or manager of a facility or land described

by Section 1508.001 commits an offense if the superintendent or manager fails to file a report required by Section 1508.008.

(c) An offense under this section is a misdemeanor punishable by a fine of not less than $100 or more than $1,000.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.010. CIVIL ENFORCEMENT. A taxpayer who resides in the municipality or a holder of an obligation issued under this subchapter and secured by the encumbered revenue from a facility or land described by Section 1508.001 is entitled to enforce this subchapter by appropriate civil action in a district court in the county in which the municipality is located.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. REVENUE BONDS FOR SWIMMING POOLS

Sec. 1508.051. AUTHORITY FOR SWIMMING POOLS. A municipality may:

(1) purchase, construct, improve, enlarge, or repair a municipal swimming pool; or

(2) encumber:

(A) a municipal swimming pool or anything acquired that relates to the pool; or

(B) the gross income and revenue from a municipal pool.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.052. AUTHORITY TO ISSUE REVENUE BONDS. A municipality may issue revenue bonds to purchase, construct, improve, enlarge, or repair a municipal swimming pool.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.053. ISSUANCE OF BONDS. Except as provided by this subchapter, a municipality shall issue bonds for a purpose described by Section 1508.052, including additional bonds and refunding bonds,

in the manner provided by Subchapter B, Chapter 1502.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.054. BONDS NOT DEBT OF MUNICIPALITY. A bond issued under this subchapter:

(1) is not a debt of the municipality;

(2) may be a charge only on the property or income pledged for the payment of the bond; and

(3) may not be included in determining the power of the municipality to issue bonds for any other purpose authorized by law.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.055. EFFECT ON OTHER LAW. This subchapter does not affect any other law relating to the issuance of revenue bonds by a municipality, including Subchapter B, Chapter 1502.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. OBLIGATIONS FOR HEALTH AND RECREATIONAL FACILITIES IN MUNICIPALITIES WITH POPULATION OF 5,000 OR MORE

Sec. 1508.101. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality with a population of 5,000 or more.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 711, Sec. 1, eff. June 20, 2003.

Sec. 1508.102. AUTHORITY FOR CERTAIN HEALTH OR RECREATIONAL FACILITIES. (a) A municipality may acquire, encumber, construct, maintain, operate, repair, or remodel:

(1) a health and recreational facility, park, playground, hotel, bathhouse, or swimming pool or facility; or

(2) an installation or establishment necessary or desirable as a part of a facility described by Subdivision (1).

(b) A municipality may not encumber under this section a project acquired on or before November 14, 1935.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.103. AUTHORITY TO ISSUE BONDS, NOTES, AND WARRANTS. A municipality may issue bonds, notes, or warrants to provide money for an acquisition or an activity authorized by Section 1508.102.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.104. PLEDGE OF INCOME. A municipality may pledge the income from a project described by Section 1508.102 to the payment of an obligation issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.105. MORTGAGE. A municipality may secure the payment of funds for a purchase under this subchapter with an instrument of pledge or mortgage as desired by the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.106. OBLIGATION NOT PAYABLE FROM TAXES. (a) An obligation issued under this subchapter:

(1) is not a debt of the municipality;

(2) may be a charge only on the property and revenue encumbered; and

(3) may not be included in determining the power of the municipality to issue bonds for any purpose authorized by law.

(b) A contract, bond, warrant, or note issued or executed under this subchapter must contain the following provision: "The holder of this obligation is not entitled to demand payment of this obligation out of any money raised by taxation."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.107. APPLICATION OF OTHER LAW. The provisions of Chapter 252, Local Government Code, regarding notice, competitive

bids, and the right to referendum do not apply to a municipality issuing revenue bonds under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.108. OPERATING EXPENSES AS FIRST LIEN. If the income from a project described by Section 1508.102 is encumbered under this subchapter, each expense of operation and maintenance of the project, including all salaries, labor, materials, interest, repairs, and extensions necessary to maintain the project, and each proper item of expense, is a first lien and charge against the income.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.109. RENTS AND CONCESSION CHARGES. (a) The governing body that manages and controls a project under Section 1508.111 shall impose and collect rents and concession charges for the use of the project in an amount sufficient to pay:

(1) all operating and maintenance expenses, depreciation, replacements, salaries, and interest charges;

(2) for an interest and sinking fund sufficient to pay any bonds issued to purchase, construct, maintain, or improve the project; and

(3) any outstanding debt against the project.

(b) The governing body may not allow any free use of or free service in connection with the project.

(c) The charges imposed under Subsection (a) must comply with the requirements of any governmental agency lending or providing funds for the project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.110. USE OF INCOME FOR OTHER PURPOSE PROHIBITED. A municipality may not use the income from a project described by Section 1508.102 to pay another debt, expense, or obligation of the municipality until the debt secured by the income is fully paid.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.111. MANAGEMENT AND CONTROL. (a) The contract under which a project authorized by Section 1508.102 is encumbered must provide for the placement of the management and control of the project during the time the project is encumbered in:

(1) the governing body of the municipality; or

(2) another governing body established for that purpose by the governing body of the municipality.

(b) The governing body that manages and controls a project under Subsection (a) may:

(1) adopt rules governing the use and rental of the project and for the payment of rents and concession charges; and

(2) provide penalties for:

(A) the violation of rules adopted under Subdivision (1);

(B) the use of the project without the consent or knowledge of the authorities in charge of the project; or

(C) any interference with, trespass on, or injury to the project or the property on which the project is located.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.112. APPOINTMENT OF TRUSTEE; ATTORNEY'S FEES. A contract under which a project is encumbered under this subchapter may provide for:

(1) the selection of a trustee to sell the project on:

(A) a default in the payment of principal or interest; or

(B) a violation of the terms of the encumbrance;

(2) the selection of a successor trustee if the original trustee or a substitute trustee is disqualified or fails to act; and

(3) attorney's fees in an amount not to exceed 10 percent of the unpaid principal.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.113. NOTICE TO GOVERNING BODY BEFORE FORECLOSURE OR OTHER ACTION. (a) Unless written notice is given to the governing

body of the municipality in accordance with this section that there is a default in payment of any installment of principal of or interest on an obligation issued under this subchapter or another violation of the terms of the pledge or loan:

(1) a collection fee may not accrue;

(2) a foreclosure proceeding may not be initiated in a court or through a trustee; and

(3) an option to mature any part of an obligation because of the default may not be exercised.

(b) A notice under Subsection (a) must be sent by prepaid registered mail to each member of the governing body of the municipality, addressed to the member at the post office in the municipality.

(c) An action described by Subsection (a) may not be taken:

(1) before the 91st day after the date the notice is mailed; or

(2) if the default that gave rise to the action is cured within the time described by Subdivision (1).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. BONDS FOR PARKS AND RECREATIONAL FACILITIES IN MUNICIPALITIES WITH POPULATION OF 1.9 MILLION OR MORE

Sec. 1508.151. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality with a population of 1.9 million or more.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 31, eff. Sept. 1, 2001.

Sec. 1508.152. AUTHORITY FOR PARK FACILITIES. (a) A municipality may acquire by any means or construct, improve, or equip property for park purposes, including establishing, acquiring, leasing or contracting for as lessee or lessor, constructing, improving, enlarging, equipping, maintaining, repairing, or operating:

(1) a golf course, clubhouse, or pro shop;

(2) a tennis court or facility;

(3) a swimming pool;
(4) a marina;
(5) a recreation center;
(6) a rugby field;
(7) a baseball field;
(8) a zoo;
(9) a clarification lake or pool;
(10) a park transportation system or equipment;
(11) a theater;
(12) a bicycle trail;
(13) a multipurpose shelter;
(14) a service facility;
(15) a recreational facility;
(16) a water, sewer, or drainage facility necessary for a facility described by Subdivisions (1)-(15); or
(17) a structure, area, or facility to be used in connection with a facility described by Subdivisions (1)-(15) for parking and storage of motor vehicles or other conveyances.

(b) A municipality may enter into an agreement under which a facility described by Subsection (a) is operated on behalf of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.153. AUTHORITY TO ISSUE REVENUE BONDS. The governing body of a municipality by ordinance may issue revenue bonds for a purpose authorized by Section 1508.152.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.154. PLEDGE OF REVENUE. A municipality may pledge all or part of the revenue, income, or receipts from a facility described by Section 1508.152(a) to the payment of bonds, including principal, interest, and any other amounts required or permitted in connection with the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.155. ADDITIONAL SECURITY. (a) The bonds may be additionally secured by:

(1) an encumbrance on any real property relating to a facility described by Section 1508.152(a) owned or to be acquired by the municipality; or

(2) an encumbrance on any personal property appurtenant to that real property.

(b) The governing body of the municipality may authorize the execution of a trust indenture, mortgage, deed of trust, or other form of encumbrance as evidence of the debt.

(c) The municipality may also pledge to the payment of the bonds all or part of any grant, donation, revenue, or income received or to be received from the United States or any other public or private source.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.156. MATURITY. A bond issued under this subchapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.157. ADDITIONAL BONDS. The ordinance that authorizes the issuance of bonds under this subchapter may provide for the issuance of additional parity bonds or subordinate lien bonds under the terms specified in the ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.158. SALE OF BONDS. A municipality may sell bonds issued under this subchapter in the manner and under the terms provided in the ordinance authorizing the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.159. REVIEW AND APPROVAL OF CONTRACTS BY ATTORNEY GENERAL. (a) If the bonds state that they are secured by a pledge

of revenue or rents from a contract, including a lease contract, a copy of the contract and the proceedings relating to it must also be submitted to the attorney general.

(b) If the attorney general finds that the bonds have been authorized and the contract has been made in accordance with law, the attorney general shall approve the contract.

(c) After the bonds are approved and registered under Chapter 1202 and the contract is approved under Subsection (b), the contract is incontestable for any reason and is a binding obligation for all purposes in accordance with its terms.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.160. CHARGES. (a) The governing body of a municipality may impose and collect charges for the use of a facility described by Section 1508.152(a).

(b) A municipality shall impose and collect charges in an amount that will be at least sufficient, with any other pledged resources, to provide for the payment of:

(1) the principal of, interest on, and any other amounts required in connection with the bonds; and

(2) to the extent required by the ordinance authorizing the issuance of the bonds:

(A) expenses incurred in connection with the bonds; and

(B) operation, maintenance, and other expenses incurred in connection with the facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.161. USE OF AD VALOREM TAXES. (a) In addition to or instead of a pledge of revenue, a municipality may impose and pledge to the payment of any portion of the operation and maintenance costs of a facility described by Section 1508.152(a) a continuing annual ad valorem tax imposed at a rate sufficient for that purpose as provided in the ordinance authorizing the issuance of bonds under this subchapter.

(b) A tax under this section:

(1) must be imposed at a rate within any limit contained in

the municipal charter; and

(2) may not be used for the payment of the principal of or interest on the bonds.

(c) The proceeds of a tax pledged under this section shall be used annually, to the extent required by or provided in the ordinance authorizing the issuance of the bonds, for the operation and maintenance of the facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.162. REFUNDING BONDS. (a) A municipality may refund or otherwise refinance bonds issued under this subchapter by issuing refunding bonds under any terms provided by the ordinance authorizing the issuance of the bonds. All appropriate provisions of this subchapter apply to the refunding bonds. The refunding bonds shall be issued in the manner provided by this subchapter for other bonds.

(b) The refunding bonds may be sold and delivered in amounts necessary to pay the principal of and interest and any redemption premium on the bonds to be refunded, at maturity or on any redemption date.

(c) The refunding bonds may be issued to be exchanged for the bonds being refunded by them. In that case, the comptroller shall register the refunding bonds and deliver them to the holder of the bonds being refunded as provided by the ordinance authorizing the issuance of the bonds. The exchange may be made in one delivery or in installment deliveries.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.163. PUBLIC PURPOSE. Each purpose authorized by Section 1508.152 is a public purpose and a proper municipal function.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.164. CONFLICT OR INCONSISTENCY WITH OTHER LAW. When bonds are issued under this subchapter, to the extent of any conflict or inconsistency between this subchapter and another law or a charter provision of a home-rule municipality, this subchapter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER E. CERTIFICATES OF INDEBTEDNESS FOR SEA LIFE PARK AND OCEANARIUM

Sec. 1508.201. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality that owns a sea life park and oceanarium for which any portion of the costs of construction, equipment, or development is paid from the proceeds of general obligation park bonds authorized by an election held in the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.202. AUTHORITY TO ISSUE CERTIFICATES OF INDEBTEDNESS. (a) The governing body of a municipality by ordinance may issue certificates of indebtedness to obtain money to:

(1) operate, maintain, repair, develop, or expand the sea life park and oceanarium;

(2) acquire equipment and inventories for the sea life park and oceanarium;

(3) pay for services when performed, or for items when acquired, for the benefit of the municipality under an agreement relating to the development, operation, equipping, staffing, or maintenance of the sea life park and oceanarium, including a lease, use, purchase, concession, or operating agreement; or

(4) acquire a facility, asset, or right from an operator under Section 1508.206.

(b) A municipality may issue certificates of indebtedness for a purpose described by Subsections (a)(1)-(3) in connection with another public facility:

(1) owned by the municipality in conjunction with the sea life park and oceanarium; and

(2) authorized under Subchapter B, Chapter 305, Local Government Code, or Subchapter A, Chapter 1504.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.203. SECURITY FOR CERTIFICATES. (a) Certificates of

indebtedness issued under this subchapter may be secured by and made payable from:

(1) taxes;

(2) revenue; or

(3) both taxes and revenue.

(b) To secure the repayment of certificates of indebtedness issued under this subchapter or bonds issued to refund certificates of indebtedness issued under this subchapter, the governing body of a municipality may:

(1) pledge any portion of the revenue from the ownership or operation of any facility, asset, or right under this subchapter; or

(2) execute a deed of trust or mortgage lien on any portion of a facility described by Section 1508.202.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.204. SALE OR DELIVERY OF CERTIFICATES. The ordinance authorizing the issuance of certificates of indebtedness under this subchapter may include provisions for any manner of:

(1) sale of the certificates;

(2) exchange of the certificates for property or services; or

(3) delivery of the certificates.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.205. AUTHORITY TO ENTER INTO AGREEMENT REGARDING PUBLIC FACILITIES. (a) The governing body of a municipality may enter into an agreement relating to the operation, maintenance, development, expansion, equipment, or supplying of a public facility described by Section 1508.202.

(b) An agreement authorized by Subsection (a) may be entered into only:

(1) on the issuance of certificates of indebtedness under this subchapter; or

(2) in anticipation of:

(A) the issuance of certificates of indebtedness under this subchapter; or

(B) the receipt of revenue from a public facility

instead of the issuance of certificates of indebtedness.

(c) The agreement may be of a type, on the terms, and entered into under procedures that the governing body determines best, necessary, and proper.

(d) The proceeds from the certificates of indebtedness, or the revenue received instead of issuing certificates, may be used to satisfy an agreement under this section.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.206. ACQUISITION OF PUBLIC FACILITY FROM OPERATOR. (a) A municipality may acquire any portion of a public facility described by Section 1508.202, or an asset or right related to the facility, including broadcasting or similar rights, from a person or corporation that operates any portion of the facility on behalf of the municipality under an agreement, including a lease, use, purchase, concession, or operating agreement, if:

(1) the governing body of the municipality determines that the facility could be better and more efficiently operated directly by the municipality or through another method; and

(2) the person or corporation consents to the acquisition.

(b) The method used by the municipality to operate the facility may include the use of an operating board appointed by the governing body, with the board's powers granted by ordinance or another method.

(c) A facility, asset, or right acquired under this section may be used or sold by the municipality. In conjunction with the use or sale, the municipality may promote or advertise:

(1) the municipality;

(2) the facility; or

(3) an event conducted in or in connection with the facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.207. DISCONTINUATION OF SEA LIFE PARK AND OCEANARIUM; SALE OR LEASE OF SURPLUS PROPERTY. (a) The governing body of a municipality by ordinance may abandon the use of property for a sea life park and oceanarium and sell or lease the property for any purpose the governing body determines is appropriate and in the

interest of the residents of the municipality if:

(1) the property was partly or wholly financed under this subchapter; and

(2) the governing body finds that use of the property as a sea life park and oceanarium should be abandoned because:

(A) the sea life park and oceanarium is no longer economically feasible; and

(B) the continued use of the property as a sea life park and oceanarium would be unprofitable.

(b) The municipality must sell property under this section only to the highest and best bidder as required for other property sold by the municipality.

(c) The municipality may lease property under this section for another purpose for a term and under such other provisions as agreed to by the governing body.

(d) The municipality shall apply rent received under a lease under Subsection (c) as required by any ordinance authorizing the issuance of certificates of indebtedness secured in whole or in part by revenue derived from the sea life park and oceanarium.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1508.208. CONFLICT OR INCONSISTENCY WITH OTHER LAW. When any certificates of indebtedness are being issued or any act or contract is undertaken under this subchapter, to the extent of any conflict or inconsistency between this subchapter and another law applicable to the municipality, this subchapter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1509. OBLIGATIONS FOR OTHER MUNICIPAL PURPOSES

SUBCHAPTER A. BONDS FOR FACILITIES TO BE SOLD OR LEASED TO PUBLIC OR PRIVATE ENTITIES

Sec. 1509.001. AUTHORITY TO ACQUIRE PROPERTY FOR LEASE TO PUBLIC OR PRIVATE ENTITY. (a) A municipality may acquire land and may construct or acquire a building or other facility for the purpose of leasing the land, building, or other facility to:

(1) a political subdivision or state agency for public use;

(2) an individual, private corporation, or other private

entity for use in manufacturing or another commercial activity; or

(3) if the municipality is a defense community as defined by Section 397.001, Local Government Code, the federal government to enhance the military value of a military facility located in or near the defense community.

(b) A municipality may not acquire land under Subsection (a) by eminent domain.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 1302 (H.B. 2931), Sec. 1, eff. June 18, 2005.

Sec. 1509.002. AUTHORITY TO ACQUIRE PROPERTY FOR SALE OR LEASE TO INSTITUTION OF HIGHER EDUCATION. (a) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(b) This section applies only to a municipality that:

(1) has a population of more than 17,000 but less than 18,000; and

(2) is located in two counties.

(c) A municipality may acquire land and may construct or acquire a building or other facility for the purpose of selling or leasing the land, building, or other facility to an institution of higher education that will provide a significant number of vocational and vocational-technical education courses in the facility for public use.

(d) The municipality may sell or lease the property:

(1) without public notice or bidding; and

(2) on terms the governing body of the municipality finds acceptable.

(e) A municipality may not acquire land under this section by eminent domain.

(f) A sale under Subsection (c) may be by an installment sale agreement or otherwise.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 669, Sec. 32, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 32, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 62, eff. September 1, 2023.

Sec. 1509.003. AUTHORITY TO ISSUE BONDS. To develop and diversify the economy of this state and eliminate unemployment or underemployment in this state under the authority granted by Section 52-a, Article III, Texas Constitution, a municipality may issue and sell bonds to finance an action taken under Section 1509.001 or 1509.002.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.004. BOND PAYMENTS FROM REVENUE OR TAXES. (a) A municipality may provide for payment of the principal of and interest on bonds issued under this subchapter by:

(1) pledging all or part of the revenue from the sale or lease of all or part of the land, building, or other facility financed by the bonds, after deduction of reasonable operation and maintenance costs;

(2) imposing an annual ad valorem tax; or

(3) combining those sources.

(b) A municipality with a population of 80,000 or more may also provide for the payment of the principal of or interest on the bonds by pledging all or any part of other municipal revenue that is not prohibited from being used for that payment.

(c) A municipality with a population of at least 50,000 that has taken action under Section 1509.001(a)(3) may also provide for the payment of the principal of or interest on the bonds issued to finance the action taken by pledging all or any part of other municipal revenue that the municipality is not prohibited from using for that payment.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 1302 (H.B. 2931), Sec. 2, eff. June 18, 2005.

Sec. 1509.005. ELECTION REQUIRED TO SECURE BONDS WITH TAX REVENUE. Bonds to be issued under this subchapter that are payable in whole or in part from ad valorem taxes must be approved, before issuance, by a vote of a majority of the registered voters of the municipality voting on the issue.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.006. CONTENTS OF ORDINANCE, ORDER, OR RESOLUTION AUTHORIZING BONDS. (a) In the ordinance, order, or resolution authorizing the issuance of bonds under this subchapter, the governing body of a municipality may provide for the deposit and accounting of money and the establishment and maintenance of an interest and sinking fund, a reserve fund, or another fund.

(b) The ordinance, order, or resolution may make additional covenants relating to the bonds, the pledged revenue, or the operation and maintenance of any land, building, or other facility the revenue of which is pledged for bond payments.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.007. ADOPTION AND EXECUTION OF DOCUMENTS. The governing body of a municipality may adopt and have executed any proceeding or instrument necessary and convenient in:

(1) the issuance of bonds under this subchapter; or

(2) the acquisition and sale or lease of any land, building, or other facility under Section 1509.001 or 1509.002.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.008. MATURITY. A bond issued under this subchapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.009. IMPOSITION OF TAX. (a) The governing body of a municipality may annually impose ad valorem taxes to pay the

principal of and interest on bonds issued under this subchapter that are payable in whole or in part from ad valorem taxes only if the taxes are approved at an election held under Section 1509.005.

(b) A municipality may not impose ad valorem taxes to pay the principal of or interest on bonds issued under this subchapter payable wholly from revenue from one or more leases or other contracts made under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.010. GRANTS FOR PRISONS OR LAW ENFORCEMENT FACILITIES NOT PROHIBITED. This subchapter does not prohibit a municipality from making a grant of money or property to an agency of this state to assist the agency in acquiring or developing a site for a prison or other law enforcement detention facility, regardless of whether the site is located inside or outside the municipal boundaries.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. BONDS FOR FARMERS' MARKETS IN MUNICIPALITIES WITH POPULATION OF MORE THAN 1.1 MILLION

Sec. 1509.101. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality with a population of more than 1.1 million.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 33, eff. Sept. 1, 2001.

Sec. 1509.102. DEFINITION. In this subchapter, "farmers' market" means a public marketplace where a person is permitted to sell agricultural and other products.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.103. AUTHORITY FOR FARMERS' MARKET. A municipality may:

(1) acquire, lease as lessor or lessee, construct, improve, enlarge, or operate a farmers' market; and

(2) contract with any public or private entity to perform any function authorized by this section.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.104. AUTHORITY TO ISSUE REVENUE BONDS. The governing body of a municipality may issue revenue bonds for a purpose authorized by Section 1509.103.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.105. PLEDGE OF REVENUE. A municipality may pledge all or part of the revenue, income, or receipts from the farmers' market to the payment of the bonds, including principal, interest, and any other amounts required or permitted in connection with the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.106. ADDITIONAL SECURITY. (a) Bonds issued under this subchapter may be additionally secured by:

(1) an encumbrance on any real property relating to a farmers' market owned or to be acquired by the municipality;

(2) an encumbrance on any personal property appurtenant to real property described by Subdivision (1); or

(3) a pledge of any portion of a grant, donation, or revenue, or income received or to be received from the United States or any other public or private source.

(b) The governing body of the municipality may authorize the execution of a trust indenture, mortgage, deed of trust, or other instrument as evidence of the encumbrance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.107. MATURITY. A bond issued under this subchapter

must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.108. ADDITIONAL BONDS. The ordinance authorizing the issuance of bonds under this subchapter may provide for the subsequent issuance of additional parity bonds or subordinate lien bonds under terms specified in the ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.109. SALE OF BONDS. A municipality may sell bonds issued under this subchapter in the manner and under the terms provided by the ordinance authorizing the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.110. REVIEW AND APPROVAL OF CONTRACTS RELATING TO BONDS. (a) If bonds issued under this subchapter state that the bonds are secured by a pledge of revenue or rents from a contract, including a lease contract, a copy of the contract and the proceedings related to it must be submitted to the attorney general.

(b) If the attorney general finds that the bonds have been authorized and the contract has been made in accordance with law, the attorney general shall approve the contract.

(c) After the bonds are approved and registered as provided by Chapter 1202 and the contract is approved under Subsection (b), the contract is incontestable in a court or other forum for any reason and is a valid and binding obligation for all purposes in accordance with its terms.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.111. CHARGES. (a) The governing body of a municipality may impose and collect charges for the use or availability of the farmers' market.

(b) The municipality shall impose and collect pledged charges

in an amount that will be at least sufficient, with any other pledged resources, to provide for the payment of:

(1) the principal of, interest on, and any other amounts required in connection with the bonds; and

(2) to the extent required by the ordinance authorizing the issuance of the bonds:

(A) expenses incurred in connection with the bonds; and

(B) operation, maintenance, and other expenses incurred in connection with the farmers' market.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.112. REFUNDING BONDS. (a) A municipality may refund or otherwise refinance bonds issued under this subchapter by issuing refunding bonds under any terms provided by an ordinance of the governing body of the municipality.

(b) All appropriate provisions of this subchapter apply to the refunding bonds. The refunding bonds shall be issued in the manner provided by this subchapter for other bonds.

(c) The refunding bonds may be sold and delivered in amounts sufficient to pay the principal of and interest and any redemption premium on the bonds to be refunded, at maturity or on any redemption date.

(d) The refunding bonds may be issued to be exchanged for the bonds to be refunded by them. In that case, the comptroller shall register the refunding bonds and deliver them to the holder of the bonds to be refunded as provided by the ordinance authorizing the refunding bonds. The exchange may be made in one delivery or in installment deliveries.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.113. PUBLIC PURPOSE. The acquisition, construction, improvement, enlargement, equipment, operation, or maintenance of property or a facility for providing a farmers' market is a public purpose and a proper municipal function.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.114. CONFLICT OR INCONSISTENCY WITH OTHER LAW. When bonds are issued under this subchapter, to the extent of any conflict or inconsistency between this subchapter and another law, this subchapter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. BONDS FOR GARBAGE RECLAMATION PROJECTS

Sec. 1509.151. DEFINITION. In this chapter, "garbage reclamation project" means an undertaking by which solid waste products are converted into a form usable by persons for any purpose, including the production of energy.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.152. AUTHORITY FOR GARBAGE RECLAMATION PROJECTS. A municipality may own and operate a garbage reclamation project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.153. AUTHORITY TO ISSUE BONDS. If necessary to exercise the authority granted by Section 1509.152, the governing body of a municipality may issue and sell bonds to finance:

(1) the purchase, lease, or acquisition by another method of land, a facility, equipment, or supplies;

(2) the construction or improvement of a facility; and

(3) the installation of equipment.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.154. BOND PAYMENTS FROM REVENUE OR TAXES. The governing body of the municipality may provide for payment of the principal of and interest on bonds issued under this subchapter by:

(1) pledging all or part of the revenue from the ownership or operation of a garbage reclamation project;

(2) imposing an ad valorem tax; or
(3) combining those sources.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.155. ADDITIONAL SECURITY. (a) Bonds issued under this subchapter may be secured additionally by an encumbrance on part or all of the physical property of the garbage reclamation project and each right relating to that property, vesting in the trustee the power to:
(1) operate the property;
(2) sell the property to pay the debt; or
(3) take any other action to secure the bonds.
(b) Regardless of an encumbrance on the property, a trust indenture on the property may:
(1) contain any provision that the governing body of the municipality prescribes for the security of the bonds and the preservation of the trust estate;
(2) provide for amendment or modification of the trust indenture; and
(3) provide for investment of revenue from the garbage reclamation project.
(c) A purchaser under a sale under the encumbrance of the property:
(1) is the absolute owner of the property and the rights purchased; and
(2) may maintain and operate the property.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.156. ELECTION. (a) The governing body of the municipality may not issue bonds under this subchapter unless the issuance is authorized by a majority of the qualified voters of the municipality voting at an election held for that purpose.
(b) The governing body shall hold the election, to the extent practicable, in compliance with Chapter 1251.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.157. BALLOT PROPOSITION. (a) At an election to authorize bonds payable wholly from revenue from the garbage reclamation project, the ballots shall be printed to provide for voting for or against the proposition: "The issuance of bonds for a garbage reclamation project in the amount of $_____ and the pledge of net revenue from the project for the payment of the bonds."

(b) At an election to authorize bonds payable wholly from ad valorem taxes, the ballots shall be printed to provide for voting for or against the proposition: "The issuance of bonds for a garbage reclamation project in the amount of $_____ and the imposition of taxes for payment of the bonds."

(c) At an election to authorize bonds payable from both revenue from the garbage reclamation project and ad valorem taxes, the ballots shall be printed to provide for voting for or against the proposition: "The issuance of bonds for a garbage reclamation project in the amount of $_____ and the pledge of net revenue and the imposition of ad valorem taxes adequate to provide for the payment of the bonds."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.158. CONTENTS OF ORDER OR RESOLUTION AUTHORIZING BONDS. (a) An order or resolution of the governing body of the municipality authorizing the issuance of bonds under this subchapter may provide for the flow of funds and the establishment and maintenance of an interest and sinking fund, a reserve fund, or another fund.

(b) The order or resolution may:

(1) prohibit the further issuance of bonds or other obligations payable from the pledged revenue; or

(2) reserve the right to issue additional bonds to be secured by a pledge of and payable from the revenue that are on a parity with, or subordinate to, the lien and pledge on the revenue being used to support the bonds being issued.

(c) The order or resolution may contain any other provision or covenant, including a covenant with respect to the bonds, the pledged revenue, or the operation and maintenance of the garbage reclamation project the revenue of which is pledged.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.159. ADOPTION AND EXECUTION OF DOCUMENTS. The governing body of the municipality may adopt and have executed any other proceeding or instrument necessary and convenient in the issuance of bonds under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.160. MATURITY. A bond issued under this subchapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.161. IMPOSITION OF TAX. (a) The governing body of the municipality may annually impose ad valorem taxes to pay bonds issued under this subchapter that are payable in whole or in part from ad valorem taxes.

(b) The governing body may not impose ad valorem taxes to pay the principal of or interest on bonds issued under this subchapter payable wholly from revenue from a garbage reclamation project.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.162. REFUNDING BONDS. (a) A municipality may issue refunding bonds to refund all or any part of its outstanding bonds issued under this subchapter, including matured but unpaid interest coupons. The comptroller shall register refunding bonds on the surrender and cancellation of the bonds being refunded. The refunding may take place in one delivery or in installment deliveries.

(b) The refunding bonds may be payable from the same sources as the bonds to be refunded or from other additional sources.

(c) A municipality may, in the order or resolution authorizing the issuance of the refunding bonds, provide for the sale of the refunding bonds and the deposit of the proceeds in the place at which the bonds to be refunded are payable. In that case, the refunding bonds may be issued before the cancellation of the bonds to be

refunded.

(d) If refunding bonds are issued before cancellation of the bonds to be refunded, the municipality shall deposit an amount sufficient to pay the principal of and interest on the bonds to be refunded to their maturity dates, or to their option dates if the bonds have been called for payment before maturity according to their terms, in each place at which the bonds to be refunded are payable. The comptroller shall register the refunding bonds without the surrender and cancellation of bonds to be refunded.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.163. EXEMPTION FROM TAXATION. A bond issued under this subchapter, any transaction related to the bond, and profits made in the sale of the bond are exempt from taxation by this state or by a municipality or other political subdivision of this state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER E. BONDS FOR ACQUISITION OF PROPERTY BY MUNICIPALITY OPERATING TOLL BRIDGE OVER RIO GRANDE

Sec. 1509.201. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality that owns and operates a portion of a toll bridge over the Rio Grande.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.202. AUTHORITY FOR PROPERTY, FACILITY, OR ACTIVITY. A municipality may acquire, construct, improve, enlarge, equip, operate, or maintain property, a facility, or an activity for a public purpose.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.203. AUTHORITY TO ISSUE REVENUE BONDS. To provide money to acquire, construct, improve, enlarge, or equip property or a facility for a public purpose, the governing body of a municipality

may issue revenue bonds that are payable from and secured by a lien on and pledge of all or any part of the revenue, income, or receipts the municipality receives from its ownership and operation of:

(1) a portion of a toll bridge over the Rio Grande; or

(2) property, a facility, or an activity.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.204. PLEDGE OF REVENUE. A municipality may pledge to the payment of bonds issued under this subchapter, including the principal of, interest on, or another amount required or permitted to be paid in connection with the bonds, all or any part of its revenue, income, or receipts from:

(1) a charge authorized by Section 1509.210; or

(2) another resource.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.205. ADDITIONAL SECURITY. (a) Bonds issued under this subchapter may be additionally secured by:

(1) an encumbrance on any real property owned by the municipality;

(2) an encumbrance on any personal property appurtenant to that real property; or

(3) a pledge of any portion of a grant, donation, revenue, or income received or to be received from the United States or any other public or private source.

(b) The governing body of the municipality may authorize the execution of a trust indenture, mortgage, deed of trust, or other instrument as evidence of the encumbrance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.206. BONDS NOT PAYABLE FROM TAXES. A bond issued under this subchapter:

(1) is payable only from the revenue, income, receipts, or another resource of the municipality as provided by this subchapter; and

(2) is not a tax obligation of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.207. MATURITY. A bond issued under this subchapter must mature not later than 50 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.208. ADDITIONAL BONDS. The ordinance authorizing the issuance of bonds under this subchapter may provide for the subsequent issuance of additional parity or subordinate lien bonds under terms specified in the ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.209. SALE OF BONDS. A municipality may sell bonds issued under this subchapter in the manner and on the terms provided by the bond authorization.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.210. CHARGES. (a) The governing body of the municipality may impose and collect a charge for the use or availability of:

(1) municipal property, including a toll bridge or other facility; or

(2) a municipal activity or operation.

(b) The governing body shall impose and collect pledged charges in an amount that will be at least sufficient, with any other pledged resource, to provide for the payment of:

(1) the principal of, interest on, and any other amount required in connection with the bonds; and

(2) to the extent required by the ordinance authorizing the issuance of the bonds:

(A) expenses incurred in connection with the bonds; and

(B) operation, maintenance, and other expenses incurred in connection with the property, toll bridge, or other facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.211. LEASE OR RENTAL OF PROPERTY OR FACILITY TO UNITED STATES. The municipality may lease or rent to the United States any property or facility acquired, constructed, improved, enlarged, or equipped in whole or in part with proceeds from the sale of bonds issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.212. REFUNDING BONDS. (a) A municipality may refund or otherwise refinance bonds issued under this subchapter by issuing refunding bonds under any terms provided by an ordinance of the governing body of the municipality.

(b) All appropriate provisions of this subchapter apply to the refunding bonds. The refunding bonds shall be issued in the manner provided by this subchapter for other bonds.

(c) The refunding bonds may be sold and delivered in amounts sufficient to pay the principal of and interest and any redemption premium on the bonds to be refunded, at maturity or on any redemption date.

(d) The refunding bonds may be issued to be exchanged for the bonds to be refunded by them. In that case, the comptroller shall register the refunding bonds and deliver them to the holder of the bonds to be refunded as provided by the ordinance authorizing the refunding bonds. The exchange may be made in one delivery or in installment deliveries.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.213. PUBLIC PURPOSE. The acquisition, construction, improvement, enlargement, or equipment by a municipality of property or a facility for lease or rental to the United States for use in performing a federal governmental function in the municipality or at or near and relating to a toll bridge of the municipality is a public

purpose and a proper municipal function, regardless of whether the toll bridge or the federal facility relating to the bridge is located inside or outside the municipal boundaries.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.214. CONFLICT OR INCONSISTENCY WITH OTHER LAW. When bonds are being issued under this subchapter, to the extent of a conflict or inconsistency between this subchapter and another law, this subchapter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 1509.901. PLEDGE OF REVENUE FROM TOLL BRIDGE CONTRACT. A municipality that receives revenue because of a contract with another municipality relating to the operation of a toll bridge over the Rio Grande may appropriate or pledge all or any part of that revenue to:

(1) redeem or pay the principal of or interest on any bond, note, or warrant that the municipality is authorized to issue; or

(2) retire any other debt the municipality is authorized to incur.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1509.902. AUTHORITY TO ISSUE BONDS PAYABLE FROM TOLL BRIDGE REVENUE; PLEDGE OF TOLL BRIDGE REVENUE. (a) This section applies only to a municipality that:

(1) has located within its municipal boundaries or within 15 miles of its municipal boundaries a toll bridge over the Rio Grande; and

(2) receives revenue because of that bridge, including revenue received under a contract with another municipality relating to the operation of that bridge.

(b) The municipality may issue revenue bonds under this section payable from revenue received because of the toll bridge to acquire, construct, repair, extend, or improve any public building, utility system, or other public property or facility the governing body of

the municipality considers necessary and appropriate.

(c) A municipality may issue the bonds without an election if the governing body of the municipality authorizes the issuance by ordinance.

(d) Subject to any covenant relating to an outstanding bond of the municipality, a municipality may appropriate or pledge to the payment of bonds issued under this section all or any part of the revenue the municipality receives because of the toll bridge.

(e) A bond issued under this section must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

CHAPTER 1510. BONDS FOR HIGHWAY PROJECTS OR FACILITIES

Sec. 1510.001. DEFINITION. In this chapter, "state highway system" means the highways in this state included in the plan providing for a system of state highways prepared under Section 201.103, Transportation Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 426 (S.B. 1536), Sec. 1, eff. June 15, 2007.

Sec. 1510.002. AUTHORITY TO ISSUE BONDS. (a) A municipality may issue bonds to provide funds for the design, development, financing, construction, maintenance, operation, extension, expansion, or improvement of a nontoll project or facility on the state highway system located in the municipality or, as a continuation of the project or facility, in an adjacent jurisdiction.

(b) To provide for the payment of bonds issued under this section, a municipality may:

(1) pledge revenue from any available source, including payments received under an agreement with the Texas Department of Transportation including under Section 222.104, Transportation Code;

(2) pledge, levy, and collect taxes, subject to any constitutional limitation; or

(3) pledge any combination of revenue and taxes described by Subdivisions (1) and (2).

(c) Any election required to permit action under Subsection (b) must be held in conformance with the Election Code or other law

applicable to the municipality.

(d) A municipality that issues bonds under this section may exercise any of the rights and powers granted to the governing body of an issuer under Chapter 1371.

(e) A bond issued under this section must mature not later than 40 years after its date of issuance.

(f) This section is wholly sufficient authority for the issuance of bonds, the pledge of revenues, taxes, or any combination of revenues and taxes, and the performance of other acts and procedures authorized by this section by a municipality without reference to any other provision of law or any restriction or limitation contained in those provisions, except as specifically provided by this section. To the extent of any conflict or inconsistency between this section and any other law, this section shall prevail and control. A municipality may use any law not in conflict with this section to the extent convenient or necessary to carry out any power or authority, expressed or implied, granted by this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 426 (S.B. 1536), Sec. 1, eff. June 15, 2007.

TITLE 10. GENERAL GOVERNMENT
SUBTITLE A. ADMINISTRATIVE PROCEDURE AND PRACTICE
CHAPTER 2001. ADMINISTRATIVE PROCEDURE
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2001.001. PURPOSE. It is the public policy of the state through this chapter to:

(1) provide minimum standards of uniform practice and procedure for state agencies;

(2) provide for public participation in the rulemaking process; and

(3) restate the law of judicial review of state agency action.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.002. SHORT TITLE. This chapter may be cited as the Administrative Procedure Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.003. DEFINITIONS. In this chapter:

(1) "Contested case" means a proceeding, including a ratemaking or licensing proceeding, in which the legal rights, duties, or privileges of a party are to be determined by a state agency after an opportunity for adjudicative hearing.

(2) "License" includes the whole or a part of a state agency permit, certificate, approval, registration, or similar form of permission required by law.

(3) "Licensing" includes a state agency process relating to the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(4) "Party" means a person or state agency named or admitted as a party.

(5) "Person" means an individual, partnership, corporation, association, governmental subdivision, or public or private organization that is not a state agency.

(6) "Rule":

(A) means a state agency statement of general applicability that:

(i) implements, interprets, or prescribes law or policy; or

(ii) describes the procedure or practice requirements of a state agency;

(B) includes the amendment or repeal of a prior rule; and

(C) does not include a statement regarding only the internal management or organization of a state agency and not affecting private rights or procedures.

(7) "State agency" means a state officer, board, commission, or department with statewide jurisdiction that makes rules or determines contested cases. The term includes the State Office of Administrative Hearings for the purpose of determining contested cases. The term does not include:

(A) a state agency wholly financed by federal money;

(B) the legislature;

(C) the courts;

(D) the Texas Department of Insurance, as regards

proceedings and activities under Title 5, Labor Code, of the department, the commissioner of insurance, or the commissioner of workers' compensation; or

(E) an institution of higher education.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 6.007, eff. September 1, 2005.

Sec. 2001.004. REQUIREMENT TO ADOPT RULES OF PRACTICE AND INDEX RULES, ORDERS, AND DECISIONS. In addition to other requirements under law, a state agency shall:

(1) adopt rules of practice stating the nature and requirements of all available formal and informal procedures;

(2) index, cross-index to statute, and make available for public inspection all rules and other written statements of policy or interpretations that are prepared, adopted, or used by the agency in discharging its functions; and

(3) index, cross-index to statute, and make available for public inspection all final orders, decisions, and opinions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.0045. REQUIREMENT FOR RULE INCREASING COSTS TO REGULATED PERSONS. (a) In this section, "state agency" means a department, board, commission, committee, council, agency, office, or other entity in the executive, legislative, or judicial branch of state government. This term does not include an agency under the authority of an elected officer of this state.

(b) A state agency rule proposal that contains more than one rule in a single rulemaking action is considered one rule for purposes of this section. Except as provided by Subsection (c), a state agency may not adopt a proposed rule for which the fiscal note for the notice required by Section 2001.024 states that the rule imposes a cost on regulated persons, including another state agency, a special district, or a local government, unless on or before the effective date of the proposed rule the state agency:

(1) repeals a rule that imposes a total cost on regulated

persons that is equal to or greater than the total cost imposed on regulated persons by the proposed rule; or

(2) amends a rule to decrease the total cost imposed on regulated persons by an amount that is equal to or greater than the cost imposed on the persons by the proposed rule.

(c) This section does not apply to a rule that:

(1) relates to state agency procurement;

(2) is amended to:

(A) reduce the burden or responsibilities imposed on regulated persons by the rule; or

(B) decrease the persons' cost for compliance with the rule;

(3) is adopted in response to a natural disaster;

(4) is necessary to receive a source of federal funds or to comply with federal law;

(5) is necessary to protect water resources of this state as authorized by the Water Code;

(6) is necessary to protect the health, safety, and welfare of the residents of this state;

(7) is adopted by the Department of Family and Protective Services, Texas Department of Motor Vehicles, Parks and Wildlife Department, Public Utility Commission of Texas, Texas Commission on Environmental Quality, or Texas Racing Commission;

(8) is adopted by a self-directed semi-independent agency; or

(9) is necessary to implement legislation, unless the legislature specifically states this section applies to the rule.

(d) Each state agency that adopts a rule subject to this section shall comply with the requirements imposed by Subchapter B and Chapter 2002 for publication in the Texas Register.

Added by Acts 2017, 85th Leg., R.S., Ch. 819 (H.B. 1290), Sec. 1, eff. September 1, 2017.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1087 (H.B. 1896), Sec. 1, eff. September 1, 2019.

Sec. 2001.005. RULE, ORDER, OR DECISION NOT EFFECTIVE UNTIL INDEXED. (a) A state agency rule, order, or decision made or issued

on or after January 1, 1976, is not valid or effective against a person or party, and may not be invoked by an agency, until the agency has indexed the rule, order, or decision and made it available for public inspection as required by this chapter.

(b) This section does not apply in favor of a person or party that has actual knowledge of the rule, order, or decision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.006. ACTIONS PREPARATORY TO IMPLEMENTATION OF STATUTE OR RULE. (a) In this section:

(1) "State agency" means a department, board, commission, committee, council, agency, office, or other entity in the executive, legislative, or judicial branch of state government. The term includes an institution of higher education as defined by Section 61.003, Education Code, and includes those entities excluded from the general definition of "state agency" under Section 2001.003(7).

(2) Legislation is considered to have "become law" if it has been passed by the legislature and:

(A) the governor has approved it;

(B) the governor has filed it with the secretary of state, having neither approved nor disapproved it;

(C) the time for gubernatorial action has expired under Section 14, Article IV, Texas Constitution, the governor having neither approved nor disapproved it; or

(D) the governor has disapproved it and the legislature has overridden the governor's disapproval in accordance with Section 14, Article IV, Texas Constitution.

(b) In preparation for the implementation of legislation that has become law but has not taken effect, a state agency may adopt a rule or take other administrative action that the agency determines is necessary or appropriate and that the agency would have been authorized to take had the legislation been in effect at the time of the action.

(c) In preparation for the implementation of a rule that has been finally adopted by a state agency but has not taken effect, a state agency may take administrative action that the agency determines is necessary or appropriate and that the agency would have been authorized to take had the rule been in effect at the time of

the action.

(d) A rule adopted under Subsection (b) may not take effect earlier than the legislation being implemented takes effect. Administrative action taken under Subsection (b) or (c) may not result in implementation or enforcement of the applicable legislation or rule before the legislation or rule takes effect.

Added by Acts 1999, 76th Leg., ch. 558, Sec. 1, eff. Sept. 1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 14, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2001.007. CERTAIN EXPLANATORY INFORMATION MADE AVAILABLE THROUGH INTERNET. (a) A state agency shall make available through a generally accessible Internet site:

(1) the text of its rules; and

(2) any material, such as a letter, opinion, or compliance manual, that explains or interprets one or more of its rules and that the agency has issued for general distribution to persons affected by one or more of its rules.

(b) A state agency shall design the generally accessible Internet site so that a member of the public may send questions about the agency's rules to the agency electronically and receive responses to the questions from the agency electronically. If the agency's rules and the agency's explanatory and interpretive materials are made available at different Internet sites, both sites shall be designed in compliance with this subsection.

(c) Repealed by Acts 2005, 79th Leg., Ch. 750, Sec. 2(a), eff. September 1, 2006.

(d) A state agency may comply with this section through the actions of another agency, such as the secretary of state, on the agency's behalf.

Added by Acts 1999, 76th Leg., ch. 1233, Sec. 1, eff. June 18, 1999.
Renumbered from Sec. 2001.006 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(63), eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 750 (H.B. 2819), Sec. 2(a), eff. September 1, 2006.

SUBCHAPTER B. RULEMAKING

Sec. 2001.021. PETITION FOR ADOPTION OF RULES. (a) An interested person by petition to a state agency may request the adoption of a rule.

(b) A state agency by rule shall prescribe the form for a petition under this section and the procedure for its submission, consideration, and disposition. If a state agency requires signatures for a petition under this section, at least 51 percent of the total number of signatures required must be of residents of this state.

(c) Not later than the 60th day after the date of submission of a petition under this section, a state agency shall:

(1) deny the petition in writing, stating its reasons for the denial; or

(2) initiate a rulemaking proceeding under this subchapter.

(d) For the purposes of this section, an interested person must be:

(1) a resident of this state;

(2) a business entity located in this state;

(3) a governmental subdivision located in this state; or

(4) a public or private organization located in this state that is not a state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 343 (H.B. 763), Sec. 1, eff. June 9, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 14, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2001.022. LOCAL EMPLOYMENT IMPACT STATEMENTS. (a) A state agency shall determine whether a rule may affect a local economy before proposing the rule for adoption. If a state agency determines that a proposed rule may affect a local economy, the agency shall prepare a local employment impact statement for the proposed rule. The impact statement must describe in detail the probable effect of the rule on employment in each geographic area

affected by the rule for each year of the first five years that the rule will be in effect and may include other factors at the agency's discretion.

(b) This section does not apply to the adoption of an emergency rule.

(c) Failure to comply with this section does not impair the legal effect of a rule adopted under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 871, Sec. 1, eff. Sept. 1, 2001.

Sec. 2001.0221. GOVERNMENT GROWTH IMPACT STATEMENTS. (a) A state agency shall prepare a government growth impact statement for a proposed rule.

(b) A state agency shall reasonably describe in the government growth impact statement whether, during the first five years that the rule would be in effect:

(1) the proposed rule creates or eliminates a government program;

(2) implementation of the proposed rule requires the creation of new employee positions or the elimination of existing employee positions;

(3) implementation of the proposed rule requires an increase or decrease in future legislative appropriations to the agency;

(4) the proposed rule requires an increase or decrease in fees paid to the agency;

(5) the proposed rule creates a new regulation;

(6) the proposed rule expands, limits, or repeals an existing regulation;

(7) the proposed rule increases or decreases the number of individuals subject to the rule's applicability; and

(8) the proposed rule positively or adversely affects this state's economy.

(c) The comptroller shall adopt rules to implement this section. The rules must require that the government growth impact statement be in plain language. The comptroller may prescribe a chart that a state agency may use to disclose the items required under Subsection (b).

(d) Each state agency shall incorporate the impact statement into the notice required by Section 2001.024.

(e) Failure to comply with this section does not impair the legal effect of a rule adopted under this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 819 (H.B. 1290), Sec. 2, eff. September 1, 2017.

Sec. 2001.0225. REGULATORY ANALYSIS OF MAJOR ENVIRONMENTAL RULES. (a) This section applies only to a major environmental rule adopted by a state agency, the result of which is to:

(1) exceed a standard set by federal law, unless the rule is specifically required by state law;

(2) exceed an express requirement of state law, unless the rule is specifically required by federal law;

(3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or

(4) adopt a rule solely under the general powers of the agency instead of under a specific state law.

(b) Before adopting a major environmental rule subject to this section, a state agency shall conduct a regulatory analysis that:

(1) identifies the problem the rule is intended to address;

(2) determines whether a new rule is necessary to address the problem; and

(3) considers the benefits and costs of the proposed rule in relationship to state agencies, local governments, the public, the regulated community, and the environment.

(c) When giving notice of a major environmental rule subject to this section, a state agency shall incorporate into the fiscal note required by Section 2001.024 a draft impact analysis describing the anticipated effects of the proposed rule. The draft impact analysis, at a minimum, must:

(1) identify the benefits that the agency anticipates from adoption and implementation of the rule, including reduced risks to human health, safety, or the environment;

(2) identify the costs that the agency anticipates state agencies, local governments, the public, and the regulated community will experience after implementation of the rule;

(3) describe the benefits and costs anticipated from implementation of the rule in as quantitative a manner as feasible, but including a qualitative description when a quantitative description is not feasible or adequately descriptive;

(4) describe reasonable alternative methods for achieving the purpose of the rule that were considered by the agency and provide the reasons for rejecting those alternatives in favor of the proposed rule;

(5) identify the data and methodology used in performing the analysis required by this section;

(6) provide an explanation of whether the proposed rule specifies a single method of compliance, and, if so, explain why the agency determines that a specified method of compliance is preferable to adopting a flexible regulatory approach, such as a performance-oriented, voluntary, or market-based approach;

(7) state that there is an opportunity for public comment on the draft impact analysis under Section 2001.029 and that all comments will be addressed in the publication of the final regulatory analysis; and

(8) provide information in such a manner that a reasonable person reading the analysis would be able to identify the impacts of the proposed rule.

(d) After considering public comments submitted under Section 2001.029 and determining that a proposed rule should be adopted, the agency shall prepare a final regulatory analysis that complies with Section 2001.033. Additionally, the agency shall find that, compared to the alternative proposals considered and rejected, the rule will result in the best combination of effectiveness in obtaining the desired results and of economic costs not materially greater than the costs of any alternative regulatory method considered.

(e) In preparing the draft impact analysis before publication for comment and the final regulatory analysis for the agency order adopting the rule, the state agency shall consider that the purpose of this requirement is to identify for the public and the regulated community the information that was considered by the agency, the information that the agency determined to be relevant and reliable, and the assumptions and facts on which the agency made its regulatory decision. In making its final regulatory decision, the agency shall assess:

(1) all information submitted to it, whether quantitative

or qualitative, consistent with generally accepted scientific standards;

(2) actual data where possible; and

(3) assumptions that reflect actual impacts that the regulation is likely to impose.

(f) A person who submitted public comment in accordance with Section 2001.029 may challenge the validity of a major environmental rule that is not proposed and adopted in accordance with the procedural requirements of this section by filing an action for declaratory judgment under Section 2001.038 not later than the 30th day after the effective date of the rule. If a court determines that a major environmental rule was not proposed and adopted in accordance with the procedural requirements of this section, the rule is invalid.

(g) In this section:

(1) "Benefit" means a reasonably identifiable, significant, direct or indirect, favorable effect, including a quantifiable or nonquantifiable environmental, health, or economic effect, that is expected to result from implementation of a rule.

(2) "Cost" means a reasonably identifiable, significant, direct or indirect, adverse effect, including a quantifiable or nonquantifiable environmental, health, or economic effect, that is expected to result from implementation of a rule.

(3) "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

(h) The requirements of this section do not apply to state agency rules that are proposed or adopted on an emergency basis to protect the environment or to reduce risks to human health from environmental exposure.

Added by Acts 1997, 75th Leg., ch. 1034, Sec. 1, eff. Sept. 1, 1997.

Sec. 2001.023. NOTICE OF PROPOSED RULE. (a) A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule.

(b) A state agency shall file notice of the proposed rule with the secretary of state for publication in the Texas Register in the manner prescribed by Chapter 2002.

(c) At the time a state agency files notice of a proposed rule under Subsection (b), the agency shall publish on the agency's Internet website a summary of the proposed rule written in plain language in both English and Spanish in accordance with Section 2054.116.

(d) For purposes of Subsection (c), a summary is written in plain language if it uses language the general public, including individuals with limited English proficiency, can readily understand because the language is concise and well-organized.

(e) Failure to publish a summary of a proposed rule in the manner required by Subsection (c) does not invalidate a rule adopted by a state agency or an action taken by the agency under that rule.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 802 (H.B. 1322), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 798 (H.B. 139), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 14, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2001.024. CONTENT OF NOTICE. (a) The notice of a proposed rule must include:

(1) a brief explanation of the proposed rule;

(2) the text of the proposed rule, except any portion omitted under Section 2002.014, prepared in a manner to indicate any words to be added or deleted from the current text;

(3) a statement of the statutory or other authority under which the rule is proposed to be adopted, including:

(A) a concise explanation of the particular statutory or other provisions under which the rule is proposed;

(B) the section or article of the code affected;

(C) if applicable, the bill number for the legislation that enacted the statutory authority under which the rule is proposed

to be adopted if the legislation was enacted during the four-year period preceding the date notice of the proposed rule is given; and

(D) a certification that the proposed rule has been reviewed by legal counsel and found to be within the state agency's authority to adopt;

(4) a fiscal note showing the name and title of the officer or employee responsible for preparing or approving the note and stating for each year of the first five years that the rule will be in effect:

(A) the additional estimated cost to the state and to local governments expected as a result of enforcing or administering the rule;

(B) the estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule;

(C) the estimated loss or increase in revenue to the state or to local governments as a result of enforcing or administering the rule; and

(D) if applicable, that enforcing or administering the rule does not have foreseeable implications relating to cost or revenues of the state or local governments;

(5) a note about public benefits and costs showing the name and title of the officer or employee responsible for preparing or approving the note and stating for each year of the first five years that the rule will be in effect:

(A) the public benefits expected as a result of adoption of the proposed rule; and

(B) the probable economic cost to persons required to comply with the rule;

(6) the local employment impact statement prepared under Section 2001.022, if required;

(7) a request for comments on the proposed rule from any interested person; and

(8) any other statement required by law.

(b) In the notice of a proposed rule that amends any part of an existing rule:

(1) the text of the entire part of the rule being amended must be set out;

(2) the language to be deleted must be bracketed and stricken through; and

(3) the language to be added must be underlined.

(c) In the notice of a proposed rule that is new or that adds a complete section to an existing rule, the new rule or section must be set out and underlined.

(d) Failure to include in the notice of a proposed rule the bill number for the legislation that enacted the statutory authority under which the rule is proposed to be adopted as required by Subsection (a)(3)(C) does not invalidate a rule adopted by a state agency or an action taken by the agency under that rule.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 798 (H.B. 139), Sec. 2, eff. June 13, 2023.

Sec. 2001.025. EFFECTIVE DATE OF NOTICE. Notice of a proposed rule becomes effective as notice when published in the Texas Register, except as provided by Section 2001.028.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.026. NOTICE TO PERSONS REQUESTING ADVANCE NOTICE OF PROPOSED RULES. A state agency shall mail notice of a proposed rule to each person who has made a timely written request of the agency for advance notice of its rulemaking proceedings. Failure to mail the notice does not invalidate an action taken or rule adopted.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.0261. NOTICE TO CERTAIN PERSONS. (a) This section applies only to a rule that is proposed to be adopted by a state agency under statutory authority that:

(1) specifically authorizes the agency to adopt the rule; and

(2) became law during the preceding four-year period.

(b) A state agency shall provide, not later than the third day

after the date the agency files notice with the secretary of state as required under Section 2001.023, notice of a proposed rule to the primary author and the primary sponsor of the legislation that enacted the statutory authority under which the proposed rule is to be adopted, if the primary author or primary sponsor is a current member of the legislature.

(c) The state agency shall provide the notice required under Subsection (b) electronically to the person's designated Capitol e-mail address or to another e-mail address provided by the person to the agency for the purpose of receiving the notice.

(d) Failure to provide the notice required under Subsection (b) does not invalidate a rule adopted by a state agency or an action taken by the agency under that rule.

Added by Acts 2023, 88th Leg., R.S., Ch. 798 (H.B. 139), Sec. 3, eff. June 13, 2023.

Sec. 2001.027. WITHDRAWAL OF PROPOSED RULE. A proposed rule is withdrawn six months after the date of publication of notice of the proposed rule in the Texas Register if a state agency has failed by that time to adopt, adopt as amended, or withdraw the proposed rule.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.028. NOTICE OF PROPOSED LAW ENFORCEMENT RULES. Notice of the adoption of a proposed rule by the Commission on Jail Standards or the Texas Commission on Law Enforcement that affects a law enforcement agency of the state or of a political subdivision of the state is not effective until the notice is:

(1) published as required by Section 2001.023; and

(2) mailed to each law enforcement agency that may be affected by the proposed rule.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.35, eff. May 18, 2013.

Sec. 2001.029. PUBLIC COMMENT. (a) Before adopting a rule, a state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing.

(b) A state agency shall grant an opportunity for a public hearing before it adopts a substantive rule if a public hearing is requested by:

(1) at least 25 persons;

(2) a governmental subdivision or agency; or

(3) an association having at least 25 members.

(c) A state agency shall consider fully all written and oral submissions about a proposed rule.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.030. STATEMENT OF REASONS FOR OR AGAINST ADOPTION. On adoption of a rule, a state agency, if requested to do so by an interested person either before adoption or not later than the 30th day after the date of adoption, shall issue a concise statement of the principal reasons for and against its adoption. The agency shall include in the statement its reasons for overruling the considerations urged against adoption.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.031. INFORMAL CONFERENCES AND ADVISORY COMMITTEES. (a) A state agency may use an informal conference or consultation to obtain the opinions and advice of interested persons about contemplated rulemaking.

(b) A state agency may appoint committees of experts or interested persons or representatives of the public to advise the agency about contemplated rulemaking.

(c) The power of a committee appointed under this section is advisory only.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.032. LEGISLATIVE REVIEW. (a) Each house of the

legislature by rule shall establish a process under which the presiding officer of each house refers each proposed state agency rule to the appropriate standing committee for review before the rule is adopted.

(b) On receiving a written request from the lieutenant governor, a member of the legislature, or a legislative agency, the secretary of state shall provide the requestor with electronic notification of rulemaking filings by a state agency under Section 2001.023.

(c) On the vote of a majority of its members, a standing committee may send to a state agency a statement supporting or opposing adoption of a proposed rule.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 906 (S.B. 791), Sec. 2, eff. September 1, 2011.

Sec. 2001.033. STATE AGENCY ORDER ADOPTING RULE. (a) A state agency order finally adopting a rule must include:

(1) a reasoned justification for the rule as adopted consisting solely of:

(A) a summary of comments received from parties interested in the rule that shows the names of interested groups or associations offering comment on the rule and whether they were for or against its adoption;

(B) a summary of the factual basis for the rule as adopted which demonstrates a rational connection between the factual basis for the rule and the rule as adopted; and

(C) the reasons why the agency disagrees with party submissions and proposals;

(2) a concise restatement of the particular statutory provisions under which the rule is adopted and of how the agency interprets the provisions as authorizing or requiring the rule; and

(3) a certification that the rule, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

(b) Nothing in this section shall be construed to require additional analysis of alternatives not adopted by an agency beyond

that required by Subdivision (1)(C) or to require the reasoned justification to be stated separately from the statements required in Subdivision (1).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 558, Sec. 2, eff. Sept. 1, 1999.

Sec. 2001.034. EMERGENCY RULEMAKING. (a) A state agency may adopt an emergency rule without prior notice or hearing, or with an abbreviated notice and a hearing that it finds practicable, if the agency:

(1) finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice; and

(2) states in writing the reasons for its finding under Subdivision (1).

(b) A state agency shall set forth in an emergency rule's preamble the finding required by Subsection (a).

(c) A rule adopted under this section may be effective for not longer than 120 days and may be renewed once for not longer than 60 days. An identical rule may be adopted under Sections 2001.023 and 2001.029.

(d) A state agency shall file an emergency rule adopted under this section and the agency's written reasons for the adoption in the office of the secretary of state for publication in the Texas Register in the manner prescribed by Chapter 2002.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 14, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2001.035. SUBSTANTIAL COMPLIANCE REQUIREMENT; TIME LIMIT ON PROCEDURAL CHALLENGE. (a) A rule is voidable unless a state agency adopts it in substantial compliance with Sections 2001.0225 through 2001.034.

(b) A person must initiate a proceeding to contest a rule on the ground of noncompliance with the procedural requirements of

Sections 2001.0225 through 2001.034 not later than the second anniversary of the effective date of the rule.

(c) A state agency substantially complies with the requirements of Section 2001.033 if the agency's reasoned justification demonstrates in a relatively clear and logical fashion that the rule is a reasonable means to a legitimate objective.

(d) A mere technical defect that does not result in prejudice to a person's rights or privileges is not grounds for invalidation of a rule.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 558, Sec. 3, eff. Sept. 1, 1999.

Sec. 2001.036. EFFECTIVE DATE OF RULES; EFFECT OF FILING WITH SECRETARY OF STATE. (a) A rule takes effect 20 days after the date on which it is filed in the office of the secretary of state, except that:

(1) if a later date is required by statute or specified in the rule, the later date is the effective date;

(2) if a state agency finds that an expedited effective date is necessary because of imminent peril to the public health, safety, or welfare, and subject to applicable constitutional or statutory provisions, a rule is effective immediately on filing with the secretary of state, or on a stated date less than 20 days after the filing date; and

(3) if a federal statute or regulation requires that a state agency implement a rule by a certain date, the rule is effective on the prescribed date.

(b) A state agency shall file with its rule the finding described by Subsection (a)(2), if applicable, and a brief statement of the reasons for the finding. The agency shall take appropriate measures to make emergency rules known to persons who may be affected by them.

(c) A rule adopted as provided by Subsection (a)(3) shall be filed in the office of the secretary of state and published in the Texas Register.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.037. OFFICIAL TEXT OF RULE. If a conflict exists, the official text of a rule is the text on file with the secretary of state and not the text published in the Texas Register or on file with the issuing state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.038. DECLARATORY JUDGMENT. (a) The validity or applicability of a rule, including an emergency rule adopted under Section 2001.034, may be determined in an action for declaratory judgment if it is alleged that the rule or its threatened application interferes with or impairs, or threatens to interfere with or impair, a legal right or privilege of the plaintiff.

(b) The action may be brought only in a Travis County district court.

(c) The state agency must be made a party to the action.

(d) A court may render a declaratory judgment without regard to whether the plaintiff requested the state agency to rule on the validity or applicability of the rule in question.

(e) An action brought under this section may not be used to delay or stay a hearing in which a suspension, revocation, or cancellation of a license by a state agency is at issue before the agency after notice of the hearing has been given.

(f) A Travis County district court in which an action is brought under this section, on its own motion or the motion of any party, may request transfer of the action to the Court of Appeals for the Fifteenth Court of Appeals District if the district court finds that the public interest requires a prompt, authoritative determination of the validity or applicability of the rule in question and the case would ordinarily be appealed. After filing of the district court's request with the court of appeals, transfer of the action may be granted by the court of appeals if it agrees with the findings of the district court concerning the application of the statutory standards to the action. On entry of an order by the court of appeals granting transfer, the action is transferred to the court of appeals for decision, and the validity or applicability of the rule in question is subject to judicial review by the court of appeals. The administrative record and the district court record shall be filed by the district clerk with the clerk of the court of

appeals. The court of appeals may direct the district court to conduct any necessary evidentiary hearings in connection with the action.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 894, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 459 (S.B. 1045), Sec. 1.10, eff. September 1, 2023.

Sec. 2001.039. AGENCY REVIEW OF EXISTING RULES. (a) A state agency shall review and consider for readoption each of its rules in accordance with this section.

(b) A state agency shall review a rule not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date. The adoption of an amendment to an existing rule does not affect the dates on which the rule must be reviewed except that the effective date of an amendment is considered to be the effective date of the rule if the agency formally conducts a review of the rule in accordance with this section as part of the process of adopting the amendment.

(c) The state agency shall readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section.

(d) The procedures of this subchapter relating to the original adoption of a rule apply to the review of a rule and to the resulting repeal, readoption, or readoption with amendments of the rule, except as provided by this subsection. Publishing the Texas Administrative Code citation to a rule under review satisfies the requirements of this subchapter relating to publishing the text of the rule unless the agency readopts the rule with amendments as a result of the review.

(e) A state agency's review of a rule must include an assessment of whether the reasons for initially adopting the rule continue to exist.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.11(a), eff. Sept. 1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 14, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2001.040. SCOPE AND EFFECT OF ORDER INVALIDATING AGENCY RULE. If a court finds that an agency has not substantially complied with one or more procedural requirements of Sections 2001.0225 through 2001.034, the court may remand the rule, or a portion of the rule, to the agency and, if it does so remand, shall provide a reasonable time for the agency to either revise or readopt the rule through established procedure. During the remand period, the rule shall remain effective unless the court finds good cause to invalidate the rule or a portion of the rule, effective as of the date of the court's order.

Added by Acts 1999, 76th Leg., ch. 558, Sec. 4, eff. Sept. 1, 1999. Renumbered from Sec. 2001.039 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(64), eff. Sept. 1, 2001.

Sec. 2001.041. COMPLIANCE WITH LAW ON DECENTRALIZATION. A state agency rule, order, or guide relating to decentralization of agency services or programs must include a statement of the manner in which the agency complied with Section 391.0091, Local Government Code.

Added by Acts 2003, 78th Leg., ch. 718, Sec. 2, eff. Sept. 1, 2003.

SUBCHAPTER C. CONTESTED CASES: GENERAL RIGHTS AND PROCEDURES

Sec. 2001.051. OPPORTUNITY FOR HEARING AND PARTICIPATION; NOTICE OF HEARING. In a contested case, each party is entitled to an opportunity:

(1) for hearing after reasonable notice of not less than 10 days; and

(2) to respond and to present evidence and argument on each issue involved in the case.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.052. CONTENTS OF NOTICE. (a) Notice of a hearing in

a contested case must include:

(1) a statement of the time, place, and nature of the hearing;

(2) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) a reference to the particular sections of the statutes and rules involved; and

(4) either:

(A) a short, plain statement of the factual matters asserted; or

(B) an attachment that incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.

(b) If a state agency or other party is unable to state factual matters in detail at the time notice under this section is served, an initial notice may be limited to a statement of the issues involved. On timely written application, a more definite and detailed statement of the facts shall be furnished not less than seven days before the date set for the hearing. In a proceeding in which the state agency has the burden of proof, a state agency that intends to rely on a section of a statute or rule not previously referenced in the notice of hearing must amend the notice, or the complaint or petition, if applicable, to refer to the section of the statute or rule not later than the seventh day before the date set for the hearing. This subsection does not prohibit the state agency from filing an amendment during the hearing of a contested case provided the opposing party is granted a continuance of at least seven days to prepare its case on request of the opposing party.

(c) In a suit for judicial review of a final decision or order of a state agency in a contested case, the state agency's failure to comply with Subsection (a)(3) or (b) shall constitute prejudice to the substantial rights of the appellant under Section 2001.174(2) unless the court finds that the failure did not unfairly surprise and prejudice the appellant or that the appellant waived the appellant's rights.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 430 (S.B. 1446), Sec. 1, eff. September 1, 2017.

Sec. 2001.053. RIGHT TO COUNSEL. (a) Each party to a contested case is entitled to the assistance of counsel before a state agency.

(b) A party may expressly waive the right to assistance of counsel.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.054. LICENSES. (a) The provisions of this chapter concerning contested cases apply to the grant, denial, or renewal of a license that is required to be preceded by notice and opportunity for hearing.

(b) If a license holder makes timely and sufficient application for the renewal of a license or for a new license for an activity of a continuing nature, the existing license does not expire until the application has been finally determined by the state agency. If the application is denied or the terms of the new license are limited, the existing license does not expire until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(c) A revocation, suspension, annulment, or withdrawal of a license is not effective unless, before institution of state agency proceedings:

(1) the agency gives notice by personal service or by registered or certified mail to the license holder of facts or conduct alleged to warrant the intended action; and

(2) the license holder is given an opportunity to show compliance with all requirements of law for the retention of the license.

(c-1) A state agency that has been granted the power to summarily suspend a license under another statute may determine that an imminent peril to the public health, safety, or welfare requires emergency action and may issue an order to summarily suspend the license holder's license pending proceedings for revocation or other action, provided that the agency incorporates a factual and legal

basis establishing that imminent peril in the order. Unless expressly provided otherwise by another statute, the agency shall initiate the proceedings for revocation or other action not later than the 30th day after the date the summary suspension order is signed. The proceedings must be promptly determined, and if the proceedings are not initiated before the 30th day after the date the order is signed, the license holder may appeal the summary suspension order to a Travis County district court. This subsection does not grant any state agency the power to suspend a license without notice and an opportunity for a hearing.

(d) A license described in Subsection (a) remains valid unless it expires without timely application for renewal, is amended, revoked, suspended, annulled, or withdrawn, or the denial of a renewal application becomes final. The term or duration of a license described in Subsection (a) is tolled during the period the license is subjected to judicial review. However, the term or duration of a license is not tolled if, during judicial review, the licensee engages in the activity for which the license was issued.

(e) In a suit for judicial review of a final decision or order of a state agency brought by a license holder, the agency's failure to comply with Subsection (c) shall constitute prejudice to the substantial rights of the license holder under Section 2001.174(2) unless the court determines that the failure did not unfairly surprise and prejudice the license holder or that the license holder waived the opportunity provided in Subsection (c)(2) to show compliance with all requirements of law for the retention of the license.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 589, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 2, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 430 (S.B. 1446), Sec. 2, eff. September 1, 2017.

Sec. 2001.055. INTERPRETERS FOR DEAF OR HEARING IMPAIRED PARTIES AND WITNESSES. (a) In a contested case, a state agency shall provide an interpreter whose qualifications are approved by the

Texas Commission for the Deaf and Hard of Hearing to interpret the proceedings for a party or subpoenaed witness who is deaf or hearing impaired.

(b) In this section, "deaf or hearing impaired" means having a hearing impairment, whether or not accompanied by a speech impairment, that inhibits comprehension of the proceedings or communication with others.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 835, Sec. 18, eff. Sept. 1, 1995.

Sec. 2001.056. INFORMAL DISPOSITION OF CONTESTED CASE. Unless precluded by law, an informal disposition may be made of a contested case by:

(1) stipulation;
(2) agreed settlement;
(3) consent order; or
(4) default.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.057. CONTINUANCES. (a) A state agency may continue a hearing in a contested case from time to time and from place to place.

(b) The notice of the hearing must indicate the times and places at which the hearing may be continued.

(c) If a hearing is not concluded on the day it begins, a state agency shall, to the extent possible, proceed with the hearing on each subsequent working day until the hearing is concluded.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.058. HEARING CONDUCTED BY STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) This section applies only to an administrative law judge employed by the State Office of Administrative Hearings.

(b) An administrative law judge who conducts a contested case

hearing shall consider applicable agency rules or policies in conducting the hearing, but the state agency deciding the case may not supervise the administrative law judge.

(c) A state agency shall provide the administrative law judge with a written statement of applicable rules or policies.

(d) A state agency may not attempt to influence the finding of facts or the administrative law judge's application of the law in a contested case except by proper evidence and legal argument.

(d-1) On making a finding that a party to a contested case has defaulted under the rules of the State Office of Administrative Hearings, the administrative law judge may dismiss the case from the docket of the State Office of Administrative Hearings and remand it to the referring agency for informal disposition under Section 2001.056. After the case is dismissed and remanded, the agency may informally dispose of the case by applying its own rules or the procedural rules of the State Office of Administrative Hearings relating to default proceedings. This subsection does not apply to a contested case in which the administrative law judge is authorized to render a final decision.

(e) A state agency may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative judge, only if the agency determines:

(1) that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies provided under Subsection (c), or prior administrative decisions;

(2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or

(3) that a technical error in a finding of fact should be changed.

The agency shall state in writing the specific reason and legal basis for a change made under this subsection.

(e-1) Notwithstanding Subsection (e), a state agency may not vacate or modify an order of an administrative law judge that awards attorney's fees and costs under Section 2001.903.

(f) A state agency by rule may provide that, in a contested case before the agency that concerns licensing in relation to an occupational license and that is not disposed of by stipulation, agreed settlement, or consent order, the administrative law judge

shall render the final decision in the contested case. If a state agency adopts such a rule, the following provisions apply to contested cases covered by the rule:

(1) the administrative law judge shall render the decision that may become final under Section 2001.144 not later than the 60th day after the latter of the date on which the hearing is finally closed or the date by which the judge has ordered all briefs, reply briefs, and other posthearing documents to be filed, and the 60-day period may be extended only with the consent of all parties, including the occupational licensing agency;

(2) the administrative law judge shall include in the findings of fact and conclusions of law a determination whether the license at issue is primarily a license to engage in an occupation;

(3) the State Office of Administrative Hearings is the state agency with which a motion for rehearing or a reply to a motion for rehearing is filed under Section 2001.146 and is the state agency that acts on the motion or extends a time period under Section 2001.146;

(4) the State Office of Administrative Hearings is the state agency responsible for sending a copy of the decision that may become final under Section 2001.144 or an order ruling on a motion for rehearing to the parties, including the occupational licensing agency, in accordance with Section 2001.142; and

(5) the occupational licensing agency and any other party to the contested case is entitled to obtain judicial review of the final decision in accordance with this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1167, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 504 (S.B. 27), Sec. 5, eff. September 1, 2019.

Sec. 2001.059. TRANSCRIPT. (a) On the written request of a party to a contested case, proceedings, or any part of the proceedings, shall be transcribed.

(b) A state agency may pay the cost of a transcript or may assess the cost to one or more parties.

(c) This chapter does not limit a state agency to a stenographic record of proceedings.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.060. RECORD. The record in a contested case includes:

(1) each pleading, motion, and intermediate ruling;

(2) evidence received or considered;

(3) a statement of matters officially noticed;

(4) questions and offers of proof, objections, and rulings on them;

(5) proposed findings and exceptions;

(6) each decision, opinion, or report by the officer presiding at the hearing; and

(7) all staff memoranda or data submitted to or considered by the hearing officer or members of the agency who are involved in making the decision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.061. EX PARTE CONSULTATIONS. (a) Unless required for the disposition of an ex parte matter authorized by law, a member or employee of a state agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case may not directly or indirectly communicate in connection with an issue of fact or law with a state agency, person, party, or a representative of those entities, except on notice and opportunity for each party to participate.

(b) A state agency member may communicate ex parte with another member of the agency unless prohibited by other law.

(c) Under Section 2001.090, a member or employee of a state agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case may communicate ex parte with an agency employee who has not participated in a hearing in the case for the purpose of using the special skills or knowledge of the agency and its staff in evaluating the evidence.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.062. EXAMINATION OF RECORD BY STATE AGENCY; PROPOSAL FOR DECISION. (a) In a contested case, if a majority of the state agency officials who are to render a final decision have not heard the case or read the record, the decision, if adverse to a party other than the agency itself, may not be made until:

(1) a proposal for decision is served on each party; and

(2) an opportunity is given to each adversely affected party to file exceptions and present briefs to the officials who are to render the decision.

(b) If a party files exceptions or presents briefs, an opportunity shall be given to each other party to file replies to the exceptions or briefs.

(c) A proposal for decision must contain a statement of the reasons for the proposed decision and of each finding of fact and conclusion of law necessary to the proposed decision. The statement must be prepared by the individual who conducted the hearing or by one who has read the record.

(d) A proposal for decision may be amended in response to exceptions, replies, or briefs submitted by the parties without again being served on the parties.

(e) The parties by written stipulation may waive compliance with this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. CONTESTED CASES: EVIDENCE, WITNESSES, AND DISCOVERY

Sec. 2001.081. RULES OF EVIDENCE. The rules of evidence as applied in a nonjury civil case in a district court of this state shall apply to a contested case except that evidence inadmissible under those rules may be admitted if the evidence is:

(1) necessary to ascertain facts not reasonably susceptible of proof under those rules;

(2) not precluded by statute; and

(3) of a type on which a reasonably prudent person commonly relies in the conduct of the person's affairs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.082. EXCLUSION OF EVIDENCE. In a contested case, evidence that is irrelevant, immaterial, or unduly repetitious shall be excluded.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.083. PRIVILEGE. In a contested case, a state agency shall give effect to the rules of privilege recognized by law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.084. OBJECTIONS TO EVIDENCE. An objection to an evidentiary offer in a contested case may be made and shall be noted in the record.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.085. WRITTEN EVIDENCE. Subject to the requirements of Sections 2001.081 through 2001.084, any part of the evidence in a contested case may be received in writing if:

(1) a hearing will be expedited; and

(2) the interests of the parties will not be substantially prejudiced.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.086. DOCUMENTARY EVIDENCE. A copy or excerpt of documentary evidence may be received in a contested case if an original document is not readily available. On request, a party shall be given an opportunity to compare the copy or excerpt with the original document.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.087. CROSS-EXAMINATION. In a contested case, a party may conduct cross-examination required for a full and true disclosure of the facts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.088. WITNESSES. A state agency may swear witnesses and take their testimony under oath in connection with a contested case held under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.089. ISSUANCE OF SUBPOENA. On its own motion or on the written request of a party to a contested case pending before it, a state agency shall issue a subpoena addressed to the sheriff or to a constable to require the attendance of a witness or the production of books, records, papers, or other objects that may be necessary and proper for the purposes of a proceeding if:

(1) good cause is shown; and

(2) an amount is deposited that will reasonably ensure payment of the amounts estimated to accrue under Section 2001.103.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.090. OFFICIAL NOTICE; STATE AGENCY EVALUATION OF EVIDENCE. (a) In connection with a hearing held under this chapter, official notice may be taken of:

(1) all facts that are judicially cognizable; and

(2) generally recognized facts within the area of the state agency's specialized knowledge.

(b) Each party shall be notified either before or during the hearing, or by reference in a preliminary report or otherwise, of the material officially noticed, including staff memoranda or information.

(c) Each party is entitled to be given an opportunity to contest material that is officially noticed.

(d) The special skills or knowledge of the state agency and its staff may be used in evaluating the evidence.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.091. DISCOVERY FROM PARTIES: ORDERS FOR PRODUCTION OR INSPECTION. (a) On the motion of a party, on notice to each other party, and subject to limitations of the kind provided for discovery under the Texas Rules of Civil Procedure, a state agency in which a contested case is pending may order a party:

(1) to produce and to permit the party making the motion or a person on behalf of that party to inspect and to copy or photograph a designated document, paper, book, account, letter, photograph, or tangible thing in the party's possession, custody, or control that:

(A) is not privileged; and

(B) constitutes or contains, or is reasonably calculated to lead to the discovery of, evidence that is material to a matter involved in the contested case; and

(2) to permit entry to designated land or other property in the party's possession or control to inspect, measure, survey, or photograph the property or a designated object or operation on the property that may be material to a matter involved in the contested case.

(b) An order under this section:

(1) must specify the time, place, and manner of making the inspection, measurement, or survey or of making copies or photographs; and

(2) may prescribe other terms and conditions that are just.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.092. DISCOVERY FROM PARTIES: IDENTITY OF WITNESS OR POTENTIAL PARTY; EXPERT REPORTS. (a) The identity and location of a potential party or witness in a contested case may be obtained from a communication or other paper in a party's possession, custody, or control.

(b) A party may be required to produce and permit the inspection and copying of a report, including factual observations and opinions, of an expert who will be called as a witness.

(c) This section does not extend to other communications:

(1) made after the occurrence or transaction on which the

contested case is based;

(2) made in connection with the prosecution, investigation, or defense of the contested case or the circumstances from which the case arose; and

(3) that are:

(A) written statements of witnesses;

(B) in writing and between agents, representatives, or employees of a party; or

(C) between a party and the party's agent, representative, or employee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.093. DISCOVERY FROM PARTIES: COPY OF PREVIOUS STATEMENT. (a) On request, a person, including a person who is not a party, is entitled to obtain a copy of a statement in a party's possession, custody, or control that the person has previously made about the contested case or its subject matter.

(b) A person whose request under Subsection (a) is refused may move for a state agency order under Section 2001.091.

(c) In this section, a statement is considered to be previously made if it is:

(1) a written statement signed or otherwise adopted or approved by the person making it; or

(2) a stenographic, mechanical, electrical, or other recording, or a transcription of the recording, which is a substantially verbatim recital of an oral statement by the person making it and that was contemporaneously recorded.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.094. ISSUANCE OF COMMISSION REQUIRING DEPOSITION. (a) On its own motion or on the written request of a party to a contested case pending before it, and on deposit of an amount that will reasonably ensure payment of the amount estimated to accrue under Section 2001.103, a state agency shall issue a commission, addressed to the officers authorized by statute to take a deposition, requiring that the deposition of a witness be taken.

(b) The commission shall authorize the issuance of any subpoena

necessary to require that the witness appear and produce, at the time the deposition is taken, books, records, papers, or other objects that may be necessary and proper for the purpose of the proceeding.

(c) The commission shall require an officer to whom it is addressed to:

(1) examine the witness before the officer on the date and at the place named in the commission; and

(2) take answers under oath to questions asked the witness by a party to the proceeding, the state agency, or an attorney for a party or the agency.

(d) The commission shall require the witness to remain in attendance from day to day until the deposition is begun and completed.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.095. DEPOSITION OF STATE AGENCY BOARD MEMBER. The deposition of a member of a state agency board may not be taken after a date has been set for hearing in a contested case.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.096. PLACE OF DEPOSITION. A deposition in a contested case shall be taken in the county where the witness:

(1) resides;

(2) is employed; or

(3) regularly transacts business in person.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.097. OBJECTIONS TO DEPOSITION TESTIMONY. (a) The officer taking an oral deposition in a contested case may not:

(1) sustain an objection to the testimony taken; or

(2) exclude testimony.

(b) An objection to deposition testimony is reserved for the action of the state agency before which the matter is pending.

(c) The administrator or other officer conducting the contested case hearing may consider objections other than those made at the

taking of the testimony.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.098. PREPARATION OF DEPOSITION. (a) A deposition witness in a contested case shall be carefully examined.

(b) The testimony shall be reduced to writing or typewriting by the officer taking the deposition, a person under the officer's personal supervision, or the deposition witness in the officer's presence.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.099. SUBMISSION OF DEPOSITION TO WITNESS; SIGNATURE. (a) A deposition in a contested case shall be submitted to the witness for examination after the testimony is fully transcribed and shall be read to or by the witness.

(b) The witness and the parties may waive in writing the examination and reading of a deposition under Subsection (a).

(c) If the witness is a party to the contested case pending before the agency with an attorney of record, the deposition officer shall notify the attorney of record in writing by registered or certified mail that the deposition is ready for examination and reading at the office of the deposition officer and that if the witness does not appear and examine, read, and sign the deposition before the 21st day after the date on which the notice is mailed, the deposition shall be returned as provided by this subchapter for unsigned depositions.

(d) A witness must sign a deposition at least three days before the date of the hearing or the deposition shall be returned as an unsigned deposition as provided by this subchapter.

(e) The officer taking a deposition shall enter on the deposition:

(1) a change in form or substance that the witness desires to make; and

(2) a statement of the reasons given by the witness for making the change.

(f) After the deposition officer has entered any change and a statement of reasons for the change on the deposition under

Subsection (e), the witness shall sign the deposition unless:

(1) the parties present at the taking of the deposition by stipulation waive the signing;

(2) the witness is ill;

(3) the witness cannot be found; or

(4) the witness refuses to sign.

(g) If a deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the witness's waiver, illness, absence, or refusal to sign and the reason given, if any, for failure to sign. The deposition may then be used as though signed by the witness.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.100. RETURN OF DEPOSITION TO STATE AGENCY. (a) A deposition may be returned to the state agency before which the contested case is pending by mail or by a party interested in taking the deposition or another person.

(b) For a deposition returned by mail, the state agency shall:

(1) endorse on the deposition the fact that it was received from the post office; and

(2) have it signed by the agency employee receiving the deposition.

(c) For a deposition returned by means other than mail, the person delivering it to the state agency shall execute an affidavit before the agency stating that:

(1) the person received it from the hands of the officer before whom it was taken;

(2) it has not been out of the person's possession since the person received it; and

(3) it has not been altered.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.101. OPENING OF DEPOSITION BY STATE AGENCY EMPLOYEE. (a) At the request of a party or the party's counsel, a deposition in a contested case that is filed with a state agency may be opened by an employee of the agency.

(b) A state agency employee who opens a deposition shall:

(1) endorse on the deposition the day and at whose request it was opened; and

(2) sign the deposition.

(c) The deposition shall remain on file with the state agency for the inspection of any party.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.102. USE OF DEPOSITION. A party is entitled to use a deposition taken under this subchapter in the contested case pending before the state agency without regard to whether a cross-interrogatory has been propounded.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.103. EXPENSES OF WITNESS OR DEPONENT. (a) A witness or deponent in a contested case who is not a party and who is subpoenaed or otherwise compelled to attend a hearing or proceeding to give a deposition or to produce books, records, papers, or other objects that may be necessary and proper for the purposes of a proceeding under this chapter is entitled to receive:

(1) 10 cents for each mile, or a greater amount prescribed by state agency rule, for going to and returning from the place of the hearing or deposition if the place is more than 25 miles from the person's place of residence and the person uses the person's personally owned or leased motor vehicle for the travel;

(2) reimbursement of the transportation expenses of the witness or deponent for going to and returning from the place where the hearing is held or the deposition is taken, if the place is more than 25 miles from the person's place of residence and the person does not use the person's personally owned or leased motor vehicle for the travel;

(3) reimbursement of the meal and lodging expenses of the witness or deponent while going to and returning from the place where the hearing is held or deposition is taken, if the place is more than 25 miles from the person's place of residence; and

(4) $10, or a greater amount prescribed by state agency rule, for each day or part of a day that the person is necessarily present.

(b) Amounts required to be reimbursed or paid under this section shall be reimbursed or paid by the party or agency at whose request the witness appears or the deposition is taken. An agency required to make a payment or reimbursement shall present to the comptroller vouchers:

(1) sworn by the witness or deponent; and

(2) approved by the agency in accordance with Chapter 2103.

(c) An agency may directly pay a commercial transportation company for the transportation expenses or a commercial lodging establishment for the lodging expenses of a witness or deponent if this section otherwise requires the agency to reimburse the witness or deponent for those expenses.

(d) An agency may not pay a commercial transportation company or commercial lodging establishment or reimburse a witness or deponent for transportation, meal, or lodging expenses under this section at a rate that exceeds the maximum rates provided by law for state employees. An agency may not adopt rules that provide for payment or reimbursement rates that exceed those maximum rates.

(e) In this section:

(1) "Commercial lodging establishment" means a motel, hotel, inn, apartment, or similar entity that offers lodging to the public in exchange for compensation.

(2) "Commercial transportation company" means an entity that offers transportation of people or goods to the public in exchange for compensation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.20(a), eff. Sept. 1, 1995.

SUBCHAPTER E. CONTESTED CASES: TESTIMONY OF CHILD

Sec. 2001.121. STATEMENT OR TESTIMONY BY CERTAIN CHILD ABUSE VICTIMS. (a) This section applies:

(1) to a contested case and judicial review of a final decision under this chapter, whether by trial de novo or under the substantial evidence rule, in which an issue is the abuse of a child younger than 12 years of age; and

(2) only to the statement or testimony of a child younger than 12 years of age who is alleged to have been abused.

(b) The recording of an oral statement recorded before the proceeding is admissible into evidence if:

(1) an attorney for a party to the proceeding was not present when the statement was made;

(2) the recording is both visual and aural and is recorded on film or videotape or by other electronic means;

(3) the recording equipment was capable of making an accurate recording;

(4) the operator was competent;

(5) the recording is accurate and has not been altered;

(6) the statement was not made in response to questioning calculated to lead the child to make a particular statement;

(7) each voice on the recording is identified;

(8) the individual conducting the interview of the child in the recording is present at the proceeding and available to testify or to be cross-examined by either party; and

(9) each party to the proceeding is given an opportunity to view the recording before it is offered into evidence.

(c) On the motion of a party to the proceeding, the individual conducting the hearing may order that the testimony of the child be taken in a room other than the hearing room and be televised by closed circuit equipment in the hearing room to be viewed by the finder of fact and the parties to the proceeding. Only an attorney for each party, an attorney ad litem for the child or other individual whose presence would contribute to the welfare and well-being of the child, and individuals necessary to operate the equipment may be present in the room with the child during the child's testimony. Only the attorneys for the parties may question the child. The individuals operating the equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during the child's testimony but does not permit the child to see or hear them.

(d) On the motion of a party to the proceeding, the individual conducting the hearing may order that the testimony of the child be taken outside the hearing room and be recorded for showing in the hearing room before the individual conducting the hearing, the finder of fact, and the parties to the proceeding. Only those individuals permitted to be present at the taking of testimony under Subsection (c) may be present during the taking of the child's testimony. Only the attorneys for the parties may question the child, and the

individuals operating the equipment shall be confined from the child's sight and hearing as provided by Subsection (c). The individual conducting the hearing shall ensure that:

(1) the recording is both visual and aural and is recorded on film or videotape or by other electronic means;

(2) the recording equipment was capable of making an accurate recording;

(3) the operator was competent;

(4) the recording is accurate and is not altered;

(5) each voice on the recording is identified; and

(6) each party to the proceeding is given an opportunity to view the recording before it is shown in the hearing room.

(e) A child whose testimony is taken as provided by this section may not be compelled to testify in the presence of the individual conducting the hearing during the proceeding.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.122. HEARSAY STATEMENT OF CHILD ABUSE VICTIM. (a) This section applies:

(1) to a proceeding held under this chapter or a judicial review of a final decision under this chapter, whether by trial de novo or under the substantial evidence rule, in which an issue is the abuse of a child 12 years of age or younger; and

(2) only to a statement that describes an alleged incident of child abuse that:

(A) was made by the child who is the alleged victim of the incident; and

(B) was made to the first individual 18 years of age or older, other than the individual accused of abuse, to whom the child made a statement about the incident.

(b) A statement that meets the requirements of Subsection (a)(2) is not inadmissible as hearsay if:

(1) on or before the seventh day before the date on which the proceeding or hearing begins, the party intending to offer the statement:

(A) notifies each other party of the party's intention to do so;

(B) provides each other party with the name of the

witness through whom it intends to offer the statement; and

(C) provides each other party with a written summary of the statement;

(2) the presiding official conducting the proceeding finds that the statement is reliable based on the time, content, and circumstances of the statement; and

(3) the child who is the alleged victim testifies or is available to testify at the hearing in court, at the proceeding, or in any other manner provided by law.

(c) The finding required by Subsection (b)(2) shall be made in a hearing conducted outside the presence of the jury, if the hearing is before a jury.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER F. CONTESTED CASES: FINAL DECISIONS AND ORDERS; MOTIONS FOR REHEARING

Sec. 2001.141. FORM OF DECISION; FINDINGS OF FACT AND CONCLUSIONS OF LAW. (a) A decision or order of a state agency that may become final under Section 2001.144 that is adverse to any party in a contested case must be in writing and signed by a person authorized by the agency to sign the agency decision or order.

(b) A decision or order that may become final under Section 2001.144 must include findings of fact and conclusions of law, separately stated.

(c) Findings of fact may be based only on the evidence and on matters that are officially noticed.

(d) Findings of fact, if set forth in statutory language, must be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(e) If a party submits under a state agency rule proposed findings of fact or conclusions of law, the decision or order shall include a ruling on each proposed finding or conclusion.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 3, eff. September 1, 2015.

Sec. 2001.142. NOTIFICATION OF DECISIONS AND ORDERS. (a) A state agency shall notify each party to a contested case of any decision or order of the agency using at least one of the following methods of service:

(1) personal service;

(2) if agreed to by the party to be notified, service by electronic means sent to the current e-mail address or facsimile number of the party's attorney of record or of the party if the party is not represented by counsel;

(3) service by first class, certified, or registered mail sent to the last known address of the party's attorney of record or of the party if the party is not represented by counsel; or

(4) service by a method required under the state agency's rules or orders for a party to serve copies of pleadings in a contested case.

(b) When a decision or order in a contested case that may become final under Section 2001.144 is signed or when an order ruling on a motion for rehearing is signed, a state agency shall deliver or send a copy of the decision or order to each party in accordance with Subsection (a). The state agency shall keep a record documenting the provision of the notice provided to each party in accordance with Subsection (a).

(c) If an adversely affected party or the party's attorney of record does not receive the notice required by Subsections (a) and (b) or acquire actual knowledge of a signed decision or order before the 15th day after the date the decision or order is signed, a period specified by or agreed to under Section 2001.144(a), 2001.146, 2001.147, or 2001.176(a) relating to a decision or order or motion for rehearing begins, with respect to that party, on the date the party or the party's attorney of record receives the notice or acquires actual knowledge of the signed decision or order, whichever occurs first. The period may not begin earlier than the 15th day or later than the 45th day after the date the decision or order was signed.

(d) To establish a revised period under Subsection (c), the adversely affected party must prove, on sworn motion and notice, that:

(1) the date the party or the party's attorney of record first received notice from the state agency or acquired actual knowledge of the signing of the decision or order was after the 14th

day after the date the decision or order was signed;

(2) the adversely affected party exercised due diligence by keeping the state agency and all other parties to the contested case apprised of the current mailing address and any electronic contact information for the adversely affected party or the adversely affected party's attorney of record; and

(3) the adversely affected party and the party's attorney of record did not take any action that impeded or prevented receipt of notice of the signing of the decision or order.

(e) The state agency or a person authorized to act for the agency must grant or deny the sworn motion not later than the date of the agency's governing board's next meeting or, for a state agency without a governing board with decision-making authority in contested cases, not later than the 10th day after the date the agency receives the sworn motion.

(f) If the state agency or a person authorized to act for the agency fails to grant or deny the motion at the next meeting or before the 10th day after the date the agency receives the motion, as appropriate, the motion is considered granted.

(g) If a sworn motion filed under Subsection (d) is granted with respect to the adversely affected party filing that motion, all the periods specified by or agreed to under Section 2001.144(a), 2001.146, 2001.147, or 2001.176(a) relating to a decision or order, or motion for rehearing, shall begin for the movant on the date specified in the sworn motion that the movant or the movant's attorney of record first received the notice required by Subsections (a) and (b) or acquired actual knowledge of the signed decision or order. The date specified in the sworn motion shall be considered the date the decision or order was signed for the movant. The timely filing of a sworn motion for rehearing under Subsection (d) extends the period for agency action on any motion for rehearing until the 100th day after the date the decision or order subject to the motion for rehearing is signed.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 18, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 4, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 430 (S.B. 1446), Sec. 3, eff.

September 1, 2017.

Sec. 2001.143. TIME OF DECISION. (a) A decision or order that may become final under Section 2001.144 in a contested case should be signed not later than the 60th day after the date on which the hearing is finally closed.

(b) In a contested case heard by other than a majority of the officials of a state agency, the agency or the person who conducts the contested case hearing may extend the period in which the decision or order may be signed.

(c) Any extension shall be announced at the conclusion of the hearing.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 5, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 6, eff. September 1, 2015.

Sec. 2001.144. DECISIONS OR ORDERS; WHEN FINAL. (a) A decision or order in a contested case is final:

(1) if a motion for rehearing is not filed on time, on the expiration of the period for filing a motion for rehearing;

(2) if a motion for rehearing is timely filed, on the date:

(A) the order overruling the latest filed motion for rehearing is signed; or

(B) the latest filed motion for rehearing is overruled by operation of law;

(3) if a state agency finds that an imminent peril to the public health, safety, or welfare requires immediate effect of a decision or order, on the date the decision or order is signed, provided that the agency incorporates in the decision or order a factual and legal basis establishing an imminent peril to the public health, safety, or welfare; or

(4) on:

(A) the date specified in the decision or order for a case in which all parties agree to the specified date in writing or

on the record; or

(B) if the agreed specified date is before the date the decision or order is signed, the date the decision or order is signed.

(b) If a decision or order is final under Subsection (a)(3), a state agency must recite in the decision or order the finding made under Subsection (a)(3) and the fact that the decision or order is final and effective on the date signed.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 611, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 7, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 430 (S.B. 1446), Sec. 4, eff. September 1, 2017.

Sec. 2001.145. MOTIONS FOR REHEARING: PREREQUISITES TO APPEAL. (a) A timely motion for rehearing is a prerequisite to an appeal in a contested case except that a motion for rehearing of a decision or order that is final under Section 2001.144(a)(3) or (4) is not a prerequisite for appeal.

(b) A decision or order that is final under Section 2001.144(a)(2), (3), or (4) is appealable.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 611, Sec. 2, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 8, eff. September 1, 2015.

Sec. 2001.146. MOTIONS FOR REHEARING: PROCEDURES. (a) A motion for rehearing in a contested case must be filed by a party not later than the 25th day after the date the decision or order that is the subject of the motion is signed, unless the time for filing the motion for rehearing has been extended under Section 2001.142, by an agreement under Section 2001.147, or by a written state agency order issued under Subsection (e). On filing the motion for rehearing, the movant shall send copies of the motion to all other parties using the

notification methods specified by Section 2001.142(a).

(b) A party must file with the state agency a reply, if any, to a motion for rehearing not later than the 40th day after the date the decision or order that is the subject of the motion is signed, or not later than the 10th day after the date a motion for rehearing is filed if the time for filing the motion for rehearing has been extended under Section 2001.142, by an agreement under Section 2001.147, or by a written state agency order under Subsection (e). The party filing the reply shall send copies of the reply to all other parties using the notification methods specified by Section 2001.142(a).

(c) A state agency shall act on a motion for rehearing not later than the 55th day after the date the decision or order that is the subject of the motion is signed or the motion for rehearing is overruled by operation of law.

(d) If a state agency board includes a member who does not receive a salary for work as a board member and who resides outside Travis County, the board may rule on a motion for rehearing at a meeting or by:

(1) mail;

(2) telephone;

(3) telegraph; or

(4) another suitable means of communication.

(e) A state agency or a person authorized to act for the agency may, on its own initiative or on the motion of any party for cause shown, by written order extend the time for filing a motion or reply or taking agency action under this section, provided that the agency or person extends the time or takes the action not later than the 10th day after the date the period for filing a motion or reply or taking agency action expires. An extension may not extend the period for agency action beyond the 100th day after the date the decision or order that is the subject of the motion is signed.

(f) In the event of an extension, a motion for rehearing is overruled by operation of law on the date fixed by the order or, in the absence of a fixed date, the 100th day after the date the decision or order that is the subject of the motion is signed.

(g) A motion for rehearing must identify with particularity findings of fact or conclusions of law that are the subject of the complaint and any evidentiary or legal ruling claimed to be erroneous. The motion must also state the legal and factual basis

for the claimed error.

(h) A subsequent motion for rehearing is not required after a state agency rules on a motion for rehearing unless the order disposing of the original motion for rehearing:

(1) modifies, corrects, or reforms in any respect the decision or order that is the subject of the complaint, other than a typographical, grammatical, or other clerical change identified as such by the agency in the order, including any modification, correction, or reformation that does not change the outcome of the contested case; or

(2) vacates the decision or order that is the subject of the motion and provides for a new decision or order.

(i) The time limits and other requirements for filing a subsequent motion for rehearing, a reply to the subsequent motion for rehearing, and a ruling on the subsequent motion for rehearing are governed by this section and Sections 2001.142, 2001.144, 2001.145, and 2001.147.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 9, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 430 (S.B. 1446), Sec. 5, eff. September 1, 2017.

Sec. 2001.147. AGREEMENT TO MODIFY TIME LIMITS. The parties to a contested case, with state agency approval, may agree to modify the times prescribed by Sections 2001.143 and 2001.146.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER G. CONTESTED CASES: JUDICIAL REVIEW

Sec. 2001.171. JUDICIAL REVIEW. A person who has exhausted all administrative remedies available within a state agency and who is aggrieved by a final decision in a contested case is entitled to judicial review under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.172. SCOPE OF JUDICIAL REVIEW. The scope of judicial review of a state agency decision in a contested case is as provided by the law under which review is sought.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.173. TRIAL DE NOVO REVIEW. (a) If the manner of review authorized by law for the decision in a contested case that is the subject of complaint is by trial de novo, the reviewing court shall try each issue of fact and law in the manner that applies to other civil suits in this state as though there had not been an intervening agency action or decision but may not admit in evidence the fact of prior state agency action or the nature of that action except to the limited extent necessary to show compliance with statutory provisions that vest jurisdiction in the court.

(b) On demand, a party to a trial de novo review may have a jury determination of each issue of fact on which a jury determination could be obtained in other civil suits in this state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.174. REVIEW UNDER SUBSTANTIAL EVIDENCE RULE OR UNDEFINED SCOPE OF REVIEW. If the law authorizes review of a decision in a contested case under the substantial evidence rule or if the law does not define the scope of judicial review, a court may not substitute its judgment for the judgment of the state agency on the weight of the evidence on questions committed to agency discretion but:

(1) may affirm the agency decision in whole or in part; and

(2) shall reverse or remand the case for further proceedings if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

(A) in violation of a constitutional or statutory provision;

(B) in excess of the agency's statutory authority;

(C) made through unlawful procedure;

(D) affected by other error of law;

(E) not reasonably supported by substantial evidence considering the reliable and probative evidence in the record as a whole; or

(F) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.175. PROCEDURES FOR REVIEW UNDER SUBSTANTIAL EVIDENCE RULE OR UNDEFINED SCOPE OF REVIEW. (a) The procedures of this section apply if the manner of review authorized by law for the decision in a contested case that is the subject of complaint is other than by trial de novo.

(b) After service of the petition on a state agency and within the time permitted for filing an answer or within additional time allowed by the court, the agency shall send to the reviewing court the original or a certified copy of the entire record of the proceeding under review. The record shall be filed with the clerk of the court. The record may be shortened by stipulation of all parties to the review proceedings. The court may assess additional costs against a party who unreasonably refuses to stipulate to limit the record, unless the party is subject to a rule adopted under Section 2001.177 requiring payment of all costs of record preparation. The court may require or permit later corrections or additions to the record.

(c) A party may apply to the court to present additional evidence. If the court is satisfied that the additional evidence is material and that there were good reasons for the failure to present it in the proceeding before the state agency, the court may order that the additional evidence be taken before the agency on conditions determined by the court. The agency may change its findings and decision by reason of the additional evidence and shall file the additional evidence and any changes, new findings, or decisions with the reviewing court.

(d) The party seeking judicial review shall offer, and the reviewing court shall admit, the state agency record into evidence as an exhibit.

(e) A court shall conduct the review sitting without a jury and is confined to the agency record, except that the court may receive

evidence of procedural irregularities alleged to have occurred before the agency that are not reflected in the record.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.176. PETITION INITIATING JUDICIAL REVIEW. (a) A person initiates judicial review in a contested case by filing a petition not later than the 30th day after the date the decision or order that is the subject of complaint is final and appealable. In a contested case in which a motion for rehearing is a prerequisite for seeking judicial review, a prematurely filed petition is effective to initiate judicial review and is considered to be filed:

(1) on the date the last timely motion for rehearing is overruled; and

(2) after the motion is overruled.

(b) Unless otherwise provided by statute:

(1) the petition must be filed in a Travis County district court;

(2) a copy of the petition must be served on the state agency and each party of record in the proceedings before the agency; and

(3) the filing of the petition vacates a state agency decision for which trial de novo is the manner of review authorized by law but does not affect the enforcement of an agency decision for which another manner of review is authorized.

(c) A Travis County district court in which an action is brought under this section, on its own motion or on motion of any party, may request transfer of the action to the Court of Appeals for the Fifteenth Court of Appeals District if the district court finds that the public interest requires a prompt, authoritative determination of the legal issues in the case and the case would ordinarily be appealed. After filing of the district court's request with the court of appeals, transfer of the action may be granted by the court of appeals if it agrees with the findings of the district court concerning the application of the statutory standards to the action. On entry of an order by the court of appeals granting transfer, the action is transferred to the court of appeals for decision, and the agency decision in the contested case is subject to judicial review by the court of appeals. The administrative record

and the district court record shall be filed by the district clerk with the clerk of the court of appeals. The court of appeals may direct the district court to conduct any necessary evidentiary hearings in connection with the action.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 894, Sec. 2, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 625 (S.B. 1267), Sec. 10, eff. September 1, 2015.
Acts 2023, 88th Leg., R.S., Ch. 459 (S.B. 1045), Sec. 1.11, eff. September 1, 2023.

Sec. 2001.177. COST OF PREPARING AGENCY RECORD. (a) A state agency by rule may require a party who appeals a final decision in a contested case to pay all or a part of the cost of preparation of the original or a certified copy of the record of the agency proceeding that is required to be sent to the reviewing court.

(b) A charge imposed under this section is a court cost and may be assessed by the court in accordance with the Texas Rules of Civil Procedure.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.1775. MODIFICATION OF AGENCY FINDINGS OR DECISION. Except as provided by Section 2001.175(c), an agency may not modify its findings or decision in a contested case after proceedings for judicial review of the case have been instituted under Section 2001.176 and during the time that the case is under judicial review.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.21(a), eff. Sept. 1, 1995.

Sec. 2001.178. CUMULATIVE EFFECT. This subchapter is cumulative of other means of redress provided by statute.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER H. COURT ENFORCEMENT

Sec. 2001.201. COURT ENFORCEMENT OF SUBPOENA OR COMMISSION. (a) If a person fails to comply with a subpoena or commission issued under this chapter, the state agency issuing the subpoena or commission, acting through the attorney general, or the party requesting the subpoena or commission may bring suit to enforce the subpoena or commission in a district court in Travis County or in the county in which a hearing conducted by the agency may be held.

(b) A court that determines that good cause exists for the issuance of the subpoena or commission shall order compliance with the subpoena or commission. The court may hold in contempt a person who does not obey the order.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.202. COURT ENFORCEMENT OF FINAL ORDERS, DECISIONS, AND RULES. (a) The attorney general, on the request of a state agency to which it appears that a person is violating, about to violate, or failing or refusing to comply with a final order or decision or an agency rule, may bring an action in a district court authorized to exercise judicial review of the final order or decision or the rule to:

(1) enjoin or restrain the continuation or commencement of the violation; or

(2) compel compliance with the final order or decision or the rule.

(b) The action authorized by this section is in addition to any other remedy provided by law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER I. EXCEPTIONS

Sec. 2001.221. DRIVER'S LICENSES. This chapter does not apply to a suspension, revocation, cancellation, denial, or disqualification of a driver's license or commercial driver's license as authorized by:

(1) Subchapter N, Chapter 521, Transportation Code, except Sections 521.304 and 521.305 of that subchapter, or by Subchapter O or P of that chapter;

(2) Chapter 522, Transportation Code;
(3) Chapter 601, Transportation Code; or
(4) Article 42A.406 or 42A.407, Code of Criminal Procedure.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.22(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 30.197, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1117, Sec. 7, eff. Sept. 1, 2000. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.62, eff. January 1, 2017.

Sec. 2001.222. STATE AGENCY PERSONNEL RULES AND PRACTICES. This chapter does not apply to matters related solely to the internal personnel rules and practices of a state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.223. EXCEPTIONS FROM DECLARATORY JUDGMENT, COURT ENFORCEMENT, AND CONTESTED CASE PROVISIONS. Section 2001.038 and Subchapters C through H do not apply to:

(1) except as provided by Subchapter D, Chapter 545, the granting, payment, denial, or withdrawal of financial or medical assistance or benefits under service programs that were operated by the former Texas Department of Human Services before September 1, 2003, and are operated on and after that date by the Health and Human Services Commission or a health and human services agency, as defined by Section 521.0001;

(2) action by the Banking Commissioner or the Finance Commission of Texas regarding the issuance of a state bank or state trust company charter for a bank or trust company to assume the assets and liabilities of a financial institution that the commissioner considers to be in hazardous condition as defined by Section 31.002(a) or 181.002(a), Finance Code, as applicable;

(3) a hearing or interview conducted by the Board of Pardons and Paroles or the Texas Department of Criminal Justice relating to the grant, rescission, or revocation of parole or other form of administrative release; or

(4) the suspension, revocation, or termination of the

certification of a breath analysis operator or technical supervisor under the rules of the Department of Public Safety.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 914, Sec. 4, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 769, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 7.62, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1161 (H.B. 75), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.087, eff. September 1, 2009.

Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 2.17, eff. April 1, 2025.

Sec. 2001.224. TEXAS EMPLOYMENT COMMISSION. Section 2001.038 and Subchapters C through H do not apply to a hearing by the Texas Employment Commission to determine whether or not a claimant is entitled to unemployment compensation, and the remainder of this chapter does not apply other than to matters of unemployment insurance maintained by the commission. Regarding unemployment insurance matters, the commission may not comply with Section 2001.004(3) or 2001.005 relating to orders and decisions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.225. CERTAIN ALCOHOLIC BEVERAGE CODE APPEALS. Section 2001.176(b)(1) does not apply to an appeal under Section 32.18, Alcoholic Beverage Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.226. TEXAS DEPARTMENT OF CRIMINAL JUSTICE AND TEXAS BOARD OF CRIMINAL JUSTICE. This chapter does not apply to a rule or internal procedure of the Texas Department of Criminal Justice or Texas Board of Criminal Justice that applies to an inmate or any other person under the custody or control of the department or to an action taken under that rule or procedure.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.23(b), eff. Sept. 1, 1995.

Sec. 2001.227. TEXAS CIVIL COMMITMENT OFFICE. This chapter does not apply to a rule or internal procedure of the Texas Civil Commitment Office that applies to a person who is civilly committed as a sexually violent predator under Chapter 841, Health and Safety Code, or to an action taken under that rule or procedure.

Added by Acts 2023, 88th Leg., R.S., Ch. 351 (S.B. 1179), Sec. 16, eff. September 1, 2023.

SUBCHAPTER Z. MISCELLANEOUS

Sec. 2001.901. APPEAL FROM DISTRICT COURT. (a) A party may appeal a final district court judgment under this chapter in the manner provided for civil actions generally.

(b) An appeal bond may not be required of a state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.902. SAVING CLAUSE. This chapter does not repeal a statutory provision that confers investigatory authority on a state agency, including a provision that grants an agency the power, in connection with investigatory authority, to:

(1) take depositions;

(2) administer oaths or affirmations;

(3) examine witnesses;

(4) receive evidence;

(5) conduct hearings; or

(6) issue subpoenas or summons.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2001.903. RECOVERY OF ATTORNEY'S FEES AND COSTS IN CONTESTED CASES INVOLVING FRIVOLOUS REGULATORY ACTION. The administrative law judge in a contested case may award a person, in addition to all other costs allowed by law or rule, an amount not to

exceed $1 million for reasonable attorney's fees and costs incurred in defending against a frivolous regulatory action during the case if there is no judicial review of the decision in the case and:

(1) the person prevails in the case; and

(2) there is a final determination that the regulatory action is frivolous.

Added by Acts 2019, 86th Leg., R.S., Ch. 504 (S.B. 27), Sec. 6, eff. September 1, 2019.

CHAPTER 2002. TEXAS REGISTER AND ADMINISTRATIVE CODE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2002.001. DEFINITIONS. In this chapter:

(1) "Administrative code" means the Texas Administrative Code.

(2) "Internet" means the largest nonproprietary nonprofit cooperative public computer network, popularly known as the Internet.

(3) "State agency" means a state officer, board, commission, or department with statewide jurisdiction that makes rules or determines contested cases other than:

(A) an agency wholly financed by federal money;

(B) the legislature;

(C) the courts;

(D) the Texas Department of Insurance, as regards proceedings and activities under Title 5, Labor Code, of the department, the commissioner of insurance, or the commissioner of workers' compensation; or

(E) an institution of higher education.

(4) The following terms have the meanings assigned by Section 2001.003:

(A) "contested case";

(B) "license";

(C) "licensing";

(D) "party";

(E) "person"; and

(F) "rule."

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 455, Sec. 1, eff. Aug. 28, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 6.008, eff. September 1, 2005.

Sec. 2002.002. PURPOSE. It is the public policy of this state to provide adequate and proper public notice of proposed state agency rules and state agency actions through publication of a state register.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. TEXAS REGISTER

Sec. 2002.011. TEXAS REGISTER. The secretary of state shall compile, index, cross-index to statute, and publish a publication to be known as the Texas Register. The register shall contain:

(1) notices of proposed rules issued and filed in the office of the secretary of state as provided by Subchapter B of Chapter 2001;

(2) the text of rules adopted and filed in the office of the secretary of state;

(3) notices of open meetings issued and filed in the office of the secretary of state as provided by law;

(4) executive orders issued by the governor;

(5) summaries of requests for opinions of the attorney general and of the Texas Ethics Commission;

(6) summaries of opinions of the attorney general and of the Texas Ethics Commission;

(7) guidelines prepared by the attorney general under Section 2007.041;

(8) notices relating to the preparation of takings impact assessments as provided by Section 2007.043; and

(9) other information of general interest to the public of this state, including:

(A) federal legislation or regulations affecting the state or a state agency; and

(B) state agency organizational and personnel changes.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 517, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1134, Sec. 16, eff. Sept. 1, 1997.

Sec. 2002.012. SUMMARIES OF OPINIONS AND REQUESTS FOR OPINIONS. The attorney general or the Texas Ethics Commission, as appropriate, shall prepare and forward to the secretary of state for publication in the Texas Register:

(1) summaries of requests for opinions under Section 2002.011(5); and

(2) summaries of opinions under Section 2002.011(6).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 16, eff. Sept. 1, 1997.

Sec. 2002.013. FREQUENCY OF PUBLICATION. The secretary of state shall publish the Texas Register at regular intervals, but not less often than 52 times each calendar year.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 502, Sec. 1, eff. Sept. 1, 1997.

Sec. 2002.014. OMISSION OF INFORMATION. The secretary of state may omit information from the Texas Register if:

(1) the secretary determines that publication of the information would be cumbersome, expensive, or otherwise inexpedient;

(2) on application to the adopting state agency, the information is made available in printed or processed form by the agency; and

(3) the register contains a notice stating the general subject matter of the information and the manner in which a copy of it may be obtained.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.015. DISTRIBUTION. (a) On request, the secretary of state shall make one copy of each issue of the Texas Register available without charge to:

(1) each board, commission, and department with statewide

jurisdiction;

(2) the governor;

(3) the lieutenant governor;

(4) the attorney general;

(5) each member and each standing committee of the legislature;

(6) each county judge or each county clerk;

(7) each library of a public university;

(8) one public library in each municipality that has a public library; and

(9) each court of appeals.

(b) The secretary of state shall make copies of the Texas Register available to other persons for a reasonable fee to be fixed by the secretary.

(c) If the secretary of state determines that an entity requesting the Texas Register under Subsection (a) possesses computer and telecommunications equipment that allows the entity to access the Texas Register through the Internet or through an electronic bulletin board, the secretary may comply with Subsection (a) by providing the Texas Register to the entity at no charge through the Internet or through an electronic bulletin board, as applicable.

(d) The secretary of state shall determine whether making the Texas Register available without charge under Subsection (a) results in a revenue shortfall. If there is a shortfall, the secretary of state shall request an appropriation in that amount in the secretary's legislative appropriations request for the next state fiscal biennium for the purpose of complying with Subsection (a). If the secretary of state does not receive an appropriation for that next state fiscal biennium of an amount necessary to cover the secretary's costs in complying with Subsection (a), the secretary may, beginning with the first day of the biennium, charge a subscription fee to entities requesting the Texas Register under Subsection (a) in an amount that will cover the secretary's revenue shortfall in complying with Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 455, Sec. 5, eff. Aug. 28, 1995.

Sec. 2002.0151. ELECTRONIC AVAILABILITY OF TEXAS REGISTER. (a)

Subject to Subsection (e), the secretary of state:

(1) shall make the full text of the Texas Register available to the public through the Internet at no charge; and

(2) may make the full text of the Texas Register available on an electronic bulletin board at no charge.

(b) An edition of the Texas Register that is made available through the Internet or an electronic bulletin board operated by the secretary of state must be made available not later than the date of the edition.

(c) If the secretary of state does not make the full text of the Texas Register available on an electronic bulletin board, the secretary of state shall, on the request of one or more agencies that operate an electronic bulletin board, make the full text of the Texas Register available to at least one requesting agency for posting on that agency's electronic bulletin board until the secretary of state begins operating an electronic bulletin board.

(d) The secretary of state may electronically provide to the public specialized value-added services related to the Texas Register such as clipping services or subscription services at the market price for the services.

(e) The secretary of state shall determine whether making the Texas Register available on the Internet at no charge and on an electronic bulletin board at no charge, as provided by this section, results in a revenue shortfall that is not covered by the sale of value-added services as provided by Subsection (d). The secretary of state shall report any shortfall attributed to the free Internet and electronic bulletin board services to the Legislative Budget Board in its biennial budget. If a shortfall occurs, the secretary shall also request the appropriation of funds for the next biennial budget in the amount of the shortfall to continue the Internet and electronic bulletin board services at no charge. If the requested funds are not appropriated, the secretary of state may, at the beginning of the next state fiscal year, charge user fees for the Internet and electronic bulletin board services in an amount that will compensate the secretary of state for the revenue shortfall.

Added by Acts 1995, 74th Leg., ch. 455, Sec. 2, eff. Aug. 28, 1995.

Sec. 2002.016. FILING PROCEDURES. (a) To file a document for

publication in the Texas Register, a state agency shall, during normal working hours:

(1) deliver to the office of the secretary of state two certified copies of the document for filing; or

(2) send to the secretary of state over dedicated cable or commercial lines between word or data processors one copy of the document to be filed and deliver to the office of the secretary a letter of certification that is signed by the agency's designated certifying agent and liaison and that contains a statement specifying the type of information electronically sent.

(b) On receipt of a document required to be filed in the office of the secretary of state and published in the Texas Register, the secretary shall note the day and hour of filing on the certified copies of the document or on the letter of certification.

(c) One copy of each filed document shall be maintained in original form or on microfilm in a permanent register in the office of the secretary of state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.017. RULES. (a) The secretary of state may adopt rules to ensure the effective administration of this subchapter, including rules prescribing paper size and the format of documents required to be filed for publication.

(b) The secretary of state may refuse to accept for filing and publication a document that does not substantially conform to the rules.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.018. MICROFILM AND ELECTRONIC STORAGE. The secretary of state may maintain on microfilm or on an electronic storage and retrieval system the files of state agency rules and other information required to be published in the Texas Register. After microfilming or electronically storing the information, the secretary may destroy the original copies of the information submitted for publication.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.019. TABLE OF CONTENTS; INDEX. (a) Each issue of the Texas Register must contain a table of contents.

(b) A cumulative index to all information required to be published in the Texas Register during the previous year shall be published at least once each year.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.020. CERTIFICATION. An official of a submitting state agency who is authorized to certify documents of the agency must certify each document that is filed with the secretary of state for publication.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.021. AGENCY LIAISON. A state agency shall designate at least one individual to act as a liaison through whom all required documents may be submitted to the secretary of state for filing and publication.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.022. EVIDENTIARY VALUE OF TEXAS REGISTER; CITATION. (a) The contents of the Texas Register are to be judicially noticed and are prima facie evidence of the text of the documents and of the fact that they are in effect on and after the date of the notation.

(b) Without prejudice to another mode of citation, the contents of the Texas Register may be cited by volume and page number.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.023. EXCEPTIONS. This subchapter does not apply to:

(1) a suspension, revocation, cancellation, denial, or disqualification of a driver's license or commercial driver's license as authorized by:

(A) Subchapter N, Chapter 521, Transportation Code, except Sections 521.304 and 521.305 of that subchapter, or by Subchapter O or P of that chapter;

(B) Chapter 522, Transportation Code;

(C) Chapter 601, Transportation Code;

(D) Chapter 724, Transportation Code; or

(E) Article 42A.406 or 42A.407, Code of Criminal Procedure;

(2) matters related solely to the internal personnel rules and practices of a state agency;

(3) the Texas Workforce Commission, other than to matters of unemployment insurance maintained by the commission; or

(4) a rule or internal procedure of the Texas Department of Criminal Justice or Texas Board of Criminal Justice that applies to an inmate or any other person under the custody or control of the department or to an action taken under that rule or procedure.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.23(c), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 30.198, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1117, Sec. 8, eff. Sept. 1, 2000. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.63, eff. January 1, 2017.

SUBCHAPTER C. TEXAS ADMINISTRATIVE CODE

Sec. 2002.051. PUBLICATION OF TEXAS ADMINISTRATIVE CODE. (a) The secretary of state shall compile, index, and publish a Texas Administrative Code.

(b) The administrative code shall be periodically supplemented as necessary, but not less often than once each year.

(c) The administrative code shall contain each rule adopted by a state agency under Chapter 2001, but may not contain emergency rules adopted under Section 2001.034.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.052. OMISSION OF INFORMATION. (a) The secretary of state may omit from the administrative code a rule that is general in

form if its inclusion in the code is impracticable, undesirable, or unnecessary because it is of local or limited application.

(b) The secretary of state may omit information from the administrative code if:

(1) the secretary determines that publication of the information would be cumbersome, expensive, or otherwise inexpedient;

(2) on application to the adopting state agency, the information is made available in printed or processed form by the agency; and

(3) the administrative code contains a notice stating the general subject matter of the information and the manner in which a copy of it may be obtained.

(c) Omission from the administrative code under this section does not affect the validity or effectiveness of an omitted rule.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.053. PURCHASE AND RESALE OF ADMINISTRATIVE CODE. (a) To promote efficiency and economy in state government, the secretary of state may periodically purchase copies of the administrative code for resale and distribution to other branches of state government, state agencies, or institutions.

(b) The purchase does not require the secretary of state to engage in competitive bidding procedures to enter into the contract or license to publish the code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.054. EVIDENTIARY VALUE OF ADMINISTRATIVE CODE. State agency rules published in the administrative code, as approved by the secretary of state and as amended by documents later filed with the office of the secretary:

(1) are to be judicially noticed; and

(2) are prima facie evidence of the text of the rules and of the fact that they are in effect on and after the date of the notation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.055. RULES. (a) The secretary of state may adopt rules to ensure the effective administration of this subchapter.

(b) The rules may establish:

(1) titles of the administrative code; and

(2) a system of classification of the subject matter of the administrative code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2002.056. CONFIDENTIALITY OF DATA BASE. (a) The data base for the administrative code is exempt from disclosure under Chapter 552.

(b) In this section, "data base" means the machine-readable form of the material prepared for and used in the publication of the administrative code and includes:

(1) indexes;

(2) annotations;

(3) tables of contents;

(4) tables of authority;

(5) cross-references;

(6) compiled rules; and

(7) other unique material.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 455, Sec. 3, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 527, Sec. 1, eff. Sept. 1, 1995.

Sec. 2002.057. ELECTRONIC AVAILABILITY OF ADMINISTRATIVE CODE. (a) Subject to Subsection (d), the secretary of state:

(1) shall make the full text of the administrative code available to the public through the Internet at no charge, and update the text that is available through the Internet as soon as practicable; and

(2) may make the full text of the administrative code available on an electronic bulletin board at no charge.

(b) If the secretary of state does not make the full text of the administrative code available on an electronic bulletin board, the secretary of state shall, on the request of one or more agencies that operate an electronic bulletin board, make the full text of the

administrative code available to at least one requesting agency for posting on that agency's electronic bulletin board until the secretary of state begins operating an electronic bulletin board.

(c) The secretary of state may electronically provide to the public specialized value-added services related to the administrative code such as clipping services or subscription services at the market price for the services.

(d) The secretary of state shall determine whether making the administrative code available on the Internet at no charge and on an electronic bulletin board at no charge, as provided by this section, results in a revenue shortfall that is not covered by the sale of value-added services as provided by Subsection (c). The secretary of state shall report any shortfall attributed to the free Internet and electronic bulletin board services to the Legislative Budget Board in its biennial budget. If a shortfall occurs, the secretary of state shall also request the appropriation of funds for the next biennial budget in the amount of the shortfall to continue the Internet and electronic bulletin board services at no charge. If the requested funds are not appropriated, the secretary of state may, at the beginning of the next state fiscal year, charge user fees for the Internet and electronic bulletin board services in an amount that will compensate the secretary of state for the revenue shortfall.

Added by Acts 1995, 74th Leg., ch. 455, Sec. 4, eff. Aug. 28, 1995.

Sec. 2002.058. OBSOLETE OR INVALID RULES. (a) Unless the law provides otherwise, the secretary of state shall remove a state agency's rules from the administrative code after the agency has been abolished. If the legislature transfers the abolished agency's rules to another state agency, the secretary of state shall transfer the rules to the appropriate place in the administrative code.

(b) A state agency shall repeal a rule that has been declared invalid by a final court judgment. For purposes of this subsection, a court judgment is not considered final during the time that the judgment may be reversed by an appellate court.

Added by Acts 2001, 77th Leg., ch. 639, Sec. 2, eff. Sept. 1, 2001.

CHAPTER 2003. STATE OFFICE OF ADMINISTRATIVE HEARINGS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2003.001. DEFINITIONS. In this chapter:

(1) "Administrative law judge" means an individual who presides at an administrative hearing held under Chapter 2001.

(2) "Alternative dispute resolution procedure" has the meaning assigned by Section 2009.003.

(3) "Office" means the State Office of Administrative Hearings.

(4) "State agency" means:

(A) a state board, commission, department, or other agency that is subject to Chapter 2001; and

(B) to the extent provided by Title 5, Labor Code, the Texas Department of Insurance, as regards proceedings and activities under Title 5, Labor Code, of the department, the commissioner of insurance, or the commissioner of workers' compensation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 980, Sec. 3.01, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 934, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 19.02(9), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1352, Sec. 7, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 6.009, eff. September 1, 2005.

SUBCHAPTER B. STATE OFFICE OF ADMINISTRATIVE HEARINGS

Sec. 2003.021. OFFICE. (a) The State Office of Administrative Hearings is a state agency created to serve as an independent forum for the conduct of adjudicative hearings in the executive branch of state government. The purpose of the office is to separate the adjudicative function from the investigative, prosecutorial, and policymaking functions in the executive branch in relation to hearings that the office is authorized to conduct.

(b) The office:

(1) shall conduct all administrative hearings in contested cases under Chapter 2001 that are before a state agency that does not employ an individual whose only duty is to preside as a hearings officer over matters related to contested cases before the agency;

(2) shall conduct administrative hearings in matters for

which the office is required to conduct the hearing under other law;

(3) shall conduct alternative dispute resolution procedures that the office is required to conduct under law; and

(4) may conduct, for a fee and under a contract, administrative hearings or alternative dispute resolution procedures in matters voluntarily referred to the office by a governmental entity.

(c) The office shall conduct hearings under Title 5, Labor Code, as provided by that title. In conducting hearings under Title 5, Labor Code, the office shall consider the applicable substantive rules and policies of the division of workers' compensation of the Texas Department of Insurance regarding workers' compensation claims. The office and the Texas Department of Insurance shall enter into an interagency contract under Chapter 771 to pay the costs incurred by the office in implementing this subsection.

(d) The office shall conduct hearings under the Agriculture Code as provided under Section 12.032, Agriculture Code. In conducting hearings under the Agriculture Code, the office shall consider the applicable substantive rules and policies of the Department of Agriculture.

(e) The office shall conduct all hearings in contested cases under Chapter 2001 that are before the commissioner of public health or the Texas Board of Health or Texas Department of Health.

(f) The office may adopt a seal to authenticate the official acts of the office and of its administrative law judges.

(g) The office shall conduct all hearings in contested cases under Chapter 2001 that are before the Texas Department of Licensing and Regulation under Chapter 51, Occupations Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 419, Sec. 3.29, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 980, Sec. 3.02, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 934, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 85, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1411, Sec. 1.01, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(65), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1215, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 6.010, eff. September 1, 2005.

Sec. 2003.022. CHIEF ADMINISTRATIVE LAW JUDGE. (a) The office is under the direction of a chief administrative law judge appointed by the governor for a two-year term that expires on May 15 of each even-numbered year. The chief administrative law judge is eligible for reappointment.

(b) To be eligible for appointment as chief administrative law judge, an individual must:

(1) be licensed to practice law in this state; and

(2) for at least five years, have:

(A) practiced administrative law;

(B) conducted administrative hearings under Chapter 2001; or

(C) engaged in a combination of the two activities listed in Paragraphs (A) and (B).

(c) The chief administrative law judge may not engage in the practice of law while serving as chief administrative law judge. The chief administrative law judge serves in a full-time position.

(d) The chief administrative law judge shall:

(1) supervise the office;

(2) protect and ensure the decisional independence of each administrative law judge;

(3) adopt a code of conduct for administrative law judges that may be modeled on the Code of Judicial Conduct; and

(4) monitor the quality of administrative hearings conducted by the office.

(e) The appointment of the chief administrative law judge shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 212, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 85, Sec. 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1215, Sec. 3, eff. Sept. 1, 2003.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 194 (S.B. 528), Sec. 1, eff. September 1, 2017.

Sec. 2003.0221. REMOVAL OF CHIEF ADMINISTRATIVE LAW JUDGE. It is a ground for removal from the position of chief administrative law judge that an appointee:

(1) does not have at the time of taking office the qualifications required by Section 2003.022(b);

(2) does not maintain during service as chief administrative law judge a license to practice law in this state;

(3) is ineligible to hold the position under Section 2003.0225;

(4) cannot, because of illness or disability, discharge the appointee's duties for a substantial part of the appointee's term; or

(5) engages in the practice of law in violation of Section 2003.022(c).

Added by Acts 2003, 78th Leg., ch. 1215, Sec. 4, eff. Sept. 1, 2003.

Sec. 2003.0225. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not hold the position of chief administrative law judge and may not be employed by the office in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in any field regulated by an agency for which the office is required to conduct administrative hearings; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in any field regulated by an agency for which the office is required to conduct administrative hearings.

(c) A person may not hold the position of chief administrative law judge or act as the general counsel to the chief administrative law judge or the office if the person is required to register as a

lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the office, including a profession that is licensed by an agency for which the office is required to conduct administrative hearings.

Added by Acts 2003, 78th Leg., ch. 1215, Sec. 5, eff. Sept. 1, 2003.

Sec. 2003.0226. INFORMATION REGARDING REQUIREMENTS FOR EMPLOYMENT AND STANDARDS OF CONDUCT. The chief administrative law judge or the chief administrative law judge's designee shall provide to office employees, as often as necessary, information regarding the requirements for employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state employees.

Added by Acts 2003, 78th Leg., ch. 1215, Sec. 5, eff. Sept. 1, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1545, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2003.023. SUNSET PROVISION. The State Office of Administrative Hearings is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The office shall be reviewed during the periods in which state agencies abolished in 2027 and every 12th year after 2027 are reviewed.

Added by Acts 1997, 75th Leg., ch. 210, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1169, Sec. 2.04, eff. Sept. 1, 1997.
Amended by Acts 2003, 78th Leg., ch. 1215, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 2, eff. September 1, 2015.

Sec. 2003.024. INTERAGENCY CONTRACTS; ANTICIPATED HOURLY USAGE AND COST ESTIMATES. (a) If a state agency referred matters to the office during any of the three most recent state fiscal years for which complete information about the agency's hourly usage is

available and the costs to the office of conducting hearings and alternative dispute resolution procedures for the state agency are not to be paid by appropriations to the office during a state fiscal biennium, the office and the agency shall enter into an interagency contract for the biennium under which the referring agency pays the office either a lump-sum amount at the start of each fiscal year of the biennium or a fixed amount at the start of each fiscal quarter of the biennium for all services provided to the agency during the fiscal year. The office shall report to the Legislative Budget Board any agency that fails to make a timely payment under the contract. The lump-sum or quarterly amount paid to the office under the contract must be based on:

(1) an hourly rate that is set by the office:

(A) in an amount that sufficiently covers the office's full costs in providing services to the agency, including costs for items listed in Subsection (c)(2); and

(B) in time for the rate to be reviewed by the legislature, as part of the legislature's review of the office's legislative appropriations request for the biennium, in determining the office's legislative appropriations for the biennium; and

(2) the anticipated hourly usage of the office's services by the referring agency for each fiscal year of the biennium, as estimated by the office under Subsection (a-1).

(a-1) Before the beginning of each state fiscal biennium, the office shall estimate for each fiscal year of the biennium the anticipated hourly usage for each state agency that referred matters to the office during any of the three most recent state fiscal years for which complete information about the agency's hourly usage is available. The office shall estimate an agency's anticipated hourly usage by evaluating:

(1) the number of hours spent by the office conducting hearings or alternative dispute resolution procedures for the state agency during the three most recent state fiscal years for which complete information about the agency's hourly usage is available; and

(2) any other relevant information, including information provided to the office by the state agency, that suggests an anticipated increase or decrease in the agency's hourly usage of the office's services during the state fiscal biennium, as compared to past usage.

(a-2) The office, for a contract entered into as provided by Subsection (a) under which a quarterly amount is paid by the referring agency to the office, shall:

(1) track the agency's actual hourly usage of the office's services during each fiscal quarter; and

(2) forecast, after each fiscal quarter, the agency's anticipated hourly usage for the rest of the fiscal year.

(a-3) If a state agency did not refer matters to the office during any of the three state fiscal years preceding a state fiscal biennium for which complete information about the agency's hourly usage would have been available and did not provide information to the office sufficient for the office to reasonably and timely estimate anticipated usage and enter into a contract with the agency before the start of the state fiscal biennium, and the costs to the office of conducting hearings and alternative dispute resolution procedures for the state agency are not paid by appropriations to the office for the state fiscal biennium, the referring agency shall pay the office the costs of conducting hearings or procedures for the agency based on the hourly rate that is set by the office under Subsection (a) and on the agency's actual usage of the office's services.

(b) If the costs to the office of conducting hearings and alternative dispute resolution procedures for a state agency that refers matters to the office are anticipated to be paid by a lump-sum appropriation to the office for a state fiscal biennium, the office shall timely provide to the legislature the information described by Subsection (c).

(c) Each state fiscal biennium, the office as part of its legislative appropriation request shall file:

(1) information, as estimated under Subsection (a-1), related to the anticipated hourly usage of each state agency that refers matters to the office for which the costs of hearings and alternative dispute resolution procedures are anticipated to be paid by appropriations to the office; and

(2) an estimate of its hourly costs in conducting each type of hearing or dispute resolution procedure based on the average cost per hour during the preceding state fiscal year of:

(A) the salaries of its administrative law judges;

(B) the travel expenses, hearing costs, and telephone charges directly related to the conduct of a hearing or procedure;

and

(C) the administrative costs of the office, including docketing costs.

(d) This section does not apply to hearings conducted under the administrative license revocation program.

Added by Acts 1999, 76th Leg., ch. 85, Sec. 3, eff. Sept. 1, 2000.
Amended by Acts 2003, 78th Leg., ch. 1215, Sec. 7, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 3, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 117 (S.B. 1794), Sec. 1, eff. September 1, 2019.

Sec. 2003.025. REQUIRED INFORMATION REGARDING ANTICIPATED HOURLY USAGE. (a) This section applies to a state agency that has entered into a contract with the office for the conduct of hearings and alternative dispute resolution procedures for the agency, including a contract under Section 2003.024 or 2003.049, during any of the three most recent state fiscal years.

(b) On a date determined by the office before the beginning of each state fiscal biennium, a state agency to which this section applies shall submit to the office and the Legislative Budget Board information regarding the agency's anticipated hourly usage of the office's services for each fiscal year of that biennium.

Added by Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 4, eff. September 1, 2015.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 117 (S.B. 1794), Sec. 2, eff. September 1, 2019.

SUBCHAPTER C. STAFF AND ADMINISTRATION

Sec. 2003.041. EMPLOYMENT OF ADMINISTRATIVE LAW JUDGES. (a) The chief administrative law judge shall employ administrative law judges to conduct hearings for state agencies subject to this chapter.

(b) To be eligible for employment with the office as an

administrative law judge, an individual must be licensed to practice law in this state and meet other requirements prescribed by the chief administrative law judge.

(c) An administrative law judge employed by the office is not responsible to or subject to the supervision, direction, or indirect influence of any person other than the chief administrative law judge or a senior or master administrative law judge designated by the chief administrative law judge. In particular, an administrative law judge employed by the office is not responsible to or subject to the supervision, direction, or indirect influence of an officer, employee, or agent of another state agency who performs investigative, prosecutorial, or advisory functions for the other agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 85, Sec. 4, eff. Sept. 1, 1999.

Sec. 2003.0411. SENIOR AND MASTER ADMINISTRATIVE LAW JUDGES. (a) The chief administrative law judge may appoint senior or master administrative law judges to perform duties assigned by the chief administrative law judge.

(b) To be appointed a senior administrative law judge, a person must have at least six years of general legal experience, must have at least five years of experience presiding over administrative hearings or presiding over hearings as a judge or master of a court, and must meet other requirements as prescribed by the chief administrative law judge.

(c) Except as provided by Section 2003.101, to be appointed a master administrative law judge, a person must have at least 10 years of general legal experience, must have at least six years of experience presiding over administrative hearings or presiding over hearings as a judge or master of a court, and must meet other requirements as prescribed by the chief administrative law judge.

Added by Acts 1999, 76th Leg., ch. 85, Sec. 5, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 354 (S.B. 242), Sec. 2, eff. June 15, 2007.

Sec. 2003.0412. EX PARTE CONSULTATIONS. (a) Except as provided by Subsection (b), the provisions of Section 2001.061 apply in relation to a matter before the office without regard to whether the matter is considered a contested case under Chapter 2001.

(b) The provisions of Section 2001.061 do not apply to a matter before the office to the extent that the office is conducting an alternative dispute resolution procedure in relation to the matter. The chief administrative law judge shall adopt rules that prescribe the types of alternative dispute resolution procedures in which ex parte consultations are prohibited and the types of alternative dispute resolution procedures in which ex parte consultations are allowed. For alternative dispute resolution procedures in which ex parte consultations are prohibited, the chief administrative law judge in adopting rules under this subsection shall model the prohibition after Section 2001.061 but may vary the extent of the prohibition if necessary to take into account the nature of alternative dispute resolution procedures.

Added by Acts 1999, 76th Leg., ch. 85, Sec. 5, eff. Sept. 1, 1999.

Sec. 2003.042. POWERS OF ADMINISTRATIVE LAW JUDGE. (a) An administrative law judge employed by the office or a temporary administrative law judge may:

(1) administer an oath;

(2) take testimony;

(3) rule on a question of evidence;

(4) issue an order relating to discovery or another hearing or prehearing matter, including an order imposing a sanction;

(5) issue an order that refers a case to an alternative dispute resolution procedure, determines how the costs of the procedure will be apportioned, and appoints an impartial third party as described by Section 2009.053 to facilitate that procedure;

(6) issue a proposal for decision that includes findings of fact and conclusions of law;

(7) if expressly authorized by a state agency rule adopted under Section 2001.058(f), make the final decision in a contested case;

(8) serve as an impartial third party as described by Section 2009.053 for a dispute referred by an administrative law

judge, unless one of the parties objects to the appointment; and

(9) serve as an impartial third party as described by Section 2009.053 for a dispute referred by a government agency under a contract.

(b) An administrative law judge may not serve as an impartial third party for a dispute that the administrative law judge refers to an alternative dispute resolution procedure.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 605, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 934, Sec. 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1167, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 19.02(10), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1352, Sec. 8, eff. Sept. 1, 1999.

Sec. 2003.0421. SANCTIONS. (a) An administrative law judge employed by the office or a temporary administrative law judge, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (b) against a party or its representative for:

(1) filing a motion or pleading that is groundless and brought:

(A) in bad faith;

(B) for the purpose of harassment; or

(C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

(2) abuse of the discovery process in seeking, making, or resisting discovery; or

(3) failure to obey an order of the administrative law judge or of the state agency on behalf of which the hearing is being conducted.

(b) A sanction imposed under Subsection (a) may include, as appropriate and justified, issuance of an order:

(1) disallowing further discovery of any kind or of a particular kind by the offending party;

(2) charging all or any part of the expenses of discovery against the offending party or its representatives;

(3) holding that designated facts be considered admitted for purposes of the proceeding;

(4) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;

(5) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of those requests; and

(6) striking pleadings or testimony, or both, in whole or in part.

(c) This section applies to any contested case hearing conducted by the office, except hearings conducted on behalf of the Texas Commission on Environmental Quality or the Public Utility Commission of Texas which are governed by Sections 2003.047 and 2003.049.

Added by Acts 1997, 75th Leg., ch. 605, Sec. 2, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 5, eff. September 1, 2015.

Sec. 2003.043. TEMPORARY ADMINISTRATIVE LAW JUDGE. (a) The chief administrative law judge may contract with a qualified individual to serve as a temporary administrative law judge if an administrative law judge employed by the office is not available to hear a case within a reasonable time.

(b) The chief administrative law judge shall adopt rules relating to the qualifications of a temporary judge.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2003.044. STAFF. The chief administrative law judge may hire staff as required to perform the powers and duties of the office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2003.045. OVERSIGHT OF ADMINISTRATIVE LAW JUDGES. The chief administrative law judge may designate senior or master administrative law judges to oversee the training, evaluation,

discipline, and promotion of administrative law judges employed by the office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 85, Sec. 6, eff. Sept. 1, 1999.

Sec. 2003.0451. TRAINING. (a) The office shall provide at least 30 hours of continuing legal education and judicial training to each new administrative law judge employed by the office who has less than three years of presiding experience. The office shall provide the training required by this subsection during the administrative law judge's first year of employment with the office. The office may provide the training through office personnel or through external sources, including state and local bar associations, the Texas Center for the Judiciary, and the National Judicial College. The training may include the following areas:

(1) conducting fair and impartial hearings;

(2) ethics;

(3) evidence;

(4) civil trial litigation;

(5) administrative law;

(6) managing complex litigation;

(7) conducting high-volume proceedings;

(8) judicial writing;

(9) effective case-flow management;

(10) alternative dispute resolution methods; and

(11) other areas that the office considers to be relevant to the work of an administrative law judge.

(b) The office shall provide continuing legal education and advanced judicial training for other administrative law judges employed by the office to the extent that money is available for this purpose.

(c) Subsection (a) does not apply to a temporary administrative law judge.

Added by Acts 1997, 75th Leg., ch. 371, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 85, Sec. 7, eff. Sept. 1, 1999.

Sec. 2003.046. CENTRAL HEARINGS PANEL. (a) A central hearings

panel in the office is composed of administrative law judges and senior or master administrative law judges assigned to the panel by the chief administrative law judge.

(b) The chief administrative law judge may create teams or divisions within the central panel, including an administrative license revocation division, according to the subject matter or types of hearings conducted by the central panel.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 85, Sec. 8, eff. Sept. 1, 1999.

Sec. 2003.047. HEARINGS FOR TEXAS COMMISSION ON ENVIRONMENTAL QUALITY. (a) The office shall perform contested case hearings for the Texas Commission on Environmental Quality.

(b) The office shall conduct hearings relating to contested cases before the commission, other than a hearing conducted by one or more commissioners. The commission by rule may delegate to the office the responsibility to hear any other matter before the commission if consistent with the responsibilities of the office.

(c) The office may contract with qualified individuals to serve as temporary administrative law judges as necessary.

(d) To be eligible to preside at a hearing on behalf of the commission, an administrative law judge, regardless of temporary or permanent status, must be licensed to practice law in this state and have the expertise necessary to conduct hearings regarding technical or other specialized subjects that may come before the commission.

(e) In referring a matter for hearing, the commission shall provide to the administrative law judge a list of disputed issues. The commission shall specify the date by which the administrative law judge is expected to complete the proceeding and provide a proposal for decision to the commission. The administrative law judge may extend the proceeding if the administrative law judge determines that failure to grant an extension would deprive a party of due process or another constitutional right. The administrative law judge shall establish a docket control order designed to complete the proceeding by the date specified by the commission.

(e-1) This subsection applies only to a matter referred under Section 5.556, Water Code. Each issue referred by the commission must have been raised by an affected person in a comment submitted by

that affected person in response to a permit application in a timely manner. The list of issues submitted under Subsection (e) must:

(1) be detailed and complete; and

(2) contain either:

(A) only factual questions; or

(B) mixed questions of fact and law.

(e-2) For a matter referred under Section 5.556 or 5.557, Water Code, the administrative law judge must complete the proceeding and provide a proposal for decision to the commission not later than the earlier of:

(1) the 180th day after the date of the preliminary hearing; or

(2) the date specified by the commission.

(e-3) The deadline specified by Subsection (e-2) or (e-6), as applicable, may be extended:

(1) by agreement of the parties with the approval of the administrative law judge; or

(2) by the administrative law judge if the judge determines that failure to extend the deadline would unduly deprive a party of due process or another constitutional right.

(e-4) For the purposes of Subsection (e-3)(2), a political subdivision has the same constitutional rights as an individual.

(e-5) This subsection applies only to a matter referred under Section 5.557, Water Code. The administrative law judge may not hold a preliminary hearing until after the executive director has issued a response to public comments under Section 5.555, Water Code.

(e-6) For a matter pertaining to an application described by Section 11.122(b-1), Water Code, the administrative law judge must complete the proceeding and provide a proposal for decision to the commission not later than the 270th day after the date the matter was referred to the office.

(f) Except as otherwise provided by this subsection, the scope of the hearing is limited to the issues referred by the commission. On the request of a party, the administrative law judge may consider an issue that was not referred by the commission if the administrative law judge determines that:

(1) the issue is material;

(2) the issue is supported by evidence; and

(3) there are good reasons for the failure to supply available information regarding the issue during the public comment

period.

(g) The scope of permissible discovery is limited to:

(1) any matter reasonably calculated to lead to the discovery of admissible evidence regarding any issue referred to the administrative law judge by the commission or that the administrative law judge has agreed to consider; and

(2) the production of documents:

(A) reviewed or relied on in preparing application materials or selecting the site of the proposed facility; or

(B) relating to the ownership of the applicant or the owner or operator of the facility or proposed facility.

(h) The commission by rule shall:

(1) provide for subpoenas and commissions for depositions; and

(2) require that discovery be conducted in accordance with the Texas Rules of Civil Procedure, except that the commission by rule shall determine the level of discovery under Rule 190, Texas Rules of Civil Procedure, appropriate for each type of case considered by the commission, taking into account the nature and complexity of the case.

(i) The office and the commission jointly shall adopt rules providing for certification to the commission of an issue that involves an ultimate finding of compliance with or satisfaction of a statutory standard the determination of which is committed to the discretion or judgment of the commission by law. The rules must address, at a minimum, the issues that are appropriate for certification and the procedure to be used in certifying the issue. Each agency shall publish the jointly adopted rules.

(i-1) In a contested case regarding a permit application referred under Section 5.556 or 5.557, Water Code, the filing with the office of the application, the draft permit prepared by the executive director of the commission, the preliminary decision issued by the executive director, and other sufficient supporting documentation in the administrative record of the permit application establishes a prima facie demonstration that:

(1) the draft permit meets all state and federal legal and technical requirements; and

(2) a permit, if issued consistent with the draft permit, would protect human health and safety, the environment, and physical property.

(i-2) A party may rebut a demonstration under Subsection (i-1) by presenting evidence that:

(1) relates to a matter referred under Section 5.557, Water Code, or an issue included in a list submitted under Subsection (e) in connection with a matter referred under Section 5.556, Water Code; and

(2) demonstrates that one or more provisions in the draft permit violate a specifically applicable state or federal requirement.

(i-3) If in accordance with Subsection (i-2) a party rebuts a presumption established under Subsection (i-1), the applicant and the executive director may present additional evidence to support the draft permit.

(j) An administrative law judge hearing a case on behalf of the commission, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (k) against a party or its representative for:

(1) filing a motion or pleading that is groundless and brought:

(A) in bad faith;

(B) for the purpose of harassment; or

(C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

(2) abuse of the discovery process in seeking, making, or resisting discovery; or

(3) failure to obey an order of the administrative law judge or the commission.

(k) A sanction imposed under Subsection (j) may include, as appropriate and justified, issuance of an order:

(1) disallowing further discovery of any kind or of a particular kind by the offending party;

(2) charging all or any part of the expenses of discovery against the offending party or its representatives;

(3) holding that designated facts be considered admitted for purposes of the proceeding;

(4) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;

(5) disallowing in whole or in part requests for relief by

the offending party and excluding evidence in support of those requests; and

(6) striking pleadings or testimony, or both, in whole or in part.

(l) After hearing evidence and receiving legal argument, an administrative law judge shall make findings of fact, conclusions of law, and any ultimate findings required by statute, all of which shall be separately stated. The administrative law judge shall make a proposal for decision to the commission and shall serve the proposal for decision on all parties. An opportunity shall be given to each party to file exceptions to the proposal for decision and briefs related to the issues addressed in the proposal for decision. The commission shall consider and act on the proposal for decision.

(m) Except as provided in Section 361.0832, Health and Safety Code, the commission shall consider the proposal for decision prepared by the administrative law judge, the exceptions of the parties, and the briefs and argument of the parties. The commission may amend the proposal for decision, including any finding of fact, but any such amendment thereto and order shall be based solely on the record made before the administrative law judge. Any such amendment by the commission shall be accompanied by an explanation of the basis of the amendment. The commission may also refer the matter back to the administrative law judge to reconsider any findings and conclusions set forth in the proposal for decision or take additional evidence or to make additional findings of fact or conclusions of law. The commission shall serve a copy of the commission's order, including its finding of facts and conclusions of law, on each party.

(n) The provisions of Chapter 2001 shall apply to contested case hearings for the commission to the extent not inconsistent with this section.

(o) An administrative law judge hearing a case on behalf of the commission may not, without the agreement of all parties, issue an order referring the case to an alternative dispute resolution procedure if the commission has already conducted an unsuccessful alternative dispute resolution procedure. If the commission has not already conducted an alternative dispute resolution procedure, the administrative law judge shall consider the commission's recommendation in determining whether to issue an order referring the case to the procedure.

Added by Acts 1995, 74th Leg., ch. 106, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 934, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1350, Sec. 6, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 116 (S.B. 709), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 6, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 7, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 429 (S.B. 1430), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1097 (H.B. 3735), Sec. 6, eff. September 1, 2017.

Sec. 2003.049. UTILITY HEARINGS. (a) The office shall perform contested case hearings for the Public Utility Commission of Texas as prescribed by the Public Utility Regulatory Act of 1995 and other applicable law.

(b) The office shall conduct hearings relating to contested cases before the commission, other than a hearing conducted by one or more commissioners. The commission by rule may delegate the responsibility to hear any other matter before the commission if consistent with the duties and responsibilities of the office.

(c) The office may contract with qualified individuals to serve as temporary administrative law judges as necessary.

(d) To be eligible to preside at a hearing, an administrative law judge, regardless of temporary or permanent status, must be licensed to practice law in this state and have not less than five years of general experience or three years of experience in utility regulatory law.

(e) At the time the office receives jurisdiction of a proceeding, the commission shall provide to the administrative law judge a list of issues or areas that must be addressed. In addition, the commission may identify and provide to the administrative law judge at any time additional issues or areas that must be addressed.

(f) The office and the commission shall jointly adopt rules providing for certification to the commission of an issue that involves an ultimate finding of compliance with or satisfaction of a

statutory standard the determination of which is committed to the discretion or judgment of the commission by law. The rules must address, at a minimum, the issues that are appropriate for certification and the procedure to be used in certifying the issue. Each agency shall publish the jointly adopted rules.

(g) Notwithstanding Section 2001.058, the commission may change a finding of fact or conclusion of law made by the administrative law judge or vacate or modify an order issued by the administrative law judge only if the commission:

(1) determines that the administrative law judge:

(A) did not properly apply or interpret applicable law, commission rules or policies, or prior administrative decisions; or

(B) issued a finding of fact that is not supported by a preponderance of the evidence; or

(2) determines that a commission policy or a prior administrative decision on which the administrative law judge relied is incorrect or should be changed.

(h) The commission shall state in writing the specific reason and legal basis for its determination under Subsection (g).

(i) An administrative law judge, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (j) against a party or its representative for:

(1) filing a motion or pleading that is groundless and brought:

(A) in bad faith;

(B) for the purpose of harassment; or

(C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

(2) abuse of the discovery process in seeking, making, or resisting discovery; or

(3) failure to obey an order of the administrative law judge or the commission.

(j) A sanction imposed under Subsection (i) may include, as appropriate and justified, issuance of an order:

(1) disallowing further discovery of any kind or of a particular kind by the offending party;

(2) charging all or any part of the expenses of discovery against the offending party or its representative;

(3) holding that designated facts be deemed admitted for

purposes of the proceeding;

(4) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;

(5) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of such requests;

(6) punishing the offending party or its representative for contempt to the same extent as a district court;

(7) requiring the offending party or its representative to pay, at the time ordered by the administrative law judge, the reasonable expenses, including attorney's fees, incurred by other parties because of the sanctionable behavior; and

(8) striking pleadings or testimony, or both, in whole or in part, or staying further proceedings until the order is obeyed.

(k) Repealed by Acts 2015, 84th Leg., R.S., Ch. 228 , Sec. 26(1), eff. September 1, 2015.

(l) Repealed by Acts 2015, 84th Leg., R.S., Ch. 228 , Sec. 26(1), eff. September 1, 2015.

Added by Acts 1995, 74th Leg., ch. 765, Sec. 1.35, eff. Sept. 1, 1995. Renumbered from Government Code Sec. 2003.047 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(49), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 85, Sec. 10, eff. Sept. 1, 2000.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 9, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 10, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 26(1), eff. September 1, 2015.

Sec. 2003.050. PROCEDURAL RULES. (a) The chief administrative law judge shall adopt rules that govern the procedures, including the discovery procedures, that relate to a hearing conducted by the office.

(b) Notwithstanding other law, the procedural rules of the state agency on behalf of which the hearing is conducted govern procedural matters that relate to the hearing only to the extent that

the chief administrative law judge's rules adopt the agency's procedural rules by reference.

(c) The rules of the office regarding the participation of a witness by telephone must include procedures to verify the identity of the witness who is to appear by telephone.

Added by Acts 1997, 75th Leg., ch. 605, Sec. 3, eff. Jan. 1, 1998. Amended by Acts 2003, 78th Leg., ch. 1215, Sec. 8, eff. Sept. 1, 2003.

Sec. 2003.051. ROLE OF REFERRING AGENCY. (a) Except in connection with interim appeals of orders or questions certified to an agency by an administrative law judge, as permitted by law, a state agency that has referred a matter to the office in which the office will conduct a hearing may not take any adjudicative action relating to the matter until the office has issued its proposal for decision or otherwise concluded its involvement in the matter. The state agency may exercise its advocacy rights in the matter before the office in the same manner as any other party.

(b) If the office issues a proposal for decision in a matter referred to the office by a state agency, the referring agency shall send to the office an electronic copy of the agency's final decision or order in the matter.

Added by Acts 1999, 76th Leg., ch. 85, Sec. 11, eff. Sept. 1, 1999. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 11, eff. September 1, 2015.

Sec. 2003.052. HANDLING OF COMPLAINTS. (a) The office shall maintain a file on each written complaint filed with the office. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the office;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the office closed the file without taking action other than to investigate the complaint.

(b) The office shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the office's policies and procedures relating to complaint investigation and resolution.

(c) The office, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Added by Acts 2003, 78th Leg., ch. 1215, Sec. 9, eff. Sept. 1, 2003.

Sec. 2003.053. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The chief administrative law judge or the chief administrative law judge's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the office to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the office's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

(3) be filed with the governor's office.

Added by Acts 2003, 78th Leg., ch. 1215, Sec. 9, eff. Sept. 1, 2003.

Sec. 2003.055. EFFECTIVE USE OF TECHNOLOGY. The chief

administrative law judge shall develop and implement a policy requiring the chief administrative law judge and office employees to research and propose appropriate technological solutions to improve the office's ability to perform its functions. The technological solutions must:

(1) ensure that the public is able to easily find information about the office on the Internet;

(2) ensure that persons who want to use the office's services are able to:

(A) interact with the office through the Internet; and

(B) access any service that can be provided effectively through the Internet; and

(3) be cost-effective and developed through the office's planning processes.

Added by Acts 2003, 78th Leg., ch. 1215, Sec. 9, eff. Sept. 1, 2003.

Sec. 2003.056. ALTERNATIVE DISPUTE RESOLUTION POLICY. The chief administrative law judge shall develop and implement a policy to encourage the use of alternative dispute resolution procedures where appropriate to assist in the internal and external resolution of disputes within the office's jurisdiction.

Added by Acts 2003, 78th Leg., ch. 1215, Sec. 9, eff. Sept. 1, 2003.

Sec. 2003.057. HEARING TRANSLATOR. If a translator is requested for all or part of a hearing conducted by the office, the office shall provide an appropriate translator for that purpose.

Added by Acts 2003, 78th Leg., ch. 1215, Sec. 10, eff. Sept. 1, 2003.

SUBCHAPTER D. TAX HEARINGS

Sec. 2003.101. TAX HEARINGS. (a) The office shall conduct hearings relating to contested cases involving the collection, receipt, administration, and enforcement of taxes, fees, and other amounts as prescribed by Section 111.00455, Tax Code.

(b) An administrative law judge who presides at a tax hearing is classified as a "master administrative law judge II." Section

2003.0411 does not apply to this section.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 228 , Sec. 26(2), eff. September 1, 2015.

(d) To be eligible to preside at a tax hearing, an administrative law judge, including a temporary administrative law judge contracted with under Section 2003.043, must:

(1) be a United States citizen;

(2) be an attorney in good standing with the State Bar of Texas;

(3) have been licensed in this state to practice law for at least seven years; and

(4) have substantial experience in tax cases in making the record suitable for administrative review.

(e) Notwithstanding Section 2001.058, the comptroller may change a finding of fact or conclusion of law made by the administrative law judge or vacate or modify an order issued by the administrative law judge only if the comptroller:

(1) determines that the administrative law judge:

(A) did not properly apply or interpret applicable law, then existing comptroller rules or policies, or prior administrative decisions; or

(B) issued a finding of fact that is not supported by a preponderance of the evidence; or

(2) determines that a comptroller policy or a prior administrative decision on which the administrative law judge relied is incorrect.

(f) The comptroller shall state in writing the specific reason and legal basis for a determination under Subsection (e).

(g) An administrative law judge, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (h) against a party or its representative for:

(1) filing of a motion or pleading that is groundless and brought:

(A) in bad faith;

(B) for the purpose of harassment; or

(C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

(2) abuse of the discovery process in seeking, making, or resisting discovery; or

(3) failure to obey an order of the administrative law judge or the comptroller.

(h) A sanction imposed under Subsection (g) may include, as appropriate and justified, issuance of an order:

(1) disallowing further discovery of any kind or of a particular kind by the offending party;

(2) holding that designated facts be deemed admitted for purposes of the proceeding;

(3) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;

(4) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of such requests; and

(5) striking pleadings or testimony, or both, wholly or partly, or staying further proceedings until the order is obeyed.

(i) For each hearing conducted under this section, an administrative law judge shall issue a proposal for decision that includes findings of fact and conclusions of law. In addition, the proposal for decision must include the legal reasoning and other analysis considered by the judge in reaching the decision. Each finding of fact or conclusion of law made by the judge must be:

(1) independent and impartial; and

(2) based on state law and the evidence presented at the hearing.

(j) The comptroller may not attempt to influence the findings of fact or the administrative law judge's application of the law except by evidence and legal argument. An administrative law judge conducting a hearing under this subchapter may not directly or indirectly communicate in connection with an issue of fact or law with a party or its representative, except:

(1) on notice and opportunity for each party to participate; or

(2) to ask questions that involve ministerial, administrative, or procedural matters that do not address the substance of the issues or positions taken in the case.

(k) Appearances in hearings conducted for the comptroller by the office may be by:

(1) the taxpayer;

(2) an attorney licensed to practice law in this state;

(3) a certified public accountant; or

(4) any other person designated by the taxpayer who is not otherwise prohibited from appearing in the hearing.

(l) The comptroller is represented by an authorized representative in all hearings conducted for the comptroller by the office.

Added by Acts 2007, 80th Leg., R.S., Ch. 354 (S.B. 242), Sec. 3, eff. June 15, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 13, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 14, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 26(2), eff. September 1, 2015.

Sec. 2003.103. TIMELINESS OF HEARINGS. (a) The office shall conduct all hearings under this subchapter in a timely manner.

(b) The office shall use every reasonable means to expedite a case under this subchapter when the comptroller requests that the office expedite the case.

(c) This section is not intended to impair the independence of the office in conducting a hearing under this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 354 (S.B. 242), Sec. 3, eff. June 15, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 15, eff. September 1, 2015.

Sec. 2003.104. CONFIDENTIALITY OF TAX HEARING INFORMATION. (a) The office shall keep information that identifies a taxpayer who participates in a case under this subchapter confidential, including the taxpayer's name and social security number.

(b) The provision of information to the office that is confidential under any law, including Section 111.006, 151.027, or 171.206, Tax Code, does not affect the confidentiality of the information, and the office shall maintain that confidentiality.

(c) A hearing conducted under this subchapter is confidential and not open to the public.

Added by Acts 2007, 80th Leg., R.S., Ch. 354 (S.B. 242), Sec. 3, eff. June 15, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 16, eff. September 1, 2015.

Sec. 2003.108. PENDING CASE STATUS REVIEW. At least quarterly, the office shall review with the comptroller and appropriate staff of the office the status of pending cases under this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 354 (S.B. 242), Sec. 3, eff. June 15, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.10, eff. September 1, 2019.

Sec. 2003.109. RULES; EARLY REFERRAL. (a) The comptroller may adopt rules to provide for the referral to the office of issues related to a case described by Section 111.00455, Tax Code, to resolve a procedural or other preliminary dispute between the comptroller and a party.

(b) After a referral under this section, the office shall docket the case and assign an administrative law judge under Section 2003.101. If additional proceedings are required after the consideration of the procedural or other preliminary dispute, the office shall appoint the same administrative law judge to hear the case.

Added by Acts 2007, 80th Leg., R.S., Ch. 354 (S.B. 242), Sec. 3, eff. June 15, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 18, eff. September 1, 2015.

SUBCHAPTER Z. APPEALS FROM APPRAISAL REVIEW BOARD DETERMINATIONS

Sec. 2003.901. APPEALS FROM APPRAISAL REVIEW BOARD DETERMINATIONS. As an alternative to filing an appeal under Section 42.01, Tax Code, a property owner may appeal to the office an appraisal review board order determining a protest concerning the appraised or market value of property brought under Section 41.41(a)(1) or (2), Tax Code, if the appraised or market value, as applicable, of the property that was the subject of the protest, as determined by the board order, is more than $1 million.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 851 (H.B. 316), Sec. 2, eff. January 1, 2014.

Sec. 2003.902. PARTICIPATING OFFICES AND REMOTE HEARING SITES. The office shall hear appeals filed under this subchapter only in:

(1) Amarillo;
(2) Austin;
(3) Beaumont;
(4) Corpus Christi;
(5) El Paso;
(6) Fort Worth;
(7) Houston;
(8) Lubbock;
(9) Lufkin;
(10) McAllen;
(11) Midland;
(12) San Antonio;
(13) Tyler; and
(14) Wichita Falls.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1293 (H.B. 2203), Sec. 1, eff. June 17, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 851 (H.B. 316), Sec. 3, eff.

January 1, 2014.

Sec. 2003.903. RULES. (a) The office has rulemaking authority to implement this subchapter.

(b) The office has specific rulemaking authority to implement those rules necessary to expeditiously determine appeals to the office, based on the number of appeals filed and the resources available to the office.

(c) The office may adopt rules that include the procedural provisions of Chapter 41, Tax Code, applicable to a hearing before an appraisal review board.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.

Sec. 2003.904. APPLICABILITY TO REAL AND PERSONAL PROPERTY. This subchapter applies only to an appeal of a determination of the appraised or market value made by an appraisal review board in connection with real or personal property, other than industrial property.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 851 (H.B. 316), Sec. 4, eff. January 1, 2014.

Sec. 2003.905. EDUCATION AND TRAINING OF ADMINISTRATIVE LAW JUDGES. (a) An administrative law judge assigned to hear an appeal brought under this subchapter must have knowledge of:

(1) each of the appraisal methods a chief appraiser may use to determine the appraised value or the market value of property under Chapter 23, Tax Code; and

(2) the proper method for determining an appeal of a protest, including a protest brought on the ground of unequal appraisal.

(b) An administrative law judge is entitled to attend one or more training and education courses under Sections 5.04 and 5.041,

Tax Code, to receive a copy of the materials used in a course, or both, without charge.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.

Sec. 2003.906. NOTICE OF APPEAL TO OFFICE; DEPOSIT. (a) To appeal an appraisal review board order to the office under this subchapter, a property owner must file with the chief appraiser of the appraisal district:

(1) a completed notice of appeal to the office in the form prescribed by Section 2003.907; and

(2) a deposit in the amount of $1,500, made payable to the office.

(a-1) The notice of appeal required under Subsection (a)(1) must be filed with the chief appraiser not later than the 30th day after the date the property owner receives notice of the order.

(a-2) The deposit required under Subsection (a)(2) must be filed with the chief appraiser not later than the 90th day after the date the property owner receives notice of the order. The deposit is refundable:

(1) less the filing fee if the property owner and the appraisal district settle before the appeal is heard; or

(2) less the filing fee and the office's costs if the property owner and the appraisal district settle after the appeal is heard.

(a-3) If the property owner fails to pay the deposit as required under Subsection (a-2):

(1) the office shall dismiss the property owner's appeal; and

(2) the property owner is not entitled to file an appeal under this subchapter in any subsequent tax year.

(b) As soon as practicable after receipt of a notice of appeal, the chief appraiser for the appraisal district shall:

(1) indicate, where appropriate, those entries in the records that are subject to the appeal;

(2) submit the notice of appeal and deposit to the office; and

(3) request the appointment of a qualified administrative

law judge to hear the appeal.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1293 (H.B. 2203), Sec. 2, eff. June 17, 2011.

Sec. 2003.907. CONTENTS OF NOTICE OF APPEAL. The chief administrative law judge by rule shall prescribe the form of a notice of appeal under this subchapter. The form must require the property owner to provide:

(1) a copy of the order of the appraisal review board;

(2) a brief statement that explains the basis for the property owner's appeal of the order; and

(3) a statement of the property owner's opinion of the appraised or market value, as applicable, of the property that is the subject of the appeal.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.

Sec. 2003.908. NOTICE TO PROPERTY OWNERS. An appraisal review board that delivers notice of issuance of an order described by Section 2003.901 of this code pertaining to property described by Section 2003.904 of this code and a copy of the order to a property owner as required by Section 41.47, Tax Code, shall include with the notice and copy:

(1) a notice of the property owner's rights under this subchapter; and

(2) a copy of the notice of appeal prescribed by Section 2003.907.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 851 (H.B. 316), Sec. 5, eff. January 1, 2014.

Sec. 2003.909. DESIGNATION OF ADMINISTRATIVE LAW JUDGE; LOCATION OF HEARING. (a) As soon as practicable after the office receives a notice of appeal and the filing fee, the office shall designate an administrative law judge to hear the appeal.

(b) As soon as practicable after the administrative law judge is designated, the administrative law judge shall set the date, time, and place of the hearing on the appeal.

(b-1) If all or part of the property that is the subject of the appeal is located in a municipality listed in Section 2003.902, the administrative law judge shall set the hearing in that municipality. If no part of the property that is the subject of the appeal is located in a municipality listed in Section 2003.902, the administrative law judge shall set the hearing in the listed municipality that is nearest to the subject property.

(c) The hearing must be held in a building or facility that is owned or partly or entirely leased by the office, except that if the office does not own or lease a building or facility in the municipality in which the hearing is required to be held, the hearing may be held in any public or privately owned building or facility in that municipality, preferably a building or facility in which the office regularly conducts business. The hearing may not be held in a building or facility that is owned, leased, or under the control of an appraisal district.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 851 (H.B. 316), Sec. 6, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 851 (H.B. 316), Sec. 7, eff. January 1, 2014.

Sec. 2003.910. SCOPE OF APPEAL; HEARING. (a) An appeal is by trial de novo. The administrative law judge may not admit into evidence the fact of previous action by the appraisal review board, except as otherwise provided by this subchapter.

(b) Chapter 2001 and the Texas Rules of Evidence do not apply to a hearing under this subchapter. Prehearing discovery is limited to the exchange of documents the parties will rely on during the

hearing. Any expert witness testimony must be reduced to writing and included in the exchange of documents.

(c) Any relevant evidence is admissible, subject to the imposition of reasonable time limits and the parties' compliance with reasonable procedural requirements imposed by the administrative law judge, including a schedule for the prehearing exchange of documents to be relied on.

(d) An administrative law judge may consider factors such as the hearsay nature of testimony, the qualifications of witnesses, and other restrictions on the admissibility of evidence under the Texas Rules of Evidence in assessing the weight to be given to the evidence admitted.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.

Sec. 2003.911. REPRESENTATION OF PARTIES. (a) A property owner may be represented at the hearing by:

(1) the property owner;

(2) an attorney who is licensed in this state;

(3) a certified public accountant;

(4) a registered property tax consultant; or

(5) any other person who is not otherwise prohibited from appearing in a hearing held by the office.

(b) The appraisal district may be represented by the chief appraiser or a person designated by the chief appraiser.

(c) An authorized representative of a party may appear at the hearing to offer evidence, argument, or both, in the same manner as provided by Section 41.45, Tax Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.

Sec. 2003.912. DETERMINATION OF ADMINISTRATIVE LAW JUDGE. (a) As soon as practicable, but not later than the 30th day after the date the hearing is concluded, the administrative law judge shall issue a determination and send a copy to the property owner and the chief appraiser.

(b) The determination:

(1) must include a determination of the appraised or market value, as applicable, of the property that is the subject of the appeal;

(2) must contain a brief analysis of the administrative law judge's rationale for and set out the key findings in support of the determination but is not required to contain a detailed discussion of the evidence admitted or the contentions of the parties;

(3) may include any remedy or relief a court may order under Chapter 42, Tax Code, in an appeal relating to the appraised or market value of property, including an award of attorney's fees under Section 42.29, Tax Code; and

(4) shall specify whether the appraisal district or the property owner is required to pay the costs of the hearing and the amount of those costs.

(c) If the administrative law judge determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the request for the hearing submitted by the property owner than the value determined by the appraisal review board:

(1) the office, on receipt of a copy of the determination, shall refund the property owner's filing fee;

(2) the appraisal district, on receipt of a copy of the determination, shall pay the costs of the appeal as specified in the determination; and

(3) the chief appraiser shall correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the administrative law judge's determination.

(d) If the administrative law judge determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is not nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the property owner's request for a hearing than the value determined by the appraisal review board:

(1) the office, on receipt of a copy of the determination, shall retain the property owner's filing fee;

(2) the chief appraiser shall correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the administrative law judge's

determination if the value as determined by the administrative law judge is less than the value as determined by the appraisal review board; and

(3) the property owner shall pay the difference between the costs of the appeal as specified in the determination and the property owner's filing fee.

(e) Notwithstanding Subsection (a), the office by rule may implement a process under which:

(1) the administrative law judge issues a proposal for determination to the parties;

(2) the parties are given a reasonable period in which to make written objections to the proposal; and

(3) the administrative law judge is authorized to take into account those written objections before issuing a final determination.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1293 (H.B. 2203), Sec. 3, eff. June 17, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 850, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2003.913. PAYMENT OF TAXES PENDING APPEAL. (a) The pendency of an appeal to the office does not affect the delinquency date for the taxes on the property subject to the appeal. A property owner who appeals an appraisal review board order to the office shall pay taxes on the property subject to the appeal in an amount equal to the amount of taxes due on the portion of the taxable value of the property that is not in dispute. If the final determination of the appeal decreases the property owner's tax liability to an amount less than the amount of taxes paid, each taxing unit shall refund to the property owner the difference between the amount of taxes paid and the amount of taxes for which the property owner is liable.

(b) A property owner may not appeal to the office if the taxes on the property subject to the appeal are delinquent. An administrative law judge who determines that the taxes on the

property subject to an appeal are delinquent shall dismiss the pending appeal with prejudice. If an appeal is dismissed under this subsection, the office shall retain the property owner's filing fee.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.

Sec. 2003.914. EFFECT ON RIGHT TO JUDICIAL APPEAL. An appeal to the office under this subchapter is an election of remedies and an alternative to bringing an appeal under Section 42.01, Tax Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.

CHAPTER 2004. REPRESENTATION BEFORE STATE AGENCIES

Sec. 2004.001. DEFINITIONS. In this chapter:

(1) "Individual" includes a member of the legislature, any other state officer, and a state employee.

(2) "State agency" means an office, department, commission, or board of the executive branch of state government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2004.002. REGISTRATION. (a) An individual who appears before a state agency or contacts in person an officer or employee of a state agency on behalf of an individual, firm, partnership, corporation, or association about a matter before that agency shall register with the state agency:

(1) the name and address of the registrant;

(2) the name and address of the person on whose behalf the appearance or contact is made; and

(3) a statement on whether the registrant has received or expects to receive any money, thing of value, or financial benefit for the appearance or contact.

(b) Each state agency shall provide for recording the registration in a record and shall maintain the record.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2004.003. EXEMPTIONS FROM REGISTRATION. An individual is not required to register under Section 2004.002 because of:

(1) the individual's appearance or contact on an interagency matter if the individual is an officer or employee of the state agency; or

(2) a contact by the individual with the state agency or an officer or employee of the agency if the contact:

(A) is solely for obtaining information and an attempt is not made to influence the action of an officer or employee of the agency;

(B) consists of making an appearance and participating at a public hearing;

(C) is made in a matter in which a pleading or other instrument that discloses the individual's representation is on file with the agency; or

(D) is one for which the individual does not receive compensation or any thing of value.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2004.004. REPORTING AND FILING OF REGISTRATIONS. (a) A state agency shall prepare a report that includes the information from all registrations filed with the agency in a calendar quarter.

(b) The agency shall file the report with the Texas Ethics Commission not later than the 10th day of the month after the end of the calendar quarter for which the report was prepared.

(c) The Texas Ethics Commission shall index each report and keep the report on file for four years after the date the report is filed.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 506, Sec. 1, eff. Sept. 1, 1997.

Sec. 2004.005. PENALTY. (a) An individual commits an offense if the individual does not register as required by this chapter.

(b) An offense under this chapter is a misdemeanor punishable by:

(1) a fine of not more than $500;
(2) confinement in jail for a term not to exceed six months; or
(3) both the fine and imprisonment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 2005. MISCELLANEOUS PROVISIONS RELATING TO STATE LICENSES AND PERMITS

SUBCHAPTER A. PERMIT PROCESSING

Sec. 2005.001. DEFINITIONS. In this subchapter:
(1) "Permit" means an authorization by a license, certificate, registration, or other form that is required by law or state agency rules to engage in a particular business.
(2) "State agency" means a department, board, bureau, commission, division, office, council, or other agency of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1194 (H.B. 1168), Sec. 4, eff. September 1, 2007.

Sec. 2005.002. EXCEPTIONS. This subchapter does not apply to a permit:
(1) for which an agency's median time during the preceding calendar year for processing a permit application from receipt of the initial application to the final permit decision did not exceed seven days;
(2) issued in connection with any form of gaming or gambling; or
(3) issued under the Alcoholic Beverage Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1194 (H.B. 1168), Sec. 5, eff. September 1, 2007.

Sec. 2005.003. PERMIT PROCESSING PERIODS. (a) A state agency

that issues permits shall adopt procedural rules for processing permit applications and issuing permits.

(b) The rules must specify:

(1) the period, beginning on the date the agency receives an initial permit application, in which the agency must provide written notice to the applicant:

(A) stating that the permit application is complete and accepted for filing; or

(B) stating that the permit application is incomplete and specifying the additional information required for acceptance; and

(2) the period, beginning on the date the agency receives a complete permit application, in which the agency must deny or approve the permit application.

(c) A state agency may establish separate rules under this section for contested and uncontested cases.

(d) A state agency shall publish with rules proposed under this section:

(1) a statement of the agency's minimum, maximum, and median times for processing a permit application from the date the agency received an initial permit application to the date of the final permit decision using the agency's performance in the 12 months preceding the date the proposed rules are published; and

(2) a justification of the periods proposed by the rules.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2005.004. GOOD CAUSE. A state agency has good cause to exceed the period it establishes for processing a permit application if:

(1) the number of permit applications to be processed exceeds by at least 15 percent the number of permit applications processed in the same quarter of the previous calendar year;

(2) the agency must rely on another public or private entity to process all or a part of the permit applications received by the agency, and the delay is caused by that entity; or

(3) other conditions exist that give the agency good cause for exceeding the established period.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2005.005. DUTY OF HEAD OF AGENCY. The head of each state agency shall ensure that the agency complies with this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1194 (H.B. 1168), Sec. 6, eff. September 1, 2007.

Sec. 2005.006. COMPLAINT PROCEDURE. (a) A state agency subject to this subchapter shall establish by rule a complaint procedure through which a permit applicant can:

(1) complain directly to the chief administrator of the agency if the agency exceeds the established period for processing permits; and

(2) request a timely resolution of any dispute arising from the delay.

(b) The rules must provide for the reimbursement of all filing fees paid by the applicant for a permit application if the chief administrator of the state agency determines that:

(1) the agency exceeded the established period for permit processing; and

(2) the agency did not establish good cause for exceeding the established period.

(c) The state agency shall include information about the complaint procedure in permit application forms issued by the agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1194 (H.B. 1168), Sec. 7, eff. September 1, 2007.

Sec. 2005.007. REPORTS. (a) A state agency that issues permits shall report biennially to the governor and the legislature on its permit application system.

(b) The report must include:

(1) a statement of the periods the agency has adopted under this subchapter for processing each type of permit it issues,

specifying any changes the agency made since the last report;

(2) a statement of the minimum, maximum, and median times for processing each type of permit during the period since the last report from the date the agency receives the initial permit application to the final permit decision;

(3) a description of the complaint procedure required by Section 2005.006;

(4) a summary of the number and disposition of complaints received by the agency under Section 2005.006 since the last report; and

(5) a description of specific actions taken by the agency since the last report to simplify and improve its permit application, processing, and paperwork requirements.

(c) A state agency shall include the information required by Subsection (b) in each performance report the agency submits to the Legislative Budget Board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1194 (H.B. 1168), Sec. 8, eff. September 1, 2007.

SUBCHAPTER B. DENIAL, SUSPENSION, OR REVOCATION FOR FALSE STATEMENT, MISREPRESENTATION, OR REFUSAL TO PROVIDE INFORMATION

Sec. 2005.051. DEFINITIONS. In this subchapter:

(1) "License" means a license, certificate, registration, permit, or other authorization:

(A) that is issued by a licensing authority;

(B) that is subject before expiration to suspension, revocation, forfeiture, or termination by the issuing licensing authority; and

(C) that a person must obtain to:

(i) practice or engage in a particular business, occupation, or profession; or

(ii) engage in any other regulated activity, including hunting, fishing, or other recreational activity for which a license or permit is required.

(2) "Licensing authority" means an agency of the executive, legislative, or judicial branch of state government that issues a

license.

Added by Acts 2007, 80th Leg., R.S., Ch. 1194 (H.B. 1168), Sec. 3, eff. September 1, 2007.

Sec. 2005.052. DENIAL, SUSPENSION, OR REVOCATION FOR FALSE STATEMENT, MISREPRESENTATION, OR REFUSAL TO PROVIDE INFORMATION. (a) A licensing authority may deny a person's application for a license or suspend or revoke a person's license if the licensing authority determines, after notice and hearing, that the person knowingly:

(1) made a false statement in connection with applying for or renewing the license;

(2) made a material misrepresentation to the licensing authority in connection with applying for or renewing the license;

(3) refused to provide information requested by the licensing authority; or

(4) failed to provide all of the person's criminal history information in response to the licensing authority's request for the information.

(b) A denial, suspension, or revocation by a licensing authority under this section is governed by the administrative procedures that apply to other disciplinary actions taken by the licensing authority.

Added by Acts 2007, 80th Leg., R.S., Ch. 1194 (H.B. 1168), Sec. 3, eff. September 1, 2007.

Sec. 2005.053. CRIMINAL PROSECUTION. A person who knowingly makes a false statement in connection with applying for or renewing a license may be subject to criminal prosecution under Section 37.10, Penal Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 1194 (H.B. 1168), Sec. 3, eff. September 1, 2007.

CHAPTER 2006. AGENCY ACTIONS AFFECTING SMALL BUSINESSES AND RURAL COMMUNITIES

SUBCHAPTER A. ADOPTION OF RULES

Sec. 2006.001. DEFINITIONS. In this subchapter:

(1) "Micro-business" means a legal entity, including a corporation, partnership, or sole proprietorship, that:

(A) is formed for the purpose of making a profit;

(B) is independently owned and operated; and

(C) has not more than 20 employees.

(1-a) "Rural community" means a municipality with a population of less than 25,000.

(2) "Small business" means a legal entity, including a corporation, partnership, or sole proprietorship, that:

(A) is formed for the purpose of making a profit;

(B) is independently owned and operated; and

(C) has fewer than 100 employees or less than $6 million in annual gross receipts.

(3) "State agency" means a department, board, bureau, commission, division, office, council, or other agency of the state and includes an officer who is authorized by law to determine contested cases.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 558, Sec. 5, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1270 (H.B. 3430), Sec. 2, eff. October 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 898 (H.B. 3433), Sec. 2, eff. September 1, 2017.

Sec. 2006.002. ADOPTION OF RULES WITH ADVERSE ECONOMIC EFFECT. (a) A state agency considering adoption of a rule that would have an adverse economic effect on small businesses, micro-businesses, or rural communities shall reduce that effect if doing so is legal and feasible considering the purpose of the statute under which the rule is to be adopted.

(b) To reduce an adverse effect on small businesses and rural communities, as applicable, an agency may:

(1) establish separate compliance or reporting requirements for small businesses and rural communities;

(2) use performance standards in place of design standards for small businesses and rural communities; or

(3) exempt small businesses and rural communities from all or part of the rule.

(c) Before adopting a rule that may have an adverse economic effect on small businesses or rural communities, as applicable, a state agency shall prepare:

(1) an economic impact statement that estimates the number of small businesses or rural communities subject to the proposed rule, projects the economic impact of the rule on small businesses or rural communities, and describes alternative methods of achieving the purpose of the proposed rule; and

(2) a regulatory flexibility analysis that includes the agency's consideration of alternative methods of achieving the purpose of the proposed rule.

(c-1) The analysis under Subsection (c) shall consider, if consistent with the health, safety, and environmental and economic welfare of the state, using regulatory methods that will accomplish the objectives of applicable rules while minimizing adverse impacts on small businesses or rural communities, as applicable. The state agency must include in the analysis several proposed methods of reducing the adverse impact of a proposed rule on a small business or rural community.

(d) The agency shall include the economic impact statement and regulatory flexibility analysis as part of the notice of the proposed rule that the agency files with the secretary of state for publication in the Texas Register and shall provide copies to:

(1) the standing committee of each house of the legislature that is charged with reviewing the proposed rule; and

(2) if feasible, each member of the legislature who represents a rural community adversely impacted by the proposed rule.

(e) This section does not apply to a rule adopted under Title 2, Tax Code.

(f) To reduce an adverse effect of rules on micro-businesses, a state agency shall adopt provisions concerning micro-businesses that are uniform with those outlined in Subsections (b)-(d) for small businesses.

(g) The attorney general, in consultation with the comptroller, shall prepare guidelines to assist a state agency:

(1) in determining a proposed rule's potential adverse economic effects on small businesses and rural communities, as applicable; and

(2) in identifying and evaluating alternative methods of achieving the purpose of a proposed rule.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1041, Sec. 50, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 558, Sec. 6, eff. Sept. 1, 1999. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1270 (H.B. 3430), Sec. 3, eff. October 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 898 (H.B. 3433), Sec. 3, eff. September 1, 2017.

Sec. 2006.003. OPPORTUNITY TO REMEDY VIOLATION; POLICY. (a) This section applies only to a state agency with regulatory authority over a small business.

(b) A state agency may not impose an administrative penalty against a small business for a first violation of a statute or a rule administered by the agency, other than a violation committed knowingly or intentionally, unless the agency first provides the small business written notice of the violation and an opportunity to remedy the violation within a reasonable time after receiving the notice. Notwithstanding any other law, a violation is not considered to be a continuing violation during the reasonable time in which the small business attempts in good faith to remedy the violation.

(c) Each state agency subject to this section shall adopt a policy consistent with the requirements of Subsection (b). The policy must provide that the agency will not attempt to recover an administrative penalty during the reasonable time the small business is attempting in good faith to remedy the violation.

(d) This section does not apply to an action taken by:

(1) a state agency to protect public health and safety or the environment;

(2) an officer listed in Section 411.0765(b)(18) in connection with the regulation of financial services; or

(3) the Texas Workforce Commission if the action is required to conform to or comply with federal law.

Added by Acts 2021, 87th Leg., R.S., Ch. 563 (S.B. 424), Sec. 1, eff. September 1, 2021.

SUBCHAPTER B. RECOVERY OF COURT COSTS AND ATTORNEY FEES

Sec. 2006.011. DEFINITIONS. In this subchapter:

(1) "Groundless" means having no basis in law or fact.

(2) "Small business" means a legal entity, including a corporation, partnership, or sole proprietorship that:

(A) is formed for the purpose of making a profit;

(B) is independently owned and operated;

(C) is not a publicly held corporation; and

(D) has fewer than 100 employees or less than $1 million in annual gross receipts at the end of the fiscal year preceding the year of the filing of an administrative adjudicatory proceeding or civil action in which the entity is seeking recovery under this subchapter.

(3) "State agency" means a board, commission, department, or office that:

(A) is in the executive branch of state government;

(B) was created by the constitution or a statute of this state; and

(C) has statewide jurisdiction.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2006.012. EXCEPTIONS. This subchapter does not apply to a proceeding or action that is:

(1) filed before September 1, 1987; or

(2) brought under:

(A) Subchapter E, Chapter 17, Business & Commerce Code (Deceptive Trade Practices-Consumer Protection Act); or

(B) Chapter 21, Insurance Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2006.013. REQUIREMENTS FOR RECOVERY. (a) In an administrative adjudicatory proceeding or a civil action resulting from a complaint issued by a state agency against a small business under the agency's administrative or regulatory functions, the small business may be awarded reasonable attorney fees and court costs if:

(1) it is a small business at the time it becomes a party to the proceeding or action;

(2) it prevails in the proceeding or action; and

(3) the proceeding or action was groundless and brought:

(A) in bad faith; or

(B) for purposes of harassment.

(b) For purposes of this section, a small business prevails in a proceeding or action if there is not:

(1) an adjudication, stipulation, or acceptance of liability; or

(2) a determination of noncompliance, violation, infringement, deficiency, or breach on the part of the small business.

(c) A small business may not recover under this subchapter if the parties have executed a settlement agreement that, while not stipulating liability or violation, requires the small business to take corrective action or pay a monetary sum.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2006.014. MOTION FOR RECOVERY. (a) To recover under this subchapter, a small business, not later than the 30th day after the date of the filing of the administrative adjudicatory proceeding or civil action, must file a written motion that:

(1) alleges that the proceeding or action was groundless and brought:

(A) in bad faith; or

(B) for purposes of harassment;

(2) states the facts that justify the small business's claim; and

(3) states that if the claim is dismissed or judgment is awarded to the small business, the small business will seek recovery of attorney fees and court costs.

(b) A small business may not recover attorney fees and court costs under this subchapter if, not later than the 30th day after the date the small business gives notice that it has filed a motion under Subsection (a), the state agency:

(1) amends the pleadings so that the small business that has filed the motion is no longer a party to the proceeding or action; or

(2) dismisses the proceeding or action.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2006.015. DETERMINATION OF CLAIM. (a) The hearings officer in an administrative adjudicatory proceeding or the court in a civil action shall determine whether the proceeding or action is groundless and brought:

(1) in bad faith; or

(2) for purposes of harassment.

(b) In making the determination, the hearings officer or court shall consider:

(1) the multiplicity of parties;

(2) the complexity of the claims and defenses;

(3) the length of time available to the agency to investigate and conduct discovery; and

(4) affidavits, depositions, and any other relevant matters.

(c) In making a determination, a hearings officer or a court may not consider the amount of damages, civil penalties, fines, taxes, or other monetary recovery sought by the state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2006.016. EFFECT OF DETERMINATION OR ORDER. A determination made or order issued under this subchapter is not grounds for any liability, sanction, or grievance except as provided by this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 2007. GOVERNMENTAL ACTION AFFECTING PRIVATE PROPERTY RIGHTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2007.001. SHORT TITLE. This chapter may be cited as the Private Real Property Rights Preservation Act.

Added by Acts 1995, 74th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1995.

Sec. 2007.002. DEFINITIONS. In this chapter:

(1) "Governmental entity" means:

(A) a board, commission, council, department, or other agency in the executive branch of state government that is created by constitution or statute, including an institution of higher education as defined by Section 61.003, Education Code; or

(B) a political subdivision of this state.

(2) "Owner" means a person with legal or equitable title to affected private real property at the time a taking occurs.

(3) "Market value" means the price a willing buyer would pay a willing seller after considering all factors in the marketplace that influence the price of private real property.

(4) "Private real property" means an interest in real property recognized by common law, including a groundwater or surface water right of any kind, that is not owned by the federal government, this state, or a political subdivision of this state.

(5) "Taking" means:

(A) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or

(B) a governmental action that:

(i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and

(ii) is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.

Added by Acts 1995, 74th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1995.

Sec. 2007.003. APPLICABILITY. (a) This chapter applies only to the following governmental actions:

(1) the adoption or issuance of an ordinance, rule,

regulatory requirement, resolution, policy, guideline, or similar measure;

(2) an action that imposes a physical invasion or requires a dedication or exaction of private real property;

(3) an action by a municipality that has effect in the extraterritorial jurisdiction of the municipality, excluding annexation, and that enacts or enforces an ordinance, rule, regulation, or plan that does not impose identical requirements or restrictions in the entire extraterritorial jurisdiction of the municipality; and

(4) enforcement of a governmental action listed in Subdivisions (1) through (3), whether the enforcement of the governmental action is accomplished through the use of permitting, citations, orders, judicial or quasi-judicial proceedings, or other similar means.

(b) This chapter does not apply to the following governmental actions:

(1) an action by a municipality except as provided by Subsection (a)(3);

(2) a lawful forfeiture or seizure of contraband as defined by Article 59.01, Code of Criminal Procedure;

(3) a lawful seizure of property as evidence of a crime or violation of law;

(4) an action, including an action of a political subdivision, that is reasonably taken to fulfill an obligation mandated by federal law or an action of a political subdivision that is reasonably taken to fulfill an obligation mandated by state law;

(5) the discontinuance or modification of a program or regulation that provides a unilateral expectation that does not rise to the level of a recognized interest in private real property;

(6) an action taken to prohibit or restrict a condition or use of private real property if the governmental entity proves that the condition or use constitutes a public or private nuisance as defined by background principles of nuisance and property law of this state;

(7) an action taken out of a reasonable good faith belief that the action is necessary to prevent a grave and immediate threat to life or property;

(8) a formal exercise of the power of eminent domain;

(9) an action taken under a state mandate to prevent waste

of oil and gas, protect correlative rights of owners of interests in oil or gas, or prevent pollution related to oil and gas activities;

(10) a rule or proclamation adopted for the purpose of regulating water safety, hunting, fishing, or control of nonindigenous or exotic aquatic resources;

(11) an action taken by a political subdivision:

(A) to regulate construction in an area designated under law as a floodplain;

(B) to regulate on-site sewage facilities;

(C) under the political subdivisions's statutory authority to prevent waste or protect rights of owners of interest in groundwater; or

(D) to prevent subsidence;

(12) the appraisal of property for purposes of ad valorem taxation;

(13) an action that:

(A) is taken in response to a real and substantial threat to public health and safety;

(B) is designed to significantly advance the health and safety purpose; and

(C) does not impose a greater burden than is necessary to achieve the health and safety purpose; or

(14) an action or rulemaking undertaken by the Public Utility Commission of Texas to order or require the location or placement of telecommunications equipment owned by another party on the premises of a certificated local exchange company.

(c) Sections 2007.021 and 2007.022 do not apply to the enforcement or implementation of a statute, ordinance, order, rule, regulation, requirement, resolution, policy, guideline, or similar measure that was in effect September 1, 1995, and that prevents the pollution of a reservoir or an aquifer designated as a sole source aquifer under the federal Safe Drinking Water Act (42 U.S.C. Section 300h-3(e)).

(d) This chapter applies to a governmental action taken by a county only if the action is taken on or after September 1, 1997.

(e) This chapter does not apply to the enforcement or implementation of Subchapter B, Chapter 61, Natural Resources Code, as it existed on September 1, 1995, or to the enforcement or implementation of any rule or similar measure that was adopted under that subchapter and was in existence on September 1, 1995.

Added by Acts 1995, 74th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1995.

Sec. 2007.004. WAIVER OF GOVERNMENTAL IMMUNITY; PERMISSION TO SUE. (a) Sovereign immunity to suit and liability is waived and abolished to the extent of liability created by this chapter.

(b) This section does not authorize a person to execute a judgment against property of the state or a governmental entity.

Added by Acts 1995, 74th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1995.

Sec. 2007.005. ALTERNATIVE DISPUTE RESOLUTION. Chapter 154, Civil Practice and Remedies Code, applies to a suit filed under this chapter.

Added by Acts 1995, 74th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1995.

Sec. 2007.006. CUMULATIVE REMEDIES. (a) The provisions of this chapter are not exclusive. The remedies provided by this chapter are in addition to other procedures or remedies provided by law.

(b) A person may not recover under this chapter and also recover under another law or in an action at common law for the same economic loss.

Added by Acts 1995, 74th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. ACTION TO DETERMINE TAKING

Sec. 2007.021. SUIT AGAINST POLITICAL SUBDIVISION. (a) A private real property owner may bring suit under this subchapter to determine whether the governmental action of a political subdivision results in a taking under this chapter. A suit under this subchapter must be filed in a district court in the county in which the private real property owner's affected property is located. If the affected private real property is located in more than one county, the private real property owner may file suit in any county in which the affected property is located.

(b) A suit under this subchapter must be filed not later than

the 180th day after the date the private real property owner knew or should have known that the governmental action restricted or limited the owner's right in the private real property.

Added by Acts 1995, 74th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1995.

Sec. 2007.022. ADMINISTRATIVE PROCEEDING AGAINST STATE AGENCY. (a) A private real property owner may file a contested case with a state agency to determine whether a governmental action of the state agency results in a taking under this chapter.

(b) A contested case must be filed with the agency not later than the 180th day after the date the private real property owner knew or should have known that the governmental action restricted or limited the owner's right in the private real property.

(c) A contested case filed under this section is subject to Chapter 2001 except to the extent of a conflict with this subchapter.

Added by Acts 1995, 74th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1995.

Sec. 2007.023. ENTITLEMENT TO INVALIDATION OF GOVERNMENTAL ACTION. (a) Whether a governmental action results in a taking is a question of fact.

(b) If the trier of fact in a suit or contested case filed under this subchapter finds that the governmental action is a taking under this chapter, the private real property owner is only entitled to, and the governmental entity is only liable for, invalidation of the governmental action or the part of the governmental action resulting in the taking.

Added by Acts 1995, 74th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1995.

Sec. 2007.024. JUDGMENT OR FINAL DECISION OR ORDER. (a) The court's judgment in favor of a private real property owner under Section 2007.021 or a final decision or order issued under Section 2007.022 that determines that a taking has occurred shall order the governmental entity to rescind the governmental action, or the part of the governmental action resulting in the taking, as applied to the private real property owner not later than the 30th day after the

date the judgment is rendered or the decision or order is issued.

(b) The judgment or final decision or order shall include a fact finding that determines the monetary damages suffered by the private real property owner as a result of the taking. The amount of damages is determined from the date of the taking.

(c) A governmental entity may elect to pay the damages as compensation to the private real property owner who prevails in a suit or contested case filed under this subchapter. Sovereign immunity to liability is waived to the extent the governmental entity elects to pay compensation under this subsection.

(d) If a governmental entity elects to pay compensation to the private real property owner:

(1) the court that rendered the judgment in the suit or the state agency that issued the final order or decision in the case shall withdraw the part of the judgment or final decision or order rescinding the governmental action; and

(2) the governmental entity shall pay to the owner the damages as determined in the judgment or final order not later than the 30th day after the date the judgment is rendered or the final decision or order is issued.

(e) If the governmental entity does not pay compensation to the private real property owner as provided by Subsection (d), the court or the state agency shall reinstate the part of the judgment or final decision or order previously withdrawn.

(f) A state agency that elects to pay compensation to the private real property owner shall pay the compensation from funds appropriated to the agency.

Added by Acts 1995, 74th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1995.

Sec. 2007.025. APPEAL. (a) A person aggrieved by a judgment rendered in a suit filed under Section 2007.021 may appeal as provided by law.

(b) A person who has exhausted all administrative remedies available within the state agency and is aggrieved by a final decision or order in a contested case filed under Section 2007.022 is entitled to judicial review under Chapter 2001. Review by a court under this subsection is by trial de novo.

(c) If a private real property owner prevails in a suit or

contested case filed under this subchapter and the governmental entity appeals, the court or the state agency shall enjoin the governmental entity from invoking the governmental action or the part of the governmental action resulting in the taking, pending the appeal of the suit or contested case.

Added by Acts 1995, 74th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1995.

Sec. 2007.026. FEES AND COSTS. (a) The court or the state agency shall award a private real property owner who prevails in a suit or contested case filed under this subchapter reasonable and necessary attorney's fees and court costs.

(b) The court or the state agency shall award a governmental entity that prevails in a suit or contested case filed under this subchapter reasonable and necessary attorney's fees and court costs.

Added by Acts 1995, 74th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. REQUIREMENTS FOR PROPOSED GOVERNMENTAL ACTION

Sec. 2007.041. GUIDELINES. (a) The attorney general shall prepare guidelines to assist governmental entities in identifying and evaluating those governmental actions described in Section 2007.003(a)(1) through (3) that may result in a taking.

(b) The attorney general shall file the guidelines with the secretary of state for publication in the Texas Register in the manner prescribed by Chapter 2002.

(c) The attorney general shall review the guidelines at least annually and revise the guidelines as necessary to ensure consistency with the actions of the legislature and the decisions of the United States Supreme Court and the supreme court of this state.

(d) A person may make comments or suggestions or provide information to the attorney general concerning the guidelines. The attorney general shall consider the comments, suggestions, and information in the annual review process required by this section.

(e) Material provided to the attorney general under Subsection (d) is public information.

Added by Acts 1995, 74th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1995.

Sec. 2007.042. PUBLIC NOTICE. (a) A political subdivision that proposes to engage in a governmental action described in Section 2007.003(a)(1) through (3) that may result in a taking shall provide at least 30 days' notice of its intent to engage in the proposed action by providing a reasonably specific description of the proposed action in a notice published in a newspaper of general circulation published in the county in which affected private real property is located. If a newspaper of general circulation is not published in that county, the political subdivision shall publish a notice in a newspaper of general circulation located in a county adjacent to the county in which affected private real property is located. The political subdivision shall, at a minimum, include in the notice a reasonably specific summary of the takings impact assessment that was prepared as required by this subchapter and the name of the official of the political subdivision from whom a copy of the full assessment may be obtained.

(b) A state agency that proposes to engage in a governmental action described in Section 2007.003(a)(1) or (2) that may result in a taking shall:

(1) provide notice in the manner prescribed by Section 2001.023; and

(2) file with the secretary of state for publication in the Texas Register in the manner prescribed by Chapter 2002 a reasonably specific summary of the takings impact assessment that was prepared by the agency as required by this subchapter.

Added by Acts 1995, 74th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1995.

Sec. 2007.043. TAKINGS IMPACT ASSESSMENT. (a) A governmental entity shall prepare a written takings impact assessment of a proposed governmental action described in Section 2007.003(a)(1) through (3) that complies with the evaluation guidelines developed by the attorney general under Section 2007.041 before the governmental entity provides the public notice required under Section 2007.042.

(b) The takings impact assessment must:

(1) describe the specific purpose of the proposed action and identify:

(A) whether and how the proposed action substantially advances its stated purpose; and

(B) the burdens imposed on private real property and the benefits to society resulting from the proposed use of private real property;

(2) determine whether engaging in the proposed governmental action will constitute a taking; and

(3) describe reasonable alternative actions that could accomplish the specified purpose and compare, evaluate, and explain:

(A) how an alternative action would further the specified purpose; and

(B) whether an alternative action would constitute a taking.

(c) A takings impact assessment prepared under this section is public information.

Added by Acts 1995, 74th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1995.

Sec. 2007.044. SUIT TO INVALIDATE GOVERNMENTAL ACTION. (a) A governmental action requiring a takings impact assessment is void if an assessment is not prepared. A private real property owner affected by a governmental action taken without the preparation of a takings impact assessment as required by this subchapter may bring suit for a declaration of the invalidity of the governmental action.

(b) A suit under this section must be filed in a district court in the county in which the private real property owner's affected property is located. If the affected property is located in more than one county, the private real property owner may file suit in any county in which the affected property is located.

(c) The court shall award a private real property owner who prevails in a suit under this section reasonable and necessary attorney's fees and court costs.

Added by Acts 1995, 74th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1995.

Sec. 2007.045. UPDATING OF CERTAIN ASSESSMENTS REQUIRED. A state agency that proposes to adopt a governmental action described in Section 2007.003(a)(1) or (2) that may result in a taking as indicated by the takings impact assessment shall update the assessment if the action is not adopted before the 180th day after the date the notice is given as required by Section 2001.023.

Added by Acts 1995, 74th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 2008. NEGOTIATED RULEMAKING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2008.001. SHORT TITLE. This chapter may be cited as the Negotiated Rulemaking Act.

Added by Acts 1997, 75th Leg., ch. 1315, Sec. 1, eff. Sept. 1, 1997.

Sec. 2008.002. DEFINITIONS. In this chapter:

(1) "State agency" means an officer, board, commission, department, or other agency in the executive branch of state government with statewide jurisdiction that makes rules. The term includes:

(A) the attorney general;

(B) an institution of higher education as defined by Section 61.003, Education Code; and

(C) the State Office of Administrative Hearings.

(2) The terms "party," "person," and "rule" have the meanings assigned by Section 2001.003.

Added by Acts 1997, 75th Leg., ch. 1315, Sec. 1, eff. Sept. 1, 1997.

Sec. 2008.003. COSTS OF PARTICIPATING IN NEGOTIATED RULEMAKING. (a) A member of a negotiated rulemaking committee established under Subchapter B is responsible for the member's own costs in serving on the committee, except as provided by Subsection (b).

(b) The state agency that established the negotiated rulemaking committee may pay a member's technical assistance expenses and reasonable travel and per diem costs related to the member's service on the committee at the rate set in the General Appropriations Act for state employees and may provide a reasonable rate of compensation to the member if:

(1) the member certifies that the member lacks sufficient financial resources to participate as a member of the committee; and

(2) the agency determines that the member's service on the committee is necessary for the adequate representation of an affected interest.

(c) The state agency that established the negotiated rulemaking committee shall provide appropriate administrative support to the committee.

Added by Acts 1997, 75th Leg., ch. 1315, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER B. PROCEDURES FOR NEGOTIATED RULEMAKING

Sec. 2008.051. AUTHORITY FOR NEGOTIATED RULEMAKING. A state agency may engage in negotiated rulemaking to assist it in drafting a proposed rule by following the procedures prescribed by this chapter.

Added by Acts 1997, 75th Leg., ch. 1315, Sec. 1, eff. Sept. 1, 1997.

Sec. 2008.052. APPOINTMENT AND DUTIES OF CONVENER. (a) A state agency that proposes to engage in negotiated rulemaking shall appoint a convener to assist the agency in determining whether it is advisable to proceed.

(b) The state agency may appoint an agency employee or contract with another individual to serve as the convener. The convener may not have a financial or other interest in the outcome of the rulemaking process that would interfere with the person's impartial and unbiased service as the convener.

(c) The convener shall assist the agency in identifying persons who are likely to be affected by the proposed rule, including persons who oppose the issuance of a rule. The convener shall discuss with those persons or their representatives:

(1) whether they are willing to participate in negotiated rulemaking;

(2) whether the agency should engage in negotiated rulemaking to develop the proposed rule;

(3) which issues that a negotiated rulemaking committee should address; and

(4) whether there are other persons the convener needs to identify who may be affected by the proposed rule.

(d) The convener shall then recommend to the agency whether negotiated rulemaking is a feasible method to develop the proposed rule and shall report to the agency on the relevant considerations, including:

(1) the number of identifiable interests that would be

significantly affected by the proposed rule;

(2) the probability that those interests would be adequately represented in a negotiated rulemaking;

(3) the probable willingness and authority of the representatives of affected interests to negotiate in good faith;

(4) the probability that a negotiated rulemaking committee would reach a unanimous or a suitable general consensus on the proposed rule;

(5) the probability that negotiated rulemaking will not unreasonably delay notice and eventual adoption of the proposed rule;

(6) the adequacy of agency and citizen resources to participate in negotiated rulemaking;

(7) the probability that the negotiated rulemaking committee will provide a balanced representation between public and regulated interests; and

(8) the willingness of the agency to accept the consensus of a negotiated rulemaking committee as the basis for the proposed rule.

Added by Acts 1997, 75th Leg., ch. 1315, Sec. 1, eff. Sept. 1, 1997.

Sec. 2008.053. NOTICE REQUIREMENTS FOR NEGOTIATED RULEMAKINGS. (a) After considering the convener's recommendation and report, a state agency that intends to engage in negotiated rulemaking shall publish timely notice of its intent in appropriate media and file timely notice of its intent with the secretary of state for publication in the Texas Register. The notice must include:

(1) a statement that the agency intends to engage in negotiated rulemaking;

(2) a description of the subject and scope of the rule to be developed;

(3) a description of the known issues to be considered in developing the rule;

(4) a list of the interests that are likely to be affected by the proposed rule;

(5) a list of the individuals the agency proposes to appoint to the negotiated rulemaking committee to represent the agency and affected interests;

(6) a request for comments on the proposal to engage in

negotiated rulemaking and on the proposed membership of the negotiated rulemaking committee; and

(7) a description of the procedure through which a person who will be significantly affected by the proposed rule may, before the agency establishes the negotiated rulemaking committee, apply to the agency for membership on the committee or nominate another to represent the person's interests on the committee.

(b) A state agency that intends to proceed with the rulemaking process after receiving the report of the negotiated rulemaking committee shall announce in a statement accompanying the notice of a proposed rule required by Subchapter B, Chapter 2001, that:

(1) negotiated rulemaking was used in developing the proposed rule; and

(2) the report of the negotiated rulemaking committee is public information and the location at which the report is available to the public.

Added by Acts 1997, 75th Leg., ch. 1315, Sec. 1, eff. Sept. 1, 1997.

Sec. 2008.054. APPOINTMENT AND DURATION OF NEGOTIATED RULEMAKING COMMITTEE. (a) After considering comments it receives in response to the notice of proposed negotiated rulemaking, a state agency that intends to proceed shall establish a negotiated rulemaking committee and appoint the members of the committee.

(b) A state agency shall consider the appropriate balance between representatives of affected interests in appointing the negotiated rulemaking committee.

(c) The state agency shall appoint individuals to the committee to represent the agency and appoint other individuals to the committee to represent the interests identified by the agency that are likely to be affected by the proposed rule. Article 6252-33, Revised Statutes, does not apply to the size or composition of the committee or to the agency's ability to reimburse expenses of committee members under Section 2008.003(b).

(d) The committee is automatically abolished on the adoption of the proposed rule, unless the committee or the state agency after consulting the committee specifies an earlier abolition date.

Added by Acts 1997, 75th Leg., ch. 1315, Sec. 1, eff. Sept. 1, 1997.

Sec. 2008.055. APPOINTMENT OF FACILITATOR. (a) Concurrently with its establishment of the negotiated rulemaking committee, a state agency shall appoint a facilitator. The agency may appoint an agency employee, subject to Subdivision (b)(3), or contract with another state employee or private individual to serve as the facilitator. The agency's appointment of the facilitator is subject to the approval of the negotiated rulemaking committee and the facilitator serves at the will of the committee.

(b) The facilitator:

(1) must possess the qualifications required for an impartial third party under Section 154.052(a) and (b), Civil Practice and Remedies Code;

(2) is subject to the standards and duties prescribed by Section 154.053(a) and (b), Civil Practice and Remedies Code, and has the qualified immunity prescribed by Section 154.055, Civil Practice and Remedies Code, if applicable;

(3) shall not be the person designated to represent the agency on the negotiated rulemaking committee on substantive issues related to the rulemaking; and

(4) shall not have a financial or other interest in the outcome of the rulemaking process that would interfere with the person's impartial and unbiased service as the facilitator.

Added by Acts 1997, 75th Leg., ch. 1315, Sec. 1, eff. Sept. 1, 1997.

Sec. 2008.056. DUTIES OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR. (a) The facilitator shall preside over meetings of the negotiated rulemaking committee and assist the members of the committee:

(1) to establish procedures for conducting negotiations; and

(2) to discuss, negotiate, mediate, and employ other appropriate alternative dispute resolution processes to arrive at a consensus on the proposed rule.

(b) It is presumed that the committee has reached a consensus on a matter only if the consensus is unanimous, unless the committee unanimously:

(1) agrees to define a consensus to mean a general rather than a unanimous consensus; or

(2) agrees to define the term in another manner.

(c) The facilitator shall encourage the members of the committee to reach a consensus but may not compel or coerce the members to do so.

(d) At the conclusion of the negotiations, the committee shall send a written report to the agency that:

(1) contains the text of the proposed rule, if the committee reached a consensus on the proposed rule; or

(2) specifies the issues on which the committee reached consensus, the issues that remain unsolved, and any other information, recommendations, or materials that the committee considers important, if the committee did not reach a consensus on the proposed rule.

Added by Acts 1997, 75th Leg., ch. 1315, Sec. 1, eff. Sept. 1, 1997.

Sec. 2008.057. CONFIDENTIALITY OF CERTAIN RECORDS AND COMMUNICATIONS. (a) Sections 154.053 and 154.073, Civil Practice and Remedies Code, apply to the communications, records, conduct, and demeanor of the facilitator and the members of the negotiated rulemaking committee as if the negotiated rulemaking were a dispute being resolved in accordance with Chapter 154, Civil Practice and Remedies Code.

(b) In the negotiated rulemaking context the attorney general, subject to review by a Travis County district court, decides in accordance with Section 154.073(d), Civil Practice and Remedies Code, whether a communication or material subject to Section 154.073(d) is confidential, excepted from required disclosure, or subject to required disclosure.

(c) Notwithstanding Section 154.073(e), Civil Practice and Remedies Code:

(1) a private communication and a record of a private communication between a facilitator and a member or members of the committee are confidential and may not be disclosed unless the member or members of the committee, as appropriate, consent to the disclosure; and

(2) the notes of a facilitator are confidential except to the extent that the notes consist of a record of a communication with a member of the committee who has consented to disclosure in

accordance with Subdivision (1).

(d) The report and recommendations of a convener and a negotiating committee are public information and available on request to any member of the public.

Added by Acts 1997, 75th Leg., ch. 1315, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1352, Sec. 4, eff. Sept. 1, 1999.

Sec. 2008.058. ADMINISTRATIVE PROCEDURE ACT REQUIREMENTS UNAFFECTED. (a) This chapter does not affect the rulemaking requirements prescribed by Chapter 2001.

(b) A state agency that intends to proceed with the rulemaking process after receiving the report of the negotiated rulemaking committee shall proceed in accordance with the requirements prescribed by Subchapter B, Chapter 2001.

Added by Acts 1997, 75th Leg., ch. 1315, Sec. 1, eff. Sept. 1, 1997.

CHAPTER 2009. ALTERNATIVE DISPUTE RESOLUTION FOR USE BY GOVERNMENTAL BODIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2009.001. SHORT TITLE. This chapter may be cited as the Governmental Dispute Resolution Act.

Added by Acts 1997, 75th Leg., ch. 934, Sec. 1, eff. Sept. 1, 1997. Renumbered from Government Code Sec. 2008.001 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(55), eff. Sept. 1, 1999. Renumbered from Government Code Sec. 2008.001 by Acts 1999, 76th Leg., ch. 1352, Sec. 5, eff. Sept. 1, 1999.

Sec. 2009.002. POLICY. It is the policy of this state that disputes before governmental bodies be resolved as fairly and expeditiously as possible and that each governmental body support this policy by developing and using alternative dispute resolution procedures in appropriate aspects of the governmental body's operations and programs.

Added by Acts 1997, 75th Leg., ch. 934, Sec. 1, eff. Sept. 1, 1997. Renumbered from Government Code Sec. 2008.002 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(55), eff. Sept. 1, 1999. Renumbered from Government Code Sec. 2008.002 and amended by Acts 1999, 76th Leg., ch. 1352, Sec. 5, eff. Sept. 1, 1999.

Sec. 2009.003. DEFINITIONS. In this chapter:

(1) "Alternative dispute resolution procedure" includes:

(A) a procedure described by Chapter 154, Civil Practice and Remedies Code; and

(B) a combination of the procedures described by Chapter 154, Civil Practice and Remedies Code.

(2) "Governmental body" has the meaning assigned by Section 552.003.

(3) "State agency" means an officer, board, commission, department, or other agency in the executive branch of state government with statewide jurisdiction that makes rules or determines contested cases. The term includes:

(A) the attorney general;

(B) an institution of higher education as defined by Section 61.003, Education Code; and

(C) the State Office of Administrative Hearings.

(4) The following terms have the meanings assigned by Section 2001.003:

(A) "contested case";

(B) "party";

(C) "person"; and

(D) "rule."

Added by Acts 1997, 75th Leg., ch. 934, Sec. 1, eff. Sept. 1, 1997. Renumbered from Government Code Sec. 2008.003 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(55), eff. Sept. 1, 1999. Renumbered from Government Code Sec. 2008.003 and amended by Acts 1999, 76th Leg., ch. 1352, Sec. 5, eff. Sept. 1, 1999.

Sec. 2009.004. CONTRACTS; BUDGETING FOR COSTS. (a) A governmental body may pay for costs necessary to meet the objectives of this chapter, including reasonable fees for training, policy

review, system design, evaluation, and the use of impartial third parties.

(b) To the extent allowed by the General Appropriations Act, a state agency may use money budgeted for legal services, executive administration, or any other appropriate aspect of the state agency's operations to pay for costs incurred under Subsection (a).

(c) A governmental body may contract with another governmental body, including the Center for Public Policy Dispute Resolution at The University of Texas School of Law, with an alternative dispute resolution system created under Chapter 152, Civil Practice and Remedies Code, or with a private entity for any service necessary to meet the objectives of this chapter.

Added by Acts 1997, 75th Leg., ch. 934, Sec. 1, eff. Sept. 1, 1997. Renumbered from Government Code Sec. 2008.004 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(55), eff. Sept. 1, 1999. Renumbered from Government Code Sec. 2008.004 and amended by Acts 1999, 76th Leg., ch. 1352, Sec. 5, eff. Sept. 1, 1999.

Sec. 2009.005. SOVEREIGN IMMUNITY. (a) This chapter does not waive immunity from suit and does not affect a waiver of immunity from suit contained in other law.

(b) The state's sovereign immunity under the Eleventh Amendment to the United States Constitution is not waived by this chapter.

(c) Nothing in this chapter authorizes binding arbitration as a method of alternative dispute resolution.

Added by Acts 1997, 75th Leg., ch. 934, Sec. 1, eff. Sept. 1, 1997. Renumbered from Government Code Sec. 2008.005 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(55), eff. Sept. 1, 1999. Renumbered from Government Code Sec. 2008.005 by Acts 1999, 76th Leg., ch. 1352, Sec. 5, eff. Sept. 1, 1999.

SUBCHAPTER B. ALTERNATIVE DISPUTE RESOLUTION

Sec. 2009.051. DEVELOPMENT AND USE OF PROCEDURES. (a) Each governmental body may develop and use alternative dispute resolution procedures. Alternative dispute resolution procedures developed and used by a governmental body must be consistent with Chapter 154, Civil Practice and Remedies Code.

(b) Alternative dispute resolution procedures developed and used by a state agency also must be consistent with the administrative procedure law, Chapter 2001. The State Office of Administrative Hearings may issue model guidelines for the use of alternative dispute resolution procedures by state agencies.

(c) If a state agency that is subject to Chapter 2001 adopts an alternative dispute resolution procedure, it may do so by rule.

Added by Acts 1997, 75th Leg., ch. 934, Sec. 1, eff. Sept. 1, 1997. Renumbered from Government Code Sec. 2008.051 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(55), eff. Sept. 1, 1999. Renumbered from Government Code Sec. 2008.051 and amended by Acts 1999, 76th Leg., ch. 1352, Sec. 5, eff. Sept. 1, 1999.

Sec. 2009.052. SUPPLEMENTAL NATURE OF PROCEDURES. (a) Alternative dispute resolution procedures developed and used under this chapter supplement and do not limit other dispute resolution procedures available for use by a governmental body.

(b) This chapter may not be applied in a manner that denies a person a right granted under other state or federal law or under a local charter, ordinance, or other similar provision, including a right to an administrative or judicial hearing.

Added by Acts 1997, 75th Leg., ch. 934, Sec. 1, eff. Sept. 1, 1997. Renumbered from Government Code Sec. 2008.052 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(55), eff. Sept. 1, 1999. Renumbered from Government Code Sec. 2008.052 and amended by Acts 1999, 76th Leg., ch. 1352, Sec. 5, eff. Sept. 1, 1999.

Sec. 2009.053. IMPARTIAL THIRD PARTIES. (a) A governmental body may appoint a governmental officer or employee or a private individual to serve as an impartial third party in an alternative dispute resolution procedure. The governmental body's appointment of the impartial third party is subject to the approval of the parties, except:

(1) that when a State Office of Administrative Hearings administrative law judge has issued an order referring a case involving a state agency to an alternative dispute resolution procedure under Section 2003.042(a)(5), the administrative law judge

may appoint the impartial third party for the parties if they cannot agree on an impartial third party within a reasonable period; or

(2) for a victim-offender mediation by the Texas Department of Criminal Justice as described in Article 56A.602, Code of Criminal Procedure.

(b) A governmental body also may obtain the services of a qualified impartial third party through an agreement with the Center for Public Policy Dispute Resolution at The University of Texas School of Law, an alternative dispute resolution system created under Chapter 152, Civil Practice and Remedies Code, another governmental body, or a federal agency or through a pooling agreement with several governmental bodies. The agreements may provide that the using governmental body or the parties will reimburse the furnishing entity, in kind or monetarily, for the full or partial cost of providing the qualified impartial third party.

(c) A state agency may also obtain the services of a qualified third party through an agreement with the State Office of Administrative Hearings.

(d) The impartial third party must possess the qualifications required under Section 154.052, Civil Practice and Remedies Code. The impartial third party is subject to the standards and duties prescribed by Section 154.053, Civil Practice and Remedies Code, and has the qualified immunity prescribed by Section 154.055, Civil Practice and Remedies Code, if applicable.

Added by Acts 1997, 75th Leg., ch. 934, Sec. 1, eff. Sept. 1, 1997. Renumbered from Government Code Sec. 2008.053 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(55), eff. Sept. 1, 1999. Renumbered from Government Code Sec. 2008.053 and amended by Acts 1999, 76th Leg., ch. 1352, Sec. 5, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1034, Sec. 11, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.52, eff. January 1, 2021.

Sec. 2009.054. CONFIDENTIALITY OF CERTAIN RECORDS AND COMMUNICATIONS. (a) Sections 154.053 and 154.073, Civil Practice and Remedies Code, apply to the communications, records, conduct, and demeanor of the impartial third party and the parties.

(b) Notwithstanding Section 154.073(e), Civil Practice and Remedies Code:

(1) a communication relevant to the dispute, and a record of the communication, made between an impartial third party and the parties to the dispute or between the parties to the dispute during the course of an alternative dispute resolution procedure are confidential and may not be disclosed unless all parties to the dispute consent to the disclosure; and

(2) the notes of an impartial third party are confidential except to the extent that the notes consist of a record of a communication with a party and all parties have consented to disclosure in accordance with Subdivision (1).

(c) Subsection (b)(1) does not apply to a final written agreement to which a governmental body is a signatory that is reached as a result of a dispute resolution procedure conducted under this chapter. Information in the final written agreement is subject to required disclosure, is excepted from required disclosure, or is confidential in accordance with Chapter 552 and other law.

(d) An impartial third party may not be required to testify in any proceedings relating to or arising out of the matter in dispute.

Added by Acts 1997, 75th Leg., ch. 934, Sec. 1, eff. Sept. 1, 1997. Renumbered from Government Code Sec. 2008.054 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(55), eff. Sept. 1, 1999. Renumbered from Government Code Sec. 2008.054 and amended by Acts 1999, 76th Leg., ch. 1352, Sec. 5, eff. Sept. 1, 1999.

Sec. 2009.055. SHARING OF INFORMATION; CONSISTENCY OF PROCEDURES. (a) A governmental body may share the results of its alternative dispute resolution program with other governmental bodies and with the Center for Public Policy Dispute Resolution at The University of Texas School of Law. The center may collect and analyze the information and report its conclusions and useful information to governmental bodies and the legislature.

(b) Governmental bodies should, to the extent feasible given differences in their purpose, jurisdiction, and constituency, adopt policies and procedures for alternative dispute resolution that are consistent with the policies and procedures of other governmental bodies.

Added by Acts 1997, 75th Leg., ch. 934, Sec. 1, eff. Sept. 1, 1997. Renumbered from Government Code Sec. 2008.055 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(55), eff. Sept. 1, 1999. Renumbered from Government Code Sec. 2008.055 and amended by Acts 1999, 76th Leg., ch. 1352, Sec. 5, eff. Sept. 1, 1999.

SUBTITLE B. INFORMATION AND PLANNING

CHAPTER 2051. GOVERNMENT DOCUMENTS, PUBLICATIONS, AND NOTICES

SUBCHAPTER A. OFFICIAL SEALS

Sec. 2051.001. ADOPTION OF SEAL. A commission or board created by state law and a commissioner whose office is created by state law may adopt a seal with which to attest an official document, certificate, or other written paper.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. PAPER SUPPLIES AND EQUIPMENT

Sec. 2051.022. STATE AGENCY TELEPHONE NUMBER REQUIRED ON STATIONERY. (a) A state agency shall print a telephone number for the agency on the letterhead of its official stationery.

(b) In this section, "state agency" means:

(1) a board, commission, department, office, or other agency in the executive branch of state government that was created by the constitution or a statute of the state, including an institution of higher education as defined by Section 61.003, Education Code;

(2) the legislature or a legislative agency;

(3) the supreme court, the court of criminal appeals, a court of appeals, or a state judicial agency; or

(4) a river authority.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. NOTICE BY PUBLICATION IN NEWSPAPER

Sec. 2051.041. DEFINITIONS. In this subchapter:

(1) "Governmental entity" means an institution, board, commission, or department of:

(A) the state or a subdivision of the state; or

(B) a political subdivision of the state, including a municipality, a county, or any kind of district.

(2) "Governmental representative" includes an officer, employee, or agent of a governmental entity.

(3) "Notice" means any matter, including a proclamation or advertisement, required or authorized by law to be published in a newspaper by a governmental entity or representative.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2051.042. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies only to the extent that the general or special law requiring or authorizing the publication of a notice in a newspaper by a governmental entity or representative does not specify the manner of the publication, including the number of times that the notice is required to be published and the period during which the notice is required to be published.

(b) This subchapter does not apply to the publication of a citation that relates to a civil suit and to which the Texas Rules of Civil Procedure apply.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2051.043. PUBLICATION IN AT LEAST ONE ISSUE REQUIRED. Except as provided by Section 2051.046(b) or 2051.048(d), a notice shall be published in at least one issue of a newspaper.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2051.044. TYPE OF NEWSPAPER REQUIRED. (a) The newspaper in which a notice is published must:

(1) devote not less than 25 percent of its total column lineage to general interest items;

(2) be published at least once each week;

(3) be entered as second-class postal matter in the county where published; and

(4) have been published regularly and continuously for at least 12 months before the governmental entity or representative

publishes notice.

(b) A weekly newspaper has been published regularly and continuously under Subsection (a) if the newspaper omits not more than two issues in the 12-month period.

(c) This section does not apply to the publication of a notice to which Section 2051.0441 applies.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 1130, Sec. 1, eff. June 20, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1062, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2051.0441. TYPE OF NEWSPAPER REQUIRED FOR PUBLICATION IN CERTAIN COUNTIES. (a) This section applies only to a notice published by a governmental entity or representative in a county:

(1) with a population of at least 30,000 and not more than 42,000 that borders the Red River; or

(2) that does not have a newspaper described by Section 2051.044 published in the county.

(b) The newspaper in which a notice is published under this section must:

(1) devote not less than 20 percent of its total column lineage to general interest items;

(2) be published at least once each week;

(3) be entered as periodical postal matter in the county where published or have a mailed or delivered circulation of at least 51 percent of the residences in the county where published; and

(4) have been published regularly and continuously for at least 12 months before the governmental entity or representative publishes notice.

(c) A weekly newspaper has been published regularly and continuously under Subsection (b) if the newspaper omits not more than two issues in the 12-month period.

Added by Acts 2003, 78th Leg., ch. 1130, Sec. 2, eff. June 20, 2003. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 768 (H.B. 1812), Sec. 1, eff.

June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 799 (H.B. 2985), Sec. 1, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 64, eff. September 1, 2023.

Sec. 2051.045. LEGAL RATE CHARGED FOR PUBLICATION. The legal rate for publication of a notice in a newspaper is the newspaper's lowest published rate for classified advertising.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2051.046. NOTICE OF COUNTY. (a) A notice of a county shall be published in a newspaper published in the county that will publish the notice at or below the legal rate.

(b) If no newspaper that will publish the notice at or below the legal rate is published in the county, the notice shall be posted at the door of the county courthouse.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2051.047. NOTICE OF CERTAIN CONSERVATION AND RECLAMATION DISTRICTS. A conservation and reclamation district, other than a river authority, created under Article XVI, Section 59, of the Texas Constitution that furnishes water and sewer services to household users satisfies a requirement of general, special, or local law to publish notice in a newspaper of general circulation in the county in which the district is located by publishing the notice in a newspaper of general circulation in the district.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2051.048. NOTICE OF OTHER POLITICAL SUBDIVISION. (a) This section applies only to a political subdivision other than a county or a conservation and reclamation district under Section 2051.047.

(b) A notice of a political subdivision shall be published in a

newspaper that is published in the political subdivision and that will publish the notice at or below the legal rate.

(c) If no newspaper published in the political subdivision will publish the notice at or below the legal rate, the political subdivision shall publish the notice in a newspaper that:

(1) is published in the county in which the political subdivision is located; and

(2) will charge the legal rate or a lower rate.

(d) If no newspaper published in the county in which the political subdivision is located will publish the notice at or below the legal rate, the political subdivision shall post the notice at the door of the county courthouse of the county in which the political subdivision is located.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2051.049. SELECTION OF NEWSPAPER. The governmental entity or representative required to publish a notice in a newspaper shall select, in accordance with this subchapter, one or more newspapers to publish the notice.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2051.050. TIME OF PUBLICATION. A notice must be published in a newspaper issued at least one day before the occurrence of the event to which the notice refers.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2051.051. BILL FOR PUBLICATION. A newspaper that publishes a notice shall submit a bill for the publication with a clipping of the published notice and a verified statement of the publisher that:

(1) states the rate charged;

(2) certifies that the rate charged is the newspaper's lowest published rate for classified advertising; and

(3) certifies the number and dates of the publication.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2051.052. CANCELLATION OF PUBLISHING CONTRACT. The comptroller or a district or county official required to publish a notice may cancel a contract executed by the comptroller or official for the publication if the comptroller or official determines that the newspaper charges a rate higher than the legal rate.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.64, eff. September 1, 2007.

Sec. 2051.053. REFUSAL OF NEWSPAPER TO PUBLISH NOTICE OR CITATION. (a) The refusal of a newspaper to publish, without receiving advance payment for making the publication, a notice or citation in a state court proceeding in which the state or a political subdivision of the state is a party and in which the cost of the publication is to be charged as fees or costs of the proceeding is considered an unqualified refusal to publish the notice or citation.

(b) The sworn statement of the newspaper's publisher or the person offering to insert the notice or citation in the newspaper is subject to record as proof of the refusal.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2051.054. INTERNET PUBLICATION OF NOTICES. (a) Subsections (b)(2) and (c) apply only if the Texas Press Association maintains an Internet website as a statewide repository of notices.

(b) A newspaper that publishes a notice shall, at no additional cost to the governmental entity placing the notice:

(1) publish the notice on one or more webpages on the newspaper's Internet website, if the newspaper maintains a website, that are:

(A) clearly designated for notices; and

(B) accessible to the public at no cost; and

(2) deliver the notice to the Texas Press Association for

the association to publish on the association's Internet website described by Subsection (a).

(c) The Texas Press Association shall publish each notice it receives from a newspaper under Subsection (b)(2) on the association's Internet website described by Subsection (a). The association must ensure that the website:

(1) is accessible to the public at no cost;

(2) is updated as notices are received;

(3) is searchable and sortable by subject matter, location, and both subject matter and location; and

(4) offers an e-mail notification service to which a person may electronically subscribe to receive notifications that a notice has been published on the website and that allows the subscriber to limit the notifications by subject matter, location, or both subject matter and location.

(d) A person required to publish a notice on an Internet website under this section shall archive the notice on the website in its entirety, including the date the notice is published.

(e) The validity of a notice printed in a newspaper and published on an Internet website under this section is not affected if:

(1) there is an error in the notice published on the website; or

(2) publication of the notice on the website is temporarily prevented as the result of a technical issue with the website.

Added by Acts 2023, 88th Leg., R.S., Ch. 249 (S.B. 943), Sec. 1, eff. September 1, 2023.

SUBCHAPTER D. GEOSPATIAL DATA PRODUCTS

Sec. 2051.101. DEFINITIONS.In this subchapter:

(1) "Geospatial data product" means a document, computer file, or Internet website that contains:

(A) geospatial data;

(B) a map; or

(C) information about a service involving geospatial data or a map.

(2) "Governmental entity" has the meaning assigned by Section 2051.041.

(3) "Registered professional land surveyor" has the meaning assigned by Section 1071.002, Occupations Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 127 (H.B. 1147), Sec. 1, eff. September 1, 2011.

Sec. 2051.102. NOTICE REQUIRED. (a) A governmental entity shall include a notice as provided by this subchapter on each geospatial data product that:

(1) is created or hosted by the governmental entity;

(2) appears to represent property boundaries; and

(3) was not produced using information from an on-the-ground survey conducted by or under the supervision of a registered professional land surveyor or land surveyor authorized to perform surveys under laws in effect when the survey was conducted.

(b) The notice required under Subsection (a) must be in substantially the following form:

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

(c) The notice required under Subsection (a) may:

(1) include language further defining the limits of liability of a geospatial data product producer;

(2) apply to a geospatial data product that contains more than one map; or

(3) for a notice that applies to a geospatial data product that is or is on an Internet website, be included on a separate page that requires the person accessing the website to agree to the terms of the notice before accessing the geospatial data product.

Added by Acts 2011, 82nd Leg., R.S., Ch. 127 (H.B. 1147), Sec. 1, eff. September 1, 2011.

Sec. 2051.103. EXEMPTION.A governmental entity is not required to include the notice required under Section 2051.102 on a geospatial data product that:

(1) does not contain a legal description, a property

boundary monument, or the distance and direction of a property line;

(2) is prepared only for use as evidence in a legal proceeding;

(3) is filed with the clerk of any court; or

(4) is filed with the county clerk.

Added by Acts 2011, 82nd Leg., R.S., Ch. 127 (H.B. 1147), Sec. 1, eff. September 1, 2011.

SUBCHAPTER E. UNIFORM ELECTRONIC LEGAL MATERIAL ACT

Sec. 2051.151. SHORT TITLE. This subchapter may be cited as the Uniform Electronic Legal Material Act.

Added by Acts 2019, 86th Leg., R.S., Ch. 159 (H.B. 402), Sec. 1, eff. September 1, 2019.

Sec. 2051.152. DEFINITIONS. In this subchapter:

(1) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) "Legal material" means, whether or not in effect:

(A) the constitution of this state;

(B) the general or special laws passed in a regular or special session of the Texas Legislature; and

(C) a state agency rule adopted in accordance with Chapter 2001.

(3) "Official publisher" means:

(A) for legal material described by Subdivision (2)(A), the Texas Legislative Council; and

(B) for legal material described by Subdivision (2)(B) or (C), the secretary of state.

(4) "Publish" means displaying, presenting, or releasing to the public, or causing to be displayed, presented, or released to the public, legal material by the official publisher.

(5) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Added by Acts 2019, 86th Leg., R.S., Ch. 159 (H.B. 402), Sec. 1, eff.

September 1, 2019.

Sec. 2051.153. APPLICABILITY. (a) This subchapter applies to all legal material in an electronic record that is:

(1) designated as official by the official publisher under Section 2051.154; and

(2) first published electronically by the official publisher on or after January 1, 2021.

(b) The official publisher is not required to publish legal material on or before the date on which the legal material takes effect.

Added by Acts 2019, 86th Leg., R.S., Ch. 159 (H.B. 402), Sec. 1, eff. September 1, 2019.

Sec. 2051.154. LEGAL MATERIAL IN OFFICIAL ELECTRONIC RECORD. (a) If the official publisher publishes legal material only in an electronic record, the official publisher shall:

(1) designate the electronic record as official; and

(2) comply with Sections 2051.155, 2051.157, and 2051.158.

(b) If the official publisher publishes legal material in an electronic record and also publishes the material in a record other than an electronic record, the official publisher may designate the electronic record as official if the official publisher complies with Sections 2051.155, 2051.157, and 2051.158.

Added by Acts 2019, 86th Leg., R.S., Ch. 159 (H.B. 402), Sec. 1, eff. September 1, 2019.

Sec. 2051.155. AUTHENTICATION OF OFFICIAL ELECTRONIC RECORD. (a) If the official publisher designates an electronic record as official in accordance with Section 2051.154, the official publisher shall authenticate the record.

(b) The official publisher authenticates an electronic record by providing a method with which a person viewing the electronic record is able to determine that the electronic record is unaltered from the official record published by the official publisher.

Added by Acts 2019, 86th Leg., R.S., Ch. 159 (H.B. 402), Sec. 1, eff. September 1, 2019.

Sec. 2051.156. EFFECT OF AUTHENTICATION. (a) Legal material in an electronic record that is authenticated as provided by Section 2051.155 is presumed to be an accurate copy of the legal material.

(b) If another state has adopted a law that is substantially similar to this subchapter, legal material in an electronic record that is authenticated in that state is presumed to be an accurate copy of the legal material.

(c) A party contesting the authenticity of legal material in an electronic record authenticated as provided by Section 2051.155 has the burden of proving by a preponderance of the evidence that the record is not authentic.

Added by Acts 2019, 86th Leg., R.S., Ch. 159 (H.B. 402), Sec. 1, eff. September 1, 2019.

Sec. 2051.157. PRESERVATION AND SECURITY OF LEGAL MATERIAL IN OFFICIAL ELECTRONIC RECORD. (a) The official publisher of legal material in an electronic record designated as official in accordance with Section 2051.154 shall provide for the preservation and security of the record in an electronic form or in a form that is not electronic.

(b) If legal material is preserved under Subsection (a) in an electronic record, the official publisher shall:

(1) ensure the integrity of the record;

(2) provide for backup and disaster recovery of the record; and

(3) ensure the continuing usability of the legal material in the record.

Added by Acts 2019, 86th Leg., R.S., Ch. 159 (H.B. 402), Sec. 1, eff. September 1, 2019.

Sec. 2051.158. PUBLIC ACCESS. The official publisher of legal material in an electronic record that is required to be preserved under Section 2051.157 shall ensure that the material is reasonably

available for use by the public on a permanent basis.

Added by Acts 2019, 86th Leg., R.S., Ch. 159 (H.B. 402), Sec. 1, eff. September 1, 2019.

Sec. 2051.159. STANDARDS. In implementing this subchapter, the official publisher of legal material in an electronic record shall consider:

(1) the standards and practices of other jurisdictions;

(2) the most recent standards regarding authentication, preservation, and security of and public access to legal material in an electronic record and other electronic records, as adopted by national standard-setting bodies;

(3) the needs of users of legal material in electronic records;

(4) the views of governmental officials and entities and other interested persons; and

(5) to the extent practicable, the methods and technologies for the authentication, preservation, and security of and public access to legal material that are compatible with the methods and technologies used by official publishers in other states that have adopted a law that is substantially similar to this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 159 (H.B. 402), Sec. 1, eff. September 1, 2019.

Sec. 2051.160. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this subchapter, consideration must be given to the need to promote uniformity of the law with respect to the subject matter of this subchapter among states that enact a law similar to this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 159 (H.B. 402), Sec. 1, eff. September 1, 2019.

Sec. 2051.161. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This subchapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National

Commerce Act (15 U.S.C. Section 7001 et seq.) but does not modify, limit, or supersede Section 101(c) of that Act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that Act (15 U.S.C. Section 7003(b)).

Added by Acts 2019, 86th Leg., R.S., Ch. 159 (H.B. 402), Sec. 1, eff. September 1, 2019.

SUBCHAPTER F. INTERNET WEBSITE

Sec. 2051.201. INFORMATION REQUIRED ON WEBSITE. (a) This section applies only to a political subdivision with the authority to impose a tax that:

(1) at any time on or after January 1, 2019, maintained a publicly accessible Internet website; and

(2) is not subject to Section 2051.202.

(b) A political subdivision to which this section applies shall post on a publicly accessible Internet website the following information:

(1) the political subdivision's contact information, including a mailing address, telephone number, and e-mail address;

(2) each elected officer of the political subdivision;

(3) the date and location of the next election for officers of the political subdivision;

(4) the requirements and deadline for filing for candidacy of each elected office of the political subdivision, which shall be continuously posted for at least one year before the election day for the office;

(5) each notice of a meeting of the political subdivision's governing body under Subchapter C, Chapter 551; and

(6) each record of a meeting of the political subdivision's governing body under Section 551.021.

(c) Subsections (b)(5) and (6) do not apply to:

(1) a county with a population of less than 10,000;

(2) a municipality with a population of less than 5,000 located in a county with a population of less than 25,000; or

(3) a school district with a population of less than 5,000 in the district's boundaries and located in a county with a population of less than 25,000.

Added by Acts 2019, 86th Leg., R.S., Ch. 1029 (H.B. 305), Sec. 1,

eff. September 1, 2019.
Redesignated and amended by Acts 2021, 87th Leg., R.S., Ch. 647 (H.B. 1154), Sec. 3, eff. September 1, 2021.

Sec. 2051.202. FINANCIAL AND OPERATING INFORMATION OF SPECIAL PURPOSE DISTRICTS. (a) In this section, "special purpose district" means a political subdivision of this state with geographic boundaries that define the subdivision's territorial jurisdiction. The term does not include a municipality, county, junior college district, independent school district, groundwater conservation district, river authority, or political subdivision with statewide jurisdiction.

(b) This section applies only to a special purpose district that:

(1) is authorized by the state by a general or special law to impose an ad valorem tax;

(2) during the most recent fiscal year imposed an ad valorem tax;

(3) during the most recent fiscal year:

(A) had bonds outstanding;

(B) had gross receipts from operations, loans, taxes, or contributions in excess of $250,000; or

(C) had cash and temporary investments in excess of $250,000; and

(4) at the beginning of the most recent fiscal year, had a population of 500 or more, as determined by the governing body of the special purpose district.

(c) Notwithstanding Subsections (a) and (b), this section applies to a district created and operating under Chapter 387, Local Government Code.

(d) A special purpose district shall post or cause to be posted on an Internet website the following information, if applicable:

(1) the name of the special purpose district;

(2) the name and term of office of each member of the governing body of the special purpose district;

(3) the contact information for the main office of the special purpose district, including the physical address, the mailing address, and the telephone number;

(4) the official contact information for each member of the

governing body of the special purpose district;

(5) if the special purpose district employs a person as a general manager or executive director, or in another position to perform duties or functions comparable to those of a general manager or executive director, the name of the general manager, executive director, or person that performs those duties;

(6) if the special purpose district contracts with a utility operator, the contact information for a person representing the utility operator, including a mailing address and telephone number;

(7) if the special purpose district contracts with a tax assessor-collector, the contact information for a person representing the tax assessor-collector, including a mailing address and telephone number;

(8) if the special purpose district imposes an ad valorem tax, the rate of the ad valorem tax of the special purpose district;

(9) if the special purpose district imposes a sales and use tax, the rate of the sales and use tax of the special purpose district;

(10) any notice of tax hearing required to be given under Chapter 26, Tax Code, or Section 49.236, Water Code;

(11) the location and schedule of meetings of the governing body of the special purpose district;

(12) a statement substantially similar to the following: "Residents of the district have the right to request the designation of a meeting location within the district under Section 49.062(g), Water Code. A description of this process can be found at (insert link to the Internet website described by Section 49.062(g), Water Code).";

(13) each notice of a meeting of the governing body of the special purpose district under Subchapter C, Chapter 551, for meetings conducted in the current calendar year and the immediately preceding calendar year;

(14) the minutes of a public meeting of the governing body of the special purpose district under Section 551.021 for meetings conducted in the current calendar year and the immediately preceding calendar year; and

(15) the most recent financial audit of the special purpose district.

Redesignated and amended by Acts 2021, 87th Leg., R.S., Ch. 647 (H.B. 1154), Sec. 3, eff. September 1, 2021.

CHAPTER 2052. STATE AGENCY REPORTS AND PUBLICATIONS

SUBCHAPTER A. REPORTS FOR LEGISLATURE OR GOVERNOR

Sec. 2052.001. FILING AND PRINTING OF REPORT. (a) Repealed by Acts 1995, 74th Leg., ch. 483, Sec. 1, eff. Sept. 1, 1995.

(b) Repealed by Acts 1995, 74th Leg., ch. 483, Sec. 1, eff. Sept. 1, 1995.

(c) On receipt of a report under Subsection (a), the secretary of state shall send a copy to each of the standing committees of the senate and house of representatives having primary jurisdiction over the state agency that submitted the report.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 693, Sec. 18, eff. Sept. 1, 1995.

Sec. 2052.002. DISTRIBUTION OF PUBLICATIONS TO LEGISLATORS. (a) To avoid waste in the duplication and distribution of state agency publications, a state agency that issues a publication relating to the work of the agency and distributes the publication to members of the legislature shall send to each member before distributing the publication an electronic notice to determine whether the member wants to receive the publication.

(b) The state agency shall include with the notice a brief written summary of the publication.

(c) A member who elects to receive the publication shall notify the state agency. The member may notify the agency electronically.

(d) This section does not apply to a report that is required by law.

(e) In this section, "state agency" means:

(1) a department, commission, board, office, or other agency that is in the executive branch of state government and that was created by the constitution or a statute of this state;

(2) a university system or institution of higher education as defined by Section 61.003, Education Code; or

(3) the supreme court, the court of criminal appeals, a

court of appeals, or the Texas Judicial Council.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 482 (H.B. 726), Sec. 1, eff. June 17, 2011.

Sec. 2052.0021. DISTRIBUTION OF REPORTS TO LEGISLATORS. (a) In this section, "state agency" has the meaning assigned by Section 2052.002.

(b) Notwithstanding other law, a state agency report required by law may be made available to members of the legislature only in accordance with this section.

(c) A state agency shall make each report required by law available to members of the legislature only in an electronic format determined by the Texas Legislative Council.

(d) At the time a report required by law is ready for distribution outside the state agency, the agency shall send notice to each member of the legislature that the report is available. The agency shall send the notice electronically. The notice must briefly describe the subject matter of the report and state the manner in which the member may obtain the report electronically.

(e) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 668, Sec. 6, eff. September 1, 2011.

Added by Acts 1999, 76th Leg., ch. 730, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 482 (H.B. 726), Sec. 2, eff. June 17, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 668 (S.B. 1618), Sec. 5, eff. September 1, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 668 (S.B. 1618), Sec. 6, eff. September 1, 2011.

Sec. 2052.003. REPORT ON EQUAL EMPLOYMENT OPPORTUNITIES. (a) A state agency that sends to the Texas Workforce Commission civil rights division an annual report on equal employment opportunities with the agency shall include in the statistical information of the report information relating to the number of:

(1) individuals with disabilities whom the agency employs; and

(2) individuals for whom state or federal guidelines encourage a more equitable balance whom the agency employs.

(b) In this section, "individual with a disability" means an individual who has:

(1) a mental disability or impairment, including an intellectual disability; or

(2) a physical disability or impairment, including:

(A) an impairment of hearing, speech, or vision;

(B) blindness;

(C) deafness; or

(D) a crippling condition that requires special ambulatory devices or services.

(c) The term "individual with a disability" does not include an individual whose sole disability or impairment is addiction to the use of alcohol or to a drug or other controlled substance.

(d) Notwithstanding any other law, equal employment opportunity reports and personnel policy statements required to be filed with the governor shall be filed with the Texas Workforce Commission civil rights division and a report required to be compiled by the governor based on those equal opportunity reports and personnel policy statements and filed with the legislature shall be compiled by the Texas Workforce Commission civil rights division and filed with the governor and the legislature. The report may be made separately or as a part of any other biennial report to the legislature.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 693, Sec. 19, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 1301 (H.B. 2716), Sec. 1, eff. June 18, 2005.

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.24, eff. September 1, 2023.

SUBCHAPTER B. REPORTS ON STATE EMPLOYEES

Sec. 2052.101. DEFINITION. In this subchapter, "state agency" means:

(1) a department, commission, board, office, or other agency that is in the executive or legislative branch of state government and that was created by the constitution or a statute, including an institution of higher education as defined by Section 61.003, Education Code; or

(2) the supreme court, the court of criminal appeals, a court of appeals, or the Texas Judicial Council or another agency in the judicial branch of state government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2052.102. FULL-TIME EQUIVALENT EMPLOYEE. (a) An employee who maintains a workweek of at least 40 hours, including authorized vacation and leave, is a full-time equivalent employee.

(b) An employee who maintains a workweek of less than 40 hours is counted as a fractional full-time equivalent employee according to the ratio of the number of hours that the employee normally works a week to 40 hours.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2052.103. REPORTS. (a) Not later than the last day of the first month following each quarter of the fiscal year, a state agency shall file with the state auditor a written report that provides for that fiscal quarter:

(1) the number of full-time equivalent state employees employed by the agency and paid from funds in the state treasury;

(2) the number of full-time equivalent state employees employed by the agency and paid from funds outside of the state treasury;

(3) the increase or decrease, if any, of the number of full-time equivalent employees from the fiscal quarter preceding the quarter covered by the report;

(4) the number of positions of the agency paid from funds in the state treasury;

(5) the number of positions of the agency paid from funds outside of the state treasury;

(6) the number of individuals who performed services for the agency under a contract, including consultants and individuals

employed under contracts with temporary help services; and

(7) the number of managers, supervisors, and staff.

(b) The report must be made in the manner prescribed by the state auditor and include:

(1) an annotated organizational chart depicting the total number of full-time equivalent employees, without regard to the source of funds used to pay all or part of the salary of an employee, and the total number of managers, supervisors, and staff for each functional area in the state agency;

(2) the management-to-staff ratio for each functional area; and

(3) a separate organizational chart that summarizes the categories of employees in the agency's regional offices without regard to the source of funds used to pay all or part of the salary of an employee.

(c) A state agency, in accordance with specific guidelines adopted by the state auditor, may adopt rules for the collection of the information required under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 89, eff. June 19, 1997.

Sec. 2052.104. STATE AUDITOR'S POWERS AND DUTIES. (a) Subject to Subsection (c), the state auditor may audit a state agency to ensure:

(1) the accuracy of information reported under this subchapter; and

(2) compliance with this subchapter.

(b) The state auditor shall:

(1) prepare annual summary reports from information provided in the reports filed under Section 2052.103; and

(2) provide copies of the summary reports to:

(A) the Legislative Budget Board;

(B) the governor; and

(C) the comptroller.

(c) Work performed under this section by the state auditor is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 24, eff. Sept. 1, 2003.

SUBCHAPTER C. DISTRIBUTION OF PUBLICATIONS

Sec. 2052.201. DEFINITIONS. In this subchapter:

(1) "Person" means an individual, association, corporation, or state agency.

(2) "Publication" means printed matter containing news or other information and includes a magazine, newsletter, newspaper, pamphlet, or report.

(3) "Publication request form" means a form that provides a means of requesting a state agency's publications.

(4) "State agency" means a department, commission, board, office, or other agency that:

(A) is in the executive branch of state government;

(B) has authority that is not limited to a geographical portion of the state; and

(C) was created by the constitution or a statute of this state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2052.202. PUBLICATION REQUEST FORM. A state agency that distributes publications to a person shall distribute a publication request form on request or with each copy of the last publication that it distributes before January 1 of each year.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.24(a), eff. Sept. 1, 1995.

Sec. 2052.203. PUBLICATION DISTRIBUTION LIST. (a) A state agency that receives a completed publication request form or other written request for its publications may place the name of the requestor on its publication distribution list. A state agency may not place the name of a person or other entity on its publication distribution list unless the state agency has received a completed

publication request form or other written request from that person or entity.

(b) After January 1 of each year a state agency shall compile a publication distribution list from the completed publication request forms and other written requests received for publications for that calendar year.

(c), (d) Repealed by Acts 1995, 74th Leg., ch. 76, Sec. 5.25(a), eff. Sept. 1, 1995.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.25(a), eff. Sept. 1, 1995.

Sec. 2052.204. DISTRIBUTION. A state agency may distribute a copy of a publication to a person or other entity that is not listed on the publication distribution list only if:

(1) the person or entity has requested orally or in writing a specific copy of the publication; or

(2) the person is a newly elected or appointed state officer, newly appointed executive head of a state agency, or newly established state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2052.205. COPIES TO LIBRARY. (a) A state agency shall send to the Legislative Reference Library five copies of each publication that it distributes.

(b) The library shall make the publications available to its users.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2052.206. APPLICABILITY TO INFORMATION REQUIRED BY LAW. This subchapter does not apply to the distribution of information required by law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. PUBLICATION PRODUCTION AND CHARGES

Sec. 2052.301. SALES CHARGE. (a) A department or agency in the executive branch of government, unless otherwise specifically directed by statute, may set and collect a sales charge for a publication or other printed matter if the charge is in the public interest.

(b) The amount of the sales charge for a publication or other printed matter not specifically set by statute may not be greater than an amount considered sufficient by the publishing department or agency to reasonably reimburse the state for the actual expense of printing the publication or printed matter.

(c) Money collected under this section shall be deposited in the fund from which the cost of printing the publication or other printed matter was paid. The deposited money is subject to legislative appropriation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2052.302. PROHIBITION OF ECONOMIC BENEFIT. (a) In accordance with Article XVI, Section 21, of the Texas Constitution, an officer or employee of the state may not, directly or indirectly, profit by or have a pecuniary interest in the preparation, printing, duplication, or sale of a publication or other printed matter issued by a department or agency of the executive branch.

(b) A person who violates this section shall be dismissed from state employment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2052.303. USE OF RECYCLED PAPER. (a) A state agency that issues publications, including reports, for general distribution, including distribution to members of the legislature, shall use recycled paper to produce the publications to the greatest extent possible when the use of recycled paper is cost-effective.

(b) In this section, "state agency" means:

(1) a department, commission, board, office, or other agency that is in the executive branch of state government and that was created by the constitution or a statute of this state;

(2) a university system or institution of higher education

as defined by Section 61.003, Education Code; or

(3) the supreme court, the court of criminal appeals, a court of appeals, or the Texas Judicial Council.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2052.304. USE OF CERTAIN PRINTING STOCK. (a) A state officer or board, court, commission, or other agency in the executive or judicial branch of state government may not publish a report or other printed materials on enamel-coated, cast-coated, or dull-coated printing stock unless the agency imposes a fee for receipt of the printed materials.

(b) This section does not apply to a publication that promotes tourism or economic development.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.12, eff. Sept. 1, 1999.

CHAPTER 2053. REPORT BY GOVERNOR ON ORGANIZATION AND EFFICIENCY OF STATE AGENCIES

Sec. 2053.001. DEFINITIONS. In this chapter:

(1) "State agency" means a board, commission, department, office, or other agency, except a university system or institution of higher education as defined by Section 61.003, Education Code, that:

(A) is in the executive branch of state government;

(B) has statewide authority; and

(C) is created by the constitution or by statute.

(2) "Functional area" means one of the following areas of concern to state government:

(A) natural resources;

(B) health and human resources;

(C) education;

(D) economic development and transportation;

(E) agriculture;

(F) public protection;

(G) consumer protection;

(H) work force; or

(I) any other area in which the governor appoints an interagency planning council under Section 772.003.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2053.002. REPORT. (a) Before the end of each even-numbered year, the governor shall prepare and submit to the legislature a report on the organization and efficiency of state agencies.

(b) The report must group state agencies into functional areas and must include the following items about the state agencies in each functional area:

(1) information about the efficiency with which the agencies operate;

(2) recommendations about the reorganization of the agencies and the consolidation, transfer, or abolition of their functions; and

(3) any other information about the organization or efficiency of the agencies that the governor considers necessary.

(c) The Legislative Budget Board shall coordinate the collection of information to be included in the report.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2053.003. PARTICIPATION BY INTERAGENCY PLANNING COUNCILS. (a) In preparing the report required by this chapter, the governor shall request and consider from each interagency planning council appointed under Section 772.003 information about the efficiency of the state agencies in the council's functional area and recommendations about the reorganization of those agencies.

(b) Before submitting the report to the legislature, the governor shall submit to each interagency planning council for review and comment the part of the proposed report about the state agencies in the council's functional area.

(c) The governor shall submit with the report the comments received under Subsection (b).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2053.004. LEGISLATION. The Texas Legislative Council shall draft any legislation required to implement the recommendations

contained in the report required by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 2054. INFORMATION RESOURCES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2054.001. LEGISLATIVE FINDINGS AND POLICY. (a) The legislature finds that:

(1) information and information resources possessed by agencies of state government are strategic assets belonging to the residents of this state that must be managed as valuable state resources;

(2) technological and theoretical advances in information use are recent in origin, immense in scope and complexity, and growing at a rapid pace;

(3) the nature of these advances presents this state with the opportunity to provide higher quality, more timely, and more cost-effective governmental services;

(4) the danger exists that state agencies could independently acquire uncoordinated and duplicative information resources technologies that are more appropriately acquired as part of a coordinated effort for maximum cost-effectiveness and use;

(5) the sharing of information resources technologies among state agencies is often the most cost-effective method of providing the highest quality and most timely governmental services that otherwise would be cost prohibitive;

(6) both considerations of cost and the need for the transfer of information among the various agencies and branches of state government in the most timely and useful form possible require a uniform policy and coordinated system for the use and acquisition of information resources technologies;

(7) considerations of cost and expertise require that, to the extent possible, the planning and coordinating functions reside in a separate agency from the purchasing function; and

(8) the need of officials in the executive branch of state government to have timely access to all needed information in a form most useful to them in their execution of the laws and the need of members of the legislative branch of state government to have timely access to all needed information in a form most useful to them in

their evaluation of the practical effect of the laws and in their identification of areas in which legislation is needed for the future are equally paramount, requiring the greatest possible continuous and formal coordination and cooperation within and among the branches of state government.

(b) It is the policy of this state to coordinate and direct the use of information resources technologies by state agencies and to provide as soon as possible the most cost-effective and useful retrieval and exchange of information within and among the various agencies and branches of state government and from the agencies and branches of state government to the residents of this state and their elected representatives. The Department of Information Resources exists for these purposes.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2054.002. SHORT TITLE. This chapter may be cited as the Information Resources Management Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1964 and H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.003. DEFINITIONS. In this chapter:

(1) "Application" means a separately identifiable and interrelated set of information resources technologies that allows a state agency to manipulate information resources to support specifically defined objectives.

(2) "Board" means the governing board of the Department of Information Resources.

(2-a) "Business case" means a comparison of business solution costs and project benefits based on a solution assessment and validation for a major information resources project, which may include:

(A) alternative financing models, such as system as a service; and

(B) a readiness score of the project using an evidence-based scoring method delivered by an independent third party that includes measurement and corrective actions for the state agency's operational and technical strengths and weaknesses related to the project.

(3) "Data processing" means information technology equipment and related services designed for the automated storage, manipulation, and retrieval of data by electronic or mechanical means. The term includes:

(A) central processing units, front-end processing units, miniprocessors, microprocessors, and related peripheral equipment such as data storage devices, document scanners, data entry equipment, terminal controllers, data terminal equipment, computer-based word processing systems other than memory typewriters, and equipment and systems for computer networks;

(B) all related services, including feasibility studies, systems design, software development, and time-sharing services, provided by state employees or others; and

(C) the programs and routines used to employ and control the capabilities of data processing hardware, including operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications, and computer networking programs.

(4) "Department" means the Department of Information Resources.

(5) "Electronic government project" means the use of information technology to improve the access to and delivery of a government service, including a project that uses the Internet as a primary tool for the delivery of a government service or performance of a governmental function.

(6) "Executive director" means the executive director of the Department of Information Resources.

(7) "Information resources" means the procedures, equipment, and software that are employed, designed, built, operated, and maintained to collect, record, process, store, retrieve, display, and transmit information, and associated personnel including consultants and contractors.

(8) "Information resources technologies" means data processing and telecommunications hardware, software, services, supplies, personnel, facility resources, maintenance, and training.

(8-a) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(9) "Local government" means a county, municipality, special district, school district, junior college district, or other political subdivision of the state.

(10) "Major information resources project" means:

(A) any information resources technology project identified in a state agency's biennial operating plan whose development costs exceed $5 million and that:

(i) requires one year or longer to reach operations status;

(ii) involves more than one state agency; or

(iii) substantially alters work methods of state agency personnel or the delivery of services to clients;

(B) any information resources technology project designated by the legislature in the General Appropriations Act as a major information resources project; and

(C) any information resources technology project of a state agency designated for additional monitoring under Section 2261.258(a)(1) if the development costs for the project exceed $5 million.

(11) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1208, Sec. 16(1), eff. September 1, 2007.

(12) "Project" means an initiative that:

(A) provides information resources technologies and creates products, services, or results within or among elements of a state agency; and

(B) is characterized by well-defined parameters, specific objectives, common benefits, planned activities, a scheduled completion date, and an established budget with a specified source of funding.

(13) "State agency" means a department, commission, board, office, council, authority, or other agency in the executive or judicial branch of state government that is created by the constitution or a statute of this state, including a university system or institution of higher education as defined by Section 61.003, Education Code.

(14) "Telecommunications" means any transmission, emission, or reception of signs, signals, writings, images, or sounds of intelligence of any nature by wire, radio, optical, or other

electromagnetic systems. The term includes all facilities and equipment performing those functions that are owned, leased, or used by state agencies and branches of state government.

(15) "State electronic Internet portal" means the electronic government project or its successor project implemented under Subchapter I.

(16) "Quality assurance team" means the quality assurance team established under Section 2054.158.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 1.13, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1272, Sec. 2.01, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1422, Sec. 3.01, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1246, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.019, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 2.01, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1208 (H.B. 1789), Sec. 16(1), eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 2.01, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 10, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 2, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 855 (S.B. 799), Sec. 2, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 1021 (S.B. 1541), Sec. 1, eff. September 1, 2021.

Sec. 2054.004. DEPARTMENT. The Department of Information Resources is an agency of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature,

Regular Session, for amendments affecting the following section.

Sec. 2054.005. SUNSET PROVISION. (a) The Department of Information Resources is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2025.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 48, Sec. 22(2), eff. September 1, 2013.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 606, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 3.11, eff. June 15, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 23.02, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 22(2), eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 3.04, eff. June 10, 2019.

Sec. 2054.006. LAWS NOT AFFECTED. (a) Except as specifically provided by this chapter, this chapter does not affect laws, rules, or decisions relating to the confidentiality or privileged status of categories of information or communications.

(b) This chapter does not enlarge the right of state government to require information, records, or communications from the people.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 792, Sec. 2, eff. June 14, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 3070, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.007. EXCEPTION: STATE LOTTERY OPERATIONS. (a) The lottery division of the Texas Lottery Commission is not subject to the planning and procurement requirements of this chapter.

(b) The electronic funds transfer system for the operation of the state lottery is not included in the information resources deployment review or the biennial operating plan of the comptroller. Operations of the comptroller that relate to the state lottery are not subject to the planning and procurement requirements of this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.26(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1035, Sec. 56, eff. June 19, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.60, eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 691 (H.B. 1788), Sec. 2, eff. September 1, 2007.

Sec. 2054.0075. EXCEPTION: PUBLIC JUNIOR COLLEGE. This chapter does not apply to a public junior college or a public junior college district, except as necessary to comply with information security standards and for participation in shared technology services, including the electronic government project implemented under Subchapter I and statewide technology centers under Subchapter L.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1285 (H.B. 1495), Sec. 1, eff. June 17, 2011.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 8, eff. September 1, 2019.

Sec. 2054.008. CONTRACT NOTIFICATION. (a) In this section "major information system" includes:

(1) one or more computers that in the aggregate cost more than $100,000;

(2) a service related to computers, including computer software, that costs more than $100,000; and

(3) a telecommunications apparatus or device that serves as a voice, data, or video communications network for transmitting, switching, routing, multiplexing, modulating, amplifying, or receiving signals on the network and costs more than $100,000.

(b) A state agency shall provide written notice to the Legislative Budget Board of a contract for a major information system. The notice must be on a form prescribed by the Legislative Budget Board and filed not later than the 30th day after the date the agency enters into the contract.

(c) A university system or institution of higher education must provide written notice to the Legislative Budget Board under Subsection (b) only if the cost of the major information system exceeds $1 million. In this subsection, "university system" has the meaning assigned by Section 61.003, Education Code.

Added by Acts 1999, 76th Leg., ch. 281, Sec. 5, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 2.06, eff. June 17, 2011.

Acts 2021, 87th Leg., R.S., Ch. 855 (S.B. 799), Sec. 3, eff. September 1, 2021.

Sec. 2054.010. REFERENCES TO PRECEDING AGENCY. Any reference in law to the Automated Information and Telecommunications Council means the Department of Information Resources.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2054.011. STATEWIDE NETWORK APPLICATIONS ACCOUNT. (a) The statewide network applications account is established in the general revenue fund.

(b) Amounts credited to the statewide network applications account may be appropriated only for the purchase, improvement, or maintenance of information resources, information resources technologies or applications, or related services or items for use by a network of state agencies that may include agencies in the legislative branch of state government.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.27(a), eff. Sept. 1, 1995.

SUBCHAPTER B. ADMINISTRATION OF DEPARTMENT

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.021. COMPOSITION OF BOARD; TERMS; TRAINING. (a) The department is governed by a board composed of seven voting members appointed by the governor with the advice and consent of the senate. One member must be employed by an institution of higher education as defined by Section 61.003, Education Code.

(b) Voting members of the board serve for staggered six-year terms with two or three members' terms expiring February 1 of each odd-numbered year.

(c) Two groups each composed of three ex officio members serve on the board on a rotating basis. The ex officio members serve as nonvoting members of the board. Only one group serves at a time. The first group is composed of the commissioner of insurance, the executive commissioner of the Health and Human Services Commission, and the executive director of the Texas Department of Transportation. Members of the first group serve for two-year terms that begin February 1 of every other odd-numbered year and that expire on February 1 of the next odd-numbered year. The second group is composed of the commissioner of education, the executive director of the Texas Department of Criminal Justice, and the executive director of the Parks and Wildlife Department. Members of the second group serve for two-year terms that begin February 1 of the odd-numbered years in which the terms of members of the first group expire and that expire on February 1 of the next odd-numbered year.

(d) An ex officio member may designate an employee on the management or senior staff level of the member's agency to serve in the member's place.

(e) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(f) To be eligible to take office or serve as a voting or nonvoting member of the board, a person appointed to or scheduled to serve as an ex officio member of the board must complete at least one course of a training program that complies with this section. A voting or nonvoting board member must complete a training program that complies with Subsection (g) not later than the 180th day after the date on which the person takes office or begins serving as a member of the board.

(g) The training program must provide information to the person regarding:

(1) this chapter and the board to which the person is appointed to serve;

(2) the programs operated by the department;

(3) the role and functions of the department;

(4) the rules of the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the department;

(6) the results of the most recent formal audit of the department;

(7) the requirements of the:

(A) open meetings law, Chapter 551;

(B) open records law, Chapter 552; and

(C) administrative procedure law, Chapter 2001;

(8) the requirements of the conflict of interest laws and other laws relating to public officials;

(9) any applicable ethics policies adopted by the department or the Texas Ethics Commission; and

(10) contract management training.

(h) A person appointed to the board is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993; Amended by Acts 1997, 75th Leg., ch. 606, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1170, Sec. 22.01, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 6.011, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 9 (H.B. 675), Sec. 1, eff. April 23, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 2, eff. September 1, 2013.

Sec. 2054.022. CONFLICT OF INTEREST. (a) A member of the board or the executive director may not:

(1) be a person required to register as a lobbyist under

Chapter 305 because of the person's activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, a substantial interest in the information resources technologies industry;

(2) be an officer, employee, or paid consultant of a business entity that has, or of a trade association of business entities that have, a substantial interest in the information resources technologies industry and that may contract with state government;

(3) own, control, or have, directly or indirectly, more than a 10 percent interest in a business entity that has a substantial interest in the information resources technologies industry and that may contract with state government;

(4) receive more than 25 percent of the individual's income from a business entity that has a substantial interest in the information resources technologies industry and that may contract with state government;

(5) be interested in or connected with a contract or bid for furnishing a state agency with information resources technologies;

(6) be employed by a state agency as a consultant on information resources technologies; or

(7) accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise.

(b) A person who is the spouse of an officer, employee, or paid consultant of a business entity that has, or of a trade association of business entities that have, a substantial interest in the information resources technologies industry and that may contract with state government may not be a member of the board or the executive director.

(c) An employee of the department, other than the executive director, may not:

(1) be a person required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, a substantial interest in the information resources technologies industry; or

(2) be employed by a state agency as a consultant on information resources technologies.

(d) For the purposes of this section, a trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(e) The executive director shall dismiss an employee of the department who violates a prohibition under Subsection (c), and the board shall remove the executive director if the executive director violates a prohibition under Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 606, Sec. 3, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1422, Sec. 14.01, eff. Sept. 1, 2001.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 3, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.023. COMPENSATION; EXPENSES. (a) A member of the board may not receive compensation for services as a board member.

(b) A member is entitled to reimbursement for actual and necessary expenses reasonably incurred in connection with the performance of those services, subject to any applicable limitation on reimbursement provided by the General Appropriations Act.

(c) An ex officio member is entitled to reimbursement for those expenses under the rules of the member's office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.024. VACANCY. (a) The governor shall appoint a board member to fill a vacancy under the same procedure that applied to the original appointment for that position.

(b) If the presiding officer's position is vacant, the executive director shall perform nonvoting duties of the presiding officer until the governor designates a new presiding officer.

(c) If the final result of an action brought in a court of competent jurisdiction is that an ex officio or other member of the board may not serve on the board under the Texas Constitution, the appropriate individual shall promptly submit a list to the governor for the appointment of a replacement who may serve.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2054.025. REMOVAL OF BOARD MEMBER. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications or status required for appointment to the board;

(2) does not maintain during service on the board the qualifications or status required for initial appointment to the board;

(3) violates a prohibition established by Section 2054.022;

(4) cannot discharge because of illness or disability the member's duties for a substantial part of the term for which the member is appointed; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a state fiscal year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken while a ground for removal of a member of the board exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall inform the presiding officer. The presiding officer shall then inform the governor and the attorney general of the potential ground for removal. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the board, who shall notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 606, Sec. 4, eff. Sept. 1, 1997.

Sec. 2054.026. LIMITATION ON LIABILITY. A member of the board is not liable in a civil action for an act performed in good faith in the performance of the member's duties.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2054.027. MEETINGS; ACTION OF BOARD. (a) The board shall meet at least once in each quarter of the state fiscal year and may meet at other times at the call of the presiding officer or as provided by department rule.

(b) When a quorum is present, an affirmative vote of a majority of the members of the board present is necessary for an action of the board to be effective.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2054.028. PRESIDING OFFICER. The governor shall designate a member of the board to serve as presiding officer at the discretion of the governor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2054.0285. EXECUTIVE DIRECTOR: CHIEF INFORMATION OFFICER; POWERS AND DUTIES. (a) The board shall employ an executive director. The executive director is the chief information officer for Texas state government.

(b) The executive director has authority for all aspects of information technology for state agencies, including:

(1) the use of technology to support state goals;
(2) functional support to state agencies;
(3) technology purchases;
(4) deployment of new technology;
(5) delivery of technology services; and
(6) provision of leadership on technology issues.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 4.01, eff. June 15,

2001.

Sec. 2054.0286. CHIEF DATA OFFICER. (a) The executive director, using existing department funds, shall employ a chief data officer to:

(1) improve the control and security of information collected by state agencies;

(2) promote between state agencies the sharing of information, including customer information;

(3) reduce information collection costs incurred by this state; and

(4) assist the department in the development and management of a data portal for use by state agencies.

(b) The chief data officer shall develop and implement best practices among state agencies to:

(1) improve interagency information coordination;

(2) reduce duplicative information collection;

(3) increase accountability and ensure compliance with statutes and rules requiring agencies to share information;

(4) improve information management and analysis to increase information security, uncover fraud and waste, reduce agency costs, improve agency operations, and verify compliance with applicable laws;

(5) encourage agencies to collect and post on the agencies' Internet websites or the data portal managed by the department information related to an agency's functions or other data maintained by the agency that is in an open file format and is machine-readable, exportable, and easily accessible by the public; and

(6) encourage the evaluation of open document formats for storing data and documents generated by state agencies.

(c) Each state agency shall cooperate with the chief data officer in fulfilling the requirements of this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 1047 (H.B. 1912), Sec. 1, eff. September 1, 2015.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 604 (S.B. 819), Sec. 1, eff. September 1, 2019.

Sec. 2054.029. STAFF; SEPARATION OF RESPONSIBILITIES. (a) The board shall employ employees necessary to implement its duties.

(b) The executive director or the executive director's designee shall provide to members of the board and to the department's employees, as often as necessary, information regarding their qualifications for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(c) The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 606, Sec. 5, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1272, Sec. 4.01, eff. June 15, 2001.

Sec. 2054.030. MERIT PAY. (a) The executive director or the executive director's designee shall develop a system of annual performance evaluations that are based on documented employee performance.

(b) All merit pay for department employees must be based on the system established under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 606, Sec. 6, eff. Sept. 1, 1997.

Sec. 2054.031. CAREER LADDER. (a) The executive director or the executive director's designee shall develop an intraagency career ladder program that addresses opportunities for mobility and advancement for employees within the department.

(b) The program shall require intraagency postings of all positions concurrently with any public posting.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993; Amended by Acts 1997, 75th Leg., ch. 606, Sec. 7, eff. Sept. 1, 1997.

Sec. 2054.032. EQUAL EMPLOYMENT OPPORTUNITY. (a) The

executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel, that are in compliance with Chapter 21, Labor Code;

(2) a comprehensive analysis of the department workforce that meets federal and state laws, rules, and regulations and instructions promulgated directly from those laws, rules, and regulations;

(3) procedures by which a determination can be made about the extent of underuse in the department workforce of all persons for whom federal or state laws, rules, and regulations and instructions promulgated directly from those laws, rules, and regulations encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(b) A policy statement prepared under Subsection (a) must cover an annual period, be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (a)(1), and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 606, Sec. 8, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.033. ADVISORY COMMITTEES. (a) The board and the executive director, if authorized by the board, may appoint advisory committees as the department considers necessary to provide expertise

to the department.

(b) A member of an advisory committee serves at the discretion of the board.

(c) A member of an advisory committee may not receive compensation for service on the committee. A member is entitled to reimbursement for actual and necessary expenses reasonably incurred in performing that service, subject to any applicable limitation on reimbursement provided by the General Appropriations Act.

(d) At least one member of each advisory committee must be an employee of a state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.0331. CUSTOMER ADVISORY COMMITTEE. (a) The board shall appoint a customer advisory committee under Section 2054.033.

(b) The advisory committee is composed of representatives of customers who receive services from each of the department's key programs, including state agencies with fewer than 100 employees, and the public.

(c) In making appointments to the advisory committee, the board shall, to the extent practicable, ensure that the committee is composed of a cross-section of the department's customers, including institutions of higher education, and the public.

(d) The advisory committee shall report to and advise the board on the status of the department's delivery of critical statewide services.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 4, eff. September 1, 2013.

Sec. 2054.0332. DATA MANAGEMENT ADVISORY COMMITTEE. (a) The board shall appoint a data management advisory committee.

(b) The advisory committee is composed of each data management officer designated by a state agency under Section 2054.137 and the department's chief data officer.

(c) The advisory committee shall:

(1) advise the board and department on establishing statewide data ethics, principles, goals, strategies, standards, and architecture;

(2) provide guidance and recommendations on governing and managing state agency data and data management systems, including recommendations to assist data management officers in fulfilling the duties assigned under Section 2054.137; and

(3) establish performance objectives for state agencies from this state's data-driven policy goals.

(d) Sections 2110.002 and 2110.008 do not apply to the advisory committee.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 1, eff. June 14, 2021.

Sec. 2054.034. DEPARTMENT FINANCES. (a) All money paid to the department under this chapter is subject to Subchapter F, Chapter 404.

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(70), eff. June 17, 2011.

Added by Acts 1997, 75th Leg., ch. 606, Sec. 9, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(70), eff. June 17, 2011.

Sec. 2054.0345. DETERMINATION OF ADMINISTRATIVE FEES. (a) The department shall adopt a process to determine the amount of the administrative fee the department charges to administer any of its programs, including fees charged for programs under Sections 2054.380 and 2170.057.

(b) The process must require that the amount of a fee directly relate to the amount necessary for the department to recover the cost of its operations, as determined by the department's annual budget process.

(c) The department shall develop clear procedures directing staff for each department program and the department's financial staff to work together to determine the amount of administrative

fees. The procedures must require review and approval of all administrative fees by the board, the executive director, and the department's chief financial officer.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 5, eff. September 1, 2013.

Sec. 2054.0346. REPORTING OF ADMINISTRATIVE FEES. (a) The department shall report to the Legislative Budget Board all administrative fees that the department sets under Section 2054.0345 each fiscal year. The report must include:

(1) the underlying analysis and methodology used to determine the fee amounts; and

(2) the cost allocation charged to customers.

(b) The department shall post on the department's Internet website information about each administrative fee the department charges, including a description of how the fee is determined. The department must update this information when a contract amendment or other action results in a major change to the costs incurred or the price paid by the department or a customer of the department.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 5, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.035. PARTICIPATION AND ACCESSIBILITY. (a) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the department.

(b) The department shall prepare information of public interest describing the functions of the department and the procedures by which complaints are filed with and resolved by the department. The department shall make the information available to the public and appropriate state agencies.

(c) The board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing

address, and telephone number of the department for the purpose of directing complaints to the department. The board may provide for that notification:

(1) on each registration form, application, or written contract for services of an individual or entity regulated under this chapter;

(2) on a sign prominently displayed in the place of business of each individual or entity regulated under this chapter; or

(3) in a bill for service provided by an individual or entity regulated under this chapter.

(d) The department shall comply with federal and state laws related to program and facility accessibility. The executive director shall also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the department's programs and services.

Added by Acts 1997, 75th Leg., ch. 606, Sec. 9, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.036. COMPLAINTS. (a) The department shall keep a file about each written complaint filed with the department that the department has authority to resolve. The department shall provide to the person filing the complaint and the persons or entities complained about the department's policies and procedures pertaining to complaint investigation and resolution. The department, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and the persons or entities complained about of the status of the complaint unless the notice would jeopardize an undercover investigation.

(b) The department shall keep information about each complaint filed with the department. The information shall include:

(1) the date the complaint is received;

(2) the name of the complainant;

(3) the subject matter of the complaint;

(4) a record of all persons contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) for complaints for which the department took no action, an explanation of the reason the complaint was closed without action.

Added by Acts 1997, 75th Leg., ch. 606, Sec. 9, eff. Sept. 1, 1997.

Sec. 2054.037. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The department shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 6, eff. September 1, 2013.

Sec. 2054.038. INTERNAL AUDITOR; POWERS AND DUTIES. (a) The board shall:

(1) appoint an internal auditor who reports directly to the board and serves at the will of the board; and

(2) provide staff and other resources to the internal auditor as appropriate.

(b) The internal auditor shall prepare an annual audit plan using risk assessment techniques to rank high-risk functions in the department. The internal auditor shall submit the annual audit plan

to the board for consideration and approval. The board may change the plan as necessary or advisable.

(c) The internal auditor may bring before the board an issue outside of the annual audit plan that requires the immediate attention of the board.

(d) The internal auditor may not be assigned any operational or management responsibilities that impair the ability of the internal auditor to make an independent examination of the department's operations. The internal auditor may provide guidance or other advice before an operational or management decision is made but may not make the decision, approve the decision, or otherwise violate this subsection.

(e) The department shall give the internal auditor unrestricted access to the activities and records of the department unless restricted by other law.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 7, eff. September 1, 2013.

Sec. 2054.039. OPEN MEETINGS EXCEPTION FOR INTERNAL AUDITOR. A meeting between the board and the department's internal auditor to discuss issues related to fraud, waste, or abuse is not required to be an open meeting under Chapter 551.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 7, eff. September 1, 2013.

Sec. 2054.040. AUDIT SUBCOMMITTEE. (a) The board shall maintain an audit subcommittee of the board. The subcommittee shall oversee the department's internal auditor and any other audit issues that the board considers appropriate.

(b) The subcommittee shall evaluate whether the internal auditor has sufficient resources to perform the auditor's duties and ensure that sufficient resources are available.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 7, eff. September 1, 2013.

Sec. 2054.041. ADDITIONAL BOARD OVERSIGHT. (a) The board shall adopt a policy describing the board's role in setting a strategic direction for the department. The policy must address the board's role in developing new initiatives for and service offerings by the department, including requiring the board to evaluate and approve new initiatives for, or categories of, services offered by the department under the department's various programs.

(b) The board shall regularly evaluate the extent to which the department fulfills the department's information resources technology mission by providing cost-effective services and meeting customer needs.

(c) The board shall regularly evaluate department operations, including an evaluation of analytical data and information regarding trends in department revenue and expenses, as well as performance information.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 8, eff. September 1, 2013.

SUBCHAPTER C. GENERAL POWERS AND DUTIES OF DEPARTMENT

Sec. 2054.051. GENERAL DUTIES OF DEPARTMENT. (a) The department shall provide the leadership in and coordination of information resources management within state government.

(b) The department shall monitor national and international standards relating to information resources technologies, develop and publish policies, procedures, and standards relating to information resources management by state agencies, and ensure compliance with those policies, procedures, and standards.

(c) The department shall provide and coordinate an information resources management training program for the departments of state government.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 393, Sec. 2.07(1), eff. September 1, 2009.

(e) The department shall provide for all interagency use of information resources technologies by state agencies. The department may provide for interagency use of information resources technologies either directly or by certifying another state agency to provide specified uses of information resources technologies to other state agencies.

(f) The department shall identify opportunities for state agencies to coordinate with each other in the adoption and implementation of information resources technology projects.

(g) The department shall establish plans and policies for the system of telecommunications services managed and operated by the department.

(h) The department shall:

(1) coordinate with the quality assurance team to develop contracting standards for information resources technologies acquisition and purchased services; and

(2) work with state agencies to ensure deployment of standardized contracts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 342, Sec. 1, eff. May 3, 2001; Acts 2001, 77th Leg., ch. 1422, Sec. 4.01, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 394 (S.B. 757), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 2.07(1), eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1051 (H.B. 3093), Sec. 1, eff. September 1, 2013.

Sec. 2054.052. GENERAL POWERS OF DEPARTMENT. (a) The department may adopt rules as necessary to implement its responsibility under this chapter.

(b) The department may require each state agency to report to the department:

(1) each agency's use of information resources technologies;

(2) the effect of those technologies on the duties and functions of the agency;

(3) the costs incurred by the agency in the acquisition and use of those technologies;

(4) the procedures followed in obtaining those technologies;

(5) the categories of information produced by the agency; and

(6) other information relating to information resources management that in the judgment of the department should be reported.

(c) At the request of a state agency, the department may provide technical and managerial assistance relating to information resources management, including automation feasibility studies, systems analysis, and design, training, and technology evaluation.

(d) The department may report to the governor and to the presiding officer of each house of the legislature any factors that in the opinion of the department are outside the duties of the department but that inhibit or promote the effective exchange and use of information in state government.

(e) The department may:

(1) acquire, apply for, register, secure, hold, protect, and renew under the laws of the State of Texas, the United States, any state in the United States, or any nation:

(A) a patent for the invention, discovery, or improvement of any new and useful process, machine, manufacture, composition of matter, art, or method, including any new use of a known process, machine, manufacture, composition of matter, art, or method;

(B) a copyright for an original work of authorship fixed in any tangible medium of expression, now known or later developed, from which it can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device;

(C) a trademark, service mark, collective mark, or certification mark for a word, name, symbol, device, or slogan that the department uses to identify and distinguish its goods and services from other goods and services; or

(D) other evidence of protection or exclusivity issued for intellectual property;

(2) contract with a person or entity for the reproduction, distribution, public performance, display, advertising, marketing, lease, licensing, sale, use, or other distribution of the department's intellectual property;

(3) obtain under a contract described in Subdivision (2) a royalty, license right, or other appropriate means of securing reasonable compensation for the exercise of rights with respect to the department's intellectual property; and

(4) waive, increase, or reduce the amount of compensation secured by contract under Subdivision (3) if the department

determines that the waiver, increase, or reduction will:

(A) further a goal or mission of the department; and

(B) result in a net benefit to the state.

(f) Except as provided by Section 2054.115(c), money paid to the department under this section shall be deposited to the credit of the general revenue fund.

(g) The department may accept or refuse a gift or grant of money, services, or property on behalf of the state for any public purpose related to the duties of the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.26(b), eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 825, Sec. 1, eff. Sept. 1, 2003. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 8 (H.B. 674), Sec. 1, eff. April 23, 2007.

Sec. 2054.0525. CUSTOMERS ELIGIBLE FOR DEPARTMENT SERVICES. If the executive director determines that participation is in the best interest of this state, the following entities are eligible customers for services the department provides:

(1) a state agency;

(2) a local government;

(3) the legislature or a legislative agency;

(4) the supreme court, the court of criminal appeals, or a court of appeals;

(5) a public hospital owned or operated by this state or a political subdivision or municipal corporation of this state, including a hospital district or hospital authority;

(6) an independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region;

(7) the Texas Permanent School Fund Corporation;

(8) an assistance organization, as defined by Section 2175.001;

(9) an open-enrollment charter school, as defined by Section 5.001, Education Code;

(10) a private school, as defined by Section 5.001, Education Code;

(11) a private or independent institution of higher

education, as defined by Section 61.003, Education Code;

(12) a public safety entity, as defined by 47 U.S.C. Section 1401;

(13) a volunteer fire department, as defined by Section 152.001, Tax Code; and

(14) a governmental entity of another state.

Added by Acts 2023, 88th Leg., R.S., Ch. 242 (H.B. 4553), Sec. 1, eff. September 1, 2023.

Sec. 2054.053. LEGISLATIVE BUDGET INSTRUCTIONS; APPROPRIATION REQUESTS. (a) The department may identify, develop, and recommend to the Legislative Budget Board issues related to information resources management to be considered when developing the legislative budget instructions to state agencies. The department shall inform the governor of issues that are recommended to the Legislative Budget Board under this subsection.

(b) At the request of a state agency, the department may assist the agency in the preparation of projects to be submitted as part of the agency's legislative appropriation request and may make recommendations on any proposed projects. The recommendations under this subsection apply to a project and not to a specific procurement or set of specifications.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2054.054. CLIENT OMNIBUS REGISTRY AND EXCHANGE DATA BASES. (a) The department may develop and maintain a client omnibus registry and exchange data bases to cover public and private health and human services, programs, and clients and to facilitate the exchange of data among the state's health and human services agencies.

(b) The department must assure in maintaining the information that:

(1) health and mental health communications and records privileged under Chapter 611, Health and Safety Code, Subtitle B, Title 3, Occupations Code, and the Texas Rules of Evidence remain confidential and privileged;

(2) personally identifiable health and mental health

communications and records of persons involved in the receipt or delivery of health or human services are confidential and privileged; and

(3) a private source is not required to provide confidential health or mental health communications or records unless a law specifically requires disclosure.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.767, eff. Sept. 1, 2001.

Sec. 2054.0541. STATEWIDE HEALTH CARE DATA COLLECTION SYSTEM. The department shall assist the Texas Health Care Information Council and the Texas Department of Health with planning, analyses, and management functions relating to the procurement, use, and implementation of a statewide health care data collection system under Chapter 108, Health and Safety Code.

Added by Acts 1995, 74th Leg., ch. 726, Sec. 4, eff. Sept. 1, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.055. PERFORMANCE REPORT. (a) Not later than November 15 of each even-numbered year, the board shall review and approve and the department shall present a report on the use of information resources technologies by state government.

(b) The report must:

(1) assess the progress made toward meeting the goals and objectives of the state strategic plan for information resources management;

(2) describe major accomplishments of the state or a specific state agency in information resources management;

(3) describe major problems in information resources management confronting the state or a specific state agency;

(4) provide a summary of the total expenditures for information resources and information resources technologies by the state;

(5) make recommendations for improving the effectiveness and cost-efficiency of the state's use of information resources;

(6) describe the status, progress, benefits, and efficiency gains of the state electronic Internet portal project, including any significant issues regarding contract performance;

(7) provide a financial summary of the state electronic Internet portal project, including project costs and revenues;

(8) provide a summary of the amount and use of Internet-based training conducted by each state agency and institution of higher education;

(9) provide a summary of agency and statewide results in providing access to electronic and information resources to individuals with disabilities as required by Subchapter M;

(10) assess the progress made toward accomplishing the goals of the plan for a state telecommunications network and developing a system of telecommunications services as provided by Subchapter H; and

(11) identify proposed major information resources projects for the next state fiscal biennium, including project costs through stages of the project and across state fiscal years from project initiation to implementation.

(b-1) The report under this section shall address consolidated telecommunications system performance, centralized capitol complex telephone system performance, telecommunications system needs, and recommended statutory changes to enhance system capability and cost-effectiveness. In this subsection, "centralized capitol complex telephone system" and "consolidated telecommunications system" have the meanings assigned by Section 2054.2011.

(b-2) The information required under Subsection (b)(11) must include:

(1) final total cost of ownership budget data for the entire life cycle of the major information resources project, including capital and operational costs that itemize staffing costs, contracted services, hardware purchased or leased, software purchased or leased, travel, and training;

(2) the original project schedule and the final actual project schedule;

(3) data on the progress toward meeting the original goals and performance measures of the project, specifically those related to operating budget savings;

(4) lessons learned on the project, performance evaluations of any vendors used in the project, and reasons for project delays or cost increases; and

(5) the benefits, cost avoidance, and cost savings generated by major technology resources projects.

(c) The department shall submit the report to the governor and to the legislature.

(d) The department may make interim reports that it considers necessary.

(e) The department is entitled to obtain any information about a state agency's information resources and information resources technologies that the department determines is necessary to prepare a report under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.26(c), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1272, Sec. 1.02, eff. June 15, 2001. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 394 (S.B. 757), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 691 (H.B. 1788), Sec. 3, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1208 (H.B. 1789), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 11.018, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 1.07, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 11, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1051 (H.B. 3093), Sec. 2, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 3, eff. September 1, 2019.

Sec. 2054.056. COMPUTER SERVICES. The department may provide computer services under interagency contracts to state agencies that choose to contract with the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.26(d), eff. Sept. 1, 1995.

Sec. 2054.0565. USE OF CONTRACTS BY OTHER ENTITIES. (a) The department may include terms in a procurement contract entered into by the department, including a contract entered into under Section 2157.068, that allow the contract to be used by another state agency, a political subdivision of this state, a governmental entity of another state, or an assistance organization as defined by Section 2175.001.

(b) A political subdivision that purchases an item or service using a contract under this section satisfies any other law requiring the political subdivision to seek competitive bids for that item or service.

(c) Notwithstanding any other law, a state governmental entity that is not a state agency as defined by Section 2054.003 may use a contract as provided by Subsection (a) without being subject to a rule, statute, or contract provision, including a provision in a contract entered into under Section 2157.068, that would otherwise require the state governmental entity to:

(1) sign an interagency agreement; or

(2) disclose the items purchased or the value of the purchase.

(d) A state governmental entity that is not a state agency as defined by Section 2054.003 that uses a contract as provided by Subsection (a) may prohibit a vendor from disclosing the items purchased, the use of the items purchased, and the value of the purchase.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.01, eff. September 1, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1081 (H.B. 2918), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1081 (H.B. 2918), Sec. 3, eff. September 1, 2007.

Sec. 2054.058. CONSIDERATION OF VENDOR INCENTIVES. When

contracting with a vendor to perform a task related to an electronic government project, the department shall consider methods of payments, including considering whether a percentage of money to be saved could be used to provide an incentive to the vendor to complete the project on time and under budget.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 4.02, eff. June 15, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.059. CYBERSECURITY. From available funds, the department shall:

(1) establish and administer a clearinghouse for information relating to all aspects of protecting the cybersecurity of state agency information;

(2) develop strategies and a framework for:

(A) the securing of cyberinfrastructure by state agencies, including critical infrastructure; and

(B) cybersecurity risk assessment and mitigation planning;

(3) develop and provide training to state agencies on cybersecurity measures and awareness;

(4) provide assistance to state agencies on request regarding the strategies and framework developed under Subdivision (2); and

(5) promote public awareness of cybersecurity issues.

Added by Acts 2001, 77th Leg., ch. 545, Sec. 1, eff. Sept. 1, 2001.
Renumbered from Government Code Sec. 2054.063 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(80), eff. Sept. 1, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 477 (S.B. 1134), Sec. 1, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature,

Regular Session, for amendments affecting the following section.

Sec. 2054.0591. CYBERSECURITY REPORT. (a) Not later than November 15 of each even-numbered year, the department shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committee of each house of the legislature with primary jurisdiction over state government operations a report identifying preventive and recovery efforts the state can undertake to improve cybersecurity in this state. The report must include:

(1) an assessment of the resources available to address the operational and financial impacts of a cybersecurity event;

(2) a review of existing statutes regarding cybersecurity and information resources technologies;

(3) recommendations for legislative action to increase the state's cybersecurity and protect against adverse impacts from a cybersecurity event; and

(4) an evaluation of a program that provides an information security officer to assist small state agencies and local governments that are unable to justify hiring a full-time information security officer.

(b) The department or a recipient of a report under this section may redact or withhold information confidential under Chapter 552, including Section 552.139, or other state or federal law that is contained in the report in response to a request under Chapter 552 without the necessity of requesting a decision from the attorney general under Subchapter G, Chapter 552.

Added by Acts 2017, 85th Leg., R.S., Ch. 955 (S.B. 1910), Sec. 1, eff. September 1, 2017.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 9, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.0592. CYBERSECURITY EMERGENCY FUNDING. If a cybersecurity event creates a need for emergency funding, the department may request that the governor or Legislative Budget Board

make a proposal under Chapter 317 to provide funding to manage the operational and financial impacts from the cybersecurity event.

Added by Acts 2017, 85th Leg., R.S., Ch. 955 (S.B. 1910), Sec. 1, eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.0593. CLOUD COMPUTING STATE RISK AND AUTHORIZATION MANAGEMENT PROGRAM. (a) In this section, "cloud computing service" has the meaning assigned by Section 2157.007.

(b) The department shall establish a state risk and authorization management program to provide a standardized approach for security assessment, authorization, and continuous monitoring of cloud computing services that process the data of a state agency. The program must allow a vendor to demonstrate compliance by submitting documentation that shows the vendor's compliance with a risk and authorization management program of:

(1) the federal government; or

(2) another state that the department approves.

(c) The department by rule shall prescribe:

(1) the categories and characteristics of cloud computing services subject to the state risk and authorization management program; and

(2) the requirements for certification through the program of vendors that provide cloud computing services.

(d) A state agency shall require each vendor contracting with the agency to provide cloud computing services for the agency to comply with the requirements of the state risk and authorization management program. The department shall evaluate vendors to determine whether a vendor qualifies for a certification issued by the department reflecting compliance with program requirements.

(e) A state agency may not enter or renew a contract with a vendor to purchase cloud computing services for the agency that are subject to the state risk and authorization management program unless the vendor demonstrates compliance with program requirements.

(f) A state agency shall require a vendor contracting with the agency to provide cloud computing services for the agency that are

subject to the state risk and authorization management program to maintain program compliance and certification throughout the term of the contract.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 2, eff. June 14, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.0594. INFORMATION SHARING AND ANALYSIS ORGANIZATION. (a) The department shall establish an information sharing and analysis organization to provide a forum for state agencies, local governments, public and private institutions of higher education, and the private sector to share information regarding cybersecurity threats, best practices, and remediation strategies.

(b) The department shall provide administrative support to the information sharing and analysis organization.

(c) A participant in the information sharing and analysis organization shall assert any exception available under state or federal law, including Section 552.139, in response to a request for public disclosure of information shared through the organization. Section 552.007 does not apply to information described by this subsection.

(d) The department shall establish a framework for regional cybersecurity working groups to execute mutual aid agreements that allow state agencies, local governments, regional planning commissions, public and private institutions of higher education, the private sector, and the incident response team established under Subchapter N-2 to assist with responding to a cybersecurity event in this state. A working group may be established within the geographic area of a regional planning commission established under Chapter 391, Local Government Code. The working group may establish a list of available cybersecurity experts and share resources to assist in responding to the cybersecurity event and recovery from the event.

Added by Acts 2017, 85th Leg., R.S., Ch. 683 (H.B. 8), Sec. 5, eff. September 1, 2017.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 10, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 3, eff. June 14, 2021.

Sec. 2054.060. DIGITAL SIGNATURE. (a) A digital signature may be used to authenticate a written electronic communication sent to a state agency if it complies with rules adopted by the department.

(b) A digital signature may be used to authenticate a written electronic communication sent to a local government if it complies with rules adopted by the governing body of the local government. Before adopting the rules, the governing body of the local government shall consider the rules adopted by the department and, to the extent possible and practicable, shall make the governing body's rules consistent with the department's rules.

(c) This section does not preclude any symbol from being valid as a signature under other applicable law, including Section 1.201(39), Business & Commerce Code.

(d) The use of a digital signature under this section is subject to criminal laws pertaining to fraud and computer crimes, including Chapters 32 and 33, Penal Code.

(e) In this section:

(1) "Digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature.

(2) "Local government" has the meaning assigned by Section 791.003, but does not include an agency in the judicial branch of local government.

(3) "State agency" does not include an agency in the judicial branch of state government.

Added by Acts 1997, 75th Leg., ch. 528, Sec. 2, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 25, eff. Sept. 1, 2003.

Sec. 2054.061. USE OF CONSULTANTS AND OUTSIDE STAFF. (a) The department shall develop clear criteria for the appropriate use of consultants and outside staff by the department to temporarily

augment the department's existing staff.

(b) The department shall annually analyze:

(1) the department's staffing needs;

(2) the need for and cost-effectiveness of contracting for consultants and outside staff;

(3) whether the department could use department staff to accomplish tasks proposed for the consultants and outside staff;

(4) whether and what type of training or additional resources are necessary for the department to use the department's own staff to accomplish tasks proposed for the consultants or outside staff; and

(5) whether entering into an agreement with a public junior college district or public technical institute under Section 2054.0701 is appropriate to assist the department in meeting staffing needs.

(c) In conjunction with the budget process, the department shall provide the analysis to the board for approval. The department may not hire or train any consultants or outside staff unless it has been approved during this budget process.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 9, eff. September 1, 2013.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 473 (H.B. 584), Sec. 1, eff. September 1, 2023.

Sec. 2054.062. INFORMATION RESOURCES TECHNOLOGIES CONSOLIDATION. (a) The department shall develop a consistent and clear method of measuring the costs and progress of an information resources technology consolidation initiative, including a consolidation under Subchapter L.

(b) The department shall work with any entity involved in an information resources technology consolidation to develop an agreed on methodology for collecting and validating data to determine a baseline assessment of costs. The department shall use the data both in the department's initial cost projections and in any later cost comparison. The department shall coordinate with the internal auditor for guidance, subject to Section 2054.038(d), on developing a methodology that provides an objective assessment of costs and

project status.

(c) Using the methodology agreed on under Subsection (b), the department shall evaluate actual costs and cost savings related to the consolidation. The department shall also evaluate the progress of the department's information resources consolidation projects compared to the initially projected timelines for implementation. The evaluation results must break out the information on both statewide and individual entity levels.

(d) The department shall annually report the evaluation results to:

(1) the board;

(2) the Legislative Budget Board; and

(3) customers involved in the consolidation.

(e) The department shall post on the department's Internet website the report required by this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 10, eff. September 1, 2013.

Sec. 2054.063. ELECTRONIC REPORTING TO STATE AGENCIES. The department shall advise and consult with state agencies to assess opportunities for allowing persons to electronically file with an agency information that the agency requires a person to report. The department shall identify the cost of implementing an electronic reporting procedure and any barriers to electronic reporting. The department may:

(1) survey state agencies to identify:

(A) electronic reporting efforts currently being used by an agency;

(B) common needs among agencies; and

(C) opportunities to use a standardized approach to electronic reporting;

(2) identify the costs associated with electronic reporting;

(3) identify reports that may be filed electronically;

(4) advise an agency regarding ways the agency may effectively and economically allow electronic reporting to the agency; and

(5) develop and implement a plan to adopt electronic

reporting in state government, whenever it is effective and efficient to do so.

Added by Acts 2001, 77th Leg., ch. 36, Sec. 1, eff. Sept. 1, 2001.

Sec. 2054.064. BOARD APPROVAL OF CONTRACTS. The board by rule shall establish approval requirements for all contracts, including a monetary threshold above which board approval is required before the contract may be executed.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 23.03, eff. September 28, 2011.

Sec. 2054.065. REVIEW OF CERTAIN CONTRACT SOLICITATIONS. (a) In this section:

(1) "Major contract" means a contract that has a value of at least $1 million.

(2) "Team" means the Contract Advisory Team established under Subchapter C, Chapter 2262.

(b) For any solicitation of a major contract the department is required to submit for review by the team, the department shall:

(1) implement any recommendations made by the team regarding the solicitation; or

(2) provide a written explanation of why the team's recommendations cannot be implemented.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 10, eff. September 1, 2013.

Sec. 2054.066. DEPARTMENT REVIEW. (a) The department, in consultation with the quality assurance team, the Information Technology Council for Higher Education, and the Legislative Budget Board, shall review existing statutes, procedures, data, and organizational structures to identify opportunities to increase efficiency, customer service, and transparency in information resources technologies. The department must:

(1) identify and address financial data needed to comprehensively evaluate information resources technologies spending

from an enterprise perspective;

(2) review best practices in information resources technologies governance, including private sector practices and lessons learned from other states; and

(3) review existing statutes regarding information resources technologies governance, standards, and financing to identify inconsistencies between current law and best practices.

(b) The department shall report its findings and recommendations to the governor, lieutenant governor, speaker of the house of representatives, Senate Committee on Government Organization, and House Technology Committee not later than December 1, 2014.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1051 (H.B. 3093), Sec. 3, eff. September 1, 2013.

Sec. 2054.067. POSTING OF CERTAIN DOCUMENTS RELATING TO CONTRACT SOLICITATIONS. (a) The department shall post all solicitation documents related to a contract of the department, including contracts under Chapter 2157, to the centralized accounting and payroll system authorized under Sections 2101.035 and 2101.036, or any successor system used to implement the enterprise resource planning component of the uniform statewide accounting project.

(b) The documents posted under Subsection (a) must include documents showing the criteria by which the department evaluated each vendor responding to the contract solicitation and, if applicable, an explanation of why the vendor was selected by the department under Section 2157.068(b).

Added by Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 5, eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 149 and S.B. 1964, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.068. INFORMATION TECHNOLOGY INFRASTRUCTURE REPORT. (a) In this section, "information technology" includes information

resources and information resources technologies.

(b) The department shall collect from each state agency information on the status and condition of the agency's information technology infrastructure, including information regarding:

(1) the agency's information security program;

(2) an inventory of the agency's servers, mainframes, cloud services, and other information technology equipment;

(3) identification of vendors that operate and manage the agency's information technology infrastructure; and

(4) any additional related information requested by the department.

(c) A state agency shall provide the information required by Subsection (b) to the department according to a schedule determined by the department.

(d) Not later than November 15 of each even-numbered year, the department shall submit to the governor, chair of the house appropriations committee, chair of the senate finance committee, speaker of the house of representatives, lieutenant governor, and staff of the Legislative Budget Board a consolidated report of the information submitted by state agencies under Subsection (b).

(e) The consolidated report required by Subsection (d) must:

(1) include an analysis and assessment of each state agency's security and operational risks; and

(2) for a state agency found to be at higher security and operational risks, include a detailed analysis of agency efforts to address the risks and related vulnerabilities.

(f) With the exception of information that is confidential under Chapter 552, including Section 552.139, or other state or federal law, the consolidated report submitted under Subsection (d) is public information and must be released or made available to the public on request. A governmental body as defined by Section 552.003 may withhold information confidential under Chapter 552, including Section 552.139, or other state or federal law that is contained in a consolidated report released under this subsection without the necessity of requesting a decision from the attorney general under Subchapter G, Chapter 552.

(g) This section does not apply to an institution of higher education or university system, as defined by Section 61.003, Education Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 555 (S.B. 532), Sec. 2, eff. September 1, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 11, eff. September 1, 2019.

Sec. 2054.069. PRIORITIZED CYBERSECURITY AND LEGACY SYSTEM PROJECTS REPORT. (a) Not later than October 1 of each even-numbered year, the department shall submit a report to the Legislative Budget Board that prioritizes, for the purpose of receiving funding, state agency:

(1) cybersecurity projects; and

(2) projects to modernize or replace legacy systems, as defined by Section 2054.571.

(b) Each state agency shall coordinate with the department to implement this section.

(c) A state agency shall assert any exception available under state or federal law, including Section 552.139, in response to a request for public disclosure of information contained in or written, produced, collected, assembled, or maintained in connection with the report under Subsection (a). Section 552.007 does not apply to information described by this subsection.

Added by Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 12, eff. September 1, 2019.

Sec. 2054.0691. DIGITAL TRANSFORMATION GUIDE. (a) The department shall establish a digital transformation guide to assist state agencies with:

(1) modernizing agency operations and services with respect to electronic data; and

(2) converting agency information into electronic data.

(b) The department may provide:

(1) mobile application development assistance;

(2) paper document and form inventory assistance;

(3) paperless or paper-on-request operational process planning and development; and

(4) electronic notification and digital communication

between the agency and the public.

Added by Acts 2019, 86th Leg., R.S., Ch. 604 (S.B. 819), Sec. 2, eff. September 1, 2019.
Redesignated from Government Code, Section 2054.069 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(48), eff. September 1, 2021.

Sec. 2054.070. CENTRAL REPOSITORY FOR PUBLICLY ACCESSIBLE ELECTRONIC DATA. (a) The department shall:

(1) establish a central repository of publicly accessible electronic data as the official open data Internet website for this state;

(2) designate the repository as the Texas Open Data Portal; and

(3) ensure that state agencies and political subdivisions of this state are granted shared access to the repository that allows the agencies and political subdivisions to easily post publicly accessible information to the repository.

(b) Each state agency shall prioritize using the central repository of electronic data established under Subsection (a) and actively collaborate with the department on publicly accessible data issues.

Added by Acts 2019, 86th Leg., R.S., Ch. 604 (S.B. 819), Sec. 2, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.0701. STATE INFORMATION TECHNOLOGY CREDENTIAL. (a) In this section, "public technical institute" has the meaning assigned by Section 61.003, Education Code.

(b) The department may enter into an agreement with a public junior college district under Section 130.0081, Education Code, or a public technical institute under Section 135.06, Education Code, or other applicable law to offer a program leading to a state information technology credential to address shortages in the state

information resources workforce.

(c) A program offered under this section must:

(1) be approved by the Texas Higher Education Coordinating Board in accordance with Section 61.0512, Education Code;

(2) develop the knowledge and skills necessary for an entry-level information technology position in a state agency; and

(3) include a one-year apprenticeship with:

(A) the department;

(B) another relevant state agency;

(C) an organization working on a major information resources project; or

(D) a regional network security center established under Section 2059.202.

(d) The executive director shall update the department's intra-agency career ladder program to ensure that an associate degree together with a credential awarded under this section may be substituted for a four-year baccalaureate degree.

(e) The classification officer in the office of the state auditor shall review the state's position classification plan to determine whether an associate degree together with a credential awarded under this section may be substituted for a four-year baccalaureate degree and revise relevant job descriptions accordingly.

(f) If a program offered under this section is not fully funded through tuition and other money of the public junior college district or public technical institute available for the purpose, the department may:

(1) use any money available to the department for the purpose to offer a program under this section; and

(2) solicit and accept gifts, grants, and donations from any public or private source for purposes of offering a program under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 473 (H.B. 584), Sec. 2, eff. September 1, 2023.

SUBCHAPTER D. INFORMATION RESOURCES MANAGERS

Sec. 2054.071. IDENTITY OF MANAGER; CONSOLIDATION. (a) Each state agency shall designate an employee of the agency to serve as

the agency's information resources manager.

(b) An employee designated under Subsection (a) may be designated to serve as a joint information resources manager by two or more state agencies. The department must approve the joint designation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.02, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 691 (H.B. 1788), Sec. 5, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 604 (S.B. 819), Sec. 3, eff. September 1, 2019.

Sec. 2054.074. RESPONSIBILITY TO PREPARE OPERATING PLANS. (a) The information resources manager shall prepare the biennial operating plans under Subchapter E.

(b) A joint information resources manager may, to the extent appropriate, consolidate the operating plans of each agency for which the manager serves under Section 2054.071.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.26(e), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 606, Sec. 10, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.03, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.075. COOPERATION WITH INFORMATION RESOURCES MANAGER. (a) Each state agency shall cooperate as necessary with its information resources manager to enable that individual to perform the manager's duties.

(b) Each state agency information resources manager is part of the agency's executive management and reports directly to the

executive head or deputy executive head of the agency. Each state agency shall report to the department the extent and results of its compliance with this subsection and include with the report an organizational chart showing the structure of the personnel in the agency's executive management. The department shall report the extent and results of state agencies' compliance with this subsection to the legislature.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 606, Sec. 11, eff. Sept. 1, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.11, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.076. TRAINING AND CONTINUING EDUCATION. (a) The department periodically shall analyze the training needs of information resources managers and adjust its initial training and continuing education guidelines based on its analyses. The department's analyses must take into account the different training needs of information resources managers at both large and small state agencies.

(b) The department shall provide mandatory guidelines to state agencies regarding the initial and continuing education requirements needed for information resources managers and require information resources managers to report their compliance with the requirements to the department.

(b-1) The department shall provide mandatory guidelines to state agencies regarding the continuing education requirements for cybersecurity training that must be completed by all information resources employees of the agencies. The department shall consult with the Information Technology Council for Higher Education on applying the guidelines to institutions of higher education.

(c) The department's initial training and continuing education guidelines must require information resources managers to receive training and continuing education in:

(1) implementing quality assurance programs;

(2) training the people who use the agency's information resources and information resources technologies; and

(3) balancing the technical aspects of information resources and information resources technologies with the agency's business needs.

(d) An individual who is appointed the information resources manager of a state agency before September 1, 1992, is exempt from the requirements of the department regarding initial education needed for that position.

(e) The department may provide educational materials and seminars for state agencies and information resources managers.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 606, Sec. 12, eff. Sept. 1, 1997.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 683 (H.B. 8), Sec. 6, eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.077. VULNERABILITY REPORTS. (a) In this section, a term defined by Section 33.01, Penal Code, has the meaning assigned by that section.

(b) The information security officer of a state agency shall prepare or have prepared a report, including an executive summary of the findings of the biennial report, not later than June 1 of each even-numbered year, assessing the extent to which a computer, a computer program, a computer network, a computer system, a printer, an interface to a computer system, including mobile and peripheral devices, computer software, or data processing of the agency or of a contractor of the agency is vulnerable to unauthorized access or harm, including the extent to which the agency's or contractor's electronically stored information is vulnerable to alteration, damage, erasure, or inappropriate use.

(c) Except as provided by this section, a vulnerability report and any information or communication prepared or maintained for use

in the preparation of a vulnerability report is confidential and is not subject to disclosure under Chapter 552.

(d) The information security officer shall provide an electronic copy of the vulnerability report on its completion to:

(1) the department;

(2) the state auditor;

(3) the agency's executive director;

(4) the agency's designated information resources manager; and

(5) any other information technology security oversight group specifically authorized by the legislature to receive the report.

(e) Separate from the executive summary described by Subsection (b), a state agency shall prepare a summary of the agency's vulnerability report that does not contain any information the release of which might compromise the security of the state agency's or state agency contractor's computers, computer programs, computer networks, computer systems, printers, interfaces to computer systems, including mobile and peripheral devices, computer software, data processing, or electronically stored information. The summary is available to the public on request.

Added by Acts 2001, 77th Leg., ch. 792, Sec. 1, eff. June 14, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 183 (H.B. 1830), Sec. 5, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 683 (H.B. 8), Sec. 7, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 13, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 856 (S.B. 800), Sec. 9, eff. September 1, 2021.

SUBCHAPTER E. STRATEGIC AND OPERATING PLANS; INFORMATION RESOURCES DEPLOYMENT REVIEW

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.091. PREPARATION OF STATE STRATEGIC PLAN. (a) The

executive director shall prepare a state strategic plan for information resources management for the board's review and approval.

(b) In preparing the state strategic plan, the executive director shall assess and report on:

(1) practices of state agencies regarding information resources management, including interagency and interbranch communication and interagency resource sharing;

(2) current and future information resources management technologies and practices and their potential application to state government;

(3) return on investment guidelines established by the department to help state agencies to implement major information resources projects more effectively; and

(4) any issue the department determines is relevant to the development of the state strategic plan.

(c) Each state agency shall cooperate with the executive director in providing information that will enable the executive director to assess agency practices.

(d) The executive director shall appoint an advisory committee to assist in the preparation of the state strategic plan. The members of the advisory committee appointed by the executive director must be approved by the board and must include officers or employees of state government.

(e) Repealed by Acts 2001, 77th Leg., ch. 1422, Sec. 4.30, eff. Sept. 1, 2001.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 4.02, 4.30, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1246, Sec. 2, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 1.01, eff. September 1, 2009.

Sec. 2054.092. CONTENT OF STATE STRATEGIC PLAN. (a) The state strategic plan must be prepared in coordination with the quality assurance team and state agency information resources managers.

(b) The plan must:

(1) provide a strategic direction for information resources management in state government for the five fiscal years following adoption of the plan;

(2) outline a state information architecture that contains a logically consistent set of principles, policies, and standards to guide the engineering of state government's information technology systems and infrastructure in a way that ensures compatibility and alignment with state government's needs;

(3) designate and report on critical electronic government projects to be directed by the department, including a project for electronic purchasing;

(4) provide information about best practices to assist state agencies in adopting effective information management methods, including the design, deployment, and management of information resources projects, cost-benefit analyses, and staff reengineering methods to take full advantage of technological advancements;

(5) provide long-range policy guidelines for information resources in state government, including the implementation of national, international, and department standards for information resources technologies;

(6) identify major issues faced by state agencies related to the acquisition of computer hardware, computer software, and information resources technology services and develop a statewide approach to address the issues, including:

(A) developing performance measures for purchasing and contracting; and

(B) identifying opportunities to reuse computer software code purchased with public funds;

(7) identify priorities for:

(A) the implementation of information resources technologies according to the relative economic and social impact on the state; and

(B) return on investment and cost-benefit analysis strategies; and

(8) provide information about best practices to assist state agencies in adopting methods for design, deployment, and management of telecommunications services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 545, Sec. 2, eff. Sept. 1, 2001;

Acts 2003, 78th Leg., ch. 1246, Sec. 3, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 394 (S.B. 757), Sec. 3, eff. September 1, 2007.
Acts 2007, 80th Leg., R.S., Ch. 691 (H.B. 1788), Sec. 7, eff. September 1, 2007.
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 11.019, eff. September 1, 2009.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.0925. TELECOMMUNICATIONS IN STATE STRATEGIC PLAN. (a) The plan under Section 2054.092 must address matters relating to a state telecommunications network that will effectively and efficiently meet the long-term requirements of state government for voice, video, and computer communications, with the goal of achieving a single centralized telecommunications network for state government.

(b) The telecommunications elements of the plan under Section 2054.092 must recognize that all state agencies, including institutions of higher education, are a single entity for purposes of purchasing and the determination of tariffs.

(c) The telecommunications elements of the plan under Section 2054.092 must incorporate efficiencies obtained through the use of shared transmission services and open systems architecture as they become available, building on existing systems as appropriate.

Added by Acts 1997, 75th Leg., ch. 606, Sec. 20, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 4.08, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 394 (S.B. 757), Sec. 5, eff. September 1, 2007.
Renumbered from Government Code, Section 2054.204 and amended by Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 1.04, eff. September 1, 2009.

Sec. 2054.093. AMENDMENT OF STATE STRATEGIC PLAN. (a) After

approval and adoption of the state strategic plan by the board, the board may amend the plan at any time in response to technological advancements, changes in legislation, practical experience, or new issues relating to information resources management.

(b) The board shall adopt a revised plan not later than November 1 of each odd-numbered year.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2054.094. SUBMISSION OF STATE STRATEGIC PLAN. The board shall send the state strategic plan and each amended or revised plan to the governor and to the Legislative Budget Board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2054.095. AGENCY INFORMATION RESOURCES STRATEGIC PLANNING INSTRUCTIONS. (a) The department shall prepare instructions for use by state agencies in preparing the strategic plan required by Section 2056.002.

(b) Except as otherwise modified by the Legislative Budget Board or the governor, instructions under Subsection (a) must require each state agency's strategic plan to include:

(1) a description of the agency's information resources management organizations, policies, and practices, including the extent to which the agency uses its project management practices, as defined by Section 2054.152;

(2) a description of how the agency's information resources programs support and promote its mission, goals, and objectives and the goals and policies of the state strategic plan for information resources; and

(3) other planning components that the department may prescribe.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 606, Sec. 13, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 188, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1246, Sec. 4, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 691 (H.B. 1788), Sec. 8, eff.

September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 2.02, eff. September 1, 2009.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1964 and H.B. 149, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.0965. INFORMATION RESOURCES DEPLOYMENT REVIEW. (a) Not later than March 31 of each even-numbered year, a state agency shall complete a review of the operational aspects of the agency's information resources deployment following instructions developed by the department.

(b) Except as otherwise modified by rules adopted by the department, the review must include:

(1) an inventory of the agency's major information systems, as defined by Section 2054.008, and other operational or logistical components related to deployment of information resources as prescribed by the department;

(2) an inventory of the agency's major databases and applications;

(3) a description of the agency's existing and planned telecommunications network configuration;

(4) an analysis of how information systems, components, databases, applications, and other information resources have been deployed by the agency in support of:

(A) applicable achievement goals established under Section 2056.006 and the state strategic plan adopted under Section 2056.009;

(B) the state strategic plan for information resources; and

(C) the agency's business objectives, mission, and goals;

(5) agency information necessary to support the state goals for interoperability and reuse; and

(6) confirmation by the agency of compliance with state statutes, rules, and standards relating to information resources.

Added by Acts 2007, 80th Leg., R.S., Ch. 691 (H.B. 1788), Sec. 9, eff.

September 1, 2007.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 555 (S.B. 532), Sec. 3, eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.097. ANALYSIS OF INFORMATION RESOURCES DEPLOYMENT REVIEW. (a) A state agency shall send its information resources deployment review to the quality assurance team for analysis.

(a-1) If the department determines that an agency's deployment decision is not in compliance with the state strategic plan, a state statute, or department rules or standards, the department shall require the agency to develop a corrective action plan that specifies the manner in which deficiencies will be corrected. The department shall report the status of corrective action plans to the state auditor and the Legislative Budget Board.

(b) Any member of the quality assurance team may report to the governor and the presiding officer of each house of the legislature that an agency's deployment decision is not in compliance with the state strategic plan, a state statute, or department rules or standards.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 606, Sec. 14, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 188, Sec. 4, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1246, Sec. 6, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 691 (H.B. 1788), Sec. 10, eff. September 1, 2007.

Sec. 2054.100. BIENNIAL OPERATING PLAN OF STATE AGENCY. (a) Each state agency shall submit an operating plan to the Legislative Budget Board, the quality assurance team, and the governor each state fiscal biennium in accordance with the directions of the Legislative Budget Board.

(b) The plan must describe the agency's current and proposed

projects for the biennium, including how the projects will:

(1) benefit individuals in this state and benefit the state as a whole;

(2) use, to the fullest extent, technology owned or adapted by other state agencies;

(3) employ, to the fullest extent, the department's information technology standards, including Internet-based technology standards;

(4) expand, to the fullest extent, to serve residents of this state or to serve other state agencies;

(5) develop on time and on budget;

(6) produce quantifiable returns on investment; and

(7) meet any other criteria developed by the department or the quality assurance team.

(c) A state agency shall amend its biennial operating plan when necessary to reflect changes in the plan during a biennium. At a minimum, an agency shall amend its biennial operating plan to reflect significant new or changed information resources initiatives or information resources technologies initiatives contained in the agency's legislative appropriations request. Not later than the date designated by the Legislative Budget Board in its directions, an agency shall submit an amended plan to reflect new or changed initiatives contained in the agency's legislative appropriations request.

(d) The biennial operating plan of an institution of higher education is required to include only operational projects and infrastructure projects. The instructions provided under Section 2054.101 may not require an institution of higher education to include other projects in the plan.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.26(f), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 606, Sec. 15, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 188, Sec. 5, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1246, Sec. 7, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1266, Sec. 3.01, eff. June 20, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 183 (H.B. 1830), Sec. 6, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.12, eff.

September 1, 2019.

Sec. 2054.101. INSTRUCTIONS FOR PREPARING OPERATING PLANS. (a) The Legislative Budget Board may provide instructions to guide state agencies in their preparation of biennial operating plans.

(b) The instructions may:

(1) specify the format of the plans;

(2) specify the information required to be included in the plans; and

(3) list the general criteria that the Legislative Budget Board may use to evaluate the plans.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.26(g), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 188, Sec. 6, eff. Sept. 1, 2001.

Sec. 2054.1015. PLANNED PROCUREMENT SCHEDULES FOR COMMODITY ITEMS. (a) In this section:

(1) "Commodity items" has the meaning assigned by Section 2157.068.

(2) "State agency" does not include an institution of higher education.

(b) The department may require a state agency to provide to the department a planned procurement schedule for commodity items if the department determines that the information in the schedule can be used to provide a benefit to the state. If required by the department, a state agency must provide a planned procurement schedule for commodity items to the department before the agency's operating plan may be approved under Section 2054.102.

(c) The department shall use information contained in the schedules to plan future vendor solicitations of commodity items or for any other activity that provides a benefit to the state.

(d) A state agency shall notify the department and the Legislative Budget Board if the agency makes a substantive change to a planned procurement schedule for commodity items.

(e) The department shall specify hardware configurations for state commodity items in its instructions for the preparation of planned procurement schedules.

(f) Each state agency shall use the hardware configurations specified under Subsection (e) in developing the agency's planned procurement schedules.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.05, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 691 (H.B. 1788), Sec. 11, eff. September 1, 2007.
Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 2.03, eff. September 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 48, eff. September 1, 2013.

Sec. 2054.102. EVALUATION AND APPROVAL OF OPERATING PLANS. (a) The Legislative Budget Board may specify procedures for submission, review, approval, and disapproval of biennial operating plans and amendments, including procedures for review or reconsideration of the Legislative Budget Board's disapproval of a biennial operating plan or biennial operating plan amendment. The Legislative Budget Board shall review and approve or disapprove the biennial operating plan for a state fiscal biennium on or before the 60th day after the last day of the regular legislative session held during the calendar year during which that state fiscal biennium begins.

(a-1) If an amendment to a biennial operating plan is submitted to the Legislative Budget Board on a date that falls during the period beginning September 1 of an even-numbered year and ending the last day of the following regular legislative session, the Legislative Budget Board shall review and approve or disapprove the amendment on or before the 60th day after the last day of that regular legislative session.

(a-2) If an amendment to a biennial operating plan is submitted to the Legislative Budget Board on a date that falls outside of the period described by Subsection (a-1), the Legislative Budget Board shall review and approve or disapprove the amendment on or before the 60th day after the date the amendment is submitted.

(a-3) The Legislative Budget Board may extend the deadline for the Legislative Budget Board's action on an amendment to a biennial operating plan by the number of days the review of the amendment is

delayed while board staff waits for the submission of additional information regarding the amendment requested by the staff as necessary for the completion of the review.

(a-4) An amendment to a biennial operating plan is considered to be approved if the Legislative Budget Board does not disapprove the amendment before the later of:

(1) the day following the last day of the period for approval or disapproval of the amendment as provided by Subsection (a-1) or (a-2), as applicable; or

(2) the day following the last day of the period for approval or disapproval of the amendment as extended under Subsection (a-3).

(b) The governing board of the department shall adopt rules as necessary to establish department standards.

(b-1) The Legislative Budget Board, in consultation with the department and the Information Technology Council for Higher Education, shall establish criteria to evaluate state agency biennial operating plans. In developing the criteria, the board shall include criteria on:

(1) the feasibility of proposed information resources projects for the biennium;

(2) the consistency of the plan with the state strategic plan;

(3) the appropriate provision of public electronic access to information;

(4) evidence of business process streamlining and gathering of business and technical requirements; and

(5) services, costs, and benefits.

(c) The department shall provide the Legislative Budget Board with a list of agencies that have not complied with department standards, provisions of the state strategic plan, or corrective action plans. An agency identified on a list under this subsection shall develop a corrective action plan approved by the department that specifies the manner in which deficiencies will be corrected before components of or amendments to the agency's biennial operating plan may be approved by the Legislative Budget Board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.26(h), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 188, Sec. 7, eff. Sept. 1, 2001;

Acts 2003, 78th Leg., ch. 1246, Sec. 8, eff. Sept. 1, 2003.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1051 (H.B. 3093), Sec. 4, eff. September 1, 2013.
Acts 2015, 84th Leg., R.S., Ch. 1203 (S.B. 1455), Sec. 12, eff. September 1, 2015.

Sec. 2054.103. SUBMISSION OF OPERATING PLANS. Each state agency shall send a copy of its biennial operating plan and of any amendments to the plan, as approved by the Legislative Budget Board, to the governor and the state auditor not later than the 30th day after the date the Legislative Budget Board approves the plan or amendment, as applicable.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.26(i), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 606, Sec. 16, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 188, Sec. 8, eff. Sept. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.13, eff. September 1, 2019.

Sec. 2054.104. DENIAL OF ACCESS TO APPROPRIATIONS ON FAILURE TO SUBMIT OPERATING PLAN. (a) If a state agency fails to comply with Section 2054.103, the governor may direct the comptroller to deny the agency access to the agency's appropriations that relate to the management of information resources.
(b) The denial of access may continue until the governor is satisfied with the state agency's compliance with this section.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.26(j), eff. Sept. 1, 1995.

SUBCHAPTER F. OTHER POWERS AND DUTIES OF STATE AGENCIES

Sec. 2054.111. USE OF STATE ELECTRONIC INTERNET PORTAL PROJECT. (a) In this section, "local government" and "project" have the meanings assigned by Section 2054.251.
(b) A state agency shall consider using the project for agency

services provided on the Internet, including:

(1) financial transactions;

(2) applications for licenses, permits, registrations, and other related documents from the public;

(3) electronic signatures; and

(4) any other applications that require security.

(c) If a state agency chooses not to use the project under Subsection (b), the agency must provide documentation to the department that shows the services and security required by the agency. The department shall prescribe the documentation required.

(d) A state agency that uses the project shall comply with rules adopted by the department, including any rules regarding:

(1) the appearance of the agency's Internet site and the ease with which the site can be used;

(2) the use of the project seal; and

(3) marketing efforts under Subsection (g).

(e) A state agency or local government that uses the project may charge a fee under Subchapter I if:

(1) the fee is necessary to recover the actual costs directly and reasonably incurred by the agency or local government because of the project for:

(A) the use of electronic payment methods; or

(B) interfacing with other information technology systems;

(2) the fee does not include an amount to recover state agency or local government employee costs;

(3) the state agency or local government approves the amount of the fee using the state agency's or local government's standard approval process for fee increases;

(4) the chief financial officer for the state agency or local government certifies that the amount of the fee is necessary to recover the actual costs incurred because of the project; and

(5) the department approves the amount of the fee.

(f) A local government may not charge a fee under Subsection (e) that is otherwise prohibited under Section 195.006 or 195.007, Local Government Code.

(g) A state agency that uses the project shall assist the department with marketing efforts regarding the use of the project.

Added by Acts 2001, 77th Leg., ch. 342, Sec. 5, eff. May 3, 2001.

Amended by Acts 2003, 78th Leg., ch. 70, Sec. 1, eff. May 16, 2003; Acts 2003, 78th Leg., ch. 1216, Sec. 1, eff. June 20, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 1, eff. June 18, 2005.
Acts 2005, 79th Leg., Ch. 1292 (H.B. 2593), Sec. 1, eff. June 18, 2005.
Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 12, eff. June 17, 2011.

Sec. 2054.1115. ELECTRONIC PAYMENTS ON STATE ELECTRONIC INTERNET PORTAL. (a) A state agency or local government that uses the state electronic Internet portal may use electronic payment methods, including the acceptance of credit and debit cards, for:

(1) point-of-sale transactions, including:

(A) person-to-person transactions;

(B) transactions that use an automated process to facilitate a person-to-person transaction; and

(C) transactions completed by a person at an unattended self-standing computer station using an automated process;

(2) telephone transactions; or

(3) mail transactions.

(b) The state agency or local government may charge a reasonable fee, as provided by Section 2054.111 or Subchapter I, to recover costs incurred through electronic payment methods used under this section.

Added by Acts 2003, 78th Leg., ch. 1216, Sec. 2, eff. June 20, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 2, eff. June 18, 2005.
Acts 2005, 79th Leg., Ch. 1292 (H.B. 2593), Sec. 2, eff. June 18, 2005.
Acts 2007, 80th Leg., R.S., Ch. 389 (S.B. 687), Sec. 1, eff. June 15, 2007.
Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 13, eff. June 17, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 14, eff. June 17, 2011.

Sec. 2054.112. SECURITY REVIEW FOR NEW INTERNET SITES. Each state agency shall review its requirements for forms, data collection, and notarization when planning to deliver a service through the Internet to determine if the information is necessary and, if necessary, the appropriate level of authentication. Based on this review, the agency shall:

(1) eliminate any unnecessary requirements; and

(2) adjust security to the appropriate level for any necessary requirements.

Added by Acts 2001, 77th Leg., ch. 342, Sec. 5, eff. May 3, 2001.

Sec. 2054.113. DUPLICATION WITH STATE ELECTRONIC INTERNET PORTAL. (a) This section does not apply to a state agency that is a university system or institution of higher education as defined by Section 61.003, Education Code.

(b) A state agency may not duplicate an infrastructure component of the state electronic Internet portal, unless the department approves the duplication. In this subsection, "infrastructure" does not include the development of applications, and the supporting platform, for electronic government projects.

(c) Before a state agency may contract with a third party for Internet application development that duplicates a state electronic Internet portal function, including a function of a native mobile application, the state agency must notify the department of its intent to bid for such services at the same time that others have the opportunity to bid. The department may exempt a state agency from this section if it determines the agency has fully complied with Section 2054.111.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 2.02, eff. June 15, 2001. Amended by Acts 2003, 78th Leg., ch. 1216, Sec. 3, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 3, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1208 (H.B. 1789), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 15, eff. June 17, 2011.

Acts 2021, 87th Leg., R.S., Ch. 270 (H.B. 3130), Sec. 1, eff. September 1, 2021.

Sec. 2054.115. SALE OR LEASE OF SOFTWARE. (a) A state agency that develops automated information systems software may enter a contract with an individual or company for the sale, lease, marketing, or other distribution of the software.

(b) The state agency shall obtain under the contract a royalty, license right, or other appropriate means of securing appropriate compensation for the development of the software.

(c) Money received under the contract shall be deposited to the credit of the fund from which the development of the software was financed.

(d) To the extent of a conflict between this section and another provision of state law relating to automated information systems software, the other provision prevails.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2054.116. SPANISH LANGUAGE CONTENT ON AGENCY WEBSITES. (a) In this section, "person of limited English proficiency" means a person whose primary language is other than English and whose English language skills are such that the person has difficulty interacting effectively with a state agency.

(b) Each state agency shall make a reasonable effort to ensure that Spanish-speaking persons of limited English proficiency can meaningfully access state agency information online.

(c) In determining whether a state agency is providing meaningful access, an agency shall consider:

(1) the number or proportion of Spanish-speaking persons of limited English proficiency in the agency's eligible service population;

(2) the frequency with which Spanish-speaking persons of limited English proficiency seek information regarding the agency's programs;

(3) the importance of the services provided by the agency's

programs; and

(4) the resources available to the agency.

(d) In making a reasonable effort to provide meaningful access, the state agency must avoid:

(1) providing information in Spanish that is limited in scope;

(2) unreasonably delaying the provision of information in Spanish; and

(3) providing program information, including forms, notices, and correspondence, in English only.

(e) This section does not apply to interactive applications provided through the state electronic Internet portal.

Added by Acts 2005, 79th Leg., Ch. 683 (S.B. 213), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 16, eff. June 17, 2011.

Sec. 2054.117. ELECTRONIC DATA PROCESSING CENTER. (a) Each state agency, if practicable, shall use the electronic data processing center operated by the comptroller in performing any of the agency's accounting and data processing activities that can be practically adapted to the use of the center's equipment.

(b) The comptroller shall permit the use of the center's computer and other data processing equipment by state agencies with or without charge under rules that ensure the proper use of the equipment for the efficient and economical management of state government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2054.118. MAJOR INFORMATION RESOURCES PROJECT. (a) A state agency may not spend appropriated funds for a major information resources project unless the project has been approved by:

(1) the Legislative Budget Board in the agency's biennial operating plan; and

(2) the quality assurance team.

(b) The department shall develop rules or guidelines for its

review of major information resources projects and project management practices for the projects. The department shall also assist the Legislative Budget Board in evaluating the determinations about comparative costs and benefits that state agencies make under Subsection (c).

(c) A state agency that proposes to spend appropriated funds for a major information resources project must first determine:

(1) the comparative benefits of using agency personnel contrasted with using outside contractors to design the project; and

(2) the comparative total costs of leasing and of purchasing the information resources and information resources technologies involved in the project, with those costs to be determined after taking into account the use of the resources and technologies over their lifetimes.

(d) Before a state agency may initially spend appropriated funds for a major information resources project, the state agency must quantitatively define the expected outcomes and outputs for the project and provide that information to the quality assurance team.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.26(k), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 606, Sec. 17, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 188, Sec. 9, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1422, Sec. 3.03, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1246, Sec. 9, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1208 (H.B. 1789), Sec. 3, eff. September 1, 2007.

Sec. 2054.1181. OVERSIGHT OF MAJOR INFORMATION RESOURCES PROJECTS. (a) The department shall provide additional oversight services, including risk management, quality assurance services, independent project monitoring, and project management, for major information resources projects described by Section 2054.003(10)(C) and for other major information resources projects selected for oversight by the governor, lieutenant governor, or speaker of the house of representatives. A state agency with a project subject to oversight shall pay for oversight by the department and quality assurance team based on a funding model developed by the department. The department may contract with a vendor to provide the necessary

oversight at the department's direction.

(b) In performing its duties under this section, the department shall:

(1) develop policies for the additional oversight of projects required by Subsection (a);

(2) implement project management standards;

(3) use effective risk management strategies;

(4) establish standards that promote the ability of information resources systems to operate with each other; and

(5) use industry best practices and process reengineering when feasible.

(c) Repealed by Acts 2003, 78th Leg., ch. 1246, Sec. 29, eff. Sept. 1, 2003.

(d) The quality assurance team shall evaluate major information resources projects to determine if the projects are operating on time and within budget.

(e) If the quality assurance team determines that a major information resources project is poorly managed or has excessive cost overruns, the quality assurance team may:

(1) establish a corrective action plan, including modifications to the design, deployment, or costs related to the project; or

(2) discontinue the project, subject to Legislative Budget Board approval.

(f) Repealed by Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 30(2), eff. September 1, 2019.

(g) The quality assurance team may require a state agency to provide information on:

(1) the status of a major information resources project;

(2) the costs for a major information resources project;

(3) the risk associated with a major information resources project; and

(4) a major information resources project's general potential for success.

(h) On request by the quality assurance team, the state auditor shall audit and review major information resources projects and the information provided by the state agencies under this section.

(i) On request by the quality assurance team, the comptroller shall provide assistance regarding:

(1) verifying the accuracy of information provided by state

agencies on project costs under this section; and

(2) determining a state agency's compliance with this section.

(j) A state agency may not amend a contract subject to review under Section 2054.158(b)(4) if the contract is at least 10 percent over budget or the associated major information resources project is at least 10 percent behind schedule unless the agency:

(1) conducts a cost-benefit analysis with respect to canceling or continuing the project; and

(2) submits the analysis described by Subdivision (1) to the quality assurance team.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 3.02, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1246, Sec. 10, 29, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. 533), Sec. 2, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 4, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 30(2), eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 855 (S.B. 799), Sec. 4, eff. September 1, 2021.

Sec. 2054.1182. EVALUATION OF COMPLETED MAJOR INFORMATION RESOURCES PROJECTS. (a) After a major information resources project has been completed, a state agency shall evaluate and report to the quality assurance team on whether the project met the agency's objectives or other expectations.

(b) The state auditor may:

(1) provide an independent evaluation of the completed project to ensure the validity of the results reported under Subsection (a); and

(2) send the evaluation to the legislative audit committee.

Added by Acts 2003, 78th Leg., ch. 1246, Sec. 11, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1208 (H.B. 1789), Sec. 4, eff. September 1, 2007.

Sec. 2054.1183. ANNUAL REPORT ON MAJOR INFORMATION RESOURCES PROJECTS. (a) Not later than December 1 of each year, the quality assurance team shall report on the status of major information resources projects to the:

(1) governor;

(2) lieutenant governor;

(3) speaker of the house of representatives;

(4) presiding officer of the committee in the house of representatives with primary responsibility for appropriations; and

(5) presiding officer of the committee in the senate with primary responsibility for appropriations.

(b) The annual report must include:

(1) the current status of each major information resources project; and

(2) information regarding the performance indicators developed under Section 2054.159 for each major information resources project at each stage of the project's life cycle.

Added by Acts 2003, 78th Leg., ch. 1246, Sec. 11, eff. Sept. 1, 2003.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 897 (H.B. 3275), Sec. 1, eff. January 1, 2018.

Sec. 2054.120. ELECTRONIC MAIL ADDRESS. (a) A state agency shall establish an Internet electronic mail address for the agency. The state agency may publish the electronic mail address and use electronic mail to communicate with the public. The state agency may consult with the Department of Information Resources to establish its electronic mail address.

(b) In this section, "Internet" means the largest nonproprietary nonprofit cooperative public computer network, popularly known as the Internet.

Added by Acts 1997, 75th Leg., ch. 535, Sec. 1, eff. May 31, 1997; Acts 1997, 75th Leg., ch. 606, Sec. 18, eff. Sept. 1, 1997.

Sec. 2054.121. COORDINATION WITH INSTITUTIONS OF HIGHER

EDUCATION. (a) An institution of higher education shall coordinate its use of information technologies with other such institutions to more effectively provide education, research, and community service.

(b) The Information Technology Council for Higher Education consists of the chief information officer or equivalent employee of:

(1) The Texas A&M University System;

(2) The University of Texas System;

(3) The Texas State University System;

(4) The University of North Texas System;

(5) The University of Houston System;

(6) The Texas Tech University System; and

(7) one institution of higher education, other than a public junior college, not included in a university system listed in this subsection who is selected by a majority of the chief executive officers of all the institutions of higher education, other than public junior colleges, not included in a listed university system.

(c) Before adopting a proposed rule that applies to institutions of higher education, the department shall prepare, in consultation with the council established by Subsection (b), an analysis of the impact of the rule on institutions of higher education that includes consideration of:

(1) the impact of the rule on the mission of higher education, student populations, and federal grant requirements;

(2) alternate methods of implementation to achieve the purpose of the rule; and

(3) exempting institutions of higher education from all or part of the requirements of the rule.

(d) The department shall include its analysis as part of the notice of the proposed rule that the agency files with the secretary of state for publication in the Texas Register and shall provide copies to the governor, the lieutenant governor, and the speaker of the house of representatives.

(e) Each department rule that applies to institutions of higher education and that is in effect on September 1, 2003, ceases to apply to institutions of higher education on September 1, 2004, unless readopted by the department on or after September 1, 2003, in a form that expressly applies to institutions of higher education.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.14, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1266, Sec. 3.02, eff.

June 20, 2003.

Sec. 2054.1211. REPORTING REQUIREMENTS OF INSTITUTIONS OF HIGHER EDUCATION. The department and the Information Technology Council for Higher Education established under Section 2054.121(b) shall review all plans and reports required of institutions of higher education under this chapter. After September 1, 2014, an institution of higher education is not required to prepare or submit a plan or report generally required of a state agency under this chapter except to the extent expressly provided by a rule adopted by the department on or after September 1, 2013.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 49, eff. September 1, 2013.

Sec. 2054.122. COORDINATED TECHNOLOGY TRAINING. A state agency each calendar quarter shall coordinate agency training for the use of information resources technologies with training offered or coordinated by the department. The agency shall use training offered or coordinated by the department if it meets agency requirements and is cost-competitive.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.14, eff. Sept. 1, 1999.

Sec. 2054.124. POWER MANAGEMENT SOFTWARE. (a) After researching the software available, the department shall by competitive bid select power management software to be used, if technically feasible, by state agencies to reduce the amount of energy required to operate state computer networks and networked personal computers.

(c) An institution of higher education shall purchase, lease, or otherwise acquire and use power management software only if the department, in consultation with the Information Technology Council for Higher Education, determines that the institution of higher education's use of power management software would provide cost savings to this state. In making a determination under this subsection, the department must perform the analysis described by

Section 2054.121(c). The analysis must include an assessment of how the use of power management software affects the security of electronic data, including data protected from public disclosure by state or federal law.

Added by Acts 2007, 80th Leg., R.S., Ch. 171 (H.B. 66), Sec. 1, eff. September 1, 2007.

Sec. 2054.125. LINKING AND INDEXING INTERNET SITES. (a) All state agencies that maintain a generally accessible Internet site shall cooperate to facilitate useful electronic links among the sites. State agencies shall attempt to link their sites in such a manner that different sites from which persons can be expected to need information concurrently are linked.

(b) Each state agency that maintains a generally accessible Internet site shall establish the site so that the site can be located easily through electronic means.

(c) The department on request shall assist an agency to comply with this section.

(d) Each state agency that maintains a generally accessible Internet site and that uses the state electronic Internet portal shall include a link to the state electronic Internet portal on the front page of the Internet site.

Added by Acts 1999, 76th Leg., ch. 1233, Sec. 3, eff. June 18, 1999. Renumbered from Sec. 2054.121 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(68), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 70, Sec. 2, eff. May 16, 2003; Acts 2003, 78th Leg., ch. 1216, Sec. 4, eff. June 20, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 17, eff. June 17, 2011.

Sec. 2054.126. POSTING OF INFORMATION ON INTERNET. (a) The department shall adopt a policy that:

(1) prescribes terms under which a person may use, copy information from, or link to a generally accessible Internet site maintained by or for a state agency; and

(2) protects the personal information of members of the

public who access information from or through a generally accessible Internet site maintained by or for a state agency.

(b) The department shall post the policy on its Internet site. A state agency shall prominently post a link to the policy statement on a generally accessible Internet site maintained by or for the agency.

(c) The policy shall include a statement:

(1) generally allowing the use and reproduction of information on a state agency's Internet site without the state agency's permission, subject to specified conditions;

(2) generally allowing linking from a web page to a page on a state agency's Internet site without the state agency's permission, subject to specified conditions;

(3) prohibiting a state agency from charging a fee to access, use, reproduce information on, or link to its Internet site except to the extent the state agency is specifically authorized to do so by the legislature;

(4) requiring that the state agency's Internet site be credited as the source of information reproduced from the site and requiring that the date that the material was reproduced from the site be clearly stated;

(5) prohibiting a state agency from selling or releasing an e-mail address of a member of the public unless the member of the public affirmatively consents to the sale or release of the e-mail address; and

(6) specifying other policies necessary to protect from public disclosure personal information submitted by a member of the public to a state agency's Internet site to the extent the information is:

(A) confidential;

(B) excepted from the requirements of Section 552.021; or

(C) protected by other law intended to protect a person's privacy interests.

(d) Each state agency, other than an institution of higher education, that receives an aggregate amount of appropriations in the General Appropriations Act for a state fiscal biennium that exceeds $175 million shall post the following information during the biennium on a generally accessible Internet site maintained by or for the agency:

(1) an analysis of all agency expenditures during the two preceding state fiscal years that lists each county in the state and states for each county the amount of agency expenditures made in or for the benefit of the county;

(2) if the information required to substantially comply with Subdivision (1) is not available, an analysis that approximates compliance with Subdivision (1) to the greatest possible extent by listing agency expenditures according to geographic regions of the state, to the extent possible, and by each field office of the agency;

(3) a profile of the governing officer or of each member of the governing body of the agency that includes, among other information, the office address of the officer or member;

(4) a listing and description of all contracts with vendors that have a value exceeding $100,000 that the agency has entered into and that are currently being performed or for which performance has not yet begun;

(5) a brief description of the agency's duties; and

(6) an electronic link to the agency's rules as published in the electronic version of the Texas Administrative Code and an electronic link to any written procedure of the agency relating to agency hearings that is not contained in the electronic version of the Texas Administrative Code.

(e) Each state agency that maintains a generally accessible Internet site or for which a generally accessible Internet site is maintained may post on the site any nonconfidential information related to the agency's programs, activities, or functions.

(f) Each state agency that maintains a generally accessible Internet site or for which a generally accessible Internet site is maintained shall include a link on the agency's Internet site to the state expenditure database established under Section 403.024. In this subsection, "state agency" has the meaning assigned by Section 403.013.

Added by Acts 1999, 76th Leg., ch. 1573, Sec. 1, eff. Oct. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 545, Sec. 3, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 710, Sec. 1, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 2054.121 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(69), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1275, Sec. 2(81), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1270 (H.B. 3430), Sec. 4, eff. October 1, 2007.

Sec. 2054.1264. POSTING OF COST-EFFICIENCY SUGGESTIONS AND IDEAS ON STATE AGENCY WEBSITE. (a) In this section, "state agency" does not include an institution of higher education, as defined by Section 61.003, Education Code.

(b) Except as provided by Subsection (d) and to the extent possible using available resources, each state agency that has 1,500 or more employees shall post on the agency's intranet website or generally accessible Internet website an electronic form or link allowing an employee of the agency to submit suggestions and ideas on how to make the agency more cost-efficient. The system for submitting suggestions and ideas must allow an employee to elect to submit a suggestion or idea that includes the employee's name or to submit an anonymous suggestion or idea. If an employee elects to submit anonymously, the suggestion or idea may not be traceable to the employee and the system for anonymous submission may not record data linking the suggestion or idea to the computer used for the submission.

(c) Except as provided by Subsection (d), each state agency that posts a form or link as provided by Subsection (b) shall post on the agency's generally accessible Internet website a link allowing members of the public to:

(1) monitor, in real time or on a weekly, monthly, or quarterly basis, submissions made under Subsection (b); and

(2) vote for the public's favorite submission.

(d) The department may exclude from the requirements of this section a state agency if the agency has a preexisting program or link that the department determines substantially meets the requirements of this section.

(e) The department shall adopt rules establishing procedures and required formats for implementing this section. The rules adopted under this subsection must require that submissions under Subsection (b) and votes under Subsection (c) be moderated to exclude overtly political or offensive material.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1126 (H.B. 1128), Sec. 1,

eff. September 1, 2013.

Sec. 2054.1265. POSTING HIGH-VALUE DATA SETS ON INTERNET. (a) In this section:

(1) "High-value data set" means information that can be used to increase state agency accountability and responsiveness, improve public knowledge of the agency and its operations, further the core mission of the agency, create economic opportunity, or respond to need and demand as identified through public consultation. The term does not include information that is confidential or protected from disclosure under state or federal law.

(2) "State agency" means a board, commission, office, department, or other agency in the executive, judicial, or legislative branch of state government. The term includes an institution of higher education as defined by Section 61.003, Education Code.

(b) Each state agency shall post on a generally accessible Internet website maintained by or for the agency each high-value data set created or maintained by the agency, if the agency:

(1) determines that, using existing resources, the agency can post the data set on the Internet website at no additional cost to the state;

(2) enters into a contract advantageous to the state under which the contractor posts the data set on the Internet website at no additional cost to the state; or

(3) receives a gift or grant specifically for the purpose of posting one or more of the agency's high-value data sets on the Internet website.

(c) A high-value data set posted by a state agency under this section must be raw data in open standard format that allows the public to search, extract, organize, and analyze the information.

(d) The web page on which a state agency's high-value data set is posted must:

(1) use the agency's Internet website home page address and include the uniform resource locator suffix "data"; and

(2) have a conspicuously displayed link on either the agency's Internet website home page or another intuitive location accessible from the agency's Internet website home page.

(e) A state agency may accept a gift or grant for the purpose

of posting one or more of the agency's high-value data sets on an Internet website.

(f) A state agency that posts a high-value data set on the Internet website maintained by or for the agency shall provide the department with a brief description of the data set and a link to the data set. The department shall post the description and link on the state electronic Internet portal.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1328 (S.B. 701), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 740 (S.B. 279), Sec. 1, eff. September 1, 2013.

Sec. 2054.127. INTERNET WEBSITE DEVELOPMENT: GRANTS AND ASSISTANCE. The department shall encourage each state agency to seek available grants and to work with public educational institutions and members of the business and industry community for the purpose of Internet website development and maintenance.

Added by Acts 2001, 77th Leg., ch. 545, Sec. 4, eff. Sept. 1, 2001.

Sec. 2054.128. ENVIRONMENTAL AND NATURAL RESOURCES AGENCIES INTERNET PORTAL. (a) State agencies that have jurisdiction over matters related to environmental protection or quality or to the development, conservation, or preservation of natural resources shall develop, in mutual cooperation with the department, a single information link, through the state electronic Internet portal, to provide electronic access to information and services related to the agencies' authority and duties, including access to agency rules and other public information.

(b) The department shall coordinate the efforts of the agencies in developing the information link to ensure that the efforts produce a link that is compatible with efforts of the task force conducted under Section 2054.062.

Added by Acts 2001, 77th Leg., ch. 613, Sec. 1, eff. Sept. 1, 2001.
Renumbered from Government Code Sec. 2054.127 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(82), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1208 (H.B. 1789), Sec. 5, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 18, eff. June 17, 2011.

Sec. 2054.129. ADVERTISING ONLINE OPTIONS. Each state agency shall advertise the options for completing transactions with that agency online.

Added by Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 4, eff. June 18, 2005.

Sec. 2054.130. REMOVAL OF DATA FROM DATA PROCESSING EQUIPMENT; RULES. (a) A state agency shall permanently remove data from data processing equipment before disposing of or otherwise transferring the equipment to a person who is not a state agency or other agent of the state. This section applies only to equipment that will not be owned by the state after the disposal or other transfer.

(b) The department shall adopt rules to implement this section. The rules must include rules that:

(1) specify what types of data processing equipment are covered by this section, including computer hard drives and other memory components;

(2) explain the acceptable methods for removal of data; and

(3) adopt appropriate forms for use by state agencies in documenting the removal process, including forms for documenting completion of the process.

Added by Acts 2005, 79th Leg., Ch. 686 (S.B. 255), Sec. 1, eff. September 1, 2005.

Sec. 2054.131. ELECTRONIC BENEFITS ENROLLMENT AND ADMINISTRATION SYSTEM. (a) In this section, "work site benefits plan" means a plan or other arrangement to provide to officers, employees, or former officers or employees:

(1) insurance, including health, life, and disability insurance and health benefits plans;

(2) flexible spending accounts; or

(3) savings or retirement benefits.

(b) If the department and the Legislative Budget Board each determine that a cost savings may be realized through a private vendor selected under this section, the department may implement a project that establishes a common electronic infrastructure through which each state agency, including any retirement system created by statute or by the constitution, shall:

(1) require its work site benefits plan participants to electronically:

(A) enroll in any work site benefits plans provided to the person by the state or a state agency;

(B) add, change, or delete benefits;

(C) sign any payroll deduction agreements to implement a contribution made to a plan in which the participant enrolls;

(D) terminate participation in a voluntary plan;

(E) initiate account investment changes and withdrawals in a retirement plan;

(F) obtain information regarding plan benefits; and

(G) communicate with the plan administrator; and

(2) administer its work site benefits plans electronically by using the project to:

(A) enroll new plan participants and, when appropriate, terminate plan participation;

(B) generate eligibility and enrollment reports for plan participants;

(C) link plan administration with payroll administration to facilitate payroll deductions for a plan;

(D) facilitate single-source billing arrangements between the agency and a plan provider; and

(E) transmit and receive information regarding the plan.

(c) The electronic infrastructure established under Subsection (b) may include the state electronic Internet portal, the Internet, intranets, extranets, and wide area networks.

(d) If the department implements an electronic infrastructure project under this section, the department shall select and contract with a single private vendor to implement the project. The contract must require the application of the project to all state agencies without cost to the state until the project is initially implemented.

(e) The private vendor selected under Subsection (d) must offer existing information resources technology for use in the project that:

(1) will be available to all state agencies, including retirement systems;

(2) includes each agency's work site benefits plan participants;

(3) will use, to the extent possible, the department's information technology standards, including information security, privacy and disaster recovery, and Internet-based technology standards;

(4) includes applications and a supporting platform that are already developed and used in connection with the electronic enrollment of work site benefits plans offered by other multiple plan providers;

(5) is available for use with a wide variety of plan and benefit providers;

(6) can be easily modified to permit changes in benefits offered by the state or a state agency;

(7) provides a solution to overcome limitations caused by the incompatibility of different legacy systems used by different state agencies and plan providers;

(8) is available for use over the Internet through existing or new websites or portals; and

(9) is supported, to the extent necessary, by:

(A) laptop and desktop enrollment and administration capabilities; and

(B) a telephone call center.

Added by Acts 2003, 78th Leg., 3rd C.S., ch. 10, Sec. 13.01, eff. Oct. 20, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 19, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 24 (S.B. 706), Sec. 2, eff. September 1, 2017.

Sec. 2054.132. POSTING OF FORMS REQUIRED. Each state agency shall make available on its Internet website each of its forms used

by the public.

Added by Acts 2005, 79th Leg., Ch. 672 (S.B. 96), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.133. INFORMATION SECURITY PLAN. (a) Each state agency shall develop, and periodically update, an information security plan for protecting the security of the agency's information.

(b) In developing the plan, the state agency shall:

(1) consider any vulnerability report prepared under Section 2054.077 for the agency;

(2) incorporate the network security services provided by the department to the agency under Chapter 2059;

(3) identify and define the responsibilities of agency staff who produce, access, use, or serve as custodians of the agency's information;

(4) identify risk management and other measures taken to protect the agency's information from unauthorized access, disclosure, modification, or destruction;

(5) include:

(A) the best practices for information security developed by the department; or

(B) a written explanation of why the best practices are not sufficient for the agency's security; and

(6) omit from any written copies of the plan information that could expose vulnerabilities in the agency's network or online systems.

(c) Not later than June 1 of each even-numbered year, each state agency shall submit a copy of the agency's information security plan to the department. Subject to available resources, the department may select a portion of the submitted security plans to be assessed by the department in accordance with department rules.

(d) Each state agency's information security plan is confidential and exempt from disclosure under Chapter 552.

(e) Each state agency shall include in the agency's information

security plan a written document that is signed by the head of the agency, the chief financial officer, and each executive manager designated by the state agency and states that those persons have been made aware of the risks revealed during the preparation of the agency's information security plan.

(f) Not later than November 15 of each even-numbered year, the department shall submit a written report to the governor, the lieutenant governor, and each standing committee of the legislature with primary jurisdiction over matters related to the department evaluating information security for this state's information resources. In preparing the report, the department shall consider the information security plans submitted by state agencies under this section, any vulnerability reports submitted under Section 2054.077, and other available information regarding the security of this state's information resources. The department shall omit from any written copies of the report information that could expose specific vulnerabilities in the security of this state's information resources.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1222 (S.B. 1597), Sec. 1, eff. September 1, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 369 (S.B. 34), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 683 (H.B. 8), Sec. 10, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 955 (S.B. 1910), Sec. 3, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 15, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.14, eff. September 1, 2019.

Sec. 2054.134. DEVICE AND INTERNET BROWSER COMPATIBILITY. (a) In this section, "wireless communication device" means a device capable of using a commercial mobile service as defined by 47 U.S.C. Section 332.

(b) The department shall identify the three most commonly used Internet browsers and post a list containing those browsers in a

conspicuous location on the department's Internet website. The department shall biennially review and, if necessary, update the list required under this subsection.

(c) Each state agency that maintains a generally accessible Internet website or for which a generally accessible Internet website is maintained shall ensure that the website is compatible with:

(1) a wireless communication device; and

(2) the most recent version of each Internet browser listed by the department as required under Subsection (b).

Added by Acts 2015, 84th Leg., R.S., Ch. 513 (H.B. 855), Sec. 1, eff. September 1, 2015.

Sec. 2054.135. DATA USE AGREEMENT. (a) Each state agency shall develop a data use agreement for use by the agency that meets the particular needs of the agency and is consistent with rules adopted by the department that relate to information security standards for state agencies.

(b) A state agency shall update the data use agreement at least biennially, but may update the agreement at any time as necessary to accommodate best practices in data management.

(c) A state agency shall distribute the data use agreement developed under this section, and each update to that agreement, to employees of the agency who handle sensitive information, including financial, medical, personnel, or student data. The employee shall sign the data use agreement distributed and each update to the agreement.

(d) To the extent possible, a state agency shall provide employees described by Subsection (c) with cybersecurity awareness training to coincide with the distribution of:

(1) the data use agreement required under this section; and

(2) each biennial update to that agreement.

Added by Acts 2015, 84th Leg., R.S., Ch. 965 (S.B. 1877), Sec. 1, eff. September 1, 2015.
Redesignated from Government Code, Section 2054.134 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(23), eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.136. DESIGNATED INFORMATION SECURITY OFFICER. Each state agency shall designate an information security officer who:

(1) reports to the agency's executive-level management;

(2) has authority over information security for the entire agency;

(3) possesses the training and experience required to perform the duties required by department rules; and

(4) to the extent feasible, has information security duties as the officer's primary duties.

Added by Acts 2017, 85th Leg., R.S., Ch. 955 (S.B. 1910), Sec. 4, eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1964, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.137. DESIGNATED DATA MANAGEMENT OFFICER. (a) Each state agency with more than 150 full-time employees shall designate a full-time employee of the agency to serve as a data management officer.

(b) The data management officer for a state agency shall:

(1) coordinate with the chief data officer to ensure the agency performs the duties assigned under Section 2054.0286;

(2) in accordance with department guidelines, establish an agency data governance program to identify the agency's data assets, exercise authority and management over the agency's data assets, and establish related processes and procedures to oversee the agency's data assets; and

(3) coordinate with the agency's information security officer, the agency's records management officer, and the Texas State Library and Archives Commission to:

(A) implement best practices for managing and securing data in accordance with state privacy laws and data privacy classifications;

(B) ensure the agency's records management programs apply to all types of data storage media;

(C) increase awareness of and outreach for the agency's records management programs within the agency; and

(D) conduct a data maturity assessment of the agency's data governance program in accordance with the requirements established by department rule.

(c) In accordance with department guidelines, the data management officer for a state agency shall post on the Texas Open Data Portal established by the department under Section 2054.070 at least three high-value data sets as defined by Section 2054.1265. The high-value data sets may not include information that is confidential or protected from disclosure under state or federal law.

(d) The data management officer for a state agency may delegate in writing to another agency employee the duty to:

(1) implement a specific requirement of Subsection (b) or (c); or

(2) participate in the advisory committee established under Section 2054.0332.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 4, eff. June 14, 2021.

Sec. 2054.138. SECURITY CONTROLS FOR STATE AGENCY DATA. Each state agency entering into or renewing a contract with a vendor authorized to access, transmit, use, or store data for the agency shall include a provision in the contract requiring the vendor to meet the security controls the agency determines are proportionate with the agency's risk under the contract based on the sensitivity of the agency's data. The vendor must periodically provide to the agency evidence that the vendor meets the security controls required under the contract.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 4, eff. June 14, 2021.

SUBCHAPTER G. PROJECT MANAGEMENT PRACTICES

Sec. 2054.151. PURPOSE AND FINDINGS. (a) The legislature intends that state agency information resources and information resources technologies projects will be successfully completed on time and within budget and that the projects will function and

provide benefits in the manner the agency projected in its plans submitted to the department and in its appropriations requests submitted to the legislature.

(b) The legislature finds that to ensure the successful completion of all information resources projects, all projects must be managed using project management practices.

Added by Acts 1997, 75th Leg., ch. 606, Sec. 19, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1208 (H.B. 1789), Sec. 7, eff. September 1, 2007.

Sec. 2054.152. DEFINITION. In this subchapter, "project management practices" includes the documented and repeatable activities through which a state agency applies knowledge, skills, tools, and techniques to satisfy project activity requirements.

Added by Acts 1997, 75th Leg., ch. 606, Sec. 19, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1208 (H.B. 1789), Sec. 8, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 2.04, eff. September 1, 2009.

Sec. 2054.153. DEPARTMENT GUIDELINES. (a) The department by rule shall establish guidelines for project management practices that take into account varying levels of project size and complexity.

(b) In developing the guidelines, the department shall:

(1) consult with state agencies; and

(2) accommodate existing project management practices of state agencies.

Added by Acts 1997, 75th Leg., ch. 606, Sec. 19, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1208 (H.B. 1789), Sec. 9, eff. September 1, 2007.

Sec. 2054.154. DEPARTMENT ASSISTANCE. The department shall

establish a comprehensive technical assistance program to aid state agencies in developing and implementing their own project management practices.

Added by Acts 1997, 75th Leg., ch. 606, Sec. 19, eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1208 (H.B. 1789), Sec. 10, eff. September 1, 2007.

Sec. 2054.156. STATE AGENCY DUTIES. (a) Each state agency shall manage information resources projects based on project management practices that are consistent with the department's guidelines under Section 2054.153.

(b) The agency's information resources manager shall oversee the implementation of the agency's project management practices.

Without reference to the amendment of this subsection, this subsection was repealed by Acts 2007, 80th Leg., R.S., Ch. 691 (H.B. 1788), Sec. 14, effective September 1, 2007.

(c) The agency's information resources manager shall demonstrate in the agency strategic plan the extent to which the agency uses its project management practices.

Added by Acts 1997, 75th Leg., ch. 606, Sec. 19, eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 691 (H.B. 1788), Sec. 14, eff. September 1, 2007.
Acts 2007, 80th Leg., R.S., Ch. 1208 (H.B. 1789), Sec. 11, eff. September 1, 2007.

Sec. 2054.157. OVERSIGHT BY DEPARTMENT. (a) The department may make formal recommendations to a state agency regarding the agency's need to develop, implement, or improve its project management practices.

(b) The department shall report on state agencies' progress in developing and implementing project management practices as part of the department's biennial performance report.

Added by Acts 1997, 75th Leg., ch. 606, Sec. 19, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1208 (H.B. 1789), Sec. 12, eff. September 1, 2007.

Sec. 2054.158. QUALITY ASSURANCE TEAM; DUTIES. (a) The comptroller, state auditor, Legislative Budget Board, and department shall:

(1) create a quality assurance team to perform the duties specified in this chapter and other law;

(2) specify in writing the responsibilities of the comptroller, state auditor, Legislative Budget Board, and department in performing the duties; and

(3) create an automated project review system.

(b) The quality assurance team shall:

(1) develop and recommend policies and procedures to improve the development, implementation, and return on investment for state agency information resources technology projects;

(2) except as provided by Subsection (e), review a state agency's business case prepared for a major information resources project under Section 2054.303 and make recommendations to improve the implementation of the project;

(3) provide annual training for state agency procurement and contract management staff on best practices and methodologies for information technology contracts;

(4) review and provide recommendations on the final negotiated terms of a contract for the development or implementation of a major information resources project with a value of at least $10 million; and

(5) provide a report to the governor, lieutenant governor, speaker of the house of representatives, and presiding officer of the standing committee of each house of the legislature with primary jurisdiction over appropriations by December 1 of each even-numbered year that includes:

(A) the performance indicator report required by Section 2054.159(a);

(B) a summary of any major issues identified in state agency reports submitted under Section 2054.159(f);

(C) an appendix containing any justifications submitted to the quality assurance team under Section 2054.160(d); and

(D) any additional information considered appropriate

by the quality assurance team.

(c) The state auditor serves on the quality assurance team as an advisor.

(d) The comptroller by rule shall develop guidelines for the additional or reduced monitoring of major information resources projects and associated contracts of state agencies during the periods described by Sections 2261.258(c)(2)(A), (B), and (C).

(e) The quality assurance team may waive the review authorized by Subsection (b)(2) for any project for which the team determines that a waiver of the review is appropriate because of the project's associated risk.

Added by Acts 2003, 78th Leg., ch. 1246, Sec. 13, eff. Sept. 1, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 676 (H.B. 1965), Sec. 1, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. 533), Sec. 3, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 5, eff. September 1, 2019.

Sec. 2054.159. MAJOR INFORMATION RESOURCES PROJECT MONITORING. (a) For the entire life cycle of each major information resources project, the quality assurance team shall monitor and report on performance indicators for each project, including schedule, cost, scope, and quality.

(b) The department by rule shall develop the performance indicators the quality assurance team is required to monitor under Subsection (a). In adopting rules under this subsection, the department shall consider applicable information technology industry standards.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 30(4), eff. September 1, 2019.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 30(4), eff. September 1, 2019.

(e) The department shall create and maintain on the department's Internet website a user-friendly data visualization tool that provides an analysis and visual representation of the performance indicators developed under Subsection (b) for each major

information resources project.

(f) For each major information resources project, a state agency shall provide the quality assurance team any verification and validation report or quality assurance report related to the project not later than the 10th day after the date the agency receives a request for the report.

(g) The quality assurance team may request any information necessary to determine a major information resources project's potential risk.

Added by Acts 2017, 85th Leg., R.S., Ch. 897 (H.B. 3275), Sec. 2, eff. January 1, 2018.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 6, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 30(4), eff. September 1, 2019.

Sec. 2054.160. REVIEW OF CONTRACT FOR MAJOR INFORMATION RESOURCES PROJECT. (a) For each contract for the development or implementation of a major information resources project with a value of at least $10 million, a state agency shall:

(1) submit the proposed terms of the contract to the quality assurance team before the start of negotiations; and

(2) submit the final negotiated unsigned contract to the quality assurance team for review under Section 2054.158(b)(4).

(b) After the quality assurance team makes a recommendation under Section 2054.158(b)(4), a state agency shall:

(1) comply with the recommendation; or

(2) submit to the quality assurance team a written explanation regarding why the recommendation is not applicable to the contract under review.

(c) Before amending a contract related to a major information resources project, a state agency must notify the governor, lieutenant governor, speaker of the house of representatives, presiding officer of the standing committee of each house of the legislature with primary jurisdiction over appropriations, and quality assurance team if:

(1) the total value of the amended contract exceeds or will

exceed the initial contract value by 10 percent or more; or

(2) the amendment requires the contractor to provide consultative services, technical expertise, or other assistance in defining project scope or deliverables.

(d) A state agency shall provide to the quality assurance team a justification for an amendment subject to Subsection (c).

Added by Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 7, eff. September 1, 2019.

Sec. 2054.161. DATA CLASSIFICATION, SECURITY, AND RETENTION REQUIREMENTS. On initiation of an information resources technology project, including an application development project and any information resources projects described in this subchapter, a state agency shall classify the data produced from or used in the project and determine appropriate data security and applicable retention requirements under Section 441.185 for each classification.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 5, eff. June 14, 2021.

SUBCHAPTER H. TELECOMMUNICATIONS PLANNING

Sec. 2054.2011. DEFINITIONS. In this subchapter:

(1) "Centralized capitol complex telephone system" means the system described in Section 2170.059.

(2) "Consolidated telecommunications system" has the meaning assigned by Section 2170.001.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 4.05, eff. Sept. 1, 2001.

Sec. 2054.203. TELECOMMUNICATIONS PLANNING AND POLICY. (a) The department shall comprehensively collect and manage telecommunications network configuration information about existing and planned telecommunications networks throughout state government.

(b) The department may require state agencies to submit to the department the agencies' network configuration information, but the department must use existing reports to gather the information if

possible and minimize the reporting burden on agencies to the extent possible.

(c) The department shall establish plans and policies for a system of telecommunications services.

(d) The department shall develop a statewide telecommunications operating plan for all state agencies. The plan shall implement a statewide network and include technical specifications.

(e) The department shall adopt appropriate policies and standards that govern the cost-effective and efficient management, operation, and use of state telecommunications services and shall distribute those policies and standards to all state agencies.

(f) Each state agency shall comply with the rules, policies, standards, and guidelines the department adopts under this section.

(g) Strategic planning for all state telecommunications services shall be performed in accordance with the guiding principles of the state strategic plan for information resources management.

Added by Acts 1997, 75th Leg., ch. 606, Sec. 20, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 4.07, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 394 (S.B. 757), Sec. 4, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 1.03, eff. September 1, 2009.

Sec. 2054.205. DEVELOPMENT OF SYSTEM. (a) The department shall develop functional requirements for a statewide system of telecommunications services for all state agencies. Existing networks, as configured on September 1, 1991, of institutions of higher education are exempt from the requirements.

(b) The department shall develop requests for information and proposals for a statewide system of telecommunications services for all state agencies.

Added by Acts 1997, 75th Leg., ch. 606, Sec. 20, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 4.09, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1068, Sec. 4, eff. June 20, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 394 (S.B. 757), Sec. 6, eff.

September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 1.05, eff. September 1, 2009.

Sec. 2054.2051. OVERSIGHT OF SYSTEMS. (a) The department shall develop service objectives for the consolidated telecommunications system and the centralized capitol complex telephone system.

(b) The department shall develop performance measures to establish cost-effective operations and staffing of the consolidated telecommunications system and the centralized capitol complex telephone system.

(c) The department shall review the status of all projects related to and the financial performance of the consolidated telecommunications system and the centralized capitol complex telephone system, including:

(1) a comparison between actual performance and projected goals at least once every three months; and

(2) any benefit of contracting with private vendors to provide some or all of the systems at least once each year.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 4.10, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1246, Sec. 14, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 394 (S.B. 757), Sec. 7, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 1.06, eff. September 1, 2009.

SUBCHAPTER I. STATE ELECTRONIC INTERNET PORTAL PROJECT

Sec. 2054.251. DEFINITIONS. In this subchapter:

(1) Repealed by Acts 2005, 79th Leg., Ch. 1260, Sec. 24(1), eff. June 18, 2005.

(2) Repealed by Acts 2005, 79th Leg., Ch. 1260, Sec. 24(1), eff. June 18, 2005.

(3) "Licensing entity" means a department, commission, board, office, or other agency of the state or a political

subdivision of the state that issues an occupational license.

(4) "Local government" means a county, municipality, special district, school district, junior college district, or other political subdivision of the state.

(5) "Occupational license" means a license, certificate, registration, permit, or other form of authorization, including a renewal of the authorization, that:

(A) a person must obtain to practice or engage in a particular business, occupation, or profession; or

(B) a facility must obtain before a particular business, occupation, or profession is practiced or engaged in within the facility.

(6) "Project" means the project implemented under Section 2054.252.

Added by Acts 2001, 77th Leg., ch. 342, Sec. 3, eff. May 3, 2001.
Amended by Acts 2003, 78th Leg., ch. 1216, Sec. 5, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 24(1), eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1292 (H.B. 2593), Sec. 12(1), eff. June 18, 2005.

Sec. 2054.252. STATE ELECTRONIC INTERNET PORTAL PROJECT. (a) The department shall implement a state electronic Internet portal project that establishes a common electronic infrastructure through which state agencies and local governments, including licensing entities, may by any method:

(1) send and receive documents or required payments to and from:

(A) members of the public;

(B) persons who are regulated by the agencies or local governments; and

(C) the agencies and local governments;

(2) receive applications for original and renewal licenses and permits, including occupational licenses, complaints about occupational license holders, and other documents for filing from members of the public and persons who are regulated by a state agency

or local government that, when secure access is necessary, can be electronically validated by the agency, local government, member of the public, or regulated person;

(3) send original and renewal occupational licenses to persons regulated by licensing entities;

(4) send profiles of occupational license holders to persons regulated by licensing entities and to the public;

(5) store information; and

(6) provide and receive any other service to and from the agencies and local governments or the public.

(b) The electronic infrastructure established by the department under Subsection (a) may include the Internet, intranets, extranets, and wide area networks.

(b-1) The department may include in the electronic infrastructure established under Subsection (a) a method by which a state agency or local government may track payments, including cash and credit card payments, received by the state agency or local government, whether or not the payments are made through the infrastructure.

(c) The department may implement this section in phases. Each state agency or local government that chooses to participate in the project and each licensing entity shall comply with the schedule established by the department.

(d) The department may contract with a private vendor to implement this section.

(e) The department shall charge fees to licensing entities as provided by this subchapter in amounts sufficient to cover the cost of implementing this section with respect to licensing entities. The department shall charge a subscription fee to be paid by each licensing entity. The department may not charge the subscription fee until the service for which the fee is charged is available on the Internet. If the department determines that the transaction costs exceed the maximum increase in occupational license issuance or renewal fees allowed under Subsection (g), the department may also charge a reasonable convenience fee to be recovered from a license holder who uses the project for online issuance or renewal of a license.

(f) The department may exempt a licensing entity from subscription fees under Subsection (e) if the department determines that the licensing entity has established an Internet portal that is

performing the functions described by Subsection (a).

(g) Each licensing entity shall increase the occupational license issuance or renewal fees imposed by the licensing entity by an amount sufficient to cover the cost of the subscription fee imposed on the licensing entity under Subsection (e) but not to exceed:

(1) $5 for an annual occupational license;

(2) $10 for a biennial occupational license; or

(3) the amount necessary to cover the cost of the subscription fee imposed on the licensing entity under Subsection (e) for permits or facilities licenses.

(h) The department shall provide an opportunity for a person to make a contribution to the trafficked persons program account established under Section 50.0153, Health and Safety Code, when the person accesses the state electronic Internet portal for a purpose described by Subsection (a) that involves submitting a payment to this state. The department may deduct from the donations made under this subsection an amount equal to the department's reasonable expenses associated with administering this subsection. Money contributed under this subsection shall be deposited to the credit of the account.

(i) The department shall collaborate with the Texas Department of Motor Vehicles, the Department of Public Safety, and any other state agency to maximize donations to the trafficked persons program account established under Section 50.0153, Health and Safety Code.

Added by Acts 2001, 77th Leg., ch. 342, Sec. 3, eff. May 3, 2001.
Amended by Acts 2003, 78th Leg., ch. 1216, Sec. 15, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 6, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 24(2), eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1292 (H.B. 2593), Sec. 3, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1292 (H.B. 2593), Sec. 12(2), eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 389 (S.B. 687), Sec. 2, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 21, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 22, eff. June 17, 2011.

Acts 2021, 87th Leg., R.S., Ch. 704 (H.B. 2633), Sec. 6, eff. September 1, 2021.

Sec. 2054.259. GENERAL POWERS AND DUTIES OF DEPARTMENT. The department shall:

(1) develop policies related to operation of the project;

(2) approve or disapprove services to be provided by the project;

(3) operate and promote the project;

(4) oversee contract performance for the project;

(5) comply with department financial requirements;

(6) oversee money generated for the operation and expansion of the project;

(7) develop project pricing policies, including policies regarding any fees that a state agency, including the department, or a local government may charge for a transaction that uses the project;

(8) evaluate participation in the project to determine if performance efficiencies or other benefits and opportunities are gained through project implementation; and

(9) perform periodic security audits of the operational facilities of the project.

Added by Acts 2001, 77th Leg., ch. 342, Sec. 3, eff. May 3, 2001.
Amended by Acts 2003, 78th Leg., ch. 1216, Sec. 13, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 7, eff. June 18, 2005.

Text of section as added by Acts 2005, 79th Leg., R.S., Ch. 1260 (H.B. 2048), Sec. 8

For text of section as added by Acts 2005, 79th Leg., Ch. 1292 (H.B. 2593), Sec. 6, see other Sec. 2054.2591.

Sec. 2054.2591. FEES. (a) The department shall set fees that a state agency, including the department, or a local government may charge for a transaction that uses the project. The department shall set fees at amounts sufficient to recover the direct and indirect costs of the project.

(b) A fee set by the department for using the project is in addition to any other statutory fees. The revenue collected from the fees must be used to support the project, including the recovery of project costs.

Added by Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 8, eff. June 18, 2005.

Text of section as added by Acts 2005, 79th Leg., R.S., Ch. 1292 (H.B. 2593), Sec. 6

For text of section as added by Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 8, see other Sec. 2054.2591.

Sec. 2054.2591. FEES. (a) The authority shall set fees that a state agency, including the authority, or a local government may charge for a transaction that uses the project. The authority shall set fees at amounts sufficient to recover the direct and indirect costs of the project and provide a reasonable rate of return to the authority.

(b) The authority shall charge a state agency or local government a fee for all services provided to that entity.

(c) A fee set by the authority for using the project is in addition to any other statutory fees. The revenue collected from the fees must be used to support the project, including the recovery of project costs.

(d) No fee may be charged to a person authorized to file electronically under Section 195.003, Local Government Code, for filing, recording, access to, or electronic copies of a real property record subject to the provisions of Chapter 195, Local Government Code, except as provided in Section 195.006 or 195.007, Local Government Code.

Added by Acts 2005, 79th Leg., Ch. 1292 (H.B. 2593), Sec. 6, eff. June 18, 2005.

Sec. 2054.2592. FEE EXEMPTION; BARBER AND COSMETOLOGY BOARDS. The department may not charge the State Board of Barber Examiners or the Texas Cosmetology Commission a fee to use the project for the issuance or renewal of an occupational license.

Added by Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 8, eff. June 18, 2005.

Sec. 2054.260. REPORTING REQUIREMENTS. (a) Not later than November 15 of each even-numbered year, the department shall report on the status, progress, benefits, and efficiency gains of the project. The department shall provide the report to:

(1) the presiding officer of each house of the legislature;

(2) the chair of each committee in the legislature that has primary jurisdiction over the department;

(3) the governor; and

(4) each state agency or local government participating in the project.

(b) Not later than November 15 of each even-numbered year, the department shall report on financial matters, including project costs and revenues, and on any significant issues regarding contract performance on the project.

(c) The department shall provide the report to:

(1) the presiding officer of each house of the legislature; and

(2) the chair of each committee in the legislature with primary jurisdiction over the department.

Added by Acts 2001, 77th Leg., ch. 342, Sec. 3, eff. May 3, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 9, eff. June 18, 2005.
Reenacted by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 7.0042, eff. September 1, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 11, eff. September 1, 2013.

Sec. 2054.2605. REPORTING REQUIREMENTS: LICENSING ENTITIES.

(a) Each licensing entity shall report to the Legislative Budget Board on the licensing entity's progress in using the project in performing the functions described by Section 2054.252(a).

(b) This section applies only to a licensing entity for which the department has begun implementation of the project under the schedule established by the department.

(c) A report required by this section shall be submitted every six months according to a reporting schedule established by the Legislative Budget Board.

Added by Acts 2001, 77th Leg., ch. 342, Sec. 3, eff. May 3, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 10, eff. June 18, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.2606. REPORTING PROFILE INFORMATION. (a) The following licensing entities shall establish a profile system consisting of the specific license holder information prescribed by Subsection (c):

(1) Texas Board of Chiropractic Examiners, with respect to chiropractors;

(2) Texas Department of Licensing and Regulation, with respect to podiatrists;

(3) State Board of Dental Examiners, with respect to dentists;

(4) Texas Optometry Board, with respect to optometrists and therapeutic optometrists;

(5) Texas Board of Physical Therapy Examiners, with respect to physical therapists and physical therapy facilities;

(6) Texas Board of Occupational Therapy Examiners, with respect to occupational therapists and occupational therapy facilities;

(7) Texas Behavioral Health Executive Council, with respect to psychologists; and

(8) Texas State Board of Pharmacy, with respect to pharmacists and pharmacies.

(b) A licensing entity other than a licensing entity listed in Subsection (a) is encouraged to establish a profile system consisting of the specific license holder information prescribed by Subsection (c).

(c) A licensing entity that establishes a profile system under this section shall determine the information to be included in the system and the manner for collecting and reporting the information. At a minimum, the entity shall include the following information in the profile system:

(1) the name of the license holder and the address and telephone number of the license holder's primary practice location;

(2) whether the license holder's patient, client, user, customer, or consumer service areas, as applicable, are accessible to disabled persons, as defined by federal law;

(3) the type of language translating services, including translating services for a person with impairment of hearing, that the license holder provides for patients, clients, users, customers, or consumers, as applicable;

(4) if applicable, insurance information, including whether the license holder participates in the state child health plan under Chapter 62, Health and Safety Code, or the Medicaid program;

(5) the education and training received by the license holder, as required by the licensing entity;

(6) any specialty certification held by the license holder;

(7) the number of years the person has practiced as a license holder; and

(8) if applicable, any hospital affiliation of the license holder.

(d) The department shall adopt rules to prescribe the amount of the fee to be collected by a state agency that establishes a profile system for its license holders.

(e) The department shall adopt additional rules as necessary to assist in the funding and administration of the profile systems established by state agencies, including rules prescribing policies for vendor contracts relating to the collection and entry of profile data.

Added by Acts 2001, 77th Leg., ch. 342, Sec. 3, eff. May 3, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 11, eff. June

18, 2005.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 19.005, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 768 (H.B. 1501), Sec. 3.003, eff. September 1, 2019.

Sec. 2054.261. ASSISTANCE AND COORDINATION WITH OTHER GOVERNMENTAL ENTITIES. (a) The department shall:

(1) assist state agencies and local governments in researching and identifying potential funding sources for the project;

(2) assist state agencies and local governments in using the project;

(3) assist the legislature and other state leadership in coordinating electronic government initiatives; and

(4) coordinate operations between state agencies and local governments to achieve integrated planning for the project.

(b) The department by rule shall adopt standards for state agency Internet websites to ensure consistency and compatibility with the project. Each state agency shall make its Internet website conform to the standards.

Added by Acts 2001, 77th Leg., ch. 342, Sec. 3, eff. May 3, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 12, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 389 (S.B. 687), Sec. 3, eff. June 15, 2007.

Sec. 2054.262. RULES. The department shall adopt rules regarding operation of the project.

Added by Acts 2001, 77th Leg., ch. 342, Sec. 3, eff. May 3, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 13, eff. June 18, 2005.

Sec. 2054.263. SEAL. The department shall adopt an icon,

symbol, brand, seal, or other identifying device to represent the project.

Added by Acts 2001, 77th Leg., ch. 342, Sec. 3, eff. May 3, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 14, eff. June 18, 2005.

Sec. 2054.266. DONATIONS AND GRANTS. The department may request and accept a donation or grant from any person for use by the department in implementing or managing the project.

Added by Acts 2001, 77th Leg., ch. 342, Sec. 3, eff. May 3, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 15, eff. June 18, 2005.

Sec. 2054.268. CONTRACTS; CONFLICT OF INTEREST. A contract entered into between the authority and another state agency or a local government is not void for the sole reason that a member of the authority also serves on the governing body of the state agency or local government with which the contract was entered.

Added by Acts 2003, 78th Leg., ch. 1216, Sec. 14, eff. June 20, 2003.

Sec. 2054.269. INTELLECTUAL PROPERTY RIGHTS. The department may exercise all intellectual property rights regarding the project, including prevention of other persons from using names or designs similar to those used by the project to market products.

Added by Acts 2003, 78th Leg., ch. 1216, Sec. 14, eff. June 20, 2003.

Sec. 2054.271. AUTHENTICATION OF INDIVIDUAL IDENTITIES AND SIGNATURES; RULES. (a) The department or another state agency or local government that uses the project may use the Department of Public Safety's or another state agency's database, as appropriate, to authenticate an individual's identity on the project.

(b) The authentication allowed by this section may be used by the state agency or local government as an alternative to requiring a notarized document, a document signed by a third party, or an original signature on a document.

(c) The department may adopt rules regarding the use of a standardized database for authentication under this section.

Added by Acts 2003, 78th Leg., ch. 1216, Sec. 14, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 16, eff. June 18, 2005.

Sec. 2054.272. BUSINESS PERMITS AND LICENSES INTERNET PORTAL. (a) A state agency that has jurisdiction over matters related to occupational licenses, including a licensing entity of this state, shall develop in cooperation with the department a link through the state electronic Internet portal.

(b) The link shall provide streamlined access to each occupational license listed on the state electronic Internet portal.

(c) The department may not charge a fee to implement this section.

Added by Acts 2005, 79th Leg., Ch. 672 (S.B. 96), Sec. 2, eff. September 1, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 7.0043, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 23, eff. June 17, 2011.

Sec. 2054.2721. INDEPENDENT ANNUAL AUDIT. (a) Not later than August 1 of each year, any private vendor chosen to implement or manage the project shall have an audit of the vendor's finances associated with the management and operation of the project performed by an independent certified public accountant selected by the state. The vendor shall pay for the audit and shall have a copy of the audit provided to the department.

(b) Not later than August 15 of each year, the department shall provide a copy of the audit report to:

(1) the presiding officer of each house of the legislature; and

(2) the chair of each committee in the legislature with primary jurisdiction over the department.

(c) The department shall keep a copy of the audit report and make the audit report available for inspection by any interested person during regular business hours.

Added by Acts 2005, 79th Leg., Ch. 1292 (H.B. 2593), Sec. 9, eff. June 18, 2005.
Renumbered from Government Code, Sections 2054.272 and 2054.273 and reenacted by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 7.005, eff. September 1, 2007.

Sec. 2054.273. COLLECTION AND FORWARDING OF FEES. (a) A state agency or a vendor, as determined by the department, shall collect all fees charged to use the project. If a state agency collects the fees charged to use the project, the state agency shall forward the fees to the vendor, if the state has contracted with a vendor under Section 2054.252(d). If the state has not contracted with a vendor, the state agency shall forward to the state an amount equal to the state's share of the fees. If a vendor collects or receives the fees charged for use of the project, it shall forward to the state an amount equal to the state's share of the fees as provided by the vendor's contract with the department.

(b) A person that pays a fee for using the project may recover the fee in the ordinary course of business.

Added by Acts 2005, 79th Leg., Ch. 1292 (H.B. 2593), Sec. 10, eff. June 18, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 7.0051, eff. September 1, 2007.

Sec. 2054.274. RECOVERY OF FEES. A person that pays a fee for using the project may recover the fee in the ordinary course of business.

Added by Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 17, eff.

June 18, 2005.

SUBCHAPTER J. TEXAS PROJECT DELIVERY FRAMEWORK

Sec. 2054.301. APPLICABILITY. This subchapter applies only to a major information resources project.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.06, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1081 (H.B. 2918), Sec. 4, eff. September 1, 2007.
Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 8, eff. September 1, 2019.

Sec. 2054.302. GUIDELINES; FORMS. (a) A state agency shall prepare each document required by this subchapter in a manner consistent with department guidelines.

(b) The department shall develop and provide guidelines and forms for the documents required by this subchapter.

(c) The department shall work with state agencies in developing the guidelines and forms.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.06, eff. September 1, 2005.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 9, eff. September 1, 2019.

Sec. 2054.303. BUSINESS CASE AND STATEWIDE IMPACT ANALYSIS. (a) For each proposed major information resources project, a state agency must prepare:

(1) a business case providing the initial justification for the project; and

(2) if the state agency has been assigned the rating under Section 2261.258(a)(1):

(A) a statewide impact analysis of the project's effect on the state's common information resources infrastructure; and

(B) a technical architectural assessment of the

project, if requested by the quality assurance team.

(b) The agency shall file the documents with the quality assurance team when the agency files its legislative appropriations request.

(c) The department shall use the analysis to ensure that the proposed project does not unnecessarily duplicate existing statewide information resources technology.

(d) After the quality assurance team makes a recommendation relating to a business case under Section 2054.158(b)(2), a state agency shall:

(1) comply with the recommendation; or

(2) submit to the quality assurance team a written explanation regarding why the recommendation is not applicable to the project under review.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.06, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1081 (H.B. 2918), Sec. 5, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1208 (H.B. 1789), Sec. 13, eff. September 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. 533), Sec. 4, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 10, eff. September 1, 2019.

Sec. 2054.304. PROJECT PLANS. (a) A state agency shall develop a project plan for each major information resources project.

(b) The state agency must file the project plan with the quality assurance team before the agency spends more than 10 percent of allocated funds for the project.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 30(5), eff. September 1, 2019.

(d) In each project plan for a major information resources project, the state agency shall consider incorporating into the project the applicable best practices recommended in the quality assurance team's annual report.

(e) A state agency contract for a major information resources

project must comply with the requirements in the comptroller's contract management guide developed under Section 2262.051.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.06, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 2.05, eff. September 1, 2007.
Acts 2007, 80th Leg., R.S., Ch. 1081 (H.B. 2918), Sec. 6, eff. September 1, 2007.
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 11.021, eff. September 1, 2009.
Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. 533), Sec. 5, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.15, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 11, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 30(5), eff. September 1, 2019.

Sec. 2054.305. PROCUREMENT PLAN AND METHOD FOR MONITORING CONTRACTS. Before issuing a solicitation for a contract subject to review under Section 2054.158(b)(4), the state agency must develop, consistent with any acquisition plan provided in the guide developed under Section 2262.051:

(1) a procurement plan with anticipated service levels and performance standards for each contractor; and

(2) a method to monitor changes to the scope of each contract.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.06, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1081 (H.B. 2918), Sec. 7, eff. September 1, 2007.
Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 12, eff. September 1, 2019.

Sec. 2054.306. POST-IMPLEMENTATION REVIEW. After implementation of a major information resources project, a state agency shall prepare a post-implementation review. The agency shall provide the review to the agency's executive director and the quality assurance team.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.06, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1208 (H.B. 1789), Sec. 14, eff. September 1, 2007.

Sec. 2054.307. APPROVAL OF DOCUMENTS AND CONTRACT CHANGES. (a) A state agency's executive director, or the executive director's designee, must approve:

(1) each document required by this subchapter; and

(2) if the department requires the approval, any other document related to this subchapter.

(b) The state agency's executive director must approve a proposed contract amendment or change order for a major information resources project if the amendment or change order:

(1) changes the monetary value of the contract by more than 10 percent; or

(2) significantly changes the completion date of the contract.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.06, eff. September 1, 2005.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 13, eff. September 1, 2019.

SUBCHAPTER K. ELECTRONIC SYSTEM FOR OCCUPATIONAL LICENSING TRANSACTIONS

Sec. 2054.351. DEFINITIONS. In this subchapter, "licensing entity" and "occupational license" have the meanings assigned those terms by Section 2054.251.

Added by Acts 2001, 77th Leg., ch. 353, Sec. 1, eff. Sept. 1, 2001.

Amended by Acts 2003, 78th Leg., ch. 1216, Sec. 6, eff. June 20, 2003. Renumbered from Government Code Sec. 2054.251 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(83), eff. Sept. 1, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 18, eff. June 18, 2005.

Sec. 2054.352. APPLICABILITY. (a) The following licensing entities shall participate in the system established under Section 2054.353:

(1) Texas Board of Chiropractic Examiners;
(2) Judicial Branch Certification Commission;
(3) State Board of Dental Examiners;
(4) Texas Funeral Service Commission;
(5) Texas Medical Board;
(6) Texas Board of Nursing;
(7) Texas Optometry Board;
(8) Department of Agriculture, for licenses issued under Chapter 1951, Occupations Code;
(9) Texas State Board of Pharmacy;
(10) Executive Council of Physical Therapy and Occupational Therapy Examiners;
(11) Texas State Board of Plumbing Examiners;
(12) Texas Behavioral Health Executive Council;
(13) State Board of Veterinary Medical Examiners;
(14) Texas Real Estate Commission;
(15) Texas Appraiser Licensing and Certification Board;
(16) Texas Department of Licensing and Regulation;
(17) Texas State Board of Public Accountancy;
(18) State Board for Educator Certification;
(19) Texas Board of Professional Engineers and Land Surveyors;
(20) Health and Human Services Commission;
(21) Texas Board of Architectural Examiners;
(22) Texas Racing Commission;
(23) Texas Commission on Law Enforcement; and
(24) Texas Private Security Board.

(b) The department may add additional agencies as system capabilities are developed.

(c) A licensing entity other than an entity listed by Subsection (a) may participate in the system established under Section 2054.353, subject to the approval of the department.

Added by Acts 2001, 77th Leg., ch. 353, Sec. 1, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 553, Sec. 2.007, eff. Feb. 1, 2004; Acts 2003, 78th Leg., ch. 1216, Sec. 7, eff. June 20, 2003. Renumbered from Government Code Sec. 2054.252 and amended by Acts 2003, 78th Leg., ch. 1275, Sec. 2(83), 3(28), eff. Sept. 1, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Secs. 8.017, 8.018, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 798 (S.B. 411), Sec. 4.03, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 19, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 889 (H.B. 2426), Sec. 59, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 2.03, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 213 (S.B. 1005), Sec. 27, eff. May 27, 2009.

Acts 2009, 81st Leg., R.S., Ch. 450 (H.B. 2447), Sec. 39, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.017, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 2.26, eff. September 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.36, eff. May 18, 2013.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 19.006, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 768 (H.B. 1501), Sec. 3.004, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1232 (H.B. 1523), Sec. 2.06, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.014, eff. September 1, 2021.

Sec. 2054.353. ELECTRONIC SYSTEM FOR OCCUPATIONAL LICENSING TRANSACTIONS. (a) The department shall administer a common electronic system using the Internet through which a licensing entity can electronically:

(1) send occupational licenses and other documents to persons regulated by the licensing entity and to the public;

(2) receive applications for occupational licenses and other documents for filing from persons regulated by the licensing entity and from the public, including documents that can be electronically signed if necessary; and

(3) receive required payments from persons regulated by the licensing entity and from the public.

(b) The department may implement this section in phases. Each licensing entity that participates in the system established under this section shall comply with the schedule established by the department.

(c) The department may use any Internet portal established under a demonstration project administered by the department.

(d) The department may exempt a licensing entity from participating in the system established by this section if the department determines that:

(1) the licensing entity has established an Internet portal that allows the performance of the functions described by Subsection (a); or

(2) online license renewal for the licensing entity would not be cost-effective or in the best interest of the project.

Added by Acts 2001, 77th Leg., ch. 353, Sec. 1, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1216, Sec. 9, eff. June 20, 2003. Renumbered from Government Code Sec. 2054.253 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(83), eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1260 (H.B. 2048), Sec. 20, eff. June 18, 2005.

Sec. 2054.354. STEERING COMMITTEE. (a) The steering committee for electronic occupational licensing transactions consists of a representative of each of the following, appointed by its governing body:

(1) each licensing entity listed by Section 2054.352(a); and

(2) the department.

(b) The governing body of a licensing entity described by Section 2054.352(c) may appoint a representative to the committee.

(c) A member of the committee serves at the will of the entity that appointed the member.

(d) The representative of the department is the presiding officer of the committee. The committee shall meet as prescribed by committee procedures or at the call of the presiding officer.

(e) The committee shall advise the department regarding the department's implementation of Section 2054.353.

(f) Chapter 2110 does not apply to the size, composition, or duration of the committee. Any reimbursement of the expenses of a member of the committee may be paid only from funds available to the governmental entity the member represents.

Added by Acts 2001, 77th Leg., ch. 353, Sec. 1, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1216, Sec. 10, eff. June 20, 2003. Renumbered from Government Code Sec. 2054.254 and amended by Acts 2003, 78th Leg., ch. 1275, Sec. 2(83), 3(29), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 8.019, eff. September 1, 2005.

Sec. 2054.355. CHANGE OF ADDRESS AND OTHER INFORMATION. (a) The system adopted under Section 2054.253, as added by Chapter 353, Acts of the 77th Legislature, Regular Session, 2001, must allow a person regulated by one or more licensing authorities to file a single change of address on-line with the department. The department shall provide the new address to each appropriate licensing authority.

(b) The department may expand the system to include additional categories of updated information that license holders may need to provide to more than one licensing authority.

(c) If the department uses the state electronic Internet portal to implement the system, the department may recover costs incurred under this section as provided by Section 2054.252.

Added by Acts 2003, 78th Leg., ch. 514, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 816, Sec. 25.001, eff. Sept. 1, 2003. Renumbered from Government Code Sec. 2054.255 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(38), eff. Sept. 1, 2005.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 24, eff. June 17, 2011.

Sec. 2054.356. SHARING OF INFORMATION. (a) Each licensing authority shall electronically share information regarding license holders, especially information regarding disciplinary information, with other licensing authorities to the extent it is feasible to do so and allowed by other law, under appropriate controls for the privacy, security, accuracy, and, when applicable, confidentiality of the information.

(b) A licensing authority may only use information it receives electronically under this section for regulatory purposes.

Added by Acts 2003, 78th Leg., ch. 514, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 816, Sec. 25.001, eff. Sept. 1, 2003. Renumbered from Government Code Sec. 2054.255 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(39), eff. Sept. 1, 2005.

SUBCHAPTER L. STATEWIDE TECHNOLOGY CENTERS

Sec. 2054.375. DEFINITIONS. In this subchapter:

(1) "Eligible entity" means an entity listed in Section 2054.0525.

(2) "Statewide technology center" means a statewide technology center established or operated under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.07, eff. September 1, 2005.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 102 (S.B. 866), Sec. 1, eff. May 18, 2013.
Acts 2023, 88th Leg., R.S., Ch. 242 (H.B. 4553), Sec. 2, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.376. APPLICABILITY. (a) This subchapter applies to all information resources technologies, other than telecommunications services governed by Chapter 2170, that are:

(1) obtained by a state agency using state money; or

(2) used by a participating eligible entity.

(a-1) Notwithstanding Subsection (a), this subchapter applies to electronic messaging service and outsourced managed services that are:

(1) obtained by a state agency using state money; or

(2) used by a participating eligible entity.

(b) This subchapter does not apply to:

(1) the uniform statewide accounting system, as that term is used in Subchapter C, Chapter 2101;

(2) the state treasury cash and treasury management system;

(3) a database or network managed by the comptroller to:

(A) collect and process multiple types of taxes imposed by the state; or

(B) manage or administer fiscal, financial, revenue, and expenditure activities of the state under Chapter 403 and Chapter 404; or

(4) a database or network managed by the Department of Agriculture.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.07, eff. September 1, 2005.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 23.04, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 102 (S.B. 866), Sec. 2, eff. May 18, 2013.

Acts 2019, 86th Leg., R.S., Ch. 814 (H.B. 2364), Sec. 1, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 242 (H.B. 4553), Sec. 3, eff. September 1, 2023.

Sec. 2054.377. INSTITUTIONS OF HIGHER EDUCATION. The

department may not establish or expand a statewide technology center that includes participation by an institution of higher education unless the Information Technology Council for Higher Education agrees to the establishment or expansion.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.07, eff. September 1, 2005.

Sec. 2054.3771. ELIGIBLE ENTITIES. The department may establish or expand a statewide technology center to include participation by an eligible entity. The executive director and the department have all the powers necessary or appropriate, consistent with this chapter, to accomplish that purpose.

Added by Acts 2013, 83rd Leg., R.S., Ch. 102 (S.B. 866), Sec. 3, eff. May 18, 2013.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 242 (H.B. 4553), Sec. 4, eff. September 1, 2023.

Sec. 2054.378. SCOPE OF OPERATION OF CENTERS. (a) The department may operate statewide technology centers to provide participating eligible entities, on a cost-sharing basis, services relating to:

(1) information resources and information resources technology; and

(2) the deployment, development, and maintenance of software applications.

(b) The department may operate a statewide technology center directly or contract with another person to operate the center.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.07, eff. September 1, 2005.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 102 (S.B. 866), Sec. 4, eff. May 18, 2013.
Acts 2023, 88th Leg., R.S., Ch. 242 (H.B. 4553), Sec. 5, eff. September 1, 2023.

Sec. 2054.379. RULES. The department shall adopt rules and guidelines to implement this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.07, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.380. FEES. (a) The department shall set and charge a fee to each participating eligible entity that receives a service from a statewide technology center in an amount sufficient to cover the direct and indirect cost of providing the service.

(b) Revenue derived from the collection of fees imposed under Subsection (a) may be appropriated to the department for:

(1) developing statewide information resources technology policies and planning under this chapter and Chapter 2059; and

(2) providing shared information resources technology services under this chapter.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.07, eff. September 1, 2005.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 23.05, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 102 (S.B. 866), Sec. 5, eff. May 18, 2013.

Acts 2023, 88th Leg., R.S., Ch. 242 (H.B. 4553), Sec. 6, eff. September 1, 2023.

Sec. 2054.381. CONTRACTING; HISTORICALLY UNDERUTILIZED BUSINESSES. (a) In any procurement related to the establishment of a statewide technology center, the department shall maximize vendor competition and, to the extent feasible and cost-effective, interoperability.

(b) In contracting under this subchapter, the department shall follow the requirements of Chapter 2161 and related rules regarding historically underutilized businesses.

(c) The department shall provide to all qualified businesses the opportunity to compete for department contracts under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.07, eff. September 1, 2005.

Sec. 2054.382. STATEWIDE TECHNOLOGY CENTERS FOR DATA OR DISASTER RECOVERY SERVICES; USE REQUIRED. (a) The department shall manage the operations of statewide technology centers that provide data center services or disaster recovery services for two or more participating eligible entities, including management of the operations of the center on the campus of Angelo State University.

(b) The department by rule shall describe the data services provided by statewide technology centers.

(c) A state agency may not spend appropriated money to contract or issue purchase orders for data center services or disaster recovery services, including maintenance of those services, unless the executive director approves the expense. The department may establish appropriate thresholds and procedures for securing approval under this subsection.

(d) The Legislative Budget Board may not grant prior approval under Section 2054.386 in relation to services provided under this section.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.07, eff. September 1, 2005.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 242 (H.B. 4553), Sec. 7, eff. September 1, 2023.

Sec. 2054.383. ESTABLISHMENT OF ADDITIONAL STATEWIDE TECHNOLOGY CENTERS. (a) The department may establish additional statewide technology centers as provided by this section.

(b) The department may not establish a center under this section unless:

(1) the governor approves the establishment;

(2) the Legislative Budget Board approves the expenditures necessary for the establishment; and

(3) the executive director determines in writing that consolidating operations or services of selected state agencies will promote efficiency and effectiveness and provide the best value for the state.

(c) In the written determination under Subsection (b)(3), the executive director shall identify the selected state agencies that will be required to participate in the new center.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.07, eff. September 1, 2005.

Sec. 2054.384. COST AND REQUIREMENTS ANALYSIS. (a) The department shall conduct a cost and requirements analysis for each state agency that the department intends to select for participation in a statewide technology center.

(b) A selected state agency shall identify its particular requirements, operations costs, and requested service levels for the department. The department may require a state agency to validate or resubmit data related to these factors. The department shall fulfill the requirements and service levels of each state agency to the extent possible.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.07, eff. September 1, 2005.

Sec. 2054.385. NOTICE OF SELECTION. After completion of the cost and requirements analysis for each state agency under Section 2054.384, the department shall provide notice to each state agency selected to receive services or operations through the statewide technology center. The notice must include:

(1) the state agency operations selected for consolidation at a statewide technology center;

(2) the scope of services to be provided to the agency;

(3) a schedule of anticipated costs for the agency; and

(4) the implementation schedule for that agency.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.07, eff. September 1, 2005.

Sec. 2054.3851. ELIGIBLE ENTITY PARTICIPATION AND SELECTION. (a) An eligible entity listed in Section 2054.0525, other than a state agency, may submit a request to the department to receive services or operations through a statewide technology center. The eligible entity shall identify its particular requirements, operations costs, and requested service levels.

(b) On receipt of the request, the department shall conduct a cost and requirements analysis for the eligible entity.

(c) If the department selects the eligible entity for participation in a statewide technology center, the department shall provide notice to the eligible entity that includes:

(1) the scope of the services to be provided to the eligible entity;

(2) a schedule of anticipated costs for the eligible entity; and

(3) the implementation schedule for the eligible entity.

(d) If selected to participate in a statewide technology center, an eligible entity may contract with the department to receive the identified services and have the identified operations performed through the statewide technology center.

(e) Two or more local governments that are parties to an interlocal agreement, acting through the entity designated by the parties to supervise performance of the interlocal agreement under Section 791.013, may apply to the department and participate in a statewide technology center.

Added by Acts 2013, 83rd Leg., R.S., Ch. 102 (S.B. 866), Sec. 6, eff. May 18, 2013.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 242 (H.B. 4553), Sec. 8, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 242 (H.B. 4553), Sec. 9, eff. September 1, 2023.

Sec. 2054.386. INTERAGENCY CONTRACT; PRIOR APPROVAL OF EXPENDITURES. (a) A state agency that is selected under Section 2054.385 to receive services or to have operations performed through a statewide technology center may not, except as provided by Subsection (b), spend appropriated money for the identified

operations and services without the prior approval of the Legislative Budget Board.

(b) Unless the Legislative Budget Board grants prior approval for the selected state agency to spend appropriated money for the identified operations or services in another specified manner, the selected agency shall enter into an interagency contract with the department to receive the identified services and have the identified operations performed through the statewide technology center. Amounts charged to the selected agency under the interagency contract must be based on the fees set by the department under Section 2054.380 but may not exceed the amounts expected to be necessary to cover the direct and indirect costs of performing operations and providing services under the contract. Before executing an interagency contract or alternatively receiving prior approval from the Legislative Budget Board under this section, the state agency may only spend appropriated money for the selected service or operation if the executive director approves the expense.

(c) Not later than the 30th business day after the date the selected state agency is notified of its selection under Section 2054.385, the agency may request the Legislative Budget Board to grant its prior approval for the agency to spend appropriated money for the identified operations or services in a manner other than through an interagency contract with the department under Subsection (b).

(d) The request to the Legislative Budget Board must:

(1) be in writing;

(2) include a copy of the selection notice made by the executive director; and

(3) demonstrate that the decision of the executive director to select the agency will probably:

(A) fail to achieve meaningful cost savings for the state; or

(B) result in an unacceptable loss of effectiveness or operational efficiency.

(e) If the Legislative Budget Board determines that an interagency contract between the department and the selected state agency under Subsection (b) will fail to achieve meaningful cost savings for the state or result in an unacceptable loss of effectiveness or operational efficiency at the selected agency, the Legislative Budget Board may grant its prior approval for the

selected agency to spend appropriated money for the identified operations or services in another specified manner, in which event the selected agency is not required to enter into an interagency contract under Subsection (b).

(f) The Legislative Budget Board shall notify the state agency, the executive director, and the comptroller of its decision.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.07, eff. September 1, 2005.

Sec. 2054.387. INTERAGENCY CONTRACT; COMPLIANCE WITH SERVICE LEVELS. The department shall ensure compliance with service levels agreed to in an interagency contract or intergovernmental contract, as appropriate, executed under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.07, eff. September 1, 2005.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 102 (S.B. 866), Sec. 7, eff. May 18, 2013.

Sec. 2054.388. TRANSFER OF OWNERSHIP. (a) The department, subject to the governor's approval, may require a state agency that enters into an interagency contract under Section 2054.386 to transfer to the department ownership, custody, or control of resources that the department, in consultation with the agency, determines are used to support the operations or services selected under Section 2054.385. These resources may include:

(1) information resources;

(2) information resources technologies;

(3) full-time equivalent positions; and

(4) any other resources determined necessary by the department to support the selected operations or services.

(b) The department shall advise the governor, lieutenant governor, speaker of the house of representatives, Legislative Budget Board, and state auditor's office regarding the expected savings to be received for each state agency from which ownership, custody, or control is transferred under this section.

(c) The department and the state agency shall work to reconcile

any federal funding issues that arise out of a transfer under this section. The department, subject to the governor's approval, shall exclude applicable resources from the transfer if the federal funding issues cannot be reconciled.

(d) Chapter 2175 does not apply to information resources or information resources technologies transferred under this section.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.07, eff. September 1, 2005.

Sec. 2054.389. TRANSITION SCHEDULES. The department shall establish transition schedules for the transfer of state agency operations and services to statewide technology centers under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.07, eff. September 1, 2005.

Sec. 2054.390. MIGRATION OF SERVICES. (a) The department shall prioritize the migration of services to the statewide technology center system established under this subchapter based on the size of the current technology center operational environment at a state agency, with the largest 25 technology center environments ranking highest in priority.

(c) A state agency shall comply with the department's request to migrate under this section.

(d) Any consolidation plan adopted by the department to execute this section must prioritize and fully use the existing capacity of the State Data Center located on the campus of Angelo State University.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.07, eff. September 1, 2005.

Sec. 2054.391. USE OF STATEWIDE TECHNOLOGY CENTERS REQUIRED. (a) A state agency may not transfer services from a statewide technology center unless the executive director and the governor approve the transfer.

(b) If the department becomes aware that a state agency is not using a statewide technology center for operations or services in accordance with the interagency contract entered into under Section 2054.386 and as directed by the department, the department shall notify the comptroller, the Legislative Budget Board, the state auditor's office, and the affected state agency of the violation.

(c) After notification under Subsection (b), the state agency may not spend appropriated money for operations or services the agency was selected to receive through a statewide technology center without the prior approval of the executive director.

Added by Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.07, eff. September 1, 2005.

Sec. 2054.392. STATEWIDE TECHNOLOGY ACCOUNT. The comptroller shall establish in the state treasury the statewide technology account. The account is a revolving fund account for the administration of this subchapter. The account is the depository for all money received from entities served under this subchapter. Money in the account may be used only for the operation and management of a statewide technology center or for any other purpose specified by the legislature.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 12, eff. September 1, 2013.

SUBCHAPTER M. ACCESS TO ELECTRONIC AND INFORMATION RESOURCES BY INDIVIDUALS WITH DISABILITIES

Sec. 2054.451. DEFINITIONS. In this subchapter:

(1) "Electronic and information resources" means information resources and any equipment or interconnected system of equipment that is used in the creation, conversion, or duplication of information resources. The term includes telephones and other telecommunications products, information kiosks, transaction machines, Internet websites, multimedia resources, and office equipment, including copy machines and fax machines.

(2) "State agency" means a department, commission, board, office, council, authority, or other agency in the executive, legislative, or judicial branch of state government that is created

by the constitution or a statute of this state, including a university system or institution of higher education as defined by Section 61.003, Education Code.

Added by Acts 2005, 79th Leg., Ch. 750 (H.B. 2819), Sec. 1, eff. September 1, 2005.

Sec. 2054.452. TRAINING AND TECHNICAL ASSISTANCE. (a) The department shall provide training for and technical assistance to state agencies regarding compliance with this subchapter.

(b) The department shall adopt rules to implement this section.

Added by Acts 2005, 79th Leg., Ch. 750 (H.B. 2819), Sec. 1, eff. September 1, 2005.

Sec. 2054.453. RULES; COMPLIANCE WITH FEDERAL STANDARDS AND LAWS. (a) The department shall adopt rules and evaluation criteria to implement this subchapter, including rules regarding:

(1) the development, procurement, maintenance, and use of electronic and information resources by state agencies to provide access to individuals with disabilities; and

(2) a procurement accessibility policy.

(b) In adopting rules under this section, the department shall consider the provisions contained in 36 C.F.R. Part 1194.

(c) This subchapter does not require the state to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) to the extent it is not required by federal law.

Added by Acts 2005, 79th Leg., Ch. 750 (H.B. 2819), Sec. 1, eff. September 1, 2005.

Sec. 2054.454. STATE AGENCY COMPLIANCE. (a) If required by the department, each state agency shall develop, procure, maintain, and use accessible electronic and information resources that conform to the rules adopted under this subchapter.

(b) The department shall ensure that rules adopted under this subchapter are reviewed as a component of any report developed under Section 2054.102(c) on compliance with department standards.

Added by Acts 2005, 79th Leg., Ch. 750 (H.B. 2819), Sec. 1, eff. September 1, 2005.

Sec. 2054.455. PUBLIC INFORMATION. The department shall develop a process by which the public may provide information regarding compliance with this subchapter.

Added by Acts 2005, 79th Leg., Ch. 750 (H.B. 2819), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.456. ACCESS TO ELECTRONIC AND INFORMATION RESOURCES BY STATE EMPLOYEES WITH DISABILITIES. (a) Each state agency shall, in developing, procuring, maintaining, or using electronic and information resources, ensure that state employees with disabilities have access to and the use of those resources comparable to the access and use available to state employees without disabilities, unless compliance with this section imposes a significant difficulty or expense on the agency under Section 2054.460. Subject to Section 2054.460, the agency shall take reasonable steps to ensure that a disabled employee has reasonable access to perform the employee's duties.

(b) This section does not require a state agency to install specific accessibility-related software or attach an assistive technology device at a workstation of a state employee.

Added by Acts 2005, 79th Leg., Ch. 750 (H.B. 2819), Sec. 1, eff. September 1, 2005.

Sec. 2054.457. ACCESS TO ELECTRONIC AND INFORMATION RESOURCES BY OTHER INDIVIDUALS WITH DISABILITIES. (a) Each state agency shall provide members of the public with disabilities who are seeking information or other services from the agency access to and the use of electronic and information resources comparable to the access and use provided to members of the public without disabilities, unless

compliance with this section imposes a significant difficulty or expense on the agency under Section 2054.460.

(b) This section does not require a state agency to:

(1) make a product owned by the agency available for access and use by individuals with disabilities at a location other than the location where the electronic and information resources are provided to the public; or

(2) purchase a product for access and use by individuals with disabilities at a location other than the location where the electronic and information resources are provided to the public.

Added by Acts 2005, 79th Leg., Ch. 750 (H.B. 2819), Sec. 1, eff. September 1, 2005.

Sec. 2054.458. INTERNET WEBSITES. The department shall adopt rules regarding the development and monitoring of state agency Internet websites to provide access to individuals with disabilities.

Added by Acts 2005, 79th Leg., Ch. 750 (H.B. 2819), Sec. 1, eff. September 1, 2005.

Sec. 2054.459. EMERGING TECHNOLOGIES; PRODUCTS. The department shall adopt rules regarding:

(1) emerging technologies related to the purpose of this subchapter; and

(2) the commercial availability of products, including computer software, to implement this subchapter.

Added by Acts 2005, 79th Leg., Ch. 750 (H.B. 2819), Sec. 1, eff. September 1, 2005.

Sec. 2054.460. EXCEPTION FOR SIGNIFICANT DIFFICULTY OR EXPENSE; ALTERNATE METHODS. (a) If compliance with a provision of this subchapter imposes a significant difficulty or expense on a state agency, the agency is not required to comply with that provision, but the agency may provide individuals with disabilities an alternate method of access under Subsection (b).

(b) If under Subsection (a) a state agency is not complying

with a provision of this subchapter, the agency may use alternate methods to provide timely access by individuals with disabilities to state agency electronic and information resources, including access to product documentation. Alternate methods include voice, fax, teletypewriter, Internet posting, captioning, text-to-speech synthesis, and audio description.

(c) In determining whether compliance imposes a significant difficulty or expense on the state agency, the agency shall consider all agency resources available to the program or program component for which the product is being developed, procured, maintained, or used.

(d) The department shall adopt rules to implement this section.

(e) The executive director of the state agency shall make the final decision on whether this section applies. The decision may not be appealed.

Added by Acts 2005, 79th Leg., Ch. 750 (H.B. 2819), Sec. 1, eff. September 1, 2005.

Sec. 2054.461. EXEMPTIONS. The department shall adopt rules regarding exempting a state agency from the duty to comply with this subchapter or a provision of this subchapter. In adopting rules under this section, the department shall focus on circumstances in which the benefit of compliance for individuals with disabilities is relatively minor and the cost of compliance is relatively great.

Added by Acts 2005, 79th Leg., Ch. 750 (H.B. 2819), Sec. 1, eff. September 1, 2005.

Sec. 2054.462. EXCEPTION FOR EMBEDDED INFORMATION RESOURCES. This subchapter does not apply to electronic and information resources equipment that contains embedded information resources that are used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of information, including thermostats or temperature control devices or other heating, ventilation, and air conditioning equipment.

Added by Acts 2005, 79th Leg., Ch. 750 (H.B. 2819), Sec. 1, eff. September 1, 2005.

Sec. 2054.463. EXCEPTION FOR MEDICAL EQUIPMENT. This subchapter does not apply to an item of medical equipment in which electronic and information resources are integral to its operation.

Added by Acts 2005, 79th Leg., Ch. 750 (H.B. 2819), Sec. 1, eff. September 1, 2005.

Sec. 2054.464. SURVEY; REPORTING REQUIREMENTS. The department shall adopt guidelines regarding:

(1) an electronic and information resources state agency survey; and

(2) state agency reporting requirements for implementation of this subchapter.

Added by Acts 2005, 79th Leg., Ch. 750 (H.B. 2819), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 691 (H.B. 1788), Sec. 12, eff. September 1, 2007.

Sec. 2054.465. NO CAUSE OF ACTION CREATED. This subchapter does not create a cause of action.

Added by Acts 2005, 79th Leg., Ch. 750 (H.B. 2819), Sec. 1, eff. September 1, 2005.

SUBCHAPTER N-1. CYBERSECURITY

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.510. CHIEF INFORMATION SECURITY OFFICER. (a) In this section, "state information security program" means the policies, standards, procedures, elements, structure, strategies, objectives, plans, metrics, reports, services, and resources that

establish the information resources security function for this state.

(b) The executive director, using existing funds, shall employ a chief information security officer.

(c) The chief information security officer shall oversee cybersecurity matters for this state including:

(1) implementing the duties described by Section 2054.059;

(2) responding to reports received under Section 2054.1125;

(3) developing a statewide information security framework;

(4) overseeing the development of statewide information security policies and standards;

(5) collaborating with state agencies, local governmental entities, and other entities operating or exercising control over state information systems or state-controlled data to strengthen this state's cybersecurity and information security policies, standards, and guidelines;

(6) overseeing the implementation of the policies, standards, and guidelines developed under Subdivisions (3) and (4);

(7) providing information security leadership, strategic direction, and coordination for the state information security program;

(8) providing strategic direction to:

(A) the network security center established under Section 2059.101; and

(B) statewide technology centers operated under Subchapter L; and

(9) overseeing the preparation and submission of the report described by Section 2054.0591.

Added by Acts 2023, 88th Leg., R.S., Ch. 1079 (S.B. 621), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.511. CYBERSECURITY COORDINATOR. The executive director shall designate an employee of the department as the state cybersecurity coordinator to oversee cybersecurity matters for this state.

Added by Acts 2013, 83rd Leg., R.S., Ch. 32 (S.B. 1102), Sec. 1, eff. May 10, 2013.
Redesignated from Government Code, Section 2054.551 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(29), eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.512. CYBERSECURITY COUNCIL. (a) The state cybersecurity coordinator shall establish and lead a cybersecurity council that includes public and private sector leaders and cybersecurity practitioners to collaborate on matters of cybersecurity concerning this state.

(b) The cybersecurity council must include:

(1) one member who is an employee of the office of the governor;

(2) one member of the senate appointed by the lieutenant governor;

(3) one member of the house of representatives appointed by the speaker of the house of representatives;

(4) one member who is an employee of the Elections Division of the Office of the Secretary of State; and

(5) additional members appointed by the state cybersecurity coordinator, including representatives of institutions of higher education and private sector leaders.

(c) In appointing representatives from institutions of higher education to the cybersecurity council, the state cybersecurity coordinator shall consider appointing members of the Information Technology Council for Higher Education.

(d) The cybersecurity council shall:

(1) consider the costs and benefits of establishing a computer emergency readiness team to address cyber attacks occurring in this state during routine and emergency situations;

(2) establish criteria and priorities for addressing cybersecurity threats to critical state installations;

(3) consolidate and synthesize best practices to assist state agencies in understanding and implementing cybersecurity measures that are most beneficial to this state; and

(4) assess the knowledge, skills, and capabilities of the existing information technology and cybersecurity workforce to mitigate and respond to cyber threats and develop recommendations for addressing immediate workforce deficiencies and ensuring a long-term pool of qualified applicants.

(e) The cybersecurity council shall provide recommendations to the legislature on any legislation necessary to implement cybersecurity best practices and remediation strategies for this state.

Added by Acts 2013, 83rd Leg., R.S., Ch. 32 (S.B. 1102), Sec. 1, eff. May 10, 2013.
Redesignated from Government Code, Section 2054.552 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(29), eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 683 (H.B. 8), Sec. 9, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 376 (S.B. 851), Sec. 1, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.514. RECOMMENDATIONS. The state cybersecurity coordinator may implement any portion or all of the recommendations made by the Cybersecurity, Education, and Economic Development Council under Subchapter N.

Added by Acts 2013, 83rd Leg., R.S., Ch. 32 (S.B. 1102), Sec. 1, eff. May 10, 2013.
Redesignated from Government Code, Section 2054.554 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(29), eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.515. AGENCY INFORMATION SECURITY ASSESSMENT AND REPORT. (a) At least once every two years, each state agency shall conduct an information security assessment of the agency's:

(1) information resources systems, network systems, digital data storage systems, digital data security measures, and information resources vulnerabilities; and

(2) data governance program with participation from the agency's data management officer, if applicable, and in accordance with requirements established by department rule.

Text of subsection as amended by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 7

(b) Not later than November 15 of each even-numbered year, the agency shall report the results of the assessment to:

(1) the department; and

(2) on request, the governor, the lieutenant governor, and the speaker of the house of representatives.

Text of subsection as amended by Acts 2021, 87th Leg., R.S., Ch. 856 (S.B. 800), Sec. 10

(b) Not later than December 1 of the year in which a state agency conducts the assessment under Subsection (a) or the 60th day after the date the agency completes the assessment, whichever occurs first, the agency shall report the results of the assessment to:

(1) the department; and

(2) on request, the governor, the lieutenant governor, and the speaker of the house of representatives.

(c) The department by rule shall establish the requirements for the information security assessment and report required by this section.

(d) The report and all documentation related to the information security assessment and report are confidential and not subject to disclosure under Chapter 552. The state agency or department may redact or withhold the information as confidential under Chapter 552 without requesting a decision from the attorney general under Subchapter G, Chapter 552.

Added by Acts 2017, 85th Leg., R.S., Ch. 683 (H.B. 8), Sec. 11, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.16, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 7, eff. June 14, 2021.

Acts 2021, 87th Leg., R.S., Ch. 856 (S.B. 800), Sec. 10, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.516. DATA SECURITY PLAN FOR ONLINE AND MOBILE APPLICATIONS. (a) Each state agency implementing an Internet website or mobile application that processes any sensitive personal or personally identifiable information or confidential information must:

(1) submit a biennial data security plan to the department not later than June 1 of each even-numbered year to establish planned beta testing for the website or application; and

(2) subject the website or application to a vulnerability and penetration test and address any vulnerability identified in the test.

(b) The department shall review each data security plan submitted under Subsection (a) and make any recommendations for changes to the plan to the state agency as soon as practicable after the department reviews the plan.

Added by Acts 2017, 85th Leg., R.S., Ch. 683 (H.B. 8), Sec. 11, eff. September 1, 2017.
Added by Acts 2017, 85th Leg., R.S., Ch. 955 (S.B. 1910), Sec. 5, eff. September 1, 2017.
Reenacted and amended by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 8.016, eff. September 1, 2019.
Reenacted and amended by Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 16, eff. September 1, 2019.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 856 (S.B. 800), Sec. 11, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature,

Regular Session, for amendments affecting the following section.

Sec. 2054.518. CYBERSECURITY RISKS AND INCIDENTS. (a) The department shall develop a plan to address cybersecurity risks and incidents in this state. The department may enter into an agreement with a national organization, including the National Cybersecurity Preparedness Consortium, to support the department's efforts in implementing the components of the plan for which the department lacks resources to address internally. The agreement may include provisions for:

(1) providing technical assistance services to support preparedness for and response to cybersecurity risks and incidents;

(2) conducting cybersecurity simulation exercises for state agencies to encourage coordination in defending against and responding to cybersecurity risks and incidents;

(3) assisting state agencies in developing cybersecurity information-sharing programs to disseminate information related to cybersecurity risks and incidents; and

(4) incorporating cybersecurity risk and incident prevention and response methods into existing state emergency plans, including continuity of operation plans and incident response plans.

(b) In implementing the provisions of the agreement prescribed by Subsection (a), the department shall seek to prevent unnecessary duplication of existing programs or efforts of the department or another state agency.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1308 (H.B. 3834), Sec. 4, eff. June 14, 2019.

(d) The department shall consult with institutions of higher education in this state when appropriate based on an institution's expertise in addressing specific cybersecurity risks and incidents.

Added by Acts 2017, 85th Leg., R.S., Ch. 683 (H.B. 8), Sec. 11, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1308 (H.B. 3834), Sec. 2, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1308 (H.B. 3834), Sec. 4, eff. June 14, 2019.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.5181. CYBERSTAR PROGRAM; CERTIFICATE OF APPROVAL. (a) The state cybersecurity coordinator, in collaboration with the cybersecurity council and public and private entities in this state, shall develop best practices for cybersecurity that include:

(1) measureable, flexible, and voluntary cybersecurity risk management programs for public and private entities to adopt to prepare for and respond to cyber incidents that compromise the confidentiality, integrity, and availability of the entities' information systems;

(2) appropriate training and information for employees or other individuals who are most responsible for maintaining security of the entities' information systems;

(3) consistency with the National Institute of Standards and Technology standards for cybersecurity;

(4) public service announcements to encourage cybersecurity awareness; and

(5) coordination with local and state governmental entities.

(b) The state cybersecurity coordinator shall establish a cyberstar certificate program to recognize public and private entities that implement the best practices for cybersecurity developed in accordance with Subsection (a). The program must allow a public or private entity to submit to the department a form certifying that the entity has complied with the best practices and the department to issue a certificate of approval to the entity. The entity may include the certificate of approval in advertisements and other public communications.

Added by Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 17, eff. September 1, 2019.
Redesignated from Government Code, Section 2054.519 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(49), eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150 and S.B. 2514, 89th Legislature, Regular Session, for amendments affecting the following

section.

Sec. 2054.519. STATE CERTIFIED CYBERSECURITY TRAINING PROGRAMS. (a) The department, in consultation with the cybersecurity council established under Section 2054.512 and industry stakeholders, shall annually:

(1) certify at least five cybersecurity training programs for state and local government employees; and

(2) update standards for maintenance of certification by the cybersecurity training programs under this section.

(b) To be certified under Subsection (a), a cybersecurity training program must:

(1) focus on forming information security habits and procedures that protect information resources; and

(2) teach best practices for detecting, assessing, reporting, and addressing information security threats.

(c) The department may identify and certify under Subsection (a) training programs provided by state agencies and local governments that satisfy the training requirements described by Subsection (b).

(d) The department may contract with an independent third party to certify cybersecurity training programs under this section.

(e) The department shall annually publish on the department's Internet website the list of cybersecurity training programs certified under this section.

(f) Repealed by Acts 2021, 87th Leg., R.S., Ch. 51 (H.B. 1118), Sec. 5, eff. May 18, 2021.

Added by Acts 2019, 86th Leg., R.S., Ch. 1308 (H.B. 3834), Sec. 3, eff. June 14, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 51 (H.B. 1118), Sec. 5, eff. May 18, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, H.B. 3512 and H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.5191. CYBERSECURITY TRAINING REQUIRED: CERTAIN EMPLOYEES AND OFFICIALS. (a) Each state agency shall identify state

employees who use a computer to complete at least 25 percent of the employee's required duties. At least once each year, an employee identified by the state agency and each elected or appointed officer of the agency shall complete a cybersecurity training program certified under Section 2054.519.

(a-1) At least once each year, a local government shall:

(1) identify local government employees and elected and appointed officials who have access to a local government computer system or database and use a computer to perform at least 25 percent of the employee's or official's required duties; and

(2) require the employees and officials identified under Subdivision (1) to complete a cybersecurity training program certified under Section 2054.519.

(a-2) The governing body of a local government or the governing body's designee may deny access to the local government's computer system or database to an individual described by Subsection (a-1)(1) who the governing body or the governing body's designee determines is noncompliant with the requirements of Subsection (a-1)(2).

(b) The governing body of a local government may select the most appropriate cybersecurity training program certified under Section 2054.519 for employees and officials of the local government to complete. The governing body shall:

(1) verify and report on the completion of a cybersecurity training program by employees and officials of the local government to the department; and

(2) require periodic audits to ensure compliance with this section.

(c) A state agency may select the most appropriate cybersecurity training program certified under Section 2054.519 for employees of the state agency. The executive head of each state agency shall verify completion of a cybersecurity training program by employees of the state agency in a manner specified by the department.

(d) The executive head of each state agency shall periodically require an internal review of the agency to ensure compliance with this section.

(e) The department shall develop a form for use by state agencies and local governments in verifying completion of cybersecurity training program requirements under this section. The form must allow the state agency and local government to indicate the

percentage of employee completion.

(f) The requirements of Subsections (a) and (a-1) do not apply to employees and officials who have been:

(1) granted military leave;

(2) granted leave under the federal Family and Medical Leave Act of 1993 (29 U.S.C. Section 2601 et seq.);

(3) granted leave related to a sickness or disability covered by workers' compensation benefits, if that employee no longer has access to the state agency's or local government's database and systems;

(4) granted any other type of extended leave or authorization to work from an alternative work site if that employee no longer has access to the state agency's or local government's database and systems; or

(5) denied access to a local government's computer system or database by the governing body of the local government or the governing body's designee under Subsection (a-2) for noncompliance with the requirements of Subsection (a-1)(2).

Added by Acts 2019, 86th Leg., R.S., Ch. 1308 (H.B. 3834), Sec. 3, eff. June 14, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 51 (H.B. 1118), Sec. 2, eff. May 18, 2021.

Acts 2021, 87th Leg., R.S., Ch. 51 (H.B. 1118), Sec. 3, eff. May 18, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.5192. CYBERSECURITY TRAINING REQUIRED: CERTAIN STATE CONTRACTORS. (a) In this section, "contractor" includes a subcontractor, officer, or employee of the contractor.

(b) A state agency shall require any contractor who has access to a state computer system or database to complete a cybersecurity training program certified under Section 2054.519 as selected by the agency.

(c) The cybersecurity training program must be completed by a contractor during the term of the contract and during any renewal

period.

(d) Required completion of a cybersecurity training program must be included in the terms of a contract awarded by a state agency to a contractor.

(e) A contractor required to complete a cybersecurity training program under this section shall verify completion of the program to the contracting state agency. The person who oversees contract management for the agency shall:

(1) not later than August 31 of each year, report the contractor's completion to the department; and

(2) periodically review agency contracts to ensure compliance with this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 1308 (H.B. 3834), Sec. 3, eff. June 14, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 856 (S.B. 800), Sec. 12, eff. September 1, 2021.

SUBCHAPTER N-2. TEXAS VOLUNTEER INCIDENT RESPONSE TEAM

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.52001. DEFINITIONS. In this subchapter:

(1) "Incident response team" means the Texas volunteer incident response team established under Section 2054.52002.

(2) "Participating entity" means a state agency, including an institution of higher education, or a local government that receives assistance under this subchapter during a cybersecurity event.

(3) "Volunteer" means an individual who provides rapid response assistance during a cybersecurity event under this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 6, eff. June 14, 2021.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.52002. ESTABLISHMENT OF TEXAS VOLUNTEER INCIDENT RESPONSE TEAM. (a) The department shall establish the Texas volunteer incident response team to provide rapid response assistance to a participating entity under the department's direction during a cybersecurity event.

(b) The department shall prescribe eligibility criteria for participation as a volunteer member of the incident response team, including a requirement that each volunteer have expertise in addressing cybersecurity events.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 6, eff. June 14, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.52003. CONTRACT WITH VOLUNTEERS. The department shall enter into a contract with each volunteer the department approves to provide rapid response assistance under this subchapter. The contract must require the volunteer to:

(1) acknowledge the confidentiality of information required by Section 2054.52010;

(2) protect all confidential information from disclosure;

(3) avoid conflicts of interest that might arise in a deployment under this subchapter;

(4) comply with department security policies and procedures regarding information resources technologies;

(5) consent to background screening required by the department; and

(6) attest to the volunteer's satisfaction of any eligibility criteria established by the department.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 6, eff. June 14, 2021.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.52004. VOLUNTEER QUALIFICATION. (a) The department shall require criminal history record information for each individual who accepts an invitation to become a volunteer.

(b) The department may request other information relevant to the individual's qualification and fitness to serve as a volunteer.

(c) The department has sole discretion to determine whether an individual is qualified to serve as a volunteer.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 6, eff. June 14, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.52005. DEPLOYMENT. (a) In response to a cybersecurity event that affects multiple participating entities or a declaration by the governor of a state of disaster caused by a cybersecurity event, the department on request of a participating entity may deploy volunteers and provide rapid response assistance under the department's direction and the managed security services framework established under Section 2054.0594(d) to assist with the event.

(b) A volunteer may only accept a deployment under this subchapter in writing. A volunteer may decline to accept a deployment for any reason.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 6, eff. June 14, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.52006. CYBERSECURITY COUNCIL DUTIES. The cybersecurity council established under Section 2054.512 shall review and make recommendations to the department regarding the policies and procedures used by the department to implement this subchapter. The

department may consult with the council to implement and administer this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 6, eff. June 14, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.52007. DEPARTMENT POWERS AND DUTIES. (a) The department shall:

(1) approve the incident response tools the incident response team may use in responding to a cybersecurity event;

(2) establish the eligibility criteria an individual must meet to become a volunteer;

(3) develop and publish guidelines for operation of the incident response team, including the:

(A) standards and procedures the department uses to determine whether an individual is eligible to serve as a volunteer;

(B) process for an individual to apply for and accept incident response team membership;

(C) requirements for a participating entity to receive assistance from the incident response team; and

(D) process for a participating entity to request and obtain the assistance of the incident response team; and

(4) adopt rules necessary to implement this subchapter.

(b) The department may require a participating entity to enter into a contract as a condition for obtaining assistance from the incident response team. The contract must comply with the requirements of Chapters 771 and 791.

(c) The department may provide appropriate training to prospective and approved volunteers.

(d) In accordance with state law, the department may provide compensation for actual and necessary travel and living expenses incurred by a volunteer on a deployment using money available for that purpose.

(e) The department may establish a fee schedule for participating entities receiving incident response team assistance. The amount of fees collected may not exceed the department's costs to

operate the incident response team.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 6, eff. June 14, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.52008. STATUS OF VOLUNTEER; LIABILITY. (a) A volunteer is not an agent, employee, or independent contractor of this state for any purpose and has no authority to obligate this state to a third party.

(b) This state is not liable to a volunteer for personal injury or property damage sustained by the volunteer that arises from participation in the incident response team.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 6, eff. June 14, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.52009. CIVIL LIABILITY. A volunteer who in good faith provides professional services in response to a cybersecurity event is not liable for civil damages as a result of the volunteer's acts or omissions in providing the services, except for wilful and wanton misconduct. This immunity is limited to services provided during the time of deployment for a cybersecurity event.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 6, eff. June 14, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.52010. CONFIDENTIAL INFORMATION. Information written, produced, collected, assembled, or maintained by the

department, a participating entity, the cybersecurity council, or a volunteer in the implementation of this subchapter is confidential and not subject to disclosure under Chapter 552 if the information:

(1) contains the contact information for a volunteer;

(2) identifies or provides a means of identifying a person who may, as a result of disclosure of the information, become a victim of a cybersecurity event;

(3) consists of a participating entity's cybersecurity plans or cybersecurity-related practices; or

(4) is obtained from a participating entity or from a participating entity's computer system in the course of providing assistance under this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 6, eff. June 14, 2021.

SUBCHAPTER O. MAJOR OUTSOURCED CONTRACTS

Sec. 2054.521. MAJOR OUTSOURCED CONTRACT DEFINED; RULE. The board by rule shall define what constitutes a major outsourced contract with regard to contracts the department executes with entities other than this state or a political subdivision of this state. The definition must include as a major outsourced contract:

(1) outsourced contracts entered into under Subchapter I and Subchapter L of this chapter or Chapter 2170; and

(2) contracts that exceed a monetary threshold, other than those described by Subdivision (1).

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 13, eff. September 1, 2013.

Sec. 2054.522. BOARD APPROVAL AND OVERSIGHT OF MAJOR OUTSOURCED CONTRACTS. (a) The department must receive approval from the board before:

(1) entering into a major outsourced contract; or

(2) amending any major outsourced contract, if the amendment has significant statewide impact.

(b) The board shall establish one or more subcommittees to monitor the department's major outsourced contracts.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 13, eff. September 1, 2013.

Sec. 2054.523. MANAGEMENT PLANS FOR MAJOR OUTSOURCED CONTRACTS. (a) The department shall specify procedures for administering, monitoring, and overseeing each major outsourced contract by creating a management plan for each contract. In each management plan, the department shall specify the department's approach to managing and mitigating the risks inherent in each contract.

(b) Department staff who perform contract administration and program duties shall jointly develop the management plans with input from executive management and the board. Each management plan must be approved by the executive director.

(c) Each management plan must establish clear lines of accountability and coordination of contract activities. The plan must provide details about implementing the program that is the subject of the contract as well as procedures for monitoring contractor performance, identifying and mitigating risks related to the contract, and involving and communicating with customers who will be served by any programs implemented through the contract. As appropriate, the plan must define an approach for transitioning from one major outsourced contract to another major outsourced contract.

(d) The department shall revise each management plan:

(1) as necessary to keep current during the contracting process; and

(2) when the department renews, amends, or resolicits a major outsourced contract to ensure the plan remains updated and incorporates any changes resulting from a new contract.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 13, eff. September 1, 2013.

Sec. 2054.524. CUSTOMER INVOLVEMENT IN MAJOR OUTSOURCED CONTRACTS. The department shall establish formal procedures to ensure customer involvement in decision making regarding each of the department's major outsourced contracts, including initial analysis, solicitation development, and contract award and implementation, that affect those customers.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 13, eff. September 1, 2013.

SUBCHAPTER P. ADDITIONAL PROVISIONS ON CONTRACTING

Sec. 2054.551. DEFINITION. In this subchapter, "contract management guide" means the guide developed under this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 13, eff. September 1, 2013.

Sec. 2054.552. CONFLICT OF INTEREST IN CONTRACTING. (a) A department employee may not:

(1) have an interest in, or in any manner be connected with, a contract or bid for a purchase of goods or services by the department; or

(2) in any manner, including by rebate or gift, directly or indirectly accept or receive from a person to whom a contract may be awarded anything of value or a promise, obligation, or contract for future reward or compensation.

(b) A department employee who violates Subsection (a)(2) is subject to dismissal.

(c) The board shall adopt rules to implement this section.

(d) The department shall train staff in the requirements of this section and Section 572.054 and incorporate the requirements into the contract management guide and the department's internal policies, including employee manuals.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 13, eff. September 1, 2013.

Sec. 2054.553. CONTRACT MANAGEMENT TRAINING POLICY. (a) The department shall develop a policy for training department staff in contract management.

(b) The policy must establish contract management training requirements for all staff involved in contract management, including contract managers, program staff, and executive management.

(c) The policy must specify the department's overall approach to procuring and managing contracts, as well as contract-specific

procedures developed in the contract management guide and under Subchapter O.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 13, eff. September 1, 2013.

Sec. 2054.554. CONTRACT MANAGEMENT GUIDE; RULES. (a) The department shall develop and periodically update a contract management guide to provide an overall, consistent approach on procurement and management of major outsourced contracts under Subchapter O and other contracts. In updating the guide, the department shall make changes based on contract experiences and account for changing conditions to guide the updates.

(b) The department shall coordinate with the department's internal auditor, subject to Section 2054.038(d), as needed for assistance and guidance in developing procedures in the contract management guide for monitoring contracts and individual contractors.

(c) The board may adopt rules necessary to develop or update the contract management guide.

(d) The contract management guide must provide information regarding the department's:

(1) general approach to business case analysis, procurement planning, contract solicitation, contract execution, and contract monitoring and oversight;

(2) ethics standards and policies, including those required by Section 2054.552; and

(3) approach to changing a program's internal structure or model for delivering services to customers.

(e) The contract management guide must:

(1) establish clear lines of accountability, staff roles and responsibilities, and decision-making authority for program staff, contract management staff, executive management, customers, and the board;

(2) include the procedures established under Section 2054.524 regarding customer involvement; and

(3) establish the department's process for evaluating and managing risk during each stage of contract procurement, implementation, and management.

(f) The contract management guide must describe the

expectations and standards for obtaining and using customer input during all contract management phases.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 13, eff. September 1, 2013.

SUBCHAPTER Q. LEGACY SYSTEM MODERNIZATION STRATEGY

Sec. 2054.571. DEFINITION. In this subchapter, "legacy system" means a computer system or application program that is operated with obsolete or inefficient hardware or software technology.

Added by Acts 2015, 84th Leg., R.S., Ch. 460 (H.B. 1890), Sec. 1, eff. June 15, 2015.

Sec. 2054.572. LEGACY SYSTEM MODERNIZATION STRATEGY. (a) The department shall, in collaboration with state agencies other than institutions of higher education, develop a legacy system modernization strategy to guide the state in legacy system modernization efforts.

(b) The strategy must:

(1) plan for legacy system modernization statewide and at the agency level;

(2) establish a statewide application development framework;

(3) facilitate standardization and collaboration among state agencies; and

(4) promote the use of common technology solutions and collective purchasing by the state.

Added by Acts 2015, 84th Leg., R.S., Ch. 460 (H.B. 1890), Sec. 1, eff. June 15, 2015.

Sec. 2054.573. REPORTING SERVICE. The department shall implement a shared data reporting and business analytics service, with appropriate security isolation, for state agencies other than institutions of higher education. The department may launch the service as a pilot program with a limited number of state agencies in order to validate a solution before implementing a statewide service.

Added by Acts 2015, 84th Leg., R.S., Ch. 460 (H.B. 1890), Sec. 1, eff. June 15, 2015.

Sec. 2054.574. APPLICATION PORTFOLIO MANAGEMENT PROGRAM. (a) The department shall develop and implement a shared application portfolio management program for state agencies that includes best practices and tools to assist state agencies in managing applications. The department may launch the program as a pilot program with a limited number of state agencies in order to validate solutions before offering the program on a statewide basis.

(b) The department may contract for and offer the program to other entities under Section 2054.0565.

Added by Acts 2015, 84th Leg., R.S., Ch. 460 (H.B. 1890), Sec. 1, eff. June 15, 2015.

Sec. 2054.575. SECURITY ISSUES RELATED TO LEGACY SYSTEMS. (a) A state agency shall, with available funds, identify information security issues and develop a plan to prioritize the remediation and mitigation of those issues. The agency shall include in the plan:

(1) procedures for reducing the agency's level of exposure with regard to information that alone or in conjunction with other information identifies an individual maintained on a legacy system of the agency;

(2) the best value approach for modernizing, replacing, renewing, or disposing of a legacy system that maintains information critical to the agency's responsibilities;

(3) analysis of the percentage of state agency personnel in information technology, cybersecurity, or other cyber-related positions who currently hold the appropriate industry-recognized certifications as identified by the National Initiative for Cybersecurity Education;

(4) the level of preparedness of state agency cyber personnel and potential personnel who do not hold the appropriate industry-recognized certifications to successfully complete the industry-recognized certification examinations; and

(5) a strategy for mitigating any workforce-related discrepancy in information technology, cybersecurity, or other cyber-

related positions with the appropriate training and industry-recognized certifications.

(b) The department shall, on request, facilitate collaborative efforts among state agencies to develop a plan described by Subsection (a).

(c) A plan developed under this section, along with any information or communication prepared or maintained for use in the preparation of the plan, is confidential and is not subject to disclosure under Chapter 552.

Added by Acts 2015, 84th Leg., R.S., Ch. 460 (H.B. 1890), Sec. 1, eff. June 15, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 683 (H.B. 8), Sec. 12, eff. September 1, 2017.

Sec. 2054.576. SHARED SOLUTIONS. (a) In considering and implementing new applications or remediation strategies, state agencies shall prioritize standardization and consolidation by emphasizing shared solutions, including those delivered as a service through the Internet.

(b) The department may contract for and offer shared solutions, including those delivered as a service through the Internet, to other entities under Section 2054.0565.

Added by Acts 2015, 84th Leg., R.S., Ch. 460 (H.B. 1890), Sec. 1, eff. June 15, 2015.

Sec. 2054.577. TECHNOLOGY IMPROVEMENT AND MODERNIZATION FUND. (a) The technology improvement and modernization fund is a special fund in the state treasury outside the general revenue fund.

(b) The fund consists of:

(1) money transferred or deposited to the credit of the fund at the direction of the legislature;

(2) money received from the federal government for the purposes of improving and modernizing state agency information resources;

(3) gifts, donations, and grants to the fund, including federal grants; and

(4) interest earned on the investment of money in the fund.

(c) Money in the fund:

(1) may be used to improve and modernize state agency information resources, including legacy system projects and cybersecurity projects; and

(2) may not be used to replace money appropriated to a state agency for the purposes of operating and maintaining state agency information resources or reduce the amount of money appropriated to a state agency for those purposes.

(d) Section 404.071 does not apply to the fund.

(e) In this section, "state agency" has the meaning assigned by Section 2052.101.

Added by Acts 2021, 87th Leg., R.S., Ch. 1037 (H.B. 4018), Sec. 1, eff. June 18, 2021.

For expiration of this section, see Subsection (j).

Sec. 2054.578. JOINT OVERSIGHT COMMITTEE ON INVESTMENT IN INFORMATION TECHNOLOGY IMPROVEMENT AND MODERNIZATION PROJECTS. (a) In this section:

(1) "Committee" means the Joint Oversight Committee on Investment in Information Technology Improvement and Modernization Projects.

(2) "State agency" has the meaning assigned by Section 2052.101.

(b) The committee is created to review investment and funding strategies for projects to improve or modernize state agency information resources technologies.

(c) The committee is composed of six members as follows:

(1) three members of the senate appointed by the lieutenant governor; and

(2) three members of the house of representatives appointed by the speaker of the house of representatives.

(d) The presiding officer of the committee shall alternate annually between:

(1) a member of the senate appointed by the lieutenant governor; and

(2) a member of the house of representatives appointed by the speaker of the house of representatives.

(e) A vacancy on the committee shall be filled in the same manner as the original appointment.

(f) The committee biennially shall provide a written report to the legislature that:

(1) identifies:

(A) existing and planned projects to improve or modernize state agency information resources technologies; and

(B) the method of funding for each project identified by the committee under Paragraph (A); and

(2) includes:

(A) a determination by the committee of the amount necessary to fully fund each project identified under Subdivision (1) to completion; and

(B) strategies developed by the committee to ensure a long-term investment solution for projects to improve or modernize state agency information resources technologies is in place, including strategies to:

(i) access the full amount of federal money available for those projects; and

(ii) use information gathered by the department during previous projects to improve the management, oversight, and transparency of future projects.

(g) The department shall provide staff support for the committee.

(h) The committee:

(1) has the powers of a joint committee; and

(2) may obtain funding in the same manner as a joint committee.

(i) The rules adopted by the 87th Legislature for the administration of joint committees apply to the committee to the extent the rules are consistent with this section.

(j) The committee is abolished and this section expires September 1, 2026.

Added by Acts 2021, 87th Leg., R.S., Ch. 1037 (H.B. 4018), Sec. 1, eff. June 18, 2021.

SUBCHAPTER R. INFORMATION RESOURCES OF GOVERNMENTAL ENTITIES

Sec. 2054.601. USE OF NEXT GENERATION TECHNOLOGY. Each state

agency and local government shall, in the administration of the agency or local government, consider using next generation technologies, including cryptocurrency, blockchain technology, robotic process automation, and artificial intelligence.

Added by Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 18, eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 8, eff. June 14, 2021.

Sec. 2054.602. LIABILITY EXEMPTION. A person who in good faith discloses to a state agency or other governmental entity information regarding a potential security issue with respect to the agency's or entity's information resources technologies is not liable for any civil damages resulting from disclosing the information unless the person stole, retained, or sold any data obtained as a result of the security issue.

Added by Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 18, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150 and H.B. 5331, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.603. SECURITY INCIDENT NOTIFICATION BY STATE AGENCY OR LOCAL GOVERNMENT. (a) In this section:

(1) "Security incident" means:

(A) a breach or suspected breach of system security as defined by Section 521.053, Business & Commerce Code; and

(B) the introduction of ransomware, as defined by Section 33.023, Penal Code, into a computer, computer network, or computer system.

(2) "Sensitive personal information" has the meaning assigned by Section 521.002, Business & Commerce Code.

(b) A state agency or local government that owns, licenses, or maintains computerized data that includes sensitive personal

information, confidential information, or information the disclosure of which is regulated by law shall, in the event of a security incident:

(1) comply with the notification requirements of Section 521.053, Business & Commerce Code, to the same extent as a person who conducts business in this state;

(2) not later than 48 hours after the discovery of the security incident, notify:

(A) the department, including the chief information security officer; or

(B) if the security incident involves election data, the secretary of state; and

(3) comply with all department rules relating to reporting security incidents as required by this section.

(c) Not later than the 10th business day after the date of the eradication, closure, and recovery from a security incident, a state agency or local government shall notify the department, including the chief information security officer, of the details of the security incident and include in the notification an analysis of the cause of the security incident.

(d) This section does not apply to a security incident that a local government is required to report to an independent organization certified by the Public Utility Commission of Texas under Section 39.151, Utilities Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 419 (H.B. 2004), Sec. 4, eff. September 1, 2009.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 683 (H.B. 8), Sec. 8, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 14, eff. September 1, 2019.
Transferred, redesignated and amended from Government Code, Section 2054.1125 by Acts 2023, 88th Leg., R.S., Ch. 67 (S.B. 271), Sec. 1, eff. September 1, 2023.

CHAPTER 2055. ELECTRONIC GRANT SYSTEM
SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2055.001. DEFINITIONS. In this chapter:

(1) "Board," "department," "electronic government project," "executive director," "local government," "major information resources project," "quality assurance team," and "state electronic Internet portal" have the meanings assigned by Section 2054.003.

(2) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(3) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1208, Sec. 16(4), eff. September 1, 2007.

(4) "State agency" has the meaning assigned by Section 2054.003, except that the term does not include a university system or institution of higher education or an agency identified in Section 521.0001(5).

(5) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1208, Sec. 16(4), eff. September 1, 2007.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 1.01, eff. June 15, 2001. Amended by Acts 2003, 78th Leg., ch. 198, Sec. 2.40, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1246, Sec. 15, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 862 (S.B. 1002), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1208 (H.B. 1789), Sec. 16(4), eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 25, eff. June 17, 2011.

Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 2.18, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2055.002. APPLICABILITY TO INSTITUTIONS OF HIGHER EDUCATION OR HEALTH AND HUMAN SERVICES AGENCIES. (a) Except as provided by Subsection (b), the requirements of this chapter regarding electronic government projects do not apply to institutions

of higher education or a health and human services agency identified in Section 521.0001(5), Government Code.

(b) Subject to approval by the office, an institution of higher education or a health and human services agency may elect to participate regarding an electronic government project of that institution or agency in the same manner as a state agency under this chapter. If the institution or health and human services agency makes this election and the office approves the election, the institution or health and human services agency:

(1) shall comply with this chapter regarding that electronic government project in the same manner as a state agency; and

(2) may not withdraw the project from management by the office unless the office approves the withdrawal.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 1.01, eff. June 15, 2001. Amended by Acts 2003, 78th Leg., ch. 198, Sec. 2.41, eff. Sept. 1, 2003.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 2.19, eff. April 1, 2025.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2055.003. SUNSET PROVISION. The office is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished September 1, 2011.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 1.01, eff. June 15, 2001. Amended by Acts 2003, 78th Leg., ch. 1112, Sec. 3.03, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 3.12, eff. June 15, 2007.

SUBCHAPTER E. GRANTS ASSISTANCE PROJECT

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2055.201. DEFINITION. In this subchapter, "state grant assistance" means assistance provided by a state agency that is available to a resident of this state, another state agency, a local government, or a nonprofit or faith-based organization, including a grant, contract, loan, loan guarantee, cooperative agreement, or direct appropriation, property, or another method of disbursement.

Added by Acts 2005, 79th Leg., Ch. 862 (S.B. 1002), Sec. 2, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2055.202. ESTABLISHMENT OF PROJECT. The department shall establish an electronic government project to develop an Internet website accessible through the state electronic Internet portal that:

(1) provides a single location for state agencies to post electronic summaries of state grant assistance opportunities with the state agencies;

(2) enables a person to search for state grant assistance programs provided by state agencies;

(3) allows, when feasible, electronic submission of state grant assistance applications;

(4) improves the effectiveness and performance of state grant assistance programs;

(5) streamlines and simplifies state grant assistance application and reporting processes; and

(6) improves the delivery of services to the public.

Added by Acts 2005, 79th Leg., Ch. 862 (S.B. 1002), Sec. 2, eff. September 1, 2005.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 26, eff. June 17, 2011.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2055.203. ESTABLISHING AND OPERATING PROJECT; COORDINATION. (a) In establishing and operating the electronic government project under this subchapter, the department, in coordination with the office of the governor, shall direct, coordinate, and assist state agencies in establishing and using:

(1) a common electronic application and reporting system, including:

(A) a standard format for announcing state grant assistance opportunities;

(B) standard data elements for use in creating state grant assistance opportunity announcement summaries, including existing electronic grants programs and search functions; and

(C) a common application form for a person to use in applying for state grant assistance from multiple state grant assistance programs that serve similar purposes and are administered by different state agencies; and

(2) an interagency process for:

(A) improving interagency and intergovernmental coordination of information collection and sharing of data between persons responsible for delivering services relating to a state grant assistance program; and

(B) improving the timeliness, completeness, and quality of information received by a state agency from a recipient of state grant assistance.

(b) A state agency shall provide the department and the office of the governor financial and functional information about any existing or potential systems that in any way provide the functions described in Section 2055.202.

Added by Acts 2005, 79th Leg., Ch. 862 (S.B. 1002), Sec. 2, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2055.204. USE OF ELECTRONIC GRANT SYSTEM. (a) A state agency may not expend appropriated money to implement or design a new

system that provides the functions described in Section 2055.202 without obtaining prior approval from the executive director.

(b) The executive director shall determine whether to approve a state agency's continued operation of an existing system or to integrate the system into the project created under this subchapter. The executive director may provide conditional approval of ongoing expenditures while developing appropriate project plans and funding models for the project.

(c) A state agency shall incorporate common grant application forms developed under Section 2055.203 into the agency's grant application and review processes.

(d) If the department determines that money should be consolidated in the development of this project, the department shall provide a funding model to the Legislative Budget Board and the governor as required by Section 2055.057. A state agency with an existing system approved or conditionally approved under Subsection (b) is exempt from this subsection.

Added by Acts 2005, 79th Leg., Ch. 862 (S.B. 1002), Sec. 2, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2055.205. EXEMPT AGENCIES. (a) The executive director may exempt a state agency or state grant assistance program from the requirements of this subchapter if the executive director determines that the state agency does not have a sufficient number of state grant assistance programs.

(b) The governor, with the assistance of the department, shall make a list of exempted agencies and information about programs exempted from this subchapter available to the public through the office of the governor's Internet website.

Added by Acts 2005, 79th Leg., Ch. 862 (S.B. 1002), Sec. 2, eff. September 1, 2005.

CHAPTER 2056. STRATEGIC PLANS OF OPERATION

Sec. 2056.001. DEFINITION. In this chapter, "state agency" means a department, board, commission, or other entity of state government, other than a university system or an institution of higher education as defined by Section 61.003, Education Code, that:

(1) has authority that is not limited to a geographical portion of the state;

(2) was created by the constitution or a state statute with an ongoing mission and responsibilities;

(3) is not the office of the governor or lieutenant governor;

(4) is not within the judicial or legislative branch of government; and

(5) is not a committee created under state law whose primary function is to advise an agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.29(a), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 118, Sec. 5.01, eff. Sept. 1, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, H.B. 3512 and H.B. 1240, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2056.002. STRATEGIC PLANS. (a) A state agency shall make a strategic plan for its operations. Each even-numbered year, the agency shall issue a plan covering five fiscal years beginning with the next odd-numbered fiscal year.

(b) The Legislative Budget Board and the governor's office shall determine the elements required to be included in each agency's strategic plan. Unless modified by the Legislative Budget Board and the governor's office, and except as provided by Subsection (c), a plan must include:

(1) a statement of the mission and goals of the state agency;

(2) a description of the indicators developed under this chapter and used to measure the output and outcome of the agency;

(3) identification of the groups of people served by the agency, including those having service priorities, or other service measures established by law, and estimates of changes in those groups

expected during the term of the plan;

(4) an analysis of the use of the agency's resources to meet the agency's needs, including future needs, and an estimate of additional resources that may be necessary to meet future needs;

(5) an analysis of expected changes in the services provided by the agency because of changes in state or federal law;

(6) a description of the means and strategies for meeting the agency's needs, including future needs, and achieving the goals established under Section 2056.006 for each area of state government for which the agency provides services;

(7) a description of the capital improvement needs of the agency during the term of the plan and a statement, if appropriate, of the priority of those needs;

(8) identification of each geographic region of this state, including the Texas-Louisiana border region and the Texas-Mexico border region, served by the agency, and if appropriate the agency's means and strategies for serving each region;

(9) a description of the training of the agency's contract managers under Section 656.052;

(10) an analysis of the agency's expected expenditures that relate to federally owned or operated military installations or facilities, or communities where a federally owned or operated military installation or facility is located;

(11) an analysis of the strategic use of information resources as provided by the instructions prepared under Section 2054.095;

(12) a written certification of the agency's compliance with the cybersecurity training required under Sections 2054.5191 and 2054.5192; and

(13) other information that may be required.

(c) A state agency's plan that does not include an item described by Subsection (b) must include the reason the item does not apply to the agency.

(d) A state agency shall send two copies of each plan to both the Legislative Reference Library and the state publications clearinghouse of the Texas State Library and one copy each to:

(1) the governor;

(2) the lieutenant governor;

(3) the speaker of the house of representatives;

(4) the Legislative Budget Board; and

(5) the state auditor.

(e) In this section:

(1) "Capital improvement" means any building or infrastructure project that will be owned by the state and built with direct appropriations or with the proceeds of state-issued bonds or paid from revenue sources other than general revenue.

(2) "Texas-Louisiana border region" means the area consisting of the counties of Bowie, Camp, Cass, Delta, Franklin, Gregg, Harrison, Hopkins, Lamar, Marion, Morris, Panola, Red River, Rusk, Smith, Titus, Upshur, and Wood.

(3) "Texas-Mexico border region" means the area consisting of the counties of Atascosa, Bandera, Bexar, Brewster, Brooks, Cameron, Crockett, Culberson, Dimmit, Duval, Edwards, El Paso, Frio, Hidalgo, Hudspeth, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Live Oak, Maverick, McMullen, Medina, Nueces, Pecos, Presidio, Real, Reeves, San Patricio, Starr, Sutton, Terrell, Uvalde, Val Verde, Webb, Willacy, Zapata, and Zavala.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.29(a), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 188, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1422, Sec. 5.02, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 149, Sec. 6, eff. May 27, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 691 (H.B. 1788), Sec. 13, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1203 (S.B. 1455), Sec. 13, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 526 (S.B. 255), Sec. 4, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.17, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 51 (H.B. 1118), Sec. 4, eff. May 18, 2021.

Sec. 2056.0021. WORKFORCE PLANNING. As part of the strategic plan required under Section 2056.002, a state agency shall conduct a strategic staffing analysis and develop a workforce plan, according

to guidelines developed by the state auditor, to address critical staffing and training needs of the agency, including the need for experienced employees to impart knowledge to their potential successors.

Added by Acts 2001, 77th Leg., ch. 715, Sec. 2, eff. Sept. 1, 2001.

Sec. 2056.0022. IMMUNIZATIONS AWARENESS. (a) Each state agency that has contact with families in this state either in person or by telephone, mail, or the Internet shall include in the agency's strategic plan a strategy for increasing public awareness of the need for early childhood immunizations.

(b) The Texas Department of Health shall identify the state agencies to which this section applies and notify the agencies of their duty under this section.

Added by Acts 2003, 78th Leg., ch. 844, Sec. 2, eff. Sept. 1, 2003.

Sec. 2056.003. FORMS AND INSTRUCTIONS. The Governor's Office of Budget and Planning and the Legislative Budget Board shall develop forms and instructions for a state agency to use in preparing the agency's strategic plan.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2056.004. ASSISTANCE FOR AGENCIES. The Governor's Office of Budget and Planning and the Legislative Budget Board shall work with each state agency to determine acceptable measures of output, outcome, unit cost, and cost-effectiveness for use in the agency's plan.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.29(a), eff. Sept. 1, 1995.

Sec. 2056.005. INFORMATION PROVIDED TO AGENCIES. (a) Not later than March 1 of each even-numbered year, the comptroller shall

provide a long-term forecast of the state's economy and population to each state agency for use in the agency's strategic planning.

(b) The comptroller, the Governor's Office of Budget and Planning, and the Legislative Budget Board jointly shall determine the information to be included in the forecast.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.29(a), eff. Sept. 1, 1995.

Sec. 2056.006. GOALS. (a) The governor, in cooperation with the Legislative Budget Board, shall establish and adopt achievement goals for each functional area of state government. Unless modified by the Governor's Office of Budget and Planning and the Legislative Budget Board, the functional areas must include:

(1) education;
(2) regulation;
(3) natural resources;
(4) health;
(5) human services;
(6) transportation;
(7) public safety and corrections;
(8) general government; and
(9) state employee benefits.

(b) The governor shall provide to each state agency a statement of the goals for each area in which the agency provides services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.29(a), eff. Sept. 1, 1995.

Sec. 2056.0065. GOALS: EMPHASIS ON ENHANCING MILITARY FACILITIES. (a) In establishing the goals of a state agency, the agency shall consider the enhancement of military value to federally owned or operated military installations or facilities. The state agency is encouraged to make this evaluation using the most current criteria provided by the Texas Military Preparedness Commission.

(b) If the state agency determines that an expenditure will enhance the military value of a federally owned or operated military

installation or facility based on the base realignment and closure criteria, the state agency shall make that expenditure a high priority.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 7, eff. May 27, 2003.

Sec. 2056.007. ADDITIONAL INFORMATION. After a state agency issues its strategic plan, the Governor's Office of Budget and Planning and the Legislative Budget Board may request additional information relating to the plan from the agency. The agency shall provide the information in a timely manner.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2056.008. HEARING. The Governor's Office of Budget and Planning and the Legislative Budget Board jointly may hold a hearing on any matter required by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2056.009. STATE PLAN. (a) The Governor's Office of Budget and Planning and the Legislative Budget Board jointly may compile a long-range strategic plan for state government using the state agency plans issued under Section 2056.002 and information obtained under Section 2056.007.

(b) The state plan shall be sent to the governor, lieutenant governor, and each member of the legislature not later than the seventh working day of each regular session of the legislature.

(c) The state plan serves as the strategic plan for the governor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.29(a), eff. Sept. 1, 1995.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1203 (S.B. 1455), Sec. 14, eff. September 1, 2015.

Sec. 2056.010. AGENCY CONFORMANCE TO STRATEGIC PLAN. The comptroller, the Sunset Advisory Commission, the state auditor, the Legislative Budget Board, or another agency that conducts performance audits of a state agency shall consider in the evaluation of an agency the extent to which the agency conforms to the agency's strategic plan.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 2058. RECOGNITION OF FEDERAL CENSUS

Sec. 2058.001. GOVERNMENTAL RECOGNITION OF AND ACTION ON FEDERAL CENSUS. (a) A governmental entity may not recognize or act on a report or publication, in any form, of a federal decennial census, in whole or in part, before September 1 of the year after the calendar year during which the census was taken.

(b) A governmental entity shall recognize and act on a published report or count relating to a federal decennial census and released by the director of the Bureau of the Census of the United States Department of Commerce on the later of:

(1) September 1 of the year after the calendar year during which the census was taken; or

(2) the first day of the first calendar month occurring after the 150th day after the date of the publication of the report or count.

(c) In this section, "governmental entity" means the state or an agency or political subdivision of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 682 (H.B. 2025), Sec. 1, eff. June 15, 2021.

Sec. 2058.002. EXCEPTIONS. (a) The legislature or the Legislative Redistricting Board under Article III, Section 28, of the Texas Constitution may officially recognize or act on a federal decennial census before September 1 of the year after the calendar year during which the census was taken.

(b) A political subdivision governed by a body elected from single-member districts may recognize and act on tabulations of

population of a federal decennial census, for redistricting purposes, on or after the date the governor receives a report of the basic tabulations of population from the secretary of commerce under 13 U.S.C. Section 141(c). This subsection does not apply to a political subdivision that was not subject to a statute requiring certain political subdivisions, classified by population, to elect their governing bodies from single-member districts under the preceding federal census.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 682 (H.B. 2025), Sec. 2, eff. June 15, 2021.

CHAPTER 2059. TEXAS COMPUTER NETWORK SECURITY SYSTEM
SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.001. DEFINITIONS. In this chapter:

(1) "Center" means the network security center established under this chapter.

(2) "Department" means the Department of Information Resources.

(2-a) "Local government" has the meaning assigned by Section 2054.003.

(3) "Network security" means the protection of computer systems and technology assets from unauthorized external intervention or improper use. The term includes detecting, identifying, and countering malicious network activity to prevent the acquisition of information or disruption of information technology operations.

(4) "State agency" has the meaning assigned by Section 2054.003.

Added by Acts 2005, 79th Leg., Ch. 760 (H.B. 3112), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 242 (H.B. 4553), Sec. 10, eff. September 1, 2023.

SUBCHAPTER B. GENERAL POWERS AND DUTIES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.051. DEPARTMENT RESPONSIBLE FOR PROVIDING COMPUTER NETWORK SECURITY SERVICES. The department shall provide network security services to:

(1) state agencies; and

(2) other entities by agreement as provided by Section 2059.058.

Added by Acts 2005, 79th Leg., Ch. 760 (H.B. 3112), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.052. SERVICES PROVIDED TO INSTITUTIONS OF HIGHER EDUCATION. The department may provide network security services to an institution of higher education, and may include an institution of higher education in a center, only if and to the extent approved by the Information Technology Council for Higher Education.

Added by Acts 2005, 79th Leg., Ch. 760 (H.B. 3112), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.053. RULES. The department may adopt rules necessary to implement this chapter.

Added by Acts 2005, 79th Leg., Ch. 760 (H.B. 3112), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.054. OWNERSHIP OR LEASE OF NECESSARY EQUIPMENT. The department may purchase in accordance with Chapters 2155, 2156, 2157, and 2158 any facilities or equipment necessary to provide network security services to state agencies.

Added by Acts 2005, 79th Leg., Ch. 760 (H.B. 3112), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.055. RESTRICTED INFORMATION. (a) Confidential network security information may be released only to officials responsible for the network, law enforcement, the state auditor's office, and agency or elected officials designated by the department.

(b) Network security information is confidential under this section if the information is:

(1) related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a governmental entity;

(2) collected, assembled, or maintained by or for a governmental entity to prevent, detect, or investigate criminal activity; or

(3) related to an assessment, made by or for a governmental entity or maintained by a governmental entity, of the vulnerability of a network to criminal activity.

Added by Acts 2005, 79th Leg., Ch. 760 (H.B. 3112), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 560 (S.B. 564), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 683 (H.B. 8), Sec. 13, eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.056. RESPONSIBILITY FOR EXTERNAL AND INTERNAL SECURITY THREATS. If the department provides network security services for a state agency or other entity under this chapter, the department is responsible for network security from external threats for that agency or entity. Network security management for that state agency or entity regarding internal threats remains the responsibility of that state agency or entity.

Added by Acts 2005, 79th Leg., Ch. 760 (H.B. 3112), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.057. BIENNIAL REPORT. (a) The department shall biennially prepare a report on:

(1) the department's accomplishment of service objectives and other performance measures under this chapter; and

(2) the status, including the financial performance, of the consolidated network security system provided through the center.

(b) The department shall submit the report to:

(1) the governor;

(2) the lieutenant governor;

(3) the speaker of the house of representatives; and

(4) the state auditor's office.

Added by Acts 2005, 79th Leg., Ch. 760 (H.B. 3112), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.058. AGREEMENT TO PROVIDE NETWORK SECURITY SERVICES TO ENTITIES OTHER THAN STATE AGENCIES. In addition to the department's duty to provide network security services to state

agencies under this chapter, the department by agreement may provide network security services to:

(1) each house of the legislature and a legislative agency;

(2) a local government;

(3) the supreme court, the court of criminal appeals, or a court of appeals;

(4) a public hospital owned or operated by this state or a political subdivision or municipal corporation of this state, including a hospital district or hospital authority;

(5) the Texas Permanent School Fund Corporation;

(6) an open-enrollment charter school, as defined by Section 5.001, Education Code;

(7) a private school, as defined by Section 5.001, Education Code;

(8) a private or independent institution of higher education, as defined by Section 61.003, Education Code;

(9) a volunteer fire department, as defined by Section 152.001, Tax Code; and

(10) an independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region.

Added by Acts 2005, 79th Leg., Ch. 760 (H.B. 3112), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 19, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 242 (H.B. 4553), Sec. 11, eff. September 1, 2023.

SUBCHAPTER C. NETWORK SECURITY CENTER

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.101. NETWORK SECURITY CENTER. The department shall establish a network security center to provide network security services to state agencies.

Added by Acts 2005, 79th Leg., Ch. 760 (H.B. 3112), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.102. MANAGEMENT AND USE OF NETWORK SECURITY SYSTEM. (a) The department shall manage the operation of network security system services for all state agencies at the center.

(b) The department shall fulfill the network security requirements of each state agency to the extent practicable. However, the department shall protect criminal justice and homeland security networks of this state to the fullest extent possible in accordance with federal criminal justice and homeland security network standards.

(c) All state agencies shall use the network security services provided through the center to the fullest extent possible.

(d) A state agency may not purchase network security services unless the department determines that the agency's requirement for network security services cannot be met at a comparable cost through the center. The department shall develop an efficient process for this determination.

Added by Acts 2005, 79th Leg., Ch. 760 (H.B. 3112), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.103. CENTER LOCATION AND PHYSICAL SECURITY. (a) The department shall locate the center at a location that has an existing secure and restricted facility, cyber-security infrastructure, available trained workforce, and supportive educational capabilities.

(b) The department shall control and monitor all entrances and critical areas to prevent unauthorized entry. The department shall limit access to authorized individuals.

(c) Local law enforcement or security agencies shall monitor security alarms at the center according to service availability.

(d) The department shall restrict operational information to personnel at the center, except as provided by Chapter 321.

Added by Acts 2005, 79th Leg., Ch. 760 (H.B. 3112), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.104. CENTER SERVICES AND SUPPORT. (a) The department shall provide the following managed security services through the center:

(1) real-time network security monitoring to detect and respond to network security events that may jeopardize this state and the residents of this state, including vulnerability assessment services consisting of a comprehensive security posture assessment, external and internal threat analysis, and penetration testing;

(2) continuous, 24-hour alerts and guidance for defeating network security threats, including firewall preconfiguration, installation, management and monitoring, intelligence gathering, protocol analysis, and user authentication;

(3) immediate incident response to counter network security activity that exposes this state and the residents of this state to risk, including complete intrusion detection systems installation, management, and monitoring and a network operations call center;

(4) development, coordination, and execution of statewide cyber-security operations to isolate, contain, and mitigate the impact of network security incidents at state agencies;

(5) operation of a central authority for all statewide information assurance programs; and

(6) the provision of educational services regarding network security.

(b) The department may provide:

(1) implementation of best-of-breed information security architecture engineering services, including public key infrastructure development, design, engineering, custom software development, and secure web design; or

(2) certification and accreditation to ensure compliance with the applicable regulatory requirements for cyber-security and information technology risk management, including the use of proprietary tools to automate the assessment and enforcement of compliance.

Added by Acts 2005, 79th Leg., Ch. 760 (H.B. 3112), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.105. NETWORK SECURITY GUIDELINES AND STANDARD OPERATING PROCEDURES. (a) The department shall adopt and provide to all state agencies appropriate network security guidelines and standard operating procedures to ensure efficient operation of the center with a maximum return on investment for the state.

(b) The department shall revise the standard operating procedures as necessary to confirm network security.

(c) Each state agency shall comply with the network security policies, guidelines, and standard operating procedures.

Added by Acts 2005, 79th Leg., Ch. 760 (H.B. 3112), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.1055. NETWORK SECURITY IN A STATE OF DISASTER. The department shall disconnect the computer network of an entity receiving security services under this chapter from the Internet if the governor issues an order under Section 418.0195 to disconnect the network because of a substantial external threat to the entity's computer network.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1310 (H.B. 3333), Sec. 2, eff. September 1, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.106. PRIVATE VENDOR. The department may contract with a private vendor to build and operate the center and act as an

authorized agent to acquire, install, integrate, maintain, configure, and monitor the network security services and security infrastructure elements.

Added by Acts 2005, 79th Leg., Ch. 760 (H.B. 3112), Sec. 1, eff. September 1, 2005.

SUBCHAPTER D. FINANCIAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.151. PAYMENT FOR SERVICES. The department shall develop a system of billings and charges for services provided in operating and administering the network security system that allocates the total state cost to each state agency or other entity served by the system based on proportionate usage.

Added by Acts 2005, 79th Leg., Ch. 760 (H.B. 3112), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.152. REVOLVING FUND ACCOUNT. (a) The comptroller shall establish in the state treasury a revolving fund account for the administration of this chapter. The account must be used as a depository for money received from state agencies and other entities served under this chapter. Receipts attributable to the centralized network security system must be deposited into the account and separately identified within the account.

(b) The legislature may appropriate money for operating the system directly to the department, in which case the revolving fund account must be used to receive money due from local governmental entities and other agencies to the extent that their money is not subject to legislative appropriation.

(c) The department shall maintain in the revolving fund account sufficient amounts to pay the liabilities of the center and related network security services.

Added by Acts 2005, 79th Leg., Ch. 760 (H.B. 3112), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.153. GRANTS. The department may apply for and use for purposes of this chapter the proceeds from grants offered by any federal agency or other source.

Added by Acts 2005, 79th Leg., Ch. 760 (H.B. 3112), Sec. 1, eff. September 1, 2005.

SUBCHAPTER E. REGIONAL NETWORK SECURITY CENTERS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.201. ELIGIBLE PARTICIPATING ENTITIES. A state agency or an entity listed in Section 2059.058 is eligible to participate in cybersecurity support and network security provided by a regional network security center under this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 9, eff. June 14, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 242 (H.B. 4553), Sec. 12, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.202. ESTABLISHMENT OF REGIONAL NETWORK SECURITY CENTERS. (a) Subject to Subsection (b), the department may establish regional network security centers, under the department's managed security services framework established by Section 2054.0594(d), to assist in providing cybersecurity support and network security to regional offices or locations for state agencies

and other eligible entities that elect to participate in and receive services through the center.

(b) The department may establish more than one regional network security center only if the department determines the first center established by the department successfully provides to state agencies and other eligible entities the services the center has contracted to provide.

(c) The department shall enter into an interagency contract in accordance with Chapter 771 or an interlocal contract in accordance with Chapter 791, as appropriate, with an eligible participating entity that elects to participate in and receive services through a regional network security center.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 9, eff. June 14, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.203. REGIONAL NETWORK SECURITY CENTER LOCATIONS AND PHYSICAL SECURITY. (a) In creating and operating a regional network security center, the department shall partner with a university system or institution of higher education as defined by Section 61.003, Education Code, other than a public junior college. The system or institution shall:

(1) serve as an education partner with the department for the regional network security center; and

(2) enter into an interagency contract with the department in accordance with Chapter 771.

(b) In selecting the location for a regional network security center, the department shall select a university system or institution of higher education that has supportive educational capabilities.

(c) A university system or institution of higher education selected to serve as a regional network security center shall control and monitor all entrances to and critical areas of the center to prevent unauthorized entry. The system or institution shall restrict access to the center to only authorized individuals.

(d) A local law enforcement entity or any entity providing

security for a regional network security center shall monitor security alarms at the regional network security center subject to the availability of that service.

(e) The department and a university system or institution of higher education selected to serve as a regional network security center shall restrict operational information to only center personnel, except as provided by Chapter 321.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 9, eff. June 14, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.204. REGIONAL NETWORK SECURITY CENTERS SERVICES AND SUPPORT. The department may offer the following managed security services through a regional network security center:

(1) real-time network security monitoring to detect and respond to network security events that may jeopardize this state and the residents of this state;

(2) alerts and guidance for defeating network security threats, including firewall configuration, installation, management, and monitoring, intelligence gathering, and protocol analysis;

(3) immediate response to counter network security activity that exposes this state and the residents of this state to risk, including complete intrusion detection system installation, management, and monitoring for participating entities;

(4) development, coordination, and execution of statewide cybersecurity operations to isolate, contain, and mitigate the impact of network security incidents for participating entities; and

(5) cybersecurity educational services.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 9, eff. June 14, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2059.205. NETWORK SECURITY GUIDELINES AND STANDARD OPERATING PROCEDURES. (a) The department shall adopt and provide to each regional network security center appropriate network security guidelines and standard operating procedures to ensure efficient operation of the center with a maximum return on the state's investment.

(b) The department shall revise the standard operating procedures as necessary to confirm network security.

(c) Each eligible participating entity that elects to participate in a regional network security center shall comply with the network security guidelines and standard operating procedures.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 9, eff. June 14, 2021.

CHAPTER 2060. INTERAGENCY DATA TRANSPARENCY COMMISSION

Sec. 2060.001. DEFINITION. In this chapter, "commission" means the Interagency Data Transparency Commission.

Added by Acts 2015, 84th Leg., R.S., Ch. 639 (S.B. 1844), Sec. 1, eff. September 1, 2015.

Sec. 2060.002. COMMISSION CREATED. The commission is created to study and review:

(1) the current public data structure, classification, sharing, and reporting protocols for state agencies; and

(2) the possibility of collecting and posting data from state agencies online in an open source format that is machine-readable, exportable, and easily accessible by the public.

Added by Acts 2015, 84th Leg., R.S., Ch. 639 (S.B. 1844), Sec. 1, eff. September 1, 2015.

Sec. 2060.003. STUDY. The study conducted by the commission must consider methods to:

(1) structure, classify, and share data among state agencies;

(2) more efficiently gather and process data;

(3) collect and post data online in an open source format that is machine-readable, exportable, and easily accessible by the public;

(4) standardize data across state agencies;

(5) incorporate reporting practices by state agencies into the open data systems of the state;

(6) improve coordination of interagency data;

(7) improve sharing of data between state agencies;

(8) reduce the costs of collecting data;

(9) reduce duplicative data and information;

(10) increase accountability and ensure state agencies share and report the data collected by the state agencies;

(11) improve information management and analysis to:

(A) increase information security;

(B) uncover fraud and waste;

(C) reduce costs incurred by state agencies;

(D) improve operations performed by state agencies; and

(E) verify compliance with applicable laws; and

(12) determine other data and transparency issues.

Added by Acts 2015, 84th Leg., R.S., Ch. 639 (S.B. 1844), Sec. 1, eff. September 1, 2015.

Sec. 2060.004. REPORT. (a) Not later than September 1, 2016, the commission shall provide to the governor, lieutenant governor, and speaker of the house of representatives a final report on data reporting practices by state agencies. The report must include:

(1) recommendations for efficient and effective solutions under the commission's charge under Section 2060.003, in addition to solutions to other data and transparency issues identified by the commission;

(2) proposals for legislation necessary to implement the recommendations described by Subdivision (1);

(3) administrative recommendations; and

(4) a complete explanation of each of the commission's recommendations.

(b) The commission shall provide any additional reports requested by the governor, lieutenant governor, or speaker of the house of representatives.

Added by Acts 2015, 84th Leg., R.S., Ch. 639 (S.B. 1844), Sec. 1, eff. September 1, 2015.

Sec. 2060.005. MEMBERS OF THE COMMISSION. (a) The commission is composed of the following members:

(1) two representatives from the Department of Information Resources, appointed by the executive director of the department;

(2) a representative of the Texas Legislative Council, appointed by the executive director of the council;

(3) a representative of the Legislative Budget Board, appointed by the director of the board;

(4) a member of each committee of the house of representatives and the senate with primary jurisdiction over information resources, appointed by the chair of each committee;

(5) the chair of the State Agency Coordinating Committee established by the Department of Information Resources, or a member of the committee appointed by the chair;

(6) a representative of the comptroller, appointed by the comptroller;

(7) a representative appointed by the governor, who serves as the presiding officer of the commission;

(8) a representative appointed by the lieutenant governor; and

(9) a representative appointed by the speaker of the house of representatives.

(b) A commission member is not entitled to reimbursement of expenses or to compensation.

(c) A vacancy on the commission shall be filled as soon as practicable in the same manner as the original appointment.

Added by Acts 2015, 84th Leg., R.S., Ch. 639 (S.B. 1844), Sec. 1, eff. September 1, 2015.

Sec. 2060.006. ASSISTANCE BY STATE AGENCIES. The comptroller or a state agency with a representative on the commission shall provide any assistance the commission requires to perform the commission's duties.

Added by Acts 2015, 84th Leg., R.S., Ch. 639 (S.B. 1844), Sec. 1, eff.

September 1, 2015.

CHAPTER 2062. RESTRICTIONS ON STATE AGENCY USE OF CERTAIN INDIVIDUAL-IDENTIFYING INFORMATION

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 5129, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2062.001. DEFINITIONS. In this chapter:

(1) "Biometric identifier" has the meaning assigned by Section 560.001.

(2) "State agency" means a department, commission, board, office, council, authority, or other agency in the executive, legislative, or judicial branch of state government, including a university system or institution of higher education as defined by Section 61.003, Education Code, that is created by the constitution or a statute of this state.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 10, eff. September 1, 2021.

Sec. 2062.002. CONSENT REQUIRED BEFORE ACQUIRING, RETAINING, OR DISSEMINATING CERTAIN INFORMATION; RECORDS. (a) Except as provided by Subsection (b), a state agency may not:

(1) use global positioning system technology, individual contact tracing, or technology designed to obtain biometric identifiers to acquire information that alone or in conjunction with other information identifies an individual or the individual's location without the individual's written or electronic consent;

(2) retain information with respect to an individual described by Subdivision (1) without the individual's written or electronic consent; or

(3) disseminate to a person the information described by Subdivision (1) with respect to an individual unless the state agency first obtains the individual's written or electronic consent.

(b) A state agency may acquire, retain, and disseminate information described by Subsection (a) with respect to an individual without the individual's written or electronic consent if the acquisition, retention, or dissemination is:

(1) required or permitted by a federal statute or by a state statute other than Chapter 552; or

(2) made by or to a law enforcement agency for a law enforcement purpose.

(c) A state agency shall retain the written or electronic consent of an individual obtained as required under this section in the agency's records until the contract or agreement under which the information is acquired, retained, or disseminated expires.

Added by Acts 2021, 87th Leg., R.S., Ch. 567 (S.B. 475), Sec. 10, eff. September 1, 2021.

SUBTITLE C. STATE ACCOUNTING, FISCAL MANAGEMENT, AND PRODUCTIVITY

CHAPTER 2101. ACCOUNTING PROCEDURES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2101.001. DEFINITIONS. In this chapter:

(1) "Enterprise resource planning" includes the administration of a state agency's:

(A) general ledger;

(B) accounts payable;

(C) accounts receivable;

(D) budgeting;

(E) inventory;

(F) asset management;

(G) billing;

(H) payroll;

(I) projects;

(J) grants;

(K) human resources, including administration of performance measures, time spent on tasks, and other personnel and labor issues; and

(L) purchasing, including solicitations and contracting.

(2) "State agency" has the meaning assigned by Section 403.013.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1089 (H.B. 3106), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1057 (H.B. 3116), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 6, eff. September 1, 2015.

SUBCHAPTER B. FINANCIAL REPORTING

Sec. 2101.011. FINANCIAL INFORMATION REQUIRED OF STATE AGENCIES. (a) In this section:

(1) "Annual financial report" means the annual financial report required by this section.

(2) "Appropriated money" means money appropriated by the legislature under the General Appropriations Act or other law.

(3) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(b) Except as provided by Subsections (b-1) and (b-2), not later than November 1 of each year, a state agency shall submit an annual financial report regarding the agency's use of appropriated money during the preceding fiscal year to:

(1) the governor;

(2) the comptroller;

(3) the Legislative Reference Library;

(4) the state auditor; and

(5) the Legislative Budget Board.

(b-1) An institution of higher education shall submit the annual financial report described by Subsection (b) not later than November 20 of each year.

(b-2) A state agency may submit an audited financial report in place of the report described by Subsection (b). An audited financial report must be submitted not later than December 15 of each year.

(c) A state agency's annual financial report must include information on all assets, liabilities, and fund balances, including:

(1) cash on hand and on deposit in banks and accounts in the state treasury;

(2) the value of the agency's inventory of movable equipment and other fixed assets;

(3) an itemization of the investments, bonds, notes, and other securities owned by any special funds under the agency's jurisdiction, including the amount and value of the securities;

(4) all money due the agency from any source;

(5) all outstanding commitments of the agency, including amounts due for services or goods received by the agency;

(6) a summary by source of all revenue collected or accruing through the agency;

(7) a summary of all appropriations, expenditures, bona fide encumbrances, and other disbursements by the agency; and

(8) any other financial information requested by the comptroller.

(d) The comptroller may require the reporting of the financial information for any entity that the comptroller determines is a component unit of a statewide reporting entity in accordance with generally accepted accounting principles as prescribed or modified by the Governmental Accounting Standards Board or its successors.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 65, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.61, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 281, Sec. 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1158, Sec. 40, eff. Sept. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 795 (H.B. 2042), Sec. 2, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 629 (H.B. 4510), Sec. 1, eff. September 1, 2024.

Sec. 2101.0115. OTHER INFORMATION REQUIRED OF STATE AGENCIES. (a) A state agency shall submit an annual report to:

(1) the governor;

(2) the Legislative Reference Library;

(3) the state auditor; and

(4) the Legislative Budget Board.

(b) A state agency's annual report must cover an entire fiscal year. The agency shall submit the report not later than December 31 of each year.

(c) A state agency's annual report must include:

(1) the name and job title of each bonded agency employee, the amount of the bond, and the name of the surety company that issued the bond;

(2) an analysis of space occupied by the agency, including:

(A) the total amount of space rented by the agency, expressed in square feet;

(B) the total amount of space occupied by the agency in state-owned buildings, expressed in square feet;

(C) the name and address of each building in which the agency occupies space and the amount of square feet in each building devoted to each particular use;

(D) the cost per square foot of all rented space;

(E) the annual and monthly cost of all rented space;

(F) the name of each lessor of space rented by the agency;

(G) a description of the agency's progress toward achieving the objective provided by Section 2165.104, if the agency is subject to that section; and

(H) any other information helpful to describe the agency's use of space;

(3) an itemization of all fees paid by the agency for professional or consulting services provided under Subchapter A or B, Chapter 2254, including the name of each person receiving those fees and the reason for the provision of the services;

(4) an itemization of all fees paid by the agency for legal services, other than legal services provided by an agency employee or the attorney general, including the name of each person receiving those fees and the reason for the provision of the services;

(5) a copy of the form prepared by the agency under Section 2205.041, relating to the agency's use and cost of operating aircraft that are state-owned or under rental or long-term lease;

(6) an itemization of any purchases made under Section 2155.067, including each product purchased, the amount of the purchase, and the name of the vendor;

(7) for each fiscal year ending in an even-numbered calendar year:

(A) a copy of the master file report verification form certified by the General Land Office, if applicable to the agency, to confirm that the agency is in compliance with Subchapter E, Chapter 31, Natural Resources Code; or

(B) if the agency's inventory record is inaccurate or incomplete, a statement that the agency will submit the appropriate forms to the General Land Office not later than the 15th day after

the date the agency submits its annual report;

(8) a copy of the report prepared by the agency under Section 2161.124, relating to the agency's use of historically underutilized businesses;

(9) a report of each transfer of appropriated money between appropriation items that shows the sum of all transfers affecting each item;

(10) an itemization of each passenger vehicle the agency purchased, including the make, model, purchase price, assigned type of use, and fuel efficiency as expressed by the manufacturer's fuel efficiency rating;

(11) a schedule, applicable to state agencies determined by the Legislative Budget Board, detailing total expenditures by or on behalf of the agency for:

(A) employee benefits, including social security, health insurance, retirement contributions, benefit replacement pay, and workers' and unemployment compensation payments;

(B) bond debt service; and

(C) payments for general governmental services as defined by the comptroller, including services of the comptroller, the attorney general, the Texas Facilities Commission, the Department of Information Resources, and the state auditor;

(12) for an institution of higher education, the total amount of lump-sum vacation and compensatory leave payments made to employees who separated from state service during the fiscal year;

(13) the name and job title of each state officer or employee authorized to use a state-owned or state-leased vehicle and the reasons for the authorization, in accordance with Section 2113.013; and

(14) a report of expenditures made for each commodity or service identified under Section 2155.448, including:

(A) the total amount spent on those commodities and services;

(B) the total amount spent for commodities and services purchased that accomplish the same purpose; and

(C) the total amount spent for all other recycled, remanufactured, or environmentally sensitive commodities or services, itemized by type of commodity or service.

(d) In this section:

(1) "Annual report" means the annual report required by

this section.

(2) "Appropriated money" means money appropriated by the legislature under the General Appropriations Act or other law.

(3) "Appropriation item" includes an item listed in the General Appropriations Act under an informational listing of appropriated funds.

(4) "Institution of higher education" and "university system" have the meanings assigned by Section 61.003, Education Code.

(e) This section does not apply to an institution of higher education or university system.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 41, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 54, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 6.08, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 6.09, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 5, eff. September 1, 2019.

Sec. 2101.012. UNIFORM ACCOUNTING AND REPORTING PROCEDURES. (a) The comptroller shall prescribe uniform accounting and financial reporting procedures that each state agency shall use in the preparation of the information requested under Section 2101.011. The procedures may include procedures that prescribe a uniform format for and a uniform method of reporting the financial information included in the annual financial report.

(b) The procedures must include the requirements for compliance with the federal Single Audit Act of 1984 and Office of Management and Budget Circular A-133 and any subsequent changes or amendments that will fulfill the audit requirements for a statewide single audit.

(c) The accounts of the institutions shall be maintained and audited in accordance with the approved reporting system.

(d) The comptroller may adopt rules to implement this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 42, eff. Sept. 1,

2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 141 (S.B. 470), Sec. 1, eff. May 18, 2007.
Acts 2019, 86th Leg., R.S., Ch. 795 (H.B. 2042), Sec. 3, eff. September 1, 2019.

Sec. 2101.013. REVIEW OF PROPOSED PROCEDURES. (a) Before adopting or changing the accounting and financial reporting procedures, the comptroller shall submit the proposed procedures to the state auditor for review and comment.
(b) In adopting or changing procedures, the comptroller shall consider any comments of the state auditor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2101.014. DUTIES OF STATE AUDITOR. The state auditor shall ensure that the accounting and financial reporting procedures of each state agency conform to the procedures adopted under this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2101.015. COMPONENTIZATION FOR AGENCY RECEIVING FEDERAL FUNDS. (a) In this section "componentization" means the process of separately calculating the depreciation of major building structural components, subsystems, and equipment.
(b) This section applies only to a state agency that receives federal funds to implement federal or joint federal and state programs.
(c) A state agency shall complete a componentization of any agency-owned building with a fair market value of at least $1 million. As each building component is replaced, it shall be separately depreciated based on its individual useful life. At a minimum, the agency shall complete any componentization using the following component categories and suggested useful lives:
(1) building shell, 30 years;
(2) electrical and lighting systems, 20 years;

(3) plumbing systems, 20 years;
(4) fire protection systems, 20 years;
(5) elevator systems, 20 years;
(6) fixed equipment assets, 20 years;
(7) heating, ventilation, and cooling systems, 15 years;
(8) floor coverings, 15 years;
(9) interior finish, 15 years;
(10) miscellaneous construction features, 15 years; and
(11) roof coverings, 10 years.

(d) The comptroller by rule may modify the schedule prescribed by Subsection (c).

Added by Acts 2001, 77th Leg., ch. 708, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER C. UNIFORM STATEWIDE ACCOUNTING

Sec. 2101.031. UNIFORM STATEWIDE ACCOUNTING PROJECT. (a) The uniform statewide accounting project is in the comptroller's office.

Text of introductory language of subsec. (b) as amended by Acts 1997, 75th Leg., ch. 891, Sec. 1.02

(b) The project includes each component of the uniform statewide accounting system as designed in accordance with Chapter 852, Acts of the 70th Legislature, Regular Session, 1987, and as defined by Section 1, Chapter 781, Acts of the 71st Legislature, Regular Session, 1989, including:

Text of introductory language of subsec. (b) as amended by Acts 1997, 75th Leg., ch. 1035, Sec. 79

(b) The project includes each component of the uniform statewide accounting system as designed in accordance with Chapter 852, Acts of the 70th Legislature, Regular Session, 1987, as defined by Section 1, Chapter 781, Acts of the 71st Legislature, Regular Session, 1989, and as developed or revised by the comptroller, including:

(1) the uniform statewide accounting system (USAS) and related subsystems;
(2) the uniform statewide payroll system (USPS); and
(3) the human resource information system (HRIS).

(c) The comptroller shall ensure that the uniform statewide accounting project includes enterprise resource planning.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 891, Sec. 1.02, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1035, Sec. 79, eff. June 19, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1089 (H.B. 3106), Sec. 2, eff. September 1, 2007.

Sec. 2101.033. PROJECT DIRECTOR. (a) The comptroller shall appoint a project director to administer the project.

(b) The project director reports directly to the comptroller or chief deputy comptroller.

(c) To be appointed project director, an individual must be qualified by training and experience to perform the duties of the position.

(d) The project director shall:

(1) administer the project as provided by this subchapter;

(2) employ and remove project staff;

(3) administer all money entrusted to the project;

(4) obtain necessary office space, equipment, and supplies for the project; and

(5) contract for goods and services necessary to carry out this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2101.034. PROJECT SUPPORT; RECOVERY OF COSTS. (a) The comptroller shall provide support services for the project, including accounting, purchasing, and personnel services. The cost of the services shall be paid from money appropriated to the comptroller.

(b) The comptroller may recover from a state agency or a vendor that uses the system under Section 2155.061 the cost of implementation or use of any component of the project.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1057 (H.B. 3116), Sec. 2, eff. September 1, 2013.

Sec. 2101.035. ADMINISTRATION OF USAS. (a) The comptroller is

responsible for the administration, maintenance, and modification of the uniform statewide accounting system. The comptroller may adopt procedures and rules for the effective operation of the system, including procedures and rules relating to the method used to compute the net compensation of a state officer or employee.

(b) Repealed by Acts 1997, 75th Leg., ch. 891, Sec. 1.06(b), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1035, Sec. 90(a), eff. June 19, 1997.

(c) The comptroller shall implement the uniform statewide accounting system in accordance with generally accepted accounting principles, including the guidelines of the National Association of College and University Business Officers.

(d) The comptroller shall ensure that the uniform statewide accounting system encompasses each state agency.

(e) The comptroller shall ensure that the uniform statewide payroll system includes a standardized payroll calculation function. A state agency shall use that function to calculate its payrolls unless the comptroller temporarily exempts the agency from this requirement.

(f) The comptroller may designate a centralized or decentralized computer system, or a combination of those systems, to operate the uniform statewide accounting system or a component of that system, including the uniform statewide payroll system and the human resources information system. A designated computer system may be operated by the comptroller, another governmental entity, or a private contractor.

(g) If the comptroller designates a decentralized computer system under Subsection (f), the comptroller may require each state agency using that system to report data and other information from the system to the comptroller at the time and in the manner required by the comptroller.

(h) State agencies shall report expenditures in the uniform manner required by the comptroller.

(i) State agencies shall report contract and purchasing information in the uniform manner required by the comptroller.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.30(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 891, Sec. 1.03, 1.06(b) eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1035, Sec. 80, 90(a) eff. June

19, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 141 (S.B. 470), Sec. 2, eff. May 18, 2007.
Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 7, eff. September 1, 2015.

Sec. 2101.036. STATE AGENCY INTERNAL ACCOUNTING SYSTEMS. (a) The comptroller by rule may:

(1) require state agencies to modify, delay, or stop the implementation of individual accounting and payroll systems, including individual enterprise resource planning systems, so that those systems are compatible with the uniform statewide accounting system; and

(2) adopt standards for implementation and modification of state agency enterprise resource planning systems.

(b) The comptroller may require a state agency to:

(1) replace its internal enterprise resource planning system or accounting and payroll system with project components to provide uniformity in internal accounting and other enterprise resource planning system functions; and

(2) modify its internal enterprise resource planning system or accounting and payroll system to provide uniformity in internal accounting and other enterprise resource planning system functions.

(c) The expenditure of state funds for the establishment, modification, or maintenance of an individual enterprise resource planning system or accounting or payroll system must be in accordance with any rules regarding the development, implementation, or use of the uniform statewide accounting system.

(d) Notwithstanding any other provision of this chapter or other law, this section and any rules implementing this section apply only in relation to a state agency as defined by Section 2054.003.

(e) Notwithstanding Subsection (d), a state agency in the legislative branch may elect to participate in the enterprise resource planning system developed under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1089 (H.B. 3106), Sec. 3, eff.

September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 8, eff. September 1, 2015.

Sec. 2101.037. STATE AGENCY COOPERATION. (a) A state agency shall make available to the project director all records of the agency for purposes of developing and implementing the project, including complying with the rules and requirements prescribed by the comptroller under Section 2101.036.

(b) To ensure continuous reporting of comprehensive financial management information, including information on encumbrances and performance and workload measures, the comptroller shall require each state agency to report the necessary information to the project director on time. The reports of each agency must comply with the comptroller's rules and procedures about content and frequency.

(c) It is an affirmative defense to prosecution under Section 552.352(a) that the comptroller, the project director, or another officer or employee of the comptroller acted in reliance on a determination made by a state agency about the confidentiality of information supplied by the agency to the project director under Subsection (b).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 1218, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1089 (H.B. 3106), Sec. 4, eff. September 1, 2007.

Sec. 2101.0375. WITHHOLDING OF TRAVEL EXPENSE REIMBURSEMENTS FOR LATE OR IMPROPER REPORTING. (a) The comptroller may withhold all reimbursements for the travel expenses incurred by the chief administrative officer of a state agency whose report under this subchapter is not properly received by the comptroller on or before the comptroller's deadline.

(b) The comptroller may withhold all reimbursements for the travel expenses incurred by the officers and employees of a state agency whose report under this subchapter is not properly received by

the comptroller on or before the 30th day after the comptroller's deadline.

(c) The comptroller may prohibit a state agency from using local funds to reimburse the travel expenses incurred by:

(1) the agency's chief administrative officer if the agency's report under this subchapter is not properly received by the comptroller on or before the comptroller's deadline; or

(2) the agency's officers or employees if the agency's report under this subchapter is not properly received by the comptroller on or before the 30th day after the comptroller's deadline.

(d) Immediately after the comptroller determines that a state agency's report has been properly received, the comptroller shall:

(1) release each travel expense reimbursement that the comptroller withheld under Subsection (a) or (b); and

(2) rescind any prohibition that the comptroller issued under Subsection (c).

(e) A travel expense reimbursement is subject to withholding under Subsection (a), (b), or (c) regardless of when the expense is incurred. A travel expense reimbursement is subject to withholding under Subsection (a) or (b) regardless of whether the reimbursement is payable to an individual or a state agency.

(f) A report is properly received under this section if the report complies with the format, submission method, content, and other requirements of the comptroller and this subchapter.

(g) In this section:

(1) "Chief administrative officer" means:

(A) the appointed or elected individual who is authorized by law to administer a state agency that is not headed by a governing body; or

(B) the executive director or other individual with an equivalent title who administers a state agency headed by a governing body.

(2) "Local funds" means funds that are not expended on warrants drawn or electronic funds transfers initiated by the comptroller.

(3) "State agency" does not include:

(A) a state agency under the direct supervision and control of the governor, the secretary of state, the comptroller, the Commissioner of the General Land Office, or the attorney general if

the agency is not headed by a governing body;

(B) a state agency in the legislative or judicial branch of government;

(C) the Department of Agriculture; or

(D) the Railroad Commission of Texas.

Added by Acts 1997, 75th Leg., ch. 1035, Sec. 81, eff. June 19, 1997.

Sec. 2101.0376. ADMINISTRATIVE PENALTIES FOR LATE OR IMPROPER REPORTING. (a) The comptroller may impose an administrative penalty against a state agency if the comptroller:

(1) is late in submitting a statewide report or submits an incomplete statewide report; and

(2) determines that the statewide report is late or incomplete because a report from the agency under this subchapter was not properly received by the comptroller on or before the comptroller's deadline.

(b) A penalty imposed under Subsection (a) may be in an amount not to exceed $2,000 for each report that is not properly received by the comptroller on or before the comptroller's deadline.

(c) A state agency shall ensure that the comptroller receives payment of a penalty imposed under Subsection (a) not later than the 30th day after the date the agency receives notice of the penalty. The comptroller shall deposit the payment to the credit of the general revenue fund.

(d) A report is properly received under this section if the report complies with the format, submission method, content, and other requirements of the comptroller and this subchapter.

(e) The comptroller may adopt rules to administer this section.

(f) In this section, "statewide report" means a report periodically submitted by the comptroller to the legislature, the state auditor, or another state officer or agency that provides statistical or financial information about the state agencies or their officers and employees.

(g) "State agency" does not include:

(1) a state agency under the direct supervision and control of the governor, the secretary of state, the comptroller, the Commissioner of the General Land Office, or the attorney general if the agency is not headed by a governing body;

(2) a state agency in the legislative or judicial branch of government;

(3) the Department of Agriculture; or

(4) the Railroad Commission of Texas.

Added by Acts 1997, 75th Leg., ch. 1035, Sec. 81, eff. June 19, 1997.

Sec. 2101.0377. REPORTING ACCOUNTING IRREGULARITIES TO STATE AUDITOR. On determining that a state agency, as defined by Section 658.001, or an institution of higher education, as defined by Section 61.003, Education Code, has inaccurately reported the expenditure of appropriated funds or engaged in recurring accounting irregularities, the comptroller shall report the agency or institution to the state auditor for appropriate action, including a comprehensive financial audit.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.15, eff. Sept. 1, 1999.

Sec. 2101.038. DUTIES OF STATE AUDITOR. The state auditor, when reviewing the operation of a state agency, shall audit for compliance with the uniform statewide accounting system, the comptroller's rules, and the Legislative Budget Board's performance and workload measures. The state auditor shall also audit state agencies that make purchases that are exempted from the purchasing authority of the comptroller or that make purchases under delegated purchasing authority for compliance with applicable provisions of Subtitle D, except that this section does not require the state auditor to audit purchases made under Section 51.9335, Education Code, or made under Section 73.115, Education Code. The state auditor shall notify the comptroller, the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board as soon as practicable when a state agency is not in compliance.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(21), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 891, Sec. 1.04, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1035, Sec. 82, eff. June 19, 1997;

Acts 1997, 75th Leg., ch. 1206, Sec. 22, eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.66, eff. September 1, 2007.

Sec. 2101.039. CONTRACTS; EXEMPTION. Contracts made under this subchapter are not subject to:
(1) Subtitle D, Title 10;
(2) Chapter 2254; or
(3) Chapter 2054.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 891, Sec. 1.05, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1035, Sec. 83, eff. June 19, 1997.

Sec. 2101.040. ENTERPRISE RESOURCE PLANNING ADVISORY COUNCIL. (a) The comptroller shall establish and coordinate the enterprise resource planning advisory council. The council is composed of:
(1) representatives of the Department of Information Resources, appointed by the executive director of the department;
(2) representatives of the Health and Human Services Commission, appointed by the executive commissioner of the commission;
(3) representatives of the Information Technology Council for Higher Education, nominated by the members of the council;
(4) representatives of the comptroller's office, appointed by the comptroller; and
(5) representatives of two state agencies selected by the comptroller that have fewer than 100 employees, appointed by the executive head of each agency.
(b) The council shall develop a plan that contains key requirements, constraints, and alternative approaches for the comptroller's implementation of enterprise resource planning standards, including related core functionality and business process reengineering requirements.
(c) Before each legislative session, the comptroller shall report to the legislature concerning the status of the implementation

of the council's plan under Subsection (b) regarding enterprise resource planning in this state, including any planned modifications to and upgrade requirements of statewide and agency systems and the financial impact of the modifications and upgrade requirements.

(d) A member of the council receives no additional compensation for serving on the council and may not be reimbursed for travel or other expenses incurred while conducting the business of the council.

(e) Except as provided by Subsection (d), Chapter 2110 applies to the council.

Added by Acts 2007, 80th Leg., R.S., Ch. 1089 (H.B. 3106), Sec. 5, eff. September 1, 2007.

Sec. 2101.041. STATE AGENCY REPORTING OF CONTRACTING INFORMATION. (a) The comptroller by rule shall determine the contracting information that state agencies must report or provide using the centralized accounting and payroll system, or any successor system used to implement the enterprise resource planning component of the uniform statewide accounting project, developed under Sections 2101.035 and 2101.036.

(b) In making the determination required by this section, the comptroller shall consider requiring a state agency to report or provide:

(1) a brief summary of each contract that is quickly and easily searchable, including the contract's purpose, timeline, and deliverables;

(2) contract planning and solicitation documents;

(3) the criteria used to determine the vendor awarded the contract;

(4) if the contract was awarded based on best value to the state:

(A) a list of the factors considered in determining best value with the weight given each factor; and

(B) a statement regarding how the vendor awarded the contract provides the best value to the state in relation to other vendors who bid or otherwise responded to the contract solicitation;

(5) any statements of work and work orders prepared for or under the contract;

(6) the proposed budget for the contract;

(7) any conflict of interest documents signed by state agency purchasing personnel participating in the planning, soliciting, or monitoring of the contract;

(8) criteria used or to be used by the state agency in monitoring the contract and vendor performance under the contract;

(9) a justification for each change order, contract amendment, contract renewal or extension, or other proposed action that would result in an increase in the monetary value of a contract with an initial value exceeding $10 million; and

(10) additional supporting documentation and justification for a change order, contract amendment, contract renewal or extension, or other proposed action of a contract described by Subdivision (9) that would result in an increase in the contract's monetary value by more than 20 percent.

Added by Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 9, eff. September 1, 2015.

Sec. 2101.042. LEAVE REPORTING. (a) As part of the centralized accounting and payroll system or any successor system used to implement the enterprise resource planning component of the uniform statewide accounting project developed under Sections 2101.031, 2101.035, and 2101.036, the comptroller shall adopt a uniform system for use by each state agency to which Section 2101.036 applies under Subsection (d) of that section for the reporting of leave taken by the agency's employees. The system adopted by the comptroller must include standardized accounting codes for each type of leave authorized under Chapter 661.

(b) A state agency to which Subsection (a) applies shall use the uniform system adopted by the comptroller under this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 518 (S.B. 73), Sec. 5, eff. September 1, 2017.

SUBCHAPTER D. FINANCIAL REPORTING BY CERTAIN FUNDS AND TRUST ACCOUNTS

Sec. 2101.051. DEFINITION. In this subchapter, "economically targeted investment" means an investment in which at least 50 percent of the total investment is allocated to economic development within

this state or investment in businesses or entities located within this state.

Added by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 18.001(a), eff. September 1, 2019.

Sec. 2101.052. APPLICABILITY OF SUBCHAPTER. The requirements of this subchapter apply only to:

(1) the permanent school fund;

(2) the permanent university fund;

(3) the Teacher Retirement System of Texas trust fund; and

(4) each trust account administered by the Employees Retirement System of Texas.

Added by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 18.001(a), eff. September 1, 2019.

Sec. 2101.053. REPORT DEADLINE; CONTENT OF REPORT. (a) The manager of each fund or account to which this subchapter applies shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the executive director of the State Pension Review Board:

(1) not later than January 25 of each year, a report with the information required by Subsection (b) covering the last six months of the previous calendar year; and

(2) not later than June 25 of each year, a report with the information required by Subsection (b) covering the first six months of that calendar year.

(b) Each report submitted under Subsection (a) must include the following:

(1) the number of beneficiaries of the fund or account;

(2) the name of each individual responsible for administering the fund or account and the discretionary investment authority granted to the individual;

(3) the investment objectives of the fund or account;

(4) the current end-of-month market value of the fund or account;

(5) the current book value of the fund or account;

(6) the names and amounts of the 10 largest stock holdings

of the fund or account and the investment performance of those stock holdings during the last 12-month period;

(7) the asset allocations of the fund or account expressed in percentages of stocks, fixed income, real estate, cash, or other financial investments; and

(8) the names and amounts of all investments made by the fund or account in economically targeted investments.

Added by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 18.001(a), eff. September 1, 2019.

Sec. 2101.054. EFFECT OF SUBCHAPTER. This subchapter does not diminish, impair, contradict, or affect the duties, powers, or authorities granted or imposed on a governing board of a fund or account listed in Section 2101.052 by the constitution or laws of this state.

Added by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 18.001(a), eff. September 1, 2019.

CHAPTER 2102. INTERNAL AUDITING

Sec. 2102.001. SHORT TITLE. This chapter may be cited as the Texas Internal Auditing Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2102.002. PURPOSE. The purpose of this chapter is to establish guidelines for a program of internal auditing to assist agency administrators and governing boards by furnishing independent analyses, appraisals, and recommendations about the adequacy and effectiveness of a state agency's systems of internal control policies and procedures and the quality of performance in carrying out assigned responsibilities. Internal auditing is defined as an independent, objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 380, Sec. 1, eff. Sept. 1, 2003.

Sec. 2102.003. DEFINITIONS. In this chapter:

(1) "Administrator" means the executive head of a state agency.

(2) "Assurance services" means an examination of evidence for the purpose of providing an independent assessment of risk management, control, or governance processes for an organization. Assurance services include audits as defined in this section.

(3) "Audit" means:

(A) a financial audit described by Section 321.0131;

(B) a compliance audit described by Section 321.0132;

(C) an economy and efficiency audit described by Section 321.0133;

(D) an effectiveness audit described by Section 321.0134; or

(E) an investigation described by Section 321.0136.

(4) "Consulting services" means advisory and related client service activities, the nature and scope of which are agreed upon with the client and are intended to add value and improve an organization's operations. Consulting services include counsel, advice, facilitation, and training.

(5) "State agency" means a department, board, bureau, institution, commission, or other agency in the executive branch of state government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1122, Sec. 11, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 380, Sec. 2, eff. Sept. 1, 2003.

Sec. 2102.004. APPLICABILITY. (a) Sections 2102.005-2102.012 apply only to a state agency that:

(1) has an annual operating budget that exceeds $10 million;

(2) has more than 100 full-time equivalent employees as authorized by the General Appropriations Act; or

(3) receives and processes more than $10 million in cash in

a fiscal year.

(b) Sections 2102.013 and 2102.014 apply to each state agency that receives an appropriation and that is not described by Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 804, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 291, Sec. 1, eff. June 18, 2003.

Sec. 2102.005. INTERNAL AUDITING REQUIRED. (a) A state agency shall conduct a program of internal auditing that includes:

(1) an annual audit plan that is prepared using risk assessment techniques and that identifies the individual audits to be conducted during the year; and

(2) periodic audits of the agency's major systems and controls, including:

(A) accounting systems and controls;

(B) administrative systems and controls; and

(C) electronic data processing systems and controls.

(b) In conducting the internal auditing program under Subsection (a), a state agency shall consider methods for ensuring compliance with contract processes and controls and for monitoring agency contracts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1122, Sec. 12, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 14, eff. September 1, 2019.

Sec. 2102.006. INTERNAL AUDITOR; STAFF. (a) The governing board of a state agency or the administrator of a state agency that does not have a governing board shall appoint an internal auditor.

(b) An internal auditor must:

(1) be a certified public accountant or a certified internal auditor; and

(2) have at least three years of auditing experience.

(c) The state agency shall employ additional professional and

support staff the administrator determines necessary to implement an effective program of internal auditing.

(d) The governing board of a state agency, or the administrator of a state agency if the state agency does not have a governing board, shall periodically review the resources dedicated to the internal audit program and determine if adequate resources exist to ensure that risks identified in the annual risk assessment are adequately covered within a reasonable time frame.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 804, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 380, Sec. 3, eff. Sept. 1, 2003.

Sec. 2102.007. DUTIES OF INTERNAL AUDITOR. (a) The internal auditor shall:

(1) report directly to the state agency's governing board or the administrator of the state agency if the state agency does not have a governing board;

(2) develop an annual audit plan;

(3) conduct audits as specified in the audit plan and document deviations;

(4) prepare audit reports;

(5) conduct quality assurance reviews in accordance with professional standards as provided by Section 2102.011 and periodically take part in a comprehensive external peer review; and

(6) conduct economy and efficiency audits and program results audits as directed by the state agency's governing board or the administrator of the state agency if the state agency does not have a governing board.

(b) The program of internal auditing conducted by a state agency must provide for the auditor to:

(1) have access to the administrator; and

(2) be free of all operational and management responsibilities that would impair the auditor's ability to review independently all aspects of the state agency's operation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 804, Sec. 3, eff. Sept. 1, 2001.

Sec. 2102.008. APPROVAL OF AUDIT PLAN AND AUDIT REPORT. The annual audit plan developed by the internal auditor must be approved by the state agency's governing board or by the administrator of a state agency if the state agency does not have a governing board. Audit reports must be reviewed by the state agency's governing board and the administrator.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 804, Sec. 4, eff. Sept. 1, 2001.

Sec. 2102.009. ANNUAL REPORT. The internal auditor shall prepare an annual report and submit the report before November 1 of each year to the governor, the Legislative Budget Board, the state auditor, the state agency's governing board, and the administrator. The state auditor shall prescribe the form and content of the report, subject to the approval of the legislative audit committee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1122, Sec. 13, eff. Sept. 1, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.18, eff. September 1, 2019.

Sec. 2102.0091. REPORTS OF PERIODIC AUDITS. (a) A state agency shall file with the division of the governor's office responsible for budget and policy, the state auditor, and the Legislative Budget Board a copy of each report submitted to the state agency's governing board or the administrator of the state agency if the state agency does not have a governing board by the agency's internal auditor.

(b) Each report shall be filed not later than the 30th day after the date the report is submitted to the state agency's governing board or the administrator of the state agency if the state agency does not have a governing board.

(c) In addition to the requirements of Subsection (a), a state agency shall file with the division of the governor's office responsible for budget and policy, the state auditor, and the Legislative Budget Board any action plan or other response issued by

the state agency's governing board or the administrator of the state agency if the state agency does not have a governing board in response to the report of the state agency's internal auditor.

(d) If the state agency does not file the report as required by this section, the Legislative Budget Board or the division of the governor's office responsible for budget and policy may take appropriate action to compel the filing of the report.

Added by Acts 1999, 76th Leg., ch. 281, Sec. 7, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 804, Sec. 4, eff. Sept. 1, 2001.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 50, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.19, eff. September 1, 2019.

Sec. 2102.010. CONSULTATIONS. An internal auditor may consult the state agency's governing board or the administrator of the state agency if the state agency does not have a governing board, the governor's office, the state auditor, and legislative agencies or committees about matters affecting duties or responsibilities under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 804, Sec. 4, eff. Sept. 1, 2001.

Sec. 2102.011. INTERNAL AUDIT STANDARDS. The internal audit program shall conform to the Standards for the Professional Practice of Internal Auditing, the Code of Ethics contained in the Professional Practices Framework as promulgated by the Institute of Internal Auditors, and generally accepted government auditing standards.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 380, Sec. 4, eff. Sept. 1, 2003.

Sec. 2102.012. PROFESSIONAL DEVELOPMENT. (a) Subject to approval by the legislative audit committee, the state auditor may

make available and coordinate a program of training and technical assistance to ensure that state agency internal auditors have access to current information about internal audit techniques, policies, and procedures and to provide general technical and audit assistance to agency internal auditors on request.

(b) The state auditor is entitled to reimbursement for costs associated with providing the services under the terms of interagency cooperation contracts negotiated between the state auditor and each agency. The costs may not exceed those allowed by the General Appropriations Act. Work performed under this section by the state auditor is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 33, eff. Sept. 1, 2003.

Sec. 2102.013. ANNUAL RISK ASSESSMENT; REPORT. (a) A state agency described by Section 2102.004(b) shall conduct each year a formal risk assessment consisting of an executive management review of agency functions, activities, and processes.

(b) The risk assessment must:

(1) evaluate the probability of occurrence and the likely effect of financial, managerial, and compliance risks and of risks related to the use of information technology; and

(2) rank risks according to the probability of occurrence and likely effect of the risks evaluated.

(c) The state agency shall submit the written risk assessment to the state auditor in the form and at the time prescribed by the state auditor.

Added by Acts 2003, 78th Leg., ch. 291, Sec. 2, eff. June 18, 2003.

Sec. 2102.014. EVALUATION OF RISK ASSESSMENT REPORTS; AUDITS. (a) Based on risk assessment and subject to the legislative audit committee's approval of including the work described by this subsection in the audit plan under Section 321.013(c), the state auditor shall:

(1) evaluate each report submitted under Section 2102.013;

(2) identify agencies with significant financial, managerial, or compliance risk or significant risk related to the use of information technology; and

(3) recommend to the governor that the identified agencies obtain an audit to address the significant risks identified by the state auditor.

(b) The governor may order an agency identified under this section to:

(1) obtain an audit under governmental auditing standards;

(2) submit reports and corrective action plans as prescribed by Section 2102.0091; and

(3) report to the state auditor the status of the agency's implementation of audit recommendations in the form and addressing issues as prescribed by the state auditor.

(c) The governor may provide funds to agencies as necessary to pay the costs of audits ordered under this section from any funds appropriated to the governor for this purpose.

Added by Acts 2003, 78th Leg., ch. 291, Sec. 2, eff. June 18, 2003.

Sec. 2102.015. PUBLICATION OF AUDIT PLAN AND ANNUAL REPORT ON INTERNET. (a) Notwithstanding Section 2102.003, in this section, "state agency" means a board, commission, department, institute, office, or other agency in the executive branch of state government that is created by the constitution or a statute of this state, including an institution of higher education as defined by Section 61.003, Education Code.

(b) Subject to Subsection (c), at the time and in the manner provided by the state auditor, a state agency shall post on the agency's Internet website:

(1) the agency's internal audit plan approved as provided by Section 2102.008; and

(2) the agency's annual report required under Section 2102.009.

(c) A state agency is not required to post information contained in the agency's internal audit plan or annual report if the information is excepted from public disclosure under Chapter 552.

(d) A state agency shall update the posting required under this section at the time and in the manner provided by the state auditor

to include a detailed summary of the weaknesses, deficiencies, wrongdoings, or other concerns, if any, raised by the audit plan or annual report.

(e) A state agency shall update the posting required under this section to include a summary of the action taken by the agency to address the concerns, if any, that are raised by the audit plan or annual report.

Added by Acts 2013, 83rd Leg., R.S., Ch. 840 (H.B. 16), Sec. 1, eff. June 14, 2013.

CHAPTER 2103. EXPENDITURES BY STATE AGENCIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2103.001. DEFINITION. In this chapter, "state agency" means a department, board, commission, committee, council, agency, office, or other entity in the executive, legislative, or judicial branch of state government, the jurisdiction of which is not limited to a geographical portion of this state. The term includes an institution of higher education as defined by Section 61.003, Education Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.31(a), eff. Sept. 1, 1995.

Sec. 2103.002. APPLICABILITY OF CHAPTER TO APPROPRIATED LOCAL FUND. (a) This chapter does not apply to an expenditure from an appropriated local fund.

(b) This chapter applies to the reimbursement to a state agency for an expenditure from an appropriated local fund.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2103.003. STATE AGENCY SPENDING OF APPROPRIATED FUNDS. A state agency may spend appropriated funds only by:

(1) a warrant drawn by:

(A) the comptroller; or

(B) a person that the comptroller has delegated

authority to print warrants under Section 403.060;

(2) an electronic funds transfer initiated by the comptroller; or

(3) a debit to a state account by a person authorized under Section 403.0271.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 57, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 1.28, eff. June 19, 1999.

Sec. 2103.0035. STATE AGENCY SPENDING OF UNAPPROPRIATED FUNDS. (a) A state agency may spend unappropriated funds only by:

(1) a warrant drawn by:

(A) the comptroller; or

(B) a state agency to which the comptroller has delegated authority to print warrants under Section 403.060; or

(2) an electronic funds transfer initiated by the comptroller.

(b) Subsection (a) applies only to funds that Section 404.046 or 404.069 or other law requires to be spent on warrants drawn or electronic funds transfers initiated by the comptroller.

Added by Acts 1997, 75th Leg., ch. 1035, Sec. 58, eff. June 19, 1997.

Sec. 2103.004. WARRANTS AND ELECTRONIC FUNDS TRANSFERS. (a) A warrant may not be drawn or an electronic funds transfer initiated until:

(1) the state agency from whose appropriated or unappropriated funds the warrant or electronic funds transfer is payable has submitted a voucher to the comptroller;

(2) the state agency has approved the voucher in accordance with this chapter; and

(3) the comptroller has audited and approved the voucher as required by law.

(b) A state agency's approval of a voucher includes the agency's approval of any interest that must be paid at the same time the principal amount is paid to a vendor under Chapter 2251. In this subsection, "state agency" has the meaning assigned by Section 2251.001.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 59, eff. June 19, 1997; Acts 2001, 77th Leg., ch. 1158, Sec. 43, eff. June 15, 2001.

SUBCHAPTER B. APPROVAL AND SUBMISSION OF VOUCHERS BY ELECTRONIC MEANS

Sec. 2103.031. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to approval and submission of vouchers by electronic means.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2103.032. APPROVAL AND SUBMISSION OF VOUCHERS. (a) The comptroller by rule may establish a system for state agencies to submit and approve electronically vouchers if the comptroller determines that the system will facilitate the operation and administration of the uniform statewide accounting system. The comptroller may establish an electronic method to approve a voucher submitted by a state agency.

(b) The degree of security for an electronic system must at least equal the degree of security for the nonelectronic approval of vouchers by state agencies under this chapter.

(c) Repealed by Acts 1997, 75th Leg., ch. 1035, Sec. 90(a), eff. June 19, 1997.

(d) A system for the electronic submission and approval of vouchers may provide for the secretary of state to approve the comptroller's account electronically.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.32(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1035, Sec. 90(a), eff. June 19, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.67, eff. September 1, 2007.

SUBCHAPTER C. APPROVAL AND SUBMISSION OF VOUCHERS BY NONELECTRONIC MEANS

Sec. 2103.061. STATE AGENCY ADMINISTERED BY GOVERNING BODY.

(a) A state agency administered by a governing body may approve a voucher only in accordance with this section.

(b) A governing body may authorize its presiding officer or executive director to designate one or more officers or employees of the agency to approve vouchers of the agency. The presiding officer shall notify the comptroller in writing that the governing body has made the authorization of the presiding officer or executive director before the presiding officer or executive director may make or revoke a designation.

(c) The presiding officer of the governing body may approve a voucher after submitting a signature card to the comptroller.

(d) An officer or employee of the state agency may approve the voucher after:

(1) the governing body of the agency has authorized the officer or employee to approve vouchers or the presiding officer or executive director authorized under Subsection (b) has designated the officer or employee to approve vouchers;

(2) the comptroller has received written notice from the presiding officer of the governing body or the executive director, if authorized under Subsection (b), that the officer or employee has been authorized or designated to approve vouchers; and

(3) the comptroller has received a signature card from the officer or employee.

(e) The presiding officer or executive director authorized under Subsection (b) shall ensure that the comptroller is notified of the revocation of the authorization of an officer or employee to approve vouchers. This notice shall be given within 10 days after the effective date of the revocation.

(f) In this section:

(1) "Executive director" means the individual who is the chief administrative officer of a state agency and who is not a member of the agency's governing body; and

(2) "Governing body" means a board, commission, committee, council, or other group of individuals that is collectively authorized by law to administer a state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2103.062. STATE AGENCY ADMINISTERED BY ELECTED OR

APPOINTED OFFICIAL. (a) A state agency administered by an elected or appointed state official may approve a voucher only in accordance with this section.

(b) The elected or appointed state official who is authorized by law to administer a state agency may authorize the chief deputy of the agency to designate one or more officers or employees of the agency to approve vouchers.

(c) The chief deputy may make or revoke a designation under this section after the comptroller has received written notice from the elected or appointed official of the authorization.

(d) The elected or appointed official may approve a voucher after submitting a signature card to the comptroller.

(e) An officer or employee of the state agency may approve a voucher after:

(1) the elected or appointed official or the chief deputy, if authorized under Subsection (b) or (c), has designated the officer or employee to approve vouchers;

(2) the comptroller has received written notice from the elected or appointed official or the chief deputy, if authorized under Subsection (b) or (c), that the official or chief deputy has authorized the officer or employee to approve vouchers; and

(3) the comptroller has received a signature card from the officer or employee.

(f) The elected or appointed official or the chief deputy authorized under Subsection (b) or (c) shall ensure that the comptroller is notified of the revocation of the authorization of an officer or employee to approve vouchers. This notice shall be given within 10 days after the effective date of the revocation.

(g) In this section, "chief deputy" means the individual authorized by law to administer a state agency that is administered by an elected or appointed state official during the absence of the official or during the official's inability to act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2103.064. TEXAS TRANSPORTATION COMMISSION. (a) The Texas Transportation Commission may delegate to one or more employees of the Texas Department of Transportation the authority to approve vouchers for expenditures from the state highway fund and the

authority to approve and sign contracts and other documents. These delegations of authority are limited to effect the orders, policies, and work programs of the department.

(b) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(22).

(c) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(22).

(d) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(22).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 285, Sec. 31(22), eff. Sept. 1, 2003.

CHAPTER 2104. CONSERVATORSHIP AS A RESULT OF FISCAL MISMANAGEMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2104.001. DEFINITIONS. In this chapter:

(1) "Conservator" means a person appointed by the governor to act as the conservator of a state agency or public junior college in accordance with this chapter.

(2) "Gross fiscal mismanagement" includes:

(A) failure to keep adequate fiscal records;

(B) failure to maintain proper control over assets;

(C) failure to discharge fiscal obligations in a timely manner; and

(D) misuse of state funds.

(3) "State agency" means a department, commission, board, office, or other agency, including a university system or an institution of higher education other than a public junior college, that:

(A) is in the executive branch of state government;

(B) is created by statute; and

(C) does not have statutory geographical boundaries limited to a part of the state.

(4) "State fiscal management policies" means laws or rules relating to:

(A) fiscal recordkeeping and reporting;

(B) use or control of state property;

(C) timely discharge of fiscal obligations; or

(D) use of state funds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 237, Sec. 1, eff. May 28, 1999.

Sec. 2104.002. APPLICABILITY OF CHAPTER. This chapter does not apply to an agency that is under the direction of an elected officer, board, or commission.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 237, Sec. 1, eff. May 28, 1999.

SUBCHAPTER B. CONSERVATORS

Sec. 2104.011. APPOINTMENT OF CONSERVATOR; TERMS. (a) A conservator is appointed by the governor with the advice and consent of the senate.

(b) To be eligible for appointment as a conservator, a person must be qualified, by experience or education, in administration or fiscal management.

(c) A public officer is eligible to serve as a conservator.

(d) A conservator's term expires on the earlier of the date the conservatorship for which the conservator is appointed dissolves or the second anniversary of the date of the conservator's appointment. A conservator whose term expires before the conservatorship is dissolved may be reappointed to continue the conservatorship.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 22, Sec. 1, eff. April 24, 1995; Acts 1999, 76th Leg., ch. 237, Sec. 1, eff. May 28, 1999.

Sec. 2104.012. COMPENSATION OF CONSERVATOR. (a) A conservator appointed to act as the conservator of a state agency or public junior college under this chapter is entitled to receive a salary for performing those duties that is equal to the salary of the chief administrative officer of the state agency or public junior college under conservatorship.

(b) The state agency or public junior college under conservatorship shall pay the salary of the conservator from money appropriated or otherwise available to the state agency or public junior college, except to the extent that money to pay the salary is specifically appropriated or made available through the budget execution process for that purpose.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 237, Sec. 1, eff. May 28, 1999.

Sec. 2104.013. EXPENSES OF CONSERVATOR. (a) A limit provided by appropriation on the amount of reimbursement that state officers or members of state boards and commissions may generally receive does not apply to reimbursement of the reasonable and necessary expenses incurred by a conservator in the course of performing duties under this chapter.

(b) The reasonable and necessary expenses incurred by a conservator in the course of performing duties under this chapter shall be paid from funds appropriated or otherwise available to the agency or public junior college under conservatorship, except to the extent that money to pay those expenses is specifically appropriated or made available through the budget execution process for that purpose.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 22, Sec. 2, eff. April 24, 1995; Acts 1999, 76th Leg., ch. 237, Sec. 1, eff. May 28, 1999.

Sec. 2104.014. RULES. A conservator may adopt and enforce rules necessary to administer the conservatorship for which the conservator is appointed under this chapter. A conservator may adopt initial rules on an emergency basis for the period prescribed by Section 2001.034 if the conservator determines that rules with immediate effect are necessary to ameliorate the effect of the gross fiscal mismanagement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 237, Sec. 1, eff. May 28, 1999.

Sec. 2104.015. ADMINISTRATIVE SERVICES. (a) The governor shall provide a conservator with administrative services.

(b) If necessary, the governor may use appropriations made under Section 403.075 to provide the administrative services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 237, Sec. 1, eff. May 28, 1999.

SUBCHAPTER C. CONSERVATORSHIP OF STATE AGENCIES

Sec. 2104.021. MISMANAGEMENT FINDING; RECOMMENDATION; CONSERVATORSHIP ORDER. (a) The legislative audit committee, on finding that a condition of gross fiscal mismanagement exists in a state agency, may:

(1) notify the governor of the finding and recommend that the governor appoint a conservator for the agency; or

(2) recommend to the agency that it agree within a specified time to enter into a rehabilitation plan in accordance with Section 2104.0215.

(b) After receipt of a notice under Subsection (a), the governor by proclamation may appoint a conservator, in accordance with the recommendation, to act as conservator of the agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 237, Sec. 1, eff. May 28, 1999.

Sec. 2104.0215. REHABILITATION PLAN IN LIEU OF CONSERVATORSHIP. (a) A state agency that agrees to enter into a rehabilitation plan shall engage the services of an independent management consulting team approved by the governor and by the presiding officer and assistant presiding officer of the legislative audit committee. The independent management consulting team may include the state auditor, one or more appropriate state agencies, and private consultants.

(b) The state agency entering into the rehabilitation plan shall pay the costs of the independent management consulting team's services from money appropriated or otherwise available to the agency, except to the extent that money to pay the costs is specifically appropriated or made available through the budget execution process for that purpose.

(c) The independent management consulting team shall assist the state agency in developing its rehabilitation plan. The rehabilitation plan must include specific performance goals and the period in which the goals must be achieved. The plan must be approved by the governing body of the agency and by the governor and the legislative audit committee.

(d) If the state agency does not adopt the rehabilitation plan within a reasonable time or if the state auditor determines and informs the governor that the state agency is not making sufficient progress in implementing its rehabilitation plan, the governor may appoint a conservator for the agency under Section 2104.021.

(e) Participation by the state auditor under Subsection (a) is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c).

Added by Acts 1999, 76th Leg., ch. 237, Sec. 1, eff. May 28, 1999.
Amended by Acts 2003, 78th Leg., ch. 785, Sec. 34, eff. Sept. 1, 2003.

Sec. 2104.022. ASSUMPTION OF POLICY FUNCTIONS. The conservator appointed by the governor under Section 2104.021 shall assume all the powers and duties of the officers responsible for policy direction of the state agency that is the subject of the proclamation, and those officers may not act unless authorized by the conservator.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 237, Sec. 1, eff. May 28, 1999.

Sec. 2104.023. CONSERVATORSHIP POWERS AND DUTIES. (a) The conservator of a state agency under this subchapter shall ensure that the agency complies with state fiscal management policies.

(b) The conservator of a state agency under this subchapter, may:

(1) terminate the employment of any employee whose conduct the conservator determines contributed to the condition that caused the conservatorship;

(2) employ personnel for the agency;

(3) change the agency's organization or structure as necessary to alleviate the conditions that caused the conservatorship; and

(4) contract with persons for management or administrative services necessary to effect the conservatorship.

(c) The conservator may delegate any part of the conservator's powers or duties as conservator other than rulemaking authority to a person with whom the conservator contracts under Subsection (b)(4).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 237, Sec. 1, eff. May 28, 1999.

Sec. 2104.024. REPORT. (a) The conservator shall report on a conservatorship under this subchapter to the governor and the legislative audit committee not later than the 60th day after the date the governor orders the conservatorship and at the end of each subsequent 60-day period until the conservatorship is dissolved.

(b) The report must include a description of the measures taken to ensure that the state agency complies with state fiscal management policies and an estimate of the progress the conservator has made in attaining that goal.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 237, Sec. 1, eff. May 28, 1999.

Sec. 2104.025. DURATION OF CONSERVATORSHIP. A conservatorship under this subchapter continues until the earlier of:

(1) the governor's issuing of a proclamation declaring that the condition of gross fiscal mismanagement in the state agency no longer exists and that the conservatorship is dissolved; or

(2) the legislative audit committee's finding and certifying to the governor that the condition of gross fiscal mismanagement in the agency no longer exists, in which case the conservatorship is dissolved.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 237, Sec. 1, eff. May 28, 1999.

SUBCHAPTER D. CONSERVATORSHIP OF PUBLIC JUNIOR COLLEGES

Sec. 2104.031. MISMANAGEMENT FINDING; CONSERVATORSHIP ORDER. (a) On the governor's request, the Texas Higher Education Coordinating Board with the advice and assistance of the state auditor shall determine if a condition of gross fiscal mismanagement exists at a public junior college.

(b) If the coordinating board finds a condition of gross fiscal mismanagement of a public junior college, the governor by proclamation may appoint a conservator for the college.

(c) Except as otherwise provided by this subchapter, a conservator shall act as conservator of a public junior college in the manner provided by this chapter for conservatorship of state agencies by a conservator.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 237, Sec. 1, eff. May 28, 1999.

Sec. 2104.032. REPORTS. A conservator shall file the reports relating to public junior colleges required by Section 2104.024 with the Texas Higher Education Coordinating Board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 237, Sec. 1, eff. May 28, 1999.

Sec. 2104.033. DURATION OF CONSERVATORSHIP. A conservatorship of a public junior college under this subchapter continues until the earlier of:

(1) the governor's issuing of a proclamation declaring that the condition of gross fiscal mismanagement no longer exists and that the conservatorship is dissolved; or

(2) the Texas Higher Education Coordinating Board's finding and certifying to the governor that the condition of gross fiscal mismanagement no longer exists, in which case the conservatorship is dissolved.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 237, Sec. 1, eff. May 28, 1999.

CHAPTER 2105. ADMINISTRATION OF BLOCK GRANTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2105.001. DEFINITIONS. In this chapter:

(1) "Agency" means:

(A) the Health and Human Services Commission;

(B) the Department of State Health Services;

(C) the Texas Department of Housing and Community Affairs;

(D) the Texas Education Agency;

(E) the Department of Aging and Disability Services; or

(F) any other commission, board, department, or state agency designated to receive block grant funds.

(2) "Block grant" means a program resulting from the consolidation or transfer of separate federal grant programs, including federal categorical programs, so that the state determines the amounts to be allocated or the method of allocating the amounts to various agencies or programs from the combined amounts, including a program consolidated or transferred under the Omnibus Budget Reconciliation Act of 1981 (Pub. L. No. 97-35).

(3) "Program" means an activity designed to deliver services or benefits provided by state or federal law.

(4) "Provider" means a public or private organization that receives block grant funds or may be eligible to receive block grant funds to provide services or benefits to the public, including:

(A) a local government unit;

(B) a council of government;

(C) a community action agency; or

(D) a private new community developer or nonprofit community association in a community originally established as a new community development program under the former Urban Growth and New Community Development Act of 1970 (42 U.S.C. Section 4511 et seq.).

(5) "Recipient" means an individual or a class of individuals who receives services or benefits available through block grants.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 173, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 6.29, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.278, eff. April 2, 2015.

Sec. 2105.002. COMBINATION OF PROGRAMS NOT INTENDED TO REDUCE SERVICES. The process of combining categorical federal assistance programs into block grants should not have an overall effect of reducing the relative proportion of services and benefits made available to low-income individuals, elderly individuals, individuals with disabilities, and migrant and seasonal agricultural workers.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.279, eff. April 2, 2015.

Sec. 2105.003. CHANGE IN FEDERAL LAW OR REGULATION. If a change in a federal law or regulation does not provide for temporary waivers to allow compliance with state law and because of the change an agency or provider does not have sufficient time to comply with a procedure required by this chapter, the agency or provider may act in compliance with federal law and shall comply with procedures required by this chapter as soon as possible.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.004. DISCRIMINATION PROHIBITED. An agency or provider may not use block grant funds in a manner that discriminates on the basis of race, color, national origin, sex, or religion.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.005. PRIORITY TO POVERTY PROGRAMS. (a) An agency should give priority to programs that remedy the causes and cycle of poverty if:

(1) the alleviation of poverty is a purpose of the block grant; and

(2) the agency has discretion over the types of programs that may be funded with the block grant.

(b) In administering a block grant, an agency shall consult:

(1) low-income recipients;

(2) low-income intended recipients; and

(3) organizations representing low-income individuals.

(c) To the extent consistent with the purpose of the block grant, an agency's rules shall ensure that providers use block grant funds to the maximum benefit of low-income recipients and intended recipients.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.280, eff. April 2, 2015.

Sec. 2105.006. AGENCY AUDITS. (a) An agency's expenditure of block grant funds is subject to audit by the state auditor in accordance with Chapter 321.

(b) The state auditor immediately shall transmit a copy of an audit of an agency to the governor. Not later than the 30th day after the date on which an audit of an agency is completed, the governor shall transmit a copy of the audit to the appropriate federal authority.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.007. PROVIDER AUDITS. A provider that receives block grant funds from an agency shall provide the agency with evidence that an annual audit of the provider has been performed.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.008. UNIFORM MANAGEMENT. Chapter 783 applies to agencies and providers for the purpose of block grant administration.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.009. PRIMARY CARE BLOCK GRANT. (a) The Department of State Health Services shall administer a primary care block grant if that grant is authorized and if the department satisfies federal requirements relating to the designation of an agency to administer the grant.

(b) In administering the primary care block grant, the department may:

(1) receive the primary care block grant funds on behalf of the state;

(2) spend primary care block grant funds and state funds specifically appropriated by the legislature to match funds received

under a primary care block grant;

(3) make grants to, advance funds to, contract with, and take other actions through community health centers that meet the requirements of 42 U.S.C. Section 254c(e)(3) to provide for the delivery of primary and supplemental health services to medically underserved populations of the state; and

(4) perform other activities necessary to administer the primary care block grant.

(b-1) The executive commissioner of the Health and Human Services Commission may adopt necessary rules for administering the primary care block grant.

(c) In this section:

(1) "Community health center" has the meaning assigned by 42 U.S.C. Section 254c(a), as that law existed on April 23, 1986.

(2) "Medically underserved population," "primary health services," and "supplemental health services" have the meanings assigned by 42 U.S.C. Section 254c(b), as that law existed on April 23, 1986.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.281, eff. April 2, 2015.

SUBCHAPTER B. DEVELOPMENT OF PLAN; PUBLIC INFORMATION

Sec. 2105.051. DEFINITION. In this subchapter, "plan" means a report submitted to the federal government that contains a statement of activities and programs to show the intended and actual use of block grant funds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.052. CONTENTS OF PLAN. A plan must describe:

(1) major changes in policy for each program;

(2) the extent of anticipated reductions or increases in services under the block grant; and

(3) the nature of any fees a recipient must pay to receive services funded under the block grant.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.053. PUBLIC HEARINGS ON INTENDED USE OF FUNDS. (a) In developing a request for appropriations before each regular legislative session, an agency shall hold public hearings in four locations in different areas of the state to solicit public comment on the intended use of block grant funds.

(b) An agency must conduct at least two of the hearings required by this section after normal agency working hours.

(c) An agency may hold a hearing required by this section in conjunction with:

(1) another agency without regard to whether the block grants administered by the agencies are for different purposes; or

(2) the governor's office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.054. NOTICE OF HEARING. (a) An agency shall:

(1) provide notice of a public hearing regarding the plan for a block grant not later than the 15th day before the date of the hearing;

(2) post the notice in a conspicuous place in each agency office;

(3) include in the notice a clear and concise description of the matters to be considered and a statement of the manner in which written comments may be submitted;

(4) maintain lists of interested persons;

(5) mail notices of hearings to interested persons; and

(6) conduct other activities necessary to promote public participation in the public hearing.

(b) A notice prepared under this section must be printed in English and Spanish.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.055. PUBLIC COMMENTS. (a) An agency shall summarize, in a fair manner, the types of public comments received by the agency during public hearings regarding a plan.

(b) If an agency's final decision does not reflect the recommendations of particular classes of public comments, the agency shall provide a reasoned response justifying the agency's decision as to each comment.

(c) An agency shall distribute the summary of public comments and the responses to the comments as part of the plan and shall:

(1) have the summary and response published in the Texas Register; and

(2) make the summary and response available to the public.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.056. PUBLIC INFORMATION. (a) An agency shall publish information for the public:

(1) describing the manner in which the agency's staff develops preliminary options for the use of block grants; and

(2) stating the period in which the preliminary work is usually performed.

(b) An agency shall undertake public information activities necessary to ensure that recipients and intended recipients are informed of the availability of services and benefits.

(c) Information published under this section must be printed in English and Spanish.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.057. CONSULTATION ACTIVITIES. (a) An agency shall consult interested members of the public to assist the agency in developing preliminary staff recommendations on the use of block grant funds.

(b) During preparation or amendment of a plan, an agency shall consult:

(1) affected groups, including local governments, charitable organizations, and businesses that provide or fund services similar to the services that may be provided by the agency under the block grant; and

(2) any state advisory or coordinating council that has responsibility over programs similar to the programs that may be provided under the block grant.

(c) An agency that is authorized to approve the allocation of more than $10 million in block grant funds in a year by a discretionary manner other than an objective formula required by federal law shall provide that the consultation required by Subsections (a) and (b)(1) must occur in each of the agency's regions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.058. PUBLIC HEARING BY CERTAIN PROVIDERS. (a) This section applies to a provider that receives more than $5,000 in block grant funds to be used as the provider determines appropriate.

(b) Annually, a provider shall submit evidence to the agency that a public meeting or hearing was held in a timely manner solely to seek public comment on the needs or uses of block grant funds received by the provider.

(c) A provider may hold a meeting or hearing under Subsection (b) in conjunction with another meeting or hearing of the provider if the meeting or hearing to consider block grant funds is clearly noted in an announcement of the other meeting or hearing.

(d) An agency's rules may require a provider to undertake other reasonable efforts to seek public participation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.282, eff. April 2, 2015.

Sec. 2105.059. AVAILABILITY OF RULES AND ELIGIBILITY REQUIREMENTS. An agency shall maintain for public inspection in each office:

(1) the rules and eligibility requirements relating to the administration of block grant funds; and

(2) a digest or index to rules and decisions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. COMPLAINTS

Sec. 2105.101. PUBLICATION OF PROCEDURES. An agency shall distribute publications that describe:

(1) the block grant programs administered by the agency; and

(2) how to make public comments and complaints about the quality of services funded by the block grant.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.102. INVESTIGATION. (a) An agency shall have a procedure for investigating complaints about the programs funded by a block grant.

(b) Before the 31st day after the date on which the complaint is received, the agency shall:

(1) complete the investigation; or

(2) notify the complainant when the investigation can be completed, if the investigation cannot be completed within the period provided by this subsection.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.103. NOTICE TO PROVIDER; RESPONSE. (a) An agency shall inform a provider of any complaint received concerning the provider's services.

(b) An agency shall give a provider a reasonable time to respond to a complaint.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.104. USE OF COMPLAINTS; ANNUAL SUMMARY. (a) An agency shall use the complaint system to monitor and ensure compliance with applicable federal and state law.

(b) An agency shall consider the history of complaints regarding a provider in determining whether to renew a contract or subgrant for the use of block grant funds by the provider.

(c) An agency shall summarize annually the types of complaints received by the agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. DENIAL OF SERVICES OR BENEFITS

Sec. 2105.151. RIGHT TO REQUEST HEARING ON DENIAL OF SERVICES OR BENEFITS. Except as provided by Section 2001.223(1), an affected person who alleges that a provider or an agency has denied all or part of a service or benefit funded by block grant funds in a manner that is unjust, discriminatory, or without reasonable basis in law or fact may request an administrative hearing under Chapter 2001.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.152. HEALTH AND HUMAN SERVICES COMMISSION PROCEDURES FOR FAIR HEARING. The Health and Human Services Commission shall use procedures for conducting a fair hearing under this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.283, eff. April 2, 2015.

Sec. 2105.153. HEARING ON DENIAL OF SERVICES OR BENEFITS BY AGENCY. (a) An agency administering block grant funds shall conduct a timely hearing on the denial of a service or benefit by the agency.

(b) On determining that services were wrongfully denied, an agency shall take appropriate action to correct the practices or procedures of the agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.154. HEARING ON DENIAL OF SERVICES OR BENEFITS BY PROVIDER. (a) The agency that provides block grant funds to a provider shall conduct a timely hearing on the denial of a service or benefit by the provider.

(b) A hearing under this section must be held in the locality served by the provider.

(c) On determining that services were wrongfully denied, an

agency shall take appropriate action to correct the practices or procedures of the provider.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER E. NONRENEWAL OR REDUCTION OF BLOCK GRANT FUNDS OF SPECIFIC PROVIDER

Sec. 2105.201. APPLICATION OF SUBCHAPTER; EXCEPTION. (a) This subchapter applies if:

(1) an agency reduces a provider's block grant funding by 25 percent or more; and

(2) the agency provides the block grant funds to another provider in the same geographic area to provide similar services.

(b) This subchapter does not apply if a provider's block grant funding becomes subject to the agency's competitive bidding rules requiring the agency to invite bids for competitive evaluation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.202. RULES; CONSIDERATIONS. (a) The individual or entity responsible for adopting rules for an agency shall adopt specific rules for the agency that define good cause for nonrenewal of a provider's contract or reduction of a provider's funding.

(b) In deciding whether to renew a provider's contract or to reduce a provider's funding, an agency shall consider:

(1) the effectiveness of services rendered by various providers;

(2) the cost efficiency of programs undertaken by each provider;

(3) the extent to which the services of each provider meet the needs of groups or classes of individuals who are poor or underprivileged or have a disability;

(4) the degree to which services can be provided by other programs in that area;

(5) the extent to which recipients are involved in the providers' decision making; and

(6) the need to provide services in the state without discrimination as to race, religion, or geographic region.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.284, eff. April 2, 2015.

Sec. 2105.203. NOTICE TO PROVIDER OF REDUCTION. Not later than the 30th day before the date on which block grant funds are reduced, an agency shall send a provider a written statement specifying the reason for reducing the funding.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.204. HEARING ON REDUCTION OF FUNDING. (a) After receiving notice that block grant funds are to be reduced as provided by Section 2105.203, a provider may request an administrative hearing under Chapter 2001 if the provider alleges that a reduction of funding:

(1) violates the rules adopted under Section 2105.202(a);
(2) is discriminatory; or
(3) is without reasonable basis in law or fact.

(b) Not later than the 30th day after the date the request is received, the agency shall conduct a hearing to determine whether the funding should be reduced. The agency and the provider may agree to postpone the hearing.

(c) An agency shall hold at least one session of the hearing in the locality served by the provider and shall hear local public comment on the matter at that time if requested to do so by:

(1) a local elected official; or
(2) an organization with 25 or more members.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.205. INTERIM CONTRACT PENDING HEARING. If a provider requests an administrative hearing under Section 2105.204, the agency may enter into an interim contract with the provider or another provider for the services formerly provided by the provider while administrative or judicial proceedings are pending.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER F. REDUCTION OF BLOCK GRANT FUNDS FOR GEOGRAPHIC AREA

Sec. 2105.251. APPLICATION OF SUBCHAPTER; EXCEPTION. (a) This subchapter applies if:

(1) an agency reduces a provider's block grant funding by 25 percent or more; and

(2) the agency does not provide the block grant funds to another provider in the same geographic area.

(b) This subchapter does not apply if the provider received block grant funds for a specified period under a competitive evaluation of proposals.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.252. NOTICE TO PROVIDER. Not later than the 30th day before the date on which the block grant funds are to be reduced, an agency shall send a provider a written statement specifying the reason for reducing the funding. The statement must be sent to the provider so that the provider has sufficient time to participate in public hearings and consultation proceedings provided by Subchapter B.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.253. RULES; CONSIDERATIONS. The rules adopted under Section 2105.202(a) and the considerations provided by Section 2105.202(b) apply to a reduction of block grant funds under this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER G. TERMINATION OF BLOCK GRANT FUNDS

Sec. 2105.301. NOTICE TO PROVIDER. An agency that proposes to terminate block grant funds of a provider that has violated the terms of a contract or grant shall send the provider a written statement specifying the reasons for the termination not later than the 31st

day before the termination date.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2105.302. HEARING. (a) After receiving notice of termination of a contract or subgrant from block grant funds, a provider may request an administrative hearing under Chapter 2001.

(b) Not later than the 30th day after the date the request is received, the agency shall conduct a hearing to determine whether the funding should be terminated. The agency and the provider may agree to postpone the hearing.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER H. JUDICIAL REVIEW

Sec. 2105.351. JUDICIAL REVIEW. A party to a hearing under Subchapter D, E, F, or G may seek judicial review of the agency's action as provided by Subchapter G, Chapter 2001.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 2106. INDIRECT COST RECOVERY PROGRAM

Sec. 2106.001. DEFINITIONS. In this chapter:

(1) "Federally reimbursable indirect cost" means a cost, as defined by Office of Management and Budget Circular No. A-87 or a subsequent revision of or successor to that circular, that is:

(A) incurred by a state agency in support of a federally funded program, other than a research program funded by a federal grant at an institution of higher education; and

(B) eligible for reimbursement from the federal government.

(2) "Indirect cost" means the cost of administering a state or federally funded program and includes a cost of providing a statewide support service. The term does not include the actual costs of the program.

(3) "State agency" means a department, board, commission, or other entity in the executive branch of state government that has statewide jurisdiction and administers a program to provide a service

to the public or to regulate persons engaged in an occupation or activity.

(4) "Support service" includes accounting, auditing, budgeting, centralized purchasing, and legal services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2106.002. STATEWIDE COST ALLOCATION PLAN. (a) The office of the governor shall prepare annually a statewide cost allocation plan.

(b) The plan must:

(1) identify the costs of providing statewide support services to each state agency;

(2) allocate to each state agency an appropriate portion of the total costs of statewide support services, including costs identified under Subdivision (1);

(3) identify, to the extent possible, the amount of federally reimbursable indirect costs in each allocated portion; and

(4) develop and prescribe a billing procedure that ensures each state agency is billed for all costs allocated to the agency under Subdivision (2) for which the agency is not obligated to pay another state agency under other law.

(c) The office of the governor shall distribute a copy of the plan to each state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 419, Sec. 1, eff. Sept. 1, 2001.

Sec. 2106.003. AGENCY INDIRECT COST RECOVERY PLAN. (a) A state agency that receives federal money or charges a fee for a service it provides shall prepare annually an indirect cost recovery plan.

(b) The plan must include proposals to recover the indirect costs of the agency's programs, including the portion of statewide support service costs allocated to the agency under the statewide cost allocation plan.

(c) A state agency that receives federal money shall also prepare a separate schedule indicating its federally reimbursable indirect costs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2106.004. TECHNICAL ASSISTANCE. The office of the governor shall provide to a state agency on request technical assistance for developing the agency's indirect cost recovery plan.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2106.005. AGENCY RECOVERY OF INDIRECT COSTS. A state agency shall implement its indirect cost recovery plan by:

(1) applying for reimbursement for federally reimbursable indirect costs; and

(2) when permitted by law, setting fees and billing rates at amounts sufficient to recover the indirect costs of the agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2106.006. GENERAL REVENUE FUND REIMBURSEMENT. (a) Subject to Subsection (c), a state agency shall send to the comptroller for deposit to the credit of the general revenue fund:

(1) the amount of federal money received by the agency for federally reimbursable indirect costs to the extent that the indirect costs are statewide allocated costs for which the agency is billed under Section 2106.002(b);

(2) the amount the agency has received in fees:

(A) that in accordance with Section 2106.005(2) should be accounted for as payment for the cost of providing statewide support services to the agency; and

(B) to the extent the agency is billed for those amounts under Section 2106.002(b); and

(3) any remaining amounts still necessary to pay the amount billed under Section 2106.002(b).

(b) Subject to Subsection (c), to the extent the amount billed under Section 2106.002(b) is not totally paid under Subsections (a)(1) and (a)(2), the comptroller shall transfer to the general revenue fund the appropriate amount charged against items of appropriation in connection with which the remaining unpaid statewide allocated costs were incurred.

(c) The legislature may provide in the General Appropriations Act that payment of the amount billed under Section 2106.002(b) is waived to the extent payment would be made from a state agency's general revenue appropriation.

(d) A state agency shall send to the comptroller information the comptroller requires to transfer amounts under Subsection (b).

(e) The comptroller shall adopt rules necessary to prescribe:

(1) the timing and method of transfers under this section; and

(2) the manner in which a state agency shall send to the comptroller information the comptroller requires to transfer amounts under Subsection (b).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.63, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 419, Sec. 2, eff. Sept. 1, 2001.

Sec. 2106.007. APPROPRIATION OF FEDERALLY REIMBURSED INDIRECT COSTS. (a) The legislature may appropriate to a state agency for any purpose the amount of federal money the agency is estimated to receive for federally reimbursable indirect costs during a fiscal biennium.

(b) The appropriation for a state agency may include the amount of federal money for federally reimbursable indirect costs that the agency recovers during a fiscal biennium that exceeds the estimated amount.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2106.008. INDIRECT COSTS ASSOCIATED WITH CERTAIN TEXAS DEPARTMENT OF TRANSPORTATION AGREEMENTS. The executive director of the Texas Department of Transportation may waive the application of this chapter to indirect costs of the department associated with an agreement entered into by the department with another agency of this state or a local governmental entity if the agreement relates to:

(1) the development of a transportation project; or

(2) a program administered by the department.

Added by Acts 1997, 75th Leg., ch. 517, Sec. 1, eff. May 31, 1997.

CHAPTER 2107. COLLECTION OF DELINQUENT OBLIGATIONS TO STATE

Sec. 2107.001. DEFINITIONS. In this chapter:

(1) "Obligation" includes a debt, judgment, claim, account, fee, fine, tax, penalty, interest, loan, charge, or grant.

(2) "State agency" means an agency, board, commission, institution, or other unit of state government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2107.002. AGENCY COLLECTION PROCESS. (a) The attorney general shall adopt uniform guidelines for the process by which a state agency collects delinquent obligations owed to the agency.

(b) A state agency that collects delinquent obligations owed to the agency shall establish procedures by rule for collecting a delinquent obligation and a reasonable period for collection. The rules must conform to the guidelines established by the attorney general.

(c) Until a state agency adopts rules under this section, the attorney general by rule may establish collection procedures for the agency, including the period for collecting a delinquent obligation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2107.003. COLLECTION BY ATTORNEY GENERAL OR OUTSIDE AGENT. (a) Except as provided by Subsection (c) or (c-1), a state agency shall refer an uncollected and delinquent obligation that meets the referral guidelines established by the attorney general to the attorney general for further collection efforts. The state agency must refer the obligation on or before the 90th day after the date the obligation becomes past due or delinquent.

(b) The attorney general:

(1) may provide legal services for collection of the obligation;

(2) may authorize the requesting state agency to employ, retain, or contract with, subject to approval by the attorney general and subject to the agency's compliance with applicable guidelines established by the attorney general, one or more persons to collect

the obligation; or

(3) if the attorney general determines it to be economical and in the best interest of the state, may contract on behalf of the state agency with one or more persons to collect the obligation.

(c) The comptroller may employ, retain, or contract with a person other than a full-time state employee to collect delinquent obligations that are owed the comptroller in the comptroller's official capacity, are not collected through normal collection procedures, and do not meet the referral guidelines adopted for collection by the attorney general. A proposed contract under this subsection shall be reviewed by the attorney general. A person contracting with the comptroller under this subsection is entitled to a collection fee, as provided under the contract, in an amount not to exceed 30 percent of the full amount of the obligation.

(c-1) The comptroller may also contract with one or more persons to collect delinquent obligations that have been referred to the attorney general and that the attorney general has returned to the comptroller after exhausting all reasonable collection efforts. A proposed contract under this subsection shall be reviewed by the attorney general. A person contracting with the comptroller under this subsection is entitled to a collection fee equal to 30 percent of the full amount of the obligation collected.

(d) The agency contracting under Subsection (b) or (c) is entitled to recover from the obligor, in addition to the amount of the obligation, reasonable costs incurred in undertaking the collection, including the costs of a contract under this section, in an amount not to exceed 30 percent of the total amount of the obligation.

(e) A person awarded a contract under Subsection (b), (c), or (c-1) may not file suit or otherwise pursue judicial action to collect the obligation owed in a court of this state or another state on behalf of the contracting state agency.

(f) Except as provided by Subsection (b)(3), a state agency may determine in its sole discretion which obligations to refer to a private collection firm for collection.

(g) The contracting state agency may provide a person contracting under Subsection (b), (c), or (c-1) any information, including confidential information, that the agency is not prohibited from sharing with another state or with the United States and that is:

(1) in the custody of the agency owed the obligation; and
(2) necessary to the collection of the obligation.

(h) A person acting under a contract formed under Subsection (b), (c), or (c-1) and each employee or agent of that person is subject to all statutory prohibitions against the wrongful disclosure of confidential information that the contracting state agency and its employees are subject to. A contractor's employee is subject to the same penalties for wrongful disclosure of confidential information as would apply to the employees of the contracting agency.

(i) The contracting agency shall require a person who contracts under Subsection (b), (c), or (c-1) to obtain and maintain insurance adequate to provide reasonable coverage for damages negligently, recklessly, or intentionally caused by the contractor or the contractor's employee or agent in the course of collecting an obligation under the contract.

(j) A person who contracts with a state agency under this section is subject to Chapter 392, Finance Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 653, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1386 (S.B. 1615), Sec. 1, eff. September 1, 2007.

Sec. 2107.004. NOTICE BY COMPTROLLER TO ATTORNEY GENERAL FOR FURTHER COLLECTION. Except as provided by Section 2107.003, not later than the 30th day after the comptroller determines that its efforts to collect a delinquent obligation have failed, the comptroller shall report the uncollected and delinquent obligation to the attorney general for further collection efforts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 653, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 470, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1386 (S.B. 1615), Sec. 2, eff. September 1, 2007.

Sec. 2107.006. ATTORNEY FEES AND COSTS. In any proceeding

under this chapter or other law in which the state seeks to collect or recover a delinquent obligation or damages, the attorney general may recover reasonable attorney fees, investigative costs, and court costs incurred on behalf of the state in the proceeding in the same manner as provided by general law for a private litigant.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2107.007. RETENTION OF COLLECTION FEE. (a) An obligation reported to the attorney general for collection under this chapter is subject to a collection fee for the use and benefit of the attorney general as provided by legislative appropriation.

(b) The attorney general may retain the amount of the collection fee from the amount of the obligation collected.

(c) A collection fee may not be retained from amounts collected for the unemployment compensation fund established under Subchapter B, Chapter 203, Labor Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 8.18, eff. Sept. 1, 1999.

Sec. 2107.008. PAYMENTS TO DEBTORS OR DELINQUENTS PROHIBITED. (a) Except as provided by this section, a state agency, as a ministerial duty, may not use funds in or outside of the state treasury to pay a person if Section 403.055 prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to the person.

(b) Except as provided by this section, a state agency may refuse to use funds in or outside of the state treasury to pay a person if the person is indebted to the state or has a tax delinquency and the agency is responsible for collecting that indebtedness or delinquency. This subsection applies only if Section 403.055 does not prohibit the comptroller from issuing a warrant or initiating an electronic funds transfer to the person.

(c) A state agency may not pay the assignee of a person that the agency may not pay under Subsection (a) if Section 403.055 prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to the assignee. The agency may refuse to

pay the assignee of a person that the agency may refuse to pay under Subsection (b) if the assignment became effective after the person became indebted to the state or incurred a tax delinquency.

(d) A state agency that Subsection (a) prohibits from making a payment to a person also is prohibited from paying any part of that payment to:

(1) the person's estate;

(2) the distributees of the person's estate; or

(3) the person's surviving spouse.

(e) A state agency that may refuse to make a payment to a person under Subsection (b) also may refuse to make any part of that payment to:

(1) the person's estate;

(2) the distributees of the person's estate; or

(3) the person's surviving spouse.

(f) This section neither prohibits a state agency from paying nor authorizes a state agency to refuse to pay a person or the person's assignee if the agency determines that the person is complying with an installment payment agreement or similar agreement between the agency and that person to pay or eliminate the debt or delinquency.

(g) The comptroller may not reimburse a state agency for a payment that the comptroller determines was made in violation of Subsection (a).

(h) Subsection (b) does not authorize a state agency to refuse to pay:

(1) the compensation of a state officer or employee; or

(2) the remuneration of an individual if the remuneration is being paid by a private person through the agency.

(i) Subsection (b) does not authorize a state agency to refuse to make a payment if:

(1) the payment would be made in whole or in part with money paid to the state by the United States; and

(2) the agency determines that federal law:

(A) requires the payment to be made; or

(B) conditions the state's receipt of the money on the payment being made.

(j) A state agency may not refuse to make a payment under Subsection (b) before the agency has provided the person with an opportunity to exercise any due process or other constitutional or

statutory protection that must be accommodated before the agency or the state may begin a collection action or procedure.

(k) Subsection (a) does not prohibit a state agency from making a payment if each state agency that properly reported the person to the comptroller under Section 403.055(f) consents to the payment.

(l) This section does not apply to the extent that Section 57.482, Education Code, applies.

(m) This section applies to a payment only if the comptroller is not responsible under Section 404.046, 404.069, or 2103.003 for issuing a warrant or initiating an electronic funds transfer to make the payment.

(n) In this section:

(1) "Compensation," "state officer or employee," and "tax delinquency" have the meanings assigned by Section 403.055.

(2) "State agency" has the meaning assigned by Section 403.055, notwithstanding Section 2107.001.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 1.29, eff. Oct. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 44, eff. June 15, 2001.

CHAPTER 2108. SAVINGS INCENTIVE PROGRAM FOR STATE AGENCY

Sec. 2108.101. NOTICE. A state agency that spends less undedicated general revenue derived from nonfederal sources than is appropriated to the agency for a fiscal year shall send to the comptroller a notice of the amount of the savings before October 30 following the end of the fiscal year in which the savings are realized.

Added by Acts 2003, 78th Leg., ch. 450, Sec. 1, eff. Sept. 1, 2003.

Sec. 2108.102. VERIFICATION OF SAVINGS. The comptroller shall verify the amount of savings contained in the notice not later than the 60th day following the date the comptroller receives the notice.

Added by Acts 2003, 78th Leg., ch. 450, Sec. 1, eff. Sept. 1, 2003.

Sec. 2108.103. RETENTION OF FUNDS. (a) The affected agency

retains one-half of the amount of savings verified by the comptroller.

(b) Savings retained under this section may only be appropriated by the legislature to the affected agency. The agency may spend the savings only on an activity or expense that does not:

(1) create new or expanded services; or

(2) require ongoing funding at a later date.

(c) Of the savings retained by the agency, one-half:

(1) must be used to make additional principal payments for general obligation bonds issued by the agency or on behalf of the agency by the Texas Public Finance Authority; or

(2) if there are no outstanding general obligation bonds issued by the agency or on behalf of the agency by the Texas Public Finance Authority, may be used to provide bonuses, distributed equally, to each agency employee who:

(A) is a current full-time equivalent employee of the agency;

(B) worked for the agency as a full-time equivalent employee for the entire fiscal year in which the savings were realized; and

(C) is directly responsible for or worked in a department, office, or other division within the agency that is responsible for the savings realized.

(d) If the amount of agency savings verified under Section 2108.102, expressed as a percentage of the total amount of undedicated general revenue derived from nonfederal sources appropriated to the agency for the fiscal year in which the savings were realized, is:

(1) less than three percent, a bonus described by Subsection (c)(2) may not exceed $250;

(2) at least three percent but less than five percent, a bonus described by Subsection (c)(2) may not exceed $500;

(3) at least five percent but less than 10 percent, a bonus described by Subsection (c)(2) may not exceed $750; and

(4) 10 percent or more, a bonus described by Subsection (c)(2) may not exceed $1,000.

(e) A state agency may not provide a bonus under Subsection (c)(2) to an employee of the agency who serves in an upper management position, including the chief executive or chief administrator of the agency.

(f) A state agency shall adopt rules to implement this section.

Added by Acts 2003, 78th Leg., ch. 450, Sec. 1, eff. Sept. 1, 2003.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 411 (S.B. 132), Sec. 1, eff. September 1, 2017.

Sec. 2108.104. DEMONSTRATION NECESSARY TO RECEIVE SAVINGS. In order for a state agency to receive any savings derived from lowered utility costs under this section, the state agency must demonstrate to the comptroller that the agency has maximized savings on utility expenses by implementing all energy and water conservation programs in compliance with rules adopted under Section 447.002.

Added by Acts 2003, 78th Leg., ch. 450, Sec. 1, eff. Sept. 1, 2003.

CHAPTER 2109. VOLUNTEERS

Sec. 2109.001. DEFINITIONS. In this chapter:

(1) "Governmental entity" means a state agency or any other governmental entity supported in whole or in part by funds received from the state.

(2) "Human services" means providing for basic human mental or physical needs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2109.002. USE OF VOLUNTEERS FOR HUMAN SERVICES. A governmental entity that provides human services shall use volunteers, if feasible, to assist in providing human services of a high quality.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2109.003. DEVELOPMENT OF PROGRAMS. (a) Each governmental entity shall develop a volunteer program.

(b) In developing the program, the governmental entity shall consider volunteers a resource that requires advance planning and

preparation for effective use.

(c) The governmental entity shall include, if practicable, volunteers in addition to paid staff in planning the implementation of the program.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2109.004. PROGRAM REQUIREMENTS AND GUIDELINES. (a) A volunteer program must include:

(1) an effective training program for paid staff and prospective volunteers;

(2) the use of paid staff to plan and implement the volunteer program;

(3) an evaluation mechanism to assess:

(A) the performance of the volunteers;

(B) the cooperation of paid staff with the volunteers; and

(C) the volunteer program; and

(4) follow-up studies to ensure the effectiveness of the volunteer program.

(b) A volunteer program may:

(1) establish a program to reimburse volunteers for actual and necessary expenses incurred in the performance of volunteer services;

(2) establish an insurance program to protect volunteers in the performance of volunteer services;

(3) cooperate with private organizations that provide services similar to those provided by the governmental entity; and

(4) purchase engraved certificates, plaques, pins, or awards of a similar nature, with a value that does not exceed $75 for each volunteer, to recognize special achievement and outstanding services of volunteers.

(c) This section applies to a volunteer program of a governmental entity, regardless of whether the governmental entity provides human services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2109.005. MERIT PAY; PERFORMANCE EVALUATIONS. A

governmental entity that has a volunteer program shall consider the use of volunteers in determining merit pay increases and performance evaluations.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2109.006. STATE BUDGET RECOMMENDATIONS. During the preparation of budget recommendations, the Legislative Budget Board shall review the use of funds requested for volunteer programs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 2110. STATE AGENCY ADVISORY COMMITTEES

Sec. 2110.001. DEFINITION. In this chapter, "advisory committee" means a committee, council, commission, task force, or other entity with multiple members that has as its primary function advising a state agency in the executive branch of state government.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 16.01(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 45, eff. Sept. 1, 2001.

Sec. 2110.0011. APPLICABILITY OF CHAPTER. This chapter applies unless and to the extent:

(1) another state law specifically states that this chapter does not apply; or

(2) a federal law or regulation:

(A) imposes an unconditional requirement that irreconcilably conflicts with this chapter; or

(B) imposes a condition on the state's eligibility to receive money from the federal government that irreconcilably conflicts with this chapter.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 46, eff. Sept. 1, 2001.

Sec. 2110.0012. ESTABLISHMENT OF ADVISORY COMMITTEES. For purposes of this chapter, a state agency has established an advisory

committee if:

(1) state or federal law has specifically created the committee to advise the agency; or

(2) the agency has, under state or federal law, created the committee to advise the agency.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 46, eff. Sept. 1, 2001.

Sec. 2110.002. COMPOSITION OF ADVISORY COMMITTEES. (a) An advisory committee must be composed of a reasonable number of members not to exceed 24.

(b) The composition of an advisory committee that advises a state agency regarding an industry or occupation regulated or directly affected by the agency must provide a balanced representation between:

(1) the industry or occupation; and

(2) consumers of services provided by the agency, industry, or occupation.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 594 (S.B. 604), Sec. 1.08(1), eff. September 1, 2019.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 16.01(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 47, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 43, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 594 (S.B. 604), Sec. 1.08(1), eff. September 1, 2019.

Sec. 2110.003. PRESIDING OFFICER. (a) An advisory committee shall select from among its members a presiding officer.

(b) The presiding officer shall preside over the advisory committee and report to the advised state agency.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 16.01(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 48, eff. Sept. 1, 2001.

Sec. 2110.004. REIMBURSEMENT OF MEMBERS' EXPENSES; APPROPRIATIONS PROCESS. (a) Notwithstanding other law, the manner and amount of reimbursement for expenses, including travel expenses, of members of an advisory committee may be prescribed only:

(1) by the General Appropriations Act; or

(2) through the budget execution process under Chapter 317 if the advisory committee is created after it is practicable to address the existence of the committee in the General Appropriations Act.

(b) A state agency that is advised by an advisory committee must request authority to reimburse the expenses of members of the committee through the appropriations or budget execution process, as appropriate, if the agency determines that the expenses of committee members should be reimbursed. The request must:

(1) identify the costs related to the advisory committee's existence, including the cost of agency staff time spent in support of the committee's activities;

(2) state the reasons the advisory committee should continue in existence; and

(3) identify any other advisory committees created to advise the agency that should be consolidated or abolished.

(c) As part of the appropriations and budget execution process, the governor and the Legislative Budget Board shall jointly identify advisory committees that should be abolished. The comptroller may recommend to the governor and the Legislative Budget Board that an advisory committee should be abolished.

(d) The General Appropriations Act may provide for reimbursing the expenses of members of certain advisory committees without providing for reimbursing the expenses of members of other advisory committees.

(e) This section does not apply to an advisory committee the services of which are determined by the governing board of a retirement system trust fund to be necessary for the performance of the governing board's fiduciary duties under the state constitution.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 16.01(a), eff. Sept. 1, 1997.

Sec. 2110.005. AGENCY-DEVELOPED STATEMENT OF PURPOSE AND TASKS;

REPORTING REQUIREMENTS. A state agency that establishes an advisory committee shall by rule:

(1) state the purpose and tasks of the committee; and

(2) describe the manner in which the committee will report to the agency.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 16.01(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 49, eff. Sept. 1, 2001.

Sec. 2110.006. AGENCY EVALUATION OF COMMITTEE COSTS AND EFFECTIVENESS. A state agency that has established an advisory committee shall evaluate annually:

(1) the committee's work;

(2) the committee's usefulness; and

(3) the costs related to the committee's existence, including the cost of agency staff time spent in support of the committee's activities.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 16.01(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 50, eff. Sept. 1, 2001.

Sec. 2110.007. REPORT TO THE LEGISLATIVE BUDGET BOARD. A state agency that has established an advisory committee shall report to the Legislative Budget Board the information developed in the evaluation required by Section 2110.006. The agency shall file the report biennially in connection with the agency's request for appropriations.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 16.01(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 51, eff. Sept. 1, 2001.

Sec. 2110.008. DURATION OF ADVISORY COMMITTEES. (a) A state agency that has established an advisory committee may designate the date on which the committee will automatically be abolished. The designation must be by rule. The committee may continue in existence

after that date only if the agency amends the rule to provide for a different abolishment date.

(b) Unless the state agency that establishes an advisory committee designates a different date under Subsection (a), the committee is automatically abolished on the later of:

(1) September 1, 2005; or

(2) the fourth anniversary of the date of its creation.

(c) An advisory committee that state or federal law has specifically created as described in Section 2110.0012(1) is considered for purposes of Subsection (b)(2) to have been created on the effective date of that law unless the law specifically provides for a different date of creation.

(d) This section does not apply to an advisory committee that has a specific duration prescribed by statute.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 16.01(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 52, eff. Sept. 1, 2001.

CHAPTER 2111. STATE AGENCY REPORTING OF TECHNOLOGICAL INNOVATIONS

Sec. 2111.001. DEFINITION. In this chapter, "state agency":

(1) means an office, institution, or other agency that:

(A) is in the executive branch of state government;

(B) has authority that is not limited to a geographic portion of the state; and

(C) was created by the constitution or a statute of this state; and

(2) does not include an institution of higher education as defined by Section 61.003, Education Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 16.02(a), eff. Sept. 1, 1997.

Sec. 2111.002. REPORTING. Each state agency shall report to the lieutenant governor and the speaker of the house of representatives any technological innovation developed by the agency that:

(1) has potential commercial application, is proprietary, or could be protected under intellectual property laws; and

(2) was developed:

(A) during the preceding calendar year; or

(B) before the preceding calendar year but was not previously reported to the lieutenant governor and the speaker of the house of representatives.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 16.02(a), eff. Sept. 1, 1997.
Amended by:
Acts 2005, 79th Leg., Ch. 977 (H.B. 1820), Sec. 1, eff. June 18, 2005.

CHAPTER 2112. UTILITY BILLING AUDITS BY STATE AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION

Sec. 2112.001. AUDIT REQUIREMENT. (a) Except as provided by Section 2112.003, every four years each state agency and institution of higher education shall perform an audit of its electric, telephone, gas, and water utility billing during the preceding four years or the maximum recovery period.

(b) The agency or institution may contract with a private consultant in the performance of the audit.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 16.03(a), eff. Sept. 1, 1997.

Sec. 2112.002. FACTS DETERMINED BY AUDIT. The audit must provide information to allow the agency or institution to ensure that it is properly classified and subscribed and that the amounts paid for service are proper.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 16.03(a), eff. Sept. 1, 1997.

Sec. 2112.003. DECIDING WHETHER AUDIT WILL BE COST-EFFECTIVE. (a) Before the agency or institution conducts an audit, it shall analyze the potential benefit of the audit.

(b) The agency or institution is not required to perform the audit if it determines that the savings and refunds provided by the

audit will not exceed its cost.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 16.03(a), eff. Sept. 1, 1997.

Sec. 2112.004. RECOVERING REFUNDS; PAYING FOR AUDIT OUT OF REFUNDS. (a) The audit must be funded from refunds received as a result of the audit.

(b) The agency or institution shall take appropriate action to recover any refund due.

(c) The attorney general may assist in recovering a refund.

(d) The amount of any refunds received shall be deposited in the state treasury to the credit of the general revenue fund. The costs of the audit shall be paid from amounts appropriated from those funds for that purpose.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 16.03(a), eff. Sept. 1, 1997.

CHAPTER 2113. USE OF APPROPRIATED MONEY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2113.001. DEFINITIONS. Except as otherwise provided by this chapter, in this chapter:

(1) "Appropriated money" means money appropriated by the legislature through the General Appropriations Act or other law.

(2) "State agency" means:

(A) a department, commission, board, office, or other entity in the executive branch of state government;

(B) the supreme court, the court of criminal appeals, another entity in the judicial branch of state government with statewide authority, or a court of appeals; or

(C) a university system or an institution of higher education as defined by Section 61.003, Education Code, except that a public junior college is excluded from the meaning of the term in all of Subchapter C except Section 2113.101 and all of Subchapter D except Section 2113.205.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 4, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 53, eff. June 15,

2001.

SUBCHAPTER B. RESTRICTIONS ON OFFICERS AND EMPLOYEES

Sec. 2113.011. PUBLICITY. (a) A state agency may not use appropriated money to publicize or direct attention to an individual officer or employee of state government.

(b) A state agency may not use appropriated money to:

(1) maintain a publicity office or department;

(2) employ an individual who has the title or duties of a public relations or press agent; or

(3) pay a public relations agent or business.

(c) Subject to Section 2113.107(d), the executive head of a state agency who considers it necessary or in the public interest may issue through agency channels oral or written information relating to the activities or legal responsibilities of the agency. The information must be issued in the name of the state agency and include the name of the individual authorized to issue the information.

(d) An institution of higher education may operate a news and information service for the benefit of the public if the operation has been authorized and approved by the institution's governing body.

(e) This section does not prohibit the use of appropriated money for publicity functions authorized under Chapter 204, Transportation Code.

(f) This section does not prohibit the Texas State Guard from using appropriated money for the purpose of recruiting or retaining service members, employees, or other personnel. In this subsection, "service member" and "Texas State Guard" have the meanings assigned by Section 437.001.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 4, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.018, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 339 (S.B. 538), Sec. 1, eff. June 2, 2023.

Sec. 2113.012. USE OF ALCOHOLIC BEVERAGES. A state agency may

not use appropriated money to compensate an officer or employee who uses alcoholic beverages on active duty.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 4, eff. Sept. 1, 1999.

Sec. 2113.013. USE OF MOTOR VEHICLE. (a) Except as provided by Subsection (b), an officer or employee of a state agency may not use a state-owned or state-leased motor vehicle except on official state business.

(b) The administrative head of a state agency may authorize an officer or employee to use a state-owned or state-leased motor vehicle to commute to and from work when the administrative head determines that the use may be necessary to ensure that vital agency functions are performed. The name and job title of each individual authorized under this subsection, and the reasons for the authorization, must be included in the report required by Section 2101.0115.

(c) A state agency may not use appropriated money to compensate an individual who violates Subsection (a).

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 4, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 54, eff. Sept. 1, 2001.

Sec. 2113.014. EMPLOYEE STANDARDS OF CONDUCT. (a) A state agency may not use appropriated money to compensate a state employee who violates a standard of conduct described by Section 572.051.

(b) A state agency shall provide each state employee it employs a copy of this section and the standards of conduct described by Section 572.051 and require a signed receipt on delivery. A new copy and receipt are required if one of those provisions is changed.

(c) A state agency shall maintain receipts collected from current state employees under this section in a manner accessible for public inspection.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 4, eff. Sept. 1, 1999.

SUBCHAPTER C. RESTRICTIONS ON GOODS AND SERVICES

Sec. 2113.101. ALCOHOLIC BEVERAGES. A state agency may not use appropriated money to purchase an alcoholic beverage except for authorized law enforcement purposes. A state agency may not use appropriated money to pay or reimburse a travel expense that was incurred for an alcoholic beverage.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 4, eff. Sept. 1, 1999.

Sec. 2113.102. AUDITS. (a) A state agency may not use appropriated money to contract with a person to audit the financial records or accounts of the agency except as provided by:

(1) Subsections (b), (c), and (d);

(2) Chapter 466, pertaining to the state lottery;

(3) Chapter 2306, pertaining to the Texas Department of Housing and Community Affairs; and

(4) Chapter 361, Transportation Code, pertaining to the Texas Turnpike Authority division of the Texas Department of Transportation.

(b) A state agency may use appropriated money to finance a supplemental audit of payments received from the government of the United States if the audit is required as a condition of receipt of the money and an amount for the audit is provided by the federal grant, allocation, aid, or other payment.

(c) A state agency providing grants, loans, or other money to an entity other than a state agency may require, as a condition of receipt of the money, that the recipient have an annual, independent audit performed and submitted to the agency. An agency may require its internal audit staff to make an annual inspection visit to the recipient of the money. After notice of the meeting of the governing body of an agency at which the matter will be included on the agenda, the agency shall take action on any exceptions noted in independent audits received under this subsection and provide documentation of that action to the state auditor, the Legislative Audit Committee, the Legislative Budget Board, and the budget division of the governor's office.

(d) Subsection (a) does not apply to the appointment of an internal auditor under Section 2102.006 or to a contract with the state auditor.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 4, eff. Sept. 1, 1999.

Sec. 2113.103. POSTAGE AND POSTAL SERVICES. (a) A state agency should use the most cost-effective means of postal service available. A state agency may use appropriated money to purchase any form of mailing service available from the United States Postal Service that results in lower cost to the agency and affords service comparable in quality to other available postal services. The comptroller shall assist state agencies in determining the types and comparability of postal services available from the United States Postal Service.

(b) Except as provided by Subsections (c) and (d), a state agency may use appropriated money to purchase postage or rent a post office box only from the United States Postal Service.

(c) An agency other than an institution of higher education as defined by Section 61.003, Education Code, that spends for postage in a fiscal year an amount that exceeds the dollar amount set by the General Appropriations Act as the maximum expenditure for postage shall purchase or rent a postage meter machine and record all purchases of postage on the machine except purchases of postage for employees in field offices and traveling employees. The rental of a postage meter machine by a state agency, including an institution of higher education, the legislature, or an agency in the legislative branch of state government, must be from a company approved by the comptroller. The comptroller by rule shall adopt procedures for the renting entity to pay for postage.

(d) Subsection (b) does not apply to a reimbursement:

(1) to an authorized petty cash account;

(2) to a state employee for an emergency purchase of postage or emergency payment of post office box rent;

(3) that is received by a state agency for authorized services and is appropriated directly to the receiving agency; or

(4) under a contract for mailing services that may include postage, if the contract has been approved by the comptroller.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 4, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.68, eff. September 1, 2007.

Sec. 2113.104. MEMBERSHIPS IN AND DUES FOR PROFESSIONAL ORGANIZATIONS. (a) Except as provided by Subsection (b), a state agency may not use appropriated money to pay for membership in or dues for a professional organization unless the administrative head of the agency, or that person's designee, first reviews and approves the expenditure.

(b) This section does not apply to a state library.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 4, eff. Sept. 1, 1999.

Sec. 2113.105. INDOOR PLANTS. A state agency may not use appropriated money to purchase, lease, or maintain a live or artificial indoor plant unless the agency is an institution of higher education and the plant is to be used for educational or research purposes.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 4, eff. Sept. 1, 1999.

Sec. 2113.106. STATE FACILITIES FOR MEETINGS, CONFERENCES, AND EXAMINATIONS. A state agency shall use state-owned or state-occupied facilities for meetings, conferences, and administration of group examinations and may not use appropriated money to lease private facilities for these purposes unless state facilities are not available when needed, are not adequate to accommodate the meeting, conference, or examination, or are not an economically favorable alternative to other facilities.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 4, eff. Sept. 1, 1999.

Sec. 2113.107. PERIODICALS AND OTHER PUBLICATIONS. (a) Except as provided by Subsection (b), a state agency may not use appropriated money to publish a periodical or other publication the cost of which is not reimbursed through revenue attributable to its publication and sale if the publication is:

(1) intended for use by the general public;

(2) generally informational, promotional, or educational; and

(3) not essential to the achievement of a statutory

objective of the agency.

(b) Subsection (a) does not apply to:

(1) Texas Highways magazine;

(2) the Texas Parks and Wildlife magazine;

(3) publications of the Texas Commission on Alcohol and Drug Abuse;

(4) attorney general opinions, advisories, and decisions;

(5) comptroller opinions, revenue forecasts, and fiscal analyses;

(6) newsletters;

(7) compilations of statutes or rules; or

(8) annual reports and other materials that are required by law and the content of which includes only topics provided by law.

(c) A state agency may not use appropriated money to publish a publication that prominently displays the name or picture of a person holding an office elected statewide or an appointed officer. In this subsection "appointed officer" has the meaning assigned by Section 572.002. This subsection does not apply to the official state travel map published by the Texas Department of Transportation.

(d) A state agency of which the executive head is an elected officer may not use appropriated money to publish a publication relating to the activities or legal responsibilities of the agency within the 120-day period preceding the date of an election at which the office held by the executive head will be filled.

(e) Except as provided by Subsection (f), a state agency may not use appropriated money to publish a publication on enamel-coated, cast-coated, or dull-coated printing stock or that contains an average of more than one picture for each two pages of the publication unless the agency imposes a fee for the publication in an amount that recovers the cost of publication.

(f) Subsection (e) does not apply to the publication of a brochure regarding approved foods under the federal special supplemental food program for women, infants, and children administered by the Texas Department of Health, a publication designed to promote tourism or economic development, a publication of the Texas School for the Deaf or the Texas School for the Blind and Visually Impaired, or a publication of an institution of higher education.

(g) A state agency or political subdivision that uses an appropriation to publish a free periodical quarterly or less

frequently shall insert annually in an issue of the periodical a notice that anyone wishing to continue receiving the periodical must so request in writing. A state agency or political subdivision that uses an appropriation to publish a free periodical more frequently than quarterly shall insert the notice annually in three consecutive issues of the periodical. The agency or political subdivision shall provide future issues of the periodical only to persons who have requested it.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 4, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 108, Sec. 1, eff. May 11, 2001; Acts 2001, 77th Leg., ch. 1117, Sec. 6, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 614 (H.B. 874), Sec. 3, eff. June 19, 2009.

SUBCHAPTER D. SPECIFICALLY AUTHORIZED USES OF GOODS AND SERVICES

Sec. 2113.201. EMPLOYEE AWARDS. (a) A state agency may use appropriated money to purchase service awards, safety awards, or other similar awards to be presented to its employees for professional achievement or outstanding service under policies adopted by the agency.

(b) The cost of awards purchased under this section may not exceed $100 for an individual employee.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 4, eff. Sept. 1, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 264 (H.B. 912), Sec. 1, eff. May 30, 2005.

Sec. 2113.202. VOLUNTEER AWARDS. (a) A state agency may use appropriated money to purchase engraved certificates, plaques, pins, or other similar awards to be presented to volunteers for special achievement or outstanding service if the agency has established a volunteer program under Chapter 2109 or other law.

(b) The cost of awards purchased under this section may not exceed $50 for an individual volunteer.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 4, eff. Sept. 1, 1999.

Sec. 2113.203. EXAMINATION FEES. A state agency that conducts examinations shall collect all fees charged to the person being examined for each examination, including the cost of a standardized examination instrument, and use appropriated money to pay a provider of goods or services for a cost incurred by the agency providing the examination.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 4, eff. Sept. 1, 1999.

Sec. 2113.204. MOVING AND STORAGE EXPENSES OF STATE EMPLOYEES. (a) Except as otherwise authorized by the General Appropriations Act, a state agency may use appropriated money to pay the reasonable and necessary expenses incurred in moving the household property only for a state employee who:

(1) is being reassigned from one designated headquarters to another designated headquarters of that agency, if the agency determines that the best interests of the state will be served by the reassignment and the distance between the current and future designated headquarters is at least 25 miles; or

(2) is employed at a facility that is being closed or is undergoing a reduction in force, if the employee accepts a position with the agency at another designated headquarters that is at least 25 miles from the facility being closed or undergoing a reduction in force.

(b) A state agency shall use state-owned equipment for a move authorized by Subsection (a) if it is available to the agency. If state-owned equipment is not available, the agency may pay for the services of a commercial transportation company or for self-service vehicles to make the move.

(c) A state employee is entitled to be reimbursed for reasonable and necessary expenses incurred in traveling by personally owned or leased motor vehicle for a move described by Subsection (a) at the rate provided by the General Appropriations Act for business-related travel by a state employee.

(d) A state agency may pay for or reimburse a state employee for storage expenses incurred if the employee is required to live in state-owned housing and the housing is not available when the agency

requires the move to be made.

(e) Reimbursement or payment of an expense under this section is conditioned on the submission to the comptroller of receipts or invoices showing the applicable charges.

(f) This section does not authorize payment or reimbursement of a transaction fee or sales commission for the sale of real property.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 4, eff. Sept. 1, 1999.

Sec. 2113.205. CERTAIN EXPENDITURES INVOLVING MULTIPLE FISCAL YEARS. (a) Except as provided by this subsection, a state agency may use money appropriated for a particular fiscal year to pay expenses related to conducting or attending a seminar or a conference only to the extent it occurs during that year. To the extent that it is cost-effective, a state agency may use money appropriated for a particular fiscal year to pay expenses related to conducting or attending a seminar or conference that will occur partly or entirely during a different fiscal year.

(b) The comptroller may authorize a state agency to use money appropriated for a particular fiscal year to pay the entire cost or amount of a service, including an Internet connection, a periodical subscription, a maintenance contract, a post office box rental, insurance, or a surety or honesty bond, regardless of whether the service is provided over more than one fiscal year.

(c) A state agency may use money appropriated for a particular fiscal year to pay for a utility service provided during that fiscal year and September of the next fiscal year.

(d) The comptroller may establish procedures and adopt rules to administer this section.

(e) In this section:

(1) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(2) "State agency" means:

(A) a department, commission, board, office, or other entity in the executive branch of state government, including an institution of higher education;

(B) the supreme court, the court of criminal appeals, another entity in the judicial branch of state government with statewide authority, or a court of appeals; or

(C) the legislature or another entity in the legislative branch of state government with statewide authority.

(3) "Utility service" means:

(A) the furnishing of electricity, water, or natural gas;

(B) a telecommunications service, a wastewater treatment service, or a waste disposal service; or

(C) any similar commodity or service that the comptroller considers to be a utility service.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 4, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 55, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 55, eff. Sept. 1, 2003.

SUBCHAPTER E. RESTRICTIONS ON CAPITAL EXPENDITURES

Sec. 2113.301. PREFERENCE FOR FINANCING CERTAIN CAPITAL EXPENDITURES WITH MONEY GENERATED BY UTILITY COST SAVINGS CONTRACT. (a) In this section:

(1) "State facility purpose" means a purpose related to:

(A) the maintenance of a state-owned or state-leased building or facility; or

(B) a project as defined by Section 2166.001, including a project described by Section 2166.003.

(2) "Utility cost savings contract" means a contract under Subchapter I, Chapter 2166, or other law that guarantees utility cost savings for energy conservation measures to reduce energy or water consumption or to reduce operating costs of governmental facilities.

(b) Before a state agency may use appropriated money to make a capital expenditure for a state facility purpose, the state agency must determine whether the expenditure could be financed with money generated by a utility cost savings contract.

(c) If it is practicable to do so, a state agency that is using appropriated money must finance a capital expenditure for a state facility purpose with money generated by a utility cost savings contract.

(d) If it is not practicable for a state agency that is using appropriated money to finance a capital expenditure for a state facility purpose with money generated by a utility cost savings contract, the state agency must provide justification to the

comptroller for the capital expenditure.

(e) In determining under Subsection (b) whether a capital expenditure could be financed by a utility cost savings contract, a state agency must consider whether utility cost savings generated by any department of that agency could be a potential means of financing a capital expenditure for any department of that agency. Money generated by a utility cost savings in one department of a state agency may be used to finance capital expenditures for a state facility purpose in any department of that agency.

(f) This section does not apply to an institution of higher education as defined by Section 61.003, Education Code.

(g) This section does not apply to a capital expenditure for a state facility purpose that requires expeditious action to:

(1) prevent a hazard to life, health, safety, welfare, or property; or

(2) avoid undue additional cost to the state.

(h) Repealed by Acts 2017, 85th Leg., R.S., Ch. 553 (S.B. 526), Sec. 3(b) and Ch. 755 (S.B. 1731), Sec. 13(b), eff. September 1, 2017.

Added by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 5.02, eff. Jan. 11, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.69, eff. September 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 553 (S.B. 526), Sec. 3(b), eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 13(b), eff. September 1, 2017.

CHAPTER 2114. CUSTOMER SERVICE

Sec. 2114.001. DEFINITION. In this chapter, "state agency" means a department, commission, board, office, or other agency in the executive or judicial branch of state government that is created under the constitution or a statute of this state. The term includes an institution of higher education as defined by Section 61.003, Education Code.

Added by Acts 1999, 76th Leg., ch. 1554, Sec. 1, eff. Sept. 1, 1999. Renumbered from Sec. 2113.001 by Acts 2001, 77th Leg., ch. 1420, Sec.

21.001(70), eff. Sept. 1, 2001.

Sec. 2114.002. CUSTOMER SERVICE INPUT. (a) A state agency shall create an inventory of external customers for each budget strategy listed in the General Appropriations Act for that agency.

(b) Each agency shall gather information from customers using surveys, focus groups, mobile and web applications, or other appropriate methods approved by the Governor's Office of Budget and Policy and the Legislative Budget Board regarding the quality of service delivered by that agency. The information requested shall be as specified by the Governor's Office of Budget and Policy and the Legislative Budget Board and may include evaluations of an agency's:

(1) facilities, including the customer's ability to access that agency, the office location, signs, and cleanliness;

(2) staff, including employee courtesy, friendliness, and knowledgeability, and whether staff members adequately identify themselves to customers by name, including the use of name plates or tags for accountability;

(3) communications, including toll-free telephone access, the average time a customer spends on hold, call transfers, access to a live person, letters, electronic mail, and any applicable text messaging or mobile applications;

(4) Internet site, including the ease of use of the site, mobile access to the site, information on the location of the site and the agency, and information accessible through the site such as a listing of services and programs and whom to contact for further information or to complain;

(5) complaint handling process, including whether it is easy to file a complaint and whether responses are timely;

(6) ability to timely serve its customers, including the amount of time a customer waits for service in person, by phone, by letter, or at a website; and

(7) brochures or other printed information, including the accuracy of that information.

(c) Not later than June 1 of each even-numbered year and on request of the Legislative Budget Board or the Governor's Office of Budget and Policy, an agency shall report on the information gathered under Subsection (b) to the Legislative Budget Board and the Governor's Office of Budget and Policy.

(d) Each agency maintains ownership of the information gathered under this section.

Added by Acts 1999, 76th Leg., ch. 1554, Sec. 1, eff. Sept. 1, 1999.
Renumbered from Sec. 2113.002 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(70), eff. Sept. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 799 (H.B. 2110), Sec. 1, eff. June 10, 2019.

Sec. 2114.003. PERFORMANCE MEASURES. The Legislative Budget Board and the Governor's Office of Budget and Policy shall jointly develop a standardized method to measure customer service satisfaction and create standardized performance measures for state agencies in this area.

Added by Acts 1999, 76th Leg., ch. 1554, Sec. 1, eff. Sept. 1, 1999.
Renumbered from Sec. 2113.003 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(70), eff. Sept. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 799 (H.B. 2110), Sec. 2, eff. June 10, 2019.

Sec. 2114.004. INSPECTIONS. The Legislative Budget Board and the Governor's Office of Budget and Planning may inspect a state agency and analyze its customer service performance by sending a customer service evaluator to confidentially pretend to be a customer of that agency.

Added by Acts 1999, 76th Leg., ch. 1554, Sec. 1, eff. Sept. 1, 2001.
Renumbered from Sec. 2113.004 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(70), eff. Sept. 1, 2001.

Sec. 2114.005. TEXAS STAR AWARD. (a) The Legislative Budget Board and the Governor's Office of Budget and Planning may award the "Texas Star" to a state agency that provides exemplary customer service based on the performance measures and standards adopted under this chapter.

(b) The board and the office of budget and planning shall conduct an evaluation to determine agencies that may qualify for the Texas Star award. The evaluation shall be conducted under the procedures outlined in Sections 66-68, Article IX, Chapter 1452, Acts of the 75th Legislature, Regular Session, 1997 (the General Appropriations Act).

Added by Acts 1999, 76th Leg., ch. 1554, Sec. 1, eff. Sept. 1, 1999. Renumbered from Sec. 2113.005 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(70), eff. Sept. 1, 2001.

Sec. 2114.006. CUSTOMER RELATIONS REPRESENTATIVE; COMPACT WITH TEXANS. (a) A state agency shall appoint a customer relations representative.

(b) The representative shall:

(1) coordinate the state agency's customer service performance measurement under this chapter;

(2) gather information and evaluations from the public about an agency's customer service;

(3) respond to customer concerns; and

(4) establish the agency's compact with Texans under Subsection (c).

(c) Each state agency shall create a "Compact With Texans." The compact must be approved by the Governor's Office of Budget and Planning and the Legislative Budget Board. Each Compact With Texans shall set customer service standards and describe customer service principles for that agency and address:

(1) the agency's procedures for responding to public contacts and complaints;

(2) applicable licensing and certification procedures; and

(3) customer waiting time for access and service delivery and responses to complaints.

(d) Each agency that maintains a website shall publish its Compact With Texans on that website.

Added by Acts 1999, 76th Leg., ch. 1554, Sec. 1, eff. Sept. 1, 1999. Renumbered from Sec. 2113.006 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(70), eff. Sept. 1, 2001.

Sec. 2114.007. RULEMAKING AUTHORITY. (a) The Governor's Office of Budget and Planning may adopt rules to implement this chapter.

(b) In developing the rules, the office of budget and planning shall consult with and consider the comments of the Legislative Budget Board.

Added by Acts 1999, 76th Leg., ch. 1554, Sec. 1, eff. Sept. 1, 1999.
Renumbered from Sec. 2113.007 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(70), eff. Sept. 1, 2001.

CHAPTER 2115. RECOVERY OF CERTAIN STATE AGENCY OVERPAYMENTS

Sec. 2115.001. DEFINITIONS. In this chapter:

(1) "Overpayment" includes a duplicate payment made to a vendor for a single invoice and a payment made to a vendor:

(A) when an available discount from the vendor was not applied;

(B) for a late payment penalty that was improperly applied by the vendor;

(C) for shipping costs that were computed incorrectly or incorrectly included in an invoice;

(D) for state sales tax; or

(E) for a good or service the vendor did not provide.

(2) "State agency" means a department, commission, board, office, or other agency, including a university system or an institution of higher education other than a public junior college, that:

(A) is in the executive branch of state government;

(B) is created by statute; and

(C) does not have statutory geographical boundaries limited to a part of the state.

Added by Acts 2005, 79th Leg., Ch. 403 (S.B. 1569), Sec. 1, eff. June 17, 2005.
Added by Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 2.01, eff. August 29, 2005.

Sec. 2115.002. CONTRACT CONSULTANTS FOR RECOVERY AUDITS FOR CERTAIN OVERPAYMENTS. (a) The comptroller may contract with one or

more consultants to conduct recovery audits of payments made by state agencies to vendors. The audits must be designed to detect and recover overpayments to the vendors and to recommend improved state agency accounting operations.

(b) A contract under this section:

(1) may provide for reasonable compensation for services provided under the contract, including compensation determined by the application of a specified percentage of the total amount recovered because of the consultant's audit activities or recommendations as a fee for services;

(2) may permit or require the consultant to pursue a judicial action in a court inside or outside this state to recover an overpaid amount; and

(3) may not allow a recovery audit of a payment during the 180-day period after the date the payment was made in order to allow time for the performance of existing state payment auditing procedures.

(c) The comptroller or a state agency whose payments are being audited may provide a person acting under a contract authorized by this section with any confidential information in the custody of the comptroller or state agency that is necessary for the performance of the audit or the recovery of an overpayment, to the extent the comptroller and state agency are not prohibited from sharing the information under an agreement with another state or the federal government. A person acting under a contract authorized by this section, and each employee or agent of the person, is subject to all prohibitions against the disclosure of confidential information obtained from the state in connection with the contract that apply to the comptroller or applicable state agency or an employee of the comptroller or applicable state agency. A person acting under a contract authorized by this section or an employee or agent of the person who discloses confidential information in violation of a prohibition made applicable to the person under this subsection is subject to the same sanctions and penalties that would apply to the comptroller or applicable state agency or an employee of the comptroller or applicable state agency for that disclosure.

Added by Acts 2005, 79th Leg., Ch. 403 (S.B. 1569), Sec. 1, eff. June 17, 2005.
Added by Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 2.01, eff.

August 29, 2005.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 270 (S.B. 1571), Sec. 1, eff. September 1, 2019.

Sec. 2115.003. STATE AGENCIES SUBJECT TO MANDATORY RECOVERY AUDITS. (a) The comptroller may require recovery audits on the payments to vendors made by each state agency that has total expenditures during a state fiscal biennium in an amount that exceeds $50 million. A state agency subject to required audits under this subsection shall provide the recovery audit consultant with all information necessary for the audit.

(a-1) The comptroller may determine the frequency of recovery audits authorized by this section.

(b) The comptroller may exempt from the mandatory recovery audit process a state agency that has a low proportion of its expenditures made to vendors, according to criteria the comptroller adopts by rule after consideration of the likely costs and benefits of performing recovery audits for agencies that make relatively few or small payments to vendors.

Added by Acts 2005, 79th Leg., Ch. 403 (S.B. 1569), Sec. 1, eff. June 17, 2005.
Added by Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 2.01, eff. August 29, 2005.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 270 (S.B. 1571), Sec. 2, eff. September 1, 2019.

Sec. 2115.004. PAYMENT TO CONTRACTORS. (a) A state agency shall pay, from recovered money appropriated for the purpose, the recovery audit consultant responsible for obtaining for the agency a reimbursement from a vendor.

(b) A state agency shall expend or return to the federal government any federal money that is recovered through a recovery audit conducted under this chapter. The state agency shall expend or return the federal money in accordance with the rules of the federal program through which the agency received the federal money.

Added by Acts 2005, 79th Leg., Ch. 403 (S.B. 1569), Sec. 1, eff. June 17, 2005.
Added by Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 2.01, eff. August 29, 2005.

Sec. 2115.005. ANNUAL REPORT BY COMPTROLLER. (a) Subject to Subsection (b), not later than February 1 of each year, the comptroller shall issue to the legislature, governor, state auditor's office, and Legislative Budget Board a report summarizing the activities conducted by a consultant pursuant to a recovery audit completed under this chapter during the preceding state fiscal year.

(b) The comptroller is required to issue a report under Subsection (a) only if a recovery audit was completed under this chapter during the preceding state fiscal year.

Added by Acts 2005, 79th Leg., Ch. 403 (S.B. 1569), Sec. 1, eff. June 17, 2005.
Added by Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 2.01, eff. August 29, 2005.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 270 (S.B. 1571), Sec. 3, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 629 (H.B. 4510), Sec. 2, eff. September 1, 2024.

CHAPTER 2116. TEXAS BULLION DEPOSITORY

SUBCHAPTER A. ESTABLISHMENT AND ADMINISTRATION OF TEXAS BULLION DEPOSITORY

Sec. 2116.001. DEFINITIONS. In this chapter:

(1) "Administrator" means the bullion depository administrator appointed under Section 2116.003.

(2) "Bullion" means precious metals that are formed into uniform shapes and quantities such as ingots, bars, or plates, with uniform content and purity, as are suitable for or customarily used in the purchase, sale, storage, transfer, and delivery of bulk or wholesale transactions in precious metals.

(3) "Business day" means a day other than a Saturday, Sunday, or banking holiday for a bank chartered under the laws of

this state.

(4) "Deposit" means the establishment of an executory obligation of the depository to deliver to the order of the person establishing with the depository the obligation, on demand, a quantity of a specified precious metal, in bullion, specie, or a combination of bullion and specie, equal to the quantity of the same precious metal delivered by or on behalf of the depositor into the custody of:

(A) the depository; or

(B) a depository agent.

(5) "Depositor" means a person who makes a deposit.

(6) "Depository" means the Texas Bullion Depository created by this chapter.

(7) "Depository account" means the rights, interests, and entitlements established in favor of a depositor with respect to a deposit in accordance with this chapter and rules adopted under this chapter.

(8) "Depository account holder," regarding a depository account, means the original depositor or a successor or assignee of the depositor respecting the depository account.

(9) "Depository agent" means a financial institution that has entered into an agreement with the depository to provide a retail location for the provision of depository services to the general public on behalf of the depository.

(9-a) "Financial institution" has the meaning assigned by Section 201.101, Finance Code.

(10) "Precious metal" means a metal, including gold, silver, platinum, palladium, and rhodium, that:

(A) bears a high value-to-weight ratio relative to common industrial metals; and

(B) customarily is formed into bullion or specie.

(11) "Specie" means a precious metal stamped into coins of uniform shape, size, design, content, and purity, suitable for or customarily used as currency, as a medium of exchange, or as the medium for purchase, sale, storage, transfer, or delivery of precious metals in retail or wholesale transactions.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. 2458), Sec. 9, eff. May 24, 2019.

Sec. 2116.002. TEXAS BULLION DEPOSITORY. (a) The Texas Bullion Depository is established as an agency of this state in the office of the comptroller.

(b) The depository is established to serve as the custodian, guardian, and administrator of certain bullion and specie that may be transferred to or otherwise acquired by this state or an agency, a political subdivision, or another instrumentality of this state.

(c) The comptroller shall adopt rules necessary to carry out this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. 2458), Sec. 10, eff. May 24, 2019.

Sec. 2116.003. DEPOSITORY ADMINISTRATION; ADMINISTRATOR. (a) The depository is administered as a division of the office of the comptroller and under the direction and supervision of a bullion depository administrator appointed by the comptroller with the advice and consent of the governor, lieutenant governor, and senate.

(b) The administrator shall:

(1) administer, supervise, and direct the operations and affairs of the depository and depository agents; and

(2) liaise with the comptroller and other divisions of the office of the comptroller to ensure that each transaction with the depository that involves state money, that involves an agency, a political subdivision, or another instrumentality of this state, or that involves a private person is planned, administered, and executed in a manner to achieve the purposes of this chapter.

(c) The administrator may appoint or employ, subject to the approval of the comptroller, a deputy administrator or other subordinate officers or employees as necessary and appropriate to the efficient administration of the depository.

(d) The comptroller may employ security officers to provide

needed security services for the depository and may commission the officers as peace officers.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. 2458), Sec. 11, eff. May 24, 2019.

Sec. 2116.004. DEPOSITS AND RELATED ASSETS NOT SUBJECT TO LEGISLATIVE APPROPRIATION; STATUS OF DEPOSITS AND ALLOCATION OF REVENUES. (a) The following are not available for legislative appropriation:

(1) a deposit to the depository;

(2) bullion or specie held by or on behalf of the depository or a depository agent;

(3) bullion or specie in transit to or from the depository or a depository agent; and

(4) a receivable or other amount owed to the depository in settlement of a transaction in bullion or specie.

(b) Bullion, specie, and other assets described by Subsection (a) are subject to redemption, liquidation, or transfer exclusively to discharge an obligation of the depository to depository account holders, depository agents, bullion banks, financial institutions, or other intermediaries in accordance with this chapter and rules adopted under this chapter.

(c) Revenue the depository realizes from fees, charges, or other payments received in the course of depository operations shall be deposited to the credit of the general revenue fund.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.

Sec. 2116.005. DEPOSITS AND DEPOSITORY ACCOUNTS; STANDARDS. (a) The depository may receive a deposit of bullion or specie from or on behalf of a person acting in the person's own right, as trustee, or in another fiduciary capacity, in accordance with rules adopted by the comptroller as appropriate to:

(1) ensure compliance with law; and

(2) protect the interests of:

(A) the depository;

(B) depository account holders;

(C) this state and the agencies, political subdivisions, and instrumentalities of this state; and

(D) the public at large.

(b) The depository shall record the amount of precious metals a person deposits, regardless of form, in units of troy ounces pure, and the records must also specify the type and quantity of each precious metal deposited.

(c) The comptroller shall adopt standards by which the quantities of precious metals deposited are credited to a depositor's depository account by reference to the particular form in which the metals were deposited, classified by mint, denomination, weight, assay mark, or other indicator, as applicable. The standards must conform to applicable national and international standards of weights and measures.

(d) The comptroller may, if the comptroller determines that to do so is in the public interest, restrict the forms in which deposits of precious metals may be made.

(e) The depository shall adjust each depository account balance to reflect additions to or withdrawals or deliveries from the account.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. 2458), Sec. 12, eff. May 24, 2019.

Sec. 2116.006. DEMAND, PRESENTMENT, WITHDRAWAL, DELIVERY, AND SETTLEMENT. (a) The depository shall deliver any precious metal held by or on behalf of the depository in bullion, specie, or a combination of bullion and specie, on the order of a depository account holder in a quantity of that precious metal as is available in the depository account holder's depository account.

(b) The depository shall make a delivery described by Subsection (a) on demand by the presentment of a written demand or digital electronic instruction to the depository or a depository

agent. The comptroller may prescribe the forms, standards, and processes through which an order for delivery on demand may be made, presented, and honored.

(c) The depository shall make a delivery at the depository's settlement facility designated by the comptroller, shipping to an address specified by the account holder or, at the depository's discretion, at a facility of a depository agent at which presentment is made, not later than 10 business days after the date of presentment.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. 2458), Sec. 13, eff. May 24, 2019.

Sec. 2116.007. TRANSFER OF DEPOSITORY ACCOUNT BALANCE. (a) In accordance with rules adopted under this chapter, a depository account holder may transfer any portion of the balance of the holder's depository account by written demand or digital electronic instruction to another person.

(b) The depository shall adjust the depository account balances of the depository accounts to reflect a transfer transaction between depository account holders on presentment of the written demand or other instruction by reducing the payor's depository account balance and increasing the depository account balance of the payee accordingly.

(c) If a depository account holder transfers to a payee who is not a depository account holder any portion of the balance of the depository account holder's depository account, the depository shall, if the payee is otherwise eligible to open a depository account under applicable laws and depository policy, allow the payee to establish a depository account. The depository shall credit a newly established account on behalf of the payee and shall debit the payor's account accordingly.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. 2458), Sec. 14, eff.

May 24, 2019.

Sec. 2116.008. DEPOSITORY ACCOUNT CONTRACTS. (a) To establish a depository account, a depositor must contract with the depository for a depository account. The contract must specify:

(1) the terms applicable to the account, including any special terms; and

(2) the conditions on which withdrawals or deliveries with respect to the account may be made.

(b) The execution of a contract for a depository account described by this section may be made, as prescribed by rules adopted under this chapter, by electronic or digital transmission.

(c) The depository shall hold the contract for a depository account in the records pertaining to the account.

(d) A contract for a depository account executed by a depositor and the depository is considered a contract in writing for all purposes, and may be evidenced by one or more agreements, deposit receipts, signature cards, amendment notices, or other documentation as provided by law.

(e) The depository and the depository account holder may amend a contract for a depository account by agreement, or the depository may amend the deposit contract by providing written notice of the amendment to the account holder, separately or as an enclosure with or part of the account holder's statement of account or passbook. In the case of amendment by notice from the depository, the notice must include the text and effective date of the amendment. The notice may be provided electronically. The effective date may not be earlier than the 30th day after the date the notice is mailed, unless otherwise provided by rules adopted under this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. 2458), Sec. 15, eff. May 24, 2019.

Sec. 2116.009. CAUSE OF ACTION FOR DENIAL OF DEPOSIT LIABILITY. (a) A cause of action for denial of deposit liability on a

depository account contract without a maturity date does not accrue until the depository has denied liability and given notice of the denial to the depository account holder.

(b) The depository's act of furnishing an account statement or passbook, whether in physical, digital, or electronic form, constitutes a denial of liability and the giving of such notice as to any amount not shown on the statement or passbook.

(c) The depository's sovereign immunity from suit is waived for an action brought by a depositor for the denial of deposit liability.

(d) The depository's liability for a denial of deposit liability is limited to the amount on deposit for which liability was denied. A depositor may not recover consequential damages, exemplary damages, pre- or post-judgment interest, costs, or attorney's fees.

(e) A suit authorized by this section must be brought in a district court of Travis County.

(f) A suit authorized by this section must be brought before the expiration of one year after the date the cause of action accrues or the suit is barred.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.

Sec. 2116.010. FEES; SERVICE CHARGES; PENALTIES. The comptroller may establish fees, service charges, and penalties to be charged a depository account holder for a service or activity regarding a depository account, including a fee for an overdraft, an insufficient fund check or draft, or a stop payment order. The comptroller may waive any fees, service charges, or penalties established under this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. 2458), Sec. 16, eff. May 24, 2019.

Sec. 2116.011. DEPOSITORY ACCOUNT OWNERSHIP BY OWNER OF RECORD. Unless the depository acknowledges in writing a pledge of a depository account, the depository may treat the holder of record of

the account as the owner of the account for all purposes and without regard to a notice to the contrary.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.

Sec. 2116.012. TRANSFER OF DEPOSITORY ACCOUNT. (a) A depository account may be transferred on the books of the depository only on presentation to the depository of:

(1) evidence of transfer satisfactory to the depository; and

(2) an application for the transfer submitted by the person to whom the depository account is to be transferred.

(b) A person to whom a depository account is to be transferred must accept the transferred account subject to the terms of the deposit contract, this chapter, and rules adopted under this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.

Sec. 2116.013. DEPOSITORY ACCOUNTS NOT INTEREST-BEARING. The depository may not pay on a depository account:

(1) interest;

(2) an amount in the nature of interest; or

(3) a fee or other payment for the use or forbearance of use of money, bullion, specie, or precious metals deposited to a depository account.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.

Sec. 2116.014. LIEN ON DEPOSITORY ACCOUNT. (a) Without the need of any further agreement or pledge, the depository has a lien on each depository account owned by a depository account holder to secure any fees, charges, or other obligations owed or that may become owed to the depository in connection with any of the depository account holder's depository accounts as provided by the terms of the depository account holder's applicable depository

account contract.

(b) On default in the payment or in the satisfaction of a depository account holder's obligation, the depository, without notice to or consent of the depository account holder, may transfer on the depository's books all or part of the balance of a depository account holder's depository account to the extent necessary to pay or satisfy the obligation, as determined by reference to the exchange rates applicable at the time of the transfer.

(c) The depository by written instrument may waive wholly or partly the depository's lien on a depository account.

(d) Subject to a lien created as provided by this section, the depository shall recognize the lawful pledge to a third party by a depository account holder of the depository account holder's rights, interests, and entitlements in and to a depository account as an intangible asset. On the satisfaction of other requirements of law in respect of the perfection and enforcement of a pledge of that type, the depository shall take all steps reasonably necessary and appropriate to effectuate on the depository's books any transfer of a depository account or of all or part of a depository account balance to the account of the secured party on the successful enforcement of the pledge.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.

Sec. 2116.015. DEPOSITORY ACCOUNT AS LEGAL INVESTMENT. (a) The following persons may invest the person's money in a depository account by purchasing precious metals and depositing the precious metals with the depository or a depository agent:

(1) an individual or fiduciary, including an administrator, executor, custodian, guardian, or trustee;

(2) a political subdivision of this state or an instrumentality of this state;

(3) a business or nonprofit corporation;

(4) a charitable or educational corporation or association; or

(5) a financial institution, including a bank, savings and loan association, or credit union.

(b) An investment by a school district in a depository account

may be made instead of an investment as provided by Section 45.102, Education Code, and the depository may be used by a district instead of a depository bank for the purposes of Subchapter G, Chapter 45, Education Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.

Sec. 2116.016. APPLICABILITY OF ESTATES CODE. The applicable provisions of Chapters 111, 112, and 113, Estates Code, govern a depository account.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.

Sec. 2116.017. PLEDGE OF JOINTLY HELD DEPOSITORY ACCOUNT. (a) Unless a term of the depository account provides otherwise, a person on whose signature precious metals may be withdrawn from a depository account that is jointly held in the names of two or more persons may, by a signed pledge, pledge and transfer to the depository or to a third party all or part of the account.

(b) A pledge made as described by Subsection (a) does not sever or terminate the joint and survivorship ownership of the account, to the extent applicable to the account before the pledge.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.

Sec. 2116.018. DEPOSITORY ACCOUNT HELD BY FIDUCIARY. (a) The depository or a depository agent may accept a depository account in the name of a fiduciary, including an administrator, executor, custodian, guardian, or trustee, for a named beneficiary.

(b) A fiduciary may open, add to, or withdraw precious metals from an account described by Subsection (a).

(c) Except as otherwise provided by law, a payment or delivery to a fiduciary or an acquittance signed by the fiduciary to whom a payment or delivery is made is a discharge of the depository for the payment or delivery.

(d) After a person who holds a depository account in a fiduciary capacity dies, the depository may pay or deliver to the beneficiary of the account the quantity of precious metals represented by the balance in the depository account, plus other rights relating to the depository account, wholly or partly, if the depository has no written notice or order of the probate court of:

(1) a revocation or termination of the fiduciary relationship; or

(2) any other disposition of the beneficial estate.

(e) The depository has no further liability for a payment made or right delivered under Subsection (d).

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.

Sec. 2116.019. DEPOSITORY ACCOUNT HELD IN TRUST; UNDISCLOSED TRUST INSTRUMENT. (a) If the depository opens a depository account for a person claiming to be the trustee for another person and the depository has no other notice of the existence or terms of the trust other than a written claim against the account:

(1) the person claiming to be the trustee, on the person's signature, may withdraw precious metals from the account; and

(2) if the person claiming to be the trustee dies, the depository may pay or deliver the quantity of precious metals represented by the balance in the account to the person for whom the account was opened.

(b) The depository has no further liability for a payment or delivery made as provided by Subsection (a).

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.

Sec. 2116.020. POWER OF ATTORNEY; REVOCATION ON DEATH OR INCOMPETENCY. (a) The depository shall recognize the authority of an attorney-in-fact authorized in writing by a depository account holder to manage or withdraw precious metals from the depository account holder's depository account until the depository receives written or actual notice of the revocation of that authority.

(b) For purposes of this section, written notice of the death

or adjudication of incompetency of a depository account holder is considered to be written notice of revocation of the authority of the account holder's attorney-in-fact.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.

Sec. 2116.021. TRANSACTIONS AND RELATIONSHIPS; MARKETING AND PUBLICITY. (a) The depository may enter into transactions and relationships with bullion banks, depositories, dealers, central banks, sovereign wealth funds, financial institutions, international nongovernmental organizations, and other persons, located inside or outside of this state or inside or outside of the United States, as the comptroller determines to be prudent and suitable to facilitate the operations of the depository and to further the purposes of this chapter.

(b) The depository may advertise and promote the depository in any available media.

(c) The depository may issue, sell, license for sale, or obtain a license to sell promotional items approved by the administrator to further the purposes of this chapter and to promote the depository. The depository may set commercially reasonable prices for items licensed or sold under this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. 2458), Sec. 17, eff. May 24, 2019.

Sec. 2116.022. CERTAIN ACTIONS PROHIBITED. The depository may not take any of the following actions, and any attempt by the depository to take any of the following actions is void ab initio and of no force or effect:

(1) entering into a precious metals leasing, sale-leaseback, forward transaction, swap transaction, future transaction, index transaction, or option on or other derivative of any of those, whether in the nature of a cap transaction, floor transaction, collar transaction, repurchase transaction, reverse repurchase transaction,

buy-and-sell-back transaction, securities lending transaction, or other financial instrument or interest intended to or having the effect of hedging or leveraging the depository's holdings of precious metals, including any option with respect to any of these transactions, or any combination of these transactions, except that the limitation provided by this subdivision does not apply to a transaction entered into to limit the depository's exposure to post-signature price risks associated with executory agreements to purchase or sell precious metals in the ordinary course of depository operations and does not apply to policies of insurance purchased to insure against ordinary casualty risks such as theft, damage or destruction, loss during shipment, or similar risks;

(2) crediting the depository account balances of a depository account holder, or disposing of any precious metals, if to do so would cause the aggregate depository account balances with respect to any precious metal represented by all depository accounts to exceed the aggregate quantities of such precious metal held by or for the benefit of the depository and the depository's depository agents;

(3) entering into or maintaining a deposit, trust, or similar relationship for the custody of precious metals by a third party outside this state, directly or indirectly, for the account or benefit of the depository if the comptroller by rule establishes that:

(A) the custody or intermediary arrangements in question do not meet the comptroller's standards of safety, security, and liquidity; or

(B) except in those cases where such relationship may be incidental to the performance of or preparation for purchase and sale transactions with counterparties located outside of this state, suitable alternate arrangements for physical custody of the precious metals inside this state have been established and are available;

(4) extending credit to a person, including credit secured by a depository account or other assets, except an extension of credit incidental to the performance of the functions and responsibilities otherwise provided by this chapter; or

(5) engaging in a business or activity that, if conducted by a private person, would be subject to regulation in this state as a banking or savings and loan function.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.

Sec. 2116.023. CONFISCATIONS, REQUISITIONS, SEIZURES, AND OTHER ACTIONS VOID. (a) A purported confiscation, requisition, seizure, or other attempt to control the ownership, disposition, or proceeds of a withdrawal, transfer, liquidation, or settlement of a depository account, including the precious metals represented by the balance of a depository account, if effected by a governmental or quasi-governmental authority other than an authority of this state or by a financial institution or other person acting on behalf of or pursuant to a directive or authorization issued by a governmental or quasi-governmental authority other than an authority of this state, in the course of a generalized declaration of illegality or emergency relating to the ownership, possession, or disposition of one or more precious metals, contracts, or other rights to the precious metals or contracts or derivatives of the ownership, possession, disposition, contracts, or other rights, is void ab initio and of no force or effect.

(b) The depository in the case of receiving notice of a purported confiscation, requisition, seizure, or other attempt to control the ownership, disposition, or proceeds of a withdrawal, transfer, liquidation, or settlement of a depository account, including the precious metals represented by the balance of a depository account, effected by a governmental or quasi-governmental authority other than an authority of this state or by a financial institution or other person acting on behalf of or pursuant to a directive or authorization issued by a governmental or quasi-governmental authority other than an authority of this state, in the course of a generalized declaration of illegality or emergency relating to the ownership, possession, or disposition of one or more precious metals, contracts, or other rights to the precious metals or contracts or derivatives of the ownership, possession, disposition, contracts, or other rights, may not recognize the governmental or quasi-governmental authority, financial institution, or other person acting as the lawful successor of the registered holder of a depository account in question.

(c) On receipt of notice of any transaction described by Subsection (a), with respect to all or any portion of the balance of

a depository account, the depository shall suspend withdrawal privileges associated with the balances of the depository account until suitable substitute arrangements may be effected in accordance with rules of the comptroller to enable the registered account holder to take delivery of the precious metals represented by the account balances in question. A voluntary transfer of a depository account balance or of a depository account among depository account holders may continue to take place unaffected by the suspension, and the depository shall recognize to the full extent authorized by this chapter and rules adopted under this chapter.

(d) The depository shall refer any matter relating to an action described by Subsection (a) to the attorney general for resolution.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. 2458), Sec. 18, eff. May 24, 2019.

Sec. 2116.024. OFFICIAL EXCHANGE RATES. The comptroller shall establish the references by which the official exchange rate for pricing precious metals transactions in terms of United States dollars or other currency must be established at the time of a depository transaction. The comptroller shall establish procedures and facilities through which the rates are made discoverable at all reasonable times by system participants, both on a real-time basis and retrospectively.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. 2458), Sec. 19, eff. May 24, 2019.

Sec. 2116.025. FACILITATION OF ACCOUNTING AND REPORTING OF TAXABLE GAINS. The comptroller shall establish procedures and requirements for the depository and depository agents designed to minimize the burden to system participants of accounting for and reporting taxable gains and losses arising out of depository

transactions as denominated in United States dollars or another currency.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. 2458), Sec. 20, eff. May 24, 2019.

Sec. 2116.026. ANNUAL REPORT. The comptroller shall submit to the governor and the legislature a report on the status, condition, operations, and prospects for the depository and depository participation each year not later than September 30.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.

Sec. 2116.027. CONFIDENTIALITY OF RECORDS; OTHER RECORDS EXEMPT FROM DISCLOSURE. (a) Records relating to individual depository accounts or depository account holders, including current, former, or prospective depository account holders, that are in the custody of the depository or a vendor performing services related to the depository are confidential and exempt from disclosure under Chapter 552.

(b) The following information of the depository is excepted from the requirements of Section 552.021:

(1) records and other information related to the security of the depository;

(2) records related to the method of setting the depository's fees, service charges, penalties, and other charges or payments; and

(3) commercial or financial information that would cause substantial competitive harm to the depository, including operational or other information that would give advantage to competitors or bidders.

(c) Notwithstanding Subsection (a), depository account information may be disclosed:

(1) to a depository account holder regarding the depository account holder's account;

(2) to a state or federal agency as required by applicable law;

(3) to a vendor providing services to the depository;

(4) in response to a subpoena issued under applicable law;

(5) if compiled as collective information that does not include any identifying information about a person; or

(6) as otherwise permitted by the depository account agreement applicable to a depository account holder's account.

Added by Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. 2458), Sec. 21, eff. May 24, 2019.

SUBCHAPTER B. DEPOSITORY AGENTS

Sec. 2116.051. USE OF DEPOSITORY AGENTS. The depository may use private, independently managed financial institutions to provide retail locations for the provision of depository services to the public on behalf of the depository.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. 2458), Sec. 22, eff. May 24, 2019.

Sec. 2116.052. ELECTRONIC INFORMATION SHARING SYSTEMS AND PROCESSES. The comptroller by rule shall require a depository agent to maintain suitable systems and processes for electronic information sharing and communication with the comptroller and the depository to ensure that all transactions effected on behalf of the depository are reported to and integrated into the depository's records not later than 11:59:59 p.m. on the date of each transaction.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.

Sec. 2116.053. PERIODIC REPORTS. A depository agent shall submit monthly, quarterly, and annual reports of all depository transactions not later than the 15th day of the month following the

expiration of the period with respect to which such report is submitted. The report must contain information and be in a form and format as rules of the comptroller require.

Added by Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 1, eff. June 19, 2015.

SUBCHAPTER C. ACQUISITION OF REAL PROPERTY FOR DEPOSITORY

Sec. 2116.071. ACQUISITION OF REAL PROPERTY. The comptroller, by purchase, lease, donation, or other means, may acquire real property necessary for one or more buildings to operate the depository.

Added by Acts 2021, 87th Leg., R.S., Ch. 981 (S.B. 2230), Sec. 2, eff. June 18, 2021.

Sec. 2116.072. PURCHASE OF BUILDING SUBJECT TO EXISTING LEASES. The comptroller may:

(1) acquire a building that is subject to a lease by a private tenant and may continue or renew a lease for the building if the comptroller determines that doing so is advantageous to this state; and

(2) renegotiate the terms of a lease described by Subdivision (1) to obtain terms that are more favorable to this state.

Added by Acts 2021, 87th Leg., R.S., Ch. 981 (S.B. 2230), Sec. 2, eff. June 18, 2021.

Sec. 2116.073. LEASING PROPERTY AND USE OF LEASE PROCEEDS. (a) The comptroller may lease at fair market value any portion of a property acquired under this subchapter to a private tenant for commercial activities.

(b) Money received by the comptroller under a lease of property acquired under this subchapter may be used by the comptroller to:

(1) repay obligations issued under Section 1232.1026 and used to acquire the property or construct the building; or

(2) make payments under a lease-to-purchase agreement or

other comparable financing agreement between the comptroller and the Texas Public Finance Authority.

Added by Acts 2021, 87th Leg., R.S., Ch. 981 (S.B. 2230), Sec. 2, eff. June 18, 2021.

Sec. 2116.074. TITLE TO AND CONTROL OF REAL PROPERTY. The comptroller, subject to the lease-to-purchase agreement or other comparable financing agreement executed under Section 1232.1026, shall obtain in the name of this state title to any real property acquired or building constructed under this subchapter and retain control of that real property.

Added by Acts 2021, 87th Leg., R.S., Ch. 981 (S.B. 2230), Sec. 2, eff. June 18, 2021.

Sec. 2116.075. BORROWING MONEY; ISSUING AND SELLING BONDS. (a) The comptroller may borrow money in the amount and under the circumstances authorized by the legislature and may request the Texas Public Finance Authority, on behalf of the comptroller, to issue and sell bonds to acquire real property or construct a building to operate the depository.

(b) The Texas Public Finance Authority may issue and sell bonds for the purposes of Subsection (a) in any manner and on such terms the authority determines to be in the best interest of the comptroller, subject to the requirements of Chapter 1202.

Added by Acts 2021, 87th Leg., R.S., Ch. 981 (S.B. 2230), Sec. 2, eff. June 18, 2021.

SUBTITLE D. STATE PURCHASING AND GENERAL SERVICES

CHAPTER 2151. GENERAL PROVISIONS

Sec. 2151.001. SHORT TITLE. This subtitle may be cited as the State Purchasing and General Services Act.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2151.002. DEFINITION. Except as otherwise provided by this subtitle, in this subtitle, "state agency" means:

(1) a department, commission, board, office, or other agency in the executive branch of state government created by the state constitution or a state statute;

(2) the supreme court, the court of criminal appeals, a court of appeals, or the Texas Judicial Council; or

(3) a university system or an institution of higher education as defined by Section 61.003, Education Code, except a public junior college.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.199, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1035, Sec. 60, eff. June 19, 1997; Acts 2001, 77th Leg., ch. 1422, Sec. 1.02, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.01, eff. September 1, 2007.

Sec. 2151.003. REFERENCE. A statutory reference to the General Services Commission, the State Board of Control, the State Purchasing and General Services Commission, or the Texas Building and Procurement Commission means:

(1) the Texas Facilities Commission if the statutory reference concerns:

(A) charge and control of state buildings, grounds, or property;

(B) maintenance or repair of state buildings, grounds, or property;

(C) construction of a state building;

(D) purchase or lease of state buildings, grounds, or property by or for the state;

(E) child care services for state employees under Chapter 663; or

(F) surplus and salvage property; and

(2) the comptroller in all other circumstances, except as otherwise provided by law.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 1.03, eff. Sept. 1,

2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.01, eff. September 1, 2007.

Sec. 2151.004. TRANSFER AND ALLOCATION OF POWERS AND DUTIES. (a) The powers and duties of the former General Services Commission under Chapter 2170 or other law relating to providing telecommunications services for state government are transferred to the Department of Information Resources.

(b) A reference in law to the General Services Commission that relates to the powers and duties of the former General Services Commission under Chapter 2170 or other law relating to providing telecommunications services for state government is a reference to the Department of Information Resources.

(c) The Texas Facilities Commission retains the powers and duties of the former Texas Building and Procurement Commission relating to charge and control of state buildings, grounds, or property, maintenance or repair of state buildings, grounds, or property, child care services for state employees under Chapter 663, surplus and salvage property, construction of a state building, or purchase or lease of state buildings, grounds, or property by or for the state.

(d) Except as provided by Subsection (a) or (c) or other law, all other powers and duties of the Texas Building and Procurement Commission are transferred to the comptroller.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 1.04, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.01, eff. September 1, 2007.

Sec. 2151.005. EXEMPTIONS RELATED TO LEGAL SERVICES. This subtitle does not apply to:

(1) obtaining outside legal counsel services;

(2) obtaining expert witnesses; or

(3) procuring litigation-related goods and services for

which competitive procurement is not feasible under the circumstances.

Added by Acts 2003, 78th Leg., ch. 309, Sec. 7.04, eff. June 18, 2003.

CHAPTER 2152. TEXAS FACILITIES COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2152.001. COMMISSION. The Texas Facilities Commission is an agency of the state.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 1.06, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.04, eff. September 1, 2007.

Sec. 2152.0011. TEXAS FACILITIES COMMISSION; DEFINITION. (a) The Texas Building and Procurement Commission is renamed the Texas Facilities Commission.

(b) In this chapter, "commission" means the Texas Facilities Commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.05, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 6, eff. September 1, 2019.

Sec. 2152.002. SUNSET PROVISION. The Texas Facilities Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this subtitle, except for Chapter 2170 and Section 2157.121, expires September 1, 2029.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1169, Sec. 2.05, eff. Sept. 1,

1997; Acts 1999, 76th Leg., ch. 1449, Sec. 1.02, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1422, Sec. 1.07, eff. Sept. 1, 2001.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1279 (H.B. 1675), Sec. 1.03(a), eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 938 (H.B. 3123), Sec. 1.01, eff. June 18, 2015.

Acts 2019, 86th Leg., R.S., Ch. 596 (S.B. 619), Sec. 4.04, eff. June 10, 2019.

Acts 2023, 88th Leg., R.S., Ch. 941 (S.B. 1659), Sec. 1.09, eff. June 18, 2023.

Sec. 2152.003. GIFTS, GRANTS, AND DONATIONS. The commission may solicit, contract for, receive, accept, or administer gifts, grants, and donations of money or property from any source for any lawful public purpose related to the commission.

Added by Acts 2011, 82nd Leg., R.S., Ch. 548 (H.B. 2769), Sec. 1, eff. June 17, 2011.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 2152.051. COMPOSITION OF COMMISSION. (a) The commission consists of:

(1) three members appointed by the governor;

(2) two additional members appointed by the governor from a list of nominees submitted by the speaker of the house of representatives; and

(3) two members appointed by the lieutenant governor.

(b) In making an appointment under Subsection (a)(2), the governor may reject one or more of the nominees on a list submitted by the speaker of the house of representatives and request a new list of different nominees.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 1.08, eff. Sept. 1, 2001.

Sec. 2152.052. APPOINTMENTS. (a) Appointments to the

commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(b) In making appointments under this section, the governor and lieutenant governor shall attempt to appoint women and members of different minority groups, including African Americans, Hispanic Americans, Native Americans, and Asian Americans.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 1.09, eff. Sept. 1, 2001.

Sec. 2152.053. ELIGIBILITY. An individual is not eligible for appointment to the commission if the individual or the individual's spouse:

(1) is employed by or participates in the management of a business entity or other organization that contracts with the commission;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization that contracts with the state; or

(3) uses or receives a substantial amount of tangible goods, services, or money from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2152.054. CONFLICTS OF INTEREST. (a) An individual may not serve as a member of the commission or act as the general counsel to the commission if the individual is required to register as a lobbyist under Chapter 305 because of the individual's activities for compensation on behalf of a profession related to the operation of the commission or a business entity that contracts with the state.

(b) An officer, employee, or paid consultant of a Texas trade association of business entities that contracts with the state may not:

(1) serve as a commission member; or

(2) be employed as a commission employee in a "bona fide executive, administrative, or professional capacity," as that phrase

is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments.

(c) An individual who is the spouse of an officer, manager, or paid consultant of a Texas trade association of business entities that contracts with the state may not:

(1) serve as a commission member; or

(2) be employed as a commission employee in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments.

(d) For purposes of this section, a trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 1.10, eff. Sept. 1, 2001.

Sec. 2152.055. INFORMATION ABOUT QUALIFICATIONS AND STANDARDS OF CONDUCT. The commission shall provide its members and employees, as often as necessary, information regarding their:

(1) qualifications for office or employment under this subtitle; and

(2) responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2152.056. REMOVAL OF COMMISSION MEMBER. (a) It is a ground for removal from the commission that a member:

(1) violates a prohibition established by Section 2152.054;

(2) cannot discharge because of illness or disability the member's duties for a substantial part of the term for which the member is appointed; or

(3) is absent from more than half of the regularly

scheduled commission meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 1.11, eff. Sept. 1, 2001.

Sec. 2152.057. TERMS. Commission members serve staggered six-year terms with two or three members' terms expiring January 31 of each odd-numbered year.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 1.12, eff. Sept. 1, 2001.

Sec. 2152.058. PRESIDING OFFICER; MEETINGS. (a) The governor annually shall appoint a presiding officer from among the commission members.

(b) The commission shall meet at least quarterly. The commission may meet at other times at the call of the presiding officer or as provided by the commission's rules.

(c) Four members of the commission constitute a quorum.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 1.01, eff. June 18, 2003.

Sec. 2152.0581. TRAINING FOR COMMISSION MEMBERS. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the commission;

(2) the programs operated by the commission;

(3) the role and functions of the commission;

(4) the rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the commission;

(6) the results of the most recent formal audit of the commission;

(7) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552;

(C) the administrative procedure law, Chapter 2001; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 1.13, eff. Jan. 31, 2003.

Sec. 2152.059. REIMBURSEMENT FOR EXPENSES. A commission member is not entitled to compensation but is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a commission member.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2152.060. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) The commission shall prepare information of public interest describing the commission's functions and the procedures by which complaints are filed with and resolved by the commission. The commission by rule shall establish methods by which consumers, service recipients, and persons contracting with the state under this subtitle are notified of the commission's name, mailing address, and telephone number for directing complaints to the commission. The commission shall make the information available to the public and appropriate state agencies.

(b) The commission shall maintain a file on each written complaint filed with the commission. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the commission;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the commission closed the file without taking action other than to investigate the complaint.

(c) If a written complaint is filed with the commission that the commission has authority to resolve, the commission, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the complaint's status unless the notice would jeopardize an undercover investigation.

(d) The commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 1.14, eff. Sept. 1, 2001.

Sec. 2152.061. PUBLIC ACCESS. (a) The commission shall prepare and maintain a written plan that describes how an individual who does not speak English can be provided reasonable access to the commission's programs.

(b) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the commission's jurisdiction.

(c) The commission shall comply with federal and state laws for program and facility accessibility.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2152.064. CONFLICTS OF INTEREST IN CERTAIN TRANSACTIONS. (a) A commission member, employee, or appointee may not:

(1) have an interest in, or in any manner be connected with:

(A) a contract or bid for a purchase of goods or services, including professional or consulting services, by the commission or another agency of the state in connection with the commission's duties concerning:

(i) charge and control of state buildings, grounds, or property;

(ii) maintenance or repair of state buildings, grounds, or property;

(iii) construction of a state building; or

(iv) purchase or lease of state buildings, grounds, or property by or for the state; or

(B) a recipient of state surplus or salvage property under the control of the commission; or

(2) in any manner, including by rebate or gift, accept or receive, directly or indirectly, from a recipient of state surplus or salvage property or a person to whom a contract described by Subdivision (1) may be awarded, anything of value or a promise, obligation, or contract for future reward or compensation.

(b) A commission member, employee, or appointee who violates Subsection (a)(2) is subject to dismissal.

(c) In consultation with the commission, the Texas Ethics Commission shall adopt rules to implement this section.

(d) The Texas Ethics Commission shall administer and enforce this section and may prepare written opinions regarding this section in accordance with Subchapter D, Chapter 571.

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 3.10, eff. September 1, 2007.

Sec. 2152.065. REPRESENTATION ON BOARD OR COMMITTEE. If the commission must be represented on a board or committee, the executive director or the executive director's designee shall serve as the commission's representative on the board or committee unless the presiding officer of the commission elects to personally serve as the commission's representative or appoints a specific person to serve as the commission's representative on the board or committee.

Added by Acts 2003, 78th Leg., ch. 309, Sec. 1.02, eff. June 18, 2003.

Sec. 2152.066. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 6,

eff. June 14, 2013.

SUBCHAPTER C. PERSONNEL

Sec. 2152.101. EXECUTIVE DIRECTOR. (a) The commission shall employ an executive director who has demonstrated executive and organizational ability.

(b) The executive director serves at the commission's pleasure.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2152.103. GENERAL POWERS AND DUTIES OF EXECUTIVE DIRECTOR. (a) The executive director shall manage the commission's affairs under the commission's direction.

(b) The commission's directions to the executive director shall be:

(1) made only at an open meeting of the commission; and

(2) included in the commission's minutes for the meeting.

(c) The executive director may employ staff necessary to administer the commission's functions.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2152.104. ASSOCIATE DEPUTY DIRECTORS; DIVISIONS; DIVISION DIRECTORS. (a) The commission shall have an appropriate number of associate deputy directors.

(b) Each division shall be managed by a division director who shall report to the associate deputy director who administers the division.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 937, Sec. 1.117(4), eff. September 1, 2007.

(d) In accordance with this subchapter, the executive director shall appoint a director of facilities construction and space management, who shall:

(1) be a registered architect or registered professional engineer; and

(2) have proven administrative ability and experience in the fields of building design and construction.

(e) The commission shall provide professional service staff and

the expertise of financial, technical, and other necessary advisors and consultants, authorized under Section 2267.053(d), to support the Partnership Advisory Commission in its review and evaluation of qualifying project proposals.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 127, Sec. 1, eff. May 19, 1997; Acts 2003, 78th Leg., ch. 309, Sec. 1.03, eff. June 18, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.117(4), eff. September 1, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 7, eff. June 14, 2013.

Sec. 2152.105. RESPONSIBILITIES OF COMMISSION AND COMMISSION STAFF. The commission shall develop and implement policies that clearly define the responsibilities of the commission and the commission's staff.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2152.106. PROHIBITION OF GRANT OF AUTHORITY BY POWER OF ATTORNEY. A commission member may not by power of attorney grant authority to the executive director or another commission employee.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2152.107. MERIT PAY. (a) The executive director or the executive director's designated representative shall develop a system of annual performance evaluations.
(b) Merit pay for commission employees must be based on the system established under this section.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2152.108. CAREER LADDER. The executive director or the executive director's designated representative shall develop an

intra-agency career ladder program. The program must require intra-agency posting of all non-entry-level positions concurrently with any public posting.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2152.109. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The executive director or the executive director's designated representative shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel, that comply with Chapter 21, Labor Code;

(2) a comprehensive analysis of the commission's workforce that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the commission's workforce of all individuals for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address areas of significant underuse.

(b) A policy statement prepared under Subsection (a) must:

(1) cover an annual period;

(2) be updated at least annually;

(3) be reviewed annually by the Commission on Human Rights for compliance with Subsection (a)(1); and

(4) be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2152.110. CENTER FOR ALTERNATIVE FINANCE AND PROCUREMENT. The commission shall establish the center for alternative finance and

procurement to consult with governmental entities regarding best practices for procurement and the financing of qualifying projects and to assist governmental entities in the receipt of proposals, negotiation of interim and comprehensive agreements, and management of qualifying projects under Chapters 2267 and 2268.

Added by Acts 2015, 84th Leg., R.S., Ch. 1075 (H.B. 2475), Sec. 1, eff. September 1, 2015.

CHAPTER 2155. PURCHASING: GENERAL RULES AND PROCEDURES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2155.001. DEFINITIONS. Except as otherwise provided by this chapter and Chapters 2156, 2157, and 2158:

(1) "Goods" means supplies, materials, or equipment.

(2) "Service" means the furnishing of skilled or unskilled labor or professional work, but does not include a:

(A) professional service subject to Subchapter A, Chapter 2254;

(B) service of a state agency employee;

(C) consulting service or service of a consultant as defined by Subchapter B, Chapter 2254; or

(D) service of a public utility.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 61, eff. June 19, 1997.

Sec. 2155.0011. COMPTROLLER POWERS AND DUTIES. The comptroller has under this chapter the powers and duties described by Section 2151.004(d).

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.06, eff. September 1, 2007.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 7, eff. September 1, 2019.

Sec. 2155.0012. AUTHORITY TO ADOPT RULES. The comptroller may

adopt rules to efficiently and effectively administer this chapter. Before adopting a rule under this section, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b) are met.

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.06, eff. September 1, 2007.

Sec. 2155.002. FOCUS ON LARGE EXPENDITURES. To the extent possible, the comptroller shall focus its efforts under this chapter and Chapters 2156, 2157, and 2158 on purchases and contracts that involve relatively large amounts of money.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 7, eff. September 1, 2019.

Sec. 2155.003. CONFLICT OF INTEREST. (a) The chief clerk or any other employee of the comptroller may not:

(1) have an interest in, or in any manner be connected with, a contract or bid for a purchase of goods or services by an agency of the state; or

(2) in any manner, including by rebate or gift, accept or receive from a person to whom a contract may be awarded, directly or indirectly, anything of value or a promise, obligation, or contract for future reward or compensation.

(b) The chief clerk or any other employee of the comptroller who violates Subsection (a)(2) is subject to dismissal.

(c) In consultation with the comptroller, the Texas Ethics Commission shall adopt rules to implement this section.

(d) The Texas Ethics Commission shall administer and enforce this section and may prepare written opinions regarding this section in accordance with Subchapter D, Chapter 571.

(e) The comptroller must report to the Texas Ethics Commission a campaign contribution from a vendor that bids on or receives a contract under the comptroller's purchasing authority.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.07, eff. September 1, 2007.

Sec. 2155.004. CERTAIN BIDS AND CONTRACTS PROHIBITED. (a) A state agency may not accept a bid or award a contract that includes proposed financial participation by a person who received compensation from the agency to participate in preparing the specifications or request for proposals on which the bid or contract is based.

(b) A bid or award subject to the requirements of this section must include the following statement:

"Under Section 2155.004, Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."

(c) If a state agency determines that an individual or business entity holding a state contract was ineligible to have the contract accepted or awarded under Subsection (a), the state agency may immediately terminate the contract without further obligation to the vendor.

(d) This section does not create a cause of action to contest a bid or award of a state contract.

(e) This section does not prohibit a bidder or contract participant from providing free technical assistance to a state agency.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 62, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1158, Sec. 56, eff. June 15, 2001.

Sec. 2155.005. COMPLIANCE WITH ANTITRUST LAWS. (a) A bidder offering to sell goods or services to the state shall certify on each bid submitted that neither the bidder, nor the person represented by the bidder, nor any person acting for the represented person has:

(1) violated the antitrust laws codified by Chapter 15, Business & Commerce Code, or the federal antitrust laws; or

(2) directly or indirectly communicated the bid to a competitor or other person engaged in the same line of business.

(b) The attorney general shall prepare the certification statement. The statement shall be made a part of the bid form.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2155.006. PROHIBITION ON CERTAIN BIDS AND CONTRACTS. (a) In this section:

(1) "Disaster" has the meaning assigned by Section 418.004.

(2) "Hurricane Katrina" means the hurricane of that name that struck the gulf coast region of the United States in August 2005.

(b) A state agency may not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been:

(1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or

(2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

(c) A bid or award subject to the requirements of this section must include the following statement:

"Under Section 2155.006, Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."

(d) If a state agency determines that an individual or business entity holding a state contract was ineligible to have the bid accepted or contract awarded under Subsection (b), the state agency

may immediately terminate the contract without further obligation to the vendor.

(e) This section does not create a cause of action to contest a bid or award of a state contract.

Added by Acts 2007, 80th Leg., R.S., Ch. 1302 (S.B. 608), Sec. 1, eff. September 1, 2007.

Sec. 2155.0061. PROHIBITION ON CERTAIN BIDS AND CONTRACTS RELATED TO PERSONS INVOLVED IN HUMAN TRAFFICKING. (a) A state agency may not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been convicted of any offense related to the direct support or promotion of human trafficking.

(b) A bid or award subject to the requirements of this section must include the following statement:

"Under Section 2155.0061, Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."

(c) If a state agency determines that an individual or business entity holding a state contract was ineligible to have the bid accepted or contract awarded under this section, the state agency may immediately terminate the contract without further obligation to the vendor.

(d) This section does not create a cause of action to contest a bid or award of a state contract.

Added by Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 6.01, eff. September 1, 2019.

Sec. 2155.007. PROCUREMENT COORDINATION COMMITTEE. (a) In this section, "department" means the Department of Information Resources.

(b) The department and the comptroller shall establish a committee composed of essential personnel of the department and the

comptroller to:

(1) identify:

(A) areas of overlap in the procurement functions of the department and the comptroller and methods to avoid duplication of services;

(B) mutually beneficial contracting and procurement methodologies, data collection and management techniques, and customer relations management;

(C) opportunities for collaboration on procurement functions that would benefit the state or other customers; and

(D) opportunities for consolidation of administrative or other functions to improve customer service and reduce operating costs; and

(2) develop:

(A) a standardized method for the department and the comptroller to:

(i) collect and analyze spending data relating to procurement contracts; and

(ii) benchmark and quantitatively measure cost savings and increased administrative efficiency resulting from collaboration and cooperative purchasing; and

(B) strategies that encourage coordination between the department and the comptroller relating to procurement functions.

(c) The committee may appoint advisory members as appropriate to assist the committee.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 16, eff. September 1, 2013.

SUBCHAPTER B. GENERAL PURCHASING REQUIREMENTS, PROCEDURES, AND PROGRAMS

Sec. 2155.061. COMPTROLLER PURCHASING SYSTEM. (a) The comptroller shall acquire by purchase, lease, rental, or another manner all goods and services for a state agency, including a purchase that does not require a competitive bid or a spot purchase.

(b) The comptroller shall operate an effective and economical system for purchasing goods and services.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 8, eff. September 1, 2019.

Sec. 2155.062. PURCHASE METHODS. (a) In purchasing goods and services the comptroller may use, but is not limited to, the:

(1) contract purchase procedure;

(2) multiple award contract procedure, including under any schedules developed under Subchapter I;

(3) open market purchase procedure; or

(4) reverse auction procedure.

(b) Chapter 2156 provides additional information on purchase methods.

(c) Chapter 2157 provides additional information on purchase of automated information systems.

(d) In this subchapter, "reverse auction procedure" means:

(1) a real-time bidding process usually lasting less than one hour and taking place at a previously scheduled time and Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services; or

(2) a bidding process usually lasting less than two weeks and taking place during a previously scheduled period and at a previously scheduled Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 436, Sec. 1, eff. May 28, 2001; Acts 2001, 77th Leg., ch. 1422, Sec. 7.01, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1013 (H.B. 908), Sec. 1, eff. September 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 9, eff. September 1, 2019.

Sec. 2155.063. COMPETITIVE BIDDING REQUIREMENT. Except as otherwise provided by this subtitle, a purchase of or contract for goods or services shall, whenever possible, be accomplished through competitive bidding.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2155.064. SCHEDULE AND BULK PURCHASING. The comptroller may combine orders in a system of schedule purchasing and shall attempt to benefit from bulk purchasing.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 10, eff. September 1, 2019.

Sec. 2155.065. CONTRACTS WITH DEPARTMENT OF CRIMINAL JUSTICE. (a) The comptroller is authorized to make contracts with the Texas Department of Criminal Justice for the purchase of goods and services for use by another state agency.

(b) The Texas Department of Criminal Justice shall test goods and services it sells under this section before delivery to the extent necessary to ensure quality. The department may enter into a contract with a private or public entity to assist with testing.

(c) The comptroller shall make awards under this section based on proposed goods and services meeting formal state specifications developed by the comptroller or meeting commercial specifications approved by the comptroller.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 2, eff. Sept. 1, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 11, eff. September 1, 2019.

Sec. 2155.066. REVIEW OF SPECIFICATIONS. The comptroller shall review the specifications and purchase conditions of goods or services considered for purchase.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 12, eff.

September 1, 2019.

Sec. 2155.067. PROPRIETARY PURCHASES. (a) If, after review under Section 2155.066, the comptroller finds that specifications and conditions of a purchase request describe a product that is proprietary to one vendor and do not permit an equivalent product to be supplied, the comptroller shall require the requesting state agency to justify in writing the specifications or conditions.

(b) The agency head or the presiding officer of the agency's governing body must sign the written justification.

(c) The written justification must:

(1) explain the need for the specifications;

(2) state the reason competing products are not satisfactory; and

(3) provide other information requested by the comptroller.

(d) If the comptroller requires a resubmission with written justification, the comptroller shall notify the requesting state agency of the requirement not later than the 10th day after the date of receiving the purchase request.

(e) Repealed by Acts 1997, 75th Leg., ch. 1206, Sec. 29, eff. Sept. 1, 1997.

(f) The comptroller shall issue an invitation to bid to vendors not later than the 20th day after the date of receiving the required written justification.

(g) Repealed by Acts 2003, 78th Leg., ch. 785, Sec. 75(2).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 29, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 118, Sec. 1.04, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 785, Sec. 75(2), eff. Sept. 1, 2003. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 13, eff. September 1, 2019.

Sec. 2155.068. UNIFORM STANDARDS AND SPECIFICATIONS. (a) The comptroller may coordinate uniform standards and specifications for goods purchased by the comptroller. The comptroller by rule may adopt appropriate standards developed by a nationally recognized

standards-making association as part of its specifications and standards program.

(b) The comptroller shall enlist the cooperation of other state agencies in the establishment, maintenance, and revision of uniform standards and specifications.

(c) The comptroller shall review contracts administered by the comptroller to ensure that all goods and services meet contract specifications.

(d) As part of the standards and specifications program, the comptroller shall:

(1) review contracts for opportunities to recycle waste produced at state buildings;

(2) develop and update a list of equipment and appliances that meet the energy efficiency standards provided by Section 2158.301; and

(3) assist state agencies in selecting products under Section 2158.301, as appropriate.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 3, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. 12), Sec. 3.04, eff. June 8, 2007.

Acts 2007, 80th Leg., R.S., Ch. 939 (H.B. 3693), Sec. 4, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 11.022, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 14, eff. September 1, 2019.

Sec. 2155.069. TESTING AND INSPECTION. (a) The comptroller may test and inspect goods and services purchased under a contract administered by the comptroller to ensure compliance with specifications.

(b) The comptroller may contract for testing under this section.

(c) The comptroller may, on request, test and inspect goods and services purchased by other state governmental entities on a cost

recovery basis.

(d) The comptroller may also test and inspect goods and services before they are purchased. Other state agencies may test and inspect goods and services before purchase under standard industry testing methods, or they may contract for testing. The comptroller may inform agencies about available private testing facilities.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 4, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 14, eff. September 1, 2019.

Sec. 2155.070. FAILURE TO MEET SPECIFICATIONS. (a) A state agency that determines that goods or services received under a contract administered by the comptroller do not meet specifications shall promptly notify the comptroller in writing of the reasons for the determination. The comptroller shall immediately make its own determination of whether the goods and services meet specifications.

(b) The comptroller or a state agency, including an institution of higher education, has the authority to determine that goods and services exempted from the comptroller's purchasing authority meet or fail to meet specifications.

(c) On determining that contract specifications or conditions have not been met, the comptroller shall act against the defaulting contractor, with the assistance of the attorney general as necessary.

(d) If the comptroller receives repeated complaints against a vendor, the comptroller shall remove the vendor's name and the vendor's goods and services from the comptroller's bidders list for not longer than one year. If complaints resume after the vendor is reinstated on the bidders list, the comptroller may bar the vendor from participating in state contracts for a period under Section 2155.077.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 5, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 14, eff. September 1, 2019.

Sec. 2155.072. STATEWIDE OR REGIONAL SERVICES CONTRACTS; STUDIES. (a) The comptroller annually shall select for study at least one service that is purchased by one or more state agencies. The comptroller shall study a selected service to determine whether the state would benefit if the service were provided to appropriate state agencies under a regional or statewide contract. The comptroller shall give priority to studying services for which the comptroller has delegated the purchasing function to many state agencies.

(b) The comptroller is not required to enter into a statewide or regional contract for the provision of a service to state agencies if more than five bidders are willing to provide the service to the state under a statewide or regional contract.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 14, eff. September 1, 2019.

Sec. 2155.073. PARTICIPATION BY SMALL BUSINESSES IN STATE PURCHASING. The comptroller shall foster participation of small businesses in the purchasing activities of the state by:

(1) assisting state agencies in developing procedures to ensure the inclusion of small businesses on state agency master bid lists;

(2) informing small businesses of state purchasing opportunities;

(3) assisting small businesses in complying with the procedures for bidding on state contracts;

(4) working with state and federal agencies and with private organizations in disseminating information on state purchasing procedures and the opportunities for small businesses to participate in state contracts;

(5) assisting state agencies with the development of a comprehensive list of small businesses capable of providing goods or

services to the state;

(6) making recommendations to state agencies to simplify contract specifications and terms to increase the opportunities for small business participation;

(7) working with state agencies to establish a statewide policy for increasing the use of small businesses;

(8) assisting state agencies in seeking small businesses capable of supplying goods and services that the agencies require;

(9) assisting state agencies in identifying and advising small businesses on the types of goods and services needed by the agencies; and

(10) assisting state agencies in increasing the volume of business placed with small businesses.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 14, eff. September 1, 2019.

Sec. 2155.074. BEST VALUE STANDARD FOR PURCHASE OF GOODS OR SERVICES. (a) For a purchase of goods and services under this chapter, each state agency, including the comptroller, shall purchase goods and services that provide the best value for the state.

(b) In determining the best value for the state, the purchase price and whether the goods or services meet specifications are principal considerations that must be balanced with other relevant factors.

(b-1) The comptroller or other state agency may, subject to Subsection (c) and Section 2155.075, consider the following relevant factors under Subsection (b), including:

(1) installation costs;

(2) life cycle costs;

(3) the quality and reliability of the goods and services;

(4) the delivery terms;

(5) indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience or demonstrated capability and responsibility, and the vendor's ability to provide reliable maintenance agreements and support;

(6) the cost of any employee training associated with a purchase;

(7) the effect of a purchase on agency productivity;

(8) the vendor's anticipated economic impact to the state or a subdivision of the state, including potential tax revenue and employment;

(9) the impact of a purchase on the agency's administrative resources; and

(10) other factors relevant to determining the best value for the state in the context of a particular purchase.

(c) A state agency shall consult with and receive approval from the comptroller before considering factors other than price and meeting specifications when the agency procures through competitive bidding goods or services with a value that exceeds $100,000.

Added by Acts 1997, 75th Leg., ch. 1206, Sec. 6, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 14.16, eff. Sept. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 14, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 855 (S.B. 799), Sec. 5, eff. September 1, 2021.

Sec. 2155.075. REQUIREMENT TO SPECIFY VALUE FACTORS IN REQUEST FOR BIDS OR PROPOSALS. (a) For a purchase made through competitive bidding, the comptroller or other state agency making the purchase must specify in the request for bids:

(1) the factors other than price that the comptroller or agency will consider in determining which bid offers the best value for the state; and

(2) the proposal criteria the comptroller or agency will use when considering the factors described by Subdivision (1).

(b) For a purchase made through competitive sealed proposals, the comptroller or other state agency making the purchase:

(1) must specify in the request for proposals the known factors other than price that the comptroller or agency will consider in determining which proposal offers the best value for the state; and

(2) may concurrently inform each vendor that made a proposal on the contract of any additional factors the comptroller or agency will consider in determining which proposal offers the best value for the state if the comptroller or other agency determines after opening the proposals that additional factors not covered under Subdivision (1) are relevant in determining which proposal offers the best value for the state.

Added by Acts 1997, 75th Leg., ch. 1206, Sec. 6, eff. Sept. 1, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 14, eff. September 1, 2019.
Acts 2021, 87th Leg., R.S., Ch. 855 (S.B. 799), Sec. 6, eff. September 1, 2021.

Sec. 2155.0755. VERIFICATION OF USE OF BEST VALUE STANDARD. (a) The contract manager or procurement director of each state agency shall:

(1) approve each state agency contract for which the agency is required to purchase goods or services using the best value standard;

(2) ensure that, for each contract, the agency documents the best value standard used for the contract; and

(3) acknowledge in writing that the agency complied with the agency's and comptroller's contract management guide in the purchase.

(b) For each purchase of goods or services for which a state agency is required to use the best value standard, the comptroller shall ensure that the agency includes in the vendor performance tracking system established under Section 2262.055 information on whether the vendor satisfied that standard.

Added by Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 10, eff. September 1, 2015.

Sec. 2155.076. PROTEST PROCEDURES. (a) The comptroller and each state agency by rule shall develop and adopt protest procedures for resolving vendor protests relating to purchasing issues. An agency's rules must be consistent with the comptroller's rules. The

rules must include standards for maintaining documentation about the purchasing process to be used in the event of a protest.

(b) A state agency that is not subject to Chapter 2001 shall provide public notice of its proposed and adopted protest rules and provide a procedure for public comment on the proposed rules.

Added by Acts 1997, 75th Leg., ch. 1206, Sec. 6, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 15, eff. September 1, 2019.

Sec. 2155.077. BARRING VENDOR FROM PARTICIPATION IN STATE CONTRACTS. (a) The comptroller may bar a vendor from participating in state contracts that are subject to this subtitle, including contracts for which purchasing authority is delegated to a state agency, for:

(1) substandard performance under a contract with the state or a state agency;

(2) material misrepresentations in a bid or proposal to the state or a state agency or during the course of performing a contract with the state or a state agency;

(3) fraud;

(4) breaching a contract with the state or a state agency; or

(5) repeated unfavorable performance reviews under Section 2155.089 or repeated unfavorable classifications received by the vendor under Section 2262.055 after considering the following factors:

(A) the severity of the substandard performance by the vendor;

(B) the impact to the state of the substandard performance;

(C) any recommendations by a contracting state agency that provides an unfavorable performance review;

(D) whether debarment of the vendor is in the best interest of the state; and

(E) any other factor that the comptroller considers relevant, as specified by comptroller rule.

(a-1) The comptroller shall bar a vendor from participating in

state contracts that are subject to this subtitle, including contracts for which purchasing authority is delegated to a state agency, if the vendor has been:

(1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005;

(2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or

(3) convicted of any offense related to the direct support or promotion of human trafficking.

(a-2) The comptroller may bar a vendor from participating in state contracts that are subject to this subtitle, including contracts for which purchasing authority is delegated to a state agency, if more than two contracts between the vendor and the state have been terminated by the state for unsatisfactory vendor performance during the preceding three years.

(b) Except as provided by Subsection (d), the comptroller shall bar a vendor from participating in state contracts under Subsection (a) or (a-2) for a period that is commensurate with the seriousness of the vendor's action and the damage to the state's interests.

(c) The comptroller by rule shall:

(1) state generally the reasons for which a vendor may be barred from participating in state contracts and the periods for which the vendor may be barred; and

(2) prescribe the procedures under which the comptroller will determine whether and for how long a vendor will be barred.

(d) The comptroller shall bar a vendor from participating in state contracts under Subsection (a-1) for a period of five years from the date the vendor was convicted or the penalty was assessed.

(e) In this section:

(1) "Disaster" has the meaning assigned by Section 418.004.

(2) "Hurricane Katrina" means the hurricane of that name that struck the gulf coast region of the United States in August 2005.

Added by Acts 1997, 75th Leg., ch. 1206, Sec. 6, eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1302 (S.B. 608), Sec. 2, eff. September 1, 2007.
Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 11, eff. September 1, 2015.
Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 6.02, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 16, eff. September 1, 2019.

Sec. 2155.079. BUYING UNDER CONTRACT ESTABLISHED BY AGENCY OTHER THAN COMPTROLLER. (a) The comptroller shall adopt rules specifying the circumstances under which it is advantageous for the state to allow a state agency to purchase goods or services under a contract made by another state agency other than the comptroller, including as provided under Subchapter I.

(b) If comptroller rules allow other agencies to make purchases under a contract entered into by an agency using delegated purchasing authority, the agency purchasing under delegated authority may offer the goods or services available under the contract to other agencies only if the agency first:

(1) establishes that the goods or services being offered under its contract are not available under a contract administered by the comptroller; and

(2) informs the comptroller of the terms of the contract and the capabilities of the vendor.

Added by Acts 1997, 75th Leg., ch. 1206, Sec. 6, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 2.02, eff. Sept. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 17, eff. September 1, 2019.

Sec. 2155.080. ADVISORY COMMITTEE ON PROCUREMENT. (a) The comptroller may establish an advisory committee on procurement. The purpose of the committee is to represent before the comptroller the

state agency purchasing community and the political subdivisions that use the comptroller's purchasing services.

(b) The committee is composed of officers or employees from the comptroller, from state agencies, including institutions of higher education, and from political subdivisions who are invited by the comptroller to serve on the committee. The comptroller shall invite officers and employees who are experienced in public purchasing, in public finance, or who possess other appropriate expertise to serve on the committee. Service on the committee is an additional duty of the member's public office or employment. Chapter 2110 does not apply to the size or composition of the committee. The comptroller shall set staggered terms for the members of the committee.

(c) The committee may establish its own rules of operation.

(d) The committee shall recommend improvements in comptroller or state agency purchasing practices to the comptroller. The committee shall review and comment on findings and recommendations related to purchasing that are made by state agency internal auditors or by the state auditor.

Added by Acts 1997, 75th Leg., ch. 1206, Sec. 6, eff. Sept.1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 18, eff. September 1, 2019.

Sec. 2155.081. VENDOR ADVISORY COMMITTEE. (a) The comptroller may establish a vendor advisory committee. The purpose of the committee is to represent before the comptroller the vendor community, to provide information to vendors, and to obtain vendor input on state procurement practices.

(b) The committee is composed of employees from the comptroller and vendors who have done business with the state who are invited by the comptroller to serve on the committee. The comptroller shall invite a cross-section of the vendor community to serve on the committee, inviting both large and small businesses and vendors who provide a variety of different goods and services to the state. Chapter 2110 does not apply to the size or composition of the committee. The comptroller shall set staggered terms for the members of the committee.

(c) The committee may establish its own rules of operation but

shall post notice of and hold its meetings in accordance with Chapter 551.

Added by Acts 1997, 75th Leg., ch. 1206, Sec. 6, eff. Sept. 1, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 19, eff. September 1, 2019.

Sec. 2155.082. PROVIDING CERTAIN PURCHASING SERVICES ON FEE-FOR-SERVICE BASIS OR THROUGH BENEFIT FUNDING. (a) The comptroller may provide open market purchasing services on a fee-for-service basis for state agency purchases that are delegated to an agency under Section 2155.131, 2155.132, or 2157.121 or that are exempted from the purchasing authority of the comptroller. The comptroller shall set the fees in an amount that recovers the comptroller's costs in providing the services.

(b) The comptroller shall publish a schedule of fees for services that are subject to this section. The schedule must include the comptroller's fees for:

(1) reviewing bid and contract documents for clarity, completeness, and compliance with laws and rules;

(2) developing and transmitting invitations to bid;

(3) receiving and tabulating bids;

(4) evaluating and determining which bidder offers the best value to the state;

(5) creating and transmitting purchase orders; and

(6) participating in agencies' request for proposal processes.

(c) If the state agency on behalf of which the procurement is to be made agrees, the comptroller may engage a consultant to assist with a particular procurement on behalf of a state agency and pay the consultant from the cost savings realized by the state agency.

Added by Acts 1997, 75th Leg., ch. 1206, Sec. 6, eff. Sept. 1, 1997.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 32.01, eff. September 28, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2155.083. ELECTRONIC STATE BUSINESS DAILY; NOTICE REGARDING PROCUREMENTS EXCEEDING $25,000. (a) Except as provided by Subsection (n), this section applies to each state agency making a procurement that will exceed $25,000 in value, without regard to the source of funds the agency will use for the procurement, including a procurement that:

(1) is otherwise exempt from the comptroller's purchasing authority or the application of this subtitle;

(2) is made under delegated purchasing authority;

(3) is related to a construction project; or

(4) is a procurement of professional or consulting services.

(b) Repealed by Acts 2001, 77th Leg., ch. 1422, Sec. 7.07, eff. September 1, 2001.

(c) The comptroller shall operate the electronic state business daily for state agencies and other eligible entities to advertise pre-solicitation notices, solicitations, and contract awards.

(d) The comptroller shall make the electronic state business daily available on the Internet.

(e) To accommodate businesses that do not have the technical means to access the electronic state business daily, governmental and nongovernmental entities such as public libraries, chambers of commerce, trade associations, small business development centers, economic development departments of local governments, and state agencies may provide public access to the electronic state business daily but may not charge a fee for providing access to the electronic state business daily under this subsection.

(f) The comptroller and other state agencies may not charge a fee designed to recover the cost of preparing and gathering the information that is published in the electronic state business daily. These costs are considered part of a procuring agency's responsibility to publicly inform potential bidders or offerors of its procurement opportunities.

(g) A state agency shall post in the electronic state business daily either the entire bid or proposal solicitation package or a notice that includes all information necessary to make a successful bid, proposal, or other applicable expression of interest for the

procurement contract, including at a minimum the following information for each procurement that the state agency will make that is estimated to exceed $25,000 in value:

(1) a brief description of the goods or services to be procured and any applicable state product or service codes for the goods and services;

(2) the last date on which bids, proposals, or other applicable expressions of interest will be accepted;

(3) the estimated quantity of goods or services to be procured;

(4) if applicable, the previous price paid by the state agency for the same or similar goods or services;

(5) the estimated date on which the goods or services to be procured will be needed; and

(6) the name, business mailing address, business e-mail address, and business telephone number of the state agency employee a person may contact to inquire about all necessary information related to making a bid or proposal or other applicable expression of interest for the procurement contract.

(h) The state agency shall continue to either:

(1) post notice of the procurement in accordance with Subsection (g) until the latest of 21 calendar days after the date the notice is first posted; the date the state agency will no longer accept bids, proposals, or other applicable expressions of interest for the procurement; or the date the state agency decides not to make the procurement; or

(2) post the entire bid or proposal solicitation package in accordance with Subsection (g) until the latest of 14 calendar days after the date the bid or proposal solicitation package is first posted; the date the state agency will no longer accept bids, proposals, or other applicable expressions of interest for the procurement; or the date the state agency decides not to make the procurement.

(i) A state agency may not award the procurement contract and shall continue to accept bids or proposals or other applicable expressions of interest for the procurement contract for at least 21 calendar days after the date the state agency first posted notice of the procurement in accordance with Subsection (g) or 14 calendar days after the date the state agency first posted the entire bid or proposal solicitation package in accordance with Subsection (g), as

applicable. The minimum time for posting required by this subsection and Subsection (h) does not apply in an emergency requiring the state agency to make the procurement more quickly to prevent a hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the state.

(j) A contract or procurement award made by a state agency that violates the applicable minimum time for posting required by Subsections (h) and (i) is void.

(k) Each state agency that will award a procurement contract estimated to exceed $25,000 in value shall post in the electronic state business daily:

(1) the information required by this section to be posted in the electronic state business daily; and

(2) a notice when the procurement contract has been awarded or when the state agency has decided to not make the procurement.

(l) Repealed by Acts 2003, 78th Leg., ch. 785, Sec. 75(2).

(m) The requirements of this section are in addition to the requirements of other law relating to the solicitation of bids, proposals, or expressions of interest for a procurement by a state agency. This section does not affect whether a state agency is required to award a procurement contract through competitive bidding, competitive sealed proposals, or another method.

(n) This section does not apply to a state agency to which Section 51.9335 or 73.115, Education Code, applies.

Added by Acts 1997, 75th Leg., ch. 508, Sec. 1, eff. June 1, 1998. Renumbered from Sec. 2155.074 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(57), eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 2.01, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1422, Sec. 7.02, 7.07, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 785, Sec. 75(2), eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 20, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 618 (H.B. 4012), Sec. 1, eff. June 11, 2023.

Acts 2023, 88th Leg., R.S., Ch. 618 (H.B. 4012), Sec. 2, eff. June 11, 2023.

Sec. 2155.084. PURCHASES FROM FEDERAL GOVERNMENT. (a) The comptroller or the governing body of an institution of higher education may negotiate purchases of goods of any kind needed by a state agency or the institution of higher education with the appropriate agency of the federal government. The governing body of an institution of higher education may act under this section either directly or through the comptroller or another state agency.

(b) The price of goods that are purchased from the federal government may not exceed the fair market value of the goods.

(c) In negotiating purchases of goods from the federal government under this section or under Subchapter G, Chapter 2175, the comptroller or the governing body of the institution of higher education may waive the requirement of a bidder's bond and performance bond that otherwise would be required.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.16, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 816, Sec. 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 9.020(h), eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 21, eff. September 1, 2019.

Sec. 2155.085. REVERSE AUCTION PROCEDURE. (a) The comptroller shall:

(1) purchase goods or services using the reverse auction procedure whenever:

(A) the procedure provides the best value to the state; or

(B) all purchasing methods provide equal value to the state;

(2) offer historically underutilized businesses assistance and training relating to the reverse auction procedure; and

(3) advise historically underutilized businesses on contracts available using the reverse auction procedure.

(b) The comptroller shall set a goal of purchasing at least 20 percent of the dollar value of goods or services purchased by the comptroller using the reverse auction procedure.

Added by Acts 2005, 79th Leg., Ch. 1013 (H.B. 908), Sec. 2, eff.

September 1, 2005.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 22, eff. September 1, 2019.

Sec. 2155.088. MATERIAL CHANGES TO CONTRACTS. (a) Notwithstanding any other law, the performance of a contract for goods or services awarded under this chapter must substantially comply with the terms contained in the written solicitation for the contract and the terms considered in awarding the contract, including terms regarding cost of materials or labor, duration, price, schedule, and scope.

(b) After a contract for goods or services is awarded under this chapter, the governing body of a state agency, if applicable, must hold a meeting to consider a material change to the contract and why that change is necessary. For purposes of this section, a material change includes:

(1) extending the length of or postponing the completion of a contract for six months or more; or

(2) increasing the total consideration to be paid under a contract by at least 10 percent, including by substituting certain goods, materials, products, or services.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1404 (H.B. 3648), Sec. 1, eff. June 14, 2013.

Sec. 2155.089. REPORTING VENDOR PERFORMANCE. (a) After a contract is completed or otherwise terminated, each state agency shall review the vendor's performance under the contract. If the value of the contract exceeds $5 million, the state agency shall review the vendor's performance:

(1) at least once each year during the term of the contract; and

(2) at each key milestone identified for the contract.

(b) The state agency shall report to the comptroller, using the tracking system established by Section 2262.055, on the results of each review conducted under Subsection (a) regarding a vendor's performance under a contract.

(b-1) A state agency may not extend a vendor's contract until after the agency reports the results of each review of the vendor conducted under Subsection (a)(1) or (2), as applicable, in the manner prescribed by Subsection (b).

(c) This section does not apply to:

(1) an enrollment contract described by 1 T.A.C. Section 391.183 as that section existed on September 1, 2015;

(2) a contract of the Employees Retirement System of Texas except for a contract with a nongovernmental entity for claims administration of a group health benefit plan under Subtitle H, Title 8, Insurance Code;

(3) a contract entered into by:

(A) the comptroller under Section 2155.061;

(B) the Department of Information Resources under Section 2157.068; or

(C) a university system or an institution of higher education, as those terms are defined by Section 61.003, Education Code; or

(4) a child-specific contract entered into by the Department of Family and Protective Services for a child without placement.

Added by Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 13, eff. September 1, 2015.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 15, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 621 (S.B. 1896), Sec. 14, eff. June 14, 2021.

Acts 2021, 87th Leg., R.S., Ch. 855 (S.B. 799), Sec. 7, eff. September 1, 2021.

Sec. 2155.090. VENDOR AND EMPLOYEE INTERACTION AND COMMUNICATION POLICY. (a) The comptroller shall update a contract management guide to include policies on the interactions and communication between employees of the state agency and a vendor that contracts with the state agency or seeks to conduct business with the state agency.

(b) This subtitle does not prohibit the exchange of information

between a state agency and a vendor related to future solicitations or as necessary to monitor an existing contract.

Added by Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. 533), Sec. 6, eff. September 1, 2017.

Sec. 2155.091. CHIEF PROCUREMENT OFFICER: POWERS AND DUTIES. (a) The comptroller shall employ a chief procurement officer to serve as the chief procurement officer for this state.

(b) The chief procurement officer has authority over state agency procurement, including the authority to:

(1) analyze state purchasing data to leverage state purchasing power;

(2) provide functional support to state agencies;

(3) provide training on state purchasing and contract management;

(4) review major contract solicitations for information technology projects monitored by the quality assurance team under Section 2054.158;

(5) review solicitations for major contracts reviewed by the Contract Advisory Team under Section 2262.101;

(6) delegate to a state agency authority to contract for the purchase of a good or service valued in an amount specified by comptroller rule; and

(7) provide leadership on procurement issues.

(c) A state agency shall comply with any request for information from the chief procurement officer necessary to conduct the analysis authorized by Subsection (b)(1).

(d) The chief procurement officer shall coordinate with the Department of Information Resources and the quality assurance team to conduct a contract solicitation review required by Subsection (a)(4) and make appropriate recommendations to the comptroller and legislature based on the review. This section grants the chief procurement officer authority only to review a contract solicitation. The Department of Information Resources or the appropriate state agency retains the authority to award a statewide information resources contract as authorized by law.

(e) The chief procurement officer shall coordinate with the Contract Advisory Team to conduct the review required by Section

2262.101. A state agency shall comply with any request for information by the chief procurement officer that is necessary to conduct the review.

Added by Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. 533), Sec. 6, eff. September 1, 2017.

SUBCHAPTER C. DELEGATIONS OF AND EXCLUSIONS FROM COMPTROLLER'S PURCHASING AUTHORITY AND CERTAIN EXEMPTIONS FROM COMPETITIVE BIDDING

Sec. 2155.131. DELEGATION OF AUTHORITY TO STATE AGENCIES. The comptroller may delegate purchasing functions to a state agency.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 24, eff. September 1, 2019.

Sec. 2155.132. PURCHASES LESS THAN SPECIFIED MONETARY AMOUNT. (a) A state agency is delegated the authority to purchase goods and services if the purchase does not exceed $50,000. If the comptroller determines that a state agency has not followed the comptroller's rules or the laws related to the delegated purchases, the comptroller shall report its determination to the members of the state agency's governing body and to the governor, lieutenant governor, speaker of the house of representatives, and Legislative Budget Board.

(b) The comptroller by rule may delegate to a state agency the authority to purchase goods and services if the purchase exceeds $50,000. In delegating purchasing authority under this subsection or Section 2155.131, the comptroller shall consider factors relevant to a state agency's ability to perform purchasing functions, including:

(1) the capabilities of the agency's purchasing staff and the existence of automated purchasing tools at the agency;

(2) the certification levels held by the agency's purchasing personnel;

(3) the results of the comptroller's procurement review audits of an agency's purchasing practices; and

(4) whether the agency has adopted and published protest procedures consistent with those of the comptroller as part of its purchasing rules.

(c) The comptroller shall monitor the purchasing practices of state agencies that are making delegated purchases under Subsection (b) or Section 2155.131 to ensure that the certification levels of the agency's purchasing personnel and the quality of the agency's purchasing practices continue to warrant the amount of delegated authority provided by the comptroller to the agency. The comptroller may revoke for cause all or part of the purchasing authority that the comptroller delegated to a state agency. The comptroller shall adopt rules to administer this subsection.

(d) The comptroller by rule:

(1) shall prescribe procedures for a delegated purchase; and

(2) shall prescribe procedures by which agencies may use the comptroller's services for delegated purchases, in accordance with Section 2155.082.

(e) Competitive bidding, whether formal or informal, is required for a purchase by a state agency if the purchase:

(1) exceeds $10,000; and

(2) is made under a written contract.

(f) Goods purchased under this section may not include:

(1) an item for which a contract has been awarded under the contract purchase procedure, unless the quantity purchased is less than the minimum quantity specified in the contract;

(2) an item required by statute to be purchased from a particular source; or

(3) a scheduled item that has been designated for purchase by the comptroller.

(g) A large purchase may not be divided into small lot purchases to meet the dollar limits prescribed by this section. The comptroller may not require that unrelated purchases be combined into one purchase order to exceed the dollar limits prescribed by this section.

(h) A state agency making a purchase under this section for which competitive bidding is required must:

(1) attempt to obtain at least three competitive bids from sources listed on the master bidders list that normally offer for sale the goods being purchased; and

(2) comply with Subchapter E.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 7, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1499, Sec. 1.17, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1354 (H.B. 119), Sec. 1, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 25, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 855 (S.B. 799), Sec. 8, eff. September 1, 2021.

Sec. 2155.136. PURCHASE OF CERTAIN MEDICAL EQUIPMENT BY MEDICAL OR DENTAL UNIT. (a) A medical or dental unit listed under Section 61.003, Education Code, may purchase through the use of competitive sealed proposals:

(1) prototypes of medical equipment not yet available on the market;

(2) medical equipment so new to the market that its benefits are not fully known; and

(3) major medical equipment that is so technically complex that development of specifications for competitive bidding is not feasible.

(b) To make a purchase under this section, the medical or dental unit must:

(1) follow the competitive sealed proposals procedures under Subchapter C, Chapter 2157, and comptroller rules on the use of competitive sealed proposals; and

(2) submit to the comptroller a written finding that competitive sealed bidding or informal competitive bidding is not practical or is disadvantageous to the state for the proposed acquisition.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 26, eff. September 1, 2019.

Sec. 2155.137. EMERGENCY PURCHASES. (a) The comptroller shall provide for emergency purchases by a state agency and may set a

monetary limit on the amount of an emergency purchase.

(b) The provisions of Section 2161.181 relating to historically underutilized businesses apply to an emergency purchase made under this section.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 27, eff. September 1, 2019.

Sec. 2155.138. EXEMPTION OF GOODS OR SERVICES OF BLIND OR VISUALLY IMPAIRED PERSONS. (a) The competitive bidding provisions of this chapter do not apply to a state purchase of goods or services that:

(1) are made or provided by blind or visually impaired persons;

(2) are offered for sale to a state agency through efforts made under Chapter 122, Human Resources Code;

(3) meet state specifications for quantity, quality, delivery, and life cycle costs; and

(4) cost not more than the fair market price of similar items.

(b) The Texas Workforce Commission shall test the goods and services to the extent necessary to ensure quality. The Texas Workforce Commission may enter into a contract with a private or public entity to assist with testing.

(c) The comptroller shall make awards under this section based on proposed goods and services meeting formal state specifications developed by the comptroller or meeting commercial specifications approved by the comptroller.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 9, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 672 (S.B. 212), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 28, eff. September 1, 2019.

Sec. 2155.139. EXEMPTION FOR CERTAIN LIBRARIES AND HEALTH FACILITIES. (a) Section 2155.061 does not apply to an acquisition if:

(1) the acquisition is for a:

(A) library operated as a part of a university system or institution of higher education;

(B) library or resource-sharing program operated by the Texas State Library and Archives Commission; or

(C) state-owned hospital or clinic; and

(2) the goods or services acquired are:

(A) serial and journal subscriptions, including electronic databases and information products;

(B) library materials, including books not available under a statewide contract and papers;

(C) library services, including binding services not available under a statewide contract; or

(D) library equipment and supplies.

(b) Section 2155.061 does not apply to a purchase of goods by a state-owned hospital or clinic through a group purchasing program that offers purchasing services at discount prices to two or more hospital or clinic facilities if the chief executive officer of the hospital or clinic or the officer's designee certifies that the purchase of the particular goods through the group purchasing program is the most cost-effective method of purchasing available.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 91, Sec. 2, eff. Sept. 1, 1999.

Sec. 2155.140. PURCHASE FROM GIFT OR GRANT NOT WITHIN COMPTROLLER'S PURCHASING AUTHORITY. The comptroller's authority does not apply to a purchase of goods or services from a gift or grant, including an industrial or federal grant or contract in support of research.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 29, eff. September 1, 2019.

Sec. 2155.141. PURCHASES FOR AUXILIARY ENTERPRISE NOT WITHIN COMPTROLLER'S PURCHASING AUTHORITY. The comptroller's authority does not extend to a purchase of goods and services for an auxiliary enterprise.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.06, eff. June 18, 2003.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 29, eff. September 1, 2019.

Sec. 2155.143. PURCHASE OF CARE AND TREATMENT SERVICES BY TEXAS JUVENILE JUSTICE DEPARTMENT. (a) The Texas Juvenile Justice Department may purchase care and treatment services, including educational services, for its wards.

(b) The Texas Juvenile Justice Department shall:

(1) negotiate purchases under this section to achieve fair and reasonable prices at rates that do not exceed any maximum provided by law; and

(2) select service providers according to each provider's qualifications and demonstrated competence.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 112, eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1610, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2155.144. PROCUREMENTS BY HEALTH AND HUMAN SERVICES AGENCIES. (a) This section applies only to the Health and Human Services Commission, each health and human services agency, the Department of Family and Protective Services, and agencies administratively attached to the Health and Human Services Commission. For the purposes of this section, the Department of Family and Protective Services or an agency administratively attached

to the Health and Human Services Commission is considered a health and human services agency.

(b) An agency to which this section applies is delegated the authority to procure its goods and services, except as provided by this section.

(b-1) An agency to which this section applies is not delegated the authority to procure common commodities or services:

(1) including goods and services acquired for direct consumption or use by the agency in the day-to-day support of the agency's administrative operations, such as office supplies and equipment, building maintenance and cleaning services, or temporary employment services; and

(2) not including consulting services, professional services, health care services, information resources technology, goods or services acquired for the benefit or on behalf of clients of programs operated by the agency, procurements specifically authorized or delegated to the agency by statute, or the contracting out of agency purchasing functions or other administrative or program functions.

(b-2) The Health and Human Services Commission is delegated the authority to procure goods and services related to a contract for:

(1) a project to construct or expand a state hospital operated by a health and human services agency or a state supported living center as defined by Section 531.002, Health and Safety Code; or

(2) a deferred maintenance project for a health facility described by Subdivision (1).

(c) An agency to which this section applies shall acquire goods or services by any procurement method approved by the Health and Human Services Commission that provides the best value to the agency. The agency shall document that it considered all relevant factors under Subsection (d) in making the acquisition.

(d) Subject to Subsection (e), the agency may consider all relevant factors in determining the best value, including:

(1) any installation costs;

(2) the delivery terms;

(3) the quality and reliability of the vendor's goods or services;

(4) the extent to which the goods or services meet the agency's needs;

(5) indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience and responsibility, and the vendor's ability to provide reliable maintenance agreements;

(6) the impact on the ability of the agency to comply with laws and rules relating to historically underutilized businesses or relating to the procurement of goods and services from persons with disabilities;

(7) the total long-term cost to the agency of acquiring the vendor's goods or services;

(8) the cost of any employee training associated with the acquisition;

(9) the effect of an acquisition on agency productivity;

(10) the acquisition price; and

(11) any other factor relevant to determining the best value for the agency in the context of a particular acquisition.

(e) Repealed by Acts 2003, 78th Leg., ch. 785, Sec. 75(2).

(f) The state auditor may audit the agency's acquisitions of goods and services before or after a warrant is issued to pay for an acquisition.

(g) The agency may adopt rules and procedures for the acquisition of goods and services under this section.

(h) The Health and Human Services Commission shall adopt rules and procedures for the acquisition of goods and services under this section that apply to all health and human services agencies, including rules adopted with the commission's assistance that allow an agency to make purchases through a group purchasing program except when a better value is available through another procurement method. The rules of the health and human services agencies must be consistent with the rules of the Health and Human Services Commission.

(i) Subject to Section 524.0001(b), the Health and Human Services Commission shall develop a single statewide risk analysis procedure. Each health and human services agency shall comply with the procedure. The procedure must provide for:

(1) assessing the risk of fraud, abuse, or waste in health and human services agencies contractor selection processes, contract provisions, and payment and reimbursement rates and methods for the different types of goods and services for which health and human

services agencies contract;

(2) identifying contracts that require enhanced contract monitoring; and

(3) coordinating contract monitoring efforts among health and human services agencies.

(j) Subject to Section 524.0001(b), the Health and Human Services Commission shall publish a contract management handbook that establishes consistent contracting policies and practices to be followed by health and human services agencies. The handbook may include standard contract provisions and formats for health and human services agencies to incorporate as applicable in their contracts.

(k) Subject to Section 524.0001(b), the Health and Human Services Commission, in cooperation with the comptroller, shall establish a central contract management database that identifies each contract made with a health and human services agency. The comptroller may use the database to monitor health and human services agency contracts, and health and human services agencies may use the database in contracting. A state agency shall send to the comptroller in the manner prescribed by the comptroller the information the agency possesses that the comptroller requires for inclusion in the database.

(l) The Health and Human Services Commission shall coordinate the procurement practices of all health and human services agencies and encourage those agencies to use efficient procurement practices such as the use of a group purchasing program, combining maintenance contracts into one contract, and obtaining prompt payment discounts. In implementing this duty, the Health and Human Services Commission may review the procurement and rate-setting procedures of each health and human services agency to ensure that amounts paid to contractors are consistent and represent the best value for the state. The Health and Human Services Commission may disapprove a procurement and rate-setting procedure of a health and human services agency. A health and human services agency may not use a procurement or rate-setting procedure that has been disapproved by the commission. The Health and Human Services Commission may transfer the procurement functions of a health and human services agency to another appropriate state agency if it determines that transferring those functions would be advantageous to the state. Other state agencies and institutions with experience in acquiring goods and services using the procedures allowed under Subsections (c) and (d) shall on

request assist the Health and Human Services Commission to perform its functions under this section.

(m) Subject to Section 524.0001(b), the Health and Human Services Commission shall develop and implement a statewide plan to ensure that each entity that contracts with a health and human services agency and any subcontractor of the entity complies with the accessibility requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

(n) To the extent of any conflict, this section prevails over any other state law relating to the procurement of goods and services except a law relating to contracting with historically underutilized businesses or relating to the procurement of goods and services from persons with disabilities.

(o) If the Health and Human Services Commission does not receive any responsive bids on a competitive solicitation for goods or services for a state hospital operated by a health and human services agency or a state supported living center as defined by Section 531.002, Health and Safety Code, the commission after making a written determination that competition is not available may negotiate with and award the contract to any qualified vendor who meets the requirements of the original solicitation:

(1) at a price consistent with the current market value of the goods or services; and

(2) for a term not to exceed five years.

(p) In this section, "health and human services agency" has the meaning assigned by Section 521.0001.

Added by Acts 1997, 75th Leg., ch. 1045, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1460, Sec. 3.11, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 309, Sec. 7.07, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 785, Sec. 75(2), eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.09, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. 200), Sec. 2.08(b)(3), eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 16, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 621 (S.B. 1896), Sec. 15, eff. June 14, 2021.

Acts 2021, 87th Leg., R.S., Ch. 855 (S.B. 799), Sec. 9, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 351 (S.B. 1179), Sec. 17, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 2.20, eff. April 1, 2025.

Sec. 2155.1441. HEALTH CARE PURCHASING. (a) A state agency shall acquire goods and services used in support of the agency's health care programs by the method that provides the greatest volume discount for the goods or services, including group purchasing programs, state agency purchasing consortiums, or competitive sealed proposals.

(b) A state agency may contract with a medical and dental unit to have the unit perform all or part of the purchasing functions of the agency under this section or to participate in a state agency purchasing consortium or group purchasing program with the medical and dental unit.

(c) If a state agency determines that it should consider factors in addition to volume discounts in acquiring a particular good or service, the agency may acquire the good or service by the most cost-effective method of acquisition available, including group purchasing programs, state agency purchasing consortiums, or competitive sealed proposals.

(d) A state agency shall provide appropriate information to the comptroller concerning acquisitions made by the agency under this section, but the comptroller's authority under this chapter and Chapters 2156, 2157, and 2158 does not extend to the acquisition of goods and services made under this section.

(e) The central administration of The University of Texas System shall develop methods for sharing information concerning acquisitions made under this section, including methods for sharing the information electronically. Electronic sharing may include posting information on acquisitions on the comptroller's state government electronic bulletin board.

(f) A state agency shall collect and maintain information as specified by the central administration of The University of Texas System relating to the agency's acquisitions under this section. The central administration of The University of Texas System is entitled

to access to all information collected and maintained under this section.

(g) In this section:

(1) "Goods" means material, supplies, equipment, or other tangible items.

(2) "Group purchasing program" means a program administered by a business entity that offers discount prices on goods and services to participants in the program.

(3) "Health care program" means a program or activity administered or funded by a state agency to provide health care services, research, education, or goods.

(4) "Medical and dental unit" has the meaning assigned by Section 61.003, Education Code.

(5) "State agency purchasing consortium" means a group of three or more state agencies acting under a written agreement to receive discount prices from vendors based on volume purchases of goods and services.

(h) This section does not apply to the state Medicaid program.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 17.01(a), eff. Sept. 1, 1997. Renumbered from Sec. 2155.144 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(58), eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 30, eff. September 1, 2019.

Sec. 2155.1442. FOSTER CARE RESIDENTIAL CONTRACT MANAGEMENT. (a) Subject to Subsection (e), the state auditor shall conduct a management review of the residential contract management employees of the Health and Human Services Commission and the Department of Family and Protective Services and make recommendations regarding the organization of, and skills and educational requirements for, those employees. The state auditor shall also make recommendations regarding the implementation of financial accountability provisions and processes to ensure effective and efficient expenditure of state and other contract funds.

(b) The Health and Human Services Commission shall contract with the state auditor to perform on-site financial audits of selected residential contractors as necessary. The state auditor, in

consultation with the commission, shall select the contractors to audit based on the contract's risk assessment rating, allegations of fraud or misuse of state or other contract funds, or other appropriate audit selection criteria. The residential contractors selected to be audited must be included in the audit plan and approved by the legislative audit committee under Section 321.013.

(c) The Department of Family and Protective Services shall require that all files related to contracts for residential care of foster children:

(1) be complete and accurately reflect the contractor's actual updated contract performance; and

(2) be maintained in accordance with the department's record retention procedures and made available to the state auditor when requested.

(d) Subject to the availability of funds appropriated for the purpose, the Department of Family and Protective Services may develop an Internet-based system to enable residential contractors to review their reimbursement accounts or other pertinent financial data and reconcile their accounts.

(e) Work performed under Subsections (a) and (b) by the state auditor is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c).

Added by Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.72(a), eff. September 1, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1406 (S.B. 758), Sec. 22, eff. September 1, 2007.

Sec. 2155.145. CERTAIN PURCHASES BY TEXAS COMMISSION ON ENVIRONMENTAL QUALITY. The Texas Commission on Environmental Quality is delegated all purchasing functions relating to the administration of Subchapters F and I, Chapter 361, Health and Safety Code, subject to the rules adopted by the comptroller under Section 2155.132(c).

Added by Acts 1997, 75th Leg., ch. 793, Sec. 16, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 31, eff. September 1, 2019.

Sec. 2155.146. CERTAIN PURCHASES BY EMPLOYEES RETIREMENT SYSTEM OF TEXAS. (a) The Employees Retirement System of Texas is delegated all purchasing functions relating to the purchase of goods or services from funds other than general revenue funds for a purpose the retirement system determines relates to the fiduciary duties of the retirement system.

(b) The Employees Retirement System of Texas shall acquire goods or services by any procurement method approved by the board of trustees of the retirement system that provides the best value to the retirement system. The retirement system shall consider the best value standards enumerated in Section 2155.074, as added by Chapter 1206, Acts of the 75th Legislature, Regular Session, 1997.

(c) The comptroller shall procure goods or services for the Employees Retirement System of Texas at the request of the retirement system, and the retirement system may use the services of the comptroller in procuring goods or services.

Added by Acts 1999, 76th Leg., ch. 1541, Sec. 55, eff. Sept. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 32, eff. September 1, 2019.

Sec. 2155.147. CERTAIN PURCHASES BY GENERAL LAND OFFICE. (a) The General Land Office is delegated all purchasing functions relating to purchases under Section 33.603, Natural Resources Code, including coastal erosion studies, demonstration studies, and response projects.

(b) The General Land Office shall acquire goods and services by any procurement method that provides the best value to the land office. The land office shall consider the best value standards provided by Section 2155.074.

(c) The comptroller shall procure goods and services for the General Land Office at the request of the land office, and the land office may use the services of the comptroller in procuring goods and services.

Added by Acts 2001, 77th Leg., ch. 1076, Sec. 1, eff. June 15, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 33, eff. September 1, 2019.

Sec. 2155.148. CERTAIN PURCHASES FOR TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM. (a) The Texas Emergency Services Retirement System is delegated all purchasing functions relating to the purchase of goods or services from funds other than general revenue funds for a purpose the state board of trustees of the Texas Emergency Services Retirement System determines relates to the fiduciary duties of the retirement system.

(b) The Texas Emergency Services Retirement System shall acquire goods or services by any procurement method approved by the state board of trustees of the Texas Emergency Services Retirement System that provides the best value to the retirement system. The retirement system shall consider the best value standards provided by Section 2155.074.

(c) The comptroller shall procure goods or services for the Texas Emergency Services Retirement System at the request of the retirement system, and the retirement system may use the services of the comptroller in procuring goods or services.

Added by Acts 2003, 78th Leg., ch. 309, Sec. 7.08, eff. June 18, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 3.04, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 34, eff. September 1, 2019.

Sec. 2155.149. CERTAIN PURCHASES BY VETERANS' LAND BOARD. (a) The Veterans' Land Board is delegated all purchasing functions relating to veterans homes and veterans cemeteries.

(b) The Veterans' Land Board shall acquire goods and services under Subsection (a) by any procurement method that provides the best value to the Veterans' Land Board. The Veterans' Land Board shall consider the best value standards listed in Section 2155.074.

(c) At the request of the Veterans' Land Board, the comptroller shall procure goods and services described by Subsection (a) for the Veterans' Land Board. The Veterans' Land Board may use the services of the comptroller in procuring goods and services described by

Subsection (a).

Added by Acts 2005, 79th Leg., Ch. 17 (S.B. 581), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 35, eff. September 1, 2019.

Sec. 2155.150. CERTAIN PURCHASES BY RAILROAD COMMISSION OF TEXAS. (a) The Railroad Commission of Texas is delegated all purchasing functions relating to purchases under:

(1) Chapter 89, Natural Resources Code;

(2) Sections 81.067 and 81.068, Natural Resources Code; and

(3) Chapters 131 and 134, Natural Resources Code.

(b) The Railroad Commission of Texas shall acquire goods and services, under Subsection (a), by any procurement method that provides the best value to the railroad commission. The railroad commission shall consider the best value standards listed in Section 2155.074.

(c) The comptroller shall procure goods and services, under Subsection (a), for the Railroad Commission of Texas at the request of the railroad commission, and the railroad commission may use the services of the comptroller in procuring goods and services.

Added by Acts 2005, 79th Leg., Ch. 514 (H.B. 773), Sec. 1, eff. September 1, 2005.
Renumbered from Government Code, Section 2155.149 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(42), eff. September 1, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.019, eff. September 1, 2013.
Acts 2019, 86th Leg., R.S., Ch. 28 (S.B. 1587), Sec. 1, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 36, eff. September 1, 2019.

SUBCHAPTER D. EXTENSION OF COMPTROLLER PURCHASING SERVICES TO OTHER ENTITIES

Sec. 2155.202. COMMUNITY CENTERS; ASSISTANCE ORGANIZATIONS; CHILD-CARE PROVIDERS. The following entities may purchase goods and services through the comptroller:

(1) a community center for mental health services or intellectual disability services that receives state grants-in-aid under Subchapter B, Chapter 534, Health and Safety Code;

(2) an assistance organization as defined by Section 2175.001 that receives state funds; and

(3) a child-care provider that meets Texas Rising Star Program certification criteria.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 382 (S.B. 400), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 241 (H.B. 376), Sec. 2, eff. September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.25, eff. September 1, 2023.

Sec. 2155.203. PURCHASES BY LEGISLATURE AND LEGISLATIVE AGENCIES. A house of the legislature, or an agency, council, or committee of the legislature, including the Legislative Budget Board, the Texas Legislative Council, the state auditor's office, and the Legislative Reference Library, may use the comptroller's purchasing services for purchasing goods and services, including items covered by Section 21, Article XVI, Texas Constitution.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 38, eff. September 1, 2019.

Sec. 2155.204. LOCAL GOVERNMENT PURCHASING PROGRAM. The comptroller's provision of purchasing services for local governments is governed by Subchapter D, Chapter 271, Local Government Code.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 38, eff. September 1, 2019.

Sec. 2155.205. INTERSTATE PURCHASING. (a) Subject to Section 2156.181 or other law, the comptroller may enter into agreements to authorize state agencies and political subdivisions of other states to purchase goods or services through comptroller contracts.

(b) The comptroller may charge a reasonable administrative fee to state agencies and political subdivisions of other states that purchase a good or service under this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. 533), Sec. 7, eff. September 1, 2017.

SUBCHAPTER E. MASTER BIDDERS LIST

Sec. 2155.261. APPLICABILITY. This subchapter:

(1) applies to a purchase or other acquisition under this chapter or Chapters 2156, 2157, and 2158 for which competitive bidding or competitive sealed proposals are required;

(2) applies to a state agency that makes a purchase or other acquisition under this chapter or Chapters 2156, 2157, and 2158, including the comptroller and an agency that makes an acquisition under Section 2155.131; and

(3) does not apply to a purchase or other acquisition made by the comptroller under Subchapter A, Chapter 2156.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 39, eff. September 1, 2019.

Sec. 2155.262. UNIFORM REGISTRATION FORM. (a) The comptroller shall develop a uniform registration form for applying to do business with the comptroller or with another state agency.

(b) The comptroller and each state agency shall make the form available to an applicant.

(c) The form must include an application for:

(1) certification as a historically underutilized business;

(2) a payee identification number for use by the comptroller; and

(3) placement on the comptroller's master bidders list.

(d) A state agency shall submit to the comptroller each uniform registration form that it receives.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 426, Sec. 2, eff. June 18, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 39, eff. September 1, 2019.

Sec. 2155.263. CENTRALIZED MASTER BIDDERS LIST. (a) The comptroller shall maintain a centralized master bidders list and register on the list the name and address of each vendor that applies for registration under rules adopted under this subchapter. The comptroller may include other relevant vendor information on the list.

(b) The comptroller shall maintain the centralized master bidders list in a manner that facilitates a state agency's solicitation of vendors that serve the agency's geographic area.

(c) The centralized master bidders list shall be used for all available procurement processes authorized by this subtitle and shall also be used to the fullest extent possible by state agencies that make purchases exempt from the comptroller's purchasing authority.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 10, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 426, Sec. 3, eff. June 18, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 39, eff. September 1, 2019.

Sec. 2155.264. AGENCY SOLICITATION OF BIDS OR PROPOSALS FOR ACQUISITION OVER $25,000. A state agency that proposes to make a purchase or other acquisition that will cost more than $25,000 shall solicit bids or proposals from each eligible vendor on the master bidders list that serves the agency's geographic region. A state agency may also solicit bids or proposals through the use of on-line

electronic transmission.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 494, Sec. 2, eff. Sept. 1, 1997.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 3.02, eff. September 1, 2009.
Acts 2021, 87th Leg., R.S., Ch. 855 (S.B. 799), Sec. 10, eff. September 1, 2021.

Sec. 2155.265. ACCESS TO MASTER BIDDERS LIST. (a) The comptroller shall make the master bidders list available to each state agency that makes a purchase or other acquisition to which this subchapter applies.

(b) The comptroller shall make the list available either electronically or in another form, depending on each state agency's needs.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 39, eff. September 1, 2019.

Sec. 2155.266. REGISTRATION AND RENEWAL FEE. (a) The comptroller may charge a person applying for registration on the master bidders list a registration fee and may charge a registrant a biennial renewal fee in an amount designed to recover the comptroller's costs in:

(1) making and maintaining the master bidders list; and

(2) soliciting bids or proposals under this subchapter.

(b) In addition to the fee provided by Subsection (a), the comptroller shall also collect $20 from each registrant to be used for the purpose of enforcing compliance with requirements of state purchasing statutes and the prevention of fraud in the historically underutilized businesses program as set forth in Chapter 2161.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 426, Sec. 4, eff. June 18, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 855 (S.B. 2381), Sec. 1, eff. June 19, 2009.

Sec. 2155.267. RULES AND PROCEDURES REGARDING MASTER BIDDERS LIST. (a) The comptroller shall adopt procedures for:

(1) making and maintaining the master bidders list; and

(2) removing an inactive vendor from the list.

(b) The comptroller shall establish by rule a vendor classification process under which only a vendor able to make a bid or proposal on a particular purchase or other acquisition may be solicited under this subchapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 39, eff. September 1, 2019.

Sec. 2155.268. USE OF STATE AGENCY BIDDERS LIST. (a) A state agency may not maintain and use its own bidders list. The prohibition of this subsection does not apply to the Texas Department of Transportation.

(b) A state agency may supplement the bidders list with its own list of historically underutilized businesses if it determines that the supplementation will increase the number of historically underutilized businesses that submit bids.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 11, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 426, Sec. 17, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 1499, Sec. 1.18, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 118, Sec. 1.05, eff. Sept. 1, 2001.

Sec. 2155.269. WAIVER. The comptroller by rule may establish a process under which the requirement for soliciting bids or proposals from eligible vendors on a bidders list may be waived for an appropriate state agency or an appropriate purchase or other acquisition under circumstances in which the requirement is not warranted.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 39, eff. September 1, 2019.

Sec. 2155.270. AGENCY ASSISTANCE WITH BIDDERS LIST ISSUES. The comptroller may assist a state agency with issues relating to a bidders list.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 39, eff. September 1, 2019.

SUBCHAPTER F. INSPECTION AND CERTIFICATION OF GOODS OR SERVICES; AUDITS

Sec. 2155.321. DEFINITIONS. In this subchapter:

(1) "Financial information" means information that the comptroller determines is necessary to audit a claim under Chapter 403.

(2) "Purchase information" means information that the comptroller determines is necessary to audit a purchase under this subchapter.

(3) "Service" means the furnishing of skilled or unskilled labor or professional work but does not include the service of a state agency employee.

(4) "State agency" has the meaning assigned by Section 2103.001.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 62, eff. June 19, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 40, eff. September 1, 2019.

Sec. 2155.322. INSPECTION AND CERTIFICATION. (a) A state agency shall:

(1) inspect and evaluate at the time of receipt all goods or services that the agency receives to determine whether the goods or services comply with the contract under which they were purchased; and

(2) certify, if true, that the goods or services comply with contract requirements and that the invoice for them is correct.

(b) If state law requires that a payment for the goods or services be made on a warrant drawn or an electronic funds transfer initiated by the comptroller or a state agency with delegated authority under Section 403.060, promptly after the later of the receipt of the invoice or the receipt of the goods or services, the agency shall send to the comptroller the certification, together with the financial information and purchase information provided by the invoice and purchase voucher, on a form or in the manner prescribed by the comptroller.

(c) The comptroller by rule may require that purchase information be sent directly to the comptroller in circumstances under which the comptroller considers it necessary.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 63, eff. June 19, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.10, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 41, eff. September 1, 2019.

Sec. 2155.323. AUDIT OF FINANCIAL INFORMATION. (a) On receipt of a certification, financial information, and purchase information from a state agency as required by this subchapter, the comptroller shall audit the financial information under Chapter 403.

(b) If the comptroller approves the financial information, the comptroller shall determine whether the purchase information should also be audited under Section 2155.324.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 937, Sec. 1.117(5), eff. September 1, 2007.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 937, Sec. 1.117(5), eff. September 1, 2007.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.11, eff. September 1, 2007.
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.117(5), eff. September 1, 2007.
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 42, eff. September 1, 2019.

Sec. 2155.324. PURCHASE AUDIT. (a) When the comptroller considers a purchase audit to be advisable, the comptroller shall audit the purchase information for compliance with applicable purchasing statutes and rules.

(b) The comptroller may determine the auditing method used under this section, including stratified or statistical sampling techniques.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.12, eff. September 1, 2007.

Sec. 2155.325. PURCHASE AUDIT AFTER ISSUANCE OF WARRANT. (a) The comptroller may audit purchase information after a warrant has been issued if the audit will expedite the payment process.

(b) For audits under this section, the comptroller by rule shall:

(1) determine the types of purchases that will be audited after a warrant is issued; and

(2) specify the purchase information that a state agency must send to the comptroller before a warrant is issued.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 64, eff. June 19, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.13, eff. September 1, 2007.

Sec. 2155.326. AUDIT BY STATE AUDITOR. Transactions, processes, and the performance of functions under this chapter and Chapters 2156, 2157, and 2158 are subject to audit by the state auditor under Chapter 321.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.14, eff. September 1, 2007.

Sec. 2155.327. INTERAGENCY PURCHASES AND TRANSACTIONS. This subchapter does not apply to an interagency purchase or transaction. An interagency purchase or transaction must be accomplished on a special voucher or electronically as prescribed by the comptroller.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER G. PAYMENT PROVISIONS

Sec. 2155.381. INVOICE. (a) The contractor or seller of goods or services contracted for by the comptroller shall submit an invoice to the ordering agency at the address shown on the purchase order.

(b) The invoice shall be prepared and submitted as provided by rule of the comptroller.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.15, eff. September 1, 2007.

Sec. 2155.382. PAYMENT BY WARRANT. (a) After the comptroller approves financial information and purchase information, when advance approval of that information is required by rule of the comptroller, the comptroller shall draw a warrant on the state treasury for:

(1) the amount due on the invoice; or

(2) the amount on the invoice that has been allowed.

(b) The comptroller shall complete the procedures for drawing the warrant not later than the eighth day after the date of receiving the necessary information. If a payment is not due until after the

eighth day, the comptroller may delay drawing a warrant if the delay will maximize the state's cash flow.

(c) The comptroller may issue the warrant directly to the vendor. The comptroller, when appropriate, may combine into a single warrant payments that the state owes to a vendor under more than one invoice, including payments to the vendor made on behalf of more than one state agency.

(d) The comptroller may allow or require a state agency to schedule payments that the comptroller will make to a vendor. The comptroller shall prescribe the circumstances under which advance scheduling of payments is allowed or required. The comptroller shall require advance scheduling of payments when it is advantageous to the state.

(e) The comptroller may require vendors to provide payment addresses, vendor identification numbers, and other account information directly to the comptroller.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 634, Sec. 2, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.16, eff. September 1, 2007.

Sec. 2155.383. ADVANCE PAYMENTS TO STATE OR FEDERAL AGENCY. A state agency may make an advance payment to a federal or other state agency for goods purchased from the agency if an advance payment will expedite delivery of the goods.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2155.384. AUTHORITY TO PAY CHARGES. The comptroller, a state agency, or an entity authorized under Chapter 271, Local Government Code, or Section 2155.202 to purchase from a contract entered into under the authority of the comptroller may pay a restocking charge, cancellation fee, or other similar charge if the comptroller, state agency, or other entity determines that the charge is justifiable.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 426, Sec. 5, eff. June 18, 1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 43, eff. September 1, 2019.

Sec. 2155.385. CREDIT CARDS. (a) If authorized by rule adopted by the comptroller under Section 403.023, the comptroller may contract with one or more credit card issuers for state agencies to use credit cards to pay for purchases. The comptroller may not enter into a contract that conflicts with the rules described by this subsection.

(b) This section does not apply to contracts regarding travel services or the use of credit cards to pay for travel services under Chapter 2171.

(c) In this section and notwithstanding Section 2151.002, "state agency" has the meaning assigned by Section 403.023(e).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 44, eff. September 1, 2019.

Sec. 2155.386. PREPAYMENT FOR LIBRARY MATERIALS BY INSTITUTION OF HIGHER EDUCATION. An institution of higher education may pay for books and other published library materials before receiving them if reasonably necessary for the efficient operation of the institution's libraries.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2155.387. PAYMENT FOR ROAD CONSTRUCTION MATERIALS DELIVERED BY VEHICLE EXCEEDING WEIGHT LIMITS. A state agency that purchases road construction materials may pay for road construction materials delivered in a vehicle that exceeds the maximum gross weight authorized by law for the vehicle an amount computed using the lesser of:

(1) the actual weight of the load; or

(2) the weight determined by subtracting the weight of the

vehicle from the sum of the maximum gross weight authorized by law for the vehicle and the tolerance allowance set for the gross weight of that vehicle by Section 621.403, Transportation Code.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.200, eff. Sept. 1, 1997.

SUBCHAPTER H. PURCHASING PREFERENCES

Sec. 2155.441. PREFERENCE FOR PRODUCTS OF PERSONS WITH INTELLECTUAL OR PHYSICAL DISABILITIES. (a) The products of workshops, organizations, or corporations whose primary purpose is training and employing individuals having an intellectual disability or a physical disability shall be given preference if they meet state specifications regarding quantity, quality, delivery, life cycle costs, and price.

(b) The workshops, organizations, or corporations shall test the products to the extent necessary to ensure quality in accordance with Section 2155.069 and may enter into contracts with a private or public entity to assist with testing.

(c) The comptroller is not required to purchase products under this section that do not meet formal state specifications developed by the comptroller or meet commercial specifications approved by the comptroller.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 12, eff. Sept.1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 45, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.26, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.27, eff. September 1, 2023.

Sec. 2155.442. PREFERENCE FOR ENERGY EFFICIENT PRODUCTS. The comptroller shall give preference to energy efficient products in purchases made under this subtitle if:

(1) the products meet state specifications regarding quantity and quality; and

(2) the cost of the product is equal to or less than the cost of other similar products that are not energy efficient.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 46, eff. September 1, 2019.

Sec. 2155.443. PREFERENCE FOR RUBBERIZED ASPHALT PAVING. The comptroller may give preference to rubberized asphalt paving made from scrap tires by a facility in this state in purchases of rubberized asphalt paving material if the cost as determined by a life-cycle cost benefit analysis does not exceed by more than 15 percent the bid cost of alternative paving materials.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 47, eff. September 1, 2019.

Sec. 2155.444. PREFERENCE TO TEXAS AND UNITED STATES PRODUCTS AND TEXAS SERVICES. (a) The comptroller and all state agencies making purchases of goods, including agricultural products, shall give preference to those produced or grown in this state or offered by Texas bidders as follows:

(1) goods produced or offered by a Texas bidder that is owned by a service-disabled veteran who is a Texas resident shall be given a first preference and goods produced in this state or offered by other Texas bidders shall be given second preference, if the cost to the state and quality are equal; and

(2) agricultural products grown in this state shall be given first preference and agricultural products offered by Texas bidders shall be given second preference, if the cost to the state and quality are equal.

(b) If goods, including agricultural products, produced or grown in this state or offered by Texas bidders are not equal in cost and quality to other products, then goods, including agricultural

products, produced or grown in other states of the United States shall be given preference over foreign products if the cost to the state and quality are equal.

(c) In this section:

(1) "Agricultural products" includes textiles and other similar products.

(1-a) "Service-disabled veteran" means a person who is a veteran as defined by 38 U.S.C. Section 101(2) and who has a service-connected disability as defined by 38 U.S.C. Section 101(16).

(2) "Texas bidder" means a business:

(A) incorporated in this state;

(B) that has its principal place of business in this state; or

(C) that has an established physical presence in this state.

(d) The comptroller and all state agencies making purchase of vegetation for landscaping purposes, including plants, shall give preference to Texas vegetation native to the region if the cost to the state is not greater and the quality is not inferior.

(e) The comptroller and all state agencies procuring services shall give first preference to services offered by a Texas bidder that is owned by a service-disabled veteran who is a Texas resident and shall give second preference to services offered by other Texas bidders if:

(1) the services meet state requirements regarding the service to be performed and expected quality; and

(2) the cost of the service does not exceed the cost of other similar services of similar expected quality that are offered by a bidder that is not entitled to a preference under this subsection.

(f) The comptroller and each state agency conducting an advertising campaign that involves the creation or production of a commercial shall give preference to a commercial production company and advertising agency located in this state if:

(1) the services meet state requirements regarding the service to be performed and regarding expected quality; and

(2) the cost of the service does not exceed the cost of other similar services of similar expected quality that are offered by a bidder that is not entitled to a preference under this subsection.

(g) For purposes of Subsection (f), "commercial production company" means a corporation, limited liability company, partnership, or other private entity that includes as one of its purposes the production of one or more television, film, radio, or other media-related commercials.

(h) The Music, Film, Television, and Multimedia Office within the office of the governor has exclusive rulemaking authority for purposes of:

(1) determining whether an advertising campaign is subject to the requirements of this section;

(2) establishing a bid process for purposes of the services described by Subsection (f); and

(3) establishing criteria to determine whether a commercial production company or advertising agency is located in this state for the purposes of this section.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 5.12, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1033, Sec. 1, 2, eff. Sept. 1, 2003. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 3.11, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1305 (H.B. 2521), Sec. 1, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 48, eff. September 1, 2019.

Sec. 2155.4441. PREFERENCE UNDER SERVICE CONTRACTS. A state agency that contracts for services shall require the contractor, in performing the contract, to purchase products and materials produced in this state when they are available at a price and time comparable to products and materials produced outside this state.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.19, eff. Sept. 1, 1999.

Sec. 2155.445. PREFERENCE FOR RECYCLED, REMANUFACTURED, OR ENVIRONMENTALLY SENSITIVE PRODUCTS. (a) The comptroller and state agencies shall give preference to recycled, remanufactured, or

environmentally sensitive products, as those terms are defined by rule of the comptroller, in purchases made under this subtitle if:

(1) the product meets state specifications regarding quantity and quality; and

(2) the average price of the product is not more than 10 percent greater than the price of comparable nonrecycled products.

(b) The comptroller regularly shall review and revise its procurement procedures and specifications for the purchase of goods to:

(1) eliminate procedures and specifications that explicitly discriminate against recycled, remanufactured, or environmentally sensitive products, as those terms are defined by rule of the comptroller; and

(2) encourage the use of recycled, remanufactured, or environmentally sensitive products.

(c) In developing new procedures and specifications, the comptroller shall encourage the use of recycled products and products that may be recycled or reused or that are remanufactured or environmentally sensitive.

(d) In addition to the products covered by the definition adopted by rule under this section, in this section "recycled product" includes recycled steel products. The preference for recycled steel products under this section applies also to products purchased in connection with projects described by Section 2166.003.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 426, Sec. 6, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 1033, Sec. 3, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1180 (H.B. 3395), Sec. 1, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 49, eff. September 1, 2019.

Sec. 2155.446. PURCHASE AND USE OF PAPER CONTAINING RECYCLED FIBERS. (a) Subject to Subsection (c), the comptroller shall contract for paper containing the highest proportion of recycled fibers for all purposes for which paper with recycled fibers may be used and to the extent that the paper is available through normal

commercial sources to supply the state's needs.

(b) Subject to Subsection (c), a state agency that purchases through the comptroller shall place orders for papers containing recycled fibers to the highest extent of its needs and to the extent that the paper is available through the comptroller's purchasing procedures.

(c) This section does not apply if the average price of paper with recycled fibers exceeds by more than 10 percent the price of comparable nonrecycled paper.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1180 (H.B. 3395), Sec. 2, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 50, eff. September 1, 2019.

Sec. 2155.447. PURCHASE OF RECYCLED OIL. The comptroller, all state agencies, and all state agency employees who purchase motor oil and other automotive lubricants for state-owned vehicles shall give preference to motor oils and lubricants that contain at least 25 percent recycled oil if the cost to the state and the quality are comparable to those of new oil and lubricants.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 51, eff. September 1, 2019.

Sec. 2155.448. EXPENDITURES FOR RECYCLED, REMANUFACTURED, OR ENVIRONMENTALLY SENSITIVE COMMODITIES OR SERVICES. (a) Each state fiscal year, the comptroller by rule may identify recycled, remanufactured, or environmentally sensitive commodities or services, as those terms are defined by rule of the comptroller, and designate purchasing goals for the procurement of those commodities and services by state agencies for that fiscal year.

(b) A state agency that intends to purchase a commodity or service that accomplishes the same purpose as a commodity or service identified under Subsection (a) that does not meet the definition of

a recycled product or that is not remanufactured or environmentally sensitive, as those terms are defined by rule of the comptroller, shall include with the procurement file a written justification signed by the executive head of the agency stating the reasons for the determination that the commodity or service identified by the comptroller will not meet the requirements of the agency.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1312, Sec. 99(21), eff. September 1, 2013.

(d) This section does not apply to a university system or an institution of higher education as those terms are defined by Section 61.003, Education Code.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1082, Sec. 11, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 426, Sec. 7, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 1158, Sec. 57, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1266, Sec. 5.03, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1122 (H.B. 2466), Sec. 1, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 99(21), eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 52, eff. September 1, 2019.

Sec. 2155.449. PREFERENCE TO PRODUCTS AND SERVICES FROM ECONOMICALLY DEPRESSED OR BLIGHTED AREA. (a) In this section, "economically depressed or blighted area" means an area that:

(1) is an economically depressed or blighted area as defined by Section 2306.004; or

(2) meets the definition of a historically underutilized business zone as defined by 15 U.S.C. Section 632(p).

(b) The comptroller and all state agencies procuring goods or services shall give preference to goods or services produced in an economically depressed or blighted area if:

(1) the goods or services meet state specifications regarding quantity and quality; and

(2) the cost of the good or service does not exceed the cost of other similar products or services that are not produced in

an economically depressed or blighted area.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 14.03, eff. Sept. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 53, eff. September 1, 2019.

Sec. 2155.450. PREFERENCE FOR PRODUCTS OF FACILITIES ON FORMERLY CONTAMINATED PROPERTY. The comptroller and state agencies shall give preference to goods produced at a facility located on property for which the owner has received a certificate of completion under Section 361.609, Health and Safety Code, if the goods meet state specifications regarding quantity, quality, delivery, life cycle costs, and price.

Added by Acts 2001, 77th Leg., ch. 483, Sec. 4, eff. Sept. 1, 2001.
Renumbered from Government Code Sec. 2155.449 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(84), eff. Sept. 1, 2003.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 54, eff. September 1, 2019.

Sec. 2155.451. VENDORS THAT MEET OR EXCEED AIR QUALITY STANDARDS. (a) This section applies only to a contract to be performed, wholly or partly, in a nonattainment area or in an affected county, as those terms are defined by Section 386.001, Health and Safety Code.

(b) The comptroller and state agencies procuring goods or services may:

(1) give preference to goods or services of a vendor that demonstrates that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality; or

(2) require that a vendor demonstrate that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality.

(c) The preference may be given only if the cost to the state for the goods or services would not exceed 105 percent of the cost of

the goods or services provided by a vendor who does not meet the standards.

Added by Acts 2003, 78th Leg., ch. 1331, Sec. 19, eff. June 20, 2003.
Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 14.01, eff. Jan. 11, 2004; Acts 2003, 78th Leg., 3rd C.S., ch. 11, Sec. 1, eff. Oct. 20, 2003.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 55, eff. September 1, 2019.

Sec. 2155.452. PREFERENCE FOR CONTRACTORS PROVIDING FOODS OF HIGHER NUTRITIONAL VALUE. (a) The comptroller and state agencies making purchases of food for consumption in a public cafeteria may give preference to contractors who provide foods of higher nutritional value and who do not provide foods containing trans fatty acids for consumption in the cafeteria.

(b) In complying with this section, the comptroller and state agencies shall review the Department of Agriculture's nutrition standards.

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 3.12, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 56, eff. September 1, 2019.

Sec. 2155.453. CERTAIN CONTRACTS FOR HOMELAND SECURITY OR LAW ENFORCEMENT TECHNOLOGY. A state governmental entity that issues a request for proposals for technological products or services for homeland security or law enforcement purposes must allow a business entity to substitute the qualifications of its executive officers or managers for the qualifications required of the business entity in the request for proposals.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 18.04, eff. September 1, 2007.
Renumbered from Government Code, Section 2155.452 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(45), eff. September 1,

2009.

SUBCHAPTER I. MULTIPLE AWARD CONTRACT SCHEDULE

Sec. 2155.501. DEFINITIONS. In this subchapter:

(1) "Department" means the Department of Information Resources.

(2) "Local government" has the meaning assigned by Section 271.101, Local Government Code.

(3) "Multiple award contract" means an award of a contract for an indefinite amount of one or more similar goods or services from a vendor.

(4) "Schedule" means a list of multiple award contracts from which agencies may purchase goods and services.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 2.01, eff. Sept. 1, 2001.

Sec. 2155.502. DEVELOPMENT OF MULTIPLE AWARD CONTRACT SCHEDULE. (a) The comptroller shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by:

(1) the federal government, including the federal General Services Administration; or

(2) any other governmental entity in any state.

(b) In developing a schedule under Subsection (a) or (e), the comptroller or department, as appropriate, shall modify any contractual terms, with the agreement of the parties to the contract, as necessary to comply with any federal or state requirements, including rules adopted under this subchapter.

(c) The comptroller may not list a multiple award contract on a schedule developed under Subsection (a) if the goods or services provided by that contract:

(1) are available from only one vendor;

(2) are telecommunications services, facilities, or equipment;

(3) are commodity items as defined by Section 2157.068(a); or

(4) are engineering services as described by Section

1001.003, Occupations Code, or architectural services as described by Section 1051.001, Occupations Code.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 326 , Sec. 26, eff. September 1, 2015.

(e) The department may develop a schedule of multiple award contracts for commodity items as defined by Section 2157.068(a) using the criteria established under Subsection (a).

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 2.01, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1081 (H.B. 2918), Sec. 8, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.06, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 26, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 57, eff. September 1, 2019.

Sec. 2155.503. RULES. (a) The comptroller and the department shall adopt rules to implement this subchapter. The rules must:

(1) establish standard terms for contracts listed on a schedule; and

(2) maintain consistency with existing purchasing standards.

(b) The comptroller and the department shall consult with the attorney general in developing rules under this section.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 2.01, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.17, eff. September 1, 2007.

Sec. 2155.504. USE OF SCHEDULE BY GOVERNMENTAL ENTITIES. (a) Except as provided by this subsection, a state agency or local government may purchase goods or services directly from a vendor under a contract listed on a schedule developed under this

subchapter. A state agency or local government contracting for the purchase of an automated information system under a contract listed on a schedule developed under this subchapter shall comply with Section 2157.068(e-1). A purchase authorized by this section satisfies any requirement of state law relating to competitive bids or proposals.

(b) The price listed for a good or service under a multiple award contract is a maximum price. An agency or local government may negotiate a lower price for goods or services under a contract listed on a schedule developed under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 2.01, eff. Sept. 1, 2001.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 716 (S.B. 262), Sec. 2, eff. September 1, 2017.

Sec. 2155.505. HISTORICALLY UNDERUTILIZED AND SMALL BUSINESSES. (a) In this section:

(1) "Historically underutilized business" has the meaning assigned by Section 2161.001.

(2) "Small business" means a small business concern as defined by regulations of the United States Small Business Administration in 13 C.F.R. Section 121.201 or a veterans service agency.

(3) "Veterans service agency" means a community-based organization that:

(A) is exempt from taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described in Section 501(c)(3) of that code;

(B) has as its principal purpose to provide housing, substance abuse treatment, case management services, and employment training to low-income veterans, disabled veterans, and homeless veterans and their families; and

(C) employs veterans to provide at least 75 percent of the hours of direct labor by individuals required to produce goods or provide services required under a contract entered into under this section.

(b) The comptroller shall strongly encourage each vendor with a

contract listed on a schedule developed under this subchapter and who is not a historically underutilized business or small business to use historically underutilized or small businesses to sell or provide a service under the contract. If a vendor does not make a good faith effort to use historically underutilized and small businesses under the contract, the comptroller may exclude the vendor from being listed on a schedule developed under this subchapter.

(c) A historically underutilized business or small business may sell or provide a service under another vendor's contract listed on a schedule developed under this subchapter if:

(1) the contract is on a schedule developed under Section 2155.502;

(2) the vendor for the contract authorizes in writing the historically underutilized business or small business to sell or provide a service under that contract; and

(3) the historically underutilized business or small business provides that written authorization to the comptroller.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 2.01, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 604 (S.B. 327), Sec. 1, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 58, eff. September 1, 2019.

Sec. 2155.506. REPORTING REQUIREMENTS. (a) A vendor listed on a contract for a schedule developed under this subchapter shall report its sales to the comptroller in the manner prescribed by the comptroller.

(b) The comptroller shall compile the information reported under Subsection (a) and include the information in its report under Section 2101.011.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 2.01, eff. Sept. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 59, eff. September 1, 2019.

Sec. 2155.508. INTERNET AVAILABILITY. (a) The comptroller shall develop a database of the multiple award contracts developed under this subchapter and make that information available on an Internet site. The database must have search capabilities that allow a person to easily access the contracts.

(b) The comptroller shall allow vendors to apply through the Internet site to be listed on a schedule developed under this subchapter. The applicant shall provide an electronic mail address to the comptroller as part of the application process.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 2.01, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 3.07(1), eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 59, eff. September 1, 2019.

Sec. 2155.509. NOTICE REGARDING PROCUREMENTS EXCEEDING $25,000. After a purchase order has been placed, a state agency subject to Section 2155.083 shall post, as required under that section, a procurement made under a contract listed on a schedule developed under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 2.01, eff. Sept. 1, 2001.

Sec. 2155.510. REBATES. (a) The comptroller may collect a rebate from a vendor under a contract listed on a schedule developed under this subchapter.

(b) The comptroller shall notify a state agency purchasing a good or service through a contract listed on a schedule developed under this subchapter of the percentage used to calculate the rebate authorized under Subsection (a).

(c) If a purchase resulting in a rebate under this section is made in whole or in part with federal funds, the purchasing state agency shall ensure that, to the extent the purchase was made with federal funds, the appropriate portion of the rebate is reported to the appropriate federal funding agency.

Added by Acts 2003, 78th Leg., ch. 309, Sec. 7.09, eff. June 18, 2003.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 59, eff. September 1, 2019.
Acts 2021, 87th Leg., R.S., Ch. 359 (S.B. 220), Sec. 1, eff. September 1, 2021.

CHAPTER 2156. PURCHASING METHODS

SUBCHAPTER A. CONTRACT PURCHASE PROCEDURE

Sec. 2156.001. CONTRACT PURCHASE PROCEDURE AUTHORIZED. The comptroller may use the contract purchase procedure to purchase goods and services.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 60, eff. September 1, 2019.

Sec. 2156.0011. COMPTROLLER POWERS AND DUTIES. The comptroller has under this chapter the powers and duties described by Section 2151.004(d).

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.18, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 60, eff. September 1, 2019.

Sec. 2156.0012. AUTHORITY TO ADOPT RULES. The comptroller may adopt rules to efficiently and effectively administer this chapter. Before adopting a rule under this section, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b) are met.

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.18, eff. September 1, 2007.

Sec. 2156.002. SOLICITATION OF BIDS THROUGH PUBLIC NOTICE. (a) A notice inviting bids shall be published at least once in at least one newspaper of general circulation in the state not later than the seventh day before the last day set for the receipt of bids.

(b) The notice must:

(1) include a general description of the items to be purchased;

(2) state the location at which bid forms and specifications may be obtained; and

(3) state the time and place for opening bids.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2156.003. SOLICITATION OF BIDS THROUGH BIDDERS LIST; BID INVITATIONS. (a) The comptroller shall electronically maintain a bidders list. If the comptroller determines that it is in the state's best interest, the comptroller may also maintain the list on paper. The comptroller may add or delete names from the list according to applicable standards provided by Section 2156.007.

(b) An invitation to bid on an item to be purchased may be sent electronically to a vendor on the bidders list who has expressed a desire to bid on that type of item.

(c) The comptroller may use the bidders list in making a purchase by any purchase method.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 7.03, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 3.03, eff. September 1, 2009.

Sec. 2156.004. BID DEPOSIT. (a) The comptroller, as considered necessary, may require a bid deposit in an amount determined by the comptroller. The amount of the deposit, if any, must be stated in the public notice and the invitation to bid.

(b) On the award of a bid or the rejection of all bids, the comptroller shall refund the bid deposit of an unsuccessful bidder.

(c) The comptroller may accept from a bidder a bid deposit in

the form of a blanket bond.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 785, Sec. 35, eff. Sept. 1, 2003.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 60, eff. September 1, 2019.

Sec. 2156.005. BID SUBMISSION AND OPENING; PUBLIC INSPECTION. (a) A bidder must submit a sealed bid to the comptroller or to the state agency making a purchase. The bid must be identified on the envelope as a bid.

(b) Subsection (a) does not apply to bids submitted through the use of facsimile transmission or on-line electronic transmission. The comptroller may adopt rules to ensure the identification, security, and confidentiality of bids submitted through the use of facsimile transmission or on-line electronic transmission.

(c) The comptroller or other state agency making a purchase shall open bids at the time and place stated in the invitation to bid.

(d) The comptroller shall keep a tabulation of all bids received by the comptroller available for public inspection under rules adopted by the comptroller. State agencies making purchases shall adopt the comptroller's rules related to bid opening and tabulation.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 494, Sec. 3, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1206, Sec. 13, eff. Sept. 1, 1997.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 3.04, eff. September 1, 2009.

Sec. 2156.006. SUBMISSION OF ADDITIONAL MATERIAL WITH BID. (a) A bidder as an essential element of the materiality of the bid must comply with the specified time limit for the submission of written information, samples, or models at or before the time for bid opening.

(b) The comptroller may waive this requirement if the failure to comply is beyond the bidder's control.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 61, eff. September 1, 2019.

Sec. 2156.007. CONTRACT AWARD. (a) The comptroller or other state agency making a purchase shall award a contract to the bidder offering the best value for the state while conforming to the specifications required.

(b) In determining the bidder offering the best value, the comptroller or other state agency may consider the safety record of the bidder, the entity represented by the bidder, and any person acting for the represented entity only if:

(1) the comptroller or other state agency has adopted a written definition and criteria for accurately determining the safety record of a bidder; and

(2) the comptroller or state agency provided notice in the bid specifications to prospective bidders that a bidder's safety record may be considered in determining the bidder offering the best value for the state.

(c) A determination of a bidder's safety record may not be arbitrary and capricious.

(d) In determining the bidder offering the best value, in addition to price the comptroller or other state agency shall consider:

(1) the quality and availability of the goods or contractual services and their adaptability to the use required;

(2) the scope of conditions attached to the bid;

(3) the bidder's ability, capacity, and skill to perform the contract or provide the service required;

(4) the bidder's ability to perform the contract or provide the service promptly, or in the time required, without delay or interference;

(5) the bidder's character, responsibility, integrity, and experience or demonstrated capability;

(6) the quality of performance of previous contracts or

services;

(7) the bidder's previous and existing compliance with laws relating to the contract or service;

(8) the bidder's previous or existing noncompliance with specification requirements relating to the time of submission of specified information, including samples, models, drawings, or certificates;

(9) the sufficiency of the bidder's financial resources and ability to perform the contract or provide the service; and

(10) the bidder's ability to provide future maintenance, repair parts, and service for the use of the contract's subject.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 14, eff. Sept. 1, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 62, eff. September 1, 2019.

Sec. 2156.008. REJECTION OF BIDS. (a) The comptroller or other state agency making the purchase shall reject a bid in which there is a material failure to comply with specification requirements.

(b) The comptroller or other state agency may reject all bids or parts of bids if the rejection serves the state's interest.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 14, eff. Sept. 1, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 63, eff. September 1, 2019.

Sec. 2156.009. REASONS FOR AWARD. On award of a contract, the division of the comptroller responsible for purchasing or the state agency making the purchase shall prepare and file with other records relating to the transaction a statement of the reasons for making the award to the successful bidder and the factors considered in determining which bidder offered the best value for the state.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 14, eff. Sept. 1, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 63, eff. September 1, 2019.

Sec. 2156.010. TIE BIDS. In the case of tie bids, the value and cost to the state being equal, a contract shall be awarded under comptroller rules.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 14, eff. Sept. 1, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 63, eff. September 1, 2019.

Sec. 2156.011. PERFORMANCE BOND. (a) The comptroller may require a performance bond before executing a contract.

(b) The comptroller may require the bond in an amount that the comptroller finds reasonable and necessary to protect the state's interests.

(c) Any bond required shall be issued on the condition that the bidder faithfully execute the terms of the contract.

(d) Any bond required shall be filed with the comptroller.

(e) Recoveries under the bond may continue until the bond is exhausted.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 64, eff. September 1, 2019.

SUBCHAPTER B. OPEN MARKET PURCHASE PROCEDURE

Sec. 2156.061. USE OF OPEN MARKET PURCHASE PROCEDURE. On a comptroller determination that a purchase of goods or services may be made most effectively in the open market, the comptroller may use the

open market purchase procedure and the purchase may be made without newspaper advertising.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 65, eff. September 1, 2019.

Sec. 2156.062. MINIMUM NUMBER AND EVALUATION OF BIDS. An open market purchase shall, to the extent possible, be:

(1) based on at least three competitive bids; and

(2) awarded to the bidder offering the best value for the state in accordance with standards set forth in Chapters 2155, 2156, 2157, and 2158.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 15, eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3623, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2156.063. SOLICITATION OF BIDS. The comptroller and each state agency making a purchase shall solicit bids under this subchapter by:

(1) direct mail;

(2) telephone;

(3) telegraph;

(4) facsimile transmission; or

(5) on-line electronic transmission.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 494, Sec. 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1206, Sec. 15, eff. Sept. 1, 1997.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 3.05, eff. September 1, 2009.

Sec. 2156.064. RECORDING AND INSPECTION OF BIDS. (a) The comptroller shall keep a record of all open market orders and bids submitted on the orders.

(b) A tabulation of the bids shall be open for public inspection, under rules established by the comptroller.

(c) A tabulation of the bids shall always be open for inspection by the state auditor or the auditor's representative.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 66, eff. September 1, 2019.

Sec. 2156.065. AGENCY REVIEW OF BIDS. (a) On the request of a state agency to review the bids on a purchase administered by the comptroller, the comptroller shall send or make available to the requesting agency copies of each bid received and the comptroller's recommended award.

(b) If, after review of the bids and evaluation of the quality of goods or services offered in the bids, the state agency determines that the bid selected by the comptroller does not offer the best value for the state, the agency may file with the comptroller a written recommendation that the award be made to the bidder who, according to the agency's determination, offers the best value for the state. The agency recommendation must include a justification of the agency's determination.

(c) The comptroller shall consider, but is not bound by, the agency recommendation in making the award.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 16, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 67, eff. September 1, 2019.

Sec. 2156.066. STATEMENT OF REASONS FOR AWARD. The division of the comptroller responsible for purchasing or the state agency making a purchase shall prepare and file with other records relating to a

transaction under this subchapter a statement of the reasons for placing an order with a successful bidder for the transaction and the factors considered in determining the bid offering the best value for the state.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 16, eff. Sept. 1, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 67, eff. September 1, 2019.

SUBCHAPTER C. COMPETITIVE SEALED PROPOSALS FOR ACQUISITION OF GOODS AND SERVICES

Sec. 2156.121. USE OF COMPETITIVE SEALED PROPOSALS. (a) The comptroller or other state agency may follow a procedure using competitive sealed proposals to acquire goods or services if the comptroller determines that competitive sealed bidding and informal competitive bidding for the purchase or type of purchase are not practical or are disadvantageous to the state.

(b) A state agency shall send its proposal specifications and criteria to the comptroller for approval or request the comptroller to develop the proposal specifications and criteria.

(c) The comptroller shall determine whether to delegate sole oversight of the acquisition to a state agency or to retain oversight of the procurement.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 17, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 426, Sec. 8, eff. June 18, 1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 67, eff. September 1, 2019.

Sec. 2156.122. SOLICITATION OF PROPOSALS. The comptroller or other state agency shall:

(1) solicit proposals under this subchapter by a request for proposals; and

(2) give public notice of a request for proposals in the

manner provided for requests for bids under Subchapter B.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Renumbered from Sec. 2156.124 and amended by Acts 1997, 75th Leg., ch. 1206, Sec. 17, eff. Sept. 1, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 67, eff. September 1, 2019.

Sec. 2156.123. OPENING AND FILING OF PROPOSALS; PUBLIC INSPECTION. (a) The comptroller or other state agency shall avoid disclosing the contents of each proposal on opening the proposal and during negotiations with competing offerors.

(b) The comptroller or other state agency shall file each proposal in a register of proposals, which, after a contract is awarded, is open for public inspection unless the register contains information that is excepted from required disclosure under Subchapter C, Chapter 552.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Renumbered from Sec. 2156.126 and amended by Acts 1997, 75th Leg., ch. 1206, Sec. 17, eff. Sept. 1, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 67, eff. September 1, 2019.

Sec. 2156.124. DISCUSSION AND REVISION OF PROPOSALS. (a) As provided in a request for proposals and under rules adopted by the comptroller, the comptroller or other state agency may discuss acceptable or potentially acceptable proposals with offerors to assess an offeror's ability to meet the solicitation requirements. When the comptroller is managing the request for proposals process, it shall invite a requisitioning agency to participate in discussions conducted under this section.

(b) After receiving a proposal but before making an award, the comptroller or other state agency may permit the offeror to revise the proposal to obtain the best final offer.

(c) The comptroller or other state agency may not disclose information derived from proposals submitted from competing offerors

in conducting discussions under this section.

(d) The comptroller or other state agency shall provide each offeror an equal opportunity to discuss and revise proposals.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Renumbered from Sec. 2156.127 and amended by Acts 1997, 75th Leg., ch. 1206, Sec. 17, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 67, eff. September 1, 2019.

Sec. 2156.125. CONTRACT AWARD. (a) The comptroller or other state agency shall make a written award of a contract to the offeror whose proposal offers the best value for the state, considering price, past vendor performance, vendor experience or demonstrated capability, and the evaluation factors in the request for proposals.

(b) The comptroller or other state agency shall refuse all offers if none of the offers submitted is acceptable.

(c) The comptroller or other state agency shall determine which proposal offers the best value for the state in accordance with Sections 2155.074 and 2155.075.

(d) The comptroller or other state agency shall state in writing in the contract file the reasons for making an award.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Renumbered from Sec. 2156.128 and amended by Acts 1997, 75th Leg., ch. 1206, Sec. 17, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 67, eff. September 1, 2019.

Sec. 2156.126. ADOPTION OF RULES; STATE AGENCY ASSISTANCE. The comptroller may adopt rules and request assistance from other state agencies to perform its responsibilities under this subchapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Renumbered from Sec. 2156.129 and amended by Acts 1997, 75th Leg., ch. 1206, Sec. 17, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 67, eff. September 1, 2019.

Sec. 2156.127. COMPETITIVE SEALED PROPOSALS FOR TELECOMMUNICATIONS AND AUTOMATED INFORMATION SYSTEMS NOT AFFECTED. This subchapter does not affect Subchapter C, Chapter 2157.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Renumbered from Sec. 2156.130 and amended by Acts 1997, 75th Leg., ch. 1206, Sec. 17, eff. Sept. 1, 1997.

SUBCHAPTER D. INTERSTATE COMPACTS PROCEDURE

Sec. 2156.181. INTERSTATE COMPACTS AND COOPERATIVE AGREEMENTS FOR PROCUREMENTS. (a) The comptroller may enter into one or more compacts, interagency agreements, or cooperative purchasing agreements directly with one or more state governments, agencies of other states, or other governmental entities or may participate in, sponsor, or administer a cooperative purchasing agreement through an entity that facilitates those agreements for the purchase of goods or services if the comptroller determines that the agreement would be in the best interest of the state.

(a-1) A compact or agreement described by this section may not be used to purchase services that are defined as part of the practice of engineering under Section 1001.003, Occupations Code, or architecture under Section 1051.001, Occupations Code.

(b) The comptroller may adopt rules to implement this section.

Added by Acts 1999, 76th Leg., ch. 426, Sec. 9, eff. June 18, 1999. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 14, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 582 (H.B. 3342), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 68, eff. September 1, 2019.

CHAPTER 2157. PURCHASING: PURCHASE OF AUTOMATED INFORMATION SYSTEMS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2157.001. DEFINITIONS. In this chapter:

(1) "Automated information system" includes:

(A) the computers and computer devices on which an information system is automated, including computers and computer devices that the comptroller identifies in guidelines developed by the comptroller in consultation with the department and in accordance with Chapter 2054 and rules adopted under that chapter;

(B) a service related to the automation of an information system, including computer software or computers;

(C) a telecommunications apparatus or device that serves as a component of a voice, data, or video communications network for transmitting, switching, routing, multiplexing, modulating, amplifying, or receiving signals on the network, and services related to telecommunications that are not covered under Paragraph (D); and

(D) for the department, as telecommunications provider for the state, the term includes any service provided by a telecommunications provider, as that term is defined by Section 51.002, Utilities Code.

(2) "Department" means the Department of Information Resources.

(3) "Local government" has the meaning assigned by Section 2054.003.

(4) "State agency" has the meaning assigned by Section 2054.003.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 952, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 18.25, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 426, Sec. 10, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 1422, Sec. 4.13, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 309, Sec. 7.25, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 2.02, eff. September 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 69, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 242 (H.B. 4553), Sec. 13, eff. September 1, 2023.

Sec. 2157.0011. COMPTROLLER POWERS AND DUTIES. The comptroller has under this chapter the powers and duties described by Section 2151.004(d).

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.19, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 70, eff. September 1, 2019.

Sec. 2157.0012. AUTHORITY TO ADOPT RULES. The comptroller may adopt rules to efficiently and effectively administer this chapter. Before adopting a rule under this section, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b) are met.

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.19, eff. September 1, 2007.

Sec. 2157.002. APPLICABILITY. Subchapters A, B, and D apply only to a state agency to which Chapter 2054 applies.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2157.003. DETERMINING BEST VALUE FOR PURCHASES OF AUTOMATED INFORMATION SYSTEMS. "Best value" for purposes of this chapter means the lowest overall cost of an automated information system. In determining the lowest overall cost for a purchase or lease of an automated information system under this chapter, the comptroller or a state agency shall consider factors including:

(1) the purchase price;

(2) the compatibility to facilitate the exchange of existing data;

(3) the capacity for expanding and upgrading to more advanced levels of technology;

(4) quantitative reliability factors;

(5) the level of training required to bring persons using the system to a stated level of proficiency;

(6) the technical support requirements for the maintenance of data across a network platform and the management of the network's hardware and software;

(7) the compliance with applicable department statewide standards validated by criteria adopted by the department by rule; and

(8) applicable factors listed in Sections 2155.074 and 2155.075.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 18, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 2.03, eff. September 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 70, eff. September 1, 2019.

Sec. 2157.004. TRANSFERS AND LOANS. A state agency that acquires a telecommunications device, system, or service or an automated information system by interagency transfer, contract, or loan, or by public loan, shall comply with the requirements of Chapter 2054.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2157.006. PURCHASING METHODS. (a) The comptroller or other state agency shall purchase an automated information system using:

(1) the purchasing method described by Section 2157.068 for commodity items; or

(2) a purchasing method designated by the comptroller to obtain the best value for the state, including a request for offers method.

(b) A local government may purchase an automated information system using a method listed under Subsection (a). A local government that purchases an item using a method listed under Subsection (a) satisfies any state law requiring the local government to seek competitive bids for the purchase of the item.

(c) The comptroller shall adopt rules for designating purchasing methods under Subsection (a)(2).

Added by Acts 2007, 80th Leg., R.S., Ch. 1081 (H.B. 2918), Sec. 9, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 71, eff. September 1, 2019.

Sec. 2157.007. CLOUD COMPUTING SERVICE. (a) In this section:

(1) "Cloud computing service" has the meaning assigned by Special Publication 800-145 issued by the United States Department of Commerce National Institute of Standards and Technology, as the definition existed on January 1, 2015.

(2) "Major information resources project" has the meaning assigned by Section 2054.003.

Text of subsection as amended by Acts 2019, 86th Leg., R.S., Ch. 604 (S.B. 819), Sec. 4

(b) A state agency shall consider:

(1) cloud computing service options, including any security benefits and cost savings associated with purchasing those service options from a cloud computing service provider and from a statewide technology center established by the department, when making purchases for a major information resources project under Section 2054.118; and

(2) cloud computing service options and compatibility with cloud computing services in the development of new information technology software applications.

Text of subsection as amended by Acts 2019, 86th Leg., R.S., Ch. 1314 (H.B. 3875), Sec. 2

(b) Except as provided by Subsection (b-1), a state agency shall ensure, when making purchases for an automated information system or a major information resources project, that the system or project is capable of being deployed and run on cloud computing services.

(b-1) When making a purchase for an automated information system or a major information resources project, a state agency may determine that, due to integration limitations with legacy systems, security risks, or costs, the agency is unable to purchase a system

or project capable of being deployed and run on cloud computing services.

(b-2) At least 14 days before the date a state agency solicits bids, proposals, offers, or other applicable expressions of interest for a purchase described by Subsection (b-1), the agency shall submit to the Legislative Budget Board for the purchase of an automated information system or to the quality assurance team as defined by Section 2054.003 for the purchase of a major information resources project a report that describes the purchase and the agency's reasoning for making the purchase.

(c) A state agency shall ensure that information resources projects that use cloud computing service options meet or exceed required state standards for cybersecurity.

(d) Using existing resources, the department may review the process for the coordinated development, hosting, and management of computer software for state agencies that use cloud computing services.

(e) Not later than November 15 of each even-numbered year, the department, using existing resources, shall submit a report to the governor, lieutenant governor, and speaker of the house of representatives on the use of cloud computing service options by state agencies. The report must include use cases that provided cost savings and other benefits, including security enhancements. A state agency shall cooperate with the department in the creation of the report by providing timely and accurate information and any assistance required by the department.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1002 (H.B. 2422), Sec. 1, eff. June 14, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 820 (H.B. 3707), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 555 (S.B. 532), Sec. 4, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 604 (S.B. 819), Sec. 4, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1314 (H.B. 3875), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1314 (H.B. 3875), Sec. 2, eff. September 1, 2019.

SUBCHAPTER B. COMMODITY ITEMS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500 and H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2157.068. PURCHASE OF INFORMATION TECHNOLOGY COMMODITY ITEMS. (a) In this section, "commodity items" means commercial software, hardware, or technology services, other than telecommunications services, that are generally available to businesses or the public and for which the department determines that a reasonable demand exists from an eligible entity, as defined by Section 2054.375, that purchases the items through the department. The term includes seat management, through which an eligible entity transfers its personal computer equipment and service responsibilities to a private vendor to manage the personal computing needs for each desktop of the eligible entity, including all necessary hardware, software, and support services.

(b) The department shall negotiate with vendors to obtain the best value for the state in the purchase of commodity items. When negotiating with a vendor, the department shall use information related to the state's historical spending levels on particular commodity items to secure the best value for the state. The department may consider strategic sourcing and other methodologies to select the vendor offering the best value on commodity items. The terms and conditions of a license agreement between a vendor and the department under this section may not be less favorable to the state than the terms of similar license agreements between the vendor and retail distributors. The department shall, to the greatest extent practicable, negotiate a specific price for commonly purchased commodity items. If the department selects a vendor based on the vendor's offer of a percentage discount from the list price of commodity items, the department shall document in writing how that arrangement obtains the best value for the state.

(c) In contracting for commodity items under this section, the department shall make good faith efforts to provide contracting opportunities for, and to increase contract awards to, historically underutilized businesses and persons with disabilities' products and services available under Chapter 122, Human Resources Code.

(d) The department may charge a reasonable administrative fee to a state agency, local government, or governmental entity of another state that purchases commodity items through the department in an amount that is sufficient to recover costs associated with the administration of this section. Revenue derived from the collection of fees imposed under this subsection may be appropriated to the department for:

(1) developing statewide information resources technology policies and planning under Chapters 2054 and 2059; and

(2) providing shared information resources technology services under Chapter 2054.

(e) The department shall compile and maintain a list of commodity items available for purchase through the department that have a lower price than the prices for commodity items otherwise available to state agencies under this chapter. The department shall make the list available on the world wide web or on a suitable successor to the world wide web if the technological developments involving the Internet make it advisable to do so.

(e-1) Except as provided by Subsection (e-4), a state agency contracting to purchase a commodity item shall use the list maintained as required by Subsection (e) as follows:

(1) for a contract with a value of $50,000 or less, the agency may directly award the contract to a vendor included on the list without submission of a request for pricing to other vendors on the list;

(2) for a contract with a value of more than $50,000 but not more than $1 million, the agency must submit a request for pricing to at least three vendors included on the list in the category to which the contract relates; and

(3) for a contract with a value of more than $1 million but not more than $10 million, the agency must submit a request for pricing to at least six vendors included on the list in the category to which the contract relates or all vendors on the schedule if the category has fewer than six vendors.

(e-2) A state agency may not enter into a contract to purchase a commodity item if the value of the contract exceeds $10 million.

(e-3) The procedural requirements of Subsection (e-1) and the limitation prescribed by Subsection (e-2) do not apply to a state agency's purchase of commodity items under a department contract for the bulk purchase of commodity items intended for use by more than

one customer.

(e-4) For a contract with a value of more than $5 million but not more than $10 million, a state agency may purchase a commodity item using a purchasing method designated by the comptroller under Section 2157.006(a)(2).

(f) The department may adopt rules regulating a purchase by a state agency of a commodity item under this section, including a requirement that, notwithstanding other provisions of this chapter, the agency must make the purchase in accordance with a contract developed by the department unless:

(1) the agency obtains:

(A) an exemption from the department; or

(B) express prior approval from the Legislative Budget Board for the expenditure necessary for the purchase; or

(2) the department certifies in writing that the commodity item is not available for purchase under an existing contract developed by the department.

(f-1) Subject to Subsection (f-2), a state agency may purchase a commodity item through a contract developed by a local government purchasing cooperative under Chapter 791 if the department certifies in writing that the commodity item is not available for purchase under an existing contract developed by the department.

(f-2) A contract used by a state agency that purchases a commodity item through a contract described by Subsection (f-1) is subject to all provisions required by applicable law to be included in a state agency contract without regard to whether:

(1) the provision appears on the face of the contract; or

(2) the contract includes any provision to the contrary.

(g) The Legislative Budget Board's approval of a biennial operating plan under Section 2054.102 is not an express prior approval for purposes of Subsection (f)(1)(B). A state agency must request an exemption from the department under Subsection (f)(1)(A) before seeking prior approval from the Legislative Budget Board under Subsection (f)(1)(B).

(h) The department shall, in cooperation with state agencies, establish guidelines for the classification of commodity items under this section. The department may determine when a statewide vendor solicitation for a commodity item will reduce purchase prices for a state agency.

(i) Unless the agency has express statutory authority to employ

a best value purchasing method other than a purchasing method designated by the comptroller under Section 2157.006(a)(2), a state agency shall use a purchasing method provided by Section 2157.006(a) when purchasing a commodity item if:

(1) the agency has obtained an exemption from the department or approval from the Legislative Budget Board under Subsection (f); or

(2) the agency is otherwise exempt from this section.

(j) An eligible entity, as defined by Section 2054.375, may purchase commodity items through the department, and be charged a reasonable administrative fee, as provided by this section.

(k) The department, in cooperation with state agencies, shall, with respect to the purchase of commodity items included in the list maintained under Subsection (e):

(1) periodically assess the risk to this state in the purchase of those commodity items; and

(2) based on that risk assessment and as the department considers necessary to ensure accuracy, monitor and verify the purchase transaction reports of the monthly sales of those commodity items submitted by vendors in accordance with department requirements.

Added by Acts 1999, 76th Leg., ch. 860, Sec. 2, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.17, eff. June 18, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.08, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1081 (H.B. 2918), Sec. 11, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1081 (H.B. 2918), Sec. 12, eff. September 1, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 23.06, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 17, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 151 (H.B. 1994), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 15, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 547 (H.B. 2000), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 291 (S.B. 261), Sec. 1, eff. May 29, 2017.

Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. 533), Sec. 8, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 716 (S.B. 262), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 72, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1116 (H.B. 2325), Sec. 5, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 83 (S.B. 538), Sec. 1, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 855 (S.B. 799), Sec. 11, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 875 (S.B. 1232), Sec. 1.07, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 242 (H.B. 4553), Sec. 14, eff. September 1, 2023.

Sec. 2157.0685. CONTRACT REQUIREMENTS FOR CERTAIN SERVICES. (a) In this section, "statement of work" means a document that states the requirements for a contract, including deliverables, performance specifications, and other requirements, specific to the vendor under that contract that are not specified in a contract awarded by the department under Section 2157.068 for contracts more than $50,000.

(b) For a contract awarded by the department under Section 2157.068 that requires a state agency to develop and execute a statement of work to initiate services under the contract, the state agency must:

(1) consult with the department before submission of the statement of work to a vendor; and

(2) post each statement of work entered into by the agency on the agency's Internet website in the manner required by department rule.

(c) A statement of work executed by a state agency under a contract awarded by the department under Section 2157.068 is not

valid and money may not be paid to the vendor under the terms of the statement of work unless the department first signs the statement of work.

Added by Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 16, eff. September 1, 2015.

Sec. 2157.069. CLEARING FUND ACCOUNT. The comptroller shall establish in the state treasury the clearing fund account. The account is a revolving fund account for the administration of Section 2157.068. The account is the depository for all money received from entities served under that section. Money in the account may be used only to administer that section or for any other purpose specified by the legislature.

Added by Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 18, eff. September 1, 2013.

SUBCHAPTER C. REQUESTS FOR PROPOSALS PURCHASE METHOD

Sec. 2157.121. ACQUISITION THROUGH COMPETITIVE SEALED PROPOSALS. (a) The comptroller or other state agency may acquire a telecommunications device, system, or service or an automated information system by using competitive sealed proposals if the comptroller determines that competitive sealed bidding and informal competitive bidding are not practical or are disadvantageous to the state.

(b) A state agency, other than the department, shall send its proposal specifications and criteria to the comptroller for approval or request the comptroller to develop the proposal specifications and criteria.

(c) The department may acquire a telecommunications device, system, or service or an automated information system by using competitive sealed proposals without regard to whether the comptroller makes the determination required under Subsection (a) for other state agencies.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 21, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1422, Sec. 4.14, eff. Sept. 1, 2001.

Amended by:
Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 2.06, eff. September 1, 2005.
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 73, eff. September 1, 2019.

Sec. 2157.122. SOLICITATION OF PROPOSALS; PUBLIC NOTICE. The comptroller or other state agency shall:
(1) solicit proposals under this subchapter by a request for proposals; and
(2) give public notice of the request in the manner provided for requests for bids under Subchapter B, Chapter 2156.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 21, eff. Sept. 1, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 73, eff. September 1, 2019.

Sec. 2157.123. OPENING AND FILING PROPOSALS; PUBLIC INSPECTION. (a) The comptroller or other state agency shall avoid disclosing the contents of each proposal on opening the proposal and during negotiations with competing offerors.
(b) The comptroller or other state agency shall file each proposal in a register of proposals, which, after a contract is awarded, is open for public inspection unless the register contains information that is excepted from required disclosure under Subchapter C, Chapter 552.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 21, eff. Sept. 1, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 73, eff. September 1, 2019.

Sec. 2157.124. DISCUSSION AND REVISION OF PROPOSAL. (a) As

provided by a request for proposals and under comptroller rules, the comptroller or other state agency may discuss an acceptable or potentially acceptable proposal with an offeror to assess the offeror's ability to meet the solicitation requirements. When the comptroller is managing the request for proposals process, it shall invite a requisitioning agency to participate in discussions conducted under this section.

(b) After receiving a proposal but before making an award, the comptroller or other state agency may permit an offeror to revise a proposal to obtain the best final offer.

(c) The comptroller or other state agency may not disclose information derived from a proposal submitted by a competing offeror in conducting discussions under this section.

(d) The comptroller or other state agency shall provide each offeror an equal opportunity to discuss and revise proposals.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 21, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 73, eff. September 1, 2019.

Sec. 2157.125. CONTRACT AWARD; FACTORS CONSIDERED. (a) The comptroller or other state agency shall make a written award of a purchase or lease to the offeror whose proposal under this subchapter offers the best value for the state, considering price, past vendor performance, vendor experience or demonstrated capability, and the evaluation factors in the request for proposals.

(b) The comptroller or other state agency shall refuse all offers if no offer submitted is acceptable.

(c) In determining which proposal under this subchapter offers the best value for the state, the comptroller or other state agency shall, when applicable and subject to Sections 2155.074 and 2155.075, consider factors including:

(1) the installation cost;

(2) the overall life of the system or equipment;

(3) the cost of acquisition, operation, and maintenance of hardware included with, associated with, or required for the system

or equipment during the state's ownership or lease;

(4) the cost of acquisition, operation, and maintenance of software included with, associated with, or required for the system or equipment during the state's ownership or lease;

(5) the estimated cost of other supplies needed because of the acquisition;

(6) the estimated cost of employee training needed because of the acquisition;

(7) the estimated cost of necessary additional permanent employees because of the acquisition; and

(8) the estimated increase in employee productivity because of the acquisition.

(d) The comptroller or other state agency shall state in writing in the contract file the reasons for making an award.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 21, eff. Sept. 1, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 73, eff. September 1, 2019.

Sec. 2157.126. RULES. The comptroller shall adopt rules necessary or convenient to perform its responsibilities regarding requests for proposals under this subchapter and shall request assistance from other state agencies as needed.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 73, eff. September 1, 2019.

SUBCHAPTER D. PREAPPROVED CONTRACT TERMS AND CONDITIONS

Sec. 2157.181. PREAPPROVED CONTRACT TERMS AND CONDITIONS. (a) The comptroller, with the concurrence of the department, may negotiate with vendors preapproved terms and conditions to be included in contracts relating to the purchase or lease of a telecommunication device, system, or service or an automated information system awarded to a vendor by a state agency.

(b) The comptroller and the department must agree to the wording of preapproved terms and conditions negotiated with a vendor.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 2.07, eff. September 1, 2005.
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 74, eff. September 1, 2019.

Sec. 2157.182. VALIDITY OF PREAPPROVED TERMS AND CONDITIONS; RENEGOTIATION. (a) Preapproved terms and conditions to which a vendor, the comptroller, and the department agree are valid for two years after the date of the agreement and must provide that the terms and conditions are to be renegotiated before the end of the two years.

(b) The comptroller and the department jointly shall establish procedures to ensure that terms and conditions are renegotiated before they expire in a contract between the vendor and a state agency.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 2.08, eff. September 1, 2005.
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 74, eff. September 1, 2019.

Sec. 2157.183. PREAPPROVED TERM OR CONDITION PART OF CONTRACT; CHANGE OF TERM OR CONDITION. (a) Preapproved terms and conditions must be part of any contract between a state agency and a vendor that has agreed to them.

(b) A preapproved term or condition that is changed remains valid for an existing contract of which it is part but must be renegotiated before it may be part of another or a renewed contract.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2157.184. NOTIFICATION OF STATE AGENCIES AND VENDORS. The comptroller and the department jointly shall establish procedures to notify state agencies and potential vendors of the provisions of this subchapter regarding preapproved terms and conditions.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 2.09, eff. September 1, 2005.
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 74, eff. September 1, 2019.

CHAPTER 2158. PURCHASING: MISCELLANEOUS PROVISIONS FOR PURCHASE OF CERTAIN GOODS AND SERVICES

SUBCHAPTER A. PURCHASE OF PASSENGER VEHICLES

Sec. 2158.001. DEFINITIONS. In this subchapter:

(1) "Conventional gasoline" means any gasoline that does not meet specifications set by a certification under Section 211(k) of the federal Clean Air Act (42 U.S.C. Section 7545(k)).

(2) "Golf cart" has the meaning assigned by Section 551.401, Transportation Code.

(3) "Light-duty motor vehicle" has the meaning assigned by Section 386.151, Health and Safety Code.

(4) "Motor vehicle" has the meaning assigned by Section 386.151, Health and Safety Code.

(5) "Neighborhood electric vehicle" means a motor vehicle that:

(A) is originally manufactured to meet, and does meet, the equipment requirements and safety standards established for "low-speed vehicles" in Federal Motor Vehicle Safety Standard 500 (49 C.F.R. Section 571.500);

(B) is a slow-moving vehicle, as defined by Section 547.001, Transportation Code, that is able to attain a speed of more than 20 miles per hour but not more than 25 miles per hour in one mile on a paved, level surface;

(C) is a four-wheeled motor vehicle;

(D) is powered by electricity or alternative power sources;

(E) has a gross vehicle weight rating of less than

3,000 pounds; and

(F) is not a golf cart.

(6) "Plug-in hybrid motor vehicle" means a vehicle that:

(A) draws motive power from a battery with a capacity of at least four kilowatt-hours;

(B) can be recharged from an external source of electricity for motive power; and

(C) is a light-duty motor vehicle capable of operating at highway speeds, excluding golf carts and neighborhood electric vehicles.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 17.02(a), eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 864 (S.B. 1032), Sec. 3, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 900 (H.B. 432), Sec. 1, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1233 (H.B. 1548), Sec. 3, eff. June 14, 2019.

Sec. 2158.0011. COMPTROLLER POWERS AND DUTIES. The comptroller has under this chapter the powers and duties described by Section 2151.004(d).

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.20, eff. September 1, 2007.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 75, eff. September 1, 2019.

Sec. 2158.0012. AUTHORITY TO ADOPT RULES. The comptroller may adopt rules to efficiently and effectively administer this chapter. Before adopting a rule under this section, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b) are met.

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.20, eff. September 1, 2007.

Sec. 2158.0013. APPLICABILITY OF SUBCHAPTER. The purchasing requirements relating to alternatively fueled vehicles established by this subchapter do not apply if a state agency demonstrates that the state agency will incur net costs in meeting the requirements of this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 900 (H.B. 432), Sec. 2, eff. September 1, 2009.

Sec. 2158.002. APPLICABILITY. This subchapter does not apply to a vehicle acquired by the Texas Transportation Institute for the purpose of performing crash tests and related research.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 17.02(a), eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1364, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2158.003. WHEELBASE AND HORSEPOWER RESTRICTIONS. (a) A state agency may not purchase or lease a vehicle designed or used primarily for the transportation of individuals, including a station wagon, that has a wheelbase longer than 113 inches or that has more than 160 SAE net horsepower. The vehicle may have a wheelbase of up to 116 inches or SAE net horsepower of up to 280 if the vehicle will be converted so that it uses compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle. This exception to the wheelbase and horsepower limitations applies to a state agency regardless of the size of the agency's vehicle fleet.

(b) The wheelbase and horsepower limitations prescribed by Subsection (a) do not apply to the purchase or lease of:

(1) a vehicle to be used primarily for criminal law

enforcement;

(2) a bus, motorcycle, pickup, van, truck, three-wheel vehicle, or tractor; or

(3) an ambulance.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Renumbered from Government Code Sec. 2158.001 and amended by 1997, 75th Leg., ch. 165, Sec. 17.02(a).
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 900 (H.B. 432), Sec. 3, eff. September 1, 2009.

Sec. 2158.0031. PURCHASE PREFERENCE FOR AMERICAN VEHICLES. A state agency authorized to purchase passenger vehicles or other ground transportation vehicles for general use shall purchase economical, fuel-efficient vehicles assembled in the United States unless such a purchase would have a significant detrimental effect on the use to which the vehicles will be put.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.20, eff. Sept. 1, 1999.

Sec. 2158.004. VEHICLES USING ALTERNATIVE FUELS. (a) A state agency operating a fleet of more than 15 vehicles, excluding law enforcement and emergency vehicles, may not purchase or lease a motor vehicle unless that vehicle uses compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle.

(b) A state agency may obtain equipment or refueling facilities necessary to operate vehicles using compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle:

(1) by purchase or lease as authorized by law;

(2) by gift or loan of the equipment or facilities; or

(3) by gift or loan of the equipment or facilities or by another arrangement under a service contract for the supply of compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle.

(c) If the equipment or facilities are donated, loaned, or provided through another arrangement with the supplier of compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle, the supplier is entitled to recoup its actual cost of donating, loaning, or providing the equipment or facilities through its fuel charges under the supply contract.

(d) The comptroller may waive the requirements of this section for a state agency on receipt of certification supported by evidence acceptable to the comptroller that:

(1) the agency's vehicles will be operating primarily in an area in which neither the agency nor a supplier has or can reasonably be expected to establish adequate refueling for compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle; or

(2) the agency is unable to obtain equipment or refueling facilities necessary to operate vehicles using compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle, at a projected cost that is reasonably expected to be no greater than the net costs of continued use of conventional gasoline or diesel fuels, measured over the expected useful life of the equipment or facilities

supplied.

(e) Except for the purchase or lease of a motor vehicle for use in a nonattainment area designated under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), as amended, Subsection (a) does not apply to a purchase or lease by the Railroad Commission of Texas.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Renumbered from Government Code Sec. 2158.002 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.02(a); Acts 2003, 78th Leg., ch. 518, Sec. 1, June 20, 2003; Acts 2003, 78th Leg., ch. 1272, Sec. 3, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 900 (H.B. 432), Sec. 4, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 76, eff. September 1, 2019.

Sec. 2158.005. PERCENTAGE REQUIREMENTS FOR VEHICLES USING ALTERNATIVE FUELS. (a) Not later than September 30, 2010, a state agency that operates a fleet of more than 15 motor vehicles, excluding law enforcement and emergency vehicles, shall have a fleet consisting of vehicles of which at least 50 percent use compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle.

(b) The Texas Commission on Environmental Quality shall collect reasonable information needed to determine the air quality benefits from use of compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle, at affected agencies.

(c) A state agency in its annual financial report to the legislature shall report its progress in achieving the percentage requirements of this section by:

(1) itemizing purchases, leases, and conversions of motor vehicles;

(2) itemizing usage of compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle;

(3) describing the availability of compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle; and

(4) providing the information reasonably needed to determine the air quality benefits from use of compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle.

(d) A state agency may meet the percentage requirements of this section through purchase of new vehicles or the conversion of existing vehicles, in accordance with federal and state requirements and applicable safety laws. The Texas State Technical College System shall develop a program and provide training to a state agency converting an existing vehicle to meet the requirements of this section.

(e) The comptroller may reduce a percentage specified by this section or waive the requirements of this section for a state agency on receipt of certification supported by evidence acceptable to the comptroller that:

(1) the agency's vehicles will be operating primarily in an area in which neither the agency nor a supplier has or can reasonably be expected to establish adequate refueling for compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle; or

(2) the agency is unable to obtain equipment or refueling facilities necessary to operate vehicles using compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle, at a projected cost that is reasonably expected to be no greater than the net costs of continued use of conventional gasoline or diesel fuels, measured over the expected useful life of the equipment or facilities supplied.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Renumbered from Government Code Sec. 2158.003 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.02(a).
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 900 (H.B. 432), Sec. 5, eff. September 1, 2009.

Sec. 2158.006. DETERMINATION OF ALTERNATIVE FUELS PROGRAM PARAMETERS. In developing the use of compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle, the comptroller should work with state agency fleet operators, vehicle manufacturers and converters, fuel distributors, and others to determine the vehicles to be covered, taking into consideration:

(1) range;
(2) specialty uses;
(3) fuel availability;
(4) vehicle manufacturing and conversion capability;
(5) safety;
(6) resale values; and
(7) other relevant factors.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Renumbered from Government Code Sec. 2158.004 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.02(a).

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 900 (H.B. 432), Sec. 5, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 77, eff. September 1, 2019.

Sec. 2158.007. COMPLIANCE WITH APPLICABLE SAFETY STANDARDS. In purchasing, leasing, maintaining, or converting vehicles for use with compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle, the comptroller shall comply with all applicable safety standards adopted by the United States Department of Transportation and the Railroad Commission of Texas.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Renumbered from Government Code Sec. 2158.005 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.02(a).

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 900 (H.B. 432), Sec. 5, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 77, eff. September 1, 2019.

Sec. 2158.008. WHEN VEHICLE CONSIDERED TO BE USING ALTERNATIVE FUELS. In this subchapter, a vehicle is considered to be using compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle, if the vehicle uses those fuels:

(1) not less than 80 percent of the time the vehicle is driven; and

(2) either in its original equipment engine or in an engine that has been converted to use those fuels.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Renumbered from Government Code Sec. 2158.006 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.02(a).
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 900 (H.B. 432), Sec. 5, eff. September 1, 2009.

Sec. 2158.009. LOW-EMISSIONS VEHICLES PURCHASING REQUIREMENT. (a) Repealed by Acts 2009, 81st Leg., R.S., Ch. 900, Sec. 7, eff. September 1, 2009.

(b) A state agency authorized to purchase passenger vehicles or other ground transportation vehicles for general use shall ensure that not less than 25 percent of the vehicles the agency purchases during any state fiscal biennium, other than vehicles the purchase of which is exempted from this subsection by Subsection (c) or (d), are vehicles that meet or exceed the emissions standards necessary to be rated by the United States Environmental Protection Agency as a Tier II, Bin 3, emissions standard vehicle that has a greenhouse gas score of eight under regulations of that agency as they existed September 1, 2007.

(c) A state agency is exempt from Subsection (b) to the extent that a vehicle described by that subsection that meets the agency's operational needs is not commercially available.

(d) Subsection (b) does not apply to a state agency's purchase of a vehicle to be used by a peace officer, as defined by Article 2A.001, Code of Criminal Procedure, whose duties include the apprehension of persons for violation of a criminal law of this state.

Added by Acts 2007, 80th Leg., R.S., Ch. 1221 (H.B. 2293), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 900 (H.B. 432), Sec. 6, eff. September 1, 2009.
Acts 2009, 81st Leg., R.S., Ch. 900 (H.B. 432), Sec. 7, eff. September 1, 2009.
Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.118, eff. January 1, 2025.

SUBCHAPTER C. OTHER CONTRACTS FOR PRINTING SERVICES

Sec. 2158.121. PROHIBITION APPLICABLE TO OTHER PRINTING CONTRACTS; OFFENSE; PENALTY. (a) Except as otherwise provided by a contract or agreement with the state authorized by this subchapter, a person doing printing under contract for the state commits an offense if the person reproduces, prints, prepares, sells, or furnishes the printing or printed matter, a reprint, reproduction, or copy of the printing or printed matter, or a plate, type, mat, cut, or engraving from which the printing contract was executed, in an amount other than that agreed to be printed and furnished to the state under the contract.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than $100 or more than $1,000; and

(2) confinement in jail for not more than 30 days if the offender is an individual.

(c) Conviction of an agent or employee under this section does not bar conviction of a principal.

(d) This subchapter does not apply to the printing and sale to the public of copies of the general and special laws by the printer of the laws under a contract authorized by Subchapter B.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2158.122. EXCEPTION TO PROHIBITION. (a) On consent of the comptroller and the governor, a person may print extra copies of matter printed under a state contract and sell the copies at a price fixed by the comptroller if in the opinion of the comptroller and the governor the printed matter should be distributed in this manner for the benefit of the public.

(b) A contract for the printing and sale of extra copies under this section must be approved by the attorney general.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 78, eff. September 1, 2019.

Sec. 2158.123. STATE PRINTING CONTRACTS. In this chapter and

Chapters 2155, 2156, and 2157, printing is considered to be performed for the state if the printing is done under contract for:

(1) the legislature, including either house of the legislature;

(2) a state department, board, or commission;

(3) a court;

(4) an officer or agent of the state; or

(5) the state.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. PURCHASE OF ELECTRICAL ITEMS

Sec. 2158.181. SAFETY STANDARDS FOR ELECTRICAL ITEMS. The comptroller or another state agency may not purchase an electrical item unless the item meets applicable safety standards of the federal Occupational Safety and Health Administration.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 79, eff. September 1, 2019.

SUBCHAPTER E. RECYCLED PRODUCTS

Sec. 2158.241. INTERSTATE COMPACTS AND COOPERATIVE AGREEMENTS FOR PROCURING RECYCLED PRODUCTS. The comptroller may enter into compacts and cooperative agreements with other states and government entities for procuring products made of recycled materials when the comptroller determines it is in the best interest of the state.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 426, Sec. 15, eff. June 18, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 79, eff. September 1, 2019.

Subchapter F, consisting of Secs. 2158.301, was added by Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. 12), Sec. 3.05.

For another Subchapter F, consisting of Secs. 2158.301, added by Acts 2007, 80th Leg., R.S., Ch. 939 (H.B. 3693), Sec. 5, see Sec. 2158.301 et seq., post.

SUBCHAPTER F. ENERGY AND EFFICIENCY STANDARDS FOR EQUIPMENT AND APPLIANCES

Sec. 2158.301. ENERGY CONSERVATION. If available and cost effective, the comptroller or another state agency shall purchase equipment and appliances for state use that meet or exceed the federal Energy Star standards designated by the United States Environmental Protection Agency and the United States Department of Energy.

Added by Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. 12), Sec. 3.05, eff. June 8, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 80, eff. September 1, 2019.

Subchapter F, consisting of Secs. 2158.301, was added by Acts 2007, 80th Leg., R.S., Ch. 939 (H.B. 3693), Sec. 5.

For another Subchapter F, consisting of Secs. 2158.301, added by Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. 12), Sec. 3.05, see Sec. 2158.301 et seq., post.

SUBCHAPTER F. ENERGY AND EFFICIENCY STANDARDS FOR EQUIPMENT AND APPLIANCES

Sec. 2158.301. ENERGY CONSERVATION. If available and cost-effective, a state agency shall purchase equipment and appliances for state use that meet or exceed:

(1) the federal energy conservation standards under Section 325, Energy Policy and Conservation Act (42 U.S.C. Section 6295), or a federal regulation adopted under that Act; or

(2) the federal Energy Star standards designated by the United States Environmental Protection Agency and the United States Department of Energy.

Added by Acts 2007, 80th Leg., R.S., Ch. 939 (H.B. 3693), Sec. 5, eff. September 1, 2007.

SUBCHAPTER H. PURCHASE OF PHARMACY BENEFIT MANAGER SERVICES

Sec. 2158.401. DEFINITION; APPLICABILITY. (a) In this subchapter, "state agency" means a board, commission, department, office, or other agency in the executive, legislative, or judicial branch of state government that is created by the constitution or a statute of this state, including an institution of higher education as defined by Section 61.003, Education Code.

(b) This subchapter applies in relation to a state agency contract or proposed contract for pharmacy benefit manager services without regard to whether the contract or proposed contract is otherwise subject to this subtitle.

Added by Acts 2009, 81st Leg., R.S., Ch. 1207 (S.B. 704), Sec. 1, eff. September 1, 2009.

Sec. 2158.402. REQUIRED DISCLOSURE. (a) A state agency on request of another state agency shall disclose information relating to the amounts charged by a pharmacy benefit manager for pharmacy benefit manager services provided under a prescription drug program and other requested pricing information related to a contract for pharmacy benefit manager services. A state agency shall provide information requested under this section not later than the 30th day after the date the information is requested.

(b) Subsection (a) does not require a state agency to disclose information the agency is specifically prohibited from disclosing under a contract with a pharmacy benefit manager executed before September 1, 2009.

(c) A contract entered, amended, or extended on or after September 1, 2009, may not contain a provision that prohibits a state agency from disclosing under this subchapter information on the amounts charged by a pharmacy benefit manager for pharmacy benefit manager services provided under a prescription drug program or from disclosing under this subchapter other pricing information related to the contract.

Added by Acts 2009, 81st Leg., R.S., Ch. 1207 (S.B. 704), Sec. 1, eff. September 1, 2009.

Sec. 2158.403. CONFIDENTIALITY. The information received by a

state agency under this subchapter may not be disclosed to a person outside of the state agency or its agents.

Added by Acts 2009, 81st Leg., R.S., Ch. 1207 (S.B. 704), Sec. 1, eff. September 1, 2009.

CHAPTER 2161. HISTORICALLY UNDERUTILIZED BUSINESSES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2161.001. DEFINITIONS. In this chapter:

(1) "Goods" means supplies, materials, or equipment.

(2) "Historically underutilized business" means an entity with its principal place of business in this state that is:

(A) a corporation formed for the purpose of making a profit in which 51 percent or more of all classes of the shares of stock or other equitable securities are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the corporation's control, operation, and management;

(B) a sole proprietorship created for the purpose of making a profit that is completely owned, operated, and controlled by an economically disadvantaged person;

(C) a partnership formed for the purpose of making a profit in which 51 percent or more of the assets and interest in the partnership are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management;

(D) a joint venture in which each entity in the venture is a historically underutilized business, as determined under another paragraph of this subdivision; or

(E) a supplier contract between a historically underutilized business as determined under another paragraph of this subdivision and a prime contractor under which the historically underutilized business is directly involved in the manufacture or distribution of the goods or otherwise warehouses and ships the goods.

(3) "Economically disadvantaged person" means a person who:

(A) is economically disadvantaged because of the person's identification as a member of a certain group, including:

(i) Black Americans;

(ii) Hispanic Americans;
(iii) women;
(iv) Asian Pacific Americans;
(v) Native Americans; and
(vi) veterans as defined by 38 U.S.C. Section 101(2) who have suffered at least a 20 percent service-connected disability as defined by 38 U.S.C. Section 101(16); and

(B) has suffered the effects of discriminatory practices or other similar insidious circumstances over which the person has no control.

(4) "Contract" includes an arrangement under which a state agency receives professional or investment brokerage services.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 1.21, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1261, Sec. 1, eff. Sept. 1, 2003.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1255 (H.B. 194), Sec. 1, eff. September 1, 2013.

Sec. 2161.0011. COMPTROLLER POWERS AND DUTIES. The comptroller has under this chapter the powers and duties described by Section 2151.004(d).

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.21, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 81, eff. September 1, 2019.

Sec. 2161.0012. AUTHORITY TO ADOPT RULES. (a) The comptroller may adopt rules to efficiently and effectively administer this chapter. Before adopting a rule under this section, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b) are met.

(b) The comptroller shall follow the procedures prescribed by Subchapter B, Chapter 2001, when adopting a new rule or a change to an existing rule that relates to historically underutilized businesses.

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.21, eff. September 1, 2007.

Sec. 2161.0015. DETERMINING SIZE STANDARDS FOR HISTORICALLY UNDERUTILIZED BUSINESSES. The comptroller may establish size standards that a business may not exceed if it is to be considered a historically underutilized business under this chapter. In determining the size standards, the comptroller shall determine the size at which a business should be considered sufficiently large that the business probably does not significantly suffer from the effects of past discriminatory practices.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 2.02, eff. Sept. 1, 1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 81, eff. September 1, 2019.

Sec. 2161.002. ADMINISTRATION; RULES. (a) To administer Subchapters B and C, the comptroller may:

(1) require information from a state agency; and

(2) adopt rules.

(c) In adopting rules to administer this chapter, the comptroller shall adopt rules that are based on the results of the "State of Texas Disparity Study, A Report to the Texas Legislature as Mandated by H.B. 2626, 73rd Legislature, December 1994" (prepared by National Economic Research Associates, Inc.). The comptroller shall revise the rules in response to the findings of any updates of the study that are prepared on behalf of the state.

(d) The comptroller shall adopt rules to provide goals for increasing the contract awards for the purchase of goods or services by the comptroller and other state agencies to businesses that qualify as historically underutilized businesses because the businesses are owned or owned, operated, and controlled, as applicable, wholly or partly by one or more veterans as defined by 38 U.S.C. Section 101(2) who have a service-connected disability as defined by 38 U.S.C. Section 101(16). The goals established under this subsection are in addition to the goals established under

Subsection (c) and the goals established under Subsection (c) may not be reduced as a result of the establishment of goals under this subsection.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 1.22, eff. Sept. 1, 1999.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.117(6), eff. September 1, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 1255 (H.B. 194), Sec. 2, eff. September 1, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 81, eff. September 1, 2019.

Sec. 2161.003. AGENCY RULES. A state agency, including an institution of higher education, shall adopt the comptroller's rules under Section 2161.002 as the agency's or institution's own rules. Those rules apply to the agency's construction projects and purchases of goods and services paid for with appropriated money without regard to whether a project or purchase is otherwise subject to this subtitle.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.23, eff. Sept. 1, 1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 81, eff. September 1, 2019.

Sec. 2161.004. APPLICABILITY; INTENT. (a) This chapter and rules adopted by the comptroller under this chapter apply to state agency construction projects and purchases of goods and services that are paid for with appropriated money and made under the authority of this subtitle or other law.

(b) The legislature intends that all qualified businesses have access to compete for business from the state.

(c) Section 2161.003 and Subsections (a) and (b) of this section do not apply to a project or contract subject to Section 201.702, Transportation Code.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.23, eff. Sept. 1, 1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 82, eff. September 1, 2019.

Sec. 2161.005. TRANSFER OF FUNDS FOR PURCHASING. If the state auditor reports to the comptroller under Section 2161.123(d) that a state agency is not complying with Section 2161.123, the comptroller shall report that fact to the Legislative Budget Board. If the Legislative Budget Board determines that, one year after the date of the state auditor's report to the comptroller, the agency is still not complying with Section 2161.123, the budget board may, under Section 69, Article XVI, Texas Constitution, direct the emergency transfer of the agency's appropriated funds for making purchases under purchasing authority delegated under Section 2155.131 to the appropriate state agency. The amount transferred from the agency's funds to the appropriate agency shall be an amount determined by the Legislative Budget Board.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.23, eff. Sept. 1, 1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 83, eff. September 1, 2019.

SUBCHAPTER B. GENERAL POWERS AND DUTIES

Sec. 2161.061. CERTIFICATION OF HISTORICALLY UNDERUTILIZED BUSINESSES. (a) The comptroller shall certify historically underutilized businesses.

(b) As one of its certification procedures, the comptroller may:

(1) approve the certification program of one or more local governments or nonprofit organizations in this state that certify historically underutilized businesses, minority business enterprises, women's business enterprises, or disadvantaged business enterprises under substantially the same definition, to the extent applicable, used by Section 2161.001, if the local government or nonprofit

organization meets or exceeds the standards established by the comptroller; and

(2) certify a business that is certified by a local government or by a nonprofit organization as a historically underutilized business under this chapter.

(c) To maximize the number of certified historically underutilized businesses, the comptroller shall enter into agreements with local governments in this state that conduct certification programs described by Subsection (b) and with nonprofit organizations. The comptroller may terminate an agreement if a local government or nonprofit organization fails to meet the standards established by the comptroller for certifying historically underutilized businesses. The agreements must take effect immediately and:

(1) allow for automatic certification of businesses certified by the local government or nonprofit organization;

(2) provide for the efficient updating of the comptroller database containing information about historically underutilized businesses and potential historically underutilized businesses; and

(3) provide for a method by which the comptroller may efficiently communicate with businesses certified by the local government or nonprofit organization and provide those businesses with information about the state historically underutilized business program.

(d) A local government or a nonprofit organization that certifies historically underutilized businesses, minority business enterprises, women's business enterprises, or disadvantaged business enterprises as described in Subsections (b) and (c) shall complete the certification of an applicant or provide an applicant with written justification of its certification denial within the period established by the comptroller in its rules for certification activities.

(e) A local government or a nonprofit organization that certifies historically underutilized businesses under Subsection (c) or that conducts a certification program described by and approved under Subsection (b) shall make available to the public an online searchable database containing information about historically underutilized businesses, minority business enterprises, women's business enterprises, and disadvantaged business enterprises certified by the local government or nonprofit organization,

including:

(1) the name of the business;

(2) the contact person or owner of the business;

(3) the address and telephone number of the business;

(4) the type or category of business, including relevant capabilities of the business and the North American Industry Classification System codes for the business; and

(5) the expiration date of the business's certification.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.03(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1499, Sec. 2.03, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1422, Sec. 13.01, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.22, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 85, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 86, eff. September 1, 2019.

Sec. 2161.062. ASSISTANCE TO HISTORICALLY UNDERUTILIZED BUSINESSES. (a) The comptroller shall seek the advice of the governor, legislature, and state agencies in identifying and developing opportunities for historically underutilized businesses.

(b) The comptroller shall offer historically underutilized businesses assistance and training regarding state procurement procedures.

(c) The comptroller shall advise historically underutilized businesses of available state contracts and shall advise historically underutilized businesses to apply for registration on the comptroller's master bidders list.

(d) The comptroller shall send historically underutilized businesses an orientation package on certification or recertification. The package shall include:

(1) a certificate issued in the historically underutilized business's name;

(2) a description of the significance and value of

certification;

(3) a list of state purchasing personnel;

(4) information regarding electronic commerce opportunities;

(5) information regarding the Texas Marketplace website; and

(6) additional information about the state procurement process.

(e) A state agency with a biennial budget that exceeds $10 million shall designate a staff member to serve as the historically underutilized businesses coordinator for the agency during the fiscal year. The procurement director may serve as the coordinator. In agencies that employ a historically underutilized businesses coordinator, the position of coordinator, within the agency's structure, must be at least equal to the position of procurement director. In addition to any other responsibilities, the coordinator shall:

(1) coordinate training programs for the recruitment and retention of historically underutilized businesses;

(2) report required information to the comptroller; and

(3) match historically underutilized businesses with key staff within the agency.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 2.04, eff. Sept. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 87, eff. September 1, 2019.

Sec. 2161.063. ASSISTING STATE AGENCIES. (a) The comptroller shall encourage state agencies to use historically underutilized businesses by:

(1) working with state agencies to establish a statewide policy for increasing the use of historically underutilized businesses;

(2) assisting state agencies in seeking historically underutilized businesses capable of supplying required goods or services;

(3) assisting state agencies in identifying and advising historically underutilized businesses on the types of goods and services the agencies need; and

(4) assisting state agencies in increasing the amount of business placed with historically underutilized businesses.

(b) The comptroller shall assist the Texas Department of Economic Development in performing the department's duties under Section 481.0068.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 2.05, eff. Sept. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 87, eff. September 1, 2019.

Sec. 2161.064. DIRECTORY. (a) The comptroller shall compile, in the most cost-efficient form, a directory of businesses certified as historically underutilized businesses under Section 2161.061.

(b) The comptroller at least semiannually shall update the directory and provide access to the directory electronically or in another form to each state agency.

(c) Depending on the needs of a state agency, the comptroller shall provide access to the directory electronically or in another form.

(d) The comptroller shall provide a copy of the directory to every municipality in January and July of each year. On request, the comptroller shall make the directory available to other local governments and the public.

(e) A state agency, including the comptroller, shall use the directory in determining awards of state purchasing and public works contracts.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 2.06, eff. Sept. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 87, eff. September 1, 2019.

Sec. 2161.065. MENTOR-PROTEGE PROGRAM. (a) The comptroller shall design a mentor-protege program to foster long-term relationships between prime contractors and historically underutilized businesses and to increase the ability of historically underutilized businesses to contract with the state or to receive subcontracts under a state contract. Each state agency with a biennial appropriation that exceeds $10 million shall implement the program designed by the comptroller.

(b) Participation in the program must be voluntary for both the contractor and the historically underutilized business subcontractor.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 2.08, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 88, eff. September 1, 2019.

Sec. 2161.066. HISTORICALLY UNDERUTILIZED BUSINESS FORUMS. (a) The comptroller shall design a program of forums in which historically underutilized businesses are invited by state agencies to deliver technical and business presentations that demonstrate their capability to do business with the agency:

(1) to senior managers and procurement personnel at state agencies that acquire goods and services of a type supplied by the historically underutilized businesses; and

(2) to contractors with the state who may be subcontracting for goods and services of a type supplied by the historically underutilized businesses.

(b) The forums shall be held at state agency offices.

(c) Each state agency with a biennial appropriation that exceeds $10 million shall participate in the program by sending senior managers and procurement personnel to attend relevant presentations and by informing the agency's contractors about presentations that may be relevant to anticipated subcontracting opportunities.

(d) Each state agency that has a historically underutilized businesses coordinator shall:

(1) design its own program and model the program to the extent appropriate on the program developed by the comptroller under

this section; and

(2) sponsor presentations by historically underutilized businesses at the agency.

(e) The comptroller and each state agency that has a historically underutilized businesses coordinator shall aggressively identify and notify individual historically underutilized businesses regarding opportunities to make a presentation regarding the types of goods and services supplied by the historically underutilized business and shall advertise in appropriate trade publications that target historically underutilized businesses regarding opportunities to make a presentation.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 2.08, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 89, eff. September 1, 2019.

SUBCHAPTER C. PLANNING AND REPORTING REQUIREMENTS

Sec. 2161.121. REPORT OF CONTRACTS AWARDED TO HISTORICALLY UNDERUTILIZED BUSINESSES. (a) The comptroller shall prepare a consolidated report that:

(1) includes the number and dollar amount of contracts awarded and paid to historically underutilized businesses certified by the comptroller;

(2) analyzes the relative level of opportunity for historically underutilized businesses for various categories of acquired goods and services; and

(3) tracks, by vendor identification number and, to the extent allowed by federal law, by social security number, the graduation rates for historically underutilized businesses that grew to exceed the size standards determined by the comptroller.

(b) Each state agency shall send to the comptroller information required by Section 2161.122 and other information required by the comptroller for the preparation of the comptroller's report not later than March 15 and September 15 of each year.

(c) The comptroller shall base its report on the compilation and analysis of reports received under Subsection (b) and other information maintained or received by the comptroller.

(d) The comptroller shall send to the presiding officer of each house of the legislature:

(1) on May 15 of each year, a report on the previous six-month period; and

(2) on November 15 of each year, a report on the preceding fiscal year.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 2.07, eff. Sept. 1, 1999.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 19, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 22(4), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 99(22), eff. September 1, 2013.

Reenacted and amended by Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 90, eff. September 1, 2019.

Sec. 2161.122. INFORMATION GATHERING BY STATE AGENCY. (a) To ensure accuracy in reporting, a state agency shall maintain and compile monthly information relating to the use by the agency and each of its operating divisions of historically underutilized businesses, including information regarding subcontractors and suppliers required by Subsection (b).

(b) A contractor or supplier awarded a contract by a state agency shall report to the agency the identity of each historically underutilized business to whom the contractor or supplier awarded a subcontract for the purchase of goods or services.

(c) Each state agency shall report to the comptroller in accordance with Section 2161.125 the following information with regard to the expenditure of both treasury and nontreasury funds:

(1) the total dollar amount of purchases and payments made under contracts awarded to historically underutilized businesses;

(2) the number of businesses participating in any issuance of state bonds by the agency;

(3) the number of contracts awarded to businesses with regard to the agency's acquisition, construction, or equipping of a

facility or implementation of a program; and

(4) the number of bids, proposals, or other applicable expressions of interest made by historically underutilized businesses with regard to the agency's acquisition, construction, or equipping of a facility or implementation of a program.

(d) A state agency participating in a group purchasing program shall send to the comptroller in the agency's report under Section 2161.121 a separate list of purchases from historically underutilized businesses that are made through the group purchasing program, including the dollar amount of each purchase allocated to the reporting agency.

(e) A state agency's report is a record of the agency's purchases for which the agency selected the vendor. If the vendor was selected by the comptroller as part of its state contract program, the comptroller shall include the purchase in the comptroller's report of its own purchases unless the comptroller made a sole source purchase for the agency under Section 2155.067. The state agency for which the purchase was made shall report the selection of the vendor on its report as if the agency selected the vendor when the agency drew specifications for goods or services that are proprietary to one vendor.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 1.24, eff. Sept. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 91, eff. September 1, 2019.

Sec. 2161.123. STRATEGIC PLANNING. (a) Each state agency, including the comptroller, that is required to have a strategic plan under Chapter 2056 shall include in its strategic plan a written plan for increasing the agency's use of historically underutilized businesses in purchasing and public works contracting. The governing board of each university system or institution of higher education not included in a university system, other than a public junior college, shall prepare a written plan for increasing the use of historically underutilized businesses in purchasing and public works contracting by the system or institution.

(b) The plan must include:

(1) a policy or mission statement relating to increasing the use of historically underutilized businesses by the state agency;

(2) goals to be met by the agency in carrying out the policy or mission; and

(3) specific programs to be conducted by the agency to meet the goals stated in the plan, including a specific program to encourage contractors to use historically underutilized businesses as partners and subcontractors.

(c) On request, the comptroller shall provide technical assistance to a state agency that is preparing its plan.

(d) The comptroller and the state auditor shall cooperate to develop procedures providing for random periodic monitoring of state agency compliance with this section. The state auditor shall report to the comptroller a state agency that is not complying with this section. In determining whether a state agency is making a good faith effort to comply, the state auditor shall consider whether the agency:

(1) has adopted rules under Section 2161.003;

(2) has used the comptroller's directory under Section 2161.064 and other resources to identify historically underutilized businesses that are able and available to contract with the agency;

(3) made good faith, timely efforts to contact identified historically underutilized businesses regarding contracting opportunities;

(4) conducted its procurement program in accordance with the good faith effort methodology set out in comptroller rules; and

(5) established goals for contracting with historically underutilized businesses in each procurement category based on:

(A) scheduled fiscal year expenditures; and

(B) the availability of historically underutilized businesses in each category as determined by rules adopted under Section 2161.002.

(e) In conducting an audit of an agency's compliance with this section or an agency's making of a good faith effort to implement the plan adopted under this section, the state auditor shall consider the success or failure of the agency to contract with historically underutilized businesses in accordance with the agency's goals described by Subsection (d)(5).

(f) If the state auditor reports to the comptroller that a

state agency is not complying with this section, the comptroller shall assist the agency in complying.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 1.25, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 785, Sec. 36, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1266, Sec. 4.08, eff. June 20, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.23, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 92, eff. September 1, 2019.

Sec. 2161.124. STATE AGENCY PROGRESS REPORTS. (a) Each state agency, including the comptroller, shall prepare a report for each fiscal year documenting progress under its plan for increasing use of historically underutilized businesses.

(b) The comptroller shall develop a standard form for the report.

(c) The state agency shall file the report with the governor, lieutenant governor, and the speaker of the house of representatives not later than December 31 of each year.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 785, Sec. 37, eff. Sept. 1, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 93, eff. September 1, 2019.

Sec. 2161.125. CATEGORIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES. The comptroller, in cooperation with each state agency reporting under this subchapter, shall categorize each historically underutilized business included in a report under this subchapter by sex, race, and ethnicity and by whether the business qualifies as a historically underutilized business because it is owned or owned, operated, and controlled, as applicable, wholly or partly by one or more veterans as defined by 38 U.S.C. Section 101(2) who have suffered at least a 20 percent service-connected disability as

defined by 38 U.S.C. Section 101(16).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.24, eff. September 1, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 1255 (H.B. 194), Sec. 3, eff. September 1, 2013.

Sec. 2161.126. EDUCATION AND OUTREACH. Before October 15 of each year, the comptroller shall report to the governor, the lieutenant governor, and the speaker of the house of representatives on the education and training efforts that the comptroller has made toward historically underutilized businesses. The report must include the following as related to historically underutilized businesses:

(1) the comptroller's vision, mission, and philosophy;

(2) marketing materials and other educational materials distributed by the comptroller;

(3) the comptroller's policy regarding education, outreach, and dissemination of information;

(4) goals that the comptroller has attained during the fiscal year;

(5) the comptroller's goals, objectives, and expected outcome measures for each outreach and education event; and

(6) the comptroller's planned future initiatives on education and outreach.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 2.09, eff. Sept. 1, 1999.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 48 (H.B. 2472), Sec. 20, eff. September 1, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 94, eff. September 1, 2019.

Sec. 2161.127. LEGISLATIVE APPROPRIATIONS REQUESTS. (a) Each state agency must include as part of its legislative appropriations request a detailed report for consideration by the budget committees

of the legislature that shows the extent to which the agency complied with this chapter and rules of the comptroller adopted under this chapter during the two calendar years preceding the calendar year in which the request is submitted. To the extent the state agency did not comply, the report must demonstrate the reasons for that fact. The extent to which a state agency complies with this chapter and rules of the comptroller adopted under this chapter is considered a key performance measure for purposes of the appropriations process.

(b) The report under Subsection (a) must include:

(1) the agency's goals established under Section 2161.123(d)(5) for contracting with historically underutilized businesses during the two calendar years preceding the calendar year in which the request is submitted;

(2) a statement regarding whether the goals established under Section 2161.123(d)(5) were met during the two calendar years preceding the calendar year in which the request is submitted; and

(3) if the goals established under Section 2161.123(d)(5) were not met during the two calendar years preceding the calendar year in which the request is submitted:

(A) a statement of the percentage by which the agency's actual use of historically underutilized businesses deviated from the agency's goals; and

(B) an explanation of why the goals were not met.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 2.09, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.25, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 95, eff. September 1, 2019.

SUBCHAPTER D. PURCHASING GOALS

Sec. 2161.181. GOALS FOR PURCHASES OF GOODS AND SERVICES. A state agency, including the comptroller, shall make a good faith effort to increase the contract awards for the purchase of goods or services that the agency expects to make during a fiscal year to historically underutilized businesses based on rules adopted by the comptroller to implement the disparity study described by Section

2161.002(c).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 1.26, eff. Sept. 1, 1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 96, eff. September 1, 2019.

Sec. 2161.182. GOALS FOR CONSTRUCTION CONTRACTS. (a) A state agency that contracts for a construction project, including a project under Section 2166.003, shall make a good faith effort to increase the construction contract awards that the agency expects to make during a fiscal year to historically underutilized businesses based on rules adopted by the comptroller to implement the disparity study described by Section 2161.002(c).

(b) In this section, "project" has the meaning assigned by Section 2166.001.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 1.27, eff. Sept. 1, 1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 97, eff. September 1, 2019.

Sec. 2161.183. ESTIMATE OF EXPECTED CONTRACT AWARDS. (a) Not later than the 60th day of its fiscal year, a state agency, including the comptroller:

(1) shall estimate the total value of contract awards the agency expects to make for that fiscal year that are subject to Section 2161.181; and

(2) shall estimate the total value of contract awards the agency expects to make for that fiscal year under Chapter 2166.

(b) The state agency may revise an estimate as new information requires.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 98, eff. September 1, 2019.

SUBCHAPTER E. PENALTY

Sec. 2161.231. PENALTY. (a) A person commits an offense if the person:

(1) intentionally applies as a historically underutilized business for an award of a purchasing contract or public works contract under this subtitle; and

(2) knows the person is not a historically underutilized business.

(b) An offense under this section is a third degree felony.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER F. SUBCONTRACTING

Sec. 2161.251. APPLICABILITY. (a) This subchapter applies to all contracts entered into by a state agency with an expected value of $100,000 or more, including:

(1) contracts for the acquisition of a good or service; and

(2) contracts for or related to the construction of a public building, road, or other public work.

(b) This subchapter applies to the contract without regard to:

(1) whether the contract is otherwise subject to this subtitle; or

(2) the source of funds for the contract, except that to the extent federal funds are used to pay for the contract, this subchapter does not apply if federal law prohibits the application of this subchapter in relation to the expenditure of federal funds.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 2.10, eff. Sept. 1, 1999.

Sec. 2161.252. AGENCY DETERMINATION REGARDING SUBCONTRACTING OPPORTUNITIES; BUSINESS SUBCONTRACTING PLAN. (a) Each state agency that considers entering into a contract with an expected value of $100,000 or more shall, before the agency solicits bids, proposals,

offers, or other applicable expressions of interest for the contract, determine whether there will be subcontracting opportunities under the contract. If the state agency determines that there is that probability, the agency shall require that each bid, proposal, offer, or other applicable expression of interest for the contract include a historically underutilized business subcontracting plan.

(b) When a state agency requires a historically underutilized business subcontracting plan under Subsection (a), a bid, proposal, offer, or other applicable expression of interest for the contract must contain a plan to be considered responsive.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 2.10, eff. Sept. 1, 1999.

Sec. 2161.253. GOOD FAITH COMPLIANCE WITH BUSINESS SUBCONTRACTING PLAN. (a) When a state agency requires a historically underutilized business subcontracting plan under Section 2161.252, the awarded contract shall contain, as a provision of the contract that must be fulfilled, the plan that the contractor submitted in its bid, proposal, offer, or other applicable expression of interest for the contract. The contractor shall make good faith efforts to implement the plan. A contractor's participation in a mentor-protege program under Section 2161.065 and submission of a protege as a subcontractor in the contractor's historically underutilized business subcontracting plan constitutes a good faith effort under this section for the particular area of the subcontracting plan involving the protege.

(b) To the extent that subcontracts are not contracted for as originally submitted in the historically underutilized business subcontracting plan, the contractor shall report to the state agency all the circumstances that explain that fact and describe the good faith efforts made to find and subcontract with another historically underutilized business.

(c) The state agency shall audit the contractor's compliance with the historically underutilized business subcontracting plan. In determining whether the contractor made the required good faith effort, the agency may not consider the success or failure of the contractor to subcontract with historically underutilized businesses in any specific quantity. The agency's determination is restricted

to considering factors indicating good faith.

(d) If a determination is made that the contractor failed to implement the plan in good faith, the agency, in addition to any other remedies, may bar the contractor from further contracting opportunities with the agency.

(e) The comptroller shall adopt rules to administer this subchapter.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 2.10, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 13.02, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 99, eff. September 1, 2019.

CHAPTER 2163. COMMERCIALLY AVAILABLE ACTIVITIES

Sec. 2163.001. REVIEW PROCESS. (a) The comptroller shall develop a systematic review process to identify commercially available services being performed by the comptroller and study the services to determine if they may be better provided by other state agency providers of the services or private commercial sources.

(b) In reviewing its services, the comptroller shall:

(1) determine whether competitive vendors exist in the private sector;

(2) compare the cost of contracting for the services from other state agency providers of the services or private commercial sources to the comptroller's cost of performing the services; and

(3) document cost savings from contracting for the services from other state agency providers of the services or private commercial sources.

(c) Each commercially available service performed by the comptroller shall be reviewed at least once every six years.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 6.01, eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 24 (S.B. 706), Sec. 7(6), eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 100, eff. September 1, 2019.

Sec. 2163.0011. COMPTROLLER POWERS AND DUTIES. The comptroller has under this chapter the powers and duties described by Section 2151.004(d).

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.29, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 100, eff. September 1, 2019.

Sec. 2163.0012. AUTHORITY TO ADOPT RULES. The comptroller may adopt rules to efficiently and effectively administer this chapter. Before adopting a rule under this section, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b) are met.

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.29, eff. September 1, 2007.

Sec. 2163.002. COST COMPARISON AND CONTRACT CONSIDERATIONS. (a) The comptroller shall consider all of its direct and indirect costs in determining the cost of providing a service.

(b) In comparing the cost of providing a service, the comptroller must include the:

(1) cost of supervising the work of a private contractor; and

(2) cost to the state of the comptroller's performance of the service, including:

(A) the costs of the office of the attorney general and other support agencies; and

(B) other indirect costs related to the comptroller's performance of the service.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 6.01, eff. Sept. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 100, eff.

September 1, 2019.

Sec. 2163.003. CONTRACTING WITH ANOTHER STATE AGENCY OR PRIVATE SOURCE. (a) If the comptroller determines that a service can be performed with a comparable or better level of quality at a savings to the state of at least 10 percent by using other state agency providers of the service or a private commercial source, the comptroller may contract with other state agency providers of the services or private commercial sources for the service.

(b) The comptroller maintains responsibility for providing a contracted service and shall set measurable performance standards for a contractor.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 6.01, eff. Sept. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 100, eff. September 1, 2019.

Sec. 2163.004. PROHIBITION. The comptroller may not begin providing a service the General Services Commission did not provide as of September 1, 2001, unless, after conducting an in-depth analysis on cost in accordance with Section 2163.002 and on availability of a service, the comptroller determines that it can perform the service at a higher level of quality or at a lower cost than other state agency providers of the service or private commercial sources.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 6.01, eff. Sept. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 100, eff. September 1, 2019.

CHAPTER 2165. STATE BUILDINGS, GROUNDS, AND PROPERTY

SUBCHAPTER A. CHARGE AND CONTROL OF STATE BUILDINGS AND PROPERTY

Sec. 2165.001. CUSTODIANSHIP OF STATE PROPERTY. (a) The commission:

(1) has charge and control of all public buildings, grounds, and property;

(2) is the custodian of all state personal property; and

(3) is responsible for the proper care and protection of state property from damage, intrusion, or improper use.

(b) The commission may:

(1) allocate space in a public building to the departments of state government for uses authorized by law; and

(2) make repairs to a public building necessary to accommodate uses of the space in the building.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 9.0195(b), eff. Sept. 1, 2003.

Sec. 2165.0011. DEFINITION. In this chapter, "commission" means the Texas Facilities Commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.30, eff. September 1, 2007.

Sec. 2165.0012. AUTHORITY TO ADOPT RULES. The commission may adopt rules to efficiently and effectively administer this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.30, eff. September 1, 2007.

Sec. 2165.002. EXCEPTIONS TO COMMISSION CHARGE AND CONTROL. The provisions of Section 2165.001 relating to charge and control of public buildings and grounds do not apply to buildings and grounds of:

(1) an institution of higher education, as defined by Section 61.003, Education Code;

(2) a state agency to which control has been specifically committed by law; and

(3) a state agency:

(A) that has demonstrated ability and competence to maintain and control its buildings and grounds; and

(B) to which the commission delegates that authority.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 9.0195(c), eff. Sept. 1, 2003.

Sec. 2165.003. ALLOCATION OF SPACE AFFECTING LEGISLATURE. The allocation of space affecting the quarters of either house of the legislature must have the approval of the speaker of the house of representatives or the lieutenant governor. The required approval is for the quarters allocated to the affected house.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.004. LEASE OF SPACE TO PUBLIC TENANTS IN CERTAIN STATE-OWNED BUILDINGS. (a) The commission may enter into a lease agreement with a department, commission, board, agency, or other instrumentality of the state, a political subdivision of the state, or the federal government or its instrumentalities for space in an office building subject to Chapter 2166. Except as provided by Subchapter E or other law, the commission may not lease space in the building to an individual, private corporation, association, partnership, or other private interest.

(b) The commission may adopt rules necessary to implement this section.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.005. NAMING OF STATE BUILDINGS. (a) This section prescribes the procedure for naming a building owned by this state, including a building financed under Chapter 1232.

(b) The commission shall submit names proposed for a new state building to be used as a state or regional headquarters by a state agency, or proposals to rename an existing state building which is used as a state or regional headquarters by a state agency, to the presiding officers of the house of representatives and the senate.

(c) The name proposed by the commission for a state building to be used as a state or regional headquarters by a state agency may be

approved and authorized only by concurrent resolution passed by the legislature and signed by the governor.

(d) The commission shall submit names proposed for a state building which will be used as a local headquarters by a state agency to the presiding officers of the house of representatives and the senate and the members of each body in whose district the building is located.

(e) The name proposed by the commission for a state building to be used as a local headquarters by a state agency may be approved and authorized only with the consent of the governor and the presiding officers of the house of representatives and the senate.

(f) A building that will be used as a state or regional headquarters for a state agency, other than a university building, a secure correctional facility operated by the Texas Juvenile Justice Department, or a prison, may bear the name of a person only if the person is deceased and was significant in the state's history.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 658, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 8.240, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1422, Sec. 14.12, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 113, eff. September 1, 2015.

Sec. 2165.006. DISPLAY OF POW/MIA FLAG. (a) In this section, "POW/MIA flag" means the National League of Families POW/MIA flag identified by 36 U.S.C. Section 902.

(b) The POW/MIA flag shall be displayed at each state office building on:

(1) the third Saturday in May, "Armed Forces Day";
(2) the last Monday in May, "Memorial Day";
(3) the 14th day of June, "Flag Day";
(4) the fourth day of July, "Independence Day";
(5) the 11th day of November, "Veterans Day"; and
(6) "National POW/MIA Recognition Day."

Added by Acts 1999, 76th Leg., ch. 589, Sec. 1, eff. June 18, 1999.

Sec. 2165.0065. DISPLAY OF HONOR AND REMEMBER FLAG. (a) In this section, "Honor and Remember flag" means the Honor and Remember, Inc., flag.

(b) The Honor and Remember flag may be displayed at each state office building, at the State Cemetery under Section 2165.256, and at each veterans cemetery managed by the Veterans' Land Board on:

(1) the third Saturday in May, "Armed Forces Day";

(2) the last Monday in May, "Memorial Day";

(3) the last Sunday in September, "Gold Star Mother's Day";

(4) the 11th day of November, "Veterans Day"; and

(5) any date on which a resident of this state is killed while serving on active duty in the armed forces of the United States.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1205 (S.B. 1373), Sec. 1, eff. June 14, 2013.

Sec. 2165.007. FACILITIES MANAGEMENT SERVICES. (a) In this section, "facilities management services" means any state agency facilities management service that is not unique to carrying out a program of the agency. The term includes services related to facilities construction, facilities management, general building and grounds maintenance, cabling, and facility reconfiguration.

(b) Notwithstanding any other law, the commission shall provide facilities management services in relation to all state agency facilities in Travis County or a county adjacent to Travis County. The commission's duty does not apply to:

(1) a facility owned or operated by an institution of higher education;

(2) military facilities;

(3) facilities owned or operated by the Texas Department of Criminal Justice;

(4) facilities owned or operated by the Texas Juvenile Justice Department;

(5) facilities owned or operated by the Texas Department of Transportation;

(6) the Capitol, including the Capitol Extension, the General Land Office building, the Bob Bullock Texas State History Museum, any museum located on the Capitol grounds, the Governor's

Mansion, and any property maintained by the Texas Historical Commission under Sections 442.0072 and 442.0073;

(7) a facility determined by the commission to be completely residential;

(8) a regional or field office of a state agency;

(9) a facility located within or on state park property;

(10) the property known as the Finance Commission Building described by deed recorded in Volume 5080, Page 1099, of the Deed Records of Travis County, Texas;

(11) the property known as the Credit Union Department Building described by deed recorded in Volume 6126, Page 27, of the Deed Records of Travis County, Texas;

(12) the property known as the Texas State Cemetery described as 17.376 acres located at 801 Comal, Lot 5, Division B, City of Austin, Travis County, Texas; or

(13) facilities owned or operated by the Texas Department of Motor Vehicles.

Added by Acts 2003, 78th Leg., ch. 309, Sec. 2.01, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 898 (H.B. 2621), Sec. 3, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 28(h), eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 8, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1358 (S.B. 1457), Sec. 3, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 247 (S.B. 836), Sec. 3, eff. May 29, 2015.

Acts 2015, 84th Leg., R.S., Ch. 932 (H.B. 2206), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 215 (S.B. 1349), Sec. 1, eff. May 28, 2017.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 8.014, eff. September 1, 2017.

Sec. 2165.008. TEMPORARY USE OF STATE BUILDING OR GROUNDS BY

TELEVISION OR FILM PRODUCTION COMPANY. (a) In this section:

(1) "Office" means the Music, Film, Television, and Multimedia Office.

(2) "Production company" means a film production company, television production company, or film and television production company.

(b) A state agency or other state governmental entity shall allow a production company to use any state building or grounds under the agency's or other entity's charge and control to produce a film, national broadcast, episodic television series, or commercial that is approved by the office and the agency or other entity under Subsection (c).

(c) The office shall review each proposal by a production company to use a state building or grounds. The office may approve a proposal, subject to the final approval of the state agency or other state governmental entity that occupies the building or uses the grounds, if:

(1) the office and the state agency or other state governmental entity that occupies the building or uses the grounds determine, after the office consults with each agency or entity, that the use will not significantly interfere with the conduct of state business;

(2) the production company provides a certificate of insurance covering the production:

(A) in an amount required by the office; and

(B) that names the state as an insured; and

(3) the proposal is to produce:

(A) a film, national broadcast, or episodic television series with a total production cost of $250,000 or more; or

(B) a commercial with a total production cost of $100,000 or more.

(d) The office shall supervise each use of a state building or grounds by a production company subject to the control and final authority of the state agency or other state governmental entity that occupies the building or uses the grounds.

(e) The office shall determine the fee to be charged for each day that a state building or grounds are used by a production company. The office may allow each state building or grounds to be used without charge, other than the reimbursement of expenses under Subsection (f), for seven days during each state fiscal year and may

determine the allocation of those days. Fees collected under this subsection shall be deposited to the credit of the general revenue fund.

(f) The production company shall reimburse:

(1) a state agency or other state governmental entity for any cost incurred by the agency or other entity as a result of the use of a state building or grounds by the company; and

(2) the state agency or other state governmental entity having charge and control of a state building or grounds for the cost of repairing damage to the building or grounds resulting from use by the company.

(g) A state agency or other state governmental entity shall notify the production company in writing of any cost subject to reimbursement under Subsection (f). The production company shall reimburse the cost not later than the 21st day after the date on which it receives notice from the agency or other entity.

Added by Acts 2007, 80th Leg., R.S., Ch. 57 (H.B. 374), Sec. 1, eff. September 1, 2007.

Sec. 2165.009. ENERGY-EFFICIENT LIGHT BULBS IN STATE BUILDINGS. A state agency or institution of higher education in charge and control of a state building shall purchase for use in each type of light fixture in the building the commercially available model of light bulb that:

(1) uses the fewest watts for the necessary luminous flux or light output; and

(2) is compatible with the light fixture.

Added by Acts 2007, 80th Leg., R.S., Ch. 939 (H.B. 3693), Sec. 6, eff. September 1, 2007.
Renumbered from Government Code, Section 2165.008 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(46), eff. September 1, 2009.

SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION

Sec. 2165.051. INSPECTION OF STATE PROPERTY. (a) The commission shall frequently and at regular intervals inspect all public buildings and property to remain constantly informed of the

condition of the buildings and property.

(b) The commission may inspect the buildings, property in the buildings, and other property under the State Preservation Board's control only at the board's request. The commission shall report to the board the results of an inspection. Restoration and repairs may be made only:

(1) at the board's direction; and

(2) by a contractor or agency chosen by the board.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 9.0195(d), eff. Sept. 1, 2003.

Sec. 2165.052. REPAIR AND IMPROVEMENT OF STATE BUILDINGS. On direction of the commission's attention to a needed improvement or repair of a building or office by the head of a department or office, the commission shall provide for and direct the repair or improvement.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.053. MAINTENANCE OF SEWERS AND UTILITY CONDUITS. The commission shall give special attention to the effective maintenance of sewers and utility conduits.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.054. PLANS OF PUBLIC BUILDINGS. The commission shall prepare and keep in its offices a copy of the plans of each public building under its charge, and plans of each building's improvements, showing the exact location of all electrical wiring and all water, gas, and sewage pipes.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 9.0195(e), eff. Sept. 1, 2003.

Sec. 2165.056. POWERS IN RELATION TO OTHER AGENCY PROPERTY. (a) The commission may, at a state agency's request, exercise the powers and duties given to the commission by this subchapter and Subchapters A, D, E, and F, on or with respect to any property owned or leased by the state.

(b) Services provided by the commission under this section are not subject to Chapter 771.

(c) The commission shall establish a system of charges for providing services under this section to assure recovery of the cost of providing the services and shall submit a purchase voucher or journal voucher after the close of each month to agencies for which services were performed.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.057. MANAGEMENT OF FACILITIES. (a) The commission shall develop and implement policies that clearly define the responsibilities of the commission and the commission's staff that relate to conducting facilities management services for state agency facilities under Section 2165.007.

(b) The state energy conservation office shall provide utility management services for state agency facilities for which the commission provides facilities management services under Section 2165.007.

Added by Acts 2003, 78th Leg., ch. 309, Sec. 2.02, eff. June 18, 2003.

Sec. 2165.058. VENDING MACHINES; ENERGY-SAVING DEVICE REQUIRED. (a) This section does not apply to a vending machine that contains a perishable food product, as defined by Section 96.001, Civil Practice and Remedies Code.

(b) The commission shall require an entity that owns or operates a vending machine located in a building owned or leased by the state to activate and maintain any internal energy-saving or energy-management device or option that is already part of the machine or contained in the machine.

(c) The commission shall require the use of an external energy-saving or energy-management device for each vending machine that:

(1) is located in a building owned or leased by the state;

(2) operates with a compressor; and

(3) does not have an activated and operational internal energy-saving or energy-management device or option.

(d) An entity that owns or operates a vending machine subject to this section is responsible for any expenses associated with the acquisition, installation, or maintenance of an energy-saving device required by this section.

(e) The commission may impose an administrative fine on an entity that operates a vending machine subject to this section in an amount not to exceed $250 a year for each machine found to be in violation of this section or rules adopted by the commission under this section.

(f) The commission shall adopt rules relating to the specifications for and regulation of energy-saving devices required by this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 939 (H.B. 3693), Sec. 7, eff. September 1, 2007.

SUBCHAPTER C. ALLOCATION OF SPACE

Sec. 2165.101. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to space to which, under Section 2167.001, Chapter 2167 applies.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.102. COMMISSION STANDARDS FOR SPACE. The commission shall adopt standards regarding state agencies':

(1) use of space; and

(2) needs for space, including types of space needed.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.103. CHILD CARE FACILITY STANDARDS. (a) The commission, in consultation with the Child Care Advisory Committee, shall by rule adopt standards regarding the type, size, and location of child care services that may be needed by a state agency based on

an agency's location and employee demographics.

(b) The commission shall apply standards adopted under this section in fulfilling the commission's responsibilities relating to the establishment of child care facilities.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 761, Sec. 7, eff. Sept. 1, 2001.

Sec. 2165.104. SPACE USE STUDY; LIMITATION ON ALLOCATION OF SPACE. (a) The commission periodically shall study the space requirements of state agencies that occupy space under the commission's charge and control, including state-owned space and space leased from other sources.

(b) The commission shall use the results of the study to:

(1) determine the optimal amount of space required for various state agency uses; and

(2) allocate space to state agencies in the best and most efficient manner possible.

(c) The commission shall adopt rules consistent with private sector standards and industry best practices to govern the allocation of space. The commission shall exempt from the space allocation rules adopted under this subsection:

(1) an agency site at which there are so few employees that it is not practical to apply the rules adopted under this subsection to that site; and

(2) an agency site at which it is not practical to apply the rules adopted under this subsection because of the site's type of space or use of space.

(d) The commission shall conduct a study under this section at least once each state fiscal biennium.

(e) This section does not apply to space that is not occupied by a state agency as defined by Section 2151.002.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 1.28, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 309, Sec. 5.01, eff. June 18, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 155 (H.B. 2379), Sec. 1, eff. September 1, 2005.

Sec. 2165.105. STATE AGENCY REQUEST FOR SPACE; COMMISSION DETERMINATIONS. (a) The head of a state agency or that person's designee shall send to the commission a written request for space the agency needs to perform its functions. A state agency may consider the need of its employees for child care services in its request for space.

(b) After consulting the state agency regarding the amount and type of space requested, the commission shall determine:

(1) whether a need for the space exists; and

(2) specifications for needed space.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.106. SHARING SPACE. The commission may:

(1) consolidate requests for space of two or more state agencies with similar needs; and

(2) obtain and allocate space so that it is shared by the agencies.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.1061. SPACE ALLOCATION PLANS; TRANSITION PLANS. (a) In this section:

(1) "Administrative office space" includes state-owned administrative office space and administrative office space leased by the state from other sources, but does not include space used by a health and human services agency as defined by Section 2167.004 for the delivery of direct client services or space located in a county with a population of 75,000 or less.

(2) "State agency" means a department, commission, board, office, or other agency in the executive branch of state government created by the state constitution or a state statute, but does not include a university system or an institution of higher education as defined by Section 61.003, Education Code.

(b) The commission shall study the space requirements of state agencies that occupy administrative office space. Each state agency shall conduct an on-site space analysis and develop a space allocation plan using rules developed by the commission. The space allocation plan shall identify usable and exempt space and shall

specify whether each facility occupied by the state agency meets the requirements of Section 2165.104(c). Each state agency shall submit a copy of its space allocation plan to the commission not later than September 30 of each odd-numbered year.

(c) Based on a review of space allocation plans, the commission shall:

(1) identify areas of the state in which more than one state agency occupies administrative office space and that have the greatest potential for cost savings; and

(2) evaluate the feasibility of colocating administrative office space within the same local labor market as defined by Section 2308.002.

(d) The commission, in cooperation with affected state agencies, shall develop transition plans to implement the colocation of administrative office space. Each plan must include a detailed statement of the costs and benefits of the proposed colocation.

(e) The commission shall use the transition plans to colocate certain administrative office space of state agencies.

(f) Repealed by Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(2), eff. September 1, 2019.

(g) The commission shall study the potential for colocating the administrative office space of a state agency with the office space of a federal agency.

(h) Repealed by Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(2), eff. September 1, 2019.

Added by Acts 1997, 75th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 52, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1203 (S.B. 1455), Sec. 16, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(2), eff. September 1, 2019.

Sec. 2165.107. PREFERENCES IN ASSIGNING SPACE. (a) In filling a request for space, the commission shall give preference to available state-owned space.

(b) In assigning office space in a state building financed from

bond proceeds, the commission shall give first priority to a state agency that is not funded from general revenue.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.108. RULES. The commission shall adopt rules necessary to administer its functions under this subchapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. LEASE OF PUBLIC GROUNDS

Sec. 2165.151. AUTHORITY TO LEASE PUBLIC GROUNDS. All public grounds belonging to the state under the commission's charge and control may be leased for agricultural or commercial purposes.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.152. LEASE OF BUILDING SPACE NOT AFFECTED. This subchapter does not apply to space in a building that the commission may lease to a private tenant under Subchapter E.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.153. ADVERTISEMENT OF LEASE PROPOSALS. The commission shall advertise a lease proposal under this subchapter once a week for four consecutive weeks in at least two newspapers, one of which is published in the municipality in which the property is located or in the daily paper nearest to the property, and the other of which has statewide circulation.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.155. APPROVAL BY ATTORNEY GENERAL. Each lease under this subchapter is subject to the approval of the attorney general regarding both substance and form.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.156. DEPOSIT OF LEASE PROCEEDS. Money received from a lease under this subchapter, minus the amount spent for advertising and leasing expenses, shall be deposited:

(1) in the state treasury to the credit of the general revenue fund; or

(2) if the land leased belongs to an eleemosynary institution for which there is an appropriate special fund, to the credit of the institution in the appropriate special fund.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.157. FORMS, RULES, AND CONTRACTS. The commission shall adopt proper forms, rules, and contracts that will in its best judgment protect the interest of the state.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.158. REJECTION OF BIDS. The commission may reject any and all bids under this subchapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. LEASE OF SPACE IN STATE-OWNED BUILDINGS TO PRIVATE TENANTS

Sec. 2165.201. PURPOSE OF SUBCHAPTER. The purpose of this subchapter is to:

(1) encourage the most efficient use of valuable space in state office buildings and parking garages;

(2) serve the needs of employees and visitors in the buildings;

(3) provide child care services for state employees; and

(4) enhance the social, cultural, and economic environment in and near the buildings.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.202. APPLICABILITY. This subchapter applies only to the lease of space in a state-owned building to a private tenant.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.203. LEASE; FAIR MARKET VALUE. In a state-owned building that is under the commission's control and that is used primarily for office space or vehicle parking for state government, the commission may lease at fair market value space to private tenants for commercial, cultural, educational, or recreational activities.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.2035. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; PRIVATE COMMERCIAL USE. (a) In this section, "lease" includes a management agreement.

(b) The commission shall develop private, commercial uses for state-owned parking lots and garages located in the city of Austin at locations the commission determines are appropriate for commercial uses outside of regular business hours.

(c) The commission may contract with a private vendor to manage the commercial use of state-owned parking lots and garages.

(d) Money received from a lease under this program shall be deposited to the credit of the general revenue fund.

(d-1) From the money received under Subsection (d), an amount equal to the costs associated with the lease of state parking lots and garages, including costs of trash collection and disposal, grounds and other property maintenance, and the remedying of any damage to state property, may be appropriated only to the commission to pay those costs.

Without reference to the amendment of this subsection, this subsection was repealed by Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 99(23), eff. September 1, 2013.

(e) On or before December 1 of each even-numbered year, the commission shall electronically submit a report to the legislature and the Legislative Budget Board describing the effectiveness of the program under this section.

(f) The limitation on the amount of space allocated to private tenants prescribed by Section 2165.205(b) does not apply to the lease of a state-owned parking lot or garage under this section.

(g) Any lease of a state-owned parking lot or garage under this section must contain a provision that allows state employees who work hours other than regular working hours under Section 658.005 to retain their parking privileges in a state-owned parking lot or garage. Such a lease must also provide that any state employee showing a State of Texas employee identification card is permitted to park in any state-owned parking lot or garage free of charge after normal business hours and on weekends. The foregoing provision does not apply to a lease to an institution of higher education under which all spaces in a parking lot or garage are leased for a time certain if parking in an alternate state-owned parking lot or garage is available to state employees.

(h) Nonprofit, charitable, and other community organizations may apply to use state parking lots and garages located in the city of Austin in the area bordered by West Fourth Street, Lavaca Street, West Third Street, and Nueces Street free of charge or at a reduced rate. The executive director of the commission shall develop a form to be used to make such applications. The form shall require information related to:

(1) the dates and times of the free use requested;

(2) the nature of the applicant's activities associated with the proposed use of state parking lots and garages; and

(3) any other information determined by the executive director of the commission to be necessary to evaluate an application.

(i) To be considered timely, an application must be submitted at least one month before the proposed use, unless this provision is waived by the executive director of the commission.

(j) The executive director of the commission may approve or reject an application made under Subsection (h).

Added by Acts 2003, 78th Leg., ch. 309, Sec. 3.01, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1183 (S.B. 1533), Sec. 1, eff. June 18, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 910 (S.B. 1068), Sec. 1, eff.

June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 10, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 99(23), eff. September 1, 2013.

Sec. 2165.204. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; PRIVATE INDIVIDUAL USE OF EXCESS INDIVIDUAL PARKING SPACES. (a) The commission may lease to a private individual an individual parking space in a state-owned parking lot or garage located in the city of Austin if the commission determines the parking space to be in excess of the number of parking spaces sufficient to accommodate the regular parking requirements of state employees employed near the lot or garage and visitors to nearby state government offices.

(b) Money received from a lease under this section shall be deposited to the credit of the general revenue fund.

(c) In leasing a parking space under Subsection (a), the commission must ensure that the lease does not restrict uses for parking lots and garages developed under Section 2165.2035, including special event parking related to institutions of higher education.

(d) In leasing or renewing a lease for a parking space under Subsection (a), the commission shall give preference to an individual who is currently leasing or previously leased the parking space.

Added by Acts 2011, 82nd Leg., R.S., Ch. 910 (S.B. 1068), Sec. 2, eff. June 17, 2011.

Sec. 2165.2045. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; CERTAIN GOVERNMENTAL ENTITIES' USE OF EXCESS BLOCKS OF PARKING SPACE. (a) The commission may lease to an institution of higher education or a local government all or a significant block of a state-owned parking lot or garage located in the city of Austin if the commission determines the parking spaces located in the lot or garage to be in excess of the number of parking spaces sufficient to accommodate the regular parking requirements of state employees employed near the lot or garage and visitors to nearby state government offices.

(b) Money received from a lease under this section shall be

deposited to the credit of the general revenue fund.

(c) In leasing all or a block of a state-owned parking lot or garage under Subsection (a), the commission must ensure that the lease does not restrict uses for parking lots and garages developed under Section 2165.2035, including special event parking related to institutions of higher education.

(d) In leasing or renewing a lease for all or a block of a state-owned parking lot or garage under Subsection (a), the commission shall give preference to an entity that is currently leasing or previously leased the lot or garage or a block of the lot or garage.

Added by Acts 2011, 82nd Leg., R.S., Ch. 910 (S.B. 1068), Sec. 2, eff. June 17, 2011.

Sec. 2165.2046. REPORTS ON PARKING PROGRAMS. On or before December 1 of each even-numbered year, the commission shall electronically submit a report to the legislature and Legislative Budget Board describing the effectiveness of parking programs developed by the commission under this subchapter. The report must, at a minimum, include:

(1) the yearly revenue generated by the programs;

(2) the yearly administrative and enforcement costs of each program;

(3) yearly usage statistics for each program; and

(4) initiatives and suggestions by the commission to:

(A) modify administration of the programs; and

(B) increase revenue generated by the programs.

Added by Acts 2011, 82nd Leg., R.S., Ch. 910 (S.B. 1068), Sec. 2, eff. June 17, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 11, eff. June 14, 2013.

Sec. 2165.205. LIMITATIONS ON AMOUNT, LOCATION, AND USE OF LEASED SPACE. (a) The commission may not lease space to a private tenant for use as private office space unless the private office space is related and incidental to another commercial, cultural,

educational, recreational, or child care activity of the tenant in the building.

(b) Except as provided by this subchapter and Chapter 663, the commission shall determine the amount of space in a building to be allocated to private tenants and the types of activities in which the tenants may engage according to the market for certain activities among employees and visitors in the building and in the vicinity of the building.

(c) Except as provided by Section 2165.215, the amount of space allocated to private tenants may not exceed 15 percent of the total space in the building. Space leased to provide child care services for state employees does not count toward the 15 percent maximum.

(d) If the commission allocates space in a building to a private tenant, it shall encourage the tenant to lease space with street frontage or space in another area of heavy pedestrian activity.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.206. LEASE OF SPACE FOR CHILD CARE FACILITY. (a) Providing a site for a child care facility in a state-owned building has first priority over all other uses of a building, except for the purposes essential to the official functions of the agencies housed in the building.

(b) If the commission allocates space for the purpose of providing child care services for state employees, the commission shall designate the use of the space most appropriate for child care.

(c) Notwithstanding any other provision of this subtitle, the commission shall lease at a rate set by the commission suitable space in state-owned buildings to child care providers selected as provided by Chapter 663.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 761, Sec. 8, eff. Sept. 1, 2001.

Sec. 2165.207. METHOD OF SELECTING TENANT. (a) The commission may lease space in a building by negotiating a lease with a tenant or by selecting the tenant through competitive bidding. In either event, the commission shall follow procedures that promote

competition and protect the state's interests.

(b) If the space is leased for the purpose of providing child care services for state employees, the commission may select the child care provider through procedures other than competitive bidding.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 761, Sec. 9, eff. Sept. 1, 2001.

Sec. 2165.208. UTILITIES AND CUSTODIAL SERVICES. (a) The commission may furnish utilities and custodial services to a private tenant at cost.

(b) The commission shall furnish utilities and custodial services to a child care provider selected by the commission under Chapter 663 at cost.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 761, Sec. 10, eff. Sept. 1, 2001.

Sec. 2165.209. SUBLEASES AND ASSIGNMENTS. The commission may permit a private tenant to sublease or assign space that the tenant leases. The commission must approve in writing all subleases and assignments of leases.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 761, Sec. 11, eff. Sept. 1, 2001.

Sec. 2165.210. REFUSAL TO LEASE SPACE OR PERMIT AN ACTIVITY. The commission may refuse to lease space to a person or to permit an activity in a space if the commission considers the refusal to be in the state's best interests.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 761, Sec. 11, eff. Sept. 1, 2001.

Sec. 2165.211. USE OF LEASE PROCEEDS. Money received from a lease under this subchapter may be used only for building and property services performed by the commission.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.212. VENDING FACILITIES; TEXAS COMMISSION FOR THE BLIND. (a) The commission shall request the Texas Commission for the Blind to determine under Section 94.003, Human Resources Code, whether it is feasible to install a vending facility in a building in which the commission intends to lease space to a private tenant, other than a child care provider. If the installation of the facility is feasible, the commission shall permit the installation in accordance with Chapter 94, Human Resources Code.

(b) If a vending facility is installed, the commission may not lease space in the building to a tenant that the commission, after consultation with the Texas Commission for the Blind, determines would be in direct competition with the vending facility.

(c) If the Texas Commission for the Blind determines that the installation of a vending facility is not feasible, the commission shall lease space to at least one private tenant whose activity in the building will be managed by a blind person or by a person with a disability who is not blind.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.213. AD VALOREM TAXATION. (a) Space leased to a private tenant is subject to ad valorem taxation in accordance with Section 11.11(d), Tax Code.

(b) The space is not subject to taxation if:

(1) the private tenant would be entitled to an exemption from taxation of the space if the tenant owned the space instead of leasing it; or

(2) the tenant uses the space for a child care facility.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.214. PREFERENCE IN LEASING TO CERTAIN EXISTING

VENDING FACILITIES. Notwithstanding the other provisions of this subchapter or Chapters 2155, 2156, 2157, and 2158, the commission shall give a preference, when leasing space in a state-owned building for the operation of a vending facility as defined by Chapter 94, Human Resources Code, to an existing lessee, licensee, or contractor who operates a vending facility on the property if:

(1) the existing lessee, licensee, or contractor has operated a vending facility on the property for not less than 10 years;

(2) Chapter 94, Human Resources Code, does not apply to the property;

(3) the commission finds there is a history of quality and reliable service; and

(4) the proposal of the existing lessee, licensee, or contractor for the right to continue operation of the facility is consistent with the historical quality of service and the historical retail pricing structure at the facility.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.215. PURCHASE OF BUILDING SUBJECT TO EXISTING LEASES. (a) If the commission determines under Section 2166.452 or 2166.453 that the purchase of an existing building is more advantageous to the state than constructing a new building or continuing to lease space for a state agency, but a purchase of the building would be subject to existing leases to private tenants that exceed 15 percent of the building's total space, the commission may purchase the building subject to existing leases notwithstanding Section 2165.205.

(b) On expiration of a private tenant's existing lease, the commission may renew the lease subject to this subchapter, including Section 2165.205.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER F. PARTICULAR BUILDINGS AND PROPERTY

Sec. 2165.251. BUILDINGS ALLOCATED TO LEGISLATIVE USE. (a) The space in the old State Board of Insurance State Office Building, located on San Jacinto Street between 11th and 12th streets in Austin, the Sam Houston Building, and the John H. Reagan Building are

allocated to the legislature and legislative agencies for their use.

(b) On written notice signed by both presiding officers of the legislature and delivered to the commission, the following buildings are allocated to the legislature and legislative agencies to the extent described in the notice: Lorenzo de Zavala State Library and Archives Building, Stephen F. Austin Building, Lyndon B. Johnson Building, and William B. Travis Building. On receipt of notice under this subsection, the commission shall begin immediately to undertake the relocation of agencies occupying space in buildings allocated to legislative use. The space must be made available for legislative use on a date determined by the presiding officers of the legislature.

(c) The presiding officers of each house of the legislature shall jointly allocate space within each building.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.04(a), eff. Sept. 1, 1997.

Sec. 2165.252. TEXAS JUDICIAL COMPLEX. (a) "Texas Judicial Complex" is the collective name of the Supreme Court Building, the Tom C. Clark State Courts Building, and the Price Daniel, Sr., Building.

(b) The commission may allocate space in buildings in the Texas Judicial Complex only to:

(1) a court;

(2) a judicial agency;

(3) the attorney general's office;

(4) the Texas Department of Criminal Justice;

(5) the Texas Juvenile Justice Department;

(6) the State Commission on Judicial Conduct;

(7) the State Office of Administrative Hearings;

(8) the Board of Law Examiners;

(9) the Council on Sex Offender Treatment;

(10) building security;

(11) building maintenance; or

(12) a vending facility operated under Chapter 94, Human Resources Code.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 114, eff. September 1, 2015.

Sec. 2165.253. USE OF ROOM IN STATE CAPITOL BUILDING. A person may not use a room, apartment, or office in the State Capitol as a bedroom or for a private purpose. This section does not apply to the offices and living quarters occupied by the lieutenant governor or the speaker of the house of representatives.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.254. STATE CAPITOL BUILDING: SAFE PLACE FOR RUNAWAY YOUTH DESIGNATION. The State Capitol is designated a safe place for runaway youth. The commission shall devise a plan to provide services and assistance to runaway youth seeking services at the State Capitol following standards set by national organizations with expertise in services for runaway youth, including the Project Safe Place Program. In this section:

(1) "Youth" means a person younger than 18 years of age.

(2) "Safe place" means a place that provides short-term crisis-oriented assistance and services to runaway youth.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.255. CONSENT OF LEGISLATURE REQUIRED FOR CONSTRUCTION ON STATE CAPITOL GROUNDS; PENALTY. (a) A person, including a state officer or employee, commits an offense if, without the prior express consent of the legislature, the person:

(1) builds, erects, or maintains a building, memorial, monument, statue, concession, or other structure on the State Capitol grounds; or

(2) creates a parking area, or lays additional paving on the State Capitol grounds.

(b) It is not an offense under Subsection (a) to build or maintain paved access and underground utility installations in the area described by Subsection (a).

(c) An offense under Subsection (a) is a misdemeanor punishable

by:

(1) a fine of not less than $100 or more than $1,000;

(2) confinement in the county jail of Travis County for not more than one year; or

(3) both the fine and confinement.

(d) A state officer who is subject to removal from office by impeachment is subject to removal by that method for a violation of Subsection (a). Any other state officer or employee who violates Subsection (a) shall be dismissed immediately from state employment.

(e) In this section, "State Capitol grounds" means the area that surrounded the State Capitol on January 1, 1955, that was bounded by 11th, Brazos, 13th, and Colorado streets, regardless of whether the area was inside or outside the fence that enclosed part of those grounds.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.256. STATE CEMETERY AND OTHER BURIAL GROUNDS. (a) In this section:

(1) "Board" means the State Preservation Board.

(2) "Committee" means the State Cemetery Committee.

(a-1) The board, in cooperation with the committee, shall govern and provide oversight, adopt rules and policies, and provide for the operation of the State Cemetery.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 932 , Sec. 5(1), eff. September 1, 2015.

(b-1) Repealed by Acts 2015, 84th Leg., R.S., Ch. 932 , Sec. 5(1), eff. September 1, 2015.

(c) The committee shall procure and erect at the head of each grave that does not have a permanent monument a marble obelisk on which shall be engraved the name of the dead buried in the grave.

(d) Persons eligible for burial in the State Cemetery are:

(1) a former member of the legislature or a member who dies in office;

(2) a former elective state official or an elective state official who dies in office;

(3) a former state official or a state official who dies in office who has been appointed by the governor and confirmed by the senate and who served at least 10 years in the office to which

appointed;

(4) a person specified by a governor's proclamation, subject to review and approval by the committee under Subsection (e);

(5) a person specified by a concurrent resolution adopted by the legislature, subject to review and approval by the committee under Subsection (e); and

(6) a person specified by order of the committee under Subsection (e).

(e) The committee shall review the names of state officials presented to the committee for consideration under Subsection (d)(3), in proclamations under Subsection (d)(4), and in resolutions under Subsection (d)(5). A person whose name is presented to the committee or who is specified in a proclamation or resolution is eligible for burial in the State Cemetery only if the committee, following its review, finds that the person specified made a significant contribution to Texas history and only if, based on that finding, the committee approves the person's burial in the cemetery. The committee may by order authorize a burial under Subsection (d)(6) only if the committee finds that the person made a significant contribution to Texas history, which may include a person who served this state through public administration or governmental service.

(f) Grave spaces are allotted for:

(1) a person who is eligible or who clearly will be eligible for burial under Subsection (d);

(2) the person's spouse; and

(3) the person's unmarried child of any age, if the child, on September 1, 1979, or at the time of the child's death, because of a long-standing physical or mental condition that was manifest during the lifetime of one of the child's parents, is dependent on another for care or support.

(g) A child eligible for burial under Subsection (f)(3) must be buried alongside the child's parent or parents.

(h) A grave plot may not be longer than eight feet nor wider than three feet times the number of persons of one family authorized to be buried alongside one another.

(i) The board, in collaboration with the committee, shall adopt rules regulating the monuments erected in the State Cemetery.

(j) A tree, shrub, or flower may not be planted in the State Cemetery without the committee's written permission.

(k) A person may be buried on state property only in the State

Cemetery or in a cemetery maintained by a state eleemosynary institution. Other state property, including the State Capitol grounds, may not be used as a burial site.

(l) The committee shall allot and locate the necessary number of grave plots authorized on application made by:

(1) the person primarily eligible for burial under Subsection (d);

(2) the person's spouse; or

(3) the executor or administrator of the person's estate.

(m) The committee shall consider for burial in the State Cemetery persons who have made significant contributions to Texas history and culture in the following fields: air and space, agriculture, art and design, business and labor, city building, education, governmental service, industry, justice, military affairs, law enforcement, oil and gas, performing arts, philanthropy, public administration, ranching, religion, science and medicine, sports, and writing.

(n) The committee shall consider for reinterment in the State Cemetery persons from the following eras: Spanish exploration and colonization, Mexican, Texas revolution, republic and statehood, Civil War and Reconstruction, frontier, Gilded Age, progressive, Great Depression and World War II, postwar, and modern.

(o) The committee shall designate different areas of the cemetery for burial of persons from the fields described in Subsection (m).

(p) The committee shall develop plans for obtaining land adjacent to the State Cemetery for expansion of the cemetery.

(q) The committee shall actively pursue plot reservations from persons eligible for burial in the State Cemetery.

(r) Repealed by Acts 2015, 84th Leg., R.S., Ch. 932 , Sec. 5(1), eff. September 1, 2015.

(s) The committee may accept a gift, grant, or bequest of money, securities, services, or property to carry out any purpose of the committee, including funds raised or services provided by a volunteer or volunteer group to promote the work of the committee. The committee may participate in the establishment and operation of an affiliated nonprofit organization whose purpose is to raise funds for or provide services or other benefits to the committee, and the committee may contract with such an organization for the performance of such activities.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.05(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 264, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 102, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 486, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1422, Sec. 8.01, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 684, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 645 (H.B. 2900), Sec. 1, eff. June 17, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1243 (S.B. 1871), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 932 (H.B. 2206), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 932 (H.B. 2206), Sec. 5(1), eff. September 1, 2015.

Sec. 2165.2561. STATE CEMETERY COMMITTEE. (a) In this section:

(1) "Board" means the State Preservation Board.

(2) "Committee" means the State Cemetery Committee.

(a-1) The committee is composed of:

(1) three voting members appointed as follows:

(A) one member of the general public appointed by the governor;

(B) one member of the general public appointed by the governor from a list submitted by the lieutenant governor; and

(C) one member of the general public appointed by the governor from a list submitted by the speaker of the house of representatives; and

(2) three nonvoting advisory members appointed as follows:

(A) one employee of the Texas Historical Commission appointed by the executive director of the Texas Historical Commission;

(B) one employee of the board appointed by the executive director of the board; and

(C) one employee of the Parks and Wildlife Department appointed by the executive director of the Parks and Wildlife Department.

(b) The governor shall designate the presiding officer of the committee from among its members, and the presiding officer shall serve in that capacity for two years.

(c) The voting members of the committee are appointed for staggered terms of six years with one member's term expiring February 1 of each odd-numbered year. The advisory members of the committee serve at the will of the appointing authority.

(d) Appointments to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(e) A vacancy on the committee is filled by the appointing authority in the same manner as the original appointment.

(f) An employee member vacates the member's position on the committee if the member ceases to be an employee of the appointing agency.

(g) A person is not eligible for appointment to the committee under Subsection (a-1)(1) if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the committee;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the committee; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the committee, other than compensation or reimbursement authorized by law for committee membership, attendance, or expenses.

(h) A person may not serve as a member of the committee if the person is required to be registered as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the State Cemetery.

(i) A public member of the committee is not entitled to compensation but is entitled to reimbursement, from committee funds, for the travel expenses incurred by the member while conducting the business of the committee, as provided in the General Appropriations Act. The entitlement of an employee member to compensation or reimbursement for travel expenses is governed by the law applying to the person's service in that underlying position, and any payments to the person shall be made from the appropriate funds of the employing agency.

(j) All plans, programs, and materials relating to historical interpretation of the State Cemetery shall be submitted to the Texas Historical Commission for its review and approval. The Texas Historical Commission may provide staff support for activities interpreting the historical features of the State Cemetery.

(k) Repealed by Acts 2015, 84th Leg., R.S., Ch. 932 , Sec. 5(2), eff. September 1, 2015.

(l) Repealed by Acts 2015, 84th Leg., R.S., Ch. 932 , Sec. 5(2), eff. September 1, 2015.

(m) The board, in collaboration with the committee, may adopt rules as necessary for the administration of the State Cemetery.

(n) It is a ground for removal from the committee that a member:

(1) does not have at the time of taking office the qualifications required by Subsection (a);

(2) does not maintain during service on the committee the qualifications required by Subsection (a);

(3) is ineligible for membership under Subsection (g) or (h);

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the committee.

(o) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a committee member exists.

(p) If the executive director of the board has knowledge that a potential ground for removal from the committee exists, the executive director shall notify the presiding officer of the committee of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the committee, who shall then notify the governor and the attorney general that a potential ground for removal exists.

(q) The executive director of the board or the executive director's designee shall provide to members of the committee, as often as necessary, information regarding the requirements for office

under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers.

(r) A person who is appointed to and qualifies for office as a member of the committee may not vote, deliberate, or be counted as a member in attendance at a meeting of the committee until the person completes a training program that complies with this subsection. The training program must provide the person with information regarding:

(1) the legislation that created the State Cemetery and the committee;

(2) the programs operated by the committee;

(3) the role and functions of the committee;

(4) the rules of the committee, with an emphasis on any rules that relate to disciplinary and investigatory authority;

(5) the results of the most recent formal audit of cemetery operations;

(6) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552;

(C) the administrative procedure law, Chapter 2001; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(7) any applicable ethics policies adopted by the board, the committee, or the Texas Ethics Commission.

(s) A person appointed to the committee is entitled to reimbursement, as provided by Chapter 660 and the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(t) Repealed by Acts 2015, 84th Leg., R.S., Ch. 932 , Sec. 5(2), eff. September 1, 2015.

(u) The committee shall develop and implement policies that provide the public with a reasonable opportunity to appear before the committee and to speak on any issue under the jurisdiction of the committee.

(v) The State Cemetery Committee shall erect a flagpole and an appropriate monument in the military monument area of the State Cemetery dedicated to military personnel from the state who are killed while serving in a combat zone. When the committee is notified by the Texas Veterans Commission that a member of the United

States armed forces from the state was killed while serving in a combat zone, the committee shall ensure that the flag at the monument is displayed at half-staff for an appropriate period as a mark of respect to the memory of the deceased member of the armed forces.

Added by Acts 1997, 75th Leg., ch. 264, Sec. 2, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 8.02, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1394 (S.B. 2135), Sec. 1, eff. June 19, 2009.
Acts 2015, 84th Leg., R.S., Ch. 932 (H.B. 2206), Sec. 3, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 932 (H.B. 2206), Sec. 5(2), eff. September 1, 2015.

Sec. 2165.258. OFFICE SPACE FOR DEPARTMENT OF PUBLIC SAFETY; AMERICAN LEGION BUILDING. The commission shall provide office space to the Department of Public Safety in the American Legion Building or in another suitable facility acceptable to the department for the Capitol District.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2165.259. CAPITOL COMPLEX. (a) In this section, "Capitol Complex" has the meaning assigned by Section 443.0071.
(b) Notwithstanding Subchapter D and subject to Subsection (d), the commission may not lease, sell, or otherwise dispose of real property or an interest in real property located in the Capitol Complex.
(c) This section does not affect the commission's authority under Subchapter E to lease space in state office buildings and parking garages.
(d) The commission may develop or operate a qualifying project, as that term is defined by Section 2267.001, in the Capitol Complex if:
(1) the legislature by general law specifically authorizes the project; and
(2) before the commission enters into a comprehensive

agreement for the project, the legislature individually approves the project under Section 2268.058.

Added by Acts 2013, 83rd Leg., R.S., Ch. 713 (H.B. 3436), Sec. 1, eff. June 14, 2013.
Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 12, eff. June 14, 2013.
Added by Acts 2013, 83rd Leg., R.S., Ch. 1339 (S.B. 894), Sec. 1, eff. June 14, 2013.

Sec. 2165.260. TEXAS MALL AREA VENDOR PERMIT. (a) In this section, the "Texas mall area of the Capitol Complex" means the state-owned property within the area bounded on the north by Martin Luther King, Jr., Boulevard, on the east by Brazos Street, on the south by 15th Street, and on the west by Colorado Street.

(b) Notwithstanding any other law, the State Preservation Board by rule and in consultation with the commission and other appropriate state agencies shall establish a process for a vendor to apply for and obtain from the board a permit that allows the vendor to sell goods from a rented space during an event authorized by the board and held in the Texas mall area of the Capitol Complex.

(c) The State Preservation Board is not required to adopt the rules required under Subsection (b) until the Capitol Complex master plan developed under Section 2166.105 is implemented and the Texas mall proposed in the plan is established.

Added by Acts 2017, 85th Leg., R.S., Ch. 121 (H.B. 635), Sec. 1, eff. September 1, 2017.

Sec. 2165.261. PROPERTY PURCHASES AND CONSTRUCTION PROJECTS BY SELF-DIRECTED SEMI-INDEPENDENT AGENCIES. (a) This section applies only to a state agency that has self-directed semi-independent status under state law.

(b) Notwithstanding Chapter 472 of this code, Chapter 16, Finance Code, Chapter 1105, Occupations Code, or any law other than this subsection, a state agency must obtain written authorization from the governor before allocating money for the purchase of real property or to construct a building on real property. This subsection does not limit the authority of the legislature under

other law to authorize construction projects or the purchase of real property.

(c) To apply for authorization under this section, a state agency, in accordance with procedures prescribed by the governor, shall:

(1) submit to the Texas Facilities Commission:

(A) a detailed description of the proposed property purchase or construction project and the agency's need for the purchase or project; and

(B) a request for an analysis by the commission of any available state property or building that satisfies the agency's need; and

(2) submit to the governor:

(A) a request for written authorization for the purchase or project that includes the detailed description submitted under Subdivision (1)(A), the total amount of money required to complete the purchase or project, and the agency's justification for the purchase or project; and

(B) the analysis obtained from the commission under Subdivision (1)(B).

(d) A state agency that receives written authorization under Subsection (c) shall:

(1) collaborate with the Texas Facilities Commission with respect to the purchase or project; and

(2) notify the commission and the General Land Office on completion of the purchase or project.

(e) The governor may adopt rules necessary to implement this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 335 (S.B. 646), Sec. 1, eff. September 1, 2019.

SUBCHAPTER G. INDOOR AIR QUALITY

Sec. 2165.301. DEFINITIONS. In this subchapter:

(1) "Air monitoring" and "asbestos abatement" have the meanings assigned by Section 1954.002, Occupations Code.

(2) Repealed by Acts 2015, 84th Leg., R.S., Ch. 838 , Sec. 3.029(1), eff. September 1, 2015.

(2-a) "Executive commissioner" means the executive

commissioner of the Health and Human Services Commission.

(3) "Office" means the State Office of Risk Management.

(4) "State building" means any building owned or occupied by the state, including buildings or offices leased to the state for state purposes.

Added by Acts 2003, 78th Leg., ch. 857, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 2.285, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 3.029(1), eff. September 1, 2015.

Sec. 2165.303. AIR MONITORING RELATED TO ASBESTOS ABATEMENT. (a) The commission shall contract with a private entity to conduct any air monitoring that is related to asbestos abatement services provided by the commission.

(b) Repealed by Acts 2021, 87th Leg., R.S., Ch. 856 (S.B. 800), Sec. 25(4), eff. September 1, 2021.

(c) The commission may establish a system of charges for air monitoring that is related to asbestos abatement services provided by the commission. A system established by the commission shall ensure that the commission is reimbursed by agencies for which air monitoring is provided under this section for the cost of the air monitoring.

Added by Acts 2003, 78th Leg., ch. 857, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 3.001, eff. September 1, 2015.

Acts 2021, 87th Leg., R.S., Ch. 856 (S.B. 800), Sec. 25(4), eff. September 1, 2021.

Sec. 2165.305. EDUCATIONAL SEMINAR ON INDOOR AIR QUALITY. (a) The office shall conduct an annual, one-day educational seminar on indoor air quality.

(b) The office shall provide updated information at the seminar on maintaining safe indoor air in state buildings.

(c) In developing a seminar required by this section, the

office shall receive assistance from:

(1) the commission; and

(2) an entity that specializes in research and technical assistance related to indoor air quality but does not receive appropriations from the state.

(d) State agency risk managers, representatives of entities with charge and control of state buildings, facility managers, and owners and managers of buildings or offices leased to the state must attend a seminar under this section annually except as provided by Subsection (f).

(e) The office shall publish on its Internet website the information provided at the most recent seminar required by this section.

(f) If a person required to attend an educational seminar on indoor air quality cannot do so, that person must send a letter to the office certifying that the person has reviewed the information made available by the office on the Internet from that seminar.

Added by Acts 2003, 78th Leg., ch. 857, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 3.002, eff. September 1, 2015.

SUBCHAPTER H. PUBLIC AND PRIVATE FACILITIES AND INFRASTRUCTURE: QUALIFYING PROJECTS

Sec. 2165.351. DEFINITIONS. In this subchapter:

(1) "Partnership Advisory Commission" means the Partnership Advisory Commission created by Chapter 2268.

(2) "Qualifying project" has the meaning assigned by Section 2267.001, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 13, eff. June 14, 2013.

Sec. 2165.352. COMMISSION REVIEW GUIDELINES AND POLICIES. (a) In adopting the qualifying project review guidelines required by Section 2267.052, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, the commission must include

review criteria and documentation to guide the initial review of each substantially complete qualifying project proposal received by the commission.

(b) The review criteria required under Subsection (a) at a minimum must include:

(1) the extent to which the qualifying project meets a public need;

(2) the extent to which the project meets the objectives and priorities of the commission and aligns with any applicable commission plans and design guidelines or zoning requirements, including the Capitol Complex master plan developed under Section 2166.105;

(3) the technical and legal feasibility of the project;

(4) the adequacy of the qualifications, experience, and financial capacity of a private entity or other person submitting the proposal;

(5) any potentially unacceptable risks to this state; and

(6) whether an alternative delivery method is feasible and more effectively meets this state's goals.

(c) The commission's qualifying project review guidelines must:

(1) specify the types of professional expertise, including financial, real estate, design, legal, and other related expertise, needed to effectively protect this state's interest when considering and implementing a qualifying project;

(2) specify the range of professional expertise needed at each stage of the project, including proposal evaluation, financial analysis, risk allocation analysis, design review, contract negotiation, and contract and performance monitoring, to evaluate the qualifying project proposal; and

(3) require the oversight committee established by the commission for each qualifying project to report to the commission the results of the committee's evaluation of the project, including the schedules, procedures, proposal evaluation criteria, and documentation required in the guidelines for the evaluation.

(d) On completion of the negotiation phase for the development of a comprehensive agreement and before a comprehensive agreement is entered into, the commission shall:

(1) for each qualifying project proposal, post on the commission's Internet website the oversight committee's review report and other evaluation documents; and

(2) before posting the report and documents required under Subdivision (1), redact all information included in the report and documents that is considered confidential under Section 2267.066(c).

(e) The expertise described by Subsection (c) may be provided by commission staff or outside experts.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 13, eff. June 14, 2013.

Sec. 2165.353. QUALIFYING PROJECT FEES. (a) The commission may charge a reasonable fee to cover the costs of reviewing a qualifying project. The commission shall develop and adopt a qualifying project proposal fee schedule sufficient to cover its costs, including at a minimum the costs of processing, reviewing, and evaluating the proposals.

(b) The commission shall use the professional expertise information required under Section 2165.352(c) to determine the amount of the fee charged by the commission to review a qualifying project proposal. The amount must be reasonable in comparison to the level of professional expertise required for the project and may include the cost of staff time required to process the proposal and other direct costs.

(c) The commission may use the money from the fees collected under this section to hire or contract with persons who have the professional expertise necessary to effectively evaluate a qualifying project proposal.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 13, eff. June 14, 2013.

Sec. 2165.354. INITIAL REVIEW OF QUALIFYING PROJECT PROPOSAL. (a) The commission staff shall conduct an initial review of each qualifying project proposal submitted to the commission and provide to commission members a summary of the review, including an analysis and recommendations.

(b) Subject to Subsection (c), the commission shall use a value for money analysis in evaluating each qualifying project proposal to:

(1) conduct a thorough risk analysis of the proposal that identifies specific risks shared between this state and the private

partner and subjects the risks to negotiation in the contract;

(2) determine if the proposal is in the best long-term financial interest of this state; and

(3) determine if the project will provide a tangible public benefit to this state.

(c) If commission staff determine that a value for money analysis is not appropriate for evaluating a specific qualifying project proposal, the staff shall submit to the commission a written report stating the reasons for using an alternative analysis methodology.

(d) The commission shall coordinate with the commission's office of internal audit for review and receipt of comments on the reasonableness of the assumptions used in the value for money analysis or alternative analysis methodology used to evaluate a qualifying project proposal under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 13, eff. June 14, 2013.

Sec. 2165.355. INITIAL PUBLIC HEARING ON QUALIFYING PROJECT PROPOSAL. (a) Before submitting a detailed qualifying project proposal to the Partnership Advisory Commission as required under Section 2268.058, the commission must hold an initial public hearing on the proposal.

(b) The commission must post a copy of the detailed qualifying project proposal on the commission's Internet website before the required public hearing and, before posting the proposal, redact all information included in the proposal that is considered confidential under Section 2267.066(c).

(c) After the hearing, the commission shall:

(1) modify the proposal as the commission determines appropriate based on the public comments; and

(2) include the public comments in the documents submitted to the Partnership Advisory Commission and provide any additional information necessary for the evaluation required under Chapter 2268.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 13, eff. June 14, 2013.

Sec. 2165.356. SUBMISSION OF QUALIFYING PROJECT CONTRACT TO CONTRACT ADVISORY TEAM. (a) Not later than the 60th day before the date the commission is scheduled to vote on approval of a qualifying project contract, the commission must submit to the Contract Advisory Team established under Subchapter C, Chapter 2262, documentation of the modifications to a proposed qualifying project made during the commission's evaluation and negotiation process for the project, including a copy of:

(1) the final draft of the contract;

(2) the detailed qualifying project proposal; and

(3) any executed interim or other agreement.

(b) The Contract Advisory Team shall review the documentation submitted under Subsection (a) and provide written comments and recommendations to the commission. The review must focus on, but not be limited to, best practices for contract management and administration.

(c) Commission staff shall provide to the commission members:

(1) a copy of the Contract Advisory Team's written comments and recommendations; and

(2) the staff's response to the comments and recommendations.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 13, eff. June 14, 2013.

Sec. 2165.3561. MUNICIPAL PROJECT. Not later than the 30th day before the date the commission is scheduled to meet and vote on a project to develop or improve state property in a municipality, the commission staff must:

(1) place the project on the commission's meeting agenda to provide the public with notice of the meeting and an opportunity to comment; and

(2) present sufficient information to commission members to enable the members to adequately prepare for the meeting and to address the members' questions and concerns.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 13, eff. June 14, 2013.

Sec. 2165.357. PROHIBITED EMPLOYMENT OF COMMISSION EMPLOYEE. (a) A commission employee may not be employed or hired by another person to perform duties that relate to the employee's specific duties in developing and implementing a qualifying project, including review, evaluation, development, and negotiation of a qualifying project proposal.

(b) The commission shall obtain from each commission employee sufficient information for the commission to determine whether:

(1) the employee is employed by another person; and

(2) a potential conflict of interest exists between the employee's commission duties and the employee's duties with the other employer.

(c) Each commission employee whose commission duties relate to a qualifying project, including long-range planning, real estate management, space management, and leasing services, shall attest that the employee is aware of and agrees to the commission's ethics and conflict-of-interest policies.

(d) To the extent the employment is authorized by commission policy, this section does not prohibit additional employment for a commission employee whose commission duties are not related to a qualifying project.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 13, eff. June 14, 2013.

SUBCHAPTER I. DEFERRED MAINTENANCE FUNDING

Sec. 2165.401. PURPOSE; INTENT. It is the intent of the legislature that state facilities be brought into a better state of repair to ensure the safety of employees and visitors, the efficiency of building operations, and a long-term reduction in repair costs by addressing deferred maintenance issues. The deferred maintenance fund is created to fund projects for this purpose.

Added by Acts 2015, 84th Leg., R.S., Ch. 212 (S.B. 2004), Sec. 2, eff. May 28, 2015.

Sec. 2165.402. DEFINITION. In this subchapter, "fund" means the deferred maintenance fund.

Added by Acts 2015, 84th Leg., R.S., Ch. 212 (S.B. 2004), Sec. 2, eff. May 28, 2015.

Sec. 2165.403. DEFERRED MAINTENANCE FUND ACCOUNT. (a) The fund is an account in the general revenue fund.

(b) The fund consists of money appropriated, credited, or transferred to the fund by or at the direction of the legislature, including interest and other earnings on money in the fund.

(c) Section 403.095 does not apply to the fund.

(d) The use of money credited to the fund by appropriation or transfer from the game, fish, and water safety account, the lifetime license endowment account, or another fund or account in the state treasury the use of which is subject to restrictions under the federal Sport Fish Restoration Act (16 U.S.C. Section 777 et seq.), the federal Wildlife Restoration Act (16 U.S.C. Section 669 et seq.), or other federal law, and the use of money earned as interest or other earnings on the investment of that money credited to the fund, continues to be subject to those federal restrictions and may be used only for a function required to manage this state's fish or wildlife resources in accordance with those federal restrictions.

Added by Acts 2015, 84th Leg., R.S., Ch. 212 (S.B. 2004), Sec. 2, eff. May 28, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 371 (H.B. 3537), Sec. 1, eff. June 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 858 (H.B. 3461), Sec. 15, eff. September 1, 2023.

For expiration of this section, see Subsection (j).

Sec. 2165.404. JOINT OVERSIGHT COMMITTEE ON GOVERNMENT FACILITIES. (a) In this section, "committee" means the Joint Oversight Committee on Government Facilities.

(b) The committee is created to review deferred maintenance plans and receive implementation updates.

(c) The committee is composed of six members as follows:

(1) three members of the senate appointed by the lieutenant governor; and

(2) three members of the house of representatives appointed by the speaker of the house of representatives.

(d) The chair of the committee shall alternate annually between:

(1) a member of the senate appointed by the lieutenant governor; and

(2) a member of the house of representatives appointed by the speaker of the house of representatives.

(e) The lieutenant governor shall appoint the first chair of the committee.

(f) A vacancy on the committee shall be filled in the same manner as the original appointment.

(g) The committee biannually shall provide a written report to the legislature that identifies:

(1) the amount of money expended for deferred maintenance;

(2) planned deferred maintenance projects; and

(3) the status of ongoing and completed deferred maintenance projects.

(h) The committee shall:

(1) have the powers and duties of a joint committee created by proclamation; and

(2) obtain funding in the same manner as a joint committee created by proclamation.

(i) The rules adopted by the 86th Legislature for the administration of joint committees created by proclamation apply to the committee to the extent the rules are consistent with this section.

(j) The committee is abolished and this section expires on September 1, 2025.

Added by Acts 2019, 86th Leg., R.S., Ch. 420 (S.B. 401), Sec. 2, eff. June 4, 2019.

SUBCHAPTER J. TEMPORARY SECURE WEAPON STORAGE FOR CERTAIN PUBLIC BUILDINGS

Sec. 2165.451. APPLICABILITY. (a) This subchapter applies to a building or portion of a building:

(1) that is:

(A) used by an agency of this state; and

(B) generally open to the public; and

(2) in which:

(A) carrying a handgun or other firearm, location-restricted knife, club, or other weapon on the premises or part of the premises would violate Chapter 46, Penal Code, or other law; or

(B) the state agency in control of the building, by sign or otherwise, prohibits handguns or other firearms, location-restricted knives, clubs, or other weapons on the premises or part of the premises.

(b) This subchapter does not apply to:

(1) a penal institution, as that term is defined by Section 1.07, Penal Code; or

(2) a public primary or secondary school or institution of higher education.

Added by Acts 2021, 87th Leg., R.S., Ch. 786 (H.B. 29), Sec. 1, eff. September 1, 2021.

Sec. 2165.452. TEMPORARY SECURE WEAPON STORAGE. (a) A state agency may provide temporary secure weapon storage for a building or portion of a building to which this subchapter applies for persons who enter the building or portion of the building with a weapon prohibited in that building or portion of the building.

(b) The temporary secure weapon storage may be provided by:

(1) self-service weapon lockers described by Section 2165.453; or

(2) other temporary secure weapon storage operated at all times by a designated state agency employee under Section 2165.454.

Added by Acts 2021, 87th Leg., R.S., Ch. 786 (H.B. 29), Sec. 1, eff. September 1, 2021.

Sec. 2165.453. SELF-SERVICE WEAPON LOCKERS FOR TEMPORARY SECURE STORAGE. (a) A state agency may provide self-service weapon lockers for the temporary secure storage of any weapon prohibited in a building or portion of a building.

(b) A self-service weapon locker must allow secure locking by the user and:

(1) provide a key for reopening; or

(2) reopen by electronic means, such as by a fingerprint scan or entry of a numeric code.

(c) A state agency may require a person to submit the person's name, the number of the person's driver's license or other form of identification, and the person's telephone number as a condition for use of a self-service weapon locker.

(d) A person placing a weapon in a self-service weapon locker may designate an alternate person to whom the weapon may be released if the person is not able to reclaim the person's weapon before the 30th day after the date the weapon was placed in the locker.

Added by Acts 2021, 87th Leg., R.S., Ch. 786 (H.B. 29), Sec. 1, eff. September 1, 2021.

Sec. 2165.454. TEMPORARY SECURE WEAPON STORAGE ADMINISTERED BY AGENCY EMPLOYEE. (a) A state agency may provide temporary secure weapon storage operated by a designated agency employee for a building or portion of a building in which weapons are prohibited.

(b) The weapons in temporary secure weapon storage must be held in a safe, locker, or other location that is locked and accessible only to the designated employee.

(c) If a person chooses to give to the designated employee the person's weapon for temporary secure storage, the employee shall:

(1) securely affix a claim tag to the weapon;

(2) provide the person with a claim receipt for reclaiming the weapon;

(3) record the person's name, the number of the person's driver's license or other form of identification, and the person's telephone number; and

(4) if designated by the person placing the weapon in temporary secure weapon storage, record the name of an alternate person to whom the weapon may be released if the person is not able to reclaim the person's weapon before the 30th day after the date the weapon was placed in storage.

(d) A person may reclaim the person's weapon by showing the designated employee operating the temporary secure weapon storage:

(1) the claim receipt given to the person at the time the weapon was placed in temporary secure storage; or

(2) the person's driver's license or other form of

identification.

(e) A state agency that provides temporary secure weapon storage under this section shall ensure that:

(1) the temporary secure weapon storage is available and monitored by a designated agency employee at all times that the building or portion of the building is open to the public; and

(2) a person who is choosing to place the weapon in storage or retrieving the weapon from storage is not required to wait more than a reasonable period.

Added by Acts 2021, 87th Leg., R.S., Ch. 786 (H.B. 29), Sec. 1, eff. September 1, 2021.

Sec. 2165.455. FEES. A state agency under this subchapter may collect a fee of not more than $5 for the use of a self-service weapon locker or other temporary secure weapon storage.

Added by Acts 2021, 87th Leg., R.S., Ch. 786 (H.B. 29), Sec. 1, eff. September 1, 2021.

Sec. 2165.456. UNCLAIMED WEAPONS. (a) A weapon that is unclaimed at the end of a business day may be removed from the self-service weapon locker or other temporary secure storage and placed in another secure location.

(b) If practicable, the state agency shall notify the person who placed the weapon in a self-service weapon locker or other temporary secure storage that the weapon is in the custody of the state agency and is subject to forfeiture if not reclaimed before the 30th day after the date the weapon was placed in a self-service weapon locker or other temporary secure storage. If the person provided a telephone number when the weapon was placed in a self-service weapon locker or other temporary secure storage, the state agency shall notify the person by using that telephone number.

(c) At each location where a weapon may be placed in a self-service weapon locker or other temporary secure storage, the state agency shall post a sign that describes the process for reclaiming a weapon left in a self-service weapon locker or other temporary secure storage for more than one business day.

(d) The state agency may require identification or other

evidence of ownership before returning the unclaimed weapon. On return of the weapon, the state agency may charge a fee of not more than $10 per day and not to exceed a total of $150 for the extended storage of the weapon.

(e) If the weapon is not reclaimed before the 30th day after the date the weapon was placed in a self-service weapon locker or other temporary secure storage, the weapon is forfeited.

(f) If the forfeited weapon may not be legally possessed in this state, the state agency shall turn the weapon over to local law enforcement as evidence or for destruction.

(g) If a person may legally possess the weapon in this state:

(1) the forfeited weapon may be sold at public sale by an auctioneer licensed under Chapter 1802, Occupations Code; or

(2) the law enforcement agency holding the weapon may release the weapon to another person if:

(A) the person:

(i) claims a right to or interest in the weapon and provides an affidavit confirming that the person wholly or partly owns the weapon or otherwise has a right to or interest in the weapon; or

(ii) is an alternate person designated by the person under Section 2165.453(d) or 2165.454(c)(4); and

(B) for a weapon that is a firearm, the law enforcement agency conducts a check of state and national criminal history record information and verifies that the person may lawfully possess a firearm under 18 U.S.C. Section 922(g).

(h) Only a firearms dealer licensed under 18 U.S.C. Section 923 may purchase a firearm at public sale under this section.

(i) Proceeds from the sale of a weapon under this section shall be transferred, after the deduction of auction costs, to the general revenue fund.

Added by Acts 2021, 87th Leg., R.S., Ch. 786 (H.B. 29), Sec. 1, eff. September 1, 2021.

CHAPTER 2166. BUILDING CONSTRUCTION AND ACQUISITION AND DISPOSITION OF REAL PROPERTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2166.001. DEFINITIONS. In this chapter:

(1) "Capitol Complex" has the meaning prescribed by Section 411.061(a)(1).

(1-a) "Commission" means the Texas Facilities Commission.

(1-b) "Construction" includes acquisition and reconstruction.

(2) "Cost of a project" includes the cost of:

(A) real estate;

(B) other property;

(C) rights and easements;

(D) utility services;

(E) site development;

(F) construction and initial furnishing and equipment;

(G) architectural, engineering, and legal services;

(H) surveys, plans, and specifications; and

(I) other costs, including those incurred by the commission, that are necessary or incidental to determining the feasibility or practicability of a project.

(3) "Private design professional" means a design professional as described by Subdivisions (6)(A) and (B)(ii).

(4) "Project" means a building construction project that is financed wholly or partly by a specific appropriation, a bond issue, or federal money. The term includes the construction of:

(A) a building, structure, or appurtenant facility or utility, including the acquisition and installation of original equipment and original furnishings; and

(B) an addition to, or alteration, rehabilitation, or repair of, an existing building, structure, or appurtenant facility or utility.

(5) "Project analysis" means work done before the legislative appropriation for a project to develop a reliable estimate of the cost of the project to be used in the appropriations request.

(6) "Design professional" means an individual registered as an architect under Chapter 1051, Occupations Code, or a person licensed as an engineer under Chapter 1001, Occupations Code:

(A) who provides professional architectural or engineering services and has overall responsibility for the design of a building construction undertaking; and

(B) who:

(i) is employed on a salary basis; or

(ii) is in private practice and is retained for a specific project under a contract with the commission.

(7) "Rehabilitation" includes renewal, restoration, extension, enlargement, and improvement.

(8) "Small construction project" means a project that:

(A) has an estimated value of less than $100,000; and

(B) requires advance preparation of working plans or drawings.

(9) "Staged construction" means the construction of a project in phases, with each phase resulting in one or more trade packages, features, buildings, or structures that individually or together may be built, regardless of whether later phases of the project are authorized.

(10) "Using agency" means:

(A) an instrumentality of the state that occupies and uses a state-owned or state-leased building; or

(B) the commission, with respect to a state-owned building maintained by the commission.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1329, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 309, Sec. 7.39, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.778, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.31, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 15, eff. June 14, 2013.

Sec. 2166.002. APPLICABILITY OF CHAPTER. This chapter applies only to a building construction project of the state, the acquisition of real property for state purposes, and the disposition of real property owned by the state.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 16, eff. June 14, 2013.

Sec. 2166.003. EXCEPTIONS. (a) Unless otherwise provided, this chapter does not apply to:

(1) a project constructed by and for the Texas Department of Transportation;

(2) a project constructed by and for a state institution of higher education;

(3) a pen, shed, or ancillary building constructed by and for the Department of Agriculture for the processing of livestock before export;

(4) a project constructed by the Parks and Wildlife Department;

(5) a repair or rehabilitation project, except a major renovation, of buildings and grounds on the commission inventory;

(6) a repair and rehabilitation project of another using agency, if all labor for the project is provided by the regular maintenance force of the using agency under specific legislative authorization and the project does not require the advance preparation of working plans or drawings;

(7) a repair and rehabilitation project involving the use of contract labor, if the project has been excluded from this chapter by commission rule and does not require the advance preparation of working plans or drawings;

(8) an action taken by the Texas Commission on Environmental Quality under Subchapter F or I, Chapter 361, Health and Safety Code;

(9) a repair, rehabilitation, or construction project on property owned by the Texas Department of Housing and Community Affairs or the Texas State Affordable Housing Corporation;

(10) a project constructed by and for the Veterans' Land Board;

(11) a project constructed by and for the Texas Historical Commission; or

(12) a project constructed by and for the Texas Department of Motor Vehicles.

(b) Only Sections 2166.151, 2166.152, 2166.153, 2166.154, 2166.155, 2166.251, and 2166.252 and Subchapter H apply to a construction project undertaken by or for the Texas Department of Criminal Justice for the imprisonment of individuals convicted of felonies other than state jail felonies.

(c) This chapter and Chapter 2175 do not apply to the

disposition, sale, or transfer of a pen, shed, or ancillary building constructed by and for the Department of Agriculture for the processing of livestock before export.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 793, Sec. 17, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 980, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.19, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 17 (S.B. 581), Sec. 2, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.088, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 7, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 6.01, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 215 (S.B. 1349), Sec. 2, eff. May 28, 2017.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.20, eff. September 1, 2019.

Sec. 2166.004. ADDITIONAL EXCEPTIONS. In addition to the exceptions provided by Section 2166.003, this chapter does not apply to:

(1) a project constructed by or under the supervision of a public authority created by the laws of this state; or

(2) a state-aided local government project.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.005. COMMISSION PARTICIPATION IN OTHER BUILDING PROJECTS. (a) Section 2166.003 does not prohibit the commission from undertaking on a cost recovery basis a project generally excluded from the application of this chapter by that section.

(b) A service provided under this section is not subject to the requirements of Chapter 771. The commission shall establish a system of charges and billings for services provided to ensure recovery of the cost of providing the services and shall submit a purchase

voucher or a journal voucher after the close of each month to an agency for which services were performed.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.006. LEGAL REPRESENTATION OF COMMISSION. (a) The attorney general shall represent the commission in legal matters.

(b) The attorney general may employ special assistants to assist in the performance of duties arising under this chapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.007. VENUE. A suit for breach of a contract under this chapter shall be brought in Travis County.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. GENERAL POWERS AND DUTIES OF COMMISSION

Sec. 2166.051. ADMINISTERING AGENCY. The commission shall administer this chapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.052. ACQUISITION AND DISPOSITION OF PROPERTY. (a) The commission, as provided by law and by legislative appropriation, may:

(1) acquire necessary real and personal property and modernize, remodel, build, or equip buildings for state purposes; and

(2) contract as necessary to accomplish these purposes.

(b) The commission may not sell or otherwise dispose of real property of the state except:

(1) for real property located in the Capitol Complex, by specific authority:

(A) granted by the legislature if the legislature is in session; or

(B) granted jointly by the governor and the Legislative

Budget Board if the legislature is not in session; or

(2) for real property of the state other than the property described by Subdivision (1):

(A) by specific authority granted by the legislature if the legislature is in session; or

(B) subject to Subsection (e), through formal notification to the governor and the Legislative Budget Board if the legislature is not in session.

(c) The commission may enter into a contract with the City of Austin to govern the transfer, sale, or exchange of real property and interests in real property, including the vacation of street rights-of-way, easements, and other interests, as necessary or advantageous to both parties. The agreement may provide for the transfer, sale, or exchange by one party in favor of the other for a reasonable value established by the parties and may provide for a transfer, sale, or exchange to be credited against future property or interests to be transferred, sold, or exchanged between the parties. Section 272.001, Local Government Code, does not apply to a transaction governed by this section.

(c-1) If an agreement under Subsection (c) provides for a transfer, sale, or exchange to be credited against future property or interests to be transferred, sold, or exchanged between the parties, the City of Austin may use any amount credited in the city's favor in a transfer, sale, or exchange of real property or an interest in real property with any state agency other than an institution of higher education as defined by Section 61.003, Education Code.

(d) When considering a sale of real property of the state subject to Subsection (b)(2), the commission shall submit a formal notification of the intent to sell the property to:

(1) the governor;

(2) the Legislative Budget Board; and

(3) each state senator and representative in whose district the property is located.

(e) The governor may disapprove the sale of real property of the state subject to Subsection (b)(2) by providing written notice of the disapproval to the commission not later than the 90th day after the date the governor receives the formal notification required by Subsection (d).

(f) On request by the commission, the General Land Office shall negotiate and close a sale of real property of the state under this

section on behalf of the commission using procedures established in Section 31.158(c), Natural Resources Code, except the land office is not required to offer the School Land Board the first option to purchase the real property.

(g) Each transfer of an interest in real property of the state under this section must be made by an instrument signed by the executive director of the commission and the governor.

(h) The proceeds from the sale, lease, or other disposition of real property of the state under this section shall be deposited to the Texas capital trust fund established under Chapter 2201 and dedicated to the acquisition, construction, repair, and improvement of state facilities. Before depositing proceeds in the fund, the commission may recover from the proceeds all amounts spent by the commission for management, acquisition, and disposition expenses.

(i) Sections 403.095 and 2201.003(b) do not apply to proceeds deposited in the Texas capital trust fund in accordance with this section.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 587, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 660, Sec. 1, eff. June 11, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 867 (H.B. 2977), Sec. 1, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1331 (H.B. 4541), Sec. 1, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(50), eff. September 1, 2021.

Sec. 2166.053. CONTRACT AUTHORITY. To the extent permitted by appropriations, the commission may take action and contract to obtain sites that it considers necessary for the orderly future development of the state building program.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.054. TITLE TO AND CONTROL OF BUILDINGS; INITIAL OCCUPANTS. (a) The commission shall obtain title for the state and retain control of:

(1) real property acquired for a building site; and
(2) any building located on the site.

(b) The commission or the legislature shall determine the initial state agency occupants of a building.

(c) Repealed by Acts 1997, 75th Leg., ch. 658, Sec. 1, eff. Sept. 1, 1997.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 658, Sec. 1, eff. Sept. 1, 1997.

Sec. 2166.055. EMINENT DOMAIN. The commission may exercise the power of eminent domain under the general laws to obtain a building site.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.056. GRANT OF EASEMENT, FRANCHISE, LICENSE, OR RIGHT-OF-WAY; JOINT USE AGREEMENTS. (a) The commission may grant a permanent or temporary easement, franchise, license, or right-of-way over and on the land of a state agency on a project administered by the commission or enter into a joint use agreement regarding the land if it is necessary to ensure the efficient and expeditious construction, improvement, renovation, use, or operation of a building or facility of the project.

(b) The commission shall submit an easement or right-of-way that may extend beyond the period of construction to the asset management division of the General Land Office for written comment not later than the 30th day before the date it is granted by the commission. The commission may enter into a joint use agreement or grant a franchise or license at the commission's discretion and for the period determined by the commission if the commission determines that the joint use agreement, franchise, or license is in the best interests of the state and if adequate consideration is received by the state under the agreement or under the terms of the franchise or license.

(c) The commission shall consider comments submitted by the asset management division of the General Land Office before granting an easement or right-of-way.

(d) The commission shall approve all joint use agreements,

franchises, and licenses under this section by a majority vote in an open meeting.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 1437, Sec. 1, eff. June 19, 1999.

Sec. 2166.057. COORDINATION OF MULTIAGENCY PROJECTS. The commission is the coordinating authority for the construction of any multiagency state office building authorized by the legislature.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.058. ASSISTANCE BY OTHER AGENCIES. (a) The commission may call on a department of state government to assist it in executing this chapter.

(b) The commission may call on the Texas Department of Transportation to make appropriate tests and analyses of the natural materials at the site of a building proposed to be constructed under this chapter to ensure that the foundation of the building is adequate for the building's life.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.059. ASSIGNMENT OF COMMISSION EMPLOYEE TO OTHER AGENCY. (a) The commission may assign a qualified professional employee to a using agency if, because of the volume of projects, the commission and using agency agree that full-time coordination between them is beneficial. The commission and using agency shall jointly determine the qualifications and duties of the assigned employee.

(b) The salary and related expenses of an assigned employee shall be charged against the projects of the using agency to which the employee is assigned.

(c) The commission shall terminate the assignment if the commission determines it is not required.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.060. SITE SELECTION AND CONSTRUCTION IN TEXAS MUNICIPALITIES. (a) The commission may select and purchase a site in a municipality in this state to construct a state office building and adjoining parking spaces if the construction is considered necessary to house a state department or agency in the municipality.

(b) The commission may plan, construct, and initially equip a state office building and adjoining parking spaces on the site selected and purchased.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.061. GENERAL COMMISSION OVERSIGHT DURING CONSTRUCTION. The commission is responsible for protecting the state's interests during the actual construction of a project subject to this chapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.062. RULEMAKING AUTHORITY. (a) The commission may adopt rules necessary to implement its powers and duties under this chapter.

(b) A rule adopted under this section is binding on a state agency on filing of the rule with the secretary of state.

(c) The commission shall prepare and publish a manual to assist using agencies in complying with this chapter and commission rules.

(d) Copies of the manual required by this section shall be:

(1) distributed to using agencies; and

(2) available to architects, engineers, contractors, and others who need and request copies.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.063. FEDERAL REQUIREMENTS. (a) The commission may waive, suspend, or modify a provision of this chapter that conflicts with a federal statute or a rule, regulation, or administrative procedure of a federal agency if a waiver, suspension, or modification is essential to receive federal money for a project.

(b) If a project is wholly financed with federal money, a

standard required by an enabling federal statute or required by a rule or regulation of the administering federal agency controls.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. STATEWIDE PLANNING AND REPORTING

Sec. 2166.101. COMPILATION OF CONSTRUCTION AND MAINTENANCE INFORMATION. (a) This section applies to a state-owned building, including a building otherwise exempt from this chapter under Section 2166.003, except that this section does not apply to a building owned by an institution of higher education as defined by Section 61.003, Education Code.

(b) The commission shall biennially obtain the following information for each state-owned building from the using agency:

(1) the year of completion;

(2) the general construction type;

(3) the size;

(4) the use; and

(5) the general condition.

(c) The commission shall, for a building completed on or after September 1, 1979, obtain from a using agency information showing the total cost of the project and the cost of construction with other information necessary to meaningfully compare the cost of similar buildings.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(2), eff. September 1, 2019.

(e) State agencies, departments, and institutions shall cooperate with the commission in providing any information needed by the commission to comply with this section.

(f) Repealed by Acts 2003, 78th Leg., ch. 1266, Sec. 5.05.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 118, Sec. 4.01, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1266, Sec. 5.04, 5.05, eff. June 20, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 17, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 53, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1203 (S.B. 1455), Sec. 17, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(2), eff. September 1, 2019.

Sec. 2166.102. LONG-RANGE PLAN FOR STATE AGENCY SPACE NEEDS. (a) The commission shall prepare a long-range plan on the needs of state agencies in Travis County that obtain or occupy space under this subtitle.

(b) The commission shall maintain a six-year capital planning cycle and shall electronically submit a master facilities plan with the governor, lieutenant governor, speaker of the house of representatives, Legislative Budget Board, and comptroller not later than December 1 of each even-numbered year.

(c) The master facilities plan must contain:

(1) projections of the amount of administrative office space and client service space needed by state agencies, including the current amount of each state agency's administrative office space in Travis County and identification of locations that currently exceed the space limitations prescribed by Section 2165.104(c);

(2) an examination of the commission's efforts to colocate administrative office space;

(3) an examination of the use, age, condition, and economic life of state-owned buildings on the commission's inventory, including a listing of all improvements and repairs that have been made to the buildings with an itemized account of receipts and expenditures and an estimate of needed improvements and repairs;

(4) an analysis, in accordance with Subchapter D, of projects that have been requested by state agencies, including:

(A) a brief and specific justification prepared by the using agency for each project;

(B) a summary of the project analysis or, if the analysis was not made, a statement briefly describing the method used to estimate costs for the project;

(C) a project cost estimate detailed enough to allow the budget agencies, the governor, and the legislature the widest possible latitude in developing policy regarding each project request;

(D) an estimate, prepared by the commission with the

cooperation of both the using agency and any private design professional retained, of the annual cost of maintaining the completed project, including the estimated cost of utility services;

(E) an estimate, prepared by the using agency, of the annual cost of staffing and operating the completed project, excluding maintenance cost;

(F) if appropriate and with the using agency's approval, an indication of:

(i) the feasibility of stage construction of a requested project; and

(ii) the degree to which money will be required in the next biennium if the project is undertaken in stages; and

(G) the designated priority of each project to which a priority rating has been assigned under Section 2166.151(c);

(5) an examination of the extent to which the state satisfies its need for space by leasing building space;

(6) an examination of state-paid operation and maintenance costs for existing buildings owned or leased by the state;

(7) a discussion of the economic and market conditions affecting the costs of the construction or lease of buildings;

(8) an analysis of whether the state will benefit more from satisfying its needs for space by:

(A) engaging in new projects;

(B) leasing built space; or

(C) satisfying its needs in another manner;

(9) the commission's findings and recommendations under Section 2166.103;

(10) a summary of the commission's findings under Section 2166.101 on the status of state-owned buildings and current information on construction costs;

(11) the comprehensive capital improvement and deferred maintenance plan and regular updates developed under Section 2166.108, including the aggregate project costs for each state agency;

(12) an examination of the amount of exempt and nonexempt office space under Section 2165.104(c); and

(13) other information relevant to the long-range plan that is:

(A) considered appropriate by the commission; or

(B) requested in writing by the governor or the

presiding officer of either house of the legislature.

(d) Each state agency housed wholly or partly in a facility on the commission's inventory or in a facility leased by the commission shall participate in the long-range planning process required by this section.

(e) For purposes of this section, "administrative office space" has the meaning assigned by Section 2165.1061.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1398, Sec. 2, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 18, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1203 (S.B. 1455), Sec. 18, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.21, eff. September 1, 2019.

Sec. 2166.103. FINDINGS ON SPACE NEEDS. (a) The commission shall continuously survey the state's office space needs to determine the space needed and the location of the need.

(b) The commission shall identify counties in which more than 50,000 square feet of usable office space is needed and make recommendations for meeting that need. The commission may recommend leasing or purchasing and renovating one or more existing buildings or constructing one or more buildings.

(c) The commission may collect appropriate information it considers necessary for preparing its recommendations.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 19, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 54, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 55, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1203 (S.B. 1455), Sec. 19, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.22, eff. September 1, 2019.

Sec. 2166.105. CAPITOL COMPLEX MASTER PLAN. (a) The commission shall prepare a Capitol Complex master plan that at a minimum includes:

(1) an overview and summary of the previous plans for the Capitol Complex;

(2) a stated strategic vision and long-term goals for the Capitol Complex;

(3) an analysis of state property, including buildings, in the Capitol Complex and of the extent to which this state satisfies its space needs through use of the property;

(4) detailed, site-specific proposals for state property in the Capitol Complex, including proposals on the use of property and space for public sector purposes;

(5) an analysis of and recommendations for building design guidelines to ensure appropriate quality in new or remodeled buildings in the Capitol Complex;

(6) an analysis of and recommendations for Capitol Complex infrastructure needs, including transportation, utilities, and parking;

(7) for projects identified in the plan, an analysis of and recommendations for financing options;

(8) time frames for implementing the plan components and any projects identified in the plan;

(9) consideration of alternative options for meeting state space needs outside the Capitol Complex; and

(10) other information relevant to the Capitol Complex as the commission determines appropriate.

(b) The commission shall ensure that the General Land Office, the State Preservation Board, the Texas Historical Commission, and other relevant interested parties are included in each stage of the development of the Capitol Complex master plan.

(c) The commission shall submit to the governor, lieutenant governor, speaker of the house of representatives, comptroller, and Legislative Budget Board:

(1) not later than April 1, 2016, the initial Capitol Complex master plan; and

(2) not later than July 1 of each even-numbered year thereafter, updates to the plan.

(d) The commission shall ensure that the Capitol Complex master plan and the master facilities plan developed under Section 2166.102 do not conflict and together comprehensively address the space needs of state agencies.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 20, eff. June 14, 2013.

Sec. 2166.106. REVIEW OF PROPOSED CAPITOL COMPLEX MASTER PLAN BY PARTNERSHIP ADVISORY COMMISSION. (a) Before a proposed Capitol Complex master plan or proposed update to the plan is submitted and considered approved under Section 2166.1065 and before the commission adopts the plan or update, the commission must submit the plan or update to the Partnership Advisory Commission established under Chapter 2268 for review and comment.

(b) Not later than the 60th day after the date the Partnership Advisory Commission receives the plan or update, the advisory commission shall in a public hearing by majority vote of the members present:

(1) vote to approve the plan or update; or

(2) submit to the commission written comments and recommended modifications to the plan or update.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 20, eff. June 14, 2013.

Sec. 2166.1065. REVIEW OF CAPITOL COMPLEX MASTER PLAN BY STATE PRESERVATION BOARD AND GENERAL LAND OFFICE. (a) Not later than the 90th day before the date the commission holds a public meeting to discuss a proposed Capitol Complex master plan, the commission must submit the proposed plan to the State Preservation Board for review and comment. Not later than the 60th day before the date the commission holds a public meeting to discuss a proposed Capitol Complex master plan, the commission must submit the proposed plan to the General Land Office for review and comment.

(b) Not later than the 60th day before the date the commission holds a public meeting to discuss a proposed update to the Capitol

Complex master plan, the commission must submit the proposed update to the State Preservation Board and the General Land Office for review and comment.

(c) Not later than the 90th day after the date the State Preservation Board receives from the commission a proposed Capitol Complex master plan and not later than the 60th day after the date the board receives from the commission a proposed update to the plan, the board may:

(1) by a public vote disapprove the plan or update if the board determines that the goals or recommendations in the plan or update are not in the best interest of the state or of the Capitol Complex; and

(2) submit to the commission written comments and recommended modifications to the plan or update.

(d) The proposed Capitol Complex master plan or the proposed update to the plan is considered to be approved by the State Preservation Board if the board does not hold the public vote authorized by Subsection (c) on or before the date required under that subsection.

(e) The review of the Capitol Complex master plan under this section is in addition to the review required for a proposed project under Section 443.0071.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 20, eff. June 14, 2013.

Sec. 2166.107. COMPREHENSIVE PLANNING AND DEVELOPMENT PROCESS. (a) The commission by rule shall adopt a comprehensive process for planning and developing state property in the commission's inventory and for assisting state agencies in space development planning for state property under Sections 2165.105 and 2165.1061.

(b) The process under this section at a minimum must include:

(1) a clear approach and specific time frames for obtaining input throughout the planning and development process from the public, interested parties, and state agencies, including the General Land Office;

(2) specific schedules for providing to the commission regular updates on planning and development efforts;

(3) a public involvement policy to ensure that before the

commission makes a decision on the use or development of state property the public and interested parties have the opportunity to review and comment on the commission's plans; and

(4) confidentiality policies consistent with Chapter 552.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 20, eff. June 14, 2013.

Sec. 2166.108. COMPREHENSIVE CAPITAL IMPROVEMENT AND DEFERRED MAINTENANCE PLAN. (a) The commission shall develop a comprehensive capital improvement and deferred maintenance plan that clearly defines the capital improvement needs and critical and noncritical maintenance needs of state buildings.

(b) The comprehensive capital improvement and deferred maintenance plan must:

(1) with respect to deferred maintenance projects:

(A) list, with regular updates, deferred maintenance projects that contain critical high-priority projects and lower-priority, non-health and safety projects;

(B) state the commission's plan for addressing the projects;

(C) account for the completion of high-priority projects;

(D) estimate when the lower-priority projects may become higher-priority projects; and

(E) be modified as necessary to include additional maintenance projects;

(2) contain a list of all predictable capital improvement projects, including a time frame and a cost estimate for each project; and

(3) contain a plan, updated biennially, for responding to emergency repairs and replacements that, in consultation with the Legislative Budget Board, identifies potential sources of funds, which may include bonds and bond interest, that may be used to pay the costs of emergency repair and replacement projects.

(c) The comprehensive capital improvement and deferred maintenance plan must include for each segment of the plan described by Subsection (b) a prioritized list by state agency facility of each project that includes an estimate of the project's cost and the

aggregate costs for all facility projects.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(2), eff. September 1, 2019.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 20, eff. June 14, 2013.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(2), eff. September 1, 2019.

SUBCHAPTER D. INDIVIDUAL PROJECT ANALYSIS

Sec. 2166.151. USING AGENCY'S GENERAL PROJECT DESCRIPTION; INITIATION OF PROJECT ANALYSIS PROCESS. (a) A using agency requesting a project shall prepare and send to the commission a general description of the project. The description must specify whether the using agency requests that a portion of the cost of the project be used for fine arts projects at or near the site of the project as provided by Section 2166.552.

(b) The commission shall study a project description sent to it and shall initiate the preparation of a project analysis for:

(1) a new construction project; and

(2) any other project for which, in the commission's opinion, the cost of preparing a project analysis is justified.

(c) If a using agency requests three or more projects, it shall designate its priority rating for each project. The budget agencies shall, with the commission's cooperation, develop detailed instructions to implement the priority system required by this subsection.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.06(a), eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.23, eff. September 1, 2019.

Sec. 2166.152. PREPARATION OF PROJECT ANALYSIS. (a) The commission may retain a private design professional or use its own staff to prepare a project analysis.

(b) A private design professional retained to prepare a project analysis shall be selected as provided by Subchapter E.

(c) In preparing a project analysis, the commission and any private design professional it retains shall cooperate and work closely with the using agency so that the project analysis fully reflects the using agency's needs.

(d) A contract to prepare a project analysis must specify that the analysis becomes the commission's property.

(e) Money appropriated by the legislature may not be used for a capital construction project for which a project analysis described by this section is required until the analysis is filed with the Legislative Budget Board, the budget division of the governor's office, and the comptroller.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 281, Sec. 9, eff. Sept. 1, 1999.

Sec. 2166.153. CONTENTS OF PROJECT ANALYSIS. (a) A project analysis consists of:

(1) a complete description of the project and a justification of the project prepared by the using agency;

(2) a detailed estimate of the amount of space needed to meet the needs of the using agency and to allow for realistic growth;

(3) a description of the proposed project prepared by a design professional that:

(A) includes schematic plans and outline specifications describing the type of construction and probable materials to be used; and

(B) is sufficient to establish the general scope and quality of construction;

(4) an estimate of the probable cost of construction;

(5) a description of the proposed site of the project and an estimate of the cost of site preparation;

(6) an overall estimate of the cost of the project, including necessary funding for life-cycle costing, whole building integrated design, commissioning, and postoccupancy building performance verification;

(7) information prepared under Section 2166.451 about historic structures considered as alternatives to new construction;

(8) an evaluation of energy alternatives and energy-efficient architectural and engineering design alternatives as required by Sections 2166.401, 2166.403, and 2166.408; and

(9) other information required by the commission.

(b) A project analysis may include two or more alternative proposals for meeting the using agency's space needs by:

(1) new construction;

(2) the acquisition and rehabilitation of an existing or historic structure; or

(3) a combination of new and existing structures.

(c) If any part of a project involves the construction or rehabilitation of a building that is to be used primarily as a parking garage or for office space for state government, the project analysis also must include:

(1) a description of the amount and location of space in the building that can be made available for lease to private tenants under Subchapter E, Chapter 2165; or

(2) a statement of the reason that lease of space in the building to private tenants is not feasible.

(d) All estimates involved in the preparation of a project analysis shall be carefully and fully documented and incorporated into the project analysis.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 856 (S.B. 982), Sec. 2, eff. June 17, 2005.

Sec. 2166.154. USE OF PROJECT ANALYSIS OR COST ESTIMATE IN APPROPRIATIONS PROCESS. The using agency shall use the cost of the project as determined by the project analysis or the cost estimate developed under Section 2166.155 as the basis of a request to the state's budget offices.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.155. ESTIMATE OF PROJECT COSTS IN LIEU OF PROJECT ANALYSIS. (a) If the commission determines that the cost of a project analysis is not justified or required, the commission shall,

in cooperation with the using agency, develop a realistic estimate of the project's cost.

(b) If necessary, the commission shall arrange for an on-site inspection and analysis of the proposed project by a commission staff member.

(c) The commission shall inform a using agency of a cost estimate developed under this section.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.156. PREPARATION OF PRELIMINARY AND WORKING PLANS AND SPECIFICATIONS. (a) The preliminary plans and outline specifications and the working plans and specifications for a project shall be prepared by:

(1) a private design professional selected and retained by the commission in accordance with Subchapter E; or

(2) unless the commission is required to retain a design professional under Subsection (b), the commission's professional staff.

(b) The commission shall retain a private design professional for:

(1) a new construction project estimated to cost more than $100,000; or

(2) a new construction project for which the using agency requests a private design professional.

(c) The commission shall ensure that plans and specifications:

(1) are clear and complete;

(2) permit execution of the project with appropriate economy and efficiency; and

(3) conform with the requirements described by the previously prepared project analysis.

(d) The commission must approve plans and specifications before the using agency may accept or use them.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.157. ACCOUNTING FOR PROJECT ANALYSIS EXPENSES. When the legislature approves a project and appropriates money for its construction, the engineering, architectural, and other planning

expenses necessary to make a project analysis are the first charge against the project for which the analysis was made.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. PRIVATE DESIGN PROFESSIONALS

Sec. 2166.202. SELECTION OF PRIVATE DESIGN PROFESSIONAL; RULES. (a) The commission is responsible for selecting any private design professional retained for a project subject to this chapter.

(b) The commission, in consultation with the Texas Board of Architectural Examiners and the Texas Board of Professional Engineers and Land Surveyors, shall adopt by rule criteria to evaluate the competence and qualifications of a prospective private design professional.

(c) The commission shall select a private design professional in accordance with a rule adopted under this section and the ethical standards of the professional societies of architects and engineers.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.779, eff. Sept. 1, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1232 (H.B. 1523), Sec. 2.07, eff. September 1, 2019.

Sec. 2166.203. INTERVIEW NOTIFICATION TO PRIVATE DESIGN PROFESSIONAL. (a) Except as provided by Subsection (b), the commission shall notify a private design professional selected for an interview on a project of the person's selection not later than the 30th day before the date of the interview to allow preparation for the interview.

(b) The commission shall notify a private design professional selected for an interview on a small construction project of the person's selection not later than the 14th day before the date of the interview to allow preparation for the interview.

(c) Subsections (a) and (b) do not apply in an emergency situation that:

(1) presents an imminent peril to the public health, safety, or welfare;

(2) presents an imminent peril to property;

(3) requires expeditious action to prevent a hazard to life, health, safety, welfare, or property; or

(4) requires expeditious action to avoid undue additional cost to the state.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1329, Sec. 2, eff. Sept. 1, 1997.

Sec. 2166.204. USING AGENCY RECOMMENDATIONS. The commission shall request that the using agency make recommendations regarding private design professionals. The commission shall consider the recommendations in selecting a private design professional to be retained for a particular project.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.07, eff. Sept. 1, 1997.

Sec. 2166.205. COMPENSATION OF PRIVATE DESIGN PROFESSIONAL. (a) A private design professional retained under this chapter shall be compensated under this section.

(b) The commission shall establish compensation for a new project or rehabilitation project by studying compensation paid in this state by private clients for projects of comparable size and complexity. Compensation may not exceed the minimum recommended for similar projects by the:

(1) Texas Society of Architects, if the private design professional is an architect; or

(2) Texas Society of Professional Engineers, if the private design professional is an engineer.

(c) Compensation established by the commission covers all professional services rendered by a private design professional, including professional inspection as defined by Section 2166.351. If the commission requires detailed inspection as defined by Section 2166.351, the commission shall increase compensation by an amount equal to the actual cost of providing the detailed inspection.

(d) Compensation for preparation of a project analysis under

Subchapter D may not exceed one percent of the estimated cost of construction. If the project is approved by the legislature in substantially the form originally requested and the same private design professional is retained for the later phases of design, compensation paid for preparing the project analysis under this subsection shall be deducted from compensation paid under Subsections (b) and (c).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.206. INFORMATION FURNISHED BY STATE. The state shall furnish to a private design professional retained under this chapter:

(1) detailed information on space requirements and relationships and the justification for, use of, and general requirements for the project; and

(2) a complete site survey and soil analysis.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER F. PROJECT AUTHORIZATION; BIDDING AND CONTRACT PROCEDURES

Sec. 2166.251. LEGISLATIVE AUTHORIZATIONS AND APPROPRIATIONS. (a) Only the legislature may authorize a project.

(b) A legislative appropriation for a project is directly to a using agency unless the project is to be constructed by the commission, in which event the appropriation is to the commission.

(c) An appropriation for the construction of a project expresses the legislative intent that the project be completed within the limits of the appropriation.

(d) If the legislative authorization provides for stage construction of a project, the commission shall proceed with the project through the specifically authorized stage.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.252. MODIFYING PROJECT TO CONFORM TO APPROPRIATIONS. (a) If money appropriated for a project is less than the amount originally requested or is less than the amount required for the project as originally submitted to the state budget agencies, the

commission and the using agency shall confer on how to bring the project cost within the amount appropriated. The commission and the using agency shall make every effort to comply with legislative intent to modify the project as originally submitted.

(b) The commission shall notify the using agency that it considers the project canceled if it is impossible to modify the project to bring the cost within the amount appropriated.

(c) If authorized by an act appropriating money for a project, a using agency may appeal the decision of the commission to cancel a project to the governor by submitting a request that:

(1) the project be undertaken as stage construction; or

(2) the money available for the project be supplemented by the transfer of money appropriated to the same using agency for other projects of equal or lower priority or from the unused contingency reserves of any project of the same using agency.

(d) The governor shall, after obtaining the advice of the Legislative Budget Board, rule on a request submitted under Subsection (c). If the ruling favors the using agency, the commission shall proceed with the project.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.2525. DETERMINATION OF CONTRACTING METHOD. The method of contracting allowed under this subchapter for design and construction services is any method provided by Chapter 2269.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 9.02, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.07, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(9), eff. September 1, 2013.

Sec. 2166.253. LOWEST AND BEST BID METHOD. (a) The commission may use the lowest and best bid method for a project. In using that method, the commission shall follow the procedures provided by Subsections (b)-(g).

(b) After final approval of a project's working plans and

specifications and their acceptance by a using agency, the commission shall advertise in one newspaper of general circulation and the Texas Register for bids or proposals for the construction of and related work on the project.

(c) Except as provided by Subsection (d), the commission shall allow bidders not less than 30 days after the date the commission issues the bid documents to respond to an invitation to bid.

(d) The commission shall allow bidders for small construction projects not less than 14 days after the date the commission issues the bid documents to respond to an invitation to bid.

(e) The commission may shorten the time for response to prevent undue additional costs to a state agency or, for emergency projects, to prevent or remove a hazard to life or property.

(f) A contract shall be awarded to the qualified bidder making the lowest and best bid in accordance with the law on awarding a state contract.

(g) The commission may reject all bids.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1329, Sec. 3, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1422, Sec. 9.04, eff. Sept. 1, 2001.

Sec. 2166.254. REVIEW OF CERTAIN BIDS BY HISTORICAL COMMISSION. (a) Before a contract is awarded for the major repair or renovation of a state structure designated by the Texas Historical Commission as a Recorded Texas Historic Landmark, the commission shall forward to the Texas Historical Commission a copy of bids received and an evaluation of the bidders' qualifications.

(b) The Texas Historical Commission shall review the bids and qualifications and recommend to the commission the bidder to which the award should be made.

(c) The commission may award the contract to a bidder other than the lowest bidder based on the Texas Historical Commission's recommendation.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.255. AMOUNT OF CONTRACT. A contract may not be awarded for an amount greater than the amount that the comptroller

certifies to be available for the project.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 9.08, eff. Sept. 1, 2001.

Sec. 2166.2551. CONTRACT NOTIFICATION. The commission or an agency whose project is exempted from all or part of this chapter under Section 2166.003 shall provide written notice to the Legislative Budget Board of a contract for a construction project if the amount of the contract, including an amendment, modification, renewal, or extension of the contract, exceeds $50,000. The notice must be on a form prescribed by the Legislative Budget Board and filed not later than the 30th day after the date the agency enters into the contract.

Added by Acts 1999, 76th Leg., ch. 281, Sec. 10, eff. Sept. 1, 1999.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 855 (S.B. 799), Sec. 12, eff. September 1, 2021.

Sec. 2166.256. ACQUISITION OF ITEMS NOT FURNISHED UNDER CONSTRUCTION CONTRACT. Equipment or furnishings not constructed or installed under a construction contract shall be acquired through regular state purchasing methods.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.257. CONTRACT PAYMENT ADMINISTRATION. (a) On receipt of notice and itemized statements from the commission, the comptroller shall:

(1) account for prior expenditures on behalf of a project as expenditures from the project's appropriation, based on the amount of those expenditures certified by the commission; and

(2) reserve from a project's appropriation an amount estimated by the commission to be sufficient to cover contingencies over the amounts obligated by contract or otherwise for:

(A) planning, engineering, and architectural work;

(B) site acquisition and development; and

(C) construction, equipment, and furnishings contracts.

(b) The money reserved under Subsection (a)(2) may be used only if:

(1) the design professional or contractor recommends and justifies the proposed contingency expenditures by submitting a change order request;

(2) the proposed change order request is approved by the design professional;

(3) the proposed change order request is approved by the using agency and the agency makes a formal request for the allocation of money from the contingency reserve; and

(4) the director of facilities construction and space management appointed under Section 2152.104 investigates the nature of the change order and concurs in the necessity of the proposed expenditure or refuses to concur not later than the 15th day after the date of receiving the request.

(c) If the director of facilities construction and space management refuses to concur in a proposed contingency expenditure, the using agency may appeal to the commission. The commission's findings are final. The commission shall adopt rules on the procedures for an appeal under this subsection.

(d) If an approved change order results in a reduction of construction cost, the amount of the contingency reserve shall be increased by the amount of the reduction.

(e) The comptroller shall issue warrants to pay progress payments and final payments on construction under this chapter on the commission's written approval.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.258. COMMON SURETY OR INSURER. (a) The commission or an agency whose project is exempted from all or part of this chapter under Section 2166.003 may negotiate an arrangement advantageous to the state with a surety or an insurer, as appropriate, authorized to do business in this state to furnish bonds, insurance, or both that a contractor or subcontractor is required to execute or carry to receive a contract or subcontract on a project administered by the commission or other agency.

Text of subsec. (b) as amended by Acts 2001, 77th Leg., ch. 614, Sec. 1

(b) In accordance with Section 1, Chapter 87, Acts of the 56th Legislature, Regular Session, 1959 (Article 7.19-1, Vernon's Texas Insurance Code), the commission or other agency may not require a contractor or subcontractor for any public building or other construction contract to obtain a surety bond from any specific insurance or surety company, agent, or broker. To the extent consistent with that law, the commission or other agency may require a contractor or subcontractor to meet part or all of the bonding or insurance requirements for the project under the negotiated arrangement.

Text of subsec. (b) as amended by Acts 2001, 77th Leg., ch. 1422, Sec. 9.09

(b) Except as provided by Subsection (c), notwithstanding Section 1, Chapter 87, Acts of the 56th Legislature, Regular Session, 1959 (Article 7.19-1, Vernon's Texas Insurance Code), the commission or other agency may require a contractor or subcontractor to meet part or all of the bonding or insurance requirements for the project under the arrangement negotiated by the commission or other agency.

Text of subsec. (c) as added by Acts 2001, 77th Leg., ch. 614, Sec. 1

(c) For the purposes of this section, the General Services Commission shall establish a program to provide surety technical assistance services for the benefit of small businesses and historically underutilized businesses. The commission may contract with insurance companies, surety companies, agents, or brokers to implement this program.

Text of subsec. (c) as added by Acts 2001, 77th Leg., ch. 1422, Sec. 9.09

(c) To assist historically underutilized businesses, small businesses, or any other businesses, if an agency by rule requires a proposal guaranty as a condition for bidding on a contract, the guaranty may be in the form of a:

(1) cashier's check or money order drawn on an account with a financial entity determined by the agency;

(2) bid bond issued by a surety authorized to do business in this state; or

(3) any other method approved by the agency.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 614, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1422, Sec. 9.09, eff. Sept. 1, 2001.

Sec. 2166.259. SMALL CONTRACTOR PARTICIPATION ASSISTANCE PROGRAM. (a) This section applies only in relation to a public works project that will involve a contract or aggregated multiple contracts with an estimated cost of more than $1 million.

(b) The commission shall maintain a small contractor participation assistance program to ensure full opportunity for participation in public works projects by small contractors. The program must include a:

(1) system for the centralized purchase of necessary insurance coverage for the public works project that is required under Subsection (c);

(2) public outreach plan to:

(A) provide public information about the program; and

(B) encourage small contractors to participate in the program;

(3) technical assistance plan to aid small contractors in developing the skills necessary to participate in the program in accordance with Subsection (d);

(4) financing assistance plan to provide administrative and other assistance to small contractors in obtaining necessary financing arrangements to make the participation of those contractors possible; and

(5) method developed with guidance from the Texas Department of Insurance to assist small contractors in:

(A) preparing bond application packages for public works projects in a format acceptable to bond underwriters; and

(B) obtaining bonds required to participate in public works projects.

(b-1) The commission shall designate a commission employee to serve as small contractor participation assistance coordinator. In addition to any other responsibilities, the coordinator shall:

(1) administer the small contractor participation assistance program established under this section;

(2) with the assistance of the Texas Department of Insurance, provide to small contractors technical assistance and

training related to preparing bond application packages and obtaining bonds; and

(3) with the assistance of the facilities construction and space management division of the commission, provide to small contractors technical assistance related to participation in the program.

(b-2) The small contractor participation assistance coordinator shall submit an annual report describing the activities and progress of the program to the governor, the lieutenant governor, and the speaker of the house of representatives.

(b-3) Funding appropriated to the commission for the small contractor participation assistance program may only be used for that program.

(c) The commission shall provide for the centralized purchasing of:

(1) workers' compensation insurance coverage;

(2) employer's liability insurance coverage;

(3) commercial general and excess liability coverage;

(4) payment and performance bonds; and

(5) other similar coverage the commission considers necessary and reasonable for the public works project.

(d) A technical assistance plan adopted by the commission must include information on and assistance in:

(1) bid estimation, the bidding process, scheduling, and the understanding of bid documents;

(2) the reading of construction drawings and other analogous documents;

(3) business accounting, bonds, and bond requirements;

(4) negotiation with general contractors;

(5) other technical and administrative matters considered appropriate and necessary given the complexity and scope of the public works project; and

(6) small contractor safety training to ensure compliance with federal jobsite safety standards.

(e) The commission shall negotiate contracts with persons or firms having expertise and any required license in the areas that must be included in the commission's technical assistance plan to provide the information and assistance.

(f) In this section:

(1) "Public works project" means a construction project

designed to serve the public necessity, use, or convenience that is undertaken and executed by the commission, including a project for the construction, alteration, or repair of a public building.

(2) "Small contractor" means a contractor that operates as a small-business concern as defined by the Small Business Act (15 U.S.C. Chapter 14A).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 521 (S.B. 704), Sec. 1, eff. September 1, 2007.

Sec. 2166.260. APPROVAL OF CERTAIN EXPENDITURES REQUIRED. A state agency may not spend more than the amount authorized for the cost of a project unless the governor and the Legislative Budget Board approve the expenditure. Once the cost of a project reaches the amount authorized for the project, each change to approved project plans must be approved by the governor and the Legislative Budget Board.

Added by Acts 2003, 78th Leg., ch. 309, Sec. 7.43, eff. June 18, 2003.

SUBCHAPTER G. UNIFORM GENERAL CONDITIONS IN STATE CONSTRUCTION CONTRACTS

Sec. 2166.301. EXCEPTIONS. Sections 2166.303 and 2166.304 do not apply to a contract made with a person subject to the safety standards and administrative penalty provisions of Subchapter E, Chapter 121, Utilities Code.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.26, eff. Sept. 1, 1999.

Sec. 2166.302. ADOPTION OF CONDITIONS. (a) Except as provided by Subsections (b) and (c), the commission shall adopt uniform general conditions to be incorporated into all building construction contracts made by the state, including a contract for a project

excluded from this chapter by Section 2166.003, but not including a contract for a project excluded from this chapter by Section 2166.004.

(b) The commission is not required to adopt uniform general conditions for small construction projects, as defined by Section 2166.001.

(c) Subsection (a) does not apply to a project constructed by and for the Texas Department of Transportation or an institution of higher education or university system. In this subsection, "institution of higher education" and "university system" have the meanings assigned by Section 61.003, Education Code.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.44, eff. June 18, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.92, eff. June 14, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 4.02, eff. June 17, 2011.

Sec. 2166.303. UNIFORM TRENCH SAFETY CONDITIONS. (a) The uniform general conditions for a construction project in which trench excavation will exceed a depth of five feet must require that the bid documents provided to all bidders and the contract include:

(1) a reference to the federal Occupational Safety and Health Administration's standards for trench safety that will be in effect during the construction of the project;

(2) a copy of the state's special shoring requirements, if any, with a separate pay item for the special shoring requirements;

(3) a copy of geotechnical information obtained by the owner for use by the contractor in the design of the trench safety system; and

(4) a separate pay item for trench excavation safety protection.

(b) The separate pay item for trench safety is determined by the linear feet of trench excavated. The separate pay item for the state's special shoring requirements, if any, is determined by the square feet of shoring used.

(c) In this section, "trench" has the meaning assigned by the standards adopted by the federal Occupational Safety and Health Administration.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.304. PRE-BID CONFERENCE. (a) A state agency may require bidders to attend a pre-bid conference to coordinate a geotechnical investigation of the project site by the bidders.

(b) In awarding a contract, an agency may not consider a bid from a bidder who failed to attend a pre-bid conference required under this section.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.305. REVIEW OF UNIFORM GENERAL CONDITIONS. (a) The commission shall require a review of the uniform general conditions of state building construction contracts whenever the commission considers review worthwhile, but not less frequently than once every five years.

(b) A committee appointed by the commission shall perform the review. The committee consists of:

(1) the director of facilities construction and space management appointed under Section 2152.104, who serves as the presiding officer of the committee;

(2) six individuals appointed by the commission, one each from the lists of nominees submitted respectively by the:

(A) president of the Texas Society of Architects;

(B) president of the Texas Society of Professional Engineers;

(C) presiding officer of the Executive Council of the Texas Associated General Contractors Chapters;

(D) executive secretary of the Mechanical Contractors Associations of Texas, Incorporated;

(E) executive secretary of the Texas Building and Construction Trades Council; and

(F) president of the Associated Builders and Contractors of Texas;

(3) one individual appointed by the commission representing

an institution of higher education, as defined by Section 61.003, Education Code;

(4) one individual appointed by the commission representing a state agency that has a substantial ongoing construction program;

(5) one individual appointed by the commission representing the attorney general's office;

(6) one individual appointed by the commission representing the interests of historically underutilized businesses;

(7) two individuals appointed by the commission, each representing a different minority contractors association;

(8) one individual appointed by the commission representing the Texas Association of School Boards; and

(9) one individual appointed by the commission representing the Texas Association of School Administrators.

(c) Members of the committee serve without compensation but may be reimbursed for actual and necessary expenses.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.45, eff. June 18, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 495 (S.B. 297), Sec. 1, eff. September 1, 2007.

Acts 2021, 87th Leg., R.S., Ch. 366 (S.B. 338), Sec. 2, eff. June 7, 2021.

SUBCHAPTER H. PROJECT INSPECTION

Sec. 2166.351. DEFINITIONS. In this subchapter:

(1) "Detailed inspection" means close, technical, on-site examination of materials, structure, and equipment and surveillance of the quality and methods of work, performed by one or more full-time personnel at the project site, to reasonably ensure that the project is accomplished in compliance with information in the contract documents and with good construction practices.

(2) "General inspection" means the examination and inspection of the project at periodic intervals by commission employees.

(3) "Professional inspection" means the periodic examination of all elements of the project to reasonably ensure that

they meet the performance and design features and the technical and functional requirements of the contract documents.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.352. CATEGORIES OF INSPECTION. The three categories of inspection during construction are:

(1) detailed inspection;

(2) general inspection; and

(3) professional inspection.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.353. DETAILED INSPECTION. (a) The decision to require a detailed inspection is in the commission's sole discretion. The commission shall base its decision on the project's size and complexity.

(b) The full cost of detailed inspection is a charge against the project.

(c) A project construction inspector appointed by the design professional with the commission's approval shall perform detailed inspection.

(d) The project construction inspector shall:

(1) become thoroughly conversant with the drawings, specifications, details, and general conditions for executing the work;

(2) keep records of the work as required by the design professional and the commission;

(3) make reports to the design professional with copies to the commission and the using agency as required by the design professional and the commission;

(4) maintain at the construction site copies of the records and reports required under Subdivisions (2) and (3) with the plans, specifications, shop drawings, change orders, and correspondence dealing with the project;

(5) endeavor to ensure that the contractor is fulfilling the requirements of the contract documents;

(6) endeavor to ensure that all authorized changes are properly incorporated in the work and that a change is not made

unless properly authorized;

(7) notify the design professional if conditions encountered at the project vary from the contract documents and comply with the design professional's directives in endeavoring to correct those conditions;

(8) review shop drawings in relation to their adaptability to job conditions and advise the design professional in that regard;

(9) endeavor to ensure that materials and equipment furnished comply with the specifications;

(10) ensure that records are kept on construction plans of the principal elements of mechanical and electrical systems;

(11) ensure that accurate records are kept of all underground utility installations at the project site, including existing installations uncovered in the process of construction, so that the information may be recorded on site plans or drawings that may be established and maintained by the commission or the using agency;

(12) keep a daily written log of all significant happenings on the job, including the number of workers working each day and the weather conditions during the day;

(13) observe and give prompt written notice to the construction contractor's representative and the design professional of noncompliance with contract documents on the part of the contractor's representative and notify the design professional and the commission of a failure to take corrective measures promptly;

(14) initiate, attend, and participate in progress meetings and inspections with the contractor;

(15) review every contractor's invoice against the value of partially or fully completed work and the materials stored at the project site before the invoice is forwarded to the design professional and promptly notify the design professional of a discrepancy between the review of the work and the invoice; and

(16) be responsible to the design professional for the proper administration of the duties listed in this section and comply with other instructions and assignments of the design professional.

(e) If the commission requires detailed inspection of a project's construction, the design professional shall select, subject to the commission's approval, the project construction inspector and is responsible for the proper administration of the duties listed in Subsection (d). The design professional shall pay the salary of the

project construction inspector and shall be reimbursed for the salary costs and the overhead expenses directly applicable to the salary.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.354. GENERAL INSPECTION. (a) On a project for which a project construction inspector is employed by a design professional, the general inspector shall work with and through the project construction inspector and the design professional. On all other projects, the general inspector shall work with and through the design professional and shall exercise the detailed inspection functions the commission requires.

(b) The cost of general inspection is a charge against the project.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.355. PROFESSIONAL INSPECTION; RELATED SERVICES. (a) The design professional or the design professional's authorized representative shall perform professional inspection.

(b) The design professional or the design professional's authorized representative shall:

(1) assist the commission in obtaining proposals from contractors and in awarding and preparing construction contracts;

(2) be responsible for interpretation of the contract documents and changes made to the contract documents;

(3) provide an interpretation of plans and specifications as required during construction;

(4) check and approve samples, schedules, shop drawings, and other submissions only for conformance with the design concept of the project and for compliance with the information in the contract documents;

(5) approve or disapprove all change order requests and, subject to Section 2166.257, prepare all change orders;

(6) assemble all written guarantees required of the contractors;

(7) make periodic visits to the project site to become generally familiar with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the

contract documents;

(8) make a written inspection report after each visit to the project site and send a copy of the report to the contractor and the commission;

(9) keep the commission informed of the progress of the work and endeavor to guard against defects and deficiencies in contractors' work;

(10) determine periodically the amount owing to the contractors and recommend to the commission payment of that amount; and

(11) conduct inspections to determine the dates of substantial and final completion and notify the commission and the using agency of the determination.

(c) The amount of time that on-site inspections under Subsection (b)(7) take is computed by dividing the total compensation for professional services, excluding payments for detailed inspection, by 100, with the result expressed as the number of hours to be devoted to on-site inspections, project conferences with the contractor and others, and travel to and from those inspections and conferences.

(d) A recommendation under Subsection (b)(10) constitutes a representation to the commission that:

(1) based on observations and other pertinent information, the work has progressed to the point indicated; and

(2) to the best of the design professional's knowledge, information, and belief, the quality of the work is in accordance with the plans, specifications, and contract documents.

(e) This section does not:

(1) require the design professional to assume responsibility for or guarantee the complete adherence of the contractor to the plans and specifications and contract documents; or

(2) make the design professional liable for defects in construction.

(f) If a private design professional is retained, the fee paid that design professional is considered to cover professional inspection but not the additional cost of detailed inspection beyond the administrative duties specifically encompassed by Section 2166.353(e). If the commission's staff serves as design professional, the commission is responsible for professional

supervision and the cost of supervision is a charge against the project.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.356. FINAL INSPECTION; FINAL PAYMENT; INSPECTION DURING GUARANTEE PERIOD. (a) The commission is responsible for directing final payment for work done on each project. If on final inspection of a project it determines that the plans, specifications, contract, or change orders for the project have not been fully complied with, the commission shall, until compliance has occurred or adjustments satisfactory to the commission have been made, refuse to direct final payment.

(b) Final inspection consists of an on-site inspection by the design professional, a commission representative, a using agency representative, and at least one representative of each contractor.

(c) The commission shall schedule the final inspection not later than the 10th day after the date the design professional notifies the commission that the contract has been performed according to the plans and specifications.

(d) On completion of the project, the commission shall release the project to the using agency.

(e) The commission is responsible for inspecting the project before the expiration of the guarantee period to observe defects that may appear not later than the first anniversary of the date the contract is completed. The commission shall give prompt written notice to the contractor of defects that are due to faulty materials or work. This subsection does not require the contractor to assume responsibility for or guarantee defects other than those due to faulty materials or work or failure on the contractor's part to adhere to the contract documents.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER I. CONSERVATION OF ENERGY AND WATER

Sec. 2166.401. EVALUATION OF ENERGY ALTERNATIVES. (a) For each project for which a project analysis is prepared under Subchapter D and for which the construction, alteration, or repair involves installing or replacing all or part of an energy system,

energy source, or energy-consuming equipment, the commission or the private design professional retained by the commission shall prepare a written evaluation of energy alternatives for the project.

(b) The evaluation must include information about the economic and environmental impact of various energy alternatives, including an evaluation of economic and environmental costs both initially and over the life of the system, source, or equipment.

(c) The evaluation must identify the best energy alternative for the project considering both economic and environmental costs and benefits.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.402. ENERGY OR WATER CONSERVATION STANDARDS FOR ENTITIES OTHERWISE EXCLUDED FROM CHAPTER. (a) The governing body of a state agency, commission, or institution that is exempt from this chapter under Section 2166.003 shall adopt and publish energy or water conservation design standards as provided by Section 447.004 for a new building under the entity's authority. The standards must be:

(1) consistent with those adopted by the commission for other state buildings; and

(2) prepared in cooperation and consultation with the state energy conservation office.

(b) The state energy conservation office shall assist the governing body of a state agency, commission, or institution subject to Subsection (a) in preparing energy conservation standards by providing technical assistance and advice.

(c) The Texas Water Development Board shall assist the governing body of a state agency, commission, or institution described by Subsection (a) in preparing water conservation standards by providing technical assistance and advice.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 573, Sec. 7, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 58, eff. June 15, 2001.

Sec. 2166.403. ALTERNATIVE ENERGY AND ENERGY-EFFICIENT ARCHITECTURAL AND ENGINEERING DESIGN IN NEW BUILDING CONSTRUCTION.

(a) This section applies to the construction of a new state building, including a building construction project otherwise exempt from this chapter under Section 2166.003.

(b) Except as provided by Subsection (c-1), during the planning phase of the proposed construction, the commission, or the governing body of the appropriate agency that is undertaking a project otherwise exempt from this chapter under Section 2166.003, must present a detailed written evaluation at an open meeting to verify the economic feasibility of:

(1) using energy-efficient architectural or engineering design alternatives; or

(2) incorporating into the building's design and proposed energy system alternative energy devices for space heating and cooling, water heating, electrical loads, and interior lighting.

(b-1) A detailed written evaluation under Subsection (b) must be made available to the public at least 30 days before the open meeting at which it is presented.

(b-2) In each detailed written evaluation under Subsection (b), the commission or governing body shall determine economic feasibility for each function by comparing the estimated cost of providing energy for all or part of the function using conventional design practices and energy systems or operating under conventional architectural or engineering designs with the estimated cost of providing energy for all or part of the function using alternative energy devices or operating under alternative energy-efficient architectural or engineering designs during the economic life of the building. The comptroller's state energy conservation office, or its successor, must approve any methodology or electronic software used by the commission or governing body, or an entity contracting with the commission or governing body, to make a comparison or determine feasibility under this subsection.

(c) If the use of alternative energy devices or energy-efficient architectural design alternatives for a particular function is determined to be economically feasible under Subsection (b-2), the commission or governing body shall include the use of alternative energy devices or energy-efficient architectural design alternatives for that function in the construction plans.

(c-1) For a project constructed by and for a state institution of higher education, the institution shall, during the planning phase of the proposed construction for the project, verify the economic

feasibility of incorporating into the building's design and proposed energy system alternative energy devices for space heating and cooling functions, water heating functions, electrical load functions, and interior lighting functions. The institution shall determine the economic feasibility of each function listed in this subsection by comparing the estimated cost of providing energy for the function, based on the use of conventional design practices and energy systems, with the estimated cost of providing energy for the function, based on the use of alternative energy devices, during the economic life of the building.

(c-2) If the use of alternative energy devices for a specific function is determined to be economically feasible under Subsection (c-1), the governing body shall include the use of alternative energy devices for that function in the construction plans for the project.

(d) In this section:

(1) "Alternative energy" means a renewable energy resource. The term includes solar energy, biomass energy, geothermal energy, and wind energy.

(2) "Alternative energy collector" means an assembly, structure, or design, including passive elements, used to absorb, concentrate, convert, reflect, or otherwise capture or redirect alternative energy for later use as thermal, mechanical, or electrical energy.

(3) "Alternative energy device" means an alternative energy collector or alternative energy storage mechanism that collects, stores, or distributes alternative energy.

(4) "Alternative energy storage mechanism" means equipment, components, or elements designed and used to store for later use alternative energy captured by an alternative energy collector in the form in which the energy will eventually be used or in an intermediate form. The term includes thermal, electrochemical, chemical, electrical, and mechanical storage mechanisms.

(5) "Biomass energy" means energy that is created in living plants through photosynthesis.

(6) "Solar energy" means energy from the sun that may be collected and converted into useful thermal, mechanical, or electrical energy.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 856 (S.B. 982), Sec. 3, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 856 (S.B. 982), Sec. 4, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 856 (S.B. 982), Sec. 5, eff. June 17, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 4.03, eff. June 17, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 766, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2166.404. XERISCAPE ON NEW CONSTRUCTION. (a) The commission, in consultation with the Texas Natural Resource Conservation Commission, the Texas Department of Transportation, and the Industry Advisory Committee, by rule shall adopt guidelines for the required use of xeriscape on state property associated with the construction of a new state building, structure, or facility that begins on or after January 1, 1994, including a project otherwise exempt from this chapter under Section 2166.003.

(b) The guidelines adopted under this section must:

(1) establish standards for landscape design, installation, and maintenance that result in water conservation, including the use of appropriate plants, soil analysis, compost, efficient irrigation systems, and other water-conserving practices;

(2) identify beneficial plant species;

(3) specify the maximum percentage of turf and the maximum percentage of impervious surface allowed in a xeriscaped area;

(4) establish standards for selection and installation of turf;

(5) establish standards for land clearing;

(6) require preservation of existing native vegetation identified as beneficial; and

(7) establish a monitoring program to ensure implementation of and compliance with this section.

(c) The Industry Advisory Committee is composed of nine members who are Texas residents appointed by the commission. Three members must be nursery-product growers, three members must be turf-growers, and three members must be landscape contractors. The commission

shall make appointments from a list of recommendations submitted to the commission by the Texas Association of Nurserymen for the nursery-product-grower positions, the Texas Turf Association for the turf-grower positions, and the Texas Association of Landscape Contractors for the landscape-contractor positions. Appointments are for staggered three-year terms arranged so that one person from each group is appointed each year. The appointments to the committee must reflect this state's gender and ethnic diversity.

(d) In this section, "xeriscape" means a landscaping method that maximizes the conservation of water by using plants that are appropriate to the site and efficient water-use techniques. The term includes:

(1) planning and design;
(2) appropriate choice of plants;
(3) soil analysis;
(4) soil improvement using compost;
(5) efficient and appropriate irrigation;
(6) practical use of turf;
(7) appropriate use of mulches; and
(8) proper maintenance.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.405. XERISCAPE PHASE-IN. The commission shall develop a five-year program for phasing in the use of xeriscape on state property associated with a state-owned building, structure, or facility on which construction began before January 1, 1994.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.406. ENERGY SAVINGS PERFORMANCE CONTRACTS. (a) In this section, "energy savings performance contract" has the meaning assigned by Section 302.001, Local Government Code.

(b) Notwithstanding any other provision of this chapter, a state agency, without the consent of the commission, may enter into an energy savings performance contract in accordance with this section.

(c) Each energy or water conservation measure must comply with current local, state, and federal construction, plumbing, and

environmental codes and regulations. Notwithstanding Subsection (a), an energy savings performance contract may not include improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which the public water supply system officials do not have sanitary control to be returned to the potable water supply.

(d) A state agency may enter into energy savings performance contracts only with a person who is experienced in the design, implementation, and installation of the energy or water conservation measures addressed by the contract.

(e) Before entering into an energy savings performance contract, a state agency shall require the provider of the energy or water conservation measures to file with the agency a payment and performance bond relating to the installation of the measures in accordance with Chapter 2253. The agency may also require a separate bond to cover the value of the guaranteed savings on the contract.

(f) The state agency may enter into an energy savings performance contract for a period of more than one year only if the state agency finds that the amount the state agency would spend on the energy or water conservation measures will not exceed the amount to be saved in energy, water, wastewater, and operating costs over 20 years from the date of installation.

(f-1) Notwithstanding other law, the state agency may use any available money to pay the provider of the energy or water conservation measures under this section, and the state agency is not required to pay for such costs solely out of the savings realized by the state agency under an energy savings performance contract. The state agency may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

(g) An energy savings performance contract with respect to buildings or facilities may be financed:

(1) under a lease/purchase contract that has a term not to exceed 20 years from the final date of installation and that meets federal tax requirements for tax-free municipal leasing or long-term financing, including a lease/purchase contract under the master equipment lease purchase program administered by the Texas Public Finance Authority under Chapter 1232;

(2) with the proceeds of bonds; or

(3) under a contract with the provider of the energy or

water conservation measures that has a term not to exceed the lesser of 20 years from the final date of installation or the average useful life of the energy or water conservation or usage measures.

(h) An energy savings performance contract shall contain provisions requiring the provider of the energy or water conservation measures to guarantee the amount of the savings to be realized by the state agency under the contract. If the term of the contract exceeds one year, the agency's contractual obligation, including costs of design, engineering, installation, and anticipated debt service, in any one year during the term of the contract beginning after the final date of installation may not exceed the total energy, water, wastewater, and operating cost savings, including electrical, gas, water, wastewater, or other utility cost savings and operating cost savings resulting from the measures, as determined by the state agency in this subsection, divided by the number of years in the contract term.

(i) An energy savings performance contract shall be let according to the procedures established for procuring certain professional services by Section 2254.004. Notice of the request for qualifications shall be given in the manner provided by Section 2156.002. The State Energy Conservation Office shall establish guidelines and an approval process for awarding energy savings performance contracts. The guidelines adopted under this subsection must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who has a minimum of three years of experience in energy calculation and review, is not an officer or employee of an offeror for the contract under review, and is not otherwise associated with the contract. In conducting the review, the engineer shall focus primarily on the proposed improvements from an engineering perspective, the methodology and calculations related to cost savings, increases in revenue, and, if applicable, efficiency or accuracy of metering equipment. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract. An energy savings performance contract may not be entered into unless the contract has been approved by the State Energy Conservation Office. Sections 1001.053 and 1001.407, Occupations Code, apply to work performed under the contract.

(j) The legislature shall base an agency's appropriation for energy, water, and wastewater costs during a fiscal year on the sum

of:

(1) the agency's estimated energy, water, and wastewater costs for that fiscal year; and

(2) if an energy savings performance contract is in effect, the agency's estimated net savings resulting from the contract during the contract term, divided by the number of years in the contract term.

(k) Chapter 2269 does not apply to this section.

(l) The guidelines adopted under Subsection (i) must require the State Energy Conservation Office to:

(1) review any reports submitted to the office that measure and verify cost savings to a state agency under an energy savings performance contract; and

(2) based on the reports, provide an analysis, on a periodic basis, of the cost savings under the energy savings performance contract to the state agency and the Legislative Budget Board until the state agency determines that the analysis is no longer required to accurately measure cost savings.

Added by Acts 1997, 75th Leg., ch. 1142, Sec. 3, eff. June 19, 1997. Amended by Acts 1999, 76th Leg., ch. 361, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 573, Sec. 9, 13, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1319, Sec. 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 58, 121(14), eff. June 20, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 527 (S.B. 831), Sec. 3, eff. June 16, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 982 (H.B. 1728), Sec. 4, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 3.03, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(10), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 537 (S.B. 533), Sec. 2, eff. June 14, 2013.

Acts 2017, 85th Leg., R.S., Ch. 258 (H.B. 1571), Sec. 3, eff. May 29, 2017.

Sec. 2166.408. EVALUATION OF ARCHITECTURAL AND ENGINEERING

DESIGN ALTERNATIVES. (a) For each project for which a project analysis is prepared under Subchapter D and for which architectural or engineering design choices will affect the energy-efficiency of the building, the commission or the private design professional retained by the commission shall prepare a written evaluation of energy-efficient architectural or engineering design alternatives for the project.

(b) The evaluation must include information about the economic and environmental impact of various energy-efficient architectural or engineering design alternatives, including an evaluation of economic and environmental costs both initially and over the life of the architectural or engineering design.

(c) The evaluation must identify the best architectural and engineering designs for the project considering both economic and environmental costs and benefits.

Added by Acts 2005, 79th Leg., Ch. 856 (S.B. 982), Sec. 6, eff. June 17, 2005.

SUBCHAPTER J. ACQUISITION OF EXISTING BUILDINGS

Sec. 2166.451. ACQUISITION OF HISTORIC STRUCTURES. (a) In acquiring real property, each using agency shall first consider a building that is designated as a historic structure under Section 442.001 or a building that has been designated a landmark by the local governing authority if:

(1) the building meets requirements and specifications; and

(2) the cost is not substantially higher than that of other available structures that meet requirements and specifications.

(b) If the using agency rejects acquisition of a historic structure because of the structure's cost, the agency shall forward to the commission for inclusion in the project analysis for the new construction or acquisition a comparison of the cost of the new construction or acquisition with the cost of the purchase and rehabilitation of the historic structure.

(c) In determining the feasibility of acquiring a historic structure, the using agency shall evaluate the possibility of providing the space needed by the agency by combining new construction with acquisition of the historic structure.

(d) On request of the using agency, the commission shall assist the agency in evaluating the feasibility of acquiring a historic structure and in preparing the information required by Subsection (b).

(e) The commission shall comply with Subsections (a)-(c) for a:

(1) project for which it is the using agency; or

(2) multiagency state office building for which it serves as the coordinating authority.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.08(a), eff. Sept. 1, 1997.

Sec. 2166.452. ACQUISITION OF EXISTING BUILDING AS ALTERNATIVE TO NEW CONSTRUCTION. (a) If the legislature authorizes the issuance of bonds by the Texas Public Finance Authority to construct one or more buildings and improvements in a county, the commission may solicit and receive proposals, using the same procedures that apply to the purchase of other real property, for the purchase of one or more existing buildings with bond proceeds. If the commission's evaluation of the proposals demonstrates that purchase of one or more existing buildings is an appropriate and financially advantageous means of meeting all or part of the state's office space needs in that county, the commission shall certify that fact to the authority and request the authority to issue all or part of its bonds previously authorized by the legislature for that purpose.

(b) The commission shall determine financial advantage under Subsection (a) after comparing construction and purchase as fairly as possible. In making its determination, the commission shall impute value and consider factors as it considers appropriate, including consideration of the:

(1) estimated cost of construction and of acquiring land for the construction;

(2) anticipated purchase price of one or more existing buildings;

(3) estimated cost of converting one or more existing buildings to state building specifications, including reconstruction costs only when reconstruction is necessary;

(4) efficiency and suitability of an existing building's

space as configured for state use;

(5) estimated occupancy dates for proposed construction compared with estimated occupancy dates for an existing building;

(6) value of an existing building's location, parking, landscaping, and other enhancements;

(7) remaining useful life of mechanical components of an existing building; and

(8) estimated cost of maintenance and operations, including the cost of telecommunications services, for each option considered by the commission.

(c) On a determination under Subsection (a) that a purchase is more advantageous to the state, the commission may abandon construction plans. If additional costs, over available bond proceeds, must be incurred to accomplish the purchase and any necessary renovation of the purchased property, the commission may use available appropriated money and request additional bonds of the Texas Public Finance Authority in an amount of up to five percent of the acquisition cost for that purpose.

(d) A purchase under this section must be approved by the legislature if it is in session or by the Legislative Budget Board if the legislature is not in session.

(e) A person from whom real property or an existing building or other improvement is purchased under this section shall provide to the commission the name and the last known address of each person who:

(1) owns record legal title to the real property or building or other improvement; or

(2) owns a beneficial interest in the real property or building or other improvement through a trust, nominee, agent, or other legal entity.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.453. ACQUISITION OF REAL PROPERTY AS ALTERNATIVE TO LEASING SPACE. (a) This section applies only to meeting space needs of one or more state agencies in a county in which the state leases 50,000 square feet or more of space.

(b) The commission may meet space needs of one or more state agencies that are being met through leased space by purchasing or

constructing one or more buildings under this section. The purchase or construction of a building may include the purchase of the building's grounds and related improvements. The purchase or construction of a building under this section must be:

(1) financed through bonds issued by the Texas Public Finance Authority; and

(2) approved by the legislature if it is in session or by the Legislative Budget Board if the legislature is not in session.

(c) The commission may purchase or construct a building under this section only if the commission determines that the projected annual total space occupancy costs of the purchased or constructed space will not exceed, over the term of the bonded indebtedness, the projected annual total space occupancy costs of meeting the same space needs through leased space.

(d) If the commission makes the necessary determination under Subsection (c) and the purchase or construction is approved under Subsection (b), the Texas Public Finance Authority shall issue and sell bonds to finance the purchase or construction under Chapter 1232, and the commission may purchase or construct the building under that chapter and other applicable law.

(e) The limitation prescribed by Section 1232.102 relating to the location of a building for which bonds may be issued and sold does not apply to financing the purchase or construction of a building under this section.

(f) A person from whom real property or an existing building or other improvement is purchased under this section shall provide to the commission the name and the last known address of each person who:

(1) owns record legal title to the real property or building or other improvement; or

(2) owns a beneficial interest in the real property or building or other improvement through a trust, nominee, agent, or other legal entity.

(g) If a state agency vacates leased space to move into space in a building purchased or constructed under this section or if the leased space itself is purchased under this section, the money specifically appropriated by the legislature or the money available to and budgeted by the agency for lease payments for the leased space for the remainder of the biennium may be used only for rental or installment payments for the purchased or constructed space under

Section 1232.116(b) and for the payment of operating expenses for the purchased or constructed space that are incurred by the commission. The comptroller may adopt rules for the administration of this subsection.

(h) In this section, "total space occupancy costs" include:

(1) for leased space, the direct cost of the lease payments for the space;

(2) for purchased or constructed space, the direct cost of rental or installment payments for the space under Section 1232.116(b);

(3) the cost of necessary renovations;

(4) operating costs, including janitorial and utility costs; and

(5) for purchased or constructed space, the cost of maintaining a cash replacement reserve sufficient to service structural maintenance requirements reflecting the expected performance life of the major capital expense items of the building for the term of the bonded indebtedness.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 999, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 8.241, eff. Sept. 1, 2001.

For expiration of Section 2166.454, see Subsection (c).

Sec. 2166.454. PURCHASING OR OBTAINING MORE FAVORABLE LEASE WITH OPTION TO PURCHASE AGREEMENTS WITH REGARD TO CERTAIN LEASED SPACE. (a) This section and Sections 2166.4541 and 2166.4542 apply only in relation to space currently occupied by a state agency under one of seven lease with an option to purchase agreements:

(1) entered into by the state before December 1994, for the benefit of the Texas Commission on Environmental Quality or its predecessor agency, the office of the attorney general, the successor of the Department of Human Services, the Department of Family and Protective Services, or the Texas Department of Transportation; and

(2) under which the state may acquire title to the space by paying the purchase price remaining under the terms of the agreement on September 1 of an odd-numbered year.

(b) If the commission determines that it is advantageous to the state, the commission may:

(1) request the Texas Public Finance Authority to issue revenue bonds to finance the purchase of any or all of the space to which this section applies in accordance with Section 2166.4542 and Chapter 1232, if the commission determines that it is more advantageous to the state to purchase the space than to enter into a more favorable lease with an option to purchase agreement under Section 2166.4541 for that space; or

(2) enter into a more favorable lease with an option to purchase agreement with regard to any or all of the space to which this section applies by taking the actions authorized by Section 2166.4541 under the conditions prescribed by Section 2166.4541, if the commission determines that it is more advantageous to the state to enter into a more favorable lease with an option to purchase agreement for that space than to purchase the space under Section 2166.4542 and Chapter 1232.

(c) This section expires September 2, 2008, except that this section is continued in effect after that date for the limited purpose of applying with regard to any transaction authorized by this section and Section 2166.4541 or 2166.4542 that occurs before that date.

Added by Acts 2005, 79th Leg., Ch. 1310 (H.B. 3147), Sec. 1, eff. June 18, 2005.

For expiration of Section 2166.4541, see Subsection (g).

Sec. 2166.4541. ENTERING INTO MORE FAVORABLE LEASE WITH OPTION TO PURCHASE AGREEMENTS. (a) Subject to Section 2166.454(b), the commission may issue sale and lease purchase revenue obligations in accordance with this section and use the proceeds of the revenue obligations to:

(1) pay the commission's expenses in connection with issuing the revenue obligations;

(2) purchase any or all of the space described by Section 2166.454(a) according to the terms of the applicable existing lease with an option to purchase agreement or agreements; and

(3) if it is advisable to make capital improvements to the space, pay for making the capital improvements.

(b) The revenue obligations issued under Subsection (a) must be paid in their entirety immediately after issuance by using the

proceeds of the concurrent sale of the space by the commission to a third party who agrees to lease the space back to the state with an option to purchase under the following conditions:

(1) the term of the new lease with an option to purchase agreement does not exceed the remaining term on the applicable existing lease with an option to purchase agreement, as of the date on which the transactions described by this section occur; and

(2) the cost to the state under the new lease with an option to purchase agreement is less than the cost to the state under the existing lease with an option to purchase agreement and the difference in cost justifies any costs incurred by the commission and the state in taking actions under this section with regard to the space.

(c) The commission shall obtain the approval of the Bond Review Board before issuing a sale and lease purchase revenue obligation under this section.

(d) Any sale and lease purchase revenue obligations issued by the commission under this section and any lease with an option to purchase agreement entered into under this section must be submitted to the attorney general for review and approval. If the attorney general determines that the obligation or agreement, as applicable, entered into under this section complies with this section, the attorney general shall approve the issuance of the obligation or the agreement, as applicable. On approval by the attorney general, the obligation or agreement, as applicable, is incontestable for any cause.

(e) A sale and lease purchase revenue obligation issued under this section is not a debt of the state or any state agency, is not a pledge of the faith and credit or the taxing power of the state, and may be paid only from the proceeds of the concurrent sale of the space to which the sale and lease purchase revenue obligation relates. A sale and lease purchase revenue obligation issued under this section must contain a statement to that effect.

(f) A lease with an option to purchase agreement entered into under this section must contain a statement that the agreement is not a debt of the state or any state agency and is contingent on continued legislative appropriations for making the lease payments.

(g) This section expires September 2, 2008, except that this section is continued in effect after that date for the limited purpose of applying with regard to any transaction authorized by

Section 2166.454 and this section that occurs before that date.

Added by Acts 2005, 79th Leg., Ch. 1310 (H.B. 3147), Sec. 1, eff. June 18, 2005.

For expiration of Section 2166.4542, see Subsection (e).

Sec. 2166.4542. PURCHASING CERTAIN LEASED SPACE. (a) Subject to Section 2166.454(b), the commission may purchase any or all of the space described by Section 2166.454(a) in accordance with this section and Chapter 1232.

(b) The commission shall request the Texas Public Finance Authority to issue revenue obligations to finance the purchase price of any or all of the space described by Section 2166.454(a) that the commission elects to purchase under this section. The authority shall issue the revenue obligations in accordance with and subject to all provisions of Chapter 1232 applicable to revenue obligations, including all provisions relating to ensuring that the revenue obligations are paid, except that Section 1232.108(2) does not apply.

(c) The authority shall issue the revenue obligations in amounts sufficient to:

(1) pay the authority's expenses in connection with issuing the revenue obligations;

(2) pay the purchase price of the space described by Section 2166.454(a) included in the request of the commission according to the terms of the applicable existing lease with an option to purchase agreement or agreements; and

(3) if the commission considers it advisable to make capital improvements to the space, pay for making the capital improvements.

(d) At the time that a building is purchased under this section, money specifically appropriated by the legislature to an agency occupying space in the building for lease payments under the applicable lease with an option to purchase agreement, or the money available to and budgeted by the agency for that purpose, shall be transferred to the commission and used by the commission only to make the required lease or rental payments to the authority during the remainder of the state fiscal biennium during which the building was purchased under this section.

(e) This section expires September 2, 2008, except that this

section is continued in effect after that date for the limited purpose of applying with regard to any transaction authorized by Section 2166.454 and this section that occurs before that date.

Added by Acts 2005, 79th Leg., Ch. 1310 (H.B. 3147), Sec. 1, eff. June 18, 2005.

SUBCHAPTER K. MONUMENTS, MEMORIALS, AND HISTORIC SITES

Sec. 2166.501. MONUMENTS AND MEMORIALS. (a) A monument or memorial for Texas heroes of the Confederate States of America or the Texas War for Independence or to commemorate another event or person of historical significance to Texans and this state may be erected on land owned or acquired by the state or, if a suitable contract can be made for permanent preservation of the monument or memorial, on private property or land owned by the federal government or other states.

(b) The graves of Texans described by Subsection (a) may be located and marked.

(c) The commission shall maintain a monument or memorial erected by this state to commemorate the centenary of Texas' independence.

(d) Before the erection of a new monument or memorial, the commission must obtain the approval of the Texas Historical Commission regarding the form, dimensions, and substance of, and inscriptions or illustrations on, the monument or memorial.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.5011. REMOVAL, RELOCATION, OR ALTERATION OF A MONUMENT OR MEMORIAL. (a) In this section, "monument or memorial" means a permanent monument, memorial, or other designation, including a statue, portrait, plaque, seal, symbol, building name, or street name, that:

(1) is located on state property; and

(2) honors a citizen of this state for military or war-related service.

(b) Notwithstanding any other provision of this code, a monument or memorial may be removed, relocated, or altered only:

(1) by the legislature;

(2) by the Texas Historical Commission;
(3) by the State Preservation Board; or
(4) as provided by Subsection (c).

(c) A monument or memorial may be removed, relocated, or altered in a manner otherwise provided by this code as necessary to accommodate construction, repair, or improvements to the monument or memorial or to the surrounding state property on which the monument or memorial is located. Any monument or memorial that is permanently removed under this subsection must be relocated to a prominent location.

Added by Acts 2001, 77th Leg., ch. 377, Sec. 7, eff. Sept. 1, 2001.

Sec. 2166.502. CONTRACTS WITH TEXAS HISTORICAL COMMISSION. The commission may negotiate and contract with the Texas Historical Commission to assist and advise the commission with regard to the:

(1) proper monuments and memorials to be erected, repaired, or moved to new locations;
(2) selection of sites for those monuments and memorials; and
(3) locating and marking of graves.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2166.503. ACQUISITION OF ARCHAEOLOGICAL, PALEONTOLOGICAL, AND HISTORIC SITES. (a) The commission may acquire by gift, devise, purchase, or exercise of its general power of eminent domain land in this state on which is located:

(1) a building, site, or landmark of statewide historical significance associated with historic events or personalities;
(2) a prehistoric ruin;
(3) a burial ground;
(4) an archaeological site;
(5) a vertebrate paleontological site; or
(6) a site containing fossilized footprints, an inscription made by human agency, or another archaeological, paleontological, or historic feature.

(b) For a historic site, building, or structure, the commission may exercise the power of eminent domain under Subsection (a) only on

a proper showing that the exercise is necessary to prevent destruction or deterioration of the historic site, building, or structure.

(c) The commission may request from the Texas Historical Commission a certification or authentication of the worthiness of preservation of a feature listed in Subsection (a).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER L. SPECIAL USES AND FACILITIES

Sec. 2166.551. CHILD CARE FACILITY IN STATE BUILDING. (a) The commission, in consultation with the Child Care Advisory Committee, shall determine whether a child care facility may be included in a state-owned office building constructed after September 1, 1989, that contains 100,000 square feet or more of net usable space.

(b) Before developing a rehabilitation or renovation plan for a project to rehabilitate or renovate substantially an existing state-owned office building containing 100,000 square feet or more of net usable space, the commission, in consultation with the Child Care Advisory Committee, shall determine whether a child care facility may be included in the rehabilitation or renovation project.

(c) The commission shall include a child care facility in a construction, rehabilitation, or renovation project if the commission, in consultation with the Child Care Advisory Committee, determines that the child care facility should be included.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 761, Sec. 12, eff. Sept. 1, 2001.

Sec. 2166.552. FINE ARTS PROJECTS. (a) A using agency that requests a project analysis by the commission for a building construction project that is estimated to cost more than $250,000 may specify in the general description of the project that up to one percent of the amount of the original project cost estimate be spent for fine arts projects at or near the site of the project. The using agency may consult the Texas Commission on the Arts in preparing the general description of the project.

(b) The using agency, the commission, and the Texas Commission

on the Arts may conduct a public hearing to take testimony from interested persons regarding the costs and benefits of using a portion of the cost of the project for fine arts projects.

(c) The commission shall initiate negotiations for and enter into a memorandum of understanding with the Texas Commission on the Arts to establish guidelines for implementing this section. The memorandum of understanding must be adopted by the governing bodies of the commission and the Texas Commission on the Arts. After a memorandum of understanding is adopted, the Texas Commission on the Arts shall publish the memorandum of understanding in the Texas Register.

(d) If the legislature authorizes and appropriates money for a fine arts project, the commission shall cooperate with the Texas Commission on the Arts and consult it for advice in determining how to use the money appropriated for the fine arts project.

(e) In selecting a fine arts project, emphasis should be placed, whenever feasible, on works by living Texas artists. Consideration shall be given to artists of all ethnic origins.

(f) This section does not limit, restrict, or prohibit the commission from including expenditures for fine arts in its original project cost estimate.

(g) In this section, "fine arts project" includes murals, fountains, mosaics, and other aesthetic improvements.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.06(b), eff. Sept. 1, 1997.

Sec. 2166.553. ACQUISITION AND CONSTRUCTION OF BUILDINGS FOR HEALTH AND HUMAN SERVICES AGENCIES. (a) The commission may not acquire or approve construction of a building, including a building the acquisition or construction of which is financed under Chapter 1232, to serve the needs of a single health and human services agency unless the agency can provide a reason to the commission for not sharing space in the building with one or more other health and human services agencies.

(b) In this section, "health and human services agency" means the:

(1) Interagency Council on Early Childhood Intervention

Services;

(2) Texas Department on Aging;

(3) Texas Commission on Alcohol and Drug Abuse;

(4) Texas Commission for the Blind;

(5) Texas Commission for the Deaf and Hard of Hearing;

(6) Texas Department of Health;

(7) Texas Department of Human Services;

(8) Texas Department of Mental Health and Mental Retardation;

(9) Texas Rehabilitation Commission; and

(10) Department of Protective and Regulatory Services.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 53, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 8.242, eff. Sept. 1, 2001.

Sec. 2166.554. LEASE OF FEDERAL PROPERTY FOR DEPARTMENT OF PUBLIC SAFETY. (a) The Department of Public Safety of the State of Texas may enter into a long-term lease of a portion of federal real property known as Fort Bliss.

(b) A lease entered into under Subsection (a):

(1) is for the use and benefit of this state; and

(2) may be for a period or term until the real property is donated to the Department of Public Safety of the State of Texas.

Added by Acts 2013, 83rd Leg., R.S., Ch. 807 (S.B. 1708), Sec. 1, eff. September 1, 2013.

CHAPTER 2167. LEASE OF SPACE FOR STATE AGENCIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2167.001. APPLICABILITY. (a) This chapter applies to:

(1) office space;

(2) warehouse space;

(3) laboratory space;

(4) storage space exceeding 1,000 gross square feet;

(5) boat storage space;

(6) aircraft hangar space other than hangar space and adjacent space leased by the Texas Department of Transportation at Austin-Bergstrom International Airport and operated for the purpose

of providing air transportation services for the State of Texas;

(7) vehicle parking space; and

(8) a combination of those kinds of space.

(b) This chapter does not apply to:

(1) radio antenna space;

(2) residential space for a Department of State Health Services or Health and Human Services Commission program;

(3) residential space for a Texas Juvenile Justice Department program;

(4) space to be used for less than one month for meetings, conferences, conventions, seminars, displays, examinations, auctions, or similar purposes;

(5) district office space for members of the legislature;

(6) space used by the Texas Workforce Commission;

(7) residential property acquired by the Texas Department of Housing and Community Affairs or the Texas State Affordable Housing Corporation that is offered for sale or rental to individuals and families of low or very low income or families of moderate income;

(8) except as provided by Section 2167.007, space for a university system or institution of higher education;

(9) space leased by the Texas Veterans Commission to administer the veterans employment services program; or

(10) space for the Texas Department of Motor Vehicles.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1286, Sec. 1, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 309, Sec. 4.01, eff. June 18, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1385 (S.B. 1655), Sec. 9, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 4.04, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 115, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 215 (S.B. 1349), Sec. 3, eff. May 28, 2017.

Acts 2017, 85th Leg., R.S., Ch. 533 (S.B. 312), Sec. 55, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.28, eff. September 1, 2023.

Sec. 2167.0011. DEFINITION. In this chapter, "commission" means the Texas Facilities Commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.32, eff. September 1, 2007.

Sec. 2167.002. PREREQUISITES FOR LEASING SPACE. (a) The commission may lease space for a state agency in accordance with this chapter and the agency's specifications if:

(1) state-owned space is not otherwise available to the agency; and

(2) the agency has verified it has money available to pay for the lease.

(b) In making a determination under this section that state-owned space is not available to a state agency, the commission must consider all reasonably available state-owned space in this state, regardless of whether utilizing state-owned space would require the agency to move all or part of the agency's operations to a different geographic location in this state.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 224 (H.B. 265), Sec. 1, eff. September 1, 2011.

Sec. 2167.0021. BEST VALUE STANDARD FOR LEASE OF SPACE. (a) The commission shall lease space for the use of a state agency on the basis of obtaining the best value for the state.

(b) The commission shall adopt rules establishing guidelines for the determination of best value in a lease contract. In determining the best value, the commission may consider:

(1) the cost of the lease contract;

(2) the condition and location of lease space;

(3) utility costs;

(4) access to public transportation;

(5) parking availability;

(6) security;

(7) telephone service availability;

(8) indicators of probable lessor performance under the contract, such as the lessor's financial resources and the lessor's experience;

(9) compliance with the architectural barriers law, Article 9102, Revised Statutes; and

(10) other relevant factors.

(c) This section does not prohibit the commission from leasing space from the offeror that offers the space at the lowest cost if the commission determines that doing so obtains the best value for the state.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 10.01, eff. Sept. 1, 2001.

Sec. 2167.003. FIRST CONSIDERATION TO HISTORIC STRUCTURE. (a) In leasing space for the use of a state agency, the commission or the private brokerage or real estate firm assisting the commission shall give first consideration to a building that is designated as a historic structure under Section 442.001 or to a building that has been designated a landmark by a local governing authority, if:

(1) the building meets requirements and specifications; and

(2) the cost is not substantially higher than the cost for other available buildings that meet requirements and specifications.

(b) When it considers leasing space for a state agency, the commission or the private brokerage or real estate firm assisting the commission shall notify each individual and organization that is:

(1) on a list furnished to the commission by the Texas Historical Commission under Section 442.005; and

(2) in the county in which the commission is considering leasing space.

(c) Repealed by Acts 2003, 78th Leg., ch. 309, Sec. 4.07(1).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.08(b), eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1422, Sec. 10.02, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 309, Sec. 4.07(1), eff. June 18,

2003.

Sec. 2167.004. LEASING SPACE FOR HEALTH AND HUMAN SERVICES AGENCIES. (a) Notwithstanding any other provision of this chapter or of Subchapter C, Chapter 2165, the commission may not lease office space to serve the needs of any health and human services agency unless the Health and Human Services Commission has approved the office space for the agency.

(b) Repealed by Acts 2003, 78th Leg., ch. 309, Sec. 4.07(2).

(c) In this section, "health and human services agency" has the meaning assigned by Section 521.0001.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.09(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1460, Sec. 3.12, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 309, Sec. 4.07(2), eff. June 18, 2003.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 2.21, eff. April 1, 2025.

Sec. 2167.005. DELEGATION OF AUTHORITY TO STATE AGENCIES. (a) The commission may delegate to a state agency, including an institution of higher education, the authority to enter into lease contracts for space if the commission determines that state-owned space is not available as provided by Section 2167.002.

(b) Any reports on the lease contracts made under this delegated authority shall be required annually.

(c) If information to be included in the report is also included in another report to be made by the institution of higher education to another state agency, the commission, the agency receiving the other report, and the institution of higher education shall enter into a memorandum of understanding concerning the information to be reported in order to enable the institution of higher education to provide the required information in the most cost-effective manner taking into account the costs to each affected agency.

(d) The commission may revoke a delegation of authority made

under this section.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.10(a), eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 188, Sec. 4.02, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1422, Sec. 10.03, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 309, Sec. 4.02, eff. June 18, 2003. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 224 (H.B. 265), Sec. 2, eff. September 1, 2011.

Sec. 2167.0051. CLASSROOM AND INSTRUCTIONAL SPACE. (a) An institution of higher education may not lease classroom and instructional space unless the portion of the building to be used by the institution complies with the applicable standards and specifications under the architectural barriers law, Article 9102, Revised Statutes.

(b) An institution of higher education may lease classroom and instructional space through competitive bidding in accordance with Section 2167.053 or through competitive sealed proposals in accordance with Section 2167.054 or may negotiate for that space on making a determination that competition is not available and shall include provisions to obtain a lease contract for classroom and instructional space in accordance with Section 2167.055.

Added by Acts 1999, 76th Leg., ch. 1286, Sec. 2, eff. June 18, 1999.

Sec. 2167.006. ELIMINATION OF BARRIERS TO PERSONS WITH DISABILITIES IN LEASED BUILDINGS. (a) The commission may not enter a lease contract under this chapter unless it complies with the architectural barriers law, Article 9102, Revised Statutes.

(b) A state agency, including an institution of higher education, may not enter a lease contract under Section 2167.005 unless the agency complies with the architectural barriers law, Article 9102, Revised Statutes.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 10.04, eff. Sept. 1, 2001.

Sec. 2167.007. LEASING SERVICES TO STATE AGENCIES. (a) This chapter does not prohibit the commission from providing leasing services to a state agency otherwise excluded from its requirements.

(b) Services performed under Subsection (a) are not subject to the interagency cooperation law, Chapter 771.

(c) The commission may establish a system of charges and billings to assure the recovery of the cost of providing services under Subsection (a) and may submit, after the close of each month, a purchase voucher or journal voucher to an agency for which services were provided.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 4.03, eff. June 18, 2003.

Sec. 2167.008. RULES. The commission shall adopt rules necessary to administer this chapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2167.009. CONSIDERATION TO MILITARY INSTALLATION. In leasing space for the use of a state agency, the commission or the private brokerage or real estate firm assisting the commission shall give consideration to a federally owned or operated military installation or facility.

Added by Acts 2003, 78th Leg., ch. 149, Sec. 8, eff. May 27, 2003.

SUBCHAPTER B. PROCEDURES FOR LEASING SPACE; LEASE CONTRACT

Sec. 2167.051. LEASING SPACE FROM ANOTHER GOVERNMENTAL ENTITY. Space may be leased:

(1) through an interagency contract from another state agency; or

(2) through a negotiated contract from:

(A) the federal government;

(B) a political subdivision, including a county,

municipality, school district, water or irrigation district, hospital district, council of governments, or regional planning commission;

(C) a statewide Texas public retirement system in a commercial building that is completely owned, directly or indirectly, by the retirement system; or

(D) a children's advocacy center established under Subchapter E, Chapter 264, Family Code.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 341, Sec. 1, eff. Sept. 1, 1997.

Sec. 2167.052. LEASING SPACE FROM PRIVATE SOURCE. (a) Space may be leased from a private source through:

(1) competitive bidding;

(2) competitive sealed proposals under Section 2167.054; or

(3) direct negotiation.

(b) The commission may negotiate for space on making a written determination that competition is not available.

(c) The commission shall use the method for leasing space that provides the best value for the state.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 10.05, eff. Sept. 1, 2001.

Sec. 2167.053. LEASING SPACE THROUGH COMPETITIVE BIDDING. (a) When space is leased through competitive bidding, the commission shall determine the bid that provides the best value for the state after considering moving costs, the cost of time lost in moving, the cost of telecommunications services, and other relevant factors.

(b) The commission shall send to the leasing state agency:

(1) a copy of all bids received; and

(2) the commission's recommended award.

(c) If, after review of the bids and evaluation of all relevant factors, the leasing state agency's opinion is that the bid selected by the commission is not the bid that provides the best value for the state, it may file with the commission a written recommendation that the award be made to a bidder other than the commission's recommended

bidder. The leasing state agency's recommendation must contain the agency's justification for its recommendation and a complete explanation of all factors it considered.

(d) The commission shall fully consider the leasing state agency's recommendation and, if it does not agree, shall notify the agency of its disagreement in writing. The leasing state agency and the commission shall attempt to agree on the award.

(e) If the commission and the leasing state agency do not agree within 30 days, all bids and pertinent documents shall be sent to the governor. The governor shall designate the bidder to which the award shall be made.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 10.06, eff. Sept. 1, 2001.

Sec. 2167.054. LEASING SPACE THROUGH COMPETITIVE SEALED PROPOSALS. (a) The commission may lease space using competitive sealed proposals.

(b) The commission shall solicit proposals by publishing a notice of request for proposals in:

(1) the Texas Register; and

(2) a newspaper of general circulation in the county in which the space is to be leased.

(c) The commission shall open each proposal in a manner that does not disclose the contents of the proposal during the process of negotiating with competing offerors.

(d) As provided in a request for proposals and under rules adopted by the commission, the commission may discuss acceptable or potentially acceptable proposals with offerors to assess an offeror's ability to meet the solicitation requirements and to obtain the most advantageous lease contract for the state. The commission may invite a leasing state agency to participate in discussions and negotiations conducted under this section. After receiving a proposal but before making an award, the commission may permit the offeror to revise the proposal to obtain the best final proposal.

(e) The commission may not disclose information derived from proposals submitted from competing offerors in conducting discussions under Subsection (d).

(f) The commission shall provide each offeror whose proposal meets the minimum requirements in the request for proposals a reasonable opportunity to discuss and revise its proposal.

(g) The commission shall make a written award of a lease to the offeror whose proposal provides the best value for the state, considering price and the evaluation factors in the request for proposals. The commission shall state in writing in the contract file the reasons for which an award is made.

(h) The commission shall refuse all proposals if it determines that none of the proposals is acceptable.

(i) If the competitive sealed proposal procedure for leasing space is used by a state agency that has been delegated leasing authority under Section 2167.005, the agency shall follow the procedures outlined by this section and any rules adopted by the commission.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 10.07, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 309, Sec. 4.04, eff. June 18, 2003.

Sec. 2167.0541. USE OF PRIVATE FIRMS TO OBTAIN SPACE. (a) The commission may contract with one or more private brokerage or real estate firms to assist the commission in obtaining lease space for state agencies on behalf of the commission under this chapter.

(b) A private brokerage or real estate firm with which the commission contracts under Subsection (a) may assist the commission in leasing facilities under this chapter.

(c) The commission may establish a system of charges and billings to recover the costs of contracting with a private brokerage or real estate firm under Subsection (a).

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 10.08, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 223 (H.B. 2377), Sec. 1, eff. May 27, 2005.

Sec. 2167.055. CONTRACT FOR LEASE OF SPACE. (a) In a contract by the commission for the lease of space under this chapter, the

state, acting through the commission, is the lessee.

(b) A lease contract entered into under Section 2167.053 or 2167.054 must reflect the provisions contained in the invitation for bids or request for proposals, the successful bid or proposal, and the award of the contract.

(c) A lease contract may:

(1) provide for an original term that does not exceed 10 years; and

(2) include options to renew for as many terms that do not exceed 10 years each as the commission considers to be in the state's best interest.

(d) A lease contract that does not contain an option to renew may, on agreement of the parties, be renewed under terms to which all parties to the contract agree.

(e) A lease contract is contingent on the availability of money appropriated by the legislature to pay for the lease.

(f) The obligation of the lessor to provide lease space and of the commission to accept the space is binding on the execution of the lease contract.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 10.09, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 309, Sec. 4.05, eff. June 18, 2003.

Sec. 2167.056. OPTION TO PURCHASE. (a) If the commission considers it advisable, the commission may lease space for a state agency under a contract that contains an option for the commission to purchase the space subject to the legislature's appropriation of money for the purchase.

(b) A lease contract containing the option must indicate:

(1) the amount that will accumulate and be credited toward the purchase at various times during the lease term; and

(2) the purchase price of the property at the beginning of each fiscal biennium during the lease term.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. COMMISSION AND STATE AGENCY POWERS AND DUTIES RELATED TO LEASED SPACE

Sec. 2167.101. CERTIFICATION OF AVAILABLE MONEY. A state agency occupying space leased under this chapter shall certify to the commission, at least 60 days before the beginning of each fiscal biennium during the lease term, that money is available to pay for the lease until the end of the next fiscal biennium.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 4.06, eff. June 18, 2003.

Sec. 2167.102. REMEDIAL ACTION AGAINST LESSOR. (a) When a state agency occupying leased space is aware of circumstances that require remedial action against the lessor, the agency shall notify the commission.

(b) The commission may investigate the circumstances and the lessor's performance under the contract.

(c) The attorney general on the commission's request shall assist the commission in protecting the state's interest under a lease contract.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2167.103. RECORDS. To efficiently maintain a space management system, the commission shall maintain records of the amount and cost of space under lease by the commission and may collect other information that it considers necessary. A state agency shall cooperate with the commission in securing this information.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2167.104. SUBLEASE TO CHILD CARE PROVIDER. (a) Subject to restrictions imposed by a lease or other enforceable contract, the commission, at the request of the occupying agency, shall sublease part of a space leased under this chapter to a child care provider for the operation of a child care facility.

(b) Chapter 663 applies to the establishment and operation of the child care facility, except as provided by this section.

(c) This section does not affect the duties of the commission regarding child care facilities in state-owned buildings and potential child care facility sites in state-owned buildings under Chapter 663, 2165, or 2166.

(d) The occupying agency and the commission may agree to:

(1) procedures relating to the selection of the child care provider;

(2) granting some preference in enrollment to children of officers and employees of the occupying state agency; and

(3) any other matter regarding the operation of the child care facility.

(e) The commission shall sublease space under this section to a child care provider approved by the commission under Chapter 663 at a rate set by the commission.

(f) In leasing space under this chapter, the commission shall, whenever possible, enter into a lease contract that allows for subleasing space to a child care provider.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 761, Sec. 13, eff. Sept. 1, 2001.

Sec. 2167.105. REPORT ON NONCOMPLIANCE. If the commission determines that a state agency has not complied with the commission's rules or with other state law related to leasing requirements, the commission shall report the noncompliance to the members of the state agency's governing body and to the governor, lieutenant governor, and speaker of the house of representatives. The commission shall include in its report an estimate of the fiscal impact resulting from the noncompliance.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 10.10, eff. Sept. 1, 2001.

CHAPTER 2170. TELECOMMUNICATIONS SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2170.001. DEFINITIONS. (a) In this chapter:

(1) "Telecommunications services" means intercity communications facilities or services. The term does not include

single agency point-to-point radio systems or facilities or services of criminal justice information communication systems.

(2) "Consolidated telecommunications system" means the network of telecommunications services serving the state government.

(3) "Department" means the Department of Information Resources.

(4) "State agency" has the meaning assigned by Section 2054.003.

(b) In this section, any dedicated circuits included as part of the consolidated telecommunications system are considered to begin and end at the main connecting frame.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 4.15, eff. Sept. 1, 2001.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 242 (H.B. 4553), Sec. 15, eff. September 1, 2023.

Sec. 2170.002. DEPARTMENT RESPONSIBLE FOR OBTAINING TELECOMMUNICATIONS SERVICES. The department is the state agency responsible for obtaining telecommunications services.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 4.16, eff. Sept. 1, 2001.

Sec. 2170.003. OWNERSHIP OR LEASE OF NECESSARY EQUIPMENT. (a) The department may own, lease, or lease-purchase in accordance with Chapters 2155, 2156, 2157, and 2158 any or all of the facilities or equipment necessary to provide telecommunications services. The department may acquire telecommunications services without competitive bid from the Lonestar Education and Research Network (LEARN) or its successors for the purposes established in Subsection (b).

(b) During an emergency, a single node failure or a systemwide failure of the consolidated telecommunications system, the department may divert telecommunications services traffic to the Lonestar Education and Research Network to avoid service interruption. Upon

resolution of the emergency and upon determination that the consolidated telecommunications system is operational, traffic will be diverted back to the consolidated telecommunications system. The department may also use the Lonestar Education and Research Network for the purposes of latency tolerant data transfer of files to or from a consolidated state data center established and operated by the department. The Lonestar Education and Research Network shall be exclusively used by the department only for the purposes set out in this section.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 4.17, eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.09, eff. September 1, 2005.

Sec. 2170.004. CONTRACTS WITH ENTITIES OTHER THAN STATE AGENCIES. The department may contract for use of the consolidated telecommunications system with:

(1) each house of the legislature;

(2) a legislative agency;

(3) the supreme court, the court of criminal appeals, or a court of appeals;

(4) a state governmental entity other than a state agency;

(5) a local government, as defined by Section 2054.003;

(6) a private institution of higher education, as defined by Section 61.003, Education Code;

(7) an assistance organization, as defined by Section 2175.001;

(8) a public safety entity, as defined by 47 U.S.C. Section 1401;

(9) a governmental entity of another state;

(10) a public hospital owned or operated by this state or a political subdivision or municipal corporation of this state, including a hospital district or hospital authority;

(11) an independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region;

(12) the Texas Permanent School Fund Corporation;

(13) an open-enrollment charter school, as defined by Section 5.001, Education Code;

(14) a private school, as defined by Section 5.001, Education Code;

(15) a private or independent institution of higher education, as defined by Section 61.003, Education Code; and

(16) a volunteer fire department, as defined by Section 152.001, Tax Code.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 4.18, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 2.05, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1116 (H.B. 2325), Sec. 6, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 242 (H.B. 4553), Sec. 16, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2170.005. POLICIES, GUIDELINES, AND OPERATING PROCEDURES. (a) To ensure efficient operation of the consolidated telecommunications system at minimum cost to the state, the department shall adopt and disseminate to all agencies appropriate guidelines and operating procedures and may publish telephone directories listed under Sections 55.202 and 55.203, Utilities Code, on a state Internet website.

(b) Each agency shall comply with the policies, guidelines, and operating procedures.

(c) Telephone directories published by the department under this section and Section 2170.059 must be revised regularly and must list state telephone numbers alphabetically by the subject matter of agency programs as well as alphabetically by agency. The subject matter listing of programs and telephone numbers in the telephone directories must be consistent with the categorization developed by the Records Management Interagency Coordinating Council under Section

441.203. The department may authorize, under procedures and rules considered appropriate by the department, a yellow pages advertising section in the directories to recover development, publication, and distribution costs of the directories.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1186, Sec. 3, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1422, Sec. 4.19, eff. Sept. 1, 2001. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1180 (H.B. 3395), Sec. 3, eff. June 17, 2011.

Sec. 2170.008. RATE INTERVENTION. (a) If the department determines there is sufficient economic impact on state government, the department may intervene on behalf of state agencies in telecommunications rate cases and may hire special counsel and expert witnesses to prepare and present testimony.

(b) The attorney general shall represent the department before the courts in all appeals from rate cases in which the department intervenes.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 4.21, eff. Sept. 1, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2170.009. PAY TELEPHONES AUTHORIZED. (a) A pay telephone may be located in the capitol complex only with the approval of the department. The department shall collect the revenue from the installation and operation of the pay telephone and deposit it to the credit of the general revenue fund.

(b) In a state-owned or state-leased building or on state-owned land to which Subsection (a) does not apply, a pay telephone may be installed only with the approval of the governing body of the state entity that has charge and control of the building or land. The entity shall collect the revenue from the installation and operation

of the pay telephone and deposit it to the credit of the general revenue fund unless the disposition of the revenue is governed by other law.

(c) The department or other state entity shall account for the revenue collected under this section in the entity's annual report.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.29, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 4.22, eff. Sept. 1, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2170.010. UNLISTED TELEPHONE NUMBERS PROHIBITED. A state agency and its officers and employees may not buy, rent, or pay toll charges for a telephone for which the telephone number is not listed or available from directory assistance to the general public unless the unlisted telephone number is used:

(1) to provide access to computers, telephone system control centers, long-distance networks, elevator control systems, and other tone-controlled devices for which restricted access to the telephone number is justified for security or other purposes;

(2) in narcotics undercover operations;

(3) in the detection of illegal sales of securities; or

(4) in the investigation of motor fuels tax fraud.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.29, eff. Sept. 1, 1999.

SUBCHAPTER B. SYSTEM OF TELECOMMUNICATIONS SERVICES

Sec. 2170.051. MANAGEMENT AND USE OF SYSTEM. (a) The department shall manage the operation of a system of telecommunications services for all state agencies. Each agency shall identify its particular requirements for telecommunications services and the site at which the services are to be provided.

(b) The department shall fulfill the telecommunications requirements of each state agency to the extent possible and to the extent that money is appropriated or available for that purpose.

(c) A state agency shall use the consolidated telecommunications system to the fullest extent possible. A state agency may not acquire telecommunications services unless the department's executive director determines that the agency's requirement for telecommunications services cannot be met at a comparable cost by the consolidated telecommunications system.

(d) A state agency may not enter into or renew a contract with a carrier or other provider of telecommunications services without obtaining a waiver from the department's executive director certifying that the requested telecommunications services cannot be provided at a comparable cost on the consolidated telecommunications system. The executive director shall evaluate requests for waivers based on cost-effectiveness to the state government as a whole. A waiver may be granted only for a specific period and will automatically expire on the stated expiration date unless an extension is approved. A contract for telecommunications services obtained under waiver may not extend beyond the expiration date of the waiver. If the executive director becomes aware of any state agency receiving telecommunications services without a waiver, the executive director shall notify the agency and the comptroller. The state agency shall have 60 days after notification by the executive director in which to submit a waiver request documenting the agency's reasons for bypassing the consolidated telecommunications system and otherwise providing all information required by the waiver application form.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 1.30, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1422, Sec. 4.23, eff. Sept. 1, 2001. Amended by:

Acts 2005, 79th Leg., Ch. 1068 (H.B. 1516), Sec. 1.10, eff. September 1, 2005.

Sec. 2170.052. BALANCING TECHNOLOGICAL ADVANCEMENTS AND EXISTING FACILITIES. In the planning, design, implementation, and operation of the consolidated telecommunications system, the department shall maintain an appropriate balance between the adoption of technological advancements and the efficient use of existing facilities and services to avoid misapplication of state money and

degradation or loss of the integrity of existing systems and facilities.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 4.24, eff. Sept. 1, 2001.

Sec. 2170.053. SHARING OF SERVICES. (a) To avoid waste of state money and personnel, telecommunications services shall be provided on an integrated or shared basis, or both, to the extent feasible and advisable, among entities authorized to use the consolidated telecommunications system under this chapter.

(b) Sharing or integrated use does not constitute the resale or carriage of services and does not subject the system to regulation or reporting under Title 2, Utilities Code.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.27, eff. Sept. 1, 1999.

Sec. 2170.056. COSTS TO STATE OF PARALLEL TOLLS. All contracts with telecommunications carriers shall provide that the department or any participating agency may obtain any information relating to the costs to the state of parallel tolls.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 4.25, eff. Sept. 1, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 150, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2170.057. PAYMENT FOR SERVICES. (a) The department shall develop a system of billings and charges for services provided in operating and administering the consolidated telecommunications system that allocates the total state cost to each entity served by the system based on proportionate usage. The department shall set and charge a fee to each entity that receives services provided under

this chapter in an amount sufficient to cover the direct and indirect costs of providing the service. Revenue derived from the collection of fees imposed under this subsection may be appropriated to the department for:

(1) developing statewide information resources technology policies and planning under Chapters 2054 and 2059; and

(2) providing:

(A) shared information resources technology services under Chapter 2054; and

(B) network security services under Chapter 2059.

(b) The comptroller shall establish in the state treasury a revolving fund account for the administration of this chapter. The account shall be used as a depository for money received from entities served. Receipts attributable to the centralized capitol complex telephone system shall be deposited into the account but separately identified within the account.

(c) To provide an adequate cash flow as necessary for purposes of this chapter, using state agencies and other entities, on proper notification, shall make monthly payments into the telecommunications revolving fund account from appropriated or other available money. The legislature may appropriate money for operating the system directly to the department, in which case the revolving fund account shall be used to receive money due from local governmental entities and other agencies to the extent that their money is not subject to legislative appropriation.

(d) The department shall maintain in the revolving fund account sufficient amounts to pay the bills of the consolidated telecommunications system and the centralized capitol complex telephone system.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 1.31, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1422, Sec. 4.26, eff. Sept. 1, 2001. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 23.07, eff. September 28, 2011.

Sec. 2170.058. USE OF SYSTEM BY CERTAIN STUDENTS. (a) An institution of higher education under Section 61.003, Education Code,

that is authorized to use the system of telecommunications services established under this chapter may allow students of the institution who reside in housing for which the institution provides telephone service to use the system of telecommunications services. An institution shall recover from a student who chooses to use the system the full pro rata cost attributable to that student's use, including costs identifiable for interconnection to and use of the local publicly switched network.

(b) The department shall adopt rules that govern student access to the system, including:

(1) times of access to the system; and

(2) the full recovery of actual costs from each student who uses the system.

(c) In consideration of the duties and responsibilities given the department under this chapter, it is the policy of this state that a state agency or unit of state government may not provide telecommunications products or services to the general public in competition with private enterprise unless there is a finding that providing the products or services is in the public interest. This subsection does not prohibit students who reside in housing for which institutions of higher education provide telephone service from using service provided under this section.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 4.27, eff. Sept. 1, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1500, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2170.059. CENTRALIZED CAPITOL COMPLEX TELEPHONE SYSTEM. (a) The department shall provide centralized telephone service for state agencies, each house of the legislature, and legislative agencies in the capitol complex. State agencies in the capitol complex shall use the service. Each house of the legislature and each legislative agency shall use the service at the discretion of the legislature. The department may provide the service to other state agencies that subscribe to it.

(b) Each using entity shall make monthly payments to the

department when billed by the department.

(c) Each using entity may arrange for its own terminal telephone equipment, but the equipment must be compatible with the centralized telephone service. The department shall make terminal equipment available for using entities that choose to use that terminal equipment.

(d) Not later than October 1 of each year, each using entity shall, in a manner determined by the department, provide the department with an e-mail address for each person who uses the centralized telephone service.

(e) Not later than December 31 of each year, the department shall prepare and issue a revised centralized telephone service and e-mail directory.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 4.28, eff. Sept. 1, 2001.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 539 (H.B. 3730), Sec. 1, eff. September 1, 2023.

CHAPTER 2171. TRAVEL AND VEHICLE FLEET SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2171.001. TRAVEL DIVISION. The travel division of the comptroller is composed of the central travel office and the office of vehicle fleet management.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 101, eff. September 1, 2019.

Sec. 2171.0011. COMPTROLLER POWERS AND DUTIES. The comptroller has under this chapter the powers and duties described by Section 2151.004(d).

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.34, eff. September 1, 2007.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 101, eff. September 1, 2019.

Sec. 2171.002. RULES. (a) The comptroller shall adopt rules to implement this chapter, including rules related to:

(1) the structure of the comptroller's travel agency contracts;

(2) the procedures the comptroller uses in requesting and evaluating bids or proposals for travel agency contracts; and

(3) the use by state agencies of negotiated contract rates for travel services.

(b) Before adopting a rule under this section, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b) are met.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.35, eff. September 1, 2007.

SUBCHAPTER B. TRAVEL SERVICES

Sec. 2171.051. PROVISION OF TRAVEL-RELATED SERVICES. (a) The central travel office shall monitor travel reservations and other travel arrangements required for business travel by a state employee or state agency and shall provide travel-related services as provided by this chapter.

(b) State agencies shall use the office's services to the maximum extent consistent with improved economy and efficiency.

(c) After approval by the comptroller, the central travel office shall designate state agencies that may use the services of the office. The comptroller shall approve the use of those services by the designated state agencies after the director of the travel division certifies to the comptroller that the central travel office is capable of providing those services.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 102, eff. September 1, 2019.

Sec. 2171.052. CONTRACTS WITH PROVIDERS OF TRAVEL SERVICES. (a) In this section, "commercial lodging establishment" has the meaning assigned by Section 660.002.

(b) The central travel office may negotiate contracts with private travel agents, with travel and transportation providers, and with credit card companies that provide travel services and other benefits to the state. The central travel office may negotiate with commercial lodging establishments to obtain the most cost-effective rates possible for state employees traveling on state business.

(c) The comptroller may make contracts with travel agents that meet certain reasonable requirements prescribed by the central travel office, with preference given to resident entities of this state.

(d) To the greatest extent possible, the comptroller shall use electronic means to solicit and receive bids under this section.

(e) Repealed by Acts 2003, 78th Leg., ch. 309, Sec. 8.02.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.11(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 280, Sec. 10, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1422, Sec. 7.04, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 309, Sec. 8.01, 8.02, eff. June 18, 2003. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 103, eff. September 1, 2019.

Sec. 2171.053. CONTRACTS NOT SUBJECT TO COMPETITIVE BIDDING REQUIREMENTS. Contracts under this subchapter are not subject to the competitive bidding requirements imposed under Chapters 2155-2158.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2171.054. TRAVEL VOUCHER AUDITS. The comptroller shall, under Chapter 403, audit travel vouchers for compliance with rules adopted to enforce this subchapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2171.055. PARTICIPATION IN TRAVEL SERVICES CONTRACTS. (a) State agencies in the executive branch of state government shall participate under comptroller rules in the comptroller's contracts for travel services, provided that all travel agents approved by the comptroller are permitted to contract with the state and provide travel services to all state agencies.

(b) An institution of higher education as defined by Section 61.003, Education Code, is not required to participate in the comptroller's contracts for travel agency services or other travel services purchased from funds other than general revenue funds or educational and general funds as defined by Section 51.009, Education Code. The Employees Retirement System of Texas is not required to participate in the comptroller's contracts for travel agency services or other travel services purchased from funds other than general revenue funds.

(c) The comptroller may provide by rule for exemptions from required participation.

(d) Agencies of the state that are not required to participate in comptroller contracts for travel services may participate as provided by Section 2171.051.

(e) A county officer or employee who is engaged in official county business may participate in the comptroller's contract for travel services for the purpose of obtaining reduced airline fares and reduced travel agent fees. A county sheriff or deputy sheriff or juvenile probation officer who is transporting a state prisoner under a felony warrant may participate in the comptroller's contract for travel services for purposes of obtaining reduced airline fares and reduced travel agent fees for the law enforcement or probation officer and the prisoner. The comptroller shall adopt rules and make or amend contracts as necessary to administer this subsection.

(f) An officer or employee of a public junior college, as defined by Section 61.003, Education Code, of an open-enrollment charter school established under Subchapter D, Chapter 12, Education Code, or of a school district who is engaged in official business may participate in the comptroller's contract for travel services. The comptroller shall adopt rules and make or amend contracts as necessary to administer this subsection.

(g) A municipal officer or employee who is engaged in official municipal business may participate in the comptroller's contract for travel services for the purpose of obtaining reduced airline fares

and reduced travel agent fees. The comptroller shall adopt rules and make or amend contracts as necessary to administer this subsection.

(h) A board member or employee of a communication district or an emergency communication district established under Chapter 772, Health and Safety Code, who is engaged in official district business may participate in the comptroller's contract for travel services for the purpose of obtaining reduced airline fares and reduced travel agent fees. The comptroller shall adopt rules and make or amend contracts as necessary to administer this subsection.

(i) An officer or employee of a transportation or transit authority, department, district, or system established under Subtitle K, Title 6, Transportation Code, who is engaged in official business of the authority, department, district, or system may participate in the comptroller's contracts for travel services.

(j) An officer or employee of a hospital district created under general or special law who is engaged in official hospital district business may participate in the comptroller's contract for travel services for the purpose of obtaining reduced airline fares and reduced travel agent fees. The comptroller shall adopt rules and make or amend contracts as necessary to administer this subsection.

(k) An officer or employee of a qualified cooperative entity who is engaged in official business of the qualified cooperative entity may participate in the comptroller's contracts for travel services. The comptroller shall adopt rules and make or amend contracts as necessary to administer this subsection. For purposes of this subsection, a "qualified cooperative entity" includes:

(1) a local government, as defined by Section 271.081, Local Government Code;

(2) a community center for mental health services or intellectual disability services described by Section 2155.202(1);

(3) an assistance organization, as defined by Section 2175.001, that receives any state funds; and

(4) a political subdivision, as defined by Section 791.003.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.11(b), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 281, Sec. 1, 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 46, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1541, Sec. 56, eff. Sept. 1, 1999; Acts

2001, 77th Leg., ch. 568, Sec. 1, eff. June 11, 2001; Acts 2003, 78th Leg., ch. 482, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 501, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(40), eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 891 (S.B. 1663), Sec. 1, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 1308 (H.B. 3047), Sec. 1, eff. June 18, 2005.

Acts 2009, 81st Leg., R.S., Ch. 207 (S.B. 899), Sec. 1, eff. May 27, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 506 (H.B. 1550), Sec. 1, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 104, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 162 (S.B. 1122), Sec. 1, eff. May 28, 2021.

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.29, eff. September 1, 2023.

Sec. 2171.056. PURCHASE OF OR REIMBURSEMENT FOR TRANSPORTATION IN AMOUNT EXCEEDING CONTRACTED RATES. (a) This section applies only to a state agency in the executive branch of state government that is required to participate in the comptroller's contracts for travel services.

(b) Except as provided by comptroller rule, a state agency may not:

(1) purchase commercial airline or rental car transportation if the amount of the purchase exceeds the amount of the central travel office's contracted fares or rates; or

(2) reimburse a person for the purchase of commercial airline or rental car transportation for the amount that exceeds the amount of the central travel office's contracted fares or rates.

(c) The comptroller shall educate state agencies about this section.

(d) The comptroller shall audit travel vouchers under Chapter 403 for compliance with this section.

(e) The comptroller shall adopt rules related to exemptions

from the prohibition prescribed by Subsection (b).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.36, eff. September 1, 2007.
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 105, eff. September 1, 2019.

SUBCHAPTER C. VEHICLE FLEET SERVICES

Sec. 2171.101. VEHICLE REPORTING SYSTEM; EXCEPTION. (a) The office of vehicle fleet management shall establish a vehicle reporting system to assist state agencies in the management of agency vehicle fleets. Except as provided by Subsection (d), a state agency shall submit vehicle fleet reports on a quarterly basis, not earlier than the 45th day or later than the 60th day after the date on which the quarter ends.

(b) The office shall:

(1) develop automated information retrieval systems to implement the reporting system; and

(2) maintain a complete inventory of agency vehicles by class of vehicle.

(c) The office shall determine the average cost of operation for each class of vehicle.

(d) A state agency with a fleet of more than 2,500 vehicles shall establish and maintain a vehicle reporting system to assist the agency in the management of the agency's vehicle fleet. Not later than October 15 of each year, the agency shall submit to the office of vehicle fleet management the information the office requests regarding the agency's vehicle fleet for the previous state fiscal year. The agency may provide the information in the format used by the agency's reporting system. The agency is exempt from paying to the office any fee for maintaining the vehicle reporting system established under Subsection (a).

(e) The office shall review the operation of each state agency's vehicle fleet and report to the legislature not later than January 1 of each odd-numbered year the status of the agency's vehicle fleet and the office's recommendations to improve operations of the agency's vehicle fleet.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.10(b), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1050, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 309, Sec. 7.01, eff. June 18, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 658 (H.B. 3227), Sec. 1, eff. June 17, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(74), eff. June 17, 2011.

Acts 2021, 87th Leg., R.S., Ch. 1017 (H.B. 3388), Sec. 1, eff. June 18, 2021.

Acts 2021, 87th Leg., R.S., Ch. 1017 (H.B. 3388), Sec. 2, eff. June 18, 2021.

Sec. 2171.102. MAINTENANCE OF STATE VEHICLES. (a) The office of vehicle fleet management may, for a fee, provide routine periodic maintenance service to state agencies located in Travis County.

(b) The office may negotiate contracts for major overhauls and other extensive mechanical work.

(c) Contracts entered into under this section are not subject to the competitive bidding requirements imposed under Chapters 2155, 2156, 2157, and 2158.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.02, eff. June 18, 2003.

Sec. 2171.103. FACILITATION OF CONVERSION TO AND USE OF ALTERNATIVE FUELS. (a) The office of vehicle fleet management may act as necessary to encourage and facilitate the conversion and use of motor vehicles that are capable of using alternative fuels, especially compressed natural gas.

(b) The office may:

(1) establish centralized refueling stations throughout the state;

(2) operate regional conversion and repair facilities; and

(3) provide all services and support necessary to expedite the use of compressed natural gas or other alternative fuels by state

agencies as required by Subchapter A, Chapter 2158.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.12(a), eff. Sept. 1, 1997.

Sec. 2171.104. MANAGEMENT PLAN. (a) The office of vehicle fleet management shall develop a management plan with detailed recommendations for improving the administration and operation of the state's vehicle fleet.

(b) Repealed by Acts 2023, 88th Leg., R.S., Ch. 921 (H.B. 5260), Sec. 1, eff. September 1, 2023.

(c) The management plan must address:

(1) opportunities for consolidating and privatizing the operation and management of vehicle fleets in areas where there is a concentration of state agencies, including the Capitol Complex and the Health and Human Services Complex in Austin;

(2) the number and type of vehicles owned by each agency and the purpose each vehicle serves;

(3) procedures to increase vehicle use and improve the efficiency of the state vehicle fleet;

(4) procedures to reduce the cost of maintaining state vehicles;

(5) procedures to handle surplus or salvage state vehicles; and

(6) lower-cost alternatives to using state-owned vehicles, including:

(A) using rental cars; and

(B) reimbursing employees for using personal vehicles.

(d) The Texas Facilities Commission shall require a state agency to transfer surplus or salvage vehicles identified by the management plan to the Texas Facilities Commission and shall sell or dispose of the vehicles in accordance with the provisions of Chapter 2175 that provide for disposition of surplus or salvage property by the Texas Facilities Commission.

Added by Acts 1999, 76th Leg., ch. 1050, Sec. 2, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.03, eff. June 18, 2003.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 24 (S.B. 706), Sec. 3, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 106, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.30, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 921 (H.B. 5260), Sec. 1, eff. September 1, 2023.

Sec. 2171.1045. RESTRICTIONS ON ASSIGNMENT OF VEHICLES. Each state agency shall adopt rules, consistent with the management plan adopted under Section 2171.104, relating to the assignment and use of the agency's vehicles. The rules must require that:

(1) each agency vehicle, with the exception of a vehicle assigned to a field employee, be assigned to the agency motor pool and be available for checkout; and

(2) an agency may assign a vehicle to an individual administrative or executive employee on a regular or everyday basis only if the agency makes a written documented finding that the assignment is critical to the needs and mission of the agency.

Added by Acts 1999, 76th Leg., ch. 1050, Sec. 2, eff. Sept. 1, 1999.

Sec. 2171.105. MANAGEMENT PLAN: INSTITUTIONS OF HIGHER EDUCATION. (a) In this section:

(1) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(2) "Plan" means the management plan developed under Section 2171.104.

(b) For institutions of higher education, the plan applies only to vehicles purchased by an institution of higher education with appropriated money.

(c) On the request of a fleet manager appointed by an institution of higher education, the office of vehicle fleet management may grant a waiver from any limit on the number of vehicles subject to the plan that the institution may own.

(d) Any minimum use criteria developed in the plan do not apply to an institution of higher education.

Added by Acts 2005, 79th Leg., Ch. 658 (H.B. 3227), Sec. 2, eff. June 17, 2005.

CHAPTER 2172. MISCELLANEOUS GENERAL SERVICES PROVIDED BY COMPTROLLER

Sec. 2172.001. CENTRAL SUPPLY STORE. The comptroller may operate a central supply store at which only state agencies, the legislature, and legislative agencies may obtain small supply items. If the comptroller operates a central supply store, the comptroller shall devise an appropriate method of billing a using entity for the supplies.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 309, Sec. 10.01, 10.03, eff. June 18, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 108, eff. September 1, 2019.

Sec. 2172.0011. COMPTROLLER POWERS AND DUTIES. The comptroller has under this chapter the powers and duties described by Section 2151.004(d).

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.37, eff. September 1, 2007.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 108, eff. September 1, 2019.

Sec. 2172.0012. AUTHORITY TO ADOPT RULES. The comptroller may adopt rules to efficiently and effectively administer this chapter. Before adopting a rule under this section, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b) are met.

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.37, eff. September 1, 2007.

Sec. 2172.002. BUSINESS MACHINE REPAIR. (a) The comptroller may maintain a facility for repairing office machines and may offer repair services to the following entities located in Austin:

(1) state agencies;

(2) the legislature; and

(3) legislative agencies.

(b) Using entities shall pay the comptroller for repair services by vouchers prepared and sent to the using entity by the comptroller.

(c) The comptroller may not repair or maintain a privately owned machine.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 309, Sec. 10.02, eff. June 18, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 108, eff. September 1, 2019.

Sec. 2172.003. PRINTING. (a) The comptroller may:

(1) assist a state agency with the agency's printing activities; and

(2) assess and evaluate those activities.

(b) The comptroller may recommend changes intended to increase the productivity and cost-effectiveness of printing operations of state agencies. Recommendations may be reported periodically as provided by comptroller rules.

(c) The comptroller may:

(1) adopt standard accounting procedures that permit evaluating and comparing the costs of printing operations conducted by state agencies;

(2) coordinate activities among state print shops;

(3) review state agency requisitions for new printing shop equipment;

(4) assist state agencies in expediting the production of printing and graphic arts;

(5) maintain a roster of state print shops and their equipment, facilities, and special capabilities;

(6) serve as a clearinghouse for private vendors of

printing services to ensure that printing services and supplies are purchased in the most efficient and economical manner;

(7) coordinate the consolidation of print shops operated by state agencies when the agencies involved determine that consolidation is appropriate; and

(8) develop procedures for the recovery of the comptroller's reasonable costs under Chapter 317 from amounts appropriated to the state agencies for which identified savings are achieved.

(d) This section does not apply to an institution of higher education.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 109, eff. September 1, 2019.

Sec. 2172.004. ARCHIVES. The comptroller may store and display the archives of Texas.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 110, eff. September 1, 2019.

Sec. 2172.005. DONATIONS. The comptroller may solicit and accept private donations for the Congress Avenue beautification program, a capital improvements project in Austin. The program includes improvements in the Capitol Complex generally north of the Capitol along either side of Congress Avenue.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 110, eff. September 1, 2019.

Sec. 2172.006. MANUFACTURE AND SALE OF CERTAIN COMMEMORATIVE ITEMS. (a) Notwithstanding any other provision of law, the

comptroller may negotiate and contract with a privately owned business entity for the design and manufacture of:

(1) an official state lapel pin for purchase by members and former members of the house of representatives;

(2) an official state lapel pin for purchase by members and former members of the senate;

(3) an official state ring for purchase by members and former members of the house of representatives; and

(4) an official state ring for purchase by members and former members of the senate.

(b) The comptroller must submit any design of an official state lapel pin or ring to the State Preservation Board for its approval.

(c) Only a member or former member of the legislature may purchase an official state lapel pin or ring manufactured under this section. The member or former member must use the member's or former member's personal funds for the purchase.

(d) The comptroller by rule shall establish the purchase price for a lapel pin or ring. After payment of amounts required under the contract and recovery of its costs of administering this section, the comptroller shall deposit any remaining funds received from the sale of items under this section to the credit of the Texas preservation trust fund.

Added by Acts 1997, 75th Leg., ch. 69, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 111, eff. September 1, 2019.

Sec. 2172.007. SHIPPING LOGISTICS AND COORDINATION SERVICES. (a) The comptroller may contract with a vendor to oversee shipping logistics and coordination services for all state agencies and shall pay the contract from the anticipated cost savings realized under the contract. The vendor shall arrange the shipment of goods, parcels, and freight using the shipping company selected by the state agency through competitive bidding that provides the best value to the agency for the shipment.

(b) A state agency may arrange all shipments of goods, parcels, and freight under this section.

(c) The vendor under this section shall maintain a record of

each shipment arranged for a state agency, including the cost of the shipment, the type of goods, parcels, or freight shipped, and the weight of the goods, parcels, or freight shipped.

(d) In contracting for the oversight of shipping logistics and coordination services under this section, the comptroller may provide contracting opportunities for vendors that employ veterans or other persons with disabilities whose products and services are available under Chapter 122, Human Resources Code.

(e) This section does not apply to the shipment of:

(1) items of extraordinary value;

(2) museum exhibits and antiquities;

(3) antique furniture;

(4) fine arts;

(5) specialized materials or products;

(6) coins and paper bills; or

(7) items by the Texas Department of Transportation if the department determines that, because of the nature of the items or the circumstances related to the shipment, shipment of the items under a procedure established by the department is necessary.

Added by Acts 2013, 83rd Leg., R.S., Ch. 945 (H.B. 1726), Sec. 1, eff. June 14, 2013.

CHAPTER 2175. SURPLUS AND SALVAGE PROPERTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2175.001. DEFINITIONS. In this chapter:

(1) "Assistance organization" means:

(A) a nonprofit organization that provides educational, health, or human services or assistance to homeless individuals;

(B) a nonprofit food bank that solicits, warehouses, and redistributes edible but unmarketable food to an agency that feeds needy families and individuals;

(C) Texas Partners of the Americas, a registered agency with the Advisory Committee on Voluntary Foreign Aid, with the approval of the Partners of the Alliance office of the Agency for International Development;

(D) a group, including a faith-based group, that enters into a financial or nonfinancial agreement with a health or human services agency to provide services to that agency's clients;

(E) a local workforce development board created under Section 2308.253;

(F) a nonprofit organization approved by the Supreme Court of Texas that provides free legal services for low-income households in civil matters;

(G) the Texas Boll Weevil Eradication Foundation, Inc., or an entity designated by the commissioner of agriculture as the foundation's successor entity under Section 74.1011, Agriculture Code;

(H) a nonprofit computer bank that solicits, stores, refurbishes, and redistributes used computer equipment to public school students and their families; and

(I) a nonprofit organization that provides affordable housing.

(1-a) "Commission" means the Texas Facilities Commission.

(2) "Personal property" includes:

(A) personal property lawfully confiscated and subject to disposal by a state agency; and

(B) personal property affixed to real property, if its removal and disposition is for a lawful purpose under this or another law.

(3) "Salvage property" means personal property that through use, time, or accident is so damaged, used, or consumed that it has no value for the purpose for which it was originally intended.

(4) "Surplus property" means personal property that exceeds a state agency's needs and is not required for the agency's foreseeable needs. The term includes used or new property that retains some usefulness for the purpose for which it was intended or for another purpose.

(5) "Data processing equipment" means equipment described by Section 2054.003(3)(A).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 419, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1002, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1004, Sec. 5, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1422, Sec. 11.01, eff. Jan. 1, 2002; Acts 2003, 78th Leg., ch. 908, Sec. 1, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 9.020(a), eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 125 (H.B. 22), Sec. 1, eff. May 24, 2005.

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.38, eff. September 1, 2007.

Sec. 2175.002. ADMINISTRATION OF CHAPTER. The commission is responsible for the disposal of surplus and salvage property of the state. The commission's surplus and salvage property division shall administer this chapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 29.03, eff. September 28, 2011.

Sec. 2175.004. CIVIL AIR PATROL; VOLUNTEER FIRE DEPARTMENTS. For purposes of this chapter:

(1) the Civil Air Patrol, Texas Wing, is considered a state agency having the authority to acquire surplus or salvage property; and

(2) a volunteer fire department is considered a political subdivision.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 127, Sec. 2, eff. May 19, 1997.

SUBCHAPTER B. COMMISSION POWERS AND DUTIES

Sec. 2175.061. RULES, FORMS, AND PROCEDURES. (a) The commission shall establish and maintain procedures for the transfer, sale, or disposal of surplus and salvage property as prescribed by law.

(b) Subject to Subsection (c), the commission may prescribe forms and reports necessary to administer this chapter and may adopt necessary rules, including rules governing the sale or transfer of surplus or salvage property to state agencies, political subdivisions, or assistance organizations.

(c) Subject to a risk assessment and to the legislative audit committee's approval of including the review in the audit plan under

Section 321.013, the state auditor may review and comment on the forms and reports prescribed and the rules adopted by the commission under Subsection (b).

(d) The commission may by rule determine the best method of disposal for surplus and salvage property of the state under this chapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.28, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 785, Sec. 38, eff. Sept. 1, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(41), eff. September 1, 2005.

Sec. 2175.062. MAILING LIST; LIST OF PROSPECTIVE BUYERS. The commission shall maintain:

(1) a mailing list, which it shall renew annually, of assistance organizations and individuals responsible for purchasing for political subdivisions who have requested information regarding available state surplus or salvage property; and

(2) a list of other prospective buyers of surplus and salvage property.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2175.063. MAXIMUM RETURN FROM DISPOSITION OF SURPLUS OR SALVAGE PROPERTY. (a) The commission shall attempt to realize the maximum benefit to the state in selling or disposing of surplus and salvage property.

(b) The commission may reject any or all offers for surplus or salvage property if it determines that rejection is in the state's best interests.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2175.064. COOPERATION IN EVALUATION AND ANALYSIS. (a) The commission shall cooperate with state agencies in an ongoing effort to evaluate surplus and salvage property to minimize loss

resulting from accumulations of property.

(b) The commission shall cooperate with the state auditor in analyzing surplus and salvage property.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2175.065. DELEGATION OF AUTHORITY TO STATE AGENCY. (a) The commission may authorize a state agency to dispose of surplus or salvage property if the agency demonstrates to the commission its ability to dispose of the property under this chapter in a manner that results in cost savings to the state, under commission rules adopted under this chapter.

(b) The commission shall establish by rule the criteria for determining that a delegation of authority to a state agency results in cost savings to the state.

(c) If property is disposed of under this section, the disposing state agency shall report the transaction to the commission. The report must include a description of the property disposed of, the reasons for disposal, the price paid for the property disposed of, and the recipient of the property disposed of.

(d) If the commission determines that a violation of a state law or rule has occurred based on the report under Subsection (c), the commission shall report the violation to the Legislative Budget Board.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 11.02, eff. Jan. 1, 2002.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 29.04, eff. September 28, 2011.

SUBCHAPTER D. DISPOSITION OF SURPLUS OR SALVAGE PROPERTY

Sec. 2175.181. APPLICABILITY. (a) This subchapter applies to a state agency delegated the authority to dispose of surplus or salvage property under Section 2175.065.

(b) This subchapter does not apply to property that is to be donated under Section 2175.241.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 11.03, eff. Jan. 1, 2002.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 29.06, eff. September 28, 2011.
Acts 2015, 84th Leg., R.S., Ch. 813 (H.B. 3439), Sec. 1, eff. September 1, 2015.

Sec. 2175.182. STATE AGENCY TRANSFER OF PROPERTY. (a) A state agency that determines it has surplus or salvage property shall inform the commission of the property's kind, number, location, condition, original cost or value, and date of acquisition. The commission may take physical possession of the property.
(b) Based on the condition of the property, the commission, in conjunction with the state agency, shall determine whether the property is:
(1) surplus property that should be offered for transfer under Section 2175.184 or sold to the public; or
(2) salvage property.
(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 812 , Sec. 9, eff. September 1, 2015.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 11.03, eff. Jan. 1, 2002. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.30, eff. June 18, 2003.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 29.07, eff. September 28, 2011.
Acts 2015, 84th Leg., R.S., Ch. 812 (H.B. 3438), Sec. 1, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 812 (H.B. 3438), Sec. 9, eff. September 1, 2015.

Sec. 2175.1825. ADVERTISING ON COMMISSION WEBSITE. (a) After a state agency informs the commission that it has surplus or salvage property, the commission shall advertise the property's kind, number, location, and condition on the commission's website.
(b) The comptroller shall provide the commission access to all

records in the state property accounting system related to surplus and salvage property.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 11.03, eff. Jan. 1, 2002.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 29.08, eff. September 28, 2011.
Acts 2015, 84th Leg., R.S., Ch. 812 (H.B. 3438), Sec. 2, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 812 (H.B. 3438), Sec. 3, eff. September 1, 2015.

Sec. 2175.183. COMMISSION NOTICE TO OTHER ENTITIES. The commission shall inform other state agencies, political subdivisions, and assistance organizations of the commission's website that lists surplus property that is available for transfer.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 11.03, eff. Jan. 1, 2002.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 29.09, eff. September 28, 2011.
Acts 2015, 84th Leg., R.S., Ch. 812 (H.B. 3438), Sec. 4, eff. September 1, 2015.

Sec. 2175.184. TRANSFER. (a) During the 10 business days after the date the property is posted on the commission's website, a state agency, political subdivision, or assistance organization shall coordinate with the commission for a transfer of the property at a price established by the commission. A transfer to a state agency has priority over any other transfer during this period.
(b) A political subdivision or assistance organization may not lease, lend, bail, deconstruct, encumber, sell, trade, or otherwise dispose of property acquired under this section or acquired from a state agency under Section 2175.241 before the second anniversary of the date the property was acquired. A political subdivision or an assistance organization that violates this subsection shall remit to the commission the amount the political subdivision or assistance

organization received from the lease, loan, bailment, deconstruction, encumbrance, sale, trade, or other disposition of the property unless the commission authorizes the action taken by the political subdivision or assistance organization with respect to the property.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 11.03, eff. Jan. 1, 2002.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 29.10, eff. September 28, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 21, eff. June 14, 2013.
Acts 2015, 84th Leg., R.S., Ch. 812 (H.B. 3438), Sec. 5, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 812 (H.B. 3438), Sec. 6, eff. September 1, 2015.

Sec. 2175.185. NOTICE OF TRANSFER TO COMPTROLLER; ADJUSTMENT OF APPROPRIATIONS AND PROPERTY ACCOUNTING RECORDS; REMOVAL FROM WEBSITE. (a) If property is transferred to a state agency under Section 2175.184, the participating agencies shall report the transaction to the comptroller.

(b) On receiving notice under this section, the comptroller shall, if necessary, adjust state property accounting records.

(c) The commission shall remove the property from the list of surplus property for sale on the commission's website on the date that the property is transferred.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 11.03, eff. Jan. 1, 2002. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.31, eff. June 18, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 812 (H.B. 3438), Sec. 7, eff. September 1, 2015.

Sec. 2175.186. DISPOSITION BY COMPETITIVE BIDDING, AUCTION, OR DIRECT SALE. (a) If a disposition of a state agency's surplus property is not made under Section 2175.184, the commission shall sell the property by competitive bid, auction, or direct sale to the

public, including a sale using an Internet auction site. The commission may contract with a private vendor to assist with the sale of the property.

(b) The commission shall determine which method of sale shall be used based on the method that is most advantageous to the state under the circumstances. The commission shall adopt rules establishing guidelines for making that determination.

(c) In using an Internet auction site to sell surplus property under this section, the commission shall post the property on the site for at least 10 days.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 11.03, eff. Jan. 1, 2002.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 29.11, eff. September 28, 2011.

Sec. 2175.187. DISPOSITION BY DIRECT SALE TO PUBLIC. (a) If the commission determines that selling the property by competitive bid or auction, including a sale using an Internet auction site, would not maximize the resale value of the property to the state, the commission may sell surplus property directly to the public.

(b) The commission shall set a fixed price for the property in cooperation with the state agency that owns the property.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 11.03, eff. Jan. 1, 2002.

Sec. 2175.188. PURCHASER'S FEE. (a) For property that is sold under Section 2175.186 or 2175.187, the commission shall collect a fee from the purchaser.

(b) The commission shall set the fee at an amount that is:

(1) sufficient to recover costs associated with the sale; and

(2) at least two percent but not more than 12 percent of sale proceeds.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 11.03, eff. Jan. 1, 2002.

Sec. 2175.189. ADVERTISEMENT OF SALE. If the value of an item or a lot of property to be sold is estimated to be more than $25,000, the commission shall advertise the sale at least once in at least one newspaper of general circulation in the vicinity in which the property is located.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 11.03, eff. Jan. 1, 2002.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 29.12, eff. September 28, 2011.

Sec. 2175.190. REPORTING SALE; PROPERTY ACCOUNTING ADJUSTMENT. (a) On the sale by the commission of surplus or salvage property, the commission shall report the property sold and the sale price to the state agency that owned the property and to the comptroller.

(b) If property reported under this section is on the state property accounting system, the comptroller shall remove the property from the property accounting records.

(c) The commission by rule may establish a procedure that allows a participating state agency to receive a return on small value items through the transfer of similar items.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 11.03, eff. Jan. 1, 2002.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 812 (H.B. 3438), Sec. 8, eff. September 1, 2015.

Sec. 2175.191. PROCEEDS OF SALE. (a) Proceeds from the sale of surplus or salvage property, less the cost of advertising the sale, the cost of selling the surplus or salvage property, including the cost of auctioneer services or assistance from a private vendor, and the amount of the fee collected under Section 2175.188, shall be deposited to the credit of the general revenue fund of the state treasury.

(b) Repealed by Acts 2003, 78th Leg., ch. 309, Sec. 7.37.

(c) Proceeds from the sale of surplus and salvage property of the Texas Department of Transportation relating to the department's duties under Chapter 2205 shall be deposited to the credit of the department.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 11.03, eff. Jan. 1, 2002. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.32, 7.37, eff. June 18, 2003.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 29.13, eff. September 28, 2011.
Acts 2017, 85th Leg., R.S., Ch. 533 (S.B. 312), Sec. 56, eff. September 1, 2017.

Sec. 2175.192. PURCHASER'S TITLE. A purchaser of surplus property at a sale conducted under Section 2175.186 or 2175.187 obtains good title to the property if the purchaser has in good faith complied with:
(1) the conditions of the sale; and
(2) applicable commission rules.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 11.03, eff. Jan. 1, 2002.

Sec. 2175.193. CONTRACTS FOR DESTRUCTION OF PROPERTY. The commission shall contract for the disposal of property under Subchapter E in a manner that maximizes value to the state.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 11.03, eff. Jan. 1, 2002.

SUBCHAPTER E. DESTRUCTION OR DONATION OF SURPLUS OR SALVAGE PROPERTY

Sec. 2175.241. DESTRUCTION OR DONATION OF SURPLUS OR SALVAGE PROPERTY. (a) If the commission cannot otherwise sell or dispose of property in accordance with this chapter, has determined that the property has no resale value, or has determined that the state will sufficiently benefit from donating the property, the property may be:
(1) destroyed as worthless salvage; or

(2) donated to an assistance organization or a local governmental entity.

(b) A state agency may only donate surplus or salvage property under this chapter that could be resold if the agency notifies the commission and provides sufficient information for the commission to be able to confirm the benefit to the state.

(c) The commission may charge the assistance organization or local governmental entity that receives the donation an amount sufficient to cover the costs associated with the donation, not to exceed 10 percent of the item's market value.

(d) A state agency that donates property under this section is responsible for notifying the comptroller of the donation and any benefit received that must be reported.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 127, Sec. 8, eff. May 19, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 125 (H.B. 22), Sec. 3, eff. May 24, 2005.

Acts 2015, 84th Leg., R.S., Ch. 813 (H.B. 3439), Sec. 2, eff. September 1, 2015.

Sec. 2175.242. REMOVAL OF DESTROYED OR DONATED PROPERTY FROM STATE PROPERTY ACCOUNTING RECORDS. (a) On destruction or donation of property under this subchapter, the comptroller may remove the property from the state property accounting records.

(b) Authorization by the commission is not required for the deletion of salvage or donated items of another state agency from the state property accounting records.

(c) This subchapter does not affect Section 403.273, which provides for the deletion from state property accounting records of a state agency's missing property.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 127, Sec. 9, eff. May 19, 1997; Acts 2001, 77th Leg., ch. 1158, Sec. 59, eff. June 15, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 125 (H.B. 22), Sec. 4, eff. May 24, 2005.

Acts 2005, 79th Leg., Ch. 125 (H.B. 22), Sec. 5, eff. May 24,

2005.

Acts 2015, 84th Leg., R.S., Ch. 813 (H.B. 3439), Sec. 3, eff. September 1, 2015.

SUBCHAPTER F. EXCEPTIONS

Sec. 2175.301. SURPLUS PROPERTY OF LEGISLATURE. (a) This chapter does not apply to disposition of surplus property by either house of the legislature under a disposition system provided by rules of the administration committee of each house.

(b) If surplus property of either house of the legislature is sold, proceeds of the sale shall be deposited in the state treasury to the credit of that house's appropriation.

(c) An agency in the legislative branch shall dispose of its surplus or salvage property under a disposition system established by the agency. This chapter does not apply to the agency's disposition of its surplus or salvage property under that system. That system shall give preference to transferring the property directly to, in order of priority:

(1) a public school;

(2) another public governmental agency; or

(3) an assistance organization.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 266, Sec. 1, eff. May 26, 1997.

Sec. 2175.302. EXCEPTION FOR ELEEMOSYNARY INSTITUTIONS. Except as provided by Section 2175.905(b), this chapter does not apply to the disposition of surplus or salvage property by a state eleemosynary institution.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 274, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 419, Sec. 4, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1281, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1276, Sec. 9020(i), eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 29.14, eff. September 28, 2011.

Sec. 2175.303. EXCEPTION FOR CERTAIN PRODUCTS. This chapter does not apply to disposition of:

(1) a product or by-product of research, forestry, agriculture, livestock, or an industrial enterprise; or

(2) certain recyclable materials, including paper, cardboard, aluminum cans, plastics, glass, one-use pallets, used tires, used oil, and scrap metal, when the disposition is not in the best interest of the state or economically feasible.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 127, Sec. 10, eff. May 19, 1997.

Sec. 2175.304. EXCEPTION FOR INSTITUTIONS OF HIGHER EDUCATION. (a) This chapter does not apply to the disposition of surplus or salvage property of a university system or of an institution or agency of higher education except as provided by this section.

(b) The governing board of each university system or institution or agency of higher education included within the definition of "state agency" under Section 2151.002 shall establish written procedures for the disposition of surplus or salvage property of the system, institution, or agency. The procedures shall allow for the direct transfer of materials or equipment that can be used for instructional purposes to a public school or school district, or an assistance organization designated by the school district, at a price or for other consideration to which the system, institution, or agency and the public school or school district or the assistance organization agree or for no consideration as the system, institution, or agency determines appropriate.

(c) The procedures established under Subsection (b) must give preference to transferring the property directly to a public school or school district or to an assistance organization designated by the school district before disposing of the property in another manner. If more than one public school or school district or assistance organization seeks to acquire the same property on substantially the same terms, the system, institution, or agency shall give preference to a public school that is considered low-performing by the commissioner of education or to a school district that has a taxable wealth per student that entitles the district to an allotment of state funds under Subchapter E, Chapter 48, Education Code, or to the

assistance organization designated by such a school district.

(d) A university system or institution or agency of higher education may donate to an assistance organization any surplus or salvage property that:

(1) is not disposed of under Subsection (b); and

(2) has no resale value.

(e) Notwithstanding Subsections (b) and (c), a university system or institution or agency of higher education included within the definition of "state agency" under Section 2151.002 may donate data processing equipment that is surplus or salvage property to a public or private hospital located in a rural county. For purposes of this subsection, "rural county" has the meaning assigned by Section 487.301.

(f) Section 2175.908 applies to a university system or institution or agency of higher education included within the definition of "state agency" under Section 2151.002.

Added by Acts 1999, 76th Leg., ch. 274, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1281, Sec. 2, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 908, Sec. 3, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 125 (H.B. 22), Sec. 6, eff. May 24, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 364 (S.B. 74), Sec. 1, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 274 (H.B. 473), Sec. 2, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.083, eff. September 1, 2019.

Sec. 2175.305. EXCEPTION FOR SECRETARY OF STATE. This chapter does not apply to the disposition of surplus computer equipment by the secretary of state. The secretary of state shall give preference to transferring the property to counties for the purpose of improving voter registration technology and complying with Section 18.063, Election Code.

Added by Acts 2001, 77th Leg., ch. 1178, Sec. 6, eff. Jan. 1, 2002.

Sec. 2175.306. EXCEPTION FOR CERTAIN AGENCIES. This chapter does not apply to the disposition of surplus computer equipment by a state agency involved in the areas of health, human services, or education, except for an agency to which Section 2175.304 applies. Those agencies shall give preference to transferring the property to a public school, school district, or assistance organization specified by the school district.

Added by Acts 2003, 78th Leg., ch. 908, Sec. 4, eff. June 20, 2003.

Sec. 2175.307. EXCEPTION FOR OFFICE OF COURT ADMINISTRATION. This chapter does not apply to the disposition of surplus computer equipment by the Office of Court Administration of the Texas Judicial System. The office shall give preference to transferring the equipment to a local or state governmental entity in the judicial branch of local or state government.

Added by Acts 2007, 80th Leg., R.S., Ch. 73 (H.B. 368), Sec. 2, eff. September 1, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1851, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2175.308. EXCEPTION FOR CERTAIN PROPERTY OF DEPARTMENT OF PUBLIC SAFETY. (a) Notwithstanding any conflicting provision of this chapter, if the commission determines that this state's efforts to secure this state's international border and combat transnational crime will sufficiently benefit from the donation of the surplus motor vehicles and other law enforcement equipment of the Department of Public Safety of the State of Texas to a municipal or county law enforcement agency in an economically disadvantaged area of this state, the commission may transfer the property to the agency at a price or for other consideration agreed to by the commission and the agency.

(b) A law enforcement agency that receives surplus property under Subsection (a) may not sell the property before the second anniversary of the date the property is received.

Added by Acts 2015, 84th Leg., R.S., Ch. 677 (H.B. 229), Sec. 1, eff.

September 1, 2015.

SUBCHAPTER G. FEDERAL SURPLUS PROPERTY

Sec. 2175.361. DEFINITIONS. In this subchapter:

(1) "Federal act" means the Federal Property and Administrative Services Act of 1949 (40 U.S.C. Section 541 et seq.), as amended, or any other federal law providing for the disposal of federal surplus property.

(2) "Federal property" means federal surplus property acquired:

(A) by the commission or under the commission's jurisdiction under this subchapter; and

(B) under 40 U.S.C. Section 483c, 549, or 550, or under any other federal law providing for the disposal of federal surplus property.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.33, eff. June 18, 2003.

Sec. 2175.362. DESIGNATED AGENCY; SEPARATE AND INDEPENDENT OPERATION OF FEDERAL SURPLUS PROPERTY PROGRAM. (a) The commission is the designated state agency under 40 U.S.C. Section 549 and any other federal law providing for the disposal of federal surplus property.

(b) Except for the sharing of support functions with other divisions, the federal surplus property program shall operate independently of the rest of the commission.

(c) The administrative offices of the federal surplus property program may be located in a building separate from the location of other commission offices.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 127, Sec. 11, eff. May 19, 1997; Acts 2003, 78th Leg., ch. 309, Sec. 7.34, eff. June 18, 2003.

Sec. 2175.363. ACQUISITION, WAREHOUSING, AND DISTRIBUTION OF FEDERAL PROPERTY. (a) The commission may acquire and warehouse

federal property allocated to the commission under the federal act and distribute the property to an entity or institution that meets the eligibility qualifications for the property under the federal act.

(b) The commission shall establish and maintain procedures to implement this section.

(c) The commission is not required to comply with the provisions of this chapter that relate to the disposition of surplus state agency property in acquiring, warehousing, and distributing federal surplus property under this chapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2175.364. COMMISSION ASSISTANCE IN PROCUREMENT AND USE OF PROPERTY. The commission may:

(1) disseminate information and assist a potential applicant regarding the availability of federal real property;

(2) assist in the processing of an application for acquisition of federal real property and related personal property under 40 U.S.C. Section 550 or any other federal law providing for the disposal of federal surplus property;

(3) act as an information clearinghouse for an entity that may be eligible to acquire federal property and, as necessary, assist the entity to obtain federal property;

(4) assist in assuring use of the property; and

(5) engage in an activity relating to the use of federal property by another state agency, institution, or organization engaging in or receiving assistance under a federal program.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.35, eff. June 18, 2003.

Sec. 2175.365. STATE PLAN OF OPERATION; COMPLIANCE WITH MINIMUM FEDERAL STANDARDS. The commission shall:

(1) file a state plan of operation that complies with federal law and operate in accordance with the plan;

(2) take necessary action to meet the minimum standards for a state agency in accordance with the federal act; and

(3) cooperate to the fullest extent consistent with this subchapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2175.366. ADMINISTRATIVE FUNCTIONS; COMPLIANCE WITH FEDERAL REQUIREMENTS. The commission may:

(1) make the necessary certifications and undertake necessary action, including an investigation;

(2) make expenditures or reports that may be required by federal law or regulation or that are otherwise necessary to provide for the proper and efficient management of its functions under this subchapter;

(3) provide information and reports relating to its activities under this subchapter that may be required by a federal agency or department; and

(4) adopt rules necessary for the efficient operation of its activities under this subchapter or as may be required by federal law or regulation.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2175.367. CONTRACTS. The commission may enter into an agreement, including:

(1) a cooperative agreement with a federal agency under 40 U.S.C. Section 549 or any other federal law providing for the disposal of federal surplus property;

(2) an agreement with a state agency for surplus property of a state agency that will promote the administration of the commission's functions under this subchapter; or

(3) an agreement with a group or association of state agencies for surplus property that will promote the administration of the commission's functions under this subchapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.36, eff. June 18, 2003.

Sec. 2175.368. ACQUISITION OR IMPROVEMENT OF PROPERTY; RENT PAYMENTS. The commission may:

(1) acquire and hold title or make capital improvements to federal real property in accordance with Section 2175.369; or

(2) make an advance payment of rent for a distribution center, an office space, or another facility that is required to accomplish the commission's functions under this subchapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2175.369. CHARGES. (a) The commission may collect a service charge for the commission's acquisition, warehousing, distribution, or transfer of federal property.

(b) The commission may not collect a charge for federal real property in an amount that is greater than the reasonable administrative cost the commission incurs in transferring the property.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2175.370. FEDERAL SURPLUS PROPERTY SERVICE CHARGE FUND. (a) The commission shall deposit a charge collected under Section 2175.369 in the state treasury to the credit of the federal surplus property service charge fund.

(b) Income earned on money in the federal surplus property service charge fund shall be credited to that fund.

(c) Money in the federal surplus property service charge fund may be used only to accomplish the commission's functions under this subchapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 127, Sec. 12, eff. May 19, 1997.

Sec. 2175.371. ADVISORY BOARDS AND COMMITTEES. The commission may appoint advisory boards and committees necessary and suitable to administer this subchapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2175.372. PERSONNEL. (a) The commission may employ, compensate, and prescribe the duties of personnel, other than members of advisory boards and committees, necessary and suitable to administer this subchapter.

(b) The commission may fill a personnel position only with an individual selected and appointed on a nonpartisan merit basis.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 2175.901. PURCHASE OF CHAIRS BY CERTAIN STATE OFFICERS AND AGENCY HEADS. (a) Notwithstanding other law, on vacating an office or terminating employment, an elected or appointed state officer or an executive head of a state agency in the legislative, executive, or judicial branch of state government may purchase for fair market value the chair used by the officer or employee during the person's period of state service.

(b) The fair market value of a chair shall be determined:

(1) for an executive agency or a legislative agency other than the legislature, by the commission;

(2) for a judicial agency, by the chief justice of the supreme court;

(3) for the house of representatives, by the speaker of the house of representatives; and

(4) for the senate, by the lieutenant governor.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2175.902. MANDATORY PAPER RECYCLING PROGRAM. (a) The commission shall establish a mandatory recycling program for a state agency that occupies a building under its control. By rule, the commission shall:

(1) establish guidelines and procedures for collecting and recycling of paper;

(2) set recycling goals and performance measures;

(3) require state agencies to designate a recycling coordinator;

(4) provide employee and custodial education and training;

(5) provide feedback and recognition to state agencies when appropriate; and

(6) inform state agencies when proper recycling methods are not used.

(b) If the commission finds that a state agency's recycling program meets or exceeds the standards created under Subsection (a), the commission may delegate its responsibility under this section to a state agency located in a building under its control.

(c) The commission or a state agency with delegated responsibility under Subsection (b) shall sell the paper for recycling to the highest bidder.

(d) The commission may enter into an interagency agreement to provide recycling services to a state agency otherwise excluded from the program.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 127, Sec. 13, eff. May 19, 1997; Acts 2001, 77th Leg., ch. 1422, Sec. 12.01, eff. Sept. 1, 2001.

Sec. 2175.903. PROPERTY USED AS TRADE-IN. A state agency may offer surplus or salvage property as a trade-in on new property of the same general type if the exchange is in the state's best interests.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2175.904. DISPOSAL OF GAMBLING EQUIPMENT. (a) The commission shall establish a program for the sale of gambling equipment received from a municipality, from a commissioners court under Section 263.152(a)(5), Local Government Code, or from a state agency under this chapter.

(b) The commission may sell gambling equipment only to a person that the commission determines is a bona fide holder of a license or other authorization to sell, lease, or otherwise provide gambling equipment to others or to operate gambling equipment issued by an agency in another state or in a foreign jurisdiction where it is lawful for the person to possess gambling equipment for the intended purpose.

(c) Proceeds from the sale of gambling equipment from a municipality or commissioners court, less the costs of the sale, including costs of advertising, storage, shipping, and auctioneer or broker services, and the amount of the fee collected under Section 2175.188, shall be divided according to an agreement between the commission and the municipality or commissioners court that provided the equipment for sale. The agreement must provide that:

(1) not less than 50 percent of the net proceeds be remitted to the commissioners court; and

(2) the remainder of the net proceeds retained by the commission be deposited to the credit of the general revenue fund.

(d) Proceeds from the sale of gambling equipment from a state agency, less the costs of the sale, including costs of advertising, storage, shipping, and auctioneer or broker services, and the amount of the fee collected under Section 2175.188, shall be deposited to the credit of the general revenue fund of the state treasury.

Added by Acts 2007, 80th Leg., R.S., Ch. 1233 (H.B. 2462), Sec. 1, eff. June 15, 2007.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 29.15, eff. September 28, 2011.

Sec. 2175.905. DISPOSITION OF DATA PROCESSING EQUIPMENT. (a) If a disposition of a state agency's surplus or salvage data processing equipment is not made under Section 2175.184, the state agency shall transfer the equipment to:

(1) a school district or open-enrollment charter school in this state under Subchapter C, Chapter 32, Education Code;

(2) an assistance organization specified by the school district; or

(3) the Texas Department of Criminal Justice.

(b) If a disposition of the surplus or salvage data processing equipment of a state eleemosynary institution or an institution or agency of higher education is not made under other law, the institution or agency shall transfer the equipment to:

(1) a school district or open-enrollment charter school in this state under Subchapter C, Chapter 32, Education Code;

(2) an assistance organization specified by the school

district; or

(3) the Texas Department of Criminal Justice.

(c) The state eleemosynary institution or institution or agency of higher education or other state agency may not collect a fee or other reimbursement from the district, the school, the assistance organization, or the Texas Department of Criminal Justice for the surplus or salvage data processing equipment transferred under this section.

(d) An assistance organization may not lease, lend, bail, deconstruct, encumber, sell, trade, or otherwise dispose of data processing equipment acquired under this section. The assistance organization may dispose of the equipment only by transferring the equipment to the school district that specified the assistance organization for transfer under this section.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 29.16, eff. September 28, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 22, eff. June 14, 2013.

Sec. 2175.906. ABOLISHED AGENCIES. On abolition of a state agency, in accordance with Chapter 325, the commission shall take custody of all of the agency's property or other assets as surplus property unless other law or the legislature designates another appropriate governmental entity to take custody of the property or assets.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 29.16, eff. September 28, 2011.

Sec. 2175.907. DISPOSAL OF COMPUTER EQUIPMENT BY CHARITABLE ORGANIZATION. (a) In this section:

(1) "Computer equipment" includes computers, telecommunications devices and systems, automated information systems, and peripheral devices and hardware that are necessary to the efficient installation and operation of that equipment, but does not include computer software.

(2) "Charitable organization" has the meaning assigned by

Section 84.003, Civil Practice and Remedies Code.

(b) Except as provided by Subsections (c) and (d), a charitable organization that expends funds received from the state, whether by appropriation, grant, or otherwise, to purchase computer equipment may not dispose of or discard the equipment before the fourth anniversary of the date the organization purchased the equipment.

(c) This section does not prohibit:

(1) the sale or trade of computer equipment; or

(2) the disposal of equipment that is not operational.

(d) A charitable organization may dispose of computer equipment purchased with state funds within the four-year period after the date of purchase by donating the equipment to another charitable organization.

(e) This section applies only to computer equipment that a charitable organization purchases for at least $500.

(f) The comptroller shall adopt rules to implement this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 19.024(a), eff. September 1, 2015.

Sec. 2175.908. SALE OR TRANSFER OF LAW ENFORCEMENT VEHICLE. (a) Except as provided by Subsection (b), the commission or another state agency, including an agency delegated the authority to dispose of surplus or salvage property under Section 2175.065, may not sell or transfer a marked patrol car or other law enforcement motor vehicle to the public unless the state agency first removes any equipment or insignia that could mislead a reasonable person to believe that the vehicle is a law enforcement motor vehicle, including any police light, siren, amber warning light, spotlight, grill light, antenna, emblem, outline of an emblem, and emergency vehicle equipment.

(b) The commission or another state agency, including an agency delegated the authority to dispose of surplus or salvage property under Section 2175.065, may not sell or transfer a marked patrol car or other law enforcement motor vehicle to a security services contractor who is regulated by the Department of Public Safety and licensed under Chapter 1702, Occupations Code, unless each emblem or insignia that identifies the vehicle as a law enforcement motor

vehicle is removed before the sale or transfer.

Added by Acts 2015, 84th Leg., R.S., Ch. 274 (H.B. 473), Sec. 1, eff. September 1, 2015.

Sec. 2175.909. SALE OF CERTAIN HISTORIC PROPERTY; PROCEEDS OF SALE. (a) In this section, "qualifying collection" means an archeological, architectural, archival, decorative, or fine arts collection.

(b) This section applies only to a state agency:

(1) that maintains a qualifying collection;

(2) that is authorized to dispose of surplus or salvage property under Section 2175.065; and

(3) the governing body of which has adopted a written policy governing the care and preservation of the qualifying collection, including procedures relating to the deaccession of an item from the collection.

(c) The state agency may deaccession an item from the agency's qualifying collection if the governing body determines that deaccession of the item is appropriate under the agency's written policy governing the care and preservation of the collection.

(d) A state agency and the Texas Facilities Commission may sell a deaccessioned item in the manner provided by Subchapter D. Before the sale of the item, the Texas Facilities Commission must verify that the state agency's governing body complied with Subsection (c).

(e) Notwithstanding Section 2175.191, proceeds from the sale of the deaccessioned item by a state agency shall be deposited to the credit of a dedicated account in the general revenue fund in the manner prescribed by Subsection (f).

(f) The comptroller shall separately account for the amount of money deposited to the credit of the account under Subsection (e) resulting from the sale of deaccessioned items by each state agency. Money deposited to the credit of the account may be appropriated only to the state agency for which the comptroller deposited the money to the account for the care and preservation of the agency's qualifying collection.

Added by Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 9, eff. September 1, 2019.

CHAPTER 2176. MAIL

SUBCHAPTER A. EVALUATION AND PLANNING OF MAIL OPERATIONS

Sec. 2176.001. MAIL OPERATIONS OFFICER. A state agency in Travis County shall designate a person to manage mail for the agency's offices and units.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2176.0011. COMPTROLLER POWERS AND DUTIES. The comptroller has under this chapter the powers and duties described by Section 2151.004(d).

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.39, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 112, eff. September 1, 2019.

Sec. 2176.002. STATE AGENCY EVALUATION AND IMPROVEMENT OF MAIL OPERATIONS. To improve state agency management of mail and to reduce the state's mail costs, a state agency in the executive branch of state government shall:

(1) evaluate its mail operations to identify and eliminate practices resulting in excessive mail costs; and

(2) develop and implement plans and procedures for making necessary improvements in mail operations.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2176.003. EVALUATION OF STATE AGENCY MAIL OPERATIONS. The comptroller shall:

(1) evaluate the mail operations of state agencies located in Travis County and make recommendations to identify and eliminate practices resulting in excessive mail costs; and

(2) establish minimum objectives and responsibilities for managing mail for the agencies.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 112, eff. September 1, 2019.

Sec. 2176.004. PROCEDURES FOR IMPROVEMENT OF MAIL OPERATIONS. The comptroller shall:

(1) in conjunction with the United States Postal Service, establish procedures to improve the measurement of state agency mail costs, using postage meters or stamps as appropriate;

(2) establish procedures to determine the advantages to state agencies of presorting mail;

(3) establish procedures to determine the lowest cost class of mail necessary to effectively accomplish individual state agency functions;

(4) evaluate the cost-effectiveness of using alternatives to the United States Postal Service for delivering state agency mail;

(5) train state agency personnel regarding cost-effective mailing practices;

(6) set standards for receipt, delivery, collection, and dispatch of mail; and

(7) publish and disseminate standards, guides, and instructions for managing mail and establish and implement procedures for monitoring compliance with the standards, guides, and instructions.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 112, eff. September 1, 2019.

Sec. 2176.005. STATE AGENCY REPORTS ON MAIL OPERATIONS. (a) A state agency in Travis County shall periodically send to the governor a report of its progress in achieving the objectives for and the revisions of mail operations established under Section 2176.004, including an analysis of savings projected from the resulting improvements in managing mail.

(b) When two or more state agencies by interagency contract are providing common services for managing mail, the agencies may

designate a single agency to report on behalf of all agencies participating under the contract.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.24, eff. September 1, 2019.

Sec. 2176.006. MAILING LISTS. A state agency in Travis County shall review and consolidate mailing lists used by the agency to distribute publications and other materials issued by the agency.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. INTERAGENCY MAIL

Sec. 2176.051. INTERAGENCY MAIL SERVICE. (a) The comptroller shall operate a messenger service for delivering unstamped written communications and packages between the following entities located in Travis County:

(1) state agencies;
(2) the legislature; and
(3) legislative agencies.

(b) All entities described by Subsection (a) shall use the service.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 113, eff. September 1, 2019.

Sec. 2176.052. USE OF UNITED STATES POSTAL SERVICE; ALTERNATE DELIVERY METHODS. An entity subject to Section 2176.051 may use a delivery method other than that provided under Section 2176.051 for delivering interagency mail to another entity subject to Section 2176.051 but may not use the United States Postal Service for the delivery unless required to do so under state or federal law.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2176.053. DELIVERY OF STATE WARRANTS. State warrants may be delivered in a manner agreed to by the comptroller and the affected agency.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.40, eff. September 1, 2007.

SUBCHAPTER C. OUTGOING FIRST-CLASS MAIL IN TRAVIS COUNTY

Sec. 2176.101. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to outgoing first-class mail practices of a state agency located in Travis County.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2176.102. EVALUATION. The comptroller shall evaluate the outgoing first-class mail practices of state agencies located in Travis County, including the lists, systems, and formats used to create mail.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 114, eff. September 1, 2019.

Sec. 2176.103. DISCOUNTED POSTAL RATES. The comptroller shall achieve the maximum available discount on postal rates whenever acceptable levels of timeliness, security, and quality of service can be maintained using the discounted rate.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 114, eff. September 1, 2019.

Sec. 2176.104. REQUIREMENT TO CONSULT WITH COMPTROLLER. A state agency to which this subchapter applies shall consult the comptroller before the agency may:

(1) purchase, upgrade, or sell mail processing equipment;

(2) contract with a private entity for mail processing; or

(3) take actions that significantly affect the agency's first-class mail practices.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 114, eff. September 1, 2019.

Sec. 2176.105. GUIDELINES FOR MEASURING AND ANALYZING FIRST-CLASS MAIL PRACTICES. (a) The comptroller shall adopt and distribute to each state agency to which this subchapter applies guidelines by which outgoing first-class mail practices may be measured and analyzed. The guidelines must require using the services of the United States Postal Service to the extent possible.

(b) The comptroller shall review and update the guidelines at least once every two years, beginning two years after the date on which the guidelines are adopted.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 114, eff. September 1, 2019.

Sec. 2176.106. TRAINING. (a) Not later than the 90th day after the date on which the initial guidelines under Section 2176.105 are distributed, and at least annually beginning one year after the date of distribution, the comptroller shall provide training to state agency personnel who handle first-class mail.

(b) The comptroller may use to the extent possible free training provided by the United States Postal Service.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 114, eff.

September 1, 2019.

Sec. 2176.107. PREREQUISITE TO UPGRADING OR REPLACING MAIL EQUIPMENT; COMPARISON AND ANALYSIS. (a) If the comptroller determines that upgrading existing mail production or processing equipment or purchasing new mail production or processing equipment is required to improve outgoing first-class mail practices of the comptroller or another state agency located in Travis County, the comptroller shall prepare a cost-benefit analysis demonstrating that the upgrade or purchase is more cost-effective than contracting with a private entity to provide the equipment or mail service.

(b) The comptroller shall approve the most cost-effective method.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 114, eff. September 1, 2019.

Sec. 2176.109. FEES FOR COMPTROLLER SERVICES. (a) The comptroller by interagency contract shall charge and collect fees from each state agency to which this subchapter applies for the comptroller's services under this subchapter.

(b) The total amount charged a state agency under this section may not exceed the amount of the agency's appropriated funds for outgoing first-class mail, as determined by the Legislative Budget Board, minus the agency's fixed costs for these services.

(c) The comptroller shall transfer to the general revenue fund the amount of a fee charged a state agency under this section that is greater than the amount of the comptroller's actual expenses for performing the services for the agency.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 115, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 116, eff. September 1, 2019.

Sec. 2176.110. RULES. The comptroller shall adopt rules for state agencies to implement this chapter. Before adopting a rule under this section, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b) are met.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.41, eff. September 1, 2007.

SUBCHAPTER D. PROCESSING OF MAIL

Sec. 2176.151. TIMELY PROCESSING OF MAIL. Mail shall:

(1) be processed for delivery as quickly as necessary under existing circumstances; and

(2) not be unduly delayed only to achieve a lower postal rate.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2176.152. PROCESSING UNITED STATES MAIL IN CAPITOL COMPLEX. United States mail may be delivered to and from the post office located in the Capitol Complex on agreement between the comptroller and the affected agency.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 117, eff. September 1, 2019.

SUBCHAPTER E. SPECIAL MAIL SERVICES

Sec. 2176.201. USE OF CERTAIN MAIL SERVICES. (a) Notwithstanding another law that requires the use of certain mail services, a state agency may use any form of mail service available from the United States Postal Service to lower postal costs whenever acceptable levels of accountability, timeliness, security, and quality of service can be maintained.

(b) If practicable, a state agency must use address-matching

software that meets certification standards under the Coding Accuracy Support System adopted by the United States Postal Service or that meets any subsequent standard adopted by the United States Postal Service to replace Coding Accuracy Support System standards for preparation of bulk mailings. If a state agency contracts with a provider for bulk mailing services, the contract must require that the provider use address-matching software that meets or exceeds certification standards under the Coding Accuracy Support System or subsequent standards adopted by the United States Postal Service.

Added by Acts 1997, 75th Leg., ch. 1145, Sec. 1, eff. July 1, 1997.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 468 (H.B. 266), Sec. 1, eff. September 1, 2011.

Sec. 2176.202. CHANGE OF ADDRESS SERVICE. Notwithstanding another law regarding change of address updates, a state agency may use any change of address update service approved by the United States Postal Service for the purpose of receiving a postal discount rate.

Added by Acts 1997, 75th Leg., ch. 1145, Sec. 1, eff. June 19, 1997.

Sec. 2176.203. NOTIFICATION OF SERVICE OPTIONS. The comptroller shall, as part of the guidelines developed under Section 2176.105, provide information to state agencies about special mail services offered by the United States Postal Service. The comptroller shall assist a state agency in determining which service to use, considering the state agency's needs for accountability, timeliness, security, and quality of service.

Added by Acts 1997, 75th Leg., ch. 1145, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 117, eff. September 1, 2019.

For expiration of this chapter, see Section 2177.010.

CHAPTER 2177. TEXAS PHARMACEUTICAL INITIATIVE

Sec. 2177.001. DEFINITIONS. In this chapter:

(1) "Advisory council" means the Texas Pharmaceutical Initiative Advisory Council established under this chapter.

(2) "Board" means the governing board of the initiative.

(3) "Commission" means the Health and Human Services Commission.

(4) "Generic biological product" means a biological product approved pursuant to an application under Section 351(k), Public Health Service Act (42 U.S.C. Section 262(k)).

(5) "Generic drug" means a prescription drug approved pursuant to an application under Section 505(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 355(j)).

(6) "Initiative" means the Texas Pharmaceutical Initiative established under this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 891 (H.B. 4990), Sec. 1, eff. June 13, 2023.

Sec. 2177.002. TEXAS PHARMACEUTICAL INITIATIVE. The Texas Pharmaceutical Initiative is established to provide cost-effective access to prescription drugs and other medical supplies for:

(1) employees, dependents, and retirees of public higher education systems and institutions;

(2) Employees Retirement System of Texas members;

(3) Teacher Retirement System of Texas members;

(4) persons confined by the Texas Department of Criminal Justice or the Texas Juvenile Justice Department; and

(5) individuals served by a program operated or administered by the health and human services system, as that term is defined by Section 531.001.

Added by Acts 2023, 88th Leg., R.S., Ch. 891 (H.B. 4990), Sec. 1, eff. June 13, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4638, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2177.003. BOARD. (a) The initiative is governed by a

board composed of three members appointed by the governor.

(b) The governor shall designate the presiding officer of the board.

(c) A board member serves without compensation but may be reimbursed for travel and other actual and reasonable expenses incurred in the performance of the member's duties on the board.

Added by Acts 2023, 88th Leg., R.S., Ch. 891 (H.B. 4990), Sec. 1, eff. June 13, 2023.

Sec. 2177.004. BOARD MEMBER QUALIFICATIONS. (a) A person may not serve as a board member if the person:

(1) has held any other elective public office during the preceding five years; or

(2) is an employee of an entity served by the initiative.

(b) Not more than one-third of the members of the board serving at any one time may derive more than 10 percent of their annual income from the health care, insurance, or pharmaceutical industry.

Added by Acts 2023, 88th Leg., R.S., Ch. 891 (H.B. 4990), Sec. 1, eff. June 13, 2023.

Sec. 2177.005. BOARD POWERS AND DUTIES. (a) The board may:

(1) develop and implement the initiative and any programs established by this chapter;

(2) establish procedures and policies for the administration of the initiative; and

(3) establish procedures to document compliance by board members and personnel with applicable laws governing conflicts of interest.

(b) To carry out the purposes of this chapter and implement the initiative, the board may:

(1) hire and employ an executive director and necessary personnel to provide administrative support;

(2) execute contracts and other instruments and conduct all activities the board determines necessary for those purposes;

(3) authorize one or more board members to execute contracts and other instruments on behalf of the board; and

(4) establish a committee or other similar entity to

exercise powers delegated by the board and exercise any other administrative duties or powers as the board considers necessary.

Added by Acts 2023, 88th Leg., R.S., Ch. 891 (H.B. 4990), Sec. 1, eff. June 13, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4638, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2177.006. BUSINESS PLAN. Not later than October 1, 2024, the board shall develop and submit to the governor, the legislature, and the Legislative Budget Board a business plan on:

(1) implementing the initiative, including the initiative's organizational structure and related programs;

(2) establishing procedures and policies for the administration of the initiative, including documenting the process and resources required for the provision to individuals described by Section 2177.002 of the following services:

(A) establishing or contracting for statewide pharmacy benefit manager services;

(B) establishing policies and conditions to operate or contract for the operation of a distribution network, central service center, and associated network of satellite distribution facilities to distribute prescription drugs and related medical supplies; and

(C) providing advanced pharmaceutical preparation and related services, including:

(i) manufacturing generic drugs and generic biological products;

(ii) providing gene therapies and precision medicine; and

(iii) providing advanced laboratories for quality control, preparation, and compounding of drugs in support of innovative therapeutics and drug research;

(3) establishing procedures to document compliance by board members and personnel with applicable laws governing conflicts of interest;

(4) establishing the conditions for state agencies that facilitate health plans to participate in the initiative;

(5) identifying potential cost savings from implementation

of the initiative;

(6) identifying the funding and resources needed to implement this chapter; and

(7) providing other board recommendations, with supporting documentation, on continuation of the initiative.

Added by Acts 2023, 88th Leg., R.S., Ch. 891 (H.B. 4990), Sec. 1, eff. June 13, 2023.

Sec. 2177.007. ADMINISTRATIVE ATTACHMENT. (a) The board is administratively attached to the commission.

(b) The commission shall provide administrative support services to the board as necessary to carry out the purposes of this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 891 (H.B. 4990), Sec. 1, eff. June 13, 2023.

Sec. 2177.008. ADVISORY COUNCIL. (a) The Texas Pharmaceutical Initiative Advisory Council is established to advise the board in implementing this chapter and carrying out the duties imposed on the board under this chapter.

(b) The advisory council is composed of:

(1) the executive commissioner of the commission or the executive commissioner's designee;

(2) the executive director of the Employees Retirement System of Texas or the executive director's designee;

(3) the executive director of the Teacher Retirement System of Texas or the executive director's designee;

(4) the chancellor of The University of Texas System or the chancellor's designee; and

(5) the chancellor of The Texas A&M University System or the chancellor's designee.

Added by Acts 2023, 88th Leg., R.S., Ch. 891 (H.B. 4990), Sec. 1, eff. June 13, 2023.

Sec. 2177.009. CONFLICTS OF INTEREST. Except as otherwise

provided by this chapter, Chapter 572 applies to the initiative.

Added by Acts 2023, 88th Leg., R.S., Ch. 891 (H.B. 4990), Sec. 1, eff. June 13, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4638, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2177.010. EXPIRATION OF CHAPTER. This chapter expires September 1, 2025.

Added by Acts 2023, 88th Leg., R.S., Ch. 891 (H.B. 4990), Sec. 1, eff. June 13, 2023.

SUBTITLE E. GOVERNMENT PROPERTY

CHAPTER 2201. TEXAS CAPITAL TRUST FUND

Sec. 2201.001. TEXAS CAPITAL TRUST FUND. The Texas capital trust fund is in the state treasury.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2201.002. USE OF FUND. The fund may be used to finance:

(1) the acquisition, construction, repair, improvement, or equipping of a building by a state agency for a state purpose;

(2) the acquisition of real or personal property necessary for a state agency to take an action described by Subdivision (1);

(3) the administration of the asset management division of the General Land Office; or

(4) any other purpose for which funds may be appropriated from general revenue.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 1.32, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1310, Sec. 59, eff. June 20, 2003.

Sec. 2201.003. TRANSFERS FROM CAPITAL TRUST FUND. (a) Interest earned by the fund shall be deposited to the credit of the

housing trust fund.

(b) At the end of each fiscal biennium the unencumbered balance of the fund shall be transferred to the credit of the general revenue fund.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1123, Sec. 14, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1310, Sec. 60, eff. June 20, 2003.

CHAPTER 2203. USE OF STATE PROPERTY

Sec. 2203.002. STATE POSTAGE METERS. (a) A state department, board, commission, or educational institution that installs a postage meter shall place on the machine an imprint plate stating that:

(1) the mail carried by the postage is official state mail; and

(2) there is a penalty for the unlawful use of the postage meter for a private purpose.

(b) A state department, board, commission, or educational institution shall pay for the imprint plate and its installation from the state department's, board's, commission's, or educational institution's appropriation for postage and contingent expenses.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2203.003. STATE PROPERTY UNDER CONTROL OF THE TEXAS DIVISION UNITED DAUGHTERS OF THE CONFEDERACY. (a) The Texas Division United Daughters of the Confederacy may charge admission to state property over which the organization has custody or control.

(b) An organization that charges admission under this section shall set the fee in an amount that it determines serves the best interest of the state and the public.

(c) The organization may maintain and operate, or may contract with another person for the operation of, a concession on state property under its control. The concession may be operated in any manner the organization considers necessary for the best interest of the state and the public.

(d) The organization shall hold separately in trust all admission fees and profits from the operation of concessions at each property. The money may be spent only to maintain and repair the

state property and furnishings at the property at which the money is received.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1046 (H.B. 3726), Sec. 3, eff. September 1, 2011.
Acts 2017, 85th Leg., R.S., Ch. 709 (H.B. 3810), Sec. 4, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 709 (H.B. 3810), Sec. 5, eff. September 1, 2017.

Sec. 2203.004. REQUIREMENT TO USE STATE PROPERTY FOR STATE PURPOSES. State property may be used only for state purposes. A person may not entrust state property to a state officer or employee or to any other person if the property is not to be used for state purposes.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.33, eff. Sept. 1, 1999.

Sec. 2203.005. VENDING MACHINES AUTHORIZED. (a) In a state-owned or state-leased building or on state-owned or state-leased property that is not served by a vendor operating under the supervision of the Texas Commission for the Blind, a vending machine may be located in the building or on the property only with the approval of the governing body of the state agency that has charge and control of the building or property. The approval must be recorded in the minutes of a meeting of the governing body.

(b) The state agency shall file with the comptroller a copy of all contracts between the state agency and the vendor related to the vending machine and a written description of the location of the vending machine.

(c) All rentals, commissions, or other net revenue the state agency receives in connection with the vending machine shall be accounted for as state money and deposited to the credit of the general revenue fund unless the disposition of the revenue is governed by other law. The state agency shall account for the revenue received under this section in the agency's annual report.

(d) In a state-owned or state-leased building or on state-owned or state-leased property that is served by a vendor operating under the supervision of the Texas Commission for the Blind, a vending machine may be located and operated in the building or on the property only under a joint contract with the owners of the vending machine and the vendor operating under the supervision of the Texas Commission for the Blind.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.33, eff. Sept. 1, 1999.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.70, eff. September 1, 2007.

CHAPTER 2204. ACQUISITION OF LAND FOR STATE AND FEDERAL PURPOSES

SUBCHAPTER A. ACQUISITION OF LAND BY STATE

Sec. 2204.001. ACQUISITION OF LAND BY STATE. (a) The governor may purchase land or the right to use land that is required by this state for any type of public use.

(b) If the governor fails to agree with the owner of the land on the price for the land or the use of the land, the land may be condemned for public use in the name of this state. On the direction of the governor, condemnation proceedings shall be instituted against the owner of the land by the attorney general or the district or county attorney acting under the direction of the attorney general.

(c) If the governor determines that the amount of damages awarded in the condemnation proceedings under Subsection (b) is excessive, the state may not pay the damages. In that event, the state shall pay the costs of the proceedings and may not take further action.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2204.002. RESTRICTION ON ACQUISITION OF REAL PROPERTY. A state agency, as defined by Section 658.001, may not accept a gift or devise of real property or spend appropriated money to purchase real property without statutory authority or other legislative authorization.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.34, eff. Sept. 1, 1999.

Sec. 2204.003. GIFTS OF REAL PROPERTY TO INSTITUTIONS OF HIGHER EDUCATION. An institution of higher education, as defined by Section 61.003, Education Code, may accept a gift or devise of real property from a private entity to establish scholarships or professorships or to be held in trust for other educational purposes only if done consistently with rules and regulations adopted by the Texas Higher Education Coordinating Board pursuant to its power to adopt such rules and regulations under Chapter 61, Education Code.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.34, eff. Sept. 1, 1999.

SUBCHAPTER B. GENERAL PROVISIONS FOR ACQUISITION OF LAND AND JURISDICTION OVER LAND BY UNITED STATES

Sec. 2204.101. CONSENT TO UNITED STATES TO ACQUIRE LAND. (a) The legislature consents to the purchase or acquisition by the United States, including acquisition by condemnation, of land in this state made in accordance with this subchapter.

(b) The United States may purchase, acquire, hold, own, occupy, and possess land in this state that it considers expedient and that it seeks to occupy as a site:

(1) on which to erect and maintain a lighthouse, fort, military station, magazine, arsenal, dockyard, customhouse, post office, or other necessary public building; or

(2) for erecting a lock or dam, straightening a stream by making a cutoff, building a levee, or erecting any other structure or improvement that may become necessary for developing or improving a waterway, river, or harbor of this state.

(c) During condemnation proceedings for the acquisition of land by the United States under this section, the United States may occupy the land and construct improvements on the land immediately on the filing of the award of the condemnation commissioners with the condemnation court, without awaiting the decision of the court, if the United States deposits an amount equal to the amount of the award of the commissioners plus the amount of all costs adjudged against

the United States.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2204.102. SALE OF STATE LAND TO UNITED STATES. (a) The governor may sell to the United States land owned by this state that the United States desires to acquire for a purpose specified by Section 2204.101.

(b) On payment of the purchase money for the land into the state treasury, the land commissioner, on the order of the governor, shall issue a patent for that land to the United States in the same manner that other patents are issued.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1271, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2204.103. CESSION OF JURISDICTION TO UNITED STATES. (a) On written application of the United States to the governor, the governor, in the name and on behalf of this state, may cede to the United States exclusive jurisdiction, subject to Subsection (c), over land acquired by the United States under this subchapter over which the United States desires to acquire constitutional jurisdiction for a purpose provided by Section 2204.101.

(b) An application for cession must be:

(1) accompanied by proper evidence of the acquisition of the land;

(2) authenticated and recorded; and

(3) include or have attached an accurate description by metes and bounds of the land for which cession is sought.

(c) A cession of jurisdiction may not be made under this section except on the express condition, which must be included in the instrument of cession, that this state retains concurrent jurisdiction with the United States over every portion of the land ceded so that all civil or criminal process issued under the authority of this state or a court or judicial officer of this state may be executed by the proper officers of this state on any person

amenable to service of process within the limits of the land to be ceded, in the same manner and to the same effect as if the cession had not occurred.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. CONVEYANCE OF STATE HIGHWAY LAND TO UNITED STATES FOR CERTAIN PURPOSES

Sec. 2204.201. APPLICATION OF SUBCHAPTER. This subchapter applies only to land or an interest in land owned by this state that is under the control of the Texas Department of Transportation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 9.010(a), eff. Sept. 1, 2001.

Sec. 2204.202. CONVEYANCE TO UNITED STATES FOR MILITARY PURPOSES. The governor, on the recommendation of the Texas Transportation Commission or on the request of the United States supported by the recommendation of the Texas Transportation Commission, may convey to the United States an easement or other interest in land that:

(1) is located near a federally owned or operated military installation or facility; and

(2) may be necessary for the construction, operation, and maintenance of the military installation or facility.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 9.010(a), eff. Sept. 1, 2001.

Sec. 2204.203. CONVEYANCE TO UNITED STATES FOR CIVIL WORKS PROJECT. (a) In this section, "civil works project" means a flood control project, river and harbor improvement project, water conservation project, or other civil works project constructed or to be constructed by the United States.

(b) The governor, on the recommendation of the Texas Transportation Commission or on the request of the United States

supported by the recommendation of the Texas Transportation Commission, may convey to the United States or any governmental subdivision or agency of this state that is cooperating with the United States in a civil works project an easement or other interest in land that may be necessary for the construction, operation, and maintenance of the civil works project.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 9.010(a), eff. Sept. 1, 2001.

Sec. 2204.204. CONSIDERATION FOR CONVEYANCE. A conveyance under this subchapter may be made without monetary consideration or for a consideration determined by the Texas Transportation Commission.

Renumbered from Sec. 2204.202 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 9.010(a), eff. Sept. 1, 2001.

Sec. 2204.205. FEE SIMPLE NOT OWNED BY STATE. For land for which the fee simple title is not vested in this state and for which the owner of the fee executes an easement to the United States for the purposes provided by Section 2204.202 or 2204.203, the governor on the recommendation of the Texas Transportation Commission may join in and assent to the easement by the same or a separate instrument.

Renumbered from Sec. 2204.203 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 9.010(a), eff. Sept. 1, 2001.

SUBCHAPTER D. STATE GRANTS TO UNITED STATES FOR FLOOD CONTROL IN BED AND BANKS OF PECOS AND DEVILS RIVERS AND RIO GRANDE

Sec. 2204.301. GRANT TO UNITED STATES. The governor may grant to the United States in accordance with this subchapter those portions of the beds and banks of the Pecos and Devils rivers in Val Verde County and of the Rio Grande in Brewster, Cameron, Hidalgo, Hudspeth, Jeff Davis, Kinney, Maverick, Presidio, Starr, Terrell, Val Verde, Webb, and Zapata counties:

(1) for which title is vested in this state; and

(2) that may be necessary or expedient in the construction

and use of the storage and flood control dams and their resultant reservoirs, diversion works, and appurtenances provided for in the Treaty Relating to the Utilization of the Waters of the Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from Fort Quitman, Texas, to the Gulf of Mexico, concluded by the United States and the United Mexican States on February 3, 1944.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2204.302. APPLICATION BY UNITED STATES. On application to the governor by the United States Commissioner, International Boundary and Water Commission, United States and Mexico, describing the area necessary or expedient for the purposes described in Section 2204.301, the governor shall issue a grant for and on behalf of this state to the United States conveying to the United States the area described in the application.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2204.303. MINERAL RESERVATION REQUIRED. A grant under this subchapter must reserve to this state all minerals except rock, sand, and gravel needed by the United States in the operation or construction by the United States or its agents of any of the works described by Section 2204.301. The reservation must provide that:

(1) the minerals reserved to this state may not be explored for, developed, or produced in a manner that at any time will prevent or interfere with the operation or construction of those works; and

(2) before exploring for or developing reserved minerals, this state must obtain the written consent of the United States Section, International Boundary and Water Commission, United States and Mexico, or its successor agency, as to the proposed area sought to be explored or developed by this state, including the location of and production facilities for oil wells, gas wells, or oil and gas wells.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2204.304. REVERSION TO STATE ON NONUSE. A grant under

this subchapter must contain a reservation providing that if any part of the property granted ceases to be used for the purposes set out in Section 2204.301 for a continuous period of five years, that part shall immediately and automatically revert to this state at the end of that period.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2204.305. PRIVATE PROPERTY RIGHTS NOT AFFECTED. This subchapter does not divest, limit, or otherwise affect the property rights, including riparian rights, under the laws of this state of the private owners of land abutting a portion of a river to which this subchapter applies.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER E. STATE GRANTS TO UNITED STATES IN BED AND BANKS OF RIO GRANDE TO IMPLEMENT BOUNDARY TREATY

Sec. 2204.401. GRANT TO UNITED STATES. The governor may grant to the United States in accordance with this subchapter those portions of, or easements on, the beds and banks of the Rio Grande in Brewster, Cameron, Hidalgo, Hudspeth, Jeff Davis, Kinney, Maverick, Presidio, Starr, Terrell, Val Verde, Webb, and Zapata counties:

(1) for which title is vested in this state; and

(2) that may be necessary or expedient to facilitate the accomplishment of projects for the following purposes, as provided for in the Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary between the United States of America and the United Mexican States, entered into force April 18, 1972, and the American-Mexican Boundary Treaty Act of 1972 (22 U.S.C. Sections 277d-34 et seq.):

(A) the relocation and rectification of the Rio Grande and construction of works for flood control in the Presidio-Ojinaga Valley;

(B) the rectification of and channel stabilization on the Rio Grande between Fort Quitman in Hudspeth County and Haciendita in Presidio County;

(C) the relocation and rectification of the Rio Grande upstream from Hidalgo-Reynosa in Hidalgo County;

(D) the preservation of the Rio Grande as the boundary by prohibiting the construction of works that may cause deflection or obstruction of the normal flow or floodflows of the Rio Grande; or

(E) other channel relocations and rectifications or boundary adjustments approved by the governments of the United States and the United Mexican States.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2204.402. APPLICATION BY UNITED STATES. On application to the governor by the United States Commissioner, International Boundary and Water Commission, United States and Mexico, describing the area and the interest in that area necessary or expedient for the purposes described in Section 2204.401, the governor shall issue a grant for and on behalf of this state to the United States conveying to the United States the area and interest described in the application.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2204.403. MINERAL RESERVATION REQUIRED. (a) A grant under this subchapter must reserve to this state all minerals except rock, sand, and gravel needed by the United States in the operation or construction by the United States or its agents of any of the works described by Section 2204.401. The reservation must provide that:

(1) the minerals reserved to this state may not be explored for, developed, or produced in a manner that will at any time prevent or interfere with the operation or construction of those works; and

(2) before exploring for or developing reserved minerals, this state must obtain the written consent of the United States Section, International Boundary and Water Commission, United States and Mexico, or its successor agency, as to the proposed area sought to be explored or developed by this state, including the location of and production facilities for oil wells, gas wells, or oil and gas wells or other minerals.

(b) In a grant to the United States of fee title to the bed and banks of the Rio Grande for the relocation and rectification of the existing channel under the treaty that is to cause a portion of the

channel to be in the territorial limits of the United Mexican States after its relocation and rectification, the reservation is required only for the portion of the channel that will remain in the territorial limits of the United States on completion of the relocation and rectification project.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2204.404. PRIVATE PROPERTY RIGHTS NOT AFFECTED. This subchapter does not divest, limit, or otherwise affect the property rights, including riparian rights, under the laws of this state of the private owners of land abutting a portion of the Rio Grande to which this subchapter applies.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER F. CONSENT TO FEDERAL ACQUISITION OF LAND FOR FLOOD CONTROL IN TRINITY WATERSHED

Sec. 2204.501. APPLICATION OF SUBCHAPTER. This subchapter applies only to land in:

(1) Denton, Jack, Montague, Parker, and Wise counties; and

(2) that portion of the Trinity Watershed located in Collin, Cooke, Dallas, Fannin, Grayson, Hunt, Kaufman, Rockwall, Tarrant, or Van Zandt County.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2204.502. CONSENT OF STATE. (a) This state consents to the acquisition by the United States by purchase, gift, or condemnation with adequate compensation of land or any right or interest in land in this state that the United States determines is needed for programs and works of improvement for runoff and water-flow retardation, soil erosion prevention, or other flood-control purposes in this state.

(b) This state does not consent to the acquisition of land under this subchapter by condemnation unless the apparent owner of the land consents to the acquisition.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2204.503. CERTAIN RESERVATIONS PERMITTED. The United States may acquire land under this subchapter subject to reservations of rights-of-way, timber, minerals, or easements.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2204.504. PAYMENTS IN LIEU OF TAXES. The United States must remit an amount equal to one percent of the purchase price of acquired land each year in lieu of taxes to the counties and school districts in which the land is located.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2204.505. CONCURRENT JURISDICTION RETAINED FOR CERTAIN PURPOSES. This state retains concurrent jurisdiction with the United States in and over acquired land so that civil process in all cases and criminal process issued under the authority of this state against a person charged with the commission of a crime in or outside of the territory of the land may be executed on that land in the same manner as if this subchapter did not exist.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER G. CONVEYANCE OF EASEMENT TO UNITED STATES FOR LOUISIANA AND TEXAS INTRACOASTAL WATERWAY

Sec. 2204.601. CONVEYANCE TO UNITED STATES. (a) The state conveys to the United States an easement to construct and maintain the Louisiana and Texas Intracoastal Waterway over and through the following described areas:

(1) the disconnected portions of the stream beds of Mud Bayou and East Bay Bayou from approximately Station 1519 to approximately Station 1914 as shown on United States Engineer Department map, "Louisiana and Texas Intra-Coastal Waterway, Sabine River-Galveston Bay Section, Survey of 1926-7, Sheet No. 12, File 16-2-16," the portions of the stream beds of Mud Bayou and East Bay

Bayou covered by this easement being 300 feet wide and located in Chambers and Galveston counties where the intracoastal waterway intersects the meanderings of the bayous; and

(2) the disconnected portions of bays and any tidal lands owned by the state within an area 300 feet in width extending from the Galveston-Brazoria County line to the nine-foot contour in Aransas Bay along the route of the projected Louisiana and Texas Intracoastal Waterway as shown in red on the map, in four sheets, prepared by the United States Engineer Office, Galveston, Texas, entitled "Louisiana and Texas Intracoastal Waterway, Survey of 1927-1928," Index Sheets Nos. 1, 2, 3, and 4, File No. 16-4-4, the portions of bays and tidal lands being located in Brazoria, Matagorda, Calhoun, and Aransas counties.

(b) The state conveys to the United States an easement to deposit dredged material during the construction and maintenance of the Louisiana and Texas Intracoastal Waterway in bays and on tidal lands owned by the state within 2,000 feet of the area described by Subsection (a)(2).

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 9.010(b), eff. Sept. 1, 2001.

Sec. 2204.602. REVERSION TO STATE ON FAILURE TO MAINTAIN. If the United States fails at any time to maintain or have maintained the Louisiana and Texas Intracoastal Waterway, the easement granted under Section 2204.601 terminates and reverts to the state.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 9.010(b), eff. Sept. 1, 2001.

Sec. 2204.603. PROPERTY RIGHTS NOT AFFECTED. This subchapter does not affect or impair:

(1) a person's vested right; or

(2) the right of a person to use and maintain a bridge in existence on May 17, 1929, on or across Mud Bayou or East Bay Bayou.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 9.010(b), eff. Sept. 1, 2001.

SUBCHAPTER H. CONVEYANCE TO UNITED STATES OF AREA IN NUECES COUNTY NAVIGATION DISTRICT FOR MILITARY PURPOSES

Sec. 2204.701. GRANT OF EASEMENT TO UNITED STATES. The state conveys to the United States an easement in an area three square miles or larger, or of different form, in the Nueces County Navigation District, in Nueces Bay, Nueces County, Texas, as designated by the United States, to erect and maintain a fort, military station or camp, magazine, arsenal, dockyard, barracks, lighthouse, naval yard, naval base, naval air base, naval air station, channel, approach for battleships, or any other necessary military purpose.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 9.010(b), eff. Sept. 1, 2001.

Sec. 2204.702. CONVEYANCE OF LAND TO UNITED STATES. On demand from the United States, the governor shall convey to the United States the area described by Section 2204.701 for a purpose described by Section 2204.701.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 9.010(b), eff. Sept. 1, 2001.

Sec. 2204.703. LIMITATION ON CONVEYANCE. A conveyance under this subchapter is subject to the limitations described by Sections 2204.101-2204.103, Government Code, and Sections 61.115-61.117, Water Code.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 9.010(b), eff. Sept. 1, 2001.

Sec. 2204.704. MINERAL RESERVATION REQUIRED. A grant of an easement under this subchapter must reserve to the state all minerals, including oil and gas.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 9.010(b), eff. Sept. 1, 2001.

Sec. 2204.705. REVERSION TO STATE ON NONUSE. If the United States no longer uses the area described by Section 2204.701 for a purpose described by Section 2204.701 or fails to maintain or to have maintained at any time the facilities described by Section 2204.701, the easement granted under this subchapter terminates and reverts to the state.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 9.010(b), eff. Sept. 1, 2001.

CHAPTER 2205. AIRCRAFT POOLING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2205.001. SHORT TITLE. This chapter may be cited as the State Aircraft Pooling Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.002. DEFINITIONS. In this chapter:

(1) "Department" means the Texas Department of Transportation.

(2) "State agency" means an office, department, board, commission, institution, or other agency to which a legislative appropriation is made.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 533 (S.B. 312), Sec. 58, eff. September 1, 2017.

Sec. 2205.012. STAFF. The department may employ and compensate staff as provided by legislative appropriation or may use staff provided by the comptroller or the state auditor's office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.72, eff. September 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 533 (S.B. 312), Sec. 59, eff.

September 1, 2017.

SUBCHAPTER B. STATE AIRCRAFT

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2332, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2205.031. APPLICABILITY OF CHAPTER TO STATE AIRCRAFT. (a) This chapter applies to all aircraft owned or leased by the state, except as provided by Section 2205.033.

(b) Each state agency shall use state-owned aircraft to the extent feasible.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 280, Sec. 11, eff. Sept. 1, 1999.

Sec. 2205.032. CUSTODY, CONTROL, OPERATION, AND MAINTENANCE. (a) The department shall operate a pool for the custody, control, operation, and maintenance of all aircraft owned or leased by the state.

(b) The department may purchase aircraft with funds appropriated for that purpose.

(c) As part of the strategic plan that the department develops and submits under Chapter 2056, the department shall develop a long-range plan for its pool of aircraft. The department shall include the long-range plan in the department's legislative appropriations request if the department identifies the need for additional appropriations and the additional appropriations are related to the department's duties under this chapter. The long-range plan must include:

(1) estimates of future aircraft replacement needs and other fleet management needs, including:

(A) any projected need to increase or decrease the number of aircraft in the pool;

(B) estimates of the remaining useful life for each aircraft in the pool; and

(C) a proposed schedule for replacing aircraft in the pool;

(2) a range of alternatives and scenarios for the number and types of aircraft in the pool;

(3) an analysis of current usage of aircraft in the pool, including customer base and documented rationale for use;

(4) the status of maintenance time and costs and projected future trends regarding maintenance time and costs;

(5) any documented high-risk mechanical issues with aircraft in the pool;

(6) an analysis of the costs and benefits of different methods for meeting air transportation currently provided by the department under Section 2205.036, including:

(A) the potential use of statewide contracts for private charter aircraft services;

(B) increased reliance on commercial carriers for routine travel;

(C) decreasing the number of aircraft in the pool and increasing the use of contracted flight services; and

(D) any other method the department considers feasible; and

(7) an analysis of the impact of including capital recovery costs in the rates the department charges under Section 2205.040 that, at a minimum, includes the impact of those included costs on customer utilization and the department's schedule for replacing aircraft in the pool.

(d) In developing the long-range plan, the department shall consider at a minimum for each aircraft in the pool:

(1) how much the aircraft is used and the purposes for which the aircraft is used;

(2) the cost of operating the aircraft and the revenue generated by the aircraft; and

(3) the demand for the aircraft or for that type of aircraft.

(e) The department shall update the long-range plan annually and make the plan available on the department's Internet website.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 1232, Sec. 2, eff. Sept. 1, 2001.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 533 (S.B. 312), Sec. 60, eff.

September 1, 2017.

Sec. 2205.033. TEXAS A&M UNIVERSITY SYSTEM AIRCRAFT. (a) The board of regents of The Texas A&M University System is primarily responsible for scheduling Texas A&M University System aircraft.

(b) The Texas A&M University System shall base Texas A&M University System aircraft in Brazos County.

(c) A pilot of Texas A&M University System aircraft must be an employee of The Texas A&M University System.

(d) In this section, "Texas A&M University System aircraft" means aircraft owned on August 31, 1991, or acquired after that date by The Texas A&M University System or one of its components.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.034. FACILITIES. (a) The department may acquire appropriate facilities for the accommodation of all aircraft owned or leased by the state. The facilities may be purchased or leased as determined by the department to be most economical for the state and as provided by legislative appropriations. The facilities may include adequate hangar space, an indoor passenger waiting area, a flight-planning area, communications facilities, and other related and necessary facilities.

(b) A state agency that operates an aircraft may not use a facility in Austin other than a facility operated by the department for the storage, parking, fueling, or maintenance of the aircraft, whether or not the aircraft is based in Austin. In a situation the department determines to be an emergency, the department may authorize a state agency to use a facility in Austin other than a department facility for the storage, parking, fueling, or maintenance of an aircraft.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 533 (S.B. 312), Sec. 61, eff. September 1, 2017.

Sec. 2205.035. AIRCRAFT LEASES. (a) The department by

interagency contract may lease state-owned aircraft to a state agency.

(b) A state agency that is the prior owner or lessee of an aircraft has the first option to lease that aircraft from the department.

(c) The lease may provide for operation or maintenance by the department or the state agency.

(d) A state agency may not expend appropriated funds for the lease of an aircraft unless the department executes the lease or approves the lease.

(e) A state agency may not use money appropriated by the legislature to rent or lease aircraft except from the department or as provided by Subsection (f). For purposes of this subsection and Subsection (f), payments of mileage reimbursements provided for by the General Appropriations Act are not rentals or leases of aircraft.

(f) If the department determines that no state-owned aircraft is available to meet a transportation need that has arisen or that a rental or lease of aircraft would reduce the state's transportation costs, the department shall authorize a state agency to expend funds for the rental or lease of aircraft, which may include a helicopter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 280, Sec. 12, eff. Sept. 1, 1999.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 533 (S.B. 312), Sec. 62, eff. September 1, 2017.

Sec. 2205.036. PASSENGER TRANSPORTATION. (a) The department shall provide aircraft transportation, to the extent that its aircraft are available, to:

(1) state officers and employees who are traveling on official business according to the coordinated passenger scheduling system and the priority scheduling system developed as part of the aircraft operations manual under Section 2205.038;

(2) persons in the care or custody of state officers or employees described by Subdivision (1); and

(3) persons whose transportation furthers official state business.

(b) The department may not provide aircraft transportation to a passenger if the passenger is to be transported to or from a place where the passenger:

(1) will make or has made a speech not related to official state business;

(2) will attend or has attended an event sponsored by a political party;

(3) will perform a service or has performed a service for which the passenger is to receive an honorarium, unless the passenger reimburses the department for the cost of transportation;

(4) will attend or has attended an event at which money is raised for private or political purposes; or

(5) will attend or has attended an event at which an audience was charged an admission fee to see or hear the passenger.

(c) The department may not provide aircraft transportation to a destination unless:

(1) the destination is not served by a commercial carrier;

(2) the aircraft transportation is the most cost-effective travel arrangement in accordance with Section 660.007(a);

(3) the time required to use a commercial carrier interferes with passenger obligations;

(4) a representative of the Department of Public Safety determines that security concerns for a passenger warrant the use of a state aircraft;

(5) the number of passengers traveling makes the use of a state aircraft cost-effective; or

(6) emergency circumstances necessitate the use of a state aircraft.

(d) Before the executive director of the department or the director's designee may authorize a person to use a state-operated aircraft, the person must sign an affidavit stating that the person is traveling on official state business. On filing of the affidavit, the person may be authorized to use state-operated aircraft for official state business for a period of one year. A member of the legislature is not required to receive any other additional authorization to use a state-operated aircraft.

(e) Before the executive director of the department or the director's designee may authorize an employee of a state agency to use a state-operated aircraft, the administrative head of the state agency must certify that the employee's transportation complies with

the requirements of this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 280, Sec. 13, eff. Sept. 1, 1999.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 533 (S.B. 312), Sec. 63, eff. September 1, 2017.
Acts 2021, 87th Leg., R.S., Ch. 1017 (H.B. 3388), Sec. 3, eff. June 18, 2021.

Sec. 2205.037. USE FOR POLITICAL PURPOSES; CIVIL LIABILITY. (a) A person may not use a state-owned aircraft solely for political purposes or spend state funds for the use of an aircraft solely for political purposes.

(b) A person who violates this section is civilly liable to the state for the costs incurred by the state because of the violation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2205.038. AIRCRAFT OPERATIONS MANUAL. (a) The department shall:

(1) prepare a manual that establishes minimum standards for the operation of aircraft by state agencies; and

(2) adopt procedures for the distribution of the manual to state agencies.

(b) The manual must include provisions for:

(1) pilot certification standards, including medical requirements for pilots;

(2) recurring training programs for pilots;

(3) general operating and flight rules;

(4) coordinated passenger scheduling; and

(5) other issues the department determines are necessary to ensure the efficient and safe operation of aircraft by a state agency.

(c) The department shall confer with and solicit the written advice of state agencies the department determines are principal users of aircraft operated by the department and, to the extent practicable, incorporate that advice in the development of the manual

and subsequent changes to the manual.

(d) The department shall give an officer normally elected by statewide election priority in the scheduling of aircraft. The department by rule may require a 12-hour notice by the officer to obtain the priority in scheduling.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 280, Sec. 14, eff. Sept. 1, 1999.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 533 (S.B. 312), Sec. 64, eff. September 1, 2017.

Sec. 2205.039. TRAVEL LOG. (a) The department shall prescribe:

(1) a travel log form for gathering information about the use of state-operated aircraft;

(2) procedures to ensure that individuals who travel as passengers on or operate state-operated aircraft provide in a legible manner the information requested of them by the form; and

(3) procedures for each state agency that operates an aircraft for sending the form to the department.

(b) The travel log form must request the following information about a state-operated aircraft each time the aircraft is flown:

(1) a mission statement, which may appear as a selection to be identified from general categories appearing on the form;

(2) the name, state agency represented, destination, and signature of each person who is a passenger or crew member of the aircraft;

(3) the date of each flight;

(4) a detailed and specific description of the official business purpose of each flight; and

(5) other information determined by the department to be necessary to monitor the proper use of the aircraft.

(c) A state agency other than the department shall send the agency's travel logs to the department on an annual basis. An agency is not required to file a travel log with the department if the agency did not operate an aircraft during the period covered by the travel log.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 281, Sec. 11, eff. Sept. 1, 1999.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 59, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 533 (S.B. 312), Sec. 65, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.25, eff. September 1, 2019.

Sec. 2205.040. RATES AND BILLING PROCEDURES; ACCOUNT FOR CAPITAL REPLACEMENT COSTS. (a) Subject to Subsection (b), the department shall adopt rates for interagency aircraft services that are sufficient to recover, in the aggregate and to the extent possible, all direct costs for the services provided, including a state agency's pro rata share of major maintenance, overhauls of equipment and facilities, and pilots' salaries.

(b) If the department's most recent long-term plan contains an analysis under Section 2205.032(c)(7) that finds that including capital recovery costs in the rates the department charges under this section is a practicable fleet replacement strategy, the department may adopt rates for interagency aircraft services provided by the department that are sufficient to recover, in the aggregate and to the extent possible:

(1) all direct costs for services provided, as provided by Subsection (a); and

(2) the capital costs of replacing aircraft in the pool.

(c) The Legislative Budget Board, in cooperation with the department and the state auditor, shall prescribe a billing procedure for passenger travel on state-operated aircraft.

(d) If the department adopts rates under Subsection (b), the portion of the rates collected for the capital costs of replacing aircraft in the pool shall be deposited in a separate account in the state highway fund. Money in the account may be used only for the acquisition of aircraft for the pool operated by the department under Section 2205.032.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 280, Sec. 15, eff. Sept. 1, 1999.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 533 (S.B. 312), Sec. 66, eff. September 1, 2017.

Sec. 2205.041. AIRCRAFT USE FORM. (a) The department shall prescribe:

(1) an annual aircraft use form for gathering information about the use of state-operated aircraft, including the extent to which and the methods by which the goal provided by Section 2205.031(b) is being met; and

(2) procedures for each state agency that operates an aircraft for sending the form to the department.

(b) The aircraft use form must request the following information about each aircraft a state agency operates:

(1) a description of the aircraft;

(2) the date purchased or leased and the purchase price or lease cost;

(3) the number of annual hours flown;

(4) the annual operating costs;

(5) the number of flights and the destinations;

(6) the travel logs prepared under Section 2205.039; and

(7) any other information the department requires to document the proper or cost-efficient use of the aircraft.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 280, Sec. 16, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 281, Sec. 12, eff. Sept. 1, 1999.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1203 (S.B. 1455), Sec. 20, eff. September 1, 2015.
Acts 2017, 85th Leg., R.S., Ch. 533 (S.B. 312), Sec. 67, eff. September 1, 2017.

Sec. 2205.042. PILOTS. An individual who is not a pilot employed by the department may not operate a state-operated aircraft unless the department grants the individual a specific exemption from

that requirement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 533 (S.B. 312), Sec. 68, eff. September 1, 2017.

Sec. 2205.043. AIRCRAFT MARKING. (a) Each aircraft owned or leased by the state, other than an aircraft used for law enforcement purposes, shall be marked:

(1) with the state seal on each side of the aircraft's vertical stabilizer; and

(2) with the words "The State of Texas" on each side of the aircraft's fuselage.

(b) The department shall adopt rules, consistent with federal regulations and Section 3101.001, governing the color, size, and location of marks of identification required by this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.39(a), eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 7.0052, eff. September 1, 2007.
Acts 2017, 85th Leg., R.S., Ch. 533 (S.B. 312), Sec. 69, eff. September 1, 2017.

Sec. 2205.044. FUEL AND MAINTENANCE CONTRACTS. The department may contract with a state or federal governmental agency or a political subdivision to provide aircraft fuel or to provide aircraft maintenance services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 533 (S.B. 312), Sec. 70, eff. September 1, 2017.

Sec. 2205.045. INSURANCE. (a) The department may purchase

insurance to protect the department from loss caused by damage, loss, theft, or destruction of aircraft owned or leased by the state and shall purchase liability insurance to protect the officers and employees of each state agency from loss arising from the operation of state-owned aircraft.

(b) The insurance must be on a form approved by the State Board of Insurance.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 280, Sec. 17, eff. Sept. 1, 1999.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 533 (S.B. 312), Sec. 71, eff. September 1, 2017.

Sec. 2205.046. AIRCRAFT FOR FLIGHT TRAINING PROGRAMS. (a) The department may transfer aircraft to a public technical institute or other public postsecondary educational institution for use in the institution's flight training program. Except as provided by this section, the department has no responsibility for continued maintenance of aircraft transferred under this section.

(b) As a condition to the transfer of the aircraft, the institution must certify in writing to the department that the institution will accept full responsibility for maintenance of the aircraft and that it will be properly maintained while in the custody and control of the institution. The department is entitled to inspect the aircraft without notice for the purpose of ensuring that the aircraft is properly maintained.

(c) The department may immediately reassume custody and control of a transferred aircraft on a finding by the department that:

(1) the aircraft is not being properly maintained;

(2) the aircraft is being used for a purpose other than flight training; or

(3) the institution has discontinued its flight training program.

Added by Acts 1997, 75th Leg., ch. 280, Sec. 1, eff. May 26, 1997.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 533 (S.B. 312), Sec. 72, eff. September 1, 2017.

Sec. 2205.047. INFORMATION POSTED ON THE INTERNET. The department shall post information related to travel and other services provided by the department on an Internet website maintained by or for the department. The site must be generally accessible to state agencies, persons who use the department's services, and, to the extent appropriate, the general public.

Added by Acts 2001, 77th Leg., ch. 1232, Sec. 3, eff. Sept. 1, 2001.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 533 (S.B. 312), Sec. 73, eff. September 1, 2017.

CHAPTER 2206. EMINENT DOMAIN

SUBCHAPTER A. LIMITATIONS ON PURPOSE AND USE OF PROPERTY ACQUIRED THROUGH EMINENT DOMAIN

Sec. 2206.001. LIMITATION ON EMINENT DOMAIN FOR PRIVATE PARTIES OR ECONOMIC DEVELOPMENT PURPOSES. (a) This section applies to the use of eminent domain under the laws of this state, including a local or special law, by any governmental or private entity, including:

(1) a state agency, including an institution of higher education as defined by Section 61.003, Education Code;

(2) a political subdivision of this state; or

(3) a corporation created by a governmental entity to act on behalf of the entity.

(b) A governmental or private entity may not take private property through the use of eminent domain if the taking:

(1) confers a private benefit on a particular private party through the use of the property;

(2) is for a public use that is merely a pretext to confer a private benefit on a particular private party;

(3) is for economic development purposes, unless the economic development is a secondary purpose resulting from municipal community development or municipal urban renewal activities to eliminate an existing affirmative harm on society from slum or blighted areas under:

(A) Chapter 373 or 374, Local Government Code, other than an activity described by Section 373.002(b)(5), Local Government

Code; or

(B) Section 311.005(a)(1)(I), Tax Code; or

(4) is not for a public use.

(c) This section does not affect the authority of an entity authorized by law to take private property through the use of eminent domain for:

(1) transportation projects, including, but not limited to, railroads, airports, or public roads or highways;

(2) entities authorized under Section 59, Article XVI, Texas Constitution, including:

(A) port authorities;

(B) navigation districts; and

(C) any other conservation or reclamation districts that act as ports;

(3) water supply, wastewater, flood control, and drainage projects;

(4) public buildings, hospitals, and parks;

(5) the provision of utility services;

(6) a sports and community venue project approved by voters at an election held on or before December 1, 2005, under Chapter 334 or 335, Local Government Code;

(7) the operations of:

(A) a common carrier pipeline; or

(B) an energy transporter, as that term is defined by Section 186.051, Utilities Code;

(8) a purpose authorized by Chapter 181, Utilities Code;

(9) underground storage operations subject to Chapter 91, Natural Resources Code;

(10) a waste disposal project; or

(11) a library, museum, or related facility and any infrastructure related to the facility.

(d) This section does not affect the authority of a governmental entity to condemn a leasehold estate on property owned by the governmental entity.

(e) The determination by the governmental or private entity proposing to take the property that the taking does not involve an act or circumstance prohibited by Subsection (b) does not create a presumption with respect to whether the taking involves that act or circumstance.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 1 (S.B. 7), Sec. 1, eff. November 18, 2005.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 2, eff. September 1, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 693 (H.B. 364), Sec. 1, eff. September 1, 2011.

Sec. 2206.002. LIMITATIONS ON EASEMENTS. (a) This section applies only to an easement acquired by an entity for the purpose of a pipeline to be used for oil or gas exploration or production activities.

(b) A property owner whose property is acquired through the use of eminent domain under Chapter 21, Property Code, for the purpose of creating an easement through that owner's property may construct streets or roads, including gravel, asphalt, or concrete streets or roads, at any locations above the easement that the property owner chooses.

(c) The portion of a street or road constructed under this section that is within the area covered by the easement:

(1) must cross the easement at or near 90 degrees; and

(2) may not:

(A) exceed 40 feet in width;

(B) cause a violation of any applicable pipeline regulation; or

(C) interfere with the operation and maintenance of any pipeline.

(d) At least 30 days before the date on which construction of an asphalt or concrete street or road that will be located wholly or partly in an area covered by an easement used for a pipeline is scheduled to begin, the property owner must submit plans for the proposed construction to the owner of the easement.

(e) Notwithstanding the provisions of this section, a property owner and the owner of the easement may agree to terms other than those stated in Subsection (c).

Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 2, eff. September 1, 2011.

SUBCHAPTER B. PROCEDURES REQUIRED TO INITIATE EMINENT DOMAIN PROCEEDINGS

Sec. 2206.051. SHORT TITLE. This subchapter may be cited as the Truth in Condemnation Procedures Act.

Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 2, eff. September 1, 2011.

Sec. 2206.052. APPLICABILITY. The procedures in this subchapter apply only to the use of eminent domain under the laws of this state by a governmental entity.

Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 2, eff. September 1, 2011.

Sec. 2206.053. VOTE ON USE OF EMINENT DOMAIN. (a) Before a governmental entity initiates a condemnation proceeding by filing a petition under Section 21.012, Property Code, the governmental entity must:

(1) authorize the initiation of the condemnation proceeding at a public meeting by a record vote; and

(2) include in the notice for the public meeting as required by Subchapter C, Chapter 551, in addition to other information as required by that subchapter, the consideration of the use of eminent domain to condemn property as an agenda item.

(b) A single ordinance, resolution, or order may be adopted for all units of property to be condemned if:

(1) the motion required by Subsection (e) indicates that the first record vote applies to all units of property to be condemned; and

(2) the minutes of the governmental entity reflect that the first vote applies to all of those units.

(c) If more than one member of the governing body objects to adopting a single ordinance, resolution, or order by a record vote for all units of property for which condemnation proceedings are to

be initiated, a separate record vote must be taken for each unit of property.

(d) For the purposes of Subsections (a) and (c), if two or more units of real property are owned by the same person, the governmental entity may treat those units of property as one unit of property.

(e) The motion to adopt an ordinance, resolution, or order authorizing the initiation of condemnation proceedings under Chapter 21, Property Code, must be made in a form substantially similar to the following: "I move that the (name of governmental entity) authorize the use of the power of eminent domain to acquire (describe the property) for (describe the public use)." The description of the property required by this subsection is sufficient if the description of the location of and interest in the property that the governmental entity seeks to acquire is substantially similar to the description that is or could properly be used in a petition to condemn the property under Section 21.012, Property Code.

(f) If a project for a public use described by Section 2206.001(c)(3) will require a governmental entity to acquire multiple tracts or units of property to construct facilities connecting one location to another location, the governing body of the governmental entity may adopt a single ordinance, resolution, or order by a record vote that delegates the authority to initiate condemnation proceedings to the chief administrative official of the governmental entity.

(g) An ordinance, resolution, or order adopted under Subsection (f) is not required to identify specific properties that the governmental entity will acquire. The ordinance, resolution, or order must identify the general area to be covered by the project or the general route that will be used by the governmental entity for the project in a way that provides property owners in and around the area or along the route reasonable notice that the owners' properties may be subject to condemnation proceedings during the planning or construction of the project.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 2, eff. September 1, 2011.

SUBCHAPTER C. EXPIRATION OF CERTAIN EMINENT DOMAIN AUTHORITY

Sec. 2206.101. REPORT OF EMINENT DOMAIN AUTHORITY; EXPIRATION OF AUTHORITY. (a) This section does not apply to an entity that was created or that acquired the power of eminent domain on or after December 31, 2012.

(b) Not later than December 31, 2012, an entity, including a private entity, authorized by the state by a general or special law to exercise the power of eminent domain shall submit to the comptroller a letter stating that the entity is authorized by the state to exercise the power of eminent domain and identifying each provision of law that grants the entity that authority. The entity must send the letter by certified mail, return receipt requested.

(c) The authority of an entity to exercise the power of eminent domain expires on September 1, 2013, unless the entity submits a letter in accordance with Subsection (b).

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(2), eff. September 1, 2019.

(e) The Texas Legislative Council shall prepare for consideration by the 84th Legislature, Regular Session, a nonsubstantive revision of the statutes of this state as necessary to reflect the state of the law after the expiration of an entity's eminent domain authority effective under Subsection (c).

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 2, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(2), eff. September 1, 2019.

SUBCHAPTER D. EMINENT DOMAIN AUTHORITY REPORTING; PUBLIC AVAILABILITY

Sec. 2206.151. APPLICABILITY. This subchapter applies to public and private entities, including common carriers, authorized by the state by a general or special law to exercise the power of eminent domain.

Added by Acts 2015, 84th Leg., R.S., Ch. 1218 (S.B. 1812), Sec. 1, eff. June 19, 2015.

Sec. 2206.152. CREATION DATE. For the purposes of this

subchapter, an entity described by Section 2206.151 is considered to have been created on:

(1) the earliest date on which the entity existed if the entity was authorized to exercise the power of eminent domain on that date; or

(2) the earliest date on which the entity was authorized to exercise the power of eminent domain if the entity did not have that authority on the earliest date on which the entity existed.

Added by Acts 2015, 84th Leg., R.S., Ch. 1218 (S.B. 1812), Sec. 1, eff. June 19, 2015.

Sec. 2206.153. EMINENT DOMAIN DATABASE. (a) The comptroller shall create and make accessible on an Internet website maintained by the comptroller an eminent domain database as provided by this section.

(b) The eminent domain database must include with respect to each entity described by Section 2206.151:

(1) the name of the entity;

(2) the entity's address and public contact information;

(3) the name of the appropriate officer or other person representing the entity and that person's contact information;

(4) the type of entity;

(5) each provision of law that grants the entity eminent domain authority;

(6) the focus or scope of the eminent domain authority granted to the entity;

(7) the earliest date on which the entity had the authority to exercise the power of eminent domain;

(8) the entity's taxpayer identification number, if any;

(9) whether the entity exercised the entity's eminent domain authority in the preceding calendar year by the filing of a condemnation petition under Section 21.012, Property Code; and

(10) the entity's Internet website address or, if the entity does not operate an Internet website, contact information to enable a member of the public to obtain information from the entity.

(c) The comptroller may consult with the appropriate officer of, or other person representing, each entity to obtain the information necessary to maintain the eminent domain database.

(d) To the extent information required in the eminent domain database is otherwise collected or maintained by a state agency or political subdivision, the comptroller may request and the state agency or political subdivision shall provide that information and any update to the information as necessary for inclusion in the eminent domain database.

(e) At least annually, the comptroller shall update information in the eminent domain database for each entity, as appropriate.

(f) To the extent possible, the comptroller shall present information in the eminent domain database in a manner that is searchable and intuitive to users. The comptroller may enhance and organize the presentation of the information through the use of graphical representations as the comptroller considers appropriate.

(g) The comptroller may not charge a fee to the public to access the eminent domain database.

Added by Acts 2015, 84th Leg., R.S., Ch. 1218 (S.B. 1812), Sec. 1, eff. June 19, 2015.

Sec. 2206.154. REPORTING OF INFORMATION TO COMPTROLLER. (a) Except as provided by Subsections (b) and (b-1), not later than February 1 of each year, an entity described by Section 2206.151 shall submit to the comptroller a report containing records and other information specified by this subchapter for the purpose of providing the comptroller with information to maintain the eminent domain database under Section 2206.153. The entity shall submit the report in a form and in the manner prescribed by the comptroller.

(b) An entity described by Section 2206.151 created on or after September 1, 2015, is not required to submit the entity's initial report under Subsection (a) before the 180th day after the date of the entity's creation.

(b-1) A political subdivision described by Subsection (b-2) is required to file an annual report under Subsection (a) only if the political subdivision's eminent domain authority information has changed from the information reported in the most recent report filed by the political subdivision under this section. If for the current annual reporting period the political subdivision's eminent domain authority information is the same as the information reflected for the political subdivision in the eminent domain database for the

previous annual reporting period, the political subdivision, not later than February 1 of the current annual reporting period, shall confirm the accuracy of the information by electronically updating the political subdivision's previously filed report with the comptroller in the manner prescribed by the comptroller.

(b-2) Subsection (b-1) applies to the following political subdivisions:

(1) a public school district located in a county with a population of less than 25,000;

(2) a municipality or county with a population of less than 25,000; or

(3) a district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, with a population of less than 25,000.

(c) In addition to the annual report required under Subsection (a), an entity described by Section 2206.151 shall report to the comptroller any changes to the entity's eminent domain authority information reported under this section not later than the 90th day after the date on which the change occurred.

Added by Acts 2015, 84th Leg., R.S., Ch. 1218 (S.B. 1812), Sec. 1, eff. June 19, 2015.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 937 (S.B. 157), Sec. 1, eff. September 1, 2021.

Sec. 2206.155. PENALTIES FOR NONCOMPLIANCE. (a) If an entity does not timely submit a report that complies with Section 2206.154, the comptroller shall provide written notice to the entity:

(1) informing the entity of the entity's violation of that section; and

(2) notifying the entity that the entity will be subject to a penalty of $1,000 if the entity does not report the required information on or before the 30th day after the date the notice is provided.

(b) Not later than the 30th day after the date the comptroller provides notice to an entity under Subsection (a), the entity must report the required information.

(c) If an entity does not report the required information as

prescribed by Subsection (b):

(1) the entity is liable to the state for a civil penalty of $1,000; and

(2) the comptroller shall provide written notice to the entity:

(A) informing the entity of the entity's liability for the penalty; and

(B) notifying the entity that if the entity does not report the required information on or before the 30th day after the date the notice is provided:

(i) the entity will be subject to an additional penalty of $1,000; and

(ii) the entity's noncompliance will be reflected in the eminent domain database maintained by the comptroller.

(d) Not later than the 30th day after the date the comptroller provides notice to an entity under Subsection (c), the entity must report the required information.

(e) If an entity does not report the required information as prescribed by Subsection (d):

(1) the entity is liable to the state for a civil penalty of $1,000; and

(2) the comptroller shall:

(A) reflect the entity's noncompliance in the database required by this subchapter by including the entity on a separately maintained list of noncomplying entities and in any other manner determined appropriate by the comptroller until the entity reports all information required under Section 2206.154; and

(B) provide written notice to the entity that the entity's noncompliance will be reflected in the database until the entity reports the required information.

(f) The attorney general may sue to collect a civil penalty imposed by this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 1218 (S.B. 1812), Sec. 1, eff. June 19, 2015.

Sec. 2206.156. EMINENT DOMAIN AUTHORITY NOT AFFECTED. The reporting, failure to report, or late submission of a report by a public or private entity, including a common carrier, under this

subchapter does not affect the entity's authority to exercise the power of eminent domain.

Added by Acts 2015, 84th Leg., R.S., Ch. 1218 (S.B. 1812), Sec. 1, eff. June 19, 2015.

Sec. 2206.157. RULES. The comptroller may adopt rules and establish policies and procedures to implement this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1218 (S.B. 1812), Sec. 1, eff. June 19, 2015.

SUBTITLE F. STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT
CHAPTER 2251. PAYMENT FOR GOODS AND SERVICES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2251.001. DEFINITIONS. Except as otherwise provided by this chapter, in this chapter:

(1) "Distribution date" means:

(A) if no payment law prohibits the comptroller from issuing a warrant, the date the comptroller makes the warrant available:

(i) for mailing directly to its payee under Section 2155.382(c); or

(ii) to the state agency that requested issuance of the warrant;

(B) if no payment law prohibits the comptroller from initiating an electronic funds transfer, the date the comptroller initiates the transfer;

(C) if a payment law prohibits the comptroller from issuing a warrant, the date the comptroller would have made the warrant available, in the absence of the payment law:

(i) for mailing directly to its payee under Section 2155.382(c); or

(ii) to the state agency that requested issuance of the warrant; or

(D) if a payment law prohibits the comptroller from initiating an electronic funds transfer, the date the comptroller would have made the warrant prepared under Section 403.0552(b) available, in the absence of the payment law:

(i) for mailing directly to its payee under Section 2155.382(c); or

(ii) to the state agency that requested initiation of the transfer.

(2) "Goods" includes supplies, materials, or equipment.

(3) "Governmental entity" means a state agency or political subdivision of this state.

(4) "Payment" means money owed to a vendor.

(5) "Payment law" means:

(A) Section 57.48 or 57.482, Education Code;

(B) Section 231.007, Family Code;

(C) Section 403.055 or 2107.008; or

(D) any similar statute.

(6) "Political subdivision" means:

(A) a county;

(B) a municipality;

(C) a public school district; or

(D) a special-purpose district or authority.

(7) "Service" includes gas and water utility service.

(8) "State agency" means:

(A) a board, commission, department, office, or other agency in the executive branch of state government that is created by the constitution or a statute of this state, including a river authority and an institution of higher education as defined by Section 61.003, Education Code;

(B) the legislature or a legislative agency; or

(C) the Supreme Court of Texas, the Court of Criminal Appeals of Texas, a court of appeals, a state judicial agency, or the State Bar of Texas.

(9) "Subcontractor" means a person who contracts with a vendor to work or contribute toward completing work for a governmental entity. The term does not include a state agency. The term includes an officer or employee of a state agency when the officer or employee contracts with a vendor in a private capacity.

(10) "Vendor" means a person who supplies goods or a service to a governmental entity or another person directed by the entity. The term does not include a state agency, except for Texas Correctional Industries. The term includes an officer or employee of a state agency when acting in a private capacity to supply goods or a service.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.40(a), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1188, Sec. 1.41, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1158, Sec. 60, eff. June 15, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3005, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2251.002. EXCEPTIONS. (a) Except as provided by Subchapter D, Subchapter B does not apply to a payment made by a governmental entity, vendor, or subcontractor if:

(1) there is a bona fide dispute between the political subdivision and a vendor, contractor, subcontractor, or supplier about the goods delivered or the service performed that causes the payment to be late;

(2) there is a bona fide dispute between a vendor and a subcontractor or between a subcontractor and its supplier about the goods delivered or the service performed that causes the payment to be late;

(3) the terms of a federal contract, grant, regulation, or statute prevent the governmental entity from making a timely payment with federal funds; or

(4) the invoice is not mailed to the person to whom it is addressed in strict accordance with any instruction on the purchase order relating to the payment.

(b) This chapter does not affect Chapter 2253.

(c) Repealed by Acts 2001, 77th Leg., ch. 1158, Sec. 94(4), eff. June 15, 2001.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.41(a), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1158, Sec. 61, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 94(4), eff. June 15, 2001; Acts 2003, 78th Leg., ch. 286, Sec. 1, eff. Sept. 1, 2003.

Sec. 2251.003. RULES. The comptroller shall establish procedures and adopt rules to administer this chapter. Before adopting a rule under this section, the comptroller must conduct a

public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b) are met.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 62, eff. June 15, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.73, eff. September 1, 2007.

Sec. 2251.004. WAIVER. A person may not waive any right or remedy granted by this chapter. A purported waiver of any right or remedy granted by this chapter is void.

Added by Acts 2003, 78th Leg., ch. 286, Sec. 2, eff. Sept. 1, 2003.

SUBCHAPTER B. PAYMENTS AND INTEREST

Sec. 2251.021. TIME FOR PAYMENT BY GOVERNMENTAL ENTITY. (a) Except as otherwise provided by this section, a payment by a governmental entity under a contract executed on or after September 1, 1987, is overdue on the 31st day after the later of:

(1) the date the governmental entity receives the goods under the contract;

(2) the date the performance of the service under the contract is completed; or

(3) the date the governmental entity receives an invoice for the goods or service.

(b) A payment under a contract executed on or after September 1, 1993, owed by a political subdivision whose governing body meets only once a month or less frequently is overdue on the 46th day after the later event described by Subsections (a)(1) through (3).

(b-1) A payment under a contract for legal services described by Section 402.0212 owed by a state agency is overdue on the 46th day after the date the agency receives an invoice for the legal services.

(c) For a contract executed on or after July 1, 1986, and before September 1, 1987, a payment by a governmental entity under that contract is overdue on the 46th day after the later event described by Subsections (a)(1) through (3).

(d) For purposes of this section, the renewal, amendment, or

extension of a contract executed on or before September 1, 1993, is considered to be the execution of a new contract.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.42(a), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1158, Sec. 63, eff. June 15, 2001. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 399 (S.B. 1370), Sec. 2, eff. September 1, 2019.

Sec. 2251.022. TIME FOR PAYMENT BY VENDOR. (a) A vendor who receives a payment from a governmental entity shall pay a subcontractor the appropriate share of the payment not later than the 10th day after the date the vendor receives the payment.

(b) The appropriate share is overdue on the 11th day after the date the vendor receives the payment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2251.023. TIME FOR PAYMENT BY SUBCONTRACTOR. (a) A subcontractor who receives a payment from a vendor shall pay a person who supplies goods or a service for which the payment is made the appropriate share of the payment not later than the 10th day after the date the subcontractor receives the payment.

(b) The appropriate share is overdue on the 11th day after the date the subcontractor receives the payment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2251.024. MAILING OF PAYMENT. A payment is considered to be mailed on the date the payment is postmarked.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2251.025. INTEREST ON OVERDUE PAYMENT. (a) A payment begins to accrue interest on the date the payment becomes overdue.

(b) The rate of interest that accrues on an overdue payment is

the rate in effect on September 1 of the fiscal year in which the payment becomes overdue. The rate in effect on September 1 is equal to the sum of:

(1) one percent; and

(2) the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

(c) Interest on an overdue payment stops accruing on the date the governmental entity or vendor mails or electronically transmits the payment. In this subsection, "governmental entity" does not include a state agency.

(d) This subsection applies only if the comptroller is not responsible for issuing a warrant or initiating an electronic funds transfer to pay the principal amount owed by a state agency to a vendor. The accrual of interest on an overdue payment to the vendor:

(1) stops on the date the agency mails or electronically transmits the payment; and

(2) is not suspended during any period that a payment law prohibits the agency from paying the vendor.

(e) This subsection applies only if the comptroller is responsible for issuing a warrant or initiating an electronic funds transfer to pay the principal amount owed by a state agency to a vendor. Interest on an overdue payment to the vendor:

(1) stops accruing on its distribution date; and

(2) does not stop accruing during any period that a payment law prohibits the comptroller from issuing the warrant or initiating the transfer.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 64, 65, 66, 67(a), eff. June 15, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 61, eff. July 1, 2004.

Sec. 2251.026. PAYMENT OF INTEREST BY STATE AGENCY. (a) A state agency is liable for any interest that accrues on an overdue payment under this chapter and shall pay the interest from funds appropriated or otherwise available to the agency at the same time the principal is paid.

(b) The comptroller shall issue a warrant or initiate an

electronic funds transfer on behalf of a state agency to pay any interest that the agency must pay under Subsection (a) if the comptroller is responsible for issuing a warrant or initiating an electronic funds transfer to pay the principal amount on behalf of the agency.

(c) The comptroller shall determine the amount of interest that accrues on an overdue payment by a state agency under this chapter if the comptroller is responsible for issuing a warrant or initiating an electronic funds transfer to pay the principal amount on behalf of the agency.

(d) A state agency shall determine the amount of interest that accrues on an overdue payment by the agency under this chapter if the comptroller is not responsible for issuing a warrant or initiating an electronic funds transfer to pay the principal amount on behalf of the agency.

(e) The comptroller or state agency shall submit the interest payment with the net amount due for the goods or services.

(f) Neither the comptroller nor a state agency may require a vendor to request payment of the interest that accrues under this chapter before the interest is paid to the vendor.

(g) The comptroller may require a state agency to submit any information the comptroller determines necessary to administer and comply with Subsections (b) and (c). The information must be submitted at the time and in the manner required by the comptroller.

(h) The comptroller may require a state agency to change its accounting systems or procedure as the comptroller determines necessary to administer and comply with Subsections (b) and (c). Any changes must conform with the comptroller's requirements.

(i) The comptroller may establish procedures and adopt rules to administer Subsections (b), (c), (g), and (h).

(j) No interest accrues or may be paid under this section on a payment if the total amount of interest that would otherwise have accrued is equal to or less than $5 and the payment is made from the institutional funds of an institution of higher education as defined by Section 61.003, Education Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 634, Sec. 3(a), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 118, Sec. 3.03, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 68, eff. June 15, 2001 ; Acts

2003, 78th Leg., ch. 1275, Sec. 2(85), eff. Sept. 1, 2003.

Sec. 2251.027. PAYMENT OF INTEREST BY POLITICAL SUBDIVISION. (a) A political subdivision shall compute interest imposed on the political subdivision under this chapter.

(b) The political subdivision shall pay the interest at the time payment is made on the principal.

(c) The political subdivision shall submit the interest payment with the net amount due for the goods or service.

(d) The political subdivision may not require a vendor to petition, bill, or wait an additional day to receive the interest due.

(e) The political subdivision may not require a vendor or subcontractor to agree to waive the vendor's or subcontractor's right to interest under this chapter as a condition of the contract between the parties.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1254, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1158, Sec. 69, eff. June 15, 2001.

Sec. 2251.028. PAYMENT OF INTEREST BY VENDOR OR SUBCONTRACTOR. A vendor or subcontractor shall pay interest as a payment is overdue.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2251.029. PARTIAL PAYMENT. (a) The unpaid balance of a partial payment made within the period provided by this chapter accrues interest as provided by Section 2251.025 unless the balance is in dispute.

(b) Section 2251.042 applies to a disputed balance.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2251.030. PROMPT OR EARLY PAYMENT DISCOUNT. (a) The intent of the legislature is that a governmental entity should take advantage of an offer for an early payment discount. A state agency

shall when possible negotiate a prompt payment discount with a vendor.

(b) A governmental entity may not take an early payment discount a vendor offers unless the governmental entity makes a full payment within the discount period.

(c) If a governmental entity takes an early payment discount later, the unpaid balance accrues interest beginning on the date the discount offer expires.

(d) A state agency, when paying for the goods or service purchased under an agreement that includes a prompt or early payment discount, shall submit the necessary payment documents or information to the comptroller sufficiently in advance of the prompt or early payment deadline to allow the comptroller or the agency to pay the vendor in time to obtain the discount.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 1.35, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1158, Sec. 70, eff. June 15, 2001.

SUBCHAPTER C. CLAIMS AND DISPUTES

Sec. 2251.042. DISPUTED PAYMENT. (a) A governmental entity shall notify a vendor of an error or disputed amount in an invoice submitted for payment by the vendor not later than the 21st day after the date the entity receives the invoice, and shall include in such notice a detailed statement of the amount of the invoice which is disputed.

(b) If a dispute is resolved in favor of the vendor, the vendor is entitled to receive interest on the unpaid balance of the invoice submitted by the vendor beginning on the date under Section 2251.021 that the payment for the invoice is overdue.

(c) If a dispute is resolved in favor of the governmental entity, the vendor shall submit a corrected invoice that must be paid in accordance with Section 2251.021. The unpaid balance accrues interest as provided by this chapter if the corrected invoice is not paid by the appropriate date.

(d) The governmental entity may withhold from payments required no more than 110 percent of the disputed amount.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by:

Acts 2021, 87th Leg., R.S., Ch. 319 (H.B. 1476), Sec. 1, eff. September 1, 2021.

Sec. 2251.043. ATTORNEY FEES. In a formal administrative or judicial action to collect an invoice payment or interest due under this chapter, the opposing party, which may be the governmental entity or the vendor, shall pay the reasonable attorney fees of the prevailing party.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. REMEDY FOR NONPAYMENT

Sec. 2251.051. VENDOR REMEDY FOR NONPAYMENT OF CONTRACT. (a) A vendor may suspend performance required under a contract with a governmental entity if:

(1) the governmental entity does not pay the vendor an undisputed amount within the time limits provided by Subchapter B; and

(2) the vendor gives the governmental entity written notice:

(A) informing the governmental entity that payment has not been received; and

(B) stating the intent of the vendor to suspend performance for nonpayment.

(b) The vendor may not suspend performance under this section before the later of:

(1) the 10th day after the date the vendor gives notice under Subsection (a); or

(2) the day specified by Section 2251.053(b).

(c) A vendor who suspends performance under this section is not:

(1) required to supply further labor, services, or materials until the vendor is paid the amount provided for under this chapter, plus costs for demobilization and remobilization; or

(2) responsible for damages resulting from suspending work if the governmental entity with which the vendor has the contract has not notified the vendor in writing before performance is suspended that payment has been made or that a bona fide dispute for payment

exists.

(d) A notification under Subsection (c)(2) that a bona fide dispute for payment exists must include a list of the specific reasons for nonpayment. If a reason specified is that labor, services, or materials provided by the vendor or the vendor's subcontractor are not provided in compliance with the contract, the vendor is entitled to a reasonable opportunity to:

(1) cure the noncompliance of the listed items; or

(2) offer a reasonable amount to compensate for listed items for which noncompliance cannot be promptly cured.

Added by Acts 2003, 78th Leg., ch. 286, Sec. 3, eff. Sept. 1, 2003.

Sec. 2251.052. SUBCONTRACTOR REMEDY FOR VENDOR'S NONPAYMENT OF CONTRACT. (a) A subcontractor of a vendor under a contract with a governmental entity may suspend performance required under the contract with the vendor if:

(1) the governmental entity with whom the subcontractor's vendor has a contract does not pay the vendor an undisputed amount within the time limits provided by Subchapter B; or

(2) the governmental entity with whom the subcontractor's vendor has a contract has paid the vendor undisputed amounts and the vendor does not pay the subcontractor an undisputed amount within the time limits provided by Subchapter B.

(b) A subcontractor who suspends performance under Subsection (a) must give the vendor written notice, a copy of which the subcontractor may provide the governmental entity with whom the vendor has a contract:

(1) informing the vendor that payment has not been received; and

(2) stating the intent of the subcontractor to suspend performance for nonpayment.

(c) The subcontractor may not suspend performance under this section before the later of:

(1) the 10th day after the date the subcontractor gives notice under Subsection (b); or

(2) the date specified by Section 2251.053(b), if applicable.

(d) A subcontractor who suspends performance under this section

is not:

(1) required to supply further labor, services, or materials until the subcontractor is paid the amount provided for under the contract, plus costs for demobilization and remobilization; or

(2) responsible for damages resulting from suspending work if the vendor has not notified the subcontractor in writing before performance is suspended that payment has been made or the governmental entity has notified the vendor that a bona fide dispute for payment exists.

(e) A notification under Subsection (d)(2) that a bona fide dispute for payment exists must include a list of the specific reasons for nonpayment. If a reason specified is that labor, services, or materials provided by the subcontractor are not provided in compliance with the contract, the subcontractor is entitled to a reasonable opportunity to:

(1) cure the noncompliance of the listed items; or

(2) offer a reasonable amount to compensate for listed items for which noncompliance cannot be promptly cured.

Added by Acts 2003, 78th Leg., ch. 286, Sec. 3, eff. Sept. 1, 2003.

Sec. 2251.0521. UNSIGNED CHANGE ORDER. (a) In this section:

(1) "Public work contract" has the meaning assigned by Section 2253.001.

(2) "Subcontract" means a contract between a subcontractor and a vendor who is providing services under a public work contract.

(b) A vendor may elect not to proceed with additional work directed by a governmental entity under a public work contract if:

(1) the vendor has not received a written, fully executed change order for the governmental entity-directed additional work; and

(2) the aggregate actual or anticipated value of the additional work under the vendor's contract terms plus any previous governmental entity-directed additional work for which the vendor has not received a written, fully executed change order exceeds 10 percent of the vendor's original public work contract amount.

(c) A subcontractor may elect not to proceed with additional work directed by a vendor under a subcontract if:

(1) the subcontractor has not received a written, fully executed change order for the governmental entity-directed additional work from the vendor; and

(2) the aggregate actual or anticipated value of the additional work under the subcontractor's subcontract terms plus any previous governmental entity-directed additional work for which the subcontractor has not received a written, fully executed change order exceeds 10 percent of the subcontractor's subcontract amount.

(d) A vendor or subcontractor who elects not to proceed with additional work as provided by this section is not responsible for damages associated with the election not to proceed.

Added by Acts 2023, 88th Leg., R.S., Ch. 533 (H.B. 3485), Sec. 1, eff. September 1, 2023.

Sec. 2251.053. HIGHWAY-RELATED CONTRACTS. (a) This section applies only to a contract entered into by the Texas Department of Transportation for the construction or maintenance of a highway or a related facility.

(b) A vendor or subcontractor may not suspend performance under Section 2251.051 or 2251.052 before the 20th day after the date:

(1) the vendor gives written notice under Section 2251.051(a); or

(2) the subcontractor gives written notice under Section 2251.052(b).

(c) A notice required under this subchapter and relating to a contract described by Subsection (a) must be sent by certified mail to:

(1) the executive director of the Texas Department of Transportation;

(2) the director of construction of the Texas Department of Transportation; or

(3) the person designated in the contract as the person to whom notices must be sent.

Added by Acts 2003, 78th Leg., ch. 286, Sec. 3, eff. Sept. 1, 2003.

Sec. 2251.054. NOTICES. (a) This section applies only to a notice or other written communication required by this subchapter.

(b) A notice or other written communication to a governmental entity must be delivered to:

(1) the person designated in the contract as the person to whom a notice or other written communication must be sent; or

(2) if the contract does not designate a person to whom a notice or other written communication must be sent, the executive director or chief administrative officer of the governmental entity.

(c) Any notice or other written communication may be personally delivered to a person described by Subsection (b) or the person's agent, regardless of any other manner of delivery prescribed by law.

(d) If a notice or other written communication is sent by certified mail, the notice is effective on the date the notice or other written communication is deposited in the United States mail.

(e) If a notice or other written communication is sent by electronic means, the notice or other written communication is effective on the date the person designated or entitled to receive the notice or other written communication receives the notice or other written communication.

(f) If a notice or other written communication is received by the person designated or entitled to receive the notice or other written communication, the method of delivery of the notice or other written communication is immaterial.

Added by Acts 2003, 78th Leg., ch. 286, Sec. 3, eff. Sept. 1, 2003.

Sec. 2251.055. RIGHTS AND REMEDIES NOT EXCLUSIVE. The rights and remedies provided by this subchapter are in addition to rights and remedies provided by this chapter or other law.

Added by Acts 2003, 78th Leg., ch. 286, Sec. 3, eff. Sept. 1, 2003.

CHAPTER 2252. CONTRACTS WITH GOVERNMENTAL ENTITY

SUBCHAPTER A. NONRESIDENT BIDDERS

Sec. 2252.001. DEFINITIONS. In this subchapter:

(1) "Governmental contract" means a contract awarded by a governmental entity for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment.

(2) "Governmental entity" means:

(A) the state;

(B) a municipality, county, public school district, or special-purpose district or authority;

(C) a district, county, or justice of the peace court;

(D) a board, commission, department, office, or other agency in the executive branch of state government, including an institution of higher education as defined by Section 61.003, Education Code;

(E) the legislature or a legislative agency; or

(F) the Supreme Court of Texas, the Texas Court of Criminal Appeals, a court of appeals, or the State Bar of Texas or another judicial agency having statewide jurisdiction.

(3) "Nonresident bidder" refers to a person who is not a resident.

(4) "Resident bidder" refers to a person whose principal place of business is in this state, including a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Text of section as amended by Acts 2013, 83rd Leg., R.S., Ch. 1404 (H.B. 3648), Sec. 2

For text of section as amended by Acts 2013, 83rd Leg., R.S., Ch. 1127 (H.B. 1050), Sec. 2, see other Sec. 2252.002.

Sec. 2252.002. AWARD OF CONTRACT TO NONRESIDENT BIDDER. A governmental entity may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the greater of the following:

(1) the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located; or

(2) the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which a majority of the manufacturing relating to the contract will be performed.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1404 (H.B. 3648), Sec. 2, eff. June 14, 2013.

Text of section as amended by Acts 2013, 83rd Leg., R.S., Ch. 1127 (H.B. 1050), Sec. 2

For text of section as amended by Acts 2013, 83rd Leg., R.S., Ch. 1404 (H.B. 3648), Sec. 2, see other Sec. 2252.002.

Sec. 2252.002. AWARD OF CONTRACT TO NONRESIDENT BIDDER. A governmental entity may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in:

(1) the state in which the nonresident's principal place of business is located; or

(2) a state in which the nonresident is a resident manufacturer.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1127 (H.B. 1050), Sec. 2, eff. September 1, 2013.

Sec. 2252.003. PUBLICATION OF OTHER STATES' LAWS ON CONTRACTS. (a) The comptroller annually shall publish in the Texas Register:

(1) a list showing each state that regulates the award of a governmental contract to a bidder whose principal place of business is not located in that state; and

(2) the citation to and a summary of each state's most recent law or regulation relating to the evaluation of a bid from and award of a contract to a bidder whose principal place of business is not located in that state.

(b) A governmental entity shall use the information published under this section to evaluate the bid of a nonresident bidder. A governmental entity may rely on information published under this section to meet the requirements of Section 2252.002.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.74, eff. September 1, 2007.

Sec. 2252.004. CONTRACT INVOLVING FEDERAL FUNDS. This subchapter does not apply to a contract involving federal funds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 9.011, eff. Sept. 1, 2001.

SUBCHAPTER B. RETAINED PUBLIC WORKS CONTRACT PAYMENTS

Sec. 2252.031. DEFINITIONS. In this subchapter:

(1) "Governmental entity" means:

(A) the state, a county, or a municipality;

(B) a department, board, or agency of the state, a county, or a municipality;

(C) a school district or a subdivision of a school district; or

(D) any other governmental or quasi-governmental authority authorized by statute to make a public works contract.

(2) "Prime contractor" means a person or persons, firm, or corporation contracting with a governmental entity for a public work.

(3) "Public works" includes the construction, alteration, or repair of a public building or the construction or completion of a public work.

(4) "Public works contract payment" means a payment by a governmental entity for the value of labor, material, machinery, fixtures, tools, power, water, fuel, or lubricants used or consumed, ordered and delivered for use or consumption, or specially fabricated for use or consumption but not yet delivered, in the direct performance of a public works contract.

(5) "Retainage" means the percentage of a public works contract payment withheld by a governmental entity to secure performance of the contract.

(6) "Warranty period" means the period of time specified in a contract during which certain terms applicable to the warranting of

work performed under the contract are in effect.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 635 (H.B. 692), Sec. 2, eff. June 15, 2021.

Sec. 2252.032. RETAINAGE. (a) A governmental entity shall:

(1) include in each public works contract a provision that establishes the circumstances under which:

(A) the public works project that is the subject of the contract is considered substantially complete; and

(B) the governmental entity may release all or a portion of the retainage for:

(i) substantially completed portions of the project; or

(ii) fully completed and accepted portions of the project;

(2) maintain an accurate record of accounting for:

(A) the retainage withheld on periodic contract payments; and

(B) the retainage released to the prime contractor for a public works contract; and

(3) for a public works contract described by Subsection (c), pay any remaining retainage described by Subdivision (2)(A) and the interest earned on the retainage to the prime contractor on completion of the work required to be performed under the contract.

(b) Except as provided by Subsection (i):

(1) if the total value of a public works contract is less than $5 million, a governmental entity may not withhold retainage in an amount that exceeds 10 percent of the contract price and the rate of retainage may not exceed 10 percent for any item in a bid schedule or schedule of values for the project, including materials and equipment delivered on site to be installed;

(2) if the total value of a public works contract is $5 million or more, a governmental entity may not withhold retainage in an amount that exceeds five percent of the contract price and the rate of retainage may not exceed five percent for any item in a bid schedule or schedule of values for the project, including materials

and equipment delivered on site to be installed; and

(3) if a public works contract relates to the construction or maintenance of a dam, as that term is defined by Section 423.0045, regardless of the total value of the contract, a governmental entity may not withhold retainage in an amount that exceeds 10 percent of the contract price and the rate of retainage may not exceed 10 percent for any item in a bid schedule or schedule of values for the project, including materials and equipment delivered on site to be installed.

(c) For a competitively awarded contract with a value of $10 million or more, and for a contract that was awarded using a method other than competitive bidding, a governmental entity and prime contractor may agree to deposit in an interest-bearing account the retainage withheld on periodic contract payments.

(d) If, for the purpose of fulfilling an obligation of a prime contractor under a public works contract, the prime contractor enters into a subcontract:

(1) the prime contractor may not withhold from a subcontractor a greater percentage of retainage than the percentage that may be withheld from the prime contractor by the governmental entity under the contract; and

(2) a subcontractor who enters into a contract with another subcontractor to provide labor or materials under the contract may not withhold from that subcontractor a greater percentage of retainage than the percentage that may be withheld from the subcontractor as determined under Subdivision (1).

(e) A governmental entity may not withhold retainage:

(1) after completion of the work required to be performed under the contract by the prime contractor, including during the warranty period; or

(2) for the purpose of requiring the prime contractor, after completion of the work required to be performed under the contract, to perform work on manufactured goods or systems that were:

(A) specified by the designer of record; and

(B) properly installed by the contractor.

(f) On application to a governmental entity for final payment and release of retainage, the governmental entity may withhold retainage if there is a bona fide dispute between the governmental entity and the prime contractor and the reason for the dispute is that labor, services, or materials provided by the prime contractor,

or by a person under the direction or control of the prime contractor, failed to comply with the express terms of the contract or if the surety on any outstanding surety bond executed for the contract does not agree to the release of retainage. The governmental entity must provide to the prime contractor written notice of the basis on which the governmental entity is withholding retainage under this subsection. If there is no bona fide dispute between the governmental entity and the prime contractor and neither party is in default under the contract, the prime contractor is entitled to:

(1) cure any noncompliant labor, services, or materials; or

(2) offer the governmental entity a reasonable amount of money as compensation for any noncompliant labor, services, or materials that cannot be promptly cured.

(g) A governmental entity is not required to accept a prime contractor's offer of compensation under Subsection (f)(2).

(h) Subsection (f) may not be construed to limit either the governmental entity's or prime contractor's right to pursue any remedy available under the express terms of the public works contract or other applicable law.

(i) For purposes of this subsection, a project is considered formally approved if the project is the subject of a resolution approving an application for financial assistance adopted by the Texas Water Development Board before September 1, 2019, for any part of the project's financing. Subsection (b) of this section does not apply to a governmental entity that receives financial assistance under Section 15.432 or 15.472, Water Code, for a project that is formally approved by the Texas Water Development Board or to a governmental entity that is a wholesale water supplier that supplies water to customers in 10 or more counties and is governed by Chapter 49, Water Code. A governmental entity described by this subsection shall deposit in an interest-bearing account the retainage withheld under a public works contract that provides for retainage that exceeds five percent of the periodic contract payments.

(j) This section may not be construed as affecting a governmental entity's ability to retain certain amounts due under a contract as required by Chapter 2258.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 635 (H.B. 692), Sec. 3, eff. June 15, 2021.

Sec. 2252.033. EXEMPTIONS. This subchapter does not apply to:

(1) a public works contract executed before August 31, 1981;

(2) a public works contract in which the total contract price estimate at the time of execution of the contract is less than $400,000; or

(3) a public works contract made by the Texas Department of Transportation under Chapter 223, Transportation Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.201, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 9.012, eff. Sept. 1, 2001.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 635 (H.B. 692), Sec. 4, eff. June 15, 2021.

SUBCHAPTER C. PRIVATE AUXILIARY ENTERPRISE PROVIDING SERVICES TO STATE AGENCIES OR INSTITUTIONS OF HIGHER EDUCATION

Sec. 2252.061. DEFINITIONS. In this subchapter:

(1) "Auxiliary enterprise" means a business activity that is conducted at a state agency, provides a service to the agency, and is not paid for with appropriated money.

(2) "Contractor" means an individual, association, corporation, or other business entity that operates an auxiliary enterprise or performs a service of the auxiliary enterprise.

(3) "State agency" includes a state-supported institution of higher education.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2252.062. FINANCIAL STATEMENT. A contractor must present at the time of contracting with a state agency a financial statement prepared by a certified public accountant.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2252.063. PAYMENT STATEMENT. (a) A contractor must provide to the contracting state agency payment statements derived from sales tax reports.

(b) The contractor annually must provide the payment statements in accordance with the requirements of the state agency.

(c) A payment statement must be certified by a certified public accountant licensed in this state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2252.064. PERFORMANCE BOND. (a) A contractor shall execute a bond issued by a surety company authorized to do business in this state in an amount determined by the contracting state agency, but not to exceed the contract price.

(b) The bond must be payable to the state and conditioned on the faithful performance of the terms of the contract.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. REAL PROPERTY HELD IN TRUST

Sec. 2252.091. DEFINITION. In this subchapter, "governmental entity" means a state agency or a political subdivision of the state.

Added by Acts 1997, 75th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 1997.

Sec. 2252.092. IDENTIFICATION OF TRUST PROPERTY REQUIRED. (a) A governmental entity may not purchase real property held in trust until the trustee submits to the governing body of the governmental entity a copy of the trust agreement identifying the true owner of the property. The trustee shall identify the true owner of the property to a governmental entity.

(b) A governmental entity may not sell real property to a trustee until the governmental entity receives from the trustee a copy of the trust agreement identifying the person who will be the true owner of the property. The trustee shall identify the person

who will be the true owner of the property to the governmental entity.

Added by Acts 1995, 74th Leg., ch. 913, Sec. 1, eff. Aug. 28, 1995. Redesignated from Local Government Code Sec. 280.002(a), (b) and amended by Acts 1997, 75th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 1997

Sec. 2252.093. NONCOMPLIANCE CREATES VOID CONVEYANCE. A conveyance of property subject to this subchapter is void if a governmental entity fails to comply with Section 2252.092.

Added by Acts 1995, 74th Leg., ch. 913, Sec. 1, eff. Aug. 28, 1995. Redesignated from Local Government Code Sec. 280.002(c) and amended by Acts 1997, 75th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 1997.

Sec. 2252.094. TRUST AGREEMENT CONFIDENTIAL. A trust agreement submitted to the governing body of the governmental entity under this subchapter is confidential information excepted from the requirements of Section 552.021, Government Code.

Added by Acts 1995, 74th Leg., ch. 913, Sec. 1, eff. Aug. 28, 1995. Redesignated from Local Government Code Sec. 280.002(d) and amended by Acts 1997, 75th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER E. PUBLIC CONTRACTS WITH DISADVANTAGED OR HISTORICALLY UNDERUTILIZED BUSINESSES

Sec. 2252.121. DEFINITIONS. In this subchapter:

(1) "Contractor" means a person who submits a bid for a public contract. The term includes a general contractor, a prime contractor, and a subcontractor.

(2) "Disadvantaged or historically underutilized business" means an entity that meets the definition of a historically underutilized business under Section 2161.001 and in which the owners of the business participate in the control, operation, and management of the business in a manner proportionate to their ownership so that the business is clearly controlled by the economically disadvantaged owners.

(3) "Governmental entity" means a state agency or political

subdivision of this state.

(4) "Person" means an individual, partnership, association, corporation, or other private legal entity.

(5) "Political subdivision" means a county, municipality, school district, or other special district or authority of this state.

(6) "Public contract" means a purchasing contract or public works contract awarded by a governmental entity.

(7) "State agency" means a board, commission, office, department, or other agency in the executive, judicial, or legislative branch of state government. The term includes an institution of higher education as defined by Section 61.003, Education Code.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 9.013(a), eff. Sept. 1, 2001.

Sec. 2252.122. APPLICABILITY. This subchapter applies to each public contract entered into by a governmental entity and a contractor in which the contractor claims to be a disadvantaged or a historically underutilized business.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 9.013(a), eff. Sept. 1, 2001.

Sec. 2252.123. PROHIBITED ACT. A contractor may not claim disadvantaged or historically underutilized business status in bidding on a public contract unless the contractor meets the definition of a disadvantaged or historically underutilized business and that contractor will personally execute the terms of the contract.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 9.013(a), eff. Sept. 1, 2001.

Sec. 2252.124. SPECIFIC REQUIREMENTS. To qualify as a contractor claiming disadvantaged or historically underutilized business status under this subchapter:

(1) the general contractor will perform all of the estimating and contract administration functions with the employees of that contractor;

(2) subcontractors will perform all of their work of their trade with their own employees or, if the subcontractor uses an employee leasing firm for the purpose of providing salary and benefit administration, with employees who in all other respects are supervised and perform on the job as if they were employees of the subcontractor; and

(3) a prime contractor who intends to subcontract specific trades may do so if:

(A) the dollar value of the subcontracts does not exceed 75 percent of the original value of the contract; and

(B) all work in the trade of the prime contractor is accomplished by employees of that contractor or, if the prime contractor uses an employee leasing firm for the purpose of salary and benefit administration, with employees who in all other respects are supervised and perform on the job as if they were employees of the prime contractor.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 9.013(a), eff. Sept. 1, 2001.

Sec. 2252.125. CIVIL PENALTY. (a) The attorney general or a district, county, or municipal attorney may institute an action in district court to recover a civil penalty against a person who claims disadvantaged or historically underutilized business status and a general contractor who knowingly contracts with a person claiming the disadvantaged or historically underutilized business status in violation of Section 2252.123.

(b) A civil penalty imposed under this section may not exceed $1,000 for each violation and may not exceed $100,000, in the aggregate, for all violations arising from a single action. Each day a violation occurs constitutes a separate violation for purposes of imposing the penalty.

(c) A civil penalty recovered in an action brought by the attorney general shall be deposited in the state treasury. A civil penalty recovered in an action brought by a political subdivision shall be deposited in the general fund of that political subdivision.

(d) A civil penalty imposed under this section is in addition to any other criminal, civil, or administrative penalty that may be imposed by the state or a political subdivision and to which a person in violation of Section 2252.123 may be liable.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 9.013(a), eff. Sept. 1, 2001.

SUBCHAPTER F. PROHIBITION ON CONTRACTS WITH CERTAIN COMPANIES

Sec. 2252.151. DEFINITIONS. In this subchapter:

(1) "Company" has the meaning assigned by Section 806.001.

(2) "Foreign terrorist organization" means an organization designated as a foreign terrorist organization by the United States secretary of state as authorized by 8 U.S.C. Section 1189.

(3) "Governmental contract" means a contract awarded by a governmental entity for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment. The term includes a contract to obtain a professional or consulting service subject to Chapter 2254.

(4) "Governmental entity" has the meaning assigned by Section 2252.001.

Added by Acts 2017, 85th Leg., R.S., Ch. 192 (S.B. 252), Sec. 1, eff. September 1, 2017.

Sec. 2252.152. CONTRACTS WITH COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATION PROHIBITED. A governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Section 806.051, 807.051, or 2252.153.

Added by Acts 2017, 85th Leg., R.S., Ch. 192 (S.B. 252), Sec. 1, eff. September 1, 2017.

Sec. 2252.153. LISTED COMPANIES. The comptroller shall prepare and maintain, and make available to each governmental entity, a list of companies known to have contracts with or provide supplies or services to a foreign terrorist organization.

Added by Acts 2017, 85th Leg., R.S., Ch. 192 (S.B. 252), Sec. 1, eff. September 1, 2017.

Sec. 2252.154. EXCEPTION. Notwithstanding any other law, a company that the United States government affirmatively declares to be excluded from its federal sanctions regime relating to Sudan, its federal sanctions regime relating to Iran, or any federal sanctions regime relating to a foreign terrorist organization is not subject to contract prohibition under this subchapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 192 (S.B. 252), Sec. 1, eff. September 1, 2017.

SUBCHAPTER G. CERTAIN CONSTRUCTION AND INSTALLATION PROJECTS

Sec. 2252.201. DEFINITIONS. In this subchapter:

(1) "Governmental entity" means this state or a board, commission, department, office, or other agency in the executive branch of state government, including an institution of higher education as defined by Section 61.003, Education Code. The term does not include a political subdivision.

(2) "Manufacturing process" means the application of a process to alter the form or function of materials or elements of a product in a manner that adds value and transforms the materials or elements into a new finished product that is functionally different from a finished product produced merely from assembling the materials or elements into a product.

(3) "Political subdivision" includes a county, municipality, municipal utility district, water control and improvement district, special utility district, and other types of water district.

(4) "Produced in the United States" means, with respect to iron and steel products, a product for which all manufacturing processes, from initial melting through application of coatings, occur in the United States, other than metallurgical processes to refine steel additives.

(5) "Project" means a contract between a governmental entity and another person, including a political subdivision, to:

(A) construct, remodel, or alter a building, a

structure, or infrastructure;

(B) supply a material for a project described by Paragraph (A); or

(C) finance, refinance, or provide money from funds administered by a governmental entity for a project described by Paragraph (A).

Added by Acts 2017, 85th Leg., R.S., Ch. 597 (S.B. 1289), Sec. 1, eff. September 1, 2017.
Redesignated from Government Code, Subchapter F, Chapter 2252 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(33), eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 1009 (S.B. 783), Sec. 1, eff. September 1, 2021.

Sec. 2252.202. UNIFORM PURCHASING CONDITION; RULES. (a) Except as provided by Section 2252.203, the uniform general conditions for a project in which iron or steel products will be used must require that the bid documents provided to all bidders and the contract include a requirement that any iron or steel product produced through a manufacturing process and used in the project be produced in the United States.

(b) A governmental entity subject to the requirements for a project described by Subsection (a) shall adopt rules to promote compliance with this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 597 (S.B. 1289), Sec. 1, eff. September 1, 2017.
Redesignated from Government Code, Subchapter F, Chapter 2252 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(33), eff. September 1, 2019.

Sec. 2252.203. EXEMPTIONS. (a) Section 2252.202 does not apply to a project for which the governing body of the governmental entity responsible for the project determines that:

(1) iron or steel products produced in the United States are not:

(A) produced in sufficient quantities;

(B) reasonably available; or

(C) of a satisfactory quality;

(2) use of iron or steel products produced in the United States will increase the total cost of the project by more than 20 percent; or

(3) complying with that section is inconsistent with the public interest.

(b) Electrical components, equipment, systems, and appurtenances, including supports, covers, shielding, and other appurtenances related to an electrical system, necessary for operation or concealment are not considered to be iron or steel products and are exempt from the requirements of Section 2252.202. An electrical system includes all equipment, facilities, and assets owned by an electric utility, as that term is defined in Section 31.002, Utilities Code.

(c) Section 2252.202 does not apply to a contract subject to Section 223.045, Transportation Code, or 23 C.F.R. Section 635.410.

Added by Acts 2017, 85th Leg., R.S., Ch. 597 (S.B. 1289), Sec. 1, eff. September 1, 2017.
Redesignated from Government Code, Subchapter F, Chapter 2252 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(33), eff. September 1, 2019.

Sec. 2252.204. INTERNATIONAL AGREEMENTS. This subchapter shall be applied in a manner consistent with this state's obligations under any international agreement.

Added by Acts 2017, 85th Leg., R.S., Ch. 597 (S.B. 1289), Sec. 1, eff. September 1, 2017.
Redesignated from Government Code, Subchapter F, Chapter 2252 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(33), eff. September 1, 2019.

Sec. 2252.205. CONFLICT OF LAW. To the extent of any conflict or inconsistency, this subchapter prevails over any other state law relating to the use of iron and steel products in projects directly funded by a governmental entity or financed by funds administered by a governmental entity.

Added by Acts 2017, 85th Leg., R.S., Ch. 597 (S.B. 1289), Sec. 1, eff. September 1, 2017.
Redesignated from Government Code, Subchapter F, Chapter 2252 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(33), eff. September 1, 2019.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 2252.901. CONTRACTS WITH FORMER OR RETIRED AGENCY EMPLOYEES. (a) A state agency may not enter into an employment contract, a professional services contract under Chapter 2254, or a consulting services contract under Chapter 2254 with a former or retired employee of the agency before the first anniversary of the last date on which the individual was employed by the agency, if appropriated money will be used to make payments under the contract. This section does not prohibit an agency from entering into a professional services contract with a corporation, firm, or other business entity that employs a former or retired employee of the agency within one year of the employee's leaving the agency, provided that the former or retired employee does not perform services on projects for the corporation, firm, or other business entity that the employee worked on while employed by the agency.

(b) and (c) Repealed by Acts 2001, 77th Leg., ch. 715, Sec. 3(3), eff. Sept. 1, 2001.

(d) In this section:

(1) "Employment contract" includes a personal services contract regardless of whether the performance of the contract involves the traditional relationship of employer and employee. The term does not apply to an at-will employment relationship that involves the traditional relationship of employer and employee.

(2) "Retired agency employee" means a person:

(A) whose last state service before retirement was for the state agency with which the retiree contracts to perform services; and

(B) who is a retiree of:

(i) the employee class of membership of the Employees Retirement System of Texas; or

(ii) the Teacher Retirement System of Texas, the majority of whose service was credited in that system in a position with a state agency.

(3) "State agency" includes a "public senior college or university," as that term is defined by Section 61.003, Education Code.

Added by Acts 1997, 75th Leg., ch. 1306, Sec. 2, eff. Sept. 1, 1998. Amended by Acts 1999, 76th Leg., ch. 1499, Sec. 1.36, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 715, Sec. 3(3), eff. Sept. 1, 2001.

Sec. 2252.903. CONTRACTING WITH PERSONS WHO HAVE CERTAIN DEBTS OR DELINQUENCIES. (a) Each state agency shall determine whether a payment law prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to a person before the agency enters into a written contract with that person. The agency shall make this determination not earlier than the seventh day before and not later than the date of entering into the contract. The determination must be made in accordance with the comptroller's requirements.

(b) This subsection applies if the agency determines that a payment law prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to the person. The agency may not enter into a written contract with the person unless:

(1) the contract requires the agency's payments under the contract to be applied directly toward eliminating the person's debt or delinquency; and

(2) the requirement described in Subdivision (1) specifically applies to any debt or delinquency, regardless of when it arises.

(c) The comptroller may determine the order in which a person's multiple types of debts or delinquencies are reduced or eliminated under this section.

(d) The comptroller may adopt rules and establish procedures to administer this section.

(e) In this section:

(1) "Debt or delinquency" means a debt, tax delinquency, student loan delinquency, or child support delinquency that results in a payment law prohibiting the comptroller from issuing a warrant or initiating an electronic funds transfer.

(2) "Payment law" means:

(A) Section 57.48, Education Code;

(B) Section 231.007, Family Code;

(C) Section 403.055; or

(D) any similar law that prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to a person.

(3) "State agency" has the meaning assigned by Section 403.055.

(4) "Written contract" does not include a contract the payments for which must be made through the comptroller's issuance of warrants or initiation of electronic funds transfers under Section 404.046, 404.069, or 2103.003.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 71, eff. June 15, 2001. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 62, eff. Sept. 1, 2003.

Sec. 2252.904. ATTORNEY'S FEES. (a) In this section:

(1) "Governmental contract" means a contract awarded by a governmental entity for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment.

(2) "Governmental entity" means:

(A) the state;

(B) a municipality, county, public school district, or special-purpose district or authority;

(C) a district, county, or justice of the peace court;

(D) a board, commission, department, office, or other agency in the executive branch of state government, including an institution of higher education as defined by Section 61.003, Education Code;

(E) the legislature or a legislative agency; or

(F) the Supreme Court of Texas, the Texas Court of Criminal Appeals, a court of appeals, or the State Bar of Texas or another judicial agency having statewide jurisdiction.

(b) A governmental contract may not provide for the award of attorney's fees to the governmental entity in a dispute in which the entity prevails unless the contract provides for the award of attorney's fees to each other party to the contract if that party prevails in the dispute.

(c) A contract provision that violates this section is void and unenforceable.

Added by Acts 2007, 80th Leg., R.S., Ch. 466 (H.B. 1268), Sec. 1, eff. September 1, 2007.

Sec. 2252.905. CERTAIN RULES OR POLICIES OF STATE AGENCIES. (a) In this section:

(1) "Contract" means a contract awarded by a state agency for general construction, an improvement, a service, or a public works project, including a contract subject to Section 201.112, Transportation Code.

(2) "Private design professional" means an individual registered as an architect under Chapter 1051, Occupations Code, or an individual licensed as an engineer under Chapter 1001, Occupations Code, who provides professional architectural or engineering services.

(3) "State agency" means a board, commission, office, department, or other agency in the judicial or executive branch of state government.

(b) A rule or policy adopted by a state agency relating to the recovery of costs arising from an engineering or architectural error or omission by a private design professional on a project must:

(1) provide that the private design professional be notified at the time a problem with project plans or specifications is identified by the agency;

(2) provide an opportunity for the private design professional to be involved in the resolution of a problem identified under Subdivision (1);

(3) provide guidelines for distinguishing an error or omission from other reasons for the submission of a change order;

(4) provide a process for determining the cost of errors or omissions by private design professionals;

(5) provide for an evaluation of the totality of project services provided by private design professionals, including the level of quality, performance, and value provided over the term of the entire project;

(6) provide that an internal management review of the agency's claim for costs may be used, if available, without requiring

that the claim be paid before the internal management review may be used;

(7) provide a process for tracking the cost of errors or omissions by agency employees; and

(8) recognize that some errors, omissions, or changes are likely to occur during a design and construction project.

Added by Acts 2007, 80th Leg., R.S., Ch. 979 (S.B. 924), Sec. 1, eff. September 1, 2007.
Renumbered from Government Code, Section 2252.904 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(47), eff. September 1, 2009.

Sec. 2252.906. DISCLOSURE PROTECTIONS FOR CERTAIN CHARITABLE ORGANIZATIONS, CHARITABLE TRUSTS, AND PRIVATE FOUNDATIONS. (a) In this section:

(1) "Charitable organization" means an organization that is exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization in Section 501(c) of that code. The term does not include a property owners' or homeowners' association.

(2) "Grant-making organization" means an organization that makes grants to charitable organizations but is not a private foundation, private foundation trust, or split interest trust.

(3) "Private foundation" has the meaning assigned by Section 509(a), Internal Revenue Code of 1986.

(4) "Split interest trust" means an irrevocable trust in which the income is first dispersed to the beneficiaries of the trust for a specified period and the remainder of the trust is donated to a designated charity.

(b) Unless the individual has given written consent to the disclosure, a governmental entity may not require a charitable organization, private foundation trust, split interest trust, or private foundation to disclose the race, religion, gender, national origin, socioeconomic status, age, ethnicity, disability, marital status, sexual orientation, or political party registration of an employee, officer, director, trustee, or member of the organization, trust, or foundation.

(c) Unless the individual has given written consent to the

disclosure, a governmental entity may not require a private foundation, private foundation trust, split interest trust, or grant-making organization to disclose the race, religion, gender, national origin, socioeconomic status, age, ethnicity, disability, marital status, sexual orientation, or political party registration of:

(1) a person who receives money or in-kind contributions from or contracts with the foundation, trust, or organization; or

(2) an employee, officer, director, trustee, member, or owner of an entity that receives money or in-kind contributions from or contracts with the foundation, trust, or organization.

(d) A governmental entity may not:

(1) require that the governing board or officers of a charitable organization, private foundation trust, split interest trust, or private foundation include an individual of any particular race, religion, gender, national origin, socioeconomic status, age, ethnicity, disability, marital status, sexual orientation, or political party registration;

(2) prohibit an individual from serving as a board member or officer of the organization, trust, or foundation based on the individual's familial relationship to:

(A) another board member or officer of the organization, trust, or foundation; or

(B) a donor to the organization, trust, or foundation; or

(3) require the governing board or officers of the organization, trust, or foundation to include one or more individuals who do not share a familial relationship with the board members or officers or with a donor.

(e) Except as a condition on the expenditure of particular funds imposed by the donor of the funds, a governmental entity may not require a charitable organization, private foundation trust, split interest trust, or private foundation to distribute its funds to or contract with a person or entity based on the race, religion, gender, national origin, socioeconomic status, age, ethnicity, disability, marital status, sexual orientation, or political party registration of:

(1) the person or of an employee, officer, director, trustee, member, or owner of the entity; or

(2) the populations, locales, or communities served by the

person or entity.

(f) This section does not limit the authority of the attorney general to investigate or enforce laws of this state in accordance with the attorney general's duty to protect the public interest in charity.

Added by Acts 2011, 82nd Leg., R.S., Ch. 355 (H.B. 3573), Sec. 1, eff. September 1, 2011.

Sec. 2252.907. CONTRACTS INVOLVING EXCHANGE OR CREATION OF PUBLIC INFORMATION. (a) A contract between a state governmental entity and a nongovernmental vendor involving the exchange or creation of public information as defined by Section 552.002 that the state governmental entity collects, assembles, or maintains or has a right of access to must:

(1) be drafted in consideration of the requirements of Chapter 552; and

(2) contain a provision that requires the vendor to make the information not otherwise excepted from disclosure under Chapter 552 available in a specific format that is:

(A) agreed upon in the contract; and

(B) accessible by the public.

(b) This section may not be waived by contract or otherwise.

(c) A request for public information regarding a contract described by this section must be submitted to the officer or employee responsible for responding to open records requests for the state governmental entity that executed the contract.

(d) In this section, "state governmental entity" means a state agency, board, commission, office, department, or other agency in the executive or legislative branch of state government.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1204 (S.B. 1368), Sec. 3, eff. September 1, 2013.

Sec. 2252.908. DISCLOSURE OF INTERESTED PARTIES. (a) In this section:

(1) "Business entity" means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation.

(2) "Governmental entity" means a municipality, county, public school district, or special-purpose district or authority.

(3) "Interested party" means a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity.

(4) "State agency" means a board, commission, office, department, or other agency in the executive, judicial, or legislative branch of state government. The term includes an institution of higher education as defined by Section 61.003, Education Code.

(b) This section applies only to a contract of a governmental entity or state agency that:

(1) requires an action or vote by the governing body of the entity or agency before the contract may be signed;

(2) has a value of at least $1 million; or

(3) is for services that would require a person to register as a lobbyist under Chapter 305.

(c) Notwithstanding Subsection (b), this section does not apply to:

(1) a sponsored research contract of an institution of higher education;

(2) an interagency contract of a state agency or an institution of higher education;

(3) a contract related to health and human services if:

(A) the value of the contract cannot be determined at the time the contract is executed; and

(B) any qualified vendor is eligible for the contract;

(4) a contract with a publicly traded business entity, including a wholly owned subsidiary of the business entity;

(5) a contract with an electric utility, as that term is defined by Section 31.002, Utilities Code; or

(6) a contract with a gas utility, as that term is defined by Section 121.001, Utilities Code.

(d) A governmental entity or state agency may not enter into a contract described by Subsection (b) with a business entity unless the business entity, in accordance with this section and rules adopted under this section, submits a disclosure of interested parties to the governmental entity or state agency at the time the

business entity submits the signed contract to the governmental entity or state agency.

(e) The disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission that includes:

(1) a list of each interested party for the contract of which the contracting business entity is aware; and

(2) a written, unsworn declaration subscribed by the authorized agent of the contracting business entity as true under penalty of perjury that is in substantially the following form:

"My name is _____, my date of birth is _____, and my address is _____, _____, _____, _____, _____.
(Street) (City) (State) (Zip Code) (Country)
I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, _____.
(Month) (Year)

_____
Declarant".

(f) Not later than the 30th day after the date the governmental entity or state agency receives a disclosure of interested parties required under this section, the governmental entity or state agency shall submit a copy of the disclosure to the Texas Ethics Commission.

(f-1) A contract described by Subsection (b) entered into by a governmental entity or state agency is voidable for failure to provide the disclosure of interested parties required by this section only if:

(1) the governmental entity or state agency submits to the business entity written notice of the business entity's failure to provide the required disclosure; and

(2) the business entity fails to submit to the governmental entity or state agency the required disclosure on or before the 10th business day after the date the business entity receives the written notice under Subdivision (1).

(g) The Texas Ethics Commission shall adopt rules necessary to implement this section, prescribe the disclosure of interested parties form, and post a copy of the form on the commission's Internet website.

Added by Acts 2015, 84th Leg., R.S., Ch. 1024 (H.B. 1295), Sec. 3, eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 526 (S.B. 255), Sec. 5, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 17, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 1070 (H.B. 1495), Sec. 2, eff. June 14, 2019.
Acts 2023, 88th Leg., R.S., Ch. 424 (H.B. 1817), Sec. 1, eff. June 9, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620 and H.B. 5435, 89th Legislature, Regular Session, for amendments affecting the following section.

Text of section as added by Acts 2023, 88th Leg., R.S., Ch. 389 (H.B. 679), Sec. 1

For text of section as added by Acts 2023, 88th Leg., R.S., Ch. 1008 (H.B. 2518), Sec. 1, see other Sec. 2252.909.

Sec. 2252.909. VOIDABLE CONTRACT PROVISION: EXPERIENCE MODIFIER. (a) In this section:

(1) "Contract" means a contract awarded by a governmental entity that is:

(A) a construction contract, as defined by Section 272.0001, Business & Commerce Code; or

(B) a contract for constructing, altering, or repairing a public building or carrying out or completing any public work.

(2) "Contract solicitation" means a request for bids, proposals, qualifications, offers, or other responses from potential contractors under a contract.

(3) "Experience modifier" means a factor expressed as a value that:

(A) is assigned to an employer seeking to purchase a workers' compensation insurance policy in this state;

(B) affects the premium amount for the policy; and

(C) is based on the employer's past loss experience.

(4) "Governmental entity" means:

(A) a department, commission, board, office, or other agency in the executive branch of state government created by the state constitution or a state statute, including an institution of higher education as defined by Section 61.003, Education Code; or

(B) a political subdivision of this state, including a municipality, county, or special purpose district.

(b) With respect to a contract:

(1) an offer to contract may not contain a term requiring a person to have a specified experience modifier in order to accept the offer; and

(2) a contract solicitation may not require a person to have a specified experience modifier in order to submit a response to the contract solicitation.

(c) A contract or an agreement collateral to or affecting a contract may not require the contractor to have a specified experience modifier.

(d) A contract solicitation, an offer, a contract, or an agreement collateral to or affecting a contract that violates Subsection (b) or (c) is voidable as against public policy.

Added by Acts 2023, 88th Leg., R.S., Ch. 389 (H.B. 679), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1620 and H.B. 5435, 89th Legislature, Regular Session, for amendments affecting the following section.

Text of section as added by Acts 2023, 88th Leg., R.S., Ch. 1008 (H.B. 2518), Sec. 1

For text of section as added by Acts 2023, 88th Leg., R.S., Ch. 389 (H.B. 679), Sec. 1, see other Sec. 2252.909.

Sec. 2252.909. REQUIRED LEASE TERMS FOR LEASE OF PUBLIC PROPERTY. (a) In this section, "governmental entity" has the meaning assigned by Section 2253.001.

(b) A lease between a governmental entity and another person regarding public property must contain lease terms requiring the person to:

(1) include in each contract for the construction,

alteration, or repair of an improvement to the leased property a condition that the contractor:

(A) execute a payment bond that conforms to Subchapter I, Chapter 53, Property Code; and

(B) execute a performance bond in an amount equal to the amount of the contract for the protection of the governmental entity and conditioned on the faithful performance of the contractor's work in accordance with the plans, specifications, and contract documents; and

(2) provide to the governmental entity a notice of commencement consistent with this section at least 90 days before the date the construction, alteration, or repair of any improvement to the leased property begins.

(c) A notice of commencement under Subsection (b) must:

(1) identify the public property where the work will be performed;

(2) describe the work to be performed;

(3) state the total cost of the work to be performed;

(4) include copies of the performance and payment bonds required under Subsection (b); and

(5) include a written acknowledgment signed by the contractor stating that copies of the required performance and payment bonds will be provided to all subcontractors not later than the fifth day after the date a subcontract is executed.

(d) On or before the 10th day after the date a governmental entity receives a notice of commencement for the construction, alteration, or repair of an improvement to leased property required under Subsection (b)(2), the governmental entity may notify the leaseholder that the construction, alteration, or repair may not proceed.

(e) A person commits an offense if the person materially misrepresents information in a notice of commencement. An offense under this subsection is a Class A misdemeanor.

Added by Acts 2023, 88th Leg., R.S., Ch. 1008 (H.B. 2518), Sec. 1, eff. September 1, 2023.

CHAPTER 2253. PUBLIC WORK PERFORMANCE AND PAYMENT BONDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2253.001. DEFINITIONS. In this chapter:

(1) "Governmental entity" means a governmental or quasi-governmental authority authorized by state law to make a public work contract, including:

(A) the state, a county, or a municipality;

(B) a department, board, or agency of the state, a county, or a municipality; and

(C) a school district or a subdivision of a school district.

(2) "Payment bond beneficiary" means a person for whose protection and use this chapter requires a payment bond.

(3) "Prime contractor" means a person, firm, or corporation that makes a public work contract with a governmental entity.

(4) "Public work contract" means a contract for constructing, altering, or repairing a public building or carrying out or completing any public work.

(5) "Public work labor" means labor used directly to carry out a public work.

(6) "Public work material" means:

(A) material used, or ordered and delivered for use, directly to carry out a public work;

(B) specially fabricated material;

(C) reasonable rental and actual running repair costs for construction equipment used, or reasonably required and delivered for use, directly to carry out work at the project site; or

(D) power, water, fuel, and lubricants used, or ordered and delivered for use, directly to carry out a public work.

(7) "Retainage" means the part of the payments under a public work contract that are not required to be paid within the month after the month in which the public work labor is performed or public work material is delivered under the contract.

(8) "Specially fabricated material" means material ordered by a prime contractor or subcontractor that is:

(A) specially fabricated for use in a public work; and

(B) reasonably unsuitable for another use.

(9) "Subcontractor" means a person, firm, or corporation that provides public work labor or material to fulfill an obligation to a prime contractor or to a subcontractor for the performance and installation of any of the work required by a public work contract.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 8.20, eff. Sept. 1, 1999.

Sec. 2253.002. EXEMPTION. This chapter does not apply to a public work contract entered into by a state agency relating to an action taken under Subchapter F or I, Chapter 361, Health and Safety Code, or Subchapter I, Chapter 26, Water Code.

Added by Acts 1997, 75th Leg., ch. 793, Sec. 18, eff. Sept. 1, 1997.

SUBCHAPTER B. GENERAL REQUIREMENTS; LIABILITY

Sec. 2253.021. PERFORMANCE AND PAYMENT BONDS REQUIRED. (a) A governmental entity that makes a public work contract with a prime contractor shall require the contractor, before beginning the work, to execute to the governmental entity:

(1) a performance bond if the contract is in excess of $100,000; and

(2) a payment bond if:

(A) the contract is in excess of $25,000, and the governmental entity is not a municipality or a joint board created under Subchapter D, Chapter 22, Transportation Code; or

(B) the contract is in excess of $50,000, and the governmental entity is a municipality or a joint board created under Subchapter D, Chapter 22, Transportation Code.

(b) The performance bond is:

(1) solely for the protection of the state or governmental entity awarding the public work contract;

(2) in the amount of the contract; and

(3) conditioned on the faithful performance of the work in accordance with the plans, specifications, and contract documents.

(c) The payment bond is:

(1) solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the prime contractor or a subcontractor to supply public work labor or material; and

(2) in the amount of the contract.

(d) A bond required by this section must be executed by a

corporate surety in accordance with Section 1, Chapter 87, Acts of the 56th Legislature, Regular Session, 1959 (Article 7.19-1, Vernon's Texas Insurance Code).

(e) A bond executed for a public work contract with the state or a department, board, or agency of the state must be payable to the state and its form must be approved by the attorney general. A bond executed for a public work contract with another governmental entity must be payable to and its form must be approved by the awarding governmental entity.

(f) A bond required under this section must clearly and prominently display on the bond or on an attachment to the bond:

(1) the name, mailing address, physical address, and telephone number, including the area code, of the surety company to which any notice of claim should be sent; or

(2) the toll-free telephone number maintained by the Texas Department of Insurance under Subchapter B, Chapter 521, Insurance Code, and a statement that the address of the surety company to which any notice of claim should be sent may be obtained from the Texas Department of Insurance by calling the toll-free telephone number.

(g) A governmental entity may not require a contractor for any public building or other construction contract to obtain a surety bond from any specific insurance or surety company, agent, or broker.

(h) A reverse auction procedure may not be used to obtain services related to a public work contract for which a bond is required under this section. In this subsection, "reverse auction procedure" has the meaning assigned by Section 2155.062 or a procedure similar to that described by Section 2155.062.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.43(a), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 380, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 614, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1275, Sec. 2(86), eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.122, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1304 (H.B. 2515), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 1.01, eff. September 1, 2011.

Sec. 2253.022. PERFORMANCE AND PAYMENT BONDS; INSURED LOSS. (a) A governmental entity shall ensure that an insurance company that is fulfilling its obligation under a contract of insurance by arranging for the replacement of a loss, rather than by making a cash payment directly to the governmental entity, furnishes or has furnished by a contractor, in accordance with this chapter:

(1) a performance bond as described by Section 2253.021(b) for the benefit of the governmental entity; and

(2) a payment bond as described in Section 2253.021(c) for the benefit of the beneficiaries described by that subsection.

(b) The bonds required to be furnished under Subsection (a) must be furnished before the contractor begins work.

(c) It is an implied obligation under a contract of insurance for the insurance company to furnish the bonds required by this section.

(d) To recover in a suit with respect to which the insurance company has furnished or caused to be furnished a payment bond, the only notice required of a payment bond beneficiary is the notice given to the surety in accordance with Subchapter C.

(e) This section does not apply to a governmental entity when a surety company is complying with an obligation under a bond that had been issued for the benefit of the governmental entity.

(f) If the payment bond required by Subsection (a) is not furnished, the governmental entity is subject to the same liability that a surety would have if the surety had issued the payment bond and the governmental entity had required the bond to be provided. To recover in a suit under this subsection, the only notice required of a payment bond beneficiary is a notice given to the governmental entity, as if the governmental entity were the surety, in accordance with Subchapter C.

Added by Acts 1997, 75th Leg., ch. 1132, Sec. 3, eff. Sept. 1, 1997.

Sec. 2253.023. ATTEMPTED COMPLIANCE. (a) A bond furnished by a prime contractor in an attempt to comply with this chapter shall be construed to comply with this chapter regarding the rights created, limitations on those rights, and remedies provided.

(b) A provision in a bond furnished by a prime contractor in an attempt to comply with this chapter that expands or restricts a right or liability under this chapter shall be disregarded, and this chapter shall apply to that bond.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2253.024. INFORMATION FROM CONTRACTOR OR SUBCONTRACTOR. (a) A prime contractor, on the written request of a person who provides public work labor or material and when required by Subsection (c), shall provide to the person:

(1) the name and last known address of the governmental entity with whom the prime contractor contracted for the public work;

(2) a copy of the payment and performance bonds for the public work, including bonds furnished by or to the prime contractor; and

(3) the name of the surety issuing the payment bond and the performance bond and the toll-free telephone number maintained by the Texas Department of Insurance under Subchapter B, Chapter 521, Insurance Code, for obtaining information concerning licensed insurance companies.

(b) A subcontractor, on the written request of a governmental entity, the prime contractor, a surety on a bond that covers the public work contract, or a person providing work under the subcontract and when required by Subsection (c), shall provide to the person requesting the information:

(1) the name and last known address of each person from whom the subcontractor purchased public work labor or material, other than public work material from the subcontractor's inventory;

(2) the name and last known address of each person to whom the subcontractor provided public work labor or material;

(3) a statement of whether the subcontractor furnished a bond for the benefit of its subcontractors and materialmen;

(4) the name and last known address of the surety on the bond the subcontractor furnished; and

(5) a copy of that bond.

(c) Information requested shall be provided within a reasonable time but not later than the 10th day after the receipt of the written request for the information.

(d) A person from whom information is requested may require payment of the actual cost, not to exceed $25, for providing the requested information if the person does not have a direct contractual relationship with the person requesting information that relates to the public work.

(e) A person who fails to provide information required by this section is liable to the requesting person for that person's reasonable and necessary costs incurred in getting the requested information.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 380, Sec. 2, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.123, eff. September 1, 2005.

Sec. 2253.025. INFORMATION FROM PAYMENT BOND BENEFICIARY. (a) A payment bond beneficiary, not later than the 30th day after the date the beneficiary receives a written request from the prime contractor or a surety on a bond on which a claim is made, shall provide to the contractor or surety:

(1) a copy of any applicable written agreement or purchase order; and

(2) any statement or payment request of the beneficiary that shows the amount claimed and the work performed by the beneficiary for which the claim is made.

(b) If requested, the payment bond beneficiary shall provide the estimated amount due for each calendar month in which the beneficiary performed public work labor or provided public work material.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2253.026. COPY OF PAYMENT BOND AND CONTRACT. (a) A governmental entity shall furnish the information required by Subsection (d) to any person who applies for the information and who submits an affidavit that the person:

(1) has supplied public work labor or material for which the person has not been paid;

(2) has contracted for specially fabricated material for which the person has not been paid; or

(3) is being sued on a payment bond.

(b) The copy of the payment bond or public work contract is prima facie evidence of the content, execution, and delivery of the original.

(c) An applicant under this section shall pay any reasonable fee set by the governmental entity for the actual cost of preparation of the copies.

(d) A governmental entity shall furnish the following information to a person who makes a request under Subsection (a):

(1) a certified copy of a payment bond and any attachment to the bond;

(2) the public work contract for which the bond was given; and

(3) the toll-free telephone number maintained by the Texas Department of Insurance under Subchapter B, Chapter 521, Insurance Code, for obtaining information concerning licensed insurance companies.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 380, Sec. 3, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.124, eff. September 1, 2005.

Sec. 2253.027. LIABILITY OF GOVERNMENTAL ENTITY. (a) If a governmental entity fails to obtain from a prime contractor a payment bond as required by Section 2253.021 or fails to include in a lease the lease terms required by Section 2252.909:

(1) the entity is subject to the same liability that a surety would have if the surety had issued a payment bond and if the entity had obtained the bond; and

(2) a payment bond beneficiary is entitled to a lien on money due to the prime contractor in the same manner and to the same extent as if the public work contract were subject to Subchapter J, Chapter 53, Property Code.

(b) To recover in a suit under Subsection (a), the only notice a payment bond beneficiary is required to provide to the governmental

entity is a notice provided in the same manner as described by Subchapter C. The notice must be provided as if the governmental entity were a surety.

(c) A governmental entity is not liable as a surety under Subsection (a)(1) if a person leasing property from the entity fails to submit to the entity the notice of commencement required by Section 2252.909.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 515, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1008 (H.B. 2518), Sec. 2, eff. September 1, 2023.

SUBCHAPTER C. NOTICE REQUIREMENTS

Sec. 2253.041. NOTICE REQUIRED FOR CLAIM FOR PAYMENT FOR LABOR OR MATERIAL. (a) To recover in a suit under Section 2253.073 on a payment bond for a claim for payment for public work labor performed or public work material delivered, a payment bond beneficiary must mail to the prime contractor and the surety written notice of the claim.

(b) The notice must be mailed on or before the 15th day of the third month after each month in which any of the claimed labor was performed or any of the claimed material was delivered.

(c) The notice must be accompanied by a sworn statement of account that states in substance:

(1) the amount claimed is just and correct; and

(2) all just and lawful offsets, payments, and credits known to the affiant have been allowed.

(d) The statement of account shall include the amount of any retainage applicable to the account that has not become due under the terms of the public work contract between the payment bond beneficiary and the prime contractor or between the payment bond beneficiary and a subcontractor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2253.042. COPY OF AGREEMENT AS NOTICE OF CLAIM FOR UNPAID LABOR OR MATERIAL. A payment bond beneficiary has the option to

enclose with the sworn statement of account, as the notice for a claim under a written agreement for payment for public work labor performed or public work material delivered, a copy of the written agreement and a statement of the completion or the value of partial completion of the agreement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2253.043. NOTICE OF CLAIM FOR UNPAID LABOR OR MATERIAL WHEN WRITTEN AGREEMENT DOES NOT EXIST. (a) Except as provided by Section 2253.044, if a written agreement does not exist between the payment bond beneficiary and the prime contractor or between the payment bond beneficiary and the subcontractor, the notice for a claim for unpaid bills must contain:

(1) the name of the party for whom the public work labor was performed or to whom the public work material was delivered;

(2) the approximate date of performance or delivery;

(3) a description of the public work labor or material for reasonable identification; and

(4) the amount due.

(b) The payment bond beneficiary must generally itemize the claim and include with it copies of documents, invoices, or orders that reasonably identify:

(1) the public work labor performed or public work material delivered for which the claim is made;

(2) the job; and

(3) the destination of delivery.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2253.044. NOTICE OF CLAIM FOR MULTIPLE ITEMS OF LABOR OR MATERIAL. The notice for a claim for lump-sum payment for multiple items of public work labor or material must:

(1) describe the labor or material in a manner that reasonably identifies the labor or material;

(2) state the name of the party for whom the labor was performed or to whom the material was delivered;

(3) state the approximate date of performance or delivery;

(4) state whether the contract is written or oral;

(5) state the amount of the contract; and
(6) state the amount claimed.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2253.045. NOTICE OF CLAIM FOR UNPAID LABOR OR MATERIAL UNDER WRITTEN UNIT PRICE AGREEMENT. The notice for a claim for public work labor performed or public work material delivered by a payment bond beneficiary who is a subcontractor or materialman to the prime contractor or to a subcontractor and who has a written unit price agreement that is wholly or partially completed is sufficient if the beneficiary attaches to the sworn statement of account:

(1) a list of units and unit prices set by the contract; and
(2) a statement of those completed and partially completed units.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2253.046. NOTICE REQUIRED FOR CLAIM FOR PAYMENT OF RETAINAGE. (a) To recover in a suit under Section 2253.073 on a payment bond for a claim for payment of retainage, a payment bond beneficiary whose contract with a prime contractor or subcontractor provides for retainage must mail written notice of the claim to the prime contractor and the surety on or before the 90th day after the date of final completion of the public work contract.

(b) The notice shall consist of a statement of:
(1) the amount of the contract;
(2) any amount paid; and
(3) the outstanding balance.

(c) Notice of a claim for payment of retainage is not required if the amount claimed is part of a prior claim made under this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2253.047. ADDITIONAL NOTICE REQUIRED FOR PAYMENT BOND BENEFICIARY WITHOUT DIRECT CONTRACTUAL RELATIONSHIP WITH PRIME

CONTRACTOR. (a) To recover in a suit under Section 2253.073 on a payment bond, a payment bond beneficiary who does not have a direct contractual relationship with the prime contractor for public work labor or material must mail notice as required by this section.

(b) A payment bond beneficiary who contracts with a subcontractor for retainage must mail, on or before the 15th day of the second month after the date of the beginning of the delivery of public work material or the performance of public work labor, written notice to the prime contractor that:

(1) the contract provides for retainage; and

(2) generally indicates the nature of the retainage.

(c) The payment bond beneficiary must mail to the prime contractor written notice of a claim for any unpaid public work labor performed or public work material delivered. The notice must be mailed on or before the 15th day of the second month after each month in which the labor was performed or the material was delivered. A copy of the statement sent to a subcontractor is sufficient as notice under this subsection.

(d) The payment bond beneficiary must mail to the prime contractor, on or before the 15th day of the second month after the receipt and acceptance of an order for specially fabricated material, written notice that the order has been received and accepted.

(e) This section applies only to a payment bond beneficiary who is not an individual mechanic or laborer and who makes a claim for wages.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2253.048. MAILING NOTICE. (a) A notice required by this subchapter to be mailed must be sent by certified or registered mail.

(b) A notice required by this subchapter to be mailed to a prime contractor must be addressed to the prime contractor at the contractor's residence or last known business address.

(c) A person satisfies the requirements of this subchapter relating to providing notice to the surety if the person mails the notice by certified or registered mail to the surety:

(1) at the address stated on the bond or on an attachment to the bond;

(2) at the address on file with the Texas Department of

Insurance; or

(3) at any other address allowed by law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 380, Sec. 4, eff. Sept. 1, 2001.

SUBCHAPTER D. CLAIMS ON BONDS; ENFORCEMENT

Sec. 2253.071. TERMINATION OR ABANDONMENT OF CONTRACT; PROCEEDS OF CONTRACT. (a) The proceeds of a public work contract are not payable, until all costs of completion of the contract work are paid by the contractor or the contractor's surety, to a contractor who furnishes a bond required by this chapter if:

(1) the contractor abandons performance of the contract; or

(2) the contractor's right to proceed with performance of the contract is lawfully terminated by the awarding governmental entity because of the contractor's default.

(b) The balance of the public work contract proceeds remaining after the costs of completion are paid shall be paid according to the contractor's and the surety's interests as may be established by agreement or by judgment of a court.

(c) A surety that completes a public work contract or incurs a loss under a performance bond required under this chapter has a claim to the proceeds of the contract prior to all other creditors of the prime contractor to the full extent of the surety's loss. That priority does not excuse the surety from paying an obligation under a payment bond.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2253.072. STATE NOT LIABLE FOR COSTS. The state is not liable for payment of a cost or expense of a suit brought by any party on a payment bond furnished under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2253.073. SUIT ON PAYMENT BOND. (a) A payment bond beneficiary who has provided public work labor or material under a

public work contract for which a payment bond is furnished under this chapter may sue the principal or surety, jointly or severally, on the payment bond if the claim is not paid before the 61st day after the date the notice for the claim is mailed.

(b) Suit may be brought under Subsection (a) for:

(1) the unpaid balance of the beneficiary's claim at the time the claim was mailed or the suit is brought; and

(2) reasonable attorney fees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2253.074. COSTS AND ATTORNEY FEES. A court may award costs and reasonable attorney fees that are equitable in a proceeding to enforce a claim on a payment bond or to declare that any part of a claim is invalid.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2253.075. ASSIGNMENT OF CLAIM. A third party to whom a claim is assigned is in the same position as a payment bond beneficiary if notice is given as required by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2253.076. LIMITATIONS ON CERTAIN CLAIMS; MAXIMUM RETAINAGE. (a) The amount of a subcontractor's claim, including previous payments, may not exceed the proportion of the subcontract price that the work done bears to the total of the work covered by the subcontract.

(b) A claim for specially fabricated material that has not been delivered or incorporated into the public work is limited to material that conforms to and complies with the plans, specifications, and contract documents for the material. The amount of the claim may not exceed the reasonable cost, less the fair salvage value, of the specially fabricated material.

(c) A claim for retainage in a notice under this subchapter is not valid for an amount greater than the amount of retainage specified in the public work contract between the payment bond

beneficiary and the prime contractor or between the payment bond beneficiary and the subcontractor. A claim for retainage is never valid for an amount greater than 10 percent of the amount of that contract.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2253.077. VENUE. A suit under this chapter shall be brought in a court in a county in which any part of the public work is located.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2253.078. STATUTE OF LIMITATIONS. (a) A suit on a performance bond may not be brought after the first anniversary of the date of final completion, abandonment, or termination of the public work contract.

(b) A suit on a payment bond may not be brought by a payment bond beneficiary after the first anniversary of the date notice for a claim is mailed under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2253.079. CRIMINAL OFFENSE FOR FALSE AND FRAUDULENT CLAIM. (a) A person commits an offense if the person wilfully files a false and fraudulent claim under this chapter.

(b) An offense under this section is subject to the penalty for false swearing.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 2254. PROFESSIONAL AND CONSULTING SERVICES

SUBCHAPTER A. PROFESSIONAL SERVICES

Sec. 2254.001. SHORT TITLE. This subchapter may be cited as the Professional Services Procurement Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.002. DEFINITIONS. In this subchapter:

(1) "Governmental entity" means:

(A) a state agency or department;

(B) a district, authority, county, municipality, or other political subdivision of the state;

(C) a local government corporation or another entity created by or acting on behalf of a political subdivision in the planning and design of a construction project; or

(D) a publicly owned utility.

(2) "Professional services" means services:

(A) within the scope of the practice, as defined by state law, of:

(i) accounting;

(ii) architecture;

(iii) landscape architecture;

(iv) land surveying;

(v) medicine;

(vi) optometry;

(vii) professional engineering;

(viii) real estate appraising;

(ix) professional nursing; or

(x) forensic science;

(B) provided in connection with the professional employment or practice of a person who is licensed or registered as:

(i) a certified public accountant;

(ii) an architect;

(iii) a landscape architect;

(iv) a land surveyor;

(v) a physician, including a surgeon;

(vi) an optometrist;

(vii) a professional engineer;

(viii) a state certified or state licensed real estate appraiser;

(ix) a registered nurse; or

(x) a forensic analyst or forensic science expert; or

(C) provided by a person lawfully engaged in interior design, regardless of whether the person is registered as an interior

designer under Chapter 1053, Occupations Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 244, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1542, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1409, Sec. 8, eff. Sept. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 487 (H.B. 2868), Sec. 1, eff. September 1, 2019.
Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 10.07, eff. September 1, 2021.

Sec. 2254.003. SELECTION OF PROVIDER; FEES. (a) A governmental entity may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award:

(1) on the basis of demonstrated competence and qualifications to perform the services; and

(2) for a fair and reasonable price.

(b) The professional fees under the contract may not exceed any maximum provided by law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1213 (H.B. 1886), Sec. 14, eff. September 1, 2007.

Sec. 2254.0031. INDEMNIFICATION. (a) A state governmental entity may require a contractor selected under this subchapter to indemnify or hold harmless the state from claims and liabilities resulting from the negligent acts or omissions of the contractor or persons employed by the contractor. A state governmental entity may not require a contractor to indemnify, hold harmless, or defend the state for claims or liabilities resulting from the negligent acts or omissions of the state governmental entity or its employees.

(b) Notwithstanding any other provision of law, Sections 271.904(a)-(e) and (g), Local Government Code, apply to a contract for architectural or engineering services between an architect or

engineer selected under this subchapter and a state agency as defined by Section 2052.101.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.37, eff. Sept. 1, 1999.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 879 (H.B. 3021), Sec. 1, eff. September 1, 2017.

Sec. 2254.004. CONTRACT FOR PROFESSIONAL SERVICES OF ARCHITECT, ENGINEER, OR SURVEYOR. (a) In procuring architectural, engineering, or land surveying services, a governmental entity shall:

(1) first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and

(2) then attempt to negotiate with that provider a contract at a fair and reasonable price.

(b) If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the entity shall:

(1) formally end negotiations with that provider;

(2) select the next most highly qualified provider; and

(3) attempt to negotiate a contract with that provider at a fair and reasonable price.

(c) The entity shall continue the process described in Subsection (b) to select and negotiate with providers until a contract is entered into.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 119, Sec. 1, eff. Sept. 1, 1997.

Sec. 2254.005. VOID CONTRACT. A contract entered into or an arrangement made in violation of this subchapter is void as against public policy.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.006. CONTRACT NOTIFICATION. A state agency,

including an institution of higher education as defined by Section 61.003, Education Code, shall provide written notice to the Legislative Budget Board of a contract for professional services, other than a contract for physician or optometric services, if the amount of the contract, including an amendment, modification, renewal, or extension of the contract, exceeds $50,000. The notice must be on a form prescribed by the Legislative Budget Board and filed not later than the 30th day after the date the agency enters into the contract.

Added by Acts 1999, 76th Leg., ch. 281, Sec. 13, eff. Sept. 1, 1999.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 855 (S.B. 799), Sec. 13, eff. September 1, 2021.

Sec. 2254.007. DECLARATORY OR INJUNCTIVE RELIEF. (a) This subchapter may be enforced through an action for declaratory or injunctive relief filed not later than the 10th day after the date a contract is awarded.

(b) This section does not apply to the enforcement of a contract entered into by a state agency as that term is defined by Section 2151.002. In this subsection, "state agency" includes the Texas Facilities Commission and the comptroller.

Added by Acts 2007, 80th Leg., R.S., Ch. 1213 (H.B. 1886), Sec. 13, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 118, eff. September 1, 2019.

Sec. 2254.008. CONTRACT FOR PROFESSIONAL SERVICES OF PHYSICIANS, OPTOMETRISTS, AND REGISTERED NURSES. (a) Notwithstanding Section 2254.003, if a governmental entity is procuring services provided in connection with the professional employment or practice of a professional described by Section 2254.002(2)(B)(v), (vi), or (ix) and the number of contracts to be awarded under this section is not otherwise limited, the governmental entity may make the selection and award on the basis of:

(1) the provider's agreement to payment of a set fee, as a

range or lump-sum amount; and

(2) the provider's affirmation and the governmental entity's verification that the provider has the necessary occupational licenses and experience.

(b) Notwithstanding Sections 2155.083 and 2261.051, a contract awarded under this section is not subject to competitive advertising and proposal evaluation requirements.

Added by Acts 2021, 87th Leg., R.S., Ch. 855 (S.B. 799), Sec. 14, eff. September 1, 2021.

SUBCHAPTER B. CONSULTING SERVICES

Sec. 2254.021. DEFINITIONS. In this subchapter:

(1) "Consulting service" means the service of studying or advising a state agency under a contract that does not involve the traditional relationship of employer and employee.

(2) "Major consulting services contract" means a consulting services contract for which it is reasonably foreseeable that the value of the contract will exceed $15,000, or $25,000 for an institution of higher education other than a public junior college.

(3) "Consultant" means a person that provides or proposes to provide a consulting service. The term includes a political subdivision but does not include the federal government, a state agency, or a state governmental entity.

(4) "Political subdivision" means:

(A) a county;

(B) an incorporated or unincorporated municipality;

(C) a public junior college;

(D) a public school district or other educational or rehabilitative district;

(E) a metropolitan or regional transit authority;

(F) an airport authority;

(G) a river authority or compact;

(H) a regional planning commission, a council of governments, or a similar regional planning agency created under Chapter 391, Local Government Code;

(I) the Edwards Aquifer Authority or a district governed by Title 4, Water Code;

(J) a soil and water conservation district;

(K) a county or municipal improvement district;
(L) a county road or road utility district;
(M) a county housing authority;
(N) an emergency services or communications district;
(O) a fire prevention district;
(P) a public health or hospital authority or district;
(Q) a mosquito control district;
(R) a special waste district;
(S) a rural rail transportation district; or
(T) any other local government or special district of this state.

(5) "State agency" has the meaning assigned by Section 2151.002.

(6) "State governmental entity" means a state department, commission, board, office, institution, facility, or other agency the jurisdiction of which is not limited to a geographical portion of the state. The term includes a university system and an institution of higher education, other than a public junior college, as defined by Section 61.003, Education Code. The term does not include a political subdivision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.44(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 17.19(11), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1035, Sec. 3, eff. June 19, 1997; Acts 2003, 78th Leg., ch. 1266, Sec. 1.02, eff. June 20, 2003.

Sec. 2254.022. INTERPRETATION OF SUBCHAPTER. (a) This subchapter shall be interpreted to ensure:

(1) the greatest and fairest competition in the selection by state agencies of consultants; and

(2) the giving of notice to all potential consultants of the need for and opportunity to provide consulting services.

(b) This subchapter does not:

(1) discourage state agencies from using consultants if the agencies reasonably foresee that the use of consultants will produce a more efficient and less costly operation or project;

(2) prohibit the making of a sole-source contract for consulting services if a proposal is not received from a competent,

knowledgeable, and qualified consultant at a reasonable fee, after compliance with this subchapter; or

(3) require or prohibit the use of competitive bidding procedures to purchase consulting services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 4, eff. June 19, 1997.

Sec. 2254.023. APPLICABILITY OF SUBCHAPTER. This subchapter applies to consulting services that a state agency acquires with money:

(1) appropriated by the legislature;

(2) derived from the exercise of the statutory duties of a state agency; or

(3) received from the federal government, unless a federal law or regulation conflicts with the application of this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.024. EXEMPTIONS. (a) This subchapter does not apply to or discourage the use of consulting services provided by:

(1) practitioners of professional services described in Subchapter A;

(2) private legal counsel;

(3) investment counselors;

(4) actuaries;

(5) medical or dental services providers; or

(6) other consultants whose services are determined by the governing board of a retirement system trust fund to be necessary for the governing board to perform its constitutional fiduciary duties.

(b) If the governor and comptroller consider it more advantageous to the state to procure a particular consulting service under the procedures of Chapters 2155-2158, instead of under this subchapter, they may make a memorandum of understanding to that effect and each adopt the memorandum by rule. Procurement of a consulting service described in a memorandum of understanding under this subsection is subject only to Chapters 2155-2158.

(c) The comptroller by rule may define circumstances in which a

state agency may procure, without complying with this subchapter, certain consulting services that will cost less than a minimum amount established by the comptroller. The comptroller must determine that noncompliance in those circumstances is more cost-effective for the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19(1), eff. Sept. 1, 1997.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 3.14, eff. September 1, 2007.
Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 18, eff. September 1, 2019.

Sec. 2254.025. EMERGENCY WAIVER. (a) The governor, after receipt of a request complying with this section, may grant a limited waiver of the provisions of this subchapter for a state agency that requires consulting services before compliance with this subchapter can be completed because of an unforeseen emergency.

(b) A state agency's request for a waiver must include information required by the governor, including:

(1) information about the nature of the emergency;

(2) the reason that the state agency did not foresee the emergency;

(3) the name of the consultant with whom the agency intends to contract; and

(4) the amount of the intended contract.

(c) As soon as possible after the governor grants a limited waiver, a state agency shall comply with this subchapter to the extent that the requirements of this subchapter are not superfluous or ineffective because of the waiver. The agency shall include with information filed with the secretary of state for publication in the Texas Register a detailed description of the emergency on which the request for waiver was predicated.

(d) The governor shall adopt rules to administer this section.

(e) In this section, "unforeseen emergency" means a situation that suddenly and unexpectedly causes a state agency to need the services of a consultant. The term includes the issuance of a court

order, an actual or imminent natural disaster, and new state or federal legislation. An emergency is not unforeseen if a state agency was negligent in foreseeing the occurrence of the emergency.

(f) This section applies to all consulting services contracts and renewals, amendments, and extensions of consulting services contracts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 5, eff. June 19, 1997.

Sec. 2254.026. CONTRACT WITH CONSULTANT. A state agency may contract with a consultant only if:

(1) there is a substantial need for the consulting services; and

(2) the agency cannot adequately perform the services with its own personnel or obtain the consulting services through a contract with a state governmental entity.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 6, eff. June 19, 1997.

Sec. 2254.027. SELECTION OF CONSULTANT. In selecting a consultant, a state agency shall:

(1) base its choice on demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the services; and

(2) if other considerations are equal, give preference to a consultant whose principal place of business is in the state or who will manage the consulting contract wholly from an office in the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 7, eff. June 19, 1997.

Sec. 2254.028. NOTICE OF INTENT: MAJOR CONSULTING SERVICES

CONTRACT. (a) Before entering into a major consulting services contract, a state agency shall:

(1) notify the Legislative Budget Board and the governor's Budget and Planning Office that the agency intends to contract with a consultant;

(2) give information to the Legislative Budget Board and the governor's Budget and Planning Office to demonstrate that the agency has complied or will comply with Sections 2254.026 and 2254.027; and

(3) obtain a finding of fact from the governor's Budget and Planning Office that the consulting services are necessary.

(b) A major consulting services contract that a state agency enters into without first obtaining the finding required by Subsection (a)(3) is void.

(c) Subsection (a) does not apply to a major consulting services contract to be entered into by an institution of higher education other than a public junior college if the institution includes in the invitation published under Section 2254.029 a finding by the chief executive officer of the institution that the consulting services are necessary and an explanation of that finding.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 8, eff. June 19, 1997; Acts 2003, 78th Leg., ch. 1266, Sec. 1.03, eff. June 20, 2003. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 6.10, eff. June 17, 2011.

Sec. 2254.029. PUBLICATION IN STATE BUSINESS DAILY BEFORE ENTERING INTO MAJOR CONSULTING SERVICES CONTRACT. (a) Not later than the 30th day before the date it enters into a major consulting services contract, a state agency must post in the state business daily under Section 2155.083:

(1) an invitation for consultants to provide offers of consulting services;

(2) the name of the individual who should be contacted by a consultant that intends to make an offer;

(3) the closing date for the receipt of offers; and

(4) the procedure by which the state agency will award the

contract.

(b) If the consulting services sought by a state agency relate to services previously provided by a consultant, the agency shall disclose that fact in the invitation required by Subsection (a). If the state agency intends to award the contract for the consulting services to a consultant that previously provided the services, unless a better offer is received, the agency shall disclose its intention in the invitation required by Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 9, eff. June 19, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 19, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 20, eff. September 1, 2019.

Sec. 2254.030. REQUIRED DISCLOSURE AND ITEMIZATION OF CERTAIN EXPENDITURES RELATING TO LOBBYING ACTIVITIES AFTER ENTERING INTO A CONSULTING SERVICES CONTRACT. (a) A political subdivision that enters or has entered into a contract for consulting services with a state agency, regardless of whether the term of the contract has expired, shall prominently display on the political subdivision's Internet website the following regarding contracts for services that would require a person to register as a lobbyist under Chapter 305:

(1) the execution dates;

(2) the contract duration terms, including any extension options;

(3) the effective dates;

(4) the final amount of money the political subdivision paid in the previous fiscal year; and

(5) a list of all legislation advocated for, on, or against by all parties and subcontractors to the contract, including the position taken on each piece of legislation in the prior fiscal year.

(b) In lieu of displaying the items described by Subsections (a)(1)-(5) regarding a contract for services that would require a person to register as a lobbyist under Chapter 305, a political subdivision may post on the political subdivision's Internet website

the contract for those services.

(c) Information required to be displayed on a political subdivision's Internet website under this section is public information subject to disclosure under Chapter 552.

(d) The proposed budget of a political subdivision described by Subsection (a) must include, in a manner allowing for as clear a comparison as practicable between those expenditures in the proposed budget and actual expenditures for the same purpose in the preceding year, a line item indicating expenditures for directly or indirectly influencing or attempting to influence the outcome of legislation or administrative action, as those terms are defined in Section 305.002.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 10, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 1.30, eff. Sept. 1, 1999. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 21(a), eff. September 1, 2019.

Sec. 2254.0301. CONTRACT NOTIFICATION. (a) A state agency shall provide written notice to the Legislative Budget Board of a contract for consulting services if the amount of the contract, including an amendment, modification, renewal, or extension of the contract, exceeds $50,000. The notice must be on a form prescribed by the Legislative Budget Board and filed not later than the 30th day after the date the entity enters into the contract.

(b) This section does not apply to a university system or institution of higher education. In this subsection, "institution of higher education" and "university system" have the meanings assigned by Section 61.003, Education Code.

Added by Acts 1999, 76th Leg., ch. 281, Sec. 14, eff. Sept. 1, 1999. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 6.11, eff. June 17, 2011.

Acts 2021, 87th Leg., R.S., Ch. 855 (S.B. 799), Sec. 15, eff. September 1, 2021.

Sec. 2254.031. RENEWAL; AMENDMENT; EXTENSION. (a) A state

agency that intends to renew, amend, or extend a major consulting services contract shall comply with Sections 2254.028 and 2254.029 if the contract after the renewal, amendment, or extension is a major consulting services contract.

(b) A state agency that intends to renew a contract that is not a major consulting services contract shall comply with Sections 2254.028 and 2254.029 if the original contract and the renewal contract have a reasonably foreseeable value totaling more than $15,000, or $25,000 for an institution of higher education other than a public junior college.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 30(6), eff. September 1, 2019.

(d) A state agency that intends to amend or extend a contract that is not a major consulting services contract shall comply with Sections 2254.028 and 2254.029 if the original contract and the amendment or extension have a reasonably foreseeable value totaling more than $15,000, or $25,000 for an institution of higher education other than a public junior college.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 11, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 1.31, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1266, Sec. 1.04, eff. June 20, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 22, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 30(6), eff. September 1, 2019.

Sec. 2254.032. CONFLICTS OF INTEREST. (a) An officer or employee of a state agency shall report to the chief executive of the agency, not later than the 10th day after the date on which a private consultant submits an offer to provide consulting services to the agency, any financial interest that:

(1) the officer or employee has in the private consultant who submitted the offer; or

(2) an individual who is related to the officer or employee within the second degree by consanguinity or affinity, as determined under Chapter 573, has in the private consultant who submitted the

offer.

(b) This section applies to all consulting services contracts and renewals, amendments, and extensions of consulting services contracts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.033. RESTRICTION ON FORMER EMPLOYEES OF A STATE AGENCY. (a) An individual who offers to provide consulting services to a state agency and who has been employed by that agency or by another agency at any time during the two years preceding the making of the offer shall disclose in the offer:

(1) the nature of the previous employment with the agency or the other agency;

(2) the date the employment was terminated; and

(3) the annual rate of compensation for the employment at the time of its termination.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 30(7), eff. September 1, 2019.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 30(7), eff. September 1, 2019.

Sec. 2254.034. CONTRACT VOID. (a) A contract entered into in violation of Sections 2254.029 through 2254.031 is void.

(b) A contract entered into with a private consultant who did not comply with Section 2254.033 is void.

(c) If a contract is void under this section:

(1) the comptroller may not draw a warrant or transmit money to satisfy an obligation under the contract; and

(2) a state agency may not make any payment under the contract with state or federal money or money held in or outside the state treasury.

(d) This section applies to all consulting services contracts, including renewals, amendments, and extensions of consulting services contracts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 1.32, eff. June 19, 1999.

Sec. 2254.035. DIVIDING CONTRACTS. (a) A state agency may not divide a consulting services contract into more than one contract to avoid the requirements of this subchapter.

(b) This section applies to all consulting services contracts, including renewals, amendments, and extensions of consulting services contracts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.036. ARCHIVES. (a) On request, a state agency shall, after the agency's contract with a consultant has ended, supply the Legislative Budget Board and the governor's Budget and Planning Office with copies of all documents, films, recordings, or reports compiled by the consultant under the contract.

(b) Copies of all documents, films, recordings, or reports compiled by the consultant shall be filed with the Texas State Library and shall be retained by the library for at least five years.

(c) The Texas State Library shall list each document, film, recording, and report given to it under Subsection (b) and shall file the list at the end of each calendar quarter with the secretary of state for publication in the Texas Register.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 12, eff. June 19, 1997.

Sec. 2254.037. REPORTS. As part of the biennial budgetary hearing process conducted by the Legislative Budget Board and the governor's Budget and Planning Office, a state agency shall report to the Legislative Budget Board and the governor's Budget and Planning Office on any actions taken in response to the recommendations of any consultant with whom the state agency contracts during the previous biennium.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 13, eff. June 19, 1997.

Sec. 2254.038. MIXED CONTRACTS. This subchapter applies to a contract that involves both consulting and other services if the primary objective of the contract is the acquisition of consulting services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.039. COMPTROLLER'S RULES. (a) The comptroller shall adopt rules to implement and administer this subchapter. The comptroller's rules may not conflict with or cover a matter on which this subchapter authorizes the governor to adopt rules.

(b) The comptroller shall give proposed rules to the governor for review and comment before adopting the rules.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 3.15, eff. September 1, 2007.

Sec. 2254.040. PROCUREMENT BY COMPTROLLER. (a) The comptroller may, on request of a state agency, procure for the agency consulting services that are covered by this subchapter.

(b) The comptroller may require reimbursement for the costs it incurs in procuring the services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 426, Sec. 16, eff. June 18, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.75, eff. September 1, 2007.

Sec. 2254.041. DISTRIBUTION OF CONSULTANT REPORTS. (a) A

consulting services contract must include provisions that allow the state agency contracting with the consultant and any other state agency and the legislature, at the contracting state agency's discretion, to distribute the consultant report, if any, and to post the report on the agency's Internet website or the website of a standing committee of the legislature.

(b) This section does not affect the application of Chapter 552 to a consultant's report.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1151 (S.B. 176), Sec. 1, eff. June 14, 2013.

SUBCHAPTER C. CONTINGENT FEE CONTRACT FOR LEGAL SERVICES

Sec. 2254.101. DEFINITIONS. In this subchapter:

(1) "Contingent fee" means that part of a fee for legal services, under a contingent fee contract, the amount or payment of which is contingent on the outcome of the matter for which the services were obtained.

(2) "Contingent fee contract" means a contract for legal services under which the amount or the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained. The term includes an amendment to a contract for legal services described by this subdivision if the amendment:

(A) changes the scope of representation; or

(B) may result in:

(i) the filing of an action; or

(ii) the amending of a petition in an existing action.

(2-a) "Political subdivision" means an entity described by Section 2254.002(1)(B), (C), or (D).

(3) "State governmental entity":

(A) means the state or a board, commission, department, office, or other agency in the executive branch of state government created under the constitution or a statute of the state, including an institution of higher education as defined by Section 61.003, Education Code;

(B) includes the state when a state officer is bringing a parens patriae proceeding in the name of the state; and

(C) does not include a state agency or state officer acting as a receiver, special deputy receiver, liquidator, or liquidating agent in connection with the administration of the assets of an insolvent entity under Article 21.28, Insurance Code, or Chapter 36, 66, 96, or 126, Finance Code.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.03, eff. Sept. 1, 1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 857 (H.B. 2826), Sec. 1, eff. September 1, 2019.
Acts 2021, 87th Leg., R.S., Ch. 412 (S.B. 1821), Sec. 1, eff. June 7, 2021.

Sec. 2254.102. APPLICABILITY. (a) This subchapter applies only to a contingent fee contract for legal services entered into by a state governmental entity or political subdivision.

(b) The legislature by this subchapter is providing, in accordance with Sections 44 and 53, Article III, Texas Constitution, for the manner in which and the situations under which a state governmental entity or political subdivision may compensate a public contractor under a contingent fee contract for legal services.

(c) This subchapter does not apply to a contract:

(1) with a state agency to collect an obligation under Section 2107.003(b), (c), or (c-1);

(2) for legal services entered into by an institution of higher education under Section 153.006, Education Code; or

(3) for legal services provided to a school district under Subchapter M, Chapter 403.

(d) This subchapter does not apply to a contract for legal services entered into by the Teacher Retirement System of Texas if the services are paid for from money that is not appropriated from the general revenue fund, including funds of a trust administered by the retirement system.

(e) This subchapter does not apply to a contract for legal services entered into by a political subdivision for the collection of an obligation, as defined by Section 2107.001, that is delinquent or for services under Section 1201.027, except that Sections 2254.1032, 2254.1034, 2254.1036, and 2254.1037 do apply to the

contract. For purposes of this subsection, an obligation does not include a fine or penalty that results from an action by a political subdivision under Chapter 7, Water Code.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.03, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1266, Sec. 1.13, eff. June 20, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 31, eff. September 1, 2005.
Acts 2007, 80th Leg., R.S., Ch. 1386 (S.B. 1615), Sec. 3, eff. September 1, 2007.
Acts 2019, 86th Leg., R.S., Ch. 857 (H.B. 2826), Sec. 2, eff. September 1, 2019.
Acts 2021, 87th Leg., R.S., Ch. 20 (H.B. 1428), Sec. 1, eff. September 1, 2021.

Sec. 2254.103. STATE GOVERNMENTAL ENTITY: CONTRACT APPROVAL; SIGNATURE. (a) A state governmental entity that has authority to enter into a contract for legal services in its own name may enter into a contingent fee contract for legal services only if:

(1) the governing body of the state governmental entity approves the contract and the approved contract is signed by the presiding officer of the governing body; or

(2) for an entity that is not governed by a multimember governing body, the elected or appointed officer who governs the entity approves and signs the contract.

(b) The attorney general may enter into a contingent fee contract for legal services in the name of the state in relation to a matter that has been referred to the attorney general under law by another state governmental entity only if the other state governmental entity approves and signs the contract in accordance with Subsection (a).

(c) A state governmental entity, including the state, may enter into a contingent fee contract for legal services that is not described by Subsection (a) or (b) only if the governor approves and signs the contract.

(d) Before approving the contract, the governing body, elected or appointed officer, or governor, as appropriate, must find that:

(1) there is a substantial need for the legal services;

(2) the legal services cannot be adequately performed by the attorneys and supporting personnel of the state governmental entity or by the attorneys and supporting personnel of another state governmental entity; and

(3) the legal services cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the matter for which the services will be obtained or because the state governmental entity does not have appropriated funds available to pay the estimated amounts required under a contract providing only for the payment of hourly fees.

(e) Before entering into a contingent fee contract for legal services in which the estimated amount that may be recovered exceeds $100,000, a state governmental entity that proposes to enter into the contract in its own name or in the name of the state must also notify the Legislative Budget Board that the entity proposes to enter into the contract, send the board copies of the proposed contract, and send the board information demonstrating that the conditions required by Subsection (d)(3) exist. If the state governmental entity finds under Subsection (d)(3) that the state governmental entity does not have appropriated funds available to pay the estimated amounts required under a contract for the legal services providing only for the payment of hourly fees, the state governmental entity may not enter into the proposed contract in its own name or in the name of the state unless the Legislative Budget Board finds that the state governmental entity's finding with regard to available appropriated funds is correct.

(f) A contingent fee contract for legal services that is subject to Subsection (e) and requires a finding by the Legislative Budget Board is void unless the board has made the finding required by Subsection (e).

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.03, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 857 (H.B. 2826), Sec. 3, eff. September 1, 2019.

Sec. 2254.1032. POLITICAL SUBDIVISION: SELECTION OF PROVIDER. (a) A political subdivision may select an attorney or law firm to award a contingent fee contract only in accordance with Section 2254.003(a) and this section.

(b) In procuring legal services under a contingent fee contract, a political subdivision shall:

(1) select a well-qualified attorney or law firm on the basis of demonstrated competence, qualifications, and experience in the requested services; and

(2) attempt to negotiate a contract with that attorney or law firm for a fair and reasonable price.

Added by Acts 2019, 86th Leg., R.S., Ch. 857 (H.B. 2826), Sec. 4, eff. September 1, 2019.

Sec. 2254.1034. POLITICAL SUBDIVISION: INDEMNIFICATION. (a) A political subdivision may require an attorney or law firm selected under Section 2254.1032 to indemnify or hold harmless the political subdivision from claims and liabilities resulting from negligent acts or omissions of the attorney or law firm or persons employed by the attorney or law firm.

(b) A political subdivision may not require an attorney or law firm selected under Section 2254.1032 to indemnify, hold harmless, or, subject to Subsection (c), defend the political subdivision for claims or liabilities resulting from negligent acts or omissions of the political subdivision or its employees.

(c) Subsection (b) does not prevent an attorney or law firm selected under Section 2254.1032 from defending the political subdivision or its employees in accordance with a contract for the defense of negligent acts or omissions of the political subdivision or its employees.

Added by Acts 2019, 86th Leg., R.S., Ch. 857 (H.B. 2826), Sec. 4, eff. September 1, 2019.

Sec. 2254.1036. POLITICAL SUBDIVISION: CONTRACT NOTICE; APPROVAL BY GOVERNING BODY. (a) A political subdivision may enter into a contingent fee contract for legal services only if the political subdivision:

(1) before or at the time of giving the written notice required by Section 551.041 for a meeting described by Subdivision (2), also provides written notice to the public stating:

(A) the reasons for pursuing the matter that is the subject of the legal services for which the attorney or law firm would be retained and the desired outcome of pursuing the matter;

(B) the competence, qualifications, and experience demonstrated by the attorney or law firm selected under Section 2254.1032;

(C) the nature of any relationship, including the beginning of the relationship, between the political subdivision or governing body and the attorney or law firm selected under Section 2254.1032;

(D) the reasons the legal services cannot be adequately performed by the attorneys and supporting personnel of the political subdivision;

(E) the reasons the legal services cannot be reasonably obtained from attorneys in private practice under a contract providing for the payment of hourly fees without contingency; and

(F) the reasons entering into a contingent fee contract for legal services is in the best interest of the residents of the political subdivision; and

(2) approves the contract in an open meeting called for the purpose of considering the matters listed in Subsection (a)(1).

(b) On approval of a contingent fee contract, the governing body of a political subdivision shall state in writing that the political subdivision finds that:

(1) there is a substantial need for the legal services;

(2) the legal services cannot be adequately performed by the attorneys and supporting personnel of the political subdivision; and

(3) the legal services cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the matter for which the services will be obtained or because the political subdivision does not have funds to pay the estimated amounts required under a contract providing only for the payment of hourly fees.

Added by Acts 2019, 86th Leg., R.S., Ch. 857 (H.B. 2826), Sec. 4, eff.

September 1, 2019.

Sec. 2254.1037. POLITICAL SUBDIVISION: CONTRACT AS PUBLIC INFORMATION. A contingent fee contract approved under Section 2254.1036 is public information under Chapter 552 and may not be withheld from a requestor under Section 552.103 or any other exception from required disclosure.

Added by Acts 2019, 86th Leg., R.S., Ch. 857 (H.B. 2826), Sec. 4, eff. September 1, 2019.

Sec. 2254.1038. POLITICAL SUBDIVISION: ATTORNEY GENERAL REVIEW OF CONTRACT. (a) Before a contingent fee contract for legal services approved under Section 2254.1036 is effective and enforceable, the political subdivision must receive attorney general approval of the contract. The political subdivision shall file the contract with the attorney general along with:

(1) a description of the matter to be pursued by the political subdivision;

(2) a copy of the notice required by Section 2254.1036(a) and a statement of the method and date of the provision of the notice; and

(3) a copy of the statement required by Section 2254.1036(b).

(b) Within 90 days after receiving a contract from a political subdivision, the attorney general may:

(1) approve the contract;

(2) refuse to approve the contract because the requirements of this subchapter were not fulfilled; or

(3) refuse to approve the contract because:

(A) the legal matter that is the subject of the contract presents one or more questions of law or fact that are in common with a matter the state has already addressed or is pursuing; and

(B) pursuit of the matter by the political subdivision will not promote the just and efficient resolution of the matter.

(c) A contract submitted to the attorney general by a political subdivision under Subsection (a) is considered approved by the

attorney general unless, not later than the 90th day after the date the attorney general receives the request to approve the contract, the attorney general notifies the political subdivision that the attorney general is refusing to approve the contract.

(d) If the attorney general refuses to approve a contract under Subsection (b)(2), the attorney general shall specifically identify the provisions of this subchapter with which the contract fails to comply or the political subdivision failed to comply. Nothing in this section prohibits a political subdivision from correcting a failure to comply with this subchapter.

(e) If the attorney general refuses to approve a contract under Subsection (b)(3), the attorney general shall inform the political subdivision of the factual and legal basis for the decision.

(f) A political subdivision may contest the attorney general's refusal to approve the contract under Subsection (b)(3) in the manner provided for contested cases under Chapter 2001.

(g) The State Office of Administrative Hearings shall establish procedures to govern a contest to the attorney general's refusal to approve a contract under Subsection (b)(3) and for in camera review and protection from disclosure of information excepted from disclosure under Chapter 552 in a contested case under this subsection.

(h) The refusal to approve a contract under Subsection (b)(3) is subject to substantial evidence judicial review as provided in Subchapter G, Chapter 2001.

(i) A political subdivision may request expedited review of a contract under Subsection (a).

Added by Acts 2019, 86th Leg., R.S., Ch. 857 (H.B. 2826), Sec. 4, eff. September 1, 2019.

Sec. 2254.104. TIME AND EXPENSE RECORDS REQUIRED; FINAL STATEMENT. (a) The contract must require that the contracting attorney or law firm keep current and complete written time and expense records that describe in detail the time and money spent each day in performing the contract.

(b) The contracting attorney or law firm shall permit the governing body or governing officer of the state governmental entity or political subdivision, the attorney general, and the state auditor

or the political subdivision's auditor, as applicable, each to inspect or obtain copies of the time and expense records at any time on request.

(c) On conclusion of the matter for which legal services were obtained, the contracting attorney or law firm shall provide the contracting state governmental entity or political subdivision with a complete written statement that describes the outcome of the matter, states the amount of any recovery, shows the contracting attorney's or law firm's computation of the amount of the contingent fee, and contains the final complete time and expense records required by Subsection (a). The complete written statement required by this subsection is public information under Chapter 552 and may not be withheld from a requestor under that chapter under Section 552.103 or any other exception from required disclosure.

(d) This subsection does not apply to the complete written statement required by Subsection (c). All time and expense records required under this section are public information subject to required public disclosure under Chapter 552. Information in the records may be withheld from a member of the public under Section 552.103 only if, in addition to meeting the requirements of Section 552.103, the chief legal officer or employee of the state governmental entity or political subdivision determines that withholding the information is necessary to protect the entity's strategy or position in pending or reasonably anticipated litigation. Information withheld from public disclosure under this subsection shall be segregated from information that is subject to required public disclosure.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.03, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 857 (H.B. 2826), Sec. 5, eff. September 1, 2019.

Sec. 2254.105. CERTAIN GENERAL CONTRACT REQUIREMENTS. The contract must:

(1) provide for the method by which the contingent fee is computed;

(2) state the differences, if any, in the method by which

the contingent fee is computed if the matter is settled, tried, or tried and appealed;

(3) state how litigation and other expenses will be paid and, if reimbursement of any expense is contingent on the outcome of the matter or reimbursable from the amount recovered in the matter, state whether the amount recovered for purposes of the contingent fee computation is considered to be the amount obtained before or after expenses are deducted;

(4) state that any subcontracted legal or support services performed by a person who is not a contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm is an expense subject to reimbursement only in accordance with this subchapter; and

(5) state that the amount of the contingent fee and reimbursement of expenses under the contract will be paid and limited in accordance with this subchapter.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.03, eff. Sept. 1, 1999.

Sec. 2254.106. CONTRACT REQUIREMENTS: COMPUTATION OF CONTINGENT FEE; REIMBURSEMENT OF EXPENSES. (a) The contract must establish the reasonable hourly rate for work performed by an attorney, law clerk, or paralegal who will perform legal or support services under the contract based on the reasonable and customary rate in the relevant locality for the type of work performed and on the relevant experience, demonstrated ability, and standard hourly billing rate, if any, of the person performing the work. The contract may establish the reasonable hourly rate for one or more persons by name and may establish a rate schedule for work performed by unnamed persons. The highest hourly rate for a named person or under a rate schedule may not exceed $1,000 an hour. This subsection applies to subcontracted work performed by an attorney, law clerk, or paralegal who is not a contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm as well as to work performed by a contracting attorney or by a partner, shareholder, or employee of a contracting attorney or law firm.

(b) The contract must establish a base fee to be computed as follows. For each attorney, law clerk, or paralegal who is a

contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm, multiply the number of hours the attorney, law clerk, or paralegal works in providing legal or support services under the contract times the reasonable hourly rate for the work performed by that attorney, law clerk, or paralegal. Add the resulting amounts to obtain the base fee. The computation of the base fee may not include hours or costs attributable to work performed by a person who is not a contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm.

(c) Subject to Subsection (d), the contingent fee is computed by multiplying the base fee by a multiplier. The contract must establish a reasonable multiplier based on any expected difficulties in performing the contract, the amount of expenses expected to be risked by the contractor, the expected risk of no recovery, and any expected long delay in recovery. The multiplier may not exceed four without prior approval by the legislature.

(d) In addition to establishing the method of computing the fee under Subsections (a), (b), and (c), the contract must limit the amount of the contingent fee to a stated percentage of the amount recovered. The contract may state different percentage limitations for different ranges of possible recoveries and different percentage limitations in the event the matter is settled, tried, or tried and appealed. The percentage limitation may not exceed 35 percent without prior approval by the legislature. The contract must state that the amount of the contingent fee will not exceed the lesser of the stated percentage of the amount recovered or the amount computed under Subsections (a), (b), and (c).

(e) The contract also may:

(1) limit the amount of expenses that may be reimbursed; and

(2) provide that the amount or payment of only part of the fee is contingent on the outcome of the matter for which the services were obtained, with the amount and payment of the remainder of the fee payable on a regular hourly rate basis without regard to the outcome of the matter.

(f) Except as provided by Section 2254.107, this section does not apply to a contingent fee contract for legal services:

(1) in which the expected amount to be recovered and the actual amount recovered do not exceed $100,000; or

(2) under which a series of recoveries is contemplated and

the amount of each individual recovery is not expected to and does not exceed $100,000.

(g) This section applies to a contract described by Subsection (f) for each individual recovery under the contract that actually exceeds $100,000, and the contract must provide for computing the fee in accordance with this section for each individual recovery that actually exceeds $100,000.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.03, eff. Sept. 1, 1999.

Sec. 2254.107. MIXED HOURLY AND CONTINGENT FEE CONTRACTS; REIMBURSEMENT FOR SUBCONTRACTED WORK. (a) This section applies only to a contingent fee contract:

(1) under which the amount or payment of only part of the fee is contingent on the outcome of the matter for which the services were obtained, with the amount and payment of the remainder of the fee payable on a regular hourly rate basis without regard to the outcome of the matter; or

(2) under which reimbursable expenses are incurred for subcontracted legal or support services performed by a person who is not a contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm.

(b) Sections 2254.106(a) and (e) apply to the contract without regard to the expected or actual amount of recovery under the contract.

(c) The limitations prescribed by Section 2254.106 on the amount of the contingent fee apply to the entire amount of the fee under the contingent fee contract, including the part of the fee the amount and payment of which is not contingent on the outcome of the matter.

(d) The limitations prescribed by Section 2254.108 on payment of the fee apply only to payment of the contingent portion of the fee.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.03, eff. Sept. 1, 1999.

Sec. 2254.108. FEE PAYMENT AND EXPENSE REIMBURSEMENT. (a)

Except as provided by Subsection (b), a contingent fee and a reimbursement of an expense under a contract with a state governmental entity is payable only from funds the legislature specifically appropriates to pay the fee or reimburse the expense. An appropriation to pay the fee or reimburse the expense must specifically describe the individual contract, or the class of contracts classified by subject matter, on account of which the fee is payable or expense is reimbursable. A general reference to contingent fee contracts for legal services or to contracts subject to this subchapter or a similar general description is not a sufficient description for purposes of this subsection.

(b) If the legislature has not specifically appropriated funds for paying the fee or reimbursing the expense, a state governmental entity may pay the fee or reimburse the expense from other available funds only if:

(1) the legislature is not in session; and

(2) the Legislative Budget Board gives its prior approval for that payment or reimbursement under Section 69, Article XVI, Texas Constitution, after examining the statement required under Section 2254.104(c) and determining that the requested payment and the contract under which payment is requested meet all the requirements of this subchapter.

(c) A payment or reimbursement under the contract may not be made until:

(1) final and unappealable arrangements have been made for depositing all recovered funds to the credit of the appropriate fund or account in the state treasury; and

(2) the state governmental entity and the state auditor have received from the contracting attorney or law firm the statement required under Section 2254.104(c).

(d) Litigation and other expenses payable under the contract, including expenses attributable to attorney, paralegal, accountant, expert, or other professional work performed by a person who is not a contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm, may be reimbursed only if the state governmental entity or political subdivision and, if applicable, the entity's or subdivision's auditor determine that the expenses were reasonable, proper, necessary, actually incurred on behalf of the state governmental entity or political subdivision, and paid for by the contracting attorney or law firm. The contingent fee may not be

paid until the entity's or subdivision's auditor or the governing body of a political subdivision without an auditor, as applicable, has reviewed the relevant time and expense records and verified that the hours of work on which the fee computation is based were actually worked in performing reasonable and necessary services for the state governmental entity or political subdivision under the contract.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.03, eff. Sept. 1, 1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 857 (H.B. 2826), Sec. 6, eff. September 1, 2019.

Sec. 2254.109. EFFECT ON OTHER LAW. (a) This subchapter does not limit the right of a state governmental entity or political subdivision to recover fees and expenses from opposing parties under other law.

(b) Compliance with this subchapter does not relieve a contracting attorney or law firm of an obligation or responsibility under other law, including under the Texas Disciplinary Rules of Professional Conduct.

(c) An officer, employee, or governing body of a state governmental entity or political subdivision, including the attorney general, may not waive the requirements of this subchapter or prejudice the interests of the state governmental entity or political subdivision under this subchapter. This subchapter does not waive the state's sovereign immunity or a political subdivision's governmental immunity from suit or the state's immunity from suit in federal court under the Eleventh Amendment to the federal constitution.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 3.03, eff. Sept. 1, 1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 857 (H.B. 2826), Sec. 7, eff. September 1, 2019.

Sec. 2254.110. VOID CONTRACT. A contract entered into or an arrangement made in violation of this subchapter is void as against

public policy, and no fees may be paid to any person under the contract or under any theory of recovery for work performed in connection with a void contract. A contract that is submitted to and approved by the attorney general under Section 2254.1038 cannot later be declared void under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 857 (H.B. 2826), Sec. 8, eff. September 1, 2019.

SUBCHAPTER D. OUTSIDE LEGAL SERVICES

Sec. 2254.151. DEFINITION. In this subchapter, "state agency" means a department, commission, board, authority, office, or other agency in the executive branch of state government created by the state constitution or a state statute.

Added by Acts 2003, 78th Leg., ch. 309, Sec. 7.18, eff. June 18, 2003.

Sec. 2254.152. APPLICABILITY. This subchapter does not apply to a contingent fee contract for legal services.

Added by Acts 2003, 78th Leg., ch. 309, Sec. 7.18, eff. June 18, 2003.

Sec. 2254.153. CONTRACTS FOR LEGAL SERVICES AUTHORIZED. Subject to Section 402.0212, a state agency may contract for outside legal services.

Added by Acts 2003, 78th Leg., ch. 309, Sec. 7.18, eff. June 18, 2003.

Sec. 2254.154. ATTORNEY GENERAL; COMPETITIVE PROCUREMENT. The attorney general may require state agencies to obtain outside legal services through a competitive procurement process, under conditions prescribed by the attorney general.

Added by Acts 2003, 78th Leg., ch. 309, Sec. 7.18, eff. June 18,

2003.

CHAPTER 2255. PRIVATE DONORS OR ORGANIZATIONS

Sec. 2255.001. RULES. (a) A state agency which is authorized by statute to accept money from a private donor or for which a private organization exists that is designed to further the purposes and duties of the agency shall adopt rules governing the relationship between:

(1) the donor or organization; and

(2) the agency and its employees.

(b) Rules adopted under this section shall govern all aspects of conduct of the agency and its employees in the relationship, including:

(1) administration and investment of funds received by the organization for the benefit of the agency;

(2) use of an employee or property of the agency by the donor or organization;

(3) service by an officer or employee of the agency as an officer or director of the donor or organization; and

(4) monetary enrichment of an officer or employee of the agency by the donor or organization.

(c) A rule adopted under this section may not conflict with or supersede a requirement of a statute regulating:

(1) the conduct of an employee of a state agency; or

(2) the procedures of a state agency.

(d) A newly created state agency shall adopt rules under this section as soon as possible after its creation.

(e) In this section, "state agency" means a department, commission, board, office, or other agency in the executive branch of state government created by the constitution or a statute of this state, including a university system or an institution of higher education as defined by Section 61.003, Education Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 2256. PUBLIC FUNDS INVESTMENT

SUBCHAPTER A. AUTHORIZED INVESTMENTS FOR GOVERNMENTAL ENTITIES

Sec. 2256.001. SHORT TITLE. This chapter may be cited as the

Public Funds Investment Act.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.002. DEFINITIONS. In this chapter:

(1) "Bond proceeds" means the proceeds from the sale of bonds, notes, and other obligations issued by an entity, and reserves and funds maintained by an entity for debt service purposes.

(2) "Book value" means the original acquisition cost of an investment plus or minus the accrued amortization or accretion.

(3) "Funds" means public funds in the custody of a state agency or local government that:

(A) are not required by law to be deposited in the state treasury; and

(B) the investing entity has authority to invest.

(4) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(5) "Investing entity" and "entity" mean an entity subject to this chapter and described by Section 2256.003.

(6) "Investment pool" means an entity created under this code to invest public funds jointly on behalf of the entities that participate in the pool and whose investment objectives in order of priority are:

(A) preservation and safety of principal;

(B) liquidity; and

(C) yield.

(7) "Local government" means a municipality, a county, a school district, a district or authority created under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, a fresh water supply district, a hospital district, and any political subdivision, authority, public corporation, body politic, or instrumentality of the State of Texas, and any nonprofit corporation acting on behalf of any of those entities.

(8) "Market value" means the current face or par value of an investment multiplied by the net selling price of the security as quoted by a recognized market pricing source quoted on the valuation date.

(9) "Pooled fund group" means an internally created fund of an investing entity in which one or more institutional accounts of

the investing entity are invested.

(10) "Qualified representative" means a person who holds a position with a business organization, who is authorized to act on behalf of the business organization, and who is one of the following:

(A) for a business organization doing business that is regulated by or registered with a securities commission, a person who is registered under the rules of the National Association of Securities Dealers;

(B) for a state or federal bank, a savings bank, or a state or federal credit union, a member of the loan committee for the bank or branch of the bank or a person authorized by corporate resolution to act on behalf of and bind the banking institution;

(C) for an investment pool, the person authorized by the elected official or board with authority to administer the activities of the investment pool to sign the written instrument on behalf of the investment pool; or

(D) for an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or, if not subject to registration under that Act, registered with the State Securities Board, a person who is an officer or principal of the investment management firm.

(11) "School district" means a public school district.

(12) "Separately invested asset" means an account or fund of a state agency or local government that is not invested in a pooled fund group.

(13) "State agency" means an office, department, commission, board, or other agency that is part of any branch of state government, an institution of higher education, and any nonprofit corporation acting on behalf of any of those entities.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 1, eff. Sept. 1, 1999.

Sec. 2256.003. AUTHORITY TO INVEST FUNDS; ENTITIES SUBJECT TO THIS CHAPTER. (a) Each governing body of the following entities may purchase, sell, and invest its funds and funds under its control in investments authorized under this subchapter in compliance with investment policies approved by the governing body and according to

the standard of care prescribed by Section 2256.006:

(1) a local government;

(2) a state agency;

(3) a nonprofit corporation acting on behalf of a local government or a state agency; or

(4) an investment pool acting on behalf of two or more local governments, state agencies, or a combination of those entities.

(b) In the exercise of its powers under Subsection (a), the governing body of an investing entity may contract with an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or with the State Securities Board to provide for the investment and management of its public funds or other funds under its control. A contract made under authority of this subsection may not be for a term longer than two years. A renewal or extension of the contract must be made by the governing body of the investing entity by order, ordinance, or resolution.

(c) This chapter does not prohibit an investing entity or investment officer from using the entity's employees or the services of a contractor of the entity to aid the investment officer in the execution of the officer's duties under this chapter.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1454, Sec. 2, eff. Sept. 1, 1999.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 21, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2256.004. APPLICABILITY. (a) This subchapter does not apply to:

(1) a public retirement system as defined by Section 802.001;

(2) state funds invested as authorized by Section 404.024;

(3) an institution of higher education having total endowments of at least $150 million in book value on September 1, 2017;

(4) funds invested by the Veterans' Land Board as authorized by Chapter 161, 162, or 164, Natural Resources Code;

(5) registry funds deposited with the county or district

clerk under Chapter 117, Local Government Code; or

(6) a deferred compensation plan that qualifies under either Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 1 et seq.), as amended.

(b) This subchapter does not apply to an investment donated to an investing entity for a particular purpose or under terms of use specified by the donor.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 505, Sec. 24, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.21, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1454, Sec. 3, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 1, eff. June 14, 2017.

Sec. 2256.005. INVESTMENT POLICIES; INVESTMENT STRATEGIES; INVESTMENT OFFICER. (a) The governing body of an investing entity shall adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds and funds under its control.

(b) The investment policies must:

(1) be written;

(2) primarily emphasize safety of principal and liquidity;

(3) address investment diversification, yield, and maturity and the quality and capability of investment management; and

(4) include:

(A) a list of the types of authorized investments in which the investing entity's funds may be invested;

(B) the maximum allowable stated maturity of any individual investment owned by the entity;

(C) for pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date for the portfolio;

(D) methods to monitor the market price of investments acquired with public funds;

(E) a requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus

payment basis; and

(F) procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Section 2256.021.

(c) The investment policies may provide that bids for certificates of deposit be solicited:

(1) orally;

(2) in writing;

(3) electronically; or

(4) in any combination of those methods.

(d) As an integral part of an investment policy, the governing body shall adopt a separate written investment strategy for each of the funds or group of funds under its control. Each investment strategy must describe the investment objectives for the particular fund using the following priorities in order of importance:

(1) understanding of the suitability of the investment to the financial requirements of the entity;

(2) preservation and safety of principal;

(3) liquidity;

(4) marketability of the investment if the need arises to liquidate the investment before maturity;

(5) diversification of the investment portfolio; and

(6) yield.

(e) The governing body of an investing entity shall review its investment policy and investment strategies not less than annually. The governing body shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies.

(f) Each investing entity shall designate, by rule, order, ordinance, or resolution, as appropriate, one or more officers or employees of the state agency, local government, or investment pool as investment officer to be responsible for the investment of its funds consistent with the investment policy adopted by the entity. If the governing body of an investing entity has contracted with another investing entity to invest its funds, the investment officer of the other investing entity is considered to be the investment officer of the first investing entity for purposes of this chapter. Authority granted to a person to invest an entity's funds is

effective until rescinded by the investing entity, until the expiration of the officer's term or the termination of the person's employment by the investing entity, or if an investment management firm, until the expiration of the contract with the investing entity. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs, but the governing body of the investing entity retains ultimate responsibility as fiduciaries of the assets of the entity. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the investing entity.

(g) Subsection (f) does not apply to a state agency, local government, or investment pool for which an officer of the entity is assigned by law the function of investing its funds.

Text of subsec. (h) as amended by Acts 1997, 75th Leg., ch. 685, Sec. 1

(h) An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be an investment officer for the commission under Subsection (f) if the officer or employee is an investment officer designated under Subsection (f) for another local government.

Text of subsec. (h) as amended by Acts 1997, 75th Leg., ch. 1421, Sec. 3

(h) An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be designated as an investment officer under Subsection (f) for any investing entity other than for that commission.

(i) An investment officer of an entity who has a personal business relationship with a business organization offering to engage in an investment transaction with the entity shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity, as determined under Chapter 573, to an individual seeking to sell an investment to the investment officer's entity shall file a statement disclosing that relationship. A statement required under this subsection must be filed with the Texas Ethics Commission and the governing body of the entity. For purposes of this subsection, an investment officer has a personal business relationship with a

business organization if:

(1) the investment officer owns 10 percent or more of the voting stock or shares of the business organization or owns $5,000 or more of the fair market value of the business organization;

(2) funds received by the investment officer from the business organization exceed 10 percent of the investment officer's gross income for the previous year; or

(3) the investment officer has acquired from the business organization during the previous year investments with a book value of $2,500 or more for the personal account of the investment officer.

(j) The governing body of an investing entity may specify in its investment policy that any investment authorized by this chapter is not suitable.

(k) A written copy of the investment policy shall be presented to any business organization offering to engage in an investment transaction with an investing entity. For purposes of this subsection and Subsection (l), "business organization" means an investment pool or investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio that has accepted authority granted by the entity under the contract to exercise investment discretion in regard to the investing entity's funds. Nothing in this subsection relieves the investing entity of the responsibility for monitoring the investments made by the investing entity to determine that they are in compliance with the investment policy. The qualified representative of the business organization offering to engage in an investment transaction with an investing entity shall execute a written instrument in a form acceptable to the investing entity and the business organization substantially to the effect that the business organization has:

(1) received and reviewed the investment policy of the entity; and

(2) acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the entity and the organization that are not authorized by the entity's investment policy, except to the extent that this authorization:

(A) is dependent on an analysis of the makeup of the entity's entire portfolio;

(B) requires an interpretation of subjective investment standards; or

(C) relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

(l) The investment officer of an entity may not acquire or otherwise obtain any authorized investment described in the investment policy of the investing entity from a business organization that has not delivered to the entity the instrument required by Subsection (k).

(m) An investing entity other than a state agency, in conjunction with its annual financial audit, shall perform a compliance audit of management controls on investments and adherence to the entity's established investment policies.

(n) Except as provided by Subsection (o), at least once every two years a state agency shall arrange for a compliance audit of management controls on investments and adherence to the agency's established investment policies. The compliance audit shall be performed by the agency's internal auditor or by a private auditor employed in the manner provided by Section 321.020. Not later than January 1 of each even-numbered year a state agency shall report the results of the most recent audit performed under this subsection to the state auditor. Subject to a risk assessment and to the legislative audit committee's approval of including a review by the state auditor in the audit plan under Section 321.013, the state auditor may review information provided under this section. If review by the state auditor is approved by the legislative audit committee, the state auditor may, based on its review, require a state agency to also report to the state auditor other information the state auditor determines necessary to assess compliance with laws and policies applicable to state agency investments. A report under this subsection shall be prepared in a manner the state auditor prescribes.

(o) The audit requirements of Subsection (n) do not apply to assets of a state agency that are invested by the comptroller under Section 404.024.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 685, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 4, eff. Sept. 1, 1999; Acts 2003, 78th

Leg., ch. 785, Sec. 41, eff. Sept. 1, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 1, eff. June 17, 2011.
Acts 2017, 85th Leg., R.S., Ch. 149 (H.B. 1701), Sec. 1, eff. September 1, 2017.

Sec. 2256.006. STANDARD OF CARE. (a) Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. Investment of funds shall be governed by the following investment objectives, in order of priority:

(1) preservation and safety of principal;

(2) liquidity; and

(3) yield.

(b) In determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

(1) the investment of all funds, or funds under the entity's control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and

(2) whether the investment decision was consistent with the written investment policy of the entity.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.007. INVESTMENT TRAINING; STATE AGENCY BOARD MEMBERS AND OFFICERS. (a) Each member of the governing board of a state agency and its investment officer shall attend at least one training session relating to the person's responsibilities under this chapter within six months after taking office or assuming duties.

(b) The Texas Higher Education Coordinating Board shall provide the training under this section.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this

chapter.

(d) An investment officer shall attend a training session not less than once each state fiscal biennium and may receive training from any independent source approved by the governing body of the state agency. The investment officer shall prepare a report on this subchapter and deliver the report to the governing body of the state agency not later than the 180th day after the last day of each regular session of the legislature.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 73, Sec. 1, eff. May 9, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 2, eff. June 17, 2011.

Sec. 2256.008. INVESTMENT TRAINING; LOCAL GOVERNMENTS. (a) Except as provided by Subsections (a-1), (b), (b-1), (e), and (f), the treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government shall:

(1) attend at least one training session from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government and containing at least 10 hours of instruction relating to the treasurer's or officer's responsibilities under this subchapter within 12 months after taking office or assuming duties; and

(2) attend an investment training session not less than once in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than 10 hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.

(a-1) Except as provided by Subsection (g), the treasurer, or the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a school district or a municipality, in addition to the requirements of Subsection (a)(1), shall attend an investment training session not less than once in a two-year period that begins on the first day of the school district's or municipality's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than eight hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the school district or municipality, or by a designated investment committee advising the investment officer as provided for in the investment policy of the school district or municipality.

(b) An investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, that has contracted with an investment management firm under Section 2256.003(b) and has fewer than five full-time employees or an investing entity that has contracted with another investing entity to invest the entity's funds may satisfy the training requirement provided by Subsection (a)(2) by having an officer of the governing body attend four hours of appropriate instruction in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date. The treasurer or chief financial officer of an investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, and that has fewer than five full-time employees is not required to attend training required by this section unless the person is also the investment officer of the entity.

(b-1) A housing authority created under Chapter 392, Local Government Code, may satisfy the training requirement provided by Subsection (a)(2) by requiring the following person to attend, in each two-year period that begins on the first day of that housing authority's fiscal year and consists of the two consecutive fiscal years after that date, at least five hours of appropriate instruction:

(1) the treasurer, or the chief financial officer if the treasurer is not the chief financial officer, or the investment officer; or

(2) if the authority does not have an officer described by

Subdivision (1), another officer of the authority.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

(d) Not later than December 31 each year, each individual, association, business, organization, governmental entity, or other person that provides training under this section shall report to the comptroller a list of the governmental entities for which the person provided required training under this section during that calendar year. An individual's reporting requirements under this subsection are satisfied by a report of the individual's employer or the sponsoring or organizing entity of a training program or seminar.

(e) This section does not apply to a district governed by Chapter 36 or 49, Water Code.

(f) Subsection (a)(2) does not apply to an officer of a municipality or housing authority if the municipality or housing authority:

(1) does not invest municipal or housing authority funds, as applicable; or

(2) only deposits those funds in:

(A) interest-bearing deposit accounts; or

(B) certificates of deposit as authorized by Section 2256.010.

(g) Subsection (a-1) does not apply to the treasurer, chief financial officer, or investment officer of a school district if:

(1) the district:

(A) does not invest district funds; or

(B) only deposits those funds in:

(i) interest-bearing deposit accounts; or

(ii) certificates of deposit as authorized by Section 2256.010; and

(2) the treasurer, chief financial officer, or investment officer annually submits to the agency a sworn affidavit identifying the applicable criteria under Subdivision (1) that apply to the district.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 6, eff. Sept. 1, 1999; Acts 2001,

77th Leg., ch. 69, Sec. 4, eff. May 14, 2001.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 3, eff. June 17, 2011.
Acts 2015, 84th Leg., R.S., Ch. 222 (H.B. 1148), Sec. 1, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1248 (H.B. 870), Sec. 1, eff. September 1, 2015.
Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 8.015, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 1000 (H.B. 1238), Sec. 1, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 1000 (H.B. 1238), Sec. 2, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 477 (H.B. 293), Sec. 1, eff. June 7, 2019.

Sec. 2256.009. AUTHORIZED INVESTMENTS: OBLIGATIONS OF, OR GUARANTEED BY GOVERNMENTAL ENTITIES. (a) Except as provided by Subsection (b), the following are authorized investments under this subchapter:

(1) obligations, including letters of credit, of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks;

(2) direct obligations of this state or its agencies and instrumentalities;

(3) collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;

(4) other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States;

(5) obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment

quality by a nationally recognized investment rating firm not less than A or its equivalent;

(6) bonds issued, assumed, or guaranteed by the State of Israel;

(7) interest-bearing banking deposits that are guaranteed or insured by:

(A) the Federal Deposit Insurance Corporation or its successor; or

(B) the National Credit Union Share Insurance Fund or its successor; and

(8) interest-bearing banking deposits other than those described by Subdivision (7) if:

(A) the funds invested in the banking deposits are invested through:

(i) a broker with a main office or branch office in this state that the investing entity selects from a list the governing body or designated investment committee of the entity adopts as required by Section 2256.025; or

(ii) a depository institution with a main office or branch office in this state that the investing entity selects;

(B) the broker or depository institution selected as described by Paragraph (A) arranges for the deposit of the funds in the banking deposits in one or more federally insured depository institutions, regardless of where located, for the investing entity's account;

(C) the full amount of the principal and accrued interest of the banking deposits is insured by the United States or an instrumentality of the United States; and

(D) the investing entity appoints as the entity's custodian of the banking deposits issued for the entity's account:

(i) the depository institution selected as described by Paragraph (A);

(ii) an entity described by Section 2257.041(d); or

(iii) a clearing broker dealer registered with the Securities and Exchange Commission and operating under Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3).

(b) The following are not authorized investments under this section:

(1) obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying

mortgage-backed security collateral and pays no principal;

(2) obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;

(3) collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and

(4) collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1454, Sec. 7, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 558, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 4, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 2, eff. June 14, 2017.

Acts 2017, 85th Leg., R.S., Ch. 863 (H.B. 2647), Sec. 1, eff. June 15, 2017.

Acts 2017, 85th Leg., R.S., Ch. 874 (H.B. 2928), Sec. 1, eff. September 1, 2017.

Sec. 2256.010. AUTHORIZED INVESTMENTS: CERTIFICATES OF DEPOSIT AND SHARE CERTIFICATES. (a) A certificate of deposit or share certificate is an authorized investment under this subchapter if the certificate is issued by a depository institution that has its main office or a branch office in this state and is:

(1) guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor;

(2) secured by obligations that are described by Section 2256.009(a), including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities of the nature described by Section 2256.009(b); or

(3) secured in accordance with Chapter 2257 or in any other manner and amount provided by law for deposits of the investing

entity.

(b) In addition to the authority to invest funds in certificates of deposit under Subsection (a), an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this subchapter:

(1) the funds are invested by an investing entity through:

(A) a broker that has its main office or a branch office in this state and is selected from a list adopted by the investing entity as required by Section 2256.025; or

(B) a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;

(2) the broker or the depository institution selected by the investing entity under Subdivision (1) arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;

(3) the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and

(4) the investing entity appoints the depository institution selected by the investing entity under Subdivision (1), an entity described by Section 2257.041(d), or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3) as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity.

Amended by Acts 1995, 74th Leg., ch. 32, Sec. 1, eff. April 28, 1995; Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 128 (H.B. 256), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 5, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 874 (H.B. 2928), Sec. 2, eff. September 1, 2017.

Sec. 2256.011. AUTHORIZED INVESTMENTS: REPURCHASE AGREEMENTS. (a) A fully collateralized repurchase agreement is an authorized investment under this subchapter if the repurchase agreement:

(1) has a defined termination date;

(2) is secured by a combination of cash and obligations described by Section 2256.009(a)(1) or 2256.013 or, if applicable, Section 2256.0204;

(3) requires the securities being purchased by the entity or cash held by the entity to be pledged to the entity either directly or through a joint account approved by the entity, held in the entity's name either directly or through a joint account approved by the entity, and deposited at the time the investment is made with the entity or with a third party selected and approved by the entity; and

(4) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state.

(a-1) A repurchase agreement made by an investing entity under this section may be submitted for clearing and settlement to a covered clearing agency, as defined by the Securities and Exchange Commission in Rule 17Ad-22 (17 C.F.R. Section 240.17Ad-22).

(b) In this section:

(1) "Joint account" means an account maintained by a custodian bank and established on behalf of two or more parties to engage in aggregate repurchase agreement transactions.

(2) "Repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations described by Section 2256.009(a)(1) or 2256.013 or, if applicable, Section 2256.0204, at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement.

(c) Notwithstanding any other law, the term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered.

(d) Money received by an entity under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

(e) Section 1371.059(c) applies to the execution of a repurchase agreement by an investing entity.

(f) An investing entity that contracts with an investment management firm under Section 2256.003(b) may authorize the firm to invest the entity's public funds or other funds under the entity's control in repurchase agreements as provided by this section using a joint account.

(g) An investment management firm responsible for managing a repurchase agreement transaction using a joint account on behalf of an investing entity as authorized under Subsection (f) must ensure that:

(1) accounting and control procedures are implemented to document the investing entity's aggregate daily investment and pro rata share in the joint account;

(2) each party participating in the joint account retains the sole rights of ownership to the party's pro rata share of assets invested in the joint account, including investment earnings on those assets; and

(3) policies and procedures are implemented to prevent a party participating in the joint account from using any part of a balance of the joint account that is credited to another party.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 6, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 3, eff. June 14, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1133 (H.B. 2706), Sec. 1, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 1093 (S.B. 1246), Sec. 7, eff. June 18, 2023.

Sec. 2256.0115. AUTHORIZED INVESTMENTS: SECURITIES LENDING PROGRAM. (a) A securities lending program is an authorized investment under this subchapter if it meets the conditions provided by this section.

(b) To qualify as an authorized investment under this subchapter:

(1) the value of securities loaned under the program must be not less than 100 percent collateralized, including accrued income;

(2) a loan made under the program must allow for termination at any time;

(3) a loan made under the program must be secured by:

(A) pledged securities described by Section 2256.009;

(B) pledged irrevocable letters of credit issued by a bank that is:

(i) organized and existing under the laws of the United States or any other state; and

(ii) continuously rated by at least one nationally recognized investment rating firm at not less than A or its equivalent; or

(C) cash invested in accordance with Section:

(i) 2256.009;

(ii) 2256.013;

(iii) 2256.014; or

(iv) 2256.016;

(4) the terms of a loan made under the program must require that the securities being held as collateral be:

(A) pledged to the investing entity;

(B) held in the investing entity's name; and

(C) deposited at the time the investment is made with the entity or with a third party selected by or approved by the investing entity;

(5) a loan made under the program must be placed through:

(A) a primary government securities dealer, as defined by 5 C.F.R. Section 6801.102(f), as that regulation existed on September 1, 2003; or

(B) a financial institution doing business in this state; and

(6) an agreement to lend securities that is executed under this section must have a term of one year or less.

Added by Acts 2003, 78th Leg., ch. 1227, Sec. 1, eff. Sept. 1, 2003.

Sec. 2256.012. AUTHORIZED INVESTMENTS: BANKER'S ACCEPTANCES. A bankers' acceptance is an authorized investment under this

subchapter if the bankers' acceptance:

(1) has a stated maturity of 270 days or fewer from the date of its issuance;

(2) will be, in accordance with its terms, liquidated in full at maturity;

(3) is eligible for collateral for borrowing from a Federal Reserve Bank; and

(4) is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1 or P-1 or an equivalent rating by at least one nationally recognized credit rating agency.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.013. AUTHORIZED INVESTMENTS: COMMERCIAL PAPER. Commercial paper is an authorized investment under this subchapter if the commercial paper:

(1) has a stated maturity of 365 days or fewer from the date of its issuance; and

(2) is rated not less than A-1 or P-1 or an equivalent rating by at least:

(A) two nationally recognized credit rating agencies; or

(B) one nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1133 (H.B. 2706), Sec. 2, eff. September 1, 2019.

Sec. 2256.014. AUTHORIZED INVESTMENTS: MUTUAL FUNDS. (a) A no-load money market mutual fund is an authorized investment under this subchapter if the mutual fund:

(1) is registered with and regulated by the Securities and

Exchange Commission;

(2) provides the investing entity with a prospectus and other information required by the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.); and

(3) complies with federal Securities and Exchange Commission Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.).

(b) In addition to a no-load money market mutual fund permitted as an authorized investment in Subsection (a), a no-load mutual fund is an authorized investment under this subchapter if the mutual fund:

(1) is registered with the Securities and Exchange Commission;

(2) has an average weighted maturity of less than two years; and

(3) either:

(A) has a duration of one year or more and is invested exclusively in obligations approved by this subchapter; or

(B) has a duration of less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

(c) An entity is not authorized by this section to:

(1) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in mutual funds described in Subsection (b);

(2) invest any portion of bond proceeds, reserves and funds held for debt service, in mutual funds described in Subsection (b); or

(3) invest its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described in Subsection (a) or (b) in an amount that exceeds 10 percent of the total assets of the mutual fund.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 7, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 8, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 4, eff. June 14, 2017.

Sec. 2256.015. AUTHORIZED INVESTMENTS: GUARANTEED INVESTMENT CONTRACTS. (a) A guaranteed investment contract is an authorized investment for bond proceeds under this subchapter if the guaranteed investment contract:

(1) has a defined termination date;

(2) is secured by obligations described by Section 2256.009(a)(1), excluding those obligations described by Section 2256.009(b), in an amount at least equal to the amount of bond proceeds invested under the contract; and

(3) is pledged to the entity and deposited with the entity or with a third party selected and approved by the entity.

(b) Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested under this subchapter in a guaranteed investment contract with a term of longer than five years from the date of issuance of the bonds.

(c) To be eligible as an authorized investment:

(1) the governing body of the entity must specifically authorize guaranteed investment contracts as an eligible investment in the order, ordinance, or resolution authorizing the issuance of bonds;

(2) the entity must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received;

(3) the entity must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received;

(4) the price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested; and

(5) the provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

(d) Section 1371.059(c) applies to the execution of a guaranteed investment contract by an investing entity.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 8, eff. Sept. 1, 1997; Acts

1999, 76th Leg., ch. 1454, Sec. 9, 10, eff. Sept. 1, 1999.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 5, eff. June 14, 2017.

Sec. 2256.016. AUTHORIZED INVESTMENTS: INVESTMENT POOLS. (a) An entity may invest its funds and funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in the particular pool. An investment pool shall invest the funds it receives from entities in authorized investments permitted by this subchapter. An investment pool may invest its funds in money market mutual funds to the extent permitted by and consistent with this subchapter and the investment policies and objectives adopted by the investment pool.

(b) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity an offering circular or other similar disclosure instrument that contains, at a minimum, the following information:

(1) the types of investments in which money is allowed to be invested;

(2) the maximum average dollar-weighted maturity allowed, based on the stated maturity date, of the pool;

(3) the maximum stated maturity date any investment security within the portfolio has;

(4) the objectives of the pool;

(5) the size of the pool;

(6) the names of the members of the advisory board of the pool and the dates their terms expire;

(7) the custodian bank that will safekeep the pool's assets;

(8) whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation;

(9) whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment;

(10) the name and address of the independent auditor of the

pool;

(11) the requirements to be satisfied for an entity to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for the entity to invest funds in and withdraw funds from the pool;

(12) the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios; and

(13) the pool's policy regarding holding deposits in cash.

(c) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity:

(1) investment transaction confirmations; and

(2) a monthly report that contains, at a minimum, the following information:

(A) the types and percentage breakdown of securities in which the pool is invested;

(B) the current average dollar-weighted maturity, based on the stated maturity date, of the pool;

(C) the current percentage of the pool's portfolio in investments that have stated maturities of more than one year;

(D) the book value versus the market value of the pool's portfolio, using amortized cost valuation;

(E) the size of the pool;

(F) the number of participants in the pool;

(G) the custodian bank that is safekeeping the assets of the pool;

(H) a listing of daily transaction activity of the entity participating in the pool;

(I) the yield and expense ratio of the pool, including a statement regarding how yield is calculated;

(J) the portfolio managers of the pool; and

(K) any changes or addenda to the offering circular.

(d) An entity by contract may delegate to an investment pool the authority to hold legal title as custodian of investments purchased with its local funds.

(e) In this section, for purposes of an investment pool for which a $1.00 net asset value is maintained, "yield" shall be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment

Company Act of 1940, as promulgated from time to time by the federal Securities and Exchange Commission.

(f) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter:

(1) a public funds investment pool that uses amortized cost or fair value accounting must mark its portfolio to market daily; and

(2) if the investment pool uses amortized cost:

(A) the investment pool must, to the extent reasonably possible, stabilize at a $1.00 net asset value, when rounded and expressed to two decimal places;

(B) the governing body of the investment pool must, if the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.995 or greater than 1.005, take action as the body determines necessary to eliminate or reduce to the extent reasonably practicable any dilution or unfair result to existing participants, including a sale of portfolio holdings to attempt to maintain the ratio between 0.995 and 1.005; and

(C) the investment pool must, in addition to the requirements of its investment policy and any other forms of reporting, report yield to its investors in accordance with regulations of the federal Securities and Exchange Commission applicable to reporting by money market funds.

(g) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool must have an advisory board composed:

(1) equally of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for a public funds investment pool created under Chapter 791 and managed by a state agency; or

(2) of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for other investment pools.

(h) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

(i) If the investment pool operates an Internet website, the information in a disclosure instrument or report described in Subsections (b), (c)(2), and (f) must be posted on the website.

(j) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must make available to the entity an annual audited financial statement of the investment pool in which the entity has funds invested.

(k) If an investment pool offers fee breakpoints based on fund balances invested, the investment pool in advertising investment rates must include either all levels of return based on the breakpoints provided or state the lowest possible level of return based on the smallest level of funds invested.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 9, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 7, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 6, eff. June 14, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1133 (H.B. 2706), Sec. 3, eff. September 1, 2019.

Sec. 2256.017. EXISTING INVESTMENTS. Except as provided by Chapter 2270, an entity is not required to liquidate investments that were authorized investments at the time of purchase.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.46(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 10, eff. Sept. 1, 1997.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 2, eff. May 23, 2017.

Sec. 2256.019. RATING OF CERTAIN INVESTMENT POOLS. A public funds investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 11, eff. Sept. 1, 1997.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 8, eff. June 17, 2011.

Sec. 2256.020. AUTHORIZED INVESTMENTS: INSTITUTIONS OF HIGHER EDUCATION. In addition to the authorized investments permitted by this subchapter, an institution of higher education may purchase, sell, and invest its funds and funds under its control in the following:

(1) cash management and fixed income funds sponsored by organizations exempt from federal income taxation under Section 501(f), Internal Revenue Code of 1986 (26 U.S.C. Section 501(f));

(2) negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency; and

(3) corporate bonds, debentures, or similar debt obligations rated by a nationally recognized investment rating firm in one of the two highest long-term rating categories, without regard to gradations within those categories.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.0201. AUTHORIZED INVESTMENTS; MUNICIPAL UTILITY. (a) A municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric energy or natural gas to the public may enter into a hedging contract and related security and insurance agreements in relation to fuel oil, natural gas, coal, nuclear fuel, and electric energy to protect against loss due to price fluctuations. A hedging transaction must comply with the regulations of the Commodity Futures Trading Commission and the Securities and Exchange Commission. If there is a conflict between the municipal charter of the municipality and this chapter, this chapter prevails.

(b) A payment by a municipally owned electric or gas utility under a hedging contract or related agreement in relation to fuel supplies or fuel reserves is a fuel expense, and the utility may credit any amounts it receives under the contract or agreement against fuel expenses.

(c) The governing body of a municipally owned electric or gas utility or the body vested with power to manage and operate the municipally owned electric or gas utility may set policy regarding hedging transactions.

(d) In this section, "hedging" means the buying and selling of fuel oil, natural gas, coal, nuclear fuel, and electric energy futures or options or similar contracts on those commodities and related transportation costs as a protection against loss due to price fluctuation.

Added by Acts 1999, 76th Leg., ch. 405, Sec. 48, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 7 (S.B. 495), Sec. 1, eff. April 13, 2007.

Sec. 2256.0202. AUTHORIZED INVESTMENTS: MUNICIPAL FUNDS FROM MANAGEMENT AND DEVELOPMENT OF MINERAL RIGHTS. (a) In addition to other investments authorized under this subchapter, a municipality may invest funds received by the municipality from a lease or contract for the management and development of land owned by the municipality and leased for oil, gas, or other mineral development in any investment authorized to be made by a trustee under Subtitle B, Title 9, Property Code (Texas Trust Code).

(b) Funds invested by a municipality under this section shall be segregated and accounted for separately from other funds of the municipality.

Added by Acts 2009, 81st Leg., R.S., Ch. 1371 (S.B. 894), Sec. 1, eff. September 1, 2009.

Sec. 2256.0203. AUTHORIZED INVESTMENTS: PORTS AND NAVIGATION DISTRICTS. (a) In this section, "district" means a navigation district organized under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) In addition to the authorized investments permitted by this subchapter, a port or district may purchase, sell, and invest its funds and funds under its control in negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency.

Added by Acts 2011, 82nd Leg., R.S., Ch. 804 (H.B. 2346), Sec. 1, eff. September 1, 2011.

Sec. 2256.0204. AUTHORIZED INVESTMENTS: INDEPENDENT SCHOOL DISTRICTS. (a) In this section, "corporate bond" means a senior secured debt obligation issued by a domestic business entity and rated not lower than "AA-" or the equivalent by a nationally recognized investment rating firm. The term does not include a debt obligation that:

(1) on conversion, would result in the holder becoming a stockholder or shareholder in the entity, or any affiliate or subsidiary of the entity, that issued the debt obligation; or

(2) is an unsecured debt obligation.

(b) This section applies only to an independent school district that qualifies as an issuer as defined by Section 1371.001.

(c) In addition to authorized investments permitted by this subchapter, an independent school district subject to this section may purchase, sell, and invest its funds and funds under its control in corporate bonds that, at the time of purchase, are rated by a nationally recognized investment rating firm "AA-" or the equivalent and have a stated final maturity that is not later than the third anniversary of the date the corporate bonds were purchased.

(d) An independent school district subject to this section is not authorized by this section to:

(1) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds, reserves, and other funds held for the payment of debt service, in corporate bonds; or

(2) invest more than 25 percent of the funds invested in corporate bonds in any one domestic business entity, including

subsidiaries and affiliates of the entity.

(e) An independent school district subject to this section may purchase, sell, and invest its funds and funds under its control in corporate bonds if the governing body of the district:

(1) amends its investment policy to authorize corporate bonds as an eligible investment;

(2) adopts procedures to provide for:

(A) monitoring rating changes in corporate bonds acquired with public funds; and

(B) liquidating the investment in corporate bonds; and

(3) identifies the funds eligible to be invested in corporate bonds.

(f) The investment officer of an independent school district, acting on behalf of the district, shall sell corporate bonds in which the district has invested its funds not later than the seventh day after the date a nationally recognized investment rating firm:

(1) issues a release that places the corporate bonds or the domestic business entity that issued the corporate bonds on negative credit watch or the equivalent, if the corporate bonds are rated "AA-" or the equivalent at the time the release is issued; or

(2) changes the rating on the corporate bonds to a rating lower than "AA-" or the equivalent.

(g) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1133 (H.B. 2706), Sec. 5, eff. September 1, 2019.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1347 (S.B. 1543), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1133 (H.B. 2706), Sec. 5, eff. September 1, 2019.

Sec. 2256.0205. AUTHORIZED INVESTMENTS; DECOMMISSIONING TRUST. (a) In this section:

(1) "Decommissioning trust" means a trust created to provide the Nuclear Regulatory Commission assurance that funds will be available for decommissioning purposes as required under 10 C.F.R. Part 50 or other similar regulation.

(2) "Funds" includes any money held in a decommissioning trust regardless of whether the money is considered to be public

funds under this subchapter.

(b) In addition to other investments authorized under this subchapter, a municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric energy or natural gas to the public may invest funds held in a decommissioning trust in any investment authorized by Subtitle B, Title 9, Property Code.

Added by Acts 2005, 79th Leg., Ch. 121 (S.B. 1464), Sec. 1, eff. September 1, 2005.

Sec. 2256.0206. AUTHORIZED INVESTMENTS: HEDGING TRANSACTIONS. (a) In this section:

(1) "Eligible entity" means a political subdivision that has:

(A) a principal amount of at least $250 million in:

(i) outstanding long-term indebtedness;

(ii) long-term indebtedness proposed to be issued; or

(iii) a combination of outstanding long-term indebtedness and long-term indebtedness proposed to be issued; and

(B) outstanding long-term indebtedness that is rated in one of the four highest rating categories for long-term debt instruments by a nationally recognized rating agency for municipal securities, without regard to the effect of any credit agreement or other form of credit enhancement entered into in connection with the obligation.

(2) "Eligible project" has the meaning assigned by Section 1371.001.

(3) "Hedging" means acting to protect against economic loss due to price fluctuation of a commodity or related investment by entering into an offsetting position or using a financial agreement or producer price agreement in a correlated security, index, or other commodity.

(b) This section prevails to the extent of any conflict between this section and:

(1) another law; or

(2) an eligible entity's municipal charter, if applicable.

(c) The governing body of an eligible entity shall establish

the entity's policy regarding hedging transactions.

(d) An eligible entity may enter into hedging transactions, including hedging contracts, and related security, credit, and insurance agreements in connection with commodities used by an eligible entity in the entity's general operations, with the acquisition or construction of a capital project, or with an eligible project. A hedging transaction must comply with the regulations of the federal Commodity Futures Trading Commission and the federal Securities and Exchange Commission.

(e) An eligible entity may pledge as security for and to the payment of a hedging contract or a security, credit, or insurance agreement any general or special revenues or funds the entity is authorized by law to pledge to the payment of any other obligation.

(f) Section 1371.059(c) applies to the execution by an eligible entity of a hedging contract and any related security, credit, or insurance agreement.

(g) An eligible entity may credit any amount the entity receives under a hedging contract against expenses associated with a commodity purchase.

(h) An eligible entity's cost of or payment under a hedging contract or agreement may be considered:

(1) an operation and maintenance expense of the eligible entity;

(2) an acquisition expense of the eligible entity;

(3) a project cost of an eligible project; or

(4) a construction expense of the eligible entity.

Added by Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 7, eff. June 14, 2017.

Sec. 2256.0207. AUTHORIZED INVESTMENTS: PUBLIC JUNIOR COLLEGE DISTRICT FUNDS FROM MANAGEMENT AND DEVELOPMENT OF MINERAL RIGHTS. (a) In addition to other investments authorized under this subchapter, the governing board of a public junior college district may invest funds received by the district from a lease or contract for the management and development of land owned by the district and leased for oil, gas, or other mineral development in any investment authorized to be made by a trustee under Subtitle B, Title 9, Property Code (Texas Trust Code).

(b) Funds invested by the governing board of a public junior college district under this section shall be segregated and accounted for separately from other funds of the district.

Added by Acts 2017, 85th Leg., R.S., Ch. 344 (H.B. 1472), Sec. 1, eff. September 1, 2017.
Redesignated from Government Code, Section 2256.0206 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(34), eff. September 1, 2019.

Sec. 2256.0208. LOCAL GOVERNMENT INVESTMENT OF BOND PROCEEDS AND PLEDGED REVENUE. (a) In this section, "pledged revenue" means money pledged to the payment of or as security for:

(1) bonds or other indebtedness issued by a local government;

(2) obligations under a lease, installment sale, or other agreement of a local government; or

(3) certificates of participation in a debt or obligation described by Subdivision (1) or (2).

(b) The investment officer of a local government may invest bond proceeds or pledged revenue only to the extent permitted by this chapter, in accordance with:

(1) statutory provisions governing the debt issuance or the agreement, as applicable; and

(2) the local government's investment policy regarding the debt issuance or the agreement, as applicable.

Added by Acts 2019, 86th Leg., R.S., Ch. 1133 (H.B. 2706), Sec. 4, eff. September 1, 2019.

Sec. 2256.021. EFFECT OF LOSS OF REQUIRED RATING. An investment that requires a minimum rating under this subchapter does not qualify as an authorized investment during the period the investment does not have the minimum rating. An entity shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.022. EXPANSION OF INVESTMENT AUTHORITY. Expansion of investment authority granted by this chapter shall require a risk assessment by the state auditor or performed at the direction of the state auditor, subject to the legislative audit committee's approval of including the review in the audit plan under Section 321.013.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 42, eff. Sept. 1, 2003.

Sec. 2256.023. INTERNAL MANAGEMENT REPORTS. (a) Not less than quarterly, the investment officer shall prepare and submit to the governing body of the entity a written report of investment transactions for all funds covered by this chapter for the preceding reporting period.

(b) The report must:

(1) describe in detail the investment position of the entity on the date of the report;

(2) be prepared jointly by all investment officers of the entity;

(3) be signed by each investment officer of the entity;

(4) contain a summary statement of each pooled fund group that states the:

(A) beginning market value for the reporting period;

(B) ending market value for the period; and

(C) fully accrued interest for the reporting period;

(5) state the book value and market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested;

(6) state the maturity date of each separately invested asset that has a maturity date;

(7) state the account or fund or pooled group fund in the state agency or local government for which each individual investment was acquired; and

(8) state the compliance of the investment portfolio of the state agency or local government as it relates to:

(A) the investment strategy expressed in the agency's or local government's investment policy; and

(B) relevant provisions of this chapter.

(c) The report shall be presented not less than quarterly to the governing body and the chief executive officer of the entity within a reasonable time after the end of the period.

(d) If an entity invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the investment officers under this section shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the governing body by that auditor.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 12, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 9, eff. June 17, 2011.

Sec. 2256.024. SUBCHAPTER CUMULATIVE. (a) The authority granted by this subchapter is in addition to that granted by other law. Except as provided by Subsection (b) and Section 2256.017, this subchapter does not:

(1) prohibit an investment specifically authorized by other law; or

(2) authorize an investment specifically prohibited by other law.

(b) Except with respect to those investing entities described in Subsection (c), a security described in Section 2256.009(b) is not an authorized investment for a state agency, a local government, or another investing entity, notwithstanding any other provision of this chapter or other law to the contrary.

(c) Mortgage pass-through certificates and individual mortgage loans that may constitute an investment described in Section 2256.009(b) are authorized investments with respect to the housing bond programs operated by:

(1) the Texas Department of Housing and Community Affairs or a nonprofit corporation created to act on its behalf;

(2) an entity created under Chapter 392, Local Government Code; or

(3) an entity created under Chapter 394, Local Government Code.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 3, eff. May 23, 2017.

Sec. 2256.025. SELECTION OF AUTHORIZED BROKERS. The governing body of an entity subject to this subchapter or the designated investment committee of the entity shall, at least annually, review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with the entity.

Added by Acts 1997, 75th Leg., ch. 1421, Sec. 13, eff. Sept. 1, 1997.

Sec. 2256.026. STATUTORY COMPLIANCE. All investments made by entities must comply with this subchapter and all federal, state, and local statutes, rules, or regulations.

Added by Acts 1997, 75th Leg., ch. 1421, Sec. 13, eff. Sept. 1, 1997.

SUBCHAPTER B. MISCELLANEOUS PROVISIONS

Sec. 2256.051. ELECTRONIC FUNDS TRANSFER. Any local government may use electronic means to transfer or invest all funds collected or controlled by the local government.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.052. PRIVATE AUDITOR. Notwithstanding any other law, a state agency shall employ a private auditor if authorized by the legislative audit committee either on the committee's initiative or on request of the governing body of the agency.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.053. PAYMENT FOR SECURITIES PURCHASED BY STATE. The comptroller or the disbursing officer of an agency that has the power to invest assets directly may pay for authorized securities purchased from or through a member in good standing of the National Association of Securities Dealers or from or through a national or state bank on receiving an invoice from the seller of the securities showing that the securities have been purchased by the board or agency and that the amount to be paid for the securities is just, due, and unpaid. A purchase of securities may not be made at a price that exceeds the existing market value of the securities.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.67, eff. Sept. 1, 1997.

Sec. 2256.054. DELIVERY OF SECURITIES PURCHASED BY STATE. A security purchased under this chapter may be delivered to the comptroller, a bank, or the board or agency investing its funds. The delivery shall be made under normal and recognized practices in the securities and banking industries, including the book entry procedure of the Federal Reserve Bank.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.68, eff. Sept. 1, 1997.

Sec. 2256.055. DEPOSIT OF SECURITIES PURCHASED BY STATE. At the direction of the comptroller or the agency, a security purchased under this chapter may be deposited in trust with a bank or federal reserve bank or branch designated by the comptroller, whether in or outside the state. The deposit shall be held in the entity's name as evidenced by a trust receipt of the bank with which the securities are deposited.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.69, eff. Sept. 1, 1997.

CHAPTER 2257. COLLATERAL FOR PUBLIC FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2257.001. SHORT TITLE. This chapter may be cited as the

Public Funds Collateral Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.002. DEFINITIONS. In this chapter:

(1) "Bank holding company" has the meaning assigned by Section 31.002(a), Finance Code.

(2) "Control" has the meaning assigned by Section 31.002(a), Finance Code.

(3) "Deposit of public funds" means public funds of a public entity that:

(A) the comptroller does not manage under Chapter 404; and

(B) are held as a demand or time deposit by a depository institution expressly authorized by law to accept a public entity's demand or time deposit.

(4) "Eligible security" means:

(A) a surety bond;

(B) an investment security;

(C) an ownership or beneficial interest in an investment security, other than an option contract to purchase or sell an investment security;

(D) a fixed-rate collateralized mortgage obligation that has an expected weighted average life of 10 years or less and does not constitute a high-risk mortgage security;

(E) a floating-rate collateralized mortgage obligation that does not constitute a high-risk mortgage security; or

(F) a letter of credit issued by a federal home loan bank.

(5) "Investment security" means:

(A) an obligation that in the opinion of the attorney general of the United States is a general obligation of the United States and backed by its full faith and credit;

(B) a general or special obligation issued by a public agency that is payable from taxes, revenues, or a combination of taxes and revenues; or

(C) a security in which a public entity may invest under Subchapter A, Chapter 2256.

(6) "Permitted institution" means:

(A) a Federal Reserve Bank;

(B) a clearing corporation, as defined by Section 8.102, Business & Commerce Code;

(C) a bank eligible to be a custodian under Section 2257.041; or

(D) a state or nationally chartered bank that is controlled by a bank holding company that controls a bank eligible to be a custodian under Section 2257.041.

(7) "Public agency" means a state or a political or governmental entity, agency, instrumentality, or subdivision of a state, including a municipality, an institution of higher education, as defined by Section 61.003, Education Code, a junior college, a district created under Article XVI, Section 59, of the Texas Constitution, and a public hospital.

(8) "Public entity" means a public agency in this state, but does not include an institution of higher education, as defined by Section 61.003, Education Code.

(9) "State agency" means a public entity that:

(A) has authority that is not limited to a geographic portion of the state; and

(B) was created by the constitution or a statute.

(10) "Trust receipt" means evidence of receipt, identification, and recording, including:

(A) a physical controlled trust receipt; or

(B) a written or electronically transmitted advice of transaction.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.48(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 914, Sec. 5, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 254, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 891, Sec. 3.22(4), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.70, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 7.63, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 783 (H.B. 2103), Sec. 1, eff. June 17, 2011.

Sec. 2257.0025. HIGH-RISK MORTGAGE SECURITY. (a) For purposes

of this chapter, a fixed-rate collateralized mortgage obligation is a high-risk mortgage security if the security:

(1) has an average life sensitivity with a weighted average life that:

(A) extends by more than four years, assuming an immediate and sustained parallel shift in the yield curve of plus 300 basis points; or

(B) shortens by more than six years, assuming an immediate and sustained parallel shift in the yield curve of minus 300 basis points; and

(2) is price sensitive; that is, the estimated change in the price of the mortgage derivative product is more than 17 percent, because of an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.

(b) For purposes of this chapter, a floating-rate collateralized mortgage obligation is a high-risk mortgage security if the security:

(1) bears an interest rate that is equal to the contractual cap on the instrument; or

(2) is price sensitive; that is, the estimated change in the price of the mortgage derivative product is more than 17 percent, because of an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.

Added by Acts 1997, 75th Leg., ch. 254, Sec. 2, eff. Sept. 1, 1997.

Sec. 2257.003. CHAPTER NOT APPLICABLE TO DEFERRED COMPENSATION PLANS. This chapter does not apply to funds that a public entity maintains or administers under a deferred compensation plan, the federal income tax treatment of which is governed by Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Sections 401(k) and 457).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.004. CONFLICT WITH OTHER LAW. This chapter prevails over any other law relating to security for a deposit of public funds to the extent of any conflict.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.005. CONTRACT GOVERNS LEGAL ACTION. A legal action brought by or against a public entity that arises out of or in connection with the duties of a depository, custodian, or permitted institution under this chapter must be brought and maintained as provided by the contract with the public entity.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. DEPOSITORY; SECURITY FOR DEPOSIT OF PUBLIC FUNDS

Sec. 2257.021. COLLATERAL REQUIRED. A deposit of public funds shall be secured by eligible security to the extent and in the manner required by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.022. AMOUNT OF COLLATERAL. (a) Except as provided by Subsection (b), the total value of eligible security to secure a deposit of public funds must be in an amount not less than the amount of the deposit of public funds:

(1) increased by the amount of any accrued interest; and

(2) reduced to the extent that the United States or an instrumentality of the United States insures the deposit.

(b) The total value of eligible security described by Section 45.201(4)(D), Education Code, to secure a deposit of public funds of a school district must be in an amount not less than 110 percent of the amount of the deposit as determined under Subsection (a). The total market value of the eligible security must be reported at least once each month to the school district.

(c) The value of a surety bond is its face value.

(d) The value of an investment security is its market value.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 201, Sec. 46, eff. Sept. 1, 2003.

Sec. 2257.023. COLLATERAL POLICY. (a) In accordance with a written policy approved by the governing body of the public entity, a public entity shall determine if an investment security is eligible to secure deposits of public funds.

(b) The written policy may include:

(1) the security of the institution that obtains or holds an investment security;

(2) the substitution or release of an investment security; and

(3) the method by which an investment security used to secure a deposit of public funds is valued.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.024. CONTRACT FOR SECURING DEPOSIT OF PUBLIC FUNDS. (a) A public entity may contract with a bank that has its main office or a branch office in this state to secure a deposit of public funds.

(b) The contract may contain a term or condition relating to an investment security used as security for a deposit of public funds, including a term or condition relating to the:

(1) possession of the collateral;

(2) substitution or release of an investment security;

(3) ownership of the investment securities of the bank used to secure a deposit of public funds; and

(4) method by which an investment security used to secure a deposit of public funds is valued.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 344, Sec. 5.006, eff. Sept. 1, 1999.

Sec. 2257.025. RECORDS OF DEPOSITORY. (a) A public entity's depository shall maintain a separate, accurate, and complete record relating to a pledged investment security, a deposit of public funds, and a transaction related to a pledged investment security.

(b) The comptroller or the public entity may examine and verify at any reasonable time a pledged investment security or a record a depository maintains under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.16, eff. Sept. 1, 1997.

Sec. 2257.026. CHANGE IN AMOUNT OR ACTIVITY OF DEPOSITS OF PUBLIC FUNDS. A public entity shall inform the depository for the public entity's deposit of public funds of a significant change in the amount or activity of those deposits within a reasonable time before the change occurs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. CUSTODIAN; PERMITTED INSTITUTION

Sec. 2257.041. DEPOSIT OF SECURITIES WITH CUSTODIAN. (a) In addition to other authority granted by law, a depository for a public entity other than a state agency may deposit with a custodian a security pledged to secure a deposit of public funds.

(b) At the request of the public entity, a depository for a public entity other than a state agency shall deposit with a custodian a security pledged to secure a deposit of public funds.

(c) A depository for a state agency shall deposit with a custodian a security pledged to secure a deposit of public funds. The custodian and the state agency shall agree in writing on the terms and conditions for securing a deposit of public funds.

(d) A custodian must be approved by the public entity and be:

(1) a state or national bank that:

(A) is designated by the comptroller as a state depository;

(B) has its main office or a branch office in this state; and

(C) has a capital stock and permanent surplus of $5 million or more;

(2) the Texas Treasury Safekeeping Trust Company;

(3) a Federal Reserve Bank or a branch of a Federal Reserve Bank;

(4) a federal home loan bank; or

(5) a financial institution authorized to exercise fiduciary powers that is designated by the comptroller as a custodian

pursuant to Section 404.031(e).

(e) A custodian holds in trust the securities to secure the deposit of public funds of the public entity in the depository pledging the securities.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1010, Sec. 1, eff. June 17, 1995; Acts 1997, 75th Leg., ch. 891, Sec. 3.17, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 344, Sec. 5.007, eff. Sept. 1, 1999. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 3, eff. September 1, 2009.

Sec. 2257.042. DEPOSIT OF SECURITIES WITH PERMITTED INSTITUTION. (a) A custodian may deposit with a permitted institution an investment security the custodian holds under Section 2257.041.

(b) If a deposit is made under Subsection (a):

(1) the permitted institution shall hold the investment security to secure funds the public entity deposits in the depository that pledges the investment security;

(2) the trust receipt the custodian issues under Section 2257.045 shall show that the custodian has deposited the security in a permitted institution; and

(3) the permitted institution, on receipt of the investment security, shall immediately issue to the custodian an advice of transaction or other document that is evidence that the custodian deposited the security in the permitted institution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.043. DEPOSITORY AS CUSTODIAN OR PERMITTED INSTITUTION. (a) A public entity other than a state agency may prohibit a depository or an entity of which the depository is a branch from being the custodian of or permitted institution for a security the depository pledges to secure a deposit of public funds.

(b) A depository or an entity of which the depository is a branch may not be the custodian of or permitted institution for a security the depository pledges to secure a deposit of public funds

by a state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.044. CUSTODIAN AS BAILEE. (a) A custodian under this chapter or a custodian of a security pledged to an institution of higher education, as defined by Section 61.003, Education Code, whether acting alone or through a permitted institution, is for all purposes the bailee or agent of the public entity or institution depositing the public funds with the depository.

(b) To the extent of any conflict, Subsection (a) prevails over Chapter 8 or 9, Business & Commerce Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.045. RECEIPT OF SECURITY BY CUSTODIAN. (a) On receipt of an investment security, a custodian shall immediately identify on its books and records, by book entry or another method, the pledge of the security to the public entity.

(b) For a deposit of public funds under Subchapter F, the custodian shall issue and deliver to the comptroller a trust receipt for the pledged security.

(c) For any other deposit of public funds under this chapter, at the written direction of the appropriate public entity officer, the custodian shall:

(1) issue and deliver to the appropriate public entity officer a trust receipt for the pledged security; or

(2) issue and deliver a trust receipt for the pledged security to the public entity's depository and instruct the depository to deliver the trust receipt to the public entity officer immediately.

(d) The custodian shall issue and deliver the trust receipt as soon as practicable on the same business day on which the investment security is received.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 434 (S.B. 581), Sec. 1, eff. June 14, 2013.

Sec. 2257.046. BOOKS AND RECORDS OF CUSTODIAN; INSPECTION. (a) A public entity's custodian shall maintain a separate, accurate, and complete record relating to each pledged investment security and each transaction relating to a pledged investment security.

(b) The comptroller or the public entity may examine and verify at any reasonable time a pledged investment security or a record a custodian maintains under this section. The public entity or its agent may inspect at any time an investment security evidenced by a trust receipt.

(c) The public entity's custodian shall file a collateral report with the comptroller in the manner and on the dates prescribed by the comptroller.

(d) At the request of the appropriate public entity officer, the public entity's custodian shall provide a current list of all pledged investment securities. The list must include, for each pledged investment security:

(1) the name of the public entity;

(2) the date the security was pledged to secure the public entity's deposit;

(3) the Committee on Uniform Security Identification Procedures (CUSIP) number of the security;

(4) the face value and maturity date of the security; and

(5) the confirmation number on the trust receipt issued by the custodian.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.18, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 434 (S.B. 581), Sec. 2, eff. June 14, 2013.

Sec. 2257.047. BOOKS AND RECORDS OF PERMITTED INSTITUTION. (a) A permitted institution may apply book entry procedures when an investment security held by a custodian is deposited under Section 2257.042.

(b) A permitted institution's records must at all times state

the name of the custodian that deposits an investment security in the permitted institution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.048. ATTACHMENT AND PERFECTION OF SECURITY INTEREST. (a) A security interest that arises out of a depository's pledge of a security to secure a deposit of public funds by a public entity or an institution of higher education, as defined by Section 61.003, Education Code, is created, attaches, and is perfected for all purposes under state law from the time that the custodian identifies the pledge of the security on the custodian's books and records and issues the trust receipt.

(b) A security interest in a pledged security remains perfected in the hands of a subsequent custodian or permitted institution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. AUDITS AND EXAMINATIONS; PENALTIES

Sec. 2257.061. AUDITS AND EXAMINATIONS. As part of an audit or regulatory examination of a public entity's depository or custodian, the auditor or examiner shall:

(1) examine and verify pledged investment securities and records maintained under Section 2257.025 or 2257.046; and

(2) report any significant or material noncompliance with this chapter to the comptroller.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

Sec. 2257.062. PENALTIES. (a) The comptroller may revoke a depository's designation as a state depository for one year if, after notice and a hearing, the comptroller makes a written finding that the depository, while acting as either a depository or a custodian:

(1) did not maintain reasonable compliance with this chapter; and

(2) failed to remedy a violation of this chapter within a

reasonable time after receiving written notice of the violation.

(b) The comptroller may permanently revoke a depository's designation as a state depository if the comptroller makes a written finding that the depository:

(1) has not maintained reasonable compliance with this chapter; and

(2) has acted in bad faith by not remedying a violation of this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

Sec. 2257.063. MITIGATING CIRCUMSTANCES. (a) The comptroller shall consider the total circumstances relating to the performance of a depository or custodian when the comptroller makes a finding required by Section 2257.062, including the extent to which the noncompliance is minor, isolated, temporary, or nonrecurrent.

(b) The comptroller may not find that a depository or custodian did not maintain reasonable compliance with this chapter if the noncompliance results from the public entity's failure to comply with Section 2257.026.

(c) This section does not relieve a depository or custodian of the obligation to secure a deposit of public funds with eligible security in the amount and manner required by this chapter within a reasonable time after the public entity deposits the deposit of public funds with the depository.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

Sec. 2257.064. REINSTATEMENT. The comptroller may reinstate a depository's designation as a state depository if:

(1) the comptroller determines that the depository has remedied all violations of this chapter; and

(2) the depository assures the comptroller to the comptroller's satisfaction that the depository will maintain reasonable compliance with this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

SUBCHAPTER E. EXEMPT INSTITUTIONS

Sec. 2257.081. DEFINITION. In this subchapter, "exempt institution" means:

(1) a public retirement system, as defined by Section 802.001; or

(2) the permanent school fund, as described by Section 43.001, Education Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.31, eff. Sept. 1, 1997.

Sec. 2257.082. FUNDS OF EXEMPT INSTITUTION. An exempt institution is not required to have its funds fully insured or collateralized at all times if:

(1) the funds are held by:

(A) a custodian of the institution's assets under a trust agreement; or

(B) a person in connection with a transaction related to an investment; and

(2) the governing body of the institution, in exercising its fiduciary responsibility, determines that the institution is adequately protected by using a trust agreement, special deposit, surety bond, substantial deposit insurance, or other method an exempt institution commonly uses to protect itself from liability.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.083. INVESTMENT; SELECTION OF DEPOSITORY. This chapter does not:

(1) prohibit an exempt institution from prudently investing in a certificate of deposit; or

(2) restrict the selection of a depository by the governing body of an exempt institution in accordance with its fiduciary duty.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER F. POOLED COLLATERAL TO SECURE DEPOSITS OF CERTAIN PUBLIC FUNDS

Sec. 2257.101. DEFINITION. In this subchapter, "participating institution" means a financial institution that holds one or more deposits of public funds and that participates in the pooled collateral program under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.102. POOLED COLLATERAL PROGRAM. (a) As an alternative to collateralization under Subchapter B, the comptroller by rule shall establish a program for centralized pooled collateralization of deposits of public funds and for monitoring collateral maintained by participating institutions. The rules must provide that deposits of public funds of a county are not eligible for collateralization under the program. The comptroller shall provide for a separate collateral pool for any single participating institution's deposits of public funds.

(b) Under the pooled collateral program, the collateral of a participating institution pledged for a public deposit may not be combined with, cross-collateralized with, aggregated with, or pledged to another participating institution's collateral pools for pledging purposes.

(c) A participating institution may pledge its pooled securities to more than one participating depositor under contract with that participating institution.

(d) The pooled collateral program must provide for:

(1) participation in the program by a participating institution and each affected public entity to be voluntary;

(2) uniform procedures for processing all collateral transactions that are subject to an approved security agreement described by Section 2257.103; and

(3) the pledging of a participating institution's collateral securities using a single custodial account instead of an account for each depositor of public funds.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.103. PARTICIPATION IN POOLED COLLATERAL PROGRAM. A financial institution may participate in the pooled collateral program only if:

(1) the institution has entered into a binding collateral security agreement with a public agency for a deposit of public funds and the agreement permits the institution's participation in the program;

(2) the comptroller has approved the institution's participation in the program; and

(3) the comptroller has approved or provided the collateral security agreement form used.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.104. COLLATERAL REQUIRED; CUSTODIAN TRUSTEE. (a) Each participating institution shall secure its deposits of public funds with eligible securities the total value of which equals at least 102 percent of the amount of the deposits of public funds covered by a security agreement described by Section 2257.103 and deposited with the participating institution, reduced to the extent that the United States or an instrumentality of the United States insures the deposits. For purposes of determining whether collateral is sufficient to secure a deposit of public funds, Section 2257.022(b) does not apply to a deposit of public funds held by the participating institution and collateralized under this subchapter.

(b) A participating institution shall provide for the collateral securities to be held by a custodian trustee, on behalf of the participating institution, in trust for the benefit of the pooled collateral program. A custodian trustee must qualify as a custodian under Section 2257.041.

(c) The comptroller by rule shall regulate a custodian trustee under the pooled collateral program in the manner provided by Subchapter C to the extent practicable. The rules must ensure that a custodian trustee depository does not own, is not owned by, and is

independent of the financial institution or institutions for which it holds the securities in trust, except that the rules must allow the following to be a custodian trustee:

(1) a federal reserve bank;

(2) a banker's bank, as defined by Section 34.105, Finance Code; and

(3) a federal home loan bank.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.105. MONITORING COLLATERAL. (a) Each participating institution shall file the following reports with the comptroller electronically and as prescribed by rules of the comptroller:

(1) a daily report of the aggregate ledger balance of deposits of public agencies participating in the pooled collateral program that are held by the institution, with each public entity's funds held itemized;

(2) a weekly summary report of the total market value of securities held by a custodian trustee on behalf of the participating institution;

(3) a monthly report listing the collateral securities held by a custodian trustee on behalf of the participating institution, together with the value of the securities; and

(4) as applicable, a participating institution's annual report that includes the participating institution's financial statements.

(b) The comptroller shall provide the participating institution an acknowledgment of each report received.

(c) The comptroller shall provide a daily report of the market value of the securities held in each pool.

(d) The comptroller shall post each report on the comptroller's Internet website.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.106. ANNUAL ASSESSMENT. (a) Once each state fiscal year, the comptroller shall impose against each participating

institution an assessment in an amount sufficient to pay the costs of administering this subchapter. The amount of an assessment must be based on factors that include the number of public entity accounts a participating institution maintains, the number of transactions a participating institution conducts, and the aggregate average weekly deposit amounts during that state fiscal year of each participating institution's deposits of public funds collateralized under this subchapter. The comptroller by rule shall establish the formula for determining the amount of the assessments imposed under this subsection.

(b) The comptroller shall provide to each participating institution a notice of the amount of the assessment against the institution.

(c) A participating institution shall remit to the comptroller the amount assessed against it under this section not later than the 45th day after the date the institution receives the notice under Subsection (b).

(d) Money remitted to the comptroller under this section may be appropriated only for the purposes of administering this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.107. PENALTY FOR REPORTING VIOLATION. The comptroller may impose an administrative penalty against a participating institution that does not timely file a report required by Section 2257.105.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.108. NOTICE OF COLLATERAL VIOLATION; ADMINISTRATIVE PENALTY. (a) The comptroller may issue a notice to a participating institution that the institution appears to be in violation of collateral requirements under Section 2257.104 and rules of the comptroller.

(b) The comptroller may impose an administrative penalty against a participating institution that does not maintain collateral in an amount and in the manner required by Section 2257.104 and rules

of the comptroller if the participating institution has not remedied the violation before the third business day after the date a notice is issued under Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.109. PENALTY FOR FAILURE TO PAY ASSESSMENT. The comptroller may impose an administrative penalty against a participating institution that does not pay an assessment against it in the time provided by Section 2257.106(c).

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.110. PENALTY AMOUNT; PENALTIES NOT EXCLUSIVE. (a) The comptroller by rule shall adopt a formula for determining the amount of a penalty under this subchapter. For each violation and for each day of a continuing violation, a penalty must be at least $100 per day and not more than $1,000 per day. The penalty must be based on factors that include:

(1) the aggregate average weekly deposit amounts during the state fiscal year of the institution's deposits of public funds;

(2) the number of violations by the institution during the state fiscal year;

(3) the number of days of a continuing violation; and

(4) the average asset base of the institution as reported on the institution's year-end report of condition.

(b) The penalties provided by Sections 2257.107-2257.109 are in addition to those provided by Subchapter D or other law.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.111. PENALTY PROCEEDING CONTESTED CASE. A proceeding to impose a penalty under Section 2257.107, 2257.108, or 2257.109 is a contested case under Chapter 2001.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.112. SUIT TO COLLECT PENALTY. The attorney general may sue to collect a penalty imposed under Section 2257.107, 2257.108, or 2257.109.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.113. ENFORCEMENT STAYED PENDING REVIEW. Enforcement of a penalty imposed under Section 2257.107, 2257.108, or 2257.109 may be stayed during the time the order is under judicial review if the participating institution pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A participating institution that cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the comptroller to contest the affidavit as provided by those rules.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.114. USE OF COLLECTED PENALTIES. Money collected as penalties under this subchapter may be appropriated only for the purposes of administering this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

CHAPTER 2258. PREVAILING WAGE RATES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2258.001. DEFINITIONS. In this chapter:

(1) "Locality in which the work is performed" means:

(A) for a contract for a public work awarded by the

state, the political subdivision of the state in which the public work is located:

(i) which may include a county, municipality, county and municipality, or district, except as provided by Subparagraph (ii); and

(ii) which, in a municipality with a population of 500,000 or more, may only include the geographic limits of the municipality; or

(B) for a contract for a public work awarded by a political subdivision of the state, the geographical limits of the political subdivision.

(2) "Public body" means a public body awarding a contract for a public work on behalf of the state or a political subdivision of the state.

(3) "Worker" includes a laborer or mechanic.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49(a), eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 14.04, eff. Sept. 1, 2001.

Sec. 2258.002. APPLICABILITY OF CHAPTER TO PUBLIC WORKS. (a) This chapter applies only to the construction of a public work, including a building, highway, road, excavation, and repair work or other project development or improvement, paid for in whole or in part from public funds, without regard to whether the work is done under public supervision or direction.

(b) This chapter does not apply to work done directly by a public utility company under an order of a public authority.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49(a), eff. Sept. 1, 1995.

Sec. 2258.003. LIABILITY. An officer, agent, or employee of a public body is not liable in a civil action for any act or omission implementing or enforcing this chapter unless the action was made in bad faith.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49(a), eff. Sept. 1, 1995.

SUBCHAPTER B. PAYMENT OF PREVAILING WAGE RATES

Sec. 2258.021. RIGHT TO BE PAID PREVAILING WAGE RATES. (a) A worker employed on a public work by or on behalf of the state or a political subdivision of the state shall be paid:

(1) not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed; and

(2) not less than the general prevailing rate of per diem wages for legal holiday and overtime work.

(b) Subsection (a) does not apply to maintenance work.

(c) A worker is employed on a public work for the purposes of this section if the worker is employed by a contractor or subcontractor in the execution of a contract for the public work with the state, a political subdivision of the state, or any officer or public body of the state or a political subdivision of the state.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 18.01, eff. Sept. 1, 1997.

Sec. 2258.022. DETERMINATION OF PREVAILING WAGE RATES. (a) For a contract for a public work awarded by a political subdivision of the state, the public body shall determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed for each craft or type of worker needed to execute the contract and the prevailing rate for legal holiday and overtime work by:

(1) conducting a survey of the wages received by classes of workers employed on projects of a character similar to the contract work in the political subdivision of the state in which the public work is to be performed; or

(2) using the prevailing wage rate as determined by the United States Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.), and its subsequent amendments.

(b) This subsection applies only to a public work located in a county bordering the United Mexican States or in a county adjacent to a county bordering the United Mexican States. For a contract for a

public work awarded by the state, the public body shall determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed for each craft or type of worker needed to execute the contract and the prevailing rate for legal holiday and overtime work as follows. The public body shall conduct a survey of the wages received by classes of workers employed on projects of a character similar to the contract work both statewide and in the political subdivision of the state in which the public work is to be performed. The public body shall also consider the prevailing wage rate as determined by the United States Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.), and its subsequent amendments, but only if the survey used to determine that rate was conducted within a three-year period preceding the date the public body calls for bids for the public work. The public body shall determine the general prevailing rate of per diem wages in the locality based on the higher of:

(1) the rate determined from the survey conducted in the political subdivision;

(2) the arithmetic mean between the rate determined from the survey conducted in the political subdivision and the rate determined from the statewide survey; and

(3) if applicable, the arithmetic mean between the rate determined from the survey conducted in the political subdivision and the rate determined by the United States Department of Labor.

(c) The public body shall determine the general prevailing rate of per diem wages as a sum certain, expressed in dollars and cents.

(d) A public body shall specify in the call for bids for the contract and in the contract itself the wage rates determined under this section.

(e) The public body's determination of the general prevailing rate of per diem wages is final.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 18.02, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1422, Sec. 14.05, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 728 (H.B. 2625), Sec. 1, eff. September 1, 2007.

Sec. 2258.023. PREVAILING WAGE RATES TO BE PAID BY CONTRACTOR AND SUBCONTRACTOR; PENALTY. (a) The contractor who is awarded a contract by a public body or a subcontractor of the contractor shall pay not less than the rates determined under Section 2258.022 to a worker employed by it in the execution of the contract.

(b) A contractor or subcontractor who violates this section shall pay to the state or a political subdivision of the state on whose behalf the contract is made, $60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the contract. A public body awarding a contract shall specify this penalty in the contract.

(c) A contractor or subcontractor does not violate this section if a public body awarding a contract does not determine the prevailing wage rates and specify the rates in the contract as provided by Section 2258.022.

(d) The public body shall use any money collected under this section to offset the costs incurred in the administration of this chapter.

(e) A municipality is entitled to collect a penalty under this section only if the municipality has a population of more than 10,000.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49(a), eff. Sept. 1, 1995.

Sec. 2258.024. RECORDS. (a) A contractor and subcontractor shall keep a record showing:

(1) the name and occupation of each worker employed by the contractor or subcontractor in the construction of the public work; and

(2) the actual per diem wages paid to each worker.

(b) The record shall be open at all reasonable hours to inspection by the officers and agents of the public body.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49(a), eff. Sept. 1, 1995.

Sec. 2258.025. PAYMENT GREATER THAN PREVAILING RATE NOT PROHIBITED. This chapter does not prohibit the payment to a worker

employed on a public work an amount greater than the general prevailing rate of per diem wages.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49(a), eff. Sept. 1, 1995.

Sec. 2258.026. RELIANCE ON CERTIFICATE OF SUBCONTRACTOR. A contractor is entitled to rely on a certificate by a subcontractor regarding the payment of all sums due those working for the subcontractor until the contrary has been determined.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49(a), eff. Sept. 1, 1995.

SUBCHAPTER C. ENFORCEMENT; CIVIL AND CRIMINAL PENALTIES

Sec. 2258.051. DUTY OF PUBLIC BODY TO HEAR COMPLAINTS AND WITHHOLD PAYMENT. A public body awarding a contract, and an agent or officer of the public body, shall:

(1) take cognizance of complaints of all violations of this chapter committed in the execution of the contract; and

(2) withhold money forfeited or required to be withheld under this chapter from the payments to the contractor under the contract, except that the public body may not withhold money from other than the final payment without a determination by the public body that there is good cause to believe that the contractor has violated this chapter.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49(a), eff. Sept. 1, 1995.

Sec. 2258.052. COMPLAINT; INITIAL DETERMINATION. (a) On receipt of information, including a complaint by a worker, concerning an alleged violation of Section 2258.023 by a contractor or subcontractor, a public body shall make an initial determination as to whether good cause exists to believe that the violation occurred.

(b) A public body must make its determination under Subsection (a) before the 31st day after the date the public body receives the information.

(c) A public body shall notify in writing the contractor or subcontractor and any affected worker of its initial determination.

(d) A public body shall retain any amount due under the contract pending a final determination of the violation.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49(a), eff. Sept. 1, 1995.

Sec. 2258.053. ARBITRATION REQUIRED FOR UNRESOLVED ISSUE. (a) An issue relating to an alleged violation of Section 2258.023, including a penalty owed to a public body or an affected worker, shall be submitted to binding arbitration in accordance with the Texas General Arbitration Act (Article 224 et seq., Revised Statutes) if the contractor or subcontractor and any affected worker do not resolve the issue by agreement before the 15th day after the date the public body makes its initial determination under Section 2258.052.

(b) If the persons required to arbitrate under this section do not agree on an arbitrator before the 11th day after the date that arbitration is required under Subsection (a), a district court shall appoint an arbitrator on the petition of any of the persons.

(c) A public body is not a party in the arbitration.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49(a), eff. Sept. 1, 1995.

Sec. 2258.054. ARBITRATION AWARD; COSTS. (a) If an arbitrator determines that Section 2258.023 has been violated, the arbitrator shall assess and award against the contractor or subcontractor:

(1) penalties as provided by Section 2258.023 and this section; and

(2) all amounts owed to the affected worker.

(b) An arbitrator shall assess and award all reasonable costs, including the arbitrator's fee, against the party who does not prevail. Costs may be assessed against the worker only if the arbitrator finds that the claim is frivolous. If the arbitrator does not find that the claim is frivolous and does not make an award to the worker, costs are shared equally by the parties.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49(a), eff. Sept. 1, 1995.

Sec. 2258.055. ARBITRATION DECISION AND AWARD FINAL. The decision and award of the arbitrator is final and binding on all parties and may be enforced in any court of competent jurisdiction.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49(a), eff. Sept. 1, 1995.

Sec. 2258.056. PAYMENT BY PUBLIC BODY TO WORKER; ACTION TO RECOVER PAYMENT. (a) A public body shall use any amounts retained under this chapter to pay the worker the difference between the amount the worker received in wages for labor on the public work at the rate paid by the contractor or subcontractor and the amount the worker would have received at the general prevailing wage rate as provided in the arbitrator's award.

(b) The public body may adopt rules, orders, or ordinances relating to the manner in which a reimbursement is made.

(c) If the amounts retained by a public body under this chapter are not sufficient for the public body to pay the worker the full amount owed, the worker has a right of action against the contractor or subcontractor and the surety of the contractor or subcontractor to recover the amount owed, reasonable attorney's fees, and court costs.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49(a), eff. Sept. 1, 1995.

Sec. 2258.057. WITHHOLDING BY CONTRACTOR. (a) A contractor may withhold from a subcontractor sufficient money to cover an amount withheld from the contractor by a public body because the subcontractor violated this chapter.

(b) If the contractor has made a payment to the subcontractor, the contractor may withhold money from any future payments owed to the subcontractor or sue the subcontractor or the subcontractor's surety for the amount withheld from the contractor by a public body because of the subcontractor's violation.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49(a), eff. Sept. 1, 1995.

Sec. 2258.058. CRIMINAL OFFENSE. (a) An officer, agent, or representative of the state or of a political subdivision of the state commits an offense if the person wilfully violates or does not comply with a provision of this chapter.

(b) A contractor or subcontractor of a public work under this chapter, or an agent or representative of the contractor or subcontractor, commits an offense if the person violates Section 2258.024.

(c) An offense under this section is punishable by:

(1) a fine not to exceed $500;

(2) confinement in jail for a term not to exceed six months; or

(3) both a fine and confinement.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49(a), eff. Sept. 1, 1995.

CHAPTER 2259. SELF-INSURANCE BY GOVERNMENTAL UNITS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2259.001. DEFINITIONS. In this chapter:

(1) "Governmental unit" means:

(A) a state agency or institution;

(B) a local government; or

(C) an entity acting on behalf of a state agency or institution or local government.

(2) "Local government" means a municipality or other political subdivision of this state or a combination of political subdivisions, including a combination created under Chapter 791.

(3) "Public security" means an obligation authorized to be issued under this chapter, including a bond, certificate, or note.

(4) "State agency or institution" includes an institution of higher education.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 5, eff. Sept. 1, 1999.

Sec. 2259.002. SELF-INSURANCE NOT WAIVER OF IMMUNITY. The establishment and maintenance of a self-insurance program by a governmental unit is not a waiver of immunity or of a defense of the governmental unit or its employees.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 5, eff. Sept. 1, 1999.

SUBCHAPTER B. SELF-INSURANCE FUND

Sec. 2259.031. ESTABLISHMENT OF FUND. (a) A governmental unit may establish a self-insurance fund to protect the governmental unit and its officers, employees, and agents from any insurable risk or hazard.

(b) The governmental unit may:

(1) issue public securities and use the proceeds for all or part of the fund; or

(2) use any money available to the governmental unit for the fund.

(c) The governmental unit may purchase reinsurance for a risk covered through the fund.

(d) Any law, including a regulation, requiring insurance may be satisfied by coverage provided through the fund.

(e) Any law, including a regulation, requiring a certificate of insurance or an insurance agent's signature, countersignature, or approval may be satisfied by a certificate of coverage issued on behalf of the governmental unit demonstrating that coverage is provided through the fund.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 5, eff. Sept. 1, 1999.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 428 (S.B. 531), Sec. 1, eff. September 1, 2013.

Sec. 2259.032. PUBLIC PURPOSE. The issuance of a public security or the use of available money for a self-insurance fund under this subchapter is a public purpose of the governmental unit.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 5, eff. Sept. 1, 1999.

Sec. 2259.033. PAYMENT SOURCE FOR PUBLIC SECURITIES: STATE AGENCY OR INSTITUTION. Public securities issued by a state agency or institution under this subchapter may be payable from any available source of revenue.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 5, eff. Sept. 1, 1999.

Sec. 2259.034. PAYMENT SOURCE FOR PUBLIC SECURITIES: LOCAL GOVERNMENT. (a) Public securities issued by a local government under this subchapter may be payable from taxes imposed by and revenues of the local government, including:

(1) ad valorem, sales and use, and hotel occupancy taxes;

(2) revenue derived by the local government from any system or other specified source; or

(3) any combination of taxes and revenue.

(b) The issuance of public securities by a local government under this subchapter that are payable from ad valorem taxes is subject to the laws applicable to the issuance of public securities by the local government for other purposes, including Chapter 1251, with respect to the necessity for and conduct of an election.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 5, eff. Sept. 1, 1999.

Sec. 2259.035. SALE OF PUBLIC SECURITIES. A governmental unit may sell public securities issued under this subchapter at a public or private sale.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 5, eff. Sept. 1, 1999.

Sec. 2259.036. COUNTY OR MUNICIPAL CERTIFICATES OF OBLIGATION. As provided by Subchapter C, Chapter 271, Local Government Code, a county or municipality may issue and sell for cash, at a public or private sale, certificates of obligation for the establishment and maintenance of a self-insurance fund under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 5, eff. Sept. 1, 1999.

Sec. 2259.037. APPLICABILITY OF INSURANCE LAWS. The Insurance Code and other laws of this state relating to the provision or regulation of insurance do not apply to:

(1) an agreement entered into under this subchapter; or

(2) the proceeds of public securities issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 5, eff. Sept. 1, 1999.

SUBCHAPTER C. RISK RETENTION GROUPS

Sec. 2259.061. FORMATION OF RISK RETENTION GROUP. A governmental unit may form or become a member of a risk retention group formed under the Liability Risk Retention Act of 1986 (15 U.S.C. Section 3901 et seq.) to obtain insurance against an insurable risk.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 5, eff. Sept. 1, 1999.

Sec. 2259.062. PAYMENT SOURCE FOR GROUP: STATE AGENCY OR INSTITUTION. A state agency or institution may make a payment under a risk retention group agreement from any source, including a legislative appropriation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 5, eff. Sept. 1, 1999.

Sec. 2259.063. PAYMENT SOURCE FOR GROUP: LOCAL GOVERNMENT. (a) A local government may make a payment under a risk retention group agreement from proceeds of taxes imposed by and revenues of the local government, including:

(1) ad valorem, sales and use, and hotel occupancy taxes;

(2) revenue derived by the local government from any system or other specified source; or

(3) any combination of taxes and revenue.

(b) A local government that does not have authority to impose ad valorem taxes for payment of contractual debts may make a payment under a risk retention group agreement from an annual appropriation of proceeds of ad valorem taxes the local government is authorized to impose.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 5, eff. Sept. 1, 1999.

CHAPTER 2260. RESOLUTION OF CERTAIN CONTRACT CLAIMS AGAINST THE STATE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2260.001. DEFINITIONS. In this chapter:

(1) "Contract" means a written contract between a unit of state government and a contractor for goods or services, or for a project as defined by Section 2166.001. The term does not include a contract subject to Section 201.112, Transportation Code.

(2) "Contractor" means an independent contractor who has entered into a contract directly with a unit of state government. The term does not include:

(A) a contractor's subcontractor, officer, employee, agent, or other person furnishing goods or services to a contractor;

(B) an employee of a unit of state government; or

(C) a student at an institution of higher education.

(3) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(4) "Unit of state government" means the state or an agency, department, commission, bureau, board, office, council, court, or other entity that is in any branch of state government and that is created by the constitution or a statute of this state, including a university system or institution of higher education. The term does not include a county, municipality, court of a county or municipality, special purpose district, or other political subdivision of this state.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.

Sec. 2260.002. APPLICABILITY. This chapter does not apply to:

(1) a claim for personal injury or wrongful death arising from the breach of a contract;

(2) a contract executed or awarded on or before August 30, 1999; or

(3) a claim for breach of contract to which Chapter 114, Civil Practice and Remedies Code, applies.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.
Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 14.07, eff. Sept. 1,

2001.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1260 (H.B. 586), Sec. 2, eff. September 1, 2013.

Sec. 2260.003. DAMAGES. (a) The total amount of money recoverable on a claim for breach of contract under this chapter may not, after deducting the amount specified in Subsection (b), exceed an amount equal to the sum of:

(1) the balance due and owing on the contract price;

(2) the amount or fair market value of orders or requests for additional work made by a unit of state government to the extent that the orders or requests for additional work were actually performed; and

(3) any delay or labor-related expense incurred by the contractor as a result of an action of or a failure to act by the unit of state government or a party acting under the supervision or control of the unit of state government.

(b) Any amount owed the unit of state government for work not performed under a contract or in substantial compliance with its terms shall be deducted from the amount in Subsection (a).

(c) Any award of damages under this chapter may not include:

(1) consequential or similar damages, except delays or labor-related expenses described by Subsection (a)(3);

(2) exemplary damages;

(3) any damages based on an unjust enrichment theory;

(4) attorney's fees; or

(5) home office overhead.

(d) Notwithstanding Subsection (c), an award of damages under this chapter may include attorney's fees if:

(1) the claim is for breach of a written contract for:

(A) engineering, architectural, or construction services; or

(B) materials related to the services described by Paragraph (A); and

(2) the amount in controversy is less than $250,000, excluding penalties, costs, expenses, prejudgment interest, and attorney's fees.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.
Amended by Acts 2001, 77th Leg., ch. 1272, Sec. 8.01, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1422, Sec. 14.08, eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 988 (H.B. 1940), Sec. 1, eff. September 1, 2005.
Acts 2017, 85th Leg., R.S., Ch. 840 (H.B. 2121), Sec. 1, eff. June 15, 2017.

Sec. 2260.004. REQUIRED CONTRACT PROVISION. (a) Each unit of state government that enters into a contract to which this chapter applies shall include as a term of the contract a provision stating that the dispute resolution process used by the unit of state government under this chapter must be used to attempt to resolve a dispute arising under the contract.
(b) The attorney general shall provide assistance to a unit of state government in developing the contract provision required by this section.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.

Sec. 2260.005. EXCLUSIVE PROCEDURE. Subject to Section 2260.007, the procedures contained in this chapter are exclusive and required prerequisites to suit in accordance with Chapter 107, Civil Practice and Remedies Code. This chapter does not prevent a contractor sued by a unit of state government from asserting a counterclaim or right of offset against the unit of state government in the court in which the unit of state government files the suit.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.
Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 72, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1272, Sec. 8.02, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1422, Sec. 14.09, eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 988 (H.B. 1940), Sec. 2, eff. September 1, 2005.

Sec. 2260.006. SOVEREIGN IMMUNITY. This chapter does not waive sovereign immunity to suit or liability.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.

Sec. 2260.007. LEGISLATIVE AUTHORITY RETAINED; INTERPRETATION OF CHAPTER. (a) Notwithstanding Section 2260.005, the legislature retains the authority to deny or grant a waiver of immunity to suit against a unit of state government by statute, resolution, or any other means the legislature may determine appropriate.

(b) This chapter does not and may not be interpreted to:

(1) divest the legislature of the authority to grant permission to sue a unit of state government on the terms, conditions, and procedures that the legislature may specify in the measure granting the permission;

(2) require that the legislature, in granting or denying permission to sue a unit of state government, comply with this chapter; or

(3) limit in any way the effect of a legislative grant of permission to sue a unit of state government unless the grant itself provides that this chapter may have that effect.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 73, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1272, Sec. 8.03, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1422, Sec. 14.10, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 9.021, eff. Sept. 1, 2003.

SUBCHAPTER B. NEGOTIATION OF CLAIM

Sec. 2260.051. CLAIM FOR BREACH OF CONTRACT; NOTICE. (a) A contractor may make a claim against a unit of state government for breach of a contract between the unit of state government and the contractor. The unit of state government may assert a counterclaim against the contractor.

(b) A contractor must provide written notice to the unit of state government of a claim for breach of contract not later than the 180th day after the date of the event giving rise to the claim.

(c) The notice must state with particularity:

(1) the nature of the alleged breach;

(2) the amount the contractor seeks as damages; and

(3) the legal theory of recovery.

(d) A unit of state government must assert, in a writing delivered to the contractor, any counterclaim not later than the 60th day after the date of notice under Subsection (b). A unit of state government that does not comply with this subsection waives the right to assert the counterclaim.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 988 (H.B. 1940), Sec. 3, eff. September 1, 2005.

Sec. 2260.052. NEGOTIATION. (a) The chief administrative officer or, if designated in the contract, another officer of the unit of state government shall examine the claim and any counterclaim and negotiate with the contractor in an effort to resolve them. The negotiation must begin not later than the 120th day after the date the claim is received.

(b) Repealed by Acts 2005, 79th Leg., Ch. 988, Sec. 8, eff. September 1, 2005.

(c) Each unit of state government with rulemaking authority shall develop rules to govern the negotiation and mediation of a claim under this section. If a unit of state government does not have rulemaking authority, that unit shall follow the rules adopted by the attorney general. A model rule for negotiation and mediation under this chapter shall be provided for voluntary adoption by units of state government through the coordinated efforts of the State Office of Administrative Hearings and the office of the attorney general.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 988 (H.B. 1940), Sec. 4, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 988 (H.B. 1940), Sec. 8, eff. September 1, 2005.

Sec. 2260.053. PARTIAL RESOLUTION OF CLAIM. (a) If the negotiation under Section 2260.052 results in the resolution of some

disputed issues by agreement or in a settlement, the parties shall reduce the agreement or settlement to writing and each party shall sign the agreement or settlement.

(b) A partial settlement or resolution of a claim does not waive a party's rights under this chapter as to the parts of the claim that are not resolved.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.

Sec. 2260.054. PAYMENT OF CLAIM FROM APPROPRIATED FUNDS. A unit of state government may pay a claim resolved in accordance with this subchapter only from money appropriated to it for payment of contract claims or for payment of the contract that is the subject of the claim. If money previously appropriated for payment of contract claims or payment of the contract is insufficient to pay the claim or settlement, the balance of the claim may be paid only from money appropriated by the legislature for payment of the claim.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.

Sec. 2260.055. INCOMPLETE RESOLUTION. If a claim is not entirely resolved under Section 2260.052 on or before the 270th day after the date the claim is filed with the unit of state government, unless the parties agree in writing to an extension of time, the contractor may file a request for a hearing under Subchapter C.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.

Sec. 2260.056. MEDIATION. (a) Before the 120th day after the date the claim is filed with the unit of state government and before the expiration of any extension of time under Section 2260.055, the parties may agree to mediate a claim made under this chapter.

(b) The mediation shall be conducted in accordance with rules adopted under Section 2260.052(c).

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 988 (H.B. 1940), Sec. 5, eff. September

1, 2005.

SUBCHAPTER C. CONTESTED CASE HEARING

Sec. 2260.101. DEFINITION. In this subchapter, "office" means the State Office of Administrative Hearings.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.

Sec. 2260.102. REQUEST FOR HEARING. (a) If a contractor is not satisfied with the results of negotiation with a unit of state government under Section 2260.052, the contractor may file a request for a hearing with the unit of state government.

(b) The request must:

(1) state the factual and legal basis for the claim; and

(2) request that the claim be referred to the State Office of Administrative Hearings for a contested case hearing.

(c) On receipt of a request under Subsection (a), the unit of state government shall refer the claim to the State Office of Administrative Hearings for a contested case hearing under Chapter 2001, Government Code, as to the issues raised in the request.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.

Sec. 2260.103. HEARING FEE. (a) The chief administrative law judge of the office may set a fee for a hearing before the office under this subchapter.

(b) The chief administrative law judge of the office shall set the fee in an amount that:

(1) is not less than $250; and

(2) allows the office to recover all or a substantial part of its costs in holding hearings.

(c) The chief administrative law judge of the office by rule may establish a graduated fee scale, increasing the fee in relation to the amount in controversy.

(d) The office may:

(1) assess the fee against the party who does not prevail in the hearing; or

(2) apportion the fee against the parties in an equitable

manner.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.

Sec. 2260.104. HEARING. (a) An administrative law judge of the office shall conduct a hearing in accordance with the procedures adopted by the chief administrative law judge of the office.

(b) Within a reasonable time after the conclusion of the hearing, the administrative law judge shall issue a written decision containing the administrative law judge's findings and recommendations.

(c) The administrative law judge shall base the decision on the pleadings filed with the office and the evidence received.

(d) The decision must include:

(1) the findings of fact and conclusions of law on which the administrative law judge's decision is based; and

(2) a summary of the evidence.

(e) In a contested case hearing under this subchapter:

(1) the decision may not be appealed except for abuse of discretion; and

(2) the state agency may not change the finding of fact or conclusion of law, nor vacate or modify an order as provided in Section 2001.058(e).

(f) Subchapter G, Chapter 2001, does not apply to a hearing under this section.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 988 (H.B. 1940), Sec. 6, eff. September 1, 2005.

Sec. 2260.105. PAYMENT OF CLAIM. (a) The unit of state government shall pay the amount of the claim or part of the claim if:

(1) the administrative law judge finds, by a preponderance of the evidence, that under the laws of this state the claim or part of the claim is valid; and

(2) the total amount of damages, after taking into account any counterclaim, is less than $250,000.

(a-1) The unit of state government shall pay that part of the

claim that is less than $250,000 if:

(1) the administrative law judge finds, by a preponderance of the evidence, that under the laws of this state the claim or part of the claim is valid; and

(2) the total amount of the damages, after taking into account any counterclaim, equals or exceeds $250,000.

(b) A unit of state government shall pay a claim under this subchapter from money appropriated to it for payment of contract claims or for payment of the contract that is the subject of the claim. If money previously appropriated for payment of contract claims or payment of the contract is insufficient to pay the claim, the balance of the claim may be paid only from money appropriated by the legislature for payment of the claim.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 988 (H.B. 1940), Sec. 7, eff. September 1, 2005.

Sec. 2260.1055. REPORT AND RECOMMENDATION TO LEGISLATURE. (a) If, after a hearing, the administrative law judge determines that a claim involves damages of $250,000 or more, the administrative law judge shall issue a written report containing the administrative law judge's findings and recommendations to the legislature.

(b) The administrative law judge may recommend that the legislature:

(1) appropriate money to pay the claim or part of the claim if the administrative law judge finds, by a preponderance of the evidence, that under the laws of this state the claim or part of the claim is valid; or

(2) not appropriate money to pay the claim and that consent to suit under Chapter 107, Civil Practice and Remedies Code, be denied.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.

Sec. 2260.106. PREJUDGMENT INTEREST. Chapter 304, Finance Code, applies to a judgment awarded to a claimant under this chapter, except that the applicable rate of interest may not exceed six

percent.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.

Sec. 2260.107. EXECUTION ON STATE PROPERTY NOT AUTHORIZED. This chapter does not authorize execution on property owned by the state or a unit of state government.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.

Sec. 2260.108. DEFENSE BY ATTORNEY GENERAL. (a) The attorney general shall defend a unit of state government in a contested case hearing covered by this chapter.

(b) The attorney general may settle or compromise the portion of a claim that may result in state liability under this chapter.

Added by Acts 1999, 76th Leg., ch. 1352, Sec. 9, eff. Aug. 30, 1999.

CHAPTER 2261. STATE CONTRACTING STANDARDS AND OVERSIGHT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2261.001. APPLICABILITY. (a) This chapter, other than Subchapter F, applies only to each procurement of goods or services made by a state agency that is neither made by the comptroller nor made under purchasing authority delegated to the agency by or under Section 51.9335 or 73.115, Education Code, or Section 2155.131 or 2155.132.

(b) This chapter applies to contracts and to contract management activities that are related to the procurements to which it applies.

(c) The comptroller on request shall determine whether a procurement or type of procurement:

(1) is made under purchasing authority delegated to an agency by or under Section 2155.131 or 2155.132; or

(2) is made under some other source of purchasing authority.

(d) This chapter does not apply to a procurement made by the Texas Department of Transportation or a procurement paid for by local or institutional funds of an institution of higher education.

(e) Repealed by Acts 2003, 78th Leg., ch. 309, Sec. 7.25.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from Sec. 2259.001 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.25, eff. June 18, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.76, eff. September 1, 2007.
Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 17, eff. September 1, 2015.

Sec. 2261.002. DEFINITIONS. In this chapter:
(1) "Contract" includes a grant, other than a grant made to a school district or a grant made for other academic purposes, under which the recipient of the grant is required to perform a specific act or service, supply a specific type of product, or both.
(2) "State agency" has the meaning assigned by Section 2151.002.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from Sec. 2259.002 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001.

Sec. 2261.003. OPEN MARKET PURCHASES. This chapter does not require a state agency to purchase a good or service under contract if the agency is authorized under other law to purchase the good or service on the open market.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from Sec. 2259.003 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001.

SUBCHAPTER B. CONTRACTOR SELECTION

Sec. 2261.051. COMPETITIVE CONTRACTOR SELECTION PROCEDURES. Each state agency shall assess its contractor selection procedures and use competitive selection procedures to the greatest extent possible when selecting contractors.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from Sec. 2259.051 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001.

Sec. 2261.052. DETERMINING LOWEST AND BEST BID OR PROPOSAL. (a) In determining the lowest and best bid or proposal, a state agency shall consider:

(1) the vendor's price to provide the good or service;

(2) the probable quality of the offered good or service; and

(3) the quality of the vendor's past performance in contracting with the agency, with other state entities, or with private sector entities.

(b) This section does not apply to a procurement covered by Section 2155.144.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from Sec. 2259.052 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001.

Sec. 2261.0525. CERTIFICATION OF VENDOR ASSESSMENT PROCESS. (a) Before a state agency may award a contract to a vendor, the agency's procurement director must review the process and all documents used by the agency to assess each vendor who responded to the solicitation. The procurement director must certify in writing that:

(1) the agency assessed each vendor's response to the solicitation using the evaluation criteria published in the solicitation or, if applicable, the written evaluation criteria established by the agency; and

(2) the final calculation of scoring of responses was accurate.

(b) A state agency shall justify in writing any change in the scoring of a vendor that occurs following the initial assessment and scoring of responses. The written justification must be reviewed by the agency's procurement director. The procurement director shall certify in writing that the change in scoring was appropriate.

(c) A state agency's procurement director may delegate to a

person whose position in the agency's procurement office is at least equal to the position of contract manager the certification authority under this section if the agency has met the conditions prescribed by the comptroller under Section 2262.053(h).

(d) A written certification or justification required by this section must be placed in the contract file.

Added by Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 23, eff. September 1, 2019.

Sec. 2261.053. PROHIBITION ON CERTAIN BIDS AND CONTRACTS. (a) In this section:

(1) "Disaster" has the meaning assigned by Section 418.004.

(2) "Hurricane Katrina" means the hurricane of that name that struck the gulf coast region of the United States in August 2005.

(b) Except as provided by Subsection (c), a state agency may not accept a bid or award a contract that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been:

(1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or

(2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

(c) A bid or award subject to the requirements of this section must include the following statement:

"Under Section 2261.053, Government Code, the contractor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."

(d) If a state agency determines that an individual or business

entity holding a state contract was ineligible to have the bid accepted or contract awarded under Subsection (b), the state agency may immediately terminate the contract without further obligation to the contractor.

(e) This section does not create a cause of action to contest a bid or award of a state contract.

Added by Acts 2007, 80th Leg., R.S., Ch. 1302 (S.B. 608), Sec. 3, eff. September 1, 2007.

Sec. 2261.054. STATEMENT REGARDING VENDOR SELECTION REQUIRED FOR CERTAIN CONTRACT AWARDS. If a state agency awards a contract to a vendor who did not receive the highest score in an assessment process certified under Section 2261.0525, the agency shall state in writing in the contract file the reasons for making the award.

Added by Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 23, eff. September 1, 2019.

SUBCHAPTER C. CONTRACT PROVISIONS

Sec. 2261.101. REMEDIES AND SANCTIONS SCHEDULES. (a) Each state agency shall create and incorporate in each of its contracts for goods or services that are subject to this chapter a remedies schedule, a graduated sanctions schedule, or both, for breach of the contract or substandard performance under the contract.

(b) State agencies shall design fair and feasible standards that will hold contractors accountable for breach of contract or substandard performance under a contract without diminishing the number of able providers who are willing to contract with the state.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from Sec. 2259.101 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001.

Sec. 2261.102. LIABILITY INSURANCE COVERAGE REQUIRED. Each state agency shall, when feasible, include provisions in each of its contracts for goods or services that are subject to this chapter that require the contractor to carry director or officer liability

insurance coverage in an amount not less than the value of the contract that is sufficient to protect the interests of the state in the event an actionable act or omission by a director or officer of the contractor damages the state's interests.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from Sec. 2259.102 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001.

SUBCHAPTER D. PAYMENT AND REIMBURSEMENT METHODS

Sec. 2261.151. REEVALUATION OF PAYMENT AND REIMBURSEMENT RATES. (a) To ensure that its payment and reimbursement methods and rates are appropriate, each state agency that makes procurements to which this chapter applies shall reevaluate at least biennially its payment and reimbursement methods and rates, especially methods and rates based on historical funding levels or on a formula established by agency rule rather than being based on reasonable and necessary actual costs incurred.

(b) A state agency shall submit formal rate reevaluation information to the Legislative Budget Board and the comptroller on request.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from Sec. 2259.151 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001.

SUBCHAPTER E. CONTRACTOR OVERSIGHT AND LIABILITY

Sec. 2261.201. DOUBLE-BILLING. Each state agency that makes procurements to which this chapter applies shall design and implement procedures to detect and report double-billing by contractors.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from Sec. 2259.201 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001.

Sec. 2261.202. CONTRACT MONITORING RESPONSIBILITIES. As one of its contract management policies, each state agency that makes procurements to which this chapter applies shall establish and adopt

by rule a policy that clearly defines the contract monitoring roles and responsibilities, if any, of internal audit staff and other inspection, investigative, or audit staff.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from Sec. 2259.202 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001.

Sec. 2261.203. COMPARABLE COSTS. Each state agency that makes procurements to which this chapter applies shall monitor performance under a contract to verify that comparable costs are being charged for comparable goods and services.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from Sec. 2259.203 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 43, eff. Sept. 1, 2003.

Sec. 2261.204. LIABILITY PROVISIONS. (a) Each state agency shall include in the contract file for each of its contracts for goods or services subject to this chapter a written explanation of the agency's decision to include or not include in the contract a provision for liquidated damages or another form of liability for damages caused by the contractor.

(b) A contract file must also include, if applicable, a written justification for any provision in the contract that limits the liability of a contractor for damages.

(c) If an extension of a state agency's contract described by Subsection (a) modifies a provision for liquidated damages or another provision relating to a contractor's liability for damages, the agency must amend the written explanation or justification required by this section to include a justification for the modification.

Added by Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 25, eff. September 1, 2019.

SUBCHAPTER F. ETHICS, REPORTING, AND APPROVAL REQUIREMENTS FOR CERTAIN CONTRACTS

Sec. 2261.251. APPLICABILITY OF SUBCHAPTER. (a) Notwithstanding Section 2261.001, this subchapter applies to the Texas Department of Transportation and to an institution of higher education acquiring goods or services under Section 51.9335 or 73.115, Education Code.

(b) This subchapter does not apply to a contract of the Employees Retirement System of Texas except for a contract with a nongovernmental entity for claims administration of a group health benefit plan under Subtitle H, Title 8, Insurance Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 18, eff. September 1, 2015.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 26, eff. September 1, 2019.

Sec. 2261.252. DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST; CERTAIN CONTRACTS PROHIBITED. (a) Each state agency employee or official who is involved in procurement or in contract management for a state agency shall disclose to the agency any potential conflict of interest specified by state law or agency policy that is known by the employee or official with respect to any contract with a private vendor or bid for the purchase of goods or services from a private vendor by the agency.

(a-1) A state agency employee or official is required to disclose under Subsection (a) any potential conflict of interest specified by state law or agency policy that is known by the employee or official at any time during:

(1) the procurement process, from the initial request for bids for the purchase of goods or services from a private vendor until the completed final delivery of the goods or services; or

(2) the term of a contract with a private vendor.

(b) A state agency may not enter into a contract for the purchase of goods or services with a private vendor with whom any of the following agency employees or officials have a financial interest:

(1) a member of the agency's governing body;

(2) the governing official, executive director, general counsel, chief procurement officer, or procurement director of the

agency; or

(3) a family member related to an employee or official described by Subdivision (1) or (2) within the second degree by affinity or consanguinity.

(c) A state agency employee or official has a financial interest in a person if the employee or official:

(1) owns or controls, directly or indirectly, an ownership interest of at least one percent in the person, including the right to share in profits, proceeds, or capital gains; or

(2) could reasonably foresee that a contract with the person could result in a financial benefit to the employee or official.

(d) A financial interest prohibited by this section does not include a retirement plan, a blind trust, insurance coverage, or an ownership interest of less than one percent in a corporation.

(e) This section applies only to a contract for the purchase of goods or services solicited through a purchase order if the amount of the purchase order exceeds $25,000.

(f) Section 51.923, Education Code, governs the conflicts of interest of the members of the governing board of an institution of higher education, as those terms are defined by Section 61.003, Education Code, and this section does not apply to those members.

Added by Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 18, eff. September 1, 2015.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. 533), Sec. 9, eff. September 1, 2017.

Sec. 2261.253. REQUIRED POSTING OF CERTAIN CONTRACTS; ENHANCED CONTRACT AND PERFORMANCE MONITORING. (a) For each contract for the purchase of goods or services from a private vendor, each state agency shall post on its Internet website:

(1) each contract the agency enters into, including contracts entered into without inviting, advertising for, or otherwise requiring competitive bidding before selection of the contractor, until the contract expires or is completed;

(2) the statutory or other authority under which a contract that is not competitively bid under Subdivision (1) is entered into

without compliance with competitive bidding procedures; and

(3) the request for proposals related to a competitively bid contract included under Subdivision (1) until the contract expires or is completed.

(b) A state agency monthly may post contracts described by Subsection (a) that are valued at less than $15,000.

(c) Each state agency by rule shall establish a procedure to identify each contract that requires enhanced contract or performance monitoring and submit information on the contract to the agency's governing body or, if the agency is not governed by a multimember governing body, the officer who governs the agency. The agency's contract management office or procurement director shall immediately notify the agency's governing body or governing official, as appropriate, of any serious issue or risk that is identified with respect to a contract monitored under this subsection.

(d) This section does not apply to a memorandum of understanding, interagency contract, interlocal agreement, or contract for which there is not a cost.

(e) A state agency that posts a contract on its Internet website as required under this section shall redact from the posted contract:

(1) information that is confidential under law;

(2) information the attorney general determines is excepted from public disclosure under Chapter 552; and

(3) the social security number of any individual.

(f) The redaction of information under Subsection (e) does not exempt the information from the requirements of Section 552.021 or 552.221.

(g) Subsection (a) does not apply to:

(1) a contract posted on the major contracts database established under Section 322.020; or

(2) a contract of an institution of higher education that is valued at less than $15,000 and paid with money other than funds appropriated to the institution by this state.

(h) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code, except that the term does not include a public junior college.

Added by Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 18, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. 533), Sec. 10, eff. September 1, 2017.

Sec. 2261.254. CONTRACTS WITH VALUE EXCEEDING $1 MILLION. (a) For each contract for the purchase of goods or services that has a value exceeding $1 million, a state agency shall develop and implement contract reporting requirements that provide information on:

(1) compliance with financial provisions and delivery schedules under the contract;

(2) corrective action plans required under the contract and the status of any active corrective action plan; and

(3) any liquidated damages assessed or collected under the contract.

(b) Each state agency shall verify:

(1) the accuracy of any information reported under Subsection (a) that is based on information provided by a contractor; and

(2) the delivery time of goods or services scheduled for delivery under the contract.

(c) Except as provided by Subsection (d), a state agency may enter into a contract for the purchase of goods or services that has a value exceeding $1 million only if:

(1) the governing body of the state agency approves the contract and the approved contract is signed by the presiding officer of the governing body; or

(2) for a state agency that is not governed by a multimember governing body, the officer who governs the agency approves and signs the contract.

(d) The governing body or governing official of a state agency, as appropriate, may delegate to the executive director or a deputy executive director of the agency the approval and signature authority under Subsection (c).

(e) A highway construction, engineering services, or maintenance contract that is in compliance with all applicable laws related to procuring engineering services or construction bidding and that is awarded by the Texas Department of Transportation under Subchapter A, Chapter 223, Transportation Code, is not required to be

signed by a member of the Texas Transportation Commission or the executive director of the department. This exception does not apply to expedited highway improvement contracts under Subchapter C, Chapter 223, Transportation Code, a comprehensive development agreement entered into under Subchapter E, Chapter 223, Transportation Code, a design-build contract entered into under Subchapter F, Chapter 223, Transportation Code, or any other contract entered into by the Texas Department of Transportation.

Added by Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 18, eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 27, eff. September 1, 2019.

Sec. 2261.255. CONTRACTS WITH VALUE EXCEEDING $5 MILLION. For each state agency contract for the purchase of goods or services that has a value exceeding $5 million, the contract management office or procurement director of the agency must:

(1) verify in writing that the solicitation and purchasing methods and contractor selection process comply with state law and agency policy; and

(2) submit to the governing body of the agency, or governing official of the agency if the agency is not governed by a multimember governing body, information on any potential issue that may arise in the solicitation, purchasing, or contractor selection process.

Added by Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 18, eff. September 1, 2015.

Sec. 2261.256. ACCOUNTABILITY AND RISK ANALYSIS PROCEDURE; CONTRACT MANAGEMENT HANDBOOK. (a) Each state agency shall develop and comply with a purchasing accountability and risk analysis procedure. The procedure must provide for:

(1) assessing the risk of fraud, abuse, or waste in the contractor selection process, contract provisions, and payment and reimbursement rates and methods for the different types of goods and services for which the agency contracts;

(2) identifying contracts that require enhanced contract monitoring or the immediate attention of contract management staff; and

(3) establishing clear levels of purchasing accountability and staff responsibilities related to purchasing.

(b) Each state agency shall publish a contract management handbook that establishes consistent contracting policies and practices to be followed by the agency and that is consistent with the comptroller's contract management guide. The agency's handbook may include standard contract provisions and formats for the agency to incorporate in contracts.

(c) Each state agency shall post on the agency's Internet website the procedures described by Subsections (a)(2) and (3) and submit to the comptroller a link to the web page that includes the procedures. The comptroller shall post on the comptroller's Internet website the web page link submitted by each state agency.

Added by Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 18, eff. September 1, 2015.

Sec. 2261.257. CONTRACT DATABASE. (a) Each state agency that becomes a participant in the centralized accounting and payroll systems as authorized by Sections 2101.035 and 2101.036 shall use the system to identify and record each contract entered into by the agency as specified by the rules, policies, or procedures developed by the comptroller.

(b) The comptroller shall provide as necessary information and state agency contract data contained in the centralized accounting and payroll systems to other state agencies with oversight duties, including the Legislative Budget Board, the state auditor's office, and the Department of Information Resources.

Added by Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 18, eff. September 1, 2015.

Sec. 2261.258. MONITORING ASSESSMENT BY STATE AUDITOR. (a) Before July 1 of each year, the state auditor shall assign one of the following ratings to each of the 25 largest state agencies in that state fiscal year as determined by the Legislative Budget Board:

(1) additional monitoring warranted;

(2) no additional monitoring warranted; or

(3) reduced monitoring warranted.

(b) In assigning a rating to a state agency as required under Subsection (a), the state auditor shall consider the following information, as applicable:

(1) results of an audit of:

(A) the agency conducted by the state auditor under Chapter 321; or

(B) the agency's contracts and contract processes and controls conducted by the agency's internal auditors or by the state auditor;

(2) results of a purchase audit conducted by the comptroller under Section 2155.325;

(3) information reported by the quality assurance team established under Section 2054.158 relating to the agency's major information resources projects;

(4) information from the Contract Advisory Team established under Subchapter C, Chapter 2262, relating to reviews of the agency's contracts and contract solicitation documents;

(5) information relating to agency findings from a review of the agency conducted by:

(A) the Legislative Budget Board; and

(B) the Sunset Advisory Commission under Chapter 325 (Texas Sunset Act);

(6) the agency's self-reported improvements to the agency's contracting processes; and

(7) any additional internal analysis provided by the agency.

(c) On or before September 1 of each year, the state auditor shall submit to the comptroller and the Department of Information Resources a report that:

(1) lists each state agency that was assigned a rating under Subsection (a); and

(2) for a state agency that was assigned a rating under Subsection (a)(1) or (3), specifies that additional or reduced monitoring, as applicable, is required during one or more of the following periods:

(A) contract solicitation development;

(B) contract formation and award; or

(C) contract management and termination.

(d) In consultation with the Contract Advisory Team established under Subchapter C, Chapter 2262, the comptroller by rule shall develop guidelines for the additional or reduced monitoring of a state agency during the periods described by Subsections (c)(2)(A), (B), and (C) for a contract that falls under the monetary thresholds for review or monitoring by the Contract Advisory Team.

(e) In consultation with the quality assurance team established under Section 2054.158, the Department of Information Resources by rule shall develop guidelines for the additional or reduced monitoring of a state agency during the periods described by Subsections (c)(2)(A), (B), and (C) for a contract that falls under the monetary thresholds for review or monitoring by the quality assurance team.

(f) The state auditor may request any information necessary from a state agency, the Contract Advisory Team, or the quality assurance team to comply with the requirements of this section, and the agency or team, as applicable, shall provide the requested information.

(g) The state auditor, comptroller, and Department of Information Resources shall share information as necessary to fulfill their respective duties under this section.

(h) The state auditor's duties under this section must be included in the audit plan and approved by the legislative audit committee under Section 321.013.

Added by Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 28, eff. September 1, 2019.

Sec. 2261.259. ELECTRONIC COMPLIANCE SUBMISSIONS. A state agency that uses the centralized accounting and payroll system authorized under Sections 2101.035 and 2101.036 or an alternative computer software system for compliance requirements related to the procurement of goods or services may electronically submit to the comptroller using that computer software system a written justification, verification, notification, or acknowledgement required under this chapter or Subchapter B, Chapter 2155.

Added by Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 28, eff. September 1, 2019.

Sec. 2261.260. TEXAS DEPARTMENT OF TRANSPORTATION PRECLUSION POLICY FOR PRIVATE DESIGN PROFESSIONALS. (a) In this section, "private design professional" has the meaning assigned by Section 2252.905.

(b) Before the Texas Department of Transportation may make a determination under this subchapter that a private design professional is precluded from performing a contract for architectural or engineering services or from participating in a procurement for those services, the department must adopt a written preclusion policy.

(c) A policy under this section must:

(1) be published or distributed in a manner that ensures that private design professionals in this state are aware of the policy;

(2) provide that the private design professional be notified in writing at the time the Texas Department of Transportation determines that a potential basis for preclusion exists; and

(3) provide for an appeals process by which the private design professional is given a reasonable amount of time to establish that no basis for preclusion under the policy exists.

Added by Acts 2023, 88th Leg., R.S., Ch. 617 (H.B. 3989), Sec. 1, eff. September 1, 2023.

CHAPTER 2262. STATEWIDE CONTRACT MANAGEMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2262.001. DEFINITIONS. In this chapter:

(1) "Team" means the Contract Advisory Team created under Subchapter C.

(1-a) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 126(3), eff. September 1, 2019.

(2) "Contract management guide" means the guide developed under Section 2262.051.

(3) "Contract manager" means a person who:

(A) is employed by a state agency; and

(B) has significant contract management duties for the

state agency, as determined by the agency in consultation with the state auditor.

(4) "Major contract" means a contract that has a value of at least $1 million.

(5) "State agency" has the meaning provided by Section 2056.001.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 5.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.19, eff. June 18, 2003.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 126(3), eff. September 1, 2019.

Sec. 2262.0011. COMPTROLLER POWERS AND DUTIES. The comptroller has under this chapter the powers and duties described by Section 2151.004(d).

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.77, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 119, eff. September 1, 2019.

Sec. 2262.0015. APPLICABILITY TO CERTAIN CONTRACTS. (a) The comptroller by rule shall establish threshold requirements that exclude small or routine contracts, including purchase orders, from the application of this chapter.

(b) This chapter does not apply to an enrollment contract described by 1 T.A.C. Section 391.183 as that section existed on November 1, 2013.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. 1681), Sec. 1, eff. November 1, 2013.

Sec. 2262.002. EXEMPTIONS. (a) This chapter does not apply to an institution of higher education as defined by Section 61.003, Education Code.

(b) This chapter does not apply to contracts of the Texas Department of Transportation that:

(1) relate to highway construction or highway engineering; or

(2) are subject to Section 201.112, Transportation Code.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 5.01, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.93, eff. June 14, 2005.

Sec. 2262.004. REQUIRED NEPOTISM DISCLOSURE. (a) In this section:

(1) "Major stockholder" means a person who directly or indirectly owns or controls more than a 10 percent interest or a pecuniary interest with a value exceeding $25,000 in a business entity.

(2) "Purchasing personnel" means an employee of a state agency who makes decisions on behalf of the state agency or recommendations regarding:

(A) contract terms or conditions on a major contract;

(B) who is to be awarded a major contract;

(C) preparation of a solicitation for a major contract; or

(D) evaluation of a bid or proposal.

(b) Before a state agency may award a major contract for the purchase of goods or services to a business entity, each of the state agency's purchasing personnel working on the contract must disclose in writing to the administrative head of the state agency any relationship the purchasing personnel is aware about that the employee has with an employee, a partner, a major stockholder, a paid consultant with a contract with the business entity the value of which exceeds $25,000, or other owner of the business entity that is within a degree described by Section 573.002.

(c) The state auditor shall develop a form for use in reporting a relationship under Subsection (b).

(d) Notwithstanding Section 2262.001 or 2262.002, this section applies to:

(1) an institution of higher education as defined by Section 61.003, Education Code; and

(2) contracts of the Texas Department of Transportation that relate to highway construction or highway engineering.

Added by Acts 2005, 79th Leg., Ch. 649 (H.B. 2932), Sec. 1, eff. September 1, 2005.

Sec. 2262.005. CONSULTATION WITH STATE AGENCIES. The comptroller shall consult with state agencies in developing forms, contract terms, and criteria required under this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. 1681), Sec. 1, eff. November 1, 2013.

SUBCHAPTER B. CONTRACT MANAGEMENT

Sec. 2262.051. CONTRACT MANAGEMENT GUIDE; RULES. (a) In consultation with the attorney general, the Department of Information Resources, and the state auditor, the comptroller shall develop or periodically update a contract management guide for use by state agencies. Participation by the state auditor under this subsection is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c).

(b) The comptroller may adopt rules necessary to develop or update the guide.

(c) The guide must provide information regarding the primary duties of a contract manager, including how to:

(1) develop and negotiate a contract;

(2) select a contractor; and

(3) monitor contractor and subcontractor performance under a contract.

(d) The guide must include model provisions for state agency contracts. The guide must:

(1) distinguish between essential provisions that a state agency must include in a contract to protect the interests of this state and recommended provisions that a state agency may include in a contract;

(2) recognize the unique contracting needs of an individual state agency or program and provide sufficient flexibility to

accommodate those needs, consistent with protecting the interests of this state;

(3) include maximum contract periods under which a new competitive solicitation is not necessary; and

(4) include the model contract management process developed under Section 2262.104 and recommendations on the appropriate use of the model.

(e) The guide must recommend time frames under which a state agency may issue a competitive solicitation for a major contract in relation to the date on which the contract is to be executed.

(f) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1227, Sec. 9, eff. November 1, 2013.

(g) The guide must establish procedures under which a state agency is required to solicit explanations from qualified potential respondents who did not respond to a competitive solicitation for a contract on which fewer than two qualified bids were received by the agency.

(h) The guide must establish procedures for major contracts that outsource a state function or process to a contractor, including when applicable the use of documents required under Subchapter J, Chapter 2054.

(i) The guide must include:

(1) instructions to assist a state agency in identifying the agency procurements that require an additional or secondary agency employee to serve as a contact for the procurement and establishing procedures for notifying vendors when to contact the additional or secondary agency employee;

(2) a general outline for the training a state agency must provide to the agency's procurement evaluators related to the goods and services the evaluator reviews for purchase by the agency, including training on the implementation of best value standards under Section 2155.074;

(3) for a procurement in an amount that exceeds $20 million, the information a state agency must include in a contract file on the evaluator for that procurement, including the reasons the person was selected and the person's relevant qualifications; and

(4) a model communications procedure for vendors and agency employees, developed in collaboration with representatives from vendors and state agencies.

(j) For a procurement in an amount that exceeds $20 million,

the guide must require a state agency to notify interested parties at least two months before the date the agency issues the solicitation for the procurement unless the procurement is for:

(1) a contract entered into by the comptroller under Section 2155.061; or

(2) a contract for services necessary to respond to a natural disaster.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 5.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.20, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 785, Sec. 45, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 7.006, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1081 (H.B. 2918), Sec. 13, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1039 (H.B. 2873), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. 1681), Sec. 9, eff. November 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 120, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 855 (S.B. 799), Sec. 16, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 736 (H.B. 3013), Sec. 1, eff. September 1, 2023.

Sec. 2262.052. COMPLIANCE WITH GUIDE. (a) Each state agency shall comply with the contract management guide.

(b) Subject to the legislative audit committee's approval of including the work described by this subsection in the audit plan under Section 321.013(c), the state auditor may:

(1) periodically monitor compliance with this section;

(2) report any noncompliance to:

(A) the governor;

(B) the lieutenant governor;

(C) the speaker of the house of representatives; and

(D) the team; and

(3) assist, in coordination with the attorney general and the comptroller, a noncomplying state agency to comply with this section.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 5.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.21, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 785, Sec. 46, eff. Sept. 1, 2003.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 60, eff. September 1, 2013.

Sec. 2262.053. CONTRACT FILE CHECKLIST; CERTIFICATION OF AGENCY COMPLIANCE. (a) Each state agency shall include in the contract file for each of its contracts a checklist to ensure the agency's compliance with state laws and rules relating to the acquisition of goods and services by the agency.

(b) The comptroller shall develop and periodically update a model contract file checklist and make the checklist available for use by state agencies. The comptroller shall periodically update the checklist.

(c) The comptroller may adopt rules necessary to develop or update the model contract file checklist.

(d) The model contract file checklist must address each stage of the procurement process and must include, at a minimum, a description of:

(1) the documents that are required to be maintained during each stage of the procurement process in accordance with applicable state laws and comptroller rules; and

(2) the procedures and documents that are required to be completed during the following stages of the procurement process:

(A) contract solicitation development;

(B) contract formation and award; and

(C) contract management.

(e) A state agency may develop its own contract file checklist based on the procurement and contracting needs of that agency, provided that the checklist developed by the agency is consistent with the comptroller's model contract file checklist and meets any requirements established by comptroller rule under Subsection (c).

(f) Before a state agency awards a contract to a vendor for the purchase of goods or services, the agency's contract manager or procurement director must:

(1) review the contents of the contract file for the contract, including the checklist, to ensure that all documents required by state law or applicable agency rules are complete and present in the file; and

(2) certify in a written document to be included in the contract file that the review required under Subdivision (1) was completed.

(g) A state agency's contract manager or procurement director may delegate to a person in the agency's procurement office the certification authority under this section.

(h) The comptroller by rule shall prescribe the conditions under which a state agency's contract manager or procurement director:

(1) must make the certification required by Subsection (f); and

(2) may delegate the certification authority under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 29, eff. September 1, 2019.

Sec. 2262.054. PUBLIC COMMENT. The comptroller by rule may establish procedures by which each state agency is required to invite public comment by publishing the proposed technical specifications for major contracts on the Internet through the information service known as the Texas Marketplace or through a suitable successor information service. The guide must define "technical specifications."

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 5.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.23, eff. June 18, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 121, eff. September 1, 2019.

Sec. 2262.055. VENDOR PERFORMANCE TRACKING SYSTEM. (a) The comptroller shall evaluate the vendor's performance based on information reported by state agencies under Section 2155.089 and criteria established by the comptroller.

(b) The comptroller by rule shall establish an evaluation process that:

(1) rates vendors on an A through F scale, with A being the highest grade; and

(2) allows vendors who receive a grade lower than a C to protest any classification given by the comptroller.

(c) The comptroller shall include the performance reviews in a vendor performance tracking system.

(d) A state agency shall use the vendor performance tracking system to determine whether to award a contract to a vendor reviewed in the tracking system. The comptroller by rule shall establish the manner in which the rating scale established under Subsection (b) affects a vendor's eligibility for state contracts and the grades on the scale that disqualify a vendor from state contracting.

(e) The comptroller shall make the vendor performance tracking system accessible to the public on the comptroller's Internet website.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. 1681), Sec. 4, eff. November 1, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 21, eff. September 1, 2015.

Sec. 2262.056. APPROVAL REQUIRED FOR ASSIGNMENT OF SERVICES CONTRACTS. (a) In this section:

(1) "Major information resources project" has the meaning assigned by Section 2054.003.

(2) "Sensitive personal information" has the meaning assigned by Section 521.002, Business & Commerce Code.

(b) A vendor awarded a services contract by a state agency may not assign the vendor's rights under the contract to a third party unless the assignment is approved by the state agency.

(c) At least 14 days before a state agency rejects or approves a vendor's proposed assignment under Subsection (b), the state agency

shall notify the Legislative Budget Board of the proposed assignment if the contract subject to the assignment:

(1) is for a major information resources project; or

(2) involves storing, receiving, processing, transmitting, disposing of, or accessing sensitive personal information in a foreign country.

Added by Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 29, eff. September 1, 2019.

Sec. 2262.057. STANDARDS FOR CONTRACTS RELATED TO EMERGENCY MANAGEMENT. (a) The comptroller shall update the contract management guide to include contract management standards and information for contracts related to emergency management.

(b) The comptroller shall develop the standards described by Subsection (a) in consultation with the Texas Division of Emergency Management, Texas A&M AgriLife Extension Service, Texas A&M Engineering Extension Service, and local governmental entities.

(c) The guide must include:

(1) preferred contracting standards;

(2) information on contracts for services that may be necessary to respond to a natural disaster or to construct, repair, or rebuild property or infrastructure after a natural disaster, including clearing debris and providing information management services and construction services; and

(3) advice on preparing for a natural disaster, including procedures to assist a state agency with contracting for services described by Subdivision (2) before a natural disaster occurs.

Added by Acts 2019, 86th Leg., R.S., Ch. 615 (S.B. 986), Sec. 1, eff. September 1, 2019.
Redesignated from Government Code, Section 2262.056 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(51), eff. September 1, 2021.

SUBCHAPTER C. CONTRACT ADVISORY TEAM

Sec. 2262.101. CREATION; DUTIES. (a) The Contract Advisory Team is created to assist state agencies in improving contract management practices by:

(1) reviewing and making recommendations on the solicitation documents and contract documents for contracts of state agencies that have a value of at least $5 million;

(2) reviewing any findings or recommendations made by the state auditor, including those made under Section 2262.052(b), regarding a state agency's compliance with the contract management guide;

(3) providing recommendations to the comptroller regarding:

(A) the development of the contract management guide; and

(B) the training under Section 656.052;

(4) providing recommendations and assistance to state agency personnel throughout the contract management process;

(5) coordinating and consulting with the quality assurance team established under Section 2054.158 on all contracts relating to a major information resources project;

(6) developing and recommending policies and procedures to improve state agency contract management practices;

(7) developing and recommending procedures to improve state agency contracting practices by including consideration for best value; and

(8) creating and periodically performing a risk assessment to determine the appropriate level of management and oversight of contracts by state agencies.

(b) The risk assessment created and performed under Subsection (a)(8) must include the following criteria:

(1) the amount of appropriations to the agency;

(2) total contract value as a percentage of appropriations to the agency; or

(3) the impact of the functions and duties of the state agency on the health, safety, and well-being of residents.

(c) The comptroller shall oversee the activities of the team, including ensuring that the team carries out its duties under Subsections (a)(5) and (a)(7).

(d) A state agency shall:

(1) comply with a recommendation made under Subsection (a)(1); or

(2) submit a written explanation regarding why the recommendation is not applicable to the contract under review.

(e) The team may review documents under Subsection (a)(1) only

for compliance with contract management and best practices principles and may not make a recommendation regarding the purpose or subject of the contract.

(f) The team may develop an expedited process for reviewing solicitations under Subsection (a)(1) for contracts:

(1) that the team identifies as posing a low risk of loss to the state; or

(2) for which templates will be used more than once by a state agency.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 5.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.24, eff. June 18, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 676 (H.B. 1965), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. 1681), Sec. 5, eff. November 1, 2013.

Reenacted and amended by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 9.010, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 526 (S.B. 255), Sec. 6, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. 533), Sec. 11, eff. September 1, 2017.

Sec. 2262.102. MEMBERS. (a) The team consists of the following six members:

(1) one member from the Health and Human Services Commission;

(2) one member from the comptroller's office;

(3) one member from the Department of Information Resources;

(4) one member from the Texas Facilities Commission;

(5) one member from the governor's office; and

(6) one member from a small state agency.

(a-1) The chief procurement officer described by Section 2155.091 may add members to the team by designating members from state agencies that agree to participate on the team. A state agency

may decline a request to participate on the team under this subsection by submitting a written statement declining the request to the chief procurement officer.

(b) The Legislative Budget Board and the state auditor shall provide technical assistance to the team.

(c) The attorney general's office shall provide legal assistance to the team.

(d) In this section, "small state agency" means a state agency with fewer than 100 employees.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 5.01, eff. Sept. 1, 2001.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 676 (H.B. 1965), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. 1681), Sec. 6, eff. November 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. 533), Sec. 12, eff. September 1, 2017.

Sec. 2262.103. PERSONNEL. Each agency or officer with representation on the team shall provide, at the request of the team, staff to assist the team in carrying out its duties under this chapter.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 5.01, eff. Sept. 1, 2001.

Sec. 2262.104. LOW-RISK CONTRACTS. The contract advisory team shall identify the types of procurements that pose a low risk of loss to the state and develop a model contract management process for use with those procurements.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1039 (H.B. 2873), Sec. 2, eff. September 1, 2013.

SUBCHAPTER D. CONTRACT FORMS AND PROVISIONS

Sec. 2262.151. CONTRACT TERMS RELATING TO NONCOMPLIANCE. (a)

The comptroller shall develop recommendations for contract terms regarding remedies for noncompliance by contractors, including remedies for noncompliance with any required disclosure of conflicts of interest by contractors. The comptroller may develop recommended contract terms that are generally applicable to state contracts and terms that are applicable to important types of state contracts.

(b) A state agency may include applicable recommended terms in a contract entered into by the agency.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. 1681), Sec. 7, eff. November 1, 2013.

Sec. 2262.152. UNIFORM FORMS. The comptroller shall develop and make available a uniform and automated set of forms that a state agency may use in the different stages of the contracting process.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. 1681), Sec. 7, eff. November 1, 2013.

Sec. 2262.153. FORMS FOR REPORTING CONTRACTOR PERFORMANCE. As part of the uniform forms published under Section 2262.152, the comptroller shall develop forms for use by state agencies in reporting a contractor's performance for use in the vendor performance tracking system under Section 2262.055.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. 1681), Sec. 7, eff. November 1, 2013.

Sec. 2262.154. REQUIRED PROVISION RELATING TO AUDITING. (a) Each state agency shall include in each of its contracts a term that provides that:

(1) the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract;

(2) acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or

investigation in connection with those funds; and

(3) under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

(b) The state auditor shall provide assistance to a state agency in developing the contract provisions.

Added by Acts 2003, 78th Leg., ch. 785, Sec. 44, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1012 (H.B. 905), Sec. 2, eff. June 18, 2005.

Transferred, redesignated and amended from Government Code, Section 2262.003 by Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. 1681), Sec. 8, eff. November 1, 2013.

CHAPTER 2263. ETHICS AND DISCLOSURE REQUIREMENTS FOR OUTSIDE FINANCIAL ADVISORS AND SERVICE PROVIDERS

Sec. 2263.001. APPLICABILITY. (a) This chapter applies in connection with the management or investment of any state funds managed or invested:

(1) under the Texas Constitution or other law, including Chapters 404 and 2256; and

(2) by or for:

(A) a public retirement system as defined by Section 802.001 that provides service retirement, disability retirement, or death benefits for officers or employees of the state;

(B) an institution of higher education as defined by Section 61.003, Education Code; or

(C) another entity that is part of state government and that manages or invests state funds or for which state funds are managed or invested.

(b) This chapter applies in connection with the management or investment of state funds without regard to whether the funds are held in the state treasury.

(c) This chapter does not apply to or in connection with a state governmental entity that does not manage or invest state funds and for which state funds are managed or invested only by the

comptroller.

Added by Acts 2003, 78th Leg., ch. 932, Sec. 2, eff. Sept. 1, 2003.

Sec. 2263.002. DEFINITION. In this chapter, "financial advisor or service provider" includes a person or business entity who acts as a financial advisor, financial consultant, money or investment manager, or broker.

Added by Acts 2003, 78th Leg., ch. 932, Sec. 2, eff. Sept. 1, 2003.

Sec. 2263.003. CONSTRUCTION WITH OTHER LAW. To the extent of a conflict between this chapter and another law, the law that imposes a stricter ethics or disclosure requirement controls.

Added by Acts 2003, 78th Leg., ch. 932, Sec. 2, eff. Sept. 1, 2003.

Sec. 2263.004. ETHICS REQUIREMENTS FOR OUTSIDE FINANCIAL ADVISORS OR SERVICE PROVIDERS. (a) The governing body of a state governmental entity by rule shall adopt standards of conduct applicable to financial advisors or service providers who are not employees of the state governmental entity, who provide financial services to the state governmental entity or advise the state governmental entity or a member of the governing body of the state governmental entity in connection with the management or investment of state funds, and who:

(1) may reasonably be expected to receive, directly or indirectly, more than $10,000 in compensation from the entity during a fiscal year; or

(2) render important investment or funds management advice to the entity or a member of the governing body of the entity, as determined by the governing body.

(b) A contract under which a financial advisor or service provider renders financial services or advice to a state governmental entity or other person as described by Subsection (a) is voidable by the state governmental entity if the financial advisor or service provider violates a standard of conduct adopted under this section.

Added by Acts 2003, 78th Leg., ch. 932, Sec. 2, eff. Sept. 1, 2003.

Sec. 2263.005. DISCLOSURE REQUIREMENTS FOR OUTSIDE FINANCIAL ADVISOR OR SERVICE PROVIDER. (a) A financial advisor or service provider described by Section 2263.004 shall disclose in writing to the administrative head of the applicable state governmental entity and to the state auditor:

(1) any relationship the financial advisor or service provider has with any party to a transaction with the state governmental entity, other than a relationship necessary to the investment or funds management services that the financial advisor or service provider performs for the state governmental entity, if a reasonable person could expect the relationship to diminish the financial advisor's or service provider's independence of judgment in the performance of the person's responsibilities to the state governmental entity; and

(2) all direct or indirect pecuniary interests the financial advisor or service provider has in any party to a transaction with the state governmental entity, if the transaction is connected with any financial advice or service the financial advisor or service provider provides to the state governmental entity or to a member of the governing body in connection with the management or investment of state funds.

(b) The financial advisor or service provider shall disclose a relationship described by Subsection (a) without regard to whether the relationship is a direct, indirect, personal, private, commercial, or business relationship.

(c) A financial advisor or service provider described by Section 2263.004 shall file annually a statement with the administrative head of the applicable state governmental entity and with the state auditor. The statement must disclose each relationship and pecuniary interest described by Subsection (a) or, if no relationship or pecuniary interest described by that subsection existed during the disclosure period, the statement must affirmatively state that fact.

(d) The annual statement must be filed not later than April 15 on a form prescribed by the governmental entity, other than the state auditor, receiving the form. The statement must cover the reporting period of the previous calendar year. The state auditor shall

develop and recommend a uniform form that other governmental entities receiving the form may prescribe.

(e) The financial advisor or service provider shall promptly file a new or amended statement with the administrative head of the applicable state governmental entity and with the state auditor whenever there is new information to report under Subsection (a).

Added by Acts 2003, 78th Leg., ch. 932, Sec. 2, eff. Sept. 1, 2003.

Sec. 2263.006. PUBLIC INFORMATION. Chapter 552 controls the extent to which information contained in a statement filed under this chapter is subject to required public disclosure or excepted from required public disclosure.

Added by Acts 2003, 78th Leg., ch. 932, Sec. 2, eff. Sept. 1, 2003.

CHAPTER 2264. RESTRICTIONS ON USE OF CERTAIN PUBLIC SUBSIDIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2264.001. DEFINITIONS. In this chapter:

(1) "Economic development corporation" means a development corporation organized under Subtitle C1, Title 12, Local Government Code.

(2) "Public agency" means the state or an agency, instrumentality, or political subdivision of this state, including a county, a municipality, a public school district, or a special-purpose district or authority.

(3) "Public subsidy" means a public program or public benefit or assistance of any type that is designed to stimulate the economic development of a corporation, industry, or sector of the state's economy or to create or retain jobs in this state. The term includes grants, loans, loan guarantees, benefits relating to an enterprise or empowerment zone, fee waivers, land price subsidies, infrastructure development and improvements designed to principally benefit a single business or defined group of businesses, matching funds, tax refunds, tax rebates, or tax abatements.

(4) "Undocumented worker" means an individual who, at the time of employment, is not:

(A) lawfully admitted for permanent residence to the United States; or

(B) authorized under law to be employed in that manner in the United States.

Added by Acts 2007, 80th Leg., R.S., Ch. 853 (H.B. 1196), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 11.023, eff. September 1, 2009.

SUBCHAPTER B. RESTRICTIONS ON USE OF CERTAIN PUBLIC SUBSIDIES TO EMPLOY UNDOCUMENTED WORKERS

Sec. 2264.051. STATEMENT REQUIRED IN APPLICATION FOR PUBLIC SUBSIDIES. A public agency, state or local taxing jurisdiction, or economic development corporation shall require a business that submits an application to receive a public subsidy to include in the application a statement certifying that the business, or a branch, division, or department of the business, does not and will not knowingly employ an undocumented worker.

Added by Acts 2007, 80th Leg., R.S., Ch. 853 (H.B. 1196), Sec. 1, eff. September 1, 2007.

Sec. 2264.052. CONDITION ON RECEIPT OF PUBLIC SUBSIDIES. The statement required by Section 2264.051 must state that if, after receiving a public subsidy, the business, or a branch, division, or department of the business, is convicted of a violation under 8 U.S.C. Section 1324a(f), the business shall repay the amount of the public subsidy with interest, at the rate and according to the other terms provided by an agreement under Section 2264.053, not later than the 120th day after the date the public agency, state or local taxing jurisdiction, or economic development corporation notifies the business of the violation.

Added by Acts 2007, 80th Leg., R.S., Ch. 853 (H.B. 1196), Sec. 1, eff. September 1, 2007.

Sec. 2264.053. AGREEMENT REGARDING REPAYMENT OF INTEREST. A public agency, state or local taxing jurisdiction, or economic

development corporation, before awarding a public subsidy to a business, shall enter into a written agreement with the business specifying the rate and terms of the payment of interest if the business is required to repay the public subsidy.

Added by Acts 2007, 80th Leg., R.S., Ch. 853 (H.B. 1196), Sec. 1, eff. September 1, 2007.

SUBCHAPTER C. ENFORCEMENT

Sec. 2264.101. RECOVERY. (a) A public agency, local taxing jurisdiction, or economic development corporation, or the attorney general on behalf of the state or a state agency, may bring a civil action to recover any amounts owed to the public agency, state or local taxing jurisdiction, or economic development corporation under this chapter.

(b) The public agency, local taxing jurisdiction, economic development corporation, or attorney general, as applicable, shall recover court costs and reasonable attorney's fees incurred in an action brought under Subsection (a).

(c) A business is not liable for a violation of this chapter by a subsidiary, affiliate, or franchisee of the business, or by a person with whom the business contracts.

Added by Acts 2007, 80th Leg., R.S., Ch. 853 (H.B. 1196), Sec. 1, eff. September 1, 2007.

CHAPTER 2265. REQUIRED PUBLICATION AND REPORTING BY GOVERNMENTAL ENTITIES

Sec. 2265.001. RECORDING AND REPORTING OF ELECTRICITY, WATER, AND NATURAL GAS CONSUMPTION. (a) In this section, "governmental entity" means:

(1) a board, commission, or department of the state or a political subdivision of the state, including a municipality, a county, or any kind of district other than a school district; or

(2) an institution of higher education as defined by Section 61.003, Education Code.

(b) Notwithstanding any other law, a governmental entity responsible for payments for electric, water, or natural gas utility services shall record in an electronic repository the governmental

entity's metered amount of electricity, water, or natural gas consumed for which it is responsible to pay and the aggregate costs for those utility services. The governmental entity shall report the recorded information on a publicly accessible Internet website with an interface designed for ease of navigation if available, or at another publicly accessible location.

Added by Acts 2007, 80th Leg., R.S., Ch. 939 (H.B. 3693), Sec. 8, eff. September 1, 2007.
Renumbered from Government Code, Section 2264.001 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(48), eff. September 1, 2009.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 597 (S.B. 668), Sec. 1.13, eff. June 10, 2019.

CHAPTER 2267. PUBLIC AND PRIVATE FACILITIES AND INFRASTRUCTURE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2267.001. DEFINITIONS. In this chapter:

(1) "Affected jurisdiction" means any county or municipality in which all or a portion of a qualifying project is located.

(1-a) "Center" means the center for alternative finance and procurement established under Section 2152.110 by the Texas Facilities Commission.

(1-b) "Commission" means the Partnership Advisory Commission established under Chapter 2268.

(2) "Comprehensive agreement" means the comprehensive agreement authorized by Section 2267.058 between the contracting person and the responsible governmental entity.

(3) "Contracting person" means a person who enters into a comprehensive or interim agreement with a responsible governmental entity under this chapter.

(4) "Develop" means to plan, design, develop, finance, lease, acquire, install, construct, or expand a qualifying project.

(5) "Governmental entity" means:

(A) a board, commission, department, or other agency of this state, including an institution of higher education as defined by Section 61.003, Education Code, that elects to operate under this

chapter through the adoption of a resolution by the institution's board of regents; and

(B) a political subdivision of this state that elects to operate under this chapter by the adoption of a resolution by the governing body of the political subdivision.

(5-a) "Improvement" means:

(A) a building, structure, fixture, or fence erected on or affixed to land;

(B) the installation of water, sewer, or drainage lines on, above, or under land;

(C) the paving of undeveloped land; and

(D) specialized software that in any manner is related to the control, management, maintenance, or operation of an improvement.

(6) "Interim agreement" means an agreement authorized by Section 2267.059 between a contracting person and a responsible governmental entity that proposes the development or operation of the qualifying project.

(7) "Lease payment" means any form of payment, including a land lease, by a governmental entity to the contracting person for the use of a qualifying project.

(8) "Material default" means any default by a contracting person in the performance of duties imposed under Section 2267.057(f) that jeopardizes adequate service to the public from a qualifying project.

(9) "Operate" means to finance, maintain, improve, equip, modify, repair, or operate a qualifying project.

(9-a) "Private entity" means any individual person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other business entity.

(9-b) "Property" means any matter or thing capable of public or private ownership.

(9-c) "Proposer" means a private entity that submits a proposal to a responsible governmental entity or affected jurisdiction.

(10) "Qualifying project" means:

(A) any ferry, mass transit facility, vehicle parking facility, port facility, power generation facility, fuel supply facility, oil or gas pipeline, water supply facility, public work,

waste treatment facility, hospital, school, medical or nursing care facility, recreational facility, public building, technology facility, or other similar facility currently available or to be made available to a governmental entity for public use, including any structure, parking area, appurtenance, and other property required to operate the structure or facility and any technology infrastructure installed in the structure or facility that is essential to the project's purpose; or

(B) any improvements necessary or desirable to real property owned by a governmental entity.

(10-a) "Real property" means:

(A) improved or unimproved land;

(B) an improvement;

(C) a mine or quarry;

(D) a mineral in place;

(E) standing timber; or

(F) an estate or interest, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation, in a property described by Paragraphs (A) through (E).

(11) "Responsible governmental entity" means a governmental entity that has the power to develop or operate an applicable qualifying project.

(12) "Revenue" means all revenue, income, earnings, user fees, lease payments, or other service payments that arise out of or in connection with the development or operation of a qualifying project, including money received as a grant or otherwise from the federal government, a governmental entity, or any agency or instrumentality of the federal government or governmental entity in aid of the project.

(13) "Service contract" means a contract between a governmental entity and a contracting person under Section 2267.054.

(14) "Service payment" means a payment to a contracting person of a qualifying project under a service contract.

(14-a) "State entity" means a governmental entity described by Subdivision (5)(A).

(15) "User fee" means a rate, fee, or other charge imposed by a contracting person for the use of all or part of a qualifying project under a comprehensive agreement.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 271 (H.B. 768), Sec. 1, eff. June 14, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 23, eff. June 14, 2013.
Acts 2015, 84th Leg., R.S., Ch. 1075 (H.B. 2475), Sec. 2, eff. September 1, 2015.

Sec. 2267.002. DECLARATION OF PUBLIC PURPOSE; CONSTRUCTION OF CHAPTER. (a) The legislature finds that:

(1) there is a public need for timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, operation, implementation, and installation of education facilities, technology and other public infrastructure, and government facilities in this state that serve a public need and purpose;

(2) the public need may not be wholly satisfied by existing methods of procurement in which qualifying projects are acquired, designed, constructed, improved, renovated, expanded, equipped, maintained, operated, implemented, or installed;

(3) there are inadequate resources to develop new education facilities, technology and other public infrastructure, and government facilities for the benefit of the citizens of this state, and there is demonstrated evidence that partnerships between public entities and private entities or other persons can meet these needs by improving the schedule for delivery, lowering the cost, and providing other benefits to the public;

(4) financial incentives exist under state and federal tax provisions that encourage public entities to enter into partnerships with private entities or other persons to develop qualifying projects; and

(5) authorizing private entities or other persons to develop or operate one or more qualifying projects may serve the public safety, benefit, and welfare by making the projects available to the public in a more timely or less costly fashion.

(b) An action authorized under Section 2267.053 serves the public purpose of this chapter if the action facilitates the timely

development or operation of a qualifying project.

(c) The purposes of this chapter include:

(1) encouraging investment in this state by private entities and other persons;

(2) facilitating bond financing or other similar financing mechanisms, private capital, and other funding sources that support the development or operation of qualifying projects in order to expand and accelerate financing for qualifying projects that improve and add to the convenience of the public; and

(3) providing governmental entities with the greatest possible flexibility in contracting with private entities or other persons to provide public services through qualifying projects subject to this chapter.

(d) This chapter shall be liberally construed in conformity with the purposes of this section.

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1075 , Sec. 12(1), eff. September 1, 2015.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1075 (H.B. 2475), Sec. 12(1), eff. September 1, 2015.

Sec. 2267.003. APPLICABILITY. This chapter does not apply to:

(1) the financing, design, construction, maintenance, or operation of a highway in the state highway system;

(2) a transportation authority operating under Chapter 451, 452, 453, or 460, Transportation Code, other than a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, in which the principal municipality has a population of 1.9 million or more;

(3) any telecommunications, cable television, video service, or broadband infrastructure other than technology installed as part of a qualifying project that is essential to the project; or

(4) except as provided by Section 2165.259, a qualifying project located in the Capitol Complex, as defined by Section 443.0071.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1,

eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 24, eff. June 14, 2013.
Acts 2017, 85th Leg., R.S., Ch. 526 (S.B. 255), Sec. 7, eff. September 1, 2017.

Sec. 2267.004. APPLICABILITY OF EMINENT DOMAIN LAW. This chapter does not alter the eminent domain laws of this state or grant the power of eminent domain to any person who is not expressly granted that power under other state law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Sec. 2267.005. CONFLICT OF INTEREST. An employee of a responsible governmental entity or a person related to the employee within the second degree by consanguinity or affinity, as determined under Chapter 573, may not accept money, a financial benefit, or other consideration from a contracting person that has entered into a comprehensive agreement with the responsible governmental entity.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 25, eff. June 14, 2013.

Sec. 2267.0051. PROHIBITED EMPLOYMENT WITH FORMER OR RETIRED GOVERNMENTAL ENTITY EMPLOYEES. (a) A contracting person may not employ or enter into a professional services contract or a consulting services contract under Chapter 2254 with a former or retired employee of the responsible governmental entity with which the person has entered into a comprehensive agreement before the first anniversary of the date on which the former or retired employee terminates employment with the entity.
(b) This section does not prohibit the contracting person from entering into a professional services contract with a corporation, firm, or other business organization that employs a former or retired employee of the responsible governmental entity before the first anniversary of the date the former or retired employee terminates

employment with the entity if the former or retired employee does not perform services for the corporation, firm, or other business organization under the comprehensive agreement with the responsible governmental entity that the former or retired employee worked on before terminating employment with the entity.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 25, eff. June 14, 2013.

Sec. 2267.0052. PROHIBITED EMPLOYMENT OF RESPONSIBLE GOVERNMENTAL ENTITY EMPLOYEES. (a) An employee of a responsible governmental entity may not be employed or hired by another person to perform duties that relate to the employee's specific duties in developing and implementing a qualifying project, including review, evaluation, development, and negotiation of a qualifying project proposal.

(b) The responsible governmental entity shall obtain from each employee sufficient information to determine whether:

(1) the employee is employed by another person; and

(2) a potential conflict of interest exists between the employee's duties for the entity and the employee's duties with the other employer.

(c) Each employee of a responsible governmental entity whose duties relate to a qualifying project shall attest that the employee is aware of and agrees to the responsible governmental entity's ethics and conflict-of-interest policies.

(d) To the extent the other employment is authorized by the responsible governmental entity's policy, this section does not prohibit additional employment for an employee of a responsible governmental entity whose duties are not related to a qualifying project.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 25, eff. June 14, 2013.

Sec. 2267.006. DEVELOPMENT PLAN. (a) If the state intends to develop or operate a qualifying project under this chapter, the state entity proposing to develop or operate the project may adopt a development plan on the real property associated with the project.

(b) The purpose of a development plan is to conserve and enhance the value of real property belonging to the state, taking into consideration the preservation of the health, safety, and general welfare of the communities in which the real property is situated.

(c) The plan must address local land use planning ordinances, which may include the following:

(1) allocation and location of specific uses of the real property, including residential, commercial, industrial, recreational, or other appropriate uses;

(2) densities and intensities of designated land uses;

(3) the timing and rate of development;

(4) timely delivery of adequate facilities and services, including water, wastewater collection and treatment systems, parks and public recreational facilities, drainage facilities, school sites, and roads and transportation facilities; or

(5) needed zoning and other land use regulations.

(d) The plan must comply with existing rules, regulations, orders, or ordinances for real property development to the extent the rules, regulations, orders, or ordinances are not detrimental to the interests of the state as determined by the special board of review.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 25, eff. June 14, 2013.

Sec. 2267.0061. PUBLIC HEARING BEFORE PREPARATION OF DEVELOPMENT PLAN. (a) If the state entity is requested to prepare a development plan under Section 2267.006, the state entity shall notify the local government to which the plan will be submitted under Section 2267.0062 of the state entity's intent to prepare a development plan. The state entity shall provide the local government with information relating to:

(1) the location of the real property to be offered for sale or lease;

(2) the highest and best use of the real property; and

(3) the process for preparing the development plan under Section 2267.006 and the process provided under Sections 2267.0065 and 2267.0066 for the special board of review.

(b) Not later than the 30th day after the date the local

government receives the notice provided under Subsection (a), the local government may request the state entity to hold a public hearing to solicit public comment. If requested by the local government, the state entity shall hold a public hearing. The local government shall provide notice of the hearing to real property owners in at least the same manner that notice is provided for adopting zoning regulations or subdivision requirements in the local government's jurisdiction. The state entity shall set the agenda for the hearing, which must be completed not later than the 120th day after the date notice is provided under Subsection (a).

(c) If the local government does not request a public hearing under Subsection (b), the state entity may hold a hearing to solicit public comment. The state entity shall provide notice of the hearing in the same manner that a local government is required to provide notice under Subsection (b). The state entity shall set the agenda for the hearing and must complete the hearing not later than the 120th day after the date the notice is provided under Subsection (a).

(d) A public hearing under this section may include:

(1) a presentation by the state entity relating to the state entity's classification of the real property as unused or substantially underused and the state entity's recommendation of the highest and best use to which the real property may legally be placed;

(2) a presentation by the local government relating to relevant local plans, development principles, and ordinances that may affect the development of the real property; and

(3) oral comments and presentations of information by and written comments received from other persons relating to the development of the real property.

(e) The state entity shall prepare a summary of the information and testimony presented at a hearing conducted under this section and may develop recommendations based on the information and testimony. The state entity shall prepare a report summarizing the information and testimony presented at the hearing and the views presented by the state, the affected local governments, and other persons who participated in the hearing process. The governing body of the state entity shall review the state entity's report and may instruct the state entity to incorporate information based on the report in preparing the development plan under Section 2267.006.

(f) The state entity may adopt rules to implement this section.

The state entity shall administer the process provided by this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 25, eff. June 14, 2013.

Sec. 2267.0062. SUBMISSION OF PLAN TO AFFECTED LOCAL GOVERNMENT. (a) The development plan adopted under Section 2267.006 shall be submitted to any local government having jurisdiction over the real property in question for consideration.

(b) The local government shall evaluate the plan and either accept or reject the plan not later than the 120th day after the date the state entity submits the plan.

(c) The plan may be rejected by the local government only on grounds that it does not comply with local ordinances and land use regulations, including zoning and subdivision ordinances.

(d) If the plan is rejected, the local government shall specifically identify any ordinance with which the plan conflicts and propose specific modifications to the plan that will bring it into compliance with the local ordinance.

(e) If the plan is rejected by the affected local government, the state entity may modify the plan to conform to the ordinances specifically identified by the local government and resubmit the plan for approval, or the state entity may apply for necessary rezoning or variances from the local ordinances.

(f) Failure by the local government to act within the 120-day period prescribed by Subsection (b) is considered an acceptance by the local government of the plan.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 25, eff. June 14, 2013.

Sec. 2267.0063. REZONING. (a) If the plan would require zoning inconsistent with any existing zoning or other land use regulation, the state entity or its designated representative may at any time submit a request for rezoning to the local government with jurisdiction over the real property in question.

(b) The rezoning or variance request shall be submitted in the same manner as any such request is submitted to the affected local

government provided the local government takes final action on the request not later than the 120th day after the date the request for rezoning or variance is submitted.

(c) Failure by the local government to act within the 120-day period prescribed by Subsection (b) is considered an approval of the rezoning request by the local government.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 25, eff. June 14, 2013.

Sec. 2267.0064. FEES AND ASSESSMENTS. (a) The local government may not impose application, filing, or other fees or assessments on the state for consideration of the plan or the application for rezoning or variance submitted by the state.

(b) The local government may not require the submission of architectural, engineering, or impact studies to be completed at state expense before considering the plan or application for rezoning or variance.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 25, eff. June 14, 2013.

Sec. 2267.0065. SPECIAL BOARD OF REVIEW. (a) If the local government denies the rezoning request submitted under this chapter, the matter may be appealed to a special board of review consisting of the following members:

(1) the land commissioner;

(2) the mayor of the municipality within whose corporate boundaries or extraterritorial jurisdiction the real property is located;

(3) the county judge of the county in which the qualifying project is located;

(4) the executive director of the state entity that proposes to develop or operate the qualifying project; and

(5) a member appointed by the governor.

(b) The land commissioner shall serve as the presiding officer of the special board of review.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 25,

eff. June 14, 2013.

Sec. 2267.0066. HEARING. (a) The special board of review shall conduct one or more public hearings to consider the proposed development plan.

(b) Hearings shall be conducted in accordance with rules adopted by the General Land Office for conducting a special review.

(c) If real property is located in more than one municipality, the hearings on any single tract of real property may be combined.

(d) Any political subdivision in which the tract in question is located and the appropriate central appraisal district shall receive written notice of board hearings at least 14 days before the date of the hearing.

(e) At least one hearing shall be conducted in the county where the real property is located.

(f) If after the hearings the special board of review determines that local zoning requirements are detrimental to the best interest of the state, the board shall issue an order establishing a development plan to govern the use of the real property as provided in this section.

(g) Development of the real property shall be in accordance with the plan and must comply with all local rules, regulations, orders, or ordinances except as specifically identified in an order of the special board of review issued pursuant to Subsection (f). In the event that substantial progress is not made toward development of the tract within five years of the date of adoption by the special board of review, local development policies and procedures shall become applicable to development of the tract, unless the special board of review promulgates a new plan.

(h) The hearing may not be considered a contested case proceeding under Chapter 2001 and is not subject to appeal under that chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 25, eff. June 14, 2013.

Sec. 2267.0067. BINDING EFFECT OF DEVELOPMENT PLAN. (a) Except as provided by this subsection, a development plan promulgated

by the special board of review under this chapter and any plan accepted by a local government shall be final and binding on the state, its lessees, successors in interest and assigns, and affected local governments or political subdivisions unless revised by the special board of review. If the state entity does not receive a bid or auction solicitation for the real property subject to the development plan, the state entity, at the direction of the executive director of the entity, may revise the development plan to conserve and enhance the value and marketability of the real property.

(b) A local government, political subdivision, owner, builder, developer, or any other person may not modify the development plan without specific approval by the special board of review.

(c) The special board of review must file a copy of the development plan in the deed records of the county in which the real property is located. Revisions to the development plan that are requested after the later of the 10th anniversary of the date on which the development plan was adopted by the special board of review or the date on which the state no longer holds a financial or property interest in the real property subject to the plan are governed by local development policies and procedures.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 25, eff. June 14, 2013.

Sec. 2267.007. QUALIFYING PROJECTS IN CAPITOL COMPLEX. The Texas Facilities Commission may develop or operate a qualifying project located in the Capitol complex, as defined by Section 443.0071, as provided by this chapter only if specifically granted the authority by the legislature.

Added by Acts 2013, 83rd Leg., R.S., Ch. 713 (H.B. 3436), Sec. 2, eff. June 14, 2013.
Added by Acts 2013, 83rd Leg., R.S., Ch. 1339 (S.B. 894), Sec. 2, eff. June 14, 2013.
Redesignated from Government Code, Section 2267.005 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(30), eff. September 1, 2015.

SUBCHAPTER B. QUALIFYING PROJECTS

Sec. 2267.051. APPROVAL REQUIRED. A person may not develop or operate a qualifying project unless the person obtains the approval of and contracts with the responsible governmental entity under this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1075 (H.B. 2475), Sec. 3, eff. September 1, 2015.

Sec. 2267.052. ADOPTION OF GUIDELINES BY RESPONSIBLE GOVERNMENTAL ENTITIES. (a) Before requesting or considering a proposal for a qualifying project, a responsible governmental entity must adopt and make publicly available guidelines that enable the governmental entity to comply with this chapter. The guidelines must be reasonable, encourage competition, and guide the selection of projects under the purview of the responsible governmental entity.

(b) The guidelines for a responsible governmental entity described by Section 2267.001(5)(A) must:

(1) require the responsible governmental entity to:

(A) make a representative of the entity available to meet with persons who are considering submitting a proposal; and

(B) provide notice of the representative's availability;

(2) provide reasonable criteria for choosing among competing proposals;

(3) contain suggested timelines for selecting proposals and negotiating an interim or comprehensive agreement;

(4) allow the responsible governmental entity to accelerate the selection, review, and documentation timelines for proposals involving a qualifying project considered a priority by the entity;

(5) include financial review and analysis procedures that at a minimum consist of:

(A) a cost-benefit analysis;

(B) an assessment of opportunity cost;

(C) consideration of the degree to which functionality and services similar to the functionality and services to be provided by the proposed project are already available in the private market;

and

(D) consideration of the results of all studies and analyses related to the proposed qualifying project;

(6) allow the responsible governmental entity to consider the nonfinancial benefits of a proposed qualifying project;

(7) ensure that the governmental entity, for a proposed project to improve real property, evaluates design quality, life-cycle costs, and the proposed project's relationship to any relevant comprehensive planning or zoning requirements;

(8) include criteria for:

(A) the qualifying project, including the scope, costs, and duration of the project and the involvement or impact of the project on multiple public entities;

(B) the creation of and the responsibilities of an oversight committee, with members representing the responsible governmental entity, that acts as an advisory committee to review the terms of any proposed interim or comprehensive agreement; and

(C) the center's role in the review, analysis, or evaluation of the qualifying project;

(9) require the responsible governmental entity to analyze the adequacy of the information to be released by the entity when seeking competing proposals and require that the entity provide more detailed information, if the entity determines necessary, to encourage competition, subject to Section 2267.053(g); and

(10) establish criteria, key decision points, and approvals required to ensure that the responsible governmental entity considers the extent of competition before selecting proposals and negotiating an interim or comprehensive agreement.

(c) The guidelines of a responsible governmental entity described by Section 2267.001(5)(B) must include:

(1) the provisions required under Subsection (b); and

(2) a requirement that the governmental entity engage the services of qualified professionals, including an architect, professional engineer, or registered municipal advisor, not otherwise employed by the governmental entity, or the center to provide independent analyses regarding the specifics, advantages, disadvantages, and long-term and short-term costs of a qualifying project unless the governing body of the governmental entity determines that the analysis is to be performed by similarly qualified employees of the governmental entity.

(c-1) For a proposal with an estimated cost of $5 million or more for construction or renovation of a qualifying project, the analysis conducted under Subsection (c)(2) must include review by an architect, a professional engineer, and a registered municipal advisor not otherwise employed by the governmental entity.

(d) A responsible governmental entity described by Section 2267.001(5)(A) shall submit a copy of the guidelines adopted by the entity under this section to the commission for approval by the commission consistent with the requirements of Subsection (b). The commission shall prescribe the procedure for submitting the guidelines for review under this section. The commission must complete its review of the guidelines not later than the 60th day after the date the commission receives the guidelines and provide written comments and recommendations to the governmental entity to ensure timely compliance with Subsection (b). The governmental entity may not request or consider a proposal for a qualifying project until the guidelines are approved by the commission.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 27, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1075 (H.B. 2475), Sec. 4, eff. September 1, 2015.

Sec. 2267.053. APPROVAL OF QUALIFYING PROJECTS BY RESPONSIBLE GOVERNMENTAL ENTITY. (a) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1075 , Sec. 12(2), eff. September 1, 2015.

(a-1) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1075 , Sec. 12(2), eff. September 1, 2015.

(b) A responsible governmental entity may request proposals or invite bids from persons for the development or operation of a qualifying project.

(b-1) A responsible governmental entity shall make a best value determination in evaluating the proposals received and consider the total project cost as one factor in evaluating the proposals. The responsible governmental entity is not required to select the proposal that offers the lowest total project cost and may consider

the following factors:

(1) the proposed cost of the qualifying project;

(2) the general reputation, industry experience, and financial capacity of the person submitting a proposal;

(3) the proposed design and overall quality of the qualifying project;

(4) the eligibility of the project for accelerated selection, review, and documentation timelines under the responsible governmental entity's guidelines;

(5) comments from local citizens and affected jurisdictions;

(6) benefits to the public;

(7) the person's good faith effort to comply with the goals of a historically underutilized business plan;

(8) the person's plans to employ local contractors and residents;

(9) for a qualifying project that involves a continuing role beyond design and construction, the person's proposed rate of return and opportunities for revenue sharing;

(10) the relationship and conformity of the qualifying project to a state or local community plan impacted by the qualifying project or to the uses of property surrounding the qualifying project;

(11) the historic significance of the property on which the qualifying project is proposed to be located;

(12) the environmental impact of the qualifying project; and

(13) other criteria that the responsible governmental entity considers appropriate.

(b-2) A responsible governmental entity may approve a qualifying project that the governmental entity determines serves a public purpose. The responsible governmental entity must include in the comprehensive agreement for the qualifying project a written declaration of the specific public purpose served by the project.

(c) The responsible governmental entity may approve as a qualifying project the development or operation of a facility needed by the governmental entity, or the design or equipping of a qualifying project, if the responsible governmental entity determines that the project serves the public purpose of this chapter. The responsible governmental entity may determine that the development or

operation of the project as a qualifying project serves the public purpose if:

(1) there is a public need for or benefit derived from the project of the type the person proposes as a qualifying project;

(2) the estimated cost of the project is reasonable in relation to similar facilities; and

(3) the person's plans will result in the timely development or operation of the qualifying project.

(d) The responsible governmental entity may charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the proposal, including reasonable legal fees, fees for financial and technical advisors or consultants, and fees for the center's review or consultation.

(e) The approval of a responsible governmental entity described by Section 2267.001(5)(A) is subject to the private entity or other person entering into an interim or comprehensive agreement with the responsible governmental entity.

(f) On approval of the qualifying project, the responsible governmental entity shall establish a date by which activities related to the qualifying project must begin. The responsible governmental entity may extend the date.

(g) The responsible governmental entity shall take action appropriate under Section 552.153 to protect confidential and proprietary information provided by a private entity submitting the proposal and by the contracting person under an agreement.

(h) Before completing the negotiation and entering into an interim or comprehensive agreement, each responsible governmental entity described by Section 2267.001(5)(A) must submit copies of detailed proposals, including drafts of any interim agreement and the comprehensive agreement, to the Partnership Advisory Commission in accordance with Chapter 2268.

(i) This chapter and an interim or comprehensive agreement entered into under this chapter do not enlarge, diminish, or affect any authority a responsible governmental entity has to take action that would impact the debt capacity of this state.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 28, eff.

June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1075 (H.B. 2475), Sec. 5, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1075 (H.B. 2475), Sec. 12(2), eff. September 1, 2015.

Sec. 2267.054. SERVICE CONTRACTS. A responsible governmental entity may contract with a contracting person for the delivery of services to be provided as part of a qualifying project in exchange for service payments and other consideration as the governmental entity considers appropriate.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Sec. 2267.055. AFFECTED JURISDICTIONS. (a) A private entity whose proposal, other than a proposal for a service contract, is accepted for conceptual stage evaluation under Section 2267.053 shall notify each affected jurisdiction by providing a copy of its proposal to the affected jurisdiction.

(b) Not later than the 60th day after the date an affected jurisdiction receives the notice required by Subsection (a), the affected jurisdiction that is not the responsible governmental entity for the respective qualifying project shall submit in writing to the responsible governmental entity any comments the affected jurisdiction has on the proposed qualifying project and indicate whether the facility or project is compatible with the local comprehensive plan, local infrastructure development plans, the capital improvements budget, or other government spending plan. The responsible governmental entity shall consider the submitted comments before entering into a comprehensive agreement with a contracting person.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 29, eff. June 14, 2013.

Sec. 2267.056. DEDICATION AND CONVEYANCE OF PUBLIC PROPERTY. (a) After obtaining any appraisal of the property interest that is required under other law in connection with the conveyance, a governmental entity may dedicate any property interest, including land, improvements, and tangible personal property, for public use in a qualifying project if the governmental entity finds that the dedication will serve the public purpose of this chapter by minimizing the cost of a qualifying project to the governmental entity or reducing the delivery time of a qualifying project.

(b) In connection with a dedication under Subsection (a), a governmental entity may convey any property interest, including a license, franchise, easement, or another right or interest the governmental entity considers appropriate, subject to the conditions imposed by general law governing such conveyance and subject to the rights of an existing utility under a license, franchise, easement, or other right under law, to the contracting person for the consideration determined by the governmental entity. The consideration may include the agreement of the contracting person to develop or operate the qualifying project.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Sec. 2267.057. POWERS AND DUTIES OF CONTRACTING PERSON. (a) The contracting person has:

(1) the power granted by:

(A) general law to a person that has the same form of organization as the contracting person; and

(B) a statute governing the business or activity of the contracting person; and

(2) the power to:

(A) develop or operate the qualifying project; and

(B) collect lease payments, impose user fees subject to Subsection (b), or enter into service contracts in connection with the use of the project.

(b) The contracting person may not impose a user fee or increase the amount of a user fee until the fee or increase is approved by the responsible governmental entity.

(c) The contracting person may own, lease, or acquire any other

right to use or operate the qualifying project.

(d) The contracting person may finance a qualifying project in the amounts and on the terms determined by the contracting person. The contracting person may issue debt, equity, or other securities or obligations, enter into sale and leaseback transactions, and secure any financing with a pledge of, security interest in, or lien on any or all of its property, including all of its property interests in the qualifying project.

(e) In operating the qualifying project, the contracting person may:

(1) establish classifications according to reasonable categories for assessment of user fees; and

(2) with the consent of the responsible governmental entity, adopt and enforce reasonable rules for the qualifying project to the same extent as the responsible governmental entity.

(f) The contracting person shall:

(1) develop or operate the qualifying project in a manner that is acceptable to the responsible governmental entity and in accordance with any applicable interim or comprehensive agreement;

(2) subject to Subsection (g), keep the qualifying project open for use by the public at all times, or as appropriate based on the use of the project, after its initial opening on payment of the applicable user fees, lease payments, or service payments;

(3) maintain, or provide by contract for the maintenance or upgrade of, the qualifying project, if required by any applicable interim or comprehensive agreement;

(4) cooperate with the responsible governmental entity to establish any interconnection with the qualifying project requested by the responsible governmental entity; and

(5) comply with any applicable interim or comprehensive agreement and any lease or service contract.

(g) The qualifying project may be temporarily closed because of emergencies or, with the consent of the responsible governmental entity, to protect public safety or for reasonable construction or maintenance activities.

(h) This chapter does not prohibit a contracting person of a qualifying project from providing additional services for the qualifying project to the public or persons other than the responsible governmental entity, provided that the provision of additional service does not impair the contracting person's ability

to meet the person's commitments to the responsible governmental entity under any applicable interim or comprehensive agreement.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Sec. 2267.058. COMPREHENSIVE AGREEMENT. (a) Before developing or operating the qualifying project, the contracting person must enter into a comprehensive agreement with a responsible governmental entity. The comprehensive agreement shall provide for:

(1) delivery of letters of credit or other security in connection with the development or operation of the qualifying project, in the forms and amounts satisfactory to the responsible governmental entity, and delivery of performance and payment bonds in compliance with Chapter 2253 for all construction activities;

(2) review of plans and specifications for the qualifying project by the responsible governmental entity and approval by the responsible governmental entity indicating that the plans and specifications conform to standards acceptable to the responsible governmental entity, except that the contracting person may not be required to provide final design documents for a qualifying project before the execution of a comprehensive agreement;

(3) inspection of the qualifying project by the responsible governmental entity to ensure that the contracting person's activities are acceptable to the responsible governmental entity in accordance with the comprehensive agreement;

(4) maintenance of a public liability insurance policy, copies of which must be filed with the responsible governmental entity accompanied by proofs of coverage, or self-insurance, each in the form and amount satisfactory to the responsible governmental entity and reasonably sufficient to ensure coverage of tort liability to the public and project employees and to enable the continued operation of the qualifying project;

(5) monitoring of the practices of the contracting person by the responsible governmental entity to ensure that the qualifying project is properly maintained;

(6) reimbursement to be paid to the responsible governmental entity for services provided by the responsible governmental entity;

(7) filing of appropriate financial statements on a periodic basis; and

(8) policies and procedures governing the rights and responsibilities of the responsible governmental entity and the contracting person if the comprehensive agreement is terminated or there is a material default by the contracting person, including conditions governing:

(A) assumption of the duties and responsibilities of the contracting person by the responsible governmental entity; and

(B) the transfer or purchase of property or other interests of the contracting person to the responsible governmental entity.

(b) The comprehensive agreement shall provide for any user fee, lease payment, or service payment established by agreement of the parties. In negotiating a user fee under this section, the parties shall establish a payment or fee that is the same for persons using a facility of the qualifying project under like conditions and that will not materially discourage use of the qualifying project. The execution of the comprehensive agreement or an amendment to the agreement is conclusive evidence that the user fee, lease payment, or service payment complies with this chapter. A user fee or lease payment established in the comprehensive agreement as a source of revenue may be in addition to, or in lieu of, a service payment.

(c) A comprehensive agreement may include a provision that authorizes the responsible governmental entity to make grants or loans to the contracting person from money received from the federal, state, or local government or any agency or instrumentality of the government.

(d) The comprehensive agreement must incorporate the duties of the contracting person under this chapter and may contain terms the responsible governmental entity determines serve the public purpose of this chapter. The comprehensive agreement may contain:

(1) provisions that require the responsible governmental entity to provide notice of default and cure rights for the benefit of the contracting person and the persons specified in the agreement as providing financing for the qualifying project;

(2) other lawful terms to which the contracting person and the responsible governmental entity mutually agree, including provisions regarding unavoidable delays or providing for a loan of public money to the contracting person to develop or operate one or

more qualifying projects; and

(3) provisions in which the authority and duties of the contracting person under this chapter cease and the qualifying project is dedicated for public use to the responsible governmental entity or, if the qualifying project was initially dedicated by an affected jurisdiction, to the affected jurisdiction.

(e) Any change in the terms of the comprehensive agreement that the parties agree to must be added to the comprehensive agreement by written amendment.

(f) The comprehensive agreement may provide for the development or operation of phases or segments of the qualifying project.

(g) The comprehensive agreement must provide that a security document or other instrument purporting to mortgage, pledge, encumber, or create a lien, charge, or security interest on or against the contracting party's interest may not extend to or affect the fee simple interest of the state in the qualifying project or the state's rights or interests under the comprehensive agreement. Any holder of debt shall acknowledge that the mortgage, pledge, or encumbrance or a lien, charge, or security interest on or against the contracting party's interest is subordinate to the fee simple interest of the state in the qualifying project.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 30, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1075 (H.B. 2475), Sec. 6, eff. September 1, 2015.

Sec. 2267.059. INTERIM AGREEMENT. Before or in connection with the negotiation of the comprehensive agreement, the responsible governmental entity may enter into an interim agreement with the contracting person proposing the development or operation of the qualifying project. The interim agreement may:

(1) authorize the contracting person to begin project phases or activities for which the contracting person may be compensated relating to the proposed qualifying project, including project planning and development, design, engineering, environmental

analysis and mitigation, surveying, and financial and revenue analysis, including ascertaining the availability of financing for the proposed facility or facilities of the qualifying project;

(2) establish the process and timing of the negotiation of the comprehensive agreement; and

(3) contain any other provision related to any aspect of the development or operation of a qualifying project that the parties consider appropriate.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Sec. 2267.060. FEDERAL, STATE, AND LOCAL ASSISTANCE. (a) The contracting person and the responsible governmental entity may use any funding resources that are available to the parties, including:

(1) accessing any designated trust funds; and

(2) borrowing or accepting grants from any state infrastructure bank.

(b) The responsible governmental entity may take any action to obtain federal, state, or local assistance for a qualifying project that serves the public purpose of this chapter and may enter into any contracts required to receive the assistance.

(c) If the responsible governmental entity is a state agency, any money received from the state or federal government or any agency or instrumentality of the state or federal government is subject to appropriation by the legislature.

(d) The responsible governmental entity may determine that it serves the public purpose of this chapter for all or part of the costs of a qualifying project to be directly or indirectly paid from the proceeds of a grant or loan made by the local, state, or federal government or any agency or instrumentality of the government.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Sec. 2267.0605. PERFORMANCE AND PAYMENT BONDS REQUIRED. (a) The construction, remodel, or repair of a qualifying project may be performed only after performance and payment bonds for the construction, remodel, or repair have been executed in compliance

with Chapter 2253 regardless of whether the qualifying project is on public or private property or is publicly or privately owned.

(b) For purposes of this section, a qualifying project is considered a public work under Chapter 2253 and the responsible governmental entity shall assume the obligations and duties of a governmental entity under that chapter. The obligee under a performance bond under this section may be a public entity, a private person, or an entity consisting of both a public entity and a private person.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Sec. 2267.061. MATERIAL DEFAULT; REMEDIES. (a) If the contracting person commits a material default, the responsible governmental entity may assume the responsibilities and duties of the contracting person of the qualifying project. If the responsible governmental entity assumes the responsibilities and duties of the contracting person, the responsible governmental entity has all the rights, title, and interest in the qualifying project, subject to any liens on revenue previously granted by the contracting person to any person providing financing for the project.

(b) A responsible governmental entity that has the power of eminent domain under state law may exercise that power to acquire the qualifying project in the event of a material default by the contracting person. Any person who has provided financing for the qualifying project, and the contracting person to the extent of its capital investment, may participate in the eminent domain proceedings with the standing of a property owner.

(c) The responsible governmental entity may terminate, with cause, any applicable interim or comprehensive agreement and exercise any other rights and remedies available to the governmental entity at law or in equity.

(d) The responsible governmental entity may make any appropriate claim under the letters of credit or other security or the performance and payment bonds required by Section 2267.058(a)(1).

(e) If the responsible governmental entity elects to assume the responsibilities and duties for a qualifying project under Subsection (a), the responsible governmental entity may:

(1) develop or operate the qualifying project;

(2) impose user fees;

(3) impose and collect lease payments for the use of the project; and

(4) comply with any applicable contract to provide services.

(f) The responsible governmental entity shall collect and pay to secured parties any revenue subject to a lien to the extent necessary to satisfy the contracting person's obligations to secured parties, including the maintenance of reserves. The liens shall be correspondingly reduced and, when paid off, released.

(g) Before any payment is made to or for the benefit of a secured party, the responsible governmental entity may use revenue to pay the current operation and maintenance costs of the qualifying project, including compensation to the responsible governmental entity for its services in operating and maintaining the qualifying project. The right to receive any payment is considered just compensation for the qualifying project.

(h) The full faith and credit of the responsible governmental entity may not be pledged to secure any financing of the contracting person that was assumed by the governmental entity when the governmental entity assumed responsibility for the qualifying project.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Sec. 2267.062. EMINENT DOMAIN. (a) At the request of the contracting person, the responsible governmental entity may exercise any power of eminent domain that it has under law to acquire any land or property interest to the extent that the responsible governmental entity dedicates the land or property interest to public use and finds that the action serves the public purpose of this chapter.

(b) Any amounts to be paid in any eminent domain proceeding shall be paid by the contracting person.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Sec. 2267.063. AFFECTED FACILITY OWNER. (a) The contracting person and each facility owner, including a public utility, a public service company, or a cable television provider, whose facilities will be affected by a qualifying project shall cooperate fully in planning and arranging the manner in which the facilities will be affected.

(b) The contracting person and responsible governmental entity shall ensure that a facility owner whose facility will be affected by a qualifying project does not suffer a disruption of service as a result of the construction or improvement of the qualifying project.

(c) A governmental entity possessing the power of eminent domain may exercise that power in connection with the relocation of facilities affected by the qualifying project or facilities that must be relocated to the extent that the relocation is necessary or desirable by construction of, renovation to, or improvements to the qualifying project, which includes construction of, renovation to, or improvements to temporary facilities to provide service during the period of construction or improvement. The governmental entity shall exercise its power of eminent domain to the extent required to ensure an affected facility owner does not suffer a disruption of service as a result of the construction or improvement of the qualifying project during the construction or improvement or after the qualifying project is completed or improved.

(d) The contracting person shall pay any amount owed for the crossing, constructing, or relocating of facilities.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Sec. 2267.064. POLICE POWERS; VIOLATIONS OF LAW. A peace officer of this state or of any affected jurisdiction has the same powers and jurisdiction within the area of the qualifying project as the officer has in the officer's area of jurisdiction. The officer may access the qualifying project at any time to exercise the officer's powers and jurisdiction.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Sec. 2267.065. PROCUREMENT GUIDELINES. (a) Chapters 2155, 2156, and 2166, any interpretations, rules, or guidelines of the comptroller and the Texas Facilities Commission, and interpretations, rules, or guidelines developed under Chapter 2262 do not apply to a qualifying project under this chapter.

(b) A responsible governmental entity may enter into a comprehensive agreement only in accordance with guidelines that require the contracting person to design and construct the qualifying project in accordance with procedures that do not materially conflict with those specified in:

(1) Subchapter G, Chapter 2269, for facilities projects described by Section 2269.302; or

(2) Subchapter H, Chapter 2269, for civil works projects as defined by Section 2269.351.

(c) This chapter does not authorize a responsible governmental entity or a contracting person to obtain professional services through any process except in accordance with Subchapter A, Chapter 2254.

(d) Identified team members, including the architect, engineer, or builder, may not be substituted or replaced once a project is approved and an interim or comprehensive agreement is executed without the written approval of the responsible governmental entity.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1075 (H.B. 2475), Sec. 7, eff. September 1, 2015.

Sec. 2267.066. POSTING OF PROPOSALS; PUBLIC COMMENT; PUBLIC ACCESS TO PROCUREMENT RECORDS; FINAL VOTE. (a) Not later than the 10th day after the date a responsible governmental entity accepts a proposal submitted in accordance with Section 2267.053(b), the responsible governmental entity shall provide notice of the proposal as follows:

(1) for a responsible governmental entity described by Section 2267.001(5)(A), by posting the proposal on the entity's Internet website; and

(2) for a responsible governmental entity described by

Section 2267.001(5)(B), by:

(A) posting a copy of the proposal on the entity's Internet website; or

(B) publishing in a newspaper of general circulation in the area in which the qualifying project is to be performed a summary of the proposal and the location where copies of the proposal are available for public inspection.

(b) The responsible governmental entity shall make available for public inspection at least one copy of the proposal. This section does not prohibit the responsible governmental entity from posting the proposal in another manner considered appropriate by the responsible governmental entity to provide maximum notice to the public of the opportunity to inspect the proposal.

(c) Trade secrets, proprietary information, financial records, and work product of a proposer are excluded from disclosure under Section 552.101 and may not be posted or made available for public inspection except as otherwise agreed to by the responsible governmental entity and the proposer. After submission by a responsible governmental entity of a detailed qualifying project proposal to the commission, the trade secrets, proprietary information, financial records, and work product of the proposer are not protected from disclosure unless expressly excepted from the requirements of Chapter 552 or considered confidential under other law.

(d) The responsible governmental entity shall hold a public hearing on the proposal during the proposal review process not later than the 30th day before the date the entity enters into an interim or comprehensive agreement. The public hearing shall be held in the area in which the proposed qualifying project is to be performed.

(e) On completion of the negotiation phase for the development of an interim or comprehensive agreement and before an interim agreement or comprehensive agreement is entered into, a responsible governmental entity must make available the proposed agreement in a manner provided by Subsection (a) or (b).

(e-1) After making the proposed comprehensive agreement available as required by Subsection (e), the responsible governmental entity shall hold a public hearing on the final version of the proposed comprehensive agreement and vote on the proposed comprehensive agreement after the hearing. The hearing must be held not later than the 10th day before the date the entity enters into a

comprehensive agreement with a contracting person.

(f) A responsible governmental entity that has entered into an interim agreement or comprehensive agreement shall make procurement records available for public inspection on request. For purposes of this subsection, procurement records do not include the trade secrets of the contracting person or financial records, including balance sheets or financial statements of the contracting person, that are not generally available to the public through regulatory disclosure or other means.

(g) Cost estimates relating to a proposed procurement transaction prepared by or for a responsible governmental entity are not open to public inspection.

(h) Any inspection of procurement transaction records under this section is subject to reasonable restrictions to ensure the security and integrity of the records.

(i) This section applies to any accepted proposal regardless of whether the process of bargaining results in an interim or comprehensive agreement.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 31, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 32, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1075 (H.B. 2475), Sec. 8, eff. September 1, 2015.

CHAPTER 2268. PARTNERSHIP ADVISORY COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2268.001. DEFINITIONS. In this chapter:

(1) "Center" means the center for alternative finance and procurement established under Section 2152.110 by the Texas Facilities Commission.

(1-a) "Commission" means the Partnership Advisory Commission.

(2) "Comprehensive agreement" has the meaning assigned by Section 2267.001.

(3) "Detailed proposal" means a proposal for a qualifying project accepted by a responsible governmental entity beyond a conceptual level of review that defines and establishes periods related to fixing costs, payment schedules, financing, deliverables, and project schedule.

(4) "Interim agreement" has the meaning assigned by Section 2267.001.

(5) "Qualifying project" has the meaning assigned by Section 2267.001.

(6) "Responsible governmental entity" has the meaning assigned by Section 2267.001.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1075 (H.B. 2475), Sec. 9, eff. September 1, 2015.

Sec. 2268.002. APPLICABILITY. This chapter applies only to responsible governmental entities described by Section 2267.001(5)(A).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

SUBCHAPTER B. COMMISSION

Sec. 2268.051. ESTABLISHMENT OF COMMISSION. The Partnership Advisory Commission is an advisory commission in the legislative branch that advises responsible governmental entities described by Section 2267.001(5)(A) on proposals received under Chapter 2267.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Sec. 2268.052. COMPOSITION AND TERMS. (a) The commission consists of the following 11 members:

(1) the chair of the House Appropriations Committee or the chair's designee;

(2) three representatives appointed by the speaker of the house of representatives;

(3) the chair of the Senate Finance Committee or the chair's designee;

(4) three senators appointed by the lieutenant governor; and

(5) three representatives of the executive branch, appointed by the governor.

(b) The legislative members serve on the commission until the expiration of their terms of office or until their successors qualify.

(c) The members appointed by the governor serve at the will of the governor.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Sec. 2268.053. PRESIDING OFFICER. The members of the commission shall elect from among the legislative members a presiding officer and an assistant presiding officer to serve two-year terms.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Sec. 2268.054. COMPENSATION; REIMBURSEMENT. A member of the commission is not entitled to compensation for service on the commission but is entitled to reimbursement for all reasonable and necessary expenses incurred in performing duties as a member.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Sec. 2268.055. MEETINGS. (a) The commission shall hold meetings quarterly or on the call of the presiding officer.

(b) Commission meetings are subject to Chapter 551.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 34, eff. June 14, 2013.

Sec. 2268.056. ADMINISTRATIVE, LEGAL, RESEARCH, TECHNICAL, AND OTHER SUPPORT. (a) The legislative body that the presiding officer serves shall provide administrative staff support for the commission.

(b) The Texas Legislative Council shall provide legal, research, and policy analysis services to the commission.

(c) The staffs of the House Appropriations Committee, Senate Finance Committee, and comptroller shall provide technical assistance.

(d) The center, using the qualifying project fees authorized under Section 2165.353, shall provide, on a cost recovery basis, professional services of financial, technical, and other necessary advisors and consultants, authorized under Section 2267.053(d), as necessary to support the Partnership Advisory Commission in its review and evaluation of proposals, including financial and risk allocation analysis and ongoing contract performance monitoring of qualifying projects. The center shall assign staff and contracted advisors and consultants necessary to perform the duties required by this subsection.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 35, eff. June 14, 2013.
Acts 2015, 84th Leg., R.S., Ch. 1075 (H.B. 2475), Sec. 10, eff. September 1, 2015.

Sec. 2268.057. COMMISSION PROCEEDINGS. A copy of the proceedings of the commission shall be filed with the legislative body that the presiding officer serves.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Sec. 2268.058. SUBMISSION OF DETAILED PROPOSALS FOR QUALIFYING PROJECTS; EXEMPTION; COMMISSION REVIEW. (a) Before beginning to negotiate an interim or comprehensive agreement, each responsible governmental entity receiving a detailed proposal for a qualifying project must provide copies of the proposal to:

(1) the presiding officer of the commission; and

(2) the chairs of the House Appropriations Committee and Senate Finance Committee or their designees.

(b) The following qualifying projects are not subject to review by the commission:

(1) any proposed qualifying project with a total cost of less than $5 million; and

(2) any proposed qualifying project with a total cost of more than $5 million but less than $50 million for which money has been specifically appropriated as a public-private partnership in the General Appropriations Act.

(c) The commission may undertake additional reviews of any qualifying project that will be completed in phases and for which an appropriation has not been made for any phase other than the current phase of the project.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1153, Sec. 38, eff. June 14, 2013.

(e) The commission in a public hearing by majority vote of the members present shall approve or disapprove each detailed proposal submitted to the commission for review and may provide its findings and recommendations to the responsible governmental entity not later than the 45th day after the date the commission receives complete copies of the detailed proposal. If the commission does not provide its findings or recommendations to the responsible governmental entity by that date, the commission is considered to not have made any findings or recommendations on the proposal.

(f) The responsible governmental entity on request of the commission shall provide any additional information regarding a qualifying project reviewed by the commission if the information is available to or can be obtained by the responsible governmental entity.

(g) The commission shall include in any findings and recommendations provided to the responsible governmental entity:

(1) a determination on whether the terms of the proposal and proposed qualifying project create state tax-supported debt,

taking into consideration the specific findings of the comptroller with respect to the recommendation;

(2) an analysis of the potential financial impact of the qualifying project;

(3) a review of the policy aspects of the detailed proposal and the qualifying project; and

(4) proposed general business terms.

(h) Review by the commission does not constitute approval of any appropriations necessary to implement a subsequent interim or comprehensive agreement.

(i) The responsible governmental entity may not negotiate an interim or comprehensive agreement for a detailed proposal that has been disapproved by the commission.

(j) Not later than the 30th day before the date a comprehensive or interim agreement is executed, the responsible governmental entity shall submit to the commission and the chairs of the House Appropriations Committee and Senate Finance Committee or their designees:

(1) a copy of the proposed interim or comprehensive agreement; and

(2) a report describing the extent to which the commission's recommendations were addressed in the proposed interim or comprehensive agreement.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 36, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1153 (S.B. 211), Sec. 38, eff. June 14, 2013.

Sec. 2268.059. CONFIDENTIALITY OF CERTAIN RECORDS SUBMITTED TO COMMISSION. Records and information afforded protection under Section 552.153 that are provided by a responsible governmental entity to the commission and the presiding officer of the House Appropriations Committee and of the Senate Finance Committee, or their designees, shall continue to be protected from disclosure when in the possession of the commission and the presiding officers or

their designees.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1334 (S.B. 1048), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1075 (H.B. 2475), Sec. 11, eff. September 1, 2015.

CHAPTER 2269. CONTRACTING AND DELIVERY PROCEDURES FOR CONSTRUCTION PROJECTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2269.001. DEFINITIONS. In this chapter:

(1) "Architect" means an individual registered as an architect under Chapter 1051, Occupations Code.

(2) "Engineer" means an individual licensed as an engineer under Chapter 1001, Occupations Code.

(3) "Facility" means, unless otherwise specifically provided, an improvement to real property.

(4) "General conditions" in the context of a contract for the construction, rehabilitation, alteration, or repair of a facility means on-site management, administrative personnel, insurance, bonds, equipment, utilities, and incidental work, including minor field labor and materials.

(5) "General contractor" means a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for constructing, rehabilitating, altering, or repairing all or part of a facility at the contracted price.

(6) "Public work contract" means a contract for constructing, altering, or repairing a public building or carrying out or completing any public work.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.002. APPLICABILITY OF CHAPTER TO GOVERNMENTAL ENTITIES ENGAGED IN PUBLIC WORKS. This chapter applies to a public

work contract made by a governmental entity authorized by state law to make a public work contract, including:

(1) a state agency as defined by Section 2151.002, including the Texas Facilities Commission;

(2) a local government, including:

(A) a county;

(B) a municipality;

(C) a school district;

(D) any other special district or authority, including a hospital district, a defense base development authority established under Chapter 379B, Local Government Code, and a conservation and reclamation district, including a river authority or any other type of water district; and

(E) any other political subdivision of this state;

(3) a public junior college as defined by Section 61.003, Education Code; and

(4) a board of trustees governed by Chapter 54, Transportation Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.003. CONFLICT OF LAWS; REQUIREMENT TO FOLLOW PROCEDURES OF THIS CHAPTER. (a) Except as provided by this section, this chapter prevails over any other law relating to a public work contract.

(b) This chapter does not prevail over a conflicting provision in a law relating to contracting with a historically underutilized business.

(c) This chapter does not prevail over a conflicting provision in an ordinance or resolution passed by the governing body of a municipally owned electric utility in a procedure described by Section 252.022(c), Local Government Code, that:

(1) requires the use of competitive bidding or competitive sealed proposals; or

(2) prescribes a design-build procurement procedure that

conflicts with this chapter.

(d) This chapter does not prevail over any law, rule, or regulation relating to competitive bidding or competitive sealed proposals for construction services, or to procurement of construction services pursuant to Section 49.273, Water Code, that applies to a river authority or to a conservation and reclamation district created under Section 59, Article XVI, Texas Constitution, unless the governing body of the river authority or conservation and reclamation district elects to permit this chapter to supersede the law, rule, or regulation.

(e) This chapter does not prevail over a conflicting provision in a regulation that prescribes procurement procedures for construction services that is adopted by the governing board of a river authority or of a conservation and reclamation district created pursuant to Section 59, Article XVI, Texas Constitution, that owns electric generation capacity in excess of 2,500 megawatts, except with respect to Subchapter H.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.004. EXEMPTION: TEXAS DEPARTMENT OF TRANSPORTATION; HIGHWAY PROJECTS. This chapter does not apply to:

(1) a contract entered into by the Texas Department of Transportation; or

(2) a project that receives money from a state or federal highway fund.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.005. APPLICABILITY: INSTITUTIONS OF HIGHER EDUCATION. (a) In this section, "institution of higher education," "public

junior college," and "university system" have the meanings assigned by Section 61.003, Education Code.

(b) This chapter applies to a public junior college but does not apply to:

(1) any other institution of higher education; or

(2) a university system.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.006. EXEMPTION: REGIONAL TOLLWAY AUTHORITIES. This chapter does not apply to a regional tollway authority under Chapter 366, Transportation Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.007. EXEMPTION: CERTAIN LOCAL GOVERNMENT CORPORATION IMPROVEMENT PROJECTS. This chapter does not apply to an improvement project undertaken by or through a local government corporation exempt from competitive bidding requirements or restrictions under Section 431.110, Transportation Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.008. EXEMPTION: REGIONAL MOBILITY AUTHORITIES. This chapter does not apply to a regional mobility authority under Chapter 370, Transportation Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.009. EXEMPTION: COUNTY TOLL AUTHORITIES. This chapter does not apply to a project of a county under Chapter 284, Transportation Code, unless the county adopts an order electing to be governed by this chapter for a project to be developed by the county under Chapter 284.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.010. EXEMPTION: COORDINATED COUNTY TRANSPORTATION AUTHORITY. This chapter does not apply to a coordinated county transportation authority under Chapter 460, Transportation Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

SUBCHAPTER B. GENERAL POWERS AND DUTIES

Sec. 2269.051. RULES. A governmental entity may adopt rules as necessary to implement this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.052. NOTICE REQUIREMENTS. (a) A governmental entity shall advertise or publish notice of requests for bids, proposals, or qualifications in a manner prescribed by law.

(b) For a contract entered into by a governmental entity under a method provided by this chapter, the governmental entity shall publish notice of the time and place the bid or proposal or request for qualifications will be received and opened in a manner prescribed by law.

(c) For a contract entered into by a municipality, river authority, conservation and reclamation district created pursuant to Section 59, Article XVI, Texas Constitution, and located in a county with a population of more than 250,000, or defense base development authority under any of the methods provided by this chapter, the municipality, river authority, conservation and reclamation district created pursuant to Section 59, Article XVI, Texas Constitution, and located in a county with a population of more than 250,000, or defense base development authority shall publish notice of the time and place the bids or proposals, or the responses to a request for qualifications, will be received and opened. The notice must be published in a newspaper of general circulation in the county in which the defense base development authority's or municipality's central administrative office is located or the county in which the greatest amount of the river authority's or such conservation and reclamation district's territory is located once each week for at least two weeks before the deadline for receiving bids, proposals, or responses. If there is not a newspaper of general circulation in that county, the notice shall be published in a newspaper of general circulation in the county nearest the county seat of the county in which the defense base development authority's or municipality's central administrative office is located or the county in which the greatest amount of the river authority's or such conservation and reclamation district's territory is located. In a two-step procurement process, the time and place the second step bids, proposals, or responses will be received are not required to be published separately.

(d) For a contract entered into by a county under any of the methods provided by this chapter, the county shall publish notice of the time and place the bids or proposals, or the responses to a request for qualifications, will be received and opened. The notice must be published in a newspaper of general circulation in the county

once each week for at least two weeks before the deadline for receiving bids, proposals, or responses. If there is not a newspaper of general circulation in the county, the notice shall be:

(1) posted at the courthouse door of the county; and

(2) published in a newspaper of general circulation in the nearest county.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.053. DELEGATION OF AUTHORITY. (a) The governing body of a governmental entity may delegate its authority under this chapter regarding an action authorized or required by this chapter to a designated representative, committee, or other person.

(b) The governmental entity shall provide notice of the delegation, the limits of the delegation, and the name or title of each person designated under Subsection (a) by rule or in the request for bids, proposals, or qualifications or in an addendum to the request.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.054. RIGHT TO WORK. (a) This section applies to a governmental entity when the governmental entity is engaged in:

(1) procuring goods or services under this chapter;

(2) awarding a contract under this chapter; or

(3) overseeing procurement or construction for a public work or public improvement under this chapter.

(b) In engaging in an activity to which this section applies, a governmental entity:

(1) may not consider whether a person is a member of or has another relationship with any organization; and

(2) shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to an organization.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.0541. AGREEMENT WITH COLLECTIVE BARGAINING ORGANIZATION. (a) A governmental entity awarding a public work contract funded with state money, including the issuance of debt guaranteed by this state, may not:

(1) prohibit, require, discourage, or encourage a person bidding on the public work contract, including a contractor or subcontractor, from entering into or adhering to an agreement with a collective bargaining organization relating to the project; or

(2) discriminate against a person described by Subdivision (1) based on the person's involvement in the agreement, including the person's:

(A) status or lack of status as a party to the agreement; or

(B) willingness or refusal to enter into the agreement.

(b) This section may not be construed to:

(1) prohibit activity protected by the National Labor Relations Act (29 U.S.C. Section 151 et seq.), including entering into an agreement with a collective bargaining organization relating to the project; or

(2) permit conduct prohibited under the National Labor Relations Act (29 U.S.C. Section 151 et seq.).

Added by Acts 2019, 86th Leg., R.S., Ch. 366 (H.B. 985), Sec. 2, eff. September 1, 2019.

Sec. 2269.055. CRITERIA TO CONSIDER. (a) In determining the award of a contract under this chapter, the governmental entity may consider:

(1) the price;
(2) the offeror's experience and reputation;
(3) the quality of the offeror's goods or services;
(4) the impact on the ability of the governmental entity to comply with rules relating to historically underutilized businesses;
(5) the offeror's safety record;
(6) the offeror's proposed personnel;
(7) whether the offeror's financial capability is appropriate to the size and scope of the project; and
(8) any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

(b) In determining the award of a contract under this chapter, the governmental entity shall:
(1) consider and apply any existing laws, including any criteria, related to historically underutilized businesses; and
(2) consider and apply any existing laws, rules, or applicable municipal charters, including laws applicable to local governments, related to the use of women, minority, small, or disadvantaged businesses.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.056. USING METHOD OTHER THAN COMPETITIVE BIDDING FOR CONSTRUCTION SERVICES; EVALUATION OF PROPOSALS; CRITERIA. (a) The governing body of a governmental entity that considers a construction contract using a method authorized by this chapter other than competitive bidding must, before advertising, determine which method provides the best value for the governmental entity.

(b) The governmental entity shall base its selection among offerors on applicable criteria listed for the particular method used. The governmental entity shall publish in the request for proposals or qualifications:
(1) the criteria that will be used to evaluate the offerors;
(2) the applicable weighted value for each criterion; and

(3) a detailed methodology for scoring each criterion.

(c) The governmental entity shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. 533), Sec. 13, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 702 (H.B. 2581), Sec. 1, eff. September 1, 2021.

Sec. 2269.057. ARCHITECT OR ENGINEER SERVICES. (a) An architect or engineer required to be selected or designated under this chapter has full responsibility for complying with Chapter 1051 or 1001, Occupations Code, as applicable.

(b) If the selected or designated architect or engineer is not a full-time employee of the governmental entity, the governmental entity shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Section 2254.004.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.058. USE OF OTHER PROFESSIONAL SERVICES. (a) Independently of the contractor, construction manager-at-risk, or design-build firm, the governmental entity shall provide or contract for the construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the governmental entity.

(b) The governmental entity shall select the services for which

it contracts under this section in accordance with Section 2254.004.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.059. SEALED BIDS, PROPOSALS, OR QUALIFICATIONS REQUIRED. A person who submits a bid, proposal, or qualification to a governmental entity shall seal it before delivery.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.060. DOCUMENTS RELATED TO EVALUATION AND RANKING. (a) An offeror who submits a bid, proposal, or response to a request for qualifications for a construction contract under this chapter may, after the contract is awarded, make a request in writing to the governmental entity to provide documents related to the evaluation of the offeror's submission.

(b) Not later than the 30th day after the date a request is made under Subsection (a), the governmental entity shall deliver to the offeror the documents relating to the evaluation of the submission including, if applicable, its ranking of the submission.

Added by Acts 2021, 87th Leg., R.S., Ch. 702 (H.B. 2581), Sec. 2, eff. September 1, 2021.

SUBCHAPTER C. COMPETITIVE BIDDING METHOD

Sec. 2269.101. CONTRACTS FOR FACILITIES: COMPETITIVE BIDDING. (a) In this chapter, "competitive bidding" is a procurement method by which a governmental entity contracts with a contractor for the construction, alteration, rehabilitation, or repair of a facility by awarding the contract to the lowest responsible bidder.

(b) Except as otherwise provided by this chapter or other law, a governmental entity may contract for the construction, alteration, rehabilitation, or repair of a facility only after the entity advertises for bids for the contract in a manner prescribed by law, receives competitive bids, and awards the contract to the lowest responsible bidder.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.102. USE OF ARCHITECT OR ENGINEER. The governmental entity shall select or designate an architect or engineer in accordance with Chapter 1051 or 1001, Occupations Code, as applicable, to prepare the construction documents required for a project to be awarded by competitive bidding.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.103. PREPARATION OF REQUEST. The governmental entity shall prepare a request for competitive bids that includes construction documents, estimated budget, project scope, estimated project completion date, and other information that a contractor may require to submit a bid.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.104. EVALUATION OF OFFERORS. The governmental entity

shall receive, publicly open, and read aloud the names of the offerors and their bids.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.105. SELECTION OF OFFEROR. Not later than the seventh day after the date the contract is awarded, the governmental entity shall document the basis of its selection and shall make the evaluations public.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.106. APPLICABILITY OF OTHER COMPETITIVE BIDDING LAW TO CERTAIN LOCAL GOVERNMENTAL ENTITIES. Except as otherwise specifically provided by this section, Subchapter B, Chapter 271, Local Government Code, does not apply to a competitive bidding process conducted under this chapter. Sections 271.026, 271.027(a), and 271.0275, Local Government Code, apply to a competitive bidding process conducted under this chapter by a governmental entity as defined by Section 271.021, Local Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

SUBCHAPTER D. COMPETITIVE SEALED PROPOSAL METHOD

Sec. 2269.151. CONTRACTS FOR FACILITIES: COMPETITIVE SEALED PROPOSALS. (a) In this chapter, "competitive sealed proposals" is a

procurement method by which a governmental entity requests proposals, ranks the offerors, negotiates as prescribed, and then contracts with a general contractor for the construction, rehabilitation, alteration, or repair of a facility.

(b) In selecting a contractor through competitive sealed proposals, a governmental entity shall follow the procedures provided by this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.152. USE OF ARCHITECT OR ENGINEER. The governmental entity shall select or designate an architect or engineer to prepare construction documents for the project.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.153. PREPARATION OF REQUEST. (a) In this section, "civil works project" has the meaning assigned by Section 2269.351.

(b) The governmental entity shall prepare a request for competitive sealed proposals that includes construction documents, selection criteria and the weighted value for each criterion, estimated budget, project scope, estimated project completion date, and other information that a contractor may require to respond to the request.

(c) Except as provided by Subsection (d), for civil works projects, the weighted value assigned to price must be at least 50 percent of the total weighted value of all selection criteria.

(d) If the governing body of a governmental entity determines that assigning a lower weighted value to price is in the public interest, the governmental entity may assign to price a weighted value of not less than 36.9 percent of the total weighted value of

all selection criteria.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 702 (H.B. 2581), Sec. 3, eff. September 1, 2021.

Sec. 2269.154. EVALUATION OF OFFERORS. (a) The governmental entity shall receive, publicly open, and read aloud the names of the offerors and any monetary proposals made by the offerors.

(b) Not later than the 45th day after the date on which the proposals are opened, the governmental entity shall evaluate and rank each proposal submitted in relation to the published selection criteria.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.155. SELECTION OF OFFEROR. (a) The governmental entity shall select the offeror that submits the proposal that offers the best value for the governmental entity based on:

(1) the selection criteria in the request for proposal and the weighted value for those criteria in the request for proposal; and

(2) its ranking evaluation.

(b) The governmental entity shall first attempt to negotiate a contract with the selected offeror. The governmental entity and its architect or engineer may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification.

(c) If the governmental entity is unable to negotiate a satisfactory contract with the selected offeror, the governmental

entity shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.

(d) Not later than the seventh business day after the date the contract is awarded, the governmental entity shall make the evaluations, including any scores, public and provide them to all offerors.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 702 (H.B. 2581), Sec. 4, eff. September 1, 2021.

SUBCHAPTER E. CONSTRUCTION MANAGER-AGENT METHOD

Sec. 2269.201. CONTRACTS FOR FACILITIES: CONSTRUCTION MANAGER-AGENT. (a) In this chapter, the "construction manager-agent method" is a delivery method by which a governmental entity contracts with a construction manager-agent to provide consultation or administrative services during the design and construction phase and to manage multiple contracts with various construction prime contractors.

(b) A construction manager-agent is a sole proprietorship, partnership, corporation, or other legal entity that serves as the agent for the governmental entity by providing construction administration and management services described by Subsection (a) for the construction, rehabilitation, alteration, or repair of a facility.

(c) A governmental entity may retain a construction manager-agent for assistance in the construction, rehabilitation, alteration, or repair of a facility only as provided by this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.202. CONTRACT PROVISIONS OF CONSTRUCTION MANAGER-AGENT. The contract between the governmental entity and the construction manager-agent may require the construction manager-agent to provide:

(1) administrative personnel;

(2) equipment necessary to perform duties under this subchapter;

(3) on-site management; and

(4) other services specified in the contract.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.203. LIMITS ON CONSTRUCTION MANAGER-AGENT. A construction manager-agent may not:

(1) self-perform any aspect of the construction, rehabilitation, alteration, or repair of the facility;

(2) be a party to a construction subcontract for the construction, rehabilitation, alteration, or repair of the facility; or

(3) provide or be required to provide performance and payment bonds for the construction, rehabilitation, alteration, or repair of the facility.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.204. FIDUCIARY CAPACITY OF CONSTRUCTION MANAGER-AGENT. A construction manager-agent represents the governmental entity in a fiduciary capacity.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.

Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.205. USE OF ARCHITECT OR ENGINEER. (a) On or before the selection of a construction manager-agent, the governmental entity shall select or designate an architect or engineer in accordance with Chapter 1051 or 1001, Occupations Code, as applicable, to prepare the construction documents for the project.

(b) The governmental entity's architect or engineer may not serve, alone or in combination with another person, as the construction manager-agent unless the architect or engineer is hired to serve as the construction manager-agent under a separate or concurrent selection process conducted in accordance with this subchapter. This subsection does not prohibit the governmental entity's architect or engineer from providing customary construction phase services under the architect's or engineer's original professional service agreement in accordance with applicable licensing laws.

(c) To the extent that the construction manager-agent's services are defined as part of the practice of architecture or engineering under Chapter 1051 or 1001, Occupations Code, those services must be conducted by a person licensed under the applicable chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.206. SELECTION OF CONTRACTORS. A governmental entity using the construction manager-agent method shall procure, in accordance with applicable law and in any manner authorized by this chapter, a general contractor or trade contractors who will serve as the prime contractor for their specific portion of the work and provide performance and payment bonds to the governmental entity in accordance with applicable laws.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.207. SELECTION OF CONSTRUCTION MANAGER-AGENT. A governmental entity shall select a construction manager-agent on the basis of demonstrated competence and qualifications in the same manner that an architect or engineer is selected under Section 2254.004.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.208. INSURANCE. A construction manager-agent selected under this subchapter shall maintain professional liability or errors and omissions insurance in the amount of at least $1 million for each occurrence.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

SUBCHAPTER F. CONSTRUCTION MANAGER-AT-RISK METHOD

Sec. 2269.251. CONTRACTS FOR FACILITIES: CONSTRUCTION MANAGER-AT-RISK. (a) In this chapter, the "construction manager-at-risk method" is a delivery method by which a governmental entity contracts with an architect or engineer for design and construction phase services and contracts separately with a construction manager-at-risk to serve as the general contractor and to provide consultation during the design and construction, rehabilitation, alteration, or repair of a facility.

(b) A construction manager-at-risk is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to the governmental entity regarding construction during and after the design of the facility. The contracted price may be a guaranteed maximum price.

(c) A governmental entity may use the construction manager-at-risk method in selecting a general contractor for the construction, rehabilitation, alteration, or repair of a facility only as provided by this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.252. USE OF ARCHITECT OR ENGINEER. (a) On or before the selection of a construction manager-at-risk, the governmental entity shall select or designate an architect or engineer to prepare the construction documents for the project.

(b) The governmental entity's architect or engineer for a project, or an entity related to the governmental entity's architect or engineer, may not serve, alone or in combination with another person, as the construction manager-at-risk. This subsection does not prohibit the governmental entity's architect or engineer from providing customary construction phase services under the architect's or engineer's original professional service agreement in accordance with applicable licensing laws.

(c) For purposes of Subsection (b), an entity is related to the governmental entity's architect or engineer if the entity is a sole proprietorship, corporation, partnership, limited liability company, or other entity that is a subsidiary, parent corporation, or partner or has any other relationship in which the governmental entity's architect or engineer has an ownership interest, or is subject to common ownership or control, or is party to an agreement by which it will receive any proceeds of the construction manager-at-risk's payments from the governmental entity.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 788 (H.B. 2634), Sec. 1, eff. September 1, 2015.

Sec. 2269.253. SELECTION PROCESS. (a) The governmental entity shall select the construction manager-at-risk in a one-step or two-step process.

(b) The governmental entity shall prepare a single request for proposals, in the case of a one-step process, and an initial request for qualifications, in the case of a two-step process, that includes:

(1) a statement as to whether the selection process is a one-step or two-step process;

(2) general information on the project site, project scope, schedule, selection criteria and the weighted value for each criterion, and estimated budget and the time and place for receipt of the proposals or qualifications; and

(3) other information that may assist the governmental entity in its selection of a construction manager-at-risk.

(c) The governmental entity shall state the selection criteria in the request for proposals or qualifications.

(d) If a one-step process is used, the governmental entity may request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions.

(e) If a two-step process is used, the governmental entity may not request fees or prices in step one. In step two, the governmental entity may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the construction manager-at-risk's proposed fee and prices for fulfilling the general conditions.

(f) At each step, the governmental entity shall receive, publicly open, and read aloud the names of the offerors. At the appropriate step, the governmental entity shall also read aloud the fees and prices, if any, stated in each proposal as the proposal is opened.

(g) Not later than the 45th day after the date on which the final proposals are opened, the governmental entity shall evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.254. SELECTION OF OFFEROR. (a) The governmental entity shall select the offeror that submits the proposal that offers the best value for the governmental entity based on the published selection criteria and on its ranking evaluation.

(b) The governmental entity shall first attempt to negotiate a contract with the selected offeror.

(c) If the governmental entity is unable to negotiate a satisfactory contract with the selected offeror, the governmental entity shall, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

(d) Not later than the seventh day after the date the contract is awarded, the governmental entity shall make the rankings determined under Section 2269.253(g) public.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(11), eff. September 1, 2013.

Sec. 2269.255. PERFORMANCE OF WORK. (a) A construction manager-at-risk shall publicly advertise for bids or proposals and receive bids or proposals from trade contractors or subcontractors

for the performance of all major elements of the work other than the minor work that may be included in the general conditions.

(b) A construction manager-at-risk may seek to perform portions of the work itself if:

(1) the construction manager-at-risk submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors; and

(2) the governmental entity determines that the construction manager-at-risk's bid or proposal provides the best value for the governmental entity.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.256. REVIEW OF BIDS OR PROPOSALS. (a) The construction manager-at-risk shall review all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction manager-at-risk, architect, engineer, or governmental entity. All bids or proposals shall be made available to the governmental entity on request and to the public after the later of the award of the contract or the seventh day after the date of final selection of bids or proposals.

(b) If the construction manager-at-risk reviews, evaluates, and recommends to the governmental entity a bid or proposal from a trade contractor or subcontractor but the governmental entity requires another bid or proposal to be accepted, the governmental entity shall compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction manager-at-risk incurs because of the governmental entity's requirement that another bid or proposal be accepted.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1,

2013.

Sec. 2269.257. DEFAULT; PERFORMANCE OF WORK. If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this subchapter, the construction manager-at-risk may itself fulfill, without advertising, the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.258. PERFORMANCE OR PAYMENT BOND. (a) If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the governmental entity must each be in an amount equal to the construction budget, as specified in the request for proposals or qualifications.

(b) The construction manager-at-risk shall deliver the bonds not later than the 10th day after the date the construction manager-at-risk executes the contract unless the construction manager-at-risk furnishes a bid bond or other financial security acceptable to the governmental entity to ensure that the construction manager will furnish the required performance and payment bonds when a guaranteed maximum price is established.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

SUBCHAPTER G. BUILDING USING DESIGN-BUILD METHOD

Sec. 2269.301. CONTRACTS FOR FACILITIES: DESIGN-BUILD. In

this chapter, "design-build" is a project delivery method by which a governmental entity contracts with a single entity to provide both design and construction services for the construction, rehabilitation, alteration, or repair of a facility.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.302. APPLICABILITY OF SUBCHAPTER TO BUILDINGS; EXCEPTIONS. This subchapter applies only to a facility that is a building or an associated structure, including an electric utility structure. This subchapter does not apply to:

(1) a highway, road, street, bridge, underground utility, water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, wharf, dock, airport runway or taxiway, drainage project, or related type of project associated with civil engineering construction; or

(2) a building or structure that is incidental to a project that is primarily a civil engineering construction project.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.303. CONTRACTS FOR BUILDINGS: DESIGN-BUILD. A governmental entity may use the design-build method for the construction, rehabilitation, alteration, or repair of a building or associated structure only as provided by this subchapter. In using that method, the governmental entity shall enter into a single contract with a design-build firm for the design and construction of the building or associated structure.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.

Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.304. DESIGN-BUILD FIRMS. A design-build firm under this subchapter must be a sole proprietorship, partnership, corporation, or other legal entity or team that includes an architect or engineer and a construction contractor.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.305. USE OF ARCHITECT OR ENGINEER AS INDEPENDENT REPRESENTATIVE. The governmental entity shall select or designate an architect or engineer independent of the design-build firm to act as the governmental entity's representative for the duration of the project.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.306. PREPARATION OF REQUEST. (a) The governmental entity shall prepare a request for qualifications that includes general information on the project site, project scope, budget, special systems, selection criteria and the weighted value for each criterion, and other information that may assist potential design-build firms in submitting proposals for the project.

(b) The governmental entity shall also prepare the design criteria package that includes more detailed information on the project. If the preparation of the design criteria package requires architectural or engineering services that constitute the practice of architecture within the meaning of Chapter 1051, Occupations Code, or

the practice of engineering within the meaning of Chapter 1001, Occupations Code, those services shall be provided in accordance with the applicable law.

(c) The design criteria package must include a set of documents that provides sufficient information, including criteria for selection, to permit a design-build firm to prepare a response to the governmental entity's request for qualifications and to provide any additional information requested. The design criteria package must specify criteria the governmental entity considers necessary to describe the project and may include, as appropriate, the legal description of the site, survey information concerning the site, interior space requirements, special material requirements, material quality standards, conceptual criteria for the project, special equipment requirements, cost or budget estimates, time schedules, quality assurance and quality control requirements, site development requirements, applicable codes and ordinances, provisions for utilities, parking requirements, and any other requirement.

(d) The governmental entity may not require offerors to submit architectural or engineering designs as part of a proposal or a response to a request for qualifications.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.307. EVALUATION OF DESIGN-BUILD FIRMS. (a) For each design-build firm that responded to the request for qualifications, the governmental entity shall evaluate the firm's experience, technical competence, and capability to perform, the past performance of the firm and members of the firm, and other appropriate factors submitted by the firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted.

(b) Each firm must certify to the governmental entity that each architect or engineer that is a member of the firm was selected based on demonstrated competence and qualifications, in the manner provided by Section 2254.004.

(c) The governmental entity shall qualify a maximum of five responders to submit proposals that contain additional information and, if the governmental entity chooses, to interview for final selection.

(d) The governmental entity shall evaluate the additional information submitted by the offerors on the basis of the selection criteria stated in the request for qualifications and the results of any interview.

(e) The governmental entity may request additional information regarding demonstrated competence and qualifications, considerations of the safety and long-term durability of the project, the feasibility of implementing the project as proposed, the ability of the offeror to meet schedules, or costing methodology. As used in this subsection, "costing methodology" means an offeror's policies on subcontractor markup, definition of general conditions, range of cost for general conditions, policies on retainage, policies on contingencies, discount for prompt payment, and expected staffing for administrative duties. The term does not include a guaranteed maximum price or bid for overall design or construction.

(f) The governmental entity shall rank each proposal submitted on the basis of the criteria set forth in the request for qualifications.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.308. SELECTION OF DESIGN-BUILD FIRM. (a) The governmental entity shall select the design-build firm that submits the proposal offering the best value for the governmental entity on the basis of the published selection criteria and on its ranking evaluations.

(b) The governmental entity shall first attempt to negotiate a contract with the selected firm.

(c) If the governmental entity is unable to negotiate a satisfactory contract with the selected firm, the governmental entity shall, formally and in writing, end all negotiations with that firm

and proceed to negotiate with the next firm in the order of the selection ranking until a contract is reached or negotiations with all ranked firms end.

(d) Not later than the seventh day after the date the contract is awarded, the governmental entity shall make the rankings determined under Section 2269.307(f) public.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(12), eff. September 1, 2013.

Sec. 2269.309. SUBMISSION OF DESIGN AFTER SELECTION. After selection of the design-build firm, that firm's architects or engineers shall submit all design elements for review and determination of scope compliance to the governmental entity or the governmental entity's architect or engineer before or concurrently with construction.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.310. FINAL CONSTRUCTION DOCUMENTS. The design-build firm shall supply a set of construction documents for the completed project to the governmental entity at the conclusion of construction. The documents must note any changes made during construction.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.311. PERFORMANCE OR PAYMENT BOND. (a) A payment or performance bond is not required and may not provide coverage for the design portion of the design-build contract with the design-build firm under this subchapter.

(b) If a fixed contract amount or guaranteed maximum price has not been determined at the time the design-build contract is awarded, the penal sums of the performance and payment bonds delivered to the governmental entity must each be in an amount equal to the construction budget, as specified in the design criteria package.

(c) The design-build firm shall deliver the bonds not later than the 10th day after the date the design-build firm executes the contract unless the design-build firm furnishes a bid bond or other financial security acceptable to the governmental entity to ensure that the design-build firm will furnish the required performance and payment bonds before construction begins.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

SUBCHAPTER H. DESIGN-BUILD PROCEDURES FOR CERTAIN CIVIL WORKS PROJECTS

Sec. 2269.351. DEFINITIONS. In this subchapter:

(1) "Civil works project" means:

(A) roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water distribution and wastewater conveyance facilities, desalination projects, wharves, docks, airport runways and taxiways, storm drainage and flood control projects, or transit projects;

(B) types of projects or facilities related to those described by Paragraph (A) and associated with civil engineering construction; and

(C) buildings or structures that are incidental to projects or facilities that are described by Paragraphs (A) and (B) and that are primarily civil engineering construction projects.

(2) "Design-build firm" means a partnership, corporation, or other legal entity or team that includes an engineer and a construction contractor qualified to engage in civil works construction in Texas.

(3) "Design criteria package" means a set of documents that:

(A) provides sufficient information to convey the intent, goals, criteria, and objectives of the civil works project; and

(B) permits a design-build firm to:

(i) assess the scope of work and the risk involved; and

(ii) submit a proposal on the project.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.352. APPLICABILITY. This subchapter applies to a governmental entity that:

(1) has a population of more than 100,000 within the entity's geographic boundary or service area; or

(2) is a board of trustees governed by Chapter 54, Transportation Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.353. CONTRACTS FOR CIVIL WORKS PROJECTS: DESIGN-BUILD. (a) A governmental entity may use the design-build method for the construction, rehabilitation, alteration, or repair of a civil works project. In using this method and in entering into a contract for the services of a design-build firm, the contracting governmental entity and the design-build firm shall follow the

procedures provided by this subchapter.

(b) A contract for a project under this subchapter may cover only a single integrated project. A governmental entity may not enter into a contract for aggregated projects at multiple locations. For purposes of this subsection:

(1) if a metropolitan transit authority created under Chapter 451, Transportation Code, enters into a contract for a project involving a linear transit project with multiple stops along the project route for boarding passengers, created under Chapter 451, Transportation Code, the linear transit project is a single integrated project; and

(2) a water treatment plant, including a desalination plant, that includes treatment facilities, well fields, and pipelines is a single integrated project.

(c) A governmental entity shall use the following criteria as a minimum basis for determining the circumstances under which the design-build method is appropriate for a project:

(1) the extent to which the entity can adequately define the project requirements;

(2) the time constraints for the delivery of the project;

(3) the ability to ensure that a competitive procurement can be held; and

(4) the capability of the entity to manage and oversee the project, including the availability of experienced personnel or outside consultants who are familiar with the design-build method of project delivery.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1127 (H.B. 1050), Sec. 11, eff. September 1, 2013.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.

Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(13), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1127 (H.B. 1050), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1127 (H.B. 1050), Sec. 11, eff.

September 1, 2013.

Sec. 2269.354. LIMITATION ON NUMBER OF PROJECTS. (a) After August 31, 2013:

(1) a governmental entity with a population of 500,000 or more within the entity's geographic boundary or service area may, under this subchapter, enter into contracts for not more than six projects in any fiscal year;

(2) a municipally owned water utility with a separate governing board appointed by the governing body of a municipality with a population of 500,000 or more may:

(A) independently enter into contracts for not more than two civil works projects in any fiscal year; and

(B) enter into contracts for additional civil works projects in any fiscal year, but not more than the number of civil works projects prescribed by the limit in Subdivision (1) for the municipality, provided that:

(i) the additional contracts for the civil works projects entered into by the utility under this paragraph are allocated to the number of contracts the municipality that appoints the utility's governing board may enter under Subdivision (1); and

(ii) the governing body of the municipality must approve the contracts; and

(3) a governmental entity that has a population of 100,000 or more but less than 500,000 or is a board of trustees governed by Chapter 54, Transportation Code, may enter into contracts under this subchapter for not more than four projects in any fiscal year.

(b) For purposes of determining the number of eligible projects under this section, a municipally owned water utility with a separate governing board appointed by the governing body of the municipality is considered part of the municipality.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1127 (H.B. 1050), Sec. 4, eff.

September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 1356 (S.B. 1430), Sec. 1, eff. June 14, 2013.

Sec. 2269.355. USE OF ENGINEER. (a) The governmental entity shall select or designate an engineer who is independent of the design-build firm to act as its representative for the procurement process and for the duration of the work on the civil works project. The selected or designated engineer has full responsibility for complying with Chapter 1001, Occupations Code.

(b) If the engineer is not a full-time employee of the governmental entity, the governmental entity shall select the engineer on the basis of demonstrated competence and qualifications as provided by Section 2254.004.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.356. USE OF OTHER PROFESSIONAL SERVICES. (a) The governmental entity shall provide or contract for, independently of the design-build firm, the following services as necessary for the acceptance of the civil works project by the entity:

(1) inspection services;

(2) construction materials engineering and testing; and

(3) verification testing services.

(b) The governmental entity shall select the services for which it contracts under this section in accordance with Section 2254.004.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.357. REQUEST FOR QUALIFICATIONS. (a) The

governmental entity shall prepare a request for qualifications that includes:

(1) information on the civil works project site;

(2) project scope;

(3) project budget;

(4) project schedule;

(5) criteria for selection under Section 2269.359 and the weighting of the criteria; and

(6) other information that may assist potential design-build firms in submitting proposals for the project.

(b) The governmental entity shall also prepare a design criteria package as described by Section 2269.358.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(14), eff. September 1, 2013.

Sec. 2269.358. CONTENTS OF DESIGN CRITERIA PACKAGE. A design criteria package may include, as appropriate:

(1) budget or cost estimates;

(2) information on the site;

(3) performance criteria;

(4) special material requirements;

(5) initial design calculations;

(6) known utilities;

(7) capacity requirements;

(8) quality assurance and quality control requirements;

(9) the type, size, and location of structures; and

(10) notice of any ordinances, rules, or goals adopted by the governmental entity relating to awarding contracts to historically underutilized businesses.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd

Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.359. EVALUATION OF DESIGN-BUILD FIRMS. (a) The governmental entity shall receive proposals and shall evaluate each offeror's experience, technical competence, and capability to perform, the past performance of the offeror's team and members of the team, and other appropriate factors submitted by the team or firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted at this stage.

(b) Each offeror must:

(1) select or designate each engineer that is a member of its team based on demonstrated competence and qualifications, in the manner provided by Section 2254.004; and

(2) certify to the governmental entity that each selection or designation was based on demonstrated competence and qualifications, in the manner provided by Section 2254.004.

(c) The governmental entity shall qualify offerors to submit additional information and, if the entity chooses, to interview for final selection.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.360. SELECTION OF DESIGN-BUILD FIRM. The governmental entity shall select a design-build firm using a combination of technical and cost proposals as provided by Section 2269.361.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(15), eff. September 1, 2013.

Sec. 2269.361. PROCEDURES FOR COMBINATION OF TECHNICAL AND COST PROPOSALS. (a) A governmental entity shall request proposals from design-build firms identified under Section 2269.359(c). A response to a request for detailed proposals must be submitted on or before the earlier of the time for submission requested by the governmental entity or the 180th day after the date the governmental entity makes a public request for the proposals from the selected firms. The request for proposals must include:

(1) a design criteria package;

(2) if the project site is identified, a geotechnical baseline report or other information that provides the design-build firm minimum geotechnical design parameters to submit a proposal;

(3) detailed instructions for preparing the technical proposal and the items to be included, including a description of the form and level of completeness of drawings expected; and

(4) the relative weighting of the technical and price proposals and the formula by which the proposals will be evaluated and ranked.

(b) The technical proposal is a component of the proposal under this section.

(c) Each proposal must include a sealed technical proposal and a separate sealed cost proposal.

(d) The technical proposal must address:

(1) project approach;

(2) anticipated problems;

(3) proposed solutions to anticipated problems;

(4) ability to meet schedules;

(5) conceptual engineering design; and

(6) other information requested by the governmental entity.

(e) The governmental entity shall first open, evaluate, and score each responsive technical proposal submitted on the basis of the criteria described in the request for proposals and assign points on the basis of the weighting specified in the request for proposals. The governmental entity may reject as nonresponsive any firm that makes a significant change to the composition of its firm as initially submitted. The governmental entity shall subsequently

open, evaluate, and score the cost proposals from firms that submitted a responsive technical proposal and assign points on the basis of the weighting specified in the request for proposals. The governmental entity shall select the design-build firm in accordance with the formula provided in the request for proposals.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(16), eff. September 1, 2013.
Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. 533), Sec. 14, eff. September 1, 2017.

Sec. 2269.3615. IDENTIFICATION OF PROJECT TEAM. (a) A governmental entity may require a design-build firm responding to a request for detailed proposals to identify companies that will:

(1) fill key project roles, including project management, lead design firm, quality control management, and quality assurance management; and

(2) serve as key task leaders for geotechnical, hydraulics and hydrology, structural, environmental, utility, and right-of-way issues.

(b) If a design-build firm required to identify companies under Subsection (a) is selected for a design-build agreement, the firm may not make changes to the identified companies unless an identified company:

(1) is no longer in business, is unable to fulfill its legal, financial, or business obligations, or can no longer meet the terms of the teaming agreement with the design-build firm;

(2) voluntarily removes itself from the team;

(3) fails to provide a sufficient number of qualified personnel to fulfill the duties identified during the proposal stage; or

(4) fails to negotiate in good faith in a timely manner in accordance with provisions established in the teaming agreement

proposed for the project.

(c) If the design-build firm makes team changes in violation of Subsection (b), any cost savings resulting from the change accrue to the governmental entity and not to the design-build firm.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1127 (H.B. 1050), Sec. 5(b), eff. September 1, 2013.

Sec. 2269.362. NEGOTIATION. After selecting the highest-ranked design-build firm under Section 2269.361, the governmental entity shall first attempt to negotiate a contract with the selected firm. If the governmental entity is unable to negotiate a satisfactory contract with the selected firm, the entity shall, formally and in writing, end all negotiations with that firm and proceed to negotiate with the next firm in the order of the selection ranking until a contract is reached or negotiations with all ranked firms end.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(17), eff. September 1, 2013.

Sec. 2269.363. ASSUMPTION OF RISKS. The governmental entity shall assume:

(1) all risks and costs associated with:

(A) scope changes and modifications, as requested by the governmental entity;

(B) unknown or differing site conditions unless otherwise provided by the governmental entity in the request for proposals and final contract;

(C) regulatory permitting, if the governmental entity is responsible for those risks and costs by law or contract; and

(D) natural disasters and other force majeure events unless otherwise provided by the governmental entity in the request for proposals and final contract; and

(2) all costs associated with property acquisition, excluding costs associated with acquiring a temporary easement or work area associated with staging or construction for the project.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.364. STIPEND AMOUNT FOR UNSUCCESSFUL OFFERORS. (a) Unless a stipend is paid under Subsection (c), the design-build firm retains all rights to the work product submitted in a proposal. The governmental entity may not release or disclose to any person, including the successful offeror, the work product contained in an unsuccessful proposal. The governmental entity shall return all copies of the proposal and other information submitted to an unsuccessful offeror. The governmental entity or its agents may not make use of any unique or nonordinary design element, technique, method, or process contained in the unsuccessful proposal that was not also contained in the successful proposal at the time of the original submittal, unless the entity acquires a license from the unsuccessful offeror.

(b) A violation of this section voids the contract for the project entered into by the governmental entity. The governmental entity is liable to any unsuccessful offeror, or any member of the design-build team or its assignee, for one-half of the cost savings associated with the unauthorized use of the work product of the unsuccessful offeror. Any interested party may bring an action for an injunction, declaratory relief, or damages for a violation of this section. A party who prevails in an action under this subsection is entitled to reasonable attorney's fees as approved by the court.

(c) The governmental entity may offer an unsuccessful design-build firm that submits a response to the entity's request for additional information under Section 2269.361 a stipend for preliminary engineering costs associated with the development of the proposal. The stipend must be one-half of one percent of the contract amount and must be specified in the initial request for proposals. If the offer is accepted and paid, the governmental

entity may make use of any work product contained in the proposal, including the techniques, methods, processes, and information contained in the proposal. The use by the governmental entity of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the entity and does not confer liability on the recipient of the stipend under this subsection.

(d) Notwithstanding other law, including Chapter 552, work product contained in an unsuccessful proposal submitted and rejected under this subchapter is confidential and may not be released unless a stipend offer has been accepted and paid as provided by Subsection (c).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(18), eff. September 1, 2013.

Sec. 2269.365. COMPLETION OF DESIGN. (a) Following selection of a design-build firm under this subchapter, the firm's engineers shall submit all design elements for review and determination of scope compliance to the governmental entity before or concurrently with construction.

(b) An appropriately licensed design professional shall sign and seal construction documents before the documents are released for construction.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.366. FINAL CONSTRUCTION DOCUMENTS. At the conclusion of construction, the design-build firm shall supply to the governmental entity a record set of construction documents for the

project prepared as provided by Chapter 1001, Occupations Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.367. PERFORMANCE OR PAYMENT BOND. (a) A performance or payment bond is not required for the portion of a design-build contract under this section that includes design services only.

(b) If a fixed contract amount or guaranteed maximum price has not been determined at the time a design-build contract is awarded, the penal sums of the performance and payment bonds delivered to the governmental entity must each be in an amount equal to the construction budget, if commercially available and practical, as specified in the design criteria package.

(c) If the governmental entity awards a design-build contract under Section 2269.362, the design-build firm shall deliver the bonds not later than the 10th day after the date the design-build firm executes the contract unless the design-build firm furnishes a bid bond or other financial security acceptable to the governmental entity to ensure that the design-build firm will furnish the required performance and payment bonds before the commencement of construction.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(19), eff. September 1, 2013.

SUBCHAPTER I. JOB ORDER CONTRACTS METHOD

Sec. 2269.401. JOB ORDER CONTRACTING. In this chapter, "job order contracting" is a procurement method used for maintenance, repair, alteration, renovation, remediation, or minor construction of

a facility when the work is of a recurring nature but the delivery times, type, and quantities of work required are indefinite.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.402. APPLICABILITY OF SUBCHAPTER TO BUILDINGS; EXCEPTIONS. This subchapter applies only to a facility that is a building, the design and construction of which is governed by accepted building codes, or a structure or land, whether improved or unimproved, that is associated with a building. This subchapter does not apply to:

(1) a highway, road, street, bridge, utility, water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, wharf, dock, airport runway or taxiway, drainage project, or related type of project associated with civil engineering construction; or

(2) a building or structure that is incidental to a project that is primarily a civil engineering construction project.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.403. REQUIREMENTS FOR JOB ORDER CONTRACTS FOR FACILITIES. (a) A governmental entity may award job order contracts for the maintenance, repair, alteration, renovation, remediation, or minor construction of a facility if:

(1) the work is of a recurring nature but the delivery times are indefinite; and

(2) indefinite quantities and orders are awarded substantially on the basis of predescribed and prepriced tasks.

(b) The governmental entity shall establish the maximum aggregate contract price when it advertises the proposal.

(c) The governing body of a governmental entity shall approve each job, task, or purchase order that exceeds $500,000.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.404. CONTRACTUAL UNIT PRICES. The governmental entity may establish contractual unit prices for a job order contract by:

(1) specifying one or more published construction unit price books and the applicable divisions or line items; or

(2) providing a list of work items and requiring the offerors to propose one or more coefficients or multipliers to be applied to the price book or prepriced work items as the price proposal.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.405. COMPETITIVE SEALED PROPOSAL METHOD. (a) A governmental entity may use the competitive sealed proposal method under Subchapter D for job order contracts.

(b) The governmental entity shall advertise for, receive, and publicly open sealed proposals for job order contracts.

(c) The governmental entity may require offerors to submit information in addition to rates, including experience, past performance, and proposed personnel and methodology.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.406. AWARDING OF JOB ORDER CONTRACTS. The governmental entity may award job order contracts to one or more job order contractors in connection with each solicitation of proposals.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.407. USE OF JOB ORDER CONTRACT. A job order contract may be used to accomplish work only for the governmental entity that awards the contract unless:

(1) the solicitation for the job order contract and the contract specifically provide for use by other persons; or

(2) the governmental entity enters into an interlocal agreement that provides otherwise.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.408. USE OF ARCHITECT OR ENGINEER. (a) If a job order contract or an order issued under the contract requires architectural or engineering services that constitute the practice of architecture within the meaning of Chapter 1051, Occupations Code, or the practice of engineering within the meaning of Chapter 1001, Occupations Code, the governmental entity shall select or designate an architect or engineer to prepare the construction documents for the project.

(b) Subsection (a) does not apply to a job order contract or an order issued under the contract for industrialized housing, industrialized buildings, or relocatable educational facilities subject to and approved under Chapter 1202, Occupations Code, if the contractor employs the services of an architect or engineer who

approves the documents for the project.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.409. JOB ORDER CONTRACT TERM. The base term for a job order contract may not exceed two years. The governmental entity may renew the contract annually for not more than three additional years.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.410. JOB ORDERS. (a) An order for a job or project under a job order contract must be signed by the governmental entity's representative and the contractor.

(b) The order may be:

(1) a fixed price, lump-sum contract based substantially on contractual unit pricing applied to estimated quantities; or

(2) a unit price order based on the quantities and line items delivered.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.411. PAYMENT AND PERFORMANCE BONDS. The contractor shall provide payment and performance bonds, if required by law, based on the amount or estimated amount of any order.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

SUBCHAPTER J. ENFORCEMENT

Sec. 2269.451. VOID CONTRACT. A contract, including a job order, entered into in violation of this chapter is voidable as against public policy.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.

Sec. 2269.452. DECLARATORY OR INJUNCTIVE RELIEF. (a) This chapter may be enforced through an action for declaratory or injunctive relief filed not later than the 15th calendar day after the date on which the contract is awarded.

(b) This section does not apply to enforcement of a contract entered into by a state agency. In this subsection, "state agency" has the meaning assigned by Section 2151.002. The term includes the Texas Facilities Commission.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.08, eff. September 1, 2011.
Redesignated from Government Code, Chapter 2267 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(23), eff. September 1, 2013.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 702 (H.B. 2581), Sec. 5, eff. September 1, 2021.

For expiration of this chapter, see Section 2270.0251.

CHAPTER 2270. PROHIBITION ON INVESTING PUBLIC MONEY IN CERTAIN

INVESTMENTS
SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 34, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2270.0001. DEFINITIONS. In this chapter:

(1) "Active business operations" means all business operations that are not inactive business operations.

(2) "Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association whose securities are publicly traded, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit.

(3) "Designated foreign terrorist organization" means an organization designated as a foreign terrorist organization by the United States secretary of state as authorized by 8 U.S.C. Section 1189.

(4) "Direct holdings" in a company means all securities of that company held directly by an investing entity in an account or fund in which an investing entity owns all shares or interests.

(5) "Inactive business operations" means the mere continued holding or renewal of rights to property previously operated to generate revenue but not presently deployed to generate revenue.

(6) "Indirect holdings" in a company means all securities of that company held in an account or fund, such as a mutual fund, managed by one or more persons not employed by an investing entity, in which the investing entity owns shares or interests together with other investors not subject to this chapter. The term does not include money invested under a plan described by Section 401(k) or 457 of the Internal Revenue Code of 1986.

(7) "Investing entity" means:

(A) an entity subject to Chapter 2256;

(B) the Employees Retirement System of Texas;

(C) the Teacher Retirement System of Texas; and

(D) the comptroller with respect to the comptroller's investment of state funds.

(8) "Listed company" means a company listed by the comptroller under Section 2270.0201.

(9) "Scrutinized company" means:

(A) a company that:

(i) engages in scrutinized business operations described by Section 2270.0052; or

(ii) has been complicit in the Darfur genocide during any preceding 20-month period;

(B) a company that engages in scrutinized business operations described by Section 2270.0102; and

(C) a company that engages in scrutinized business operations described by Section 2270.0152.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 34, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2270.0002. EXCEPTION. Notwithstanding any other law, a company that the United States government affirmatively declares to be excluded from its federal sanctions regime relating to Sudan, its federal sanctions regime relating to Iran, or any federal sanctions regime relating to a designated foreign terrorist organization is not subject to divestment or investment prohibition under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0003. OTHER LEGAL OBLIGATIONS. With respect to actions taken in compliance with this chapter, including all good faith determinations regarding companies as required by this chapter, an investing entity is exempt from any conflicting statutory or common law obligations, including any obligations with respect to

making investments, divesting from any investment, preparing or maintaining any list of companies, or choosing asset managers, investment funds, or investments for the entity's securities portfolios.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0004. INAPPLICABILITY OF CERTAIN REQUIREMENTS INCONSISTENT WITH FIDUCIARY RESPONSIBILITIES AND RELATED DUTIES. An investing entity described by Section 2270.0001(7)(B) or (C) is not subject to a requirement of this chapter if the entity determines that the requirement would be inconsistent with the entity's fiduciary responsibility with respect to the investment of entity assets or other duties imposed by law relating to the investment of entity assets, including the duty of care established under Section 67, Article XVI, Texas Constitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0005. CONFLICT WITH OTHER LAW. To the extent of a conflict between this chapter and a provision of Chapter 404 or 2256 regarding an investing entity's investments, this chapter prevails.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0006. INDEMNIFICATION OF INVESTING ENTITIES,

EMPLOYEES, AND OTHERS. In a cause of action based on an action, inaction, decision, divestment, investment, company communication, report, or other determination made or taken in connection with this chapter, the state shall, without regard to whether the person performed services for compensation, indemnify and hold harmless for actual damages, court costs, and attorney's fees adjudged against, and defend:

(1) an employee, a member of the governing body, or any other officer of an investing entity;

(2) a contractor of an investing entity;

(3) a former employee, a former member of the governing body, or any other former officer of an investing entity who was an employee or officer when the act or omission on which the damages are based occurred;

(4) a former contractor of an investing entity who was a contractor when the act or omission on which the damages are based occurred; and

(5) an investing entity.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0007. NO PRIVATE CAUSE OF ACTION. (a) A person, including a member, retiree, and beneficiary of a retirement system to which this chapter applies, an association, a research firm, a company, or any other person may not sue or pursue a private cause of action against the state, an investing entity, an employee, a member of the governing body, or any other officer of an investing entity, or a contractor of an investing entity, for any claim or cause of action, including breach of fiduciary duty, or for violation of any constitutional, statutory, or regulatory requirement in connection with any action, inaction, decision, divestment, investment, company communication, report, or other determination made or taken in connection with this chapter.

(b) A person who files suit against the state, an investing entity, an employee, a member of the governing body, or any other

officer of an investing entity, or a contractor of an investing entity, is liable for paying the costs and attorney's fees of a person sued in violation of this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0008. RELIANCE ON COMPANY RESPONSE. The comptroller in administering this chapter and an investing entity may rely on a company's response to a notice or communication made under this chapter without conducting any further investigation, research, or inquiry.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

SUBCHAPTER B. GENERAL PROVISIONS RELATING TO INVESTMENTS IN SUDAN

Sec. 2270.0051. DEFINITIONS. In this subchapter:

(1) "Business operations" means engaging in commerce in any form in Sudan, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

(2) "Complicit" means taking actions that have directly supported or promoted the genocidal campaign in Darfur, including:

(A) preventing members of Darfur's victimized population from communicating with each other;

(B) encouraging Sudanese citizens to speak out against an internationally approved security force for Darfur; or

(C) actively working to deny, cover up, or alter the record on human rights abuses in Darfur.

(3) "Government of Sudan" means the government in Khartoum, Sudan, which is led by the National Congress Party, formerly known as

the National Islamic Front, or any successor government formed on or after October 13, 2006, including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan. The term does not include the regional government of southern Sudan.

(4) "Marginalized populations of Sudan" includes:

(A) the portion of the population in the Darfur region that has been genocidally victimized;

(B) the portion of the population of southern Sudan victimized by Sudan's North-South civil war;

(C) the Beja, Rashidiya, and other similarly underserved groups of eastern Sudan;

(D) the Nubian and other similarly underserved groups in Sudan's Abyei, Southern Blue Nile, and Nuba Mountain regions; and

(E) the Amri, Hamadab, Manasir, and other similarly underserved groups of northern Sudan.

(5) "Military equipment" means weapons, arms, military supplies, and equipment that readily may be used for military purposes, including radar systems or military-grade transport vehicles or supplies or services sold or provided directly or indirectly to any force actively participating in armed conflict in Sudan.

(6) "Mineral extraction activities" includes exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals or associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc, as well as facilitating those activities, including by providing supplies or services in support of those activities.

(7) "Oil-related activities" includes:

(A) owning rights to oil blocks;

(B) exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading of oil;

(C) constructing, maintaining, or operating a pipeline, refinery, or other oil-field infrastructure; or

(D) facilitating oil-related activities, including by providing supplies or services in support of the activities, except that the mere retail sale of gasoline and related consumer products is not an oil-related activity.

(8) "Power production activities" means any business

operation that involves a project commissioned by the National Electricity Corporation of Sudan or another similar government of Sudan entity whose purpose is to facilitate power generation and delivery, including establishing power-generating plants or hydroelectric dams, selling or installing components for the project, and providing service contracts related to the installation or maintenance of the project, as well as facilitating those activities, including by providing supplies or services in support of those activities.

(9) "Social development company" means a company whose primary purpose in Sudan is to provide humanitarian goods or services, including medicine or medical equipment, agricultural supplies or infrastructure, educational opportunities, journalism-related activities, information or information materials, spiritual-related activities, services of a purely clerical or reporting nature, food, clothing, or general consumer goods that are unrelated to oil-related activities, mineral extraction activities, or power production activities.

(10) "Substantial action" means adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within one year and to refrain from any such new business operations, undertaking significant humanitarian efforts on behalf of one or more marginalized populations of Sudan, or, through engagement with the government of Sudan, materially improving conditions for the genocidally victimized population in Darfur.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0052. SCRUTINIZED BUSINESS OPERATIONS IN SUDAN. A company engages in scrutinized business operations in Sudan if:

(1) the company has business operations that involve contracts with or providing supplies or services to the government of Sudan, a company in which the government of Sudan has any direct or indirect equity share, a government of Sudan-commissioned consortium or project, or a company involved in a government of Sudan-

commissioned consortium or project and:

(A) more than 10 percent of the company's revenues or assets linked to Sudan involve oil-related activities or mineral extraction activities, less than 75 percent of the company's revenue or assets linked to Sudan involve contracts with or provision of oil-related or mineral extracting products or services to the regional government of southern Sudan or a project or consortium created exclusively by that regional government, and the company has failed to take substantial action; or

(B) more than 10 percent of the company's revenue or assets linked to Sudan involve power production activities, less than 75 percent of the company's power production activities include projects whose intent is to provide power or electricity to the marginalized populations of Sudan, and the company has failed to take substantial action; or

(2) the company supplies military equipment in Sudan, unless:

(A) the company clearly shows that the military equipment cannot be used to facilitate offensive military actions in Sudan; or

(B) the company implements rigorous and verifiable safeguards to prevent use of that equipment by forces actively participating in armed conflict, including:

(i) using post-sale tracking of the equipment by the company;

(ii) obtaining certification from a reputable and objective third party that the equipment is not being used by a party participating in armed conflict in Sudan; or

(iii) selling the equipment solely to the regional government of southern Sudan or any internationally recognized peacekeeping force or humanitarian organization.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0053. SOCIAL DEVELOPMENT COMPANY. Notwithstanding

any other law, a social development company that is not complicit in the Darfur genocide is not a scrutinized company under Section 2270.0001(9)(A).

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

SUBCHAPTER C. GENERAL PROVISIONS RELATING TO INVESTMENTS IN IRAN

Sec. 2270.0101. DEFINITIONS. In this subchapter:

(1) "Business operations" means engaging in commerce in any form in Iran, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

(2) "Military equipment" means weapons, arms, military supplies, and equipment that readily may be used for military purposes, including radar systems and military-grade transport vehicles.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0102. SCRUTINIZED BUSINESS OPERATIONS IN IRAN. A company engages in scrutinized business operations in Iran if:

(1) the company has business operations that involve contracts with or providing supplies or services to the government of Iran, a company in which the government of Iran has any direct or indirect equity share, a consortium or project commissioned by the government of Iran, or a company involved in a consortium or project commissioned by the government of Iran; or

(2) the company supplies military equipment to Iran.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2,

eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

SUBCHAPTER D. GENERAL PROVISIONS RELATING TO INVESTMENTS IN CERTAIN FOREIGN TERRORIST ORGANIZATIONS

Sec. 2270.0151. DEFINITIONS. In this subchapter:

(1) "Business operations" means engaging in commerce in any form, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

(2) "Terroristic equipment" means weapons, arms, military supplies, and equipment that readily may be used for terroristic purposes or activities.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0152. SCRUTINIZED BUSINESS OPERATIONS WITH DESIGNATED FOREIGN TERRORIST ORGANIZATION. A company engages in scrutinized business operations with a designated foreign terrorist organization if:

(1) the company has business operations that involve:

(A) a contract with or providing supplies or services to a designated foreign terrorist organization;

(B) a company in which a designated foreign terrorist organization has any direct or indirect equity share;

(C) a consortium or project commissioned by a designated foreign terrorist organization; or

(D) a company involved in a consortium or project commissioned by a designated foreign terrorist organization; or

(2) the company supplies terroristic equipment to a designated foreign terrorist organization.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0153. LIST OF DESIGNATED FOREIGN TERRORIST ORGANIZATIONS. (a) The comptroller shall prepare and maintain a list of designated foreign terrorist organizations.

(b) The comptroller shall maintain the list by updating the list as necessary to reflect changes in the list of foreign organizations designated as foreign terrorist organizations by the United States secretary of state as authorized by 8 U.S.C. Section 1189.

(c) Not later than the 30th day after the date the comptroller first prepares or updates the list of designated foreign terrorist organizations as required by this section, the comptroller shall:

(1) file the list with the presiding officer of each house of the legislature and the attorney general; and

(2) post the list on the comptroller's Internet website.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

SUBCHAPTER E. DUTIES REGARDING INVESTMENTS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 34, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2270.0201. LISTED COMPANIES. (a) The comptroller shall prepare and maintain a list of all scrutinized companies. The list must be categorized according to:

(1) companies that are scrutinized companies under Section 2270.0001(9)(A);

(2) companies that are scrutinized companies under Section 2270.0001(9)(B); and

(3) companies that are scrutinized companies under Section 2270.0001(9)(C).

(b) In maintaining the list of scrutinized companies under Subsection (a), the comptroller may review and rely, as appropriate in the comptroller's judgment, on publicly available information regarding companies with business operations in Sudan, in Iran, or with designated foreign terrorist organizations, as applicable, including information provided by the state, nonprofit organizations, research firms, international organizations, and governmental entities.

(c) The comptroller shall update the list of scrutinized companies under Subsection (a) annually or more often as the comptroller considers necessary, but not more often than quarterly, based on information from, among other sources, those listed in Subsection (b).

(d) The comptroller shall:

(1) provide each list prepared or updated under this section to each investing entity; and

(2) post each list on the comptroller's Internet website.

(e) Not later than the 30th day after the date a list of scrutinized companies is provided, the comptroller shall file the list of scrutinized companies with the presiding officer of each house of the legislature and the attorney general.

(f) For purposes of the prohibitions and duties under this chapter, the date the comptroller posts on the comptroller's Internet website a list of scrutinized companies under this section is considered the date the comptroller receives notice of the list.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0202. IDENTIFICATION OF INVESTMENT IN LISTED COMPANIES. Not later than the 30th day after the date an investing entity receives a list provided under Section 2270.0201, the entity shall notify the comptroller of the listed companies in which the entity owns direct or indirect holdings.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0203. NOTICE TO LISTED COMPANY ENGAGED IN INACTIVE BUSINESS OPERATIONS. For each listed company identified under Section 2270.0202 that is engaged in only inactive scrutinized business operations, the investing entity shall send a written notice informing the company of this chapter and encouraging the company to continue to refrain from initiating active business operations in Sudan, in Iran, and with designated foreign terrorist organizations until it is able to avoid being considered a listed company. The investing entity shall continue the correspondence as the entity considers necessary, but is not required to initiate correspondence more often than semiannually.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0204. ACTIONS RELATING TO LISTED COMPANY ENGAGED IN ACTIVE BUSINESS OPERATIONS. (a) For each listed company identified under Section 2270.0202 that is engaged in scrutinized active business operations, the investing entity shall send a written notice informing the company of its listed company status and warning the company that it may become subject to divestment by investing entities.

(b) The notice shall offer the company the opportunity to clarify its Sudan-related, Iran-related, or designated foreign terrorist organization-related activities, as applicable, and shall encourage the company, not later than the 90th day after the date the company receives notice under this section, to either cease all scrutinized business operations as described by Sections 2270.0052, 2270.0102, and 2270.0152, or convert such operations to inactive

business operations in order to avoid qualifying for divestment by investing entities.

(c) If, during the time provided by Subsection (b), the company ceases scrutinized business operations described by that subsection, the comptroller shall remove the company from the list of scrutinized companies and this chapter will no longer apply to the company unless it resumes scrutinized business operations.

(d) If, during the time provided by Subsection (b), the company converts its scrutinized active business operations to inactive business operations, the company is subject to all provisions of this chapter relating to inactive business operations.

(e) If, after the time provided by Subsection (b) expires, the listed company continues to have scrutinized active business operations, the investing entity shall sell, redeem, divest, or withdraw all publicly traded securities of the company, except securities described by Section 2270.0207, according to the schedule provided by Section 2270.0206.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0205. ACTIONS RELATING TO LISTED COMPANY COMPLICIT IN GENOCIDE. (a) In this section, "complicit" has the meaning assigned by Section 2270.0051.

(b) For each company identified under Section 2270.0202 that has been complicit, the investing entity shall send a written notice informing the company of its listed company status and warning the company that it may become subject to divestment by the investing entity.

(c) The notice must require the listed company to refrain from taking any further action that would make it complicit.

(d) If, after receiving the notice under Subsection (b), the listed company takes additional action that makes the company complicit, the investing entity shall sell, redeem, divest, or withdraw all publicly traded securities of the company, except securities described by Section 2270.0207, according to the schedule

provided by Section 2270.0206.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0206. DIVESTMENT OF ASSETS. (a) An investing entity required to sell, redeem, divest, or withdraw all publicly traded securities of a listed company shall comply with the following schedule:

(1) at least 50 percent of those assets shall be removed from the investing entity's assets under management not later than the 270th day after the date the company receives notice under Section 2270.0204 or 2270.0205 or Subsection (b); and

(2) 100 percent of those assets shall be removed from the investing entity's assets under management not later than the 450th day after the date the company receives notice under Section 2270.0204 or 2270.0205 or Subsection (b).

(b) If a company that ceased scrutinized active business operations after receiving notice under Section 2270.0204 resumes scrutinized active business operations, the investing entity shall send a written notice to the company informing it that the entity will sell, redeem, divest, or withdraw all publicly traded securities of the scrutinized company according to the schedule in Subsection (a).

(c) An investing entity may delay the schedule for divestment under Subsection (a) only to the extent that the entity determines, in the entity's good faith judgment, that divestment from listed companies will likely result in a loss in value described by Section 2270.0208(a). If the entity delays the schedule for divestment, the entity shall submit a report to the presiding officer of each house of the legislature and the attorney general stating the reasons and justification for the entity's delay in divestment from listed companies. The report must include documentation supporting its determination that the divestment would result in a loss in value described by Section 2270.0208(a), including objective numerical estimates. The investing entity shall update the report every six

months.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0207. INVESTMENTS EXEMPTED FROM DIVESTMENT. An investing entity is not required to divest from any indirect holdings in actively managed investment funds or private equity funds. The investing entity shall submit letters to the managers of investment funds containing listed companies requesting that they consider removing those companies from the fund or create a similar actively managed fund with indirect holdings devoid of listed companies. If the manager creates a similar fund with substantially the same management fees and same level of investment risk, the investing entity shall replace all applicable investments with investments in the similar fund in an expedited time frame consistent with prudent fiduciary standards.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0208. AUTHORIZED INVESTMENT IN LISTED COMPANIES. (a) An investing entity may cease divesting from or may reinvest in one or more listed companies if clear and convincing evidence shows that the value for all assets under management by the entity becomes equal to or less than 99.7 percent of the hypothetical value of all assets under management by the entity had the entity not divested from listed companies under this chapter.

(b) An investing entity may invest in a listed company as provided by this section only to the extent necessary to ensure that the value of the assets managed by the entity does not fall below the value described by Subsection (a).

(c) Before an investing entity may invest in a listed company

under this section, the entity must provide a written report to the presiding officer of each house of the legislature and the attorney general setting forth the reason and justification, supported by clear and convincing evidence, for its decisions to cease divestment, to reinvest, or to remain invested in a listed company.

(d) The investing entity shall update the report required by Subsection (c) semiannually, as applicable.

(e) This section does not apply to reinvestment in a company that has ceased to be a listed company.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0209. PROHIBITED INVESTMENTS. Except as provided by Sections 2270.0002 and 2270.0208, an investing entity may not acquire securities of a listed company.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

SUBCHAPTER F. EXPIRATION; REPORT; ENFORCEMENT

Sec. 2270.0251. EXPIRATION OF CHAPTER. This chapter expires September 1, 2037.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0252. REPORT. Not later than December 31 of each year, each investing entity shall:

(1) file a publicly available report with the presiding officer of each house of the legislature and the attorney general that:

(A) identifies all investments sold, redeemed, divested, or withdrawn in compliance with Section 2270.0206;

(B) identifies all prohibited investments under Section 2270.0209; and

(C) summarizes any changes made under Section 2270.0207; and

(2) file a report with the United States presidential special envoy to Sudan that identifies investments in Sudan identified in the report as required by Subdivisions (1)(A) and (B) and summarizes any changes made under Section 2270.0207 related to those investments.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

Sec. 2270.0253. ENFORCEMENT. The attorney general may bring any action necessary to enforce this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1375 (S.B. 247), Sec. 2, eff. January 1, 2008.
Transferred, redesignated and amended from Government Code, Chapter 806 by Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 4, eff. May 23, 2017.

CHAPTER 2271. PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL

Sec. 2271.001. DEFINITIONS. In this chapter:

(1) "Boycott Israel" has the meaning assigned by Section 808.001.

(2) "Company" has the meaning assigned by Section 808.001, except that the term does not include a sole proprietorship.

(3) "Governmental entity" has the meaning assigned by Section 2251.001.

Added by Acts 2017, 85th Leg., R.S., Ch. 1 (H.B. 89), Sec. 1, eff. September 1, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 30 (H.B. 793), Sec. 1, eff. May 7, 2019.
Redesignated from Government Code, Chapter 2270 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(35), eff. September 1, 2019.

Sec. 2271.002. PROVISION REQUIRED IN CONTRACT. (a) This section applies only to a contract that:

(1) is between a governmental entity and a company with 10 or more full-time employees; and

(2) has a value of $100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

(b) A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it:

(1) does not boycott Israel; and

(2) will not boycott Israel during the term of the contract.

Added by Acts 2017, 85th Leg., R.S., Ch. 1 (H.B. 89), Sec. 1, eff. September 1, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 30 (H.B. 793), Sec. 2, eff. May 7, 2019.
Redesignated from Government Code, Chapter 2270 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(35), eff. September 1, 2019.

CHAPTER 2272. CERTAIN CONSTRUCTION LIABILITY CLAIMS

Sec. 2272.001. DEFINITIONS. In this chapter:

(1) "Action" means a court or judicial proceeding or an arbitration. The term does not include an administrative action.

(2) "Construction" includes:

(A) the initial construction of an improvement to real property;

(B) the construction of an addition to an improvement to real property; or

(C) the repair, alteration, or remodeling of an improvement to real property.

(3) "Construction defect" means a deficiency in the construction of an improvement to real property, including a deficiency in or arising out of the design, specifications, surveying, planning, or supervision of the construction, that is the result of:

(A) the use of defective materials, products, or components in the construction;

(B) a violation of a building code applicable by law to the construction;

(C) a failure of the design of an improvement to real property to meet the professional standards of care applicable at the time of governmental approval of the design or as otherwise applicable if no governmental approval of the design was required or obtained; or

(D) a failure to perform the construction in accordance with the accepted trade standards for good and workmanlike construction.

(4) "Contractor" means a person engaged in the business of developing, constructing, fabricating, repairing, altering, or remodeling improvements to real property.

(5) "Design professional" means an individual registered as an architect under Chapter 1051, Occupations Code, or a person licensed as an engineer under Chapter 1001, Occupations Code.

(6) "Governmental entity" means:

(A) the state;

(B) a municipality, county, public school district, or special-purpose district or authority;

(C) a district, county, or justice of the peace court;

(D) a board, commission, department, office, or other agency in the executive branch of state government, including an institution of higher education as defined by Section 61.003, Education Code;

(E) the legislature or a legislative agency; or

(F) the Supreme Court of Texas, the Texas Court of Criminal Appeals, a court of appeals, or the State Bar of Texas or another judicial agency having statewide jurisdiction.

(7) "Subcontractor" means a contractor directly retained and compensated by another contractor to perform labor or perform labor and supply materials in the construction.

(8) "Supplier" means a person who provides only materials, equipment, or other supplies for the construction.

Added by Acts 2019, 86th Leg., R.S., Ch. 1287 (H.B. 1999), Sec. 1, eff. June 14, 2019.

Sec. 2272.002. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a claim:

(1) for:

(A) damages arising from damage to or loss of real or personal property caused by an alleged construction defect in an improvement to real property that is a public building or public work; or

(B) indemnity or contribution for damages described by Paragraph (A);

(2) asserted by a governmental entity with an interest in the public building or public work affected by the alleged construction defect; and

(3) asserted against a contractor, subcontractor, supplier, or design professional.

(b) This chapter does not apply to:

(1) a claim for personal injury, survival, or wrongful death;

(2) a claim involving the construction of residential property covered under Chapter 27, Property Code;

(3) a contract entered into by the Texas Department of Transportation;

(4) a project that receives money from a state or federal highway fund; or

(5) a civil works project as defined by Section 2269.351.

Added by Acts 2019, 86th Leg., R.S., Ch. 1287 (H.B. 1999), Sec. 1, eff. June 14, 2019.

Sec. 2272.0025. WAIVER PROHIBITED. This chapter may not be waived. A purported waiver of this chapter in violation of this

section is void.

Added by Acts 2023, 88th Leg., R.S., Ch. 588 (H.B. 2965), Sec. 1, eff. September 1, 2023.

Sec. 2272.003. REPORT. (a) Before bringing an action asserting a claim to which this chapter applies, the governmental entity must provide each party with whom the governmental entity has a contract for the design or construction of an affected structure a written report by certified mail, return receipt requested, that clearly:

(1) identifies the specific construction defect on which the claim is based;

(2) describes the present physical condition of the affected structure; and

(3) describes any modification, maintenance, or repairs to the affected structure made by the governmental entity or others since the affected structure was initially occupied or used.

(b) Not later than the fifth day after the date a contractor receives a report under Subsection (a), the contractor must provide a copy of the report to each subcontractor retained on the construction of the affected structure whose work is subject to the claim.

Added by Acts 2019, 86th Leg., R.S., Ch. 1287 (H.B. 1999), Sec. 1, eff. June 14, 2019.

Sec. 2272.004. OPPORTUNITY TO INSPECT AND CORRECT. (a) Before bringing an action asserting a claim to which this chapter applies, the governmental entity must allow each party with whom the governmental entity has a contract for the design or construction of an affected structure and who is subject to the claim and any known subcontractor or supplier who is subject to the claim:

(1) a reasonable opportunity to inspect any construction defect or related condition identified in the report for a period of 30 days after sending the report required by Section 2272.003; and

(2) at least 120 days after the inspection to:

(A) correct any construction defect or related condition identified in the report; or

(B) enter into a separate agreement with the governmental entity to correct any construction defect or related

condition identified in the report.

(b) The governmental entity is not required to allow a party to make a correction or repair under Subsection (a) if:

(1) the party:

(A) is a contractor and cannot provide payment and performance bonds to cover the corrective work;

(B) cannot provide liability insurance or workers' compensation insurance;

(C) has been previously terminated for cause by the governmental entity; or

(D) has been convicted of a felony; or

(2) the governmental entity previously complied with the process required by Subsection (a) regarding a construction defect or related condition identified in the report and:

(A) the defect or condition was not corrected as required by Subsection (a)(2)(A) or an agreement under Subsection (a)(2)(B); or

(B) the attempt to correct the construction defect or related condition identified in the report resulted in a new construction defect or related condition.

Added by Acts 2019, 86th Leg., R.S., Ch. 1287 (H.B. 1999), Sec. 1, eff. June 14, 2019.

Sec. 2272.005. TOLLING OF LIMITATIONS AND REPOSE PERIODS. If the report and opportunity to correct required by Sections 2272.003 and 2272.004 are provided during the final year of a limitations or repose period applicable to the claim, the limitations or repose period is tolled until the first anniversary of the date on which the report is provided.

Added by Acts 2019, 86th Leg., R.S., Ch. 1287 (H.B. 1999), Sec. 1, eff. June 14, 2019.

Sec. 2272.006. DISMISSAL. (a) If a governmental entity brings an action asserting a claim to which this chapter applies without complying with Sections 2272.003 and 2272.004, the court, arbitrator, or other adjudicating authority shall dismiss the action without prejudice.

(b) If an action is dismissed without prejudice under Subsection (a) and the governmental entity brings a second action asserting a claim to which this chapter applies without complying with Sections 2272.003 and 2272.004, the court, arbitrator, or other adjudicating authority shall dismiss the action with prejudice.

Added by Acts 2019, 86th Leg., R.S., Ch. 1287 (H.B. 1999), Sec. 1, eff. June 14, 2019.

Sec. 2272.007. RECOVERY OF REPORT COSTS. If a report provided by a governmental entity under Section 2272.003 identifies a construction defect that is corrected under Section 2272.004 or for which the governmental entity recovers damages, the party responsible for that construction defect shall pay the reasonable amounts incurred by the governmental entity to obtain the report with respect to identification of that construction defect.

Added by Acts 2019, 86th Leg., R.S., Ch. 1287 (H.B. 1999), Sec. 1, eff. June 14, 2019.

Sec. 2272.008. EMERGENCY REPAIRS BY GOVERNMENTAL ENTITY. This chapter does not prohibit or limit a governmental entity from making emergency repairs to the property as necessary to protect the health, safety, and welfare of the public or a building occupant.

Added by Acts 2019, 86th Leg., R.S., Ch. 1287 (H.B. 1999), Sec. 1, eff. June 14, 2019.

Sec. 2272.009. INSURANCE TREATMENT OF CLAIM. If a party, in connection with a potential claim against the party, receives a written notice of an alleged construction defect or a report under Section 2272.003 identifying a construction defect and provides the notice or report to the party's insurer, the insurer shall treat the provision of the notice or report to the party as the filing of a suit asserting that claim against the party for purposes of the relevant policy terms.

Added by Acts 2019, 86th Leg., R.S., Ch. 1287 (H.B. 1999), Sec. 1,

eff. June 14, 2019.

CHAPTER 2273. PROHIBITED TRANSACTIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 33, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2273.001. DEFINITIONS. In this chapter:

(1) "Abortion" has the meaning assigned by Section 245.002, Health and Safety Code.

(2) "Abortion provider" means:

(A) a facility licensed under Chapter 245, Health and Safety Code; or

(B) an ambulatory surgical center licensed under Chapter 243, Health and Safety Code, that is used to perform more than 50 abortions in any 12-month period.

(3) "Affiliate" means a person or entity who enters into with another person or entity a legal relationship created or governed by at least one written instrument, including a certificate of formation, a franchise agreement, standards of affiliation, bylaws, or a license, that demonstrates:

(A) common ownership, management, or control between the parties to the relationship;

(B) a franchise granted by the person or entity to the affiliate; or

(C) the granting or extension of a license or other agreement authorizing the affiliate to use the other person's or entity's brand name, trademark, service mark, or other registered identification mark.

(4) "Governmental entity" means this state, a state agency in the executive, judicial, or legislative branch of state government, or a political subdivision of this state.

(5) "Taxpayer resource transaction" means a sale, purchase, lease, donation of money, goods, services, or real property, or any other transaction between a governmental entity and a private entity that provides to the private entity something of value derived from state or local tax revenue, regardless of whether the governmental entity receives something of value in return. The term does not include the provision of basic public services, including fire and police protection and utilities, by a governmental entity to an

abortion provider or affiliate in the same manner as the entity provides the services to the general public. The term includes advocacy or lobbying by or on behalf of a governmental entity on behalf of the interests of an abortion provider or affiliate, but does not include:

(A) an officer or employee of a governmental entity providing information to a member of the legislature or appearing before a legislative committee at the request of the member or committee;

(B) an elected official advocating for or against or otherwise influencing or attempting to influence the outcome of legislation pending before the legislature while acting in the capacity of an elected official; or

(C) an individual speaking as a private citizen on a matter of public concern.

Added by Acts 2019, 86th Leg., R.S., Ch. 501 (S.B. 22), Sec. 1, eff. September 1, 2019.
Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(52), eff. September 1, 2021.

Sec. 2273.002. APPLICABILITY. (a) This chapter does not apply to:

(1) a hospital licensed under Chapter 241, Health and Safety Code;

(2) the office of a physician licensed under Subtitle B, Title 3, Occupations Code, that performs 50 or fewer abortions in any 12-month period;

(3) a state hospital as defined by Section 552.0011, Health and Safety Code;

(4) a teaching hospital of a public or private institution of higher education; or

(5) an accredited residency program providing training to resident physicians.

(b) For purposes of this chapter, a facility is not considered to be an abortion provider solely based on the performance of an abortion at the facility during a medical emergency as defined by Section 171.002, Health and Safety Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 501 (S.B. 22), Sec. 1, eff.

September 1, 2019.
Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(52), eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 33, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2273.003. ABORTION PROVIDER AND AFFILIATE TRANSACTIONS PROHIBITED; EXCEPTION. (a) Except as provided by Subsection (b), a governmental entity may not enter into a taxpayer resource transaction with an abortion provider or an affiliate of an abortion provider.

(b) This section does not apply to a taxpayer resource transaction that is subject to a federal law in conflict with Subsection (a) as determined by the executive commissioner of the Health and Human Services Commission and confirmed in writing by the attorney general.

Added by Acts 2019, 86th Leg., R.S., Ch. 501 (S.B. 22), Sec. 1, eff. September 1, 2019.
Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(52), eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 33, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2273.004. INJUNCTION; WAIVER OF IMMUNITY. (a) The attorney general may bring an action in the name of the state to enjoin a violation of Section 2273.003. The attorney general may recover reasonable attorney's fees and costs incurred in bringing an action under this subsection.

(b) Sovereign or governmental immunity, as applicable, of a governmental entity to suit and from liability is waived to the extent of liability created by Subsection (a).

Added by Acts 2019, 86th Leg., R.S., Ch. 501 (S.B. 22), Sec. 1, eff. September 1, 2019.
Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec.

21.001(52), eff. September 1, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 10.008, eff. September 1, 2023.

Sec. 2273.005. CONSTRUCTION OF CHAPTER. This chapter may not be construed to restrict a municipality or county from prohibiting abortion.

Added by Acts 2019, 86th Leg., R.S., Ch. 501 (S.B. 22), Sec. 1, eff. September 1, 2019.
Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(52), eff. September 1, 2021.

CHAPTER 2274. PROHIBITION ON CONTRACTS WITH COMPANIES THAT DISCRIMINATE AGAINST FIREARM AND AMMUNITION INDUSTRIES

Sec. 2274.001. DEFINITIONS. In this chapter:

(1) "Ammunition" means a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile.

(2) "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or associations that exists to make a profit. The term does not include a sole proprietorship.

(3) "Discriminate against a firearm entity or firearm trade association":

(A) means, with respect to the entity or association, to:

(i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association;

(ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or

(iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; and

(B) does not include:

(i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and

(ii) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship:

(aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or

(bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

(4) "Firearm" means a weapon that expels a projectile by the action of explosive or expanding gases.

(5) "Firearm accessory" means a device specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and an item used in conjunction with or mounted on a firearm that is not essential to the basic function of the firearm. The term includes a detachable firearm magazine.

(6) "Firearm entity" means:

(A) a firearm, firearm accessory, or ammunition manufacturer, distributor, wholesaler, supplier, or retailer; and

(B) a sport shooting range as defined by Section 250.001, Local Government Code.

(7) "Firearm trade association" means any person, corporation, unincorporated association, federation, business league, or business organization that:

(A) is not organized or operated for profit and for which none of its net earnings inures to the benefit of any private shareholder or individual;

(B) has two or more firearm entities as members; and

(C) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code.

(8) "Governmental entity" has the meaning assigned by Section 2251.001.

Added by Acts 2021, 87th Leg., R.S., Ch. 530 (S.B. 19), Sec. 1, eff. September 1, 2021.

Sec. 2274.002. PROVISION REQUIRED IN CONTRACT. (a) This section applies only to a contract that:

(1) is between a governmental entity and a company with at least 10 full-time employees; and

(2) has a value of at least $100,000 that is paid wholly or partly from public funds of the governmental entity.

(b) Except as provided by Subsection (c) and Section 2274.003, a governmental entity may not enter into a contract with a company for the purchase of goods or services unless the contract contains a written verification from the company that it:

(1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and

(2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

(c) Subsection (b) does not apply to a governmental entity that:

(1) contracts with a sole-source provider; or

(2) does not receive any bids from a company that is able to provide the written verification required by that subsection.

Added by Acts 2021, 87th Leg., R.S., Ch. 530 (S.B. 19), Sec. 1, eff. September 1, 2021.

Sec. 2274.003. CERTAIN CONTRACTS EXEMPTED. (a) A contract entered into in connection with or relating to the issuance, sale, or delivery of notes under Subchapter H, Chapter 404, or the administration of matters related to the notes, including the investment of note proceeds, is exempt from this chapter if, in the comptroller's sole discretion, the comptroller determines that compliance with Section 2274.002 is likely to prevent:

(1) an issuance, sale, or delivery that is sufficient to address the general revenue cash flow shortfall forecast; or

(2) the administration of matters related to the notes.

(b) Before making a determination under Subsection (a), the

comptroller must:

(1) survey potential respondents or bidders to a solicitation for a contract described by Subsection (a) to determine the number of qualified potential respondents or bidders that are able to provide the written verification required by Section 2274.002; and

(2) evaluate the historical bidding performance of qualified potential bidders.

Added by Acts 2021, 87th Leg., R.S., Ch. 530 (S.B. 19), Sec. 1, eff. September 1, 2021.

CHAPTER 2275. PROHIBITION ON CONTRACTS WITH CERTAIN FOREIGN-OWNED COMPANIES IN CONNECTION WITH CRITICAL INFRASTRUCTURE

Sec. 2275.0101. DEFINITIONS. In this chapter:

(1) "Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit.

(2) "Critical infrastructure" means a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility.

(3) "Cybersecurity" means the measures taken to protect a computer, computer network, computer system, or other technology infrastructure against unauthorized use or access.

(4) "Designated country" means a country designated by the governor as a threat to critical infrastructure under Section 2275.0103.

(5) "Governmental entity" means a state agency, a political subdivision, or an independent organization certified under Section 39.151, Utilities Code, to perform a function described by Section 39.151(a), Utilities Code.

(6) "Affiliate," with respect to a company entering into an agreement in which the critical infrastructure is electric grid equipment, has the meaning assigned by the protocols of the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region.

Added by Acts 2021, 87th Leg., R.S., Ch. 975 (S.B. 2116), Sec. 3, eff. June 18, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 464 (S.B. 2013), Sec. 3, eff. June 9, 2023.
Redesignated from Government Code, Chapter 2274 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(21), eff. September 1, 2023.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.002(12), eff. September 1, 2023.

Sec. 2275.0102. PROHIBITED CONTRACTS. (a) A governmental entity may not enter into a contract or other agreement relating to critical infrastructure in this state with a company:

(1) if, under the contract or other agreement, the company would be granted direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by the governmental entity for product warranty and support purposes; and

(2) if the governmental entity knows that the company is:

(A) owned by or the majority of stock or other ownership interest of the company is held or controlled by:

(i) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; or

(ii) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or

(B) headquartered in China, Iran, North Korea, Russia, or a designated country.

(b) The prohibition described by Subsection (a) applies regardless of whether:

(1) the company's or its parent company's securities are publicly traded; or

(2) the company or its parent company is listed on a public stock exchange as:

(A) a Chinese, Iranian, North Korean, or Russian company; or

(B) a company of a designated country.

Added by Acts 2021, 87th Leg., R.S., Ch. 975 (S.B. 2116), Sec. 3, eff. June 18, 2021.
Redesignated from Government Code, Chapter 2274 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(21), eff. September 1, 2023.

Sec. 2275.0103. DESIGNATION OF COUNTRY AS THREAT TO CRITICAL INFRASTRUCTURE. (a) The governor, after consultation with the public safety director of the Department of Public Safety, may designate a country as a threat to critical infrastructure for purposes of this chapter.

(b) The governor shall consult the Homeland Security Council, established under Subchapter B, Chapter 421, to assess a threat to critical infrastructure for purposes of making a designation under this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 975 (S.B. 2116), Sec. 3, eff. June 18, 2021.
Redesignated from Government Code, Chapter 2274 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(21), eff. September 1, 2023.

CHAPTER 2276. PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING CERTAIN ENERGY COMPANIES

Sec. 2276.001. DEFINITIONS. In this chapter:

(1) "Boycott energy company" has the meaning assigned by Section 809.001.

(2) "Company" has the meaning assigned by Section 809.001, except that the term does not include a sole proprietorship.

(3) "Governmental entity" has the meaning assigned by Section 2251.001.

Added by Acts 2021, 87th Leg., R.S., Ch. 529 (S.B. 13), Sec. 2, eff. September 1, 2021.
Redesignated from Government Code, Chapter 2274 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(22), eff. September 1, 2023.

Sec. 2276.002. PROVISION REQUIRED IN CONTRACT. (a) This section applies only to a contract that:

(1) is between a governmental entity and a company with 10 or more full-time employees; and

(2) has a value of $100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

(b) Except as provided by Subsection (c), a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it:

(1) does not boycott energy companies; and

(2) will not boycott energy companies during the term of the contract.

(c) Subsection (b) does not apply to a governmental entity that determines the requirements of Subsection (b) are inconsistent with the governmental entity's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds.

Added by Acts 2021, 87th Leg., R.S., Ch. 529 (S.B. 13), Sec. 2, eff. September 1, 2021.
Redesignated from Government Code, Chapter 2274 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(22), eff. September 1, 2023.

CHAPTER 2277. AGREEMENTS WITH PROFESSIONAL SPORTS TEAMS

Sec. 2277.001. DEFINITIONS. In this chapter:

(1) "Governmental entity" has the meaning assigned by Section 2251.001.

(2) "Professional sports team" has the meaning assigned by Section 2004.002, Occupations Code. The term includes a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of a professional sports team that exists to make a profit.

(3) "Sporting event" means any preseason, regular season, or postseason game of a professional sports team.

Added by Acts 2021, 87th Leg., R.S., Ch. 833 (S.B. 4), Sec. 1, eff. September 1, 2021.

Redesignated from Government Code, Chapter 2274 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(23), eff. September 1, 2023.

Sec. 2277.002. PROVISIONS REQUIRED IN CERTAIN AGREEMENTS. A governmental entity may not enter into an agreement with a professional sports team that requires a financial commitment by this state or any governmental entity unless the agreement includes:

(1) a written verification that the professional sports team will play the United States national anthem at the beginning of each team sporting event held at the team's home venue or other facility controlled by the team for the event; and

(2) a provision providing that failure to comply with the written verification required by Subdivision (1) for any team sporting event at the team's home venue or other facility:

(A) constitutes a default of the agreement;

(B) immediately subjects the team to any penalty the agreement authorizes for default, which may include requiring the team to repay any money paid to the team by this state or any governmental entity or classifying the team as ineligible to receive further money under the agreement; and

(C) may subject the team to debarment from contracting with this state.

Added by Acts 2021, 87th Leg., R.S., Ch. 833 (S.B. 4), Sec. 1, eff. September 1, 2021.
Redesignated from Government Code, Chapter 2274 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(23), eff. September 1, 2023.

Sec. 2277.003. STRICT ADHERENCE TO DEFAULT PROVISION. (a) A governmental entity that enters into an agreement with a professional sports team shall strictly adhere to the default provision required by Section 2277.002(2).

(b) If a governmental entity fails to timely adhere to the default provision required under Section 2277.002(2), the attorney general may intervene to enforce the provision.

Added by Acts 2021, 87th Leg., R.S., Ch. 833 (S.B. 4), Sec. 1, eff.

September 1, 2021.
Redesignated from Government Code, Chapter 2274 by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.001(23), eff. September 1, 2023.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.002(13), eff. September 1, 2023.

SUBTITLE G. ECONOMIC DEVELOPMENT PROGRAMS INVOLVING BOTH STATE AND LOCAL GOVERNMENTS

CHAPTER 2302. COGENERATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2302.001. DEFINITIONS. In this chapter:

(1) "Cogenerating state agency" means a state agency that has constructed or operates a state agency cogeneration facility.

(2) "Commission" means the Public Utility Commission of Texas.

(3) Repealed by Acts 2017, 85th Leg., R.S., Ch. 553 (S.B. 526), Sec. 4(c)(1), and Ch. 755 (S.B. 1731), Sec. 14(c)(1), eff. September 1, 2017.

(4) "Firm power" means power or power-producing capacity that, under an enforceable obligation, is available to the purchasing party according to a schedule over a specified term.

(5) "Nonfirm power" means power provided under an arrangement that does not guarantee that power will be available according to a schedule but provides instead for delivery of power as it is available.

(6) "Qualifying facility" means a qualifying small power production facility or a qualifying cogeneration facility as defined by Sections 3(17)(C) and 3(18)(B) of the Federal Power Act (16 U.S.C. Sections 796(17)(C) and 796(18)(B)).

(7) "State agency" means an office, department, commission, or board of any branch of state government or an institution of higher education as defined by Section 61.003, Education Code.

(8) "State agency cogeneration facility" means a qualifying facility constructed or operated by a state agency for the benefit of a state agency facility that is located adjacent to or on property contiguous with the site of the qualifying facility.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 553 (S.B. 526), Sec. 4(c)(1), eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 14(c)(1), eff. September 1, 2017.

SUBCHAPTER B. COGENERATION

Sec. 2302.021. STATE AGENCY COGENERATION PROJECTS. (a) Repealed by Acts 2017, 85th Leg., R.S., Ch. 553 (S.B. 526), Sec. 4(c)(3), and Ch. 755 (S.B. 1731), Sec. 14(c)(3), eff. September 1, 2017.

(b) A state agency cogeneration facility's size and design is limited to the size and design that is necessary to supply economically the cogenerating state agency, considering the optimum balance of annual thermal and electrical energy requirements and any expansions anticipated in the near future.

(c) This section does not apply to a state agency cogeneration facility if, before September 1, 1987:

(1) the facility was in operation;

(2) the facility's final engineering design had been completed; or

(3) construction of the facility had begun.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 553 (S.B. 526), Sec. 4(c)(3), eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 14(c)(3), eff. September 1, 2017.

Sec. 2302.023. JOINT COGENERATION PROJECTS. Subject to this chapter, two or more state agencies may jointly construct or operate a state agency cogeneration facility.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2302.024. AUTHORITY TO SELL POWER. A cogenerating state

agency may contract in the same manner as a qualifying facility for the sale to an electric utility of firm or nonfirm power produced by the state agency cogeneration facility that exceeds the agency's power requirements.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 553 (S.B. 526), Sec. 4(b), eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 14(b), eff. September 1, 2017.

Sec. 2302.025. MONEY FROM POWER SALES. (a) A state agency shall first apply money it collects from the sale of firm or nonfirm power to retire any outstanding debt and pay operating expenses that result from constructing and maintaining the state agency cogeneration facility.

(b) A state agency shall deposit to the credit of the general revenue fund any money it collects under this chapter that exceeds the amount needed to service the debt and pay the operating expenses of the state agency cogeneration facility.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. ENFORCEMENT

Sec. 2302.041. COOPERATION WITH COGENERATING STATE AGENCIES. A political subdivision, municipality, or agency of the state that operates, maintains, or controls a facility that provides retail electric utility service:

(1) shall cooperate with a cogenerating state agency that attempts to sell firm or nonfirm power; and

(2) may not adopt rates, pricing policies, access restrictions, or other rules inconsistent with the intent of this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2302.042. PETITION FOR ENFORCEMENT. (a) A state agency

may file a petition with the commission to enforce Section 2302.041.

(b) Notwithstanding any other law, if a state agency files a petition under this section, the commission may determine issues relating to rates, pricing policies, access restrictions, and other matters regarding a state agency cogeneration facility as necessary to enforce Section 2302.041.

(c) The commission retains jurisdiction until the commission by final order resolves the issues raised in the petition.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2302.043. ORDER OR RULING. (a) A commission order or ruling entered under this chapter is considered to have been entered or adopted under the Public Utility Regulatory Act of 1995.

(b) A commission order or ruling entered under this chapter is enforced under Subtitle I, Title I, Public Utility Regulatory Act of 1995.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 765, Sec. 2.24, eff. Sept. 1, 1995.

Sec. 2302.044. JURISDICTION. This chapter does not enlarge or modify the commission's jurisdiction over a political subdivision, municipality, or agency of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 2303. ENTERPRISE ZONES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2303.001. SHORT TITLE. This chapter may be cited as the Texas Enterprise Zone Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2303.002. PURPOSES. The purposes of this chapter are to establish a process that clearly identifies severely distressed areas

of the state and provides incentives by state and local government to induce private investment in those areas by removing unnecessary governmental regulatory barriers to economic growth and to provide tax incentives and economic development program benefits.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2303.003. DEFINITIONS. In this chapter:

(1) "Bank" means the Texas Economic Development Bank established under Chapter 489.

(1-a) "Block group" has the meaning assigned by the Bureau of the Census of the United States Department of Commerce.

(1-b) "Day" means the period between 8 a.m. and 5 p.m. of a day other than a Saturday, Sunday, or state or federal holiday.

(1-c) "Distressed county" means a county:

(A) that has a poverty rate above 15.4 percent;

(B) in which at least 25.4 percent of the adult population does not hold a high school diploma or high school equivalency certificate; and

(C) that has an unemployment rate that has remained above 4.9 percent during the preceding five years.

(2) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(6).

(3) "Enterprise zone" means an area designated as an enterprise zone under this chapter.

(3-a) "Governing body of an enterprise zone" means the governing body of a municipality or county in which an enterprise zone is located.

(4) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(6).

(5) "Nominating body" means the governing body of a municipality or county that nominates a project or activity of a qualified business for designation as an enterprise project.

(5-a) "Office" means the Texas Economic Development and Tourism Office within the office of the governor.

(6) "Qualified business" means a person certified as a qualified business under Section 2303.402.

(6-a) "Qualified business site" means the specific business site of an enterprise project.

(7) "Qualified employee" means a person who:

(A) is a resident of this state;

(B) works for a qualified business;

(C) receives wages from the qualified business from which employment taxes are deducted; and

(D) meets one of the following qualifications:

(i) the person performs at least 50 percent of the person's service for the business at the qualified business site;

(ii) if the person engages in the transportation of goods or services, the person reports to the qualified business site and resides within 50 miles of the qualified business site; or

(iii) if the person engages in services off-site, the person is assigned to the qualified business site and resides within 25 miles of the qualified business site.

(8) "Qualified hotel project" means a hotel proposed to be constructed by a municipality or a nonprofit municipally sponsored local government corporation created under the Texas Transportation Corporation Act, Chapter 431, Transportation Code, that is within 1,000 feet of a convention center owned by a municipality having a population of 1,500,000 or more, including shops, parking facilities, and any other facilities ancillary to the hotel.

(9) "Veteran" means a person who:

(A) has served in:

(i) the army, navy, air force, coast guard, or marine corps of the United States;

(ii) the state military forces as defined by Section 431.001; or

(iii) an auxiliary service of one of those branches of the armed forces; and

(B) has been honorably discharged from the branch of the service in which the person served.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.50, 5.55, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1121, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 814, Sec. 3.01, 6.01(6), eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1243 (H.B. 1659), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 1, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 490 (S.B. 1719), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 802 (S.B. 1548), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 227 (H.B. 1964), Sec. 4, eff. May 29, 2015.

Acts 2015, 84th Leg., R.S., Ch. 591 (S.B. 100), Sec. 1, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 14, eff. September 1, 2023.

Sec. 2303.004. JURISDICTION OF MUNICIPALITY. (a) For the purposes of this chapter, territory in the municipal boundaries and in the extraterritorial jurisdiction of a municipality is considered to be in the jurisdiction of the municipality.

(b) Notwithstanding Subsection (a), the governing body of a county may nominate for designation as an enterprise project a project or activity of a qualified business that is located within the jurisdiction of a municipality located in the county.

(c) Before a county makes a nomination under Subsection (b), the nominating county must enter into an interlocal agreement with the municipality that has jurisdiction of the territory in which the nominated project or activity will be located. The interlocal agreement must specify that either the nominating county or the municipality that has jurisdiction of the territory in which the nominated project or activity will be located is the governmental body having administration authority under Section 2303.201 and that both the nominating county and municipality approve the nomination. For purposes of this subsection, a county during any biennium may use the maximum number of designations the county is permitted under Section 2303.406(d) within the territory described by this subsection.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 2, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 33, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 591 (S.B. 100), Sec. 2, eff. September 1, 2015.

SUBCHAPTER B. DEPARTMENT POWERS AND DUTIES RELATING TO ZONES

Sec. 2303.051. GENERAL POWERS AND DUTIES. (a) The bank shall administer and monitor the implementation of this chapter.

(a-1) The bank shall compile data identifying the block groups in this state that automatically qualify for designation as enterprise zones under this chapter using the poverty data available from the most recent federal decennial census. The bank shall update the block group information as soon as practicable after the date on which the next federal decennial census is released. The bank shall make the information and updates available in an electronic format on the office's Internet website.

(a-2) The bank shall annually compile data identifying the distressed counties in this state that automatically qualify for designation as enterprise zones under this chapter.

(b) The bank shall establish criteria and procedures for designating a project or activity of a qualified business as an enterprise project.

(c) The office shall adopt rules necessary to carry out the purposes of this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.02, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1243 (H.B. 1659), Sec. 2, eff. September 1, 2005.

Sec. 2303.052. BANK REPORT REGARDING PROGRAM. The bank must include the following information regarding the enterprise zone program in the report required by Section 489.107:

(1) an evaluation of the effectiveness of the program;

(2) a description of the use of state and local incentives under this chapter and their effect on revenue; and

(3) suggestions for legislation with regard to the program.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1121, Sec. 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 814, Sec. 3.02, eff. Sept. 1, 2003. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 3, eff. June 15, 2007.

Sec. 2303.053. ASSISTANCE. (a) The bank shall assist:

(1) a qualified business in obtaining the benefits of any incentive or inducement program provided by law;

(2) a unit of local government in obtaining status as a federal zone designation that furthers the purpose of this chapter;

(3) a nominating body in obtaining assistance from another state agency, including training and technical assistance to qualified businesses in an enterprise zone; and

(4) a nominating body in developing small business incubators.

(b) The bank shall provide to persons desiring to locate and engage in business in an enterprise zone information and appropriate assistance relating to the required legal authorization, including a state license, permit, certificate, approval, registration, or charter, to engage in business in this state.

(c) The bank shall publicize existing tax incentives and economic development programs in enterprise zones.

(d) On request the bank shall offer to a unit of local government having an enterprise zone within its jurisdiction technical assistance relating to tax abatement and the development of alternative revenue sources.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.02, eff. Sept. 1, 2003.

Sec. 2303.054. COORDINATION WITH OTHER GOVERNMENTAL ENTITIES. (a) In cooperation with the appropriate units of local government and other state agencies, the bank shall coordinate and streamline state business assistance programs and permit or license application

procedures for businesses in enterprise zones.

(b) The bank shall:

(1) work with the responsible state and federal agencies to coordinate enterprise zone programs with other programs carried out in an enterprise zone, including housing, community and economic development, small business, banking, financial assistance, transportation, and employment training programs;

(2) work to expedite, to the greatest extent possible, the consideration of applications for those programs by consolidating forms or by other means; and

(3) work, when possible, for the consolidation of periodic reports required under those programs into one summary report.

(c) The bank shall encourage other state agencies in awarding grants, loans, or services to give priority to businesses in enterprise zones.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.02, eff. Sept. 1, 2003.

SUBCHAPTER C. DESIGNATION OF ENTERPRISE ZONE

Sec. 2303.101. QUALIFICATION FOR ENTERPRISE ZONE DESIGNATION. An area automatically qualifies for designation as an enterprise zone if the area is:

(1) a block group, as defined by the most recent federal decennial census available at the time of designation, in which at least 20 percent of the residents of the block group have an income at or below 100 percent of the federal poverty level;

(2) an area designated by the federal government as a renewal community, a federal empowerment zone, or a federal enterprise community, including any developable area approved by the federal agency responsible for making that designation;

(3) an area located in a distressed county; or

(4) an area inside the boundaries of a defense base development authority established under Chapter 379B, Local Government Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.03, eff. Sept. 1, 2003.

Amended by:
Acts 2005, 79th Leg., Ch. 1243 (H.B. 1659), Sec. 3, eff. September 1, 2005.
Acts 2013, 83rd Leg., R.S., Ch. 1401 (H.B. 3066), Sec. 1, eff. June 14, 2013.

Sec. 2303.109. PERIOD OF DESIGNATION. (a) An enterprise zone designation remains in effect indefinitely so long as the area continues to qualify for designation as an enterprise zone under this chapter. If an area described by Section 2303.101(1) no longer qualifies for enterprise zone designation following the release of a subsequent federal decennial census, the area's designation remains in effect until the date on which the bank makes the updated information for that subsequent census available to the public as required by Section 2303.051.
(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 591 , Sec. 13, eff. September 1, 2015.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 985, Sec. 3, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 814, Sec. 3.04, eff. Sept. 1, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 1243 (H.B. 1659), Sec. 4, eff. September 1, 2005.
Acts 2015, 84th Leg., R.S., Ch. 591 (S.B. 100), Sec. 13, eff. September 1, 2015.

SUBCHAPTER D. ADMINISTRATION

Sec. 2303.201. ADMINISTRATION BY GOVERNING BODY. (a) The governing body of an enterprise zone is the governing body of the municipality or county with jurisdiction over the area designated as an enterprise zone, except as provided by Subsection (b).
(b) The governing body with administration authority over an enterprise project nominated under Section 2303.004(c) is determined under the terms of an interlocal agreement required by that subsection.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.06, eff. Sept. 1,

2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 591 (S.B. 100), Sec. 3, eff. September 1, 2015.

Sec. 2303.204. LIAISON. A nominating body shall designate a liaison to oversee enterprise projects it has nominated under this chapter and to communicate and negotiate with:

(1) the bank or the office;

(2) an enterprise project; and

(3) other entities in an enterprise zone or affected by an enterprise project, including a qualified business, within the jurisdiction of the nominating governmental entity.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.07, eff. Sept. 1, 2003.

Sec. 2303.205. ANNUAL REPORT. (a) Not later than October 1 of each year, the nominating body of a project or activity designated as an enterprise project shall submit to the bank a report in the form required by the bank.

(b) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(6).

(c) The report must include for the year preceding the date of the report:

(1) a list of local incentives for community development available in the jurisdiction of the governmental entity nominating the enterprise project;

(2) the use of local incentives described by the nominating body in the ordinance or order nominating the enterprise project and the effect of those incentives on revenue;

(3) the number of businesses assisted, located, and retained in the jurisdiction of the governmental entity nominating the enterprise project due to the existence of the enterprise zone program; and

(4) a summary of all industrial revenue bonds issued to finance enterprise projects located in the jurisdiction of the governmental entity nominating the enterprise project.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 985, Sec. 4, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 814, Sec. 3.08, 6.01(6), eff. Sept. 1, 2003.

SUBCHAPTER F. QUALIFIED BUSINESSES AND ENTERPRISE PROJECTS

Sec. 2303.401. DEFINITIONS. In this subchapter:

(1) "New permanent job" means a new employment position that:

(A) is created by a qualified business as described by Section 2303.402 at the qualified business site not earlier than the 90th day before the date the business's project or activity is designated as an enterprise project under this chapter;

(B) will provide or has provided for the duration of the project's designation period at least 1,820 hours of employment a year to a qualified employee; and

(C) will exist or has existed at the qualified business site for the longer of:

(i) the duration of the project's designation period; or

(ii) three years after the date on which a state benefit is received as authorized by this chapter.

(2) "Retained job" means a job that:

(A) existed with a qualified business on the 91st day before the date the business's project or activity is designated as an enterprise project;

(B) has provided and will continue to provide employment to a qualified employee of at least 1,820 hours annually; and

(C) will be or has been an employment position for the longer of:

(i) the duration of the project's designation period; or

(ii) three years after the expiration date of the claim period for receipt of a state benefit authorized by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.52(a), eff. Sept. 1,

1995; Acts 1995, 74th Leg., ch. 985, Sec. 6, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1121, Sec. 3, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 814, Sec. 3.09, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 4, eff. June 15, 2007.

Sec. 2303.402. QUALIFIED BUSINESS. (a) A person is a qualified business if the bank, for the purpose of state benefits under this chapter, or the nominating body of a project or activity of the person under this chapter, for the purpose of local incentives, certifies that:

(1) the person is engaged in or has provided substantial commitment to initiate the active conduct of a trade or business in an enterprise zone, and at least 25 percent of the person's new permanent jobs in the enterprise zone are held by:

(A) residents of any enterprise zone in this state;

(B) economically disadvantaged individuals; or

(C) veterans; or

(2) the person is engaged in or has provided substantial commitment to initiate the active conduct of a trade or business in an area of this state that does not qualify as an enterprise zone, and at least 35 percent of the person's new permanent jobs at the qualified business site are held by:

(A) residents of any enterprise zone in this state;

(B) individuals who are economically disadvantaged; or

(C) veterans.

(b) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(6).

(c) For the purposes of this section, an economically disadvantaged individual is an individual who:

(1) was unemployed for at least three months before obtaining employment with the qualified business;

(2) receives public assistance benefits, including welfare payments or food stamps, based on need and intended to alleviate poverty;

(3) is a low-income individual, as defined by Section 101, Workforce Investment Act of 1998 (29 U.S.C. Section 2801(25));

(4) is an individual with a disability, as defined by 29 U.S.C. Section 705(20)(A);

(5) is an inmate, as defined by Section 498.001;

(6) is entering the workplace after being confined in a facility operated by or under contract with the Texas Department of Criminal Justice for the imprisonment of individuals convicted of felonies other than state jail felonies;

(7) has been released by the Texas Juvenile Justice Department and is on parole, if state law provides for such a person to be on parole;

(8) meets the current low income or moderate income limits developed under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f et seq.); or

(9) was under the permanent managing conservatorship of the Department of Family and Protective Services on the day preceding the individual's 18th birthday.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Renumbered from Government Code Sec. 2303.401 and amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.52(a) and Acts 1995, 74th Leg., ch. 985, Sec. 6, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 814, Sec. 3.10, 6.01(6), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 5, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.089, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1116 (H.B. 1043), Sec. 2, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 591 (S.B. 100), Sec. 4, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 116, eff. September 1, 2015.

Sec. 2303.403. PROHIBITION ON QUALIFIED BUSINESS CERTIFICATION; LIMIT ON ENTERPRISE PROJECT DESIGNATIONS. If the bank determines that the governing body eligible to nominate an enterprise project is not complying with this chapter, the bank shall prohibit the certification of a qualified business until the bank determines that the governing body is complying with this chapter. The bank may not designate more than 105 enterprise projects during any biennium. Any

designations remaining at the end of a biennium may be carried forward to the next biennium.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Renumbered from Government Code Sec. 2303.402 by Acts 1995, 74th Leg., ch. 76, Sec. 5.52(a), eff. Sept. 1, 1995, and Acts 1995, 74th Leg., ch. 985, Sec. 6, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 813, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 814, Sec. 3.11, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 6, eff. June 15, 2007.

Sec. 2303.404. REQUEST FOR APPLICATION FOR ENTERPRISE PROJECT DESIGNATION. (a) A qualified business may request that the governing body of a municipality or county in which the qualified business is located apply to the bank for designation of a project or activity of the business as an enterprise project.

(b) The enterprise project designation must be for:

(1) an expansion or relocation from out-of-state, an expansion, renovation, or new construction, or other property to be undertaken by a qualified business; and

(2) a predetermined designation period approved by the bank, with beginning and ending dates for each proposed project or activity.

(c) The designation period for an enterprise project may not be for less than one year or more than five years from the date on which the designation is made.

(d) If an enterprise project designation is for a franchise or subsidiary, separate books and records must be maintained for the business activity conducted at the qualified business site.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.52(a), eff. Sept. 1, 1995, and Acts 1995, 74th Leg., ch. 985, Sec. 6, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.11, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 7, eff. June 15, 2007.

Sec. 2303.405. APPLICATION FOR ENTERPRISE PROJECT DESIGNATION. (a) If the governing body approves a request made under Section 2303.404, the governing body may apply to the bank for the designation of the project or activity of a qualified business as an enterprise project only after it submits to the bank the order or ordinance and other information that complies with the requirements of Sections 2303.4051 and 2303.4052.

(b) An application must contain an economic analysis of the plans of the qualified business for expansion, revitalization, or other activity with regard to the enterprise project, including:

(1) the number of employment positions in existence at the qualified business site on the 91st day before the application deadline;

(1-a) the number of new permanent jobs the enterprise project commits to create during the designation period presented in the form of a tabular listing of:

(A) the classification titles of those jobs; and

(B) the number of jobs and salary range for each classification title;

(2) the number of permanent jobs the enterprise project commits to retain during the designation period presented in the form of a tabular listing of:

(A) the classification titles of the retained jobs; and

(B) the number of retained jobs and salary range for each classification title;

(3) the amount of investment to be made by the enterprise project;

(4) a complete description of the projected schedule for completion of the specific activity described by Section 2303.404(b) to be undertaken by the enterprise project;

(5) other information the bank requires;

(6) a description of the local effort made by the nominating body, the qualified business, and other affected entities to develop and revitalize the jurisdiction of the governmental entity nominating the project or activity; and

(7) if the nominating body is applying for a double or triple jumbo enterprise project, as defined by Section 2303.407, an indication of which level of designation is being sought.

(c) For the purposes of this section, local effort to develop and revitalize a municipality or county is:

(1) the willingness of public entities in the municipality or county to provide services, incentives, and regulatory relief authorized by this chapter and to negotiate with the qualified business for which application is made and with other local groups or businesses to achieve the public purposes of this chapter; and

(2) the effort of the qualified business and other affected entities to cooperate in achieving those public purposes.

(d) Factors to be considered in evaluating the local effort of a public entity include:

(1) tax abatement, deferral, refunds, or other tax incentives;

(2) regulatory relief, including:

(A) zoning changes or variances;

(B) exemptions from unnecessary building code requirements, impact fees, or inspection fees; and

(C) streamlined permitting;

(3) enhanced municipal services, including:

(A) improved police and fire protection;

(B) institution of community crime prevention programs; and

(C) special public transportation routes or reduced fares;

(4) improvements in community facilities, including:

(A) capital improvements in water and sewer facilities;

(B) road repair; and

(C) creation or improvement of parks;

(5) improvements to housing, including:

(A) low-interest loans for housing rehabilitation, improvement, or new construction; and

(B) transfer of abandoned housing to individuals or community groups;

(6) business and industrial development services, including:

(A) low-interest loans for business;

(B) use of surplus school buildings or other underutilized publicly owned facilities as small business incubators;

(C) provision of publicly owned land for development purposes, including residential, commercial, or industrial development;

(D) creation of special one-stop permitting and problem

resolution centers or ombudsmen; and

(E) promotion and marketing services; and

(7) job training and employment services, including:

(A) retraining programs;

(B) literacy and employment skills programs;

(C) vocational education; and

(D) customized job training.

(e) Factors to be considered in evaluating the local effort of a private entity include:

(1) the willingness to negotiate or cooperate in the achievement of the purposes of this chapter;

(2) commitments to hire underskilled, inexperienced, disadvantaged, or displaced workers who reside in the enterprise zone;

(3) commitments to hire minority workers and to contract with minority-owned businesses;

(4) provision of technical and vocational job training for enterprise zone residents or economically disadvantaged employees;

(5) provision of child care for employees;

(6) commitments to implement and contribute to a tutoring or mentoring program for area students;

(7) prevention or reduction of juvenile crime activity; and

(8) the willingness to make contributions to the well-being of the community, such as job training, or the donation of land for parks or other public purposes.

(f) A nominating body may submit an application for a project or activity that during the application process loses its eligibility for designation as an enterprise project solely because the project or activity is no longer located in an enterprise zone as described by Section 2303.101(1) if the bank receives the application not later than the 30th day after the date on which the bank makes the updated block group data used to make the eligibility determination available as required by Section 2303.051.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.52(a), eff. Sept. 1, 1995, and Acts 1995, 74th Leg., ch. 985, Sec. 6, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.12, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1243 (H.B. 1659), Sec. 5, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 8, eff. June 15, 2007.

Sec. 2303.4051. ORDINANCE OR ORDER FOR IDENTIFICATION OF LOCAL INCENTIVES. (a) In this section, "local incentive" means each tax incentive, grant, other financial incentive or benefit, or program to be provided by the governing body to qualified businesses participating in the enterprise zone program and any other local incentive listed in Section 2303.511.

(b) Before nominating the project or activity of a qualified business for designation as an enterprise project, the governing body of the municipality or county in which the business is located, by ordinance or order, as appropriate, must identify and summarize briefly any local incentives available.

(c) The ordinance or order must:

(1) state whether the project or activity to be nominated as an enterprise project is located in an area designated as an enterprise zone under this chapter;

(2) summarize briefly the local incentives, including tax incentives, that, at the election of the governing body, are or will be made available to the nominated project or activity of the qualified business; and

(3) nominate a project or activity as an enterprise project.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1114, Sec. 21(1), eff. June 15, 2007.

(e) An ordinance or order adopted under this section is not valid unless the nominating body holds a public hearing before adopting the ordinance or order. Notice of the hearing must be published in a newspaper having general circulation in the municipality not later than the seventh calendar day before the date of the hearing. The notice must contain:

(1) the date, time, and location of the hearing;

(2) the provisions for any tax or other incentives applicable to the enterprise zone program;

(3) the name of the qualified business whose project or activity is being nominated for enterprise project designation; and

(4) the location of the qualified business site.

(f) If the nominating body has previously nominated a project or activity for designation as an enterprise project, the nominating body, instead of issuing a new ordinance or order under this section for a nominated project or activity, may by resolution make a reference to a previously issued ordinance or order that met the requirements of this section if:

(1) the resolution nominates the project or activity for designation as an enterprise project and states:

(A) whether the nominated project or activity is located in an area designated as an enterprise zone;

(B) the level of enterprise project designation being sought; and

(C) the ending date of the project's designation period;

(2) the local incentives described in the previously issued ordinance or order are the same on the date the resolution is issued; and

(3) the local incentives to be made available to the nominated project or activity are the same as those made available to the project or activity that are the subject of the previously issued ordinance or order.

(g) This section does not prohibit a municipality or county from extending additional incentives, including tax incentives, for qualified businesses in an enterprise zone by a separate order or ordinance.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 3.13, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 9, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 21(1), eff. June 15, 2007.

Sec. 2303.4052. REQUIRED INFORMATION FROM NOMINATING BODY. (a) Before nominating the project or activity of a qualified business for designation as an enterprise project, the nominating body must submit to the bank:

(1) a certified copy of the ordinance or order, as appropriate, or reference to an ordinance or order as required by Section 2303.4051;

(2) a certified copy of the minutes of all public hearings conducted with respect to local incentives available to qualified businesses within the jurisdiction of the governmental entity nominating the project or activity, regardless of whether those businesses are located in an enterprise zone;

(3) the name, title, address, telephone number, and electronic mail address of the nominating body's liaison designated under Section 2303.204;

(4) if the business is seeking job retention benefits, documentation showing the number of employment positions at the qualified business site;

(5) any interlocal agreement required under Section 2303.004(c) that states:

(A) which governing body has the administration authority under Section 2303.201; and

(B) that both the county in which the project or activity is located and the municipality in whose jurisdiction the project or activity is located approve the nomination of the project or activity; and

(6) any additional information the bank may require.

(b) The nominating body may electronically submit in a manner prescribed by the bank a digital scan of a certified copy of the documentation required by Subsections (a)(1) and (2).

Added by Acts 2003, 78th Leg., ch. 814, Sec. 3.13, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 10, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 591 (S.B. 100), Sec. 5, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 690 (H.B. 1515), Sec. 15, eff. September 1, 2023.

Sec. 2303.406. ENTERPRISE PROJECT DESIGNATION. (a) The bank may designate a project or activity of a business as an enterprise

project only if the bank receives all of the information required by Section 2303.4052 and determines that:

(1) the business is a qualified business under Section 2303.402 that is located in or has made a substantial commitment to locate in an enterprise zone or at a qualified business site;

(2) the nominating body making the application has demonstrated that a high level of cooperation exists among public, private, and neighborhood entities within the jurisdiction of the governmental entity nominating the project or activity;

(3) the designation will contribute significantly to the achievement of the plans of the nominating body making the application for development and revitalization of the area in which the enterprise project will be located; and

(4) if the business is seeking job retention benefits, the business has clearly demonstrated that:

(A) the permanent employees of the business will be permanently laid off;

(B) the business will close down permanently;

(C) the business will relocate out-of-state;

(D) the business is able to employ individuals in accordance with Section 2303.402; or

(E) the business facility has been legitimately destroyed or substantially impaired because of fire, flood, tornado, hurricane, or any other natural disaster and that at least 60 percent of the capital investment is being spent to repair damages resulting from the disaster.

(b) The bank shall designate qualified businesses as enterprise projects on a competitive basis. The bank shall make its designation decisions using a weighted scale in which:

(1) 40 percent of the evaluation depends on the economic distress of the block group or distressed county in which a proposed enterprise project is located;

(2) 25 percent of the evaluation depends on the local effort to achieve development and revitalization of the block group or distressed county in which a proposed enterprise project is located; and

(3) 35 percent of the evaluation depends on the evaluation criteria as determined by the bank, which must include:

(A) with respect to a proposed enterprise project located in a block group, the level of cooperation and support the

project applicant commits to the revitalization goals of all of the enterprise zone block groups within the jurisdiction of the nominating governmental entity;

(B) with respect to a proposed enterprise project located in a distressed county, the level of cooperation and support the project applicant commits to the revitalization of the distressed county; and

(C) the type and wage level of the jobs to be created or retained by the business.

(c) The bank may remove an enterprise project designation if it determines that the business is not complying with a requirement for its designation.

(d) The maximum number of enterprise projects that the bank may designate for each nominating body during any biennium is:

(1) six, if the nominating body is the governing body of a municipality or county with a population of less than 250,000; or

(2) nine, if the nominating body is the governing body of a municipality or county with a population of 250,000 or more.

(d-1) An enterprise project designation may be split into two half designations. A half designation uses one-half of one of the enterprise project designations allowed to a nominating body under Subsection (d) and to the bank under Section 2303.403.

(e) The office may not designate multiple concurrent enterprise projects to a qualified business located at a qualified business site.

(f) An approved designation as a double jumbo enterprise project, as defined by Section 2303.407, counts as two project designations against both the nominating body for purposes of Subsection (d) and the number of enterprise project designations allowed statewide per biennium under Section 2303.403. An approved designation as a triple jumbo enterprise project, as defined by Section 2303.407, counts as three project designations against both the nominating body for purposes of Subsection (d) and the number of enterprise project designations allowed statewide per biennium under Section 2303.403.

(g) The bank may lower the designation level of a proposed project or activity nominated for enterprise project designation:

(1) if there are fewer designations available than applications received; or

(2) to further the economic interests of the state.

(h) A state benefit may not be obtained under this chapter or Chapter 151, Tax Code, for jobs moved from one jurisdiction in this state to another jurisdiction in this state.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.52(a), eff. Sept. 1, 1995, and Acts 1995, 74th Leg., ch. 985, Sec. 6, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1121, Sec. 4, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 813, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 209, Sec. 92, eff. Oct. 1, 2003; Acts 2003, 78th Leg., ch. 814, Sec. 3.14, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1243 (H.B. 1659), Sec. 6, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 11, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 12, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 21(2), eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 256 (H.B. 271), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 256 (H.B. 271), Sec. 2, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 591 (S.B. 100), Sec. 6, eff. September 1, 2015.

Sec. 2303.407. ALLOCATION OF JOBS ELIGIBLE FOR TAX REFUND. (a) The bank shall allocate to an enterprise project the maximum number of new permanent jobs or retained jobs eligible based on the amount of capital investment made in the project, the project's designation level, and the refund per job with a maximum refund to be included in a computation of a tax refund for the project.

(b) A capital investment in a project of:

(1) $40,000 to $399,999 will result in a refund of up to $2,500 per job with a maximum refund of $25,000 for the creation or retention of 10 jobs;

(2) $400,000 to $999,999 will result in a refund of up to $2,500 per job with a maximum refund of $62,500 for the creation or retention of 25 jobs;

(3) $1,000,000 to $4,999,999 will result in a refund of up to $2,500 per job with a maximum refund of $312,500 for the creation or retention of 125 jobs;

(4) $5,000,000 or more will result in a refund of up to $2,500 per job with a maximum refund of $1,250,000 for the creation or retention of 500 jobs, except as provided by Subdivision (5) or (6);

(5) $150,000,000 to $249,999,999 will result in a refund of up to $5,000 per new permanent job with a maximum refund of $2,500,000 for the creation of 500 new permanent jobs if the bank designates the project as a double jumbo enterprise project; or

(6) $250,000,000 or more will result in a refund of up to $7,500 per new permanent job with a maximum refund of $3,750,000 for the creation of at least 500 new permanent jobs if the bank designates the project as a triple jumbo enterprise project.

(c) An enterprise project for which a commitment for a capital investment in the range amount and the creation of the number of new permanent jobs specified by Subsection (b)(5) is made is considered a double jumbo enterprise project if the project is so designated by the bank.

(d) An enterprise project for which a commitment for a capital investment in the range amount and the creation of the number of new permanent jobs specified by Subsection (b)(6) is made is considered a triple jumbo enterprise project if the project is so designated by the bank.

(e) The maximum number of jobs that the bank may allocate to an enterprise project split into two half designations as provided by Section 2303.406(d-1) is 250.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.52(a), eff. Sept. 1, 1995, and Acts 1995, 74th Leg., ch. 985, Sec. 6, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1134, Sec. 1.01, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1134, Sec. 2.01, eff. Sept. 1, 2005; Acts 2003, 78th Leg., ch. 814, Sec. 3.16, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 13, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 591 (S.B. 100), Sec. 7, eff. September 1, 2015.

Sec. 2303.4071. MAXIMUM TAX REFUND. (a) In this section:

(1) "Double jumbo enterprise project" and "triple jumbo enterprise project" have the meanings assigned by Section 2303.407.

(2) "Half enterprise project" means an enterprise project split into two half designations as provided by Section 2303.406(d-1).

(b) An enterprise project is eligible for a maximum refund of $250,000 in each state fiscal year.

(c) A double jumbo enterprise project is eligible for a maximum refund of $500,000 in each state fiscal year.

(d) A triple jumbo enterprise project is eligible for a maximum refund of $750,000 in each state fiscal year.

(e) A half enterprise project is eligible for a maximum refund not to exceed $125,000 in each state fiscal year and is subject to the capital investment and job allocation requirements under Section 2303.407(b)(1), (2), or (3).

Added by Acts 2003, 78th Leg., ch. 814, Sec. 3.17, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 591 (S.B. 100), Sec. 8, eff. September 1, 2015.

Sec. 2303.4072. ENTERPRISE PROJECT CLAIM FOR STATE BENEFIT. A person must make a claim to the comptroller for a state benefit as prescribed under this chapter and Chapter 151, Tax Code, not later than 18 months after the date on which the term of the enterprise project designation expires as provided by Section 2303.404.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 3.17, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 14, eff. June 15, 2007.

Sec. 2303.408. DURATION OF CERTAIN DESIGNATIONS. The bank's designation of the project or activity of a qualified business as an enterprise project is effective until the period approved by the bank under Section 2303.404 regardless of whether the enterprise zone in

which the project is located, if any, fails to qualify as an enterprise zone before the expiration of the project.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.52(a), eff. Sept. 1, 1995, and Acts 1995, 74th Leg., ch. 985, Sec. 6, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.18, eff. Sept. 1, 2003.

SUBCHAPTER G. ENTERPRISE ZONE BENEFITS

Sec. 2303.501. EXEMPTIONS FROM STATE REGULATION; SUSPENSION OF LOCAL REGULATION. (a) A state agency may exempt from its regulation a qualified business, qualified employee, or qualified property in an enterprise zone if the exemption is consistent with:

(1) the purposes of this chapter; and

(2) the protection and promotion of the general health and welfare.

(b) A local government may suspend local regulation, including an ordinance, rule, or standard, relating to zoning, licensing, or building codes in an enterprise zone.

(c) An exemption from or suspension of regulation under this section must be adopted in the same manner that the regulation was adopted.

(d) The authorization provided by Subsection (a) or (b) does not apply to regulation:

(1) that relates to:

(A) civil rights;

(B) equal employment;

(C) equal opportunity;

(D) fair housing rights; or

(E) preservation of historical sites or historical artifacts;

(2) the relaxation of which is likely to harm the public safety or public health, including environmental health; or

(3) that is specifically imposed by law.

(e) For the purposes of this section, property is classified as qualified property if the property is:

(1) tangible personal property located in the enterprise zone that was:

(A) acquired by a taxpayer not earlier than the 90th

day before the date on which the area was designated as an enterprise zone; and

(B) used predominantly by the taxpayer in the active conduct of a trade or business;

(2) real property located in the enterprise zone that was:

(A) acquired by a taxpayer not earlier than the 90th day before the date on which the area was designated as an enterprise zone and was used predominantly by the taxpayer in the active conduct of a trade or business; or

(B) the principal residence of the taxpayer on the date of the sale or exchange; or

(3) an interest in an entity that was certified as a qualified business under Section 2303.402 for the entity's most recent tax year ending before the date of the sale or exchange.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.56, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 814, Sec. 3.19, eff. Sept. 1, 2003.

Sec. 2303.502. REVIEW OF STATE AGENCY RULES; REPORT. (a) A state agency rule adopted after September 1, 1987, may provide, when applicable, encouragements and incentives to increase:

(1) the renovation, improvement, or new construction of housing in enterprise zones; and

(2) the economic viability and profitability of business and commerce in enterprise zones.

(b) Annually each state agency shall:

(1) review the rules it administers that:

(A) may adversely affect:

(i) the renovation, improvement, or new construction of housing in enterprise zones; or

(ii) the economic viability and profitability of business and commerce in enterprise zones; or

(B) may otherwise affect the implementation of this chapter; and

(2) report the results of the review to the bank.

(c) The bank shall disseminate the reports to the governing bodies of the entities that nominated the enterprise projects and others as necessary to advance the purposes of this chapter.

(d) To contribute to the implementation of this chapter, an agency may waive, modify, provide exemptions to, or otherwise minimize the adverse effects of the rules it administers on the renovation, improvement, or new construction of housing in enterprise zones or on the economic viability and profitability of business and commerce in enterprise zones.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.20, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 15, eff. June 15, 2007.

Sec. 2303.503. STATE PREFERENCES. (a) A state agency shall give preference to the governing body of an enterprise zone or a qualified business or qualified employee located in an enterprise zone over other eligible applicants for grants or loans that are administered by the state agency if:

(1) at least 50 percent of the grant or loan will be spent for the direct benefit of the enterprise zone; and

(2) the purpose of the grant or loan is to:

(A) promote economic development in the community; or

(B) construct, improve, extend, repair, or maintain public facilities in the community.

(b) The comptroller may and is encouraged to deposit state money in financial institutions located or doing business in enterprise zones.

(c) A state agency may and is encouraged to contract with businesses located in enterprise zones.

(d) The office may give preference to enterprise zones in granting economic development money or other benefits.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.71, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 3.21, eff. Sept. 1, 2003.

Sec. 2303.504. STATE TAX REFUNDS; REPORT. (a) Subject to Section 2303.516, an enterprise project is entitled to a refund of

state taxes under Section 151.429, Tax Code.

(b) At the time of receipt of any tax benefit available as a result of participating in the enterprise zone program, including a state sales and use tax refund, three percent of the amount of the tax benefit shall be transferred to the Texas economic development bank fund under Subchapter B, Chapter 489, to defray the cost of administering this chapter.

(c) Not later than the 60th day after the last day of each fiscal year, the comptroller shall report to the bank the statewide total of actual jobs created, actual jobs retained, and the tax refunds made under this section during that fiscal year.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1134, Sec. 1.02, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1134, Sec. 2.02, eff. Sept. 1, 2005; Acts 2003, 78th Leg., ch. 814, Sec. 3.23, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 16(a), eff. January 1, 2008.

Acts 2015, 84th Leg., R.S., Ch. 591 (S.B. 100), Sec. 9, eff. September 1, 2015.

Sec. 2303.505. LOCAL SALES AND USE TAX REFUNDS. (a) To encourage the development of areas designated as enterprise zones, the governing body of a municipality through a program may refund its local sales and use taxes paid by a qualified business on all taxable items purchased for use at the qualified business site related to the project or activity.

(b) To promote the public health, safety, or welfare, the governing body of a municipality or county through a program may refund its local sales and use taxes paid by a qualified business or qualified employee.

(c) The governing body of a municipality or county that is the governing body of an enterprise zone may provide for the partial or total refund of its local sales and use taxes paid by a person making a taxable purchase, lease, or rental for development or revitalization in the zone.

(d) A person entitled to a refund of local sales and use taxes under this section shall pay the entire amount of state and local

sales and use taxes at the time the taxes would be due if an agreement for the refund did not exist.

(e) An agreement to refund local sales and use taxes under this section must:

(1) be written;

(2) contain an expiration date; and

(3) require that the person entitled to the refund provide to the municipality or county making the refund the documentation necessary to support a refund claim.

(f) The municipality or county shall make the refund directly to the person entitled to the refund in the manner provided by the agreement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 985, Sec. 7, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 17, eff. June 15, 2007.

Sec. 2303.5055. REFUND, REBATE, OR PAYMENT OF TAX PROCEEDS TO QUALIFIED HOTEL PROJECT. (a) For a period that may not exceed 10 years, a governmental body, including a municipality, county, or political subdivision, may agree to rebate, refund, or pay eligible taxable proceeds to the owner of a qualified hotel project at which the eligible taxable proceeds were generated.

(b) A municipality with a population of 1,500,000 or more may agree to guarantee from hotel occupancy taxes the bonds or other obligations of a municipally sponsored local government corporation created under the Texas Transportation Corporation Act, Chapter 431, Transportation Code, that were issued or incurred to pay the cost of construction, remodeling, or rehabilitation of a qualified hotel project.

(c) An agreement under this section must be in writing, contain an expiration date, and require the beneficiary to provide documentation necessary to support a claim.

(d) A governmental body that makes an agreement under this section shall make the rebate, refund, or payment directly to the beneficiary.

(e) In this section, "eligible taxable proceeds" means taxable

proceeds generated, paid, or collected by a qualified hotel project or a business at a qualified hotel project, including hotel occupancy taxes, ad valorem taxes, sales and use taxes, and mixed beverage taxes.

(f) Notwithstanding any other law, the comptroller shall deposit eligible taxable proceeds that were collected by or forwarded to the comptroller, and to which the qualified hotel project is entitled according to an agreement under this section, in trust in a separate suspense account of the project. A suspense account is outside the state treasury, and the comptroller may make a rebate, refund, or payment authorized by this section without the necessity of an appropriation. The comptroller shall rebate, refund, or pay to each qualified hotel project eligible taxable proceeds to which the project is entitled under this section at least quarterly.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.53(a), eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 179 (S.B. 977), Sec. 1, eff. May 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 490 (S.B. 1719), Sec. 2, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 227 (H.B. 1964), Sec. 5, eff. May 29, 2015.

Sec. 2303.506. REDUCTION OR ELIMINATION OF LOCAL FEES OR TAXES. (a) To promote the public health, safety, or welfare, the governing body of a municipality or county through a program may reduce or eliminate fees or taxes that it imposes on a qualified business or qualified employee.

(b) This section does not apply to sales and use taxes or property taxes.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2303.507. TAX INCREMENT FINANCING AND ABATEMENT; LIMITATIONS ON APPRAISED AND TAXABLE VALUE. Designation of an area as an enterprise zone is also designation of the area as a reinvestment zone for:

(1) tax increment financing under Chapter 311, Tax Code;
(2) tax abatement under Chapter 312, Tax Code;
(3) limitations on appraised value under former Subchapter B or C, Chapter 313, Tax Code; and
(4) limitations on taxable value under Subchapter T, Chapter 403, of this code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 1505, Sec. 11, eff. Jan. 1, 2002.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 377 (H.B. 5), Sec. 4, eff. January 1, 2024.

Sec. 2303.509. DEVELOPMENT BONDS. To finance a project in an enterprise zone, bonds may be issued under:
(1) Chapter 1433; or
(2) the Development Corporation Act (Subtitle C1, Title 12, Local Government Code).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.246, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.12, eff. April 1, 2009.

Sec. 2303.510. INDUSTRIAL DEVELOPMENT CORPORATION. (a) The governing body of a municipality that is the governing body of an enterprise zone may create, in accordance with the Development Corporation Act (Subtitle C1, Title 12, Local Government Code), an industrial development corporation for use by the enterprise zone.
(b) A corporation created under this section has the powers and is subject to the limitations of a corporation created under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code). To the extent of a conflict between this section and that subtitle, that subtitle prevails.
(c) The articles of incorporation of a corporation created under this section must state that the corporation is governed by

this section.

(d) The governing body of the municipality that creates an industrial development corporation shall appoint the board of directors of the corporation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.13, eff. April 1, 2009.

Sec. 2303.511. OTHER LOCAL INCENTIVES. (a) The governing body of a municipality or county that is the governing body of an enterprise zone may:

(1) defer compliance in the zone with the subdivision and development ordinances or rules, other than those relating to streets and roads or sewer or water services, of the municipality or county, as appropriate;

(2) give priority to the zone for the receipt of:

(A) community development block grant money;

(B) industrial revenue bonds; or

(C) funds received under the federal Job Training Partnership Act (29 U.S.C. Section 1501 et seq.);

(3) adopt and implement a plan for police protection in the zone;

(4) amend the zoning ordinances of the municipality or county, as appropriate, to promote economic development in the zone;

(5) establish permitting preferences for businesses in the zone;

(6) establish simplified, accelerated, or other special permit procedures for businesses in the zone;

(7) waive development fees for projects in the zone;

(8) create a local enterprise zone fund for funding bonds or other programs or activities to develop or revitalize the zone;

(9) for qualified businesses in the zone, reduce rates charged by:

(A) a utility owned by the municipality or county, as appropriate; or

(B) a cooperative corporation or utility owned by private investors, subject to the requirements of Subsection (b);

(10) in issuing housing finance bonds, give priority to persons or projects in the zone;

(11) in providing services, give priority to local economic development, educational, job training, or transportation programs that benefit the zone; or

(12) sell real property owned by the municipality or county, as appropriate, and located in the enterprise zone in accordance with Section 2303.513.

(b) A reduction in utility rates under Subsection (a)(9)(B) is subject to the agreement of the affected utility and the approval of the appropriate regulatory authority. The rates may be reduced up to but not more than five percent below the lowest rate authorized for a person described by Subsection (a)(9)(B). A qualified enterprise project or the governing body of the enterprise zone may petition the appropriate utility and the appropriate regulatory authority to receive a reduced rate under this section, and the regulatory authority may order that rates be reduced. In making its determination under this section, the regulatory authority shall consider revitalization goals for the enterprise zone. In setting the rates of the utility the appropriate regulatory authority shall allow the utility to recover the amount of the reduction.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 985, Sec. 8, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1121, Sec. 5, eff. Sept. 1, 1999.

Sec. 2303.513. DISPOSITION OF PUBLIC PROPERTY IN ENTERPRISE ZONE. (a) After an area is designated as an enterprise zone, the state, a municipality, or a county that owns a surplus building or vacant land in the zone may dispose of the building or land by:

(1) selling the building or land at a public auction; or

(2) establishing an urban homestead program described by Subsection (c).

(b) A municipality or county may sell a surplus building or vacant land in the enterprise zone at less than fair market value if the governing body of the municipality or county by ordinance or order, as appropriate, adopts criteria that specify the conditions and circumstances under which the sale may occur and the public purpose to be achieved by the sale. The building or land may be sold

to a buyer who is not the highest bidder if the criteria and public purpose specified in the ordinance or order are satisfied. A copy of the ordinance or order must be filed with the bank not later than the day on which the sale occurs.

(c) An urban homestead program must provide that:

(1) the state, municipality, or county is to sell to an individual a residence or part of a residence that it owns for an amount not to exceed $100;

(2) as a condition of the sale, the individual must agree to live in the residence for at least seven years and to renovate or remodel the residence to meet the level of maintenance stated in an agreement between the individual and the governmental entity; and

(3) after the individual satisfies the seven-year residency and property improvement requirements of the agreement, the governmental entity shall assign the residence to the individual.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.24, eff. Sept. 1, 2003.

Sec. 2303.514. WAIVER OF PERFORMANCE BOND. A subcontractor is not required to execute a performance bond under Chapter 2253 if:

(1) the construction, alteration, repair, or other public work to be performed under the contract is entirely in an enterprise zone; and

(2) the amount of the contract does not exceed $200,000.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 985, Sec. 9, eff. Sept. 1, 1995.

Sec. 2303.515. LIABILITY OF CONTRACTOR OR ARCHITECT. A contractor or architect who constructs or rehabilitates a building in an enterprise zone is liable for any structural defect in the building only for the period ending on the 10th anniversary of the date on which beneficial occupancy of the building begins after the construction or rehabilitation, notwithstanding a statute of limitations to the contrary.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2303.516. MONITORING QUALIFIED BUSINESS OR ENTERPRISE PROJECT COMMITMENTS. (a) The comptroller may monitor a qualified business or enterprise project to determine whether and to what extent the business or project has followed through on any commitments made by it or on its behalf under this chapter.

(b) The comptroller may determine that the business or project is not entitled to a refund of state taxes under Section 2303.504 if the comptroller finds that:

(1) the business or project is not willing to cooperate with the comptroller in providing the comptroller with the information the comptroller needs to determine the state benefits; or

(2) the business or project has substantially failed to follow through on any commitments made by it or on its behalf under this chapter.

(c) A qualified business may obtain a state benefit, earned through a specific enterprise project designation, on completion of an audit performed by the comptroller that will certify hiring commitments and eligible purchases made by or on behalf of a qualified business under this chapter.

Added by Acts 2001, 77th Leg., ch. 1134, Sec. 1.03, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.25, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 18, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 591 (S.B. 100), Sec. 10, eff. September 1, 2015.

Sec. 2303.517. REPORT. (a) Before obtaining a state benefit, the qualified business must submit to the comptroller a certified report of the actual number of jobs created or retained and the capital investment made at or committed to the qualified business site.

(b) Not later than the 30th day after the date the comptroller completes an enterprise project's close-out, the comptroller shall submit to the bank a report stating the actual amount of capital

investment made and the actual number of jobs created or retained as a result of the enterprise project designation.

Added by Acts 2003, 78th Leg., ch. 814, Sec. 3.26, eff. Sept. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 19, eff. June 15, 2007.

CHAPTER 2304. HOUSING REHABILITATION
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2304.001. SHORT TITLE. This chapter may be cited as the Texas Housing Rehabilitation Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.002. PURPOSES. (a) The purposes of this chapter are to provide a means by which the deterioration of housing and the decline of residential areas throughout the state can be arrested and prevented.

(b) The purposes of this chapter are public purposes for which money may be borrowed, loaned, and spent.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.003. DEFINITIONS. In this chapter:

(1) "Borrower" means a household whose application for a housing rehabilitation loan is approved under this chapter by a local government.

(2) "Department" means the Texas Department of Housing and Community Affairs.

(3) "Fund" means the Texas housing rehabilitation loan fund.

(4) "Household" means one or more persons owning housing.

(5) "Housing" means a structure that is on a permanent foundation and that consists of one to four family units used only for residential purposes.

(6) "Housing rehabilitation" means the repair, renovation,

or other improvement of housing to make the housing decent, safe, sanitary, and more habitable.

(7) "Housing rehabilitation loan" means a loan made under this chapter.

(8) "Local agency" means a:

(A) nonprofit organization whose principal purpose is to improve housing conditions; or

(B) local housing authority, urban renewal agency, or other public entity.

(9) "Local government" means a county or municipality.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.004. GENERAL POWERS OF DEPARTMENT. (a) The department has the powers necessary or appropriate to carry out the purposes of this chapter.

(b) The department may:

(1) make an agreement with any other person in carrying out its powers or duties under this chapter;

(2) spend funds appropriated to it by the legislature to pay for staff, travel expenses, supplies or equipment, or contracts for services necessary to carry out its powers or duties under this chapter; or

(3) seek and accept funds from any source.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.005. AUTHORITY OF DEPARTMENT TO ADOPT MINIMUM HOUSING CODE STANDARDS. The department shall adopt the minimum housing, building, fire, and related code standards that apply in designated areas for which a housing rehabilitation plan is approved by the department and for which local government standards are not in effect.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.006. LIMITATION ON CONSTRUCTION OF HOUSING OR ACQUISITION OF PROPERTY BY DEPARTMENT. (a) The department may not

construct housing.

(b) The department may not acquire housing except to enforce a lien under Subchapter D.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.007. PROHIBITION ON BORROWING, INCURRING OBLIGATIONS, OR PLEDGING CREDIT. The department may not borrow money, incur monetary obligations, or pledge in any manner the credit or taxing power of the state or a political subdivision of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.008. ALLOCATION OF AVAILABLE LOAN FUNDS. If the amount of housing rehabilitation loans anticipated to be made in a fiscal year exceeds the estimated available funds for that year, the department shall allocate the estimated available funds for that year among the local governments that have filed housing rehabilitation area plans with the department. In allocating the available funds, the department shall take into account the probable amount of housing rehabilitation loans to be made by each local government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.009. RELATIONSHIP OF DEPARTMENT AND LOCAL GOVERNMENTS. (a) The department shall adopt standards and procedures for the administration of this chapter by a local government or local agency.

(b) The department may provide technical assistance to a local government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.010. DESIGNATION OF LOCAL AGENCY BY LOCAL GOVERNMENT. The governing body of a local government may designate one or more local agencies to exercise a power or duty of the local government under this chapter. The governing body may withdraw the delegated

power or duty at any time.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.011. EDUCATION PROGRAM CONDUCTED BY LOCAL GOVERNMENT. A local government engaged in housing rehabilitation under this chapter shall conduct a general education program to inform residents in designated areas of methods for maintaining their housing and of the availability of housing rehabilitation loans.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. HOUSING REHABILITATION LOAN FUND

Sec. 2304.021. FUND. (a) The Texas housing rehabilitation loan fund is in the state treasury.

(b) The department may designate separate accounts in the fund and the purposes of the accounts.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.022. DEPOSITS TO FUND. The following money shall be credited to the fund:

(1) money appropriated by the legislature for housing rehabilitation loans;

(2) money received from other sources for the purpose of making housing rehabilitation loans;

(3) money received from borrowers as payments on their housing rehabilitation loans;

(4) income from the transfer of interests in property acquired in connection with housing rehabilitation loans; and

(5) interest earned on deposits and investments of the fund.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.023. PURPOSES OF FUND. The fund may be used only for:

(1) financing housing rehabilitation loans, including the administrative charge imposed under Section 2304.068 by a local government; and

(2) paying the expenses incurred by the department in connection with the acquisition or disposition of real property under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.024. INVESTMENT AND DISBURSEMENT OF FUND. The comptroller shall invest and disburse the money credited to the fund on the written authorization of the executive director of the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.72, eff. Sept. 1, 1997.

SUBCHAPTER C. HOUSING REHABILITATION AREA PLAN

Sec. 2304.041. DESIGNATION OF AREA AND PREPARATION OF PLAN. (a) A local government may allow households in a specific area within its boundaries to apply for housing rehabilitation loans by:

(1) designating the specific area; and

(2) preparing a housing rehabilitation plan for the designated area.

(b) A local government may designate more than one area within its boundaries.

(c) The designation of an area must be made in accordance with the standards established by the department. The area plan must be in the form prescribed by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.042. CONTENTS OF AREA PLAN. A housing rehabilitation area plan must contain relevant information about the area, including:

(1) a description of the physical, social, and economic characteristics of the area;

(2) a description of the housing conditions in the area;

(3) an assessment of the need for housing rehabilitation loans in the area, including:

(A) the number and characteristics of households in the area; and

(B) the average and total loan amounts needed;

(4) a description of the methods by which the local government preparing the plan will determine whether the rehabilitation of housing in the area is economically feasible;

(5) a description of the methods by which:

(A) rehabilitation work will be supervised; and

(B) compliance with departmental regulations governing materials, fixtures, and rehabilitation contracts will be ensured;

(6) a description of the methods and procedures that will be used to enforce:

(A) local housing, building, fire, and related codes; or

(B) the standards adopted by the department under Section 2304.005, if codes of those types have not been enacted;

(7) an assessment of the need for additional public improvements and public services in the area and a description of the specific means by which the improvements and services will be provided; and

(8) a description of the methods by which private investment to improve conditions in the area will be encouraged.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.043. APPROVAL OF AREA PLAN. (a) A local government's area plan must be approved by resolution or order of the governing body of the local government and must be submitted to the department for review.

(b) The department shall approve the plan if the area meets the standards established by the department and if the plan contains the required information.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.044. REJECTION OF AREA PLAN. (a) The department

shall return a housing rehabilitation area plan to the local government submitting it if the area for which the plan is prepared does not meet the department's standards or if the plan does not contain the required information. The department shall include with the returned plan a list of deficiencies.

(b) An area plan may be corrected and resubmitted for approval by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. HOUSING REHABILITATION LOANS

Sec. 2304.061. PRIMARY USE FOR LOAN. A housing rehabilitation loan must be used primarily to make housing comply with applicable state, county, or municipal housing codes or standards, including building, fire, health, housing maintenance, or similar codes.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.062. DEPARTMENT LOAN RULES. (a) The department shall adopt rules governing the making and servicing of a housing rehabilitation loan and the foreclosure of a loan in default. The rules must include:

(1) the requirement that a housing rehabilitation loan be evidenced by a promissory note payable to the state and be secured by a lien on real property in the state; and

(2) the standards under which a household in an area designated by a local government may qualify for a housing rehabilitation loan.

(b) In adopting the standards under Subsection (a)(2), the department shall take into account:

(1) household gross income;

(2) household income available for housing needs;

(3) household size;

(4) the value and condition of the housing to be rehabilitated; and

(5) the ability of households to compete successfully in the private housing market and to pay for sanitary, decent, and safe housing in that market.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.063. LOAN APPLICATION. A household may apply to the local government in which the household's housing is located for a housing rehabilitation loan if the housing is located in a designated area for which an area plan has been approved by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.064. LOCAL GOVERNMENT APPROVAL OF LOAN. (a) A local government may approve or disapprove a housing rehabilitation loan application authorized by Section 2304.063. The approval or disapproval must be given in accordance with the rules adopted by the department under Section 2304.062.

(b) The local government shall notify the department of the approval of a loan application and the amount of the approved loan.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.065. DEPARTMENT APPROVAL. The department may not approve a housing rehabilitation loan unless it finds that:

(1) the benefit to an area designated under Section 2304.041 will exceed the financial commitment of the department; and

(2) the approval of the loan will be of benefit to the state and its taxpayers.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.066. DISBURSEMENT OF LOAN FUNDS. (a) The executive director of the department shall authorize the comptroller to disburse to a local government from the housing rehabilitation loan fund the amount of a housing rehabilitation loan approved by the local government under this chapter if the department receives from the local government a notice of the local government's approval of the loan.

(b) The executive director may not authorize the disbursement of funds for a housing rehabilitation loan if:

(1) the department finds that the local government that approved the loan is not making a good faith effort to substantially comply with the applicable housing rehabilitation area plan or the rules adopted by the department; or

(2) the remaining part of the fund allocated to the local government under Section 2304.008 is insufficient to allow the payment of the approved amount.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.73, eff. Sept. 1, 1997.

Sec. 2304.067. LIMIT ON AMOUNT OF LOAN. The amount of a housing rehabilitation loan may not exceed:

(1) the amount determined by subtracting the amount of all other outstanding indebtedness secured by the property covered by the loan from the market value of the rehabilitated property as determined by the local government approving the loan; or

(2) the amount determined by adding the amount of the housing rehabilitation contract made and approved under Subchapter E for the property to the amount of the administrative charge imposed under Section 2304.068 in connection with the loan.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.068. ADMINISTRATIVE CHARGE IMPOSED BY LOCAL GOVERNMENT. (a) A local government may impose a charge to cover its administrative expenses incurred in connection with a housing rehabilitation loan made by the local government.

(b) The local government may deduct the charge from the amount loaned.

(c) The charge may not exceed three percent of the amount of the contract for housing rehabilitation the borrower makes with a contractor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.069. INTEREST RATE. (a) The department shall set

the minimum and maximum interest rates for housing rehabilitation loans.

(b) A local government shall set the interest rate for a housing rehabilitation loan it approves under this chapter. The rate must be within the minimum and maximum rates set by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.070. TERM OF LOAN. A local government shall set the term of a housing rehabilitation loan it approves under this chapter. The term may not exceed 20 years.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.071. INSTALLMENT PAYMENTS. A housing rehabilitation loan must be repaid in installments.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.072. LOAN TO BE SECURED. A housing rehabilitation loan must be secured as required by this chapter and the rules adopted under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.073. OTHER LOAN CONDITIONS. For a housing rehabilitation loan a local government approves under this chapter, the local government shall establish other necessary conditions relating to the repayment of the loan according to this chapter and the regulations of the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.074. ADJUSTMENTS IF BORROWER UNABLE TO REPAY LOAN. A local government may allow for the deferment of payments or may adjust the interest rate or term of a housing rehabilitation loan

approved by the local government if the borrower is unable to make the required payments.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.075. DISPOSITION OR ENCUMBRANCE OF PROPERTY BY BORROWER. The department may adopt regulations governing the disposition or further encumbrance by the borrower of property subject to a lien that secures a housing rehabilitation loan.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.076. CONDITIONS UNDER WHICH LOAN BECOMES IMMEDIATELY DUE. (a) A borrower must agree that if the borrower voluntarily destroys, moves from, or relinquishes ownership of the rehabilitated housing on or before the first anniversary of the date the rehabilitation is completed:

(1) the borrower's housing rehabilitation loan becomes immediately due and payable; and

(2) an interest surcharge is added sufficient to make the total interest paid equal an amount determined by the prevailing interest rates for rehabilitation loans from private sources at the time of the sale.

(b) The local government that approved the loan may waive the interest surcharge if:

(1) the local government finds that the borrower must sell the housing because of financial hardship or similar circumstances; and

(2) the department consents to the waiver.

(c) A local government that approved a housing rehabilitation loan may, with the consent of the department, take the following action if the borrower dies or the borrower sells or gives away property encumbered by the loan:

(1) declare all or part of any deferred payments due and payable;

(2) declare the balance of the loan due and payable; or

(3) allow a buyer, donee, or other successor in title who qualifies under Section 2304.062 to assume the loan.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.077. ACQUISITION OF PROPERTY TO PROTECT LOAN. The department may acquire title to any project by foreclosure if necessary to protect a housing rehabilitation loan made for the project by the department and to pay the costs arising from the foreclosure.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.078. ACQUISITION OF PROPERTY TO ENFORCE LIEN. To enforce a lien under this chapter, the department may acquire housing by:

(1) foreclosure of a mortgage;

(2) a sale under a deed of trust; or

(3) a voluntary conveyance from a borrower in full or partial settlement of a housing rehabilitation loan.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.079. PUBLIC SALE OR AUCTION OF ACQUIRED PROPERTY. (a) If the department acquires housing in the enforcement of a lien under this chapter, it shall within six months after the acquisition offer the housing for public sale or auction.

(b) The department must provide notice of the public sale or auction by having a notice published in a newspaper of general circulation in the county in which the property is located. The notice must be published once a week for three consecutive weeks before the date of the sale or auction and must contain:

(1) a description of the property;

(2) a description of the procedures for submitting competitive bids for the property; and

(3) a statement of the time and location of the sale or auction.

(c) The department may reject any or all bids submitted for the property.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.080. PRIVATE SALE. (a) If a sale of property cannot be made by a public sale or auction as provided by Section 2304.079, the department may negotiate with a party for the expeditious sale of the property. In the negotiations, the department shall give priority to selling the property to a purchaser who will be required to pay ad valorem taxes on the property.

(b) If a sale to that kind of purchaser is not practicable, the department shall attempt to sell the property to a purchaser who is exempt from ad valorem taxes but who will make payments in lieu of taxes on the property.

(c) If neither type of purchaser is available, the department may sell the property to any purchaser.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.081. CONTRACT FOR SERVICING LOAN. A local government may contract with any entity for the servicing of a housing rehabilitation loan approved by the local government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.082. AUDIT OF LOANS. The department shall audit the local administration of housing rehabilitation loans to determine if a good faith effort is being made to comply with the applicable housing rehabilitation plan and the rules adopted by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER E. HOUSING REHABILITATION CONTRACTS

Sec. 2304.101. STANDARDS FOR CONTRACTORS AND CONTRACTS. The department shall adopt standards for:

(1) the selection of contractors to perform housing rehabilitation under this chapter;

(2) housing rehabilitation contracts between borrowers and contractors; and

(3) materials and fixtures used in performing housing

rehabilitation under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.102. LOCAL GOVERNMENT APPROVAL AND SUPERVISION OF CONTRACTS. (a) A borrower and a contractor may not contract for housing rehabilitation that is to be financed by a housing rehabilitation loan unless the local government responsible for approving the loan approves the proposed contract in accordance with the standards adopted by the department.

(b) The local government shall supervise all work performed under the contract. The contractor is not entitled to payment until the work has been approved by the local government, and the borrower is not liable to the contractor for any work not approved by the local government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.103. ADVERTISING REQUIREMENT FOR CERTAIN CONTRACTS. A contract for housing rehabilitation that involves the expenditure of more than $3,000 and that is to be financed by loan funds applied by the department may not be made unless advertised in the same way as a contract under Chapter 252, Local Government Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2304.104. PERFORMANCE AND PAYMENT BONDS. The provisions of Chapter 2253 relating to performance and payment bonds apply to a construction contract governed by this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 2305. RESTITUTION FOR OIL OVERCHARGES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2305.001. SHORT TITLE. This chapter may be cited as the Oil Overcharge Restitutionary Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2305.002. DEFINITIONS. In this chapter:

(1) "Account" means the oil overcharge account.

(2) "Applicable federal guidelines" means federal court judgments or orders, case settlements, laws, regulations, or other requirements or discretionary authority, imposed by the judicial, legislative, or executive branch, that govern or restrict the use of money received by the state because of petroleum overcharge litigation relating to the overpricing of crude oil or refined petroleum products during the 1973-1981 period of mandatory federal price controls.

(3) "Energy office" means the state energy conservation office of the comptroller's office as established by Chapter 447.

(4) "Supervising state agency" means the state agency, department, commission, or other entity designated by this chapter or by the governor to supervise, manage, or administer a program financed under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 526, Sec. 4, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 698, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 521, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1158, Sec. 74, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 2, eff. Sept. 1, 2001.

SUBCHAPTER B. PROGRAM ADMINISTRATION

Sec. 2305.011. ADMINISTRATION BY COMPTROLLER'S OFFICE AND ENERGY OFFICE. (a) The energy office shall oversee and monitor the administration of programs prescribed by this chapter.

(b) The governor and the energy office may establish direct grant programs and competitive grant programs in addition to the programs provided by this chapter.

(c) The energy office shall establish programs and criteria and evaluate a proposal in accordance with applicable federal guidelines.

(d) The energy office shall send to the appropriate federal entity all information required under applicable federal guidelines.

(e) Criteria established under this section may apply generally

to all programs or specifically to one or more programs.

(f) The comptroller may establish procedures and adopt rules as necessary to administer the programs prescribed by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 526, Sec. 5, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 698, Sec. 2, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 521, Sec. 3, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1158, Sec. 75, 76, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 3, 4, eff. Sept. 1, 2001.

Sec. 2305.012. ADMINISTRATION; ASSISTANCE. (a) The energy office shall implement and administer this chapter.

(b) The energy office or the governor through the energy office may enlist the assistance of a private entity or a state agency, department, commission, or other entity to:

(1) evaluate or review a proposal;

(2) audit a program participant or a supervising state agency;

(3) perform administrative duties under this chapter; or

(4) develop eligibility or evaluation criteria.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 63, eff. June 20, 2003.

SUBCHAPTER C. FINANCIAL PROVISIONS

Sec. 2305.021. OIL OVERCHARGE ACCOUNT. (a) The oil overcharge account is an account in the general revenue fund.

(b) The comptroller shall deposit to the credit of the account any amount received as a result of petroleum overcharge litigation relating to the overpricing of crude oil or refined petroleum products during the 1973-1981 period of mandatory federal price controls.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2305.022. USE OF ACCOUNT. Money in the account may be

used only by the governor and the comptroller's office to implement and operate the programs authorized by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 521, Sec. 4, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1158, Sec. 77, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 5, eff. Sept. 1, 2001.

Sec. 2305.023. ACCOUNT RECORDS; ENERGY OFFICE REPORT. (a) The comptroller shall establish records of the money in the account that are sufficient to identify the source of each particular amount in the account to facilitate a determination of compliance with applicable federal guidelines relating to the use of money derived from each particular source.

(b) Not later than January 15 of each odd-numbered year, the energy office shall submit to the governor and the legislature a biennial report that shows the expenditures from the account during the previous biennium and the amount remaining in the account on the date of the report.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 521, Sec. 4, eff. Sept. 1, 1997.

Sec. 2305.024. INVESTMENT OF MONEY AND DEPOSIT OF INTEREST. (a) The comptroller may invest unobligated money in the account in accordance with Subchapter C, Chapter 404.

(b) The comptroller shall deposit to the credit of the account all interest or other income received from the investment of the money.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.74, eff. Sept. 1, 1997.

Sec. 2305.026. EFFECT OF RESTRICTION ON USE OR RECEIPT OF MONEY. A restriction or other criterion provided by or under this chapter that relates to the use or receipt of money awarded under this chapter to a supervising state agency, local recipient, or other

person applies only to the use or receipt of that money and does not affect the use or receipt of money provided under other law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. OIL OVERCHARGE PROGRAMS

Sec. 2305.031. OIL OVERCHARGE PROGRAMS. The energy office shall maintain a revolving loan program for the benefit of state agencies, universities, and political subdivisions. The energy office shall use oil overcharge funds for the programs and purposes in this subchapter.

Added by Acts 1997, 75th Leg., ch. 521, Sec. 5, eff. Sept. 1, 1997.

Sec. 2305.032. LOANSTAR REVOLVING LOAN PROGRAM. (a) The energy office under the loanstar revolving loan program may provide loans to finance energy and water efficiency measures for public facilities.

(b) The energy office shall determine the terms under which a loan may be made under this section and shall set the interest rate for a loan at a low rate that the energy office determines is sufficient to recover the cost of administering the loan program.

(c) Repealed by Acts 2003, 78th Leg., ch. 1310, Sec. 121(16).

(d) Any borrower that receives a loan under this section shall repay the principal of and interest on the loan from the value of energy savings that accrues as the result of the energy conservation measure implemented with the borrowed money.

(e) An institution that receives a loan under this section shall repay the loan from the amount budgeted for the agency's or institution's energy costs. Until the loan is repaid, the legislature may not reduce the amount budgeted for those energy costs to reflect the value of energy savings that accrues as a result of the energy conservation measure implemented with the borrowed money.

(f) The energy office shall allocate at least $95 million, including loan commitments and cash on hand, to the loanstar program and shall administer the funds under its control in a manner that assures that funds available to the loanstar program equal or exceed $95 million at all times.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Renumbered from Government Code Sec. 2305.065 and amended by Acts 1997, 75th Leg., ch. 521, Sec. 6, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1310, Sec. 64, 121(16), eff. June 20, 2003.

Sec. 2305.033. STATE ENERGY PROGRAM. (a) The energy office is the supervising state agency for the state energy program.

(b) In accordance with Part D, Title III, Energy Policy and Conservation Act (42 U.S.C. Sec. 6321 et seq.), and its subsequent amendments, the energy office, under the program, shall distribute funds for projects that save measurable quantities of energy.

(c) Repealed by Acts 2003, 78th Leg., ch. 1310, Sec. 121(17).

(d) A proposal under Subsection (b) must:

(1) promote the conservation of energy; or

(2) improve the efficient use of energy through activities that result in quantifiable energy savings, including:

(A) energy audits of buildings;

(B) technical assistance in reducing energy bills;

(C) training to building operators and fiscal officers on various energy issues such as utility bill analysis and energy management techniques; or

(D) other technical assistance to programs for which funds are appropriated.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Renumbered from Government Code Sec. 2305.041 and amended by Acts 1997, 75th Leg., ch. 521, Sec. 7, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1310, Sec. 65, 121(17), eff. June 20, 2003.

Sec. 2305.034. STATE AGENCIES PROGRAM. The energy office is the supervising agency for the state agencies program that may distribute funds through Chapter 447. Projects funded under this section may include:

(1) energy manager training;

(2) energy savings performance contracting services, including:

(A) education and training;

(B) contract review and approval;

(C) third-party contract review;
(D) development and dissemination of guidelines; and
(E) identification of contract financing sources;
(3) energy-efficient design assistance for new facilities, including major renovation;
(4) projects for state building design standards compliance;
(5) projects to create awareness of model energy codes at the local and state levels;
(6) projects to develop and maintain the state's utility database; and
(7) other appropriate energy and information applications.

Added by Acts 1997, 75th Leg., ch. 521, Sec. 8, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 66, eff. June 20, 2003.

Sec. 2305.035. ALTERNATIVE FUELS PROGRAM. (a) The energy office is the supervising state agency for the alternative fuels program.

(b) The energy office shall provide funds under the program to promote, facilitate, and support the use of alternative fuels in this state.

(c) Among the projects that may be funded under this section are:
(1) clean air projects;
(2) educational projects;
(3) demonstration and conversion projects; and
(4) technical research and training projects.

Added by Acts 1997, 75th Leg., ch. 521, Sec. 8, eff. Sept. 1, 1997.

Sec. 2305.036. HOUSING PARTNERSHIP PROGRAM. (a) The energy office is the supervising state agency for the housing partnership program.

(b) The energy office shall promote the efficient use of energy in Texas residential housing through grants, partnerships, and loans.

(c) Projects funded under this program may include:
(1) projects to demonstrate commercially available cost-

effective energy-saving techniques and technologies;

(2) training and technical assistance in energy-efficient construction, design, or remodeling;

(3) projects to provide energy education workshops or seminars for consumers;

(4) financing for energy designs and improvements, energy-efficient appliances, and energy management systems; and

(5) funding of a weatherization assistance program through the Texas Department Of Housing and Community Affairs to benefit individuals of low income.

(d) The ultimate beneficiaries of the program shall be residential energy consumers, primarily targeting low-to-moderate income households.

(e) Nonprofit organizations, community action agencies, local governments, regional government councils, universities, utility companies, public housing authorities, community-based organizations, social service agencies, and other service-related organizations may serve as leads in establishing partnerships with the agency.

(f) The energy office may require grant recipients to match a grant in a ratio determined by the energy office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Renumbered from Government Code Sec. 2305.064 and amended by Acts 1997, 75th Leg., ch. 521, Sec. 9, eff. Sept. 1, 1997.

Sec. 2305.037. INNOVATIVE ENERGY DEMONSTRATION PROGRAM. (a) The energy office is the supervising state agency of the innovative energy demonstration program and shall distribute grant money under the program for demonstration projects that develop sustainable and innovative energy resources, including:

(1) a clean coal project, as defined by Section 5.001, Water Code;

(2) a gasification project for a coal and biomass mixture;

(3) photovoltaic, biomass, wind, and solar applications; and

(4) other appropriate low-emission, renewable, and sustainable energy applications.

(b) Contingent on the selection of a Texas site for the location of the coal-based integrated sequestration and hydrogen

project to be built in partnership with the United States Department of Energy, commonly referred to as the FutureGen project, and to the extent that funds are appropriated for this purpose, the energy office shall distribute to the managing entity of the FutureGen project an amount equal to 50 percent of the total amount invested in the project by private industry sources. The managing entity of the FutureGen project shall provide records as considered necessary by the energy office to justify grants under this subsection. Cumulative distributions under this subsection may not exceed $20 million.

(c) The energy office may require a grant recipient under the program to match a grant in a ratio determined by the energy office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Renumbered from Government Code Sec. 2305.067 and amended by Acts 1997, 75th Leg., ch. 521, Sec. 10, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 1097 (H.B. 2201), Sec. 2, eff. June 18, 2005.

Sec. 2305.038. LOCAL GOVERNMENT ENERGY PROGRAM. (a) The energy office is the supervisory agency for the local government energy program to provide energy management assistance to public schools, health care institutions, and other local governments.

(b) Projects funded under this section may include:

(1) energy management training workshops that address current energy issues and state-of-the-art building energy technologies;

(2) energy-efficient partnerships with school districts or health care facilities to identify building energy performances, set up customized utility tracking systems, establish operation and maintenance procedures to curtail energy waste, identify capital energy projects that will yield a high return on investment, and locate appropriate sources of retrofit financing;

(3) assistance in analyzing alternative methods of financing energy-saving projects and negotiating contracts with power suppliers;

(4) technical support in designing new facilities, building additions, and renovations for energy-efficient operation; and

(5) colonias as defined by Section 2306.581.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Renumbered from Government Code Sec. 2305.069 and amended by Acts 1997, 75th Leg., ch. 521, Sec. 11, eff. Sept. 1, 1997.

Sec. 2305.039. TRANSPORTATION ENERGY PROGRAM. (a) The energy office is the supervising state agency of the transportation energy program and shall distribute funds under the program for projects relating to mass transit and other transportation services.

(b) A project may:

(1) assist a service provider in providing services such as:

(A) computerized transit routing that is energy efficient;

(B) commuting solutions; and

(C) public education related to mass transit; and

(2) include studies to improve existing systems and plan for future transportation systems in this state.

(c) The energy office may require a grant recipient to match a grant in a ratio determined by the energy office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Renumbered from Government Code Sec. 2305.070 and amended by Acts 1997, 75th Leg., ch. 521, Sec. 12, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1310, Sec. 67, eff. June 20, 2003.

SUBCHAPTER E. COMPETITIVE GRANT PROGRAMS

Sec. 2305.075. SMALL HOSPITALS ENERGY MANAGEMENT PROGRAM. (a) The energy office is the supervising state agency for the small hospitals energy management program.

(b) The energy office shall use competitive grant money under the program to finance projects designed to assist small hospitals in controlling energy costs.

(c) Projects funded under this section may include:

(1) training for hospital personnel;

(2) technical assistance in establishing an energy management program;

(3) facility energy audits; and

(4) follow-up assistance in maintaining an energy management program.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

CHAPTER 2306. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2306.001. PURPOSES. The purposes of the department are to:

(1) assist local governments in:

(A) providing essential public services for their residents; and

(B) overcoming financial, social, and environmental problems;

(2) provide for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income;

(3) contribute to the preservation, development, and redevelopment of neighborhoods and communities, including cooperation in the preservation of government-assisted housing occupied by individuals and families of very low and extremely low income;

(4) assist the governor and the legislature in coordinating federal and state programs affecting local government;

(5) inform state officials and the public of the needs of local government;

(6) serve as the lead agency for:

(A) addressing at the state level the problem of homelessness in this state;

(B) coordinating interagency efforts to address homelessness; and

(C) addressing at the state level and coordinating interagency efforts to address any problem associated with homelessness, including hunger; and

(7) serve as a source of information to the public regarding all affordable housing resources and community support services in the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 4, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 432, Sec. 1, eff. Sept. 1, 2001; Acts

2001, 77th Leg., ch. 1367, Sec. 1.01, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 1, eff. Sept. 1, 2003.

Sec. 2306.002. POLICY. (a) The legislature finds that:

(1) every resident of this state should have a decent, safe, and affordable living environment;

(2) government at all levels should be involved in assisting individuals and families of low income in obtaining a decent, safe, and affordable living environment; and

(3) the development and diversification of the economy, the elimination of unemployment or underemployment, and the development or expansion of commerce in this state should be encouraged.

(b) The highest priority of the department is to provide assistance to individuals and families of low and very low income who are not assisted by private enterprise or other governmental programs so that they may obtain affordable housing or other services and programs offered by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.60, eff. Sept. 1, 1995.

Sec. 2306.003. PUBLIC PURPOSE. The duties imposed and activities authorized by this chapter serve public purposes, and public money may be borrowed, spent, advanced, loaned, granted, or appropriated for those purposes.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.004. DEFINITIONS. In this chapter:

(1) "Board" means the governing board of the department.

(2) "Bond" means an evidence of indebtedness or other obligation, regardless of the source of payment, issued by the department under Subchapter P, including a bond, note, or bond or revenue anticipation note, regardless of whether the obligation is general or special, negotiable or nonnegotiable, in bearer or registered form, in certified or book-entry form, in temporary or permanent form, or with or without interest coupons.

(3) "Contract for Deed" means a seller-financed contract for the conveyance of real property under which:

(A) legal title does not pass to the purchaser until the consideration of the contract is fully paid to the seller; and

(B) the seller's remedy for nonpayment is recision or forfeiture or acceleration of any remaining payments rather than judicial or nonjudicial foreclosure.

(4) "Department" means the Texas Department of Housing and Community Affairs or any successor agency.

(4-a) "Development funding" means:

(A) a loan or grant; or

(B) an in-kind contribution, including a donation of real property, a fee waiver for a building permit or for water or sewer service, or a similar contribution that:

(i) provides an economic benefit; and

(ii) results in a quantifiable cost reduction for the applicable development.

(5) "Director" means the executive director of the department.

(6) "Economically depressed or blighted area" means an area:

(A) that is a qualified census tract as defined by Section 143(j), Internal Revenue Code of 1986 (26 U.S.C. Section 143(j)) or has been determined by the housing finance division to be an area of chronic economic distress under Section 143, Internal Revenue Code of 1986 (26 U.S.C. Section 143);

(B) established in a municipality that has a substantial number of substandard, slum, deteriorated, or deteriorating structures and that suffers from a high relative rate of unemployment; or

(C) that has been designated as a reinvestment zone under Chapter 311, Tax Code.

(7) "Elderly individual" means an individual 62 years of age or older or of an age specified by the applicable federal program.

(8) "Family of moderate income" means a family:

(A) that is determined by the board to require assistance, taking into account:

(i) the amount of the total income available for housing needs of the individuals and families;

(ii) the size of the family;

(iii) the cost and condition of available housing facilities;

(iv) the ability of the individuals and families to compete successfully in the private housing market and to pay the amounts required by private enterprise for sanitary, decent, and safe housing; and

(v) standards established for various federal programs determining eligibility based on income; and

(B) that does not qualify as a family of low income.

(9) "Federal government" means the United States of America and includes any corporate or other instrumentality of the United States of America, including the Resolution Trust Corporation.

(10) "Federal mortgage" means a mortgage loan for residential housing:

(A) that is made by the federal government; or

(B) for which a commitment to make has been given by the federal government.

(11) "Federally assisted new communities" means federally assisted areas that receive or will receive assistance in the form of loan guarantees under Title X of the National Housing Act (12 U.S.C. Section 1701 et seq.), and a portion of that federally assisted area has received grants under Section 107(a)(1) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. Section 5301 et seq.).

(12) "Federally insured mortgage" means a mortgage loan for residential housing that:

(A) is insured or guaranteed by the federal government; or

(B) the federal government has committed to insure or guarantee.

(12-a) "Grant" means financial assistance that is awarded in the form of money to a housing sponsor for a specific purpose and that is not required to be repaid. For purposes of this chapter, a grant includes a forgivable loan.

(13) "Housing development" means property or work or a project, building, structure, facility, or undertaking, whether existing, new construction, remodeling, improvement, or rehabilitation, that meets or is designed to meet minimum property standards required by the department and that is financed under the

provisions of this chapter for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for rent, lease, use, or purchase by individuals and families of low and very low income and families of moderate income in need of housing. The term includes:

(A) buildings, structures, land, equipment, facilities, or other real or personal properties that are necessary, convenient, or desirable appurtenances, including streets, water, sewers, utilities, parks, site preparation, landscaping, stores, offices, and other nonhousing facilities, such as administrative, community, and recreational facilities the department determines to be necessary, convenient, or desirable appurtenances; and

(B) single and multifamily dwellings in rural and urban areas.

(14) "Housing sponsor" means an individual, joint venture, partnership, limited partnership, trust, firm, corporation, limited liability company, other form of business organization, or cooperative that is approved by the department as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development, subject to the regulatory powers of the department and other terms and conditions in this chapter.

(15) "Individuals and families of low income" means individuals and families earning not more than 80 percent of the area median income or applicable federal poverty line, as determined under Section 2306.123 or Section 2306.1231.

(16) "Individuals and families of very low income" means individuals and families earning not more than 60 percent of the area median income or applicable federal poverty line, as determined under Section 2306.123 or Section 2306.1231.

(17) "Individuals and families of extremely low income" means individuals and families earning not more than 30 percent of the area median income or applicable federal poverty line, as determined under Section 2306.123 or Section 2306.1231.

(18) "Land development" means:

(A) acquiring land for residential housing construction; and

(B) making, installing, or constructing nonresidential improvements that the department determines are necessary or desirable for a housing development to be financed by the department, including:

(i) waterlines and water supply installations;

(ii) sewer lines and sewage disposal installations;

(iii) steam, gas, and electric lines and installations; and

(iv) roads, streets, curbs, gutters, and sidewalks, whether on or off the site.

(19) "Local government" means a county, municipality, special district, or any other political subdivision of the state, a public, nonprofit housing finance corporation created under Chapter 394, Local Government Code, or a combination of those entities.

(20) "Mortgage" means an obligation, including a mortgage, mortgage deed, bond, note, deed of trust, or other instrument, that is a lien:

(A) on real property; or

(B) on a leasehold under a lease having a remaining term that, at the time the lien is acquired, does not expire until after the maturity date of the obligation secured by the lien.

(21) "Mortgage lender" means a bank, trust company, savings bank, mortgage company, mortgage banker, credit union, national banking association, savings and loan association, life insurance company, or other financial institution authorized to transact business in this state and approved as a mortgage lender by the department.

(22) "Mortgage loan" means an obligation secured by a mortgage.

(23) "Municipality" includes only a municipality in this state.

(23-a) "Neighborhood organization" means an organization that is composed of persons living near one another within the organization's defined boundaries for the neighborhood and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. A neighborhood organization includes a homeowners' association or a property owners' association.

(23-b) "New construction" means any construction to a development or a portion of a development that does not meet the definition of rehabilitation under this section.

(24) "Public agency" means the department or any agency, board, authority, department, commission, political subdivision, municipal corporation, district, public corporation, body politic, or instrumentality of this state, including a county, municipality,

housing authority, state-supported institution of higher education, school district, junior college, other district or authority, or other type of governmental entity of this state.

(25) "Real estate owned contractor" means a person required to meet the obligations of a contract with the department for managing and marketing foreclosed property.

(26) "Real property" means land, including improvements and fixtures on the land, property of any nature appurtenant to the land or used in connection with the land, and a legal or equitable estate, interest, or right in land, including leasehold interests, terms for years, and a judgment, mortgage, or other lien.

(26-a) "Rehabilitation" means the improvement or modification of an existing residential development through an alteration, addition, or enhancement. The term includes the demolition of an existing residential development and the reconstruction of any development units, but does not include the improvement or modification of an existing residential development for the purpose of an adaptive reuse of the development.

(27) "Reserve fund" means any reserve fund established by the department.

(28) "Residential housing" means a specific work or improvement undertaken primarily to provide dwelling accommodations, including the acquisition, construction, reconstruction, remodeling, improvement, or rehabilitation of land and buildings and improvements to the buildings for residential housing and other incidental or appurtenant nonhousing facilities.

(28-a) "Rural area" means an area that is located:

(A) outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area; or

(B) within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 25,000 or less and does not share a boundary with an urban area.

(28-b) "Rural development" means a development or proposed development that is located in a rural area, other than rural new construction developments with more than 80 units.

(29) "Servicer" means a person required to meet contractual obligations with the housing finance division or with a mortgage lender relating to a loan financed under Subchapter J, including:

(A) purchasing mortgage certificates backed by mortgage

loans;

(B) collecting principal and interest from the borrower;

(C) sending principal and interest payments to the division;

(D) preparing periodic reports;

(E) notifying the primary mortgage and pool insurers of delinquent and foreclosed loans; and

(F) filing insurance claims on foreclosed property.

(30) "State low income housing plan" means the comprehensive and integrated plan for the state assessment of housing needs and allocation of housing resources.

(31) "Economic submarket" means a group of borrowers who have common home mortgage loan market eligibility characteristics, including income level, credit history or credit score, and employment characteristics, that are similar to Standard and Poor's credit underwriting criteria.

(32) "Geographic submarket" means a geographic region in the state, including a county, census tract, or municipality, that shares similar levels of access to home mortgage credit from the private home mortgage lending industry, as determined by the department based on home mortgage lending data published by federal and state banking regulatory agencies.

(33) "Rural county" means a county that is outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area.

(34) "Subprime loan" means a loan that is originated by a lender designated as a subprime lender on the subprime lender list maintained by the United States Department of Housing and Urban Development or identified as a lender primarily engaged in subprime lending under Section 2306.143.

(35) "Uniform application and funding cycle" means an application and funding cycle established under Section 2306.1111.

(36) "Urban area" means the area that is located within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area other than an area described by Subdivision (28-a)(B) or eligible for funding as described by Subdivision (28-a)(C).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.61, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 980, Sec. 5, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 2.01, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 7, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 857 (H.B. 429), Sec. 1, eff. September 1, 2013.

Sec. 2306.005. REFERENCES TO FORMER LAW. A reference in law to the Texas Housing Agency or the Texas Department of Community Affairs means the Texas Department of Housing and Community Affairs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.006. RULES OF ABOLISHED AGENCIES. Rules of the abolished Texas Housing Agency and the Texas Department of Community Affairs continue in effect as rules of the Texas Department of Housing and Community Affairs until amended or repealed by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.007. ESTABLISHING ECONOMICALLY DEPRESSED OR BLIGHTED AREAS. (a) To establish an economically depressed or blighted area under Section 2306.004(6)(B) or (C), the governing body of a municipality must hold a public hearing and find that the area:

(1) substantially impairs or arrests the sound growth of the municipality; or

(2) is an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.

(b) The governing body of a municipality holding a hearing under this section must give notice as provided by Chapter 551, except that notice must be published not less than 10 days before the date of the hearing.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 980, Sec. 6, eff. Sept. 1, 1997.

Sec. 2306.008. PRESERVATION OF AFFORDABLE HOUSING. (a) The department shall support in the manner described by Subsection (b) the preservation of affordable housing for individuals with special needs, as defined by Section 2306.511, and individuals and families of low income at any location considered necessary by the department.

(b) The department shall support the preservation of affordable housing under this section by:

(1) making low interest financing and grants available to private for-profit and nonprofit buyers who seek to acquire, preserve, and rehabilitate affordable housing; and

(2) prioritizing available funding and financing resources for affordable housing preservation activities.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.01, eff. Sept. 1, 2001.

SUBCHAPTER B. GOVERNING BOARD AND DEPARTMENT

Sec. 2306.022. APPLICATION OF SUNSET ACT. The Texas Department of Housing and Community Affairs is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2029.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1169, Sec. 1.03, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 1.03, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 3, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 74.01, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 1.01, eff. September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 941 (S.B. 1659), Sec. 1.10, eff. June 18, 2023.

Sec. 2306.024. BOARD MEMBERS: APPOINTMENT AND COMPOSITION.

The board consists of seven public members appointed by the governor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.03, eff. Sept. 1, 2001.

Sec. 2306.025. TERMS OF BOARD MEMBERS. Members of the board hold office for staggered terms of six years, with the terms of two or three members expiring on January 31 of each odd-numbered year.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.03, eff. Sept. 1, 2001.

Sec. 2306.027. ELIGIBILITY. (a) The governor shall appoint to the board public members who have a demonstrated interest in issues related to housing and community support services. A person appointed to the board must be a registered voter in the state and may not hold another public office.

(b) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees and shall be made in a manner that produces representation on the board of the different geographical regions of this state. Appointments to the board must broadly reflect the geographic, economic, cultural, and social diversity of the state, including ethnic minorities, persons with disabilities, and women.

(c) A person may not be a member of the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the department;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the department; or

(3) uses or receives a substantial amount of tangible goods, services, or money from the department other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.03, eff. Sept. 1, 2001.

Sec. 2306.028. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the department and the board;

(2) the programs operated by the department;

(3) the role and functions of the department;

(4) the rules of the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the department;

(6) the results of the most recent formal audit of the department;

(7) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552;

(C) the administrative procedure law, Chapter 2001; and

(D) other laws relating to public officials, including conflict-of-interest laws;

(8) the requirements of:

(A) state and federal fair housing laws, including Chapter 301, Property Code, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Section 3601 et seq.), and the Fair Housing Amendments Act of 1988 (42 U.S.C. Section 3601 et seq.);

(B) the Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.);

(C) the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.); and

(D) the Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq.); and

(9) any applicable ethics policies adopted by the

department or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.03, eff. Sept. 1, 2001.

Sec. 2306.030. PRESIDING OFFICER; OTHER OFFICERS. (a) The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the will of the governor. The presiding officer presides at meetings of the board and performs other duties required by this chapter.

(b) The board shall elect the following officers:

(1) from the members of the board, an assistant presiding officer to perform the duties of the presiding officer when the presiding officer is not present or is incapable of performing duties of the presiding officer;

(2) a secretary to be the official custodian of the minutes, books, records, and seal of the board and to perform other duties assigned by the board; and

(3) a treasurer to perform duties assigned by the board.

(c) The offices of secretary and treasurer may be held by one individual, and the holder of each of these offices need not be a board member. The board may appoint one or more individuals who are not members to be assistant secretaries to perform any duty of the secretary.

(d) Officers of the board shall be elected at the first meeting of the board on or after January 31 of each odd-numbered year and at any other time as necessary to fill a vacancy.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.04, eff. Sept. 1, 2001.

Sec. 2306.031. MEMBERS' COMPENSATION. Members of the board serve without compensation but are entitled to reimbursement for

actual expenses incurred in attending board meetings and in performing the duties of a board member.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.032. BOARD MEETINGS. (a) The board may hold meetings when called by the presiding officer, the director, or three of the members.

(b) The board shall keep minutes and complete transcripts of board meetings. The department shall post the transcripts on its website and shall otherwise maintain all accounts, minutes, and other records related to the meetings.

(c) All materials provided to the board that are relevant to a matter proposed for discussion at a board meeting must be posted on the department's website not later than the third day before the date of the meeting.

(d) Any materials made available to the board by the department at a board meeting must be made available in hard copy format to the members of the public in attendance at the meeting.

(e) The board shall conduct its meetings in accordance with Chapter 551, except as otherwise required by this chapter.

(f) For each item on the board's agenda at the meeting, the board shall provide for public comment after the presentation made by department staff and the motions made by the board on that topic.

(g) The board shall adopt rules that give the public a reasonable amount of time for testimony at meetings.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.62, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 980, Sec. 8, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 1.05, eff. Sept. 1, 2001. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 8, eff. September 1, 2007.

Sec. 2306.0321. APPEAL OF BOARD AND DEPARTMENT DECISIONS. (a) The board shall adopt rules outlining a formal process for appealing board and department decisions.

(b) The rules must specify the requirements for appealing a

board or department decision, including:

(1) the persons eligible to appeal;

(2) the grounds for an appeal;

(3) the process for filing an appeal, including the information that must be submitted with an appeal;

(4) a reasonable period in which an appeal must be filed, heard, and decided;

(5) the process by which an appeal is heard and a decision is made;

(6) the possible outcomes of an appeal; and

(7) the process by which notification of a decision and the basis for a decision is given.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.06, eff. Sept. 1, 2001.

Sec. 2306.033. REMOVAL OF MEMBERS. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of taking office the qualifications required by Section 2306.027;

(2) does not maintain during service on the board the qualifications required by Section 2306.027;

(3) is ineligible for membership under Section 2306.027(c), 2306.034, or 2306.035;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term;

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board; or

(6) engages in misconduct or unethical or criminal behavior.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the director has knowledge that a potential ground for removal exists, the director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground

for removal exists. If the potential ground for removal involves the presiding officer, the director shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 9, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 1.03, eff. Sept. 1, 2001.

Sec. 2306.034. DISQUALIFICATION OF MEMBERS AND CERTAIN EMPLOYEES. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board and may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of banking, real estate, housing development, or housing construction; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of banking, real estate, housing development, or housing construction.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.03, eff. Sept. 1, 2001.

Sec. 2306.035. LOBBYIST RESTRICTION. A person may not be a member of the board or act as the director of the department or the general counsel to the board or the department if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.03, eff. Sept. 1, 2001.

Sec. 2306.036. EMPLOYMENT OF DIRECTOR. (a) With the approval of the governor, the board shall employ a director to serve at the pleasure of the board.

(b) After the election of a governor who did not approve the director's employment under Subsection (a), that governor may remove the director and require the board to employ a new director in accordance with Subsection (a). The governor must act under this subsection before the 90th day after the date the governor takes office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 519, Sec. 1, eff. June 18, 1999.

Sec. 2306.037. DIRECTOR'S COMPENSATION. The board shall set the salary of the director.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 519, Sec. 2, eff. June 18, 1999.

Sec. 2306.038. ACTING DIRECTOR. The board shall establish a procedure for designating an acting director and shall, with the approval of the governor, immediately designate an acting director or a new permanent director if the position becomes vacant because of absence or disability. A director designated under this section serves at the pleasure of the board but is subject to removal by a newly elected governor in accordance with Section 2306.036(b).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 519, Sec. 3, eff. June 18, 1999.

Sec. 2306.039. OPEN MEETINGS AND OPEN RECORDS. (a) Except as provided by Subsections (b) and (c), the department and the Texas State Affordable Housing Corporation are subject to Chapters 551 and

552.

(b) Chapters 551 and 552 do not apply to the personal or business financial information, including social security numbers, taxpayer identification numbers, or bank account numbers, submitted by a housing sponsor or an individual or family to receive a loan, grant, or other housing assistance under a program administered by the department or the Texas State Affordable Housing Corporation or from bonds issued by the department, except that the department and the corporation are permitted to disclose information about any applicant in a form that does not reveal the identity of the sponsor, individual, or family for purposes of determining eligibility for programs and in preparing reports required under this chapter.

(c) The department's internal auditor, fraud prevention coordinator, or ethics advisor may meet in an executive session of the board to discuss issues related to fraud, waste, or abuse.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 10, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 9, eff. September 1, 2007.

Sec. 2306.040. DEPARTMENT PARTICIPATION IN LEGISLATIVE HEARING. On request, the department shall participate in any public hearing conducted by a legislator to discuss a rule to be adopted by the department.

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 10, eff. September 1, 2007.

Sec. 2306.041. IMPOSITION OF PENALTY. The board may impose an administrative penalty on a person who violates this chapter or a rule or order adopted under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 10, eff. September 1, 2007.

Sec. 2306.042. AMOUNT OF PENALTY. (a) The amount of an administrative penalty may not exceed $1,000 for each violation.

Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(b) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including:

(A) the nature, circumstance, extent, and gravity of any prohibited act; and

(B) the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the history of previous violations;

(3) the amount necessary to deter a future violation;

(4) efforts made to correct the violation; and

(5) any other matter that justice may require.

(c) The board by rule or through procedures adopted by the board and published in the Texas Register shall develop a standardized penalty schedule based on the criteria listed in Subsection (b).

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 10, eff. September 1, 2007.

Sec. 2306.043. REPORT AND NOTICE OF VIOLATION AND PENALTY. (a) If the director determines that a violation occurred, the director shall issue to the board a report stating:

(1) the facts on which the determination is based; and

(2) the director's recommendation on the imposition of the penalty, including a recommendation on the amount of the penalty.

(b) Not later than the 14th day after the date the report is issued, the director shall give written notice of the report to the person.

(c) The notice must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended penalty; and

(3) inform the person of the person's right to a hearing before the State Office of Administrative Hearings on the occurrence of the violation, the amount of the penalty, or both.

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 10, eff. September 1, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 1.02, eff.

September 1, 2013.

Sec. 2306.044. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Not later than the 20th day after the date the person receives the notice, the person in writing may:

(1) accept the determination and recommended penalty of the director; or

(2) make a request for a hearing before the State Office of Administrative Hearings on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the determination and recommended penalty of the director, the board by order shall approve the determination and impose the recommended penalty.

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 10, eff. September 1, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 1.03, eff. September 1, 2013.

Sec. 2306.045. HEARING. (a) If the person requests a hearing before the State Office of Administrative Hearings or fails to respond in a timely manner to the notice, the director shall set a hearing and give written notice of the hearing to the person.

(b) The State Office of Administrative Hearings shall:

(1) hold the hearing;

(2) make findings of fact and conclusions of law about the occurrence of the violation and the amount of a proposed penalty; and

(3) issue a proposal for decision regarding the penalty and provide notice of the proposal to the board.

(c) Any administrative proceedings relating to the imposition of a penalty under Section 2306.041 is a contested case under Chapter 2001.

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 10, eff. September 1, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 1.04, eff. September 1, 2013.

Sec. 2306.046. DECISION BY BOARD. (a) The board shall issue an order after receiving a proposal for decision from the State Office of Administrative Hearings under Section 2306.045.

(b) The notice of the board's order given to the person must include a statement of the right of the person to judicial review of the order.

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 10, eff. September 1, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 1.05, eff. September 1, 2013.

Sec. 2306.047. OPTIONS FOLLOWING DECISION: PAY OR APPEAL. Not later than the 30th day after the date the board's order becomes final, the person shall:

(1) pay the penalty; or

(2) file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both.

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 10, eff. September 1, 2007.

Sec. 2306.048. STAY OF ENFORCEMENT OF PENALTY. (a) Within the 30-day period prescribed by Section 2306.047, a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review of the board's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the

person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the director by certified mail.

(b) If the director receives a copy of an affidavit under Subsection (a)(2), the director may file with the court, not later than the fifth day after the date the copy is received, a contest to the affidavit.

(c) The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty and to give a supersedeas bond.

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 10, eff. September 1, 2007.

Sec. 2306.049. DECISION BY COURT. (a) Judicial review of a board order imposing an administrative penalty is under the substantial evidence rule.

(b) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.

(c) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed and may award the person reasonable attorney's fees.

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 10, eff. September 1, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 1.06, eff. September 1, 2013.

Sec. 2306.050. REMITTANCE OF PENALTY AND INTEREST. (a) If the person paid the penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person.

(b) The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank.

(c) The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 10, eff. September 1, 2007.

Sec. 2306.0501. RELEASE OF BOND. (a) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond.

(b) If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 10, eff. September 1, 2007.

Sec. 2306.0502. COLLECTION OF PENALTY. (a) If the person does not pay the penalty and the enforcement of the penalty is not stayed, the penalty may be collected.

(b) The attorney general may sue to collect the penalty.

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 10, eff. September 1, 2007.

Sec. 2306.0503. ADMINISTRATIVE PROCEDURE. A proceeding to impose the penalty is considered to be a contested case under Chapter 2001.

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 10, eff. September 1, 2007.

Sec. 2306.0504. DEBARMENT FROM PROGRAM PARTICIPATION. (a) The department shall develop, and the board by rule shall adopt, a policy

providing for the debarment of a person from participation in programs administered by the department.

(b) The department may debar a person from participation in a department program on the basis of the person's past failure to comply with any condition imposed by the department in the administration of its programs.

(c) The department shall debar a person from participation in a department program if the person:

(1) materially or repeatedly violates any condition imposed by the department in connection with the administration of a department program, including a material or repeated violation of a land use restriction agreement regarding a development supported with a housing tax credit allocation; or

(2) is debarred from participation in federal housing programs by the United States Department of Housing and Urban Development.

(d) A person debarred by the department from participation in a department program may appeal the person's debarment to the board.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.
Transferred, redesignated and amended from Government Code, Section 2306.6721 by Acts 2013, 83rd Leg., R.S., Ch. 556 (S.B. 659), Sec. 1, eff. September 1, 2013.
Transferred, redesignated and amended from Government Code, Section 2306.6721 by Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 1.07, eff. September 1, 2013.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 2306.051. SEPARATION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the director and staff of the department.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.07, eff. Sept. 1, 2001.

Sec. 2306.052. DIRECTOR'S POWERS AND DUTIES. (a) The director is the administrator and the head of the department and must be an

individual qualified by training and experience to perform the duties of the office.

(b) The director shall:

(1) administer and organize the work of the department consistent with this chapter and with sound organizational management that promotes efficient and effective operation;

(2) appoint and remove personnel employed by the department;

(3) submit, through and with the approval of the governor, requests for appropriations and other money to operate the department;

(4) administer all money entrusted to the department;

(5) administer all money and investments of the department subject to:

(A) department indentures and contracts;

(B) Sections 2306.118 through 2306.120; and

(C) an action of the board under Section 2306.351; and

(6) perform other functions that may be assigned by the board or the governor.

(c) The director shall develop and implement the policies established by the board that define the responsibilities of each division in the department.

(d) Repealed by Acts 2001, 77th Leg., ch. 1367, Sec. 1.45, eff. Sept. 1, 2001.

(e) The board shall adopt rules and the director shall develop and implement a program to train employees on the public information requirements of Chapter 552. The director shall monitor the compliance of employees with those requirements.

(f) The director shall use existing department resources to provide the board with any administrative support necessary for the board to exercise its duties regarding the implementation of this chapter, including:

(1) assigning personnel to assist the board;

(2) providing office space, equipment, and documents and other information to the board; and

(3) making in-house legal counsel available to the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.64(a), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 519, Sec. 4, eff. June 18, 1999;

Acts 2001, 77th Leg., ch. 1367, Sec. 1.08, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 1.45, eff. Sept. 1, 2001.

Sec. 2306.0521. ORGANIZATIONAL FLEXIBILITY OF DEPARTMENT. (a) Notwithstanding Section 2306.021(b) or any other provision of this chapter, the director, with the approval of the board, may:

(1) create divisions in addition to those listed in Section 2306.021(b) and assign to the newly created divisions any duties and powers imposed on or granted to an existing division or the department generally;

(2) eliminate any division listed in Section 2306.021(b) or created under this section and assign any duties or powers previously assigned to the eliminated division to another division listed in Section 2306.021(b) or created under this section; or

(3) eliminate all divisions listed in Section 2306.021(b) or created under this section and reorganize the distribution of powers and duties granted to or imposed on a division in any manner the director determines appropriate for the proper administration of the department.

(b) This section does not apply to the manufactured housing division.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.07, eff. Sept. 1, 2001.

Sec. 2306.053. DEPARTMENT POWERS AND DUTIES. (a) The department shall maintain suitable headquarters and other offices in this state that the director determines are necessary.

(b) The department may:

(1) sue and be sued, or plead and be impleaded;

(2) act for and on behalf of this state;

(3) adopt an official seal or alter it;

(4) adopt and enforce bylaws and rules;

(5) contract with the federal government, state, any public agency, mortgage lender, person, or other entity;

(6) designate mortgage lenders to act for the department for the origination, processing, and servicing of the department's mortgage loans under conditions agreed to by the parties;

(7) provide, contract, or arrange for consolidated processing of a housing development to avoid duplication;

(8) encourage homeless individuals and individuals of low or very low income to attend the department's educational programs and assist those individuals in attending the programs;

(9) appoint and determine the qualifications, duties, and tenure of its agents, counselors, and professional advisors, including accountants, appraisers, architects, engineers, financial consultants, housing construction and financing experts, and real estate consultants;

(10) administer federal housing, community affairs, or community development programs, including the low income housing tax credit program;

(11) establish eligibility criteria for individuals and families of low, very low, and families of moderate income to participate in and benefit from programs administered by the department;

(12) execute funding agreements;

(13) obtain, retain, and disseminate records and other documents in electronic form; and

(14) do all things necessary, convenient, or desirable to carry out the powers expressly granted or necessarily implied by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.62(c), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 980, Sec. 11, eff. Sept. 1, 1997.

Sec. 2306.054. SPECIAL ADVISORY COUNCILS. (a) The governor or director may appoint special advisory councils to:

(1) assist the department in reviewing basic policy; or

(2) offer advice on technical aspects of certain programs.

(b) A special advisory council is dissolved on completion of its stated purpose unless continued by the governor or director.

(c) A special advisory council is subject to Chapter 2110, including Section 2110.008(a) but not including Section 2110.008(b).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Renumbered from Government Code Sec. 2306.094 and amended by Acts 1995, 74th Leg. ch. 76, Sec. 5.70(a), eff. Sept. 1, 1995.

Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 11, eff. September 1, 2007.

Sec. 2306.055. TRANSFERS FROM GOVERNOR. The governor may transfer to any division personnel, equipment, records, obligations, appropriations, functions, and duties of appropriate divisions of the governor's office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Renumbered from Government Code Sec. 2306.095 and amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.71(a), eff. Sept. 1, 1995.

Sec. 2306.056. COMMITTEES. (a) The presiding officer may appoint a committee composed of board members to carry out the board's duties.

(b) The board may consider a recommendation of a committee in making a decision under this chapter.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.63(a), eff. Sept. 1, 1995.

Sec. 2306.057. COMPLIANCE ASSESSMENT REQUIRED FOR PROJECT APPROVAL BY BOARD. (a) Before the board approves any project application submitted under this chapter, the department, through the division with responsibility for compliance matters, shall:

(1) assess:

(A) the compliance history in this state of the applicant and any affiliate of the applicant with respect to all applicable requirements; and

(B) the compliance issues associated with the proposed project; and

(2) provide to the board a written report regarding the results of the assessments described by Subdivision (1).

(b) The written report described by Subsection (a)(2) must be included in the appropriate project file for board and department review.

(c) The board shall fully document and disclose any instances

in which the board approves a project application despite any noncompliance associated with the project, applicant, or affiliate that is reported by the department under Subsection (a)(2).

(d) In assessing the compliance of the project, applicant, or affiliate, the board shall consider any relevant compliance information in the department's database created under Section 2306.081, including compliance information provided to the department by the Texas State Affordable Housing Corporation.

(e) For a project application seeking financial assistance administered through the department's multifamily housing programs, the department may not include in the report provided under Subsection (a)(2) any instance of noncompliance associated with a project of the applicant or affiliate of the applicant if the applicant or affiliate has submitted documentation, in a format acceptable to the department, demonstrating that the responsibility for project compliance was delegated to another participant in the project, including, if applicable, a related party as defined by Section 2306.6702.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.07, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 332, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 12, eff. September 1, 2007.

Acts 2021, 87th Leg., R.S., Ch. 527 (S.B. 2046), Sec. 1, eff. September 1, 2021.

SUBCHAPTER D. GENERAL ADMINISTRATIVE PROVISIONS

Sec. 2306.061. STANDARDS OF CONDUCT. The director or the director's designee shall become aware of and provide to members of the board and to department employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.09, eff. Sept. 1, 2001.

Sec. 2306.063. PERFORMANCE EVALUATIONS. The director or the director's designee shall develop a system of annual performance evaluations. All merit pay for department employees must be based on the system established under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.064. EQUAL EMPLOYMENT OPPORTUNITIES. (a) The director or the director's designee shall prepare and maintain a written policy statement to ensure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) a comprehensive analysis of the department work force that meets federal and state guidelines;

(2) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(3) procedures by which a determination can be made of significant underuse in the department work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(b) A policy statement prepared under Subsection (a) must cover an annual period, be updated at least annually, and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.065. DISCRIMINATION PROHIBITED. An individual may not, because of that individual's race, color, national origin, or sex, be excluded from participation, be denied benefits, or be

subjected to discrimination in any program or activity funded in whole or in part with funds made available under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.066. INFORMATION AND COMPLAINTS. (a) The department shall prepare information of public interest describing the functions of the department and the procedures by which complaints are filed with and resolved by the department. The department shall make the information available to the public and appropriate state agencies.

(b) The department shall maintain a file on each written complaint filed with the department. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the department;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the department closed the file without taking action other than to investigate the complaint.

(c) The department shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the department's policies and procedures relating to complaint investigation and resolution. The department, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

(d) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

(e) The director shall prepare and maintain a written plan that describes how an individual who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to and participation in the department's programs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.10, eff. Sept. 1,

2001.

Sec. 2306.067. LOANED EMPLOYEES. (a) The director may enter into reciprocal agreements with a state agency or instrumentality or local government to loan or assign department employees to that entity.

(b) A state agency or instrumentality or local government may loan or assign employees to the department, with or without reimbursement, by agreement between the department and the other party. The department may contract to reimburse all costs incidental to loaning or assigning employees.

(c) An employee loaned or assigned to the department is an employee of the lending agency or unit for purposes of salary, leave, retirement, and other personnel benefits. The loaned or assigned employee is under the supervision of personnel of the department and is an employee of the department for all other purposes.

(d) The director may enter into an agreement with the manufactured housing division to loan or assign department employees, equipment, and facilities to that division.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.12, eff. Sept. 1, 2001.

Sec. 2306.068. INTERAGENCY COOPERATION. An agency or institution of the state shall cooperate with the department by providing personnel, information, and technical advice as the department assists the governor in:

(1) the coordination of federal and state activities affecting local government; and

(2) providing affordable housing for individuals and families of low and very low income and families of moderate income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.069. LEGAL COUNSEL. (a) With the approval of the attorney general, the department may hire appropriate outside legal counsel.

(b) The department may hire in-house legal counsel. The director shall prescribe the duties of the legal counsel.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.68(a), eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 13, eff. September 1, 2007.

Sec. 2306.0705. GENERAL APPROPRIATIONS ACT. Except as specifically provided by this chapter, the department is subject to the General Appropriations Act.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.65(a), eff. Sept. 1, 1995.

Sec. 2306.071. FUNDS. (a) The department may request, contract for, receive, and spend for its purposes an appropriation, grant, allocation, subsidy, rent supplement, guarantee, aid, contribution, gift, service, labor, or material from this state, the federal government, or another public or private source.

(b) The funds and revenues of the housing finance division shall be kept separate from the funds and revenues of the other divisions, and the other divisions may use funds and revenues of the housing finance division only to administer housing-related programs.

(c) Except for legislative appropriations, funds necessary for the operation of the housing finance division, and trustee-held funds of the department under a multifamily bond indenture, all funds and revenue received by the housing finance division are to be kept outside the state treasury.

(d) Legislative appropriations to the housing finance division and the operating funds of the division shall be kept in the state treasury. Trustee-held funds of the department under a multifamily bond indenture are held by the trustee as provided by the indenture.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.65(b), eff. Sept. 1, 1995.

Sec. 2306.072. ANNUAL LOW INCOME HOUSING REPORT. (a) Not later than March 18 of each year, the director shall prepare and submit to the board an annual report of the department's housing activities for the preceding year.

(b) Not later than the 30th day after the date the board receives and approves the report, the board shall submit the report to the governor, lieutenant governor, speaker of the house of representatives, and members of any legislative oversight committee.

(c) The report must include:

(1) a complete operating and financial statement of the department;

(2) a comprehensive statement of the activities of the department during the preceding year to address the needs identified in the state low income housing plan prepared as required by Section 2306.0721, including:

(A) a statistical and narrative analysis of the department's performance in addressing the housing needs of individuals and families of low and very low income;

(B) the ethnic and racial composition of individuals and families applying for and receiving assistance from each housing-related program operated by the department;

(C) the department's progress in meeting the goals established in the previous housing plan, including goals established with respect to the populations described by Section 2306.0721(c)(1); and

(D) recommendations on how to improve the coordination of department services to the populations described by Section 2306.0721(c)(1);

(3) an explanation of the efforts made by the department to ensure the participation of individuals of low income and their community-based institutions in department programs that affect them;

(4) a statement of the evidence that the department has made an affirmative effort to ensure the involvement of individuals of low income and their community-based institutions in the allocation of funds and the planning process;

(5) a statistical analysis, delineated according to each ethnic and racial group served by the department, that indicates the progress made by the department in implementing the state low income

housing plan in each of the uniform state service regions;

(6) an analysis, based on information provided by the fair housing sponsor reports required under Section 2306.0724 and other available data, of fair housing opportunities in each housing development that receives financial assistance from the department that includes the following information for each housing development that contains 20 or more living units:

(A) the street address and municipality or county in which the property is located;

(B) the telephone number of the property management or leasing agent;

(C) the total number of units, reported by bedroom size;

(D) the total number of units, reported by bedroom size, designed for individuals who are physically challenged or who have special needs and the number of these individuals served annually;

(E) the rent for each type of rental unit, reported by bedroom size;

(F) the race or ethnic makeup of each project;

(G) the number of units occupied by individuals receiving government-supported housing assistance and the type of assistance received;

(H) the number of units occupied by individuals and families of extremely low income, very low income, low income, moderate income, and other levels of income;

(I) a statement as to whether the department has been notified of a violation of the fair housing law that has been filed with the United States Department of Housing and Urban Development, the Commission on Human Rights, or the United States Department of Justice; and

(J) a statement as to whether the development has any instances of material noncompliance with bond indentures or deed restrictions discovered through the normal monitoring activities and procedures that include meeting occupancy requirements or rent restrictions imposed by deed restriction or financing agreements;

(7) a report on the geographic distribution of low income housing tax credits, the amount of unused low income housing tax credits, and the amount of low income housing tax credits received from the federal pool of unused funds from other states; and

(8) a statistical analysis, based on information provided by the fair housing sponsor reports required by Section 2306.0724 and other available data, of average rents reported by county.

(d) Repealed by Acts 2003, 78th Leg., ch. 330, Sec. 31(1).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 980, Sec. 13, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 226, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 4.01, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 31(1), eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 15, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 389 (S.B. 109), Sec. 1, eff. June 14, 2013.

Sec. 2306.0721. LOW INCOME HOUSING PLAN. (a) Not later than March 18 of each year, the director shall prepare and submit to the board an integrated state low income housing plan for the next year.

(b) Not later than the 30th day after the date the board receives and approves the plan, the board shall submit the plan to the governor, lieutenant governor, and the speaker of the house of representatives.

(c) The plan must include:

(1) an estimate and analysis of the size and the different housing needs of the following populations in each uniform state service region:

(A) individuals and families of moderate, low, very low, and extremely low income;

(B) individuals with special needs;

(C) homeless individuals;

(D) veterans;

(E) farmworkers;

(F) youth who are aging out of foster care;

(G) homeless youth, as defined by Section 2306.1101, and other individuals older than 18 years of age and younger than 25 years of age who are homeless; and

(H) elderly individuals;

(2) a proposal to use all available housing resources to address the housing needs of the populations described by Subdivision (1) by establishing funding levels for all housing-related programs;

(3) an estimate of the number of federally assisted housing units available for individuals and families of low and very low income and individuals with special needs in each uniform state service region;

(4) a description of state programs that govern the use of all available housing resources;

(5) a resource allocation plan that targets all available housing resources to individuals and families of low and very low income and individuals with special needs in each uniform state service region;

(6) a description of the department's efforts to monitor and analyze the unused or underused federal resources of other state agencies for housing-related services and services for homeless individuals and the department's recommendations to ensure the full use by the state of all available federal resources for those services in each uniform state service region;

(7) strategies to provide housing for individuals and families with special needs in each uniform state service region;

(8) a description of the department's efforts to encourage in each uniform state service region the construction of housing units that incorporate energy efficient construction and appliances;

(9) an estimate and analysis of the housing supply in each uniform state service region;

(10) an inventory of all publicly and, where possible, privately funded housing resources, including public housing authorities, housing finance corporations, community housing development organizations, and community action agencies;

(11) strategies for meeting rural housing needs;

(12) a biennial action plan for colonias that:

(A) addresses current policy goals for colonia programs, strategies to meet the policy goals, and the projected outcomes with respect to the policy goals; and

(B) includes information on the demand for contract-for-deed conversions, services from self-help centers, consumer education, and other colonia resident services in counties some part of which is within 150 miles of the international border of this state;

(13) a summary of public comments received at a hearing under this chapter or from another source that concern the demand for colonia resident services described by Subdivision (12); and

(13-a) information regarding foreclosures of residential property in this state, including the number and geographic location of those foreclosures.

(d) The priorities and policies in another plan adopted by the department must be consistent to the extent practical with the priorities and policies established in the state low income housing plan.

(e) To the extent consistent with federal law, the preparation and publication of the state low income housing plan shall be consistent with the filing and publication deadlines required of the department for the consolidated plan.

(f) The director may subdivide the uniform state service regions as necessary for purposes of the state low income housing plan.

(g) The department shall include the plan developed by the Texas State Affordable Housing Corporation under Section 2306.566 in the department's resource allocation plan under Subsection (c)(5).

(h) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1341, Sec. 42, eff. September 1, 2007.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 14, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 226, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 1.13, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 5, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 332, Sec. 5, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 16, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 42, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 389 (S.B. 109), Sec. 2, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 61, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 825 (H.B. 2564), Sec. 1, eff. September 1, 2019.

Sec. 2306.0722. PREPARATION OF PLAN AND REPORT. (a) Before preparing the annual low income housing report under Section 2306.072 and the state low income housing plan under Section 2306.0721, the department shall meet with regional planning commissions created under Chapter 391, Local Government Code, representatives of groups with an interest in low income housing, nonprofit housing organizations, managers, owners, and developers of affordable housing, local government officials, residents of low income housing, and members of the Colonia Resident Advisory Committee. The department shall obtain the comments and suggestions of the representatives, officials, residents, and members about the prioritization and allocation of the department's resources in regard to housing.

(b) In preparing the annual report under Section 2306.072 and the state low income housing plan under Section 2306.0721, the director shall:

(1) coordinate local, state, and federal housing resources, including tax exempt housing bond financing and low income housing tax credits;

(2) set priorities for the available housing resources to help the neediest individuals;

(3) evaluate the success of publicly supported housing programs;

(4) survey and identify the unmet housing needs of individuals the department is required to assist;

(5) ensure that housing programs benefit an individual without regard to the individual's race, ethnicity, sex, or national origin;

(6) develop housing opportunities for individuals and families of low and very low income and individuals with special housing needs;

(7) develop housing programs through an open, fair, and public process;

(8) set priorities for assistance in a manner that is appropriate and consistent with the housing needs of the populations described by Section 2306.0721(c)(1);

(9) incorporate recommendations that are consistent with the consolidated plan submitted annually by the state to the United

States Department of Housing and Urban Development;

(10) identify the organizations and individuals consulted by the department in preparing the annual report and state low income housing plan and summarize and incorporate comments and suggestions provided under Subsection (a) as the board determines to be appropriate;

(11) develop a plan to respond to changes in federal funding and programs for the provision of affordable housing;

(12) use the following standardized categories to describe the income of program applicants and beneficiaries:

(A) 0 to 30 percent of area median income adjusted for family size;

(B) more than 30 to 60 percent of area median income adjusted for family size;

(C) more than 60 to 80 percent of area median income adjusted for family size;

(D) more than 80 to 115 percent of area median income adjusted for family size; or

(E) more than 115 percent of area median income adjusted for family size;

(13) use the most recent census data combined with existing data from local housing and community service providers in the state, including public housing authorities, housing finance corporations, community housing development organizations, and community action agencies; and

(14) provide the needs assessment information compiled for the report and plan to the Texas State Affordable Housing Corporation.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 15, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 1.14, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 332, Sec. 6, eff. Sept. 1, 2003.

Sec. 2306.0723. REPORT CONSIDERED AS RULE. The department shall consider the annual low income housing report to be a rule and in developing the report shall follow rulemaking procedures required by Chapter 2001.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 16, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 1.15, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 17, eff. September 1, 2007.

Sec. 2306.0724. FAIR HOUSING SPONSOR REPORT. (a) The department shall require the owner of each housing development that receives financial assistance from the department and that contains 20 or more living units to submit an annual fair housing sponsor report. The report must include the relevant information necessary for the analysis required by Section 2306.072(c)(6). In compiling the information for the report, the owner of each housing development shall use data current as of January 1 of the reporting year.

(b) The department shall adopt rules regarding the procedure for filing the report.

(c) The department shall maintain the reports in electronic and hard-copy formats readily available to the public at no cost.

(d) A housing sponsor who fails to file a report in a timely manner is subject to the following sanctions, as determined by the department:

(1) denial of a request for additional funding; or

(2) an administrative penalty in an amount not to exceed $1,000, assessed in the manner provided for an administrative penalty under Section 2306.6023.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 4.02, eff. Sept. 1, 2001.

Sec. 2306.073. INTERNAL AUDIT. (a) The director, with the approval of the board, shall appoint an internal auditor who reports directly to the board and serves at the pleasure of the board.

(b) The internal auditor shall:

(1) prepare an annual audit plan using risk assessment techniques to rank high-risk functions in the department; and

(2) submit the annual audit plan to the director and board

for consideration and approval or change as necessary or advisable.

(c) The internal auditor may bring before the director or board an issue outside the annual audit plan that requires the immediate attention of the director or board.

(d) The internal auditor may not be assigned any operational or management responsibilities that impair the ability of the internal auditor to make an independent examination of the department's operations.

(e) The department shall give the internal auditor unrestricted access to activities and records of the department unless restricted by other law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.67(a), eff. Sept. 1, 1995.

Sec. 2306.074. AUDIT. (a) The department's books and accounts must be audited each fiscal year by a certified public accountant or, if requested by the department and if the legislative audit committee approves including the audit in the audit plan under Section 321.013(c), by the state auditor. A copy of the audit must be filed with the governor, the comptroller, and the legislature not later than the 30th day after the submission date for the annual financial report as required by the General Appropriations Act. If the state auditor is conducting the audit and it is not available by the 30th day after the submission date as required by the General Appropriations Act for annual financial reporting, it must be filed as soon as it is available.

(b) The department shall pay for the audit.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(b), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1035, Sec. 67, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 785, Sec. 48, eff. Sept. 1, 2003.

Sec. 2306.075. TAX EXEMPTION. The property of the department, its income, and its operations are exempt from all taxes and assessments imposed by this state and all public agencies on property acquired or used by the department under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.076. INSURANCE. (a) The board may purchase from department funds liability insurance for the director, board members, officers, and employees of the department.

(b) The board may purchase the insurance in an amount the board considers reasonably necessary to:

(1) insure against reasonably foreseeable liabilities; and

(2) provide for all costs of defending against those liabilities, including court costs and attorney's fees.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(c), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 17, eff. Sept. 1, 1997.

Sec. 2306.077. INTERNET AVAILABILITY. (a) In this section, "Internet" means the largest, nonproprietary, nonprofit, cooperative, public computer network, popularly known as the Internet.

(b) The department, to the extent it considers it to be feasible and appropriate, shall make information on the department's programs, public hearings, and scheduled public meetings available to the public on the Internet.

(c) The access to information allowed by this section is in addition to the public's free access to the information through other electronic or print distribution of the information and does not alter, diminish, or relinquish any copyright or other proprietary interest or entitlement of this state or a private entity under contract with this state.

(d) The department shall provide for annual housing sponsor reports required by Section 2306.0724 to be filed through the Internet.

(e) The department shall provide for reports regarding housing units designed for persons with disabilities made under Section 2306.078 to be filed through the Internet.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 18, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 4.03, eff. Sept. 1, 2001.

Sec. 2306.078. INFORMATION REGARDING HOUSING FOR PERSONS WITH DISABILITIES. (a) The department shall establish a system that requires owners of state or federally assisted housing developments with 20 or more housing units to report information regarding housing units designed for persons with disabilities.

(b) The system must provide for each owner of a development described by Subsection (a) with at least one housing unit designed for a person with a disability to enter the following information on the department's Internet site:

(1) the name, if any, of the development;

(2) the street address of the development;

(3) the number of housing units in the development that are designed for persons with disabilities and that are available for lease;

(4) the number of bedrooms in each housing unit designed for a person with a disability;

(5) the special features that characterize each housing unit's suitability for a person with a disability;

(6) the rent for each housing unit designed for a person with a disability; and

(7) the telephone number and name of the development manager or agent to whom inquiries by prospective tenants may be made.

(c) The department shall require each owner to maintain updated contact information under Subsection (b)(7) and shall solicit the owner's voluntary provision of updated information under Subsections (b)(3) and (6).

(d) The department shall make information provided under this section available to the public in electronic and hard-copy formats at no cost.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 4.04, eff. Sept. 1, 2001.

Sec. 2306.080. DATABASE INFORMATION SPECIALIST. The director shall appoint a database information specialist. The primary responsibility of the database information specialist is to provide for the effective and efficient dissemination to the public of information related to affordable housing and community development

in a form that is accessible, widely available, and easily used.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 5.01, eff. Sept. 1, 2001.

Sec. 2306.081. PROJECT COMPLIANCE; DATABASE. (a) The department, through the division with responsibility for compliance matters, shall monitor for compliance with all applicable requirements the entire construction phase associated with any project under this chapter. The monitoring level for each project must be based on the amount of risk associated with the project.

(b) After completion of a project's construction phase, the department shall periodically review the performance of the project to confirm the accuracy of the department's initial compliance evaluation during the construction phase.

(c) The department shall use the division responsible for credit underwriting matters and the division responsible for compliance matters to determine the amount of risk associated with each project.

(d) The department shall create an easily accessible database that contains all project compliance information developed under this chapter, including project compliance information provided to the department by the Texas State Affordable Housing Corporation.

(e) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1341, Sec. 42, eff. September 1, 2007.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.09, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 332, Sec. 7, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 42, eff. September 1, 2007.

Sec. 2306.082. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The department shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures

under Chapter 2009 to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The department's procedures relating to alternative dispute resolution must designate the State Office of Administrative Hearings as the primary mediator and, to the extent practicable, conform to any guidelines or rules issued by that office.

(c) The department shall designate a person employed by or appointed to the office of the director but who is not in the legal division to coordinate and process requests for the alternative dispute resolution procedures. The person must receive training from an independent source in alternative dispute resolution not later than the 180th day after the date the person was designated to coordinate and process requests for the alternative dispute resolution procedures.

(d) The department shall notify a person requesting the alternative dispute resolution procedures that:

(1) an alternative dispute resolution decision is not binding on the state; and

(2) the department will mediate in good faith.

(e) The alternative dispute resolution procedures may be requested before the board makes a final decision.

(f) Notwithstanding any other provision of this section, the alternative dispute resolution procedures may not be used to unnecessarily delay a proceeding under this chapter.

Added by Acts 2003, 78th Leg., ch. 330, Sec. 7, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 18, eff. September 1, 2007.

Sec. 2306.083. APPLICATION REQUIREMENT FOR COLONIAS PROJECTS. (a) In this section, "colonia" means a geographic area that:

(1) is an economically distressed area as defined by Section 17.921, Water Code;

(2) is located in a county any part of which is within 62 miles of an international border; and

(3) consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(2), eff. September 1, 2019.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(2), eff. September 1, 2019.

(d) Regarding any projects funded by the department that provide assistance to colonias, the department shall require an applicant for the funds to submit to the department a colonia classification number, if one exists, for each colonia that may be served by the project proposed in the application. If a colonia does not have a classification number, the department may contact the secretary of state or the secretary of state's representative to obtain the classification number. On request of the department, the secretary of state or the secretary of state's representative shall assign a classification number to the colonia.

Added by Acts 2005, 79th Leg., Ch. 828 (S.B. 827), Sec. 4, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 341 (S.B. 99), Sec. 8, eff. June 15, 2007.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 2.07, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 2.08, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 3.01(2), eff. September 1, 2019.

SUBCHAPTER E. COMMUNITY AFFAIRS AND COMMUNITY DEVELOPMENT PROGRAMS

Sec. 2306.092. DUTIES REGARDING CERTAIN PROGRAMS CREATED UNDER FEDERAL LAW. The department shall administer, as appropriate under policies established by the board:

(1) state responsibilities for programs created under the federal Economic Opportunity Act of 1964 (42 U.S.C. Section 2701 et seq.);

(2) programs assigned to the department under the Omnibus Budget Reconciliation Act of 1981 (Pub.L. No. 97-35); and

(3) other federal acts creating economic opportunity programs assigned to the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.69(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 994, Sec. 4, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1367, Sec. 1.16, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 19, eff. September 1, 2007.

Sec. 2306.093. HOUSING ASSISTANCE GOAL. By action of the board the community affairs division shall have a goal to apply a minimum of 25 percent of the division's total housing-related funds toward housing assistance for individuals and families of very low income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.094. SERVICES FOR THE HOMELESS. The department shall administer the state's allocation of federal funds provided under the Emergency Shelter Grants Program (42 U.S.C. Section 11371 et seq.), as amended, or its successor program, and any other federal funds provided for the benefit of homeless individuals and families.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 20, eff. Sept. 1, 1997.

Sec. 2306.097. ENERGY SERVICES PROGRAM FOR LOW-INCOME INDIVIDUALS. (a) The Energy Services Program for Low-Income Individuals shall operate in conjunction with the community services block grant program and has jurisdiction and responsibility for administration of the following elements of the State Low-Income Energy Assistance Program, from whatever sources funded:

(1) the Energy Crisis Intervention Program;

(2) the weatherization program; and

(3) the Low-Income Home Energy Assistance Program.

(b) Applications, forms, and educational materials for a program administered under Subsection (a)(1), (2), or (3) must be provided in English, Spanish, and any other appropriate language.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.72(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 980, Sec. 21, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 600 (H.B. 434), Sec. 1, eff. June 19, 2009.

Sec. 2306.0985. RECOVERY OF FUNDS FROM CERTAIN SUBDIVISIONS. (a) It is the intent of the legislature that a private developer not unduly benefit from the expenditure by the state of public funds on infrastructure for public benefit.

(b) This section applies only to property located in:

(1) the unincorporated area of an affected county, as defined by Section 16.341, Water Code; and

(2) an economically distressed area, as defined by Section 16.341, Water Code.

(c) As a condition for the receipt of state funds, and to the extent permitted by law, federal funds, the department may require a political entity with authority to tax and place a lien on property to place a lien or assessment on property that benefits from the expenditure of state or federal funds for water, wastewater, or drainage improvements affecting the property. The lien or assessment may not exceed an amount equal to the cost of making the improvements as those costs relate to the property. The lien or assessment expires 10 years after the date the improvements are completed.

(d) If property subject to a lien or assessment under Subsection (c) is sold, the seller must pay to the political entity from the proceeds of the sale an amount equal to the value of the lien or assessment. This subsection does not apply if:

(1) the reason for the sale is:

(A) the disposition of the estate following the death of the owner of the property; or

(B) the owner because of physical condition must reside in a continuous care facility and no longer resides on the property; or

(2) the owner of the property is a person of low or moderate income.

(e) If property subject to a lien or assessment under Subsection (c) is repossessed by the holder of a note or a contract for deed, the holder must pay to the political entity an amount equal to the value of the lien or assessment before taking possession of the property.

(f) Subject to rules adopted by the department, a political entity shall collect payments made under this section and remit the funds for deposit in the treasury to the credit of a special account in the general revenue fund that may be appropriated only to the department for use in administering a program under Section 2306.098.

(g) After public notice and comment, the department shall adopt rules to administer this section. The department may provide by rule for the reduction or waiver of a fee authorized by this section.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 28, eff. June 16, 1995.

SUBCHAPTER F. HOUSING FINANCE DIVISION: GENERAL PROVISIONS

Sec. 2306.111. HOUSING FUNDS. (a) The department, through the housing finance division, shall administer all federal housing funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12704 et seq.) or any other affordable housing program.

(b) The housing finance division shall adopt a goal to apply an aggregate minimum of 25 percent of the division's total housing funds toward housing assistance for individuals and families of extremely low and very low income.

(c) In administering federal housing funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.), the department shall expend:

(1) 95 percent of these funds for the benefit of non-participating small cities and rural areas that do not qualify to receive funds under the Cranston-Gonzalez National Affordable Housing Act directly from the United States Department of Housing and Urban Development; and

(2) five percent of these funds for the benefit of persons with disabilities who live in any area of this state.

(c-1) The following entities are eligible to apply for set-aside funds under Subsection (c):

(1) nonprofit providers of affordable housing, including community housing development organizations; and

(2) for-profit providers of affordable housing.

(c-2) In allocating set-aside funds under Subsection (c), the department may not give preference to nonprofit providers of affordable housing, except as required by federal law.

(c-3) In administering funds that are set aside for persons with disabilities under Subsection (c)(2) and allocated through the homebuyer assistance program, the department:

(1) may not require a person to enter into a contract to purchase a home before applying for or reserving funds allocated through the program; and

(2) by rule shall implement a preapproval process under which a person:

(A) before funds allocated through the program are made available, may establish eligibility to receive those funds; and

(B) has an adequate period of at least 90 days in which to locate a home for purchase using funds made available under the program.

(d) The department shall allocate housing funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.), housing trust funds administered by the department under Sections 2306.201-2306.206, and commitments issued under the federal low income housing tax credit program administered by the department under Subchapter DD to all urban areas and rural areas of each uniform state service region based on a formula developed by the department under Section 2306.1115. If the department determines under the formula that an insufficient number of eligible applications for assistance out of funds or credits allocable under this subsection are submitted to the department from a particular uniform state service region, the department shall use the unused funds or credits allocated to that region for all urban areas and rural areas in other uniform state service regions based on identified need and financial feasibility.

(d-1) In allocating low income housing tax credit commitments under Subchapter DD, the department shall, before applying the regional allocation formula prescribed by Section 2306.1115, set aside for at-risk developments, as defined by Section 2306.6702, not less than the minimum amount of housing tax credits required under Section 2306.6714. Funds or credits are not required to be allocated according to the regional allocation formula under Subsection (d) if:

(1) the funds or credits are reserved for contract-for-deed conversions or for set-asides mandated by state or federal law and each contract-for-deed allocation or set-aside allocation equals not more than 10 percent of the total allocation of funds or credits for the applicable program;

(2) the funds or credits are allocated by the department primarily to serve persons with disabilities; or

(3) the funds are housing trust funds administered by the department under Sections 2306.201-2306.206 that are not otherwise required to be set aside under state or federal law and do not exceed $3 million for each programmed activity during each application cycle.

(d-2) In allocating low income housing tax credit commitments under Subchapter DD, the department shall allocate five percent of the housing tax credits in each application cycle to developments that receive federal financial assistance through the Texas Rural Development Office of the United States Department of Agriculture. Any funds allocated to developments under this subsection that involve rehabilitation must come from the funds set aside for at-risk developments under Section 2306.6714 and any additional funds set aside for those developments under Subsection (d-1). This subsection does not apply to a development financed wholly or partly under Section 538 of the Housing Act of 1949 (42 U.S.C. Section 1490p-2) unless the development involves the rehabilitation of an existing property that has received and will continue to receive as part of the financing of the development federal financial assistance provided under Section 515 of the Housing Act of 1949 (42 U.S.C. Section 1485).

(d-3) In allocating low income tax credit commitments under Subchapter DD, the department shall allocate to developments in rural areas 20 percent or more of the housing tax credits in the state in the application cycle, with $500,000 or more in housing tax credits being reserved for each uniform state service region under this subsection. Any amount of housing tax credits set aside for developments in a rural area in a specific uniform state service region under this subsection that remains after the initial allocation of housing tax credits is available for allocation to developments in any other rural area first, and then is available to developments in urban areas of any uniform state service region.

(d-4) A proposed or existing development that, before September 1, 2013, has been awarded or has received federal financial assistance provided under Section 514, 515, or 516 of the Housing Act of 1949 (42 U.S.C. Section 1484, 1485, or 1486) may apply for low income housing tax credits allocated under Subsection (d-2) or (d-3) for the uniform state service region in which the development is

located regardless of whether the development is located in a rural area.

(e) The department shall include in its annual low income housing plan under Section 2306.0721:

(1) the formula developed by the department under Section 2306.1115; and

(2) the allocation targets established under the formula for the urban areas and rural areas of each uniform state service region.

(f) The department shall include in its annual low income housing report under Section 2306.072 the amounts of funds and credits allocated to the urban areas and rural areas of each uniform state service region in the preceding year for each federal and state program affected by the requirements of Subsection (d).

(g) For all urban areas and rural areas of each uniform state service region, the department shall establish funding priorities to ensure that:

(1) funds are awarded to project applicants who are best able to meet recognized needs for affordable housing, as determined by department rule;

(2) when practicable and when authorized under Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42), the least restrictive funding sources are used to serve the lowest income residents; and

(3) funds are awarded based on a project applicant's ability, when consistent with Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42), practicable, and economically feasible, to:

(A) provide the greatest number of quality residential units;

(B) serve persons with the lowest percent area median family income;

(C) extend the duration of the project to serve a continuing public need;

(D) use other local funding sources to minimize the amount of state subsidy needed to complete the project; and

(E) provide integrated, affordable housing for individuals and families with different levels of income.

(h) The department by rule shall adopt a policy providing for the reallocation of financial assistance administered by the

department, including financial assistance related to bonds issued by the department, if the department's obligation with respect to that assistance is prematurely terminated.

(i) The director shall designate an employee of the department to act as the information officer and as a liaison with the public regarding each application seeking an allocation of housing funds described by this section.

(j) Notwithstanding any other law, money provided to this state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.) as a one-time lump sum for a specified use:

(1) is not subject to the allocation requirements under this section or the allocation formula developed by the department under Section 2306.1115; and

(2) may be allocated for the benefit of any area of this state in the manner specified under federal law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.75(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 980, Sec. 23, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 421, Sec. 1, eff. Sept. 1, 2000; Acts 2001, 77th Leg., ch. 1367, Sec. 1.17, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 6.01, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1448, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 8, 9, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 3, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 4, eff. September 1, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 74.02, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 857 (H.B. 429), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 395 (H.B. 1428), Sec. 1, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 880 (H.B. 4443), Sec. 1, eff. June 13, 2023.

Sec. 2306.1111. UNIFORM APPLICATION AND FUNDING CYCLES. (a) Notwithstanding any other state law and to the extent consistent with federal law, the department shall establish uniform application and funding cycles for all competitive single-family and multifamily housing programs administered by the department under this chapter, other than programs involving the issuance of private activity bonds.

(b) Wherever possible, the department shall use uniform threshold requirements for single-family and multifamily housing program applications, including uniform threshold requirements relating to market studies and environmental reports.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.18, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 20, eff. September 1, 2007.

Sec. 2306.1113. EX PARTE COMMUNICATIONS. (a) During the period beginning on the date project applications are filed in an application cycle and ending on the date the board makes a final decision with respect to the approval of any application in that cycle, a member of the board may not communicate with the following persons:

(1) an applicant or a related party, as defined by state law, including board rules, and federal law; and

(2) any person who is:

(A) active in the construction, rehabilitation, ownership, or control of a proposed project, including:

(i) a general partner or contractor; and

(ii) a principal or affiliate of a general partner or contractor; or

(B) employed as a consultant, lobbyist, or attorney by an applicant or a related party.

(a-1) Subject to Subsection (a-2), during the period beginning on the date project applications are filed in an application cycle and ending on the date the board makes a final decision with respect to the approval of any application in that cycle, an employee of the department may communicate about an application with the following persons:

(1) the applicant or a related party, as defined by state law, including board rules, and federal law; and

(2) any person who is:

(A) active in the construction, rehabilitation, ownership, or control of the proposed project, including:

(i) a general partner or contractor; and

(ii) a principal or affiliate of a general partner or contractor; or

(B) employed as a consultant, lobbyist, or attorney by the applicant or a related party.

(a-2) A communication under Subsection (a-1) may be oral or in any written form, including electronic communication through the Internet, and must satisfy the following conditions:

(1) the communication must be restricted to technical or administrative matters directly affecting the application;

(2) the communication must occur or be received on the premises of the department during established business hours; and

(3) a record of the communication must be maintained and included with the application for purposes of board review and must contain the following information:

(A) the date, time, and means of communication;

(B) the names and position titles of the persons involved in the communication and, if applicable, the person's relationship to the applicant;

(C) the subject matter of the communication; and

(D) a summary of any action taken as a result of the communication.

(b) Notwithstanding Subsection (a) or (a-1), a board member or department employee may communicate without restriction with a person listed in Subsection (a) or (a-1) during any board meeting or public hearing held with respect to the application, but not during a recess or other nonrecord portion of the meeting or hearing.

(c) Subsection (a) does not prohibit the board from participating in social events at which a person with whom communications are prohibited may or will be present, provided that all matters related to applications to be considered by the board will not be discussed.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.18, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 10, eff. Sept.

1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 22, eff. September 1, 2007.

Sec. 2306.1114. NOTICE OF RECEIPT OF APPLICATION OR PROPOSED APPLICATION. (a) Not later than the 14th day after the date an application or a proposed application for housing funds described by Section 2306.111 has been filed, the department shall provide written notice of the filing of the application or proposed application to the following persons:

(1) the United States representative who represents the community containing the development described in the application;

(2) members of the legislature who represent the community containing the development described in the application;

(3) the presiding officer of the governing body of the political subdivision containing the development described in the application;

(4) any member of the governing body of a political subdivision who represents the area containing the development described in the application;

(5) the superintendent and the presiding officer of the board of trustees of the school district containing the development described in the application; and

(6) any neighborhood organizations on record with the state or county in which the development described in the application is to be located and whose boundaries contain the proposed development site.

(b) The notice provided under Subsection (a) must include the following information:

(1) the relevant dates affecting the application, including:

(A) the date on which the application was filed;

(B) the date or dates on which any hearings on the application will be held; and

(C) the date by which a decision on the application will be made;

(2) a summary of relevant facts associated with the development;

(3) a summary of any public benefits provided as a result of the development, including rent subsidies and tenant services; and

(4) the name and contact information of the employee of the department designated by the director to act as the information officer and liaison with the public regarding the application.

Added by Acts 2003, 78th Leg., ch. 330, Sec. 11, eff. Sept. 1, 2003.

Sec. 2306.1115. REGIONAL ALLOCATION FORMULA. (a) To allocate housing funds under Section 2306.111(d), the department shall develop a formula that:

(1) includes as a factor the need for housing assistance and the availability of housing resources in an urban area or rural area;

(2) provides for allocations that are consistent with applicable federal and state requirements and limitations; and

(3) includes other factors determined by the department to be relevant to the equitable distribution of housing funds under Section 2306.111(d).

(b) The department shall use information contained in its annual state low income housing plan and other appropriate data to develop the formula under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 5, eff. September 1, 2007.

Sec. 2306.112. PREPARATION AND CONTENT OF ANNUAL BUDGET. (a) On or before August 1 of each year, the director shall file with the board a proposed annual budget for the housing finance division for the succeeding fiscal year.

(b) The budget shall state:

(1) the general categories of expected expenditures from revenues and income of the housing finance division;

(2) the amount of expected expenditures for each category;

(3) expected operating expenses of the housing finance division; and

(4) the proposed use of projected year-end unencumbered balances.

(c) The budget may include a provision or reserve for contingencies or overexpenditures.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.113. BOARD CONSIDERATION OF ANNUAL BUDGET. On or before September 1 of each year, the board shall consider the director's proposed annual budget for the housing finance division and shall approve or change the budget as the board determines necessary or advisable.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.114. FILING OF ANNUAL BUDGET. (a) Copies of the annual budget certified by the presiding officer of the board shall be filed promptly with the governor and the legislature.

(b) The annual budget is not effective until filed.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.115. FAILURE TO ADOPT ANNUAL BUDGET. If the board does not adopt the annual budget on or before September 1, the budget for the preceding year remains in effect until a new budget is adopted.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.116. AMENDED ANNUAL BUDGET. (a) The board may adopt an amended annual budget during the fiscal year.

(b) An amended annual budget does not supersede a prior budget until it is filed with the governor and the legislature.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.117. PAYMENT OF EXPENSES; INDEBTEDNESS. (a) The expenses incurred in carrying out the functions of the housing

finance division may be paid only from revenues or funds provided under this chapter.

(b) This chapter does not authorize the housing finance division to incur debt or liability on behalf of or payable by the state, except as provided by this chapter or other law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.118. DEPOSIT OF FUNDS WITH TEXAS TREASURY SAFEKEEPING TRUST COMPANY. Except as provided by Section 2306.120, revenue and funds of the department received by or payable through the programs and functions of the housing finance division, other than funds necessary for the operation of the housing finance division and appropriated funds, shall be deposited outside the treasury with the Texas Treasury Safekeeping Trust Company.

Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.119. SELECTION OF DEPOSITORY FOR OPERATING FUNDS. (a) The department shall choose a depository for the operating funds of the housing finance division after inviting bids for favorable interest rates.

(b) The housing finance division shall publish notice in at least one newspaper of general circulation in this state no later than the 14th day before the last day set for the receipt of the bids.

(c) Notice published under this section must state the:

(1) types of deposits planned;

(2) last day on which bids will be received; and

(3) time and place for opening bids.

(d) Sealed bids must be:

(1) identified on the envelope as bids; and

(2) submitted to the housing finance division before the deadline for receiving bids.

(e) The housing finance division shall provide a tabulation of all submitted bids for public inspection.

(f) The department shall choose the depository submitting the bid with the most favorable financial terms to the department, considering the security and efficiency with which the depository is

capable of managing the department's funds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.120. SELECTION OF DEPOSITORY UNDER COVENANTS OF BONDS OR TRUST INDENTURES. (a) If covenants related to the department's bonds or the trust indentures governing the bonds specify one or more depositories or set out a method of selecting depositories different from the method required by this subchapter, the covenants prevail regarding the funds to which they apply and the funds are not required to be deposited with the Texas Treasury Safekeeping Trust Company.

(b) Bonds of the housing finance division issued under trust indentures executed or resolutions adopted on or after September 1, 1991, may not include a covenant that interferes with the deposit of funds in the Texas Treasury Safekeeping Trust Company.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.121. RECORDS. The housing finance division shall keep complete records and accounts of its business transactions according to generally accepted accounting principles.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.123. AREA MEDIAN INCOME. The department may determine the median income of an individual or family for an area by using a source or methodology acceptable under federal law or rule.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.1231. FEDERAL POVERTY LINE. The department shall use the applicable federal poverty line in determining eligibility for each federal or state program administered by the department that requires poverty instead of area median income to be used as a criterion of program eligibility.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.76(a), eff. Sept. 1, 1995.

Sec. 2306.124. RULES REGARDING HOUSING DEVELOPMENTS. The department may adopt and publish rules regarding the:

(1) making of mortgage loans under this subchapter;

(2) regulation of borrowers;

(3) construction of ancillary commercial facilities; and

(4) resale and disposition of real property, or an interest in the property, that is financed by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.125. COURT ACTIONS. (a) The department may institute a judicial action or proceeding against a housing sponsor receiving a loan or owning a housing development under this chapter to:

(1) enforce this chapter;

(2) enforce the terms and provisions of an agreement or contract between the department and the recipient of a loan under this chapter, including provisions regarding rental or carrying charges and income limits as applied to tenants or occupants;

(3) foreclose its mortgage; or

(4) protect:

(A) the public interest;

(B) individuals and families of low and very low income or families of moderate income;

(C) stockholders; or

(D) creditors of the sponsor.

(b) In an action or proceeding under this section, the department may apply for the appointment of a trustee or receiver to assume the management and operation of the affairs of a housing sponsor.

(c) The department, through its designated agent, may accept appointment as trustee or receiver of a housing sponsor when appointed by a court of competent jurisdiction.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.126. EXEMPTION FROM PROPERTY TAX. (a) The department may, under its terms, conditions, and rules, pay public agencies in lieu of ad valorem taxes on property that the department acquires through foreclosure or sale under a deed of trust.

(b) The department shall make payments under this section instead of paying taxes whenever practicable with money lawfully available for this purpose, subject to the provisions of any bond resolution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.127. PRIORITY FOR CERTAIN COMMUNITIES. In a manner consistent with the regional allocation formula described under Section 2306.111(d), the department shall give priority through its housing program scoring criteria to communities that are located wholly or partly in:

(1) a federally designated urban enterprise community;

(2) an urban enhanced enterprise community; or

(3) an economically distressed area or colonia.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.19, eff. Sept. 1, 2001.

SUBCHAPTER G. HOUSING FINANCE DIVISION: GENERAL POWERS AND DUTIES OF BOARD

Sec. 2306.141. RULES. The board shall have the specific duty and power to adopt rules governing the administration of the housing finance division and its programs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.142. AUTHORIZATION OF BONDS. (a) Subject to the requirements of this section, the board shall authorize all bonds issued by the department.

(b) If the issuance is authorized by the board, the department shall issue single-family mortgage revenue bonds to make home mortgage credit available for the purchase of newly constructed or previously owned single-family homes to economic and geographic

submarkets of borrowers who are not served or who are substantially underserved by the conventional, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or Federal Housing Administration home mortgage lending industry or by housing finance corporations organized under Chapter 394, Local Government Code.

(c) The board by rule shall adopt a methodology for determining through a market study the home mortgage credit needs in underserved economic and geographic submarkets in the state. In conducting the market study required by this subsection, the department or its designee shall analyze for the underserved economic and geographic submarkets, at a minimum, the following factors:

(1) home ownership rates;

(2) loan volume;

(3) loan approval ratios;

(4) loan interest rates;

(5) loan terms;

(6) loan availability;

(7) type and number of dwelling units; and

(8) use of subprime mortgage loan products, comparing the volume amount of subprime loans and interest rates to "A" paper mortgage loans as defined by Standard and Poor's credit underwriting criteria.

(d) The department or its designee shall analyze the potential market demand, loan availability, and private sector home mortgage lending rates available to extremely low, very low, low, and moderate income borrowers in the rural counties of the state, in census tracts in which the median family income is less than 80 percent of the median family income for the county in which the census tract is located, and in the region of the state adjacent to the international border of the state. The department or its designee shall establish a process for serving those counties, census tracts, and regions through the single-family mortgage revenue bond program in a manner proportionate to the credit needs of those areas as determined through the department's market study.

(e) Using the market study and the analysis required by this section, the board shall evaluate the feasibility of a single-family mortgage revenue bond program with loan marketing, eligibility, underwriting, structuring, collection, and foreclosure criteria and with loan services practices that are designed to meet the credit

needs of the underserved economic and geographic submarkets of the state, including those submarkets served disproportionately by subprime lenders.

(f) In evaluating a proposed bond program under this section, the board shall consider, consistent with the reasonable financial operation of the department, specific set-asides or reservations of mortgage loans for underserved economic and geographic submarkets in the state, including the reservation of funds to serve borrowers who have "A-" to "B-" credit according to Standard and Poor's credit underwriting criteria.

(g) The department may use any source of funds or subsidy available to the department to provide credit enhancement, down payment assistance, pre-homebuyer and post-homebuyer counseling, interest rate reduction, and payment of incentive lender points to accomplish the purposes of this section in a manner considered by the board to be consistent with the reasonable financial operation of the department.

(h) In allocating funds under Subsection (g), the department's highest priority is to provide assistance to borrowers in underserved economic and geographic submarkets in the state. If the board determines that sufficient funds are available after fully meeting the credit needs of borrowers in those submarkets, the department may provide assistance to other borrowers.

(i) The board shall certify that each single-family mortgage revenue bond issued by the department under this section is structured in a manner that serves the credit needs of borrowers in underserved economic and geographic submarkets in the state.

(j) After any board approval and certification of a single-family mortgage revenue bond issuance, the department shall submit the proposed bond issuance to the Bond Review Board for review.

(k) In the state fiscal year beginning on September 1, 2001, the department shall:

(1) adopt by rule a market study methodology as required by Subsection (c);

(2) conduct the market study;

(3) propose for board review a single-family mortgage revenue bond program, including loan feature details, a program for borrower subsidies as provided by Subsections (g) and (h), and origination and servicing infrastructure;

(4) identify reasonable capital markets financing;

(5) conduct a public hearing on the market study results and the proposed bond program; and

(6) submit for review by the Bond Review Board the market study results and, if approved and certified by the board, the proposed bond program.

(l) In the state fiscal year beginning on September 1, 2002, and in each subsequent state fiscal year, the department shall allocate not less than 40 percent of the total single-family mortgage revenue bond loan volume to meet the credit needs of borrowers in underserved economic and geographic submarkets in the state, subject to the identification of a satisfactory market volume demand through the market study.

(m) On completion of the market study, if the board determines in any year that bonds intended to be issued to achieve the purposes of this section are unfeasible or would damage the financial condition of the department, the board may formally appeal to the Bond Review Board the requirements of Subsection (k) or (l), as applicable. The Bond Review Board has sole authority to modify or waive the required allocation levels.

(n) In addition to any other loan originators selected by the department, the department shall authorize colonia self-help centers and any other community-based, nonprofit institutions considered appropriate by the board to originate loans on behalf of the department. All non-financial institutions acting as loan originators under this subsection must undergo adequate training, as prescribed by the department, to participate in the bond program. The department may require lenders to participate in ongoing training and underwriting compliance audits to maintain good standing to participate in the bond program. The department may require that lenders meet appropriate eligibility standards as prescribed by the department.

(o) The department shall structure all single-family mortgage revenue bond issuances in a manner designed to recover the full costs associated with conducting the activities required by this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 24, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 2.02, eff. Sept. 1, 2001.

Sec. 2306.143. ALTERNATIVE TO SUBPRIME LENDER LIST. (a) If the United States Department of Housing and Urban Development ceases to prepare or make public a subprime lender list, the market study required by Section 2306.142 must annually survey the 100 largest refinancing lenders and the 100 largest home purchase loan lenders in the state to identify lenders primarily engaged in subprime lending.

(b) The lenders included in the survey must be identified on the basis of home mortgage loan data reported by lenders under the Home Mortgage Disclosure Act of 1975 (12 U.S.C. Section 2801 et seq.) and the Community Reinvestment Act of 1977 (12 U.S.C. Section 2901 et seq.).

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 2.03, eff. Sept. 1, 2001.

Sec. 2306.144. FEES FOR SERVICES AND FACILITIES; PAYMENT OF DEPARTMENT OBLIGATIONS AND EXPENSES. (a) It is the duty of the board to establish and collect sufficient fees for services and facilities.

(b) The board shall use available sources of revenue, income, and receipts to:

(1) pay all expenses of the department's operation and maintenance;

(2) pay the principal and interest on department bonds; and

(3) create and maintain the reserves or funds provided by each resolution authorizing the issuance of department bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.145. LOAN PROCEDURES. The board shall have the specific duty and power to adopt procedures for approving loans, purchases of loans and interests in loans, and commitments to purchase loans under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.146. INTEREST RATES AND AMORTIZATION SCHEDULES. The

board shall have the specific duty and power to establish interest rates and amortization schedules for loans made or financed under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.147. FEES AND PENALTIES. (a) The board shall have the specific duty and power to establish a schedule of fees and penalties relating to the operation of the housing finance division and authorized by this chapter, including application, processing, loan commitment, origination, servicing, and administrative fees.

(b) The department shall waive grant application fees for nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 980, Sec. 25, eff. Sept. 1, 1997.

Sec. 2306.148. UNDERWRITING STANDARDS. (a) The board shall have the specific duty and power to adopt underwriting standards for:

(1) loans made or financed by the housing finance division; and

(2) housing tax credits allocated by the department.

(b) Underwriting standards adopted under Subsection (a)(2) and used to determine the feasibility of a proposed development must be consistent with criteria established under Section 2306.185.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 643 (S.B. 1989), Sec. 1, eff. September 1, 2015.

Sec. 2306.149. APPROVED MORTGAGE LENDERS. The board shall have the specific duty and power to compile a list of approved mortgage lenders.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.150. PROPERTY STANDARDS. The board shall have the specific duty and power to adopt minimum property standards for housing developments financed or acquired under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.151. TARGET STRATEGY FOR BOND PROCEEDS. The board shall have the specific duty and power to adopt a target strategy for the percentage of mortgage revenue bond proceeds to be made available to individuals and families of low and very low income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.152. ELIGIBILITY CRITERIA. The board shall have the specific duty and power to establish eligibility criteria for participation in the housing finance division's programs for individuals and families of low and very low income and families of moderate income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER H. HOUSING FINANCE DIVISION: GENERAL POWERS AND DUTIES OF DEPARTMENT

Sec. 2306.171. GENERAL DUTIES OF DEPARTMENT RELATING TO PURPOSES OF HOUSING FINANCE DIVISION. The department shall:

(1) develop policies and programs designed to increase the number of individuals and families of extremely low, very low, and low income and families of moderate income that participate in the housing finance division's programs;

(2) work with municipalities, counties, public agencies, housing sponsors, and nonprofit and for profit corporations to provide:

(A) information on division programs; and

(B) technical assistance to municipalities, counties, and nonprofit corporations;

(3) encourage private for profit and nonprofit corporations and state organizations to match the division's funds to assist in providing affordable housing to individuals and families of low and very low income and families of moderate income;

(4) provide matching funds to municipalities, counties, public agencies, housing sponsors, and nonprofit developers who qualify under the division's programs; and

(5) administer the state's allocation of federal funds provided under the rental rehabilitation grant program authorized by Section 17, Title I, of the United States Housing Act of 1937 (42 U.S.C. Section 1437o).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 26, eff. Sept. 1, 1997.

Sec. 2306.1711. RULEMAKING PROCEDURES FOR CERTAIN PROGRAMS. (a) The department shall adopt rules outlining formal rulemaking procedures for the low income housing tax credit program and the multifamily housing mortgage revenue bond program in accordance with Chapter 2001.

(b) The rules adopted under Subsection (a) must include:

(1) procedures for allowing interested parties to petition the department to request the adoption of a new rule or the amendment of an existing rule;

(2) notice requirements and deadlines for taking certain actions; and

(3) a provision for a public hearing.

(c) The department shall provide for public input before adopting rules for programs with requests for proposals and notices of funding availability.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.20, eff. Sept. 1, 2001.

Sec. 2306.172. ACQUISITION AND USE OF MONEY; DEPOSITORIES. The department may:

(1) acquire, hold, invest, deposit, use, and spend its income and money from every source; and

(2) select its depository or depositories, subject only to the provisions of:

(A) this chapter; and

(B) a covenant relating to the department's bonds issued by the housing finance division.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.173. INVESTMENTS. Subject to a resolution authorizing issuance of its bonds, the department may:

(1) invest its money in bonds, obligations, or other securities; or

(2) place its money in demand or time deposits, whether or not evidenced by certificates of deposit.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.174. ACQUISITION AND DISPOSITION OF PROPERTY. The department may:

(1) acquire, own, rent, lease, accept, hold, or dispose of any real, personal, or mixed property, or any interest in property, including a right or easement, in performing its duties and exercising its powers under this chapter, by purchase, exchange, gift, assignment, transfer, foreclosure, sale, lease, or otherwise;

(2) hold, manage, operate, or improve real, personal, or mixed property, except that:

(A) the department is restricted in acquiring property under Section 2306.251 unless it is required to foreclose on a delinquent loan and elects to acquire the property at foreclosure;

(B) the department shall make a diligent effort to sell a housing development acquired through foreclosure to a purchaser who will be required to pay ad valorem taxes on the housing development or, if such a purchaser cannot be found, to another purchaser; and

(C) the department shall sell a housing development acquired through foreclosure not later than the third anniversary of the date of acquisition unless the board adopts a resolution stating that a purchaser cannot be found after diligent search by the housing finance division, in which case the department shall continue to try to find a purchaser and shall sell the housing development when a

purchaser is found; and

(3) lease or rent land or a dwelling, house, accommodation, building, structure, or facility from a private party to carry out the housing finance division's purposes.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.175. TRANSFER AND DISPOSITION OF PROPERTY; MANNER OF SALE. (a) The department may:

(1) sell, assign, lease, encumber, mortgage, or otherwise dispose of real, personal, or mixed property, or an interest in property, or a deed of trust or mortgage lien interest owned by it or in its control, custody, or possession; and

(2) release or relinquish a right, title, claim, lien, interest, easement, or demand acquired in any manner, including an equity or right of redemption in property foreclosed by it.

(b) Notwithstanding any other law, the department may, under this section, conduct a public or private sale, with or without public bidding.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.176. FEES. The department may set, charge, and collect fees relating to loans made or other services provided by the department under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.177. HEARINGS. The department may:

(1) conduct hearings; and

(2) take testimony and proof, under oath, at public hearings, on matters necessary to carry out the department's purposes.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 27, eff. Sept. 1, 1997.

Sec. 2306.178. INSURANCE. The department may acquire, and pay premiums on, insurance of any kind in amounts and from insurers that the board considers necessary or advisable.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.179. INVESTIGATION. The department may:

(1) investigate housing conditions and means for improving those conditions; and

(2) determine the location of slum or blighted areas.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.180. ENCOURAGING HOME OWNERSHIP. The department may encourage individual or cooperative home ownership among individuals and families of low and very low income and families of moderate income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.181. TARGETING BOND PROCEEDS. The department may target the proceeds from housing bonds issued by it to a geographic area or areas of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.182. LOANS TO LENDERS. The department may make loans to mortgage lenders, public agencies, or other housing sponsors and use the proceeds to make loans for multifamily housing developments that will be substantially occupied by individuals and families of low and very low income or families of moderate income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.183. NEEDS OF QUALIFYING INDIVIDUALS AND FAMILIES IN RURAL AREAS AND SMALL MUNICIPALITIES. The department may adopt a

target strategy to ensure that the credit and housing needs of qualifying individuals and families who reside in rural areas and small municipalities are equitably served by the housing finance division.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.184. DISCLOSURE OF FEES. (a) This section does not apply to an application submitted by an individual or family for a loan, grant, or other assistance under a program administered by the department or the Texas State Affordable Housing Corporation or from bonds issued by the department.

(b) An application for a loan, grant, or other assistance for an eligible affordable housing project or activity under a program administered by the department or the Texas State Affordable Housing Corporation or from bonds issued by the department must include:

(1) the name of each person expected to charge the applicant a project development fee or project operation fee;

(2) the nature and amount of each project development fee and project operation fee the applicant is expected to pay; and

(3) any interlocking interests of persons listed under Subdivision (1).

(c) On completion of the project, the applicant shall cost certify the project and include the following:

(1) the name of each person to whom the recipient paid a project development fee or project operation fee during the term of the project;

(2) the nature and amount of each project development fee and project operation fee paid by the recipient during the term of the project; and

(3) any interlocking interests of persons listed under Subdivision (1).

(d) The department shall adopt rules governing penalties and sanctions under this section for a person who:

(1) does not provide the information required by this section; or

(2) knowingly discloses false information.

(e) In this section:

(1) "Project development fee" means a fee charged in

connection with the planning, design, or development of an affordable housing project, including an application fee, tax credit consulting fee, development consulting fee, mortgage brokerage fee, and financial advising fee.

(2) "Project operation fee" means a fee charged in connection with the operation, construction, management, or administration of an affordable housing project, including a management fee, asset management fee, incentive management fee, general partner fee, construction supervision fee, and construction management fee.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 28, eff. Sept. 1, 1997.

Sec. 2306.185. LONG-TERM AFFORDABILITY AND SAFETY OF MULTIFAMILY RENTAL HOUSING DEVELOPMENTS. (a) The department shall adopt policies and procedures to ensure that, for a multifamily rental housing development funded through loans, grants, or tax credits under this chapter, the owner of the development:

(1) keeps the rents affordable for low income tenants for the longest period that is economically feasible; and

(2) provides regular maintenance to keep the development sanitary, decent, and safe and otherwise complies with the requirements of Section 2306.186.

(b) In implementing Subsection (a)(1) and in developing underwriting standards and application scoring criteria for the award of loans, grants, or tax credits to multifamily developments, the department shall ensure that the economic benefits of longer affordability terms, for specific terms of years as established by the board, and below market rate rents are accurately assessed and considered.

(c) The department shall require that a recipient of funding maintains the affordability of the multifamily housing development for households of extremely low, very low, low, and moderate incomes for the greater of a 30-year period from the date the recipient takes legal possession of the housing or the remaining term of the existing federal government assistance. In addition, the agreement between the department and the recipient shall require the renewal of rental subsidies if available and if the subsidies are sufficient to maintain the economic viability of the multifamily development.

(d) The development restrictions provided by Subsection (a) and Section 2306.269 are enforceable by the department, by tenants of the development, or by private parties against the initial owner or any subsequent owner. The department shall require a land use restriction agreement providing for enforcement of the restrictions by the department, a tenant, or a private party that includes the right to recover reasonable attorney's fees if the party seeking enforcement of the restriction is successful.

(d-1) For developments receiving housing tax credits, the department shall determine the feasibility of the development at the time of cost certification using:

(1) actual net operating income, adjusted for stabilization of rents and extraordinary lease-up expenses; and

(2) a maximum debt coverage ratio of 1.50 or higher as adopted by department rule.

(d-2) A feasibility determination made under Subsection (d-1) may not include a maximum operating expense-to-income ratio.

(d-3) In determining net operating income and making the appropriate adjustments under Subsection (d-1)(1), the department shall consider the permanent lender and equity partner stabilization requirements documented in the loan and in the partnership or entity agreements.

(d-4) The department may adopt rules providing for exceptions to the maximum debt coverage ratio requirement of Subsection (d-1)(2) with respect to specific types of projects.

(d-5) The department shall adopt rules that provide for the amendment of a land use restriction agreement. Rules adopted under this subsection must require reasonable notice to tenants, a public hearing, and board approval for any material amendment to a land use restriction agreement.

(e) Subsections (c), (d), (d-1), (d-2), (d-3), (d-4), and (d-5) and Section 2306.269 apply only to multifamily rental housing developments to which the department is providing one or more of the following forms of assistance:

(1) a loan or grant in an amount greater than 33 percent of the market value of the development on the date the recipient completed the construction of the development;

(2) a loan guarantee for a loan in an amount greater than 33 percent of the market value of the development on the date the recipient took legal title to the development; or

(3) a low income housing tax credit.

(f) An owner of the housing development who intends to sell, lease, prepay the loan insured by the United States Department of Housing and Urban Development, opt out of a housing assistance payments contract under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f), or otherwise dispose of the development shall agree to provide notice to the department at least 12 months before the date of any attempt to dispose of the development, prepay the loan, or opt out of the Section 8 contract to enable the department to attempt to locate a buyer who will conform to the development restrictions provided by this section.

(g) Repealed by Acts 2003, 78th Leg., ch. 330, Sec. 31(1).

(h) The department shall monitor a development owner's compliance with this section.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.02, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 12, 31(1), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 23, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 643 (S.B. 1989), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 817 (H.B. 3576), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(24), eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.002(10), eff. September 1, 2017.

Sec. 2306.186. MANDATORY DEPOSITS TO FUND NECESSARY REPAIRS. (a) In this section:

(1) "Bank trustee" means a bank authorized to do business in this state, with the power to act as trustee.

(2) "Department assistance" means any state or federal assistance administered by or through the department, including low income housing tax credits.

(3) "First lien lender" means a lender whose lien has first priority.

(4) "Reserve account" means an individual account:

(A) created to fund any necessary repairs for a multifamily rental housing development; and

(B) maintained by a first lien lender or bank trustee.

(b) If the department is the first lien lender with respect to the development, each owner who receives department assistance for a multifamily rental housing development that contains 25 or more rental units shall deposit annually into a reserve account:

(1) for the year 2004:

(A) not less than $150 per unit per year for units one to five years old; and

(B) not less than $200 per unit per year for units six or more years old; and

(2) for each year following the year 2004, the amounts per unit per year as described by Subdivision (1).

(c) A land use restriction agreement or restrictive covenant between the owner and the department must require the owner to begin making annual deposits to the reserve account on the date that occupancy of the multifamily rental housing development stabilizes or the date that permanent financing for the development is completely in place, whichever occurs later, and shall continue making deposits until the earliest of the following dates:

(1) the date of any involuntary change in ownership of the development;

(2) the date on which the owner suffers a total casualty loss with respect to the development or the date on which the development becomes functionally obsolete, if the development cannot be or is not restored;

(3) the date on which the development is demolished;

(4) the date on which the development ceases to be used as multifamily rental property; or

(5) the end of the affordability period specified by the land use restriction agreement or restrictive covenant.

(d) With respect to multifamily rental developments, if the establishment of a reserve fund for repairs has not been required by the first lien lender, the development owner shall set aside the repair reserve amount as a reserve for capital improvements. The reserve must be established for each unit in the development, regardless of the amount of rent charged for the unit.

(e) Beginning with the 11th year after the awarding of any

financial assistance for the development by the department, the owner of a multifamily rental housing development shall contract for a third-party physical needs assessment at appropriate intervals that are consistent with lender requirements with respect to the development. If the first lien lender does not require a third-party physical needs assessment or if the department is the first lien lender, the owner shall contract with a third party to conduct a physical needs assessment at least once during each five-year period beginning with the 11th year after the awarding of any financial assistance for the development by the department. The owner of the development shall submit to the department copies of the most recent third-party physical needs assessment conducted on the development, any response by the owner to the assessment, any repairs made in response to the assessment, and information on any necessary changes to the required reserve based on the assessment.

(f) The department may complete necessary repairs if the owner fails to complete the repairs as required by Subsection (e). Payment for those repairs must be made directly by the owner of the development or through a reserve account established for the development under this section.

(g) If notified of the development owner's failure to comply with a local health, safety, or building code, the department may enter on the property and complete any repairs necessary to correct a violation of that code, as identified in the applicable violation report, and may pay for those repairs through a reserve account established for the development under this section.

(h) The duties of the owner of a multifamily rental housing development under this section cease on the date of a voluntary change in ownership of the development, but the subsequent owner of the development is subject to the deposit, inspection, and notification requirements of Subsections (b), (c), (d), and (e).

(i) The first lien lender shall maintain the reserve account. In the event there is no longer a first lien lender, then Subsections (b) and (d) no longer apply.

(j) The department shall adopt rules that:

(1) establish requirements and standards regarding:

(A) for first lien lenders and bank trustees:

(i) maintenance of reserve accounts and reasonable costs of that maintenance;

(ii) asset management;

(iii) transfer of money in reserve accounts to the department to fund necessary repairs; and

(iv) oversight of reserve accounts and the provision of financial data and other information to the department; and

(B) for owners, inspections of the multifamily rental housing developments and identification of necessary repairs, including requirements and standards regarding construction, rehabilitation, and occupancy that may enable quicker identification of those repairs;

(2) identify circumstances in which money in the reserve accounts may:

(A) be used for expenses other than necessary repairs, including property taxes or insurance; and

(B) fall below mandatory deposit levels without resulting in department action;

(3) define the scope of department oversight of reserve accounts and the repair process;

(4) provide the consequences of any failure to make a required deposit, including a definition of good cause, if any, for a failure to make a required deposit;

(5) specify or create processes and standards to be used by the department to obtain repairs for developments;

(6) define for purposes of Subsection (c) the date on which occupancy of a development is considered to have stabilized and the date on which permanent financing is considered to be completely in place; and

(7) provide for appointment of a bank trustee as necessary under this section.

(k) The department shall assess an administrative penalty on development owners who fail to contract for the third-party physical needs assessment and make the identified repairs as required by this section. The department may assess the administrative penalty in the same manner as an administrative penalty assessed under Section 2306.6023. The penalty is computed by multiplying $200 by the number of dwelling units in the development and must be paid to the department. The office of the attorney general shall assist the department in the collection of the penalty and the enforcement of this subsection.

(l) This section does not apply to a development for which an

owner is required to maintain a reserve account under any other provision of federal or state law.

Added by Acts 2003, 78th Leg., ch. 330, Sec. 13, eff. Sept. 1, 2003.

Sec. 2306.187. ENERGY EFFICIENCY STANDARDS FOR CERTAIN SINGLE AND MULTIFAMILY DWELLINGS. (a) A newly constructed single or multifamily dwelling that is constructed with assistance awarded by the department, including state or federal money, housing tax credits, or multifamily bond financing, must include energy conservation and efficiency measures specified by the department. The department by rule shall establish a minimum level of energy efficiency measures that must be included in a newly constructed single or multifamily dwelling as a condition of eligibility to receive assistance awarded by the department for housing construction. The measures adopted by the department may include:

(1) the installation of Energy Star-labeled ceiling fans in living areas and bedrooms;

(2) the installation of Energy Star-labeled appliances;

(3) the installation of Energy Star-labeled lighting in all interior units;

(4) the installation of Energy Star-labeled ventilation equipment, including power-vented fans, range hoods, and bathroom fans;

(5) the use of energy efficient alternative construction material, including structural insulated panel construction;

(6) the installation of central air conditioning or heat pump equipment with a better Seasonal Energy Efficiency Rating (SEER) than that required by the energy code adopted under Section 388.003, Health and Safety Code; and

(7) the installation of the air ducting system inside the conditioned space.

(b) A single or multifamily dwelling must include energy conservation and efficiency measures specified by the department if:

(1) the dwelling is rehabilitated with assistance awarded by the department, including state or federal money, housing tax credits, or multifamily bond financing; and

(2) any portion of the rehabilitation includes alterations that will replace items that are identified as required efficiency

measures by the department.

(c) The energy conservation and efficiency measures the department requires under Subsection (b) may not be more stringent than the measures the department requires under Subsection (a).

(d) The department shall review the measures required to meet the energy efficiency standards at least annually to determine if additional measures are desirable and to ensure that the most recent energy efficiency technology is considered.

(e) Subsections (a) and (b) do not apply to a single or multifamily dwelling that receives weatherization assistance money from the department or money provided under the first-time homebuyer program.

Added by Acts 2007, 80th Leg., R.S., Ch. 939 (H.B. 3693), Sec. 9, eff. September 1, 2007.

Sec. 2306.188. ESTABLISHING HOME OWNERSHIP IN DISASTER AREA. (a) An applicant for federally provided financial assistance administered by the department to repair or rebuild a home damaged by a natural disaster may establish ownership of the home through nontraditional documentation of title. The department shall process an application for that assistance as if the applicant is the record title holder of the affected real property if the applicant provides to the department:

(1) on a form prescribed by the department, an affidavit summarizing the basis on which the applicant claims to be the holder of record title or, if applicable, a successor in interest to the holder of record title and stating that:

(A) there is no other person entitled to claim any ownership interest in the property; or

(B) each person who may be entitled to claim an ownership interest in the property has given consent to the application or cannot be located after a reasonable effort; and

(2) other documentation, including tax receipts, utility bills, or evidence of insurance for the home, that indicates that the applicant exercised ownership over the property at the time of the natural disaster.

(b) This section does not establish record ownership or otherwise alter legal ownership of real property.

(c) The department is not liable to any claimed owner of an interest in real property for administering financial assistance as permitted by this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1135 (H.B. 2450), Sec. 1, eff. September 1, 2009.

SUBCHAPTER I. HOUSING FINANCE DIVISION: FUNDS

Sec. 2306.201. HOUSING TRUST FUND. (a) The housing trust fund is a fund:

(1) administered by the department through the housing finance division; and

(2) placed with the Texas Treasury Safekeeping Trust Company.

(b) The fund consists of:

(1) appropriations or transfers made to the fund;

(2) unencumbered fund balances;

(3) public or private gifts, grants, or donations;

(4) investment income, including all interest, dividends, capital gains, or other income from the investment of any portion of the fund;

(5) repayments received on loans made from the fund; and

(6) funds from any other source.

(c) The department may accept gifts, grants, or donations for the housing trust fund. All funds received for the housing trust fund under Subsection (b) shall be deposited or transferred into the Texas Treasury Safekeeping Trust Company.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 29, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 223, Sec. 1, eff. May 24, 1999. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1365 (S.B. 679), Sec. 1, eff. June 19, 2009.

Sec. 2306.202. USE OF HOUSING TRUST FUND. (a) The department, through the housing finance division, shall use the housing trust fund to provide loans, grants, or other comparable forms of assistance to local units of government, public housing authorities,

nonprofit organizations, and income-eligible individuals, families, and households to finance, acquire, rehabilitate, and develop decent, safe, and sanitary housing. In each biennium the first $2.6 million available through the housing trust fund for loans, grants, or other comparable forms of assistance shall be set aside and made available exclusively for local units of government, public housing authorities, and nonprofit organizations. Any additional funds may also be made available to for-profit organizations provided that at least 45 percent of available funds, as determined on September 1 of each state fiscal year, in excess of the first $2.6 million shall be made available to nonprofit organizations for the purpose of acquiring, rehabilitating, and developing decent, safe, and sanitary housing. The remaining portion shall be distributed to nonprofit organizations, for-profit organizations, and other eligible entities. Notwithstanding any other section of this chapter, but subject to the limitations in Section 2306.251(c), the department may also use the fund to acquire property to endow the fund.

(b) Use of the fund is limited to providing:

(1) assistance for individuals and families of low and very low income;

(2) technical assistance and capacity building to nonprofit organizations engaged in developing housing for individuals and families of low and very low income; and

(3) security for repayment of revenue bonds issued to finance housing for individuals and families of low and very low income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 980, Sec. 30, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1365 (S.B. 679), Sec. 2, eff. June 19, 2009.

Sec. 2306.203. RULES REGARDING ADMINISTRATION OF HOUSING TRUST FUND. The board shall adopt rules to administer the housing trust fund, including rules providing:

(1) that the division give priority to programs that maximize federal resources;

(2) for a process to set priorities for use of the fund, including the distribution of fund resources in accordance with a plan that is developed and approved by the board and included in the department's annual report regarding the housing trust fund as described in the General Appropriations Act;

(3) that the criteria used to evaluate a proposed activity will include the:

(A) leveraging of resources;

(B) cost-effectiveness of the proposed activity; and

(C) extent to which individuals and families of very low income are served by the proposed activity;

(4) that funds may not be made available for a proposed activity that permanently and involuntarily displaces individuals and families of low income;

(5) that the board attempt to allocate funds to achieve a broad geographical distribution with:

(A) special emphasis on equitably serving rural and nonmetropolitan areas; and

(B) consideration of the number and percentage of income-qualified families in different geographical areas; and

(6) that multifamily housing developed or rehabilitated through the fund remain affordable to income-qualified households for at least 20 years.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1365 (S.B. 679), Sec. 3, eff. June 19, 2009.

Sec. 2306.204. INDEPENDENT AUDIT OF HOUSING TRUST FUND. (a) An independent auditor shall annually conduct an audit of the housing trust fund to determine the amount of unencumbered fund balances that is greater than the amount required for the reserve fund.

(b) The independent auditor shall submit the audit report to the board not later than December 31 of each year.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.205. TRANSFER OF MONEY TO HOUSING TRUST FUND. (a)

Except as provided by Subsections (c), (d), and (e), not later than January 10 of each year the housing finance division shall transfer to the housing trust fund an amount, as determined by the audit report prepared under Section 2306.204, equal to one-half of the housing finance division's unencumbered fund balances in excess of two percent of the division's total bonded indebtedness that is not rated on its own merits in the highest long-term debt rating category by one or more nationally recognized rating agencies.

(b) The department shall determine the unencumbered fund balance under Subsection (a) according to the debt rating criteria established for housing finance agencies by one or more nationally recognized rating agencies.

(c) If, at the time an annual audit required by Section 2306.204 is concluded, the housing finance division's unencumbered fund balances exceed four percent of its total bonded indebtedness that is not rated on its own merits in the highest long-term debt rating category, the department shall transfer not later than January 10 of the next year all amounts in excess of that four percent.

(d) If, at the time an annual audit required by Section 2306.204 is concluded, a nationally recognized rating agency has recommended that the housing finance division maintain unencumbered fund balances in excess of the amount permitted by Subsection (a) to achieve or maintain a rating of at least Aa/A+ on all or a portion of the bonded indebtedness of the housing finance division that is issued under an open indenture or an open flow of funds, the department shall transfer not later than January 10 of the next year all amounts in excess of the amount required by the rating agency to be held as unencumbered fund balances.

(e) If, at the time an annual audit required by Section 2306.204 is concluded, a nationally recognized rating agency has recommended that the housing finance division increase the amount of its unencumbered fund balances to achieve or maintain a financially sound condition or to prevent a decrease in the long-term debt rating maintained on all or a portion of the housing finance division's bonded indebtedness, the housing finance division may not make further annual transfers to the housing trust fund until all requirements and conditions of the rating agency have been met.

(f) In addition to the money transferred into the housing trust fund under this section, and subject to Subsection (e), the department shall transfer into the fund the amount of any origination

fee, asset oversight fee, and servicing fee the department or the Texas State Affordable Housing Corporation receives in relation to the administration of its 501(c)(3) bond program established pursuant to Section 2306.358 that exceeds the amount needed by the department or the Texas State Affordable Housing Corporation to pay its operating and overhead costs and fund reserves, including an insurance reserve or credit enhancement reserve established by the board in administering the program.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 31, eff. Sept. 1, 1997.

Sec. 2306.206. HOUSING TRUST FUND NOT SUBJECT TO TEXAS TRUST CODE. The housing trust fund provided for by this subchapter is not subject to Subtitle B, Title 9, Property Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.207. RESERVE FUND. (a) The department may create a reserve fund with the comptroller out of:

(1) proceeds from the sale of the department's bonds; or

(2) other resources.

(b) The reserve fund is additional security for the division's bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 32, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.75, eff. Sept. 1, 1997.

SUBCHAPTER J. HOUSING FINANCE DIVISION: LOAN TERMS AND CONDITIONS

Sec. 2306.221. HOUSING DEVELOPMENT LOANS. To finance the purchase, construction, remodeling, improvement, or rehabilitation of housing developments for residential housing designed and planned for individuals and families of low and very low income and families of moderate income, the department, on the terms and conditions stated in this chapter, may:

(1) make, commit to make, and participate in the making of

mortgage loans, including federally insured loans to housing sponsors; and

(2) make temporary loans and advances in anticipation of permanent mortgage loans.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.222. CONTRACTS AND AGREEMENTS REGARDING HOUSING DEVELOPMENTS. The department may enter into agreements and contracts with housing sponsors and mortgage lenders under this chapter to make or participate in mortgage loans for residential housing for individuals and families of low and very low income and families of moderate income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.223. CRITERIA FOR FINANCING HOUSING DEVELOPMENT OF HOUSING SPONSOR. Notwithstanding any other provision of this chapter, the department may not finance a housing development undertaken by a housing sponsor under this chapter, unless the department first determines that:

(1) the housing development is necessary to provide needed decent, safe, and sanitary housing at rentals or prices that individuals or families of low and very low income or families of moderate income can afford;

(2) the housing sponsor undertaking the proposed housing development will supply well-planned and well-designed housing for individuals or families of low and very low income or families of moderate income;

(3) the housing sponsor is financially responsible;

(4) the housing sponsor is not, or will not enter into a contract for the proposed housing development with, a housing developer that:

(A) is on the department's debarred list, including any parts of that list that are derived from the debarred list of the United States Department of Housing and Urban Development;

(B) breached a contract with a public agency; or

(C) misrepresented to a subcontractor the extent to which the developer has benefited from contracts or financial

assistance that has been awarded by a public agency, including the scope of the developer's participation in contracts with the agency and the amount of financial assistance awarded to the developer by the agency;

(5) the financing of the housing development is a public purpose and will provide a public benefit; and

(6) the housing development will be undertaken within the authority granted by this chapter to the housing finance division and the housing sponsor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 7.01, eff. Sept. 1, 2001.

Sec. 2306.224. LOAN TERMS AND CONDITIONS. A loan financed through a program of the housing finance division under this subchapter is subject to the terms and conditions provided by this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.225. RATIO OF LOAN TO DEVELOPMENT COST; AMORTIZATION PERIOD. (a) Except as provided by Subsection (b), the ratio of loan to total housing development cost and the amortization period of a loan insured or guaranteed by the federal government is governed by the federal government mortgage insurance commitment or federal guarantee for each housing development.

(b) The amortization period for a loan may not exceed 40 years.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.226. INTEREST RATES. (a) The board shall set the interest rates at which the housing finance division makes loans and loan commitments.

(b) The interest rates shall be set to produce, when combined with other available funds, at least the amounts required to pay for the housing finance division's costs of operation and to meet its covenants with and responsibilities to the holders of its bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.227. PREPAYMENT OF MORTGAGE LOANS. A mortgage loan made under this chapter may be prepaid to maturity after the period of years and under the terms and conditions determined by the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.228. LOAN FEES. The department shall make and collect loan fees that the department determines are reasonable, including:

(1) fees to reimburse the housing finance division's financing costs;

(2) service charges;

(3) insurance premiums;

(4) mortgage insurance premiums; and

(5) fees for administrative costs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.229. DOCUMENTS SUPPORTING MORTGAGE LOANS. (a) A mortgage loan shall be evidenced by a mortgage or deed of trust note or bond and by a mortgage that creates a lien on the housing development and on all real property that constitutes the site of or that relates to the housing development.

(b) A note or bond and a mortgage or deed of trust:

(1) must contain provisions satisfactory to the department;

(2) must be in a form satisfactory to the department; and

(3) may contain exculpatory provisions relieving the borrower or its principal from personal liability if the department agrees.

(c) For each loan made for the development of multifamily housing with funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.), the department shall obtain a mortgagee's title policy in the amount of the loan. The department may not designate a specific title insurance company to provide the mortgagee title policy or require the borrower to provide the policy from a specific title insurance

company. The borrower shall select the title insurance company to close the loan and to provide the mortgagee title policy.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 24, eff. September 1, 2007.

Sec. 2306.230. AGREEMENTS REGARDING CERTAIN LIMITATIONS ON HOUSING SPONSORS. A mortgage loan is subject to an agreement between the department and the housing sponsor that subjects the sponsor and its principals or stockholders to limitations established by the department regarding:

(1) rentals and other charges;

(2) builders' and developers' profits and fees;

(3) the disposition of its property; and

(4) the real property that constitutes the site of or relates to the housing development.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.231. LOAN CONDITIONS RELATING TO DEPARTMENT POWERS. As a condition of each loan, the department, acting through the housing finance division, may at any time during the construction, rehabilitation, or operation of a housing development:

(1) enter and inspect the housing development to:

(A) investigate the development's:

(i) physical and financial condition;

(ii) construction;

(iii) rehabilitation;

(iv) operation;

(v) management; and

(vi) maintenance; and

(B) examine all books and records relating to:

(i) capitalization;

(ii) income; and

(iii) other matters regarding capitalization or income;

(2) impose charges that are required to cover the cost of

inspections and examinations under Subdivision (1);

(3) order alterations, changes, or repairs necessary to protect:

(A) the security of the department's investment in a housing development; or

(B) the health, safety, and welfare of the occupants of a housing development;

(4) order a managing agent, housing development manager, or housing development owner to do whatever is necessary to comply with or refrain from violating an applicable law, ordinance, department rule, or term of an agreement regarding the housing development; and

(5) file and prosecute a complaint against a managing agent, housing development manager, or housing development owner for a violation of any applicable law or ordinance.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.232. TEXAS HOUSING AGENCY LOAN OR GUARANTEE. A loan or guarantee made by the Texas Housing Agency becomes a loan or guarantee of the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 33, eff. Sept. 1, 1997.

SUBCHAPTER K. HOUSING PROGRAMS

Sec. 2306.251. PROPERTY OWNERSHIP PROGRAM. (a) While it is not the intent of the legislature that the department compete with the private sector by becoming a long-term owner of real property merely for the purpose of owning, managing, and operating tenant properties, the department may acquire, own, reconstruct, rehabilitate, manage, or operate real property:

(1) on an interim basis for sale or rental to:

(A) individuals and families of low and very low income and families of moderate income; and

(B) nonprofit housing organizations and other housing organizations to serve the needs of individuals and families of low and very low income and families of moderate income;

(2) for a period of time not to exceed 10 years for the

purposes of:

(A) preserving publicly financed or subsidized housing; or

(B) participating in a risk-sharing program entered into with the United States Department of Housing and Urban Development, any other insurer or guarantor of any United States Department of Housing and Urban Development-related indebtedness, a government sponsored enterprise, a housing finance agency or corporation, or a public housing authority.

(b) The department may use money from the housing trust fund, unencumbered fund balances, fees received by the housing finance division, proceeds from the sale or rental of real property, distribution of earnings under Section 2306.557, or appropriations, allocations, grants, or gifts from any public or private source to purchase property under this section.

(c) If the department uses the housing trust fund to finance real property acquisitions, it may not use more than 10 percent of the yearly balance of the fund to acquire the real property.

(d) If the department acquires property under this section, the department shall submit an annual report to the board that includes an analysis of the property ownership program's:

(1) financial stability;

(2) cost-effectiveness; and

(3) effectiveness in serving individuals and families of low and very low income and families of moderate income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.77(b), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 980, Sec. 34, eff. Sept. 1, 1997.

Sec. 2306.252. HOUSING RESOURCE CENTER. (a) The board shall establish a housing resource center in the housing finance division.

(b) The department, through the center, shall:

(1) provide educational material prepared in plain language to housing advocates, housing sponsors, borrowers, and tenants;

(2) provide technical assistance to nonprofit housing sponsors;

(3) assist in the development of housing policy, including the annual state low income housing plan and report and the

consolidated plan; and

(4) provide, in cooperation with the state energy conservation office, the Texas Commission on Environmental Quality, and other governmental entities, information on the use of sustainable and energy efficient housing construction products and assist local governments and nonprofits in identifying information on sustainable and energy efficient housing construction and energy efficient resources and techniques.

(c) The housing resource center is intended to assist individuals, local organizations, and local governments in providing for the housing needs of individuals and families in their communities by providing information available to the center to housing contractors, nonprofit housing sponsors, community-based organizations, and local governments on:

(1) local housing needs;

(2) housing programs;

(3) available funding sources; and

(4) programs that affect the creation, improvement, or preservation of housing affordable to individuals and families of low and very low income.

(d) The center shall serve as a housing and community services clearinghouse to provide information to the public, local communities, housing providers, and other interested parties regarding:

(1) the performance of each department program;

(2) the number of people served;

(3) the income of people served;

(4) the funding amounts distributed;

(5) allocation decisions;

(6) regional impact of department programs; and

(7) any other relevant information.

(e) The center shall compile the department's reports into an integrated format and shall compile and maintain a list of all affordable housing resources in the state, organized by community.

(f) The information required under Subsections (d) and (e) must be readily available in:

(1) a hard-copy format; and

(2) a user-friendly format on the department's website.

(g) The center shall provide information regarding the department's housing and community affairs programs to the Texas

Information and Referral Network for inclusion in the statewide information and referral network as required by Section 526.0004.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 35, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 1.21, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 14, eff. Sept. 1, 2003.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 2.22, eff. April 1, 2025.

Sec. 2306.253. HOMEBUYER EDUCATION PROGRAM. (a) The department shall develop and implement a statewide homebuyer education program designed to provide information and counseling to prospective homebuyers about the home buying process.

(b) The department shall develop the program in cooperation with the Texas Agricultural Extension Service, the Texas Department of Human Services, the Real Estate Research Center at Texas A&M University, the Texas Workforce Commission, experienced homebuyer education providers, community-based organizations, and advocates of affordable housing. The department shall implement the program through self-help centers when feasible.

(c) The department shall make full use of existing training and informational materials available from sources such as the United States Department of Housing and Urban Development, the cooperative extension system, the Neighborhood Reinvestment Corporation, and existing homebuyer education providers.

(d) In order to implement this section, the department may use money available to the department for housing purposes that the department is not prohibited from spending on the homebuyer education program, including:

(1) the amount of administrative or service fees the department receives from the issuance or refunding of bonds that exceeds the amount the department needs to pay its overhead costs in administering its bond programs; and

(2) money the department receives from other entities by gift or grant under a contract.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 36, eff. Sept. 1, 1997.

Sec. 2306.255. CONTRACT FOR DEED CONVERSION PROGRAM. (a) In this section, "office" means the office established by the department to promote initiatives for colonias.

(b) The office shall establish a program to guarantee loans made by private lenders to convert a contract for deed into a warranty deed. To the extent possible, the office shall encourage conversion of a contract for deed under the program into a general warranty deed.

(c) The office shall make agreements with private lenders that will issue loans for contract conversions under the guarantee of the department. The office and the lender must agree on the criteria for issuing a deed conversion loan, including the percentage of the guarantee to be issued by the department.

(d) The office may not make an agreement with a lender unless the agreement allows the office to annually renegotiate the guarantee percentage for a loan issued by the lender. The office shall renegotiate the terms of a guarantee when possible to obtain a better guarantee percentage for the state from the lender.

(e) The office may establish eligibility criteria for a holder of a contract for deed who participates in this program. The criteria must include a priority for homeowners and owners of residential real property who are individuals or families of low, very low, or extremely low income.

(f) The office shall use funds allocated to the department under the federal HOME Investment Partnerships program established under Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.) for a guarantee issued under this section.

(g) The office may use the services of the Texas State Affordable Housing Corporation when necessary to accomplish the purposes of this section.

(h) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1079, Sec. 5.01(1), eff. September 1, 2013.

(i) The department may adopt rules necessary to accomplish the purposes of this section.

Added by Acts 1999, 76th Leg., ch. 1238, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.22, eff. Sept. 1, 2001.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 5.01(1), eff. September 1, 2013.

Sec. 2306.256. AFFORDABLE HOUSING PRESERVATION PROGRAM. (a) The department shall develop and implement a program to preserve affordable housing in this state.

(b) Through the program, the department shall:

(1) maintain data on housing projected to lose its affordable status;

(2) develop policies necessary to ensure the preservation of affordable housing in this state;

(3) advise other program areas with respect to the policies; and

(4) assist those other program areas in implementing the policies.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.23, eff. Sept. 1, 2001.

Sec. 2306.2561. AFFORDABLE HOUSING PRESERVATION PROGRAM: LOANS AND GRANTS. (a) The department, through the housing finance division, shall provide loans and grants to political subdivisions, housing finance corporations, public housing authorities, for-profit organizations, nonprofit organizations, and income-eligible individuals, families, and households for purposes of rehabilitating housing to preserve affordability of the housing.

(b) The department may use any available revenue, including legislative appropriations, to provide loans and grants under this section.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.03, eff. Sept. 1, 2001.

Sec. 2306.257. APPLICANT COMPLIANCE WITH STATE AND FEDERAL LAWS PROHIBITING DISCRIMINATION: CERTIFICATION AND MONITORING. (a) The department may provide assistance through a housing program under this chapter only to an applicant who certifies the applicant's compliance with:

(1) state and federal fair housing laws, including Chapter 301, Property Code, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Section 3601 et seq.), and the Fair Housing Amendments Act of 1988 (42 U.S.C. Section 3601 et seq.);

(2) the Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.);

(3) the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.); and

(4) the Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq.).

(b) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1341, Sec. 42, eff. September 1, 2007.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1341, Sec. 42, eff. September 1, 2007.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1341, Sec. 42, eff. September 1, 2007.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.23, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 42, eff. September 1, 2007.

Sec. 2306.258. TRANSITIONAL HOUSING PILOT PROGRAM. (a) If funds are available, the department shall operate a transitional housing pilot program in four areas of the state.

(b) The program must address the needs of the homeless for:

(1) interim housing;

(2) physical and mental health services;

(3) literacy training;

(4) job training;

(5) family counseling;

(6) credit counseling;

(7) education services; and

(8) other services that will prevent homelessness.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.80(a), eff. Sept. 1, 2001. Renumbered from Government Code Sec. 2307.006 and amended by Acts 2001, 77th Leg., ch. 432, Sec. 2, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 2306.256 by Acts 2003, 78th

Leg., ch. 1275, Sec. 2(87), eff. Sept. 1, 2003.

Sec. 2306.2585. HOMELESS HOUSING AND SERVICES PROGRAM. (a) The department may administer a homeless housing and services program in each municipality in this state with a population of 285,500 or more to:

(1) provide for the construction, development, or procurement of housing for homeless persons; and

(2) provide local programs to prevent and eliminate homelessness.

(b) The department may adopt rules to govern the administration of the program, including rules that:

(1) provide for the allocation of any available funding; and

(2) provide detailed guidelines as to the scope of the local programs in the municipalities described by Subsection (a).

(c) The department may use any available revenue, including legislative appropriations, appropriation transfers from the trusteed programs within the office of the governor, including authorized appropriations from the Texas Enterprise Fund, available federal funds, and any other statutorily authorized and appropriate funding sources transferred from the trusteed programs within the office of the governor, for the purposes of this section. The department shall solicit and accept gifts and grants for the purposes of this section. The department shall use gifts and grants received for the purposes of this section before using any other revenue.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 43.03, eff. September 28, 2011.

Sec. 2306.259. AFFORDABLE HOUSING RESEARCH AND INFORMATION PROGRAM. With money available under Section 1372.006(a), the department shall establish an affordable housing research and information program in which the department shall contract for:

(1) periodic market studies to determine the need for housing for families of extremely low, very low, and low income in census tracts throughout the state;

(2) research from qualified professionals to determine the

effect of affordable housing developments on property values, social conditions, and quality of life in surrounding neighborhoods;

(3) independent research in affordable housing design and development approaches that enhance community acceptance of affordable housing and improve the quality of life for the residents of the housing; and

(4) public education and outreach efforts to assist the public in understanding the nature and purpose of affordable housing and the process for public participation in the administration of affordable housing programs.

Added by Acts 2003, 78th Leg., ch. 1329, Sec. 17, eff. Sept. 1, 2003.

SUBCHAPTER L. HOUSING FINANCE DIVISION: REGULATION OF HOUSING SPONSORS

Sec. 2306.261. SUPERVISING HOUSING SPONSORS. The housing finance division may, as provided by this subchapter, supervise:

(1) housing sponsors, including limited profit housing sponsors, of housing developments that are financed under this chapter and rented or leased to tenants; and

(2) real and personal property of sponsors.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.262. UNIFORM SYSTEMS OF ACCOUNTS AND RECORDS. The department may require uniform systems of accounts and records for housing sponsors.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.263. REPORTING. The department may require housing sponsors to:

(1) make reports and certifications of their expenditures; and

(2) answer specific questions on forms whenever necessary for the purposes of this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.2631. REPORTS BY SPONSORS OF CERTAIN MULTIFAMILY HOUSING DEVELOPMENTS. (a) This section applies only to a housing sponsor of a multifamily housing development that:

(1) receives financial assistance from the state;

(2) receives financial assistance from the federal government, including an allocation of low income housing tax credits; or

(3) is subject to a land use restriction agreement.

(b) The department by rule shall require the housing sponsor of a multifamily housing development to submit a quarterly report to the department. The report must include information that identifies:

(1) the number of vacant units in the development at the time of the report; and

(2) the number of days that each unit has been vacant.

(c) The department shall provide to each member of the legislature, on request of that member, a report that disaggregates the information collected under Subsection (b) by zip code in the member's district.

Added by Acts 2009, 81st Leg., R.S., Ch. 1423 (S.B. 1717), Sec. 1, eff. September 1, 2009.

Sec. 2306.264. INSPECTIONS AND EXAMINATIONS. The department, through its agents or employees, may:

(1) enter and inspect, in whole or in part, the land, buildings, and equipment of a housing sponsor; and

(2) examine all records showing the capital structure, income, expenditures, and other payments of a housing sponsor.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.265. OPERATION, MAINTENANCE, AND REPAIR. The department may:

(1) supervise the operation and maintenance of a housing development; and

(2) order necessary repairs to protect the public interest or the health, welfare, or safety of the housing development

occupants.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.266. FEES RELATING TO REGULATION. The department may require a housing sponsor to pay the housing finance division fees for the cost of regulating the housing sponsor, including the cost of:

(1) examination;
(2) inspection;
(3) supervision; and
(4) auditing.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.267. COMPLIANCE WITH APPLICABLE LAWS, RULES, AND CONTRACT TERMS. The department may order a housing sponsor to perform or refrain from performing certain acts in order to comply with the law, department rules, or terms of a contract or agreement to which the housing sponsor is a party.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 37, eff. Sept. 1, 1997.

Sec. 2306.268. RENTS AND CHARGES. The department shall approve and may change from time to time a schedule of rents and charges for a housing development operated by the department under Section 2306.251.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.269. TENANT AND MANAGER SELECTION. (a) The department shall set standards for tenant and management selection by a housing sponsor.

(b) The department shall prohibit a multifamily rental housing development funded or administered by the department, including a

development supported with a housing tax credit allocation under Subchapter DD, from:

(1) excluding an individual or family from admission to the development because the individual or family participates in the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f); and

(2) using a financial or minimum income standard for an individual or family participating in the voucher program described by Subdivision (1) that requires the individual or family to have a monthly income of more than 2-1/2 times the individual's or family's share of the total monthly rent payable to the owner of the development.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 3.04, eff. Sept. 1, 2001.

Sec. 2306.270. REGULATION OF RETIREMENT OF CAPITAL INVESTMENT OR REDEMPTION OF STOCK. The department shall regulate the retirement of a capital investment or the redemption of stock of a limited profit housing sponsor if the retirement or redemption, when added to a dividend or other distribution, exceeds in any one fiscal year the permitted percentage, as allowed by the department, of the original face amount of the limited profit housing sponsor's investment or equity in a housing development.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 38, eff. Sept. 1, 1997.

Sec. 2306.271. COST CONTROLS. (a) The housing finance division by rule shall specify the categories of costs allowable in the construction, reconstruction, remodeling, improvement, or rehabilitation of a housing development.

(b) The housing finance division shall require a housing sponsor to certify the actual housing development costs on completion of the housing development, subject to audit and determination by the department.

(c) The department may accept, instead of certification of

housing development costs under Subsection (b), other assurances of the costs, in any form, that will enable the housing finance division to determine with reasonable accuracy the amount of the costs.

(d) In this section, "housing development costs" means the total of all costs incurred in financing, creating, or purchasing a housing development, including a single-family dwelling, approved by the department as reasonable and necessary. The costs may include:

(1) the value of land and buildings on the land owned by the sponsor or the cost of acquiring land and buildings on the land, including payments for options, deposits, or contracts to purchase properties on the proposed housing site;

(2) costs of site preparation, demolition, and development;

(3) expenses relating to the issuance of bonds;

(4) fees paid or payable in connection with the planning, execution, and financing of the housing development, including fees to:

(A) architects;

(B) engineers;

(C) attorneys;

(D) accountants; or

(E) the housing finance division on the department's behalf;

(5) costs of necessary studies, surveys, plans, permits, insurance, interest, financing, tax and assessment costs, and other operating and carrying costs during construction;

(6) costs of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery, and apparatus related to the real property;

(7) costs of land improvements, including landscaping and off-site improvements, whether or not the costs have been paid in cash or in a form other than cash;

(8) necessary expenses for the initial occupancy of the housing development;

(9) a reasonable profit and risk fee in addition to job overhead to the general contractor or limited profit housing sponsor;

(10) an allowance established by the department for working capital and contingency reserves and reserves for anticipated operating deficits during the first two years of occupancy; and

(11) the cost of other items, including tenant relocation if tenant relocation costs are not otherwise provided for, that the

department determines are reasonable and necessary for the development of the housing development, less net rents and other net revenues received from the operation of the real and personal property on the development site during construction.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.272. HOUSING SPONSOR INVESTMENTS. (a) A principal or stockholder of a housing sponsor may not earn, accept, or receive a per annum return on an investment in a housing development financed by the department greater than that allowed by department rule.

(b) A housing sponsor's equity in a housing development is the difference between the mortgage loan and the total housing development cost.

(c) The department shall establish a housing sponsor's equity when the final mortgage advance is made.

(d) For the purposes of this section, the amount established under Subsection (c) remains constant during the life of the department's mortgage on the development, except for additional equity investment made by the sponsor with the department's approval or at its order.

(e) In this section, "housing development costs" has the meaning assigned by Section 2306.271(d).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.273. LIMITATION ON APPLICATION OF CERTAIN PROVISIONS OF SUBCHAPTER. Sections 2306.261 through 2306.271 do not apply to a housing development:

(1) for which individuals or families of low and very low income or families of moderate income receive a mortgage loan under this chapter; and

(2) that initially is intended for occupancy by those individuals or families.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER M. HOUSING FINANCE DIVISION: PURCHASE AND SALE OF

MORTGAGE LOANS

Sec. 2306.291. PURCHASE AND SALE OF MORTGAGE LOANS. (a) The department may purchase and take assignments from mortgage lenders or the federal government of notes and other obligations, including contracts for deed and mortgages, evidencing loans or interest in loans for the construction, remodeling, improvement, rehabilitation, purchase, leasing, or refinancing of housing developments for individuals and families of low and very low income and families of moderate income.

(b) The department may sell, at public or private sale, with or without public bidding, a mortgage or other obligation held by the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 39, eff. Sept. 1, 1997.

Sec. 2306.292. ELIGIBILITY OF MORTGAGE LOANS FOR PURCHASE. A mortgage loan or interest in a mortgage loan is not eligible for purchase by or on behalf of the department from a mortgage lender unless the mortgage lender certifies that the mortgage loan or interest in the mortgage loan is for a housing development for individuals or families of low and very low income or for families of moderate income.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.293. FEDERALLY ASSISTED MORTGAGE LOANS. A mortgage loan or interest in a mortgage loan purchased or sold under this subchapter may include a mortgage loan that is insured, guaranteed, or assisted by the federal government or a mortgage loan that the federal government has committed to insure, guarantee, or assist.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.294. MORTGAGE LOAN PURCHASE PRICE. (a) On purchasing a mortgage loan or interest in a mortgage loan from a mortgage lender, the department shall pay a purchase price equal to

the outstanding principal balance, except that a discount from the principal balance or the payment of a premium may be used to produce a fair rate of return consistent with the obligations of the department and the purposes of this chapter.

(b) In addition to payment of the outstanding principal balance, the department shall pay the accrued interest due to the date on which the mortgage loan is delivered against payment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.295. RULES GOVERNING PURCHASE AND SALE OF MORTGAGE LOANS. The department shall adopt rules governing the purchase and sale of mortgage loans and the application of sale proceeds, including rules governing:

(1) procedures for submitting requests or inviting proposals for the purchase and sale of mortgage loans or interest in the mortgage loans;

(2) restrictions on the number of family units, location, or other qualifications of residences to be financed by residential mortgage loans;

(3) income limits of individuals and families of low and very low income or families of moderate income occupying a residence financed by a residential mortgage loan;

(4) restrictions relating to the interest rates on mortgage loans or the return realized by mortgage lenders;

(5) requirements for commitments by mortgage lenders relating to mortgage loans;

(6) schedules of fees and charges necessary for expenses and reserves of the housing finance division;

(7) resale of the housing development; and

(8) any other matter related to the power of the department to purchase and sell mortgage loans or interests in mortgage loans.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.296. REVIEW AND SUBSTITUTION OF PURCHASED MORTGAGE LOANS. (a) The department shall review each mortgage loan purchased or financed by the department to determine if the loan meets:

(1) the conditions of this chapter;

(2) the department's rules; and

(3) any commitment made with the mortgage lender to purchase mortgage loans.

(b) The department may require the substitution of another mortgage loan if it determines that a loan does not comply with the criteria of Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.297. APPLICATION OF PROVISIONS RELATING TO LOAN TERMS AND CONDITIONS. Sections 2306.225 through 2306.229 apply to the purchase of mortgage loans.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER P. HOUSING FINANCE DIVISION BONDS: ISSUANCE OF BONDS

Sec. 2306.351. ISSUANCE OF BONDS. (a) The department may issue bonds under this chapter, including qualified 501(c)(3) bonds under Section 145, Internal Revenue Code of 1986 (26 U.S.C. Section 145), and may:

(1) provide for and secure payment of the bonds;

(2) provide for the rights of the holders of the bonds, as permitted by this chapter and the Texas Constitution; and

(3) purchase, hold, cancel, resell, or otherwise dispose of its bonds, subject to restrictions in a resolution authorizing issuance of its bonds.

(b) In connection with or incidental to issuing and selling its bonds, the department may enter into contracts that the board considers necessary or appropriate for the department's obligation, as represented by the bonds and incidental contracts, to be placed, in whole or in part, on the basis desired by the board, including interest rate, currency, or cash flow.

(c) Contracts that may be entered into under Subsection (b) include contracts:

(1) commonly known as interest rate swap agreements, currency swap agreements, or forward payment conversion agreements;

(2) providing for payments based on levels of or changes in interest rates or currency exchange rates;

(3) to exchange cash flows or a series of payments; or

(4) that include options, puts or calls to hedge payment, currency, rate, spread, or similar exposure.

(d) A contract entered into under this section shall be on terms and conditions approved by the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 40, eff. Sept. 1, 1997.

Sec. 2306.352. TEXAS HOUSING BONDS. (a) The board by resolution may provide for the issuance of negotiable bonds as authorized by the Texas Constitution.

(b) The bonds shall be on a parity and shall be called Texas Housing Bonds.

(c) The board:

(1) may issue the bonds in one or several installments; and

(2) shall date the bonds of each issue.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.353. REVENUE BONDS. (a) In addition to issuing general obligation bonds under Section 2306.352, the department may issue revenue bonds to provide money to carry out a purpose, power, or duty of the housing finance division under this chapter.

(b) The bonds may be issued from time to time in one or more series or issues.

(c) The bonds shall be payable as to principal, interest, and redemption premium, if any, from, and secured by, a first or subordinate lien on, and pledge of, all or part of the revenues, income, or other resources of the housing finance division, including:

(1) the repayments of mortgage loans;

(2) the earnings from investment or deposit of the reserve fund and other funds of the housing finance division;

(3) the fees, charges, and other amounts or payments received under this chapter; and

(4) appropriations, grants, allocations, subsidies, rent supplements, guaranties, aid, contribution, or donations.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.354. DEFINITIVE REFUNDING BONDS. (a) The department may issue definitive refunding bonds if the bonds are issued and delivered to refund:

(1) other department bonds; or

(2) the obligations of:

(A) the department's predecessor; or

(B) a local housing finance corporation.

(b) The bonds must be payable as to principal, interest, and redemption premium, if any, from the refunding bonds and other revenues, income, or resources of the department.

(c) The department may contract to issue, sell, and deliver the definitive refunding bonds in a manner that will provide the money necessary to pay a required part of the principal, interest, and redemption premium, if any, on the refunded bonds or obligations when due.

(d) The refunded bonds or obligations may be refunded in another manner permitted by this chapter or other state law, including Chapter 1207.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.247, eff. Sept. 1, 2001.

Sec. 2306.355. ISSUANCE OF ADDITIONAL PARITY OR SUBORDINATE LIEN BONDS. The department may issue additional parity bonds or subordinate lien bonds under terms or conditions in the resolution authorizing issuance of the bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.356. ISSUANCE OF BONDS TO FUND DEPARTMENT RESERVES OR FUNDS. The department may issue bonds to provide all or part of the money required for funding or increasing the department's reserves or funds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.357. BONDS ISSUED BY TEXAS HOUSING AGENCY. A general obligation or revenue bond issued by the Texas Housing Agency becomes a general obligation or revenue bond of the department.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 41, eff. Sept. 1, 1997.

Sec. 2306.358. ISSUANCE OF QUALIFIED 501(C)(3) BONDS. (a) Of the total qualified 501(c)(3) bonds issued under Section 145 of the Internal Revenue Code of 1986 (26 U.S.C. Section 145) in each fiscal year, it is the express intent of the legislature that the department shall allocate qualified 501(c)(3) bonding authority as follows:

(1) not more than 25 percent of the total annual issuance amount authorized through the memorandum of understanding provided for in Subsection (b) may be used for projects in any one metropolitan area; and

(2) at least 15 percent of the annual issuance amount authorized through the memorandum of understanding provided for in Subsection (b) is reserved for projects in rural areas.

(a-1) For the purposes of Subsection (a), "rural area" and "metropolitan area" shall be defined through the memorandum of understanding provided for in Subsection (b).

(b) A qualified 501(c)(3) bond may not be issued unless approved by the Bond Review Board. In addition, the Bond Review Board shall enter into a memorandum of understanding with the department specifying the amount of bonds to be issued in each fiscal year. The department and the Bond Review Board shall review the memorandum of understanding annually to determine the specific amount of bonds to be issued in each fiscal year. The Bond Review Board may not approve a proposal to issue qualified 501(c)(3) bonds unless they meet the requirements of this section, including the memorandum of understanding, and all other laws that may apply.

(c) In addition to the requirements of Section 145 of the Internal Revenue Code of 1986 (26 U.S.C. Section 145), a qualified 501(c)(3) organization must:

(1) demonstrate to the department that the project is

carefully and conservatively underwritten to:

(A) ensure that the project is well run, well maintained, and financially viable; and

(B) minimize the risk of the organization's default;

(2) ensure that at least 60 percent of the housing to be provided under the project is affordable housing provided to individuals and families of low and very low income and:

(A) at least 40 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 60 percent of the median family income, adjusted for family size; or

(B) at least 20 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 50 percent of the median family income, adjusted for family size; and

(3) enter into an agreement with the department in which the 501(c)(3) organization:

(A) agrees during the term of the agreement to reserve at least 60 percent of the housing to be provided under the project for individuals and families of low and very low income;

(B) ensures that the reserved housing will remain affordable to individuals and families of low and very low income during the term of the agreement;

(C) agrees to not discriminate against a tenant applicant solely because the applicant receives public rental assistance payments, except if at least 15 percent of the housing units provided under the project are occupied by tenants who receive public rental assistance payments; and

(D) agrees to restrict the rents charged on those units reserved for individuals and families of low and very low income at 30 percent of the area median income adjusted for family size and utility allowance, unless this requirement is waived or modified on a case-by-case basis by the board, and approved by the Bond Review Board, if both boards determine that the waiver or modification is necessary for an area of the state because the area's median income would prevent the construction of new affordable projects.

(d) Subsection (c)(3)(C) does not prohibit an organization from requiring a tenant applicant who receives public assistance to meet the organization's standard criteria for occupancy, including such criteria as satisfactory creditworthiness and lack of criminal

history.

(e) The agreement provided for in Subsection (c)(3) may provide for the lease or sale of the project to a nonprofit corporation approved by the department subject to the conditions specified in Subsection (c).

(f) Neither the department nor the Texas State Affordable Housing Corporation may use state or federal money to provide for credit enhancement of a bond issued under this section unless the credit enhancement would facilitate the issuance of bonds for the purpose of financing the creation or preservation of affordable housing by 501(c)(3) nonprofit entities.

(g) In lieu of complying with the set-aside requirements specified in Subsection (c)(2), a qualified 501(c)(3) organization may comply with such other set-asides or restrictions as are approved by the Internal Revenue Service as a basis for the determination letter addressed to the qualified 501(c)(3) organization.

(h) For purposes of this section, "rural area" and "metropolitan area" shall be defined through the memorandum of understanding provided for in Subsection (b) of this section.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 42, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.24, eff. Sept. 1, 2001.

Sec. 2306.359. ISSUANCE OF PRIVATE ACTIVITY BONDS. (a) In evaluating an application for an issuance of private activity bonds, the department shall score and rank the application using a point system based on criteria that are adopted by the department, including criteria regarding:

(1) the income levels of tenants of the development, consistent with the funding priorities provided by Section 1372.0321;

(2) the rent levels of the units;

(3) the level of community support for the application;

(4) the period of guaranteed affordability for low income tenants;

(5) the cost per unit of the development;

(6) the size, quality, and amenities of the units;

(7) the services to be provided to tenants of the development; and

(8) other criteria as developed by the board.

(b) The department shall make available on its website details of the scoring system used by the department to score applications.

(c) The department shall underwrite the applications by determining:

(1) that the general contractor's profit, overhead, and general requirements are within the maximum limit published by the department;

(2) that the developer fee for the proposed project does not exceed the maximum amount allowed by the department; and

(3) if applicable, the amount of tax credits available to the proposed development.

(d) In adopting criteria for underwriting applications under this section, the department shall attach additional weight to criteria that will determine the maximum amount that can be awarded that will:

(1) result in an issuance of private activity bonds for developments serving the lowest income tenants; and

(2) produce the greatest number of high-quality units committed to remaining affordable to qualified tenants for extended periods.

Added by Acts 2003, 78th Leg., ch. 330, Sec. 15, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 25, eff. September 1, 2007.

SUBCHAPTER Q. HOUSING FINANCE DIVISION BONDS: BOARD ACTION ON BONDS

Sec. 2306.371. BOARD AUTHORIZATION OF BONDS. Bonds issued by the department must be authorized by board resolution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.372. DEPARTMENT PROCEDURES. In a resolution authorizing the issuance of department bonds, the board may prescribe the systems and procedures under which the department shall function.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.373. USE OF BOND PROCEEDS. The board may provide in a resolution authorizing the issuance of department bonds that part of the proceeds from the sale of the bonds may be used to:

(1) pay the costs and expenses of issuing the bonds;

(2) pay interest on the bonds during a period required by the board;

(3) pay or repay the department's operation and maintenance expenses to the extent and for the period specified in the resolution; and

(4) fund, increase, or restore any depletions of the reserve fund or of other reserves or funds for any purpose.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.374. FACSIMILE SIGNATURES AND SEALS. (a) The board may state in a resolution authorizing the issuance of an installment or series of bonds the extent to which the presiding officer of the board or any other officer may use a facsimile signature or facsimile seal instead of a manual signature or manually impressed seal to execute or attest the bonds and appurtenant coupons.

(b) An interest coupon may be signed by the facsimile signature of the presiding officer of the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.375. PERSONAL LIABILITY OF BOARD MEMBER OR DIRECTOR. A member of the board or the director is not liable personally for bonds issued or contracts executed by the department or for any other action taken in accordance with the powers and duties authorized by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 43, eff. Sept. 1, 1997.

SUBCHAPTER R. HOUSING FINANCE DIVISION BONDS: FORM; TERMS

Sec. 2306.391. FORM. The department's bonds may be issued as:

(1) serial bonds;

(2) term bonds; or

(3) a combination of serial and term bonds as determined by the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.392. DENOMINATION. (a) The department's bonds may be issued:

(1) in coupon form payable to bearer;

(2) in fully registered form;

(3) as coupon bonds payable to bearer but registrable as to principal alone or as to both principal and interest; or

(4) in another form, including a registered uncertificated obligation not represented by written instruments, commonly known as a book-entry obligation.

(b) The department shall provide for the registration of ownership and transfer of a book-entry obligation under a system of books and records maintained by a bank serving as trustee, paying agent, or bond registrar.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.393. MANNER, PRICE, AND TERMS. The department's bonds may be sold in a manner, at a price, and under terms and conditions determined by the board under a contractual arrangement approved by the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.394. PLACE OF PAYMENT; MEDIUM OF EXCHANGE. (a) The department's bonds may be payable at a place inside or outside the United States.

(b) The bonds may be made payable in any currency or medium of exchange, including United States dollars and currencies of other nations.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.395. INTEREST ON BONDS. The department's bonds may be issued to bear interest at a rate determined by the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.396. MATURITY OF BONDS. The department's bonds may mature within a period determined by the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.397. REDEMPTION BEFORE MATURITY; CONVERSION. (a) Department bonds may be made redeemable before maturity.

(b) The board may provide and covenant for the:

(1) conversion of one form of bond to another form; and

(2) reconversion of a bond to another form.

(c) Except as provided by Subsection (d), a replacement, converted, or reconverted bond must be approved and registered as provided by Sections 2306.431 and 2306.432, under procedures established by the resolution authorizing the bonds.

(d) If the duty of replacement, conversion, or reconversion of a bond is imposed on a place of payment (paying agent) or a corporate trustee under a trust agreement or trust indenture, the replacement, converted, or reconverted bond does not need to be reapproved by the attorney general or reregistered by the comptroller as provided by Sections 2306.431 and 2306.432.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER S. HOUSING FINANCE DIVISION BONDS: SECURITY FOR BONDS

Sec. 2306.411. SECURITY FOR PAYMENT OF PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM. (a) In addition to other security for the department's bonds authorized by this chapter, payment of the principal and interest and redemption premium, if any, on the department's bonds may be secured by a first or subordinate lien on and pledge of all or part of:

(1) the department's assets and real, personal, or mixed property, including:

(A) mortgages or other obligations securing the assets

of property;

(B) investments; and

(C) trust agreements or trust indentures administered by one or more corporate trustees as allowed by the board; and

(2) the reserves or funds of the department.

(b) The form of a mortgage, trust agreement, or trust indenture securing department bonds must be authorized under the resolution authorizing the issuance of the bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 44, eff. Sept. 1, 1997.

Sec. 2306.412. VALIDITY OF LIENS AND PLEDGES. (a) A lien on or pledge of revenues, income, assets, reserves, funds, or other resources of the department, as authorized by this chapter, is valid and binding from the time of payment for and delivery of the bonds authorized by the board resolution creating or confirming the lien or pledge.

(b) A lien or pledge is fully effective as to revenues, income, assets, reserves, funds, or other resources on hand or later received, and those items are subject to the lien or pledge without physical delivery of the item or any further act.

(c) A lien or pledge is valid and binding against a party who has a claim in tort, contract, or otherwise against the department or another party, regardless of whether the party has notice of the lien or pledge.

(d) A resolution authorizing the issuance of department bonds or any other instrument creating or confirming a lien or pledge is not required to be filed or recorded, except that:

(1) the resolution or instrument must be filed in the department's records; and

(2) each department bond resolution must be submitted to the attorney general under Section 2306.431.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 45, eff. Sept. 1, 1997.

SUBCHAPTER T. HOUSING FINANCE DIVISION BONDS: APPROVAL, REGISTRATION, AND EXECUTION

Sec. 2306.431. APPROVAL OF BONDS. (a) Bonds issued by the department and the appropriate proceedings authorizing the bonds' issuance shall be submitted to the attorney general for examination.

(b) The attorney general shall approve the bonds if the attorney general finds that the bonds have been authorized as provided by this chapter.

(c) Any bonds submitted by the department to the attorney general under this section must include a certification by the board that home mortgage loans made using the proceeds of the bonds do not include a mandatory arbitration requirement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.25, eff. Sept. 1, 2001.

Sec. 2306.432. REGISTRATION. On approval of the attorney general under Section 2306.431, the comptroller shall register the department's bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.433. EXECUTION. Bonds authorized by Section 2306.352 shall be executed on the board's behalf as general obligations of the state as follows:

(1) the presiding officer of the board shall sign the bonds;

(2) the board shall impress its seal on the bonds;

(3) the governor shall sign the bonds; and

(4) the secretary of state shall attest the bonds and impress on them the state seal.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER U. HOUSING FINANCE DIVISION BONDS: RIGHTS AND REMEDIES OF BONDHOLDERS AND PARTIES IN INTEREST

Sec. 2306.451. STATE PLEDGE REGARDING BONDHOLDER RIGHTS AND

REMEDIES. (a) The state pledges to and agrees with the holders of bonds issued under this chapter that it will not limit or alter the rights vested in the department under this chapter to fulfill the terms of an agreement made with a bondholder or impair the rights and remedies of a bondholder until the following obligations are fully discharged:

(1) the bonds;

(2) interest on the bonds;

(3) interest on any unpaid installment of interest; and

(4) all costs and expenses related to an action or proceeding by or on behalf of the holders.

(b) The department may include the state's pledge and agreement under Subsection (a) in an agreement with the holders of the department's bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.452. PAYMENT ENFORCEABLE BY MANDAMUS. A writ of mandamus and any other legal or equitable remedy are available to a party in interest to require the department, the comptroller, or another party to carry out an agreement or to perform a function or duty under:

(1) this chapter;

(2) the Texas Constitution; or

(3) the department's bond resolutions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.76, eff. Sept. 1, 1997.

SUBCHAPTER V. HOUSING FINANCE DIVISION BONDS: OBLIGATIONS OF DEPARTMENT AND STATE

Sec. 2306.471. GENERAL OBLIGATION BONDS. General obligation bonds issued under Section 2306.352 and approved and registered under this chapter are general obligations of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.472. DEPARTMENT'S BONDS OTHER THAN GENERAL OBLIGATION BONDS NOT OBLIGATIONS OF THE STATE. Except for bonds authorized by the Texas Constitution and issued under Section 2306.352, the department's bonds:

(1) are solely obligations of the department and are payable solely from funds of the housing finance division;

(2) are not an obligation, debt, or liability of the state; and

(3) do not create or constitute a pledge, giving, or lending of the faith, credit, or taxing power of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.473. STATE NOT OBLIGATED TO PAY; FAITH AND CREDIT NOT PLEDGED. A department bond not authorized by Section 2306.352 must contain a statement on the face of the bond that:

(1) the state is not obligated to pay the principal or interest on the bond; and

(2) the faith, credit, or taxing power of the state is not pledged, given, or loaned to payment of the bond's principal or interest.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER W. HOUSING FINANCE DIVISION BONDS: MISCELLANEOUS PROVISIONS

Sec. 2306.491. BONDS NEGOTIABLE INSTRUMENTS. Notwithstanding any other statute, a bond and interest coupon issued and delivered by the department is a negotiable instrument under the Uniform Commercial Code, except that the bond may be registered or subject to registration under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 46, eff. Sept. 1, 1997.

Sec. 2306.492. BONDS INCONTESTABLE. Department bonds are incontestable for any reason in a court or other forum after approval

by the attorney general and registration by the comptroller and are valid and binding obligations for all purposes under the terms of the bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.493. SIGNATURE OF FORMER OFFICER. If an officer whose manual or facsimile signature appears on a bond or whose facsimile signature appears on a coupon is not an officer at the time the bond is delivered, the signature is valid and sufficient for all purposes as if the officer had remained in office until delivery.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.494. BONDS NOT TAXABLE. The following are free from taxation or assessment by this state or a public agency:

(1) department bonds issued under this chapter;

(2) interest and income from department bonds, including a profit from the sale of the bonds; and

(3) all fees, charges, gifts, grants, revenues, receipts, and other money received or pledged to pay or secure the payment of the department's bonds.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.495. AUTHORIZED INVESTMENTS. Bonds issued by the department under this chapter are legal and authorized investments for:

(1) banks;

(2) savings banks;

(3) trust companies;

(4) savings and loan associations;

(5) insurance companies;

(6) fiduciaries;

(7) trustees;

(8) guardians; or

(9) sinking or other public funds of:

(A) this state;

(B) a municipality;
(C) a county;
(D) a school district; or
(E) another political subdivision or public agency of this state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.496. SECURITY FOR DEPOSIT OF FUNDS. Department bonds are eligible and lawful security for a deposit of public funds of the state or a public agency to the extent of the greater of the bonds' par or market value when accompanied by appurtenant unmatured interest coupons.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.497. MUTILATED, LOST, STOLEN, OR DESTROYED BONDS. The board may provide procedures for the replacement of a mutilated, lost, stolen, or destroyed bond or interest coupon.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.498. NO GAIN ALLOWED. (a) The director or a board member may not have or attempt to have a pecuniary interest in a transaction to which the department is a party for purposes of personal pecuniary gain.

(b) A board member or department employee may not purchase department bonds in the open secondary market for municipal securities.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER X. INDIVIDUALS WITH SPECIAL NEEDS

Sec. 2306.511. DEFINITION. In this subchapter, "individual with special needs" means an individual who:

(1) is considered to be an individual having a disability under a state or federal law;

(2) is elderly;

(3) is designated by the board as experiencing a unique need for decent, safe housing that is not being met adequately by private enterprise; or

(4) is legally responsible for caring for an individual described by Subdivision (1), (2), or (3) and meets the income guidelines established by the board.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.512. SPECIAL NEEDS. The department may adopt a strategy to serve the needs of individuals with special needs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2306.513. HOUSING FOR INDIVIDUALS WITH SPECIAL NEEDS. (a) The board shall adopt rules to achieve occupancy by individuals with special needs of at least five percent of the units in each multifamily housing development.

(b) Subsection (a) applies only to a multifamily housing development that contains at least 20 units and is financed by bonds issued under this chapter.

(c) If a survey that is conducted by the housing sponsor and verified by the housing finance division reveals that there is not sufficient need for housing for individuals with special needs in the area in which the development will be built or renovated to justify building or renovating and reserving at least five percent of the units for individuals with special needs, the department may, on a showing of good cause by the housing sponsor, lower the requirements to correspond to the amount of need found by the housing sponsor.

(d) Repealed by Acts 1995, 74th Leg., ch. 76, Sec. 5.78, eff. Sept. 1, 1995.

(e) Repealed by Acts 1997, 75th Leg., ch. 980, Sec. 54, eff. Sept. 1, 1997.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.78, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 980, Sec. 54, eff. Sept. 1, 1997.

Sec. 2306.514. CONSTRUCTION REQUIREMENTS FOR SINGLE FAMILY AFFORDABLE HOUSING. (a) If a person is awarded state or federal funds by the department to construct single family affordable housing for individuals and families of low and very low income, the affordable housing identified on the person's funding application must be constructed so that:

(1) at least one entrance door, whether located at the front, side, or back of the building:

(A) is on an accessible route served by a ramp or no-step entrance; and

(B) has at least a standard 36-inch door;

(2) on the first floor of the building:

(A) each interior door is at least a standard 32-inch door, unless the door provides access only to a closet of less than 15 square feet in area;

(B) each hallway has a width of at least 36 inches and is level, with ramped or beveled changes at each door threshold;

(C) each bathroom wall is reinforced for potential installation of grab bars;

(D) each electrical panel, light switch, or thermostat is not higher than 48 inches above the floor; and

(E) each electrical plug or other receptacle is at least 15 inches above the floor; and

(3) if the applicable building code or codes do not prescribe another location for the breaker boxes, each breaker box is located not higher than 48 inches above the floor inside the building on the first floor.

(b) A person who builds single family affordable housing to which this section applies may obtain a waiver from the department of the requirement described by Subsection (a)(1)(A) if the cost of grading the terrain to meet the requirement is prohibitively expensive.

Added by Acts 1999, 76th Leg., ch. 1581, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 26, eff. September 1, 2007.

SUBCHAPTER X-2. NATURAL DISASTER HOUSING RECONSTRUCTION INITIATIVE

Sec. 2306.541. NATURAL DISASTER HOUSING RECONSTRUCTION ADVISORY COMMITTEE. (a) The director shall appoint a natural disaster housing reconstruction advisory committee composed of representatives from appropriate local, state, and federal entities and organizations and nonprofit organizations.

(b) The advisory committee shall develop a natural disaster housing reconstruction plan. In developing this plan, the advisory committee shall:

(1) evaluate existing systems of providing temporary housing to victims of natural disasters and develop alternative systems to increase efficiency and cost-effectiveness;

(2) evaluate existing models for providing permanent replacement housing to victims of natural disasters;

(3) design alternatives to existing models to improve the sustainability, affordability, desirability, and quality of housing rebuilt in the event of future natural disasters;

(4) evaluate economic circumstances of elderly, disabled, and low-income victims of natural disasters and develop models for providing affordable replacement housing;

(5) recommend programs for the rapid and efficient large-scale production of temporary and permanent replacement housing following a natural disaster; and

(6) encourage the participation, coordination, and involvement of appropriate federal organizations.

(c) Chapter 2110 does not apply to the advisory committee.

Added by Acts 2009, 81st Leg., R.S., Ch. 1135 (H.B. 2450), Sec. 2, eff. September 1, 2009.

Sec. 2306.542. HOUSING RECONSTRUCTION DEMONSTRATION PILOT PROGRAM. (a) Using the natural disaster housing reconstruction plan developed under this subchapter, the director and advisory committee shall develop, for implementation under Subsections (b) and (c), housing reconstruction demonstration pilot programs for three areas, each of which was affected by one of the three most recent federally declared natural disasters. The pilot programs must provide for the replacement of at least 20 houses in each area to test the feasibility of implementing the plan in the large-scale production of replacement housing for victims of federally declared natural

disasters.

(b) The department shall provide to an interested council of government, county, or local government eligible for funding for disaster recovery under the community development block grant program:

(1) information regarding a pilot program developed under Subsection (a); and

(2) assistance in implementing a pilot program developed under Subsection (a).

(c) At the discretion of the board, the department may implement a pilot program in any of the three most recently federally declared disaster areas in which a pilot program has not been implemented by a council of government, county, or local government. The department may use any available funds to implement the pilot program.

Added by Acts 2009, 81st Leg., R.S., Ch. 1135 (H.B. 2450), Sec. 2, eff. September 1, 2009.

SUBCHAPTER Y. TEXAS STATE AFFORDABLE HOUSING CORPORATION

Sec. 2306.551. DEFINITION. In this subchapter, "corporation" means the Texas State Affordable Housing Corporation.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(d), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997.

Sec. 2306.552. CREATION. (a) The existence of the Texas State Affordable Housing Corporation, or any similarly named corporation, begins on the date that the secretary of state issues the certificate of incorporation.

(b) The charter of the corporation must establish the corporation as nonprofit and specifically dedicate the corporation's activities to the public purpose authorized by this subchapter.

(c) The creation of the corporation does not limit or impair the rights, powers, and duties of the department under this chapter.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(d), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept.

1, 1997.

Sec. 2306.5521. SUNSET PROVISION. The Texas State Affordable Housing Corporation is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the corporation is abolished and this subchapter expires September 1, 2029.

Added by Acts 1997, 75th Leg., ch. 1169, Sec. 1.02, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1194, Sec. 2, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 332, Sec. 8, eff. Sept. 1, 2003. Amended by:

Acts 2009, 81st Leg., 1st C.S., Ch. 2 (S.B. 2), Sec. 1.04, eff. July 10, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 291 (H.B. 1818), Sec. 1, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 850 (S.B. 713), Sec. 3.02, eff. June 16, 2021.

Acts 2023, 88th Leg., R.S., Ch. 941 (S.B. 1659), Sec. 1.11, eff. June 18, 2023.

Sec. 2306.553. PURPOSES. (a) The public purpose of the corporation is to perform activities and services that the corporation's board of directors determines will promote the public health, safety, and welfare through the provision of adequate, safe, and sanitary housing primarily for individuals and families of low, very low, and extremely low income and for persons who are eligible for loans under the home loan program provided by Section 2306.5621. The activities and services shall include engaging in mortgage banking activities and lending transactions and acquiring, holding, selling, or leasing real or personal property.

(b) The corporation's primary public purpose is to facilitate the provision of housing by issuing qualified 501(c)(3) bonds and qualified residential rental project bonds and by making affordable loans to individuals and families of low, very low, and extremely low income and to persons who are eligible for loans under the home loan program provided by Section 2306.5621. The corporation may make first lien, single family purchase money mortgage loans for single

family homes only to individuals and families of low, very low, and extremely low income if the individual's or family's household income is not more than the greater of 60 percent of the median income for the state, as defined by the United States Department of Housing and Urban Development, or 60 percent of the area median family income, adjusted for family size, as defined by that department. The corporation may make loans for multifamily developments if:

(1) at least 40 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 60 percent of the median family income, adjusted for family size; or

(2) at least 20 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 50 percent of the median family income, adjusted for family size.

(c) To the extent reasonably practicable, the corporation shall use the services of banks, community banks, savings banks, thrifts, savings and loan associations, private mortgage companies, nonprofit organizations, and other lenders for the origination of all loans contemplated by this subchapter and assist the lenders in providing credit primarily to individuals and families of low, very low, and extremely low income.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(d), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1041, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1194, Sec. 3, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 332, Sec. 9, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1050, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 196 (H.B. 1007), Sec. 5, eff. May 27, 2005.

Acts 2005, 79th Leg., Ch. 674 (S.B. 132), Sec. 10(b), eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 674 (S.B. 132), Sec. 12, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 455 (H.B. 618), Sec. 1, eff. June 16, 2007.

Acts 2007, 80th Leg., R.S., Ch. 544 (S.B. 1185), Sec. 6, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1108 (H.B. 3552), Sec. 13, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 11.025, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 405 (S.B. 286), Sec. 2, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1219 (S.B. 1553), Sec. 2, eff. June 14, 2013.

Sec. 2306.554. BOARD OF DIRECTORS AND OFFICERS. (a) The board of directors of the corporation consists of five members appointed by the governor. One member must represent the interests of individuals and families served by the corporation's single-family mortgage loan programs, one member must represent nonprofit housing organizations, and the remaining three members must represent one or more of the following areas:

(1) state or federal savings banks or savings and loan associations;

(2) community banks with assets of $200 million or less;

(3) large metropolitan banks with assets of more than $1 billion;

(4) asset management companies;

(5) mortgage servicing companies;

(6) builders;

(7) real estate developers;

(8) real estate brokers;

(9) community or economic development organizations;

(10) private mortgage companies;

(11) nonprofit housing development companies;

(12) attorneys;

(13) investment bankers;

(14) underwriters;

(15) private mortgage insurance companies;

(16) appraisers;

(17) property management companies;

(18) financial advisors;

(19) nonprofit foundations;

(20) financial advisors; or

(21) any other area of expertise that the governor finds

necessary for the successful operation of the corporation.

(b) The governor shall designate a member of the corporation's board of directors as the presiding officer of the board of directors to serve in that capacity at the pleasure of the governor.

(c) A member of the corporation's board of directors is not entitled to compensation, but is entitled to reimbursement of travel expenses incurred by the member while conducting the business of the board to the same extent provided by the General Appropriations Act for a member of a state board.

(d) The corporation shall employ, for compensation to be determined by the corporation's board of directors, a qualified individual to serve as president of the corporation.

(e) The corporation may purchase, with corporation funds, liability insurance for each of the members of the corporation's board of directors, officers, and other employees of the corporation in an amount that the corporation's board of directors considers reasonably necessary to:

(1) insure against foreseeable liabilities; and

(2) provide for all costs of defending against those liabilities, including, without limitation, court costs and attorney's fees.

(f) Appointments to the board of directors of the corporation shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(d), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1041, Sec. 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 332, Sec. 10, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 291 (H.B. 1818), Sec. 2, eff. September 1, 2011.

Sec. 2306.5541. TERMS OF MEMBERS. The members of the board of directors of the corporation serve staggered six-year terms, with the terms of one or two members expiring on February 1 of each odd-numbered year.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 11, eff. Sept. 1, 2003.

Sec. 2306.5542. REMOVAL OF MEMBERS. (a) It is a ground for removal from the board of directors of the corporation that a member:

(1) does not have at the time of taking office the qualifications required by Section 2306.554;

(2) does not maintain during service on the board of directors of the corporation the qualifications required by Section 2306.554;

(3) is ineligible for membership under Sections 2306.554 and 2306.5545;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board of directors.

(b) The validity of an action of the board of directors of the corporation is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the president of the corporation has knowledge that a potential ground for removal exists, the president shall notify the presiding officer of the board of directors of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the president shall notify the next highest ranking officer of the board of directors, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 11, eff. Sept. 1, 2003.

Sec. 2306.5543. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the corporation's board of directors may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the corporation;

(2) the programs, functions, rules, and budget of the

corporation;

(3) the results of the most recent formal audit of the corporation;

(4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(5) any applicable ethics policies adopted by the corporation or the Texas Ethics Commission.

(c) A person appointed to the corporation's board of directors is entitled to reimbursement, to the same extent provided by the General Appropriations Act for a member of a state board, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 11, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 291 (H.B. 1818), Sec. 3, eff. September 1, 2011.

Sec. 2306.5545. CONFLICT OF INTEREST POLICIES. (a) The board of directors of the corporation shall develop and implement policies relating to employee conflicts of interest that are substantially similar to comparable policies that govern state employees.

(b) A person may not be a member of the corporation's board of directors and may not be a corporation employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of banking, mortgage lending, real estate, housing development, or housing construction; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of banking, mortgage lending, real estate, housing development, or housing construction.

(c) A person may not be a member of the corporation's board of

directors or act as the general counsel to the board of directors or the corporation if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the corporation.

(d) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997.
Amended by Acts 2003, 78th Leg., ch. 332, Sec. 12, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 291 (H.B. 1818), Sec. 4, eff. September 1, 2011.

Sec. 2306.5546. STANDARDS OF CONDUCT. The president of the corporation or the president's designee shall provide to members of the board of directors of the corporation and to corporation employees, as often as necessary, information regarding the requirements for office or employment under this subchapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 13, eff. Sept. 1, 2003.

Sec. 2306.5547. DIVISION OF RESPONSIBILITY. The board of directors of the corporation shall develop and implement policies that clearly separate the policymaking responsibilities of the board of directors and the management responsibilities of the president and the staff of the corporation.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 13, eff. Sept. 1, 2003.

Sec. 2306.5548. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The president of the corporation or the president's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the corporation to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the corporation's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must be:

(1) updated annually; and

(2) filed with the governor's office.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 13, eff. Sept. 1, 2003.

Sec. 2306.5549. MEETINGS OF THE CORPORATION'S BOARD. (a) The corporation's board may hold meetings when called by the presiding officer, the president, or three of the members.

(b) The corporation's board shall keep minutes and complete transcripts of its meetings. The corporation shall post the transcripts on its Internet website and shall otherwise maintain all accounts, minutes, and other records related to the meetings.

(c) All materials provided to the corporation's board that are relevant to a matter proposed for discussion at a meeting of that board must be posted on the corporation's Internet website not later than the third day before the date of the meeting.

(d) Any materials made available to the corporation's board by the corporation at a meeting of that board must be made available in hard-copy format to the members of the public in attendance at the meeting.

(e) The corporation's board shall conduct its meetings in accordance with Chapter 551, except as otherwise required by this

chapter.

(f) For each item on the agenda at a meeting of the corporation's board, the corporation's board shall provide for public comment after the presentation made by corporation staff and the motions made by the corporation's board on that topic.

(g) The corporation's board shall adopt rules that give the public a reasonable amount of time for testimony at meetings.

Added by Acts 2011, 82nd Leg., R.S., Ch. 291 (H.B. 1818), Sec. 5, eff. September 1, 2011.

Sec. 2306.555. POWERS. (a) The corporation has the powers provided for the department under this chapter.

(b) In addition to the powers granted by Subsection (a), the corporation has all rights and powers necessary to accomplish its public purpose, including the powers to:

(1) purchase, service, sell, lend on the security of, or otherwise transact in:

(A) mortgages, including federal mortgages and federally insured mortgages;

(B) mortgage loans;

(C) deeds of trust; and

(D) loans or other advances of credit secured by liens against manufactured housing;

(2) guarantee or insure timely payment of mortgage loans and loans or other advances of credit secured by liens against manufactured housing, provided that the corporation's liability on that guaranty or insurance is limited to the assets of a guaranty fund or self-insurance fund established and maintained by the corporation;

(3) make mortgage loans and loans or other advances of credit secured by liens against manufactured housing to individuals and families of low income;

(4) make mortgage loans to provide temporary or permanent financing or refinancing for housing or land developments, including refunding outstanding obligations, mortgages, or advances issued for those purposes;

(5) borrow, give security, pay interest or other return, or issue bonds or other obligations, including notes, debentures, or

mortgage-backed securities, provided that each bond or other obligation issued by the corporation must contain a statement that the state is not obligated to pay the principal of or any premium or interest on the bond or other obligation and that the full faith and credit and the taxing power of the state are not pledged, given, or loaned to the payment;

(6) acquire, hold, invest, use, pledge, reserve, and dispose of its assets, revenues, income, receipts, funds, and money from every source and to select one or more depositories, inside or outside the state, subject to the terms of any resolution, indenture, or other contract under which any bonds or other obligations are issued or any guaranty or insurance is provided;

(7) establish, charge, and collect fees, charges, and penalties in connection with the programs, services, and activities of the corporation;

(8) procure insurance and pay premiums on insurance of any type, in amounts, and from insurers as the corporation's board of directors considers necessary and advisable to further the corporation's public purpose, including, subject to Section 2306.554(e), liability insurance for the members of the corporation's board of directors and the officers and other employees of the corporation;

(9) make, enter into, and enforce contracts, agreements, leases, indentures, mortgages, deeds, deeds of trust, security agreements, pledge agreements, credit agreements, and other instruments with any person, including a mortgage lender, servicer, housing sponsor, the federal government, or any public agency, on terms the corporation determines may be acceptable;

(10) own, rent, lease, or otherwise acquire, accept, or hold real, personal, or mixed property, or any interest in property, by purchase, exchange, gift, assignment, transfer, foreclosure, mortgage, sale, lease, or otherwise and hold, manage, operate, or improve real, personal, or mixed property, regardless of location;

(11) sell, lease, encumber, mortgage, exchange, donate, convey, or otherwise dispose of any or all of its properties or any interest in its properties, deeds of trust, or mortgage lien interest owned by it or under its control or custody, or in its possession, and release or relinquish any right, title, claim, lien, interest, easement, or demand, however acquired, including any equity or right of redemption in property foreclosed by it, by public or private

sale, with or without public bidding;

(12) lease or rent any improvements, lands, or facilities from any person;

(13) request, accept, and use gifts, loans, donations, aid, guaranties, allocations, subsidies, grants, or contributions of any item of value to further its public purpose; and

(14) exercise the rights and powers of a nonprofit corporation incorporated under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes).

(c) In exercising the foregoing powers granted to it under this chapter, the corporation shall not actively compete with private lenders and shall not originate or make a loan that would be made under the same circumstances by a private lender on substantially the same or better terms within the submarket in which the loan is proposed to be made.

(d) All of the mortgage banking operations shall be dedicated to the furtherance of facilitating affordable housing finance primarily for the benefit of individuals and families of low, very low, and extremely low income who, generally, are not afforded housing finance options through conventional lending channels.

(e) The corporation may contract with the department and with bond counsel, financial advisors, underwriters, or other providers of professional or consulting services.

(f) The corporation shall pay its expenses from any available fund without resort to the general revenues of the state, except as specifically appropriated by the legislature.

(g) The department may not transfer any funds to the corporation to support the administration of the corporation or to subsidize its operations in any way. The department shall be fully compensated by the corporation for any property or employees that are shared by the corporation and the department, and it is the intent of the legislature that no employees be shared beyond the time at which such sharing is absolutely necessary. This subsection does not prohibit the corporation from receiving grants, loans, or other program funds of a kind that are available to other nonprofit corporations, or from using that portion of the program funds that are allowed for administration of the program for administrative purposes.

(h) Transfers of property from the department to the corporation shall be fully compensated.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(d), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1041, Sec. 3, eff. Sept. 1, 1999.

Sec. 2306.5551. BOARD DELEGATION OF AUTHORITY TO ISSUE BONDS OR OTHER OBLIGATIONS. (a) The board of directors of the corporation may delegate to a member of the board or to an employee of the corporation the authority to enter into a contract to issue bonds or other obligations for the corporation.

(b) The person to whom contract authority is delegated under this section shall report to the board as frequently as considered necessary by the board all of the person's activities relating to the issuance of bonds or other obligations.

Added by Acts 2001, 77th Leg., ch. 1194, Sec. 4, eff. June 15, 2001.

Sec. 2306.5552. TECHNICAL AND FINANCIAL ASSISTANCE PROVIDED TO NONPROFIT ORGANIZATIONS. The corporation shall supplement the technical and financial capacity of other appropriate nonprofit organizations to provide for the multifamily and single-family housing needs of individuals and families of low, very low, and extremely low income.

Added by Acts 2001, 77th Leg., ch. 1194, Sec. 4, eff. June 15, 2001.

Sec. 2306.5553. HISTORICALLY UNDERUTILIZED BUSINESSES. (a) The corporation shall make a good faith effort to provide contracting opportunities for, and to increase contract awards to, historically underutilized businesses for all services that may be required by the corporation, including professional and consulting services and commodities purchases.

(b) In accordance with Subchapter B, Chapter 20, Title 34, Texas Administrative Code, a good faith effort under Subsection (a) must include awarding historically underutilized businesses at least a portion of the total contract value of all contracts the corporation expects to award in a state fiscal year.

(c) The corporation may achieve annual procurement goals under this section by contracting directly with historically underutilized

businesses or by contracting indirectly with those businesses through the provision of subcontracting opportunities.

Added by Acts 2011, 82nd Leg., R.S., Ch. 291 (H.B. 1818), Sec. 6, eff. September 1, 2011.

Sec. 2306.5555. PUBLIC ACCESS. The board of directors of the corporation shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board of directors and to speak on any issue under the jurisdiction of the corporation.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997.

Sec. 2306.556. EXEMPT FROM TAXATION AND REGISTRATION. (a) The corporation is exempt from all taxation by the state or a political subdivision of the state, including a municipality.

(b) A bond or other obligation issued by the corporation is an exempt security under The Securities Act (Title 12, Government Code), and unless specifically provided otherwise, under any subsequently enacted securities act. Any contract, guaranty, or other document executed in connection with the issuance of the bond or other obligation is not an exempt security under that Act, and unless specifically provided otherwise, under any subsequently enacted securities act.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(d), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 2.27, eff. January 1, 2022.

Sec. 2306.557. DISTRIBUTION OF EARNINGS. Any part of earnings remaining after payment of expenses and any establishment of reserves by the corporation's board of directors may not inure to any person except that the corporation shall use these excess earnings to further the corporation's new or existing affordable housing

initiatives if the corporation's board of directors determines that sufficient provision has been made for the full payment of the expenses, bonds, and other obligations of the corporation and for any establishment of reserves by the corporation's board of directors.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(d), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1041, Sec. 4, eff. Sept. 1, 1999.

Sec. 2306.558. ALTERATION AND TERMINATION. (a) Subject to this subchapter and the prohibition on the impairment of contracts in the law of this state, the corporation's board of directors by written resolution may alter the structure, organization, programs, or activities of the corporation or terminate and dissolve the corporation.

(b) The corporation's board of directors shall dissolve the corporation if the board by resolution determines that:

(1) the purposes for which the corporation was formed have been substantially fulfilled; and

(2) all bonds and other obligations issued by the corporation and all guaranties and insurance and other contractual obligations have been fully paid or provision for that payment has been made.

(c) On dissolution, the title to funds and properties previously owned by the corporation shall be transferred to the department.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(d), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997.

Sec. 2306.559. REPORTING REQUIREMENTS. (a) The corporation shall file an annual report of the financial activity of the corporation with the department. The corporation's board of directors shall submit the report to the governor, lieutenant governor, speaker of the house of representatives, and comptroller.

(b) The corporation shall file the report by the date established in the General Appropriations Act.

(c) The corporation shall prepare the report in accordance with

generally accepted accounting principles.

(d) The report must include:

(1) a statement of support, revenue, and expenses and change in fund balances;

(2) a statement of functional expenses;

(3) balance sheets for all funds;

(4) the number, amount, and purpose of private gifts, grants, donations, or other funds applied for and received;

(5) the number, amount, and purpose of loans provided to affordable housing developers, regardless of whether the corporation provides those loans directly to the developers or administers the loans from another source;

(6) the amount and source of funds deposited into any fund created by the corporation for the purpose of providing grants and the number, amount, and purpose of any grants provided; and

(7) the total amount of annual revenue generated by the corporation in excess of its expenditures.

(e) The corporation shall file quarterly performance reports with the department.

(f) Promptly on receipt, the corporation shall file with the Bond Review Board a report for the preceding fiscal year. The report must contain the status of all outstanding debts and obligations of the corporation, the status of collateral pledged as security for those debts and obligations, and a maturity and payment schedule for those debts and obligations.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.66(d), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 291 (H.B. 1818), Sec. 7, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 62, eff. September 1, 2013.

Sec. 2306.560. AUDIT. (a) The corporation shall hire an independent certified public accountant to audit the corporation's books and accounts for each fiscal year. The corporation shall file a copy of the audit with the department and shall submit the audit

report to the governor, lieutenant governor, speaker of the house of representatives, comptroller, Bond Review Board, and State Auditor's Office not later than the 30th day after the submission date established in the General Appropriations Act for the annual financial report.

(b) The corporation is subject to audit by the state auditor.

(c) The corporation shall submit budget and financial information to the legislative budget office as required by the director of the legislative budget office.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 99(24), and Ch. 1079 (H.B. 3361), Sec. 5.01(2), eff. September 1, 2013.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 5.01(2), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 63, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 99(24), eff. September 1, 2013.

Sec. 2306.561. LIABILITY. (a) The directors, officers, and employees of the corporation are not personally liable for bonds or other obligations issued or contracts, guaranties, or insurance executed by the corporation, or for any other action taken in accordance with the powers and duties authorized by this subchapter or in the good faith belief that that action was taken in accordance with the powers and duties authorized by this subchapter.

(b) The directors and officers of the corporation are immune from civil liability to the same extent that a volunteer who serves as an officer, director, or trustee of a charitable organization is immune from civil liability under Chapter 84, Civil Practice and Remedies Code.

(c) The civil liability of an employee of the corporation is limited to the same extent that the civil liability of an employee of a charitable organization is limited under Chapter 84, Civil Practice and Remedies Code.

(d) The limitations on liability contained in this section do

not limit or impair the limitations on liability otherwise available to the corporation's directors, officers, and employees.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 47, eff. Sept. 1, 1997.

Sec. 2306.5621. HOMES FOR TEXAS HEROES HOME LOAN PROGRAM. (a) In this section:

(1) "Fire fighter" means a member of a fire department who performs a function listed in Section 419.021(3)(C), Government Code.

(2) "Home" means a dwelling in this state in which a fire fighter, corrections officer, county jailer, public security officer, peace officer, professional educator, veteran, or person defined as emergency medical services personnel under this section intends to reside as the borrower's principal residence.

(3) "Mortgage lender" has the meaning assigned by Section 2306.004.

(4) "Peace officer" has the meaning assigned by Section 1.07(a)(36), Penal Code.

(5) "Program" means the Homes for Texas Heroes home loan program.

(6) "Corrections officer" means a corrections officer employed by the Texas Department of Criminal Justice or a juvenile correctional officer employed by the Texas Juvenile Justice Department.

(7) "County jailer" has the meaning assigned by Section 1701.001, Occupations Code.

(8) "Public security officer" has the meaning assigned by Section 1701.001, Occupations Code.

(9) "Emergency medical services personnel" has the meaning assigned by Section 773.003, Health and Safety Code.

(10) "Veteran" has the meaning assigned by Section 161.001, Natural Resources Code.

(11) "Allied health program faculty member" means a full-time member of the faculty of an undergraduate or graduate allied health program of a public or private institution of higher education in this state.

(12) "Graduate allied health program" means a postbaccalaureate certificate or master's or doctoral degree program in an allied health profession that is accredited by an accrediting

entity recognized by the United States Department of Education.

(13) "Graduate professional nursing program" and "undergraduate professional nursing program" have the meanings assigned by Section 54.355, Education Code.

(14) "Professional educator" means a classroom teacher, full-time paid teacher's aide, full-time librarian, full-time counselor certified under Subchapter B, Chapter 21, Education Code, full-time school nurse, or allied health or professional nursing program faculty member.

(15) "Professional nursing program faculty member" means a full-time member of the faculty of either an undergraduate or graduate professional nursing program.

(16) "Undergraduate allied health program" means an undergraduate degree or certificate program that:

(A) prepares students for licensure, certification, or registration in an allied health profession; and

(B) is accredited by an accrediting entity recognized by the United States Department of Education.

(b) The corporation shall establish a program to provide eligible fire fighters, corrections officers, county jailers, public security officers, peace officers, emergency medical services personnel, professional educators, and veterans with low-interest home mortgage loans.

(c) To be eligible for a loan under this section, at the time a person files an application for the loan, the person must:

(1) be a:

(A) fire fighter, corrections officer, county jailer, public security officer, peace officer, veteran, or person defined as emergency medical services personnel under this section; or

(B) professional educator who is employed by a school district or is an allied health or professional nursing program faculty member in this state;

(2) reside in this state; and

(3) have an income of not more than 115 percent of area median family income, adjusted for family size, or the maximum amount permitted by Section 143(f), Internal Revenue Code of 1986, whichever is greater.

(d) The corporation may contract with other agencies of the state or with private entities to determine whether applicants qualify as fire fighters, corrections officers, county jailers,

public security officers, peace officers, emergency medical services personnel, professional educators, or veterans under this section or otherwise to administer all or part of this section.

(d-1) The corporation may contract with the Texas Veterans Commission to provide other housing assistance to veterans receiving loans under this section.

(e) The board of directors of the corporation may set and collect from each applicant any fees the board considers reasonable and necessary to cover the expenses of administering the program.

(f) The board of directors of the corporation shall adopt rules governing:

(1) the administration of the program;

(2) the making of loans under the program;

(3) the criteria for approving mortgage lenders;

(4) the use of insurance on the loans and the homes financed under the program, as considered appropriate by the board to provide additional security for the loans;

(5) the verification of occupancy of the home by the fire fighter, corrections officer, county jailer, public security officer, peace officer, professional educator, veteran, or person defined as emergency medical services personnel as the borrower's principal residence; and

(6) the terms of any contract made with any mortgage lender for processing, originating, servicing, or administering the loans.

(g) The corporation shall ensure that a loan under this section is structured in a way that complies with any requirements associated with the source of the funds used for the loan.

(h) In addition to funds set aside for the program under Section 1372.0223(1), the corporation may solicit and accept funding for the program from the following sources:

(1) gifts and grants for the purposes of this section;

(2) available money in the housing trust fund established under Section 2306.201, to the extent available to the corporation;

(3) federal block grants that may be used for the purposes of this section, to the extent available to the corporation;

(4) other state or federal programs that provide money that may be used for the purposes of this section; and

(5) amounts received by the corporation in repayment of loans made under this section.

(h-1) To fund home mortgage loans for eligible fire fighters,

corrections officers, county jailers, public security officers, peace officers, emergency medical services personnel, professional educators, and veterans under this section, the corporation may use any proceeds received from the sale of bonds, notes, or other obligations issued under the home loan program provided by this section, regardless of any amendments to the eligibility standards for loans made under the program and regardless of when the corporation received the proceeds from those bonds, notes, or other obligations issued under the program.

(i) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 405 (S.B. 286), Sec. 6, and Ch. 1219 (S.B. 1553), Sec. 6, eff. June 14, 2013.

Added by Acts 2003, 78th Leg., ch. 1050, Sec. 3, eff. June 20, 2003.
For text of section as added by Acts 2003, 78th Leg., ch. 332, Sec. 16, see Sec. 2306.563, post.
Renumbered from Government Code, Section 2306.563 and amended by Acts 2005, 79th Leg., Ch. 196 (H.B. 1007), Sec. 1, eff. May 27, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 455 (H.B. 618), Sec. 2, eff. June 16, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 405 (S.B. 286), Sec. 3, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 405 (S.B. 286), Sec. 4, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 405 (S.B. 286), Sec. 5, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 405 (S.B. 286), Sec. 6, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1219 (S.B. 1553), Sec. 3, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1219 (S.B. 1553), Sec. 4, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1219 (S.B. 1553), Sec. 5, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1219 (S.B. 1553), Sec. 6, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 117, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 9.011, eff. September 1, 2015.

Sec. 2306.563. PUBLIC BENEFIT REQUIREMENT. (a) The corporation shall implement a requirement that a community housing development organization that receives an issuance of qualified 501(c)(3) bonds from the corporation to develop property must invest at least one dollar in projects and services that benefit income-eligible persons for each dollar of taxes that is not imposed on the property as a result of a property tax exemption received under Section 11.182, Tax Code.

(b) The projects and services must benefit income-eligible persons in the county in which the property supported with the tax exemption is located.

(c) The projects and services must consist of:

(1) rent reduction;

(2) capital improvement projects; or

(3) social, educational, or economic development services.

(d) The corporation and the organization may determine on a case-by-case basis the specific projects and services in which the organization must invest under this section.

(e) The dollar-for-dollar public benefit requirement imposed by this section shall be reduced by an amount equal to each dollar that, in lieu of taxes, a community housing development organization pays to a taxing unit for which the property receives an exemption under Section 11.182, Tax Code.

(f) In implementing the public benefit requirement, the corporation shall adopt guidelines for reasonable rent reductions, capital improvement projects, and social, educational, and economic development services.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 16, eff. Sept. 1, 2003. For text of section as added by Acts 2003, 78th Leg., ch. 1050, Sec. 3, see Sec. 2306.563, ante.

Sec. 2306.564. REVIEW OF QUALIFIED 501(C)(3) BOND ISSUANCE POLICIES. (a) The corporation shall review annually its qualified 501(c)(3) bond issuance policies, including the public benefit requirement implemented under Section 2306.563.

(b) The corporation shall give to the secretary of state for

publication in the Texas Register any proposed policy revisions and allow a reasonable period for public comment.

(c) The board of directors of the corporation must approve any change to the bond issuance policies.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 16, eff. Sept. 1, 2003.

Sec. 2306.565. ISSUANCE OF QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS; ALLOCATION OF BOND FUNDS. (a) The corporation shall direct the Bond Review Board on the issuance of the portion of state ceiling set aside for the corporation under Section 1372.0231(a).

(b) The board of directors of the corporation shall adopt guidelines governing the method by which the corporation identifies target areas for the allocation of qualified residential rental project bond funds. The guidelines must include a clear demonstration of local need and community support for a housing development.

(c) The corporation shall research the state's strategic housing needs by coordinating with the department and reviewing relevant needs assessment information, as required by Section 2306.566. The corporation shall also solicit information regarding housing needs from local and regional housing organizations.

(d) The board of directors of the corporation shall adopt criteria governing the method by which the corporation solicits proposals for housing developments in areas targeted by the corporation. The guidelines must state the criteria to be included in the corporation's requests for proposals. The requests for proposals must comply with any relevant federal requirements.

(e) The board of directors of the corporation shall adopt criteria governing the method by which the staff of the corporation scores and ranks applications for an allocation under this section that are received in response to a request for proposals. The criteria must include:

(1) the cost per unit of the housing development;

(2) the proposed rent for a unit; and

(3) the income ranges of individuals and families to be served by the housing development.

(f) The board of directors of the corporation shall identify housing developments with respect to which the board anticipates

directing the Bond Review Board to allocate bond funds under this section, based on the highest scores received in the scoring and ranking process described by Subsection (e).

(g) After the board of directors of the corporation has identified housing developments under Subsection (f), the corporation shall hold public hearings, as required by federal law, on the housing developments identified by the board.

(h) Following the public hearings, the staff shall prepare final evaluations and recommendations for the board, incorporating any public comments received at the hearings. The board shall consider the staff's recommendations in making its final decisions regarding the allocation of bond funds for housing developments under this section and shall inform the Bond Review Board of those decisions.

(i) The corporation shall pay the department a reasonable fee for underwriting an application for an allocation of low income housing tax credits if the housing development proposed in the application is or will be supported by an allocation of bond funds under this section.

(j) The decisions made by the corporation regarding the allocation of bond funds under this section are not subject to the restrictions in Section 1372.0321, as added by Chapter 1367 or 1420, Acts of the 77th Legislature, Regular Session, 2001.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 16, eff. Sept. 1, 2003.

Sec. 2306.566. COORDINATION REGARDING STATE LOW INCOME HOUSING PLAN. (a) The corporation shall review the needs assessment information provided to the corporation by the department under Section 2306.0722(b).

(b) The corporation shall develop a plan to meet the state's most pressing housing needs identified in the needs assessment information and provide the plan to the department for incorporation into the state low income housing plan.

(c) The corporation's plan must include specific proposals to help serve rural and other underserved areas of the state.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 16, eff. Sept. 1, 2003.

Sec. 2306.567. COMPLIANCE INFORMATION. (a) The corporation shall provide to the department electronic copies of all compliance information compiled by the corporation.

(b) Before approving an application regarding a housing development, the corporation shall consider any relevant compliance information in the department's database created under Section 2306.081.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 16, eff. Sept. 1, 2003.

Sec. 2306.5671. COMPLIANCE WITH TERMS OF CERTAIN CONTRACTS OR AGREEMENTS. A compliance contract or agreement between the corporation and a housing sponsor that receives bond financing by or through the corporation for the purpose of providing affordable multifamily housing must contain a provision stating that if the housing sponsor fails to comply with the terms of the contract or agreement, the corporation may, at a minimum and as appropriate:

(1) assess penalties;

(2) remove the manager of the affected property and select a new manager;

(3) withdraw reserve funds to make needed repairs and replacements to the property; or

(4) appoint the corporation as a receiver to protect and operate the property.

Added by Acts 2011, 82nd Leg., R.S., Ch. 291 (H.B. 1818), Sec. 8, eff. September 1, 2011.

Sec. 2306.568. RECORD OF COMPLAINTS. (a) The corporation shall maintain a system to promptly and efficiently act on complaints filed with the corporation. The corporation shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The corporation shall make information available describing its procedures for complaint investigation and resolution.

(c) The corporation shall periodically notify the complaint parties of the status of the complaint until final disposition.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 16, eff. Sept. 1, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 291 (H.B. 1818), Sec. 9, eff. September 1, 2011.

Sec. 2306.569. EFFECTIVE USE OF TECHNOLOGY. The corporation's board of directors shall develop and implement a policy requiring the president of the corporation and corporation employees to research and propose appropriate technological solutions to improve the corporation's ability to perform its functions. The technological solutions must:

(1) ensure that the public is able to easily find information about the corporation on the Internet;

(2) ensure that persons who want to use the corporation's services are able to:

(A) interact with the corporation through the Internet; and

(B) access any service that can be provided effectively through the Internet; and

(3) be cost-effective and developed through the corporation's planning processes.

Added by Acts 2003, 78th Leg., ch. 332, Sec. 16, eff. Sept. 1, 2003.

SUBCHAPTER Z. COLONIAS

Sec. 2306.581. DEFINITION. In this subchapter:

(1) "Colonia" means a geographic area that is located in a county some part of which is within 150 miles of the international border of this state, that consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood, and that:

(A) has a majority population composed of individuals and families of low income and very low income, based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed area under Section 17.921, Water Code; or

(B) has the physical and economic characteristics of a colonia, as determined by the department.

(2) "Community action agency" means a political subdivision, combination of political subdivisions, or nonprofit organization that qualifies as an eligible entity under 42 U.S.C. Section 9902.

Added by Acts 1995, 74th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 341 (S.B. 99), Sec. 9, eff. June 15, 2007.

Sec. 2306.582. COLONIA SELF-HELP CENTERS: ESTABLISHMENT. (a) The department shall establish colonia self-help centers in El Paso, Hidalgo, Nueces, Starr, and Webb Counties, and in Cameron County to serve Cameron and Willacy Counties. If the department determines it necessary and appropriate, the department may establish a self-help center in any other county if the county is designated as an economically distressed area under Chapter 17, Water Code, for purposes of eligibility to receive funds from the Texas Water Development Board.

(b) The department shall attempt to secure contributions, services, facilities, or operating support from the commissioners court of the county in which the self-help center is located to support the operation of the self-help center.

Added by Acts 1995, 74th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 352 (H.B. 2893), Sec. 1, eff. September 1, 2021.

Sec. 2306.583. SELF-HELP CENTERS: DESIGNATION. (a) The department shall designate a geographic area for the services provided by each self-help center.

(b) In consultation with the colonia resident advisory committee and the appropriate self-help center, the department shall designate five colonias in each service area to receive concentrated attention from that center.

(c) In consultation with the colonia resident advisory committee and the appropriate self-help center, the department may change the designation of colonias made under Subsection (b).

Added by Acts 1995, 74th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 2.04, eff. Sept. 1, 2001.

Sec. 2306.584. COLONIA RESIDENT ADVISORY COMMITTEE. (a) The board shall appoint not fewer than six persons who are residents of colonias to serve on the Colonia Resident Advisory Committee. The members of the advisory committee shall be selected from lists of candidates submitted to the board by local nonprofit organizations and the commissioners court of a county in which a self-help center is located.

(b) The board shall appoint one committee member to represent each of the counties in which self-help centers are located. Each committee member:

(1) must be a resident of a colonia in the county the member represents; and

(2) may not be a board member, contractor, or employee of or have any ownership interest in an entity that is awarded a contract under this subchapter.

Added by Acts 1995, 74th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1234, Sec. 36, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 1.27, eff. Sept. 1, 2001. Amended by:

Acts 2021, 87th Leg., R.S., Ch. 352 (H.B. 2893), Sec. 2, eff. September 1, 2021.

Sec. 2306.585. DUTIES OF COLONIA RESIDENT ADVISORY COMMITTEE. (a) The Colonia Resident Advisory Committee shall advise the board regarding:

(1) the needs of colonia residents;

(2) appropriate and effective programs that are proposed or are operated through the self-help centers; and

(3) activities that may be undertaken through the self-help centers to better serve the needs of colonia residents.

(b) The advisory committee shall meet before the 30th day preceding the date on which a contract is scheduled to be awarded for the operation of a self-help center and may meet at other times.

(c) The advisory committee shall advise the colonia initiatives coordinator as provided by Section 775.005.

Added by Acts 1995, 74th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1234, Sec. 36, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 1.27, eff. Sept. 1, 2001. Amended by:

Acts 2005, 79th Leg., Ch. 351 (S.B. 1202), Sec. 3, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.002(8), eff. September 1, 2007.

Sec. 2306.586. SELF-HELP CENTER: PURPOSE AND SERVICES. (a) The purpose of a self-help center is to assist individuals and families of low income and very low income to finance, refinance, construct, improve, or maintain a safe, suitable home and otherwise improve living conditions in the colonias' designated service area or in another area the department has determined is suitable.

(b) A self-help center shall set a goal to improve the living conditions of residents in the colonias designated under Section 2306.583(b) within a two-year period after a contract is awarded under this subchapter.

(c) A self-help center may serve individuals and families of low income and very low income by:

(1) providing assistance in obtaining loans or grants to build a home;

(2) teaching construction skills necessary to repair or build a home;

(3) providing model home plans;

(4) operating a program to rent or provide tools for home construction and improvement for the benefit of property owners in colonias who are building or repairing a residence or installing necessary residential infrastructure;

(5) helping to obtain, construct, access, or improve the service and utility infrastructure designed to service residences in a colonia, including potable water, wastewater disposal, drainage, streets, and utilities;

(6) surveying or platting residential property that an individual purchased without the benefit of a legal survey, plat, or

record;

(7) providing credit and debt counseling related to home purchase and finance;

(8) applying for grants and loans to provide housing and other needed community improvements;

(9) providing other services that the self-help center, with the approval of the department, determines are necessary to assist colonia residents in improving their living conditions, including help in:

(A) obtaining suitable alternative housing outside of a colonia's area; and

(B) performing the following authorized public service activities under Title 1 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.):

(i) securing employment;

(ii) establishing or expanding a small business;

(iii) developing professional skills; or

(iv) managing personal finances and achieving financial literacy;

(10) providing assistance in obtaining loans or grants to enable an individual or a family to acquire fee simple title to property that originally was purchased under a contract for a deed, contract for sale, or other executory contract; and

(11) providing monthly programs to educate individuals and families on their rights and responsibilities as property owners.

(d) A self-help center may not provide grants, financing, or mortgage loan services to purchase, build, rehabilitate, or finance construction or improvements to a home or otherwise improve living conditions in a colonia if water service and suitable wastewater disposal are not available.

(e) Through a self-help center, a colonia resident may apply for any direct loan or grant program operated by the department.

Added by Acts 1995, 74th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 2.05, eff. Sept. 1, 2001. Amended by:

Acts 2021, 87th Leg., R.S., Ch. 653 (H.B. 1301), Sec. 1, eff. September 1, 2021.

Sec. 2306.587. OPERATION OF SELF-HELP CENTER; MONITORING. (a) To operate a self-help center, the department shall, subject to the availability of revenue for that purpose, enter into a four-year contract directly with a local nonprofit organization, including a local community action agency that qualifies as an eligible entity under 42 U.S.C. Section 9902, or a local housing authority that has demonstrated the ability to carry out the functions of a self-help center under this subchapter.

(b) The department is solely responsible for contract oversight and for the monitoring of self-help centers under this subchapter.

(c) The department and the self-help centers may apply for and receive public or private gifts or grants to enable the centers to achieve their purpose.

Added by Acts 1995, 74th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 2.06, eff. Sept. 1, 2001.

Sec. 2306.588. DEPARTMENT LIAISON TO SELF-HELP CENTERS. (a) The department shall designate appropriate staff in the department to act as liaison to the self-help centers to assist the centers in obtaining funding to enable the centers to carry out the centers' programs.

(b) The department shall make a reasonable effort to secure an adequate level of funding to provide the self-help centers with funds for low-interest mortgage financing, grants for self-help programs, a revolving loan fund for septic tanks, a tool-lending program, and other activities the department determines are necessary.

Added by Acts 1995, 74th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 1995.

Sec. 2306.589. COLONIA SET-ASIDE FUND. (a) The department shall establish a fund in the department designated as the colonia set-aside fund. The department may contribute money to the fund from any available source of revenue that the department considers appropriate to implement the purposes of this subchapter, except that the department may not use federal community development block grant money authorized by Title I of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.) unless the money is

specifically appropriated by the legislature for that purpose.

(b) The department by rule shall provide that an application for assistance in paying for residential service lines, hookups, and plumbing improvements associated with being connected to a water supply or sewer service system may be submitted after construction of a water supply or sewer service system begins. The department shall approve or disapprove a timely application before construction of the water supply or sewer service is completed in order to eliminate delay in hookups once construction is completed. The department and the Texas Water Development Board shall coordinate the application process for hookup funds under this subsection and under Subchapter L, Chapter 15, Water Code, and shall share information elicited by each agency's application procedure in order to avoid duplication of effort and to eliminate the need for applicants to complete different forms with similar information.

(c) The department may use money in the colonia set-aside fund for specific activities that assist colonias, including:

(1) the operation and activities of the self-help centers established under this subchapter;

(2) reimbursement of colonia resident advisory committee members for their reasonable expenses in the manner provided by Chapter 2110 or the General Appropriations Act; and

(3) funding for the provision of water and sewer service connections in accordance with Subsection (b).

(d) The department may review and approve an application for funding from the colonia set-aside fund that advances the policy and goals of the state in addressing problems in the colonias.

Added by Acts 1995, 74th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1405, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1367, Sec. 1.28, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1367, Sec. 2.07, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 16, eff. Sept. 1, 2003.

Sec. 2306.590. COLONIA INITIATIVES ADVISORY COMMITTEE. (a) The Colonia Initiatives Advisory Committee is composed of seven members appointed by the governor as follows:

(1) one colonia resident;

(2) one representative of a nonprofit organization that

serves colonia residents;

(3) one representative of a political subdivision that contains all or part of a colonia;

(4) one person to represent private interests in banking or land development;

(5) one representative of a nonprofit utility;

(6) one representative of an engineering consultant firm involved in economically distressed areas program projects under Subchapter K, Chapter 17, Water Code; and

(7) one public member.

(b) Each committee member, except the public member, must reside within 150 miles of the Texas-Mexico border.

(c) The secretary of state is an ex officio member of the committee.

(d) The committee shall:

(1) review the progress of colonia water and wastewater infrastructure projects managed by the Texas Water Development Board and the state agency responsible for administering the portion of the federal community development block grant nonentitlement program that addresses the infrastructure needs of colonias;

(2) present an update and make recommendations to the board and the Texas Water Development Board annually at a joint meeting regarding:

(A) efforts to ensure that colonia residents are connected to the infrastructure funded by state agencies;

(B) the financial, managerial, and technical capabilities of project owners and operators;

(C) the agencies' management of their colonia programs and the effectiveness of their policies regarding underperforming projects; and

(D) any other issues related to the effect of state-managed infrastructure programs on colonia residents;

(3) review public comments regarding the colonia needs assessment incorporated into the state low income housing plan under Section 2306.0721; and

(4) based on the public comments reviewed under Subdivision (3), recommend to the board new colonia programs or improvements to existing colonia programs.

Added by Acts 2001, 77th Leg., ch. 1234, Sec. 37, eff. Sept. 1, 2001.

Amended by:
Acts 2019, 86th Leg., R.S., Ch. 84 (S.B. 1574), Sec. 1, eff. September 1, 2019.

Sec. 2306.591. MANUFACTURED HOMES INSTALLED IN COLONIAS. (a) For a manufactured home to be approved for installation and use as a dwelling in a colonia:

(1) the home must be a HUD-code manufactured home, as defined by Section 1201.003, Occupations Code;

(2) the home must be habitable, as described by Section 1201.453, Occupations Code; and

(3) ownership of the home must be properly recorded with the manufactured housing division of the department.

(b) An owner of a manufactured home is not eligible to participate in a grant loan program offered by the department, including the single-family mortgage revenue bond program under Section 2306.142, unless the owner complies with Subsection (a).

Added by Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 29, eff. June 18, 2005.

SUBCHAPTER AA. MANUFACTURED HOUSING DIVISION

Sec. 2306.6001. DEFINITIONS. In this subchapter:

(1) "Division" means the manufactured housing division.

(2) "Division director" means the executive director of the division.

(3) "Manufactured Housing Board" means the governing board of the division.

Renumbered from Sec. 2306.601 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6002. REGULATION AND ENFORCEMENT. The department shall administer and enforce Chapter 1201, Occupations Code, through the division. The Manufactured Housing Board and the division director shall exercise authority and responsibilities assigned to them under that chapter.

Renumbered from Sec. 236.601 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001; Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.784, eff. Sept. 1, 2003.

Sec. 2306.6003. MANUFACTURED HOUSING BOARD. (a) The Manufactured Housing Board is an independent entity within the department, is administratively attached to the department, and is not an advisory body to the department.

(b) The Manufactured Housing Board shall carry out the functions and duties conferred on the Manufactured Housing Board by this subchapter and by other law.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6004. MANUFACTURED HOUSING BOARD MEMBERSHIP. (a) The Manufactured Housing Board consists of five public members appointed by the governor.

(b) A person is eligible to be appointed as a public member of the Manufactured Housing Board if the person is a citizen of the United States and a resident of this state.

(c) A person may not be a member of the Manufactured Housing Board if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of manufactured housing;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the division;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the division; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the division other than compensation or reimbursement authorized by law for Manufactured Housing Board membership, attendance, or expenses.

(d) Appointments to the Manufactured Housing Board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6005. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the Manufactured Housing Board and may not be a division employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of manufactured housing; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of manufactured housing.

(c) A person may not be a member of the Manufactured Housing Board or act as the general counsel to the Manufactured Housing Board or the division if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the division.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6006. TERMS; VACANCY. (a) The members of the Manufactured Housing Board serve staggered six-year terms, with the terms of one or two members expiring on January 31 of each odd-numbered year.

(b) A person may not serve two consecutive full six-year terms as a member of the Manufactured Housing Board.

(c) If a vacancy occurs during a member's term, the governor shall appoint a new member to fill the unexpired term.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6007. PRESIDING OFFICER. The governor shall designate a member of the Manufactured Housing Board as the presiding officer of the Manufactured Housing Board to serve in that capacity at the will of the governor.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6008. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the Manufactured Housing Board that a member:

(1) does not have at the time of taking office the qualifications required by Section 2306.6004(b);

(2) does not maintain during service on the Manufactured Housing Board the qualifications required by Section 2306.6004(b);

(3) is ineligible for membership under Section 2306.6004(c) or 2306.6005;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled Manufactured Housing Board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the Manufactured Housing Board.

(b) The validity of an action of the Manufactured Housing Board is not affected by the fact that it is taken when a ground for removal of a Manufactured Housing Board member exists.

(c) If the division director has knowledge that a potential ground for removal exists, the division director shall notify the presiding officer of the Manufactured Housing Board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the division director shall notify the next highest ranking officer of the Manufactured Housing Board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1,

2001.

Sec. 2306.6009. REIMBURSEMENT. A Manufactured Housing Board member may not receive compensation, but may be reimbursed for actual travel expenses, including expenses for meals, lodging, and transportation. A Manufactured Housing Board member is entitled to reimbursement for transportation expenses as provided by the General Appropriations Act.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6010. MEETINGS. (a) The Manufactured Housing Board shall have regular meetings as the majority of the members may specify and special meetings at the request of the presiding officer, any two members, or the division director.

(b) Reasonable notice of all meetings shall be given as prescribed by Manufactured Housing Board rules.

(c) The presiding officer shall preside at all meetings of the Manufactured Housing Board. In the absence of the presiding officer, the members present shall select one of the members to preside at the meeting.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6011. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the Manufactured Housing Board may not vote, deliberate, or be counted as a member in attendance at a meeting of the Manufactured Housing Board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the division and the Manufactured Housing Board;

(2) the programs operated by the division;

(3) the role and functions of the division;

(4) the rules of the division, with an emphasis on the

rules that relate to disciplinary and investigatory authority;

(5) the current budget for the division;

(6) the results of the most recent formal audit of the division;

(7) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552;

(C) the administrative procedure law, Chapter 2001; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the division or the Texas Ethics Commission.

(c) A person appointed to the Manufactured Housing Board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6012. APPROPRIATIONS; DONATIONS. (a) The legislature shall separately appropriate money to the Manufactured Housing Board within the appropriations to the department for all matters relating to the operation of the division.

(b) The Manufactured Housing Board may accept gifts and grants of money or property under this subchapter and shall spend the money and use the property for the purpose for which the donation was made, except that the expenditure of money or use of property must promote the acceptance of HUD-Code manufactured homes as a viable source of housing for very low, low, and moderate income families.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6013. BUDGET; SHARING OF DEPARTMENT PERSONNEL, EQUIPMENT, AND FACILITIES. (a) The Manufactured Housing Board shall develop a budget for the operations of the department relating to the

division.

(b) The Manufactured Housing Board shall reduce administrative costs by entering into an agreement with the department to enable the sharing of department personnel, equipment, and facilities.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6014. DIVISION DIRECTOR. (a) The Manufactured Housing Board shall employ the division director. The division director is the Manufactured Housing Board's chief executive and administrative officer.

(b) The division director is charged with administering, enforcing, and carrying out the functions and duties conferred on the division director by this subchapter and by other law.

(c) The division director serves at the pleasure of the Manufactured Housing Board.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6015. PERSONNEL. The division director may employ staff as necessary to perform the work of the division and may prescribe their duties and compensation. Subject to applicable personnel policies and regulations, the division director may remove any division employee.

Added by Acts 1995, 74th Leg., ch. 978, Sec. 24, eff. Sept. 1, 1995. Renumbered from Sec. 2306.602 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6016. SEPARATION OF RESPONSIBILITIES. The Manufactured Housing Board shall develop and implement policies that clearly separate the policy-making responsibilities of the Manufactured Housing Board and the management responsibilities of the division director and staff of the division.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1,

2001.

Sec. 2306.6017. STANDARDS OF CONDUCT. The division director or the division director's designee shall provide to members of the Manufactured Housing Board and to division employees, as often as necessary, information regarding the requirements for office or employment under this subchapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6018. EQUAL EMPLOYMENT OPPORTUNITY. (a) The division director or the division director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the division to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the division's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

(3) be filed with the governor's office.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6020. RULES. (a) The Manufactured Housing Board

shall adopt rules as necessary to implement this subchapter and to administer and enforce the manufactured housing program through the division. Rules adopted by the Manufactured Housing Board are subject to Chapter 2001.

(b) The Manufactured Housing Board may not adopt rules restricting competitive bidding or advertising by a person regulated by the division except to prohibit false, misleading, or deceptive practices by that person.

(c) The Manufactured Housing Board may not include in the rules to prohibit false, misleading, or deceptive practices by a person regulated by the division a rule that:

(1) restricts the use of any advertising medium;

(2) restricts the person's personal appearance or the use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement used by the person; or

(4) restricts the use of a trade name in advertising by the person.

Added by Acts 1995, 74th Leg., ch. 978, Sec. 24, eff. Sept. 1, 1995. Renumbered from Sec. 2306.603 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6021. PUBLIC PARTICIPATION. The Manufactured Housing Board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the Manufactured Housing Board and to speak on any issue under the jurisdiction of the division.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6022. COMPLAINTS. (a) The division shall maintain a file on each written complaint filed with the division. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the division;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the

complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the division closed the file without taking action other than to investigate the complaint.

(b) The division shall make available on its website the division's policies and procedures relating to complaint investigation and resolution and shall provide copies of such information on request.

(c) The division, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

(d) Unless otherwise confidential by law, the records of a license holder or other person that are required or obtained by the division or its agents or employees in connection with the investigation of a complaint are subject to the requirements of Chapter 552.

(e) The division director may allow an authorized employee of the division to dismiss a complaint if an investigation demonstrates that:

(1) a violation did not occur; or

(2) the subject of the complaint is outside the division's jurisdiction under this subchapter.

(f) An employee who dismisses a complaint under Subsection (e) shall report the dismissal to the division director and the board. The report must include a sufficient explanation of the reason the complaint was dismissed.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 64, eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 3.01, eff. September 1, 2013.

Sec. 2306.6023. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) The division shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of division rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the division's jurisdiction.

(b) The division's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The division shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 3.02, eff. September 1, 2013.

SUBCHAPTER DD. LOW INCOME HOUSING TAX CREDIT PROGRAM

Sec. 2306.6701. PURPOSE. The department shall administer the low income housing tax credit program to:

(1) encourage the development and preservation of appropriate types of rental housing for households that have difficulty finding suitable, affordable rental housing in the private marketplace;

(2) maximize the number of suitable, affordable residential rental units added to the state's housing supply;

(3) prevent losses for any reason to the state's supply of suitable, affordable residential rental units by enabling the rehabilitation of rental housing or by providing other preventive financial support under this subchapter; and

(4) provide for the participation of for-profit organizations and provide for and encourage the participation of nonprofit organizations in the acquisition, development, and

operation of affordable housing developments in urban and rural communities.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6702. DEFINITIONS. (a) In this subchapter:

(1) "Applicant" means any person or affiliate of a person who files an application with the department requesting a housing tax credit allocation.

(2) "Application" means an application filed with the department by an applicant and includes any exhibits or other supporting materials.

(3) "Application log" means a form containing at least the information required by Section 2306.6709.

(4) "Application round" means the period beginning on the date the department begins accepting applications and continuing until all available housing tax credits are allocated, but not extending past the last day of the calendar year.

(5) "At-risk development" means:

(A) a development that:

(i) has received the benefit of a subsidy in the form of a below-market interest rate loan, interest rate reduction, rental subsidy, Section 8 housing assistance payment, rental supplement payment, rental assistance payment, or equity incentive under the following federal laws, as applicable:

(a) Sections 221(d)(3) and (5), National Housing Act (12 U.S.C. Section 1715l);

(b) Section 236, National Housing Act (12 U.S.C. Section 1715z-1);

(c) Section 202, Housing Act of 1959 (12 U.S.C. Section 1701q);

(d) Section 101, Housing and Urban Development Act of 1965 (12 U.S.C. Section 1701s);

(e) the Section 8 Additional Assistance Program for housing developments with HUD-Insured and HUD-Held Mortgages administered by the United States Department of Housing and Urban Development as specified by 24 C.F.R. Part 886, Subpart A;

(f) the Section 8 Housing Assistance Program

for the Disposition of HUD-Owned Projects administered by the United States Department of Housing and Urban Development as specified by 24 C.F.R. Part 886, Subpart C;

(g) Sections 514, 515, and 516, Housing Act of 1949 (42 U.S.C. Sections 1484, 1485, and 1486); or

(h) Section 42, Internal Revenue Code of 1986; and

(ii) is subject to the following conditions:

(a) the stipulation to maintain affordability in the contract granting the subsidy is nearing expiration; or

(b) the HUD-insured or HUD-held mortgage on the development is eligible for prepayment or is nearing the end of its term; or

(B) a development that proposes to rehabilitate or reconstruct housing units that:

(i) receive assistance under Section 9, United States Housing Act of 1937 (42 U.S.C. Section 1437g) and are owned by:

(a) a public housing authority; or

(b) a public facility corporation created by a public housing authority under Chapter 303, Local Government Code;

(ii) received assistance under Section 9, United States Housing Act of 1937 (42 U.S.C. Section 1437g) and:

(a) are proposed to be disposed of or demolished by a public housing authority or a public facility corporation created by a public housing authority under Chapter 303, Local Government Code; or

(b) have been disposed of or demolished by a public housing authority or a public facility corporation created by a public housing authority under Chapter 303, Local Government Code, in the two-year period preceding the application for housing tax credits; or

(iii) receive assistance or will receive assistance through the Rental Assistance Demonstration program administered by the United States Department of Housing and Urban Development as specified by the Consolidated and Further Continuing Appropriations Act, 2012 (Pub. L. No. 112-55) and its subsequent amendments, if the application for assistance through the Rental Assistance Demonstration program is included in the applicable public housing plan that was most recently approved by the United States Department

of Housing and Urban Development as specified by 24 C.F.R. Section 903.23.

(6) "Development" means a proposed qualified low income housing project, as defined by Section 42(g), Internal Revenue Code of 1986 (26 U.S.C. Section 42(g)), that consists of one or more buildings containing multiple units, that is financed under a common plan, and that is owned by the same person for federal tax purposes, including a project consisting of multiple buildings that:

(A) are located on scattered sites; and

(B) contain only rent-restricted units.

(7) "Development owner" means any person or affiliate of a person who owns or proposes a development or expects to acquire control of a development under a purchase contract approved by the department.

(8) "Housing tax credit" means a tax credit allocated under the low income housing tax credit program.

(9) "Land use restriction agreement" means an agreement between the department, the development owner, and the development owner's successors in interest that encumbers the development with respect to the requirements of this subchapter and the requirements of Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42).

(10) "Qualified allocation plan" means a plan adopted by the board under this subchapter that:

(A) provides the threshold, scoring, and underwriting criteria based on housing priorities of the department that are appropriate to local conditions;

(B) consistent with Section 2306.6710(e), gives preference in housing tax credit allocations to developments that, as compared to the other developments:

(i) when practicable and feasible based on documented, committed, and available third-party funding sources, serve the lowest income tenants per housing tax credit; and

(ii) produce for the longest economically feasible period the greatest number of high quality units committed to remaining affordable to any tenants who are income-eligible under the low income housing tax credit program; and

(C) provides a procedure for the department, the department's agent, or another private contractor of the department to use in monitoring compliance with the qualified allocation plan and this subchapter.

(11) "Related party" means the following individuals or entities:

(A) the brothers, sisters, spouse, ancestors, and descendants of a person within the third degree of consanguinity, as determined by Chapter 573;

(B) a person and a corporation, if the person owns more than 50 percent of the outstanding stock of the corporation;

(C) two or more corporations that are connected through stock ownership with a common parent possessing more than 50 percent of:

(i) the total combined voting power of all classes of stock of each of the corporations that can vote;

(ii) the total value of shares of all classes of stock of each of the corporations; or

(iii) the total value of shares of all classes of stock of at least one of the corporations, excluding, in computing that voting power or value, stock owned directly by the other corporation;

(D) a grantor and fiduciary of any trust;

(E) a fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(F) a fiduciary of a trust and a beneficiary of the trust;

(G) a fiduciary of a trust and a corporation if more than 50 percent of the outstanding stock of the corporation is owned by or for:

(i) the trust; or

(ii) a person who is a grantor of the trust;

(H) a person or organization and an organization that is tax-exempt under Section 501(a), Internal Revenue Code of 1986 (26 U.S.C. Section 501), and that is controlled by that person or the person's family members or by that organization;

(I) a corporation and a partnership or joint venture if the same persons own more than:

(i) 50 percent of the outstanding stock of the corporation; and

(ii) 50 percent of the capital interest or the profits' interest in the partnership or joint venture;

(J) an S corporation and another S corporation if the same persons own more than 50 percent of the outstanding stock of

each corporation;

(K) an S corporation and a C corporation if the same persons own more than 50 percent of the outstanding stock of each corporation;

(L) a partnership and a person or organization owning more than 50 percent of the capital interest or the profits' interest in that partnership; or

(M) two partnerships, if the same person or organization owns more than 50 percent of the capital interests or profits' interests.

(12) "Rural area" means an area that is:

(A) described by Section 2306.004(28-a); or

(B) designated by the department as a rural area under Section 2306.6740.

(13) "Rural development agency" means the state agency designated by the legislature as primarily responsible for rural area development in the state.

(14) "Set-aside" means a reservation of a portion of the available housing tax credits to provide financial support for specific types of housing or geographic locations or serve specific types of applicants as permitted by the qualified allocation plan on a priority basis.

(15) "Threshold criteria" means the criteria used to determine whether the development satisfies the minimum level of acceptability for consideration established in the department's qualified allocation plan.

(16) "Unit" means any residential rental unit in a development consisting of an accommodation, including a single room used as an accommodation on a non-transient basis, that contains complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation.

(17) "Urban area" means the area that is located within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area other than an area:

(A) described by Section 2306.004(28-a)(B); or

(B) designated by the department as a rural area under Section 2306.6740.

(b) For purposes of Subsection (a)(11), the constructive ownership provisions of Section 267, Internal Revenue Code of 1986 (26 U.S.C. Section 267), apply. The board may lower in the qualified

allocation plan the percentages described by Subsection (a)(11).

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 17, eff. Sept. 1, 2003.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 857 (H.B. 429), Sec. 3, eff. September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 963 (H.B. 1888), Sec. 1, eff. September 1, 2013.
Acts 2015, 84th Leg., R.S., Ch. 896 (S.B. 1315), Sec. 1, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 916 (H.B. 74), Sec. 1, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1259 (H.B. 2926), Sec. 1, eff. September 1, 2015.
Acts 2017, 85th Leg., R.S., Ch. 646 (S.B. 1238), Sec. 1, eff. June 12, 2017.

Sec. 2306.67021. APPLICABILITY OF SUBCHAPTER. Except as provided by Sections 2306.6703 and 2306.67071, this subchapter does not apply to the allocation of housing tax credits to developments financed through the private activity bond program.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 2.01, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2137, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2306.67022. QUALIFIED ALLOCATION PLAN; MANUAL. (a) At least biennially, the board shall adopt a qualified allocation plan and a corresponding manual to provide information regarding the administration of and eligibility for the low income housing tax credit program. The board may adopt the plan and manual annually, as

considered appropriate by the board.

(b) The board shall adjust to reflect inflation any amount specified in the qualified allocation plan relating to the acceptable cost of a development by square foot. The board shall use 2021 as the base year for the adjustment.

(c) In making the computation under Subsection (b), the board shall consider the Consumer Price Index for All Urban Consumers, or its successor in function, published by the United States Bureau of Labor Statistics.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 74.03, eff. September 28, 2011.

Acts 2023, 88th Leg., R.S., Ch. 883 (H.B. 4550), Sec. 1, eff. September 1, 2023.

Sec. 2306.6703. INELIGIBILITY FOR CONSIDERATION. (a) An application is ineligible for consideration under the low income housing tax credit program if:

(1) at the time of application or at any time during the two-year period preceding the date the application round begins, the applicant or a related party is or has been:

(A) a member of the board; or

(B) the director, a deputy director, the director of housing programs, the director of compliance, the director of underwriting, or the low income housing tax credit program manager employed by the department;

(2) the applicant proposes to replace in less than 15 years any private activity bond financing of the development described by the application, unless:

(A) at least one-third of all the units in the development are public housing units or Section 8 project-based units and the applicant proposes to maintain for a period of 30 years or more 100 percent of the units supported by housing tax credits as rent-restricted and exclusively for occupancy by individuals and families earning not more than 50 percent of the area median income, adjusted for family size;

(B) the applicable private activity bonds will be redeemed only in an amount consistent with their proportionate amortization; or

(C) if the redemption of the applicable private activity bonds will occur in the first five years of the operation of the development and complies with Section 42(h)(4), Internal Revenue Code of 1986:

(i) on the date the certificate of reservation is issued, the Bond Review Board determines that there is not a waiting list for private activity bonds in the same priority level established under Section 1372.0321 or, if applicable, in the same uniform state service region, as referenced in Section 1372.0231, that is served by the proposed development; and

(ii) the applicable private activity bonds will be redeemed according to underwriting criteria, if any, established by the department;

(3) the applicant proposes to construct a new development that is located one linear mile or less from a development that:

(A) serves the same type of household as the new development, regardless of whether the developments serve families, elderly individuals, or another type of household;

(B) has received an allocation of housing tax credits for new construction at any time during the three-year period preceding the date the application round begins; and

(C) has not been withdrawn or terminated from the low income housing tax credit program; or

(4) the development is located in a municipality or, if located outside a municipality, a county that has more than twice the state average of units per capita supported by housing tax credits or private activity bonds, unless the applicant:

(A) has obtained prior approval of the development from the governing body of the appropriate municipality or county containing the development; and

(B) has included in the application a written statement of support from that governing body referencing this section and authorizing an allocation of housing tax credits for the development.

(b) Subsection (a)(3) does not apply to a development:

(1) that is using:

(A) federal HOPE VI funds received through the United States Department of Housing and Urban Development;

(B) locally approved funds received from a public improvement district or a tax increment financing district;

(C) funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.); or

(D) funds provided to the state and participating jurisdictions under the Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.);

(2) that is located in a county with a population of less than one million;

(3) that is located outside of a metropolitan statistical area; or

(4) that a local government where the project is to be located has by vote specifically allowed the construction of a new development located within one linear mile or less from a development under Subsection (a).

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 18, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1106, Sec. 1, eff. Sept. 1, 2003. Reenacted and amended by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 8.021, eff. September 1, 2005.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1416 (S.B. 2064), Sec. 18, eff. June 19, 2009.

Sec. 2306.6704. PREAPPLICATION PROCESS. (a) To prevent unnecessary filing costs, the department by rule shall establish a voluntary preapplication process to enable a preliminary assessment of an application proposed for filing under this subchapter.

(b) The department shall award in the application evaluation process described by Section 2306.6710 an appropriate number of points as an incentive for participation in the preapplication process established under this section.

(b-1) The preapplication process must require the applicant to provide the department with evidence that the applicant has notified the following entities with respect to the filing of the application:

(1) any neighborhood organizations on record with the state or county in which the development is to be located and whose

boundaries contain the proposed development site;

(2) the superintendent and the presiding officer of the board of trustees of the school district containing the development;

(3) the presiding officer of the governing body of any municipality containing the development and all elected members of that body;

(4) the presiding officer of the governing body of the county containing the development and all elected members of that body; and

(5) the state senator and state representative of the district containing the development.

(c) The department shall reject and return to the applicant any application assessed by the department under this section that fails to satisfy the threshold criteria required by the board in the qualified allocation plan.

(d) If feasible under Section 2306.67041, an application under this section must be submitted electronically.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 19, eff. Sept. 1, 2003.

Sec. 2306.67041. ON-LINE APPLICATION SYSTEM. (a) The department and the Department of Information Resources shall cooperate to evaluate the feasibility of an on-line application system for the low income housing tax credit program to provide the following functions:

(1) filing of preapplications and applications on-line;

(2) posting of on-line preapplication or application status and the application log detailing the status of, and department's evaluations and scores pertaining to, those applications; and

(3) posting of comments from applicants and the public regarding a preapplication or application.

(b) The department shall determine the process for allowing access to on-line preapplications and applications, information related to those applications, and department decisions relating to those applications.

(c) In the application cycle following the date any on-line application system becomes operational, the department shall require

use of the system for submission of preapplications and applications under this subchapter.

(d) The department shall publish a status report on the implementation of the on-line application on the department's website not later than January 1, 2002.

(e) Before the implementation of the on-line application system, the department may implement the requirements of Section 2306.6717 in any manner the department considers appropriate.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6705. GENERAL APPLICATION REQUIREMENTS. An application must contain at a minimum the following written, detailed information in a form prescribed by the board:

(1) a description of:

(A) the financing plan for the development, including any nontraditional financing arrangements;

(B) the use of funds with respect to the development;

(C) the funding sources for the development, including:

(i) construction, permanent, and bridge loans; and

(ii) rents, operating subsidies, and replacement reserves; and

(D) the commitment status of the funding sources for the development;

(2) if syndication costs are included in the eligible basis, a justification of the syndication costs for each cost category by an attorney or accountant specializing in tax matters;

(3) from a syndicator or a financial consultant of the applicant, an estimate of the amount of equity dollars expected to be raised for the development in conjunction with the amount of housing tax credits requested for allocation to the applicant, including:

(A) pay-in schedules; and

(B) syndicator consulting fees and other syndication costs;

(4) if rental assistance, an operating subsidy, or an annuity is proposed for the development, any related contract or other agreement securing those funds and an identification of:

(A) the source and annual amount of the funds;

(B) the number of units receiving the funds; and

(C) the term and expiration date of the contract or other agreement;

(5) if the development is located within the boundaries of a political subdivision with a zoning ordinance, evidence in the form of a letter from the chief executive officer of the political subdivision or from another local official with jurisdiction over zoning matters that states that:

(A) the development is permitted under the provisions of the ordinance that apply to the location of the development; or

(B) the applicant is in the process of seeking the appropriate zoning and has signed and provided to the political subdivision a release agreeing to hold the political subdivision and all other parties harmless in the event that the appropriate zoning is denied;

(6) if an occupied development is proposed for rehabilitation:

(A) an explanation of the process used to notify and consult with the tenants in preparing the application;

(B) a relocation plan outlining:

(i) relocation requirements; and

(ii) a budget with an identified funding source; and

(C) if applicable, evidence that the relocation plan has been submitted to the appropriate local agency;

(7) a certification of the applicant's compliance with appropriate state and federal laws, as required by other state law or by the board;

(8) any other information required by the board in the qualified allocation plan; and

(9) evidence that the applicant has notified the following entities with respect to the filing of the application:

(A) any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site;

(B) the superintendent and the presiding officer of the board of trustees of the school district containing the development;

(C) the presiding officer of the governing body of any municipality containing the development and all elected members of that body;

(D) the presiding officer of the governing body of the county containing the development and all elected members of that body; and

(E) the state senator and state representative of the district containing the development.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 20, eff. Sept. 1, 2003.

Sec. 2306.67055. MARKET ANALYSIS. (a) A market analysis submitted in conjunction with an application for housing tax credits must:

(1) be prepared by a market analyst approved by the department; and

(2) include an assessment of other developments that are supported by housing tax credits within the market area.

(b) The department, through the qualified allocation plan, shall develop:

(1) a process for approving market analysts; and

(2) a methodology for determining the market area to be examined in a market analysis.

Added by Acts 2003, 78th Leg., ch. 330, Sec. 21, eff. Sept. 1, 2003.

Sec. 2306.6706. ADDITIONAL APPLICATION REQUIREMENT: NONPROFIT SET-ASIDE ALLOCATION. (a) In addition to the information required by Section 2306.6705, an application for a housing tax credit allocation from the nonprofit set-aside, as defined by Section 42(h)(5), Internal Revenue Code of 1986 (26 U.S.C. Section 42(h)(5)), must contain the following written, detailed information with respect to each development owner and each general partner of a development owner:

(1) Internal Revenue Service documentation of designation as a Section 501(c)(3) or 501(c)(4) organization;

(2) evidence that one of the exempt purposes of the nonprofit organization is to provide low income housing;

(3) a description of the nonprofit organization's participation in the construction or rehabilitation of the

development and in the ongoing operations of the development;

(4) evidence that the nonprofit organization prohibits a member of its board of directors, other than a chief staff member serving concurrently as a member of the board, from receiving material compensation for service on the board;

(5) a third-party legal opinion stating that the nonprofit organization is not affiliated with or controlled by a for-profit organization and the basis for that opinion;

(6) a copy of the nonprofit organization's most recent audited financial statement;

(7) a list of the names and home addresses of members of the board of directors of the nonprofit organization;

(8) a third-party legal opinion stating that the nonprofit organization is eligible under Subsection (b) for a housing tax credit allocation from the nonprofit set-aside and the basis for that opinion; and

(9) evidence that a majority of the members of the nonprofit organization's board of directors principally reside:

(A) in this state, if the development is located in a rural area; or

(B) not more than 90 miles from the development in the community in which the development is located, if the development is not located in a rural area.

(b) To be eligible for a housing tax credit allocation from the nonprofit set-aside, a nonprofit organization must:

(1) control a majority of the development;

(2) if the organization's application is filed on behalf of a limited partnership, be the managing general partner; and

(3) otherwise meet the requirements of Section 42(h)(5), Internal Revenue Code of 1986 (26 U.S.C. Section 42(h)(5)).

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6707. ADDITIONAL APPLICATION REQUIREMENT: DISCLOSURE OF INTERESTED PERSONS. (a) The applicant must disclose in the application the names of any persons, including affiliates of those persons and related parties, providing developmental or operational services to the development, including:

(1) a development owner;
(2) an architect;
(3) an attorney;
(4) a tax professional;
(5) a property management company;
(6) a consultant;
(7) a market analyst;
(8) a tenant services provider;
(9) a syndicator;
(10) a real estate broker or agent or a person receiving a fee in connection with services usually provided by a real estate broker or agent;
(11) at the time the application is submitted, the owners of the property on which the development is located;
(12) a developer; and
(13) a builder or general contractor.

(b) For each person described by Subsection (a), the application must disclose any company name, company contact person, address, and telephone number.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.67071. ADDITIONAL APPLICATION REQUIREMENT: NOTICE, HEARING, AND RESOLUTION BY CERTAIN GOVERNING BODIES. (a) Before submitting to the department an application for housing tax credits for developments financed through the private activity bond program, including private activity bonds issued by the department, the Texas State Affordable Housing Corporation, or a local issuer, an applicant must provide notice of the intent to file the application to:
(1) the governing body of a municipality in which the proposed development site is to be located;
(2) subject to Subdivision (3), the commissioners court of a county in which the proposed development site is to be located, if the proposed site is to be located in an area of a county that is not part of a municipality; or
(3) the commissioners court of a county in which the proposed development site is to be located and the governing body of the applicable municipality, if the proposed site is to be located in

the extraterritorial jurisdiction of a municipality.

(b) A county or municipality, as applicable, shall hold a hearing at which public comment may be made on the application.

(c) The board may not approve an application for housing tax credits for developments financed through the private activity bond program unless the applicant has submitted to the department a certified copy of a resolution from each applicable governing body described by Subsection (a). The resolution must certify that:

(1) notice has been provided to each governing body as required by Subsection (a);

(2) each governing body has had sufficient opportunity to obtain a response from the applicant regarding any questions or concerns about the proposed development;

(3) each governing body has held a hearing under Subsection (b); and

(4) after due consideration of the information provided by the applicant and public comment, the governing body does not object to the proposed application.

(d) The department by rule may provide for the time and manner of the submission to the department of a resolution required by Subsection (c).

Added by Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 2.02, eff. September 1, 2013.

Sec. 2306.6708. APPLICATION CHANGES OR SUPPLEMENTS. (a) Except as provided by Subsection (b), an applicant may not change or supplement an application in any manner after the filing deadline.

(b) This section does not prohibit an applicant from:

(1) at the request of the department, clarifying information in the application or correcting administrative deficiencies in the application; or

(2) amending an application after allocation of housing tax credits in the manner provided by Section 2306.6712.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6709. APPLICATION LOG. (a) In a form prescribed by

the department, the department shall maintain for each application an application log that tracks the application from the date of its submission.

(b) The application log must contain at least the following information:

(1) the names of the applicant and related parties;

(2) the physical location of the development, including the relevant region of the state;

(3) the amount of housing tax credits requested for allocation by the department to the applicant;

(4) any set-aside category under which the application is filed;

(5) the score of the application in each scoring category adopted by the department under the qualified allocation plan;

(6) any decision made by the department or board regarding the application, including the department's decision regarding whether to underwrite the application and the board's decision regarding whether to allocate housing tax credits to the development;

(7) the names of persons making the decisions described by Subdivision (6), including the names of department staff scoring and underwriting the application, to be recorded next to the description of the applicable decision;

(8) the amount of housing tax credits allocated to the development; and

(9) a dated record and summary of any contact between the department staff, the board, and the applicant or any related parties.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6710. EVALUATION AND UNDERWRITING OF APPLICATIONS. (a) In evaluating an application, the department shall determine whether the application satisfies the threshold criteria required by the board in the qualified allocation plan. The department shall reject and return to the applicant any application that fails to satisfy the threshold criteria.

(b) If an application satisfies the threshold criteria, the department shall score and rank the application using a point system

that:

(1) prioritizes in descending order criteria regarding:

(A) financial feasibility of the development based on the supporting financial data required in the application that will include a project underwriting pro forma from the permanent or construction lender;

(B) quantifiable community participation with respect to the development, evaluated on the basis of a resolution concerning the development that is voted on and adopted by the following, as applicable:

(i) the governing body of a municipality in which the proposed development site is to be located;

(ii) subject to Subparagraph (iii), the commissioners court of a county in which the proposed development site is to be located, if the proposed site is to be located in an area of a county that is not part of a municipality; or

(iii) the commissioners court of a county in which the proposed development site is to be located and the governing body of the applicable municipality, if the proposed site is to be located in the extraterritorial jurisdiction of a municipality;

(C) the income levels of tenants of the development;

(D) the size and quality of the units;

(E) the rent levels of the units;

(F) the cost of the development by square foot;

(G) the services to be provided to tenants of the development;

(H) whether, at the time the complete application is submitted or at any time within the two-year period preceding the date of submission, the proposed development site is located in an area declared to be a disaster under Section 418.014;

(I) quantifiable community participation with respect to the development, evaluated on the basis of written statements from any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site; and

(J) the level of community support for the application, evaluated on the basis of a written statement from the state representative who represents the district containing the proposed development site;

(2) uses criteria imposing penalties on applicants or

affiliates who have requested extensions of department deadlines relating to developments supported by housing tax credit allocations made in the application round preceding the current round or a developer or principal of the applicant that has been removed by the lender, equity provider, or limited partners for its failure to perform its obligations under the loan documents or limited partnership agreement;

(3) encourages applicants to provide free notary public service to the residents of the developments for which the allocation of housing tax credits is requested; and

(4) for an application concerning a development that is or will be located in a county with a population of 1.2 million or more but less than 4 million and that is or will be located not more than two miles from a veterans hospital, veterans affairs medical center, or veterans affairs health care center, encourages applicants to provide a preference for leasing units in the development to low income veterans.

(c) The department shall publish in the qualified allocation plan details of the scoring system used by the department to score applications.

(d) The department shall underwrite the applications ranked under Subsection (b) beginning with the applications with the highest scores in each region described by Section 2306.111(d) and in each set-aside category described in the qualified allocation plan. Based on application rankings, the department shall continue to underwrite applications until the department has processed enough applications satisfying the department's underwriting criteria to enable the allocation of all available housing tax credits according to regional allocation goals and set-aside categories. To enable the board to establish an applications waiting list under Section 2306.6711, the department shall underwrite as many additional applications as the board considers necessary to ensure that all available housing tax credits are allocated within the period required by law. The department shall underwrite an application to determine the financial feasibility of the development and an appropriate level of housing tax credits. In determining an appropriate level of housing tax credits, the department shall evaluate the cost of the development based on acceptable cost parameters as adjusted for inflation and as established by historical final cost certifications of all previous housing tax credit allocations for:

(1) the county in which the development is to be located;

(2) if certifications are unavailable under Subdivision (1), the metropolitan statistical area in which the development is to be located; or

(3) if certifications are unavailable under Subdivisions (1) and (2), the uniform state service region in which the development is to be located.

(e) In scoring applications for purposes of housing tax credit allocations, the department shall award, consistent with Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42), preference points to a development that will:

(1) when practicable and feasible based on documented, committed, and available third-party funding sources, serve the lowest income tenants per housing tax credit, if the development is to be located outside a qualified census tract; and

(2) produce for the longest economically feasible period the greatest number of high quality units committed to remaining affordable to any tenants who are income-eligible under the low income housing tax credit program.

(f) In evaluating the level of community support for an application under Subsection (b)(1)(J), the department shall award:

(1) positive points for positive written statements received;

(2) negative points for negative written statements received; and

(3) zero points for neutral statements received.

(g) If no written statement is received for an application under Subsection (b)(1)(J), the department shall use the maximum number of points that could have been awarded under that paragraph to increase the maximum number of points that may be awarded for that application under Subsection (b)(1)(B). If awarding points under Subsection (b)(1)(B)(iii), the department shall reallocate the points from the scoring category provided by Subsection (b)(1)(J) equally between the political subdivisions described by Subsection (b)(1)(B)(iii). In awarding points transferred under this subsection from the scoring category provided by Subsection (b)(1)(J) to the scoring category provided by Subsection (b)(1)(B), the department shall award:

(1) positive points for positive resolutions adopted;

(2) negative points for negative resolutions adopted; and

(3) zero points for neutral resolutions adopted.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 22, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 6, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 42, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 2.03, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 954 (S.B. 1316), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1111 (H.B. 3311), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 1086 (H.B. 3574), Sec. 1(a), eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1086 (H.B. 3574), Sec. 1(b), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1092 (H.B. 1973), Sec. 1, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 662 (H.B. 1558), Sec. 1, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 65, eff. September 1, 2023.

Sec. 2306.6711. ALLOCATION OF HOUSING TAX CREDITS. (a) The director shall provide the application scores to the board before the 30th day preceding the date the board begins to issue commitments for housing tax credits in the allocation round.

(b) Not later than the deadline specified in the qualified allocation plan, the board shall issue commitments for available housing tax credits based on the application evaluation process provided by Section 2306.6710. The board may not allocate to an applicant housing tax credits in any unnecessary amount, as determined by the department's underwriting policy and by federal law, and in any event may not allocate to the applicant housing tax credits in an amount greater than $6 million in a single application

round or to an individual development more than $2 million in a single application round.

(c) Concurrently with the initial issuance of commitments for housing tax credits under Subsection (b), the board shall establish a waiting list of additional applications ranked by score in descending order of priority based on set-aside categories and regional allocation goals.

(d) The board shall issue commitments for housing tax credits with respect to applications on the waiting list as additional credits become available.

(e) Not later than the 120th day after the date of the initial issuance of commitments for housing tax credits under Subsection (b), the department shall provide to an applicant who did not receive a commitment under that subsection an opportunity to meet and discuss with the department the application's deficiencies and scoring.

(f) Except as provided by Subsection (f-1), the board may allocate housing tax credits to more than one development in a single community, as defined by department rule, in the same calendar year only if the developments are or will be located more than two linear miles apart. This subsection applies only to communities contained within counties with populations exceeding one million.

(f-1) The board may allocate housing tax credits to more than one development in a single community only if:

(1) the community is located in:

(A) a municipality with a population of two million or more; and

(B) an area that is a federally declared disaster area; and

(2) the governing body of the municipality containing the development:

(A) has by vote specifically authorized the allocation of housing tax credits for the development; and

(B) is authorized to administer disaster recovery funds as a subgrant recipient.

(g) Except as necessary to comply with the nonprofit set-aside required by Section 42(h)(5), Internal Revenue Code of 1986 (26 U.S.C. Section 42(h)(5)), in an urban subregion of a uniform state service region that contains a county with a population of more than 1.7 million, the board shall allocate housing tax credits to the highest scoring development, if any, that is part of a concerted plan

of revitalization and is located in that urban subregion in a municipality with a population of 500,000 or more.

(h) Notwithstanding Section 2306.6710(d), and except as necessary to comply with the nonprofit set-aside required by Section 42(h)(5), Internal Revenue Code of 1986 (26 U.S.C. Section 42(h)(5)), the board may not allocate to developments reserved for elderly persons and located in an urban subregion of a uniform state service region a percentage of the available housing tax credits allocated to developments located in that subregion that is greater than the percentage that results from the following formula, unless there are no other qualified applicants in that region:

$$MP = [(LEH - ERU)/(TLH - TEU)] \times 100$$

where:

"MP" is the maximum percentage of the available housing tax credits allocated to developments in the subregion that may be allocated to developments reserved for elderly persons;

"LEH" is the number of low income elderly households in the subregion;

"ERU" is the number of existing units reserved for elderly persons in developments located in the subregion that already receive housing tax credits;

"TLH" is the total number of low income households in the subregion; and

"TEU" is the total number of existing units in developments located in the subregion that already receive housing tax credits.

(i) Subsection (h) applies only to a uniform state service region that contains a county with a population of more than one million.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 23, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1106, Sec. 2, eff. Sept. 1, 2003. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 74.04, eff. September 28, 2011.

Acts 2015, 84th Leg., R.S., Ch. 976 (H.B. 3535), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1111 (H.B. 3311), Sec. 2, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 584 (S.B. 493), Sec. 1, eff.

September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 883 (H.B. 4550), Sec. 2, eff. September 1, 2023.

Sec. 2306.6712. AMENDMENT OF APPLICATION SUBSEQUENT TO ALLOCATION BY BOARD. (a) If a proposed modification would materially alter a development approved for an allocation of a housing tax credit, the department shall require the applicant to file a formal, written amendment to the application on a form prescribed by the department.

(b) The director shall require the department staff assigned to underwrite applications to evaluate the amendment and provide an analysis and written recommendation to the board. The appropriate monitor under Section 2306.6719 shall also provide to the board an analysis and written recommendation regarding the amendment.

(c) The board must vote on whether to approve the amendment. The board by vote may reject an amendment and, if appropriate, rescind the allocation of housing tax credits and reallocate the credits to other applicants on the waiting list required by Section 2306.6711 if the board determines that the modification proposed in the amendment:

(1) would materially alter the development in a negative manner; or

(2) would have adversely affected the selection of the application in the application round.

(d) Material alteration of a development includes:

(1) a significant modification of the site plan;

(2) a modification of the number of units or bedroom mix of units;

(3) a substantive modification of the scope of tenant services;

(4) a reduction of three percent or more in the square footage of the units or common areas;

(5) a significant modification of the architectural design of the development;

(6) a modification of the residential density of the development of at least five percent; and

(7) any other modification considered significant by the board.

(e) In evaluating the amendment under this subsection, the department staff shall consider whether the need for the modification proposed in the amendment was:

(1) reasonably foreseeable by the applicant at the time the application was submitted; or

(2) preventable by the applicant.

(f) This section shall be administered in a manner that is consistent with Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42).

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6713. HOUSING TAX CREDIT AND OWNERSHIP TRANSFERS. (a) An applicant may not transfer an allocation of housing tax credits or ownership of a development supported with an allocation of housing tax credits to any person other than an affiliate unless the applicant obtains the director's prior, written approval of the transfer.

(b) The director may not unreasonably withhold approval of the transfer.

(c) An applicant seeking director approval of a transfer and the proposed transferee must provide to the department a copy of any applicable agreement between the parties to the transfer, including any third-party agreement with the department.

(d) On request, an applicant seeking director approval of a transfer must provide to the department:

(1) a list of the names of transferees and related parties; and

(2) detailed information describing the experience and financial capacity of transferees and related parties.

(e) The development owner shall certify to the director that the tenants in the development have been notified in writing of the transfer before the 30th day preceding the date of submission of the transfer request to the department.

(f) Not later than the fifth working day after the date the department receives all necessary information under this section, the department shall conduct a qualifications review of a transferee to determine:

(1) the transferee's past compliance with all aspects of the low income housing tax credit program, including land use restriction agreements; and

(2) the sufficiency of the transferee's experience with developments supported with housing tax credit allocations.

(g) The transfer of ownership of a development supported with an allocation of housing tax credits under this section does not subject the development to a right of first refusal under Section 2306.6726 if the transfer is made to a newly formed entity:

(1) that is under common control with the development owner; and

(2) the primary purpose of the formation of which is to facilitate the financing of the rehabilitation of the development using assistance administered through a state financing program.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 817 (H.B. 3576), Sec. 2, eff. September 1, 2015.

Sec. 2306.6714. AT-RISK DEVELOPMENT SET-ASIDE. (a) The department shall set aside for eligible at-risk developments not less than 15 percent of the housing tax credits available for allocation in the calendar year.

(a-1) An at-risk development described by Section 2306.6702(a)(5)(B) is eligible for housing tax credits set aside under Subsection (a) if:

(1) a portion of the public housing operating subsidy received from the department is retained for the development; and

(2) a portion of the units of the development are reserved for public housing as specified in the qualified housing plan.

(a-2) Notwithstanding any other provision of law, an at-risk development described by Section 2306.6702(a)(5)(B) that was previously allocated housing tax credits set aside under Subsection (a) does not lose eligibility for those credits if the portion of units reserved for public housing as a condition of eligibility for the credits under Subsection (a-1)(2) are later converted under the Rental Assistance Demonstration program administered by the United

States Department of Housing and Urban Development as specified by the Consolidated and Further Continuing Appropriations Act, 2012 (Pub. L. No. 112-55) and its subsequent amendments.

(b) Any amount of housing tax credits set aside under this section that remains after the initial allocation of housing tax credits is available for allocation to any eligible applicant as provided by the qualified allocation plan.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 963 (H.B. 1888), Sec. 2, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 646 (S.B. 1238), Sec. 2, eff. June 12, 2017.

Sec. 2306.6715. APPEAL. (a) In a form prescribed by the department in the qualified allocation plan, an applicant may appeal the following decisions made by the department in the application evaluation process provided by Section 2306.6710:

(1) a determination regarding the application's satisfaction of threshold and underwriting criteria;

(2) the scoring of the application; and

(3) a recommendation as to the amount of housing tax credits to be allocated to the application.

(b) An applicant may not appeal a decision made under Section 2306.6710 regarding an application filed by another applicant.

(c) An applicant must file a written appeal authorized by this section with the department not later than the seventh day after the date the department publishes the results of the application evaluation process provided by Section 2306.6710. In the appeal, the applicant must specifically identify the applicant's grounds for appeal, based on the original application and additional documentation filed with the original application.

(d) The director shall respond in writing to the appeal not later than the 14th day after the date of receipt of the appeal. If the applicant is not satisfied with the director's response to the appeal, the applicant may appeal directly in writing to the board, provided that an appeal filed with the board under this subsection

must be received by the board before:

(1) the seventh day preceding the date of the board meeting at which the relevant allocation decision is expected to be made; or

(2) the third day preceding the date of the board meeting described by Subdivision (1), if the director does not respond to the appeal before the date described by Subdivision (1).

(e) Board review of an appeal under Subsection (d) is based on the original application and additional documentation filed with the original application. The board may not review any information not contained in or filed with the original application. The decision of the board regarding the appeal is final.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6716. FEES. (a) A fee charged by the department for filing an application may not be excessive and must reflect the department's actual costs in processing the application, providing copies of documents to persons connected with the application process, and making appropriate information available to the public through the department's website.

(b) The department shall publish each year an updated schedule of application fees that specifies the amount to be charged at each stage of the application process.

(c) In accordance with the fee schedule, the department shall refund the balance of any fees collected for an application that is withdrawn by the applicant or that is not fully processed by the department. The department must provide the refund to the applicant not later than the 30th day after the date the last official action is taken with respect to the application.

(d) The department shall develop a sliding scale fee schedule for applications that encourages increased participation by community housing development organizations in the low income housing tax credit program.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 24, eff. Sept. 1, 2003.

Sec. 2306.6717. PUBLIC INFORMATION AND HEARINGS. (a) Subject to Section 2306.67041, the department shall make the following items available on the department's website:

(1) as soon as practicable, any proposed application submitted through the preapplication process established by this subchapter;

(2) before the 30th day preceding the date of the relevant board allocation decision, except as provided by Subdivision (3), the entire application, including all supporting documents and exhibits, the application log, a scoring sheet providing details of the application score, and any other document relating to the processing of the application;

(3) not later than the third working day after the date of the relevant determination, the results of each stage of the application process, including the results of the application scoring and underwriting phases and the allocation phase;

(4) before the 15th day preceding the date of board action on the amendment, notice of an amendment under Section 2306.6712 and the recommendation of the director and monitor regarding the amendment; and

(5) an appeal filed with the department or board under Section 2306.0504 or 2306.6715 and any other document relating to the processing of the appeal.

(b) The department shall make available on the department's website information regarding the low income housing tax credit program, including notice regarding public hearings, meetings, the opening and closing dates for applications, submitted applications, and applications approved for underwriting and recommended to the board, and shall provide that information to:

(1) locally affected community groups;

(2) local and state elected officials;

(3) local housing departments;

(4) any appropriate newspapers of general or limited circulation that serve the community in which the development is to be located;

(5) nonprofit and for-profit organizations;

(6) on-site property managers of occupied developments that are the subject of applications for posting in prominent locations in those developments; and

(7) any other interested persons and community groups that

request the information.

(c) The department shall hold at least three public hearings in different regions of the state to receive public comments on applications and on other issues relating to the low income housing tax credit program.

(d) Notwithstanding any other provision of this section, the department may treat the financial statements of any applicant as confidential and may elect not to disclose those statements to the public.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 330, Sec. 25, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 556 (S.B. 659), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 2.04, eff. September 1, 2013.

Sec. 2306.67171. ELECTRONIC MAIL NOTIFICATION SERVICE. (a) The department shall maintain an electronic mail notification service to which any person in this state may electronically subscribe to receive information concerning the status of pre-applications and applications under this subchapter.

(b) The electronic mail notification service maintained under Subsection (a) must:

(1) allow a subscriber to request for a zip code notification of:

(A) the filing of any pre-application or application concerning a development that is or will be located in the zip code;

(B) the posting of the board materials for board approval of a list of approved applications or the issuance of final allocation commitments for applications described by Paragraph (A); and

(C) any public hearing to be held concerning an application or pre-application described by Paragraph (A); and

(2) respond to a subscriber via electronic mail not later than the later of:

(A) the 14th day after the date the department receives

notice of an event described by Subdivision (1); or

(B) if applicable, the date or dates specified by Section 2306.6717(a).

(c) The department may include in an electronic mail notification sent to a subscriber any applicable information described by Section 2306.6717.

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 28, eff. September 1, 2007.

Sec. 2306.6718. ELECTED OFFICIALS. (a) The department shall provide written notice of the filing of an application to the following elected officials:

(1) members of the legislature who represent the community containing the development described in the application; and

(2) the chief executive officer of the political subdivision containing the development described in the application.

(b) The department shall provide the elected officials with an opportunity to comment on the application during the application evaluation process provided by Section 2306.6710 and shall consider those comments in evaluating applications under that section.

(c) A member of the legislature who represents the community containing the development may hold a community meeting at which the department shall provide appropriate representation.

(d) If the department receives written notice from the mayor or county judge of an affected municipality or county opposing an application, the department must contact the mayor or county judge and offer to conduct a physical inspection of the development site and consult with the mayor or county judge before the application is scored.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6719. MONITORING OF COMPLIANCE. (a) The department may contract with an independent third party to monitor a development during its construction or rehabilitation and during its operation for compliance with:

(1) any conditions imposed by the department in connection

with the allocation of housing tax credits to the development; and

(2) appropriate state and federal laws, as required by other state law or by the board.

(b) The department may assign department staff other than housing tax credit division staff to perform the relevant monitoring functions required by this section in the construction or rehabilitation phase of a development.

(c) For a violation other than a violation that poses an imminent hazard or threat to health and safety, the department must provide the owner of a development with the following periods to correct a failure to comply with a condition or law described by Subsection (a)(1) or (2):

(1) 30 days for a failure to file the annual owner's compliance report; and

(2) 90 days for any other failure to comply under this section.

(d) For good cause shown, the executive director may extend the periods provided under Subsection (c).

(e) Solely for purposes of determining eligibility to apply for and receive financial assistance from the department, a development may not be considered to be in noncompliance with an applicable condition or law if the owner of the development takes appropriate corrective action during the period provided under Subsection (c).

(f) Notwithstanding Subsection (e), the department shall:

(1) submit to the applicable federal agency any report required by federal law regarding an owner's noncompliance with a condition or law described by Subsection (a)(1) or (2); and

(2) for purposes of developing and administering the policy relating to debarment under Section 2306.0504, consider recurring violations of a condition or law described by Subsection (a)(1) or (2), including violations that are corrected during the applicable period provided under Subsection (c).

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 556 (S.B. 659), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 2.05, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 9.012, eff. September 1, 2015.

Sec. 2306.6720. ENFORCEABILITY OF APPLICANT REPRESENTATIONS. Each material representation made by an applicant to secure a housing tax credit allocation is enforceable by the department and the tenants of the development supported with the allocation. Subject to modification and enforcement as provided by this chapter, a land use restriction agreement that is recorded with respect to a development is considered to state the development owner's ongoing obligations with regard to the matters addressed in the agreement.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 817 (H.B. 3576), Sec. 3, eff. September 1, 2015.

Sec. 2306.6722. DEVELOPMENT ACCESSIBILITY. Any development supported with a housing tax credit allocation shall comply with the accessibility standards that are required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6723. COORDINATION WITH RURAL DEVELOPMENT AGENCY. (a) The department shall jointly administer with the rural development agency any set-aside for rural areas to:

(1) ensure the maximum use and optimum geographic distribution of housing tax credits in rural areas; and

(2) provide for information sharing, efficient procedures, and fulfillment of development compliance requirements in rural areas.

(b) The rural development agency shall assist in developing all threshold, scoring, and underwriting criteria applied to applications eligible for the rural area set-aside. The criteria must be approved

by that agency.

(c) To ensure that the rural area set-aside receives a sufficient volume of eligible applications, the department shall fund and, with the rural development agency, shall jointly implement outreach, training, and rural area capacity building efforts as directed by the rural development agency.

(d) The department and the rural development agency shall jointly adjust the regional allocation of housing tax credits described by Section 2306.111 to offset the under-utilization and over-utilization of multifamily private activity bonds and other housing resources in the different regions of the state.

(e) From application fees collected under this subchapter, the department shall reimburse the rural development agency for any costs incurred by the agency in carrying out the functions required by this section.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6724. DEADLINES FOR ALLOCATION OF LOW INCOME HOUSING TAX CREDITS. (a) Regardless of whether the board will adopt the plan annually or biennially, the department, not later than September 30 of the year preceding the year in which the new plan is proposed for use, shall prepare and submit to the board for adoption any proposed qualified allocation plan required by federal law for use by the department in setting criteria and priorities for the allocation of tax credits under the low income housing tax credit program.

(b) Regardless of whether the board has adopted the plan annually or biennially, the board shall submit to the governor any proposed qualified allocation plan not later than November 15 of the year preceding the year in which the new plan is proposed for use. The governor shall approve, reject, or modify and approve the proposed qualified allocation plan not later than December 1.

(d) An applicant for a low income housing tax credit to be issued a commitment during the initial allocation cycle in a calendar year must submit an application to the department not later than March 1.

(e) The board shall review the recommendations of department staff regarding applications and shall issue a list of approved

applications each year in accordance with the qualified allocation plan not later than June 30.

(f) The board shall issue final commitments for allocations of housing tax credits each year in accordance with the qualified allocation plan not later than July 31.

(g) Notwithstanding any other law, the department shall issue a final commitment for an allocation of housing tax credits not later than the 120th day following the date on which the department receives from an applicant a complete cost certification package, as prescribed by department rule, and the applicant has fulfilled any requests for information for the issuance of Internal Revenue Service Form 8609, or that form's successor.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 49, eff. Sept. 1, 1997.
Renumbered from Sec. 2306.671 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 74.05, eff. September 28, 2011.

Acts 2023, 88th Leg., R.S., Ch. 883 (H.B. 4550), Sec. 3, eff. September 1, 2023.

Sec. 2306.6725. SCORING OF APPLICATIONS. (a) In allocating low income housing tax credits, the department shall score each application using a point system based on criteria adopted by the department that are consistent with the department's housing goals, including criteria addressing the ability of the proposed project to:

(1) provide quality social support services to residents;

(2) demonstrate community and neighborhood support as defined by the qualified allocation plan;

(3) consistent with sound underwriting practices and when economically feasible, serve individuals and families of extremely low income by leveraging private and state and federal resources, including federal HOPE VI grants received through the United States Department of Housing and Urban Development;

(4) serve traditionally underserved areas;

(5) demonstrate support from local political subdivisions based on the subdivisions' commitment of development funding;

(6) rehabilitate or perform an adaptive reuse of a

certified historic structure, as defined by Section 171.901(1), Tax Code, as part of the development;

(7) remain affordable to qualified tenants for an extended, economically feasible period; and

(8) comply with the accessibility standards that are required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C.

(b) The department shall provide appropriate incentives as determined through the qualified allocation plan to reward applicants who agree to:

(1) equip the development that is the basis of the application with energy saving devices that meet the standards established by the state energy conservation office or provide to a qualified entity, in a land use restriction agreement in accordance with Section 2306.6726, a right of first refusal to purchase the development at the minimum price provided in, and in accordance with the requirements of, Section 42(i)(7), Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(7)); and

(2) locate the development in a census tract in which there are no other existing developments supported by housing tax credits.

(c) On awarding tax credit allocations, the board shall document the reasons for each project's selection, including an explanation of:

(1) all discretionary factors used in making its determination; and

(2) the reasons for any decision that conflicts with the recommendations of department staff under Section 2306.6731.

(d) For each scoring criterion, the department shall use a range of points to evaluate the degree to which a proposed project satisfies the criterion. The department may not award:

(1) a number of points for a scoring criterion that is disproportionate to the degree to which a proposed project complies with that criterion; or

(2) to a proposed project for the general population a number of points for a scoring criterion that is different than the number of points awarded for that criterion to a proposed project reserved for elderly persons if the proposed projects comply with the criterion to the same degree.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 49, eff. Sept. 1, 1997.

Renumbered from Sec. 2306.672 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 330, Sec. 26, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1106, Sec. 3, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 817 (H.B. 3576), Sec. 4, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 954 (S.B. 1316), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1111 (H.B. 3311), Sec. 3, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 8.016, eff. September 1, 2017.

Sec. 2306.6726. SALE OF CERTAIN LOW INCOME HOUSING TAX CREDIT DEVELOPMENTS. (a) An owner of a development subject to a right of first refusal under Section 2306.6725 who intends to sell the development at any time after the expiration of the compliance period shall notify the department and the tenants of the development of the owner's intent to sell and, if applicable, shall specifically identify to the department any qualified entity that is the owner's intended recipient of the right of first refusal in the land use restriction agreement.

(a-1) As soon as practicable after receiving notice under Subsection (a), the department shall:

(1) provide to any qualified entity specifically identified under Subsection (a) notice regarding the owner's intent to sell the development; and

(2) post on the department's Internet website the notice described by Subdivision (1).

(b) The owner of a development subject to a right of first refusal under Section 2306.6725 may:

(1) during the first 60-day period after notice is provided under Subsection (a-1), negotiate or enter into a purchase agreement only with a qualified entity that is:

(A) a community housing development organization as defined by the federal HOME investment partnership program;

(B) if the authority or the corporation owns the fee title to the development owner's leasehold estate:

(i) a public housing authority; or

(ii) a public facility corporation created by a public housing authority under Chapter 303, Local Government Code; or

(C) controlled by an entity described by Paragraph (A) or (B);

(2) during the second 60-day period after notice is provided under Subsection (a-1), negotiate or enter into a purchase agreement with a qualified entity that:

(A) is described by Section 2306.6706;

(B) is controlled by an entity described by Paragraph (A); or

(C) is a tenant organization; and

(3) during the last 60-day period after notice is provided under Subsection (a-1), negotiate or enter into a purchase agreement with any other qualified entity.

(c) Beginning on the 181st day after the date the department posts notice under Subsection (a-1), an owner of a development subject to a right of first refusal under Section 2306.6725 may sell to any purchaser a development to which the right of first refusal applies if a qualified entity does not offer to purchase the development for a price that the department determines to be reasonable.

(c-1) This section applies only to a right of first refusal memorialized in a land use restriction agreement. This section does not authorize a modification of any other agreement between an owner of a development and a qualified entity.

(c-2) The department shall adopt rules and procedures to give effect to the right of first refusal granted by any land use restriction agreement.

(d) In this section:

(1) "Compliance period" has the meaning assigned by Section 42(i)(1), Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(1)).

(2) "Qualified entity" means an entity described by, or an entity controlled by an entity described by, Section 42(i)(7)(A), Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(7)(A)).

Added by Acts 1997, 75th Leg., ch. 980, Sec. 49, eff. Sept. 1, 1997. Renumbered from Sec. 2306.673 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 817 (H.B. 3576), Sec. 5, eff. September 1, 2015.

Acts 2021, 87th Leg., R.S., Ch. 841 (S.B. 403), Sec. 1, eff. September 1, 2021.

Sec. 2306.6727. DEPARTMENT PURCHASE OF LOW INCOME HOUSING TAX CREDIT PROPERTY. The board by rule may develop and implement a program to purchase low income housing tax credit property that is not purchased by a qualified nonprofit organization or tenant organization. The department may not purchase low income housing tax credit property if the board finds that the purchase is not in the best interest of the state.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 49, eff. Sept. 1, 1997. Renumbered from Sec. 2306.674 by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6728. DEPARTMENT POLICY AND PROCEDURES REGARDING RECIPIENTS OF CERTAIN FEDERAL HOUSING ASSISTANCE. (a) The department by rule shall adopt a policy regarding the admittance to low income housing tax credit properties of income-eligible individuals and families receiving assistance under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f).

(b) The policy must provide a reasonable minimum income standard that is not otherwise prohibited by this chapter and that is to be used by owners of low income housing tax credit properties and must place reasonable limits on the use of any other factors that impede the admittance of individuals and families described by Subsection (a) to those properties, including credit histories, security deposits, and employment histories.

(c) The department by rule shall establish procedures to monitor low income housing tax credit properties that refuse to admit individuals and families described by Subsection (a). The department by rule shall establish enforcement mechanisms with respect to those properties, including a range of sanctions to be imposed against the owners of those properties.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.30, eff. Sept. 1, 2001.

Sec. 2306.6729. QUALIFIED NONPROFIT ORGANIZATION. (a) A qualified nonprofit organization may compete in any low income housing tax credit allocation pool, including:

(1) the nonprofit allocation pool;

(2) the rural projects/prison communities allocation pool; and

(3) the general projects allocation pool.

(b) A qualified nonprofit organization submitting an application under this subchapter must have a controlling interest in a project proposed to be financed with a low income housing tax credit from the nonprofit allocation pool.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.30, eff. Sept. 1, 2001.

Sec. 2306.6730. ACCESSIBILITY REQUIRED. A project to which a low income housing tax credit is allocated under this subchapter shall comply with the accessibility standards that are required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), as amended, and specified under 24 C.F.R. Part 8, Subpart C.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6731. ALLOCATION DECISION; REEVALUATION. (a) Department staff shall provide written, documented recommendations to the board concerning the financial or programmatic viability of each application for a low income housing tax credit before the board makes a decision relating to the allocation of tax credits. The board may not make without good cause an allocation decision that conflicts with the recommendations of department staff.

(b) Regardless of project stage, the board must reevaluate a project that undergoes a substantial change between the time of initial board approval of the project and the time of issuance of a tax credit commitment for the project. The board may revoke any tax credit commitment issued for a project that has been unfavorably reevaluated by the board under this subsection.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 49, eff. Sept. 1, 1997. Renumbered from Sec. 2306.675 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6733. REPRESENTATION BY FORMER BOARD MEMBER OR OTHER PERSON. (a) A former board member or a former director, deputy director, director of housing programs, director of compliance, director of underwriting, or low income housing tax credit program manager employed by the department may not:

(1) for compensation, represent an applicant for an allocation of low income housing tax credits or a related party before the second anniversary of the date that the board member's, director's, or manager's service in office or employment with the department ceases;

(2) represent any applicant or related party or receive compensation for services rendered on behalf of any applicant or related party regarding the consideration of a housing tax credit application in which the former board member, director, or manager participated during the period of service in office or employment with the department, either through personal involvement or because the matter was within the scope of the board member's, director's, or manager's official responsibility; or

(3) for compensation, communicate directly with a member of the legislative branch to influence legislation on behalf of an applicant or related party before the second anniversary of the date that the board member's, director's, or manager's service in office or employment with the department ceases.

(b) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6734. MINORITY-OWNED BUSINESSES. (a) The department shall require a person who receives an allocation of housing tax credits to attempt to ensure that at least 30 percent of the construction and management businesses with which the person contracts in connection with the development are minority-owned

businesses.

(b) A person who receives an allocation of housing tax credits must report to the department not less than once in each 90-day period following the date of allocation regarding the percentage of businesses with which the person has contracted that qualify as minority-owned businesses.

(c) In this section:

(1) "Minority-owned business" means a business entity at least 51 percent of which is owned by members of a minority group or, in the case of a corporation, at least 51 percent of the shares of which are owned by members of a minority group, and that is managed and controlled by members of a minority group in its daily operations.

(2) "Minority group" includes:

(A) women;

(B) African Americans;

(C) American Indians;

(D) Asian Americans; and

(E) Mexican Americans and other Americans of Hispanic origin.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001.

Sec. 2306.6735. REQUIRED LEASE AGREEMENT PROVISIONS. A lease agreement with a tenant in a development supported with a housing tax credit allocation must:

(1) include any applicable federal or state standards identified by department rule that relate to the termination or nonrenewal of the lease agreement; and

(2) be consistent with state and federal law.

Added by Acts 2007, 80th Leg., R.S., Ch. 818 (S.B. 1733), Sec. 1, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 27, eff. September 1, 2007.

For contingent expiration of this section, see Subsection (b)(2).

Sec. 2306.6736. LOW INCOME HOUSING TAX CREDITS FINANCED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009. (a) To the extent the department receives federal funds under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) or any subsequent law (including any extension or renewal thereof) that requires the department to award the federal funds in the same manner and subject to the same limitations as awards of housing tax credits, the following provisions shall apply.

(b) Any reference in this chapter to the administration of the housing tax credit program shall apply equally to the administration of such federal funds, except:

(1) the department may establish a separate application procedure for such funds, outside of the uniform application cycle referred to in Section 2306.1111 and the deadlines established in Section 2306.6724, and any reference herein to the application period shall refer to the period beginning on the date the department begins accepting applications for such funds and continuing until all such available funds are awarded;

(2) unless reauthorized, this section is repealed on August 31, 2011.

Added by Acts 2009, 81st Leg., R.S., Ch. 1019 (H.B. 4275), Sec. 1, eff. June 19, 2009.

Sec. 2306.6737. ASSISTANCE FROM AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009. If allowed by federal law, the department shall, under any federally funded program resulting from the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5), secure the interests of the state through bonds, an ownership interest in property, restrictive covenants filed in the real property records, and/or liens filed on a property for which the applicant has accepted funds until such a time as the department and the State of Texas do not have liability to repay or recapture such funds.

Added by Acts 2009, 81st Leg., R.S., Ch. 1019 (H.B. 4275), Sec. 2, eff. June 19, 2009.

Sec. 2306.6738. PROHIBITED PRACTICES. (a) Notwithstanding any other law, a development owner of a development supported with a

housing tax credit allocation may not:

(1) lock out or threaten to lock out any person residing in the development except by judicial process unless the exclusion results from:

(A) a necessity to perform bona fide repairs or construction work; or

(B) an emergency; or

(2) seize or threaten to seize the personal property of any person residing in the development except by judicial process unless the resident has abandoned the premises.

(b) Each development owner shall:

(1) include a conspicuous provision in the lease agreement prohibiting the owner from engaging in a practice described by Subsection (a); and

(2) remove in the manner specified by department rule any provisions in the lease agreement that are contrary to Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 1423 (S.B. 1717), Sec. 2, eff. September 1, 2009.
Redesignated from Government Code, Section 2306.6736 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(23), eff. September 1, 2011.

Sec. 2306.6739. HOUSING TAX CREDITS FINANCED USING FEDERAL EMERGENCY FUNDS. (a) To the extent the department receives federal emergency funds that must be awarded by the department in the same manner as and that are subject to the same limitations as awards of housing tax credits, any reference in this chapter to the administration of the housing tax credit program applies equally to the administration of the federal funds, subject to Subsection (b).

(b) Notwithstanding any other law, the department may establish a separate application procedure for the federal emergency funds that does not follow the uniform application cycle required by Section 2306.1111 or the deadlines established by Section 2306.6724, and any reference in this chapter to an application period occurring in relation to those federal emergency funds refers to the period beginning on the date the department begins accepting applications for the federal funds and continuing until all of the available

federal funds are awarded.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 2.06, eff. September 1, 2013.

Sec. 2306.6740. DESIGNATION OF CERTAIN AREAS AS RURAL. (a) The department by rule shall provide for the designation by the department of an area located within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area as a rural area under Section 2306.6702(a)(12)(B) for purposes of receiving housing tax credits administered by the department under this subchapter.

(b) Rules adopted under this section must:

(1) provide procedures by which a political subdivision or a census-designated place may apply for a rural designation;

(2) provide guidelines for designating an area as rural, including specifying:

(A) conditions under which a rural designation is not appropriate, including the proximity of the area to or the presence of major amenities commonly associated with urban or suburban areas; and

(B) conditions under which a rural designation is appropriate, including areas with low population density, the proximity of the area to or the absence of major amenities commonly associated with urban or suburban areas, a high level of undeveloped land, a significant presence of unimproved roads, or significant agricultural activity; and

(3) ensure that any housing tax credits allocated to a designated rural area comply with applicable federal requirements regarding that assistance.

Added by Acts 2015, 84th Leg., R.S., Ch. 916 (H.B. 74), Sec. 2, eff. September 1, 2015.

SUBCHAPTER FF. OWNER-BUILDER LOAN PROGRAM

Sec. 2306.751. DEFINITION. In this subchapter, "owner-builder" means a person, other than a person who owns or operates a construction business:

(1) who:

(A) owns or purchases a piece of real property through a warranty deed or a warranty deed and deed of trust; or

(B) is purchasing a piece of real property under a contract for deed entered into before January 1, 1999; and

(2) who undertakes to make improvements to that property.

Added by Acts 1999, 76th Leg., ch. 1548, Sec. 1, eff. Aug. 30, 1999.

Sec. 2306.752. OWNER-BUILDER LOAN PROGRAM. (a) To provide for the development of affordable housing in this state, the department, through the colonia self-help centers established under Subchapter Z or a nonprofit organization certified by the department as a nonprofit owner-builder housing program, shall make loans for owner-builders to enable them to:

(1) purchase or refinance real property on which to build new residential housing;

(2) build new residential housing; or

(3) improve existing residential housing.

(b) The department may adopt rules necessary to accomplish the purposes of this subchapter.

Added by Acts 1999, 76th Leg., ch. 1548, Sec. 1, eff. Aug. 30, 1999.

Sec. 2306.753. OWNER-BUILDER ELIGIBILITY. (a) Subject to this section, the department shall establish eligibility requirements for an owner-builder to receive a loan under this subchapter. The eligibility requirements must establish a priority for loans made under this subchapter to owner-builders with an annual income, as determined under Subsection (b)(1), of less than $17,500.

(b) To be eligible for a loan under this subchapter, an owner-builder:

(1) may not have an annual income that exceeds 80 percent, as determined by the department, of the greater of the state or local median family income, when combined with the income of any person who resides with the owner-builder;

(2) must have resided in this state for the preceding six months;

(3) must have successfully completed an owner-builder education class under Section 2306.756; and

(4) must agree to:

(A) provide through personal labor at least 65 percent of the labor necessary to build or rehabilitate the proposed housing by working through a state-certified owner-builder housing program;

(B) provide an amount of personal labor equivalent to the amount required under Paragraph (A) in connection with building or rehabilitating housing for others through a state-certified owner-builder housing program;

(C) provide through the noncontract labor of friends, family, or volunteers and through personal labor at least 65 percent of the labor necessary to build or rehabilitate the proposed housing by working through a state-certified owner-builder housing program; or

(D) if due to documented disability or other limiting circumstances as defined by department rule the owner-builder cannot provide the amount of personal labor otherwise required by this subdivision, provide through the noncontract labor of friends, family, or volunteers at least 65 percent of the labor necessary to build or rehabilitate the proposed housing by working through a state-certified owner-builder housing program.

(c) The department may select nonprofit owner-builder housing programs to certify the eligibility of owner-builders to receive a loan under this subchapter. A nonprofit housing assistance organization selected by the department shall use the eligibility requirements established by the department to certify the eligibility of an owner-builder for the program.

(d) At least two-thirds of the dollar amount of loans made under this subchapter in each fiscal year must be made to borrowers whose property is in a census tract that has a median household income that is not greater than 75 percent of the median state household income for the most recent year for which statistics are available.

Added by Acts 1999, 76th Leg., ch. 1548, Sec. 1, eff. Aug. 30, 1999.
Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 2.08, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1365 (S.B. 679), Sec. 4, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 428 (S.B. 992), Sec. 1, eff.

September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 408 (H.B. 1472), Sec. 1, eff. September 1, 2023.

Sec. 2306.754. AMOUNT OF LOAN; LOAN TERMS. (a) The department may establish the minimum amount of a loan under this subchapter, but a loan made by the department may not exceed $45,000.

(b) If it is not possible for an owner-builder to purchase necessary real property and build or rehabilitate adequate housing for $45,000, the owner-builder must obtain the amount necessary that exceeds $45,000 from other sources of funds.

(c) A loan made by the department under this subchapter:

(1) may not exceed a term of 30 years;

(2) may bear interest at a fixed rate of not more than three percent or bear interest in the following manner:

(A) no interest for the first two years of the loan;

(B) beginning with the second anniversary of the date the loan was made, interest at the rate of one percent a year;

(C) beginning on the third anniversary of the date the loan was made and ending on the sixth anniversary of the date the loan was made, interest at a rate that is one percent greater than the rate borne in the preceding year; and

(D) beginning on the sixth anniversary of the date the loan was made and continuing through the remainder of the loan term, interest at the rate of five percent; and

(3) shall be secured by:

(A) a first lien by the department on the real property if the loan is the largest amortized, repayable loan secured by the real property; or

(B) a co-first lien or subordinate lien as determined by department rule, if the loan is not the largest loan as described by Paragraph (A).

(d) If an owner-builder is purchasing real property under a contract for deed, the department may not disburse any portion of a loan made under this subchapter until the owner-builder:

(1) fully completes the owner-builder's obligation under the contract and receives a deed to the property; or

(2) refinances the owner-builder's obligation under the contract and converts the obligation to a note secured by a deed of

trust.

Added by Acts 1999, 76th Leg., ch. 1548, Sec. 1, eff. Aug. 30, 1999.
Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 2.09, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1365 (S.B. 679), Sec. 5, eff. June 19, 2009.
Acts 2017, 85th Leg., R.S., Ch. 1020 (H.B. 1512), Sec. 1, eff. June 15, 2017.

Sec. 2306.755. NONPROFIT OWNER-BUILDER HOUSING PROGRAMS. (a) The department may certify nonprofit owner-builder housing programs operated by a tax-exempt organization listed under Section 501(c)(3), Internal Revenue Code of 1986, to:

(1) qualify potential owner-builders for loans under this subchapter;

(2) provide owner-builder education classes under Section 2306.756;

(3) assist owner-builders in building or rehabilitating housing; and

(4) originate or service loans made under this subchapter.

(b) The department by rule shall adopt procedures for the certification of nonprofit owner-builder housing programs under this section.

Added by Acts 1999, 76th Leg., ch. 1548, Sec. 1, eff. Aug. 30, 1999.
Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 2.10, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1365 (S.B. 679), Sec. 6, eff. June 19, 2009.

Sec. 2306.756. OWNER-BUILDER EDUCATION CLASSES. (a) A state-certified nonprofit owner-builder housing program shall offer owner-builder education classes to potential owner-builders. A class under this section must provide information on:

(1) the financial responsibilities of an owner-builder under this subchapter, including the consequences of an owner-

builder's failure to meet those responsibilities;

(2) the building or rehabilitation of housing by owner-builders;

(3) resources for low-cost building materials available to owner-builders; and

(4) resources for building or rehabilitation assistance available to owner-builders.

(b) A nonprofit owner-builder housing program may charge a potential owner-builder who enrolls in a class under this section a reasonable fee not to exceed $50 to offset the program's costs in providing the class.

Added by Acts 1999, 76th Leg., ch. 1548, Sec. 1, eff. Aug. 30, 1999.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1365 (S.B. 679), Sec. 7, eff. June 19, 2009.

Sec. 2306.757. LOAN PRIORITY FOR WAIVER OF LOCAL GOVERNMENT FEES. In making loans under this subchapter, the department shall give priority to loans to owner-builders who will reside in counties or municipalities that agree in writing to waive capital recovery fees, building permit fees, inspection fees, or other fees related to the building or rehabilitation of the housing to be built or improved with the loan proceeds.

Added by Acts 1999, 76th Leg., ch. 1548, Sec. 1, eff. Aug. 30, 1999.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1365 (S.B. 679), Sec. 8, eff. June 19, 2009.

Sec. 2306.758. FUNDING. (a) The department shall solicit gifts and grants to make loans under this subchapter.

(b) The department may also make loans under this subchapter from:

(1) available funds in the housing trust fund established under Section 2306.201; and

(2) federal block grants that may be used for the purposes of this subchapter.

(c) In a state fiscal year, the department may use not more

than 10 percent of the revenue available for purposes of this subchapter to enhance the ability of tax-exempt organizations described by Section 2306.755(a) to implement the purposes of this chapter and to enhance the number of such organizations that are able to implement those purposes. The department shall use that available revenue to provide financial assistance, technical training, and management support for the purposes of this subsection.

(d) All money received by the department as part of the owner-builder loan program under this subchapter, including any amount received by the department for payment of the principal of or interest on a loan made under this subchapter, shall be deposited in the housing trust fund established under Section 2306.201 to be used to carry out the purposes of this subchapter. If the money to be received by the department for a state fiscal year for payment of the principal of or interest on a loan made under this subchapter is less than $3 million for a state fiscal year, the department shall use any available source of money in the housing trust fund to ensure that not less than $3 million is used for the owner-builder loan program each state fiscal year.

Added by Acts 1999, 76th Leg., ch. 1548, Sec. 1, eff. Aug. 30, 1999.
Amended by Acts 2001, 77th Leg., ch. 1367, Sec. 2.11, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1365 (S.B. 679), Sec. 9, eff. June 19, 2009.

Acts 2017, 85th Leg., R.S., Ch. 1020 (H.B. 1512), Sec. 2, eff. June 15, 2017.

SUBCHAPTER GG. COLONIA MODEL SUBDIVISION PROGRAM

Sec. 2306.781. DEFINITION. In this subchapter, "program" means the colonia model subdivision program established under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 2.13, eff. Sept. 1, 2001.

Sec. 2306.782. ESTABLISHMENT OF PROGRAM. The department shall establish the colonia model subdivision program to promote the

development of new, high-quality, residential subdivisions that provide:

(1) alternatives to substandard colonias; and

(2) housing options affordable to individuals and families of extremely low and very low income who would otherwise move into substandard colonias.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 2.13, eff. Sept. 1, 2001.

Sec. 2306.783. COLONIA MODEL SUBDIVISION REVOLVING LOAN FUND. (a) The department shall establish a colonia model subdivision revolving loan fund in the department. Money in the fund may be used only for purposes of the program.

(b) The department shall deposit money received in repayment of loans under this subchapter to the colonia model subdivision revolving loan fund.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 2.13, eff. Sept. 1, 2001.

Sec. 2306.784. SUBDIVISION COMPLIANCE. Any subdivision created with assistance from the colonia model subdivision revolving loan fund must fully comply with all state and local laws, including any process established under state or local law for subdividing real property.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 2.13, eff. Sept. 1, 2001.

Sec. 2306.785. PROGRAM LOANS. (a) The department may make loans under the program only to:

(1) colonia self-help centers established under Subchapter Z; and

(2) community housing development organizations certified by the department.

(b) A loan made under the program may be used only for the payment of:

(1) costs associated with the purchase of real property;

(2) costs of surveying, platting, and subdividing or resubdividing real property;

(3) fees, insurance costs, or recording costs associated with the development of the subdivision;

(4) costs of providing proper infrastructure necessary to support residential uses;

(5) real estate commissions and marketing fees; and

(6) any other costs as the department by rule determines to be reasonable and prudent to advance the purposes of this subchapter.

(c) A loan made by the department under the program may not bear interest and may not exceed a term of 36 months.

(d) The department may offer a borrower under the program one loan renewal for each subdivision.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 2.13, eff. Sept. 1, 2001.

Sec. 2306.786. ADMINISTRATION OF PROGRAM; RULES. (a) In administering the program, the department by rule shall adopt:

(1) any subdivision standards in excess of local standards the department considers necessary;

(2) loan application procedures;

(3) program guidelines; and

(4) contract award procedures.

(b) The department shall adopt rules to:

(1) ensure that a borrower under the program sells real property under the program only to an individual borrower, nonprofit housing developer, or for-profit housing developer for the purposes of constructing residential dwelling units; and

(2) require a borrower under the program to convey real property under the program at a cost that is affordable to:

(A) individuals and families of extremely low income; or

(B) individuals and families of very low income.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 2.13, eff. Sept. 1, 2001.

SUBCHAPTER HH. AFFORDABLE HOUSING PRESERVATION

Sec. 2306.801. DEFINITION. In this subchapter, "federally subsidized" means receiving financial assistance through a federal program administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture under which housing assistance is provided on the basis of income, including a program under:

(1) Section 221(d), National Housing Act (12 U.S.C. Section 1715l(d));

(2) Section 236, National Housing Act (12 U.S.C. Section 1715z-1);

(3) Section 202, Housing Act of 1959 (12 U.S.C. Section 1701q);

(4) Section 101, Housing and Urban Development Act of 1965 (12 U.S.C. Section 1701s);

(5) Section 514, 515, or 516, Housing Act of 1949 (42 U.S.C. Section 1484, 1485, or 1486); or

(6) Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f).

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.05, eff. Sept. 1, 2001.

Sec. 2306.802. MULTIFAMILY HOUSING PRESERVATION CLASSES. The department shall establish two classes of priorities of developments to preserve multifamily housing. The classes, in order of descending priority, are:

(1) Class A, which includes any federally subsidized multifamily housing development at risk because the contract granting a federal subsidy with a stipulation to maintain affordability is nearing expiration or because the government-insured mortgage on the property is eligible for prepayment or near the end of its mortgage term; and

(2) Class B, which includes any other multifamily housing development with low income use or rental affordability restrictions.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.05, eff. Sept. 1, 2001.

Sec. 2306.803. AT-RISK MULTIFAMILY HOUSING: IDENTIFICATION, PRIORITIZATION, AND PRESERVATION. (a) The department shall determine the name and location of and the number of units in each multifamily housing development that is at risk of losing its low income use restrictions and subsidies and that meets the requirements of a Class A priority described by Section 2306.802.

(b) The department shall maintain an accurate list of those developments on the department's website.

(c) The department shall develop cost estimates for the preservation and rehabilitation of the developments in priority Class A.

(d) The department shall contact owners of developments assigned a Class A priority under this section and shall attempt to negotiate with those owners to ensure continued affordability for individuals and families of low income under the federal housing assistance program for those developments.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.05, eff. Sept. 1, 2001.

Sec. 2306.804. USE OF HOUSING PRESERVATION RESOURCES. (a) To the extent possible, the department shall use available resources for the preservation and rehabilitation of the multifamily housing developments identified and listed under Section 2306.803.

(b) To the extent possible, the department shall allocate low income housing tax credits to applications involving the preservation of developments assigned a Class A priority under Section 2306.803 and in both urban and rural communities in approximate proportion to the housing needs of each uniform state service region.

(c) The department shall give priority to providing financing or funding to a buyer who is supported or approved by an association of residents of the multifamily housing development.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.05, eff. Sept. 1, 2001.

Sec. 2306.805. HOUSING PRESERVATION INCENTIVES PROGRAM. (a) The department shall establish and administer a housing preservation incentives program to provide incentives through loan guarantees,

loans, and grants to political subdivisions, housing finance corporations, public housing authorities, for-profit organizations, and nonprofit organizations for the acquisition and rehabilitation of multifamily housing developments assigned a Class A or Class B priority under Section 2306.803.

(b) A loan issued by a lender participating in the program must be fully underwritten by the department.

(c) Consistent with the requirements of federal law, the department may guarantee loans issued under the program by obtaining a Section 108 loan guarantee from the United States Department of Housing and Urban Development under the Housing and Community Development Act of 1974 (42 U.S.C. Section 5308).

(d) Grants under this program may include direct subsidies offered as an equity contribution to enable an owner to acquire and rehabilitate a Class A or Class B priority property described by Section 2306.802. Grants may also be offered to provide consultation and technical assistance services to a nonprofit organization seeking to acquire and rehabilitate a Class A or Class B priority property.

(e) A housing development that benefits from the incentive program under this section is subject to the requirements concerning:

(1) long-term affordability and safety prescribed by Section 2306.185; and

(2) tenant and manager selection prescribed by Section 2306.269.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.05, eff. Sept. 1, 2001.

SUBCHAPTER II. MULTIFAMILY HOUSING DEVELOPMENTS: PRESERVATION OF AFFORDABILITY

Sec. 2306.851. APPLICATION. (a) This subchapter applies only to a property owner of a multifamily housing development that is insured or assisted under a program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f), or that is:

(1) insured or assisted under a program under:

(A) Section 221(d)(3), National Housing Act (12 U.S.C. Section 1715l);

(B) Section 236, National Housing Act (12 U.S.C. Section 1715z-1); or

(C) Section 514, 515, or 516, Housing Act of 1949 (42 U.S.C. Section 1484, 1485, or 1486); and

(2) financed by a mortgage that is eligible for prepayment at the option of the property owner.

(b) This subchapter does not apply to the disposal of property because of:

(1) a governmental taking by eminent domain or negotiated purchase;

(2) a foreclosure action;

(3) a transfer by gift, devise, or operation of law; or

(4) a sale to a person who would be entitled to an interest in the property if the property owner died intestate.

(c) This subchapter does not apply to property included in a restructuring program with a participating administrative entity designated by the United States Department of Housing and Urban Development.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.07, eff. Sept. 1, 2001.

Sec. 2306.852. PROPERTY OWNER RESTRICTION. Except as provided by this subchapter, a property owner to whom this subchapter applies may not sell, lease, or otherwise dispose of a multifamily housing development described by Section 2306.851(a) or take any other action if that action will cause the disruption or discontinuance of:

(1) the development's federal insurance or assistance; or

(2) the provision of low income housing assistance to residents of the development.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.07, eff. Sept. 1, 2001.

Sec. 2306.853. NOTICE OF INTENT. (a) A property owner of a multifamily housing development may take an action, sell, lease, or otherwise dispose of the development subject to the restriction under Section 2306.852 if the property owner provides notice by mail of the owner's intent to the residents of the development and to the department.

(b) The notice required by Subsection (a) must indicate, as

applicable, that the property owner intends to prepay a mortgage under a program described by Section 2306.851(a)(1) or that a contract formed under a program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f), will expire.

(c) The property owner shall provide the notice required by Subsection (a) before the 90th day preceding the date of mortgage prepayment or contract expiration, as applicable, and as otherwise required by federal law.

(d) The notice required by this section is sufficient if the notice meets the requirements of Section 8(c)(8), United States Housing Act of 1937 (42 U.S.C. Section 1437f(c)(8)).

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 3.07, eff. Sept. 1, 2001.

SUBCHAPTER KK. INTERAGENCY COUNCIL FOR THE HOMELESS

Sec. 2306.901. DEFINITION. In this subchapter, "council" means the Texas Interagency Council for the Homeless.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.80(a), eff. Sept. 1, 1995. Renumbered from Government Code Sec. 2307.001 and amended by Acts 2001, 77th Leg., ch. 432, Sec. 3, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 2306.781 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(88), eff. Sept. 1, 2003.

Sec. 2306.902. ADVISORY ROLE. (a) The Texas Interagency Council for the Homeless serves as an advisory committee to the department. The council may recommend policies to the board. The board must provide written justification for not accepting council recommendations and must consider council recommendations in preparing its low income housing plan under Section 2306.0721.

(b) The council is not subject to Chapter 2110.

Added by Acts 2001, 77th Leg., ch. 432, Sec. 3, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 2306.782 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(88), eff. Sept. 1, 2003.

Sec. 2306.903. MEMBERSHIP. (a) The Texas Interagency Council

for the Homeless is composed of:

(1) one representative from each of the following agencies, appointed by the administrative head of that agency:

(A) the Department of State Health Services;

(B) the Texas Department of Criminal Justice;

(C) the Department of Aging and Disability Services;

(D) the Texas Education Agency;

(E) the Department of Family and Protective Services;

(F) the Health and Human Services Commission;

(G) the Texas Workforce Commission;

(H) the Texas Juvenile Justice Department;

(I) the Texas Veterans Commission; and

(J) the Department of Assistive and Rehabilitative Services;

(2) two representatives from the department who are appointed by the director, including at least one representative whose duties include management or administration of the community services block grant program or the emergency solutions grant program; and

(3) three members representing service providers to the homeless, one each appointed by the governor, the lieutenant governor, and the speaker of the house of representatives.

(b) A member of the council serves at the pleasure of the appointing official or until termination of the member's employment with the entity the member represents.

(c) A member of the council must have:

(1) administrative responsibility for programs for the homeless or related services provided by the agency that the member represents; and

(2) authority to make decisions for and commit resources of the agency, subject to the approval of the administrative head of the agency.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.80(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.32, eff. Sept. 1, 1997. Renumbered from Government Code Sec. 2307.002 and amended by Acts 2001, 77th Leg., ch. 432, Sec. 3, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 2306.783 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(88), eff. Sept. 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 68, eff. June 20, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 305 (S.B. 607), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 118, eff. September 1, 2015.

Sec. 2306.904. OPERATION OF COUNCIL. (a) The members of the council shall annually elect one member to serve as presiding officer.

(b) The council shall meet at least quarterly.

(c) An action taken by the council must be approved by a majority vote of the members present.

(d) The council may select and use advisors.

(e) The department shall provide clerical and advisory support staff and may provide fiscal support to the council.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.80(a), eff. Sept. 1, 1995. Renumbered from Government Code Sec. 2307.003 by Acts 2001, 77th Leg., ch. 432, Sec. 3, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 2306.784 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(88), eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 305 (S.B. 607), Sec. 2, eff. September 1, 2015.

Sec. 2306.905. DUTIES OF COUNCIL. (a) The council shall:

(1) survey current resources for services for the homeless in this state;

(2) initiate an evaluation of the current and future needs for the services;

(3) assist in coordinating and providing statewide services for all homeless individuals in this state;

(4) increase the flow of information among separate providers and appropriate authorities;

(5) develop guidelines to monitor the provision of services for the homeless and the methods of delivering those services;

(6) provide technical assistance to the housing finance division of the department in assessing the need for housing for

individuals with special needs in different localities;

(7) coordinate with the Texas Workforce Commission, local workforce development boards, homeless shelters, and public and private entities to provide homeless individuals information on services available to assist them in obtaining employment and job training;

(8) establish a central resource and information center for the homeless in this state; and

(9) ensure that local or statewide nonprofit organizations perform the duties under this section that the council is unable to perform.

(b) In accomplishing the council's duties under this section, the council and each of its represented agencies may seek program or policy assistance from the Texas Homeless Network or any other organization in this state that has a network of providers with expertise in assisting homeless youth.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.80(a), eff. Sept. 1, 1995. Renumbered from Government Code Sec. 2307.004 and amended by Acts 2001, 77th Leg., ch. 432, Sec. 3, eff. Sept. 1, 2001.
Renumbered from Government Code Sec. 2306.785 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(88), eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 305 (S.B. 607), Sec. 3, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 825 (H.B. 2564), Sec. 2, eff. September 1, 2019.

Sec. 2306.906. DUTIES OF STATE AGENCY COUNCIL MEMBERS. (a) Each agency represented on the council shall report to the department a standard set of performance data, as determined by the department, on the agency's outcomes related to homelessness.

(b) Each agency shall contribute resources to the council unless the agency certifies in writing that the agency is unable to contribute resources during that fiscal period.

Added by Acts 2001, 77th Leg., ch. 432, Sec. 3, eff. Sept. 1, 2001.
Renumbered from Government Code Sec. 2306.786 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(88), eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 305 (S.B. 607), Sec. 4, eff. September 1, 2015.

Sec. 2306.907. PUBLIC HEARINGS. (a) The council shall annually hold public hearings on homelessness issues in at least one county located in a rural area of this state and one county located in an urban area of this state.

(b) The department shall provide to the secretary of state for publication in the Texas Register a notice of the hearings and shall provide for the notice to be given in other appropriate sources, which may include:

(1) a newsletter published by a nonprofit organization addressing the problem of homelessness; or

(2) a local newspaper.

Added by Acts 2001, 77th Leg., ch. 432, Sec. 3, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 2306.787 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(88), eff. Sept. 1, 2003.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 922 (H.B. 1278), Sec. 1, eff. September 1, 2021.

Sec. 2306.908. REPORT. The council shall submit annually a progress report to the governing bodies of the agencies represented on the council.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.80(a), eff. Sept. 1, 1995. Renumbered from Government Code Sec. 2307.005 by Acts 2001, 77th Leg., ch. 432, Sec. 3, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 2306.788 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(88), eff. Sept. 1, 2003.

Sec. 2306.909. GIFTS AND GRANTS. The council may accept gifts and grants from a public or private source for use in carrying out the council's duties under this subchapter.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.80(a), eff. Sept. 1, 1995. Renumbered from Government Code Sec. 2307.008 and amended by

Acts 2001, 77th Leg., ch. 432, Sec. 3, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 2306.789 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(88), eff. Sept. 1, 2003.

Sec. 2306.910. MEETING BY TELECONFERENCE. Notwithstanding Chapter 551, a member of the council who resides 20 or more miles away from the location of a council meeting may participate remotely in the meeting by telephone conference call or videoconference and is counted as present at the meeting for purposes of determining whether a quorum of the council is present.

Added by Acts 2015, 84th Leg., R.S., Ch. 305 (S.B. 607), Sec. 5, eff. September 1, 2015.

SUBCHAPTER LL. MIGRANT LABOR HOUSING FACILITIES

Sec. 2306.921. DEFINITIONS. In this subchapter:

(1) "Facility" means a structure, trailer, or vehicle, or two or more contiguous or grouped structures, trailers, or vehicles, together with the land appurtenant.

(2) "Migrant agricultural worker" means an individual who:

(A) is working or available for work seasonally or temporarily in primarily an agricultural or agriculturally related industry; and

(B) moves one or more times from one place to another to perform seasonal or temporary employment or to be available for seasonal or temporary employment.

(3) "Migrant labor housing facility" means a facility that is established, operated, or used for more than three days as living quarters for two or more seasonal, temporary, or migrant families or three or more seasonal, temporary, or migrant workers, whether rent is paid or reserved in connection with the use of the facility.

(4) "Person" means an individual, association, partnership, corporation, or political subdivision.

Transferred from Health and Safety Code, Chapter 147 and amended by Acts 2005, 79th Leg., Ch. 60 (H.B. 1099), Sec. 1, eff. September 1, 2005.

Sec. 2306.922. LICENSE REQUIRED. A person may not establish, maintain, or operate a migrant labor housing facility without obtaining a license from the department.

Transferred from Health and Safety Code, Chapter 147 and amended by Acts 2005, 79th Leg., Ch. 60 (H.B. 1099), Sec. 1, eff. September 1, 2005.

Sec. 2306.923. LICENSE APPLICATION; APPLICATION INSPECTION. (a) To receive a migrant labor housing facility license, a person must apply to the department according to rules adopted by the board and on a form prescribed by the board.

(b) The application must be made not later than the 45th day before the intended date of operation of the facility.

(c) The application must state:

(1) the location and ownership of the migrant labor housing facility;

(2) the approximate number of persons to be accommodated;

(3) the probable periods of use of the facility; and

(4) any other information required by the board.

(d) The application must be accompanied by the license fee.

Transferred from Health and Safety Code, Chapter 147 and amended by Acts 2005, 79th Leg., Ch. 60 (H.B. 1099), Sec. 1, eff. September 1, 2005.

Sec. 2306.924. INSPECTION. The department shall inspect the migrant labor housing facility not later than the 30th day after the date of receipt of a complete application and the fee.

Transferred from Health and Safety Code, Chapter 147 and amended by Acts 2005, 79th Leg., Ch. 60 (H.B. 1099), Sec. 1, eff. September 1, 2005.

Sec. 2306.925. FAILURE TO MEET STANDARDS; REINSPECTION. (a) If a migrant labor housing facility for which a license application is made does not meet the reasonable minimum standards of construction, sanitation, equipment, and operation required by rules

adopted under this subchapter, the department at the time of inspection shall give the license applicant the reasons that the facility does not meet those standards. The applicant may request the department to reinspect the facility not later than the 60th day after the date on which the reasons are given.

(b) If a facility does not meet the standards on reinspection, the applicant must submit a new license application as provided by Section 2306.923.

Transferred from Health and Safety Code, Chapter 147 and amended by Acts 2005, 79th Leg., Ch. 60 (H.B. 1099), Sec. 1, eff. September 1, 2005.

Sec. 2306.926. LICENSE ISSUANCE; TERM; NOT TRANSFERABLE. (a) The department shall issue a license to establish, maintain, and operate a migrant labor housing facility if the facility meets the standards of construction, sanitation, equipment, and operation required by rules adopted under this subchapter.

(b) The license expires on the first anniversary of the date of issuance.

(c) The license issued under this subchapter is not transferable.

Transferred from Health and Safety Code, Chapter 147 and amended by Acts 2005, 79th Leg., Ch. 60 (H.B. 1099), Sec. 1, eff. September 1, 2005.

Sec. 2306.927. LICENSE POSTING. A person who holds a license issued under this subchapter shall post the license in the migrant labor housing facility at all times during the maintenance or operation of the facility.

Transferred from Health and Safety Code, Chapter 147 and amended by Acts 2005, 79th Leg., Ch. 60 (H.B. 1099), Sec. 1, eff. September 1, 2005.

Sec. 2306.928. INSPECTION OF FACILITIES. An authorized representative of the department, after giving or making a reasonable

attempt to give notice to the operator of a migrant labor housing facility, may enter and inspect the facility during reasonable hours and investigate conditions, practices, or other matters as necessary or appropriate to determine whether a person has violated this subchapter or a rule adopted under this subchapter.

Transferred from Health and Safety Code, Chapter 147 and amended by Acts 2005, 79th Leg., Ch. 60 (H.B. 1099), Sec. 1, eff. September 1, 2005.

Sec. 2306.929. FEE. The board shall set the license fee in an amount not to exceed $250.

Transferred from Health and Safety Code, Chapter 147 and amended by Acts 2005, 79th Leg., Ch. 60 (H.B. 1099), Sec. 1, eff. September 1, 2005.

Sec. 2306.930. SUSPENSION OR REVOCATION OF LICENSE. (a) The department may suspend or revoke a license for a violation of this subchapter or a rule adopted under this subchapter.

(b) Chapter 2001 and department rules for holding a contested case hearing govern the procedures for the suspension or revocation of a license issued under this subchapter.

(c) A hearing conducted under this section must be held in the county in which the affected migrant labor housing facility is located.

Transferred from Health and Safety Code, Chapter 147 and amended by Acts 2005, 79th Leg., Ch. 60 (H.B. 1099), Sec. 1, eff. September 1, 2005.

Sec. 2306.931. ENFORCEMENT; ADOPTION OF RULES. (a) The department shall enforce this subchapter.

(b) The board shall adopt rules to protect the health and safety of persons living in migrant labor housing facilities.

(c) The board by rule shall adopt standards for living quarters at a migrant labor housing facility, including standards relating to:

(1) construction of the facility;

(2) sanitary conditions;
(3) water supply;
(4) toilets;
(5) sewage disposal;
(6) storage, collection, and disposal of refuse;
(7) light and air;
(8) safety requirements;
(9) fire protection;
(10) equipment;
(11) maintenance and operation of the facility; and
(12) any other matter appropriate or necessary for the protection of the health and safety of the occupants.

(d) An employee or occupant of a migrant labor housing facility who uses the sanitary or other facilities furnished for the convenience of employees or occupants shall comply with the rules adopted under Subsection (b) or (c).

(e) The board by rule shall adopt minimum standards for issuing, revoking, or suspending a license issued under this subchapter.

Transferred from Health and Safety Code, Chapter 147 and amended by Acts 2005, 79th Leg., Ch. 60 (H.B. 1099), Sec. 1, eff. September 1, 2005.

Sec. 2306.932. INJUNCTIVE RELIEF. (a) A district court for good cause shown in a hearing and on application by the department, a migrant agricultural worker, or the worker's representative may grant a temporary or permanent injunction to prohibit a person, including a person who owns or controls a migrant labor housing facility, from violating this subchapter or a rule adopted under this subchapter.

(b) A person subject to a temporary or permanent injunction under Subsection (a) may appeal to the supreme court as in other cases.

Transferred from Health and Safety Code, Chapter 147 and amended by Acts 2005, 79th Leg., Ch. 60 (H.B. 1099), Sec. 1, eff. September 1, 2005.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 243, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2306.933. CIVIL PENALTY. (a) A person who violates this subchapter or a rule adopted under this subchapter is subject to a civil penalty of $200 for each day that the violation occurs.

(b) The county attorney for the county in which the violation occurred, or the attorney general, at the request of the department, shall bring an action in the name of the state to collect the penalty.

Transferred from Health and Safety Code, Chapter 147 and amended by Acts 2005, 79th Leg., Ch. 60 (H.B. 1099), Sec. 1, eff. September 1, 2005.

SUBCHAPTER MM. TEXAS FIRST-TIME HOMEBUYER PROGRAM

Sec. 2306.1071. DEFINITIONS. In this subchapter:

Text of subdivision as added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 2

(1) "First-time homebuyer" means a person who has not owned a home during the three years preceding the date on which an application under this subchapter is filed.

Text of subdivision as added by Acts 2007, 80th Leg., R.S., Ch. 1029 (H.B. 1637), Sec. 1

(1) "First-time homebuyer" means a person who:

(A) resides in this state on the date on which an application is filed; and

(B) has not owned a home during the three years preceding the date on which an application under this subchapter is filed.

(2) "Home" means a dwelling in this state in which a first-time homebuyer intends to reside as the homebuyer's principal residence.

(3) "Mortgage lender" has the meaning assigned by Section 2306.004.

(4) "Program" means the Texas First-Time Homebuyer Program.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1029 (H.B. 1637), Sec. 1, eff.

September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1029 (H.B. 1637), Sec. 1, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 2, eff. September 1, 2007.

Sec. 2306.1072. TEXAS FIRST-TIME HOMEBUYER PROGRAM. (a) The Texas First-Time Homebuyer Program shall facilitate the origination of single-family mortgage loans for eligible first-time homebuyers.

(b) The program may include down payment and closing cost assistance.

Added by Acts 2007, 80th Leg., R.S., Ch. 1029 (H.B. 1637), Sec. 1, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 2, eff. September 1, 2007.

Sec. 2306.1073. ADMINISTRATION OF PROGRAM; RULES. (a) The department shall administer the program.

(b) The board shall adopt rules governing:

(1) the administration of the program;

(2) the making of loans under the program;

(3) the criteria for approving participating mortgage lenders;

(4) the use of insurance on the loans and the homes financed under the program, as considered appropriate by the board to provide additional security for the loans;

(5) the verification of occupancy of the home by the homebuyer as the homebuyer's principal residence; and

(6) the terms of any contract made with any mortgage lender for processing, originating, servicing, or administering the loans.

Added by Acts 2007, 80th Leg., R.S., Ch. 1029 (H.B. 1637), Sec. 1, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 2, eff. September 1, 2007.

Sec. 2306.1074. ELIGIBILITY. (a) To be eligible for a

mortgage loan under this subchapter, a homebuyer must:

(1) qualify as a first-time homebuyer under this subchapter;

(2) have an income of not more than 115 percent of area median family income or 140 percent of area median family income in targeted areas; and

(3) meet any additional requirements or limitations prescribed by the department.

(b) To be eligible for a loan under this subchapter to assist a homebuyer with down payment and closing costs, a homebuyer must:

(1) qualify as a first-time homebuyer under this subchapter;

(2) have an income of not more than 80 percent of area median family income; and

(3) meet any additional requirements or limitations prescribed by the department.

(c) The department may contract with other agencies of the state or with private entities to determine whether applicants qualify as first-time homebuyers under this section or otherwise to administer all or part of this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1029 (H.B. 1637), Sec. 1, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 2, eff. September 1, 2007.

Sec. 2306.1075. FEES. The board of directors of the department may set and collect from each applicant any fees the board considers reasonable and necessary to cover the expenses of administering the program.

Added by Acts 2007, 80th Leg., R.S., Ch. 1029 (H.B. 1637), Sec. 1, eff. September 1, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 2, eff. September 1, 2007.

Sec. 2306.1076. FUNDING. (a) The department shall ensure that a loan under this section is structured in a way that complies with any requirements associated with the source of the funds used for the

loan.

(b) In addition to funds set aside for the program under Section 1372.023, the department may solicit and accept funding for the program from gifts and grants for the purposes of this section.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1029 (H.B. 1637), Sec. 1, eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 1029 (H.B. 1637), Sec. 1, eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 11.024, eff. September 1, 2009.

SUBCHAPTER NN. HOUSING AND HEALTH SERVICES COORDINATION COUNCIL

Sec. 2306.1091. DEFINITIONS. (a) In this subchapter, "council" means the housing and health services coordination council.

(b) With the advice and assistance of the council, the department by rule shall define "service-enriched housing" for the purposes of this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 838 (S.B. 1878), Sec. 1, eff. September 1, 2009.

Sec. 2306.1092. COMPOSITION. (a) The department shall establish a housing and health services coordination council.

(b) The council is composed of 17 members consisting of:

(1) the director;

(2) one representative from each of the following agencies, appointed by the head of that agency:

(A) the Office of Rural Affairs within the Department of Agriculture;

(B) the Texas State Affordable Housing Corporation;

(C) the Health and Human Services Commission;

(D) the Department of Assistive and Rehabilitative Services;

(E) the Department of Aging and Disability Services;

(F) the Department of State Health Services; and

(G) the Texas Veterans Commission;

(3) one representative from the Department of Agriculture who is:

(A) knowledgeable about the Texans Feeding Texans and Retire in Texas programs or similar programs; and

(B) appointed by the head of that agency;

(4) one member who is:

(A) a member of the Health and Human Services Commission Promoting Independence Advisory Committee; and

(B) appointed by the governor; and

(5) one representative from each of the following interest groups, appointed by the governor:

(A) financial institutions;

(B) multifamily housing developers;

(C) health services entities;

(D) nonprofit organizations that advocate for affordable housing and consumer-directed long-term services and support;

(E) consumers of service-enriched housing;

(F) advocates for minority issues; and

(G) rural communities.

(c) A member of the council appointed under Subsection (b)(2) must have, subject to the approval of the head of the agency, authority to make decisions for and commit resources of the agency that the member represents and must have:

(1) administrative responsibility for agency programs for older adults or persons with disabilities;

(2) knowledge or experience regarding the implementation of projects that coordinate integrated housing and health services; or

(3) knowledge or experience regarding services used by older adults or persons with disabilities.

(d) The director serves as the presiding officer of the council.

Added by Acts 2009, 81st Leg., R.S., Ch. 838 (S.B. 1878), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 62.10, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 267 (H.B. 736), Sec. 1, eff. September 1, 2013.

Sec. 2306.1093. TERMS. (a) A member of the council who represents a state agency serves at the pleasure of the head of that agency.

(b) Members of the council who are appointed by the governor serve staggered six-year terms, with the terms of two or three members expiring on September 1 of each odd-numbered year.

Added by Acts 2009, 81st Leg., R.S., Ch. 838 (S.B. 1878), Sec. 1, eff. September 1, 2009.

Sec. 2306.1094. OPERATION OF COUNCIL. (a) The council shall meet at least quarterly.

(b) The department shall provide clerical and advisory support staff to the council.

(c) Except as provided by Section 2306.1095, Chapter 2110 does not apply to the size, composition, or duration of the council.

Added by Acts 2009, 81st Leg., R.S., Ch. 838 (S.B. 1878), Sec. 1, eff. September 1, 2009.

Sec. 2306.1095. COMPENSATION AND REIMBURSEMENT. (a) A member of the council who is appointed by the governor may not receive compensation for service on the council. The member may receive reimbursement from the department for actual and necessary expenses incurred in performing council functions as provided by Section 2110.004.

(b) A member of the council who is not appointed by the governor may not receive compensation for service on the council or reimbursement for expenses incurred in performing council functions.

Added by Acts 2009, 81st Leg., R.S., Ch. 838 (S.B. 1878), Sec. 1, eff. September 1, 2009.

Sec. 2306.1096. DUTIES; BIENNIAL REPORT. (a) The council

shall:

(1) develop and implement policies to coordinate and increase state efforts to offer service-enriched housing;

(2) identify barriers preventing or slowing service-enriched housing efforts, including barriers attributable to the following factors:

(A) regulatory requirements and limitations;

(B) administrative limitations;

(C) limitations on funding; and

(D) ineffective or limited coordination;

(3) develop a system to cross-educate selected staff in state housing and health services agencies to increase the number of staff with expertise in both areas and to coordinate relevant staff activities of those agencies;

(4) identify opportunities for state housing and health services agencies to provide technical assistance and training to local housing and health services entities about:

(A) the cross-education of staff;

(B) coordination among those entities; and

(C) opportunities to increase local efforts to create service-enriched housing; and

(5) develop suggested performance measures to track progress in:

(A) the reduction or elimination of barriers in creating service-enriched housing;

(B) increasing the coordination between state housing and health services agencies;

(C) increasing the number of state housing and health services staff who are cross-educated or who have expertise in both housing and health services programs; and

(D) the provision of technical assistance to local communities by state housing and health services staff to increase the number of service-enriched housing projects.

(b) The council shall develop a biennial plan to implement the goals described by Subsection (a).

(c) Not later than August 1 of each even-numbered year, the council shall deliver a report of the council's findings and recommendations to the governor and the Legislative Budget Board.

Added by Acts 2009, 81st Leg., R.S., Ch. 838 (S.B. 1878), Sec. 1, eff.

September 1, 2009.

Sec. 2306.1097. GIFTS AND GRANTS. The council may solicit and accept gifts, grants, and donations for the purposes of this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 838 (S.B. 1878), Sec. 1, eff. September 1, 2009.

Sec. 2306.1098. DUTIES OF EMPLOYEES PROVIDING ADVISORY SUPPORT TO COUNCIL. Department employees assigned to provide advisory support to the council shall:

(1) identify sources of funding from this state and the federal government that may be used to provide integrated housing and health services;

(2) determine the requirements and application guidelines to obtain those funds;

(3) provide training materials that assist the development and financing of a service-enriched housing project;

(4) provide information regarding:

(A) effective methods to collaborate with governmental entities, service providers, and financial institutions; and

(B) the use of layered financing to provide and finance service-enriched housing;

(5) create a financial feasibility model that assists in making a preliminary determination of the financial viability of proposed service-enriched housing projects, including models that allow a person to analyze multiuse projects that facilitate the development of projects that will:

(A) address the needs of communities with different populations; and

(B) achieve economies of scale required to make the projects financially viable;

(6) facilitate communication between state agencies, sources of funding, service providers, and other entities to reduce or eliminate barriers to service-enriched housing projects;

(7) provide training about local, state, and federal funding sources and the requirements for those sources;

(8) develop a database to identify, describe, monitor, and track the progress of all service-enriched housing projects developed in this state with state or federal financial assistance;

(9) conduct a biennial evaluation and include in the council's report to the governor and the Legislative Budget Board under Section 2306.1096 information regarding:

(A) the capacity of statewide long-term care providers; and

(B) interest by housing developers in investing in service-enriched housing;

(10) to increase the consistency in housing regulations, recommend changes to home and community-based Medicaid waivers that are up for renewal;

(11) research best practices with respect to service-enriched housing projects subsidized by other states; and

(12) create and maintain a clearinghouse of information that contains tools and resources for entities seeking to create or finance service-enriched housing projects.

Added by Acts 2009, 81st Leg., R.S., Ch. 838 (S.B. 1878), Sec. 1, eff. September 1, 2009.

SUBCHAPTER OO. HOMELESS YOUTH

Sec. 2306.1101. DEFINITION. In this subchapter, "homeless youth" means a person who is younger than 19 years of age, including a migratory child, as defined by Section 1309, Elementary and Secondary Education Act of 1965 (20 U.S.C. Section 6399), who:

(1) lacks a fixed, regular, and adequate nighttime residence, including a person who is:

(A) living in an emergency shelter;

(B) abandoned in a hospital; or

(C) awaiting foster care placement;

(2) has a primary nighttime residence that is a public or private place not designed or ordinarily used as a regular sleeping accommodation for humans; or

(3) is living in a car, park, other public space, abandoned building, substandard housing, bus or train station, or similar setting.

Added by Acts 2015, 84th Leg., R.S., Ch. 691 (H.B. 679), Sec. 1, eff.

September 1, 2015.

SUBCHAPTER PP. PROPERTY DESIGNATED BY POLITICAL SUBDIVISION FOR CAMPING BY HOMELESS INDIVIDUALS

Sec. 2306.1121. DEFINITION. In this subchapter, "camp" has the meaning assigned by Section 48.05, Penal Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 677 (H.B. 1925), Sec. 2, eff. September 1, 2021.

Sec. 2306.1122. APPROVAL REQUIRED. (a) A political subdivision may not designate a property to be used by homeless individuals to camp unless the department approves a plan described by Section 2306.1123(b).

(b) Not later than the 30th day after the date the department receives a plan submitted by a political subdivision under this subchapter, the department shall make a final determination regarding approval of the plan.

Added by Acts 2021, 87th Leg., R.S., Ch. 677 (H.B. 1925), Sec. 2, eff. September 1, 2021.

Sec. 2306.1123. PLAN REQUIREMENTS. (a) In this section, "proposed new campers" means homeless individuals the applicant intends to allow to camp at the property.

(b) A plan submitted for approval under this subchapter must describe each of the following with respect to a proposed property:

(1) the availability of local health care for proposed new campers, including access to Medicaid services and mental health services;

(2) the availability of indigent services for proposed new campers;

(3) the availability of reasonably affordable public transportation for proposed new campers;

(4) local law enforcement resources in the area; and

(5) the steps the applicant has taken to coordinate with the local mental health authority to provide for any proposed new campers.

(c) An applicant shall respond to reasonable requests for additional information made by the department regarding the proposed property or plan.

Added by Acts 2021, 87th Leg., R.S., Ch. 677 (H.B. 1925), Sec. 2, eff. September 1, 2021.

Sec. 2306.1124. APPROVAL OF CERTAIN PROPERTY PROHIBITED. The department may not approve a plan described by Section 2306.1123(b) if the department determines that a property proposed under the plan is a public park.

Added by Acts 2021, 87th Leg., R.S., Ch. 677 (H.B. 1925), Sec. 2, eff. September 1, 2021.

CHAPTER 2308. WORKFORCE INVESTMENT ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2308.001. SHORT TITLE. This chapter may be cited as the Workforce Investment Act.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 818, Sec. 1.02, eff. Sept. 1, 2003.

Sec. 2308.002. DEFINITIONS. In this chapter:

(1) "Council" means the Texas Workforce Investment Council.

(2) "Division" means the division of workforce development of the Texas Workforce Commission.

(3) "Local labor market" means an economically integrated geographical area within which individuals may reside and find employment within a reasonable distance.

(4) "Workforce development" includes workforce education and workforce training and services.

(5) "Workforce education" means articulated career-path programs and the constituent courses of those programs that lead to initial or continuing licensing or certification or associate degree-level accreditation and that:

(A) are subject to:

(i) initial and ongoing state approval or regional or specialized accreditation;

(ii) a formal state evaluation that provides the basis for program continuation or termination;

(iii) state accountability and performance standards; and

(iv) a regional or statewide documentation of the market demand for labor according to employers' needs; or

(B) are subject to approval by the Texas Higher Education Coordinating Board as adult vocational or continuing education courses.

(6) "Workforce training and services" means training and services programs that are not workforce education.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.01(a), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 818, Sec. 1.03, eff. Sept. 1, 2003.

Sec. 2308.003. CONTRACTING FOR PRIVATE SERVICES NOT RESTRICTED. This chapter does not restrict a person's authority to contract for the provision of workforce development without state or federal funds.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.004. PROGRAM YEAR. Under this chapter, a program year begins on July 1 and ends on June 30 unless otherwise specified under appropriate state or federal law.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1472, Sec. 1, eff. Sept. 1, 1999.

Sec. 2308.005. APPLICATION OF SUNSET ACT. The Texas Workforce Investment Council is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the

council is abolished September 1, 2027. The council shall be reviewed during the period in which the Texas Workforce Commission is reviewed.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.02(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1169, Sec. 2.06, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 818, Sec. 1.04, eff. Sept. 1, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 97 (H.B. 1606), Sec. 1, eff. September 1, 2015.

Sec. 2308.006. APPLICATION OF PRIOR LAW. (a) If a change in law made by House Bill 3431, Acts of the 76th Legislature, Regular Session, 1999, would have the effect of invalidating an exemption granted under the Workforce Investment Act of 1998 (Pub. L. No. 105-220), the Texas Workforce Investment Council may not operate under that change in law but, instead, shall operate under the law as it existed before September 1, 1999.

(b) A change in law described by Subsection (a) of this section does not affect other related provisions or applications of a statute that can be given effect without that change in law, and to this end those other provisions and applications of the statute shall be given effect.

Added by Acts 1999, 76th Leg., ch. 1472, Sec. 2, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 818, Sec. 1.05, eff. Sept. 1, 2003.

SUBCHAPTER B. COUNCIL MEMBERSHIP AND ADMINISTRATION

Sec. 2308.051. COUNCIL. (a) The council acts as a state human resource investment council under the Job Training Reform Amendments of 1992 (29 U.S.C. Section 1792 et seq.) and as a state workforce investment board under the Workforce Investment Act of 1998 (Pub. L. No. 105-220).

(b) The council is attached for administrative purposes to the office of the governor.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.03(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1472, Sec. 3, eff. Sept. 1, 1999.

Sec. 2308.052. MEMBERSHIP. (a) The governor shall appoint the members of the council as provided by this section.

(b) The council is composed of:

(1) three voting members who represent education, one of whom represents local public education, one of whom represents public postsecondary education, and one of whom represents vocational education;

(2) five voting members who represent organized labor appointed from recommendations made by recognized labor organizations;

(3) five voting members who represent business and industry, including business members serving on local workforce development boards or private industry councils;

(4) one voting member who represents community-based organizations; and

(5) the following ex officio voting members:

(A) the commissioner of education;

(B) the commissioner of higher education;

(C) the commissioner of human services;

(D) the executive director of the Texas Department of Economic Development; and

(E) the executive director of the Texas Workforce Commission.

(c) The membership of the council must represent the geographic diversity of this state.

(d) A member of the council who represents a community-based organization may not be a provider of services.

(e) Appointments to the council shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.04(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1472, Sec. 4, eff. Sept. 1,

1999; Acts 2003, 78th Leg., ch. 818, Sec. 2.01, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1170, Sec. 48.01, eff. Sept. 1, 2003.

Sec. 2308.053. PRESIDING OFFICER. (a) The governor shall designate one of the business or labor representatives on the council as the presiding officer of the council to serve in that capacity at the pleasure of the governor.

(b) The presiding officer of the council shall designate a member of the council as assistant presiding officer to preside in the absence of the presiding officer.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 818, Sec. 2.02, eff. Sept. 1, 2003.

Sec. 2308.054. TERMS. (a) A member of the council who does not serve as an ex officio member serves a six-year term. Approximately one-third of these members' terms expire in each odd-numbered year.

(b) An ex officio member serves as a member of the council as long as the member continues to serve in the designated office.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 818, Sec. 2.03, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1170, Sec. 48.02, eff. Sept. 1, 2003.

Sec. 2308.055. DESIGNATED REPLACEMENTS. (a) A member of the council may designate another person to attend a meeting for the member.

(b) The designated person may participate in the activities and discussions of the council but may not vote.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.056. GROUNDS FOR REMOVAL. (a) It is a ground for

removal from the council that a member who is not an ex officio member:

(1) does not have at the time of appointment the qualifications required by Section 2308.052;

(2) does not maintain during service on the council the qualifications required by Section 2308.052;

(3) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term;

(4) is absent from more than one-fourth of the regularly scheduled council meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the council's members; or

(5) is absent from two consecutive council meetings for which the member received notice not less than 48 hours before the time of the meeting.

(b) The validity of an action of the council is not affected by the fact that it is taken when a ground for removal of a council member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the council of the ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the council, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 818, Sec. 2.04, eff. Sept. 1, 2003.

Sec. 2308.057. MEETINGS. The council shall meet at least quarterly and at other times at the call of the presiding officer or as provided by rules adopted by the council.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.058. SUBCOMMITTEES; TECHNICAL ADVISORY COMMITTEES. (a) The presiding officer of the council may appoint subcommittees consisting of members of the council for any purpose consistent with the duties and responsibilities of the council under this chapter.

(b) The presiding officer of the council may appoint technical advisory committees composed of council members, persons who are not council members, or both members and nonmembers.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.059. FISCAL AGENT. The office of the governor shall serve as the council's fiscal agent.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.05, eff. Sept. 1, 1997.

Sec. 2308.060. EXECUTIVE DIRECTOR. (a) The presiding officer of the council shall appoint an executive director of the council.

(b) The executive director shall:

(1) report to the presiding officer of the council;

(2) perform duties assigned by the council and under state law;

(3) administer the daily operations of the council;

(4) appoint officers, accountants, attorneys, experts, and other employees for the council and assign duties for these employees to perform the council's powers and duties under this chapter; and

(5) delegate authority to persons appointed under this section as the executive director considers to be reasonable and proper for the effective administration of the council.

(c) The executive director shall adopt the administrative and personnel procedures of the council's fiscal agent.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.06(a), eff. Sept. 1, 1997.

Sec. 2308.061. STAFF. (a) The council shall have an independent staff with expertise sufficient to perform all duties and responsibilities of the council.

(b) The staff may be supplemented by staff from other state agencies who are temporarily assigned to assist with special projects.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.065. FUNDING. (a) Federal funding for the operation of the council shall be allocated according to federal requirements.

(b) A state agency represented on the council shall provide funds for the support of the council in proportion to the agency's financial participation in the workforce development system. The council, with the governor's approval, shall establish a funding formula to determine the level of support each agency must provide.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 704, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER C. COUNCIL DUTIES AND POWERS

Sec. 2308.101. GENERAL DUTIES. (a) The council shall:

(1) promote the development of a well-educated, highly skilled workforce in this state;

(2) advocate the development of an integrated workforce development system to provide quality services addressing the needs of business and workers in this state;

(3) recommend to the governor the designation or redesignation of workforce development areas for the local planning and delivery of workforce development;

(4) identify and recommend to the governor incentives to encourage the consolidation, on a regional labor market basis, of:

(A) local boards, councils, and committees; and

(B) service delivery areas authorized under federal workforce legislation;

(5) review plans for local workforce development and make recommendations to the governor for approval;

(6) evaluate the effectiveness of the workforce development system;

(7) use the administrative records of the state's unemployment compensation program and other sources as appropriate in evaluating the workforce development system;

(8) encourage, support, or develop research and demonstration projects designed to develop new programs and approaches to service delivery;

(9) recommend measures to ensure that occupational skills training is:

(A) provided in occupations that are locally in demand; and

(B) directed toward high-skill and high-wage jobs;

(10) monitor the operation of the state's workforce development system to assess the degree to which the system is effective in achieving state and local goals and objectives;

(11) develop and recommend to the governor criteria for the establishment of local workforce development boards;

(12) carry out the federal and state duties and responsibilities of advisory councils under applicable federal and state workforce development laws or regulations;

(13) report periodically to the governor and the legislature; and

(14) provide annual reports to the governor and the legislature, including an annual report analyzing work development programs that focus on welfare to work initiatives.

(b) The council shall provide the information required to be reported under Subsections (a)(13) and (14) and Section 2308.104(a) to the Texas Workforce Commission. The Texas Workforce Commission shall include information provided under this subsection that relates to the administration and operation of the state's workforce development system with other information the commission provides to the public on the Internet.

(c) The members of the council shall develop and implement policies that:

(1) clearly separate:

(A) the policy-making responsibilities of the members of the council; and

(B) the management responsibilities of the executive director and the staff of the council; and

(2) provide the public with a reasonable opportunity to appear before the council and to speak on any issue under the jurisdiction of the council.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.07(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1472, Sec. 5, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 704, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 818, Sec. 3.01, eff. Sept. 1, 2003.

Sec. 2308.1015. DUTY TO FACILITATE DELIVERY OF INTEGRATED WORKFORCE SERVICES. (a) To facilitate the seamless delivery of integrated workforce services in this state, the council shall:

(1) evaluate programs administered by agencies represented on the council to identify:

(A) any duplication of or gaps in the services provided by those programs; and

(B) any other problems that adversely affect the seamless delivery of those services; and

(2) develop and implement immediate and long-range strategies to address problems identified by the council under Subdivision (1).

(b) The council shall include in the council's annual report to the governor and to the legislature:

(1) a list of specific problems identified by the council under Subsection (a) to be addressed by the council in the following year; and

(2) the results of any measures taken by the council to address problems identified by the council under Subsection (a).

(c) The long-range strategies developed by the council under Subsection (a) must:

(1) identify each agency represented on the council that is responsible for implementing each strategy; and

(2) include a time frame for the implementation of each strategy.

Added by Acts 2003, 78th Leg., ch. 818, Sec. 3.02, eff. Sept. 1, 2003.

Sec. 2308.1016. DUTY TO FACILITATE DELIVERY OF INTEGRATED ADULT EDUCATION AND LITERACY SERVICES. (a) In addition to any duty imposed under this subchapter, to facilitate the efficient delivery of integrated adult education and literacy services in this state, the council shall:

(1) evaluate adult education and literacy programs administered by the Texas Education Agency and the Texas Workforce Commission to identify:

(A) any duplication of planning by those agencies at the state and local level;

(B) any lack of adequate client information sharing between those agencies; and

(C) any other problems that adversely affect the delivery of those programs by the agencies;

(2) develop and implement immediate and long-range strategies to address problems identified by the council under Subdivision (1); and

(3) develop a system to monitor and evaluate the wage and employment outcomes of students who participate in the adult education and literacy programs administered by the Texas Education Agency, including students referred to the programs by the Texas Workforce Commission or local workforce development boards, to ensure the effectiveness of the programs in improving the employment-related outcomes of the students.

(b) The council shall include in the council's annual report to the governor and to the legislature:

(1) a list of specific problems identified by the council under Subsection (a) to be addressed by the council in the following year; and

(2) the results of any measures taken by the council to address problems identified by the council under Subsection (a).

(c) The long-range strategies developed by the council under Subsection (a) must:

(1) identify the agency responsible for implementing each strategy; and

(2) include a schedule for the implementation of each strategy.

Acts 2003, 78th Leg., ch. 817, Sec. 5.04, eff. Sept. 1, 2003.

Text of section as amended by Acts 2003, 78th Leg., ch. 110, Sec. 2

Sec. 2308.102. ASSUMPTION OF DUTIES AND RESPONSIBILITIES. (a) The council shall assume the duty to:

(1) develop, with the assistance of each appropriate state agency, recommend to the governor, and report to the legislature state plans required by applicable federal law in order for the state to receive federal funds;

(2) make policy recommendations to the governor and the legislature on goals and priorities for formula and discretionary funds for all applicable programs;

(3) participate directly in the development of the state plan for career and technology education, as required by law, and recommend the plan to the Texas Education Agency;

(4) ensure that general revenue funds previously available to the Texas Literacy Council are used to support the efforts of local literacy councils in a manner consistent with the state strategic plan;

(5) recommend to the State Board for Career and Technology Education the division of federal funds between secondary and postsecondary educational agencies under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. Section 2301 et seq.); and

(6) make recommendations to the Texas Workforce Commission on unemployment insurance issues pertinent to the responsibilities of the council.

(b) The council shall assume the responsibilities assigned to the state advisory council under the following federal laws:

(1) the Job Training Partnership Act (29 U.S.C. Section 1501 et seq.);

(2) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. Section 2301 et seq.);

(3) the Adult Education Act (20 U.S.C. Section 1201 et seq.);

(4) the Wagner-Peyser Act (29 U.S.C. Section 49 et seq.);

(5) Part F, Subchapter IV, Social Security Act (42 U.S.C. Section 681 et seq.);

(6) the employment program established under Section 6(d)(4), Food Stamp Act of 1977 (7 U.S.C. Section 2015(d)(4)); and

(7) the National Literacy Act of 1991 (20 U.S.C. Section 1201 et seq.).

(c) The council shall assume the responsibilities formerly exercised by the following state advisory councils and committees:

(1) the State Job Training Coordinating Council;

(2) the Texas Council on Vocational Education;

(3) the Texas Literacy Council; and

(4) the Apprenticeship and Training Advisory Committee.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.08(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1472, Sec. 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 9.014(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 110, Sec. 2, eff. Sept. 1, 2003.

Text of section as amended by Acts 2003, 78th Leg., ch. 818, Sec. 3.03

Sec. 2308.102. ASSUMPTION OF DUTIES AND RESPONSIBILITIES. (a) The council shall assume the duty to:

(1) develop, with the assistance of each appropriate state agency, recommend to the governor, and report to the legislature state plans required by applicable federal law in order for the state to receive federal funds;

(2) make policy recommendations to the governor and the legislature on goals and priorities for formula and discretionary funds for all applicable programs; and

(3) make recommendations to the Texas Workforce Commission on unemployment insurance issues pertinent to the responsibilities of the council.

(b) The council shall assume the responsibilities formerly exercised by the Apprenticeship and Training Advisory Committee.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.08(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1472, Sec. 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 9.014(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 818, Sec. 3.03, eff. Sept. 1, 2003.

Sec. 2308.103. ADDITIONAL POWERS AND LIMITATIONS. (a) The council may:

(1) adopt rules essential to the internal functions and duties of the council;

(2) make expenditures, enter into contracts with public, private, and nonprofit organizations or agencies, require reports to be made, conduct investigations, and take other actions necessary or suitable to fulfill the council's duties under this chapter;

(3) delegate to the executive director any power or duty imposed on the council by law, including the authority to make a final order or decision;

(4) provide for the mediation or arbitration of disputes between agencies that perform functions for state and federal programs as provided by this chapter;

(5) accept gifts, grants, and donations of money, goods, or services to be used only to accomplish the council's duties under this chapter; and

(6) share employees with another state agency.

(b) The council may not:

(1) adopt rules related to the operation of workforce development; or

(2) delegate to the executive director the authority to adopt rules.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.104. STRATEGIC PLAN. (a) The council shall develop and recommend to the governor and report to the legislature a single strategic plan that establishes the framework for the budgeting and operation of the workforce development system, including school to careers and welfare to work components, administered by agencies represented on the council. The council shall annually report to the governor and the legislature on the implementation of the strategic plan.

(b) The council shall engage in strategic planning by selecting or developing two types of performance measures as described by Subsections (c) and (d). To the fullest extent possible, all measures must be selected from those already developed and approved before September 1, 2001, by one or more state agencies that administer workforce programs. The council may develop a new measure

only if the council:

(1) identifies a gap in accountability; or

(2) determines that at least one state agency administering a workforce program cannot report under the measures developed and approved before September 1, 2001.

(c) The first type of performance measure consists of formal measures identifying outcomes that are essentially consistent across all workforce programs. Job placement rates, job retention rates, and wage rates may be included among those measures. The council may develop or select not more than five formal measures. The council shall develop or select each formal measure in consultation with the state agencies required to report under this subsection. Once approved by the governor and the Legislative Budget Board, a formal measure becomes part of the state's performance budget and accounting system and applies to each state agency that administers a workforce program.

(d) The second type of performance measure consists of less formal measures to provide information determined by the council to be essential in development of the strategic plan under this section. Employer participation rates, customer satisfaction levels, and educational attainment may be included among those measures. The council shall develop or select each less formal measure with the approval of the governor and in consultation with the state agencies required to report under this subsection. The Legislative Budget Board shall provide technical assistance to the council to ensure that the measures and associated reporting criteria are consistent with the state's performance budget and accounting system. The council may exempt a state agency that administers a workforce program from any requirement to use a less formal measure.

(e) In addition to the other requirements of this chapter, the strategic plan recommended by the council must recognize and address literacy and basic education as activities that are critical to the well-being of individuals and the state without regard to whether the training and education is directed at preparing an individual for employment.

(f) The council shall include in the strategic plan goals, objectives, and performance measures for the workforce development system that involve programs of all state agencies that administer workforce programs.

(g) On approval of the plan by the governor, an agency

administering a workforce program shall use the strategic plan to develop the agency's operational plan.

(h) The council shall include in the strategic plan long-range strategies developed by the council under Section 2308.1015 to facilitate the seamless delivery of integrated workforce services in this state.

(i) The council shall include in the strategic plan the long-range strategies developed by the council under Section 2308.1016 to facilitate the efficient delivery of integrated adult education and literacy services in this state.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.07(b), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1472, Sec. 7, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 704, Sec. 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 817, Sec. 5.05, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 818, Sec. 3.04, eff. Sept. 1, 2003.

Sec. 2308.105. LOCAL SERVICE INTEGRATION. The governor, with the council and the local workforce development boards, shall:

(1) identify specific barriers to integrated service delivery at the local level;

(2) request waivers from federal and state regulations; and

(3) advocate changes in federal and state laws to promote local service integration.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.106. DIVISION ASSISTANCE. The division shall assist a local workforce development board in designing effective measures to accomplish the board's responsibilities under Section 2308.302.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.09(a), eff. Sept. 1, 1997.

Sec. 2308.107. COMPLAINTS AGAINST COUNCIL. (a) The council shall maintain a file on each written complaint filed with the council. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the council;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the council closed the file without taking action other than to investigate the complaint.

(b) The council shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the council's policies and procedures relating to complaint investigation and resolution.

(c) The council, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Added by Acts 2003, 78th Leg., ch. 818, Sec. 3.05, eff. Sept. 1, 2003.

Sec. 2308.108. POLICY ON TECHNOLOGICAL SOLUTIONS. The members of the council shall develop and implement a policy requiring the executive director and council employees to research and propose appropriate technological solutions to improve the council's ability to perform its functions. The technological solutions must:

(1) ensure that:

(A) the public is able to easily find information about the council on the Internet; and

(B) persons who want to use the council's services are able to:

(i) interact with the council through the Internet; and

(ii) access any service that can be provided

effectively through the Internet;

(2) be cost-effective; and

(3) be developed through the council's planning processes.

Added by Acts 2003, 78th Leg., ch. 818, Sec. 3.05, eff. Sept. 1, 2003.

Sec. 2308.109. DUTY TO DEVELOP SKILL STANDARDS. (a) The council shall provide advice to the governor and the legislature on the development of a statewide system of industry-defined and industry-recognized skill standards and credentials for all major skilled occupations that:

(1) provide strong employment and earnings opportunities in this state; and

(2) require less than a baccalaureate degree.

(b) The council shall:

(1) validate and recognize nationally established skill standards to guide curriculum development, training, assessment, and certification of workforce skills;

(2) convene industry groups to develop skill standards and certification procedures for industries and occupations in which standards have not been established or adopted and recognize the skill standards and certification procedures;

(3) review the standards developed by other states and foreign countries and enter into agreements for mutual recognition of standards and credentials to enhance portability of skills; and

(4) promote the use of standards and credentials among employers.

(c) The council shall:

(1) report on the council's duties under this section to the governor; and

(2) provide annual reports on the council's duties under this section to the governor, the division, and the legislature.

Added by Acts 2015, 84th Leg., R.S., Ch. 97 (H.B. 1606), Sec. 2, eff. September 1, 2015.

SUBCHAPTER D. INFORMATION AND TRAINING

Sec. 2308.151. ESTABLISHMENT OF FUNDING FORMULA FOR EVALUATION

SYSTEM. The council shall establish, with the approval of the governor, a funding formula to determine the level of support each agency administering a workforce program must provide to operate the automated follow-up and evaluation system administered by the Texas Workforce Commission under Subchapter E, Chapter 302, Labor Code.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1472, Sec. 8, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 704, Sec. 4, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 818, Sec. 4.01, 4.02, 5.01, eff. Sept. 1, 2003.

Sec. 2308.158. COUNCIL TRAINING; STANDARDS OF CONDUCT INFORMATION. (a) A person who is appointed to and qualifies for office as a council member may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the council;

(2) the programs operated by the council;

(3) the role and functions of the council;

(4) the rules of the council, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the council;

(6) the results of the most recent formal audit of the council;

(7) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552;

(C) the administrative procedure law, Chapter 2001; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the council or the Texas Ethics Commission.

(c) Each council member shall comply with the member training requirements established by any other state agency that is given authority to establish the requirements for the council.

(d) The executive director shall provide to the council's members and employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers and employees.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 818, Sec. 2.05, eff. Sept. 1, 2003.

SUBCHAPTER E. COUNCIL RECOMMENDATIONS AND IMPLEMENTATION BY STATE AGENCIES

Sec. 2308.201. DEVELOPMENT OF RECOMMENDATIONS. The council shall develop recommendations periodically in each of the council's areas of responsibility and shall submit the recommendations to the governor.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.202. CONSIDERATION OF RECOMMENDATIONS BY THE GOVERNOR. (a) The governor shall consider the recommendations submitted under this subchapter.

(b) The governor shall approve, disapprove, or modify the recommendations.

(c) The governor shall:

(1) return the recommendations to the council to be forwarded as appropriate; or

(2) forward an approved or modified recommendation without returning the recommendation to the council.

(d) A recommendation that is not approved, disapproved, or modified by the governor before the 60th day after the date the recommendation is submitted shall be considered approved by the governor.

(e) A recommendation that is approved or modified shall be forwarded to the appropriate agency for implementation.

(f) A recommendation that is approved or modified and that requires a change in state or federal law shall be forwarded to the

appropriate legislative body for its consideration.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.203. ACTION BY STATE AGENCIES. (a) A state agency that is responsible for the administration of human resources or workforce development in this state shall implement a recommendation under this subchapter if the recommendation does not violate a federal or state law.

(b) A state agency shall:

(1) provide requested information to the council in a timely manner;

(2) report on the implementation of the council's recommendations at the time and in the format requested by the council; and

(3) notify the governor, the executive director, and the presiding officer of the council within 30 days if the agency determines that a recommendation cannot be implemented.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.11(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1472, Sec. 12, eff. Sept. 1, 1999.

Sec. 2308.205. FUND AVAILABILITY AND SERVICES. A state agency represented on the council shall provide to the council and each local workforce development board an estimate of fund availability and services provided by the state agency in each local workforce development area.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.206. PROVISION OF SERVICES BY STATE AGENCIES. A state agency represented on the council shall, consistent with state and federal law, provide workforce training and services in accordance with the local workforce development plan developed by the

local workforce development board and approved by the governor and shall implement rules and policies consistent with the plan.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

SUBCHAPTER F. CREATION AND ADMINISTRATION OF LOCAL WORKFORCE DEVELOPMENT AREAS AND LOCAL WORKFORCE DEVELOPMENT BOARDS

Sec. 2308.251. DEFINITIONS. In this subchapter:

(1) "Board" means a local workforce development board.

(2) "Veteran" means a person who:

(A) has served in:

(i) the army, navy, air force, coast guard, or marine corps of the United States or the United States Public Health Service under 42 U.S.C. Section 201 et seq., as amended;

(ii) the Texas military forces as defined by Section 437.001; or

(iii) an auxiliary service of one of those branches of the armed forces; and

(B) has been honorably discharged from the branch of the service in which the person served.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1426, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 3.10, eff. September 1, 2013.

Sec. 2308.2515. APPLICATION OF PRIOR LAW. (a) If a change in law made by House Bill 3480, Acts of the 76th Legislature, Regular Session, 1999, would have the effect of invalidating an exemption granted under the Workforce Investment Act of 1998 (Pub. L. No. 105-220), a local workforce development board may not operate under that change in law but, instead, shall operate under the law as it existed before the effective date of this Act.

(b) A change in law described by Subsection (a) of this section does not affect other related provisions or applications of a statute that can be given effect without that change in law, and to this end

those other provisions and applications of the statute shall be given effect.

Added by Acts 1999, 76th Leg., ch. 1103, Sec. 1, eff. Sept. 1, 1999.

Sec. 2308.252. DESIGNATION OF WORKFORCE DEVELOPMENT AREAS. (a) The governor shall, after receiving the recommendations of the council, publish a proposed designation of local workforce development areas for the planning and delivery of workforce development.

(b) A local workforce development area:

(1) is composed of more than one contiguous unit of general local government that includes at least one county;

(2) is consistent with either a local labor market area, a metropolitan statistical area, one of the 24 substate planning areas, or one of the 10 uniform state service regions; and

(3) is of a size sufficient to have the administrative resources necessary to provide for the effective planning, management, and delivery of workforce development.

(c) Units of general local government, business and labor organizations, and other affected persons and organizations must be given an opportunity to comment on and request revisions to the proposed designation of a workforce development area.

(d) After considering all comments and requests for changes, the governor shall make the final designation of workforce development areas.

(e) The governor may redesignate workforce development areas not more than once every two years. A redesignation must be made not later than four months before the beginning of a program year.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.253. CREATION OF LOCAL WORKFORCE DEVELOPMENT BOARDS. (a) The chief elected officials in a workforce development area may form, in accordance with rules established by the Texas Workforce Commission, a local workforce development board to:

(1) plan and oversee the delivery of workforce training and services; and

(2) evaluate workforce development in the workforce development area.

(b) The authority granted under Subsection (a) does not give a local workforce development board any direct authority or control over workforce funds and programs in its workforce development area, other than programs funded through that board.

(c) Before a local workforce development board may be created, at least three-fourths of the chief elected officials in the workforce development area who represent units of general local government must agree to the creation of the board, including all of the chief elected officials who represent units of general local government that have populations of at least 200,000. The elected officials who agree to the creation of the board must represent at least 75 percent of the population of the workforce development area.

(d) The chief elected officials shall consider the views of all affected local organizations, including private industry councils and quality workforce planning committees, before making a final decision on the formation of a board.

(e) An agreement on the formation of a board must be in writing and must include:

(1) the purpose for the agreement;

(2) the process to be used to select the chief elected official who will act on behalf of the other chief elected officials;

(3) the process to be used to keep the chief elected officials informed regarding local workforce development activities;

(4) the initial size of the board;

(5) how resources allocated to the local workforce development area are to be shared among the parties to the agreement;

(6) the process, consistent with applicable federal and state law, for the appointment of the board members; and

(7) the terms of office of the board members.

(f) In a state planning area in which there is more than one local workforce development area, the quality workforce planning committee of that state planning area shall continue in existence to provide labor market information for the entire state planning area until local workforce development boards are certified in each workforce development area in that state planning area.

(g) The chief elected officials designated under Subsection (c) shall enter into a partnership agreement with the board to:

(1) select the grant recipient and the administrative

entity for the local workforce development area; and

(2) determine procedures for the development of the local workforce development plan.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.09(b), 19.12(a), eff. Sept. 1, 1997.

Sec. 2308.254. LIMITATION ON EXERCISE OF BOARD POWERS. (a) A power or duty granted a board under this chapter may not be exercised in a workforce development area until:

(1) the chief elected officials in that area agree on the establishment of a board as provided by Section 2308.253(c); and

(2) the board is certified by the governor.

(b) A private industry council in an area in which a board is not created or in which the chief elective officers are unable to agree on the establishment of a board may not exercise any of the powers granted a board by this chapter, except for a power granted under the federal Job Training Partnership Act (29 U.S.C. Section 1501 et seq.).

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.12(b), eff. Sept. 1, 1997.

Sec. 2308.255. APPOINTMENT OF BOARD; LIABILITY OF BOARD MEMBERS. (a) The chief elected officials shall appoint the board.

(b) The appointments must:

(1) be consistent with the local government agreement and applicable federal and state law; and

(2) reflect the ethnic and geographic diversity of the workforce development area.

(c) To provide continuity, the chief elected officials shall consider appointing persons to the local workforce development board who are serving or who have served previously on a private industry council, a quality workforce planning committee, a job service employer committee, and any other entity affected by this chapter.

(d) Board members serve fixed and staggered terms as provided by the local government agreement or applicable federal or state law

and may continue to serve until successors are appointed.

(e) A member or former member of a board may not be held personally liable for a claim, damage, loss, or repayment obligation of federal or state funds that arises under this chapter unless the act or omission that causes the claim, damage, loss, or repayment obligation constitutes, on the part of the board member or former board member:

(1) official misconduct;

(2) wilful disregard of the requirements of this chapter; or

(3) gross negligence.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.12(c), (d) eff. Sept. 1, 1997.

Sec. 2308.256. BOARD MEMBERSHIP. (a) A board is composed as follows:

(1) representatives of the private sector, who:

(A) constitute a majority of the membership of the board; and

(B) are owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector executives who have substantial management or policy responsibilities;

(2) representatives of organized labor and community-based organizations, who constitute not less than 15 percent of the membership of the board; and

(3) representatives of each of the following:

(A) educational agencies, including community colleges and secondary and postsecondary practitioners representing vocational education, that are representative of all educational agencies in the service delivery area;

(B) vocational rehabilitation agencies;

(C) public assistance agencies;

(D) economic development agencies;

(E) the public employment service;

(F) local literacy councils;

(G) adult basic and continuing education organizations;

and

(H) the child-care workforce.

(b) Private sector representatives on the board are selected from individuals nominated by general-purpose business organizations that have consulted with and received recommendations from other business organizations in the workforce development area. The nominations and the individuals selected from the nominations must reasonably represent the industrial and demographic composition of the business community. Not less than one-half of the business and industry representatives must be, if possible, representatives of small businesses, including minority businesses.

(c) The education representatives on the board are selected from individuals nominated by regional or local educational agencies, vocational education institutions, institutions of higher education, including entities offering adult education, and general organizations of the institutions within the workforce development area.

(d) The labor representatives on the board are selected from individuals recommended by recognized state and local labor federations. If a state or local labor federation does not nominate a number of individuals sufficient to meet the labor representation requirements of Subsection (a)(2), individual workers may be included on the council to complete the labor representation.

(e) The remaining members of the board are selected from individuals recommended by interested organizations.

(f) In this section:

(1) "General-purpose business organization" means an organization that admits for membership any for-profit business operating within the workforce development area.

(2) "Small business" means a private, for-profit enterprise that employs not more than 500 employees.

(g) Repealed by Acts 2023, 88th Leg., R.S., Ch. 413 (H.B. 1615), Sec. 3, eff. September 1, 2023.

(h) At least one of the members of a board appointed under Subsection (a) must be a veteran who:

(1) meets the qualifications required for the member under that subsection; and

(2) serves as a representative on the board for the interests of veterans in the workforce development area.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 340, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1103, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1426, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1142, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 511 (H.B. 720), Sec. 1, eff. September 1, 2005.

Acts 2023, 88th Leg., R.S., Ch. 413 (H.B. 1615), Sec. 2, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 413 (H.B. 1615), Sec. 3, eff. September 1, 2023.

Sec. 2308.257. RECUSAL. (a) A member of a board shall avoid the appearance of conflict of interest by not voting in, or participating in, any decision by the board regarding the provision of services by such member, or any organization which that member directly represents, or on any matter which would provide direct financial benefit to that member, the member's immediate family, or any organization which that member directly represents.

(b) Subsection (a) shall serve as a minimum standard and shall not be construed as to limit the board's authority for more restrictive governance to prevent real and/or apparent conflict of interest.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1004, Sec. 6, eff. Sept. 1, 2001.

Sec. 2308.258. PRESIDING OFFICER. The presiding officer of a board is selected from the members of the board who represent the private sector.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.259. BOARD COMMITTEES. A board may create committees as needed to carry out its duties and responsibilities.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.260. TECHNICAL ADVISORY GROUPS. A board may create technical advisory groups composed of both council and noncouncil members to provide assistance to the board.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.261. CERTIFICATION OF BOARD. (a) The governor shall certify a board on determining that the board's composition is consistent with applicable federal and state law and requirements and meets established state criteria.

(b) The governor shall certify or deny certification not later than the 30th day after the date a certification request is submitted to the governor.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.262. BUDGET. A board shall adopt a budget for the board that must be included in the local workforce development plan submitted to the division.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.13(a), eff. Sept. 1, 1997.

Sec. 2308.263. APPROVAL OF FISCAL AGENT. (a) The Texas Workforce Commission must approve the fiscal agent selected by a board before any federal or state workforce development funds may be disbursed to the board.

(b) The commission shall base its approval on an audit of the financial capability of the fiscal agent to ensure that fiscal controls and fund accounting procedures necessary to guarantee the proper disbursal of and accounting for federal and state funds are in

place.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.14, eff. Sept. 1, 1997.

Sec. 2308.264. CONTRACTING FOR SERVICE DELIVERY. (a) Except as otherwise provided by this section, a board may not directly provide workforce training or one-stop workforce services.

(b) A board may request from the Texas Workforce Commission a waiver of Subsection (a).

(c) The request for a waiver must include a detailed justification based on the lack of an existing qualified alternative for delivery of workforce training and services in the workforce development area.

(d) If a board receives a waiver to provide workforce training and one-stop workforce services, the evaluation of results and outcomes is provided by the Texas Workforce Commission.

(e) In consultation with local workforce development boards, the Texas Workforce Commission by rule shall establish contracting guidelines for boards under this section, including guidelines designed to:

(1) ensure that each independent contractor that contracts to provide one-stop workforce services under this section has sufficient insurance, bonding, and liability coverage for the overall financial security of one-stop workforce services funds and operations;

(2) prevent potential conflicts of interest between boards and entities that contract with boards under this section; and

(3) ensure that if a board acts as a fiscal agent for an entity that contracts with the board to provide one-stop workforce services, the board does not deliver the services or determine eligibility for the services.

(f) The Texas Workforce Commission shall ensure that each board complies with this section and may approve a local plan under Section 2308.304 only if the plan complies with this section.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 817, Sec. 4.01, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1350 (S.B. 998), Sec. 1, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 332 (H.B. 3074), Sec. 1, eff. June 15, 2007.

Sec. 2308.265. INCENTIVES AND WAIVERS. (a) A board certified by the governor is eligible for incentives and program waivers to promote and support integrated planning and evaluation of workforce development.

(b) To the extent feasible under federal and state workforce development law, incentives include priority for discretionary funding, including financial incentives for the consolidation of service delivery areas authorized under the federal Job Training Partnership Act (29 U.S.C. Section 1501 et seq.).

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.266. NONPROFIT STATUS; ABILITY TO SOLICIT FUNDS. (a) A board may apply for and receive a charter as a private, nonprofit corporation under the laws of this state and may choose to be recognized as a Section 501(c)(3) organization under the Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)).

(b) In addition to receiving funds specified in this chapter, a board may solicit additional funds from other public and private sources.

(c) A board may not solicit or accept money from an entity with which the board contracts for the delivery of services.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.267. STAFF. (a) A board may employ professional, technical, and support staff to carry out its planning, oversight, and evaluation functions.

(b) A board's staff shall be separate from and independent of any organization providing workforce education or workforce training

and services in the workforce development area. A board's staff may not direct or control the staffing of any entity providing one-stop workforce services.

(c) The requirement for separate staffing does not preclude a board from designating a qualified organization to provide staff services to the board if the board:

(1) arranges for independent evaluation of any other workforce services provided by the staffing organization; and

(2) requests and obtains from the Texas Workforce Commission a waiver of the separate staffing requirement and of the requirement under Section 2308.264(a).

(d) A request for a waiver under Subsection (c)(2) must contain a detailed justification for the waiver, including:

(1) cost-effectiveness;

(2) prior experience;

(3) geographic or budgetary considerations; and

(4) availability of qualified applicants.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.13(b), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 817, Sec. 4.02, eff. Sept. 1, 2003.

Sec. 2308.268. ASSISTANCE AND SANCTIONS FOR NONPERFORMANCE. (a) The council shall provide technical assistance to local workforce development areas that do not meet performance standards established under this chapter and other applicable federal and state law.

(b) If a local workforce development area does not meet performance standards for two consecutive program years, the council shall develop and impose a reorganization plan that may include:

(1) restructuring the board;

(2) prohibiting the use of designated service providers, including state agencies; and

(3) merging the local workforce development area with another area.

(c) If nonperformance is directly attributable to a specific state agency, the council may select an alternative provider.

(d) A local workforce development area that is the subject of a

reorganization plan may appeal to the governor to rescind or revise the plan not later than the 30th day after the date of receiving notice of the plan.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.269. SANCTIONS FOR LACK OF FISCAL ACCOUNTABILITY. If, as a result of financial and compliance audits or for another reason, the Texas Workforce Commission finds a substantial violation of a specific provision of this chapter or another federal or state law or regulation and corrective action has not been taken, the council shall:

(1) issue a notice of intent to revoke all or part of the affected local plan;

(2) issue a notice of intent to cease immediately reimbursement of local program costs; or

(3) impose a reorganization plan under Section 2308.268 for the local workforce development area.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.15, eff. Sept. 1, 1997.

SUBCHAPTER G. RESPONSIBILITIES AND DUTIES OF LOCAL WORKFORCE DEVELOPMENT BOARDS

Sec. 2308.301. DEFINITIONS. In this subchapter:

(1) "Board" means a local workforce development board.

(2) "Commission" means the Texas Workforce Commission.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 9.016(a), eff. Sept. 1, 2001.

Sec. 2308.302. RESPONSIBILITY OF BOARD. (a) A board is directly responsible and accountable to the division for the planning and oversight of all workforce training and services and the evaluation of all workforce development programs in the workforce

development area. A board shall ensure effective outcomes consistent with statewide goals, objectives, and performance standards approved by the governor.

(b) A board is directly responsible to the division for the operational planning and administration of all workforce training and services funded through the Texas Workforce Commission to the local area.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.09(c), eff. Sept. 1, 1997.

Sec. 2308.303. BOARD DUTIES. (a) A board shall:

(1) serve as a single point of contact for local businesses to communicate their skill needs and to influence the direction of all workforce development programs in the workforce development area;

(2) serve as a private industry council under the Job Training Partnership Act (29 U.S.C. Section 1501 et seq.);

(3) develop a local plan to address the workforce development needs of the workforce development area that:

(A) is responsive to the goals, objectives, and performance standards established by the governor;

(B) targets services to meet local needs, including the identification of industries and employers likely to employ workers who complete job training programs; and

(C) ensures that the workforce development system, including the educational system, has the flexibility to meet the needs of local businesses;

(4) designate the board or another entity as the board's fiscal agent to be responsible and accountable for the management of all workforce development funds available to the board;

(5) create local career development centers under Section 2308.312;

(6) review plans for workforce education to ensure that the plans address the needs of local businesses and recommend appropriate changes in the delivery of education services;

(7) assume the functions and responsibilities of local workforce development advisory boards, councils, and committees authorized by federal or state law, including private industry

councils, quality workforce planning committees, job service employer committees, and local general vocational program advisory committees;

(8) monitor and evaluate the effectiveness of the career development centers, state agencies and other contractors providing workforce training and services, and vocational and technical education programs operated by local education agencies and institutions of higher education to ensure that performance is consistent with state and local goals and objectives; and

(9) promote cooperation and coordination among public organizations, community organizations, charitable organizations, religious organizations, and private businesses providing workforce development, in a manner consistent with the nondiscrimination principles and safeguards stated in 42 U.S.C. Section 604a.

(b) The board shall ensure that employment services are provided for persons seeking employment in the local workforce development area. The board shall contract with an appropriate entity for the provision of services, or, if all necessary waivers are granted, the board may provide the services directly.

(c) In performing its duties under this section, a board may provide to the division relevant labor market information and information regarding the availability of existing workforce development.

(d) A provider must respond to a change recommended by a board under Subsection (a)(6) not later than the 30th day after the date the provider receives the recommendation.

(e) A board shall educate the public about the plumbing profession and the resources available to employers for the recruitment and training of plumbers as provided by Section 1301.652, Occupations Code.

(f) These educational efforts may be conducted to the extent that the plumbing profession is designated as an occupation in demand by a board.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.09(d), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 401, Sec. 2, eff. Aug. 30, 1999; Acts 1999, 76th Leg., ch. 1472, Sec. 13, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 819, Sec. 28, eff. Sept. 1, 2003.

Sec. 2308.3035. COMPONENTS OF LOCAL WORKFORCE DEVELOPMENT SYSTEM. The local workforce development system is composed of two major components as follows:

(1) an employer services component that provides labor market information and services and other services as appropriate to local employers; and

(2) an integrated service delivery system composed of a network of career development centers that serve the people of this state based on a "one-stop for service" approach and supported by electronic access to comprehensive labor market information.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 19.18(a), eff. Sept. 1, 1997.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 1143, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2308.304. LOCAL PLAN. (a) A board shall adopt a single plan that includes the components specified in this section.

(b) The plan must include a strategic component that:

(1) assesses the labor market needs of the local workforce development area;

(2) identifies existing workforce development programs;

(3) evaluates the effectiveness of existing programs and services; and

(4) sets broad goals and objectives for all workforce development programs in the local area consistent with statewide goals, objectives, and performance standards.

(c) The plan must include an operational component that specifies how all of the resources available to the local workforce development area from the Texas Workforce Commission will be used to achieve the goals and objectives of the plan for the area. At a minimum, this component must establish:

(1) the goals, objectives, and performance measures to be used in overseeing and evaluating the operation of all workforce training and services;

(2) the segments of the population targeted for various services;

(3) the mix of services to be provided and how those

services are to be provided; and

(4) the structure of the local service delivery system.

(d) Program resources included in the operational component are:

(1) job training programs funded under the Job Training Partnership Act (29 U.S.C. Section 1501 et seq.);

(2) postsecondary vocational and technical job training programs that are not part of approved courses or programs that lead to licensing, certification, or an associate degree under Chapters 61, 130, and 135, or Subchapter E, Chapter 88, Education Code;

(3) adult education programs under Subchapter H, Chapter 29, Education Code;

(4) employment services programs;

(5) literacy funds available to the state under the National Literacy Act of 1991 (20 U.S.C. Section 1201 et seq.);

(6) the job opportunities and basic skills program under Part F, Subchapter IV, Social Security Act (42 U.S.C. Section 682); and

(7) the food stamp employment and training program authorized under 7 U.S.C. Section 2015(d).

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.16(a), eff. Sept. 1, 1997.

Sec. 2308.305. USE OF LABOR MARKET INFORMATION SYSTEM. A board shall review, verify, modify, and use local labor market information developed through the state's labor market information system to identify, by occupation, the labor demand by employers in each workforce development area.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.17(a), eff. Sept. 1, 1997.

Sec. 2308.306. REPORT. A board shall periodically provide a report summarizing by occupation the labor demand to:

(1) each public postsecondary institution providing vocational and technical education; and

(2) each entity under contract to the board to provide workforce training and services in a workforce development area.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.307. FILLING EDUCATIONAL NEEDS. (a) If a need in the availability of workforce education is indicated by the labor market information system provided by the board, by a direct request of employers located in the workforce area, or as the result of economic development incentives designed to attract or retain an employer, an institution may apply to the Texas Higher Education Coordinating Board for approval to offer the needed workforce education.

(b) An institution that desires to provide the needed workforce education must apply to the coordinating board not later than the 30th day after the date the need is identified.

(c) The coordinating board shall give immediate priority to the institution's application and shall notify the institution of the board's approval or disapproval not later than the 100th day after the date the application is received.

(d) If more than one institution in a workforce development area applies to provide the needed workforce education, the coordinating board shall select one or more institutions to offer the needed education as provided by Section 61.051, Education Code.

(e) If an institution approved by the coordinating board does not offer the approved workforce education in a timely manner, a board may solicit another qualified provider to apply to the coordinating board to provide needed education to be funded through state-appropriated formula funds.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.308. PUBLIC COMMUNITY COLLEGE. A public community college shall promptly provide workforce training and services that are requested:

(1) by a board if the need for the training and services is based on the labor market information system available for the area;

(2) by employers located in the college's taxing district when the request is presented directly to the college by the employers or through the board; or

(3) as part of economic development incentives designed to attract or retain an employer, including incentives offered under the skills development fund program under Chapter 303, Labor Code.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.17(b), eff. Sept. 1, 1997.
Amended by:
Acts 2005, 79th Leg., Ch. 1115 (H.B. 2421), Sec. 7, eff. June 18, 2005.

Sec. 2308.309. INSTITUTION OF HIGHER EDUCATION. (a) An institution of higher education that has local taxing authority and is governed by a locally elected board of trustees is the primary provider of local workforce training and services that are needed by an employer within the taxing district and funded fully or in part by local funds, except in Cameron, McLennan, and Potter counties, or by technical vocational funds administered by the Texas Higher Education Coordinating Board.

(b) A board shall select another qualified local or statewide provider if the local institution does not promptly provide locally needed workforce training and services.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.310. CERTAIN EDUCATIONAL SERVICES NOT PROHIBITED. This subchapter does not prohibit an institution of higher education from offering workforce education or workforce training and services that:

(1) are needed by an employer located in the institution's taxing district and that meet all applicable standards; or

(2) have been approved under applicable law and that are reviewed by the Texas Higher Education Coordinating Board.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1,

1995.

Sec. 2308.311. LIST OF PUBLICLY FUNDED PROGRAMS AND CLASSES. (a) Each local education agency and public or private postsecondary educational institution shall provide the board in its area a list of all vocational-technical programs and classes the agency or institution offers that are funded by state or federal funds.

(b) A board, with the assistance of the labor demand occupation report, shall evaluate the supply of vocational-technical programs in relation to the demand for the programs and report any discrepancies between supply and demand to the appropriate educational institution, the Central Education Agency, the Texas Higher Education Coordinating Board, the council, and the Legislative Budget Board.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995.

Sec. 2308.312. CAREER DEVELOPMENT CENTERS. (a) A board shall establish career development centers accessible to students, workers, and persons formerly sentenced to the Texas Department of Criminal Justice throughout the workforce development area. The board shall establish the centers not later than the 180th day after the date the board is certified.

(b) Each center shall provide access to information and services available in the workforce development area, including employment services, and shall address the individual needs of students, workers, and persons formerly sentenced to the Texas Department of Criminal Justice.

(c) The services must include:

(1) labor market information, including:

(A) available job openings; and

(B) education and training opportunities in the local area, in the state, and, as feasible, in the nation;

(2) uniform eligibility requirements and application procedures for all workforce training and services;

(3) independent assessment of individual needs and the development of an individual service strategy;

(4) centralized and continuous case management and

counseling;

(5) individual referral for services, including basic education, classroom skills training, on-the-job training, and customized training;

(6) support services, including child care assistance, student loans, and other forms of financial assistance required to participate in and complete training; and

(7) job training and employment assistance for persons formerly sentenced to the Texas Department of Criminal Justice, provided in cooperation with Project RIO.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.18(b), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.23(a), eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.090, eff. September 1, 2009.

Sec. 2308.3121. SERVICE PROVIDER LIMITATION; WAIVER. (a) Except as provided by Subsection (b), a person who provides one-stop services may not also provide developmental services such as basic education and skills training.

(b) The division may develop a waiver process for a person subject to Subsection (a). A request for a waiver must include a detailed justification based on the lack of an existing qualified alternative for delivery of developmental services in the applicable workforce development area.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 19.18(c), eff. Sept. 1, 1997.

Sec. 2308.3122. UNEMPLOYMENT INSURANCE CLAIMS. In cooperation with the boards, the Texas Workforce Commission shall provide for the filing of unemployment insurance claims through career development centers in each local workforce development area.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 19.18(c), eff. Sept. 1, 1997.

Sec. 2308.313. RIGHT TO KNOW. A career development center shall provide to each person, before the person participates in a vocational or technical training program, a document that informs the person of:

(1) current employment prospects;

(2) the current wage level for a person who completes the vocational or technical training program in which the person is considering participating; and

(3) the most recent information available on the performance of institutions that provide that training in the local workforce development area.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.81(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 19.18(d), eff. Sept. 1, 1997.

Sec. 2308.314. TAX ASSISTANCE. (a) The Texas Workforce Commission may provide to individuals who participate in a workforce development program information on the federal earned income tax credit for working families. The commission may assist participants in preparing and filing federal income tax forms to ensure that a participant who is eligible to receive the tax credit obtains the tax credit. The commission may fulfill its duties under this subsection by:

(1) working in conjunction with the Internal Revenue Service to make each workforce development center a volunteer income tax assistance site during the two months preceding the date federal income taxes are due; or

(2) using specially trained staff or volunteers to assist in preparing and filing federal income tax forms.

(b) The Texas Workforce Commission may provide information on the federal earned income tax credit to an employer who hires a welfare recipient under a wage supplementation program.

(c) In addition to providing information under Subsection (a) to an individual who participates in a workforce development program, the Texas Workforce Commission may provide the information to any other person who uses services provided through a workforce

development center.

(d) In this section:

(1) "Wage supplementation program" means a program under which the state reserves all or part of the amounts that would be payable as benefits to welfare recipients and uses those amounts to provide and subsidize jobs for the recipients.

(2) "Welfare recipient" means a person who receives financial assistance under Chapter 31, Human Resources Code, or food stamps under the food stamp program administered under Chapter 33, Human Resources Code.

Added by Acts 1997, 75th Leg., ch. 1321, Sec. 1, eff. Sept. 1, 1997.

Sec. 2308.315. REIMBURSEMENT RATES FOR CHILD-CARE PROVIDERS. Each board shall establish and implement graduated reimbursement rates for child-care providers participating in the commission's subsidized child-care program that align the commission's age groupings with the child-to-caregiver ratios and group sizes adopted by the Health and Human Services Commission. The graduated rates shall provide the highest reimbursement rate to child-care providers that provide care to children in the age group with the lowest child-to-caregiver ratio. The commission shall supply any demographic data needed by the board to establish the rates.

Added by Acts 1999, 76th Leg., ch. 1576, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 241 (H.B. 376), Sec. 3, eff. September 1, 2013.

Acts 2021, 87th Leg., R.S., Ch. 59 (S.B. 1555), Sec. 1, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2294, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2308.3151. REIMBURSEMENT RATES FOR TEXAS RISING STAR PROGRAM PROVIDERS. (a) Each board shall establish graduated reimbursement rates for child care based on the commission's Texas Rising Star Program.

(b) The minimum reimbursement rate for a Texas Rising Star Program provider must be greater than the maximum rate established for a provider who is not a Texas Rising Star Program provider for the same category of care. The reimbursement rate must be:

(1) at least five percent higher for a provider with a two-star rating;

(2) at least seven percent higher for a provider with a three-star rating; and

(3) at least nine percent higher for a provider with a four-star rating.

(c) The Texas Rising Star Program rate differential established in this section shall be funded with federal child-care development funds.

(d) The commission shall examine and implement strategies to address the increased costs a Texas Rising Star Program provider with a four-star or three-star rating would incur to provide care to infants and toddlers due to low child-to-caregiver ratios for children in those age groups.

Added by Acts 2021, 87th Leg., R.S., Ch. 59 (S.B. 1555), Sec. 1, eff. September 1, 2021.

Sec. 2308.3155. TEXAS RISING STAR PROGRAM. (a) The Texas Rising Star Program is a quality-based child care rating system of child care providers participating in the commission's subsidized child care program.

(b) The commission shall adopt rules to administer the Texas Rising Star Program, including:

(1) guidelines for rating a child-care provider who provides child care to a child younger than 13 years of age, including infants and toddlers, enrolled in the subsidized program; and

(2) a timeline and process for regularly reviewing and updating the quality standards used to determine the rating system that includes the commission's consideration of input from interested parties regarding those standards.

(b-1) The rating system adopted under Subsection (b) must include an entry level rating for child care providers and a maximum length of time a provider may participate at the entry level rating.

To qualify for the entry level rating a child care provider must meet the minimum quality standards that qualify the provider to receive technical assistance and support under the Texas Rising Star Program. A provider participating at the entry level rating is not eligible for increased reimbursement rates.

(b-2) The commission shall develop a process to allow a child care provider to request a waiver to extend the length of time the provider may participate at the entry level rating described by Subsection (b-1). The waiver authorized by this subsection may not exceed 36 months.

(c) The commission shall make money available to each board to hire necessary employees to provide technical assistance under Section 2308.320 from the child care and development block grant. In addition, a board may use money available from other public or private sources to hire necessary employees for the program.

(d) The commission shall, using a competitive procurement process that complies with all federal and state laws, select a single entity to oversee a statewide roster of qualified assessors to evaluate child-care providers participating in the Texas Rising Star Program during the initial certification process and at any other time during the provider's participation in the program.

Added by Acts 2013, 83rd Leg., R.S., Ch. 241 (H.B. 376), Sec. 4, eff. September 1, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1138 (S.B. 208), Sec. 5, eff. September 1, 2015.

Acts 2021, 87th Leg., R.S., Ch. 263 (H.B. 1792), Sec. 1, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 1031 (H.B. 2607), Sec. 1, eff. September 1, 2021.

Sec. 2308.316. FUNDING OF COMPETITIVE PROCUREMENT PROCESS FOR INFANT AND EARLY CHILDHOOD CHILD CARE. Each board shall allocate a portion of the board's federal child care development funds dedicated to quality improvement activities to a competitive procurement process for a system for quality child care for children under four years of age that encourages child care providers to voluntarily meet the certification criteria of the commission's Texas Rising Star

Program. In allocating funds under this section, special consideration shall be given to funding child care for children under four years of age in low-income communities. This section may not be interpreted to limit parental choice.

Added by Acts 1999, 76th Leg., ch. 1576, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 241 (H.B. 376), Sec. 5, eff. September 1, 2013.

Sec. 2308.3165. SCOPE OF CHILD CARE SERVICES. In addition to other programs approved by a board or permitted by another law, a child who is otherwise eligible for child care services funded by a board is eligible to receive the services while the child is enrolled in a federal Head Start program or in after-school care provided at a school.

Added by Acts 2001, 77th Leg., ch. 1142, Sec. 1, eff. Sept. 1, 2001.

Sec. 2308.317. EXPENDITURES FOR CERTAIN CHILD CARE QUALITY IMPROVEMENT ACTIVITIES. (a) Notwithstanding any other law, the commission shall ensure that, to the extent federal child care development funds dedicated to quality improvement activities are used to improve quality and availability of child care, those funds are used for:

(1) quality child care programs, including programs:

(A) whose director receives mentoring; or

(B) that are in the process of obtaining a Texas Rising Star Program rating;

(2) technical assistance for providers as described by Section 2308.320;

(3) professional development for child care providers, directors, and employees;

(4) educational materials for children served by child care providers; and

(5) educational information for parents important for the development of a child under five years of age.

(b) For purposes of this section, a quality child care program is a program that:

(1) promotes:

(A) the physical, social, emotional, and intellectual development of young children;

(B) frequent, positive, warm interactions appropriate to a child's age and development; and

(C) regular communication with parents who are welcomed by the program at all times to participate in activities and to observe, discuss, and recommend policies; and

(2) provides:

(A) a healthy, safe, and nurturing environment for young children;

(B) planned learning activities appropriate to a child's age and development;

(C) specially trained child care providers;

(D) a sufficient number of adults to respond to the needs of each child;

(E) a variety of age-appropriate materials;

(F) nutritious meals and snacks;

(G) an effective program administration; and

(H) an ongoing, systematic evaluation process for the program.

(c) Each board shall use at least two percent of the board's yearly allocation from the commission for quality child care initiatives. In addition, a board may use money available from other public or private sources for quality child care initiatives. A board shall give priority to quality child care initiatives that benefit child care facilities that are working toward Texas Rising Star certification or are Texas Rising Star certified providers working toward a higher certification level.

(d) Each board shall annually report to the commission regarding the board's use of the two percent allocation described by Subsection (c).

(e) Each board shall, to the extent practicable, ensure that any professional development for child care providers, directors, and employees funded under Subsection (a):

(1) can be used toward requirements for a credential, certification, or degree program; and

(2) meets the professional development requirements of the Texas Rising Star Program.

Added by Acts 2001, 77th Leg., ch. 1517, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 241 (H.B. 376), Sec. 6, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1038 (H.B. 680), Sec. 1, eff. September 1, 2019.

Sec. 2308.3171. INFORMATION ON QUALITY CHILD CARE. (a) In this section, "quality child-care indicator" means any appropriate indicator of quality services, including whether the provider of the services:

(1) meets Texas Rising Star Program certification criteria;

(2) is accredited by a nationally recognized accrediting organization approved by the commission;

(3) is certified under the school readiness certification system established under Section 29.161, Education Code;

(4) meets standards developed under Section 29.155(g), Education Code; or

(5) has achieved any other measurable target that is relevant to improving the quality of child care in this state and that has been approved by the commission.

(b) Each board shall provide information on quality child-care indicators to each licensed or registered child-care provider in the area. Each board shall determine the manner in which to provide this information.

(c) Each board shall post in a prominent place on the board's Internet website home page and at any physical location where the board provides services:

(1) a list of local designated vendors that are child-care providers and have a quality child-care indicator listed in Subsection (a)(1), (2), (3), or (4); and

(2) a list of local parenting classes.

(d) A child-care provider who receives funding or reimbursement for child-care services from a board shall post a certification or accreditation described by Subsection (a) at the entrance of the provider's facility.

Added by Acts 2011, 82nd Leg., R.S., Ch. 376 (S.B. 264), Sec. 1, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 241 (H.B. 376), Sec. 7, eff. September 1, 2013.

Sec. 2308.318. MATCHING FUNDS FOR CHILD CARE SERVICES. For purposes of obtaining federal matching funds for child care services, including after-school care provided at a school or a federal Head Start program, a board shall use money and in-kind services provided by a local school district or local education agency for those services to the extent permitted by federal law.

Added by Acts 2001, 77th Leg., ch. 667, Sec. 1, eff. June 13, 2001. Renumbered from Government Code Sec. 2308.317 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(89), eff. Sept. 1, 2003.

Sec. 2308.319. COLLABORATIVE READING INITIATIVES. The commission shall encourage each local workforce development board to raise an amount of local funds in excess of the amount required to meet performance measures to be used to support collaborative reading initiatives.

Acts 2003, 78th Leg., ch. 817, Sec. 4.03, eff. Sept. 1, 2003.

Sec. 2308.320. TECHNICAL ASSISTANCE FOR PROVIDERS. Each board shall provide technical assistance to Texas Rising Star Program providers and to providers seeking certification under the Texas Rising Star Program, including providing:

(1) a mentor or coach to a Texas Rising Star Program provider to meet regularly with the provider and provide child care resources to the provider, including developmentally appropriate books, materials, and equipment;

(2) consumer information regarding the selection of quality child care for parents of children enrolled in the program; and

(3) parenting education information for parents of children enrolled in the program, including information about parenting classes that are available in the area or on the Internet.

Added by Acts 2013, 83rd Leg., R.S., Ch. 241 (H.B. 376), Sec. 8, eff.

September 1, 2013.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 263 (H.B. 1792), Sec. 2, eff. September 1, 2021.

CHAPTER 2308A. TRI-AGENCY WORKFORCE INITIATIVE

Sec. 2308A.001. DEFINITIONS. In this chapter:

(1) "Agency," unless the context requires otherwise, means the Texas Education Agency.

(2) "Career education and training program" means:

(A) a career and technology education program offered by a public school;

(B) a career technical or workforce education program, as defined by the coordinating board, offered by an institution of higher education;

(C) a program administered by the commission relating to jobs training, skills development, or adult education and literacy; and

(D) a work-based learning program, such as an apprenticeship or internship program, that receives state funding or is administered by the commission.

(3) "Commission" means the Texas Workforce Commission.

(4) "Coordinating board" means the Texas Higher Education Coordinating Board.

(5) "Initiative" means the Tri-Agency Workforce Initiative.

(6) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(7) "State workforce development goals" means the state workforce development goals developed under Section 2308A.006.

Added by Acts 2021, 87th Leg., R.S., Ch. 933 (H.B. 3767), Sec. 2, eff. September 1, 2021.

Sec. 2308A.002. PURPOSE. The Tri-Agency Workforce Initiative is established to coordinate and improve information and other resources as necessary to:

(1) ensure that the use of state and federal education and workforce funds is efficiently aligned to achieve state workforce

development goals;

(2) align career education and training programs to workforce demands; and

(3) enable local and state policy makers to identify the workforce outcomes of participants in career education and training programs and progress toward the state workforce development goals.

Added by Acts 2021, 87th Leg., R.S., Ch. 933 (H.B. 3767), Sec. 2, eff. September 1, 2021.

Sec. 2308A.003. INTERAGENCY AGREEMENTS AND STAFFING. (a) The agency, coordinating board, and commission shall enter into one or more interagency agreements establishing policies and processes for:

(1) sharing and matching relevant data and cooperatively managing education and workforce information collected by each respective agency; and

(2) coordinating the assignment of existing staff and other resources as necessary to effectuate the state workforce development goals and the strategies for achieving those goals developed under Section 2308A.006.

(b) The time spent by an employee of the agency, coordinating board, or commission in supporting the work of the initiative is not included in calculating the number of full-time equivalent employees allotted to the respective agency under other law.

Added by Acts 2021, 87th Leg., R.S., Ch. 933 (H.B. 3767), Sec. 2, eff. September 1, 2021.

Sec. 2308A.004. QUARTERLY DISCUSSIONS. The commissioner of education, commissioner of higher education, and chair of the commission shall discuss the work of the initiative at least once per quarter.

Added by Acts 2021, 87th Leg., R.S., Ch. 933 (H.B. 3767), Sec. 2, eff. September 1, 2021.

Sec. 2308A.005. STRATEGIC PLAN FOR UNIFIED WORKFORCE DATA REPOSITORY. (a) The coordinating board shall develop a strategic

plan for the operation of a unified repository for education and workforce data. In developing the plan, the coordinating board shall solicit input from the agency, the commission, and relevant stakeholders.

(b) The plan developed under Subsection (a) must include recommendations for:

(1) automatically matching records of the agency, coordinating board, and commission at the student level on a timely basis;

(2) creating publicly available tools and resources regarding data on the outcomes of participants in career education and training programs, including graduation rates, student debt, employment status and industry of employment, and earnings over time, disaggregated to the extent practicable by income, race, ethnicity, and gender;

(3) making timely student data available to authorized entities to support higher education and workforce application, entry, and success; and

(4) creating and supporting a secure portal through which authorized personnel of approved entities can view and analyze comprehensive longitudinal and the most currently available matched data related to the progress toward meeting state workforce needs.

Added by Acts 2021, 87th Leg., R.S., Ch. 933 (H.B. 3767), Sec. 2, eff. September 1, 2021.

Sec. 2308A.006. STATE WORKFORCE DEVELOPMENT GOALS AND STRATEGIES. (a) The commissioner of education, commissioner of higher education, and chair of the commission jointly shall develop and post in a prominent location on the initiative's and each respective agency's Internet website state workforce development goals and coordinated interagency strategies for achieving those goals.

(b) The goals developed under Subsection (a) must:

(1) be developed in consultation with employers;

(2) include goals for the attainment of employment in jobs that pay a self-sufficient wage for all career education and training programs in the state;

(3) be disaggregated by race, ethnicity, and gender for

each workforce development region; and

(4) provide for:

(A) locally determined priorities consistent with state goals; and

(B) collaborative planning and coordination with local employers, public schools, institutions of higher education, and local workforce development boards.

(c) The strategies developed under Subsection (a) must:

(1) include strategies for expanding work-based learning;

(2) articulate the ways in which the state can best leverage state and federal funding for career education and training programs; and

(3) be demonstrably guided by:

(A) education and workforce data;

(B) evidence of success and considerations of cost-effectiveness; and

(C) prioritized occupational classifications, including all target occupations and critical career pathways designated under Subsection (e).

(d) In consultation with employers, the commissioner of education, commissioner of higher education, and chair of the commission jointly shall update the state workforce development goals and strategies developed under Subsection (a) at least every four years, or more frequently if needed to reflect available data and circumstances.

(e) In consultation with employers, the commissioner of education, commissioner of higher education, and chair of the commission shall designate and update every two years a list of career pathways that includes the following two priority categories:

(1) target occupations, which include current needs that exist in one or more regions of the state as reflected in regional workforce assessments that:

(A) use the best available data and local employer requests; and

(B) satisfy minimum federal standards for designations, such as a foundation for qualified use of federal workforce funding; and

(2) critical career pathways that reflect the best statewide data and forecasts of skills and careers for which demand in the state is expected to grow that may:

(A) be associated with new emerging industries or new specialty occupations within an industry; or

(B) reflect pathways to better wages for workers with documented skills that provide promotional opportunities within or across occupations with targeted upskill training.

Added by Acts 2021, 87th Leg., R.S., Ch. 933 (H.B. 3767), Sec. 2, eff. September 1, 2021.

Sec. 2308A.007. CREDENTIAL LIBRARY. (a) The coordinating board and the commission jointly may establish a publicly accessible web-based library of credentials, such as diplomas, certificates, certifications, digital badges, apprenticeships, licenses, or degrees, that are:

(1) delivered, issued, funded, or governed by the state;

(2) aligned with recognized skills and industry standards;

(3) available to residents of the state; and

(4) used by employers in the state.

(a-1) A credential library established under this section must include the information included in the electronic tools or platforms developed by the coordinating board under Section 61.09022(a), Education Code.

(b) The coordinating board and the commission jointly may designate a host agency or operating entity for a credential library established under this section.

(c) In establishing a credential library under this section, the coordinating board and the commission shall solicit input from the agency and relevant stakeholders.

Added by Acts 2021, 87th Leg., R.S., Ch. 933 (H.B. 3767), Sec. 2, eff. September 1, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 378 (H.B. 8), Sec. 51, eff. June 9, 2023.

Acts 2023, 88th Leg., R.S., Ch. 1011 (H.B. 2920), Sec. 8, eff. June 18, 2023.

Sec. 2308A.008. INTERNET-BASED RESOURCES. (a) Using federal funding or gifts, grants, or donations available for the purpose, the

coordinating board may establish Internet-based resources for the initiative. The resources may include:

(1) a central Internet website for the initiative that contains information on the state workforce development goals and the strategies for achieving those goals developed under Section 2308A.006;

(2) a unified dashboard, updated on an annual or more frequent basis, that reports progress toward accomplishment of the state workforce development goals, both statewide and disaggregated by public school and public school campus, institution of higher education campus, workforce region, and county;

(3) data on the outcomes of students who participate in career education and training programs, disaggregated to the extent practicable by income, race, ethnicity, and gender, including data regarding degree and credential completion, employment status and industry of employment, and earnings over time;

(4) guidance supporting the use of data on the dashboard described by Subdivision (2) for greater accessibility for a wide range of public, practitioner, and legislative users;

(5) tools enabling residents of the state to:

(A) explore careers that match the resident's education and skills and lead to a self-sufficient wage;

(B) identify and evaluate education and training opportunities related to the resident's career interests; and

(C) connect to available jobs through existing job matching websites; and

(6) tools to support joint program planning, budgeting, and performance evaluation among:

(A) the agency, coordinating board, and commission; and

(B) public schools, institutions of higher education, local workforce development boards, and partnering entities.

(b) In establishing Internet-based resources for the initiative under Subsection (a), the coordinating board shall solicit input from the agency and the commission.

Added by Acts 2021, 87th Leg., R.S., Ch. 933 (H.B. 3767), Sec. 2, eff. September 1, 2021.

Sec. 2308A.009. STUDENT SUCCESS REPORTING. (a) Using federal

workforce funds to the extent available for the purpose, the agency and the coordinating board shall make available to each public school and institution of higher education information possessed by the agency, coordinating board, or commission regarding the success of students previously enrolled in a career education and training program offered by the school or institution with respect to critical student outcomes, including degree and credential completion, employment status and industry of employment, and earnings over time.

(b) The commissioner of education and the commissioner of higher education shall ensure that the information made available under Subsection (a) is made available in a manner that complies with applicable state or federal law regarding the privacy and confidentiality of student information.

Added by Acts 2021, 87th Leg., R.S., Ch. 933 (H.B. 3767), Sec. 2, eff. September 1, 2021.

Sec. 2308A.010. OPPORTUNITY FOR COMMENT. At least 30 days before finalizing state workforce development goals or strategies for achieving those goals developed under Section 2308A.006, the agency, coordinating board, and commission jointly shall post on the initiative's and each respective agency's Internet website the proposed goals or strategies and instructions for submitting comment on those items to the agencies.

Added by Acts 2021, 87th Leg., R.S., Ch. 933 (H.B. 3767), Sec. 2, eff. September 1, 2021.

Sec. 2308A.011. TARGETED FUNDING TO ADDRESS STATE GOALS. (a) A state agency that receives funding through the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. Section 2301 et seq.) or the Workforce Innovation and Opportunity Act (Pub. L. No. 113-128) or any other federal funding for career education and training may, to the extent permissible under federal law, combine with, transfer to, or delegate to another state agency that receives such funding the agency's management of workforce-related funding as necessary to implement the state workforce development goals.

(b) A state agency that receives federal or state funding for career education and training programs shall include in the agency's

legislative appropriations request a description of how the agency's career education and training programs and expenditures align with the state workforce development goals.

Added by Acts 2021, 87th Leg., R.S., Ch. 933 (H.B. 3767), Sec. 2, eff. September 1, 2021.

Sec. 2308A.012. SELF-SUFFICIENT WAGE. The agency, coordinating board, and commission jointly shall determine for each county the wage that constitutes a self-sufficient wage for purposes of this chapter. The determination must be based on a common standard that reflects the regionally adjusted minimum employment earnings necessary to meet a family's basic needs while also maintaining self-sufficiency.

Added by Acts 2021, 87th Leg., R.S., Ch. 933 (H.B. 3767), Sec. 2, eff. September 1, 2021.

Sec. 2308A.013. GIFTS, GRANTS, AND DONATIONS. (a) The agency, coordinating board, and commission may accept gifts, grants, and donations from any public or private source for purposes of the initiative.

(b) The agency, coordinating board, and commission shall investigate potential sources of funding from federal grants or programs that may be used for purposes of the initiative.

Added by Acts 2021, 87th Leg., R.S., Ch. 933 (H.B. 3767), Sec. 2, eff. September 1, 2021.

CHAPTER 2309. NATIONAL DEFENSE IMPACTED REGION ASSISTANCE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2309.001. SHORT TITLE. This chapter may be cited as the National Defense Impacted Region Assistance Act.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.83(a), eff. Sept. 1, 1995.

Sec. 2309.002. PURPOSE; FINDINGS. (a) The purpose of this chapter is to provide significant state financial assistance to an impacted region so that a governmental entity in the impacted region may better serve the people of the region, including the assigned military personnel, by ensuring the adequate provision of government services.

(b) The legislature finds that the construction and operation of a significant new naval military facility in the state provides substantial financial benefit to the state and that the state is better protected in the event of enemy attack.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.83(a), eff. Sept. 1, 1995.

Sec. 2309.003. DEFINITIONS. In this chapter:

(1) "Fund" means the Texas home port trust fund.

(2) "Impacted region" means a county:

(A) in which a significant new naval military facility is located; or

(B) that has a common boundary with a county in which the facility is located.

(3) "Significant new naval military facility" means a new United States Navy installation or an addition and expansion of an existing naval installation that involves:

(A) the acquisition of at least 60 acres of land;

(B) the construction of facilities and improvements that have a cost of at least $65 million; and

(C) the assignment of the facility as the home port of at least 2,000 additional active duty members of the armed forces.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.83(a), eff. Sept. 1, 1995.

SUBCHAPTER B. FUND

Sec. 2309.021. FUND ADMINISTRATION. (a) The Texas home port trust fund is administered by the comptroller and may be paid only on written authorization of the governor.

(b) Before authorizing the use of money under this section, the governor shall notify the speaker of the house, the lieutenant

governor, and the comptroller of the proposed authorizations and shall consider their recommendations and requests.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.83(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.77, eff. Sept. 1, 1997.

Sec. 2309.022. FUND PAYMENTS. Payments may be made from the fund to a navigation district or to any other political subdivision, as determined by the governor to be appropriate, to be used only to:

(1) make a public works improvement, including docks, dredging, bulkheads, and utilities, related to the naval facility; or

(2) provide a permanent berthing location for a United States Navy aircraft carrier.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.83(a), eff. Sept. 1, 1995.

Sec. 2309.023. IMPROVEMENT MADE WITH FUND PAYMENT. (a) An improvement made with funds authorized under Section 2309.022(1) must be of a nature that would benefit the state if the facility were not used as a military installation.

(b) The improvement may be leased to the United States government, but ownership of the improvement remains with the state, the navigation district, or the political subdivision.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.83(a), eff. Sept. 1, 1995.

Sec. 2309.024. INTEREST ON FUND. Interest earned by the fund shall be deposited to the credit of the general revenue fund.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.83(a), eff. Sept. 1, 1995.

Sec. 2309.025. LAPSE OF FUND. The fund lapses on the fourth

anniversary of the date on which construction begins. At that time, any balance remaining in the fund shall be deposited to the credit of the general revenue fund.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.83(a), eff. Sept. 1, 1995.

SUBCHAPTER C. GOVERNOR'S PROCLAMATION

Sec. 2309.041. GOVERNOR'S PROCLAMATION. When the Department of the Navy of the United States Department of Defense makes a final determination to locate a significant new naval military facility in this state, the governor shall issue an official proclamation declaring that determination.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.83(a), eff. Sept. 1, 1995.

CHAPTER 2310. DEFENSE ECONOMIC READJUSTMENT ZONE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2310.001. DEFINITIONS. In this chapter:

(1) "Bank" means the Texas Economic Development Bank established under Chapter 489.

(1-a) "Defense worker" means:

(A) an employee of the United States Department of Defense, including a member of the armed forces and a government civilian worker;

(B) an employee of a government agency or private business, or an entity providing a department of defense related function, who is employed on a defense facility;

(C) an employee of a business that provides direct services or products to the department of defense and whose job is directly dependent on defense expenditures; or

(D) an employee or private contractor employed by the United States Department of Energy working on a defense or department of energy facility in support of a department of defense related project.

(2) "Defense worker job" means a department of defense authorized permanent position or a position held or occupied by one or more defense workers for more than 12 months.

(3) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(8).

(4) "Nominating body" means the governing body of a municipality or county, or a combination of the governing bodies of municipalities or counties, that nominates and applies for designation of an area as a readjustment zone.

(4-a) "Office" means the Texas Economic Development and Tourism Office.

(5) "Qualified business" means a person certified as a qualified business under Section 2310.302.

(6) "Qualified employee" means a person who:

(A) works for a qualified business; and

(B) performs at least 50 percent of the person's service for the business in the readjustment zone.

(7) "Readjustment zone" means an area designated as a defense economic readjustment zone under this chapter.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.27, 6.01(8), eff. Sept. 1, 2003.

Sec. 2310.002. JURISDICTION OF MUNICIPALITY. For the purposes of this chapter, territory in the extraterritorial jurisdiction of a municipality is considered to be in the jurisdiction of the municipality.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997.

SUBCHAPTER B. DEPARTMENT POWERS AND DUTIES RELATING TO ZONES

Sec. 2310.051. GENERAL POWERS AND DUTIES. (a) The bank shall administer and monitor the implementation of this chapter.

(b) The bank shall establish criteria and procedures for designating a qualified area as a readjustment zone and for designating a defense readjustment project.

(c) The office shall adopt rules necessary to carry out the purposes of this chapter.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.28, eff. Sept. 1,

2003.

Sec. 2310.052. EVALUATION. (a) The bank shall conduct a continuing evaluation of the programs of readjustment zones.

(b) Repealed by Acts 2021, 87th Leg., R.S., Ch. 856 (S.B. 800), Sec. 25(5), eff. September 1, 2021.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997.
Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.29, eff. Sept. 1, 2003.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 856 (S.B. 800), Sec. 13, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 856 (S.B. 800), Sec. 25(5), eff. September 1, 2021.

Sec. 2310.053. ASSISTANCE. (a) The bank shall assist:

(1) a qualified business in obtaining the benefits of any state incentive or inducement program provided by law;

(2) the governing body of a readjustment zone in obtaining assistance from another state agency, including job training and technical assistance to qualified businesses in a zone; and

(3) the governing body of a readjustment zone in encouraging small business development.

(b) The bank shall provide to persons desiring to locate and engage in business in a readjustment zone information and appropriate assistance relating to the required legal authorization, including a state license, permit, certificate, approval, registration, or charter, to engage in business in this state.

(c) The bank shall publicize existing tax incentives and economic development programs in readjustment zones.

(d) On request the bank shall offer to a unit of local government having a readjustment zone within its jurisdiction technical assistance relating to tax abatement and the development of alternative revenue sources.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997.
Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.30, eff. Sept. 1, 2003.

Sec. 2310.054. COORDINATION WITH OTHER GOVERNMENTAL ENTITIES. (a) In cooperation with the appropriate units of local government and other state agencies, the bank shall coordinate and streamline state business assistance programs and permit or license application procedures for businesses in readjustment zones.

(b) The bank shall work with the responsible state and federal agencies to coordinate readjustment zone programs with other programs carried out in a readjustment zone, including housing, community and economic development, small business, banking, financial assistance, transportation, and employment training programs.

(c) The bank shall encourage other state agencies in awarding grants, loans, or services to give priority to businesses in readjustment zones.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.31, eff. Sept. 1, 2003.

SUBCHAPTER C. DESIGNATION OF READJUSTMENT ZONE

Sec. 2310.101. CRITERIA FOR READJUSTMENT ZONE DESIGNATION. (a) To be designated as a readjustment zone an area must:

(1) have a continuous boundary;

(2) be at least one square mile but not larger than 20 square miles, excluding lakes, waterways, and transportation arteries, of the municipality, county, or combination of municipalities or counties nominating the area as a readjustment zone;

(3) be located in an adversely affected defense-dependent community;

(4) have at least 50 percent of its area located in an existing or former United States Department of Defense facility; and

(5) be nominated as a readjustment zone by an ordinance or order adopted by the nominating body.

(b) An area is not prohibited from being included in a readjustment zone because the area is also included in an enterprise zone designated under Chapter 2303.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997.

Sec. 2310.102. ADVERSELY AFFECTED DEFENSE-DEPENDENT COMMUNITY. A municipality or county is an adversely affected defense-dependent community if the bank determines that:

(1) the municipality or county requires assistance because of:

(A) the proposed or actual establishment, realignment, or closure of a defense facility;

(B) the cancellation or termination of a United States Department of Defense contract or the failure of the department of defense to proceed with an approved major weapon system program;

(C) a publicly announced planned major reduction in department of defense spending that would directly and adversely affect the municipality or county; or

(D) the closure or a significant reduction of the operations of a defense facility as the result of a merger, acquisition, or consolidation of a defense contractor operating the facility; and

(2) the municipality or county is expected to experience, during the period between the beginning of the federal fiscal year during which an event described by Subdivision (1) is finally approved and the date that the event is to be substantially completed, a direct loss of:

(A) 2,500 or more defense worker jobs in any area of the municipality or county that is located in an urbanized area of a metropolitan statistical area;

(B) 1,000 or more defense worker jobs in any area of the municipality or county that is not located in an urbanized area of a metropolitan statistical area; or

(C) one percent of the civilian jobs in the municipality or county.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.32, eff. Sept. 1, 2003.

Sec. 2310.103. NOMINATION OF READJUSTMENT ZONE. (a) The governing body of a municipality or county that is an adversely

affected defense-dependent community, individually or in combination with other municipalities or counties that are adversely affected defense-dependent communities, by ordinance or order, as appropriate, may nominate as a readjustment zone an area within its jurisdiction that meets the criteria under Section 2310.101.

(b) Unless the nominating body holds a public hearing before adopting an ordinance or order under this section, the ordinance or order is not valid.

(c) The governing body of a county may not nominate territory in a municipality, including extraterritorial jurisdiction of a municipality, to be included in a proposed readjustment zone unless the governing body of the municipality also nominates the territory and together with the county files a joint application under Section 2310.105.

(d) The governing bodies of a combination of municipalities or counties may not jointly nominate an area as a readjustment zone unless the governing bodies have entered into a binding agreement to administer the zone jointly.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997.

Sec. 2310.104. NOMINATING ORDINANCE OR ORDER. (a) An ordinance or order nominating an area as a readjustment zone must:

(1) describe precisely the area to be included in the zone by a legal description or reference to roadways, lakes, waterways, or municipal or county boundaries;

(2) state a finding that the area meets the requirements of this chapter;

(3) summarize briefly the incentives, including tax incentives, that, at the election of the nominating body, apply to business enterprises in the area; and

(4) nominate the area as a readjustment zone.

(b) At least one of the incentives summarized under Subsection (a)(3) must not be offered elsewhere within the jurisdiction except within an enterprise zone designated under Chapter 2303.

(c) This section does not prohibit a municipality or county from extending additional incentives, including tax incentives, for business enterprises in a readjustment zone by a separate ordinance or order.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997.

Sec. 2310.105. APPLICATION FOR DESIGNATION. (a) For an area to be designated as a readjustment zone, the nominating body, after nominating the area as a readjustment zone, must send to the bank a written application for designation of the area as a readjustment zone.

(b) The application must include:

(1) a certified copy of the ordinance or order, as appropriate, nominating the area as a readjustment zone;

(2) a map of the area showing existing streets and highways;

(3) an analysis and appropriate supporting documents and statistics demonstrating that the area qualifies for designation as a readjustment zone;

(4) a statement that specifies each tax incentive, grant, other financial incentive or benefit, or program to be provided by the nominating body to business enterprises in the area that is not to be provided throughout the governmental entity or entities nominating the area as a readjustment zone;

(5) a statement of the economic development and planning objectives for the area;

(6) an estimate of the economic impact of the designation of the area as a readjustment zone on the revenues of the governmental entity or entities nominating the area as a readjustment zone, considering all the financial incentives and benefits and the programs contemplated;

(7) a transcript or tape recording of all public hearings on the proposed zone;

(8) if the application is a joint application, a description and copy of the agreement between the applicants;

(9) the procedures for negotiating with residents, community groups, and other entities affected by the designation of the area as a readjustment zone and with qualified businesses in the area;

(10) a description of the administrative authority, if one is to be appointed for the readjustment zone under Section 2310.202; and

(11) any additional information the bank requires.

(c) Information required by Subsection (b) is for evaluation purposes only.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.33, eff. Sept. 1, 2003.

Sec. 2310.106. REVIEW OF APPLICATION. (a) On receipt of an application for the designation of a readjustment zone, the bank shall review the application to determine if the nominated area qualifies for designation as a readjustment zone under this chapter.

(b) The bank shall allow an applicant to correct any omission or clerical error in the application and to return the application to the bank on or before the 15th day after the date on which the bank receives the application.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.34, eff. Sept. 1, 2003.

Sec. 2310.107. DESIGNATION AGREEMENT. (a) If the bank determines that a nominated area for which a designation application has been received satisfies the criteria under Section 2310.101, the bank shall negotiate with the nominating body for a designation agreement.

(b) A designation agreement must:

(1) designate the nominated area as a readjustment zone; and

(2) designate the administrative authority, if one is to be appointed for the zone under Section 2310.202, and describe its functions and duties, which should include decision-making authority and the authority to negotiate with affected entities.

(c) The bank shall complete the negotiations and sign the agreement not later than the 60th day after the date on which the application is received unless the bank extends that period to the 90th day after the date on which the application was received.

(d) If an agreement is not completed within the 60-day period provided by Subsection (c), the bank shall provide to the nominating body the specific areas of concern and a final proposal for the

agreement.

(e) If the agreement is not executed before the 91st day after the date on which the application was received, the application is considered to be denied.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.35, eff. Sept. 1, 2003.

Sec. 2310.108. DENIAL OF APPLICATION; NOTICE. (a) The bank may deny an application for the designation of a readjustment zone only if the bank determines that the nominated area does not satisfy the criteria under Section 2310.101.

(b) The bank shall inform the nominating body of the specific reasons for denial of an application, including denial under Section 2310.107(e).

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.36, eff. Sept. 1, 2003.

Sec. 2310.109. PERIOD OF DESIGNATION. An area may be designated as a readjustment zone for a maximum of seven years. A designation remains in effect until September 1 of the final year of the designation.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997.

Sec. 2310.110. AMENDING BOUNDARIES. (a) The nominating body may amend the boundary of a readjustment zone by ordinance or order, as appropriate, adopted after a public hearing on the issue.

(b) The amended boundary:

(1) must be continuous;

(2) may not exceed the original size requirement of Section 2310.101; and

(3) may not exclude any qualified business designated as a defense readjustment project included within the boundary of the zone as designated.

(c) The readjustment zone with the amended boundary must continue to meet the location requirements of Section 2310.101(a)(4).

(d) A nominating body may not make more than one boundary amendment annually for a readjustment zone.

(e) For each amendment of a readjustment zone boundary, the nominating body shall pay the bank a reasonable fee, in an amount specified by the bank, not to exceed $500. The bank may use fees collected under this subsection to administer this chapter and for other purposes to advance this chapter.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 356, Sec. 1, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 814, Sec. 3.37, eff. Sept. 1, 2003.

Sec. 2310.111. REMOVAL OF DESIGNATION. (a) The bank may remove the designation of an area as a readjustment zone if:

(1) the area no longer meets the criteria for designation under this chapter or by rule of the office adopted under this chapter; or

(2) the bank determines that the governing body of the readjustment zone has not complied with commitments made in the ordinance or order nominating the area as a readjustment zone.

(b) The removal of a designation does not affect the validity of a tax incentive or regulatory relief granted or accrued before the removal.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.38, eff. Sept. 1, 2003.

SUBCHAPTER D. ADMINISTRATION OF READJUSTMENT ZONES

Sec. 2310.201. ADMINISTRATION BY GOVERNING BODY. The governing body of a readjustment zone is the governing body of the municipality or county, or the governing bodies of the combination of municipalities or counties, that applied to have the area designated as a readjustment zone.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997.

Sec. 2310.202. ADMINISTRATION BY ADMINISTRATIVE AUTHORITY. (a) The governing body of a readjustment zone may delegate its administrative duties to an administrative authority appointed by the governing body.

(b) An administrative authority must:

(1) be composed of 3, 5, 7, 9, 11, or 15 members; and

(2) be a viable and responsive body generally representative of all public or private entities that have a stake in the development of the zone.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1049 (H.B. 3067), Sec. 1, eff. June 14, 2013.

Sec. 2310.203. LIAISON. The governing body of a readjustment zone shall designate a liaison to communicate and negotiate with:

(1) the bank;

(2) the administrative authority, if one exists;

(3) a defense readjustment project; and

(4) other entities in or affected by the readjustment zone.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997.
Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.39, eff. Sept. 1, 2003.

Sec. 2310.204. ANNUAL REPORT. (a) Not later than October 1 of each year, the governing body of a readjustment zone shall submit to the bank a report in the form required by the bank.

(b) The report must be approved by the readjustment zone's administrative authority, if one exists.

(c) The report must include for the year preceding the date of the report:

(1) a list of local incentives for community development available in the zone;

(2) the use of local incentives for which the governing body provided in the ordinance or order nominating the readjustment zone and the effect of those incentives on revenue;

(3) the number of businesses assisted, located, and

retained in the zone since its designation due to the existence of the readjustment zone;

(4) a summary of all industrial revenue bonds issued to finance projects located in the zone; and

(5) a description of all efforts made to attain revitalization goals for the zone.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.40, eff. Sept. 1, 2003.

SUBCHAPTER E. QUALIFIED BUSINESSES AND DEFENSE READJUSTMENT PROJECTS

Sec. 2310.301. DEFINITION. In this subchapter, "new permanent job" means a new employment position created by a qualified business as described by Section 2310.302 that:

(1) has provided at least 1,820 hours of employment a year to a qualified employee; and

(2) is intended to exist during the period that the qualified business is designated as a defense readjustment project under Section 2310.306.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997.

Sec. 2310.302. QUALIFIED BUSINESS. (a) A person is a qualified business if the bank, for the purpose of state benefits under this chapter, or the governing body of a readjustment zone, for the purpose of local benefits, certifies that:

(1) the person is engaged in or has provided substantial commitment to initiate the active conduct of a trade or business in the readjustment zone; and

(2) at least 25 percent of the person's new employees in the readjustment zone are:

(A) residents of the governing jurisdiction;

(B) economically disadvantaged individuals, as defined by Section 2303.402(c); or

(C) dislocated defense workers.

(b) The governing body of a readjustment zone may certify a franchise or subsidiary of a new or existing business as a qualified business if the franchise or subsidiary:

(1) is located entirely in the readjustment zone; and

(2) maintains separate books and records of the business activity conducted in the zone.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.41, eff. Sept. 1, 2003.

Sec. 2310.303. PROHIBITION ON QUALIFIED BUSINESS CERTIFICATION. If the bank determines that the governing body of a readjustment zone is not complying with this chapter, the bank shall prohibit the certification of a qualified business in the zone until the bank determines that the governing body is complying with this chapter. The bank may not designate more than two defense readjustment projects in a single readjustment zone.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.42, eff. Sept. 1, 2003.

Sec. 2310.304. REQUEST FOR APPLICATION FOR DEFENSE READJUSTMENT PROJECT DESIGNATION. A qualified business in a readjustment zone may request that the governing body of the readjustment zone apply to the bank for designation of the business as a defense readjustment project. The request must also be made to the readjustment zone's administrative authority, if one exists.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.42, eff. Sept. 1, 2003.

Sec. 2310.305. APPLICATION FOR DEFENSE READJUSTMENT PROJECT DESIGNATION. (a) If the governing body of a readjustment zone or the governing body and administrative authority of a readjustment zone, as appropriate, approve a request made under Section 2310.304, the governing body may apply to the bank for the designation of the qualified business as a defense readjustment project.

(b) An application must:

(1) describe the procedures and efforts of the governmental entity or entities that applied to have the area designated as a readjustment zone to facilitate and encourage participation by and negotiation among affected entities in the zone in which the qualified business is located;

(2) contain an economic analysis of the plans of the qualified business for expansion, revitalization, or other activity in the readjustment zone, including:

(A) the number of anticipated new permanent jobs the business will create;

(B) the anticipated number of permanent jobs the business will retain;

(C) the amount of investment to be made in the zone; and

(D) other information the bank requires; and

(3) describe the local effort made by the governmental entity or entities that applied to have the area designated as a readjustment zone, the administrative authority, if one exists, the qualified business, and other affected entities to develop and revitalize the zone.

(c) For the purposes of this section, local effort to develop and revitalize a readjustment zone is:

(1) the willingness of public entities in the zone to provide services, incentives, and regulatory relief authorized by this chapter and to negotiate with the qualified business for which application is made and with other local groups or businesses to achieve the public purposes of this chapter; and

(2) the effort of the qualified business and other affected entities to cooperate in achieving those public purposes.

(d) Factors to be considered in evaluating the local effort of a public entity include:

(1) tax abatement, deferral, refunds, or other tax incentives;

(2) regulatory relief, including:

(A) zoning changes or variances;

(B) exemptions from unnecessary building code requirements, impact fees, or inspection fees; and

(C) streamlined permitting;

(3) enhanced municipal services, including:

(A) improved police and fire protection;

(B) institution of community crime prevention programs; and

(C) special public transportation routes or reduced fares;

(4) improvements in community facilities, including:

(A) capital improvements in water and sewer facilities;

(B) road repair; and

(C) creation or improvement of parks;

(5) improvements to housing, including:

(A) low-interest loans for housing rehabilitation, improvement, or new construction; and

(B) transfer of abandoned housing to individuals or community groups;

(6) business and industrial development services, including:

(A) low-interest loans for business;

(B) use of surplus school buildings or other underutilized publicly owned facilities as small business incubators;

(C) provision of publicly owned land for development purposes, including residential, commercial, or industrial development;

(D) creation of special one-stop permitting and problem resolution centers or ombudsmen; and

(E) promotion and marketing services; and

(7) job training and employment services, including:

(A) retraining programs;

(B) literacy and employment skills programs;

(C) vocational education; and

(D) customized job training.

(e) Factors to be considered in evaluating the local effort of a private entity include:

(1) the willingness to negotiate or cooperate in the redevelopment of vacated defense facilities and the creation of high-skilled, high wage jobs;

(2) commitments to hire dislocated defense workers and economically disadvantaged workers;

(3) commitments to hire minority workers and to contract with minority-owned businesses;

(4) provision of technical and vocational job training for residents of the nominating body's jurisdiction or economically

disadvantaged employees;

(5) provision of child care for employees;

(6) commitments to implement and contribute to a tutoring or mentoring program for area students;

(7) prevention or reduction of juvenile crime; and

(8) the willingness to make contributions to the well-being of the community, such as job training, or the donation of land for parks or other public purposes.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.43, eff. Sept. 1, 2003.

Sec. 2310.306. DEFENSE READJUSTMENT PROJECT DESIGNATION. (a) The bank may designate a qualified business as a defense readjustment project only if the bank determines that:

(1) the business is a qualified business under Section 2310.302 that is located in or has made a substantial commitment to locate in a defense readjustment zone;

(2) the governing body of the readjustment zone making the application has demonstrated that a high level of cooperation exists among public, private, and neighborhood entities in the zone; and

(3) the designation will contribute significantly to the achievement of the plans of the governing body making the application for development and revitalization of the zone.

(b) The bank shall designate qualified businesses as defense readjustment projects on a competitive basis. The bank shall make its designation decisions using a weighted scale in which:

(1) 50 percent of the evaluation is based on the effect of the loss of defense expenditures and employment on the community;

(2) 25 percent of the evaluation depends on the local effort to achieve development and revitalization of the readjustment zone; and

(3) 25 percent of the evaluation depends on the evaluation criteria as determined by the bank, which must include:

(A) the level of cooperation and support the project applicant commits to the revitalization goals of the zone; and

(B) the type and wage level of the jobs to be created or retained by the business.

(c) The bank may remove a defense readjustment project designation if it determines that the business is not complying with a requirement for its designation.

(d) The bank may designate the same qualified business in a readjustment zone as more than one defense readjustment project.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 356, Sec. 2, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 814, Sec. 3.44, eff. Sept. 1, 2003.

Sec. 2310.307. ALLOCATION OF JOBS ELIGIBLE FOR TAX REFUND. When the bank designates a business as a defense readjustment project, the bank shall allocate to the project the maximum number of new permanent jobs or retained jobs eligible to be included in a computation of a tax refund for the project. The number may not exceed 500 or a number equal to 110 percent of the number of anticipated new permanent jobs or retained jobs specified in the application for designation of the business as a defense readjustment project under Section 2310.305, whichever is less.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.44, eff. Sept. 1, 2003.

Sec. 2310.308. DURATION OF CERTAIN DESIGNATIONS. The bank's designation of a qualified business as a defense readjustment project is effective until the fifth anniversary of the date on which the designation is made regardless of whether the readjustment zone in which the project is located expires before the fifth anniversary of the project.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.44, eff. Sept. 1, 2003.

SUBCHAPTER F. READJUSTMENT ZONE BENEFITS

Sec. 2310.401. EXEMPTIONS FROM STATE REGULATION; SUSPENSION OF LOCAL REGULATION. (a) A state agency may exempt from its regulation

a qualified business, qualified employee, or qualified property in a readjustment zone if the exemption is consistent with:

(1) the purposes of this chapter; and

(2) the protection and promotion of the general health and welfare.

(b) A local government may suspend local regulation, including an ordinance, rule, or standard, relating to zoning, licensing, or building codes in a readjustment zone.

(c) An exemption from or suspension of regulation under this section must be adopted in the same manner that the regulation was adopted.

(d) The authorization provided by Subsection (a) or (b) does not apply to regulation:

(1) that relates to:

(A) civil rights;

(B) equal employment;

(C) equal opportunity;

(D) fair housing rights; or

(E) preservation of historical sites or historical artifacts;

(2) the relaxation of which is likely to harm the public safety or public health, including environmental health; or

(3) that is specifically imposed by law.

(e) For the purposes of this section, property is classified as qualified property if the property is:

(1) tangible personal property located in the readjustment zone that was acquired from the federal government by lease or deed or:

(A) acquired by a taxpayer not earlier than the 90th day before the date on which the area was designated as a readjustment zone; and

(B) used predominantly by the taxpayer in the active conduct of a trade or business;

(2) real property located in the readjustment zone that was acquired from the federal government by lease or deed or:

(A) acquired by a taxpayer not earlier than the 90th day before the date on which the area was designated as a readjustment zone and was used predominantly by the taxpayer in the active conduct of a trade or business; or

(B) the principal residence of the taxpayer on the date

of the sale or exchange; or

(3) an interest in an entity that was certified as a qualified business under Section 2310.302 for the entity's most recent tax year ending before the date of the sale or exchange.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997.

Sec. 2310.402. REVIEW OF STATE AGENCY RULES; REPORT. (a) A state agency by rule may provide, when applicable, encouragements and incentives to increase:

(1) the renovation, improvement, or new construction of housing in readjustment zones; and

(2) the economic viability and profitability of business and commerce in readjustment zones.

(b) The bank shall disseminate the reports to the governing bodies of readjustment zones and others as necessary to advance the purposes of this chapter.

(c) To contribute to the implementation of this chapter, an agency may waive, modify, provide exemptions to, or otherwise minimize the adverse effects of the rules it administers on the renovation, improvement, or new construction of housing in readjustment zones or on the economic viability and profitability of business and commerce in readjustment zones.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.45, eff. Sept. 1, 2003.

Sec. 2310.403. STATE PREFERENCES. (a) A state agency shall give preference to the governing body of a readjustment zone or a qualified business or qualified employee located in a readjustment zone over other eligible applicants for grants, loans, or credit enhancements that are administered by the state agency if:

(1) at least 50 percent of the grant, loan, or credit enhancement will be spent for the direct benefit of the readjustment zone; and

(2) the purpose of the grant, loan, or credit enhancement is to:

(A) promote economic development in the community; or

(B) construct, improve, extend, repair, or maintain public facilities in the community.

(b) The comptroller may and is encouraged to deposit state money in financial institutions located or doing business in readjustment zones.

(c) A state agency may and is encouraged to contract with businesses located in readjustment zones.

(d) The office or another state agency may give preference to readjustment zones in granting economic development money or other benefits.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.46, eff. Sept. 1, 2003.

Sec. 2310.404. STATE TAX REFUNDS AND CREDITS; REPORT. (a) Subject to Section 2310.413, a defense readjustment project is eligible for:

(1) a refund of state taxes under Section 151.4291, Tax Code;

(2) a franchise tax credit under Subchapter P or Q, Chapter 171, Tax Code; and

(3) the exclusion of receipts from service performed in a readjustment zone in the determination of gross receipts from business done in this state under Sections 171.103 and 171.1032, Tax Code.

(b) Not later than the 60th day after the last day of each fiscal year, the comptroller shall report to the department the statewide total of the tax refunds or credits made under this section during that fiscal year.

Amended by:

Acts 2005, 79th Leg., Ch. 1280 (H.B. 2340), Sec. 8, eff. September 1, 2005.

Sec. 2310.405. LOCAL SALES AND USE TAX REFUNDS. (a) To encourage the development of areas designated as readjustment zones, the governing body of a municipality through a program may refund its local sales and use taxes paid by a qualified business on:

(1) the purchase, lease, or rental of equipment or machinery for use in a readjustment zone;

(2) the purchase of material for use in remodeling, rehabilitating, or constructing a structure in a readjustment zone;

(3) labor for remodeling, rehabilitating, or constructing a structure in a readjustment zone; and

(4) electricity and natural gas purchased and consumed in the normal course of business in the readjustment zone.

(b) To promote the public health, safety, or welfare, the governing body of a municipality or county through a program may refund its local sales and use taxes paid by a qualified business or qualified employee.

(c) The governing body of a municipality or county that is the governing body of a readjustment zone may provide for the partial or total refund of its local sales and use taxes paid by a person making a taxable purchase, lease, or rental for development or revitalization in the zone.

(d) A person eligible for a refund of local sales and use taxes under this section shall pay the entire amount of state and local sales and use taxes at the time the taxes would be due if an agreement for the refund did not exist.

(e) An agreement to refund local sales and use taxes under this section must:

(1) be written;

(2) contain an expiration date; and

(3) require that the person eligible for the refund provide to the municipality or county making the refund the documentation necessary to support a refund claim.

(f) The municipality or county shall make the refund directly to the person eligible for the refund in the manner provided by the agreement.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997.

Sec. 2310.406. REDUCTION OR ELIMINATION OF LOCAL FEES OR TAXES. (a) To promote the public health, safety, or welfare, the governing body of a municipality or county through a program may reduce or eliminate fees or taxes that it imposes on a qualified business or qualified employee.

(b) This section does not apply to sales and use taxes or property taxes.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997.

Sec. 2310.407. TAX INCREMENT FINANCING AND ABATEMENT. Designation of an area as a readjustment zone is also designation of the area as a reinvestment zone for:

(1) tax increment financing under Chapter 311, Tax Code; and

(2) tax abatement under Chapter 312, Tax Code.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997.

Sec. 2310.408. DEVELOPMENT BONDS. To finance a project in a readjustment zone, bonds may be issued under:

(1) Chapter 1433; or

(2) the Development Corporation Act (Subtitle C1, Title 12, Local Government Code).

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.248, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.14, eff. April 1, 2009.

Sec. 2310.409. OTHER LOCAL INCENTIVES. (a) The governing body of a municipality or county that is the governing body of a readjustment zone may:

(1) defer compliance in the zone with the subdivision and development ordinances or rules, other than those relating to streets and roads or sewer or water services, of the municipality or county, as appropriate;

(2) give priority to the zone for the receipt of:

(A) community development block grant money;

(B) industrial revenue bonds; or

(C) funds received for job training;

(3) adopt and implement a plan for police protection in the zone;

(4) amend the zoning ordinances of the municipality or county, as appropriate, to promote economic development in the zone;

(5) establish permitting preferences for businesses in the zone;

(6) establish simplified, accelerated, or other special permit procedures for businesses in the zone;

(7) waive development fees for projects in the zone;

(8) create a local readjustment zone fund for funding bonds or other programs or activities to develop or revitalize the zone;

(9) for qualified businesses in the zone, reduce rates charged by:

(A) a utility owned by the municipality or county, as appropriate; or

(B) a cooperative corporation or utility owned by private investors, subject to the requirements of Subsection (b);

(10) in issuing housing finance bonds, give priority to persons or projects in the zone;

(11) in providing services, give priority to local economic development, educational, job training, or transportation programs that benefit the zone; or

(12) sell real property owned by the municipality or county, as appropriate, and located in the readjustment zone in accordance with Section 2310.410.

(b) A reduction in utility rates under Subsection (a)(9)(B) is subject to the agreement of the affected utility and the approval of the appropriate regulatory authority under Title 2, Utilities Code. The rates may be reduced up to but not more than five percent below the lowest rate allowable for that customer class. In making its determination under this section, the regulatory authority shall consider revitalization goals for the readjustment zone. In setting the rates of the utility the appropriate regulatory authority shall allow the utility to recover the amount of the reduction.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.29, eff. Sept. 1, 1999.

Sec. 2310.410. DISPOSITION OF PUBLIC PROPERTY IN READJUSTMENT ZONE. (a) After an area is designated as a readjustment zone, the state, a municipality, or a county that owns a surplus building (including any structure) or vacant land in the zone may dispose of the building or land by:

(1) selling the building or land at a public auction;

(2) selling the building or land without notice or bidding as provided by Subsection (d); or

(3) establishing an urban homestead program described by Subsection (e).

(b) A municipality or county may sell a surplus building or vacant land in the readjustment zone at less than fair market value if the governing body of the municipality or county by ordinance or order, as appropriate, adopts criteria that specify the conditions and circumstances under which the sale may occur and the public purpose to be achieved by the sale. A copy of the ordinance or order must be filed with the bank not later than the day on which the sale occurs.

(c) If the surplus building or vacant land is sold at a public auction, the building or land may be sold to a buyer who is not the highest bidder if the criteria and public purpose specified in the ordinance or order adopted under Subsection (b) are satisfied.

(d) The surplus building or vacant land may be sold without complying with notice or bidding requirements (including election or voter approval requirements imposed by other law, if any) if the criteria and public purpose specified in the ordinance or order adopted under Subsection (b) are satisfied.

(e) An urban homestead program must provide that:

(1) the state, municipality, or county is to sell to an individual a residence or part of a residence that it owns for an amount not to exceed $100;

(2) as a condition of the sale, the individual must agree by covenant in the deed conveying the residence to live in the residence for at least seven years and to renovate or remodel the residence to meet the level of maintenance stated in an agreement between the individual and the governmental entity; and

(3) after the individual satisfies the seven-year residency and property improvement requirements of the agreement, the governmental entity shall assign the residence to the individual.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997. Amended by Acts 1999, 76th Leg., ch. 1055, Sec. 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 894, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 814, Sec. 3.49, eff. Sept. 1, 2003.

Sec. 2310.411. WAIVER OF PERFORMANCE BOND. A subcontractor is not required to execute a performance bond under Chapter 2253 if:

(1) the construction, alteration, repair, or other public work to be performed under the contract is entirely in a readjustment zone; and

(2) the amount of the contract does not exceed $200,000.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997.

Sec. 2310.412. LIABILITY OF CONTRACTOR OR ARCHITECT. A contractor or architect who constructs or rehabilitates a building in a readjustment zone is liable for any structural defect in the building only for the period ending on the 10th anniversary of the date on which beneficial occupancy of the building begins after the construction or rehabilitation, notwithstanding a statute of limitations to the contrary.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 1, eff. May 19, 1997.

Sec. 2310.413. MONITORING DEFENSE READJUSTMENT PROJECT COMMITMENTS. (a) The bank may monitor a defense readjustment project to determine whether and to what extent the project has followed through on any commitments made by it or on its behalf under this chapter.

(b) The bank may determine that the defense readjustment project is not eligible for state tax refunds and credits under Section 2310.404 if the bank finds that:

(1) the project is not willing to cooperate with the bank in providing the bank with the information the bank needs to make the determination under Subsection (a); or

(2) the project has substantially failed to follow through on its commitments made by it or on its behalf under this chapter.

Added by Acts 2001, 77th Leg., ch. 1134, Sec. 1.05, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 814, Sec. 3.50, eff. Sept. 1, 2003.

CHAPTER 2311. ENERGY SECURITY TECHNOLOGIES FOR CRITICAL GOVERNMENTAL FACILITIES

Sec. 2311.001. DEFINITIONS. In this chapter:

(1) "Combined heating and power system" means a system that:

(A) is located on the site of a facility;

(B) is the primary source of both electricity and thermal energy for the facility;

(C) can provide all of the electricity needed to power the facility's critical emergency operations for at least 14 days; and

(D) has an overall efficiency of energy use that exceeds 60 percent.

(2) "Critical governmental facility" means a building owned by the state, including by an institution of higher education, as defined by Section 61.003, Education Code, or a political subdivision of the state that is expected to:

(A) be continuously occupied;

(B) maintain operations for at least 6,000 hours each year;

(C) have a peak electricity demand exceeding 500 kilowatts; and

(D) serve a critical public health or public safety function during a natural disaster or other emergency situation that may result in a widespread power outage, including a:

(i) command and control center;

(ii) shelter;

(iii) prison or jail;

(iv) police or fire station;

(v) communications or data center;

(vi) water or wastewater facility;

(vii) hazardous waste storage facility;

(viii) biological research facility;

(ix) hospital; or

(x) food preparation or food storage facility.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 2.01, eff. September 1, 2009.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1133 (H.B. 1864), Sec. 1, eff. September 1, 2013.

Sec. 2311.002. COMBINED HEATING AND POWER SYSTEMS. (a) When constructing or extensively renovating a critical governmental facility or replacing major heating, ventilation, and air-conditioning equipment for a critical governmental facility, the entity with charge and control of the facility shall evaluate whether equipping the facility with a combined heating and power system would result in expected energy savings that would exceed the expected costs of purchasing, operating, and maintaining the system over a 20-year period. Notwithstanding Chapter 2302, the entity may equip the facility with a combined heating and power system if the expected energy savings exceed the expected costs.

(b) The State Energy Conservation Office shall establish guidelines for the evaluation under Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 2.01, eff. September 1, 2009.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1133 (H.B. 1864), Sec. 1, eff. September 1, 2013.

SUBTITLE H. PROHIBITED ADVERSE ACTIONS BY GOVERNMENT

CHAPTER 2400. PROTECTION OF MEMBERSHIP IN AND SUPPORT TO RELIGIOUS ORGANIZATIONS

Sec. 2400.001. DEFINITIONS. In this chapter:

(1) "Adverse action" means any action taken by a governmental entity to:

(A) withhold, reduce, exclude, terminate, or otherwise deny any grant, contract, subcontract, cooperative agreement, loan, scholarship, license, registration, accreditation, employment, or other similar status from or to a person;

(B) withhold, reduce, exclude, terminate, or otherwise deny any benefit provided under a benefit program from or to a

person;

(C) alter in any way the tax treatment of, cause any tax, penalty, or payment assessment against, or deny, delay, or revoke a tax exemption of a person;

(D) disallow a tax deduction for any charitable contribution made to or by a person;

(E) deny admission to, equal treatment in, or eligibility for a degree from an educational program or institution to a person; or

(F) withhold, reduce, exclude, terminate, or otherwise deny access to a property, educational institution, speech forum, or charitable fund-raising campaign from or to a person.

(2) "Benefit program" means any program administered or funded by a governmental entity or federal agency that provides assistance in the form of payments, grants, loans, or loan guarantees.

(3) "Governmental entity" means:

(A) this state;

(B) a board, commission, council, department, or other agency in the executive branch of state government that is created by the state constitution or a statute, including an institution of higher education as defined by Section 61.003, Education Code;

(C) the legislature or a legislative agency;

(D) a state judicial agency or the State Bar of Texas;

(E) a political subdivision of this state, including a county, municipality, or special district or authority; or

(F) an officer, employee, or agent of an entity described by Paragraphs (A)-(E).

(4) "Person" has the meaning assigned by Section 311.005, except the term does not include:

(A) an employee of a governmental entity acting within the employee's scope of employment;

(B) a contractor of a governmental entity acting within the scope of the contract; or

(C) an individual or a medical or residential custodial health care facility while the individual or facility is providing medically necessary services to prevent another individual's death or imminent serious physical injury.

(5) "Religious organization" means an organization that is a religious organization under Section 110.011(b), Civil Practice and

Remedies Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 666 (S.B. 1978), Sec. 1, eff. September 1, 2019.

Sec. 2400.0015. APPLICABILITY. This chapter does not apply to an investment prohibited under Chapter 808 or a contract prohibited under Chapter 2271.

Added by Acts 2019, 86th Leg., R.S., Ch. 666 (S.B. 1978), Sec. 1, eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.015, eff. September 1, 2021.

Sec. 2400.002. ADVERSE ACTION PROHIBITED. Notwithstanding any other law, a governmental entity may not take any adverse action against any person based wholly or partly on the person's membership in, affiliation with, or contribution, donation, or other support provided to a religious organization.

Added by Acts 2019, 86th Leg., R.S., Ch. 666 (S.B. 1978), Sec. 1, eff. September 1, 2019.

Sec. 2400.003. RELIEF AVAILABLE. (a) A person may assert an actual or threatened violation of Section 2400.002 as a claim or defense in a judicial or administrative proceeding and obtain:

(1) injunctive relief;

(2) declaratory relief; and

(3) court costs and reasonable attorney's fees.

(b) Notwithstanding any other law, a person may commence an action under this section and relief may be granted regardless of whether the person has sought or exhausted available administrative remedies.

Added by Acts 2019, 86th Leg., R.S., Ch. 666 (S.B. 1978), Sec. 1, eff. September 1, 2019.

Sec. 2400.004. IMMUNITY WAIVED. A person who alleges a violation of Section 2400.002 may sue the governmental entity for the relief provided under Section 2400.003. Sovereign or governmental immunity, as applicable, is waived and abolished to the extent of liability for that relief.

Added by Acts 2019, 86th Leg., R.S., Ch. 666 (S.B. 1978), Sec. 1, eff. September 1, 2019.

Sec. 2400.005. INTERPRETATION. (a) This chapter may not be construed to preempt a state or federal law that is equally or more protective of the free exercise of religious beliefs or to narrow the meaning or application of a state or federal law protecting the free exercise of religious beliefs.

(b) This chapter may not be construed to prevent a governmental entity from providing, either directly or through a person who is not seeking protection under this chapter, any benefit or service authorized under state or federal law.

Added by Acts 2019, 86th Leg., R.S., Ch. 666 (S.B. 1978), Sec. 1, eff. September 1, 2019.

CHAPTER 2401. PROTECTION OF RELIGIOUS ORGANIZATIONS

Sec. 2401.001. DEFINITIONS. In this chapter:

(1) "Disaster" has the meaning assigned by Section 418.004.

(2) "Governmental entity" means:

(A) this state;

(B) a board, commission, council, department, or other agency in the executive branch of state government that is created by the state constitution or a statute, including an institution of higher education as defined by Section 61.003, Education Code;

(C) the legislature or a legislative agency;

(D) a state judicial agency or the State Bar of Texas;

(E) a political subdivision of this state, including a county, municipality, or special district or authority; or

(F) an officer, employee, or agent of an entity described by Paragraphs (A) through (E).

(3) "Person" has the meaning assigned by Section 311.005, except the term does not include:

(A) an employee of a governmental entity acting within the employee's scope of employment; or

(B) a contractor of a governmental entity acting within the scope of the contract.

(4) "Religious organization" means an organization open to the public that is a religious organization under Section 110.011(b), Civil Practice and Remedies Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 920 (H.B. 525), Sec. 1, eff. June 18, 2021.

Sec. 2401.002. ESSENTIAL BUSINESS; PROHIBITED RESTRICTIONS. (a) Notwithstanding any other law, a religious organization is an essential business at all times in this state, including during a declared state of disaster, and the organization's religious and other related activities are essential activities even if the activities are not listed as essential in an order issued during the disaster.

(b) A governmental entity may not:

(1) at any time, including during a declared state of disaster, prohibit a religious organization from engaging in religious and other related activities or continuing to operate in the discharge of the organization's foundational faith-based mission and purpose; or

(2) during a declared state of disaster order a religious organization to close or otherwise alter the organization's purposes or activities.

Added by Acts 2021, 87th Leg., R.S., Ch. 920 (H.B. 525), Sec. 1, eff. June 18, 2021.

Sec. 2401.003. RELIEF AVAILABLE. (a) A person may assert a violation of Section 2401.002 as a claim or defense in a judicial or administrative proceeding and obtain:

(1) injunctive relief;

(2) declaratory relief; and

(3) court costs and reasonable attorney's fees.

(b) Notwithstanding any other law, a person may commence an action under this section and relief may be granted regardless of

whether the person has sought or exhausted available administrative remedies.

Added by Acts 2021, 87th Leg., R.S., Ch. 920 (H.B. 525), Sec. 1, eff. June 18, 2021.

Sec. 2401.004. ATTORNEY GENERAL ACTION; INTERVENTION IN PROCEEDING; PROHIBITED RECOVERY OF EXPENSES. (a) The attorney general may bring an action for injunctive or declaratory relief against a governmental entity or an officer or employee of a governmental entity to enforce compliance with this chapter.

(b) This section may not be construed to deny, impair, or otherwise affect any authority of the attorney general or a governmental entity acting under other law to institute or intervene in an action.

(c) The attorney general may not recover expenses incurred in bringing, instituting, or intervening in an action described by this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 920 (H.B. 525), Sec. 1, eff. June 18, 2021.

Sec. 2401.005. INTERPRETATION. (a) This chapter may not be construed to preempt a state or federal law that is equally or more protective of the free exercise of religious beliefs or to narrow the meaning or application of a state or federal law protecting the free exercise of religious beliefs.

(b) This chapter may not be construed to prevent a governmental entity from providing, either directly or through a person who is not seeking protection under this chapter, any benefit or service authorized under state or federal law.

Added by Acts 2021, 87th Leg., R.S., Ch. 920 (H.B. 525), Sec. 1, eff. June 18, 2021.

SUBTITLE Z. MISCELLANEOUS PROVISIONS PROHIBITING CERTAIN GOVERNMENTAL ACTIONS

CHAPTER 3000. GOVERNMENTAL ACTION AFFECTING RESIDENTIAL AND

COMMERCIAL CONSTRUCTION

Sec. 3000.001. DEFINITIONS. In this chapter:

(1) "National model code" has the meaning assigned by Section 214.217, Local Government Code.

(2) "Governmental entity" has the meaning assigned by Section 2007.002.

Added by Acts 2019, 86th Leg., R.S., Ch. 1289 (H.B. 2439), Sec. 1, eff. September 1, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 783, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 3000.002. CERTAIN REGULATIONS REGARDING BUILDING PRODUCTS, MATERIALS, OR METHODS PROHIBITED. (a) Notwithstanding any other law and except as provided by Subsection (d), a governmental entity may not adopt or enforce a rule, charter provision, ordinance, order, building code, or other regulation that:

(1) prohibits or limits, directly or indirectly, the use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building if the building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building; or

(2) establishes a standard for a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building if the standard is more stringent than a standard for the product, material, or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building.

(b) A governmental entity that adopts a building code governing the construction, renovation, maintenance, or other alteration of a residential or commercial building may amend a provision of the building code to conform to local concerns if the amendment does not conflict with Subsection (a).

(c) This section does not apply to:

(1) a program established by a state agency that requires particular standards, incentives, or financing arrangements in order to comply with requirements of a state or federal funding source or housing program;

(2) a requirement for a building necessary to consider the building eligible for windstorm and hail insurance coverage under Chapter 2210, Insurance Code;

(3) an ordinance or other regulation that regulates outdoor lighting that is adopted for the purpose of reducing light pollution and that:

(A) is adopted by a governmental entity that is certified as a Dark Sky Community by the International Dark-Sky Association as part of the International Dark Sky Places Program;

(B) is adopted by a governmental entity that has adopted a resolution stating the entity's intent to become certified as a Dark Sky Community by the International Dark-Sky Association as part of the International Dark Sky Places Program and does not regulate outdoor lighting in a manner that is more restrictive than the prohibitions or limitations required to become certified as a Dark Sky Community; or

(C) applies to outdoor lighting within five miles of the boundary of a military base in which an active training program is conducted;

(4) an ordinance or order that:

(A) regulates outdoor lighting; and

(B) is adopted under Subchapter B, Chapter 229, Local Government Code, or Subchapter B, Chapter 240, Local Government Code;

(5) a building located in a place or area designated for its historical, cultural, or architectural importance and significance that a municipality may regulate under Section 211.003(b), Local Government Code, if the municipality:

(A) is a certified local government under the National Historic Preservation Act (54 U.S.C. Section 300101 et seq.); or

(B) has an applicable landmark ordinance that meets the requirements under the certified local government program as determined by the Texas Historical Commission;

(6) a building located in a place or area designated for its historical, cultural, or architectural importance and significance by a governmental entity, if designated before April 1, 2019;

(7) a building located in an area designated as a historic district on the National Register of Historic Places;

(8) a building designated as a Recorded Texas Historic Landmark;

(9) a building designated as a State Archeological Landmark or State Antiquities Landmark;

(10) a building listed on the National Register of Historic Places or designated as a landmark by a governmental entity;

(11) a building located in a World Heritage Buffer Zone;

(12) a building located in an area designated for development, restoration, or preservation in a main street city under the main street program established under Section 442.014;

(13) a standard for a plumbing product required by an ordinance or other regulation implementing a water conservation plan or program described by Section 11.1271 or 13.146, Water Code; and

(14) a standard for a plumbing product imposed by the Texas Water Development Board as a condition of applying for or receiving financial assistance under a program administered by the board.

(d) A municipality that is not a municipality described by Subsection (c)(5)(A) or (B) may adopt or enforce a regulation described by Subsection (a) that applies to a building located in a place or area designated on or after April 1, 2019, by the municipality for its historical, cultural, or architectural importance and significance, if the municipality has the voluntary consent from the building owner.

(e) A rule, charter provision, ordinance, order, building code, or other regulation adopted by a governmental entity that conflicts with this section is void.

Added by Acts 2019, 86th Leg., R.S., Ch. 1289 (H.B. 2439), Sec. 1, eff. September 1, 2019.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 475 (S.B. 1090), Sec. 1, eff. September 1, 2021.

Sec. 3000.003. INJUNCTION. (a) The attorney general or an aggrieved party may file an action in district court to enjoin a violation or threatened violation of Section 3000.002.

(b) The court may grant appropriate relief.

(c) The attorney general may recover reasonable attorney's fees and costs incurred in bringing an action under this section.

(d) Sovereign and governmental immunity to suit is waived and abolished only to the extent necessary to enforce this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 1289 (H.B. 2439), Sec. 1, eff. September 1, 2019.

Sec. 3000.004. OTHER PROVISIONS NOT AFFECTED. This chapter does not affect provisions regarding:

(1) the installation of a fire sprinkler protection system under Section 1301.551(i), Occupations Code, or Section 775.045(a)(1), Health and Safety Code; or

(2) the enforcement of land use restrictions contained in plats and other instruments under Subchapter F, Chapter 212, Local Government Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1289 (H.B. 2439), Sec. 1, eff. September 1, 2019.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 475 (S.B. 1090), Sec. 2, eff. September 1, 2021.

Sec. 3000.005. SEVERABILITY. If any provision of a rule, charter provision, ordinance, order, building code, or other regulation described by Section 3000.002(a) is held invalid under this chapter, the invalidity does not affect other provisions or applications of the rule, charter provision, ordinance, order, building code, or other regulation that can be given effect without the invalid provision or application, and to this end the provisions of the rule, charter provision, ordinance, order, building code, or other regulation are severable.

Added by Acts 2019, 86th Leg., R.S., Ch. 1289 (H.B. 2439), Sec. 1, eff. September 1, 2019.

TITLE 11. STATE SYMBOLS AND HONORS; PRESERVATION
SUBTITLE A. STATE SYMBOLS AND HONORS

CHAPTER 3100. STATE FLAG
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3100.001. STATE FLAG. The state flag is the 1839 national flag of the Republic of Texas.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.002. DESCRIPTION: IN GENERAL. (a) The state flag is a rectangle that:

(1) has a width to length ratio of two to three; and

(2) contains:

(A) one blue vertical stripe that has a width equal to one-third the length of the flag;

(B) two equal horizontal stripes, the upper stripe white, the lower stripe red, each having a length equal to two-thirds the length of the flag; and

(C) one white, regular five-pointed star:

(i) located in the center of the blue stripe;

(ii) oriented so that one point faces upward; and

(iii) sized so that the diameter of a circle passing through the five points of the star is equal to three-fourths the width of the blue stripe.

(b) The red and blue of the state flag are:

(1) the same colors used in the United States flag; and

(2) defined as numbers 193 (red) and 281 (dark blue) of the Pantone Matching System.

(c) The red, white, and blue of the state flag represent, respectively, bravery, purity, and loyalty.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.003. DESCRIPTION UNDER GOVERNOR'S RULES. In addition to each requirement prescribed by Section 3100.002, the governor by executive order published in the Texas Register may prescribe changes or other rules relating to the description of the state flag.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1,

2001.

Sec. 3100.004. STATE FLAG MOUNTED ON FLAGSTAFF. (a) If the state flag is mounted on a flagstaff:

(1) the flag should be attached at the peak of the staff;

(2) the staff should be at least 2-1/2 times as long as the flag's hoist; and

(3) if the staff has a finial, the finial should be a star or a spearhead.

(b) If the state flag is permanently mounted on a flagstaff:

(1) the flag may be decorated with gold fringe; and

(2) the staff may be decorated with gold cord or tassels.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

SUBCHAPTER B. DISPLAY OF STATE FLAG

Sec. 3100.051. DISPLAY: IN GENERAL. The state flag should be displayed:

(1) on each state or national holiday and on any special occasion of historical significance; and

(2) daily on or near the main administration building of each state institution.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.052. DISPLAY OUTDOORS. (a) The state flag should not normally be displayed outdoors before sunrise or after sunset.

(b) For patriotic effect, the state flag may be displayed outdoors:

(1) 24 hours a day, if properly illuminated during darkness; or

(2) in the same circumstances that the flag of the United States may be displayed.

(c) The state flag should not be displayed outdoors during inclement weather unless the flag is a weatherproof flag.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.053. ORIENTATION ON FLAGPOLE OR FLAGSTAFF. If the state flag is displayed on a flagpole or flagstaff, the white stripe should be at the top of the flag, except as a signal of dire distress in an instance of extreme danger to life or property.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.054. DISPLAY ON FLAGPOLE OR FLAGSTAFF WITH OTHER FLAG: IN GENERAL. A flag or pennant, other than the flag of the United States, displayed with the state flag:

(1) should not be above the state flag; or

(2) if the other flag or pennant is at the same height as the state flag, should not be, from the perspective of an observer, to the left of the state flag.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.055. DISPLAY ON FLAGPOLE OR FLAGSTAFF WITH FLAG OF UNITED STATES. (a) If it is necessary for the state flag and the flag of the United States to be displayed on the same flagpole or flagstaff, the United States flag should be above the state flag.

(b) If the state flag and the flag of the United States are displayed on flagpoles or flagstaffs at the same location:

(1) the flags should be displayed on flagpoles or flagstaffs of the same height;

(2) the flags should be of approximately equal size;

(3) the flag of the United States should be, from the perspective of an observer, to the left of the state flag;

(4) the flag of the United States should be hoisted before the state flag is hoisted; and

(5) the state flag should be lowered before the flag of the United States is lowered.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.056. DISPLAY ON FLAGPOLE OR FLAGSTAFF WITH FLAGS OF MUNICIPALITIES, LOCALITIES, OR ORGANIZATIONS. (a) If the state flag is displayed on a flagpole or flagstaff with a group of flags or pennants of municipalities, localities, or organizations that are displayed on flagpoles or flagstaffs, the state flag should be at the center and at the highest point of the group.

(b) If the state flag is displayed on the same halyard as a flag or pennant of a municipality, locality, or organization, the state flag should be at the peak.

(c) If the state flag and the flag or pennant of a municipality, locality, or organization are displayed on adjacent flagpoles or flagstaffs:

(1) the state flag should be hoisted before the flag or pennant of the municipality, locality, or organization is hoisted; and

(2) the flag or pennant of the municipality, locality, or organization should be lowered before the state flag is lowered.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.057. DISPLAY ON FLAGPOLE OR FLAGSTAFF WITH FLAGS OF OTHER STATES, OTHER NATIONS, OR INTERNATIONAL ORGANIZATIONS. (a) If the state flag is displayed with the flag of another state of the United States, of a nation other than the United States, or of an international organization, the state flag:

(1) should be, from the perspective of an observer, to the left of the other flag on a separate flagpole or flagstaff; and

(2) should not be above the other flag on the same flagpole or flagstaff or on a taller flagpole or flagstaff than the flagpole or flagstaff on which the other flag is displayed.

(b) This section does not apply to the United States, including the armed services, if federal custom or practice requires another manner of display.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1,

2001.

Sec. 3100.058. DISPLAY WITH OTHER FLAG ON CROSSED FLAGSTAFFS. (a) If the state flag is displayed with another flag, other than the flag of the United States, against a wall on crossed flagstaffs, the state flag should:

(1) be, from the perspective of an observer, to the left of the other flag; and

(2) have its flagstaff in front of the flagstaff of the other flag.

(b) If the state flag and the flag of the United States are displayed against a wall on crossed flagstaffs, the state flag should:

(1) be, from the perspective of an observer, to the right of the flag of the United States; and

(2) have its flagstaff behind the flagstaff of the United States flag.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.059. HORIZONTAL AND VERTICAL DISPLAY. (a) If the state flag is displayed horizontally, the white stripe should be above the red stripe and, from the perspective of an observer, to the right of the blue stripe.

(b) If the state flag is displayed vertically:

(1) the blue stripe should be above the white and red stripes; and

(2) the white stripe should be, from the perspective of an observer, to the left of the red stripe.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.060. DISPLAY FROM OR IN BUILDING. (a) If the state flag is displayed from a flagstaff that projects horizontally or at an angle from a building, the top of the flag should be placed at the peak of the staff unless the flag is at half-staff.

(b) If the state flag is suspended over a sidewalk from a rope that extends from a building to a pole at the edge of a sidewalk, the flag should be hoisted from the building so that the white stripe is nearest the pole.

(c) If the state flag is suspended across a corridor or lobby in a building that has only one main entrance, the flag should be suspended vertically so that the white stripe is, from the perspective of an observer who is entering the building, to the left of the red stripe. If the building has more than one main entrance, the state flag should be suspended vertically near the center of the corridor or lobby. If the entrances are on the east and west faces of the building, the white stripe should be to the north. If the entrances are on the north and south faces of the building, the white stripe should be to the east. If there are entrances on more than two faces of the building, the white stripe should be to the east.

(d) If the state flag is displayed in a window, the white stripe should be above the red stripe and, from the perspective of an observer who is outside the window, to the right of the blue stripe.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.061. DISPLAY OVER STREET. If the state flag is displayed over a street, the flag should be suspended vertically with the blue stripe above the white and red stripes. If the street is an east-west street, the white stripe should be to the north. If the street is a north-south street, the white stripe should be to the east.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.062. DISPLAY ON SPEAKER'S PLATFORM. (a) If the state flag is displayed flat on a speaker's platform, the flag should be displayed above and behind the speaker.

(b) If the state flag and the flag of the United States are displayed on a speaker's platform, the state flag should be, from the perspective of an observer, to the right of the United States flag.

(c) The use of the state flag to drape the front of a platform

is governed by Section 3100.070(c).

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.063. DISPLAY ON CASKET. (a) If the state flag is used to cover a casket, the flag should be placed so that:

(1) the blue stripe is at the head of the casket; and

(2) the white stripe is over the left shoulder of the casket.

(b) The state flag should not be lowered in the grave or allowed to touch the ground.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.064. DISPLAY ON FLAGSTAFF ON MOTOR VEHICLE. If the state flag is displayed on a flagstaff on a motor vehicle, the staff should be attached firmly to the chassis or clamped to the right fender. If the flag of the United States and the state flag are displayed on flagstaffs on a motor vehicle:

(1) the staff of the flag of the United States should be clamped to the right fender of the vehicle; and

(2) the staff of the state flag should be clamped to the left fender of the vehicle.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.065. DISPLAY AT HALF-STAFF. (a) If the state flag is to be displayed at half-staff, the flag should be hoisted to the peak of the flagpole for an instant and then lowered to the half-staff position.

(b) Before the state flag is lowered for the day, it should first be raised to the peak of the flagpole.

(c) On Memorial Day, the state flag should be displayed at half-staff until noon and at that time raised to the peak of the flagpole.

(d) The state flag should be displayed at half-staff on Peace Officers Memorial Day, May 15, unless that date is also Armed Forces Day.

(e) By order of the governor, the state flag shall be displayed at half-staff on a person's death as a mark of respect to the memory of that person.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.066. CARRYING OF STATE FLAG: IN GENERAL. The state flag should, when practicable, be carried aloft and free, not flat or horizontally.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.067. CARRYING IN PROCESSION WITH OTHER FLAGS. (a) If the state flag is carried in a procession with another flag, other than the flag of the United States, the state flag should be on the marching right. If there is a line of other flags in the procession, the state flag should be in front of the center of that line.

(b) If the flag of the United States is carried in a procession with the state flag, the flag of the United States should be on the marching right.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.068. HOISTING AND LOWERING; PASSING IN PARADE OR REVIEW. (a) The state flag should be hoisted briskly and lowered ceremoniously.

(b) During the ceremony of hoisting or lowering the state flag or if the flag is passing in a parade or in review:

(1) each citizen of this state who is present and not in uniform should:

(A) face the state flag and stand at attention with the person's right hand over the heart; and

(B) if wearing a head covering that is easy to remove, remove the head covering with the right hand and hold it at the person's left shoulder, with the person's hand over the heart;

(2) each person who is present and in uniform should make the military salute;

(3) each person who is present, not in uniform, and a member of the armed forces or a veteran may make the military salute; and

(4) each person who is present but not a citizen of this state should stand at attention.

(c) The salute to the state flag in a moving column shall be made at the moment the state flag passes that person.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 962 (S.B. 1968), Sec. 1, eff. June 15, 2017.

Sec. 3100.069. STATE FLAG AS FEATURE OF UNVEILING CEREMONY. (a) The state flag should form a distinctive feature of the ceremony of unveiling a statue or monument.

(b) The state flag should not be used as the covering for the statue or monument.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.070. LIMITATIONS ON DISPLAY. (a) The state flag should not:

(1) touch anything beneath it, including the ground or floor;

(2) be dipped to any person or thing, except as a mark of honor for the United States flag;

(3) trail in water;

(4) have placed on any part of it, or attached to it, any mark, word, figure, design, picture, or drawing;

(5) be used or stored in a manner in which it can easily be soiled or damaged;

(6) be used as a receptacle for receiving, holding, carrying, or delivering anything;

(7) be displayed on a float in a parade, except from a staff or in the manner provided by Section 3100.059;

(8) be draped over the hood, top, side, or back of any vehicle, train, boat, or aircraft;

(9) be used as bedding or drapery;

(10) be festooned or drawn back or up in folds, but instead allowed to fall free; or

(11) be used as a covering for a ceiling.

(b) Advertising should not be fastened to a flagpole, flagstaff, or halyard on which the state flag is displayed.

(c) Bunting of blue, white, and red, arranged with the blue above, the white in the middle, and the red below, should be used instead of the state flag to cover a speaker's desk or to drape the front of a platform and for decoration in general.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.071. AUTHORITY OF GOVERNOR. By executive order published in the Texas Register, the governor may:

(1) change or repeal any requirement relating to the display of the state flag provided by Sections 3100.051-3100.070; or

(2) prescribe additional requirements concerning the display of the state flag.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.072. LIMITATIONS ON GOVERNMENTAL SUBDIVISION OR AGENCY. (a) A governmental subdivision or agency may not enact or enforce a law that prohibits:

(1) the display of:

(A) a municipal flag;

(B) the state flag;

(C) the flag of another state of the United States;

(D) the United States flag; or

(E) the flag of a nation other than the United States;

or

(2) any conduct covered by this subchapter.

(b) This section does not prohibit a governmental subdivision or agency from enacting or enforcing a law to protect the public health or safety.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.073. FOLDED STATE FLAG. (a) The state flag should be folded as follows:

(1) fold the flag in half lengthwise with the red stripe facing upward;

(2) fold the flag in half lengthwise once more, concealing the red stripe on the inside of the fold;

(3) position the flag with the white star facing downward and the blue stripe facing upward;

(4) fold the corner with the white stripe to the opposite side of the flag to form a triangle;

(5) continue folding the corners over in triangles until the resulting fold produces a blue triangle with a portion of the white star visible; and

(6) secure all edges into the folds.

(b) A folded state flag should be presented or displayed with all folded edges secured and with the blue stripe and a portion of the white star visible.

(c) A folded state flag should be stored or displayed in a manner that prevents tearing or soiling of the flag.

Added by Acts 2009, 81st Leg., R.S., Ch. 1218 (S.B. 1145), Sec. 2, eff. September 1, 2009.

SUBCHAPTER C. PLEDGE OF ALLEGIANCE TO STATE FLAG

Sec. 3100.101. PLEDGE. The pledge of allegiance to the state flag is: "Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Amended by:
Acts 2007, 80th Leg., R.S., Ch. 650 (H.B. 1034), Sec. 1, eff. June 15, 2007.

Sec. 3100.102. OCCASIONS AT WHICH PLEDGE MAY BE RECITED. The pledge of allegiance to the state flag may be recited at any:
(1) public or private meeting at which the pledge of allegiance to the United States flag is recited; and
(2) state historical event or celebration.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.103. ORDER OF RECITATION. The pledge of allegiance to the flag of the United States should be recited before the pledge of allegiance to the state flag if both are recited.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.104. RECITING PLEDGE. If the pledge to the state flag is recited, each person who is present and:
(1) not in uniform should:
(A) face the state flag and stand at attention with the person's right hand over the heart;
(B) if wearing a head covering that is easy to remove, remove that head covering with the right hand and hold it at the person's left shoulder, with the person's hand over the heart; and
(C) recite the pledge;
(2) not in uniform and a member of the armed forces or a veteran may make the military salute and recite the pledge; or
(3) in uniform should remain silent, face the flag, and make the military salute.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 962 (S.B. 1968), Sec. 2, eff.

June 15, 2017.

SUBCHAPTER D. RETIREMENT OF STATE FLAG

Sec. 3100.151. MANNER OF RETIREMENT. (a) If a state flag is no longer used or useful as an emblem for display, it should be destroyed, preferably by burning, in a ceremony or another dignified way that emphasizes its honor as a fitting emblem for this state.

(b) It is encouraged that retirement of the state flag be a public ceremony under the direction of uniformed personnel representing a state or national military service or a patriotic society, but the state flag may be retired in a private ceremony.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3100.152. CONDUCT OF RETIREMENT CEREMONY. (a) A retirement ceremony for a state flag should be conducted with the honor and respect inherent in the traditions of this state.

(b) During a retirement ceremony:

(1) each citizen of this state who is present and not in uniform should:

(A) stand at attention with the person's right hand over the heart; and

(B) if wearing a head covering that is easy to remove, remove the head covering with the person's right hand and hold it at the person's left shoulder, with the right hand over the heart;

(2) each person who is present and in uniform should make the military salute at the appropriate time as designated by the ceremony;

(3) each person who is present, not in uniform, and a member of the armed forces or a veteran may make the military salute at the appropriate time as designated by the ceremony; and

(4) each person who is present but not a citizen of this state should stand at attention.

(c) In a retirement ceremony in which the flag is to be burned or buried, the flag may be retired as a whole or the colors of the flag may be separated for individual dedication, with the separation taking place immediately before the retirement and dedication

ceremony.

(d) The official retirement ceremony for the state flag encouraged for public use is:

I am your Texas flag!

I was born January 25, 1839.

I am one of only two flags of an American state that has also served as the symbol of an independent nation--The Republic of Texas.

While you may honor me in retirement, the spirit I represent will never retire!

I represent the spirit of Texas--Yesterday, Today, and Tomorrow!

I represent the bravery of the Alamo and the Victory at San Jacinto.

My spirit rode with the Texas Rangers over the Forts Trail of the Big Country and herded cattle through the Fort Worth stockyards. I have sailed up Galveston Bay and kept a watchful eye over our El Paso del Norte.

My colors are in the waters of the Red River and in the Bluebonnets of the Texas Hill Country.

You'll find my spirit at the Light House of Palo Duro and in the sands of Padre Island;

I am at the Johnson Space Center in Houston and atop the oil wells of West Texas.

From the expanse of the Big Bend to the Riverwalk of San Antone--all of Texas is my home!

I wave over the cotton and grain fields of the High Plains, and I am deep in the rich soil of the Rio Grande Valley.

I am proudly displayed under the Capitol Dome, and I fly high above the concrete canyons of downtown Dallas.

You'll find my spirit in the East Texas piney woods and along the Grandeur of the Rio Grande.

I represent Texas--every Child, Woman, and Man!

The blue field in me stands for the valor of our ancestors in the battles for our country.

Let us retire the blue--Salute!

My white field stands for the purity in all our Texas hearts! It represents the honor that each of us should pay to our state each day.

Let us retire the white--Salute!

The red is for all of the men and women who have died in service of our state--whether as members of the armed services or as citizen Samaritans.

Let us retire the red--Salute!

My lone, independent star is recognized worldwide because it represents ALL of Texas and stands for our unity as one for God, State, and Country.

Let us retire the lone star--Salute!

Join in the pledge to the Texas flag:

"Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 375 (S.B. 258), Sec. 1, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 962 (S.B. 1968), Sec. 3, eff. June 15, 2017.

CHAPTER 3101. STATE SYMBOLS

Sec. 3101.001. STATE SEAL. (a) The state seal is as provided by Section 19, Article IV, Texas Constitution.

(b) The reverse side of the state seal contains a shield displaying a depiction of:

(1) the Alamo;

(2) the cannon of the Battle of Gonzales; and

(3) Vince's Bridge.

(c) The shield on the reverse side of the state seal is encircled by:

(1) live oak and olive branches; and

(2) the unfurled flags of:

(A) the Kingdom of France;

(B) the Kingdom of Spain;

(C) the United Mexican States;

(D) the Republic of Texas;

(E) the Confederate States of America; and

(F) the United States of America.

(d) Above the shield is emblazoned the motto, "REMEMBER THE

ALAMO," and beneath the shield are the words, "TEXAS ONE AND INDIVISIBLE."

(e) A white five-pointed star hangs over the shield, centered between the flags.

(f) The secretary of state by rule shall adopt the standard design for the state seal, including the reverse side of the seal.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3101.002. STATE ARMS. (a) The state arms are a five-pointed white star, on an azure background, encircled by olive and live oak branches.

(b) The secretary of state by rule shall adopt the standard design for the state arms.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3101.003. USE OF STATE SEAL. A law that requires the use of the state seal does not require the use of the reverse of the state seal or the state arms.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3101.004. STATE MOTTO. The state motto is "Friendship."

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3101.005. STATE SONG. The state song, "Texas, Our Texas" by William J. Marsh and Gladys Yoakum Wright, is as follows:

Texas, our Texas! All hail the mighty State!
Texas, our Texas! So wonderful so great!
Boldest and grandest, Withstanding ev'ry test;
O Empire wide and glorious, You stand supremely blest.

Refrain:
God bless you Texas! And keep you brave and strong,
That you may grow in power and worth,
Thro'out the ages long.
Texas, O Texas! Your freeborn single star,
Sends out its radiance to nations near and far.
Emblem of freedom! It sets our hearts aglow,
With thoughts of San Jacinto and glorious Alamo.
Refrain
Texas, dear Texas! From tyrant grip now free,
Shines forth in splendor your star of destiny!
Mother of heroes! We come your children true,
Proclaiming our allegiance, our faith, our love for you.
Refrain

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3101.006. PERFORMANCE OF STATE SONG. (a) During the performance of the state song:

(1) when the state flag is displayed:

(A) each citizen of this state who is present and not in uniform should:

(i) face the flag and stand at attention with the person's right hand over the heart; and

(ii) if wearing a head covering that is easy to remove, remove the head covering with the right hand and hold it at the person's left shoulder, with the person's right hand over the heart;

(B) each person who is present and in uniform should make the military salute at the first note of the state song and retain that position until the last note;

(C) each person who is present, not in uniform, and a member of the armed forces or a veteran may make the military salute at the first note of the state song and retain that position until the last note; and

(D) each person who is present but not a citizen of this state should stand at attention; and

(2) when the state flag is not displayed, each person

present should face toward the music and act in the same manner as the person would if the state flag were displayed there.

(b) The state song should be performed after the national anthem if both are performed.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 962 (S.B. 1968), Sec. 4, eff. June 15, 2017.

Sec. 3101.007. STATE BIRD. The state bird is the mockingbird.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3101.008. STATE FLOWER. The state flower is the bluebonnet.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3101.009. STATE TREE. The state tree is the pecan tree.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3101.010. THRASHING PECANS; PENALTY. (a) A person commits an offense if the person causes pecans to fall from a pecan tree by any means, including by thrashing, unless the tree is located on:

(1) land owned by the person causing the pecans to fall;

(2) privately owned land, and the person causing the pecans to fall has the written consent of the owner, lessee, or authorized agent of the owner or lessee;

(3) land owned by the state or a political subdivision of the state and in the boundaries of a municipality, and the person

causing the pecans to fall has written consent from an officer or agent of the agency or political subdivision controlling the land or from the mayor of the municipality; or

(4) land owned by the state or a political subdivision of the state and outside the boundaries of a municipality, and the person causing the pecans to fall has written consent from an officer or agent of the agency or political subdivision controlling the property or from the county judge of the county.

(b) An offense under this section is a misdemeanor and on conviction is punishable by:

(1) a fine of not less than $5 or more than $300;

(2) confinement in the county jail for a term not to exceed three months; or

(3) both a fine and confinement.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3101.011. STATE PLAYS. The following plays are official state plays of Texas:

(1) The Lone Star presented in Galveston Island State Park;

(2) Texas presented in the Palo Duro Canyon State Park;

(3) Beyond the Sundown presented at the Alabama-Coushatta Indian Reservation; and

(4) Fandangle presented in Shackelford County.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3101.012. TEJANO MUSIC HALL OF FAME. The Tejano Music Hall of Fame Museum in Alice is the official Texas Tejano Music Hall of Fame.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.022(a), eff. Sept. 1, 2003.

Sec. 3101.013. STATE BOTANICAL GARDEN AND ARBORETUM. The state botanical garden and arboretum is the Lady Bird Johnson Wildflower

Center at The University of Texas at Austin.

Added by Acts 2017, 85th Leg., R.S., Ch. 79 (H.B. 394), Sec. 1, eff. September 1, 2017.

CHAPTER 3104. POET LAUREATE, STATE MUSICIANS, STATE HISTORIAN, AND STATE ARTISTS

SUBCHAPTER A. POET LAUREATE, STATE MUSICIANS, AND STATE ARTISTS

Sec. 3104.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Commission on the Arts.

(2) "Committee" means the Texas Poet Laureate, State Musician, and State Artist Committee.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.024(a), eff. Sept. 1, 2003.

Sec. 3104.002. DESIGNATING POET LAUREATE, STATE MUSICIANS, AND STATE ARTISTS. (a) The committee shall designate:

(1) a Texas poet laureate;

(2) a Texas state musician for the classical genre;

(3) a Texas state musician for the nonclassical genre;

(4) a Texas state artist for two-dimensional media; and

(5) a Texas state artist for three-dimensional media.

(b) The committee shall choose the poet laureate, state musicians, and state artists from a list of persons submitted by the commission.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.024(a), eff. Sept. 1, 2003.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 68 (S.B. 281), Sec. 1, eff. September 1, 2023.

Sec. 3104.003. COMMITTEE. (a) The committee consists of seven members as follows:

(1) one member appointed by the governor;

(2) three members appointed by the lieutenant governor; and

(3) three members appointed by the speaker of the house of representatives.

(b) One member appointed by the speaker of the house of representatives must be the chair of the house committee that has primary jurisdiction over arts and cultural matters. That member serves on the committee as an additional duty of the chairmanship.

(c) A member of the committee who is not a member of the legislature serves a two-year term that expires on October 1 of each odd-numbered year.

(d) The committee shall select a presiding officer from among its members.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.024(a), eff. Sept. 1, 2003.

Sec. 3104.004. RECOMMENDATIONS FROM COMMISSION. (a) The commission shall solicit nominations from the arts and cultural community for the poet laureate, state musicians, and state artists. The commission shall use the commission's Texas Cultural & Arts Network, the media, public meetings, newsletters, the Writer's League of Texas, and other appropriate methods to distribute information about the nomination process.

(b) The commission may receive submissions from poets, musicians, and artists who have been nominated.

(c) The commission may assemble a group of artists, musicians, writers, scholars, and other appropriate experts in the fields of literature, music, and visual arts to:

(1) review the submissions from the nominated poets, musicians, and artists; and

(2) provide advice and recommendations to the commission on who should be considered for designation as poet laureate, state musicians, and state artists.

(d) For each category specified under Section 3104.002(a), the commission shall submit to the committee a list of not more than 10 persons who are worthy of being designated for that category.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.024(a), eff. Sept. 1, 2003.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 68 (S.B. 281), Sec. 4, eff.

September 1, 2023.

Sec. 3104.005. DESIGNATION CEREMONY. The governor and members of the committee shall honor the persons designated as poet laureate, state musicians, and state artists in a ceremony at the Capitol.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.024(a), eff. Sept. 1, 2003.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 68 (S.B. 281), Sec. 5, eff. September 1, 2023.

Sec. 3104.006. DURATION OF DESIGNATION. A person designated as the poet laureate, a state musician, or a state artist retains the designation for one year from the date of the designation ceremony.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.024(a), eff. Sept. 1, 2003.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 68 (S.B. 281), Sec. 6, eff. September 1, 2023.

Sec. 3104.007. PAY AND EMOLUMENTS PROHIBITED. A person designated as the poet laureate, a state musician, or a state artist does not receive any pay or emolument based on that designation.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.024(a), eff. Sept. 1, 2003.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 68 (S.B. 281), Sec. 7, eff. September 1, 2023.

SUBCHAPTER B. TEXAS STATE HISTORIAN

Sec. 3104.051. STATE HISTORIAN. (a) The state historian shall be appointed by the governor on the recommendation of the Texas Historical Commission and the Texas State Historical Association. If the entities cannot agree on a nominee, each shall submit one

candidate to the governor, who shall make the designation.

(b) In making an appointment under Subsection (a), the governor may reject one or more of the nominees submitted and request a new list of different nominees.

(c) The duties of the state historian shall include:

(1) enhancing the knowledge of Texans regarding Texas history and heritage;

(2) encouraging the teaching of Texas history in public schools;

(3) consulting with the governor, the lieutenant governor, the speaker of the house of representatives, and the legislature on matters related to the promotion of Texas history; and

(4) lecturing on matters of Texas history within the state historian's area of expertise.

(d) The state historian shall not receive compensation or reimbursement for expenses from the state for serving as state historian.

(e) The governor, the lieutenant governor, and the speaker of the house of representatives, or their appointees, shall honor the person designated as state historian in a ceremony at the Capitol.

(f) An individual designated as the state historian retains the designation for two years from the date of the ceremony.

(g) The facilities and resources of the Texas Historical Commission in Austin shall be made available for the use of the state historian when needed.

Added by Acts 2005, 79th Leg., Ch. 427 (S.B. 1787), Sec. 3, eff. September 1, 2005.

CHAPTER 3105. TEXAS PEACE OFFICERS' MEMORIAL MONUMENT AND CEREMONY

Sec. 3105.001. PURPOSE OF MONUMENT. The Texas Peace Officers' Memorial Monument is erected on the grounds of the Capitol Complex to recognize and honor the ultimate sacrifice made by law enforcement and corrections officers in this state who were killed in the line of duty.

Added by Acts 2003, 78th Leg., ch. 378, Sec. 1, eff. June 18, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 379 (H.B. 3559), Sec. 2, eff. September 1, 2013.

Sec. 3105.002. DEFINITIONS. In this chapter:

(1) "Board" means the State Preservation Board.

(2) "Commission" means the Texas Commission on Law Enforcement.

(2-a) "Committee" means the Texas Peace Officers' Memorial Ceremony Committee.

(3) "Monument" means the Texas Peace Officers' Memorial Monument.

Added by Acts 2003, 78th Leg., ch. 378, Sec. 1, eff. June 18, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.37, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 379 (H.B. 3559), Sec. 3, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 1090 (H.B. 3647), Sec. 2, eff. June 15, 2017.

Sec. 3105.003. ELIGIBILITY FOR MONUMENT. (a) A person is eligible to have the person's name on the monument if the person was killed in the line of duty and was:

(1) a law enforcement officer or peace officer for this state or a political subdivision of this state under Article 2A.001, Code of Criminal Procedure, or other law;

(2) a federal law enforcement officer or special agent performing duties in this state, including those officers under Article 2A.002, Code of Criminal Procedure;

(3) a corrections or detention officer or county or municipal jailer employed or appointed by a municipal, county, or state penal institution in this state; or

(4) employed by this state or a political subdivision of this state and considered by the person's employer to be a trainee for a position described by Subdivision (1), (2), or (3).

(b) A person described by Subsection (a) is presumed to have been killed in the line of duty if the Employees Retirement System of Texas makes payments and provides benefits to the eligible survivors of the person as provided by Chapter 615.

Added by Acts 2003, 78th Leg., ch. 378, Sec. 1, eff. June 18, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 379 (H.B. 3559), Sec. 4, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 1090 (H.B. 3647), Sec. 3, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 213 (H.B. 381), Sec. 1, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.119, eff. January 1, 2025.

Sec. 3105.0035. NOMINATIONS; ADDITION OF NAMES TO MONUMENT. (a) A peace officer, law enforcement agency, independent researcher, or organization that advocates on behalf of the survivors of persons described by Section 3105.003 may submit to the commission a nomination to have a person's name added to the monument.

(b) The executive director of the commission shall make a preliminary recommendation to the commission on whether a person nominated under Subsection (a) is eligible under Section 3105.003.

(c) The commission shall place each nomination, including the executive director's preliminary recommendation, on the agenda of a scheduled meeting of the commission for consideration by the commission. The commission shall allow public testimony and consider any evidence presented regarding the eligibility of the person nominated. After hearing testimony and considering evidence, the commission shall determine by a public vote whether the person meets the eligibility requirements under Section 3105.003.

(d) The commission shall add a person's name to the monument if the commission determines that the person meets the eligibility requirements.

Added by Acts 2017, 85th Leg., R.S., Ch. 1090 (H.B. 3647), Sec. 4, eff. June 15, 2017.

Sec. 3105.004. MAINTENANCE OF MONUMENT. (a) The board is responsible for the maintenance of the monument. The board may raise money from private or public entities for the continued maintenance and update of the monument. The board shall:

(1) establish a schedule for the maintenance of the monument; and

(2) select persons to maintain the monument.

(b) The commission shall:

(1) establish and maintain historical and archival records of the inducted officers and jailers that must be accessible to family members and independent researchers; and

(2) adopt rules and establish procedures for adding names to the monument in accordance with Sections 3105.003 and 3105.0035.

(c) The commission may contract with public or private entities to:

(1) facilitate research;

(2) establish and maintain historical and archival records; and

(3) store records in a place accessible to the public.

(d) An entity that collects funds for the maintenance and improvement of the Texas Peace Officers' Memorial Monument shall send that money to the board to be deposited in the Capitol fund account.

Added by Acts 2003, 78th Leg., ch. 378, Sec. 1, eff. June 18, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 379 (H.B. 3559), Sec. 5, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 379 (H.B. 3559), Sec. 6, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 1090 (H.B. 3647), Sec. 5, eff. June 15, 2017.

Sec. 3105.005. ACCOUNT. (a) Money contributed to the state for a purpose related to the monument shall be deposited by the board in the Capitol fund to the credit of a separate interest-bearing account established for the monument.

(b) Notwithstanding other law, income from investments of money in the account shall be deposited to the credit of the account.

(c) Money in the account may be used only for the purposes prescribed by Section 3105.004.

Added by Acts 2003, 78th Leg., ch. 378, Sec. 1, eff. June 18, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 379 (H.B. 3559), Sec. 7, eff.

September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 1090 (H.B. 3647), Sec. 6, eff. June 15, 2017.

Sec. 3105.006. TEXAS PEACE OFFICERS' MEMORIAL CEREMONY COMMITTEE. (a) The committee is established to plan, oversee, and facilitate annual ceremonies recognizing and honoring peace officers of this state who were killed in the line of duty.

(b) The committee consists of the following members:

(1) a president, or the president's designee, of any law enforcement organization that:

(A) provides full service legal and political representation to law enforcement officers of this state;

(B) has at least 10,000 members paying dues, as provided by the organization's Internal Revenue Service Form 990 for the previous reporting period;

(C) has complied with all filing requirements of the Internal Revenue Service, the United States Department of Labor, and the secretary of state; and

(D) has an elected board of directors;

(2) a surviving spouse of a peace officer killed in the line of duty selected by the chapters of the Concerns of Police Survivors of this state; and

(3) the following nonvoting members or designees of the members:

(A) the governor;

(B) the lieutenant governor;

(C) the speaker of the house of representatives;

(D) the attorney general;

(E) the director of the Department of Public Safety;

(F) the executive director of the board; and

(G) the executive director of the commission.

Added by Acts 2017, 85th Leg., R.S., Ch. 1090 (H.B. 3647), Sec. 7, eff. June 15, 2017.

Sec. 3105.007. TEXAS PEACE OFFICERS' MEMORIAL CEREMONY. (a) The committee shall meet as necessary to plan and coordinate an

annual memorial ceremony on the Capitol grounds to honor Texas peace officers who were killed in the line of duty.

(b) The committee shall hold the ceremony on a date selected by the committee during the week in which May 8 occurs.

(c) The ceremony may be funded by public or private money.

(d) Each odd-numbered year, the ceremony must include:

(1) a parade of law enforcement color guards and personnel ending at the Capitol; and

(2) a ceremony held during a joint session of the legislature on the floor of the house of representatives, if possible.

(e) During the ceremony under this section, the name of each peace officer who is being added to the monument that year must be read and the surviving family members of the peace officer must be recognized.

Added by Acts 2017, 85th Leg., R.S., Ch. 1090 (H.B. 3647), Sec. 7, eff. June 15, 2017.

CHAPTER 3106. STAR OF TEXAS AWARDS

Sec. 3106.001. DEFINITIONS. In this chapter:

(1) "Emergency medical first responder" means an employee or volunteer of the state, a political subdivision, or an emergency medical services provider who provides urgent on-site medical care to the sick or injured.

(2) "Firefighter" includes a volunteer firefighter.

(3) "Peace officer" means a peace officer commissioned by the state or a political subdivision of the state under Article 2A.001, Code of Criminal Procedure, or other law.

(4) "Next of kin" means the relative in the nearest degree of relationship to a deceased person, including the person's spouse, child, parent, or sibling.

Added by Acts 2003, 78th Leg., ch. 614, Sec. 2, eff. June 20, 2003. Renumbered from Government Code, Section 3105.001 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(43), eff. September 1, 2005. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 585 (S.B. 877), Sec. 1, eff. September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.120, eff.

January 1, 2025.

Sec. 3106.002. PEACE OFFICERS' STAR OF TEXAS AWARD. (a) The Peace Officers' Star of Texas Award shall be awarded to:

(1) each peace officer who is seriously injured in the line of duty;

(2) the surviving next of kin of each peace officer who is killed or sustains a fatal injury in the line of duty;

(3) each federal law enforcement officer or special agent who is seriously injured while performing duties in this state to assist a state or local law enforcement agency; and

(4) the surviving next of kin of each federal law enforcement officer or special agent who is killed or sustains a fatal injury while performing duties in this state to assist a state or local law enforcement agency.

(b) The Peace Officers' Star of Texas Award Advisory Committee shall advise the governor on the issuance, design, and presentation of the Peace Officers' Star of Texas Award.

(c) The committee consists of three current or retired peace officers appointed by the governor who have each served with distinction during a lengthy career as a peace officer.

Added by Acts 2003, 78th Leg., ch. 614, Sec. 2, eff. June 20, 2003. Renumbered from Government Code, Section 3105.002 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(43), eff. September 1, 2005. Amended by:

Acts 2005, 79th Leg., Ch. 990 (H.B. 1977), Sec. 1, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 109 (H.B. 1164), Sec. 1, eff. May 17, 2007.

Sec. 3106.003. FIREFIGHTERS' STAR OF TEXAS AWARD. (a) The Firefighters' Star of Texas Award shall be awarded to each firefighter who is seriously injured in the line of duty and the surviving next of kin of each firefighter who is killed or sustains a fatal injury in the line of duty.

(b) The Firefighters' Star of Texas Award Advisory Committee shall advise the governor on the issuance, design, and presentation

of the Firefighters' Star of Texas Award.

(c) The committee consists of three current or retired firefighters appointed by the governor who have each served with distinction during a lengthy career as a firefighter.

Added by Acts 2003, 78th Leg., ch. 614, Sec. 2, eff. June 20, 2003. Renumbered from Government Code, Section 3105.003 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(43), eff. September 1, 2005. Amended by:

Acts 2005, 79th Leg., Ch. 990 (H.B. 1977), Sec. 2, eff. June 18, 2005.

Sec. 3106.004. EMERGENCY MEDICAL FIRST RESPONDERS' STAR OF TEXAS AWARD. (a) The Emergency Medical First Responders' Star of Texas Award shall be awarded to each emergency medical first responder who is seriously injured in the line of duty and the surviving next of kin of each emergency medical first responder who is killed or sustains a fatal injury in the line of duty.

(b) The Emergency Medical First Responders' Star of Texas Award Advisory Committee shall advise the governor on the issuance, design, and presentation of the Emergency Medical First Responders' Star of Texas Award.

(c) The committee consists of three current or retired emergency medical first responders appointed by the governor who have each served with distinction during a lengthy career as an emergency medical first responder.

Added by Acts 2003, 78th Leg., ch. 614, Sec. 2, eff. June 20, 2003. Renumbered from Government Code, Section 3105.004 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(43), eff. September 1, 2005. Amended by:

Acts 2005, 79th Leg., Ch. 990 (H.B. 1977), Sec. 3, eff. June 18, 2005.

Sec. 3106.0041. CITIZENS' STAR OF TEXAS AWARD. (a) The Citizens' Star of Texas Award shall be awarded to:

(1) a private citizen who is seriously injured while aiding or attempting to aid a peace officer, firefighter, or emergency medical first responder in the performance of the duties of the

officer, firefighter, or first responder; and

(2) the surviving next of kin of a private citizen who is killed or sustains a fatal injury while aiding or attempting to aid a peace officer, firefighter, or emergency medical first responder in the performance of the duties of the officer, firefighter, or first responder.

(b) The Peace Officers' Star of Texas Award Advisory Committee under Section 3106.002, the Firefighters' Star of Texas Award Advisory Committee under Section 3106.003, and the Emergency Medical First Responders' Star of Texas Award Advisory Committee under Section 3106.004, as applicable, shall advise the governor on the issuance, design, and presentation of the Citizens' Star of Texas Award.

Added by Acts 2013, 83rd Leg., R.S., Ch. 585 (S.B. 877), Sec. 2, eff. September 1, 2013.

Sec. 3106.005. GENERAL MATTERS AFFECTING ADVISORY COMMITTEE. (a) Each member of an advisory committee created under this chapter serves at the will of the governor.

(b) The governor shall designate the presiding officer of each advisory committee.

(c) Each advisory committee shall meet once annually at the call of the governor or the presiding officer of the committee not later than three weeks before September 11, and at a location deemed appropriate by the governor or the governor's representative.

(d) A member of an advisory committee may not receive compensation for service on the committee or reimbursement for travel expenses incurred while conducting the business of the committee.

(e) An advisory committee is not subject to Chapter 2110.

Added by Acts 2003, 78th Leg., ch. 614, Sec. 2, eff. June 20, 2003. Renumbered from Government Code, Section 3105.005 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(43), eff. September 1, 2005.

Sec. 3106.006. PRESENTATION; AWARD. (a) The governor or the governor's representative shall present in the name of the state a star of Texas award under this chapter to the appropriate recipient or surviving next of kin during a public ceremony held on, or as near

as practicable to, September 11 of each year.

(b) At a minimum, the award shall consist of a medal, a certificate, and a ribbon suitable for wearing on a uniform.

Added by Acts 2003, 78th Leg., ch. 614, Sec. 2, eff. June 20, 2003. Renumbered from Government Code, Section 3105.006 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(43), eff. September 1, 2005.

Sec. 3106.007. RECOMMENDATION FOR AWARD. (a) Any person who has personal knowledge that a peace officer, firefighter, or emergency medical first responder has been killed or seriously injured in the line of duty, or that a federal law enforcement officer or special agent has been killed or seriously injured while performing duties in this state to assist a state or local law enforcement agency, may submit that information in writing to a committee under this chapter.

(b) The head of an agency that employs a peace officer, firefighter, or emergency medical first responder who has knowledge of a private citizen described by Section 3106.0041(a) and a state legislator representing the district in which the private citizen resides may submit information about the private citizen in writing to a committee under this chapter.

Added by Acts 2003, 78th Leg., ch. 614, Sec. 2, eff. June 20, 2003. Renumbered from Government Code, Section 3105.007 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(43), eff. September 1, 2005. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 109 (H.B. 1164), Sec. 2, eff. May 17, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 585 (S.B. 877), Sec. 3, eff. September 1, 2013.

CHAPTER 3107. TEXAS POLICE SERVICE ANIMALS MEMORIAL MONUMENT

Sec. 3107.001. DEFINITIONS. In this chapter:

(1) "Board" means the State Preservation Board.

(2) "Capitol Complex" has the meaning assigned by Section 443.0071.

(3) "Monument" means a Texas Police Service Animals Memorial Monument established under Section 3107.002.

(4) "Police service animal" has the meaning assigned by Section 38.151, Penal Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 323 (H.B. 1677), Sec. 1, eff. September 1, 2021.

Sec. 3107.002. TEXAS POLICE SERVICE ANIMALS MEMORIAL MONUMENT. Subject to Section 443.0152, the board may establish a Texas Police Service Animals Memorial Monument using board approval procedures on the grounds of the Capitol Complex adjacent to the Texas Peace Officers' Memorial Monument to recognize and honor police service animals that were killed in the line of duty.

Added by Acts 2021, 87th Leg., R.S., Ch. 323 (H.B. 1677), Sec. 1, eff. September 1, 2021.

Sec. 3107.003. MAINTENANCE OF MONUMENT. (a) If a monument is established under Section 3107.002, the board is responsible for the maintenance of the monument. The board may receive money from private entities for the continued maintenance and update of the monument. If a monument is established under Section 3107.002, the board shall:

(1) establish a schedule for the maintenance of the monument; and

(2) select persons to maintain the monument.

(b) An entity that collects funds for the maintenance and improvement of a monument shall send that money to the board to be deposited in the Capitol fund account.

Added by Acts 2021, 87th Leg., R.S., Ch. 323 (H.B. 1677), Sec. 1, eff. September 1, 2021.

Sec. 3107.004. ACCOUNT. (a) Money contributed to the state for a purpose related to a monument shall be deposited by the board in the Capitol fund to the credit of a separate interest-bearing account established for the monument.

(b) Notwithstanding any other law, income from investments of money in the account shall be deposited to the credit of the account.

(c) Money in the account may be used only for the purposes prescribed by Section 3107.003.

Added by Acts 2021, 87th Leg., R.S., Ch. 323 (H.B. 1677), Sec. 1, eff. September 1, 2021.

SUBTITLE B. PRESERVATION
CHAPTER 3151. PRESERVATION OF VIEW OF STATE CAPITOL
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3151.001. DEFINITIONS. In this chapter:

(1) "Center of the Capitol dome" means the point at 653 feet above sea level at Texas Plane Coordinate X-2818555.07, Y-230595.65.

(2) "Texas Plane Coordinate" means the central zone of the Texas State Coordinate Systems as defined by the U.S. Coast and Geodetic Survey, dated 1945 and revised in March 1978.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3114, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 3151.002. DEFINITION OF CAPITOL VIEW CORRIDOR. In this chapter, "Capitol view corridor" means:

(1) the South Mall of The University of Texas Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 594 feet above sea level at Texas Plane Coordinate X-2818794.86, Y-234376.98, and extends along a bearing of S 2 7 0.0 W for a distance of 3790.248 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818654.87, Y-230589.32; and

(B) the second of which begins at an elevation of 594 feet above sea level at Texas Plane Coordinate X-2818628.71, Y-234341.64, and extends along a bearing of S 2 39 17.7 W for a distance of 3748.053 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-

2818455.09, Y-230597.61.

(2) the Waterloo Park Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 496 feet above sea level at Texas Plane Coordinate X-2820189.70, Y-230799.91, and extends along a bearing of S 86 21 3.1 W for a distance of 1650.373 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818542.67, Y-230694.87; and

(B) the second of which begins at an elevation of 480 feet above sea level at Texas Plane Coordinate X-2820300.13, Y-229756.25, and extends along a bearing of N 67 16 4.1 W for a distance of 1939.019 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818511.73, Y-230505.53.

(3) the Wooldridge Park Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 515 feet above sea level at Texas Plane Coordinate X-2816727.54, Y-229659.96, and extends along a bearing of N 60 5 58.0 E for a distance of 2055.569 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818509.50, Y-230684.66; and

(B) the second of which begins at an elevation of 536 feet above sea level at Texas Plane Coordinate X-2816925.57, Y-229291.91, and extends along a bearing of N 54 4 50.4 E for a distance of 2089.263 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818617.55, Y-230517.56.

(4) the French Legation Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 539 feet above sea level at Texas Plane Coordinate X-2821177.01, Y-227894.81, and extends along a bearing of N 42 37 44.3 W for a distance of 3765.605 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818626.83, Y-230665.30; and

(B) the second of which begins at an elevation of 539 feet above sea level at Texas Plane Coordinate X-2821144.99, Y-227833.18, and extends along a bearing of N 44 39 68.5 W for a

distance of 3787.992 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818482.12, Y-230527.25.

(5) the Lamar Bridge Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 460 feet above sea level at Texas Plane Coordinate X-2813589.52, Y-227457.92, and extends along a bearing of N 56 44 9.5 E for a distance of 5874.699 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818596.90, Y-230686.48; and

(B) the second of which begins at an elevation of 460 feet above sea level at Texas Plane Coordinate X-2813419.55, Y-226934.03, and extends along a bearing of N 55 25 10.4 E for a distance of 6308.017 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818613.13, Y-230514.22.

(6) the South Congress at East Live Oak Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 574 feet above sea level at Texas Plane Coordinate X-2814945.42, Y-218622.48, and extends along a bearing of N 16 19 7.6 E for a distance of 12505.861 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818459.33, Y-230624.51; and

(B) the second of which begins at an elevation of 574 feet above sea level at Texas Plane Coordinate X-2815051.19, Y-218649.13, and extends along a bearing of N 16 48 23.4 E for a distance of 12450.162 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818651.03, Y-230567.50.

(7) the Mopac Bridge Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 498 feet above sea level at Texas Plane Coordinate X-2808292.26, Y-229412.05, and extends along a bearing of N 83 58 33.0 E for a distance of 10331.327 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818566.53, Y-230496.30; and

(B) the second of which begins at an elevation of 485

feet above sea level at Texas Plane Coordinate X-2808930.31, Y-230333.64, and extends along a bearing of N 87 50 44.3 E for a distance of 9628.852 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818552.35, Y-230695.61.

(8) the South Lamar at La Casa Drive Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 656 feet above sea level at Texas Plane Coordinate X-2806422.18, Y-219725.23, and extends along a bearing of N 47 47 22.8 E for a distance of 16290.678 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818488.35, Y-230670.13; and

(B) the second of which begins at an elevation of 656 feet above sea level at Texas Plane Coordinate X-2806443.28, Y-219708.55, and extends along a bearing of N 48 24 0.0 E for a distance of 16286.017 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818621.93, Y-230521.28.

(9) the Barton Creek Pedestrian Bridge Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 445 feet above sea level at Texas Plane Coordinate X-2811033.87, Y-227139.69, and extends along a bearing of N 64 37 45.5 E for a distance of 8277.813 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818513.32, Y-230686.51; and

(B) the second of which begins at an elevation of 460 feet above sea level at Texas Plane Coordinate X-2812177.38, Y-227545.58, and extends along a bearing of N 65 15 5.2 E for a distance of 7070.209 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818598.22, Y-230505.43.

(10) the Pleasant Valley Road at Lakeshore Drive Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 450 feet above sea level at Texas Plane Coordinate X-2826332.31, Y-219396.73, and extends along a bearing of N 34 21 30.0 W for a distance of 13634.929 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-

2818637.21, Y-230652.69; and

(B) the second of which begins at an elevation of 450 feet above sea level at Texas Plane Coordinate X-2826129.04, Y-218986.86, and extends along a bearing of N 33 32 6.6 W for a distance of 13861.422 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818471.32, Y-230541.00.

(11) the East Eleventh Street Threshold Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 517 feet above sea level at Texas Plane Coordinate X-2821382.21, Y-228956.12, and extends along a bearing of N 61 38 31.4 W for a distance of 3269.672 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818504.91, Y-230509.14; and

(B) the second of which begins at an elevation of 517 feet above sea level at Texas Plane Coordinate X-2821418.78, Y-228980.65, and extends along a bearing of N 58 60 12.7 W for a distance of 3289.227 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818604.20, Y-230682.75.

(12) the North-Bound Lanes of Interstate Highway 35 Between the Municipal Police and Courts Building and West Tenth Street Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 501 feet above sea level at Texas Plane Coordinate X-2820624.99, Y-227858.68, and extends along a bearing of N 38 46 6.5 W for a distance of 3433.34 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818475.11, Y-230535.59; and

(B) the second of which begins at an elevation of 491 feet above sea level at Texas Plane Coordinate X-2820883.74, Y-228742.33, and extends along a bearing of N 49 33 37.2 W for a distance of 2977.840 feet to a point 100 feet from the center of the Capitol dome, this point begin located at Texas Plane Coordinate X-2818617.34, Y-230673.89.

(13) the South-Bound Lanes of the Upper Deck of Interstate Highway 35 Between Concordia College and the Martin Luther King Boulevard Overpass Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 648 feet above sea level at Texas Plane Coordinate X-2822432.77, Y-233117.96, and extends along a bearing of S 55 43 8.2 W for a distance of 4627.079 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818609.48, Y-230511.74; and

(B) the second of which begins at an elevation of 618 feet above sea level at Texas Plane Coordinate X-2823639.09, Y-235471.26, and extends along a bearing of S 47 0 43.0 W for a distance of 7045.415 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818485.40, Y-230667.38.

(14) the North-Bound Lanes of Interstate Highway 35 Between Waller Creek Plaza and the Municipal Police and Court Building Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 498 feet above sea level at Texas Plane Coordinate X-2820389.72, Y-226977.21, and extends along a bearing of N 28 17 53.1 W for a distance of 4058.419 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818465.79, Y-230550.62; and

(B) the second of which begins at an elevation of 498 feet above sea level at Texas Plane Coordinate X-2820450.80, Y-227277.98, and extends along a bearing of N 28 14 42.1 W for a distance of 3823.132 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818641.53, Y-230645.90.

(15) the North-Bound Lanes of Interstate Highway 35 Between Third Street and the Waller Creek Plaza Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 482 feet above sea level at Texas Plane Coordinate X-2820010.77, Y-225710.94, and extends along a bearing of N 17 43 6.5 W for a distance of 5098.378 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818459.13, Y-230567.46; and

(B) the second of which begins at an elevation of 495 feet above sea level at Texas Plane Coordinate X-2820205.46, Y-226432.65, and extends along a bearing of N 20 20 46.9 W for a distance of 4479.853 feet to a point 100 feet from the center of the

Capitol dome, this point being located at Texas Plane Coordinate X-2818647.84, Y-230632.99.

(16) the East Seventh Street Bridge Over the Texas-New Orleans Railroad Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 476 feet above sea level at Texas Plane Coordinate X-2829646.58, Y-224957.77, and extends along a bearing of N 62 35 42.1 W for a distance of 12442.553 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818600.39, Y-230684.79; and

(B) the second of which begins at an elevation of 476 feet above sea level at Texas Plane Coordinate X-2829633.60, Y-224932.05, and extends along a bearing of N 63 23 0.0 W for a distance of 12442.674 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818509.56, Y-230506.61.

(17) the Longhorn Shores Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 435 feet above sea level at Texas Plane Coordinate X-2823252.67, Y-220131.43, and extends along a bearing of N 23 40 36.4 W for a distance of 11470.713 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818646.30, Y-230636.60; and

(B) the second of which begins at an elevation of 435 feet above sea level at Texas Plane Coordinate X-2822788.44, Y-220147.97, and extends along a bearing of N 22 33 57.2 W for a distance of 11273.211 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818462.39, Y-230558.09.

(18) the Zilker Clubhouse Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 561 feet above sea level at Texas Plane Coordinate X-2807259.05, Y-230056.68, and extends along a bearing of N 86 45 42.0 E for a distance of 11309.321 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818550.31, Y-230695.53; and

(B) the second of which begins at an elevation of 561

feet above sea level at Texas Plane Coordinate X-2807248.18, Y-229969.74, and extends along a bearing of N 87 20 15.0 E for a distance of 11324.650 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818560.60, Y-230495.80.

(19) the Red Bud Trail Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 684 feet above sea level at Texas Plane Coordinate X-2801662.96, Y-236155.75, and extends along a bearing of S 72 6 10.9 E for a distance of 17783.936 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818586.34, Y-230690.63; and

(B) the second of which begins at an elevation of 684 feet above sea level at Texas Plane Coordinate X-2801887.25, Y-236038.78, and extends along a bearing of S 71 35 16.8 E for a distance of 17534.371 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818524.03, Y-230500.59.

(20) the Enfield Road Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 534 feet above sea level at Texas Plane Coordinate X-2814317.00, Y-232540.28, and extends along a bearing of S 64 7 24.8 E for a distance of 4664.000 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818513.37, Y-230504.76; and

(B) the second of which begins at an elevation of 534 feet above sea level at Texas Plane Coordinate X-2814166.24, Y-232616.36, and extends along a bearing of S 66 27 47.8 E for a distance of 4832.718 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818596.90, Y-230686.48.

(21) the Capital of Texas Highway Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 850 feet above sea level at Texas Plane Coordinate X-2793153.22, Y-246055.75, and extends along a bearing of S 58 62 1.6 E for a distance of 29736.832 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-

2818607.06, Y-230681.07; and

(B) the second of which begins at an elevation of 850 feet above sea level at Texas Plane Coordinate X-2792663.44, Y-245928.13, and extends along a bearing of S 59 10 35.3 E for a distance of 30091.057 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818504.12, Y-230509.60.

(22) the 38th Street at Red River Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 609 feet above sea level at Texas Plane Coordinate X-2823695.84, Y-238333.37, and extends along a bearing of S 34 12 57.2 W for a distance of 9290.302 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818471.78, Y-230650.98; and

(B) the second of which begins at an elevation of 609 feet above sea level at Texas Plane Coordinate X-2823785.05, Y-238418.94, and extends along a bearing of S 33 9 15.9 W for a distance of 9410.983 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818638.21, Y-230540.07.

(23) the Robert Mueller Airport Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 603 feet above sea level at Texas Plane Coordinate X-2831475.74, Y-237087.29, and extends along a bearing of S 62 55 39.9 W for a distance of 14460.117 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818599.97, Y-230506.29; and

(B) the second of which begins at an elevation of 603 feet above sea level at Texas Plane Coordinate X-2831203.80, Y-237067.65, and extends along a bearing of S 63 18 20.5 W for a distance of 14208.702 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818509.52, Y-230684.67.

(24) the Martin Luther King Boulevard at IH-35 Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 570 feet above sea level at Texas Plane Coordinate X-2821823.12, Y-232059.98, and extends along a bearing of S 64 15 51.7 W for a distance of

3582.510 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818595.97, Y-230504.39; and

(B) the second of which begins at an elevation of 570 feet above sea level at Texas Plane Coordinate X-2821665.89, Y-232039.68, and extends along a bearing of S 66 46 10.3 W for a distance of 3431.091 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818512.97, Y-230686.35.

(25) the Oakwood Cemetery Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 662 feet above sea level at Texas Plane Coordinate X-2823518.05, Y-231483.66, and extends along a bearing of S 78 43 9.6 W for a distance of 5042.788 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818572.69, Y-230497.21; and

(B) the second of which begins at an elevation of 662 feet above sea level at Texas Plane Coordinate X-2823496.42, Y-231576.82, and extends along a bearing of S 79 54 22.8 W for a distance of 5038.813 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818535.60, Y-230693.73.

(26) the East 12th Street at IH-35 Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 525 feet above sea level at Texas Plane Coordinate X-2821503.64, Y-229689.85, and extends along a bearing of N 74 46 47.6 W for a distance of 3086.184 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818525.71, Y-230500.05; and

(B) the second of which begins at an elevation of 523 feet above sea level at Texas Plane Coordinate X-2821304.47, Y-229769.21, and extends along a bearing of N 71 16 29.8 W for a distance of 2872.654 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818583.86, Y-230691.41.

(27) the Lyndon Baines Johnson Library Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 596 feet

above sea level at Texas Plane Coordinate X-2821830.47, Y-234589.86, and extends along a bearing of S 40 20 57.3 W for a distance of 5162.945 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818477.75, Y-230659.06; and

(B) the second of which begins at an elevation of 596 feet above sea level at Texas Plane Coordinate X-2821938.69, Y-233990.42, and extends along a bearing of S 43 38 37.1 W for a distance of 4790.234 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818625.90, Y-230525.05.

(28) the North Congress Avenue at Martin Luther King Boulevard Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 531 feet above sea level at Texas Plane Coordinate X-2819238.03, Y-232793.53, and extends along a bearing of N 14 46 25.5 E for a distance of 2303.720 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818650.57, Y-230565.97; and

(B) the second of which begins at an elevation of 531 feet above sea level at Texas Plane Coordinate X-2819171.57, Y-232814.96, and extends along a bearing of N 16 0 38.0 E for a distance of 2305.521 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818458.72, Y-230622.41.

(29) the field level of the Memorial Stadium Practice Center Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 550 feet above sea level at Texas Plane Coordinate X-2820995.40, Y-233291.51, and extends along a bearing of N 40 34 35.4 E for a distance of 3637.696 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818629.21, Y-230528.54; and

(B) the second of which begins at an elevation of 550 feet above sea level at Texas Plane Coordinate X-2820805.43, Y-233307.74, and extends along a bearing of N 41 18 34.5 E for a distance of 3525.556 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818478.12, Y-230659.50.

(30) the entrance terrace to the University of Texas Swim Center Corridor, which encompasses all of the area between two lines:

(A) one of which begins at an elevation of 540 feet above sea level at Texas Plane Coordinate X-2821029.40, Y-232523.71, and extends along a bearing of N 50 14 50.5 E for a distance of 3138.424 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818616.54, Y-230516.77; and

(B) the second of which begins at an elevation of 540 feet above sea level at Texas Plane Coordinate X-2820873.01, Y-232433.33, and extends along a bearing of N 53 31 42.3 E for a distance of 2959.714 feet to a point 100 feet from the center of the Capitol dome, this point being located at Texas Plane Coordinate X-2818492.95, Y-230674.01.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3151.0021. DEFINITION OF CONGRESS AVENUE VIEW CORRIDOR. In this chapter, "Congress Avenue view corridor" means all of the area between two lines:

(1) one of which begins at Texas Plane Coordinate X-2817236.98, Y-226449.47 and terminates at Texas Plane Coordinate X-2818255.32, Y-229927.70; and

(2) the second of which begins at Texas Plane Coordinate X-2817394.92, Y-226404.24 and terminates at Texas Plane Coordinate X-2818441.82, Y-229874.83.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1288 (H.B. 2256), Sec. 1, eff. June 14, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 3114, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 3151.003. APPLICABILITY. This chapter does not apply to:

(1) the construction, renovation, or equipment of the Darrell K Royal-Texas Memorial Stadium or to improvements related to the stadium, except that the height of the stadium or a related

improvement may not exceed 666 feet above sea level;

(2) the construction, redevelopment, or improvement of 11th Street pursuant to the East 11th and 12th Streets Redevelopment Program, except that the height of an improvement may not exceed 600 feet above sea level; or

(3) the construction, redevelopment, or improvement of Robert Mueller Municipal Airport under a redevelopment and reuse plan for the airport adopted by the City of Austin.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 556, Sec. 1, eff. June 20, 2003.

SUBCHAPTER B. PROHIBITED ACTIVITIES; CONFLICTING REQUIREMENTS

Sec. 3151.051. PROHIBITED CONSTRUCTION; CAPITOL VIEW CORRIDOR. A person may not begin, in a Capitol view corridor, construction of a structure that would exceed the maximum permissible height computed in accordance with the following formula:

h = (((653' - eVP) x (b'))/b) - (eS - eVP)

where:

h is the maximum permissible height of the structure;

b is the distance between the selected view point and the center of the Capitol dome;

b' is the distance between the view point and the structure;

eS is the elevation of the structure; and

eVP is the elevation of the view point.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1288 (H.B. 2256), Sec. 2, eff. June 14, 2013.

Sec. 3151.0511. PROHIBITED CONSTRUCTION; CONGRESS AVENUE VIEW CORRIDOR. A person may not begin, in the Congress Avenue view corridor, construction of a structure:

(1) on the west side of Congress Avenue that:

(A) is within 60 feet of Congress Avenue; and

(B) has a height that exceeds 90 feet; and

(2) on the east side of Congress Avenue that:
(A) is within 40 feet of Congress Avenue; and
(B) has a height that exceeds 90 feet.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1288 (H.B. 2256), Sec. 3, eff. June 14, 2013.

Sec. 3151.052. TRANSFERABLE CONSTRUCTION RIGHTS PROHIBITED. The governing body of a municipality affected by this chapter may not grant transferable construction rights to mitigate the impact of this chapter in a Capitol view corridor.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

Sec. 3151.053. CONFLICT WITH OTHER REQUIREMENTS. If a requirement of this chapter conflicts with a requirement enacted by a municipality or with any other requirement under state law, the stricter requirement prevails.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1288 (H.B. 2256), Sec. 4, eff. June 14, 2013.

SUBCHAPTER C. ENFORCEMENT

Sec. 3151.101. INJUNCTION. (a) A person may file an action to enjoin a violation or threatened violation of Section 3151.051.
(b) The court may grant appropriate relief.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.001, eff. Sept. 1, 2001.

TITLE 12. SECURITIES ACT
CHAPTER 4001. GENERAL PROVISIONS
SUBCHAPTER A. SHORT TITLE; PURPOSES; CONSTRUCTION

Sec. 4001.001. SHORT TITLE. This title may be cited as The Securities Act.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.002. PURPOSES; CONSTRUCTION. (a) The general purposes of this title are to:

(1) protect investors and, consistent with that purpose, encourage capital formation, job formation, and free and competitive securities markets;

(2) maximize coordination with federal and other states' laws and administration, particularly with respect to procedure, reports, forms, and exemptions; and

(3) minimize regulatory burdens on issuers and other persons subject to this title, especially small businesses.

(b) This title may be construed and implemented to effectuate the title's general purposes.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.003. SEVERABILITY. The provisions of this title are severable. If any provision of this title is declared void or unconstitutional, the remaining provisions of this title would have been enacted notwithstanding such judicial determination of the invalidity of the provision, and the remaining provisions shall remain in effect.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER B. DEFINITIONS

Sec. 4001.051. APPLICABILITY OF DEFINITIONS; CONSTRUCTION OF CERTAIN CONJUNCTIONS. (a) The definition for a term provided by this chapter applies in this title unless the context in which the term is used indicates a different meaning.

(b) The term "and" may be construed to mean "or," and the term

"or" may be construed to mean "and."

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.052. AGENT. (a) Except as provided by Subsection (b), "agent" includes a person or company employed, appointed, or authorized by a dealer to sell, offer for sale or delivery, solicit subscriptions to or orders for, or deal in any other manner in, securities in this state directly or through a subagent.

(b) If a corporation or partnership is registered as a dealer under this title, an officer of the corporation or partner of the partnership is not deemed an agent solely because of the officer's or partner's status as an officer or partner of that entity.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.053. BOARD. "Board" means the State Securities Board.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.054. BROKER. "Broker" means "dealer" as defined in this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.055. COMMISSIONER. "Commissioner" means the securities commissioner.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.056. DEALER. (a) "Dealer" includes:

(1) a person or company, other than an agent, who for all or part of the person's or company's time engages in this state, directly or through an agent, in selling, offering for sale or delivery, soliciting subscriptions to or orders for, undertaking to dispose of, or inviting offers for any security; and

(2) a person or company who deals in any other manner in any security in this state.

(b) Except as provided by Subsection (c), an issuer, other than a registered dealer, who directly or through any person or company, other than a registered dealer, offers for sale, sells, or makes sales of the issuer's own securities is deemed a dealer and shall comply with this title.

(c) An issuer is not deemed a dealer under Subsection (b) if:

(1) the issuer sells or offers for sale securities to a registered dealer or only by or through a registered dealer acting as fiscal agent for the issuer; or

(2) the transaction is exempt as provided by Subchapter A, Chapter 4005.

(d) Except as expressly provided otherwise in this title, a person or company engaged in the sale of, offer for sale of, solicitation of, subscription to, dealing in, or delivery of a security made in a transaction or under a condition specified in Subchapter A, Chapter 4005, is not deemed a dealer within the meaning of this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.057. FEDERAL COVERED INVESTMENT ADVISER. "Federal covered investment adviser" means an investment adviser who is registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.).

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.058. FRAUD; FRAUDULENT PRACTICE. (a) "Fraud" and "fraudulent practice" include:

(1) a misrepresentation of a relevant fact made in any manner;

(2) a promise, representation, or predication as to the future not made honestly and in good faith;

(3) an intentional failure to disclose a material fact;

(4) a direct or indirect gain, through the sale of a security, of an underwriting or promotion fee or profit, or of a selling or managing commission or profit, that is so gross or exorbitant as to be unconscionable; and

(5) a scheme, device, or other artifice to obtain a profit, fee, or commission described by Subdivision (4).

(b) Nothing in this section limits the full meaning of "fraud," "fraudulent," or "fraudulent practice" as applied or accepted in courts.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.059. INVESTMENT ADVISER. "Investment adviser" includes a person who, for compensation, engages in the business of advising another, either directly or through publications or writings, with respect to the value of securities or to the advisability of investing in, purchasing, or selling securities or a person who, for compensation and as part of a regular business, issues or adopts analyses or a report concerning securities, as may be further defined by board rule. The term does not include:

(1) a bank or a bank holding company, as defined by the Bank Holding Company Act of 1956 (12 U.S.C. Section 1841 et seq.), that is not an investment company;

(2) a lawyer, accountant, engineer, teacher, or geologist whose performance of the services is solely incidental to the practice of the person's profession;

(3) a dealer or agent who receives no special compensation for those services and whose performance of those services is solely incidental to transacting business as a dealer or agent;

(4) the publisher of a bona fide newspaper, news magazine, or business or financial publication of general and regular circulation; or

(5) a person whose advice, analyses, or report does not

concern a security other than a security that is:

(A) a direct obligation of or an obligation the principal or interest of which is guaranteed by the United States government; or

(B) issued or guaranteed by a corporation in which the United States has a direct or indirect interest and designated by the United States Secretary of the Treasury under Section 3(a)(12), Securities Exchange Act of 1934 (15 U.S.C. Section 78c(a)(12)), as an exempt security for purposes of that Act.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.060. INVESTMENT ADVISER REPRESENTATIVE. (a) Except as provided by Subsection (b), "investment adviser representative" includes a person or company who, for compensation, is employed, appointed, or authorized by an investment adviser to solicit clients for the investment adviser or who provides investment advice, directly or through subagents, as defined by board rule, to an investment adviser's clients on behalf of the investment adviser.

(b) "Investment adviser representative" does not include a partner of a partnership or officer of a corporation or other entity that is registered as an investment adviser under this title solely because of the person's status as a partner or officer of that entity.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.061. ISSUER. "Issuer" means and includes a person or company who has issued, proposes to issue, or issues any security.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.062. MORTGAGE. "Mortgage" includes a deed of trust to secure a debt.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.063. NO PAR VALUE; PAR VALUE. (a) "No par value" as applied to shares of stock or other securities means the securities are without a given or specified par value.

(b) For purposes of classifying or computing the par value of shares of stock or other securities of no par value, the amount for which the securities are sold or offered for sale to the public is used as a basis.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.064. PERSON; COMPANY. (a) The terms "person" and "company" include:

(1) any of the following formed under the laws of this or another state, country, sovereignty, or political subdivision of a state, country, or sovereignty, and regardless of whether incorporated or unincorporated:

(A) a corporation;

(B) a person;

(C) a company, including a joint stock company;

(D) a partnership, including a limited partnership;

(E) an association;

(F) a firm;

(G) a syndicate; or

(H) a trust; and

(2) a government or a political subdivision or agency of a government.

(b) As used in Subsection (a), "trust":

(1) is deemed to include a common law trust; and

(2) does not include a trust created or appointed under or by virtue of a last will and testament or by a court.

(c) The definition of "person" assigned by Section 311.005 does not apply to any provision in this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.065. REGISTERED DEALER. "Registered dealer" means a dealer the commissioner has registered under Sections 4004.054 and 4004.055, or Section 4004.056.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.066. REGISTERED INVESTMENT ADVISER. "Registered investment adviser" means an investment adviser to whom the commissioner has issued a registration certificate under Sections 4004.054 and 4004.055, or Section 4004.056.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.067. SALE; OFFER FOR SALE; SELL. (a) "Sale," "offer for sale," and "sell" include every disposition or attempted disposition of a security for value.

(b) "Sale" means and includes:

(1) a contract or agreement in which a security is sold, traded, or exchanged for money, property, or another thing of value; or

(2) a transfer of or agreement to transfer a security, in trust or otherwise.

(c) "Sale" or "offer for sale" includes a subscription, an option for sale, a solicitation of sale, a solicitation of an offer to buy, an attempt to sell, or an offer to sell, directly or by an agent, by a circular, letter, or advertisement or otherwise, including the deposit in any manner in the United States mail within this state of a circular, letter, or other advertising matter.

(d) "Sell" means any act by which a sale is made.

(e) A security given or delivered with or as a bonus on account of a purchase of securities or other thing of value is conclusively presumed to:

(1) constitute a part of the subject of the purchase; and

(2) have been sold for value.

(f) The sale of a security under conditions that entitle the

purchaser or subsequent holder to exchange the security for another security or to purchase another security is not deemed a sale or offer for sale of the other security.

(g) This section does not limit the meaning of the terms "sale," "offer for sale," or "sell" as used by or accepted in courts.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.068. SECURITY. (a) The term "security":

(1) includes:

(A) a limited partner interest in a limited partnership;

(B) a share;

(C) a stock;

(D) a treasury stock;

(E) a stock certificate under a voting trust agreement;

(F) a collateral trust certificate;

(G) an equipment trust certificate;

(H) a preorganization certificate or receipt;

(I) a subscription or reorganization certificate;

(J) a note, bond, debenture, mortgage certificate, or other evidence of indebtedness;

(K) any form of commercial paper;

(L) a certificate in or under a profit sharing or participation agreement;

(M) a certificate or instrument representing an interest in or under an oil, gas, or mining lease, fee, or title;

(N) a certificate or instrument representing or secured by an interest in any of the capital, property, assets, profits, or earnings of a company;

(O) an investment contract; and

(P) any other instrument commonly known as a security, regardless of whether the instrument is similar to another instrument listed in this subsection; and

(2) applies regardless of whether the security is evidenced by a written instrument.

(b) "Security" does not include an insurance policy, endowment policy, annuity contract, or optional annuity contract, or any

contract or agreement in relation to and in consequence of any such policy or contract, issued by an insurance company subject to the supervision or control of the Texas Department of Insurance when the form of such policy or contract has been filed with the department as required by law.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER C. GENERAL ADMINISTRATIVE PROVISIONS

Sec. 4001.101. SUFFICIENCY OF NOTICE. In this title unless otherwise specified, a notice required by this title is sufficient if sent by registered or certified mail addressed to a person at:

(1) the address designated in any filing the person submitted to the commissioner; or

(2) the person's last known address.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.102. CONSENT FOR SERVICE OF PROCESS. (a) This section applies only to an issuer, dealer, or investment adviser that is:

(1) organized under the laws of any other state, territory, or government; or

(2) domiciled in any other state.

(b) Unless a board rule specifies otherwise, an issuer, dealer, or investment adviser subject to this section must include in an application filed with or notice filing submitted to the commissioner a provision that appoints the commissioner as the attorney of the issuer, dealer, or investment adviser who may be served with process in any action or proceeding against the issuer, dealer, or investment adviser that arises out of any transaction subject to this title.

(c) The provision required by Subsection (b) must be executed by an authorized agent of the issuer, dealer, or investment adviser filing the application or submitting the notice filing.

(d) Service of process on the commissioner in accordance with a provision executed under this section has the same effect as if the issuer, dealer, or investment adviser was created or formed under the

laws of this state and served with process in this state.

(e) If the commissioner is served with process in accordance with a provision executed under this section, the commissioner shall forward the process by United States mail to the last known address of the issuer, dealer, or investment adviser.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER D. OTHER GENERAL PROVISIONS

Sec. 4001.151. PROSECUTION UNDER CERTAIN OTHER LAW. Nothing in Chapter 269 (S.B. 294), Acts of the 55th Legislature, Regular Session, 1957 (Article 581-1 et seq., Vernon's Texas Civil Statutes), limits the liability of a person or company, or of its officers or agents, imposed by law as of August 22, 1957, so as to prevent the prosecution of the person or company, or of its officers or agents, for violating another statute.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.152. GOOD FAITH. (a) A provision of this title that imposes liability or a penalty does not apply to an act or omission made in good faith in conformity with a board rule.

(b) This section applies regardless of whether the rule is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.153. BURDEN OF PROOF ON EXEMPTION. (a) A complaint, information or indictment, or a writ or proceeding brought under this title is not required to negate an exemption under this title.

(b) A party claiming an exemption under this title has the burden of proof on the exemption.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01,

eff. January 1, 2022.

Sec. 4001.154. CERTIFIED COPIES OF CERTAIN DOCUMENTS OR INSTRUMENTS AS EVIDENCE. (a) Except as provided by Subsection (b), a copy of a paper, document, or instrument filed in the office of the commissioner and certified by the commissioner must be admitted in evidence in a court and elsewhere in this state in any case in which the original would be admitted in evidence.

(b) In any proceeding in a court, the court may, on cause shown, require the production of the original paper, document, or instrument.

(c) In a prosecution, suit, or other action or proceeding in a court of this state that arises under this title, a certificate showing compliance or noncompliance with a provision of this title by a dealer, agent, investment adviser, or investment adviser representative constitutes prima facie evidence of the person's compliance or noncompliance with that provision if the certificate:

(1) is under the state seal; and

(2) is signed by the commissioner.

(d) A certificate described by Subsection (c) is admissible in evidence in an action to enforce this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4001.155. PROOF OF CERTAIN RECORDS. All records of the former securities divisions of the offices of the secretary of state and the former Board of Insurance Commissioners for which custody was assumed by the commissioner under Chapter 269, Acts of the 55th Legislature, Regular Session, 1957, shall be proven under the commissioner's certificate.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

CHAPTER 4002. STATE SECURITIES BOARD AND SECURITIES COMMISSIONER

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 4002.001. APPLICABILITY OF OTHER LAW. The board and

commissioner are subject to Chapters 551, 2001, and 2002.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.002. SUNSET PROVISION. The State Securities Board is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this title expires September 1, 2031.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.101, eff. January 1, 2022.

SUBCHAPTER B. STATE SECURITIES BOARD

Sec. 4002.051. APPOINTMENT OF BOARD. (a) The State Securities Board consists of five citizens of this state appointed by the governor with the advice and consent of the senate.

(b) Members of the board must be members of the general public.

(c) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(d) A member of the board is eligible for reappointment.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.052. MEMBERSHIP ELIGIBILITY. A person is not eligible for appointment to the board if the person or the person's spouse:

(1) is registered as a dealer, agent, investment adviser, or investment adviser representative;

(2) has an active notice filing under this title to engage in business in this state as an investment adviser or investment adviser representative;

(3) is employed by or participates in the management of a

business entity engaged in business as a securities dealer or investment adviser; or

(4) has, other than as a consumer, a financial interest in a business entity engaged in business as a securities dealer or investment adviser.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board or an employee of the board employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in a field regulated by the board; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in a field regulated by the board.

(c) A person may not be a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.054. TERMS; VACANCY. (a) Members of the board serve staggered six-year terms, with as near as possible to one-third of the members' terms expiring January 20 of each odd-numbered year.

(b) The governor shall fill a vacancy on the board for the unexpired term.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.055. PRESIDING OFFICER. The governor shall designate a member of the board as the board's presiding officer to serve in that capacity at the will of the governor.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.056. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of taking office the qualifications required by Section 4002.051;

(2) does not maintain during service on the board the qualifications required by Section 4002.051;

(3) is ineligible for membership under Section 4002.052 or 4002.053;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the commissioner has knowledge that a potential ground for removal exists, the commissioner shall notify the board's presiding officer of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the commissioner shall notify the board's next highest ranking officer, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.057. PER DIEM. A member of the board is entitled to a per diem as set by legislative appropriation for each day the member engages in the business of the board.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.058. BOARD MEMBER TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing board operations;

(2) the programs, functions, rules, and budget of the board;

(3) the scope of and limitations on the rulemaking authority of the board;

(4) the types of board rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business the board regulates, including any rule, interpretation, or enforcement action that:

(A) regulates the scope of practice of persons in a profession or business the board regulates;

(B) restricts advertising by persons in a profession or business the board regulates;

(C) affects the price of goods or services provided by persons in a profession or business the board regulates; or

(D) restricts participation in a profession or business the board regulates;

(5) the results of the most recent formal audit of the board;

(6) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of a state policymaking body in performing their duties; and

(7) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) The commissioner shall create a training manual that includes the information required by Subsection (b). The commissioner shall distribute a copy of the training manual annually to each member of the board. Each member of the board shall sign and submit to the commissioner a statement acknowledging that the member received and has reviewed the training manual.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.102, eff. January 1, 2022.

SUBCHAPTER C. SECURITIES COMMISSIONER AND EMPLOYEES OF BOARD

Sec. 4002.101. SECURITIES COMMISSIONER. The board shall appoint a securities commissioner who serves at the pleasure of the board and who, under the board's supervision, shall administer this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.102. DEPUTY SECURITIES COMMISSIONER; SECURITIES COMMISSIONER APPOINTEES. (a) The commissioner, with the consent of the board, may designate a deputy securities commissioner who shall perform all of the duties of the commissioner required by law to be performed by the commissioner when the commissioner is absent or unable to act for any reason.

(b) The commissioner shall appoint other persons as necessary to carry out the powers and duties of the commissioner under this

title and under other laws granting jurisdiction to or applicable to the board or the commissioner.

(c) The commissioner may delegate to a person appointed under Subsection (b) powers and duties of the commissioner as the commissioner considers necessary.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.103. DIVISION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the commissioner and board employees.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.104. STANDARDS OF CONDUCT INFORMATION. The commissioner or the commissioner's designee shall provide to members of the board and to board employees, as often as necessary, information regarding the requirements for office or employment under this title, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.105. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS. (a) The commissioner or the commissioner's designee shall develop an intra-agency career ladder program. The program must require intra-agency posting of each nonentry level position at least 10 days before the date of any public posting.

(b) The commissioner or the commissioner's designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for board employees must be based on the system established under this subsection.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.106. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The commissioner or the commissioner's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the board to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the board's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must be:

(1) updated annually;

(2) reviewed by the Texas Workforce Commission civil rights division for compliance with Subsection (b)(1); and

(3) filed with the governor's office.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.107. WRITTEN EMPLOYEE COMPLAINT PROCEDURE. (a) The commissioner or the commissioner's designee shall maintain a system to promptly and efficiently act on complaints filed with the commissioner or board concerning an employee or former employee. The commissioner or the commissioner's designee shall maintain the information listed in Section 4007.051 for files maintained under that section for complaints against persons registered under this title.

(b) The commissioner or the commissioner's designee shall make information available describing the board's procedures for complaint investigation and resolution.

(c) The commissioner or the commissioner's designee shall periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize a law enforcement investigation.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.103, eff. January 1, 2022.

SUBCHAPTER D. POWERS AND DUTIES OF BOARD AND COMMISSIONER

Sec. 4002.151. RULES. (a) Subject to Subsection (b), the board may adopt rules as necessary to implement this title, including rules:

(1) governing registration statements, applications, notices, and reports; and

(2) defining terms, regardless of whether used in this title, provided that the definitions are not inconsistent with the purposes fairly intended by the policy and provisions of this title.

(b) The board may not adopt a rule unless, after notice and opportunity for comment, the board finds that the action is:

(1) necessary or appropriate in the public interest or for the protection of investors; and

(2) consistent with the purposes fairly intended by the policy and provisions of this title.

(c) For the purpose of adopting rules, the board may classify securities, persons, and matters within the board's jurisdiction and prescribe different requirements for different classes.

(d) The board, in the board's discretion, may waive a requirement of a rule in a situation in which, in the board's opinion, the requirement is not necessary in the public interest or for the protection of investors.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.152. RULES REGARDING COMPETITIVE BIDDING OR ADVERTISING. (a) The board may not adopt rules restricting

competitive bidding or advertising by a person registered under this title except to prohibit false, misleading, or deceptive practices by the person.

(b) The board may not include in the board's rules to prohibit false, misleading, or deceptive practices by a person regulated by the board a rule that:

(1) restricts the person's use of any advertising medium;

(2) restricts the person's personal appearance or use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the person's advertisement under a trade name.

(c) This section does not affect limitations on advertising in Section 4005.012, 4005.013, or 4005.021 or in rules adopted by the board under Section 4005.024.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.153. BOARD DELEGATION OF RULEMAKING AUTHORITY. (a) The board by rule may delegate to the commissioner or the deputy securities commissioner the authority granted to the board under Section 4002.151 or 4002.152 to adopt rules or to waive the requirements of rules as the board considers appropriate.

(b) Any rule adopted by the commissioner or the deputy securities commissioner based on the authority delegated under this section must be adopted in accordance with Sections 4002.151 and 4002.152.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.1535. ALTERNATIVE RULEMAKING AND DISPUTE RESOLUTION. (a) The board shall develop a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and

external disputes under the board's jurisdiction.

(b) The board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Added by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.104, eff. January 1, 2022.

Sec. 4002.154. COMMISSIONER DISCRETION REGARDING RULES. In applying the standards of this title, the commissioner may waive or relax any restriction or requirement in a board rule that, in the commissioner's opinion, is unnecessary for the protection of investors in a particular case.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.155. DEPOSIT OF RECEIPTS TO GENERAL REVENUE FUND. The commissioner or board shall deposit money received from assessments or charges under this title to the credit of the general revenue fund.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.156. BOARD AUTHORITY TO EXERCISE COMMISSIONER'S POWERS. The board may exercise any power or perform any act the commissioner is authorized to exercise or perform under this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01,

eff. January 1, 2022.

Sec. 4002.157. LIST OF SECURITIES OFFERED. At any time, the commissioner may, in the exercise of reasonable discretion under this title, require a dealer to file with the commissioner a partial or complete list of securities that the dealer:

(1) is offering or advertising for sale in this state at the time of the request; or

(2) has offered or advertised for sale in this state during the six-month period preceding the date of the request.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.158. RECORD OF PROCEEDINGS. A complete record shall be kept of all proceedings held before the commissioner on any hearing or investigation.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.159. RECORD OF CERTAIN FILINGS AND ORDERS. (a) The commissioner shall maintain a record of:

(1) the names and addresses of all registered dealers, registered agents, registered investment advisers, registered investment adviser representatives, and persons who have submitted a notice filing under this title; and

(2) all orders of the commissioner denying, suspending, or revoking a registration.

(b) A record maintained under Subsection (a) must be open for public inspection.

(c) This section does not apply to information made confidential by Section 4002.161, 4007.052, or 4007.056 or other law.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.160. COMMISSIONER'S ACCESS TO RECORDS AND REPORTS OF OTHER STATE AGENCIES. (a) During an investigation for the purpose of enforcing this title or in connection with the application of a person or company for registration or for a permit qualifying securities for sale, the commissioner or deputy securities commissioner shall have free access to all records of, all reports of, and all reports made to an agency or department of this state.

(b) If the commissioner or deputy securities commissioner discloses any information made confidential by law, the affected person or company has a right of action on the official bond of the commissioner or deputy securities commissioner for the person's or company's injuries in a suit brought in the name of the state at the relation of the person or company.

(c) This section may not be interpreted to prohibit or limit the publication of rulings or decisions of the commissioner.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.161. CONFIDENTIALITY OF CERTAIN INFORMATION. (a) To the extent not otherwise provided by this title, any intra-agency or interagency notes, memoranda, reports, or other communications consisting of advice, analyses, opinions, or recommendations are confidential.

(b) Except as provided by Subsection (c) or Section 4007.056(b) or (c), the commissioner may not disclose a document or other information made confidential by Subsection (a) unless the disclosure is made to the public under court order for good cause shown.

(c) The commissioner, at the commissioner's discretion, may disclose confidential information in the commissioner's possession to:

(1) a governmental or regulatory authority or any association of governmental or regulatory authorities approved by board rule; or

(2) any receiver appointed under Section 4007.151.

(d) Disclosure of information under Subsection (c) does not violate any other provision of this title or Chapter 552.

(e) This section may not be interpreted to prohibit or limit the publication of rulings or decisions of the commissioner.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.162. BOARD ACCESS TO OFFICES AND RECORDS. Each member of the board shall have access to all of the offices and records under the commissioner's supervision.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.163. ANNUAL REPORT. On or before January 1 of each year, the board, with the advice of the commissioner, shall report to the governor and the presiding officer of each house of the legislature about the administration of this title and plans and needs for future securities regulation. The report must include:

(1) a detailed accounting of all funds received and disbursed by the board during the preceding year, including the amount spent by the board assisting in the criminal prosecution of cases under Section 4007.001(e); and

(2) with respect to cases referred during the preceding year by the board under Section 4007.001(c), a breakdown by county and district attorney of the number of cases where:

(A) criminal charges were filed;

(B) prosecution is ongoing; or

(C) prosecution was completed.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.105, eff. January 1, 2022.

SUBCHAPTER E. CONSUMER INTEREST AND OTHER PUBLIC INTEREST INFORMATION

Sec. 4002.201. CONSUMER INTEREST INFORMATION. (a) The board shall prepare information of consumer interest describing:

(1) the regulatory functions of the board and commissioner; and

(2) the procedures by which consumer complaints are filed with and resolved by the board or commissioner.

(b) The board shall make the information available to the public and appropriate state agencies.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.202. PUBLIC PARTICIPATION. The board by rule shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the board's jurisdiction.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4002.203. DOCUMENTS AND OTHER INFORMATION FILED WITH COMMISSIONER; PUBLIC RECORDS. (a) All information, papers, documents, instruments, and affidavits required by this title to be filed with the commissioner are public records.

(b) All information, papers, documents, instruments, and affidavits required by this title to be filed with the commissioner must be open to inspection and examination by a purchaser or prospective purchaser of securities, or by the agent or representative of a purchaser or prospective purchaser of securities. The commissioner shall:

(1) provide to a purchaser or prospective purchaser of securities, or an agent or representative of those persons, any information required to be filed with the commissioner under this title; and

(2) on request by a person described by Subdivision (1), provide a certified copy of any paper, document, instrument, or affidavit filed with the commissioner under this title.

(c) This section does not apply to information made confidential by Section 4002.161, 4007.052, or 4007.056 or other law.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

CHAPTER 4003. SECURITIES

SUBCHAPTER A. PERMIT QUALIFYING SECURITIES FOR SALE

Sec. 4003.001. PERMIT REQUIRED; EXCEPTIONS. (a) A dealer or agent may not sell or offer for sale any securities issued after September 6, 1955, unless the commissioner has issued a permit qualifying securities for sale for those securities to the issuer of the securities or a registered dealer.

(b) This section does not apply to:

(1) securities that have been registered by notification under Subchapter B or by coordination under Subchapter C; or

(2) transactions or securities that are exempt under Chapter 4005.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.002. PERMIT APPLICATION TO QUALIFY SECURITIES FOR SALE. (a) The commissioner may not issue a permit qualifying securities for sale required by Section 4003.001 until the issuer of the securities or a registered dealer files with the commissioner an application for the permit in the form of a statement containing the following information:

(1) the name, residence, and post office address of each of the company's officers and directors;

(2) the location of the company's principal office and each branch office in this state;

(3) a copy of the company's certificate of formation or articles of incorporation or partnership or association and any amendments to those documents;

(4) if the company is a corporation, a copy of:

(A) all minutes of any proceedings of the company's directors, stockholders, or members relating to or affecting the issuance of the securities; and

(B) the company's bylaws and any amendments to the bylaws;

(5) if the company is a trustee, a copy of all instruments by which the trust is created and in which the trust is accepted, acknowledged, or declared;

(6) a statement showing:

(A) the amount of capital stock and, if there is no capital stock, the amount of capital of the issuer that is contemplated to be employed;

(B) the number of shares into which the stock is divided or, if not divided into shares, what division is to be made or is contemplated;

(C) the par value of each share or, if there are shares with no par value, the price at which the security is proposed to be sold; and

(D) the promotional fees or commissions to be paid for the sale of the securities, including:

(i) all compensation of every nature allowed to be paid to the promoters or allowed for the sale of the securities;

(ii) how the compensation is to be paid, whether in cash, securities, service or otherwise, or partly of either or both;

(iii) the amount of cash to be paid or securities to be issued, given, transferred, or sold to promoters for promotion or organization services and expenses; and

(iv) the amount of promotion or organization services and expenses that the issuer will assume or pay in any way;

(7) a copy of:

(A) certificates of the stock and all other securities to be sold or offered for sale, together with application blanks for the stock and securities;

(B) any contract the company proposes to make concerning the securities; and

(C) any prospectus or advertisement or other description of security prepared by or for the company for distribution or publication; and

(8) the statement of financial condition and income statement described by Section 4003.003.

(b) The statement in an application under this section must be:

(1) verified under oath by an executive officer or partner of the issuer or registered dealer filing the application; and

(2) attested by the secretary or partner of the issuer or registered dealer filing the application.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.003. STATEMENT OF FINANCIAL CONDITION AND INCOME STATEMENT. (a) In this section, "current liabilities" means all liabilities that will mature and become due not later than the first anniversary of the date the application listing the liabilities is filed under this subchapter.

(b) A statement of financial condition required in the application under this subchapter must:

(1) be detailed;

(2) be prepared in accordance with generally accepted auditing standards and procedures and generally accepted accounting principles;

(3) reflect the financial condition of the issuer of the securities to be qualified for sale on a date not earlier than the 90th day before the date the issuer or registered dealer files the application;

(4) show all of the issuer's liabilities by listing all current liabilities and, separately from current liabilities, all other liabilities, including contingent liabilities, showing the amount of those liabilities that are secured by mortgage or otherwise, the issuer's assets that are subject to the mortgage, and the dates of maturity of the mortgage indebtedness;

(5) list all of the issuer's assets in detail and show how the value of the assets was determined;

(6) show whether the value of the assets represents:

(A) the assets' actual cost in money;

(B) the assets' present market value; or

(C) some other value of the assets;

(7) show the present actual value of the assets; and

(8) state whether the value listed in the statement is greater or less than the assets':

(A) actual cost value in money; and

(B) present market value.

(c) The statement under Subsection (b) must show the amount for which any real property listed as an asset is rendered for state and county taxation or assessed for taxation.

(d) The statement under Subsection (b) must describe any assets consisting of anything other than cash or real property in detail to give the commissioner the fullest possible information. The commissioner may require the filing of additional information as the commissioner considers necessary to determine whether the true value

of those assets is reflected in the statement.

(e) A statement under Subsection (b) that lists assets subject to a repurchase agreement or similar agreement under the terms of which the absolute ownership of or title to the assets is qualified or limited must fully state:

(1) the terms of the agreement; and

(2) the amount and character of the assets subject to the agreement.

(f) Subject to Subsection (g), the income statement required in an application under this subchapter must:

(1) be detailed;

(2) be prepared in accordance with generally accepted auditing standards and procedures and generally accepted accounting principles; and

(3) cover the lesser of:

(A) the preceding three years of the issuer's operations; or

(B) the period the issuer has been operating.

(g) If the issuer has not been operating but is taking over a concern of any kind that was previously operating, the income statement required in an application under this subchapter must:

(1) show the operations of the concern taken over for the three years preceding the taking over of the concern; and

(2) clearly reflect the amount of net income or net loss incurred during each year shown.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.004. EXCEPTIONS TO CERTIFICATION REQUIREMENT FOR FINANCIAL STATEMENTS. (a) Financial statements filed as required by this subchapter are not required to be certified by an independent certified public accountant or independent public accountant if:

(1) the fiscal year of the issuer of the securities to be qualified for sale ended on a date earlier than the 90th day before the date of the filing; and

(2) financial statements in addition to those required by this subchapter are filed that:

(A) contain the information required by Section

4003.003; and

(B) are certified by an independent certified public accountant or independent public accountant as of the end of the issuer's preceding fiscal year.

(b) Instead of being audited and certified, the financial statements described by Section 4003.003 of a small business issuer, as defined by board rule, that meets all other requirements the board by rule or order prescribes, conditionally or unconditionally, may be reviewed by an independent certified public accountant in accordance with the Statements on Standards for Accounting and Review Services promulgated by the American Institute of Certified Public Accountants.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.005. PERMIT FEE. The commissioner shall charge the fees provided by Chapter 4006 for the issuance of a permit qualifying securities for sale.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.006. EXAMINATION OF AND DETERMINATION ON PERMIT APPLICATION. (a) On the filing of an application for a permit qualifying securities for sale under this subchapter, the commissioner shall examine the application and the papers and documents filed with the application.

(b) After the examination, the commissioner shall:

(1) issue a permit to the applicant authorizing the applicant to issue and dispose of the securities if the commissioner determines that:

(A) the applicant's proposed plan of business appears to be fair, just, and equitable;

(B) any consideration paid or to be paid by promoters for the securities is fair, just, and equitable if that consideration is less than the proposed offering price to the public; and

(C) the securities the applicant proposes to issue and the methods to be used by the applicant in issuing and disposing of

the securities will not work a fraud upon the purchaser of the securities; or

(2) deny the application for a permit and notify the applicant in writing of the commissioner's decision if the commissioner determines that the applicant's proposed plan of business appears to be unfair, unjust, or inequitable.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.007. FORM AND CONTENTS OF PERMIT. A permit qualifying securities for sale must:

(1) be in the form the commissioner prescribes; and

(2) state in bold type that the issuance of the permit is permissive only and does not constitute a recommendation or endorsement of the securities permitted to be issued.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.008. TERM OF PERMIT. A permit qualifying securities for sale that is issued under this subchapter is valid for one year.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.009. RENEWAL OF PERMIT. (a) An issuer or registered dealer may file a renewal application with the commissioner if the securities authorized to be sold under a permit qualifying securities for sale that is issued under this subchapter are not sold before the permit expires.

(b) The renewal application must:

(1) state:

(A) the total number of shares sold in this state;

(B) the total number of shares sold outside this state; and

(C) the total number of shares outstanding;

(2) contain a detailed balance sheet;

(3) contain an operating statement; and

(4) provide any other information the commissioner may require.

(c) The commissioner shall examine a renewal application and issue a renewal permit or deny the application using the standards stated in Section 4003.006 applicable to an original application.

(d) If issued, a renewal permit:

(1) is valid for one year; and

(2) must be in the form the commissioner prescribes.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.010. USE OF PERMIT FOR CERTAIN PURPOSES PROHIBITED. A dealer, issuer, or agent may not use a permit qualifying securities for sale in connection with a sale or effort to sell a security.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER B. REGISTRATION BY NOTIFICATION

Sec. 4003.051. ELIGIBILITY FOR REGISTRATION BY NOTIFICATION. (a) Securities may be registered by notification under this subchapter if the securities are issued by an issuer that:

(1) has been in continuous operation for at least three years; and

(2) has shown, during at least the three years preceding the date of registration under this subchapter, average annual net earnings after deducting all prior charges, including income taxes but not including charges on securities to be retired out of the proceeds of sale, as follows:

(A) for interest-bearing securities, not less than one and one-half times the annual interest charges on those securities and on all other outstanding interest-bearing securities of equal rank;

(B) for securities with a specified dividend rate, not less than one and one-half times the annual dividend requirements on those securities and on all other outstanding securities of equal rank; and

(C) for securities with no specified dividend rate, not less than five percent on all outstanding securities of equal rank, together with the amount of those securities then offered for sale, based on the maximum price at which the securities are to be offered for sale.

(b) For purposes of calculating average annual net earnings under Subsection (a)(2)(C), an issuer's ownership of more than 50 percent of the outstanding voting stock of a corporation:

(1) is construed as the issuer's proportionate ownership of that corporation; and

(2) permits the inclusion of that corporation's earnings applicable to the payment of dividends on the stock owned in the earnings of the issuer of the securities being registered by notification.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.052. REGISTRATION STATEMENT REQUIRED. (a) To register securities by notification that are entitled to that registration, an issuer of the securities or a registered dealer must file with the commissioner a registration statement that complies with this section.

(b) A registration statement filed under this section must:

(1) be in the form the commissioner prescribes;

(2) be signed by the applicant filing the statement; and

(3) contain the following information:

(A) the name and business address of the main office of the issuer of the securities to be registered and the address of the issuer's principal office, if any, in this state;

(B) the title of the securities to be registered and the total amount of securities to be offered;

(C) the price at which the securities are to be offered for sale to the public, the amount of securities to be offered in this state, and the amount of the registration fee, computed as provided by Chapter 4006;

(D) a brief statement of the facts showing that the securities are entitled to be registered by notification;

(E) the name and business address of the applicant

filing the statement;

(F) subject to Subsection (c) and except as provided by Section 4003.053, financial statements that include, for at least the three years preceding the date of registration:

(i) a certified income statement;

(ii) a certified balance sheet; and

(iii) a certified statement of stockholders' equity;

(G) a copy of any prospectus describing the securities; and

(H) a filing of a consent to service of process conforming to the requirements of Section 4001.102, if the issuer:

(i) is registering the securities; and

(ii) is not a resident of this state or incorporated or formed under the laws of this state.

(c) The financial statements described by Subsection (b)(3)(F) must reflect the financial condition of the issuer of the securities to be registered on a date not earlier than the 90th day before the date the issuer or registered dealer files the registration statement.

(d) Filing a registration statement that complies with this section constitutes the registration of the securities by notification, subject to Section 4003.055.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.053. EXCEPTION TO CERTIFICATION REQUIREMENT FOR FINANCIAL STATEMENTS. Financial statements filed as required by this subchapter are not required to be certified by an independent certified public accountant or independent public accountant if:

(1) the fiscal year of the issuer of the securities to be registered ended on a date earlier than the 90th day before the date of the filing; and

(2) financial statements in addition to those required by this subchapter are filed that:

(A) contain the information required by Section 4003.052; and

(B) are certified by an independent certified public

accountant or independent public accountant as of the end of the issuer's preceding fiscal year.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.054. REGISTRATION PROCEDURES. (a) The commissioner shall complete the procedures specified by this section to register securities entitled to registration by notification.

(b) The commissioner shall:

(1) examine the registration statement filed under Section 4003.052 and the accompanying papers to determine their sufficiency under the requirements of this subchapter; and

(2) record the registration by notification of the securities described on receipt of:

(A) the registration statement;

(B) any prospectus;

(C) payment of the filing fee and registration fee; and

(D) a consent to service of process, if required.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.055. EFFECTIVE DATE OF REGISTRATION BY NOTIFICATION. (a) Except as provided by Subsection (b), the registration of securities by notification takes effect five days after the date the commissioner receives the registration statement filed under Section 4003.052 and all accompanying papers.

(b) The commissioner may waive or reduce the five-day waiting period if the commissioner determines that the public will not be injured by the waiver or reduction of the waiting period.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.056. EFFECT OF REGISTRATION BY NOTIFICATION. On registration of securities by notification, the securities may be sold in this state by a registered dealer or a registered agent.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.057. TERM OF REGISTRATION. A registration of securities by notification is effective for one year.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.058. RENEWAL OF REGISTRATION. A registration of securities by notification may be renewed for additional periods of one year if:

(1) the securities are entitled to registration under this subchapter at the time of renewal; and

(2) a new filing is made under this subchapter together with the payment of the renewal fee of $10.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.059. INSUFFICIENT OR FRAUDULENT REGISTRATION STATEMENT. (a) If at any time, in the commissioner's opinion, the information in a registration statement filed under this subchapter is insufficient to establish that the securities described in the statement are or were entitled to registration by notification under this subchapter, or that the registration information contains or contained false, misleading, or fraudulent facts, the commissioner may order the applicant who filed the statement to cease and desist from selling or offering for sale the securities registered or proposed to be registered by notification under this subchapter until additional information is filed with the commissioner that in the commissioner's judgment is necessary to establish that those securities are or were entitled to registration by notification under this subchapter.

(b) The provisions of Section 4007.107 relating to hearings apply to an order entered under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01,

eff. January 1, 2022.

SUBCHAPTER C. REGISTRATION BY COORDINATION

Sec. 4003.101. ELIGIBILITY FOR REGISTRATION BY COORDINATION. A security may be registered by coordination if a registration statement has been filed under the Securities Act of 1933 (15 U.S.C. Section 77a et seq.) in connection with the same offering.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.102. REGISTRATION STATEMENT REQUIRED. To register securities by coordination, an issuer of the securities or a registered dealer must file with the commissioner a registration statement that contains:

(1) the following information:

(A) the amount of securities to be offered in this state;

(B) the states in which a registration statement or similar document in connection with the offering has been or is expected to be filed; and

(C) any adverse order, judgment, or decree previously entered in connection with the offering by a court or the Securities and Exchange Commission;

(2) one copy of the prospectus filed under the Securities Act of 1933 (15 U.S.C. Section 77a et seq.) together with all amendments to the prospectus;

(3) a copy of:

(A) the articles of incorporation and bylaws, or their substantial equivalents, currently in effect;

(B) any agreements with or among underwriters; and

(C) any indenture or other instrument governing the issuance of the securities to be registered;

(4) a specimen or copy of the security;

(5) any other information or copies of any other documents filed under the Securities Act of 1933 (15 U.S.C. Section 77a et seq.) the commissioner requests;

(6) an undertaking to promptly forward all amendments to

the federal registration statement other than an amendment that delays the effective date only; and

(7) a consent to service of process conforming to the requirements of Section 4001.102 if:

(A) the registration statement is filed by the issuer or by a dealer that will offer the securities for sale as the issuer's agent; and

(B) the issuer is not a resident of this state or incorporated or formed under the laws of this state.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.103. EXAMINATION OF AND DETERMINATION ON REGISTRATION STATEMENT. (a) In this section, "price amendment" means the final federal amendment that includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent on the offering price.

(b) The commissioner shall examine a registration statement filed under Section 4003.102 and the accompanying documents on receipt.

(c) The commissioner may enter an order denying registration of the securities to be registered under the registration statement if after the examination the commissioner determines that the registrant has not proven that:

(1) the proposed plan of business of the issuer of the securities is fair, just, and equitable;

(2) any consideration paid or to be paid by promoters for the securities is fair, just, and equitable if that consideration is less than the proposed offering price to the public; and

(3) the securities the registrant proposes to issue and the methods to be used by the registrant in issuing and disposing of the securities will not work a fraud upon the purchaser of the securities.

(d) If the commissioner enters an order denying the registration of securities under this subchapter, the commissioner shall notify the registrant immediately.

(e) A registration statement under this subchapter becomes

effective automatically at the moment the federal registration statement becomes effective if all of the following conditions are satisfied:

(1) the commissioner has not entered an order denying registration of the securities;

(2) the registration statement has been on file with the commissioner for at least 10 days; and

(3) a statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for two full business days or a shorter period as the commissioner expressly permits and the offering is made within those limitations.

(f) The commissioner may waive either or both of the conditions specified in Subsections (e)(2) and (3).

(g) The registrant shall promptly:

(1) notify the commissioner by telephone or telegram of the date and time when the federal registration statement became effective and the content of any price amendment; and

(2) file a post-effective amendment containing the information and documents in the price amendment.

(h) The commissioner may enter a stop order, without notice or hearing, retroactively denying effectiveness to or suspending effectiveness of the registration statement until the registrant complies with this subchapter if the commissioner:

(1) does not receive the notification and post-effective amendment required under Subsection (g); and

(2) promptly notifies the registrant by telephone or telegram of the issuance of the stop order, and promptly confirms by letter or telegram if the commissioner notifies by telephone.

(i) A stop order entered under Subsection (h) is void from the time of the order's entry if the registrant proves compliance with the notice and post-effective amendment requirements of this section.

(j) If the federal registration statement becomes effective before all conditions under this section are satisfied and the conditions are not waived, the registration statement becomes effective automatically when all the conditions are satisfied.

(k) If the registrant advises the commissioner of the date the federal registration statement is expected to become effective, the commissioner shall promptly advise the registrant by telephone or telegram, at the registrant's expense, whether all the conditions are

satisfied and whether the commissioner then contemplates the issuance of an order denying registration. This advice by the commissioner does not preclude the issuance of the order at any time.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.104. TERM OF REGISTRATION. (a) Except as provided by this section, a registration by coordination of securities under this subchapter is effective until the first anniversary of the date the commissioner declares the registration to be effective.

(b) The initial registration by coordination of securities of an open-end investment company, as defined by the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), is effective until two months after the end of the issuer's fiscal year.

(c) The registration by coordination of securities of a unit investment trust, as defined by the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), is effective until the first anniversary of the date of effectiveness granted by the Securities and Exchange Commission.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.105. RENEWAL OF REGISTRATION. (a) Except as provided by Subsection (b) and subject to Subsection (c), a registration of securities under Section 4003.104 may be renewed for additional periods of one year if the appropriate registration forms and renewal fees are received before the expiration date of the registration to be renewed.

(b) Subject to Subsection (c), for renewal of the initial registration of securities described by Section 4003.104(b), the issuer or the issuer's agent may renew the registration by submitting the appropriate registration forms and renewal fees not later than two months after the end of the issuer's fiscal year.

(c) The same standards of fairness, justice, and equity prescribed by this subchapter for original approval of a registration apply to the renewal of the registration.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER D. PROHIBITED SALES

Sec. 4003.151. CERTAIN SALES PROHIBITED. If the sale of a security entitles the purchaser or subsequent holder to exchange that security for another, or to purchase another security, the sale of, including an exchange for, the other security may not be made unless the sale is authorized under this title, if not exempt under this title, or by another provision of law.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER E. REGULATION OF OFFERS

Sec. 4003.201. DEFINITION. In this subchapter, "broadcast offer" means an offer disseminated by radio, television, recorded telephone presentation, or other mass media.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.202. APPLICABILITY. This subchapter does not apply to transactions or securities exempt under Chapter 4005.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.203. AUTHORIZED WRITTEN, PRINTED, OR BROADCAST OFFERS. A person may make in this state a written or printed offer, including a pictorial demonstration with any accompanying script, or broadcast offer to sell a security if:

(1) a copy of the offer is filed with the commissioner not later than the 10th day after the date of the offer's first use in this state;

(2) the person making or distributing the offer is a registered dealer or registered agent of a registered dealer;

(3) either:

(A) the security is registered under Subchapter B or C or the commissioner has issued a permit qualifying securities for sale for the security under Subchapter A; or

(B) an application for registration under Subchapter B or C or for a permit under Subchapter A has been filed with the commissioner;

(4) for a registration for the security that has not become effective under Subchapter B or C or for a permit that has not been issued under Subchapter A, the offer prominently states on the first page of a written or printed offer or as a preface to any pictorial or broadcast offer either:

(A) "INFORMATIONAL ADVERTISING ONLY. THE SECURITIES HEREIN DESCRIBED HAVE NOT BEEN QUALIFIED OR REGISTERED FOR SALE IN TEXAS. ANY REPRESENTATION TO THE CONTRARY OR CONSUMMATION OF SALE OF THESE SECURITIES IN TEXAS PRIOR TO QUALIFICATION OR REGISTRATION THEREOF IS A CRIMINAL OFFENSE."; or

(B) other language required by the Securities and Exchange Commission that in the commissioner's opinion will inform investors that the securities may not yet be sold;

(5) the person making or distributing the offer in this state:

(A) has not received written notice of an order prohibiting the offer under Section 4007.101 or 4007.102; or

(B) has received notice of an order described by Paragraph (A) but the order is no longer in effect; and

(6) payment is not accepted from the offeree and no contract of sale is made before registration of the security is effective under Subchapter B or C or a permit is issued under Subchapter A.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.204. AUTHORIZED ORAL OFFERS. (a) In this section, "oral offer" means an offer that is not a broadcast offer.

(b) A person may make in this state an oral offer to sell a security in person, by telephone, or by other direct individual communication if:

(1) the person making the offer is a registered dealer or registered agent of a registered dealer;

(2) either:

(A) the security is registered under Subchapter B or C or the commissioner has issued a permit qualifying securities for sale for the security under Subchapter A; or

(B) an application for registration under Subchapter B or C or for a permit under Subchapter A has been filed with the commissioner;

(3) the person making or distributing the offer:

(A) has not received written notice of an order prohibiting the offer under Section 4007.101 or 4007.102; or

(B) has received notice of an order described by Paragraph (A) but the order is no longer in effect; and

(4) payment is not accepted from the offeree and no contract of sale is made before registration of the security is effective under Subchapter B or C or a permit is issued under Subchapter A.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.205. DEALER NAMED IN OFFER. A dealer whose name is included in a written, printed, or broadcast offer along with the name of a registered dealer is not deemed, on that fact alone, to have made an offer in this state to sell a security.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.206. EFFECT OF COMPLIANCE OR NONCOMPLIANCE. (a) An offer to sell a security that complies with Section 4003.203 or 4003.204 does not violate Subchapter A, B, or C.

(b) An offer to sell a security that does not comply with Section 4003.203 or 4003.204 violates this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER F. CROWDFUNDING

Sec. 4003.251. DEFINITION. In this subchapter, "authorized small business development entity" means:

(1) a Type A corporation authorized under Chapter 504, Local Government Code;

(2) a Type B corporation authorized under Chapter 505, Local Government Code;

(3) a nonprofit organization authorized by an agency or authority of the federal government to distribute housing and community development block grants;

(4) a municipal corporation;

(5) the Texas Veterans Commission; or

(6) a nonprofit community development financial institution certified by the Community Development Financial Institutions Fund.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.252. CROWDFUNDING. (a) The board shall adopt rules to regulate and facilitate online intrastate crowdfunding applicable to authorized small business development entities. The board may create other requirements necessary to carry out this subchapter.

(b) The rules must:

(1) allow an authorized small business development entity to list on the entity's web portal offerings of securities by issuers in which the entity is financially interested;

(2) allow an authorized small business development entity and the entity's web portal to list offerings of securities without offering investment advice;

(3) allow an authorized small business development entity to subcontract the operations of a crowdfunding web portal to a third party as permitted by board rule; and

(4) limit the offerings of securities on an authorized small business development entity's web portal to securities of issuers located within the service area of the entity.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER G. PROTECTION FOR PURCHASERS OF SECURITIES

Sec. 4003.301. DEPOSIT IN TRUST ACCOUNT. (a) If the commissioner considers it necessary to protect the interests of prospective purchasers of securities a company sells or offers for sale, the commissioner may require the company to deposit in a trust account at a bank or trust company approved by the commissioner and doing business in this state:

(1) all or part of the proposed securities; or

(2) subject to Subsection (b), all or part of the money and other funds received from the sale of those securities.

(b) A company is not required to deposit funds received from the sale of securities in a trust account to the extent the commissioner considers the funds necessary to be used, provided that the amount of the funds the company is not required to deposit does not exceed the amount allowed as expenses and commissions for the sale of the securities.

(c) The funds must remain on deposit until the proposed or existing company sells a specified monetary amount or number of shares of the securities that in the commissioner's opinion will reasonably assure the public's protection.

(d) When the commissioner makes a written determination that the terms of the escrow agreement have been fully met, the bank or trust company in which the funds of a proposed or existing corporation are deposited in a trust account as provided by this section shall transfer to the corporation and the corporation's executive officers the funds to allow the corporation to use the securities or money in the corporation's business.

(e) If a proposed or existing company that deposits funds in a trust account as provided by this section does not sell the minimum amount of capital necessary under the escrow agreement within two years, the commissioner may authorize the bank or trust company at which the funds are deposited to return to the subscribers the portion of the funds that were deposited or escrowed under the escrow agreement. The bank or trust company shall return the funds to the subscribers on receipt of authorization from the commissioner under this subsection. If the bank or trust company holds securities under the escrow agreement, the bank or trust company may return the securities to the corporation only after the bank or trust company receives from the issuer evidence of cancellation thereof.

(f) A dealer or issuer of securities shall provide to the

commissioner and the bank or trust company at the time the dealer or issuer makes the deposit required by this section:

(1) the names of the purchasers of or subscribers for the securities; and

(2) the amount of money paid by each.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.302. MARKETING EXPENSES. (a) Total expenses for marketing securities, including all commissions for the sale of the securities, and all other incidental selling expenses, may not in the aggregate exceed 20 percent of the price at which the stock or other securities of a proposed or existing company are to be sold or offered for sale to the public of this state.

(b) The commissioner may reduce the percentage listed in Subsection (a) to a percentage that in the commissioner's opinion is fair, just, and equitable under the facts of the particular case.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4003.303. PROSPECTUS REQUIRED FOR CERTAIN OFFERS. (a) Except as provided by Subsection (b), the commissioner shall require that, in connection with a permit qualifying securities for sale, all offers for the sale of the securities be made through a prospectus that:

(1) fairly discloses the material facts about the plan of finance and business; and

(2) must be filed with and approved by the commissioner.

(b) The prospectus requirements of this section are satisfied if the applicant files a prospectus or offering circular with the commissioner that is also filed with the Securities and Exchange Commission under the Securities Act of 1933 (15 U.S.C. Section 77a et seq.) or the regulations under that law.

(c) Failure to comply with the prospectus requirements of this section violates this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01,

eff. January 1, 2022.

Sec. 4003.304. INVESTOR EDUCATION. (a) The commissioner, with board approval, shall develop and implement investor education initiatives to inform the public about the basics of investing in securities. The initiatives must place a special emphasis on the prevention and detection of securities fraud. Materials developed for and distributed as part of the initiatives must be published in both English and Spanish.

(b) In developing and implementing the initiatives, the commissioner shall use the commissioner's best efforts to collaborate with public or nonprofit entities with an interest in investor education.

(c) For use in providing investor education initiatives and subject to Chapter 575, the commissioner may accept grants and donations from:

(1) a person who is not affiliated with the securities industry; or

(2) a nonprofit association, regardless of whether the entity is affiliated with the securities industry.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

CHAPTER 4004. REGULATION OF DEALERS, INVESTMENT ADVISERS, DEALERS' AGENTS, AND INVESTMENT ADVISER REPRESENTATIVES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 4004.001. RULES FOR EXEMPTION FROM REGISTRATION REQUIREMENTS. The board may adopt rules that exempt certain classes of persons from the dealer, agent, investment adviser, and investment adviser representative registration requirements, or provide conditional exemptions from registration, if the board determines that the rules are consistent with the purposes of this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.002. CERTAIN DISPLAYS OR ADVERTISEMENT OF

REGISTRATION PROHIBITED. Except as expressly provided by this title, a dealer, agent, investment adviser, or investment adviser representative may not by public display or advertisement use the fact that the person is registered under this title, the person's registration certificate or evidence of registration, or a certified copy of the certificate or evidence of registration in connection with any sale or effort to sell any security or any rendering of services as an investment adviser.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.003. DISPLAY OF INFORMATION REGARDING COMPLAINTS. A dealer, agent, investment adviser, or investment adviser representative regulated under this title shall prominently display at all times in the person's place of business:

(1) a sign containing the name, mailing address, and telephone number of the board; and

(2) a statement informing consumers that complaints against a dealer, agent, investment adviser, or investment adviser representative may be directed to the board.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER B. REGISTRATION OF DEALERS AND INVESTMENT ADVISERS

Sec. 4004.051. REGISTRATION OF DEALERS REQUIRED. Except as provided by Section 4001.056(d) or Subchapter A, Chapter 4005, a dealer or other person or company, including a corporation or firm, may not, directly or through the dealer's or other person's or company's agents, offer for sale, sell, or make a sale of any securities in this state unless the dealer or other person or company is first registered as provided by this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.052. REGISTRATION OF INVESTMENT ADVISERS REQUIRED.

Except as provided by Subchapter A, Chapter 4005, a person may not, directly or through the person's investment adviser representative, render services as an investment adviser in this state unless the person:

(1) is registered under this chapter;

(2) submits a notice filing as provided by Subchapter G; or

(3) is otherwise exempt under this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.053. APPLICATION FOR REGISTRATION. (a) To be registered, a dealer or investment adviser must submit to the commissioner a sworn application that must be in the form the commissioner prescribes and must state:

(1) the applicant's principal place of business;

(2) the location of the applicant's principal place of business and all branch offices of the applicant in this state;

(3) the name or style of doing business and the address of the applicant;

(4) the name, residence, and business address of each person interested in the business as a principal, officer, director, or managing agent of the applicant's business, specified by capacity and title;

(5) the general plan and character of the applicant's business;

(6) the period the applicant has been engaged in the business; and

(7) the places at which the applicant has engaged in the business.

(b) An application filed under this section must contain additional information relating to the previous history, record, associations, and present financial condition of the applicant as the commissioner may require or as necessary to enable the commissioner to determine whether the sale of any securities the applicant proposes to issue or deal in would result in fraud.

(c) An application must be accompanied by a certificate or other evidence satisfactory to the commissioner that establishes the good reputation of:

(1) the applicant; and

(2) the directors, officers, copartners, or principals of the applicant.

(d) For an applicant that is a corporation organized under the laws of another state, territory, or government or that will have the applicant's principal place of business therein, the application must be accompanied by a copy of the corporation's:

(1) articles of incorporation or similar organizational instrument, and all amendments to the document or instrument, as applicable, certified by the appropriate officer of the corporation or of the state or other jurisdiction in which the corporation is organized;

(2) regulations; and

(3) bylaws.

(e) For an applicant that is a limited partnership, the application must be accompanied by either:

(1) a copy of the articles of copartnership or similar organizational instrument of the partnership; or

(2) a verified statement of the partnership's plan of doing business.

(f) For an applicant that is an unincorporated association or organization under the laws of another state, territory, or government or is an unincorporated association or organization that has its principal place of business therein, the application must be accompanied by a copy of the association's or organization's articles of association, trust agreement, or other form of organization.

(g) The commissioner shall:

(1) prescribe the application form to be used by an applicant under this section; and

(2) provide copies of the application form for registration to all persons who seek to submit an application to register as a dealer or investment adviser.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.054. ISSUANCE OF REGISTRATION CERTIFICATE. The commissioner shall issue a certificate of registration to an applicant for registration as a dealer or investment adviser if:

(1) the commissioner is satisfied that the applicant has complied with the requirements of this chapter; and

(2) the applicant:

(A) if applicable, has filed a written consent to service that complies with Section 4001.102; and

(B) has paid the fees required by Chapter 4006.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.055. FORM AND CONTENTS OF REGISTRATION CERTIFICATE. The registration certificate must be in the form the commissioner prescribes and must state:

(1) the principal place of business and address of the dealer or investment adviser;

(2) the name and business address of each person interested in the business as a principal, officer, director, or managing agent of the dealer or investment adviser; and

(3) that the dealer or investment adviser has been registered for a current calendar year as a dealer in securities or as an investment adviser, as appropriate.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.056. TEMPORARY PERMISSION TO ENGAGE IN BUSINESS AS DEALER OR INVESTMENT ADVISER. (a) Pending final disposition of an application under this subchapter, the commissioner may, for special cause shown, grant an applicant temporary permission to engage in business as a dealer or investment adviser under this title, subject to any terms and conditions that the commissioner prescribes.

(b) Temporary permission granted by the commissioner under this section may be revoked at any time.

(c) A dealer or investment adviser acting under temporary permission granted under this section is considered to be a registered dealer or registered investment adviser for any purpose of this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01,

eff. January 1, 2022.

Sec. 4004.057. AMENDMENT OF REGISTRATION CERTIFICATE. (a) A dealer or investment adviser shall immediately certify under oath to the commissioner any change in the personnel of a partnership or in the principals, officers, directors, or managing agents of the dealer or investment adviser.

(b) A change in the registration certificate required as the result of a change described by Subsection (a) may be made at any time by submitting to the commissioner a written application that specifies the reason for the change.

(c) On the issuance of an amended registration certificate, the dealer or investment adviser shall promptly surrender the original certificate and any outstanding certified copies of the original certificate to the commissioner.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.058. POSTING REGISTRATION CERTIFICATES. On receipt of a registration certificate issued under this chapter, the dealer or investment adviser named in the certificate shall immediately post and conspicuously display the certificate at all times in the dealer's or investment adviser's principal place of business, if the dealer's or investment adviser's principal place of business is maintained in this state. The dealer or investment adviser shall similarly post and conspicuously display a duplicate copy of the dealer's or investment adviser's certificate in each branch office located in this state.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER C. REGISTRATION OF AGENTS AND INVESTMENT ADVISER REPRESENTATIVES

Sec. 4004.101. REGISTRATION OF AGENTS. (a) An agent may not, on behalf of a registered dealer, sell, offer for sale, or make a sale of any securities in this state unless the agent is registered

as an agent for that particular registered dealer under this chapter.

(b) On written application by a registered dealer, and on satisfactory compliance with the requirements of this title, the commissioner shall register a person as an agent of the registered dealer.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.102. REGISTRATION OF INVESTMENT ADVISER REPRESENTATIVES. (a) A person may not act or render services as an investment adviser representative for an investment adviser in this state unless the person is registered or submits a notice filing as an investment adviser representative for that particular investment adviser as provided by this subchapter and Subchapter G.

(b) On written application by an investment adviser and on satisfactory compliance with the requirements of this title, the commissioner shall register a person as an investment adviser representative of that investment adviser.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.103. APPLICATION FOR REGISTRATION. The application described by Sections 4004.101 and 4004.102 must:

(1) be in the form the commissioner prescribes;

(2) state:

(A) the residence and address of the person whose registration as an agent or investment adviser representative is requested through the application; and

(B) any other information relating to that person's previous history, record, and associations that the commissioner may require; and

(3) be signed and sworn to by the person whose registration as an agent or investment adviser representative is requested through the application.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.104. ISSUANCE OF EVIDENCE OF REGISTRATION. For each person registered under this subchapter, the commissioner shall issue evidence of registration of the agent or investment adviser representative to the registered dealer or investment adviser who requested the person's registration, as appropriate. The registered dealer or investment adviser who requested the person's registration shall retain the evidence of registration for the dealer's agents or investment adviser's representatives, as appropriate.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.105. FORM AND CONTENTS OF EVIDENCE OF REGISTRATION. The evidence of registration described by Section 4004.104 must:

(1) be in the form the commissioner prescribes; and

(2) state:

(A) the name of the agent or investment adviser representative;

(B) the address of the registered dealer or investment adviser, as appropriate; and

(C) that the person is registered for the current calendar year as an agent of the dealer or as an investment adviser representative of the investment adviser, as appropriate.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.106. CANCELLATION OF REGISTRATION. On application by a registered dealer or investment adviser, the commissioner shall cancel the registration of the registered dealer's agent or the investment adviser's representative.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER D. EXAMINATION REQUIREMENTS

Sec. 4004.151. EXAMINATION REQUIREMENTS. (a) Except as provided by Subsection (c), the commissioner shall require that, to be registered under this chapter, each applicant must pass a written examination to determine whether the applicant possesses the qualifications and competency to engage in the business of dealing in and selling securities as a dealer or agent, or rendering services as an investment adviser or investment adviser representative. If the applicant is a corporation or partnership, the officers, directors, or partners to be licensed by the corporation or partnership must pass the written examination described by this section.

(b) The commissioner may accept some or all of the examinations administered by securities self-regulatory organizations to fulfill the examination requirements of this section.

(c) The board may waive the examination requirement under Subsection (a) for any applicant or class of applicants.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.152. EXAMINATION RESULTS. (a) Except as provided by Subsection (b), the board shall notify each examinee of the results of a registration examination required by this subchapter not later than the 30th day after the date the examinee takes the examination.

(b) If an examination is graded or reviewed by a testing service:

(1) the board shall notify each examinee of the results of the examination not later than the 14th day after the date the board receives the results from the testing service; and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the board shall notify each examinee of the reason for the delay before the 90th day.

(c) The board may require a testing service to notify an examinee of the results of the examination.

(d) If requested in writing by an examinee who fails an examination administered under this subchapter, the board shall provide the examinee with an analysis of the examinee's performance on the examination.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER E. DENIAL OR REVOCATION OF REGISTRATION

Sec. 4004.201. DENIAL OF REGISTRATION. The commissioner may deny an application for registration under this chapter in accordance with Section 4007.105.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.202. AUTOMATIC REVOCATION OF REGISTRATION OF AGENTS AND INVESTMENT ADVISER REPRESENTATIVES AFTER REVOCATION OF REGISTRATION OF DEALER OR INVESTMENT ADVISER. (a) The revocation of the registration of a dealer or an investment adviser under Section 4007.105 constitutes a revocation of the registration of any agent of the dealer or of any investment adviser representative of the investment adviser, as appropriate.

(b) The commissioner shall promptly send notice of the revocation of the registration of a dealer or of an investment adviser to each applicable agent or investment adviser representative.

(c) All evidences of registration that have been revoked shall be immediately surrendered to the commissioner on request.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER F. EXPIRATION AND RENEWAL OF REGISTRATION

Sec. 4004.251. EXPIRATION OF REGISTRATION. Except as provided by Sections 4004.252(a) and 4004.253, all registrations expire at the end of the calendar year.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.252. RENEWAL OF REGISTRATION. (a) A person may renew an unexpired registration by filing a renewal application in the form the commissioner prescribes and by paying the required

renewal fee to the board before the registration's expiration date.

(b) New registrations for the year succeeding the expiration of registrations shall be issued on the filing of a written application and payment of the fee as provided by this subchapter. If an applicant registers after December 1 of any year, the applicant may immediately apply for a renewal of the applicant's registration for the ensuing year.

(c) The filing of additional statements or the provision of additional information is not required for renewal unless specifically requested by the commissioner.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.253. STAGGERED RENEWAL; PRORATION OF REGISTRATION RENEWAL FEE. (a) The board by rule may adopt a system under which registrations expire on various dates during the year.

(b) For the year in which the registration expiration date is changed, registration fees payable after the 60th day and before the 30th day before January 1 of the next year shall be prorated on a monthly basis so that each person pays only that portion of the registration fee that is allocable to the number of months during which the registration is valid. On renewal of the registration on the new expiration date, the total registration renewal fee is payable.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.254. NOTICE OF EXPIRATION REQUIRED. Not later than the 30th day before the date a person's registration is scheduled to expire, the commissioner shall send written notice of the impending expiration to the person at the person's last known address according to the board's records.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.255. RENEWAL OF EXPIRED REGISTRATION. (a) A person whose registration has been expired for 90 days or less may renew the registration by:

(1) filing a renewal application with the commissioner; and

(2) paying to the board:

(A) the required renewal fee; and

(B) a fee that is equal to one-half of the original registration application fee.

(b) A person whose registration has been expired for more than 90 days but less than two years may renew the registration by:

(1) filing a renewal application with the commissioner; and

(2) paying to the board:

(A) all unpaid renewal fees; and

(B) a fee that is equal to the original registration application fee.

(c) A person whose registration has been expired for two years or more may not renew the registration. The person may obtain a new registration by complying with the requirements and procedures, including the examination requirements, for obtaining an original registration. The person must pay to the board a fee that is equal to the original registration application fee.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.256. EFFECT OF EXPIRED REGISTRATION. A person who sells securities or who renders investment advising services after the person's registration has expired but before the registration is renewed is subject to the sanctions provided by this title for selling securities or rendering investment advice without being registered.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.257. CONTINUING EDUCATION. (a) The board may recognize, prepare, or administer continuing education programs for a person who is registered under this chapter.

(b) A person who is registered under this chapter must

participate in continuing education programs if the board requires participation as a condition of maintaining the person's certificate or evidence of registration.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER G. NOTICE FILINGS OF FEDERAL COVERED INVESTMENT ADVISERS AND CERTAIN REPRESENTATIVES OF FEDERAL COVERED INVESTMENT ADVISERS

Sec. 4004.301. APPLICABILITY. This subchapter does not apply to an investment adviser or investment adviser representative who is exempt from registration under this title or by board rule.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.302. NOTICE FILING. The board by rule shall authorize a federal covered investment adviser or a representative of a federal covered investment adviser to render services as an investment adviser in this state if the commissioner receives:

(1) a notice filing submitted by the adviser or representative that:

(A) is on the form and contains the information the commissioner prescribes; and

(B) if applicable, contains a consent to service appointing the commissioner as the adviser's attorney for service of process, as required by Section 4001.102; and

(2) a notice filing fee in the amount determined under Chapter 4006.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.303. EFFECTIVE DATE OF NOTICE FILING. On the commissioner's receipt of a notice filing and fee payment that meet the requirements of Section 4004.302, the notice filing takes effect and is valid for the remainder of the calendar year.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.304. RENEWAL. A federal covered investment adviser or a representative of a federal covered investment adviser may renew a notice filing on or before the filing's expiration date if the commissioner receives:

(1) a renewal notice filing submitted by the adviser or representative; and

(2) a renewal fee in the amount determined under Chapter 4006.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER H. REQUIREMENTS FOR PROTECTION OF VULNERABLE ADULTS FROM FINANCIAL EXPLOITATION

Sec. 4004.351. DEFINITIONS. In this subchapter:

(1) "Department" means the Department of Family and Protective Services.

(2) "Exploitation," "financial exploitation," and "vulnerable adult" have the meanings assigned by Section 281.001, Finance Code.

(3) "Securities professional" means an agent, an investment adviser representative, or a person who serves in a supervisory or compliance capacity for a dealer or investment adviser.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.106, eff. January 1, 2022.

Sec. 4004.352. REPORTING SUSPECTED FINANCIAL EXPLOITATION OF VULNERABLE ADULTS. (a) If a securities professional or a person serving in a legal capacity for a dealer or investment adviser has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the dealer or investment adviser has

occurred, is occurring, or has been attempted, the securities professional or person serving in a legal capacity for the dealer or investment adviser shall notify the dealer or investment adviser of the suspected financial exploitation.

(b) If a dealer or investment adviser is notified of suspected financial exploitation under Subsection (a) or otherwise has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the dealer or investment adviser has occurred, is occurring, or has been attempted, the dealer or investment adviser shall assess the suspected financial exploitation and submit a report to the commissioner, in accordance with rules adopted under Section 4004.353, and the department in the same manner as and containing the same information required to be included in a report under Section 48.051, Human Resources Code. The dealer or investment adviser shall submit the reports required by this subsection not later than the earlier of:

(1) the date the dealer or investment adviser completes the dealer's or investment adviser's assessment of the suspected financial exploitation; or

(2) the fifth business day after the date the dealer or investment adviser is notified of the suspected financial exploitation under Subsection (a) or otherwise has cause to believe that the suspected financial exploitation has occurred, is occurring, or has been attempted.

(c) A dealer or investment adviser who submits a report to the department of suspected financial exploitation of a vulnerable adult under Subsection (b) is not required to make an additional report of suspected abuse, neglect, or exploitation under Section 48.051, Human Resources Code, for the same conduct constituting the reported suspected financial exploitation.

(d) Each dealer and investment adviser shall adopt internal policies, programs, plans, or procedures for:

(1) the securities professionals or persons serving in a legal capacity for the dealer or investment adviser to make the notification required under Subsection (a); and

(2) the dealer or investment adviser to conduct the assessment and submit the reports required under Subsection (b).

(e) The policies, programs, plans, or procedures adopted under Subsection (d) may authorize the dealer or investment adviser to report the suspected financial exploitation to other appropriate

agencies and entities in addition to the commissioner and the department, including the attorney general, the Federal Trade Commission, and the appropriate law enforcement agency.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.353. FORM AND CONTENT OF REPORT. The board by rule shall prescribe the form and content of the report required to be submitted by a dealer or investment adviser to the commissioner under Section 4004.352(b).

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.354. NOTIFYING THIRD PARTIES OF SUSPECTED FINANCIAL EXPLOITATION OF VULNERABLE ADULTS. If a dealer or investment adviser submits reports of suspected financial exploitation of a vulnerable adult to the commissioner and the department under Section 4004.352(b), the dealer or investment adviser may at the time the dealer or investment adviser submits the reports also notify a third party reasonably associated with the vulnerable adult of the suspected financial exploitation, unless the dealer or investment adviser suspects the third party of financial exploitation of the vulnerable adult.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.355. TEMPORARY HOLD ON TRANSACTIONS IN CERTAIN CASES OF SUSPECTED FINANCIAL EXPLOITATION OF VULNERABLE ADULTS. (a) Notwithstanding any other law, a dealer or investment adviser:

(1) may place a hold on any transaction that involves an account of a vulnerable adult if the dealer or investment adviser:

(A) submits a report of suspected financial exploitation of the vulnerable adult to the commissioner and the department under Section 4004.352(b); and

(B) has cause to believe the transaction is related to

the suspected financial exploitation alleged in the report; and

(2) must place a hold on any transaction involving an account of a vulnerable adult if the hold is requested by the commissioner, the department, or a law enforcement agency.

(b) Subject to Subsection (c), a hold placed on any transaction under Subsection (a) expires on the 10th business day after the date the hold is placed.

(c) A dealer or investment adviser may extend a hold placed on any transaction under Subsection (a) for a period not to exceed 30 business days after the expiration of the period prescribed by Subsection (b) if requested by a state or federal agency or a law enforcement agency investigating the suspected financial exploitation. The dealer or investment adviser may also petition a court to extend a hold placed on any transaction under Subsection (a) beyond the period prescribed by Subsection (b). A court may enter an order extending or shortening a hold or providing other relief.

(d) Each dealer and investment adviser shall adopt internal policies, programs, plans, or procedures for placing a hold on a transaction involving an account of a vulnerable adult under Subsection (a).

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 502 (H.B. 4477), Sec. 3, eff. January 1, 2022.

Sec. 4004.356. IMMUNITY. (a) A securities professional or person serving in a legal capacity for a dealer or investment adviser who makes a notification under Section 4004.352(a), a dealer or investment adviser that submits a report under Section 4004.352(b) or makes a notification to a third party under Section 4004.354, or a securities professional or person serving in a legal capacity who or dealer or investment adviser that testifies or otherwise participates in a judicial proceeding arising from a notification or report is immune from any civil or criminal liability arising from the notification, report, testimony, or participation in the judicial proceeding, unless the securities professional, person serving in a legal capacity for the dealer or investment adviser, or dealer or

investment adviser acted in bad faith or with a malicious purpose.

(b) A dealer or investment adviser that in good faith and with the exercise of reasonable care places or does not place a hold on any transaction under Section 4004.355(a)(1) is immune from civil or criminal liability or disciplinary action resulting from the action or failure to act.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4004.357. RECORDS. To the extent permitted by state or federal law, a dealer or investment adviser, on request, shall provide access to or copies of records relevant to the suspected financial exploitation of a vulnerable adult to the commissioner, the department, a law enforcement agency, or a prosecuting attorney's office, either as part of a report to the commissioner, department, law enforcement agency, or prosecuting attorney's office or at the request of the commissioner, department, law enforcement agency, or prosecuting attorney's office in accordance with an investigation.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

CHAPTER 4005. EXEMPTIONS

SUBCHAPTER A. EXEMPT TRANSACTIONS

Sec. 4005.001. SCOPE OF EXEMPTION. Except as expressly provided otherwise in this title, this title does not apply to any sale of, offer for sale of, solicitation of, subscription to, dealing in, or delivery of a security made in a transaction or under a condition specified in this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.002. COURT SUPERVISED SALES. The exemption provided by Section 4005.001 applies to the sale of a security made:

(1) at a judicial, executor's, administrator's, guardian's, or conservator's sale; or

(2) by a receiver or trustee in insolvency or bankruptcy.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.003. PLEDGED SECURITIES. The exemption provided by Section 4005.001 applies to the sale of a security pledged in good faith as security for a bona fide debt that is made by or for the account of a pledge holder or mortgagee that is selling the security or offering the security for sale or delivery in the ordinary course of business to liquidate the debt.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.004. ISOLATED TRANSACTIONS. (a) The exemption provided by Section 4005.001 applies to the sale of a security that is made by a vendor or on a vendor's behalf by a dealer or other agent and is made in the ordinary course of a bona fide personal investment of the vendor's personal holdings or a change in the investment if:

(1) the vendor is not engaged in the business of selling securities; and

(2) the sale is an isolated transaction not made in the course of repeated and consecutive transactions of a like character.

(b) A sale or offer for sale under Subsection (a) is not exempt from this title if the sale or offer is made or intended to be made by the vendor or the vendor's agent for the direct or indirect benefit of a company other than the individual vendor. The usual commission of a vendor's agent is not a benefit for the purposes of this subsection.

(c) A person acting as an agent for a vendor in any sale or offer for sale under Subsection (a) must be registered under this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.005. INSURANCE COMPANY SALES. (a) The exemption provided by Section 4005.001 applies to the sale of a security made by or on behalf of an insurance company that:

(1) is subject to the supervision or control of the Texas Department of Insurance; and

(2) owns the security as a legal and bona fide investment.

(b) A sale or offer for sale under Subsection (a) is not exempt from this title if the sale or offer is made or intended to be made directly or indirectly for the benefit of another company.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.006. STOCK DIVIDENDS. The exemption provided by Section 4005.001 applies to a distribution of securities by a corporation directly to the corporation's stockholders as a stock dividend or other distribution paid out of earnings or surplus.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.007. EXISTING SECURITY HOLDERS. (a) In this section, "existing security holder" includes a person who is a holder of a convertible security or nontransferable warrant at the time of the transaction.

(b) The exemption provided by Section 4005.001 applies to an offer by the issuer of its securities to the issuer's existing security holders and to any transaction pursuant to the offer if no commission or other remuneration, other than a stand-by commission, is paid or given directly or indirectly for soliciting any security holder in this state.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.008. FINANCIAL DISTRESS. (a) The exemption provided by Section 4005.001 applies to the issuance in good faith of securities by a company:

(1) to the company's security holders or creditors in the process of a bona fide reorganization of the company made in good faith; or

(2) to the security holders or creditors of a predecessor company if the issuing company is organized solely for the purpose of taking over the assets and continuing the business of the predecessor company.

(b) The exemption provided by Section 4005.001 applies to an issuance of securities described by Subsection (a) only if:

(1) the securities are issued in exchange for securities of the security holders, claims of the creditors, or both; and

(2) the security holders or creditors do not pay, give, or promise any consideration, and are not obligated to pay or give any consideration, for the securities issued other than the securities of or claims against the company or the company's predecessor held or owned by the security holders or creditors at the time of the issuance.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.009. MERGER, CONSOLIDATION, AND ASSET SALES. (a) The exemption provided by Section 4005.001 applies to the issuance or sale of securities by one corporation to another corporation or to the security holders of the corporation pursuant to a vote by one or more classes of those security holders, as required by the certificate of formation, certificate of incorporation, or applicable corporation statute, in connection with:

(1) a merger;

(2) a consolidation; or

(3) a sale of corporate assets.

(b) The exemption provided by Section 4005.001 applies to an issuance or sale described by Subsection (a) only if the security holders do not pay, give, or promise any consideration, and are not obligated to pay or give any consideration, for the securities issued or sold other than the corporation's securities held by the security holders at the time of the issuance or sale.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.010. EXCHANGE OF SHARES. (a) The exemption provided by Section 4005.001 applies to the issuance or sale of securities by one corporation to the corporation's stockholders in connection with:

(1) the change of par value stock to no par value stock or vice versa; or

(2) the exchange of outstanding shares for the same or a greater or smaller number of shares.

(b) The exemption provided by Section 4005.001 applies to an issuance or sale described by Subsection (a) only if the security holders do not pay, give, or promise any consideration, and are not obligated to pay or give any consideration, for the securities issued or sold other than the corporation's securities held by the security holders at the time of the issuance or sale.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.011. INSTITUTIONAL INVESTORS. The exemption provided by Section 4005.001 applies to the sale of a security to:

(1) a bank;

(2) a trust company;

(3) a building and loan association;

(4) a savings and loan association;

(5) an insurance company;

(6) a surety or guaranty company;

(7) a savings institution;

(8) an investment company as defined by the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.);

(9) a small business investment company as defined by the Small Business Investment Act of 1958 (15 U.S.C. Section 661 et seq.); or

(10) a registered dealer actually engaged in buying and selling securities.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.012. PRIVATE LIMITED OFFERINGS. (a) The exemption provided by Section 4005.001 applies to the following sales made without any public solicitation or advertisement:

(1) the sale of a security by the issuer of the security if the total number of security holders of the issuer does not exceed 35 persons after the sale; or

(2) the sale by an issuer of the issuer's securities to not more than 15 persons during the 12-month period ending with the date of the sale if the persons purchased the securities for their own account and not for distribution.

(b) For the purpose of determining the number of persons under Subsection (a)(2), the following persons are not included:

(1) a purchaser of a security in a transaction exempt under another provision of this subchapter;

(2) a purchaser of a security exempt under Subchapter B; and

(3) a purchaser of a security that is part of an offering registered under Subchapter A, B, or C, Chapter 4003.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.013. COMPENSATION PLANS AND CONTRACTS. The exemption provided by Section 4005.001 applies to the sale or distribution of a security without any public solicitation or advertisement if the sale or distribution is made:

(1) by an issuer of the security or any participating subsidiary of the issuer; and

(2) under a bona fide thrift, savings, stock purchase, retirement, pension, profit-sharing, option, bonus, appreciation right, incentive, or similar written compensation plan or written compensation contract established by the issuer or the issuer's subsidiary for the benefit of:

(A) employees, directors, general partners, managers, or officers of the issuer or subsidiary;

(B) the issuer's or subsidiary's trustees, if the issuer or subsidiary is a business trust; or

(C) consultants or advisers who provide to the issuer or subsidiary bona fide services unrelated to the offer or sale of

securities in a capital-raising transaction.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.014. MORTGAGES AND LIENS. The exemption provided by Section 4005.001 applies to a single transaction in which:

(1) the securities disposed of consist exclusively of notes or bonds secured by a mortgage or vendor's lien on real property or tangible personal property; and

(2) the entire mortgage or lien is sold or transferred with all of the notes or bonds secured by the mortgage or lien.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.015. NONPROFITS. The exemption provided by Section 4005.001 applies to the disposition of a security or membership:

(1) issued by a corporation or association:

(A) that is organized exclusively for a religious, educational, benevolent, fraternal, charitable, or reformatory purpose;

(B) that is not organized for pecuniary profit; and

(C) for which no part of the net earnings inures to the benefit of any stockholder, shareholder, or individual member of the corporation or association; and

(2) for which no commission or remuneration is paid or given or is to be paid or given.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.016. FINANCIAL INSTITUTIONS. The exemption provided by Section 4005.001 applies to:

(1) the sale, by the issuer itself or by a registered dealer, of any security issued or guaranteed by:

(A) a bank organized and subject to regulation under the laws of:

(i) the United States; or

(ii) a state, territory, or insular possession of the United States; or

(B) a savings and loan association organized and subject to regulation under the laws of this state; or

(2) the sale, by the issuer itself, of any security issued by a federal savings and loan association.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.017. GOVERNMENT ISSUANCE OR GUARANTEE. The exemption provided by Section 4005.001 applies to the sale, by the issuer itself or by a registered dealer, of any security either issued or guaranteed by:

(1) the United States;

(2) the District of Columbia, a state, territory, or insular possession of the United States;

(3) a political subdivision of a state of the United States, including a county, city, municipal corporation, district, and authority; or

(4) a public or governmental agency or instrumentality of an entity described by Subdivisions (1)-(3).

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.018. COOPERATIVES. (a) The exemption provided by Section 4005.001 applies to:

(1) the sale and issuance of:

(A) any securities issued by a farmers' cooperative marketing association organized under Chapter 52, Agriculture Code, or the predecessor of that law (Article 5737 et seq., Revised Statutes);

(B) any securities issued by a mutual loan corporation organized under Chapter 54, Agriculture Code, or the predecessor of that law (Article 2500 et seq., Revised Statutes); or

(C) any equity securities issued by a cooperative association organized under the Texas Cooperative Association Law as

described by Section 1.008(i), Business Organizations Code, or the predecessor of that law (Article 1396-50.01, Vernon's Texas Civil Statutes); or

(2) the sale of any securities issued by a farmers' cooperative society organized under Chapter 51, Agriculture Code, or the predecessor of that law (Article 2514 et seq., Revised Statutes).

(b) The exemption provided by Section 4005.001 does not apply to an agent of a farmers' cooperative marketing association, mutual loan corporation, cooperative association, or farmers' cooperative society if the sale of the securities is made to:

(1) nonmembers; or

(2) members and a commission is paid or contracted to be paid to the agent.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.019. SECONDARY MARKET SALES. (a) In this section, "recognized securities manual" means a nationally distributed manual of securities that is approved by the board for use under this section.

(b) The exemption provided by Section 4005.001 applies to the sale of outstanding securities by a registered dealer if:

(1) the securities do not form part of an unsold allotment to or subscription by the dealer as a participant in the securities' distribution by the issuer of the securities;

(2) the securities are of the same class and the same issuer and are outstanding in the hands of the public;

(3) the securities are offered for sale, in good faith, at prices reasonably related to the current market price of the securities at the time of the sale;

(4) none of the sale proceeds are paid directly or indirectly to the issuer of the securities;

(5) the sale is not directly or indirectly for the purposes of providing or furthering a scheme to violate or evade this title;

(6) the right to sell or resell the securities has not been enjoined by a court in this state by a proceeding instituted by an officer or agency of this state charged with enforcement of this title;

(7) the commissioner has not revoked or suspended the right to sell the securities under this title or, if the commissioner has revoked or suspended the right to sell the securities, the revocation or suspension is not in effect;

(8) at the time of the sale, the issuer of the securities is:

(A) a going concern actually engaged in business; and

(B) not in an organization stage or in receivership or bankruptcy; and

(9) either:

(A) the securities or other securities of the issuer of the same class have been:

(i) qualified for sale by a permit issued under Subchapter A, Chapter 4003;

(ii) registered by notification under Subchapter B, Chapter 4003; or

(iii) registered by coordination under Subchapter C, Chapter 4003; or

(B) a recognized securities manual or a statement, in form and extent acceptable to the commissioner and filed with the commissioner by the issuer or a registered dealer, is provided at the time of the sale containing at least the following information about the issuer:

(i) a statement of the issuer's principal business;

(ii) a balance sheet as of a date not earlier than 18 months before the date of the sale; and

(iii) profit and loss statements and a record of any dividends paid for:

(a) a period of at least three years before the date of the balance sheet; or

(b) the period of the issuer's existence, if the issuer has been in existence less than three years.

(c) The commissioner may issue a stop order or by order may prohibit, revoke, or suspend the exemption under this section with respect to any security if the commissioner has reasonable cause to believe that the plan of business of the issuer of the security, the security, or the sale of the security would tend to work a fraud or deceit on any purchaser of the security. The order is subject to review in the manner provided by Section 4007.107.

(d) Notice of any court injunction enjoining the sale or resale

of a security described by this section, or of an order revoking or suspending the exemption under Subsection (c) with respect to a security, shall be mailed by certified or registered mail with return receipt requested or otherwise delivered to any dealer believed to be selling or offering for sale the type of securities referred to in the notice. Subsections (b)(6) and (7) do not apply to a dealer until the dealer has received from the commissioner actual notice of the revocation or suspension.

(e) The board, for cause shown, may revoke or suspend the recognition under this section of any manual previously approved under this section only after notice and an opportunity for a hearing is provided as required by law.

(f) A judgment sustaining the board in the board action complained about does not bar an application by the plaintiff for approval of the manual as provided by this section after the first anniversary of the date of the action.

(g) A judgment in favor of the plaintiff does not prevent the board from revoking the recognition of a manual previously approved under this section for any proper cause that may accrue or be discovered.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.020. UNSOLICITED ORDERS. The exemption provided by Section 4005.001 applies to a dealer's execution of an unsolicited order for the purchase of securities for which the initial offering of the securities has been completed if the dealer:

(1) acts solely as an agent for the purchaser;

(2) does not have a direct or indirect interest in the sale or distribution of securities ordered; and

(3) does not receive a commission, profit, or other compensation from any source other than the purchaser.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.021. OIL, GAS, OR MINING INTERESTS. (a) Subject to Subsection (b), the exemption provided by Section 4005.001 applies to

the sales of interests in and under oil, gas, or mining leases, fees, or titles, or contracts relating to those interests in which:

(1) the total number of sales by any one owner of interests, whether whole, fractional, segregated, or undivided in any single oil, gas, or mineral lease, fee, or title, or contract relating to those interests, is not more than 35 during a 12 consecutive month period; and

(2) no use is made of advertisement or public solicitation.

(b) If a sale of an interest described by Subsection (a) is made for an owner of the interest by an agent of the owner, the exemption under that subsection applies only if the agent is registered under this title.

(c) An oil, gas, or mineral unitization or pooling agreement may not be considered a sale under this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.022. ISSUER SALES OF EXEMPT SECURITIES. (a) The exemption provided by Section 4005.001 applies to the sale by the issuer itself or by a subsidiary of the issuer of any securities that would be exempt under Subchapter B if sold by a registered dealer.

(b) This section does not apply to securities that would be exempt under Section 4005.053.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.023. OPTIONS. (a) In this section, "option" means and includes a put, call, straddle, or other option or privilege of buying from another person or selling to another person a specified number of securities at a specified price, without being obligated to do so, on or before a specified date. The term does not include an option or privilege that by its terms may terminate before the specified date on the occurrence of a specified event.

(b) The exemption provided by Section 4005.001 applies to a sale of an option by or through a registered dealer if, at the time of the sale:

(1) the performance of the terms of the option is

guaranteed by a broker-dealer registered under the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.);

(2) the guaranty and broker-dealer described by Subdivision (1) are in compliance with any requirements or rules adopted or approved by the board;

(3) the option is not sold by or for the benefit of the issuer of the security that may be purchased or sold on exercise of the option;

(4) the security that may be purchased or sold on exercise of the option is either:

(A) exempted under Section 4005.054; or

(B) quoted on the NASDAQ stock market and meets the requirements of Sections 4005.019(b)(1), (6), (7), and (8); and

(5) the sale is not directly or indirectly for the purposes of providing or furthering a scheme to violate or evade this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.024. EXEMPTIONS BY RULE OR ORDER. The exemption provided by Section 4005.001 applies to the sale of a security made in other transactions or under other conditions not specified in this subchapter as the board by rule or order may define or prescribe, conditionally or unconditionally.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.025. ISSUANCE OR TRANSFER TO NONPROFITS. The exemption provided by Section 4005.001 applies to the issuance or transfer of securities by the issuer of its securities to a corporation or association organized exclusively for a religious, educational, benevolent, fraternal, charitable, or reformatory purpose and not for pecuniary profit, only if:

(1) the corporation or association does not provide anything of value for the securities other than, for a security that is an option, payment of the exercise price of the option to acquire the securities at a price not to exceed the fair market value of the underlying securities on the date the option was granted;

(2) the issuance or transfer is not made for the purpose of raising capital for the issuer;

(3) a commission or other form of consideration is not paid or provided to a third party with respect to the issuance or transfer; and

(4) the issuance or transfer is not directly or indirectly for the purposes of providing or furthering a scheme to violate or evade this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER B. EXEMPT SECURITIES

Sec. 4005.051. SCOPE OF EXEMPTION. Except as expressly provided otherwise in this title, this title does not apply to a security described by this subchapter when offered for sale, sold, or dealt in by a registered dealer or a registered dealer's agent.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.052. RAILROADS OR UTILITIES. The exemption provided by Section 4005.051 applies to:

(1) a security issued or guaranteed either as to principal, interest, or dividend by a corporation that owns or operates a railroad or any other public service utility if the corporation is subject to regulation or supervision either as to the corporation's rates and charges or as to the issuance of the corporation's own securities by:

(A) the Texas Department of Transportation; or

(B) a public commission, an agency, a board, or officers of:

(i) the government of the United States;

(ii) the District of Columbia, a state, territory, or insular possession of the United States, or a municipal corporation; or

(iii) Canada or a province of Canada; or

(2) equipment trust certificates or equipment notes or bonds:

(A) that are based on chattel mortgages, leases or agreements for conditional sale of cars, motive power or other rolling stock mortgages, leased or sold to or provided for the use of or on a railroad or other public service utility corporation if the corporation is subject to regulation or supervision as described by Subdivision (1); or

(B) for which the ownership or title of the equipment is pledged or retained to secure the payment of the equipment trust certificates, bonds, or notes, in accordance with the laws of:

(i) the United States;

(ii) the District of Columbia or a state, territory, or insular possession of the United States; or

(iii) Canada or a province of Canada.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.053. NONPROFIT CORPORATIONS. The exemption provided by Section 4005.051 applies to a security issued and sold by a domestic corporation that:

(1) is not organized and engaged in business for profit; and

(2) does not have capital stock.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.054. LISTED SECURITIES. (a) The exemption provided by Section 4005.051 applies to securities that at the time of sale:

(1) are fully listed on:

(A) the American Stock Exchange;

(B) the Boston Stock Exchange;

(C) the Chicago Stock Exchange;

(D) the New York Stock Exchange; or

(E) a recognized and responsible stock exchange approved by the commissioner, as provided by Subchapter C;

(2) are designated or approved for designation on notice of issuance on the national market system of the NASDAQ stock market; or

(3) are senior to, or if of the same issue, on a parity

with, any securities listed or designated as described by Subdivision (1) or (2) or represented by subscription rights that are listed or designated as described by Subdivision (1) or (2), or evidence of indebtedness guaranteed by a company, any stock of which is listed or designated as described by Subdivision (1) or (2).

(b) Securities described by Subsection (a) are exempt only so long as the exchange on which the securities are listed remains approved under this section or Subchapter C.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.055. COMMERCIAL PAPER. The exemption provided by Section 4005.051 applies to:

(1) commercial paper that:

(A) arises out of a current transaction or the proceeds of which have been or are to be used for current transactions; and

(B) evidences an obligation to pay cash not later than the ninth month after the issuance date of the commercial paper, not including days of grace;

(2) a renewal of commercial paper described by Subdivision (1) that is similarly limited; or

(3) a guarantee of commercial paper described by Subdivision (1) or of a renewal described by Subdivision (2).

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.056. SECURED DEBT. The exemption provided by Section 4005.051 applies to notes, bonds, or other evidence of indebtedness or certificates of ownership that:

(1) are equally and proportionately secured without reference of priority of one over another; and

(2) by the terms of the instrument creating the lien, continue to be secured by the deposit with a trustee of recognized responsibility approved by the commissioner of any of the securities specified in:

(A) Section 4005.017, if the deposited securities have an aggregate par value of not less than 110 percent of the par value

of the securities being secured; or

(B) Section 4005.052, if the deposited securities have an aggregate par value of not less than 125 percent of the par value of the securities being secured.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.057. NONPROFIT DEBT. The exemption provided by Section 4005.051 applies to notes, bonds, or other evidence of indebtedness of a religious, charitable, or benevolent corporation.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.058. SUSPENSION OF EXEMPT STATUS OF TRADING SYSTEM. (a) The commissioner, by the same procedures described by Section 4005.105, may at any time suspend the exempt status of any trading system exempted by the legislature on or after January 1, 1989, if at the time of the hearing the trading system does not meet the applicable standards for approval of exchanges provided by this title.

(b) The suspension of a trading system under Subsection (a) has the same effect as the withdrawal of approval of a stock exchange under Section 4005.105.

(c) The suspension under Subsection (a) remains in effect until the commissioner by order determines that the trading system:

(1) has corrected each deficiency on which the suspension was based; and

(2) maintains standards and procedures that provide reasonable protection to the public.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER C. PROCEDURES FOR APPROVAL OF STOCK EXCHANGE

Sec. 4005.101. APPLICATION FOR APPROVAL. An organized stock exchange may apply to the commissioner for approval in the manner and

on the forms the commissioner prescribes.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.102. APPROVAL OF STOCK EXCHANGE. The commissioner may approve a stock exchange only if the commissioner finds that the facts and data provided with the application establish that:

(1) the requirements for the listing of securities on the exchange seeking approval provide reasonable protection to the public; and

(2) the governing constitution, bylaws, or regulations of the exchange require:

(A) an adequate examination into the affairs of the issuer of the securities to be listed on the exchange before permitting trading on the exchange;

(B) that the issuer of the securities, while the securities are listed on the exchange, shall periodically prepare, make public, and provide promptly to the exchange appropriate income, profit and loss, and other financial statements;

(C) that securities listed and traded on the exchange be restricted to securities of ascertained, sound asset or income value; and

(D) a reasonable surveillance of the exchange's members, including a requirement for periodical financial statements, a determination of the members' financial responsibility, and the right and obligation of the exchange's governing body to suspend or expel any member found:

(i) to be financially embarrassed or irresponsible; or

(ii) guilty of misconduct in the member's business dealings or of conduct prejudicial to the rights and interests of the member's customers.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.103. INVESTIGATION AND HEARING. The commissioner may approve a stock exchange only after a reasonable investigation and

hearing.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.104. ORDER OF APPROVAL. The commissioner's approval of a stock exchange must be made by a written order based on a finding of fact substantially in accordance with the requirements of Sections 4005.101 and 4005.102.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4005.105. WITHDRAWAL OF APPROVAL. At any time, the commissioner, on 10 days' notice and hearing, may withdraw approval of a stock exchange that at the time of the hearing does not meet the standards for approval under this title. On the withdrawal of approval, securities listed on the exchange are not exempt from this title until the commissioner issues an order approving the exchange.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

CHAPTER 4006. FEES

SUBCHAPTER A. CERTAIN REGISTRATION AND NOTICE FILING FEES

Sec. 4006.001. CERTAIN REGISTRATION AND NOTICE FILING FEES. The board shall establish the following fees in amounts so that the aggregate amount that exceeds the amount of the fees on September 1, 2002, produces sufficient revenue to cover the costs of administering and enforcing this title:

(1) for filing an original, amended, or renewal application or registration statement to sell or dispose of securities, an amount not to exceed $100;

(2) for filing an original application of a dealer or investment adviser or submitting a notice filing for a federal covered investment adviser, an amount not to exceed $100;

(3) for filing a renewal application of a dealer or investment adviser or submitting a renewal notice filing for a

federal covered investment adviser, an amount not to exceed $100;

(4) for filing an original application for each agent, officer, or investment adviser representative or submitting a notice filing for each representative of a federal covered investment adviser, an amount not to exceed $100; and

(5) for filing a renewal application for each agent, officer, or investment adviser representative or submitting a renewal notice filing for each representative of a federal covered investment adviser, an amount not to exceed $100.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER B. EXEMPTION FEES AND OTHER FEES

Sec. 4006.051. NOTICE FOR SECONDARY TRADING EXEMPTION. The commissioner or board shall charge and collect:

(1) a fee of $500 for filing an initial notice required by the commissioner to claim a secondary trading exemption; and

(2) a fee of $500 for filing a secondary trading exemption renewal notice.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4006.052. NOTICE FOR LIMITED OFFERING EXEMPTION. (a) Subject to Subsection (b), for filing an initial notice required by the commissioner to claim a limited offering exemption, the commissioner or board shall charge and collect a fee of one-tenth of one percent of the aggregate amount of securities described as being offered for sale.

(b) A fee charged under this section may not exceed $500.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4006.053. APPLICATION FOR APPROVAL OF STOCK EXCHANGE. The commissioner or board shall charge and collect a fee of $10,000 for filing an application for approval of a stock exchange.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4006.054. AMENDMENT OR DUPLICATE OF REGISTRATION CERTIFICATE OR EVIDENCE OF REGISTRATION. The commissioner or board shall charge and collect a fee of $25 for a filing to:

(1) amend the registration certificate of a dealer or investment adviser or the evidence of registration of an agent or investment adviser representative; or

(2) issue a duplicate certificate or evidence of registration.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.107, eff. January 1, 2022.

Sec. 4006.055. EXAMINATION OF CERTAIN APPLICATIONS OR REGISTRATION STATEMENTS. (a) For the examination of an original or amended application or registration statement filed under Subchapter A, B, or C, Chapter 4003, the commissioner or board shall charge and collect a fee of one-tenth of one percent of the aggregate amount of securities described and proposed to be sold to persons located in this state based on the price at which the securities will be offered to the public.

(b) A fee under this section applies regardless of whether the application or registration statement is denied, abandoned, withdrawn, or approved.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4006.056. CERTIFIED COPIES. (a) For a certified copy of any papers filed in the office of the commissioner, the commissioner shall charge and collect a fee that is reasonably related to the costs of producing the certified copy.

(b) A fee charged under this section may not be more than a fee

that the secretary of state is authorized to charge for a similar service.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4006.057. REQUEST TO TAKE EXAMINATION. The commissioner or board shall charge and collect a fee of $35 for filing a request to take the Texas Securities Law Examination.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4006.058. INTERPRETATION BY GENERAL COUNSEL. (a) Except as provided by Subsection (b), the commissioner or board shall charge and collect a fee of $100 for an interpretation by the board's general counsel of this title or a rule adopted under this title.

(b) An officer or employee of a governmental entity and the entity that the officer or employee represents are exempt from the fee under this section if the officer or employee is conducting official business of the entity.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER C. PROVISIONS APPLICABLE TO CERTAIN FEES

Sec. 4006.101. REASONABLE AND NECESSARY REQUIREMENT. Subject to Subchapter A, the board shall set a fee under Subchapters A and B in an amount that is reasonable and necessary to defray costs.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4006.102. REDUCED FEES. (a) The board by rule may adopt reduced fees under Section 4006.001 for original and renewal applications of dealers, agents, officers, investment advisers, or investment adviser representatives who have assumed inactive status

as defined by the board.

(b) The board by rule may adopt reduced fees under Section 4006.001 as appropriate to accommodate a small business required by this title to register in two or more of the following capacities:

(1) dealer;

(2) agent;

(3) investment adviser;

(4) investment adviser representative; or

(5) officer.

(c) A person is not required to pay more than one fee required under Section 4006.001 to engage in business in this state concurrently for the same person or company as:

(1) a dealer and an investment adviser; or

(2) an agent and investment adviser representative.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4006.103. PAYMENT OF CERTAIN COSTS. A cost incurred by the board in administering this title may be paid only from a fee collected under Section 4006.001.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4006.104. REFUND OF REGISTRATION FEE. If the commissioner or board determines that all or part of a registration fee should be refunded, the commissioner may make the refund by warrant on the state treasury from money appropriated from the general revenue fund for that purpose.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER D. FEES FOR CERTAIN SALES OR OFFERS OF SECURITIES

Sec. 4006.151. FEE FOR SALE OF EXCESS SECURITIES. (a) An offeror who sells securities in this state in excess of the aggregate amount of securities registered for the offering may apply to

register the excess securities by paying:

(1) three times the difference between the initial fee paid and the fee required under Section 4006.055 for the securities sold to persons in this state;

(2) if the registration is no longer in effect, interest on that amount computed at the rate provided by Section 302.002, Finance Code, from the date the registration was no longer in effect until the date the subsequent application is filed; and

(3) the amendment fee prescribed by Section 4006.001(1).

(b) If an application to register excess securities is granted under Subsection (a), the registration of the excess securities is effective retroactively to the effective date of the initial registration for the offering.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4006.152. FEE FOR EXCEEDING LIMITED OFFERING EXEMPTION. (a) This section applies only to an offeror who:

(1) has filed a notice to claim a limited offering exemption;

(2) paid less than the maximum fee prescribed by Section 4006.052; and

(3) offered a greater amount of securities in the offering than authorized pursuant to the formula prescribed by Section 4006.052.

(b) An offeror may:

(1) file an amended notice disclosing the amount of securities offered; and

(2) pay:

(A) three times the difference between the fee initially paid and the fee that should have been paid; and

(B) interest on that amount computed at the rate provided by Section 302.002, Finance Code, from the date the commissioner received the original notice until the date the commissioner received the amended notice.

(c) An amended notice filed under Subsection (b) is retroactive to the date of the initial filing of the notice to claim the exemption.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4006.153. FEE FOR SALES OF UNREGISTERED SECURITIES. (a) If, after notice and hearing, the commissioner or a court finds that an offeror has sold securities in this state pursuant to an offering no part of which has been registered under Chapter 4003 and for which the transactions or securities are not exempt under Chapter 4005, the commissioner or court may impose a fee equal to:

(1) six times the amount that would have been paid if the issuer had filed an application or registration statement to register the securities and paid the fee required under Section 4006.055 based on the aggregate amount of sales made in this state in the preceding three years; and

(2) interest on that amount at the rate provided by Section 302.002, Finance Code, from the date of the first such sale made in this state until the date the fee is paid.

(b) Payment of the fee prescribed by this section does not effect registration of the securities or affect the application of any other provision of this title.

(c) Payment of the fee prescribed by this section is not an admission that the transactions or securities were not exempt and is not admissible as evidence in a suit or proceeding for failure to register the securities.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER E. MISCELLANEOUS FEES

Sec. 4006.201. RENEWAL OF REGISTRATION BY NOTIFICATION. A registration of securities by notification may be renewed as provided by Section 4003.058, which includes the payment of the renewal fee in the amount prescribed by that section.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER F. DEPOSIT OF FEES

Sec. 4006.251. DEPOSIT OF FEES TO GENERAL REVENUE FUND. The commissioner or board shall deposit money received from fees under this title to the credit of the general revenue fund.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4006.252. DAILY DEPOSIT OF CERTAIN FEES. The commissioner or board shall deposit daily all fees received under Subchapter B to the credit of the general revenue fund.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

CHAPTER 4007. ENFORCEMENT

SUBCHAPTER A. AUTHORITY TO ENFORCE TITLE

Sec. 4007.001. ENFORCEMENT BY COMMISSIONER, ATTORNEY GENERAL, AND DISTRICT OR COUNTY ATTORNEY. (a) The administration of the provisions of this title is vested in the commissioner.

(b) The commissioner and the attorney general shall:

(1) ensure that the provisions of this title are obeyed; and

(2) conduct investigations and take measures to prevent or detect a violation of this title.

(c) The commissioner shall at once submit any evidence of a criminal violation of this title to the district or county attorney of the appropriate county after the evidence comes to the commissioner's knowledge.

(d) If the district or county attorney neglects or refuses to prosecute the alleged criminal violation, the commissioner shall submit the evidence of the alleged violation to the attorney general. The attorney general may proceed with the criminal prosecution of the alleged violation and has all the rights, privileges, and powers conferred by law on a district or county attorney, including the authority to appear before a grand jury and to interrogate witnesses before a grand jury.

(e) Subject to Subsection (h), the board may provide assistance to a county or district attorney who requests assistance in a criminal prosecution involving an alleged violation of this title

that is referred by the board to the attorney under Subsection (c).

(f) Before referring a case to a county or district attorney for prosecution as required by Subsection (c), the commissioner shall make a determination of:

(1) the potential resources of the board, including the number and types of board employees, that would be needed to assist in the prosecution of the case; and

(2) the availability of board employees and other resources necessary to carry out any request for assistance.

(g) The board by rule shall establish a process to enable the commissioner to determine whether to provide any requested assistance to the appropriate prosecuting attorney following referral of a case under Subsection (c) and, if so, the appropriate amount of such assistance. The rules must require the commissioner to consider:

(1) whether resources are available after taking into account any ongoing board investigations, investigations under Section 4007.053, and criminal prosecutions for which assistance is being provided;

(2) the seriousness of the alleged violation or violations in the case, including the severity of the harm and number of victims involved; and

(3) the state's interest in the prosecution of a particular case and the availability of other methods of redress for the alleged violations, including the pursuit of a civil action.

(h) In response to a request for assistance under Subsection (e), the board may provide only those board employees or resources, if any, determined to be available for that case in accordance with Subsection (f). If a change in circumstances occurs after the time of the determination under Subsection (f), the commissioner may reconsider the commissioner's determination under that subsection and may increase or reduce the number of board employees or other resources to be made available for a case using the process established under Subsection (g).

(i) The attorney general, at least biennially, shall review a sample of criminal cases for which the board provided requested assistance to county or district attorneys under this section. The review must include an evaluation of the pre-referral determination of available resources to support each case being reviewed as required by Subsection (f) and any subsequent determination of those resources made by the commissioner as authorized under Subsection

(h). The attorney general may report any concerns the attorney general has in connection with the board's provision of assistance to the standing committee of each house of the legislature with primary jurisdiction over board matters.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.108, eff. January 1, 2022.

Sec. 4007.002. MEANS OF ENFORCEMENT NOT EXCLUSIVE. The commissioner may use any or all penalties, sanctions, remedies, or relief that the commissioner considers necessary.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER B. INSPECTIONS AND INVESTIGATIONS

Sec. 4007.051. COMPLAINTS FILED WITH COMMISSIONER OR BOARD. (a) The commissioner or the commissioner's designee shall maintain a system to promptly and efficiently act on complaints filed with the commissioner or board concerning a person registered under this title. The commissioner or the commissioner's designee shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The commissioner or the commissioner's designee shall make information available describing the board's procedures for complaint investigation and resolution.

(c) The commissioner or the commissioner's designee shall periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize a law enforcement investigation.

Amended by:
Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.103, eff. January 1, 2022.

Sec. 4007.052. INSPECTIONS. (a) The commissioner without notice may inspect a registered dealer or registered investment adviser as necessary to ensure compliance with this title and board rules.

(b) The commissioner, during regular business hours, may enter the business premises of a registered dealer or registered investment adviser and examine and copy books and records pertinent to the inspection.

(c) During the inspection, the registered dealer or registered investment adviser shall:

(1) provide to the commissioner or the commissioner's authorized representative immediate and complete access to the registered dealer's or registered investment adviser's office, place of business, files, safe, and any other location at which books and records pertinent to the inspection are located; and

(2) allow the commissioner or the commissioner's authorized representative to make photostatic or electronic copies of books or records subject to inspection.

(d) A registered dealer or registered investment adviser may not charge a fee for copying information under this section.

(e) Information obtained under this section and any intra-agency or interagency notes, memoranda, reports, or other communications consisting of advice, analyses, opinions, or recommendations that are made in connection with the inspection are confidential. The commissioner may not disclose to the public or release documents or other information made confidential by this subsection except to the same extent provided for the release or disclosure of confidential documents or other information made or obtained in connection with an investigation under Section 4007.053.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.053. INVESTIGATIVE AUTHORITY. (a) The commissioner shall conduct investigations as the commissioner considers necessary to prevent or detect a violation of this title or a board rule or order.

(b) For the purpose of conducting an investigation under this section, the commissioner may:

(1) administer oaths;

(2) sign subpoenas;

(3) issue subpoenas or summons to compel the attendance and testimony of witnesses and the production of all records, electronic or otherwise, relating to any matter that the commissioner has the authority under this title to consider or investigate;

(4) examine witnesses; and

(5) receive evidence.

(c) During an investigation, the commissioner may cause the deposition of witnesses residing inside or outside this state to be taken in the manner prescribed by the laws of this state for taking a deposition in a civil action.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.054. SERVICE OF SUBPOENA, SUMMONS, OR OTHER PROCESS. (a) The commissioner may serve a subpoena, summons, or other process issued by the commissioner or have the subpoena, summons, or other process served by an authorized agent of the commissioner, a sheriff, or a constable.

(b) The sheriff's or constable's fee for serving the subpoena is the same as the fee paid the sheriff or constable for similar services.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.055. ENFORCEMENT OF SUBPOENA; CONTEMPT. (a) If a person disobeys a subpoena or if a witness appearing before the commissioner refuses to give evidence, the commissioner may petition the district court of a jurisdiction in which the person or witness may be found, and the court on this petition may issue an order requiring the person or witness to, as applicable, obey the subpoena, testify, or produce a book, an account, a record, a paper, and correspondence relating to the matter in question.

(b) The district court may punish as contempt the failure to obey an order under Subsection (a).

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.056. CONFIDENTIALITY OF INVESTIGATIVE INFORMATION. (a) All information received in connection with an investigation under Section 4007.053 and all internal notes, memoranda, reports, or communications made in connection with an investigation under that section are confidential.

(b) The commissioner may not disclose a document or other information made confidential by Subsection (a) unless the disclosure is made:

(1) to the public under court order for good cause shown; or

(2) at the commissioner's discretion, as part of an administrative proceeding or a civil or criminal action to enforce this title.

(c) The commissioner, at the commissioner's discretion, may disclose confidential information in the commissioner's possession to:

(1) a governmental or regulatory authority or any association of governmental or regulatory authorities approved by board rule; or

(2) any receiver appointed under Section 4007.151.

(d) Disclosure of information under Subsection (c) does not violate any other provision of this title or Chapter 552.

(e) This section may not be interpreted to prohibit or limit the publication of rulings or decisions of the commissioner.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.057. COMPENSATION OF WITNESSES. (a) A witness required to attend a hearing before the commissioner shall receive for each day's attendance a fee in an amount set by board rule.

(b) A disbursement made in payment of a fee under this section shall be:

(1) made in accordance with board rule; and

(2) included in, and paid in the same manner that is

provided for, the payment of other expenses incurred in the administration and enforcement of this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.058. IMPOSITION OF COSTS ON PARTIES. The commissioner may impose on a party of record fees, expenses, or costs incurred in connection with a hearing or may divide the fee, expense, or cost among any or all parties of record as determined by the commissioner.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.059. ASSISTANCE TO SECURITIES REGULATORS IN OTHER JURISDICTIONS. (a) On request from a securities regulator of another state or of a foreign jurisdiction, the commissioner may provide assistance to the regulator in conducting an investigation to determine whether a person has violated, is violating, or is about to violate a law or rule of the other state or foreign jurisdiction relating to a securities matter that the regulator is authorized to administer or enforce.

(b) The commissioner may provide assistance under this section through the use of the authority to investigate and any other power conferred by this section or Section 4007.054, 4007.055, 4007.056, or 4007.057, as the commissioner determines to be necessary and appropriate.

(c) In determining whether to provide assistance under this section, the commissioner may consider whether:

(1) the securities regulator is permitted and has agreed to provide assistance within the regulator's jurisdiction to the commissioner reciprocally and at the commissioner's request concerning securities matters;

(2) compliance with the request for assistance would violate or otherwise prejudice the public policy of this state;

(3) the conduct described in the request would also constitute a violation of this title or another law of this state had the conduct occurred in this state; and

(4) board employees and board or commissioner resources necessary to carry out the request for assistance are available.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER C. ADMINISTRATIVE ACTIONS

Sec. 4007.101. CEASE AND DESIST ORDER: OFFER OR SALE OF SECURITIES. (a) The commissioner may hold a hearing as provided by this section if at any time it appears to the commissioner that the sale, proposed sale, or method of sale of securities, regardless of whether exempt:

(1) is a fraudulent practice;

(2) does not comply with this title;

(3) would tend to work a fraud on any purchaser of the securities; or

(4) would not be fair, just, or equitable to any purchaser of the securities.

(b) The commissioner may hold a hearing under this section on a date set by the commissioner that is not later than the 30th day after the date the issuer or registrant of the securities, the person on whose behalf the securities are being or will be offered, or any person that is acting as a dealer or agent in violation of this title, as applicable:

(1) receives actual notice; or

(2) is provided notice by registered or certified mail to the person's last known address.

(c) If the commissioner determines at the hearing that the sale, proposed sale, or method of sale of the securities is a fraudulent practice, does not comply with this title, would tend to work a fraud on any purchaser of the securities, or would not be fair, just, or equitable to any purchaser of the securities, the commissioner may issue a written cease and desist order:

(1) prohibiting or suspending the sale of the securities;

(2) denying or revoking the registration of the securities;

(3) prohibiting an unregistered person from acting as a dealer or agent; or

(4) prohibiting the fraudulent conduct.

(d) After the issuance of a cease and desist order under

Subsection (c), a dealer or agent may not knowingly sell or offer for sale any security named in the order.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.102. CEASE AND DESIST ORDER: INVESTMENT ADVISER OR INVESTMENT ADVISER REPRESENTATIVE. (a) Notwithstanding any provision of this title to the contrary, the commissioner may hold a hearing as provided by this section if at any time it appears to the commissioner that:

(1) an investment adviser or investment adviser representative is engaging or is likely to engage in fraud or a fraudulent practice with respect to rendering services as an investment adviser or investment adviser representative; or

(2) a person is acting as an investment adviser or investment adviser representative in violation of this title.

(b) A hearing under this section must be held not later than the 30th day after the date the person described by Subsection (a):

(1) receives actual notice; or

(2) is provided notice by registered or certified mail, return receipt requested, to the person's last known address.

(c) After the hearing, the commissioner shall issue or decline to issue a cease and desist order. An order issued under this subsection must:

(1) require the investment adviser or investment adviser representative to immediately cease and desist from the fraudulent conduct; or

(2) prohibit an unregistered or other unauthorized person who is not exempt from the registration or notice filing requirements of this title from acting as an investment adviser or investment adviser representative in violation of this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.103. CEASE PUBLICATION ORDER. (a) Notwithstanding any provision of this title to the contrary, the commissioner may issue a cease publication order if at any time it appears to the

commissioner that an offer contains any statement that is materially false or misleading or is otherwise likely to deceive the public.

(b) A person may not make an offer that is prohibited by an order issued under Subsection (a).

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.104. EMERGENCY CEASE AND DESIST ORDER. (a) On the commissioner's determination that the conduct, act, or practice threatens immediate and irreparable public harm, the commissioner may issue an emergency cease and desist order to a person who the commissioner reasonably believes:

(1) is engaging in or is about to engage in fraud or a fraudulent practice in connection with:

(A) the offer for sale or sale of a security; or

(B) the rendering of services as an investment adviser or investment adviser representative;

(2) has made an offer containing a statement that is materially misleading or is otherwise likely to deceive the public; or

(3) is engaging or is about to engage in an act or practice that violates this title or a board rule.

(b) The emergency order must:

(1) be sent on issuance to each person affected by the order by personal delivery or registered or certified mail, return receipt requested, to the person's last known address;

(2) state the specific charges and require the person to immediately cease and desist from the unauthorized activity; and

(3) contain a notice that a request for a hearing may be filed under this section.

(c) Unless a person against whom the emergency order is directed requests a hearing in writing before the 31st day after the date the order is served on the person, the emergency order is final and nonappealable as to that person. A request for a hearing must:

(1) be in writing and directed to the commissioner; and

(2) state the grounds for the request to set aside or modify the order.

(d) On receiving a request for a hearing, the commissioner

shall serve notice of the time and place of the hearing by personal delivery or registered or certified mail, return receipt requested. The hearing must be held not later than the 10th day after the date the commissioner receives the request for a hearing unless the parties agree to a later hearing date. At the hearing, the commissioner has the burden of proof and must present evidence in support of the emergency order.

(e) After the hearing, the commissioner shall affirm, modify, or set aside, wholly or partly, the emergency order. An order affirming or modifying the emergency order is immediately final for purposes of enforcement and appeal.

(f) An emergency order continues in effect unless the order is stayed by the commissioner. The commissioner may impose any condition before granting a stay of the order.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.105. DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION. (a) The commissioner may deny an application for registration under this title, suspend or revoke a registration issued under this title, place on probation a dealer, agent, investment adviser, or investment adviser representative whose registration has been suspended under this title, or reprimand a person registered under this title if the person:

(1) has been convicted of a felony;

(2) has been convicted of a misdemeanor that directly relates to the person's securities-related duties and responsibilities;

(3) has engaged in:

(A) an inequitable practice in the sale of securities or in rendering services as an investment adviser; or

(B) a fraudulent business practice;

(4) is an insolvent dealer or investment adviser;

(5) is a dealer and is selling or sold securities in this state through an agent other than a registered agent;

(6) is an investment adviser and is engaging or engaged in rendering services as an investment adviser in this state through a representative who is not registered to perform services for that

investment adviser;

(7) is an agent and is selling or sold securities in this state for a dealer, issuer, or controlling person with knowledge that the dealer, issuer, or controlling person has not complied with this title;

(8) is an investment adviser representative and is rendering or rendered services as an investment adviser for an investment adviser in this state whom the representative is not or was not registered to represent;

(9) has:

(A) made a material misrepresentation to the commissioner or board in connection with information considered necessary by the commissioner or board to determine:

(i) a dealer's or investment adviser's financial responsibility; or

(ii) a dealer's, agent's, investment adviser's, or investment adviser representative's business repute or qualifications; or

(B) refused to provide information described by Paragraph (A) that the commissioner or board has requested;

(10) is registered as a dealer, agent, investment adviser, or investment adviser representative and has not complied with an applicable requirement under Section 4004.151(a);

(11) is the subject of any of the following orders issued within the preceding five years that remain effective:

(A) an order by the securities agency or administrator of any state, the financial regulatory authority of a foreign country, or the Securities and Exchange Commission, entered after notice and opportunity for hearing, denying, suspending, or revoking the person's license as a dealer, agent, investment adviser, or investment adviser representative or the substantial equivalent of those terms;

(B) an order suspending or expelling from membership in or association with a member of a self-regulatory organization;

(C) a United States Postal Service fraud order;

(D) an order by the securities agency or administrator of any state, the financial regulatory authority of a foreign country, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, finding, after notice and opportunity for hearing, that the person engaged in acts involving fraud, deceit,

false statements or omissions, or wrongful taking of property; or

(E) an order by the Commodity Futures Trading Commission denying, suspending, or revoking registration under the Commodity Exchange Act (7 U.S.C. Section 1 et seq.);

(12) is subject to any order, judgment, or decree entered by a court that permanently restrains or enjoins the person from engaging in or continuing any conduct, action, or practice in connection with any aspect of the purchase or sale of securities or the rendering of investment advice; or

(13) has violated:

(A) any provision of this title;

(B) a board rule;

(C) any order issued by the commissioner; or

(D) any undertaking or agreement with the commissioner.

(b) If the commissioner proposes the suspension or revocation of a person's registration, the person is entitled to a hearing before the commissioner or a hearings officer as required by law.

(c) All registration certificates that have been revoked shall be immediately surrendered to the commissioner on request.

(d) This section does not affect the confidentiality of investigative records maintained by the commissioner or board.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.106. ASSESSMENT OF ADMINISTRATIVE FINE. (a) In addition to any other remedies, the commissioner, after giving notice and opportunity for a hearing, may issue an order that assesses an administrative fine against a person or company found to have:

(1) engaged in fraud or a fraudulent practice in connection with:

(A) the offer for sale or sale of a security; or

(B) the rendering of services as an investment adviser or investment adviser representative;

(2) made an offer containing a statement that is materially misleading or is otherwise likely to deceive the public;

(3) engaged in an act or practice that violates this title or a board rule or order; or

(4) with intent to deceive or defraud or with reckless

disregard for the truth or the law, materially aided any person in engaging in an act or practice described by Subdivision (1), (2), or (3).

(b) An administrative fine assessed under this section when added to the amount of any civil penalty previously awarded under Section 4007.154 must be in an amount that does not exceed:

(1) the greater of:

(A) $20,000 per violation; or

(B) the gross amount of any economic benefit gained by the person or company as a result of the act or practice for which the fine was assessed; and

(2) if the act or practice was committed against a person 65 years of age or older, an additional amount of not more than $250,000.

(c) For purposes of determining the amount of an administrative fine assessed under this section, the commissioner shall consider factors set out in guidelines established by the board.

(d) For purposes of private civil litigation, the payment of a fine assessed in an agreed order under this title does not constitute an admission of any misconduct described in the order.

(e) A proceeding for the assessment of an administrative fine must be commenced within five years after the violation occurs.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.107. HEARINGS ON CERTAIN MATTERS. (a) A person or company may request a hearing to dispute the commissioner's:

(1) failure or refusal to:

(A) register and issue a certificate of registration for a dealer or investment adviser under Section 4004.054; or

(B) register and issue evidence of registration for an agent or investment adviser representative under Section 4004.104;

(2) issuance of an order under Section 4007.101, 4007.102, 4007.103, or 4007.104; or

(3) taking of an action in any other particular matter for which no other procedure is specified by this title.

(b) A hearing under Subsection (a) must be held before the commissioner or a hearings officer as required by law.

(c) On complaint by a person aggrieved by the denial of a permit qualifying securities for sale under Subchapter A, Chapter 4003, or by the failure or refusal to register securities under Subchapter B or C, Chapter 4003, the board or a hearings officer, as required by law, shall conduct a hearing.

(d) A hearing under this section is subject to Chapter 2001.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.108. REFUND. (a) Subject to Subsection (b), the commissioner may order a dealer, agent, investment adviser, or investment adviser representative regulated under this title to pay a refund to a client or a purchaser of securities or services from the person or company as provided in an agreed order or an enforcement order instead of or in addition to imposing an administrative penalty or other sanctions.

(b) The amount of a refund ordered as provided in an agreed order or an enforcement order may not exceed the amount the client or purchaser paid to the dealer, agent, investment adviser, or investment adviser representative for a service or transaction regulated by the board. The commissioner may not require payment of other damages or estimate harm in a refund order.

Added by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 9.109, eff. January 1, 2022.

SUBCHAPTER D. CIVIL PROCEEDINGS

Sec. 4007.151. RECEIVERSHIP. (a) This section applies only to a person or company acting as a dealer, agent, investment adviser, investment adviser representative, or issuer or as an affiliate of a dealer, agent, investment adviser, investment adviser representative, or issuer, regardless of whether the person or company is required to be registered as provided in this title.

(b) The commissioner may request the attorney general to bring an action as provided by this section for the appointment of a receiver for a person or company to which this section applies or the assets of the person or company if it appears to the commissioner, on complaint or otherwise, that:

(1) the person or company has:

(A) engaged in an act, transaction, practice, or course of business declared as a fraudulent practice under Section 4007.152 or 4007.153; and

(B) acted as a dealer, agent, investment adviser, investment adviser representative, or issuer or as an affiliate of a dealer, agent, investment adviser, investment adviser representative, or issuer in connection with the fraudulent practice; and

(2) the appointment of a receiver for the person or company or the assets of the person or company is necessary to conserve and protect the assets for the benefit of customers, security holders, and other claimants and potential claimants of the person or company.

(c) On the commissioner's request under Subsection (b), the attorney general may bring an action against a person or company in the name and on behalf of the state if it appears to the attorney general that the facts described by that subsection exist with respect to the person or company. The facts contained in the petition for the appointment of a receiver must be verified by the commissioner on information and belief.

(d) An action under this section may be brought in a district court of any county in which the fraudulent practice that is the subject of the petition was wholly or partly committed or in a county in which any defendant for whom the appointment of a receiver is sought has the defendant's principal place of business. A district court described by this subsection has jurisdiction and venue of the action. This subsection is superior to any other provision of law establishing jurisdiction or venue with regard to an action for receivership.

(e) The attorney general may apply for and, on proper showing, is entitled to have a subpoena issued by the court that requires:

(1) the appearance, without delay, of a defendant or any employee, investment adviser representative, or agent of the defendant to testify and give evidence concerning a matter relevant to the appointment of a receiver; and

(2) the production of documents, books, and records that may be necessary for a hearing on the action.

(f) The court may appoint a receiver for the person or company or the person's or company's assets on the attorney general's proper showing of the existence of the facts described by Subsection (b) with respect to the person or company.

(g) If the court appoints a receiver without providing the person or company with notice and an opportunity for hearing, the person or company may file with the court a written application for an order dissolving the receivership. If the application is filed not later than the 30th day after the date the person or company is served with the order appointing the receiver, the person or company is entitled to a hearing on the application not later than the 10th day after the date written notice is provided to the attorney general.

(h) A person may not be appointed as a receiver under this section unless the court finds that the person is qualified to discharge the duties of receiver after:

(1) hearing the views of:

(A) the attorney general;

(B) the commissioner; and

(C) the defendant against whom the appointment of a receiver is sought, if the court considers it practicable; and

(2) considering the probable nature and magnitude of the receiver's duties in the particular case.

(i) The commissioner or attorney general may not be required to give a bond for receivership in an action brought under this section. The court shall require a person appointed as a receiver to give a bond that is:

(1) in an amount found by the court to be sufficient after considering the probable nature and magnitude of the receiver's duties in the particular case; and

(2) conditioned on the faithful discharge of the receiver's duties.

(j) The remedy provided by this section is in addition to any other remedy made available to the commissioner or the attorney general by statutory laws or case law of this state, including any provision authorizing receiverships.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.152. INJUNCTIVE RELIEF. (a) The commissioner may request the attorney general to bring an action as provided by this section against a person or company if it appears to the

commissioner, on complaint or otherwise, that the person or company:

(1) has engaged, is engaging, or is about to engage in fraud or a fraudulent practice in connection with the sale of a security;

(2) has engaged, is engaging, or is about to engage in fraud or a fraudulent practice in rendering services as an investment adviser or investment adviser representative;

(3) has made an offer containing a statement that is materially misleading or is otherwise likely to deceive the public; or

(4) has engaged, is engaging, or is about to engage in an act or practice that violates this title or a board rule or order.

(b) On the commissioner's request under Subsection (a), the attorney general, in addition to other remedies, may bring an action in the name and on behalf of the state:

(1) against:

(A) a person or company described by Subsection (a);

(B) any person who, with intent to deceive or defraud or with reckless disregard for the truth or the law, has materially aided, is materially aiding, or is about to materially aid the person or company; and

(C) any other person concerned with or in any manner participating in or about to participate in the acts or practices described by Subsection (a); and

(2) to enjoin the person or company and any other person described by Subdivision (1) from continuing the acts or practices that are the subject of the action for injunctive relief or from doing any act to further the acts or practices.

(c) The facts contained in an application for injunctive relief must be verified by the commissioner on information and belief.

(d) The attorney general may apply for and, on proper showing, is entitled to have a subpoena issued by the court that requires:

(1) the appearance, without delay, of a defendant and any employee or agent of the defendant to testify and give evidence concerning the acts, conduct, or other matters complained about in the application for injunctive relief; and

(2) the production of documents, books, and records that may be necessary for the hearing on the action.

(e) A district court in any county in which it is shown that the acts that are the subject of the application for injunctive

relief have been or are about to be committed or a district court in Travis County has jurisdiction and venue of an action brought under this section. This subsection is superior to any provision establishing jurisdiction or venue with regard to an action for an injunction.

(f) The commissioner or attorney general shall not be required to give a bond for injunction in an action brought under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.153. EQUITABLE RELIEF AND RESTITUTION. (a) On the commissioner's request, the attorney general may, in addition to other remedies, seek:

(1) equitable relief, including restitution, for a victim of a fraudulent practice; and

(2) the disgorgement of any economic benefit gained by a defendant through an act or practice that violates this title or for which this title provides the commissioner and attorney general with a remedy.

(b) The attorney general may seek the remedies described by Subsection (a) either in:

(1) an action under Section 4007.152; or

(2) a separate action brought in district court.

(c) The court may:

(1) grant any equitable relief the court considers appropriate; and

(2) order the defendant to deliver to each victim of an act or practice that violates this title, or for which this title provides the commissioner or the attorney general with a remedy, the amount of money or the property the defendant obtained from the victim, including any bonus, fee, commission, option, proceeds, or profit from or loss avoided through the sale of the security or through the rendering of services as an investment adviser or investment adviser representative, or any other tangible benefit.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.154. CIVIL PENALTY. (a) On the commissioner's request, the attorney general may, in addition to other remedies, seek a civil penalty to be paid to the state in an amount that, when added to the amount of any administrative fine previously assessed under Section 4007.106(b), does not exceed:

(1) the greater of:

(A) $20,000 per violation; or

(B) the gross amount of any economic benefit gained by the person or company as a result of the commission of the act or practice; and

(2) if the act or practice was committed against a person 65 years of age or older, an additional amount of not more than $250,000.

(b) The attorney general may seek a civil penalty under this section either in:

(1) an action under Section 4007.152; or

(2) a separate action in district court.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.155. RECOVERY OF COSTS. In an action brought under Section 4007.152, 4007.153, or 4007.154, the attorney general may recover reasonable costs and expenses incurred by the attorney general in bringing the action.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER E. CRIMINAL PROVISIONS

Sec. 4007.201. UNAUTHORIZED SALE OF SECURITIES; OFFENSE. (a) A person commits an offense if the person sells, offers for sale or delivery, solicits subscriptions to or orders for, disposes of, invites orders for, or deals in any other manner in a security issued after September 6, 1955, unless:

(1) the security has been registered under Subchapter B or C, Chapter 4003; or

(2) a permit qualifying securities for sale has been issued under Subchapter A, Chapter 4003, with respect to the security.

(b) A person commits an offense if the person sells, offers for sale or delivery, solicits subscriptions to or orders for, disposes of, invites offers for, or deals in any other manner in a security without being a registered dealer or registered agent as provided in this title.

(c) An offense under this section is a felony of the third degree.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.202. UNAUTHORIZED RENDERING OF SERVICES AS INVESTMENT ADVISER OR INVESTMENT ADVISER REPRESENTATIVE; OFFENSE. (a) A person commits an offense if the person:

(1) renders services as an investment adviser or investment adviser representative; and

(2) is not registered as an investment adviser or investment adviser representative as required by this title.

(b) An offense under this section is a felony of the third degree.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.203. FRAUDULENT CONDUCT; OFFENSE. (a) A person commits an offense if:

(1) the person directly or indirectly:

(A) engages in any fraud or fraudulent practice;

(B) employs any device, scheme, or artifice to defraud;

(C) knowingly makes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; or

(D) engages in any act, practice, or course of business that operates or will operate as a fraud or deceit on any person; and

(2) the applicable conduct is committed in connection with:

(A) the sale of, the offering for sale or delivery of, the purchase of, the offer to purchase, invitation of offers to purchase, invitations of offers to sell, or dealing in any other

manner in any security, regardless of whether the transaction or security is exempt under Chapter 4005; or

(B) the rendering of services as an investment adviser or an investment adviser representative.

(b) An offense under this section is:

(1) a felony of the third degree, if the amount involved in the offense is less than $10,000;

(2) a felony of the second degree, if the amount involved in the offense is $10,000 or more but less than $100,000; or

(3) a felony of the first degree, if the amount involved is $100,000 or more.

(c) An indictment for an offense under this section may be brought only before the fifth anniversary of the date the offense was committed.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.204. MATERIALLY FALSE STATEMENT IN DOCUMENT OR PROCEEDING; OFFENSE. (a) A person commits an offense if the person knowingly makes or causes to be made any statement in a document filed with the commissioner or in a proceeding under this title that is, at the time and in light of the circumstances under which the statement is made, false or misleading in any material respect.

(b) An offense is established under this section regardless of whether the document or proceeding relates to a transaction or security that is exempt under Chapter 4005.

(c) An offense under this section is a felony of the third degree.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.205. FALSE STATEMENT OR REPRESENTATION CONCERNING REGISTRATION; OFFENSE. (a) A person commits an offense if the person knowingly makes a false statement or representation concerning a registration made or an exemption claimed under this title.

(b) An offense under this section is a state jail felony.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.206. VIOLATION OF CEASE AND DESIST ORDER; OFFENSE. (a) A person commits an offense if the person knowingly violates a cease and desist order issued by the commissioner under Section 4007.101, 4007.102, or 4007.104.

(b) An offense under this section is a felony of the third degree.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.207. NONCOMPLIANT OFFER OR OFFER PROHIBITED BY CEASE PUBLICATION ORDER; OFFENSE. (a) A person commits an offense if the person:

(1) makes an offer of a security in this state that does not comply with the requirements governing offers specified in Subchapter E, Chapter 4003; or

(2) knowingly makes an offer of a security in this state that is prohibited by a cease publication order issued by the commissioner under Section 4007.103.

(b) An offense under this section is a state jail felony.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.208. AGGREGATION OF AMOUNTS. When amounts are obtained in violation of this title pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one offense and the amounts aggregated in determining the grade of the offense.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4007.209. LIABILITY OF CORPORATION. (a) In this section:

(1) "Association" and "corporation" have the meanings assigned by Section 1.07, Penal Code.

(2) "High managerial agent" has the meaning assigned by Section 7.21, Penal Code.

(b) If conduct constituting an offense under this subchapter is performed by an agent acting on behalf of a corporation or association and within the scope of the agent's office or employment, the corporation or association is criminally responsible for the offense only if the commission of the offense was authorized, requested, commanded, performed, or recklessly tolerated by:

(1) a majority of the governing board acting on behalf of the corporation or association; or

(2) a high managerial agent acting on behalf of the corporation or association and within the scope of the high managerial agent's office or employment.

(c) It is an affirmative defense to prosecution of a corporation or association under Subsection (b) that the high managerial agent having supervisory responsibility over the subject matter of the offense employed due diligence to prevent the commission of the offense.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

CHAPTER 4008. PRIVATE RIGHTS OF ACTION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 4008.001. UNENFORCEABILITY OF ILLEGAL CONTRACTS. A person may not base a suit on a contract if the person:

(1) made or engaged in the performance of the contract in violation of this title or a rule, order, or requirement under this title; or

(2) acquired any purported right under the contract with knowledge of the facts by reason of which the contract's making or performance was in violation of this title or a rule, order, or requirement under this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.002. CERTAIN WAIVERS VOID. A condition, stipulation, or provision is void if it binds a buyer or seller of a security or a purchaser of services rendered by an investment adviser or investment adviser representative to waive compliance with this title or a rule, order, or requirement under this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.003. ACTION FOR COLLECTION OF COMMISSION OR COMPENSATION. (a) This section does not apply to a person or company that rendered services in connection with a transaction that is exempt under Subchapter A, Chapter 4005, or under a rule adopted by the board under Section 4005.024 if the person or company was not required to be registered by the terms of the exemption.

(b) A person or company may not bring or maintain any action in a court of this state for collection of a commission or compensation for services rendered in the sale or purchase of securities unless the person or company alleges and proves that:

(1) the person or company was:

(A) registered under this title; or

(B) exempt from registration under rules adopted under Section 4004.001; and

(2) the securities sold were registered under this title at the time the alleged cause of action arose.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.004. STAY OF RECOGNITION OR ENFORCEMENT OF FOREIGN-COUNTRY JUDGMENT. (a) Before a court's recognition or enforcement of a foreign-country judgment under Chapter 36A, Civil Practice and Remedies Code, or otherwise, a party against whom recognition or enforcement of the foreign-country judgment is sought is entitled to de novo review by a court in this state to determine whether a party, or the party's successors, assigns, agents, or representatives seeking recognition or enforcement of the foreign-country judgment have violated this title or Chapter 17, Business & Commerce Code.

(b) A party seeking de novo review under this section must file

with the court a verified pleading asserting a violation of this title or Chapter 17, Business & Commerce Code, not later than the 30th day after the date of service of the notice of filing of the foreign-country judgment with the court for recognition or enforcement.

(c) A pleading filed in accordance with Subsection (b) operates as a stay of the commencement or continuation of a proceeding to recognize or enforce the foreign-country judgment until the court completes its de novo review under this section and renders a final judgment.

(d) A finding by a court of a violation of this title or Chapter 17, Business & Commerce Code, is a sufficient ground for nonrecognition of a foreign-country judgment.

(e) This section applies to a foreign-country judgment involving a contract or agreement for a sale, offer for sale, or sell as defined by this title, or investment, that imposes an obligation of indemnification or liquidated damages on a resident of this state.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.005. SURVIVABILITY OF ACTION. A cause of action under this title survives the death of a person who might have been a plaintiff or defendant.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.006. SAVING OF EXISTING RIGHTS AND REMEDIES. The rights and remedies provided by this title are in addition to any other rights, including exemplary damages, or remedies that exist.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER B. CIVIL LIABILITY FOR ISSUANCE, SALE, OR PURCHASE OF SECURITIES

Sec. 4008.051. OFFEROR OR SELLER LIABILITY: REGISTRATION AND RELATED VIOLATIONS.

Text of subsection as amended by Acts 2021, 87th Leg., R.S., Ch. 41 (S.B. 1280), Sec. 1, eff. January 1, 2022.

(a) A person who offers or sells a security in violation of the following is liable to a person who buys the security from the offeror or seller:

(1) Section 4003.001(a), 4004.051, 4004.052, 4004.101(a), 4004.102(a), or 4007.103;

(2) Subchapter G, Chapter 4003, other than Section 4003.304, or a requirement of the commissioner under Subchapter G, Chapter 4003, other than Section 4003.304; or

(3) an order under Section 4007.101 or 4007.104.

(b) The buyer of the security may sue for:

(1) rescission; or

(2) damages if the buyer no longer owns the security.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 41 (S.B. 1280), Sec. 1, eff. January 1, 2022.

Sec. 4008.052. OFFEROR OR SELLER LIABILITY: UNTRUTH OR OMISSION. (a) Except as provided by Subsection (c), a person who offers or sells a security and from whom another person buys the security is liable to the buyer of the security, regardless of whether the security or transaction is exempt under Chapter 4005, if the person offers or sells the security by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

(b) The buyer may sue for:

(1) rescission; or

(2) damages if the buyer no longer owns the security.

(c) Except as provided by Subsection (d), a person offering or selling a security is not liable under Subsection (a) if the person sustains the burden of proof that either:

(1) the buyer knew of the untruth or omission; or

(2) the offeror or seller did not know, and in the exercise of reasonable care could not have known, of the untruth or omission.

(d) The issuer of the security, other than a government issuer identified in Section 4005.017, is not entitled to the defense in Subsection (c)(2) regarding an untruth or omission:

(1) in a prospectus required in connection with an application or registration statement under Subchapter A, B, or C, Chapter 4003; or

(2) in a writing prepared and delivered by the issuer in the sale of the security.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.053. BUYER LIABILITY. (a) Except as provided by Subsection (c), a person who offers to buy or buys a security and to whom another person sells the security is liable to the seller, regardless of whether the security or transaction is exempt under Chapter 4005, if the person offers to buy or buys the security by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

(b) The seller may sue for:

(1) rescission; or

(2) damages if the buyer no longer owns the security.

(c) A person who offers to buy or buys a security is not liable under Subsection (a) if the offeror or buyer sustains the burden of proof that either:

(1) the seller knew of the untruth or omission; or

(2) the offeror or buyer did not know, and in the exercise of reasonable care could not have known, of the untruth or omission.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.054. NONSELLING ISSUER LIABILITY. (a) This section applies only to an issuer that registers under Subchapter A, B, or C, Chapter 4003, or under Section 6, Securities Act of 1933 (15 U.S.C.

Section 77f), the issuer's outstanding securities for offer and sale by or for the owner of the securities.

(b) Except as provided by Subsection (d), the issuer is liable to a person buying the registered security if the prospectus required in connection with the registration contains, as of its effective date, an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

(c) The buyer of the registered security may sue for:

(1) rescission; or

(2) damages if the buyer no longer owns the security.

(d) The issuer is not liable under Subsection (b) if the issuer sustains the burden of proof that the buyer knew of the untruth or omission.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.055. CONTROLLING PERSON OR AIDER LIABILITY. (a) Except as provided by Subsection (b), a person who directly or indirectly controls a seller, buyer, or issuer of a security is liable under Section 4008.051, 4008.052, 4008.053, or 4008.054 jointly and severally with the seller, buyer, or issuer and to the same extent as the seller, buyer, or issuer.

(b) The controlling person is not liable under Subsection (a) if the controlling person sustains the burden of proof that the controlling person did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist.

(c) A person who directly or indirectly with intent to deceive or defraud or with reckless disregard for the truth or the law materially aids a seller, buyer, or issuer of a security is liable under Section 4008.051, 4008.052, 4008.053, or 4008.054 jointly and severally with the seller, buyer, or issuer and to the same extent as the seller, buyer, or issuer.

(d) There is contribution under this section as in cases of contract among the several persons who are liable.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.056. RESCISSION. (a) On rescission under this subchapter, a buyer of a security shall, on tender of the security or a security of the same class and series, recover the consideration the buyer paid for the security plus interest on the consideration at the legal rate from the date the buyer made the payment, less the amount of any income the buyer received on the security.

(b) On rescission under this subchapter, a seller of a security shall recover the security or a security of the same class and series, on tender of the consideration the seller received for the security plus interest on the consideration at the legal rate from the date the seller received the payment, less the amount of any income the buyer received on the security.

(c) For a buyer suing under Section 4008.054, the consideration the buyer paid for the security is deemed to be the lesser of:

(1) the price the buyer paid; or

(2) the price at which the security was offered to the public.

(d) A tender specified in this section may be made at any time before a judgment is entered.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.057. DAMAGES. (a) In damages under this subchapter, a buyer of a security shall recover the consideration the buyer paid for the security plus interest on the consideration at the legal rate from the date the buyer made the payment, less the greater of:

(1) the value of the security at the time the buyer disposed of the security plus the amount of any income the buyer received on the security; or

(2) the actual consideration received for the security at the time the buyer disposed of the security plus the amount of any income the buyer received on the security.

(b) In damages under this subchapter, a seller of a security shall recover the value of the security at the time of sale plus the amount of any income the buyer received on the security, less the consideration paid to the seller for the security plus interest on

the consideration at the legal rate from the date of payment to the seller.

(c) For a buyer suing under Section 4008.054, the consideration the buyer paid for the security is deemed to be the lesser of:

(1) the price the buyer paid; or

(2) the price at which the security was offered to the public.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.058. REQUIREMENTS OF RESCISSION OFFER TO BUYERS. (a) A rescission offer is sufficient for purposes of Section 4008.062(a) or (b) only if the offer meets the requirements of this section.

(b) The offer must include financial and other information material to the offeree's decision whether to accept the offer. The offer may not contain an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

(c) The offeror shall:

(1) deposit funds in escrow in a state or national bank doing business in this state, or in another bank approved by the commissioner; or

(2) receive an unqualified commitment from a bank described by Subdivision (1) to provide funds sufficient to pay the amount offered.

(d) The amount of the offer to a buyer who still owns the security must be the amount, excluding costs and attorney's fees, the buyer would recover on rescission under Section 4008.056(a).

(e) The amount of the offer to a buyer who no longer owns the security must be the amount, excluding costs and attorney's fees, the buyer would recover in damages under Section 4008.057(a).

(f) The offer must state:

(1) the amount of the offer, as determined under Subsection (d) or (e), which must be given:

(A) to the extent practicable, in terms of a specified number of dollars and a specified rate of interest for a period starting at a specified date; and

(B) to the extent necessary, in terms of specified elements, such as the value of the security when the offeree disposed of the security, that are known to the offeree but not to the offeror, subject to the provision of reasonable evidence by the offeree;

(2) the name and address of the bank at which the amount of the offer will be paid;

(3) that the offeree will receive the amount of the offer within a specified number of days that is not more than 30 days after the date the bank receives, in form reasonably acceptable to the offeror and in compliance with the instructions in the offer:

(A) the security, if the offeree still owns the security, or evidence of the fact and date of disposition if the offeree no longer owns the security; and

(B) evidence, if necessary, of elements described by Subdivision (1)(B);

(4) in a conspicuous manner that the offeree may not sue on the offeree's purchase under this subchapter unless:

(A) the offeree accepts the offer but does not receive the amount of the offer, in which case the offeree may sue within the time allowed by Section 4008.062(a)(1), (b)(1), or (b)(2), as applicable; or

(B) the offeree rejects the offer in writing within 30 days of the date the offeree receives the offer and expressly reserves in the rejection the right to sue, in which case the offeree may sue not later than one year after the date of the rejection;

(5) in reasonable detail, the nature of the violation of this title that occurred or may have occurred; and

(6) any other information the offeror wants to include.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.059. REQUIREMENTS OF RESCISSION OFFER TO SELLERS. (a) A rescission offer is sufficient for purposes of Section 4008.062(c) only if the offer meets the requirements of this section.

(b) The offer must include financial and other information material to the offeree's decision whether to accept the offer. The offer may not contain an untrue statement of a material fact or an

omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

(c) The offeror shall deposit the securities in escrow in a state or national bank doing business in this state, or in another bank approved by the commissioner.

(d) The terms of the offer must be the same, excluding costs and attorney's fees, as the seller would recover on rescission under Section 4008.056(b).

(e) The offer must state:

(1) the terms of the offer, as determined under Subsection (d), which must be given:

(A) to the extent practicable, in terms of a specified number and kind of securities and a specified rate of interest for a period starting at a specified date; and

(B) to the extent necessary, in terms of specified elements that are known to the offeree but not to the offeror, subject to the provision of reasonable evidence by the offeree;

(2) the name and address of the bank at which the terms of the offer will be carried out;

(3) that the offeree will receive the securities within a specified number of days that is not more than 30 days after the date the bank receives, in form reasonably acceptable to the offeror and in compliance with the instructions in the offer:

(A) the amount required by the terms of the offer; and

(B) evidence, if necessary, of elements described by Subdivision (1)(B);

(4) in a conspicuous manner that the offeree may not sue on the offeree's sale under this subchapter unless:

(A) the offeree accepts the offer but does not receive the securities, in which case the offeree may sue within the time allowed by Section 4008.062(c)(1) or (2), as applicable; or

(B) the offeree rejects the offer in writing within 30 days of the date the offeree receives the offer and expressly reserves in the rejection the right to sue, in which case the offeree may sue not later than one year after the date of the rejection;

(5) in reasonable detail, the nature of the violation of this title that occurred or may have occurred; and

(6) any other information the offeror wants to include.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.060. COSTS; ATTORNEY'S FEES. (a) On rescission or as a part of damages under this subchapter, a buyer or a seller of a security shall also recover costs.

(b) On rescission or as a part of damages under this subchapter, a buyer or a seller of a security may also recover reasonable attorney's fees if the court finds that the recovery is equitable under the circumstances.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.061. LIMITATION OF LIABILITY IN SMALL BUSINESS ISSUANCES. (a) In this section, "small business issuer" means an issuer that, at the time of an offer to which this section applies:

(1) has annual gross revenues in an amount that does not exceed $25 million; and

(2) does not have a class of equity securities registered, or required to be registered, with the Securities and Exchange Commission under Section 12, Securities Exchange Act of 1934 (15 U.S.C. Section 78l).

(b) This section applies only to:

(1) an offer of securities in an aggregate amount that does not exceed $5 million made by a small business issuer or by the seller of securities of a small business issuer; and

(2) a person who has been engaged to provide services relating to an offer of securities described by Subdivision (1), including an attorney, an accountant, a consultant, or the firm of the attorney, accountant, or consultant.

(c) In an action or series of actions under this subchapter relating to an offer of securities to which this section applies, the maximum amount that may be recovered against a person to whom this section applies is three times the fee paid by the small business issuer or other seller to the person for the services related to the offer of securities, unless the trier of fact finds the person engaged in intentional wrongdoing in providing the services.

(d) A small business issuer making an offer of securities shall:

(1) provide to the prospective buyer a written disclosure of the limitation of liability created by this section; and

(2) receive a signed acknowledgment that the disclosure was provided.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.062. STATUTE OF LIMITATIONS. (a) A person may not sue under Section 4008.051 or 4008.055 to the extent that section relates to Section 4008.051:

(1) more than three years after the date of the sale;

(2) if the person received a rescission offer meeting the requirements of Section 4008.058 before suit, unless the person:

(A) rejected the offer in writing within 30 days of the date the person received the offer; and

(B) expressly reserved in the rejection the right to sue; or

(3) more than one year after the date the person so rejected a rescission offer meeting the requirements of Section 4008.058.

(b) A person may not sue under Section 4008.052, 4008.054, or 4008.055 to the extent that section relates to Section 4008.052 or 4008.054:

(1) more than three years after the date of discovery of the untruth or omission, or after the date discovery should have been made by the exercise of reasonable diligence;

(2) more than five years after the date of the sale;

(3) if the person received a rescission offer meeting the requirements of Section 4008.058 before suit, unless the person:

(A) rejected the offer in writing within 30 days of the date the person received the offer; and

(B) expressly reserved in the rejection the right to sue; or

(4) more than one year after the date the person so rejected a rescission offer meeting the requirements of Section 4008.058.

(c) A person may not sue under Section 4008.053 or 4008.055 to the extent that section relates to Section 4008.053:

(1) more than three years after the date of discovery of the untruth or omission, or after the date discovery should have been made by the exercise of reasonable diligence;

(2) more than five years after the date of the purchase;

(3) if the person received a rescission offer meeting the requirements of Section 4008.059 before suit, unless the person:

(A) rejected the offer in writing within 30 days of the date the person received the offer; and

(B) expressly reserved in the rejection the right to sue; or

(4) more than one year after the date the person so rejected a rescission offer meeting the requirements of Section 4008.059.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

SUBCHAPTER C. CIVIL LIABILITY OF INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

Sec. 4008.101. INVESTMENT ADVISER OR INVESTMENT ADVISER REPRESENTATIVE LIABILITY. (a) An investment adviser or investment adviser representative who renders services as an investment adviser in violation of Section 4004.052 or 4004.102(a) or an order under Section 4007.102 or 4007.104 is liable to the purchaser, who may sue for damages in the amount of any consideration paid for the services.

(b) Except as provided by Subsection (c), an investment adviser or investment adviser representative who commits fraud or engages in a fraudulent practice in rendering services as an investment adviser is liable to the purchaser, who may sue for damages.

(c) An investment adviser or investment adviser representative who in rendering services as an investment adviser makes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statement made, in light of the circumstances under which the statement is made, not misleading is not liable under Subsection (b) if the adviser or representative proves:

(1) the purchaser knew of the truth or omission; or

(2) the adviser or representative did not know, and in the exercise of reasonable care could not have known, of the untruth or omission.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.102. CONTROLLING PERSON OR AIDER LIABILITY. (a) Except as provided by Subsection (b), a person who directly or indirectly controls an investment adviser is jointly and severally liable with the investment adviser under this subchapter and to the same extent as the investment adviser.

(b) The controlling person is not liable under Subsection (a) if the controlling person sustains the burden of proof that the controlling person did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which liability is alleged to exist.

(c) A person who directly or indirectly with intent to deceive or defraud or with reckless disregard for the truth or the law materially aids an investment adviser in conduct for which a cause of action is authorized by this subchapter is jointly and severally liable with the investment adviser in an action to recover damages under this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.103. DAMAGES. In damages under Section 4008.101(b), the purchaser is entitled to recover:

(1) the amount of any consideration paid for the services, less the amount of any income the purchaser received from acting on the services;

(2) any loss incurred by the purchaser in acting on the services provided by the investment adviser or investment adviser representative;

(3) interest at the legal rate for judgments accruing from the date the purchaser paid the consideration; and

(4) to the extent the court considers equitable, court costs and reasonable attorney's fees.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.104. STATUTE OF LIMITATIONS. (a) A person may not sue under Section 4008.101(a) more than three years after the date the violation occurs.

(b) A person may not sue under Section 4008.101(b) more than:

(1) five years after the date the violation occurs; or

(2) three years after the date the person knew or should have known, by the exercise of reasonable diligence, of the occurrence of the violation.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.

Sec. 4008.105. REMEDY NOT EXCLUSIVE. A remedy provided by this subchapter is not exclusive of any other applicable remedy provided by law.

Added by Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 1.01, eff. January 1, 2022.